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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

SENATE—*Wednesday, March 22, 1972*

The Senate met at 9:30 a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Reverend Andrew L. Johnson, Tuskegee Institute, Tuskegee, Ala., offered the following prayer:

O Thou Master of space, time, and eternity, we pray Thy blessings upon this session of our Nation's highest legislative body.

We thank Thee for the record of service to our Nation that it has compiled through the years, and we pray that each Member of the U.S. Senate might be so touched by Thy Holy Spirit that he might look with new eyes upon the critical needs of our Nation and our world.

Grant them the insight, the comprehension, the empathy, the compassion, and the resolution to make a constructive contribution to the solving of the problems, and in establishing the structure that will promote peace among all nations.

May this august body so plan and work that our culture and civilization will move toward the implementation of the visions of the ancient prophet:

"And they shall beat their swords into plowshares and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more. They shall sit every man under his vine, and under his fig tree, and none shall make them afraid."

We thank Thee for our illustrious past which is our teacher, our arduous present which is our challenge, and our inscrutable future which is our hope.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 22, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 21, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Delaware (Mr. ROTH) for not to exceed 15 minutes.

(The remarks Mr. ROTH made when he submitted an amendment to H.R. 1, the Social Security Amendments of 1972, are printed in the section of the RECORD devoted to the transaction of routine morning business under the appropriate heading.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. ALLEN). At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from New York (Mr. BUCKLEY) for not to exceed 15 minutes.

THE SITUATION IN CAMBODIA

Mr. BUCKLEY. Mr. President, the day before yesterday the armed forces of North Vietnam subjected the capital of Cambodia to the heaviest rocket and mortar bombardment yet delivered on any major city in the Indochinese war. This was Hanoi's latest, most spectacular act of aggression against a people whose only sin has been to attempt to deny the use of their seaports and territories as supply and staging bases for military assaults on a neighbor.

Although it is perhaps too much to hope, perhaps the sheer size and brutality of the attack will shock some of our self-styled leaders of opinion into a better understanding of what is happening in Indochina today. What we are witnessing is the reality of a state of war which has been imposed by the North Vietnamese on a people who want nothing so much as to be allowed to go about their daily lives in peace; a people who seek peace, but not at the sacrifice of their independence; a people who have already demonstrated an extraordinary tenacity and courage in their own defense.

I was in Cambodia just 2 months ago, and was able to observe firsthand, the efforts being made by the Cambodians to build up their own defenses despite their lack of the most rudimentary tools of war. I recall visiting the town of Kampong Cham in northeastern Cambodia, less than 2 miles across the Mekong River from the Chupp rubber plantation, then harboring two seasoned North Vietnamese divisions. I saw there a home defense brigade manned by a ragtag, but determined group of teenagers equipped with an assortment of small arms scavenged from the landscape—five different kinds of rifles of various vintage and of Chinese, European, and American manufacture, to be exact. The Cambodians have shown time and again that they have the will to defend themselves, but it is clear that they cannot hope to succeed without the arms with which to match the increasingly sophisticated weapons with which the Chinese Communists and the Soviet Union continue to supply their enemy.

This small country is a testing ground for the doctrine which the President announced at Guam in 1969 as an alternative to the direct involvement by American forces in future wars in Asia. "Cambodia is the Nixon doctrine in its purest form," the President stated recently. Yet, the significance of what is happening in Cambodia today, and by extension elsewhere in Indochina, seems lost on far too many Americans. This innocence, or ignorance, has nowhere been better exemplified than in an editorial which appeared in the New York Times on March 15. After referring to Cambodia as a "miserable Southeast Asian land," the editorial recommends in effect that the Congress scuttle the administration's proposal to provide its people with the basic military tools which are essential to their national survival.

If the New York Times editorial merely represented another example of the routine cultural sense of superiority which is exhibited by so many Americans who do not understand or care to understand Asia, it could simply be overlooked. But it cannot be overlooked because too many abroad are apt to take the Times' pronouncements seriously. One is tempted for example to ask whether the March 15 editorial had been read by the North Vietnamese commanders before they

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ordered the attack on Phnom Penh. It cannot be overlooked, because on too many occasions the Times has had its impact on domestic attitudes, witness the classic example of Herbert Matthews' reporting of Fidel Castro's struggle for Cuban freedom.

Although the New York Times has somehow failed to call the fact to the explicit attention of its readers, we do not have in Cambodia a situation, such as that which has existed in South Vietnam, where there can be endless academic debate as to whether the conflict is or is not a "civil war." There is simply no room for debate about the fact that Cambodia is and has been the victim of the most explicit aggression by the Government of North Vietnam.

Under these clear-cut circumstances, if we fail to supply the Cambodians with the minimum hardware required for their own defense, the possibility of encouraging other nations elsewhere in Asia to defend themselves against Communist expansionism must surely be doomed to failure; and if we show ourselves incapable of implementing "the Nixon doctrine in its purest form" on the small scale required for the defense of Cambodia, how can we expect others to place confidence in the one approach to problems of regional security in Asia which specifically precludes the future use of American troops?

Should the New York Times succeed in turning American public opinion against foreign military assistance in one part of the world where the lines are so clearly drawn, how can we be sure that American opinion will not turn against it in others—perhaps even in Europe and in the Middle East—with consequences unimagined by the sages who occupy the cloistered editorial offices of the New York Times?

For the sake of peace, and for the sake of freedom—yes, even if it involves only the freedom of those miserable Cambodians—I hope and pray that the New York Times will fail.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 3160) to provide for a modification in the par value of the dollar, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2076. An act for the relief of Vladimir Rodriguez LaHera;

H.R. 3751. An act for the relief of Albert M. Reiser, Jr.;

H.R. 8395. An act to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes; and

H.R. 9473. An act for the relief of Mrs. Rosanna Thomas.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 2076. An act for the relief of Vladimir Rodriguez LaHera;

H.R. 3751. An act for the relief of Albert M. Reiser, Jr.; and

H.R. 9473. An act for the relief of Mrs. Rosanna Thomas; to the Committee on the Judiciary.

H.R. 8395. An act to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes; to the Committee on Labor and Public Welfare.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business, with statements by Senators therein limited to 3 minutes.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 664, 672, and 673, all of which have been cleared on both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMALL BUSINESS ACT

The Senate proceeded to consider the bill (S. 3166) to amend the Small Business Act, which has been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert:

That paragraph (4) section 4(c) of the Small Business Act (15 U.S.C. 633) is amended—

(1) by striking out "$3,100,000,000" and inserting in lieu thereof "$4,100,000,000";

(2) by striking out "$450,000,000" and inserting in lieu thereof "$500,000,000"; and

(3) by striking out "$300,000,000" and inserting in lieu thereof "$350,000,000".

SEC. 2. Paragraphs 4(A) and 5(A) of section 7(a) of the Small Business Act (15 U.S.C. 636) are amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

SEC. 3. Section 402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–693), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

HISTORY OF LEGISLATION

S. 3166 was introduced on February 14, 1972, and hearings were held by the Small Business Subcommittee on March 9, 1972. On March 15, 1972, the committee voted unanimously to report out the bill, S. 3166, with amendments.

EXPLANATION OF BILL

S. 3166 is divided into three sections.

Section 1 of the bill amends section 4(c) of the Small Business Act to increase the total amount of loans, guarantees, and other obligations or commitments outstanding by the Small Business Administration. Administrator Kleppe informed the committee in February that by the end of this fiscal year his agency will have reached the maximum levels set by Congress in May of 1971.

Paragraph 1 of this bill will increase from $3.1 billion to $4.1 billion SBA's lending authority for direct, immediate participation and guaranteed loans under section 7(a); displaced business loans under section 7(b)(3); trade adjustment assistance loans under section 7(e); subcontract authority under section 8(a); and economic opportunity loans under title IV of the Economic Opportunity Act of 1964.

Paragraph 2 of section 1 will increase from $450 million to $500 million SBA's lending authority to SBIC's under title III of the Small Business Investment Act of 1968.

Paragraph 3 of the bill will increase from $300 million to $350 million SBA's lending authority under title IV of the Economic Opportunity Act of 1964 for loans to low-income individuals and for businesses located in areas of high unemployment or low income.

The Small Business Administration estimates that these increases will assure continued lending activities through fiscal year 1973.

Section 2 of the bill will increase the Small Business Administration's lending authority under section 7(a) from a maximum loan of $350,000 to $500,000.

Small business is defined in the Small Business Act as one which is independently owned and operated and which is not dominant in its field of operation. The $350,000 limitation now imposed on SBA has not been increased since the agency was made permanent in 1958. During the intervening years business costs have increased considerably and if small business concerns are to remain competitive they must be assured of adequate sources of capital.

Section 3. During the committee's consideration of this bill an amendment was offered to increase from $25,000 to $50,000 the maximum loan that the Small Business Administration is authorized to make, participate (on an immediate basis) in, or guarantee to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or to small business concerns owned by low-income individuals.

The program ceiling increases proposed in S. 3166 represent neither an appropriation of funds nor an authorization for appropriations. They represent, rather, proposals to increase the amounts which may be outstanding from SBA's business loan and investment revolving fund at any one time for purposes of particular SBA financial assistance programs.

Section 4(c)(1) of the Small Business Act, as amended by Public Law 89–409 approved May 2, 1966, provided for the establishment of two revolving funds as of July 1, 1966 (a business loan and investment fund, and a disaster loan fund) for the financing of SBA's programs.

Section 4(c)(3) of the act authorizes appropriations to the two funds "• • • in such amounts as may be necessary • • •." However, with respect to the business loan and investment fund, the Congress has set limits on the amounts which may be used for the various programs by providing in section 4(c)(4) for limitations on the amounts of loans, guarantees, and other obligations or commitments which may be outstanding at any one time from that fund.

With reference to these limitations, it is of considerable significance that they are neither an authorization for funds nor a mechanism by which funds are made available to carry out the various programs involved. Instead, they represent the means by which the Congress controls the extent of the use of available funds for the respective programs.

It is necessary for the financing of SBA's programs that the ceiling figures stated in section 4(c)(4) be raised from time to time. This results from a combination of medium-term loan repayment, steadily increasing loan volume, and a recent need to depend more on the use of guaranteed loans.

Public Law 87–550, approved July 25, 1962, requires that SBA advise the Congress periodically of the ceiling increases necessary for the continuation of its programs, and that such advice include program needs for the fiscal year under consideration plus the two succeeding fiscal years. In keeping with this requirement, S. 3166 proposes increases which would permit the continuation of SBA's financial assistance programs at presently projected levels through the current fiscal year plus fiscal year 1973.

CORDON RULE

In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

LONGFELLOW NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 3129) to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes, which has been reported from the Committee on Interior and Insular Affairs with an amendment on page 3, line 3, after the word "this", to strike out "Act." and insert "Act, not to exceed, however, $586,600 (May 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."; so as to make the bill read:

S. 3129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve in public ownership for the benefit and inspiration of the people of the United States, a site of national historical significance containing a dwelling which is an outstanding example of colonial architecture and which served as George Washington's headquarters during the siege of Boston in 1775–1776, and from 1837 to 1882 as the home of Henry Wadsworth Longfellow, the Secretary of the Interior is authorized to acquire by donation the fee simple title to the real property and improvements thereon, together with furnishings and other personal property, situated at and known as 105 Brattle Street, Cambridge, Massachusetts, for establishment as the Longfellow National Historic Site.

SEC. 2. The Secretary of the Interior is further authorized to accept the donation of not less than $200,000, and such other sums of money as may be tendered from time to time by the Trustees of the Longfellow House Trust, established pursuant to indentures dated October 28, 1913, and November 18, 1914, and such funds or any part thereof and any interest thereon, may be used exclusively for the purpose of administration, maintenance, and operation of the Longfellow National Historic Site.

SEC. 3. The Longfellow National Historic Site shall be established when title to the real and personal property described in section 1 of this Act and the sum of $200,000 as set forth in section 2 of this Act have been accepted by the Secretary of the Interior, and upon such establishment, the Longfellow National Historic Site shall be administered by the Secretary of the Interior in accordance with the Act approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666).

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $586,600 (May 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–702), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 3129 is to establish the Longfellow National Historic Site in Cambridge, Mass., and authorizes the Secretary of the Interior to acquire by donation the former home, together with furnishings and other personal property, of one of the most popular American poets of the 19th century, Henry Wadsworth Longfellow. The bill also authorizes the Secretary of the Interior to accept the donation of not less than $200,000 from the trustees of the Longfellow House Trust, which may be used exclusively for the purpose of administration, maintenance, and operation of this proposed National Historic Site.

In addition to the Longfellow home, the proposed historic site includes the carriage house and formal garden, both designed by Longfellow himself. Over 100,000 people have visited the Longfellow home in the last 5 years alone, and in 1962 the home was designated as a registered historic landmark

BACKGROUND

The Longfellow House is of exceptional importance, and from the standpoint of national significance it is fully suitable for establishment as a national historic site for several reasons.

First, this handsome and very well preserved mid-18th century mansion is considered to be one of the best examples of the late Georgian period architecture and has been illustrated in most standard college textbooks on architectural history. Most of the interesting original elements remain intact, and it has lost none of its charm through the normal growth process of occasional alterations during two centuries of continuous use. The structure has always been carefully maintained and is in a good state of repair today.

Secondly, the house is rich in historical significance, as it was used as a hospital for Colonials wounded at Lexington, Concord, and Bunker Hill, and was, during 10 months in 1775–76, the headquarters of Gen. George Washington during the siege of Boston.

But it is as the home of Henry Wadsworth Longfellow that the house is most important. Longfellow's association with the house began in 1837 when he rented a room there. In 1843, upon his marriage to Frances Elizabeth Appleton, the house was given to the couple as a wedding present by the bride's father.

The only American to be memorialized in the "Poet's Corner" at Westminster Abbey, Longfellow's vivid commemoration of historic events, such as "Paul Revere's Ride," and homey descriptions of everyday life, such as "The Village Blacksmith," create a tableau of American culture which is widely read and loved by many people. Longfellow wrote portions of some of his most famous works, including "The Courtship of Miles Standish," "Evangeline," and "The Song of Hiawatha," while he resided in the house in Cambridge between 1843 and his death in 1882.

COSTS

Since the 1.98 acres of land on which the Longfellow House is situated will be donated, there will be no land acquisition costs. No additional land is deemed necessary to establish the site.

Total development costs, based on May 1971 prices, are estimated at $586,600, of which $578,800 will be spent on buildings and utilities, primarily to be used for rehabilitation and remodeling of the house, stable, and shed. The remaining $7,800 will be spent on roads and trails for rehabilitation of the walks and driveways. Annual operating costs are estimated to be $172,000 in the first year and are expected to be about $183,100 by the fifth year.

COMMITTEE AMENDMENT

The committee adopted the amendment recommended by the Department of the Interior to put a limitation on the sum to be authorized for development costs. The amendment is as follows:

On page 3, section 4, line 5, change the period to a comma and add the following: not to exceed, however, $586,600 (May 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

COMMITTEE ACTION

The Parks and Recreation Subcommittee held open hearings on S. 3129 on February 15, 1972, and the full committee in executive session on March 15, 1972, unanimously recommended enactment of the bill.

VAN BUREN-LINDENWALD HISTORIC SITE

The Senate proceeded to consider the bill (S. 1426) to establish the Van Buren-Lindenwald Historic Site at Kinderhook, N.Y., and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 4, after the word "the", to strike out "Van Buren Lindenwald" and insert "Van Buren"; in line 11, after the word "the", to strike out "Van Buren Lindenwald" and insert "Van Buren"; and, in line 21, after the word "this", to strike out "Act." and insert "Act, not to exceed, however, $225,000 for acquisition of land and $2,278,000 (April 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of or-

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dinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."; so as to make the bill read:

S. 1426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of preserving for the education and inspiration of present and future generations the former residence (from 1841 until 1862) and only remaining structure intimately associated with Martin Van Buren, eighth President of the United States, the Secretary of the Interior shall acquire, on behalf of the United States, by gift, exchange, or purchase (with donated or appropriated funds) the real property and improvements thereon known as Lindenwald and located at Kinderhook, New York, together with such adjacent or related lands and interests therein as the Secretary determines are necessary for the establishment of a national historic site. The property so acquired shall be known and designated as the Van Buren National Historical Site. The Secretary may also acquire personal property used or to be used in connection with the administration and interpretation of the national historic site.

SEC. 2. The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop the Van Buren National Historic Site, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 and others), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 and others).

SEC. 3. There are authorized to be appropriated from time to time such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $225,000 for acquisition of land and $2,278,000 (April 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-703), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 1426 is to preserve the former residence of Martin Van Buren, eighth President of the United States, at the only remaining site that is intimately associated with him—Lindenwald, his mansion at Kinderhook, N.Y.

HISTORICAL BACKGROUND

Lindenwald was built in 1797 and purchased by Mr. Van Buren in 1839. The mansion itself has been altered several times since its construction in the late 18th century. The original house is a substantial Federal type with later additions in the Gothic and Victorian styles. The main portion of the Van Buren House is brick, 2½ stories tall, on a stone foundation; it contains 36 rooms and passageways. The interior of the mansion remains relatively unchanged since the historic period. Most of the original hardware remains, including silver-plated knobs and hardware on the first floor and the carpenter locks on the second floor.

Since the beginning of the 20th century many efforts have been made to preserve Lindenwald as a public historic site. Numerous attempts on the part of State agencies and private groups have been unsuccessful up to this point. The National Park Service expressed interest in Lindenwald as early as 1935, and in 1961 Lindenwald was registered as a national historic landmark in recognition of its exceptional value by way of its association with President Van Buren.

COSTS

The proposed Van Buren historic site will encompass approximately 42 acres. Land acquisition costs are estimated at $225,000, to acquire easements in 20 acres that are presently privately owned, and to acquire in fee 20 acres which are privately held. The remaining 2 acres, which are owned by the State of New York, are to be donated. Total development costs are estimated to be $2,278,000, of which $1,974,000 will be used for building and utilities, with the main expenditures for restoration of the mansion and other buildings, and for archeological and historical research.

The remaining $304,000 is to be spent on roads and trails, primarily to develop maintenance and parking areas. Annual operating costs are estimated to be $87,900 in the first year and are expected to be about $227,100 by the fifth year.

Mr. BUCKLEY. Mr. President, it was recently my privilege to make a favorable report from the Committee on Interior and Insular Affairs recommending passage of S. 1426, to establish a Van Buren National Historic Site at Kinderhook, N.Y.

The Van Buren homesite, known as Lindenwald and located in Kinderhook, N.Y., was registered as a national historic site in July 1961. As the only remaining edifice closely associated with President Martin Van Buren, it is fitting that the Lindenwald home should not only be preserved but also opened to the public.

Efforts on behalf of the preservation of the Van Buren home began early in this century. In 1936 concerned New Yorkers organized the Association for the Preservation of the Lindenwald house and property. At the same time the National Park Service expressed an interest. But not until 1961 was the Van Buren home at Kinderhook established as a national historic site.

The Lindenwald house is presently under private ownership. The legislation sponsored by Senator JAVITS and me as well as the companion legislation introduced in the House of Representatives by Congressman FISH will place the mansion in the National Park Service system.

This legislation requires the purchase of the house and surrounding property by the Federal Government. If purchased, Lindenwald will undergo restoration to recapture the original style of Martin Van Buren's home. Although subsequent owners of Lindenwald have remodeled and redecorated the house since President Van Buren's time, the interior is largely unchanged and according to the National Park Service, adequate research should facilitate restoration of the home to its condition during the time of Van Buren's occupancy.

The house is located in an agricultural area and has a clear view of the Hudson River Valley and of the Catskill Mountains. These surroundings should not be difficult to maintain.

Van Buren was born and buried in Kinderhook. He was admitted to the New York Bar in 1803 and held various county and State officers before he became involved with the Federal Government. Van Buren's political career encompassed the judiciary, the legislative and the executive fields. It was highlighted by his positions as New York Attorney General, United States Senator, Governor of New York, Secretary of State, Vice President and President. Certainly, the house in which this active American spent 20 years of his life should be preserved.

Van Buren purchased Lindenwald in 1839 as a place of retirement. It became his permanent residence in 1841. The historic value of this house is unique in its intimate association with President Van Buren. It is in the interest of the American people to preserve and to open to the public the home of our eighth President. Lindenwald expresses much of Van Buren's style and it is undeniably a part of our heritage.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to establish the Van Buren Historic Site, at Kinderhook, New York, and for other purposes."

Mr. JAVITS. Mr. President, I am pleased that the Senate has passed my bill, S. 1426, which would establish the Van Buren Historic Site at Kinderhook, N.Y. The proposed national historic site would preserve and protect Lindenwald, the home and most significant remaining structure associated with Martin Van Buren, the eighth President of the United States and a prominent New York citizen.

Since the beginning of the 20th century many efforts have been made to preserve Lindenwald as a public historic site. Numerous attempts on the part of State agencies and private groups have been unsuccessful up to this point. The National Park Service has expressed its interest in Lindenwald as early as 1935 and in 1961 Lindenwald was registered as a national historic landmark in recognition of its exceptional value by way of its association with President Van Buren. It is necessary that the Congress take the final step to establish Lindenwald as an historic site.

The original house at Lindenwald was built in 1797 by Peter Van Ness, a public figure of considerable prominence in the local community. In 1839 Martin Van Buren purchased the property which then consisted of a house and 130 acres of land. When his term as President ended in 1841 Van Buren returned to Lindenwald where he resided until his death in 1862. Lindenwald is the only remaining structure associated with President Van Buren.

The Interior Department has evaluated the site as to its possibilities for management as a national historic site and has determined that the site should be established as provided in S. 1426 with minor amendments. Adequate facilities in existing structures on the site will allow the public to have great use and enjoyment of this historic property. Historians would be encouraged to study the site and the proposed collection of Van Buren memorabilia. Comprehensive planning would be coordinated with the appropriate State agencies to insure protection of the setting of Lindenwald.

I believe that it is important to establish memorials to those who have served as presidents of the United States whenever we have an appropriate opportunity. Lindenwald presents us with a fine opportunity and the Senate has it. A companion bill, H.R. 3619, has been introduced in the House by Congressman HAMILTON FISH of New York which hopefully will soon be acted on.

ELIZABETH R: A TRIBUTE

Mr. BYRD of West Virginia. Mr. President, a few years back, a prominent critic of the media referred to television as a "vast wasteland." More recently we have seen that alleged wasteland blossom like the proverbial rose, as a new trans-Atlantic wave of "quality television" continues to hit our shores. It all began with the "Forsyte Saga," based upon Galsworthy's sweeping panorama of a family through three generations. The unexpected popularity of that series proved to be prophetic.

A further evidence of public responsiveness to quality programing, when done with style and imagination, was the reception given Sir Kenneth Clark's "Civilisation" series. The current series of six broadcasts—I say "current" because even though the sixth in the series was shown on last Sunday evening, there will be a repeat of the sixth in the series on this coming Saturday evening—dealing with the life of the first Elizabeth. "Elizabeth R," has demonstrated yet again the immense appeal which quality fare can have. Millions of Americans have taken pleasure in following the dramatic portrayal of the "Virgin Queen" during one of the great ages of English and, indeed, of European history, a portrayal superbly delineated by Glenda Jackson. The complexity of the Queen's character, the difficult issues of politics and religion in a time which knew little or no tolerance, the rich diversity of Elizabethan life—brutal, passionate, intense—all these are vividly set forth in the current series, truly a distinguished contribution to television drama in our day.

"Elizabeth R" had been preceded—appropriately enough—by "The Six Wives of Henry VIII," a remarkable presentation by Keith Mitchell of that Tudor despot, father to Elizabeth and husband to no less than six wives in the course of his turbulent life. Here again, the complicated problems of the Reformation were effectively dramatized in the person of King Henry. Together, the two series have given the viewer a sense of participation in one of the greatest centuries in history—the period from the accession of Henry VIII in 1509 to the death of Elizabeth I in 1603, the age of Shakespeare and Drake, Philip II and the Armada, Raleigh and Bacon, Luther and Erasmus, an age—like our own—of disruption and change, destructive and creative alike. It is a special tribute to the BBC productions that the essential character of the 16th century has been so powerfully revealed in the personalities of Henry and Elizabeth and all whose lives they touched.

The series restores our faith in the possibilities of television to achieve quality drama without sacrificing human interest and appeal. The BBC is to be congratulated for this production, and for others in the past and yet to come. A standard has been set which cannot but have a healthy influence upon the American television industry. I am especially pleased to commend Station WETA-TV for carrying this series and thereby contributing so richly to the public good and to the cause of better television fare in this area. In so doing, WETA has truly performed a public service, in the best sense of that phrase.

The success of "Elizabeth R" has proved again that "educational" television need not be dull and uninspired. The romance of history, made tangible in the actual biographies of great personalities, is a never-failing resource, at once instructive and entertaining.

It is noteworthy that a new series is to be launched next week, based upon the Leatherstocking tales of James Fenimore Cooper, classics of well-loved Americana, "The Last of the Mohicans." Surely there is some irony in the fact that this—as well as a 13 part series on the history of the old colony, "America"—are being presented by the BBC. In fact, of course, several popular hits of the current season—"All in the Family" and "Sanford and Son"—are only recently naturalized descendants of British series.

A quality invasion of this kind represents, in fact, a kind of liberation, and we may hope that American television, with its immense technical resources, will respond to the stimulus. In the meantime, we are all the beneficiaries of these imaginatively conceived, stylishly produced, and beautifully acted series.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON OVEROBLIGATIONS OF APPROPRIATIONS

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that certain appropriations have been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations (with accompanying papers); to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 59. Concurrent resolution to authorize the loan of the Cornelia Passet painting, "The Electoral Commission of 1877," to the National Portrait Gallery of the Smithsonian Institution (Rept. No. 92-706).

By Mr. HANSEN, from the Committee on Interior and Insular Affairs, with an amendment:

S. 3159. A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes (Rept. No. 92-707).

REFERRAL OF A BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 558, H.R. 7117, to amend the Fisherman's Protective Act, be referred to the Committee on Foreign Relations, with instructions that it will be reported back to the Senate within 40 days.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOK (for himself, Mr. YOUNG, Mr. MCGEE, Mr. PASTORE, Mr. STEVENS, Mr. HUMPHREY, Mr. BELLMON, Mr. MCGOVERN, Mr. DOLE, Mr. ANDERSON, and Mr. WILLIAMS):

S. 3393. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Finance.

By Mr. DOMINICK (for himself, Mr. HATFIELD, Mr. WEICKER, and Mr. ALLOTT):

S. 3394. A bill to permit citizens of the United States to buy, hold, and sell gold. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMINICK:

S. 3395. A bill to further the achievement of equal educational opportunities. Referred to the Committee on Labor and Public Welfare.

By Mr. FONG:

S. 3396. A bill for the relief of Roland Q. Lin; and

S. 3397. A bill for the relief of Joe M. Morgan. Referred to the Committee on the Judiciary.

By Mr. HARRIS:

S. 3398. A bill providing for the election of the tribal council of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (by request):

S. 3399. A bill to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes. Referred to the Committee on Commerce.

By Mr. MOSS:

S. 3400. A bill to provide for the issuance of a special series of postage stamps to commemorate the bicentennial of the Escalante Expedition. Referred to the Committee on Post Office and Civil Service; and

S. 3401. A bill to provide for the designation of the Escalante Trail, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3402. A bill to provide that persons who are nationals and citizens at birth under section 301(a)(7) of the Immigration and

Nationality Act shall retain their citizenship without meeting certain physical presence requirements. Referred to the Committee on the Judiciary.

S. 3403. A bill to amend the act of June 20, 1918, relating to the retirement of lighthouse service personnel involuntarily separated. Referred to the Committee on Post Office and Civil Service.

By Mr. SPONG (for himself and Mr. BEALL):

S. 3404. A bill to amend the Cargo Preference Act of 1954 for certain purposes. Referred to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. BAYH, and Mr. COOPER):

S. 3405. A bill to amend title 23 of the United States Code to establish a national scenic and recreational highway program. Referred to the Committee on Public Works.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3406. A bill to declare certain Federal lands held in trust for the Confederated Tribes of the Goshute Indian Reservation. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, and Mr. PELL):

S. 3407. A bill to amend the Education of the Handicapped Act to provide for improved opportunities for handicapped persons, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK (for himself, Mr. YOUNG, Mr. MCGEE, Mr. PASTORE, Mr. STEVENS, Mr. HUMPHREY, Mr. BELLMON, Mr. MCGOVERN, Mr. DOLE, Mr. ANDERSON, and Mr. WILLIAMS):

S. 3393. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment. Referred to the Committee on Finance.

KIDNEY DISEASE TREATMENT ACT OF 1972

Mr. COOK. Mr. President, I send to the desk for appropriate reference a bill entitled "The Kidney Disease Treatment Act of 1972."

I introduce this measure on behalf of myself, Senators YOUNG of North Dakota, MCGEE of Wyoming, PASTORE of Rhode Island, STEVENS of Alaska, HUMPHREY of Minnesota, BELLMON of Oklahoma, MCGOVERN of South Dakota, DOLE of Kansas, ANDERSON of New Mexico, and WILLIAMS of New Jersey.

Mr. President, this bill is designed to provide financial assistance to individuals suffering from chronic kidney disease, "or end stage renal disease," who are unable to pay the costs of necessary treatment. In addition, this act will assure that any individual who suffers from chronic renal disease will have available to him the necessary lifesaving care and treatment, and that he will not be denied such treatment because of his inability to pay for it.

The need to provide financial assistance to those suffering from kidney failure is obvious; in fact, it is acute. In excess of 8 million Americans suffer from some sort of kidney disorder. Of that number, more than 55,000 persons die of acute kidney disease each year. Furthermore, recent statistics disclose that kidney diseases are responsible for about 140 million total days of restricted activity, 63.5 million days of bed disability, and 17 million work loss days.

Such a high degree of prevalence of morbidity, itself predicates the need for treatment. Unfortunately the neecssary lifesaving medical treatment is all too often beyond the means of the sick in spite of the fact that sophisticated medicine has developed the successful technique of treating kidney disorders. For example, there are three systems of delivering treatment—in the hospital, in an ambulatory care center, and in the home—all three of which are widely divergent in their costs to the patient.

Putting aside the geographic cost variations, experts who have studied health costs inform me that $25,000 per year is the mean representative cost of dialysis treatment in the hospital, that $20,000 per year is the price tag for treatment at an ambulatory care facility, and that $20,000 for the first year and $6,000 for each subsequent year is the median cost for dialysis treatment at home. At these prices, those in need of dialysis treatment can ill afford to stay alive.

This situation is a glaring absurdity in American medicine. For while methods have been developed essentially with Federal funds to create a successful means of treating and even curing kidney disorders, we have succeeded in pricing the treatment beyond the range of those who would most benefit by it.

Transplantation treatment pitifully reveals the same problem; prohibitively high costs. At the same time, however, somewhat more is involved than the purely financial obstacles which complicate the proper dispensing of treatment. Since the first successful transplant in 1956, success with transplantation of kidneys either from living donors or cadavers has been relatively consistent. The technical complexity of the operation is no longer a problem given our present-day medical sophistication. Instead, the body's natural immune response to foreign tissues continues to be the cause for kidney rejection.

The ultimate hope among sufferers of kidney disorders certainly lies in being totally cured. While dialysis sufficiently maintains that a human being will live a next-to-normal life so long as he receives his machine treatments 3 hours per day 3 days per week, it appears that many have been condemned to a life based upon the operatability of a machine. This need not be the case should kidney transplants become widely available at affordable prices.

At present, transplant cost estimates vary depending upon the extent of treatment required before and after the transplant operation itself, but by no means can one assume that it is affordable. One analysis of integrated home dialysis/transplant therapy presumes the cumulative expense of treatment to be in excess of $50,000 over a 10-year period. The implication to the family bread winner supporting a wife, two children, and earning an average wage is serious, and in all probability disasterous. He is doomed to a life of bills, creditors, and hardships because he may be one of the few people fortunate enough to receive a kidney transplant.

It is reported that approximately 50,000 persons victimized by kidney disorders are in need of treatment that is not available to them and that each year 7,000 more people develop kidney disorders severe enough to require dialysis maintainance. Virtually all of these people are prospective recipients of a kidney transplant. Unfortunately, problems arise with too few donors, tissue incompatibilities and dissimilar blood types so that the chance of receptivity of a kidney by a patient is dismal at best. Consequently, the incidence of those that must be maintained through a process which passes blood through an artificial kidney machine to filter wastes is indeed staggering.

The common misconception today is that too few machines are available for use. This is not so. In fact, all eligible patients do not have access to kidney machines primarily because they cannot finance this expensive form of treatment rather than because of a lack of kidney machines. The question is, then, how is it possible to improve upon the discrepancy between apparent demand and abundant supply?

To a small extent, amnesty for the needy comes from several areas. Among the current sources of funds are the Office of Vocational Rehabilitation, medicare, medicaid, and a few Blue Cross and private insurance programs. The Public Health Service is currently supporting several studies of the feasibility of undertaking mass screening programs while the National Kidney Foundation has an active program of studying kidney disease and its treatment. However, the most important philanthropic activities are the result of local fund raising campaigns supported by the citizenry. It is through these drives, campaigns, and solicitations that the greatest number of kidney disease sufferers are granted their reprieve. But these drives cannot and will not sustain those requiring treatment.

Throughout the Nation, and in my own State of Kentucky, the biggest problems in descending order are money, facilities, trained personnel, and equipment. Congressman WILBUR MILLS, the distinguished chairman of the House Ways and Means Committee, recognized this and acted to correct the urgent need by introducing H.R. 12043 on December 6, 1971. Senator JOHN SPARKMAN of Alabama likewise recognized the urgency of assisting sufferers of kidney disorders, and to that end introduced S. 3286 on March 12 of this year.

At this time, it gives me great pleasure to join with these distinguished gentlemen in securing kidney disease treatment for all who need it. Like H.R. 12043 and S. 3286, the bill which I introduce today will provide for a program of assistance under which payments will be made to individuals requiring treatment for any part of the costs of such treatment which they are unable to pay from funds otherwise available to them. This bill will also provide that payments involving hemodialysis will be made only to the extent that they do not exceed the cost of the least expensive form of dialysis which is medically and "socially" sufficient.

There are, however, differences between the two previously mentioned bills and the one I introduce today. They are two:

First, my bill contains no provision authorizing grants to States, localities, or public or nonprofit private institutions for the development of improved methods of treatment, the training of personnel, the dissemination of information, or the establishment of hemodialysis centers. This is done after much consultation with and at the recommendation of the National Kidney Foundation. I am firmly convinced that if patient costs are covered, the normal supply-demand situation will take care of the costs of training, artificial kidney center construction and supply. It would only remain to direct available moneys to an area where they will have the greatest impact on saving lives. By making funds directly available to people requiring medical treatment, I feel certain that we will accomplish this goal.

Second, a section is added to my bill defining the scope of benefits provided to an individual. It specifically states that a person receiving treatment shall not be required to pay costs of that treatment which exceed 10 percent of his taxable yearly income. Quite clearly, this method of payment has many advantages. The patient would be assured that medical treatment is not beyond his means, and therefore he would not be hesitant in seeking the necessary medical care. At the same time, the patient would be cognizant of the fact that this plan would be no dole, but rather a partnership which requires that he pay a portion of his medical expenses; in this case the equivalent of 10 percent of taxable income.

In arriving at a percentage which the patient would be required to pay, it was thought that 10 percent would be within the range of most people. We are attempting here to assist the low-income wage earner; a 10-percent payment would not have proportionally as drastic an economic impact as is now the case. Also, a person in a higher salary bracket, above $20,000 for example, would normally be excluded from this program being that the means are available to him to meet his medical expenses, and that he would surely be enrolled in a health insurance plan which would cover his expenses.

In closing, let me add that as the fourth greatest cause of death in the United States, we can ill afford to ignore the seriousness of kidney disease any longer. This Nation has perhaps the best trained physicians and the most sophisticated equipment in the world, yet the afflicted are constrained from receiving the proper care because the costs are well beyond their means. My bill, I believe, is a necessary approach toward reversing the current financial restrictions of delivering kidney treatment to all who need it.

By Mr. DOMINICK (for himself, Mr. HATFIELD, Mr. WEICKER, and Mr. ALLOTT):

S. 3394. A bill to permit citizens of the United States to buy, hold, and sell gold. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOMINICK. Mr. President, I introduce a bill on behalf of myself, Senators ALLOTT, HATFIELD, and WEICKER, which would restore to Americans the unfettered right to buy, possess, and sell gold. We should no longer tolerate 1933 circumstances as justification for continued prohibitions on the private ownership of gold.

The present-day realities are that the United States has less than $11 billion in gold reserves and roughly $50 billion in overseas dollar liabilities. As a matter of fact, the Eurodollar market has been estimated to equal about 30 years of South African gold production.

With the free market price of gold hovering around $48 per ounce and the increasingly uncertain international monetary market, it is quite clear that any return to convertibility would trigger a run on our remaining reserves. Domestic gold production in 1971 was 1.494 million ounces, a 14-percent decrease from the previous year. Imports increased from a 1970 level of 6.6 million ounces to 7.2 million ounces, with its adverse effect on our balance-of-payments problem.

The U.S. Bureau of Mines estimates that at prices up to $140 per ounce, we could mine 237 million ounces of gold. Beyond giving a much needed injection to our mining industry, such an increase in gold production would substantially alleviate our trade deficit.

The President's action suspending convertibility demonetized gold and relegated it to the role of a nonmonetary commodity. As a commodity, gold should be as freely available for ownership as pork bellies, scrap steel and silver. Of the 116 member nations in the International Monetary Fund, 100 have more liberal gold ownership laws than the United States. Yet, we continue to be prisoners to anachronistic concepts.

The cornerstone of our economic system is the free interaction of supply and demand as the determinant of worth or value; and this can only be accomplished with gold by restoring to Americans their right to own gold.

In addition to ending the ownership discrimination against Americans, my bill would insure that the U.S. Treasury has a continuing source of supply of gold upon which it would draw to meet international financial institution gold contribution requirements.

The bill provides that domestic refiners of new gold would be required to offer for sale to the Treasury 2½ percent of their quarterly production at the official price. As a result, Treasury could purchase 10 percent of the domestic gold production at a price of $38 per ounce. Any requirements above this amount would have to be satisfied through private market purchases at the prevailing private market price. In order to avoid the possibility that large gold sales by the Treasury could depress the private market, the bill only permits Treasury gold sales at a price which is 15 percent above the current private market price.

Mr. President, I urge that Congress act as expeditiously as possible and use this legislative key to free Americans from their 1933 prevention of gold ownership hobbles.

By Mr. DOMINICK:

S. 3395. A bill to further the achievement of equal educational opportunities. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, on March 17, President Nixon sent to the Congress a message addressing itself to what is currently this country's most compelling domestic dilemma—school busing. To remedy the present and threatened inequities and hardships caused by busing, President Nixon outlined a two-step legislative program promising reasonable solutions. The first step of the program, the "Student Transportation Moratorium Act of 1972," has already been introduced as S. 3388 by the distinguished senior Senator from Nebraska (Mr. HRUSKA).

Mr. President, I now introduce for appropriate reference the President's companion bill, the "Equal Educational Opportunities Act of 1972." Among other things, this bill is intended to be the legislation referred to in section 2(a)(4) of the "Student Transportation Moratorium Act of 1972" which establishes clear uniform school assignment standards to meet 14th amendment obligations further defined in this bill.

To accomplish the objective of the bill title, a dual program is outlined. Title I serves to reestablish commitments tragically lost in the scramble of the busing mania, that the ultimate purpose of any educational expenditure or effort must be to improve the educational opportunity of the children, regardless of race, color, national origin, or language. It provides assistance sufficiently concentrated to provide the critical resource mass necessary to make compensatory education a reality rather than a sociological term to the Nation's educationally disadvantaged children. Title I of the bill utilizes approximately $2.5 billion authorized under title I of the Elementary and Secondary Education Act of 1965 and the soon-to-be-enacted Emergency School Aid Act to upgrade the Nation's poorest schools. In upgrading the schools, the resources will be concentrated on improving basic instructional programs for language skills and mathematics and on basic supportive services.

Mr. President, the second phase of the bill seeks to guarantee a conducive educational atmosphere for our children substantially devoid of long-term large-scale, forced busing. It recognizes that our schools cannot solely shoulder the burden of eliminating racial disparities in our society—that our children should be taught rather than used to achieve a multiracial society which the adult community has been unable or unwilling to

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do for themselves. Titles II, III, and IV of the bill activate congressional enforcement authority contained in the 14th amendment by setting national standards of equal educational opportunity and national remedies to guide courts in what heretofore has been the judicial jungle of school desegregation cases. Title II clearly defines what constitutes a denial of equal educational opportunity; title III identifies which parties can proceed in which judicial manner; and title IV creates a priority of remedies allowing increased busing only in extraordinary, short-term circumstances.

Mr. President, in conclusion, this bill, together with the Student Transportation Moratorium Act, offers a most reasonable vehicle for our children through unnecessary educational pitfalls created by well-intended adults. It relegates the schoolbus to its former position of prominence as an educational tool rather than as a dominant sociological force, while affirming this Nation's commitment to equal educational opportunities for all children. This being a matter of primary importance, I urge diligent legislative effort and timely enactment of the Equal Educational Opportunities Act of 1972.

Mr. President, I encourage and welcome cosponsorship from any and all of my colleagues; and I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Educational Opportunities Act of 1972."

POLICY AND PURPOSE

SEC. 2. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, or national origin; and

(2) the neighborhood is an appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to provide Federal financial assistance for educationally deprived students and to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

FINDINGS

SEC. 3. (a) The Congress finds that—

(1) The maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, or national origin denies to those students the equal protection of the laws guaranteed by the Fourteenth Amendment;

(2) The abolition of dual school systems has been virtually completed and great progress has been made and is being made toward the elimination of the vestiges of those systems;

(3) For the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(4) The implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided.

(5) excessive transportation of students creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity;

(6) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(7) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have failed to establish a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems.

DECLARATION

SEC. 4. The Congress declares that this Act is the legislation contemplated by section 2(a)(4) of the "Student Transportation Moratorium Act of 1972."

TITLE I—ASSISTANCE

CONCENTRATION OF RESOURCES FOR COMPENSATORY EDUCATION

SEC. 101. (a) The Secretary of Health, Education and Welfare (hereinafter in this Act referred to as the "Secretary") and the Commissioner of Education shall,

(1) in the administration, consistent with the provisions thereof, of the program established by title I of the Elementary and Secondary Education Act of 1965, and

(2) in the administration of any program designed to assist local educational agencies in achieving desegregation or preventing, reducing, or eliminating isolation based on race, color, or national origin in the public schools,

take such action consistent with the provisions of this title, as the Secretary deems necessary to provide assistance under such programs (notwithstanding any provision of law which establishes a program described by clause (2) of this subsection) in such a manner as to concentrate, consistent with such criteria as the Secretary may prescribe by regulation, the funds available for carrying out such programs for the provision of basic instructional services and basic supportive services for educationally deprived students.

(b) A local educational agency shall be eligible for assistance during a fiscal year under any program described by clause (2) of subsection (a) of this section (nowithstanding any provision of law which establishes such program) if it

(1) is eligible for a basic grant for such fiscal year under Title I of the Elementary and Secondary Education Act of 1965,

(2) operates a school during such fiscal year in which a substantial proportion of the students enrolled are from low-income families, and

(3) provides assurances satisfactory to the Secretary that services provided during such fiscal year from State and local funds with respect to each of the schools described in clause (2) of this subsection of such agency will be at least comparable to the services provided from such funds with respect to the other schools of such agency.

(c) In carrying out this section, the Secretary and the Commissioner of Education shall seek to provide assistance in such a manner that

(1) the amount of funds available for the provision of basic instructional services and basic supportive services for educationally deprived students in the school districts of local educational agencies which receive assistance under any program described in clause (1) or (2) of subsection (a) of this section is adequate to meet the needs of such students for such services, and

(2) there will be adequate provision for meeting the needs for such services of students in such school districts who transfer from schools in which a higher proportion of the number of students enrolled are from low-income families to schools in which a lower proportion of the number of students enrolled are from such families,

except that nothing in this title shall authorize the provision of assistance in such a manner as to encourage or reward the transfer of a student from a school in which students of his race are in the minority to a school in which students of his race are in the majority or the transfer of a student which would increase the degree of racial impaction in the schools of any local education agency.

(d) The Secretary shall prescribe by regulation the proportions of students from low-income families to be used in the program established by this title and may prescribe a range of family incomes, taking into account family size, for the purpose of determining whether a family is a "low-income family."

EFFECT ON ENTITLEMENTS AND ALLOTMENT FORMULAS

SEC. 102. Nothing in this title shall be construed to authorize the Secretary or the Commissioner of Education to

(1) alter the amount of a grant which any local educational agency is eligible to receive for a fiscal year under title I of the Elementary and Secondary Education Act of 1965, or

(2) alter the basis on which funds appropriated for carrying out a program described by section 101 (a) (2) of this title would otherwise be allotted or apportioned among the States.

SEC. 103. Upon approval of a grant to a local educational agency to carry out the provisions of this title, the assurances required by the Secretary or the Commissioner of Education pursuant thereto shall constitute the terms of a contract between the United States and the local educational agency, which shall be specifically enforceable in an action brought by the United States.

TITLE II—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 201. No State shall deny equal educational opportunity to an individual on account of his race, color, or national origin, by:

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools.

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with title IV of this Act to remove the vestiges of a dual school system.

(c) the assignment by an educational agency of a student to a school, other than the one closest to his place of residence within the school district in which he resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, or national origin among the schools of such agency than would reault if such student were assigned to the school closest to his place of residence within the school district of such agency providing the appropriate grade level and type of education for such student.

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff.

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency.

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

RACIAL BALANCE NOT REQUIRED

SEC. 202. The failure of an educational agency to attain a balance, on the basis of race, color, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 203. Subject to the other provisions of this title, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity unless such assignment is for the purpose of segregating students on the basis of race, color, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

TITLE VIII—ENFORCEMENT

CIVIL ACTIONS

SEC. 301. An individual denied an equal educational opportunity, as defined by this Act, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this Act referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

JURISDICTION OF DISTRICT COURTS

SEC. 302. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 301.

INTERVENTION BY ATTORNEY GENERAL

SEC. 303. Whenever a civil action is instituted under section 301 by an individual, the Attorney General may intervene in such action upon timely application.

SUITS BY THE ATTORNEY GENERAL

SEC. 304. The Attorney General shall not institute a civil action under section 301 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of title II of this Act; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

ATTORNEY'S FEES

SEC. 305. In any civil action instituted under this Act, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs, and the United States shall be liable for costs to the same extent as a private person.

TITLE IV—REMEDIES

FOAMULATING REMEDIES APPLICABILITY

SEC. 401. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

SEC. 402. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or on the first combination thereof, which may remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without exceeding the transportation limits set forth in section 403;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools or educational parks; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 403 and 404 of this Act.

TRANSPORTATION OF STUDENTS

SEC. 403. (a) No court, department, or agency of the United States shall, pursuant to section 402, order the implementation of a plan that would require an increase for any school year in

(1) either the average daily distance to be traveled by, or the average daily time of travel for, all students in the sixth grade or below transported by an educational agency over the comparable averages for the preceding school year; or

(2) the average daily number of students in the sixth grade or below transported by an educational agency over the comparable average for the preceding school year, disregarding the transportation of any student which results from a change in such student's residence, his advancement to a higher level of education, or his attendance at a school operated by an educational agency for the first time.

(b) No court, department, or agency of the United States shall, pursuant to section 402, order the implementation of a plan which would require an increase for any school year in

(1) either the average daily distance to be traveled by, or the average daily time of travel for, all students in the seventh grade or above transported by an educational agency over the comparable averages for the preceding school year; or

(2) the average daily number of students in the seventh grade or above transported by an educational agency over the comparable average for the preceding school year, disregarding the transportation of any student which results from a change in such student's residence, his advancement to a higher level of education, or his attendance at a school operated by an educational agency for the first time,

unless it is demonstrated by clear and convincing evidence that no other method set out in section 402 will provide an adequate remedy for the denial of equal educational opportunity or equal protection of the laws that has been found by such court, department, or agency. The implementation of a plan calling for this subsection, shall be deemed a temporary measure. In any event such plan shall be subject to the limitation of section 407 of this Act and shall only be ordered in conjunction with the development of a long term plan involving one or more of the remedies set out in clauses (a) through (g) of section 402. If a United States district court orders implementation of a plan requiring an increase in transportation, as described in clause (1) or (2) of this subsection, the appropriate court of appeals shall, upon timely application by a defendant educational agency, grant a stay of such order until it has reviewed such order.

(c) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

DISTRICT LINES

SEC. 404. In the formulation of remedies under section 401 or 402 of this Act, the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, or national origin.

VOLUNTARY ADOPTION OF REMEDIES

SEC. 405. Nothing in this Act prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this title, nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this title, if such plan is voluntarily proposed by the appropriate educational agency.

REOPENING PROCEEDINGS

SEC. 406. On the application of an educational agency, court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin shall be reopened and modified to comply with the provisions of this Act.

TIME LIMITATION ON ORDERS

SEC. 407. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws shall, to the extent of such transportation, terminate after it has been in effect for five years if the defendant educational agency is found to have been in good faith compliance with such order for such period. No additional order requiring such educational agency to transport students for such purposes shall be entered unless such agency is found to have denied equal educational opportunity or the equal protection of the laws subsequent to such order, nor remain in effect for more than five years.

SEC. 408. Any court order requiring the desegregation of a school system shall termi-

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nate after it has been in effect for ten years if the defendant educational agency is found to have been in good faith compliance with such order for such period. No additional order shall be entered against such agency for such purpose unless such agency is found to have denied equal educational opportunity or the equal protection of the laws subsequent to such order, nor remain in effect for more than ten years.

SEC. 409. For the purposes of sections 407 and 408 of this Act, no period of time prior to the effective date of this Act, shall be included in determining the termination date of an order.

TITLE V—DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) the term "educational agency" means a local educational agency or a "State educational agency" as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) the term "local educational agency" means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) the term "segregation" means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency or within a school on the basis of race, color, or national origin.

(d) the term "desegregation" means "desegregation" as defined by section 401(b) of the Civil Rights Act of 1964.

(e) an educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

(f) the term "basic instructional services" means instructional services in the field of mathematics or language skills which meet such standards as the Secretary may prescribe.

(g) the term "basic supportive services" means noninstructional services, including health or nutritional services, as prescribed by the Secretary.

(h) expenditures for basic instructional services or basic supportive services do not include expenditures for administration, operation and maintenance of plant, or for capital outlay, or such other expenditures as the Secretary may prescribe.

Mr. DOMINICK. Mr. President, in conjunction with my introduction of President Nixon's Equal Educational Opportunities Act of 1972, I wish to bring to the attention of my colleagues a most practical analysis of the problem of minority exclusion and injustice by Joseph Alsop in this morning's Washington Post.

Mr. Alsop quite validly traces upward mobility of previous minority groups to jobs—jobs acquired through improved education. The same avenue lies open to present excluded minorities through improved education gained, not through what Mr. Alsop identifies as the "phony cure" of busing, but through strong compensatory education. Mr. Alsop cites strong evidence that the concept is indeed the right approach toward achieving the future dignity of all races, creeds, and colors.

Mr. President, I ask unanimous consent that the text of Mr. Alsop's March 22 column be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSING—A PHONY CURE

(By Joseph Alsop)

One other point positively demands to be made about the busing controversy, which seems to be tearing a lot of people to bits. It concerns the escape of minority groups from exclusion and injustice—a process that has been far too little studied.

Our current plethora of guilt-ridden Americans talk as though exclusion and injustice for every minority were permanent American specialties. The contrary is actually true.

Japan, at present, has no less than five very harshly excluded minorities.

These are, the local children of black and white American soldiers, and three groups of pure Japanese blood whose origins are also lost in the mists of history, the Eta, the Fox people, and incredibly enough, "the unpersons."

In England, too, black citizens began to feel exclusion, prejudice and injustice just as soon as their numbers began to mount. In this country alone, in the whole modern world, have fair numbers of formerly excluded minority groups almost wholly escaped.

It has happened fairly recently. What are now called the "ethnic groups" suffered serious job discrimination, housing discrimination, and other forms of exclusion only four decades ago. Today, however, their situation is just the same as that of the once-dominant WASP.

Only 25 years ago, the Chinese and Japanese situation was worse, if anything, than that of our black minority today. The black minority never suffered anything like the Asian land laws of the West Coast states, which the Supreme Court only struck down in 1948. Today, however, the Chinese and Japanese situation is far superior, on average, to that of the poor old WASP.

It is perfectly clear, too, what produced the escapes from exclusion of these minorities. The secret can be put in one word: jobs.

All the formerly excluded minorities got better and better jobs, some by degrees, while the Chinese and Japanese got better jobs with an astonishing rush, despite their supposedly fatal different skin color.

In case of the black minority in America, a much more terrible past history and very heavy and continuing economic handicaps, both make the escape from exclusion and injustice a lot more difficult. But experience has still shown that escape will surely result, if the model of the previous escapes can only be followed. The secret again is jobs.

That hooks the matter directly onto the busing row because the gateway to decent jobs is decent education. No power on earth can terminate the exclusion and injustice suffered by black Americans, so long as an actual majority of black school-leavers are not given the simple educational tools to get and hold decent jobs. That is where we are today.

If school desegregation by busing would provide the needed educational tools, we ought to bus on a huge scale. The school data plainly show, however, that this is not true. Mere desegregation does little or nothing to overcome the terrible educational retardation that afflicts the average black child in school. Hence busing is a phony cure.

That leaves one other cure, but this cure is now widely considered worthless. It was said, for instance, that "there is not a shred of evidence that a compensatory education program . . . will improve the 'education' now being dispensed" by ghetto schools. The author of those words writes for a great New York newspaper. Maybe he ought to bustle up to New York and raise a major row because he has been grossly misinformed.

The success was never reported in New York, for reasons of fashion, presumably, that leave one a bit bewildered. But there is far more than "a shred of evidence," generated right in New York City. It comes from the unique serious experiment in ghetto school improvement ever attempted in this country, this was called the More Effective Schools.

At the end of the 1966–67 school year, for example, the eighteen full-ghetto schools in the MES program underwent the usual reading tests. The end-third graders had every handicap other black children have. But in those tests they achieved a reading average bang on the nose of the national average.

It does not sound like much. But it was far, far more than has ever been achieved by simple school desegregation. It also meant that up through third grade, at least, there was no black education retardation. For want of local support, nonetheless, the MES experiment has been all but dismantled since 1967. Yet the real criticism of the President's new school message is still the flabbiness of the Nixon approach to ghetto school improvement.

By Mr. HARRIS:

S. 3398. A bill providing for the election of the tribal council of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

Mr. HARRIS. Mr. President, I send to the desk for appropriate reference a bill to provide for the election of the tribal council of the Osage Nation of Indians.

At a time when we profess to believe in tribal self-determination, the people of the Osage Nation are being frustrated in their efforts to gain control over their own lives, on issues which no longer only concern the disposition of oil, gas, and mineral estates in trust. The Osages rightfully expect to have a say in the vital decisions concerning the health, welfare, and education of their people. Yet, under present statutes, the existing powers of the Osage Tribal Council are limited to actions taken within the purview of the mineral trust estate. Perhaps the best explanation of this problem can be found in the official Bureau of Indian Affairs evaluation report for the Osage Agency, dated January 1971:

The present tribal council for the Osage Tribe was established by a 1906 Statute which provides for the election of a tribal council by headright share holders. There are many questions today as to the validity of the original roll which was created under the 1960 Statute. As it presently stands, it would be futile to challenge the roll. Aside from the questions which were raised as to the original roll, part of the dividedness which exists among the tribal members is the allegation that the present tribal council is not in fact truly representative of the Osage Tribe. In some respects these allegations may have merit. The 1906 Statute franchised the original headright holders but the present devolution of headright shares has caused the vote to become fractionalized, and further *the headright voting system has created the condition where a proportion of Osage Indians who may be of one-quarter blood or more, but who do not own a headright interest, cannot therefore vote for the tribal council.*

The present tribal council procedurally elected under the method delineated by the 1906 Statute is actively seeking to expand its functions in areas other than the mineral trust interest. These areas are education, housing, employment, and economic development. However, under the Statute the tribal council's powers are limited to actions taken within the purview of the mineral trust estate.

The tribal council now finds itself in a legal quandry [sic] since their powers under the Statute are limited to the mineral trust estate but the needs of the Osage Tribe certainly extend beyond the mere management of that estate. The tribal council has recognized the shortcoming, but has not as yet accepted the limitation of the Statute and the lack of a formal constitution and bylaws. It finds itself in a legal dilemma since the tribal council enjoys the majority support of the headright holders [Osage Census roll in June 1970 numbered total of 8,200; in December 1970, 3,120 living persons with headrights, of whom 2,173 were eligible to vote for tribal council if over 21; 42% of headright owners live outside Oklahoma; one-third of all headright owners are non-Osage, since an Osage deemed "competent" to sell his headright may do so to non-Indians] while at the same time it may not necessarily enjoy the majority of the non-headright holders who are Osage Indians.

The Evaluation Team did discuss the situation with the tribal council and it is our present recommendation that the Commissioner consider presenting to the council various alternative methods to provide equal representation among all the Osage Indians, headright as well as non-headright holders. For instance, this could be accomplished by diverting the mineral trust estate from the general functions normally embodied in a tribal council by separating the mineral estate through a corporate trust structure and by establishing a tribal government governed by a constitution and bylaws. Another method could be to provide for an expansion of the tribal council and to allow the new members to be elected by the entire community while at the same time preserving the integrity of the mineral estate by the continuation of the present tribal council operation. These are not exclusive recommendations and they should be considered merely for discussion purposes. The underlying purpose of this recommendation is for the Commissioner to consider various alternatives which could be presented to the present governing body whereby representation of this [sic] unfranchised Osage Indians could obtain representation on a tribal governing body. [pp. 20–22] [emphasis added].

The recommendations contained in this report have yet to be put into action by the Commissioner of Indian Affairs. Therefore, in order to stimulate discussion within the Senate Committee on Interior and Insular Affairs on this issue, I am introducing a bill to amend the Osage Allotment Act of 1906 (34 Stat. 539, as amended) to provide for a new elected Tribal Council. This legislation, which was introduced in the House by Representative ABZUG, would also create an Osage Minerals Board as a separate entity. A principal chief would preside over both the Council and the Board, and the present members of the Tribal Council would become the initial members of the Osage Minerals Board. The creation of a separate Tribal Council and Minerals Board basically implements the recommendations contained in the evaluation report. Furthermore, this bill would provide greater participation of all Osages of one-fourth degree Osage blood or more in the election of the Tribal Council. This would do much to end the situation whereby non-Indians control internal tribal goverance.

Mr. President, I am delighted to see that the Senate Committee on Interior and Insular Affairs has scheduled hearings on the Osage claims distribution legislation on March 28. I certainly hope that at the same time the committee will consider this closely related bill that I have introduced today.

Mr. President, I ask unanimous consent that the full evaluation report for the Osage Agency be printed in the RECORD, along with a copy of my bill.

There being no objection, the bill and report were ordered to be printed in the RECORD, as follows:

S. 3398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 9 of the Act of Congress approved June 28, 1906 (34 Stat. 539) as amended by Section 7 of the Act of Congress approved March 2, 1929 (45 Stat. 1478) and further amended by the Act of Congress approved August 28, 1957 (71 Stat. 471) be, and the same is hereby, amended to read as follows:

(A) That the tribal government of the Osage Tribe of Indians, shall consist of one tribal council having the following officers: A principal chief, an assistant principal chief and eight members of the tribal council; said officers to be elected in a general election to be held in the city of Pawhuska, Oklahoma, on the first Monday in June, 1972, and on the first Monday in June each four years thereafter and said officers shall be elected for a period of four years commencing on the first day of July following said elections; that the Osage Tribal Council shall have or exercise all delegated or residual powers of tribal government excepting only management of the oil, gas, coal and other minerals underlying the area formerly known as the Osage Indian Reservation.

(B) The persons now holding office as councilmen of the present Osage Tribal Council shall, upon the election of officers to the tribal council in accordance with "A" above shall be thereafter members of the Osage Minerals Board and said board shall thereafter have all powers of management of the oil, gas, coal and other minerals that have prior to the date of passage of this act, been vested in the Osage Tribal Council by law.

(C) That person elected to the office of Principal Chief in the election provided for in "A" above shall be the presiding officer of the Osage Tribal Council and the Osage Minerals Board and in the absence of the Principal Chief the Assistant Principal Chief shall serve as presiding officer; the presiding officer shall vote only in case of a tie vote of the council or board.

(D) The person elected to the office of Assistant Principal Chief in the election provided for in "A" above shall have no vote in the proceedings of the Tribal Council or the Minerals Board unless he is presiding by reason of the absence of the principal chief; in the event that the office of Principal Chief becomes vacant, the person serving as Assistant Principal Chief shall assume the office of Principal Chief.

(E) No person may serve as Principal Chief or Assistant Principal Chief who is not an adult full-blood member of the Osage Tribe; no person may serve as a member of the Osage Tribal Council who is not an adult member of the Osage Tribe and possesses one-fourth degree or more of Osage Indian blood; and no person may serve as a member of the Osage Mineral Board who is not an allottee or a descendant of an allottee enrolled pursuant to the act of June 28, 1906 (34 Stat. 539) and who owns not less than one full Osage headright or mineral share.

(F) Voting for officers of the Osage Tribal Council shall be held at the Osage Agency and qualifications of voters shall be the same as qualifications for the office of tribal councilman; each person shall have one vote and voting shall be conducted by regulations established by the Commissioner of Indian Affairs; Provided, that the use of absentee ballots are prohibited for elections of tribal officers.

(G) Only adult persons who are allottees or descendants of allottees enrolled pursuant to the act of June 28, 1906 (34 Stat. 539) and whose names appear on the quarterly annuity roll at the Osage Agency may vote for members of the Osage Minerals Board; voting shall be conducted by regulations established by the Commissioner of Indian Affairs: Provided, that each ballot shall have exactly the same value as the voter's headright interest shown on the last quarterly annuity roll.

(H) Filling of vacancies in the office of Assistant Principal Chief, in the tribal council and in the mineral board shall be provided for by regulations by the Commissioner of Indian Affairs.

(I) The Commissioner of Indian Affairs is hereby authorized to remove from any office in the tribal council or minerals board any person for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself.

(J) The powers and duties of the Osage Minerals Board shall continue in full force and effect to January 1, 1984 and thereafter until otherwise provided by Congress.

(K) That nothing herein shall be construed as in any way changing the rights of the Osage Tribe in oil, gas, coal, and other minerals as fixed in the act of June 28, 1906 as amended be construed to change or amend any valid mineral lease entered into prior to 1 July 1968.

EVALUATION REPORT: OSAGE AGENCY, JANUARY 11–15, 1971

INTRODUCTION

The Osage Agency evaluation was conducted on the premise that the Agency is to be service-oriented to the needs of the Indian people while it performs the trust duties of the United States, which are substantial at Osage. Within this premise, the evaluation aimed at determining the degree and extent of implementation of the Commissioner's policies and programs. These included tribal involvement in preparation of the 1973 Program Memorandum, tribal opportunity for contracting for services, and the general relationship of the Agency to the tribe, and the tribe with the surrounding community. In addition, the manner in which the Indian Business Development Fund is being utilized.

The Osage Agency serves Indians in Osage County, corresponding to the original reservation area. The minerals of the entire county are held in trust for the tribe. Trust status also applies to the surface rights of 230,000 acres in the county, nearly all of which belongs to individuals.

The population of the county includes 2,565 Indians according to the 1970 Census. About half of these are Osages. The Osage tribal roll includes about 8,200 members.

The Bureau of Indian Affairs maintains a permanent staff of 38 persons. Their grades and Indian descent are shown in the section on findings. The tribe pays for 10 of the BIA employees who are concerned with minerals; in addition the tribe at the present time pays for 4 members of the Interior Department Solicitor's Office who are stationed at Osage.

PROCEDURE

The team consisted of:

BIA Central Office

Arthur J. Gajarsa, Chairman (Assistant to the Commissioner).

Raymond Butler (Social Services).

Donald Maynard (Real Property Management).

Louis Couger (Statistics).

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Department of Interior Central Office

Linda K. Bemis (Program Analyst, Bureau of Land Management).

Osage Tribal Council

John Shaw (Councilman).

Other Osage

Joseph Shunkamolah, Jr. (served on January 14).

The schedule follows:

Monday, January 11, 1971

Day—Meeting with Sylvester Tinker, Tribal Chief, and John Pappan, Agency Superintendent.

Evening—Meeting with Osages for Action at Hominy. John Shaw did not attend. Commissioner Bruce had met with this group in the morning, but not as a part of the evaluation effort.

Tuesday, January 12, 1971

Day—Meeting with BIA branch chiefs and chief of tribe in tribal council chamber.

Evening—Meeting of BIA team members with Agency Superintendent.

Wednesday, January 13, 1971

Morning—Interviews with individual Indians and community representatives in Osage Museum.

Afternoon—Part of team met with Osage Nation Organization; rest of team continued interviews with public.

Thursday, January 14, 1971

Day—Part of team attended a special meeting of the full council in the afternoon. The rest interviewed individual BIA employees and continued the public interviews throughout the day.

Friday, January 15, 1971

Morning—Wrap up with Agency Superintendent.

FINDINGS

A. Past economic situation

Until recently, everything at Osage revolved around the wealth of the mineral trust.

1. Those Osages with one or more headrights were wealthy and had a continuous quarterly income. Osages could afford higher education, and many did so.

2. The BIA program was funded by the tribe, and confined itself largely to mineral and land rights. Indians without headrights or trust land were not served. The tribe also funded a field office of the Solicitor at Osage, and does so today, but has requested Government funding.

3. There is a corpus of Federal legislation applying only to Osages. For example, 25 CFR part 73 specifies the tribal council and limits voting to Indian headright owners. Other parts of 25 CFR applying to Osages are 17 (wills), 74 (government of Osage villages), 108 (IIM accounts and budgets), 123 (tribal roll and competency), 127 (lands), 175 (mineral), and 183 (oil and gas). Osages are excluded from the IRA and Oklahoma Welfare Acts.

4. An outsize population of lawyers grew up in Pawhuska, depending on Indian probates, guardianship actions, and other actions concerned with trust property, and competency status. In 1953, the BIA published a 192-page report "The Osage People and Their Trust Property" describing the situation and detailing abuses.

B. Current economic situation

In recent years income from the mineral trust has declined, and now stands at $2,800 a year, about one-half the 1960 figure. This situation is bringing about changes and particular stresses.

1. Older Osages accustomed to living on headrights income can no longer do so. Many who never worked face a difficult adjustment late in life. Jobs are not always open to Osages because the community still thinks of Osages as wealthy. Heirship fractionalization further reduces the amount received by individuals with only part of a headright.

2. Headright owners have a keen interest in raising oil and gas revenues. This tends to put the tribal council in the predicament to produce more income. When there may be little they can do about it. Whatever the prospect may be for secondary and tertiary recovery methods, and this is a major technical study in itself, there will be disagreements about the proper course of action. As an example, debate still goes on about a referendum taken years ago concerning reduced royalties for the waterflooding method of secondary oil recovery.

3. Other ways to increase tribal income are being pursued by the council:

(a) Reaffirming established water rights, charging for their use, and recovering just compensation for past and future condemnation actions. The tribe sees a Federal conflict of interest between the BIA and the Corps of Engineers in this field.

(b) Getting the BIA and the Department to take over the $250,000 in Agency and Solicitor expenses still funded by the tribe (until 1968 the tribe paid all costs; now BIA pays about half the Agency cost).

(c) Legislation, which was introduced but lapsed with the 91st Congress, covered a number of issues. It included transfer of probate from State to Federal jurisdiction, so as to reduce legal fees and provide better protection to Osage property. (The Bar Association of Osage County, on the other hand, feels that the present fee schedule set by the Secretary for certain actions is too low).

(d) Eliminating certain kinds of taxation on trust income, by legislation, litigation, or regulation.

4. *Agricultural leases.* The Superintendent and the BIA Appraiser (Couch) were frequently praised by Indians for substantially raising grazing lease rates on trust property, over the opposition of the cattlemen's association. The BIA appraisal policy is to include non-Indian land values as the comparable sales or lease standard; apparently a considerable change from previous practice. Most Indians lease out their surface rights; there are 88 restricted Indian operators but only five are of economic size. About 16 percent of Osage County surface is in trust status.

A troublesome case mentioned by various Indian people concerned a white rancher (Morrison) with a 1/27th interest in a parcel adjoining other land he holds, who run cattle on the whole parcel and brought suit against the principal owners when they sought to fence their land. The owners are receiving no lease money while the case is in court.

5. A tribal judgment of $13,000,000 has been appropriated by Congress. There are, of course, basic differences of opinion among the Osages on who should share and how the money should be programmed. Legislation is now being prepared for Congressional action.

6. The present council is moving into areas beyond the mineral trust by organizing committees for education, employment and industrial development, health and community services, and housing. A tribal housing authority is being established. The tribe has for some time been involved with OEO, especially in the NYC program. This expansion of the scope of council activity is resisted by the ONO group, which views the council as limited to dealing with the mineral estate.

7. In the last few years, the Agency has extended its services beyond the mineral and trust land functions. Such programs as social services, employment assistance, and scholarships have been added, as well as the Indian Business Development Fund. These services are also available to non-Osage Indians living in Osage County. There were complaints about the one-quarter Indian blood requirement in some of these programs, especially scholarships.

8. *Trust status of the mineral estate.* The Act of October 6, 1966, states that minerals are reserved to the Osage Tribe until April 8, 1983, and thereafter until otherwise provided by Act of Congress, Osage opinion was virtually unanimous that the trust status must be continued beyond 1983 to permit secondary and tertiary recovery of oil and gas remaining in the ground (estimated presently to equal one-half the original total). Related to this is the fear that Osages who have competency forced on them are not yet ready to protect themselves and their property.

9. *Credit.* Osages do not participate in the Revolving Loan Fund, by statute. Need for Indian credit was mentioned, but not as a major problem. Local banks apparently are restrictive in loans, but this may be a general local policy not confined to Osages. Tulsa banks are stated to be more cooperative.

10. *Housing.* The Council is setting up an Indian Housing Authority. Three tracts of land for Osage Indian villages were established by 25 CFR part 74—Pawhuska, Hominy, and Grayhorse (at Fairfax). Members of the Pawhuska village community council mentioned needs for roads and utilities (the water pipes are old and tend to break). The county has started putting in streets, curbs, gutters, and signs. Housing did not surface as a major issue in the interviews.

C. Osage Tribe

1. Of 8,200 on the Osage Census roll in June 1970, 4 percent were fullbloods and 70 percent were less than one-quarter Indian blood. Apparently a number of mixedbloods were carried on the original 1906 roll, in addition to much intermarriage since. So far as can be determined from the addresses on the census roll, admittedly incomplete, 30 percent live in Osage County, 30 percent in other parts of Oklahoma, and 40 percent live outside Oklahoma.

2. In December 1970 there were 3,120 living persons with headrights (i.e., owners of the mineral estate) plus 122 estates of deceased persons not yet distributed to heirs. Owners of headrights may be original allottees from the 1906 roll, their heirs, and purchasers of headrights from competent Indians. Of these, 2,178 were Osages and thus eligible to vote for the tribal council if over age 21. The geographic distribution of headright owners resembles that for the Osage census, but the date are much more accurate. There are 31 percent in Osage County, 27 percent in other parts of Oklahoma, and 42 percent outside the state.

Since headrights usually pass by inheritance, elder persons predominate—25 percent are 61 or older, and 68 percent are 41 or older. Headright owners tend to feel, though not unanimously, that exclusion of younger members of the family from the headright was not a major problem because parents could and did share the income. The Osages interviewed supported voting rights for younger Osages more than income rights.

3. In June 1970 the tribal council was elected by headright owners as prescribed by statute, to serve from July 1970 to June 1974.

4. Dissension in the tribe centers in two relatively small groups. The basic issues are the powers of the council beyond the mineral estate, eligibility for voting and holding office and the resulting effect on the representativeness of the council and judgment fund distribution. The two groups are:

(a) *Osage Nation Organization* (ONO). Their leaders include Charles Lohah (whom the deam did not see), LeRoy Logan, Raymond Lasley, and Hazel Harper. Their basic principle is control by persons of one-quarter or more Osage blood, regardless of headright interest. They view the present council as essentially a business committee representing only mineral affairs. All other Osage affairs should be under a different council elected by Osages. Similarly, the judgment distribution should be to descendants of one-quarter Osage blood or more, rather than being based on headrights and the 1906 roll which they feel included many persons of little or no Osage blood. ONO has an Oklahoma charter, a constitution, and by-laws, which were provided to the evaluation team. They have developed a program plan, copies of which have been given to Commissioner Bruce, and before him to Commissioner Bennett. They claim 800 members, but others dispute this. The Osage census lists about 2,500 persons with one-quarter or more Osage blood out of a total of 8,200. Although many of the ONO group have headrights, their general support must lie outside judging from the 1970 election in which Logan and Lasley ran last in a field of 14 candidates for councilman, receiving votes equal to 250 headrights. Such a vote from headright owners is not surprising considering that many of them have less than one-quarter Osage blood.

(b) *Osages for Action Organization* (OAO). Joe Shunkamolah is leader of this active but apparently small group. It is centered at Hominy. They feel the Council and the Agency are mismanaging tribal funds and are not furnishing information on the transactions. Accordingly, they want the tribal council suspended or removed, the Superintendent rotated, and a GAO audit of the Agency, particularly trust money. While they favor an Osage blood quantum requirement, the ONO group refuses to be associated with OAO. The OAO program was not made clear to the evaluation team, except for removal of incumbent officials and judgment distribution.

In response to OAO charges, the team determined that GAO conducts an audit of the Agency every two years, the latest in June 1970 with no adverse findings. Another issue, concerning the investment of mineral royalties while waiting for the quarterly distribution, is controlled by Federal regulations for trust money and is under BIA rather than the Council. The reasonableness of expenditures by the Council for its own activities is a matter of judgment, but less than one percent of the mineral receipts for this purpose does not seem excessive to the evaluation team.

The charge of inadequate information about Council business has substance and may partly explain other charges, or the acceptance of such charges by the Osages, as based on lack of information. The Council has no constitution or by-laws. Its sessions are recorded on tape, but this not transcribed, and the only minutes are summaries prepared by the Superintendent's secretary, an Osage who sits as secretary to the tribal council in open meetings. Closed meetings are held on occasion, but the bulk of the meetings are open. Tribal financial accounts are kept by the BIA, and an annual report is made to headright owners, but it appears that the monthly tribal account reports are made available only to headright owners on request.

In interviews the team held with individual Osages, a predominant attitude was that OAO was a small group that did not represent any considerable group of Osages, that it had publicity beyond its importance (partly as the result of the Commissioner's meeting), and was critical, but not constructive. Even some Indians who attended the Hominy meetings made such comments in private. Associated with this was frequently the comment—the Council was elected; now let them do their work and quit harassing them. On the other hand, in the June 1970 election, Joe Shunkamolah, who was one of two candidates for Assistant Principal Chief, received 40 percent of the headright vote for that office.

D. Other Indians in Osage County

It is estimated that about one-half the Indians in Osage County are not Osage. Many come from other Oklahoma tribes. It is safe to say that until the last few years these Indians, along with Osages who had no headright or trust land, received almost no services from the Agency.

Now the Agency has other programs, such as employment assistance, social services, and scholarships, that are available to Indians regardless of tribal or trust status (although there may be an Indian blood quantum requirement).

The staff members concerned with these programs make a point of serving all eligible Indians; however, the fact that they are eligible may be unknown to many Indians because of the long history of the Agency in serving only Osages with trust interests.

E. BIA agency

1. *Rotation.* Most Osages interviewed objected in principle to rotation every two years because it takes longer for a Superintendent to learn the situations so he can make a contribution. Support for the present Superintendent (Pappan) was extensive. Typical remarks, heard over and over again, were: "He is the best superintendent we have had in years. He understands Indians and really tries to help." The Agency staff also got good marks in general.

OAO definitely wants the present Superintendent rotated, and ONO is agreeable to rotation.

2. *Takeover.* The tribal council is not interested in takeover; quite the reverse. They want the BIA to take over funding of the remaining programs which the tribe is supporting, and feel that any takeover proposal by the tribe might jeopardize this goal. Very few interviews commented on tribal takeover.

3. *Tribal involvement with 1973 Program Memorandum.* The council was satisfied with their involvement. At a council meeting, the Superintendent and Agency branch heads explained their programs and proposals. Meetings were also held with individual council members concerned with a particular program area. The Agency and the council maintain close cooperation in the operating program.

4. *Indian Business Development Fund.* There were 7 applications received. Of these, 5 were funded at the Agency for a total of $14,100 as follows:

$4,800 Bates Shaw for leasing and managing tribal golf course.

$3,000 Raymond Redcorn for a food processing facility.

$2,500 Aaron Bighorse for a gas station lease and inventory.

$2,000 George-Ann Robinson to expand Indian craft shop.

$1,800 Lillie Page McGuire to expand beauty shop.

One project received from Osage Indians was outside the Agency jurisdiction and was funded from the Central Office. The amount was $13,800 for a haberdashery shop in Albuquerque.

One project was disapproved because outside financing failed. It concerned a gas station, but the gas company rejected the lease because the applicant wanted to have his son run it for him.

Additional inquiries have been received, and the Superintendent felt that eligible projects would be available in 1972, even through $4,000 of the 1971 money was returned to the Central Office.

5. *Employment of Indians in Osage Agency.* Of the 38 permanent BIA employees, 25 (66%) are Indians. Fifteen are Osage and 10 are from other Oklahoma tribes.

The distribution by grade is:

	Indian	Non-Indian
Grade:		
14	1	
13		1
12	1	5
11	3	4
9	1	
8	1	
7	2	
6	1	
5	6	2
4	5	
3	3	
Wage Board	1	1
Total	25	13

6. *Questionnaire for BIA employees.* Each permanent classified BIA employee was asked to complete a confidential questionnaire and return it to the team in a sealed envelope. The envelopes were opened in Washington and the answers were tallied. Highlights of the returns follow:

There were 32 respondents (91% of the 35 eligible, not counting the Superintendent):

Median age, 47 years.

Average service in BIA, 15 years.

Average Federal service, 16½ years.

Do you plan to continue working for BIA? 94% yes.

Do you like working for BIA? 78% yes; 22% so-so; 0% no.

How would you rate employee morale at the Agency? 34% good; 52% indifferent; 14% poor.

Do you think your fellow workers are satisfied with the opportunity for promotion in the Bureau? 34% more yes; 63% more no; 3% no answer.

Formal training in last 12 months? 38% yes.

Could you do better job with more training? 94% yes.

Are you satisfied with training opportunities offered by and through the Bureau?, 47% more yes; 53% more no.

Does job description show what work you do? 100% all or most.

Is person who tells you what to do most of the time shown as your supervisor in your job description? 97% yes.

Are you ever idle because you have no work to do? 73% seldom or never.

7. *HM Accounts.* For many restricted Osages, contact with the Agency centers on their HM accounts, consisting mainly of head right payments and agricultural lease rentals. There are special statutes for Osages, including Agency approval of individual expenditures above a certain basic allowance, and budgets where the Agency considers it necessary. A system of advance commitment of quarterly headright payments exists, whereby banks and merchants advance credit to Indians with Agency approval (purchase order) against the next headright payment, which the Agency in due course pays directly to the merchant. Some Indians regularly commit 80 percent (the maximum) of their headright in advance and are wired into a cycle that is hard to break. The banks and merchants are charging regular interest rates against what are really secured loans.

On its face the system smacks of undue paternalism. However, in the interviews only a few complaints were made—for example, that some Indians were afraid to come to the Agency to ask about their accounts (although less so than formerly), that information about one's account was not provided (a ledger on each account is sent out each January but had not gone out when we were there), and that one person was treated like a baby.

On the other hand, inability of some Osages to manage their funds was frequently mentioned, and alcoholism is a significant problem among Osages which may be restrained by HM controls.

8. *Time Sheets.* On three different occa-

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sions Indians complained about some BIA staff members keeping their own time sheets. These were not specified, except for one in the Administrative Services branch. Another complaint concerned moonlighting by a BIA employee who had an accounting business downtown (we were informed later that written permission had been given and the time was being watched).

F. Other agencies

1. *Health.* Indian Health Service provides biweekly clinics at the Agency, there are community health representatives, and hospital services at Pawnee. Diabetes, alcoholism, and mental health are reported as problems. There is a difference of opinion between the tribe and IHS on who should fill a vacant doctor slot at Pawnee.

2. *OEO.* The Osage Tribe is sponsor of the NYC program, which serves Indians and non-Indians in a number of counties. The program was one of the first in the country and is regarded as a model. The tribe is pleased with other OEO services.

3. *Other agencies.* Relations appear to be generally good with county welfare, police, and public schools. On the other hand, there was a tendency to see the following as non-cooperative with Indians: local banks, courts and lawyers, and cattlemen.

RECOMMENDATIONS

1. The BIA is currently defining its trust responsibility. We recommend that when this is completed, the BIA should plan to take over funding of Agency activities now funded by the tribe which fall within the scope of the trust responsibility as defined.

2. We recommend that the BIA expedite the review and adoption of the new oil and gas regulations for Osage.

3. We recommend assistance to the tribal council in establishing Osage water rights.

4. The present tribal council for the Osage Tribe was established by a 1906 Statute which provides for the election of a tribal council by headright share holders. There are many questions today as to the validity of the original roll which was created under the 1906 Statute. As it presently stands, it would be futile to challenge the roll. Aside from the questions which were raised as to the original roll, part of the dividedness which exists among the tribal members is the allegation that the present tribal council is not in fact truly representative of the Osage Tribe. In some respects these allegations may have merit. The 1906 Statute franchized the original headright holders but the present devolution of headright shares has caused the vote to become fractionalized, and further the headright voting system has created the condition where a proportion of Osage Indians who may be of one-quarter blood or more, but who do not own a headright interest, cannot therefore vote for the tribal council.

The present tribal council procedurally elected under the method delineated by the 1906 Statute is actively seeking to expand its functions in areas other than the mineral trust interest. These areas are education, housing, employment, and economic development. However, under the Statute the tribal council's powers are limited to actions taken within the purview of the mineral trust estate.

The tribal council now finds itself in a legal quandry since their powers under the Statute are limited to the mineral trust estate but the needs of the Osage Tribe certainly extend beyond the mere management of that estate. The tribal council has recognized the shortcoming, but has not as yet accepted the limitation of the Statute and the lack of a formal constitution and by-laws. It finds itself in a legal dilemma since the tribal council enjoys the majority support of the headright holders while at the same time it may not necessary enjoy the majority of the non-headright holders who are Osage Indians.

The Evaluation Team did discuss this situation with the tribal council and it is our present recommendation that the Commissioner consider presenting to the council various alternative methods to provide equal representation among all the Osage Indians, headright as well as non-headright holders. For instance, this could be accomplished by diverting the mineral trust estate from the general functions normally embodied in a tribal council by separating the mineral estate through a corporate trust structure and by establishing a tribal government governed by a constitution and by-laws. Another method could be to provide for an expansion of the tribal council and to allow the new members to be elected by the entire community while at the same time preserving the integrity of the mineral estate by the continuation of the present tribal council operation. These are not exclusive recommendations and they should be considered merely for discussion purposes. The underlying purpose of this recommendation is for the Commissioner to consider various alternatives which could be presented to the present governing body whereby representation of this unfranchised Osage Indians could obtain representation on a tribal governing body.

5. The Agency has only recently begun to offer programs in the community services sector, and these may not yet be effectively reading eligible non-Osage Indians living in the county. Although the BIA role is largely coordination, advice, and referral in such fields as social services, education, and housing, we judge that additional services are needed. We recommend that BIA strengthen its support in these fields. The eligibility of all Indians in Osage County needs to be emphasized, as there appears to be misunderstanding on this point despite the efforts of BIA staff concerned.

6. Present legislation bars Indians in Osage County from BIA credit services available to Indians in other parts of Oklahoma. We recommend legislation and other necessary action to extend credit services to Indians in Osage County on the same basis as to other Indians in Oklahoma. If legislation cannot be filed forthwith, the BIA should assist the tribe in obtaining and/or establishing other credit sources, such as credit unions.

7. In accordance with Indian wishes and need, we recommend that BIA support legislation to improve the protection of Osage Indian interests during probate and similar actions.

8. Considerable misunderstanding of the handling of trust money was evident. We recommend Agency efforts to improve communication with the Indians on these matters, including (a) explanation of the procedure and regulations for handling trust receipts pending the quarterly distribution, the interest received, etc., (b) quarterly reports on the amounts of mineral receipts and disbursements by object to be printed and available to the public, and (c) distribution of IIM ledgers more than once a year, to be accompanied by an explanation of the procedures employed and the meaning of entries on the sheet.

9. The council apparently operates without official minutes or formalized by-laws of procedures. Because of the importance of its actions, we suggest that the council consider formalizing its operating procedures, establish official minutes, and make them available to the public upon request.

10. In view of the many discrepancies with regard to the handling of the Osage estates and other legal affairs by the private attorneys of Pawhuska, it is recommended that the Bureau, in cooperation with the Office of Hearings and Appeals of the Department of the Interior, review the procedures for descent and distribution of Osage Indian trust or restricted estates and determine what steps need to be taken to more fully protect the members of the Osage Tribe from the possibility of unscrupulous actions.

11. Recommend further evaluation of the petroleum engineer position with respect to the incumbent's effectiveness in his relationships with the tribe.

12. Recommend the Agency examine current procedures for keeping time records and institute needed changes, if any are called for.

13. The tribal council and a large proportion of the individual members of the tribe indicated that they would prefer to keep the present Superintendent in his post so that the overall Bureau program can be expanded and developed. One concern seems to be that the Superintendent should remain in his position with the Osage Agency until the Judgment legislation has been enacted. It is the recommendation of the evaluation committee that the tribal council be consulted and that its wishes be taken into account.

By Mr. MAGNUSON (by request):

S. 3399. A bill to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, at the request of the Department of Transportation, I introduce a bill relating to the flag officer structure of the Coast Guard.

I ask unanimous consent that a copy of the bill together with a letter of transmittal from the Secretary of Transportation be printed at this point in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 14, United States Code, is amended as follows:

(1) The first sentence of section 41 is amended by striking out "a vice admiral" and inserting in lieu thereof "vice admirals".

(2) The first sentence of subsection (e) of section 42 is amended by inserting the words "or excluded under the provisions of section 9(d)(1) of the Department of Transportation Act" between the words "basis" and "shall".

(3) The second sentence of section 44 is amended by striking out the words "in the grade of captain or above" and inserting in lieu thereof the words "above the grade of captain".

(4) Section 47 is amended by striking out the word "Assistant" wherever it appears preceding the word "Commandant" and inserting in lieu thereof the word "Vice"; by striking out the words "in the grade of captain or above" in the second sentence of subsection (a) and inserting in lieu thereof the words "above the grade of captain"; and by striking out the word "An" in subsection (b) and inserting in lieu thereof the word "A".

(5) By adding the following new sections at the end of Chapter 3:

"§ 50. Area Commanders.

"(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area, and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

"(b) An Area Commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment of an area commander is effective on the date the officer assumes that duty, and terminates on the date he is detached from that duty.

"§ 51. Retirement.

"(a) An officer who, while serving as Commander, Atlantic Area, or Commander, Pacific Area, is retired for physical disability shall be placed on the retired list with the grade and retired pay of vice admiral.

"(b) An officer who is retired while serving as Commander, Atlantic Area, or Commander, Pacific Area, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the grade and retired pay of vice admiral.

"(c) An officer who, after serving less than two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade and with the retired pay of that grade."

(6) The first sentence of section 287 is amended by striking out the word and figures "or 289" and by inserting in lieu thereof the word and figures "289, or 290".

(7) Section 290 is amended to read as follows:

"§ 290. Rear admirals; continuation on active duty; involuntary retirement.

"(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral is subject to consideration for continuation during a fiscal year in which he completes not less than four or more than five years service in that grade.

"(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 percent or more than 75 percent of the number of officers being considered for continuation.

"(c) The provisions of sections 253, 254, 258, and 260 of this title relating to selection and continuation boards shall to the extent they are not inconsistent with the provisions of this section, apply to boards convened under this section.

"(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval.

"(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the fiscal year in which the report of the continuation board convened under this section is approved.

"(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the fiscal year in which he completes a total of 36 years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, 434 of this title.

"(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from fiscal year to fiscal year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that fiscal year in which no action is taken to further retain him under this subsection."

(8) The analysis of chapter 3 is amended by inserting the following new items:

"§ 50. Area Commanders.

"§ 51. Retirement."

(9) The analysis of chapter 11 is amended by striking out:

"290. Rear admirals; retention on the active list; involuntary retirement."

and inserting in lieu thereof:

"290. Rear admirals; continuation on active duty; involuntary retirement."

SEC. 2. Subsection (f) of section 202 of title 37, United States Code, is amended to read as follows:

"(f) The number of rear admirals on the active list of the Coast Guard entitled to the basic pay of a rear admiral of the upper half is one-half of the number of officers on the active list in grades above captain, less the number of officers serving in grades above rear admiral. If the division results in an odd number, the odd number shall be placed in the upper half. However, an officer who is entitled to the basic pay of a rear admiral of the upper half may not have his basisc pay reduced solely because the number of rear admirals is reduced.

INTERIM PROVISIONS

SEC. 3. This Act is effective upon enactment except that continuation boards pursuant to subsection (a) of section 290 of title 14, United States Code, as amended by this Act, may not be held until one year following enactment hereof. During the period of one year following enactment hereof the Secretary of the Department in which the Coast Guard is operating shall convene a board consisting of not less than three Coast Guard officers serving in the grade of vice admiral to recommend for continuation on active duty Coast Guard officers on the active duty promotion list serving in the grade of rear admiral, who during the fiscal year in which the board meets will complete not less than five years service in that grade. Subsections (b) through (g) of section 290 and other sections of title 14, United States Code, as amended by this Act, apply to continuation board action taken pursuant to this section. No officer who is entitled to the basic pay of a rear admiral of the upper half may have his basic pay reduced because of the reduction which results from this Act in the number of officers entitled to the basic pay of a rear admiral of the upper half.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 25, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

Identical letter to:

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill,

"To amend the provisions of title 14, U.S. Code, relating to the flag officer structure of the Coast Guard, and for other purposes."

The proposed bill would make changes in the personnel provisions of title 14, United States Code, relating to the Coast Guard, and a related change in title 37, United States Code, relating to pay and allowances. Principally, these changes would require periodic continuation boards to recommend officers serving in the grade of rear admiral for continuation on active duty; establish the statutory positions of Commander, Atlantic Area, and Commander, Pacific Area, and authorize the grade of vice admiral for appointees; and effect related technical changes in other sections of title 14.

Under existing law, Coast Guard officers selected to the grade of rear admiral continue to serve in that grade until they complete seven years in grade or a total of thirty-five years commissioned service, whichever occurs earlier. At that time they are subject to involuntary retirement. The system has several deficiencies. At no time during his tenure in flag grade is an officer's performance subject to formal review as, for example, for identification and retention of the best qualified flag officers and possible separation of those not as well qualified. The inflexibility of a system which requires retention for a fixed period of each officer selected to flag grade, regardless of his performance, has impeded uniform promotion flow, and makes necessary an adequate management tool for presenting reasonably comparable selection opportunity to officers becoming eligible for selection to flag grade. The present system also discourages early selection of especially capable officers to flag grade. The seven-year limitation in grade makes selection to flag grade before the twenty-eighth year of service inefficient and somewhat imprudent because early selection forces retirement of such officers before completion of thirty-five years total service.

The proposed bill would require the periodic convening of a continuation board comprised of more senior officers to recommend for continuation on active duty not fewer than fifty percent nor more than seventy-five percent of rear admirals when they reach the approximate midpoint of average service in flag grade. Officers would only be subject to continuation board consideration a single time. Those not selected for continuation would be retired. The officers to be retired would have not more than five years in flag grade and would probably average a total of about thirty-two years commissioned service. Officers selected to continue on active duty, the better performers, would continue to serve until the completion of thirty-six years commissioned service. The removal of the seven years in grade limitation would assure that the early selection to flag grade of an especially capable officer would not have the adverse side effect of shortening his total career.

Another problem with which the Coast Guard has been faced under the present system, and which study shows will be aggravated in the future, is the rather severe variation in flag selection opportunity on a year-to-year basis. The annual opportunity is a function of several variables not now subject to management control. A significant factor is flag officer attrition uncontrolled except by the statutory "thirty-five years service or seven years in grade" limitation. The proposed bill, to the extent that it permits utilization of a controlled forced attrition of flag officers, will provide a significant capability to make the number of new flag officers that can be selected each year relatively uniform.

Under the existing organizational structure of the Coast Guard, the Coast Guard is divided into twelve districts, each headed by a district commander. In addition, districts on the East coast have been administratively grouped under a Commander, Eastern Area. Similarly, districts on the West coast and those encompassing Alaska and the mid and western Pacific have been grouped under a Commander, Western Area.

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An area commander has important responsibilities beyond those of the district commanders. The planning, control, and support of operations requiring positive action to coordinate the forces and facilities of more than one district fall within his purview. He is primarily responsible for the organization of zones in his area for search and rescue, for the ocean-station program, for the mobilization planning and operational readiness of the districts within his area, for the communications network of the area, and he is the direct representative of the Commandant in matters involving planning and liaison with the heads of the other armed forces within his area.

The proposed bill would recognize the importance of areas and their commanders by providing a statutory basis for establishing areas and authorizing the grade of vice admiral for officers while serving as area commanders. The names of the areas would be changed to Atlantic Area and Pacific Area to reflect more accurately the geographic fields of responsibility.

Enactment of this proposal does not increase the number of Coast Guard flag officers which may be appointed under existing law. This proposal will, however, create for the first time a pyramidal flag officer structure which will parallel the existing pyramidal structure currently in effect for grades below rear admiral. A proposed change to title 37 will require that the number of rear admirals entitled to basic pay as rear admirals of the upper half will be reduced by the number of officers serving in grades above rear admiral. The change aligns the Coast Guard with Navy in this regard and contributes to a pyramidal structure by assuring that the number of rear admirals of the upper half will be less than the number of rear admirals of the lower half.

The essence of our proposal with regard to area commanders is contained in the proposed new sections 50 and 51 of title 14. To the extent that was possible, the substance and the form of expression used in related or similar provisions in title 14 was followed. For example, section 51 which deals with the retirement of vice admirals closely parallels existing subsections (b), (c) and (d) of section 47 which governs the retirement of the single Coast Guard vice admiral now authorized—the Assistant Commandant. The proposal would, therefore, make the law governing retirement of Area Commanders the same.

The principal operative provisions proposed regarding continuation of rear admirals are contained in the amended section 290 of title 14. The substantive approach, as well as the language, parallels the existing law in section 289, which relates to continuation boards for captains, to the fullest extent that provisions of the latter section could appropriately be made applicable to continuation of rear admirals.

The remaining provisions of the proposed legislation are technical changes to accommodate the major substantive changes, refinements in existing language, or minor substantive changes. An interim provision is included which will assist in the transition to an officer personnel scheme which includes continuation boards for rear admirals. The interim provision provides for an initial continuation board to consider all rear admirals with five or more years service at the time of enactment. The degree of forced attrition will be within the same limits as specified for the regular continuation boards which will follow after the first year following enactment of the proposal.

Enactment of the proposed legislation will lead to improved and more effective management of the resources of the Coast Guard and will recognize the stature of senior officers and the growth of the Coast Guard in numbers and responsibilities in recent years.

When compared to existing authority for officers above the grade of captain, this proposed legislation will cost about $7,000 more annually. The figure reflects the higher pay and allowances of two rear admirals to be appointed to the grade of vice admiral.

A comparative type showing changes in existing law made by the proposed bill is enclosed.

It would be appreciated if you would lay the proposed bill before the Senate. A similar bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget had advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

———.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED BILL

(Matter proposed to be omitted is enclosed in brackets; new matter is underscored)

TITLE 14

§ 41. Grade and ratings.

In the Coast Guard there shall be an admiral; [a vice admiral] *vice admirals*; rear admirals; captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1; and enlisted men. Enlisted men shall be distributed in ratings established by the Secretary.

• • • • •

§ 42. Number and distribution of commissioned officers.

(a) • • •
(b) • • •
(c) • • •
(d) • • •

(e) Officers who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433 of this title, and officers serving with other departments or agencies on a reimbursable basis or *excluded under the provisions of section 9(d)(1) of the Department of Transportation Act* shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy, of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, and of the Women's Reserve shall be prescribed by the Secretary.

§ 44. Commandant; appointment.

The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as Chief of the Coast Guard. The Commandant shall be appointed from the officers on the active duty promotion list serving [in the grade of captain or above] *above the grade of captain* who have completed at least ten years of active service as a commissioned officer in the Coast Guard. The Commandant while so serving shall have the grade of admiral.

§ 47. [Assistant] *Vice* Commandant; assignment; retirement

(a) The President may appoint, by and with the advice and consent of the Senate, one [Assistant] *Vice* Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant. The [Assistant] *Vice* Commandant shall be selected from the officers on the active duty promotion list serving [in the grade of captain or above,] *above the grade of captain*. The Commandant shall make recommendation for such appointment. The [Assistant] *Vice* Commandant shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment of [an Assistant] *a Vice* Commandant shall be effective on the date the officer assumes such duty, and shall terminate on the date he is detached from such duty.

(b) A[n] [Assistant] *Vice* Commandant, while so serving, who is retired for physical disability shall be placed on the retired list with the grade and retired pay of vice admiral.

(c) An officer who is retired while serving as [Assistant] *Vice* Commandant, or who, after serving at least two and one-half years as [Assistant] *Vice* Commandant, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade and retired pay of vice admiral.

(d) An officer who, after serving less than two and one-half years as [Assistant] *Vice* Commandant, is retired after completion of that service while serving in a lower rank or grade, shall be retired in his permanent grade and with the retired pay of that grade.

§ 50. Area Commanders.

(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

(b) An area commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment of an area commander is effective on the date the officer assumes that duty, and terminates on the date he is detached from that duty.

§ 51. Retirement.

(a) An officer who, while serving as Commander, Atlantic Area, or Commander, Pacific Area, is retired for physical disability shall be placed on the retired list with the grade and retired pay of vice admiral.

(b) An officer who is retired while serving as Commander, Atlantic Area, or Commander, Pacific Area, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may, in the discretion of the President, be retired with the grade and retired pay of vice admiral.

(c) An officer who, after serving less than two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade and with the retired pay of that grade.

CHAPTER 11—PERSONNEL

§ 287. Separation for failure of selection for promotion or continuation; time of.

If, under section 282, 283, 284, 285, [or] 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.

§ 290. Rear admirals; [retention on the active list] *continuation on active duty;* involuntary retirement.

[(a) Any rear admiral, unless retired under some other provision of law or retained on active duty under subsection (b) of this section, shall be retired on June 30 of the fiscal year in which he completes a total of seven years of service in the permanent grade of rear admiral or a total of thirty-five years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, and 434 of this title.

[(b) Notwithstanding subsection (a) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from fiscal year to fiscal year any rear admiral who would otherwise be retired under subsection (a). A rear admiral so retained, unless retired under some other provision of law, shall be retired on June 30 of that fiscal year in which no action is taken to further retain him under this subsection

[(c) Subsections (a) and (b) of this section do not apply to any officer serving as Commandant.]

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of his section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admiral previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral is subjected to consideration for continuation during a fiscal year in which he completes not less than four or more than five years service in that grade.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 percent or more than 75 percent of the number of officers being considered for continuation.

(c) The provisions of sections 253, 254, 258, and 260 of this title relating to selection and continuation boards shall, to the extent they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the fiscal year in which the report of the continuation board convened under this section is approved.

(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the fiscal year in which he completes a total of 36 years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, and 434 of this title.

(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from fiscal year to fiscal year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that fiscal year in which no action is taken to further retain him under this subsection.

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

§ 202. Pay grades: assignment to; rear admirals of upper half; officers holding certain positions in the Navy.

(f) [Except for those whose basic pay is otherwise specifically authorized by law,] The number of rear admirals on the active list of the Coast Guard entitled to the basic pay of a rear admiral of the upper half is one-half of the number of officers on the active list in [that] grades *above captain, less the number of officers serving in grades above rear admiral.* If [that] *the* division results in an odd number, the odd number shall be placed in the upper half. However, an officer who is entitled to the basic pay of a rear admiral of the upper half may not have his basic pay reduced solely because the number of rear admirals is reduced.

By Mr. MOSS:

S. 3400. A bill to provide for the issuance of a special series of postage stamps to commemorate the bicentennial of the Escalante Expedition. Referred to the Committee on Post Office and Civil Service; and

S. 3401. A bill to provide for the designation of the Escalante Trail, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MOSS. Mr. President, in 1976 this Nation will be celebrating not only the bicentennial of our birth as a nation at Philadelphia in 1776, but the 200th anniversary of another event far out across the country which helped immeasurably to make our Nation great.

This second event was the expedition that Father Silvestre Valez de Escalante led from Santa Fe to the shores of Utah Lake, opening up the mountains west to European civilization.

The members of the expedition were the first Europeans to view the spectacular regions that now comprise the State of Utah, and the path that they marked through present-day Utah, Colorado, Arizona, and New Mexico blazed the way for traders and others who followed over the route that became known as "The Old Spanish Trail." The impact of this expedition on our history and development cannot be overstated.

I know that we as a nation will be deeply involved in celebrating the bicentennial of our national birth in 1976. That is as it should be, of course. But I hope we will also find time to give a nod to the expedition and the man who wrote such a momentous chapter of the history of the Far West in that same year.

I am introducing two bills today which, if enacted, will assure that the Escalante expedition will not be forgotten.

The first bill authorizes the Postmaster General to issue in 1976 a special series of postage stamps to commemorate the bicentennial of the Escalante expedition, with the series to consist of blocks of four different stamps, each representing that part of the route of the expedition through each of the four States.

The second bill authorizes the Secretary of the Interior to enter into agreements wtih the appropriate officials of the four States—Utah, New Mexico, Arizona, and Colorado—to encourage them to designate the route of the expedition as the Escalante Trail, and to erect or place appropriate markers along the route.

Mr. President, I find Americans becoming more and more interested in our history which has shaped the country in which we live, and I feel there will be tremendous desire in 1976 on the part of the people of the four States involved, as well as of people throughout the country, to relive and reenact the story of the Escalante Expedition.

The story begins in New Mexico, land of the Pueblo Indians and of the Spanish pioneers of the Southwest. Early in 1775 the Governor of that province, writing from his capital at Santa Fe, asked Father de Escalante, Franciscan missionary at Zuni, for a report regarding communication between New Mexico and Sonora; the possibility of opening a road between New Mexico and Monterey, capital of the newly founded missions in California; and the subjugation of the Moquinos, or Hopis, who, having long been hostile to Spanish authority and to Christian missionaries, were an obstacle to the desired communication between Santa Fe and the Pacific coast.

Escalante, a Franciscan friar of great intelligence and unusual ability, had for several years studied and planned to locate a route from Santa Fe to Monterey, by way of the higher latitudes, it being his idea in this way to avoid the vast difficulties of crossing that great chasm, the canyon of the Colorado, as well as the desert regions and the Colorado River itself below the canyon.

In addition to his desire to find a route by way of the higher latitudes, Escalante believed that the Yutas, through whose lands he must pass, were less warlike than the Apaches along the southern land route. The Apaches in the area adjoining the Gila River and the lower Colorado River had proved themselves very bold and warlike. They had attacked the Spaniards with great skill and cleverness, and had been successful in running off and stealing many of their horses and cattle, much of their equipment and provisions, and in wounding and killing many of the Spaniards and their followers.

To obtain data for the report, Escalante with a small party made a horseback journey from Zuni to Hopi land, keeping a detailed diary regarding the trail and affairs at the now famous Hopi mesas of Arizona. The primary purpose of his trek was to inquire about a route to Monterey by way of the great river of the Cosninas—Havasupais—which I judge to be the Colorado.

At the Hopi pueblos the people were sullen, but Escalante was able to interview one young Cosnina who was visiting there. The Indian told Escalante about his homeland in the West and made him a map of the trail from Oraibe to the Cosnina settlement in Havasupai Canyon, showing the turns, the days' journeys, watering places, villages, the size of the country, the course of the Colorado River, and neighboring tribes.

A Spaniard by birth, Escalante came from Spain to New Mexico in 1768. He

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taught Christian doctrine in the Mission of Our Lady of Guadelupe of Zuni, N. Mex., and he was in charge of this mission. He was a remarkable man in many ways. He had traveled extensively through, and had resided in many parts of New Mexico and Arizona, and was, therefore, well acquainted with this region.

After presenting and urging his plans for several years to the Governor of New Mexico and to the Provincial Minister of the Franciscans, Escalante succeeded in persuading the Governor, in 1776, to sponsor and finance such an expedition, with Francisco Atanacio Dominguez heading the expedition, accompanied by Escalante and Don Bernardo de Miera y Facheco, a well-known surveyor and mapmaker, who was to make a map of the land they might go through along with seven other residents of Santa Fe.

Escalante had conceived the idea of the excursion and labored with the civil and church authorities for a considerable period of time until the expedition became a reality. He thus became the actual leader, although his superior, Dominguez, assumed nominal charge. Escalante's name, however, has been handed down through history because of his writings, while Dominguez is seldom mentioned, except as Escalante's associate.

Escalante had proposed to make the journey provided his superiors would give him at least 20 men, but having his heart set on this enterprise, and hoping also to convert and civilize large numbers of pagan Indians, he prepared to set out on the hazardous undertaking with Dominguez and only eight men, fully realizing the great dangers and difficulties such reduced numbers might entail.

For a number of years before the historic Escalante expedition, New Mexico traders had been pushing north into the area that is now Colorado, exchanging Spanish goods for fur pelts. One such expedition in 1765 followed a route from Santa Fe northward to the San Juan River and across the northern spur of the La Plata Mountains in present-day Colorado, northwest down the Dolores River, eastward across the Uncompaghgre Plateau and River, and down the latter to the Gunnison. This general route was taken by others in the decade that followed, and thus, by 1776, the region east of the Colorado River and as far north as the Gunnison seems to have been fairly well known. That most of the more important physical features of the country were referred to in the diary of Escalante by names that are still on the map suggests that those names were already in common use at the time.

The historic group that set forth from Santa Fe on Monday, July 29, 1776, numbered 10 persons.

In addition to Escalante, Dominguez, and Miera, who carried an astrolabe and made astronomical observations on the way, the company included Don Pedro Cisneros, alcade mayor of the Pueblo of Zuni; Don Joaquin Lain, also a citizen of Zuni; Lorenzo Olivares of El Paso; the brothers Lucrecio and Andres Muniz, Juan de Aguilar, and Simon Lucero, who bore no official titles and whose residences are not given in the narrative. Some of these men were chosen because as traders and trappers they had been over part of the trail to the far north. Andres Muniz, who the previous year had been north as far as the Gunnison River and knew the Yuta language, went as interpreter. He proved to be highly important on the expedition, because for most of the way through the regions that are now the States of Colorado and Utah, until after the explorers crossed the Colorado River on the homeward trek, all the Indians spoke dialects of the Yuta tongue.

Although there is no specific statement in the diary on this point, it is probable that Escalante's plan was to follow the trappers' trail northwest past Mesa Verde, descend Dolores River some distance, turn west to Green River and the Colorado, and thence to Monterey through a pass in the High Sierra thought to have been sighted by another intrepid Franciscan explorer in the San Joaquin Valley in California.

The first part of the journey followed this plan. The little party made its way up through what is now western Colorado and turned west along the southern flank of the Uinta Mountains, entering the Utah region near the junction of White River with the present State line. They crossed the Green River, which they called the San Buenaventura, and pressed westward along the Duchesne and Strawberry Rivers, emerging at last into Utah Valley via Spanish Fork Canyon on September 23, after almost 2 months of the most arduous journeying.

Father Escalante was full of praise for this beautiful valley which alone, he said, "would provide for as many pueblos of Indians as there are in New Mexico." He described it in detail:

This lake of Timpanogotzis (Utah Lake) abounds in several kinds of good fish, geese, beaver, and other amphibious animals which we did not have an opportunity to see. Round about it live these Indians, who subsist on the abundant fish of the lake, for which reason the Yutas Sabuaganas call them Come Pescados or Fish Eaters. Besides this food, they gather grass seeds in the plain from which they make stole (porridge), supplementing this by hunting hares, rabbits, and fowls, of which there is a great abundance here. There are also buffaloes not very far to the north-northwest, but fear of the Comanches prevents the Come Pescados from hunting them. Their habitations are chozas or little huts made of willow, of which they also make nice baskets and other necessary utensils. In the matter of dress they are very poor, their most decent garments being a buckskin jacket and long leggings of the same material. For cold weather they have blankets made of the skins of hares and rabbits. They speak the Yuta language, but with notable differences in the accent and in some of the words. They have good features, and most of the men have heavy beards, especially those living farther south. In all parts of this sierra to the southeast, southwest, and west, live a large number of people of the same tribe, language, and docility as these Lagunas, with whom a very populous and extensive province could be formed.

Father Escalante devoted a separate paragraph to Great Salt Lake, of which he heard through the Lagunas but did not see. He wrote:

The other lake . . . covers many leagues and its waters are noxious and extremely salty, for the Timpanois (Timpanogos) assure us that a person who moistens any part of his body with the water of the lake immediately feels much itching.

Miera, in his report to the king, gave an even more glowing description of a Spanish settlement that he envisioned on the shores of Lake Timpanogos, on one of the rivers flowing into it. This he proposed as the chief principal colony of a "New Empire" to be carved from the vast area between the lake and the Gila River; "for," he said:

This is the most pleasing, beautiful, and fertile site in all New Spain. It alone is capable of maintaining a settlement with as many people as Mexico City, and of affording its inhabitants many conveniences, for it has everything necessary for the support of human life. This lake and the rivers that flow into it abound in many varieties of savory fish, very large white geese, many kinds of ducks, and other exquisite birds never seen elsewhere, besides beavers, otters, seals, and some strange animals which are or appear to be ermines, judging by the softness and whiteness of their fur. The meadows of these rivers produce abundant hemp and flax without cultivation.

After resting 3 days at Utah Lake, the party turned southward to look for a pass over the mountains into California, but nowhere did they find any sign of a promising route. While the rest of the group camped along the Beaver River, two men sent out on reconnaissance returned to report that they had found no pass whatever by which to cross the sierra, that it was very rough and high in this direction, and that in front of it there was a wide plain without any pasturage or water whatsoever. Meanwhile, the arrival of winter also conspired to make ascent of the mountains impossible. On October 5 Father Escalante wrote:

On the preceding days a very cold head wind from the south had blown fiercely and without ceasing, followed by a snowfall so heavy that not only the peaks of the sierra but likewise all the plains were covered with snow tonight.

At a place they called Santa Brigida, on the Beaver River, the discouraged party decided to abondon the attempt to reach Monterey. Father Escalante wrote:

Winter had already begun with great severity, for all the sierras we were able to see in all directions were covered with snow. The weather was very unsettled, and we feared that before we arrived at our destination the passes would be closed, and we would be delayed for two or three months in some sierra, where there might be no people nor any means of obtaining necessary sustenance, for our provisions were already very low, and so we would expose ourselves to death from hunger if not from cold . . . Therefore, we decided to continue south, if the terrain would permit it, as far as the Rio Colorado, and from there proceed toward Cosnina, Moqui, and Zuni.

Not all the voyageurs were satisfied with this decision. Miera, Lain, and the interpreter Andres Muniz were not convinced that it would be impossible to reach Monterey.

Instead of listening to the force of our arguments, they opposed our views and from then on they were very insubordinate. Everything now was obnoxious to them and everything insufferably difficult. They talked of nothing but how useless so long a journey would be.

At a point just east of present-day Lund, Utah, the issue was finally settled by casting lots, and it was decided in favor of Cosnina.

Crossing the Virgin River, the Spaniards marched southward, planning to continue in that direction as far as the Colorado River, which they thought could not be far ahead. However, they were advised by Indians in the area that they could reach the Colorado in 2 days, but would not be able to go the way they desired:

Because there was no watering place, nor would we be able to cross the river in this region because it ran through a tremendous gorge (the Grand Canyon), and was very deep, and had on both sides extremely high cliffs and rocks, and finally that from here to the river the terrain was very bad.

The Indians refused to escort the Spaniards to the great river, but offered to lead them south some distance along the foot of Hurricane Fault, and to put them on a trail leading eastward to the Cosninas.

At last, on October 26, the party reached the Colorado at Marble Canyon, but it was not until November 7 that they were able to locate a descent and a ford. In order to lead the horses down the side of the canyon, the men cut steps in a rock with axes for a distance of three varas or a little less—about 10 feet. These steps can still be seen, and the place was named Padre Creek in 1937 when it was shown that the party had forded the river here rather than at the so-called Crossing of the Fathers a mile west. From this point on the Colorado, the fathers and their company proceeded directly to Zuni and Santa Fe.

The impact of the Escalante Expedition is evidenced by the increased Spanish interest in the region following his return. Escalante observed a number of times in his journal that villages and towns could be supported by irrigation along streams, but no attempts at colonization were made, nor was the promised mission sent to the Yuta Indians. The international difficulties in which Spain was embroiled, and the formidable Great Plains and their newly mounted Indians, discouraged formal efforts toward colonial expansion or governmental exploitation of the Utah area. However, sanctioned and unsanctioned trading expeditions between Santa Fe and Utah Lake soon resulted in the well-defined route that became known as the Old Spanish Trail.

Father Escalante's journey of 5 months and nearly 2,000 miles, although it failed in its objective to locate and open a route to Monterey, was nevertheless one of the most important trips of exploration ever made from New Mexico into Colorado, Utah, and Arizona, having far-reaching consequences for these States and the areas adjacent to them. The members of Escalante's party were the first white men to see buffaloes near the Green River, Utah; the first to view Utah's magnificent Mount Timpanogos; the first to view the beautiful Utah Valley and Utah Lake. They were the first white men to go among and describe many of the mountain Indian tribes, and the first to cross the great gorge of the Colorado River. The story of their epic journey will forever remain one of the most thrilling and momentous chapters in American history.

By Mr. SPONG (for himself and Mr. BEALL):

S. 3404. A bill to amend the Cargo Preference Act of 1954 for certain purposes. Referred to the Committee on Commerce.

Mr. SPONG. Mr. President, the United States is becoming increasingly dependent on the import of foreign oil as a major source of fuel. In 1960, this country imported 1.8 million barrels of oil per day, or 18 percent of our petroleum demand. In 1970, imports of oil rose to 3.3 million barrels per day, or 23 percent of our demand. By 1985, it is estimated that the United States will have to import more than 14 million barrels of oil each day in order to satisfy our domestic demand. In other words, we may, by 1985, be relying on foreign sources for nearly 60 percent of our petroleum.

The problem presented by our increasing reliance on imports is complicated by the deterioration of the American-flag tanker fleet. As of January 1, 1972, the world tanker fleet totaled more than 190 million deadweight tons. Yet the U.S. fleet was only 7.6 million deadweight tons, or 4 percent of the total, and these few ships were engaged only in domestic tanker operations. In addition, 11 percent of our total fleet, or better than 850,000 deadweight tons, was laid up. Within a few months, prospects are that a minimum of 1.5 million deadweight tons will be laid up, including many of our newest and most modern vessels.

The situation thus presented is that on the one hand the United States has an increasing need for the tanker carriage of foreign oil to our country and on the other hand our tanker fleet is dwindling in size and wasting away in idleness. The reason is that no oil is being carried from foreign sources to our country aboard American-flag tankers.

If this situation continues, we will be faced with a situation in which we will be dependent on foreign sources for our supply and dependent on foreign sources for the transportation of our supply. Such a dual dependency doubles the risk that in the future, we will not receive the energy supply we require. While we probably cannot help but become more dependent on foreign oil, we can and should prevent total dependency on foreign sources for the carriage of this energy.

It is for this reason that I am introducing legislation on behalf of myself and Senator BEALL to amend the Cargo Preference Act of 1954 to require that a minimum of 50 percent of our oil imports be carried on U.S.-flag vessels.

This provision would automatically provide for a buildup in the U.S.-flag tanker fleet. New jobs would be provided for thousands of Americans in shipbuilding and allied industries and in seafaring, thus helping to alleviate our country's unemployment problem. The companies involved in shipping the oil would be American corporations paying taxes to our Government on their profits.

Militarily, modern mechanized armed forces depend heavily on petroleum products to function. Supplying this need, or logistical support, is becoming more and more the responsibility of the privately owned merchant fleet. As Rear Adm. G. H. Miller stated in the February 1972, issue of Sea Power:

Shipbuilding budgets have been insufficient in recent years to maintain an adequate Navy. Thus, with the compelling need to modernize its aging combat fleet, the Navy must turn to the U.S. Merchant Marine for an increasing proportion of the logistic support required by the combat fleet. An adequate U.S. Merchant Marine would provide a large reservoir of ships, which could be converted quickly to logistic support functions.

This legislation would help to insure that the United States has a merchant marine which could function as the Nation's fourth arm of defense.

The use of U.S.-flag vessels to carry oil will also assure the American public that this potentially dangerous and polluting cargo will be carried in the safest, most ecologically conscious manner possible. Legislation can be passed to prohibit harmful operating procedures, but such laws are difficult to apply to a foreign-flag vessel. In addition, enactment of this legislation would have a beneficial effect on our balance of payments. For every dollar spent on petroleum transport without this legislation, about $0.52 would go and stay abroad. With the 50–50 amendment, this would be cut to about 26 cents on the dollar, assuming the comparability between United States and foreign costs.

Enactment of this legislation would not make the United States unique in this area. France, Spain, Chile, and Peru have laws which establish quotas for their flag vessels. Japan and other maritime nations strongly promote their merchant fleets through Government policies which achieve the same result as if they had such laws. There has been no retaliation against these countries by the oil producing nations or by other maritime countries. The United States should require that its crude imports be carried in domestic tankers on the same economic and military grounds that caused other nations to adopt that policy.

Testimony before the House Merchant Marine and Fisheries Committee demonstrates that the importation of 50 percent of our oil aboard American-flag tankers will not result in an increase in cost to the consumer.

It is for these reasons that the United States should require that at least 50 percent of our oil imports be carried aboard American-flag tankers. Our national security, our economy, and our environment demand it.

Mr. BEALL. Mr. President, I am pleased to join with the distinguished Senator from Virginia in sponsoring legislation to amend the Cargo Preference Act of 1954. I wholeheartedly concur with the reasons presented by Senator SPONG in proposing that a minimum of 50 per-

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cent of our oil imports be carried on U.S.-flag vessels.

There are two important aspects of this bill which must be fully considered. One is the impact of this legislation on the American shipbuilding industry. The second is its relationship to our national security.

It has been estimated that by 1985 we will have to import between 12 and 15 million barrels of oil per day from overseas sources. To supply the United States, a tanker fleet nearly equal to that of all of the tanker capacity in the world today will be required.

If the American flag were guaranteed a carriage of at least 50 percent of this vital cargo, between 50 and 75 million deadweight tons of tankers would be needed. The impact on American shipyards, and on the economy as a whole, would be enormous.

The average private shipyard employment for the first 11 months of 1971 was 128,800. This was the lowest figure since 1965. But, the construction of a 50,000 deadweight tons tanker, costing $14 million, would create jobs for 378 men for a full year. For a 250,000 deadweight ton supertanker costing $62 million, jobs would be created for 1,674 men for a full year.

So, when discussing the construction of a fleet of hundreds of modern tankers, we are talking in terms of ship construction jobs for thousands of skilled and semiskilled Americans. We are talking about giving Americans who are receiving unemployment compensation and welfare the opportunity to work and to make a worthwhile contribution to our society.

These benefits would also be felt by other segments of our economy. Allied industries—those which provide the materials necessary for ship construction—would be stimulated as production increased. The increase in the purchases of consumer goods and services would bolster the economies of the areas surrounding the shipyards and allied industries.

At the present time, it is difficult to regulate any part of the import oil transportation industry simply because American-flag vessels are engaged in the oil import trade. Our Nation must have an active tanker fleet engaged in transporting at least 50 percent of our oil imports. If this is not accomplished, the U.S. Government must be prepared to relinquish all control and regulatory powers over this entire industry to foreign nations.

There appears to be little choice in becoming more dependent on foreign sources for our supply of this vital and strategic raw material. The one remaining choice is whose transportation facilities will we utilize. Becoming dependent on third party foreign governments for transportation would create a dual dependency problem and would at least double the risk of being shut off from our supply of imported oil.

For example, using a third party nation as a transportation medium could create these problems:

A dispute between the producing exporting nation and the foreign-flag nation could effectively cut off all supply to our Nation.

Management and labor problems in the third party foreign-flag nation. Many of the corporations and labor unions of other nations are very politically oriented. For instance, some foreign-flag vessels crews and the companies themselves, refused to carry U.S. cargoes to Vietnam.

A dispute between our Nation and a third party nation transporting our energy resources could result in a withdrawal of all ships of that nation engaged in carrying oil to our country.

A dispute between our Nation and an international corporation that controls importing into the United States under a weak "flag of convenience." For example, if the United States pressures an international company to improve their safety and pollution standards, the company could instead withdraw its ships from our trade. Thus, we would either be without the supply we need, or else be forced to lower our standards and endanger our environment.

It therefore becomes apparent that in time of crisis, only U.S.-flag vessels can be directly controlled by our Government. In a future oil crisis, all the European-flag vessels currently engaged in transporting oil to the United States would either shift to their own oil trade or be nationalized by their governments. We could not afford to lose these ships, which currently carry about one-third of our imported oil. Yet, our European allies could not afford to let us keep these ships in our service.

Many arguments have been presented to attack the fact that our national security requirements command enactment of this amendment. There has been much testimony before the House Merchant Marine and Fisheries Committee to the effect that the United States can rely on the "effective control" fleet in time of national crises. But the truth of the matter is that the doctrine of effective control has never been put to the test. In other words, we have never been in the position to determine once and for all whether these Liberian-, Panamanian-, and Honduran-flag vessels would be available to the United States. We must have oil to survive as a nation, and we must import our oil. Our national security demands that we know we will be able to have the ships we require. There is only one way to so guarantee, and that is through the use of U.S.-flag vessels.

Another argument presented was that in time of an oil boycott against the United States, the exporting nations would load foreign-flag but not U.S.-flag ships. History has shown that this is not the case. The Department of Interior's Middle East Petroleum Emergency of 1967 contains an excerpt from Esso magazine. That article stated that:

> . . . But, following allegations of Anglo-American participation in the war, all loadings at Arab ports for British and U.S. destination were refused, while some Arab states placed an embargo on British and U.S.-flag vessels, irrespective of their destination . . .

The point is that in time of boycott, the exporting nations would not allow any flag to deliver oil to the United States. All participating nations joined in the boycott of the country of destination, whereas not all boycotted U.S.-flag vessels. Their argument in opposition to this legislation is therefore meaningless.

President Nixon, in late July 1970, asserted that "we are primarily—a sea power." Virtually surrounded by water, and hardly self-sufficient, the United States must rely on ships to import oil—vital and strategic material.

We cannot allow the carriage of this energy source to fall completely into foreign hands. We cannot allow our Merchant Marine—our Nation's fourth arm of defense—to deteriorate to such a point that in time of crisis it will be unable to meet our needs. The world is constantly changing. Our enemies of yesterday are our friends of today. And our friends may tomorrow's enemies. We must maintain ourself. We cannot place our fate in the hands of nations who may not desire to or be able to help us in time of trouble.

This legislation must be acted upon favorably. Americans need the jobs and the United States needs the guarantee of security.

By Mr. RANDOLPH (for himself, Mr. BAYH, and Mr. COOPER):

S. 3405. A bill to amend title 23 of the United States Code to establish a national scenic and recreational highway program. Referred to the Committee on Public Works.

NATIONAL SCENIC AND RECREATIONAL HIGHWAY PROGRAM

Mr. RANDOLPH. Mr. President, on behalf of myself, the junior Senator from Indiana (Mr. BAYH), and the senior Senator from Kentucky (Mr. COOPER), I introduce for appropriate reference a bill to amend title 23 of the United States Code to establish a national scenic and recreational highway program.

The purpose of this bill is to meet a long-recognized need for additional means of access to places of scenic, recreational, historical, archeological, and scientific interest. It is based on the acknowledged premise that significant esthetic, educational, and recreational values can be gained from viewing varied vistas of natural grandeur and beauty, utilizing outdoor, open-space recreational areas, and visiting the numerous scattered sites significant in our cultural heritage.

Nearly 8 years ago the development of a national system of scenic roads and parkways was advocated by President Kennedy's Recreation Advisory Council. In June 1966, the President's Council on Recreation and Natural Beauty—successor to the Advisory Council—issued a comprehensive report recommending adoption of a minimum $4 billion, 10-year program for the development of scenic roads and parkways. It should be noted that the report was founded on data submitted by each State and by affected Federal agencies proposing specific projects which were then carefully evaluated and ranked according to potential use, construction costs, and proximity to population centers.

Mr. President, the number and quality of scenic and recreational roads available to the motoring public is deficient. The quantity of open-space and recreational areas, especially that which is readily accessible to many urban dwellers, has been decreasing at the same time more and more families have the time and financial resources necessary to enjoy them. Owners of private automotive vehicles are seeking highways upon which they can drive for pleasure at a more leisurely pace and can benefit from adjoining recreational and other leisure-time facilities.

My bill would attempt to remedy this apparent lack by a new, twofold program; assistance would be provided to both the States and Federal departments and agencies having jurisdiction over public lands of the United States for the development of scenic and recreational highways throughout the Nation. For each of the fiscal years ending June 30, 1974 and 1975, there would be authorized $150 million to be allocated to the States and $50 million to be allocated to Federal departments and agencies for the location, construction, or reconstruction of such highways. Although funding at inception would be only at half the level proposed by the President's Council, I believe the smaller scale would be preferable until the program is fully underway. In later years, increased amounts can be appropriated as demonstrated by future needs and experience.

Scenic and recreational highways built or improved on public lands of the United States, of course, would be financed entirely by the Federal Government, but those within State or local jurisdiction would be entitled to 80-percent Federal share of their total cost. Appropriations for the latter would be apportioned among the States according to a formula combining the elements now employed for Federal-aid highway, secondary, and urban-extension funds. Under this pattern all States would receive amounts proportionate to such factors as total area, population distribution, and highway mileage.

To be eligible for Federal aid under this program, States would comply with criteria to be established by the Secretary of Transportation. Scenic and recreational highways would have to be connected with other Federal-aid highways, marked with uniform identifying signs, and limit outdoor advertising signs, displays and devices in accord with the provisions of the Highway Beautification Act of 1965. Priority would be given to the location of such highways near or easily accessible to larger population centers, and no fees could be charged for the use of any facility constructed with the aid of Federal funds.

The Secretary would be authorized to consult with the heads of Federal departments and agencies having jurisdiction over public lands of the United States and to make agreements for the construction or reconstruction of scenic and recreational roads on such lands. As far as possible the same criteria developed for highways constructed or reconstructed by States under this program would also be made applicable to those established and paid for entirely by Federal funds on public lands of the United States.

In addition to the normal costs involved in planning, designing, engineering, constructing and reconstructing scenic and recreational highways, the bill would permit funds appropriated under both phases of the program to be used for such ancillary purposes as acquiring scenic easements, purchasing historical, archeological or scientific sites of interest, providing roadside rest and recreational areas or other facilities deemed appropriate by the Secretary.

Mr. President, as we approach the 200th birthday of this Nation, I think of this program as one which would provide worthwhile and lasting benefits for the people as a whole. This is contemplated by such a bill. It would be very fitting if by the time the national celebration is held in 1976 substantial sections of the new scenic and recreational highway program could be completed in many of our 50 States.

I ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 145. National Scenic and Recreational Highway Program.

"(a) (1) The Congress finds—

"(A) that there are significant esthetic and recreational values to be derived from making places of scenic and natural beauty and historical, or scientific interest accessible to the public;

"(B) that there is a deficiency in the number and quality of scenic roads, parkways and highways available to the motoring public;

"(C) that with increased population, greater leisure time and higher percentage of privately owned automotive vehicles, more families than ever are seeking suitable areas in which to drive for pleasure and recreation;

"(D) that the growth of cities and large metropolitan centers has decreased the quantity of open-space and recreational areas available to the general public, especially urban dwellers; and

"(E) that substantial economic, social, cultural, educational and psychological benefits could be gained from a nationwide system of attractive roadways making possible widespread enjoyment of natural and recreational resources.

"(2) It is therefore the purpose of this section to provide assistance to the States and to other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to develop highways throughout the Nation to satisfy such needs.

"(b) As soon as possible after the date of enactment of this section the Secretary shall establish criteria for the location and construction or reconstruction of highways by the States in order to carry out the purpose of this section. Such criteria shall include requirements that—

"(1) priority be given in the location of such highways near or easily accessible to the larger population centers of the State;

"(2) such highways be connected with other Federal-aid highways and preferably with the Interstate System;

"(3) such highways be marked with uniform identifying signs;

"(4) effective control, as defined in section 131 (c) of this title, of signs, displays, and devices will be provided along such highways;

"(5) the provisions of section 129 (a) of this title shall not apply to any bridge or tunnel on any such highway and no fees shall be charged for the use of any facility constructed with assistance under this section.

"(c) For the purpose of this section the term 'construction' includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas, and other appropriate facilities determined by the Secretary for the purpose of this section.

"(d) Highways constructed or reconstructed pursuant to this section (except subsection (g)) shall be part of the Federal-aid primary system except with respect to such provisions of this title as the Secretary determines are not consistent with this section.

"(e) Funds appropriated for each fiscal year pursuant to subsection (h) (1) shall be apportioned among the several States for payments to carry out the purpose of this section in the ratio which the total apportionments to each State pursuant to section 104(b) (1), (2), and (3) for such year bears to the total such apportionments to all States for such year.

"(f) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be 80 per centum of such cost.

"(g) The Secretary is authorized to consult with the heads of other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to enter into appropriate arrangements for necessary construction or reconstruction of highways on such lands to carry out the purpose of this section. To the extent applicable criteria applicable to highways constructed or reconstructed by the States pursuant to this section shall be applicable to highways constructed or reconstructed pursuant to this subsection. Funds appropriated pursuant to subsection (h) (2) shall be used to pay the entire cost of construction or reconstruction pursuant to this subsection.

"(h) There is authorized to be appropriated out of the Highway Trust Fund (1) not to exceed $150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, for allocations to the States pursuant to this section, and (2) not to exceed $50,000,000 for each of the fiscal years ending June 30, 1974, and 1975, to carry out the provisions of subsection (g)."

SEC. 2. The table of contents of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"145. National Scenic and Recreational Highway Program."

Mr. COOPER. Mr. President, I am pleased to have the opportunity to join the distinguished chairman of the Committee on Public Works, Senator RANDOLPH, in introducing a bill to establish a national scenic and recreational highway program.

As Senator RANDOLPH has indicated, interest in a national program is not new. There already exist several thousand miles of scenic and recreational roads—National and State parkways which allow no commercial traffic, segments of the interstate and other Federal-aid highways, national forest and park roads, and designated boulevards in some cities. The responsibility for planning and building scenic roads is scattered—

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carried out by numerous local, State and Federal agencies, with little reference to each other or to any coherent plan to insure desirable use of limited resources.

This bill provides the opportunity to examine the concept of scenic and recreational roads, to determine the desirable characteristics of a national system, and establish the degree of Federal support and guidance necessary to achieve the desired end.

I have been interested in Federal programs to beautify our highways for many years. In 1967 I introduced the scenic development and road beautification bill to encourage States to enhance the scenic value of selected roads within their borders. I have reviewed, with interest, Gov. Maurice Thatcher's ideas for a national, connected system of parkways. I have been concerned about the slow pace at which parkway development takes place, including lack of progress on the proposed Allegheny Parkway in Kentucky, Virginia, and West Virginia.

I hope that hearings on this bill will provide information useful in defining a national system, such as the type of traffic it is to carry—for example, the extent to which commercial vehicles will be allowed—the design and location characteristics best suited to its purpose; its extent and total cost; and which existing roads it should include.

To many travelers the destination has customarily been more important than the trip. I believe that we, as a nation, now recognize the opportunities we miss by concentrating only on the ultimate goal and that we are beginning to enjoy the journey as well as its end—which is, after all, in an old tradition. I think that a carefully conceived, well-executed national program for scenic and recreational roads could add the dimension of quality to highway travel in America.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3406. A bill to declare certain Federal lands held in trust for the Confederated Tribes of the Goshute Indian Reservation. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and my distinguished colleague from Nevada (Mr. CANNON), I introduce for appropriate reference a bill to declare certain Federal lands held in trust for the Confederated Tribes of the Goshute Indian Reservation located on the boundary line between the States of Nevada and Utah.

The lands in question, adjacent to the present reservation, are in one of the most isolated areas in the United States. The Indians of the Goshute Reservation live in a desolate portion of the great American desert where living is difficult and where the sole means of livelihood is through a marginal stockraising economy. The nearly 2,000 acres of land proposed to be added to the reservation are identical to those now within the reservation boundaries but will permit the tribe to enlarge the present livestock operations and contribute to the welfare of its members.

Mr. President, I ask unanimous consent that a copy of resolution No. 72–G–4 adopted by the governing body of the Confederated Tribes of the Goshute Reservation on December 9, 1971, be printed in the RECORD as a part of my statement.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE GOVERNING BODY OF THE CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION

Whereas, by tribal resolution No. 71–G–4 dated July 9, 1970, the governing body of the Confederated Tribes of the Goshute Reservation requested the Superintendent, Nevada Indian Agency, to withdraw all available Public Domain lands within the corridor between the States of Utah and Nevada for addition to the Goshute Indian Reservation, and

Whereas, the tribal resolution No. 71–G–4 dated July 9, 1970 failed to include a certain parcel of Public Domain land described as the SE¼SW¼ Sec. 34, T. 9 S., R. 19 W., Salt Lake Meridian.

Now therefore be it resolved that since that certain parcel of Public Domain land described as SE¼SW¼ Sec. 34; T. 9 S., R. 19 W., Salt Lake Meridian, was not included in tribal resolution No. 71–G–4 dated July 9, 1970, we wish to include that certain herein described vacant Public Domain land in our application for withdrawal, and we do hereby rescind resolution No. 71–G–4 dated July 9, 1970.

Be it further resolved that we request the herein described vacant Public Domain lands adjacent to the Reservation be withdrawn and added to the Goshute Reservation to be held in trust by the United States of America for the Confederated Tribes of the Goshute Reservation.

Be it further resolved that the Nevada Congressional delegation is requested to introduce appropriate legislation that will convey this land to the Goshute Tribe.

Be it further resolved that the Tribal Secretary is authorized to send copies of this resolution to the Superintendent, Nevada Agency; Intertribal Council of Nevada; the Commissioner of Indian Affairs, and the Secretary of the Interior.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, and Mr. PELL):

S. 3407. A bill to amend the Education of the Handicapped Act to provide for improved opportunities for handicapped persons, and for other purposes. Referred to the Committee on Labor and Public Welfare.

SUPPLEMENTARY EDUCATION SERVICES FOR THE HANDICAPPED ACT OF 1972

Mr. WILLIAMS. Mr. President, I am today on behalf of myself, Mr. RANDOLPH, and Mr. PELL, introducing a bill to amend the Education of the Handicapped Act—a bill to be known as the Supplementary Education Services for the Handicapped Act of 1972. This bill will authorize the Commissioner of Education to acquire and distribute television products and theater productions, telecommunication aids for the deaf, and sensory and communication devices for the handicapped. And, it will create and support more inclusive opportunities for the handicapped in continuing adult and higher education.

The ideas in this bill were prompted by a visit I made to the National Advisory Committee for the Education of the Deaf several weeks ago to make the first interview ever conducted via teletype, and to celebrate the installation of a teletype at the Mount Carmel Guild in New Jersey. The demonstration of the teletype reinforced my interest in problems of communication for those with disabilities. It brought home to me again the inequalities in our Nation for those who have disabilities that they must cope with every day. And it made me ask a very fundamental question. With all of our advances in technology and additions to knowledge in the last few years, why has that knowledge not been put to use to devise methods to enable disabled persons to function more freely?

I believe too many of us take for granted what modern technology has provided at minimal cost—the telephone, newspapers, films, television, street signs, warning signals. We fail to realize that these benefits are too often unavailable to the handicapped. And therefore we fail to invest much thought, planning, and foresight into creating mechanisms which would enable the handicapped to take advantage of similar communication aids, and to enable them to move more freely and independently in our society.

A few weeks ago, I asked the Congress and the Nation to commit themselves to the goal of full integration of handicapped persons into working, living, and social patterns of this society. If we are to reach our goal, then we must plan now to include them, and enable them to make this integration with ease, and with as little expense as possible. But to do this, we must revise our ways of thinking about persons with disabilities.

I recently had the opportunity to read an address by Dr. James Gallagher, the first Commissioner of the Bureau of Education for the Handicapped and presently director of the Frank Porter Graham Child Development Center at the University of North Carolina. In his address, Dr. Gallagher defined the handicapped as individuals who have problems in processing information around them and responding to this information. In viewing the handicapped in this way, he suggested we might identify the handicapped according to four types of problems they face. There are those who have problems in the reception of information—individuals with hearing and visual handicaps; those who have problems linking new information to old information—individuals who are mentally retarded, or with learning disabilities; those who have difficulties with communication skills—individuals with cleft palates, with cerebral palsy or with motor difficulties; and those who have difficulties with executive control—individuals who have motivational control problems, difficulties with attention control or who are emotionally disturbed.

As simple and easily understood as this categorization is, its ramifications are profound. First, it suggests that if we are going to deal with the problems of the handicapped adequately, not only must we take steps to eliminate causes, but we must find ways to ameliorate the conditions each individual finds himself in. Second, we must plan and provide a continuum of services that will bring each individual with handicaps as close as possible to normal functioning in daily situations. Third, and most important, we must realize that in a rapidly changing society where all individuals

are taxed to keep up with rapid change, individuals who have difficulties processing and responding to even the simplest information are at a decided disadvantage.

If we are to find ways to fully integrate these individuals, we must also find ways to help them compensate for their disabilities and to allow them to compete on as equal a basis as possible. That is why I believe that the amendments I am introducing today are so important. We must begin as soon as possible to make their effects felt.

The first section of this bill authorizes the Commissioner to acquire and distribute telecommunications aids to the deaf. These aids would also be distributed to public and private nonprofit schools, agencies, and organizations which serve the deaf, and to police, fire, and other emergency service public agencies. These communication devices are to be made available for the purpose of providing public services to the deaf in times of emergency, to increase educational, cultural, and recreational opportunities for the deaf, and to increase normal communication opportunities between the deaf and hearing persons.

At the present time, there is a teletype system for the deaf in operation—a network of approximately 1,000 teletypewriters. These machines are largely refurbished and obsolete business machines which have been donated or purchased at a cost of approximately $250. This equipment, because it is old, does not have the capabilities of newer machines and therefore cannot communicate with other teletype networks used by motels, airlines, police, and other metropolitan agencies.

Under this section, an electronic keyboard could be provided that can be acoustically coupled with any telephone and will allow for two-way communication with any other phone with a similar system. For emergency services, these devices could communicate with other teletype systems or with central operators that could call emergency aid for the deaf. These systems can be purchased at $200 to $300 per system, and are compatible with existing devices such as the teletype. They are lighter, more portable, and cost about one-fifth what the teletypewriter costs. These devices would have the added capability of being able to connect with any similar computerized system in an educational institution, and therefore could be utilized for important educational services for deaf persons. There are many other telecommunication devices which have been developed that could be used or could be adapted for use by the deaf. This section gives the Commissioner authority to look into such aids and to provide them to the deaf, and to other agencies to improve deaf person's ability to communicate.

The second section of the bill authorizes the Commissioner to provide sensory and communications devices to local and State educational agencies, and other appropriate public or private nonprofit agencies that provide education for handicapped persons other than the deaf. Such devices are to be provided in order to allow handicapped children and adults to participate more fully in elementary, secondary, postsecondary, and continuing education programs.

Under this provision, the Commissioner could provide these aids to enable handicapped persons to more easily receive educational services or allow them to compete more easily with others without handicaps. For example, there are two devices which come to mind that would aid blind individuals in the pursuit of their education. One is a print reader which allows blind individuals to read anything that is printed. The second is a fast playback device like a tape recorder which allows ready access to printed materials, and is more portable and flexible than present talking books for the blind. Let me point out that the authorizations under these two sections represent an important first step toward providing these communication devices at no or low cost to all who need them.

The third provision would authorize grants and contracts for continuing adult and higher education opportunities for the handicapped, and would provide for the development of specifically designed educational programs, supplementary services, and other appropriate services designed to help handicapped persons enjoy equal education opportunities and to compensate for their handicaps. This is a provision that has long been needed. We know that each day more than 1,000 new books are published, more than 75 hours of television programing, and myriad magazines and newspapers are available. We talk often about the "information explosion"—about future shock—and the fact that we are being faced with rapid changes in society and major advances in knowledge and information. Community colleges, "open" universities, and external degree programs have been created offering a wider variety of learning experiences and providing most of us the possibility of continual learning. For one reason or another, the handicapped are often excluded from these experiences.

We know that there are many continuing and adult education programs operating in local communities. Colleges have undertaken to provide special advanced classes for the communities in which they are located. But we have forgotten that the handicapped are often excluded from these programs. If you examine all of these facilities, you will find few, if any, handicapped individuals enrolled. The reasons are obvious, even if the results are unintended. Theoretically, the handicapped should be involved in all of these classes, but there are physical obstacles to their enrollment: lack of transportation, inability to get into the building, inability to hear or see when they get there. For the more severely handicapped, there are other problems: the inability to keep up with the normal progress of a class or lack of familiarity even with basic processes of examination, because they have been denied education for too long. Most program coordinators have not considered these problems. Or, when they have, they have not had funds available to provide special facilities or special compensatory features which would allow the handicapped to participate more readily.

This provision will provide those additional funds. It will enable our communities to plan continuing educational services for the handicapped, and will provide for the creation of special classes and services to begin the compensatory education and training that many of the handicapped need.

Finally, the bill will expand the existing instructional media for the handicapped program to include television products, theater productions, and other media. This provision will allow the Commissioner of Education to provide outstanding theater, television, and other cultural productions to handicapped persons.

Mr. President, I believe that this bill provides important supplementary services for the handicapped. It fills in certain gaps in existing authority for programing for the handicapped, and will enable the Commissioner of Education to put to use developments in the area of technology and information processing which have been produced under research and development authority. And I expect under the broad research authority in title VI, ESEA, it will stimulate further research on applications of existing advances in communication and sensory technology to the real problems of information processing that face handicapped persons.

It is difficult for me to imagine that a Nation which developed the intricate communications technology involved in going to the moon, and supporting information satellites cannot find the expertise, and the money to allow persons with similar information problems to communicate more freely. I refuse to accept the argument that these are not similar problems. The answer has to lie in our willingness to make a commitment to people. And I, for one, will not accept our lack of commitment any longer.

Mr. President, I think it is particularly appropriate that we introduce this legislation today for today the Council for Exceptional Children opens the general sessions of its convention here in Washington at the Shoreham Hotel. CEC is celebrating its 50th anniversary of service and advocacy for exceptional children. This organization is well known throughout the Nation for its fine work and commitment on behalf of exceptional children; and I believe it is a fitting tribute that we join them in celebrating their 50th anniversary with the introduction of this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed immediately following my remarks; and Mr. President, I ask unanimous consent that letters and excerpts from letters I have received on the Subcommittee on the Handicapped, S. 3158, the Office of the Handicapped, and Senate Joint Resolution 202, the White House Conference on the Handicapped be printed immediately following my remarks.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

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S. 3407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supplementary Education Services for the Handicapped Act of 1972".

SEC. 2. (a) Section 651 of the Education of the Handicapped Act (84 Stat. 178) is amended by striking out "(a)".

(b) Section 651 of such Act as amended by this Act is further amended by inserting immediately after "films" the following: ", television products, theatre productions, and other media".

SEC. 3. (a) Section 652(b)(1) of such Act is amended by inserting after "films" the following: "and television products,".

(b) Section 652(b)(3) of such Act is amended by inserting immediately before the semi-colon "and television products".

(c) Section 652(b)(4) of such Act is amended by inserting immediately after "films" the following: ", television products".

SEC. 4. Section 654 of the Education of the Handicapped Act is amended to read as follows:

"TELECOMMUNICATION AIDS FOR THE DEAF

"SEC. 654. (a) The Commissioner is authorized to acquire by purchase, lease, or gift, Teletype, telecommunication and similar communication systems.

'(b) The Commissioner is authorized to distribute by loan or direct grant such communication systems acquired under subsection (a) to public and private non-profit schools, agencies, and organizations which serve the deaf, and to police, fire and other emergency service public agencies and to deaf persons, for the purposes of providing equal opportunity for deaf persons to receive the protection of public agencies in emergencies.

"(c) In distributing communication devices under this section, the Commissioner shall consider the provision of—

"(1) public services to deaf persons in emergencies;

"(2) increased educational opportunity for deaf persons;

"(3) increased cultural and recreational opportunities for deaf persons; and

"(4) increased normal communication opportunity between deaf and non-deaf persons."

SEC. 5. The Education of the Handicapped Act is further amended by adding at the end thereof the following new sections:

"SENSORY AND COMMUNICATION DEVICES FOR THE EDUCATION OF HANDICAPPED PERSONS

"SEC. 655. The Commissioner is authorized to—

"(1) provide by contract, lease, or grant for the development or acquisition of, sensory and communication devices designed to allow handicapped children and adults to participate more fully in elementary, secondary, post secondary or continuing education programs and in increased cultural, recreational, and communication opportunities between handicapped and non-handicapped persons; and

"(2) to distribute such sensory and communication devices to local and State educational agencies, institutions of higher education, and other appropriate public or private non-profit agencies providing education for handicapped persons.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 656. For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975.".

SEC. 6. The Education of the Handicapped Act is further amended by adding at the end thereof the following new part:

"PART H—CONTINUING AND HIGHER EDUCATION FOR THE HANDICAPPED

"STATEMENT OF PURPOSE

"SEC. 671. The purpose of this part is to develop, support, and improve opportunities for handicapped persons to partcipate in continuing education programs throughout their lifetime and for all handicapped persons to participate as fully as possible in the education programs of technical and vocational institutions and institutions of higher education which participate in educational programs with non-handicapped persons, thereby providing maximum opportunity for positive social, cultural and educational interaction between handicapped and non-handicapped persons.

"GRANTS AND CONTRACTS FOR CONTINUING AND HIGHER EDUCATION FOR HANDICAPPED PERSONS

"SEC. 672. The Commissioner is authorized to make grants and contracts to institutions of higher education, public or private, non-profit technical and vocational schools, State and local educational agencies, radio and television stations and other appropriate agencies for—

"(1) the development and conduct of specifically designed educational programs to meet the learning needs of handicapped persons;

"(2) providing supplementary services such as tutoring, interpreting services for deaf persons, note taking services for deaf or blind or physically handicapped persons; and

"(3) other appropriate services which are designed to help handicapped persons enjoy equal education opportunities and to compensate for their physical, sensory, mental or emotional handicaps.

"DEFINITION

"SEC. 673. For the purpose of this part, the term "continuing education" refers to educational offering designed to provide handicapped persons with (1) fundamental elementary and secondary educational programs designed to remedy deficiencies in the basic education of handicapped persons; (2) academic and technical materials at the high school and post-secondary level designed to help the handicapped person function more productively.

"AUTHORIZATION OF APPROPRIATIONS

SEC. 674. For the purpose of carrying out this part, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975."

EDUCATION COMMISSION OF THE STATES,
Denver, Colo., March 17, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senator, Old Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: On behalf of the Task Force and staff of the Handicapped Children's Education Program, I would like to take this opportunity to commend you sincerely for your recent successful efforts on behalf of the handicapped.

The establishment of a Subcommittee on the Handicapped as part of the Labor and Public Welfare Committee comes at a time when alternate strategies must be found to deliver services to the vast number of handicapped persons who need but do not now receive them. Your dedicated interest in the development of national policies and programs in this area clearly indicates your total commitment of serving this group.

It is our sincere hope that you will look to the Handicapped Children's Education Program for assistance in carrying out this new work. Your fellow Task Force members and the HACHE staff will be delighted to support you in any way that you feel may be helpful in achieving your goals.

Sincerely,

GENE HENSLEY,
Director, Handicapped Children's Education Program.

STATE OF NEW JERSEY, DEPARTMENT OF INSTITUTIONS AND AGENCIES,
Newark, N.J., March 17, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR WILLIAMS: I read with a great deal of pleasure your commitment to improve the lot of handicapped individuals in our society. It seems to me that the steps you are planning to create a new subcommittee on the handicapped; to support the calling of a White House Conference on the handicapped and to establish an office on the handicapped in the Department of HEW are all excellent steps that should lead to effective instruments for assuring equal opportunities for the bland and other handicapped individuals. • • •

With warmest personal good wishes.

Very truly yours,

JOSEPH KOHN,
Executive Director.

STATE OF RHODE ISLAND PROVIDENCE PLANTATIONS, DEPARTMENT OF EDUCATION,
Providence, R.I. March 16, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
Chairman, U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR WILLIAMS: I reviewed your proposed bill, S 3158, and accompanying joint resolution with great interest. When one considers the large number of activities and programs for the handicapped scattered among the various agencies of Health, Education, and Welfare, the need for coordination becomes obvious. Please let me know of any way that I can support your proposal.

Sincerely yours,

FRANCIS B. CONLEY,
Coordinator, Special Education.

THE COUNCIL FOR EXCEPTIONAL CHILDREN,
March 13, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: I was very pleased to receive your speech delivered February 9, 1972 as printed in the Congressional Record. I am sure that you know we appreciate your continued interest in the education of handicapped children and all of the important things you are helping to make possible for them.

Please be assured of our continued interest and cooperation in any way possible.

With kindest regards and best wishes.

Sincerely yours,

WILLIAM C. GEER,
Executive Secretary.

AMERICAN PSYCHIATRIC ASSOCIATION,
Washington, D.C., March 15, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: The American Psychiatric Association, which represents 19,000 of the 25,000 practicing psychiatrists in the United States, wishes to commend you on the initiative you have taken in behalf of the handicapped people of this country.

We are aware that you have included the mentally retarded as recipients of your worthy efforts, and we wholly support your concerns since our members have been actively engaged in this area for many years.

The profession of psychiatry is interested in the mental health of all people, including the handicapped. If we, as a society, continue to impose additional hardships on this special group of people instead of finding ways and means to promote their personal welfare through rehabilitation, vocational training, and other aids, there is no question that, as a consequence, their mental health will suffer.

If you should require any assistance from our Association in your endeavors for the handicapped, be assured that we will hasten to be of service.

With very best personal regards, I am

Sincerely,

EWALD W. BUSSE, M.D.,
President.

COMMONWEALTH OF VIRGINIA,
STATE DEPARTMENT OF EDUCATION,
Richmond, Va., March 13, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR MR. WILLIAMS: Thank you for the remarks made recently by you on the Senate floor asking for a major Congressional and National commitment to the handicapped. You have made a strong and I trust useful statement which should move this Nation closer to a fulfillment of its obligation to the handicapped. This I view as morally necessary and economically feasible. Should you be successful in establishing an Office of the Handicapped, I hope that one of its primary efforts will be toward bringing cohesiveness to the multitude of now existing programs.

Sincerely,

S. P. JOHNSON, Jr., *Director,*
Elementary and Special Education.

SPECIAL EDUCATIONAL PROGRAMS,
Washington, D.C., March 13, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I have read and studied your recent remarks calling for a national commitment to the handicapped (Congressional Record, Volume 118, No. 17, Wednesday, February 9, 1972). There has been too little attention to the condition of the handicapped in the United States. A condition which in some parts of the country has reached crisis proportions. Too many exceptional children are deprived of educational justice and as you stated, the realization of their personal and economic potential.

Discrimination against the handicapped is as invidious as any we know, and to paraphrase a popular notion that they are often last thought of and first cut off when budgetary allotments are made. Your remarks on the Senate Floor and the statistical data contained therein are all too accurate and once again point out the tragedy which is in the making in this country. I am enclosing copies of our own analysis of this problem right here in the shadow of the Capitol.

As a professional deeply involved in special education, I want to record my support for each of your proposals and to particularly identify myself with your call for a White House Conference on The Handicapped and provision in resolution 202 providing for "educational, health and diagnostic services for all children early in life so that handicapped conditions may be discovered and treated early."

I am willing to assist in this national endeavor you propose, and I enlist your assistance in alleviating the current tragic situation which exists right here in Washington, D.C.

Sincerely yours,

JOHN L. JOHNSON,
Associate Superintendent.

STATE OF WISCONSIN,
DEPARTMENT OF PUBLIC INSTRUCTION,
Madison, Wis., March 15, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: I sincerely appreciate receiving your letter concerning new congressional and national commitment to handicapped persons. I strongly support the ideas expressed in your remarks in the Congressional Record of Wednesday, February 9, 1972.

While there have been a number of successful programs, established by the federal government for handicapped children and adults, I feel that your call for a national commitment is most necessary and timely. I have served on a number of national groups, including the National Advisory Committee on Education of the Deaf, and currently the committee that you also serve on, the Task Force of the Handicapped Children's Education Program for the Education Commission of the States.

I think your ideas expressed in S. 3158 as they relate to coordinating programs is most feasible. I also strongly endorse the concept of a White House conference to focus the attention of the nation, at least for a brief time, on the achievements and needs of handicapped people.

Cordially yours,

JOHN W. MELCHER,
Assistant State Superintendent.

VIRGINIA COMMISSION FOR THE VISUALLY HANDICAPPED,
Richmond, Va., March 15, 1972.

The Honorable HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: May I first congratulate you on your presentation in the Wednesday, February 9, 1972, edition of *The Congressional Record* concerning your subcommittee on the handicapped, the proposed creation of an Office of the Handicapped in the Department of Health, Education, and Welfare, and the proposed White House Conference on the Handicapped. I found the data you presented to be both thought provoking and challenging.

Sincerely,

FRANK S. PENLAND,
Director, Education Service Department.

KANSAS STATE DEPARTMENT OF EDUCATION,
Topeka, Kans., February 22, 1972.

Hon. HARRISON WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR WILLIAMS: The three major initiatives which you have spearheaded should show a significant impact toward alleviating the problems and neglect of the handicapped. It would appear that such a move would give additional visibility to aid in the implementation of the various programming that is needed. • • •

Yours sincerely,

JAMES E. MARSHALL,
Director of Special Education.

INTERAGENCY COUNCIL FOR THE HANDICAPPED OF BERGEN COUNTY,
Bergenfield, N.J., February 21, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Thank you for your reply dated February 16th and a copy of the Congressional Record dated February 9th. Your comment appear to be "taken from the lips" of parents and professionals who for years have been accepting this piecemeal offering. Even those of us in Bergen County New Jersey who have accomplished far more than other parts of the nation still have many untolled tasks to bring the handicapped up to the second class citizen. Your three proposals will take a giant step forward. If I may contribute two areas which at first reading of the Congressional Record, do not appear covered. First a need to educate that public who are not handicapped or who do not have any handicapped loved ones, that the handicapped do not have a contagious disease and that children without handicaps can play with handicapped children. This applies to all ages including the adult working world where the handicapped are denied social associations which they desperately need to feel success.

In addition there is a need for living facilities for the handicapped young adult who must and desires to learn to live independently of his family. This may require some social services as the young adult learns. Some call these half way houses while others call them living centers. With these facilities must be vocational training or retraining facilities.

Please feel free to call upon our Council for support or reference or in anyway we can assist you in this most important work. We shall be ever grateful for this work you have undertaken.

NORMAN A. BLESHMAN,

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.,
New York, N.Y., February 22, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: We of United Cerebral Palsy Associations, Inc., are delighted to learn of your three initiatives on behalf of the handicapped, namely: the creation of a new Subcommittee on the Handicapped; the introduction of a resolution calling for a White House Conference on the Handicapped; and the introduction of legislation to establish an Office of the Handicapped in the Department of Health, Education, and Welfare. • • •

Sincerely,

ELSIE D. HELSEL, Ph. D.,
Washington Representative.

STATE OF DELAWARE,
DEPARTMENT OF LABOR,
Wilmington, Del., March 14, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington. D.C.

DEAR SENATOR WILLIAMS: Thank you for providing us with a copy of the Congressional Record containing your comments on the needs of our handicapped citizens and the legislation which you introduced. We strongly endorse the action you have taken and welcome your aggressive leadership and commitment to the handicapped.

The most attractive aspect of your comments as viewed by us is your awareness that a significant part of the answer to our problems lies with the lack of coordination between programs already established. In our experience, even more than coordination is needed. We are increasingly talking about the need for "integration" of services across agency and program lines in such a way that there is a singular point of contact between the handicapped person and the total range of services that are needed to develop optimal potential. Encouraged by initial progress toward the integration of social, employment, and rehabilitation services toward the goal of vocational restoration or self-support, we are now attempting to devise plans for developing an integrated service delivery system which would add education to our program in Delaware. Our idea is to cut across "sole state agency" lines through the means of

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contracts between agencies in such a way that a prime agency is provided the responsibility for developing a singular comprehensive plan for each handicapped or disadvantaged individual, calling upon the resources of all participating agencies as necessary. Although this offers many benefits and problems, the "client" is relieved of the necessity to work simultaneously with a host of agencies and programs.

Partly due to the categorical nature of public programs and reinforced by the self interests of professional groups and agencies, we frequently duplicate our efforts and utilize our extremely limited resources poorly. Bold and imaginative leadership and new approaches will, we believe, be required to realize the commitments of which you speak.

We wish you every success with your activities and pledge our efforts and resources to the same commitments.

Sincerely yours,

F. ARTHUR BRILL, *Director.*

BRONX, N.Y.
March 17, 1972.

DEAR SENATOR WILLIAMS: As the legislative director of the Co-op City Handicapped Adult Association, I would like to thank you for the clear and honest statements you made concerning the handicapped. We read your statements in the CONGRESSIONAL RECORD of February 9, and we saw it as a Magna Carta type announcement. The handicapped wish to be fully integrated into their communities; not treated as outcasts. We live in an exciting society and the handicapped can make a positive contribution. We think passage of S. 3158 and S.J. 202 will be a giant step towards social equality for the handicapped.

Anything we can do, please let me know.

Respectfully yours,

LAWRENCE DALEY,
Legislative Director.

STATE OF DELAWARE,
DEPARTMENT OF PUBLIC INSTRUCTION,
Dover, Dela., March 16, 1972.

Hon. HARRISON A. WILLIAMS, JR.,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: The presentation which you recently made in the Senate asking for a major congressional and national commitment to the handicapped has been discussed with the members of our staff who are especially concerned with handicapped children. We commend you for your comments and for your interest in handicapped individuals.

We are highly supportive of the three major initiatives taken; we are particularly enthused about the legislation which you have introduced which would establish an Office of the Handicapped in the Department of Health, Education, and Welfare. With over one hundred different federally-funded programs for the handicapped, a coordinating office would indeed be desirable.

Best wishes in this endeavor.

Respectfully,

KENNETH C. MADDEN,
State Superintendent.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1819

At the request of Mr. BROCK, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 1883

At the request of Mr. MAGNUSON, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 1883, the Interstate Taxation Act.

S. 2161

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2161 a bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the vocational rehabilitation subsistence allowances, the educational assistance allowances, and the special training allowances paid to eligible veterans and persons under such chapters.

S. 2163

At the request of Mr. MATHIAS, the Senator from Delaware (Mr. BOGGS) was added as a cosponsor of S. 2163, the Vietnam Veterans Act of 1971.

S. 2579

At the request of Mr. HARRIS, the Senator from Texas (Mr. BENTSEN) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 2579, the Ocean Mammal Protection Act of 1971.

S. 2956

At the request of Mr. JAVITS, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2956, the War Powers Act.

S. 3012

At the request of Mr. CURTIS, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 3012, the "Individual Retirement Benefits Act of 1971."

S. 3083

At the request of Mr. HARTKE, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3083, a bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods.

S. 3121

At the request of Mr. SCOTT, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 3121, a bill to extend the Civil Rights Commission for 5 years.

S. 3276

At the request of Mr. DOLE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 3276, a bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States.

S. 3355

At the request of Mr. DOLE, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3355, a bill to authorize the payment of a death gratuity to the survivors of certain members of the Armed Forces who have been in a missing-in-action status and subsequently determined to have died during a period when no Government life insurance program was in effect for active duty personnel.

SENATE JOINT RESOLUTION 156

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of Senate Joint Resolution 156, to designate the month of April 1972 as "National Check Your Vehicle Emissions Month."

SENATE JOINT RESOLUTION 217

At the request of Mr. MCGEE, the Senator from Rhode Island (Mr. PELL) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Senate Joint Resolution 217, a joint resolution to create an Atlantic Union delegation.

SENATE RESOLUTION 284—SUBMISSION OF A RESOLUTION RELATING TO AGREEMENTS OR TREATIES CONCERNING LANDING RIGHTS OF SUPERSONIC AIRCRAFT

(Referred to the Committee on Foreign Relations.)

SUPERSONIC AIRCRAFT NOISE AND BOOM LIMITATIONS

Mr. CRANSTON. Mr. President, together with Senators MUSKIE and PELL, I submit two resolutions which express the sense of the Senate that any treaty or agreement granting landing rights within the United States to supersonic aircraft, limit both their noise levels and sonic booms. The resolutions provide: First, that noise levels from supersonic aircraft should be required to meet the international standards for new subsonic jet aircraft, and second, that sonic booms should not be allowed over the United States or within 3 miles of the coast. The noise standard included in the resolution is annex 16 of the International Civil Aviation Organization Convention—a treaty approved by the Senate.

Annex 16 establishes noise standards for all current and future generation commercial subsonic aircraft.

Aircraft noise is measured in effective perceived noise decibels. Annex 16 limits noise emissions at the level of 106 EPNDB for new generation aircraft the size of the Concorde. It is unclear exactly what noise levels will be emitted by the Concorde. The British and French Governments claim that the Concorde will emit noise at the level of 114 EPNdb. Critics of the Concorde, including the acoustical director of NOISE—a group of city governments organized to fight aircraft noise—claim that the Concorde will produce 120 EPNdb or more. The Concorde will therefore emit between 8 and 14 plus EPNdb more than annex 16 standards require.

The difference in these numbers does not seem great until you realize that noise is measured on a logarithmic scale. A noise differential of 10 EPNdb was described in the hearings on S. 1566—an aircraft noise retrofit bill—before the Senate Commerce Subcommittee on Aviation by Randall Hurlburt, the acoustical engineer for the City of Inglewood, which is adjacent to Los Angeles International Airport:

[A reduction of 10 EPNDB] means that where there are presently 500 aircraft per day flying over a neighborhood, the noise will be approximately equivalent to 50 airplanes per day. Where there are 50 airplanes per day, the change will make the noise environment equivalent to 5 airplanes per day. In spite of what anyone says, this is a dramatic change!

In terms of the total noise environment around an airport, the Concorde will therefore produce between 8 and 14 times more noise than it would if the plane met Annex 16 standard. This would be a dramatic step backward. Our airport environments would become noisier. The goal of reduced aircraft noise pollution embodied in Annex 16 standards would be negated.

Any aircraft flying at speeds faster than sound must produce a sonic boom. There is no question sonic booms cause extensive damage. Sonic booms were inflicted on Oklahoma City during 5-month long tests run by the Air Force. The result was $218,000 in actual damage payments and court awards for damage to windows, plaster, et cetera. Boeing engineers calculated the boom from a Boeing SST would be twice as intense as the typical Oklahoma City boom. The Department of the Interior estimates that if supersonic transports become fully operational over the United States, damage claims would be $35 to $80 million each year. This is the most conservative of estimates ranging up to $160 million each year.

A sonic boom is not a phenomenon that lasts only a few moments. A sonic boom is continuous during all times an airplane is flying at supersonic speeds. If a plane flew at supersonic speeds from New York to Los Angeles, it would leave in its wake a boom carpet—a corridor of the earth's surface which feels the boom. The boom carpet would be approximately 50 miles wide and 3,000 miles long. Every human, every animal, and every structure unfortunate enough to be in that area would be struck by the sonic boom.

In Senate hearings last year, William Macgruder, head of the SST project with the Department of Transportation, said the administration had taken the position for 5 years that aircraft should not be flown at supersonic speeds over land. To make this position binding on airlines flying supersonic aircraft, the agreement granting landing rights should require that no supersonic flight shall occur over the United States or within 3 miles of its shores.

Annex 16 was adopted internationally to reduce aircraft noise. Progress is now being made toward this goal. Older aircraft such as 707's, 727's, DC–8's, and DC–9's, emit considerably more noise than the Annex 16 standard for new aircraft allows. 747's built 2 years ago did not meet annex 16, nor were 747's covered by annex 16. 747's now being built do meet annex 16 standards although they are not required to meet them. The new DC–10 and L–1011 have noise levels which meet annex 16 requirements. Boeing, Douglas, and Lockheed are all building aircraft that meet annex 16.

We must continue to progress in our fight against aircraft noise. If the Concorde is allowed to fly without first meeting annex 16 standards, the progress will be stopped. Aircraft noise will not be reduced, nor will it even remain constant. The Concorde will seriously increase aircraft noise. The Concorde, which will be replacing 747's on international flights, carries less than half the number of passengers at approximately twice the level of noise.

Before the Concorde can land in the United States, either an international agreement or a bilateral agreement must be signed by the United States. The United States should not sign such an agreement unless annex 16 standards for noise are included in such agreement.

Requiring the Concorde to meet annex 16 standards is a difficult decision. It may mean the Concorde will not land in the United States. Supporters of the Concorde believe the U.S. State Department will never allow environmental concern to prevent Concorde flights to the United States. Britain and France have over $1.3 billion invested. It is a serious matter to say to our allies that the largest market in air traffic will not be open to the Concorde. It is also a serious matter to say the progress making our environment more livable will be reversed. The high level of noise produced was one of the major reasons the American SST was discontinued. Can we apply lesser standards to the European supersonic transport? The aircraft noise problem was realized, yet work continued on the Concorde. Britain and France had no reason to believe our position would be different on the Concorde than it was on the American SST. If the Concorde cannot meet acceptable noise standards, then it must not be allowed to land in the United States.

The Senate must decide this now. Discussions on supersonic aircraft noise are currently taking place at talks sponsored by the International Civil Aviation Organization. If the United States does not take the position annex 16 limits should apply to supersonic aircraft, then by default the opposite will be the U.S. position. Applying annex 16 noise standards to supersonic aircraft is a position consistent with all that has transpired in the field of aircraft noise during the past few years. It is the position of the Airport Operators International Council, a group that represents operators of almost all major airports in the United States. It must be the official position of the United States.

The resolution is as follows:

S. RES. 284

Resolved, That it is the sense of the Senate that any treaty or agreement entered into by the United States, to permit or approve the conditions under which supersonic aircraft may land in the United States, should require at a minimum that the noise levels for such aircraft be no greater than the noise levels allowed for subsonic aircraft under Annex 16 of the Convention on International Civil Aviation.

SENATE RESOLUTION 285—SUBMISSION OF A RESOLUTION RELATING TO MINIMUM NOISE LEVELS FOR AIRCRAFT

AIRCRAFT NOISE REDUCTION

Mr. CRANSTON. Mr. President, for myself, Senator MUSKIE, and Senator PELL, I submit a resolution which expresses the sense of the Senate that the U.S. position at the ongoing negotiations of the International Civil Aviation Organization—ICAO—shall be that all subsonic aircraft flown in international flights should meet noise levels established in annex 16 of the ICAO Convention. Annex 16 applies only to new generation aircraft first manufactured after 1971—for example, L–1011, DC–10. Older generation aircraft—for example, 707, 727—in most instances will require retrofitting or modification to reduce aircraft engine noise levels down to annex 16 standards.

Modern technology has discovered a method, called retrofitting, that can reduce aircraft engine noise. Retrofitting involves lining the nacelle, or cowling, of a jet engine with soundproofing material, and enlarging the size of the engine's exhaust outlets. The present generation of planes such as the 737, 727, 707, DC–8, and DC–9, and the older 747, which do not meet acceptable noise level standards can be retrofitted. Retrofitting can reduce the aeronautical noise up to 75 percent on some types of aircraft and bring all types within the limits established by annex 16.

The great need for reducing aeronautical noise is immediate. Physical and emotional damage is being inflicted on persons living near airports. Excessive noise can create a situation where sleep is not restful and leisure time is not relaxing. Constant tension is the result. Vascular constriction and a lowered oxygen level to the cerebral tissues are physiological changes noise can cause.

Deafness is perhaps the most common known consequence of prolonged exposure to high levels of noise. Deafness can reduce the income earning capability of individuals and make their lives more difficult. It is not a handicap that we should allow to be inflicted when it is possible to prevent the high levels of noise that now exist around airports.

The effects of increased noise pollution is making areas of our urban environment unlivable. The most visible examples of this are the neighborhoods beneath the landing and takeoff paths at busy metropolitan airports. Land with a rating of NEF–40—noise exposure forecast is not compatible with residential living, according to the Department of Housing and Urban Development.

Major international airports in the United States often have considerable surrounding areas that fall within the NEF–40-plus category. Los Angeles International Airport has 9,000 acres surrounding it which is classified as NEF–40 or above. The city of Los Angeles is currently spending $300 million to eradicate 1,994 private homes around the airport because of public objection to jet noise. The 400 acres the money will buy accounts for only 5 percent of the NEF–40-plus land around the airport. Courts in California have ordered cities to buy up land with NEF–40 plus around municipal airports.

A study estimates the removal cost for the full project around the Los Angeles Airport alone will be $1.268 billion. Los Angeles would lose more than $20 million annually in property taxes. Similar results will occur in other cities. Not only

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is the human cost in physiological and psychological damage high in unlivable areas, but the monetary cost to cities is becoming unbearable.

If the noise levels of aircraft utilizing Los Angeles International Airport is lowered by 10 EPNdb, 4,500 of the 9,000 acres in NEF–40-plus acres will no longer have NEF ratings above 40, according to Randall Hurlburt, acoustical expert for the city of Inglewood. Applying this figure to the projected cost for the removal of residences in NEF–40-plus acres around the Los Angeles Airport, savings in removal costs would be around $600 million. Tightening the aircraft noise standards would not only provide a more livable environment but will reduce monetary costs to already overburdened city budgets.

If each nation were to set its own standards on acceptable noise levels for international flights, the result would be confusion and perhaps a breakdown in international air regulation. Because the introduction of aircraft types could increase aircraft noise, and because the problem of aircraft noise was so serious, ICAO called an international conference on aircraft noise. From this meeting came annex 16 to the Convention on International Civil Aviation.

Annex 16 sets maximum noise levels for aircraft, but it is applicable only to aircraft types certified for airworthiness after March 1, 1972, if of engine type bypass ratio 2 or more—747, L–1011, DC–10—or after January 1, 1969, for other subsonic jet aircraft. This means the 737, 727, 707, DC–8, DC–9, and some 747's are not covered.

In March, and again in late summer of this year, preliminary meetings of the International Civil Aviation Organizations Convention on Aeronautical Noise will take place. These meetings seek to improve and extend the international accord on reducing aeronautical noise. To alleviate the severe noise pollution problem that is increasing day by day, the United States should take the position at these meetings, and in the agreement that will hopefully be reached, that subsonic jet aircraft used in international flights and exceeding aircraft engine noise levels prescribed in annex 16 should be retrofitted or modified to reduce aircraft engine noise so as not to exceed such levels.

The cost, both human and monetary, of increasing noise pollution requires that immediate steps be taken to reduce intolerable noise levels. Aircraft are one of the worst offenders. The technology exists to prevent excessive aircraft noise levels and it should be used.

The United States should also take the position that annex 16 standards should be reduced by 10 EPNdb. This means the basic acceptable noise level should be reduced from 108 EPNdb to 98 EPNdb. It is considered that 10 EPNdb is the maximum level of noise people can tolerate, according to acoustical engineer Randall Hurlburt; 90 EPDdb is considered the minimum level people will accept in their environment. A level of 90 EPNdb is the goal we must be working toward. The technology exists to retrofit aircraft engines, reducing noise to 10 EPNdb. It is expensive, but not prohibitively so. The many benefits such as reduced hearing loss and a more tension-free environment are worth the cost. Noise levels must be lowered now at least to the maximum level people can tolerate, and in the future noise standards should be further reduced.

The resolution is as follows:

S. RES. 285

Resolved, That it is the sense of the Senate that, at the preliminary meetings of the International Civil Aviation Organization Convention on Aeronautical Noise, to be held in Canada in March and August, 1972, and with respect to any agreement resulting from such meetings, it should be the position of the United States that any aircraft, of a type that is not presently used for international flights and hereafter is used for such flights, should have aircraft engine noise levels that are not in excess of 10 EPNdb below levels now prescribed in Annex 16 of the Convention on International Civil Aviation.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENT NO. 1077

(Ordered to be printed and referred to the Committee on Finance.)

Mr. ROTH. I am submitting this morning an amendment to H.R. 1, the omnibus welfare, medicare, and social security legislation which is now under consideration by the Committee on Finance. Joining me as cosponsors of this amendment are the distinguished Senator from Alabama (Mr. ALLEN), the distinguished Senator from Tennessee (Mr. BROCK), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from Florida (Mr. GURNEY), and the distinguished Senator from Georgia (Mr. GAMBRELL).

In essence, it asks that the Congress authorize a 2-year test of both the new family assistance plan, with its uniform minimum benefits, and the newly conceived "workfare" plan, the opportunities for families program.

The language is similar to a measure adopted in 1970 when the Finance Committee reported out H.R. 17550, the previous welfare reform bill which failed to pass the Senate during the 91st Congress. The administration would be required to design two or four tests—half welfare, the other half "workfare"—to implement these tests in representative demographic areas, and to report to the Congress at least every 6 months on their substantive and administrative successes and failures. Separate evaluations and reports would be submitted both to the administration and the Congress by the Comptroller General.

At the end of the 2 years, the Congress would have a ledger of evaluation from which to enact more permanent legislation.

THE NEED FOR TESTING

Mr. President, H.R. 1 has been as hotly debated in the House as any piece of social legislation in recent years. Supporters of the bill cite the alarming statistics which show that the number of beneficiaries under Aid to Families with Dependent Children has risen 147 percent in the 1960's. Even more recently 2.25 million people were added to the AFDC roles during 1970. Costs too have climbed to such levels that many State treasuries are close to the breaking point, not to mention the increased costs of the Federal participation. Clearly these are intolerable developments. We must act to reverse this deteriorating trend.

Yet, opponents of the measure have argued that the family assistance benefits are either too generous, and thereby too costly, or too small to make any significant impact on the deplorable conditions of poverty currently prevailing in all parts of this country.

How are we to really know? At the present time, HEW and OEO are funding four limited experiments of income maintenance programs. However, an excellent report by the Finance Committee on the status of these experiments points out that only one, the New Jersey test, has been in operation long enough to permit any realistic evaluation, and that all four differ substantially from the House passed legislation.

These are pioneer social laboratories, and valuable for their contribution to our understanding of complex economic and behavioral issues. None of them, though, deals directly with the "workfare" elements of this legislation, and their welfare benefit levels are higher than the $2,400 approved so far under H.R. 1. In a sense, we have only reached the wind tunnel. What I am proposing is not only a mock up, but a full 2-year flight test for admittedly sweeping legislation.

IMPACTS OF THE LEGISLATION

Anyone who has reviewed the comprehensive committee report on the bill can not help but be struck by the enormous impact of these proposed reform measures. According to committee estimate, corroborated by the Treasury, H.R. 1 would cost at least an additional $5.5 billion in fiscal year 1973, and a total of $23.5 billion by the end of its currently authorized 5-year life. And if the medicare experience is any precedent, these estimates will prove to be on the low side. During fiscal year 1973, 10½ million additional people will become eligible for welfare or "workfare" benefits, bringing the total number of assisted people to more than 12 percent of our Nation's population. In Puerto Rico, eligible beneficiaries will nearly triple to roughly 1 million, meaning that one person in every three there will be under public assistance. Many States would better than double their welfare roles; every State would, of course, have its welfare lists increased.

The current panoply of combined Federal-State programs makes accurate prediction an impossible task. What will be the effect of increased benefits in the 22 States where a family of four now receives less than the $2,400 suggested minimum? Will the family in Alabama, now eligible for $720 in cash aid, react differently to the plan than the family in New York where cash benefits total $3,240? Can we assume that the family head in Nevada, currently eligible for $1,330 per year, will register for work

training when he will receive $1,600 under the proposed new scheme—$2,400 minimum less the $800 penalty imposed for people who fail to register under the "workfare" portion of the bill?

ADMINISTRATIVE PROBLEMS

Mr. President, in addition to this critical problem of work incentives, we must all face the fact that the proposed legislation will, at first, produce an administrative nightmare.

New procedures must first be developed to establish what is a family's true income. Documented proof will be required to establish bona fide beneficiaries. Many offices of HEW, and the Department of Labor will have to interact with probably hundreds of State and local agencies to verify incomes and beneficiaries, enroll 1.4 million new welfare families, provide job training and placement in an additional 2.6 million families, establish and administer day care centers to accommodate millions of children.

Can we logically expect to implement these vast procedures all at once? Can we not expect legitimate beneficiaries to be denied services due to a massive bureaucratic overload? And can we really feel comfortable launching a nationwide welfare reform system when the Comptroller General has only last week reported to us that HEW has had major problems establishing a system of quality control to assure that only currently eligible recipients receive welfare benefits.

This is a most enlightening report which I commend to all my colleagues, and I should like to ask unanimous consent that the digest of this analysis be included at this point in the RECORD.

There being no objection, the digest was ordered to be printed in the RECORD, as follows:

[Comptroller General's Report to the Congress]

PROBLEMS IN ATTAINING INTEGRITY IN WELFARE PROGRAMS—SOCIAL AND REHABILITATION SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

WHY THE REVIEW WAS MADE

Whether welfare assistance payments are being provided to eligible persons only is a source of increasing national concern aroused by the following facts.

From fiscal year 1960 to fiscal year 1971, Federal and State welfare costs more than tripled—from $2.8 billion to $8.7 billion.

The number of recipients increased from 5.8 million to 14.3 million.

The General Accounting Office (GAO) examined the effectiveness of the quality control system used by the States, to ensure that public assistance funds were being provided to eligible persons only and that public assistance programs were being managed fairly and efficiently. This system was developed by the Department of Health, Education, and Welfare (HEW).

GAO's review was made in California, Colorado, Louisiana, Maryland, Michigan, New York, Ohio, and Texas. These eight States spent about 50 percent of all Federal welfare funds in fiscal year 1971.

Background

The quality control system was adopted by HEW in 1964 for evaluating eligibility under the welfare programs. It is an adaptation of a technique which is used widely in industry for evaluating the quality of products and services. In October 1970 HEW required the States to implement a revised quality control system. The new system was based on experience under the prior system and on the States' increasing use of simplified method of determining applicants' eligibility.

Under the new system cases are selected on a statistical-sampling basis and are investigated to see whether the eligibility of recipients and the amounts of payments are within established levels of accuracy. If they are not, the States must identify the inaccuracies and take necessary corrective actions.

FINDINGS AND CONCLUSIONS

Benefits from the implementation of a well-conceived quality control system can be achieved only through effective Federal and State administration. Adequate staffing and timely resolution of problems are essential to effective administration.

The Federal quality control system had not been implemented fully in the eight States at the time that GAO completed its fieldwork (July 1971). Consequently quality control has not accomplished its purpose of maintaining integrity over the public assistance programs.

HEW does not know whether rates of ineligibility and incorrect payments are within established levels of accuracy.

The problems encountered in implementing and operating the quality control system are complex, as shown below.

HEW's problems

HEW decided that the Federal quality control system should be implemented as soon as possible after its design was completed. HEW's organization however, was not ready to deal with many of the complexities of implementing a system that required close cooperation between the Federal Government and the States.

HEW recognized, 5 months prior to the system's implementation, that 55 additional staff members were needed—45 for the regional offices and 10 for headquarters. As of September 1971—almost a year later—only 19 of these positions had been filled. (See p. 40.)

HEW was only marginally successful in obtaining State recognition of the importance of quality control and of the need to commit the resources necessary to ensure its success. (See p. 45.)

Once the quality control system was in operation, HEW was able to recognize the problems that the States were having with it. HEW's regional offices, because of insufficient staff and limited knowledge of the system, usually were able only to react to State problems as they occurred rather than to anticipate them and assist States in avoiding the problems.

States' problems

All States visited by GAO had encountered problems in carrying out quality control activities. These problems varied in intensity from State to State. (See p. 12.) Two States—California and New York—had not implemented the Federal system statewide as of July 1971 but had attempted to use other methods to control public assistance expenditures. The methods used were not designed to meet Federal objectives. (See p. 28.)

The remaining six States—which implemented the system statewide—encountered one or more of the following problems.

Staffing—As of April 30, 1971—7 months after the Federal system was to be implemented—only Colorado and Michigan had met their staffing needs. Insufficient staffing continues to be a major problem limiting quality control's effectiveness. (See p. 12.)

Investigations—HEW specified the number of cases to be reviewed in each State so that reliable statistical projections could be made concerning the total number of cases. None of the six States, however, completed the required number of quality control reviews for the quarter October to December 1970, although Colorado and Ohio came close. (See p. 16.)

For those cases that were reviewed, ineligibility rates or incorrect payment rates generally were high. Although these sample results could not be used for statistical-projection purposes for the total number of welfare cases, GAO believes that some error rates were sufficiently high—in view of the number of cases reviewed—for the States to have taken corrective action. (See p. 18.)

Verification—HEW requires that independent verification and documentation of all aspects of eligibility and payment be pursued to the point at which decisions on eligibility and the amounts of payment are conclusive. About 90 percent of the completed quality control reviews analyzed by GAO had not done this.

HEW guidelines did not specify the extent and types of verification to be obtained. For example, if recipients stated at the time of initial application that they had no savings or earnings, this information was reaffirmed in an interview and was accepted by reviewers without further attempts at verification. Use of additional sources—such as employment offices and local credit bureaus—to verify eligibility information could enable States to make more accurate decisions as to eligibility and amounts of payment. (See p. 19.)

GAO analyzed 150 quality control reviews in Colorado and Maryland and in Cuyahoga County, Ohio (50 cases selected at random from each). Had reviewers used additional sources, they could have had more assurance that their eligibility and payment decisions were accurate. (See p. 22.)

Pending legislation

Under pending welfare reform legislation (H.R. 1), HEW would take over administration of all federally assisted welfare programs and would have sole responsibility for quality control. GAO believes that HEW's plans for carrying out this proposed change, if effectively implemented, could restore public confidence in the integrity of the welfare programs.

Because the present Federal quality control system is to be the basis for such a system in the welfare reform program being considered by the Congress, HEW should make a concentrated effort to solve the problems in the present system not only to help accomplish the objectives of the present system but also to provide an adequate basis for the development of the quality control system to be used in the welfare reform program. (See p. 43.)

RECOMMENDATIONS OR SUGGESTIONS

HEW should:

Ensure, through appropriate efforts, that top State officials are aware of the benefits to be derived from an effective quality control system.

Increase headquarters and regional office quality control staffs to a level at which they can effectively assist and monitor State quality control operations.

Define, for the guidance of State and local quality control reviewers, necessary steps to be considered as requirements in determining recipients' resources, incomes, and other eligibility factors so that quality control investigations can provide conclusive findings. (See p. 46.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

HEW has stated that:

Its regional commissioners are taking vigorous action to ensure that States which do not have fully operational quality control systems comply with Federal regulations.

Training seminars are being conducted for its regional staff so that they can provide assistance to States for realizing fuller use of quality control as a management tool.

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As of March 1972 all but one of the 55 authorized quality control staff members had been hired, and a request has been submitted to the Congress for additional staff members.

It is developing additional guidelines for issuance to State agencies so that quality control investigations can provide conclusive findings.

The actions taken or planned by HEW should strengthen the quality control system and should make it more effective. (See p. 47.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report provides the Congress with timely information for its consideration of welfare legislation and also provides the appropriations committees with information for their consideration of HEW's request for additional quality control staff members. It contains no recommendations requiring legislative action.

THE WISE MIDDLE COURSE

Mr. ROTH. Mr. President, none of us here knows exactly what the Finance Committee will do to modify H.R. 1, or what amendments will be accepted on the floor. Nor can we predict the outcome of the almost certain conference which will be required. Nevertheless, this is bound to be bold legislation, reaching every State and millions of disadvantaged people.

I am deeply concerned with the plight of current welfare programs, with the mounting costs in dollars and family desertions. We cannot ignore these problems, they are a growing blight on our society. I am not opposed to welfare reform, it is an absolutely essential priority if we are to come to grips with the abuses and mistakes of the current patchwork.

But I am asking that we insist on careful and objective analysis of whatever legislation eventually is enacted. I am asking for a 2-year test of family assistance and workfare, for timely and accurate evaluation and reporting both by the Federal agencies involved and the independent Comptroller General. Then, with experience, rather than conjecture, we can act to implement, nationwide, the necessary and workable, welfare reforms this country most certainly needs.

Mr. President, I ask unanimous consent that the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1077

Beginning on page 326, line 9, strike out all through page 400, line 22, and insert in lieu thereof the following:

TITLE IV—TESTING OF ALTERNATIVES TO PROGRAMS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

AUTHORIZATION FOR CONDUCT OF TEST PROGRAMS

SEC. 401. (a) For purposes of this section—

(1) The term "family assistance test program" means a program which contemplates that—

(A) the assets and resources of families will (except to the extent otherwise prescribed by the Secretary) be taken into account in determining eligibility for or amount of payments under the program;

(B) there will be established minimum income levels for families of various sizes;

(C) money payments will be made (periodically) to families whose income is less than the applicable minimum income level so established;

(D) such money payments will be denied to any adult member of a family (other than such a member who is ill, aged, or disabled, is caring for another member of such family who is ill or disabled, or is caring for another member of such family who is a child of pre-school age) who refuses without good cause to accept employment or participate in a vocational training or similar training program which is designed to prepare such member to engage in employment;

(E) incentives for members of families to engage in employment will be provided by disregarding a portion of the earnings of such family for purposes of determining eligibility for and the amounts of the money payments payable to such family under the program; and

(F) there will be provided to the families participating in such program (in appropriate cases) (i) placement and employment training services, (ii) child care services when needed to facilitate participation, by adult members of such families, in employment or a vocational training or similar training program, (iii) family planning services, and (iv) other appropriate supportive services.

(2) The term "workfare test program" means a program which contemplates that—

(A) the assets and resources of families will (except to the extent otherwise prescribed by the Secretary) be taken into account in determining eligibility to participate in the program;

(B) families headed by an adult, who (by reason of advanced age, illness, or disability, caring for another member of the family who is ill or disabled, or caring for a member of such family who is a child of pre-school age) is presumed to be unable to engage in employment, will be entitled to receive welfare assistance in the form of money payments the amount of which shall be based on standards of need developed for families of various sizes, with provision for disregarding a portion of the earnings of such family for purposes of determining eligibility for and the amounts of the money payments payable to such family under the program;

(C) adult individuals who are heads of families and who are unemployed (or underemployed) will be eligible to register to participate in employment or in a training program designed to qualify them for specific jobs available in the locality in which they live;

(D) all registrants will be placed in employment (including subsidized public service employment) or such a training program;

(E) registrants placed in employment for wages at less than the rate of the minimum wage would receive wage supplement payments (in amounts which shall not be greater than the difference between any registrant's hourly wage and the minimum wage) for hours (not in excess of 40 hours for any week) during which work is performed by them in such employment;

(F) training allowances would be paid to registrants with appropriate reductions in the amount of such allowances in cases where registrants participate in training on less than a full-time basis; and

(G) there will be provided to the families participating in such program (i) child care services when needed to facilitate participation, by any registrant, in employment or a vocational training or similar training program, (ii) family planning services, and (iii) other appropriate supportive services. (3) The term "family" means a family with children.

(b) (1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") is authorized, effective January 1, 1973, to plan for and conduct, in accordance with the provisions of this section, not more than four test programs. One-half of such programs shall be family assistance test programs and one-half of such programs shall be workfare test programs.

(2) Whenever a family assistance test program is commenced, there shall commence, on the same date as such program, a workfare test program, and both such programs shall (except as may otherwise be authorized by the Congress) terminate on the same date. Except as may otherwise be authorized by the Congress, no test program under this section shall be conducted for a period of less than 24 months.

(3) Any such test program shall be conducted only in and with respect to an area which consists of a State, one or more political subdivisions of a State, or part of a political subdivision of a State, and shall be applicable to all the individuals who are residents of the State or the area of the State in and with respect to which such program is conducted.

(4) During any period for which any such test program is in effect in any State or in any area of a State, individuals residing in such State or the area of the State in which such program is in effect shall not be eligible for aid or assistance under any State plan or program for which the State receives Federal financial assistance under part A of title IV of the Social Security Act.

(5) The Secretary, in determining the areas in which test programs under this section shall be conducted, shall select areas with a view to assuring—

(A) that the number of participants in any such program will (to the maximum extent practicable) be equal to the number of participants in any other such program; and

(B) that the area in which any family assistance test program is conducted shall be comparable (in terms of size and composition of population, of average per capita income, rate of unemployment, and other relevant criteria) to an area in which a workfare test program is conducted.

(c) (1) No test program under this section shall be conducted in any State (or any area thereof) unless such State shall have entered into an agreement with the Secretary under which the State agrees—

(A) to participate in the costs of such test program; and

(B) to cooperate with the Secretary in the conduct of such program.

(2) Under any such agreement, no State shall be required to expend, with respect to any test program conducted within such State (or any area thereof), amounts greater than the amounts which would have been expended with respect to such State or area thereof (as the case may be), during the period that such test program is in effect, under the State plan of such State approved under part A of title IV of the Social Security Act. For purposes of determining the amount any State would have expended under such a plan during the period that any such test program is in effect within such State (or any area thereof), it shall be assumed that the rate of State expenditure (from non-Federal funds) under such plan would be equal to the average rate of State expenditure (from non-Federal funds) under such plan for the 12-month period immediately preceding the commencement of such test program.

(d) (1) The Secretary shall, upon completion of any plans for and prior to the commencement of any test program under this section, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a complete and detailed description of such program and shall invite and give consideration to the comments and suggestions of such committees with respect to such program.

(2) During the period that test programs are in operation under this section, the Secretary shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Secretary with respect to such programs as he deems desirable.

(3) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Secretary shall submit to the Congress a full and complete report on such programs and their operation together with (A) the Secretary's evaluation of such programs and such comments or recommendations of the Secretary with respect to such programs as he deems desirable (B) his recommendations (if any) for legislation to revise or replace the provisions of part A of title IV of the Social Security Act.

(e) (1) The Secretary shall—

(A) in the planning of any test program under this section; or

(B) in assembling information, statistics, or other materials, to be contained in any report to Congress under this section;

consult with, and seek the advice and assistance of, the General Accounting Office and the General Accounting Office shall consult with the Secretary and furnish such advice and assistance to him upon request of the Secretary or at such times as the Comptroller General deems desirable.

(2) The operations of any test program conducted under this section shall be reviewed by the General Accounting Office, and the books, records, and other documents pertaining to any such program or its operation shall be available to the General Accounting Office at all reasonable times for purposes of audit; review, or inspection. The books, records, and documents of each such program shall be audited by the General Accounting Office from time to time (but not less frequently than once each year).

(3) During the period that test programs are in operation under this section, the Comptroller General shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Comptroller General with respect to such programs as he deems desirable.

(4) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Comptroller General shall submit to the Congress a full and complete report on such programs and their operation together with his evaluation of, and comments and recommendations (if any) with respect to, such programs.

(f) In the administration of test programs under this section, the Secretary shall provide safeguards which restrict the use or disclosure of information identifying participants in such programs to purposes directly connected with the administration of such programs (except that nothing in this subsection shall be construed to prohibit the furnishing of records or information concerning participants in such programs to the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives).

(g) For the purpose of enabling the Secretary to formulate operational plans and to conduct test programs under this section, there are authorized to be appropriated for each fiscal year such sums as may be necessary.

TEMPORARY AND EXPERIMENTAL NATURE OF TEST PROGRAMS

SEC. 402. It is the intention of the Congress, after the termination of the test programs authorized to be conducted under section 401, and after all reports required with respect to such program under such section have been submitted to the Congress, to study the matter of whether permanent legislation should be enacted permanently to establish, in lieu of the existing program of aid to families with dependent children (established by part A of title IV of the Social Security Act), some type of family assistance program or programs.

(b) Nothing in this Act shall be construed as a commitment, on the part of the Congress, to enact (at any future time) legislation to establish, on a permanent basis, any program tested pursuant to section 401 or any similar program.

On page 401, lines 4 and 5, strike out "titles III and IV" and insert in lieu thereof "title III".

On page 401, beginning with line 9, strike out all through line 25, and insert in lieu thereof the following: "except that appropriations for administrative expenses incurred during the fiscal year ending June 30, 1972, in developing the staff and facilities necessary to place in operation the program established by title XX of the Social Security Act, as added by this Act, and for child care furnished pursuant to section 508 during such fiscal year, may be included in an appropriation Act for such fiscal year."

On page 402, beginning with "Act" on line 8, strike out all before "Act" on line 11.

On page 402, line 18, strike out "or XXI".

On page 403, lines 13 and 14, strike out "and families".

On page 403, line 19, strike out "or XXI".

On page 403, line 22, strike out "and families".

On page 403, line 23, strike out "or XXI".

On page 404, line 7, strike out "or family".

On page 404, line 20, strike out "sections 2016 and 2156" and insert in lieu thereof "section 2016".

On page 404, line 24, strike out "and part A of title IV,".

On page 405, line 5, strike out "or family".

On page 405, line 10, strike out "or XXI".

On page 405, line 12, strike out "or 2153(b)".

On page 405, line 13, strike out "or family".

On page 405, line 16, strike out "or family".

On page 405, line 17, strike out "or 2156".

Beginning on page 405, line 25, strike out "or family of a given size)".

On page 406, line 3, strike out "part A of title IV,".

On page 406, line 17, strike out "or families".

On page 406, lines 25 and 26, strike out "and part A of title IV,".

On page 407, lines 5 and 6, strike out "or family".

On page 407, line 8, strike out "or family".

On page 407, line 10, strike out "or family".

On page 407, line 11, strike out "it" and insert in lieu thereof "he".

On page 407, line 11, strike out "its" and insert in lieu thereof "his".

On page 407, line 23, strike out "and part A of title IV,".

On page 408, beginning with "emergency" on line 1, strike out all through "Act," on line 3.

On page 408, line 12, strike out "403,".

On page 409, strike out lines 1 through 7.

On page 410, beginning with "(or" on line 18, strike out all through "XXI)" on line 20.

On page 411, line 2, strike out "or under part A or part B of title XXI".

Beginning on page 411, line 5, strike out all through page 412, line 11.

On page 412, lines 23 and 24, strike out "part A of title IV".

On page 413, line 1, strike out "sections 301 and 401" and insert in lieu thereof "section 301".

On page 413, beginning with "(other" on line 1, strike out all through "Act)" on line 5.

On page 413, beginning with "; except" on line 6, strike out all before the period on line 10.

On page 413, strike out lines 11 through 23.

On page 414, line 7, strike out "and families".

On page 414, line 11, strike out "sections 2016 and 2156" and insert in lieu thereof "section 2016".

On page 414, line 17, strike out "sections" and insert in lieu thereof "section".

On page 414, line 22, strike out "sections" and insert in lieu thereof "section".

On page 414, line 22, strike out "or family".

On page 414, line 23, strike out "or XXI".

On page 415, line 4, strike out "or family".

On page 415, line 6, strike out "or part A of title IV,".

On page 415, line 19, strike out "or 2156".

On page 416, line 2, strike out "or 2154 (b)(5)".

Beginning on page 416, line 5, strike out all through page 418 line 3.

On page 418, line 4, strike out "(b)" and insert in lieu thereof "Sec. 511."

On page 447, lines 13 and 14, strike out "or part A or part B of title XXI" and insert in lieu thereof ", or receives aid in the form of money payments in such month under a State plan approved under part A of title IV".

On page 447, line 19, insert "and" after "1101 (a) (1),".

On page 447, line 21, strike out the comma at the end of the line and insert in lieu thereof a period.

On page 447, strike out lines 23 through 25.

On page 448, lines 11 and 12, strike out "or any family pursuant to part A or part B of title XXI".

On page 448, line 14, strike out "or family".

On page 448, line 15, strike out "of part A or B of title XXI".

On page 448, line 18, strike out "or part A or B of title XXI" and insert in lieu thereof "or part A of title IV".

On page 451, line 9, strike out "sections 302 and 402" and insert in lieu thereof "section 302".

On page 452, line 8, insert, immediately before the semicolon at the end of the line, the following: "and inserting in lieu thereof 'receiving money payments under the Plan of a State approved under part A of title IV, or' ".

On page 452, line 14, insert, immediately before the period at the end thereof, the following: "and inserting in lieu thereof 'individuals receiving money payments under a plan of the State approved under part A of title IV, and' ".

On page 452, beginning with the word "by" on line 20, strike out all through ", and" on line 23.

On page 453, lines 21 and 22, strike out "receiving assistance to needy families with children as defined in section 405(b)" and insert in lieu thereof "receiving aid under a State plan approved under part A of title IV (or meet the income and resources requirement of such State plan),".

On page 454, lines 6, 7, and 8, strike out "who are not receiving assistance to needy families with children as defined in section 405(b)" and insert in lieu thereof "who are not receiving aid under a State plan approved under part A of title IV."

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On page 454, line 13, strike out "title I, X, XIV, or XVI, or".

On page 455, beginning with "or would" on line 10, strike out all through "405(b)" on line 13, and insert in lieu thereof "eligible for aid under a State plan approved under part A of title IV".

On page 455, lines 23 and 24, strike out "assistance to needy families with children as defined in section 405(b)" and insert in lieu thereof "money payments under a State plan approved under part A of title IV,".

On page 456, lines 15 and 16, strike out "assistance to needy families with children as defined in section 405(b)" and insert in lieu thereof "aid under the State's plan approved under part A of title IV,".

On page 456, strike out lines 20 through 25.

On page 457, strike out "(C)" and insert in lieu thereof "(B)".

On page 457, line 6, strike out "(D)" and insert in lieu thereof "(C)".

On page 457, line 10, strike out "(F)" and insert in lieu thereof "(D)".

AMENDMENT NO. 1078

(Ordered to be printed and referred to the Committee on Finance.)

SENATOR HUMPHREY PROPOSES 25-PERCENT INCREASE IN RETIREMENT BENEFITS

Mr. HUMPHREY. Mr. President, I am today introducing legislation that would provide a 25-percent increase in social security benefits for the senior citizens of our Nation.

This legislation would provide a start, a downpayment on adequate income for this country's older Americans. It is a badly needed measure—for the elderly are constantly beset by increasing cost for homes, food, property taxes, mortgages, rents, transportation, medical services, and hospital costs. Yet, many of our elderly must pay for these things out of a fixed, level income. Few of our elderly have any prospect of work, few have any prospect of seeing their income increase every year, and almost all of our elderly constantly ask themselves, "How are we going to pay our bills? How are we going to make ends meet?"

Mr. President, I see significant and far-reaching changes coming in our social security and railroad retirement benefit programs. Many of us in Congress have proposed new methods of financing these programs in order to increase benefits and decrease the tax burden on the working man.

This kind of financing is overdue. We ought not let the social security trust fund build up huge surpluses, while at the same time the basic benefits remain low.

It is in this spirit that I introduce a 25-percent increase amendment to H.R. 1 today. And it was in this spirit that I have previously introduced legislation that would begin a system of general revenue contributions to the trust fund, increase the contributions ceiling, lower the tax rates, and institute a minimum payment.

Mr. President, this amendment is necessary, it is honorable, it is required. I would hope that the Senate Finance Committee would give it a prompt and immediate hearing.

AMENDMENT NO. 1079

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OADSI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State Public Assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such famililes, and for other purposes.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS—AMENDMENTS

AMENDMENTS NOS. 1080, AND 1083

(Ordered to be printed and to lie on the table.)

Mr. SAXBE submitted two amendments intended to be proposed by him to the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of Article I, section 6, the so-called speech-and-debate clause of the Constitution.

AMENDMENT NO. 1081

(Ordered to be printed and to lie on the table.)

Mr. SAXBE (for himself and Mr. DOMINICK) submitted an amendment intended to be proposed by them jointly to the resolution (S. Res. 280), supra.

AMENDMENT NO. 1082

(Ordered to be printed and to lie on the table.)

Mr. SAXBE (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed by them jointly to the resolution (S. Res. 280), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 938

At the request of Mr. HARRIS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Amendment No. 938 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1059

At the request of Mr. BOGGS, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of Amendment No. 1059 intended to be offered to the bill (S. 2760) to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes.

ADDITIONAL STATEMENTS

ELEMENTARY SCHOOL PUPILS PLAN OWN NOON MEALS

Mr. ROTH. Mr. President, recently it has been called to my attention that the pupils at the Richard A. Shields Elementary School in Lewes, Del., are engaged in planning their own noon meals as a result of a program on nutritional education being carried out by Mrs. Betty V. Fisher and Mrs. Alice C. Allen, cafeteria staff members, under the guidance of Mrs. Ann M. Cerney, cafeteria manager and the school principal, Frederick D. Thomas.

I believe his activity merits the attention of all citizens who are concerned with the well-being of our Nation's schoolchildren. The knowledge gained by this practical experience in meal planning should serve to instill in each youngster the sound habits of eating which are so vital to their physical and mental development.

I ask unanimous consent that an article describing this program, published in the Delaware Coast Press on March 2, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEWES STUDENTS PLANNING NOON MEAL

Four hundred and thirty students have been planning the noon meals for the Richard A. Shields Elementary School in Lewes since Feb. 14 as part of a program on nutritional education. The program is being carried out by Mrs. Betty V. Fisher and Mrs. Alice C. Allen, cafeteria staff members, with the cooperation and guidance of Mrs. Ann M. Cerney, cafeteria manager, and the school principal, Frederick D. Thomas.

Mrs. Fisher and Mrs. Allen are presently enrolled in the third unit of a school food service training program which meets for three hours a week for ten weeks at the Sussex Central High School.

In preparation for the student-planned menus, Mrs. Cerney distributed to each teacher in the third, fourth and fifth grades a health directive from the State Department of Public Instruction which stresses that educators can teach more effectively if their students are properly nourished. The publication showed current studies and research which proved an alarming decline in the physical condition of American youth in all economic and social groups.

In order to enlighten the students, teachers, and hopefully, through the students—their parents, about the National School Lunch program's requirements and values this new school project of the students preparing the menus was undertaken.

The National School Lunch Program was begun in 1946. It operates each school day and uses in excess of a billion dollars worth of food a year for the over nineteen million children that it reaches. The overall national plan is "to close the nutrition gap between food available at home and total food needs, thus meeting current nutritional needs for the child's growth and development and to shore up some nutritive reserves for the child's future growth, development, and well-being."

For the local plan, each classroom teacher at Shields School was given a Type "A" pattern for developing a lunch menu. All 15 classes were invited to participate and the local program will continue until each class has had its turn. The following menu pattern, which includes one third of the daily requirements for a 9-12 year old, is put on the chalk board and explained to each class: two ounces of cooked meat or protein, ⅜ cup of vegetable and or fruit, one slice enriched or whole grain bread, one tablespoon butter or fortified margarine, and ½ pint of whole milk.

Four basic foods had to be included in the menu which was chosen by each class. A variety of suggestions were placed on the board, then eliminated by a voting process. Each menu selected by a class was submitted to the cafeteria in the form of a colorful poster which included pictures of the finished meal. The posters were displayed on a bulletin board in the cafeteria.

On the public address system during the morning announcements, a special tribute was given each day to the class which had prepared that day's menu.

A typical menu planned by Mrs. Barbara T. Smith's fourth grade class included fried chicken, mashed potatoes and gravy, tossed salad, homemade rolls, cherry pie, and milk.

An evaluation project was requested by the cafeteria staff and the form was left to the discretion of each teacher. Mrs. Smith's class chose to write formal letters of appreciation to the cafeteria staff and they were bound in a colorful folder entitled "Our Letters to the Cooks." The following quotations were taken directly from those letters:

"I enjoyed every meal you people cooked. All of you cook very nicely. I know all of you work very hard for the school."

"We liked the lunch. I hope every one liked it, even the teachers."

"I enjoy eating your food any day."

"It really was fun making up our own menu."

"It was so delicious that I could have some more, but I didn't want to be greedy. But boy I tell you that was so good."

"It took a long time to make up the menu. I liked everything but the salad, but everything else was divine."

"I voted for just about everything but the cranberry sauce."

"We did not pick pizza because we thought that most of the other classes would."

"The whole lunch was fantastic and delicious."

CLOSING AND MOVING OF INDUSTRIAL PLANTS

Mr. HARRIS. Mr. President, the problem of industrial plants closing and moving out of communities has been with us for a long time now. In the last few years, however, due to the malfunctioning of the American economy, the problem has seriously intensified.

I believe other Senators will be interested in an article by William Wong in The Wall Street Journal, February 28, which describes steps taken by American Oil Co. to make the separation of one of its refineries in the town of El Dorado, Ark., as painless as possible.

American Oil, according to Mr. Wong, took the plant closing seriously and made this decision only when it became absolutely necessary. When the company finally decided on the closing, it was careful to inform the town 6 months in advance of the shutdown date.

American asked their "other facilities to freeze outside hiring, so that El Dorado employees could have the first crack at job openings." It also helped its employees find jobs in the El Dorado area if they did not wish to leave their homes. Moreover, it gave most of the plant grounds and buildings, worth about $2.2 million, to the county in which the refinery is located.

Unfortunately, we have not yet reached the day when every company lives up to its responsibilities. As Mr. Wong also notes:

A "wholesome" approach, however, is far from universal. In many instances, workers are still suddenly assembled and summarily fired. In other cases, work forces are methodically trimmed creating an agonizing existence for those left on the job. They wonder when the ax with their name on it will fall. Plants involved in such gradual closedowns are usually allowed simply to die, with little or no explanation from management.

Mr. President, while we may applaud the forward-looking policies of American Oil in providing for the workers it displaced when it closed its plant in El Dorado, it is clear that we cannot depend on enlightenment alone to solve the problems caused by runaway plants. There is need for some national answer to the dilemma faced by hundreds of communities across the Nation.

I believe that there is an answer in Federal chartering. First proposed in the last century and endorsed over the years by such national leaders as Woodrow Wilson, Federal chartering would enable the Federal Government to require from corporations certain obligations toward the community in which they were located before they received the right to incorporate. Federal chartering also would end the practice which permits corporations to shop among various States to gain the lowest taxes or other concessions in the long run detrimental to the public interest.

Today corporations can hold a gun at the head of many communities. They often force the community to invest heavily in new roads, sewers and schools all in order to create the necessary climate to attract the corporation in the first place. Then by subsequently threatening to leave for a more permissive climate in another State, they can compel a community to continue to maintain inadequate pollution standards or to set property taxes at an inequitable and low level for the corporations.

Federal chartering could end these abuses. It could insure that every State would compete in fairness for the benefits of new industry. I think we shall soon see that it is an idea whose time is come.

Mr. President, I ask unanimous consent that Mr. Wong's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 7, 1972]

A PLANT SHUTDOWN IS ALWAYS PAINFUL, BUT IT NEED NOT BE MERCILESS—AMERICAN OIL CO. IS HAILED FOR ITS "HUMANITARIAN" WAY OF CLOSING ONE REFINERY—A PARTING GIFT: 400 ACRES

(By William Wong)

EL DORADO, ARK.—Everywhere one looks around American Oil Co.'s refinery here, workers are busy. Some are carting shiny new parts in and out of warehouses. Others are piling personnel records and old inventory and supply records into boxes and attending a seemingly endless round of meetings with management. Things, in short, are humming.

But the flurry of activity is deceptive. It's not aimed at keeping the refinery going full blast. Instead, it's intended to accomplish just the opposite—a total shutdown—to be completed by March 1.

That's bad news for this peaceful southern Arkansas town of 26,000. For 50 years, the refinery has been one of El Dorado's economic mainstays. Employment at the refinery in recent years has averaged about 275, and property taxes paid by the facility have helped El Dorado achieve many a municipal improvement.

But as bad as the news is for El Dorado, it isn't as bad as it might be. The reason: American Oil is bending over backward to make the shutdown as painless as possible. From a public announcement nine full months before shutdown day to extensive efforts to relocate workers at other American Oil operations, the company has tried mightily to hurt as few people as possible.

"A WHOLESOME APPROACH"

This approach isn't unique to Americans. In fact, it has been taken with increasing frequency in recent times as the sluggish economy has resulted in scores of plant closings. "Most companies have gotten away from the abrupt and brutal closings of years past," says Alfred E. Cummins, a professor at Case Western Reserve University's School of Management. Adds Sidney Kriser, president of Industrial Plants Corp., a plan liquidating firm: "Management today in general has a wholesome, more humanitarian approach to what happens to employes after their separation. Most publicly held companies are trying to do the best possible thing for their employes."

A "wholesome" approach, however, is far from universal. In many instances, workers are still suddenly assembled and summarily fired. In other cases, work forces are methodically trimmed, creating an agonizing existence for those left on the job. They wonder when the ax with their name on it will fall. Plants involved in such gradual closedowns are usually allowed simply to die, with little or no explanation from management.

But on the whole, experts contend, companies these days are leveling more often with their employes, telling them the bad news as straight as it can be told. That's certainly the feeling among workers at the American Oil refinery here, as well as among civic leaders and townspeople in El Dorado. American Oil, they say, has gone to extreme lengths to make sure everyone involved knew in advance what was coming, how it would be handled and the reasons behind the action. As the refinery closing also illustrates, shutting down a plant can be a complex and exhausting process.

A DIFFICULT DECISION

From the outset, of course, the decision to close the refinery was anything but easy for American Oil. About three years before the final decision, officials say, long-range projections made an eventual shutdown a distinct possibility. Then, in late 1969, according to Frank K. Webb, American Oil's manager for refining coordination, it became clear that a decision had to be made.

"We got some of our economists together and got three or four different approaches to the problem," says Mr. Webb, who is in charge of the shutdown. In effect, he says, the economists tried to determine whether the company, looking five or 10 years ahead, would still need the capacity of the old and relatively small El Dorado refinery. Some of the economists said the refinery, capable of turning 43,600 barrels of crude oil daily into gasoline, fuel oil and other petroleum products, should be closed; others disagreed. But finally, due to economic factors, the study group decided in early April that it would recommend a shutdown.

While the economists were debating, other members of the study group delved into other areas of consideration. One area, for example, wsa what to do with the refinery's crude oil supply, some of which was shipped from Texas and some obtained locally. Another was to investigate the company's projected manpower needs for the next five years to determine what could be done with the El Dorado employes.

"Nobody was happy or glad that we were closing El Dorado," Mr. Webb says, "but once the decision was made, everyone pitched in with great enthusiasm to do the best possible job of devising plans to close it down well."

A PRECISE TIMETABLE

After the shutdown decision was made, the group began to devise detailed plans to handle each phase of the shutdown, including a

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precise timetable on how and when to announce the decision to employes, politicians and community leaders. The entire shutdown package was given final approval on May 6, 1971, by the directors of Standard Oil Co. of Indiana, American Oil's parent company.

All told, harsh economic realities forced the final shutdown decision. The refinery's main source of crude—from the El Dorado area—had dwindled to 52,000 barrels a day from 85,000 barrels a day in 1960. This supply in recent years has been shared by American Oil and a refinery operated by Lion Oil Co., a division of Monsanto Co. Thus, it was necessary for American Oil to make high-cost pipeline shipments of crude from Texas to El Dorado. In addition, officials say, the El Dorado refinery was "too small to meet the technological competition of larger refineries, which can operate more efficiently at lower per-barrel costs."

The announcement timetable was elaborate. The company set May 20, 1971—a full nine months before the scheduled shutdown date—as the day it would publicly announce its decision. Six days before the announcement, American Oil officials began hopscotching from Chicago (corporate headquarters) to Washington, D.C., to Little Rock to El Dorado. The purpose of all the travel was to explain to Arkansas' U.S. Senators and Representatives and key state and local officials why the company was closing the El Dorado facility. Moreover, American Oil sent out explanatory letters on May 18 to 150 top civic and business leaders of El Dorado.

These elaborate advance briefings illustrate a lesson well learned by American Oil. Back in 1958, it abruptly closed a refinery in Destrehan, La.—without first telling local, state or federal politicians, who later complained loudly about the company's action. "We simply misjudged the political aspects" of the Destrehan closing, a company official admits.

The timing of the El Dorado announcement was particularly sensitive. The town was busily preparing for a big week-long celebration in June to commemorate the 50th anniversary of the discovery of oil in the area. Despite the obvious dampening effect American Oil's shutdown announcement might have on the impending gaiety, the company decided it couldn't wait beyond May 20. "We were concerned about our obligation to the employes to let them know the decision as soon as we could so that they might plan accordingly," says Larry Durland, the plant manager.

"We really searched our souls on this decision," sighs Mr. Webb. "We anguished over it more than anything else. It was fully two weeks that we wrestled with it."

Surprisingly, local leaders say the announcement didn't deflate the good times of the celebration. "It wasn't a hindrance nor did it hurt the celebration one bit," declares William Alley, executive director of the El Dorado Chamber of Commerce. A possible reason: American Oil participated fully in the celebration, contributing manpower and equipment to help set up (and then clean up) the replica of a 1920s oil-boom town.

May 20 itself was a day full of meetings, all for the purpose of telling what the company was doing and why. First, corporate officials and Mr. Durland, the plant manager, broke the news to the salaried employes. Then they faced local union leaders and groups of hourly workers. A press conference and a luncheon for civic leaders followed.

A GLOOMY PERIOD

Although rumors about the closing had been circulating for years, the actual announcement stung some like a slap on the face. Judge Carlton Jerry, the top county administrator, says the time of the announcement "certainly was a gloomy period of our people." John Phelps, chairman of the workmen's committee at the refinery, adds, "There were a lot of rumors, but still, when the announcement came, it was a shock to all of us."

Once the initial shock subsided, the company set about resolving its biggest question: What to do with the refinery's 275 employes. The study group discovered that the projected manpower needs of the company's 10 other U.S. manufacturing facilities and other units exceeded the total number of El Dorado employes affected by the shutdown. Mr. Webb therefore asked the other facilities to freeze outside hiring so that El Dorado employes could have first crack at job openings.

With that beginning, the job-placement program for El Dorado workers launched into a series of questionnaires and personal interviews aimed at giving employes one of three choices: to transfer to another company facility at company expense; to seek a job outside the company in the El Dorado area, again with company assistance; or to take early retirement.

The bulk of the placement program centered on job-transfer interviews, which stretched from early June to late November. Representatives from seven different American Oil facilities visited El Dorado and conducted a total of 862 interviews. According to Joseph Feeney, employe relations director at the El Dorado plant, 176 of El Dorado's 214 hourly employes and 31 of its 61 salaried workers received one or more job offers from other company plants.

When all is said and done, the company figures it will spend about $1 million for moving some 200 El Dorado employes to other company locations. Another $700,000, it estimates, will be spent on severance and early-retirement benefits. The money factor played virtually no part in the company's decision to transfer, rather than simply lay off, El Dorado workers, Mr. Webb maintains. He says the average costs of severance-retirement and moving expenses are about equal—$5,500 to $6,000 per employe. In transferring El Dorado workers, Mr. Webb adds, the company benefits by retaining experienced workers. However, he says there's also a disadvantage, since transferred workers are generally older than workers hired from outside the company.

PLEASED EMPLOYES

American Oil's efforts in helping workers find jobs has understandably pleased employes. "The company has bent over backwards for me," declares John Osborn, a 42-year-old mechanic who's transferring to the company's Whiting, Ind., refinery. Mr. Osborn surmises that "99%" of his fellow workers feel as he does. (The company paid for a week-long house-hunting trip to the Whiting area for Mr. Osborn and his wife and will pay moving and temporary living expenses when they get there.)

On the less sticky, but no less massive, question of what to do with the refinery property and machinery, American has made moves to benefit both the community and itself.

The refinery is located on about 440 acres of gently rolling hills. About 400 acres of the land will be donated to Union County. The company is currently negotiating to sell the other 40 acres to a pipeline company. The 400 acres to be given to the county adjoin a 600-acre industrial park, and Judge Jerry says the gift will be used for industrial purposes. The donation, valued by American Oil at $2.2 million, includes the company's water wells and a number of standing structures such as the single-story brick administration building, warehouse, several shacks and a boiler room.

According to Mr. Webb, selling the land would have netted the company 75% (or about $1.6 million at best) of the assessed valuation, after a 25% capital-gains tax, but would probably have required a long wait to find buyers. While donating, on the other hand, will net the company less money—a tax credit this year of about $1.1 million—the money in hand (through the tax credit) plus the positive impact on the community tipped the decision away from selling, Mr. Webb adds.

GIFTS TO CHARITY

Of the millions of dollars worth of machinery at El Dorado, American Oil is seeking to sell some refining units and other equipment to outside sources; other American Oil plants will also have a chance at claiming idled machinery. Office fixtures, such as furniture and filing cabinets, are being given to local charitable organizations and churches. And one of two plant fire trucks is being given to the nearby town of Norphlet.

Throughout the entire closing operation, American Oil corporate officials in Chicago have kept in constant touch with plant administrators. A recent visit to El Dorado by Mr. Webb was typical of the kind of corporate-plant coordination that has occurred.

After hearing a report from Mr. Durland, the plant manager, and his staff, on the current status of the job-placement program, Mr. Webb commented: "Well, it looks like we're in pretty good shape as far as the people situation is concerned." On the issue of machinery disposal, he declared: "Here's what I propose—we turn our purchasing people loose to start soliciting bids from 'junkies' (scrap dealers). It'll take them quite awhile—maybe even a year—to come in here, inspect, then bid."

Plant closings are nothing new for 55-year-old Mr. Webb. He had a hand in supervising the much-criticized Destrehan refinery shutdown in 1958, and he coordinated the closing of the company's Neodesha, Kansas, refinery in 1970. In fact, he admits, he's occasionally, although jocularly, called "undertaker" or "the hatchet man."

American Oil's performance in El Dorado has won raves from local leaders and employes, despite the fact that the community is losing an employer that pays about $3 million in annual salaries and wages and contributes, for example, $162,000 a year to the local school district.

County Judge Jerry says, "We're grateful for their generosity" in donating the property. El Dorado Mayor I. L. Pesses declares, "American Oil has done a commendable and excellent job in the way it announced and is closing the refinery. We have no ill feelings toward them; they've acted in good faith." Union leader Phelps adds, "The company has taken a step forward in plant closings."

EFFECTIVENESS OF YOUTH CONSERVATION CORPS

Mr. DOMINICK. Mr. President, the March issue of American Biology Teacher contains an article by Mr. Dennis Lynch, a district ranger for the Pike National Forest in Colorado, describing his experience with the Youth Conservation Corps program last summer. Mr. Lynch describes the enthusiasm of the 10 girls and 15 boys selected for the program in his area and quotes the participants as believing that it was a most fascinating and rewarding experience.

I believe the article provides some useful, firsthand observations on the effectiveness of the YCC program in its first year of operation. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YCC . . . AN EXPERIENCE IN THE OUTDOORS

(By Dennis Lynch)

Joan Meyer is a tall, freckle-faced pixie with braids. This fall she waded into her high school chemistry and geology courses with exceptional enthusiasm. Something had happened to her—and to 24 other young people in Colorado Springs, Colo.—in the weeks just ahead of the return to classes.

"This summer has been the most meaningful and most rewarding experience of my life," said Joan, who is 17. "The Youth Conservation Corps program has left a great impression on me and I was proud to be a part of it. The work was fun, even though tiring. But the best part of the job was the education. I never knew my environment could be so interesting."

THE YOUTH CONSERVATION CORPS

What sort of program gets that kind of response? The Youth Conservation Corps (YCC) program of 1971 was the start of a three-year pilot program authorized by Congress to provide summer employment for youth in the nation's forests and parks. Its sponsors, Sen. Henry Jackson and Rep. Lloyd Meeds, both of Washington state, have described YCC as a program to provide youth with meaningful employment and environmental-education opportunities while enhancing our environment at the same time. "It is a way to harness the creative energies of our young people to change the face and character of the nation," Jackson said.

The first YCC program did just that. 2,200 young people were employed in national forests and national parks. It was such a success that Senator Jackson and many of his colleagues are calling for the employment of 100,000 boys and girls in 1972.

Unlike many current federal programs, YCC isn't necessarily for the poor. The bill specifically states that the corps shall be open to youth of both sexes and of all social, economic, and racial classifications. Also, youth employed in the program must be at least 15 years of age and not older than 19. No person can be employed as a member of the corps for a term in excess of 90 days during any single year.

As a U.S. Forest Service district ranger I became excited about the program as soon as I learned about the bills proposed by Jackson and Meeds. I guess I thought back to my youth in Oregon, when I was 16. That summer I volunteered myself (and my 14-year-old brother!) to the local district ranger, for free, to help him out with trial maintenance and construction. I found out then (as have the kids who more recently, have volunteered themselves to me) that problems of liability, injury, and responsibility prevent the Forest Service from "employing" volunteers. I suppose my disappointment as a teenager caused me, last year, to make a pest out of myself until I was promised a YCC program for my ranger district.

SETTING UP THE PROGRAM

The Pikes Peak District, Pike National Forest, is adjacent to metropolitan Colorado Springs; in fact a portion of the district lies within the city limits. The district is subject to all the pressures and demands of big-city public parks—and we are woefully understaffed and underfinanced. The idea of 25 bright-eyed, eager helpers was exciting. We had worked with youth groups on conservation programs before, but we really began to see youth's potential when we held a "plant-in" on Earth Day, 1970, and had over 120 helpers. The helpers were mostly kids 15 to 18 who came to plant trees and stayed with us until dusk. With this knowledge—that today's kids want to, and can, do constructive work—we pressed ahead for a YCC program.

When at last we got the go-ahead it was for a 25-enrollee program. This was to be a coed program, with the kids living at home and working from 8 a.m., to 5 p.m. five days a week. Over 1,000 invitations went out to senior high students in School District 11, which was our cooperator for this pilot program effort. With the help of the schools' Larry Bussey, special services director, and Chuck Rezor, science adviser, the applications were reviewed by science teachers and counselors, who screened the applicants to a total of 100.

How do you pick 25 enrollees out of 100 enthusiastic and well-qualified young people? Warren Harper, our program director on the district, and I threw up our hands! An old-fashioned drawing of names out of the hat had to be the answer. The 25 lucky applicants were invited to bring their parents to meet with us for a discussion of the program. 15 boys, 10 girls, and their parents, from all walks of life, assured us that we hadn't been wrong. We told them it was their program, their chance: only they could make it successful.

PROJECTS OF ALL KINDS

On June 21, 1971, the boys and girls started their first day with a desire to make the program successful—a desire that never failed throughout the following eight weeks. That first day we hiked 10 km to build a nature trail for the school children of Manitou Springs and Colorado Springs. The enrollees were tired and thirsty but overwhelmingly enthusiastic that evening as they nursed their aching muscles and blisters.

Other projects followed: constructing trail bridges, revegetating eroded slopes, planting trees and shrubs, building new trails and maintaining existing trails, maintaining campgrounds, setting signs for a guided automobile tour, developing waterfowl nesting and feeding places, developing food and cover plots for birds and small mammals, and the unending task of cleaning up someone else's trash. The final project was a monument to the kids themselves. Working with our landscape architect, one of the girls, Linda Hansch, designed a campground—and the kids proceeded to build it.

The program included an environmental education effort, too. Each crew was led by a forestry student from Colorado State University. The college students were responsible for encouraging each of their five crew members to discover "environmental awareness" for themselves. No one was to be force-fed or lectured to. It was "learn while doing."

A theme for each week drew attention to a specific part of the environment. This was supplemented by field trips to the life zones (Upper Sonoran to Arctic-Alpine) that exist from Colorado Springs (elevation 1,830 m) to the summit of Pikes Peak (4,300 m), which is about 7 km, air-line, from the city. The corps members also visited a fire tower, recreation places, and timber-management sites. They were given a brief introduction to each trip; then, in the field, they made the measurements of air and soil temperatures and of tree heights, diameters, and ages, and they learned to name the plants and estimate their abundance. They were encouraged to reach their own conclusions about proper management techniques, and they tried these out on the professionals who accompanied them on the trip.

WEEKS OF SELF-DISCOVERY

Parents commented on the decided changes of character that occurred in their sons and daughters. Calmness, confidence, and enthusiasm replaced restlessness, hopelessness, and cynicism. The effect of the program is best summarized in the words of a very thoughtful enrollee. Mitch Corwine, who had shoulder-length hair and real questions about the "establishment" at the beginning, said at the end of the program: "This has been the most fascinating and rewarding summer in my life. I want to thank the people who created and supported the Youth Conservation Corps for giving me the opportunity to prove to a great number of people that I am as good as anybody else." (P.S.: Mitch kept his long hair.)

For me, it was the best program and summer I've ever spent in my 12 years in the U.S. Forest Service. You science teachers are lucky: you get to work with the kids for nine months; I have them for less than three!

DAMAGE FROM STRIP COAL MINING

Mr. HARRIS. Mr. President, more and more attention is being focused, and rightly so, on the human and environmental damage being caused all over this country by the strip mining of coal.

From my own examination of this problem, I have come to believe that the Tennessee Valley Authority is in part to blame for the widening use of stripping, especially in the Appalachian area.

TVA has become one of the largest consumers of stripped coal in the Nation. In the process, it has also become an accomplice in the senseless destruction of hills and streams in parts of Tennessee and Kentucky, West Virginia, and Ohio.

Mr. President, the March issue of Esquire magazine contains an exceptional article on the tragic consequences of strip mining for coal. It demonstrates convincingly why TVA must abandon its current policy as one of the strip coal industry's best customer.

Because of the widespread human suffering it uncovers in coal-stripping areas, this excellent article also illustrates why the Heckler-Nelson bill, calling for the complete abolition of coal stripping, is so urgently needed.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POWER CORRUPTS

(By Osborn Segerberg, Jr.)

BUT THE QUESTION BEFORE THE T.V.A. IS, MUST CHEAP ELECTRIC POWER CORRUPT ABSOLUTELY?

In September, 1935, two years after President Franklin D. Roosevelt signed the bill creating the Tennessee Valley Authority, Senator George Norris went for a boat ride on Norris Lake behind the dam also named for himself. As T.V.A. Chairman David Lilienthal wrote in his *Journals*, Norris "looked at the dam and as the sun's rays were cutting across it toward sunset, he said, 'Gosh, it does take a long time and a lot of work to get ready.' This is an interesting clue to his point of view because all of this work is preliminary to the production of power and electricity which is the thing that he thinks of when he thinks about the T.V.A. The other things to him are interesting sidelines. . . ."

Five years later, however, F.D.R. complained: "The damned newspapers have made it out that T.V.A. is simply a power agency. Now that isn't the fact. We aren't just providing navigation and flood control and power. We are reclaiming land and human beings." And they were reclaimed. Today, behind the system's forty or so power-producing dams, lakes attract water skiers, fishermen, campers, recreation developers. Stimulated commerce and diversified industry radiate prosperity so that the standard of living in the region has climbed at a rate fifty percent above the national average. Nevertheless, in the long run, Senator Norris' view of the real priorities of T.V.A. prevailed over F.D.R.'s. As of June 30, 1970, T.V.A.'s net investment in power assets amounted to $2,850,000,000; its net investment in non-power assets slightly more than $600,000,000. Its 1970 power expenses were $405,000,000 with power revenues totaling $480,000,000 for a net income of $75,000,000. Net expenses for non-power programs in fiscal 1970 were $36,000,000.

T.V.A. is a powerhouse of statistics. But the ones it seems to favor most today em-

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phasize the magnitude of its power production. In 1970, for the first time the system supplied more than 100,000,000,000 kilowatt-hours of electricity. T.V.A. has about 20,000,000 kw. of installed capacity—more than double the capacity of Con Edison, which supplies New York City—with another 10,000,000 kw. scheduled to go on the line by 1975. Average residential use of electricity in the region has grown from 600 kw.h. in 1933, when the average rate was 5.7 cents per kw.h., to 14,650 kw.h. in 1970—more than double the average consumption for the nation. The average residential customer in the T.V.A. area pays about one cent per kw.h., one half the national average. This cheap, generously used electricity is the key to the revival of the Tennessee Valley.

What generally goes unrecognized is that more than eight percent of T.V.A.'s power now comes not from dams but from its eleven steam plants, with the proportion of hydroelectric power dwindling all the time. T.V.A. started out as a harnesser of rivers. By the end of the World War II, most of the suitable hydropower sites had been utilized, while the demand for electricity kept soaring. In order to keep growing in the postwar period, T.V.A. was forced to turn to steam plants, and to reach outside its watershed for the coal to run them. The resort to coal profoundly altered the character of T.V.A., for while water power is free once the dams are built, coal is bought in the market.

In 1961, T.V.A. became embroiled in a nasty spate of publicity involving a complicated antitrust suit brought by east Tennessee and east Kentucky coal operators charging a conspiracy to advance the fortunes of big mechanized mines in western Kentucky. In one of a Pulitzer Prize-winning series of articles in *The Nashville Tennessean*, a state representative charged that in order to sell to T.V.A. the small coal operators "literally have cut wages to the point that kids go hungry." Another *Tennessean* article said T.V.A. used mechanized coal because it is produced more cheaply. "And T.V.A. notes it is bound by federal law to choose the lowest bidder on all coal contracts."

The simmering quarrel between T.V.A. and the coal industry boiled over in 1970 with shrinking fuel supplies and T.V.A.'s announcement of a new rate increase. T.V.A. blamed the rate hike in large part on skyrocketing coal prices. Chairman Aubrey Wagner, who in 1962 succeeded to the job first held by Lilienthal, accused the industry of "a gross lack of planning . . . to take care of essential public needs." T.V.A. customers, incensed at the rate increase, sallied into Washington to get to the truth of the matter. A National Coal Association official told them bluntly: "The days of cheap energy are gone."

In a more restrained tone, N.C.A. executive vice president James Garvey told the Senate Interior Committee in September, 1970, "T.V.A.'s past ability to use its monopoly purchasing power got T.V.A. into the habit of taking advantage of the coal industry's distressed condition caused by its overproductive capacity. As a result, T.V.A. finds it shocking and unacceptable to pay a fair price for coal." Garvey observed, "In the eastern section, T.V.A. has (following its system of accepting the lowest bid) taken advantage of the willingness of non-career coal companies to 'cream the contours.' T.V.A. in its eastern section has lived off the very inexpensive coal which could be, and was, obtained from strip mining the contours of the hills."

It made good economic sense for T.V.A. to use strip-mined coal. A road-construction boss could take off one week, go into the hills with a bulldozer, power shovel, and a few men, and be a coal operator the next week. It takes fewer men to strip; ton for ton, a man employed in strip mining produces up to five times as much coal and at about one third the cost as the same man working in a deep mine. And the men prefer stripping: a strip miner need not risk his life or his health underground. Moreover, the entire seam of coal can be removed: this is never possible in deep mining. This means cheap coal. In 1961, when the price for Kentucky coal was four dollars a ton, T.V.A. was purchasing supplies on at least one contract for *half* that rate. T.V.A. estimates that the cost of coal amounts to two thirds of the cost of power production. Cheap coal means cheap electricity.

Where T.V.A. pioneered, the notably cautious electric utility industry watched, waited, then followed. With the surging demand for cheap coal in the early 1960's, strip mining went big time. "A monster 115-cubic-yard shovel big enough to dwarf a ten-story building," proclaims a picture caption in a pamphlet on T.V.A.'s Paradise steam plant in Drakesboro, Kentucky, currently the biggest in the world. "It is the largest self-propelled land vehicle in history, and can scoop up, swing and dump a third of a million pounds of earth at a time." T.V.A. issued the brochure in the early Sixties; today's technology has provided shovels half again as large, able to take two-hundred-cubic-yard bites. But the Paradise plant, with a rated generator capacity of 2,500,000 kilowatts, is still the biggest.

The Paradise plant has no geographical relationship whatever to the Tennessee Valley. Its location in west central Kentucky is explained by the fact that it is our first "mine mouth" plant. "This plant burns 21,000 tons of coal a day," a guard proudly told me. "It's sitting right on a bed of coal."

The land surrounding the Paradise plant must be one of the most devastated areas in the United States. Approaching the plant is like entering a combat zone. Kentucky's Senator John Sherman Cooper described it this way in questioning Chairman Wagner at a committee hearing in Washington in August, 1970:

"I don't know that I can say that it is your fault, but one of the purposes, as I understand it, of the T.V.A. is that it deals with conservation and tries to make a better environment. Yet in Muhlenburg County and Ohio County, where Peabody Coal strip-mines—I think it is the second-largest coal company in the United States—these counties look like what we once thought the surface of the moon would look like—terrible."

I asked Chairman Wagner and Information Director Paul Evans how T.V.A. could be associated with the kind of environment that surrounds the Paradise plant. They explained that not all the coal stripped from the area goes to that particular plant (Peabody is mining 65,000,000 tons over a seventeen-year period), that the land mined for T.V.A. is being reclaimed and that the area was nothing but scrub bush or strip mines before the plant was built, anyway.

Although neither man said it, the T.V.A.'s mandate was to rehabilitate the Tennessee Valley, not to worry about Kentucky. A comparable Kentucky Valley Authority undoubtedly would have utilized *its* prime resource, coal. Without cheap Kentucky coal many of T.V.A.'s proudest accomplishments never would have come to pass. Two thirds of T.V.A.'s coal comes from Kentucky—more than 18,800,000 tons from the west, 3,600,000 tons from the east, in all more than twenty percent of the coal strip-mined in the state.

The strip mining that is conducted in the flat, rolling country of western Kentucky, where the Paradise plant is situated, is known as area mining. Here, as in Ohio or Illinois, the tier of coal may lie within thirty to sixty feet of the surface. A supershovel digs a great trench. The topsoil and other material, called the overburden, are piled alongside the trench. Then smaller shovels scoop out the coal. When the accessible coal has been removed, a parallel cut is gouged, with the overburden deposited into the first trench. And so on, so that the land is transformed into a washboard of ridges and valleys like a gargantuan plowed field.

In mountainous country, contour mining is practiced. This corresponds to the L-shaped cut made for a highway along a hillside. First, bulldozers clear trees, brush and vegetation. Dynamite blasting loosens the earth, then shovels and dozers remove the overburden, forming what is called a bench, what would be the roadway if a road were there, joined at right angles to what is called a highwall. Since there is no place to put the overburden, the custom has been to dump the broken trees, stumps, boulders and earth material over the side of the hill. The exposed layer of coal is lifted out by shovels, loaded onto trucks and carted away. The deeper the miners cut into a hillside, the taller the highwall becomes. A limit usually is reached when the highwall attains about thirty to fifty feet.

At this point, auger mining may commence. Drills up to seven feet in diameter bite as deep as seventy yards into the mountain, the spiral blades peeling out the coal. Stripping is the fastest growing method for mineral extraction, particularly for coal. It accounted for only five percent of coal mining in 1931; in the early 1950's, when T.V.A. came into the market, the figure was twenty-two percent; now strip and auger mining are up to forty-four percent.

Until the 1940's strip mining was unknown to the mountain people whose grandfathers had signed so-called "broad form" deeds with the coal companies. For ridiculously low prices—around fifty cents an acre—the natives gave the companies title to all coal, oil, gas and minerals underground, and authorized them to build roads and other structures wherever they wanted to, as well as to cut whatever timber they needed. The mountaineers watched the rape of their land with occasional resorts to violence and sorties to law—the latter futile, since even the rare legal victories against coal operators were doomed to eventual defeat if the case rose to the state's highest court. Where other states held that landowners could not have intended to sell the right to mine their land by a process unknown at the time the deeds were drawn, Kentucky's seven-judge Court of Appeals ratified the broad form in 1956. Another test case was brought in 1968. Not only was the landowner denied damages inflicted by mining, but the rights of the coal operator were extended by the ruling of a four-justice majority, which held: "It appears to us that if, as we in substance are holding, the mineral owner bought and paid for the *right to destroy* [emphasis added] the surface in a good faith exercise of the right to remove the minerals, then there is no basis upon which there could rest an obligation to pay damages for exercising that right." In 1970, Knott County, one of the counties most desperately affected, imposed a ban on strip mining as a public nuisance, but the state's attorney general ruled that the procedure was inconsistent with legal precedent.

If the law offers no redress to the mountaineers, neither does T.V.A. In the Summer of 1970 Leslie Dunbar of the Field Foundation and Eli Evans of the Carnegie Corporation talked to Mrs. Vernon Barnett who lives with her husband below Yellow Creek Mine near Anson, Kentucky. The three men wrote about their encounter in a letter to Frank Smith, a T.V.A. director.

"We asked her what it was like living below the mine, and she told me how they had to flee their house each time it rained for fear that tons of earth above might turn into a mud slide.

"'My husband is a disabled miner and that house is all our life savings,' she said. 'It's a good house and what we always wanted because we never had a toilet or runnin' water until we moved here.' And then she said in a terrified voice, 'Someday that whole mountain is going to wash down through this gully and bury my house.'"

Mrs. Barnett told the Foundation men that she had talked to mine-owner William Sturgill, but he had done nothing. The letter goes on:

"Our quiet inquiries indicated that T.V.A. could be a major purchaser of the coal from Mr. Sturgill's mine and it seemed to us that you might be able to help Mr. and Mrs. Vernon Barnett and others like them. After all, the economics of strip mining indicate that an agency of the government of the United States may have placed this fine couple in fear of their lives to face night after night of uncertainty and outright terror. There are other people like her in Kentucky and we know it is easy to say that solving one person's problems can raise a lot of issues regarding responsibility for others, but T.V.A. could be so much to blame in this situation that we felt compelled to urge you to give it your personal attention."

Director Smith wrote back that Sturgill's Kentucky Oak Mining Company (now known as Falcon Coal Company) was indeed under contract to T.V.A. and that the company was in compliance with its reclamation obligations. Therefore the threat of a landslide was out of the question. However, Smith said, he was sending a man to check on it. "Let me point out again," Smith wrote, "that the coal is not being mined because of T.V.A. but because of the consumption of electric power throughout the country."

As it turned out, the T.V.A. inspector said that the slide situation was unpredictable. In other words, it could happen. The T.V.A. offered to replace the Barnetts' house at a safer location across the road or to move them to a new house, but several months after the inspector's report, the T.V.A. was still surveying land and the couple was still living jeopardy.

Dan Gibson is a living legend in eastern Kentucky because he beat the system and won a small victory. Dan Gibson is eighty-six years old, still full frame, still erect, still a man to be reckoned with. He cut down on his lifetime smoking habit a few months ago because he felt it was beginning to affect his wind.

Dan and his wife live in a typical small mountain cove that cups the head of Cockerel's Trace Fork of Clear Creek in Knott County near Hindman. Mrs. Gibson's son by an earlier marriage lives close by with his family. Mrs. Gibson's father had signed away the mineral rights in this hollow. "My father thought he sold just one seam of coal," Mrs. Gibson said. "Later they claimed the rocks and clay. Nobody ever thought about a bulldozer and shovel."

The bulldozers and shovels began arriving in their area in 1964. A crew would move in quietly and before anyone was aware of it a strip operation would be in full bloom. One neighbor surprised a coal operator, who had already ruined his farm and, with a rifle trained on him, got the operator to write out a check for $4,000 on the spot. But few residents got money or satisfaction, since the operators were within their legal rights. When blasting dislodged the chimney stones of another neighbor's house, the house caught fire and burned down. Another dynamite explosion broke a gas line and, when a housewife lit a match, the resulting fire burned *that* house down. A third house was buried by tumbling overburden, a mother and her children escaping just in time. Smoke choked everyone, dust settled everywhere.

Then the strippers began probing Dan Gibson's cove. Once in the black of night he noticed lights on the ridge opposite his house. One shot and the lights were turned out. Another time, the strippers chewed the back of a hill and Gibson did not discover that operation until they had cut through the ridge. "Mine water as black as my pants came rolling down into our crick. People came here to fish. There used to be big chubs, but that cleared ever'thing out of the holler."

The showdown came in the Summer of 1965. The land belonged, or eventually would, to two stepsons and three grandsons who were in service, one fighting in Vietnam. Mr. Gibson didn't think it right for their property to be scalped while they were away like that. So he got his .22-caliber gun and went up to the ridge to confront the marauders.

He spotted the invaders when he had approached to about 150 yards; a deputy sheriff was standing in front of bulldozers. Gibson slipped behind the deputy, "I said, 'What are you doin' up here?' He said, 'I'm up here guardin' these men to work.' And I said, 'Mister, I don't want any trouble with you all. I ask you to walk in front of me and go out there and tell them fellers to get off. Go back across that line.' Well, he did. And they went back."

Gibson, whose right hand is crippled, got help from one of the mine crew to set up a hand-lettered sign on his property line. It read: "No Trespassing." This first confrontation occurred about ten in the morning. For the next four or five hours, Dan Gibson sat on his side of the boundary and about twenty of the strip-mining crew sat on the other side. In midafternoon, six state troopers appeared and crossed the border. Gibson asked the leader, whom he identifies as a Sergeant Mitchell, if he had come to run him off his own property. The police officer said he had a right to be there. In reply, Dan Gibson said he was eighty years old and never had trouble with anyone in his life.

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Of Kentucky's four major rivers that rise in the eastern hills, Dr. Barbour said that only the Licking "is not in too bad shape except for tributaries in coal areas. Some of the most miserable streams are just gutters, boulders bloody red and glued in place with nothing alive that I could find."

Federal regulation of strip mining has been suggested by U.M.W. President W. A. Boyle, among others, and President Nixon has proposed federal guidelines with a provision for federal take-over if the state fails to enforce the guidelines. These positions are in contrast to the sentiments of T.V.A., which for many years preferred state regulation.

When the New York *Times* editorially proposed a ban on strip mining, T.V.A. Chairman Wagner quickly wrote to the editor opposing such action. He said that barren, treeless wastebands are not to be condoned, of course, but they don't have to exist. "T.V.A. in cooperation with some of its suppliers of coal, has demonstrated that coal can be removed by surface mining and the area involved restored to a condition as good or better than before the mining took place. The productivity of the land can be restored or improved and pollution controlled."

This claim recalls the contention of the lawyer who, in trying to block a claim against his client, argued that the arm of the young complainant actually was stronger since the time he had broken it. The counselor waxed eloquent on the powers of nature to repair and reinforce the site of the fracture until the opposing attorney inquired if his adversary recommended that everyone break his arm in order to improve it. Senior ecologist Dr. George Woodwell of Brookhaven National Laboratory calls T.V.A. brochures of its model reclamation "extremely superficial and misleading" and he estimates that the organic productivity "has been reduced to a fifth to one-tenth its potential prior to disturbance."

The closest thing to federal regulation so far has been the passage of the National Environmental Policy Act, whereby Congress has declared a national policy "to promote efforts which will prevent or eliminate damage to the environment and biosphere." The act says that unless some other national goal supersedes, it is the responsibility of the Federal Government to "attain the widest range of beneficial uses of the environment without degradation . . . maintain, wherever possible, an environment which supports diversity . . . enhance the quality of renewable resources." The law directs a federal agency to file a statement if any action it plans may have an adverse effect on environment, and consider alternatives.

Natural Resources Defense Council, the Environmental Defense Fund, and the Sierra Club, joined by National Audubon Society, have begun legal action to make T.V.A. file such statements with a view toward ending its procurement of coal from strip mining. While T.V.A. does not mine the coal directly, the environmental groups contend the agency is violating N.E.P.A. T.V.A. issued a hundred-page policy statement in December and said it would issue such environmental documents annually, but would not give environmental impact statements for each of the thirty to forty strip-mine contracts negotiated each year. John Adams, executive director of the Natural Resources, believes that by prodding T.V.A. to file an impact statement, "they'll realize what they are doing and stop it—we're forcing them to think." It is a good time for thinking. . .

It is high time for thinking—thinking about the paradoxes involved in T.V.A.'s two-headed mandate as an environmental agency and as a purveyor of cheap electricity. Reconciling the two is going to be extremely difficult. For example, T.V.A. pioneered the use of electricity for home heating, and is quick to point out that this is a clean way to heat a home. One big power plant undoubtedly concentrates the pollution, and thereby makes it more amenable to control than a lot of little home furnaces. But the price of the gain in air quality is accelerated depletion of coal, for when the fuel is burned at a plant to generate electricity, sixty percent of the coal's heat is wasted. So the cost in energy rather than in dollars to heat an average home electrically is seven and a half tons of coal a year. The energy cost of a color television set is 375 pounds of coal a year, for an electric range nearly half a ton, and almost two tons for air conditioning. The demand for energy can only increase. Cheap thermonuclear power may lie on the distant horizon, but on the other hand it may not—the technological problems of controlling the reaction are enormous, there still is likely to be a highly poisonous by-product, the problems of dispersing the waste heat are immense. For decades the American demand for electric power has been doubling every ten years, and for the past couple of years the rate has been increasing even faster than that. In the long run this geometric increase in energy demand simply cannot continue, because whatever the energy resource limits of the earth may be, there are limits *somewhere*. But of course in the long run we are all dead. In the short run, we have a coal problem.

Some critics believe that bulk users of electric power should be made to pay the same rates as small residential users. These critics believe that providing preferentially cheap electricity acts as a spur to its extravagant use and a constant stimulant to the demand-supply spiral. T.V.A. opposes any such rate change, believing that the economic realities are such that the bulk user deserves cheaper rates. Wagner philosophically opposes any curtailment of the power that builds the products that provide the jobs that bring the money that gives us the standard of living we have. Start to cut back and the process could go into reverse: fewer products . . .

fewer jobs . . . unemployment . . . depression. The whole house of cards collapses.

Former T.V.A. and A. E. C. chairman Lilienthal says, "Cheap power has done its job. I think that changing the rate structure is the quickest and most natural way to bring about a de-escalation in the use of power. The bulk user should be made to pay for the increased costs as well as the housewife."

Even so, Mr. Lilienthal is under no illusions that this will materially affect the use of coal. "The coal is a resource," he said. "It will be used."

IS THE GENOCIDE CONVENTION RETROACTIVE?

Mr. PROXMIRE. Mr. President, one of the more sensitive questions concerning American ratification of the Genocide Convention stems from our own liability under the treaty. There appears to be some uncertainty as to whether the terms of the treaty are retroactive and whether the American people can be held accountable for alleged genocide involving American Indians.

While no citizen of the United States can take pride in our treatment of the Indian during this country's early settlement, there is no reason to fear charges of genocide. The terms of the treaty are not retroactive. Rather, the very essence of the treaty is the prevention and punishment of future acts of genocide committed throughout the world. What we did to the American Indian we will have to bear as part of a national conscience, but the Genocide Convention is not designed to resurrect dead issues. It is a constructive and positive international declaration which states with determination the world's abhorrence of violence and genocide.

Now is the time for America to take its place of moral leadership and swiftly ratify the long-neglected Genocide Convention.

ORGANIZATIONAL QUESTIONS BEFORE THE STOCKHOLM CONFERENCE

Mr. MUSKIE. Mr. President, recently Prof. Richard N. Gardner presented an excellent paper on the organizational questions facing the United States at the 1972 United Nations Conference on the Human Environment to the Secretary of State's Advisory Committee on that Conference.

Professor Gardner is a Henry L. Moses professor of law and international organization at Columbia University. His expertise in the field of international organization is well known.

These comments should prove of great value in developing a clear insight into global environmental problems and the possible institutional means by which these problems can be solved. I ask unanimous consent that Mr. Gardner's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF RICHARD N. GARDNER TO THE SECRETARY OF STATE'S ADVISORY COMMITTEE ON THE U.N. CONFERENCE ON THE HUMAN ENVIRONMENT AT THE U.S. MISSION TO THE UNITED NATIONS, FRIDAY, MARCH 3, 1972

Richard N. Gardner, Professor of Law and International Organization at Columbia University, served as Deputy Assistant Secretary of State for International Organization Affairs from 1961 to 1965. He is currently serving as consultant to the Secretary-General of the United Nations Conference on the Human Environment on international organizational questions. He also serves as U.N. representative of the International Union for Conservation of Nature and Natural Resources (IUCN). This statement, however, is made in his personal capacity.

I am grateful for this opportunity to present my views to this distinguished Committee on the organizational questions that will face us at the Stockholm Conference. My views on these questions are set forth in detail in the attached statement entitled "The Role of the UN in Environmental Problems." In these brief introductory remarks, I would like to emphasize three points that I believe have not yet received sufficient attention in either official or public discussion of international environmental organization.

First: The desire of the United States for effective international arrangements for environmental regulation is unlikely to be realized without major changes in present U.S. policy toward the United Nations and multilateral development assistance.

I believe, and have argued for more than a decade, that the national security of the United States is gravely threatened by the expensive and dangerous arms race, the uncontrolled growth of world population, the progressive deterioration of the human environment and the spreading frustration of people in the developing countries at their inability to achieve a decent life. A study by the Club of Rome published only this week suggests the very real likelihood of massive breakdowns in world society within the lives of our children or grandchildren if present trends continue. Although the most devastating consequences of these trends may lie some decades in the future, the measures necessary to avert disaster must be taken now.

If this diagnosis is correct, the United States ought to be doing everything within its power to strengthen the United Nations and other international institutions to deal with these global problems. Unhappily, however, the Vietnam tragedy is impelling us not only to reduce our unilateral responsibilities, which is good, but to disengage from our multilateral responsibilities, which is bad. United States support for multilateral institutions is in doubt or disarray all along the line. We take no serious initiatives to enlarge the U.N. role in peacekeeping or development. We take a penny-wise and pound-foolish attitude to the United Nations budget. We adopt a low financial profile as the United Nations drifts toward bankruptcy. We violate solemn treaty obligations by refusing to pay our assessments to the ILO and by breaching the Security Council's embargo on trade with Rhodesia. We move steadily away from the internationally agreed aid target of one percent of GNP as other industrialized nations move toward it. We fail to put up our promised share of funds for the multilateral aid agencies—the International Development Association, the Inter-American Development Bank and the Asian Development Bank.

We complain that the U.N. behaves "irresponsibly." How can we expect the institution to behave responsibly if we do not behave responsibly toward it? At a time of planetary emergency, we are rapidly becoming a global dropout. Our leadership is currently fascinated by the politics of the balance of power. Surely the time has come to devote more attention to the politics of world order.

What does all this have to do with the Stockholm Conference? Everything. A healthy set of environmental institutions is unlikely to flourish in a weak United Nations.

Moreover, an effective multilateral attack on the problems of environment and population growth is not likely to be mounted in the absence of an effective multilateral attack on poverty. Without an increase in the quantity and quality of global aid efforts, the financial and political basis for population control and environmental protection in the less developed countries will not exist. Not only does action on the population and environmental problems cost money that the developing countries do not have, but political resistance to population and environment efforts is likely to grow in these countries if international assistance is static or declining. Already, at the U.N., some countries are charging that the new emphasis by the United States on the environment and population is a gigantic "cop out" to justify our declining foreign aid effort.

Second: The most important single objective of the Stockholm Conference is to establish a flexible institutional framework capable of future growth in response to the needs and demands of the world community.

I do not wish to minimize the importance of the other matters that will be before the Stockholm Conference, such as the Declaration on the Human Environment, the Action Plan, the Convention on Ocean Dumping and the World Heritage Foundation. But the overriding necessity of the Stockholm Conference is to establish an institutional framework to carry on the work which we have only begun. If this is missing, no other achievements can prevent Stockholm from being deemed a failure.

In the attached paper, I describe in some detail my own views about the institutional arrangements that are required—an Environment Secretariat of the highest quality with adequate power of initiative; an inter-governmental body to which governments will send senior environmental decision-makers; effective arrangements to draw upon the expertise of the private scientific community; a substantial environment fund to assure the financing of priority projects; new measures for the prevention and settlement of environment disputes; and the development of more effective arrangements to deal with the marine environment.

The basic point that I wish to stress in these preliminary remarks is that our principal attention in the development of these institutions should be on substance rather than form. To take an example, the question of whether the inter-governmental body is an organ of the General Assembly or of ECOSOC is less important than the question of whether governments are prepared to send as representatives to it their environmental ministers or senior environmental decision-makers.

A related point is that we should not be too disappointed if the institutional arrangements do not spell out all the formal powers which some of us in the United States might like to include. Experience with international institutions inside and outside the United Nations suggests that a general and somewhat vague grant of authority can provide the basis for impressive organic growth over the years in response to the needs and aspirations of the member states. The important thing is to get something going that has the capacity for growth.

Third: The United States should support the establishment within the United Nations of an "international environmental coalition" of those countries that are prepared to undertake special responsibilities for environmental action.

I strongly believe that our major efforts for environmental action should be taken through the United Nations and its family of agencies. No other institutions presently exist in which we can pursue environmental diplomacy with developing countries and Communist nations as well as with the members of the North Atlantic community and Japan. While regional cooperation is also necessary, global action through the U.N. system is indispensable if we are to secure the cooperation of the developing world and take vital decisions to protect the world's oceans and atmosphere.

At the same time, we have to face the fact that action within the U.N. does present special difficulties. There are now more than 130 members of the United Nations and these members have widely varying attitudes as to the seriousness of environmental problems and as to the extent to which they should limit their national freedom of action to deal with them. We need some formula to reconcile the need for global cooperation within the United Nations with the equally compelling need for cooperation that is adequate to the challenge.

I believe that such a formula can be found in an "international environmental coalition" operating within the United Nations. The concept is simple. At the Stockholm Conference and in subsequent meetings, an attempt should be made to reach the highest level of agreement among all U.N. members on institutional and other issues. In the foreseeable future, however, this level of agreement will undoubtedly be disappointing to those of us who feel a sense of urgency about the environmental threat. Therefore, the United States should join in organizing a coalition of environmentally concerned nations who would accept voluntarily a higher level of obligation than the membership as a whole.

One obvious example of this higher level of obligation would be willingness to contribute generously to an environment fund. Less obvious, but no less important, would be the voluntary acceptance by the members of the coalition of certain procedures for periodic reporting and submission of environmental disputes to third party settlement.

To be somewhat more specific, the United States and other members of such a coalition should agree to report to the new Environment Secretariat on all national activities (private as well as public) that might affect the environment of others and to consult in good faith with other members and with international agencies when questions or objections are raised. The members of the coalition should also agree that environmental disputes to which they are a party can be taken to the new intergovernmental body at the reqeust of any other party and that they will cooperate with any specially-constituted scientific fact finding panel which might wish to make on the spot investigations on their territories. The members of the coalition should also agree to make use of the good offices of the Environment Secretariat and to permit non-governmental groups like IUCN and ICSU to present independent testimony on matters at issue in environmental disputes. In addition, wherever possible, international agreements on such specific matters as oil pollution of the sea or ocean dumping should provide for the settlement of disputes at the request of any party by an arbitral commission or the International Court of Justice, which could organize itself into special chambers for this purpose and make use of scientific "assessors."

I doubt that the members of the "international environmental coalition" would be ready to accept an "environmental veto" by international agencies, much less an environmental "police force." But an international review process of the kind outlined above, even if it did not lead to legally binding decisions by international agencies, would represent a great step forward. I believe it would serve the enlightened self-interest of our country to promote such a process among as many countries as possible and to discharge to the full the obligations involved.

Whatever institutions are created at Stockholm, their vitality will obviously depend on the behavior of governments. The hard question is whether those leaders who now use the rhetoric of "spaceship earth" are really prepared to accept the political and economic costs that this rhetoric implies. The answer will be found in the resources that they are prepared to devote to international environmental efforts and the limitations they are prepared to accept on their traditional freedom of national action.

The institutional decisions which governments take at Stockholm and after will have the most profound consequences not only on the quality of environmental cooperation but also more broadly on the whole system of international relations. Failure to devise a workable pattern of cooperation to cope with urgent environmental issues could lead to international disputes and a poisoning of political relations. On the other hand, success in environmental cooperation could help humanity deal with other pressing problems.

A record of successful achievement in this area would demonstrate the U.N.'s capacity to adjust its institutional habits and deal efficiently with major threats to the survival of mankind. It could show the way to new approaches in the economic and political areas. Perhaps, in the long run, it could stimulate new perceptions of interdependence and strengthen the political commitment of governments to a stronger United Nations.

PLACEMENT OF STUDENTS ON COLLEGE BOARDS OF TRUSTEES

Mr. HARRIS. Mr. President, on February 29, the Senate gave an overwhelming 66-vote endorsement to an amendment which I was privileged to offer, urging colleges and universities to place students on their boards of trustees and boards of regents.

Since I first made public my intention to offer this measure, and since its adoption by this distinguished body, I have received numerous communications from students, faculty members, and administrators across the country concerning the question of student involvement on university governing boards.

After reading through these letters and telegrams, I am even more strongly convinced that student participation in the governance of schools can be of great value—not only to the students, but also to those more directly charged with the difficult task of administering an institution of higher education.

The responses were, almost without exception, highly favorable to increased student involvement. But the most enthusiastic were those from schools where students had been given this additional responsibility. College presidents and student representatives alike found that the perspective added by a student member of the governing board was a change which, in the words of one letter, "their elder colleagues respect, enjoy, and depend upon."

Mr. President, I ask unanimous consent that a number of these letters and telegrams be printed in the RECORD at the conclusion of these remarks.

Mr. President, we have sent 12 distinguished Senators to confer with Representatives from the House side on the final wording of the Higher Education Act. I am hopeful that the conference committee will retain the wording of the Senate version which gives a mandate for schools throughout America to more fully involve students in their governance.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE CITY UNIVERSITY OF NEW YORK, OFFICE OF THE CHANCELLOR,

New York, N.Y., March 6, 1972.

Hon. FRED R. HARRIS,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR HARRIS: You have asked for my views on how younger trustees have affected policy-making at City University.

After two under-thirty board members had been appointed (in August 1969), the local reaction was simply, "Why hasn't this been done before?" It seemed natural and appropriate that recent college graduates bear responsibility as members of a governing board for academic welfare of those coming after them. The "young" trustees have proved to be forceful allies of their elder colleagues in the university effort. As vigorous spokesmen of student concern, alert to current issues of the day and the university's role in these broader issues, the young board member keeps a board on its toes—the only stance for a governing body today.

At the time Miss Maria Joseph Canino, then 25, and Mr. Jean-Louis d'Heilly, then 28, were appointed by Mayor Lindsay, the average age of Board of Higher Education members was 60. The new members were welcomed wholeheartedly, not only for themselves (both are personable and extremely competent), but also for the liaison board members felt them to be with college students. Like other trustees of the period, the Board of Higher Education had been through the travail of campus unrest; they had found the advice of the newly-formed University Student Senate, which Mr. d'Heilly had chaired, extremely helpful and responsible; and they sensed the need for fresh approaches to academic questions.

One of the first steps taken by the new trustees was to visit the campuses to talk with students and esablish the board's and their own particular interest in student input. We have no doubt that a growing student surveillance of board action and an accelerating contribution to board deliberations through public hearings is in part a ratification of this round of visits.

Another factor bringing board policy-making closer to students has been the presence of the University Student Senate chairman at board meetings. Although he has no vote, this official is persuasive. Both Miss Canino and Mr. d'Heilly have supported the maturing of this university-wide body.

Currently chairman of the Committee on Campus Governance and a member of the Committee on Student Services, Mr. d'Heilly has persistently moved to update college and university governing procedures to include both advisory and voting responsibility by students and younger (often untenured) members of faculty and staff. As Senate chairman, he initiated a study of governance procedures, following this up with the board's Committee on Law then and later, after he had become a board member. At one time the campuses were uniformly governed by Faculty Councils under board bylaws. Today each campus is required to develop its own governing plan within guidelines established by the board. These new plans provide for student—and often alumni—participation.

Mr. d'Heilly has been particularly concerned with the implementation, evaluation, and readjustment of open admissions procedures to serve student needs.

As a member of the Committee on Expanded Educational Opportunity, Miss Canino has contributed to the refinement and growth of academic programs for disadvantaged students, one of the most important

aspects of City University's responsibility. SEEK, College Discovery, and Open Admissions policies are the business of this committee. Similarly, she has been an advocate of increasing efforts to provide for minorities.

Her personal affiliation with Puerto Rican groups like ASPIRA has been enormously helpful to the university in its effort to encourage Puerto Rican students to take advantage of educational opportunities available to them.

She has been a strong proponent of the development of Puerto Rican studies on our campuses and has thus contributed to the overall expansion and deepening of ethnic studies at City University.

Miss Canino is now a member of the board's Committee on Community Colleges and, in that capacity, has provided new insights as to the aspirations and needs of youth today.

To sum it up, young board members bring enthusiastic, knowledgeable, and practical perspectives to a university governing board, which their elder colleagues respect, enjoy, and depend upon. May I congratulate you on your efforts to expand the involvement of young people in making the decisions which affect them. It is the conviction of CUNY's administration and governing board that the effective way to develop the responsibility of youth is to give youth responsibility.

Sincerely yours,

ROBERT J. KIBBEE,
Chancellor.

NICHOLLS STATE UNIVERSITY,
Thibodaux, La., February 18, 1972.

Re Senate Bill 659, Harris Amendment 398.
Senator FRED R. HARRIS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HARRIS: The Nicholls State University Administrative Council, which is the policy-making council of the University, includes among its membership the President of the Student Government Association.

By virtue of his election to office by the students, the Student Government Association President is automatically a member of the Administrative Council with full voting privilege and rights.

Full Administrative Council membership for the SGA President is a direct means of communication between students and administration, and it is a direct way by which problems of the students can be brought before the Council. Last week, for example, the Administrative Council was in session six hours for the purpose of considering a Code of Student Rights, Freedoms, and Responsibilities proposed by the students and presented to the Council through the SGA President and a group of his associates who attended the Council meeting as guests.

We personally feel that student membership on the Council has provided better communication between students and administration and much good has come from it. Many campus problems were solved because they were brought to the attention of the Council by the SGA President.

Sincerely,

VERNON F. GALLIANO,
President.
KERRY L. COOLEY,
SGA President.

WASHINGTON, D.C.,
February 23, 1972.

Hon. FRED R. HARRIS,
Old Senate Office Building,
Washington, D.C.

The youth in this nation are asking for the right to have a voice in what affects them, and that their voice be heard. For too many years now, countless student leaders throughout the nation have spent hours working within the system; proving to the Administration that they are responsible Consequently, at most colleges today, students are seen on just about every lower policy body. However only too often, their presence means nothing for it is the governing bodies of each institution that makes the major decisions.

Unfortunately, few institutions have students on their governing bodies. Thus, a frustration is felt by most student leaders for they realize that they are involved in little more than busy work. The only way seen by most students to remedy this situation is to have students on their own governing bodies.

Thus, the Undergraduate Student Government at the Catholic University in Washington, D.C., wholeheartedly supports the Harris Amendment. Just as the eighteen year old vote was a large step forward in giving first class citizenship to the youth of this nation, so too would the Harris Amendment be another large step forward for responsible student determinism.

Sincerely,

JOSEPH HURLEY,
President of the Undergraduate Student Government at Catholic University.

HOWARD UNIVERSITY,
Washington, D.C., February 15, 1972.

Hon. FRED R. HARRIS,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR HARRIS: This will acknowledge receipt of your letter of February 10, relative to students serving as members on the Board of Trustees of Howard University.

The Board approved the seating of two student members in April, 1970. Full membership was granted with no attendant restrictions, except for terms of office. Student Trustees are elected for a term of one year with eligibility for re-election for an additional year. Other Trustees are elected for a term of three years, with eligibility for re-election.

It has been the experience of the University that inclusion of students on the Board of Trustees has greatly embellished the character of the Board. The insight, input, and perspectives of these members have contributed to a more meaningful and representative body. Student members have themselves gained invaluable experience by participating in University governance at the highest level.

I am pleased to have the opportunity to present you with this information.

Sincerely yours,

OWEN D. NICHOLS,
Vice President for Administration.

NATIONAL STUDENT LOBBY,
Washington, D.C., February 15, 1972.

DEAR SENATOR: As you know, the Higher Education Act—S. 659 is up for a series of votes this week, including an Amendment by Sen. Fred Harris to place a student on the governing boards of colleges receiving federal assistance.

The Amendment would require any institution of higher education receiving federal monies (either in direct aid or through contract) to place at least 1 student on its board (Board of Directors, Board of Trustees, or Board of Regents). This student would have the same rights, privileges, and compensation (if any) as any other member of the board of that institution.

In the past many students on campuses across the nation have attempted to gain representation on the boards of their institutions. Some students have been successful, and Princeton University, Boston College, Vanderbilt University—to name a few—now have students on their boards.

These first students on boards have been extremely effective in increasing communication and understanding between students and the trustees responsible for those institutions. It is our strong feeling that had students been seated at the board meetings a few years ago, much of the turbulence which higher education has experienced could have been avoided.

We strongly urge your support for a student on the board of colleges. The National Student Lobby considers this amendment, along with substantial funding of the Higher Education Act, to be our *No. 1 domestic priority* among the 800,000 students in our member student bodies.

If you have further questions, or would like further information about the NSL, please give our office a call.

Very truly yours,

LAYTON OLSON,
In behalf of 94 college, community college, and university student bodies across the country.

TELEGRAMS

LOS ANGELES, CALIF.

SENATOR FRED R. HARRIS,
Washington, D.C.:

Lamar Lyons, student body president, undergraduate Mark Bookman, graduate student body president, and Fred Weiner, director of the UC student lobby at UCLA, fully support your Higher Education Act (S. 659).

LAMAR LYON,
Student Body President.
MARK BOOKMAN,
UCLA Undergraduate.
FRED WEINER,
Graduate Student Body President, Director UC Student Lobby UCLA.

MILWAUKEE, WIS.,
February 29, 1972.

SENATOR FRED HARRIS,
U.S. Senate,
Washington, D.C.:

We the students of Milwaukee Area Technical College, representing 52,000 students, endorse and support Senate Bill 659. We agree there is a need in our own school for students to actively participate on the school board of directors.

GERALD O'SULLIVAN,
President Student Government,
Milwaukee Area Technical College.

MAYNARD C. DOLLOFF, OF MAINE, NEW PRESIDENT OF NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE

Mr. MUSKIE. Mr. President, may I invite the attention of Senators to the announcement that Maynard C. Dolloff, commissioner of the Maine Department of Agriculture, has recently assumed the presidency of the National Association of State Departments of Agriculture. He is the first Maine agriculture commissioner to become President of NASDA since its founding 56 years ago.

Maynard Dolloff has served a long and distinguished career in agriculture, as chairman and secretary of the executive committee of the National Grange for 12 years, as former president of the Northeastern group of NASDA, and at present as commissioner of the Maine Department of Agriculture for the seventh year. His elevation to president of NASDA is just recognition for his many years of effective leadership in addressing the problems of the agricultural community and his contributions toward solving them.

Gov. Kenneth M. Curtis, Governor of Maine, pointed out the importance of

Commissioner Dolloff's new office in the following message:

I am always gratified when national recognition comes to a state official. The recent elevation of Commissioner Dolloff to the presidency of the National Association of State Departments of Agriculture is a well deserved honor for him and cannot help but bring prestige to the State of Maine.

I want to take this opportunity to congratulate him and to assure him of my fullest support in this important position among the leaders of American agriculture.

NASDA's members include the agriculture commissioners from each State and from Puerto Rico, Virgin Islands, Guam, and Samoa, whose responsibility is to develop uniform procedures for cooperative agreements with the USDA and other Federal agencies. The association also cooperates with the Council of State Governments, the National Governors Conference, and the National Legislative Conference to coordinate programs within the State's market services and national trade developments.

HOW FDA KEPT THE LEAD IN CHRISTMAS

Mr. MONTOYA. Mr. President, of all agencies in the Federal Government which have come under fire recently, none has been on the receiving end of more criticism than the Food and Drug Administration. I have indicated on a number of occasions my extreme dissatisfaction with its activities and performance in the consumer protection area. As a result of this ongoing concern, another situation has come to my attention I believe worthy of this body's consideration. It concerns what I choose to call, How FDA Kept the Lead in Christmas.

It centers around an agreement, arrived at in complete secret between FDA and makers of potentially dangerous lead tinsel for Christmas trees. FDA initiated both meeting and agreement, without knowledge of Congress, consumer protection organizations, health professions, media and, of course, the public. From start to finish, the intention was to keep this entire plot, for such it is revealed to be, from all deeply concerned and affected parties. Here is how its scenario developed.

On February 11, 1971, Mr. Henry Verhulst, of FDA, addressed a series of inquiries to various medical authorities concerning the potential hazard of lead Christmas tree tinsel to young children. One such inquiry was addressed to Dr. J. Julian Chisholm, associate professor of pediatrics at Johns Hopkins University School of Medicine. He is associate chief pediatrician of the Baltimore City Hospitals. I have obtained a copy of Dr. Chisholm's response to FDA, I ask unanimous consent that it be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BALTIMORE CITY HOSPITALS,
Baltimore, Md., February 23, 1971.

Mr. HENRY L. VERHULST,
Pharmacist Director, Acting Director, Division of Hazardous Substances, and Poison Control PS-140, Bureau of Product Safety, Food and Drug Administration, Washington, D.C.

DEAR MR. VERHULST: This is in reply to your letter of February 11, 1971 concerning the potential hazard of lead Christmas tree tinsel to young children. If ingested, such tinsel would be potentially hazardous if the following conditions were fulfilled. *There are several reports in the medical literature that indicate that metallic lead substances, if retained in the stomach, will be slowly dissolved. Under these conditions, sufficient amounts of lead can be absorbed to produce clinical lead poisoning, even in normal children.* The literature indicates that the material will have to remain in the stomach for a period of one to two months. The question then is whether the tinsel would pass quickly through the gastrointestinal tract or whether it would be retained. This the FDA could very quickly determine in animals by simply rolling up a ball of tinsel, introducing it into the animal's stomach and taking serial X-rays to determine the disappearance time. I suspect that a young child with pica might very well roll up the tinsel in a ball and swallow it. However, I know of no scientific proof of this suspicion. So much for the potential hazard to normal children. *If, however, a child already has a high lead level in blood and tissues, then the absorption of even small additional amounts which might result from a shorter residence time of the tinsel in the gastric intestinal tract would certainly pose a serious health risk.*

With respect to the available action options, I would be inclined to declare the product a "banned hazardous substance," thereby removing it from commercial channels. Since alternative tinsels of aluminum and plastic composition are available, according to your letter, there seems to me to be very little sense in continuing the distribution of a potentially hazardous product, even though the precise hazard of that product is not documented scientifically. I would strongly urge you to request, however, that the FDA do the simple animal experiments along the lines suggested above. This, it seems to me, might buttress any testimony, should that become necessary. I would be willing to testify, should that become necessary and my testimony would follow the statements in this letter.

Yours sincerely,

J. JULIAN CHISHOLM, Jr., M.D.,
Associate Professor of Pediatrics, Johns Hopkins University School of Medicine, Associate Chief Pediatrician.

Mr. MONTOYA. Mr. President, note the following two quotations from his letter:

There are several reports in the medical literature that indicate that metallic lead substances, if retained in the stomach, will be slowly dissolved. Under these conditions, sufficient amounts of lead can be absorbed to produce clinical lead poisoning, even in normal children.

• • • • •

With respect to the available action options, I would be inclined to declare the product a "banned hazardous substance," thereby removing it from commercial channels.

Mr. President, according to an FDA fact sheet, GSS–HS1–571, this agency possesses the following authority:

The Child Protection Act of 1966 authorized FDA to ban from interstate commerce those household substances so hazardous that warning labels are not adequate safeguards.

It is to be presumed that appropriate officials in FDA's Bureau of Product Safety were aware of their authority under existing legislation when this information came to them.

For the past several years, a significant hue and cry has been raised about problems of childhood lead poisoning. An excellent piece of work has been produced on this subject by Jane S. Lin-Fu. It is entitled "Childhood Lead Poisoning . . . An Eradicable Disease." This article has been reprinted by the U.S. Department of Health, Education, and Welfare, parent agency of FDA. There is a pertinent quotation from that article:

The answer is that many health workers who work among the poor are not aware that lead poisoning in children is still a problem. They apparently think that the mandatory use of lead-free paint for toys, furniture and interiors of dwellings during the past quarter century has eliminated the problem. Furthermore, childhood lead poisoning is a disease that health workers may not recognize, even though it exists in epidemic proportions, because it has no distinctive clinical features. The symptoms of childhood lead poisoning are non-specific. Anemia, listlessness, excessive irritability, loss of appetite, abdominal pain, constipation—signs and symptoms that appear before obvious evidence of encephalopathy, such as vomiting or convulsions—can all be misinterpreted as indications of some other illness. Because children who suffer from lead poisoning come from the slums, their anemia may be considered to be the result of inadequate nutrition; their listlessness and excessive irritability, to be the results of a pathological home environment; their abdominal pain and vomiting, to be symptoms of indigestion and gastroenteritis. Even convulsions may be regarded as signs of epilepsy rather than as evidence of lead encephalopathy.

On all sides there has been a rising level of awareness regarding hazards of lead ingestion by Americans. The Lead-Based Paint Poisoning Prevention Act recognized the problem, aiming at removing old lead-based paint from existing housing and forbidding its use in federally financed housing. The growing body of evidence indicating the severity of the problem is illustrated by a story in the Washington Post of March 10, 1972.

I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWENTY-FIVE PERCENT OF D.C. CHILDREN TESTED HAVE UNSAFE LEAD LEVELS

(By Bart Barnes)

City health officials announced yesterday that 25 percent of all children tested in a nine-month screening program in Washington's model cities area were found to have unsafe lead levels in their blood.

Thirty had to be hospitalized, the officials said, and the others were treated at hospital outpatient clinics and at neighborhood health clinics.

The screening program started last April and ran through December. It was the most extensive survey to date of lead levels in the blood of inner city children and was done by the Community Health and Hospitals Administration under a $204,154 grant from the Model Cities Commission.

Lead poisoning which usually results from the eating of lead-based paint that chips off woodwork, doors, windowsills and plaster of old houses, can cause severe mental retardation or even death.

It is most common among children between

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the ages of 1 and 6 in the inner city where many old houses were painted with lead-based paint before World War II and which now are deteriorating.

Once thought to be the finest of interior paints, lead-based paint was used extensively in the homes of the wealthy in the pre-World War II era. Many of those homes are now the inner city tenements. Currently, lead-based paint is illegal for interior use.

Katherine James, coordinator for the lead screening program, said 2,214 children were tested for blood lead levels in the model cities area, which encompasses a 2.3-square-mile crescent north of Massachusetts Avenue and includes the Shaw, Stanton Park and Trinidad neighborhoods of the city.

Mr. James said 568 of those children had lead levels of 40 or more micrograms per 100 milliliters of whole blood, a level that physicians consider to be unsafe.

On a second testing, she said, the lead levels in 131 of those children had subsided to below 40 micrograms but the others were still above 40.

Mrs. James said removing the child from a home or an apartment where there was peeling lead-based paint or removal of the toxic paint could account for the levels subsiding in the 131 children. As long as no further lead is being ingested, the body gradually will rid itself of the lead contents, she said.

In every case where a lead level tested above 40 milligrams, Mrs. James said, the housing inspectors were sent to test the paint in the child's house or apartment for the content. Paint with a content of 1 percent lead or more was ordered removed.

The 25 percent who had dangerously elevated blood levels is less than the 33 percent indicated for elevated levels based on initial results of the screening program of November.

But it is still at the top span of 10 percent to 25 percent with elevated blood lead levels found by the Department of Health, Education and Welfare during 1970 in Baltimore, Minneapolis and Philadelphia inner city children.

It is also, Mrs. James said, consistent with a range of 10 percent to 25 percent of elevated lead levels among children tested regularly at neighborhood health clinics around the city.

City officials said they are seeking a $527,861 grant from the Bureau of Environmental Management, an agency of the Department of Health, Education and Welfare, to extend the screening program to all areas of the city.

Mr. MONTOYA. Recently the Environmental Protection Agency announced it is ordering a reduction in gasoline lead content as a public health step. Bearing these cumulative facts in mind, let us then return to people in the Bureau of Product Safety at FDA.

Mr. Verhulst also sent out a letter on February 11, 1971, to the commissioner of health of the city of New York, Dr. Mary C. McLaughlin.

I ask unanimous consent that Dr. McLaughlin's reply be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE CITY OF NEW YORK,
March 4, 1971.

Mr. HENRY L. VERHULST,
Pharmacist Director, Acting Director, Division of Hazardous Substances and Poison Control, Bureau of Product Safety, Food and Drug Administration, Washington, D.C.

DEAR MR. VERHULST: In reply to your letter of February 11, 1971 regarding lead Christmas tree tinsel, it is our opinion *that the safest and best course of action would be to ban the use of lead as Christmas tree tinsel because:*

1. A warning that it is a hazard probably would not protect against the hazard, and
2. There are all sorts of excellent commercial tinsels available which are non-toxic.

I hope this information is helpful to you.

Sincerely yours,
MARY C. MCLAUGHLIN, M.D., M.P.H.,
Commissioner of Health.

Mr. MONTOYA. Mr. President, let me emphasize one quotation from her letter to FDA:

It is our opinion that the safest and best course of action would be to ban the use of lead as Christmas tree tinsel . . .

Note that the letter from Dr. McLaughlin was dated March 4, 1971. FDA's people digested these facts for the rest of March, all of April, May, June, July, and much of August 1971. Obviously, the realities revealed shocked them into inaction.

On August 12, 1971, FDA's Bureau of Product Safety called a meeting of all domestic manufacturers of lead-foil icicles, or Christmas tree tinsel. This meeting was not advertised or publicized in any way. The public, Congress, consumer protection groups, and the media were left totally in the dark as to what was transpiring. This gathering was held in the office of Malcolm Jensen, Director of FDA's Bureau of Product Safety.

At the meeting, the FDA people proposed the following secret deal:

No manufacture of lead icicles after Christmas, 1971.

No sale of lead icicles after Christmas of 1972.

If all six affected companies agreed to the first two items, the Bureau of Product Safety would recommend that FDA accept this voluntary action and take no rulemaking or court action with regard to lead icicles until conclusion of the 1972 Christmas season.

In order to minimize manufacturer loss, FDA would not initiate or publicize the agreement or the alleged dangers from lead icicles until the conclusion of the 1972 Christmas season.

FDA would take whatever action would be appropriate to have the Bureau of Customs of the Treasury Department ban import of Christmas lead icicles at the conclusion of this Christmas season—1971.

Mr. President, I have in my possession the complete text of three letters from three different lead-tinsel manufacturers to Malcolm Jensen, head of FDA's Bureau of Product Safety, confirming this agreement; this astounding agreement. I ask unanimous consent that they be printed at this point in the RECORD. The first of them, from Paper Novelty Manufacturing Co., of Stamford, Conn., is the most revealing and complete, and I include it first.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PAPER NOVELTY MANUFACTURING CO.,
Stamford, Conn., August 26, 1971.

Re Christmas Lead Icicles
Mr. MALCOLM W. JENSEN,
Director, Bureau of Product Safety, Food and Drug Administration, Washington, D.C.

DEAR MR. JENSEN: Our attorney, Steven D. Newburg-Rinn, has reported to us concerning the meeting held in your office on August 12, 1971, as to the possible hazards caused by the ingestion of lead Christmas Icicles by children.

As I understand it, you proposed at the meeting that the six manufacturers of lead Icicles agree 1) not to manufacture any lead Icicles after Christmas 1971 and 2) not to sell any lead Icicles after Christmas 1972. If all six manufacturing companies agree to this proposal, it is my understanding that you will recommend that your agency accept such voluntary action and take no rulemaking or court action with regard to lead Icicles until the conclusion of the 1972 Christmas season. You also stated at the meeting that in order to help mitigate the economic losses to be suffered by the manufacturers, your agency would not initiate or give any publicity to the voluntary agreement of the Icicle manufacturers or the alleged dangers from lead Icicles until the conclusion of the 1972 Christmas season. We also understand that you agreed at the meeting that were the manufacturers to take voluntary action to take lead Icicles off the market, your agency would take whatever action is appropriate to have the Treasury Department (Bureau of Customs) ban the importation of Christmas lead Icicles at the conclusion of this Christmas season.

Paper Novelty is willing to proceed in the voluntary manner you have suggested. We hereby offer to cease manufacturing lead Christmas Icicles after Christmas 1971 and not to engage in any sales of Christmas lead Icicles after Christmas 1972.

Should you have any questions regarding this matter, please feel free to contact me at the above address or our attorneys, James B. Blinkoff and Steven D. Newburg-Rinn of Fried, Frank, Harris, Shriver, & Kampelman, Suite 1000, 600 New Hampshire Avenue, N.W., Washington, D.C. 20037, 965-9400.

Sincerely,

CHARLES G. MOSES,
Executive Vice President.

BRITE STAR MANUFACTURING CO.,
August 25, 1971.

M. W. JENSEN,
Director,
Public Health Service
Food and Drug Administration
Washington, D.C.,

DEAR MR. JENSEN: On August 12, 1971, your department called a meeting of the manufacturers of lead foil icicles.

At said meeting, your department requested withdrawal of lead foil icicles from the market.

We agree to stop manufacturing all lead foil icicles after Christmas 1971, and will not sell any lead foil icicles after Christmas 1972.

If our industry agreed voluntarily to phase out lead foil icicles by Christmas 1972, your department would not give this information to the news media or inflict a banning order until after Christmas 1972.

Also, you stated that you would see that the Treasury Department would stop all importation of lead foil icicles after Christmas 1971.

Sincerely yours,
ISRAEL KINDERMAN,
President.

THE GEORGE FRANKE SONS CO.,
Baltimore, Md., August 30, 1971.

Mr. M. W. JENSEN,
Director, Bureau of Product Safety, Food and Drug Administration, Washington, D.C.

DEAR SIR: This letter is being written in response to the meeting held in your office on August 12th with all the domestic manufacturers of lead foil Christmas Icicles. Our company was represented by Perry H. Wilt, a vice-president of our company.

It is my understanding from talking to our Mr. Wilt after the meeting that the manufacturers would agree to the following: All manufacturing of lead foil icicles would cease at the end of 1971. Sale of these icicles would stop after Christmas 1972. If the industry would consent to the above, I understand your agency would agree not to initiate any legal action with regard to these lead icicles until after Christmas 1972, at the earliest. Also, your agency would not issue any publicity nor news releases concerning the possible hazards of this product until the end of next year's Christmas selling season. Foreign manufacturers of this item would also be covered by this agreement through action you would take with our U.S. Bureau of Customs.

If the other domestic manufacturers of these lead icicles are willing to abide by this voluntary agreement, our company will also offer not to manufacture these lead icicles after this year and not sell them beyond Christmas 1972.

If you have any questions or suggestions, I will look forward to hearing from you.

Yours truly,

EDWARD P. FRANKE,
President.

Mr. MONTOYA. Mr. President, here, then, is what FDA proposed to do.

First, let tinselmakers manufacture this deadly material from the middle of August 1971 until the end of Christmas, 1971. This is a period of almost 4½ full months. No exercise of authority to remove tinsel from the market under previously described existing authority was even mentioned, much less contemplated.

Second, allow full and free promotion and sale of this tinsel for the remainder of 1971 and all of 1972; two complete holiday seasons.

Third, take absolutely no action against the product during this entire period of time.

Fourth, within FDA suppress and not offer to make available any publicity of the agreement or news of danger from such tinsel to consumers for that entire period of time, which comes close to a year and a half.

Fifth, insure that foreign lead tinsel was banned after the end of the 1971 holiday season, presumably allowing domestic manufacturers to make a killing in the 1972 season under terms of the secret agreement. How is that for helping our balance of payments?

On October 14, 1971, Mr. Jensen wrote the president of the Stamford, Conn. company, thanking him before his cooperation. Presumably, the secret agreement was arrived at and implemented. I ask unanimous consent that the text of this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 14, 1971.

MR. CHARLES G. MOSES,
Executive Vice President, Paper Novelty Manufacturing Co., Stamford, Conn.

DEAR MR. MOSES: We have received replies from each of the companies manufacturing lead tinsel stating that the production of the lead tinsel will be discontinued by Christmas 1971 and no sale will be made after January 1, 1973.

We are grateful to each producer for his decision to remove this one source of lead from the child's environment, thus helping to reduce the occurrence of lead poisoning.

The cooperation of several industries in reducing or removing the lead content in household products accessible to children will eventually eliminate this threat to the health of the children of the nation.

Your assistance and that of all other members of your industry are sincerely appreciated.

Sincerely,

M. W. JENSEN,
Director,
Bureau of Product Safety.

Mr. MONTOYA. Mr. President, one of our distinguished and most courageous colleagues, the Honorable JOHN MOSS, of California, first exposed this unholy secret agreement. He promptly demanded that Jensen issue a public warning. Jensen vigorously defended the FDA deal, stating:

"The best information," from the Nation's 580 poison control centers and other sources indicated, "not one single case" of illness in a child from ingesting tinsel.

In other words, Mr. Jensen told Representative Moss that there was nothing to worry about.

Yet in his letter to Mr. Moss, president of the Paper Novelty Manufacturing Co., Mr. Jensen writes that the eventual termination of the production and sale of lead tinsel would help "to reduce the occurrence of lead poisoning." He continues, describing, "This threat to the health of the children of the Nation." In this letter, which he obviously never intended to see any light of exposure, he readily concedes this threat. Yet when first confronted with revelation of the secret deal, he denigrates the possibility of any threat posed by lead tinsel to America's children. Conscience is certainly a marvelous thing. One could get the impression that Mr. Jensen's opinion of the danger of lead poisoning from tinsel depends on who he is writing to.

Let us bear in mind the letter Mr. Jensen and Mr. Verhulst received from the pediatrician in Baltimore and the commissioner of health of New York City. Both recommended removal of this product from the market. Both indicated there was a significant possibility of hazard from lead tinsel. Let us also recall another quote from Dr. Chisholm's letter.

If, however, a child already has a high lead level in blood and tissues, then the absorption of even small additional amounts which might result from a shorter residence time of the tinsel in the gastrointestinal tract would certain pose a serious health risk.

His letter was addressed to Mr. Henry Verhulst in late February 1971. Mr. Verhulst is Director of the Nation's federally funded 580 Poison Control Centers. Presumably, if Mr. Jensen, after Congressman Moss asked for a warning, consulted with the Poison Control Center Director on a question of death from tinsel of this kind, he also asked or was informed by him of the other contents of Dr. Chisholm's letter. Or, perhaps, he did not.

At the very least, a public warning of the severest sort was merited. A ban on the product certainly should be considered. Or, perhaps, a series of tests on animals such as were suggested by Dr. Chisholm. Certainly FDA has such facilities immediately at hand.

Bear in mind the following two facts:

These tinsels are approximately 77 percent lead.

Other commercial tinsels, usually made of plastic, are easily available. These are safe, according to Dr. McLaughlin's letter of March 4, 1971.

Similar advice was given FDA by the environmental medical service of the Massachusetts Institute of Technology. Their words of warning were also ignored; totally and completely.

One would think that any public official, especially those involved in such work at FDA, would immediately suspect any product with such an overwhelming lead content. Easy availability of good substitutes offered a perfect alternative. Both factors were ignored by people charged with public safety; the safety of America's children. Representative Moss stated in his letter to Jensen that he knew of no authority for withholding such information from the public.

Mr. President, there, then, is the full story as far as I know it up to now. One point should be stressed. The office involved in this secret deal at public expense has been brought into question before in a variety of ways. The FDA's Bureau of Product Safety has proved to be a major bottleneck against enforcement of the Poison Prevention Packaging Act of 1970. From secret technical advisory meetings to closeness with industry lobbyists, this Bureau has raised a number of questions of propriety by its behavior in regard to this law.

An enormous furor has been raised in regard to this office over the Safe Toy Act, which sat unenforced for a lengthy period.

Now the same operation is directly involved in promoting secret meetings, proposing a secret deal and seeking to protect a potentially deadly product at the expense of the American public.

All these happenings are not accidents. A distinct anticonsumer pattern emerges from them that is undeniable, to say the least.

It will be fascinating in the extreme to hear what excuses will emanate from the FDA now. Will they say they had no personnel? Or will it be not enough money? Or will it be that they did not understand the law? Or that they did not understand that what they did was highly questionable? Perhaps we might even be treated to a new excuse.

FAP ADVOCATES WANT TO SEE CHILD CARE STANDARDS LOWERED

Mr. HARRIS. Mr. President, one of the key sections in the welfare reform provisions of H.R. 1 is title IV, which includes the family assistance plan, FAP. The purpose of FAP is to get mothers of dependent children off welfare, to save money by forcing mothers of children to go out of the home and take whatever jobs are available. Money for day care is provided as part of the package. Day care is the carrot; loss of benefits is the stick.

No savings can be made, however, if adequate day care is provided by the Federal Government. Adequate day care for the preschooler and two school-age children the average welfare mother has

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would cost $4,500 a year. The wages the mother could earn, working 50 weeks a year at the minimum wage, come to $3,200 per year. That kind of mathematics would kill chances of the so-called welfare reform bill passing. If the extra costs for just 150,000 welfare families are computed on the basis of providing adequate child care, the net loss from such welfare reform would amount to $195 million the first year.

But FAP advocates are in a bind. Existing Federal requirements and regulations in many States are such that the only kind of child care that can be legally provided is adequate—and therefore somewhat expensive—care. If the existing Federal and State laws and regulations regarding the care of children are left unchanged, the day care needed to make welfare reform work could not be provided.

FAP advocates made the only move possible under the circumstances. WILBUR MILLS made an official request to HEW for:

> • • • a report and recommendations based on a thorough review, in cooperation with State and local officials, of existing Federal standards as well as State and local licensing requirements in order to determine those requirements which are essential both to protecting the child and assuring an appropriate program for him.

Mr. MILLS asked that the report be furnished by February 1, 1971.

Mr. MILLS was very frank about his reasons for wanting the report, saying:

> • • • Your committee is also concerned that unreasonable Federal, State and local standards and licensing requirements have interfered with the provision of essential child care services, and may prove a barrier to development and provision of the services essential to the success of the Family Assistance Plan."

The Nixon administration not only provided money from the Office of Economic Opportunity and the Office of Child Development for a contract with a firm to respond to WILBUR MILLS' request but also went a step further. The administration also began a revision of the Federal requirements aimed at lowering them—and, thus, the cost of day care—and decided to write a "model day care facility licensing code" which would lower existing State and local regulations.

The administration-funded project is now in its third phase, and the "model code" which was developed to meet WILBUR MILLS' objections is now being revised. The next step, according to the contractor running the project is:

> • • • official endorsement by the Federal government and possible subsequent acceptance of part or all of the models by state and local authorities.

The timetable for this part of the "welfare reform" strategy is not working out well. At the Federal level, strong bipartisan support is developing for retention of the existing Federal requirements as a quality floor. Senator RIBICOFF, whose statement—CONGRESSIONAL RECORD, volume 117, part 24, pages 31241–31242—signaled the beginning of a continuing effort by the Senate to "exercise its legislative oversight" is leading the fight in the Senate.

The House most recently gave notice that it supports the requirements when H.R. 12350, the bill to extend the life of OEO, was passed on February 12, 1972. That bill includes a section similar to that introduced in the Senate by Senator RIBICOFF which requires programs to meet the existing Federal requirements. Despite some opposition—Representative RARICK attempted to link day care requirements to "local control of the schools"—CONGRESSIONAL RECORD, February 17, 1972, pages 4295–4296—the bill passed with the language Representative RARICK opposed intact.

Efforts to water down requirements for adequate day care can be expected to continue. But parents that would have to place their children in such custodial programs, and community groups that now are operating adequate programs will have a chance to comment on the activities. As a result of protests made by representatives of parents and community-operated programs, at a San Antonio meeting called by the Office of Child Development to "sell" their "model code" to a national conference, a contract was given to the designated organization chosen by those representatives, the Center for Community Change, to get other reactions to the "model codes."

The Center for Community Change's contract calls for a series of nine workshops throughout the country at which parents and their representatives can comment on the "model codes." Dates of the workshops and sites are: March 10–12, Frogmore, S.C.; March 17–19, Albany, N.Y., and Phoenix, Ariz.; March 24–26, Cincinnati, Ohio, and McAllen, Tex.; April 7–9, Lawton, Okla., and Lancaster, Pa.; April 14–16, Portland, Oreg., and Omaha, Nebr.

Directing the project for the Center for Community Change is Maurine McKinley, on leave from the Black Child Development Institute in Washington. Information about the project and the workshops may be obtained by contacting Maurine McKinley or other project staff members at the Center for Community Change, 1000 Wisconsin Avenue, N.W., Washington, D.C., 2007. Telephone (202) 338–6310.

Information may also be obtained from any of the organizations working with the project, who constitute the project committee. Those organizations, in addition to the Black Child Development Institute and the Center for Community Change, are: Ad Hoc Committee of Southeast Community Child Care Operators; American for Indian Opportunity; American Friends' Service Committee; Child Welfare League of America, Frente Unida de Educadores Puertorriquenos; Interstate Research Associates; National Urban League; Washington Research Project.

INNOVATIONS IN VA MEDICINE

Mr. CRANSTON. Mr. President, Dr. Marc J. Musser, the very able Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, authored an excellent article which appeared in the January 15 issue of U.S. Medicine. He describes the successful efforts made recently to insure that the VA system maintains its effectiveness and flexibility in meeting new situations and new challenges. Specifically, he cites the successes achieved through regionalization of medical programs, expansion of drug dependence treatment centers, improvements in hospital medical recordkeeping systems, increased association and involvement with medical leaders outside the Veterans' Administration, improvements in VA staff participation in policymaking decisions within VA facilities, and programs to make the medical treatment more pertinent to today's needs, such as a pilot program to utilize ambulatory care rather than bed care.

The Subcommittee on Health and Hospitals, which I am privileged to chair, of the Veterans' Affairs Committee, on February 16 reported to the full committee for action on S. 2354 and S. 2219, legislation I have authored to strengthen the VA's ability to continue and increase the scope of these improvements and enhance the VA's capacity to meet new health care challenges as they develop. Full committee action on this legislation and veterans' drug treatment legislation—S. 2108—is scheduled for March 28.

I believe that Dr. Musser's article provides information that will be of great interest to Members of the Senate and will portray to them some exciting developments and innovations in the Veterans' Administration medical program today. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From U.S. Medicine, Jan. 15, 1972]

VA REGIONALIZATION FEARS PROVE FALSE

(By Marc J. Musser, M.D.)

In an article a year ago in this publication, I discussed the changing patterns in the delivery of health care in the nation, and defined what I considered to be the appropriate role of the health care system operated by the Veterans Administration's Department of Medicine and Surgery in the context of national needs. The passage of a year has sharpened what I feel is, and will be, the vital and pivotal position of that system in the national health picture.

The major challenge facing any health care institution or organization today is its potential to make quality care as readily available as possible to all of the people it was established to serve. I define the challenge to the VA health care system in the same terms with the added challenge of realizing its full potential as a part of the country's total health care system. Everything the VA does in patient care, education, and research in each of its hundreds of facilities in every section of the country is geared to meet both of those challenges.

At least two lessons are apparent in the current VA system. First, its quality and availability of service for all of the veteran patients it is charged to care for has established a model of equity to match efficiency and economy in a total health care system. Second, the flexibility of the system is such that it can readily expand or adjust its facilities, services and the population served, or any one or combination of these. In short, the VA health care system can, if called upon, do more for more people.

In this past year, our efforts as described in the following selected areas of activity have been directed toward insuring that the VA system remains workable and responsive to professional, social, and economic changes, all of which are directly related to meeting and solving these challenges.

REGIONALIZATION

In my previous article, I reported the first step in the VA's program of regionalization—the activation of the Southern California Medical District. We have moved rapidly since that time; 17 additional districts have already been activated and four more will be by July. We expect to reach our planned goal of 37 districts by the end of calendar year 1972.

We are proud of this particular phase of VA operations. It shows the flexibility and adaptability that is an inherent part of our system. It proves that size is no deterrent to progress. Unfortunately, the private sector seems to be having some difficulty in bringing together its autonomous institutions and organizations through voluntary planning agencies, into a viable, effective undertaking.

When we began our regionalization program a year ago, some fears were expressed that it would result in a reduction of professional and institutional autonomy in the VA system. Some people thought regionalization was a serious threat to a status quo they had come to accept. Others saw it as "centralization."

I am happy to report that none of these fears has been realized. On the contrary, the benefits of our regionalization efforts are now beginning to be realized.

For example, we are guided by the principle that a facility which has the best cardiology diagnostic service in a particular regional district should be able, and encouraged, to use this service to benefit all the facilities in the region. This may mean that hospitals in that region will refer more cases of different types to other facilities within the region which have better services for those particular conditions.

In other words, each facility is encouraged, so far as is possible, to do more of the things it does best and to do fewer of the things it does less well or less economically. The result, we expect, will be optimum use of each service in each facility, optimum use of the region's facilities, thereby realizing optimum use of the total VA health care system.

IDEAL STAGE NOT REACHED

Of course, we have not yet reached that ideal stage by any means, and perhaps we never will. But it will not be for lack of effort, as evidenced by the progress of the past year.

The problem of drug dependence has generated social and political pressures upon the VA system. Our goal is the immediate treatment of every eligible veteran who comes to us for help in overcoming a drug abuse problem. The VA is aggressively pursuing the President's mandate and is cooperating wholeheartedly with his Special Action Office of Drug Abuse Prevention in ameliorating the drug problem and rehabilitating the drug victim in our veteran population.

From January 1, 1969, through June 30, 1971, the VA treated and discharged 7,856 patients manifesting drug abuse or dependence. We expect this figure to increase greatly this year.

Five drug dependence treatment centers were established in the VA fiscal year 1971. The Washington, D.C., VA hospital started up the first unit in October 1970 and four more units began operating in January 1971 in New York City; Houston; Battle Creek, Mich.; and Sepulveda, Calif. Thirteen more centers were activated in July. Additional drug programs were planned for July 1972 but because of the urgency of the situation, we requested a $14 million supplement to our budget to enable us to advance the opening of 14 more units. This funding was granted and as of now we have 32 centers in operation.

To provide easy access to services for many veterans who do not live near a drug dependence treatment center, we began early to plan "satellite" clinics in major population centers across the country.

These clinics will be most useful to veterans being treated with methadone maintenance and will be activated as needed. They will be located within the community and will be staffed by an ex-addict counselor, a part-time doctor, and a pharmacist or nurse authorized to dispense drugs.

Personnel from the nearest center will, on an itinerant basis, provide treatment and testing as needed. Counseling and other assistance also will be provided as needed. Two such clinics were opened recently in Houston and in San Francisco.

Our total capacity to treat eligible cases will be much greater than the number of beds of the units. We anticipate each bed will be turned over about 12 times a year so that approximately 6,000 veterans will be detoxified and started on a rehabilitation program on outpatient status.

As before, veterans with drug abuse and related disorders will continue to be accepted into our regular general medical and psychiatric wards, regardless of location. After initial treatment, they will be transferred to an appropriate addiction facility.

In line with our regionalization efforts, we have selected an additional 28 sites where drug dependence treatment centers may be established in July, depending upon the need and the resources available.

AREA HEALTH EDUCATION CENTERS

In introducing the concept of area health education centers, the Carnegie Commission on High Education recommended the development of consortia or other special cooperative arrangements among educational and health care institutions in communities not served by medical schools or major medical centers. The purpose of these centers was to strengthen and expand health manpower programs and thereby add to the quality and availability of health care.

The commission identified 16 such communities in which the VA hospitals were named as the institution most immediately capable of serving as a focal point for an area health education center. A subsequent assessment of VA's unaffiliated hospitals identified eight with an unusual potential in terms of hospital and community resources.

Visits to these eight communities were made with representatives of the Bureau of Health Manpower of the National Institutes of Health, the Health Services and Mental Health Administration of the Department of Health, Education and Welfare, and the VA central office.

The purpose of the visits was to identify interests and capabilities of those VA hospitals and communities in working together to develop community projects, given the appropriate support. Several of the eight hospitals have submitted proposals for developing plans to implement such area centers.

While the VA is providing immediate support for the necessary planning, it is expected that additional support will be forthcoming when new legislation is enacted and funds provided to enable the Department of Health, Education and Welfare to actively participate.

One of the major deficiencies in modern health care delivery is the complexity and inadequacy of the clinical record. As a result, the VA health care system has undertaken a number of pilot projects designed to improve this. Recently, both hospital staffs and central office have indicated interest in the concept of the problem oriented medical record.

Brought to national prominence by Dr. Lawrence L. Weed of the University of Vermont, this concept is an attempt to take the many problems with which the clinician must deal and arrange them in a systematic fashion to eliminate vague recordkeeping. By doing so, the clinician is assured better diagnosis, treatment plan, and follow-up capability.

A recent survey revealed that 50 VA hospital medical services already have adopted the Weed System. A steering committee for problem oriented medical record implementation has been established to conduct a pilot study of feasibility and acceptance of the system. There will be a follow-up study of the effect and use of the problem oriented record on the quality of health care delivery in those hospitals.

This approach, if thoroughly understood and efficiently used, can become an effective aid in providing comprehensive health care within the context of the VA system. It is a prime example of the ability and capacity of the VA to take new developments, implement them system-wide, study them, and make them available to other health care systems. It is the ideal for a collaborative effort in health systems research.

RESEARCH

In connection with research, a recent event demonstrated the capacity of the VA's health care system to do what no other single health care system or institution in the country can do. This was the presentation to Dr. Edward D. Freis of Washington, D.C., VA hospital of the 1971 Clinical Research Award of the Albert and Mary Lasker Foundation for his work in showing the life-saving effectiveness of diagnosis and treatment of moderate hypertension. Believing that even moderate hypertension is dangerous and that it should, and can, be treated, Dr. Freis and his colleagues set up the VA cooperative study group on antihypertension agents in 1964. The five-year study, in which 17 VA hospitals cooperated, established two major points:

That drug treatment for moderate hypertension reduced the death rate by more than 50 per cent.

That drug treatment is 67 per cent effective in preventing major complications which arise from cases of even moderately high blood pressure. These complications include, among others, stokes, congestive heart failure, and kidney failure.

All citizens should be entitled to health care which is comparable to that provided for VA beneficiaries. Consequently, the VA, as a total health care delivery system, or as an individual health care facility within a community, cannot fail to concern itself with the quality of health care and the needs of individuals and institutions in the private sector. Cooperation between VA facilities and those of the private sector is critical to the realization of this social goal.

VA's legal authorizations for community involvement are broad; they encompass a wide array of academic affiliations, sharing, and agreements related to exchange of medical information.

Recently, we have taken vigorous steps to strengthen VA ties on many fronts. Our special medical advisory group, which acts in an advisory capacity to the administrator, is a focal point for these developments. We have attempted to make this group representative of all the country's health care institutions, organizations, and interests. By the same token, we have attempted to actively

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relate VA health care activities and staff to those organizations.

Dr. Edwin L. Crosby, executive vice president of the American Hospital Association, now serves on the special medical advisory group. I have been elected to the board of trustees of the American Hospital Association. Twice during the past six months, representatives of the Department of Medicine and Surgery have attended meetings of each of the five councils of the American Hospital Association. And in August, the administrator of veterans affairs was invited to address a plenary session at the annual convention of the association.

KNOWLEDGE LIMITED

Statistics indicate that nearly two-thirds of the practicing physicians of America have received some or all of their postgraduate education in VA health care facilities. However, it is obvious that these physicians really have limited knowledge and understanding of the VA health care system from their relatively short experience as residents, interns, or clinical clerks in one or another VA hospital. We are developing better orientation programs for the members of our current and future house staffs.

In addition, we are seeking to inform physicians already in practice about the VA health care system as both a local community resource and as a flexible national system. We are encouraging VA hospital directors and professional staff to become more involved with their colleagues in the community in planning and implementing community-oriented health care activities, and in establishing two-way communications with state and national health organizations. To help achieve these goals, we invited Dr. Russell B. Roth, speaker of the house of delegates of the American Medical Association, to become a member of the special medical advisory group and he has accepted.

ADVISORY GROUP MEMBERS

Several medical school deans or members of their faculty have always been members of the advisory group. The addition of Dr. John Gronvall, dean of the University of Michigan Medical School, to the group now brings the medical school representation to 13 of the total membership of 23.

The reality of the affiliation of 96 VA hospitals with 83 of the country's medical schools was affirmed by the establishment this past year of a new liaison committee of representatives of VA's Department of Medicine and Surgery and of the Association of American Medical Colleges. VA involvement and investment in medical education are now acknowledged by that national organization representing medical education. The association has testified on various legislative proposals before the Congress on veterans' affairs and one the VA health care budget during the past year, and has done so in concert with us.

National officers, eloquently and very directly, expressed deep concern not only about their own personal situations, but, more importantly, about their profesional feelings in regard to quality of patient care in the VA system. They pointed up the fact that communications among house officers, the hospital directors, and the VA staff in central office were either non-existent or in need of improvement.

HEALTH AND ENVIRONMENT DIRECTORATE

We have now formally requested all hospital directors and staff to work more closely with members of our house staffs to improve not only the care of the veteran patient, but also their personal and professional working conditions. The result had been that house staff physicians are now serving on policy-making bodies which are dealing in matters of major concern to them personally, and to the mission of the Department of Medicine and Surgery. For example, questionnaires sent out in July established the fact that house staff members were serving on various advisory committees at 35 VA hospitals.

Directly related to this is the fact that two young PHS physicians are now working in my office. Drs. Clement Lucas and Bryan Arling began in July to develop a new office of house staff affairs and to serve as ombudsmen for all VA house staff. Not only are house staff members calling them about their problems, but regular staff people are also contacting them regarding their problems with house staff.

A second VA house staff conference was held early in November. We plan to continue these conferences on a permanent basis. Further, the Department of Medicine and Surgery is also providing assistance for the second national house staff conference to be held in Atlanta in March.

AMBULATORY CARE

In my article last year I mentioned a pilot study structured to give VA admitting physicians the option of placing applicants in an ambulatory hospital care category as an alternative to bed care. More than 8,000 patients in 12 hospitals participated in the test. Our acceptance rate rose 30 per cent, if inpatient and outpatient rates are combined.

In general, patient response was quite favorable, though most were unaware that this was a new program. All 12 chiefs of staff responded enthusiastically to the program. Their recommendations dealt primarily with the passage of enabling legislation and the provision of adequate staff, funding, and space to carry out the program.

The findings were sufficiently encouraging to warrant continued study. Four of the original hospitals were retained for further study and nine new hospitals were added. These later data generally conformed to the findings in the initial test, but with some increases in workload. The number of applicants will probably increase by 10 per cent in 1973 but only by 5 percent in 1974 and by 3 per cent in 1975.

The principle of ambulatory care as a substitute for hospital care is under active consideration in Congress. H.R. 10880, the Veterans Medical Care Act of 1971 (the so-called Omnibus Bill) passed the House on October 4 and is now being considered by the Senate Veterans Affairs Committee. A provision of this bill would liberalize admission rules for VA outpatient care by authorizing outpatient treatment for non-service-connected veterans. Care would be permitted if treatment is necessary for hospital admission or where such care is reasonably necessary to prevent hospitalization.

Another provision of this bill would extend medical benefits to wives and children of veterans permanently and totally disabled from service-connected causes and to surviving widows and children of men who died from similar causes. An estimated 464,000 wives and children would be eligible for VA care.

These two provisions would remove some current limitations which have prevented us from becoming a comprehensive health care system and would enable us to develop the only three major services the VA now lacks—obstetrics, gynecology, and pediatrics.

These liberalizations of the VA medical care program would be accompanied by serious but not insurmountable difficulties, such as the necessity for updating facilities to meet new requirements and the realignment and integration of working relationships among inpatient and outpatient staffs.

I have tried in this article to show that the VA Department of Medicine and Surgery, which comprises the nation's largest health care system, is far from static. We constantly seek to prepare for not only the future needs of our veteran patients, but to prepare for the future that may well include legislation changing the country's health care delivery systems. The challenge of relevancy to which I referred at the outset is exciting; it is one the department can meet and solve for not only its own patients, but in the interest of all Americans.

HIGH MEAT PRICES

Mr. HUGHES. Mr. President, I have been profoundly disturbed by recent ads in the Washington newspapers that add to the already considerable confusion and anxiety in the public mind about high meat prices.

Beef is near the highest level since the end of the Korean war.

One full page ad of a supermarket chain reads:

Why are they so high? It begins at the source: Livestock prices were not and are not now controlled under the present economic program. Less meat is reaching the market. Prices from our suppliers have skyrocketed. Because of all of these reasons, you will find higher prices on almost all fresh meats.

The implication of that one phrase—"it begins at the source"—as interpreted by the public is that the farmers, the livestock producers, are the beneficiaries of excessive prices for their products that are driving the consumers to the wall.

Nothing could be further from the truth. For the first time in years, the livestock producer is getting a price for some of his products that enable him to make a reasonable profit. But the prices he is getting are by no means excessive and are not, by any stretch of the imagination, the cause of the big bulge in prices at the supermarket. The real cause of high prices falls within the spread between what the farmer gets for his product and what the processed food sells for on the meat counter. For every cent the farmer gets, someone else along the line gets 5 cents or more.

In the meantime, lost in the shuffle is the fact that corn is selling at barely the cost of production—thereby reducing the total agricultural income of the farm belt. Lost in the shuffle is the mention of any price controls for the middleman, such as the processor. Lost in the shuffle is the fact that the annual per capita consumption of beef has increased from 62.2 pounds in 1952 to 114.5 pounds today. Lost in the shuffle is the fact that American consumers are demanding and getting ever fancier processing and packaging for their meat products—and these things cost money.

The administration appears to be working both sides of the street vis-a-vis relationships between the farmer and the consumer. On the one hand, Secretary Butz, with the zealotry of one who has just recently got religion, is loudly advertising and bragging about the prices livestock producers are getting. On the other hand, Mr. Grayson, head of the Price Commission, is criticizing Mr. Butz and suggesting that action should be taken to control the prices of raw agricultural products.

Actually, it is the farmer and the consumer both who are getting the shaft and it is a divisive disservice to the entire country that the farmer is being made the fall guy and consumer resentment is being stirred up against him. The irony of it all is that the country has become accustomed to seeing food furnished by the farmer at the cost of production, or less, while others reap the high profits.

So the answer is not punitive action against the farmer, such as imposing a ceiling on raw agricultural products. Let the Price Commission, if they really want to protect the consumer, look to where the real profits are in the meat-to-market cycle.

The American consumer should know that the prices farmers and cattle feeders are getting these days are about what they were 20 years ago.

What other categories of producers can say the same? What other citizen would settle for the wages he was getting two decades ago?

INEFFICIENCY OF GIANT U.S. FIRMS

Mr. HARRIS. Mr. President, one of the contentions of those who support a vigorous antitrust policy by the Federal Government is that too many giant U.S. firms are too large to be efficient. They are like whales in shallow water. Still able to breathe, they are unable to maneuver like their smaller rivals.

On March 12, 1972, the New York Times published an article by John Bunting, chairman of the First Pennsylvania Banking & Trust Co., who agrees that corporate structure in this country is too topheavy. As Mr. Bunting states:

The very size of many companies precludes any accurate evaluation of the efficiency of their individual parts or the contributions of their individual managers. Indeed the swollen structure of most corporations today argues against efficiency. It is easy to hide the operating inadequacies of one division in the total corporate structure. In fact, modern accounting practices often encourage management to tolerate a poor performance by one part of the corporation for tax purposes.

Mr. Bunting himself does not favor antitrust actions by the Federal Government as a solution. He argues at this point for voluntary decisions by large corporations to "break themselves up into smaller, relatively autonomous segments." He also is more sanguine than many including myself about the merits of conglomerates.

Nevertheless, his views are of great interest. Here is a man who spends his life evaluating the efficiency of corporations as part of his job as a banker and who has concluded that too many are bloated, topheavy and inefficient.

Mr. President, I ask unanimous consent that Mr. Bunting's thoughtful article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CORPORATE STRUCTURE REQUIRES RADICAL CHANGES

(By John Bunting)

Much has been said and written about President Nixon's new economic policies during the past few months. While establishing price and wage controls, seeking new tax reform and realigning world currency values are all important steps in establishing a kind of new economic ball game for the country, one key player is still missing from the roster: corporate management.

At a time when corporations have a responsibility to make a still greater contribution to the economy and society, they seem less prepared—financially and psychologically—than ever before to meet the challenges of the next decade. At a time when there is increasing pressure on labor to become more productive, no one has really pointed a finger at management and demanded that it become more efficient.

The sad but simple truth is that most corporate managements are anachronistic, self-serving and sorrily in need of radical restructuring. It's not a question of management marching to a different drum but of being out of step with the times.

In the past, the United States usually has had self-correcting devices built into its economy that forced management to be efficient. These "devices" took the form of severe recessions or depressions, which, in a kind of fiduciary Darwinism, weeded out the weak, purified corporate bureaucracies and permitted only the superefficient to survive. With all the terrible consequences of the Great Depression, the one good thing was that it knocked everybody down and made everybody equal for a while before the efficient grew up again.

Today, we have decided that severe recessions or depressions are against the law. While I am advocating the return of such severe economic dislocations, it is important to understand that as a nation we really haven't found a substitute for the one benign consequence of depressions and recessions: the restructuring of management.

In fact, the nature of the times seems intent on maintaining the status quo of helping the weak, poorly managed or mismanaged-company survive—while discouraging practices that in the end might lead to stronger corporate management. Indeed, there is something to the notion that weak managements are overprotected in the United States, as so dramatically illustrated by the Government's rescue of the Lockheed Aircraft Corporation.

More than that, some corporate management teams apparently look upon growth and size as a magic cure-all to inefficiency. The Penn Central situation is a good illustration.

It is equally important to note that the frequent incremental cost-cuttings instituted by management during slow business periods such as we have just experienced are, in effect, little more than fiscal tokenism designed to placate shareholders and reinforce the management team that undertook them in the first place. These cost-cuttings are extremely temporary, often insignificant and usually made within the framework of the existing management structure.

What, then, can be done to make corporations more efficient, short of a major recession or depression? How can management be made more aware of its important role in the revitalization of the nation's economy and meet its social responsibilities at the same time?

One thing that would greatly help would be a "fracturing" of corporations into more manageable pieces. By this, I don't mean that the Government should step in and break up large corporations, such as General Motors, A.T.&A. or I.B.M.; rather that corporation should break themselves up into smaller, relatively autonomous segments.

The very size of many companies precludes any accurate evaluation of the efficiency of their individual parts of the contributions of their individual managers. Indeed, the swollen structure of most corporations today argues against efficiency. It is easy to hide the operating inadequacies of one division in the total corporate structure. In fact, modern accounting practices often encourage management to tolerate a poor performance by one part of the corporation for tax purposes.

How can a shareholder of a huge corporation judge the value of separate divisions to the corporate whole when the results of each are hidden in a consolidated balance sheet? What incentive is there for the manager of one major divisions to be more efficient or more innovative than the manager of another when the efforts of each are sheltered by the total corporate entity? However, if a division were spun off and made a corporation with its own president and board of directors and its own profit-and-loss statement, the fresh air of such public exposure would force management to become more efficient, more competitive. And both the economy and the public would benefit in the end.

Hand in hand with corporate fracturing would be less interference by the Securities and Exchange Commission, the Federal Reserve and other Government agencies in corporate takeover actions. Not only does the Government seem to protect inefficient corporations by compensatory policies that tend to prevent bankruptcies, but efficient management is often restrained from taking steps or making acquisitions or mergers that could help the economy.

Able management, with a proven record of constructive growth and corporate efficiency, should be given greater latitude in making acquisitions. New policies are needed to permit the better managed, faster growing, more capable corporations to take over or eliminate the less able corporations that are wasting their (and the country's) resources. In other words, weak management shouldn't be protected against the "raid" by outsiders.

In this respect, many of our so-called conglomerates have been much maligned. As was noted earlier, merger for merger's sake is no answer to the problem of corporate efficiency, but there are sound economic arguments for advocating the diversification of large, well-financed, well-managed corporations into seemingly far-flung or distant fields.

Moving horizontally in the same industry is bad. When one steel company buys another steel company, it's usually bad for industry, since it reduces competition, and it's bad for the country, since it tends toward economic concentration. But when an I.T.T. diversifies into parking lots or housing, we achieve a kind of corporate integration that fits in with the economic needs of the country. We want insulation against recessions and we need corporations that are broad-based enough to live through a down year without going out of business and adding to the nation's unemployment rolls.

A conglomerate may have to cut back but it won't be forced to shut down. When one part of the conglomerate is suffering, other parts may be thriving, which gives management a kind of balance it would not have if its affiliated parts were separate, independent companies. The total corporation may still show a profit despite the poor performance of one member. At the same time, the shortcomings of the latter will be readily visible.

For example, if First Pennsylvania were engaged only in commercial banking, we would have shown only marginally higher profits last year due to declining interest rates. But because we also owned two consumer finance companies, a mortgage company, an adviser to the investment trust and a few other subsidiaries that did well, we

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were able to substantially increase the earnings of the total corporation.

Still another change that might increase managerial efficiency would be the overhaul of the corporate board of directors. The No. 1 job of a board of directors is to evaluate management. But, in most cases, the boards are composed of cronies or business associates of management who do little more than rubber-stamp management's policies.

In other words, most boards of directors represent and reaffirm the corporate "establishment." If management is out of tune with what's going on in society, so undoubtedly will be the board. This is why it is crucial for corporations today to restructure their boards to include not only the usual type but also representatives from outside the business sphere, such as consumer, environmental or racial minority groups.

Finally, in keeping with the above, companies obviously need to take a fresh look at their own public relations. Because it has been overprotected—insulated from the pressing need to change—management is out of touch with the mood of the times.

In the area of environmental protection, for example, companies are always complaining about the cost of antipollution measures. It might be better if these companies would accent the positive by taking the attitude that these changes are good. Instead of waiting for pressure from government and environment groups, management should take the initiative in finding ways to restore an ecological balance, and maximize the advantages of pollution control. Since the public wants companies to do these things anyway, they might as well make a business—and a profit—out of it, and stop complaining about what it will cost them.

But more important, until management undertakes the kind of reforms needed to increase its efficiency and make it an active player in the new economic ball game now under way in the nation, it will remain unresponsive and unable to meet its growing social commitments. The time for change is now.

EROSION OF THE WORK ETHIC

Mr. FANNIN. Mr. President, our Nation faces some tough economic problems these days. Foreign goods are pouring into America; U.S. factories are stagnating or moving abroad.

Consumers who very justifiably want the most for their dollar are passing up high-priced American-made goods to purchase the less expensive foreign-made goods.

One of the main reasons for this is the fact that too many American workers are getting paid more and more for doing less and less. Unions have sought to convince workers that their main objective in life is not to produce products or services, but to wring as much as possible out of employers. Employers do as employers must—they pass the additional cost of goods on to the purchaser. The prices go up, the workers want more to offset the inflation, and prices go up again.

Meanwhile, in Japan, in Taiwan, in Korea, in Hong Kong, the world's top manufacturers—including American manufacturers—are finding willing workers who will produce much for relatively little in wages. These workers have energy, desire, and appreciation for their jobs.

I am not suggesting that American workers could or should accept what foreign workers get. We have a technology that allows us to produce more—that is, providing our workers will put forth a fair day's work for a fair wage, and providing our plants are allowed to fully utilize the technology as it is developed.

If we are to survive as a leading manufacturing nation, we must have a return of what once was known as the work ethic.

American workmen must once again take pride in being the best—rather than just the best paid—in the world. Our union leaders must start acknowledging the realities of economics. Workers must be allowed to produce, they must be encouraged to produce.

Mr. President, last Tuesday columnist James J. Kilpatrick provided us with some good insight in the problem. I ask unanimous consent that his column, published in the Washington Evening Star, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EROSION OF WORK ETHICS IS LAMENTED BY BUILDER

(By James J. Kilpatrick)

HOUSTON.—John E. Healy II spoke at more than 200 meetings last year—industry meetings, union meetings, committee meetings—and at many of them he told the story of the Empire State Building. The story takes only a few paragraphs, but it packs a wallop.

Healy is the handsome, hefty, third-generation builder from Wilmington, Del., who is the outgoing president of the Associated General Contractors of America. The association met here last week in its fifty-third annual convention. The 5,000 delegates went home with a renewed determination to restore some sense to their deeply troubled industry and they took with them the story of the Empire State.

The world's greatest skyscraper broke ground on Jan. 22, 1930. At peak employment, 3,400 men were working to erect 60,000 tons of steel, to lay 10 million bricks, to install 70 miles of water piping, and to connect 3,500 miles of telephone cable. The 102 stories went up at an average of four-and-a-half stories per week. On May 1, 1931, just one year and 98 days later, President Hoover dedicated the building and tenants moved in.

The same structure today, says Healy, would require three to three-and-a-half years to complete.

Granted, the Empire State Building lacked air conditioning, which a contemporary building would demand, but the man-hours required to install air conditioning have been more than offset by the new tools and new techniques of the past 40 years. The grim truth, in Healy's view, is that productivity in the building industry today is less than half what it was then. And why? "The work ethic has been lost."

It has been lost, he believes, through the power of avaricious trade unions, and through the weakness of contractors willing to buy labor peace at any price. The process has grossly inflated building costs, and it has sadly diminished the dignity of working men.

Members of the AGC are eager to have their troubles known. Day in and day out, their experience confirms the picture painted in a hard-hitting report last month by Engineering News-Record. In 1926, a Chicago mason laid 600 blocks a day; today two masons are required for the same work, and they lay 100 blocks a day. In the days when concrete was finished by hand, a contractor figured on 2,000 square feet of finished concrete per man per day; today, with all kinds of power tools, the rate is 600 square feet.

The magazine cited the sorry example of a power plant job that required several small gasoline-powered generators. The unions successfully demanded that each generator be watched by an operating engineer, an electrician, and a pipefitter. The operating engineer got $300 to $400 a week "for starting once or twice a day a gas engine smaller than those on many home lawn mowers."

Each electrician received the same kind of money "for pushing the wire plugs into the sockets of the machine whenever they were moved." The contractor said he never did discover what the pipefitter did.

Such examples are legion. A billion-dollar project in Albany has suffered repeated delays because of a dispute between teamsters and operating engineers: Who is to hold the nozzle of a fuel truck?

On a motel construction job in Philadelphia, electricians and carpenters quarreled over the installation of a chain-hung ceiling lamp.

Many labor leaders privately agree that this nonsense has to stop. Union members themselves are suffering, as many contractors turn to the open shop. Jobs are vanishing.

The contractors who met here in Houston gave Healy an ovation when he insisted that with the union's help, "or without it," productivity and morale must be restored. If the builders will match their convention zeal with hometown determination, the old concept of a fair day's work for a fair day's pay may yet be revived. It's what the unions have been asking all along.

LT. GOV. HENRY HOWELL, OF VIRGINIA

Mr. HARRIS. Mr. President, I invite attention to an article about Virginia's Lt. Gov. Henry Howell, published in this Monday's Washington Post. Lieutenant Governor Howell is a people's politician in the best tradition of Southern populism. The Post article describes his fight against unfair utility rate increases, his effort to repeal the State's sales tax on food and medicine, and his nearly successful campaign to stop the State tax code's preferential treatment of capital gains. The newspaper quotes Lieutenant Governor Howell as commenting on the latter: "This is no tax loophole. It is a major excavation."

Mr. President, I believe that Henry Howell is one of the leading voices for the new populism in the Democratic Party today. I expect we will be hearing a great deal more from him in the future. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A "MATURED" HOWELL: MAN TO WATCH FOR 1973

"I'm quite capable of having a lovely tea and making polite conversation. My wife, Betty, will have string ensembles and flowers in the executive mansion. As governor, I will be as genteel as a dancer of an 18th century minuet."

—Henry Howell, Aug. 12, 1969.

(By Carl Bernstein)

RICHMOND.—On the final day of the 1972 General Assembly, Gov. Linwood Holton turned to Betty Howell, wife of Virginia's independent, populist lieutenant governor. Half seriously, the Republican governor asked Mrs. Howell her plans for redecorating the executive mansion when his own term expires in January 1974.

The gubernatorial election campaign of 1973 is still a long way off, but Henry Howell—as evidenced by the governor's question—is very much the man to watch as the state's Republicans and Democrats try to derail his plans for succeeding Holton.

Once widely regarded as the enfant terrible of Virginia's Democratic Party, Howell has emerged from his first legislative session as lieutenant governor with new-found respect. "Maturity" is the word heard most often to describe Howell's supposed transformation, and favorable comments are coming from many quarters:

From his colleagues in the state Senate, over which Howell presided for eight weeks with a fairness acknowledged from both sides of the aisle.

From the state's press, which expended almost as many column inches on the lieutenant governor as the governor during the General Assembly.

From his constituents, who came to the Capitol to lobby for his programs and for whom he lobbied.

And, significantly, from his political enemies, who are legion.

Even House Majority Leader James M. Thomson of Alexandria, an avowed segregationist who regards Howell as something of a dangerous radical, rose on the floor one day to give the 51-year-old lieutenant governor some backhanded praise. The occasion was a debate on Gov. Holton's proposal to create an executive cabinet of six administrative secretaries.

"Henry won't need this reorganization," shouted Thomson, the brother-in-law of U.S. Sen. Harry F. Byrd Jr. "When Henry gets to be governor he'll do the job without all those secretaries and assistant governors because Henry Howell—unlike most people around here—knows how to get things done."

Later, Thomson remarked: "I suppose we might have to live with him as governor for four years. We can do it. The legislature will be here longer than Henry will and we're not about to give him the legislation he wants.

"But I've got to hand it to Henry," Thomson continued. "He's looking like a statesman. Henry's a real leader, which is something we've been a little short on in Richmond lately. The lieutenant governorship might not have much power, but Henry's been smart enough to make it powerful in spite of itself."

Howell came to the lieutenant governorship, his first statewide office after a dozen years in the Assembly, armed with little more than the 362,371 votes he received last Nov. 2 and his reputation.

A political iconoclast who had made a career of challenging the Byrd Machine's policy of annointment and appointment (Howell's phrase), he was an early leader in the consumerism fight; championed organized labor in a state that was among the first to adopt a right-to-work law; called for equal rights when Virginia was seized with the fervor of massive resistance to racial integration; alienated the state's bankers, insurance interests and utility companies by attacking their power and their rates, and parted with the state Democratic Party when it refused to hold a primary election for lieutenant governor in 1971.

The day after his election, Howell set about giving some power to the lieutenant governorship—an office that, by his own description, has traditionally meant "getting a gavel and lining up a preacher to give the Senate prayer and maybe a rabbi every now and then."

Holding a multicolored map of the election results in front of the television cameras, Howell said on Nov. 3: "Now all that blue you see is Henry Howell country. I am sure that these great legislators, who are very skilled in the art of elections, are going to look at all these blue areas of the map when evaluating my legislative program"—the first, he noted, ever submitted by a lieutenant governor.

Howell would establish a "People's Lobby," he said at that first press conference, to come to Richmond and buttonhole legislators on behalf of his key proposals. He would keep in touch with his unlikely constituency—senior citizens, blacks, Wallacites, liberals, state civil servants, union members and small businessmen—by turning his office into something akin to Andrew Jackson's White House, "with all the people invited into that little telephone booth they give the lieutenant governor for an office."

By the second week of the session, there was a steady stream of union members, state employees, teachers, welfare recipients, students, merchants and others in and out of Howell's office, sometimes keeping senators waiting.

"These people realize they are not being fairly treated by the government," says Howell. "They give me my ideas. Because of my record they see me as the best hope of getting heard, of getting the system back in balance."

In the fourth week of the session, a Howell-backed proposal to increase educational aid to the state's handicapped children came up for a public hearing. Busloads of parents of handicapped children—contacted earlier by Howell's office—began arriving at the Capitol in the early morning, so many that the hearing had to be held in the state government's biggest auditorium. At session's end, the bill had passed.

A week after the aid-to-the-handicapped hearing, hundreds of blue uniformed policemen and firemen recruited for the occasion by Howell roamed through the Capitol's halls, lobbying in support of another element of Howell's legislative program: compensation for the families of officers killed in the line of duty. That bill passed, too.

So did a bill backed by Howell that for the first time, Virginia employers were to establish private prepaid health care programs for their workers. ("You can't afford to be sick in this state," the lieutenant governor is fond of saying.)

However, Howell lost on other key elements of his legislative program; tax reform; wholesale reform of the powerful State Corporation Commission, which sets utility rates; elimination of trading stamps; an end to the state sales tax on food and non-prescription drugs, and enactment of a series of consumer bills.

On most of those issues, the lieutenant governor's "People's Lobby" was nowhere to be seen. "It takes a long time to thaw a watermelon if it's been frozen long enough," commented Howell.

"The people of Virginia are not used to being part of their government. Nobody's ever asked them to participate and the average citizen still is not willing to take part in his government. He's suspicious of it because he's been ignored for so long. That's what we're trying to change," he said.

One of the fights that Howell almost won—eliminating a capital gains income tax shelter—is indicative of how the lieutenant governor operates. A letter from Benjamin R. Moser of Vienna, one of the more than 300 Howell received each week from voters during the session, informed him of the situation and asked him to fight it.

The shelter results from the Virginia legislature's 1970 action passing a law that conforms Virginia's tax forms with the federal government, even though the state tax structure is not nearly so progressive as the federal model it conforms with.

Under that bill, Virginians pay state income taxes on only half the capital gains they realize from investments—such as stocks—held for more than six months. Howell said it will cost the state an estimated $16 million a year.

The letter made Howell aware of the tax shelter, and within a week the capital gains tax question had become one of the most controversial in the legislature.

Howell first carried the message to some Knights of Columbus members in Woodbridge, one of the four or five speaking appearances he makes each week. "The Big Boys" are pocketing $16 million a year "while the little old lady on social security pays a tax every time she puts jam on a piece of toast. This is no tax loophole," said Howell "It's a major excavation."

In the end, the tax-writing committees of the General Assembly refused by narrow votes to close the capital gains shelter. But the message had gotten across. "Henry," said one political opponent, "ought to pick up 20,000 votes on that alone. We'll never hear the end of it."

The lieutenant governor is probably the most able orator in Virginia politics, mixing his down-home analogies with the dialects of his personal brand of populism. He summons working class people of all races to join white-collar progressiveness and liberals in fighting "The Big Boys"—Howell's term for the state's big corporate interests and the old Democratic Party kingmakers. Opponents call him a demagogue.

The lieutenant governorship has given Howell constant exposure, from the daily civics lessons he gives to visitors in the Senate galleries, to his picture in Fortune magazine, to campaigning in Florida for his old friend Hubert Humphrey to mention in Jack Newfield's book on "The New Populism," to almost daily mention in the state's newspapers and on television.

It is this exposure that has particularly nettled Howell's political opponents, who fear he is riding a gravy train of free publicity to the governor's mansion, while the Democrats and the Republicans must wait another full year before even choosing their candidates.

"How to handle Henry" is a problem that the opponents concede has not been resolved to their satisfaction. Some moves against Howell:

The legislature refused his request for $50,000 to run his office, so Howell continues to pay four aides out of his pocket and from leftover campaign funds.

The state's Democrats declined to invite the lieutenant governor, who describes himself as a "national Democrat" abandoned by the state party, to their Jefferson-Jackson Day dinner.

There have been speeches, including a couple on the Senate floor, attacking Howell's positions as improper for a ceremonial officer to undertake.

Several legislators researched the possibility of introducing a bill that would preclude Howell from seeking the governorship as an independent (impossible without a state constitutional amendment, they found).

Conservatives are thinking about running an independent candidate against Howell with the backing of both parties, thereby hoping to eliminate the three-way race possibility that was instrumental in giving Howell the lieutenant governorship.

Meanwhile, Henry Howell goes about his business as usual. In the Senate, he has initiated a legislative digest, published by his staff, that for the first time gives senators full descriptions of the bills they are voting on. He has won some fights in his once-lonely battle against the utility rates, and has been joined now by a growing Virginia consumer movement.

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His years of criticism of the State Corporation Commission, which regulates virtually every aspect of corporate practice in Virginia, has now been echoed by dozens of legislators, putting heavy pressure on the SCC to pay greater heed to consumers.

Despite the political repercussions, Howell has remained steadfast in his refusal to condemn court-ordered busing to achieve racial integration, or to attack the controversial metropolitan Richmond school consolidation order of Judge Robert R. Merhige.

In his private life, Howell has remained as conservative as the politics of many of his opponents.

He reads when he gets the chance (mostly history and biography), spends available spare moments with his family, helps his secretary rehearse her speeches for the Order of the Eastern Star and—in contrast to his mood on the campaign trail—is quiet, almost shy, and deferential to visitors. But he is constant in his theme:

"The business of government, as George Mason said, is to produce 'that which is capable of producing the greatest degree of happiness and safety.' In this state we still haven't done it. The people have lost their faith in their government. We must bring them back into the political process. That's what I've always been about. That's why the politicians of the past oppose me.

"I'm going to try to win this governorship and that would conclude my contribution. I see that as the last chapter in my political book. After that I want to go to Europe—I've never had the time to travel—and spend time with my family."

THE BENEFITS OF SPACE WORK

Mr. GAMBRELL. Mr. President, many inquiries come to Members of Congress regarding the benefits of space work. Those of us who serve on committees dealing with NASA hear about many applications but they seldom get into the newspapers or on TV. One of the most interesting applications of space technology which is finding wide use is a NASA-developed computer program called NASTRAN—NASA's structural analysis computer program—used to solve structural engineering problems. This computer program is now being used in more than 185 different applications ranging from the design of suspension units and steering linkages on automobiles to the design of power plants and skyscrapers. Initially this program was developed to analyze the elastic behavior of structures in the space program and has been, is and will be used extensively in the design of the space shuttle. But this program is also applicable to the design of other structures and is now considered virtually indispensable by many structural and design engineers who estimate that two-thirds of the projects in which it has been applied would not have been attempted without it. NASA says that a survey of 23 users outside the Space Agency indicates that the assistance provided by this computer program has already saved the users $2.5 million in costs. The program is distributed under contract by the Computer Software Management and Information Center located at the University of Georgia and purchases of the program have been made for an average cost of about $1,700.

Mr. President, the computer program, NASTRAN, has proved to be one of the most important spinoff benefits from the space program to date, but in addition to it, there are several hundred other computer programs available to the public through the Agency's technology utilization program for only modest charges. Information about these computer programs can be obtained from the Computer Software Management and Information Center, University of Georgia, Athens, Ga. 30601. The telephone number is 404–542–3256.

Mr. President, I ask unanimous consent that NASA News Release No. 72–40 on the NASA computer program, NASTRAN, be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

NASA COMPUTER PROGRAM AIDS AMERICAN DESIGNERS

More than 70 industrial firms, universities, laboratories and government agencies are now using NASTRAN, a NASA-developed computer program, to solve their structural engineering problems.

The program is presently being used in more than 185 different applications, ranging from suspension units and steering linkages on automobiles to the design of power plants and skyscrapers. At least 55 more uses of NASTRAN are currently planned.

NASTRAN (NASA's Structural Analysis Computer Program) is a general purpose digital computer program originally designed to analyze the behavior of elastic structures in the space program. One of its major uses by the National Aeronautics and Space Administration has been in the design of the Space Shuttle.

Since it was first made publicly available in November, 1970, more than 600 engineers have become acquainted with the use of NASTRAN. The computer program is now considered virtually indispensable by many structural and design engineers, who estimate that two-thirds of the projects in which it has been applied would not have been attempted without it.

Primary industrial users include aerospace companies, automobile manufacturers, consulting engineering firms and the construction industry.

Examples of their applications of NASTRAN include the design and analysis of:

Aircraft fuselages, wings and tail assemblies;

Automobile frames and other motor vehicle components;

High speed railroad tracks;

Turbine engines; and

Space vehicles and related launch facilities.

The engineering division of a major automobile manufacturer using NASTRAN in the design of its 1973 line of light trucks reports a 60 percent improvement in predicting the behavior of components under stress and a time saving of two-thirds in achieving such calculations. Similar savings in time and effort have been reported by most industrial users.

Firms using the new analysis program predict many improvements in product safety, reliability and quality, as direct benefits to their customers.

NASA spent more than $3 million to develop the program at the Goddard Space Flight Center. The Langley Research Center spends about $400,000 annually to update the program for NASA uses and to help new users apply it and learn its possibilities. A survey of 23 users outside the Space Agency indicates that assistance provided by the Langley Center has already saved them more than $2.5 million in start-up costs and other expenses associated with using the computer program.

The NASTRAN program is now being distributed under contract to NASA by the Computer Software Management and Information Center (COSMIC) at the University of Georgia. The program is user-oriented and organized to do much of its work automatically. Written in a versatile computer language, NASTRAN cas be used on a variety of computers. A complete set of program tapes and documentation can be purchased through COSMIC for an average $1,700, depending on the options required.

The program's capabilities include the analysis of: (a) static response to various loads, thermal expansion and deformation; (b) dynamic response to transient loads, harmonic loads and random stresses; and (c) solutions for vibration, dynamic stability and elastic stability analysis.

NASA-developed computer programs have proved one of the most important spinoff benefits from the space program. Besides NASTRAN, several hundred other programs are publicly available to United States users as part of the Space Agency's Technology Utilization Program. Only modest charges are made to meet the cost of evaluation, processing and distribution.

Further information on NASTRAN and other computer program tapes and documentation is available from NASA's Computer Software Management and Information Center (COSMIC), Barrow Hall, University of Georgia, Athens, Ga. 30601; telephone AC–404/542–3265.

Organizations reported as users of NASTRAN are:

Aerojet Solid Propulsion Company, Sacramento, Calif.

A. O. Smith Corporation, Milwaukee, Wisc.

Argonne National Laboratory, Argonne, Ill.

Atlantic Research Corporation, Costa Mesa, Calif.

AVCO, Lycoming Division, Stratford, Conn.

Bell Aerospace Company, Buffalo, N.Y.

Bell Helicopter, Forth Worth, Tex.

Bell Telephone Laboratory, Whippany, N.J.

Boeing Aerospace Company, Seattle, Wash.

Boeing Computer Service, Kent, Wash.

CHI Corporation, Cleveland, Ohio.

Computer Sciences Corporation, Richland, Wash.

Computer Sciences Corporation, Los Angeles, Calif.

COMSAT Laboratory, Clarksburg, Md.

Control Data Corporation, Minneapolis, Minn.

Control Data Corporation, Chicago, Ill.

COSMIC, Athens, Ga.

Esso Production and Research, Houston, Tex.

Fairchild Industries, Germantown, Md.

Ford Motor Company, Dearborn, Mich.

Franklin Institute, Philadelphia, Pa.

General Dynamics/Convair, Fort Worth, Tex.

General Dynamics/Convair, San Diego, Calif.

General Dynamics Corporation, Pomona, Calif.

General Motors Research Laboratory, Warren, Mich.

Georgia Institute of Technology, Atlanta, Ga.

Goodyear Aerospace Corporation, Akron, O.

B. F. Goodrich, Akron, O.

Grumman Aerospace Company, Bethpage, N.Y.

Hercules, Magna, Utah.

Hercules, Cumberland, Md.

Itek Corporation, Lexington, Mass.

JET Propulsion Laboratory, Pasadena, Calif.

Johns Hopkins University, Silver Spring, Md.

Lockheed Georgia Company, Marietta, Ga.

Lockheed California Company, Burbank, Calif.

Louisiana Tech. University, Ruston, La.

Los Alamos Scientific Laboratory, Los Alamos, N.M.

LTV Aerospace Corporation, Dallas, Tex.

MacNeal-Schwendler, Hampton, Va.

Martin-Marietta Corporation, Denver, Colo.

McDonnell-Douglas Aircraft Corp., St. Louis, Mo.

McDonnell-Douglas Automation Co., St. Louis, Mo.

McDonnell Douglas, Huntington Beach, Calif.

McDonnell Douglas, St. Louis, Mo.

NASA Goddard, Greenbelt, Md.

NASA Ames, Moffett Field, Calif.

NASA Houston, Houston, Tex.

NASA Lewis, Cleveland, O.

NASA MFSC, Huntsville, Ala.

NASA Kennedy, Cape Kennedy, Fla.

NASA Langley, Langley, Va.

Naval Air Development Center, Warminister, Pa.

Naval Ship Research and Development Center, Washington, D.C.

North American Rockwell Space Div., Downey, Calif.

Northrop Services Incorporated, Huntsville, Ala.

Old Dominion University, Norfolk, Va.

Perkin Elmer Corporation, Danbury, Conn.

Pioneer Services Incorporated, Chicago, Ill.

Pratt & Whitney Aircraft, West Palm Beach, Fla.

Raytheon Company, Sudbury, Mass.

Research Analysis Corporation, McLean, Va.

Sandia Laboratories, Albuquerque, N.M.

SCI-Tech., Wilmington, Dela.

Sperry Rand, Huntsville, Ala.

Structural Dynamics Research Corp., Cincinnati, O.

Teledyne Brown, Huntsville, Ala.

Teledyne Ryan, San Diego, Calif.

Teledyne Computer Center, Toledo, O.

Texas Instruments, Dallas, Tex.

TRW Systems, Redondo Beach, Calif.

United Aircraft Sikorsky Division, Stratford, Conn.

Watervliet Arsenal, Watervliet, N.Y.

Westenhoff & Novick, Chicago, Ill.

Westinghouse Telecomputer, Pittsburgh, Pa.

Westinghouse Defense and Space Center, Baltimore, Md.

Westinghouse, Research and Development Center, Pittsburgh, Pa.

STATEMENT ON HEALTH NEEDS

Mr. SPARKMAN. Mr. President, all over the country, in administration circles, in the Congress and among medical and hospital groups, there is a keen awareness of the desperate need for new types of medical personnel to deliver necessary medical services which we are unable to deliver under present conditions. The fact that we do not have enough doctors, enough nurses or medical personnel of other types to do the job we need is recognized by every person familiar with today's health and hospitalization problems.

Equally well known is the impossibility of training new doctors and new nurses fast enough to keep pace with the increasing need.

One of the most promising approaches to meeting this pressing need for medical assistants has been going on in Alabama as a joint venture of the University of Alabama, in Birmingham, and Calhoun Junior College. This program was designed to train and place workers in allied health fields. The training is being given at UAB's School of Community and Allied Health Resources.

Now this whole program which would have been turning out allied health workers, X-ray technicians, inhalation therapists, medical laboratory technicians, dental assistants, medical equipment repairmen, et cetera—all this is being slowed down, because adequate Federal assistance is not forthcoming. I am getting in touch with the Secretary of Health, Education, and Welfare today in an effort to get funds released to keep this program going. It is a pilot program which will be beneficial not only to Alabama and the Southeast, but throughout the Nation.

VOTER REGISTRATION

Mr. McGEE. Mr. President, several days ago the Senate, by the narrow margin of 46 to 42, voted to table the national voter registration bill, S. 2574.

One feature of that bill which raised great controversy in the Senate was the provision limiting durational residency requirements for voting in Federal elections to the period established by the Voting Rights Amendments of 1970—effectively, a 30-day residency. Several opponents of the voter registration bill spoke at length about how this modern provision invaded the prerogatives of the sovereign States, was clearly unconstitutional, and would bring havoc to the election process.

Apparently the constitutional experts of the Senate failed to advise the Supreme Court of the United States. Yesterday, by a vote of 6 to 1, the two recently appointed Justices not participating, the Court ruled that durational residency requirements beyond 30 days are unconstitutional in any election—mind you, not just the election of Senators or Representatives, but any election. I ask unanimous consent that the opinion of the Court be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States]

DUNN, GOVERNOR OF TENNESSEE, ET AL. AGAINST BLUMSTEIN

(Appeal from the U.S. District Court for the middle district of Tennessee)

No. 70–13. Argued November 16, 1971—Decided March 21, 1972.

Tennessee closes its registration books 30 days before an election, but requires residence in the State for one year and in the county for three months as prerequisites for registration to vote. Appellee challenged the constitutionality of the durational residence requirements, and a three-judge District Court held them unconstitutional on the grounds that they impermissibly interfered with the right to vote and created a "suspect" classification penalizing some Tennessee residents because of recent interstate movement. Tennessee asserts that the requirements are needed to insure the purity of the ballot box and to have knowledgeable voters. *Held:* The durational residence requirements are violative of the Equal Protection Clause of the Fourteenth Amendment, as they are not necessary to further a compelling state interest. Pp. 5–30.

(a) Since the requirements deny some citizens the right to vote, "the Court must determine whether the exclusions are *necessary* to promote a *compelling* state interest." *Kramer* v. *Union Free School District*, 395 U.S. 621, 627 (emphasis added). Pp. 6–7.

(b) Absent a compelling state interest, Tennessee may not burden the right to travel by penalizing those bona fide residents who have recently traveled from one jurisdiction to another. Pp. 8–12.

(c) A period of 30 days appears to be ample to complete whatever administrative tasks are needed to prevent fraud and insure the purity of the ballot box. Pp. 15–19.

(d) Since there are adequate means of ascertaining bona fide residence on an individual basis, the State may not conclusively presume nonresidence from failure to satisfy the waiting period requirements of durational residency laws. Pp. 19–24.

(e) Tennessee has not established a sufficient relationship between its interest in an informed electorate and the fixed durational residence requirements. Pp. 24–30.

Affirmed.

MARSHALL, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, and WHITE, JJ., joined. BLACKMUN, J., filed an opinion concurring in the result. BURGER, C.J., filed a dissenting opinion. POWELL and REHNQUIST, JJ., took no part in the consideration or decision of the case.

[Supreme Court of the United States, No. 70–13]

WINFIELD DUNN, GOVERNOR OF THE STATE OF TENNESSEE, ET AL., APPELLANTS, AGAINST JAMES F. BLUMSTEIN

On Appeal from the United States District Court for the Middle District of Tennessee, March 21, 1972.

Mr. JUSTICE MARSHALL delivered the opinion of the Court.

Various Tennessee public officials (hereinafter "Tennessee") appeal from a decision by a three-judge federal court holding that Tennessee's durational residence requirements for voting violate the Equal Protection Clause of the United States Constitution. The issue arises in a class action for declaratory and injunctive relief brought by appellee James Blumstein. Blumstein moved to Tennessee on June 12, 1970, to begin employment as an assistant professor of law at Vanderbilt University in Nashville. With an eye towards voting in the upcoming August and November elections, he attempted to register to vote on July 1, 1970. The county registrar refused to register him, on the ground that Tennessee law authorizes the registration of only those persons who, at the time of the next election, will have been residents of the State for a year and residents of the county for three months.

After exhausting state administrative remedies, Blumstein brought this action challenging these residence requirements on federal constitutional grounds.[1] A three-judge court, convened pursuant to 28 U.S.C. §§ 2281, 2284, concluded that Tennessee's durational residence requirements were unconstitutional (1) because they impermissibly interfered with the right to vote and (2) because they created a "suspect" classification penalizing some Tennessee residents because of recent interstate movement.[2]—F. Supp.—(MD Tenn. 1970). We noted probable jurisdiction, 401 U.S. 934 (1971). For the reasons which follow, we affirm the decision below.[3]

I

The subject of this lawsuit is the durational residence requirement. Appellee does not challenge Tennessee's power to restrict the vote to bona fide Tennessee residents. Nor has Tennessee ever disputed that appellee was a bona fide resident of the State and county when he attempted to register.[4] But Tennessee insists that, in addition to *being* a resident, a would-be voter must *have been* a resident for a year in the State and three months in the county. It is this additional *durational* residence requirement which appellee challenges.

Durational residence laws penalize those

Footnotes at end of article.

persons who have traveled from one place to another to establish a new residence during the qualifying period. Such laws divide residents into two classes, old residents and new residents, and discriminate against the latter to the extent of totally denying them the opportunity to vote.[6] The constitutional question presented is whether the Equal Protection Clause of the Fourteenth Amendment permits a State to discriminate in this way among its citizens.

To decide whether a law violates the Equal Protection Clause, we look, in essence, to three things: the character of the classification in question; the individual interests affected by the classification; and the governmental interests asserted in support of the classification. Cf. *William* v. *Rhodes*, 393 U.S. 23, 30 (1968). In considering laws challenged under the Equal Protection Clause, this Court has evolved more than one test, depending upon the interests affected and the classification involved.[6] First, then, we must determine what standard of review is appropriate. In the present case, whether we look to the benefit withheld by the classification (the opportunity to vote) or the basis for the classifications (recent interstate travel) we conclude that the State must show a substantial and compelling reason for imposing durational residence requirements.

A

Durational residence requirements completely bar from voting all residents not meeting the fixed durational standards. By denying some citizens the right to vote, such laws deprive them of a "fundamental political right, . . . preservative of all rights." *Reynolds* v. *Sims*, 377 U.S. 533, 562 (1964). There is no need to repeat now the labors undertaken in earlier cases to analyze this right to vote and to explain in detail the judicial role in reviewing state statutes which selectively distribute the franchise. In decision after decision, this Court has made clear that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction. See, *e.g.*, *Evans* v. *Cornman*, 398 U.S. 419, 421–422, 426 (1970); *Kramer* v. *Union Free School District*, 395 U.S. 621, 626–628 (1969); *Cipriano* v. *City of Houma*, 395 U.S. 701, 706 (1969); *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 667 (1966); *Carrington* v. *Rash*, 380 U.S. 89, 93–94 (1965); *Reynolds* v. *Sims*, *supra*. This "equal right to vote," *Evans* v. *Cornman*, *supra*, 398 U.S., at 426, is not absolute; the States have the power to impose voter qualifications, and to regulate access to the franchise in other ways. *See, e.g., Carrington* v. *Rash*, *supra*, 380 U.S., at 91; *Oregon* v. *Mitchell*, 400 U.S. 112, 144 (opinion of JUSTICE DOUGLAS), 241 (opinion of JUSTICES BRENNAN, WHITE, and MARSHALL), 294 (opinion of JUSTICE STEWART, in which CHIEF JUSTICE BURGER and JUSTICE BLACKMUN joined). But, as a general matter, "before that right [to vote] can be restricted, the purpose of the restriction and the assertedly overriding interests severed by it must meet close constitutional scrutiny." *Evans* v. *Cornman*, 398 U.S. 419, 422 (1970); see *Bullock* v. *Carter*, —— U.S. —— (1972) (slip op. 8–9).

Tennessee urges that this case is controlled by *Druedling* v. *Devlin*, 380 U. S. 125 (1965). *Druedling* was a decision upholding Maryland's duration residence requirements. The District Court tested those requirements by the equal protection standard applied to ordinary state regulations: whether the exclusions are reasonably related to a permissible state interest. 284 F. Supp. 721, 724–725 (Md. 1964). We summarily affirmed *per curiam* without the benefit of argument. But if it was not clear then, it is certainly clear now that a more exacting test is required for any statute which "places a condition on the exercise of the right to vote." *Bullock* v. *Carter*, *supra*, —— U.S. ——. This development is the law culminated in *Kramer* v. *Union Free School District*, *supra*, 395 U. S. 621 (1969). There we canvassed in detail the reasons for strict review of statutes distributing the franchise, *id.*, at 626–630, noting *inter alia* that such statutes "constitute the foundation of our representative society." We concluded that if a challenged statute grants the right to vote to some citizens and denies the franchise to others, "the Court must determine whether the exclusions are *necessary* to promote a *compelling* state interest." *Id.*, at 627 (emphasis added); *Cipriano* v. *City of Houma*, 395 U.S. 701, 704 (1969); *City of Phoenix* v. *Kolodziejski*, 399 U. S. 204, 205, 209 (1970). Cf. *Harper* v. *Virginia State Board of Elections*, *supra*, 383 U. S., at 670. This is the test we apply here.[7]

B

This exacting test is appropriate for another reason, never considered on *Druedling:* Tennessee's durational residence laws classify bona fide residents on the basis of recent travel, penalizing those persons, and only those persons, who have gone from one jurisdiction to another during the qualifying period, Thus, the durational residence requirement directly impinges on the exercise of a second fundamental personal right, the right to travel.

"[F]reedom to travel throughout the United States has long been recognized as a basic right under the Constitution." *United States* v. *Guest*, 383 U.S. 745, 758 (1966). See *Passenger Cases*, 7 How. 283, 492 (1849) (Taney, C. J.); *Crandall* v. *Nevada*, 6 Wall. 35, 43–44 (1868); *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869); *Edwards* v. *California*, 314 U.S. 160 (1941); *Kent* v. *Dulles*, 357 U.S. 116, 126 (1958); *Shapiro* v. *Thompson*, 394 U.S. 618, 629–631, 634 (1969); *Oregon* v. *Mitchell*, 400 U.S. 112, 237 (opinion of BRENNAN, WHITE, and MARSHALL, JJ.), 285–286 (opinion of STEWART, J., with whom BURGER, C. J., and BLACKMUN, J., joined). And it is clear that the freedom to travel includes the "freedom to enter and abide in any State in the Union," *Oregon* v. *Mitchell*, *supra*, 400 U.S., at 285 (opinion of STEWART, J., with whom BURGER, C. J., and BLACKMUN, J., joined). Obviously, durational residence laws single out the class of bona fide State and county residents who have recently exercised this constitutionally protected right, and penalize such travelers directly. We considered such a durational residence requirement in *Shapiro* v. *Thompson*, *supra*, where the pertinent statutes imposed a one-year waiting period for interstate migrants as a condition to receiving welfare benefits. Although in *Shapiro* we specifically did not decide whether durational residence requirements could be used to determine voting eligibility, *id.*, at 638 n. 21, we concluded that since the right to travel was a constitutionally protected right, "any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* state interest, is unconstitutional." *Id.*, at 634. This compelling state interest test was also adopted in the separate concurrence of MR. JUSTICE STEWART. Preceded by a long line of cases recognizing the constitutional right to travel, and repeatedly reaffirmed in the face of attempts to disregard it, see *Wyman* v. *Bowens*, 397 U.S. 49 (1970), and *Wyman* v. *Lopez*,—U.S.—(Jan. 24, 1972), *Shapiro* and the compelling state interest test it articulates control this case.

Tennessee attempts to distinguish *Shapiro* by urging that "the vice of the welfare statute in *Shapiro* . . . was its objective to deter interstate travel." Brief, at 13. In Tennessee's view, the compelling state interest test is appropriate only where there is "some evidence to indicate a deterrence of or infringement on the right to travel. . . ." *Ibid.* Thus, Tennessee seeks to avoid the clear command of *Shapiro* by arguing that durational residence requirements for voting neither seek to deter travel nor actually do deter such travel. In essence, Tennessee argues that the right to travel is not abridged here in any constitutionally relevant sense.

This view represents a fundamental misunderstanding of the law.[8] It is irrelevant whether disenfranchisement or denial of welfare is the more potential deterrent to travel. *Shapiro* did not rest upon a finding that denial of welfare actually deterred travel. Nor have other "right to travel" cases in this Court always relied on the presence of actual deterrence.[9] In *Shapiro* we explicitly stated that the compelling state interest test would be triggered by "any classification which served to *penalize* the exercise of that right [to travel] . . ." *Id.*, at 634 (emphasis added); see *id.*, at 638 n. 21. While noting the frank legislative purpose to deter migration by the poor, and speculating that "an indigent who desires to migrate . . . will doubtless hesitate if he knows that he must risk" the loss of benefits, *id.*, at 628–629, the majority found no need to dispute the "evidence that few welfare recipients have in fact been deterred [from moving] by residence requirements." *Id.*, at 650 (Warren, C. J., dissenting); see also *id.*, at 671–672 (Harlan, J., dissenting). Indeed, none of the litigants had themselves been deterred.[10] Only last Term, it was specifically noted that because a durational residence requirement for voting "operate to *penalize* those persons, and only those persons, who have exercised their constitutional right of interstate migration . . . , [it] may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial government interest." *Oregon* v. *Mitchell*, 400 U.S. 112, 238 (opinion of BRENNAN, WHITE, and MARSHALL, JJ.) (emphasis added).

Of course it is true that the two individual interests affected by Tennessee's durational residence requirements are affected in different ways. Travel is permitted, but only at a price; voting is prohibited. The right to travel is merely penalized, while the right to vote is absolutely denied. But these differences are irrelevant for present purposes. *Shapiro* implicitly realized what this Court has made explicit elsewhere:

"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution. . . . 'Constitutional rights would be of little value if they could be . . . indirectly denied'. . . ." *Harman* v. *Forssenius*, 380 U.S. 528, 540–541 (1965).[11]

See also *Garrity* v. *New Jersey*, 385 U.S. 493 (1967), and cases cited therein; *Spevack* v. *Klein*, 385 U.S. 511, 515 (1967). The right to travel is "an *unconditional* personal right," a right whose exercise may not be conditioned. *Shapiro* v. *Thompson*, *supra*, 394 U.S., at 643 (opinion of JUSTICE STEWART); *Oregon* v. *Mitchell*, *supra*, 400 U.S., at 292 (opinion of JUSTICE STEWART, in which CHIEF JUSTICE BURGER and JUSTICE BLACKMUN joined). Durational residence laws impermissibly condition and penalize the right to travel by imposing their prohibitions on only those persons who have recently exercised that right.[12] In the present case, such laws force a person who wishes to travel and change residences to choose between travel and the basic right to vote. Cf. *United States* v. *Jackson*, 390 U.S. 582–583 (1968). Absent a compelling state interest, a State may not burden the right to travel in this way.[13]

C

In sum, durational residence laws must be measured by a strict equal protection test: they are unconstitutional unless the State can demonstrate that such laws are "*necessary* to promote a *compelling* governmental interest." *Shapiro* v. *Thompson*, *supra*, 394 U.S. at 634 (emphasis added); *Kramer* v. *Union Free School District*, *supra*, 395 U.S., at 627. Thus phrased, the constitutional question may sound like a mathematical formula. But legal "tests" do not have the precision of mathematical formulas. The key words emphasize a matter of degree: that a heavy burden of justification is on the State, and that the statute will be closely scrutinized in light of its asserted purposes.

It is not sufficient for the State to show that durational residence requirements further a very substantial state interest. In pursuing that important interest, the State cannot choose means which unnecessarily burden or restrict constitutionally protected activity. Statutes affecting constitutional rights must be drawn with "precision," *NAACP* v. *Buton*, 371 U.S. 419, 438 (1963); *United States* v. *Robel*, 389 U.S. 258, 265 (1967), and must be "tailored" to serve their legitimate objectives *Shapiro* v. *Thompson*, *supra*, 394 U.S., at 631. And if there are other, reasonable ways to achieve those goals with a lesser burden on constitutionally protected activity, a State may not choose the way of greater interference. If it acts at all, it must choose "less drastic means." *Shelton* v. *Tucker*, 364 U.S. 479, 488 (1960).

III

We turn, then, to the question of whether the State has shown that durational residence requirements are needed to further a sufficiently substantial state interest. We emphasize again the difference between bona fide residence requirements and durational residence requirements. We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision. *E.g.*, *Evans* v. *Cornman*, *supra*, 398 U. S., at 422; *Kramer* v. *Union Free School District*, *supra*, 395 U. S., at 625; *Carrington* v. *Rash*, *supra*, 380 U. S., at 91; *Pope* v. *Williams*, 193 U. S. 621 (1904).[14] An appropriately defined and uniformly applied requirement of bona fide residence may be necessary to preserve the basic conception of a political community, and therefore could withstand close constitutional scrutiny.[15] But *durational* residence requirements, representing a separate voting qualification imposed on bona fide residents, must be separately tested by the stringent standard. Cf. *Shapiro* v. *Thompson*, *supra*, 394 U. S., at 636.

It is worth noting at the outset that Congress has, in a somewhat different context, addressed the question whether durational residence laws further compelling state interests. In § 202 of the 1970 Federal Voting Rights Act, Congress outlawed state durational residence requirements for presidential elections, and prohibited the States from closing registration more than 30 days before such elections. 42 U.S.C. § 1973aa–1. In doing so, it made a specific finding that durational residence requirements and more restrictive registration practices do "not bear a reasonable relationship to any compelling state interest in the conduct of presidential elections." 42 U.S.C. § 1973aa–1(a)(6). We upheld this portion of the Federal Voting Rights Act in *Oregon* v. *Mitchell*, 400 U. S. 112 (1971). In our present case, of course, we deal with congressional, state, and local elections, in which the State's interests are arguably somewhat different; and, in addition, our function is not merely to determine whether there was a reasonable basis for Congress' findings. However, the congressional finding which forms the basis for the Federal Act is a useful background for the discussion which follows.

Tennessee tenders "two basic purposes" served by its durational residence requirements:

"(1) Insure purity of ballot box—Protection against fraud through colonization and inability to identify persons offering to vote, and

"(2) Knowledgeable voter—Afford some surety that the voter has, in fact, become a member of the community and that as such, he has a common interest in all matters pertaining to its government and is therefore, more likely to exercise his right more intelligently." Appellants' Brief, p. 15, citing 18 Am. Jur., Elections, p. 217.

We consider each in turn.

A

Preservation of the "purity of the ballot box" is a formidable sounding state interest. The impurities feared, variously called "dual voting" and "colonization," all involve voting by nonresidents, either singly or in groups. The main concern is that nonresidents will temporarily invade the State or county, falsely swear that they are residents to become eligible to vote, and, by voting, allow a candidate to win by fraud. Surely the prevention of such fraud is a legitimate and compelling government goal. But it is impossible to view durational residence requirements as necessary to achieve that state interest.

Preventing fraud, the asserted evil which justifies state lawmaking, means keeping nonresidents from voting. But, by definition, a durational residence law bars *newly arrived* residents from the franchise along with non-residents. The State argues that such sweeping laws are necessary to prevent fraud because they are needed to identify bona fide residents. This contention is particularly unconvincing in light of Tennessee's total statutory scheme for regulating the franchise.

Durational residence laws may once have been necessary to prevent a fraudulent evasion of state voter standards, but today in Tennessee, as in most other States,[16] this purpose is served by a system of voter registration. Tenn. Code Ann. §§ 2–301 *et seq.*; see *State* v. *Weaver*, 122 S. W. 465 (1909). Given this system, the record is totally devoid of any evidence that durational residence requirements are in fact necessary to identify bona fide residents. The qualifications of the would-be voter in Tennessee are determined when he registers to vote, which he may do until 30 days before the election. Tenn. Code Ann. § 2–304. His qualifications—including bona fide residence—are established then by oath. Tenn. Code Ann. § 2–309. There is no indication in the record that Tennessee routinely goes behind the would-be voter's oath to determine his qualifications. Since false swearing is no obstacle to one intent on fraud, the existence of burdensome voting qualifications like durational residence requirements cannot prevent corrupt nonresidents from fraudulently registering and voting. As long as the State relies on the oath-swearing system to establish qualifications, a durational residence requirement adds nothing to a simple residence requirement in the effort to stop fraud. The nonresident intent on committing election fraud will as quickly and effectively swear that he has been a resident for the requisite period of time as he would swear that he was simply a resident. Indeed, the durational residence requirement becomes an effective voting obstacle only to residents who tell the truth and have no fraudulent purposes.

Moreover, to the extent that the State makes an enforcement effort after the oath is sworn, it is not clear what role the durational residence requirement could play in protecting fraud. The State closes the registration books 30 days before an election to give officials an opportunity to prepare for the election. Before the books close, anyone may register who claims that he will meet the durational residence requirement at the time of the next election. Although Tennessee argues that this 30-day period between registration and election does not give the State enough time to verify this claim of bona fide residence, we do not see the relevance of that position to this case. As long as the State permits registration up to 30 days before an election, a lengthy durational residence requirement does not increase the amount of time the State has in which to carry out an investigation into the sworn claim by the would-be voter that he is in fact a resident.

Even if durational residence requirements imposed, in practice, a pre-election waiting period which gave voting officials three months or a year in which to confirm the bona fides of residence, Tennessee would not have demonstrated that these waiting periods were necessary. At the outset, the State is faced with the fact that it must defend two separate waiting periods of different lengths. It is impossible to see how both could be "necessary" to fulfill the pertinent state objective. If the State has itself determined that a three-month period is enough time in which to confirm bona fide residence in the State and county, obviously a one year period cannot also be justified as "necessary" to achieve the same purpose.[17] Beyond that, the job of detecting nonresidents from among persons who have registered is a relatively simple one. It hardly justifies prohibiting all newcomers from voting for even three months. To prevent dual voting, state voting officials simply have to cross-check lists of new registrants with their former jurisdictions. See Note, Residence Requirements for Voting in Presidential Elections, 37 U. Chi. L. Rev. 359, 364 and n. 34, 374; cf. *Shapiro* v. *Thompson*, *supra*, 394 U.S., at 637. Objective information tendered as relevant to the question of bona fide residence under Tennessee law—places of dwelling occupation, car registration, driver's license, property owned, etc.[18]—is easy to double check, especially in light of modern communications. Tennessee itself concedes that "[i]t might well be that these purposes can be achieved under requirements of shorter duration than that imposed by the State of Tennessee. . . ." Appellants' Brief, p. 10. Fixing a constitutionally acceptable period is surely a matter of degree. It is sufficient to note here that 30 days appears to be an ample period of time for the State to complete whatever administrative tasks are necessary to prevent fraud—and a year, or three months, too much. This was the judgment of Congress in the context of presidential elections.[19] And, on the basis of the statutory scheme before us, it is almost surely the judgment of the Tennessee lawmakers as well. As the court below concluded, the cutoff point for registration 30 days before an election—

"Reflects the judgment of the Tennessee legislature that thirty days is an adequate period in which Tennessee's election officials can effect whatever measures may be necessary, in each particular case confronting them, to insure purity of the ballot and prevent dual registration and dual voting."—F. Supp.—(Appendix, pp. 48–49).

It has been argued that durational residence requirements are permissible because a person who has satisfied the waiting period requirements is conclusively presumed to be a bona fide resident. In other words, durational residence requirements are justified because they create an administratively useful conclusive presumption that recent arrivals are not residents and are therefore properly barred from the franchise.[20] This presumption, so the argument runs, also prevents fraud, for few candidates will be able to induce migration for the purpose of voting if fraudulent voters are required to remain in the false locale for three months or a year in order to vote on election day.[21]

In *Carrington* v. *Rash*, *supra*, 380 U.S. 89, this Court considered and rejected a smilar kind of argument in support of a similar kind of conclusive presumption. There, the

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State argued that it was difficult to tell whether persons moving to Texas while in the military service were in fact bona fide residents. Thus, the State said, the administrative convenience of avoiding difficult factual determinations justified a blanket exclusion of all servicemen stationed in Texas. The presumption created there was conclusive—"incapable of being overcome by proof of the most positive character." *Id.*, at 96, citing *Heiner* v. *Donnan*, 285 U.S. 312, 324 (1932). The Court rejected this "conclusive presumption" approach as violative of the Equal Protection Clause. While many servicemen in Texas were not bona fide residents, and therefore properly ineligible to vote, many servicemen clearly were bona fide residents. Since "more precise tests" were available "to winnow successfully from the ranks . . . those whose residence in the State is bona fide," conclusive presumptions were impermissible in light of the individual interests affected. *Id.*, at 95. "States may not casually deprive a class of individuals of the vote because of some remote administrative benefit to the State." *Id.*, at 96.

Carrington sufficiently disposes of this defense of durational residence requirements. The State's legitimate purpose is to determine whether certain persons in the community are bona fide residents. A durational residence requirement creates a classification which may, in a crude way, exclude nonresidents from that group. But it also excludes many residents. Given the state's legitimate purpose and the individual interests which are affected, the classification is all too imprecise. See p. 13, *supra*. In general, it is not difficult for Tennessee to determine on an individualized basis whether one recently arrived in the community is in fact a resident, although of course there will always be difficult cases. Tennessee has defined a test for bona fide residence, and appears prepared to apply it on an individualized basis in various legal contexts.[22] That test could easily be applied to new arrivals. Furthermore, if it is unlikely that would-be fraudulent voters would remain in a false locale for the lengthy period imposed by durational residence requirements, it is just as unlikely that they would collect such objective indicia of bona fide residence as a dwelling, car registration, or driver's license. In spite of these things, the question of bona fide residence is settled for new arrivals by conclusive presumption, not by individualized inquiry. Cf. *Carrington* v. *Rash*, *supra*, 380 U.S., at 95–96. Thus, it has always been undisputed that appellee Blumstein is himself a bona fide resident of Tennessee within the ordinary state definition of residence. But since Tennessee's presumption from failure to meet the durational residence requirements is conclusive, a showing of actual bona fide residence is irrelevant, even though such a showing would fully serve the State's purposes embodied in the presumption and would achieve those purposes with far less drastic impact on constitutionally protected interests.[23] The Equal Protection Clause places a limit on government by classification, and that limit has been exceeded here. Cf. *Shapiro* v. *Thompson*, *supra*, 394 U.S., at 636; *Harman* v. *Forssenius*, 380 U.S. 528, 542–543; *Carrington* v. *Rash*, *supra*, 380 U.S., at 95–96; *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942).

Our conclusion that the waiting period is not the least restrictive means necessary for preventing fraud is bolstered by the recognition that Tennessee has at its disposal a variety of criminal laws which are more than adequate to detect and deter whatever fraud may be feared.[24] At least six separate sections of the Tennessee Code define offenses to deal with voter fraud. For example, Tenn. Code Ann. § 2-324 makes it a crime "for any person to register or to have his name registered as a qualified voter . . . when he is not entitled to be so registered . . . or to induce or procure any other person to register or be registered when such person is not legally qualified to be registered as such. . . ."[25] In addition to the various criminal penalties, Tennessee permits the bona fides of a voter to be challenged on election day. Tenn. Code Ann. §§ 2-1309 *et seq.* Where a State has available such remedial action to supplement its voter registration system, it can hardly argue that broadly imposed political disabilities such as durational residence requirements are needed to deal with the evils of fraud. Now that the Federal Voting Rights Act abolishes those residence requirements as a precondition for voting in presidential and vice presidential elections, 42 U.S.C. § 1973aa–1, it is clear that the States will have to resort to other devices available to prevent nonresidents from voting. Especially since every State must live with this new federal statute, it is impossible to believe that durational residence requirements are necessary to meet the State's goal of stopping fraud.[26]

B

The argument that durational residence requirements further the goal of having "knowledgeable voters" appears to involve three separate claims. The first is that such requirements "afford some surety that the voter has, in fact, become a member of the community." But here the State appears to confuse a bona fide residence requirement with a durational residence requirement. As already noted, a State does have an interest in limiting the franchise to bona fide members of the community. But this does not justify or explain the exclusion from the franchise of persons, not because their bona fide residence is questioned, but because they are recent rather than long-time residents.

The second branch of the "knowledgeable voters" justification is that durational residence requirements assure that the voter "has a common interest in all matters pertaining to [the community's] government. . . ." By this, presumably, the State means that it may require a period of residence sufficiently lengthy to impress upon its voters the local viewpoint. This is precisely the sort of argument this Court has repeatedly rejected. In *Carrington* v. *Rash*, for example, the State argued that military men newly moved into Texas might not have local interests sufficiently in mind, and therefore could be excluded from voting in state elections. This Court replied:

"But if they are in fact residents . . . they, as all other qualified residents, have a right to an equal opportunity for political representation. . . . 'Fencing out' from the franchise a section of the population because of the way they may vote is constitutionally impermissible." 380 U.S., at 94. See 42 U.S.C. § 1973aa–1(a) (4).

Similarly here, Tennessee's hopes for voters with a "common interest in all matters pertaining to [the community's] government" is impermissible.[27] To paraphrase what we said elsewhere, "All too often, lack of a ['common interest"] might mean no more than a different interest." *Evans* v. *Cornman*, 398 U.S. 419, 423. "Differences of opinion" may not be the basis for excluding any group or person from the franchise. *Ciprano* v. *City of Houma*, *supra*, 395 U.S., at 705–706. "The fact that newly arrived [Tennesseans] may have a more national outlook than longtime residents, or even may retain a viewpoint characteristic of the region from which they come, is a constitutionally impermissible reason for depriving them of their chance to influence the electoral vote for their new home State." *Hall* v. *Beals*, 396 U.S. 45, 53–54 (1969) (dissenting opinion).[28]

Finally, the State urges that a long-time resident is "more likely to exercise his right [to vote] more intelligently." To the extent that this is different from the previous argument, the State is apparently asserting an interest in limiting the franchise to voters who are minimally knowledgeable about the issues. In this case, Tennessee argues that people who have been in the State less than a year and the county less than three months are likely to be unaware of the issues involved in the congressional, state, and local elections, and therefore can be barred from the franchise. We note that the criterion of "intelligent" voting is an elusive one, and susceptible to abuse. But without deciding as a general matter the extent to which a State can bar less knowledgeable or intelligent citizens from the franchise, cf. *Evans* v. *Cornman*, *supra*, 398 U. S., at 422; *Kramer* v. *Union Free School District*, *supra*, 395 U. S., at 632; *Ciprano* v. *City of Houma*, *supra*, 395 U. S., at 705,[29] we conclude that durational residence requirements cannot be justified on this basis.

In *Kramer* v. *Union Free School District*, *supra*, 395 U. S. 621 (1969), we held that the Equal Protection Clause prohibited New York State from limiting the vote in school district elections to parents of school children and to property owners. The State claimed that since nonparents would be "less informed" about school affairs than parents, *id.*, at 631, the State could properly exclude the class of nonparents in order to limit the franchise to the more "interested" group of residents. We rejected that position, concluding that a "close scrutiny of [the classification] demonstrates that [it does] not accomplish this purpose with sufficient precision. . . ." *Id.*, at 632. That scrutiny revealed that the classification excluding nonparents from the franchise kept many persons from voting who were as substantially interested as those allowed to vote; given this, the classification was insufficiently "tailored" to achieve the articulated state goal. *Ibid.* See also *Ciprano* v. *City of Houma*, *supra*, 395 U.S., at 706.

Similarly, the durational residence requirements in this case founded because of their crudeness as a device for achieving the articulated state goal of assuring the knowledgeable exercise of the franchise. The classifications created by durational residence requirements obviously permit any long-time resident to vote regardless of his knowledge of the issues—and obviously many long-time residents do not have any. On the other hand, the classifications bar from the franchise many other, admittedly new, residents who have become minimally, and often fully, informed about the issues. Indeed, recent migrants who take the time to register and vote shortly after moving are likely to be those citizens, such as appellee, who make it a point to be informed and knowledgeable about the issues. Given modern communications, and given the clear indication that campaign spending and voters education occur largely during the month before an election,[30] the State cannot seriously maintain that it is "necessary" to reside for a year in the State and three months in the county in order to be minimally knowledgeable about congressional, state or even purely local elections. There is simply nothing in the record to support the conclusive presumption that residents who have lived in the State for less than a year and their county for less than three months are uninformed about elections. Cf. *Shapiro* v. *Thompson*, *supra*, 394 U.S., at 631. These durational residence requirements crudely exclude large numbers of fully qualified people. Especially since Tennessee creates a waiting period by closing registration books 30 days before an election, there can be no basis for arguing that any durational residence requirement is also needed to assure knowledgeability.

It is pertinent to note that Tennessee has never made an attempt to further its alleged interest in an informed electorate in a universally applicable way. Knowledge or competence has never been a criterion for participation in Tennessee's electoral process for long-time residents. Indeed, the State specifically provides for voting by various types of absentee persons.[31] These provisions permit many long-time residents who leave the county or State to participate in a constituency in which they have only the slightest political interest, and from whose political debates they are likely to be cut off. That the State specifically permits such voting is not consistent with its claimed compelling interest in intelligent, informed use of the ballot. If the State seeks to assure intelligent use of the ballot, it may not try to serve this interest only with respect to new arrivals. Cf. *Shapiro* v. *Thompson*, *supra*, 394 U.S. at 637–638.

It may well be true that new residents as a group know less about state and local issues than older residents; and it is surely true that durational residence requirements will exclude some people from voting who are totally uninformed about election matters. But as devices to limit the franchise to minimally knowledgeable residents, the conclusive presumptions of durational residence requirements are much too crude. They exclude too many people who should not, and need not, be excluded. They represent a requirement of knowledge unfairly imposed on only some citizens. We are aware that classifications are always imprecise. By requiring classifications to be tailored to their purpose, we do not secretly require the impossible. Here, there is simply too attenuated a relationship between the state interest in an informed electorate and the fixed requirement that voters must have been residents in the State for a year and the county for three months. Given the exacting standard of precision we require of statutes affecting constitutional rights, we cannot say that durational residence requirements are necessary to further a compelling state interest.

IV

Concluding that Tennessee has not offered an adequate justification for its durational residence laws, we affirm the judgment of the court below.

MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or decision of this case.

FOOTNOTES

[1] Involved here are provisions of the Tennessee Constitution, as well as portions of the Tennessee Code. Article IV, § 1, of the Tennessee Constitution, provides in pertinent part:

"Right to vote—Election precincts . . .—Every person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein such person may offer to vote for three months, next preceding the day of election, shall be entitled to vote for electors for President and Vice-President of the United States, members of the General Assembly and other civil officers for the county or district in which such person resides; and there shall be no other qualification attached to the right of suffrage.

"The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box. . . ."

Section 2-201, Tennessee Code Annotated provides:

"Qualifications of voters.—Every person of the age of twenty-one (21) years, being a citizen of the United States and a resident of this State for twelve (12) months, and of the county wherein he may offer his vote for three (3) months next preceding the day of election, shall be entitled to vote for members of the general assembly and other civil officers for the county or district in which he may reside."

Section 2-304, Tennessee Code Annotated provides:

"Persons entitled to permanently register—Required time for registration to be in effect prior to Election.—All persons qualified to vote under existing laws at the date of application for registration, including those who will arrive at the legal voting age by the date of the next succeeding primary or general election established by statute following the date of their application to register (those who become of legal voting age before the date of a general election shall election [sic] selecting nominees for such general election), who will have lived in the state for twelve (12) months and in the county for which they applied for registration for three (3) months by the date of the next succeeding election shall be entitled to permanently register as voters under the provisions of this chapter, provided, however, that registration or re-registration shall not be permitted within thirty (30) days of any primary or general election provided for by statute. If a registered voter in any county shall have changed his residence to another county, or to another ward, precinct or district within the same county, or changed his name by marriage or otherwise, within ninety (90) days prior to the date of an election, he shall be entitled to vote in his former ward, precinct or district of registration."

[2] On July 30, the District Court refused to grant a preliminary injunction permitting Blumstein and members of the class he represented to vote in the August 6 election; the court noted that to do so would be "so obviously disruptive as to constitute an example of judicial improvidence." The District Court also denied a motion that Blumstein be allowed to cast a sealed provisional ballot for the election.

At the time the opinion below was filed, the next election was to be held in November 1970, at which time Blumstein would have met the three-month part of Tennessee's durational residency requirements. The District Court properly rejected the State's position that the alleged invalidity of the three-month requirement had been rendered moot, and the State does not pursue any mootness argument here. Although appellee now can vote, the problem to voters posed by the Tennessee residency requirements is "capable of repetition, yet evading review." *Moore* v. *Ogilvie*, 394 U.S. 814, 816 (1969); *Southern Pacific Terminal Co.* v. *Interstate Commerce Commission*, 219 U.S. 498, 515 (1911). In this case, unlike *Hall* v. *Beals*, 396 U.S. 45 (1969), the laws in question remain on the books, and Blumstein has standing to challenge them as a member of the class of people affected by the presently written statute.

[3] The important question in this case has divided the lower courts. Durational residence requirements ranging from three months to one year have been struck down in *Burg* v. *Canniffe*, 315 F. Supp. 380 (Mass. 1970); *Affeldt* v. *Whitcomb*, 319 F. Supp. 69 (ND Ind. 1970); *Lester* v. *Board of Elections for District of Columbia*, 319 F. Supp. 505 (DC 1970); *Bufford* v. *Holton*, 319 F. Supp. 843 (ED Va. 1970); *Hadnott* v. *Amos*, 320 F. Supp. 107 (MD Ala. 1970); *Kohn* v. *Davis*, 320 F. Supp. 246 (Vt. 1070); *Keppel* v. *Donovan*, 326 F. Supp. 15 (Minn. 1970); *Andrews* v. *Cody*, — F. Supp. — (MDNC 1971), as well as this case. Other District Courts have upheld durational residence requirements of a similar variety. *Howe* v. *Brown*, 319 F. Supp. 862 (ND Ohio 1970); *Ferguson* v. *Williams*, — F. Supp. — (ND Miss., Aug. 30, 1971); *Cocanower* v. *Marston*, 318 F. Supp. 402 (Ariz. 1970); *Fitzpatrick* v. *Board of Election Commissioners*, — F. Supp. — (ND Ill. 1970); *Pillarin* v. *Hoel*, 320 F. Supp. 66 (WD Wis. 1970); *Epps* v. *Logan*, — F. Supp. — (No. 913) (WD Wash. 1970); *Fontain* v. *McKeithen*, — F. Supp. — (Civ. 71–2631) (ED La.). In *Sirah* v. *Brown*, — F. Supp. — (Civ. 70–164) (SD Ohio 1970), the District Judge refused to convene a three-judge court and summarily dismissed the complaint.

[4] Noting the lack of dispute on this point, the court below specifically found that Blumstein had no intention of leaving Nashville and was a bona fide resident of Tennessee. — F. Supp. — (App., p. 36).

[5] While it would be difficult to determine precisely how many would-be voters throughout the country cannot vote because of durational residence requirements, but see Cocanower & Rich, Residency Requirements for Voting, 12 Ariz. L. Rev. 477, 478 and n. 8 (1970), it is worth noting that during the period 1947–1970 an average of approximately 3.3% of the total national population moved interstate each year. (An additional 3.4% of the population moved *intrastate* each year.) U.S. Dept. of Commerce, Bureau Census, Current Population Reports, Population Characteristics, Series P–20, No. 210, Jan. 15, 1971, Table 1, pp. 7–8.

[6] Compare *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969), and *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942), with *Williamson* v. *Lee Optical Co.*, 348 U.S. 483 (1955); compare *McLaughlin* v. *Florida*, 379 U.S. 184 (1964); *Harper* v. *Virginia Board of Election*, 383 U.S. 663 (1966), and *Graham* v. *Richardson*, 403 U.S. 365 (1971), with *Morey* v. *Doud*, 354 U.S. 457 (1957), and *Allied Stores of Ohio* v. *Bowers*, 358 U.S. 522 (1959).

[7] Appellants also rely on *Pope* v. *Williams*, 193 U.S. 621 (1904). Carefully read, that case simply *holds* that federal constitutional rights are not violated by a state provision requiring a person who enters the state to make a "declaration of his intention to become a citizen before he can have the right to be registered as a voter and to vote in the State." *Id.*, at 634. In other words, the case simply stands for the proposition that a State may require voters to be bona fide residents. See TAN 15, *infra*. To the extent that dicta in that opinion is inconsistent with the test we apply or the result we reach today, that dicta is rejected.

[8] We note that in the Federal Voting Right Act, Congress specifically found that a durational residence requirement "denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines . . ." 42 U.S.C. § 1973aa–1(a) (2).

[9] For example, in *Crandall* v. *Nevada*, 6 Wall. (73 U. S.) 35 (1868), the tax imposed on persons leaving the State by commercial carrier was only $1, certainly a minimal deterrent to travel. But in declaring the tax unconstitutional, the Court reasoned that "if the State can tax a railroad passenger one dollar, it can tax him one thousand dollars," *id.*, at 46. In *Ward* v. *Maryland*, 12 Wall. (79 U. S.) 418 (1871), the tax on nonresident traders was more substantial, but the Court focused on its discriminatory aspects, without anywhere considering the law's effect, if any, on trade or tradesmen's choice of residence. Cf. *Chalker* v. *Birmingham & N W. R. Co.*, 249 U. S. 522, 527 (1919); but see *Williams* v. *Fears*, 179 U. S. 270 (1900). In *Travis* v. *Yale & Towne Mfg. Co.*, 252 U. S. 60, 79–80 (1920), the Court held that New York could not deny nonresidents certain small personal exemptions from the state income tax allowed residents. The amounts were certainly insufficient to influence any employee's choice of residence. Compare *Toomer* v. *Witsell*, 334 U. S. 385 (1948), with *Mullaney* v. *Anderson*, 342 U. S. 415 (1952).

[10] JUSTICE STEWART specifically noted that quite apart from any purpose to deter, "a law that so clearly *impinges* upon the constitutional right of interstate travel must be shown to reflect a compelling governmental interest." *Id.*, at 643–644 (emphasis added). See also *Graham* v. *Richardson*, 403 U.S. 365, 375 (1971).

[11] In *Harman*, the Court held that a Virginia law which allowed federal voters to qualify either by paying a poll tax or by filing a certificate of residence six months before the election "handicap[ped] exercise" of the right to participate in federal elec-

Footnotes at end of article.

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tions free of poll taxes, guaranteed by the Twenty-Fourth Amendment.

[12] Where, for example, an interstate migrant loses his driver's license because the new State has a higher age requirement, a different constitutional question is presented. For in such a case, the new State's age requirement is not a *penalty* imposed solely because the newcomer is a new resident; instead, all residents, old and new, must be of a prescribed age to drive. See *Shapiro* v. *Thompson*, *supra*, 394 U. S., at 638 n. 21.

[13] However, as noted *infra*, TAN 15, States may show an overriding interest in imposing an appropriate bona fide residence requirement on would-be voters. One who travels out of a State may no longer be a bona fide resident, and may not be allowed to vote in the old State. Similarly, one who travels to a new State may, in some cases, not establish bona fide residence and may be ineligible to vote in the new State. Nothing said today is meant to cast doubt on the validity of appropriately defined and uniformly applied bona fide residence requirements.

[14] See n. 7, *supra*.

[15] See *Fontham* v. *McKeithen*, —— F. Supp. —— (Civ. 71–2631, Dec. 7, 1971, p. 12) (ED La. 1971) (Wisdom, J., dissenting); *Pope* v. *Williams*, 193 U.S. 621 (1904), and n. 7, *supra*.

[16] See, *e.g.*, Cocanower & Rich, Residency Requirements for Voting, 12 Ariz. L. Rev. 477, 499 (1970); MacLeod & Wilberding, State Voting Residency Requirements and Civil Rights, 38 Geo. Wash. L. Rev. 93, 113 (1969).

[17] Obviously, it could not be argued that the three-month waiting period is necessary to confirm residence in the county, and the one-year period necessary to confirm residence in the State. Quite apart from the total implausibility of any suggestion that one task should take four times as long as the other, it is sufficient to note that if a person is found to be a bona fide resident of a county within the State, he is by definition a bona fide resident of the State as well.

[18] See, *e.g.*, *Brown* v. *Hows*, 163 Tenn. 178, 42 S. W. 2d 210 (1930); *Sparks* v. *Sparks*, 114 Tenn. 666, 88 S. W. 173 (1905). See generally Law Revision Commission, Title 2—Election Laws, Tentative Draft of October 1971, Section 222 and Comment. See n. 22, *infra*.

[19] In the Federal Voting Rights Act of 1970, Congress abolished durational residence requirements as a precondition to voting in presidential and vice-presidential elections, and prohibited the States from cutting off registration more than 30 days prior to those elections. These limits on the waiting period a State may impose prior an election were made "with full cognizance of the possibility of fraud and administrative difficulty. *Oregon* v. *Mitchell*, 400 U.S. 112, 238 (opinion of BRENNAN, WHITE, and MARSHALL, JJ.). With that awareness, Congress concluded that a waiting period requirement beyond 30 days "does not bear a reasonable relationship to any compelling state interest in the conduct of presidential elections. 42 U.S.C. § 1973aa–1(a)(6). And in sustaining § 202 of the Act, we found "no explanation why the 30-day period between the closing of new registration and the date of election would not provide, in light of modern communications, adequate time to insure against . . . frauds." *Oregon* v. *Mitchell*, *supra*, 400 U.S., at 239 (opinion of BRENNAN, WHITE, and MARSHALL, JJ.). There is no reason to think that what Congress thought was unnecessary to prevent fraud in presidential elections should not also be unnecessary in the context of other elections. See TAN 26, *infra*.

[20] As a technical matter, it makes no sense to say that one who has been a resident for a fixed duration is presumed to be a resident. In order to meet the durational residency requirement, one must, by definition, *first* establish that he is a *resident*. A durational residence requirements is not simply a waiting period after arrival in the State; it is a waiting period after *residence* is established. Thus it is conceptually impossible to say that a durational residency requirement is an administratively useful device to determine residence. The State's argument must be that residence would be presumed from simple *presence* in the State or county for the fixed waiting period.

[21] It should be clear that this argument assumes that the State will reliably determine whether the sworn claims of duration in the jurisdiction are themselves accurate. We have already noted that this is unlikely. See p. 16, *supra*. Another repeating problem for the State's position is the existence of *differential* durational residency requirements. If the State presumes residence in the county after three months in the county, there is no rational explanation for requiring a full 12 months' presence in the State to presume residence in the State.

[22] Tennessee's basic test for bona fide residence is (1) an intention to stay indefinitely in a place (in other words, "without a present intention of removing therefrom," *Brown* v. *Hows*, 163 Tenn. 178, 42 S. W. 2d 210 (1930)), joined with (2) some objective indication consistent with that intent, see n. 18, *supra*. This basic test has been applied in divorce cases, see, *e.g.*, *Sturdavant* v. *Sturdavant*, 28 Tenn. App. 273, 189 S. W. 410 (1944); *Brown* v. *Brown*, 150 Tenn. 89, 261 S. W. 959 (1924); *Sparks* v. *Sparks*, 114 Tenn. 666, 88 S. W. 173 (1905); in tax cases, see, *e.g.*, *Denny* v. *Sumner County*, 134 Tenn. 468, 184 S. W. 14 (1916); and in estate cases, see, *e.g.*, *Caldwell* v. *Shelton*, 32 Tenn. App. 45, 221 S. W. 2d 815 (1948); *Hascall* v. *Hafford*, 107 Tenn. 355, 65 S. W. 423 (1901); and voting cases, see, *e.g.*, *Brown* v. *Hows*, 163 Tenn. 178, 42 S. W. 2d 210 (1930); Law Revision Commission, Title 2—Election Laws, Tentative Draft of October 1971, § 222 and Comment.

[23] Indeed, in Blumstein's case, the County Election Commission explicitly rejected his offer to treat the waiting period requirement as "a waivable guide to Commission action, but rebuttable upon a proper showing of competence to vote intelligently in the primary and general election." Complaint in Appendix, p. 8. Cf. *Skinner* v. *Oklahoma*, 316 U.S. 535, 544–545 (1942) (Stone, C. J., concurring).

[24] See *Harmon* v. *Forssenius*, 380 U.S. 528, 543 (1965) (filing of residence certificate six months before election in lieu of poll tax unnecessary to insure that the election is limited to bona fide residents in light of "numerous devices to enforce residency requirements"); cf. *Schneider* v. *New Jersey*, 308 U.S. 147, 164 (1939) (fear of fraudulent solicitations cannot justify permit requests since "frauds may be denounced as offenses and punished by law").

[25] Tenn. Code Ann. § 2–1614 makes it a felony for any person who "is not legally entitled to vote at the time and place where he votes or attempts to vote . . . , to vote or offer to do so," or to aid and abet such illegality. Tenn. Code Ann. § 2–2207 makes it a misdemeanor "for any person knowingly to vote in any political convention or any election held under the Constitution or laws of this state, no being legally qualified to vote . . . ," and Tenn. Code Ann. § 2–2208 makes it a misdemeanor to aid in such an offense. Tenn. Code Ann. § 2–202 makes it an offense to vote outside the ward or precinct where one resides and is registered. Finally, Tenn. Code Ann. § 2–2209 makes it unlawful to "bring or aid in bringing any fraudulent voters into this state for the purpose of practising a fraud upon or in any primary or final election. . . ." See, *e.g.*, *State* v. *Weaver*, 112 S. W. 465 (1909).

[26] We note that in the period since the decision below, several elections have been held in Tennessee. We have been presented with no specific evidence of increased colonization or other fraud.

[27] It has been noted elsewhere, and with specific reference to Tennessee law, that "[t]he historical purpose of [durational] residency requirements seem to have been to deny the vote to undesirables, immigrants and outsiders with different ideas." Cocanower & Rich, *supra*, 12 Ariz. L. Rev., at 484 and nn. 44, 45, and 46. We do not rely on this alleged original purpose of durational residence requirements in striking them down today.

[28] Tennessee may be revealing this impermissible purpose when it observes:

"The fact that the voting privilege has been extended to 18 year old persons . . . increases, rather than diminishes, the need for durational residency requirements. . . . It is so generally known, as to be judicially accepted, that there are many political subdivisions in this state, and other states, wherein there are colleges, universities and military installations with sufficient student body or military personnel over eighteen years of age, as would completely dominate elections in the district, county or municipality so located. This would offer the maximum of opportunity for fraud through colonization, and permit domination by those not knowledgeable or having a common interest in matters of government, as opposed to the interest and the knowledge of permanent members of the community. Upon completion of their schooling, or service tour, they move on, leaving the community bound to a course of political expediency not of its choice and, in fact, one over which its more permanent citizens, who will continue to be affected, had no control." Appellants' Brief, pp. 15–16.

[29] In the 1970 Voting Rights Act, § 201, 42 U. S. C. § 1973aa, Congress provided that "no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election. . . ." The terms "test or device" was defined to include, in part, "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrates the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject. . . ." By prohibiting various "test[s]" and "device[s]" which would clearly assure knowledgeability on the part of voters in local elections, Congress declared federal policy that people should be allowed to vote even if they were not well informed about the issues. We upheld § 201 in *Oregon* v. *Mitchell*, *supra*.

[30] H. E. Alexander, Financing the 1968 Election 106–113 (Citizen Research Foundation 1969); *Affedt* v. *Whitcomb*, 319 F. Supp. 69, 7[illegible] (ND Ind. 1970); Cocanower & Rich, *supra*, 12 Ariz. L. Rev. 477, 498 (1971).

[31] The general provisions for absentee voting apply in part to "any registered voter otherwise qualified to vote in any election to be held in this state or any county, municipality, or other political subdivision thereof, who by reason of business, occupation, health, education, or travel, is required to be absent from the county of his fixed residence on the day of election. . . ." Tenn. Code Ann. § 2–1602. See generally Tenn. Code Ann. §§ 2–1601 *et seq.* An alternative method of absentee voting for armed forces members and federal personnel is detailed in Tenn. Code Ann. §§ 2–1701 *et seq.* Both those provisions allow persons who are still technically "residents" of the State or county to vote even though they are not physically present, and even though they are likely to be uninformed about the issues. In addition, Tennessee has an unusual provision which permits persons to vote in their *prior* residence for a period after residence has been changed. This section provides, in pertinent part: "If a registered voter in any county shall have changed his residence to another county . . . within ninety (90) days prior to the date of an election, he shall be entitled to vote in his former ward, precinct or district of registration." Tenn. Code Ann. § 2–304. See also Tenn. Code Ann. § 2–204.

[Supreme Court of the United States, No. 70–13]

WINFIELD DUNN, GOVERNOR OF THE STATE OF TENNESSEE, ET AL., APPELLANTS, AGAINST JAMES F. BLUMSTEIN

On Appeal from the United States District Court for the Middle District of Tennessee, March 21, 1972.

Mr. Justice Blackmun, concurring in the result.

Professor Blumstein obviously could hardly wait to register to vote in his new home State of Tennessee. He arrived in Nashville on June 12, 1970. He moved into his apartment on June 19. He presented himself to the registrar on July 1. He instituted his lawsuit on July 17. Thus, his litigation was begun 35 days after his arrival on Tennessee soil, and less than 30 days after he moved into his apartment. But a primary was coming up on August 6. Usually, such zeal to exercise the franchise is commendable. The professor, however, encountered—and, I assume, knowingly so—the barrier of the Tennessee durational residence requirement and, because he did, he instituted his test suit.

I have little quarrel with much of the content of the Court's long opinion. I concur in the result, with these few added comments, because I do not wish to be described on a later day as having taken a position broader than I think necessary for the disposition of this case.

1. In *Pope* v. *Williams*, 193 U.S. 621 (1904), Mr. Justice Peckham, in speaking for a unanimous Court that included the first Harlan and Mr. Justice Holmes, said:

"The simple matter to be herein determined is whether, with reference to the exercise of the privilege of voting in Maryland, the legislature of that State had the legal right to provide that a person coming into the State to reside should make the declaration of intent a year before he should have the right to be registered as a voter of the State.

• • • • •

"The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

"The reasons which may have impelled the state legislature to enact the statute in question were matters entirely for its consideration, and this court has no concern with them." 193 U.S., at 632, 633–634.

I cannot so blithely explain *Pope* v. *Williams* away, as does the Court in its footnote 7, *ante*, p. —, by asserting that if that opinion is "carefully read," one sees that the case was concerned simply with a requirement that the new arrival declare his intention. The requirement was that he make the declaration *a year* before he registered to vote; time as well as intent was involved. For me, therefore, the Court today really overrules the holding in *Pope* v. *Williams* and does not restrict itself, as footnote 7 says, to rejecting what it says is meredicta.

2. The compelling state interest test, as applied to a State's denial of the vote, seems to have come into full flower with *Kramer* v. *Union Free School District No. 15*, 395 U.S. 621, 627 (1969). The only supporting authority cited at that point is in the "See" context to *Carrington* v. *Rash*, 380 U.S. 89, 96 (1961). But as I read *Carrington*, the standard there employed was that the voting requirements be reasonable. Indeed, in that opinion Mr. JUSTICE STEWART observed, p. 91, that the State has "unquestioned power to impose reasonable residence restrictions on the availability of the ballot." A like approach was taken in *McDonald* v. *Board of Election Commissioners*, 394 U.S. 802, 809 (1969), where the Court referred to the necessity of "some rational relationship to a legitimate state end" and to a statute's being set aside "only if based on reasons totally unrelated to the pursuit of that goal." I mention this only to emphasize that *Kramer* appears to have elevated the standard. And this was only three years ago. Whether *Carrington* and *McDonald* are now frowned upon, at least in part, the Court does not say. See *Bullock* v. *Carter*, — U.S. — , — (1972).

3. Clearly, for me, the State does have a profound interest in the purity of the ballot-box and in an informed electorate and is entitled to take appropriate steps to assure those ends. Except where federal intervention properly prescribes otherwise, see *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), I see no constitutional imperative that voting requirements be the same in each State, or even that a State's time requirement relate to the 30-day measure imposed by Congress by 42 U.S.C. § 1973aa–1 (d) for presidential elections. I assume that the Court by its decision today does not depart from either of these propositions. I cannot be sure of this, however, for much of the opinion seems to be couched in absolute terms.

4. The Tennessee plan, based both in statute and in the State's constitution, is not ideal. I am content that the one-year and three-month requirements be struck down for want of something more closely related to the State's interest. It is, of course, a matter of linedrawing, as the Court concedes, *ante*, p. 18. But if 30 days pass constitutional muster, what of 35 or 45 or 75? The resolution of these longer measures, less than those today struck down, the Court leaves, I suspect, to the future.

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[Supreme Court of the United States, No. 70–13]

WINFIELD DUNN, GOVERNOR OF THE STATE OF TENNESSEE, ET AL., APPELLANTS, AGAINST JAMES F. BLUMSTEIN

On Appeal from the United States District Court for the Middle District of Tennessee, March 21, 1972.

Mr. CHIEF JUSTICE BURGER, dissenting.

The holding of the Court in *Pope* v. *Williams*, *supra*, is as valid today as it was at the turn of the century. It is no more a denial of Equal Protection for a State to require newcomers to be exposed to state and local problems for a reasonable period such as one year before voting, than it is to require children to wait 18 years before voting. Cf. *Oregon* v. *Mitchell*, 400 U.S. 112 (1970). In both cases some informed and responsible persons are denied the vote, while others less informed and less responsible are permitted to vote. Some lines must be drawn. To challenge such lines by the "compelling state interest" standard is to condemn them all. So far I am aware, no state law has ever satisfied this seemingly insurmountable standard, and I doubt one ever will, for it demands nothing less than perfection.

The existence of a constitutional "right to travel" does not persuade me to the contrary. If the imposition of a durational residency requirement for voting abridges the right to travel, surely the imposition of an age qualification penalizes the young for being young, a status I assume the Constitution also protects.

Mr. McGEE. In our committee hearings on voter registration, the Department of Justice opposed enactment of a Federal voter registration program on the grounds, among others, that it was unconstitutional. Of course, we are all constitutional scholars. There are 100 in the Senate, 435 in the House, and 200 million in the Nation. But only a few have any real voice in the matter, and only nine have any vote. I extend my sympathy to the former Attorney General, therefore, who directed the Department of Justice to point out the unconstitutionality of Federal legislation regulating durational residency requirements for Federal elections. He guessed wrong. I ask unanimous consent that the particular testimony of the Department of Justice be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF RALPH ERICKSON

If I may just recite that for the record I think it would be helpful. The abolition of durational residency in presidential elections can be justified on the basis that the offices involved are national and are intended to represent national interests. Senators and Congressmen on the other hand, are elected to represent the State from which they are elected. If a highly mobile population is permitted to vote wherever they please, regardless of their ties to or interest in the locality, then the fundamental constitutional concept of geographic representation is undermined.

Mr. McGEE. Mr. President, it has also come to my attention that during our consideration of S. 2574, the Department of Justice made numerous telephone calls to some of my colleagues urging them to vote against the voter registration bill. It is a sad irony that the Department of the Government of the United States charged with insuring voting rights for all citizens under law, for insuring the fair and impartial administration of justice, and charged, under our bill, with insuring that fraud does not occur in Federal elections spent its time lobbying against the enactment of legislation to simplify the procedures for citizens to register to vote.

The time for voting rights has come. The issue of simplified voter registration will not disappear, because of our setback last week. The Supreme Court has struck down another barrier to the people voting to have an effective voice in their government. Surely Congress will not be far behind.

MONOPOLY AND CORPORATE POWER

Mr. HARRIS. Mr. President, the issue of monopoly and corporate power is becoming increasingly important in the 1972 presidential campaign. When I introduced the Concentrated Industries Act last September, some people wondered whether Americans were really concerned about the dangers of unchecked corporate power. Since that time a number of things have shown that people do want action to protect their interests as consumers, workers, and citizens. The Federal Communications Commission responded to public pressure to reopen its investigation of A.T. & T.'s rates. The Federal Trade Commission has moved to break up the shared monopoly in the breakfast cereal industry. And every American has witnessed the sordid spectacle of high officials of the Justice Department and top executives of ITT explain on national television how big business gets its way with big Government.

In an effort to help stimulate thoughtful debate on these issues, Ralph Nader

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and Mark Green, two outstanding young advocates of the public interest, wrote to each of the presidential candidates—except President Nixon—asking for their views on monopoly and corporate abuses, I ask unanimous consent to have printed in the RECORD a summary of the responses they received, a copy of their request, and the full statements by the candidates. These statements indicate, I believe, that most of the candidates do appreciate the problem we face in this area and are increasingly willing to face up to the necessary solutions. I hope to hear a great deal more from them on these issues in the months ahead.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

VIEWS ON MONOPOLY

"Why does the American public 'tolerate' the degree of monopoly we now have," the editors of the Antitrust Law and Economics Review recently asked; "[t]he answer is they don't know about it." In an effort to inform the American public about the degree and costs—both economic and political—of monopoly, and to try, as individual citizens, to help broaden a campaign dialogue, we sent a letter containing a series of questions concerning antitrust and corporate power to every announced Presidential candidate on January 14, 1972 (sample copy attached). Since President Nixon had already stated that he would not become involved in any campaign statements, he was not included. Enclosed are replies from eight candidates: Senators Humphrey, McGovern and Muskie, Mayors Lindsay and Yorty, Representatives Chisholm and McCloskey, and former Senator McCarthy. Those not replying included Senators Hartke and Jackson, Governor Wallace (his letter is enclosed), and Rep. Ashbrook.

The issue of corporate power has recently threatened to become the equivalent of race in the 1950s and ecology in the 1960s—problems of great magnitude but all avoided in that time. Instead of ignored, the extent and impact of corporate power should be the issue of the seventies. Some towns or countries are developed while others are abandoned; trade tariffs or quotas are written; inflation worsened or eased; technology implemented or suppressed; political campaigns decisively affected; American style and taste manipulated by advertising campaigns; consumers and employees damaged by product or industrial environment hazards—all are issues intimately affected by aspects of corporate power and antitrust.

For the first time within recent memory, major candidates for the Presidency are here taking positions on these subjects. Among others, Mayor Lindsay wrote that, "The real need is for a declaration of independence—independence of government from corporate domination." Senator McGovern noted that:

"I agree with both of your premises—that the accumulation of corporate power is among the most critical issues to be addressed in 1972, and that the American people deserve to know how the candidates stand, and what they propose to do, on issues of this kind.

". . . As a practical matter, the decisions made in the board rooms of these companies (the top 200) can have as much influence on the country's directions, and perhaps more, than decisions made in the United States Congress or in the White House."

According to Senator Muskie, "the fundamental question raised by this issue must be faced by our political leadership. . . . I intend to speak to these issues in a thoughtful and comprehensive manner during the forthcoming campaign."

Considering the replies as a whole, it seems to us significant that: of seven replies concerning federal chartering as a mechanism for corporate accountability, all seven said they would support the concept or seriously consider supporting it as President; of six candidates addressing themselves to the issue of corporate secrecy, all urged that corporations disclose more of their activities to the public; of five commenting on shared monopolies (oligopolies), four favored either deconcentration suits or legislation.

The ITT-Kleindienst hearings have begun to make antitrust a word of common currency. Perhaps with the aid of this dialogue, antitrust can become more of a subject of uncommon interest to decision-makers charged with implementing or shaping the national policy for a competitive economy.

[Identical letter sent to all announced candidates]

WASHINGTON, D.C.,
January 14, 1972.

Senator EDMUND MUSKIE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MUSKIE: As the 1972 Presidential race begins, we consider it appropriate to raise with each of the announced candidates an issue whose importance is only matched by its omission during campaigns: corporate power and antitrust policy. It is a problem of intimate impact on all Americans, touching as it does the pocketbooks of all consumers. It decisively affects the level of innovation, the level of inflation, the quality of goods and services, the extent of pollution and product hazards, the role of small business and professionals, the health and safety of employees, and, of course, the prices we pay. These are all issues of magnitude and moment and all are affected by corporate power and antitrust enforcement.

Corporations are clearly a dominant presence in our lives. They account for 56% of national income; listing the top corporations by sales and the top states by general revenues, 21 of the first 25 are corporations. One hundred and eleven industrial firms have over one billion dollars in assets while six hundred have over a hundred million in assets. Our top one hundred firms control about 50% of all industrial assets, or more than what the top two hundred held in 1950, the year Congress enacted the Celler-Kefauver Act; and today's two hundred largest firms control about two-thirds of industrial assets, the same share as was held by the *1000* largest in 1941, the year the Temporary National Economic Committee (TNEC) submitted its final report to Congress recommending an "Investigation of Concentration of Economic Power."

Even more troubling than this extent of so-called aggregate concentration has been the level of actual market domination by a few firms. The best estimates put the proportion of manufacturing value added occurring in monopoly or shared monopoly industries at over 60%. And a monopoly or shared monopoly means, by definition, that competition has ceased to function; a few corporate managements, either by explicit collaboration or by cue, act in unison to keep prices high and to reduce the consumer's moneysworth. Examples of such industries are many: automobiles (GM, Ford and Chrysler), aluminum (Alcoa, Kaiser and Reynolds), rubber tires (Goodyear, Firestone, U.S. Rubber and Goodrich), steel (U.S. Steel, Bethlehem, National and Republic), soaps-detergents (Procter & Gamble, Colgate-Palmolive, Lever Bros.) and cereals (Kelloggs, General Foods).

A secret staff report now at the Federal Trade Commission estimates that "if highly concentrated industries were deconcentrated to the point where the four largest firms control 40% or less of an industry's sales, prices would fall by 25% or more." Such problems go far beyond the esoterica of economic data. They impose real costs on real people. For example: there were once numerous competing milk firms in Minneapolis-St. Paul in the mid-sixties, but only three big milk firms in neighboring Duluth-Superior; although costs were similar in both markets, the half-gallon wholesale price in 1967 was 33.8 cents in Minneapolis-St. Paul, 45 cents in Duluth.

While there was once as many as 88 competing auto manufacturers in 1921, today the "Big Three" produce 83% of all cars sold in the United States and 97% of all domestic models; industrial economist Leonard Weiss, of the University of Wisconsin, has estimated that the noncompetitive state of the auto industry costs consumers $1.6 billion. The oil import quota, by keeping out much foreign competition, permits domestic oil firms to overcharge by an estimated $5–$7 billion per year; for the family of four in New York, it means an average of $102.32 added to gasoline and home heating bills every year. While all Americans paid an average of 20 cents for a loaf of bread in 1964, consumers in Seattle paid 24 cents, or 20% more, due to a local price-fixing conspiracy.

In the aggregate, the economic cost inflicted by industrial concentration can only be described as staggering. Monopoly tends to misallocate resources and depress production. As a result, our Gross National Product is smaller than it would otherwise be. It has been recently estimated by two eminent economists, William Shepherd and F. M. Scherer, that the overall cost of monopoly in terms of lost product (or "lost GNP") is between *$48 billion and $60 billion annually.* Further, Shepherd has estimated that monopoly redistributes wealth regressively by *$23 billion annually.* How? Scherer explains that "monopoly profits realized by industrial corporations transfer income from the average consumer to the relatively rich," since it is the wealthy who own the lion's share of all publicly held stock.

"Why does the American public 'tolerate' the degree of monopoly we now have," asked the Editors of *The Antitrust Law and Economics Review;* "The answer is they don't know about it." The fault, to an extent, must lie with public officials who have failed both to bring it to public attention and to take a stand on it. Whatever the reason, it can no longer remain hidden. The results are too expensive: they provide the superstructure for much of our present inflation; they lead to Lockheed-bailout situations, where firms become so big and important that they cannot be permitted to fail; they cause the retardation of pollution technology for which we all pay the piper; they lead to the consolidation of political power with economic power; and they inspire the expansion of government controls to deal with noncompetitive and hence unaccountable markets, *viz.* Phases I and II.

Attorney General John Mitchell recognized verbally the dangers in a widely reported June 1969 speech: "I believe that the future vitality of our free economy may be in danger because of the increasing threat of economic concentration by corporate mergers. . . . The danger that this superconcentration poses to our economic, political and social structure cannot be overestimated." More recently, Congressman Emanuel Celler has introduced a bill to consolidate and enhance the antitrust enforcement powers of the Justice Department and the Federal Trade Commission.

Senator Fred Harris has introduced a bill to decentralize our major monopolies into more efficient and competitive units. Senator Philip Hart, Chairman of the Senate Antitrust and Monopoly Subcommittee, has announced that he intends to submit his own version shortly. The Federal Trade Commission is on the verge of issuing a complaint charging the three biggest cereal companies with being an illegal shared monopoly.

All the foregoing, however, are just proposals. There are other proposals pushing in the pro-monopoly direction. The Nixon Administration has hinted for months that antitrust laws should be eased in order to permit mergers of domestic firms to improve their competitive position with their foreign competitors. It is anticipated that President Nixon will make just that recommendation in his State of the Union Address. But it has already been done for him by Senators Warren Magnuson and Daniel Inouye, who have introduced a bill which basically exempts export cartels from the reach of the Sherman Antitrust Act.

These and related issues all warrant the response of those public officials who seek the Presidency, that office best situated to change the thrust and pace of our antimonopoly enforcement. A Presidential campaign should candidly bring to the citizenry the great issues of the day and citizens, as well, should have an opportuntiy to stimulate such a response. We respectfully request, therefore, that you reply to the following questions. Our purpose is to compile the answers for distribution to interested citizens and press. We believe that the compiled answers will prove helpful to the American consumer in evaluating this vitally important matter.

(1) What our your views on the legislation proposed by Congressman Celler (H.R. 12004), and Senators Warren Magnuson and Daniel Inouye (S. 2754)? Do you favor the deconcentration of large shared monopolists—General Motors, for example—as would be accomplished by Senator Fred Harris' bill S. 2614?

(2) Do you agree with the antitrust enforcement policy of Presiden Nixon's Justice Department that conglomerates can and should be sued under prevailing antitrust doctrine but that shared monopolies cannot and should not be?

(3) Senator Nelson is holding a series of hearings inquiring into corporate secrecy. Do you think corporations should systematically make public, except in limited trade secret situations, the following information:

Profit and loss statements by product line;

Amount of pollution emissions and effluents for all product lines and plant facilities;

Occupational injuries and diseases suffered each year by type and number of employees affected;

Listing on the container or product the name and amount of all ingredients in the product;

Product testing, including test methodolgy, selection process and results, for every product marketed;

Public files of all consumer complaint letters, and documentation pro and con for all product hazards discovered internally or identified and alleged by outside parties;

Factual substantiation of all advertising claims.

(4) Do you think a new TNEC investigation should be called to probe and publicize economic concentration in America today?

(5) If elected President, would you consider supporting a Federal Chartering Act, which would require that large corporations doing interstate business get their corporate charters from the national government, rather than from the individual states as now?

(6) What are your general views regarding problems and solutions to corporate power and monopoly? What do you think of the following mentioned methods to achieve corporate accountability:

More "corporate democracy" and "shareholder rights";

Stronger and more frequently imposed white collar criminal sanctions;

More and better antitrust enforcement;

More and better health, safety and rate regulation;

"Public enterprise" (Comsat, Amtrak) or nationalized industries;

Appeals to corporate responsibility on the part of corporate managers;

Internal corporate due process to protect dissenters and to preserve constitutional rights of all employees.

Thank you for your considered responses.

Sincerely yours,

RALPH NADER,
MARK GREEN.

U.S. SENATE,
Washington, D.C., February 29,1972.

MSSRS. RALPH NADER and MARK GREEN,
Washington, D.C.

DEAR SIRS: Your letter concerning corporate power and antitrust policy asks pointed and probing questions on a subject of great importance that has been of concern to me for many years. Although I have not been able to analyze the details of all the statements in your letter, I am in basic agreement with the view that there must be limits to concentrations of economic power and that antitrust enforcement should be a major means of limiting such concentrations of power. Furthermore, I agree with the premise that the maximization of consumer welfare is the talisman—not the value of small or big enterprise for their own sakes, but the production and delivery of a diversity of quality goods at low prices.

The subject is a vast, technical and complex one (as the length of your study report indicates) and would require a lengthy analysis for complete discussion. I am unable to provide that. I can, however, provide you with relatively brief answers to your specific questions.

(1) Your first question refers to three altogether different legislative proposals. H.R. 12004 was introduced by Congressman Celler to deal with economic concentration by setting up an administrative organization to control large corporate mergers, acquisitions and interlocking relationships. Your letter refers to this as "a bill to consolidate and enhance the antitrust enforcement powers of the Justice Department and the Federal Trade Commission." That conclusion is in question. The bill creates a new Office of Industrial Organization under a cabinet level Administrator; it repeals Section 2 of the Sherman Act, Section 11 of the Clayton Act, and all of the major regulatory statutes. The net effect of these changes is to take a very substantial part of the antitrust enforcement power away from the Department of Justice and the Federal Trade Commission and lodge it in the Administrator of the new Office of Industrial Organization. It is open to question whether this will increase the efficiency or effectiveness of antitrust enforcement or merely add a third agency to the two now engaged in antitrust enforcement. There have been no hearings on this bill yet, so we do not have the benefit of comments from the Department of Justice or the FTC. In any event, I would want the comments of my Attorney General in the next administration and other experts before approving such a major reduction in the enforcement powers of the Department of Justice.

The substantive provisions of the Cellar Bill are similar in many respects to existing antitrust statutes, but do contain some provisions that may be an improvement in existing law. The proposed prohibitions on interlocking directorships and officerships, for example, go considerably beyond the present provisions of Section 8 of the Clayton Act and seem to be a distinct improvement. On the other hand, the provision for direct appeal of antitrust cases exclusively to the Supreme Court is retained.

Nearly all scholars who have studied this subject, including the Supreme Court itself and the Assistant Attorney General in Charge of the Antitrust Division under both Democratic and Republican administrations, have all concluded that this is an outmoded procedure which actually handicaps antitrust enforcement. In most cases, a Court of Appeals is able to give more expeditious and thorough review to a case than the Supreme Court, and for many years the Department of Justice has advocated eliminating or modifying this provision. This is a technical matter that illustrates the difficulty of now stating before hearings an overall judgment on this bill in its present form.

S. 2754, introduced by Senator Magnuson and Senator Inouye, is a very long and comprehensive proposal to expand U.S. exports. The bill, I notice, has 13 titles relating to such subjects as the establishment of an International Commerce Service (similar to the State Department Foreign Service), establishment of a Trade Development Corps, grants to state and local governments, an export trading program, regional American merchandise centers, export commercial paper, ocean freight rate disparities and other related matters. Many of these provisions seem worthwhile and the sections dealing with ocean freight rate disparities strike at a long standing abuse.

However, since the focus of your letter is on antitrust, I assume that you are concerned with the provisions dealing with chartered export associations. This title would give exemption from the antitrust laws to chartered export associations. This title would give exemption from the antitrust laws to chartered export associations approved by the Secretary of Commerce. It is similar to but broader than the present Webb-Pomerene Act. I am told that the Department of Justice has presented testimony on this bill criticizing provisions of Title VII and opposing their enactment.

I am inclined to oppose these provisions, but neither my staff nor I have been called upon to study the bill since it has not yet reached the floor, and I would want to see if there is persuasive evidence that the bill is in the national interest by stimulating trade and assisting our balance of trade position. The notion that there should be a favorable balance of payments is, of course, at the root of the Magnuson proposal, but reducing competition and hence output and efficiency is neither the means to the end nor a price worth paying. Reducing competition is simply not the way to make industry capable of producing efficiently, having effective research, adopting dynamic marketing techniques, and so on.

S. 2614, introduced by Senator Harris, is a bill which embodies recommendations of the White House Task Force on Antitrust Policy.

In introducing the bill, Senator Harris said that in his view all of the evils at which the bill is aimed are "already illegal under existing antitrust law." The FTC has recently brought suit against the four largest manufacturers of breakfast cereal on what is reported to be a theory of "shared monopoly" or oligopoly in action. There will, of course, be hearings on this bill before it is presented for legislative action. I will want to study and weigh the testimony and evidence of the hearings on the bill, as well as observe legal and economic developments in this area, in order to determine the need and desirability of such legislation before it is presented to me for action.

(2) The conglomerate problem involves primarily a concern for bigness and for concentration of wealth and the political and social power which accompanies such concentrations. And, the present Attorney General and the recent Assistant Attorney General in charge of the Antitrust Division have made some stirring speeches about the dangers of monopoly and economic concentration. However, their record has been considerably less impressive than their speeches. It has been a record of lost motions, moot questions, consent decrees, lost cases. The present Department of Justice has demonstrated that it can start antitrust suits against conglomerate mergers.

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The FTC has recently shown that it can start proceedings against companies having "shared monopolies," hardly a new doctrine. It seems to me that the facts speak for themselves. The antitrust laws, like most other laws, are enforced effectively not by speeches or filing a few headline making cases, but by continuous, vigorous, fair and effective enforcement, day after day and month after month. This is the kind of anti-trust enforcement I favor and will provide, and, in the long run, this is the only way to make the laws effective.

(3) I favor full disclosure of all information that may be significant or useful to consumers and to those concerned with effective operation of the economy. There should certainly be encompassing and effective laws or regulations requiring the disclosure to consumers of the identity, ingredients and significant characteristics of products. We must recognize that implementation of this principle is complicated and difficult, but we have made substantial progress in this area over the years and I'm confident that a new administration, truly responsive to consumer needs, can secure the promulgation and enforcement of effective laws and regulations requiring factual disclosures to consumers on labels and containers and substantiation of factual advertising claims.

With respect to a financial statement by product lines, such information may in fact enable the government better to ascertain where markets are monopolistic. With respect to the amount of pollution emissions and effluents for all product lines and plant facilities, this kind of information should be made public. Occupational inquiries, product ingredients, and product testing information should be made public. Public files of consumer complaints and factual advertising substantiation ought to be made public.

But we must recognize that the way to get disclosures on all of these categories is by having an administration dedicated to the public interest which will staff the departments and agencies with energetic and like-minded officials. If new laws should be needed to require disclosures necessary to protect consumers, workers or the public, I will not hesitate to advocate and actively seek appropriate legislation.

(4) A White House Task Force on Anti-trust Policy was appointed by President Johnson and rendered a report in July 1968. A Task Force on Productivity and Competition was appointed by President Nixon and rendered a report in February 1969. Neither report has received much attention or study and from all appearances the present administration has sought to bury both reports. There has been no discussion of either report by a responsible spokesman of the present administration.

It seems to me that there has been too much of a tendency to appoint a study group and thereafter ignore it altogether. Certainly that has been the case in this administration. On the other hand, the two White House Task Forces have engaged only in surveying published work and rendering their own analysis and expert opinion. Although a great body of literature does exist, I do think that there should be a new effort to gather factual evidence regarding the question of economic concentration in the United States today.

More studying, however, ought not to hold up taking action when evidence is clear. I do not have a firm opinion whether this additional investigation can best be done by establishing a new commission, on the model of the TNEC, or by utilizing some one or more of the existing agencies on Congressional committees. I think that this is a subject for investigation and would certainly insist upon having current factual evidence on this subject gathered as a basis for decision and action by federal agencies.

(5) The question as to whether there should be a Federal Chartering Act for large corporations doing interstate business implies that the powers of the federal government to regulate corporate activity in interstate commerce are subject to legal limitations. I am not a lawyer, but it seems to me that the decisions of the Supreme Court in recent years have held that the federal government has all the authority that it needs to achieve any social objectives with respect to corporations engaged in interstate business. Is there a special purpose in having a corporation chartered by the federal government rather than by one of the states?

The important issues involve substantive matters with respect to conduct that is permitted, require or forbidden. The substantive laws are, of course, enacted by Congress and the issues have not concerned the power of the federal government to act but rather the desirability of proposed kinds of government action. I am not aware that any of the substantive problems will be simplified by the adoption of a Federal Chartering Act. If that should prove to be the case, and if it appeared that there were problems which required the federal chartering of large corporations, I would certainly support such a statute.

(6) In general, as indicated above, I believe that there must be limits set to the concentration of economic power and monopoly and that we must have sustained and vigorous enforcement of the antitrust laws in order to achieve this. However, the anti-trust laws are not, by themselves, adequate to insure either the structure or the performance that we desire in our economy. There are many other provisions of law and government action that are also important. For example, the tax laws have done much to encourage mergers and acquisitions. It is quite possible that appropriate revisions in the tax law may be as effective, or more effective, than anti-trust prosecution, in determining large corporate mergers.

Certainly corporations, as large aggregations of economic power, should have internal due process to protect the rights of their employees as well as their stockholders, and we should have more corporate democracy and greater legal concern for the rights of both employees and stockholders.

I am in favor of more and better health, safety and rate regulation, as well as more and better antitrust enforcement. Ultimately we must have a widespread recognition by the majority of corporate managers that business has a social responsibility, as well as the opportunity to earn a profit. We can accomplish much by laws and law enforcement. However, there are limitations to what can be accomplished by laws and law enforcement. In order to achieve the best of which we are capable, we must have leadership by the government together with an active sense of social accountability by responsible citizens and business leaders. Business, business leaders and other citizens must demonstrate a willingness to assume the full burdens of social responsibility in achieving the social goals which most of us share.

Sincerely,

HUBERT H. HUMPHREY.

U.S. SENATE,
Washington, D.C., February 29, 1972.

Mr. RALPH NADER and Mr. MARK GREEN,
Corporate Accountability Research Group,
Washington, D.C.

DEAR RALPH AND MARK: Thank you very much for your letter inviting my views on the trend toward economic concentration in the United States.

I agree with both of your premises—that the accumulation of corporate power is among the most critical issues to be addressed in 1972, and that the American people deserve to know how the candidates stand, and what they propose to do, on issues of this kind. I am, therefore, presently preparing a detailed series of recommendations to deal with economic concentration. I hope you will regard what I have to say now as an interim response to your questions, and that you will also examine the more detailed recommendations I will be making in the weeks ahead.

(1) The Celler Bill to bring the anti-trust enforcement powers of the Justice Department and the Federal Trade Commission into a single unit would be a useful step, and I support it. However, this must be done under terms assuring that the new agency will be completely independent of political pressures.

I am opposed to a special anti-trust exemption for export firms as Senators Magnuson and Inouye have proposed, first because it would deny protection to our own consumers and domestic competitors and, second, because it could create as many problems as it would solve with respect to foreign competition. We have sufficient experience to know that monopoly power tends to worsen problems of inefficiency.

I have joined as a cosponsor of S. 2614, and it has my full support.

(2) I do not. Shared monopoly is much more of a threat to competition than the conglomerate, and that, rather than artificial organizational distinctions, must be the ultimate test in determining whether anti-trust enforcement should be applied.

(3) Yes. Corporate secrecy should be sharply limited to cases in which the information bears on trade or marketing secrets and in which release would deny the company a competitive advantage it has earned. All of the subjects listed are appropriate for shareholder and public review. As you may know, I have introduced legislation requiring substantiation of advertising claims and product testing.

(4) Yes. Although there may be better vehicles than the Temporary National Economic Committee used in 1941, I would support a current thorough investigation of economic concentration and its implications.

(5) Federal chartering would be of limited value in the abstract, but it could serve as an important vehicle for enforcing public interest limitations on corporate activities. Unlike the extremely liberal acts of most states, a Federal Chartering Act would have to be carefully drawn to achieve those results. In addition, I would consider federal chartering as a supplement to state statutes, rather than a substitute, to permit state regulation as well.

(6) The trend toward economic concentration raises at least two issues for serious debate and action.

First is the decline in competition itself, and the harmful consequences which follow from that trend—rising prices, a lack of innovation, inefficiency, and industrial stagnation. We have long since made the value judgments on this issue, and we have chosen in favor of protecting free enterprise against monopoly and monopolistic practices. The priority need here, therefore, is for better enforcement of existing anti-trust laws and for new legislation, where necessary, to account for changes in the nature of the economy and for methods of bringing about the results of monopoly which could not have been contemplated during consideration of the original Sherman and Clayton Acts.

On the second issue we have really made no value judgments, except by default. I refer here to the role played by the large corporations in both defining and shaping our political and economic institutions, and it is an issue which should concern us regradless of whether or not competition can be preserved.

Government thus far has made no attempt to regulate or discourage bigness *per se;* in fact the most passionate arguments have been made against efforts of that kind.

But it seems to me that there are profoundly important reasons for at least examining

what it means when just six firms receive one quarter of all manufacturing profits, or when 200 firms control two thirds of all industrial assets. As a practical matter, the decisions made in the board rooms of those companies can have as much influence on the country's directions, and perhaps more, than decisions made in the United States Congress or in the White House. Further, because of traditional methods of political financing, those companies have had the power to assure that their interests will be protected regardless of what else government does, and regardless of which party is in office. And protection of their interest can easily mean neglect of important public needs.

One way to respond to this growing corporate power is for the Federal government to use its own considerable influence as the country's biggest consumer, as has been done to some extent with respect to automobile safety standards. Federal procurement standards can certainly influence corporate priorities. They could also have a bearing on corporate size, and on such problems as runaway industries.

But in any case, considering the whole of our economy, I am not philosophically ready to say that such bigness is either inevitable or acceptable. I do not welcome the trend toward proportionately fewer independent entrepreneurs and proportionately more dependent employees because I think it has a negative impact not only on the goal of a free economy but also on the nature of our polical and social systems.

On the specific points you raised:

(a) There is certainly room for improvement in the area of shareholder rights, including access to information of the kind discussed in an earlier question. At the same time, however, I do not see much of value to be gained by attempts to remake the corporate structure in the image of political democracy, in order to influence its decisions in favor of the public interest. Certainly the public interest should be raised in corporate decisions, and that is one reason for favoring the inclusion of public directors on corporate boards. But we have to recognize, too, that the essential purpose of these institutions, and the reason shareholders invest in them, is to make money. It is probably futile and also unreasonable to expect them to perform the government's role as well. If government offers profits in exchange for the production of napalm, for example, I think it misses the mark to assign the primary blame to the corporation rather than to the government. To cite another case, it is at best a chancy proposition to expect that an industry which pollutes air and water will voluntarily end those practices so long as they are permitted by government. We urgently need government that is more responsive in these areas, and I intend to press for that goal. It is more realistic and more attainable than seeking corporations which are willing to regulate themselves.

(b) It is ludicrous to expect maximum fines of $50,000 to deter crimes which can net millions of dollars. It makes far more sense to deny the violator any benefit than to levy fines of treble damages, or, where appropriate, to impose prison terms on top of economic penalties. The fact that prison terms have been given on only three occasions in the entire history of anti-trust enforcement clearly documents the need for more rigorous application of existing sanctions.

(c) The consolidation of anti-trust law enforcement agencies could accomplish a great deal within the context of existing law. Since the decision as to whether or not to prosecute these cases is so obviously susceptible to political pressures, such decisions should not be made by political appointees serving at the pleasure of the President.

(d) I agree on each point. The Occupational Health and Safety Act has been a severe disappointment thus far from the standpoint of all parties, and it needs both revision and more vigorous implementation. Similarly, existing regulation on rates is exceedingly uneven at best. In many cases it appears that regulatory commissions exist to ratify and legitimatize, rather than to prevent, excessive rates.

(e) This may be appropriate in some areas, particularly in the few instances—such as power generation and transmission—where competition is not a practical alternative, and where the public interest is deeply invalued. I would, however, generally prefer steps to preserve and restore competition where that can be done.

(f) Such appeals should certainly be made, but they cannot effectively substitute for government steps to remove the profitability from or prohibit activities which are contrary to the public interest.

(g) The nation's labor unions have accomplished a great deal in this respect. I am still studying the question of whether it would be appropriate for the Federal government to adopt legislation extending similar rights to that proportion of the work force which is not unionized, and I have not yet reached a conclusion.

With every good wish, I am

Sincerely,

GEORGE MCGOVERN.

U.S. SENATE,
Washington, D.C., January 27, 1972.

Messrs. RALPH NADER and MARK GREEN,
Washington, D.C.

GENTLEMEN: Thank you for your letter of January 14 concerning economic concentration in the United States. I am glad you have raised these issues of paramount importance to our society. I, as well as you, feel that the fundamental question raised by this issue must be faced by our political leadership.

I have been concerned about these issues and my staff has been doing intensive research on them. I intend to speak to these issues in a thoughtful and comprehensive manner during the forthcoming campaign.

I also shall answer your detailed questions in the very near future, as soon as I can give some thought to them.

Sincerely yours,

EDMUND S. MUSKIE,
U.S. Senator.

U.S. SENATE,
Washington, D.C., February 4, 1972.

Messrs. RALPH NADER and MARK GREEN,

GENTLEMEN: I would like to respond to the questions you raised in your letter of January 14 concerning my position on the concentration of industry and on antitrust policy. Because you have asked specific questions, I shall make my response to them as brief and to the point as possible.

As I noted to you in my interim response to your letter, I intend to discuss the question of competition and monopoly in the forthcoming campaign.

In answer to your specific questions:

1. Congress clearly needs to reexamine the antitrust laws in the light of present day realities and revise them as necessary to provide the tools to deal with the problems of economic concentration. Also enforcement of present antitrust laws must be more vigorous and more consistent. I feel that Section 2 of the Sherman Act and Section 5 of the Federal Trade Commission Act can be used effectively to combat the problem of concentration. I have under study proposals that will address the need of further legislation to deal with the problem of economic concentration.

2. I feel that prevailing antitrust doctrine permits suits against conglomerates as well as the so-called "shared monopolies" or oligopolies. The present action of the FTC against cereal manufacturers is a good example.

3. I agree that corporations should make public, subject to the limitations to which you refer in your question, all of the seven categories of information you list in your third question.

4. I very much favor a new TNEC investigation to focus public attention on the question of economic concentration.

5. If elected President, I would consider supporting a Federal Chartering Act.

You know of my commitment to increased corporate responsibility. The methods you suggest are useful tools toward that end, although public ownership may be appropriate in particular cases, like Comsat, but not in others.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York City, N.Y., March 7, 1972.

Messers RALPH NADER and MARK GREEN,
Washington, D.C.

DEAR MESSERS. NADER AND GREEN: Enclosed is my response to your questionnaire on Corporate Power.

With best wishes.

Sincerely,

JOHN V. LINDSAY.

STATEMENT BY JOHN V. LINDSAY ON CORPORATE POWER AND ECONOMIC CONCENTRATION

During the six years I have served as Mayor of New York City, I have become increasingly aware of the costs of concentrated power in America—public and private. Unchecked private power, no less than arbitrary public power, seriously threatens a free society. The antidote for both involves diffusion of power, disclosure of information needed to make intelligent choices in the public and private marketplace, and access to decision-making by those most directly affected by it.

In the last five years New York City has pursued more vigorously than any government in the nation a campaign to protect the public and the consumer from unfair or unwarranted actions of business.

We have established the first Department of Consumer Affairs in the nation, which has enacted tough regulations to give consumers the information and tools needed to stand on an equal footing with industry. These include strong rules against deceptive advertising, the country's first municipa, unit-pricing law to enable consumers to shop comparatively, and an open-dating law to give consumers full information about food freshness.

We have established in that Department an Office of Consumer Advocacy, authorized to bring class actions on behalf of aggrieved consumers.

We have been the first City in the nation to establish a Consumer Protection Division within its Department. We have instituted over 20 anti-trust cases and secured millions of dollars of refunds for consumers, including $37 million from price-fixing drug companies.

We have brought suit against unjustified telephone rate increases and demanded that any such increases be linked to service.

We have established a cabinet-level committee, with full time staff, to monitor the City's public utilities and represent users before regulatory commissions, the first effort of its kind by any city in the nation.

We have brought consumer protection programs to the people through neighborhood offices to assist individual consumers in gaining redress from offending businesses.

We have scrutinized, scaled down, and, in some cases, rejected plans for construction of electric power plants, in order to preserve the quality of New York's environment.

We have cast the shares in New York City's pension fund on behalf of the corporate responsibility proposals submitted by

Campaign GM, the only government in the nation to do so.

Many of the needed reforms of big business, however, are beyond the range of even the most active local government. The growing concentration of economic power has become one of the root problems of the American economy. In industry after industry, the basic decisions that shape our economic lives—decisions on wages, prices, product quality, product safety, and pollution—are made not by the anonymous forces of the marketplace, but by a handful of corporate executives.

Instead of acting as a check on big business, the federal government has too often acted as its silent partner. One by one, steps taken to control private power have been undermined and diluted. The anti-trust laws have never been systematically directed against "shared monopolies." The securities acts of the New Deal have made corporations disclose information needed by investors, but have left vital public questions unanswered. The regulatory agencies have shielded some industries from competition rather than subordinating them to the public interest.

Last year, President Nixon spoke of a "New American Revolution"—which turned out to be no more than a reshuffling of federal bureaucracies. The real need is for a declaration of independence—independence of government from corporate domination. It must include the following guarantees:

1. *Corporate Information and Disclosure:* The executives of some of our largest corporations have as much discretionary power over the lives, lungs, and pocketbooks of American citizens as do our Governors. Yet it is often impossible for public officials and private citizens to probe the soundness of those decisions because they are cloaked in secrecy. Corporations should, of course, be permitted to preserve legitimate trade secrets. However, they should be required to disclose information dealing with the public impact of their private decisions.

Specifically, I propose a Corporate Freedom of Information Act which would require an *annual report to the public* with the following information:

1. Profit and loss by product line;
2. An Environmental Impact Statement specifying the amounts and kinds of pollution discharged;
3. Job-related employee health and safety data;
4. Contents of each product as well as the unit price where appropriate (which would also be listed on the product container);
5. Results of product testing;
6. Factual substantiation of advertising claims;
7. Consumer complaints, recognized product hazards, and records of recoveries by consumers in defective product suits.
8. Corporate lobbying expenses and all contracts with government officials involved in decisions affecting the company.

In addition to opening up corporate decision-making to public scrutiny, government decision-making involving the regulation and supervision of business should be taken from behind closed doors. Anti-trust settlements, private rate-making, and the formulation of regulatory policies are particularly susceptible to political interference and should therefore be placed on the public record.

2. *Anti-trust and deconcentration:* The anti-trust laws must be made to apply to the giant "shared monopolies"—great corporations which co-ordinate their prices and thereby extract a premium from the consumer's dollar.

There is considerable support for the proposition that existing anti-trust laws can be effectively employed to proceed against oligopolistic industries. However, to the extent that existing legislation is inadequate, I support new legislation to give the government a clear mandate to proceed against "shared monopolies." I support the recommendations of the Neal Task Force on Anti-Trust, empaneled by President Johnson, that the growth of the handful of mammoth corporations which control some of our most critical industries should be stopped and their power reduced. I subscribe to the basic objectives of the Harris bill.

I also endorse the general approach of the proposals to shift the burden of justification to corporations proposing mergers with significant economic impact. This will provide a useful tool for anti-trust enforcement.

I am not convinced however, that removing enforcement power for structural anti-trust offenses from the Justice Department and the FTC and establishing a new Office of Industrial Organization, will provide substantial benefits. The only guarantee of a vigorous anti-trust policy is a President thoroughly committed to one and a public that is aware of its stake in anti-trust enforcement. An anti-trust President will appoint an anti-trust Attorney-General and ensure an anti-trust Justice Department.

I oppose any effort to broaden the anti-trust exemption for export cartels and, instead, call for repeal of the special provisions allowing such cartels.

The alarming concentration of two particular industries—energy and agriculture—deserve special attention. Oil, gas, coal and atomic fuel ownership is becoming increasingly mingled, under the benevolent gaze of the Federal Power Commission. New legislation may be necessary to divest this common ownership wherever feasible. The entry into agricultural production by giant, non-farm conglomerates threatens the existence of the small and efficient independent farm in America. I support the legislative proposals to prohibit vertical integration into agriculture by large, non-farm corporations and force the divestiture of existing agricultural holdings by these corporations.

The Nader questionaire suggests a new set of national hearings modeled on the TNEC hearings on economic concentration held in the late 1930's. I propose a broader investigation, into the nature and extent of corporate power, not simply within particular industries but in the economy as a whole. The investigation should encompass:

1. The conglomerate merger movement;
2. Economic concentration through vertical and horizontal integration;
3. Economic effects of state and federal regulation in communications, power, oil, agriculture, shipping, ground transportation, airlines, professional regulation, and other fields;
4. Corporate involvement in government decision-making, including the extent of corporate lobbying and expenditures in political campaigns;
5. Tax, subsidy, and tariff concessions enjoyed by corporate interests.

Such hearings should be—as a matter of law—undertaken every ten years.

1. *Regulation and subsidization:* A Senate committee recently estimated that the federal government gives out $63 billion in subsidies every year—a major fraction to narrow business interests. These subsidization policies have often developed without extensive public debate and are often maintained long after their original purpose has been exhausted. As a result, they are often contradictory, dysfunctional, and counter-productive. Oil companies, shipping companies, agri-business corporations, and trucking firms are among those who receive a generous boost from the American taxpayer.

Other regulatory policies have the effect of transferring money directly from the consumers pocketbook to the bank accounts of favored industries. Government-imposed oil import quotas nick every American family for over $100 a year. A government-sponsored price fix for truck transportation raises the cost of virtually everything we buy and use. Airline tickets cost more because the government fences out competition. Telephone charges increase constantly while a basic re-examination of the phone company by government gets bogged down in intra-governmental buck passing.

I propose the following:

The abolition of oil import quotas as recommended by President Nixon's own Task Force and vetoed by the White House.

A thorough and comprehensive review of federal subsidies—direct payment, tax loss, and in-kind services—to determine which are essentially private windfalls and must be abolished or modified.

Elimination of minimum rate regulation and entry controls for all forms of transportation—air and surface.

A strengenthened FCC investigation of ATT rates with the full cooperation of all government agencies.

Tighter regulation of large, national corporations is imperative. Because of their pervasive impact on our lives and their deep involvement in government, they have become, in many cases, essentially "quasi-public" entities. Such regulation—over the social impact of corporate decisions, over the scope of shareholder rights, and over public access to corporate information—can only be accomplished on the federal level. It can be carried out either under the rubric of federal chartering or by special legislation, such as the Corporate Freedom of Information Act, the "shared monopoly" legislation and the other legislative proposals I have suggested. The practicality and value of federal chartering as the method to achieve tighter regulation deserves serious consideration.

Effective Consumer Remedies: As long as the marketplace is an ineffective mechanism for protecting the consumer, new methods must be devised to ensure that he will not be victimized by excessive corporate power. I support:

Legislation to facilitate the initiation of consumer class actions.

A Federal Consumer Protection Agency, with the power to intervene on behalf of consumers before all federal agencies and the ability to bring class actions on behalf of consumers.

The encouragement of public interest advocates by permitting the deductability of contributions to such tax exempt entities and permitting public interest law firms to pursue litigative strategies without endangering their tax exempt status.

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 18, 1972.

Mr. RALPH NADER and Mr. MARK GREEN,
Washington, D.C.

DEAR MESSRS. NADER AND GREEN: I am pleased to respond to your letter of January 14, discussing corporate power and anti-trust policy in America. I am, of course, very familiar with your work in this area and want to take this opportunity to note how great a debt is owed to you by the unemployed, the working man and the consumer of this nation.

My campaign is based on many of the assumptions which your previous work and your letter support. At the heart of my campaign is the conviction that the concentration of economic power and wealth in America is largely responsible for many of the internal social problems we face today, and that the Nixon Administration, so closely allied to and dependent on big business, is either unwilling or unable to act effectively for the public benefit.

My position papers will elaborate on this theme. In the enclosed copy of my economic policy position, I have called for increased corporate income taxes as part of major tax reform. The enclosed position paper on our criminal justice system calls for greater attention to white collar crime including price-fixing, perjury, bribery, and antitrust policy, and the environmental policy paper documents the servile knuckling under of the Nixon Administration on pollution matters. Other position papers on health and consumer affairs will similarly show how great is the influence of big business on all facets of American society and our foreign policy as well. Copies of these papers will be forwarded to you as soon as they are published.

I stand on such a platform with the knowledge that the leading candidates for the Democratic nomination, according to the polls, may well eventually find themselves beholden to wealthy, corporate contributors whose influence could remain considerable during their administrations. I offer my candidacy without the endorsements or support of the rich, feeling myself to speak out candidly and realistically on the key issues.

I address myself to your specific points, which rightly provide for the dispersal of economic power and greater governmental authority to force changes in the structure of our economic institutions.

(1) I support and will vote for Congressman Celler's Corporation Control Act, H.R. 12004. I expect to oppose S. 2754. I most emphatically support Senator Harris' bill, S. 2614, and will work for the deconcentration of large shared monopolists.

(2) No.
(3) Yes.
(4) Yes.
(5) Yes.

(6) I support each and every one of the methods you suggest. May I note that I have doubts about the likely success of our "public enterprises" such as Comsat and Amtrak. The superior performance of the nationalized railroad system in Europe suggests that nationalization be seriously considered for such enterprises here. You have proposed, I believe, that corporate managers be made personally liable for corporate responsibility. To some extent, as you may know, this idea is already in practice in Italy where I understand owners and managers have been jailed for pollution offenses. I feel this proposal has real merit.

May I close with the comment that I am devoting my political career to turning this country around, to reversing its priorities and ending the unfairness, injustice and inequality which permeates our national life. In dedicating yourselves to the same cause, you give me the confidence to believe that this effort can succeed, despite the enormity of the task. I earnestly hope your letter and related activities will encourage more political figures to begin to challenge the political and economic power of the corporate state, and its ability to impose its will on the Nixon Administration and its distorted values on the American people.

Sincerely,

SHIRLEY CHISHOLM,
Member of Congress.

SHIRLEY CHISHOLM SPEAKS OUT

PRESIDENTIAL CAMPAIGN POSITION PAPER NO. 4—THE ECONOMY

The disastrous performance of the economy under the Nixon Administration can be largely understood as the result of the Big-Business orientation of this government and its utter disregard for critical problems of the consumer, the worker, and the unemployed poor. Millions of low-income Americans have deeply suffered from the Nixon Administration's callous handling of the economy. The Nixon recession has, of course, created tragic side effects—increased crime, increased welfare rolls, and widespread despair among the poor and unemployed of America over the moral intentions of this Administration.

More and more Americans now realize how close is the Nixon Administration's alliance with the huge corporate interests of this country. They remember clearly when, six days after his inauguration, President Nixon announced that the government would not intervene in price and wage discussions. They remember very clearly when the Administration calmly admitted that an increase in unemployment in America would be necessary to reduce inflation. The result of this passivity towards the rich, on the one hand, and this incomprehensible coldbloodedness toward the worker and the poor on the other, has been the worst possible economic crisis—virtually complete economic stagnation, increased and continuing inflation, record-high unemployment, the first trade deficit since 1893, a huge balance of payments deficit, a world monetary crisis and forced devaluation of the dollar.

The economic record of this Administration is very clear, and its statistics are appalling for the average American taxpayer. The cost of living in America has risen under this Administration at a rate double that during the previous Administration. Food prices have skyrocketed, the cost of owning a home has soared, medical and hospital costs have shot beyond control. Local transit fees have gone up 18%. Basic commodities such as copper and steel mill products increased in the first year of this Administration to the percentage increase during the entire eight-year period from 1961–8.

Nixon policies have caused the largest increase in unemployment in over a decade, an increase from 3½% to over 6% of the labor force, or 2 million jobless workers. The unemployment rate for construction workers has more than doubled. The unemployment rate for manufacturing employees has almost doubled. The number of workers forced to live on unemployment compensation has doubled. The unemployment rate for Black Americans has climbed to over 10%. Black teenage unemployment is at an intolerable 38%. There is little sign that this aloof Administration has any real concern for the personal impact of unemployment in terms of relatives out of work, or for its social impact in terms of Black and youth unemployment.

While prices have soared and the low-income worker has lost his job, the Nixon Administration's bungling has virtually halted this nation's economic growth. The industrial production index fell steadily during the past 3 years and the real Gross National Product declined. The cost of borrowing has risen at an alarming rate with interest rates soaring to the highest level in 100 years. Housing construction has fallen more than 20%. State and local governments have been unable to borrow for vital public projects, so they have had to close schools or saddle taxpayers with burdensome interest costs.

The Nixon recession represents the fourth major recession of the past 20 years—all having occurred under Republican Administrations. At the root of it all is the unique, privileged relationship which these Administrations have enjoyed with this nation's giant corporate and industrial interests, whose arrogant power has for too long been permitted to control Washington and thus, all our lives. In the time-honored Republican tradition of "what is good for General Motors is good for the country," this Administration refused to act when, at the outset of its first year in office, big business cooly and confidently proceeded to announce huge price increases on a wide range of products. As prices began to rise along the entire economic front, the Administration then began to cut back on government spending in an effort to cool the inflation.

Which were the federal programs to be cut? Federal assistance to libraries and related community services, education centers, aid for handicapped children, bilingual education, community health centers, medical libraries, and health research facilities, assistance to medical schools, and consumer assistance. Jobs in these vital fields were abolished, and people were thrown out of work. The Job Corps Program has been substantially reduced and the Office of Economic Opportunity is being gutted.

At the same time, this Administration energetically pushed those wasteful and enormously expensive programs benefitting its big business constituency—the ABM, SST, the C5A, Lockheed, highway construction, and unjustified subsidies for corporate farms.

By slashing domestic programs, by continuing the 10% income tax surcharge, and by its tight money policy of high interest rates, the Nixon Administration sacrificed the ambitions and energies of millions of low-income Americans, those who could least afford to bear the burden of such a sacrifice.

We had heard much in the 1968 campaign of Nixon promises of jobs and training for Black Americans, and of his "firm" support for "Black Capitalism." One look at the record and at the ghettos of America's cities shows the utter emptiness of those campaign promises. The only action by the Administration to promote "Black Capitalism" was the creation of an office of Minority Business Enterprise in the Commerce Department, an office with no authority to make loans or to fund or supervise programs. One after another of the helpless officials of this program have, not surprisingly, been forced to quit.

With the Nixon Administration having virtually destroyed any hope for improvement in the miserable economic position of the poor and the low-income worker, Congress acted. It passed a law to provide hundreds of thousands of immediate jobs to the unemployed—and the President vetoed it. Congress passed a bill providing Day-Care Centers for children, whose mothers could then join the work force, and the President vetoed it too.

The Administration then turned around and, showing where its real interests lay, acted to give billions of dollars of tax relief to business via the 10% investment credit, on top of its $4 billion a year depreciation "reform." The President killed an effort to limit political campaign contributions by the rich, in full knowledge that he will count on these huge sums to buy his re-election next November. So this incredible story ends—with the chairman of the board of General Motors earning a salary of ¾ of a million dollars in 1971 at the same time that the unemployed in Seattle have so little to eat that Japan feels obligated to ship food to help them survive.

More and more thoughtful Americans, including a growing number of businessmen, have been shocked to learn of the economic inequality and exploitation which are destroying the very fabric of American society. They have come to realize that this is a government of, by, and for big business. The Nixon Cabinet and other top officials in the Administration represent one of the greatest concentrations of individual wealth in the world, and, as such, they predictably resisted for so long the use of the powers of the Presidency in curbing the inflationary pressures that have been destroying the value of the American dollar. This country can no longer stand the Nixon Administration's divisive and incompetent economic policies.

The economic philosophy of the Nixon Administration is based on the principle that the business of America is business. This being the case, the economic reality for the inexperienced and untrained Black man and the poor will be "last to be hired and first to be fired." This is an Administration which ignores the social and psychological costs of its policies to the common man. It is an empty shell, the tool of slick advertising techniques, the prisoner of narrow political allegiances, and the faithful servant of those privileged and selfish economic interests

which systematically block every attempt to narrow the great gap between the rich and the poor in this country.

If this Administration again triumphs at the polls in November, we can expect further abuse of the poor. We may expect new regressive taxes, such as a national sales tax (value added), which will fall on those least able to afford. There will be substantial, new increases in defense spending, new space shuttle, and fat new contracts for the war industry. Those programs tending to eliminate some of the intolerable inequities of our economic system will continue to be vetoed. Funds for an adequate family assistance program will be cut and slashed.

Rebuilding and revitalizing the society after four traumatic years of the Nixon Administration depends more than anything else on meaningful changes in our economic priorities, and this, the Nixon Administration, by its very nature, can never accept. This Administration's values and sense of social relations constitute a fatal obstacle to any hopes for real social and economic progress in America. A government so heavily dependent on a small clique of corporate millionaires, industrial polluters, and privileged power brokers can never be seriously expected to concern itself with the daily problems of the poor, the working man, the unemployed, the black, the young, or the elderly pensioner.

No Administration can be so indissolubly connected to the interests of big business and special interests and still work to eliminate its crisis or credibility and intent among millions of Americans.

I believe that the future of our great society depends upon the ending of government by the conservative, repressive, and selfish. It depends upon the ending of the economic exploitation of the common man, black and white, by those privileged powers which now rule Washington.

My Administration will move emphatically to assist those Americans presently estranged from the American economic system. It will seek representation for those performing vital services, such as domestic workers, while gaining miserable compensation. It will devote itself to the creation of an ultimately more balanced economy and to the final elimination of the intolerable inequality and poverty which we should all be ashamed to admit exists in this, the wealthiest nation in the history of man. Some of the principal means which I support toward these ends are as follows:

1. Ending the billion dollar cost of U.S. military involvement in Indochina;

2. Creation of a Federal Family Assistance Program to replace the present Welfare Program and the Food Stamp Program which is a failure. The initial minimum guaranteed income for a family of four would be $6,400.

3. Tax Reform. The tax proposals of the Nixon Administration have consistently favored business over the low-income consumer. State, local, and city taxes are increasing while the progressive, graduated income tax has been reduced. My Tax Reform Program will reduce unfairness and special privilege in the following ways:

I. (A) Increased individual and corporate income (even a 1% increase would raise $6 billion);

(B) Elimination of the oil depletion allowance;

(C) Elimination of the capital gains tax;

(D) Elimination of regressive federal payroll taxes;

(E) Establishing of excess profits tax;

4. Reductions in Federal spending;

(A) Elimination of the huge federal subsidies paid to rich farmers not to grow crops;

(B) Reduced spending on federal highway construction;

(C) Reduced defense spending, including the closing of unnecessary military installations and the reduction of our troop levels abroad by 50%;

(D) Reduced spending on space programs and cancellation of the space shuttle project;

5. Expansion of job opportunities through creation of useful 500,000 public service jobs, with preference to the 350,000 unemployed veterans. Greater federal assistance for labor manpower training programs. Increased federal programs to put highly skilled unemployed engineers to work in mass transit, air and water pollution control programs; maintenance of some form of wage-price controls, particularly on rents;

6. Federal legislation to guarantee equal opportunities for women in attaining jobs, equal pay, and promotions.

7. Creation of a comprehensive national day-care system to permit more mothers to work.

8. Greater federal support for O.E.O., E.E.O.C., O.M.B.E., and S.B.A.—greater support for minority enterprise and employment.

Shirley Chisholm for President Headquarters, 20 E Street, N.W., Washington, D.C. 20001.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 24, 1972.

Mr. RALPH NADER,
Washington, D.C.

DEAR RALPH: This is an initial response to your letter of January 14.

I would like to comment more fully in the future, but thought you might get at least a partial idea of my thinking from the enclosed speech I gave at Dartmouth.

Keep up the good work.

Best regards,

PAUL N. MCCLOSKEY, Jr.

REMARKS BY CONGRESSMAN PAUL N. MCCLOSKEY, DARTMOUTH COLLEGE, NOVEMBER 29, 1971

I would like to discuss tonight two or three fundamental issues in the 1972 campaign. The issue is what John Gardner recently referred to as "The Dirty Little Secret That Everyone Knows"—the vast influence of money in politics.

The influence of money in political decision-making is not new—it has been with us since the inception of Democratic self-government. Under the Nixon administration, however, the threat of concentrated wealth, working secretly to influence governmental decision-making, has reached crisis proportions, and threatens the very existence of the nation itself.

Why should this be so? The reason lies in the fact that the faith of our people is the strength of our system of government. It is not just a desired aspect of our national stability and security—it is essential to that national stability and security.

We can never forget that we are a nation which operated by the consent of the governed. Our people must consent to file honest tax returns, consent to give honest judgment in jury cases, consent to serve in the armed services in time of conflict. That consent is and can only be based on faith in government—faith that the government is honest and faith that it is truthful.

What is the present measure of the faith of Americans that their government is honest, truthful and worthy of trust? A recent poll taken by the Center for Political Studies at the University of Michigan reflects specifically the trend which I believe all of us have instinctively sensed in recent years.

Since 1958, the faith and trust of Americans has been diminishing rapidly. During the past seven years, the number of Americans trusting the government to do what is right all or most of the time dropped from 63.7% in 1964 to 37.7% in 1970.

During the same time frame, the question was asked: "Would you say the government is pretty much run by a few big interests looking out for themselves or that it is run for the benefit of all the people?" The percentage of Americans believing the government was run for the benefit of all the people dropped from 63% in 1964 to 41% in 1970. By 1970, the second year of the Nixon administration, nearly half of the people interrogated stated their belief that the government was being run by a few big interests looking out for themselves.

There was ample reason for that belief in 1970. There is even clearer reason today. An increasing concentration of wealth working secretly to support political candidates and to influence government decisions is not only welcomed but encouraged by the Nixon administration. Let me define precisely the three evils which so endanger the nation.

First, the new concentration of wealth primarily in big business;

Second, the new importance of wealth in electoral politics;

Third, the administration's encouragement of secrecy in the application of that wealth in political campaigns and in governmental decision-making.

With respect to the new concentration of wealth, there can be no question. Attorney General Mitchell recognized the problem over two years ago. By June 1969, 200 large corporations controlled nearly 60.7% of the manufacturing assets of the nation. Corporate mergers had more than doubled in the previous year. The Attorney General said in a speech in June 1969, "The danger that this super concentration represents to our . . . political . . . structure cannot be overestimated."

He went on to mention "the unacceptable probability that the nation's manufacturing and financial assets will continue to be concentrated in the hands of fewer and fewer people,"—the very evil that the Sherman Act, the Clayton Act and other antitrust and anti-price-fixing laws were designed to combat.

What did the Attorney General mean when he used the words "danger to our political system" by the concentration of economic power? In effect, he was recognizing the basic fact that the concentration of economic power also meant the concentration of political power.

The whole thrust of our constitutional form of government was to restrain the accumulation of power. James Madison had said "the accumulation of all power, legislative, executive and judicial, in the same hands may justly be pronounced the very definition of tyranny. An accumulation of economic power sufficient to control political decisions can likewise create tyranny.

Senator Kefauver once said: "Through monopolistic mergers the people are losing power to direct their own economic welfare. When they lose the power to direct their economic welfare they also lose the means to direct their political future.

Why, then, has the Nixon administration failed to provide leadership to reduce this increasing concentration of wealth and power?

The answer may lie in the second evil. The influence of big money on the political process. This Administration is the primary beneficiary of the economic power of big business. This is the Administration which has placed primary emphasis on the profits of big business as the goal of our economy—on the theory that those profits will ultimately "trickle down to the public at large."

This Administration resurrected the SST after it had been abandoned by the Johnson Administration, supported the bail-out of the Penn-Central Railroad and urged the granting of a federal loan guarantee to Lockheed under conditions no small business in America could have hoped to obtain.

This administration's chief fund raiser, Maurice Stans, was named Secretary of Commerce. Now, for the next campaign, is reported that he will resign his post in order to again raise funds chiefly from the big businessmen of America.

Who besides big businessmen can afford to attend $500 per plate dinners? The $5 million dollars raised from those nation-wide dinners several weeks ago was raised almost entirely from big businessmen. In Houston, Texas, nearly all of the 400 people in attendance (raising $200,000 for the President's re-election) were reported to be oil men. What does this bode for the hope of ending the oil import quota system as recommended by the President's task force over two years ago?

Three years ago, the Republican party was able to raise twice as much money from businessmen as was the Democratic party from *all* sources. As the administration in power, the Republican leadership is in a beautiful position to cash in on its enthusiasm for big business. A concentration of wealth unaccompanied by campaign spending and contribution reform merely makes it that much easier to raise more money than the opposition. The White House just announced that the President will veto the proposed public financing bill just passed by the Senate. Getting $1.00 from each of 20,000,000 is far less beneficial than getting $20,000,000 from a few thousand corporate executives and oil men, particularly when the opposing party cannot hope to raise equivalent sums.

This administration has not hesitated to respond swiftly and helpfully to those who make large campaign contributions.

Consider the great milk boondoggle of last spring finally disclosed in the newspapers only a few weeks ago.

The government has long had the power to guarantee the price of manufactured milk. Last March that guarantee was $4.66 per hundred weight. The dairy farmer leaders came to Washington to seek an increase. Secretary of Agriculture Hardin denied the increase, finding no evidence to support it.

The dairy farmers, then, ten days later, on March 12, paid $10,000 to four Republican campaign committees. The next day, March 23, the dairy farmer leaders were granted an audience with the President himself at the White House.

The following day, March 24, the dairy farmers paid $25,000 to ten Republican committees for the re-election of the President. Lo and behold, the following day, March 25, Secretary Hardin announced that he would grant a price increase of 27 cents per hundred weight on the basis that "continuing research" had turned up new information on rising costs.

Ten days later, April 5, $45,000 was given to nine additional committees. And by August 20, a total of $170,000 had been given to at least 68 committees, most if not all of them based in Washington, D.C. where a loophole in the law permits them to go unrecorded as to the source and amount.

On September 3, 40,000 dairy farmers met for the biggest and perhaps happiest dinner in the history of Chicago. The President dropped by to pay his respects, and no wonder.

The importance of money to politics can be easily recognized when we look at last year's Senate races in seven large states. Fifteen candidates (New York had three) ran in those seven states. Eleven of the candidates were millionaires, and all seven of the winners were millionaires.

The cost of campaigning has skyrocketed. No candidate for public office today has even the remotest chance of winning unless he has either immense personal wealth or wealthy backers. This is a tragedy for the democratic process. Only 2½% of our people earned over $25,000 per year in 1969. Who, earning less than that sum, can afford more than a few dollars for the candidate of his or her choice? The importance of campaign financing is threatening to subvert the whole process of democracy. The concentration of the wealth necessary to campaign financing threatens to subvert our whole concept of a government of separated powers and to destroy that most priceless asset of all, our faith that our government is *not* controlled by a few big financial interests.

Let me give you one additional example of the *power* of wealth and the power of generous campaign contributions to President Nixon. This example came to light only recently in testimony before my own House subcommittee on Conservation and Natural Resources.

ARMCO Steel was the 69th largest corporation in the United States in 1970. Its corporate officers were reported by the *Washington Star* to have given $14,000 to the Nixon campaign.

ARMCO Steel has also been one of the worst polluters of the Houston ship channel. Its Houston plant for years has been putting nearly a half ton of cyanide per day into the ship channel. Cyanide is one of the most toxic substances known to man.

On December 9, 1970, the EPA filed an action to force a termination of the cyanide discharge after all negotiations with the company had failed.

On September 17, 1971, the federal district judge issued an order requiring that the discharge of cyanide cease forthwith.

On September 28, the President of ARMCO, Mr. C. William Verity, wrote a letter to President Nixon at the White House, asking him to look into the Court's decision. On September 30, Mr. Verity was reported to have commented that Secretary of the Treasury Connally had been contacted and that through his influence, high level consultations were going on at that moment between the Justice Department and the EPA concerning the decision.

On October 4, the Houston Business Journal quoted Verity as saying, "I pray every night for John Connally . . . If I could only have another son, his name would be John Connally Verity. At last there is reality in Washington and it changes the entire outlook for the steel industry and most gratefully ARMCO."

The letter Mr. Verity had sent to the President and the efforts of Mr. Connally were apparently successful, because a few days later on November 4, 1971, the EPA and the Justice Department stipulated to a modification of the Court's judgment of September 17, permitting ARMCO to continue the discharge of cyanide until July 1, 1972.

The seriousness of this set of circumstances lies in the fact that after a lawsuit was in progress, after a judgment was obtained, the posture of the prosecution was relaxed not by the arguments of counsel for ARMCO, communicated to the government attorneys and the court, but by the direct intervention by the steel company president with the President of the United States. This sort of conduct is reprehensible. Any ordinary litigant who sought personally to stop a lawsuit by the Justice Department would be condemned or prosecuted.

Only recently, a Justice Department attorney, Richard Kleindienst, testified against an aide of Senator Fong who had suggested that a large campaign contribution might be forthcoming if a particular prosecution against a constituent would be halted. This aide was convicted.

Since the inception of this country, attempts to interfere with the prosecution of the litigation by the parties themselves have been considered a violation of law and reprehensive. President Nixon is a lawyer. Nevertheless, his personal assistant Peter Flannigan admittedly contacted EPA and the Justice Department after the President received Mr. Verity's letter.

Mr. Flannigan is no stranger to big business. He was also a fund raiser for Mr. Nixon's 1968 campaign as the President of the Barracuda Tanker Corporation, owner of the Liberian flag tanker Sansinena. Under United States law, the tanker was ineligible for U.S. coastal shipping unless a waiver could be granted by the Treasury Department. Being ineligible for such trade, the Sansinena was worth an estimated $4.5 million; if the waiver could be granted, it would be perhaps worth $11 million.

For several years, Mr. Fred Hartley, President of the Union Oil Company, had reportedly been trying to obtain a waiver for the Sansinena. The waiver could be not be granted so long as U.S. tankers were available for the coastal trade. On February 25, 1970, Flannigan's 300 shares of stock in Barracuda were sold to others in the Barracuda venture. On March 2, the Treasury granted an unusually broad waiver for the ship, on the ground that the national security required it.

Senator Joseph Tydings disclosed these facts in a speech to the Senate on March 9th, stating that by a stroke of the pen, the government had made $6.5 million for Barracuda. My own Committee on Merchant Marine & Fisheries prepared to hold a Congressional inquiry on the subject, whereupon the White House called Treasury officials to the White House on the evening of March 9. The next day, Secretary of the Treasury David Kennedy announced that the waiver would be cancelled. The national security apparently no longer required the Sansinena for the coastal shipping of oil.

These examples merely illustrate the power of wealth applied to the governmental decision-making process.

By far the worst evil we face today is the secrecy of large financial contributions which are permitted by loopholes in the law. The Corrupt Practices Act passed in 1925 purports to limit both campaign contributions and spending. Yet, when I commenced this campaign for President, I found that the law has loopholes that a truck could be driven through. The law does not apply to primaries, for example. As mentioned earlier, it does not apply to committees based in Washington, D.C. One wealthy individual can give millions of dollars if he wishes, merely by limiting his gifts to a $5,000 contribution to separate committees. To receive the $170,000 kindness of the milk producers, for example, the Republican National Committee merely set up a whole series of Washington committees, with names like "The Committee for the American Dream," or "Committee for Sound Econoy." But for the error of the attorney who thought the law applied, we might never have had the chronological relationship between the campaign contributions to the President and the Administration's change of heart on milk prices.

A funny occurrence in Chicago was disclosed recently. Vice President Agnew attended a $1,000 per plate dinner in Chicago in 1968. False listings of campaign contributors of at least $22,000 were then filed with the Clerk of the House of Representatives. Let me quote from the report of James R. Polk, a former Associated Press reporter who investigated 1968 campaign spending under a grant from the Fund For Investigative Journalism:

"Eighteen donors listed for $22,000 in the Victory '68 record confirmed in interviews that they didn't give the money. Bunched among the false listings were names of a dozen more persons who refused to answer questions, didn't remember, couldn't be found, or died."

Who *did* give the $22,000 in question remains a mystery. Chances are that they were big businessmen of considerable wealth.

The examples of secrecy in campaign contributions are legion. Within six months of my own first election to Congress in 1967, lobbyists from three large industries or associations of industries dropped by my Congressional office to pay their respects and leave me an envelope filled with five or ten $100 bills. Being new to the business, I politely inquired of each one as to the names and addresses of the donors—the gift bearer

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in each case indicated that the names would be furnished later, and in due course I received a list of names of people from Omaha to Baton Rouge who had each given me $100. I had the distinct impression my inquiry was not the usual practice.

In 1968, 181 Members of Congress filed statements that they had received *no* contributions and had spent no money on their campaign. Committees had done it for them.

The evil lies not in the gift, but in its secrecy.

I raise this issue tonight because the President has made it clear that he intends to veto the public campaign financing bill just passed by the Senate as he did the spending limitation bill a year ago. And only a few days ago his Congressional Liaison representative dropped by the Republican cloakroom in the House of Representatives to let it be known that the White House would not be unhappy if the campaign reform legislation now before the House is killed altogether this year.

This is a key issue to the future of America and the restoration of both the honesty and openness of government as well as public faith in government.

The answers are relatively simple. We need a new law which absolutely limits individual contributions, which provides a tax write-off for small contributions, which reasonably limits expenditures in the various media, which grants a reasonable chance for equal debate time to all candidates at the lowest available rates, and above all else requires complete disclosure of contributions and adequate enforcement powers and procedures. Many of these provisions are included in the Senate bill which the President has said he will veto and in the legislation now before Congress. As compared with the present system of secrecy and corruption, I strongly favor the Senate bill. If the President continues to oppose campaign contribution disclosure and reform, I believe he should be defeated on that basis alone in the March 7th primary. I hope, for the good of the country, he will withdraw his opposition.

OFFICE OF THE MAYOR,
Los Angeles, Calif., February 4, 1972.

Messrs. RALPH NADER AND MARK GREEN,
Washington, D.C.

GENTLEMEN: I welcome the opportunity you have given me to comment on the very important issue of corporate power and anti-trust policy. Before responding to the specific issues raised by you in your letter of January 14, 1972, I would like to point out that our free enterprise system is one of the primary reasons that this country is so great. We must work hard to maintain our free enterprise system and instruct our children in its many merits and its relationship to our personal freedoms and liberties. We all have a stake in maintaining the free enterprise system and must not abuse it as is being done by the present administration which is using our credit rating based upon the productivity of our economy to borrow excessively thus producing unprecedented federal deficits and debt increases.

I favor competition as necessary to the survival and proper functioning of the free enterprise system and for the protection of the nation's consumers. I am not anti-business, large or small, but big power is subject to big abuse making necessary government intervention on behalf of the consumer-citizen. The "cue" or "follow the leader" system is obviously used by some to evade anti-price fixing statutes. When detected, this practice must be dealt with promptly. Also, when management representing a monopoly bargains with a monopolistic Union, the consumer can be the victim of unfair prices, especially where foreign competition is not a factor in pricing policies.

Now, as to the specific issues raised by you:

I favor vigorous enforcement of existing laws against monopolistic practices without fear or favor. I also favor legislation to insure competition, thus strengthening our free enterprise system and giving reasonable protection to the consumer.

As regards corporate secrecy, I feel that corporations should be required to disclose most of the information you mention. Reporting of such things as profit and loss by product line, pollution emissions by plant facilities, and documentation of consumer complaints, appear to be reasonable requirements. However, I do not feel that we should so burden industry with disclosure requirements as to unreasonably hinder their operations and raise the costs of production which would then have to be passed on to the consumer. These matters should be based on reason and not emotion.

Your suggestion that a new investigation be made similar to that conducted by the (TNEC) to probe and publicize economic Temporary National Economic Committee concentration in America may have some merit. You will recall that the original TNEC was formed by Congressional resolution prior to World War II (1938) to study the monopoly and the concentration of economic power in the United States. This Committee published some important monographs and had its effect on the American Economic System. Before another such a committee is formed, however, we should make a determination that existing agencies cannot and are not adequately performing this function. Also, I would not want to see this type of activity degenerate into a "witch hunt" as is too often the case.

If I were elected President, I would definitely consider supporting a Federal Chartering Act requiring large corporations doing interstate business to secure their corporate charters from the federal government, rather than from the individual states as they now do. This would go a long way in securing needed conformity in reporting and accountability, and corporations would no longer find it possible to easily "escape" these requirements by obtaining their charters in one state as opposed to another.

Many of my general views regarding problems and solutions to corporate power and monopoly are outlined above. However, here again I feel that we must proceed in a reasonable manner. I cannot quarrel with many of the methods you propose for achieving corporate accountability but I do feel that as much as possible we should attempt to get voluntary compliance from industry on these matters. When that fails, of course, we must go to the courts. I do not believe in harassment of business or exaggeration of faults.

Thank you for this opportunity to express some of my views on this subject.

Very truly yours,

SAM YORTY,
Mayor.

WASHINGTON, D.C.,
January 24, 1972.

Mr. RALPH NADER,
Washington, D.C.

DEAR RALPH: I have received your letter of the 14th including the questionnaire.

I am glad that you are raising this question. The corporation has been a matter of concern to me in public speeches since at least 1960 when I began to talk about its arbitrary power and to use the term *corporate feudalism* as descriptive of the institutionalization and the economic and political independence of the large corporations.

I have watched for 20 years the evidence of the ineffectiveness of our anti-trust laws. Whereas I do not despair of their having some effect, I am not very encouraged and am of the opinion that more direct regulation of the large corporations that are non competitive, and also of the large ones which have the appearance of competition such as the automobile industry, is the only available effective way of proceeding. I am not convinced that having 20 automobile companies rather than four major ones would move us any closer to the solution of the problem of the automobile.

On most of the issues you have raised, I have been making the record clear for 20 years.

I do think we should move toward federal chartering of corporations.

I am in favor of more corporate democracy and regulation in all critical areas, and possibly a public member on the board of corporations above a determined size.

With best wishes.

Sincerely yours,

EUGENE J. MCCARTHY.

THE WALLACE CAMPAIGN,
Montgomery, Ala., March 6, 1972.

Mr. MARK GREEN,
Washington, D.C.

DEAR MARK: Due to our extremely heavy mail load, we received your letter only this morning. Unfortunately, the Governor has been on a tour in Florida and we would not have been able to get to him by your deadline, anyway. Unlike other candidates, Governor Wallace answers these type questions himself. He does not allow anyone else to speak for him. He feels this is the only honest way to answer questions.

Please keep in touch with us and call us anytime.

We certainly appreciate your interest.

Very truly yours,

JOE AZBELL,
Director of Communications.

OKLAHOMANS GIVE THEIR VIEWS

Mr. BELLMON. Mr. President, periodically Oklahomans are invited to give their opinions on various matters of public interest. Recently our office distributed a questionnaire dealing with three major issues before the Senate this year: welfare reform, revenue sharing, and deficit spending.

Mr. President, I ask unanimous consent that the questionnaire, with results shown in percentages, be printed in the RECORD.

There being no objection, the questionnaire was ordered to be printed in the RECORD, as follows:

QUESTIONNAIRE

1. *Welfare Reform:*

Please indicate by a check which of the following you favor:

6% Guaranteed annual income for poor people.

32% System that would encourage a welfare recipient to take a job without losing benefits.

84% Requiring able-bodied welfare recipients below 65 to register for a job or training and take a job when one is offered.

43% If no jobs are available, create public works jobs.

6% Stop welfare entirely and let people go hungry if they can't or won't work.

2. *Revenue Sharing:*

Each year the federal government returns large amounts of money to state and local governments in the form of special aid programs. Proponents of revenue sharing say that under the present system the decisions on where this money goes are made by federal bureaucrats who do not have to stand for election and sometimes tend to become dictatorial. They favor returning a portion of federally-collected tax revenues directly to state and local officials with no strings attached. One big argument is whether the money should go directly to mayors and other local officials or to the state government to be divided.

Do you favor the general concept of revenue sharing? 43% Yes, 35% No.

Do you prefer the present system of Federal grants for hospitals, highways, education and crime control? 53% Yes; 31% No.

Which level of government do you have the most confidence in? 19% City; 17% County, 30% State, 33% Federal, 4% None.

Would you prefer that any new Federal funds go to the state government, (42%); county government, (16%); or city government, (25%).

If the state government had the responsibility of allocating funds to local units of government, who should make the decision? 9% Governor, 82% Legislature.

3. *Deficit Spending:*

President Nixon's new budget contains a deficit estimated at nearly $38.8 billion, the 17th deficit in 20 years. Do you favor deficit spending? 9% Yes, 86% No.

To cut the size of the federal deficit, would you raise taxes (6%); or reduce spending, (89%).

If you favor raising taxes, which ones would you raise? 11% Income, 3% Property, 16% Gasoline, Liquor-tobacco 14%, None 9%.

Do you favor a federal added-value tax, with funds going to support local schools in lieu of property taxes? 28% Yes, 53% No.

If you favor reducing expenditures, where would you cut? 10% National Defense, 85% Foreign Aid, 44% Space Research, 12% Agriculture, 4% Natural Resources, 9% Highways and Airports, 38% Community Development and Housing, 9% Education and Manpower, 5% Health, 58% Welfare, 9% Veterans Benefits.

SOME NEWS ABOUT OUR PERFECT NUCLEAR SAFETY RECORD

Mr. GRAVEL. Mr. President, although there has not yet been a disastrous nuclear power accident in this country, there have been some close calls, like the Fermi accident in 1966, and numerous operating fiascos which indicate how lucky we have been.

The AEC's regular reports, called "Reactor Operating Experiences" or ROE, describe blunders and problems which would be comic except that some day these problems may result in a nuclear accident which renders several States of this Nation uninhabitable.

LEAVING IT TO THE EXPERTS

Five ROE examples typify the mechanical and human defects:

ROE 69–9 concludes as follows:

In the recent past, there have been a number of occurrences at reactors where human error resulted in undesirable situations. None of these situations represented a threat to the health and safety of the public. The absence of more serious effects is largely the result of good luck.

From ROE 69–10 we learn that, during a routine check at a power reactor, abnormal radioactivity was observed in the building water distribution. The presence of radioactivity was confirmed in the plant drinking fountains. The contamination was found to have arisen from an inappropriate cross-connect between a 3,000-gallon radioactive waste tank and the water system. The report concludes:

The coupling of a contaminated system with a potable water system is considered poor practice in general.

From ROE 71–22 we learn that 63 out of 191 containment isolation valves failed to operate when tested at one nuclear powerplant; their failure apparently resulted from rust, oil, and water, present due to lack of preventive maintenance.

ROE 69–8 reports that:

Within the past two years at licensed reactors, a number of instances have occurred wherein important valves failed to operate properly.

In one case, an entire core spray system was found inoperative because check valves had been jammed during assembly. The system, which is a critical component when the reactor is in trouble, may have been inoperative for a year before discovery.

The implications of ROE 71–3 may be the worst of all, for, during low-power operation of a large nuclear plant, safety rods failed to respond to a reactor SCRAM, or shutdown. A number of safety elements, in redundant array, were simultaneuosly disabled by an accidental arrangement of components. Periodic maintenance procedures were incapable of detecting the problem.

Such reports cast a new light on promotional claims about nuclear safety, and also on a question which may come to a vote here in the next few days:

Should Congress amend the Atomic Energy Act to allow nuclear powerplants to start operation before the regular licensing procedures are complete? Or should Congress instead declare a moratorium on nuclear power construction and operation until fundamental safety problems have been resolved?

Members of Congress, nuclear investors, the board members of every electric utility in the country, the Office of Emergency Preparedness, the Department of Defense, and the general public, should become familiar with the AEC's Reactor Operating Experience reports.

Fortunately, a compilation of very recent reactor operating experiences was made in January 1972, by Dr. Henry W. Kendall, who is a high-energy physicist at MIT and a leading member of the Union of Concerned Scientists.

PAPERS PLACED IN THE RECORD

Mr. President, I ask unanimous consent to have his report, entitled "Reactor Accidents: Some Recent Experiences," printed at the end of my remarks, as well as excerpts from a report entitled "Dresden II Incident of June 5, 1970," which appeared in the AEC's journal Nuclear Safety, September–October 1971.

The events described in these papers are fully understandable, even when the technical terms are unfamiliar.

We discover, in the case of the Dresden II incident, that a huge reactor was out of control for 2 hours after one meter gave a false signal and another monitor got its pen stuck. Once control was regained, the plant had to be put out of operation for repairs.

During the accident, radioactive iodine had been released from the nuclear reactor into the drywell area of the containment, and was measured at 100 times above the permissible concentration.

Fortunately, the public was not exposed to radiation, but as Dr. Kendall points out, the Dresden II accident demonstrates vividly how design flaws, sequential instrument and equipment failures, and human errors, can "chain together" to prolong and amplify the severity of what initially may be a relatively minor incident.

THE ODDS ON IMPOSSIBLE ACCIDENTS

Furthermore, the Dresden II accident should warn us to ignore calculations which purport to show that the chance of a severe nuclear accident is negligible. The calculated probability for the accident which actually did happen at Dresden II would have been so low as to be called negligible or even impossible.

Because of this accident and the repairs it required, some other defects were discovered in the plant. For instance, it was learned that the sequence and starting-times of the Emergency Core Cooling System components were not according to design during the incident, though their actual use was, fortunately, not required.

PROOF OF FALLIBILITY

Anyone who reads these Reactor Operating Experiences will realize what arrogance we suffer from nuclear promoters who claim they can foresee and engineer around all hazardous contingencies.

One of the outstanding admissions about the Dresden II accident was that insufficient thought had been given to the dangers of high-water-level situations; all the attention had been on low-water-level situations.

ON BECOMING HUMAN GUINEA PIGS

I hope that Members of Congress will give serious attention to a moratorium on nuclear power plant operation, as proposed in S. 3223, when they ponder the implications of the closing comment about the Dresden accident, which I quote from the journal Nuclear Safety:

It is unfortunate that procedural, mechanical, and control inadequacies can be recognized only upon the occurrence of some incident that puts them to a real test. The Dresden Two installation, its procedures, and its operating staff have benefited substantially, in the long run, from having suffered and recovered from this particular incident."

There being no objection, the items were ordered to be printed in the RECORD, as follows:

REACTOR ACCIDENTS: SOME RECENT EXPERIENCES BY HENRY W. KENDALL, JANUARY 1972

(The Union of Concerned Scientists, Box 289, MIT Station, Cambridge, Mass. 02139)

1. INTRODUCTION

Evaluating probabilities of having reactor accidents of varying degrees of severity is very difficult. This is a consequence both of lack of a data base of sufficient size, and of the uncertainties associated with making estimates of the likely paths by which accidents can occur.

The following abstracts have been assembled from the AEC publication *Reactor Operating Experiences*, with critical comments added. They are extremely revealing—especially with regard to the frequent divergences between the way things are supposed to go and the way they frequently do go. Several of the incidents might well have developed into far more damaging accidents. Notice that two of them resulted in partial or complete uncovering of a reactor core.

It is clear from these reports that the potential for the development of a major accident on a number of instances has been very great. One particularly disquieting accident and its recent sequela are discussed at considerable length in the last abstract.

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The a priori probability of this kind and sequence of events occurring at all, computed by conventional estimation procedure, is so small as to be utterly negligible by any standard. Yet the incident occurred and it was an ominous indication of what may reoccur. No better emphasis of the need for the utmost diligence in assuring reactor safety can be found than in reports of this kind.

II. EXTRACTS FROM REACTOR OPERATING EXPERIENCES (R.O.E.)

ROE 71–3.—During low power operation of a large reactor, the safety rods failed to respond to a reactor SCRAM. A number of safety elements, in redundant array, were *simultaneously* disabled by an accidental arrangement of components. Periodic maintenance protedures were *incapable* of detecting the error in the arrangement.

ROE 71–2.—A malfunction in a hydraulic control valve in a main steam bypass valve system of a BWR led to *uncovering of the reactor core*. This, combined with an excess hydraulic pressure (the consequence of a relief valve set at 4800 psi rather than 3000 psi) caused the transient, during which reactor pressure varied from 1280 to 200 psig. It was fortunate the reactor had been operated at low power for only 28 hours, following a 7-month shutdown, otherwise, there would have been risk of severe accident.

ROE 69–20.—A power outage in a small reactor initiated substantial leakage of the reactor pool water. The report concluded that "This occurrence demonstrates again that an unlikely sequence of events can lead to a potentially serious problem".

ROE 69–10.—During a routine check at a power reactor, abnormal radioactivity was observed in the building water distribution. The presence of radioactivity was confirmed in the plant drinking fountains. The contamination was found to have arisen from an inappropriate cross connect between a 3000 gallon radioactive waste tank and the water system. The report concludes that "The coupling of a contaminated system with a potable water system is considered poor practice in general".

ROE 69–9.—In a discussion of a number of reactor operating errors, the report concludes: "In the recent past, there have been a number of occurrences at reactors where human error resulted in undesirable situations. None of these situations represented a threat to the health and safety of the public. The absence of more serious effects is largely the result of good luck."

ROE 69–8.—"Within the past two years at licensed reactors, a number of instances have occurred wherein important valves failed to operate properly". In one case a core spray test was carried out during reactor shutdown. The entire core spray was inoperative owing to check valves that had been jammed during assembly. It appeared possible that the valves had not been operative for one year. This spray system is a critical component for reactor safety.

ROE 69–4.—"Safe operation of plant compromised". ". . . human error, displayed by non-adherence to established plant procedures and failure to promptly recognize abnormal plant conditions, resulted in the deborating portion of the occurrence".

ROE 69–2.—"When SCRAM occurred, the reactor operator on duty erred in his assessment of the cause and also in his failure to notify a senior operator of the event (a beam port moderator failure) before attempting to return to full power. Because of previous problems with the servo system, other operators at this facility stated that they, too, would have attributed the SCRAM to a failure in the power control servo. A sticking recorder-pen in the power channel was another fairly common cause of previously unplanned shutdowns. It is apparent that operations permitted by management over extended periods of time with instrumentation exhibiting obvious deficiencies led to complacency on the part of the operators and to possible misinterpretation of information as evidenced. Reliable instrumentation would eliminate this type of fallacy".

ROE 17–3.—Malfunctions of motor-operated valves have occurred recently at several power reactor facilities. These malfunctions were attributed to mechanical or electrical faults or maladjustments of the valve motor-operators. *These valves were located in emergency cooling systems.*

1. Motor-operated valve did not close completely. The cause of the operational failure was not evident during the previous routine witnessing of the operation of the valve. . . . A similar failure had occurred earlier.

2. A valve used in both the feedwater and safety injection systems failed. Investigation revealed that no down-limit switches had been provided for the valves, and a torque-switch failure resulted in searing of the 2¼" diameter valve stem.

3. Following a complete loss of off-site power and a reactor SCRAM (with main steam line isolation) at a BWR facility, the motor-operated valve in the condensate return line on the emergency condenser (reactor isolation heat sink) failed to operate as required. Later investigation revealed a tripped thermal overload that prevented operation, a malfunction not immediately evident to the control room operators. The cause of failure of the motor-operated valve (which caused the trip out) could not be determined.

ROE 71–72.—Rupture of Main Steam Safety Valve Pipe Nozzle . . . during hot functional testing of a new PWR. A six-inch diameter pipe nozzle welded to a 26-inch O.D. main steam pipe spool piece, *failed completely*. No nuclear core was in place in the reactor. The extremely loud noise produced by escaping steam rendered communications by the plant intercom system ineffective, and plant operators reported in person to the control room for instructions.

At the time of this report, the cause of the failure had not been determined by post-incident investigation. The stress analysis performed for the failed valve nozzle indicated that the *sum* of *known stresses* was significantly *less* than the yield strength and ultimate strengths of the failed nozzle material. ". . . it appears that the inlet nozzle may have been marginally designed for a full discharge load condition." . . . "The 12 main steam-line safety-valve inlet nozzles were redesigned to provide for a conservative design. . .".

ROE 71–7.—Investigation showed numerous cracks on the inner surface of a 24-inch diameter main reactor coolant line, resulting from thermal fatigue. The cracks were from ¼-inch to 1⅜-inch long and up to a maximum depth of ¼-inch.

ROE 71–8.—During normal testing at an operating BWR, one of two emergency cosdenser condensate valves did not open. The valve operator-motor was repaired to eliminate overheating. Four months later it failed again, requiring extensive repairs. After three months more of operation, it failed a third time.

ROE 71–18.—During routine testing of the standby gas treatment system at a BWR facility prior to initial criticality, *the inlet valve to one of two filter trains did not open.* The malfunction resulted from the presence of an extraneous piece of teflon tape and improper adjustment. Testing later established that operation of valves *on both trains* proceeded too slowly. The potential significance of these deficiencies is that in certain kinds of accidents, it is essential that the valves operate within specified time limits in order to prevent (radioactive) gas from reaching the building housing the system.

ROE 71–22.—Numerous pneumatically-operated *Containment Isolation Valves failed to function properly* during a routine containment isolation test conducted at a PWR facility. It was determined that *water, oil,* and *rust* contamination of the air supply for the air-operated components was the principal reason for the failures. A protracted outage of the facility along with a *lack of preventive maintenance* apparently contributed to the multiple failures. Sixty-three of 191 valves failed to operate on test.

(*Abstracted from Nuclear Safety Nov.–Dec. 1971*).—Two reactor SCRAMS at a BWR two days apart occurred. The first was initiated by low reactor-vessel water level caused by insufficient feedwater flow. The second occurred when a malfunction closed the turbine control valves. Vessel pressure then exceeded normal from abnormal (sluggish) functioning of part of steam pressure control. Coolant void collapse *increased reactivity* of reactor and caused high-flux monitor SCRAM.

III. Partial Blowdown Accident at Dresden 2

The AEC series of documents describing reactor accidents entitled *Reactor Operating Experiences* contains one description of a pressure control system malfunction in a large reactor that resulted in partial blowdown of the primary coolant system and overpressure of the containment. The accident is strikingly revealing of the manner in which design flaws, sequential instrumental and equipment failures, and defective reactor operating procedures can chain together to prolong and amplify the severity of what initially may be a relatively minor incident.

In order to clarify the sequence of events, we have inserted parenthetical remarks that include, *inter alia*, some of the post-accident analysis, both from the AEC documents and from a discussion of the accident in *Nuclear Safety*.

The accident occurred in the second generation Boiling Water Reactor, Dresden 2, on June 5, 1970. A similar accident occurred at Dresden III on December 8, 1971. It is described in a preliminary way.

1. A spurious signal in the reactor pressure-control system initiated events.

(This was later found to have originated in a defective wire-wound potentiometer).

2. The spurious signal caused the turbine control valves to open, which in turn caused the steam bypass valve to the main condenser to open.

3. These events in turn initiated a turbine trip-out, which in its turn initiated a reactor SCRAM.

4. The collapse of steam bubbles (void collapse) gave an initial reactor water level drop. This drop automatically initiated an increase in the feedwater system rate.

(Except for the spurious signal, all of this sequence of events was correctly initiated).

5. Immediately both feedwater pumps tripped-off, from too-low suction pressure warning signal.

(It was found later that levels were improperly set, and, post-accident, the trip levels were re-assigned.)

6. One feedwater pump restarted automatically. With this pump operating, and as a result of system depressurization from the open bypass lines, the reactor water-level began rising rapidly.

7. The spurious signal now apparently disappeared, and so the reactor pressure decrease was able to initiate closure of the bypass valves.

8. The reactor water-level again started to decrease rapidly, from void collapse augmented by the injection of subcooled feedwater. The depressurization had greatly lowered the main steam line pressure, so that a low-pressure sensor activated to close the main steam isolation valves. The reactor vessel water level at the time was varying over a wide range.

(The closure was a trip-out, and the valves *stayed closed*, so as later to prevent a necessary pressure reduction).

9. The reactor water-level now started to rise, as before, fed by the automatic operation of the one feedwater pump able to function.

10. The water level recorder stuck at the *low-level* position.

11. The reactor operator reacting to this false low-level indication, switched feed pumps to *manual control* and *maximum flow*.

(Other, adjacent gauges gave correct high-level readings. They were disregarded by the operator. Post-accident procedure changes were made to *prevent* feedwater flow when the level was high. The real difficulties started with the reading of the recorder with the stuck pen).

12. The actual water level rose, flooding the isolation steam condenser and the main steam lines.

13. After ½ minute, the operator tapped recorder case and recorder came unstuck. Operator set feedwater flow at *minimum*. The flow should have gone to zero but did not owing to *valve leakage*. During this time the reactor pressure had dropped to 775 psi and then started to rise again.

14. The operator tried to reduce this potentially hazardous rise by three means:

1. Actuating the isolation condenser.

(This failed to go into service. Moreover, the fact that it was not operating was not discovered for some minutes. It was discovered later to have been deactivated by the high-flow signal from the flooded lines. The flow trip-level for these lines had been set too low by an erroneous technical specification requirement.)

2. Reopening the main steam isolation valves.

(These failed to open as they were not reset from an earlier low-pressure trip-out).

3. Opening electromagnetic relief valves.

(These opened).

15. The reactor pressure dropped rapidly from 1050 psi to 960 psi, and the operator closed the valves.

16. The reactor pressure rose rapidly as soon as valve closed, (as a result of core decay heat, and water-level rise from feedwater injection).

17. The pressure rise became a pressure *surge* in the main steam line. The surge opened one safety valve.

(After the accident it was estimated that a *water hammer* developed in the line because of the presence of water in the steam lines).

(The discharge fluid from this open valve impinged on the lifting levers of two safety valves, cocking them both open. A design mistake made this error possible. These valves remained open throughout the full depressurization and cooldown that followed. The condition was not recognized during the remainder of events).

18. The operator opened another electromagnetic relief valve, causing rapid depressurization.

19. The operator closed the valve, and the pressure started rising rapidly as feedwater flow exceeded the loss through the safety valves.

20. The operator opened the relief valve again, and the pressure rise stopped.

21. The deactivation of the isolation condenser was corrected, and the unit brought into service. Pressure now slowly decreased.

22. Twenty minutes after the initial spurious signal, the reactor water-level was approximately constant with a slow pressure decrease owing to the undiscovered leaks from the partially opened safety valves. The area of concern now became the reactor containment. The primary containment-vessel pressure was increasing.

23. At 2 psi a pressure signal initiated the Emergency Core Cooling System: the reactor building ventilation system was isolated, standby diesel power started, standby gas treatment system was initiated.

(The high pressure emergency coolant system was not available: it had been shut down for repairs following earlier damage. Even if it had been available, it would not have functioned owing to high water-level trip out.

(The low-pressure cooling injection was inhibited, as reactor pressure was above 350 psi level for automatic lock-out.)

24. The operator manually locked out the low-pressure cooling injection system as the reactor pressure decreased below 350 psi. The containment pressure continued to rise above 5 psi. Pressure information became unavailable.

(Procedures called for initiation of containment sprays in order to reduce containment pressure when pressure exceeded 2 psi. The operators were unable to determine the containment pressure, however, for the only pressure gauge in service was off-scale on its 5 psi range. The operators were unable to determine the cause of the accident from the information available to them at the time. In spite of this the operating staff decided, in violation of procedures, not to employ containment sprays. Two licensed senior reactor engineers concurred in this decision. In retrospect, it was determined that this decision was not warranted in view of lack of available information on conditions of leakage, temperature, pressure, and radioactivity within the containment).

25. Thirty minutes after the spurious signal, the operators decided to vent the containment, and so the drywell was valved open to the standby gas treatment system. The highest drywell temperature measured was 205°F but the recorder then ran out of paper and subsequent temperature history was lost.

(Both the pressure and temperature of the containment exceeded the design values appropriate for the use of the gas treatment system. The gas treatment system was designed to operate at near atmospheric pressure and was tested only to 1.5 psig. It was later determined that the drywell peaked at 20 psig and 320°F. The temperature could have reached 340° F. The design temperature was 281°F).

26. Eighty minutes after the spurious signal, the operators bypassed the isolation signal from drywell overpressure in order to use drywell coolers and to allow the use of the drain sump-pump to clear the drywell into the radwaste system.

(This action was forbidden *both* by the technical specifications of the AEC Operating License and by applicable plant procedures when drywell pressure exceeded 2 psig. Two licensed engineers concurred in this decision to negate the isolation signal. At this time the containment pressure was still off-scale on the single available gauge).

27. Finally, the "incident" was brought under control, so that, two hours after the spurious signal the drywell pressure fell below 2.2 psig.

Comments.

The comments in quotes are taken from *Nuclear Safety* Vol 12, no 5 Sept, Oct., 1971.

"A review of events indicated that existing procedures were not altogether adequate".

"Much emphasis had been placed on the dangers of allowing the pressure-vessel water level to fall below the top of the fuel, but not enough emphasis was given to the dangers of high-water-level situations. Both the normal and emergency operations procedures were to be reviewed and revised. . . ."

Electric cables were damaged and electric motors developed low resistance problems.

Recovery included replacing some electric cables with improved cables having higher temperature ratings, rerouting other electric cables, drying electric motors, reorienting the discharge direction of safety valves, revising the reactor pressure control system, improving the capability of the isolation condenser, and revising operating and emergency procedures.

The failures of the electrical cables occurred at temperatures as low as 220° F. Some of the types of cable failure had been enhanced by earlier handling abuse, twisting, and crowding in ducts.

During the shutdown repairs, it was discovered that the sequence and starting times of the emergency—core-cooling-system—components were not according to design during the incident, although their actual use was not required.

Release of radioactivity from the reactor core occurred. Samples taken in the dry well indicated about 100 times the permissible concentration of I–131 on June 5 and 82 times on June 6.

It was necessary to increase the gas flow through the standby gas treatment system in order to make the radiolodine concentration decrease rapidly enough. Personnel were able to enter the drywell on June 7.

No member of the general public was exposed to radioactivity. Although the existence of fuel damage from the accident was denied by the reactor owners, the plant was refueled after the accident. It had been refueled two months prior to the accident. No report on the condition of the fuel was made public. It is difficult to understand the radioactivity release in the absence of fuel damage.

This accident displayed an incredible level of irresponsibility and incompetence.

One should recognize that such an unexpected combination of poor design, inadequate maintenance, and defective operating procedures can, in unfortunate circumstances, inject radioactivity into the atmosphere in amounts that can be lethal at dozens, if not close to 100 miles.

Extraordinary efforts have to be made to prevent such an event from occurring, and it is abundantly clear that they have not been made.

IV. THE SECOND PARTIAL BLOWDOWN ACCIDENT AT DRESDEN III

On 8 December 1971 an accident occurred in the Dresden III nuclear power reactor which resulted in a primary containment pressure of 20 psig. Only very scanty information is available.

The accident was initiated by a condensate booster pump trip. This caused loss of the feedwater pumps on low suction pressure. Resulting lowering of the reactor water-level initiated reactor SCRAM. Approximately 50 seconds after the SCRAM, the main steam isolation valves closed on low steam-line pressure. As a consequence of the closure of these valves, the reactor-vessel water-level rose rapidly under control of the feedwater control system and reached the level of the steam lines.

Five minutes after the start of the accident, the primary containment pressure reached 2 psig. This event apparently initiated operation of some of the Emergency Core Cooling Systems. Containment pressure continued to rise to a maximum of 20 psig, then dropped. Torus sprays were placed in service to assist in containment heat removal. Five and three-quarters hours after the start of the accident, the containment pressure was still 3.8 psig.

Union of Concerned Scientists comment

This accident was evidently moving along the same path as the accident of the sister plant Dresden II—the feed-water pump trip-offs, main steam isolation valve closure, automatic reestablishment of uncontrolled feedwater flow with water-level again reaching the main steam lines, what was evidently a reactor vessel depressurization that resulted in automatic initiation of Emergency Core Cooling Systems, and development of a containment pressure that reached the high value of 20 psig.

XUM

As some measure of the scale of this pressure it should be noted that the *maximum credible* accident involving complete loss of reactor coolant (following a postulated double ended break of the largest recirculating line in the reactor) the containment pressure is expected to rise only to about 60 psig.

It had been recognized after Dresden II that feedwater control, especially for high water-levels, had previously been inadequate. It is apparent that the lesson was not learned.

We wonder what is required in order for these potentially hazardous reactor installations to be designed, constructed, maintained, and operated in safe and reassuring ways.

[From the Journal Nuclear Safety, September–October 1971]

EXCERPTS FROM "DRESDEN 2 INCIDENT OF JUNE 5, 1970"

(By C. D. Cagle)

Abstract: On June 5, 1970, while Dresden Unit 2 (a second-generation boiling-water reactor) was undergoing power testing and was operating at approximately 75% power [1875 MW(t), 623 MW(e)], a spurious signal in the reactor pressure-control system altered the steam flow to the turbine and caused a turbine trip followed by a reactor scram. Subsequent erratic water-level and pressure control in the reactor vessel, compounded by a stuck indicator pen on a water-level monitor—recorder and inability of the isolation condenser to function as needed, led to discharge of steam and water through safety valves into the reactor dry well. Electric cables were damaged and electric motors developed low-resistance problems. No significant amount of radioactive contamination was discharged to the environment. There was no pressure damage of the reactor vessel or the dry-well containment walls. Recovery included replacing some electric cables with improved cables having higher temperature ratings, rerouting other electric cables, drying electric motors, reorienting the discharge direction of safety valves, revising the reactor pressure-control system, improving the capability of the isolation condenser, and revising operating and emergency procedures. The reactor remained shut down until Aug. 8, 1970. Two to 3 weeks of this downtime was ascribed to refueling.

Dresden Unit 2 is a second-generation 2527-MW(t) [809-MW(e)] General Electric boiling-water reactor (BWR) operated at the Dresden Nuclear Power Plant by the Commonwealth Edison Company, Chicago, Ill. * * *

* * * * *

On June 5, 1970, the reactor was undergoing initial-startup power tests and was operating at approximately 75% power [1875 MW(t), 623 MW(e)] at near equilibrium conditions with full recirculation flow in the core. * * *

ASSESSMENT OF DAMAGE

Damage was confined to equipment within the dry well and was caused by the steam and water discharged through the safety valves. A total of about 30 ft of thermal insulation needed replacement on one main steam line, a feedwater riser, and a recirculation riser. Low resistance was found in five valve motors, a floor-drain pump motor, and a dry-well-cooling blower motor. Seven dry-well electrical penetrations had small leaks through the inboard sides of their double seals. Two of four source-range monitor cables were shorted or open. Four of eight intermediate-range monitor cables had low insulation resistances. Ninety-three local power-range monitor cables were shorted, 10 were open, and 61 were operable. Control cables to the traversing in-core probe indexer were shorted. Two safety valves were jammed partly open owing to their lifting levers having been rotated by the steam and water jet from a third safety valve. Minor paint damage occurred on the dry-well wall.

Although the dry-well temperature history during the incident had been lost by lack of instrument chart paper, damage to plastic connector caps and cable insulation indicated (as shown by later tests) that temperatures in excess of 250°F had occurred. Calculations based on steam conditions in the dry well indicated that the maximum atmospheric temperature could have been no higher than 320°F and that the wall temperature was much less. Tempilstik marks on the walls indicated that 200°F was not exceeded. The containment-structure design temperature is 281°F at 0 psig.

The maximum pressure experienced by the pressure vessel and the main steam lines during the incident was determined to be less than the design pressure.

CORRECTIVE ACTIONS

Tests with new samples of local power-range monitor cables revealed that failures of center conductors occurred by buckling at as low as 220°F and that drifting of the center conductor caused shorts at as low as 300°F. This type of failure was enhanced by handling abuse, twisting, and crowding in ducts. Not all tests produced failure, even up to 500°F for 1 hr. Since these cables are vendor-specified for continuous operation at 275°F, the same kind of cable was reinstalled but with great care and with less crowding in ducts.

Source-range and intermediate-range monitor cables were not tested, since it was known that their temperature ratings were less than that of the local power-range monitor cables. They were replaced with a new type of cable having a temperature rating of 350°F. New ducts were provided to separate the source-range and intermediate-range monitor cables from the local power-range monitor cables to avoid crowding.

The traversing in-core-probe-indexer control cables were replaced with new cables rated for 300°F.

The main-steam-line safety valves that lifted were inspected and tested in accordance with the manufacturer's recommended criteria and the ASME and Illinois Boiler Code requirements. Their associated rupture disks were replaced, and the valves were oriented so that damage to other equipment by their discharge would be minimized. Since lifting levers on the valves are not required by the ASME Code, approval to remove them was requested from the Illinois Boiler Board.

Motors on all valves were dried and passed inspection. One of seven dry-well-cooling blower motors had to be replaced. All leaks in the inboard electrical-penetration seals were repaired. The feedwater-control system was improved to minimize control-valve leakage, insensitivity of flow control, and low suction trip caused by pump-runout conditions.

The sequence and starting times of the emergency core-cooling-system components were not according to design during the incident, although their actual use was not required. The system controls were revamped to conform to the design requirements.

The condensate-return-isolation trip point on the isolation condenser was raised from 120 to 300% of normal flow to agree with the design intent and the operating conditions. The Technical Specifications were revised to reflect this change.

The electrohydraulic-control system, in which the spurious signal that triggered the incident originated, was revised to minimize noise pickup. Specifically the malfunctioning device, a potentiometer located at some distance from the pressure-amplifier card, was replaced with a ceramic potentiometer located near the pressure-amplifier card, and some associated terminals were eliminated. Cables from the electrohydraulic-control adjustment panel were rerouted so that the signal cables were separated from power cables. A control circuit relating the automatic load-following circuits, the recirculation-flow-control system, and the electrohydraulic-control load-frequency-control circuit was rearranged to eliminate the possibility of introducing erroneous voltages to the electrohydraulic-control panel.

PROCEDURE MODIFICATIONS

Although the actions of the operators resulted in a safe and more or less orderly shutdown despite equipment malfunctions, a review of events indicated that the existing procedures were not altogether adequate.

Much emphasis had been placed on the dangers of allowing the pressure-vessel water level to fall below the top of the fuel, but not enough emphasis was given to the dangers of high-water-level situations. Both the normal and emergency operating procedures were to be reviewed and revised to place more emphasis on the seriousness of high-water problems.

The standby gas-treatment system was used as a venting path to reduce the pressure in the dry well when the only knowledge of the pressure there was that it was greater than 5 psig. This was done under closely controlled conditions and through a 2-in. bypass line rather than the 18-in. line provided. The gas-treatment system, however, was designed to operate at near atmospheric pressures and was tested at only 1.5 psig. Therefore it is felt that a safer procedure would have been to reduce the dry-well pressure to below 2 psig by condensing steam with the torus sprays or, if necessary, the dry-well sprays before venting to the gas-treatment system. New procedures and revisions of existing procedures have been issued to establish this requirement.

COMMENTS

If loss of control of the pressure-vessel water level had not occurred during the incident, apparently nothing more than a simple shutdown would have occurred and would have been followed, either then or eventually, by the rewiring of the electrohydraulic-control system to eliminate noise pickup. The real incident began with the loss of water-level control, which was caused by the operator observing a single water-level indicator that had a stuck pen. The incident reports mention revised procedures to better emphasize the problems associated with high water level, but fail to say whether more than one readout instrument has been provided or the reliability of the instruments has been improved. Once the high-water-level condition developed, there seemed to be no clear-cut procedure for reducing the level.

Since it was known that the isolation condenser needed a greater condensate-return-line capability, it seems surprising that no special procedures regarding its use and limitations were observed. After initial actuation of the condenser, several minutes elapsed before the operator was aware that it had almost immediately quit functioning.

Although the instrumentation cables in the dry well have been made less susceptible to moisture and temperature damage, it is not clear that the various electric motors affected by steam and water during the incident have been made less vulnerable. So long as the pressure-vessel safety valves vent directly into the dry well, the operation of electric motors in the dry well must be considered unreliable following pressure-surge incidents.

The loss of the dry-well temperature history during the incident, owing to a single recorder having run out of chart paper, again demonstrates the value of complete redundancy. Although a number of temperature monitors were provided, the use of a single recorder thwarted the value of whatever redundancies might have been supplied in other parts of the temperature-monitoring system.

It is unfortunate that procedural, mechanical, and control inadequacies can be recognized only upon the occurrence of some incident that puts them to a real test. The Dresden 2 installation, its procedures, and its operating staff have benefited substantially, in the long run, from having suffered and recovered from this particular incident.

EDUCATIONAL OPPORTUNITIES FOR WAR VETERANS

Mr. TOWER. Mr. President, the first GI bill was enacted for the veterans of World War II. All of its successors, including the present GI bill for Vietnam era veterans, have a single recurring theme—education is opportunity.

As a nation, we have committed ourselves to assisting our veterans to make a successful readjustment to civilian life. An education, with its attendant opportunities for gainful employment and a full life, is a key to a successful transition.

The GI bill, which provides financial assistance to meet educational costs, is a powerful incentive for a veteran to continue his education. Over 42 percent of the veterans of World War II used their educational benefits. Presently 38 percent of our Vietnam era veterans are using their GI bill. However, even the financial assistance of the GI bill is not sufficient to overcome other obstacles which frustrate the educational goals of many veterans.

Therefore, I note with great pleasure some of the recent developments to remove some of these obstacles. These developments—variations of the traditional mode of financial assistance—promise to enrich the education possibilities for the Vietnam era veteran. I commend them to the attention of my colleagues.

THE BROCK AMENDMENT TO THE HIGHER EDUCATION BILL

The GI bill does not cover the entire cost of the veteran's education. The veteran must demonstrate his commitment by financing the remainder of this educational expense.

The present unemployment situation for Vietnam era veterans is critical The part-time job market, a primary source of additional financial support for a college student, is slight. In an effort to expand the part-time job market, Senator BROCK introduced amendment 972 to S. 659, the higher education bill.

I was pleased to have the opportunity to join Senator BROCK as a cosponsor of the work-study for community service learning program. This proposal contains two key proposals. The first provision authorizes $10 million to be allocated to the States to be distributed to public, private, or nonprofit agencies. These funds will be used to pay the compensation of students employed by these agencies which are providing needed community services. Community services includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, housing and neighborhood improvement, and other fields of human betterment and community improvement. These public service jobs are very much in demand by communities across the Nation. Furthermore, the agencies would make an effort to relate the projects performed by the students to their general academic program and to a comprehensive program for college student services to the community.

The second major provision of amendment 972 is the assurance that the Vietnam era veterans will be given preference. Hence, this amendment will enable veterans who are in need of additional financial support to attend institutions of higher education to obtain earnings from employment. This proposal offers the maximum potential both for effective service to the community and for the enhancement of the educational development of such students.

This amendment was withdrawn upon request of the Senate leadership in order to minimize the difference between the House version and the Senate version of the higher education bill. However, I was extremely pleased that Senator JAVITS gave his assurances that the Senate conferees will work for a work-study program which would emphasize community service and a veterans' preference. I am hopeful that these constructive, positive recommendations will be included in the final version of the higher education bill's work-study program.

THE MED-VET PROJECT

A second type of variation consists of individualized programs being developed by universities and community colleges across the country to meet the educational needs of the veterans. An outstanding example of such a program is Project Med-Vet, initiated by the Dallas County Junior College District—El Centro branch—in Dallas, Tex. With a grant from the Division of Nursing, U.S. Public Health Service, a curriculum has been developed for an associate degree in nursing tailored to the needs of a veteran who has acquired medical training and experience in the armed services.

Each year, over 30,000 men and women leave the military who have received extensive training in an allied health field. These veterans represent a great resource which could be developed to alleviate the critical health manpower shortage in the civilian sector.

Regrettably, the attempts of these veterans to pursue a civilian health career are often discouraged and frustrated. They need certification or licensure from the State agencies to practice. In order to qualify for these examinations, however, the veteran needs an appropriate degree from an accredited institution.

Although many veterans would be willing to take courses to refresh or supplement their training in order to qualify for the State examinations, few schools will recognize and grant credit for their training and experience. Therefore, the education is needlessly repetitive, costly, and time consuming.

Project Med-Vet, however, eliminates this deterrent for the veteran by extensively testing his knowledge and skills. If he can demonstrate competence in a subject matter, he is given credit for the course and passed out of it. Thereby, many basic courses are bypassed. The student can emphasize those areas of training in which he needs additional help, and still reduce the time necessary to obtain a degree.

In addition to this challenge system, special seminars are conducted to explore the differences in the practice of military and civilian medicine.

The first class of 12 students graduated in December. Eleven are presently working in the Dallas area and one is working in New Mexico. These students will sit for their State licensure examination in April. There are currently 38 students in the course of study.

I commend El Centro and the very capable leadership of Dr. Bill J. Priest, chancellor, and Dr. Robert Leo, director of special projects, for this exciting innovation in the education of veterans and allied health personnel.

A COMMUNITY COLLEGE FOR THE AIR FORCE

Although a serviceman receives excellent training and experience in many technical fields, he often finds it difficult to transfer this knowledge into a meaningful record for employment and education purposes. A most innovative and challenging concept—A Community College for the Air Force—is being developed by Lt. Gen. George B. Simler. I ask unanimous consent that the text of an article in the Air Force Magazine, written by Capt. John T. Correll, USAF, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A COMMUNITY COLLEGE FOR THE AIR FORCE

(By Capt. John T. Correll, USAF)

RANDOLPH AFB, TEX.—In line with new trends in American vocational education, the Air Force plans to activate its own community college here this spring.

It will be a different kind of school, to be called the Community College of the Air Force. There are no classrooms at the home "campus" in San Antonio. Its initial task will be to provide the airman a transcript of his in-service education and training in a form acceptable to civilian schools and employers. At the same time, the Air Force is proceeding toward full civilian accreditation for its technical training centers. Provided this happens, the Community College will grow to a consortium of accredited schools—hopefully within two years.

The Community College was created to serve the unique needs of USAF airmen, whose training now receives limited recognition in the civilian world, and who often have difficulty in consolidating the academic credits they earn while in uniform.

"I'm convinced that this is one of the most progressive steps the Air Force has taken in the interests of its people and in the interest of the country, from the national resource standpoint, in twenty-five years," said Lt. Gen. George B. Simler, Commander of the Air Training Command, of which the Community College will be a part.

Col. John L. Phipps, ground-level planner in the Community College venture, and who holds a Ph.D. in Education, will serve as the institution's first president.

"What we're doing is not in isolation," Colonel Phipps observed. "We're a part, really, of a larger movement in American education as a whole."

He cites a number of recent attempts to recognize educational experience outside the traditional model. These include establishing a University Without Walls for the Department of Housing and Urban Development, in which unconventional course material can be accredited, and the practice of the New York Board of Regents in granting academic

credit on the basis of examinations to any student, registered or not.

The Community College will issue a transcript, with credits from both its own accredited technical schools and college-level courses the airman took in off-duty time.

"We are starting out with the objective of giving these young men credit for the things that they achieve in the technical training area while they're in the service," General Simler told Air Force Magazine. "In the initial stages, we're going to work very closely with the academic institutions that are interested in working with us through the various accrediting associations."

The idea for a Community College of the Air Force was born in ATC, but planners here soon sought the counsel of two other commands—Air University and the Air Force Academy—both of which had extensive experience in higher education and long association with the civilian academic world. In Lt. Gen. Albert P. Clark of the Academy and Lt. Gen. Alvan C. Gillem II of Air University, General Simler found enthusiastic colleagues. Together, they proposed the concept to the Pentagon, where both the need for and the value of a Community College of the Air Force were quickly recognized.

Vocational training is the Air Force's biggest recruiting incentive. Human Resources Laboratory researchers discovered that many young people enlisted because they wanted training and a chance to improve their skills.

The Air Force provides that kind of training. Its courses—ninety percent of which teach skills that can be used in civilian occupations—are equal or superior to the material taught in the top vocational and technical schools. Nevertheless, a veteran's training is very difficult to certify in a way that is meaningful to anyone outside the Air Force.

In addition, some airmen have accumulated many hours of college credits on their own time, seldom leading up to anything because they didn't stay in one place long enough to graduate, and had trouble transferring their work to a new school when they moved.

"In my opinion," General Simler declared, "there is a big deficiency in the recognition of the kinds of technical training we do in the Air Force. The employer may or may not have any knowledge of the degree of that training, the depth of it, the value of it, or the academic hours that went into making this man a qualified technician. So what we're attempting to do in this idea of a Community College of the Air Force is pull all that together."

As soon as the Community College data system is built and Air Force course content is translated into civilian language and semester hours—probably about the midsummer 1973—the Community College of the Air Force will begin issuing transcripts to ATC-trained airmen. (At present, the planners aren't sure just how far back in history they can go with the transcript service, but say they plan to serve as many people as possible.)

Such a transcript will be valuable to a prospective employer as well as to the airman.

"I anticipate that the transcript will be favorably received, because it's going to give an employer a definitive record of what this young man has accomplished," General Simler continued. "It will not only contain information on how he did in his training, but will include how he did subsequent to that in on-the-job training and in the Weighted Airman Promotion System. It will also contain any other courses he has been able to take from civilian institutions. The employer will have a very clear record of what this fellow has achieved—probably a better record from the standpoint of the personnel man who's going to hire him than anything else he'll get from any other candidate. It'll be a real pedigree."

One of the pillars on which the Community College of the Air Force is built is the Utah project, carried out by the Air Force Association's Aerospace Education Foundation and the U.S. Office of Education (see page 69).

In 1967, Utah placed three Air Force courses—in their original form—in civilian high schools, vocational schools, and a college. The Air Force materials proved as efficient and more popular than the previously used material. This prompted a seminal question: If ATC courses are taught in college for college credit, then why not arrange for direct college credit for Air Force people when they take these courses in the Air Force?

The breakthrough came when ATC's Sheppard Technical Training Center at Wichita Falls, Tex., was accepted last July as an affiliate of the Southern Association of Colleges and Schools. This is the first step toward accreditation, which can be conferred by a vote of member schools following a year of self-study by an affiliate to document the manner in which it meets Association standards.

General Simler instructed other ATC schools to take similar initiatives and seek affiliate status from the accrediting agency in their areas. The tech schools at Keesler AFB, Miss., and Lackland AFB, Tex., as well as the Security Service's school at Goodfellow AFB, Tex., have since affiliated with the Southern Association of Colleges and Schools. ATC's two other technical training centers—at Chanute AFB, Ill., and Lowry AFB, Colo.—are in the area of the North Central Association, which does not have an affiliation step in its accrediting process. Both Chanute and Lowry, however, are working on self studies to present to the Association.

Accreditation, ATC points out, is highly desirable because it provides assurance to institutions of higher education that an independent educational accrediting association has conducted a thorough review of Air Force technical training and found it to meet comprehensive standards.

At present, an individual who has received Air Force training can ask a college or university to give him credit for that training. The American Council on Education provides a listing of most military courses, and, where appropriate, recommends that credit be given for those courses. There is no requirement, however, that institutions accept military training for credit, and accreditation is expected to increase the likelihood that credit will be given.

"We're going to get some very serious questions about the Community College of the Air Force and its purpose," General Simler predicted. "We'll be tasked to justify why we should be accredited, I'm sure, and we feel that we have all the justification that we need, and that we can support our position."

Acceptance by civilian educators is especially important.

"We work hand in glove with the academic civilian world," General Simler asserted. "To this point in time, they have been most cooperative and most receptive."

Community College planners have been advised all along by civilian educators, and the school's advisory committee will include a number of educators, as well as Air Force officials and people from other federal agencies.

"The key idea behind the Community College of the Air Force concept," stresses Colonel Phipps, "is that existing Air Force technical training programs can be documented as formal education experiences. These experiences—supplemented by further formal instruction and experience—can be folded to meet the requirements of licensing and certifying agencies and educational institutions."

In a forthcoming article for ATC's *Instructor Journal*, Colonel Phipps wrote: "The importance of degrees, licenses, certificates, and other symbols of qualification in today's society cannot be overemphasized. The world of work has been called a 'certified meritocracy'—a world in which doors open only to those who have the 'papers' attesting to their achievements. Perhaps that is too Orwellian a view, but few would argue that diplomas often sharply separate the socioeconomic status of some members of our society from others who are equally deserving, but lack formal recognition of their qualifications."

Parallel to the effort to accredit ATC tech schools, the physician's assistant training program at Sheppard is already accredited by the American Medical Association. Graduates can be licensed in several states.

On the surface, it would seem that accrediting and certifying an airman's skills to make him more competitive in the job market would work to the detriment of Air Force retention. General Simler doesn't foresee any great problem.

"First of all," he said, "I think we have an obligation to Americans who come into the Air Force to provide them this kind of service, regardless of whether they stay in the Air Force or return to civilian life. I think we have an obligation to the industry of the United States to provide them with a man who has recognized skills that are usable by them.

"I think we can compete in the numbers of people we take in annually to retain a sufficient number for our own purposes. We should have a flow of people into and out of the Air Force on their initial enlistment. We don't want to retain everybody. It just wouldn't be healthy for us."

(General Simler's comments on retention carry special credibility. Through December, his Air Training Command led the entire Air Force in retention rates for the year, having reenlisted 46.7 percent of its first-term airmen who were eligible to reenlist.)

There are benefits to the career man, too, and they go beyond the increased prestige accruing to him as a certified master of his trade. He will be in an improved position to seek post-service employment.

"He isn't going to be in the Air Force forever," General Simler pointed out. "If a youngster who comes to us at seventeen years of age leaves after twenty years of service, he's only thirty-seven years old."

The President's National Advisory Council on Vocational Education has expressed keen interest in the Community College of the Air Force and, along with representatives of AFA's Aerospace Education Foundation, will visit San Antonio this spring for a firsthand look.

The benefit to society in general will be significant. Each year, more than 100,000 veterans leave the Air Force, trained for work in civilian occupations. With the coming of the Community College of the Air Force, they will represent a skilled manpower resource that can be drawn upon much more readily than is now possible.

"We haven't run into any problems that we haven't been able to resolve," General Simler said. "We've been able to justify our position as we moved along, each step of the way—and I think this will probably maintain itself. The only thing that remains is a lot of hard work."

EXPERTS OPPOSE VALUE-ADDED TAX

Mr. PROXMIRE. Mr. President, yesterday the Joint Economic Committee began hearings on the value-added tax and on alternative methods of raising the needed additional revenues for meeting the educational, health, and basic income distribution requirements of the Nation. It is clear that by the mid-1970's the Federal Government will need at least extra revenues of $50–$100 billion to finance vast unmet needs, especially at the State and local level.

Some of these revenues can come from improvement or elimination of existing Federal programs. But a large part will necessarily have to come from additional Federal taxes. The administration has narrowly focused its attention on the possibilities of instituting a value-added tax to finance new initiatives. Yet this tax seems to perpetuate and extend the inequities that already exist in our tax system.

That the value-added tax is a regressive tax is generally recognized; this was corroborated by the witnesses that appeared before the committee yesterday. Among the three witnesses who testified yesterday, two were flatly opposed to the tax and the other gave it only qualified support. Prof. John Due stressed that the tax will place the greatest burden on lower income groups. He emphasized that the tax:

Will be distributed in a relatively regressive fashion because lower income groups spend higher percentages of their incomes on taxable goods than do persons in the higher income groups. Even more serious than the relative regressivity, which can be offset to some extent by the progressivity of the income tax, is the absolute burden on the lowest income groups, already living below a minimum subsistence budget.

These sentiments were echoed by Mr. Sheldon Cohen, former Commissioner of the Internal Revenue Service, who also brought out the inflationary aspects of a tax on value added. Mr. Cohen pointed out that:

Imposition of a value-added tax generally results in increasing the cost of consumer items. Thus, the cost of living rises—generally, very sharply. Inflation in the United States is a serious and persistent problem at the moment and for the foreseeable future. A value-added tax would only add fuel to the fire, making more difficult the job of moderating inflationary pressures in the economy.

Mr. President, I think that this is a quite important point that has been ignored in the discussion of value-added tax thus far. When I questioned the witnesses they suggested that imposition of a 5-percent VAT might raise consumer prices in excess of 4 or 5 percent.

Finally, one witness did give the value-added tax his qualified support. Prof. Charles McClure, of Rice University, would endorse VAT if the income and corporation income taxes were substantially reformed. He indicated that:

Ideally, imposition of a tax on valued added would occur in the context of integration of the personal and corporate income taxes, reform of the newly integrated income tax, and initiation of low income relief. A less ambitious, but acceptable, program would replace income tax integration with reform of capital gains taxation. Failing this, the VAT should not be substituted for the corporation income tax.

These witnesses raised serious questions about the equity, efficiency of operation, cost of living, and balance-of-payment aspects of the value-added tax. Mr. President, I ask unanimous consent that the excellent papers presented to the Joint Economic Committee follow the text of my remarks in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SHELDON S. COHEN, BEFORE THE JOINT ECONOMIC COMMITTEE, MARCH 21, 1972

Mr. Chairman and Members of the Committee: My name is Sheldon S. Cohen. I am a partner in the law firm of Cohen and Uretz in Washington, D.C. During the period December, 1964, through January, 1969, I served as Commissioner of Internal Revenue.

I appreciate very much your invitation to appear today to present my personal views concerning proposals that a value-added tax be enacted to provide a new source of Federal revenues.

At a time when all levels of government—Federal, State, and local—are hard pressed to raise funds needed to finance vitally needed public services and programs, we must search diligently for means of raising additional revenues efficiently and equitably, whether from existing taxes or new ones. Any serious proposal to raise revenue must be judged carefully in the light of these standards and on its merits.

It is important, therefore, that the issues presented in examining the desirability and feasibility of a value-added tax be put in proper perspective.

There are some who would have the public believe that a value-added tax is the way—indeed, the only way—to relief from the increasing burden of local property taxes. That is simply not true. Whether property tax relief is needed or desirable is an independent question. If careful analysis demonstrates that less reliance should be placed on local real estate taxes as a source of local funding, there are many alternatives, only one of which is a value-added tax, that must be examined to find the best solution—and not just an expedient answer.

The value-added tax must, therefore, withstand scrutiny on its own to determine whether it has the potential of meeting the dual tests of efficiency and equity better than other means at our disposal.

The essence of a value-added tax system is that at each stage of production and distribution a tax is imposed at a given rate on the value added to the product or service. Although there are various ways in which the tax may be structured, it is generally accepted that in most cases the tax is passed along to the ultimate consumer in the form of a price increase at least equal to the aggregate tax which the product or service bears. The tax, therefore, is a tax on consumption—how much a person spends—rather than a tax on income—how much a person earns.

A consumption tax has the inherent characteristic of regressivity—lower income groups pay proportionately greater taxes than those with higher incomes, since a greater portion of their earnings are expended for living costs. Although there may be devices which can moderate the severity of the regression, a viable system remains, nevertheless, dominantly regressive. Although proponents of the tax suggest it is a simple tax to administer, attempts to reduce regressivity will necessarily increase the complexity and administrative difficulties of the system, both for the public and the Government. A value-added tax studded with the requisite exemptions and exclusions merely to remove its most serious regressive impact, will present intensely serious administrative problems.

Clearly, the income tax is more equitable and fair, since it is based on ability to pay—rather than on the need to consume. If the income tax system were presently structured to yield fully its revenue potential with reasonable progressivity in fact, other alternatives for the raising of revenues might have to be considered. But, the income tax system is not operating in accord with its potential. The system is overloaded with unwise and unneeded tax preferences which narrow the base and permit many with large incomes to avoid paying their fair share. Large amounts of revenue can be raised now by meaningful tax reform—and at the same time we can restore public confidence in the fairness of the system. Given these circumstances, I see no justification to enactment of a value-added tax which would only shift more of the tax burden to low and middle income families.

These considerations aside, the case for a value-added tax is still not persuasive.

Proponents of the tax point to its use in European countries as demonstrative of its success and the need for us to follow their lead in order to more fully integrate our system of taxation with theirs. But the European experience generally has been quite different from ours. The level of compliance with the income tax, indeed, any tax, in Europe has been relatively low, compelling those countries to find alternatives—such as value-added taxes—which, though less equitable, are more productive of revenue. That has not been the case in the United States where we have an enviable record of an overall high degree of compliance with the progressive income tax system. Many a tax official from abroad has marveled at our system and expressed to me his keen desire that his own system could function as well.

Moreover, in some countries, such as Sweden, the adoption of the value-added tax was accompanied by a repeal of the retail sales tax—the substitution of one form of consumption tax for another—not the substitution of a consumption tax for an efficient income tax.

I am also unconvinced that adoption of a value-added tax would have any significant beneficial effects insofar as foreign trade or balance of payments problems are concerned. The fact that a value-added tax is adopted which, as an indirect tax, may be rebated to exporters under the General Agreement on Tariffs and Trade, does not improve the existing situation. It is only where a value-added tax is substituted for a non-refundable direct tax that a positive impact on pricing of export articles in foreign markets occurs. Even if the enactment of a value-added tax were accompanied by a concurrent reduction in some other tax, such as the property tax, the effect is likely to be so modest as to have little or no impact on our trade position. For example, the amount of property taxes borne by business as a percentage of sales is so slight, that even if property taxes were repealed completely in favor of a value-added tax, there would likely be no significant impact on the pricing of export goods. But even were we to assume that a convincing case can be made that a value-added tax would have a favorable effect on our foreign trade of meaningful proportions, the argument is still not won. The anticipated benefit still must stand the test of comparison with its cost, its effect on various segments of society, and the degree to which its regressive characteristics can be tolerated as a matter of tax justice. The benefits may well not be worth the burdens.

Another serious aspect of a value-added tax is its adverse effect on inflation. Imposition of a value-added tax generally results in increasing the cost of consumer items. Thus, the cost of living rises—generally, very sharply.

European countries experienced significant inflationary pressures following adoption of value-added taxes—with prices frequently rising by more than the amount of the tax, as some businesses used the tax as a device for passing on general price increases. Since

the tax also results in increased cost of operation and investment, as a practical matter prices are likely to increase in amounts greater than the amount of the tax itself.

Inflation in the United States is a serious and persistent problem at the moment and for the foreseeable future. A value-added tax would only add fuel to the fire, making more difficult the job of moderating inflationary pressures in the economy.

Many businesses, as well as consumers, may also be adversely affected by a value-added tax. The tax would involve new and expanded administrative costs in order to maintain the records needed for compliance. More importantly, some business groups would be caught in a squeeze which would have significant adverse financial effects.

Although it is generally assumed that the tax would be passed on in the form of higher prices to consumers, that may well not be the universal experience. The rate of tax would be very high in relation to profits in industries which have high volume and low percentage yields. For example, assume a business has an annual volume of $10 million and earns a 1 percent net profit of $100,000. A three percent value-added tax could amount to as much as $300,000. If by reason of competitive conditions, or otherwise, any portion of that tax is not passed on to consumers, the company's profit picture would be altered drastically—to a much greater degree than would result from a significant rise in corporate income tax rates.

The value-added tax has serious drawbacks—for consumers, for business, and for our economy. I believe we ought to be focusing our efforts on strengthening our income tax system, which can raise revenues more fairly and efficiently. In summary, the United States in the 1970's is neither the time nor the place for a value-added tax.

STATEMENT ON THE PROPOSAL FOR A FEDERAL VALUE ADDED TAX TO PROVIDE FUNDS TO REPLACE LOCAL PROPERTY TAXES FOR THE FINANCING OF EDUCATION

(By John F. Due, professor of economics and chairman of the department, University of Illinois, Urbana)

Reform of the methods of financing education is long overdue and action to reform the system is being prompted by recent court decisions. There are a number of alternative avenues of reform: replacement of the local property taxes by a uniform state property tax; increases in state income and sales taxes to provide the necessary funds; grants of funds out of Federal income tax revenues; and the recent suggestion by the administration, now under study by the Advisory Commission on Intergovernmental Relations, for a Federal value added tax to raise money for this purpose.

While the need for reform is unquestioned, there are a number of serious objections to the value added tax proposals:

Equity—A value added tax is simply a form of sales tax, equivalent in base and yield at a given rate to a retail sales tax, differing only in that the tax is collected in increments from each firm in production and distribution channels on the value added by each firm, rather than entirely from the retailer on the final selling price at retail. The sum of the values added at each stage in production and distribution of course equals the retail selling price. The presumption is that the value added tax will shift forward to the final consumer, with some deviations, in the same pattern as a retail sales tax. To the extent that it does not, it rests in an inequitable and capricious fashion on the owners of various businesses and their employees.

Under the assumption of forward shifting of the value added tax, the tax will be distributed in a relatively regressive fashion because lower income groups spend higher percentages of their incomes on taxable goods than do persons in the higher income groups. Even more serious than the relative regressivity, which can be offset to some extent by the progressivity of the income tax, is the absolute burden on the lowest income groups, already living below a minimum subsistence budget.

The regressivity and the absolute burden on the poor can be lessened by exemption of food from the value added tax. But this approach is highly unsatisfactory in many respects. Exemption favors those persons who spend relatively high percentages of their income on luxury foods. It unnecessarily exempts food expenditures of the higher income groups and causes a much greater reduction in tax revenue than is necessary to accomplish the objectives. The exemption does not free the lowest income groups from their entire tax burden. It materially complicates the tasks of retailers in applying the tax and of auditors in checking upon the accuracy of returns.

A much more satisfactory approach is the provision of a credit against income tax representing value added tax paid on minimum necessary purchases, with refund for those persons having no income tax liability. This system is used with the sales taxes in Indiana, Colorado, and several other states. Compared to food exemption, this approach causes less loss in revenue and is much less discriminatory against various families, while relieving the very poor of all tax liability. It causes far fewer administrative and compliance complications than food exemption. But experience in the states does show two limitations. A substantial number of the poor do not file for their refunds, and thus the intent of the program is not fully attained. Secondly, there is also some multiple filing, a person obtaining several refunds.[1]

Even with food exemption or a credit against income tax, however, the value added tax suffers from several limitations on equity grounds. The tax cannot be made progressive as can the income tax. The tax favors those families at each income level that deliberately spend relatively low percentages of their incomes. No adjustment for family circumstances is possible, except crudely under the credit against income tax system.

Despite popular views to the contrary, the property tax is not regressive except at the very low and very high income groups.[1]

Certainly the value added tax provides no improvement over the property tax in terms of overall distributional patterns. Much of the property tax—an estimated 40 percent—rests on land. One of the few subjects on which economists agree is that a tax on land values is one of the least objectionable of all forms of taxation and has much merit from an equity standpoint. Reduction in taxes on land will result in increases in land values and a bonus to large landowners. If the Federal government is to increase its contribution for schools, the obvious solution, from the standpoint of equity, is to improve the structure of the income tax, close additional loopholes, and if necessary increase the rate. We have just witnessed substantial reductions in the income tax; the obvious solution to obtain more revenue is to call upon an improved income tax to supply it, not to add a new tax which on equity grounds is inevitably an inferior levy.

Fiscal Policy Effects. A Federal value added tax should undoubtedly have greater adverse effect on employment than other forms of tax, because of its greater effect in restricting consumption, per dollar of revenue. The tax hits more heavily those families consuming all or most of their income and gives some incentive to curtail consumption. While in theory this effect could be offset by other fiscal or monetary policies, in fact such policies do not appear easy to implement or fully effective.

At the same time, the value added tax would add to inflationary pressures by raising the cost of living. This reaction would likely more than offset the anti-inflationary effect of the tax in reducing consumption. While virtually all taxes may have some effect in leading to demands for higher wages, a levy that directly increases the cost of living index is likely to have the greatest influence, per dollar of tax revenue.

Intergovernmental Relations. Establishment of a Federal value added tax would infringe upon the states' major revenue source, the retail sales tax, now used in 45 states and yielding 30% of state tax revenues. The states are restricted in the income tax field by the substantial Federal use; their one major autonomous source is the sales tax. Without question establishment of the Federal value added tax would restrict the ability of the states to gain additional revenue from this field.

Operational Complications. A Federal value added tax would create a vast new complex of tasks for business firms of all types and necessitate a major new enforcement and audit staff for the Internal Revenue Service. The number of taxpaying firms would be in the neighborhood of 5 million (with farmers excluded from the tax).[2] These firms would have to keep records and file returns for the new tax in additional to the ones now required of them for the state retail sales taxes. For smaller businesses, the very concept of the value added tax would create complications, at least initially.

The value added tax, under the usual tax credit system, as used in Europe, works most smoothly when there are no exemptions of types of taxpayers, since the tax paid by one firm constitutes a deduction for another. Each firm calculates tax by subtracting the tax paid on its purchases from the figure obtained by applying the tax rate to its taxable sales. Whenever this chain is broken, special techniques are required to avoid multiple taxation by exempting sales by vendors to exempt firms or granting refunds to firms that have paid tax on purchases but are not registered vendors on their sales. To make the three million farmers in the United States subject to the tax would add greatly to compliance and enforcement problems. But if they are exempt, either the sales to them must be specifically exempted, a refund provided to them for tax paid on purchases, or the price of the products purchased from them assumed to contain a certain tax element which the purchasers, if registered firms, can deduct against their tax liability. Any of the approaches creates major complications. Commodity exemptions create more problems than under retail sales taxes since the exemption must carry through several production and distribution stages. Other exemptions are likely to be made for various social and economics reasons: medical care, hospital service, urban transport. The concept of value added is not clearcut or easily defined with banks and insurance companies. On the whole the value added tax is not nearly as simple a levy as is sometimes argued.

These complications suggest that if the Federal government were to move into the sales tax field, it should use the retail sales tax form instead. This is a simple levy familiar to most business firms in the United States, and Federal operation could be coordinated with the state sales taxes. Only firms selling at retail are vendors and the number of taxpaying firms is therefore somewhat less. The only potential advantage of

[1] This is shown in studies by the Advisory Commission on Intergovernmental Relations.

[2] There are 4.1 million firms now registered under the state sales taxes.

the value added tax over the retail sales tax is the possible greater ease in excluding all producers goods from the tax if desired. Firms can be permitted to deduct tax paid on all of their purchases and not just those of materials and parts, and check needs to be made only on the firm itself. With the retail sales tax the exemption applies to the sale of producers goods by the suppliers and therefore check must be made upon both supplier and purchaser. This argument has been stressed by Professors Ann Friedlaender and Carl Shoup.[3] But the argument can easily be exaggerated. Most sales of producers goods can be excluded under retail sales taxes if desired; the states have never actually systematically sought to do so.

The other arguments for the value added form of sales tax, that it lessens evasion because much of the tax is collected at the manufacturing and wholesale levels where firms are larger, and that it provides automatic cross check since tax deducted by merit in the United States, in view of the ability to enforce retail sales taxes with little evasion. This argument is highly significant in countries that cannot collect heavy taxes from retailers.

THE FOREIGN TRADE QUESTION

The argument is often advanced that use of a value added tax would aid the position of American producers competing in foreign markets, since the tax would be rebated on exports. As a replacement for the property tax, there would be virtually no net advantage, except possibly for a few property intensive firms now heavily burdened by local property taxes not refunded at export. But for most manufacturers, property taxes constitute a negligible element in the costs of goods they are selling for export. As compared to a personal income tax there is no advantage whatever since the income tax does not affect export prices.

The personal income tax may, it is true, result in higher wage demands, but the value added tax also has this effect, almost certainly of greater magnitude per dollar of revenue.

Even as compared to the corporate income tax, the value added tax offers little advantage, even though the value added tax can be refunded on exports while the corporation income tax cannot. The inability to refund the corporate income tax is relevant for our exports only if the corporate income tax is actually reflected in higher prices of commodities exported. There is no clearcut evidence that the corporate tax is even reflected in the prices of domestic goods, despite the vehement insistence of many persons that it is; even if it is, the tax is not necessarily reflected in export prices. But more significantly, our major competitors in world markets have corporate income taxes comparable to ours in height; our producers are under no net competitive disadvantage. The European value added taxes were introduced to replace the turnover form of sales tax, not income, property, or other levies.

In general, no field of taxation has seen so much nonsensical discussion than the value added tax. To some persons, the mere act of levying a value added tax and then refunding it on exports, even without elimination of any other tax, would aid our exports; this is ridiculous nonsense. To others we must have a value added tax because other countries are using one—there is a frantic running scared—we have to use it because they are using it—copycat bandwagon attitude on the part of many people who should know better. In reality, much of the support for the tax comes from persons who are primarily interested in reducing the overall progressivity of the tax structure; the term "value added tax" smells sweeter, they hope, than the term "sales tax." The dogged insistence of a few persons that a value added tax is not a sales tax plays into their hands. The property tax is notoriously unpopular; to the supporters of a federal sales tax, the school finance crisis offers the golden opportunity to introduce the levy by tying it to elimination of a highly unpopular levy. There are far simpler and more attractive methods to meet the need to eliminate the local property tax for financing education: statewide property taxes, higher state sales and income taxes; a more effectively progressive Federal income tax.

[3] Ann F. Friedlaender, "Indirect Taxes and Relative Prices", *Quarterly Journal of Economics*, Vol. 81 (Feb. 1967), pp. 125–39; Carl Shoup, "Experience with the Value Added Tax in Denmark and Prospects in Sweden", *Finanzarchiv*, Vol. 28 (March, 1969), pp. 236–52.

STATEMENT TO THE JOINT ECONOMIC COMMITTEE OF THE CONGRESS OF THE UNITED STATES ON VALUE ADDED TAXATION

(By Charles E. McClure, Jr., associate professor of economics, Rice University, March 21, 1972)

Like most questions of tax policy, whether the United States should adopt a federal tax on value added (TVA) has no simple answer. The verdict depends upon the alternative sources of revenue available and the context in which the decision must be made. A choice that would be acceptable under one set of circumstances might be totally unacceptable under another. In my testimony today I want to examine two widely discussed alternatives to imposition of a federal tax on value added, with special emphasis upon the historical and institutional context in which we are facing the issue.

I. Substituting TVA for the Corporation Income Tax

Until recently, the tax on value added was discussed most commonly as a replacement for part or all of the corporation income tax. Advocates of the switch to TVA ordinarily predicated their case primarily upon hoped-for improvements in the balance of payments, with an occasional nod to the expected growth effects and neutrality of the tax on value added.

The balance of payments argument has ranged from the simplistic, but unconvincing, truism that under the General Agreement on Tariffs and Trade border tax adjustments (export rebates and compensating import duties) are allowed for the TVA, but not for the corporation income tax, to more sophisticated analysis involving assumptions about the shifting and incidence of the two taxes. The growth argument relies upon the assumption that corporate saving and investment would rise substantially if the TVA replaced the corporation income tax. Finally, the neutrality of the ideal TVA contrasts sharply with the distinct non-neutrality of the corporation income tax. The latter tax discriminates between the incorporated and unincorporated sectors of the economy, against equity financing and the use of capital in the incorporated sector, and between industries.

Opponents of the substitution of the tax on value added for the corporation income tax have tended to play down the supposed advantages of such a move and have questioned whether the advantages, even if real, would be worth the cost in terms of equity. First, they have questioned both the likelihood that the balance of payments would benefit much from the shift and the desirability of predicating important decisions of internal tax policy upon their presumed balance of payments implications. I share both these doubts, the second especially strongly in the light of the recent realinement of exchange rates.

There is little doubt that substituting a TVA for the corporation income tax would increase saving and investment significantly, provided the corporation tax is not shifted. Of course, if it is shifted, little effect is to be expected. But one must ask whether further stimulus to corporate saving and investment is needed in the wake of the recently enacted ADR system of depreciation for tax purposes and restoration of the investment tax credit. Moreover, even if more stimulus to saving and investment is needed, there are other, and perhaps better, ways of providing it than through substitution of a TVA for the corporation tax. Finally, one could question the wisdom of creating a huge flow of corporate saving that might go uninvested if business confidence were weak, contributing to deflationary pressures.

Opponents of the tax on value added are also usually willing to admit the superiority of the TVA on neutrality grounds, with several provisos. First, elimination of the corporation income tax would create an enormous tax haven in retained earnings. Besides having obvious implications for tax equity, this tax haven would itself distort economic decisions in important new ways. Second, it is virtually certain that any tax on value added would contain exemptions for administratively hard-to-tax items, and it might well also contain exemptions to reduce the regressivity of the value added tax. Thus it is an open question whether the gain in economic efficiency resulting from the tax substitution would be great. This is an issue which deserves further exploration.

The heavy artillery in the case against substituting a tax on value added for the corporation income tax is the regressivity of the TVA. Like any general sales tax, the TVA takes a decreasing share of income as income rises. Thus it imposes a proportionately heavier burden on low income families than on high income families. If the corporation tax is borne by recipients of profit income, as many economists think, the tax substitution under examination would represent a substantial shift toward regressivity—a shift which many see as unconscionable. Whether this equity effect should outweigh the supposed advantages of the TVA balance of payments, growth, and neutrality grounds, as opponents of the TVA contend, involves important value judgements about which opinions can reasonably differ, though I personally think it should. Of course, if the corporation tax is shifted, as some economists and most businessmen think, there is somewhat less reason to oppose the change on equity grounds, but there is also less gain to be expected on the growth side. Unfortunately, we do not know the incidence of the corporation income tax, and are not likely to achieve early agreement on it.

On balance, I would oppose the simple substitution of the TVA for the corporation income tax, even though I am no fan of the latter tax. The balance of payments effects probably would not be large, and should not weigh heavily in the decision in any case. The growth effects, while potentially important, can be achieved in other ways, and should be viewed as less important than before the Nixon administration's measures to stimulate investment. The TVA is probably more nearly neutral than the corporation income tax, though even it is likely to be far from completely neutral. But most important, I question the advisability of the substitution because it would leave the United States with an undesirable combination of income and consumption taxation.

I do not object in principle to a dual federal system of income and consumption taxes, as I shall make clear in a moment. But I do object strongly to the kind of dual system that the simple tax substitution would produce. The consumption tax portion would not necessarily be at fault, provided its regressivity at the lower end of the income scale were relieved. (I should hope that this relief would be provided directly through refundable tax credits or low income relief, rather than by exempting "necessities" (see below), and that administrative exemptions

would be kept to a minimum, in order to preserve the neutrality of the tax.)

The fault, rather, would lie in the form of income taxation that would remain beside the TVA. The portion of income attributable to individuals taking the form of retained earnings of corporations would be reached only by the capital gains tax—a most imperfect fiscal device indeed. Massive amounts of economic income would be taxed at the preferential capital gains rates or—given present tax law—would escape income taxation completely when transferred by reason of death. The preferential taxation of capital gains is, of course, most relevant for high income taxpayers. Moreover, various other well-known loopholes in the personal income tax laws would remain unfilled. Many of these are also available primarily to upper income taxpayers. So long as these blatant violations of vertical equity—not to mention horizontal equity—remain, replacement of the corporation income tax with a tax on value added seems totally unacceptable on equity grounds.

This does not, however, mean that I would not support a general sales tax at the federal level under the right circumstances. But the circumstances are fairly special, and would involve a thorough overhaul of the federal income tax. First, I would like to see integration of the personal and corporation income taxes, preferably utilizing the partnership method. Corporate profits would be attributed to shareholders and included in their ordinary personal income for tax purposes. A corporation tax would exist, if at all, only as a means of withholding. This would eliminate the double taxation of dividends, if it now occurs, without creating a tax haven in retained earnings. Second, substantive reform of the newly integrated income tax system along lines that have been advocated for years by economists and others interested in equitable income taxation would greatly increase both the horizontal and vertical equity of the U.S. income tax. Finally, a meaningful program of low income relief, such as a negative income tax, would provide a given minimum standard of living for those families at the bottom of the income distribution.

In this context of meaningfully progressive income taxation, a federal sales tax would not be a particularly objectionable addition to the federal revenue system. On balance, the federal revenue system would have been rendered substantially more progressive in the top income brackets by the integration and reform of the personal and corporation income taxes. And any tendency towards regressivity at the bottom end of the scale—including that involved in a TVA—would have been more than offset by the initiation of important low income relief. In this setting it seems difficult to fault the addition of a federal sales tax to our fiscal arsenal, especially since in principle the tax rates applied under the integrated income tax (including the negative income portion) could be adjusted as necessary in the interests of tax equity.

The tax reform just described is ambitious, or even Utopian, and perhaps it is senseless to bother to describe it. Yet I believe the description is worth the bother, if only to highlight the stringency of the circumstances under which elimination of the separate corporation income tax and imposition of a general federal sales tax would be acceptable on equity grounds. Certainly those circumstances are a far cry from what has usually been envisaged by those advocating the simple substitution of the TVA for the corporation income tax.

It would be possible to stop short of this extreme proposal for thorough tax reform in search of acceptable conditions for imposition of a federal sales tax. Substitution of a sales tax for the corporation income tax might be acceptable provided capital gains taxation were significantly reformed in order to prevent the tax haven in retained earnings described earlier. The necessary reform would involve both taxation of capital gains more nearly like ordinary income and constructive realization at death, with periodic valuation of assets for tax purposes being a further useful feature of such reform. Of course, loophole closing would remain a worthy goal of tax policy.

It would be desirable to combine reform of capital gains taxation and the newly imposed federal sales tax with general low income relief of the type mentioned in the discussion of the ideal tax package. But lacking that, relief for the burden of the sales tax should be allowed low income families by providing refundable credits under the personal income tax. Such credits would result in refunds to those families with income tax liabilities smaller than the amount of the credit. This approach would, of course, involve a considerable administrative burden, which would be avoided by including relief for the burden of the sales tax in the general program of low income relief. Finally, relief to low income families provided through exemption of necessities would distort choices and would rank as a distinctly third-best choice. Of course, as noted earlier, simple substitution of a TVA for the corporation income tax without either taxation of capital gains or low income relief would be completely unacceptable on equity grounds.

II. REPLACING LOCAL PROPERTY TAXES WITH TVA REVENUES

Though details are still quite sketchy, it is said that the Nixon administration is considering proposing a federal tax on value added, the revenue from which would be used to relieve the burden of existing local property taxes used to finance public education. Thus in recent months the revenue from a tax on value added has been discussed primarily as a replacement for local property taxes, rather than as a substitute for the corporation income tax. In this portion of my remarks I want to comment briefly upon what I take to be the Nixon position.

In general, it seems that reduced reliance on local property taxes is a worthwhile goal of public policy. In the early days of this nation, when economic activity was largely agricultural, the local property tax might have been a reasonable way to attempt to tax according to benefits received or ability to pay, or both. But in an industrial society, the local property tax is inferior on both counts; tax liabilities are related closely to neither benefits nor ability to pay taxes. Moreover, the portion of the tax levied on improvements tends to distort locational decisions within metropolitan areas and to retard the economic redevelopment of our central cities. In a related vein, financing public education through local property taxes means that a child's educational opportunities depend crucially upon where he lives. Recent court cases have found this unacceptable. Finally, the local property tax is usually thought to be significantly regressive in the low income range, due to the heavy burden on housing. Thus it seems better on virtually all grounds to finance local public services, including education, through local taxes on sales or income or through shared revenues from state or federal taxes on sales or income than to continue to rely on the local property tax on improvements. (There is no compelling case for discontinuing taxation of land values. In fact, there is a strong argument on both equity and efficiency grounds for continuing the taxation of land. The tax on land, unlike almost all other taxes, causes no economic distortions, and removing it would result in windfall capital gains to present landowners.)

Given the many faults inherent in local property taxation—not all of which would be remedies under state imposition of property taxes, another frequently discussed response to the court cases mentioned above—the Nixon proposal would not necessarily be objectionable. Certainly it would be preferable to both foregoing badly needed public services and continued reliance on the property tax. It would be a step forward on efficiency grounds. And it might not have overly adverse effects on the equity of the tax system, since the property tax is probably even more regressive than the value added tax over the low income range. (This difference arises largely from the treatment of housing under the two taxes: the property tax imposes a heavy burden on housing, whereas the TVA would probably exempt it.) However, any endorsement of the Nixon proposal must be closely qualified.

If the ideal federal income tax system outlined earlier was implemented, education could acceptably be financed largely through local sales or income taxes, with a minimum quality of education being assured through state or federal grants-in-aid. This would have the advantage that local control of education would be maintained. In principle, even regressive local sales taxes would be acceptable, since they could be offset by adjusting the level of transfers under the assumed federal program of low income relief. Alternatively, more reliance could be placed on state or federal taxation and revenue sharing or grants to local governments, through perhaps at the expense of some loss of local control. In any case, substituting sales tax financing of education for property tax financing would be most acceptable in the context of thorough reform of the federal income tax system, including initiation of a system of low income relief. Seen in this light, the Nixon proposal to replace property tax revenue with revenue from a federal TVA, without reforming federal income taxation, represents a distinctly inferior, though perhaps acceptable, compromise with tax equity.

But other compromise solutions are available, and, some are superior to the Nixon choice. The most obvious alternative, and the only one I want to discuss here, would be to use revenues from reform of the existing income taxes to replace revenues from the local property tax. Base broadening would produce considerable revenue and an income tax that is more equitable, both horizontally and vertically, as well as more nearly neutral, and should be a high priority legislative item. The choice of income tax reform over imposition of a federal tax on value added seems especially appropriate in the present context, in that the progressivity of the federal tax system has recently been reduced by the initiation of the ADR system and the investment tax credit. It simply seems undesirable on equity grounds to follow the granting of these incentives to business investment with imposition of a national sales tax. Thus while the Nixon proposal may be acceptable if the alternative is to forgo important public services or to continue to rely upon the property tax revenues is distinctly inferior to replacing these revenues through reform of the income tax system. It is to this matter of income tax reform, and not to the tax on value added, that I urge the Congress to address its attention.

III. TVA OR RETAIL SALES TAX

To this point the discussion has focused upon the substitution of a federal tax on value added for the federal corporation income tax or the local property tax, with or without concomitant income tax reform. It is desirable to pause briefly at this point, however, to ask whether an American federal sales tax—if one is to exist—should be levied as a tax on value added or in the more familiar form of a retail sales tax. The two forms of sales tax can be expected to have roughly equivalent economic and distributional effects, so the choice between them should be made primarily on administrative grounds.

The primary advantages of the value added approach to taxing sales are the relative ease of exempting business services, capital goods, and intermediate products from the tax and the self-enforcing features of the tax.

The advantages of the retail sales tax include its familiarity to American businessmen, the smaller number of firms and amount of paperwork involved, and the greater ease of piggybacking state and local sales tax on a federal retail sales tax. Which set of considerations should control any decision about a federal sales tax is far from clear; knowledgeable authorities can be found on both sides of the issue. But one thing is certain. Any decision to levy a tax on value added, rather than a retail sales tax, should not be made by default because no one bothered to consider it explicitly. Any detailed analysis of the question will almost certainly involve considerations such as those mentioned above, and will put to rout such irrelevant or specious, but often repeated, arguments for the TVA as "the Europeans are using it" and "border tax adjustments are allowed under the value added tax."

IV. SUMMARY OF CONCLUSIONS

The most important policy conclusions offered in my remarks today can be summarized briefly. First, the simple substitution of a value added tax for the corporation income tax would be completely unacceptable on equity grounds. Ideally imposition of a tax on value added would occur in the context of integration of the personal and corporate income taxes, reform of the newly integrated income tax, and initiation of low income relief. A less ambitious, but acceptable, program would replace income tax integration with reform of capital gains taxation. Failing this, the TVA should not be substituted for the corporation income tax.

The Nixon proposal to replace property tax revenues with a tax on value added would be acceptable, if the alternative were to forgo badly needed public services or to continue to rely upon the local property tax. But a preferable alternative would be to replace lost property tax revenues by reforming the income tax system, rather than by imposing a national sales tax. Finally, whether any future American sales tax at the national level should take the form of a value added tax or a retail sales tax deserves far more explicit consideration than it has thus far received.

THE EXPENDABLES

Mr. HUMPHREY. Mr. President, on January 20, 1972, I introduced, for myself and the Senator from Illinois (Mr. PERCY), S. 3044, a bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs. This bill responded to an awakening public interest in millions of handicapped children, youth, and adults who suffer the profound indignity and despair of isolation, discrimination, and maltreatment. It is essential that the right of these forgotten Americans to equal protection under the laws be effectively enforced through prohibiting their exclusion from services receiving Federal assistance. Increasing support for this position in the Congress is reflected in the current addition of 10 Senate cosponsors of this legislation.

In my remarks upon the introduction of the bill to protect the civil rights of the handicapped, I described some of the broad categories of people who would be directly affected—children who are mentally retarded, physically handicapped, or emotionally disturbed; disabled veterans; the mentally ill; and handicapped youth and adults who can and want to learn a trade and experience the dignity of work and a paycheck. But the fundamental fact that one confronts is a paucity of information, an absence of firm statistics, regarding the true extent of this great human need across America. Truly, this fact, in itself, demonstrates the segregation of millions of Americans from society—suggesting a disturbing viewpoint that these people are not only forgotten but perhaps expendable.

An excellent series of articles appeared in the Evening Star, published in Washington, D.C., during January, in which this point is made precisely in the title of the series, "The Expendables." The author of this series, staff writer John Mathews, has performed a vital service, and in the finest tradition of in-depth reporting, in laying before the public the true story of exclusion and inadequate concern experienced by hundreds of handicapped children in the Washington metropolitan area.

Developing interest by the press, radio, and television in this vital issue has been indicated by editorials by WRC–TV in Washington, D.C., and by the Washington Post. The February 10, 1972, editorial by the NBC-affiliated television station asserted that—

> Thousands of people, especially children, have been excluded outright from the public education and job training that could have led them to a healthier, happier, more productive life.

And its conclusion underscores the purpose of my legislation:

> We have an obligation to these hidden and forgotten people—we can and should no longer avoid it.

Most recently, an editorial, entitled "The Legal Rights of the Retarded," published in the Washington Post of March 15, 1972, drew attention to the significance of an order by a Federal court in Montgomery, Ala., requiring the correction of conditions at an institution for the mentally retarded in Tuscaloosa. The editorial stated:

> According to one observer, this is the first time a court has ever held that mentally retarded persons involuntarily confined in an institution have a right to adequate treatment and care.

And the editorial goes on to cite the national significance of expanding litigation efforts in this area.

I offer these important items in the hope that they will help to promote informed public debate and action on the vital need to affirm and guarantee the rights of the handicapped. Representative CHARLES A. VANIK, of Ohio, who introduced a bill, H.R. 12154, identical to mine, has made an active and continuing effort to develop the statistical and case record on the denial of the civil rights of persons with mental and physical handicaps. In a statement in the CONGRESSIONAL RECORD of February 7, 1972, on "Discrimination Against Handicapped Veterans," Representative VANIK emphasized the despair and indignity felt by some 224,000 veterans registered at Public Employment Service offices in fiscal 1971, who were not placed in regular nonagricultural jobs. And in a further statement in the RECORD of February 17, 1972, he spelled out the State-by-State statistics of 4¼ million handicapped children of school age who are excluded from public schools in America.

These statistics are shocking and demand decisive action by Congress. I have joined in sponsoring legislation introduced by the Senator from New Jersey (Mr. WILLIAMS), authorizing funds for a White House Conference on the Handicapped in the Office of the Secretary of Health, Education, and Welfare. These can be important steps in identifying human needs and coordinating Federal programs of assistance. I also urge that action be taken on my bill, S. 3044, which proposes a direct solution of the central problem: The denial of the civil rights of millions of Americans.

Mr. President, I ask unanimous consent that the articles and editorials cited in my remarks—the five-part series, entitled "The Expendables," by John Mathews, appearing in the Evening Star; the WRC–TV editorial, "Hidden People," of February 10, 1972; and the editorial, entitled "The Legal Rights of the Retarded," appearing in the March 15, 1972, issue of the Washington Post—be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE EXPENDABLES—I

(By John Mathews)

In Washington and its Maryland and Virginia suburbs there are hundreds of children society treats as expendables: Children with physical, mental and emotional handicaps who are either excluded outright from public education or inadequately served by their school systems.

These are the children it has become fashionable to call "exceptional," or "special." They are the mentally retarded, the emotionally disturbed and the physically handicapped—the innocent victims of disease, accidents, environment, heredity or circumstances. They can be born to the poor in the inner city or to the affluent in the suburbs.

Handicapping conditions do not discriminate between Larry, who lives in the District, or Joyce from Prince Georges County, Daniel from Montgomery County, or John from Fairfax

These are not their real names. Their situations, however, are real—all too real, in fact, to them and their parents.

Larry is 11½ and cannot talk. He can signal anger and pleasure through a personal code of guttural grunts. Psychologists have labeled him "brain-damaged," that imprecise, catch-all tag used to describe children whose normal growth and development has been mysteriously stunted.

Although Larry has never spoken, you can give him the "Yellow Pages" section of the phone book and say, "Find me the Hecht Co.," and Larry will flip to page 432 and place his finger on the department store's name in a display advertisement. He will then point to the Sears ad, but if you try to trick him by telling him it's Penney's, he grunts angrily, then "Ummms" approvingly when you finally say "Sears." Larry can identify gasoline companies, motels and carryouts in the same way.

Larry's mother has a desperate faith that somehow a key can be found to unlock those words shut up within her son's mind. But, like hundreds of other handicapped children in Washington, Larry has never had a single day of public education in his life.

Five years ago, a school principal, in effect, unilaterally banished Larry from public education. He told Larry's mother that the Dis-

trict school system had no special programs for her son. Along with the parents of about 500 other children, Larry's mother has been waiting—for two years now—to get a District grant to pay for tuition in a specialized school that could help her son.

Meanwhile, Larry attends a recreation program for two hours a day at the dismal Anacostia Park Playground. There are four such play centers for retarded children around the city. Officials say about 30 children in the programs (nearly half) have never been to public schools.

Joyce, 7, lives in Prince Georges County. She is what is known as "multiple-handicapped." Joyce is deaf and also said to be emotionally disturbed. She has been out of school since September.

As in the District, schools in Prince Georges, and, for that matter, other Maryland and Virginia suburbs—have no programs for children with such multiple handicaps. Joyce may also have difficulty getting accepted at a specialized school for the deaf, since schools for the deaf or the blind often exclude children who are also emotionally disturbed or mentally retarded.

Before Joyce's parents can find a school for their child and qualify for special state aid given in Maryland to educate children with serious handicaps, they must obtain an evaluation from a psychiatrist. But they can't afford the fee, usually $50 or more.

After a frustrating search lasting several months, the county's special education staff finally was able to arrange a free evaluation for Joyce this month at the District's St. Elizabeths Hospital. No such free service existed in Prince Georges.

By the time the results of the evaluation are forwarded to the state education department and papers are processed, Joyce probably will have missed nearly a year of the valuable schooling and therapy she needs.

Daniel is luckier than Larry or Joyce, because he is in school in Montgomery County. He is 15, tall for his age (well over 6 feet), able to get along with people, adept and responsible when he is given jobs like mowing lawns or washing cars.

Daniel is also mentally retarded. His IQ is around 50, about half that of the so-called normal child. For several years, he has been in a school program for the trainable retarded—now euphemistically called the "moderately" retarded—those who test in the 35 to 55 IQ range.

At the Concord School in Bannockburn, Daniel goes to classes with other retarded children, ranging in age from 5 to nearly 21. His principal says most of the children eventually will wind up in state institutions for the retarded after they reach 21, when their right to further public education ends, or when their parents die or can no longer cope with them in the home.

In effect, the principal says, much of the training in self-care and obedience to rules at Concord School is designed to enable the children "to function better in an institutional setting" later.

Daniel, however, could function with some help in society, the principal says. But the county has no program of on-the-job training or placement for children of Daniel's competence. The principal is trying now to start his own.

John, whose family lives in Fairfax County, is not retarded, but he is in the intensive social habilitation ward—the "locked up" ward—at Lynchburg Training School and Hospital, the state institution for the retarded which serves half the state, including Northern Virginia.

The 17-year-old boy, and about 25 other young men and adolescents, are at the institution for the retarded because state correctional schools say they cannot handle disturbed children. Lynchburg's director, Dr. Benedict Nagler, has unsuccessfully resisted accepting such cases, claiming his training school is not equipped to function as a correctional institutional or as a mental hospital. "This is one of the grey areas in our state," he says.

The cases of Larry, Joyce, Daniel and John are similar to hundreds in Washington, its suburbs and the nation. Some specialists have estimated that perhaps as many as 1 million retarded children in the country are excluded from schools as "uneducable."

Locally, the best estimates of the number of children barred from public eduducation, or badly served by it, have been made recently in Washington, where a new associate superintendent, Dr. John L. Johnson, is making a strong case to the school board, the city government and Congress for vastly increased financial support.

Dr. Johnson calculates that at least several hundred children in the District are totally excluded from public schools. Nearly 900 more children have been individually identified as needing special education programs not now provided because there are no funds. These children include 223 diagnosed as emotionally disturbed, 269 retarded children and 329 with a variety of special learning problems. The remainder are handicapped by degrees of blindness, deafness or poor physical health.

In the suburbs, officials in charge of special education programs insist no children are barred from schools or special tuition aid for private schooling, but that can be a matter of definition.

With the exception of Alexandria, all suburban public school systems have disowned any direct responsibility for a small group of handicapped children—the profoundly retarded children—often called "uneducables"—with IQs below 30, who function at the level of 1- an 2-year-old infants.

To fill this gap, the Montgomery County Association for Retarded Children recently began its own program for the profoundly retarded. Three children, age 6 and above, were known to need such schooling. But, between May and October, as word of the new program spread, a dozen or more prospective students emerged. These were children sheltered by their parents, unknown to school authorities.

There's little doubt that school programs for handicapped children in the suburbs are in most respects light years ahead of those in the District. Montgomery, for example, has been known to attract parents of handicapped children from neighboring states who specifically settle in the county because of its special education programs.

While the suburbs can claim superiority, their programs generally are deficient when it comes to dealing with emotionally disturbed children and those with special learning problems, like reading difficulties.

School officials in Washington and the suburbs readily acknowledge those days that they may lose control soon over placement of children in special education programs—that is, who qualifies and who doesn't. The handwriting on the wall, as they see it, is a three-judge federal court decision issued in Pennsylvania last October.

After expert testimony, the court ruled that the state could not exclude any retarded children from the right to public education, since all such children can be educated in some way. For some, this means reading at a fourth-grade level; for others, it means being taught to feed, clothe and toilet themselves.

In the District, the parents of seven children—all excluded from public education—have filed a similar class action law suit contesting school board rules that give officials wide discretion in barring children from public education.

Children, particularly those with behavoir problems, have been expelled permanently from schools under board rules that give as causes for expulsion: "Immoral conduct, indecent language, violent or pointed opposition to authority, persistent disobedience or disorder, habitual tardiness, unauthorized absence, poor personal hygiene and continuing academic failure."

THE EXPENDABLES: IT'S 3 AGAINST 1—II

(By John Mathews)

At Boys Junior-Senior High School, the prime facility in Washington's public school system for adolescent boys said to have "emotional and behavioral problems," a typical school day began recently with the singing of the religious hymn, "Holy, Holy, Holy, Lord God Almighty. . . ."

Following the hymn, both students and teachers at the assembly recited in unison the vintage verse "Teamwork" by Edgar A. Guest, the popular poet of the '20s and '30s. A teacher moralized to the boys about the self-reliant and non-conformist messages of Ralph Waldo Emerson and Henry David Thoreau.

Then, Hiram F. Jones, the 65-year-old principal who has run the school for six years, delivered what amounted to a short inspirational sermon. "Look at life's bright side. Look at life through rose-colored glasses" he told the boys. "Life is what you make it no matter how you take it."

Later, Jones singled out individual boys for praise or criticism. An embarrassed teenager was called, "My No. 1 man," and complimented for his good behavior and well-shined shoes. Another boy was told that he was "going to learn how to obey," and was required to make a public apology for an infraction of rules.

"It's three against one," Jones told him. "Your mother wants you to straighten out, your parole officer and me. We're going to break your spirit, brother."

The assembly wound up with a mathematics contest and an award for the best-dressed student. Teachers voted in the contest, Jones told a visitor, "because the boys used to gang up and vote for somebody who looked like a vagabond and someone who looked like Clark Gable wouldn't win."

Principal Jones' special brand of exhortation and evangelism for dealing with troubled young people has been repeatedly questioned in recent years by outside critics.

Evaluations have said that criteria for placing students in the school are unclear, that the school has an inadequate program, lacking psychological services, and that no accurate record has been kept of what happens to its students.

Fifty-six students are currently enrolled, but daily attendance seems to hover around 20, giving the school with eight teachers and one counselor an incredibly high and costly student-teacher ratio.

Washington's Boys Junior-Senior High School illustrates a problem shared by both the District and suburban school systems: The needs of students with emotional problems have been dealt with inadequately—or not at all.

In the field of special education—the name given to school programs for handicapped children—disturbed children are the most neglected.

Besides emotionally disturbed children, most area schools are also virtually rejecting any responsibility for school programs for these groups of children:

Preschool retarded and physically handicapped children, the 3-, 4- and 5-year-olds whose parents must find private schooling much of which they consider inadequate.

So-called profoundly retarded children those with IQs of 30 or below.

Adolescent and young adult handicapped students, who can find little in the way of job training available to them in public school programs.

For students with emotional problems, Prince Georges County has "no program as such," according to a school official. Arlington, Fairfax and Montgomery counties have classes in some elementary schools, but virtually no programs for junior and senior high school students. Alexandria pays attention to the older students, but ignores the younger children.

How to handle children with emotional problems raises many basic questions not only about this group, but also about other handicapped children, such as the retarded or physically disabled.

Teachers and administrators in the special education field—often prodded by parent and community organizations—are asking these days whether handicapped children are helped or harmed by being segregated in separate school buildings and into special classes.

Do children suffer a psychological stigma from special placement? Does isolation from normal children and confinement with children having the same problems reduce or reinforce the problems? And, in the case of emotionally disturbed children, are separate classes and schools actually helping troubled children or are they helping teachers and principals rid themselves of children they consider troublemakers?

In Arlington, Margaret Wadsworth, the county supervisor for special education, says she has resisted establishing classes for older emotionally disturbed students. "As soon as you create such classes, they are filled up," she said. "All teachers have students they consider emotionally disturbed and want removed from their classes."

In Washington, one of the committees of a special education task force that examined programs for emotionally disturbed children said the District's "social adjustment" classes, currently enrolling nearly 600 children, "often serve as dumping grounds for second-rate teachers and for disruptive children." Children are often assigned "arbitrarily and unfairly" to what are known as "sack classes," because, in the words of a junior high school principal quoted by the committee, the children "dare to be different."

In Montgomery County, a consulting team headed by Prof. Paul H. Voelker of the University of Pittsburgh surveyed special education programs. In its March 1970 report the consultants said it was hard to find a difference between children labeled as "emotionally handicapped" and placed in special classes and children in other classes said to suffer from "specific learning disabilities."

The consultants warned that "the very fact of special class placement, assignment to a teacher in a self-contained class . . . is likely to lead to a certain amount of inflexibility, labeling and self-fulfilling prophecy."

Visits to classes for children with specific learning disabilities appear to bear out the consultants' warnings. Children in these classes are said to be of normal or higher intelligence but have perceptual-motor problems. They have difficulty dealing with symbols or controlling hand movements and often see letters and numbers in reverse fashion.

In one school with a middle and upper income population, the 11 children in a class for specific learning disabilities were largely isolated from the rest of their classmates. The teacher said that virtually all the children exhibited degrees of emotional problems and at least two belonged in a class for disturbed children. During her two years with the class, the teacher said, only one child made enough progress to return to a regular class.

Despite the increasing trend against special, separate schools for handicapped children—especially the emotionally disturbed—Montgomery County is ready to open one. The new Mark Twain School in Rockville will eventually have 250 students, aged 11 to 16, who are no longer tagged with the label "emotionally handicapped," but are described as having a "range of behavior patterns and educational needs" that cannot be met in a regular school setting.

The Pittsburgh consultants have expressed fears that Mark Twain School will become a "dumping ground" for disturbed students. At a time when the labeling and isolating of handicapped children is being de-emphasized, the consultants said it was "unfortunate" the county should start a school that "can hardly help but lead to the utimate in labeling."

In Washington, the city's new head of special education, Associate Supt. John L. Johnson, plans major changes for the archaic Boys Junior-Senior High School and for the city's entire approach to disturbed children. Formerly an associate professor at Syracuse University specializing in the problems of emotionally handicapped children, Johnson is planning to establish what he calls therapeutic centers, homes in the community and even store fronts where troubled children will spend part of their school day, or relatively brief period in their school careers, getting special help.

"I don't think we ought to be building anything separate or special for any specific group of handicapped children," he said in a recent interview.

Johnson, however, has inherited another special school, the Mamie D. Lee School, a facility for retarded children in Northeast Washington.

It took parent groups about a dozen years of pressuring the school board and the city and lobbying congressional committees to get the school built as a center for trainable retarded, children with IQs in the 30 to 55 level. The new school opened in the fall, but is still at half its capacity. It lacks a principal and an assistant principal, as well as shop, home economics and physical education teachers. Dr. Johnson says he is resisting parent and staff pressure to fill the school with students and complete staffing until he finds the best qualified personnel available.

Even with a full enrollment of 200 students, the Lee school will take care of only a fraction of the city's estimated 700 retarded children classified as trainable. The remaining children will still go to school in some of the system's oldest facilities, such as the nearly 100-year-old Lennox School Annex opposite the Navy Yard in Southeast Washington, or in makeshift classrooms invariably located in the basements of regular school buildings.

Johnson and many specialists in the field of educating handicapped children agree that children at the trainable or moderately retarded level do not need special classes. But, he feels that the traditiona. approach of segregating these children in separate schools or isolated classes with regular school buildings—the pattern in Washington and the suburbs— is wrong.

The isolation of the moderately retarded dates from a time when educators felt that because children of this level of retardation often look and act differently from normal children they should be sheltered for their own good or the "protection" of normal children.

John and other specialists argue that if the objective of education for the retarded—or for the deaf, blind and physically handicapped children—is to give them every chance to live as normal a life as possible in society, they must have early and frequent contacts with normal children.

Perhaps the most debate and disagreement in the special education field centers on the so-called educable retarded, children in the 50–55 to 78–80 IQ range. Research in recent years has raised doubts as to whether children scoring on the upper end of the scale, in the 70s and 80s, are actually retarded, or are merely slow in developing because of deprived backgrounds.

Much of Judge J. Skelly Wright's 1967 de facto segregation decision dealt with this group of children. In barring the then current track system, the judge ruled that over 5,000 children classified as educable retarded and confined to special classes had been denied their rights to equal educational opportunity.

Wright found that the special "basic track" classes were dumping grounds for children with a variety of problems, that the instructional program was inadequate and that once assigned to such a class a child was condemned to an inferior education.

In Fairfax County, Beatrice Foster, the supervisor for special education, candidly acknowledges that "there is no question classes for educable retarded have often been a dumping ground." In the last two years, she has been reducing the number of children assigned to such special classes.

Prince Georges County schools have tried to limit the number of children in educable retarded classes by having "floater" teachers. These special teachers work with individual children and small groups, who remain part of regular classes. Montgomery County is using the same approach on a smaller scale.

Like most special educators, Montgomery's director Philip J. Stromowsky sees special placement of handicapped children as a last resort. In coming years, he maintains, the county will emphasize special help for children with special needs who will remain in the mainstream of public education.

Archie S. Oliver Jr., Alexandria's first full-time director of special education who has had extensive teaching experience in the field, including several years in the District, takes a more radical view. "I see the time when there will be no special classes for handicapped children," he says. Special education teachers will act as supports to regular classroom teachers, he adds.

The ever changing approach to handicapped children is illustrated, Oliver says, by the fact that "only 20 years ago, schools thought mildly retarded people could not be educated and should be placed in institutions for their entire lives."

PRESCHOOLS RARE FOR HANDICAPPED

Just about everybody believes that children benefit from early education. Parents pay out money for cooperative and private preschools. The federal government supports Head Start programs for 3- and 4-year-olds and many public school systems have established preschools and kindergartens.

Often, however, programs which seem to be beneficial to normal children are generally denied handicapped children. Among area public schools only the small Alexandria school system has a well-established preschool program for handicapped children.

FEW EARLY PROGRAMS

If you live in Washington, or in other Maryland and Virginia counties, and you have a handicapped child, there are no public school programs generally available before age 6.

In Alexandria, the preschool program at Lee School for children who are retarded and sometimes have physical handicaps is largely the result of the work of a dynamic educator, Mrs. Cressie Miller.

Enrolling children as young as 2, the program has been operating for eight years. During that time, Mrs. Miller has encountered several cases of children who were diagnosed as retarded. These diagnoses, however, were wrong.

A withdrawn 2-year-old could not speak when he came to the preschool. Another child, who had spent two years in the District's Junior Village, could not play with toys and barely responded to adults and other children. A little girl, who had enjoyed a favored place in her family as the youngest

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of seven children, had drawn a cloak of silence about her after her mother had a new baby.

ENTER REGULAR CLASSES

All of these children broke out of their shells and eventually entered regular first-grade classes. If they had not had the benefit of early education, Mrs. Miller believes they probably would have entered special classes for the retarded at age 6 and the prophecy of the incorrect diagnosis would have been fulfilled.

"There must be many children like these who actually become retarded because they have not had a chance at early education," she concludes.

THE EXPENDABLES: OUT OF SIGHT, OUT OF MIND—III

(By John Mathews)

The women—teen-agers to middle-aged—are dressed in identical, loose-fitting, striped robes. Many wear oversized diapers with "D.C. Government" stenciled in ink on them. They wander about the large, barren, yellow-tiled room in dazed, bizarre postures. Some clutch after unseen objects, others crouch in fetal positions, still others chatter aimlessly.

In another section of the new Curley Building—designed, you are told, in modules to "make it more humanizing"—the teen-age boys are eating lunch. Some have their faces literally in their trays, so they can scoop the food with their bare hands into their mouths. As they finish eating and leave the small dining room, an attendant swabs food off their naked bodies, covered only with diapers bearing the government stamp. The boys are then pointed down a hallway where another attendant checks them into another large, bare, tiled room.

They are all "residents" at Washington's institution for the retarded, which bears the idyllic name of Forest Haven. They are the so-called "profoundly retarded"—adolescents and adults with the mental capacity of 1- and 2-year old infants.

These scenes are duplicated at virtually any large state institution for the retarded, like Maryland's Rosewood or Virginia's Lynchburg Training School and Hospital.

But conditions like these need not exist.

At Forest Haven in the Poplar Cottage 10- to 24-year-old males at about the same level of retardation as those in the Curley Building have been taught to dress and feed themselves. Most are now toilet trained. A rigorous program of "operant conditioning" has been used in which tokens are given as rewards for acceptable behavior. They can be cashed in for toys or candy.

The reason some profoundly retarded people at Forest Haven are living at virtually an animal level and others are not is simply a matter of money. It takes more staff to run a carefully controlled training program like that in the Poplar unit. But the city institution has about 100 vacant positions (of an authorized strength of 500), resulting from congressional and city government fund cutbacks and job freezes.

"Out of sight, out of mind," is how R. Rimsky Atkinson, Forest Haven's acting director for the last three months, characterizes public and government attitudes toward institutions for the retarded here and elsewhere. Invariably, such institutions, as well as mental hospitals and prisons, are tucked away in some rural setting or hidden behind high walls.

Like Washington's Forest Haven, Lynchburg Training School and Hospital—the Virginia institution for the retarded that services Northern Virginia—is also "out of sight, out of mind."

With about 3,600 "patients"—as they are called at Lynchburg—the institution is at least 500 beds above capacity. At last count, 160 patients were sleeping on mattresses on the floor. Last year, a hepatitis epidemic, probably abetted by crowded living conditions, struck several hundred inmates, two of them fatally.

Lynchburg, which has nearly 600 patients from Northern Virginia, spends an estimated $8 a day per patient, which Dr. Benedict Nagler, the institution's "superintendent," says is probably the lowest figure for any comparable institution in the nation. Washington's Forest Haven spends $18 a patient, also inadequate in view of higher personnel and food costs here than in Southern Virginia, said Atkinson, the acting director. The cost in Maryland institutions is over $30 daily per resident.

Maryland's largest facility for the retarded, Rosewood State Hospital, the subject of much media attention recently, is also badly overcrowded with its 2,500 patients, 500 more than its capacity. After his first visit to Rosewood, the state's new director of mental retardation, Bert W. Schickel, called it one of the worst he had seen in his 35 years in the field.

Schickel said he was even more concerned with what he called dehumanizing conditions—such as jail cottages, locked doors and isolation cells—than by the overcrowding.

Conditions at both Rosewood and Washington's Forest Haven have been the subject of recent court actions. At Rosewood, an attendant was charged last year with whipping several young residents. In the District, parents of three children have brought civil actions against the city, charging negligence at Forest Haven resulted in injuries to their children.

In all of the three District cases, negligence is attributed to lack of supervisory personnel and overcrowding—the direct result of congressional and city fund cutbacks. A group of youths in one case shoved a helpless boy into a scalding shower and, in another incident, a child was intentionally burned on the ear with an electric iron by another child. The third case involves the scalding in a hot tub of a paralyzed child who was being bathed by an attendant.

With 1,300 residents, Forest Hayden is at least several hundred above capacity, but Atkinson, acting director, considers shortage of personnel an even more critical problem. In Pine Cottage, for example, where 82 severely retarded boys and men aged 15 to 50 are housed, three counselors are assigned to day shifts and two at night.

Beds in dormitories are less than a foot apart and residents are confined most of the day to two rooms because of the scarcity of counselors.

To operate something beyond the custodial program now offered, Atkinson said, 18 counselors are needed for each day shift instead of three and four at night instead of two. The cottage population should also be reduced from 82 to about 60, he said.

Beyond the visible conditions—the overcrowding, the programs which consist largely of endless hours of television, many residents of mental institutions could be living in the outside world. Hundreds of retarded people at Forest Haven, Lynchburg, Rosewood—and even Maryland's new Great Oak's Center, considered a model institution—do not belong in those institutions.

For example, Lynchburg has among its 3,600 residents 16 persons, most of them over 50, who are officially classified as not retarded. An additional 21 patients are "borderline" retarded and 379 more are classified as mildly retarded.

Some of these people have crippling handicaps or conditions requiring constant bed care, and others have been "institutionalized" to such a degree that they could not function in the outside world. But many could live outside the institution, just as thousands of other retarded persons do successfully.

At the District's Forest Haven, according to Atkinson, about 50 school-age children could live at home, but do not because city schools lack adequate educational programs for them. At least 135 adults are ready for job training programs that could help them acquire a skill and possibly employment and self sufficiency outside the institution. But, Forest Haven has funds for only 50 on-the-job placements off its grounds.

"If we had group homes and social services—we only have two social workers with 1,300 residents—we could return at least one-third of the residents to the community," said Atkinson. Another third of the residents could benefit from "training activities, rather than the babysitting we give them now," he added.

Even at Maryland's new Great Oaks Center in the Calverton section of Silver Spring—considered a model of institutions for the retarded—there are children who do not belong there. The center has at least 10 school-age children of the trainable retarded level who could be at home, if Prince Georges County had room for them in school programs.

Dr. Bruce H. Hobler, the institution's clinical director, says a "large number" of the center's children, infants to 12-year-olds from five counties, including Montgomery and Prince Georges, could live outside the center if there were community resources to support them at home. "Our ability to move children out depends entirely on the availability o. community resources," Hobler said.

The lack of community resources is keeping institution for the retarded filled above capacity. Many residents of institutions come from broken homes or problem-ridden families, but little has been done to line up foster homes willing to take handicapped children. School educational programs have been slow in developing here, again limiting the chances of some residents returning to their families.

The new movement in other states of developing group homes—small living units in the community for the retarded—is just beginning in the Washington area. The Montgomery County Association for Retarded Children plans to open a network of such homes in the next few years for retarded children, adolescents, young adults and older people, most of whom come from institutions.

NOVEL GREAT OAKS METHOD OVERCOMES BASIC HANDICAPS

In a ward at Maryland's Great Oaks Center 8- to 12-year-old retarded children are routinely condemned by society to live their lives out as permanent 1- and 2-year-old babies.

They are "profoundly retarded" children said to have barely measurable IQs and the mental capacity of infants.

In most institutions, attendants spoon-feed these children, diaper and dress them. But, at Great Oaks in the Calverton section of Silver Spring, some of these children are now feeding themselves with utensils, dressing themselves and even becoming toilet-trained. They may be the first profoundly retarded children with severe physical handicaps ever to learn these skills in any institution in this country.

The acquisition of such basic skills means that some of the children will actually be able to leave the institution and return to their families.

The unique training program at Great Oaks has been developed by Howard Reuben, a retired government psychologist, who uses controversial operant conditioning techniques, suggested by the research of the eminent behavioral scientist B. F. Skinner. The approach seeks to reward positive behavior and ignore improper behavior.

Some private and public schools and institutions in the Washington area are experimenting with varieties of these techniques for training seriously retarded and other handicapped children. Some students are given tokens for positive behavior that can later be cashed in for toys or candy, and in other programs, small money payments are made for good attendance and behavior.

Public school officials are skittish about discussing operant conditioning or behavior modification programs since they fear negative public reactions. "It's hard to explain to people that we are using techniques with children that have been used to train white rats and pigeons," one teacher said.

When Reuben first began working with an 11½-year-old child we will call Jimmy, doctors said the child had virtually no measurable intelligence and had a physical condition making it impossible for him to grasp and hold objects in his hands. He was usually fed by an attendant, or placed his face partially in a tray so he could push food into his mouth.

Reuben used a $90-a-week attendant he trained as the prime teacher and recorded Jimmy's progress on video tape.

The training program for Jimmy began with the attendant holding a spoon in the child's hand, dipping it into food and lifting it to Jimmy's mouth. Soon, Jimmy began to exert pressure on the spoon and the attendant could let go of his hand just before the food went into his mouth.

Gradually, the attendant over a few days moved her hand away from the child's hand to his wrist. Already the medical prediction was refuted. Jimmy was holding the spoon, but still required the aid of the attendant's hand on his wrist.

By the end of 2½ weeks, the attendant was holding Jimmy's arm at the elbow. It took another week to get Jimmy to feed himself independently without even the slightest pressure of the attendant's hand at his elbow. During the whole training period, food provided the incentive. When Jimmy did not cooperate, or failed in his task, he experienced delays in getting the food he craved.

A more involved procedure was used to toilet train Tom, an 8½-year-old profoundly retarded child with a spinal defect that makes it impossible for him to walk. He has to pull himself along the floor with his pathetically limp legs tucked beneath him.

Psychologist Reuben noticed that Tom did not like wet diapers and would often pull them off when they were not changed immediately. Tom was indifferent to food, but loved hot showers, which became the primary reinforcement tool in his training.

Tom's intervals of wetting his diaper were recorded and found to occur in a regular pattern. One day he was taken to the shower, just before a regular period of urination, and placed over the drain. When he urinated in the drain, he was immediately rewarded with a hot shower.

Later, a plastic bowl was placed over the shower drain. Tom quickly learned to urinate in the bowl and empty it in a nearby toilet, which he enjoyed flushing. The next step was to have a carpenter construct a "potty chair," since none for 8½-year-olds is manufactured commercially.

Tom quickly made the transition to the chair, using it soon for defecation as well. Soon, the chair's legs were cut and the seat was placed over a regular toilet. A ramp had to be built so Tom could drag himself up to the toilet seat without assistance.

Tom is also learning to feed and clothe himself and psychologist Reuben's objectives for him are widening. He wants to see how much language a child said to be destined to live his life at an infant level can learn.

THE EXPENDABLES: SOME AREAS HELP MORE—IV

(By John Mathews)

If you have a handicapped child needing specialized treatment and education which public schools cannot provide, perhaps your first concern should be where you happen to live in the Washington area.

It's no small matter, either.

Full-time residential treatment and education offered only by a private psychiatric hospital for an emotionally disturbed child can cost $20,000 or more annually. Day programs for retarded or physically handicapped students can cost $8,000 or more.

In Maryland, you can expect to receive over $10,000 to pay for your child's education and therapy, but, if you live in Virginia the maximum you can get is about $4,000. In the District you can get up to $4,500.

Parents with high-option military or government insurance can make up much of the deficit. Families without such protection are out of luck.

These disparities in payments may soon become a legal issue involving the right of every child to a free education at public expense, regardless of his disability and regardless of the cost of that education.

The District, Maryland and Virginia have what are called "tuition-grant" or "excess-cost" programs based on the rationale that it is not feasible for public schools to operate programs for some categories of severely handicapped children.

Children who are both deaf and blind, or who are deaf or blind, as well as retarded or physically impaired, require programs with specialized equipment and expert personnel. Some severely neurotic or psychotic children also need a full-time hospital setting.

Since there are relatively few of these children, it would not make economic sense for public school systems to operate such programs themselves. As a result, the tuition-grant and excess-cost programs have been established to help pay the costs of educating such severely handicapped children in private schools and institutions.

Virginia, Maryland and the District in effect acknowledge through their special grant programs that seriously handicapped children who cannot be educated by local school systems have a right to a free public education. But limited funds—particularly in Virginia and the District—curtail that right.

Maryland's excess-cost program with its more liberal payments has provided as much as $14,000 annually for some individual children, but the State Board of Education will soon consider a recommendation from its education department to place a $6,000 limit on individual grants.

Such dollar limits, however, may become a moot question in the future. Court decisions are sprouting up around the nation prohibiting school authorities from excluding severely handicapped children from public education. In Washington, a case has been filed on behalf of emotionally handicapped and retarded children who have been excluded from local public schools.

One of the remedies for satisfying the courts is for public school systems to start programs for handicapped children they have previously not educated. Washington last fall began a small experimental class for profoundly retarded children, which enrolled several children who are plaintiffs in the court suit.

If a school system faced with a court decree, however, decides not to take on a new program for previously unserved children, it has the alternative of providing payments for education in private schools and institutions. Plaintiffs in that event are likely to ask the court to order full payment of all costs, which would vastly inflate tuition grant budgets.

Under current tuition grant programs, costs have escalated annually. The District now spends $1.3 million a year for 505 children, an average grant of $2,500 a child.

When the program began in Maryland in 1968, 32 children received grants costing $103,579. Last year, 104 children, or more than three times as many, received grants, but costs increased more than 500 percent to $554,058. Over $200,000 more is budgeted for the current year. Grants last year averaged above $5,300 a child, more than twice Washington's average.

Officials in both the District and Maryland concede that the tuition grant programs have been inherently discriminatory. They blame soaring costs, however, on private schools' increasing their tuitions—often in anticipation of increased state support available to parents of handicapped children.

Washington's new Associate School Supt. John L. Johnson, who is trying to reform the District's tuition grant program, says flatly, "In the past, a large number of children whose parents had influence with Congressmen and with the school board were able to get tuition grant payments." Parents, he adds, who were "not skilled at negotiating the bureaucracy" ended up on waiting lists for grants, which currently total about 500.

Maryland's administrator of tuition grants, Richard L. Gamble, who has been in the job for a year, acknowledges also that his state's excess-cost program is used disproportionately by people "who are more sophisticated and have the know how."

With only one full-time person in any school system concentrating on getting state aid for its handicapped children, Montgomery County last year got the highest number of grants, 34, nearly 30 percent of the statewide dollar total. Baltimore City, with the highest concentration in the state of children from low-income families got only five grants. A number of rural counties, like Wicomico, Garrett and Washington, had no excess cost grants.

Besides the excess-cost program, Maryland grants local school districts $1,000 for each handicapped child in their school systems. This program cost $11.9 million last school year, with $2.2 million of the amount paid out for private schooling.

In addition, three counties—Montgomery, Prince Georges and Howard—provide their own grants for private schooling. In Montgomery some of these grants can even be used for placing children with behavior problems in military schools.

In the District, an income breakdown for the 505 tuition grants shows a majority of the awards, 346, went to families with less than $10,000 income. Forty-five children receiving grants, however, came from families earning $20,000 or more yearly. Six families were in the $30,000-plus income bracket.

Many lower-income parents in Washington are still on waiting lists for tuition grants, although the situation has improved in the last year or so. Such persons have had an advocate in the Information Center for Handicapped Children, a small dynamic office funded directly by the U.S. Office of Education and independent of the school system. The center, which has also made the first local attempt to catalogue all programs available for handicapped children, is scheduled to go out of business at midyear.

Despite such special help many lower-income parents—as well as many in the middle income brackets—cannot make up the difference between the government grants available here and the high cost of special private schooling.

In calling for a $6,000 limit on excess cost aid in Maryland, the state education department is raising an issue that may well have to be settled by the state legislature, which has set no limit on the amount that can be spent for individual cases. Some organizations for handicapped children have argued that the state department had already violated the intent of the law by limiting grants, before the general ceiling was proposed.

The department's memorandum to the board argues that the primary reason for setting an excess cost limit is that private

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school tuitions are soaring "to astronomical levels." Experience in other states has shown, the memorandum continues, that setting a grant limit forces private schools to use a sliding scale for tuition based on parent income. The limit also would "encourage shopping around to obtain adequate service at the best price," the memorandum adds.

To illustrate the current situation faced by some private schools for handicapped children which depend almost exclusively on the excess-cost program to pay their tuition, a specialist in the field sketched this scenario:

"I don't mean to say that people running private schools are motivated solely by money, but you can't ignore the economic side of it. Let's say you and I wanted to start a school for emotionally disturbed adolescents. We would describe ourselves as a therapeutic day school staffed by young, emphatic teachers and aides who use positive reinforcement techniques and milieu therapy to effect behavioral changes.

"We would set our enrollment at 30 boys and girls and our tuition at $6,000 for a 10-month year, all of it probably coming from excess cost or insurance. That's a gross of $180,000. Okay, we hire three teachers at $12,000 apiece and three young aides at $5,000 each, so that's $51,000 in salaries. Of course, we both teach part-time, giving the school a very impressive staff to student ratio, much individual attention.

"We pay out $6,000 a year to rent a church Sunday-school hall, $10,000 for supplies and equipment, $5,000 for food, $1,000 for utilities—roughly a round figure totaling about $80,000 for all costs. Subtracting that from our gross of $180,000, leaves us with a very substantial $100,000. We both could make $30,000 a year and leave a good bundle for construction of a permanent building and expansion. It's a pretty good proposition, and nonprofit too."

In Washington, Dr. Johnson is also concerned about private schools and the services they are providing handicapped children. He is planning to ask each private school with a child supported by a District tuition grant to outline every year a specific program for the child with specific goals, then report back at the end of the year on whether objectives have been met.

Johnson would also like to contract with specialized schools to take a class of District students, supported by tuition grants, and a District teacher as a trainee. After a year or two, the trained teacher and the class could be incorporated in the public school system.

"That would be a way of testing the commitment of private schools to the community," he said.

Don't Look Through Them . . .

Like black people, Chicanos, Indians, women and some others—handicapped people are now being discovered as a neglected class. The handicapped, particularly the retarded, do not speak out for themselves; their parents or advocates are their voices.

"We are a new breed. The day parents came out of the backroom was the day the children came out," said Carole Hosey, the mother of 9½-year-old Stevie, who is categorized as profoundly retarded.

"We want you to know our children," she says. "We want you to ask questions, to stare at them—if you wish—but not to look at them as if they are transparent. Look at them carefully, because they are a part of life."

Mrs. Hosey, the Bethesda wife of a civilian employe of the Department of Defense and the mother of four "normal" children, and Hilda Ederer of Rockville, the mother of two children diagnosed as retarded, agreed to speak on the record recently to a Star reporter.

They spoke openly, candidly about their frustrations and tensions at caring for their children, who are—infinitely more difficult to care for then the most troublesome "normal" infant.

They also spoke angrily about pediatricians and purported experts in the field of retardation—the professionals who know pathetically little about the unused potential of retarded children and who continually discourage and delude parents.

"We need the truth more than anybody else," said Mrs. Ederer. "We need the truth early so we can find help for our children. If we are made to look through rose-colored glasses, we aren't helping our children."

Mrs. Hosey remembers a pediatrician who called her child "a moron," and a neurologist who said, "If you had eight hours a day and 20 years, maybe you could teach Stevie to feed himself."

She also remembers with a touch of bitterness other doctors who urged her and her husband to put Stevie in an institution and forget about him. "There was so much willingness to eliminate the child, because they did not consider him a productive member of society," she said, "but we only thought of him as our child and we did not feel guilty about him."

Both Stevie Hosey and Julian Ederer, who is 8½, have made remarkable progress in the last few months. They are enrolled in a special training program at Great Oaks Center in Silver Spring, a state institution for retarded children. There psychologist Howard Reuben uses operant conditioning—a system of positive rewards and step-by-step repetition—to teach the children to feed, toilet and clothe themselves.

"A miracle," is the way both mothers described that precious moment when they saw their boys for the first time dip a spoon into food, raise the spoon unaided to their mouths and eat the food. "Stevie had never eaten a cookie himself—imagine a 9½-year-old child who had never eaten a cookie by himself—but he does now," said Mrs. Hosey.

Neither mother now entertains inflated ideas about the ultimate capabilities of their children. They share, however, a deep anger at the system: A system which regularly has written off certain categories of handicapped children, their children, as hopeless.

The Expendables: New Terms Needed?—V

(By John Mathews)

After weeks of examining programs for handicapped children and adults in public and private schools and in state institutions, there are some images which are hard to erase:

At Lynchburg Training School and Hospital in a ward for children confined to wheelchairs and beds, there is a 5-year-old boy whose arms and legs will never develop. In place of limbs, he has little stunted flippers. His condition is believed to have resulted from his mother's taking the drug Thalidomide—which several years ago was found to cause birth defects—during pregnancy. The child is not retarded and does not belong in an institution for the retarded, but the state has no other facility for children like him with severe physical handicaps.

Linwood School, a private institution in Ellicott City, Md., has a program for autistic children—victims of a largely unexplained disorder which leaves them unable to communicate, locked into what has been described as a "cage of unbreakable glass." In a class for young children, a little girl holds a scrap of paper in front of her eyes and constantly chases what may be to her an imaginary butterfly. A 7-year-old boy endlessly tries to put too many plastic chips in a small container. He repeatedly reaches an intolerable level of frustration, flings the chips across the room, then later begins his futile cycle again.

In a dark room at an isolated recreation department building in Anacostia Park, 11 children, 8 to 13-year-olds, take part in a two-hour play program five times a week. None of the children, all of whom are diagnosed as retarded, has ever been in a public school. Their mothers have not been able to cope successfully with the bureaucracy, in some cases being told by principals that there is no place for their children in school. "I want my child to learn her address and telephone number, to learn to count and read," says one mother. "She needs more than recreation; she needs an education."

In all the state institutions, there are hospital wards where children and adults with a variety of defects which cripple their brains or nervous systems see life through the ever-present bars of hospital beds. Dedicated attendants—and there are many in the badly neglected state hospitals—painstakingly feed them, change them and wheel them to sun porches and television-viewing areas. The lack of physical therapists in the past, and inadequate therapy programs at present, mean that at least some of them are permanently condemned to bedridden lives, doctors say, though some may have had a chance of becoming at least partially mobile.

Initially, you are shocked by these schools and institutions; perhaps, for that matter, even repelled by the cruelties of nature, disease and heredity. Mongoloids, hydrocephalics, the brain-damaged and the retarded are beyond our narrow view of what constitutes normality in appearance and behavior.

But, when a middle-aged retarded woman at the Lynchburg institution makes you read a letter from home and tells you of the joy she anticipates from the expected Christmas visit of her parents, the initial uncomfortable strangeness you feel begins to dissolve.

Or, when an autistic child, who does not speak or hear what you say, touches your face and clasps your hand or when a group of so-called emotionally disturbed boys get you to join and mediate their intense kickball game, the fear and insecurity of encountering people who are different wears off.

As an attendant who takes care of patients with severe handicaps and physical deformities in a state institution's hospital ward put it, "We don't think of them as patients. They're people to us."

To most of the rest of us, handicapped children and adults are not people. They are, instead, abstractions—medical problems we hear or read about. Essentially, they are invisible, hidden people from whom we have carefully shielded ourselves.

In schools, handicapped children—the blind, the deaf, the retarded, the emotionally troubled or the physically impaired—are usually confined to special classes or to separate schools. It has become fashionable to call them "exceptional." Their programs are even labeled "special education."

That term particularly infuriates one parent of a retarded child, James P. Chapman of Silver Spring. "It sounds like you're getting special treatment, like a charity case. We should get rid of the term and just call it public education," he said.

Chapman, who has headed a committee of the Montgomery County Association for Retarded Children now planning a radically new way of ending the segregation of many retarded persons, is also irritated by other traditional terms. "'Trainable retarded' and 'training schools for the retarded,'" he said, "are fine for animals in the zoo, but not appropriate names for people." The term "educable retarded," Chapman added, "seems to make the assumption that all other retarded people are not educable."

His own organization is now planning to substitute "retarded citizens" for "retarded children" in its title. "If you think of a 30-year-old person as a child, he will act as a child," he said. "It's a self-fulfilling prophecy."

Society has found it easy to segregate the handicapped, because it does not view the hidden and invisible people as a direct threat. Handicapped children are unlikely to ever march on the school board and retarded adults have never been known to stage a revolt in a state institution.

The deliberate segregation of the handicapped and their resulting invisibility have led to their traditionally low rating on the priority list of educational and community programs. "We have long been the bastards of educational and social services, put out of the family deliberately and forgotten," said one specialist in the field.

Beyond the inadequate funding, the incomplete programs for the handicapped in public schools, and the sorely neglected state institutions, there is a larger issue at stake these days. It deals with the basic relationship between handicapped people and the so-called "normal society."

So far, what has become known as the "normalization principle" is usually discussed when dealing with the retarded, the largest category of handicapped people, but its implications apply to other handicaps as well.

The principle has been defined by Bengt Nirje, a specialist on the retarded in Sweden, where the principle is being practiced, as "making available to the mentally retarded patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society."

What this means is that retarded and other handicapped people must become as much as possible a part of society, living and working in the community, managing their financial affairs, making decisions for themselves. The vehicle for integrating the retarded into the community is the group home where retarded children—or adolescents or younger and older adults—can live beyond the wards of institutions with the assistance of non-retarded houseparents.

The concept has revolutionary implications for school programs. It means that many schools will have to change the objectives of their programs from preparing retarded people for life in an institution or in a sheltered family to semi-independent living in the community. If successful, the movement will hopefully reduce the number of people generally condemned to a life isolated from society.

So far, the movement towards normalization is largely a European phenomenon, but a healthy start has been made in this country in the states of Nebraska and Washington. Locally, the Montgomery County Association for Retarded Children is planning to open a network of group homes for the retarded in the county beginning this year.

The county program would start initially with probably four "training hostels," homes where young adult retardates, mostly over age 16, would gain their first experience in living away from home or an institution. They would be enrolled in job training or school programs while living in the group home. Each home would have no more than eight retarded persons, plus houseparents. In time, some of the retarded people would be expected to leave and find a place in the community with or without supervision.

Eventually, the county plans calls for establishing group homes for infants, 3 to 5-year-old children, adolescents, young adults and older retardates. One special home, called a crisis relief unit, would offer temporary residence for retarded children and young adults whose families are experiencing a difficult period, or simply need placement for their retarded family member in order to move or take care of some family business.

Chapman, an IBM computer salesman who headed the county association's committee planning the group home network, visited Omaha and Lincoln, Neb., to see five residences and apartment living units now serving 50 mildly and moderately retarded young and older adults. The program there is operated by a unique five-county agency, called the Eastern Nebraska Community Office of Retardation.

Chapman likes to cite the case of John Bynum, who became something of a celebrity when he was named handicapped employe of the year in the state. Now 46, Bynam spent 38 consecutive years in a Nebraska institution for the retarded until he entered a group home two years ago.

Bynum is black, has a speech impediment, experiences seizures and lacks a formal education, because his club foot prevented him as a child from climbing to the second-floor classroom in the institution where he grew up. A psychologist once said he was "totally incapable of functioning" outside the state institution for the retarded.

For the last two years, Bynum has operated a dishwashing machine at a hospital, never missing a day of work. He discovered at one point that the washing line had been set up incorrectly and suggested improvements that were carried out.

Chapman feels there are hundreds of John Bynums in Montgomery County and elsewhere, who have been cheated of the right to a normal life.

If society gives them a chance to show they are people, and not problems, perhaps they will reach that goal, he adds.

WRC-TV Editorial: "Hidden People"

We, as a society, have for years, deliberately segregated ourselves from the retarded, the emotionally disturbed and the physically handicapped. We have hidden them away from our thoughts and priorities. As a result thousands of people, especially children, have been excluded outright from the public education and job training that could have led them to a healthier, happier, more productive life.

In the District, it is estimated that as many as 15,000 children require some form of special education, yet less than 5,000 are getting even minimal help. Hundreds more are not receiving any education or training in school at all.

No one in the District government or on Capitol Hill has ever officially acknowledged an obligation to educate these unfortunate children. Only this year Congress began to recognize the extent of the D.C. school problem. Funds, for the first time, are available to seek out and hire more highly trained teachers, buy the sophisticated equipment needed and set up special schools for emotionally disturbed—something the District has never had before.

However, corresponding needs for these people such as vocational services—have been and still are neglected or ignored. They are under the Human Resources Department and there is where more effort must now be made. Without vocational services, the handicapped are thrown out of the schools into a void—left, again, to waste away the years.

We have an obligation to these hidden and forgotten people—we can and should no longer avoid it.

The Legal Rights of the Retarded

Accounts of gruesome and pitiful conditions in mental hospitals have been regularly reported in the press in recent months. Few states are without their human warehouses where large numbers of the sick and retarded are allowed to be stacked indefinitely on shelves of despair and deprivation. In many places, perhaps even all, inhumanity to the retarded is not intentional nor the result of designed contempt; instead, the sorry treatment of so many proceeds from lack of money and lack of staff—traditionally the twin causes of institutional neglect.

The situation is grim but not entirely hopeless. A recent order by a federal court in Montgomery, Alabama, may mark the beginning of a new national attitude toward people who are mentally retarded. Judge Frank M. Johnson Jr. ordered state officials to correct conditions at the Partlow State School and Hospital at Tuscaloosa. The evidence seen by Judge Johnson "vividly and undisputably portrayed Partlow as a warehousing institution which, because of its atmosphere of psychological and physical deprivation, is wholly incapable of furnishing treatment to the mentally retarded and is conducive only to the deterioration and debilitation of residents." In more personal terms, Harold E. Martin, editor and publisher of the Montgomery Advertiser-Journal wrote in his newspaper after a visit to the hospital: "I have covered wars and death in almost every kind of catastrophe during 30 years in the newspaper business but was totally unprepared for the horrors of an institution whose whole concern for the more severe cases is uncivilized and dehumanized custodial care . . ." Judge Johnson entered an interim order to correct immediately such things as fire hazards and unhealthful food, and to begin a disease immunization program. A March 31 deadline was issued for the hiring of 300 staff persons; this deadline has already been met. According to one observer, this is the first time a court has ever held that mentally retarded persons involuntarily confined in an institution have a right to adequate treatment and care.

The importance of this decision lies in the fact that not only has actual help been given to thousands of the retarded in Alabama, but that the decision may have a positive affect nationally. Other suits may be brought involving other hospitals. Already, a proposal has been made by the American Civil Liberties Union, the American Orthopsychiatric Association and the Center for Law and Social Policy—a Washington public interest law firm—to form a national council on the rights of the mentally impaired. Through test case litigation, the council would identify and implement the rights of the mentally ill and retarded. As the group notes, "mental impairment is more than just a health problem for our society. It is also a pressing legal problem. Despite their numbers, the mentally impaired are among our society's most abused minorities . . . The hospitals in which these persons are confined are often worse than prisons and the 'treatment' which is the purported justification for such confinement is often nonexistent."

Successful court cases are an important and obviously much-needed way to guarantee the rights of the retarded. Ideally, states should not have to be forced to provide adequate treatment, but since legislative appropriations for mental health are often small, decisions like Judge Johnson's will become more and more crucial. It is also welcome news that mental health lawyers will be active.

SUPPLEMENTAL AIR TRANSPORTATION EXCEEDS CONGRESSIONAL AUTHORITY — ADMINISTRATION DEPARTMENTS ARE WRONG IN THEIR INTERPRETATION OF THE LAW

Mr. RANDOLPH. Mr. President, many months ago the Civil Aeronautics Board proposed the creation of a new concept in air transportation called the "non-affinity charter." In late December of 1971 the Board moved toward adoption of this proposal by issuing a notice of proposed rulemaking. Under this notice the name of the new concept would be changed to "travel group charter." The proposal, however, differs little from that which the Board originally announced.

I bring this matter to the attention of the Senators because it seems to me to

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be a very unfair proposal. The air transport network of the United States is unsurpassed in any other country of the world. It provides a system of regular and predictable scheduled services to smaller communities as well as to large ones, and in times of low traffic demand as well as in times of high traffic demand. This system of air transportation came into being by virtue of the wisdom and foresight of our predecessors in the Congress. In 1938 they adopted the Civil Aeronautics Act, which I assisted in drafting and passing in the U.S. House of Representatives, when a Member of that body. The legislation placed duties on the shoulders of the scheduled airlines in exchange for the rights which were granted to them. Since the enactment of that original measure the scheduled carriers have responded well to this combination of responsibility and right. They have produced for us an air transportation system which has strengthened the mobility and the security of our Republic and of our traveling and shipping public.

After World War II a second type of airline came into existence. It was known as the nonscheduled carrier. Such a carrier was authorized to operate by the Civil Aeronautics Board, using its exemption authority, on condition that its operations would be truly nonscheduled, and that those operations would not interfere with the services provided by the scheduled airlines.

Mr. President, these carriers, in my opinion, far exceeded the scope of their operating authority and was not in accordance with the terms of their operating permits. Moreover, the courts held that the authorizations issued by the Civil Aeronautics Board exceeded those which were permissible under the Board's exemption authority.

To solve this problem the Congress, in 1962, amended what had become the Federal Aviation Act so as to provide a proper statutory basis for certification of the nonscheduled airlines. By that legislation it called these airlines supplemental air carriers, defined them, and defined the permissible scope of their activities in air transportation. We established two tests: First, that any air transportation they would be authorized to perform would fit within the meaning of the word "charter"; second, that they could only provide such air transportation was would supplement the scheduled services.

I am sure that the Civil Aeronautics Board recognizes these limitations and will apply them in determining whether the supplemental air carriers should be authorized to perform the new travel group charters. In my view, this type of air transportation cannot be considered as a true charter, and authorization of the supplementals to perform this type of air transportation would amount to authorizing the supplementals to supplant, rather than supplement, the scheduled services.

All persons desiring to do so were permitted to file comments on the Board's new proposal last month. Many comments were filed, some in support of the proposal and some in opposition. I am particularly disturbed, however, by two filings which came from the executive branch. These comments were submitted by the Department of Justice and the Department of Transportation. Both comments seem to ignore the standards established by the Congress for determining what type of air transportation authority should be granted to the supplemental carriers. Instead, these two Departments have embraced what they call the "substantial impairment" theory. In other words, they appear to tell the Board that it may authorize the supplemental carriers to carry passengers and cargo so long as their activities do not "substantially impair" some given level of scheduled service.

I emphatically point out the administration that this is not the law. I further tell the administration that it has no power to make the law. That is the function of Congress, and Congress has set the boundaries defining supplemental air transportation. We expect the Board, as an administrative agency created by Congress, to follow the law.

TRIBUTE TO SENATOR GOLDWATER

Mr. BROCK. Mr. President, throughout his public career, the Senator from Arizona (Mr. GOLDWATER) has been a staunch defender of Taiwan, the leading spokesman in this country for the defense of that nation against potential aggression from the mainland. The free men and women of Taiwan could have no better champion in the Congress of the United States than this man who has taken up their cause against those who would write them off as sacrifices on the bloody altar of detente.

With such a distinguished record behind him, it is no accident that Senator GOLDWATER is admired, respected, and supported by millions of Americans who share his concern for the defense of this Nation and allied nations against Communist aggression and subversion. As the Senator said about himself in addressing the Young Republicans Leadership Conference on March 10:

> . . . I am a very vociferous, strong champion of Nationalist China, and will still be. . . .

Mr. President, it took a very special kind of political courage for the man acknowledged as the foremost American champion of a free and independent Taiwan—for a man known throughout the world as a crusader against communism and all forms of collectivism—to support his President when he visited the People's Republic of China last month. It took a special kind of man to take the lead in defending the President against the attacks of many men and women who have been his friends and political supporters for a decade or more.

But Barry Goldwater is that kind of man—very special. I know. I will always hold a place in my heart and mind for him as an example of integrity, courage and conviction which I believe constitutes the standard which the rest of us must strive to attain. His action in this regard, in supporting a President because he was right, again illustrates the point only too well.

Since he spoke out in defense of the President, the Senator from Arizona has been the object of an often bitter attack by many Americans who in my opinion should know better. There is something very dispiriting in this reaction—dispiriting and disquieting. BARRY GOLDWATER, Mr. President, represents the best that is in us. Throughout his time in the Senate, he has earned and gotten the respect and admiration of many men within and without his party who disagree with him on specific issues yet can never doubt his decency, intelligence and character.

I know beyond the shadow of any possible doubt that there is not a man in this body who sympathizes with the goals and tactics of the Chinese Communist Government of the People's Republic of China. I know that the overwhelming majority of Americans are vehemently opposed to what that government and its accompanying ideology represent. Yet, in the face of that, most of us in the Senate and a huge majority of Americans approve of President Nixon's trip to China. We have come to realize that the government of mainland China constitutes a force in the real world with which we must deal. Certainly President Nixon harbors no illusions on the humanity of that government—but he also harbors no illusions on what it will take to build a generation of peace throughout the world.

In supporting the President's initiatives in the Pacific, none of us has been the object of the attacks which Senator Goldwater has suffered. It is not as though these attacks were unexpected. It is not as though there was no other course open to him. But he chose the right course knowing what the price would be.

It is a source of satisfaction to me that the Senator, not his detractors, reflects the overwhelming response of this Nation—Republican and Democrat, liberal and conservative. It is an honest response, rooted in faith in our President and faith in the ability and character of free men.

WELFARE REFORM: THE TIME IS NOW

Mr. HUMPHREY. Mr. President, poverty is a condition of life that most Americans do not have and are not likely to experience. For some Americans though, poverty is real and depressing. Life for poor Americans is indeed bleak. To go without eating, to lack money for decent shelter and adequate clothing, to say again and again to one's children, "No, we cannot buy a new pair of shoes or a new toy," to be without the standard elements of human comfort is an existence with little reward and much heartache.

Simultaneously, the poor, the welfare recipient, and the hungry are the most vilified, least understood segment of our population. We can close our eyes and hope they will go away or pretend that we do not see them, but they remain, a testimony to an affluence that has not yet arrived. And, always, the poor live on the other side of the street, or across the tracks, or beyond the bend in the river.

In August 1969, the President of the United States, in his welfare reform message, called upon the Nation to accept the notion that "a measure of the greatness of a powerful nation is the character of the life it creates for those who are powerless to make ends meet."

Welfare rolls continue to spiral. From 1960 to 1969, rolls increased some 4.4 million. The Department of Health, Education, and Welfare estimates that left unchanged, rolls will increase until, in 1977, the level will reach 20.3 million. The public assistance figures for September 1971 indicate that some 12.9 million recipient families received aid. There were an additional 2 million individuals receiving aid under the adult categorical program.

In our urban areas, the scope of public assistance is even more frightening. New York, according to data from the National Center for Social Statistics has 13.4 percent of its population on welfare. In St. Louis, the percentage is 12.5. Philadelphia has a percent rate of 11.5 and Boston-Suffolk has 15.3 percent of its population receiving public assistance.

Cost figures, in terms of dollars, have also increased. In 1960, the Federal Government spent 2.05 billion on public assistance. Expenditures estimates for 1970 indicate that total outlay for assistance, exclusive of medicaid, administrative, and general assistance will be about 10.2 billion. Of that total, the non-Federal share is about $4.481 billion and the Federal share equals $5.795 billion. Once medicaid, administrative, general assistance, and social services are included the total cost increases to an estimated $20.939 billion, with Federal cost estimated at $11.6 and non-Federal cost at $9.3 billion.

Something is wrong and something must be changed.

GOALS OF WELFARE REFORM

First, we can and must put an end to hunger in America. We must end forever poverty-related malnutrition. And, to do it will require both an expanded food stamp program and a basic benefit level above $2,400. We simply must have a national goal to end hunger in this Nation.

Second, we can and must enact a system that treats recipients fairly and provides coverage for all the needy—not just families, or the elderly, or those who are physically disabled.

Third, we must maintain and strengthen the family. We can begin by providing assistance to the working poor, by providing adequate day care centers, and by expanding job training and public service employment at a fair minimum wage.

Fourth, we can and must simplify the administration of public assistance. Administration should be federalized; red tape should be reduced; and employee protection for social workers and support personnel should be assured.

Fifth, we should guarantee that no recipient receives less assistance under a reformed welfare system than he does receive under the present system.

Sixth, we must assure that a reformed welfare system must be as fair to the middle and moderate income taxpayers as it is to the recipient. We must guard against fraud and deception and provide an opportunity to work for those who can work.

We can and must provide fiscal relief from the crush of local taxes. We can do so by federalizing the complete cost of public assistance and by closing the loopholes in our Federal tax system.

Seventh, we must recognize that welfare is a national problem demanding national answers and the commitment of national resources.

WHO RECEIVES PUBLIC ASSISTANCE?

As our Nation considers welfare legislation, I believe it is highly important to keep a perspective on the problem by understanding the composition of the welfare population.

Who receives public assistance? The welfare myths would have us believe that almost all recipients are black, that all the families have 10 or more children, that all are on welfare for generations, that all recipients are shiftless or lazy, and that few of the recipients work but almost all could, if forced, go to work.

The results of the latest Department of Health, Education, and Welfare study, gives a different picture of AFDC recipients. According to this report, 48.3 percent of recipients are white, 43.3 percent are black, and 8.4 percent are other races. The average number of children in a welfare family is three, a decrease from the 1967 figures. Over half of all AFDC families have two or less children. Only 11.5 percent have six or more children. The median age of a child on AFDC is 9, with about one-third of all the children under the age of 6.

Families on welfare generally do not receive assistance more than 2 years. In fact, 51 percent of the recipients are on AFDC less than 2 years. Thirty-two percent are on less than a year. The median length is 20 months.

The employment data for AFDC fathers reveals that of those presently unemployed, 71.1 percent are normally blue collar, 6.2 percent are service workers and 11.6 percent are formworkers. Less than 2.4 percent of all AFDC fathers have never held employment. For the AFDC mother, 13 percent are employed in regular or part time jobs; 7 percent are enrolled in training programs or are waiting for training programs; 35.5 percent did not work because they were needed in the home, caring for small children. Thirty-six percent were physically or mentally incapacitated, had no marketable skill or could not find suitable employment.

Of the missing father, 5.5 percent are dead, 11.5 percent are incapacitated, 75.4 percent are absent from the home—with 13.7 percent divorced, 15.9 percent deserted, and 27.9 percent not married to the mother. No information for the remainder.

The average monthly income of an AFDC family is $50.65, with $25.55 in earnings and $25.10 in unearned income, not including assistance monies. One-half of all AFDC families participate in the food stamp program; 12 percent live in public housing; and 80 percent have not received any family planning services.

Three of every 10 recipients receive less than $100 aid; four of 10 receive anywhere between $100 and $199; and three of 10 get over $200 a month in aid.

Categorically, the public assistance rolls are composed of 24 percent enrolled in the old age assistance program; 8 percent are in the aid to blind; 50.3 percent are children; 2.9 percent are incapacitated adults; 13 percent are AFDC mothers. Of this 13 percent, 7 percent are in training; 36 percent are incapacitated; 35.5 percent are mothers in homes; and 13 percent are presently employed; the remaining mothers are unavailable for work.

The President's Commission on Income Maintenance sums up work potential this way: Of 1.2 million people, nonaged family heads who did not work, one-half were women with responsibilities for children, one-third were incapacitated adults; 230,000 were attending school; 15 percent continually searched for work but because of economic conditions, could not find work; and less than 100 000 men were able-bodied and did not work.

Thus, of the 12.9 million people receiving public assistance, 2.6 million could be considered eligible for work. Among this number 2 million are women—mothers with children—and of these only about 44.5 percent can move into regular employment once child care, training, and jobs are assured.

Of the other 600,000 employment potentials, less than one-fifth would be considered suitable for employment. Work and potential for work boils down to this: Less than a million of the 12.9 million on public assistance, and any addition to the welfare system through the inclusion of the working poor.

This is the welfare population.

They demand our consideration and compassionate judgment, as we in the Senate make decision.

I would now like to examine the goals I have outlined.

1. ENDING HUNGER AND MALNUTRITION

No condition of human life pains me more than to realize that there is still hunger in America.

As a Senator, I was intimately involved in food programs.

As Vice President, I worked for child feeding programs, for school lunches, and for food stamp programs.

Now once again as a Senator, I pledge to continue the battle against hunger.

FOOD STAMP PROGRAM

I believe we have made a start by providing additional funds for the food stamp program. More families than ever are using stamps. And, with proper regulations, increased funding, the relaxing of eligibility requirements and a sympathetic Presidential leadership, we can continue to increase participation.

But, we must remember that a cash-out of food stamps is really a cash-down if hunger is not reduced. Food stamps should not be cashed out if the net effect of such action is to reduce the purchasing power of the poor, and if such action will lead to an increased utilization for the

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commodity distribution program as now legislated and operated—a program which food stamps were designed to replace.

The food stamps cash-out under the House bill increases the probability that in some States, if these States do not maintain current benefits, total dollar benefit will be reduced. A family of four in Michigan presently receives, if they have no other income, an AFDC benefit of $3,156. This family is eligible for $444 in food stamps, for a total benefit of $3,600. Under the House proposal, the total cash benefit, assuming the States maintain current levels, would be $3,165; but food stamps no longer exist; the result would be a $444 loss in benefits for this family. On the other hand, a State such as Louisiana, which only has a total benefit level—cash and food stamps—of $2,304, the recipient family would gain about $95.

Overall, if States do not maintain benefits at the current cash-plus-food stamp levels, recipients in 46 States will have welfare payment cuts.

COMMODITY DISTRIBUTION PROGRAM

Indirectly, the House action on food stamps increases the pressure that the commodity distribution program will double and triple in size and scope. The House bill, while it does ban recipients of family assistance from participation in the food stamp program, does not ban recipients from participating in the commodity distribution program.

The commodity program is filled with errors of design and operation which work to the disadvantage of the poor. These errors have been well documented by hearings before the House Committee on Agriculture, Senate Committee on Agriculture and Forestry, a Select Committee on Nutrition and Human Needs, and before citizens groups such as the Board of Inquiry Into Hunger in the United States. The problems of the commodity program are familiar: Transportation centers far away from the population; restricted hours; heavyweight of the commodities; inadequate nutritional value; insufficient quantities of food; irrational and illogical application for eligibility procedures.

The greatest failing, though, of the commodity programs, from the standpoint of being an integral part of any income maintenance scheme, is that the support and concepts which underlie it are farmer, not welfare recipient, oriented. The Nixon administration bluntly intimated this fact in its response to the recommendations of the White House Conference on Food, Nutrition, and Health:

> . . . we maintain that commodity programs are of a different nature. Their primary thrust is to help balance the agricultural economy rather than to provide income substitutes. They serve a different constituency than that concerned with health and nutrition. (Page 77, Comprehensive Report, White House Conference on Food, Nutrition and Health, February, 1971)

This statement will remain as a serious and fatal indictment of the commodity programs as nutritional improvement mechanisms.

CASH ASSISTANCE

Cash assistance, not just for families but for all needy is a key element in ending hunger. But, the cash income must be adequate.

I have previously introduced legislation that would lift about 6 million elderly out of poverty. We can do this with an immediate financial increase in adult categories and in social security benefits.

The $2,400 annual assistance for a family of four is at least $1,500 below the Government's own recognized poverty line. The $2,400 family assistance for a family of four in deficient when one realizes that the changes mandated for the adult categories would provide a $2,400 benefit level for an aged family of two. Surely a four-person family has more dollar needs than a two-person family.

The poverty level for a family of four is at least $3,000 below the lower living level budget of the Bureau of Labor Statistics. In my own city of Minneapolis, the Bureau of Labor Statistics estimates that the total cost of four-person family consumption on a lower income budget is $5,561, including $1,866 for food, $1,465 for housing, $492 for transportation, $843 for clothing and personal care, $540 for medical care, and $355 for other expenses. In addition, it is estimated that such a family will pay $343 in social security and disability insurance and $892 in personal income taxes. A $2,400 level without any supplementation is woefully inadequate.

THE COST

The reason usually offered for not increasing the benefits is cost. Public welfare cost today, including medicaid, administration and emergency assistance, totals $21 billion, of which $11.6 is Federal and $9.3 billion is State and local funds. A family program with a $2,400 Federal base costs excluding administration, medicaid, and emergency assistance, $9.1 billion increasing that base to the $3,600 for a family of four would cost $15.8 billion. This figure, some argue, is unrealistic, beyond Federal budget capacities, and remains but a goal for some distant future action.

But, there is another dimension to the cost datum—the human cost. What does it cost if we do not increase benefits? What does it mean in terms of sustained malnutrition—in terms of babies and children who are underfed, who go to bed night after night hungry, who exist on staples of beans and grits?

What does it cost society to keep people in perpetual states of inactivity, or listlessness, or nonproductivity? What is the cost if families do not have adequate shelter or plumbing facilities? What is the cost of combating disease aggravated by the lack of sanitary conditions?

What is the cost in terms of babies yet unborn who upon birth have a 30-percent less chance of survival the first year, three times the chance of normal children of being mentally retarded because they are likely to be undernourished, not likely to finish elementary school, let alone high school and have better than an even chance of being on the same welfare system their parents so deplored and so hated?

The immediate solution is this: Increase the benefit level and do more for those who have less. We are a great country; surely we can take care of our people.

There are a variety of alternatives to a static Federal floor. We could increase the floor each year by a percentage of the poverty level until at some time in the future the poverty level becomes the Federal minimum. Or, we could provide that the floor increase a percentage of the family food consumption component of the Bureau of Labor Statistics low-income budget, until that component becomes the Federal floor. Or, we could change the ceiling each year by enacting new legislation. However it is done, it is my opinion that an escalator should be a part of the legislation—to move the basic Federal payment to levels of adequacy.

Finally, we should build into any Federal payment a cost of living and regionalization factor. It is only fair and equitable that differences in living expenses be recognized as a legitimate ingredient of welfare cash assistance.

A sound food assistance program and an adequate Federal income program can help accomplish the goal of ending hunger—the most urgent domestic priority.

2. ADEQUATE COVERAGE

The second goal is adequate coverage.

The family assistance plan covers only those poverty families with children. It does not cover the 1.8 million childless couples living in poverty nor does it cover the 2.3 million single adults living in poverty.

The plan assumes that these individuals will be covered by State welfare payments. But not all States pay what is called general assistance—benefits which go to those who do not qualify for the regular categories of assistance.

Conceivable, this omission could be a subtle pressure for a childless couple to have children—at least then they could receive family assistance.

A national program should cover all the needy.

3. WORK OPPORTUNITY

In the United States work is honorable and it is expected. Those recipients who can work should work. And, indeed, data tends to support the conclusion that almost all recipients able would like to work—if only jobs were available.

However, to make work opportunity more effective, we should spell out in detail what is and what is not suitable employment. And, we should assure that day care, public service, and upgraded training will be available.

Day care and public service employment are vital to any welfare reform. Without them, reform legislation could only institutionalize a welfare crisis.

The Department of Health, Education, and Welfare estimates that 1.3 million children will require day care if H.R. 1 becomes law. Cost figures for these children vary between $1,600 and $2,000 a child. But, present day care programs provide services for less than 250,000 children. And there are serious questions whether or not the funds in H.R. 1 are sufficient to meet this need. The House committee report states that well-designed child care including educational, health, nutritional, and other services should be the basis of our child care programs.

H.R. 1 also provides for 200,000 public services employment jobs. This is vital to the success of a comprehensive welfare program. However, we must be certain that at a time when the economy is sluggish and depressed, as it is now, we provide sufficient public service jobs.

Public service jobs are not necessarily dead end meaningless jobs. Public service can be jobs of opportunity and a path to career mobility. I have called for 1 million public service jobs. I would hope the Congress and administration would enact at least that many jobs.

INCENTIVE

There is one other work opportunity feature of the welfare program that should be examined: incentive to work.

One of the major problems with the present welfare system is the lack of incentive for the working poor to earn additional dollars. Under the present procedures, earned income is deducted from the benefit at a rate of $30 and one-third the remainder. Unearned income is reduced dollar-for-dollar from the benefit check.

I believe the working poor must be included in any welfare program—either as an integral part of program or as part of a pilot project that would be automatically triggered into effect.

I favor a work incentive of 50 percent—allowing the working poor to keep 50 cents of every dollar.

It is my feeling that a restricted and regressive 67-percent incentive rate as presently slated will actually be a disincentive. The Heniman Commission has said that a 50-percent tax rate is better than a 67-percent tax rate. A 50-percent tax rate does increase program cost, for it increases the break-even level and brings more potentially eligibles into the program. But, it also provides an adequate work incentive that may hasten the removal of the recipient from the welfare rolls.

4. ADMINISTRATION

Although I strongly favor the assumption of welfare administration by the Federal Government, I also believe that administering the program should be as simple and as concise as possible. I am fearful that splitting responsibility between the Department of Labor and the Department of Health, Education, and Welfare, though admirable, might increase the difficulty of coordination, increase the red tape, and increase the confusion.

A. APPLICATIONS

The application procedure of the House bill is vague and unclear. On one hand, the language does specify what happens when the recipient fails to file his income report—the recipient is summarily cut off from benefits. And, if the failure to file persists, then benefits for any subsequent reapplication are reduced by a specified dollar amount.

On the other hand, the procedure for filing an application and the kinds of information that are to be included on that application remains the realm of secretarial discretion. What kinds of "data and material" must the recipient file—income wage statements, home ownership policies, birth certificates, death certificates, baptismal certificates, income taxes, car titles?

If we are going to have complicated eligibility and certification procedures, then we should be legislatively specific as to kinds of data and material that the potential recipient must supply. In the long run, I believe we can guard against fraud and illegal acts and still have a certification system that is simple and rapid.

B. REVIEW AND HEARINGS

It is in the hearings and review proceedings that capriciousness, while maybe not deliberate often, is more a function of the fact that the welfare recipient often does not know his rights, is not informed in clear and understandable language of them, or is just too scared to speak for those rights. Given the history of welfare procedural review, it would seem necessary to specify as clearly as possible the rights, regulations, and provide for the publication and communication of those rights.

C. LOCAL COMMITTEES

The House bill provides for local advisory boards set up throughout the country to evaluate and "report on the effectiveness of the program." The language of the bill says that each committee "shall consist of equal numbers of representatives of labor, business, and the general public, as specified by the Secretaries." Just what does the "general public" mean? Does it mean that welfare recipients are to be included or excluded?

We have had numerous Federal programs in which the consumers of the program have no opportunity to participate in the design or the evaluation of the program. In fact, social scientists are agreed that the failure to ask the poor, to consult with them, and obtain their thinking about policies which affect them is one cause behind the failure of many social programs. Since recipients of public housing aid have served on the board of the public housnig authorities and food stamp recipients have served on food stamp advisory committees, does it not make sense to allow welfare recipients to serve on a board that will be charged with evaluating the delivery capacity of the family assistance plan?

D. EMPLOYEES

I believe that State and local government employees should be assured of accrued rights during the transition from State to Federal administration. We must and should protect the right of those workers who might be assimilated into the federal system and I believe that we should assist all others to find new and equally productive jobs.

It is important also to have workable accounting income procedures. We simply must make every effort to be as current and as fair as possible in the calculation and definition of a recipient's income for assistance payments.

5. MAINTENANCE OF BENEFITS

It seems axiomatic that any reform of the present welfare system would at least guarantee that recipients would not receive less cash benefits than they are presently receiving.

The Federal legislation must include a maintenance of benefits clause. States must be mandated to provide present levels of benefits to public assistance clients; because, in fact, if we do not guarantee existing benefits, we subtly increase the pressure to reduce benefits.

This pressure is great and may be overpowering—the burden of welfare costs is more than most States can bear.

When this pressure for a reduction in total State costs is coupled with the notion that some States do not pay 100 percent of needed standards now, the lack of a maintenance of benefit clause will likely prove catastrophic to welfare recipients.

President Nixon's once famous dictum that no recipient will receive less than his current benefit is laughable, if it were not so tragic.

The most positive way out of this dilemma is to include a maintenance of benefits clause along with a hold harmless for both people and States and a high rate of Federal participation in the financing of State supplementary welfare payments.

The essential point is this: The taxpayers of our States need massive fiscal relief from the crush of taxes used to pay welfare cost. At the same time, children, mothers, and older Americans ought to have protection against any cut in benefits.

STANDARD OF NEED

Even a maintenance of benefit clause, though helpful as a guarantee to recipients, does not provide as much in fact as in theory. It is true that no recipient will get less than current levels; it is also true, in some States, that many people do not get enough to cover their needs.

Fourteen States pay recipients 100 percent of the monthly amount for basic family needs, as these needs are defined by the State. All 14 of these States—Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Dakota, and Washington also have benefit levels above the proposed Federal floor of $2,400. A maintenance of benefits provision is important in these States to assure continuance of the payment level.

Other States, such as Alabama, Arizona, Delaware, Mississippi, Nevada, South Carolina, and West Virginia, pay considerably less than the full standard of need. Alabama, for example pays only 35 percent of the standard—$81 of the estimated $230 monthly amount for basic needs. Delaware pays 65 percent—$187 of a $236 need standard. Mississippi pays 40 percent—$70 of an estimated $230 need standard.

For recipients in these States, a $2,400 Federal floor will increase their incomes. The maintenance of benefit provision is not wholly applicable—though any Federal sharing of voluntary State supplementation may encourage those States to increase payment levels.

6. FAIRNESS

No one denies that there are two costs to every welfare system: to the recipient who must bear the burden of living under

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the system and to the taxpayer who must pay dollar cost of the system.

The cities and the States are in financial trouble.

They need help and they need it as rapidly as possible.

There are serious reservations whether or not the relief promised by welfare legislation is sufficient to meet the crisis demands of State and local government. It could mean that the inequitable distribution of State cost which originally led to a reform of the welfare system, will be frozen into law. Those States which now provide cash payments substantially above the proposed Federal floor would not find their cost increasing, but neither would they find any State savings from their cost of maintaining benefits to the 1971 level, once the basic Federal payment is deducted.

On the other hand, those States which presently pay less than the $2,400 level will have little or no State welfare cost under the new program. The limitation on increases in expenditures has no direct and immediate effect on these States.

Since one of the goals of this legislation is to provide fiscal relief to beleaguered States and local governments—to save the States money that is desperately needed for other programs—the Federal Government should provide for increased starting Federal floor and contribute a share of the supplementary payment States would make to recipients over and above the basic $2,400.

This Federal participation in State supplementary payments will have three effects. First, it would provide States an incentive not to reduce benefits from present levels. This would protect welfare recipients from a cut in public assistance.

Second, it would mean that the welfare program would be on its way to true federalization. If the percentage which the Federal Government aids in State supplements was continuously increased, then there eventually would be a complete federal system of both costs and administration. Third, Federal participation would provide the fiscal relief that the high payment States desperately need.

And adequate benefit level or a phased-in increase in the percent of Federal aid for State supplements would provide the fiscal relief the States want and it would truly recognize the welfare crisis as a national and not a local crisis.

7. WELFARE AS A NATIONAL PROBLEM

The House bill recognizes that welfare is no longer a local or State problem. It is a national problem demanding national standards of eligibility, basic national benefit floors, national administration, and national distribution of the cost.

Welfare reform is but one of the "reforms" we must make this year. Hand in hand with it we must have "revenue sharing reform" and "tax reform." In fact, these three "reforms" fit together.

Our present taxing system is grossly unfair to the middle-, moderate-, and low-income individual. There is something unfair about a society that taxes poor people while millionaires and the wealthy are allowed to escape from taxation. Yet that is precisely what happens. Poor people pay over $5.4 billion collectively in direct taxes, $2.8 billion in social security taxes, $2 billion in indirect taxes, and $14.5 billion in indirect consumer taxes.

I have previously offered amendments to eliminate the poor from Federal tax liability. This amendment was adopted by the Senate, but the Nixon administration fought it in the conference committee over the Revenue Act of 1971.

I think we must move ahead quickly on tax reform. And, I have joined in sponsoring a comprehensive tax reform proposal.

I think we must move ahead quickly on revenue sharing.

I think we must move ahead quickly on welfare reform.

The administration has delayed on these reforms all too long—they have asked for postponement in revenue sharing and welfare reform. And the administration refuses to propose a tax reform program.

As in the past, Congress must take the initiative.

These are national problems and they must receive national answers.

The time is not tomorrow; the time is now.

POLL OPPOSES GUARANTEED ANNUAL INCOME

Mr. CURTIS. Mr. President, as the Committee on Finance continues its consideration of welfare reform and the "guaranteed annual income" proposal contained in H.R. 1, I wanted especially to invite attention of Senators to the results of a recent poll taken in his State by the distinguished senior Senator from North Dakota (Mr. YOUNG).

The Senator received 11,000 responses to his questionnaire. A total of 9,327 responded to the question, "Do you favor the President's welfare reform proposal with its guaranteed annual income?" Of those, 30 percent favored the proposal and 70 percent opposed it. A very significant result of the poll was that of 274 students who responded to the question only 35 percent favored the proposal and 65 percent opposed it.

Not only does the Senator's poll reflect overwhelming opposition to the "guaranteed annual income" approach to welfare reform in his State, but it indicates that young people do not view the matter substantially differently from their elders.

In a Federal Republic such as ours, it ill behooves Congress to force upon the citizens of an entire State a program they oppose by so wide a margin. I know that the results of Senator YOUNG's poll has been or would be substantially duplicated in many other States—almost certainly in my own.

I commend Senator YOUNG for this important contribution by his office and his constituents to the enlightenment of Congress on this and other issues. The full results of the poll appear at page 8947 of the CONGRESSIONAL RECORD of March 17.

OCEANS

Mr. NELSON. Mr. President, the current issue of the Sierra Club bulletin includes an article entitled "Long Island Sound: The Urban Sea," written by Donald Squires. It is a very informative piece, describing the threats to the environment of the sound and the beginnings now of steps to try to save it, with concerned citizens groups providing the push.

Similar stories could be told all over the country, of course: Accelerating pollution, tragic consequences, public awareness and concern, governmental efforts to stop the wastage and destruction before the resource is completely and irreversibly spoiled.

But there is something unique in the Long Island Sound story: It is not a lake or a river that is being destroyed; it is a part of the ocean itself.

"The urban sea" is the new tag for the sound. It is a term that gives little cause for comfort: If we do not act now to protect and manage the marine environment, minimizing conflicts in uses, surveying and preserving its ecology, we will quickly make the same mess of the supposedly limitless ocean environment as we have of much of our land.

I ask unanimous consent that the article entitled "The Urban Sea" be printed at this point in the RECORD, along with two New York Times articles, one just this morning reporting a 60,000 gallon oil spill in the sound from a grounded tanker, and the second reporting active consideration by the New Jersey Assembly of a measure to create an offshore sanctuary for the entire length of the State.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

LONG ISLAND SOUND THE URBAN SEA

(By Donald F. Squires)

Some 10,000 years ago the great wall of ice which covered most of northern North America stalled in its advance, retreated and advanced again. Two great ridges of sand and gravel, over 100 miles in length and up to 30 miles in width, were piled up on the Continental Shelf ten to fifteen miles off the Connecticut shore forming, when the ice withdrew, Long Island. As the ice continued its retreat a fresh water lake was formed in the embayment between the glacial ice on the Connecticut shore and Long Island. This soon was replaced by sea water, forming what is now Long Island Sound.

Because of this geological history, Long Island Sound is not a typical estuary with a great river at one end, the sea at the other. The Sound is an enclosed arm of the Atlantic Ocean, with several important rivers such as the East Housatonic, Connecticut and Thames Rivers, draining into it. But this is not what makes Long Island Sound of interest today, but rather the fact that this body of water has become an urban sea.

Today the Sound is a playground for some 12 million people. On its shores the citizens of New York and Connecticut bathe (where possible), boat, race, fish, bird watch, dig for clams (where possible), and earn a living through shell fishing and fin fishing. Today the Sound is also used as a dumping ground for 1.8 million tons of dredge tailings, materials from metropolitan excavations, and for waste products of certain industries. Additionally, sixty municipal sewage treatment plants discharge over 170 million gallons of waste water per day into the Sound, and it receives the waste heat of power plants generating more than 3,000 megwatts.

What makes this urban sea interesting is that from the Metropolitan complex of Queens and Westchester Counties on the western boundaries of the Sound, the scene changes slowly and steadily to the east as urbanization gives way to suburbia and finally to the agricultural areas of eastern Long Island and eastern Connecticut. (Suffolk County, Long Island, is the leading agricultural county in New York State.) Here, at the eastern end of the Sound, the cluttered, industrialized shoreline and the hustle and bustle of harbor, airports and bridges has given way to the open coasts which still have vestiges of their earlier maritime history. Mystic Seaport, Connecticut, with its whaling museum and square riggers, is matched by the quaint village of Sag Harbor, Long Island and its whaling museum and traditions. Old oyster industries, once a multi-million dollar venture in Long Island Sound, still hang on, but only a few companies are still fighting the increased costs of labor, starfish, and pollution. The famous Stonington fishing fleet still operates and the Stonington dragger, though no longer built, is still a familiar sight in this area.

Long Island Sound presents the full spectrum of man's impact on the sea from the urban sea at the western end to the open, relatively unpolluted waters at the eastern end. The eastern end of the Sound is relatively open and has good exchange of water between the Atlantic Ocean and Block Island Sound. At the western end, access to the sea is greatly constricted through the East River, a toruous channel which, before the boulder fields of Hell's Gate were cleared was considered one of the most difficult passages for sailing ships. The exchange of waters between the New York Harbor and western Long Island Sound is still a subject of debate among hydrologists, but apparently there is a great input to the Sound of nutrient laden waters derived in large part from the sewage treatment plants of Manhattan, Queens and Westchester Counties.

What has happened to Long Island Sound over the years? Nothing dramatic. Just a slow, general, wasting through misuse coupled with a general indifference because the problems were not observable by the public. In the past few years the situation has changed; public awareness of the importance of the Sound has reached high levels and the public concern expressed by civic and conservation groups has not been unheeded. Spurred on by the activities of these groups, Senator Abraham Ribicoff of Connecticut and Congressman Lester Wolff of Long Island sponsored legislation in the Congress to establish a Long Island Sound Commission to study, recommend and manage this body of water. In response to the congressional action, President Richard Nixon, by executive order, increased the responsibility of the New England River Basins Commission to include the waters of Long Island Sound and called for a three-year study to formulate a 20-year plan for its management. As with so many of these actions, the legislative and executive intent has not been backed with funds, and presently the Long Island Sound study is making haste slowly.

The most pressing problem of Long Island Sound, to isolate the one single factor to which to attribute its present decay, is the concentration of sewage outfalls in the western end. The impact of sewage and the resulting biological stimulation from the nutrient materials placed in the waters has caused responsible reporters to project the imminent death of Long Island Sound—the difficulty is to define "death." The immediate observable impact of sewage outfalls is the build-up of what has been termed a "nutrient-wall" at about a third of the length of the Sound from its western extremity. From the "normal" levels of nitrates and phosphates, the essential chemical building blocks for life, which exist in much of the eastern Sound, there are sharply increasing values from roughly the point of Lloyds Neck westward. In the westernmost portion of the Sound, the concentrations of nitrogen and phosphorus are among the highest in marine waters anywhere in the world.

Each year the tiny plants of the sea, the phytoplankton, the base of the entire food chain of the sea, respond to the lengthening day and the slight warming of the water temperatures by increasing in numbers. This rapid growth of the phytoplankton is termed a bloom, and the growth intensity of the bloom is governed to a large extent by the nutrient materials in the waters. In short, when the phytoplankton bloom begins, the single-celled plants divided, grow and divide again, increasing in numbers until all the nutrients which support their growth are exhausted. The numbers of these plants then fall off sharply to a base level where the "crop" remains at a relatively stationary level until the waters build up a new supply of nutrients. In Long Island Sound these blooms generally occur in February and August. As man has increased the nutrient levels of the Sound through introduction of sewage, the intensity of the blooms has increased with time until they have reached the critical point at which the wildly developing populations of phytoplankton have gone beyond the point of being beneficial to the environment and have become, at their peaks, detrimental.

The problem of extreme phytoplankton blooms, the result of a process called eutrophication, has many dimensions. Upon death of the phytoplankton individuals, many species of which have very short life spans, the organic material of the cells sinks and is oxidized by the dissolved oxygen contained in the waters. Organic material added to the Sound through sewage also utilizes oxygen in the waters, further reducing amount of oxygen available to organisms living at or near the bottom. Depletion of oxygen in the western portion of the Sound has reached levels which are now critical for many months of the year—and new sewage plants being developed by communities on both the Connecticut and Long Island Shores call for additional outfalls. Despite the fact that the sewage will be "highly" treated, the treatment is not sufficient to remove the nutrients from the waters and the situation can be expected to worsen.

Long Island Sound once boasted a commercial fishery of consequences, but today there are very few commercial fishing activities left. Pollution is only one factor in this reduction, for with the increase in human population the Sound has become an important recreational fishery area. Although current fisheries data are sketchy, there are many indications that the problem of the Long Island Sound fisheries may result from the competition between the sports fisherman and the commercial fisherman for the same species of fishes, with the sportsman taking the largest portion of the catch. Though the commercial fisheres are highly regulated and much scientific effort has been put into the development of management programs for commercially important species, salt water recreational fishing is largely unregulated and management techniques have not yet been developed comparable to those of the fresh water fisheries. Even though the sports fishermen may be taking the largest portion of the catch, the laws are still oriented towards protecting the sports fishermen rather than the basic fishery itself.

Fishes taken in Long Island Sound are beginning to show distressingly high levels of mercury. Larger specimens of bluefish and striped bass, both highly prized by the sports fisherman, have shown mercury contents as high as 1.2 parts per million. Should these values continue to rise an important recreational asset may be lost. Here, however, the problem is less well defined and may not be assessable against the waters of the Sound. Most of the species of fish taken in the Sound are migratory, ranging from Cape Cod to the Chesapeake Bay. Much research must be devoted to determining where these species acquire the mercury before we will be able to control the problem.

Shell fisheries, once an important industry for Long Island Sound, are hard pressed on many fronts. Oyster spat produced in Connecticut were formerly taken out to beds in Long Island Sound to grow to market size. High quality marketable oysters were produced in large quantities until the mid-1950's when the industry was decimated by an influx of predatory starfish. The cause of the invasion is still unknown and the starfish remain. Their presence alone, but with the situation worsened by pollution, has resulted in the almost complete collapse of the Long Island Sound oyster industry. At the present time efforts are being made to revive the production of oysters through mariculture including the use of heated waste waters from power plants for stimulating more rapid growth of the oyster. These efforts, however, are still very small in scale. Pollution has affected recreational shell fishing in Long Island Sound. At the present time over 75,000 acres of bottom lands have been closed to shellfishing because of contamination by coliform bacteria from human sewage.

The New York Bight region has received a great deal of national publicity because of the dumping of sewage sludge in the coastal ocean. While newspaper reports often include the word "garbage" in describing these dumping practices, in fact no garbage is dumped at sea in the New York region. But Long Island Sound is the unhappy recipient of 1.8 million tons of debris dumped yearly in its nineteen designated dumping grounds. The materials dumped here consist primarily of dredge spoils from harbor management programs. These spoils present a very real hazard to the future of Long Island Sound. Studies conducted at the Marine Sciences Research Center demonstrate that most dredging operation sites are industrialized harbors which receive both treated and untreated sewage and industrial wastes. As a result a thick accumulation of fine grained, highly carbonaceous material has built up on the harbor bottoms. It is this material which is most frequently dredged and carried off to the dumping grounds. The restirring of these fine grained sediments exposes the organic material contained in them to the waters of Long Island Sound, creating yet another drain upon the oxygen of its waters through release of contained nutrients. It may also release various toxic or deleterious chemicals derived from industrial wastes into the waters of the Sound.

Dredging operations are manifold in the waters of Long Island Sound. They range in scope from the maintenance of major channels for commercial shipping to the opening of shallow embayments for recreational boating and the construction of marinas. Over 185,000 pleasure craft are registered in areas surrounding Long Island Sound. Nowhere has this been more important than on the eastern end of Long Island where the number of natural harbors decreases rapidly to the east and the pressures from population growth in the last decade have created long waiting lists for marina space. To meet these demands, local authorities dredged wetlands at increasing rates. Recently the trend has slowed as pressure from conservation groups and the environmental community has led, in certain areas, to the placing of very high priority upon public acquisition of wetlands and their preservation as open space and vital segments of the marine ecosystem. However, the action came sufficiently late so that between 1954 and 1964 over 29 percent of the wetlands of Long Island were lost.

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Oil is a perpetual problem. Long Island Sound has not been looked upon as a favorable site for the production of oil, and the nearest producing areas are sufficient distant to not directly endanger its waters. However, the Sound does provide a sheltered corridor for the transport of oil by barges and small tankers. Both sides of the Sound are dotted by tank farms and oil transhipment facilities. In 1970 and 1971 major spills of over 300,000 and 600,000 gallons occurred. The impact of large volumes of oil in marine waters is a part of the dreary litany too well known to environmentalists. However, potentially more serious, and more difficult to assess, is the cumulative effect of the small spills occurring at transshipment points over long periods of time. Though the volumes of each spill may be undramatic, the biological effects may in time be as important as the larger, more conspicuous events which catch the public eye.

The catalogue of woes of Long Island's waters has been scarcely touched. Unwritten here are the effects of pesticides, PCB's, agricultural run-off, changes in fresh-water runoff through increasing utilization of groundwaters on Long Island, the effects of highway expansion upon recreational areas, and the process of urbanization. To end on such an unhappy note is to do Long Island Sound's clamoring public a great disservice. There is a great deal of positive action and, to a large extent, it has been generated by pressures from the public who now clearly see the deteriorating water quality.

Both Connecticut and New York State, through their environmental agencies, are beginning to take tougher positions in the enforcement of existing regulations. Many will reckon that these actions are too little, too late, but the direction is correct. Connecticut has passed a Wetlands Act which provides for greater State control of wetlands areas. Suffolk County, Long Island, is proposing legislation requiring zoning review by the County rather than solely by local municipalities. A Regional Planning Board established by Nassau and Suffolk Counties has made pioneering efforts in attempting to integrate the quality of the marine environment into regional planning. The Board established an advisory group, the Regional Marine Resources Council, which has engaged in a program of research which will lead to a comprehensive management program for the marine region of the two counties. Citizens' groups have emerged as an active and potent force in guiding public opinion and governmental action. Groups such as the Nature Conservancy, the Audubon Society, and more recently the Sierra Club, are continuing long standing efforts to conserve the natural resources of the Sound. Other, newer environmental groups have joined forces, such as the Long Island Environmental Council and the Junior League in New York and Connecticut. The governments of New York and Connecticut have begun discussions leading to the development of a compact providing for better controls for Long Island Sound.

What of the future? It is not wise to attempt to predict the course of events about which so little is known. Surveys of Long Island Sound conducted in the mid-fifties by the Bingham Oceanographic Institute of Yale University, and in the past two years by the Marine Sciences Research Center, State University of New York, provide only two points on a graph of water quality. Projection beyond these points becomes an exercise in anticipation of the wisdom of the people. The accumulation of pollutants in Long Island Sound has probably not reached its maximum and the levels of metals, insecticides and nutrients will continue to increase for as much as ten years.

Will the recuperative forces of Long Island Sound be pushed to the point beyond which environmental quality precipitously declines? The prospects for the urban sea are linked to the future of the cities. If we save the cities, restoring the quality of their environment and life experiences, we can do the same for the urban sea which provides so much life enhancement for the populace living on its shores.

Dr. Squires is director of the Marine Sciences Research Center and professor of Biological Sciences and of Earth and Space Sciences at the State University of New York, Stony Brook. A Research Associate at the American Museum of Natural History and the Smithsonian Institution he is also an Associate for Natural History Information Resources at the Smithsonian. Dr. Squires is the author of numerous biological, geological, and oceanographic articles.

[From the New York Times, Mar. 22, 1972]

GROUNDED TANKER SPILLS OIL IN L.I. SOUND

(By David A. Andelman)

FISHERS ISLAND, L.I., March 21.—A 2.5-million gallon tanker ran aground and split open early today, spilling more than 60,000 gallons of oil into Long Island Sound.

The spill, the largest in more than three years in Long Island Sound, quickly spread, covering more than 45 square miles. Late this afternoon it began washing ashore in areas of southern Connecticut near Niantic and on Fishers Island, which, though closer to Connecticut, is part of Long Island.

Officials of the Connecticut Department of Environmental Protection said that a number of gulls already had been seen coated with oil, a No. 2 home heating oil.

In the last two months, oil from two other spills, both of unknown origin, has washed up on the beaches of Long Island—one along a 25-mile front of Fire Island National Seashore, the other on the north shore of Suffolk County.

In December, an empty 640-foot tanker split in half and sank at the dock in Port Jefferson harbor and last month another tanker ran aground in the same harbor, but no oil escaped.

Shortly after 3 A.M. today, the F. L. Hayes, a 240-foot coastal tanker owned by Spentenbush Inc. of New York City, ran aground on Bartlett Reef, about two miles from the Connecticut shore. Coast Guard officials refused to state the cause of the error that caused the grounding.

The ship, bound from Bayonne, N.J. to the Dahl Oil Company in Norwich, Conn., was carrying 600,000 gallons of No. 2 oil.

Two of its seven tanks ruptured on impact and it was nearly four hours before workers from the New England Pollution Control Company were able to place oil-containment barriers around the ship and stop the flow of oil. An estimated 63,000 gallons of oil had already escaped, Coast Guard officials reported.

At 2:30 P.M. today, after the oil in the tanker had been removed to barges, the ship was refloated using tugboats and was transported to New York City for repairs.

The last spill of comparable magnitude in Long Island Sound also occurred on Bartlett's Reef, in January 1969, when a barge ran aground. That slick extended from Waterford, Conn., to Point Judith, R.I., and resulted in the death of "hundreds of birds."

Shortly after yesterday's incident became known, officials of the Federal Environmental Protection Agency's regional headquarters in Boston flew to the scene.

Due to the size of the spill in navigable waterways, the provisions of the National Oil and Hazardous Pollution Contingency Plan were invoked, giving authority to the Coast Guard to take charge of clean-up operations.

[From the New York Times, Mar. 22, 1972]

JERSEY ASSEMBLY MOVES TO BAN FLOATING A-PLANTS

(By Ronald Sullivan)

TRENTON, March 20.—The State Assembly unanimously approved a legislative resolution today aimed at blocking the construction of two floating nuclear-power generating plants off New Jersey's southern coast.

Plans for the nuclear plants were made public last Wednesday by the Public Service Electric and Gas Company.

A few hours after the Assembly action, the chairman of the Assembly's Agriculture, Conservation and Natural Resource Committee announced that her committee probably would clear another legislative measure next week creating a state sanctuary extending three miles to sea from Sandy Hook to Cape May. Such a measure would effectively bar the power stations as well as any other intrusion into coastal waters within the state's three-mile jurisdiction.

The sanctuary measure has Assembly Speaker Thomas J. Kean among its sponsors.

The sanctuary would be protected from "any exploitation, development or activity that would seriously alter or otherwise endanger the ecology or the appearance of the ocean, the sea bed or the sub-soil therein."

NEW POLITICAL REALITY

According to the chairman, Assemblyman Josephine Margetts, a Morris County Republican, the approved resolution and the bill in her committee represented a powerful new political realty in New Jersey. Any proposal that poses any threat to the environment, she said, will encounter legislative opposition unheard of here five years ago.

Mrs. Margetts cited last week's emphatic rejection in the Assembly of a proposal by the New Jersey Turnpike Authority to construct a $322-million expressway extension through the middle of the state.

Today's resolution, which approved by a vote of 65 to 0, called on the Atomic Energy Commission in Washington and the State Department of Environmental Protection to oppose plans for the reactors pending environmental studies.

However, sponsors of the resolution readily conceded that the primary objective was to block the plans entirely.

Public Service announced that it had signed a letter of intent with the Westinghouse Electric Corporation for the construction of two 1.15-million kilowatt nuclear-power generators that would be anchored offshore—either in front of the Long Beach Island community of Harvey Cedars, or near Little Egg Harbor inlet.

The generators would cost $1-billion and Public Service, the state's largest power utility, said it hoped to start construction by 1976 and have them running by 1980.

The new proposals have led to a storm of opposition in southern New Jersey, where state legislators, county officials, and local office-holders plan a rally in opposition at the National Guard Armory in Toms River on Saturday.

ACCIDENTS WILL HAPPEN

Assemblyman Franklin H. Berry Jr. of Ocean County said no one would want to sit, much less swim, at a beach with a nuclear-power generating plant "staring you in the face."

He also stressed the threat to sea life and the fact that "accidents will happen, no matter what the engineers say," and cited the collapse of Air Force radar tower 66 miles off the Monmouth shoreline in 1961.

"Can you imagine a nuclear-power plant running amok in the Atlantic?" he asked.

A spokesman for Public Service said the Assembly resolution was "redundant" because the A.E.C. required lengthy environmental studies as a matter of policy before any approval would be considered.

RURAL DEVELOPMENT BILL REPORTED—"MAGNA CARTA" FOR RURAL AMERICA

Mr. HUMPHREY. Mr. President, yesterday the full Committee on Agriculture and Forestry approved the Rural Development Act of 1972 which I, Senator HERMAN E. TALMADGE, chairman of the committee, and other members of the committee and Senate sponsored. This bill represents the culmination of almost a full year's effort by the Rural Development Subcommittee, of which I am privileged to serve as chairman, and the full Committee on Agriculture and Forestry. It is truly a "Magna Carta" for rural America.

Almost immediately following the formation of the newly established Rural Development Subcommittee last April, I began hearings both here in Washington and in various parts of the country concerning rural development and legislation designed to further the objectives embodied in rural development. The bill reported yesterday by the full committee takes into account much of the findings of those hearings.

Among the first major bills introduced last year as a part of our subcommittee's efforts was S. 2223, sponsored by Senator HERMAN TALMADGE and myself. This bill, which now is almost wholly contained in the bill reported yesterday, will provide for the establishment of a new and expanded system of credit and financial assistance for rural communities and for industrial and job development in rural America. That bill alone was cosponsored by 51 Senators. Other provisions added to this legislation which now comprise the new bill that were reported yesterday also had many sponsors in both the Senate and the House.

When we began our subcommittee work last year, I made it very clear that rural development was a "bipartisan" matter. And I am happy to report, Mr. President, that throughout our work and efforts concerning this legislation, we have maintained strong bipartisan support in the Congress, and in particular, within the committee and the subcommittee.

The bill reported by the full committee yesterday, is one of the most far-reaching and comprehensive pieces of rural development legislation probably ever to be reported by any committee of Congress.

If enacted, and properly funded, this piece of legislation will serve as a new foundation for rebuilding rural America and the thousands of towns and communities that are located within our Nation's countryside. It represents a strong beginning toward renewing both the promise and potential of rural America and in building a better America. And as such, it also will play a vitally important role in helping to achieve our goal of a more balanced national growth and development pattern in the United States.

It will give new hope to millions of young people who want to live and work in our Nation's smaller communities and family farms, young people, who otherwise, will be forced by economics and lack of opportunity to migrate to our Nation's larger cities.

It will provide desperately needed financial assistance, through revenue sharing, to States, nonmetropolitan planning and development districts and to local governments to help them plan and build new tomorrows.

It will provide needed incentives to industry to establish and expand businesses and jobs throughout the rural regions of our Nation for the millions of unemployed and underemployed people now residing there.

It will provide for the establishment of a research and education program needed to support and guide the future development of our rural communities and countryside, including special efforts to help small farmers, as farmers, in reaching their goals of improved income through better management.

It will broaden our conservation and environmental efforts in rural areas to conserve and better utilize water, land, and other valuable natural resources.

It will establish a badly needed program of financial assistance for small communities to improve their fire protection services.

It will liberalize credit for farm loans, including loans for young people to get started in agriculture.

It will extend all of these rural development programs to our Nation's first citizens; namely, American Indians.

And it will vest primary responsibility for national rural development with the U.S. Department of Agriculture.

Hopefully, Mr. President, when this bill is considered by the Senate it will receive the support and vote of every Member of this distinguished body. Although many of us often think of rural America as merely farms and open country, containing few people, let me call attention to the fact that the rural America we are addressing ourselves to in this new legislation, encompasses close to 70 million Americans or 35 percent of the Nation's total population.

Mr. President, now let me discuss the major provisions of the new rural development bill reported yesterday by the committee.

First. It provides for the establishment of a borrower-owned, nonfarm credit system, similar to the existing farm credit system. The Federal Government would appropriate $200 million a year for 10 years. It is anticipated that the system would provide a loan fund up to 20 times the size of the capital in the system. Since borrowers would have to purchase stock in the system, the Federal contribution would eventually be paid off, and the system would be owned by its borrowers and participants.

Second. The bill provides authority for unlimited Farmers Home Administration loans for essential community facilities; to finance business; and improve the environment of rural areas. It also provides loans for small business, and expands the number of eligible applicants and loan purposes for community facility loans.

Third. It liberalizes Farmers Home Administration lending authority for farm loans. It increases from $35,000 to $50,000 the limit on operating loan indebtedness for farmers. It increases Farmers Home appraisals on farm real estate by providing for appraisals at market value rather than "normal basis." By changing the farm operating loan program to an insured loan program, it will provide a larger loan fund for all farmers. There is also a provision for loans for young people to get started in farming or other rural business enterprises.

Fourth. The bill includes a total first-year grant authority of $730 million. Five hundred million of this is part of a revenue sharing provision of the bill which would be provided to the States for rural development purposes. Unlike the Nixon administration's original special revenue sharing plan for rural community development, the committee bill would not "fold in" any of 11 categorical grant programs, such as the Appalachian Regional Commission or the rural environmental assistance program, or the Cooperative Agricultural Extension Service.

One hundred million of the authorization would go to borrowers to be used as an incentive for business location in rural areas and for community facilities development.

Fifty million dollars is authorized for grants to the land grant universities for the establishment of rural development extension programs, research and training for rural development and for small farmers.

Five million dollars are authorized for a new rural community fire protection program.

Fifth. The proposal greatly extends the purposes for which cost sharing grants can be made by the Soil Conservation Service, providing for 10-year contracts for soil and water conservation practices. It permits grants from other agencies for land acquisition, and authorizes Federal cost sharing for municipal and industrial water supplies. The authorization for this program is $75 million.

Sixth. It includes a tough antipiracy provision, prohibiting any financial assistance that would result in the transfer of employment or business activity either by an applicant firm or a directly competing firm.

Seventh. The bill reorganizes the Department of Agriculture and gives it prime responsibility for rural development. It would reorganize the Farmers Home Administration into the Farm Development Administration and the Rural Enterprise and Community Development Administration, each under its own Administrator. It provides an Assistant Secretary for Rural Development Credit.

In order to be eligible for loans to grants, individuals and communities must be located outside cities of 50,000 population and their suburbs.

A committee report on the bill is expected in about 10 days.

THE BUSING DEBATE

Mr. GAMBRELL. Mr. President, the busing debate has largely been one of high intensity and low-grade yield. It has been characterized by political posturing and useless and misleading rhetoric.

In the midst of all the chaos and clamor a few voices have sought in temperate tones and with compelling logic

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to fasten our attention on some of the fundamental and underlying truths relating to public school desegregation.

One of the most sensitive and knowledgeable commentators on this subject, who has consistently offered light, as opposed to heat, and who has persistently sought solutions rather than acclaim, is the distinguished junior Senator from Virginia (Mr. SPONG). On Monday, he entered in the RECORD his views on the antibusing and equal education proposals made by President Nixon last Friday evening.

Senator SPONG's statement is characteristically thoughtful as well as forceful, articulate, and persuasive. In particular, Senator SPONG's comments on the essentially useless distinction between racial segregation, which is described as "de facto" and that which is described as "de jure" has received attention in an editorial published in the Roanoke Times of March 21, 1972. The Times is one of Virginia's leading daily newspapers. I ask unanimous consent that the editorial be printed in the RECORD at the end of my remarks.

Senator SPONG has well served his country and his constituents in Virginia by urging the end of forced busing to achieve racial balance for integration purposes and the adoption of a uniform national policy on the subject of school desegregation; one which will be uniformly enforced.

If the so-called leadership of this country, in the Capitol and in the White House, ever ceases playing political games with this issue and gets around to resolving it in a way which will receive public acceptance, the contributions of Virginia's Senator SPONG will surely be among the most significant. His diligence and his statesmanship will make it possible for workable solutions to be arrived at.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Roanoke Times, Mar 21, 1972]

SENATOR SPONG, HAMMER AND TONG

Virginia Sen. William B. Spong Jr. is performing a service by pounding away on every occasion at one of the central mistakes of the times: court doctrine which treats Northern localities one way and Southern localities another way in school desegregation cases. The justification is that Southern states once had segregation by law (de jure) while Northern states had segregation in fact (de facto).

There is abundant historical evidence that Northern states also discriminated in law and in fact before and after Reconstruction; discrimination has been a matter of degree. The harm done by this "separate and unequal" treatment before the courts has kept the Congress from mobilizing its entire intelligence behind ways to cure the unfairnesses of the past, North and South, East and West.

Secure in their de facto segregated strongholds (and oftentime sending their own children to private schools), Northern Congressmen have been too pious, too full of preaching and too blind to realities. Massive busing, criss-cross busing, two-way busing has wrenched support for public education; it has damaged a hard-won public support for, or at least acquiescence in, the desegregation process. In the South, of course. What difference did that make to the de facto segregated strongholds in the North?

Times have changed. School desegregation orders, with wild busing plans, have been issued now in Northern cities. Automatic liberal representatives from Northern districts are switching positions so dramatically it would be comical if it were not tragic. They have helped sow the wind, Gov. George Wallace of Alabama is reaping the whirlwind.

If the nation is lucky, and it probably will be, it will survive the next eight months without the reversal of the 1954 and 1955 Supreme Court decisions prophesied too freely. If a new Congress sits down and tries to solve the problem on a uniform, national basis, the solution will be fair and more enduring. For that, Senator Spong would deserve a good deal of the credit. He is hitting at a basic part of the problem.

YOUTH FOR UNDERSTANDING

Mr. HARTKE. Mr. President, I invite the attention of Senator to the fine work being done by the Youth for Understanding exchange student program. This organization earlier this year marked the exchange of its 20,000th student.

The mission of this group is to provide an opportunity for high school students to travel to a foreign country and live with a foreign family as though they were a member of that family. In this way, international understanding is brought to the personal, the family, the school, and the local community level. The young people are carefully selected on the basis of their academic achievement and their involvement in the community.

Many of these outstanding young students from the United States and the exchange countries indicate that the understanding that they gained as the result of this people-to-people exchange has been of vital importance to them, and, in turn, to their communities, in bringing about the understanding that promotes international goodwill. In this space age when the telecommunication has brought the events of the world into our homes, it is more important than ever before that we learn to understand one another and to appreciate and share our differences in culture, language, and attitudes. I know of no better way to accomplish this than by allowing our young people to live the culture of another country while foreign students see our country through our eyes.

Mr. President, I am particularly proud of the participation of students from the State of Indiana. An average of 40 high school youth each year have had an intercultural experience with families in other countries. Six last year had the opportunity to study for a full year in Sweden, Holland, Germany, and Finland, in the language of that country.

We owe a great deal to the 20,000 students who have participated in these exchanges, to the host families with whom they have lived in their exchange programs and to those who are constantly working to arrange the exchanges. Only as these young people become leaders in their own communities and countries will we be able to fully appreciate how much has been accomplished by this excellent group.

MARIHUANA AND THE LAW—NATIONAL COMMISSION REPORT

Mr. JAVITS. Mr. President, the National Commission on Marihuana and Drug Abuse—of which the Senator from Iowa (Mr. HUGHES) and I are members—today made public its long-awaited report and recommendations to the President and the Congress on the subject of marihuana.

The report deals in great detail not only with the medical and health implications of marihuana use, but also with the legal, economic, and social issues.

It covers the nature and scope of use, effects of the drug, the relationship of marihuana use to other social behavior, and the efficacy of existing law.

The Commission held formal and informal hearings developing extensive evidence from all points of view, including those of public officials, community leaders, district attorneys throughout the country, young people, medical, and other professional experts and students.

More than 50 projects were funded, ranging from a study of the effects of marihuana on man to a field survey of enforcement of the marihuana laws in six metropolitan jurisdictions.

Mr. President, I ask unanimous consent that there be included in the RECORD at the conclusion of my remarks a summary of the major findings presented in the report and recommendations of the Commission.

Of singular importance is the recommendation of the Commission that criminal penalties be eliminated for the private possession and use of marihuana. The Commission has taken a forthright and enlightened position which should go far toward deemphasizing marihuana as a confusing and controversial public policy issue. It is a most salutary and significant step.

But, my distinguished colleague, Senator HUGHES, chairman of the Special Senate Subcommittee on Alcoholism and Drug Abuse, and I would carry the decriminalization recommendation further, and have filed a joint statement containing our separate views so indicating.

We differ from the other commissioners in our view that certain activities involving possession and use of marihuana, which are deemed to be necessarily incident to private possession and use, ought also to be decriminalized. It is for this reason that we have taken exception to those parts of the recommendations dealing with the doctrine of contraband, the casual not-for-profit sale and the limited public possession of marihuana.

Mr. President, I ask unanimous consent that the full text of our separate views be printed in the RECORD following the summary of the findings and recommendations of the Commission, and that a list containing the names of the members of the Commission also be printed.

The report is comprehensive and thorough, and will assist materially in clearing the air of much misinformation and emotion which has heretofore prevented the development of rational social policy regarding this drug.

I urge Members of Congress to give their closest attention to this important report and the recommendations of the Commission. Senator HUGHES and I intend to introduce shortly appropriate legislation to accomplish several of the objectives found in the recommendations of the Commission.

We hope that others—in Congress, as well as parents, young people and others throughout the Nation—will take a fresh look at the problem of marihuana in our society with the new perspective provided by the Commission's report.

I commend the distinguished former Governor of Pennsylvania, Raymond P. Shafer, who, as Chairman of the Commission, provided important leadership in the development of the report. I commend also the Vice Chairman, Dr. Dana L. Farnsworth, other members of the Commission and its Executive Director, Michael Lowenreich—Americans of dedication and insight—who devoted much time away from their personal and professional interests to participate so productively in this effort. Lastly, I wish to congratulate the staff of the Commission which worked particularly effectively under great pressure to complete the first year's work of the Commission.

I look forward to the second-year study of the Commission which will deal with the critically important subject of drug abuse in the United States.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINDINGS AND RECOMMENDATIONS AND MEMBERSHIP OF THE COMMISSION

WHO USES THE DRUG

At least 24 million Americans 12-years-old and over have used marihuana at least once, and at least 8.3 million are current users.

More than 40% of college and graduate students have tried the drug.

Of those persons who have ever used marihuana, 41% of the adults (18 and older) and 45% of the youth (12-to-17) no longer use it.

The great majority of marihuana users use the drug less than once a week, probably on weekends, or at a party.

Two percent (500,000) of "ever-users" can be classified as heavy users and use the drug more than once a day.

THE EFFECTS OF MARIHUANA

There is no evidence that experimental or intermittent use of marihuana causes physical or psychological harm. The risk lies instead in the heavy, long-term use of the drug, particularly of the most potent preparations.

Marihuana does not lead to physical dependency. No tortuous withdrawal symptoms follow the sudden cessation of chronic, heavy use. Some evidence indicates that heavy, long-term users may develop a psychological dependence on the drug.

The immediate effects of marihuana intoxication on the individual's organs or bodily functions are transient and have little or no permanent effect. However, there is a definite loss of some psychomotor control and a temporary impairment of time and space perceptions.

No brain damage has been documented relating to marihuana use, in contrast with the well-established brain damage of chronic alcoholism.

A careful search of literature and testimony by health officials has not revealed a single human fatality in the United States proven to have resulted solely from use of marihuana.

Tests on monkeys have demonstrated that the dose required for "overdose death" is enormous and for all practical purposes unachievable by humans smoking marihuana.

No reliable evidence exists indicating that marihuana causes genetic defects in man; however, since fetal damage cannot be ruled out, the use of marihuana is not advisable during pregnancy.

The incidence of psychosis from marihuana use is exceedingly rare, and such reactions tend to occur in predisposed individuals.

MARIHUANA AND PUBLIC SAFETY

The evidence indicates that marihuana does not cause violent or aggressive behavior or crime.

Recent research has not proven that marihuana use significantly impairs driving ability; however, reliable research has not yet been conducted and the Commission strongly suspects that the acute effects of marihuana use (such as spatial and time distortion and slowed reflexes) may impair driving. The Commission believes that driving while under the influence of any intoxicant is a serious risk to public safety.

MARIHUANA AND PUBLIC WELFARE

From what is now known about the effects of marihuana, its present level of use in American society does not constitute a major threat to public health; the high-risk group constitutes the 2% of American "ever-users" who use the drug heavily and pose a concern for public health officials.

The Commission emphasizes the need for increased research into long-term psychological effects, especially with regard to effects on motivation.

Although some segments of society fear that marihuana use leads to idleness and "dropping out," little likelihood exists that the introduction of a single element such as marihuana use would significantly change the basic personality of any person; rather, an individual is more likely to drop out when circumstances join to produce pressures which he cannot handle effectively.

MARIHUANA AND OTHER DRUGS

Recognizing that one of the most controversial issues in the study of marihuana is its relationship to other drugs, the Commission explored in depth the hypothesis that marihuana use leads to the use of other drugs.

The overwhelming majority of marihuana users do not progress to other drugs, although statistically marihuana users are more likely to experiment with other drugs than are non-users.

Marihuana use does not dictate whether or which other drugs will be used.

As stated by Governor Shafer, "If any one reason can characterize why people in the United States escalate their drug use and become multidrug users, it is peer pleasure."

ENFORCEMENT OF THE MARIHUANA LAWS

The Commission was directed by Congress to evaluate the existing federal and state laws relating to marihuana. The vast majority of arrests occur at the state level (at least 200,000) as opposed to the federal level (approximately 4,000). In a study of enforcement in six metropolitan jurisdictions in different states, the Commission found:

93% of the arrests in the sample were for possession.

69% of the arrests were preceded by no investigation, occurring in vehicles or on the street.

Arrests were concentrated among the young (88% were 25 or under); typically the arrestee was a white male, in a school or employed in a blue collar job, without a prior record.

Two-thirds of the arrestees were arrested for possession of an ounce of marihuana or less.

Offenders were generally (67%) arrested in groups of two or more persons.

The Commission pointed out that the criminal justice system often responded to this unusual group of "criminals" in a lenient way:

At least 48% of the adult cases and 70% of the juvenile cases were dismissed by the police, the prosecution or the judiciary.

One-third of the arrestees were convicted and sentenced.

Of those convicted of possession, 24% were incarcerated, usually for a year or less.

The Commission concluded that the law enforcement community has adopted a policy of "containment." "Although effort is sometimes expended to seek out private marihuana use," the Report states, "the trend is undoubtedly to invoke the marihuana possession laws only when the behavior (possession) comes out in the open." Governor Shafer added: "The overriding feature of the present marihuana laws is the threat of arrest for indiscretion."

After considering the effects and social impact of marihuana use, the Commission considered four alternative social control policies for the drug: (1) Approval; (2) Elimination; (3) Neutrality; and (4) Discouragement.

The Commission emphasized that society should not approve or encourage the recreational use of any drug. On the other hand, the Commission concluded that elimination of marihuana and its use is unachievable, and the drug's relative potential for harm to individuals and society does not justify a social policy designed to seek out and firmly punish those who use it.

The most difficult question, the Commission explained, was whether society should try to dissuade its members from using marihuana or should defer entirely to individual judgment, remaining neutral. After lengthy consideration of this issue, the Commission chose to recommend to the public and its policy-makers a social control policy seeking to discourage marihuana use, while concentrating primarily on the prevention of heavy and very heavy use.

The Commission's next step was to consider three legal responses as a means of implementing the discouragement policy: (1) total prohibition (2) partial prohibition; and (3) regulation.

The Commission explained that the total prohibition scheme now in effect prohibits all marihuana-related behavior, including possession for personal use. Partial prohibition would prohibit cultivation and distribution of the drug but would not prohibit private consumption or acts related to consumption. The distinct feature of a regulation scheme (legalization) is that distribution of the drug is legal.

The Commission, rejecting both the present system and the regulatory scheme, was of the unanimous opinion that marihuana use is not a sufficiently grave problem to subject its users to criminal procedures, but that legalization was inadvisable for a drug which does alter short-term perception, which has uncertain long-term effects and which may be of transient social interest.

Instead, the Commission recommended a partial prohibition scheme which symbolizes a continuing societal disapproval of use, yet removes the criminal stigma and threat of incarceration for users, and also maximizes the flexibility of future public responses as new information comes to light.

The major features of the recommended scheme are that: production and distribution of the drug would remain criminal activities as would possession with intent to distribute commercially;

Marihuana would be contraband subject to confiscation in public places;

Criminal sanctions would be withdrawn from private use and possession incident to

such use, but, at the state level, fines would be imposed for use in public;

In order to keep use private, possession of more than one ounce in public would be prohibited;

In addition, casual, not-for-profit transfers of small amounts, permitted in private, would be prohibited in public.

(Specific recommendations for federal and state law are attached).

Five of the 13 Commissioners differed in minor respects regarding the recommendations. Commissioners Rogers, Carter and Ware agree with the discouragement policy and the decriminalization aspects of the recommendations but would recommend, in addition, a civil fine for possession of any amount of marihuana and would limit casual transfers only to those instances where there is no remuneration at all. Commissioners Hughes and Javits believe that marihuana should not be contraband, that all not-for-profit sales should be excluded from the criminal sanction, and that the "ounce or less" requirement for possession in public should be removed.

"A most important question," said Governor Shafer in explaining the Commission's position, "and one which is still too early to answer, is whether the use of marihuana is fad or fashion. It is possible that the widespread use of marihuana could well disappear of its own accord."

In the Commission's opinion, the proposed partial prohibition scheme would permit the law enforcement community to concentrate on what it is best able to do, reduce trafficking and supply of the drug. At the same time, the Commission believes that responsibility for discouraging consumption should rest with non-legal institutions, such as family, schools, church, and the medical profession.

In anticipation of the Commission's responsibility to present a report on all drugs in 1973, Governor Shafer said:

"From the many surveys and research studies, and from our formal and informal hearings and deliberations, it is evident that the phenomenon of drug abuse in our country poses a very serious threat to our society which will require a massive and sustained effort in drug education and in the revision of our laws to make them uniform, appropriate, effective, and humane. However, such responses are in effect only medications that will help to contain the social illness of drug abuse. The causes of drug abuse must be identified more precisely and must be attended to by the cooperative efforts of all institutions of our society. We will not be able to deal effectively with the problem of drug abuse until we find answers to the larger problem of the diminishing concern among some of our citizens for such matters as long-range personal objectives, self-discipline and the sense of public obligation."

RECOMMENDATIONS*

I. Federal

a. Possession of marihuana for personal use would no longer be an offense, but marihuana possessed in public would remain contraband subject to summary seizure and forfeiture.

b. Casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration not involving profit would no longer be an offense.

c. A plea of marihuana intoxication shall not be a defense to any criminal act committed under its influence, nor shall proof of such intoxication constitute a negation of specific intent.

II. State

a. Cultivation, sale or distribution for profit and possession with intent to sell would remain felonies (although we do recommend uniform penalties).

b. Possession in private of marihuana for personal use would no longer be an offense.

c. Distribution in private of small amounts of marihuana for no remuneration or insignificant remuneration not involving a profit would no longer be an offense.

d. Possession in public of one ounce or under of marihuana would not be an offense, but the marihuana would be contraband subject to summary seizure and forfeiture.

e. Possession in public of more than one ounce of marihuana would be a criminal offense punishable by a fine of $100.

f. Distribution in public of small amounts of marihuana for no remuneration or insignificant remuneration not involving a profit would be a criminal offense punishable by a fine of $100.

g. Public use of marihuana would be a criminal offense punishable by a fine of $100.

h. Disorderly conduct associated with public use of or intoxication by marihuana would be a misdemeanor punishable by up to 60 days in jail, a fine of $100, or both.

i. Operating a vehicle or dangerous instrument while under the influence of marihuana would be a misdemeanor punishable by up to one year in jail, a fine of up to $1,000, or both, and suspension of a permit to operate such a vehicle or instrument for up to 180 days.

j. A plea of marihuana intoxication shall not be a defense to any criminal act committed under its influence nor shall proof of such intoxication constitute a negation of specific intent.

k. A person would be absolutely liable in civil court for any damage to person or property which he caused while under the influence of the drug.

ANCILLARY RECOMMENDATIONS

In addition to these legal recommendations for federal and state action, the Commission believes certain other ancillary recommendations should be presented for action.

Legal and Law Enforcement Recommendations

I. Federal

a. Federal law enforcement agencies, especially the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs, should improve their statistical reporting systems so that policies may be planned and resources allocated on the basis of accurate and comprehensive information.

b. The Federal Bureau of Narcotics and Dangerous Drugs should increase its training programs of state and local police with special emphasis on the training in the detection of trafficking cases.

c. Increased border surveillance, a tightening of border procedures, and a realistic eradication program to diminish the supply of drugs coming into the country, coupled with a more effective program for diminishing the domestic production and distribution of marihuana, are required.

II. State

a. All states should adopt the Uniform Controlled Substances Act to achieve uniformity with regard to marihuana and other drug laws, with the exception that the legal response to possession for one's own use be uniformly adopted in accordance with our recommendation in Chapter V of this report.

b. Each state should establish a centralized compulsory reporting and record-keeping authority so that adequate and accurate statistics of arrests, sentences and convictions on a statewide basis are available.

c. Those states requiring physicians to report drug users seeking medical assistance should change such requirements to insure the confidentiality of the drug user's identity, so that persons needing medical help will feel free to seek it.

III. International

If the United States should become a signatory of the proposed Psychotropic Convention, we recommended that cannabis be removed from the existing Single Convention and consideration be given to listing it in the proposed Psychotropic Convention among drugs which have similar effects.

MEDICAL RECOMMENDATIONS

1. Fuller coordination of the marihuana research conducted by governmental and private agencies is needed to reduce the duplication of effort, assure a diversity of new approaches and new objectives, and to provide efficient integration of findings into the available body of knowledge.

2. Research efforts to develop an inexpensive, easy method for detecting and quantifying the presence of marihuana in the blood, breath or urine of a person suspected of being intoxicated should be accelerated.

3. An accelerated program for funding foreign research should be undertaken immediately.

4. Increased support of studies which evaluate the efficacy of marihuana in the treatment of physical impairments and disease is recommended.

5. Community-based treatment facilities should be promoted in caring for problem drug users utilizing existing health centers when possible and appropriate.

6. Public health courses on the social aspects of drug use should be included in the curricula of the schools of the health professions.

OTHER RECOMMENDATIONS

1. The Commission recognizes that several state legislatures have improperly classified marihuana as a narcotic, and recommends that they now redefine marihuana according to the standards of the recently adopted Uniform Controlled Substances Law.

2. A single federal agency source should disseminate information and materials relating to marihuana and other drugs. The National Clearinghouse for Drug Abuse Information should be charged with this responsibility.

3. The Special Action Office for Drug Abuse Prevention in the White House should be responsible for the coordination, development and content review of all federally-supported drug educational materials and should issue a report as soon as possible, evaluating existing drug education materials.

4. The Commission notes the significant role played by the voluntary sector of the American community in influencing the social, religious and moral attitudes of our nation's citizens and recommends that the voluntary sector be encouraged to take an active role in support of our recommended policy of discouraging the use of marihuana.

*The 13 Commissioners are in basic agreement with the Report and its recommendations. However, several Commissioners diverge with specific recommendations and their opinions are presented in a footnote on pages 151–156. A brief summary of this footnote follows:

Commissioners Rogers and Carter agree with the discouragement policy and the decriminalization aspects of the recommendations, but feel that the contraband concept is not a sufficiently strong expression of societal disapproval of the use of marihuana. They would recommend, in addition, a civil fine for possession of any amount of marihuana in private or in public. This civil fine would not be reflected in a police record.

Commissioner Ware agrees completely with the statements of Congressmen Rogers and Carter but wishes to reemphasize that the social policy and legal scheme adopted is applicable only to marihuana and should not be construed to embrace other psychoactive drugs. He advocates some penalty short of criminalizing the users, such as a civil fine or some type of extensive drug education. Further, he is opposed to the use of any drug, including alcohol, for the express purpose of becoming intoxicated.

Commissioners Hughes and Javits, while agreeing with the Commission's recommendation that the private use of marihuana be taken out of the criminal justice system, disagree with three specific recommendations relating to the implementation of the discouragement policy.

First, they would eliminate the contraband provision from the partial prohibition scheme adopted by the Commission. Second, believing the Commission has not set forth a clear standard as to what constitutes the casual not-for-profit sale, they recommend that all not-for-profit sales be excluded from criminal sanction. Third, they feel there is no need to retain criminal sanction on public possession of more than one ounce of marihuana and would permit public possession of "some reasonable amount" for personal use.

First, they would eliminate entirely the contraband provision from the partial prohibitory model adopted by the Commission. They want it eliminated first because its legal implications are confusing and the subject of disagreement even among lawyers. Whether or not possession of a given substance is criminal, possession of material designated as contraband makes that possession *unlawful*. Also, marihuana designated as contraband would be subject to government search and seizure, even though the underlying possession is no longer criminal. The provision—which does not apply to marihuana held for personal use within the home—is considered by both Commissioners to be an unnecessary "symbol" of the discouragement policy. It will not foster elimination of the misunderstanding and mistrust which is a hallmark of our current marihuana policy.

Commissioners Hughes and Javits seek to eliminate it also because as a practical matter it serves no useful law enforcement purpose within the overall partial prohibitory model. If marihuana held for personal use within the home is not contraband, why should marihuana held for personal use within one's automobile be contraband? As a matter of fact, the area of operation of the contraband provision is extremely narrow. If one possesses *more* than one ounce of marihuana in public, it may be seized without regard to the contraband doctrine since such possession is a criminal violation.

Since the contraband provision does not apply to marihuana possession and use in private, the only effective area covered by the contraband provision is the area of possession in public of *less* than one ounce. The Commission has chosen to remove the stigma of the criminal sanction in this kind of case. To impose instead a contraband provision, which it is argued is in the nature of a civil "in rem" seizure which does not operate against the person, is to cloud the issue and to weaken the force of the basic decriminalization step. A persuasive justification simply has not been made.

Both Commissioners seek to eliminate it also because they believe that the voice of the Commission should be loud and clear that the preservation of the right of privacy is of paramount importance and cannot be casually jeopardized in the pursuit of some vague public or law enforcement interest which has not been defined and justified with clarity and precision.

The second area of disagreement with the Commission's recommendations concern the casual distribution of marihuana and the not-for-profit sale. As they understand:

(1) The totally donative transfer is not subject to criminal penalty, regardless of where it takes place.

(2) The transfer of *small* amounts for *insignificant* remuneration not *involving a profit* is not subject to criminal penalty, (except if it is accomplished in public, in which case it is subject to criminal sanction), but,

(3) The transfer of *"large* amounts" for *"significant"* remuneration not involving a profit is subject to criminal penalty.

In a footnote on page 63 of the Report, the Commission refers to a Report of the Senate Judiciary Committee on the Comprehensive Drug Abuse Prevention and Control Act of 1970. In substance, it implies that within the meaning of the Act transfers of more than one or two marihuana cigarettes in return for 50 cents or one dollar to cover cost are not intended to be covered as casual transfers, but rather are to be treated as unlawful sales.

Commissioners Hughes and Javits feel that the Commission has failed to set forth a clear standard which will adequately inform the public of their obligations under the law. The recommendation and its discussion in the Report are confusing and fail to provide the individual with sufficient guidance to allow him to act without having to dodge in and out of illegality. It also undermines a basic, stated objective of the Commission (i.e., to concentrate the weight of the criminal sanction upon significant supply and distribution activities rather than upon casual consumption.

Moreover, proscribing even the most casual not-for-profit transfers when they occur in public is, in their opinion, incorrect. Such transfers are necessarily incident to private possession and use. To hold that they should be subject to criminal sanction is logically inconsistent with the Commission's rationale and recommendation on decriminalization of such private activities.

Instead, both Commissioners recommend that all not-for-profit sales be excluded from the criminal sanction. It is fundamental that there be a clear separation between the serious, commercial, profit-making-seller, or "pusher" as he is known, and the individual who merely splits the cost of a reasonable supply of the drug with his friends or acquaintances.

Thirdly, exception is taken to the retention of the criminal sanction on public possession of more than one ounce.

The individual who buys an ounce and a half would be a criminal when he buys on the corner, when he puts it in his pocket, when he gets in his car and drives home, when he is on his doorstep, but not when he crosses the threshold of his home. Again Commission policy should direct the attention of the law enforcement community to the person who sells the drug for profit, and not to the person who uses the drug privately.

If an individual has more than a few ounces in his possession, and there is probable cause to believe that he intends to sell it for profit, that activity is already covered under the Commission's recommendation that possession with intent to sell is illegal. Therefore, there is no need to further proscribe simple public possession.

All the component parts of the recommended policy of the Commission should be consistent with its objective of non-interference with casual transfers, and possession and use which is essentially and fundamentally private and personal.

The contraband device, the not-for-profit sale, and public possession of some reasonable amount which should be presumed to be necessarily incident to private use should all be removed from the ambit of legal sanction. To do so would be to strike down "symbols" of a public policy which had never been adequately justified in the first instance. Such steps would in no way jeopardize the firm determination of the Commission that the use of marihuana ought to be discouraged.

SEPARATE VIEWS OF SENATORS JAVITS AND HUGHES

Commissioner Hughes (Senator from Iowa) and Commissioner Javits (Senator from New York) believe that the Commission has taken a major, highly laudable step in recommending that the private use of marihuana be taken out of the criminal justice system. They concur in its threshold judgment that overall social policy regarding this drug should seek to discourage use, while concentrating primarily on the prevention of irresponsible use. They disagree, however, with three specific recommendations relating to the implementation of this discouragement policy.

COMMISSION MEMBERS

By law, the National Commission on Marihuana and Drug Abuse has 13 members. Nine public members were appointed by the President who also named the Chairman and Vice Chairman (five maximum from one political party).

Of the four congressional members, two were named by the President of the Senate and two by the Speaker of the House (two from each political party).

Raymond P. Shafer, Chairman, former Governor of Pennsylvania, Chairman of the Board and Executive Director, Teleprompter Corporation, New York.

Dana L. Farnsworth, M.D., Vice-Chairman, former Director of Health Services, Harvard University, Cambridge, Massachusetts.

Henry Brill, M.D., Director of Pilgrim State Hospital, West Brentwood, Long Island.

Representative Tim Lee Carter (R-Kentucky).

Mrs. Joan Cooney, President of the Children's Television Workshop and Producer of "Sesame Street," New York, New York.

Charles O. Galvin, Dean of Southern Methodist University, Law School, Dallas, Texas.

John A. Howard, Ph.D., President of Rockford College, Rockford, Ill. and President of the American Association of Independent College and University Presidents.

Senator Harold E. Hughes (D-Iowa).

Senator Jacob K. Javits (R-New York).

Representative Paul G. Rogers (D-Florida).

Maurice H. Seevers, M.D., Professor and former Chairman of the Department of Pharmacology, University of Michigan, Ann Arbor.

J. Thomas Ungerleider, M.D., Assistant Professor of Psychiatry, U.C.L.A. Neuropsychiatric Institute, Los Angeles.

Mitchell Ware, Attorney, Mazza, Mazzio and Ware, Chicago, former Superintendent of the Illinois Bureau of Investigation, Chicago.

NATIONAL OR STATE PRESIDENTIAL PRIMARIES?

Mr. HRUSKA. Mr. President, the distinguished Senators from Montana (Mr. MANSFIELD) and Vermont (Mr. AIKEN) recently proposed that State presidential primaries be eliminated in favor of one national primary.

Their reasoning as always was logical and persuasive. The financial drain, the physical drain, and the circus aspects of a long series of State primaries are valid arguments for a change in the system.

There are also many good arguments, however, for a continuation of State primaries. If we look at the primaries in a broad perspective, it is possible to see virtues peeping through the curtain of disadvantages.

In an editorial entitled "A National Presidential Primary?" published on March 19, 1972, the Omaha World-Herald has taken such a look at the situation in its editorial columns. It has weighed the arguments for and against

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State primaries succinctly but carefully. In my opinion it has done a commendable job of stating a persuasive case for their continuation.

In essence, the World-Herald concedes the wasteful and sometimes silly aspects of State primaries. But it goes on to point out that in the broader view the primaries do furnish a proving ground for presidential candidates which may well be a vital contribution to the complex process of selecting the right man to lead the Nation.

This thought-provoking and reasoned analysis of the question is worthy of study and I commend it to my colleagues. I ask unanimous consent, Mr. President, that the text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A NATIONAL PRESIDENTIAL PRIMARY?

Should we scrap state presidential preferential primaries?

Sens. Mansfield and Aiken say they think we should. The Senate majority leader and the Republican veteran would amend the Constitution to provide for a national primary.

The system of state preferential elections is a political circus, they say. It is unfair to candidates and to the voters.

A presidential primary is a political circus. No doubt of that. So is a national political convention, or any rousing political rally, especially when some political prize is in contention.

Moreover, the primaries are wearing upon the candidates. They cost a lot of money. Sometimes the tired candidates say foolish things. (Sometimes they say foolish things when they're rested, too.)

If anybody wants to take another punch at our friends of the electronic media, it might be said that the eye of a network camera focusing on a candidate touring the boondocks can make him and that particular boondock seem a lot more important than they probably are to the process of picking a candidate.

Yet when all is said and done, we think that more is to be said for the state primaries than against them, and that not much is to be said for a national primary.

Columnist Max Lerner observed the other day that for all their barbarities the primaries are not useless. They test the candidate by making him go through a punishing physical and political ordeal. If he can't survive these preliminary tests, how is he going to act when he has to make great decisions dealing with crises that may mean peace or war?

A man should be stretched and tempered in the primaries. If he buckles under such stresses, then he's not the man to be president.

The New Hampshire and Florida primaries have been enlightening, not only because they have reshuffled the relative positions of the candidates but because they have helped to establish what is surely a major issue of this campaign.

McGovern and Muskie appear in different perspective than they did before the two primaries. Gov. Wallace's standing has changed. Humphrey and Jackson look a little better than they did. And Florida voters demonstrated the importance of the busing issue.

Would the national interest have been served if Sen. Muskie had gone unchallenged as his party's front-runner until a national primary in August? We think not. The state primaries provide a series of useful tests for which a single primary would not be a suitable replacement.

AUTHOR OF NEWS TWISTERS TESTIFIES

Mr. HRUSKA. Mr. President, the Senate Judiciary Subcommittee on Constitutional Rights, on which I am privileged to be ranking minority member, has been holding hearings on freedom of the press for several months. Under the chairmanship of the distinguished Senator from North Carolina, the subcommittee has been developing what I believe will prove to be a most useful and educational body of information on this subject.

On February 2 the subcommittee heard testimony from Miss Edith Efron, a writer for "TV Guide," whose recent book, "The News Twisters," has caused a considerable reaction both within and outside of the major television networks. During her appearance Miss Efron outlined the methodology she employed in studying television news coverage of the 1968 presidential campaign, and discussed her rather striking results. Among other things, she was led to conclude that a simple word-count revealed a substantial bias against Richard Nixon. According to Miss Efron's pro-and-con word computation, the following totals were reached: 16 to 1 against Nixon on CBS; 10 to 1 against Nixon on NBC; 8 to 1 against Nixon on ABC.

Mr. President, I believe all Senators will find Miss Efron's testimony both startling and fascinating. I therefore ask unanimous consent that her prepared statement be printed in its entirety in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF EDITH EFRON, PRESENTED BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS, FEBRUARY 2, 1972

Senator Ervin, Members of the Committee: A view has crystallized in this country that the bias controversy is a relatively new phenomenon, spawned by a repressive Nixon Administration, and bred in the dark shadows of right-wing conspiracies.

This view is a symptom of our anti-historical age, where memories are increasingly confined to the parameters of the daily press.

The bias controversy was actually born in the 30's with the collectivist concept of public ownership of the airwaves. Until that time, if people did not like the bias of a publication or a news service, they solved the problem by refusing, individually, to buy it—a simple and rational system that still prevails in all media have broadcast news. It is when they were informed by the United States Government that they collectively "owned" the airwaves, and were quasi-proprietors of the broadcast press, that they began to haggle collectively over the political orientation of that press.

The Government took its first drastic action to control bias in 1941, when the FCC, with its Mayflower Decision, deprived all American broadcasters of their First Amendment rights by forbidding them to express their own views on controversial issues. This solved the bias problem satisfactorily: there were no longer any controversial views on the air to get excited about. Unfortunately, the solution was more deadly than the problem: it constituted a frontal lobotomy of the entire broadcast medium. America had to endure eight years of government-induced vacancy in a major communications system—and the marks of the lobotomy have never disappeared—before the error was acknowledged and corrected.

The correction did not take the form of restoring unbreached First Amendment rights to the individual broadcaster; he remained a second-class citizen. It took the form, in 1949, of the Fairness Doctrine—which allowed the broadcaster to express his own opinions on major controversies, provided that he gave "equal", "equally forceful" and "non-partisan" coverage to other points of view as well.

And from 1949 to this present day, there has been constant dissension in this country over the problem of fairness in broadcast news. It has been most acute with respect to network news which, by virtue of government permission and protection, has acquired a monopoly over the nationwide dissemination of the facts and interpretations of American political life.

As a staff writer on TV Guide, I have been covering this constantly simmering antagonism to the political attitudes in network news for ten years. It was a serious problem in 1960. By 1964, under the Kennedy Administration, the anger had become so intense that it inspired a Congressional investigation. And by 1968, under the Johnson Administration, this anger exploded like a bombshell—with nationwide protests being registered over network coverage of the race riots, the Republican convention, the Democratic convention, the anti-war riots in Chicago. The number of Americans by then who felt that network news was biased ranged between 57 and 70 percent, according to polls of the period.

Throughout this remarkable decade of mounting protest, network management has militantly refused to grant that there is the slightest basis in reality for these public reactions. It has attributed them to a variety of neurotic responses ranging from selective perception, through escapist intolerance of bad news, to a hostile desire to kill the messenger who brought the bad news. Apart from this parlor psychoanalysis of the majority of the population, the networks have had nothing to say save to attest with regularity to their own impeccably objective perceptions.

It was in 1968, at the height of the nationwide protests against network bias that I undertook to do a study of my own—a study of how the networks covered the critical two-thirds of the Presidential campaign of 1968, the last seven weeks until Election Day. I was given a small grant to cover taping, typing and research expenses by the New York Historical Research Foundation, and I set to work.

Time does not permit an extensive presentation of my theory and method, but I will mention three points:

First, I concentrated on prime-time news alone, because all studies indicate that these early-evening news programs are the most important source of political information for the majority of the country.

Secondly, I used an intrinsically journalistic observation as my key test for bias. There is one slanting device known to every editor and reporter in the land. It is this: if a reporter wishes to load coverage of a controversy in favor of a certain position—he will simply stuff his coverage with opinions from those who take the desired position, while giving little or no room to the other side. There are other far more subtle editorial slanting techniques—in The News Twisters, I name and illustrate 33 of them—but this is the central one on which my entire analysis is based: I did a systematic check on the equity of pro and con opinion on a group of controversial subjects. This test simultaneously served to check on the network's adherence to the Fairness Doctrine.

Third and last: I selected the major controversial subjects of the period: The Presidential Race, the War, Black Militancy, Left-Wing protest movements, and several subaspects of these broad subjects. In classifying opinion on these matters as pro and con, my basic rule was always to conform to the reporters' own classifications where they existed. If, for example, a reporter described an opinion as "heckling" or "opposition" or as "booing", I classified it as antagonistic opinion; if he described it as "endorsement" or "support" or as "cheering", I classified it as favorable or pro-opinion. The great bulk of opinion in the study turned out to be of this variety which already came precategorized in one way or another by the reporter. The opinion which I classified independently was usually covert or implicit opinion by reporters.

This, in essence, was my method. I applied it systematically to seven weeks of network coverage—300,000 words. And the results appeared in The News Twisters. I will not report on all my findings here. Instead, I will give you a close-up view of the results of my investigations into two of the most important controversies of the 1968 period—The Nixon-Humphrey race and the War.

The results on Mr. Nixon alone have caused the greatest consternation. Speaking quantitatively, in terms of simple word-count, the pro and con opinion on the Republican Candidate for the Presidency ran as follows:

16 to 1 against Nixon on CBS
10 to 1 against Nixon on NBC
8.5 to 1 against Nixon on ABC.

The anti-Nixon opinion is so voluminous in contrast to the pro-Nixon opinion that it verges on the ludicrous. The content of most of this criticism itself cannot be challenged. Most of the attacks on Nixon were journalistically legitimate. They came from Democratic Party and Independent Party challengers, from assorted Democratic Party Politicians, from Democratic union chiefs, and, as such, were a valid part of the campaign.

What was bizarre was primarily the quantity and repetitiousness of the criticism, often in purely optional matters. To illustrate: on CBS, Nixon was charged with telling untruths seven times by political opponents—twice by Hubert Humphrey, twice by Wallace, once by Ramsey Clark, once by Clark Clifford, and once by Lawrence O'Brien. But NBC and ABC deemed such charges newsworthy only three times each. Thus, CBS viewers heard politicians charge Nixon with dishonesty more often than did the viewers on the other two networks put together. All one can conclude is that CBS particularly liked to air this charge.

Similarly, the degree of hostile editorialization about Nixon, his personality, his morality, his campaign techniques, and so on, was quite voluminous. ABC viewers were privileged to hear Nixon described as a man who went for his enemies' "jugular" and who would like to assault them with a "meat-axe".

Startling as was the vast body of anti-Nixon opinion, even more startling were the pro-Nixon findings. In their way, these are the most deadly.

Here, for example, is a summary of all pro-Nixon opinion, from the public and from Republican political figures, carried by CBS TV News during the seven weeks of the campaign period studied: on only *six* days during the entire seven-week period did CBS news stories include opinion favorable to Nixon from members of the public.

On only *one* day during the seven week period—on October 28th, towards the very end of the campaign—did CBS news stories include any Republican political opinion which praised Richard Nixon. It came specifically, from Dwight and Mamie Eisenhower, and from Nixon assistants Patrick Buchanan and Raymond Price.

The picture is even bleaker for Nixon on ABC-TV. ABC news stories also reported only 6 times in seven weeks on opinions favoring Nixon from the public. And as for Republican political figures: once, on October 8th, ABC News informed its viewers that Senator Javits supported Nixon. Unless one wants to count Bud Wilkinson as a Republican political figure—there was no more.

Of the three networks, NBC was most generous. NBC viewers actually heard opinions favorable to Nixon from the public 12 times in seven weeks. And NBC cited four Republican politicians, on four different days as having favorable attitudes to Nixon. They were: Senator Dirksen, Representative Gerald Ford, Vice Presidential Candidate Spiro Agnew, and State Senator David Stanley.

Given facts like these, one need hardly look at the anti-Nixon opinion at all to know that this was politically biased coverage. The opinions of American citizens who supported Nixon, and the opinions of the Republican Party representatives who were working to elect him President, were simply not on the air.

By contrast, the coverage of Humphrey was fair. Most network newsmen were not enamored of Humphrey—at least not until he had come out for a unilateral bombing halt and won the support of the anti-war groups; but by the end of the campaign period, pro and anti-Humphrey opinion was fairly equitable on all three networks—with ABC and CBS being a touch more friendly, and NBC a touch less. In general, the early sources of political antagonism to Humphrey were thoroughly explored by the reporters; and the later sources of support were given a full airing.

My statistical findings on the Presidential race have aroused something of an uproar in the country. And inevitably, a great many people are frantically denying their reality and are charging me with writing fiction, most particularly in the area of the Nixon findings. You will be interested, therefore, in the comments made in the Winter issue of The Public Interest by Professor Paul H. Weaver of the Harvard University Department of Government. He writes as follows:

". . . there are three points to be made about this problem. First, my own inspection of two different samples of Miss Efron's file of anti-Nixon opinion convinces me that, by any reasonable standard, the large majority of such items are in fact quite clearly anti-Nixon opinion; no more than 20 or 30 percent of the anti-Nixon items might be questioned. Nobody has shown that the proportion of questionable items is larger; indeed, so far critics have merely adduced a few extreme examples, as if these were enough to invalidate the entire study. And this brings me to the second point. What is significant about Miss Efron's findings is not the absolute numbers of words pro and con; it is the *relative size* of the two bodies of opinion. In order to invalidate the finding of a huge disparity between pro-Nixon and anti-Nixon opinion, it is not enough to show that *some* anti-Nixon opinion has been incorrectly classified—one must show that *most* of it has been incorrectly classified. Even if one were to find that she had overestimated the amount of anti-Nixon opinion by 100 percent and underestimated the amount of pro-Nixon opinion by 50 percent, there would still be 2.5 times more anti-Nixon opinion than pro-Nixon opinion, a clearly "unfair" pattern. Needless to say, nobody has yet established errors of this magnitude, and it seems unlikely that anyone will."

You will also be interested in a statement issued to the press on October 27th of last year by Dr. George Weinberg. Dr. Weinberg is a psychologist, a research consultant, a statistician, and author of one of the leading statistics texts in use in American colleges and universities for the past decade. Dr. Weinberg said:

"I saw Miss Efron's research before reading her book and before knowing her conclusions. I found that my judgments coincided with hers well over 90% of the time. The great majority of the statements she classifies as pro or con opinion could hardly be classified otherwise. Miss Efron is far more objective, systematic and explicit in her method than anyone known to me who has ever written a book about TV. After examining her data, I believe that any systematic tabulation by any method would result in essentially the same findings."

In brief, I have not been writing fiction.

Given these findings on Nixon the question inevitably comes up: Was this bias deliberate? The answer to this question is complex and I cannot do justice to it in a few words. But briefly my own answer is this. It was not deliberate in the sense of an organized plot or of a conscious cabale. But it was inevitable given the virtually all-liberal composition of network staffs.

During the campaign, Eric Sevareid acknowledged on the air that most newsmen were for Hubert Humphrey—leaving to implication the fact that most were against Richard Nixon. On February 8, 1970 Howard K. Smith brought this implication out into the open. He generally confirmed Vice President Agnew's charges and said this about the newsmen's prejudices: "Johnson was politically assassinated and some are trying to assassinate Nixon politically. They hate Richard Nixon irrationally."

I believe that my findings are evidence of such antagonism, that it was so deep and widespread that it contaminated professional decisions—and that network managements must be held responsible for the result.

Now, to examine another subject, briefly—the War.

In The News Twisters, opinion on the Vietnam War is classified under different headings, just as it appeared in network news stories. There is: opinion on the U.S. War Policy in general; and opinion on the U.S. Bombing Halt policy in particular.

And once again, we see precisely the same pattern of heavy loading of opinion on one side—and a virtual void of opinion on the other.

In the seven weeks studied, the three networks carried 72 different stories in which opinion was heard condemning the U.S. Policy on the war, and demanding a unilateral bombing halt in opposition to the Johnson policy of reciprocity. Seventy-two stories means that about 10 times every week, the networks were pounding America—and the Johnson Administration—with opinion opposed to government policies on the war. This editorially selected outcry, subtly interlaced with editorial opinion, came from the following sources:

Senators Fulbright, Javits, Morse, and McGovern; Paul O'Dwyer, John Gilligan; Eldridge Cleaver, Dick Gregory, The President of Yale, SDS Leader Tom Hayden, Actress Vanessa Redgrave; The Socialist Workers' Party, The Peace and Freedom Party, The Freedom and Peace Party, The Socialist Labor Party, The Communist Party; Arthur Goldberg, George Ball, Averill Harriman, Cyrus Vance; U Thant; Indira Gandhi; Xuan Thuy, the North Vietnamese Negotiator; Soviet Premier Kosygin; British and Tokyo demonstrators—and assorted domestic students, demonstrators, Black militants, soldiers, pacifists, artists and so on.

Many of these sources were frequently repeated in successive newscasts. It is quite clear that the networks concentrated on the views of an assortment of Doves and Leftists, foreign and domestic, who were opposed to U.S. war policies.

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And what did we hear on the other side? I'll summarize it for you precisely. It was to be found in only 13 stories—13 as opposed to 72, meaning: a 6 to 1 ratio against the Government:

ABC aired only four opinions opposed to a unilateral bombing halt in 7 weeks—three from President Johnson, alone or in combination with Walt Rostow and Dean Rusk; and one from President Thieu of South Vietnam.

CBS aired only two such opinions—one from Ohio Republican William Saxbe, and a paraphrased opinion citing "the generals in Vietnam and the Secretary of State".

And NBC also presented two opinions—one from President Thieu, and one from Iowa State Senator David Stanley.

That is: 8 opinions in 7 weeks opposing a unilateral bombing halt, on all 3 networks combined.

On the subject of the general war policy:

ABC aired four favorable opinions—those of President Johnson and or Ambassador James Wiggins—twice each.

CBS aired only one such opinion—from President Johnson.

And NBC aired none.

That is: 5 opinions in 7 weeks favoring the Johnson policies, on all 3 networks combined.

This is remarkable coverage indeed of the biggest controversy in the nation. It totally failed to reflect the attitudes in the nation, which at the time was giving President Johnson majority support. The Administration's allies, both domestic and foreign, were simply not on the air.

On February 27, 1968, Walter Cronkite presented a special report from Vietnam. In it he said: "It seems now more certain than ever that the bloody experience of Vietnam is to end in a stalemate", and he predicted that the United States would not be victorious in this war. And on March 10, 1968, Frank McGee presented a Sunday Report in which he said that "the enemy now has the initiative" and that "the war as the Administration has defined it is being lost". The New York Times headlines read on March 12: "U.S. is losing war in Vietnam, NBC declares".

Apparently having decided that the war was being lost, these two networks, and ABC as well, resolved to give little or no air time to any view which supported President Johnson's policies.

Whatever one may think about the war, this is not balanced reporting of diverse opinions on a crucial controversy. It is disguised, political advocacy.

Very much the same situation prevails in the other controversial areas which I investigated. Over and over again on all 3 networks—whether the subject was Black Militants, or the White Middle Class, or the Left, or the Right—this lopsided opinion can be found. It favored Black power, it opposed the White Middle Class; it favored the left, it opposed the Right. Almost always the opinion was loaded on the left-liberal side of the controversies. Almost always there was a vacuum, or a dramatic shortage, where strong opposition views could and should have been present.

Because of this acute shortage of opinion on one side of almost every controversy, one can state with extraordinary precision which groups in this country were deprived of representation on network news programs during the 1968 period of study. These groups were:

The broad white middle class majority, Republican and Democrat

Conservative and Republican leaders

The broad black majority

Moderate black civil rights leaders

And the ideological pro-violence New Left.

And these happen to be the very groups which in 1968 and 1969 charges the network repeatedly with bias. They, in fact, are exactly what remains when you subtract the left-liberals from the American political spectrum. It is no great surprise that when Vice President Agnew delivered his speech on network bias a year after the period of this study, there was a volcanic eruption in the nation—with some 57 percent of the public, including 60 percent of all college graduates, supporting him. This public explosion appears to have been a direct and cumulative response to the opinion loading, to the one-sided advocacy that passed for balanced reporting on controversies.

The Americans who protested are obviously the Americans whose views were chronically left out.

Omission—the crudest slanting technique in the journalistic repertoire—is the principal technique in network slanting. It is perhaps inevitable therefore that when CBS chose to attack The News Twisters, its attack was a monument to this very slanting technique.

In September, before The News Twisters was published, a 10 page document was distributed to the nation's media by CBS. The mailing literally blanketed the country. It is a study of The News Twisters conducted by The CBS News Department itself. It claimed to present hard, documentary evidence of the degree to which I had grossly distorted CBS transcripts. This evidence, said CBS, was based on a "spot check" of those transcripts.

This document is a fraud. Its fraudulence consists in a systematic omission of every conceivable piece of information either from CBS transcripts or from The News Twisters' text which would make my classifications intelligible and would reveal the reasoning behind them. The effect of these omissions was to make my work seem arbitrary, irrational and dishonest.

Seventeen charges were listed by CBS—a number that is statistically insignificant for my study; although CBS did not mention this fact to its readers—and of these 17 charges, 15 contained active misrepresentations of either CBS transcripts of The News Twisters' text or both. I have prepared a detailed report in which I identify every misrepresentation; restore every violated context; present the stories that CBS sought to conceal; and I have identified the precise principles by which CBS conducted its so called random "spot check". My analysis reveals that it was not a "spot check" at all but a carefully calculated smear planned to discredit my book before publication. I call this report "How CBS Tried To Kill A Book". I cannot cite from it, textual analyses must be read. I hope that every member of the Committee will read it and I request that it be published in the record of these hearings. I believe that this report will assist the Committee in its examination of the conflicts that have arisen nationally over network news.

Now I respectfully submit that the very existence of an ideological oligopoly that controls the airwaves—let alone one which acts to destroy both criticism and critics—is an immense danger to this country. A considerable awareness already exists in Congress of this danger and some substantial proportion of Congressmen are as angered by the bias as are members of the public. But Congress is nonetheless afflicted by a characteristic paralysis when it comes to action in this area. Even an explosion of nationwide protest—a protest that included 3 out of every 5 college graduates according to the Harris and Gallup polls—could not move Congress into action.

It is quite apparent why the Congress—and the FCC—are paralyzed. This misadventure of Congressman Staggers reveals the bitter truth: that their hands are permanently tied; that they *cannot* act against this monolithic bias on the nation airwaves; that the Fairness Doctrine is an impotent ideal which cannot be enforced without violation of the First Amendment; that the First Amendment does not deny the right of a news service to be biased, it only states that the news service is free; that even the Supreme Court cannot talk the discrepancy between the Fairness Doctrine and the First Amendment out of existence; and that the nation in fact has no protection whatever from this ideological oligopoly.

The day must come when Congress acknowledges this truth—and more: when it acknowledges that it alone has created this situation, that it is by Congressional permission alone that this oligopoly exists and has so long been sheltered from any challenge to its power. On that day, Congress will recognize that this artificial tyranny must be destroyed—by the Congress which brought it into being.

There is only one way to destroy it without violating the First Amendment. That way is not by the petty chirrying and nibbling and the proliferation of regulations that has gone on for years. It is for the government to acknowledge the sacred status of the First Amendment in this country; to acknowledge that it has no business regulating an intellectual and artistic medium—that it never had any business doing so—that it never should have violated the First Amendment rights of individual broadcasters and allowed 3 nationwide monopolies to form on this intellectually stagnant base—and that it should not year after year, have blocked economic and technological competition in this area to protect the profits of these 3 giant monopolies.

The government must acknowledge all this however painful it may be. It must get out of broadcasting lock, stock and barrel and let CATV, Pay TV, and cassette technology rip, uncontrolled, unlicensed, unregulated, uncensored, and uninhibited—dominated exclusively by the desire to win voluntary customers, and regulated by the law of supply and demand alone. Only this hurricane of fresh air will bring about in broadcasting the intellectual freedom and diversity that is now lacking.

What is desperately needed in broadcasting is the classical American system that prevails in all the other free media in this land—a free enterprise, pay system, in which each producer of intellectual and artistic commodities is absolutely sheltered by the First Amendment; in which each individual consumer purchases only the products that please him and leaves those who have tastes and views alien to his strictly alone. It is this competitive system—free of the twin plagues of government intervention and nationwide monopolistic concentrations of power—which alone have given us the huge spectrum of intellectual and artistic alternatives in this country. It is this proved and honorable system which must be introduced into broadcasting.

Only one thing is needed to accomplish this and that is for government to withdraw from this media. Poetry does not need the government; plays do not need the government; movies do not need the government; documentaries, newspapers, magazines, novels, photographs and sports events do not need the government. All this country has gotten from government intervention into this realm is the stupidest, most restricted, and most venal medium of communications in the country.

There may be chaos for a while if the government gets out. This chaos would be temporary and supportable. And when it settles, and when the long pent up creative and competitive energies flow into this government-created vacuum—health will be restored to this medium.

In the process, those arrogant parasitical growths known as the networks will shrink down to the size of normal syndicated operations—selling their wares in an open market and feeling the bite of direct competition for the consumer dollar. This is, of course, precisely as it should be.

The irrational power of the networks today is purely a function of the freedom which has so long been denied to others. It is the government which must take that power back.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EQUAL RIGHTS FOR MEN AND WOMEN

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The ACTING PRESIDENT pro tempore. The pending amendment is amendment No. 1068, offered by the Senator from North Carolina (Mr. ERVIN). Time is limited to 2 hours, equally divided between the proponent of the amendment and the manager of the bill. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, the pending amendment reads as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which extend protections or exemptions to women.".

I am constrained to offer this amendment because I remember how faithfully my own mother performed the obligations devolving upon her as a wife and mother. I am also constrained to offer this amendment because of my realization that my life has been made happy by a wife who has stood beside me for many years and has faithfully performed all of the obligations devolving upon her as a wife and mother.

My own mother and my own wife have given me the capacity to comprehend what Rudyard Kipling said in his poem entitled "Mother o' Mine" from "The Light That Failed."

If I could, I would compel every Member of the Senate to read the poem before he votes on this amendment. If every Member of the Senate would read it before he casts his vote, I am confident that he would have great difficulty in voting to rob wives and mothers and widows of the protections which commonsense and reality and the experience of the human race have placed around them, to enable them to perform their roles as wives and mothers, to give necessary nurture and training to their children, and to impart to their children the training which is absolutely indispensable to their intellectual and spiritual development.

The poem reads:

If I were hanged on the highest hill,
Mother o'mine, O mother o'mine!
I know whose love would follow me still,
Mother o' mine, O mother o' mine!
If I were drowned in the deepest sea,
Mother o' mine, O mother o' mine!
I know whose tears would come down to me,
Mother o' mine, O mother o' mine!
If I were damned o' body and soul,
I know whose prayers would make me whole,
Mother o' mine, O mother o' mine!

Mr. President, in appraising the objectives of the militants, we are confronted by the question whether there is any rational basis for reasonable distinctions between men and women in any of the relationships or undertakings of life.

We find in chapter 1, verse 27, of the Book of Genesis this statement which all of us know to be true:

God created man in His own image. In the image of God, created He him. Male and female, created He them.

For this reason I share completely the recent observation of a legal scholar, Mr. Bernard Schwartz of the New York University Law School:

Use of the law, in an attempt to conjure away all the differences which do exist between the sexes, is both an insult to the law itself and a complete disregard of fact."

While I believe that any laws making unfair or unreasonable distinctions against women should be repealed by legislative bodies, or judicially annulled by courts under the provisions of the 14th and 15th amendments, I have an abiding conviction that the law should make such distinctions between men and women as are fairly or reasonably necessary for the protection of women and the existence and development of the race.

When He created them, God made physiological and functional differences between men and women. These differences confer upon men a greater capacity to perform arduous and hazardous physical tasks. Some wise people even profess the belief that there may be psychological differences between men and women. To justify their belief, they assert that women possess an intuitive power to distinguish between wisdom and folly, good and evil.

To say these things is to imply that either sex is superior to the other. It is simply to state the all-important truth that men and women complement each other in the relationships and undertakings on which the existence and development of the race depend.

The physiological and functional differences between men and women empower men to beget and women to bear children, who enter life in a state of utter helplessness and ignorance, and who must receive nurture, care, and training at the hands of adults throughout their early years if they and the race are to survive, and if they are to grow mentally and spiritually. From time whereof the memory of mankind runneth not to the contrary, custom and law have imposed upon men the primary responsibility for providing a habitation and a livelihood for their wives and children to enable their wives to make the habitations homes, and to furnish nurture, care, and training to their children during their early years.

In this respect, custom and law reflect the wisdom embodied in the ancient Yiddish proverb that God could not be everywhere, so he made mothers. The physiological and functional differences between men and women constitute the most important reality. Without them human life could not exist.

For this reason, any country which ignores these differences when it fashions its institutions and makes its laws, is woefully lacking in rationality.

The common law and statutory law of the various States recognize the reality that many women are homemakers and mothers, and by reason of the duties imposed upon them in these capacities, are largely precluded from pursuing gainful occupations or making any provision for their financial security during their declining years. To enable women to do these things and thereby make the existence and development of the race possible, these State laws impose upon husbands the primary responsibility to provide homes and livelihoods for their wives and children, and make them criminally responsible to society and civilly responsible to their wives if they fail to perform this primary responsibility. Moreover, these State laws secure to wives dower and other rights in the property left by their husbands in the event their husbands predecease them in order that they may have some means of support in their declining years.

If the equal rights amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, it would nullify all existing and all future laws of this kind.

The purpose of my amendment is to prevent the equal rights amendment from nullifying all existing laws and disabling Congress and the 50 State legislatures to enact future laws which grant protections to wives and mothers and widows.

As appears from pages 936 to 954 of the Yale Law Journal, the equal rights amendment is expressly designed to nullify the State laws which give these economic and social protections to wives, mothers, and widows and to provide in their stead that the rights and responsibilities of men and women in the areas covered by these laws shall be absolutely coequal. To sustain the assertion which I have just made, I wish to read what the Yale Law Journal says on this subject:

Given the traditional social and economic view that woman's place was in the home, it is not surprising that laws affecting domestic relations have defined women's rights and duties with great specificity.

At common law, a woman who married became a legal non-person—a *femme couverte*. Upon marriage she lost virtually all legal

status as an individual human being and was regarded by the law almost entirely in terms of her relationship with her husband. Statutory developments in the nineteenth and early twentieth centuries tended to frame a more dignified but nevertheless distinct and circumscribed legal status for married women. At the present time domestic relations law is based on a network of legal disabilities for women, supposedly compensated by a corresponding network of legal protections. The law in this area treats women, by turns, as mental incompetents and as more mature persons than men of the same age; as valuable domestic servants of their husbands and as economic incompetents; as needing protection from their husbands' economic selfishness and as needing no protection from their husbands' physical abusiveness. In many respects, such as name and domicile, the law continues overtly to subordinate a woman's identity to her husband's.

Mr. President, I digress to assert that none of these so-called disabilities are imposed upon the business or professional women who elect not to become wives or mothers. I also take the risk of saying that this paragraph which I have just read is written by young ladies who have never been married.

I continue to read:

Much of the national discussion about women's status has focused on marriage and divorce laws, and rightly so, because the issues involved are important to people personally, and because women's domestic role has traditionally been considered their primary one.

Unquestionably, the trend in marriage and divorce law is in the direction of treating the spouses equally or on the basis of their individual capacities. Progressive present-day models for change in the area of family law elminate virtually all differentiation on the basis of sex. Thus, in most instances, the effect of the Equal Rights Amendment on marriage and divorce law will be to move the law more directly, more forcefully, and more expeditiously in the direction it is already going.

In considering the following discussion of the impact of the Equal Rights Amendment on some aspects of domestic relations law, the reader should keep in mind the law's limited power to predetermine and control the nature of intimate personal relationships. In the realm of marriage and the family, social customs, economic realities, and individual preferences have a far greater influence on behavior than the law.

I digress to thank the Almighty that this is so.

I resume reading:

This is not to say that the law does not play an important role in shaping and channeling these other forces, but rather to point out that a change in the law—insofar as the change leaves room for choice, as do the possibilities suggested below—will not result in immediate widespread change in what are essentially social customs. Furthermore, it is important to remember that the impact of the marriage and divorce laws varies according to the economic class of the family. In preparing this section, we have been limited by the dearth of academic research about the differential impact of domestic relations law according to economic class.

1. LAWS AFFECTING THE ACT OF MARRIAGE

The statutory requirements for a lawful marriage are generally very simple. They include in most states a valid license, a waiting period before issuance of the license, a medical certificate, proof of age, parental consent for parties below the age of consent, and a ceremony of solemnization. Of these, only age requirements for marriage with and without parental consent involve widespread discrimination on the basis of sex. A 1967 survey of state marriage laws by the United States Department of Labor showed that only ten states set the same minimum age for marriage (age below which marriage, even with parental consent, is prohibited) for men and women. Only eighteen states set the same age of consent (age at which marriage is permitted without parental consent) for both men and women. In every state with an age differential, the minimum age for men was one to three years higher than the minimum age for women.

Since the minimum marriage age in all states is now well above the normal age of puberty, physical capacity to bear children can no longer justify a different statutory marriage age for men and women. Instead, there seem to be two current rationales for the higher marriage age for men. One is that, mentally and emotionally, women mature earlier than men. Maturity is such a relative and subjective concept that a court could never use it as a test for an inborn characteristic distinguishing all women from all men. Furthermore, mere estimates of emotional preparedness founded on impressions about the "normal" adolescent boy and girl are based on the kind of averaging which the Equal Rights Amendment forbids. The other rationale for the age difference is that men should not be distracted during adolescence from education and other preparation for earning a living. This rationale is obviously untenable: the law should give as much encouragement to women to prepare themselves to earn a living as it gives to men.

Under the Equal Rights Amendment, a court challenge to the age differential would most likely be made by a man suing to require issuance of a license to him at the lower women's age. Faced with such a challenge to the state law a court would have to find, for the reasons just discussed, that the marriage age differential did not meet the strict criteria of the unique physical characteristics tests required by the Equal Rights Amendment. Once it had concluded that a state could not constitutionally set one marriage age for men, and one for women, a court would be able to increase the marriage age for women upward to match the age for men, on the theory that the state should be equally solicitous of a woman's training as a man's. Or a court might find that the legislature had pegged the age for men unreasonably high and revise the marriage age for men downward to correspond to the marriage age for women. A legislature reconsidering laws about the minimum age for marriage, either before or after a court challenge, would have to set a single age for men and women after weighing the policy considerations underlying the age limit. These considerations might indicate the higher age, the lower age, or an age in between the two.

I digress to observe that if this be a correct interpretation of the equal rights amendment, the courts are to have the powers to make laws rather than the power to interpret laws. I base that on the statement of the authors that under the equal rights amendment a court could lower the marriageable age of men down to the marriageable age of women, or raise the marriageable age of women up to the marriageable age of men. Personally, I think courts have enough jobs to do when they stick to their judicial knitting and leave the making of the laws to legislative bodies.

2. MERGER OF THE WOMEN'S LEGAL IDENTITY INTO HER HUSBAND'S

a. *Name Change.* The requirement that a woman assume her husband's name at the time she marries him is based on long-standing American social custom. It is also firmly entrenched in statutory and case law. In some states statutes indicate that a married woman must not only take but keep her husband's name. Women who continue to use their maiden names after marriage may encounter resistance from the Internal Revenue Service, voting registrars, motor vehicles departments or any number of non-governmental sources.

I emphasize the following sentence:

The Equal Rights Amendment would not permit a legal requirement, or even a legal presumption, that a woman takes her husband's name at the time of marriage. In a case where a married woman wished to retain or regain her maiden name or take some new name, a court would have to permit her to do so if it would permit a man in a similar situation to keep the name he had before marriage or change to a new name. Thus, common law and statutory rules requiring name change for the married woman would become legal nullities. A man and woman would still be free to adopt the same name, and most couples would probably do so for reasons of identification, social custom, personal preference, or consistency in naming children.

However, the legal barriers would have been removed for a woman who wanted to use a name that was not her husband's.

Some state legislatures might decide there was a governmental interest, such as identification, in requiring spouses to have the same last name. These states could conform to the Equal Rights Amendment by requiring couples to pick the same last name, but allowing selection of the name of either spouse, or of a third name satisfactory to both.

I digress to say it would be a terrible thing if the husband and wife could not agree on the last name under the equal rights amendment. That is one cause of friction which does not exist now, but would arise under the equal rights amendment.

I resume reading:

Similarly, statutes which now permit the judge in a divorce case to use discretion in determining whether to allow a woman to resume her maiden name or to take a new name would be extended under the Equal Rights Amendment to cover all men, or at least men who had changed their names at marriage. Moreover, any state coercion regarding an individual's choice of name might still be open to attack under developing constitutional principles of due process and privacy.

In a state where both spouses were required to have the same last name, the children would simply take their parents' name. If the state had no requirement that husband and wife take the same name, it could either require that parents choose one of their names for their children, or it could decide to have no rule at all. The Amendment would only prohibit the states from requiring that a child's last name be the same as his or her father's, or from requiring that a child's last name be the same as his or her mother's.

I want to digress from the reading to call attention to what a drastic impact this interpretation of the equal rights amendment, in respect to the names of husbands, wives, and children, would have upon the existing law and the fact that the change would serve no useful purpose whatever.

I call attention to the minority views contained in the report on this measure at pages 50, 51, and 52:

One of the most interesting assertions of the article in the *Yale Law Journal* which Representative Griffiths says "explains the workings of the amendment," is the statement that:

"The Equal Rights Amendment would not permit a legal requirement, or even a legal presumption, that a woman takes her husband's name at the time of marriage . . . The states could conform to the Equal Rights Amendment by requiring couples to pick the same last name, but allowing selection of the name of either spouse, or of a third name satisfactory to both . . . thus common law and statutory rules requiring name change for the married woman would become legal nullities."

The effects of this requirement on the record-keeping demanded by our society would be staggering. Imagine an attorney searching a land title with this type of last-name system.

The wisdom of allowing a state to determine that a wife's legal name shall be that of her husband has just been upheld 8–0 in a per curiam decision of the Supreme Court in the case of *Forbush* v. *Alabama*. The interest of the State in maintaining control over licensees and requiring the most efficient way to do so should be obvious to everyone, as it was to all the members of the Supreme Court. But it's not obvious to the proponents of the ERA who want to abolish all legal pronouncements favoring the husband's surname.

Just a cursory check of only a very few of the laws of the states will indicate just how far-reaching the Equal Rights Amendment will be in this area alone. Most states appear to recognize the common law rule that a wife assume her husband's surname. *E.g. People ex. rel. Rago v. Lipsky*, 327 Ill. App. 63, 63 N.E. 2d 642 (1945); *Freeman v. Hawkins*, 77 Tex. 498, 14 S.W. 364; *Chapman v. Phoenix National Bank of the City of New York* 85 N.Y. 437 (1881); *Bacon v. Boston Electric Railway Co.*, 256 Mass. 30, 152 N.E. 35 (1926).

In addition, many state statutes are based upon the assumption that a woman assumes her husband's surname upon marriage. For example, statutes relating to the issuance of driver's licenses often include a provision requiring licensed drivers to notify a state agency of changes in name resulting from marriage, *See, e.g. Colo. Rev. Stat. Ann.* Sec. 13–4–17; *Fla. Stat. Ann.* Sec. 322–19; *Ill. Ann. Stat.* Ch. 95½, Sec. 6–116; *Ind. Ann. Stat.* Sec. 47–2710; *Kan. Stat. Ann.* Sec. 8–248; *Ky Rev. Stat.* Sec. 186–540; *Me. Rev. Stat.* tit. 29, Sec. 546; *Minn. Stat. Ann.* Sec. 171.11; *Mont. Rev. Codes Ann.* Sec. 31–140; *N.M. Stat. Ann.* Sec. 64–13–53; *N.D. Century Code* Sec. 39–06–20; *Okla. Stat. Ann.* tit. 47, Sec. 6–116; *R.I. Gen. Laws Ann.* Sec. 31–10–32; *S.C. Code Ann.* Sec. 46–170; *Tenn. Code Ann.* Sec. 59–708; *Tex. Rev. Civ. Stat. Ann.* Art. 6687b, Sec. 20; *W. Va. Code Ann.* Sec. 173–2–13.

State statutes relating to divorce often authorize courts to change a woman's name upon divorce. *See, e.g., Alaska Stat.* Sec. 09.55.010 (no court order necessary); *Arizona Rev. Stat. Ann.* Sec. 25–319; *Ark. Stat. Ann.* Sec. 34–1216; *Cal. Civ. Code* Sec. 4457 (annulment), 4521 (dissolution); *Conn. Gen. Stat. Ann.* Sec. 46–21; *Del. Code Ann.* tit. 3, Sec. 1536; *D.C. Code Ann.* Sec. 16–915; *Ga. Code Ann.* Sec. 30–121; *Hawaii Rev. Laws* Sec. 574–5; *Ill. Ann. Stat.* ch. 40, Sec. 17; *Ind. Ann Stat.* Sec. 3–1225; *Kan. Stat. Ann.* Sec. 60–1610; *Ky. Rev. Stat. Ann.* Sec. 403.060 (if divorce obtained by wife); *Me. Rev. Stat. Ann.* tit. 19, Sec. 752; *Mass. Gen. Laws Ann.* ch. 208, Sec. 23; *Mich. Comp. Laws Ann.* Sec. 552. 391 (if no minor children); *Minn. Stat. Ann.* Sec. 518.27 (if *wife* obtained divorce); *Mo. Ann. Stat.* Sec. 452.100 (if *wife* obtains divorce); *Nev. Rev. Stat.* Sec. 125.130; *N.J. Stat. Ann.* Sec. 2A:34–21; *N.C. Gen. Stat.* Sec. 50–12; *Okla. Stat. Ann.* tit. 12, Sec. 1278 (if husband at fault); *Ore. Laws 1971*, ch. 280, Sec. 13; *Pa. Stat. Ann.* tit. 23, Sec. 98 (woman may *elect* to use maiden name after divorce); *R.I. Gen. Laws Ann.* Sec. 15–5–17 (if *wife* obtains divorce); *S.C. Code Ann.* Sec. 20–117; *Tex. Rev. Civ. Stat.* art. 5931 (either party may change name upon divorce); *Vt. Stat. Ann.* tit. 15, Sec. 557 (if *wife* obtains divorce); *Va. Code Ann. Ann.* Sec. 20–121; *Wash. Rev. Code Ann.* Sec. 26.08.130; *W. Va. Code Ann.* Sec. 48–2–23 (if no children); *Wis. Stat. Ann.* Sec. 247.20 (if no children and no alimony).

State voter registration laws often include provisions requiring women to reregister when their names are changed by marriage. *See, e.g., Colo. Rev. Stat. Ann.* Sec. 49–4–19; *Del. Code Ann.* tit. 15, Sec. 1750; *Ill. Ann. Stat.* ch. 46, Sec. 46, Sec. 6–54; *Ind. Ann. Stat.* Sec. 29–3428 (but women may vote or run for office under professional name); *Kan. Stat. Ann.* Sec. 25–2316; *Ky. Rev. Stat. Ann.* Sec. 117.735; *La. Rev. Stat Ann.* Secs. 18:41, 234, 241; *Me. Rev. Stat. Ann.* tit. 21, Secs. 638, 831 (notification of change required); *Md. Ann. Code* art. 33 Secs. 3–9, 3–18; *Mass. Gen. Laws Ann.* ch. 51 Sec. 2 (notification); *Neb. Rev. Stat.* Sec. 32–216; *Nev. Rev. Stat.* Sec. 293.517; *N.J. Stat. Ann.* Sec. 19:31–13; *N. M. Stat. Ann.* Sec. 3–4–5; *Ohio Rev. Code Ann.* Sec. 3503.19 (not necessary to reregister if name is *not* changed upon marriage); *Ore. Rev. Stat.* Secs. 247.290, 247.440; *R.I. Gen. Laws Ann.* Sec. 17–9–18 (notification); *S.D. Comp. Laws Ann.* Sec. 12–4–18; *Tenn. Code Ann.* Secs. 2–303, 2–305; *Va. Code Ann.* Sec. 24.1–51; *Wash. Rev. Code Ann.* Sec. 29.10.040.

State laws regulating notaries public also often contain provisions involving name changes resulting from marriage. *See, e.g., Iowa Code Ann.* Sec. 77.12 (married female notaries may continue to use maiden names); *N.J. Stat. Ann.* Sec. 52:7–7 (married female notaries to use hyphenated name); *Pa. Stat. Ann.* tit 57, Sec. 156 (female married notaries must notify state agency of change of name); *Va. Code Ann.* Sec. 55–117 (female married notaries to indicate maiden name); *Wyo. Stat. Anne.* Sec. 32–2 (female married notaries to notify state agency of name change and to add husband's surname to signature).

State statutes which authorize civil actions for change of name also sometimes have provisions which are clearly based on the assumption that a wife's legal surname is the surname of her husband. *See, e.g., Iowa Code Ann.* Sec. 674–1 (married woman may not bring action to change her name); *Iowa Code Ann.* Sec. 674–10 (if husband changes his surname, wife's name is also changed); *Ky. Rev. Stat. Ann.* Sec. 401–010 (married women not allowed to change name); *Mich. Comp. Laws Ann.* Sec. 711.1 (if husband changes name, wife's name also changes); *Minn. Stat. Ann.* Sec. 259.10 (if husband changes name, wife's name changes if she joins in the application-statute does not indicate what happens if wife fails to join in application); *Vt. Stat. Ann.* tit. 5, Sec. 814 (if husband changes name, wife's name also changes).

Finally, in some state statutes reference is made to "change of legal name" without it being specified whether this includes name changes resulting from marriage. *See e.g., Mass Gen. Laws Ann.* ch. 30, Sec. 13 (notaries must reregister upon change of name); *Neb. Rev. Stat.* Sec. 64–114 (notaries changing legal name may continue to use name under which they received commission); *N.H. Rev. Stat. Ann.* Sec. 261–2 (driver's license holders required to make notification of change of legal name may continue to use name under (notaries to apply for change of name on commission upon legal change of name). In light of the common law rule, however, such provisions are likely to be held to apply to changes of name by marriage.

It should be noted, in conclusion, that the above listing of state statutes is not exhaustive. Rather, it is meant to suggest the kinds of state statutes which include provisions based upon the assumption that a woman's legal name changes upon marriage.

Mr. President, those are just a few of the many thousands of State laws which would be nullified by an equal rights amendment. This shows that we would have absolute chaos from a legal standpoint if 38 of the States should be so foolish as to emulate the august example that Congress is about to set, and ratify the equal rights amendment.

I resume the reading from the Yale Law Journal:

b. *Domicile.* The location of a person's domicile affects a broad range of legal rights and duties, including the place where he or she may vote, run for public office, serve on juries, receive free or lowered tuition at a state school, be liable for taxes, sue for divorce, and have his or her estate administered. The common law rule for determining the wife's domicile was simple: the domicile of the wife merged in that of her husband; moreover, she had the duty to follow him if his choice was a reasonable one, and her refusal to do so was considered desertion. Legislative or judicial changes have modified this blanket rule in most states for some purposes; most commonly for divorce jurisdiction. However, only three states—Alaska, Arkansas, and Wisconsin—permit a woman to have a separate domicile from her husband for all legal purposes.

A court suit challenging discriminatory domicile rules could arise after a woman had been denied some right or benefit because her husband's domicile had been imputed to her. In such a suit a court would have to hold that the Equal Rights Amendment requires rules governing domicile to be the same for married women as for married men. Extending women's dependent status to men would simply create a circular situation with each spouse's domicile dependent on the other's. Thus, equal treatment of men and women for purposes of domicile implies giving married women the same independent right to choice of domiciles as married men now have. A court would probably resolve the inequality by striking down whatever statute or portion of a statute sets out a special rule for married women. It would leave standing the general domicile law which would automatically be extended to married women. For similar reasons, a court would do away with the rule that refusal to accompany or follow a husband to a new domicile amounts to desertion or abandonment. A husband would no longer have grounds for divorce in a wife's unjustifiable refusal to follow him to a new home, unless the state also permitted the wife to sue for divorce if her husband unjustifiably refused to accompany her in a move.

These results would cause little disruption.

Mr. President, I must repeat that statement:

These results would cause little disruption and would be beneficial to those women who are now adversely affected by the domicile law. Professor Kanowitz concludes that the domicile rule "has become useless as an influence within the family. Its most important practical effects are to deprive wives of certain governmental benefits they would otherwise have and to create technical legal difficulties for third parties. The cases in which the issue is raised typically do not involve the resolution of a dispute between spouses in an ongoing marriage. . . . Its retention serves only to evoke bygone images of the husband as master and the wife as obedient servant."

With respect to children, the traditional rule is that the domicile of legitimate chil-

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dren is the same as their father's. Even those states which permit a married woman to have a separate domicile from her husband appear to retain this rule with respect to the child's domicile. The Equal Rights Amendment would not permit this result. Either by legislative action or judicial determination, a state would have to devise a sex-neutral basis for determining the child's domicile.

I have to observe at this point, oh, how these militants who advocate equal rights for women must hate sex, to judge from their efforts in seeking to abolish it. I resume the reading:

Either by legislative action or judicial determination, a state would have to devise a sex-neutral basis for determining the child's domicile. The most reasonable domicile would be the place the child actually lives most of the time.

I digress to observe that if that means anything, it means that a child, by running away from home, can select its own domicile, despite its immaturity, and despite the fact that existing laws require the father to support the child—in the father's home.

I resume the reading:

If the family lives together but one of the parents is domiciled in a separate place, the child's domicile should be the place of family residence. If the parents live apart, then the child's domicile should be the domicile of the parent with whom he or she lives most of the time. Alternatively, the state could allow the child to determine his or her own domicile on the basis of where he or she actually lives or works, if apart from both parents.

3. RIGHTS OF HUSBANDS AND WIVES INTER SE

The reluctance of courts to interfere directly in an ongoing marriage relationship is a standard tenet of American jurisprudence. As a result, legal elaboration of the duties husbands and wives owe one another has taken place almost entirely in the context of the breakdown of the marriage—either voluntary breakdown through separation, desertion, or divorce, or involuntary breakdown through incapacitation or death. Any legal changes required by the Equal Rights Amendment are thus unlikely to have a direct impact on day-to-day relationships within a marriage, because the law does not currently operate as an enforcer of a particular code of relationships between husband and wife.

a. *Rights of Consortium.* One of the law's most comprehensive efforts to define the rights and obligations of the partners to a marriage relationship occurs in personal injury actions, after one or the other spouse has been seriously incapacitated. In order to instruct the jury as to the proper standards for awarding damages, the judge must define what benefits the plaintiff should have expected from his or her now incapacitated spouse. At common law these standards were rigidly defined and totally male-oriented. A man had a right to recover damages for loss of his wife's services when she was injured by intentional or negligent action. In time a husband's rights of consortium were defined to include love, affection, companionship, society, and sexual relations. A woman, by contrast, had no right to sue for loss of her husband's services, since in theory, he provided none.

The Equal Rights Amendment would not permit men to have a greater right than women to recover for loss of their spouse's services and companionship. Courts in many states have already extended to women the right to sue for loss of consortium, although some courts continue to uphold this differential between men's and women's rights. The Equal Rights Amendment would settle the current uncertainty and disagreement among the states by requiring them all to grant women the same right to sue that men now have.

More fundamentally, however, the Equal Rights Amendment would prohibit enforcement of the sex-based definitions of conjugal function, on which the discriminatory consortium laws are based. Courts would not be able to assume for any purpose that women had a legal obligation to do housework, or provide affection and companionship, or be available for sexual relations, unless men owed their wives exactly the same duties. Similarly, as discussed more fully below, men could not be assigned the duty to provide financial support simply because of their sex.

Mr. President, I digress from the reading to emphasize the last sentence from the Yale Law Journal. It states that under the equal rights amendment, men could not be assigned the duty to provide financial support for their wives simply because of their sex. I assert that if that be so—and it necessarily is so, because the equal rights amendment would abolish all legal distinctions between men and women, no matter how reasonable they are—then the courts of this land would have a highly uncertain duty and would be confronted by legal confusion every time they had a husband indicted for nonsupport of a wife, every time a wife sued the husband to recover sums expended by her for her own support, and every time a wife sought alimony from her husband in a divorce or a support proceeding.

This illustrates the truth of what Prof. Paul A. Freund of the Harvard Law School said—that the adoption of the equal rights amendment would fill this country with "constitutional and legal chaos" and would make every law regulating in any way the relationship of men and women a matter to be ultimately decided by the Supreme Court of the United States. That means every law, for all practical intents and purposes.

The only reason we have any law is to prescribe rules of conduct for people; and there are only two kinds of people—the equal rights amendment to the contrary notwithstanding—and those people are divided into men and women. So all will be involved in a state of constitutional and legal uncertainty if this amendment is adopted.

I digress from reading the article in the Yale Law Journal to read a telegram which has just been sent to me by Rabbi Boruch Liebowitz. The telegram reads as follows:

DEAR SENATOR ERVIN: The Rabbinical Alliance of America, a national organization representing over 500 orthodox rabbis and Hebrew educators, is alarmed over the threat to religious practices and feelings of orthodox Jews inherent in the proposed so-called Womens Rights Amendment.

The implicit sanction in the proposed amendment for drafting women into the armed services is a direct threat to orthodox Jewish women who could be subjected to intolerable pressures even with allowances for conscientious objectors.

The possibility of the proposed amendment, if enacted, ending separate restroom facilities in transportation and elsewhere is abhorrent to our people.

This bill could jeopardize the maintenance of separate dayschool education for boys and girls in many Jewish communities.

We, therefore, respectfully request that Congress carefully consider our feelings and that any proposal for equal rights for all Americans, which we as Jews have long championed, clearly specify that the religious practices of our faith shall be in no way harmed or endangered.

RABBI ABRAHAM GROSS,
President.
RABBI BORUCH LIEBOWITZ,
Administrator.

I now resume reading from the Yale Law Journal, and I start with section 6, entitled "Allocation of the Duty of Family Support Between Husband and Wife":

b. *Allocation of The Duty of Family Support between Husband and Wife.* In all states husbands are primarily liable for the support of their wives and children, although the details of this liability and the possible defenses vary. A wife may be liable for supporting her husband in many states, but generally only if the husband is incapacitated or indigent. In most states the mother is liable for support of the children only if the father refuses or fails to provide for their support.

Criminal nonsupport laws are the legal system's most heavy-handed technique for enforcing the husband's current duty of support. Nonsupport was not an indictable offense at common law. But criminal statutes in all but three states now penalize a man's desertion or nonsupport of his wife, and all American jurisdictions set criminal penalties for nonsupport of young children. While these laws typically penalize either parent who fails to provide support for a minor child, the duty of interspousal support is placed solely on the man.

The child-support sections of the criminal nonsupport laws would continue to be valid under the Equal Rights Amendment in any jurisdiction where they apply equally to mothers and fathers. However, the sections of the laws dealing with interspousal duty of support could not be sustained where only the male is liable for support. Applying rules of narrow construction of criminal laws, courts would have to strike down nonsupport laws which impose the duty of support on men only. Legislatures might decide not to re-enact any husband-wife criminal nonsupport laws. Criminal sanctions against the husband are widely recognized as poor compensation for a wife's unpaid domestic labor and discriminatory treatment against her in the labor market; a legislature might choose to use its resources for a more direct attack on these problems. Alternatively, a state legislature could adopt a law which makes no distinctions on the basis of sex, like the Model Penal Code's nonsupport provision.

I digress here to say that this is a direct assertion that the equal rights amendment will invalidate every law now in existence which makes a husband primarily responsible for the support of his wife, and which makes the father primarily responsible for the support of his children.

If there was no other basis for rejecting the equal rights amendment than that, that alone should justify its rejection.

I resume reading:

With regard to civil enforcement of support laws, courts could take a more flexible approach.

The PRESIDING OFFICER (Mr. PEARSON). The time of the Senator from North Carolina, under the unanimous-consent agreement, has expired.

Mr. ERVIN. Mr. President, may I ask how much time I have remaining on the bill?

The PRESIDING OFFICER. The Senator has 252 minutes remaining.

Mr. ERVIN. That is about 4 hours if my mathematics are correct. I yield myself such time on the bill as I may use.

The PRESIDING OFFICER. The Senator from North Carolina may proceed.

Mr. ERVIN. Mr. President, I resume reading:

The Equal Rights Amendment would bar a state from imposing greater liability for support on a husband than on a wife merely because of his sex. However, a court could equalize the civil law by extending the duty of support to women.

I digress a moment here to observe that that is another assertion made by the proponents of the equal rights amendment, that under the equal rights amendment the courts could usurp and discharge the legislative function of making the laws.

Perhaps I am somewhat old fashioned in my views, but I think that the court has enough to do if it just sticks to its judicial knitting, without attempting to invade the field of the legislature. There is no doubt that the court will not be able to extend laws limited to women, to men.

I resume reading:

With regard to child support this is already the rule in Iowa, where father and mother are under the same legal duty to support the children.

Alarmists claim that the Equal Rights Amendment would change the institution of the family as we know it by weakening the husband's duty of marital support in an ongoing marriage. This concern is based on a misunderstanding of the role laws about support actually play. Many courts flatly refuse to enter a support decree when the husband and wife are living together. In most such cases the husband, as head of the family, is free to determine how much or how little of his property his wife and children will receive.

Mr. President, I digress here to say that if there is any court in the United States that says a husband can permit his wife to starve to death while she is living with him, I have never heard of it.

I am glad to say that the Legislature of the State of North Carolina has had more intelligence than that, that a husband can be reached either criminally or civilly if he fails to support his wife while he and his wife are living together.

I resume reading:

The Equal Rights Amendment would not require mathematically equal contributions to family support from husband and wife in any given family. A functional definition of support obligations, based on current resources, earning power, and nonmonetary contributions to the family welfare, would be permissible and practical under the Equal Rights Amendment, so long as the criteria met the tests of reasonable classification described above in Part III(C). If husband and wife had equal resources and earning capacity, neither would have a claim for support against the other. However, if one spouse were a wage earner and the other spouse performed uncompensated domestic labor for the family, the wage-earning spouse would owe a duty of support to the spouse who worked in the home. Creating in each spouse equal liability for support might give creditors an advantage in some instances where they would not currently be able to reach the wife's resources. If this extra liability created hardship for families, the legislature could make rules limiting the extent of creditors' access to a family's resources.

Mr. President, I digress here to observe that in one of James Russell Lowell's poems, a father gives his son the advice not to marry for money but to marry where the money is.

The equal rights amendment would certainly encourage some sons to take that advice of their fathers', because if the wife had some money or some property, the son could compel the wife to support him under this interpretation of the equal rights amendment, which I take to be absolutely correct.

I resume reading:

c. *Ownership of Property.* The law has attempted to recognize women's contribution to the family by giving each spouse an interest in property acquired during the marriage. Two different systems have been adopted in the United States for distributing property rights within a family—the community property system and the common law system. In both systems the woman's right matures primarily upon separation or death of her spouse. As both systems currently operate, they contain sex discriminatory aspects which would be changed under the Equal Rights Amendment.

(1) *Community Property.* In the eight community property states—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington—property acquired by each spouse during the marriage is owned in common by both husband and wife. This system is sometimes championed by advocates of women's rights because it gives a housewife who earns no independent income a legal share in the family property. However, in all the community states, except Texas and Washington, the husband has power of management and control over the community property; and in some states he can assign, encumber or convey the property without his wife's consent. Thus, in some of the community property states a working wife may be put in the position of a woman before passage of the Married Women's Property Acts: she may lose control of her own earnings to her husband.

Under the Equal Rights Amendment, laws which vest management of the community property in the husband alone, or favor the husband as manager in any way, would not be valid. In the absence of new legislation, the courts would leave decisions about disposition of the community property to be made jointly by husband and wife. This would be consistent with the general judicial preference to allow married couples to work matters out between themselves.

Legislatures might prefer to follow the example of the recent amendment of the Texas community property law. The new Texas law provides that "each spouse shall have sole management, control and disposition of that community property which he or she would have owned if a single person.

Mr. President, I digress to observe that this virtually nullifies the community property system.

I resume reading from the Yale Law Journal:

Rather than leaving decisions about the community property to husband and wife together, this rule would give the spouse who had earned or been given property the power to dispose of it. This rule obviously favors the wage-earning spouse, who in most instances under current conditions will be the man. Thus it would require scrutiny as a rule neutral on its face, which falls more heavily on one sex than the other. The Texas law also states that property of one spouse which is mixed or combined with property of the other spouse is subject to the joint control of husband and wife unless they agree otherwise. This part of the law would certainly be valid under the Equal Rights Amendment.

(2) *Common Law Ownership.* The other forty-two states have a common law basis for distributing marital property. However, Married Women's Property Acts in every state have modified the harsh common law principles that gave the husband complete control over his wife's property and the products of her labors. With certain exceptions these statutes give a woman the right to control property she owned before marriage as well as property she earns or receives by gift or devise during marriage. Except for qualifications relating to the right of a surviving spouse to inherit, therefore, each spouse now owns his or her separate property free of legal control of the other spouse.

The Married Women's Property Act did not automatically abolish the common law estates of dower and curtesy, but today most states have abandoned these cumbersome devices for protecting the interests of widows and widowers, and others have modified them substantially. In their place, the states have substituted other forms of protection of a marital share of the property of one or both spouses. All states except North Dakota and South Dakota give the woman a nonbarrable **share in her husband's estate, but a number** of states fail to give the husband a corresponding legal claim in his wife's estate. The widow's allowance or family allowance, homestead, and limitation on gifts to charity are other devices to protect a surviving spouse against complete disinheritance.

Where these devices give the surviving husband rights equal to the surviving wife, they would be valid under the Equal Rights Amendment. In the many states, however, where the wife still has a protected position, the discriminatory laws would either be invalidated or extended. Where a legal device has proved to be a useful protection, legislatures would probably be inclined to extend its coverage to men, but where the technique has provided little real protection, the legislatures could take the opportunity for review provided by the Equal Rights Amendment to revise or repeal the law.

d. *Grounds for Divorce.* Professor Leo Kanowitz points out that "there is almost an air of unreality about the enumeration of specific grounds of divorce found in the statutes of all the states." This is because the great mobility of middle class Americans permits them to go to a state which has liberal grounds for divorce, or abroad, when they want to dissolve a marriage. In addition, a high proportion of couples seeking divorce agree to allege as fictions the requisite grounds for divorce. Furthermore, divorce laws have typically been written in terms that make sense only to an ongoing marriage, permitting divorce if, and only if, a fundamental element of the marriage compact has been violated.

Recognizing these factors, as well as the unreasonableness of permitting divorce only for certain limited and specific reasons, proponents of legislative reform recommend evaluating the overall health of the marriage rather than pinning particular guilty action on one or the other of the spouses. The Uniform Marriage and Divorce Act, adopted by the National Conference of Commissioners on Uniform State Laws, provides for a decree of separation or divorce to be granted upon a finding that "the marriage is irretrievably broken." California currently permits divorce on a finding of irreconcilable differences between the parties. North Carolina, Ohio, and the District of Columbia permit a divorce after voluntary separation for a year. Nevertheless, the statutory grounds for divorce which remain in effect in most states are of concern because they still control in contested divorce situations, because they affect the economic and personal relations of the parties even if consent divorces, and because there is evidence that they cause a disproportionate amount of difficulty to poor people.

XUM

In the past many grounds for divorce were highly sex discriminatory; today only a few apply solely to one sex or the other. These are non-age, pregnancy by a man other than husband at time of marriage, nonsupport, alcoholism of husband if and only if accompanied by wasting of his estate to the detriment of his wife and children, wife's unchaste behavior (without actual proof of adultery), husband's vagrancy, wife's absence from state for ten years without husband's consent, wife's refusal to move with husband without reasonable cause, wife a prostitute before marriage, husband a drug addict, indignities by husband to wife's person, and wilful neglect by husband.

Except for nonsupport and pregnancy, all the sex discriminatory grounds for divorce listed above are anachronisms, surviving in only one or two states, and are not deserving of extended discussion here. In each instance, a court could invalidate such a provision without doing any serious harm to the overall structure of the state's divorce law. On the other hand, the court could also extend the law to the opposite sex without risking serious criticism that it was usurping legislative authority.

I digress to observe that is a very remarkable statement, that a court acting under the equal rights amendment could change the law of the State without risking serious criticism to its usurping legislative authority.

I resume the reading:

Even without the pressure of the Equal Rights Amendment, these provisions are likely to be dropped or extended to the opposite sex in the course of divorce law reform.

Of the thirty states which allow a woman a divorce for nonsupport, only two—Arkansas and North Dakota—give a husband whose wife has failed to support him a cause of action. This disparity is a reflection of the sex bias in support laws, described above. Like the duty of support during marriage and the obligation to pay alimony in the case of separation or divorce, nonsupport would have to be eliminated as a ground for divorce against husbands only, or else extended to the wife where the husband was without resources and the wife had the financial capacity to support him.

The laws that grant a husband a divorce because at the time of marriage he did not know his wife was pregnant by another man would be subject to strict scrutiny under the unique physical characteristics tests. As with paternity laws, the argument can be made that the ease of identifying the mother of a child, as opposed to the difficulty of identifying the father, is a kind of unique physical characteristic which justifies different rules regarding the relationship of mothers and fathers to illegitimate children.

However, no reason exists for distinguishing between the duties and obligations of the mother and the father when the father of an illegitimate child has acknowledged parternity or has been adjudged the father in a paternity proceeding. Furthermore, the divorce laws are not based primarily upon the physical act of giving birth but upon other considerations. The laws derive, at least in major part, from the fact that any child born of a woman during marriage is presumed to be her husband's child. Whether the husband claims the child or not, the law imposes on him the duty to support the child and gives the child his name. In this respect the law places an unequal burden on the husband, for his wife receives no corresponding obligations to support or nurture any children her husband may conceive. Since the Equal Rights Amendment would require men and women to bear equal responsibility for the support and nurture of their children, it elliminates most of the justification for giving men alone this ground of divorce. The Equal Rights Amendment would permit resolution of the disparity either by giving a woman a claim for divorce if, at the time of marriage, she did not know that her husband had impregnated another woman, or by abolishing the ground altogether.

I disgress to observe that that is a rather remarkable statement that the equal rights amendment might invalidate a State law which grants the husband grounds for divorce against his wife if his wife is pregnant by another man at the time of his marriage and he is ignorant of the fact of such pregnancy.

e. *Alimony.* Alimony following divorce involves issues similar to those discussed above in connection with support laws. However, a different set of laws and rules is involved. In jurisdictions where fault is still central to divorce proceedings, alimony awards are closely linked to the judicial determination of fault. More than one-third of the states authorize divorce courts to grant alimony to either spouse, but the remaining jurisdictions permit alimony awards to the wife only.

The Equal Rights Amendment would not require that alimony be abolished but only that it be available equally to husbands and wives. This result is consistent with the recommendations of Robert Levy to the Special Committee on Divorce of the National Conference of Commissioners on Uniform State Laws, who concludes,

[T]he distinction [permitting alimony for wives but not husbands] is an historical idiosyncrasy; there is no principle reason for maintaining the distinction between husbands and wives; almost all recent commentators and official studies of divorce-property doctrines have recommended that the distinction be abolished.

I digress to observe that would be quite a surprise for the women of America to learn that the equal rights amendment will require them to pay alimony to their husbands on exactly the same grounds their husbands are required to pay alimony to them.

I resume the reading.

Alimony laws could be written to grant special protection to a spouse who had been out of the labor force for a long time in order to make a non-compensated contribution to the family's well-being. Similarly the laws could provide support payments for a parent with custody of a young child who stays at home to care for that child, so long as there was no legal presumption that the parent granted custody should be the mother. In short, as long as the law was written in terms of parental function, marital contribution, and ability to pay, rather than the sex of the spouse, it would not violate the Equal Rights Amendment.

The maintenance provisions of the Uniform Marriage and Divorce Act serve as an example of the kind of law which would be valid under the Equal Rights Amendment. The Act provides for maintenance to be paid from one spouse to the other if the spouse seeking maintenance lacks sufficient property to provide for his reasonable needs and is unable to support himself through appropriate employment, or is the custodian of a child whose condition or circumstances make it appropriate that the parent not seek employment outside the home. The amount and duration of payments for maintenance are to be determined after the court considers the financial resources of the party seeking maintenance, the time necessary to acquire sufficient training to enable the party to find appropriate employment, the standard of living established during the marriage, the duration of the marriage, the age and physical and emotional condition of the spouse seeking maintenance, and the ability of the spouse from whom maintenance is sought to meet his or her own needs while making maintenance payments.

f. *Custody of Children.* At common law the father, if living, was the natural guardian of his child and as such was nearly always entitled to custody of the children in case of separation or divorce. Some states, including California and Utah, changed this by statute which prefers the mother if the child is young. Others, including Missouri, Florida, Minnesota, New York, and Colorado, give both spouses equal right to custody of the children. In most states there is no statute favoring one parent or the other; rather, preference for the mother or father exists as a result of judicially created presumptions in favor of the mother for girls and young children and in favor of the father for older boys.

The Equal Rights Amendment would prohibit both statutory and common law presumptions about which parent was the proper guardian based on the sex of the parent. Given present social realities and subconscious values of judges, mothers would undoubtedly continue to be awarded custody in the preponderance of situations, but the black letter law would no longer weight the balance in this direction.

4. SUMMARY

The present legal structure of domestic relations represents the incorporation into law of social and religious views of the proper roles for men and women with respect to family life. Changing social attitudes and economic experiences are already breaking down these rigid stereotypes. The Equal Rights Amendment, continuing this trend, would prohibit dictating different roles for men and women within the family on the basis of their sex.

I digress to observe that is a rather remarkable statement. The equal rights amendment would prohibit dictating different roles for men and women within the family on the basis of their sex.

I resume the reading:

Most of the legal changes required by the Amendment would leave couples free to allocate privileges and responsibilities between themselves according to their own individual preferences and capacities. By and large these changes could be made by courts in the process of adjudicating claims under the Amendment. In any area where the legislature felt that sudden extension of the law to men and women alike would cause undue hardship, it could pass new legislation basing marital rights and duties on functions actually performed within the family, instead of on sex.

That completes the reading of this portion of the article from the Yale Law Journal, which deals with present domestic relations between husband and wife and what domestic relations between husbands and wives would be if the equal rights amendment were adopted.

I digress to observe that Professor Kanowitz, the author of the book "Women and the Law, the Unfinished Revolution," states the equal rights amendment will have no impact on the laws making distinctions between men and women because those distinctions are based upon function and not upon sex. I wish I had the confidence that Professor Kanowitz' interpretation of the equal rights was correct. His interpretation is in sharp contrast to that of Professor Freund of Harvard Law School and Professor Kurland of the University of Chicago Law School, and that of the late Dean Roscoe Pound of the Harvard Law School, and other illuminating statements of legal scholars which I have placed in the RECORD.

Under the interpretation of these great legal scholars, the Supreme Court is likely to hold that the equal rights amendment compels Congress and the legislatures of the 50 States to blind their eyes to sex when they enact legislation and to make and to convert all men and all women into identical legal beings, having identically the same rights and identically the same responsibilities. If that interpretation should prevail, then one can only say that the equal rights amendment constitutes an effort to destroy the handiwork of God when he created mankind male and female instead of one sex.

I yield the floor.

Mr. BAYH. Mr. President, I yield myself as much time as might be required.

The Senator from Indiana will be brief, inasmuch as much of this subject matter was discussed at some length yesterday, and he sees no reasen to belabor further the Senate with his counterargument to that of the Senator from North Carolina. I think the Senator raises a legitimate concern. I am convinced he is sincere in his beliefs, but I think the strong weight of opinion would prove that the effect of this amendment would be contrary to that which he has outlined.

Insofar as the protection of wives and mothers, as far as alimony and children and dower rights and all other rights are concerned, what we are suggesting is that, rather than wipe out all these rights, we are going to say to a woman and to a man that each will be treated equally under the law, both men and women; that both husband and wife will be treated equally; that if a father and husband has certain rights, a wife and mother should have the same rights; that if a husband or widower has certain rights, then the wife or widow should have them. It seems to me that is what equality is all about.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. COOK. May I say I would like to be asscciated with the remarks of the Senator from Indiana. It bothers me that a woman can marry and have rights and responsibilities taken away from her, and then, if her husband dies and she becomes a widow, she immediately is emancipated, and then if she remarries, she goes back into the state she was in before.

It seems to me rather odd that, somehow or other, we should make a chattel out of a particular individual under a constitutional form of government.

It also bothers me, relative to the statement that the Creator made this great distinction between men and women, that, somehow or other, it seems to me what in effect has been said is that when the Creator made that distinction, God said to man, "You make all the laws and make them restrictive on woman."

All I can say is that is it not fortunate that woman did not take the ball first and legislate against us, because, if that were the case, we would be here now challenging all these things. We would be here trying to say that, under a constitutional form of government, we should be equal. But instead, today, we live within the framework of the great document and under, frankly, the freest system of society in the world, save as it applies to one particular segment of our society, 53 percent of our society, the female individual in this Nation.

I yield back the remainder of my time.

Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. No; they have not.

Mr. COOK. Mr. President, we yield back our time.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself whatever time I may need, pending the arrival of one of our brethren.

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. TUNNEY). The question is on agreeing to the amendment (No. 1068) of the Senator from North Carolina (Mr. ERVIN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 14, nays 77, as follows:

[No. 116 Leg.]

YEAS—14

Buckley	Eastland	Hollings
Byrd, Va.	Ervin	Long
Cannon	Fannin	Miller
Cooper	Goldwater	Stennis
Cotton	Hansen	

NAYS—77

Aiken	Fulbright	Pearson
Allen	Gambrell	Pell
Allott	Gravel	Percy
Anderson	Griffin	Proxmire
Baker	Gurney	Randolph
Bayh	Harris	Ribicoff
Beall	Hart	Roth
Bellmon	Hatfield	Saxbe
Bennett	Hruska	Schweiker
Bentsen	Hughes	Scott
Bible	Inouye	Smith
Boggs	Javits	Sparkman
Brock	Jordan, N.C.	Spong
Brooke	Jordan, Idaho	Stafford
Burdick	Kennedy	Stevens
Byrd, W. Va.	Magnuson	Stevenson
Case	Mansfield	Symington
Church	Mathias	Taft
Cook	McGee	Talmadge
Cranston	Metcalf	Thurmond
Curtis	Mondale	Tower
Dole	Montoya	Tunney
Dominick	Moss	Weicker
Eagleton	Muskie	Williams
Ellender	Nelson	Young
Fong	Pastore	

NOT VOTING—9

Chiles	Jackson	McIntyre
Hartke	McClellan	Mundt
Humphrey	McGovern	Packwood

So Mr. ERVIN's amendment (No. 1068) was rejected.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolution:

On March 17, 1972:

S. 602. An act to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in paragraphs 7 and 10, docket No. 50233, U.S. Court of Claims, and for other purposes;

S. 996. An act relating to the transportation of mail by the U.S. Postal Service;

S. 3244. An act to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition; and

Senate Joint Resolution 190. Joint Resolution to provide for an extension of the term of the Commission on the Bankruptcy Laws of the United States, and for other purposes.

On March 18, 1972:

S. 671. An act to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation Montana, in Indian Claims Commission docket No. 279-A, and for other purposes.

On March 21, 1972:

S. 860. An act relating to the trust territory of the Pacific Islands; and

S. 2097. An act to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse.

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EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GAMBRELL). The Chair, on behalf of the Vice President, pursuant to Public Law 84–1028, announces the appointment of the Senator from Oregon (Mr. HATFIELD) to the Board of Visitors to the U.S. Military Academy in lieu of the Senator from North Dakota (Mr. YOUNG).

EQUAL RIGHTS FOR MEN AND WOMEN

The Senate continued with the consideration of the joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

AMENDMENT NO. 1069

Mr. ERVIN. Mr. President, I call up my amendment No. 1069 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which impose upon fathers responsibility for the support of their children.".

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, I now yield to the Senator from New Hampshire (Mr. COTTON) such time as he may need.

Mr. COTTON. I shall only speak for 3 minutes.

Mr. BYRD of West Virginia. Would the distinguished Senator from North Carolina indicate, as there are several Senators in the Chamber at this moment, whether we might expect a vote on this amendment within the next 30 minutes?

Mr. ERVIN. The Senator from New Hampshire would be the better Senator to inform the Senator from West Virginia on that, as he has the time to speak. I shall only require two or three sentences for my statement.

Mr. COTTON. I see no reason why we could not vote within 10 minutes. I shall not take much time.

Mr. BYRD of West Virginia. Would the Senator then agree to a time limitation?

Mr. ERVIN. I shall have only two or three sentences to say. It would be up to the Senator from New Hampshire.

Mr. COTTON. Mr. President, this is the only amendment that the Senator from New Hampshire is really interested in. It is one which I have always supported in the past whenever the question of a constitutional amendment on the rights of women has been considered.

For years, the Senator from New Hampshire has frankly informed constituents who write to him from time to time that he is perfectly willing that there shall be written into the Constitution of the United States an amendment guaranteeing equal rights for women. But, Mr. President, he has also said that he will never vote—and that goes for today—for a constitutional amendment that would release fathers from the obligation to contribute to the support of their minor children. That is why I urge the adoption of this brief and simple amendment. If it is adopted, I can vote for the constitutional amendment. If it is not adopted, I shall be compelled to vote against it. If the laws of our States requiring men to contribute to the support of the children they beget, whether legitimate or illegitimate, are to be nullified by the proposed amendment, it should be known not as the women's lib amendment but as the men's lib amendment for an amendment which does not clearly permit States by their laws to make men fulfill their responsibilities relieves men and takes away the rights of women.

But, even worse, it takes away the rights of small, infant children. No one in his senses could look forward to a generation in which small children would be placed in foster homes or in institutions because we have written into the Constitution an amendment that makes it impossible for the mother to receive contributions from the father of her children in order that she can be with them and they may have the benefit of a mother's love and care.

Mr. President, this amendment is so simple and yet so necessary and merely provides that—

This article shall not impair the validity, however, of any laws of the United States or any State which impose upon fathers responsibility for the support of their children.

Mr. President, the Senator from New Hampshire feels strongly on this because he served for 9 years as a county prosecuting attorney. It is largely a rural county. The women in that county were not the kind of women who cry out for this amendment and whom it is supposed to benefit. They were mostly like my own mother—country housewives and mothers who knew from time to time the pinch of poverty. They were not the socially elite, the highly educated, or the politically active.

Mr. President, in the 9 years I served as county attorney, it seemed to me that I spent 25 percent of my time trying to make the men who had deserted their wives with four or five small children, contribute to the support of those children.

That is why, Mr. President, I cannot vote for this proposed constitutional amendment unless it is safeguarded by the amendment now offered to it. Mr. President, I am now glad to yield to my good friend from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from New Hampshire for yielding to me at this time.

Mr. President, what the Senator from New Hampshire is saying is most important. The Finance Committee, of which I am a member, has been holding hearings on H.R. 1. We have heard testimony from individuals, including county prosecuting attorneys testifying to the effect that if they were able to go across State lines, if they had the support of State departments of public welfare, and the support of the Department of Health, Education, and Welfare, in the opinion of one county attorney from the State of Arkansas who estimated that he could reduce the burden of welfare brought about by aid to families with dependent children by as much as 20 percent.

I shall certainly support the pending amendment. It seems ridiculous to me that we should pass a constitutional amendment which wipes out and obliterates all distinctions between the sexes. And I say that as one Senator who has cosponsored the amendment and as one who has told the people of the State of Wyoming that I would support the amendment. However, that was before I listened to some of the more learned Members of the Senate who had delved more deeply than I had at that time into the ramifications of the amendment.

This is an amendment which should be adopted if we are concerned about the rights of those on welfare, if we are concerned about the breaking up of families, and if we are concerned about the fathers who do not seek to fulfill their responsibility but pull out and leave their wives and their families unattended.

I appreciate very much the very important observations made by my good friend, the Senator from New Hampshire. I shall support the amendment.

Mr. COTTON. Mr. President, I thank the Senator from Wyoming. I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I, too, urge the Senate to support the pending amendment. I speak as one who served as county judge and as circuit judge for 9 years.

The problem arises from two situations. The problem arises from legitimate children born in wedlock where, many times, there is a divorce or separation and a judgment for alimony and child support.

I have seen again and again where the father would fail to meet the orders of the court and would be hailed into court, cited for contempt, and placed in jail for a time. Then he would finally be released upon his agreement to resume the payment to his infant children. After that time, he would again fail to keep those promises.

Many times a father moves into another State where our State law could not reach the father because usually the Governors of other States would not permit extradition in such cases.

The situation also arises in the case of illegitimate children, in which the man is charged with being the father of the child and is brought into court. The case is tried, and the jury determines that the man is the father of the child. The court orders that he make payments for the maintenance of that child. As I recall, that would be until the age of 18 years.

It is against the impulse of a man to do this unless he is an honorable man. In most of these cases the burden would fall upon the mother and eventually upon the State, as many of the mothers in most cases would not be able to maintain the child.

It is a serious question. I believe that there are thousands—perhaps hundreds of thousands—of children in our country today who are in this situation. I noticed in the newspaper the other day that in the District of Columbia it is believed that this year 50 percent of all children born in the District of Columbia would be illegitimate. As I have just noted, most of the times there is not the slightest responsibility on the part of the father to provide for the child.

Mr. PASTORE. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. COTTON. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, will the Senator point out—because I am very interested in the dialog that has transpired on the floor—wherein the equal rights amendment without this particular amendment would absolve the fathers of children from the responsibility to support those children. Where does the Senator get that? It is common law that, if one is decreed to be the father in the case of an illegitimate child, he contribute to the support of that child. There is nothing in the equal rights amendment that denies the right to impose responsibility upon that parent.

I did not think that the equal rights amendment has anything at all to do with the matter at hand.

Mr. COTTON. Mr. President, I believe there is grave danger that, if the amendment in its present form becomes a part of the Constitution, courts would be compelled to impose exactly the same obligations for support of minor children upon the mother and the father. If the father leaves the jurisdiction, as is often the case, the whole obligation would fall upon the mother, for she is accessible many times when the father is not.

This would serve to obliterate the family concept that has always been the cornerstone of our society—that the father is principally the breadwinner and the mother provides the loving care so necessary to infants and young children. Mr. President, I am not so much worried about the strain put upon public welfare referred to by the distinguished Senator from Wyoming, but I am concerned that mothers should be able to be at home and that children attain a certain age because there is a period to my mind from which the children will never recover and their entire lives may be affected by the lack of constant care and supervision of a mother who loves the child.

Mr. PASTORE. Is the Senator actually saying, should the equal rights amendment pass without this particular amend ment, that where a mother goes before a court for an order for child support, the court would be obligated to say, "You go out and get a job and support the child because the Constitution says that it is your responsibility as much as your husband's responsibility?" Is that what the Senator is saying?

Mr. COTTON. That is almost what I am saying, but not quite. I am saying that the court would be obligated to make an order that the mother share in that support, because they would have to be treated exactly alike. There is also grave danger that it will be held that they would have to be treated exactly alike in any order that would issue. The mother would have to pay half and the father would have to pay half of the support.

Mr. PASTORE. Mr. President, I am interested in hearing the position of the opposition to the amendment.

Mr. COTTON. Before I surrender the floor, I wish to utter some final words. It is because of my own vivid experience during 9 years and the evidence I had of the disposition of men to beget children and then walk out on their responsibilities that I see danger in a constitutional amendment that does not make it clear that this is a reservation. Perhaps the amendment is safe without the adoption of this provision. There are distinguished lawyers in this body who appear to think so, but there are also many legal authorities of the highest repute that have indicated their fear that a bald, all-encompassing constitutional amendment would strike down the power of the States to place the responsibility of financial support of young children upon the father.

I hope that the Senator from Rhode Island is correct in his interpretation, but if he should be wrong and the present proposed language is not added, the results would be tragic.

I cannot bear to visualize my country in a situation where children bereft of a father's support and a mother's care grow up in day care centers or institutions. I fear that more than anything in the world, and I cannot bring myself to vote for a constitutional amendment that for lack of safeguarding language might bring this to pass.

Mr. President, I yield the floor.

Mr. PASTORE. Mr. President, I do not want my position to be misunderstood. I was Governor of my State before I came to the Senate 22 years ago. No one worked harder to clear up the social welfare rolls than I did. I had the director of public welfare in my office every other day to make sure that every father was made responsible for supporting his children. I did not care where the father was. I said, "Go and get him, even if it costs twice as much as it would to support the child, because we have to set an example."

I am afraid that the Senator is reading something into this amendment that is not the case. That is what disturbs me.

Mr. ERVIN and Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. ERVIN. Mr. President, I am sorry that the distinguished Senator from Rhode Island was not in the Chamber this morning when I read into the record the article from the Yale Law Journal for April 1971. This article was written by a constitutional scholar, Prof. Thomas Emerson, of the Yale Law School, and by three highly educated young lady lawyers.

It states specifically that under the laws in all the States the husbands are primarily liable for the support of their wives and children. It stated expressly that where the State law imposed on the husband primary responsibility for support of the child that that law would be unconstitutional under the equal rights amendment because it makes a legal distinction between the legal responsibility of the husband and the wife. That is an inescapable conclusion.

Why in the world they want to rob little children of the right that they be primarily supported by their fathers is something the Senator from North Carolina is incapable of conceiving.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. PASTORE. I am looking now at the report filed by the committee, page 17. I guess this amendment came up in committee. I assume so.

Mr. ERVIN. I do not recall.

Mr. PASTORE. At any rate the report of the committee states that the report of the Association of the Bar of the City of New York accurately describes the amendment's effect in this area.

The Amendment would bar a state from imposing a greater liability on one spouse than on the other merely because of sex. It is clear that the Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. The support obligation of each spouse would be defined in functional terms based, for example, on each spouse's earning power, current resources and nonmonetary contributions to the family welfare.

Thus, if spouses have equal resources and earning capacities, each would be equally liable for the support of the other—or in practical effect, neither would be required to support the other. On the other hand where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties.

The Senator from North Carolina says that this gentleman from Yale disputes this?

Mr. ERVIN. Yes. He said that the child support sections of criminal nonsupport laws could not be sustained where only the male is liable for support.

That is exactly what the laws of all 50 States of this Union do and if the equal rights amendment is passed without this amendment it will invalidate the laws of 47 States which place primary obligation on the father.

Mr. PASTORE. It was the impression of the Senator from Rhode Island that the primary responsibility of a father to support his family is common law. It is common law and it is codified. I understand that, and I agree with the Senator from North Carolina.

Mr. ERVIN. The Senator is mistaken. There is no obligation at common law for the father to support the child. All of the obligation for the father to support the child is statutory.

Mr. BAYH. The Senator from Indiana

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wishes to interject one brief observation that may or may not be accurate. There is a subject under discussion here in which there is legitimate difference of opinion. The Senator from North Carolina and the Senator from New Hampshire have one position. I certainly feel they have a right to have that position but so far the contrary position has not been expressed at all. With respect to my friend from Rhode Island I do not think he will get my position expressed by asking questions of the Senator from North Carolina because my friend from North Carolina feels very strongly on the other side.

Mr. ERVIN. Not only the Senator from North Carolina says this, but some of our outstanding legal scholars say the same thing: Prof. Roscoe Pound, Prof. Paul Freund of Harvard Law School and not only them but most knowledgeable supporters of the equal rights amendment, Professor Emerson, of Yale Law School and these three young ladies agree with me.

Mr. PASTORE. Mr. President, in connection with what was just said by the manager of the bill, I want him to understand that while he is going to present his case, and I am going to stay to listen, I have every perfect right to ask the questions I have been asking. I am the one who is going to be voting on the question. I do not care who manages the bill or who sponsors an amendment, I am going to vote on the question. I am going to hear both sides, and the idea that we are not going to get to your side until the Senator from North Carolina sits down, he is going to sit down after the Senator from Rhode Island asks him the questions.

Mr. BAYH. I hope the Senator from Rhode Island will reread the RECORD. There was no inference that he was doing anything short of his rights, by fact or by inference. I would be the last one to deny the Senator the right to ask anybody he wants to ask questions.

Mr. PASTORE. I suggest to the Senator from Indiana that he read the RECORD as well. He said we are not going to get to the other side of the coin until the Senator from North Carolina sits down, and he cannot sit down until you stop asking questions.

If you want to tone it down I will accept your apology.

Mr. BAYH. I did not say that, but if the Senator from Rhode Island wants an apology, he has it.

Mr. PASTORE. Thank you very much.

Mr. ERVIN. Mr. President, the AFL–CIO Executive Council adopted a report on this subject.

That report expressly states:

> The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers.

Mr. COOK. Mr. President, will the Senator yield me 5 minutes?

Mr. BAYH. May the Senator from Indiana have a chance to express himself, inasmuch as we had a little dialog that I think led to a little misunderstanding of what the Senator from Indiana was trying to say and what the Senator from Indiana did in fact say?

I agree that every Member of this body should be concerned about and study what impact, if any, this amendment will have on the responsibility imposed on parents and the kind of tender, loving care that is provided for their children.

Although I know there is a real difference of opinion on this matter, I think the strongest case can be made to support my position that the well-intentioned and sincere concerns expressed by the Senator from New Hampshire and the Senator from North Carolina are not well founded. The Senator from Indiana suggests that some of those who have been pushing hardest for this amendment agree with his interpretation.

I do not know how you can judge depth of conviction. But there are not too many people around who have been pushing harder for this particular amendment than the Senator from Indiana. I do not think that, because a few people who might be categorized as supporting the equal rights amendment might share the belief think this would lead to totally absolving husbands of any responsibility, that necessarily is the fact.

Let me suggest that I think we are talking about two things, and I think it is important to recognize that. First, we are talking about illegitimacy. I think this was very accurately stated by the Senator from Rhode Island. He nailed it to the wall. We are talking about illegitimate children and we are talking about putative fathers. We cannot do anything about that by passing or rejecting the equal rights amendment.

The fact is that there are a large number of illegitimate children, which should be recognized. I wish we could say we could pass a joint resolution or a constitutional amendment or a law that would say we are not going to have any more illegitimate children. But we are. We are going to have more, with or without this amendment.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. BAYH. I yield.

Mr. PASTORE. I realize that this has nothing to do with putative fathers and illegitimate children. I realize that. We are talking about the support of these children.

Let us assume that a woman does have a child by a man, and each of them earns $50 a week. What is the purport of that without this particular amendment? Do they each have to contribute an equal amount to the support of that child?

Mr. BAYH. The court would take into consideration the capacity of each to support the child and would so decide.

Mr. PASTORE. And each one would make a contribution to the support of the child?

Mr. BAYH. Depending on their ability to contribute that support.

Mr. PASTORE. Whereas if there is a State law that says the responsibility is primarily that of the father, then, of course, we are changing the statute through this amendment.

Mr. BAYH. Primarily of the father, yes, if not solely of the father.

Mr. PASTORE. Let us assume there was a law which provided it is the obligation of the father to support the children. Let us assume there is such a State law. This particular equal rights amendment, without the Ervin amendment, would change that law?

Mr. BAYH. Exactly.

Mr. PASTORE. That is all I want to know.

Mr. BAYH. It would let each case be decided on its own merits, and not on the irrelevant basis of sex.

Let me quote from what the bar of the city of New York has said about the obligation to support children. It said:

> The support obligation of each spouse would be defined in functional terms, depending on each spouse's earning capacity, current resources, nonmonetary contributions to the family welfare.

Interestingly enough, there was a case stated in yesterday's Washington Post, which I have been trying to run down, relative to alimony and child support, in which the court refused to strike down an agreement that was entered into earlier which gave to the woman the primary support of the children. The particular circumstances involved were that the woman was a doctor, earning $42,000 a year, and the man was a college professor, earning $18,000 a year, and the judge indicated that the woman, who made twice as much as the man, ought to contribute twice as much to the well-being of the children.

I want to suggest to those who think this is going to change the whole equation that I do not think it is. Most fathers in this country are still going to have the primary responsibility of supporting the raising of their children, not because they are men, not because they are fathers, but because most fathers are the primary wage earners. They are the ones who, if there is a dissolution of the family unit, are still going to have the earning power on the marketplace. The mothers are not.

It is the intention that this amendment would continue to impose the obligation on that spouse, mother or father, man or woman, who has the greatest capacity to provide for the children—nothing more, nothing less.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I want to associate myself with the remarks of the Senator from Indiana, and then I would like the Senator from Rhode Island to listen to how well off a woman is now, married and with children, and not separated, not divorced.

I might say to the Members of the Senate that when we started this debate, on the first day of it, I put a long statement into the RECORD. One of the sections of that statement was entitled "The Equal Rights Amendment and Alimony and Child Support Laws."

I would like Senators to know what great shape a woman is in now who is married and has children, and read to them the best and one of the few cases in the United States that we have had on the subject of a wife who tries to get adequate support from her husband, when there is no separation and there is no support. I read from the case of McGuire against McGuire, a case in Nebraska:

> This was a Nebraska case involving the wife of a well-to-do farmer. During her marriage of 34 years, the plantiff testified she had been a "dutiful and obedient wife" who had "worked in the fields, did outside chores, cooked and attended to her household duties . . . raised as high as 300 chickens, sold poultry and eggs, and used the money to buy clothing, things she wanted, and for groceries." Her husband did not tolerate any charge accounts. He would give her only small amounts of money and for the last three of four years had not given her any money nor provided her with clothing except a coat a few years previous. The house had no bathroom, bathing facilities or inside toilet and kitchen sink. Water was secured from a well. The furnace had not been in good working order for 5 or 6 years. The furniture was old, and the defendant was driving a 1929 Ford equipped with a heater which did not operate.

Let me emphasize, there was no divorce, no separation; this is just the case of a wife seeking adequate support and maintenance:

> The District Court had required the husband to pay for certain items in the nature of improvements and repairs to the house and for furniture and appliances for the household in the amount of several thousand dollars. They had ordered the defendant to purchase a new automobile with an effective heater, required that his wife be entitled to pledge the credit of the defendant for "necessaries of life," and awarded a personal allowance in the amount of $50 a month.
>
> The Supreme Court of Nebraska overturned the ruling, stating:
>
> ". . . to maintain an action such as the one at bar, the parties must be separated or living apart from each other.
>
> "The living standards of a family are a matter of concern to the household, and not for the courts to determine, even though the husband's attitude toward his wife, according to his wealth and circumstances, leaves little to be said in his behalf. As long as the home is maintained and the parties are living as husband and wife it may be said that the husband is legally supporting his wife and the purpose of the marriage relation is being carried out. Public policy requires such a holding. it appears that the plaintiff is not devoid of money in her own right. She has a fair-sized bank account and is entitled to use the rent from the 80 acres of land left by her first husband, if she chooses . . ."

That is the shape she is in now, I say to the Senator from Rhode Island. That is the shape she is in without a divorce and without a separation. If she has a husband who does not want to spend a dime on her, that is tough, says the court in effect. If he does not want to spend a dime on the children, that is tough. If he does not want to fix the furnace, that is tough. If he does not want to give her a bathroom, that is tough.

I can only say to the Senator—and unfortunately the Senator from New Hampshire is not here at the moment—if he weeps for children when their fathers leave, and he will only vote for this if the father has left and he is compelled to pay by reason of a separation or a divorce, what is he going to do for the wife who has a husband who will not spend a nickel on her or the children?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. PASTORE. Will the Senator from Kentucky please tell me how the equal rights amendment will cure that Nebraska case?

Mr. COOK. Yes, it could.

Mr. PASTORE. Tell me how.

Mr. COOK. I think it would give an entirely different interpretation to the marriage situation. It would give an entirely different interpretation relative to the constitutional right of a male and the constitutional right of a female.

Mr. PASTORE. What has that got to do with giving her support? Suppose the husband says, "I just won't pay"? Then where are you? You cannot eat the Constitution.

Mr. COOK. I think at least we could carry it out within that confined situation where people are not going to get a divorce.

Mr. PASTORE. I want the Senator to understand that I am going to vote for the equal rights amendment, whether it contains any amendment or not, but I am a little concerned about some of the things said by the Senator from New Hampshire. I am concerned that this is not going to be an escape hatch for people who have the responsibility to support their children.

Mr. COOK. I do not think it is at all. Let me state what I think is the easiest answer: I think there will not be a distinction simply by reason of sex, but I think that has nothing to do with the distinction every State legislature can make by law, by reason of financial responsibility to support. We now impose one degree of recognition and distinction upon the father, and say we do it because he is the breadwinner. I do not think we make any distinction as to his ability to pay. His assumed ability to support today is because he is the wage earner, and that is why, in the past, they have used the word "father," because he was the wage earner. Is the Senator telling me we will have fewer on welfare than there are now? Is he saying that because the father is gone and we cannot find him, this amendment is going to change that? Not at all. But we have shifted the emphasis to where it ought to be, to the ability to support rather than to an image.

That is all I say to the Senator. I think it is very clear, and I do not think there can be any great argument about it. Is this constitutional amendment, if passed, going to say to a man who has the ability to work and the financial ability to support, that he may hide behind this constitutional amendment, if a State statute says that the individual of the family who has the financial ability shall do the supporting, that he is not required to and does not have that obligation? I do not think anyone in this room or any legal expert can say that when we take away the word "father" and take on the new term "financial responsibility to pay" that we have not bridged the gap.

The PRESIDING OFFICER. Will the Senator yield to receive a message from the House of Representatives?

Mr. COOK. I yield the floor.

Mr. BAYH. Mr. President, again I think this is a legitimate concern, but I just reemphasize what I said a moment ago. I read for the RECORD and the consideration of those present section 230.5 of the Model Penal Code, which I think suggests the way this particular subject would be handled.

Mr. ERVIN. Which is not the law anywhere in the United States.

Mr. BAYH. But it is a well-taken and well-respected document, I think, and it can be taken as a point of reference for what could be and probably would be the law of the land if this amendment were passed.

The section entitled "Persistent Nonsupport" reads as follows:

> A person commits a misdemeanor if he or she persistently fails to provide support which he or she can provide and which he or she knows he is legally obliged to provide to a spouse, child, or other dependent.

There is no reason why either spouse should not be responsible for the support of the child, depending on which one has the income and earning capacity. I come back again to the best case I could find, no longer ago than yesterday morning, where a woman making $42,000 was required to provide greater support for a child than her husband making $18,000.

In most of the cases in the courts today, in accordance with tradition, it will be the other way around, and what will happen is, it will be found that the man is making $42,000, and the woman is not making anything in the way of income, but is doing all the work at home and making it possible for the father to go out and pursue his profession.

That is the way it is in most cases today, and no doubt will be tomorrow, and it results in the father being the sole support of the child because he, throughout the marriage relationship, is the one who has developed the capacity to earn and provide the children with maintenance.

Mr. PASTORE. That is the situation now, without the equal rights amendment. But my experience in the courts has been that when the court, in any separation or divorce case, states the amount of alimony to be paid or the amount to be given to the children, he usually takes into account what the financial status of the woman is as well. We do not need an equal rights amendment to the Constitution to do that. That has historically been the case: If the woman makes twice as much as the man, and the man is required to contribute to the support of the children, usually, in assessing the amount, the judge should be able not only to take into account the ability to pay, but also the financial status of the woman. That has always been the case.

I am just wondering if we change that. If we do not change it, we have no trouble. But the argument has been made here that we would, and that is the reason we have conducted this little debate, so we will not have any misunderstand-

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ing that this is going to be an escape hatch for wayward fathers.

Mr. BAYH. Quite the contrary. The Senator from North Carolina seeks to change this by suggesting that this is not the case, and that the whole responsibility ought to rest on the fathers. The Senator from Indiana respectfully dissents from that opinion.

Mr. ERVIN. Well, the Senator from North Carolina regrets that he was unable to make a statement which would enlighten the Senator from Indiana as to his position.

The Senator from North Carolina stated that under the laws of 47 of the 50 States of this Union, the father is primarily responsible for the support of his children, and that there are only three States in the Union which have laws which place an equal obligation to support on the father and the mother.

If the equal rights amendment is passed, the laws of 47 States will immediately be stricken down, and there will be no laws until some subsequent laws are enacted.

Now, under the present system, if a prosecuting attorney bringing a criminal action or a next friend bringing a civil action proceeds against the father for the support of a child, all he has to do is show two things: first, that the defendant is the child's father, and, second, that the defendant has failed to support his child. That is all there is to it. Those are matters which can be litigated very quickly. This is an extremely important advantage over what would happen if the equal rights amendment is passed.

If the equal rights amendment is passed, the father, who is called on by the court, by the prosecuting attorney, or by a next friend to support his child, can say:

I have a defense to this accusation. My wife is a better worker than I am. My wife has more property than I have, and my wife is the one who has to be called upon to support.

I say that this amendment ought to be voted for by every Senator who believes that the Scripture speaks correctly when it says that it is better that a man should have a great millstone tied about his neck and should be drowned in the depths of the sea than to have him wrong a little child.

I am ready to vote.

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting the Senator from South Dakota (Mr. MCGOVERN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Florida (Mr. CHILES), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. DOMINICK) is detained on official business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 17, nays 72, as follows:

[No. 117 Leg.]

YEAS—17

Bennett	Cotton	Hollings
Buckley	Eastland	Jordan, Idaho
Byrd, Va.	Ervin	Long
Byrd, W. Va.	Fannin	Pastore
Cannon	Goldwater	Stennis
Cooper	Hansen	

NAYS—72

Aiken	Gambrell	Pell
Allen	Gravel	Percy
Allott	Griffin	Proxmire
Anderson	Gurney	Randolph
Baker	Harris	Ribicoff
Bayh	Hart	Roth
Beall	Hatfield	Saxbe
Bellmon	Hruska	Schweiker
Bentsen	Hughes	Scott
Bible	Inouye	Smith
Boggs	Javits	Sparkman
Brock	Jordan, N.C.	Spong
Brooke	Magnuson	Stafford
Burdick	Mansfield	Stevens
Case	Mathias	Stevenson
Church	McGee	Symington
Cook	Metcalf	Taft
Cranston	Miller	Talmadge
Curtis	Mondale	Thurmond
Dole	Montoya	Tower
Eagleton	Moss	Tunney
Ellender	Muskie	Weicker
Fong	Nelson	Williams
Fulbright	Pearson	Young

NOT VOTING—11

Chiles	Jackson	McIntyre
Dominick	Kennedy	Mundt
Hartke	McClellan	Packwood
Humphrey	McGovern	

So Mr. ERVIN's amendment (No. 1069) was rejected.

Mr. BAYH. Mr. President, yesterday the very distinguished Senator from Mississippi (Mr. STENNIS) and I debated the effect of the equal rights amendment. My friend was apparently quite concerned about the effect the amendment would have on police forces in our States and localities. I said then, and I repeat now, that the amendment will require that all governmental action be based not on the irrelevant characteristic of sex, but on relevant characteristics such as intellectual ability and physical strength.

Yesterday's Evening Star contains an article concerning Mrs. Prentiss Strickland, of the District of Columbia, who has become Washington's first full-time policewoman with full line responsibilities. Mrs. Strickland is assigned to the traffic division, is directing traffic near the White House, and is doing so quite successfully.

According to the article, the Washington police force is attempting to increase the number of women on its staff. These women will perform the same jobs and receive the same pay as policemen. Thus, Washington is already moving in the direction that the equal rights amendment will take the rest of the country.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR THE FIRST TIME

(By Duncan Spencer)

She drew on the fresh white gloves this morning, adjusted the cap, buckled on her .38, told her husband to get breakfast for their two little children and walked out to direct traffic.

It was the first time for Mrs. Prentiss Strickland, and the first time for any full-time policewoman in Washington. "I don't know how I feel," she said, slightly flattered, slightly embarrassed that the TV crews were there every moment.

Mrs. Strickland, Officer Strickland, of the 3700 block of King Avenue SE., is 25, wears octagonal granny glasses, carries a pack of orange traffic tickets and, for the time being, flashes a wide beautiful smile.

She was at the northeast corner of the White House grounds early with her instructor, a white-haired veteran sergeant, Charles Blackburn. Even during the interviews, Blackburn told her to keep an eye on the traffic—as he put it. "I told her to maneuver so she always had the intersection under observation."

"I've wanted to go to the Traffic Division since I graduated," she explained. "I don't really know why, I just like the idea of being outside." A Park Police officer nearby was heard to say, "Women's lib is eating this up—but when you see 3,000 to 4,000 pounds of cars coming, what can you do?" She didn't hear him.

Officer Strickland's gentle, immaculate debut is part of a Metropolitan Police Department drive to get 110 policewomen in the same jobs as men do on the force. The women get the same pay as the men—$8,500 to start. In her seven months as a police officer, Mrs. Strickland has been a clerk and has done patrol duty with a male counterpart. She has written one ticket in her career—for parking.

Blackburn took her out to the middle of Pennsylvania Avenue as the flood of cement trucks, buses and cars grew. For a few moments they worked close together, almost like a pair of dancers, practicing their hand motions. Then she was alone—with her whistle shrilling, her white gloves flashing and the cars doing what they were told.

There was only one mishap—there almost had to be—the whistle broke and Blackburn gave her his.

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the Communications Workers of America entitled "CWA and the Equal Rights Amendment."

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CWA AND THE EQUAL RIGHTS AMENDMENT

The Communications Workers of America is an international union composed of half a million workers, 60 percent of whom are women. In negotiating better wages and benefits for our members, as well as handling their workplace grievances, we pay closest attention to any federal and state legislation which could affect our members' economic and social well-being. With such a large female membership, we have, of course, examined carefully the proposed Equal Rights Amendment now before the Senate.

The Communications Workers of America has always believed in equality of protection under the laws for all. We have fought on the state and federal level for legislation which would guarantee the rights of workers to equality of opportunity on the job and have worked to improve and extend the coverage of benefits presently available under the law. Our effort has been exerted on behalf of all of our members, regardless of race or sex.

Our extensive efforts in this behalf have made it very apparent to us that certain powerful groups catering to corporate interests work hard at frustrating our attempts to extend meaningful protections and benefits presently available either to men or women as a class under state laws and contracts. Indeed, there exist employers who have actually perverted the uses of some of these existing laws to withhold employment or promotional opportunity to individual workers.

However, where the beneficial aspects of legislation limited to one group had been such that it earned the support of our own members in that favored group, we supported the retention of these laws, as well as efforts to extend them to all workers. We opposed efforts to scratch all these laws in one fell swoop. However, actions taken under Title VII of the 1964 Civil Rights Act have voided many of these laws. We applauded those courts which saw fit to extend to men benefits that were available only to women.

On October 12, 1971, the U.S. House of Representatives passed by a 354 to 23 vote an equal rights for women amendment to the Constitution. This amendment, H.J. Res. 208, states: "Equality rights under the law shall not be denied or abridged by the United States or by any state on account of sex." What is the relationship of this constitutional amendment to the laws with which we are concerned in this discussion? Many fear it will lead to the abolition rather than the extension of beneficial state laws which protect only women, rather than both sexes. The Senate Judiciary Committee refused to incorporate language in the amendment aimed at preserving these laws, so that Senate passage and state ratification of the constitutional amendment could place the fate of this state protective legislation in question.

We went to make clear, however, that even without the incorporation of language specifically addressed to the state protective labor laws, we see the Equal Rights Amendment as a means of asserting not an equal right to be abused, but equality of the right to protection. The Communications Workers of America has always supported the extension of existing protective legislation for women to men. We look upon the Equal Rights Amendment as constitutional guarantee, a national commitment that will aid us in achieving this goal. If the safety and family commitment of women have been recognized as valid concerns in the past, why not today extend the same concern and compassion to men?

Anyone who protests discriminatory treatment does so in hopes of obtaining at least the same privileges as have been enjoyed by the favored class. We reiterate our belief that equal rights and privileges do not mean equality of abuse. Where benefits of employment have been enjoyed by one class of people and not another the employer's duty to remedy the present effects of past discrimination has been made clear by the courts. We ask those state legislatures who will be active in the processes of ratification and reconsideration of state statutes which apply to only one sex to remember that the mere abolition of truly beneficial laws will meet with fierce opposition by working people.

In closing, we offer that the Equal Rights Amendment is one more step in a long American history of securing individual liberties. American citizens should have equal access to whatever opportunities their abilities and choice incline them. This right of access should be safeguarded by our Constitution no less when these citizens are women. We enjoin the various state legislatures, however, to observe the dictates of justice, equity and concern for the common good, as well as a growing legal precedent when considering laws that confer benefits for working women and men.

AMENDMENT NO. 1070

Mr. ERVIN. Mr. President, I call up my amendment No. 1070 and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

At the end of section 1 add the following sentence: "This article shall not impair the validity, however, of any laws of the United States or any State which secure privacy to men or women, or boys or girls.".

Mr. ERVIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, will the distinguished Senator from North Carolina yield for a question?

Mr. ERVIN. I am delighted to yield to the Senator from West Virginia for a question.

Mr. BYRD of West Virginia. Would the distinguished Senator from North Carolina be willing to agree to a unanimous consent agreement cutting the time in half on amendments? In other words, reducing the time from 2 hours to 1 hour, to be equally divided, as in the previous order?

Mr. ERVIN. That will be entirely satisfactory to me.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on any amendment to the pending measure be limited to one hour to be equally divided and controlled as heretofore agreed upon.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. I thank the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, there are statutes on the Federal statute books and on the statute books of all the States which secure the right of privacy to men and women and to boys and girls.

The statute that illustrates statutes of this character is section No. 95-48 of the General Statutes of North Carolina which provides:

§ 95-48. *Separate toilets required.*—In the interest of public health and in compliance with G. S. 130-160 and 143-138, adequate, well-lighted and ventilated toilet facilities plainly lettered and marked, for each sex shall be provided and maintained in a sanitary condition by all persons and corporations employing both males and females. Such toilet facilities shall be separated by full and substantial walls. (1913, c. 83, s. 1; C. S., s. 6559; 1963, c. 1114, s. 1.)

In addition to that, there are statutes which require separate toilet facilities for boys and girls in public schools. There are statutes that require separate toilet facilities for men and women in public buildings and in buildings used for the interstate transportation of passengers. In addition to that there are statutes in every State and there are statutes upon the Federal statute books which require that men and women prisoners serving sentences under court order shall be confined in separate cells and, in many cases, in separate prisons.

Virtually, every State in this Union has laws establishing reformatories for boys and girls who transgress the laws of the States. Those laws require that the reformatories for boys and girls be separate.

Then there are many statutes which provide, as in the case of section 148-44 of the General Statutes of North Carolina, that the Department of Prisons shall provide quarters for female prisoners separate from those of male prisoners; and shall provide for separate facilities for youthful offenders, as required by sections 15-210 to 15-215.

The question raised by this amendment is what will be the effect of the Equal Rights amendments on laws which establish privacy of this nature and which require that the sexes be separated in restrooms and reformatories and prisons. I have read what might be called the bible of what some people designate as the women's lib, the Yale Law Journal article which appeared in the issue for April 1971.

Here is what it says, summing up its comments, reading from page 901 to 902:

It is impossible to spell out in advance the precise boundaries that the courts will eventually fix in accommodating the Equal Rights Amendment and the right of privacy. In general it can be said, however, that the privacy concept is applicable primarily in situations which involve disrobing, sleeping, or performing personal bodily functions in the presence of the other sex. The great concern over these matters expressed by opponents of the Equal Rights Amendment seems not only to have been magnified beyond all proportion but to have failed to take into account the impact of the young, but fully recognized, constitutional right of privacy.

It should be added that the scope of the right of privacy in this area of equal rights is dependent upon the current mores of the community. Existing attitudes toward relations between the sexes could change over time—are indeed now changing—and in that event the impact of the right of privacy would change too.

In other words, the opponents of the equal rights amendment say that they cannot spell out in advance the boundaries that the courts will eventually fix in accommodating the equal rights amendment to the right of privacy. They also say that the effect on the amendment of the right of privacy is not only uncertain at present, but that it may fluctuate or change one way or the other in the future.

That is not the opinion of persons who are experts in the field of constitutional law and the interpretation of statutes.

The distinguished Senator from Indiana wrote a letter to Fred Buzhardt, General Counsel of the Defense Department, in which some comment was made on this point. As the Senator from North

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Carolina interprets the letter from the General Counsel of the Department of Defense, the General Counsel expressed the opinion that even though in the military it would be possible to arrange separate facilities for men and women while they were at some established posts, he pointed out that under this amendment the men and women would be sent into combat the perform exactly the same service, and after doing this, he pointed out the obvious:

Even if segregation in living quarters at facilities were allowed under the amendment, during combat duty in the field, there are often, in effect, no facilities at all. The privacy for both sexes might be impossible to provide or enforce.

Let us see what the effect of the equal rights amendment on the right of privacy of men and women and boys and girls who are not affiliated with the military is.

Professor Freund, of the Harvard Law School, testified about this matter before the Senate Judiciary Committee in 1970. After stating that the amendment would be absolute, Professor Freund stated that it would follow that the equal rights amendment "would require that there be no segregation of the sexes in prisons, reform schools, public restrooms, and other public facilities."

Prof. Philip Kurland, editor of the Supreme Court Review and professor of law at the University of Chicago Law School, is one of this Nation's greatest constitutional scholars. He testified in response to questions put to him by me at the hearings on the equal rights amendment before the Senate Committee on the Judiciary as follows:

Senator ERVIN. . . . the law which exists in North Carolina and in virtually every other state of the Union which requires separate restrooms for boys and girls in public schools would be nullified, would it not?

Professor KURLAND. That is right, unless the separate but equal doctrine is revived.

Senator ERVIN. And the laws of the states and the regulations of the Federal government which require separate restrooms for men and women in public buildings would also be nullified, would it not?

Professor KURLAND. My answer would be the same.

Many women are compelled by necessity rather than by choice to work in industrial plants. Under the laws of virtually every State in the Union, industrial plants and other facilities are required to provide separate restrooms and separate dressing rooms for women in instances where those men are required to change their wearing apparel.

Yesterday I placed in the Record and read to the Senate a statement made by representatives of most of the working women of America who belong to the union, in opposition to the equal rights amendment. In this statement the representatives of these working women gave many reasons why Congress should not submit the equal rights amendment to the States and many reasons why the States should not ratify such amendment if Congress should be foolish enough to submit to them. They gave as one of the reasons that the equal rights amendment would destroy rights cause new problems by destroying laws "that require restrooms and dressing rooms for women workers."

I do not care to elaborate this point. I merely suggest that those Members of the Senate who believe that government should not have the power to segregate men and women and boys and girls in restrooms or to segregate male and female prisoners in institutions of correction and prisons ought to vote against my amendment. But those Senators who believe that the right of privacy of men and women and boys and girls ought to be preserved against obstruction by the equal rights amendment ought to vote for my amendment.

It is clear as the noonday sun in a cloudless sky that the only reason that this Nation has separate restrooms for men and women and boys and girls and separate prisons for men and women prisoners is sex. Consequently, being a distinction based on sex, the equal rights amendment would abolish the power of the Federal Government and the power of the 50 States to require separate facilities of this nature for persons of different sexes.

I am ready to yield back the remainder of my time on the amendment.

Mr. BAYH. Mr. President, inasmuch as this is a very significant point raised by the Senator from North Carolina I think a few words of response are required. The point has been raised, so I feel that I must at least express my very strong contrary views to our distinguished colleague from North Carolina. I think that perhaps the best way and the most efficient way to do this is, first, to read a quotation from Professor Dorsen of the New York University Law School. I think he pretty well describes this matter. Second, I ask unanimous consent to have printed in the RECORD after the quotation by Professor Dorsen portions of the opinion in the case of Griswold against Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAYH. Professor Dorsen states:

It is sometimes claimed that an amendment would require all public restrooms to be integrated, along with the sleeping quarters of prisons and other public institutions. This, of course, is nonsense. The Constitution must be read as a whole, and an equal rights amendment would fit into the total constitutional framework. In particular, the right of privacy, recognized by the Supreme Court in the Connecticut birth control case, *Griswold v. Connecticut*, 381 U.S. 479 (1965), must be considered in the present context. While the limits of the right of privacy are as yet undefined, it seems plain that its implications would permit, and might require, separate restrooms for the sexes and separate sleeping quarters in public institutions. We should not readily assume that the proposed constitutional amendment would be pressed unreasonably to a point where other constitutional guarantees would be compromised. Accordingly, we find no serious problem in the "restroom-bedroom" specters raised by opponents of an equal rights amendment.

EXHIBIT 1

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. See *Poe v. Ullman*, 367 U.S. 497, 516–522, 81 S.Ct. 1752, 6 L.Ed.2d 989 (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Fourth and Fifth Amendments were described in *Boyd v. United States*, 116 U.S. 616, 630, 6 S. Ct. 524, 532, 29 L.Ed. 746, as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life."

We recently referred in Mapp v. Ohio, 367 U.S. 643, 656, 81 S.Ct. 1684, 1692, 6 L.Ed.2d 1081, to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." See Beaney, The Constitutional Right to Privacy, 1962 Sup.Ct. Rev. 212; Griswold, The Right to be Let Alone, 55 Nw.U.L. Rev. 216 (1960).

We have had many controversies over these penumbral rights of "privacy and repose." See, e.g., Breard v. City of Alexandria, 341 U.S. 622, 626, 644, 71 S.Ct. 920, 923, 933, 95 L.Ed. 1233; Public Utilities Comm. v. Pollak, 343 US 451, 72 S.Ct. 813, 96 L.Ed. 1068; Monroe v. Pape, 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed. 2d 492; Lanza v. State of New York, 370 U.S. 139, 82 S.Ct. 1218, 8 L.Ed.2d 384; Frank v. State of Maryland, 359 U.S. 360, 79 S.Ct. 804, 3L.Ed.2d 877; Skinner v. State of Oklahoma, 316 U.S. 535, 541, 62 S.Ct. 1110, 1113, 86 L.Ed. 1655. These cases bear witness that the right of privacy which presses for recognition here is a legitimate one.

The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." NAACP v. Alabama, 377 U.S. 288, 307, 84 S.Ct. 1302, 1314, 12 L.Ed.2d 325. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship.

We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

Reversed.

Mr. BAYH. It is unequivocally clear in the report of the Committee on the Judiciary that this is the intention of the Senate. It is equally clear because identical language is in the House report, that this is the intention. The right to privacy will continue to exist and will be fully protected after the equal rights amendment is ratified.

Mr. COOK. Mr. President, this is the amendment my staff in reviewing it affectionately referred to as the "potty amendment."

What I do not understand, if the logic of the Senator from North Carolina is correct, is this. He said if I had all of these constitutional rights up to now as a man, and a woman has not, that I had the right to go into a lady's restroom. But as a matter of fact today if a man goes to a lady's restroom he gets arrested. We do not have that right.

If the theory of the Senator is correct that it is as clear as the sun in a cloudless sky with respect to what we are talking about, it must be a rainy day, such as today, when we cannot see the sun. It is said I have had these rights all along and we are giving equal rights under the Constitution which, in essence, means we have not been doing it up to now.

If I had more rights than the feminine sex, and my rights were equal with my brethren, and equal to the rights of women, then I had the right to utilize both of those facilities, but she only had the right to use one facility. Obviously, this is not the case.

I get the notion that we are being told there is a statute in every State of the Union, and I expect that we could be told, if time had not expired, that all those statutes are going to be eliminated; but, if I had all those rights and I could go to both, I would be arrested if I went to the other. So I think this is, although I hate to use the word, a specious argument. I do not think it can stand the march of legal opinion. It cannot stand up against the Griswold case, because the constitutional right of privacy can be used to sanction separate male and female facilities for activities which involve disrobing, sleeping, and personal bodily functions. It cannot stand the march of logic. I do not think it has anything to do with the argument of constitutionality and that it would do a great injustice to the intelligence of the American people if the amendment were attached to the constitutional amendment, because the equal rights amendment does not prohibit the separation of the sexes where the right of privacy is involved.

I yield back my time.

Mr. ERVIN. Mr. President, if I could recapture some of the time I have yielded back——

Mr. COOK. Mr. President, I have no objection.

Mr. ERVIN. The distinguished Senator from Kentucky may think this is specious, but two of the greatest constitutional lawyers in the United States do not think it is specious. I have read into the RECORD the testimony of Prof. Paul Freund, of the Harvard Law School, and the testimony of Phil Kurland, professor of law at the University of Chicago Law School. I do not think anything could be more plainly demonstrated than the fact that the equal rights amendment will prohibit separate restrooms for men and women.

We have a law passed that says a certain restroom must be marked as being usable for women and another as being usable for men.

The present law provides that a person of neither sex can use a restroom marked for the other sex. That distinction is the most obvious distinction based on sex. The only reason we have separate restrooms is on account of sex, and the equal rights amendment will render unconstitutional every distinction based on sex and it will clearly render unconstitutional every Federal and State law requiring separate restrooms for the two sexes and every Federal and State law requiring that men and women prisoners be detained in different cells or in different prisons.

Mr. BAYH. Mr. President, I yield back my time.

Mr. ERVIN. Mr. President, I do the same.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. STAFFORD) is detained on official business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 11, nays 79, as follows:

[No. 118 Leg.]

YEAS—11

Bennett	Ervin	Long
Byrd, Va.	Fannin	Stennis
Cooper	Hansen	Talmadge
Eastland	Hollings	

NAYS—79

Aiken	Brooke	Dominick
Allen	Buckley	Eagleton
Allott	Burdick	Ellender
Anderson	Byrd, W. Va.	Fong
Baker	Cannon	Fulbright
Bayh	Case	Gambrell
Beall	Church	Goldwater
Bellmon	Cook	Gravel
Bentsen	Cotton	Griffin
Bible	Cranston	Gurney
Boggs	Curtis	Harris
Brock	Dole	Hart
Hatfield	Montoya	Smith
Hruska	Moss	Sparkman
Hughes	Muskie	Spong
Inouye	Nelson	Stevens
Javits	Pastore	Stevenson
Jordan, N.C.	Pearson	Symington
Jordan, Idaho	Pell	Taft
Kennedy	Percy	Thurmond
Magnuson	Proxmire	Tower
Mansfield	Randolph	Tunney
Mathias	Ribicoff	Weicker
McGee	Roth	Williams
Metcalf	Saxbe	Young
Miller	Schweiker	
Mondale	Scott	

NOT VOTING—10

Chiles	McClellan	Packwood
Hartke	McGovern	Stafford
Humphrey	McIntyre	
Jackson	Mundt	

So Mr. ERVIN's amendment (No. 1070) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1071

Mr. ERVIN. Mr. President, I call up my amendment No. 1071, and ask for its immediate consideration.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

At the end of section 1 add the following sentence:

This article shall not impair the validity however of any laws of the United States or any State which make punishable as crimes sexual offenses.

Mr. BAYH. Will the Senator request the yeas and nays?

Mr. ERVIN. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and the nays were ordered.

Mr. ERVIN. Mr. President, virtually every State in this Union has certain criminal statutes which prohibit the use of obscene language to female telephone operators, or prohibit the use of obscene language in the presence of women, or which make it a criminal offense for a man to seduce an innocent and virtuous woman under the promise of marriage, or which make it a crime for a man to have carnal knowledge of an immature girl under the age of consent. These laws will be stricken down by the equal rights amendment.

There is another law which we have known in popular parlance as the Mann White Slavery Act. This law makes it a crime for men to transport women in interstate or foreign commerce for immoral purposes or for the purposes of debauchery or for the purposes of prostitution. This law will also be stricken down as unconstitutional by the equal rights amendment.

I find my views on this subject sustained by the article by Prof. Thomas Emerson and three young lady lawyers which appeared in the Yale Law Journal for April 1971. An article which is supported completely by Congresswoman GRIFFITH who is the primary supporter of the ERA in the House of Representatives. I read from page 954 of that article:

C. Criminal law

The Equal Rights Amendment will not affect most criminal laws because statutory definitions of crimnal activity make men and women equally liable for most offenses; that

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is, men and women can commit and be punished for most crimes equally. However, in the area of sexual activity the norm changes. Sex differentiation and sex discrimination pervade laws about overt sexual behavior and behavior with sexual overtones, reflecting the confluence of social stereotypes about gender and sexuality. Many of the laws, such as seduction laws, statutory rape laws, and laws prohibiting obscene language in the presence of women, embody a stereotype of women as frail and weak-willed in relation to sexual activity. Others, such as the prostitution and "manifest danger" laws, display a contradictory social stereotype: women who engage in certain kinds of sexual activity are considered more evil and depraved than men who engage in the same conduct. The Equal Rights Amendment would not permit such laws, which base their sex discriminatory classification on social stereotypes. Courts would generally strike down these laws rather than extend them to men because of the rule of strict construction of penal laws, described above.

This article points out that there are in many States criminal statutes which make the forcible commission of sodomy serious offenses, felonies, punishable by long terms of imprisonment. I read what the article in the Yale Law Journal says about what the equal rights amendment would do to laws of this nature:

Rape laws—

Speaking of forcible rape—

could thus be sustained as a legislative choice to give one part of the body (unique to women) special protection from physical attack. By contrast, the statutes which include penetration "per anum and per os" in the definition of rape, could not justifiably be limited to female victims because no physical characteristic unique to women is being protected by these laws. A court could choose between invalidating these broader rape laws or else limiting them to penetration of a woman's genitals. In the case of such a serious offense, courts would probably choose to retain the central and valid portion of the law and invalidate only the part referring to "penetration per anum and per os."

In other words, the article says that if a man forcibly penetrates the mouth of a woman against her will, that would be stricken down as unconstitutional by the equal rights amendment.

I now read another passage, on pages 957, 958, and 959:

With a few notable exceptions, laws which punish sexual intercourse per se as a constructive assault rest on the premise that the female party is incapable of giving meaningful consent. Best known among these are the statutory rape laws, which punish men for having sexual intercourse with any woman under an age specified by law, frequently sixteen. Other laws, covering more specific situations, prohibit men from having sexual intercourse with female wards, patients, and students. A related series of laws explicitly prohibit men from obtaining women's consent to sexual intercourse through misrepresentation, deception, or fraud.

These laws suffer from a double defect under the Equal Rights Amendment. First, they single out women for special protection from sexual coercion, even where men in similar circumstances are equally in need of protection; in this sense the laws are "underinclusive."

To be sure, the singling out of women probably reflects sociological reality: in this society, young women, who learn both that marriage is the most important goal for them and that they may pursue it only passively, are undoubtedly more susceptible than young men to the lures of persons who want to take sexual advantage of them. Likewise, in this society, the bad reputation and illegitimate child which can result from an improvident sexual liaison may be far more ruinous to a young woman's psychological health than similar conduct is to a young man's. But the Equal Rights Amendment forbids finding legislative justification in the sexual double standard, and requires such statutes to be framed in terms of the general human need for protection rather than in terms of crude sexual categories.

Second, traditional laws protecting all women of a particular age or status against sexual assault are "overinclusive" to the extent that they punish sexual activity when unwanted penetration of the vagina is not involved. It might be argued that statutory rape laws and other laws which render a woman's consent inoperative should be sustained on the same theory that forcible rape laws are upheld: that the legislature wished to give special protection to young women's genital organs. However, it is unlikely that such claims could withstand close court scrutiny under the unique physical characteristics tests. In particular, a court would be unable to find a close correlation between the activity being regulated (consensual sexual intercourse) and the justifying physical basis (susceptibility of the vagina to unwanted penetration).

Even if it found noncoerced sexual intercourse rarely physically harmful to postpubescent girls, a court might find that sexual intercourse is physically dangerous to girls who have not reached puberty. Upon finding such a fact situation, the court would conclude that the class of women victims is defined too broadly. If it made such a determination, a court could limit the operation of the statutory rape laws to prepubescent children. In the alternative, the court could strike down the law altogether because of its overbreadth and because it fails to base its sex difference upon a unique physical characteristic of women.

If invalidated, some of the laws, such as the seduction laws, which derive from outdated standards of courting and morality, would probably not be resuscitated.

So this passage says the equal rights amendment would render unconstitutional all laws dealing with consensual sexual intercourse by a man with a girl unless the girl was under the age of puberty. In other words, a mature man, wise in the ways of the world, could induce a young girl above the age of puberty and under the age of 16 to have intercourse with him and he would go unwhipped by justice under the equal rights amendment.

Then this article also says that the prostitution laws prohibiting the interstate transportation of women for purposes of prostitution would be stricken down under the equal rights amendment, unless extended to cover prostitution on the part of men.

With reference to the White Slavery Act, I read at page 965, as follows:

As prostitution laws are redefined to cover male as well as female prostitutes, a court faced with a challenge to the Mann Act might also be inclined simply to extend this law to apply to the transportation of men for illicit purposes. Under current conditions, such an extension would not subject a large number of additional people to criminal liability. However, this would disregard the legislative history and body of court decisions interpreting Congressional intent, which have placed great emphasis on the weakness of women. As late as 1960, the Supreme Court declared: "A primary purpose of the Mann Act was to protect women who are weak from men who are bad." *Denning v. United States*, 247 F. 463, 465. It was in response to shocking revelations of subjugation of women too weak to resist that Congress acted. See H.R. Rep. No. 47, 61st Cong., 2d Sess., pp. 10–11. As the legislative history discloses, the Act reflects the supposition that the women with whom it sought to deal often had no independent will of their own, and embodies, in effect, the view that they must be protected against themselves.

Given this background, a court might feel that extending the law to cover men would be expanding criminal liability further than Congress intended. Here, as with other criminal laws, a court would probably resolve doubts about congressional intent by striking down the law.

I digress to remark that the courts are not empowered to change the language of congressional enactments. They could not possibly change the meaning of the Mann White Slavery Act by substituting the word "men" where it talks about women being victims of the offense. So I concur in the last remark which the authors of this article make, that the court would probably resolve doubts about congressional intent by striking down the law.

Mr. President, I ask unanimous consent to have printed in the RECORD the excerpt in the article from the Yale Law Journal dealing with criminal law.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM YALE LAW JOURNAL

C. CRIMINAL LAW

The Equal Rights Amendment will not affect most criminal laws because statutory definitions of criminal activity make men and women equally liable for most offenses; that is, men and women can commit and be punished for most crimes equally.[200] However, in the area of sexual activity the norm changes. Sex differentiation and sex discrimination pervade laws about overt sexual behavior and behavior with sexual overtones, reflecting the confluence of social stereotypes about gender and sexuality.[201] Many of the laws, such as seduction laws, statutory rape laws, and laws prohibiting obscene language in the presence of women, embody a stereotype of women as frail and weak-willed in relation to sexual activity. Others, such as the prostitution and "manifest danger" laws, display a contradictory social stereotype: women who engage in certain kinds of sexual activity are considered more evil and depraved than men who engage in the same conduct. The Equal Rights Amendment would not permit such laws, which base their sex discriminatory classification on social stereotypes. Courts would generally strike down these laws rather than extend them to men because of the rule of strict construction of penal laws, described above.[202] Legislatures, of course, would be able to extend or re-enact any laws about sex offenses to apply equally to men and to women. A few types of criminal statutes, most notably rape laws, may be justified as deriving their sex bias from physical realities. Here the courts would closely scrutinize the laws to determine whether they fall within the scope of the exception for unique physical characteristics.

1. SEXUAL ASSAULTS

Rape laws undoubtedly raise one of the most difficult problems under the Equal Rights Amendment because they deal with such a serious offense and because, though

Footnotes at end of article.

apparently simple, they involve two very different kinds of sex distinction. As most commonly defined in the laws of the states, as well as in the Model Penal Code, rape is the forcing of sexual intercourse by a man on a woman, without her consent.[203] This definition involves two kinds of sex differentiation: only a man can be found guilty as a perpetrator of rape, and only a woman can be the victim of rape.[204] These distinctions are usually not made explicit in the language of the statutes, but their interpretation is central to the treatment of rape laws under the Equal Rights Amendment.

Insofar as rape is defined as penetration into the vagina by the penis, courts could uphold forcible rape laws which limit liability to men as based on a unique physical characteristic of men.[205] Laws which define rape as forced sexual intercourse could also be sustained if a court defined sexual intercourse as an act done only by a man and a woman together, and if the statute clearly and appropriately defined women as the sole victims of rape.[206] Using the criteria described in Part III for determining whether a law bears the necessary close relationship could conclude that, on balance, the law to a unique physical characteristic,[207] a court should be sustained. Among other things, the court might find that rape is an extremely traumatic event for the victim; that most men are capable of penetration, and therefore, rape; that a major proportion of sexual assaults consist of sexual intercourse forced by men; that penetration by a man's penis carries with it the possibility of unwanted pregnancy for the victim and forcible penetration carries high danger to injury to the victim; that a criminal penalty is an appropriate way of deterring rape; and that, accompanied by procedural and substantive rights, the law is sufficiently narrow and specific in its scope to be upheld.

Similarly, insofar as a court could find that the rape laws are intended to give special protection from assault to women's vaginas, it could sustain the laws even though their protection is limited to women. A court would conduct an inquiry analogous to that described above for determining whether, under the unique physical characteristics tests, the rape laws could properly be limited to female victims. All or nearly all women's genitals differ from all or nearly all men's genitals in that they can be penetrated in an act of sexual assault against the victim's will. Rape laws could thus be sustained as a legislative choice to give one part of the body (unique to women) special protection from physical attack. By contrast, the statutes which include penetration "per anum and per os" in the definition of rape, could not justifiably be limited to female victims because no physical characteristic unique to women is being protected by these laws. A court could choose between invalidating these broader rape laws or else limiting them to penetration of a woman's genitals. In the case of such a serious offense, courts would probably choose to retain the central and valid portion of the law and invalidate only the part referring to "penetration per anum and per os." Alternatively, the legislature could extend the laws to cover the designated assaults on all persons, regardless of sex.

Rape is only one of a number of nonconsensual sexual acts which are penalized throughout the United States.[208] Laws governing such offenses are based on two related sets of concerns. The first is that unwanted sexual contact may be imposed on a person in ways ranging from physical force and threats to more subtle coercion in the form of deception and abuse of positions of trust and authority. The second range of concerns is that particular groups in the population may be especially susceptible to such sexual coercion. By merging these two aspects of the problem of sexual assault, traditional laws provide highly uneven and irrational coverage permeated by sex discrimination.

With a few notable exceptions, laws which punish sexual intercourse per se as a constructive assault rest on the premise that the female party is incapable of giving meaningful consent.[209] Best known among these are the statutory rape laws, which punish men for having sexual intercourse with any woman under an age specified by law, frequently sixteen.[210] Other laws, covering more specific situations, prohibit men from having sexual intercourse with female wards, patients, and students.[211] A related series of laws explicitly prohibit men from obtaining women's consent to sexual intercourse through misrepresentation, deception, or fraud.[212]

These laws suffer from a double defect under the Equal Rights Amendment. First, they single out women for special protection from sexual coercion, even where men in similar circumstances are equally in need of protection; in this sense the laws are "underinclusive." [213] To be sure, the singling out of women probably reflects sociological reality: in this society, young women, who learn both that marriage is the most important goal for them and that they may pursue it only passively, are undoubtedly more susceptible than young men to the lures of persons who want to take sexual advantage of them. Likewise, in this society, the bad reputation and illegitimate child which can result from an improvident sexual liaison may be far more ruinous to a young woman's psychological health than similar conduct is to a young man's. But the Equal Rights Amendment forbids finding legislative justification in the sexual double standard, and requires such statutes to be framed in terms of the general human need for protection rather than in terms of crude sexual categories.

Second, traditional laws protecting all women of a particular age or status against sexual assault are "overinclusive" to the extent that they punish sexual activity when unwanted penetration of the vagina is not involved. It might be argued that statutory rape laws and other laws which render a women's contest inoperative should be sustained on the same theory that forcible rape laws are upheld: that the legislature wished to give special protection to young women's genital organs.[214] However, it is unlikely that such claims could withstand close court scrutiny under the unique physical characteristics tests. In particular, a court would be unable to find a close correlation between the activity being regulated (consenusal sexual intercourse) and the justifying physical basis (susceptibility of the vagina to unwanted penetration).[215]

Even if it found noncoerced sexual intercourse rarely physically harmful to postpubescent girls, a court might find that sexual intercourse is physically dangerous to girls who have not reached puberty. Upon finding such a fact situation, the court would conclude that the class of women victims is defined too broadly. If it made such a determination, a court could limit the operation of the statutory rape laws to prepubescent children. In the alternative, the court could strike down the law altogether because of its overbreadth and because it fails to base its sex difference upon a unique physical characteristic of women.

If invalidated, some of the laws, such as the seduction laws, which derive from outdated standards of courting and morality, would probably not be resuscitated. Upon reexamination, legislatures might decide that the existing kidnap laws or other unlawful restraint laws already penalize any serious offensive deception or decoying, and that further penalties would be duplicative. Legislatures would be free, however, to extend the laws against sexual coercion to protect men as well as women. This is particularly likely where sexual relations with preadolescent children are involved.[216]

A slightly different problem is raised in states which set penalties for sexual activities initiated by women, as well as by men, but where different laws, standards of guilt, and penalties apply depending on whether the actor is a woman or a man. Michigan, for example, prohibits women from engaging in sexual intercourse with boys younger than fifteen.[217] But the law requires that the defendant actually knew the boy was under fifteen (the statutory rape law does not require actual knowledge of the girl's age), and the penalty is a maximum of five years, as compared with the lifetime maximum for statutory rape.[218] Aside from the forcible rape laws, whose special coverage can be justified on the basis of physical characteristics unique to men and women, the Equal Rights Amendment would require sexual assault laws to provide equal standards of guilt and penalties for men and women offenders.[219]

Considering the variety of laws regulating nonconsensual sexual activity, ranging from rape to sexual contact, it is surprising to realize that all of them can be reduced to a few basic elements: the touching of or with genitals, by means of force or deception, and, in the case of young people, the touching of genitals by an older person. The current sexual offense laws are highly duplicative, both of one another, and of general penal laws against kidnap, assault, and battery. The great degree of overlap in these laws, as well as the many distinctions without differences, provide a fertile field for confusion; they also encourage overcharging and extreme penalties. Moreover, the particular situations with which many of the laws deal evoke strongly emotional reactions and foster legislative mandates of higher penalties than the actual act usually merits. For instance, rape is singled out from other sexual offenses and classified with murder for the purposes of sentencing. This classification helps neither the accused [220] nor the victim.[221] Moreover, it tends to reduce the seriousness of other forms of sexual assault besides actual intercourse, which may well be equally disturbing for the victim.

The Model Penal Code has undertaken to bring together the confusing disparity of sexual offenses into a few categories structured in terms of the nature of the act, the vulnerability of the victim, and the coerciveness of the situation.[222] The Equal Rights Amendment would require legislatures in all states to reformulate at least some of their laws. While legislatures could very simply bring the laws into line with the Amendment by substituting the word "person" every time the words "female," "male," "man" or "woman" appear, hopefully they would be encouraged to re-evaluate, rationalize, and simplify this crazy-quilt area of criminal law.

2. CONSENSUAL SEXUAL RELATIONS

Criminal laws in every state penalize some sexual liaisons, even though both partners are fully responsible for their conduct and engage in the acts voluntarily and privately. As with nonconsensual sexual conduct, legislatures have frequently linked the definition of these crimes to the sex of one or both partners.

Statutes prohibiting sodomy generally sweep in alike men and women, married and unmarried persons, heterosexuals and homosexuals.[223] As a result, most of these statutes would not violate the Equal Rights Amendment, prohibiting as they do certain acts regardless of the identity of the actor or the circumstances of the act. A few states, however, limit liability under their sodomy statutes to males.[224] Like rape, the definition of sodomy can be limited to penetration by the penis. Where sodomy is defined in this way, such that females are incapable of com-

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mitting it, laws restricted to males may be sustained under the Equal Rights Amendment. However, a statute which defined sodomy more broadly, to include all oral-genital contact, would violate the Amendment if it were restricted to males.

A few adultery laws also contain sex discriminatory provisions which would be impermissible under the Equal Rights Amendment. Roman law defined adultery as sexual intercourse with another man's wife.[225] Some states reflect this one-sided view by failing to define intercourse between a married man and a single woman as adultery.[226] In Massachusetts and Oregon, an unmarried woman cannot be punished for relations with a married man, although an unmarried man is criminally liable if he participates in an adulterous relationship with a married woman.[227] Discrepancies like these in the liability of men and woman derive from social attitudes toward the relative offensiveness of extramarital activity by men and by women. The singling out of married women's extramarital activity harks back to concepts of a married woman as the property of her husband, although common law justifications focused on the fact that a married woman's liaison might produce offspring who would have her husband's name and whom her husband would have the duty to support.[228] However, the core idea in adultery is that extramarital intercourse per se threatens the marriage relationship. If this is the case, a court could not permit a state to set stricter penalties for a woman's extramarital activity than for a man's.

Following the rule of narrow construction of criminal statutes, courts will most likely invalidate sodomy or adultery laws that contain sex discriminatory provisions, instead of solving the constitutional problems by extending them to cover men and women alike.[229] This is especially likely since statutes regulating consensual sexual activity are also open to attack under the constitutional right to privacy in intimate sexual matters.[230] However, a legislature intent on retaining criminal penalties for sodomous or adulterous conduct could easily bring the laws into line with the Equal Rights Amendment by extending them to apply equally to men and women.

3. PROSTITUTION

At common law and still today in most parts of the United States, prostitution is, by definition, a crime committed only by women.[231] Even statutes neutral on their face turn out to be enforced only against women offenders.[232] Prostitution laws have been the focus of much heated controversy about the proper role of law in regulating moral or sexual behavior, and many people believe prostitution should not be criminalized at all.[233] But more narrowly, prostitution laws have been attacked as discriminating against women. Two kinds of sex bias are written into the majority of prostitution laws: first, women who sell access to their own sexual conduct are penalized, whereas men who do the same thing are not; and, second, the prostitute, who under current psychosocial conditions is usually a woman, is penalized, whereas the patron, who is usually a man, is not.[234]

Courts may be expected to hold that laws which confine liability for prostitution to women only are invalid under the Equal Rights Amendment. There is no unique physical characteristic of women which would justify outlawing prostitution when it is done by women, and not when it is done by men. Earlier beliefs that women are the carriers of venereal disease because of their sex have no scientific basis. Ideas that women who sell access to their bodies are social problems, whereas men who do the same thing are not, derive their only rationality from a social double standard which may not enter into legislative or judicial determinations under the Equal Rights Amendment. Even in the absence of the Equal Rights Amendment, recent reforms of prostitution laws have extended the coverage to men. Thus, the Model Penal Code refers to a person guilty of prostitution as "he or she."[235] The New York Penal Code contains a section explicitly stating that both men and women may be guilty of prostitution.[236] With the impetus of the Equal Rights Amendment, other state legislatures can be expected to move in this direction.

If prostitution laws were redefined to cover male prostitutes, then the courts would be unlikely to find a per se violation of the Equal Rights Amendment in the fact that prostitution laws penalize the "seller" but not the "buyer." In general, regulating the conduct of the seller and not the buyer is a rational governmental choice, although in the case of prostitution such a choice may not make sense, even in terms of effective deterrence.[237] Nevertheless, prostitution laws which penalize only the seller would be subject to judicial scrutiny as classifications which fall more heavily on one sex than the other.[238] Thus, to sustain its laws, a state would bear a heavy burden of demonstrating the rationality of regulating only the seller and not the buyer in a prostitution transaction. Reformed penal laws have already begun to regulate patrons as well as prostitutes.[239] It is likely, and desirable, that legislatures, in removing the sex bias from their laws, will follow this lead.

Just as the Equal Rights Amendment would invalidate prostitution laws which apply to women only, so it would require invalidation of laws specially designed to protect women from being forced into prostitution. In addition to many state laws of this type, the federal White Slave Traffic Act (Mann Act) prohibits the transportation in interstate "any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery or to engage in any other immoral purpose."[240]

Related sections of the Act also prohibit persuading, inducing, enticing, or coercing a woman to travel in interstate commerce for the above purposes.[241] Cases interpreting the Mann Act have held that a woman may be found guilty as a principal under the Act; in some circumstances she may even be convicted of agreeing to transport herself in interstate commerce.[242] However, it is no crime to transport a man or boy in interstate commerce for the purposes set forth in the statute. Congress could easily bring the Mann Act into conformity with the Equal Rights Amendment by substituting the word "person" for the words "woman or girl" in the statute.

As prostitution laws are redefined to cover male as well as female prostitutes, a court faced with a challenge to the Mann Act might also be inclined simply to extend this law to apply to the transportation of men for illicit purposes. Under current conditions, such an extension would not subject a large number of additional people to criminal liability. However, this would disregard the legislative history and body of court decisions interpreting Congressional intent, which have placed great emphasis on the weakness of women. As late as 1960, the Supreme Court declared:

"A primary purpose of the Mann Act was to protect women who are weak from men who are bad." *Denning v. United States*, 247 F. 403, 465. It was in response to shocking revelations of subjugation of women too weak to resist that Congress acted. See H.R. Rep. No. 47, 61st Cong., 2d Sess., pp. 10–11. As the legislative history discloses, the Act reflects the supposition that the women with whom it sought to deal often had no independent will of their own, and embodies, in effect, the view that they must be protected against themselves."[243]

Given this background, a court might feel that extending the law to cover men would be expanding criminal liability further than Congress intended. Here, as with other criminal laws, a court would probably resolve doubts about congressional intent by striking down the law.

4. INDETERMINATE SENTENCING

In addition to separate substantive law for men and women, some states have special sentencing provisions for women. These laws in effect require or permit judges to place women in a separate correctional status in which the lengths of their sentences are determined not by the judge but by correctional authorities within the limits set by statute. When women are placed in such a status, they may be subjected to longer sentences than those provided for in the substantive statute, thereby creating higher maximum penalties for women than for men convicted of the same crime.

In *United States* ex rel. *Robinson v. York*[244] and *Commonwealth v. Daniel*,[245] two indeterminate sentencing laws were successfully attacked under the Fourteenth Amendment as denying women equal protection of the laws.[246] However, similar laws remain on the books in a number of states.[247] Such laws, if not invalidated under the Fourteenth Amendment, in general, the special laws for sentencing of women are in the form of separate additional sentencing statutes. Thus, if a court invalidated the special law for women, it would simply leave women subject to the standard sentencing laws. This was the result in *Robinson* and *Daniel*.

FOOTNOTES

200. The Equal Rights Amendment would forbid sex discriminatory enforcement just as the Fourteenth Amendment forbids enforcement which discriminates on the basis of race. Yick Wo v. Hopkins, 118 U.S. 356 (1886). However, such attacks involve very difficult problems of proof and are not discussed here. See, for a discussion of the recent rapid rise in the crime rate of women, and of changing law enforcement attitudes toward women offenders, Roberts, *Crime Rate of Women Up Sharply Over Men's*, N.Y. Times, June 13, 1971, at 1, col. 1.

201. The proportion of all women arrested who are arrested for sex offenses, including forcible rape and prostitution, is nearly four times the proportion of all arrested men. F.B.I., U.S. DEPT. OF JUSTICE, UNIFORM CRIME REPORTS FOR THE UNITED STATES 124 (1967).

202. See the discussion in Part IV(B), at p. 915 *supra*.

203. *See, e.g.*, MODEL PENAL CODE § 213.1 (Proposed Official Draft, 1962).

204. The language of some rape statutes suggests that either a man or a woman may be guilty of rape. Even these statutes, however, generally preclude the possibility of charging a woman with rape by defining sexual intercourse as the penetration of a man's penis into a woman's vagina, or, in some cases, her mouth or anus. Furthermore, a Yale Law Journal study in 1952 found no reported case in which a woman had been convicted of rape as a principal. See Comment, *Forcible and Statutory Rape: An Exploration of the Operation and Objectives of the Consent Standard*, 62 YALE L.J. 55 n.2 (1952). For the general rule that rape can be committed by a male only, see 75 C.J.S. *Rape* § 6 (1952).

In all states, both by common law and statute, only women can be victims of forcible rape; see 75 C.J.S. *Rape* §§ 1, 2, 7 (1952). Forcible sexual assault on an adult male is not defined as rape. Many states have enacted additional laws penalizing nonconsensual sexual assaults on men, but none of these laws bears the extreme penalties of the standard rape laws. A few states severely penalize sexual relations with children of both sexes, but force is not an essential element of those statutes; they are discussed at p. 959 *infra*, in conjunction with statutory rape.

205. Statutes which define rape as "penetration" mostly fall, with Victorian delicacy, to specify what instruments of penetration are included. The common law antecedents of the rape statutes, as well as contemporary case law, indicate that courts have limited the application of rape laws to penetration by a man's penis. However, penetration of a woman's vagina may be made by many instruments other than a man's penis, and with equally devastating consequences for the victim's psyche. Whether or not pregnancy has resulted from the rape is immaterial under current laws; similarly, sterility is not a defense for a man accused of rape. Thus a court might conclude there is no rational reason for differentiating such assaults, of which women are as capable as men, and hold the rape laws invalid unless they extend to women assailants as well as men.

206. The MODEL PENAL CODE, § 213.1 (Proposed Official Draft, 1962) adopts this definition of rape.

207. See the discussion in Part III(B), at p. 895 *supra*.

208. A few states still have statutes which extend the concept of "sexual assault" to the use of obscene or insulting language in the presence of a woman. For instance, Alabama penalizes any person who in the presence or hearing of any girl or woman, uses abusive, insulting, or obscene language.
ALA. CODE, tit. 14, § 11 (1958). See also MICH. COMP. LAWS ANN. § 750.337 (1968); ARIZ. REV. STAT. § 13–377 (1956). A variation on the same theme is a Georgia libel law which forbids anyone to utter or circulate "any defamatory words or statements derogatory to the fair fame or reputation for virtue of any virtuous female," GA. CODE ANN. § 26–2104 (1953). Such laws, based on a stereotyped view that women are morally pure, yet morally fragile, rather than on any unique physical characteristic of women which actually distinguishes them from men, would be invalidated under the Equal Rights Amendment.

209. The few statutes which declare young or helpless males incapable of consent are: COLO. REV. STAT. ANN. § 40–2–25(1)(k) (1963) (intercourse with male under 18 solicited by female); ILL. ANN. STAT. ch. 38, §§ 11–4 and 11–5 (Smith-Hurd 1964) (indecent liberties with a child and contributing to the delinquency of a child, regardless of sex); IND. ANN. STAT. § 10–4203 (1956) (intercourse with male over 14 knowing he is epileptic, imbecile, feeble minded or insane); KY. REV. STAT. § 435.100 (1970) (carnal knowledge of male child under 18); MICH. COMP. LAWS ANN. §§ 750.339–340 (1968) (debauching a male under 15); WASH. REV. CODE ANN. § 9–79.020 (1961) (sexual intercourse with male under 18).

210. *See, e.g.*, 44 AM. JUR. *Rape* § 17 (1942). Some states make an exception for intercourse with women who are not virgins, *e.g.*, FLA. STAT. § 794.05 (1961).

211. *See, e.g.*, MICH. COMP. LAWS ANN. §§ 750.342, 750.341 (1968) (prohibiting intercourse with female wards and patients in mental institutions); D.C. CODE ENCYCL. ANN. § 22–3002 (1967) (penalizing male teachers who have sexual intercourse with any woman currently their student).

212. Seduction laws penalize men for inducing unmarried women to engage in sexual conduct by a promise, usually of marriage. *See, e.g.*, N.J. STAT. ANN. §§ 2A: 142–1, 142–2 (1969). Michigan, like many other states, makes it a crime for a person to entice a woman under 16 away from her parents or guardian for purposes of prostitution, concubinage, sexual intercourse, or marriage. MICH. COMP. LAWS ANN. § 750.13 (1968).

213. *See, e.g.*, the report of the Carroll County, Maryland, grand jury calling for legislation "to prevent mental and physical harm to unsuspecting, unprepared adolescents by forced, coerced or seduced sexual activity which may warp the development of such children as useful citizens to society." The report was prompted by evidence presented to the grand jury that two women elementary school teachers had seduced boys 11 and 12 years old. The grand jury concluded that the Maryalnd criminal code provided no statute under which the teachers could be indicted and called for state legislation "giving male juveniles equal protection under the laws." Washington Post, Jan. 2, 1971, at 3, col. 2. The Royal Commission on the Status of Women in Canada has reached a similar conclusion. Its recent Report recommended "that the Criminal Code be amended to extend protection from sexual abuse of all young people, male and female, and protection to everyone from sexual exploitation either by false representation, use of force, threat, or the abuse of authority." REPORT OF THE ROYAL COMMISSION ON THE STATUS OF WOMEN IN CANADA ch. 9, par. 42, at 374 (1970).

214. It is true that statutory rape may involve breaking the hymen, but very few states consider the victim's chastity material to the question of guilt. Moreover, statistical reports show that few statutory rape complainants are virgins. See Schiff, *Statistical Features of Rape*, 14 J. FOR. SCI. 102 (1969).

215. The law in most states presumes that a sixteen year old girl can consent to marriage (with her parents' approval), and, by implication, to sexual relations, while an unmarried girl of sixteen is legally presumed to be incapable of giving consent to a single act of sexual intercourse. However, there are no physical differences between the sexual acts involved. As discussed at pp. 938–39 *supra*, the minimum marriage age is not based on a unique physical characteristic of women. Therefore, the statutory rape law, which also deals with consenual sexual relations, cannot be justified as based on such a unique characteristic. There are, of course, social and psychological differences between marital and extramarital sexual relations, and the state may recognize them through sex-neutral legislation about extramarital sexual intercourse involving either young men or young women.

216. Some states already have laws that protect all children, regardless of sex. For example, Illinois has merged its statutory rape law into laws prohibiting indecent liberties with any child or contributing to any child's sexual delinquency. ILL. ANN. STAT. ch. 38, § 11–4 (Smith-Hurd Supp. 1971) and ch. 38, § 11–5 (Smith-Hurd 1964).

217. MICH. COMP. LAWS ANN. § 750.339 (1968).

218. *Compare* MICH. COMP. LAWS ANN. § 750.339 *with* § 750.520 (1968).

219. Where a state has mirror-image statutes which penalize men and women for the same conduct, by the same standards, and with the same penalties, the laws could be upheld under the Equal Rights Amendment. For example, Michigan's identical laws prohibiting acts of "gross indecency" between two men and between two women would not have to be invalidated; a court would not require the formality of rewriting a statute such as this, where in effect, it already covers men and women alike. *See* MICH. COMP. LAWS ANN. §§ 750.338, 750,338(a) (1968).

220. The Fourth Circuit recently held that Maryland's death penalty for rape was so excessively disproportionate as to violate the Eighth Amendment's guarantee against cruel and usual punishment. Ralph v. Warden, 438 F.2d 786 (4th Cir. 1970).

221. Between 1960 and 1967 the number of forcible rapes known to law enforcement officials increased 61 per cent. In contrast, the proportion of forcible rapes solved by arrest of the offender decreased annually between 1965 and 1967. UNIFORM CRIME REPORTS, *supra* note 201, at 12 13.

In conjunction with the severe penalties for forcible rape, the defense of consent has developed. The existence of the consent defense (which is unique to rape) has the effect of putting the complainant on trial, for she will usually be subjected to a relentless defense examination, in an attempt to impugn her character and suggest that she actually consented to sexual attack. The consent defense and corresponding trial tactics thus have the effect of deterring women from making complaints about rape attacks; the Federal Bureau of Investigation estimates that forcible rape "is probably the most underreported crime by victims to police." UNIFORM CRIME REPORTS, *supra* note 201, at 13. As a result, some women's rights advocates have argued that women would actually be better protected if rape were prosecuted simply as aggravated assault.

222. MODEL PENAL CODE §§ 213.0–06 (Proposed Official Draft, 1962). For instance, the Model Penal Code's crime of "sexual assault" prohibits offensive "touching of the sexual or other intimate parts of the person of another for the purpose of arousing or gratifying sexual desire of either party." MODEL PENAL CODE § 213.4 (Proposed Official Draft, 1962).

223. "Sodomy" is used here, as it is used in many statutes, to include both oral-genital contact and anal intercourse. In some states it also includes mutual masturbation, sexual relations with animals, and sexual contact with dead bodies.

224. *See, e.g.*, 81. C.J.S. *Sodomy* § 1 (1953).

225. M. PLOSCOWE, SEX AND THE LAW, 146 (1951).

226. In Indiana, adultery is defined as intercourse between a man and a married woman, while intercourse with an unmarried woman is defined as the lesser offense of fornication. Warner v. State, 202 Ind. 479, 175 N.E. 601 (1931). A similar discrepancy is apparent in the "unwritten law defense," which survives in some states for men. The unwritten law defense permits a man to argue in complete defense to a homicide prosecution that the man he killed was, at the time of the homicide, in the act of sexual intercourse with his wife; it is, in other words, a license to men to murder in the face of adultery. No state gives women who kill their husbands' lovers a corresponding defense. TEX. PENAL CODE, Art. 1220 (Vernon's 1961); N.M. STAT. ANN. § 40A–2–4 (1953); UTAH CODE ANN. § 76–30–9(4) (1953).

227. Both married men and married women are liable for extramarital sexual intercourse. ORE. REV. STAT. § 167.010 (1969); MASS. GEN. LAWS, ch. 272 § 14 (1932).

228. R. PERKINS, CRIMINAL LAW 337 (2d ed. 1969).

229. *Cf.* Buchanan v. Batchelor, 308 F. Supp. 729 (N.D. Tex. 1970) in which a federal court invalidated Texas's entire sodomy law because of its overbreadth in extending to acts between husband and wife. The decision was vacated by the United States Supreme Court *sub nom.* Buchanan v Wade, 91 S. Ct. 1222 (1971), and remanded for consideration in the light of Younger v. Harris, 401 U.S. 37 (1971), and Samuels v. Mackell, 401 U.S. 66 (1971).

230. *See* Griswold v. Connecticut, 388 U.S. 479 (1965). At least two states have already repealed their laws against consensual homosexual relations. *See* ILL. ANN. STAT. ch. 38, §§ 11–2, 11–3 (Smith-Hurd 1964); CONN GEN. STAT. REV. §§ 53a–65, –75 to –77 (Supp. 1969) (effective Oct. 1, 1971).

231. *See* "Prostitution," BLACK'S LAW DICTIONARY 1386 (4th ed. 1951); 73 C.J.S. *Prostitution*, § 1 (1951); Eisner v. Commonwealth, 375 S.W. 2d 825 (Ky. 1964). *But cf.* D.C. CODE ENCLY. ANN. § 22–2701 (1967). At least one

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state still imposes special punishment on young women who are considered "in manifest danger of falling into habits of vice." No corresponding provisions are made for young men. *See* CONN. GEN. STAT. ANN. §§ 17-379, 18-65. Connecticut's statutes survived constitutional attack in State v. Mattiello, 4 Conn. Cir. 55, 225 A.2d 507 (1967), *appeal dismissed*, 395 U.S. 209 (1969).

232. S. Harmon, Attitudes Toward Women in The Criminal Law Process 5 (1970) (unpublished paper on file at Yale Law School Library.)

233. *Compare* A. FLEXNER, PROSTITUTION IN EUROPE (especially at 11-14) (1914), *with* REPORT OF THE COMMITTEE ON HOMOSEXUAL OFFENSES AND PROSTITUTION [The Wolfden Report] (1957). If the newly articulated constitutional right to privacy receives expanded interpretation, see discussion in Part III(D) at p. 900 *supra*, all regulation of prostitution, other than public health measures, may be ruled unconstitutional.

234. Men may be punished as entrepreneurs for trafficking in women or keeping a house of ill fame. They are seldom prosecuted for mere patronage of a prostitute. KANOWITZ, *supra* note 2, at 16-17.

235. MODEL PENAL CODE § 251.2 (Proposed Official Draft, 1962).

236. N.Y. PENAL LAW § 230.10 (McKinney 1967).

237. The recidivism rate for prostitution is so high that prostitution has been called "life on the installment plan." Lukas, *City Revising its Prostitution Controls*, N.Y. Times, Aug. 14, 1967, at 1, col. 2. Compare the Soviet Union's success at deterring prostitution by posting publicly the names, addresses and places of employment of the customers of prostitutes. KANOWITZ, *supra* note 2, at 17.

238. In its published statistics, the Federal Bureau of Investigation classifies "commercialized vice" together with prostitution. Even so 30,866 women were arrested for prostitution or commercialized vice as compared with 8,878 men. This figure is particularly striking in light of the fact that the total number of men arrested in 1967 was seven times greater than the total number of women arrested. UNIFORM CRIME REPORTS, *supra* note 201, at 124.

239. *See* N.Y. PENAL LAW § 230.05 (McKinney 1967); CONN. GEN. STAT. ANN. PENAL CODE § 84, 1969 Public Act No. 828 (effective Oct. 1, 1971). However, New York's law penalizing the patrons of prostitutes has only rarely been enforced. Speech by Elizabeth Schneider, Yale Law School, April 29, 1971.

240. 18 U.S.C. § 2421 (1964).

241. 18 U.S.C. §§ 2422-23 (1964).

242. United States v. Holte, 236 U.S. 140 (1915); *but cf.* Gebardi v. United States, 287 U.S. 112 (1937).

243. Wyatt v. United States, 362 U.S. 525, 530 (1960).

244. 281 F. Supp. 8 (D. Conn. 1968).

245. 430 Pa. 642, 243 A.2d 400 (1968).

246. In *Robinson*, the court ordered the petitioner released because she had already served the statutory maximum sentence for breach of the peace and resisting arrest. The court stated that to hold her for the full three years permitted under the sentencing law for women offenders would have denied her the equal protection of the laws. In *Daniel*, appellants' cases were sent back for resentencing because the court held that Pennsylvania's law requiring judges to impose the statutory maximum on all women sentenced to the State Correctional Institution at Muncy violated the Equal Protection Clause.

247. *E.g.*, ME. REV. STAT. ANN., tit. 34, § 802 (men); §§ 853-54 (women) (Supp. 1970). Disparities also exist in the juvenile laws of several states. For instance, in New York a court can order incorrigible, ungovernable, or habitually disobedient women to be held in custody until they are 20, if they are adjudged "persons in need of supervision" (PINS); whereas, boys can be held under the PINS statute only until age 18. Since most of the commitments under the PINS law stem from activity which could not result in criminal conviction, the law imposes on women two years of extra liability for non-criminal activity. N.Y. FAMILY COURT ACT, §§ 712, 756 (McKinney 1963).

Mr. ERVIN. Mr. President, this article makes it plain that the equal rights amendment will render unconstitutional State statutes which make it a crime for a man to seduce an innocent, virtuous woman under the promise of marriage, State statutes which make it a crime for a man to have carnal knowledge of an immature girl above the age of puberty and under the age of 16, and the White Slavery Act which makes it a crime for a man to transport women in interstate or foreign commerce for immoral purposes or for purposes of debauchery and prostitution.

Mr. President, my amendment is merely designed to make it certain that the equal rights amendment will not impair the validity of any laws of the United States or of any State which makes sex offenses punishable as a crime.

Mr. President, I sincerely trust that the Senate will adopt this amendment.

Mr. BAYH. Mr. President, I yield myself such time as I may need. I shall be brief, inasmuch as the distinguished Senator from North Carolina and I had a rather detailed discussion about this matter on yesterday, and anyone who cares to examine it in further detail will find my remarks in yesterday's RECORD.

I certainly think that the Senator from North Carolina has made a significant contribution to this debate by bringing this issue into focus.

None of us who support the equal rights amendment—perhaps I should not say none, but at least, including myself, I should say most of us who are supporting the equal rights amendment—have no desire at all that it have the effect attributed to it by the Senator from North Carolina.

Perhaps the best place to start in this brief rebuttal would be to read from the committee report which states as a general rule particularly relative to the question of rape and statutory rape:

> The Amendment will not invalidate laws which punish rape, for such laws are designed to protect women in the way that they are uniformly distinct from men.

None of the items the Senator from North Carolina is concerned about would be stricken by the equal rights amendment. Rather, because of their sexual bias, in the judgment of the Senator from Indiana and the majority of the Judiciary Committee, such laws will be sustained. They will not be stricken down as unconstitutional, because the distinction between the laws as to their application to men and women is not based simply on their sex, but on their unique physical characteristics—their distinct physical differences. Indeed, men and women do have unique physical characteristics and that is why we need unique, distinct and different laws relating to various sex crimes. To determine whether the law is based on unique physical characteristics, the Senator from Indiana suggests that one must look at both the group protected by the law and the group which might be punished. Again let us use the rape law in question. Rape laws, under this analysis, are perfectly constitutional, for both the groups which is protected; namely, women, and the group which can be punished; namely, men, have unique physical characteristics which are directly related to the crime, to the act for which an individual is punished.

With respect to statutory rape, the same analysis can be drawn, I suggest most respectfully. Only men can physically commit the crime of statutory rape and only women can physically be the victims of the crime.

The PRESIDING OFFICER (Mr. TOWER). Who yields time?

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, the Senator from Indiana mentioned the fact that men and women have unique physical characteristics which are distinguishable from each other. That is true. That is exactly what makes the distinction between men and women and makes them members of different sexes. This equal rights amendment is designed to outlaw every law which is based on the distinction of sex. So, it is impossible to maintain the position of my good friend, the Senator from Indiana. The whole equal rights amendment recognizes that men are men and women are women, because they have different unique physical characteristics which divide them into two sexes. And manifestly, a constitutional amendment which says that we cannot have a law based upon distinction between sexes would invalidate any law based upon this distinction.

Mr. President, I am willing to yield back the remainder of my time.

Mr. BAYH. Mr. President, I yield myself a couple of minutes under the bill.

The PRESIDING OFFICER (Mr. ROTH). The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, the Senator from Indiana has not contended in debate with the Senator from North Carolina throughout these many hours and many days that men and women did not have distinct characteristics that made them different. It has been quite to the contrary.

There is no way we can pass a constitutional amendment to change this. However, by definition the crime of, let us say, rape, can apply to only one group who are the victims and one group who are the perpetrators of this crime. This is based on the unique physical characteristics of the sexes.

Thus, in the judgment of the Senator from Indiana and, indeed, even in the judgment of the Yale Law Review article which I quote with some reluctance, because of the different interpretations the Senator from North Carolina and I have put upon it, that is one area in which I have agreement with the scholars who wrote that article when they said that rape laws would continue to be valid after ratification of the equal rights amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT) and the Senator from Kentucky (Mr. COOPER) are detained on official business.

Also, the Senator from Tennessee (Mr. BAKER) is detained on official business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 17, nays 71, as follows:

[No. 119 Leg.]

YEAS—17

Bennett	Dominick	Hollings
Buckley	Eastland	Long
Byrd, Va.	Ervin	Miller
Byrd, W. Va.	Fannin	Stennis
Cannon	Goldwater	Talmadge
Cotton	Hansen	

NAYS—71

Aiken	Griffin	Pell
Allen	Gurney	Percy
Anderson	Harris	Proxmire
Bayh	Hart	Randolph
Beall	Hatfield	Ribicoff
Bellmon	Hruska	Roth
Bentsen	Hughes	Saxbe
Bible	Inouye	Schweiker
Boggs	Javits	Scott
Brock	Jordan, N.C.	Smith
Brooke	Jordan, Idaho	Sparkman
Burdick	Kennedy	Spong
Case	Magnuson	Stafford
Church	Mansfield	Stevens
Cook	Mathias	Stevenson
Cranston	McGee	Symington
Curtis	Metcalf	Taft
Dole	Mondale	Thurmond
Eagleton	Montoya	Tower
Ellender	Moss	Tunney
Fong	Muskie	Weicker
Fulbright	Nelson	Williams
Gambrell	Pastore	Young
Gravel	Pearson	

NOT VOTING—12

Allott	Hartke	McGovern
Baker	Humphrey	McIntyre
Chiles	Jackson	Mundt
Cooper	McClellan	Packwood

So Mr. ERVIN's amendment (No. 1071) was rejected.

Mr. ERVIN. Mr. President, for the information of the Senate I propose to offer two more amendments, and virtually back to back. I think we can finish voting on these two amendments in a very few minutes. I would suggest that Senators remain in the Chamber instead of returning to their offices or committee rooms.

Mr. BYRD of West Virginia. Mr. President, would the Senator agree to a unanimous-consent order limiting time on each of the two amendments to not to exceed 10 minutes, to be divided equally between the mover of the amendment and the manager of the bill?

Mr. ERVIN. That is satisfactory to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 472

Mr. ERVIN. Mr. President, the first of these amendments in amendment No. 472. I wish to modify that amendment so that it will conform to the amendment I now send to the desk, and I ask that it be stated as set forth in the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment, as modified, was read as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"ARTICLE—

"SECTION 1. Neither the United States nor any State shall make any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences between them.

"SEC. 2. The Congress shall have the power to enforce the provisions of this article by appropriate legislation."

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, this amendment is very simple. It is a substitute for the equal rights amendment. It would invalidate every Federal and every State law which makes any distinction between the legal rights of men and women unless that distinction is based upon physiological or functional differences between them.

In other words, I think most of the laws which now make the distinction between men and women are based on physiological and functional differences. The criminal laws are based on physiological differences, and the laws relating to labor and the rights of wives, mothers, and widows are based on functional differences between men and women.

I ask the Senate to repent of the evil course of conduct it has been following since these repentant amendments have been called up by adopting this amendment. The amendment would abolish the laws on the important relations between men and women, but still leave Congress with power to make reasonable distinctions between them.

I yield back the remainder of my time.

Mr. BAYH. Mr. President, once again we discuss basic philosophical differences that exist between the Senator from Indiana and the Senator from North Carolina. Suffice it to say that if this amendment is adopted, we might as well lock up shop and go home. We would have destroyed all the efforts we have been making to try, at long last, to provide equal opportunity—not special privilege, but equal opportunity—for women.

Let us be brutally frank as we take a look at various State laws in the country. These law were not passed and they are not administered in a way which admittedly discriminates against women. No State legislature has courage enough to pass a bill and say the reason for passage is that it is trying to deny equal pay for equal work, or limit the admissions of women to State university to keep women out of work by requiring her to get a court order before she can go into business. These are specific laws which now exist. No, the reason why a woman must go into court and get a court order is that we are trying to protect her because of her physiological and functional differences is what is said by those who pass such laws. That is the basis which permits the discrimination to exist.

I know the Senator from North Carolina does not have that motive in mind, but that is the impact which the statutes that exist in the States of the Union often have.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. COOK. We have debated this substitute in committee on many occasions. If this substitute should prevail, we would have to send the amendment to the Senate-House conference where it will die. And then we would not have this volume of hearings of 800 pages and the other volumes of hearings, that go with this, to explain the meaning of the amendment. Is that not true?

Mr. BAYH. That is correct.

Mr. COOK. All the work of 49 years would be for naught. Agreeing to such proposals now would mean that we would have to introduce the original amendment again next year, and we would start on its 50th year. Is that correct?

Mr. BAYH. Yes.

Mr. COOK. As a matter of fact, if this is adopted, it would not be up to this body's interpretation of whether or not it applies to the laws as passed and for the purpose for which the substitute is submitted, but it would be for every State legislature, for every city council, for every legislative body, at any level, to make a determination of what they thought, within their wisdom, was the basis for which they could make a distinction. Is that not true?

Mr. BAYH. That is accurate. Permit me to cite two specific examples. A State legislature in State X could come to the conclusion that women generally, as a whole, as a group, are not able to defend themselves against attack at night. Thus, on that basis, the legislature could, under the wording of the present amendment, deny women the right of being employed at night because of the distinction that exists between them and men.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. COOK. Let me give the Senator another example. If a State held that physiologically it was not wrong for a woman to work 40 hours, or even 60 hours, or more, and that it was not wrong

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for a woman to work overtime, then she would have that privilege in one State but might be denied that in another.

Mr. BAYH. Yes.

Mr. COOK. Because the concept of the distinction could be settled differently in 50 different jurisdictions, as far as the States are concerned, and all the distinctions that any legislative body anywhere in the country could make. Is that correct?

Mr. BAYH. That is correct.

I yield back my time.

Mr. ERVIN. Mr. President. I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Florida (Mr. CHILES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 12, nays 78, as follows:

[No. 120 Leg.]

YEAS—12

Bennett	Ervin	Hollings
Buckley	Fannin	Long
Byrd, Va.	Goldwater	Stafford
Eastland	Hansen	Stennis

NAYS—78

Aiken	Ellender	Muskie
Allen	Fong	Nelson
Allott	Gambrell	Pastore
Anderson	Gravel	Pearson
Baker	Griffin	Pell
Bayh	Gurney	Percy
Beall	Harris	Proxmire
Bellmon	Hart	Randolph
Bentsen	Hatfield	Ribicoff
Bible	Hruska	Roth
Boggs	Hughes	Saxbe
Brock	Humphrey	Schweiker
Brooke	Inouye	Scott
Burdick	Javits	Smith
Byrd, W. Va.	Jordan, N.C.	Sparkman
Cannon	Jordan, Idaho	Spong
Case	Kennedy	Stevenson
Church	Magnuson	Symington
Cook	Mansfield	Taft
Cooper	Mathias	Talmadge
Cotton	McGee	Thurmond
Cranston	Metcalf	Tower
Curtis	Miller	Tunney
Dole	Mondale	Weicker
Dominick	Montoya	Williams
Eagleton	Moss	Young

NOT VOTING—10

Chiles	McClellan	Packwood
Fulbright	McGovern	Stevens
Hartke	McIntyre	
Jackson	Mundt	

So Mr. ERVIN's amendment (No. 472), as modified, was rejected.

(Disturbance in the visitors' galleries.)

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate and in the galleries?

The PRESIDING OFFICER. The attention of visitors in the galleries is called to the fact that no demonstrations are permitted, either in favor or against.

Mr. STAFFORD subsequently (on March 28, 1972) said: Mr. President, on Vote No. 120, of March 22, 1972, I am incorrectly recorded as having voted "yea." I voted "nay" on that vote. I ask unanimous consent that the permanent RECORD and the Journal be corrected accordingly.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

Therefore, on the above vote, the yeas are 11 and the nays are 79.

THE 2,000TH CONSECUTIVE ROLLCALL VOTE FOR SENATOR PROXMIRE

Mr. MANSFIELD. Mr. President, I am happy to announce to the Senate that with the most recent rollcall vote, our distinguished colleague, the Senator from Wisconsin (Mr. PROXMIRE), has completed his 2,000th consecutive vote on a rollcall, beginning in April 1966. I think he deserves the credit of the Senate.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

EQUAL RIGHTS FOR MEN AND WOMEN

The Senate continued with the consideration of the joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

AMENDMENT NO. 1044

Mr. ERVIN. Mr. President, I call up my amendment 1044.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That the two articles set forth in sections 2 and 3 of this resolution are proposed in the alternative as amendments to the Constitution of the United States, one of which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within a period of seven years after the date of their admission by the Congress to the States. Upon the ratification of one such proposed amendment within that period, the other such proposed amendment shall have no further force or effect.

SEC. 2. The first article of amendment so proposed is the following:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification.".

SEC. 3. The second article of amendment so proposed is the following:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses.

"SEC. 2. The Congress shall have the power to enforce the provisions of this article by appropriate legislation.

"SEC. 3. This amendment shall take effect two years after the date of ratification.".

Mr. ERVIN. Mr. President, this amendment is very simple. It is based on the realization that the people of the States have an interest in constitutional amendments just as much as Congress has.

This amendment provides that two proposed amendments to the Constitution shall be submitted to the States in the alternative, that one of these amendments shall be the equal rights amendment as set forth in House Joint Resolution 208, and that the second of these amendments shall embody provisions of the various separate amendments which I have heretofore submitted and upon which votes have heretofore been cast. In other words, it submits these amendments to the States, in the alternative, to allow them to take their choice between the two amendments—the equal rights amendment, as set out in House Joint Resolution 208, and an amendment embodying the separate amendments I have heretofore proposed, reading as follows:

The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses.

"SEC. 2. The Congress shall have the power to enforce the provisions of this article by appropriate legislation.

"SEC. 3. This amendment shall take effect two years after the date of ratification.".

In other words, it just submits two amendments in the alternative to the States and allows the States to take their choice between the two amendments and to ratify the one of which they may approve.

I do not recall whether I have asked for the yeas and nays, but I do so now.

The yeas and nays were ordered.

Mr. BAYH. Mr. President, the Senator from North Carolina is one of the most, if not the most, tenacious, and dedicated adversaries one can possibly have in debating a measure on the floor of the Senate.

The proposal he asks us to accept now would permit the various State legislatures to go on a fishing expedition to determine whether they thought the equal rights amendment as embodied in the pending order of business was their preference or the so-called equal rights amendment as embodied in the amendment of the Senator from North Carolina was their preference.

In my judgment, in the constitutional amendment process, Congress has to stand up and be counted. In this day and age particularly, let us not waffle. We are either for this amendment, the equal rights amendment, which has been the product of study and deliberation for 50 years, or we are against it. If we do not think it is good, let us not send it out to the State legislatures and shift the buck onto them. Let us make that determination for ourselves.

I should add that we have had five rollcall votes today and two or three yesterday, and each of the individual parts that is now embodied in the whole by the amendment of the Senator from North Carolina already has been decided; and the Senate, by a 70-some vote to a handful, has voted "no" on each of the parts. I respectfully suggest that the whole is no more acceptable.

Mr. COOK. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. COOK. Would this not, in effect, say that the States could not exercise responsibility toward acquiring a constitutional amendment in this field, because particular States could decide to accept first article and reject the second one and the next State could accept second article and reject the first one? In fact, we would have to have a tabulator, when we got all through, to find out where we stood, to be sure of coming to a conclusion, because part of it could be accepted and part rejected. Or would we have to see all 50 legislatures get together and see which one they were going to accept and which one to reject?

Mr. ERVIN. Only 38.

Mr. COOK. It would be difficult to get even 38 out of such a conglomeration as we have in front of us today.

Is that not correct?

Mr. BAYH. The Senator from Indiana said earlier that the best way to defeat the equal rights amendment was to divide our shots and then let each State legislator go back to his constituency and say, "I voted for the equal rights amendment when it was in my legislature." But you would never get three-quarters in agreement on anything. Just as Members of this body would like to add a word or a sentence, we are never going to get two-thirds in agreement until we recognize that this is as good a measure as we can have.

Let us vote this matter down so that we can, in short order, send to the State legislatures the one measure on which there is great support in the Senate and in the House and throughout the country.

Mr. MAGNUSON. Before we come to final passage, this may be a good time to put a query to the Senator from Indiana or any other Senator who can answer it.

Some concern has been expressed in my State and the other States that have had community property laws for a long time. I recall that last year or the year before, we had a long colloquy on the floor, the Senator from Indiana and I, as to how the amendment might affect the community property law system which is in effect in some States of the Union. It is a law which, I am sure, both men and women in my State would not like to see jeopardized or in any way to be modified or watered down. The community property laws offer great protection for women in many cases, particularly in cases of divorce suits and estates. I do not think there would be any sentiment for this amendment in my State legislature if it touched the traditional community property laws which are based on the old Spanish laws which have been in existence in my State ever since it was a territory. So I wonder whether the Senator from Indiana could briefly comment on that.

Mr. BAYH. That is a good point raised by the Senator from Washington. The equal rights amendment will in no way affect the disposition of community property under a community property law settlement. The State of Washington and particularly the State of Texas would not be affected at all because both the State of Washington and more recently the State of Texas have changed the provisions which existed in a handful of States which would permit, after an equal division, the husband to maintain sole managerial capacity in those few——

Mr. MAGNUSON. That used to be the law in the State of Washington.

Mr. BAYH. Yes; but it is not now.

Mr. MAGNUSON. It is not now.

Mr. BAYH. Texas recently revised its statute; so that the equal rights amendment will not affect the community property law one iota as written in the State of Washington.

Mr. MAGNUSON. My last question—and I shall be brief—is, when we come to the question of estates, basically the community property law is a matter of a 50-percent automatic division in a community estate which is set aside if the wife is the survivor. That is not necessarily true the other way. She can will her separate property, but there have been some decisions that have declared in our State that if the husband is the sole survivor, he may not be able to touch her 50 percent. How would this affect estates? Leave the law as it is?

Mr. BAYH. The equal rights amendment would leave the statute as it is, yes. But the courts could not give to the widow rights in the estate of her husband which it would not give a widower in the estate of his wife.

Mr. MAGNUSON. As to the estates—

Mr. BAYH. Yes—equal disposition.

Mr. MAGNUSON. That has to be made crystal clear when it gets out into the community property States.

Mr. BAYH. I appreciate the Senator from Washington bringing this point to our attention.

Mr. ERVIN. Mr. President, if I may make one or two observations on that point. The community property States allow the husband to be the manager of the property and to control the property, so that the equal rights amendment would invalidate the community property law in every State where the husband is allowed to manage or control the property. There is no question about that. It depends on what the law of a particular State is on that point, but the community property laws would be invalidated by the equal rights amendment because it would discriminate against women by giving men the management and control of community property.

The PRESIDING OFFICER (Mr. ROTH). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment (No. 1044) of the distinguished Senator from North Carolina (Mr. ERVIN).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), the Senator from Michigan (Mr. HART), and the Senator from Florida (Mr. CHILES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 9, nays 82, as follows:

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[No. 121 Leg.]

YEAS—9

Bennett	Ervin	Hollings
Byrd, Va.	Fannin	Long
Eastland	Hansen	Stennis

NAYS—82

Aiken	Fong	Pastore
Allen	Fulbright	Pearson
Allott	Gambrell	Pell
Anderson	Goldwater	Percy
Baker	Gravel	Proxmire
Bayh	Griffin	Randolph
Beall	Gurney	Ribicoff
Bellmon	Harris	Roth
Bentsen	Hatfield	Saxbe
Bible	Hruska	Schweiker
Boggs	Hughes	Scott
Brock	Humphrey	Smith
Brooke	Inouye	Sparkman
Buckley	Javits	Spong
Burdick	Jordan, N.C.	Stafford
Byrd, W. Va.	Jordan, Idaho	Stevens
Cannon	Kennedy	Stevenson
Case	Magnuson	Symington
Church	Mansfield	Taft
Cook	Mathias	Talmadge
Cooper	McGee	Thurmond
Cotton	Metcalf	Tower
Cranston	Miller	Tunney
Curtis	Mondale	Weicker
Dole	Montoya	Williams
Dominick	Moss	Young
Eagleton	Muskie	
Ellender	Nelson	

NOT VOTING—9

Chiles	Jackson	McIntyre
Hart	McClellan	Mundt
Hartke	McGovern	Packwood

So Mr. ERVIN's amendment (No. 1044) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 18) to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the majority leader the schedule for the remainder of the day and the rest of the week.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate so that the Senators can hear the majority leader?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, it is my understanding that as of this moment there will be no further amendments and that very shortly we will reach the question on adoption of the pending joint resolution. Some Senators will want to make statements, and rightfully so, but I would hope other Senators who have not been so active in connection with this measure would consider the possibility of placing their remarks in the RECORD. It would be helpful. I make that suggestion because it is the intention to call up next the Ervin-Mansfield amendment, Senate Resolution 280, authorizing Senate intervention into Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

It is my further understanding that there may be five amendments offered to that measure. At the present time the joint leadership is trying to work out a time limitation. Therefore, there will be further votes today.

When that is disposed of today, if it can be, it is anticipated that tomorrow we will take up the last two items on the calendar, if they are cleared on both sides, and evidently they are noncontroversial.

Then, we can take up S. 3178, to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President. There will be rollcall votes on that measure tomorrow.

When that measure is disposed of we will take up S. 2895, a bill to enable producers of commercial eggs consistently to provide an adequate but not excessive supply of eggs to meet the needs of consumers, and so forth. That will take up most of tomorrow.

Then, on Friday we will take up an act to authorize certain naval vessel loans, H.R. 9526, to which there will be an amendment offered.

On Tuesday next the Senate will take up S. 1821, the measure dealing with aircargo. There is a time limit agreement on this proposal.

Also on Tuesday next we will take up the so-called war powers bill; and in between, hopefully, the legislative appropriation bill which should be ready Tuesday or Wednesday. On Friday, or Monday, or Tuesday—and probably Friday—the conference report on Radio Free Europe and Radio Liberty should be ready.

Mr. SCOTT. Mr. President, will the Senator yield briefly with respect to the bill which provides for an adequate but not excessive supply of eggs? Since this is the Easter season, could the majority leader inform me how many is "not excessive"?

Mr. MANSFIELD. I do not know about eggs, but I know that hens are supposedly in excessive supply. [Laughter.]

Do not get me wrong.

Mr. SCOTT. I suggest the Senator wait until the final vote on the equal rights amendment.

Mr. MANSFIELD. I was not being facetious, but I did hear on the radio the other night in connection with this bill that there is an excess of 250 million hens, and that legislation has been recommended by the Committee on Agriculture to correct this imbalance.

Mr. SCOTT. I thank the majority leader.

PROBLEMS IN THE TRANSPORTATION INDUSTRY

Mr. MAGNUSON. Mr. President, with the current emphasis on the environment and the sharpening awareness of the flaws in our transportation system, it is natural that we be concerned. Daily, we search for the answers to the questions which will lead to a sound national transportation policy.

Mr. President, the remarks of John A. Creedy president of the Water Transportation Association, Kentucky Chapter, made recently at the University of Louisville, highlight some of the problems in the transportation industry. Mr. Creedy's remarks show considerable expertise in the field and I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TRANSPORT POLICY REFORM: CAN PROGRESS BE MADE NOW?

It is a pleasure and a privilege to be back in Louisville again to discuss transportation policy before the American Society of Traffic and Transportation.

The topic is: "Does the transportation industry really want deregulation?"

I could simply say "no" and sit down. But the problem isn't that simple—nothing in transportation is that simple. The concept of deregulation is a target that is changing shape rapidly as we go along—so rapidly that I think it can fairly be said that the deregulation issue is now obsolete.

Karl Marx lived to say he wasn't a marxist. I am told that Freud lived long enough to say he wasn't a freudian. In the end, Keynes denied he was a Keynesian. Similarly the deregulators have been around long enough now to deny they are any longer in favor of deregulation.

In testimony in January Richard W. McLaren, former chief of the antitrust division of Justice, stressed that he was not calling for an end to regulation, but rather a form of re-regulation.

So, to answer the question, we are not talking about the deregulation as it first burst upon us—the abolition of the ICC. There seems to be a growing recognition among shippers and in the Department of Transportation that the problem is not quite so simple as it first appeared, a willingness to say that maybe the deregulation proposal isn't perfect. One doesn't hear quite so often the refrain that those who run the transportation industry are uniquely stupid, that their views should be ignored, that solutions must be imposed on them over their opposition.

The most extreme form of this view was the suggestion advanced last year by one group of shippers that the industry was so incompetent that a commission should be formed, outside the ICC and the DOT, dominated by shippers, to determine cost standards for the industry—rather like asking the fox to guard the chickens.

Some of the errors of the more extremist thinking which so long held the center stage no longer have widespread support. We may be in a new phase in which we are prepared for progress. Dryden, the 17th Century English poet, put it neatly with these lines:

"Errors like straws upon the surface flow
He who would search for pearls must dive below."

It seems to me that a little intensive diving below, a little additional work on the propositions before us could bring back the pearls we all seek, action on a number of important change in national transport policy of a type which reasonable men can agree are inherently sound.

With open-mindedness and good will, we may arrive this year at those far-sighted policies which will enable the industry to attract investment on a basis that is competitive with the rest of the economy and thus forestall the present danger of nationalization and meet the industry's long range responsibility to the expanding economy.

We start with the public statement of the Department of Transportation that their bills are not necessarily the last word in wisdom. The carriers, on their part, have never described the Surface Transportation Act, which rail, truck and water carriers support, as the complete answer to every problem. Both measures include very useful ideas. There would appear to be a real basis for common action between the DOT and the carriers.

I believe also that there is much common ground between the producers of transportation and the consumers, the shippers. Shippers are expecting the transportation industry to lay out tens of billions of dollars in the next few years for expansion of capacity to meet the needs of the growing economy and for improvement in service. Ultimately that investment must be underwritten by adequate earnings. If the transport industry is to remain under private enterprise, those earnings must be the basis for debt and equity investment on terms competitive with the rest of the economy. Rate levels must be adequate to provide those earnings.

In the last analysis, there is no dodging that issue.

It should therefore be possible for the shippers and carriers to agree on reasonable standards for adequate revenues and earnings, with proper safeguards to assure the shippers that adequate rate levels are indeed translated into adequate new capacity and improved service.

The water carriers have long advocated a method for taking most of the controversy out of the issue of adequate revenues and earnings. We have proposed that a careful study be made of capital requirements of the industry for the next five years or 10 years. Water Transport Association has done this for six of the major barge lines and the amount of money needed to take care of a modest expansion of five per cent a year and to maintain the fleet at an optimum 15 years average age is staggering. Reasonable people should have no problem with rate levels adequate to provide capacity needed by the public. If we show the shippers the role earnings have to play in their interest much of the controversy should fall away. Unless shippers are expecting the transportation industry to subsidize them—and I do not believe this is the case—a meeting of minds on the earnings issue should be possible.

There are a number of issues on which the DOT and the carriers may not agree in detail, but they certainly are in basic agreement in principle. Liberalization of abandonment procedures for unneeded railroad facilities, some kind of government loans or government guaranteed loans, accelerating the elimination of dangerous railroad grade crossings, minimizing discriminatory state taxation and eliminating ICC prescribed rates which are below out-of-pocket cost are broadly non-controversial.

It is hardly worth elaborating on the details of these issues because the public need is so evident.

But so far we haven't been able to resolve two issues of great importance, the lessening of government intervention in transport management decisions and the encouragement of vigorous competition. Of course fostering healthy competition inevitably reduces the need for detailed regulation.

Anyone who criticizes the effectiveness of competition in transportation has to answer the question "compared to what." The unregulated segment of the economy, judging by its price record alone, has performed less well than the transportation industry.

Freight rates have lagged for behind the wholesale and consumer price indices. Indeed, the economists who describe the structure of the unregulated economy say that managers of most of it are "too intelligent" to compete on a price basis. Thus over most of industry we have "administered prices," "mutual forbearance" and a general preference for competing by advertising or by service, but not, if they can help it, on a basis of price.

While we believe that transportation has done well compared to industry generally, and that there is active intermodal price competition in transportation, certainly there is no room for complacency. No one, least of all the ICC, believes the regulatory process is perfect.

As we come down to the wire this year, I suggest that the important changes in national policy on which we will, in the end, all agree will be those changes which greatly improve the regulatory process rather than undermine it.

Everything points in this direction. First, the carriers find many legitimate objections to proposals for deregulation. Second, the shippers are splintered in their views of what needs to be done and have been little help in determining new policies. Beyond the incantation "remove outmoded regulation" the actual proposals founder against the practical realities of the transportation market place.

The rate bureaus, for example, meet the pragmatic needs of both carriers and shippers and cannot be abolished or greatly weakened. If they remain, a public referee on the decision of rate bureaus must also remain. Rate deregulation founders on that basic dilemma.

It should however be possible to reform any abuses of rate bureaus, such as they are, without interfering with their legitimate function. All carriers are agreed on the need to identify and eliminate rate bureau abuses.

But I think we have to give urgent attention to ideas which would lead to the improvement of regulation. It is a proper objective of economic regulation to foster competition to the maximum extent feasible. Both the pressures and incentives of competition help to assure optimum performance in the public interest and lessen the need for regulatory action.

It wonderfully clears the mind in considering the issue of what constitutes a proper concept of healthy competition to review antitrust policies. In the unregulated segment of the economy, ambitious businessmen have tried a wide variety of tactics which, when stripped of all their complexities have a common theme. The would-be monopolist is the fellow who uses his inordinate leverage or market power to prevail on the basis of power and not of efficiency. That's the key. The antitrusters' objective is to make sure that the more efficient but less powerful competitor is not artificially shut out of an opportunity to compete.

Some 12 years ago, the water carrier industry commissioned a study of antitrust policies and at that time recommended that the experience of the antitrusters could both simplify and strengthen the regulatory process.

A fundamental aspect of existing antitrust policy is that it seeks to assure to the public the economic benefits associated with healthy competition—productive efficiency, price and quality rivalry, innovativeness—not by prescribing but by proscribing.

The basic goal is to insure, insofar as possible, that the way will be kept open for competitors to prevail in the market place on the basis of superior efficiency and performance, which advances the public interest, rather than superior power and leverage, which advances only the private interest. Accordingly, a basic approach may be to outlaw, as being truly anti-competitive, efforts to enhance market position through conduct, devices or practices which reflect, not the accomplishments of efficiency and performance, but the wielding of power and leverage.

We can identify explicitly in transportation, as we have in the unregulated segment of the economy, those practices which can and should be outlawed because they lead to the suppression of competition. Supplementing regulatory experience with antitrust experience in factual situations, we can greatly stimulate and expedite the regulatory process and free up new opportunities for competition.

It will interest you that at a forum on March 11 last year at the University of Louisville, before this same group, in commenting on how to strengthen the transportation system, I advocated common action on an industry program by railroads, water carriers and truckers. The suggestion was not an idle one. Over the previous six months I had been visiting with eastern, southern and western railroads and with truckers to explore such a program. Independently, the truckers had been thinking along the same lines. It was very shortly after your meeting last year that the three modes were able to agree on a common program which became the Hartke-Adams Surface Transportation Act.

The program we developed was heavily weighted in favor of the railroads. There was relatively little in it for the water carriers or the truckers. It represented our mutual recognition that the railroad problem was more severe than ours, but of a nature that would reach all of us if it were not turned around. There is today a distinct danger of nationalization of the railroads. If that happened it would be a turning point in the long history of our country because if we can't solve the railroad problems under free enterprise, the rot will spread to the rest of transportation and from there to the electric utilities, from there to coal and from there to steel and who knows where it will end. The truckers, the railroads and ourselves believe that every effort reasonable men can put forward should be exerted to prevent nationalization of the railroads. Our competitive free enterprise system is a bright passage in human experience, more productive, more capable of spreading the benefits of civilized living to more people than any other system devised by man.

The most important single thing about this rail-water-truck alliance is the ability it has demonstrated to reach agreement on important issues. That is new in the transportation industry. Always before we have spent our energies and time defeating each other's proposals.

This is a new force. Shippers, the Congress, the Department of Transportation should use it and build on it.

It is my faith that, working together, we can discover and then achieve in the public interest those broad new policies which men of good will recognize as inherently sound.

UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT AT STOCKHOLM, SWEDEN

Mr. MAGNUSON. Mr. President, in June, more than a thousand delegates from 130 countries will meet at the United Nations Conference on the Human Environment at Stockholm. Their mandate is to arrive at agreement on the first steps of a cooperative global effort to keep this planet habitable for man. Their responsibility is so awesome and their task of such enormity, that few can fully comprehend it at this time. The success of this first international venture in managing man's only habitat is so critical to his biological and physical health that we dare not comprehend its failure.

Preparations for the Conference have been underway now for well over a year. Those of us who have observed these events are confident that the Conference's Secretary-General, Mr. Maurice Strong, was an excellent choice to head up such an important undertaking. He

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has been extremely effective in stimulating a broad program of preparatory work at both the national and international levels, and he has brought to the task an infectious enthusiasm that is providing a great deal of hard thinking on the issues that will hold the center of the stage at Stockholm.

Not the least among these efforts is the considerable amount of interest and work that has been generated here in the United States. Our representative on the Conference's Preparatory Committee, Mr. Christian Herter, Jr., Special Assistant to the Secretary of State for Environmental Affairs, is supported by the work of a number of Federal agencies and interagency groups as well as by the generous contributions being made by private organizations of highly qualified experts from the professional, academic and industrial communities. Finally, the Secretary of State has established an Advisory Committee on the Conference, which is chaired by our colleague, the Senior Senator from Tennessee. This committee acts as a channel through which the views of the public can be made known to our representatives to the Stockholm Conference.

The agenda for the Stockholm Conference has been set to include the environmental aspects of six main subject areas, and it is expected that discussions of these areas will lead to the adoption of an action plan. Generally speaking, the six areas include: planning and management of human settlements; natural resource management; identification and control of pollutants; educational and informational aspects; development; and the organizational implications of action proposals.

It is the last of these subjects—the question of what agency will be designed or designated to carry out an effective program of environmental management—that is of particular interest to me. I am persuaded that unless the Conference is able to take decisive steps on the question of how the effort is to be organized, then any agreements that might be reached on other agenda items can never be implemented.

The question of organization of an international environmental effort is one that has concerned and occupied a number of groups and individuals ever since the idea of a global effort was conceived. It is one which continues to be studied with diligence, for I believe there is growing recognition that this may be one of the thorniest problems facing the Conference.

At the center of the problem of organizing a global effort is the question which continues to present the most serious hurdle to the understanding and agreement that the making of public policy requires. That is the question of how to translate scientific information generated throughout the various disciplines to the public decisionmaking level. Among the complex problems facing society today, few contain in such measure the ingredients that make for a full flowering of this dilemma as the one we have tagged "the environmental problem"—in reality, a whole class of problems.

It is axiomatic that solutions to environmental problems—if they are to be achieved—must be based, first, on intelligent assessments of their nature, extent, and consequences. Second, they require that decisionmakers understand the technological possibilities and methods that can be utilized for the amelioration of those problems. Both of these areas are functions of the translation—or transference—of scientific information to the public decisionmaking level.

At this point in time, scientific information on the environment is fragmented and scattered throughout the disciplines. A great number of organizations have been involved for years in one or another of the diverse activities subsumed by the term "environment."

This is demonstrated by the most cursory examination of hundreds of publications whose focus is one or another aspect of man's relation to his physical environment.

That there are a great number of international organizations involved in the diverse activities connected with the environment is demonstrated by a study published early last year by the Committee on Commerce. In that study, we attempted to identify as many international organizations as possible whose functions and interests concerned one or another aspect of the environment. Our report, which is entitled "Environmental Activities of International Organizations," identified about a hundred such organizations. While some had interests that covered a wide range of environmental problems, we found most to be concerned with only a part of the total picture—in many instances, in activities that were incidental to their main function; for examnle, economic development, food production, disease prevention, or scientific research.

A WORLD ENVIRONMENTAL INSTITUTE

Senators will remember that more than a year ago this body addressed itself to the question of bringing all of this diverse scientific information together so that legislators and other public policymakers could benefit from the knowledge being generated by the scientific community. Senate Resolution 399, which was approved by the Senate on October 9, 1970, recommended that our representatives to the Stockholm Conference propose the creation of a World Environmental Institute, "to act as a global research center and to disseminate knowledge of environmental problems and their solution to all nations of the world . . ." I was proud to have introduced that resolution, which was cosponsored by more than 40 Senators, and I was gratified that it was approved by this House.

I noted, when we passed Senate Resolution 399, that its aims were supported by the international scientific community as represented by the International Council of Scientific Unions, as well as by our National Academy of Sciences Committee for International Environmental Programs and the U.S. Executive Committee for the International Biological Program.

Last June, the Interparliamentary Union adopted a motion which, as I read it, adds the endorsement of yet another distinguished body to the concept of a worldwide clearinghouse for environmental information. At its Conference on the Environment, held in Bonn, the IPU representatives adopted a motion recommending that legislators support "urgent international consultation and action" to arrangements to provide the institutional framework which was contemplated in Senate Resolution 399. Specifically, the IPU motion stated:

> Information on public environmental programs and their implementation both at national and international levels should be centralized in order to give easy access to procedures and techniques which can be of potential benefit to the environment.

And further, the IPU motion stated:

> An international Data Bank whose function it would be to collect information on pollution, to interpret it and make it available to all countries, should be established.

In recent months, Mr. President, two notable studies of this problem of the institutional framework for an international environmental effort have been made. Both of these studies were conducted by highly qualified scholars and scientists. Their recommendations, I believe, deserve the serious attention of our representatives to the Stockholm Conference.

SCIENCE AND INTERNATIONAL DECISIONMAKING

The first of these groups was jointly sponsored by the International Institute for Environmental Affairs and the Aspen Institute for Humanistic Studies. This "International Environmental Workshop" was held at Aspen, Colo., last summer, and its report contains the recommendations of the group for organizing the global environmental effort. I understand the report entitled "The Human Environment: Science and International Decision-Making," has been forwarded to Secretary General Strong. I have read it and commend what I consider its sound conclusions and recommendations to every Member of Congress.

By way of introducing a very brief description of the Institute's recommendations, Mr. President, I want to quote one sentence from the report. It is this:

> The most compelling organizational requirement is to forge an intimate working relationship in international environmental affairs between the intergovernmental community and the world of science and technology.

I was struck, when I read that conclusion both by its logic and by its essential agreement with the conclusions reached by a group of scientists and statesmen who met here at the Capitol in May of last year, at a Colloquim on International Environmental Science. That meeting, sponsored jointly by the Senate's Committee on Commerce and the Committee on Science and Astronautics of the House of Representatives, was attended by a number of distinguished leaders and environmental scientists who met to discuss with Members of Congress the needs of international environmental science. We had a productive 2-day exchange of views which inevitably turned to the question of how scientific knowledge could be organized and used as the basis for policy decisions on what is basically a scientific problem. At the end of the second day's discussions, Dr. Thomas Malone, vice president of the International Council of Scientific Unions, who acted as rapporteur for the colloquium, in his summary remarks stated a general consensus of the meeting. He said:

> We will have to set up institutions . . . We need a small policy council at the U.N. level to review and to coordinate. We need national governments carrying on monitoring programs, coordinated by specialized agencies. We need regional organizations working together.
>
> But the big need is the knowledge need, and as I sat and listened to these discussions, I became more and more convinced that we do need a World Environmental Institute, which can bring to bear on this problem these sophisticated techniques . . . that will provide the link between informative environmental knowledge and public policy . . .

With this as a background, let me turn now to a brief discussion of the recommendations of the International Environmental Workshop, which I mentioned a moment ago. The report describes the workshop's proposals as "minimal steps" to meet present organizational needs and to generate further institutional partnership in the future. To initiate this institutional system for environmental cooperation, four instruments are recommended:

First. The establishment of a small, dynamic, self-contained unit for environmental affairs at a high level in the United Nations.

The report does not specify the kind of "unit"—whether it take the form of a council or committee, or some other—but assumes that agreement on the functions and roles of such a unit would ultimately determine its administrative form. The purpose of the unit would be to provide an overall focal point and to perform specified central services for member governments as well as for U.N. agencies. Most important, it would constitute liaison between the intergovernmental community and the community of science and technology.

Second. The workshop recommends the establishment, by the world scientific community, of a World Institute for Environmental Research and Development.

This is envisioned as a counterpart to the U.N. environmental unit and as its principal partner in the nongovernmental world of science and technology. The recommendation contemplates the Institute as one removed as far as possible from questions of political motivation, yet linked in some explicit way with the intergovernmental community. Such "insulation" would be insured by provisions calling for financing the Institute through voluntary contributions from governments, and for management of the Institute by the scientific community.

Third. The group recommends that "regional centers of excellence" in environmental affairs be created in major developing areas of the world.

As I understand this recommendation, the regional centers would be essentially independent units, to promote an integrated approach to environmental problems in each region, to provide the scientific information needed by decisionmakers within the region, and to advise—and be assisted by—the environmental unit established within the United Nations. No standardized regional unit is contemplated by the workshop recommendation, but each would reflect patterns of organization commonly found in various regions of the world. One may think of these centers as regional partners of the unit established within the United Nations.

Fourth. The group's final organizational component is the establishment, by voluntary government contributions, of a World Fund for the Environment, to be administered by the United Nations unit for environmental affairs.

While most of the funds required for environmental protection and improvement will probably be invested in national programs by governments and other bodies, the operation of this new proposed international structure, as well as the need for new surveys, research, and educational needs connected with the international approach will require additional expenditures. Financing cannot be accomplished by diverting funds from already-approved programs at the intergovernmental level; most of these are probably not receiving sufficient funding at the present time to carry out their assigned functions. So new sources of financing must be provided to implement new functions, such as filling out the missing links in a complete global monitoring system, aiding the establishment of the regional centers, providing special assistance to developing countries for environmental surveys, and the like.

INSTITUTIONAL IMPLICATIONS OF INTERNATIONAL ENVIRONMENTAL COOPERATION

The second examination of the problem of providing adequate institutional arrangements for environmental protection and management at the international level was made by the Committee for International Environmental Programs of the National Academy of Sciences. The Committee's report, "The Institutional Implications of International Environmental Cooperation" was released on November 1, 1971. The tone of the report is set out in its introduction, particularly in the paragraph following a statement to the effect that the burden of environmental problems on the organizations determining policy is such that, unless institutional capacities are improved we will face "an accelerating decline into chaos." The report's introduction then states:

> The irony here is that organized man is not now using effectively either knowledge or resources currently available for the amelioration of social and environmental problems; nor is he yet moving effectively to generate new knowledge essential to the resolution of these problems. The irony could turn to tragedy if he now fails to direct the rapidly growing potential of science and technology toward coping more effectively with his difficulties. An imperative need to put knowledge more fully at the service of social decision making is the basic factor of the instutitional question.

The Committee's recommendations, which are directed to the Department of State, focuses on issues which are among the principal agenda items of the 1972 U.N. Conference. As stated in the introduction they are to be regarded as "first steps" rather than "ideal solutions" of problems of coming to terms with the environment at the international level. I should like to include those recommendations at this point, with the comment that their similarity to other findings and recommendations I have mentioned commend their serious consideration by those who will represent the United States at the Stockholm Conference.

The report recommends that the U.S. Government:

First. Initiate and responsibly participate, as a matter of policy serving the national interest and the interests of other nations, in international programs designed to cope with critical environmental problems; and

Second. Initiate and support, to this end, the establishment of new, and the adaptation of existing, institutions to assure effective and systematic exploration and treatment of such problems.

Specifically, the report recommends that the U.S. Government support:

> The establishment of a single focal point in the United Nations system to provide central leadership, to assure a comprehensive and integrated overview of environmental problems and develop stronger linkages among environmental institutions and the constituencies which they serve.
>
> The creation of an independent global environmental science advisory and research board to provide scientific counsel to decision makers in intergovernmental and governmental agencies, supported by such research capabilities as are needed to assure and substantiate scientific credibility of judgments rendered.
>
> Proposals, such as those advanced by the UN Intergovernmental Working Group on Monitoring or Surveillance and by the Scientific Committee on Problems of the Environment (SCOPE) of the International Council of Scientific Unions (ICSU), to have the United Nations develop a global monitoring system based on the coordinated use of existing facilities but supplemented by such additional institutional arrangements as will be required to observe, trace, and assess the impact of critical substances affecting man and the biosphere.
>
> The establishment of a world fund for the human environment to support the non-housekeeping activities of the UN environmental unit and to be administered by that unit to meet the costs of catalyzing global environmental action.
>
> Current initiatives by transnational or regional organizations to deal with environmental problems as an integral or supplemental part of ongoing programs and that it encourage and support current trends to establish transnational or regional organizations wherever such arrangements are instituted to address common problems of critical importance and where national capabilities are inadequate to deal with them effectively.

Mr. President, in closing these remarks, I want to restate my conviction that mankind faces no greater challenge than the one posed by the environmental predicament his activities have produced, and will continue to produce, as the earth's growing populations in the very near future continue to exact increasing demands on the planet. The answer to that predicament lies in effective cooperation between the world of science and the institutions of government—both national and international.

The recommendations I have just reported appear to me to call for sensible and feasible first steps toward achieving that cooperation. I hope they will be seriously studied by our delegates at Stockholm in June, and I hope that Senators will examine and support them.

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EQUAL RIGHTS FOR MEN AND WOMEN

The Senate continued with the consideration of the joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 208) was ordered to a third reading and was read the third time.

Mr. MILLER. Mr. President, I shall vote for the pending proposed constitutional amendment.

For 50 years, women's groups have sought to put an end to discrimination by reason of sex—especially in the areas of education and employment. They have also been understandably resentful of practices and, in some cases, laws which treat their sex as "inferior"—a position which is morally unjustifiable and completely incompatible with an enlightened, progressive society.

I believe they are entitled to have their preferred version of an equal rights constitutional amendment referred to the State legislatures for possible ratification.

I regret that the particular version they have chosen admits of interpretations which could cause serious trouble in the ratification process. For example, will three-fourths of the State legislatures ratify a constitutional amendment under which young women could be drafted and, further, assigned to combat duties?

The Senate rejected an amendment which would have avoided such an interpretation. I voted for the amendment for two reasons: First. I doubt that a majority of the people I represent desire such a result; and second, such a result is not needed to achieve the objectives being sought—objectives which most of us fully support.

However, if ratification should fail, there can still be no doubt but what the Congress is clearly on record against Federal laws which would discriminate against our citizens because of their sex. This, alone, is a major achievement.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Florida (Mr. CHILES).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CHILES

Mr. CHILES. Mr. President, I strongly support the Equal Rights Amendment. This amendment will declare the national policy and supreme law of the land to be that sex discrimination on any level of government is wrong. I think we have at long last come to realize that it is only through such a strong declaration—through an amendment to the U.S. Constitution, that we can eliminate the legal sex discrimination that exists in certain aspects of life throughout our country.

While I recognize that there has been some important progress made toward the goal of equal rights and responsibilities for women and men, particularly in recent years, I know too that definite patterns of sex discrimination persist.

Up until today, we have been trying to eliminate the legal sex discrimination that permeates our society on a purely piecemeal basis. We have passed some laws—title VII of the Civil Rights Act of 1964 for example, which excluded women from juries altogeployment, or the Equal Pay Act; but our legislative action, like our court action has been slow, fragmented, and inadequate.

It is hard for me to believe that today, in 1972, women are sometimes still denied even the basic rights and responsibilities of citizenship. Up until 1966 there were three States which excluded women from juries altogether and even today there is one State which requires that women, but not men, register specially to be eligible to serve on juries. Discrimination against women is evident in the criminal laws of some States, in college admissions policies, in acceptance into the professions; and the business and labor laws of certain States are also often blatantly discriminatory. Many States have so-called "protective" labor legislation—laws that often serve rather to restrict and discriminate than to protect. Sex discrimination in employment is today even obvious in Government employment. Women constituted 34 percent of all fulltime white collar Federal civil service employees in 1967. At that time they filed more than 62 percent of the four lowest grades and only 2.5 percent or less of the four highest grades.

I fully realize there are those who argue that the discriminatory laws, rules and practices could possibly be eliminated administratively, or legislatively without recourse to constitutional amendment. But the Court has refused to hold that discrimination based on sex, like racial discrimination is inherently "suspect" and cannot be justified in the absence of a "compelling and overriding State interest."

We cannot, I believe, wait any longer for Congress or the State legislatures to take the time to weigh, consider and debate their various laws concerning the equality of men and women before the law. And I think it is high time the women of our country had some tangible evidence of this Nation's commitment to their equal treatment. Therefore, I am pleased to support this historic legislation before the Senate today. After careful consideration, I cannot come to any other conclusion than this: Because of the legal sex discrimination in our country today, the best way to rid our social, cultural and economic life of this discrimination is through the passage of the Equal Rights Amendment. I support the House Joint Resolution 208 without amendment.

Mr. BUCKLEY. Mr. President, I have studied the committee report in support of the equal rights amendment with the greatest care, just as I have the arguments on the floor of the Senate in favor of and in opposition to the amendment in its present form.

I find myself in full agreement with the finding that there still exists in our country a discrimination against women which cannot be justified and which ought not to be tolerated. As to this I feel there is virtually no disagreement either within the Senate or within the United States as a whole. The argument, therefore, concerns only the question of how best to redress these legitimate grievances.

In America today we find three factors which affect the relative rights, prerogatives, duties, immunities, and obligations of men and women. Some of these are cultural, others social, and the balance economic. I speak of distinctions based on sex, deferences conferred because of sex, and discrimination which is predicated on sex. Only the last, I submit, is the proper target of the amendment now under consideration and of the enormous effort by the women of America to redress their longstanding and legitimate grievances. Yet the proposed equal rights amendment would have the inevitable effect of obliterating all of these differentiations—these distinctions, deferences, and discriminations—in the name of an abstract equality, of whether they in fact infringe upon the substantive rights of women.

It is because of this—because, quite specifically, of my deep respect for women—that I cannot support the amendment; and I cannot support it because whatever the intentions of its sponsors, I think we will inevitably find it tugged and twisted and extended far beyond the limits of commonsense and reason. I am opposed to the proposed amendment because, in its attempt to eliminate discrimination against women, it will at the same time inevitably strike down those distinctions and those deferences which our society now extends to women. It seems to me that the discriminations which all of us want to see ended can be more effectively accomplished in other ways, as I shall discuss later in my remarks.

Now I recognize that many militants regard the deferences and distinctions which are embedded in our social customs as discriminatory per se. Yet, if in fact these customs and attitudes do not penalize women, I cannot see why we should be forced to abandon them. Yet that is precisely what would happen to many of our existing conventions based on the analyses given by the proponents themselves.

Let me merely cite a few examples of the effects of the equal rights amendment which are reported in the committee report, and in an article in the Yale Law Journal, which has been cited by the principal proponents of the amendment as best describing its probable consequences.

One of the most immediate and obvious results of the amendment would be to make women equally subject to being drafted into military service as men; and more than that, "women will serve in all kinds of units, and they will be eligible for combat duty." Quite frankly, I cannot see why we should adopt a constitutional amendment which would preclude American society from determining that the obligation to serve in the infantry and other combat forces will be restricted to men. I cannot, for the life of me, see where this distinction would relegate women to the category of "second class citizens."

We are also told, with respect to deferment policies for parents with dependent children, that such policies "could provide that one, but not both, of the parents would be deferred. For example, whichever parent was called first might be eligible for service; the remaining parent, male or female, would be deferred." This despite the fact that the mother in our country usually has the primary, direct responsibility for the care and upbringing of children. While stating unequivocally that women would be as subject to combat duty as men, the article in the Yale Law Journal mentions that "it is important to remember that all combat is dangerous, degrading and dehumanizing." If this be so, then why is it wrong for our society as a whole men and women alike, to conclude that it is to our social benefit to see to it that that parent who is most closely associated with the upbringing and training of the next generation is spared that "degrading and dehumanizing" experience?

Let us move on to the field of criminal law. We are told by the proponents of the amendment that—

> Statutory rape laws, which punish men or having sexual intercourse with any woman under an age specified by law—(would) suffer a double defect under the Equal Rights Amendment. To be sure, the singling out of women probably reflects sociological reality . . . Likewise, in this society, the bad reputation and illegitimate child which can result from an improvident sexual liaison may be far more ruinous to a young woman's psychological health than similar conduct is to a young man's. But the Equal Rights Amendment forbids finding legislative justification in the sexual double standard.

With respect to the traditional concepts of parental and familial obligations, the proposed amendment would have, according to its sponsors, the following effects:

> In ninety percent of custody cases the mother is awarded the custody. The Equal Rights Amendment would prohibit both statutory and common law presumptions about which parent was the proper guardian based on the sex of the parent. . . . In all states husbands are primarily liable for the support of their wives and children . . . (but) the child support sections of the criminal nonsupport laws . . . could not be sustained where only the male is liable for support. . . . The Equal Rights Amendment would bar a state from imposing greater liability for support on a husband than on a wife merely because of his sex.

These, then, are the admitted practical consequences of the adoption of the proposed amendment. I would like to suggest, however, on the basis of our experience with the sometimes extravagant extension of newly defined rights in other fields, that in due course extremist groups will demand, and some Federal regulators and some Federal courts will concede, other interpretations too bizarre to contemplate.

Mr. President, this entire discussion and debate rests at bottom on certain assumptions about the meaning of the word "equality."

It is a word of singularly elusive meaning, and it is therefore incumbent upon Congress, in passing on this proposal, to make as clear as it possibly can just what is intended. As Mr. Justice Frankfurter once remarked:

> Legislation has an aim; it seeks to obviate some mischief, to supply an inadequacy, to effectuate a change of policy, to formulate a plan of government. That aim, that policy is not drawn, like nitrogen, out of the air; it is evinced in the lanugage of the statute, as read in the light of other external manifestations of purpose. That is what the judge must seek and effectuate, and he ought not to be led off the trail by tests that have overtones of subjective design.

It is here, I must confess, that in seeking to limit the ambiguity of the word "equality" to an irreducible minimum, I find the proponents of the measure to be less than fully enlightening. From the outset, proponents of the amendment both within Congress and without, have oscillated between two conflicting interpretations of the amendment's central purpose. Even now, on the eve of the vote, they seem uncertain as to which understanding ought to operate as the controlling intent.

The first interpretation, which derives from what might be called the "unisex" approach to the problem, holds in effect that any lgeal classification based on sex would be per se unconstitutional under the proposed amendment. The second interpretation, seeking to avoid the necessary rigidities of a per se rule, holds that sexual classifications are valid provided that they are applied equally to both sexes.

The first view is articulated by Prof. Thomas I. Emerson and others, who in the Yale Law Journal article so widely praised and disseminated by congressional sponsors of the amendment, writes as follows:

> The basic principle of the Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women, or of men. This means that the treatment of *any* person by the law may not be based upon the circumstance that such person is of one sex or of the other.

The second view will be found, among other places, in a legal memorandum being distributed by the Citizens' Advisory Council on the Status of Women, which warmly endorses the amendment in its present form. The memorandum states:

> The Equal Rights Amendment would not nullify all laws distinguishing on the basis of sex, but would require that the law treat men and women equally.

The Emerson view would, presumably, obliterate all distinctions based on sex; whereas the council view would, presumably, tend in the direction of "separate but equal." But it is not at all easy to say. It was the Emerson view, presumably, which prompted the Coast Guard recently to promulgate regulations to allow female members of a ship's crew to use washroom and toilet facilities that are also used by male members of a crew. The council view, presumably, would permit separate facilities. But, again, it is not easy to say which view ought to be thought of as controlling the intention of Congress. But if the intention of Congress is ambiguous with respect to something so ludicrous as washroom and toilet facilities, how can we expect the courts to find clarity of intention with respect to a whole host of genuine and important problems of construction that may arise once this amendment is passed? I pity the judge who will be obliged to wallow through the legislative history of this proposal in search of clarity where there is none, vainly trying to pin Congress down where Congress has deliberately sought to be evasive.

Mr. President, I do not commonly find myself in agreement with the editorial writers of the New York Times, and, as it happens, we are in disagreement as to the substantive merits of the proposal now before us. But on the occasion of the passage of the equal right amendment by the House, the Times, I thought, said something that badly needed saying:

> Equal rights for women is a proposition so unarguable in principle and so long overdue in practice that it is a pity to have it approached by the House of Representatives as an exercise in political opportunism. For 47 years that body regularly rejected out of hand all proposals for a women's rights amendment to the Constitution. Now it approves, without committee hearings and after only an hour's debate, a constitutional change of almost mischievous ambiguity.

Despite extended hearings, and despite debate here on the floor, it seems to me that the Senate is indulging precisely the same kind of mischievous ambiguity that possessed the House. At the root of this ambiguity is a fundamental confusion between so-called equal rights—which is in itself a problematic concept, as I suggested earlier—and so-called women's rights. The former tends in the direction of, and if some proponents of the measure are to be believed, actually embraces the idea of sameness and would therefore tend to obliterate altogether any legal distinctions based on sex. The latter, rightly understood, seeks to eliminate only those laws which discriminate against women as such and which relegate them to an inferior legal status. If the latter concept were the controlling intention of the proponents, and if it were certain that the courts would implement that intention and refrain from indulging the excesses of "unisex," I would glady support an amendment designed to accomplish the goal.

But I am convinced, Mr. President, that the present amendment is not so limited, and I am further convinced that adequate remedies exist today to correct the inequities which are the appropriate targets for a women's rights amendment. The most important of these, of course, is the 14th amendment. In the past, some have doubted whether that amendment could be used as an effective vehicle for the elimination of unreasonable classifications based on sex. But the Supreme Court last December clearly opened the door to future litigation to test the constitutionality of all such classifications.

In the case of Reed against Reed, the court struck down an Idaho statute which granted preference to males over females in the appointment of administrators for decedents' estates, holding that the discrimination bore no reasonable relationship to the purpose sought to be accomplished by the law of estate administration.

To all but the most ardent zealots of the women's liberation movement, the decision must be considered as a dramatic breakthrough on behalf of women's rights. And it suggests, as Prof. Paul Freund of Harvard has pointed out, that if the advocates of the proposed amend-

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ment had in the past devoted as much time, energy, and money to artful litigation under the 14th amendment as they have in the past year or so to lobbying for the equal rights amendment, the alleged necessity for such a wide-ranging amendment might not have existed at all in 1972. But if past opportunities cannot be recovered, I believe that Reed against Reed bodes well for the future and that a wide variety of unjustly discriminatory laws can be struck down as arbitrary and unreasonable.

The 14th amendment, of course, is not the only legal remedy available to aggrieved women. Title VII of the Civil Rights Act of 1964, which Congress recently amended to provide greatly enlarged enforcement powers for the EEOC, provides yet another powerful tool for the relief of women discriminated against in the field of employment. Litigation under the 14th amendment and under title VII seems to me to provide adequate remedies for the great majority of cases in which women are relegated to an inferior legal status.

It has been suggested that litigation under the 14th amendment, involving as it does a test of "reasonableness," would be unavailing in those cases where women are the ostensible beneficiaries of State legislation, the theory being that the courts would be disposed to uphold laws designed for the benefit of women, notwithstanding their adversely discriminatory character. Given Reed against Reed and certain other cases on the lower Federal court and State court levels, I am not convinced that this argument is so weighty as perhaps it once was.

I am, therefore, encouraged in the belief that a case-by-case approach will produce efficacious results. Certain advocates of the women's liberation movement tend to pooh-pooh the effectiveness of such piecemeal litigation. But experience will testify to the fact, I believe, that rights won by the gradual, if admittedly sometimes tedious process of litigation acquire a more permanent constitutional security than the often ephemeral promises of vaguely worded statutes, fleshed out with grandiloquent humanitarian sentiments but very little else.

Litigation under existing constitutional and statutory provisions would have another advantage, one that is to my mind the most important of all. It is that litigation, proceeding as it does from case A to case B to case C until a rule of reasonable general applicability is framed, is more likely to protect the interests of those women who want and need protection. This is something that very much needs talking about, although given the passions which animate the women's liberation movement it has for the most part been so far ignored.

The most conspicuous and outspoken representatives of the women's liberation movement have a habit of talking as if they were the duly appointed guardians of the women of America. Whether the women of America want or need this kind of guardianship, however, is another matter altogether. I am unaware of any plebiscite granting representative authority to the women's liberation movement from the women of America, nor am I aware of any demonstrable indication that the women of America approve of what their self-appointed guardians would have delivered up for them. On the contrary, as the distinguished Senator from North Carolina has pointed out, in the only detailed poll taken on the subject, the overwhelming majority of those polled revealed a singular indifference, if not hostility, toward the more obvious legal consequences that would flow from the passage of the equal rights amendment. Fully 77 percent of American women opposed equal treatment with respect to military service; 83 percent opposed the idea that a wife should be the breadwinner if she were a better wage earner than her husband; and 69 percent opposed the idea that a woman should pay alimony if she has money and her husband does not.

Yet, as I suggested earlier, if the equal rights amendment were to be ratified, women would be drafted and could be required to serve in combat; States would be barred from imposing greater liability for support on a husband than on a wife merely because of his sex; criminal sanctions for failure to support one's family could not be sustained where only the male is liable for such support; and obligation for alimony could be placed upon either spouse. Such changes in the law may bring joy to the hearts of the more militant advocates of the women's liberation movement, but they are not necessarily in the interests of most American women. As Prof. Philip Kurland, of the University of Chicago, has pointed out:

> There remains . . . a very large part of the female population on whom the imposition of such a constitutional standard could be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keepers of their homes. There are a multitude of women who still find fulfillment in this role. This may be unfortunate in the eyes of some; it remains a fact. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Nor can women be regarded as unified in their desire for this change. Certainly the desire to open opportunities for some of them can be achieved without the price of removal of the protection of others.

I concur with Professor Kurland, but I would go him one further. I not only believe that the great majority of American women find fulfillment in their roles as wives and mothers, but I suspect that the great majority of American women are inclined to resent the demeaning, derogatory, and cynical posture taken against marriage and motherhood by some of the outspoken advocates of the women's liberation movement, as if marriage and motherhood were the hallmarks of inferiority and servitude. To be sure, not all feminists share this jaundiced view, a fact for which we can all be thankful. There are many articulate and engaging activists in the movement, and they have made a compelling case for altering many of our laws which unjustly discriminate against women, especially in the area of job opportunities. With many of their grievances I am in great sympathy, but with Professor Kurland, I am satisfied that present constitutional and statutory law provide ample opportunities for redress. I am not at all convinced that the "liberation" of some women requires the removal of legal protections from others or the imposition of greater legal burdens upon those who do not share the goals of the liberationists.

Professor Kurland has written:

> The temper of our times demands instant and simplistic answers to complex problems. And it is this temper that assumes that the cure for such problems lies in the incantation of the word "equality" by our highest governmental means, the Constitution. . . .

I believe that a principled case can be made for the elimination of such laws as may unjustly discriminate against women. The operative word in that formulation, of course, is "unjustly." But "injustice" is no less slippery a term than "equality," and it is difficult in the abstract—as every wise man since Plato has known—to declare fully and finally what it entails. The central difficulty with the equal rights amendment is that it assumes that equality constitutes the whole of justice, and that sameness of treatment constitutes the whole of equality.

I must admit to being somewhat skeptical about the validity of either proposition. I can conceive of cases where the status of women in our society would be advanced by granting or retaining certain legal protections, which, from the perspective of the women's liberation movement, would be considered as remnants of an outmoded "male chauvinism"; but I can also conceive of cases where such ostensible protections or benefits actually work undue hardships upon women and ought therefore to be struck down or modified.

I do not believe, however, that the best way to go about deciding these complex matters is to adopt an ambiguous far-reaching, and ideologically rigid constitutional amendment. I am prepared, in short, to examine each case as it arises, and I am convinced that the Constitution as it now stands, combined with a variety of State and Federal statutory remedies, is sufficient to the task. There are many injustices in this world, but a constitutional amendment, least of all one so vague in its thrust as this one, is not always the best way to eradicate them. Should this amendment be ratified by the several States, I fear that "victory" for some women will have been bought at the price of injuring others. It will not be the first time that a proposal designed to eliminate alleged injustices actually ends up by creating injustices far worse than those it sought to eliminate.

Mr. BROOKE. Mr. President, I support House Joint Resolution 208, the equal rights amendment, presently before us, and believe it should be promptly passed without qualification or change.

The amendment—in 24 simple words—"equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," gives the women of this country the personal magna carta they have sought for so long. They seek nothing more than equality. They deserve no less.

Women now outnumber men; they comprise 53 percent of our population. But despite their number, despite their suffrage, the doors of equal opportunity have been shut to them since before the American Revolution. In State after State—instance after instance—the law itself discriminates against them: here, women cannot own property or do business without their husband's—and in some cases the court's—consent. There, a woman cannot get a loan at a bank, sign a lease or invest her own money without her husband's consent. Millions of women in the labor force do not receive social security benefits equal to their payments into the fund if their husband also receives social security. The women who serve in the military do not receive housing allowances and health benefits for their dependents. Women can be, and are, sentenced to far harsher prison terms for an offense which would earn a much lighter sentence if committed by a man.

Many of the laws which "protect" women did, in fact, perform that necessary function 50, 60, or 70 years ago when the sweatshop and the blatant exploitation of women and children were a reality. Tens of thousands of those women were immigrants, newly arrived in this country, unfamiliar with our laws, and desperate for income to support themselves and their families. Unions were in their infant stage, almost impotent. Wages and hours legislation had not been enacted for all our people. Government, at every level, had to throw its weight into the scales as the ally of women and children who had no vote and were powerless to protect themselves.

What was designed to liberate and succor, generations ago, shackles today.

The growth of unions, the economic floor which wages and hours legislation has placed under all workers, an alert media and the public conscience now make most of these unnecessary.

They are, in fact, a roadblock to the realization of the equal-pay-for-equal-work concept.

The statistics condemn the status quo: On an average, families with male heads had an income of $7,783 in 1969; families with female heads had an average income of $4,007.

Only 3 percent of workingwomen earn more than $10,000 per year; yet 26 percent of workingmen earn over $10,000 per year.

One hunts through the professions—business, industry—in vain, for enlightenment in regard to the status of women. Look at education, for example.

Women in the teaching profession are consistently relegated to the less demanding, lower paying positions as elementary and secondary school teachers. Only 10 percent of women college teachers attain the rank of full professor, while 50 percent of the male teachers do so. Women average $576 less per year at the rank of assistant professor; $742 less per year as associate professors; and $1,119 less per year as full professors. Yet 91 percent of all the women in this country with Ph. D.'s are working today—81 percent of them full time.

I wish I could exempt my own profession—the law, from this indictment. I cannot. It is no accident that there are so few women judges. Or that so few women lawyers become partners in the prestigious, affluent law firms of this country.

Mr. President, it is time to call a halt. It is time for Congress to redress the balance. The adoption of this amendment would help to do that.

There are some ancillary benefits for men which will flow from enactment of this amendment—paying alimony to a woman who is self-supporting will become a thing of the past. Men will also inherit and enjoy the same protection which is now afforded to women in business and industry.

But what of the women who desire no change in their present status? Women who want to be mothers and housewives rather than "breadwinners." Women who have always been dependent upon a husband's earned income, retirement pay or survivors' benefits. Women who do not want to invest or own property in their own name.

Those women can rest easy. Those who prefer or elect to retain the status quo may do so. But for most of the 42 percent of American women who are in the work force in some capacity, for the many millions of American women who are single and self-supporting or who are the sole support of other dependents, this amendment guarantees new opportunity and that most elementary but elusive status: equality.

No longer will they be denied the opportunity to hold a job simply because they are women. No longer will they be denied loans, access to housing or other benefits solely on the grounds that they are women.

Equal rights for women is long overdue. I applaud this amendment and support its passage.

Mr. DOLE. Mr. President, this is a significant day for America. After more than a half century, Congress has approved the constitutional corollary of the 13th, 14th, and 15th amendments which guarantee equality of rights to all citizens, regardless of race, and it has brought to full force the spirit of the 19th amendment which extended universal suffrage to all citizens, regardless of sex. Congress has passed the equal rights amendment proclaiming that women are full and equal citizens of this great Nation.

I note this day with a particular sense of its historic importance for the State of Kansas and the Republican Party. I do so because the equal rights amendment was first proposed in Congress by Charles Curtis, a great American who was elected Vice President under President Herbert Hoover. He was also a great Kansan, who devoted virtually his entire adult life to public service through six terms in the House of Representatives and four terms in the Senate. And he was a great Republican, who, in addition to his national offices, was majority leader of his party in the Senate and a widely respected and admired Republican leader on the national level.

The lanaguage of Senator Curtis' amendment was as follows:

> Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction. Congress shall have the power to enforce this article by appropriate legislation.

When Senator Curtis introduced the equal rights amendments in 1923, he drew attention, both for Kansans and Republicans, to a solid and forthright position in the cause of women's rights. This position has been maintained and built upon throughout the years, and today I know the Republican Party and the people of Kansas appreciate the significance of having Senator Curtis' initiative fulfilled.

But more than being merely a matter of State or party pride, passage of the equal-rights amendment should be a source of strong national satisfaction in seeing a major step toward the extinction of a fundamental and far-reaching shortcoming in our legal and social systems. This step has been long in coming, but it has at last been taken.

Now we must look ahead. The job has been passed to the legislatures of the States. I am hopeful they will respond as they did last year when the amendment providing for the 18-year-old vote was ratified with the utmost dispatch and regard for the importance of its contents.

More work is in store, but today's action establishes a milestone in the history of women's rights and the rights of the individual. Congressional approval has been secured, and women and men—Americans—can now look ahead to the day when the equal rights amendment will be known by another and more significant name: the 27th amendment to the U.S. Constitution.

Mr. STEVENSON. Mr. President, this is the 50th year that the equal rights amendment has been before the Senate, it having been introduced in every Congress since 1923. Numerous committee hearings have been held over the years, and the amendment has been debated on the floor several times. It has now been debated again in the Senate over the last several days.

As a cosponsor of this amendment, I would like to reiterate my support.

There is but one principle involved, although, as is clear from the discussions, the ramifications are many and varied.

The principle is that sex, by and of itself, cannot be used as a classification to deny or abridge any person of his or her equal rights under the law. This, of course, is more than a mere negative statement that henceforth there can be no legally sanctioned discrimination against women. The amendment should accomplish that, but it will do more. It will tell the Federal Government and the governments of the several States that in all their laws they must set up reasonable distinctions and qualifications based not on the overbroad categorization of sex, but rather on the characteristics of individuals. Certainly, for example, if an occupation requires a basic level of physical fitness, that level can still be required, and it may be that women will not be able to meet those physical qualifications and that men will. Or vice versa. But, under the law it will no longer be acceptable to say that sex by and

of itself is a reasonable factor by which to say that an individual will not be able to hold that job. A man or woman will no longer be denied the right to hold that job, to "pursue happiness," simply because of his or her sex. The burden will be on the State to show that a particular individual does not possess the physical qualities necessary to function in the job.

How the courts and judges of the future will interpret the infinite sets of factual situations which will confront them is not, and can not, be known to us. Similarly, in 1868 it could not be known that within 30 years the Supreme Court would hold that "separate but equal" facilities for blacks and whites would not violate the equal protection of the laws, or that in 1954 the Supreme Court would reverse that initial decision.

What we are doing is enunciating a principle in the Constitution of the United States. There are and will be classifications based on sex which will be held not to deny or abridge any particular individual's equal rights. Indeed, such classifications will be necessary in some cases to assure the individual's constitutional right to privacy. But where such a classification does impinge on an individual's equal rights under the law, there will now be a firm constitutional basis for the courts to end the discrimination.

The 19th amendment, of course, uses language similar to the equal rights amendment when it says that:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

The State of Illinois was the first State to ratify that amendment.

Section 18 of article I of the new Illinois constitution, which became effective last July 1, upholds a principle similar to that of the proposed equal rights amendment:

> The equal protection of the laws shall not be denied or abridged on account of sex by the State or its units of local government and school districts.

Illinois is one of only three States to have enshrined this principle in its Constitution.

As a Senator from Illinois, therefore, I feel that I am acting within the traditions of my State as I lend support to the equal rights amendment. The Constitution does not give Congress the final say on constitutional change. Illinois may yet speak again on this issue, this time in its largest context. It is now time to let Illinois, and every State, have that final say.

Mr. TOWER. Mr. President, I rise today in unequivocal support of the equal rights amendment. We have been discussing this matter for some time now and I believe that the time has come for those of us here in the Senate to affirm our support of this amendment and pass the question on to the States, so that they, acting collectively, may finally be able to decide the issue.

I am convinced that we in the United States are not making anything near maximum utilization of the resource we have in our women. From the standpoint of their intellects, their talents, and their capabilities, given the opportunity, women, in many instances, excel at jobs that are traditionally held to be men's jobs.

As a working politician, I have witnessed the effectiveness of women in politics and am more than impressed. In my own instance, I have appointed a woman as my campaign manager. So far as I know, I am the only major statewide candidate in the country to intrust the future of his or her career to a woman. Both of my Texas offices are managed by women. These responsibilities and the commensurate authority, I have delegated to them, not because they are women, but because they have earned it. They have taught me that the traditional taboos against women in such jobs are to be ignored.

Mr. President, I believe that the most certain way in which women's rights can be fully guaranteed is to pass a constitutional amendment. We have tried several times in this decade to resolve this matter by legislation, yet sex discrimination continues to prevail in all too many fields. In 1938, we passed a very significant piece of legislation to guarantee women equal rights in jobs and pay. The Fair Labor Standards Act specifically prohibited an employer from discriminating on the basis of sex in payment of wages for equal work and equal jobs in equal working conditions. In the Civil Rights Act of 1964, we passed an even more important law dealing with equal employment opportunity. Title VII of that act prohibited discrimination in employment by any major firm engaged in interstate commerce. Also covered were labor organizations and employment services. In addition to such Federal laws, there are numerous State laws banning sex discrimination. For example, 35 States have enacted equal pay laws; 16 have adopted fair labor employment laws which specifically include women.

In theory, then, there would appear to be ample guarantee that a woman with the same qualifications as a man should be considered equally with that man for a particular position, that she should receive the same pay and have the same chances for advancement. In practice, however, this has simply not been the case. In 1970, there were 31 million women in America's labor force—or 38 percent of the total number of workers. This represents an increased during the last few decades and, therefore, a fuller use of our Nation's labor potential. Women over 16 are concentrated in the field of clerical work. In fact, this constitutes about 34 percent of the women's working force. Since this field is commonly grouped with white collar jobs, and since white collar jobs often are more remunerative than blue collar work, the large number of women clerical workers would appear to be in a good economic position. However, the median wage of full-time, year-round clerical workers who are women was $4,789 in 1968, while men in this field were earning $7,351.

Unfortunately, the situation is not improving over time despite the enactment of clearly worded legislation. In 1955, the median salary for full-time, year-round workers was $2,719 for women and $4,252 for men. Women were then receiving 63 percent of what men were earning. In 1968, the median salary for women increased in real terms to $4,457; however, that of men had reached $7,664. Speaking in terms of median wage, women in 1968 received only 58.2 percent of what men were earning—a decrease of nearly 5 percent.

One traditional and important field for women in past years has been teaching; it seems somewhat easier to combine this career with family life. Even here, however, there appears to be bias. The National Education Association found that in 1965–66 the median wage for women who were members of teaching staffs in colleges was less than that of men on all professional levels. In fact, women who were full professors had a median annual salary of $11,649 and men, $12,768.

In overall occupational patterns, the position of women in the labor force has deteriorated in recent years. Since the period before World War II, women have become increasingly concentrated in service trades and clerical work; however, their position in professional and technical work areas has become worse over the years—in fact, it dropped from 45 percent in 1940 to 38 percent in 1968. If there were a substantial rationale for such differences in occupations and salary levels, there might be some justification for the existing situation. Instead, more education and more freedom from homemaking tasks indicate the position of women in the labor force should have improved over time.

Also, women have tended to show up as well or better than men in time-on-the-job studies, and their turnover rates are comparable to men's. In fact, women show less tendency to leave jobs as they acquire higher responsibility.

In another important area, we also find evidence which tends to show a biased treatment of the female—education. Education is a major key to individual success in our society, besides being vital to our technological, sociological and psychological progress as a nation. Hearings before the House Special Subcommittee on Education have indicated that higher levels of previous achievements are required of women in order to gain admission to a college or university. In fact, many schools admit fixed proportions of men and women each year—in favor of men.

The courts have not been of much assistance in solving the discrimination problem in either labor or education. Women's work rights have generally not been considered to be covered under the "equal protection" clause. In Muller against Oregon, a leading 1908 Supreme Court case, the Court upheld a limitation on the number of hours a woman could work in a bakery, declaring that sex was a valid basis for classification. Not until passage of the Civil Rights Act of 1964 was this doctrine seriously challenged; however, the EEOC, which has the authority to enforce title VII of the act, has not been very successful to date in winning court cases which it has initiated in response to specific complaints. Only recently has the Supreme Court agreed to hear a title VII case. Likewise, just a few weeks ago the Supreme Court upheld an Alabama law which prohibits a married woman from obtaining a driver's license in any but her married name.

Mr. President, this recognition of the equal civil rights of women coming as it is over 50 years after the adoption of the women's political rights amendment, is long overdue. Another very basic right this amendment will secure for women is the basic right to contract in their own behalf. It will make certain that women will have full contractual rights with their male counterparts. In our free society, as in any truly free society, contractual rights are a basic ingredient in the freedom syndrome. Clearly, if one is not free to contract as he sees fit, within broadly based public policy limits, then freedom is illusory. I hope that, at this hour in time, we here in the Congress will remove the last vestiges of restrictions on women's civil rights and give this amendment the approval that should have been forthcoming from this great body during the last Congress.

In spite of some of the dire predictions that have been made, I do not feel that any earth-shattering disruptions will come from this amendment. In our system of Anglo-Saxon justice, the most prevalent of all our rules is the rule of reason. All changes that come about will, and should, be in our historical perspective. I have faith in our system, and know that we will do the right thing at the right time.

What we are in effect doing here, Mr. President, is continuing along the historical process of women's equality. As I have stated, this amendment will allow the States, collectively, to decide the issue once and for all. In this way, the legislatures in every State will have the opportunity to fully consult with their constituents and make a separate judgment on the merits of the amendment. This is part of the checks and balances of our constitutional system that has sustained us for so long. When the results are in, I have little doubt that this amendment will be ratified, most probably in record time.

In conclusion, Mr. President, I am pleased to have had a small part in helping to bring about the consideration of this amendment before this body. I hope that it will be quickly sent to the States for their consideration and ratification. Let us proclaim that in 1972 women in America have achieved full equality with men.

Mr. SPARKMAN. Mr. President, I rise in support of the joint resolution proposing an amendment to the Constitution relating to equal rights for men and women. I am proud to remind the Senate that I am an enthusiastic cosponsor of that measure.

I think the time has come for the Senate to go on record. By passing the Senate joint resolution, we are not saying that a woman's place is not in the home. We simply wish to say to the Nation—men and women alike—that if a woman wants to bake bread and garden, that is her choice.

If she wants to be an aerospace engineer or a banker—then she has the right to her choice and full equality in the pursuit of her profession. If she wants to design machinery or become an architect, then she should be able to do so and with the same pay and the same opportunities as a man.

In a nation where equal protection under the law is one of our basic foundations, women too often have been neither equal nor protected.

She has been and is being shortchanged by archaic work laws, by property laws, by limitations that sometimes even make her unemployable. This certainly is one reason why unemployment among women has been so high. The time is now to bring women more into the mainstream of economic life and to seek for her the same quality of life we seek for the Nation as a whole.

We have come a long way in recent years in the field of women's rights, but we have many inequities to overcome before women can share in the general advances in our society.

Some State laws preserve inequities based on social attitudes of 50 years or a century ago. For example, in four States in order to set up her own business, a woman must go to court to prove her fitness. Many States have laws restricting the working hours of women—which prevents them earning the same extra money through overtime that men do. Several States have arbitrary laws stopping a woman from working before or after childbirth regardless of her or her employer's wishes in the matter. Some property and inheritance laws are basically discriminatory against women. Additionally, many States have rules that women may not hold certain jobs or enter certain professions.

In our own Federal Government, Foreign Service wives for almost 200 years were governed by a strict set of rules although they were not employees of the Federal Government. Just this year the State Department has issued welcome new rules for the wives of State, AID, and USIS employees stating that wives could hold jobs or pursue careers abroad, that certain duties cannot be levied on them against their will, and that evaluation of wives' participation or lack of participation in volunteer or other activities cannot be used in the performance evaluation reports of their husbands.

Women hold more property and control three-fourths of all consumer spending in this country. Yet in private enterprise, we find few women in management or positions of power. In fact, a smaller number of top echelon professional jobs are held by American women than in any other developed country in the world.

Only 9 percent of American doctors are women—compared to 50 percent in Russia and 18 to 25 percent in the Western European countries. Only 3 percent of all lawyers are women and only two percent of the judges in the United States. Proportionately, there are more women physicists in Italy than in the United States.

Although education is one field in which women have done particularly well, only 10 percent of college professors are women. Women tend to be held to the elementary and secondary level, and few are promoted to administrative positions. Last year at the Harvard School of Education, where 65 percent of the students are women, only 12 women were on the faculty of 185.

Clearly, the time has come to go on record in favor of equal pay for equal work, for equal opportunity, and equal participation in our national life, and for an end to some of the anachronisms of law regarding women.

Mr. President, various actions on this subject have been introduced in the Congress over the decades, and every President since President Eisenhower has endorsed the equal rights proposal.

About a dozen States have taken official action already in support of the pending amendment, which has received endorsement by such varied organizations as the American Association of College Deans, the National Association of Women Lawyers, the National Education Association, the National Federation of Business and Professional Women's Clubs, and the United Automobile Workers.

Mr. President, I urge my colleagues to join me in support of the Senate joint resolution.

Mr. TUNNEY. Mr. President, I wholeheartedly support the equal rights amendment which provides in part "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

My colleagues, the junior Senators from Indiana and Kentucky are to be congratulated for their careful and articulate campaign to convince us all that this provision—which has been pending before this body in various forms for the past 50 years—was long overdue and crucial to end various forms of direct and invidious discrimination against a majority of the population of this country: women.

I think it is no longer questioned—and it is amply documented by the Senate hearings in 1970 and the House hearings in 1971—that women are not afforded equal protection under the laws of the United States or by our institutions. Resolutions proposing an equal rights amendment have been introduced in every Congress since 1923, and the amendment for which I vote today was passed without any amendments by the House of Representatives. It is high time for the Senate to cast its vote to assure equality of legal rights for all our citizens.

Accepting the fact that discrimination against women does exist, many people still argue that a constitutional amendment is an inappropriate remedy. First, they say, such an amendment is unnecessary. I disagree. It is true that the 14th amendment, by its terms, guarantees equal protection under the law, but the courts have not interpreted the 14th amendment to protect women from many forms of discrimination. As it was ably stated by "Women United":

> The question is not whether the 14th Amendment could provide protection for the rights of women, but whether it has been

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interpreted to protect women from discrimination. It has been the contention of equal rights advocates that the equal protection clause should be extended to women. Granted, there has been some progress through recent judicial actions to eliminate sex discrimination. No woman seeking protection of her rights under the 14th Amendment ever won a case before the Supreme Court until 1971, when the court struck down a state law which favored men over women administrators of estates. That case, however, was narrowly confined to its facts. (Reed v. Reed. No. 70–4, November 22, 1971). Unless legislators, by adopting the "era," express their firm conviction that reform must be vigorously undertaken, progress will be slow and costly, with no guarantee of success. It is the highest type of discrimination to require that women assert their rights under the 14th Amendment by having issues of discrimination adjudicated on a case-by-case basis.

I concede that, if the courts were to move forward with regard to interpreting the 14th amendment to afford true equal protection for women, this new amendment could be redundant. Even so, the enactment of this amendment will symbolize and emphasize this country's dedication to providing true equality for all. This sort of dedication cannot be emphasized enough, and I feel it appropriate to include it in our Constitution.

I think that the literature and my colleagues who have been so outspoken on this issue have said about all one could say on the specifics and importance and ramifications of this amendment. I will just add one more voice to theirs: "We must wait no longer to remove this last barrier to equality in our Nation." In this country which prides itself on the freedoms that its people have, it is an outrage that we have waited this long to grant women truly equal treatment under law.

In conclusion, let us take equal treatment under law as a first step, and move on to eliminate the other subtle forms of social and personal discrimination against women that derive from socially ingrained ideas about the woman's proper role. These notions, too, have kept women from developing their full potential. The enactment of the equal rights amendment will go a long way toward providing the kind of dignity and legal status to which every American is entitled: I pledge myself to go even further.

Mr. GAMBRELL. Mr. President. Having made a careful study of the proposed equal rights amendment to the U.S. Constitution, I have concluded that I will vote in favor of its passage through the U.S. Senate. The study leading up to this decision has caused me considerable concern. I have serious reservations about the desirability of this constitutional amendment which might have prompted me to vote against it if passage by Congress insured its adoption. Fortunately, the drafters of our Constitution provided that Congress can only propose amendments to it, and that ratification by three-fourths of the States before an amendment becomes law. If the Senate passes this amendment and consideration of it moves on to the local level, I trust that the people of this country, and especially the women of this country, will fully inform themselves on the consequences of enactment, and will then either support or reject it on that basis.

Careful investigation of the subject reveals that the precise meaning of the amendment in regard to responsibilities of women—as distinguished from rights—and on the legal effect of the amendment with respect to domestic relations and the obligations of support within the family is unclear.

A wide variety of specific questions in these areas are dealt with in the article, "A Constitutional Basis for Equal Rights for Women" Yale Law Journal 871 (1971) by Professors Brown, Emerson, Falk, and Friedman. To mention a few such as marriage, divorce, sexual relations, support and custody of children, and alimony, will illustrate that these issues are not insubstantial.

The amendment is phrased in terms of "equality of rights". However, many authorities suggest that equality of responsibility is also contemplated. Some even go so far as to suggest that sexual identity shall not be recognized in any respect under the law. To me this seems as foolish as to say that no law may take cognizance of the difference between night and day. Permitting laws which recognize this difference is not to say that either night or day is superior, but is simply to recognize that they are not the same.

In regard to the important subject of domestic relations, and the obligations of support within the family, even the Senate Judiciary Committee report is ambiguous. The majority report of the committee states that the ERA "may" have an effect on domestic relations laws, and that courts "probably" would be reluctant to alter the obligations of support within the family. In other words, the family relationship, which is the cornerstone of our society, may have to fly blind until the courts have had an opportunity to define the meaning of the amendment.

Frankly, I do not think that a majority of women, and certainly not of men, in this country want the law to be required to ignore the differences between men and women and I do not so interpret the amendment. At the same time, I think the majority of American men and women support the elimination of discrimination against women, purely on the basis of sex, in areas where an individual's sex is immaterial. The Supreme Court of the United States has, in fact, held this to be the law at present under the Constitution of the United States, Reed against Reed —— U.S. —— 40 U.S. Law Week 4013 (1971). Legislation now could be enacted pursuant to the 14th amendment of the U.S. Constitution which would implement women's rights in this respect. On this basis, I have supported and voted for the Equal Employment Opportunities Act of 1972, and could support other similar legislation.

At the same time, I can appreciate that the enactment of an appropriate constitutional amendment might accelerate the elimination of invidious sex discrimination in areas where it now exists.

But according to many authorities, the equal rights amendment in the form now presented, goes much further than this.

Many women with whom I have discussed the matter, upon being informed of the amendment's potential in the areas which I have mentioned, are inclined to oppose it.

As the matter now stands, I am faced with the obligation of voting on a constitutional proposal, the meaning of which is in question. Yet, the proposal has twice previously received overwhelming support from the House of Representatives, and is heavily favored in the U.S. Senate. Furthermore, it has the ardent support of organized women, although many of them seem to be poorly informed on the legal consequences of the proposal they advocate.

Possibly a happy solution would be to submit the proposal to a referendum among women, before permitting it to become law. However, we do not have this option at the present time.

All things considered, I have concluded that I should not stand in the way of permitting the amendment to be submitted for ratification or rejection at the local level. Therefore, I have concluded to vote for passage of the amendment. However, my vote for its passage through the U.S. Senate, is certainly not a vote in favor of it, without regard to its meaning and regardless of whether the people want it or not.

To me the amendment means that legal distinctions based solely upon sex are prohibited, except in instances where sex as such is the matter under consideration.

Such a change in our fundamental law is the people's business, and a matter for them to decide at the local level. If the amendment, fully understood, is what the American people want, then I will not use my vote in Congress to deny it to them.

Mr. FULBRIGHT. Mr. President, I want the record to reflect my strong support for House Joint Resolution 208, the proposed constitutional amendment insuring equal rights for women. I have actively supported and cosponsored this measure for many years, and I am quite pleased to be able to join the overwhelming majority of Senators who have shown by their vote today the recognition of the justness of the basic principle of this amendment: that sex is not an allowable determinant of the legal rights of men or women. Particularly significant in our action today is that we in Congress, after 49 years of debate, have cleared for the States an undiluted amendment to the Constitution stating simply that:

Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex.

Opponents of this amendment have said that the ERA will bring about too many changes in our society. While it is true that some changes will occur once the amendment has been ratified, it is also true that the changes destined to occur have been needed for a long time. Many questions have been raised expressing fears which are based upon what I believe to be misconceptions about House Joint Resolution 208. These questions have been answered most persuasively in each instance. The public record on this measure is quite complete, and I am personally satisfied that the changes which we can look forward to are those which will have a healthy effect upon the fabric of our society. With the passage of this amendment, Mr. President, we will not be forcing social change, but rather we will be helping to provide the legal framework for change that is both just and responsive to the needs and requests of a majority of American citizens.

Mr. HARTKE. Mr. President, although it has been 50 years since women in this country achieved political equality with men, there has not yet been complete realization of equality between the sexes.

For most of that half century, a constitutional amendment which would guarantee such full equality has been before the Congress. Introduced first in 1923 and revised in 1943, I am proud to be the present sponsor of the equal rights amendment which first received the support of the Senate Judiciary Committee 28 years ago and which in 1970 received the overwhelming support of the House.

The substance of the equal rights amendment is contained in the following sentence:

Equality of rights under the law shall not be denied or abridged by the United States on account of sex.

Some maintain that such a constitutional amendment is unnecessary and would represent a "constitutional frill." While the 14th amendment has proved an effective tool for combating discrimination against members of certain groups, notably racial minorities, the Supreme Court has not extended this tool to combat sex discrimination.

That there is a need for the equal rights amendment cannot be disputed. The most indifferent survey of State and Federal laws reveals a dark, insidious pattern of discrimination. For example, laws and practices operating to exclude women from State colleges and universities; dual pay schedules for men and women performing the same jobs; State laws placing restrictions on the legal capacity of married women or on their right to establish a legal domicile; State laws which require married women, but not married men, to go through a formal procedure of obtaining court approval before they may engage in independent business; social security and other social benefits legislation which give greater benefits to one sex than to the other; and areas of family law, military law, and labor law in which women are treated differently from men. Each of these instances of discriminating laws and practices can be abolished one by one, but there is no adequate substitute for a constitutional guarantee against prejudice.

Unfair laws do not create discrimination but merely reflect it. Society and, in this case, men, act out their prejudices by enacting discriminatory laws. The discrimination exists before the law and is reflected in the place which women occupy in our society. In industry and in Government, in the home and in the office, women are paid less, hired last, promoted least and given the least demanding work. Statistics as well as statutes reveal the same sad discriminatory pattern and this is so even though women are now a vital part of the economy. Today, 31 million American working women represent 38 percent of the U.S. work force. Despite the growing number of working women and the enactment of various legislation such as the Equal Pay Act and the Civil Rights Act relating specifically to sex discrimination in employment, economic discrimination against women is worsening, not improving.

In 1955, the median salary of full-time, year-round workers was $2,719 for women and $4,252 for men. Women were thus receiving only 63.9 percent of what their male counterparts received. In 1968, while the median salary for women workers had increased to $4,457, that of men had reached $7,664. In other words, women in 1968 received only 58.2 percent of what their male counterparts earned.

Even in fields traditionally associated with women, such as teaching, the economic bias persists. The National Education Association found that in 1965–66 the median wage of women who were members of college teaching staffs was less than half that of men on all professional levels.

Women suffer from discrimination not only in the money they receive, but also in the jobs they are offered. There is not only a money gap, but also a professional gap. Few women have been allowed to enter the professions. Only 1 percent of Federal judges are women, only 1 percent of engineers are women. Despite greater education for women and more freedom from household tasks, women's job opportunities have declined. In 1940, women constituted 40 percent of the professional and technical work force, but by 1968, they constituted only 30 percent. Once again, we see that the problem is getting worse, not better.

The Equal Rights Amendment which I have proposed has often been reported favorably by the Senate Judiciary Committee, most recently in 1964. It has twice passed the Senate, in 1950 and in 1953, and in 1970 it had the support of 87 Senators. Because of the discussion on this proposal in the 91st Congress, some have suggested that changes be made in the amendment which will assure its passage. In fact, Senate Joint Resolution 8 and 9, and House Joint Resolution 208 embody those suggested changes. I oppose such changes as being unnecessary.

The primary issue is in regard to State enforcement. When the Equal Rights Amendment was first introduced in 1923, the enforcement clause read:

Congress shall have power to enforce this article by appropriate legislation.

This wording of the enforcement clause was adhered to in the resolutions on the Equal Rights Amendment introduced from 1923 to 1943. In 1943, the Senate Judiciary Committee voted to change the enforcement clause by extending the enforcing power to the several States. The enforcement clause as changed by the 1943 Judiciary Committee read:

Congress and the several States shall have the power, within their respective jurisdictions, to enforce this article by appropriate legislation.

The reference to State enforcement was the major change embodied in this revision. In its report, the committee commented on its reasons for opposing the original clause which restricted enforcement to the Federal level—

First, it envisioned geographic uniformity throughout the United States.

Second, it tended to impair the right of each of the several States to determine for itself its public policy.

Third, it surrendered to the Federal Government the power to enforce the article within the several States by appropriate legislation notwithstanding its effect upon such local statutes as those governing—

The title, transfer, and descent of real estate;

Community property;

Domicile;

Public morals, health, and welfare;

Domestic relations; and

Police power.

I see no reason for changing the wording of the enforcement clause.

The clause serves two important functions. In the first place it gives power to both Congress and the State legislatures to pass affirmative legislation implementing the substantive provisions of the equal rights amendment. Provisions of this nature, such as those embodied in the 13th, 14th and 15th amendments, have come to be important in legislative efforts to enforce the rights guaranteed. The Federal and State governments must, of course, exercise the powers conferred "within their respective jurisdictions."

In the second place the provision is designed to avoid the possibility that the conferring of power upon the Federal legislature will exclude the exercise of State power to implement the amendment. As we know, the Supreme Court has sometimes held that the existence of Federal power in a certain area precludes the States from legislating in that area, even though the Federal power has not actually been exercised. In the case of the equal rights amendment, it is clear that many of the problems in assuring equal rights for women will arise in areas where the States have primary jurisdiction, such as marriage and divorce, property, welfare and the like. It is important therefore, that, although Congress should be given full power to enforce the amendment, the grant of such power to the Federal Government be not construed to preempt the States from legislating.

It will be noted that, in the only other recent amendment which posed a similar question of assuring the continuance of State power—namely the 18th amendment enacting prohibition—a similar provision was included.

Of course, if there is a conflict between legislation passed by Congress and legislation passed by a State, the Federal law takes precedence under the supremacy clause. In the absence of such a conflict, however, the equal rights amendment establishes that the States and the Federal Government have concurrent jurisdiction.

XUM

Some have suggested that the provision quoted above might be subject to two interpretations which "would obstruct, not advance, the purposes of the amendment." It is my opinion that such concern is unnecessary. Dean Lewis Pollak of Yale Law School, first voiced such concern in 1970. He believes that Federal courts might read this cause as requiring the same degree of judicial deference to State statutes purporting to implement the amendments as would normally be given to Federal statutes implementing the amendment;" and "this could mean that the parochial—and, as might often be the case, mutually inconsistent—statutes of State legislatures would assume an unprecedented degree of apparent dignity and consequent unreviewability merely because they were denominated implementations of this amendment."

I agree with Professor Emerson's response to Dean Pollack. Professor Emerson stated:

I do not follow the reasoning on this. There is no constitutional doctrine that the Supreme Court gives less deference to action of State legislatures than it does to action of the Federal legislature. To the extent that any such result obtains in practice, it is due to basic factors inherent in the nature of the Federal system and the function of the Supreme Court. I cannot believe that the Supreme Court would alter its attitude or position on these matters because of a faint, hidden implication in the concurrent jurisdiction clause of the Equal Rights Amendment. Only an explicit command could effectuate such a basic alteration of constitutional law and practice.

The arguments made by Dean Pollak are well worth considering. They have convinced a number of constitutional scholars within the past year. Nonetheless, it is still my contention that such fears can be overcome by developing the proper legislative history stressing that my version of the equal rights amendment is not to preempt the Federal Government from acting to enforce the amendment but to avoid the possibility that the conferring of power upon the Federal legislature will exclude the exercise of State powers to implement the amendment.

Another difference between the current resolution pending on the floor and the traditional equal rights amendment is a requirement that the amendment be ratified within 7 years and that, if ratified, it not take effect until 2 years from the date of ratification. Only four of the 25 amendments adopted so far have contained a requirement that they be ratified within 7 years, and none of the adopted amendments has included a stipulation that it not take effect until 2 years following ratification.

No such provision appears in the 19th amendment establishing women's suffrage, the one most comparable to the traditional equal rights amendment. Nor does any such provision appear in the last three amendments adopted—the 23, 24, and 25. It seems clear that the 7-year limitation has not been considered necessary in the past. Furthermore, the assumption that the States will act within a 7-year period may well be erroneous.

If the States follow the Congress' example in action on the equal rights amendment, it is quite unlikely that the equal rights amendment will be ratified within 7 years. If there is such a delay, then we must begin the entire process once again. I think that the women who have been involved in the equal rights struggle for any length of time can easily document the delay and procrastination they have encountered in their efforts to secure equality for women.

In addition, the clause stating that the effective date of the equal rights amendment should be 2 years from the date of ratification rather than 1 year, is unnecessary. The only prior amendment that has had a limitation on its effective date is the 18th amendment and that was 1 year. There is no reason why 1 year should not suffice in the case of the equal rights amendment.

The traditional amendment's provision for a 1-year period is adequate since both State and Federal legislatures would have time to conform their laws during the ratification process. It should be stressed that, just as a Governor can convene the legislature for the sole purpose of acting on State matters, he has the same authority to convene a special session of the State legislature for the purpose of conforming State statutes with the equal rights amendment. In fact, it would probably be more appropriate to convene such a session rather than attempting to change such discriminatory laws during the normal course of legislative business.

Mr. President, during the past year I have been contacted by many women concerned with the passage of the equal rights amendment. Some of them have worked for decades in its behalf. They have endured frustration and delay, but they have remained undefeated and undaunted. In 1970, when the amendment passed the House and had 87 sponsors in the Senate, they watched in disbelief as their efforts came to naught.

Following that disappointment, they watched as the wording of the amendment—wording which had survived more than 20 years of testing—was altered to suit some of the arguments first raised by its opponents. They have watched as many in the House voted for the newly revised amendment thinking that it was the traditional amendment. Today, I join with these women in sharing a sense of frustration and dismay.

Mr. President, I support the traditional amendment and oppose any substitute to it. There can be no substitute for justice. What women want is equality, nothing more, nothing less. I urge the Senate to respond unanimously to this longstanding call to justice.

Mr. SYMINGTON. Mr. President—

Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex.

This statement of principle proposed to be embodied in the Constitution, presages a national and concrete commitment for the equal treatment under law of men and women.

The equal rights amendment concerns legal rights, not private courtesies. In their 1970 report the Missouri Commission on the Status of Women emphasized that:

It is equal legal rights, equality under the law, women are seeking—not to be men or to replace them. Too often equality has been mistaken for sameness.

A St. Louis Post-Dispatch editorial comment is worth repeating:

. . . women's equality has nothing to do with opening doors for them or lighting their cigarettes. Such acts symbolize respect, which equality need not destroy. Nor does equality mean that women, in order to be equal, must be able to perform the rigorous physical labors. After all, many men can't. Women's equality has its immediate applications in the area of job accessibility and salaries, but in the broader context it seeks to assure the breadth of opportunity for self-fulfillment that men now enjoy. It has nothing to do with sameness, and if it ever should the game is up.

To be sure some progress, old and new, has been made in long efforts to improve the status of women.

In 1919 the 19th amendment gave women the right to vote. In 1964 title VII of the Civil Rights Act barred discrimination against women in employment where sex was not a bona fide employment qualification.

Despite these and other changes that have been made in both Federal and some State laws, arbitrary classifications persist in most jurisdictions. As example, in some States women are subject to heavier prison penalties than men for commission of the same criminal offense.

In many States, protective labor laws bar women from certain types of occupations or limit the hours or conditions of employment. Although these laws were well-intentioned, the Equal Employment Opportunities Commission has found that their tendency is to discriminate and restrict opportunities rather than to protect women.

I believe women as well as men should have the right to seek those situations in life for which, as individuals, they are qualified. This concept is at the core of the equal rights amendment and admittedly it presents difficulties in its application to military service.

Whereas women now volunteer and serve admirably in the military services, they do so under limitations as to number; also educational and age requirements are different for women than for men.

It is necessary to recognize that equal rights mean also equal responsibilities. This is not to say, however, that all women would be required to undertake military tasks for which they as individuals might not be suited, any more than all men meet the standards required for induction or for particular assignments.

The duties of citizenship should not be considered any less for young women than for young men; else, as Prof. Norman Dorsen of New York University Law School told the Senate Judiciary Committee, the unequal obligations suggest an inferior status for women:

When women are excluded from the draft—the most serious and onerous duty of citizenship—their status is generally reduced. The social stereotype is that women should be less concerned with the affairs of the world than men. Our political choices and our political debate often reflect the belief that men who have fought for their country have a special qualification or right to wield political power and make political decisions.

Still another positive aspect concerns fairness in affording women who desire to volunteer to do so and to thereby earn benefits that flow from military service. As example, there are educational benefits under the GI bill, employment preferences inside and outside Government for veterans and also special advantages in home loans.

While the impact of the amendment on domestic relations and child support laws is another troubling area, I have been impressed by the reasoned statements of the Citizens Advisory Council on the Status of Women which support passage. The Council points out that:

. . . the Equal Rights Amendment would not deprive women of any enforceable rights of support and it would not weaken the father's obligation to support the family. Because it would require complete equality of treatment of the sexes, it might be used to require that the spouses in divided families contribute equally within their means to the support of the children so that the spouse with the children is not bearing the larger share of responsibility for support than the other spouse."

Inasmuch as State laws cover matters relating to marriage, grounds for divorce, property rights of widows and widowers and presumptions as to the parent preferred for child custody, it is well to remember that the Equal Rights Amendment requires the approval not only of two-thirds of the House and the Senate but also three-fourths of the State legislatures.

The ratification process will afford an excellent and needed opportunity for the States to consider the molding of present laws to conform to the greater realities of today's families and to the requirements of the Equal Rights Amendment.

I will vote for the Equal Rights Amendment because I believe it is a symbol needed now to assure that the fundamental law of the United States will afford women an equal opportunity for growth as individuals in accordance with their desires and capacities.

EQUAL RIGHTS—LONG OVERDUE

Mr. HUMPHREY. Mr. President, today is a great day for America. In the next few minutes the Senate will vote overwhelmingly to pass House Joint Resolution 208, the equal rights amendment.

The first equal rights amendment was introduced in the Congress in 1923 and has languished here ever since. The stage has been set since 1920, the year the 19th amendment gave women the vote. Since that time, women have strived to achieve full participation in all facets of American society. Now the time is long overdue for us in Congress to give women what they should have had all along—the rights of all citizens in America.

This afternoon, after 48 long years, we have the opportunity to guarantee their equal protection under the law by voting on final passage of the equal rights amendment.

The case for the amendment has been made clear. We can ill afford to do without the energies and abilities of half of our population. The time has come to bring to the forefront of our national conscience the fact that a nation founded on justice can no longer relegate more than half its population to second-class citizenship.

The American dream—the dream of meaningful participation in all that society offers—must move from dream to reality. The women of America have been systematically excluded from full and meaningful participation. This discrimination tarnishes our Nation and its promise.

The great problem of women in America is a problem of access, alternatives, and opportunity. Women must receive equal pay for equal work. Women must have equal access to leadership positions in business and government. And millions of women—particularly minority women—must be provided with adequate job training so that their opportunities range far beyond domestic employment which often means dead-end jobs at the poverty level.

Today it is not enough that we talk of the Nation's "manpower" needs, we need womanpower as well. You know that when business is bad as it is today the people who are the most expendable are let go first. And all too often the "expendable" people are women.

The problem of women's rights is the problem of human rights. In order to achieve a truly just society, we must attack all aspects of discrimination. Discrimination on the basis of sex will not disappear immediately even with the passage of this amendment today. People will have to change the way they think about the roles of women and men in American society.

As that great American Lucy Stone said in 1855:

In education, in marriage . . . in everything, disappointment is the lot of the woman. I wish that women, instead of being walking show-cases, instead of begging of their fathers and brothers the last and gayest new bonnet, would ask of them their rights.

Today women are not asking, but finally demanding their full rights as citizens. Are we to remain insensitive to the injustices perpetuated against 104 million of our citizens? Let us begin to redress the injustices of the past by voting overwhelmingly for the passage of the equal rights amendment before us today.

EXPANDING FREEDOM: EQUAL RIGHTS FOR WOMEN; MOSS SUPPORTS EQUAL RIGHTS FOR WOMEN AND MEN

Mr. MOSS. Mr. President, the Senate now faces a rare opportunity to expand equality and liberty in this country. Most of our efforts to extend legal rights in recent years have been directed toward minority groups in our society. Today we have an opportunity to expand equality in the form of a constitutional amendment for the majority of our citizens—for women, who are 51 percent of our population.

Since this amendment was first introduced in 1923, the path toward its adoption has been strewn with parliamentary obstacles. Those have now been swept aside. If the Senate will adopt a constitutional amendment that does not require a conference with the other House, we can insure the passage of an equal rights amendment in this Congress. We can be participants in a very historic event.

WHAT THIS AMENDMENT MEANS

Women face pervasive discrimination in employment practices. This amendment would help to open the occupational structure for those women who desire to work. At present, the median salary income of women is 59.5 percent the level received by men. In spite of the general impression held by the public, this income gap has actually been widening in recent years. It is this kind of discrimination that has led America's teachers to endorse the constitutional amendment by a vote of 83 percent.

Under present law, women are often paid less for jobs that appear to be identical to tasks performed by men. More important than this, however, is the fact that the upper occupational categories are often closed to women, not on the basis of ability, but simply on the basis of being a woman. Though universities are by no means unique, they are one example of this kind of discrimination.

Medical schools received applications from women at an increasing rate over the past three decades. The number of applications rose 300 percent from the period 1929–66. Yet admissions for women actually declined. The average amount of money per scholarship for female students is significantly less than that of male students. The picture does not get better at the graduate level. Many university programs openly discriminate against women in their admission policies. This amendment would mean that such university programs could only exclude women on the basis of qualifications that are applied equally among men and women. There are similar examples throughout society. Universities are by no means peculiar in this discrimination.

The legal rights of America's women would be significantly expanded by the adoption of this constitutional amendment. All married women would be able to hold ownership of personal property; amazingly, some States still prohibit a married woman from holding property in her own name. One State in our Nation imposes jail terms of 30 days on men who are convicted from some crimes, but applies a term of 3 years for women who are convicted on identical charges. This kind of blatant violation of basic equality will no longer be allowed once this constitutional amendment is adopted.

Many of us are now aware of the extensive roots of legal discrimination that still permeate the subsoil of our society. Some States still allow a man to use "passion killing" as a partial defense in court when he feels his marriage has been undone by the acts of his spouse, but do not allow the same defense by women who feel they have been wronged in the same fashion.

These laws often serve to protect men from competition in employment rather than to protect women, as the opponents of this amendment often suggest. When women are not allowed to work more than a limited numbers of hours in some States, and are barred from competing for jobs with certain lifting requirements in other States, then they are often frozen out of jobs. The limitation placed

on these jobs should not be stricken—they should simply be applied to both sexes rather than one. If a job has a requirement for strength and physical stamina, that requirement should be applied equally to both sexes.

This amendment will mean that child support, alimony, and other payments related to separation and divorce will be based on the merits of the argument, such as the earning capacity of the parties and the need established in a given situation. These will no longer be determined on the basis of sex. The Citizens' Advisory Council on the Status of Women reported that

• • • the data available, though often scanty, indicates that in practically all cases, the wife's ability to support herself is a factor in determining the amount of alimony; that alimony is granted in only a very small percentage of cases; that fathers by and large, are contributing less than half the support of the children in divided families; and that alimony and child support awards are very difficult to collect.

It is not likely, therefore, that such payments will be substantially increased by this amendment; what is likely is that judgments regarding such payments will be based upon justifiable criteria rather than on the basis of sex differences.

What this amendment really means is that women will be judged as individuals. When they apply for jobs, they will be judged on their ability, training, and other job-related factors. They will not be branded categorically and faced with a separate, and often prejudicial, set of standards. They will be free to develop in their own individual way.

WHAT THIS AMENDMENT WILL NOT MEAN

The adoption of the equal rights amendment will not lead to the merging of public restroom facilities. The bizarre charges leveled at this amendment are simply not true. It will not impose quotas on all aspects of hiring.

The equal rights amendment would in all probability lead to the drafting of some women if drafting of men is also in process. But it would not mean that women would serve in every aspect of our military effort: if some military jobs, such as certain aspects of combat action, had requirements that eliminated women, then so be it. Women would not serve in those jobs. Neither would the men who did not qualify for the standards set for that specific kind of activity. This would be allowable under the amendment, as long as the standards are set on the basis of the job performance, and not on the basis of sex.

I have consistently supported the goal of a volunteer army. This would eliminate the kind of debate that occurs over whether women should or should not be drafted. Until we reach that point, women would be called upon to serve their country to the same degree that men serve.

It is not true that this amendment would necessarily result in women being drafted into the Armed Forces to the detriment of the family. At present, men who are the sole support of families may claim exemption. When persons are needed to care for their children, exemptions can be granted. These exemptions simply must be uniform for both sexes.

We must make a distinction between "sameness" and "equality." Let me quote from the report issued by members of the House Judiciary Committee:

"Equality" does not mean "sameness." As a result, the original resolution would not prohibit reasonable classifications based upon characteristics that are unique to one sex. For example, a law providing for payment of the medical costs of childbearing could only apply to women. In contrast, if a particular characteristic is found among members of both sexes, then under the proposed amendment it is not the sex factor but the individual factor which should be determinative.

After the adoption of this amendment, States would have 2 years to clarify their laws on this subject. When present laws create unfair obstacles, I would expect the State legislatures to eliminate those laws. When State laws provide useful protection, such as minimum wage laws in States where only women are covered, I would expect that State to extend those laws to cover all workers regardless of sex. There is ample case law to demonstrate that the courts have the authority to make this kind of extension if the State legislatures do not.

CONCLUSION

The fight for equal rights for women is very close to victory. It is closer than it has ever been before. The time has come, the stage is set, and the need is apparent. I hope that Senators will join together to support these words, unencumbered by any modifying amendments:

Equality of rights under the law shall not be denied or abridged on account of sex.

EQUAL RIGHTS AMENDMENT PASSAGE IS TIMELY AND NECESSARY

Mr. RANDOLPH. Mr. President, I reiterate my support for the adoption of the resolution insuring equal rights for men and women. I am a cosponsor of this proposed constitutional amendment being debated and have cosponsored several similar amendments in previous Congresses. I have voted against all of the amendments offered to this resolution. Their approval, even in part would have torn into legislative shreds the purpose of this historic effort.

Our Nation was founded on the basis that:

All . . . are created equal, . . . with certain unalienable Rights, . . . among these are Life, Liberty, and the Pursuit of Happiness. . . .

However, this Declaration of 1776 has not yet applied to those of the female sex.

It is inconceivable to me that, in this supposedly enlightened age, there should be such ponderous deliberation on the equality of humans. Yet, Congress has delayed for five decades the passage of the equal rights amendment, but today will act to rectify this condition.

We are not discussing rights which need be or have been earned but rather rights which American women are willing to accept and desire to receive. There is no such thing as a woman's place. She has always shouldered her share in our society. The contributions of women have been very great in all phases of the development of not only our Nation but the world. Very often, however, we attempt to cut them off summarily from the continuing and expanding productivity of American life. Women have been forced to overproduce and to overperform to overcome the barriers to recognition and acceptance as an effective, viable participant in our society—culturally, socially, and economically.

The enfranchisement of women on August 26, 1920, to participate in the political life of our country was only the first major step in recognizing women's equality under the law. American women have come a long way from the days when nursing and teaching were considered the only proper occupations. Today, one in every three workers outside the home is a women. Women must be encouraged to prepare for whatever jobs they are interested in and aspire to do. No field should be closed to capable and well-trained women. It is not a matter of competition with men but rather permitting each person to make the fullest use of his or her talents. In the recognition of individual differences, we establish a base from which to work on the equalization—not of sex, but of opportunity.

It is past time that these legal barriers be removed. Our affirmative action, of course, will not wipe out sex discrimination prejudices in the minds and activities of private individuals, groups, and companies. By removing the legal restrictions we can accord women greater opportunity to pursue a richer, fuller life and the opportunity to attack the prejudices that continue to exist in the minds of people.

It is appropriate that as we approach our bicentennial that we not only celebrate the creation of our Republic but that we also further the creed on which our great Nation was founded—liberty, justice, and equality for all—by adoption of the proposed 27th amendment to the Constitution. I am certain the necessary 38 States will ratify—and do it soon.

I recommend the Chairman of the Constitutional Amendments Subcommittee (Mr. BAYH) for his leadership and perseverence in this matter and in his continuing efforts to insure that our Constitution and the rights guaranteed therein are available to all Americans. Last year we accomplished such an expansion by the approval of the 26th amendment according 18-19-20-year olds the right to vote, a change which I worked to achieve for almost 30 years.

EQUAL RIGHTS FOR WOMEN—AN AMENDMENT WHOSE TIME HAS COME

Mr. BYRD of West Virginia. Mr. President, there is ample evidence in the report from the Committee on the Judiciary, that equality of rights for women under Federal and State law especially—in employment—does not now exist, and that certain inequities currently and historically suffered by women due to unequal provisions of the law should be eliminated forthwith.

The equal rights amendment to the Constitution now being considered in this body has a legislative history going back almost half-a-century. Shortly after the ratification of the 19th amendment, when women's suffrage became a reality, a constitutional amendment was proposed giving equal rights to men and women. In nearly every Congress since 1923, similar action had been proposed, and resolutions were reported favorably

by the Subcommittee on Constitutional Amendments in the 88th, 89th, and 90th Congresses. Resolutions were reported favorably by the Committee on the Judiciary in the 80th, 81st, 82d, 83d, 84th, 86th, 87th, and 88th Congresses.

House Joint Resolution 208, which we are currently considering in this body, was adopted in the House of Representatives in October of 1971 by the overwhelming margin of 354 to 23. By a vote of 15 to 1, the Senate Committee on the Judiciary, on February 29, 1972, ordered House Joint Resolution 208, Senate Joint Resolution 8, and Senate Joint Resolution 9 reported favorably to the Floor of the Senate, unamended.

It is clear from this legislative history that there is strong support for the equal rights amendment in both the House of Representatives and in the Senate. This is as it should be. Sex should not be a factor in determining the legal rights of women or of men, and the discrimination against women prevalent in our laws in the fields of education, business and labor, and private and public employment is an anchronism. While I am sure that these restrictions stem from an original desire to protect, rather than to dispossess, their effect in today's society is appreciably more toward restriction than protection, and they should be eliminated. The adoption by the Senate of the equal rights amendment is an important and necessary step in that direction.

Mr. ERVIN. Mr. President, at long last I have become convinced that a two-thirds majority of the Senate is going to join the House in submitting the equal rights amendment to the States for ratification or rejection. This being true I would like to make some information available to members of legislatures by inserting it in the RECORD at this point. I ask unanimous consent that two statements made by Prof. Philip Kurland of the University of Chicago Law School and a statement made by Justice Philip Frankfurter, and certain comments made by me thereon be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSONAL RECORD, Sept. 14, 1970]

THE EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, one of the most amazing facts in the present debate on the House-passed equal rights for women amendment is that no law professors were called to testify by either the House or the Senate subcommittees considering the matter. It is unbelievable to me that the Congress would seriously consider a proposed amendment to the Constitution which was not discussed at all by those who have spent their lives studying and teaching constitutional law.

In the Senate Judiciary Committee hearings this week, we have attempted to hear several law professors discuss the ramifications of the equal rights for women amendment, if it passes. Yesterday, I placed in the CONGRESSONAL RECORD the statement of Paul J. Freund, of the Harvard Law School, in opposition to this amendment. Today, I ask you to consider the testimony of another outstanding constitutional law expert—Prof. Philip Kurland of the University of Chicago Law School. Professor Kurland is editor of the Supreme Court Review and is truly one of the most knowledgeable men in the United States in his field.

In his statement, Professor Kurland writes that the equal rights amendment is an "instant and simplistic" solution to a complex problem. He foresees many problems resulting from the amendment, including the possible use of quota figures in Federal agencies as a guide to discriminations against women.

While Professor Kurland feels that "the proper answer to the very real problem of inequality now bedevilling some women in this country would be better answered by specific legislation than by the proposed constitutional amendment," he does state that the amendment which I introduced, Senate Joint Resolution 231, would be preferable to the House-passed version.

The passage of a constitutional amendment is serious business, and I hope that every Senator will be able to thoughtfully consider Professor Kurland's statement.

Mr. President, I ask unanimous consent that Professor Kurland's testimony be printed at this point in the RECORD.

STATEMENT OF PHILIP B. KURLAND

I am honored by the Committee's invitation to appear before it today. I am, however, dubious that I can materially contribute to a solution of the problems confronting you. I come with questions not answers.

My bias should be made clear. I am satisfied, though I cannot provide the Committee with documentary evidence, that women in this country suffer from unreasoned discrimination against them in many phases of their lives, not least in the sphere of employment. I am anxious to help diminish such unjustified discrimination. But I am not sure that the proposed constitutional amendment offers a realistic means for bringing about such a result.

My doubts may be based in part on my personal notions about constitutional amendments. I think that they are clearly the best means of bringing about changes in governmental structure. I think they offer an appropriate means for reversal of constitutional construction by the Supreme Court. I think they may be the necessary means for protecting minorities from imposition by majorities and the unenfranchised from imposition by the enfranchised. Women, however, are neither a minority nor unenfranchised. This would suggest to me that the most appropriate means for securing the desired results on their behalf would be by way of appropriate legislation rather than constitutional amendment.

The answer which this Committee is considering, however, is an amendment to the Constitution. H.J. Res. 264 has already passed the House by an appropriate majority. Its provisions also seem to have been endorsed, if not finally, by the necessary majority of the Senate. Such an answer is in keeping with much of the temper of our times that demands instant and simplistic solutions to complex problems, that assumes that the cure for such problems is the utterance of the magic word "equality," and that the proper governmental agency for effecting the cure is the judiciary. All three of these contemporary attitudes are represented in H.J. Res. 264.

I don't think the answer is that easy, much as I wish it were.

The arguments against the amendment, putting aside that of the unenlightened who would endorse the notion that the only proper place for women is as helpmates for men, are four.

First. It is contended that in light of the newly expanded meaning of the Equal Protection Clause of the Fourteenth Amendment, there is no need for further constitutional provision to protect women against invidious discrimination. It is clear that, to the extent the proposed amendment authorizes legislation by Congress and the States, no addition is needed. Section 5 of the Fourteenth Amendment plus the Commerce Clause gives the Congress an almost unlimited reach in commanding equality between the sexes. There are no inhibitions on State legislatures that would prevent them from doing the same, except for the concept of preemption by either federal legislation or the Commerce Clause. The question remains, however, whether the equality talked about by the Court in construing the Fourteenth Amendment is the same equality as is the subject of the proposed amendment. Only if the answer to that question is in the affirmative does the proposed amendment become redundant. The ambiguity of meaning of the proposed amendment does not make clear its equation with current Equal Protection Clause doctrines.

Second. It is argued that the proposed amendment will raise a myriad of legal problems involving such matters as family law and decedent's estates to the status of constitutional issues that will have to be decided by a Supreme Court already unduly burdened with an unbearable load of constitutional business. The answer offered to this argument is that any fundamental change in the social structure of our society to be brought about by constitutional amendment will place such a burden on the federal judiciary. The Court itself has shown no reluctance to add similar social issues to its docket. Insofar as more important matters make claims on the Court's jurisdiction, it remains within the discretion of the Court to decide which cases it will decide. Again, the extent of the burden may well depend upon the clarity of purpose and meaning of the proposed amendment. The more ambiguous it is, the greater the problem of constitutional adjudication will be.

Third. It is said that the proposed amendment will invalidate a host of state laws enacted not for the purpose of discriminating against women but with the objective of favoring them. One can readily see the difficulty of determining whether a law favors or discriminates against women. For example, my classical economist friends would say that laws protecting women against overtime work and night work do not in fact favor them because these laws place women at a competitive disadvantage in the employment market. In any event, the question of the extent to which laws classifying on the basis of sex would be invalidated would again depend on the meaning and purpose of the proposed amendment.

Fourth. It is suggested that the proposed amendment seeks not equality of the two sexes before the law but identity of them. Surely the elimination of differences between men and women cannot be obliterated by constitutional fiat. And the current state of knowledge of the biological sciences is not yet adequate to bring this about as a fact. But once more we are thrown back to the question of the meaning and purpose of the proposed amendment.

It is evident that the language of the proposed amendment is itself too barren to provide sure answers to these objections. It simply provides that: "Equality of rights under law shall not be denied or abridged by the United States or by any State on account of sex." With all due respect to Senator Ervin, I cannot agree with his statement on the floor of the Senate that the difficulty inheres in the construction of the word "sex." For me, at least, it derives rather from the use of the word "equality."

It was almost a century ago that Sir James Fitzjames Stephen, in his book, *Liberty, Equality, and Fraternity*, asserted that "equality is a word so wide and vague as to be by itself almost unmeaning." Nothing that has happened in the intervening years has done anything to make it more specific.

It seems to me, therefore, that it is incumbent on Congress, unless it wishes to leave the matter wholly in the hands of the federal judiciary, to attempt to define, to the extent that it can, what it means by the word "equality" as it is used in the pro-

posed amendment. It can do this in two ways. The first and better way would be to write its meaning into the language of the amendment itself. Certainly this is a difficult undertaking. And perhaps the political situation being what it is, Senators and Congressmen may well believe that it is the greater part of wisdom not to risk the costs of delay in the preparation of the amendment. I would remind them, however, that constitutions are not written for the moment. Henry Clay once said on the floor of the Senate, admittedly with some hyperbole, that constitutional provisions are "not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity." Perhaps, then, it is worth the cost of delay to present an amendment the meaning of which is as clear as it is in the power of Congress to make it.

The alternative to careful drafting of the amendment itself is the careful preparation of the legislative history, primarily by way of the report of this Committee to the Senate. This is no certain cure for the defects of ambiguity. The resort by Justices of the Supreme Court to the legislative history behind the Reconstruction Amendments makes clear the dangers of this game. Legislative history will as frequently compound the confusion as resolve it. Nevertheless, if this is the only open road, it must be taken.

The essential question to be answered by this Committee's report then, if nowhere else, is what it understands to be the meaning of "equality" as used in the proposed amendment. Again, this is no easy task. Hints may be found in some data of Mr. Justice Frankfurter in his construction of the Equal Protection Clause of the Fourteenth Amendment. In *Whitney* v. *Tax Commission* (309 U.S. 530, 542 (1940)) he said: "The Equal Protection Clause was not designed to compel uniformity in the face of difference." And during the same Term, he announced in *Tigner* v. *Texas* (310 U.S. 141, 147 (1940)): "The Constitution does not require things which are different in fact or opinion to be treated by the law as though they were the same." It was his belief, as stated in *Dennis* v. *United States* (339 U.S. 162, 184 (1950)) that "there is no greater inequality than the equal treatment of unequals." And it was Mr. Justice Holmes who told us that: "The Constitution is not to be satisfied with a fiction." (*Hyde* v. *United States*, 225 U.S. 347, 390 (1912).) I should think that these statements would provide a clue for the meaning of the word "equality" in the context that it is to be used. Governmental distinction between males and females must be justified in fact before it can pass muster under the proposed amendment. If the distinction is based on reason, then the legislation should be presumptively valid. The mere fact that there are two sexes is not reason in itself for distinguishing between them in legislation. On the other hand, that a distinction is drawn between them in legislation should not be sufficient to invalidate the law.

It may be said that this is already the command of the Equal Protection Clause. And it may well be. But there are cases that suggest this is not true. Nor has such a clear doctrine emerged from the Supreme Court's Equal Protection cases as to make this construction certain.

There are other questions to which the Committee should address itself, questions revealed by recent Supreme Court cases and others on their way to adjudication in that tribunal.

One question is whether the proposed amendment would tolerate in certain circumstances a doctrine of separate but equal facilities. Certainly there are still some, albeit old-fashioned, notions of privacy that might properly evoke the use of such a rule.

A second area of concern should be to what extent does the amendment by its terms condemn only governmental action and when does private action become government action for purposes of the amendment. Still further, to what extent is it contemplated that the authorization for legislation contained in the proposed amendment is to be restricted by a limitation to "state action?"

Finally, the Committee might like to speak to the issue whether the proposed amendment contemplates legislation authorizing "compensatory discrimination" or "benign quotas." This necessarily involves the problem of what constitutes proof of discrimination and the problem of remedies. Should it be enough, for example, to show that the ratio of male employees to female employees at the executive level in the Department of Labor or the Department of Health, Education, and Welfare is not in the same proportion as men to women in the population at large? If proof of discrimination is made what are appropriate remedies for its elimination?

When the time comes for the Supreme Court to look to the legislative history of the proposed amendment to aid it in providing answers to these questions, the answers should be there for them to find.

Let me turn to the proposed alternative in S.J. Res. 231. It must be apparent that the Senate proposal answers more of the questions that I have raised than does the House amendment. It certainly does not answer all of them. And it creates a problem of its own, to define more precisely the area covered by the general proposition in light of the exceptions thereto.

There is clearly one fact that speaks up loudly for the choice of the Senate proposal. Times have changed in such a way that it may well be possible for the generation of women now coming to maturity, who had all the opportunities for education afforded to their male peers and who had an expectation of opportunities to put that education to the same use as their male peers, to succeed in a competitive society in which all differences in legal rights between men and women were wiped out. There remains a very large part of the female population on whom the imposition of such a constitutional standard would be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keepers of their homes. There are a multitude of women who still find fulfillment in this role. In the eyes of some, this may be unfortunate, but it is true. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Nor can women be regarded as unified in their desire for change. Certainly the desire to open opportunities to some need not be bought at the price of removal of legal protections from others. The Senate proposal would allow for such differences, the House proposal would not.

In summary then, I think that the proper answer to the very real problem of inequality now bedeviling some women in this country would be better answered by specific legislation than by the proposed constitutional amendment. If the route of constitutional amendment is taken, the amendment ought clearly to spell out what it means. If this cannot be accomplished by new drafting, then it should be attempted by explanation in this Committee's report to the Senate. As between the House version and the Senate version of proposed constitutional amendments, there are good reasons for choosing the latter.

[From the CONGRESSIONAL RECORD, Jan. 31, 1972]

VIEWS OF JUSTICE FELIX FRANKFURTER ON THE EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, many years ago the late Justice Felix Frankfurter wrote to the New Republic magazine which I feel expresses a great deal of truth about the equal rights amendment that will soon be considered by the Senate. Justice Frankfurter certainly expresses my feelings in his letter when he states that he "cares as deeply as a man can care for the elimination of unjustifiable differentiations in law between men and women," but Justice Frankfurter goes on to criticize the strenuous efforts of the equal rights for women advocates to remove all differences in the law in the treatment of women and men. Justice Frankfurter concludes his letter by stating that—

"The Woman's Party cannot amend nature. But it can add considerably to the burdens already weighing too heavily upon the backs of women, the industrial workers, who are least able to bear them."

I certainly agree with Justice Frankfurter and I hope every Member of the Senate will read his letter as a contribution of a very wise man to the up-and-coming debate on the amendment. Realistically, I feel the soundness of his pronouncements are evidenced by the fact that most labor unions in this country, including AFL–CIO, strongly oppose the equal rights amendment.

Mr. President, I ask unanimous consent that the letter by Justice Felix Frankfurter which appeared in the New Republic be printed in the RECORD.

UNIVERSITY OF CHICAGO,
Chicago, Ill., April 6, 1971.

Representative DON EDWARDS,
House Judiciary Committee,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. EDWARDS: If the record on the equal rights amendment hearings is not yet closed, I should like to append thereto a letter by Felix Frankfurter, written to the New Republic way back in 1924 but which still has, I think, great relevance to the issues pending before the committee.

I regret very much that my mother's very serious illness prevented me from attending the hearings.

Sincerely yours,

PHILIP B. KURLAND.

THE EQUAL RIGHTS AMENDMENT

Miss Crystal Eastman challenges the gallantry of men by offering as a poser, in connection with the "equal rights" amendment of the Woman's Party, the question: "How would you feel about it if you were a woman?" Her question assumes a power of imagination which, alas, has been denied to mere man just because he can only think within his own skin. Therefore, I can't tell her how I would feel about it as a woman. It may be more relevant for me to tell her how I feel about it as one who cares, I suspect, as deeply as a man can care for the elimination of unjustifiable differentiations in law between men and women, but one who also happens to be a lawyer and perhaps familiar with what law can do and what law cannot do, in the significant details that matter.

The legal position of woman cannot be stated in a single simple formula, especially under our constitutional system, because her life cannot be expressed in a single simple relation. Woman's legal status necessarily involves complicated formulation, because a woman occupies many relations.

The law must have regard for woman in her manifold relations as an individual, as a wage-earner, as a wife, as a mother, as a citizen. Only those who are ignorant of the nature of law and of its enforcement and regardless of the intricacies of American constitutional law, or indifferent to the exacting aspects of woman's industrial life, will have the naivete or the recklessness to sum up woman's whole position in a meaningless and mischievous phrase about "equal rights." (I am aware that Crystal Eastman once upon a time knew something about law; but that was long ago and far away. Now she disregards her former learning and writes as a "feminist.") Nature made man and woman different: the Woman's Party cannot make them the same. Law must accommodate itself to the immutable differences of nature. For some purposes men and women are persons and for these purposes the law should treat them as persons, subjecting them to the same duties and conferring upon them the same rights. But for other vital purposes men and women are men and women—and the law must treat them as men and women, and, therefore, subject them to different and not the same rules of legal conduct.

The unjustifiable legal differentiations as to women still existing in different States vary greatly from State to State. Now that women have the vote, these discriminations will readily yield to correction by appropriate State action, provided the attempts at reform are preceded by an effective analysis of the legal situation in each State, an understanding formulation of remedies and an adequate educational exposition of the evils and remedies as a preliminary to legislation. But in a binding effort to remove remaining differences in the law, in the treatment of women as compared with men, which do not rest on necessary policy based on inherent differences of sex, the Woman's Party would do away with all differences which arise from the stern fact that male and female created He them. The Woman's Party cannot amend nature. But it can add considerably to the burdens already weighing too heavily upon the backs of women, the industrial workers, who are at least able to bear them.

[From the CONGRESSIONAL RECORD, Feb. 4, 1972]

UNIVERSITY OF CHICAGO LAW PROFESSOR OPPOSES EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, one of the Nation's most outstanding law professors, Philip B. Kurland, professor of law at the University of Chicago Law School and editor of the Supreme Court Review testified last year before the House Judiciary Committee in opposition to the equal rights for women amendment.

In his statement, Professor Kurland maintains that adequate authority now exists for the legislatures of the States and Congress to pass legislation "that is directed to specific evils and effective administration of that legislation will be far more effective in accomplishing the purpose of eliminating invidious discrimination." I agree with Professor Kurland and I think that the advocates of the equal rights amendment could make much better use of their time in bringing forth specific proposals before Congress and the State legislatures that would be designed to correct specific areas of discrimination against them.

Professor Kurland finds a great deal wrong with the fact that the equal rights amendment could be interpreted to abolish all legal differences in the treatment of men and women. Professor Kurland called this "a demand for unisex by constitutional mandate." And, with simple clarity, Professor Kurland explains what is wrong with the unisex amendment. He said:

"There are physiological and biological differences between men and women that are not subject to eradication even by constitutional amendment."

Professor Kurland discusses in detail one very practical problem which could be caused by the passage of the equal rights amendment. I sincerely hope that each Senator, before voting on the equal rights amendment, will think about this problem. Professor Kurland has this to say:

"Times have changed in such a way that it may well be possible for the generation of women now coming to maturity to surrender all special legal protection and privileges. A great majority of them have had all the opportunities for education and training afforded to their male peers, with an expectation of full opportunities to put that education and training to the same use as their male peers. They may well be able to succeed in a competitive society in which all differences in legal rights between men and women were wiped out. There remains, however, a very large part of the female population on whom the imposition of such a constitutional standard could be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keeper of their homes. There are a multitude of women who still find fulfillment in this role. This may be unfortunate in the eyes of some; it remains a fact. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Nor can women be regarded as unified in their desire for this change. Certainly the desire to open opportunities to some of them can be achieved without the price of removal of the protection of others."

Mr. President, I ask unanimous consent that Professor Kurland's statement be printed at this point in the RECORD.

STATEMENT BY PHILIP B. KURLAND, PROFESSOR OF LAW, THE UNIVERSITY OF CHICAGO

I am grateful to the committee for its invitation to express my views on the subject of a proposed constitutional amendment to provide "equal rights for women." I am not sure that I have any contribution to make to a subject that has received such extensive attention by the Congress over a period of almost 50 years now.

Indeed, I have but two points to make to this committee on the subject. First, I do not believe that a constitutional amendment is either necessary or appropriate to alleviate the very real discriminations suffered today by women in American society. I say this for two reasons. The discriminations from which women suffer in our society are essentially not those imposed by laws of either national or local governments. I submit, too, that legislation, for which Congress and the States already have ample authority, that is directed to specific evils and effective administration of that legislation will be far more effective in accomplishing the purpose of eliminating invidious discrimination.

My second proposition is that if such an amendment is to be proposed by Congress, its aims and purposes are to be clearly delineated, either in the language of the amendment or by the reports of the committees recommending the amendment to the respective houses of Congress. Congress should particularly indicate whether it is fostering a "unisex" approach or one that bars only invidious discrimination against women. They are not the same, however much some of the sponsors of the proposed amendments would like them appear to be the same.

At the risk of trying to teach my grandmother to suck eggs, I should like to begin by referring to the tortured history of the proposed amendment.

I. SOME LEGISLATIVE HISTORY

Last year, some 47 years after it was first proposed in Congress, a joint resolution to initiate an equal rights amendment was sprung from the grasp of this committee, rushed through the House after a debate of less than 1 hour, and failed of endorsement in the Senate by a whisker. The 1923 version was put simply and ambiguously: "Men and women shall have equal rights throughout the United States and in every place subject to its jurisdiction. Congress shall have power to enforce this article by appropriate legislation." Obviously, the language so chosen was rife with problems of appropriate construction. The 1970 language, in a form that has essentially been used for the last 15 years or so, and repeated in the proposed resolutions under consideration here today, afforded different, but no less challenging, ambiguities. It reads:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation."

The proposal for an equal rights amendment obviously had not lain dormant between 1923 and 1970. After the initial impetus provided by the suffragettes, it emerged again in the period following the Second World War, during which much of what had therefore been considered men's work was ably performed by women. Indeed, in the years 1942, 1944, 1946, 1948, 1950, 1952, 1953, 1956, and 1962, the Senate Committee on the Judiciary had reported favorably on essentially the same proposal as that under consideration in 1970. And, in 1950 and 1953, the Senate had approved those resolutions with the votes of 63 to 19 and 73 to 11, respectively. There was, therefore some irony in the fact that the proposal that had in the past succeeded in the Senate but languished in the House of Representatives should, in 1970, have met its doom in "the other body" after passage in the House of Representatives.

There is an explanation for this. The Senate had not in fact changed its position in the interim. The two successful Senate forays in 1950 and 1953, had been accomplished only after the proposal had been amended by Seantor Hayden's language, which appended the following: "The provisions of this article shall not be construed to impair any rights, benefits or exemptions conferred by law upon persons of the female sex." Had the proponents of the 1970 proposal taken cognizance of this history and accepted the conditions of the Hayden qualifications, I venture that the proposal would have again readily secured Senate acquiescence. The refusal by some protagonists to accept the qualification was probably not, however, inadvertent; it was calculated. It represented a deliberate choice between two different objectives, either but not both of which the proposed amendment might fully serve.

II. CONSTRUCTION AND RECONSTRUCTION

Mr. Justice Frankfurter once told us: "Legislation has an aim; it seeks to obviate some mischief, to supply an inadequacy, to effectuate a change of policy, to formulate a plan of government. That aim, that policy is not drawn, like nitrogen, out of the air; it is evinced in the language of the statute, as read in the light of other external manifestations of purpose. That is what the judge must seek and effectuate, and he ought not to be led off the trail by tests that have overtones of subjective design." If it is the duty of the judiciary to effectuate the aim of legislation, it is no less the duty of the legislation, to the best of its capacity, to make clear what its aims are. It ought to say what mischief it wishes to obviate, what inadequacy it wants to supply, what change of policy it desires to effectuate, or what the plan of government is that it is seeking to formulate. If it is an act of usurpation for the judiciary to read legislation to effect its own aims and purposes, it is an act of abdication for the legislature to fail to state its purposes and aims in framing the legislative act that it promulgates.

The prime difficulty with the proposed 1970 equal rights amendment was that the National Legislature came close to approval of constitutional legislation without defining—without knowing?—its aims and purposes. This is not a lawyer's cavil. It was a defect so patent that newspaper editorial writers could see it. Thus, the New York Times wrote:

"Equal rights for women is a proposition so unarguable in principle and so long overdue in practice that it is a pity to have it

approached by the House of Representatives as an exercise in political opportunism. For 47 years that body regularly rejected out of hand all proposals for a women's rights amendment to the Constitution. Now it approves, without committee hearings and after only an hour's debate, a constitutional change of almost mischievous ambiguity."

The Times itself was guilty of compounding the confusion, for it fell into the trap of thinking that equal rights and women's rights are necessarily descriptive of the same legislative objectives. It is of the essence of the problem that frequently they are not. And so there is merit in its desire for elimination of almost mischievous ambiguity, just as there is merit in the editorial proposal of the Wall Street Journal: "Well, we're all for the ladies, but even so, before we write some new words into the Constitution it would be nice to know what they really do mean."

A. A basic conflict of purpose

The primary problem of construction offered by the proposed equal rights amendment derives from the fact that the movement for women's rights is Janus-faced. The proposed amendment presented one aspect, while much of its support was voiced in terms of its other visage. The first would command the treatment of men and women as if there were no differences between them, even at the price of removing protections and benefits that have otherwise been afforded to females. It was a demand for unisex by constitutional mandate. And much of the benefit of such a proposal, to the extent it was possible to effectuate it, would inure to males rather than females, since equality may be attained by applying to all the rules that had theretofore been applied only to females, such as a lower age of emancipation, no legal obligation of family support, exemption from military service.

The second attitude sought only the elimination of discrimination against women, a ban on treating females as a disabled class. Legislation purporting to afford—and in fact affording—privileges to women that were not also available to men would not run afoul such constitutional provision. The difference is essentially the difference between the amendment without the qualifying Hayden language, and with it. And herein lies the conflict among those who would support some constitutional amendment to abate the legal incapacities of women, certainly a sufficient majority of both the House and the Senate to promulgate a proposed amendment if they could but agree on its purpose and function.

There are some basic difficulties with the unisex approach, not the least of which is that there are physiological and biological differences between men and women that are not subject to eradication even by constitutional amendment. Practically, of course, this may present no difficulties for the very reason that nature cannot be subjected to human laws while humans must bow to the laws of nature. The essential claim for such a declaration of equality of the sexes is its symbolic value. The temper of our times demands instant and simplistic answers to complex problems. And it is this temper that assumes that the cure for such problems lies in the incantation of the word "equality" by our highest governmental means, the Constitution, or by the voice of the Constitution, the Supreme Court of the United States. Without denying the importance of symbols, it is necessary to recognize that when they are only the creatures of the Constitution, thus far at least, their effect has been less than pervasive.

A second difficulty with a constitutional mandate of instant equality of the sexes is that proferred by history. Times have changed in such a way that it may well be possible for the generation of women now coming to maturity to surrender all special legal protection and privileges. A great majority of them have had all the opportunities for education and training afforded to their male peers, with an expectation of full opportunities to put that education and training to the same use as their male peers. They may well be able to succeed in a competitive society in which all differences in legal rights between men and women were wiped out. There remains, however, a very large part of the female population on whom the imposition of such a constitutional standard could be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keeper of their homes. There are a multitude of women who still find fulfillment in this role. This may be unfortunate in the eyes of some; it remains a fact. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Nor can women be regarded as unified in their desire for this change. Certainly the desire to open opportunities to some of them can be achieved without the price of removal of the protection of others.

On the other hand there are also difficulties in an amendment that does not ban all legislative distinction in treatment of men and women, that would leave unchallenged those laws that purported to confer, in Senator Hayden's language, "rights, benefits or exemptions • • • upon persons of the female sex." The question when a statute confers a benefit rather than imposing a disability is often difficult to answer. The most cited example of the problem are those laws that provide for minimum wages, maximum hours, limitations on night work, and requirements of sanitary conditions for women workers. Certainly since Louis D. Brandeis fought for the validity of such legislation, it has been assumed by right-thinking people that the legislation was for the benefit of women.

Classical economists, on the other hand, are clear that such laws put women at a competitive disadvantage in the employment market. A Department of Labor study, however, purported to show that there was no difference in women's employment between those States that have laws providing minimum wages or banning night work and those that didn't and only a very small difference between the States that banned women's overtime work and those that did not. This sort of question, whether the legislation affords privilege or imposes disability, however, may be one appropriate or judicial resolution on a case by case basis, with the results dependent on the facts adduced and the values assigned to them.

B. The problem of equality

If an amendment were passed that in effect prohibited all legislative classification in terms of sex, the results might not be desirable but the problems of construction would be minimal. The judicial answers could be mechanical and, therefore easy. The difficulty is that not even the sponsors of such a unisex amendment have made the claim for rigid classification. Apparently embarrassed by the prospect of the abolition of such existent requirements as separate toilet facilities for men and women or the availability of maternity leaves, proponents of the equal rights amendment asserted that certain distinctions could continue to be maintained, so long as the principle of equality is assured. The concept of equality is not, however, one that is easily defined or confined.

The phrase "equal rights" might be repeated an infinite number of times without providing additional guidance to the speaker or listener. Mr. Justice Cardozo noted some time ago that "a great principle of constitutional law is not susceptible of comprehensive statement in an adjective." And it was almost a century ago that Sir James Fitzjames Stephen asserted that "equality is a word so wide and vague as to be by itself almost unmeaning." Nothing that has happened in the intervening years has done anything to make it more specific.

There are suggestions in some of Mr. Justice Frankfurter's opinions to mark the perimeter of a constitutional notion of equality that have an appeal, if only to a small audience. In *Whitney* v. *Tax Commission*, he pointed out that: "The equal protection clause was not designed to compel uniformity in the face of difference." And, in the same term of Court, he announced in *Tigner* v. *Texas*. "The Constitution does not require things which are different in fact or opinion to be treated by the law as though they were the same." It was also his view that "there is no greater inequality than the equal treatment of unequals." Applying these notions in the context of the equal rights amendment, one might work out some generalizations. Governmental distinction between males and females would have to be justified in fact before it could pass muster under the proposed amendment. If the distinction were based on reason, then the legislation should be presumptively valid. The mere fact that there are two sexes should not be reason in itself for distinguishing between them in legislation. On the other hand, the mere fact that a distinction was drawn between them ought not to suffice to invalidate the law. I should think that appropriate data of sociological conditions, especially those deriving from a history of different treatment of the sexes, might warrant the continuance of certain benefits and protections. This should certainly be true of laws relating to domestic relations where marriage contracts were made under laws that created certain expectations or obligations of one spouse to the other, including the male's obligation to support not only his wife but his children as well.

C. The Equal Protection Clause

Such a construction necessarily raises the question whether the equal protection clause of the 14th amendment does not already afford all that the proposed equal rights amendment would offer. The difficulty is that the other informed answer must be that it probably does, but we have no definitive construction by the Supreme Court to give us adequate assurance. Certainly there are cases in the past that raise some doubts that this notion of nondiscrimination on the ground of sex has yet been constitutionally established. Certainly *Breedlove* v. *Suttles*, *Goessart* v. *Cleary*, and *Holt* v. *Florida*, to the extent that they are still viable precedents, do not make it clear that classification by sex is yet regarded, under the 14th amendment, as a "suspect classification" like those of race or religion.

On the other hand, there can be little doubt that the 14th amendment together with the Commerce clause give more than adequate authority to the national legislature to ban discrimination on the basis of sex. And the 1964 Civil Rights Act affords ample evidence that the power can be utilized where the legislature finds that such invidious discrimination needs extirpation.

The scope of the 14th amendment as a direct restraint on Government action still reveals some ambiguities, however, that would also trouble the proposed equal rights amendment. To what extent is the constitutional ban to be read as one against State action only? When is individual action to be treated as State action? And to what degree does the constitutional ban on discrimination authorize legislation providing for "reverse discrimination" or "benign quotas?" If a new amendment does not—and it is not likely that it will—reveal the answers to these questions in its language, it would be helpful to its proper construction to know from the legislative history what Congress thought to be the proper answer to these questions. As of now, the entire legislative history—from 1923 to 1970—is less than enlightening on these subjects.

I tend to believe that an equal rights amendment would be more important for its enabling clause than for its direct substantive effect, especially if the "unisex" construction were not adopted. And such an enabling clause would certainly add little to what is already provided by the 14th amendment and the Commerce clause. Today, the area of governmentally compelled or sanctioned discrimination against women is very limited and is growing smaller all the time. It should be noted, for example, that some of the primary planks of the "women's liberation" platform, such as the right to abortion, or to "child care centers," would be totally unaffected by the proposed amendment even in its "unisex" version.

III. CONCLUSION

I come back to the point at which I started. I don't think that the controversy over the proposed amendment goes to the question whether invidious discrimination against women should be eliminated, but rather to the question of the appropriate means for accomplishing that objective. If the answer is to be by amendment, which I regard as unnecessary because the legislative power that it would confer already exists, the amendment should be something more than a license to the judiciary to create that kind of amendment that Congress was itself unable to frame. Congress should, at least, choose between a proposal that would purport to say that there are no differences between men and women that are cognizable by law and its alternative that would seek to protect women against discrimination.

Mr. ERVIN. Mr. President, I ask unanimous consent to have printed in the RECORD the minority views expressed by me in respect to the committee report.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF MR. ERVIN

Is the Equal Rights Amendment to be the Tonkin Gulf Resolution of the American social structure?—Dr. Jonathan H. Pincus, Professor of Neurology, Yale Medical School.

I. INTRODUCTION

To abolish unreasonable and unfair discriminations against women is a worthy goal. No one believes more strongly than I that discriminations which society makes against women in certain areas of life ought to be abolished and they ought to be abolished by law in every case where they are created by law.

To stop discriminations against women we are considering Constitutional amendments which would abolish all legal distinctions between men and women. Therefore, the question to be resolved by the Senate is that: Should all laws which treat men and women differently be abolished and should the Federal government and the State legislatures be forbidden by the Constitution to pass any such legislation in the future?

Before we abolish all legal differences in the treatment of men and women to reach the admittedly unfair discriminations which do exist against women, I believe that we should consider the following questions:

1. What is the character of the unfair discriminations which society makes against women?

2. Does it require an amendment to the Constitution of the United States to invalidate them?

3. If so, would the Equal Rights Amendment constitute an effective means to that end? In other words, would the ERA reach areas in which the Congress does not really want to act?

It is the better part of wisdom to recognize that discriminations not created by law cannot be abolished by law. They must be abolished by changed attitudes in the society which imposes them.

II. DO WOMEN REALLY WANT THE EQUAL RIGHTS AMENDMENT?

One of the recurring myths that surround the equal rights for women amendment is the allegation that all women are for the amendment. This is not so.

The only detailed poll that has been taken on women's feelings on the equal rights question was done by Elmo Roper in September 1971. It is interesting to compare the feelings of women on specific subjects with what the sponsors of the equal rights amendment, including Congresswoman Griffiths, indicate will be the effect of the amendment.

a. In Elmo Roper's poll, 77 percent of the American women disagree "that women should have equal treatment regarding the draft." Yet, there is no doubt that all those interpreting the amendment believe that it will cause women to be drafted and to serve in combat. A *Yale Law Journal* article which the amendment sponsors, including Congresswoman Griffiths, have lauded as explaining how the amendment will work after passage says, "the amendment permits no exception for the military . . . Women will serve in all kinds of units, and they will be eligible for combat duty."

b. In Elmo Roper's poll, 83 percent of American women disagree that "a wife should be the breadwinner if better wage earner than husband." Yet, the supporters of the amendment in the *Yale Law Journal* say that "the equal rights amendment would bar a state from imposing greater liability for support on a husband than on a wife merely because of his sex . . . child support sections of the criminal nonsupport laws could not be sustained where only the male is liable for support."

c. In the Elmo Roper poll, 69 percent of American women disagree that "a divorced woman should pay alimony if she has money and her husband hasn't." Yet, the supporters of the amendment say in the *Yale Law Journal* that "the equal rights amendment would not require that alimony be abolished but only that it be available equally to husbands and wives."

In interpreting these figures, it is important to remember that these large percentages of American women do not want the very things the ERA proposes. The primary sponsors of the ERA, including Congresswoman Griffiths, maintain that: A wife should have the legal responsibility for family support if she is the better wage earner; the alimony laws should apply equally to men and women with the result that a divorced woman should pay if she has the money; the draft laws should apply equally to men and women with the result that women will serve in combat.

So what we have with the equal rights amendment is a proposition that will destroy all legal distinctions between men and women and the majority of men do not want this and the majority of women do not want this.

III. UNFAIR EMPLOYMENT DISCRIMINATION

From the information given me by many advocates of the Equal Rights Amendment and from my study of the discriminations which society makes against women, I am convinced that most of the unfair discriminations against them arise out of the different treatment given men and women in the employment sphere. No one can gainsay the fact that women suffer many discriminations in this sphere, both in respect to the compensation they receive and the promotional opportunities available to them. Some of these discriminations arise out of law and others arise out of an absence of law.

When I sought to ascertain from them the specific laws of which they complain, the advocates of the Equal Rights Amendment have cited certain state statutes, such as those which impose weightlifting restrictions on women, or bar women from operating saloons, or acting as bartenders, or engaging in professional wrestling. Like them, I think these laws ought to be abolished. I respectfully submit, however, that resorting to an amendment to the Constitution to effect this purpose is about as wise as using an atomic bomb to exterminate a few mice.

Let me point out that Congress and the Executive Branch have done much in recent years to abolish discriminations of this character insofar as they can be abolished at the Federal level.

a. Under the Equal Pay Act of 1963 (29 USC 206) Congress made it obligatory for employers to pay men and women engaged in interstate commerce or in the production of goods for interstate commerce equal pay for equal work, irrespective of the number of persons they employ.

b. Under Title VII of the Civil Rights Act of 1964 (42 USC 2000) Congress decreed that there can be no discrimination whatever against women in employment in industries employing 15 or more persons, whose business affects interstate commerce, except in those instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the enterprise. Just recently, the Congress has vastly extended the powers of the Equal Employment Opportunity Commission to enforce women's employment rights by allowing the EEOC to seek enforcement orders from the Federal District Court.

c. The President and virtually all of the departments and agencies of the Federal government have issued orders prohibiting discrimination against women in Federal employment, and have provided for affirmative action in the hiring and promotion of women.

Moreover, State Legislatures have adopted many enlightened statutes in recent years prohibiting discrimination against women in employment.

If women are not enjoying the full benefit of this Federal and state legislation and these executive orders of the Federal government, it is due to a defect in enforcement rather than a want of fair laws and regulations. Since the ERA is not self-enforcing, this defect in enforcement will survive the passage of the amendment, and women will still have to bring suits to enforce their rights in the employment sphere with no more remedies than they presently enjoy.

IV. EQUAL RIGHTS AMENDMENT UNNECESSARY BECAUSE OF THE 14TH AMENDMENT

A good case can be made for the proposition that it is not necessary to resort to a Constitutional amendment to abolish state laws which make unfair discriminations between men and women in employment or any other sphere of life. This argument rests upon the Equal Protection Clause of the Fourteenth Amendment which prohibits states from treating differently persons similarly situated, and is now being interpreted by the courts to invalidate state laws which single out women for different treatment not based on some reasonable classification.

To be sure, the Equal Protection Clause may not satisfy the extreme demands of a few advocates of the Equal Rights Amendment who would convert men and women into beings not only equal but alike, and grant them identical rights and impose upon them identical duties in all the relationships and undertakings of life.

It cannot be gainsaid, however, that the Equal Protection Clause, properly interpreted, nullifies every state law lacking a rational basis which seeks to make rights and responsibilities turn upon sex.

My view is shared by legal scholars. Their views on this subject are succinctly expressed by Bernard Schwartz in his recent commentary on the Constitution of the United

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States which declares "that a law based upon sexual classification will normally be deemed inherently unreasonable unless it is intended for the protection of the female sex."

The best example of the Supreme Court's willingness to use the 14th Amendment to strike down laws which discriminate against women, thus rendering the ERA unnecessary, is the case of *Reed* v. *Reed*.

The Reed case

On November 22, 1971, the Supreme Court, in a unanimous decision, gave a strong indication that they would find all unreasonable sex-based classifications to be in violation of the equal protection clause of the 14th Amendment.

In the case of *Reed* v. *Reed*, 40 L.W. 4013 (1971), the Court found unconstitutional an Idaho statute requiring preference of male relatives over female relatives for appointment as administrators of an intestate's estate. The Court applied the conventional test of reasonableness and found an "arbitrary preference established in favor of males." The Court continued by saying, "By providing dissimilar treatment for men and women who are thus similarly situated, the challenged section violates the equal protection clause."

A *New York Times* editorial on November 23, 1971, construed the decision to mean that:

"The effect of this ruling is to place the fate of various sexually discriminatory laws on a case-by-case basis. This is a slower but preferable way to correct the evils of discrimination than the passage of the proposed equal rights amendment."

Professor Paul Freund of the Harvard Law School has the same view. He stated in a recent letter to me on the significance of the *Reed* case:

"In view of the *Reed* decision, however, I believe more strongly than ever that the subject should be left to be worked out under the equal protection clause, as are other questions of group classification. The equal protection guarantee, together with the ample legislative powers of Congress, is the best avenue to achieve meaningful equality of the sexes under law. This approach is greatly to be preferred to one that would force all the manifold legal relationships to men and women, from coverage under selective service to the obligation of family support, into a mold of mechanical unity."

Professor Phil Kurland of the Chicago Law School and Editor of the *Supreme Court Review* also wrote to me concerning the significance of the *Reed* case. Professor Kurland is convinced that the *Reed* case will pave the way for action by the courts and the legislatures to rectify many of the admittedly unfair discrimination which confront women, but without the dangers resulting from an absolute Constitutional amendment. Professor Kurland said:

"But I am of the view that a sound program of legislative reforms would do more, especially under the mandate now received from the Supreme Court in *Reed* v. *Reed*, to eliminate more of the grievances that women have against their roles frequently imposed on them in our society. Legislation can get at specific problems in a way that no constitutional provision can."

I believe the *Reed* case indicates that the Supreme Court will act under the 14th Amendment to strike all discriminations of which women now complain and, therefore, I believe the *Reed* case renders the ERA unnecessary.

V. RECENT DEVELOPMENTS IN THE LAW

I firmly believe that recent case law illustrates very dramatically a statement made by Professor Freund last year. He said:

"It seems to me, incidentally, if the energy and dedication that have gone into the movement for the equal rights amendment over the past 40-odd years had been devoted to the selection and the sponsorship of test cases with respect to some of the unjust State laws that we have heard about this morning, a great deal more accomplishment could be shown with respect to the advancement of equal rights than we can boast of today."

Proponents of the equal rights amendment have frequently cited what they believe to be hesitance on the part of courts to deal with inequalities facing women. The Supreme Court particularly has received criticism on this score.

Yet this term the Supreme Court has heard several cases relating to sex discrimination. On October 19, 1971, the Court heard oral argument in a case challenging a provision of the Illinois Juvenile Court Act which regards unwed mothers as parents but does not consider unwed fathers as parents for the purpose of deciding who shall have custody of illegitimate children. *In re Stanley*, 256 N.E. 2d 814 (Ill. 1970), cert. granted, No. 70–5014. In upholding this provision the Illinois Supreme Court held that this is not a denial of equal protection because the distinction between the class of mothers and the class of fathers "is rationally related to the purposes of the Juvenile Court Act" (presumably to protect the best interests of the children). A case heard by the Court on December 7, 1971, involves the holding of the Louisiana Supreme Court that the absence of women on general venire lists for grand jury duty is not cause for quashing an indictment. *State* v. *Alexander*, 233 So. 2d 891 (La. 1970), cert. granted, No. 70–5026.

In a case already decided this term, the Supreme Court unanimously struck down an Idaho statute which required preference of male relatives over female relatives as administrators of intestates' estates. *Reed* v. *Reed*, 40 L.W. 4013 (November 22, 1971). I have discussed this case earlier at length. Chief Justice Burger, writing for the Court, quoted from *Royster Guano Co.* v. *Virginia*, 153 U.S. 412, 415 (1920), to the effect that a classification "must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similiarly circumstanced shall be treated alike." *Reed*, slip opinion, p. 5.

Last term the Court reached a decision in a landmark case arising under Title VII of the Civil Rights Act of 1964. In the first sex discrimination case arising under Title VII to reach the Supreme Court, a Court of Appeals decision permitting a corporation to distinguish between women with pre-school age children and men with pre-school age children in hiring was reversed. *Phillips* v. *Martin Marietta Corp.*, 400 U.S. 542 (1971). The Supreme Court remanded the case for an evidentiary hearing in the District Court as to whether the family obligations of women with pre-school age children are so relevant to job performance that hiring or other employment distinctions based on the fact of a woman having pre-school age children are justifiable as a bona fide occupational qualification.

I think it is very obvious that the Supreme Court is not ignoring the issue of discrimination against women. Certainly the lower courts are tackling the question and usually deciding in favor of women's equality. Many successful employment discrimination suits have been brought under Title VII. For example, numerous state labor laws have been held invalid as being in conflict with Title VII's mandate for equal employment opportunity. A federal district court has held a California statute prohibiting female employees from lifting objects weighing 50 pounds or more to be in conflict with Title VII and, therefore, void. *Local 246, Utility Workers Union of America, AFL–CIO* v. *Southern California Edison Co.*, 320 F. Supp. 1262 (C.D. Calif. 1970). In an earlier decision, a California statute regulating hours and conditions of employment for women was struck down as being in conflict with Title VII. *Rosenfeld* v. *Southern Pac. Co.*, 293 F. Supp. 1219 (C.D. Calif. 1968). Illinois hours limitations for working women have fallen. *Caterpillar Tractor Co.* v. *Grabiec*, 317 F. Supp. 1304 (S.D. Ill. 1970). Ohio legislation restricting female employment in workshops and factories and prohibiting female employees from lifting anything weighing more than 25 pounds has also been held invalid. *Ridinger* v. *General Motors Corp.*, 325 F. Supp. 1089 (S.D. Ohio 1971); *Jones Metal Products Co.* v. *Walker*, 25 Ohio App. 2d 141 (1970).

In addition, certain policies relating to the employment of women have been held to violate Title VII. Recently the Supreme Court declined to review a Seventh Circuit decision holding that a retirement plan which requires female employees to retire at 62, but does not require men to retire until 65 is sex discrimination in violation of Title VII. *Dreverys Limited U.S.A., Inc.* v. *Bartmess*, 444 F. 2d 1186 (1971), rev. denied 40 L.W. 3212 (November 9, 1971). The Court also declined to review a Fifth Circuit ruling that an airline company's refusal to hire males as flight cabin attendants is sex discrimination in violation of Title VII. *Pan American World Airways, Inc.* v. *Diaz*, 442 F. 2d 385 (1971), rev. denied 40 L.W. 3212 (November 9, 1971). In two other cases employers' policies of refusing to hire women for jobs requiring the lifting of weights over a certain amount have been held invalid under Title VII. *Weeks* v. *Southern Bell Telephone and Telegraph Co.*, 408 F. 2d 228 (5th Cir. 1969); *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969). An airline's no-marriage rule for stewardesses have been held to constitute sex discrimination under Title VII. *Sprogis* v. *United Air Lines, Inc.*, 444 F. 2d 1194 (7th Cir. 1971).

Other employment cases favorable to women have been brought under the Equal Pay Act. For example, payment of men at a higher rate than women for the same job has been held to violate the Equal Pay Act. *Schultz* v. *Wheaton Glass Co.*, 421 F. 2d 259 (3rd Cir. 1970).

Women have also made gains in other areas of sex discrimination. Many of the long-accepted prohibitions and segregations are being removed. An example is state laws prohibiting female bartenders, which have been struck down in New Jersey and California. *Paterson Tavern and Grill Owners Assn., Inc.* v. *Borough of Hawthorne*, 108 N.J. Super. 433 (1970); *Sail'er Inn, Inc.* v. *Kirby*, 485 F. 2d 529 (1971). In another case a federal district court in New York held that the refusal of an ale house to serve women violated the equal protection clause of the Fourteenth Amendment. *Seidenberg* v. *McSorleys' Old Ale House, Inc.*, 317 F. Supp. 593 (1970).

Other suits challenging the treatment of women on equal protection grounds have also been successful. A Pennsylvania statute providing for longer prison terms for women than for men committing the same crimes was held to violate equal protection. *Commonwealth* v. *Daniel*, 430 A. 2d 400 (1968). (See also, *U.S. ex rel, Robinson* v. *York*, 281 F. Supp. 8 (D. Conn. 1968), in which a federal court struck down a similar Connecticut statute.) A school board regulation requiring women teachers to take a leave of absence at the end of the fifth month of pregnancy has been held to violate equal protection.

Cohen v. *Chesterfield County School Board*, 326 F. Supp. 1159 (E.D. Va. 1971). In *Kirstein* v. *Rectors and Visitors of the University of Virginia*, 309 F. Supp. 184 (E.D. Va. 1970), a three-judge federal court held that the denial to women of education equal to that offered men at the University of Virginia at Charlottesville violated equal protection. The court approved a plan setting quotas for the admission of women.

The Justice Department has taken action to aid women in fighting discrimination. In an important suit against Libbey-Owens-Ford, the Attorney General won a decree giving women opportunity to achieve promotions and advancement on the same basis as male employees.

These events are not typical of a society which does not care to eliminate discrimination. Nor are they characteristic of a judicial system determined to maintain the status quo.

VI. HOW WOULD THE ERA BE INTERPRETED

If the Equal Rights for Women amendment is approved, I believe that the Supreme Court will reach the conclusion that the ERA annuls every existing Federal and state law making any distinction between men and women however reasonable such distinction might be in particular cases, and forever robs the Congress and the legislatures of the fifty states of the Constitutional power to enact any such laws at any time in the future. I am not alone in entertaining this fear.

When the so called Equal Rights Amendment was under consideration in 1953, Roscoe Pound of the Harvard Law School and other outstanding scholars joined one of America's greatest legal scholars, Paul A. Freund of the Harvard Law School, in a statement opposing the Equal Rights Amendment upon the ground that they feared that this devastating interpretation might be placed upon it if it should be adopted. This statement made these indisputable observations:

"If anything about this proposed amendment is clear, it is that it would transform every provision of law concerning women into a constitutional issue to be ultimately resolved by the Supreme Court of the United States. Every statutory and common law provision dealing with the manifold relation of women in society would be forced to run the gauntlet of attack on constitutional grounds. The range of such potential litigation is too great to be readily foreseen, but it would certainly embrace such diverse legal provisions as those relating to a widow's allowance, the obligation of family support and grounds for divorce, the age of majority and the right of annulment of marriages, and the maximum hours of labor for women in protected industries.

"Not only is the range of the amendment of indefinite extent, but, even more important, the fate of all this varied legislation would be left highly uncertain in the face of judicial review. Presumably, the amendment would set up a constitutional yardstick of absolute equality between men and women in all legal relationships. A more flexible view, permitting reasonable differentiation, can hardly be regarded as the object of the proposal, since the Fourteenth Amendment has long provided that no state shall deny to any person the equal protection of the laws, and that Amendment permits reasonable classifications while prohibiting arbitrary legal discrimination. If it were intended to give the courts the authority to pass upon the propriety of distinctions, benefits and duties as between men and women, no new guidance is given to the courts, and this entire subject, one of unusual complexity would be left to the unpredictable judgments of courts in the form of constitution decisions.

"Such decisions could not be changed by act of the legislature. Such a responsibility upon the courts would be doubtless as unwelcome to them as it would be inappropriate. As has been stated, however, the proposal evidently contemplates no flexibility in construction but rather a rule of rigid equality. This branch of the dilemma is as repelling as the other."

After analyzing in some detail the laws whose validity might be jeopardized by the Equal Rights Amendment, the statement concluded with these observations:

"The basic fallacy in the proposed amendment is that it attempts to deal with complicated and highly concrete problems arising out of a diversity of human relationships in terms of a single and simple abstraction. This abstraction is undoubtedly a worthy ideal for mobilizing legislative forces in order to remedy particular deficiencies in the law. But as a constitutional standard, it is hopelessly inept. That the proposed equal rights amendment would open up an era of regrettable consequences for the legal status of women in this country is highly probable. That it would open up a period of extreme confusion in constitutional law is a certainty."

Appearing before the Senate Judiciary Committee hearings in September, 1970, it was obvious that Professor Freund has the same view today of the proposed amendment. In a colloquy with me, Professor Freund had the following to say:

Senator ERVIN. I also interpret your statement and what you have said to indicate a conviction on your part that there is grave danger that the courts will interpret the House-passed equal rights amendment, if it is ratified by the requisite number of states, as depriving Congress of the powers it now has under the equal protection clause to adopt legislation which is for the benefit of women?

Mr. FREUND. Yes. I think that is quite right because there must be intended some more absolute standard of equality than the equal protection clause embodies. That would be the point of the amendment.

Senator ERVIN. And if the House-passed equal rights amendment were ratified by the states, thus made a part of the Constitution, it is susceptible of interpretation that it would require the courts to strike down all legal distinctions made between men and women, no matter how reasonable and necessary those distinctions might be?

Mr. FREUND. That is my understanding of what the language as well as the purpose of the sponsors is today.

Professor Philip Kurland of the Chicago Law School also arrived at the same conclusion as Professor Freund. He said:

Professor KURLAND. I would think that the amendment as it is now simply provides that classification by sex by any governmental action is invalid.

Senator ERVIN. In other words, your interpretation of the amendment as presently phrased is that it would be probably interpreted to eliminate sex as a basic for classification in legislation?

Professor KURLAND. If I were charged with the interpretation of the language, that would be the conclusion that I would reach.

Senator ERVIN. If that interpretation would be correct, the law which exists in North Carolina and virtually every other state of the Union which requires separate restrooms for boys and girls in public schools would be nullified, would it not?

Professor KURLAND. That is right, unless the separate but equal doctrine is revived.

Perhaps one of the best guides to a general interpretation of the Equal Rights Amendment can be found in the *Yale Law Journal* article of April, 1971. That article has been called a "masterly piece of scholarship" by Senator Bayh and has been cited by Congresswoman Griffiths, the primary sponsor of the ERA in the House of Representatives, to "help you understand the purposes and effects of the ERA . . ." The *Yale Law Journal* gives us the following guidelines for the general interpretation of the ERA:

1. "The basic principle of the Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women, or of men. This means that the treatment of *any* person by the law may not be based upon the circumstance that such person is of one sex or the other." (p. 889) ". . . the principle of the Amendment must be applied comprehensively and *without* exceptions." (p. 890)

2. "Only an *unequivocal ban* against taking sex into account supplies a rule adequate to achieve the objectives of the Amendment." (p. 892) ". . . prohibition against the use of sex as a basis for differential treatment applies to *all* areas of legal rights." (p. 891) ". . . From this analysis it follows that the constitutional mandate must be *absolute*." (p. 892)

3. "Our legal structure will continue to support and command an inferior status for women so long as it permits *any* differentiation in legal treatment on the basis of sex." (p. 873) ". . . Equality of rights means that sex is not a factor." (p. 892)

VII. SPECIFIC AREAS AFFECTED BY THE EQUAL RIGHTS AMENDMENT

Time and space preclude me from an attempt to picture in detail the constitutional and legal chaos which would prevail in our country if the Supreme Court should feel itself compelled to place upon the Equal Rights Amendment the devastating interpretation feared by these legal scholars.

For this reason, I must content myself with merely suggesting some of the terrifying consequences of such an interpretation.

While the amendment would affect all areas of our society, I will mention only a few of the specific areas including: the military, the criminal law, privacy, domestic relations, and protective labor legislation.

VIII. MILITARY

The impact of the ERA on the military will be *massive*.

The Congress and the legislatures of the various states have enacted certain laws based upon the conviction that the physiological and functional differences between men and women make it advisable to exempt or exclude women from certain arduous and hazardous activities in order to protect their health and safety.

Among Federal laws of this nature are the Selective Service Act, which confines compulsory military service to men; the acts of Congress governing the voluntary enlistments in the armed forces of the nation which restrict the right to enlist for combat service to men; and the acts establishing and governing the various service academies which provide for the admission and training of men only. There is no question that these laws will be abolished. As Professor Paul Freund of the Harvard Law School said, "And so women must be admitted to West Point on a parity with men; women must be conscripted for military service equally with men . . ." Professor Phil Kurkland of the Chicago Law School agrees.

The position of the Justice Department and the Defense Department is that women will be subject to the draft. In a letter to Senator Bayh dated February 24, 1972, the General Counsel for the Defense Department, J. Fred Buzhardt, dealt with some of the problems which would be caused by the ERA in the military. Mr. Buzhardt said:

"Further, there is the possibility that assigning men and women together in the field in direct combat roles might adversely affect the efficiency and discipline of our forces.

"On the other hand, if women were not assigned to duty in the field, overseas, or on board ships, but were entering the armed forces in large numbers, this might result in a disproportionate number of men serving more time in the field and on board ship because of a reduced number of positions available for their reassignment.

"If this amendment allowed no discrimination on the basis of sex even for the sake of privacy, we believe that the resulting shar-

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ing of facilities and living quarters would be contrary to prevailing American standards.

"Even if segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field there are often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforce."

In a letter to Senator Ervin, Deputy Assistant Secretary of Defense Don R. Brazier said that Defense had not made any estimates of costs on changing the military to conform with the Equal Rights Amendment. Furthermore, Mr. Brazier said:

"The Department has not made such estimates and without specific programs for such 'equal' service, it is impossible to make any estimate. One of the major areas that would contribute to increased costs would be separate facilities, both in terms of living quarters, as well as working facilities in areas where women are not currently stationed.

"Until a definitive plan is developed indicating where and under what circumstances women would serve in isolated areas, with combatant forces, aboard ships, etc., it is not possible to make a definitive estimate of costs. *If extensive additional facilities or modifications to current facilities were required, the costs could be considerable.*"

A very complete analysis of the ERA's effect on the military was compiled in the *Yale Law Journal* in April 1971. The significance of this article that Congresswoman Griffiths has said that the article ". . . will help you understand the purposes and effects of the Equal Rights Amendment" and Senator Bayh has called it a "masterly piece of scholarship." Thus, the supporters of the amendment feel that it will have the following effect on the military and I agree with them. No clearer or more unique history of legislative intent can be presented of the amendment and the military because both the opponents and the proponents agree on the amendment's effect in this area.

Significant excerpts from the *Yale Law Journal* which is supported by the amendment's proponents are as follows:

1. "The Equal Rights Amendment will have a substantial and pervasive impact upon military practices and institutions. As now formulated, the Amendment permits no exceptions for the military." (p. 969)

2. "Women will serve in all kinds of units, and *they will be eligible for combat duty.* The double standard for treatment of sexual activity of men and women will be prohibited". (p. 978)

3. "Neither the right to privacy nor any unique physical characteristic justifies different treatment of the sexes with respect to voluntary or involuntary service, and pregnancy justifies only slightly different conditions of service for women." (p. 969)

4. "Such obvious differential treatment for women as exemption from the draft, exclusion from the service academies, and more restrictive standards for enlistment will have to be brought into conformity with the Amendment's basic prohibition of sex discrimination." (p. 969)

5. "These changes will require a *radical* restructuring of the military's views of women." (p. 969)

6. "The Equal Rights Amendment will greatly hasten this process and will require the military to see women as it sees men." (p. 970)

7. "A woman will register for the draft at the age of eighteen, as a man now does." (p. 971)

8. "Under the Equal Rights Amendment, all standards applied through (intelligence tests and physical examinations) will have to be neutral as between the sexes." (p. 971)

9. "The military will clearly have sufficient time during the period after ratification to make the minor adaptations, such as the expansion of gynecological services, necessary to comply with the statute." (p. 971)

10. "First, height standards will have to be revised from the dual system which now exists." (p. 971)

11. "The height-weight correlations for the sexes will also have to be modified." (p. 972)

12. Deferment policy "could provide that one, but not both, of the parents would be deferred. For example, whichever parent was called first might be eligible for service; the remaining parent, male or female would be deferred." (p. 973)

13. "If the rules continue to require discharge of women with dependent children, then men in a similar situation will also have to be discharged . . . The nondiscriminatory alternative is to allow both men and women with children to remain in the service and to take their dependents on assignments in noncombat zones, as men are now permitted to do." (p. 975)

14. "Distinctions between single and married women who become pregnant will be permissible only if the same distinction is drawn between single and married men who father children." (p. 975)

15. "Thus, if unmarried women are discharged for pregnancy, men shown to be fathers of children born out of wedlock would also be discharged. Even in this form such a rule would be suspect under the Amendment, because it would probably be enforced more frequently against women. A court will therefore be likely to strike down the rule despite the neutrality in its terms, because of its differential impact." (p. 975)

16. "Under the Equal Rights Amendment the WAC would be abolished." (p. 976)

17. "Women are physically as able as men to perform many jobs classified as combat duty, such as piloting an airplane or engaging in naval operations . . . there is no reason to prevent women from doing these jobs in combat zones." (p. 977)

18. "No one would suggest that . . . women who serve can avoid the possibility of physical harm and assault. But it is important to remember that all combat is dangerous, degrading and dehumanizing." (p. 977)

19. "Male officers are provided a dependent's allowance based on their grade and the number of dependents . . ." The Equal Rights Amendment will recognize "the husband of a female officer . . . as a dependent." (p. 978)

20. "Athletic facilities will also have to be made available to women personnel." (p. 978)

IX. CRIMINAL LAW

Because of different physical characteristics, and health considerations, and other reasons, legislatures have adopted some criminal laws which apply to only one sex or the other or treat men and women differently in some degree. Because the Equal Rights Amendment will forbid any legal distinctions between men and women, all existing and future criminal laws of this nature would be nullified.

As in several areas, a good review of the types of laws that will be changed by the ERA was discussed in the April 1971 issue of the *Yale Law Journal*. This article has been cited with approval by the proponents of the ERA and the statements which I have excerpted should constitute a good example of what we could expect after passage of the act in the area of criminal law. The excerpts from the *Yale Law Journal* are as follows:

1. "Courts faced with criminal laws which do not apply equally to men and women would be likely to invalidate the laws rather than extending or rewriting them to apply to women and men alike." (p. 966)

2. "Courts will not likely invalidate sodomy or adultery laws that contain sex discriminatory provisions, instead of solving the constitutional problems by extending them to cover men and women alike." (p. 962)

3. "Seduction laws, statutory rape laws, laws prohibiting obscene language in the presence of women, prostitution and 'manifest danger' laws . . . The Equal Rights Amendment would not permit such laws, which base their sex discriminatory classification on social stereotypes." (p. 954)

4. "The statutory rape laws, which punish men for having sexual intercourse with any woman under an age specified by law . . . suffer from a double defect under the Equal Rights Amendment." (p. 957)

5. "To be sure, the singling out of women probably reflects sociological reality . . . Likewise, in this society, the bad reputation and illegitimate child which can result from an improvident sexual liaison may be far more ruinous to a young woman's psychological health than similar conduct is to a young man's. *But the Equal Rights Amendment forbids finding legislative justification in the sexual double standard . . .*" (p. 958)

6. "Adultery laws also contain sex discriminatory provisions which would be impermissible under the Equal Rights Amendment." (p. 961)

7. "Courts may be expected to hold that laws which confine liability for prostitution to women only are invalid under the Equal Rights Amendment." (p. 963)

8. "Just as the Equal Rights Amendment would invalidate prostitution laws which apply to women only, so the ERA would require invalidation of laws specially designed to protect women from being forced into prostitution." (p. 964)

9. "A court would probably resolve doubts about congressional intent by striking down the Federal White Slave Traffic—Mann Act." (p. 965)

X. DOMESTIC RELATIONS LAWS

The common law and statutory law of the various states recognize the reality that many women are homemakers and mothers, and by reason of the duties imposed upon them in these capacities, are largely precluded from pursuing gainful occupations or making any provision for their financial security during their declining years. To enable women to do these things and thereby make the existence and development of the race possible, these state laws impose upon husbands the primary responsibility to provide homes and livelihoods for their wives and children, and make them criminally responsible to society and civilly responsible to their wives if they fail to perform this primary responsibility. Moreover, these state laws secure to wives dower and other rights in the property left by their husbands in the event their husbands predecease them in order that they may have some means of support in their declining years.

If the Equal Rights Amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, it would nullify all existing and all future laws of this kind.

As with the military, a good analysis of what the amendment will accomplish in the area of domestic relations was set out in the *Yale Law Journal* which has been fully endorsed by Congresswoman Martha Griffiths and other proponents of the ERA. As I have stated earlier, no clearer legislative intent can be presented because I agree with the amendment's proponents that the ERA will have the following effects.

Significant excerpts from the Yale Law Journal which is supported by the proponents of the ERA in the area of domestic relations are as follows:

1. "The Equal Rights Amendment, continuing this trend, would prohibit dictating different roles for men and women within the family on the basis of their sex." (p. 953)

2. "Thus, common law and statutory rules requiring name change for the married women would become legal nullities." (p. 940)

3. "These states could conform to the Equal Rights Amendment by requiring couples to pick the same last name, but allowing selection of the name of either spouse, or of a third name satisfactory to both." (p. 940)

4. "The Amendment would also prohibit the states from requiring that a child's last name be the same as his or her father's, or from requiring that a child's last name be the same as his or her mother's." (p. 941)

5. "In ninety per cent of custody cases the mother is awarded the custody. The Equal Rights Amendment would prohibit both statutory and common law presumptions about which parent was the proper guardian based on the sex of the parent." (p. 953)

6. "physical capacity to bear children can no longer justify a different statutory marriage age for men and women." (p. 939)

7. "mere estimates of emotional preparedness founded on impressions about the 'normal' adolescent boy and girl are based on the kind of averaging which the Equal Rights Amendment forbids." (p. 939)

8. "The Equal Rights Amendment would not permit a legal requirement, or even a legal presumption, that a woman takes her husband's name at the time of marriage." (p. 940)

9. "a court would do away with the rule that refusal to accompany or follow a husband to a new domicile amounts to desertion or abandonment." (p. 942)

10. "A husband would no longer have grounds for divorce in a wife's unjustifiable refusal to follow him to a new home." (p. 942)

11. "the traditional rule is that the domicile of legitimate children is the same as their father's . . . The Equal Rights Amendment would not permit this result." (p. 942)

12. "In all states husbands are primarily liable for the support of their wives and children . . . the child support sections of the criminal nonsupport laws . . . could not be sustained where only the male is liable for support." (p. 944 and 945)

13. "The Equal Rights Amendment would bar a state from imposing greater liability for support on a husband than on a wife merely because of his sex." (p. 945)

14. "Two different systems have been adopted in the United States for distributing property rights within a family—the community property system and the common law system . . . As both systems currently operate, they contain sex discriminatory aspects which would be changed under the Equal Rights Amendment." (p. 946)

15. "Under the Equal Rights Amendment, laws which . . . favor the husband as manager (of community property) in any way, would not be valid." (p. 947)

16. "All states except North Dakota and South Dakota give women a nonbarrable share in her husband's estate, but a number of states fail to give the husband a corresponding legal claim in his wife's estate . . . the discriminatory laws would either be invalidated or extended." (p. 948)

17. "a court could invalidate (many grounds for divorce) without doing any serious harm to the overall structure of the states' divorce laws . . . These are pregnancy by a man other than husband at time of marriage, nonsupport, alcoholism of husband, wife's unchaste behavior, husband's vagrancy, wife's refusal to move with husband without reasonable cause, wife a prostitute before marriage, indignities by husband to wife's person, and willful neglect by husband." (p. 950)

18. "Like the duty of support during marriage and the obligation to pay alimony in the case of separation or divorce, nonsupport would have to be eliminated as a ground for divorce against husbands only . . ." (p. 951)

19. "The laws that grant a husband a divorce because at the time of marriage he did not know his wife was pregnant by another man would be subject to strict scrutiny under the unique physical characteristics tests." (p. 951)

20. "The Equal Rights Amendment would not require that alimony be abolished but only that it be available equally to husbands and wives." (p. 952)

21. "the laws could provide support payments for a parent with custody of a young child who stays at home to care for that child so long as there was no legal presumption that the parent granted custody should be the mother." (p. 952)

22. The ERA could require "for maintenance to be paid from one spouse to the other if the spouse seeking maintenance lacks sufficient property to provide for *his* reasonable needs and is unable to support *himself* through appropriate employment." (p. 952)

XI. PROTECTIVE LABOR LEGISLATION

Many states and the Federal government have enacted labor legislation which protects women from certain forced activities. These protections were not always easy to develop. As Margaret Mead, noted anthropologist, said to a AFL–CIO meeting in March, 1971, "In the beginning of mining, there were women down those mines and children . . . we got the women and children out of the mines you know." Dr. Mead then goes on to say, "I've been against the equal rights amendment always."

The largest labor organization in the country, the AFL–CIO has recommended that Congress not pass the Equal Rights Amendment for the same reason that Margaret Mead opposed it: The adverse effect the amendment will have on hard-won protective legislation for women.

In its Resolution No. 122, the AFL–CIO states:

"We continue opposition to the so-called equal rights amendment as an unnecessary addition to the Constitution, ultimately more harmful than helpful to the legal rights of women."

Prior to the adoption of the resolution, the executive council of the AFL–CIO, in a report to its convention, said:

"We have opposed the equal rights amendment to the Constitution because of its potentially destructive impact on State labor legislation for women workers . . . Experience, to date, shows that 'equality' has been used to remove labor law protections for women, rather than to extend them or adapt them to man. The proposed equal rights amendment would render all protective labor laws for women workers unconstitutional, as well as any other laws treating the sexes differently. Such laws, for example, include marriage laws which place primary responsibility for family support on husbands and fathers."

A librarian at the University of California Library, Mrs. Laurel Burley, has written on the drastic consequences which would result to the protective labor laws for women if the ERA passes. Those upper-class, well-educated women who are pushing so hard for this amendment should ponder Mrs. Burley's words. She states that:

"The major danger in the proposed ERA lies in the fact that it would in one fell swoop invalidate all protective legislation enacted by the States to protect working women from exploitative employers . . . Protective legislation not only sets maximum hours and minimum wages standards, but also mandates such provisions as rest areas, toilet facilities, and elevators, adequate lighting and ventilation, rest and meal breaks (including the right to eat one's meal away from the immediate work area), adequate drinking water (important for women and children who are farmworkers), and protective garments and uniforms."

Mrs. Burley feels that some of the results of court action under Title VII of the 1964 Civil Rights Act are indicative of the changes which will be brought about to the extreme because of the Equal Rights Amendment. On this point, she states:

"Some idea of what might be expected were the ERA to pass can already be seen in the use being made of Title VII of the Civil Rights Act. In late 1969 Fibreboard Corporation in Antioch, California began to force women to work 16 hours a day and to lift backbreaking weights. Pacific Telephone in 1970 began ignoring state protective legislation relating to minimum hours. In fall 1970 Oregon took away the right of women to have two ten-minute rest breaks in an eight-hour day; and another large California corporation, Crown Zellerbach, began denying meal breaks to both men and women working in the Antioch plant. In summer 1971 a U.S. Court of Appeals struck out the sections of the California Labor Code regulating maximum weight lifting and the eight-hour day, 48-hour week for women. All these actions were justified on the basis that Title VII and EEOC guidelines superseded state protective legislation. Such instances are mounting at an incredible rate. On the basis of Title VII, 17 states have either totally or substantially annulled or repealed protective legislation covering women. *The ERA as it stands will add the finishing touch.*

As in other areas, I believe the *Yale Law Journal* article which has been adopted by Congresswoman Griffiths as "explaining the ERA" should be read to determine its effects on labor legislation. Excerpts from the article state that:

1. "Under the Equal Rights Amendment, courts are thus not likely to find *any* justification for the continuance of laws which exclude women from certain occupations." (p. 929)

2. "Laws which require employers to impose leave on pregnant employees for a specified period before and after childbirth, without providing job security or retention of accrued benefits, such as seniority credits . . . would fall." (p. 929) The article cites as an example which will be struck down in every state, a school board regulation imposing maternity leave at least four months prior to the expected birth of her child." (p. 931)

3. "There is little reason to doubt, therefore, that courts will invalidate weightlifting regulations for women under the Equal Rights Amendment." (p. 935)

4. "This result (to invalidate maximum hours which apply only to women) would also be predicted from principles of statutory construction under the Equal Rights Amendment." (p. 936)

5. "The courts are likely to . . . equalizing both sexes under the Equal Rights Amendment by invalidating (a law protecting women from coerced overtime)." (p. 936)

6. "Laws which restrict or regulate working conditions would probably be invalidated." (p. 936)

XII. MISCELLANEOUS

Because of the broad nature of the ERA, there is really no way to tell just how afar it will reach. As Professor Paul Freund of the Harvard Law School said, "The range of potential litigation is too great to be readily foreseen . . ." Therefore, I believe it would be profitable to mention just several random examples which were brought out in the April 1971 *Yale Law Journal*. As I have mentioned, before, the *Yale Law Journal* is unique because it provides a very minimum level of change which the ERA will bring about. This is true because of the strong support of the article by Congresswoman Griffiths and other supporters of the ERA. Under miscellaneous examples, the article mentions:

1. "the government cannot rely upon the administrative technique of grouping or averaging where the classification is by sex . . . whatever the price in efficiency, the classification must be made on some other basis." (p. 891)

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2. "It is obvious that the marginal relationship of the unique physical characteristics of pregnancy to the problem of absenteeism would require invalidation . . . of a government regulation to reduce absenteeism by barring women from certain jobs.

3. Men will get extensive leave for child rearing because "if only women can get extensive leave for child rearing it becomes economically impossible for men to stay at home to care for children while their wives work." (p. 897)

4. "A rule allowing sick leave only to mothers when a member of their household is sick is a prohibited sex classification." (p. 898)

5. "A law might prohibit adults with primary responsibility for child care from working in managerial jobs, on the grounds that the function of caring for children was inconsistent with substantial occupational responsibility. Such a law or government regulation would constitute a serious evasion of the Equal Rights Amendment." (p. 898)

6. "Protection against indirect, covert or unconscious sex discrimination is essential to supplement the absolute ban on explicit sex classification of the Equal Rights Amendment." (p. 900)

7. "Thus the courts have power to grant affirmative relief in framing decrees in particular cases . . . such decrees could provide remedies for past denial of equal rights which take into account sex factors and give special treatment to the group discriminated against." (p. 904)

8. "Affirmative action may appear, paradoxically, to conflict with the absolute nature of the Equal Rights Amendment. But where damage has been done by a violator who acts on the basis of a forbidden characteristic, the enforcing authorities may also be compelled to take the same characteristic into account in order to undo what has been done." (p. 904)

9. "There is no doubt that the Equal Rights Amendment would eliminate differentiation on account of sex in the public schools and public university systems." (p. 906)

10. "It would seem clear that the basic principles of state action would, as a general proposition, require that the state eliminate male domination from the educational system." (p. 907)

11. "States which grant jury service exemptions to women with children will either extend the exemption to men with children or abolish the exemption altogether." (p. 920)

XIII. RIGHT TO PRIVACY

I believe that the absolute nature of the Equal Rights Amendment will, without a doubt, cause all laws and state-sanctioned practices which in any way differentiate between men and women to be held unconstitutional. Thus, all laws which separate men and women, such as separate schools, restrooms, dormitories, prisons, and others will be stricken. Also, men and women will be thrown together with no separation on the grounds of sex in the military.

The proponents of the ERA mention that the Constitutional right to privacy will protect and keep separate items such as public restrooms; however, this assertion overlooks the basic fact of constitutional law construction: The most recent constitutional amendment takes precedence over all other sections of the Constitution with which it is inconsistent. Thus, if the ERA is to be construed absolutely, as its proponents say, then there can be no exception for elements of publically imposed sexual segregation on the basis of privacy between men and women.

Even assuming the *very unlikely* result that privacy will allow segregation of the sexes in places like the military, Fred Buzhardt, General Counsel of the Defense Department, mentioned the physical impossibility of providing this always in the military. Mr. Buzhardt said:

"Even if segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field there are often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforce."

Professor Paul Freund of the Harvard Law School testified about this matter before the Senate Judiciary Committee in 1970. After stating that the amendment would be absolute, Professor Freund said that it would follow that the ERA "would require that there be no segregation of the sexes in prison, reform schools, public restrooms, and other public facilities."

Professor Phil Kurland, Editor of the *Supreme Court Review* and a Professor of Law at the University of Chicago Law School stated before the Judiciary Committee:

Senator ERVIN. The law which exists in North Carolina and in virtually every other state of the Union which requires separate restrooms for boys and girls in public schools would be nullified, would it not?

Professor KURLAND. That is right, unless the separate but equal doctrine is revived.

Senator ERVIN. And the laws of the states and the regulations of the Federal government which require separate restrooms for men and women in public buildings would also be nullified, would it not?

Professor KURLAND. My answer would be the same.

As Professors Freund and Kurland indicate there is no qualification of the ERA for the privacy of women just as there will be none for the draft or protective labor laws.

A few examples in our society where the privacy aspect of the relationship between men and women would be changed are:

1. Police practices by which a search involving the removal of clothing will be able to be performed by members of either sex without regard to the sex of the one to be searched.

2. Segregation by sex in sleeping quarters of prisons or similar public institutions would be outlawed.

3. Segregation by sex of living conditions in the armed forces would be outlawed. This includes close quarter living in combat zones and foxholes.

4. Segregation by sex in hospitals would be outlawed.

5. Physical exams in the armed forces will have to be carried out on a sex neutral basis.

There are, of course, numerous other examples which flow from the absolute nature of the Equal Rights for Women amendment.

XIV. THE RADICAL EFFECT OF THE EQUAL RIGHTS AMENDMENT ON THE AMERICAN SOCIAL STRUCTURE

In the hearings before the Senate Judiciary Committee last year, Professor Paul Freund of the Harvard Law School testified that:

"Indeed, if the law must be as undiscriminating concerning sex as it is toward race, it would follow that laws outlawing wedlock between members of the same sex would be as invalid as laws forbidding miscegenation. Whether the proponents of the amendment shrink from these implications is not clear."

Like Professor Freund, it is not clear to me either if the proponents of the amendment shrink from these implications. This matter illustrates as well as any the radical departures from our present system that the ERA will bring about in our society. Speaking in opposition to the ERA, Professor James White of the Michigan Law School also mentioned certain bizarre results which would flow from passage of the ERA. Professor White said:

"With the exception of Illinois and perhaps a few other states, there are laws on the books which make it a crime to engage in certain kinds of homosexual activity. First of all, I suppose the amendment would bring in question all that law . . . I think the question is, is this the way we should do away with it or should we allow the states to control this themselves?"

Professor White continued that there would certainly be litigation on the sexual requirements of the marriage ceremony and that "conceivably a court would find that the State had to authorize marriage and recognize marital legal rights between members of the same sex." At that point in the testimony, Professor White's comments centered on the effect on the community property laws of homosexual marriages. I wondered about the effect on adoption procedures.

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Professor of Neurology at the Yale Medical School, Dr. Jonathan H. Pincus, has asked the following question: "Is the Equal Rights Amendment to be the Tonkin Gulf Resolution of the American social structure?" In a statement in opposition to the ERA, Dr. Pincus goes on to answer his question in the affirmative, and in his discussion he sheds some real light on the radical changes which will be made in our social structure.

At the present time in all states husbands are primarily liable for the support of their wives and children but, as Representative Griffiths' approved article in the *Yale Law Journal* states, "The ERA would bar a state from imposing greater liability for support on a husband than on a wife merely because of his sex." Dr. Pincus is very concerned about the effects of this removal of a husband's responsibility. Dr. Pincus said:

"It seems to me that the removal of legal responsibility from a man for supporting a family, giving the family a name and protecting his daughters from the sort of influences the U.S. Army might have in store for them before marriage is likely to have some effect on the manner in which men relate to their wives and children and vice versa; those traditional ties will be weakened."

Dr. Pincus feels that "a solid happy family life is the foundation of mental health and happiness," and as to the effects of the ERA on this family life, he goes on to state:

"I would predict that the Equal Rights amendment and many of the other goals of its proponents will bring social disruption, unhappiness and increasing rates of divorce and desertion. Weakening of family ties may also lead to increased rates of alcoholism, suicide and, possibly, sexual deviation."

Whether or not one agrees with the predictions of Dr. Pincus, I believe he is asking very genuine questions which should be discussed before the Constitution is amended. Before we begin tinkering with the very subtle mechanisms of family relationships and social responsibilities, should we not consider that we might in fact be passing a Tonkin Gulf Resolution of the American social structure?

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While I believe that any unfair discriminations which the law has created against women should be abolished by law, I have the abiding conviction that the law should make such distinctions between them as are reasonably necessary for the protection of women and the existence and development of the race.

I share completely this recent observation by Mr. Bernard Swartz: "Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law itself and a complete disregard of fact."

The late Justice Felix Frankfurter, in an eloquent statement in the *New Republic* magazine many years ago put it a different way. Justice Frankfurter said:

"Only those who are ignorant of the nature of law and of its enforcement and regardless of the intricacies of American constitutional law, or indifferent to the exacting aspects of woman's industrial life, will have the naivete or the recklessness to sum up woman's whole position in a meaningless and mischievous phrase about "equal rights'."

Let us consider for a moment whether there be a rational basis for reasonable distinctions between men and women in any of the relationships or undertakings of life.

When He created them, God made physiological and functional differences between men and women. These differences confer upon men a greater capacity to perform arduous and hazardous physical tasks. Some wise people even profess the belief that there may be psychological differences between men and women.

To say these things is not to imply that either sex is superior to the other. It is simply to state the all important truth that men and women complement each other in the relationships and undertakings on which the existence and development of the race depend.

The physiological and functional differences between men and women empower men to beget and women to bear children, who enter life in a state of utter helplessness and ignorance, and who must receive nuture, care, and training at the hands of adults throughout their early years if they and the race are to survive, and if they are to grow mentally and spiritually. From time whereof the memory of mankind runneth not to the contrary, custom and law have imposed upon men the primary responsibility for providing a habitation and a livelihood for their wives and children to enable their wives to make the habitations homes, and to furnish nuture, care, and training to their children during their early years.

In this respect, custom and law reflect the wisdom embodied in the ancient Yiddish proverb that God could not be everywhere, so he made mothers. The physiological and functional differences between men and women constitute the most important reality. Without them human life could not exist.

For this reason, any country which ignores these differences when it fashions its institutions and makes its laws is woefully lacking in rationality.

Our country has not thus far committed this grievous error. As a consequence, it has established by law the institutions of marriage, the home, and the family, and has adopted some laws making some rational distinctions between the respective rights and responsibilities of men and women to make these institutions contribute to the existence and advancement of the race.

It may be that times are changing and more and more women will leave the home to compete in the business and professional community. However, I would like to call the Senate's attention to the remarks of Professor Phil Kurland of the University of Chicago Law School on this point. He said:

"Times have changed in such a way that it may well be possible for the generation of women now coming to maturity, who had all the opportunities for education afforded to their male peers and who had an expectation of opportunities to put education to the same use as their male peers, to succeed in a competitive society in which all differences in legal rights between men and women were wiped out. There remains a very large part of the female population on whom the imposition of such a constitutional standard would be disastrous. There is no doubt that society permitted these women to come to maturity not as competitors with males but rather as the bearers and raisers of their children and the keepers of their homes. There are a multitude of women who still find fulfillment in this role. In the eyes of some, this may be unfortunate, but it is true. It can boast no label of equality now to treat the older generations as if they were their own children or grandchildren. Certainly the desire to open opportunities to some need not be bought at the price of removal of legal protections from others."

XV. THE EQUAL RIGHTS AMENDMENT: A CASE STUDY IN ONE SPECIFIC AREA

One of the most interesting assertions of the article in the *Yale Law Journal* which Representative Griffiths says "explains the workings of the amendment," is the statement that:

"The Equal Rights Amendment would not permit a legal requirement, or even a legal presumption, that a woman takes her husband's name at the time of marriage . . . The states could conform to the Equal Rights Amendment by requiring couples to pick the same last name, but allowing selection of the name of either spouse, or of a third name satisfactory to both . . . thus common law and statutory rules requiring name change for the married woman would become legal nullities."

The effects of this requirement on the record-keeping demanded by our society would be staggering. Imagine an attorney searching a land title with this type of last-name system.

The wisdom of allowing a state to determine that a wife's legal name shall be that of her husband has just been upheld 8–0 in a per curiam decision of the Supreme Court in the case of *Forbush* v. *Alabama*. The interest of the State in maintaining control over licensees and requiring the most efficient way to do so should be obvious to everyone, as it was to all the members of the Supreme Court. But it's not obvious to the proponents of the ERA who want to abolish all legal pronouncements favoring the husband's surname.

Just a cursory check of only a very few of the laws of the states will indicate just how far-reaching the Equal Rights Amendment will be in this area alone. Most states appear to recognize the common law rule that a wife assume her husband's surname. *E.g. People ex. rel. Rago* v. *Lipsky*, 327 Ill. App. 63, 63 N.E. 2d 642 (1945); *Freeman* v. *Hawkins*, 77 Tex. 498, 14 S.W. 364; *Chapman* v. *Phoenix National Bank of the City of New York*, 85 N.Y. 437 (1881); *Bacon* v. *Boston Electric Railway Co.*, 256 Mass. 30, 152 N.E. 35 (1926).

In addition, many state statutes are based upon the assumption that a woman assumes her husband's surname upon marriage. For example, statutes relating to the issuance of driver's licenses often include a provision requiring licensed drivers to notify a state agency of changes in name resulting from marriage. *See, e.g. Colo. Rev. Stat. Ann.* Sec. 13–4–17; *Fla. Stat. Ann.* Sec. 322.19; *Ill. Ann. Stat.* Ch. 95½, Sec. 6–116; *Ind. Ann. Stat.* Sec. 47–2710; *Kan. Stat. Ann.* Sec. 8–248; *Ky. Rev. Stat.* Sec. 186.540; *Me. Rev. Stat. Ann.* tit. 29, Sec. 546; *Minn. Stat. Ann.* Sec. 171.11; *Mont. Rev. Codes Ann.* Sec. 31–140; *N.M. Stat. Ann.* Sec. 64–13–53; *N.D. Century Code* Sec. 39–06–20; *Okla. Stat. Ann.* tit. 47, Sec. 6–116; *R.I. Gen. Laws Ann.* Sec. 31–10–32; *S.C. Code Ann.* Sec. 46–170; *Tenn. Code Ann.* Sec. 59–708; *Tex. Rev. Civ. Stat. Ann.* Art. 6687b, Sec. 20; *W. Va. Code Ann.* Sec. 173–2–13.

State statutes relating to divorce often authorize courts to change a woman's name upon divorce. *See, e.g. Alaska Stat.* Sec. 09.-55.010 (no court order necessary); *Arizona Rev. Stat. Ann.* Sec. 25–319; *Ark. Stat. Ann.* Sec. 34–1216; *Cal. Civ. Code* Sec. 4457 (annulment), 4521 (dissolution); *Conn. Gen. Stat. Ann.* Sec. 46–21; *Del. Code Ann.* tit. 3, Sec. 1536; *D.C. Code Ann.* Sec. 16–915; *Ga. Code Ann.* Sec. 30–121; *Hawaii Rev. Laws* Sec. 574–5; *Ill. Ann. Stat.* ch. 40, Sec. 17; *Ind. Ann. Stat.* Sec. 3–1225; *Kan. Stat. Ann.* Sec. 60–1610; *Ky. Rev. Stat. Ann.* Sec. 403.060 (if divorce obtained by wife); *Me. Rev. Stat. Ann.* tit. 19, Sec. 752; *Mass. Gen. Laws Ann.* ch. 208, Sec. 23; *Mich. Comp. Laws Ann.* Sec. 552. 391 (if no minor children); *Minn. Stat. Ann.* Sec. 518.27 (if wife obtained divorce); *Mo. Ann. Stat.* Sec. 452.100 (if wife obtains divorce); *Nev. Rev. Stat.* Sec. 125.130; *N.J. Stat. Ann.* Sec. 2A:34–21; *N.C. Gen. Stat.* Sec. 50–12; *Okla. Stat. Ann.* tit. 12, Sec. 1278 (if husband at fault); *Ore. Laws 1971*, ch. 280, Sec. 13; *Pa. Stat. Ann.* tit. 23, Sec. 98 (woman may *elect* to use maiden name after divorce); *R.I. Gen. Laws Ann.* Sec. 15–5–17 (if *wife* obtains divorce); *S.C. Code Ann.* Sec. 20–117; *Tex. Rev. Civ. Stat.* art. 5931 (either party may change name upon divorce); *Vt. Stat. Ann.* tit. 15, Sec. 557 (if *wife* obtains divorce; *Va. Code Ann.* Sec. 20–121; *Wash. Rev. Code Ann.* Sec. 26.08.130; *W. Va. Code Ann.* Sec. 48–2–23 (if no children); *Wis. Stat. Ann.* Sec. 247.20 (if no children and no alimony).

State voter registration laws often include provisions requiring women to reregister when their names are changed by marriage. *See, e.g., Colo. Rev. Stat. Ann.* Sec. 49–4–19; *Del. Code Ann.* tit. 15, Sec. 1750; *Ill. Ann. Stat.* ch. 46, Sec. 6–54; *Ind. Ann. Stat.* Sec. 29–3428 (but women may vote or run for office under professional name); *Kan. Stat. Ann.* Sec. 25–2316; *Ky. Rev. Stat. Ann.* Sec. 117.735; *La. Rev. Ann.* Secs. 18:41, 234, 241; *Me. Rev. Stat. Ann.* tit. 21, Secs. 638, 831 (notification of change required); *Md. Ann. Code* art. 33 Secs. 3–9, 3–18; *Mass. Gen. Laws Ann.* ch. 51 Sec. 2 (notification); *Neb. Rev. Stat.* Sec. 32–216; *Nev. Rev. Stat.* Sec. 293.517; *N.J. Stat. Ann.* Sec. 19:31–13; *N. M. Stat. Ann.* Sec. 3–4–5; *Ohio Rev. Code Ann.* Sec. 3503.19 (not necessary to reregister if name is *not* changed upon marriage); *Ore. Rev. Stat.* Secs. 247.290, 247.440; *R. I. Gen. Laws Ann.* Sec. 17–9–18 (notification); *S.D. Comp. Laws Ann.* Sec. 12–4–18; *Tenn. Code Ann.* Secs. 2–305; *Va. Code Ann.* Sec. 24.1–51; *Wash. Rev. Code Ann.* Sec. 29.10.040.

State laws regulating notaries public also often contain provisions involving name changes resulting from marriage. *See, e.g., Iowa Code Ann.* Sec. 77.12 (married female notaries may continue to use maiden names); *N.J. Stat. Ann.* Sec. 52:7–7 (married female notaries to use hyphenated name); *Pa. Stat. Ann.* tit. 57, Sec. 156 (female married notaries must notify state agency of change of name); *Va. Code Ann.* Sec. 55–117 (female married notaries to indicate maiden name); *Wyo. Stat. Ann.* Sec. 32–2 (female married notaries to notify state agency of name change and to add husband's surname to signature).

State statutes which authorize civil actions for change of name also sometimes have provisions which are clearly based on the assumption that a wife's legal surname is the surname of her husband. *See, e.g., Iowa Code Ann.* Sec. 674–1 (married women may not bring action to change her name); *Iowa Code Ann.* Sec. 674–10 (if husband changes his surname, wife's name is also changed); *Ky. Rev. Stat. Ann.* Sec. 401–010 (married women not allowed to change name); *Mich. Comp. Laws Ann.* Sec. 711.1 (if husband changes name, wife's name also changes); *Minn. Stat. Ann.* Sec. 259.10 (if husband changes name, wife's name changes if she joins in the application—statute does not indicate what happens if wife fails to join in application); *Vt. Stat. Ann.* tit. 5, Sec. 814 (if husband changes name, wife's name also changes).

Finally, in some state statutes reference is made to "change of legal name" without it being specified whether this includes name changes resulting from marriage. *See e.g., Mass. Gen. Laws Ann.* ch. 30, Sec. 13 (notaries must reregister upon change of name); *Neb. Rev. Stat.* Sec. 64–114 (notaries changing legal name may continue to use name under which they received commission); *N.H. Rev. Stat. Ann.* Sec. 261–2 (driver's license holders required to make notification of change of legal name); *S.C. Code Ann.* Sec. 49–6.1 (notaries to apply for change of name on commission upon legal change of name). In light of the common law rule, however, such provisions are likely to be held to apply to changes of name by marriage.

It should be noted, in conclusion, that the above listing of state statutes is not exhaustive. Rather, it is meant to suggest the

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kinds of state statutes which include provisions based upon the assumption that a woman's legal name changes upon marriage.

XVI. A REASONABLE ALTERNATIVE TO THE ERA

This brings us to the question whether Congress should consider the submission to the States of a Constitutional amendment to deal with the matter, and whether such amendment should permit Congress and the States acting within their respective jurisdictions to make reasonable distinctions between the rights and responsibilities of men and women in appropriate areas of life.

I honestly believe that the equal protection clause, properly interpreted, is sufficient to abolish all unfair legal discriminations made against women by state law.

Despite this belief, I intend to offer an amendment to the ERA which would prevent constitutional chaos. The amendment to the ERA which I plan to offer on the floor of the Senate reads as follows:

"The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes rape, seduction, or other sexual offenses."

Mr. BAYH. Mr. President, will the Senator yield briefly so that we may ask for the yeas and nays on final passage?

Mr. ERVIN. I yield for that purpose.

Mr. BAYH. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

Mr. ERVIN. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from North Carolina may proceed.

Mr. ERVIN. Mr. President, I believe that the overwhelming majority of the good women who have been advocating——

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will the Senate please be in order? Senators who wish to confer with fellow Senators will please retire to the cloakroom. The Senate will be in order.

The Senator may proceed.

Mr. ERVIN. Mr. President, I believe the overwhelming majority of good women who have been advocating and who are still advocating adoption of the equal rights amendment are like a majority of the Members of the Senate and House of Representatives in respect to their knowledge of what this amendment will do.

For this reason I hope that all of us will note this prayer:

Father, forgive us for we know not what we do.

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries?

The PRESIDING OFFICER. Visitors in the galleries are reminded they are guests of the Senate and that the rules require there be no demonstrations of any type at any time. The Chair respectfully requests that you abide by that rule.

The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I have attempted unsuccessfully to persuade the Senate to adopt various amendments which would make the equal rights amendment more understandable. My motive in so doing has been as lofty as the motive which actuated the conduct of Job Hicks in my county about the turn of the century. At that time they had in my county a good bricklayer, a very skillful bricklayer named John Watts. John Watts took the notion he had been called upon to preach. While he was very proficient in the art of bricklaying, he was somewhat deficient in theology, and that fact was noted by one of his contemporaries, Job Hicks. John Watts had a practice of getting some of the local rural churches to let him use their pulpits on Sunday. On one occasion he was preaching in one of these small rural churches when Job Hicks happened to come by. Job Hicks had had several drinks of Burke County corn liquor, which is alleged to be a very potent beverage.

When Job staggered by this little country church and saw John Watts in the pulpit, exhorting the congregation, Job staggered up the aisle, grabbed John Watts by the coat collar, dragged him to the door of the church, and threw him out upon the ground. Job Hicks was prosecuted in the superior court of my county for disturbing religious worship. He was convicted by a jury and was called to the bar of the court by Judge Robinson for sentencing.

Judge Robinson evidently felt like Job Hicks—that there might be some deficiencies in the theological doctrines being expounded by John Watts at the time of this unseemly event, and so, in seeking somewhat to temper the wind to the shorn lamb in his sentence, Judge Robinson said, in a very stern voice, "Job Hicks, when you were guilty of this unseemly conduct on the Lord's Day, you must have been so intoxicated as to not realize what you were doing." Job Hicks responded and said, "Your Honor, it is true I had had several drinks of corn liquor, but I would not want Your Honor to think that I was so drunk that I could stand by and see the word of the Lord be mumicked up like this without doing something about it."

So I have offered amendments, because I did not wish to see the Constitution of the United States being mumicked up.

I am just as much interested as any Member of this Congress is in seeing to it that unfair and unreasonable and arbitrary discriminations in laws against women are abolished. I am convinced, and my conviction is shared by some of the greatest legal scholars of this country, that all unfair or unreasonable or arbitrary discriminations made by law against women in our country are unconstitutional under the due process clause of the fifth amendment, which is applicable to the Federal Government, and the equal protection clause of the 14th amendment, which is applicable to the States.

I, therefore, believe that it is wholly unnecessary for the Constitution to be amended to abolish unfair or unreasonable or arbitrary distinctions made against women by the acts of Congress or by the laws of any of the States.

I certainly believe that it is very unwise and very undesirable to adopt the equal rights amendment in its present form, because that amendment is susceptible of the interpretation—and many legal scholars think that is the only interpretation that could be placed upon it—that it converts men and women into identical legal beings and confers upon men and women identical legal rights and subjects men and women to identical legal responsibilities.

I fear this will be the interpretation which the Supreme Court will necessarily have to place upon the equal rights amendment, because the equal rights amendment is absolute and rigid in terms and admits of no exceptions or limitations. It declares, in substance, that neither Congress nor the legislatures of the 50 States can make any legal distinction based upon sex.

Well, the good Lord made some substantial distinctions between men and women when He created them. The Book of Genesis informs us quite truly that when God created mankind He created them male and female. I am of the opinion that Mrs. Myra Wolfgang, a high officer in a union which represents women, stated an indisputable truth when she said the difference between men and women cannot be changed by an act of Congress or by a constitutional amendment.

Now, to be sure, Congress and the States can amend the Constitution and say to all legislative bodies in this Nation that they must pretend that men and women were not created as two sexes, but created as one sex. That will not settle any problems. It will merely magnify the problems and make Congress and the States rather ridiculous in that they would be attempting to repeal the handiwork of God.

I am troubled by a constitutional amendment which undertakes to do something which is impossible, and that is to convert men and women into identical legal beings.

I am troubled by this amendment on another ground, and I have been surprised to notice so many Members of the Senate who profess to believe in States' rights and State responsibilities support this amendment. When he wrote his great opinion in Texas against White, Chief Justice Salmon P. Chase stated that the Constitution in all its provisions look to an indestructible Union composed of indestructible States. I fear—and I say this in all seriousness—that if this equal rights amendment is adopted by the States, it will come near to abolishing the States of this Union as viable governmental bodies. I think it will virtually reduce the States of this Union to meaningless zeroes on the Nation's map. I think it will transfer virtually all the legislative power of government from the States to Congress.

I do not know how many Members of the Senate have read the decision of the Supreme Court in the case of Katzenbach against Morgan, which laid down the strange doctrine that the fifth section of the 14th amendment, which empowers Congress merely to enforce the first section of the 14th amendment, gives Congress the power to nullify State laws and substitute for State laws, even in areas committed by the Constitution to the States, Federal laws.

I invite the attention of the Senate to this proposed amendment in its present form:

SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

If the decision of the Supreme Court in Katzenbach against Morgan is adhered to by the Supreme Court, section 2 of this equal rights amendment in its present form will empower the Congress of the United States to supplant the States in every field of legislation which relates to men and women or boys and girls; and I respectfully submit that that applies to virtually every field of legislation and to virtually every law.

Why do I say that? I say that because laws are not passed to regulate the conduct of animals or birds or fishes; laws are passed for only one purpose, and that is to govern the conduct of people. And despite the clamor of some of the supporters of the equal rights amendment, there are only two kinds of people in this world, and those two kinds of people are males and females.

So I think that some of us might well get down on our knees and pray, "Father, forgive us, for we know not what we do."

This is the most drastic proposal for amendment of the Constitution ever recommended or supported in the history of this Nation. If it is susceptible of the interpretation which the Supreme Court placed upon the fifth section of the 14th amendment in Katzenbach against Morgan, then this amendment, if ratified by the States, will give Congress the power to occupy the entire legislation field in this Nation in respect to the manifold union composed of indestructible States, will be bereft of their power in this respect. The States will become to all intents and purposes meaningless zeroes upon the Nation's map.

Not only that, the federal system, which contemplates an indestructible union composed of indestructible States, as it is now established by all of the provisions of the Constitution, will be substantially destroyed, and all legislative power relating to the manifold relations of men and women will be concentrated in the Congress of the United States.

And not only that, but the ultimate power to interpret all of the laws of this nature will be lodged in the Federal courts to the exclusion of the State courts.

I believe, and I honestly believe, that this proposed amendment is susceptible of these drastic interpretations. Indeed, since it has no exceptions and no limitations, and is absolute and rigid in its provisions, I do not see how it can be interpreted otherwise. That is a bad situation, thus to concentrate all power of this nature in the Federal Government, because nothing truer was ever said than the statement which Woodrow Wilson uttered on one occasion in which he said that when we resist the concentration of governmental power, we resist the processes of death, because concentration of power always precedes the destruction of human liberties.

So much for my fears about the interpretation which will be placed upon the equal rights amendment. I want to take this occasion to thank the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), the distinguished assistant majority leader, the Senator from West Virginia (Mr. BYRD), and the distinguished floor manager of this measure, the Senator from Indiana (Mr. BAYH), for their great courtesy, their patience, and their forbearance which they have manifested toward me during the days this resolution has been under debate.

I also wish to take this occasion to thank one of my aides, Robert Bland Smith, Jr., for the dedicated, diligent, and untiring assistance which he has given to me in my efforts to present to the Senate views which I feel deeply and which I entertain honestly.

I also wish to pay tribute to the small band—an exceedingly small band—of stouthearted Senators who have shared my views in respect to the equal rights amendment and have supported my efforts to bring some degree of order out of the legal chaos which the amendment is likely to inflict upon our country. It is almost impossible to conceive the state of legal chaos which will ensue if this amendment is ratified by the States. It will invalidate thousands of laws which make legal distinctions between men and women, many of which are based upon entirely rational grounds and a recognition of the fact that God did create two sexes.

These stouthearted Senators who have stood by me in this body sought in vain to make it certain that the equal rights amendment would not compel the Congress to subject women to compulsory military service when there was no necessity for so doing. They sought, and sought in vain, to make it certain that the daughters of America would not be sent into combat to die or to be maimed by the bayonets, the bombs, the bullets, the grenades, the mines, the napalm, the poison gas, and the shells of an enemy.

They tried to make certain that the laws of the United States and the laws of the States which extend protections and exemptions to women in general and to wives, mothers, and widows in particular, which commonsense and reality and the experience of mankind have shown to be needful to enable them to perform their roles as wives and mothers, and to extend to helpless children the nurtures which they require in their infancy, and to give them the training necessary to their intellectual and spiritual role, were not outlawed by this amendment. They sought to do that in vain.

They also sought to make certain that the laws which imposed upon husbands the primary obligation to support their wives, and upon fathers the primary obligation to support their children, would not be abrogated by this amendment. They also sought to do that in vain.

They also sought to make certain that the laws of the United States and the laws of the States which secure privacy—an invaluable right—to men and women and to boys and girls would not be abrogated by this amendment. They sought to do that in vain.

They also sought to make certain that mature men would not go unwhipped of justice if they seduce innocent and virtuous women under promises of marriage, or if they have carnal knowledge of immature girls under the age of consent, or if they transport women and girls in interstate or foreign commerce for the purpose of debauchery and prostitution. These stouthearted Senators also sought that objective in vain.

The stouthearted Senators, who stood by me in this flight, and I have sustained an overwhelming defeat. But I believe that we have sustained this defeat under circumstances in which defeat serves better than victory to shake the soul and let the glory out. I say to those stouthearted Senators who supported me in this fight that they can lay to their hearts the satisfaction that they have not aided in an effort to crucify American womanhood upon the cross of dubious equality and specious uniformity. They have pursued this course because they cannot blind themselves to the proposition that when God created mankind, he created them male and female.

I cannot vote for this resolution on final passage.

I sincerely hope that the State legislatures will give serious consideration to all the arguments which have been made for the resolution and all the arguments which have been made against the resolution. I hope they will not agree to a constitutional amendment which would compel Congress to send my 5-year-old granddaughter on a subsequent occasion into combat with armed enemies of the United States where there are millions and millions and millions of men available to perform that duty.

I appreciate the indulgence of the Senate, and I yield the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, first, may I extend my congratulations to the distinguished senior Senator from North Carolina for the fight he has waged in all honesty, with deep conviction, and with great vigor.

If this constitutional amendment is adopted in the Senate by a two-thirds vote, it will not be a catastrophic defeat for the distinguished Senator; but if defeat there is, it will be an honorable defeat, because he has stated his case with cogency and clarity, and he has waged the good fight for what he thinks is right, and perhaps history will prove him right. But, as the Senator has indicated, it is going to take three-quarters of the States to affirm or to approve what Congress will have done if this body this afternoon passes the constitutional amendment by

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a two-thirds majority, and that remains to be seen.

I want to pay my deepest respects to the distinguished Senator not only for the fight he has waged, consistently and with clarity, but also for the fact that he is the only Member of this body who, since we returned to the second session of this Congress on January 18, has been engaged in debate, day in and day out, without fail. He has been the first Member to come into the Chamber, along with the joint leadership. Almost always, he has been the last Member to leave.

So I commend the distinguished Senator for the remarkable physical stamina he has shown, and I honor him for the intellectual integrity he has displayed.

Mr. ERVIN. Mr. President, I thank the distinguished majority leader for his most generous and gracious remarks. If I had not entertained heretofore the profound admiration for him which I do, I would certainly entertain it now.

Mr. BAYH. Mr. President, I ask unanimous consent that excerpts from the majority report of the Senate Judiciary Committee, explaining in significant detail some of the issues which have been discussed here today be printed in the RECORD, so that the State legislatures of the 50 States may have the benefit of that information.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[Excerpts from the majority report of the Committee on the Judiciary on the Equal Rights Amendment—submitted by Mr. BAYH]

STATEMENT

The proposed Equal Rights Amendment reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

The history of the proposal, the need for an Equal Rights Amendment, and the effect of the Amendment are discussed in detail in later sections of this Report. The basic principle on which the Amendment rests may be stated shortly: sex should not be a factor in determining the legal rights of men or of women. The Amendment thus recognizes the fundamental dignity and individuality of each human being. The Amendment will affect only governmental action; the private actions and the private relationships of men and women are unaffected. And the Amendment only requires equal treatment of individuals; it does not require any State or the federal government to establish quotas of men or women in, for example, admission to State supported schools.

Both major political parties have repeatedly supported this proposal in their national party platforms. It has received the endorsement of Presidents Eisenhower, Kennedy, Johnson and Nixon. Both the Citizens' Advisory Council on the Status of Women, created by President Kennedy, and the President's Task Force on Women's Rights and Responsibilities, created by President Nixon, have recommended in strongest terms approval of the Amendment. At least eleven states (California, Connecticut, Delaware, Florida, Louisiana, Maryland, Minnesota, Nebraska, New York, North Dakota, Pennsylvania) have taken official action in support of the Amendment. The House of Representatives on October 12, 1971 approved the Amendment 354 to 23. And S.J. Res. 8, which is identical to H.J. Res. 208, is cosponsored by over half the Senate.

Moreover, an impressive list of organizations have recorded their support of the Equal Rights Amendment. Among them are the following:

American Association of College Deans.
American Association of University Women.
American Association of Women Deans and Counselors.
American Association of Women Ministers.
American Civil Liberties Union.
American Federation of Soroptimist Clubs.
American Home Economics Association.
American Jewish Congress.
American Medical Women's Association.
American Newspaper Guild.
American Nurses Association.
American Society of Microbiology.
American Society of Women Accountants.
American Society of Women Certified Public Accountants.
American Women in Radio and Television.
Association of American Women Dentists.
B'nai B'rith Women.
Church Women United.
Common Cause.
Council for Christian Social Action, United Church of Christ.
Council for Women's Rights.
Ecumenical Task Force on Women and Religion (Catholic Caucus).
Federally Employed Women.
General Federation of Women's Clubs.
Intercollegiate Association of Women Students.
International Association of Human Rights Agencies.
International Brotherhood of Painters and Allied Trades.
International Brotherhood of Teamsters.
International Union of United Automobile, Aerospace & Agricultural Implement Workers UAW.
Interstate Association of Commissions on the Status of Women.
Ladies Auxiliary of Veterans of Foreign Wars.
League of American Working Women.
National Association of Colored Women.
National Association of Negro Business and Professional Women's Clubs.
National Association of Railway Business Women.
National Association of Women Lawyers.
National Coalition of American Nuns.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Organization for Women.
National Welfare Rights Organization.
National Women's Party.
National Women's Political Caucus.
Professional Women's Conference.
St. Joan's Alliance of Catholic Women.
Unitarian Universalist Women's Federation.
United Automobile Workers.
United Methodist Church—Women's Division.
Women's Equity Action League.
Women's International League for Peace and Freedom.
Women's Joint Legislative Committee for Equal Rights.
Women United.

Finally, a number of distinguished constitutional scholars have testified in support of the Equal Rights Amendment, including Professor Norman Dorsen of New York University, Professor Thomas I. Emerson, Lines Professor of Law at Yale Law School, and Leo Kanowitz, Professor of Law at the University of New Mexico. Moreover, the Association of the Bar of the City of New York, through its Committee on Civil Rights and Special Committee on Sex and Law has urged "adoption of the [Equal Rights] Amendment as the best means of establishing equality before the law." And the American Bar Association recently adopted a resolution which "supports constitutional equality for women, and urges extension of legal rights, privileges and responsibilities to all persons, regardless of sex."

In sum, the Committee was impressed with the broad base of political, public and scholarly opinion in favor of the Equal Rights Amendment, and recommends that it be approved.

I. LEGISLATIVE HISTORY

Proposed constitutional amendment providing for equal rights for men and women have been introduced in nearly every Congress since 1923, shortly after the ratification of the 19th Amendment extended the right to vote to women. Resolutions were reported favorably by the Subcommittee on Constitutional Amendments in the 88th, 89th and 90th Congresses, as well as a number of earlier Congresses. Resolutions were reported favorably by the Committee on the Judiciary in the 80th, 81st, 82nd, 83rd, 84th, 86th, 87th and 88th Congresses.

In the 81st Congress, and again in the 83rd Congress, resolutions passed the Senate with a floor amendment. This floor amendment provided that the Amendment "shall not be construed to impair any rights, benefits or exemptions now or hereafter conferred by law upon members of the female sex." In both instances, the House of Representatives failed to act. The same floor amendment was added to an equal rights resolution during Senate consideration in the 86th Congress. The proponents of the amendment objected to this addition because it diluted the equality of rights and responsibilities among men and women, which is the Amendment's goal. Accordingly, the resolution's principle sponsors moved to recommit it to the Judiciary Committee, and that motion was passed.

On May 5, 6, and 7, 1970, the Subcommittee on Constitutional Amendments held hearings on the Equal Rights Amendment. It received testimony from 42 witnesses, received 75 additional insertions of material, and compiled a hearing record of almost 800 pages. *The Equal Rights Amendment*, Hearings Before the Senate Subcommittee on Constitutional Amendments, 91st Cong., 2d Sess. (1970). The Subcommittee met and reported the Amendment to the full Committee on August 10, 1970. Soon thereafter the full Committee held a further series of hearings on the Amendment, on September 9, 10, 11, and 15, 1970. It listened to 25 witnesses and compiled a 430 page record of hearings. *Equal Rights 1970*, Hearings Before the Senate Committee on the Judiciary, 91st Cong., 2d Sess. (1970).

In the meantime, the House of Representatives voted to discharge its Judiciary Committee from further consideration of the Equal Rights Amendment and, on August 10, 1970, by a vote of 350 to 15, approved the Amendment (H.J. Res. 264).

The House-passed joint resolution was not referred to the Senate Judiciary Committee but was placed directly on the Calendar pursuant to the request of the Senate leadership. H.J. Res. 264 became the pending Senate business on October 6, 1970. After several days of debate, on October 13, 1970, the Senate adopted by a vote of 36 yeas to 33 nays Amendment No. 1049, which added a second sentence to the first section of the joint resolution, as follows: "This article shall not impair, however, the validity of any law of the United States which exempts women from compulsory military service." Amendment 1049 also imposed a seven-year time limit on the ratification process and made the joint resolution effective two years—instead of one year—after ratification. Thereafter, the Senate also adopted, 50 yeas to 20 nays, Amendment No. 1048, which added to the pending joint resolution a second section proposing an additional constitutional amendment relating to prayers in public buildings. After further debate the Senate laid aside the joint resolution, as amended, on November 19, 1970, and proceeded to the consideration of other business. No further action was taken in the 91st Congress.

In the 92d Congress, Subcommittee No. 4 of the House Judiciary Committee held hearings on H.J. Res. 208—which is identical to S.J. Res. 8 and 9 in the 92d Congress—on March 24, 25, and 31, and April 1, 2, and 5, 1971, hearing testimony from 35 witnesses. *Equal Rights for Men and Women*, Hearings Before Subcommittee No. 4 of the House Judiciary Committee, 92d Cong., 1st Sess. (1971). On April 29, 1971 the Subcommittee by a voice vote ordered the measure reported to the House Judiciary Committee. The full Committee amended the joint resolution on June 22, 1971 by a vote of 19 to 16 by adding a section which provided that the Amendment would "not impair the validity of any law of the United States which exempts a person from compulsory military service or any other law of the United States or any State which reasonably promotes the health and safety of the people." It then, by vote of 38 to 2, ordered the joint resolution reported favorably. The Committee Report, H.R. Rep. 92-259, was filed on July 14, 1971. Separate views were filed by 14 Representatives; Minority views were filed by 3.

On October 12, 1971 the House rejected by vote of 104 to 254 the Committee amendment to H. J. Res. 208. After further debate, it approved the resolution in its original form by vote of 354 to 23. (117 Cong. Rec. H. 9392 (Daily ed. Oct. 12, 1971)).

In the Senate, the Subcommittee on Constitutional Amendments met on November 22, 1971, and adopted by vote of 6 to 4 a motion to substitute the following language for sections 1 and 2 of S.J. Res. 8, and S.J. Res. 9, and H.J. Res. 208:

"SECTION 1. Neither the United States nor any State shall make any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences between them.

SEC. 2. The Congress shall have the power to enforce the provisions of this article by appropriate legislation."

The subcommittee then voted unanimously to report all three joint resolutions, as amended, to the full Judiciary Committee.

By vote of 15 to 1 on February 29, 1972, the Senate Judiciary Committee ordered S.J. Res. 8, S.J. Res. 9 and H.J. Res. 208 reported favorably to the floor unamended. Prior to ordering the Equal Rights Amendment reported favorably and unamended, the Committee took the following actions:

(1) Rejected by roll call vote of 1 to 15 a motion to substitute for sections 1 and 2 of the Equal Rights Amendment the language (printed above) recommended by the Subcommittee on Constitutional Amendments (see Part IV, *infra*);

(2) Rejected by voice vote a motion to add the following language to section 1 of the Equal Rights Amendment: "The provisions of this article shall not impair the validity, however, of any laws of the United States or any State which exempt women from compulsory military service, or from service in combat units of the Armed Forces; or extend protections or exemptions to wives, mothers, or widows; or impose upon fathers responsibility for the support of children; or secure privacy to men or women, or boys or girls; or make punishable as crimes, rape, seduction, or other sexual offenses," (see Part IV, *infra*);

(3) Rejected by voice vote a motion to add the following language to section 1 of the Equal Rights Amendment: "Nothing contained in this article shall be construed to deprive the United States and the several States of the legislative power to extend to female persons any right or protection sanctioned by the fifth or fourteenth articles of amendment";

(4) Rejected by roll call vote of 2 to 14 a motion to add the following language to section 1 of the Equal Rights Amendment: "This article shall not impair the validity of any law of the United States which exempts women from compulsory military service or service in combat units of the Armed Forces", (see Part III(B), *infra*);

(5) Rejected by roll call vote of 3 to 13 a motion to add the following language to section 1 of the Equal Rights Amendment: "This article shall not impair the validity of any law of the United States which exempts women from compulsory military service," (see Part III(B), *infra*);

(6) Rejected by voice vote a motion to add the following language to section 1 of the Equal Rights Amendment: "No Federal law shall prohibit an institution of higher education from enrolling only male or female students or students of both sexes. If any such institution of higher education enrolls both male and female students, such institution shall not be allowed to accept only a certain percentage of individuals of either sex," (see Part III(E), *infra*).

II. THE NEED FOR THE EQUAL RIGHTS AMENDMENT

A. Discrimination against women

While there has been some progress toward the goal of equal rights and responsibilities for men and women in recent years, there is overwhelming evidence that persistent patterns of sex discrimination permeate our social, cultural and economic life. The magnitude of sex discrimination in the country today can be gauged by the simple and eloquent statement of Congresswoman Shirley Chisholm when she testified before the Subcommittee on Constitutional Amendments in May 1970: "I have been far oftener discriminated against because I am a woman than because I am black."

Some legislative progress has been made toward equal rights, but not enough to wipe out all discrimination against women in State and Federal law. Congress approved Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment unless sex is a "bona fide occupational qualification." And Congress approved the Equal Pay Act which assures that many persons who do equal work receive equal pay regardless of sex. But these laws fail to reach discrimination in many areas, allow for substantial exemptions in some cases, and have often been implemented too slowly.

The Supreme Court has been slow to move too: recently, for the first time, it did invalidate a state law which discriminated against women, but it did so in a way which left the burden of proof on each woman plaintiff to show that the law is unreasonable. The Court has consistently refused to apply the Fourteenth Amendment to discrimination based on sex with the same vigor it applies the Amendment to distinctions based on race.

In the States, progress has been mixed. Some States have made diligent efforts to revise outmoded and discriminatory laws, and three States—Illinois, Pennsylvania and Virginia—have recently approved State constitutional provisions banning sex discrimination. But in other States, there has been no progress at all.

On the whole, sex discrimination is still much more the rule than the exception. Much of this discrimination is directly attributable to governmental action both in maintaining archaic discriminatory laws and in perpetuating discriminatory practices in employment, education and other areas. The social and economic cost to our society, as well as the individual psychological impact of sex discrimination, are immeasurable. That a majority of our population should be subjected to the indignities and limitations of second class citizenship is a fundamental affront to personal human liberty.

Specific examples of sex discrimination are legion, and have been brought to the attention of Congress many times, through hearings on the Equal Rights Amendment and on other legislation (for example, *Discrimination Against Women*, Hearings Before the Special Subcommittee on Education of the House Committee on Education and Labor, 91st Cong., 2d Sess. (1970)). In assessing the need for the Equal Rights Amendment, it is useful to review a few of the best known and most far reaching cases of invidious sex discrimination.

1. Criminal Liability and Civil Responsibility

Difficult as it is to believe, the record shows that women are sometimes denied even the basic rights and responsibilities of citizenship in the United States today. Until 1966, for example, three States excluded women from juries altogether. And today there is still at least one State which requires women, but not men, to register specially to be eligible to serve on juries.

There is also invidious discrimination against women in the criminal laws of some States. One State has a statute allowing women to be jailed for three years for habitual drunkenness, while a man can receive only 30 days for the same offense. In two States, the defense of "passion killing" is allowed to the wronged husband, but not to the deceived wife. And in another State, female juvenile offenders can be declared "persons in need of supervision" for noncriminal acts until they are 18, while males are covered by the statute only until age 16.

2. Education

Governmental action also contributes significantly to sex discrimination in education. Approximately 75 percent of the college students in the country attend publicly supported institutions. These colleges and universities have a crucial role in determining employment opportunities for women by providing access to professional training and careers. Yet widespread patterns of sex discrimination are found in the admissions policies and hiring practices of institutions of learning throughout the country. As an independent report prepared for the Department of Health, Education and Welfare this year stated: "Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community."

Discrimination in admission to college is widespread. In 1968, only 18 per cent of the men entering public four-year colleges had a high school grade average of B+ or better. But 41 per cent of the freshman women had attained such grades. In 1969 one State university published an admissions brochure which stated that "admission of women on the freshman level will be restricted to those who are especially well qualified." Another State university admitted women only for summer school sessions, and never to the regular academic curriculum, unless they are related to employees or students and wish to pursue a course of study otherwise unavailable. In 1970, the percentage of the female population enrolled in college was markedly lower than the percentage of the male population. Over 40 percent of the

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males between the ages of 18 and 21, and over 20 percent of the males between 23 and 24 were enrolled in college. But the comparable figures for females were 29 percent and 9 percent respectively.

Discrimination in admission to graduate schools is, if anything, even more widespread, despite the fact that women's undergraduate grade point averages are higher than men's. Testimony before the House Special Subcommittee on Education in 1970 revealed, for example, that the number of women applying for admission to U.S. medical schools increased by more than 300 percent between 1929–30 and 1965–66 (while male applications increased by only 29 percent). The percentage of women applicants who were accepted actually declined during the same period. And while women received 55 percent of the Bachelors degrees awarded in all fields in 1968–69, women received only 37 percent of the Masters degrees, only 13 percent of the Doctorates, and only 4 percent of the professional degrees.

Discrimination against women does not end with admission; it pervades every level of the teaching profession. While 75 percent of the teachers in public elementary and secondary schools are woman, only 22 percent of the elementary school principals and only 4 percent of the high school principals are women. At the college level, statistics show that while almost half of the male teachers become full professors only 10 percent of the female teachers are granted that status. And according to a recent survey of 36 prominent law schools, to take a final example, only 2.1 percent of the faculty members are women, and a quarter of those are classified as Librarians.

3. Business and labor

The business and labor laws of some States discriminate invidiously against women. Some States place special restrictions on the right of married women, but not married men, to contract or to establish independent businesses or to become a guarantor or a surety. Perhaps even more astounding, the Committee discovered at the hearings in 1970 that twenty-six States then had laws or regulations which prohibited the employment of adult women in specified occupations or industries which were open to adult men.

Most States have enacted so-called "protective" labor legislation in one form or another. Many of these laws are not protective at all, but rather are restrictive, and have been shown to have a discriminatory impact when applied only to women. For example, a law which limits the working hours of women but not of men makes it more difficult for women to obtain work they desire and for which they are qualified, or to become supervisors. State laws which limit the amount of weight a women can lift or carry arbitrarily keep all women from certain desirable or high-paying jobs, although many if not most women are fully capable of performing the tasks required. Speaking of such restrictive laws as a whole, the Equal Employment Opportunities Commission states in its guidelines on sex discrimination:

"The Commission believes that [state laws which restrict or limit the employment or conditions of employment of females] although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferences and abilities of individual females and tend to discriminate rather than protect."

Partially because of these laws, and also because of other sorts of sex discrimination, working women are at a great disadvantage in the private sector. The median salary income for women is only 59.5 percent of that earned by men—and in recent years the gap between male and female median incomes has been widening. In 1969, less than 5 percent of all fulltime female workers earned over $10,000 per year, compared with 35 percent of all male workers. At the other end of the scale, 14.4 percent of women, but only 5.7 percent of men, earned less than $3,000. Indeed, sex discrimination is so pervasive that women with four years of college education made only slightly more than men with an eighth grade education. And while women account for more than 40 percent of all white collar jobs, they hold only one in ten managerial positions and one in seven professional jobs.

Sex discrimination is clearly present even in government employment, which in total accounts for more than 20 percent of the labor force. For example, although women constituted 34 percent of all full-time white collar Federal Civil Service Employees in 1967, they filled more than 62 percent of the four lowest grades and only 2.5 percent or less of the four highest grades. And sex discrimination in government has an effect even greater than the numbers involved, for private employers often look to government as a model for employment practices.

B. Inadequacy of legislative or judicial relief

It is sometimes argued that all of the discriminatory laws and practices which exist could be eliminated without a constitutional amendment. If the Supreme Court were to hold that discrimination based on sex, like discrimination based on race, is inherently "suspect" and cannot be justified in the absence of a "compelling and overriding state interest", then part of the reason for the Amendment would disappear. But the Court has persistently refused so to hold. Indeed, the Court has upheld many laws which plainly discriminate against women.

Its first significant case involving sex discrimination was *Bradwell* v. *Illinois*, 83 U.S. 130 (1872), in which the Court upheld the refusal of the Supreme Court of Illinois to allow women to practice law. The Court relied on the Privileges and Immunities Clause of the Fourteenth Amendment and not the Equal Protection or Due Process Clauses, to uphold the law. Two years later, the Court held that the Fourteenth Amendment did not confer on women citizens the right to vote, in *Minor* v. *Happersett*, 88 U.S. 162 (1874), a position which stood until ratification of the Suffrage Amendment in 1920.

Later, the Court began to apply a standard of "reasonableness" to laws which discriminated on the basis of sex. This test was employed to uphold against constitutional attack labor laws which appeared to have little if any reasonable justification. A good example is the case of *Goesart* v. *Cleary*, 335 U.S. 464 (1948), in which the Court upheld a Michigan statute prohibiting all females—other than the wives and daughters of male licensees—from being licensed as bartenders. The Court in *Goesart* assumed that such patently discriminatory legislation could be sustained if it were "reasonably" related to the State's objective in making such a classification. The Court did not even explore the possibility that a more rigorous constitutional standard should be applied.

More recently, in *Hoyt* v. *Florida*, 386 U.S. 57 (1967), the Court upheld a Florida statute providing that no female would be called for jury service unless she had registered to be placed on the jury list. The Court found that such discrimination was permissible under the Fourteenth Amendment, since it was reasonable "for a state, acting in pursuit of the general welfare to conclude that a woman should be relieved from the civic duty of jury service unless she herself determines that such service is consistent with her own special responsibilities."

Last year the Supreme Court for the first time struck down a law which discriminated against women. In *Reed* v. *Reed*, ——— U.S. ———, 40 U.S.L.W. 4013, (1971), the Court invalidated a State law which arbitrarily favored men over women as administrators of estates. But the Court did not overrule such cases as *Goesart* and *Hoyt*, and it did not hold that sex discrimination is "suspect" under the Fourteenth Amendment. Instead, the Court left the burden on every woman plaintiff to prove that governmental action perpetuating sex discrimination is "unreasonable." And that is a difficult burden to carry, indeed. As the Association of the Bar of the City of New York pointed out in its recent report "[t]he 1971 *Reed* case indicated no substantial change in judicial attitude." Passage of the Equal Rights Amendment will make it clear that the burden is *not* on each woman plaintiff to show sex discrimination is "unreasonable"; the Amendment will, instead, assure all men and women the right to be free from discrimination based on sex.

Of course, it would theoretically be possible for Congress and each State to revise their laws and eliminate those which discriminate against women. But without the impetus of the Equal Rights Amendment, that process would be far too haphazard and much too slow to be acceptable. We cannot afford to wait any longer for Congress and each of the 50 State legislatures to find the time to debate and revise their laws. As in other areas where the Constitution has been amended, there is an imperative for immediate action. The Nation has waited too long already—it has been 49 years since the Equal Rights Amendment was first introduced. Only a constitutional amendment can provide the legal and practical basis for the necessary changes.

Finally, we cannot overlook the immense symbolic importance of the Equal Rights Amendment. The women of our country must have tangible evidence of our commitment to guarantee equal treatment under law. An amendment to the Constitution has great moral and persuasive value. Every citizen recognizes the importance of a constitutional amendment, for the Constitution declares the most basic policies of our Nation as well as the supreme law of the land.

The Committee concludes that because of the pervasive legal sex discrimination which now exists, and because of the inedaquacy of legislative and judicial remedies, there is a clear and undeniable need for the Equal Rights Amendment.

III. THE EFFECT OF THE EQUAL RIGHTS AMENDMENT

A. General principles

The general principles on which the Equal Rights Amendment rests are simple and well-understood. Essentially, the Amendment requires that the federal government and all state and local governments treat each person, male and female, as an individual.

It does not require that any level of government establish quotas for men or for women in any of its activities; rather, it simply prohibits discrimination on the basis of a person's sex. The Amendment applies only to governmental action; it does not affect private action or the purely social relationships between men and women.

The Separate Views of Congressman Edwards and 13 other members of the House Judiciary Committee in the House Report on the equal rights amendment, H.R. Rep. 92–359, state concisely and accurately the understanding of the proponents of the Amendment:

"The basic premise of House Joint Resolution 208 in its original form is a simple one. As stated by Professor Thomas Emerson of Yale University, one of the Nation's foremost authorities on constitutional law, the original text is based on the fundamental proposition that sex should not be a factor in determining the legal rights of women or of men.

"The existence of a characteristic found more often in one sex than the other does not justify legal treatment of all members of that sex different from all members of the other sex. The same is true of the functions performed by individuals. The circumstance, that in our present society members of one sex are more likely to be engaged in a particular type of activity than members of the other sex, does not authorize the Government to fix legal rights or obligations on the basis of membership in one sex. The law may operate by grouping individuals in terms of existing characteristics or functions, but not through a vast over-classification by sex.

"The main reason underlying the basic concept of the original text derives from both theoretical and practical considerations. The equal rights amendment (H.J. Res. 208) embodies a moral value judgment that a legal right or obligation should not depend upon sex but upon other factors—factors which are common to both sexes. This judgment is rooted in the basic concern of society with the individual, and with the right of each individual to develop his own potentiality.

"The legal principle underlying the equal rights amendment (H.J. Res. 208) is that the law must deal with the individual attributes of the particular person and not with stereotypes of over-classification based on sex. However, the original resolution does not require that women must be treated in all respects the same as men. "Equality" does not mean "sameness." As a result, the original resolution would not prohibit reasonable classifications based on characteristics that are unique to one sex. For example a law providing for payment of the medical costs of child bearing could only apply to women. In contrast, if a particular characteristic is found among members of both sexes, then under the proposed amendment it is not the sex factor but the individual factor which should be determinative.

"Just as the principle of equality does not mean that the sexes must be regarded as identical, so too it does not prohibit the States from requiring a reasonable separation of persons of different sexes under some circumstances. In this regard, two collateral legal principles are especially significant. One principle involves the traditional power of the State to regulate cohabitation and sexual activity by unmarried persons. This principle would permit the State to require segregation of the sexes for these regulatory purposes with respect to such facilities as sleeping quarters at coeducational colleges, prison dormitories, and military barracks.

"Another collateral legal principle flows from the constitutional right of privacy established by the Supreme Court in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). This right would likewise permit a separation of the sexes with respect to such places as public toilets, as well as sleeping quarters of public institutions.

"With respect to other constitutional considerations, it should be noted that (H.J. Res. 208) would apply only to governmental action, and not to private or individual action. In this regard, as well as in some of its other features, (H.J. Res. 208) is similar to those provisions of the 14th Amendment which are directed against racial, ethnic, and religious discrimination. Thus, in interpreting (H.J. Res. 208) the courts would have available a substantial body of case law which could be used as a guide when relevant. At the same time much as the struggle of women for equality is comparable to that of racial, ethnic, and religious minorities, there are some differences which the courts could also take into account in appropriate cases."

Because substantial controversy has arisen over the impact of the Equal Rights Amendment in a few specific areas, it is appropriate to suggest the likely application of these general principles in such areas.

B. Military service

It seems clear that the Equal Rights Amendment will require that women be allowed to volunteer for military service on the same basis as men; that is, women who are physically and otherwise qualified under neutral standards could not be prohibited from joining the service solely on the basis of their sex. This result is highly desirable for today women are often arbitrarily barred from military service and from the benefits which flow from it: for example, educational benefits of the G.I. bill; medical care in the service and through Veterans Hospitals; job preferences in government and out; and the training, maturity and leadership provided by service in the military itself.

It seems likely as well that the ERA will require Congress to treat men and women equally with respect to the draft. This means that, if there is a draft at all, both men and women who meet the physical and other requirements, and who are not exempt or deferred by law, will be subject to conscription. Once in the service, women, like men, would be assigned to various duties by their commanders, depending on their qualifications and the service's needs.

Of course, the ERA will not require that all women serve in the military any more than all men are now required to serve. Those women who are physically or mentally unqualified, or who are conscientious objectors, or who are exempt because of their responsibilities (e.g., certain public officials; or those with dependents) will not have to serve, just as men who are unqualified or exempt do not serve today. Thus the fear that mothers will be conscripted from their children into military service if the Equal Rights Amendment is ratified is totally and completely unfounded. Congress will retain ample power to create legitimate sex-neutral exemptions from compulsory service. For example, Congress might well decide to exempt all parents of children under 18 from the draft.

Our understanding of the effect of the Equal Rights Amendment comports with that of the House. The members of the House Judiciary Committee, quoting from the Report of the Senate Judiciary Committee on the Equal Rights Amendment in 1964, said:

"It could be expected that women will be equally subject to military conscription and they have demonstrated that they can perform admirably in many capacities in the Armed Forces. But the government would not require that women serve where they are not fitted just as men [are not required to serve where not fitted]."

Or, as Congresswoman Martha Griffiths, the primary sponsor of H.J. Res. 208, said on the floor:

"The draft is equal. That is the thing that is equal. But once you are in the Army you are put where the Army tells you where you are going to go."

Congressman Edwards, who had chaired the House Subcommittee Hearings on the Equal Rights Amendment, put it this way:

"Women in the military could be assigned to serve wherever their skills or talents were applicable and needed, in the discretion of the command, as men are at present."

Furthermore, our understanding comports with that of the witnesses at the hearings and other interested parties. See, for example, the testimony of Professor Norman Dorsen of New York University Law School in *Equal Rights for Men and Women 1971*, Hearing Before Subcommittee No. 4 of the House Judiciary Committee, 92d Cong., 1st Sess. 162–164 (1971); Report of the President's Task Force on Women's Rights and Responsibilities, *A Matter of Simple Justice* (April, 1970) (the Equal Rights Amendment "would impose on women an obligation for military service"); National Association of Women Lawyers, Letter to Hon. Emanuel Celler (April 27, 1971) (females "would be . . . subject to the draft on the same basis as young men" and "women in the military would receive the same benefits and veterans' preferences, employment, education skills learned in the service").

One question often raised is whether men and women can serve together efficiently in the Armed Services. Perhaps the best answer is that they are doing so now without apparent difficulty. The experience of other countries supports this conclusion. In Israel, women are required to serve in the Defense Forces just as men. They are not, however, assigned to combat posts, nor are they required to engage in physical combat. Rather, they perform critical noncombatant tasks in the clerical, communication, electronics and nursing fields. Separate and independent facilities are maintained for women soldiers. Under these circumstances, no significant difficulties have arisen from having men and women serve together.

C. Labor legislation

A number of States have laws which restrict or limit the occupations or conditions of employment of females, but not of males. These laws are often called "protective", but in practice many of them discriminate against women by making it difficult and sometimes impossible for a fully qualified woman to obtain certain jobs, often highly desirable ones. Because of Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment in certain instances where sex is not a "bona fide occupational qualification", these laws are not nearly as great a barrier to fair employment for women as they once were. Nevertheless, some States retain their laws.

Most of the so-called "protective" laws were passed to protect women from exploitation in another era, and they represented hard won progress. But today, some are merely restrictive, and because they apply only to women confer no real benefit. For example, some States have laws which absolutely prohibit women, whether qualified or not, from certain jobs—jobs which are open to men. Other States have weight lifting laws applicable only to women which effectively deny fully qualified women certain jobs. Still others have laws limiting the hours women may work—and these sometimes prevent women from gaining promotions to supervisory positions. As the Equal Employment Opportunity Commission has found, such laws "do not take into account the capacities, preferences, and abilities of individual females and tend to discriminate rather than protect."

Ratification of the Equal Rights Amendment will result in equal treatment for men and women with respect to the labor laws of the States, as in other legal matters. This will mean that such restrictive discriminatory labor laws as those which bar women entirely from certain occupations will be invalid. But those laws which confer a real benefit, which offer real protection, will, it is expected, be extended to protect both men and women. Examples of laws which may be expanded include laws providing for rest periods or minimum wage benefits or health and safety protections. Men are now sometimes denied the very real benefits these laws offer. As Professor Leo Kanowitz pointed out to your Committee at its Hearings in September 1970: "The fears of some opponents of the [Equal Rights] Amendment that its adoption would nullify laws that presently protect women only are thus unfounded—since the equality of treatment required by the [A]mendment can be achieved by extending the benefits of those laws to men rather than by removing them for women." The Association of the Bar of the City of New York pointed out in discussing laws requiring rest periods for women only, that they "may be extended to both sexes without burden or disruption."

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D. Expansion versus nullification of unconstitutional statutes

The question of whether laws found unconstitutional under the Equal Rights Amendment will be struck down or extended to cover both men and women, is a question which extends beyond the area of labor legislation. Of course, the legislatures of the several States will have the primary responsibility for revising those laws which conflict with the Equal Rights Amendment. Indeed, the purpose of delaying the effective date of the Equal Rights Amendment for two years after ratification is to allow legislatures—particularly those which meet only in alternate years—and agencies an opportunity to review and revise their laws and regulations. As stated above, the Committee expects that any labor law, or other legislation, which is truly protective will be extended to include both sexes, while laws which are restrictive will become null and void.

In those situations where a court finds a State or federal law in conflict with the Equal Rights Amendment, the legal infirmity will be cured either by expanding the law to include both sexes or nullifying it entirely. As discussed above, it is expected that those laws which are discriminatory and restrictive will be stricken entirely as the court did in *McCrimmon* v. *Daley*, 2 FEP Cases 971 (N.D. Ill. March 31, 1970) which involved a law banning women from a certain occupation. On the other hand, it is expected that those laws which provide a meaningful protection would be expanded to include both men and women, as for example minimum wage laws, see *Potlatch Forests, Inc.* v. *Hays*, 318 F. Supp. 1368 (E.D. Ark. 1970), or laws requiring rest periods, *cf.* Equal Employment Opportunities Commission Case No. 6–8–6654 (June 23, 1969), 1 CCH Employ. Prac. Guide 6021.

There can be no question that the courts, upon holding a statute unconstitutional, can expand the scope of the statute if necessary to cure its legal infirmity. As Mr. Justice Harlan said, concurring in *Welsh* v. *United States*, 398 U.S. 333, 361 (1970) (footnote omitted):

"Where a statute is defective because of underinclusion there exist two remedial alternatives: a court may either declare it a nullity and order that its benefits not extend to the class that the legislature intended to benefit, or it may extend the coverage of the statute to include those who are aggrieved by exclusion." *See Skinner* v. *Oklahoma ex rel. Williams*, 316 U.S. 535, 543 (1942); *Iowa Des-Moines Nat'l. Bank* v. *Bennett*, 284 U.S. 239, 247 (1931); *Developments In the Law-Equal Protection* 82 Harv. L. Rev. 1065, 1136–37 (1969).

The Supreme Court has applied this principle in many cases. In 1880, for example, the Court extended a State statute limiting jury service to "electors" to include blacks enfranchised by the 14th and 15th Amendments rather than striking the law down. *Neal* v. *Delaware*, 103 U.S. 370 (1880). In *Sweat* v. *Painter*, 339 U.S. 637 (1950), and *McLaurin* v. *Oklahoma State Regents*, 339 U.S. 637 (1950) the Court held that State laws restricting access to State institutions of higher education on the basis of race were unconstitutional; it expanded the laws so that black students had equal access. And in *Levy* v. *Louisiana*, 391 U.S. 68 (1968), the Court extended to illegitimate children the right, restricted by a State statute to legitimate children, to recover wrongful death benefits. See generally Dorsen, *The Necessity of a Constitutional Amendment* in Equal Rights for Women: A Symposium on the Proposed Constitutional Amendment, 6 Harv. Civ. Rts.—Civ. Lib. L. Rev. 216 (1971).

As previously stated, courts have had a great deal of experience in dealing with laws which discriminate on the basis of sex, for Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of sex unless sex is a "bona fide occupational qualification". Under that Federal statute a State overtime wage law was extended to include men, *Potlatch Forests, Inc.* v. *Hays*, 318 Supp. 1368 (E.D. Ark. 1970) as were weightlifting limitations, *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969). On the other hand, State laws banning women from an occupation have been struck down, *McCrimmon* v. *Daley*, 2 FEP Cases 971 (N.D., Ill. March 31, 1970), *on remand from* 418 F. 2nd 366 (7th Cir. 1969). See generally *Developments In the Law—Employment Discrimination and Title VII of the Civil Rights Act of 1964*, 84 Har. L. Rev. 1109, 1188–1190, 1194–1195 (1971).

E. Criminal law, education and family law

The general principles discussed above will govern the application of the Equal Rights Amendment to all fields of law. With respect to criminal law, for example, the Amendment will prohibit a State from providing for different punishments for men and women who commit the same crime, *cf. Commonwealth* v. *Daniel*, 430 Pa. 642, 243, 243A. 2d 400(1968). But the Amendment will not invalidate laws which punish rape, for such laws are designed to protect women in a way that they are uniformly distinct from men.

With respect to education, the Equal Rights Amendment will require that State supported schools at all levels eliminate laws or regulations or official practices which exclude women or limit their numbers. The Amendment would not require quotas for men and women, nor would it require that schools accurately reflect the sex distribution in the population; rather admission would turn on the basis of ability or other relevant characteristics, and not on the basis of sex. A similar result may be expected with respect to the distribution of scholarship funds. State schools and colleges currently limited to one sex would have to allow both sexes to attend. Employment and promotion in public schools would, as in the case of other governmental action, have to be free from sex discrimination.

It should also be noted with respect to education that the Amendment would not require that dormitories or bathrooms be shared by men and women. As explained above, the Amendment does not prohibit the separation of the sexes where the right of privacy is involved. As the Association of the Bar of the City of New York pointed out in its report, "[t]he constitutional right of privacy could be used to sanction separate male and female facilities for activities which involve disrobing, sleeping and personal bodily functions."

The Equal Rights Amendment may also have an effect on those State laws affecting domestic relations. In this area, as elsewhere, the Amendment will prohibit discrimination based on sex. This will mean that State domestic relations laws will have to be based on individual circumstances and needs, and not on sexual stereotypes. The report of the Association of the Bar of the City of New York accurately describes the Amendment's effect in this area:

"The Amendment would bar a state from imposing a greater liability on one spouse than on the other merely because of sex. It is clear that the Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. The support obligation of each spouse would be defined in functional terms based, for example, on each spouse's earning power, current resources and nonmonetary contributions to the family welfare.

"Thus, if spouses have equal resources and earning capacities, each would be equally liable for the support of the other—or in practical effect, neither would be required to support the other. On the other hand where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties.

"Although courts still probably would be reluctant to interfere in the allocation of support between husband and wife in an ongoing marriage, upon the dissolution of marriage, both husbands and wives would be entitled to fairer treatment on the basis of individual circumstances rather than sex. Thus alimony laws could be drafted to take into consideration the spouse who had been out of the labor market for a period of years in order to make a non-compensated contribution to the family in the form of domestic tasks and/or child care."

As Professor Norman Dorsen pointed out to the Committee:

"The National Conference of Commissioners on Uniform State Laws recently adopted a Uniform Marriage and Divorce Act which takes an approach similar to that contemplated by the Equal Rights Amendment. It provides for alimony or maintenance for either spouse, and child support by either or both spouses, by defining all duties neutrally in terms of functions and needs of the people involved, rather than in terms of their sex. The action by the Commissioners, a respected and prudent body, deserves special consideration."

In sum, there is no reason to fear that the Equal Rights Amendment will have undesirable effects on the rights of men and women under State domestic relations laws.

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V. SECTIONAL ANALYSIS

Resolution: This is the traditional form of a joint resolution proposing a constitutional amendment for ratification by the States. The seven year time limitation assures that ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years. It is interesting to note that the longest period of time ever taken to ratify a proposed amendment was less than 4 years. The power and responsibility of Congress to impose a reasonable time limit for ratification of constitutional amendments was made clear in both *Dillon v. Gloss* 256, U.S. 368 (1921), and *Coleman v. Miller*, 307 U.S. 433 (1939).

Section 1: This is the operative portion of the Amendment, described in detail above.

Section 2: This section grants Congress the power to implement the provisions of the Amendment by legislation. The wording is taken from Section 5 of the 14th Amendment, and almost identical language is found in the 13th, 15th, 19th, 23d, 24th, and 26th Amendments.

Section 3: This section delays the effective date of the Amendment for two years after ratification. The purpose of this section is to give the States and the federal government an opportunity to review and revise their laws, regulations and practices so as to bring them into compliance with the Amendment. Those State legislatures which meet only in alternate years, of course, will need this length of time to have an adequate opportunity to review their laws.

Mr. BAYH. Mr. President, I also ask unanimous consent to have printed in the RECORD a list of those organizations which have been particularly helpful to the Senate and to the Judiciary Committee in its deliberations. I only wish I had the time to name all the individuals, both staff members of these organizations and others who have worked on their own, whose countless hours of work have been of incalculable value to those of us in Congress who have been involved in this effort. I am also indebted to my staff for all the efforts they have made to make possible the adoption of this important amendment by the Senate.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

American Association of College Deans.
American Association of University Women.
American Association of Women Deans and Counselors.
American Association of Women Ministers.
American Civil Liberties Union.
American Federation of Soroptimist Clubs.
American Home Economics Association.
American Jewish Congress.
American Medical Women's Association.
American Newspaper Guild.
American Nurses Association.
American Society of Microbiology.
American Society of Women Accountants.
American Society of Women Certified Public Accountants.
American Women in Radio and Television.
Association of American Women Dentists.
B'nai B'rith Women.
Church Women United.
Common Cause.
Council for Christian Social Action, United Church of Christ.
Council for Women's Rights.
Ecumenical Task Force on Women and Religion (Catholic Caucus).
Federally Employed Women.
General Federation of Women's Clubs.
Intercollegiate Association of Women Students.
International Association of Human Rights Agencies.
International Brotherhood of Painters and Allied Trades.
International Brotherhood of Teamsters.
International Union of United Automobile, Aerospace & Agricultural Implement Workers UAW.
Interstate Association of Commissions on the Status of Women.
Ladies Auxiliary of Veterans of Foreign Wars.
League of American Working Women.
National Association of Colored Women.
National Association of Negro Business and Professional Women's Clubs.
National Association of Railway Business Women.
National Association of Women Lawyers.
National Coalition of American Nuns.
National Education Association.
National Federation of Business and Professional Women's Clubs.
National Organization for Women.
National Welfare Rights Organization.
National Woman's Party.
National Women's Political Caucus.
Professional Women's Conference.
St. Joan's Alliance of Catholic Women.
Unitarian Universalist Women's Federation.
United Automobile Workers.
United Methodist Church—Women's Division.
Women's Christian Temperance Union.
Women's Equity Action League.
Women's International League for Peace and Freedom.
Women's Joint Legislative Committee for Equal Rights.
Women United.

Mr. BAYH. Mr. President, I also wish to bring to the attention of my colleagues an article by Marguerite Rawalt, an attorney at law, concerning the necessity of the equal rights amendment. Mrs. Rawalt is a past president of the National Association of Women Lawyers and is the general counsel of Women United. She has worked long and hard to secure passage of the equal rights amendment and in this article she describes persuasively the reasons that the Senate must join the House and give congressional approval to the equal rights amendment.

I ask unanimous consent that an article entitled "Women Are Constitutional Outcasts" from "The Woman Physician," official publication of the American Medical Women's Association, vol. 26, December 1971, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOMEN ARE CONSTITUTIONAL OUTCASTS

(By Marguerite Rawalt)

(ABSTRACT.—*The legal status of women is reviewed, and shows that women do not have the same legal rights and privileges as men. The passage of an* Equal Rights Amendment *is therefore a necessity.*)

The hidden truth about the U.S. Constitution is that it applies to men only. The founding fathers who drafted this document to govern the new democracy based it upon the English common law under which women and slaves were mere chattels. After 187 years of application and interpretation, women alone are still outside its pale, with the single exception of the right to vote granted by a specific amendment, in 1920. Only by further amendment can American women be brought into the rarified atmosphere of constitutional protection, since both the judicial and legislative branches have failed to recognize women as full beneficiaries of the law. Accordingly, the "Equal Rights Amendment" has been introduced in *every Congress for the past 48 years* and reads as follows:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

WHY IS AN EQUAL RIGHTS AMENDMENT NEEDED?

The U.S. Supreme Court is the final interpreter of the Constitution. It has never ruled that the female half of the population is entitled to the benefits readily accorded to all males, either citizens or aliens. Since the original Constitution did not include females, cases claiming constitutional protection have arisen under the Fifth and Sixth Amendments thereto. The Fifth Amendment, applicable to the Federal Government, declares that no person may "be deprived of life, liberty or property without due process of law." The 14th Amendment adopted in 1868, forbids any state to "deprive *any person* of life, liberty or property without due process of law; or to deny to *any person* the equal protection of the laws."

The "equal protection" clause has been often and variously applied by the U.S. Supreme Court to insure legal rights of male citizens and of male non-citizens; to alien Chinese laundrymen and Japanese fishermen; to corporations; to racial groups; to school children; to juveniles; and to arch criminals. It seems irrefutable to say that the Court has embraced everybody and everything within the ambit of the 14th Amendment except only women of America. There follows an analysis of the high Court's controlling rulings.

1. *The right to work is not a woman's right under the 14th Amendment.*

The Supreme Court refused to apply the 14th Amendment to insure women the right to follow the profession of law. It has never been held to give women the right to work at any lawful occupation of the individual's choice. Illinois and Virginia statutes denying admission of women to the practice of law were early upheld by decisions in 1872 and in 1894.[1] The rationale was that:

"The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life . . . at common law a women had no legal existence separate from her husband . . . and many rules of law dependent upon this cardinal principle still exist in full force in most states, one that a married woman is incapable, without her husband's consent, of making contracts" and

"That God designed the sexes to occupy different spheres of action, and that it belonged *to men to make, apply, and execute the laws*, was regarded as an almost *axiomatic truth*."

State legislatures later voluntarily opened the legal profession to all.

On the other hand, the Court has never failed to uphold the right to work for the men of this country. When Yick Wo, one of many Chinese laundrymen in San Francisco appealed from denial of a license, the Supreme Court in 1886 found "no reason whatever . . . why they should not be permitted to carry on their harmless and useful occupation on which they depend for a livelihood." [2]

In 1948, the Court granted certiorari "to review this question of importance" being the constitutionality of a California law prohibiting the licensing of "alien Japanese" interned during the war. Said the Court, ruling in his favor:

"The 14th Amendment and laws under its authority embody a general policy that all persons lawfully in this country shall abide 'in any state' on an equality of legal privileges with all citizens under non-discriminatory laws." [3]

Yet women have been excluded as persons and citizens under the 14th Amendment. In fact, as women view the matter today, with 31½ million women in the work force, not only are they excluded from equal protection, but the words of the Constitution have been turned into limitations, conditions exclusions, weight-lifting limitations to bar them from promotions to supervisory jobs, to deny them opportunity to earn premium pay for overtime, and even to cause the employer to lower the percentage of women hired in his work force. This reserves the better jobs for male workers.

When the Supreme Court was faced with the contention in 1908 that the Oregon law restricting women from working more than ten hours per day was a denial of their right to work, a denial of equal protection, the Court's rationale for refusing to uphold the same hours for all workers, men or women, was that *"Sex is a valid basis for classification."* [4] It ruled that women, as a class, could be denied equal protection; that there was no discrimination or differentiation as between all women, by placing them in a "reasonable" category. The Court refused to follow its own decision given just three years earlier striking down a New York statute that limited hours for men and women. The Court declared: [4]

"She is properly placed in a class by herself and legislation designed for her protection may be sustained when like legislation is not necessary for men and could not be sustained.

In *Lochner v. New York* we held that a law that no laborer may work in a bakery over 60 hours a week was not *as to men* a legitimate exercise of the policy power of the state, but an unreasonable and unnecessary and arbitrary inference with the *right and liberty of the individual* . . . as such void under the Federal Constitution."

In 1948, the Court upheld a Michigan statute denying a license to work as bartender to any female *"unless* she be wife or daughter of the male owner." [5] Women, as a class, could be thus denied the better paying job behind the bar, although they were free to serve in lower paid waitress jobs on the public side of the bar—was this equal protection? However, the New Jersey State Supreme Court in 1970 overruled such a state law "in light of current customs and mores."

TITLE VII OF THE CIVIL RIGHTS ACTS OF 1964

A first breakthrough in restrictive labor laws came with enactment of Title VII of

Footnotes at end of article.

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the Civil Rights Act of 1964, which makes it unlawful for an employer, employment agency, or labor organization to discriminate in employment on account of race, religion, national origin, or sex. An exception was written into the law for a "bona fide occupational qualification" (BFOQ) to cover such instances as guards in prisons, religion of employees in a religious institution, and the like. The first cases to reach the courts were brought by women in trade unions, to challenge the state restrictive labor laws imposing maximum hours of work, weight-lifting, separate seniority lists, and job descriptions which served to relegate women to the lower paying levels. The cases were decided against the women plaintiffs in the trial courts whereupon women attorneys, and newly formed civil rights for women organizations, came to the side of the litigants and carried their cases up to higher courts on appeal. In the two cases which have become final, the U.S. Court of Appeals reversed the trial courts and ruled in favor of the women, ordering that they receive back pay and the jobs which they had been refused. *Weeks v Southern Bell Tel. & Tel. Co.* (March 4, 1969)[6] decided by the U.S. Court of Appeals, Fifth Circuit, sitting in New Orleans, ruled against the employer's weight-lifting condition on the job in question, and set down the rule that the employer "had the burden of proving that all, or substantially all, women would be unable to perform safely and efficiently the duties of the job involved." In *Bowe v Colgate-Palmolive Co.* (Sept. 26, 1969)[7] the U.S. Court of Appeals, Seventh Circuit, sitting in Chicago, ruled that if weightlifting conditions were to be applied,[7] they must be applied to each individual, male or female; outlawed separate seniority lists for male and female employees; and struck down union contracts fixing job categories which gerrymandered women into the lowest paying job levels.

Two lower Court decisions have overruled state laws fixing maximum hours for women only, not by application of the 14th Amendment, but on the ground that such laws violate Title VII, which, as a Federal law, takes precedence over state law under the Supremacy Clause of Article VI of the Constitution.[8] However, the Supreme Court refused to review a decision by the California Federal Court in which the female plaintiff challenged the *Muller v Oregon* ruling on maximum hours laws.[9] And thus the 1908 "sex is a valid basis for classification" doctrine still stands not only as to labor laws, but throughout other areas of law which single women out for different treatment.

Maternity leave regulations imposing arbitrary periods of absence for pregnancy, have produced two irreconcilable federal court decisions under the 14th Amendment.[10] A District Court sitting in Virginia ruled that a school board regulation requiring teachers to take leave of absence from duty at the end of the fifth month of pregnancy, was a violation of the equal protection clause. It ruled that the school board was an arm of the State so that its regulations constituted state action. However, a District Court, sitting in Ohio, about the same date, refused to find any constitutional denial in such a provision, quoting *Muller v Oregon* and its whole progeny of cases ruling that "sex was a reasonable classification."

The one and only employment rights case to reach the Supreme Court since 1964 did not present a 14th Amendment issue, simply the question whether the fact that the employee was a mother of pre-school children amounted to "BFOQ" exception under Title VII to warrant the company's refusal to hire her. *Ida Phillips v Martin Marietta Corporation* (Jan. 25, 1971).[11] The Court remanded the case to the trial court with an "indication that a BFOQ exception could be established by a showing that some women, even the vast majority, with pre-school age children have family responsibilities that interfere with job performance and that men do not usually have such responsibilities." Justice Thurgood Marshall said, however, "I fear that in this case . . . the Court has fallen into the trap of assuming that the act permits ancient canards about the proper role of women to be a basis for discrimination. Congress, however, sought just the opposite result."

Meanwhile, a number of states have voluntarily applied the provisions of Title VII and the regulations thereunder which hold that such state laws imposing conditions upon women only, are superseded by the Federal law, and are no longer enforceable. Thus, without Supreme Court retraction, these laws are being dropped through a piecemeal, state by state, process. However, the all-pervasive principle that "sex is a reasonable classification" marches on and has put its tentacles into other fields of law to deny equality of rights to women.

2. *The 14th Amendment does not insure fair and equitable property rights to married women.*

In every state in the Union, one or another kind of legal disability or restriction limits the property rights of married women, as reported by the President's Commission on the Status of Women (1963). The 1944 opinion of the Florida Supreme Court aptly summarizes the situation:

". . . a woman's responsibilities and faculties remain intact from age of maturity until she finds her mate; whereupon, incompetency seizes her and she needs protection in an extreme degree. Upon the advent of widowhood she is reinvested with all her capabilities which had been dormant during her marriage, only to lose them again upon remarriage. Intermittently, she is protected and benefited according as she is married or single."

Under common law principles which undergird the statutes in 42 states, each spouse owns whatever property he or she earns. Where the husband is the sole income producer, *all* the property acquired during marriage is therefore *his* property. While state laws have variously modified the common law principle, some limitation remains in every jurisdiction. In the eight community property states, husband and wife each owns an outright one-half of the property acquired during marriage, even though the wife has no outside earnings. But in most jurisdictions the husband, and not the wife, has the management rights, enabling him to create debts and dissipate the property without knowledge or consent of his wife. Texas notably revised its community property laws in 1968 to equalize management and ownership. Florida changed its Constitution to recognize a property right for married women.

A tremendous step toward equalizing property rights was taken in the model and proposed Uniform Marriage and Divorce Act promulgated in August 1970, and given endorsement by the American Bar Association. It is hoped that the states will adopt such a uniform act, thus clearing the maze of divorce grounds, and of provisions governing division of property upon dissolution of marriage. The Act would provide that upon dissolution of marriage, the marital property be divided by the Court without regard to marital misconduct, after considering such relevant factors as the economic circumstances of each spouse and the contribution of each to the acquisition of the property, including an evaluation of the contribution of a spouse as homemaker. Alimony, as such, is discarded in favor of court-assessed "maintenance payments" which may be assessed against either husband or wife, based upon reasonable needs, and the ability to support himself or herself by employment. The Court may order either or both parents to pay reasonable amounts for support of a child, and retains control over enforcement of the payment. Previous defenses of condonation, connivance, collusion, recrimination, in divorce actions would be abolished. The grounds for divorce, to be decided upon by the court after considering many outlined relevant factors, are that "the marriage is irretrievably broken" and that children are provided for. This proposed uniform act embraces "equality of rights under the law." The Equal Rights Amendment would undergird and hasten its adoption by all the states.

3. *The 14th Amendment does not guarantee the right to female students to attend any public college of their choice.*

In 1938 the Supreme Court held that the Missouri State University could not refuse to admit a person to study on the ground of his race, and ordered it to admit Mr. Gaines to its law school because he was otherwise denied equal protection of the laws.[12] Yet, 20 years later, the same court refused to review a ruling by the State Court of Civil Appeals of Texas which upheld the denial of the right to enroll in that state's university by a female student, on the ground of her sex. This was in face of the undisputed fact that she could not major in the course in floriculture in any other school of the state. The state court relied upon the doctrine that "sex is a reasonable classification" and refused to follow the Gaines decision precedent because the "question of race was different."[13] Two lower court decisions in 1970 raise an interesting conflict. The U.S. District Court in Virginia ruled that the exclusion of women from the state university violated the 14th Amendment's equal protection clause. The U.S. District Court in South Carolina refused to find such a violation in the case of male students seeking admission to the state supported female-only college, this latter case citing with satisfaction the whole line of leading cases stemming from *Muller v. Oregon*—"sex was a reasonable classification."[14]

But while the wheels of justice grind slowly in the courts, women have brought before federal administrative agencies, charges of sex discrimination against universities and colleges challenging quotas for student admissions, discrimination in scholarships and financial assistance, and in the hiring and promotion of women faculty members.[15]

4. Not until 1968 was the 14th Amendment applied to eliminate longer prison sentences for women than for men committing the same crime.

In 1968, two courts invalidated state laws which imposed longer prison sentences upon women than upon men for the same crime, and did so by rejecting the doctrine that "sex is a valid classification."[16] This shocking difference in treatment of the sexes was said to stem from legislative convictions that it required longer to rehabilitate a female than a male criminal. The U.S. District Court in Connecticut concluded that "nothing in the different nature of men and women noted by the Supreme Court in the Muller, Goeseart and Hoyt cases suggests any reasonable or just relation between the misdemeanors involved here and the inequality in potential punishments. . . ." The Supreme Court of Pennsylvania similarly was "convinced that considerations of factors which would justify a difference between men and women in matters of employment, as well as in a number of other matters, do not govern or justify the imposition of a longer or greater sentence of women than is imposed upon men for the commission of the same crime." And, is there such difference in the nature of men and women as to uphold a statute which excuses as justifiable homicide a husband's killing of his wife's paramour, but leaves a wife chargeable with murder for the killing of her husband's partner in adultery?"[17]

Footnotes at end of article.

5. The denial of constitutional coverage for women because it is lawful to treat them as a class apart (an outcast class!) extends into other areas of law, for example such as conditions upon right to serve on juries, married women's compulsory domicile as that of her husband, and right to serve as estate fiduciaries. A case is now waiting decision in the Supreme Court, testing an Idaho statute that "males shall be preferred to females" as administrators of an estate.[18]

CONGRESS AND THE EQUAL RIGHTS AMENDMENT

The Equal Rights Amendment which would make women of America citizens and persons under the Constitution, has been introduced in every Congress since 1923. All that Congress is asked to do is to submit the proposed Amendment to the states for their ratification. At least 11 states have already taken official action memorializing the Congress to do so.

Year after year, the resolution proposing the Equal Rights Amendment was stymied in the House Judiciary Committee, until in 1970, the unusual procedure of a discharge petition ordered the measure removed from Committee and gave opportunity to the 435 members to vote on the measure. A woman member of Congress, Martha Griffiths, introduced the petition. The resounding vote in favor of the Amendment was 350 to 15, on August 10, 1970. The House-passed Resolution was later killed in the Senate by crippling amendments.

Through the years, the Senate has voted on the proposed Amendment at least four times, only after shamefully nullifying its meaning and scope with a rider of exceptions for all state laws.

Powerful opposition persists from the AFL–CIO unions. However, the also powerful UAW has officially supported the Amendment.

The Amendment was introduced in the 92nd Congress in January 1971, by Hon. Martha Griffiths, persistent champion of the measure. The House Judiciary Committee broke precedent by promptly holding hearings in March, but the full Committee by a majority of one vote, added a nullifying "Wiggins Amendment." At this writing, in such devitalized form, the measure is scheduled for floor debate following the end of the Congressional recess on September 8, '71.

CONCLUSION

Women of the United States *are not* now persons and citizens under the Constitution as presently worded and interpreted, because controlling decisions of the U.S. Supreme Court establish and adhere to this exclusion.

Women *should be* full participants in this democracy, without exclusion by reason of sex.

Therefore, women and enlightened men must fight on until the Constitution embraces the principle that *"equality of rights under the law . . . shall not be denied or abridged* on account of sex."

FOOTNOTES

[1] Bradwell v. Illinois (1872) 83 U.S. 130; In re Belva Lockwood (1894) 154 U.S. 116.

[2] Yick Wo v Hopkins, 118 U.S. 356 (1886).

[3] Takahashi v Fish & Game Commission 334 U.S. 410 (1918).

[4] Muller v Oregon, 208 U.S. 412 (1908). Sixty years later, in Mengelkoch v Industrial Welfare Comm., 284 F. Supp. 950 (C. D. Calif.) the court commented: "It was in Muller v Oregon that Louis Brandeis submitted his famed brief containing medical and socio-economic data to establish the reasonableness of the state classification by sex", a brief used in many later types of litigation . . . . Mr. Felix Frankfurter represented the State in a later case of Bunting v Oregon, thus solidifying the doctrine of excluding women from 14th Amendment equal protection."

[5] Goeseart v Cleary 335 U.S. 464 (1948) (Michigan law) Paterson Tavern & Grill Owners Assn. v Hawthorne, 270 A. 2nd 628 (N.J. Sup. Ct. 1970).

[6] Weeks v Southern Bell Tel. & Tel. Co. 408 F. 2d 228 (CA–5, March 4, 1969) reversing 277 F. Supp. 117 (S.D. Ga. 1968).

[7] Bowe et al v Colgate-Palmolive Co. 416 F. 2d 711 (CA–7, 1969) reversing 272 F. Supp. 332 (S.D. Indiana, 1967).

[8] Leah Rosenfeld v Southern Pacific Co. 293 F. Supp. 1219 (C.D. Calif. 1968) Caterpillar Tractor Co. and Illinois Bell Tel. & Tel. Co. v Grabiec, 317 F. Supp. 1304 (S.D. Ill. 1970).

[9] Mengelkoch v Industrial Welfare Comm. 284 F. Supp. 950 (C.D. Calif. 1968) review denied, case, remanded, 393 U.S. 83 (1968).

[10] Cohen v. Chesterfield County School Board, 326 F. Supp. 1159 (E.D. Va. 1971) La Fleur et al. v. Cleveland Board of Education, 326 F. Supp. 1208 (N.D. Ohio. 1971).

[11] Ida Phillips v. Martin Marietta Corp. (Jan. 25, 1971) remanding 411 F. 2d 1 (CA–5, 1969) and 416 F. 2d 1257.

[12] Missouri ex rel Gaines v. Canada 305 U.S. 337 (1938).

[13] Allred v. Heaton 336 S.W. 2d 251 (Tex. Civ App. 1960) cert den 364 U.S. 517.

[14] Kirsten v. Rectors & Visitors of U. of Virginia, 309 F. Supp. 184 (E.D. Va. 1969) Williams v. McNair, 316 F. Supp. 134 (D.C. S. Car. 1970).

[15] The Woman's Equity Action League (WEAL), Cleveland, Ohio, organized in 1967, has filed complaints in Office of Federal Contract Compliance of Dept. of Labor, and to Secretary, Health, Education and Welfare, pursuant to Ex. Order 11375, forbidding sex discrimination by government contractors.

[16] U.S. ex rel Carrie Robinson v. Janet York, Supt. 281 F. Supp. 8 (D.C. Conn. 1968) Commonwealth v. Jane M. Daniel et al 430 Pa. 642, 243 A. 2d 400 (Sup. Ct. Pa. 1968).

[17] Texas Penal Code, Art 1220 and annotated cases.

[18] Reed v. Reed 465 P. 2d 635 (Idaho Sup. Ct. 1970) cert gto. Oct. Term. 1970 No. 430.

Mr. BAYH. Mr. President, I join in the remarks just made by the distinguished majority leader relative to the part the distinguished Senator from North Carolina (Mr. ERVIN) has played in this debate. As I said earlier, I cannot think of a more tenacious, dedicated, sincere, and worthy adversary than he. It has been the good fortune of the Senator from Indiana on occasion to find a strong ally in the Senator from North Carolina. Indeed, he can be a strong ally. I remember well my first experience in amending the Constitution. It was a great moment when the Senator from North Carolina came through the door of the rear of this Chamber at 11:30, after having driven all night from North Carolina, to be in this Chamber to support the position the Senator from Indiana had taken at that time, on the issue of presidential disability and vice presidential succession. It is fair to say that without the significant support of the Senator from North Carolina, the 25th amendment to the Constitution would not now be the law of the land.

As he was a most comforting ally then, he is a most worthy adversary now. The difference of opinion the Senator from Indiana has had with him has in no way diminished my feeling that he has not been sincere. He has been totally sincere. He is a tremendous debater.

I do not think it is necessary to say more. I just feel that perhaps I might touch on one or two points in which the Senator from Indiana differs with his friend from North Carolina. There is the question of the need for a constitutional amendment at all. The Senator from Indiana, as chairman of the Constitutional Amendments Subcommittee, asked himself that question some time ago. I wish a constitutional amendment were not necessary.

As the Senator from Indiana reads the Constitution, women should be considered as fully equal persons under the 14th amendment. Women have never been accorded full equality under the 14th amendment of the Constitution.

The view expressed by my friend from North Carolina that passage of this amendment will destroy the States and take away all their power would cause me some concern, if I agreed with the distinguished Senator. I am sure that each Member of this body is capable of making his own judgment on that particular issue. But, I am of the opinion that if the States of this Union survived back in the 1800's when Congress by constitutional amendment said it was unlawful to discriminate against a black citizen of the United States, certainly now, over 100 years later, the States of this Union will be able to survive a constitutional amendment that declares, "Thou shalt not discriminate against citizens of the United States on the basis of sex."

I shall not repeat the differences I have had with my friend from North Carolina in the area of the draft and combat, the obligation of fathers to support their children, the impact that this amendment would have on sex crimes, or the impact that this amendment would have on mothers, wives, and widows, because that has all been debated fully on the floor. Each Senator has had the chance to listen, to express himself, and to vote accordingly.

The Senator from North Carolina suggested that the supporters of this amendment feel it is possible to create identical human beings, through a constitutional amendment. That is impossible in the judgment of the Senator from Indiana. There is no way we can create two identical males or two identical females; nor can we create a man and woman with the same identity.

The distinguished Senator from North Carolina went further to say that what we were trying to create were identical legal rights. I agree 100 percent with my good friend from North Carolina on that point. I suggest that the Senate would be well advised to make that judgment.

But identical human beings? Impossible. Identical legal rights, based on the God-given talents and skills that one human being possesses? Indeed, that is the very thing we are trying to protect and to insure.

Mr. President, it is my firm conviction that our action today in removing the last legal barriers to full participation in American life by the women of this country is in the finest tradition of our constitutional heritage. It is the heritage of a Nation whose prime objective has been the continuous struggle for an open and equal society—an open and equal society for all, black, brown, red, white—and, hopefully, at long last, men and women.

Mr. COOK. Mr. President, I wish to commend the distinguished Senator from North Carolina for his debate, although we have disagreed from the outset.

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Mr. President, 4 years from now, this Nation will be 200 years old. For those women in this Nation that sought the right to vote many years ago, the New York Times, and many Senators on the floor of the Senate, stated that this country would indeed be ruined by woman suffrage. They said, "Back to the kitchen." They said it was unthought of and unheard of, that it was unconscionable, for anyone to consider that the women in this Nation should have the right to vote. The consistency of the editorials published in the New York Times during those days was unbelievable. They almost succeeded, because it took 72 years from the start of the crusade, at the Seneca Falls Convention in 1848, for women to gain the right to vote, in the 19th amendment in 1920.

Congress has now been on this matter for 49 years, since 1923. Forty-nine years to give to a body of individuals freedom under a Constitution in the freest form of government in the world today. Forty-nine years to say in fact that in this Nation of ours all "men" are, indeed, created equal—using the word "men" in its widest, broadest, and its all-inclusive form.

It came as a rather startling revelation to me when the distinguished Senator from North Carolina said that, indeed, he thought that if this equal rights amendment should pass, all of the States would lose their legislative power.

It never dawned upon me that the 50 States of this Union now maintain their separateness by reason of the fact that they could discriminate and legislate against women. I did not know that. It came rather as a shock and surprise to me.

I can only say that I am sorry, that this is a cause whose time has come because this is a cause that should have always been.

I wish to sincerely thank Miss Barbara Schuhmann from my office who has worked on this now ever since she came here. She has been the most tenacious individual on this matter that a Senator could ever have as a part of his staff. She came here from Louisville, where she left school; finished college here and is now in law school. I think I can truly say that her contribution to me in this matter has been absolutely remarkable.

Mr. President, at this time I would like to explain the time factors involved with the equal rights amendment for my Senate colleagues.

After the Senate passage of the unchanged amendment, it will be submitted to the States. Three-fourths, or 38 of the State legislatures must agree to this amendment within 7 years of our vote. Even after that is accomplished, we must wait another 2 years before the amendment becomes effective, unless the courts take heed of our mandate prior to that time.

It would be fitting for me to point out here that if the Senate changes the wording of the amendment as passed by the House of Representatives, the amendment will be killed for this year. Any change at this point would send the amendment to a Senate-House conference where it would die. The criticism day before yesterday by some Members of the Senate that the proponents are unreasonable in insisting upon the exact House language, therefore, is not justified. The proponents know as well as the critics that any change whatsoever in the wording of the amendment means failure. The proponents are not being unreasonable in insisting upon the exact language of the House: We are only being realistic.

What I am saying is this: Even Senate passage of the original wording does not assure that this amendment will become effective; and even if three-fourths of the States agree to this amendment this year, the State and Federal governments will have 2 years in which to change their laws which discriminate on account of sex.

Mr. President, I agreed to these time limitations 2 years ago only as a compromise to those who were concerned that the amendment would bring such sweeping changes in the law that a flood of litigation would follow its effective date. These compromise measures, although realistically speaking are unnecessary, further point out the ease with which this amendment can take effect. In addition, these compromise measures prove that the proponents are not being unreasonably intolerant of change in the wording of the proposal. We simply realize that in a constitutional amendment, we must have a declaration for future generations that we will not tolerate discrimination on account of sex to be part of our laws. We will not accept less. We will not tolerate any change at this point in the wording of the amendment because any change now means defeat.

It is conceivable that the amendment would not take effect for another 9 years after Senate passage. However, I doubt that this will be the case. I believe that the time has come when everyone realizes that our laws unjustly and unreasonably discriminate on account of sex. I believe that everyone has come to realize that the discrimination is so imbedded in our laws that a constitutional amendment is needed to assure every person in this country the equal protection and due process of law. I believe that everyone realizes that the equalization of our laws should have occurred when the Constitution was written. I believe that the Senate realizes that it must vote for an unchanged equal rights amendment.

We are not considering a piece of legislation that can be changed next year or the year after that. We are considering a constitutional amendment that will remain the law until changed by another amendment or until this country no longer exists. In view of the magnitude and importance of the measure before the Senate, I submit that the proponents are only being realistic when we state that we will not tolerate any change in the wording. Any change will defeat the measure. And any change will not assure the equalization of our laws that is long overdue and so vitally necessary.

Mr. President, my distinguished colleague from North Carolina has quoted the late dean of the Harvard Law School, Roscoe Pound. Dean Pound said in regard to the equal rights amendment:

With respect to the proposed constitutional amendment I feel very strongly that it is a mistake to pile up specific prohibitions in addition to the general guarantees of the Bill of Rights. The guaranty of due process in the Fifth and Fourteenth Amendments secures against arbitrary and unreasonable legislation of every sort, whether on the part of Congress or of State Legislatures. With this protection against arbitrary and unreasonable legislation it certainly ought not to be necessary to add specific prohibitions. If the things aimed at are arbitrary and unreasonable there is already protection against them; if they are reasonable they ought not to be inhibited.

At this time I certainly do not want to list, once again, the numerous cases in which the courts have failed to include women within the framework of the equal protection clause. However, it does require some response.

More specifically, I refer to an extremely interesting law review article by Prof. John D. Johnston, Jr. and Prof. Charles L. Knapp of New York University Law School. The authors have analyzed a wide variety of sex discrimination cases in the State and Federal courts dealing with the following subjects:

A. Professional and occupational restrictions;
B. Labor regulation;
C. Places of accommodation;
D. Jury qualifications;
E. Public education;
F. Criminal sentencing, and;
G. Consortium.

From an examination of these cases the authors made the following conclusions:

(1) Despite the enactment of various laws designed to improve the position of women, male-dominated legislatures and courts have historically exhibited the belief that women generally are—and ought to be—confined to the social roles of homemaker, wife and mother, and gainfully employed (if at all) only in endeavors which comport with their assumed subservient, child-oriented and decorative characteristics;

(2) A small but significant number of courts has recently perceived that some legislation mandating sex discrimination presents substantial constitutional questions, and several such laws have been struck down on equal protection grounds;

(3) Despite such holdings by a number of state and lower federal courts, opinions continue to appear in which both the result and the reasoning are virtually indistinguishable from those issued nearly a century ago. *In the absence of a definite shift of position on the part of the Supreme Court, and in the face of continued adherence by many state and federal courts to traditional sexist attitudes, it is far too soon to assert that a clear trend toward judicial recognition of women's rights has developed.* (Emphasis added)

I urge my colleagues to read this article and then to explain to me why a constitutional amendment in the form of House Joint Resolution 208, specifically prohibiting sex discrimination is not needed. A constitutional amendment was needed to give women the right to vote; another constitutional amendment is needed to specifically and forever prohibit arbitrary and unreasonable discrimination based upon sex. With all due respect to the late and great legal scholar, Dean Pound, the fifth and 14th amendments have not given women the

intended "due process" and "equal protection" under the law.

As Professors Johnston and Knapp have stated:

Sexism—the making of unjustified (or at least unsupported) assumptions about individual capacities, interest, goals and social roles solely on the basis of sex differences—is as easily discernible in contemporary judicial opinions as racism ever was.

Mr. President, I have a lengthy law review article from the New York University Law Review which I ask unanimous consent to have printed in the RECORD at this time, so that it will be available for those who peruse it in the future to make up their minds on this rather remarkable step we are taking today. This step is not one that will put everything in this country in chaos but it is a constitutional amendment that will be submitted to the States so that we might accomplish, after 4 years short of 200 years, equality for every individual in this Nation, regardless of whether they may be male or regardless of whether they may be female.

There being no objection, the law review article was ordered to be printed in the RECORD, as follows:

SEX DISCRIMINATION BY LAW: A STUDY IN JUDICIAL PERSPECTIVE

(By John D. Johnston, Jr. and Charles L. Knapp*)

(NOTE.—In this article, the authors analyze a wide variety of cases in which the courts have dealt with sex discrimination by law and conclude that the performance of American judges in this area has generally ranged from "poor to abominable." Arguing that many of the considerations which have led to the invalidation of racially discriminatory laws are equally present when legislative classifications are based on sex, they suggest that the general failure of the courts to perceive this point may be due to certain deeply ingrained attitudes that judges share with a majority of American males. The authors therefore conclude by proposing several countermeasures which judges may employ to overcome any male bias and bring a more objective outlook to the resolution of sex discrimination issues.)

I. INTRODUCTION

Women's liberation is: a slogan—a challenge—a movement—a threat—a cliche—an enigma—or something else, depending on who you are. It is not surprising that "women's lib" connotes different things to different people; their perceptions of it reflect differing social and cultural backgrounds and varying levels of sensitivity to the disadvantages inflicted on some members of society solely for being female. It follows that any contribution (pro or con) to the growing body of "women's lib" literature is likely to be disparaged by some readers as the product of an uninformed mind or a distorted sense of values. It can thus be easily dismissed, on the ground of fatal bias—intentional, subconscious, or naive—by anyone who has strong opposing feelings on the subject.

Though mindful of these pitfalls, we nevtheless tender our own analysis of judicial attitudes toward the relationship between the sexes, gleaned from opinions in cases involving sex-based discrimination. We do not claim to be particularly, much less uniquely, qualified to comment on such matters. Each of us is a middle-aged, white male—some might characterize us as fairly typical WASPs, of the subspecies "law professor." Neither of us has ever been radicalized, brutalized, politicized or otherwise leaned on by the Establishment in any of the ways that in recent years have led many to adopt heretical views of various kinds.

Each of us, however, was led last year—one through bar association activity,[1] the other in response to questions from female students about the property rights of women—to begin to investigate the ways in which American judges have responded to various types of sex discrimination.[2] Our research has been of the most traditional kind: finding, analyzing, attacking and defending judicial opinions. We believe that our selection of cases is representative, though admittedly far from exhaustive.

Our conclusion, independently reached, but completely shared, is that by and large the performance of American judges in the area of sex discrimination can be succinctly described as ranging from poor to abominable. With some notable exceptions, they have failed to bring to sex discrimination cases those judicial virtues of detachment, reflection and critical analysis which have served them so well with respect to other sensitive social issues. Particularly striking, we believe, is the contrast between judicial attitudes toward sex and race discrimination. Judges have largely freed themselves from patterns of thought that can be stigmatized as "racist"—at least their opinions in that area exhibit a conscious attempt to free themselves from habits of stereotypical thought with regard to discrimination based on *color*. With respect to *sex* discrimination, however, the story is different. "Sexism"—the making of unjustified (or at least unsupported) assumptions about individual capabilities, interests, goals and social roles solely on the basis of sex differences—is as easily discernible in contemporary judicial opinions as racism ever was.

We will attempt to demonstrate this thesis through a sampling of what American judges have said in opinions in sex discrimination cases over the past hundred years. Some opinions contain assertions that are, by any rational analysis, overt declarations of "male supremacy." In others, more or less objective rationales for sex discrimination are advanced. The relatively few (and for the most part quite recent) decisions invalidating sex discrimination will also receive consideration, substantively and as possible precursors of a changing judicial attitude.

We make no particular claim for the originality of any of the ideas expressed in the discussion that follows. Indeed, it seems to us that most of them have probably been expressed already by others, although sometimes in a different form or context.[4] We have, however, attempted to compile, from judicial opinions in several major areas of sex discrimination by law, those arguments and statements that most clearly reveal the attitudes shaping judicial decisions. We will avoid protracted discussion of particular questions of constitutional doctrine, such as the precise interpretation and application of the due process and equal protection clauses; we also prefer not to join the increasingly heated debate over the desirability of a new "Equal Rights" amendment.[4] We have avoided emphasizing these issues in part because of our lack of constitutional expertise, but also because we are convinced that preoccupation with legal doctrine has left largely unexplored the surprising extent to which the survival of sex discrimination can be attributed to pervasive judicial attitudes.

We have investigated a number of areas in which the states discriminate by law on the basis of sex. Taken individually, some may appear of less than overwhelming importance; in the aggregate, however, they encompass a broad spectrum of activity, affecting women in several significant aspects of their relationship to society.[5]

Footnotes at end of article.

II. SEX DISCRIMINATION BY LAW

A. Professional and occupational restrictions

1. Practice of Law

One of the earliest Supreme Court decisions upholding sex discrimination by state action was *Bradwell v. Illinois*.[6] In that case the Illinois Supreme Court had denied a woman's application for a license to practice law solely because she was a female. Although the state statute delegating to the court authority over bar admissions made no specific provision for the exclusion of females, the state court found this to have been the legislative intent and denied the application. It assumed that at the time the statute was enacted the legislators held certain fixed ideas about the roles of the sexes: "That God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply, and execute the laws was regarded as an almost axiomatic truth."[7]

The petitioner appealed this ruling to the Supreme Court on constitutional grounds. There was no opposing counsel, but none was needed since only Chief Justice Chase dissented from the decision affirming the denial of the application.

The opinion of the court was mainly addressed to the petitioner's claim that the state court's action violated the privileges and immunities clause of the fourteenth amendment. This claim was rejected on the ground that the petitioner, having become a citizen of Illinois, could no longer claim the protection of that clause. The court further indicated that, in any event, admission to law practice was not one of the privileges or immunities of a citizen of the United States.

The opinion did not expressly refer to equal protection. This may be attributable to the fact that, in the *Slaughterhouse Cases*[8] decision handed down just prior to *Bradwell*, the Court had expressly limited the scope of fourteenth amendment equal portection to cases involving racial discrimination.[9]

The most interesting feature of the case, however, is the concurring opinion of Mr. Justice Bradley, in which two of his brethren joined. As an affirmation of God's grand design for the sexes, we believe it is unexcelled in legal literature. The significant passages are the following:

"The claim that, under the fourteenth amendment of the Constitution, which declares that no State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, the statute law of Illinois, or the common law prevailing in that State, can no longer be set up as a barrier against the right of females to pursue any lawful employment for a livelihood (the practice of law included), assumes that it is one of the privileges and immunities of women as citizens to engage in any and every profession, occupation, or employment in civil life.

"It certainly cannot be affirmed, as an historical fact, that this has ever been established as one of the fundamental privileges and immunities of the sex. On the contrary, the civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interests and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. So firmly fixed was this sentiment

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in the founders of the common law that it became a maxim of that system of jurisprudence that a woman had no legal existence separate from her husband, who was regarded as her head and representative in the social state; and, notwithstanding some recent modifications of this civil status, many of the special rules of law flowing from dependent upon this cardinal principle still exist in full force in most States. One of these is, that a married woman is incapable, without her husband's consent, of making contracts which shall be binding on her or him. This very incapacity was one circumstance which the Supreme Court of Illinois deemed important in rendering a married woman incompetent fully to perform the duties and trusts that belong to the office of an attorney and counsellor.

"It is true that many women are unmarried and not affected by any of the duties, complications, and incapacities arising out of the married state, but these are exceptions to the general rule. The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator. And the rules of civil society must be adapted to the general constitution of things, and cannot be based upon exceptional cases.

"The humane movements of modern society, which have for their object the multiplication of avenues for woman's advancement, and of occupations adapted to her condition and sex, have my heartiest concurrence. But I am not prepared to say that it is one of her fundamental rights and privileges to be admitted into every office and position, including those which require highly special qualifications and demanding special responsibilities. In the nature of things it is not every citizen of every age, sex and condition that is qualified for every calling and position. It is the prerogative of the legislator to prescribe regulations founded on nature, reason, and experience for the due admission of qualified persons to professions and callings demanding special skill and confidence. This fairly belongs to the police power of the State; and, in my opinion, in view of the peculiar characteristics, destiny, and mission of woman, it is within the province of the legislature to ordain what offices, positions, and callings shall be filled and discharged by men, and shall receive the benefit of those energies and responsibilities, and that decision and firmness which are presumed to predominate in the sterner sex." [10]

Unfortunately, the reader is not favored with any indication of the manner by which this "divine ordinance" was transmitted by the Creator to Mr. Justice Bradley.

Twenty-one years after *Bradwell*, the Supreme Court affirmed another state's denial of a woman's application for admission to law practice. In *re Lockwood*,[11] the petitioner had already been admitted to the bars of the Supreme Court and the District of Columbia (and allegedly of several other states as well). A Virginia statute provided that any "person" who had been previously admitted to practice in any state or in the District of Columbia could also practice in Virginia's courts. The Supreme Court of Appeals of Virginia simply construed "person" to mean "male" and denied the petition. The primary issue for the Supreme Court was the state court's interpretation of the statute. In a short opinion for a unanimous Court, Chief Justice Fuller refused to issue a writ of mandamus ordering petitioner's admission to practice. As in *Bradwell*, there was no mention of equal protection; and, of course, *Bradwell* had already foreclosed the privileges and immunities argument.

The Supreme Court has not decided any other cases involving exclusion of women from the practice of law. It is quite clear by now, of course, that the equal protection clause does apply to state regulation of bar admissions and that a denial of admission on grounds having no "rational connection with the applicant's fitness or capacity to practice law" is invalid.[12] By the time these principles became clearly recognized, however, total exclusion of women from law practice was no longer an active problem. Thus, *Bradwell* and *Lockwood* remain the only Supreme Court decisions on the subject.

It is inconceivable, were the issue to arise, that any court today would conclude that there is a rational basis for the total exclusion of women from law practice. In this area, God's grand design has thus been overtaken by the demonstrated fact that women are not, as a class, inherently unfit to practice law.[13] As we shall see, however, the attitudes revealed by Justice Bradley have been widely shared by American judges and have decisively influenced their response whenever the validity of sex discrimination has been called into question.

2. Sale of liquor

The states undoubtedly possess broad powers over the sale of intoxicating beverages.[14] State regulation has frequently included restrictions on the issuance of bartending licenses to women unless they are closely related to the male owner of a licensed establishment. A Michigan statute prohibiting the issuance of a bartending license to a female, unless the wife or daughter of an owner, was challenged on equal protection grounds in *Goesaert v. Cleary*.[15]

The principal defect complained of, however, was not the general exclusion of women from bartending but the *exception* made in favor of wives and daughters of owners. Appellant's contention was that this exception had no national basis. The statute was nevertheless upheld by the court, voting six-to-three. Writing for the court, Mr. Justice Frankfurter declared:

"Michigan could, beyond question, forbid all women from working behind a bar. This is so despite the vast changes in the social and legal position of women. The fact that women may now have achieved the virtues that men have long claimed as their prerogatives and now indulge in vices that men have long practiced, does not preclude the States from drawing a sharp line between the sexes, certainly in such matters as the regulation of the liquor traffic. See the Twenty-First Amendment and *Carter v. Virginia*, 321 U.S. 131. The Constitution does not require legislatures to reflect sociological insight, or shifting social standards, any more than it requires them to keep abreast of the latest scientific standards." [16]

The majority obviously did not perceive any serious equal protection problems arising from a complete exclusion of women from bartending.[17] But what is the rational basis for exclusion, in terms of fitness or capacity to be a bartender? The opinion contains only a vague reference to "moral and social problems" against which the state is permitted to protect itself. Nothing else.

Having concluded that total exclusion would be upheld, the majority then considered the validity of Michigan's exception:

"Since bartending by women may, in the allowable legislative judgment, give rise to moral and social problems against which it may devise preventive measures, the legislature need not go to the full length of prohibition if it believes that as to a defined group of females other factors are operating which either eliminate or reduce the moral and social problems otherwise calling for prohibition. Michigan evidently believes that the oversight assured through ownership of a bar by a barmaid's husband or father minimizes hazards that may confront a barmaid without such protecting oversight. This Court is certainly not in a position to gainsay such belief by the Michigan legislature. If it is entertainable, as we think it is, Michigan has not violated its duty to afford equal protection of its laws. We cannot cross-examine either actually or argumentatively the mind of Michigan legislators nor question their motives. Since the line they have drawn is not without a basis in reason, we cannot give ear to the suggestion that the real impulse behind this legislation was an unchivalrous desire of male bartenders to try to monopolize the calling." [18]

The three dissenters did not comment upon the majority's assertion that total exclusion of women from bartending would be valid. Instead, they dissented only because the exception operated in favor of female relatives of a male owner, but did not extend to daughters of a *female* owner—or, for that matter to a female owner herself. This fact convinced them that the legislature was not actually motivated by "solicitude for the moral and physical well-being" of would-be female bartenders. Furthermore, they concluded that such solicitude would be the "only conceivable justification" for this type of discrimination. The opinion of the Court did not respond to the dissenters' argument.

Perhaps the most striking feature of the case, though, is the fact that in 1948 no member of the Court openly challenged the assertion that, in the interest of protecting itself against unspecified "social problems," a state could exclude all women from the occupation of bartending. The opinion displays only token adherence to the requirement that, in order for a legislative classification to be valid, there must be a rational connection between the classification and some proper legislative goal. Since this is usually the minimum requirement for upholding a state statute against an equal protection challenge, the Court clearly did not consider the statute to be class legislation in the area of protected civil liberties, to be sustained only if a compelling state interest in the classification is shown.[19]

Prior to *Goesaert*, a number of state courts had sustained similar statutes, brushing aside constitutional challenges with expressions of deference to legislative judgment in matters of "public morality." [20] A rare exception was the unanimous decision by the Supreme Court of Florida [21] invalidating a statute which prohibited women from serving "liquor by the drink over any bar or counter." The short opinion is couched mainly in substantive due process terms, ignoring the array of contrary decisions in other states.

In cases decided after *Goesaert*, state courts have tended to rely heavily on that opinion in sustaining statutes against constitutional challenge.[22] At least two state courts, however, have repudiated the reasoning of *Goesaert* and similar cases.

In *Paterson Tavern & Grill Owners Association, Inc. v. Borough of Hawthorne*,[23] the Supreme Court of New Jersey invalidated a local ordinance which excluded women from bartending. Noting that *Goesaert* had been the subject of critical academic comment, the court concluded that its precedential value was highly questionable. Having so concluded, however, the court nevertheless declined to invalidate the ordinance on equal protection grounds. Rather, it declared that the ordinance exceeded the borough's delegated police power, "in the light of current customs and mores," [24] and the court thereby limited its holding to the specific regulation presented.[25] Thus, it appears that the New Jersey court will now seriously test any sex-based discriminatory legislation to determine whether it has any rational basis; indeed, it might eventually be persuaded to employ an equal protection rationale in such cases.

In invalidating a California statute prohibiting female bartenders,[26] however, that state's supreme court refused to confine itself to such a limited rationale. Its unanimous decision in *Sail'er Inn, Inc. v. Kirby* [27] is the most far-reaching state court decision on the subject of sex discrimination, and seems destined for landmark status.

Footnotes at end of article.

In *Sail'er Inn*, several bar owners who were employing female bartenders sought a writ of mandamus to prevent the state's alcoholic beverage control authority from revoking their liquor licenses in consequence of their violation of the statute. The court might have held that the statute had been impliedly repealed by a 1970 amendment to the California Fair Employment Practices Act expressly barring sex discrimination.[28] This would not have been a novel holding [29] and by itself would have furnished a sufficient ground for granting the requested relief. The court chose, however, to address itself to questions of greater import.

Initially, the court considered petitioners' contention that the state statute had been superseded, as a matter of federal supremacy, by Title VII of the 1964 Civil Rights Act.[30] Title VII prohibits any employer under its coverage [31] from discriminating on the basis of sex except where a "bona fide occupational qualification" is concerned. In harmony with a growing body of authority,[32] the court held that the state law was superseded by Title VII as to those petitioners whose employers were subject thereto, the state having failed to advance sufficient facts to justify excluding females from the occupation of bartending.

Furthermore, the court could have rested its decision solely upon a provision of the California constitution which prohibits the disqualification of any person, on account of sex, "from entering or pursuing a lawful business, vocation, or profession." [33] An early precedent had construed the provision as follows:

"As we understand the section, it does establish, as the permanent and settled rule and policy of this State, that *there shall be no legislation either directly or indirectly incapacitating or disabling a woman from entering on or pursuing any business, vocation, or profession* permitted by law to be entered on and pursued by those sometimes designated as the stronger sex. . . . [T]here are no exceptions in this section, and neither we nor any other power in the State have the right or authority to insert any, whether on the ground of immorality or any other ground. All these are considerations of policy, the determination of which belonged to the convention framing and the people adopting the Constitution; and their final and conclusive judgment has been expressed and entered in the clear and unmistakable language of the Constitution itself . . ." [34]

The *Sail'er Inn* opinion accepted this view: "[A]lthough an inability to perform the tasks required by a particular occupation, sex-linked or not, may be a justification for discrimination against job applicants, under section 18, mere prejudice, however ancient, common or socially acceptable, is not." [35]

Three arguments were presented to the *Sail'er Inn* court in support of the proposition that women are in some respects less able to perform the duties of a bartender. First, it was contended that women are incapable of preserving order and protecting patrons of a bar. The court answered:

"This argument ignores modern day reality. Today most bars, unlike the saloons of the Old West, are relatively quiet, orderly and respectable places patronized by both men and women. Even if they were not, many bars employ bouncers whose sole job is to keep order in the establishment. Furthermore, the experience in the states which permit women to tend bar indicates that the dire moral and social problems predicted by the Attorney General do not arise." [36]

Second, the statute was said to be a measure for protecting women against injury at the hands of inebriated customers. The court replied:

"The desire to protect women from the general hazards inherent in many occupations cannot be a valid ground for excluding them from those occupations under section 18. Women must be permitted to take their chances along with men when they are otherwise qualified and capable of meeting the requirements of their employment . . . We can no more justify denial of the means of earning a livelihood on such a basis than we could deny all women drivers' licenses to protect them from the risk of injury by drunk drivers. Such tender and chivalrous concern for the well-being of the female half of the adult population cannot be translated into legal restrictions on employment opportunities for women." [37]

Finally, it was argued that the statute tends to prevent "improprieties and immoral acts." The court responded:

Section 18 in no way prevents the Legislature from dealing effectively with the evils and dangers inherent in selling and serving alcoholic beverages; it merely precludes resort to legislation against women rather than against the particular evil sought to be curbed." [38]

Concluding that the statute was in conflict with the constitutional provision, the court declared it void.

This construction of the state constitutional provision relating to sex discrimination in business and employment furnished ample basis for granting the relief sought by the petitioners in *Sail'er Inn*; it was therefore unnecessary for the court even to consider the application of the equal protection clauses of the California and United States constitutions.[39] Nevertheless, the court did reach this question—and its discussion of equal protection is clearly the most significant part of the opinion.

The court properly recognized that the initial issue was which equal protection test to apply. Conceding that the Supreme Court had never expressly so held, the court nevertheless concluded that "fundamental interests" were affected and that the "strict scrutiny" test was therefore appropriate. The court perceived two reasons for applying this high standard to the statute; it infringed upon the "fundamental right to pursue a lawful profession," and it involved a sex classification, which "should be treated as suspect." [40] The court's discussion of the latter point is particularly apt and persuasive. After noting several cases in which the Supreme Court had applied this test to such classifications as race and national origin,[41] the court then drew this analogy to sex classification:

"Sex, like race and lineage, is an immutable trait, a status into which the class members are locked by the accident of birth. What differentiates sex from nonsuspect statuses, such as intelligence or physical disability, and aligns it with the recognized suspect classification is that the characteristic frequently bears no relation to ability to perform or contribute to society. . . . The result is that the whole class is relegated to an inferior legal status without regard to the capabilities or characteristics of its individual members. . . . Where the relation between characteristic and evil to be prevented is so tenuous, courts must look closely at classifications based on that characteristic least outdated social stereotypes result in invidious laws or practices.

"Another characteristic which underlies all classifications is the stigma of inferiority and second class citizenship associated with them. . . . Women, like Negroes, aliens, and the poor have historically labored under severe legal and social disabilities. Like black citizens, they were, for many years, denied the right to vote and, until recently, the right to serve on juries in many states. They are excluded from or discriminated against in employment and educational opportunities. Married women in particular have been treated as inferior persons in numerous laws relating to property and independent business ownership and the right to make contracts.

"Laws which disable women from full participation in the political, business and economic arenas are often characterized as "protective" and beneficial. Those same laws applied to racial or ethnic minorities would readily be recognized as invidious and impermissible. The pedestal upon which women have been placed has all too often, upon closer inspection, been revealed as a cage. We conclude that the sexual classifications are properly treated as suspect, particularly when those classifications are made with respect to a fundamental interest such as employment." [42]

The court then considered the state interests allegedly served by the statute. The state had argued that female bartenders might commit "improprieties" and that they would be an "unwholesome influence" on bar patrons. The first contention was rejected with these comments:

"This rationale fails as a compelling state interest because it is wholly arbitrary and without support in logic or experience.

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"Where the evil which the Legislature seeks to prevent can be directly prevented through nondiscriminatory legislation, and where the class singled out by the Legislature has no necessary connection with the evil to be prevented, the statute must be struck down as an invidious discrimination against that class." [43]

The second argument fared no better:

"The claim of unwholesomeness is contradicted by statutes which permit women to work as cocktail waitresses, serve beer and wine from behind a bar (Bus. & Prof. Code, § 25655), or tend bar if they or their husbands hold a liquor license. The objection appears to be based upon notions of what is a "ladylike" or proper pursuit for a women in our society rather than any ascertainable evil effects of permitting women to labor behind those "permanently affixed fixtures" known as bars. Such notions cannot justify discrimination against women in employment." [44]

The court's conclusion was stated with devastating simplicity: "The state has not only failed to establish a compelling interest served by [the statute], but it has failed to establish any interest at all." [45] The statute was held to be violative of the equal protection clauses of the California and federal constitutions.

Sail'er Inn is a remarkable decision. Although a few other state and federal courts have invalidated various types of sex discrimination on constitutional grounds, this opinion is by far the most penetrating. The California court is the first state court of last resort to accept the thesis that sex is a "suspect" classification. The same conclusion has been reached by at least one lower federal court,[46] but *Sail'er Inn* appears at this time to be the most persuasive opinion addressed to the constitutional question. If other courts are moved to adopt this test of equal protection in the area of sex discrimination, then a greater incidence of success by those attacking sex classifications in future cases can be anticipated.

Sail'er Inn may even have an influence upon those courts that choose not to apply the "strict scrutiny" standard to sex classifications. The California court's finding that the state had shown "no interest at all" in support of the statute suggests that the exclusion of women from bartending would not have survived even the "rational basis" test of equal protection. If other courts can be persuaded to follow this example and carefully analyze any alleged state interests that are advanced to justify sex discrimination,

Footnotes at end of article.

then it is likely that future decisions will more frequently accord with *Sail'er Inn* in result, if not precisely in legal theory.

Finally, *Sail'er Inn* must be recognized as a challenge to the Supreme Court to reexamine its traditional position on the constitutionality of sex discrimination, since the California statute was expressly held to be in violation of the equal protection clause of the fourteenth amendment. Although the court made a ritual attempt to distinguish *Goesaert*,[47] the main thrust of the *Sail'er Inn* opinion is irreconcilable with the sexist assumptions underlying that case, and the California court has in effect rejected its authority. This is an open invitation to the Supreme Court to reexamine *Goesaert* and similar decisions in the light of contemporary understanding of sex discrimination.

Finally, we note a recent case involving alleged discrimination against *men*.[48] A New York statute required the fingerprinting of all male employees of liquor wholesalers. A wholesaler whose license was cancelled for failure to comply with the fingerprinting requirement brought an action to have his license restored, on the ground that the requirement was discriminatory and therefore invalid.

This contention was rejected by the court on the ground that a rational basis exists for requiring fingerprints of male employees only. The legislature, it said, must have been concerned about the possibility that "strong-arm" tactics would be used by wholesalers against retailers in order to obtain business (a practice apparently dating back to Prohibition). In addition, the legislature apparently concluded that wholesalers would be likely to employ men for this purpose, but not women. Conceding this reasoning to be "slightly tenuous," [49] the court nevertheless deferred to the legislative determination.

Sophisticated training in the use of physical force against another person is, of course, widely available to both men and women. Women who have mastered karate, judo or the use of firearms can injure or kill an adversary as easily as any man. How, then, can the legislative distinction be rationally justified? Only, it would seem, by clear evidence that women would not in fact *utilize* their destructive capabilities to further such illegal solicitation. The court concluded that such utilization would be "highly improbable," but failed to suggest any basis for this conclusion. Recent arrests of mugging gangs including females suggest that the conclusion is tenuous at best. This 1970 decision plainly demonstrates the stubborn persistence of the old myth of woman as a frail and delicate creature.

3. Wrestling

In its expression of male dissatisfaction with women's changing status, and of willingness to obstruct further change wherever possible, *State* v. *Hunter* [50] is a remarkable recent descendant of Mr. Justice Bradley's opinion in *Bradwell* v. *Illinois*.[51] An Oregon statute regulating wrestling "exhibitions" totally excluded females from participation. The court upheld it against an equal protection challenge, purporting to find a rational basis for the exclusionary classification:

"We believe that we are justified in taking judicial notice of the fact that the membership of the legislative assembly which enacted this statute was predominantly masculine. The fact is important in determining what the legislature might have had in mind with respect to this particular statute. In addition to its concern for the public weal, it seems to us that its purpose, although somewhat selfish in nature, stands out in the statute like a sore thumb. Obviously it intended that there should be at least one island on the sea of life reserved for man that would be impregnable to the assault of woman. It had watched her emerge from long tresses and demure ways to bobbed hair and almost complete sophistication; from a creature needing and depending upon the protection and chivalry of man to one asserting complete independence. She had already invaded practically every activity formerly considered suitable and appropriate for men only. In the field of sports she had taken up, among other games, baseball, basketball, golf, bowling, hockey, long distance swimming, and racing, in all of which she had become more or less proficient, and in some had excelled. In the business and industrial fields as an employe or as an executive, in the professions, in politics, as well as in almost every other line of human endeavor, she had matched her wits and prowess with those of mere man, and, we are frank to concede, in many instances had outdone him. In these circumstances, it is any wonder that the legislative assembly took advantage of the police power of the state in its decision to halt this ever-increasing feminine encroachment upon what for ages had been considered strictly as manly arts and privileges? Was the Act an unjust and unconstitutional discrimination against woman? Have her civil or political rights been unconstitutionally denied her? Under the circumstances, we think not." [52]

This passage reveals, as clearly as any we have seen, that male judges are now fully aware of the growing dissatisfaction of many women with their male-imposed subordinate status. Significantly, judges will even concede that, once admitted to many of the spheres of human activity formerly denied them, women have performed at least as competently as men. Nevertheless, this court openly applauds legislative resistance to further female "encroachment," disdaining to conceal its male bias behind any protectionist facade such as the preservation of women's health or the prevention of "social problems." Candor, yes. Evenhanded administration of justice by an impartial tribunal, no. Indeed, the opinion virtually glories in its own revealed bias.

The same issue was raised recently in New York, where the State Athletic Commission refused to license female wrestlers.[53] An action seeking to invalidate this rule was dismissed by the Appellate Division [54] with the following comments:

"It has been argued that females have fared less well under the Equal Protection Clause than have males of certain minority groups which have long been the victims of discrimination. . . . Furthermore, the presumption of constitutionality of a classification requires the courts to *assume* the existence of a reasonably conceivable state of facts to sustain it. . . . It has also been suggested that the Commission's determination is founded on a mid-Victorian concept which females have long since abandoned and which has no place in this enlightened last third of the Twentieth Century. Notwithstanding any personal opinion or attitude we may hold in this respect, there is legal justification and support, under the legislation which created the Commission, for the determination made by it." [55]

Even assuming that the court has stated the proper equal protection test, what "reasonably conceivable state of fatcs" justifies this particular discriminatory classification? *Stating* a test is no substitute for *applying* it. At an earlier point, the opinion contains a vague reference to past "infestation" of boxing and wrestling by "undesirable elements." Even if this is true, what is the rational connection between such infestation and the challenged rule? The court was silent. While the opinion is by no means an expression of overt sexism like *State* v. *Hunter*, it is also a far from satisfactory exposition of the reasoning process by which the decision was reached. If there was any rational basis for the exclusion of women from wrestling, it does not emerge from a reading of the opinion.

4. Appointment of Administrators

Unlike corporate fiduciaries, individuals do not customarily make a business of serving as executors or administrators. In that respect, a limitation upon service by women in these fiduciary capacities is not a business or professional exclusion. But competent estate administration does require, among other things, sound judgment, administrative ability and an understanding of business practices. Male domination of the business world is a historical fact, although not nearly so pronounced now as previously.[56] In view of all this, may the legislature validly mandate a preference for males over females in the appointment of administrators?

This is the question raised by *Reed* v. *Reed*.[57] In Idaho, persons applying for letters of administration are entitled to judicial consideration according to a statutory order of priorities. The statute favors certain classes of relatives of the decedent over others and prefers all eligible relatives before creditors.[58] Certain persons are completely disqualified, including nonresidents, infants, criminals and those adjudged incompetent to perform the duties of administrator "by reason of drunkenness, improvidence or want of understanding or integrity." [59] Within any eligible class the probate court may grant letters to more than one person.[60] The controversial requirement is this: "Of several persons claiming and equally entitled to administer, males must be preferred to females. . . ." [61]

The disqualification provision makes it clear that the court is not required to prefer *incompetent* males over competent females; on the other hand, it also plainly shows that the purpose of the male preference provision could not be simply to prevent the selection of incompetent females. Rather, among members of the highest eligible category, none of whom is otherwise disqualified, the court is required to give preference to males.

In *Reed*, the decedent was survived by both adoptive parents. Each parent applied separately for letters of administration, and the probate court obeyed the legislative command by appointing the father. The mother then challenged this appointment on the ground that the male preference provision denied her equal protection of the laws. She was successful in the district court, but that judgment was reversed by the Supreme Court of Idaho.

That court purported to apply the "rational connection" test to determine whether or not the male preference requirement was so arbitrary and capricious as to violate equal protection. It was able to suggest two possible motives for the legislature's action: (1) promotion of prompt settlement of estates by curtailing disputes over the appointment of administrators; and (2) a feeling that men are generally better qualified than women to act as administrators. The second proposition apparently troubled the court somewhat, prompting this further amplification:

While this classification may not be entirely accurate, and there are doubtless particular instances in which it is incorrect, we are not prepared to say that it is so completely without a basis in fact as to be irrational and arbitrary." [62]

Both of these rationales are faulty, even if one concedes that the appropriate standard of judicial review is "rational connection." There is an obviously legitimate state interest in expediting the process of estate administration; that does not mean, however, that every means by which this interest may be furthered is rational. Requiring every successful applicant to have red hair or demonstrate a capability to jog two miles in sixteen minutes would undoubtedly reduce the number of competitors for appointment and thereby curtail litigation, but such requirements would have no rational connection with fitness to act as an administrator. The expediting-of-appointments argument is thus clearly a makeweight.

The second rationale, then, must be the decisive one. The court suggested that the Idaho Legislature had apparently determined that, as compared with men, women are generally deficient in business acumen. Nevertheless, the court conceded that such a characterization was not universally accurate; hence, a particular female applicant might in fact be as well or even better qualified to administer an estate than her male counterpart. Despite the obvious possibility that such cases will arise, the statute leaves the probate judge no discretion: Where the applicants are equally qualified, the male must be appointed; indeed, he must be preferred to the female even if he is in fact demonstratably less qualified. A clearer case of arbitrariness can hardly be imagined.

Perhaps the pernicious effect of the male preference requirement can be further illuminated by consideration of an analogous statute discriminating on the basis of race rather than sex.[63] Suppose the Idaho Legislature had enacted a similar statute which mandated a preference for whites over nonwhites. Also, suppose that a particular decedent had no immediate family or that no member of his family wished to administer his estate; consequently, creditors of the estate would be eligible for appointment as administrator. Also suppose that the estate has only two creditors: Ebony Trust Co. and Joe's Grocery. The senior trust officer of the former (a black man) and the proprietor of the latter (white) have applied for letters of administration. While the grocer is a respected citizen operating a successful business, he did not finish high school, and has never served as a personal representative. Unless disqualified "for want of understanding or integrity," however, he must be appointed.

The trust officer appeals from the order of appointment, challenging the statute on equal protection grounds. Both arguments advanced by the court in *Reed* could be relevant here: the statutory preference for whites could help to avoid time-consuming controversies; and it might be shown that, on the average, whites have more formal education, more responsible jobs and more business experience than blacks.

Would these two arguments be sufficient to sustain the hypothetical statute against the trust officer's constitutional attack? Obviously not: the statute is based on an assumption of racial inferiority that is clearly invidious as applied to this individual appellant.

Can the statute in *Reed* be logically distinguished from this hypothetical statute? We would suggest that it cannot. Both types of discrimination rest on the fallacious assumption that generalizations which can accurately be made about a class as a whole are equally accurate with respect to each individual member of the class. In addition, statutes mandating various types of sex discrimination have reinforced a historical pattern of male domination over females. In this respect, such statutes serve the same function as statutes discriminating on the basis of race: they support and strengthen the power of one group (and its individual members) to dominate the members of another.

5. The "Judicial Process" in Female Exclusion Cases

With the notable exceptions of *Paterson Tavern & Grill Owners Association* and *Sail'er Inn*, the opinions considered so far reveal three distinct forms of rationalization used to uphold state legislation that excludes or disadvantages females with respect to various occupations or offices. These include: (1) express reliance on a mythology of male supremacy, which confines women to a subordinate social role and then patronizingly "protects" them against even their own attempts to change that role; (2) total deference to the legislature, despite serious assertions that its discriminatory enactments violate specific constitutional guarantees; and (3) cursory dismissal of these serious constitutional issues, on the basis of inadequately supported conclusions that rational connections do exist between sex discrimination and the promotion of some vaguely articulated state interest. The first of these is crude, unjudicial and offensive to an increasingly large number of both men and women. The other two are inadequate substitutes for clear thinking and reasoned analysis. Taken together, they constitute a pattern of flagrant judicial insensitivity to the injustice visited upon women by male-dominated state legislatures.

This pattern, we believe, will also be evident in the areas surveyed in the remainder of our discussion.

B. Labor regulation

It is a transcendent irony that one of the most celebrated and widely respected decisions in the history of the Supreme Court has, after sixty-odd years, come to be viewed as a "roadblock to the full equality of women." [64] The case is, of course, *Muller v. Oregon*,[65] Brandeis brief and all. *Muller*, it will be remembered, upheld the constitutionality of an Oregon statute that restricted the employment of women in any "mechanical establishment, or factory, or laundry" to ten hours per day. Three years earlier, in *Lochner v. New York*,[66] the Court had declared unconstitutional a New York law regulating maximum hours of work for all bakery employees, male as well as female. *Muller* did not overrule *Lochner*, but distinguished it on the ground that women require special treatment which the legislature may properly require employees to supply. Here is the relevant portion of the opinion:

"That woman's physical structure and the performance of material functions place her at a disadvantage in the struggle for subsistence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race.

"Still again, history discloses the fact that woman has always been dependent upon man. He established his control at the outset by superior physical strength, and this control in various forms, with diminishing intensity, has continued to the present. As minors, though not to the same extent, she has been looked upon in the courts as needing especial care that her rights may be preserved. Education was long denied her, and while now the doors of the school room are opened and her opportunities for acquiring knowledge are great, yet even with that and the consequent increase of capacity for business affairs it is still true that in the struggle for subsistence she is not an equal competitor with her brother. Though limitations upon personal and contractual rights may be removed by legislation, there is that in her disposition and habits of life which will operate against a full assertion of those rights. She will still be where some legislation to protect her seems necessary to secure a real equality of right. Doubtless there are individual exceptions, and there are many respects in which she has an advantage over him; but looking at it from the viewpoint of the effort to maintain an independent position in life she is not upon an equality. Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men and could not be sustained. It is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him. Even though all restrictions on political, personal and contractual rights were taken away, and she stood, so far as statutes are concerned, upon an absolutely equal plane with him, it would still be true that she is so constituted that she will rest upon and look to him for protection; that her physical structure and a proper discharge of her maternal functions—having in view not merely her own health, but the well-being of the race—justify legislation to protect her from the greed as well as the passion of man. The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all. Many words cannot make this plainer. The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her." [67]

The second quoted paragraph seems shockingly close to *Bradwell* in its male supremacist assumptions. The first properly recognizes that pregnant women are not able to perform some of the tasks that men or non-pregnant women do. Significantly, though, the statute applies to *all* women, whether pregnant or not: Thus, the court was moved to imply that woman's primary social function is reproduction. This idea is, of course, an integral part of the "grand design myth. While the *Muller* opinion is slightly more restrained than Justice Bradley's concurring opinion in *Bradwell*, its sexist assumptions are no different.

It now seems unfortunate that the Court did not expressly overrule *Lochner* and hold that "freedom of contract" does not inhibit states from exercising their police power to set maximum working hours. The sexist rationale would then not have been necessary, and the judiciary would have been deprived of one of its most frequently cited authorities for the general proposition that sex is a valid basis for legislative classification.[68]

The constitutional issues raised by protective legislation have not been in the spotlight in recent years, due to the enactment of Title VII of the Civil Rights Act of 1964, which prohibits sex-based discrimination in employment unless the employee's sex is "a bona-fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise." [69] In the wake of *Muller* and similar cases, several states enacted statutes regulating employment of women in a variety of respects.[70] In addition to wage and hour standards, these included limitations on the poundage that women could be required to lift. Since the effect of such laws frequently is to render women ineligible for certain jobs, their validity under Title VII was soon questioned.[71] The Equal Employment Opportunity Commission has taken the position that protective regulations "have ceased to be relevant to our technology or the expanding role of female workers in our economy" and should not therefore be a defense to an otherwise unlawful employment practice.[72] Several courts have now held that Title VII supersedes conflicting state protective laws as a matter of federal supremacy.[73] The issue will very likely make its way to the Supreme

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Court. To the extent that Title VII is held to invalidate such state regulation, *Muller* will have been superseded by congressional fiat.[74]

Meanwhile, the Court has ruled on another aspect of Title VII in *Phillips v. Martin Marietta Corp.*[75] In that case, the employer's policy was to refuse even to consider hiring females with preschool children for a certain position, although no such exclusion was made in the case of similarly situated males. An unsuccessful female applicant challenged this policy, contending that it was a per se violation of the statute. This contention was rejected, and the case was remanded for further proceedings to determine whether or not the policy was within the bona fide occupational qualification exception.

Although Title VII has substituted the supremacy issue for equal protection where state-mandated sex discrimination is concerned, its ultimate effect may be to induce some judges to rethink their position on the broader question of sex discrimination and equal protection. If it does, the reason will be the bona fide occupational qualification exception. In *Richards v. Griffith Rubber Mills*,[76] for instance, an employer refused to promote a woman because of a state regulation prohibiting women from lifting more than fifty pounds; in the new job, she would occasionally be required to lift as much as sixty pounds. The court conceded that the regulation was probably valid under *Muller*, but nevertheless held it invalid under Title VII, which "no longer permits either employers or the states to deal with women as a class in relation to employment to their disadvantage. . . . Individuals must be judged as individuals and not on the basis of characteristics generally attributed to racial, religious, or sexual groups."[77]

That "individuals must be judged as individuals" is, of course, also the essence of the equal protection argument. The reasoning employed in *Richards* to find a violation of Title VII could thus just as easily be used to strike down, on equal protection grounds, any state regulation that discriminates against individuals solely on the basis of their sex.

Weeks v. Southern Bell Telephone & Co.[78] also involved an employer's refusal to consider hiring women for certain jobs on the ground that these jobs were too "strenuous" for females. The court not only narrowly construed the bona fide occupational qualification exception, but placed on the employer the burden "of proving that he had reasonable cause to believe, that is, a *factual basis* for believing, that *all* or *substantially all* women would be unable to perform safely and efficiently the duties of the job involved."[79] This test seems less stringent than the principle stated in *Richards*, in that it would not necessarily invalidate every discrimination based on attributed group characteristics. On the other hand, it clearly prohibits discrimination justifiable only by reference to characteristics attributed to an "average" member of the affected group.[80]

C. Places of public accommodation

Statutes and ordinances prohibiting women from patronizing bars or taverns, or regulating the manner of their patronage, were the subject of a flurry of litigation in the early twentieth century. These regulations, like those excluding women from working in bars, apparently reflected a strongly held belief that the combination of men, women and liquor in such places would be somehow detrimental to "public morality."

In an influential 1902 Colorado case,[81] a saloon owner sought to enjoin the enforcement of such a regulation on constitutional grounds. A Denver ordinance, authorized by a provision of that city's charter, prohibited keepers of "liquor saloons, dram shops, or tippling houses" from admitting any women to their establishments, either as customers or as employees. The petitioner had argued that a woman had the same right as a man to enter a saloon and buy a drink of liquor, and that to forbid him to sell liquor to women was therefore an unjustified interference with his business and a deprivation of property without due process of law. Granting its major premise, this argument seems compelling. The court, however, was not at all impressed. While conceding some validity to the petitioner's case, it nevertheless found a reason to sustain the ordinance:

"If a discrimination is made against women solely on account of their sex, it would not be good; but if it is because of the immorality that would be likely to result if the regulation was not made, the regulation would be sustained. That injury to public morality would ensue if women were permitted without restrictions to frequent wine rooms, there to be supplied with liquor, is so apparent to the average person that argument to establish so plain a proposition is unnecessary. But if some people might not be willing to concede this, it is enough to say that the general assembly, speaking through the city council, with whom the decision entirely rests, has so determined. Women, therefore, may properly be excluded from wine rooms, as this ordinance provides, and, if they have no constitutional right to insist upon being admitted to places there to be supplied with liquor, when the effect would be demoralizing to society, *a fortiori* the saloonkeeper may be prevented from furnishing them facilities for contributing to that result. . . . [T]he classification made with respect to the persons permitted to frequent wine rooms for supplying themselves there with liquor [is] based upon reasons that have their seat in the facts of nature, and . . . such regulations are conducive to, and are reasonably adapted to secure, the worthy object of preserving public morality."[82]

A contrary result had been reached, however, in a 1900 Kentucky case. There the ordinance not only prohibited women from going into or out of saloons, but also made it a misdemeanor for any woman to "frequent, loaf, or stand around" within fifty feet of such an establishment. Penalties for violation of the ordinance could be assessed against both the offending female and any saloon keeper who permitted her to enter. In *Gastenau v. Commonwealth*,[83] a saloon keeper convicted of violating this ordinance appealed on constitutional grounds. The prosecution argued that the ordinance had been enacted because "very disreputable, low and vile women congregate in and about saloons and places where liquor is sold, thereby causing affrays, fights, murder, and other crimes."[84] Agreeing that regulation of the conduct of such women was a proper subject for exercise of the police power, the court nevertheless held the statute invalid for overbreadth. For instance, it pointed out that lawful activities might quite properly bring even morally upstanding women within fifty feet of saloons. Furthermore, the court doubted whether well-behaved females could be excluded from frequenting saloons so long as their behavior was orderly and their purpose was lawful. The ordinance was held to be "unreasonable and an unnecessary interference with individual liberty."[85]

Six years later, however, Kentucky courts were again presented with a challenge to the constitutionality of a similar ordinance, which provided as follows:

"It shall be unlawful for any infant or female to go into or be in and drink intoxicating liquors in any saloon . . . or for the keeper or proprietor or controller, or one in charge of such room or place of business, to suffer and admit such infant or woman to drink therein or to be or remain for over five minutes. . . . It shall be a defense to this ordinance if the person charged with its violation shall show that such infant or female was of good repute and was at the time sober and orderly and had the consent so to do of the parent or guardian of the infant or husband of the female, or in case of reasonable necessity."[86]

A prosecution for violation of this ordinance was dismissed by the circuit court, and the state appealed. The Court of Appeals upheld the ordinance, distinguishing *Gastenau* on the ground that the overbreadth found in that case was not repeated in this ordinance.[87] The court was apparently convinced that the new ordinance offered sufficient protection to orderly, well-behaved women who visited saloons for lawful purposes, even though it placed upon defendants the burden of proving that they were within one of the exceptions stated in this ordinance.

Nevertheless, the ordinance was frankly sexist. It classed women with infants, as creatures requiring man's protection. It subjected any woman who remained in a saloon more than five minutes to the possibility of a criminal charge, and then placed the burden on *her* to justify herself—on the assumption, no doubt, that most females in bars for over five minutes were a threat to public morals. For married women, it required a showing of spousal consent, confirming the male role as woman's keeper or guardian.

Why should such an ordinance be enacted? Why did the court so readily agree that, when certain women are present together with liquor in a saloon, they "cause" men to fight and murder? Was the ordinance designed to keep "nice" girls "nice," by discouraging them from going into saloons? To protect men from their own antisocial, aggressive impulses? To make bars into male sanctuaries? To keep the husbands of "good" women from being tempted into liaisons with "loose" women? Whatever the motivation for such ordinances, they achieved their aim of regulating conduct by ascribing criminal or immoral tendencies to citizens on the basis of their sex, rather than by requiring a showing of actual immoral conduct.[88] These ordinances reflect two different facets of the female stereotype in the mythology of male supremacy. On the one hand, the female is viewed as a pure, delicate and vulnerable creature who must be protected from exposure to immoral influences; and on the other, as a brazen temptress, from whose seductive blandishments the innocent male must be protected. Every woman is either Eve or Little Eva—and either way, she loses.

Similar ordinances can still be found in some municipalities. In a 1969 case, *Gallagher v. City of Bayonne*,[89] the ordinance prohibited tavern owners from allowing women to stand or sit at a bar; they could be served liquor only if seated at a table. Despite an earlier dictum suggesting the contrary,[90] the court held that the ordinance exceeded the limits of the city's police power. Reasoning by analogy to a recent decision invalidating a regulation which had prevented owners from allowing homosexuals to congregate at bars,[91] the court concluded that the scope of permissible regulation extended to specific antisocial or immoral *acts*, but not to the "mere congregation" of women at a bar.

The practice of refusing service to women at bars is not solely the result of state law. It often reflects private policies. For instance, the Rainbow Lounge in the Hotel Syracuse had a policy against serving unescorted women at its bar, although apparently they could be served at tables. In *DeCrow v. Hotel Syracuse Corp.*,[92] a female who had been refused service sought a federal court injunction against the continuance of this policy on the ground that it violated the equal protection clause, the Civil Rights Act of 1964[93] and a number of other federal civil rights statutes.[94] Her action was dismissed for lack of jurisdiction on two grounds. First, it was held that the public accommodations provi-

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sions of the 1964 Act[95] (unlike Title VII) do not prohibit sex discrimination; secondly, the equal protection clause and the other statutes were interpreted as requiring a showing of state action, which the court found to be absent in this case.

Plaintiff then proceeded in the state courts, contending that defendant's policy was in violation of various provisions of the New York Civil Rights Law. She was again unsuccessful.[96] Although the state statute provides that "all persons" are *entitled* to full and equal facilities and privileges in places of public accommodation, it only prohibits owners from denying equality "on account of race, creed, color or national origin."[97] The court held that sex discrimination was not a violation of the latter provision. Another section of the statute declares it to be a misdemeanor for any innkeeper to refuse "without just cause or excuse, to receive and entertain any guest."[98] This provision was not violated, said the court, because the defendant did not *refuse* to serve the plaintiff; service was merely *conditioned* on the female's having an escort or being willing to sit at a table.

The first line of reasoning may be defensible on the ground that sex discrimination was not specifically prohibited by the statute; it is nevertheless a narrow construction in the light of the statute's purpose and the declaration that all persons are entitled to equal service. The second rationale, however, is indefensible: The attempt to characterize the effect of the hotel's policy as conditional service, rather than as a refusal to serve, is an exercise in sophistry. Suppose persons of a certain race were prohibited from sitting in certain sections of restaurants, or from living in certain areas of a city or riding in certain parts of a bus. Would anyone seriously contend that this is "conditional acceptance" of, rather than refusal to accept, members of that race?

The hotel's policy should have been recognized for what it was—a refusal to serve unescorted women under circumstances where unescorted men would receive service. The fact that unescorted women (and men) could sit at tables or that escorted women (or men) could sit at the bar is therefore simply irrelevant. In terms of the statute, then, the only real question is whether or not this refusal of service was for "just cause or excuse." It was incumbent upon the court to inquire as to the reasons for the defendant's policy and then to test them against the statute's purpose of guaranteeing freedom from discrimination in places of public accommodation. By resorting to the specious "conditional service" rationale, the court abdicated this responsibility.

Private discrimination was again challenged on federal constitutional grounds in *Seidenberg v. McSorley's Old Ale House, Inc.*[99] The facts were similar to the *DeCrow* cases, except that no female had ever been served at the defendant's establishment, at the bar or elsewhere. Declining to follow the first *DeCrow* decision, however, the district court denied a motion to dismiss the action for want of jurisdiction.[100] There being no issue as to any material fact, both parties moved for summary judgment, and the plaintiff's motion was granted.

In order to reach the constitutional issue, the court first had to find that the defendant's exclusionary policy constituted state action. It conceded that the Supreme Court has never ruled that a private commercial enterprise is subject to the fourteenth amendment solely because it is licensed by the state. The court nevertheless held that the compelling public interest in the liquor trade, coupled with New York's pervasive regulatory scheme, justified the requirement that the defendant conduct its business on the same principle of equality applicable to the state itself.

Having reached the equal protection issue, the court proceeded to test defendant's policy against the rational basis standard:

"In the case before us no difference between men and women, as potential customers of the defendant, has been offered as a rational basis for serving the one and not the other. It may be argued that the occasional preference of men for a haven to which they may retreat from the watchful eye of wives or womanhood in general to have a drink or pass a few hours in their own company, is justification enough; that the simple fact that women are not men justifies defendant's practice. The answer is that McSorleys' is a public place, not a private club, and that the preferences of certain of its patrons are no justification under the Equal Protection Clause. Such preferences, no matter how widely shared by defendant's male clientele, bear no rational relation to the suitability of women as customers of McSorleys'.

"Nor do we find any merit in the argument that the presence of women in bars gives rise to 'moral and social problems' against which McSorleys' can reasonably protect itself by excluding women from the premises. . . . Outdated images of bars as dens of coarseness and iniquity and of women as peculiarly delicate and impressionable creatures in need of protection from the rough and tumble of unvarnished humanity will no longer justify sexual separatism."[101]

In *Seidenberg*, as in *Gallagher*, a court has finally repudiated the notion that every woman should be viewed as either an innocent or a temptress—and in either case, as somehow man's inferior—to be guarded or guarded against. Once this attitude has been overcome, there is no further justification for discrimination against female patrons in bars. These two opinions have established a new model for judicial review of discriminatory ordinances and policies applicable to places of public accommodation.

Their influence need not be confined to this area of law, however. Many kinds of sex discrimination are rationalized, even today, on the basis of stereotypes just as simplistic and exaggerated as those reflected in the liquor cases. As other courts are persuaded to follow the example set in *Sail'er Inn*, *Seidenberg* and *Gallagher*, they will be obliged to make a more searching inquiry into the rationality of any sex classification challenged on equal protection grounds. They will no longer be content to uphold discriminatory laws merely as a gesture of total deference to the legislature or as a shield against some ill-defined threat to public morality. Even more importantly, they will reexamine their own uncritical acceptance of stereotypical ideas about sex characteristics as appropriate grounds for legislative distinctions.

D. Jury qualification

The common law jury, grand and petit, was exclusively a male institution.[102] The right (or duty) of women to serve as jurors was not recognized in America until the early twentieth century, when women began to obtain voting rights.[103] There is, however, one series of nineteenth-century opinions from the Washington Territory which vividly suggests how one male judge viewed the desirability of permitting women to serve on juries.

A Washington statute provided that all "qualified electors" were eligible to serve as petit jurors and all "qualified electors and householders" were eligible to serve as grand jurors. In *Rosencrantz v. Territory*,[104] a female defendant had been indicted by a grand jury composed in part of married women living with their husbands. She appealed, claiming that her indictment had been returned by an improperly constituted grand jury. The Supreme Court of the Territory denied her appeal, noting that the franchise had been extended to Washington women by statute and that the female jurors were thus "qualified electors." But the court construed the statute as requiring grand jurors to be *both* "qualified electors" and "householders." Whether a married woman living with her husband could be a "householder" was thus the determinative issue. The court concluded that the local Married Women's Act conferred sufficient joint control over the family property and children so that both husband and wife could be deemed "householders" within the meaning of the jury statute. The majority opinion did not discuss the desirability of having women on juries; it did, however, suggest that the principle of equality expressed in the Married Women's Act constituted a "spirit of progress."[105]

The decision evoked a furious dissent from Judge Turner. He contended that, in light of the jury's history as an institution, "qualified electors" was meant to refer exclusively to qualified *male* electors; in any event, he argued, married women were not "householders." In elaborating the first of these two arguments, he revealed a strong opinion on the underlying question of policy:

"It is said that the rights of the weaker sex, if I may now call them so, are more regarded than in the days of Blackstone, and that the theory of that day, that women were unfitted by physical constitution and mental characteristics to assume and perform the civil and political duties and obligations of citizenship, has been exploded by the advanced ideas of the nineteenth century. This may be true. No man honors the sex more than I. None has witnessed more cheerfully the improvement in the laws of the states, and particularly in the laws of this territory, whereby many of the disabilities of that day are removed from them, and their just personal and property rights put upon an equal footing with those of men. I cannot say, however, that I wish to see them perform the duties of jurors. The liability to perform jury duty is an obligation, not a right. In the case of woman, it is not necessary that she should accept the obligation to secure or maintain her rights. If it were, I should stifle all expression of the repugnance that I feel at seeing her introduced into associations, and exposed to influences which, however others regard it, must, in my opinion, shock and blunt those fine sensibilities, the possession of which is her chiefest charm [*sic*], and the protection of which, under the religion and laws of all countries, civilized or semi-civilized, is her most sacred right.

"If one woman is competent as a juror, all women having the same qualifications are competent. If women may try one case, they may try all cases. It is unnecessary to say more; to suggest the shocking possibilities to which our wives, mothers, sisters, and daughters may be exposed, unless the legislature should hereafter relieve us from what I believe to be a mistaken construction of the law. These observations, however, are not pertinent here. The question is, what is the law? I say that the law now concerning the important incidents of a jury trial are, by express constitutional provision, what they were at the common law, and that under that law a jury was no jury unless it was composed of men."[106]

Judge Turner had an equally strong view on the question of whether a married woman living with her husband could be a "householder" within the meaning of the statute:

"The husband was not only the head of the family at common law, because under that law he had the right to be obeyed by all the family, including the wife, but because of inherent and acquired differences between himself and wife in mental and physical constitution. He was better fitted to wage the war for present subsistence, and to accumulate the competence that was to

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make provision against want in the future. The experience gained by him in prosecuting this branch of the partnership matured his judgment, strengthened his will, and made him confident and self-reliant. I believe that the facts I have mentioned obtain to this day, and that they operate and will continue to operate to give the husband paramount authority in the household, as that term is understood at common law, until an upheaval of nature has reversed the position of man and woman in the world. Legislative enactment would not make white black, nor can it provide the female form with bone and sinew equal in strength to that with which nature has provided man. No more can it reverse the law of cause and effect, and clothe a timid, shrinking woman, whose life theater is and will continue to be and ought to continue to be, primarily the home circle, with the masculine will and self-reliant judgment of a man." [107]

Three years later, in *Harland v. Territory*,[108] the same court was faced with the same issue of jury service by women. Perhaps in part due to personnel changes on the court, a majority of the judges joined in Judge Turner's opinion overruling *Rosencrantz*.[109]

Female eligibility for jury service was not widely litigated until the years immediately following World War I, when, as result of the nationwide women's suffrage movement, the nineteenth amendment was adopted. Since jury qualification in many states was linked in some respetc to voting eligibility, the extension of suffrage to women frequently raised—as it had in the Washington Territory cases—the question of whether women were thereby qualified to serve on juries.[110]

Where the statute defined eligibility for jury service in terms of "qualified electors" or some similar phrase, many state courts held that the extension of suffrage to women automatically made them eligible to serve as jurors.[111] In other states with similar statutes, the opposite result was reached; a notable example is *Commonwealth v. Welosky*.[112]

In *Welosky*, the defendant challenged the array of jurors on the ground that women had been excluded. The applicable Massachusetts statute provided that every "person qualified to vote" for the legislature should be eligible for jury service.[113] Despite the extension of suffrage to female citizens of Massachusetts, the court held that the legislature had not intended the reference in the statute to a "person qualified to vote" to include females:

"It is unthinkable that those who first framed and selected the words for the statute now embodied in G.L.c. 234, § 1, had any design that it should ever include women within its scope. It is equally inconceivable that those who from time to time had reenacted that statute had any such design. When they used the word "person" in connection with those qualified to vote for members of the more numerous branch of the General Court, to describe those liable to jury service, no one contemplated the possibility of women becoming so qualified. The same is true in general of those who from time to time reenacted the statute in substantially the same words. No intention to include women can be deduced from the omission of the word male. That word was imbedded in the Constitution of the Commonwealth as a limitation upon those citizens who might become voters and thereby members of a class from which jurors might be drawn. It would have been superfluous also to insert that word in the statute.[114]"

The court's conclusion as to legislative intent was bolstered by two other points, both of which have become familiar themes: a felt necessity to exempt at least some women from jury service, and the lack of suitable accommodations for women jurors.[115]

As in *Welosky*, most state courts treated the eligibility issue as one of statutory construction.[116] In North Carolina, however, a constitutional issue was determinative. In *State v. Emery* [117] it was held that the state constitution, which provided for the "ancient mode of trial by jury" and for conviction only by "a jury of good and lawful men," precluded the extension of jury service to females. The majority rested its holding entirely upon the unchallenged fact that trial by jury at the common law consisted of trial by male jurors. One dissenting justice commented on this at length:

[I] thing the language of the Constitution should not be held to a rigid and inelastic construction when it conflicts with the progress of human thought and changing social conditions. It should be more liberally constructed so as to meet the needs of a complex and growing civilization. I think this section of the Constitution is capable of the reasonable interpretation, in accord with modern thought, which would not disqualify women from this important service. I think it should be given this interpretation in the light of the progressive changes in the status of women and their equal share with men in the powers and responsibilities of government and justice. I do not think the courts should be restricted to the mere ascertainment of what we think now was in the minds of the framers of the Constitution who, however wisely they laid the foundations, could not envision the limitless future, else we should be fettered by the dead hand of the past." [118]

The other dissenter, however, delivered the *coup de grace* to the majority with a more laconic observation: "The most insistent argument advanced in behalf of appellants is that women have never been permitted to serve on juries. Which goes to show that an attitude can be more formidable than an argument." [119]

As the eligibility of women for jury service came to be more widely recognized and the presence of females on juries became commonplace, two new questions were raised: Can a state properly *exclude* all women from jury service? Alternatively, can a state permit all prospective women jurors voluntarily to *exempt* themselves from service?

The United States Supreme Court has never directly ruled on the first question, but *Strauder v. West Virginia* [120] contains a frequently quoted dictum on the subject. The issue in *Strauder* was whether a Negro could lawfully be tried under a statute limiting jury service to white male citizens. Holding the statute's racial classification to be in violation of the equal protection clause of the fourteenth amendment, the Court added:

"We do not say that within the limits from which it is not excluded by the amendment a State may not prescribe the qualifications of its jurors, and in so doing make discriminations. It may confine the selection to males, to freeholders, to citizens, to persons within certain ages, or to persons having educational qualifications. We do not believe the Fourteenth Amendment was ever intended to prohibit this. Looking at its history, it is clear it had no such purpose. Its aim was against discrimination because of race or color. As we have said more than once, its design was to protect an emancipated race, and to strike down all possible legal discriminations against those who belong to it. . . . We are not now called upon to affirm or deny that it had other purposes." [121]

Since *Strauder*, the Court has decided three cases involving the exclusion of women from juries. In none of these, however, was the exclusion prescribed by state law. Two involved federal juries chosen at a time when the federal statute referred to state law for standards of jury eligibility. In *Ballard v. United States* the Court indicated that exclusion of females from the federal jury had been improper, since the state law involved there expressly qualified women for service.[122] Speaking for four of the five-man majority, Mr. Justice Douglas eloquently stated a case for inclusion of women on juries:

"It is said, however, that an all male panel drawn from the various groups within a community will be as truly representative as if women were included. The thought is that the factors which tend to influence the action of women are the same as those which influence the action of men—personality, background, economic status—and not sex. Yet it is not enough to say that women when sitting as jurors neither act nor tend to act as a class. Men likewise do not act as a class. But, if the shoe were on the other foot, who would claim that a jury was truly representative of the community if all men were intentionally and systematically excluded from the panel? The truth is that the two sexes are not fungible; a community made up exclusively of one is different from a community composed of both; the subtle interplay of influence one on the other is among the imponderables. To insulate the courtroom from either may not in a given case make an iota of difference. Yet a flavor, a distinct quality is lost if either sex is excluded. The exclusion of one may indeed make the jury less representative of the community than would be true if an economic or racial group were excluded." [123]

The third case, *Fay v. New York*,[124] involved a number of challenges to a New York "blue ribbon" grand jury, one of which alleged systematic discrimination against women in selecting the venire.[125] The Court affirmed the lower court's conclusion that appellant's evidence did not establish this contention, but went on to suggest that the exclusion of women from juries would not raise a serious constitutional question:

The first state to permit women jurors was Washington, and it did not do so until 1911. In 1942 only 28 states permitted women to serve on juries and they were still disqualified in the other 20. Moreover, in 15 of the 28 states which permitted women to serve, they might claim exemption because of their sex. It would, in the light of this history, take something more than a judicial interpretation to spell out of the Constitution a command to set aside verdicts rendered by juries unleavened by feminine influence. The contention that women should be on the jury is not based on the Constitution, it is based on a changing view of the rights and responsibilities of women in our public life, which has progressed in all phases of life, including jury duty, but has achieved constitutional compulsion on the states only in the grant of the franchise by the Nineteenth Amendment. We may insist on their inclusion on federal juries where by state law they are eligible but woman jury service has not so become a part of the textual or customary law of the land that one convicted of crime must be set free by this Court if his state has lagged behind what we personally may regard as the most desirable practice in recognizing the rights and obligations of womanhood." [126]

Although understandable in its reluctance to impose federal constitutional standards in an area historically within the states' competence to control, this dictum nevertheless calls to mind—in its total reliance on historical practice as justification for sex discrimination—the dissenter's observation in *State v. Emery* that attitudes can be more formidable than arguments.

A 1939 Florida opinion is also worthy of note on the exclusion issue. In *Hall v. State*,[127] a statute restricting jury service to males was challenged by a female defendant. Relying on the *Strauder* dictum, the court rejected her contention that the statute violated the fourteenth and fifteenth amendments. The court further concluded that the exclusion of women from the jury could not have prejudiced the defendant:

"It is not contented that juries composed of men would be less fair to women defendants than would juries composed of women. Indeed, experience would lead to a contrary conclusion. The spirit of chivalry and of deep respect for the rights of the opposite sex, have not yet departed from the heads and hearts of the men of this country." [128]

The court's facile assumption may be questioned in light of the fact that the defendant in this case was accused of having given perjured testimony against a male defendant in an earlier murder trial. She was convicted by the all-male jury and sentenced to life imprisonment.[129]

The first square holding that exclusion of women from juries violates the equal protection clause of the fourteenth amendment was *White v. Crook*,[130] a case involving the Alabama jury statute. Ignoring the *Strauder* dictum, the court expressed its conclusion as follows:

"Women are allowed to serve on juries in the federal courts and in the courts of forty-seven states. Only in three—Alabama, Mississippi and South Carolina—are women completely excluded from jury service. The time must come when a state's complete exclusion of women from jury service is recognized as so arbitrary and unreasonable as to be unconstitutional. As to Alabama, we can see no reason for not recognizing that fact at the present time." [131]

Without questioning the soundness of the result, we might point out that the opinion relies on nose-counting as its means of determining the scope of fourteenth amendment guarantees; in this respect, it is open to the same criticism as *Fay v. New York*.

The State of Alabama did not appeal from the *White* decision, and all three statutes completely excluding women from jury service have since been repealed.[132] Subsequent to *White*, and prior to its repeal, however, the Mississippi statute was upheld by the supreme court of that state.[133] The following paragraph is the only portion of the opinion in which any reason was advanced to justify exclusion:

"The legislature has the right to exclude women so they may continue their service as mothers, wives, and homemakers, and also to protect them (in some areas, they are still upon a pedestal) from the filth, obscenity, and noxious atmosphere that so often pervades a courtroom during a jury trial." [134]

With the demise of exclusionary state statutes, the issue raised in *White* might appear to be moot. Cases may well arise, however, in which relief is sought from various other exclusionary practices. For example, the Fifth Circuit Court of Appeals has recently ruled that, in light of Mississippi's new statute making women eligible for jury service, state officials have a duty not to discriminate by including only a token proportion of women on the jury list.[135]

Now that statutory exclusion of females from juries is at least out of fashion, if not unconstitutional, primary attention is shifting from exclusion to exemption. Statutes in a number of jurisdictions permit women, though eligible for service, to exempt themselves solely on account of their sex. Such statutes have been consistently upheld against the claim that they unconstitutionally discriminate against female defendants [136] or against prospective male jurors.[137]

Some exemption statutes give every female summoned for jury duty the privilege of excusing herself from service. In a few states, the statutes have gone even further, providing that no woman is to be placed on the jury list unless she has previously filed a statement of her willingness to be called for service. The rationale for the latter type of statute is that it avoids the inefficiency of summoning many women who would choose to claim their exemption if called.

In *Hoyt v. Florida*,[138] a statute of this latter type was upheld by the Supreme Court against an equal protection attack. Noting that eighteen states permitted an automatic exemption for women and that three of these implemented this policy by calling only those women who had previously volunteered, the Court found that there was a rational basis for Florida's system:

"Despite the enlightened emancipation of women from the restrictions and protections of bygone years, and their entry into many parts of community life formerly considered to be reserved to men, woman is still regarded as the center of home and family life. We cannot say that it is constitutionally impermissible for a State, acting in pursuit of the general welfare, to conclude that a woman should be relieved from the civic duty of jury service unless she herself determines that such service is consistent with her own special responsibilities." [139]

The appellant also contended that Florida's statute, as applied, was unconstitutionally discriminatory. She pointed out that, out of some 46,000 eligible women voters in her county, only 220 had volunteered for jury duty during the eight years women had been eligible for such service. "Beside the point," the Court responded; "[g]iven the reasonableness of the classification . . . the relative paucity of women jurors does not carry" any "constitutional consequence." [140] Given the fact—accepted by the Court—that the end product of the Florida system in defendant's county was a jury list of 10,000 persons, of which only ten—ten!—were women, it is apparent that the Florida system was the functional equivalent of total exclusion.[141]

As indicated above, the Court has never held that outright exclusion of women from juries is a violation of equal protection. For many years, however, the Court has consistently condemned racial exclusion in jury selection.[142] The *Hoyt* opinion attempted to explain this seeming anomaly:

"This case in no way resembles those involving race or color in which the circumstances shown were found by this Court to compel a conclusion of purposeful discriminatory exclusions from jury service. . . . There is present here neither the unfortunate atmosphere of ethnic or racial prejudices which underlay the situations depicted in those cases, nor the long course of discriminatory administrative practice which the statistical showing in each of them evinced."[143]

The meaning of this passage is obscure. At best, it overlooks the obvious fact that statutes exempting women from jury service do reflect the historical male prejudice against female participation in activities outside the family circle. At worst, it can be read as *condoning* that prejudice by suggesting that, although racial and ethnic prejudice are "unfortunate," sex prejudice is not.

Notwithstanding *Hoyt's* susceptibility to such criticism, any judge thereafter facing a federal constitutional challenge to a similar exemption for women could simply cite that case as dispositive.[144] In two recent cases involving the New York jury statute however, judges have seen fit to add further embellishment to the *Hoyt* rationale, thereby reflecting their own attitudes toward this type of sex discrimination.

In *Leighton v. Goodman*,[145] a male called for jury duty sought an injunction against the county clerk's enforcement of the summons. Plaintiff challenged the jury statute on equal protection grounds: that by providing automatic exemption for women—*all* women—it in effect discriminated against all males. Although acknowledging that "the time may very well be ripe" for the legislature to amend the statute, the district court nevertheless held the constitutional claim "patently insufficient as a matter of law." Adhering to the "rational basis" test, the court suggested a justification for the exemption:

"Granted that some women pursue business careers, the great majority constitute the heart of the home, where they are busily engaged in the 24-hour task of producing and rearing children, providing a home for the entire family, and performing the daily household work, all of which demands their full energies. Although some women now question this arrangement, the state legislature has permitted the exemption in order not to risk disruption of the basic family unit. Its action was far from arbitrary." [146]

Even if the court's factual assumptions were correct,[147] the view of women here expressed is reminiscent of that expressed by Judge Turner nearly ninety years ago.

In *DeKosenko v. Brandt*,[148] plaintiff, a female tenant suing her landlord, also challenged the New York jury law on constitutional grounds, claiming that it would deprive her of a fair jury. Her claim was denied by the New York County Supreme Court in an opinion defective in so many different ways that no description here could possibly do it justice. As an inducement to the reader to see for himself, we present the final passage:

"Plaintiff is in the wrong forum. Her lament should be addressed to the "Nineteenth Amendment State of Womanhood" which prefers cleaning and cooking, rearing of children and television soap operas, bridge and canasta, the beauty parlor and shopping, to becoming embroiled in plaintiff's problems with her landlord." [149]

We offer the following translation: "Plaintiff cannot complain of the absence of women on her jury, because that results from the willingness of women to claim their exemption, not from the mere existence of the exemption itself." As the dissenting Florida judge in *Hoyt* remarked in his opinion:

"[I]t seems to me that if the present restriction upon female jury service were constitutional, then we must hold that the legislature could validly require all women to serve but limit male service to volunteers and thus, in effect, create an all female jury system." [150]

In such a situation, would an absence of *males* from the jury thereafter be ascribed to "the State of Manhood, which prefers golf, bowling and working for a living to becoming embroiled in another male's lawsuit"?

Despite the general judicial acquiescence, we submit that an automatic jury exemption for women should raise a serious equal protection question. We doubt that any statute would today be upheld which provided that all black persons (or, for that matter, all white persons) should have an automatic exemption from jury service.[151] Is a blanket exemption for all females any more justifiable? Granted that many females have work or child care responsibilities (or health disabilities) which might justify excusing them from service, it is difficult to imagine any excuse (except pregnancy, a condition hardly shared at any one time by even a majority of the women in America) which could not also be advanced by a man similarly situated.[152] How then is it possible to maintain that an exemption for every woman—including even the childless, single woman, and the working wife or mother—is not an arbitrary discrimination when based solely on her sex? Such a scheme, we submit, is based—and court opinions right up to the present day support our contention—on an additional assumption: that women are delicate creatures to be encouraged to stay at home and be protected from the hard, cruel world—and incidentally, as long as they *are* at home, to do the cooking, cleaning, mend-

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ing and ironing for those of us who do have the affairs of the world to attend to.

E. Public education

Although the dominant form of public education in the United States today is obviously "coeducation" (both sexes taught in the same schools and usually in the same classes), a number of public institutions of higher learning are not coeducational. In recent years a few courts have been called upon to decide the validity of a state educational policy providing for separation of the sexes; overall, the results represent at best a limited recognition of the right to equal educational opportunity regardless of sex.

Two such cases have come before the Texas Court of Civil Appeals. In 1958, in *Heaton v. Bristol*,[152] female plaintiffs had sought to enter Texas A. & M., an all-male institution. Reversing the lower court, the appellate court held—despite uncontroverted findings by the trial court that Texas A. & M. offered several courses of study not available at any other public institution of higher learning in the state—that no constitutional right of the plaintiffs had been violated. First, it was not shown that plaintiffs desired to take any of the courses unique to that institution. Nor was the court impressed by plaintiffs' argument that, by denying them the right to attend this particular institution, which was most near their homes and thus most convenient, the state had denied them equal protection. Finally, the court relied upon the existence of compulsory military training at Texas A. & M. as evidence of its unsuitability for females and pointed to the lack of any precedent upholding plaintiffs' position.

To determine whether there is unequal treatment of the sexes, the court stated, one must view the state's entire higher education system. The court concluded that the Texas system did make "ample and substantially equal provision for the education of both sexes." [154] In the court's view, the question was simply whether the state may constitutionally maintain, along with sixteen coeducational institutions, two which are not coeducational—one male, one female:

"We think undoubtedly the answer is Yes. Such a plan exalts neither sex at the expense of the other, but to the contrary recognizes the equal rights of both sexes to the benefits of the best, most varied systems of higher education that the State can supply." [155]

A similar action was brought two years later in *Allred v. Heaton*,[156] and in that case, at least one of the plaintiffs declared her desire to enroll in floriculture, one of the courses apparently not available at any other campus in the Texas university system. The court, possibly dubious of her good faith since she had once declared an intention to study law, held that, since the applicants (relying on the stated policy of exclusion) had not submitted applications for admission, they were precluded from relief. In affirming generally its earlier position with respect to sex-segregated education, the court indicated in dictum that should the plaintiff in fact apply for admission to study floriculture, she should not be excluded solely on the basis of her sex.[157] Upon rehearing, the college moved to strike that paragraph from the court's opinion, as constituting dictum. The court granted the motion without comment. This was not the only dictum in the opinion, however; consider the following:

"Surely the Supreme Court of the United States will not attempt to interfere with the public policy of the sovereign states of this nation in the management and control of their respective education systems so long as such systems do not discriminate against color or race.[158]

Footnotes at end of article.

A far different view of the constitutional issues was expressed in *Kirstein v. Rector and Visitors of the University of Virginia*,[159] a 1970 decision involving the College of Arts and Sciences of the University of Virginia at Charlottesville. A three-judge federal district court held that refusal to admit women to the college was a denial of equal protection, since the college offered courses of instruction not found elsewhere in the state and because its degree had greater "prestige" than that of any other state college. The court did, however, deny plaintiffs' claim for relief, on the ground that a plan for implementing coeducation at the campus had already been adopted. The court expressly declined to decide whether it was impermissible for the state to operate *any* institution of higher learning restricted to one sex, on the ground that plaintiffs lacked standing to raise the issue. The court was also careful to skirt—in a footnote—the question of whether the ghost of *Plessy v. Ferguson* [160] still walks: "We need not decide on the facts of this case whether the new discontinued principle of "separate but equal" may have lingering validity in another area—for the facilities elsewhere are not equal with respect to these plaintiffs." [161]

The most recent case to call into question a state's operation of sex-segregated educational facilities is *Williams v. McNair*,[162] a suit in which several males sought to enjoin South Carolina's operation of Winthrop College on a for-girls-only basis. South Carolina maintains a substantial number of university-level institutions, only two of which are segregated by sex—Winthrop and the Citadel, an all-male military academy. The court denied relief, noting that there is a respectable body of opinion which supports single-sex education on the ground that an educational institution can advance its effectiveness by concentrating on "areas of primary interest to only one sex." In the court's view, this was sufficient to demonstrate that the state's discrimination was not "wholly wanting in reason." [163] The court did not go so far as to suggest that the state could maintain all its educational institutions on a sex-segregated basis, but it did declare that on the facts presented, where there were coeducational institutions available to every student in the state, equal protection had not been denied. The *Kirstein* case was distinguished with ease on the ground that the court there had specifically found that equal facilities were not available to women elsewhere in the state university system. The *Williams* decision has recently been affirmed without opinion by the United States Supreme Court.

The district court in *Williams* was careful to avoid the kind of overt sexist rhetoric that has marred court opinions in many sex-discrimination cases, and at first blush the decision seems not only predictable but reasonable in light of the general availability of quality coeducation in the state. But closer examination may be in order. The statute establishing Winthrop College described its curriculum as follows: "such education as shall fit them [young women] for teaching" and also "stenography, typewriting, telegraphy, bookkeeping, drawing (freehand, mechanical, architectural, etc.), designing, engraving, sewing, dressmaking, millinery, art, needlework, cooking, housekeeping and such other industrial arts as may be suitable to their sex and condusive to their support and usefulness," together with such other subjects "as the progress of the times may require." [164] To evaluate this case, it may be useful to return to the racial analogy:

1) May the state properly operate only one college, for whites only? Clearly not. Could it operate only one, and only for men? The *Williams* opinion concedes that it could not.

2) Could it operate only two colleges, one for whites and one for blacks? Again, clearly not. Could it operate only two colleges, one for women and one for men? The *Williams* opinion is silent. In view of the long history of male dominance, we suggest that the adoption of such a scheme by a male-dominated legislature would at least raise a constitutional question. If accompanied by different curricula, clearly reflecting stereotypical attitudes about sex roles, a strong inference would arise that the scheme reflected an assumption that women are inherently incapable of education on an equal basis with men—just as clearly as the race-segregated schools of the South indicated a similar belief about the races.

3) Can the state operate separate schools for the races, so long as it maintains at least some school where the races *are* mixed? Any plan where the white citizens of a state were given the option of education in black-free state colleges would seem in clear violation of the school segregation decisions,[165] *whether or not* any integrated schools were also available. Should the same result follow in a sex-segregation case?

To the *Williams* court and apparently to the Supreme Court as well, the answer is clear: no violation here. But consider the facts of *Williams*: In addition to its coeducational colleges, South Carolina operates two sex-segregated institutions—Winthrop, a school apparently designed to produce secretaries and homemakers, and the Citadel, a military school offering a full range of liberal arts and engineering degrees. To pursue the race analogy a bit further, suppose that South Carolina, in addition to operating one or more racially mixed institutions, should maintain two other colleges. One, Dred Scott Institute, would offer degrees in agriculture, music, dance and physical education; it would accept only black students. The other, Calhoun College, would offer degrees in nuclear physics, medicine, law, engineering and business administration; only whites need apply. Even assuming that all of these studies were available at a biracial institution in the state, would such a scheme survive constitutional scrutiny?

It is difficult to see how; indeed, any other answer is unthinkable. And yet, the maintenance of two institutions for the sexes in South Carolina, one for male warriors and the other for female domestics, is different only in that the assumptions it reflects about individual capabilities and aspirations are more widely shared. The role of a housewife or a secretary is an honorable and productive one; so of course is the role of a champion athlete or a tenant farmer. To attack the attitudes reflected in the *Williams* decision is not to denigrate the individuals for whom such stereotypes happen to be accurate; it is to attack the arrogant assumption that merely because these stereotypes are accurate for some individuals, the state has a right to apply them to all individuals—and, indeed, to shape its official policy toward the end that they shall *continue* to be accurate for all individuals.

F. Criminal sentencing

State statutes prescribing the term of imprisonment for various crimes sometimes distinguish between offenders on the basis of sex. In some cases, the statute permits the the sentencing judge to set a fixed term (within a stated range) for an offender of one sex, while requiring an indeterminate sentence for an offender of the other.

In *State v. Heitman*,[166] a Kansas statute provided that a female over eighteen should be sentenced to confinement for an indeterminate term of no more than the maximum sentence fixed by law for her offense. The female defendant had been convicted of a misdemeanor punshable by thirty days to six months imprisonment and was accordingly sentenced to an indeterminate term of six months. She appealed on equal protection grounds: Had she been a man, the judge in his discretion could have sentenced her to a fixed term of less than six months. The trial court's action was affirmed. Although recognizing the principal that "no different or higher punishment shall be imposed on one than that which is prescribed for all, for the same offense," [167] the Kansas Supreme Court concluded that sufficient differences exist between men and women to justify classification by sex in the correction and rehabilitation of criminals:

"It required no anatomist, or physiologist, or psychologist, or psychiatrist to tell the Legislature that women are different from men. In structure and function human beings are still as they were in the beginning. 'Males and females created He them.' It is a patent and deep-lying fact that these fundamental anatomical and physiological differences affect the whole psychic organization. They create the differences in personality between men and women, and personality is the predominating factor in delinquent careers. It was inevitable that, in the ages during which woman has been bearer of the race, her unique and absolutely personal experiences, from the time of conception to the time when developed offspring attains maturity, should react on personality, and produce what we understand to be embraced by the term 'womanhood.' Woman enters spheres of sensation, perception, emotion, desire, knowledge, and experience, of an intensity and of a kind which man cannot know. Her individualities and peculiarities are fostered by education and by social custom—whether false and artificial or not is of no consequence here; and the result is a feminine type radically different from the masculine type, which demands special consideration in the study and treatment of non-conformity to law." [168]

It is sadly ironic that the court's opinion was largely devoted to praise of indeterminate sentencing as an example of the scientific foundation and humane approach of "the new penology." In retrospect, the court's touching faith in the rehabilitative capabilities of prisons seems naive at best.

Statutes of this sort apparently were not successfully challenged until 1968.[169] In that year several courts, both state and federal, concluded that such discrimination violated equal protection. The first such case was *United States ex rel. Robinson v. York*, [170] a federal habeas corpus proceeding. In this case, the effect of the Connecticut statute was to require an indeterminate (maximum three years) sentence for petitioner, even though a male convicted of the same offense would receive at most a total sentence of eighteen months. In addition to the disparity between fixed and indeterminate sentences, the case thus raised an issue not presented in *Heitman:* a longer maximum sentence for the female. Citing *Loving v. Virginia* [171] for the proposition that equal protection requires any *racial* classification to be subjected to the "most rigid scrutiny," the *Robinson* court held that sex discrimination should bear the same heavy burden of justification:

"While the Supreme Court has not explicitly determined whether equal protection rights of women should be tested by this rigid standard, it is difficult to find any reason why adult women, as one of the specific groups that compose humanity should have a lesser measure of protection than a racial group." [172]

Tested by this standard, the statute was found wanting. Suggesting that imprisonment is still imprisonment, whatever euphemisms may be employed to describe it, the court was unable to discern any reason sufficient to justify the difference in treatment:

"It may be granted that a broad discretion should be given to the courts in order that the punishment imposed should bear a proper relation to the enormity of the offense. But the circumstances which may affect the sentences must be circumstances connected with the crime. That there are differences between men and women cannot be denied, but that these differences justify a longer imprisonment of women cannot be sustained. There is no connection whatsoever between a breach of peace or resistance to arrest and being a woman. Those misdemeanors may be committed by persons of either sex. [173]

The principle announced in *Robinson* has since been applied in two other Connecticut cases: once again in a federal district court, [174] and once in the Superior Court of Connecticut. [175]

In *Commonwealth v. Daniel*,[176] the Pennsylvania Supreme Court reached a similar result. The statute in that case did not prescribe for women a sentence longer than the maximum for men, but, like the Kansas statute attacked in *Heitman*, it did deprive the court of the power to impose upon females a fixed sentence shorter than the statutory maximum. The *Daniel* opinion fell short of articulating the "rigid scrutiny" test employed in *Robinson;* on the contrary, it stated that a "strong presumption of Constitutionality" [177] attaches to every statute. Nevertheless the court concluded:

"[W]e fail to discern any reasonable and justifiable differences . . . between men and women which would justify a man being eligible for a shorter maximum prison sentence than a woman for the commission of the same crime, especially if there is no material difference in their records and the relevant circumstances." [178]

This opinion supports our contention that not only are many forms of sex discrimination vulnerable when subjected to "rigid scrutiny," but they cannot even survive a serious application of the "rational basis" test.[179]

In light of the consistent holdings in these recent cases, *Wark v. State* [180] is a disagreeable surprise. For escaping from a Maine prison farm, the defendant had been sentenced to an additional term of six to twelve years. He contended (and the Supreme Judicial Court of Maine assumed) that a female convicted of escaping from the women's reformatory would have been subject to a maximum sentence of no more than eleven months. Appellant therefore argued that his sentence constituted a denial of equal protection. The court distinguished the recent sentencing cases on the ground that they involved sex discrimination justified only by considerations of rehabilitation and "reform." Maine's statute, said the court, was enacted for a different reason: deterrence of a particular offense. With respect to escape, the court felt, the "distinctive attributes of the sexes" were both "relevant" and "controlling": [181]

"The Legislature could on the basis of long experience conclude that women, even those sentenced to the State Prison for serious offenses, tend for the most part to be more amendable to discipline and custodial regulation than their male counterparts and can therefore be effectively confined in an institution which lacks the high walls, armed guards and security precautions of a prison. By the same token the Legislature could reasonably conclude that the greater physical strength, aggressiveness and disposition toward violent action so frequently displayed by a male prisoner bent on escape from a maximum security institution presents a far greater risk of harm to prison guards and personnel and to the public than is the case when escape is undertaken by a woman confined in an institution designed primarily for reform and rehabilitation. Viewing statutory provisions for punishment as in part a deterrent to criminal conduct, the Legislature could logically and reasonably conclude that a more severe penalty should be imposed upon a male prisoner escaping from the State Prison than upon a woman confined at the 'Reformatory' while serving a State Prison sentence who escapes from that institution. We conclude that a classification based on sex under these circumstances is neither arbitrary nor unreasonable but is a proper exercise of legislative discretion which in no way violates the constitutional right to equal protection of the law." [182]

One indication of the tenacity of sex stereotyping is the fact that an opinion like that in *Wark* will so often seem sensible on first reading—at least to a male reader. After all, men are bigger and stronger on the average than women; if we were prison guards, we would probably be more afraid of an escaping male prisoner than a female. Isn't the court's reasoning therefore correct?

The trouble with the court's approach is that, in its preoccupation with group characteristics, it ignores the fact that the law punishes *individuals*. Again, the best way to illustrate the defect in this approach may be by analogy. For instance, suppose it could be demonstrated that persons of one race do commit a particular crime more frequently (in proportion to their numbers) than persons of other races. Could the state constitutionally prescribe a higher sentence for persons of that race who commit that crime, on the sole ground that this would constitute a greater deterrent to those who most need to be deterred? The answer—even if one did not agree with it—is clear. Can similar sex discrimination be any more justifiable?

Of course, it might be argued that the *Wark* court was speaking not only of propensity to commit the crime, but also of ability to commit it. Men are, by and large, bigger and stronger than women; not only may they be more likely to try to escape, they could be more likely to succeed. Is it not then proper for the state to consider this factor in fashioning a sentencing statute aimed at deterrence?

Since is is awkward to pursue a racial analogy at this point (it being virtually impossible for the writers to imagine any crime which members of one race have more ability to commit),[183] let us use another physical characteristic which, like sex and race, is not the result of individual choice: the ability to see. It seems perfectly plausible to assume that sighted persons are more capable than blind persons of committing virtually any crime. Would a statute be valid which provided that for any blind adult convicted of a felony, the penalty should be reduced by one-half?

If such a statute would be held to violate equal protection, the statute in *Wark* should clearly fare no better. Even if the hypothetical statute could be upheld, however, the *Wark* statute is still deficient by comparison. It distinguishes between defendants not on the basis of their *individual* characteristics, but solely on the basis of the extent to which two groups differ in *average* size and strength—differences which may not at all apply to particular individuals within either group.

In support of the *Wark* result, it might further be argued that men may properly be confined in separate institutions, made more "escapeproof" than those for women. This point may be well-taken,[184] even so, it does not necessarily follow that a higher sentence is in order for the crime of escape by a male, since, as the *Wark* court recognized, the sentence is properly to be regarded as "punishment," even though it may have a deterrent effect. It might well be argued that a defendant cannot properly be punished in part simply for being a male. Nor, even if all males *were* bigger, stronger and more aggressive than all females, is the statute necessarily justifiable by analogy to criminal statutes which punish an offense more harshly when accompanied by a greater threat of harm, *e.g.*, "armed robbery." In those cases, the offender may be influenced in his choice of weapons by the varying

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punishments held out. The male does not choose his sex, however; in our view, he therefore cannot appropriately be punished for it.

G. Consortium

The concept of "consortium" combines two disparate elements: (1) companionship and affection (including sexual relations) between spouses, and (2) the right of one spouse to the services of the other spouse.[156] It will come as no surprise to the reader that originally both of these elements were obligations owed by wives to their husbands, but not vice versa. The underlying assumptions about sex roles are by now all too familiar:

"But the right of consortium was by no means fully expressed [at common law] in the terms of society, companionship, and conjugal affection. The right to service was a prominent factor in it, and in respect to certain kinds of injuries, without doubt, the predominant factor. If we go back to the times when it took on its meaning the conditions were that the wife was socially and legally regarded as the husband's inferior, as having her existence merged into that of her husband, and as owing to him the duty, which he was entitled to command, of serving and administering to him in all the relations of domestic life. Her emancipation of recent years was centuries in the future. She was looked upon as the servant of and minister to her liege lord, to whom and to whose interests she was, by virtue of her marriage vow, devoted. He was entitled to her services, and these she was expected to render in the care of his home, in the rearing of his children, and in attending upon his wants." [158]

Since wifely services could easily be equated with those of any servant, legal liability for interference with the master-servant relationship was easily extended to cases of injury to the husband-wife relationship.[157] Eventually, loss of consortium became recognized as a material element of damage in four types of actions by husbands against third parties: (1) criminal conversation, (2) alienation of affection, (3) malicious interference with the marital relationship and (4) negligent personal injury to the wife, resulting in loss of her services.

While corresponding recovery was available to wives in actions of the first three types, it was not in the fourth. Four primary reasons were advanced to justify this dichotomy.[158] By 1950, courts in at least eighteen jurisdictions had accepted these arguments,[159] with no clear holdings to the contrary.[160] Notwithstanding this overwhelming support for the no-recovery rule, each of the four assigned justifications is questionable.

The first is that a wife had no common law right to maintain an action in her own name. This argument is of little or no weight now that such disabilities have been removed; at any rate, it hardly justifies denial of a cause of action for only one of the four types of injury to the martial relationship.

The second argument is that, in the first three types of action, the wife's injury is "direct," but in the fourth it is merely "consequential." Even if this distinction does have some validity however, it affords no apparent justification for applying this limitation to wives but not to husbands.

A third rationale advanced in favor of the no-recovery rule is that a wife has no right to the services of her husband, as contrasted with his companionship, affection, etc. This argument depends on the premise that the only element of recovery in the wife's consortium action would be loss of services. This premise appears unjustified, however, since the husband's recovery for loss of consortium has always included damages for loss of conjugal relation as well as loss of service.[161] Moreover, even if loss of services *were* the only element of recovery, the wife might nevertheless be entitled to a cause of action by virtue of the Married Women's Acts. These acts removed many disabilities formerly imposed upon married women, and they could have been interpreted as giving the wife a reciprocal right to her husband's services. But they were not.[162]

The fourth reason for denying the wife's recovery for loss of consortium is that the husband in his own action against the tortfeasor can recover for impairment of his ability to provide support. Permitting the wife to sue the same defendant for loss of her husband's services would therefore result in double recovery. Since husbands do have a duty to support their wives, it must be conceded that this rationale has some validity, and recent opinions have treated it as the determinative issue in evaluating the no-recovery rule.

The leading authority for rejection of the no-recovery rule on nonconstitutional grounds is *Hitaffer v. Argonne Co.*[163] In this case of first impression, the court carefully considered the principal justifications for the rule, and found each of them insufficient. The court answered the double recovery argument by asserting that it would be a simple matter to deduct from the wife's damages any amount recoverable by the husband for impairment of support.[164] Rejecting the unbroken succession of contrary precedent in other jurisdictions as based on "specious and fallacious reasoning," the court then adopted for the District of Columbia a rule allowing the wife to recover.[165]

In the twenty-one years since *Hitaffer*, a number of courts have been called upon to reconsider the wisdom of continued adherence to the no-recovery rule. Although the decisions have been divided, *Hitaffer* has attracted a considerable following.[166] Indeed, very recent cases indicate a clear trend in favor of permitting recovery.[167] In this area at least, the courts appear to be awakening to the fact that rules of law based upon outmoded concepts of uxorial status do not deserve contemporary reaffirmation.

In jurisdictions where the courts have refused to abandon the no-recovery rule, it is not surprising that equal protection claims have been raised. In two recent diversity cases, federal district courts in Michigan and Illinois were required to apply Indiana law in determining whether a wife could recover for loss of consortium. Since Indiana precedent at the time was clearly against recovery,[168] the only question was whether such a rule contravened the fourteenth amendment. In one case,[169] the opinion simply announced the court's conclusion that the Indiana rule violated equal protection. In *Karczewski v. Baltimore & Ohio Railroad*,[170] however, a similar conclusion was reached only after a carefully stated analysis of the problem. After reviewing the standard arguments against recovery, the court rejected them as unconvincing:

"[T]hat women cannot sue for loss of consortium is not excusable because based upon an historical legal doctrine which viewed a woman as her husband's chattel or "servant." Some positive justification is required. Nothing persuasive is offered by any of the cases which deny her this right.

"Marriage is no longer viewed as a "master-servant" relationship. It has assumed a special status in which each party has equal rights under the law." [171]

Concluding that there was in fact no rational basis for the no-recovery rule, the court then held it to be a violation of equal protection.[172]

Slightly more than a year later, however, *Karczewski* was in effect overruled by the Seventh Circuit Court of Appeals in *Miskunas v. Union Carbide Corp.*[173] In that case, the Indiana no-recovery rule was again contested on equal protection grounds. The only rational basis that the court could discover for the Indiana rule was the avoidance of double recovery. But that, it felt, was sufficient:

"Because a husband can recover for lost earnings, Indiana could reasonably conclude that it would be undesirable to give the wife an action that might permit double recovery. Since 87.8% of married men are employed and only 34.4% of wives are employed, Indiana could justifiably discriminate in this respect between the spouses. Indiana could infer that more often in a wife's suit than a husband's the jury would award her duplicating damages for some of the same elements of injury." [174]

At first glance, the employment statistics relied upon by the court seem to support its conclusion that there is a rational basis for the no-recovery rule, since they do demonstrate that the great majority of actions by wives will involve the possibility of double recovery. On closer examination, however, the figures reveal that, for 12% of the wives, an action for loss of consortium could not possibly result in double recovery. The arbitrariness of the no-recovery rule is demonstrated by the unfairness of its application to these wives. If the double-recovery problem is sufficiently acute to warrant an exclusionary rule at all, using the plaintiff's sex as the basis for exclusion seems questionable. It would be much fairer (and would impose no special burden on the courts) to entertain the wife's cause of action at least in every case where the husband was unemployed at the time of injury.

The consortium cases reflect a variety of ways in which sexist patterns of thought retain their influence over rules of law. In its inception, the rule granting only the husband an action for loss of consortium was blatantly male-supremacist: At common law, wives could be analogized to servants; a husband could therefore claim the benefit of the established cause of action for loss of the services of a negligently injured servant. Today, of course, no course could seriously declare that a husband is the "master" of his wife and that he is entitled to her services, companionship and sexual attentions without incurring any reciprocal obligations. Where the no-recovery rule survives, its principal justification is now the fear of double recovery—seemingly more a rationalization than a reason.

Although not stressed in judicial opinions, there may be another reason why the no-recovery rule is still adhered to. There is ample evidence that American courts have been reluctant to extend tort liability for purely "emotional" injury—largely because of their apprehension that indulgent juries will award excessive damages, given the intangible nature of such an injury and the ease with which it can be feigned. Thus, negligent infliction of mental suffering has only recently received wide recognition as a compensable wrong.[175] The principal element in a wife's consortium recovery is apt to be the loss of her husband's companionship and affection; it would hardly be surprising if many courts regard this as an essentially "psychological" injury, requiring similar caution.

If this hypothesis is valid, then judicial retention of the no-recovery rule is understandable, but hardly commendable. Even if the fear of unjustified recoveries does furnish sufficient reason for a rule of exclusion, it surely does not require the perpetuation of irrational distincitons based on sex alone. Whatever the rule, it should be the same for both sexes; both should be permitted to recover, or neither.

H. Conclusions from the cases

Although the above cases deal with sex discrimination in a wide variety of activities, they by no means exhaust the examples which might be shown. We believe they are sufficient, however, to demonstrate the following general propositions:

(1) Despite the enactment of various laws designed to improve the position of women, male-dominated legislatures and courts have historically exhibited the belief that women generally are—and ought to be—confined to the social roles of homemaker, wife and mother, and gainfully employed (if at all) only in endeavors which comport with their assumed subservient, child-oriented and decorative characteristics;

(2) A small but significant number of courts has recently perceived that some legislation mandating sex discrimination presents substantial constitutional questions, and several such laws have been struck down on equal protection grounds;

(3) Despite such holdings by a number of state and lower federal courts, opinions continue to appear in which both the result and the reasoning are virtually indistinguishable from those issued nearly a century ago. In the absence of a definite shift of position on the part of the Supreme Court, and in the face of continued adherence by many state and federal courts to traditional sexist attitudes, it is far too soon to assert that a clear trend toward judicial recognition of women's rights has developed.[176]

III. SEX AND RACE

In nearly every section of this study, we have advanced the analogy of racial discrimination in order to clarify and strengthen our arguments that various forms of sex discrimination constitute a denial of equal protection. Although we elected to postpone discussion of the general aptness of the analogy between race and sex, we are of course aware that the reader may not be ready to concede the validity of any argument based primarily on such an analogy. We are convinced, however, that each example we have suggested is appropriate and that all of them can be justified by the same general considerations.

Analytically, state-enforced sex discrimination is virtually identical to racial discrimination in at least three significant ways: (1) each reflects a group stereotype based on imputed characteristics which, if not purely imaginary, are nonetheless inapplicable to many individual members of the group; (2) each provides governmental endorsement for the opinion privately held by members of a dominant group that, due to the supposed existence of these characteristics, each member of the subordinate group is inherently inferior; and (3) proceeding from the assumption that the stereotypes are accurate, each attempts to confirm and perpetuate the existence of the supposed characteristics by requiring every citizen to conform to a variety of rules, all of which reflect the belief that one group is in fact inferior to another.

The falsity of certain racial stereotypes, notably with respect to blacks and American Indians, has become widely recognized in recent years. That the female stereotype is also untrue (and even a bit foolish) has been convincingly argued by many, but the myth of female inferiority stubbornly persists—even among supposedly enlightened judges. The preceding sections document the consistency with which our (overwhelmingly male) judiciary has supported enactments of our (predominately male) state legislatures that require women to conform to the expectations of the dominant group. In addition, the case law clearly shows that women have been denied equal treatment in employment, public education, places of public accommodation and—shamefully—in those supposed bastions of "equal justice," the criminal and civil courts. In all of these respects, contemporary sex discrimination closely resembles the pre-*Brown* pattern of racial discrimination by law

As bases for classification, sex and race share three important similarities: (1) by and large, members of the subordinate group are readily identifiable; (2) membership in the "inferior" group is initially nonvolitional; and (3) once acquired, this membership cannot be renounced. (Particularly in the last respect, race and sex discrimination are of a different order from discrimination against the poor or the young; members of these latter groups are not inevitably trapped for life in a subordinate status.) It is repungent to the most rudimentary sense of fairness that a person should be officially relegated to an inferior status, severely limiting his opportunities for self-expression and achievement, solely because of an accident of birth. Stripped to its essentials, this is precisely the effect of racial and sex discrimination.

Belatedly, whites are starting to comprehend the enormity of the injustice perpetrated upon nonwhites in America. White males, on the other hand, have hardly begun to recognize that the society we control has visited exactly the same type of injustice upon nonmales—though admittedly with less heinous consequences. Notwithstanding the fact that a far greater degree of visible harm has been suffered by nonwhites than by females, a general pattern of economic and political disadvantage is easily demonstrable in both cases.

In terms of other, less obvious effects upon individual members of the subordinate group, sex and race discrimination are again distressingly similar. When it enforces either kind of discrimination with a broad range of sanctions, the state encourages its citizens to relate to each other according to group stereotypes, rather than as individuals. This is dehumanizing—for the dominant group as well as the subordinate. But the effect on the "inferior" individuals is particularly unfortunate: constant subjection to pervasive reinforcement of group stereotypes tends to influence—to *distort*—their perception of themselves. As one recent commentator put it:

"Lowered cultural expectations of success and higher expectations of failure result in a self-fulfilling prophecy: From those of whom little is expected little is achieved. These patterns of discouragement, the perpetuation in our education processes of women as "helpmate," the absence of "appropriateness," all these handicaps to women in our society are key factors in a woman's choosing to be a nurse rather than a doctor, a law secretary rather than a lawyer, a researcher rather than a writer, a teacher rather than a practitioner." [177]

At best, these effects of racial and sex discrimination are wasteful of invaluable human resources; at worst, they are damaging and degrading to the individuals affected.

In light of all these similarities between the operation and effects of both types of state-imposed discrimination in education, employment and the judicial process, we believe it entirely appropriate to use racial analogies to assist in the resolution of cases involving the rights of women. Indeed, we would contend that, at least with respect to the areas surveyed above, both types of discrimination should be subjected to the identical equal protection standard.

True, there may be areas of state regulation where the analogy between sex and race should not be employed—where certain types of sex discrimination should be recognized as valid although corresponding racial discrimination would not be. Several areas of law not discussed above quite explicitly distinguish between the sexes, and often operate upon them unequally. One obvious example is the regulation of sexual activity by criminal statutes that punish one sex exclusively or more severely than the other; another is the regulation of family relationships by statutes—such as those relating to marriage and divorce, abortion and sterilization, child custody and support, etc.—that in many ways define the rights and duties of the marital partners differently according to their sex. There are those who feel that all laws governing sexual conduct and familial relationships are in need of drastic overhauling, so as to make them completely neutral between the sexes. On the other hand, many would argue that there are basic societal interests in these areas which might be threatened by such a readjustment.

One need not hold any particular opinion about society's regulation of sexual activity and marriage, however, in order to respond to the issues of equal protection arising in education, employment, and the judicial process. On the contrary, the argument for sex equality in these areas is made even more compelling by the fact that the sexual discriminations there involved have nothing whatever to do with sexual activity or inherent sex differences. This is not to deny that equal protection issues may be raised by laws regulating sexual conduct or familial relationships; it is simply to suggest that such issues should be all the more visible in the many cases where sex differences or sexual activity are not directly involved.

IV. JUDICIAL ATTITUDES TOWARD SEX DISCRIMINATION CASES

Despite the strong argument that sex discrimination has much the same destructive potential as race discrimination, it is nevertheless undeniable that American judges have responded more readily to claims of injury from the latter. It is possible, of course, that this merely establishes that sex discrimination is not inherently harmful—thereby disproving our thesis. It is also possible, however, that there are reasons why male American judges should have difficulty in perceiving its harmful effects. We should like to offer our intuitive suggestions as to what some of these reasons may be. We believe that what follows is to a great extent applicable to all males, although our primary concern is with the extent to which it may be true of judges in particular.

The failure of any male to perceive the harmful potential of various sexually discriminatory laws and practices can perhaps be initially ascribed simply to a lack of knowledge. This is particularly true in contrast with race discrimination. For at least the past ten years, the white public has been exposed to a rather steady and wide-ranging stream of information about the effects of one hundred years of segregation and discrimination on the black citizens of America. Only recently, however, has the public begun to be aware of the injurious effects of sex discrimination. It is the responsibility of counsel, of course, to educate the judge about the facts of any lawsuit, and in a case involving sex discrimination, this includes helping him to understand in what respects the practice complained of is harmful to those affected.

Like most other men, male judges suffer from an additional handicap in comprehending the effects of sex discrimination. With respect to race, it is likely that the white judge has close personal association with few if any black persons; although his information about the harms of race discrimination may therefore be secondhand, it nevertheless may have considerable validity for the black population in general. Virtually every judge, however, is in daily contact with one or more women on a close personal basis—a wife, a daughter, a mother, a sister, or one or more office employees. If the women with whom he is associated are all apparently happy and satisfied, he is likely to conclude from this that all "sensible" women are content with their lot. In this respect, judges—like the authors of law review articles—must be alert to the dangers in overgeneralizing from their personal experience.

Even assuming that a judge does understand the effects of sex discrimination, he may nevertheless be deterred from granting relief in a particular case because of personal attitudes of which he is not even aware.

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There are a number of emotional responses to "women's liberation" which it seems to us are shared by many men, including some judges. One of these, the fear of competition from individual women, is probably not present in the judge's case; judges, by and large, hold positions where women are no particular danger to either job retention or possible promotion. This may of course change in another generation, as the proportion of female law graduates rapidly increases, but for the present generation of judges, women probably pose little or no threat of personal competition.

In a more abstract way, however, competition from women as a group may indeed seem to threaten the judge's interests. Most judges hold their offices at least in part because of past activity in a political organization under predominately masculine control. Although there are of course able and successful female practitioners of the art of politics, they remain exceptions proving the rule that politics, like most exercises of power, is still a "man's game." Any change in the respective roles of the sexes which militates against such masculine domination—even if only in an insubstantial, largely symbolic way (as for example the question of whether women should serve on juries)—may stir uneasiness in the heart of one amply rewarded by, and comfortable with, the political status quo.

Fear of economic or political competition even if wholly subconscious, is of course an obvious reason why one might be moved to support discriminatory practices. There are, however, other emotions which may influence any male judge's response to a suit involving sex discrimination. All lawyers know that the "law" as represented by the results of litigated cases is as much the product of the court's evaluation of the "morality" of the parties' behavior and the "fairness" of the possible decisions as it is of any set of abstract rules. One way in which a good judge will utilize his emotional responses in partnership with his intellect is by engaging in a process of *empathy*—attempting to perceive the case before him as it is viewed by *the parties themselves*. Olympian detachment is indeed the best posture from which to render final decision, but it should be assumed only after the judge has first exercised his ability to emphasize with the parties to the lawsuit.

Faced with a black man's complaint of racial discrimination, a white judge may well do at least a passable job of empathizing with the plaintiff—of temporarily imagining himself to be black-skinned. This will of course vary with the judge's own conditioning on the matter of race. For a judge taught from birth to regard every black person as a subhuman creature, empathizing with a black man is as inconceivable as empathizing with an eagle or a Labrador retriever. The judge not so severely handicapped, however, will be able to imagine how it would feel to be on the receiving end of such discriminatory treatment. From this perspective, the judge's answer to the hypothetical question "How would I feel if someone did that to me" is likely to be "Furious!"—because if there is *anyone* unaccustomed to being treated as inferior or subordinate, it is a white male American judge. Having subjected himself, even if fleetingly, to what he imagines to be the plaintiff's mental tribulations, the judge is better equipped to test the parties' competing claims against an abstract principle of law.

Where sex discrimination is alleged, however, most male judges are likely to have considerable difficulty empathizing with a female complainant. Even before the typical American child first become aware of sex differences, he (or she) is conditioned to conform to the social role expected of his sex—which interests he should pursue (and which to shun), which occupations he should consider (and which to ignore), how he should talk, walk, think and *feel*. And one of the very worst things he can do, in society's eyes, is to express a desire to be—or to behave as though he were—a member of the other sex. Although there is some evidence that preoccupation with secondary sex differences may be declining, for the present generation of judges it may be easier to assume the imagined mental state of a black male, of whatever station in life, than it is successfully to imagine that one is a *female* (even a white, middle-class one). The wonder is not that some judges display insensitivity toward the sexist features of our society but rather than an increasing number of judges are apparently able to break through the strictures of their own conditioning.

An even more deeply rooted emotion which judges share with most of mankind is a general hostility to change—especially change of such a fundamental and far-reaching character as to transform radically the basic institutions of society. Although complaints about sex discrimination may focus on particular practices, the whole battery of "women's liberation" goals seems to some (both men and women) to portend a future society in which the roles of men and women as members of a family unit would be so different from those of today as to make it almost unrecognizable. Perhaps children would not be raised by their parents at all; perhaps marriage as we know it would disappear completely; perhaps the concept of "family" would mean something completely different—or nothing at all. To many white southerners of twenty years ago, the end of racial segregation seemed to spell the end of civilization. For the elderly or even middle-aged person today, any prospect of a basic change in the family structure of society as he has known it may seem equally disquieting. Even the most modest demand for equality, if perceived as the spearhead of a wide-ranging assault on the social order, may thus be viewed as a threat. But the reconciliation of stability and change is the essence of the judicial function; judges are therefore required to transcend their natural aversion to change—to join in shaping the course of social evolution, rather than adamantly opposing it.

If the above analysis has any validity, it follows that male judges are likely to decide issues of sex discrimination from a narrow perspective and under certain psychological handicaps. Are any countermeasures available to them?

First, the judge can avoid the temptation to dismiss summarily any claim of impermissible sex discrimination as "lacking in substance." The fact that a particular statute or practice has received general acquiescence for many years from both males and females should not foreclose judicial consideration of its constitutionality. (Here again, race discrimination furnishes an instructive parallel.)

The next suggestion is implicit in what has been said earlier about the process of judicial empathy. The judge must make a conscious effort to educate himself as to the effect of the statute or practice in question, from the point of view of the different types of women it affects. If the statute is one which prohibits all women from engaging in a certain occupation, for instance, he cannot be content with merely considering whether he, a mature male, is inclined to think that women generally ought not to engage in the proscribed activity (much less whether he thinks his own wife or daughter should do so). Rather, he must consider how a variety of women—single women as well as married, older women as well as young, black women and white, those with much education and those with little, those with children and those with none—are affected.

Further questions should be explored: Do the reasons advanced to support the discrimination in question apply only to *some* women? To some *men*, as well? Does it represent an expression of the stereotype of woman as a homebody, fit only for domestic labor? Or as some sort of harlot, wantonly corrupting innocent men? Does it appear to represent a conclusion that some portion of the community's affairs are—and should continue to be—run completely or primarily by men? That some kinds of decisions are better left to men? If the answer to some of these questions is yes, we would suggest that a prima facie case has been made against the validity of the statute or practice in question, as a denial of equal protection.

If the judge has reached this conclusion, then the next question is whether there is a basis for the legislature's action sufficient to overcome the initial finding that improper class legislation may be involved. We have earlier suggested that a classification based on sex is one which demands "scrutiny" as "strict" as any other, including race. If the reader disagrees, he will probably concede that there must at least be a "rational basis" for the discrimination. How does the judge ascertain whether such a "rational basis" exists?

It is perhaps more appropriate to suggest what the judge should *not* do in this regard. One suggestion would be to avoid merely concluding (as some judges apparently do) that the legislature must have had *some* reason, and whatever it was, it is good enough. Certainly a presumption of validity attaches to any legislative act, but when that presumption has been overcome by a showing of unequal treatment, it should be incumbent on the proponent of the act to demonstrate what its purpose was and why that purpose justifies treating the sexes in an unequal manner.

A second response to avoid is acquiescence in discrimination merely on the ground that it may obviate some degree of expense or inconvenience. An easy example is the jury statute considered in the *Hoyt* case, which was supported by the argument that calling only female volunteers would avoid the inconvenience occasioned by calling women who would then claim exemption. Another might be the claim of an educational institution that requiring it to admit females would entail the burden of providing them with restroom and other facilities not currently available. In our view, a state's policy of discrimination is not justifiable merely because it is more convenient or less expensive than a nondiscriminatory policy. It would be cheaper and more convenient to choose our President only from the citizens of one particular state, to have only citizens of that state elect him and to elect a new one only when the incumbent dies or retires. It would also be cheaper and quicker to do away with trial by jury in criminal cases. There are competing interests in both cases, however, which are stronger than the mere desire for efficiency and economy. The policy against sex discrimination should also be strong enough to prevail in such a competition. While efficiency and economy are in general "rational bases" for legislation, they do not justify discrimination against individuals on the basis of inborn characteristics which they are powerless to alter.

V. CONCLUSION

Having presented the results of our legal research, as well as our own intuitive hypotheses about judicial attitudes in sex discrimination cases, we would add only one item to a presentation perhaps already overlong. Freely conceding as we do that male judges are not unique in manifesting sexist habits of thought but rather share them with most other males (even law professors, ourselves included), have we any justification for singling out the judiciary for special criticism?

The judge in American society occupies a position of unique esteem in the eyes of his fellow citizens. In return for this particular honor, the judge assumes a special burden of personal responsibility for the fairness, objectivity and disinterestedness of his approach to the legal issues presented to him for resolution. This duty requires him, insofar as he is humanly able, to perform his judicial functions without yielding to the many prejudices and superstitions that influence other men in every aspect of their daily lives. Just as the policeman's special role entitles society to expect him not to react violently to taunts or expletives that would incite most men to action, so the judge can fairly be expected to free himself as nearly as possible from the limitations of his personal attitudes about sex roles in cases involving constitutional challenges to sex discrimination. The judicial role must transcend social conditioning in such matters; in this respect, the judge must be *above* other men.

Another aspect of the judicial role is the responsibility to be *ahead* of other men. Judges are not entitled to the luxury of shielding themselves behind public opinion or community attitudes, however strongly held those may be. The judiciary thus cannot shift responsibility to the legislatures, the press, women's liberation activists or anyone else. Nor can it postpone affirmative action until public opinion is overwhelmingly convinced that the time is appropriate. A judge whose opinions on important questions of public policy reflect nothing more than his private estimate of public majority opinion is engaging in journalism, not jurisprudence.

Our study has convinced us that, to date, most male American judges faced with issues of sex discrimination have not adequately met these special responsibilities. There are, however, some encouraging signs of progress. It is our hope that this study will contribute to an increasing judicial understanding of and sensitivity toward the serious constitutional issues raised by state laws that discriminate against individuals solely on the basis of their sex.

FOOTNOTES

*Professors of Law, New York University School of Law. The authors gratefully acknowledge the assistance of four New York University law students, Messrs. Douglas Behr, Lawrence Vaughan, Darman Wing and Richard Wolf, each of whom performed research which is reflected in the discussion that follows.

[1] Professor Knapp was a member of the Committee on Federal Legislation of the Association of the Bar of the City of New York, which studied proposed constitutional amendments designed to redress discrimination on the basis of sex. The committee's findings appear in Report, Amending the Constitution to Prohibit State Discrimination Based on Sex, 26 Record of N.Y.C.B.A. 77 (1971).

[2] "Sex discrimination" can be used in a generic sense, connoting differing treatment of individuals solely on the basis of their sex. It can also be used in a pejorative sense to denote those situations in which inequality of treatment is designed to benefit one sex to the detriment of the other. Except where the context indicates otherwise, we will use the term in the former sense.

[3] Some of the most valuable references are: L. Kanowitz, Women and the Law (1969); Crozier, Constitutionality of Discrimination Based on Sex, 15 B.U.L. Rev. 723 (1935); Murray & Eastwood, Jane Crow and the Law: Sex Discrimination and Title VII, 34 Geo. Wash. L. Rev. 232 (1965); Note, Sex Discrimination and Equal Protection: Do We Need A Constitutional Amendment?, 84 Harv. L. Rev. 1499 (1971); Developments in the Law—Employment Discrimination and Title VII of the Civil Rights Act of 1964, 84 Harv. L. Rev. 1109 (1971); Note, Sex Discrimination and the Constitution, 2 Stan. L. Rev. 691 (1950). Also of interest is Brown, Emerson, Falk and Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, 80 Yale L.J. 871 (1971), which appeared as this article was going to press.

[4] For a recent exchange of views on the subject by eminent constitutional lawyers, see Symposium, Equal Rights for Women: A Symposium on the Proposed Constitutional Amendment, 6 Harv. Civ. Rights-Civ. Lib. L. Rev. 215 (1971). See also Brown, Emerson, Falk and Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, supra note 3.

[5] A March 1970 memorandum of the Citizens' Advisory Council on the Status of Women lists 15 specific areas of sex discrimination:

1. State laws placing special restrictions on women with respect to hours of work and weightlifting on the job;

2. State laws prohibiting women from working in certain occupations;

3. Laws or practices operating to exclude women from State colleges and universities (including higher standards required for women applicants to institutions of higher learning and in the administration of scholarship programs);

4. Discrimination in employment by State and local governments;

5. Dual pay schedules for men and women public school teachers;

6. State laws providing for alimony to be awarded, under certain circumstances, to ex-wives but not to ex-husbands;

7. State laws placing special restrictions on the legal capacity of married women or on their right to establish a legal domicile;

8. State laws that require married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business;

9. Social Security and other social benefits legislation which give greater benefits to one sex than to the other;

10. Discriminatory preferences, based on sex, in child custody cases;

11. State laws providing that the *father* is the natural guardian of the minor children;

12. Different ages for males and females in (a) child labor laws, (b) age for marriage, (c) cutoff of the right to parental support, and (d) juvenile court jurisdiction;

13. Exclusion of women from the requirements of the Military Selective Service Act of 1967;

14. Special sex-based exemptions for women in selection of State juries;

15. Heavier criminal penalties for female offenders than for male offenders committing the same crime.

CONGRESSIONAL RECORD, vol. 116, pt. 7, p. 9684. We shall treat in some detail the first three and the last two items on this list. In addition, we will discuss discrimination in places of public accommodation and with respect to recovery for loss of consortium.

[6] 83 U.S. (16 Wall.) 130 (1873).

[7] Id. at 132.

[8] 83 U.S. (16 Wall.) 36 (1873).

[9] We doubt very much whether any action of a State not directed by way of discrimination against the negroes as a class, or on account of their race, will ever be held to come within the purview of this [equal protection] provision. It is so clearly a provision for that race and that emergency, that a strong case would be necessary for its application to any other.
Id. at 81.

[10] 83 U.S. (16 Wall.) at 140–42.

[11] 154 U.S. 116 (1894).

[12] See Konigsberg v. State Bar, 353 U.S. 252. 262 (1957); Schware v. Board of Bar Examiners, 353 U.S. 232, 238–39 (1957).

[13] In 1949, then U.S. Supreme Court Associate Justice Thomas C. Clark described women lawyers in the following words:

As lawyers they have demonstrated their ability in all phases of law. . . . Any debate as to their legal ability would be as obsolete as a discussion on the merits of Woman Suffrage . . . [Y]ou can depend upon a woman lawyer for a careful painstaking legal job . . . The legal profession has been immeasurably strengthened by the presence of women lawyers.

Tally, Women Lawyers of Yesterday, Today, and Tomorrow, 46 Women Lawyers J., Summer, 1960, at 21, 23–24.

Women have proved themselves to be capable practitioners and have risen to important positions within the legal profession:

According to the United States Department of Labor, about 175 women were judges of Federal, State, County, and City courts in 1955. . . . This figure does not include women justices of the peace. In 1957 a woman was presiding judge of the Sixth Circuit . . . of the United States Court of Appeals, the highest judicial post ever held by a woman in the United States. Another woman was judge of the United States District Court, one of the fifteen judges for the District of Columbia. In California, a woman was, as of 1957, an associate Justice of the Tax Court of the United States and a woman was appointed a judge of the United States Customs Court in June, 1955, the second woman to hold this post . . .

Harris, Women and the Law, 47 Women Lawyers J., Winter, 1961, at 20, 21. Furthermore, the number of women sitting as judges has now risen to 200 and the number of female federal district judges has increased to three. There is still only one woman on the United States courts of appeals. Sassower, Women in the Law: The Second Hundred Years, 57 A.B.A.J. 329, 330–31 (1971). Nevertheless, the legal profession remains male dominated; women lawyers constitute only about 3% of the total. Moreover, this percentage has remained virtually constant over the past 20 years. The percentage from 1948 to 1966 rose only from 1.8 to 2.8%. The 1967 Lawyer Statistical Report 15 (Weil ed. 1968).

After admission to the bar, women encounter further discrimination. In a study of women lawyers, James J. White found on the basis of a questionnaire study that "males make a lot more money than do the females." White, Women in the Law, 65 Mich. L. Rev. 1051, 1057 (1967). Furthermore, the practices of women lawyers seem to be centered around certain areas: "The proportion of females engaged in trusts and estates (60%), domestic relations (50%) and tax (31%) [was] higher than the proportion of men engaged in these activities. These data accord with the commonly held beliefs about women's practice." Id. at 1062. See generally Dinerman, Sex Discrimination in the Legal Profession, 55 A.B.A.J. 951 (1969); Sassower, Women in the Law: The Second Hundred Years, 57 A.B.A.J. 329 (1971); Testimony Submitted by the Women's Rights Comm. of N.Y.U. School of Law for Hearings Conducted by the House Subcomm. on Educ., 116 Cong. Rec. H7980 (daily ed. Aug. 10, 1970).

[14] The twenty-first amendment provides that "the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof, is hereby prohibited." U.S. Const. amend. XXI, § 2. This amendment has been interpreted as relaxing the usual commerce clause limitations on state regulation of the liquor trade. Hostetter v. Idlewild Liquor Corp., 377 U.S. 324, 330–31 (1964); Carter v. Virginia, 321 U.S. 131, 140 (1944) (Frankfurter, J., concurring); Ziffrin, Inc. v. Reeves, 308 U.S. 132, 137–38 (1939). The amendment does not, however, similarly relax the due process and equal protection guarantees of the fourteenth amendment. See Joseph E. Seagram & Sons, Inc. v. Hostetter, 384 U.S. 35 (1966); Parks v. Allen, 409 F.2d 210 (5th

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Cir. 1969); Krauss v. Sacramento Inn, 314 F. Supp. 171, 177–78 n.5 (E.D. Cal. 1970).

[15] 335 U.S. 464 (1948).

[16] Id. at 465–66.

[17] The three-judge district court from which the appeal had been taken was no more enlightening in its discussion of the legislative intent, referring to a conceivable (but unspecified) "grave social problem" that could be created by female bartenders and to the likelihood that male owners would be motivated to maintain a "wholesome atmosphere" if their wives or daughters were tending bar. The statute was then categorized as a "special provision for the protection of women." Goesaert v. Cleary, 74 F. Supp. 735, 739 (E.D. Mich. 1947).

[18] 335 U.S. at 466–67.

[19] For a general discussion of the difference between the usual "reasonable classification" test of equal protection and the more strict "compelling state interest" test applied to certain "suspect" classifications, see Developments in the Law—Equal Protection, 82 Harv. L. Rev. 1065 (1969). For a recent illustration of the manner in which the determination of the applicable test may affect the result of a case, see Hawkins v. Town of Shaw, 437 F.2d 1286 (5th Cir. 1971).

The Supreme Court has never held that sex discrimination is inherently suspect, nor has it ever invalidated such discrimination by applying the "reasonable classification" test. See note 206 infra.

[20] See, e.g., City of Hoboken v. Goodman, 68 N.J.L. 217, 51 A. 1092 (Sup. Ct. 1902): "The supposed evil aimed at is the employment of women in connection with a traffic likely to induce vice and immorality." Id. at 221, 51 A. at 1093. See also State v. Considine, 16 Wash. 358, 364, 47 P. 755, 757 (1897):

The legislature is the supreme authority, within constitutional limitations, to determine what is and what is not an immoral business or a nuisance, and when it has so determined, its enactment is valid unless the legislative act is clearly partial, arbitrary, and oppressive. The prohibition of employment of a female person in the statute under which defendant was convicted uniformly applies to all persons employing, and who are engaged in a like business with defendant, and extends to all female persons employed.

Fifty years later, the pattern remained the same. See, e.g., Fitzpatrick v. Liquor Control Comm'n, 316 Mich. 83, 105, 25 N.W.2d 118, 127 (1946): "The extent to which the legislature may be influenced by a newer conception . . . as to the rights of women in employment and in social life, and particularly to act as bartenders in licensed liquor establishments, is for the legislature, and it only, to decide."

[21] Brown v. Foley, 158 Fla. 734, 29 So. 2d 870 (1947).

[22] E.g., Hargens v. Alcoholic Beverage Control Appeals Bd., 263 Cal. App. 2d 601, 69 Cal. Rptr. 868 (Ct. App. 1968); State v. Burke, 79 Idaho 205, 312 P. 2d 808 (1957).

[23] 57 N.J. 180, 270 A.2d 628 (1970).

[24] Id. at 186, 270 A.2d at 631.

[25] A similar technique was employed by the New Jersey courts to invalidate an ordinance prohibiting women from being served liquor at a bar unless seated. Gallagher v. City of Bayonne, 106 N.J. Super. 401, 256 A.2d 61 (Super. Ct. App. Div.), aff'd, 55 N.J. 159, 259 A.2d 912 (1969). See text accompanying notes 89–90 infra.

[26] This statute declared it a misdemeanor for a female to serve as a bartender and subjected both employer and employee to criminal sanctions. It also contained an exception for female owners of bars and wives of male owners. Cal. Bus. & Prof. Code § 25656 (West 1964).

[27] 485 P.2d 529, 95 Cal. Rptr. 329 (Sup. Ct. 1971).

[28] Cal. Labor Code §§ 1411–12 (West 1971).

[29] See, e.g., Longacre v. State, 448 P.2d 832 (Wyo. 1968).

[30] Civil Rights Act of 1964, §§ 701–16, 42 U.S.C. §§ 2000e-2000e–15 (1964). The effect of Title VII on state regulation of employment conditions is considered more fully in the next section.

[31] Employers with fewer than 25 employees are exempt from Title VII. Id. § 701(b), 42 U.S.C. § 2000e(b) (1964). Apparently some, but not all, of the employers in *Sail'er Inn* were exempt on this ground. See 485 P.2d at 532 n.4, 95 Cal. Rptr. at 332 n.4.

[32] See text accompanying notes 69–74 infra.

[33] Cal. Const. art. 20, § 18 (West 1954).

[34] In re Maguire, 57 Cal. 604, 608 (1881) (emphasis added).

[35] 485 P.2d at 533, 95 Cal. Rptr. at 333.

[36] Id. at 533–34, 95 Cal. Rptr. at 333–34.

[37] Id. at 534, 95 Cal. Rptr. at 334.

[38] Id.

[39] The court asserted that the clauses are substantially identical, citing County of Los Angeles v. Southern Cal. Tel. Co., 32 Cal. 2d 378, 196 P.2d 773 (1948). 485 P.2d at 538 n.13, 95 Cal. Rptr. at 338 n.13.

[40] 485 P.2d at 539, 95 Cal. Rptr. at 339.

[41] Loving v. Virginia, 388 U.S. 1 (1967); McLaughlin v. Florida, 379 U.S. 184 (1964); Takahashi v. Fish & Game Comm'n, 334 U.S. 410 (1948); Korematsu v. United States, 323 U.S. 214 (1944); Truax v. Raich, 239 U.S. 33 (1915).

[42] 485 P.2d at 540–41, 95 Cal. Rptr. at 340–41.

[43] Id. at 542, 95 Cal. Rptr. at 342.

[44] Id. at 542, 95 Cal. Rptr. at 342.

[45] Id. at 543, 95 Cal. Rptr. at 343.

[46] United States ex rel. Robinson v. York, 281 F. Supp. 8 (D. Conn. 1968). Cf. White v. Crook, 251 F. Supp. 401 (M.D. Ala. 1966); Commonwealth v. Daniel, 430 Pa. 642, 243 A.2d 400 (1968).

[47] The court distinguished *Goesaert* on the ground that the Michigan statute permitted women to tend bar only under circumstances where a close male relative was the actual owner of the bar and presumably could be expected to supervise the female bartender's activities. The California statute, on the other hand, contained an exception which allowed female owners to tend bar even in the absence of a male "protector." 485 P.2d 543, 95 Cal. Reptr. at 343. Thus *Goesaert's* protectionist rationale could not sustain the California statute.

[48] Vintage Soc'y Wholesalers Corp. v. State Liquor Authority, 63 Misc. 2d 287, 311 N.Y. S. 2d 735 (Sup. Ct. 1970).

[49] Id. at 289, 311 N.Y. S. 2d at 739.

[50] 208 Ore. 282, 300 P.2d 455 (1956).

[51] See text accompanying note 10 supra.

[52] 208 Ore. at 287–88, 300 P.2d at 457–58.

[53] N.Y. Unconsol. Laws § 8906 (McKinney 1961) confers upon the commission "sole control . . . over all licenses to . . . persons who participate in . . . wrestling matches or exhibitions." Pursuant to this authorization, Rule A–14, denying wrestling licenses to women, was promulgated.

[54] Calzadilla v. Dooley, 29 App. Div. 2d 152, 286 N.Y.S.2d 510 (4th Dep't 1968).

[55] Id. at 156–57, 286 N.Y.S.2d at 516 (emphasis added).

[56] The National Association of Bank Women reports that 270 women are bank chairmen or presidents, 20 are senior vice-presidents and 50 are executive vice-presidents. For Women, A Difficult Climb to the Top, Bus. Week, Aug. 2, 1969, at 42, 44. "The National Association of Bank Women, Inc. . . . is an organization of 6,431 women holding bank corporate titles . . . [M]embership includes about one-third of all women officers in the country." Foster, Executive Potential on the Distaff Side, Business, June 1969, at 47. Moreover, about 10% of all accountants and 2% of all CPA's are women. A. King, Career Opportunities for Women in Business 68 (1963).

Many women also have less specialized business experience. In 1968, over one million women were managers, officials or proprietors. U.S. Dep't of Labor, Women's Bureau Bull. No. 294, 1969 Handbook on Women Workers 90 (1969). Also, over 16,000 or 58.8% of women workers held white collar jobs. Id. Finally, 406 women earned master's degrees in business and commerce (2.7% of the degrees awarded), and 106 earned degrees in economics (9.5% of the total). More than 5,000 bachelor's degrees in business and commerce (8.6%) and over 1,000 degrees in economics were awarded to women. Id. Furthermore, in 1956, there were 5,900 women life insurance agents, about 3% of the total full-time underwriters. At the same time women made up about 1% of the agency managers and assistants. U.S. Dep't of Labor, Women's Bureau Bull. No. 229, Life Insurance Selling, Careers for Women as Life Underwriters 5 (1961).

[57] 93 Idaho 511, 465 P.2d 635 (1970), prob. juris. noted, 401 U.S. 934 (1971).

[58] Idaho Code § 15–312 (1948) establishes the order of priorities as:

(1) surviving spouse,
(2) children,
(3) parents,
(4) brothers [!],
(5) sisters [!],
(6) grandchildren . . .
(10) creditors . . .

[59] Id. § 15–317.

[60] Id. § 15–315.

[61] Id. § 15–314.

[62] 93 Idaho at 514, 465 P.2d at 638.

[63] Analogies to racial discrimination will also be suggested with regard to other specific issues discussed in later sections. The general aptness of the race analogy to sex discrimination cases is considered in Section III, infra.

[64] Murray, The Rights of Women, in The Rights of Americans 521, 525 (N. Dorsen ed. 1971). For a much earlier statement of a similar view, see Comment, 13 B.U.L. Rev. 276 (1933).

[65] 208 U.S. 412 (1908).

[66] 198 U.S. 45 (1905).

[67] 208 U.S. at 421–23.

[68] In West Coast Hotel v. Parrish, 300 U.S. 379 (1937), for example, the Court upheld a minimum wage statute for women by forthrightly rejecting the *Lochner* rationale and clearly establishing the principle that "freedom of contract" is no bar to state regulation of wages and working conditions. Id. at 391–95. While the Court did uphold a species of sex discrimination in *Parrish*, and in passing quoted several of *Muller's* sexist statements with apparent approval, it is possible that the Court would today be less ready to sustain such a statute against an equal protection (as opposed to a due process) attack.

[69] Civil Rights Act of 1964, § 703(e), 42 U.S.C. § 2000e–2(e) (1964). For a discussion of the application of Title VII to sex discrimination, see Developments in the Law—Employment Discrimination and Title VII of the Civil Rights Act of 1964, supra note 3, at 1166–95.

[70] For a discussion of protective statutes currently in force in a number of states, see Murray, supra note 64, at 537–39.

[71] See generally Oldham, Sex Discrimination and State Protective Laws, 44 Denver L.J. 344 (1967).

[72] 29 C.F.R. § 1604.1 (b) (1971).

[73] Rosenfeld v. Southern Pac. Co., No. 71–23983 (9th Cir., June 1, 1971); Ridinger v. General Motors Corp., 325 F. Supp. 1098 (S.D. Ohio 1971); Kober v. Westinghouse Elec. Corp., 325 F. Supp. 467 (W.D. Pa. 1971); Caterpillar Tractor Co. v. Grabiec, 317 F. Supp. 1304 (S.D. Ill. 1970); Richards v. Griffith Rubber Mills Corp., 300 F. Supp. 338 (D. Ore. 1969); Southern Cal. Edison Co. v. Utility Workers Local 246, 61 CCH Lab. Cas. ¶ 9369 (C.D. Cal. 1969); Sail'er Inn, Inc. v. Kirby, Sup. Ct. 485 P.2d 529, 95 Cal. Rptr. 329 (1971). See also Mengelkoch 1. Industrial Welfare Comm'n, 284 F. Supp. 956 (C.D. Cal.), appeal dismissed and remanded, 393 U.S. 83 (1968). But see Krauss v. Sacramento Inn Corp., 314 F. Supp. 171 (E.D. Cal. 1970); Ward v. Luttrell, 292 F. Supp. 162 (E.D. La. 1968).

Title VII also prevails over privately imposed sex discrimination of a like nature. See Bowe v. Colgate-Palmolive Co., 416 F.2d 711 (7th Cir. 1969); Weeks v. Southern Bell Tel. & Tel. Co., 408 F.2d 228 (5th Cir. 1969); Cheatwood v. South Cent. Bell Tel. & Tel. Co., 303 F. Supp. 754 (M.D. Ala. 1969); Division of Human Rights v. New York-Pa. Professional Baseball League, 36 App. Div. 2d 364, 320 N.Y.S.2d 788 (4th Dept. 1971).

[74] If weightlifting and similar regulations are invalidated by Title VII, then exclusionary statutes of the sort discussed in the previous section will also fall unless based on a "bona fide occupational qualification." Title VII does not extend beyond employment discrimination, however. Hence, the constitutional issues will be decisive in an area such as public accommodations, discussed in the next section.

[75] 400 U.S. 542 (1971).

[76] 300 F. Supp. 338 (D. Ore. 1969).

[77] Id. at 340.

[78] 408 F.2d 228 (5th Cir. 1969).

[79] Id. at 235 (emphasis added).

[80] For a criticism of the *Weeks* decision, see Developments in the Law—Employment Discrimination and Title VII of the Civil Rights Act of 1964, supra note 3, at 1179–81.

[81] Adams v. Cronin, 29 Colo. 448, 69 P. 590 (1902), aff'd, 192 U.S. 108 (1904).

[82] Id. at 496–97, 69 P. at 593.

[83] 108 Ky. 473, 56 S.W. 705 (1900).

[84] Id. at 475.

[85] Id.

[86] See Commonwealth v. Price, 123 Ky. 163, 164–65, 94 S.W. 32, 33 (1906).

[87] Id. at 166–67, 94 S.W. at 34.

[88] Cf. Coates v. City of Cincinnati, 402 U.S. 611, 615 (1971).

[89] 106 N.J. Super. 401, 256 A.2d 61 (Super. Ct. App. Div.), aff'd per curiam, 55 N.J. 159, 259 A.2d 912 (1969).

[90] Eskridge v. Division of Alcoholic Beverages Control, 30 N.J. Super. 472, 476–77, 105 A.2d 6, 9 (Super. Ct. App. Div. 1954).

[91] One Eleven Wines & Liquors, Inc. v. Division of Alcoholic Beverage Control, 50 N.J. 329, 235 A.2d 12 (1967).

[92] 288 F. Supp. 530 (N.D.N.Y. 1968).

[93] 42 U.S.C. §§ 2000a–2000h–6 (1964).

[94] Id. §§ 1983, 1985.

[95] Id. §§ 2000a–2000a–6.

[96] De Crow v. Hotel Syracuse Corp., 59 Misc. 2d 383, 298 N.Y.S.2d 859 (Sup. Ct. 1969).

[97] N.Y. Civ. Rights Law § 40 (McKinney 1948).

[98] Id. § 40–e (McKinney Supp. 1970).

[99] 317 F. Supp. 593 (S.D.N.Y. 1970).

[100] Seidenberg v. McSorley's Old Ale House, Inc., 308 F. Supp. 1253 (S.D.N.Y. 1969).

[101] 317 F. Supp. at 605–06.

[102] The sole exception was a jury of females called to determine the fact of pregnancy. 3 W. Blackstone, Commentaries *362 (1775).

[103] See generally Fay v. New York, 332 U.S. 261, 289–90 (1947).

[104] 2 Wash. Terr. 267, 5 P. 305 (1884).

[105] Id. at 274, 5 P. at 306.

[106] Id. at 278–79, 5 P. at 309–10.

[107] Id. at 281, 5 P. at 311.

[108] 3 Wash. Terr. 131, 13 P. 453 (1887).

[109] The ground chosen was a narrowly technical one, but the result was sweeping: For failure to properly express its "object" in its title, the statute conferring voting rights on women in Washington Territory was held to be invalid. The result was to render women not only ineligible for jury service, but also ineligible to vote. In 1888, the Washington Legislature acted again to confer suffrage on women, but the statute was again struck down, this time as being outside the power of the territorial legislature. Bloomer v. Todd, 3 Wash. Terr. 599, 19 P. 135 (1888).

[110] Of course, the nineteenth amendment took precedence over any contrary provision of state law; if it had provided that jury qualifications should be equal for both sexes, no state law to the contrary would have prevailed. The amendment was universally held, however, to be directed solely at suffrage. E.g., State v. Mittle, 120 S.C. 526 113 S.E. 335, writ of error dismissed for want of jurisdiction, 260 U.S. 705, cert. denied, 260 U.S. 744 (1922).

[111] E.g., People v. Baritz, 212 Mich. 560, 180 N.W. 423 (1920); Parus v. District Court, 42 Nev. 229, 174 P. 706 (1918). For a collection of cases, see Annot., 157 A.L.R. 461, 470 (1945).

[112] 276 Mass. 398, 177 N.E. 656 (1931), cert. denied, 284 U.S. 684 (1932). Another example is People ex rel. Fyfe v. Barnett, 319 Ill. 403, 150 N.E. 290 (1925). But see People ex rel. Denny v. Traeger, 372 Ill. 11, 22 N.E.2d 679 (1939).

[113] Ten years earlier, the Supreme Judicial Court of Massachusetts had been asked by the state's House of Representatives whether, in light of the ratification of the nineteenth amendment, women were automatically qualified as jurors, and, if not, whether the legislature had the power to declare them qualified. The court answered these questions in the negative and affirmative, respectively. In re Opinion of the Justices, 237 Mass. 591, 130 N.E. 685 (1921). The jury statute under consideration in *Welosky* was the statute which had been considered in the court's earlier opinion; because of its advisory nature, however, the earlier opinion was expressly treated in *Welosky* as nonbinding although, as the text indicates, it was not repudiated). 276 Mass. at 400, 177 N.E. at 658 (1931).

[114] 276 Mass. at 407–08, 177 N.E. at 681.

[115] Id. at 410–11, 177 N.E. at 662. As examples of cases where these two factors were given weight, see People v. Shannon, 203 Cal. 139, 141–42, 263 P. 522, 523 (1928); State v. Kelley, 39 Idaho 668, 676, 229 P. 659, 662 (1924).

[116] Cases which found no constitutional obstacle to the addition of women to juries include: People ex rel. Denny v. Traeger, 372 Ill. 11, 22 N.E.2d 679 (1939), and Commonwealth v. Maxwell, 271 Pa. 378, 114 A. 825 (1921). See also United States v. Wood, 299 U.S. 123, 145 (1936), where there is dictum to the effect that the jury trial provision of the sixth amendment is no bar to the addition of women to the jury.

[117] 224 N.C. 581, 31 S.E.2d 858 (1944).

[118] Id. at 591, 31 S.E.2d at 865 (Devin, J., dissenting).

[119] Id. at 601, 31 S.E.2d at 871–72 (Seawell, J., dissenting). Another way to deal with the historical argument is to meet it on its own ground. In Commonwealth v. Maxwell, 271 Pa. 378, 114 A. 825 (1921), the court held that historically the most important feature of trial by jury had been that the legislature had the power to set jury qualifications.

[120] 100 U.S. 303 (1879).

[121] Id. at 310.

[122] 329 U.S. 187, 193–94 (1946). In the earlier case, Glasser v. United States, 315 U.S. 60 (1942), the Court had refused to find that an all-male federal grand jury had been improperly constituted. This holding, however, was based on the fact that only a very short period of time had elapsed between the enactment of the Illinois statute qualifying women for jury service and the selection of the grand jury in question. Id. at 64–65. The Court's clear implication was that absent these circumstances, the exclusion of women from the jury list would have been error.

[123] 329 U.S. at 193–94 (1946).

[124] 332 U.S. 261 (1947).

[125] The defendants in *Fay* were male labor union officials who had been convicted of extorting payments from employers by threats of various kinds. Their principal ground of appeal was the asserted invalidity of the process by which the special "blue ribbon" jury panel was drawn, alleging that the process discriminated both against women and against laborers, craftsmen and service employees—the "working class" in general. The five-member majority's opinion appears to hold that the record on appeal justified a finding of no purposeful discrimination; it also declares that such discrimination, even if present, would not necessarily constitute a denial of equal protection to defendants. Mr. Justice Murphy's dissenting opinion does not touch on the issue of sex discrimination, and, in light of the nature of the defendants' activities, it seems likely that the allegations of economic and social discrimination were the main basis of defendants' argument.

[126] 332 U.S. at 289–90.

[127] 136 Fla. 644, 187 So. 392 (1939).

[128] Id. at 665, 187 So. at 401.

[129] The court's rationale is also called into question by the many cases throughout the country which have considered whether a particular defendant has standing to raise the issue of exclusion of women from the jury lists. A rule applied in many state courts, although apparently not favored in the federal courts, is that only a female defendant has standing to raise the issue, on the theory that it is the female defendant whose interests are threatened by practices which operate to exclude women. For cases applying the majority rule, see, e.g., Griffin v. State, 183 Ga. 775, 190 S.E. 2 (1937); McKinney v. State, 3 Wyo. 719, 30 P. 293 (1892). Contra, Walter v. State, 208 Ind. 231, 195 N.E. 268 (1935). As to the federal courts, compare United States v. Butera, 420 F.2d 564, 567 n.2 (1st Cir. 1970), with Woodruff v. Breazeale, 291 F. Supp. 130 (W.D. Miss. 1967), aff'd, 401 F.2d 997 (5th Cir. 1968).

[130] 251 F. Supp. 401 (M.D. Ala. 1966) (3-judge court).

[131] Id. at 409.

[132] Ala. Code tit. 30, § 21 (Supp. 1969), amending Ala. Code tit. 30, § 21 (1958); Miss. Code Ann. § 1762 (Supp. 1970), amending Miss. Code Ann. § 1762 (1942); S.C. Code Ann. § 38–52 (Supp. 1970), amending S.C. Code Ann. § 38–52 (1962).

[133] State v. Hall, 187 So. 2d 861 (Miss.), appeal dismissed, 385 U.S. 98 (1966). See also Philpot v. State, 43 Ala. App. 326, 190 So. 2d 293 (1966).

[134] State v. Hall, 187 So. 2d 861, 863 (Miss. 1966).

[135] Ford v. White, 430 F.2d 951, 955 (5th Cir. 1970). See also United States v. Butera, 420 F.2d 564 (1st Cir. 1970) holding that inclusion of a disproportionately small number of women on the master jury list raises an inference of purposeful discrimination. Occasionally, the intentional exclusion of women jurors from a particular case will be frankly admitted. E.g., Abbott v. Mines, 411 F.2d. 353 (6th Cir. 1969) (trial judge had barred all women from jury empaneled to try malpractice action involving cancer of the penis); State ex rel Passer v. County Bd., 171 Minn. 177, 213 N.W. 545 (1927) (trial court excluded females from panel when a number of "carnal knowledge" cases were pending).

[136] E. g., State v. Bray, 153 La. 103, 95 So. 417 (1923).

[137] E.g., Leighton v. Goodman, 311 F. Supp. 1181 (S.D.N.Y. 1970).

[138] 368 U.S. 57 (1961).

[139] Id. at 61–62.

[140] Id. at 65.

[141] The idea that exclusion is the natural result of the women-volunteers-only type of exemption statute is also strongly suggested by the Louisiana cases. See State v. Reese, 250 La. 151, 171, 194 So. 2d 729, 737, cert. denied, 389 U.S. 996 (1967); State v. Dreher, 166 La. 924, 943, 118 So. 85, 92, cert. denied, 278 U.S. 641 (1928); State v. Bray, 153 La. 103, 106, 95 So. 417, 418 (1923). In each of these cases involving a female defendant there were apparently no women on the jury panel in the defendant's parish.

[142] E.g., Strauder v. West Virginia, 100 U.S. 303 (1879). See generally, Swain v. Alabama, 380 U.S. 202, 204, 228–29 (1965).

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[141] 368 U.S. at 68.

[144] Before the Florida statute was amended in 1967, it was once more unsuccessfully challenged, this time on the ground that it operated unfairly to exclude *black* women from juries. Scott v. State, 207 So. 2d 493 (Fla.), cert. denied, 393 U.S. 884 (1968).

[145] 311 F. Supp. 1181 (S.D.N.Y. 1970).

[146] Id. at 1183.

[147] In 1965, 37% of all women of working age were in the labor force. Nearly 60% of these women were married, and over a third had children under 18 years of age. In families where all children were over six years old and the fathers were at home and working, 43% of the wives were employed. U.S. Dep't of Labor, Women's Bureau Bull. No. 240, 1965 Handbook on Women Workers 15, 21, 37, 42 (1965). Whether these figures show that the "great majority" of women spend a 24-hour day at home is debatable. They certainly do not support the proposition that the working woman represents an aberration, which seems to be the court's view.

[148] 63 Misc. 2d 895, 313 N.Y.S.2d 827 (Sup. Ct. 1970).

[149] Id. at 898, 313 N.Y.S.2d at 830. The *DeKosenko* opinion was written by a judge who had earlier exhibited insensitivity to the aspirations of women. See Goldblatt v. Board of Educ., 52 Misc. 2d 238, 275 N.Y.S.2d 550 (Civ. Ct. 1966), aff'd, 57 Misc. 2d 1089, 294 N.Y.S.2d 272 (Sup. Ct. 1968) (holding a female teacher not entitled to benefit of differential salary payment during her period of jury service, though male teacher would be so entitled).

[150] Hoyt v. State, 119 So. 2d 691, 701–02 (Fla. 1960) (Hobson, J.), aff'd, 368 U.S. 57 (1961).

[151] A Florida Supreme Court judge who dissented in the *Hoyt* case raised this point:

> No one in this enlightened age would question the fact that if a limitation such as is placed upon women by our statute with reference to jury service were engrafted into our statutory law in regard to some of the so-called minority groups comprising our citizenry, it would be stricken down as violative of constitutional guarantees of due process and equal protection of the laws.

Id. at 700.

[152] There seems to be no reason why a jury statute could not simply provide an exemption for any individual (regardless of sex) having the personal responsibility of caring for a minor child. While most of the prospective jurors thus excused might still be women, the exemption would then be related to a relevant circumstance affecting particular individuals, and men coming within its provisions would be entitled to a similar exemption. Such a statute was upheld against constitutional challenge in State v. Smith, 102 N.J. Super. 325, 246 A.2d 35 (Super. Ct. 1968), aff'd, 55 N.J. 476, 262 A.2d 868, cert. denied, 400 U.S. 949 (1970).

[153] 317 S.W.2d 86 (Tex. Civ. App. 1958), cert. denied, 359 U.S. 230 (1959).

[154] Id. at 99.

[155] Id. at 100.

[156] 336 S.W..2d 251 (Tex. Civ. App.), cert denied, 364 U.S. 517 (1960).

[157] Id. at 262–63.

[158] Id. at 261.

[159] 309 F. Supp. 184 (E.D. Va. 1970).

[160] 163 U.S. at 537 (1866).

[161] 309 F. Supp. at 187 n.1. There is one other recent case involving a state university in which sex discrimination was successfully challenged on equal protection grounds. In Mollere v. Southeastern La. College, 304 F. Supp. 826 (E.D. La. 1969), female plaintiffs complained of a rule which required all female students under the age of 21 (regardless of their year) to live in college dormitories while subjecting only *freshmen* men to the same requirement. The court held the rule to be a violation of equal protection, but the significance of its opinion is unclear in light of the conceded fact that the rule's sole purpose was to insure adequate income from dormitory fees; there was apparently no argument that the policy was based in any respect on any differences between men and women. The opinion is an interesting example of one court's application of the equality principle in a sex-discrimination case, however, particularly in its use of a race-discrimination analogy to make a point about arbitrary treatment. Id. at 827 n.1.

[163] 3 16 F. Supp. 134 (D.S.C. 1970), aff'd mem., 401 U.S. 951 (1971) (Justice Harlan dissenting on the issue of whether direct appeal to the Supreme Court was available).

[163] Id. at 137.

[164] Id. at 137 n.3.

[165] See Green v. County School Bd., 391 U.S. 430 (1968); Goss v. Board of Educ., 373 U.S. 883 (1963).

[166] 105 Kan. 139, 181 P. 630 (1919).

[167] Id. at 140–41, 181 P. at 631.

[168] Id. at 146–47, 181 P. at 633–34.

[169] See, e.g., Ex parte Gosselin 141 Me. 412, 44 A.2d 882 (1945), appeal dismissed sub nom. Gosselin v. Kelly, 328 U.S. 817 (1946); Ex parte Brady, 116 Ohio St. 512, 157 N.E. 69 (1927).

[170] 281 F. Supp. 8 (D. Conn. 1968).

[171] 388 U.S. 1 (1967) (invalidating Virginia's antimiscegenation statute).

[172] 281 F. Supp. at 14.

[173] Id. at 16.

[174] United States ex rel. Sumrell v. York, 288 F. Supp. 955 (D. Conn. 1968).

[175] Liberti v. York, 28 Conn. Supp. 9, 246 A.2d 106 (Super. Ct. 1968).

[176] 430 Pa. 642, 243 A.2d 400 (1968).

[177] Id. at 650, 243 A.2d at 404.

[178] Id.

[179] The principle of the *Daniel* case has also been applied in Pennsylvania to the issue of where the defendant will be imprisoned. In Commonwealth v. Stauffer, 214 Pa. Super. 113, 251 A.2d 718 (1969), the defendant had been sentenced to a state penitentiary for women. On appeal, she was ordered returned to the county jail, it being conceded that any man convicted of the same offense would be confined in a county institution. The opinion nowhere suggests that separate imprisonment of men and women is constitutionally suspect; it does, however, suggest that the type of confinement must be substantially the same for both sexes.

Another recent Pennsylvania case involved still a different type of sex discrimination. In In re Williams, 210 Pa. Super. 388, 234 A.2d 37 (1967), aff'd sub nom. In re Jones, 432 Pa. 44, 246 A.2d 356 (1968), the commitment of two youthful males to a correctional institution as "defective delinquent juveniles" was challenged on the ground that the stated procedure was applicable only to males. The Superior Court held the constitutional challenge to be without merit, supporting its holding largely by quotations from its opinion in the *Daniel* case, 210 Pa. Super. 156, 232 A.2d 247 (1967), later reversed by the Pennsylvania Supreme Court. The issue of unconstitutional sex discrimination was apparently not argued on appeal. Cf. Chambers v. Director, 244 Md. 697, 223 A.2d 774 (1966) (dictum that limiting a state procedure for the treatment of "defective delinquents" to males is not unconstitutional). But see Morgan v. State, 179 Ind. 300, 101 N.E. 6 (1913) (holding unconstitutional a state statute providing for the commitment to an institution for "insane criminals" of any male defendant acquitted of a felony charge solely by reason of insanity).

The Pennsylvania Supreme Court has also indicated a willingness to extend the principle of the *Daniel* case to invalidate sentences meted out to juvenile offenders that are longer than those imposed on adults for identical offenses. In re Wilson, 438 Pa. 405, 430–32, 264 A.2d 614, 617–18 (1970). At least one other court has rejected this approach, in the absence of a showing by the accused that the state's juvenile correction system is devoid of rehabilitative aspects beyond those of mere confinement and discipline. Smith v. State, 444 S.W.2d 941, 948 (Tex. Civ. App. 1969). See also the cases cited in Comment, 82 Harv. L. Rev. 921, 925–26 n.25 (1969). On the general topic of sentencing, see Rubin, Disparity and Equality of Sentences: A Constitutional Challenge, 40 F.R.D. 55 (1967).

[180] 266 A.2d 62 (Me.), cert. denied, 400 U.S. 952 (1970).

[181] Id. at 64.

[182] Id. at 65.

[183] For one hypothetical example, see the suggestion by Professor Graham Hughes in The Right to Special Treatment, in The Rights of Americans 102 (N. Dorsen ed. 1971).

[184] Some doubt may be cast on this proposition, however, by a decision such as Commonwealth v. Stauffer, 214 Pa. Super. 113, 251 A.2d 718 (1969). See note 179 supra. *Stauffer* can be distinguished, however, on the ground that in that case it was a *female* defendant who was being treated as the greater risk.

[185] See Lippman, The Breakdown of Consortium, 30 Colum. L. Rev. 651 (1930).

[186] Marri v. Stamford St. R.R., 84 Conn. 9, 12, 78 A. 582, 583 (1911).

[187] Lippman, supra note 185, at 652–53.

[188] For a good short discussion of these rationales, see Note, Equal Protection: The Wife's Action For Loss of Consortium, 54 Iowa L. Rev. 510, 517–21 (1968). For a trenchant criticism of the rule barring recovery by wives, see Foster, Relational Interests of the Family, 1962 U. Ill. L.F. 493, 520.

[189] See cases cited in Hitfaer v. Argonne Co., 183 F.2d 811, 812–13 n.5 (D.C. Cir.), cert. denied, 340 U.S. 852 (1950).

[190] To the extent that Hipp v. E. I. DuPont, 182 N.C. 9, 108 S.E. 318 (1921) was not in accord, it was overruled by Hinnant v. Tidewater Power Co., 189 N.C. 120, 127–29, 126 S.E. 307, 311–12 (1925).

[191] See Lippman, supra note 185, at 665–69.

[192] In a few jurisdictions, the Married Women's Act was held to deprive the husband of his cause of action for loss of consortium, forcing him to share the wife's disability. See, e.g., Marri v. Stamford St. R.R., 84 Conn. 9, 78 A. 582 (1911); Bolger v. Boston Elevated Ry., 205 Mass. 420, 91 N.E. 389 (1910); Helmstetler v. Duke Power Co., 224 N.C. 821, 32 S.E.2d 611 (1945).

[193] 183 F.2d 811 (D.C. Cir.), cert. denied, 340 U.S. 852 (1950).

[194] Id. at 819.

[195] The *Hitaffer* case involved two different issues: whether a wife can recover for loss of consortium as a matter of general law, and whether the workmen's compensation statute for the District of Columbia permitted any recovery for loss of consortium. The court answered both questions affirmatively. In Smither & Co. v. Coles, 242 F. 2d 220 (D.C. Cir.), cert. denied, 354 U.S. 914 (1957), *Hitaffer* was overruled on the second issue. It was reaffirmed on the first issue, however, in Rollins v. District of Columbia, 265 F. 2d 347 (D.C. Cir. 1959).

[196] See W. Prosser, Torts § 119 (3d ed. 1964); Restatement (Second) of Torts § 695, at 13–21 (Tent. Draft No. 14, 1969); Annot., 23 A.L.R. 2d 1378 (1952).

[197] Three recent decisions following *Hitaffer* and overruling contrary precedent are Troue v. Marker, 252 N.E. 2d 800 (Ind. 1969); Millington v. Southeastern Elevator Co., 22 N.Y. 2d 498, 239 N.E. 2d 897, 293 N.Y.S. 2d 305 (1968); and Clouston v. Remlinger Oldsmobile Cadillac, Inc., 22 Ohio St. 2d 65, 258 N.E. 2d 230 (1970). Pennsylvania reaffirmed its adherence to the no-recovery rule by a 5–2 margin in Brown v. Glenside Lumber & Coal Co., 429 Pa. 601, 240 A. 2d 822 (1968).

[198] Burk v. Anderson, 232 Ind. 77, 109 N.E. 2d 407 (1952); Boden v. Del-Mar Garage, 205 Ind. 59, 165 N.E. 860 (1933); Miller v. Sparks, 136 Ind. App. 148, 189 N.E. 2d 720 (1963). All three were expressly overruled in Troue v. Marker, 252 N.E. 2d 800, 806 (Ind. 1969).

[199] Owen v. Illinois Baking Corp., 260 F. Supp. 820 (W.D. Mich. 1966).

[200] 274 F. Supp. 169 (N.D. Ill. 1967).

[201] Id. at 175.

[202] Contra, Krohn v. Richardson-Merrell, Inc., 219 Tenn. 37, 406 S.W.2d 168 (1966), cert. denied, 386 U.S. 970 (1967); Seagraves v. Legg, 147 W. Va. 331, 127 S.E.2d 605 (1962).

[203] 399 F.2d 847 (7th Cir. 1968), cert. denied, 393 U.S. 1066 (1969). At the time of the *Miskunas* decision, both Illinois and Wisconsin had followed *Hitaffer*. Subsequently, Indiana did also. Troue v. Marker, 252 N.E.2d 800 (Ind. 1969). The equal protection issue now appears moot in the Seventh Circuit, except as to causes of action arising prior to the changes in state law.

[204] 399 F.2d at 850.

[205] See generally W. Prosser, Torts § 55 (3d ed. 1964).

[206] The Supreme Court has never squarely held that any form of sex discrimination violates the equal protection guarantee. Moreover, as recently as the spring of 1971, in Williams v. McNair, 401 U.S. 951 (1971), the Court summarily affirmed a decision upholding South Carolina's operation of a sex-segregated college against an equal protection challenge. (We have already noted our reservations about the Court's disposition of that case; see text accompanying notes 162–65 supra.) Since no opinion was handed down in *Williams*, however, there is no way to discover the basis for the Court's conclusion that no constitutional violation had been demonstrated.

The Court obviously has not foreclosed the possibility that some forms of sex discrimination can violate the guarantee of equal protection, however, as evidenced by its agreement to hear at least three cases in which this issue is directly presented: Reed v. Reed, 93 Idaho 511, 465 P.2d 635 (1970), prob. juris. noted, 461 U.S. 934 (1971), discussed in the text accompanying notes 57–63 supra; In re Stanley, 45 Ill.2d 132, 256 N.E.2d 814 (1970), cert. granted sub nom. Stanley v. Illinois, 400 U.S. 1020 (1971), involving alleged discrimination against the male parent in awarding custody of illegitimate children; and State v. Alexander, 255 La. 941, 233 So.2d 891 (1970), cert. granted sub nom. Alexander v. Louisiana, 401 U.S. 936 (1971), involving a claim that females were systematically excluded from the grand jury which returned a rape indictment against the defendant, a male Negro. (The state court's opinion in the *Alexander* case indicates that race discrimination was the principal ground of defendant's motion to quash the indictment, however.) The decisions in these three cases are expected to reveal the attitudes of the current members of the Court toward equal protection as it applies to sex discrimination.

It must be acknowledged, however, that several recent Supreme Court decisions have appeared to restrict, rather than enlarge, the scope of the equal protection clause. In James v. Valtierra, 402 U.S. 137 (1971), the Court upheld a provision of the California constitution prohibiting construction of any low rent housing project unless it had received prior approval in a local referendum. Petitioners had contended that this special obstacle to the provision of low income housing discriminated against the poor, violating their right to equal protection. In Hunter v. Erickson, 393 U.S. 385 (1969), the Court had earlier held invalid a similar law requiring a referendum as a prerequisite to the passage of any "fair housing" ordinance designed to prohibit racial discrimination. Mr. Justice Black (the sole dissenter in *Hunter*) wrote the Court's opinion in *James*; four justices joined him in refusing to extend the *Hunter* holding to invalidate discrimination which was apparently directed only against persons of low income, without regard to race. (Justices Marshall, Brennan, and Blackmun dissented; Justice Douglas did not participate.)

In Levy v. Louisiana, 391 U.S. 68 (1968) and Glona v. American Guarantee and Liability Insurance Co., 391 U.S. 73 (1968) the Court (dividing 6–3 declared discriminatory treatment of illegitimates in a State's Wrongful Death Act to be a violaton of equal protection. After Chief Justice Warren and Justice Fortas had been replaced by Chief Justice Burger and Justice Blackmun, however, a new 5–4 majority reached a different conclusion in Labine v. Vincent, 401 U.S. 532 (1971), involving an illegitimate's right to inherit from his natural father. Mr. Justice Black, again writing the majority opinion, attempted in *Labine* to distinguish *Levy* and *Glona; Labine* nevertheless casts great doubt on the validity of the proposition—which arguably had been established in *Levy* and *Glona*—that illegitimacy constitutes a "suspect classification" for purposes of equal protection.

These decisions indicate that the Court is sharply divided over the scope of the equal protection clause, and specifically over the question of what (if any) application it may have outside the area of race discrimination. In this regard, see also Oregon v. Mitchell, 400 U.S. 112 (1970), especially the discussion at 126–31 (Mr. Justice Black's opinion, seemingly arguing that the fourteenth amendment applies only to racial discrimination) and 150–52 (appendix to the opinion of Mr. Justice Douglas, listing cases said to have struck down, on equal protection grounds, statutes discriminating on bases other than race). The only prediction that the authors feel safe in making about the three currently pending cases is that the decisions are not likely to be unanimous, and are even less likely to be embodied in a single opinion.

[207] Sassower, supra note 13, at 330.

Mr. BAYH. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. PERCY. Mr. President, I shall be very brief. I hope I can be briefer than 5 minutes.

Mr. President, I have tremendous respect for my colleague, the Senator from North Carolina. I have joined him in the past on many issues, such as "speedy trial" and others involving individual rights and liberties. However, I could not be more opposed than I am now to the position the Senator from North Carolina has taken for men and women in this area of equal rights.

I have deep respect for his knowledge and the Constitution and for the knowledge possessed by Professor Kurland of the University of Chicago. I agree with him that adequate authority now exists for Congress and the legislatures of the States to pass legislation that, as he has put it, is directed at specific evils and for effective administration of legislation to eliminate invidious discrimination.

I would only ask one queston: If this authority does exist and has existed all these years, then why have we not, for heaven's sake, done something about exercising this authority?

I do not know of anyone in this body who would not recognize and appreciate that there is discrimination against women in business; that there is discrimination against women in the labor unions in this country; on virtually every university campus in this country; and in virtually every governmental agency and department.

If we had authority to do something about it, why did we not do something about it before?

Mr. President, the Senate's imminent action in approving the equal rights amendment draws to a close the 49-year debate that has surrounded the issue of equal rights for men and women. It is the culmination of a great deal of effort on the part of the amendment's supporters in the House and Senate. I think we are deeply indebted to the distinguished Senator from Indiana (Mr. BAYH) and the distinguished Senator from Kentucky (Mr. COOK), who have worked relentlessly to see the amendment through the Judiciary Committee and to muster support from both sides of the aisle. As a cosponsor of Senate Joint Resolution 9, I have strongly endorsed not only this proposal but each one directed toward insuring equal treatment under the law for men and women since first coming to the Senate in 1966.

I believe the Senate has done a great service to this country by rejecting every single effort to cripple the basic amendment which is to be submitted to three-fourths of the States for ratification.

Even among the resolution's opponents, there seems to be little question but that tradition and law have worked together to relegate women to an inferior status in our society. In many cases this has been intentional, based on an archaic precept that women, for physiological or functional reasons, are inferior. This concept has lead to the implementation of laws that prohibit women from engaging in certain businesses, managing their own properties and finances, entering into legal contracts, holding jobs which they are deemed incapable of performing, actively competing in public and private educational institutions for a quality education, and serving on a jury.

Certainly a form of male chauvinism was practiced in the Senate for almost two centuries, until only last year by preventing young women from gaining invaluable experience in Government through serving as Senate pages. Certainly as we look back at the experience we have had since last year with girl pages in the Senate, we can see that the arguments conjured up against their being permitted to so serve have certainly evaporated. These arguments look as shallow to us today as many of us felt they were all along.

Where discrimination has been less overt, we have imposed on women certain responsibilities that make it impossible for them to achieve equality. Marriage and divorce laws are primary examples of this.

Married women may by law expect in many instances nothing more than their husbands decide to give them. Once the marriage has been dissolved, a woman ordinarily has custody of the couple's children making it difficult if not impossible for her to work outside the home, although she must also assume the major responsibilities of supporting those children. Statistics on alimony and child support, which I have entered into the record, indicate that 1 year after the divorce only 38 percent of the fathers are in compliance with courts' support orders. After 10 years, only 13 percent are in compliance. What this means is that women, under the concept of maternity rights, must physically care for

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the children and assume the financial responsibility of earning a living for them as well.

Application of our criminal laws to women offenders is another example of inequality. Many States' laws automatically prescribe longer prison sentences for women than for men.

We now live under an ambiguous, conflicting, and discriminatory set of laws that in many cases do not even pretend to insure equal treatment for men and women. It seems a fairly simple principle of equity that the difference of treatment under the law should not be based on sexual distinctions, but rather, if there must be a difference, on the basis of some relevant material facts which compel the distinction. I am confident that the constitutional amendment which the Senate is about to approve will achieve that equality.

I suppose, in all candor, that other methods such as amending current labor, marriage, contract and corporate laws could also achieve this desired purpose. But the approach would be piecemeal, timeconsuming and for some States, ineffective. Only a constitutional amendment will provide the universal applicability and impetus to States to reform their laws and practices to be consistent with the constitutional mandate.

There are numerous misunderstandings as to what a constitutional amendment will, in practice, do. Many feel that an amendment will bring chaos to the employment field. It is true that the ERA will overturn States' so-called protective labor laws where they exist. But in view of the fact that modern technology has made such laws unnecessary and nonessential, the disruptive impact of the amendment would, in my view, be minimal. The amendment sets no quotas on the employment of women in any business, neither does it encourage women to abandon their homes to compete with men in the business area. It simply says that if a woman chooses to work, she must have the unfettered opportunity to do so and be regarded as equal to men in all phases of her employment, promotion, and working conditions.

Neither does the equal rights amendment lessen or demean the importance of women as wives, mothers, and mainstays of the home. Equality does not imply sameness. While the family structure is at the heart of our society and this legislation does nothing to disrupt that notion, we must recognize that women of today are different, they are aware of and willing to accept their responsibilities as citizens in a modern society and ought to be free to accept those responsibilities much as they are free to remain in the home if that is their choice. It was Susan B. Anthony, great defender of women's rights, who said almost a century ago that:

> Modern invention has banished the spinning wheel, and the same law of progress makes the woman of today a different woman from her grandmother.

Today we will truly acknowledge that equality can no longer be legally conditioned upon sex, that women, as they assume new roles in our society, deserve as a matter of law equal treatment under the law.

I commend the Senate in advance for the action it is about to take passing the amendment without any crippling changes and am proud that I was able to play a role in bringing about this important change in the law.

Mr. BAYH. Mr. President, I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, in my inaugural address as Governor of South Carolina, I advocated equal rights for women. I have favored this principle since that time.

I am very proud of the action that I feel the Senate will take today in passing this amendment so that it may be submitted to the States for ratification. I predict that the States will approve it.

Mr. President, I would like to say a few words in support of the equal rights amendment. This proposed constitutional amendment providing for equal rights for men and women has been introduced in nearly every Congress since 1923, shortly after the ratification of the 19th amendment extending the right to vote to women. The mere fact that this amendment has persevered so long is evidence of the grave need many people have attached to the importance of the amendment.

Even though there has been progress in recent years toward the goal of equal rights and responsibilities for men and women, there is overwhelming evidence that persistent patterns of sex discrimination permeate our social, cultural, and economic life. This holds true in spite of recent laws and Supreme Court decisions aimed at prohibiting such blatant discrimination.

For an example, working women are at a great disadvantage in private business. The median salary income for women is only 59.5 percent of that earned by men and the gap between male and female median incomes has been widening in recent years. In 1969, less than 5 percent of all full-time female workers earned over $10,000 per year, compared with 35 percent of all male workers. Sex discrimination also is present in government employment, which accounts for more than 20 percent of the labor force.

Mr. President, many States have business and labor laws which invidiously discriminate against women. These laws vary in their direction and import, but all have the effect of restricting or prohibiting women from engaging in a particular job or occupation. Many of these so-called "protective" labor laws are well intended, but they are a great disadvantage to the working women. For example, a law which limits the working hours of women but not for men makes it more difficult for women to obtain work they desire and for which they are qualified to perform or to become supervisors.

Last year the Supreme Court for the first time struck down a law which discriminated against women. The Court in Reed against Reed invalidated a State law which arbitrarily favored men over women as administrators of estates. This case is a step in the right direction; however, it does not go far enough. The Court did not hold that sex discrimination is "suspect" under the 14th amendment, but left the burden on every woman plaintiff to prove that governmental action perpetuating sex discrimination is "unreasonable."

Theoretically, this amendment may not be necessary because the Court, Congress, and the States could eventually strike down all sex discrimination laws. This approach is not practical mainly because it is too haphazard and too slow to be acceptable.

Therefore, the only practical basis to provide the necessary changes is through a constitutional amendment. The Nation has waited far too long for this important congressional action. It is now time for the Senate of the United States to act affirmatively on this important constitutional amendment.

The context of this amendment is short and concise and accomplishes the necessary change with a minimum of verbage. The amendment essentially requires that the Federal Government and all State and local governments treat each person, male and female, as an individual. It applies only to governmental action; it does not affect private action or purely social relationships between men and women.

Mr. President, I have long been a supporter of the equal rights amendment. However, this amendment would compel women to be drafted into the armed services and subject them to combat duty which may be neither necessary or desirable in our society. For this reason, I supported amendments to prevent this. The intent of these proposals was to allow the Congress to exempt our women from certain military obligations without infringing upon the great benefits guaranteed by the basic amendment. I do not feel that such obligations should be imbedded in the Constitution and believe Congress should have the power of decision concerning selection of persons eligible for the draft.

Mr. President, despite Senate rejection of the draft provision, I feel the need for the equal rights amendment is obvious. The time for this amendment is now. I, therefore, urge the Senate to act immediately and favorably on this necessary amendment to the U.S. Constitution.

Mr. BAYH. Mr. President, I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. COOPER. Mr. President, I will be brief. I have voted for practically all of the amendments which the distinguished Senator from North Carolina has offered. I voted for them because I thought they raised the valid question whether certain protections now accorded by law to women would be abrogated if the constitutional amendment is finally approved. I hope the State legislatures of our country will give due consideration and debate to these important questions raised by the Senator from North Carolina.

I believe they have merit, and although I shall vote for the constitutional amendment, I believe it will pose difficult problems for State legislatures and the Congress when they attempt to maintain

protections, such as exemption from military draft, and protection and support of children by fathers.

The Senator from North Carolina is a great constitutional lawyer, and an honor to the Senate. However, he has suggested an interpretation of the amendment which I believe should be opposed on the floor of the Senate. It is his suggestion of a possible interpretation by the courts of the amendment that would have the practical effect of abrogating the Federal-State relationship and of vesting in the Congress jurisdiction of practically all legislation under the control of the Congress.

With all due respect, I do not think such an interpretation could prevail. There are other provisions of the Constitution securing the Federal-State relationship and the jurisdiction of the courts; which would be considered if such is raised and they are as strong as the pending amendment.

I must say that I believe we could secure by statute practically any question to assure women necessary protection against discrimination. Some groups with whom I have talked do not understand all of the grave questions raised about their own protections and their own privileges. But they want, more than anything else, the Congress of the United States, the people of the United States to declare through a constitutional amendment they are equal to men and entitled to all possible rights.

I must say that it is compelling argument.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. Mr. President, I yield to the Senator from Kentucky any time that he needs.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I want to say that I am doubtful that the amendment is really needed, but I have the belief that the women of this country believe it is needed, and that they want Congress and the State legislatures to express their full equality. I shall vote for the measure. I am hopeful and I believe we have enough faith in the courts and our Supreme Court to interpret it in such a way that it will guarantee full rights, and at the same time it will not remove from women the protections they need.

Mr. FONG. Mr. President, I ask unanimous consent to have printed in the RECORD the individual views of the Senator from Hawaii which appear in the report so that they may be available to members of State legislatures.

There being no objection, the individual views were ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF MR. FONG

It is an undisputed fact that women have not been treated the some as men in industry, in the professions or under our various State and Federal laws.

A. HISTORICAL BACKGROUND

The so-called protective legislation, such as minimum wage laws, maximum hour laws, limitations on nightwork for women, when enacted in the early part of this century was intended to protect the health, safety and morals of female workers.

Unfortunately, as more and more women joined the working force, these laws have at times been used to the detriment of women. These laws have prevented or hindered the employment of women and their promotion to positions utilizing all their abilities. This has worked not only to the detriment of women, but to the detriment of the nation, which has been denied the full benefits of their talents, training and ability.

Equal rights for women is not a new concept. As early as 1848, at the first meeting for equal rights for women, held in Seneca Falls, New York, Elizabeth Cady Stanton read her now famous "Declaration of Sentiments":

"The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her."

The Declaration, under some 15 headings, then summarized the many discriminations against women at that time. Married women were unable to own property, to retain their own earnings, to sue, to retain counsel, or even to be the guardians of their own children so long as the husband lived. And, for the most part, they were barred from all but a primary grade education, nor could they vote.

Progress has been made toward equal treatment under law for women.

The 19th Amendment in 1920 gave women the right to vote.

The Civil Rights Act of 1964, among other things, prohibited discrimination based on sex, although Section 703(e) of that Act provides that discrimination based on sex can be justified if it is pursuant to a "bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise."

However, Executive Order 11375 (October 13, 1967), as amended, explicitly prohibits discrimination on the basis of sex in Federal employment and employment on Federal contracts.

Concededly, this is not enough.

B. HAWAIIAN ISLANDS

My state of Hawaii has been in the forefront of the move to eliminate statutory discrimination based on sex. Our fair employment practice law, our minimum wage and overtime pay laws apply equally to men and women. Jury qualification for men and women is the same. Women, equally with men, have the right to contract and to own property.

But even in Hawaii some laws are different for men and women. To cite a few: the laws of inheritance give a widow greater rights than they give to widowers. Certain preferences in State government employment and housing are given to widows, but not to widowers. A wife is not liable for her husband's debts. A husband is liable for a wife's debts, her proper support and maintenance. If he fails to provide suitable support, that is a ground for divorce, with temporary allmony and attorney's fees afforded only to women.

C. EFFECTS OF DISCRIMINATORY LEGISLATION BASED ON SEX AND NEED FOR REMEDIAL LEGISLATION

In many other states and under some Federal laws, there is greater discrimination, based solely on sex.

Sometimes this discriminatory legislation works to the detriment of women: higher standards are often required of women than of men; women too frequently are not hired or promoted to better paying jobs because of so-called protective legislation.

As outlined in the Report, all the criminal and civil discrepancies in treatment of men and women, in education, in business and the professions concededly exist.

On the other hand, some discriminatory legislation is beneficial to women; Women are eligible for Social Security benefits at 62, men at 65; rights to old-age, survivors, disability and other benefits under the Social Security Act and laws administered by the Department of Defense and the Veterans Administration are much more favorable to women than men.

As the Report of the Committee points out, under the Equal Rights Amendment, one standard would be applied to all—regardless of sex. Since all persons will be treated alike, it will be necessary to amend each Federal or State law which is discriminatory in any way, be that descrimination beneficial or detrimental to women. Unless the Congress and the legislatures of each of the States enact such amendatory statutes within the two-year period provided for in the Amendment, it will fall to the courts to determine which discriminatory legislation is to be declared void and hence inapplicable to either sex, and which discriminatory legislation is to be extended to both sexes.

This legislative function should not fall to the courts by default.

After a preliminary survey of the legislation most likely to be affected, I find almost all Federal laws which treat women differently from men can be amended. For instance: depending on cost and other factors, women's eligibility to all benefits under Social Security can be (1) kept at age 62 and men's lowered to that age, or (2) men's present eligibility age of 65 extended to women, or (3) a new age for eligibility applicable to both sexes can be fixed. The third alternative may be the fair and feasible solution.

D COMPULSORY MILITARY SERVICE

(1) Effect of Equal Rights Amendments on draft and assignment of women

However, there is one area in which insurmountable difficulties arise—military service. It is conceded by the proponents of this amendment that women, like men, will have to register for and be subject to the draft.

The Selective Service System in a letter dated February 25, 1972 advises:

"Should the legislation administered by our agency be affected by the amendment proposed in H.J. Res. 208, we would be required to register approximately two million more persons a year, twice the present number, with additional cost resulting in the areas of registration. If the additional registrants are further processed, additional costs for classification, examination and induction would result. Roughly, these costs would be doubled. The cost of operating national headquarters, the states' headquarters and the service centers, would not be materially increased but the work of the local boards and their paid employees would reach twice its present level.

"In more specific terms, in our budget for fiscal year 1973, service to registrants is $64,726,000. To double the number of registrants might not double the cost of this phase of our activity, but would substantially increase this item. Our examination services, budgeted at $1,107,000, is more closely related to the size of calls by the Department of Defense than to the number of registrants, and might not be substantially increased. Costs of administrative services and other activities would undoubtedly increase, but should not be doubled."

Going one step further, once women are registered, the question arises whether women must be assigned on an equal basis for all types of military service. If women are found physically qualified (under the same tests administered to determine men's qualifications) they will, in all likelihood, be required to serve in combat.

The Majority Report chooses not to face this reality. On the one hand they want equal treatment in drafting women for compulsory military service, but then, not being willing to fact the consequences of this action, they fall back on the words of Congresswoman Martha Griffiths, the primary sponsor of H.J Res. 208, on the floor:

XUM

"The draft is equal. That is the thing that is equal. But *once you are in the Army you are put where the Army tells you where you are going to go.*" (Emphasis supplied)

Fortunately, these words were uttered by a woman. A man would have been accused of male chauvinism and of advocating discriminatory treatment of women.

The Majority Report is replete with "expectations"; including that women will not be "assigned to combat posts, nor . . . required to engage in physical combat," as is the case of the Israeli Army. They overlook the realities. Israeli women do not serve in the Armed Forces because of their demands for equal treatment regardless of sex, but because of Israeli's small population, the services of each individual is indispensable to the defense of the country. Hence, different treatment of the women and the men in the Israeli Army is acceptable, even though incompatible with the concept of the Equal Rights Amendment.

Interestingly, on the subject of the present service of men and women in the Israeli Army, the maintenance of "separate and independent facilities" for women soldiers, is conceded, as is the fact that women soldiers perform tasks "in the clerical, communication, electronics and nursing fields." These tasks are characterized in the Report as "critical noncombatant tasks,"—yet, women are assigned these tasks on the basis of sex.

Hence, under H.J. Res. 208, as reported out by the Senate Judiciary Committee, it is my firm conviction that if women pass the same tests as given men prior to assignment to duty, they must also serve on combat duty, if found qualified for such duty.

Furthermore, the Department of Defense points out that if women could not be assigned to field duty, it might result in a disproportionate number of men serving more time in the field and on board ship because there would be a reduced number of positions available for their reassignment to non-combat duty. That would clearly be discriminatory against men—unless all persons who serve on combat duty are released from service in a shorter period of time. This same situation applies to the Army, Navy, Marine Corps, Air Force, Merchant Marine and the Coast Guard.

(2) *Effect of equal rights amendment on right of privacy*

Separate units for women will, I believe, be abolished just as separate ethnic and racial units in the Armed Forces have been abolished—both men and women will serve in the same units. What privacy women will be able to be afforded, if any, is uncertain. The Department of Transportation has already published in the Federal Register its notice of proposed rule-making to amend Coast Guard regulations to allow female members of the crew to use washrooms and toilet rooms that are used by male crew members. This, I believe, is indicative of the future if women are subjected to the draft.

(3) *Additional costs of military service of women under equal rights amendment*

I have requested of the Department of Defense an estimate as to what additional costs, if any, would be involved were women required to serve in all positions on an equal basis with men in the military service.

The Department's response, in a letter dated March 13, 1972, states, in pertinent part:

"The Department has not made such estimates and without specific programs for such "equal" service, it is impossible to make any estimate. One of the major areas that would contribute to increased costs would be separate facilities, both in terms of living quarters, as well as working facilities in areas where women are not currently stationed.

"Until a definitive plan is developed indicating where and under what circumstances women would serve in isolated areas, with combatant forces, aboard ships, etc., it is not possible to make a definitive estimate of costs. If extensive additional facilities or modifications to current facilities were required, the costs could be considerable."

As responsible Legislators, I feel we should have some definite indication as to what additional costs will be involved if the proposed amendment in its present form becomes part of our Constitution.

E. CONCLUSION

I voted in the Judiciary Committee to report out the Equal Rights Amendment.

However, for all the above set forth reasons, I am not ready or willing to support compulsory military service. If and when an all-volunteer military force comes into being, of course those women who wish to volunteer and serve in the field or on board ships may do so. But, so long as we have a draft law, I intend to vote to exempt women from compulsory military service, and to support such modification of the Equal Rights Amendment.

With this reservation, I give my fullest support to the Equal Rights Amendment and will do all possible to introduce necessary legislation to eliminate other differing treatment afforded men and women under our Federal laws.

Mr. BYRD of Virginia. Mr. President, will the Senator from Indiana yield to me for 3 minutes?

Mr. BAYH. I yield.

Mr. BYRD of Virginia. Mr. President, I shall vote in favor of House Joint Resolution 208, the equal rights amendment for women.

I share many of the concerns voiced by the distinguished senior Senator from North Carolina. I voiced those concerns by supporting clarifying amendments.

I think we would have had a better package to send to the States to consider as a constitutional amendment had clarifying amendments been adopted, but the majority of the Senate felt otherwise.

I would like to see more women interested in politics. I would like to see more women taking an interest in government. I think women can make many contributions to government. They can bring an idealism to government that is badly needed.

I would like to see more women in the Senate and in the House of Representatives. I would like to see more women in the State legislatures. I would like to see more women in the Cabinet of the United States and in high positions in the executive branch of Government. Yes, I believe women can make a great contribution.

As I mentioned earlier, I have some concern about the broadness of this constitutional amendment, as does the senior Senator from Kentucky, which he just voiced. I think it would have been a better proposal had clarifying amendments been agreed to, but I nevertheless shall vote in favor of House Joint Resolution 208.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. I yield back the remainder of my time.

Mr. ERVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the joint resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EASTLAND. Mr. President, on this joint resolution, I have a pair with the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Florida (Mr. CHILES). If they were present and voting, they would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "yea."

The yeas and nays resulted—yeas 84, nays 8, as follows:

[No. 122 Leg.]

YEAS—84

Aiken	Fulbright	Muskie
Allen	Gambrell	Nelson
Allott	Gravel	Pastore
Anderson	Griffin	Pearson
Baker	Gurney	Pell
Bayh	Harris	Percy
Beall	Hart	Proxmire
Bellmon	Hartke	Randolph
Bentsen	Hatfield	Ribicoff
Bible	Hollings	Roth
Boggs	Hruska	Saxbe
Brock	Hughes	Schweiker
Brooke	Humphrey	Scott
Burdick	Inouye	Smith
Byrd, Va.	Javits	Sparkman
Byrd, W. Va.	Jordan, N.C.	Spong
Cannon	Jordan, Idaho	Stafford
Case	Kennedy	Stevens
Church	Long	Stevenson
Cook	Magnuson	Symington
Cooper	Mansfield	Taft
Cranston	Mathias	Talmadge
Curtis	McGee	Thurmond
Dole	Metcalf	Tower
Dominick	Miller	Tunney
Eagleton	Mondale	Weicker
Ellender	Montoya	Williams
Fong	Moss	Young

NAYS—8

Bennett	Ervin	Hansen
Buckley	Fannin	Stennis
Cotton	Goldwater	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eastland, against.

NOT VOTING—7

Chiles	McGovern	Packwood
Jackson	McIntyre	
McClellan	Mundt	

The PRESIDING OFFICER (Mr. ROTH). Before announcing the result, the Chair would like to remind the occupants of the galleries that no demonstrations are permitted under the rules of the Senate. The Chair respectfully requests that the galleries comply with that request.

On this vote the yeas are 84, the nays are 8. Two-thirds of the Senators present having voted in the affirmative, the joint resolution is passed.

[Demonstrations in the galleries.]

Mr. BAYH. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. PASTORE, Mr. COOK, and other Senators moved to lay the motion on the table.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that we——

Mr. BYRD of West Virginia. Mr. President, we cannot hear the Senator. May we have order?

The PRESIDING OFFICER. The Chair once again requests that the Senate and the galleries be in order. The majority leader has an important announcement to make, and we cannot hear him.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 356, Senate Joint Resolution 150; Calendar No. 660, Senate Joint Resolution 8; and Calendar No. 661, Senate Joint Resolution 9, all companion measures to the legislation just passed, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 670, Senate Resolution 280, the so-called Ervin resolution, so that it may become the pending business.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of Article I, Section 6, the so-called speech and debate clause of the Constitution.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MANSFIELD. Mr. President, what this means is that as far as the distinguished Senator from North Carolina is concerned, he still gets no respite, because he will have to take the lead in trying to make clear the significance of this resolution.

PROGRAM

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished acting minority leader, I should like to state to the Senate, in better form, what the schedule will be.

When Senate Resolution 280 is disposed of, hopefully this evening, or, if not, tomorrow, the Senate will proceed to the consideration of the bill dealing with equal broadcasting time, which will be handled by the distinguished senior Senator from Rhode Island (Mr. PASTORE). It will be followed by the egg bill, and may I say that in referring to the excess hens somewhat earlier, I was referring to a term that has come up known as henocide, and I have checked the various records, which bear out my statement.

Following the egg bill, the items on the calendar which have to do with changing the name of Cape Kennedy to Cape Canaveral and to establish the Gulf Islands National Seashore will be taken up tomorrow or Friday, together with naval vessel laws and Radio Free Europe.

The act to extend the Export Administration Act will come down on Tuesday, along with the bill amending the Federal Aviation Act with respect to civil air carriers. The War Powers Act will be laid down that day, hopefully, and debate will begin. The legislative appropriation bill may well be taken up on Tuesday.

For the information of the Senate, there will be no session on Monday, the reason being that seven of our colleagues will be in Denver on official business. After talking it over with the leadership on the Republican side, we have come to the conclusion that it is only fair that this group be given that consideration. Furthermore, in relation to that, the calendar is in fairly good shape. Does the distinguished acting Republican leader agree?

Mr. GRIFFIN. Yes; I agree, and I think that is very considerate of the majority leader.

Mr. MANSFIELD. Of the joint leadership.

That is it, Mr. President.

Mr. MOSS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MANSFIELD. How long?

Mr. MOSS. About 2 minutes.

Mr. MANSFIELD. Very well. Make it 1 minute.

OBJECTION TO REQUEST FOR CHANGE OF REFERENCE OF S. 2032, TO AMEND THE HATCH ACT

Mr. MOSS. Mr. President, on June 9, 1971, I introduced S. 2032, a bill aimed at long overdue reform of the so-called Hatch Act, which has been governing the political activities of Federal employees since 1939.

At the time I introduced this legislation, it was referred to the Committee on Rules and Administration. Today, however, I am informed by Senator CANNON, who is chairman of its Subcommittee on Privileges and Elections, that because the Hatch Act provisions do not affect elections per se, but only the activities of the Federal employees in those elections, he would have no objection to having S. 202 re-referred to the Committee on Post Office and Civil Service.

His position on this matter agrees with that of the Rules Committee chairman. On Monday, Senator JORDAN indicated that another Hatch Act reform measure, introduced by Senator MCGEE, would most appropriately be referred to the Committee on Post Office and Civil Service.

Mr. President, since the Committee on Post Office and Civil Service, of which I am a member, is most deeply concerned with Federal employee issues, I ask that S. 202 be re-referred to this latter committee, where it can be considered along with other proposals to liberalize the Hatch Act. I believe this would greatly facilitate Senate action on long overdue reform of laws which continue to deny over 3 million Federal employees any responsible role in our democratic processes.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The Senate continued with the consideration of the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Mr. ERVIN. Mr. President, this resolution recognizes the fact that the Supreme Court case which is to be reviewed on writs of certiorari, which is concerned with certain legislative activities of the junior Senator from Alaska (Mr. GRAVEL), presents a question of grave moment to the Senate in respect to the meaning and the scope of the speech and debate clause set out in article I, section 6, of the U.S. Constitution.

As is well known to the Senate, the distinguished Senator from Alaska read, at the time this case arose, certain extracts from the so-called Pentagon Papers at a session of a subcommittee of which he was chairman. The Senator from Alaska was acting in the execution of his office as a Member of the U.S. Senate.

After that event, an aide of the Senator from Alaska was summoned before a grand jury sitting in the city of Boston, and an effort was made on the part of the Government to examine the aide of the Senator from Alaska in respect to the action taken by the Senator from Alaska on the occasion which I have mentioned.

This was recognized by the Senator from Alaska to raise a grave constitutional question under article I, section 6, the speech and debate clause, and so he intervened in the proceedings before the grand jury in Boston, and asked that the subpena for his aide be quashed, or, in lieu thereof, that the scope of the questions which would be put to the aide be restricted so as to prevent any inquiry being made by the grand jury in respect to the action of the Senator from Alaska in the execution of his office as Senator.

The speech and debate clause provides, in substance, that no Member of Congress can be required to answer for anything he says in a speech or debate in any other place, that is, otherwise than in the Congress itself.

XUM

This privilege is given to Senators and Representatives because of the experience of Members of the British Parliament prior to the independence of this Nation. They had a situation in which Members of the British Parliament were actually prosecuted and punished at the insistence of the Crown for daring to speak their honest views on the floor of the House of Commons.

Mr. President, this privilege is not given to a Senator or a Representative for his own benefit. It is given to Senators and Representatives for the benefit of the Nation.

It is recognized that it is essential for Senators and Representatives to have an absolute privilege to say in speech and debate anything which they feel their duty to their country requires them to say. They are given this privilege or this right for the benefit of the Nation, in order that the Nation may have the benefit of courageous action on the part of those who are our lawmakers.

While the provision of the Constitution is restricted by the terms to speech and debate, it has been recognized by the decisions of the Supreme Court that this privilege extends to every activity taken by a Senator or a Representative in the execution of what he conceives to be the duties of his office, even though the matter is not connected with something which is germane to the action of the House of which he is a Member.

It is absolutely essential that this be so, because, as we know, a large part of the labor of each Member of Congress is done in committee. So the privilege is not restricted to the floor of the House of which the Member is a Member. It extends to any of his official actions, and it is not required that his action to which the privilege extends shall be germane to any matter pending before the House or before the committee of which he is a Member. This is essential, for without this right, the privilege or right would amount to nothing. A Senator or Representative, who is elected to Congress, if he disagrees—as he would have a right to do and as he might conceive it to be his duty to do—with the majority of the other Members of the House of which he is a Member, would be denied this privilege if the privilege could be exercised only in respect to a matter which was germane at the moment to some business pending before the Senate or the House or a committee of the Senate or the House.

Otherwise, an individual Senator or an individual Representative could be robbed of the privilege in its entirety. This is a privilege which is given to a Senator and a Representative, and it protects no matter how much his action may be disapproved of by the other Members of the House of which he is a Member. This is essential in order to make the privilege or the right of any value whatever.

I have no reference to the distinguished Senator from Alaska in saying this, but I think that the right which arises out of the speech and debate clause of the Constitution is intended to protect every Member of the Senate and is even intended to allow a Senator or a Representative—to put it in plain English—to make a damn fool of himself. It is necessary that this be so if the American people are going to have the courageous and the honest representation which they are entitled to have in Congress.

The Senator from Alaska, in the judgment of the Senator from North Carolina, has been fighting a fight which is essentially a fight on behalf of the Senate of the United States. When his aide was called to testify before the grand jury, he rightly intervened in his aide's behalf and pointed out to the Federal district court, and subsequently to the circuit court of appeals of that circuit, that if the courts are going to take note of the realities of the situation, the courts are bound to conclude that it is impossible, in the present state of duties which devolve upon a Senator, for a Senator to act without the assistance of his aides.

The Government took a peculiar position in the matter originally and took the position—according to the brief I have read—that it not only had a right to summon the aide of the Senator from Alaska to testify before the grand jury but also had the right to subpena the Senator, himself—a position which is clearly untenable.

This matter has been heard on appeal by the court of appeals of that circuit, and the court of appeals has handed down a very fine decision. The court of appeals recognized the position taken by the Senator from Alaska that it is essential that this privilege extend to the Senators' aides, insofar as the Senators' aides are acting at the instance of the Senator and the Senator is acting within the execution of his office. This was an extension of the recognition of the privilege beyond what had been recognized in the previous decisions of the Supreme Court of the United States.

This case, which is being reviewed on writs of certiorari applied for both by the Department of Justice and by the Senator from Alaska, presents squarely the question as to whether or not this right or privilege, secured by article I, section 6, of the Constitution, extends to the aides of Senators.

It is essential, it seems to me, for the Senate, as an official body, to make an appearance in this case as an amicus curiae and insist that the Supreme Court accept the interpretation based upon article I, section 6, by the court of appeals in a most enlightened opinion.

There also are other questions which should be debated and presented to the court for its consideration; namely, the question of to what extent a Senator has the power to inform the public about matters in which the public has a grave concern. Certainly, the public has had no graver concern in recent years than its concern in respect to the war in Southeast Asia.

I am constrained to say that the position of the Senator from North Carolina and the position of the Senator from Alaska in respect to the war in Southeast Asia are about as divergent from each other as are the views of any other two Senators on that particular matter. But I think it is essential for us to present to the court the position that the Supreme Court should adhere to the very wise opinion and decision made by the court of appeals in respect to the extension of this privilege of the Senator to the aides of the Senator when acting within the course of the Senator's orders and the Senator has acted within the execution of his office.

I also think it is necessary to try to persuade the court to make some decision with respect to the question of what actions a Senator can take to inform the public about public questions in which he feels a great concern; that is, the question of publication.

We have no authoritative decision of the Supreme Court which settles the last question. When we take the position that the privilege must necessarily be extended from the Senator to the aide who assists the Senator in the execution of his office, we are merely asking the court to accept reality, because that is the way Senators function. When we ask that the court make some definite decision on the question of the extent of the right of a Senator to undertake to inform the country of matters in which he has a deep interest—that is, public matters—I think we are also taking note of reality.

Those of us who sit in the Senate day after day know that it is extremely difficult to get the attendance of Senators, with their manifold duties, to hear debates on the floor of the Senate, and that one of the ways in which we can reach Senators and bring conviction to them about the soundness of our views is to get the news media to take note of those views, and in that way indirectly inform the other Senators of the views we entertain and give them an opportunity to weigh their soundness.

This resolution would authorize the filing of an amicus curiae brief on behalf of the Senate, to present the questions to the Supreme Court. It recognizes, in effect, that the Senator from Alaska has, thus far, been fighting a battle which is essentially the battle of the Senate, insofar as it involves the extent of the privilege based on the right of the speech and debate clause in the Senate. It contains a provision that would let the Senate finance out of its contingent fund the cost of the Senator from Alaska going to the Supreme Court but not the expenses accrued prior to that time.

I sincerely trust that the Senate will adopt the resolution because I consider that the adoption of the resolution is necessary to protect the prerogatives of the Senate and the prerogatives of every Senator.

I would say that the resolution expresses the claim that its adoption by the Senate will not be construed to be the expression of any opinion as to whether the Senator from Alaska, whose conduct is involved in this case, was wise or foolish; but it does recognize that it is essential for the Senate to see that this prerogative of Senators is protected to the fullest extent that the Constitution permits.

Mr. PASTORE and Mr. SAXBE addressed the Chair.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, first, I should like to state that not only do I have an argument but I also have several amendments which are now at the desk. It is my intention to ask for rollcall votes on the amendments as well as a rollcall vote on the resolution itself.

I should like to make it perfectly clear that there is no opposition as to the purpose of the Mansfield-Ervin resolution. I have listened to what the Senator from North Carolina has just said, and I agree, and I think the minority agrees also, that the Senate as a whole should be represented at the Supreme Court by the filing of an amicus curiae brief. We oppose only the provision which authorizes the expenditure of public funds to provide for the legal expenses of the Senate and the junior Senator from Alaska.

Mr. President, the relevant facts and procedural history of this case began June 29, 1971, when the Senator from Alaska unsuccessfully attempted to insert into the CONGRESSIONAL RECORD a classified study prepared by the Department of Defense popularly called "The Pentagon Papers." Not being able to accomplish his purpose before the entire Senate, he convened the Subcommittee on Buildings and Grounds, of which he was chairman, of the Senate Public Works Committee. And, even though the documents bore an overall defense security classification of top secret sensitive, he began at midnight on the 29th to read aloud extensive portions of the study. At the close of the subcommittee hearing, and when he could read no longer, the Senator from Alaska placed the entire study, comprising some 7,000 pages of material in 47 volumes, into the public subcommittee record.

The question of whether the subcommittee meeting was legal I want to raise in passing, but I think the circuit court of appeals has taken care of that to our satisfaction. Needless to say, the fact that the subcommittee meeting was called after the offices were closed and notification was given by slipping a note under the doors of the members of the subcommittee after the offices were closed, certainly is not in the spirit or intent of the committee rule then existing.

I might further raise the point that the new rules of the Senate which have been adopted by the Committee on Public Works would not permit this, but at that time those rules had not been adopted. They were adopted shortly thereafter. The questionable nature of calling of this subcommittee meeting will not be an important element in the amicus curiae brief before the Supreme Court.

Returning to the facts of the case, the Senator from Alaska contacted the Institute for Policy Studies here in Washington sometime on June 29 for the express purpose of obtaining someone to edit the record containing the Pentagon papers. Dr. Leonard S. Rodberg, a physicist and resident fellow at the institute, reported to the Senator's office, and was immediately placed on his staff. Dr. Rodberg received no compensation from the Senate, but was cloaked with all other indicia of Senate employment. He immediately went to work for the Senator from Alaska, editing the transcript of the subcommittee hearing after he had assisted the Senator at the subcommittee meeting. Dr. Rodberg is still on the Senator from Alaska's staff.

After the committee transcript containing the Pentagon papers was prepared, Dr. Rodberg assisted the Senator from Alaska in negotiating with several publishing firms for private publication of the study. An agreement was ultimately concluded with Beacon Press of Boston to publish a four-volume work entitled "The Senator Gravel Edition of the Pentagon Papers: The Defense Department History of Decisionmaking on Vietnam." Beacon Press is the publishing arm of the Unitarian Universalist Association.

On August 24, 1971, Rodberg received a subpena from a Federal grand jury in Boston. And, the Unitarian Universalist Association received two subpenas duces tecum which were withdrawn because of a stay order in the lower court. Rather than appear as a witness before the Federal grand jury, Dr. Rodberg filed a motion to quash the subpena in the Federal district court. The Senator from Alaska was allowed to intervene in this litigation and argued that Dr. Rodberg, as his legislative aide—which the Senator from North Carolina (Mr. ERVIN) has just referred to—was protected by the speech or debate clause of the Constitution from any inquiry regarding the Senate subcommittee meeting or his efforts on behalf of the Senator from Alaska to publish the Pentagon Papers.

The district court denied the motion to quash but said:

> No witness before the Grand Jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor about things done by the Senator in preparation for and intimately related to said meeting.

Also, the court stated:

> Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

The district court's opinion also stated that the arrangement for private publication of the study by Beacon Press was not within the Senator's constitutional privilege and therefore Dr. Rodberg could not refuse to testify before the grand jury concerning publication. While the Senator from Alaska was seeking modification of the district court's order, a grand jury subpena was also served on Howard Webber, editor of the Massachusetts Institute of Technology Press, with which ultimately unsuccessful negotiations for publication took place. This subpena was also stayed by a supplemental order from the court of appeals.

Both sides appealed. The first circuit court of appeals held:

> No witness before the Grand Jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting." The Court further held that "Dr. Leonard S. Rodberg may not be questioned about his own actions in the broadest sense including observation and communications oral or written, by or to him, or coming to his attention while being interviewed for, or after, having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

The court also rested its decision on a common law privilege that prevents questioning the legislative aide, instead of relying on constitutional immunity. Finally, the court of appeals dealt with private, third parties, recognizing that they could be asked certain questions concerning their own conduct regarding the publication of the Pentagon Papers.

Senator GRAVEL and the United States both sought and were granted writs of certiorari by the Supreme Court. On the merits, the court will consider the following questions:

First. Is the publication of the public records of a congressional subcommittee protected by the Constitution from judicial inquiry; that is, can the executive branch use the subpena and contempt powers of the judicial branch to test legislative activity;

Second. Are personal Senate aides and third parties—here Beacon Press—assisting in the informing function of the Member of Congress protected from judicial inquiry;

Third. Can a court inquire into the procedural regularity of a Senate subcommittee hearing or is this strictly the function of the legislative branch; and

Fourth. Did the circuit court err in relying upon the common law immunity for Senators and aides established for the executive branch rather than the constitutional immunity contained in article I, section 6.

The fact pattern which I have previously enumerated makes it obviously clear that the junior Senator from Alaska abused scope of "legitimate legislative activity" when he convened the Subcommittee on Buildings and Grounds of the Public Works Committee. Even though he may have complied with the "letter of the law" insofar as following required procedures for convening the subcommittee is concerned, it is clear that there is no acceptable rationale for a review and rendition of the "Pentagon Papers" before that particular subcommittee. Consequently, how can the Senate as a body now authorize and obligate itself to pay the legal expenses incurred as a result of the cause of action which directly arose out of the abuse of the rules surrounding this incident? It is, to say the least, a non sequiter.

Second, to assume now the legal expenses of the Senator from Alaska, as this resolution provides, would establish a dangerous precedent. That precedent would enable any one Member of the Senate to effectively bind the Senate as a body to authorize payment of legal expenses merely by the act of intervening in a lawsuit whenever he chose to do so. I do not believe it is the desire of this body to place ourselves in that position.

XUM

Further, to allow now for the fees of private counsel is not warranted. Surely we who make the laws are qualified to fashion our own legal arguments before the Supreme Court, which in turn is charged with the obligation to interpret those laws.

Finally, the Senate recently has on two occasions authorized the retention of and payment for private counsel. Those two cases, Dombrowski against Eastland and McSourley against McClellan, clearly establish the proposition that the Senate should only assume the legal expenses when one of the Members has been sued and must answer as a defendant. This is not the case before us now. Here we have a situation where a Member has interviewed in a preexisting legal action. Now it might be argued that the junior Senator from Alaska had no choice but to intervene. This is not so. He clearly had the option to intervene or not to intervene, and his intervention in no way altered the basic question of the interpretation of article I, section 6, of the U.S. Constitution which is now before the court. To maintain that his intervention was necessary to protect the Senate's interest cannot be supported. If such were the case then why do we find it necessary to be debating this resolution which provides for the Senate to file our own amicus brief?

We can only conjecture as to the reason for his intervention. Was it to pay Dr. Rodberg's expenses, or was it at the time to keep alive the issue of the Pentagon papers when interest was beginning to die? I cannot help feeling that it was an attempt to keep alive something which at that time was an extremely controversial issue.

Again I say to the Senate that our interests in article I, section 6, are the same. We wish to protect the immunities which we enjoy in this body, conferred years ago against incursions of the executive and judicial into the narrow field of legislative immunity.

However, in this particular case I cannot help feeling that this is primarily an in-house situation that we as Senators should have settled on the floor of the Senate.

Certainly it was a violation of the spirit of the Senate, and it was a violation, while not perhaps of the rules which did not exist at that point, but certainly of the orderly and mannerly procedure we have been following over the years.

The frustration over not being able to read the Pentagon papers on the floor of the Senate must have been great. The Senator then called a meeting of the Subcommittee on Buildings and Grounds. I have here a selected area set out for the Committee on Public Works, and nowhere does it, by any stretch of the imagination, go to an issue such as this. Then he issued an order which obviously could not have been successful without members of that subcommittee, and then proceeded to read classified and secret material for the sole purpose of publishing it in a yet-to-be selected paper.

I cannot help feeling that it is an embarrassing incident for the Senate and an embarrassing incident that we should police ourselves. Obviously, there is little interest in so doing, but I think we can show our indignation and our contempt for such procedures by not bailing out the Senator from Alaska at this point.

The Senator from North Carolina referred to the question of paying only those fees that are prospective. I find nothing in the resolution which states that they are only prospective; and I find nothing in it which would limit the amount of the fees.

In an effort to determine the amount of the fees, we contacted counsel representing the Senator from Alaska and asked if they would give us an indication. The answer was, "Well, it is not substantial; but then it is not insubstantial." We asked "Is it over six figures?" They answered "It will probably be less than six figures."

I would say that would mean that $99,000 is less than six figures. This is as much as we could get on it.

Nobody has discussed expenses for the Senate's representation. Amendments I have at the desk will go to this question. But then, again, a committee of Senators is proposed in the resolution. There is no number, no question of bipartisanship, and it gives them no power to negotiate this matter.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SAXBE. I yield.

Mr. MANSFIELD. There were sums bruited about in the policy committee. We had before us for that purpose the Senator from North Carolina (Mr. ERVIN), whom I look upon as the outstanding constitutional lawyer in this body. Some of the figures bruited about were—and I stand to be corrected—between $20,000 and $25,000.

Second, the policy committee did consider a committee of Senators equally divided between the two parties, but the final decision was that only one Senator would be appointed from our side, and he would be the distinguished Senator from North Carolina. All of this was predicated on bringing the matter to the attention of Republican Senators, so they would be able to give us the benefit of their judgment. If they decided to join us, fine; if they did not, that was their privilege.

So we did discuss these matters. If a Senator is selected from our side, he would be the Senator from North Carolina (Mr. ERVIN) only; and if any money is to be expended, the figure I heard suggested was between $20,000 and $25,000.

I make this statement to the Senate for its information.

Mr. SAXBE Did the Senator contemplate that figure to be for representation of the Senate as a body, or did that amount include both the Senate representation and fees to counsel for the Senator from Alaska?

Mr. MANSFIELD. As I gather—and I am not a lawyer—it included the fees the Senator from Alaska might incur in relation to this process from here on out. I understand the briefs have to be filed by April 7, but it was primarily—and again I wish the Senator from North Carolina would corroborate this or correct me if I am wrong—for the use of outside counsel and advice to help representatives of the Senate in appearances before the court. Is that correct?

Mr. ERVIN. Yes; that is the way I understand it. No action was definitely taken, but that was the consensus in the matter.

Mr. MANSFIELD. The brief has to be filed April 3 or 4 rather than April 7.

Mr. MATHIAS. Mr. President, will the Senator from Ohio yield?

Mr. SAXBE. I yield.

Mr. MATHIAS. Mr. President, I thank the Senator for yielding. I concur with his statement that there is considerable sympathy on this side of the aisle for the basic proposition which has been set forth by the distinguished Senator from North Carolina. The Senate does have a primary interest in these proceedings, and that interest should be represented in an impartial and objective brief that would be filed in an attempt to lay out the constitutional law on this very difficult subject.

Scholars in recent years have been talking about the twilight of parliaments, stating that the age of strong legislative arms of government is in fact coming to an end. We see all too often that the executive branch of a government, not only of this Government but also of many other governments, is stronger due to the different kind of world in which we live.

One cause for the increase in the power of the executive branches of government in many parts of the world is the growth of what we in this country call executive privilege. Executive privilege is the claim by the executive branch of government that it has the right and, in fact, the duty and responsibility, in the interests of the country, to withhold information. I think we in Congress have at least tacitly admitted there is such a right because we have failed to press witnesses who have claimed executive privilege.

Clearly the President takes counsel not only within himself but also with his trusted advisers to reach the goal of Government. All of this has led to certain practices on behalf of the executive branch of government which have strengthened it very greatly since the time when the legislature had the right to question anything the executive did.

Concurrently, of course, there have been changes in the legislative branch of Government. The basic constitutional immunity given to legislators by the Constitution of the United States—to allow legislators in the House and the Senate to counsel among themselves freely in open debate for the good of the country—has become inadequate if it is limited to this floor alone because many legislative activities take us away from the floor of the Senate.

It is also inadequate if it is limited to Members of this body alone because we, as well as officials in the executive branch, have found it necessary to have advice and counsel. We should very clearly have that part of our legislative activity covered within the immunities which the Constitution originally gave us.

These are all purposes which existed before the Senator from Alaska called a subcommittee hearing, and I hope they will exist for a long time hereafter. That is our basic governmental proposition dealing with the organic law of the country, and it is in that context, I think, that it demands our attention.

It is the broad, objective view that we seek to present to the court, and not a narrow view based on a single case. In that light I think that, with some amendments which we will propose, we can support the thrust of the resolution presented by the Senator from North Carolina.

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield?

Mr. SAXBE. I yield.

Mr. DOMINICK. I thank the Senator from Ohio.

Mr. President, I have listened to these statements with considerable interest. I also have done quite a lot of work on this particular resolution, with the aid and assistance of my staff. I have consulted with the Senator from Ohio, the Senator from Maryland, and many other Senators. I think that if we are going to take a look at this matter we ought to try to put it somewhat into perspective. First of all, we are faced with the situation in which the Senator from Alaska, as I understand it, is claiming immunity not only for himself and for Dr. Rodberg, who went on his staff the same day the publicaion occurred but who did not appear on the Senate payroll, but also is claiming immunity for anyone with whom he has discussed the matter, whether he is in or out of government.

So it is a very broad exemption that is being claimed by the Senator from Alaska.

Section 6, article I, of the Constitution says—and I read it in part—that Senators and Representatives shall not only be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same—and I will interpolate here—but also that for any speech or debate in either House they shall not be questioned in any other place.

The Senator's claim is not that he is being questioned in any other place, but that other people are being questioned. They are being questioned not because any charge has been filed against them, but solely in order to secure information for a grand jury to determine whether or not any prosecution is even advisable.

In other words, we are dealing at the moment with a purely hypothetical case where a grand jury has simply been brought together to try to learn what the evidence is and to determine whether any prosecution is even warranted. That is the first situation we are faced with.

The second situation is that apparently no factual questions are involved in this case. As I said a few minutes ago, Dr. Rodberg—and this was pointed out by the Senator from Ohio—was apparently a physicist who was working outside the Senate as a friend, or aide, or assistant, or ideological friend, or whatever it was, with the Senator from Alaska, and was not made an aide except for the specific purpose, so far as I can find out, of assisting in the publication of the Pentagon papers at the subcommittee hearing. This was the Subcommittee on Public Buildings and Grounds of the Committee on Public Works.

The Public Works Committee has jurisdiction—and I read this into the RECORD because it is important—over proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

(1) Flood control and improvement of rivers and harbors.

(2) Public works for the benefit of navigation, and bridges and dams (other than international bridges and dams).

(3) Water power.

(4) Oil and other pollution of navigable waters.

(5) Public buildings and occupied or improved grounds of the United States generally.

(6) Measures relating to the purchase of sites and construction of post offices, customhouses, federal courthouses, and government buildings within the District of Columbia.

(7) Measures relating to the Capitol Building and the Senate and House Office Buildings.

(8) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

(9) Public reservations and parks within the District of Columbia, including Rock Creek Park and the Zoological Park.

(10) Measures relating to the construction or maintenance of roads and post roads.

Under no conceivable circumstances does the committee have jurisdiction over a classified defense document called "The Pentagon Papers," no matter how one views it.

There is a rule of the Senate, which perhaps is not totally applicable here, because of the circumstances, but it does provide that should a committee take jurisdiction over a subject matter over which it has no jurisdiction, it is then subject to challenge.

It is very difficult to challenge anything before a one-man subcommittee meeting held at midnight, with no notice of the meeting having been given. But I feel certain, as the Senator from Ohio has said, that if the rules were not flatly broken, they were at least impliedly broken, and most certainly the spirit was violated.

Then we were suddenly faced with this resolution, drawn up and presented to us in our conference on the Republican side. We looked it over, and it seemed to us that it involved us immediately in the question of the activities of the Senator from Alaska about which the Senate had not undertaken any inquiry up to this time; but under this resolution we are being asked to participate with the sponsors of the resolution in authorizing the payment of public funds for the Senator from Alaska as well as for the Senate. It is not just the expenses of the Senate itself which we are being asked to underwrite, but also the expenses of the Senator from Alaska.

I am a lawyer, although I have not practiced since 1961, when I came to Congress. But in my 20 years of experience, expenses, generally speaking, refer to out-of-pocket expenses. They do not necessarily refer to legal fees, but I gather it to be so in this case.

In determining what a legal fee is, any lawyer—I do not care who he is or where he is from—usually delays billing the client until after he has seen what has happened in the case. Therefore, I would presume the legal fees and the expenses of the Senator from Alaska will be presented after the Supreme Court hearing, and will be considered as a part of the Supreme Court hearing. So to that extent we are already underwriting the work which has been done—very effective work, I might say, from the standpoint of the Senator from Alaska and the Senate—in both the district court and the court of appeals. We will then be faced with a brief and with legal fees on the question of how broad the exemption is in the Constitution in a case in which the Senator from Alaska himself intervened and in a case in which no criminal charge had been leveled, but in which a grand jury was simply trying to find out whether there were any facts sufficient to warrant an indictment.

If we start getting the Senate involved to that extent at the expense of the taxpayer, it strikes me that we are going way beyond the scope of any other Senate involvement. This question was discussed at some length in the Republican conference, a quorum being present; and a resolution was adopted, which I read as follows:

Resolved, That the Republican Conference authorize the Chairman, Senator Smith of Maine, to appoint a committee to perfect and file a brief; that said brief pray the Supreme Court to rule in such manner so as to protect the necessary immunities of the Legislative Branch notwithstanding the misconduct or alleged misconduct of a single Member. No expenditure of taxpayer funds to be authorized.

That was the position that we took in our conference, after we had had some quite spirited debate on the whole subject. Pursuant to that resolution, Senator SMITH did appoint a committee, consisting of the Senator from Ohio (Mr. SAXBE), as chairman, and Senator MATHIAS and myself as the other members. That is one of the reasons why we are on the floor of the Senate today.

But in all conscience, I simply cannot see how the Senate can take the position that we are going to use public funds, not only to take care of the expenses of the Senate itself in its brief to the Supreme Court, but also absorb the expenses which the Senator from Alaska has incurred by intervening in the district court initially. This, to me, simply does not mean that we are operating reasonably or sensibly insofar as the public of the country is concerned.

Having said that, I think the next thing that we ought to take a look at is what will be before the Supreme Court.

I have brought up the questions of fact which I wish had been debated, discussed, and considered at least by Members of the Senate long before this, because I do believe that we ought to take care of our internal situations as best we can, and to do it promptly. But the district court, as the Senator from Ohio has said, has assumed that Dr. Rodberg was an employee, and the Justice Department has not denied that, so that is not an issue.

Second, as I understand it, the question of whether the publication was improper as a result of an nonauthorized

committee meeting is also not an issue before the Court. The parameters of the question which have been presented now for discussion before the Court read as follows——

Mr. ERVIN. Mr. President, will the Senator pardon me for an observation on the point he just mentioned?

Mr. DOMINICK. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. There is a decision of the Supreme Judicial Court of Massachusetts, which was handed down shortly after 1800, and which held that the courts would not inquire into the legality of the proceedings as to which the legislator invokes the speech and debate privilege, and that is recited with apparent approval by Justice Frankfurter in the decision which involved the legislative committee from the State of California in, I believe it was, the Brandhove case. I shall supply the correct citation later.

But the findings of the Court have placed those questions outside the parameters of the matters being heard on these writs of certiorari.

Mr. DOMINICK. I thank the Senator from North Carolina, and I think this helps the record.

In other words, what the Senator and I are both saying is that the questions vital to this case, particularly insofar as the Senate intervention in the Supreme Court is concerned, are not really to be considered because they involve the question of action or inaction of the Senate in regard to the conduct of a Member.

The Supreme Court, in granting certiorari, simpy states the questions presented as follows:

(1) Does the constitutional responsbility of a U.S. Senator to inform his constituents and colleagues about workings of government require that his action in publishing an official, public record of a subcommittee of which he is chairman, containing documentary information critical of executive conduct in foreign affairs, be accorded protection as legislative activity under the Speech and Debate Clause?

That is the first point. There is nothing in this question which would bring up the issue, which is what we are talking about, as to whether the subcommittee of which the Senator from Alaska is chairman had any right to review any of these documents whether in secret or in public session. So that apparently is not to be considered.

The second question for discussion is:

(2) Does the Speech and Debate Clause bar grand jury questioning of aides of members of Congress and other persons about matters that may touch on activities of members of Congress which are protected "speech or debate"?

Notice that, again, there is nothing here in connection with the Senator from Alaska; nor is his immunity being questioned. The issue is whether a grand jury can question, not only aides, or perhaps not aides but other persons who are not even connected with the Senator from Alaska except by research that they may have done or by other activities whereby, somehow or other, they may have been connected with him.

The third question is:

(3) Does a senatorial aide have a common law privilege not to testify before a grand jury concerning the private republication of material which his Senator-employer had introduced into the record of a Senate subcommittee?

In other words, here we are not even dealing with the speech and debate clause given as a privilege under the Constitution to Members of the House and Members of the Senate, but a common law right which is being asserted on behalf of aides not to testify before a grand jury.

I gather that the Justice Department is taking the view that no one has any immunity under the speech and debate clause of the Constitution except a Senator himself, and then only for speech or debate on the floor of the Senate. This is their position. It has been their position in the lower courts, and they have been beaten in the lower courts on this point, and are going to the Supreme Court on the same issue.

It strikes me that whatever brief we are filing—and I do not know who is going to prepare it, but I hope that Senator ERVIN will in the light of his unmatched qualifications—will not go so far as to assert that any person contacted by any Senator in any way is exempt from giving testimony before a grand jury or a court. If we go that far, it means that with modern means of publication, either by radio, television, or letters, and with the frank now being used freely by Members of the House and the Senate, everyone is going to be immune from any questioning anywhere in the country. I certainly hope we do not go that far.

I would say again that I think we are here dealing with an extremely sensitive subject. I see absolutely no reason why members of the public, who have not been involved in this matter and who in many cases object strenuously to what Senator GRAVEL and others did, should be saddled with the expense of paying his costs in the lower court. I think it is wrong, and it was for that reason that I was willing to serve on this committee and speak my piece here tonight.

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. DOMINICK. I yield to the Senator from Montana.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I have been talking with the distinguished Senator from North Carolina, who is carrying the burden of the pending legislation, and the distinguished Senators from Ohio (Mr. Saxbe), Colorado (Mr. DOMINICK), and Maryland (Mr. MATHIAS). I should like at this time to propound a unanimous-consent request: That beginning at the hour of 10:15 tomorrow morning there be a limitation of 1 hour on each amendment and 1½ hours on the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, reserving the right to object, I should like to ask the majority leader the status, now, of the so-called War Powers bill. I was told earlier today that it would be taken up next week, maybe Tuesday or maybe Thursday. I have been told, however, within the last 15 minutes, that as a result of this unanimous-consent agreement it would be taken up on Thursday of this week.

Mr. MANSFIELD. No, no. The best we can say as of now is that it will be taken up possibly on Tuesday. That is a long shot; it may more likely be Wednesday or Thursday, and I am not sure we can finish it by the time we begin the Easter recess at the conclusion of business a week from Thursday. But not this week.

Mr. GOLDWATER. I am very deeply interested in that bill. I also have a son, who is currently in Congress, and who is getting married. I do not wish to turn down my duties to him in deference to my duties here in opposition to that measure. I have to live with him a lot longer than with my fellow Senators.

Mr. MANSFIELD. I know; but may I ask the Senator what Solomon-like answer he would give were he in my shoes?

Mr. GOLDWATER. Well, if I were in the Senator's shoes I would join the Republication Party. [Laughter.]

I would suggest, because this matter is not going to be settled quickly—I think there will be 3 or 4 days of debate on it—that if it could be put off until after Easter, it would serve the Senate better, and we can take care of some other bills that can be taken care of better in the interim.

There is no big hurry about having the war powers bill passed right now. It can pass at any time.

Mr. MANSFIELD. That is correct.

May I say that the joint leadership will do its best to cooperate with the distinguished Senator from Arizona. But I wish he would exercise his usual forbearance—and I say that most seriously—and recognize the position we are in. If we can accommodate him, we will; but it is my impression that the bill will take 3 or 4 days, and I do not think we can finish it before we go out on a 2-day Easter recess beginning at the conclusion of business a week from tomorrow.

Mr. GOLDWATER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous consent agreement reads as follows:

Ordered, That effective at 10:15 a.m. on Thursday, March 23, 1972, during the further consideration of S. Res. 280, a resolution authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article 1, section 6, the so-called speech and debate clause of the Constitution, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the proponents of the amendments and the Senator from North Carolina (Mr. Ervin). *Ordered further*, That debate on the resolution be limited to 1½ hours to be equally divided and controlled by the Senator from North Carolina (Mr. Ervin) and the minority leader or his designee.

Mr. MANSFIELD. This agreement will not become effective until the hour of 10:15 tomorrow. There will be no morning hour for the conduct of morning business. There will be three speeches, however. So what will be said tonight will be to lay the foundation for the discussion which will be resumed tomorrow.

I hope that Senators who want to speak on the matter will do so, because I should like to read the RECORD in full before we get back on the resolution tomorrow morning.

There will be no more votes tonight.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. BROCK. I should like to take this opportunity to clarify a couple of points.

The Senator from North Carolina, the Senator from Montana, and the Senator from Ohio were discussing the matter of fees. Perhaps the Senator from Ohio or the Senator from North Carolina can tell me whether or not he has any assurance from the Senator from Alaska or his counsel as to the amount of the fees which might be anticipated under the resolution.

Mr. SAXBE. I believe the Senator heard what I said about the matter. We made a diligent attempt to obtain that information in contacting the Senator's counsel, and the nearest they would come to say that it would be less than six figures. But I might add that that certainly is not binding in any way upon this body or upon them.

Mr. BROCK. The Senator from Montana said that he understood the figure might be closer to $20,000 to $25,000.

Mr. MANSFIELD. I said that that was a figure which was bruited about. We had nothing to go on to confirm it. It was just a figure taken out of thin air, so it has no validity.

Mr. BROCK. Would the Senator from North Carolina be able to give us any idea of what the fees for the Senate portion of the resolution might be?

Mr. MANSFIELD. I would have to defer to the distinguished Senator from North Carolina for an answer to that question.

The question was whether we could give the Senator from Tennessee any idea as to what fees might be necessary to carry on such a proceeding before the Supreme Court. Is that correct?

Mr. BROCK. Yes.

Mr. ERVIN. I was just in consultation with the Senator from Alaska, and he said that he could inform me in the morning as to what his counsel thought it would be. I would suggest that we await that information, which I think the Senator is entitled to have.

Mr. BROCK. I would appreciate it very much. I would be delighted to wait until morning.

I should like to ask the Senator a further question. I think he would like to assure his constituents, as I would mine, that this action does not constitute an expression of support or even an attempt to condone any action which may have been undertaken by the Senator from Alaska personally.

Mr. ERVIN. The resolution contains a provision at the top of page 3 which reads:

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings.

I think that under that reservation it would not.

I do not think it involves a question of whether the Senate approves the action which resulted in this lawsuit. The question is whether the Senate will stand up and fight for its undoubted privileges under the speech and debate clause.

Mr. BROCK. Would the Senator then clarify for me why the resolution has to go to the point of expressing willingness to pay the legal fees of the Senator from Alaska. He has voluntarily sought to be a party to this suit. Why could we not then limit ourselves to paying the fees of the Senate, which many of us could support?

Mr. ERVIN. The answer to that question is simply this: The ability of the Senate to present its views on this point depends upon the ability of the Senator from Alaska to make a presentation of his appeal, because our appeal would be much like a veriform appendix. It would be annexed to his appeal.

The thought of the Democratic Policy Committee was that we ought to make certain that he would be financially able to present his cause to the Supreme Court. Otherwise, our cause would fall, too.

Mr. BROCK. By this action does the Senator from North Carolina, or the Democratic Policy Committee, endorse every element of the Senator from Alaska's appeal?

Mr. ERVIN. I do not.

I mean no offense at all to the Senator from Alaska, but I invite the attention of the distinguished Senator from Tennessee to a statement in one of the Supreme Court opinions—I believe it was by Justice Brandeis—that some of the greatest constitutional doctrines have been declared in cases which involved people who were not too respectable.

I am not referring to the Senator from Alaska on that point, but it is to illustrate the fact that out of conduct of which we may disapprove sometimes arise decisions which establish great constitutional principles.

Mr. BROCK. I am in favor of great constitutional privileges so long as they are not rooted in something with which I very much disagree.

I have a great caution about asking my constituents in the State of Tennessee to pay legal expenses for an action with which they would disagree.

I raise this point because it seems to me, that the Senate could act fully, properly, and in the public interest in presenting its own case without being involved with the actions of the Senator from Alaska, either by implication or otherwise.

It seems to me that if the Senator says, as he has said, that he cannot in good conscience support the brief or the appeal of the Senator from Alaska as stated, then it is somewhat out of phase with our own responsibilities to ask the people of the country to pay the expenses of that suit. It seems to me that we have every right to protect the prerogatives of the Senate.

Mr. ERVIN. I did not quite say that. I said that I thought the adoption of the resolution authorizing the Senate to file an amicus curiae brief did not constitute an endorsement of the action taken by the Senator from Alaska. In fact, that is exactly what the resolution expressly disclaims.

Mr. BROCK. If the Senate is going to present its own view to the Supreme Court, which it has every right to do, then should it not hire its own counsel? Should we then designate one Member of the Senate to retain counsel for the Senate, because is that not what the Senator has done when he says we are going to pay the legal fees of the Senator from Alaska?

Mr. ERVIN. I am cautious about things like that, because I do not like to hire counsel and have no authority to pay, when no authority exists to pay the fee.

Mr. BROCK. The resolution empowers the Senator from Alaska to retain counsel or to continue paying counsel he already has, and to add additional counsel without limit.

Mr. ERVIN. I do not think so.

Mr. BROCK. I do not see anything in the resolution which limits him.

Mr. ERVIN. I would construe the resolution as allowing the Senate to employ counsel to prepare a brief, not the Senator from Alaska.

Mr. BROCK. I would refer the distinguished Senator to line 6 of page 2, which reads:

Resolved, That any expenses incurred pursuant to these resolutions, including the expenses of the junior Senator from Alaska.

That has no limit, no condition, no criteria. He can hire anybody he wishes, as many as he wishes, at whatever price he wants to pay, and we have no assurance as to what kind of brief is going to be presented. Yet we purport to present it on behalf of the Senate and that the people are going to foot the bill.

Mr. ERVIN. I do not think we would have the authority to tell the Senator from Alaska what kind of brief to file.

Mr. BROCK. I do, if the Senator is going to ask the taxpayers to pay for it.

Mr. ERVIN. It would not work that way because we cannot file a brief for the Senate unless the Senator from Alaska prosecutes his appeal—is proceeding on a writ of certiorari. We do not have to adopt the same position that he takes in his brief.

Mr. BROCK. Does the Senator honestly tell me that the Senate itself cannot submit its own brief before the Supreme Court as amicus curiae in this case without referring to the Senator from Alaska at all?

Mr. ERVIN. Yes, because if it were not for the Senator from Alaska's case, there would be no need for the Senate to intervene as amicus curiae.

Mr. BROCK. Then, why do we have to participate? Why do we have to pay counsel for the Senator from Alaska when we have our own counsel? That is what I cannot seem to get through to the Senator.

Mr. ERVIN. That is just the point which I understand the Senator from Ohio (Mr. SAXBE) is going to present by an amendment which, I presume, would be to eliminate this matter; in which event, of course, the Senator from Tennessee will be at liberty to vote for that amendment. He would also be at liberty to vote against the resolution in case such an amendment were rejected.

Mr. BROCK. The Senator can count on one thing, and that is that the Senator from Tennessee will support that amendment very vigorously.

Perhaps the distinguished Senator will answer one more question for me: How can I explain to my constituents that because this body, even if it is protecting the interests of the Senate and ultimately the interests of a legislative body, would raise their taxes and levy a fee upon their incomes so as to pay for the actions of the Senator from Alaska and his legal counsel in his defense?

Mr. ERVIN. The Senator from Tennessee has just put to the Senator from North Carolina a most difficult question. Tennessee used to be a part of North Carolina. North Carolina tried to explain things to the people of Tennessee, but the people of Tennessee would not take North Carolina's explanation. Finally, to settle the problems which arose between North Carolina and Tennessee, we gave them to the Federal Government. [Laughter.]

Mr. BROCK. We bless you for that. We have both prospered in the process. My grandfather came from North Carolina. We are proud of that heritage. We have learned from the process. However, the Senator is not responding to my question.

Mr. ERVIN. North Carolina, notwithstanding the fact that Tennessee was sometimes a wayward child, is very proud of her daughter, Tennessee. I think the Senator from Tennessee could explain to the people of Tennessee that here is a case which involves, in a most serious manner, the prerogatives of all Members of the Senate under the speech and debate clause of the Constitution, and that if he votes for the resolution, he can tell his people that he voted for the resolution in order to make it certain that the prerogatives of the Senate were fully sustained insofar as we could do so by persuasion upon the Supreme Court.

Mr. BROCK. I very much respect and admire the distinguished Senator from North Carolina. He is the most able constitutional lawyer in this body. I honor him.

Mr. ERVIN. I appreciate that compliment, but sometimes I think the Supreme Court had such an aversion to approving anything I knew on that subject, that it left me in a state of total ignorance. [Laughter.]

Mr. BROCK. I do respect the Senator from North Carolina, and I respect his statement that great constitutional questions can come from unfortunate situations.

I find the implications of this unfortunate situation of compelling interest at this particular juncture. I find it somewhat difficult to rationalize the first "Whereas," on page 2, which reads:

> Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of legislative activity and the scope of a Senator's duties under the rules of the Senate and the Constitution;

Mr. ERVIN. I will say that I do not have any difficulty with that, although I do not like "whereases" as a proposition. But under the Constitution of the United States, the Senate has the right to discuss with any Member of the Senate any conduct in which he may engage, which may be in violation or which the Senate might consider to be disorderly. I think that one of the crucial questions involved in this case is: Can a Senator of the United States be required to answer, either directly or indirectly, before a grand jury, for conduct which the Senate alone has the power to deal with? I think that is a very serious question.

Mr. BROCK. I would agree as to the seriousness of the question. I, frankly, would be more prone to follow the leadership of the Senator from North Carolina if the Senate had openly considered this question. But it has not. To my knowledge, no official body of the Senate of the United States has undertaken any action, or made any effort, to investigate the conditions surrounding this case.

Mr. SAXBE. Mr. President, if I might interject a comment, I was informed that the Committee on Public Works, in executive session, did consider the reporting fee, and the chairman and the ranking minority member objected to it. It was not further considered. That is as near an action in this regard that the Senate has taken.

Mr. GRAVEL. Mr. President, will the Senator from Tennessee yield at that point?

Mr. BROCK. I am delighted to yield to the Senator from Alaska.

Mr. GRAVEL. I wonder: Did I hear correctly that there was a reporting bill which was discussed in the Public Works Committee?

Mr. SAXBE. I was told that the reporting fee for the reporting of the subcommittee meeting was presented to the full Committee on Public Works and that it was objected to by the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), and by the ranking minority member, the Senator from Kentucky (Mr. COOPER), and it was not further considered. No action was taken. Can this be clarified?

Mr. GRAVEL. I believe that the Senator from Kansas (Mr. DOLE), who is now in the Chamber, was one of the Senators at that meeting, and he knows the facts. He knows that a fee was not reported to the committee, but there was a fee which was objected to by the ranking minority member, and I volunteered to pay the fee. Similarly, the ranking Republican member of that committee, the Senator from Connecticut (Mr. WEICKER), also offered to pay the fee. Those are the facts.

Mr. SAXBE. What I referred to was the full Committee on Public Works.

Mr. GRAVEL. That is exactly what I refer to. The Senator from Kansas (Mr. DOLE) was present at that meeting, and if there is any explanation that can be made, it can be made by Senator DOLE.

Mr. BROCK. Perhaps the Senator from Kansas would inform us of the facts surrounding the action by the full Public Works Committee.

Mr. DOLE. Mr. President, as I recall, the meeting was held in executive session on July 8 and there was much discussion; but the final outcome was basically as the Senator from Alaska has indicated, that the question of the reporting fee may have been raised but the transcript has never been accepted by the Public Works Committee. The Senator from Alaska did volunteer to pay the reporting fee, and I believe that the Senator from Connecticut (Mr. WEICKER), on his own, and not as a member of a minority on the committee, asked if he might be permitted to pay one-half the fee. Whether he has done that, I am not certain; but there was never any committee action to pay the fee, nor has the transcript of the hearings on June 29 and June 30 been received by the committee.

That is why I am concerned, too, about the language raised by the Senator from Tennessee, on the legislative activity. I wonder, as a Member, if the resolution would not ratify the conduct of any Senator, not try to judge a Senator's conduct, but would, in fact, ratify the conduct of having an unauthorized subcommittee meeting without notice or any minority member being present, and about a subject over which the subcommittee had no jurisdiction.

If that is the case, maybe I can have a committee meeting on whether the Democrat National Committee should pay its telephone bill of $1.5 million. Then we can go to the Supreme Court and I can ask that the Senate pay for my counsel fees. I do not believe that is the intent of the resolution. I do not believe that I have that right as a Senator to have any hearings anywhere and say: "We will have hearings tonight. Follow me to whatever room I might be able to find," and then have some kind of hearings. Maybe I can after the resolution is adopted.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the Democratic National Committee is not an adjunct of the Senate. There is no Senator on that committee that I know of, and certainly there is no relation to this institution.

Mr. BROCK. Mr. President, what about the Beacon Press? They were very much involved in this case. Are we going to endorse this, and can a Senator by anointment grant immunity to anyone he designates?

Mr. MANSFIELD. Mr. President, may I say, to keep the record straight, that what the Democratic Policy Committee did unanimously, and only after calling in as a special guest the distinguishd senior Senator from North Carolina, was to recognize a proposition which did not affect the Senator from Alaska so much as it affected the Senate as an institution and all Senators as individuals, the GRAVEL incident aside.

We immediately got in contact with the distinguished minority leader the same day. They were having a luncheon. We sent word to Mr. Ferris or Mr. Leach so that any questions could be answered so as to indicate that what we were attempting to do would be subject to the approval of the Republicans.

As the distinguished Senator knows, this is not a Democratic proposal, although it is in the form of a resolution introduced by two Demorcats. It is a Senatorial proposition, and it affects the Senate as an institution and all Senators as individuals.

I hope we will not get down to the Democratic National Committee telephone bill and whether it is due the A.T. & T., the I.T. & T., or whatever it is, or to the Beacon Press. We are talking about the Senate. That is what counts, and that is the most important factor so far as we as individual Senators are concerned. We re trying to keep alove the greatness of this institution.

Mr. BROCK. I am making every effort to do that. I revere this body. However, there is a serious question as to whether by paying the counsel fees of the Senator from Alaska in this case we do not in fact endorse whatever brief is filed, and if a Senator could designate some attorney, whether he is on his staff or not, to receive immunity, he would be a party to that and the Senate would be a party to it because it is paying for it.

Mr. DOLE. Mr. President, I did not mean to use that as an example. It just came to my mind. However, it has been on my mind for some time.

Mr. MANSFIELD. It has been on our minds, too.

Mr. DOLE. In any event, I think it raises a very serious question. Do we ratify the conduct of the Senator from Colorado or the Senator from Ohio or the Senator from Kansas? We are not the majority party. I am using ourselves as an example. If we adopt this resolution, will anything prevent me from having a committee meeting tomorrow night?

Mr. ERVIN. The resolution does not deal with a committee meeting.

Mr. DOLE. Suppose I had one.

Mr. ERVIN. It says on lines 1, 2, and 3 of page 3:

> *Resolved*, That these resolutions do not express any judgment of the action that precipitated these proceedings; . . .

I do not know how that could be expressed more clearly. It is not an expression of approval. It is not approval.

Mr. DOLE. We have not been in touch on that issue. However, if some other Senator did something that might be similar to what has been done, we might get in touch with that Senator and discipline him in some way.

Mr. ERVIN. The issue in which we are primarily interested is whether a Senator is to be called on to be questioned in some other place in a court by the executive branch for action taken by him in the execution of his duties.

Mr. BROCK. It is a lot more than that. It is whether he or his political appointees or hirelings or anyone else he selects should be called on.

Mr. ERVIN. The court has passed on the question as to whether Dr. Rodberg was, within the meaning of the law, an aide to Senator GRAVEL. That matter is not involved.

Mr. BROCK. The court has acted. However, has the Senate acted? If the Senate is going to stand up and say before the court: "Let us alone. Grant us total immunity. Give us the right to run our own affairs and police our interests," I think we have a right to do that, if we undertake this action.

Mr. ERVIN. When one gets into court, he has to go on the record whether he likes it or not. The Senator may not like it. However, it has been found that Dr. Rodberg was his aide. That question is immaterial.

A Senator has the right to seek the assistance of anyone in the performance and execution of the duties of his office. And he cannot be called upon to answer for the exercise of those duties by the examination of any of his assistants that he avails himself of.

Mr. BROCK. If the Senate, through this resolution, were to hire counsel for the Senator from Alaska it would be fair to say then: "You have condoned every action that has been taken." That is the question I was asking before, because we have taken no action of our own.

Mr. ERVIN. I have disagreed with people many times. I have made contributions of money to a man whose conduct I viewed as reprehensible in order to assure that he had a fair trial according to law. I did not endorse his conduct. I just assured him that he would have a fair trial.

Mr. BROCK. The Senator just got through saying that. So why do we pay the Senator's expenses?

Mr. ERVIN. Simply because another branch of the Government can impose on the separation of powers, are we going to sit supinely by and let some other branch of the Government exercise the power that the Constitution gives us to deal with our own Members and let them deal with those Members?

Mr. BROCK. We are sitting supinely by when actions are taken with which a number of Senators disagree and we take no action.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. BROCK. I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I just want to point out in connection with what the Senator from North Carolina is saying that, yes, we are all willing to go in and say that the immunity of a Senator of the United States or maybe even of some of his staff members ought to be protected. However, if we are going to file a brief and if, as the Senator from Tennessee says, any Member can anoint somebody by talking to him or writing to him or asking him for an opinion that is set forth within the parameters of what the Supreme Court is looking at, I for one do not want any part of it.

I do not think the Senate ought to be involved in asking for immunity for themselves or for anyone else.

Mr. ERVIN. I do not think a Senator can anoint anyone under the debate and speech clause except to the extent that the man had been employed in the execution of his duties as a Senator. The question involved in this case is, How far can a Senator go?

Mr. BROCK. Mr. President, will the Senator deny that every voter in Tennessee who voted for me aided me in the performance of my duties by placing me here?

Mr. ERVIN. No. They put the Senator from Tennessee in a position where the Senator from Tennessee acquired the legal capacity to execute the duties of the office of a Senator. They did not aid him in the execution of his duties.

Mr. BROCK. Every time anyone writes me a letter, if I give him personal attention, I can then extend the immunity to him. I do not think there is any divine right.

Mr. ERVIN. If the Senator summons that resident from Tennessee and has him assist the Senator here in the performance of his duties, I think he would be clothed with the same immunity with which the court said Dr. Rodberg was clothed.

Mr. BROCK. Whether he is on the payroll or not?

Mr. ERVIN. Absolutely. That is my position. The question is whether the Senator avails himself of his assistance. The question is whether he aids the Senator in the execution of his office, and not whether he is on the payroll. The question is whether he aids the Senator.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. MATHIAS. Mr. President, I think it would be useful to get this question back within the perimeter of what is practical and what we are really concerned about.

The housekeeping questions within the Senate, I agree totally with the Senator from Tennessee, are the Senate's problems.

If the Senate has doubts and resolves those doubts by action, that is one thing. If it resolves them by inaction, that is the same thing because inaction can speak as loudly as action on occasion.

The point is that those are problems for the Senate to resolve, and neither the courts nor the executive should involve themselves in the internal workings of the Senate. That is essentially what the court in Massachusetts said over 100 years ago. The court will not look beyond the record.

But in this case we have something new, and that is to have the court consider the extent of the immunities conferred under the speech-and-debate clause. This was a subject the Senator from North Carolina will recall was discussed before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary. We had among witnesses before the committee the then Assistant Attorney General William Rehnquist, who is now Mr. Justice Rehnquist, and who at that time was in the Office of Legal Counsel. Mr. Rehnquist gave a succinct description of what we are talking about. He was speaking on behalf of the Justice Department in connection with the executive privilege and he said:

> The President is entitled to undivided and faithful advice from his subordinates, just as Senators and Representatives are entitled to the same sort of advice from their legislative and administrative assistants, and judges to the same sort of advice from their law clerks. The notion that those engaged in directly advising members of any of the three branches of the government should have their work filtered through a process of analysis and criticism by columnists, newspaper reporters, or selected members of the public before that advice reaches their constitutional superior is entirely at odds with any system of responsible popular government.

I go back and read that statement

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again because it is an interesting choice of words. Justice Rehnquist is noted for his careful choice of words:

> The notion that those engaged in directly advising members of any of the three branches of the government should have their work filtered through a process of analysis and criticism by columnists, newspaper reporters, or selected members of the public before that advice reaches their constitutional superior is entirely at odds with any system of responsible popular government.

I think in commonsense language that that states the proposition. He is not talking exactly on the point here of bringing a matter before the grand jury, but it is the principle involved here and one about which there is not much dispute in the Senate.

Mr. SAXBE. I compliment the Senator for bringing that matter to the attention of the Senate and returning us to the area we have been discussing.

I started out by discussing our sincere regard for protecting the rights and immunities of the Senate. But the very nature of the acts which are brought into discussion here—and I might say that the full colloquy on this is excellent because it brings up the acts for scrutiny—just does not jibe with the conduct of this body in the procedure of orderly legislative action.

I might add, too, that the Senate itself has recognized this, because since that time the committee, including the Committee on Public Works, has adopted certain rules that obviously require adequate notice. The slipping of notes under doors in the middle of the night and giving the color of legality to an obvious rump meeting is no longer possible. So the Senate has recognized this, but it has recognized it belatedly.

The question of whether the Senate should or should not consider censure for such activity is something that is brought up here on the floor for the first time. In talking about the resolution, we should recognize there are a great many unanswered questions which I hope we can go to directly tomorrow in the matter of these amendments. Then we can take some action, which I feel in many areas the majority can concur with in putting some limits on fees and some control in narrowing the areas, and certainly in seeing to it that the short time remaining is fully taken advantage of.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SAXBE. I yield.

Mr. MANSFIELD. Any proposals to be offered tomorrow will be given every consideration by the majority.

I would point out that this is not a Democratic or a Republican matter. I would like to make a few observations, if I may, because the one thing we do not want to get involved in here is a political implication, because nothing could be further from the thoughts of the Senate, if it is the thinking of the Senate, than thoughts on politics. I assure the Senator that every proposal made tomorrow will be given every consideration by Members on this side of the aisle.

Mr. SAXBE. If the Senator will yield on that point, the attitude that is prevailing among Members on this side at present, and a great many other people, is that the Senate is unwilling to recognize the dereliction in this particular instance, and that the majority has collected in a protective shield around the Senator from Alaska to carry him through so that he will suffer no harm, no financial damage, and because of what we think was an unwarranted use of a then-existing committee facility he had available to him.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the Senate is the judge of the propriety of the actions of the Senator from Alaska, and the Senate only; not the Supreme Court, not the executive branch, but the Senate, and the Senate only. If the Senate wishes to pay or not to pay the hearing transcript fees of Senator GRAVEL, or to sanction or censure the activities of any Senator, it is for the Senate, and the Senate alone, to decide. That is the issue before us.

Is the Senate as an institution going to be the judge of its own affairs? If any Senator's activities are going to be judged, let the Senate alone be the judge. That is the meaning of the resolution before the Senate.

I emphasize the role of the Senate, not a Democratic-controlled Senate but a Senate made up of Republicans and Democrats who have to make the decisions themselves, and not allow the executive branch or the judicial branch to take unto themselves that which is our responsibility.

Mr. SAXBE. Mr. President, I certainly agree with the basic statements that the Senator has made, but I do not believe the resolution as it stands at present is a fair statement of our attitude. There is a great deal of common ground in the resolution, common ground that both of us can agree on, and I think the whole legislative process at its best—which I hope will operate tomorrow—will shape the resolution in such a manner that we can go together into the Supreme Court to protect those things which we think are always subject to attack.

Mr. ERVIN. Mr. President, I should like to pay tribute to the majority leader. I just told him that the finest constitutional lawyer in America could not have made a better statement of the principle which is involved before us here.

A good many years ago we had turmoil here over the situation of Senator Joe McCarthy. At a later time there was a great deal in the press about the conduct of Senator Dodd. On those occasions the Senate recognized that the Senate alone has the right to judge a Senator for disorderly conduct in his office as a Senator, and nobody else. That is the principle that is involved here, as we see it.

Mr. SAXBE. I know the Senator sees it that way, and it is also obvious that Senators there see nothing wrong in the actions of the Senator from Alaska in what he did in his frustration after not being able to disclose these secret papers on the floor of the Senate. Therefore, we feel that this type of colloquy is extremely important in bringing the actions out, and we think we can better find the common interest in this.

We are talking about days and time, and the fact that the brief has to be printed and filed.

I might say that, on instructions of the Republican conference, we, with what lawyers we have available—I think they are excellent lawyers—have been working on a brief. We think we can do it in-house. In other words, we think we can, with the tremendous level of legal knowledge and experience we have in the Senate, prepare an in-house brief.

Many of us have appeared before the Supreme Court of the United States many times. We think that in this case the issues are clear, as set out in the circuit court of appeals. We want to sustain it. We question whether we can hire better counsel than we can lay hands on here.

Certainly, if we make the laws, we think that we can defend those same laws. However, this is something we can bring up tomorrow in the way of amendment. I truly hope that Senators will look over the amendments, that Senators will be provided with copies, in the hope that we can find a common ground and a common interest.

Mr. ERVIN. I think the Senator from Ohio has just taken a very sensible position. I shall be glad to examine the amendments overnight, if I have copies of them.

Mr. MANSFIELD. Mr. President, I will read this debate with a great deal of interest. It has been instructive as well as constructive. I am glad we spent so much time on this matter, in which the Senate is under consideration as an institution.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. DOMINICK. I wanted to tell the Senator from North Carolina and other Senators, as well, that I shall be preparing three more amendments, other than the ones that are here, but I will not need much time. I hope that when the amendments come up and we get them out of the way, we will not need these at all. I think they can be disposed of in a half hour or less.

Mr. MANSFIELD. I appreciate the remarks of the Senator from Ohio. This will speed up the consideration of the matter—not that we are rushing, but we do have other legislation which the leadership hopes to have completed before the recess begins a week from Thursday.

ORDER FOR RECOGNITION OF SENATOR TUNNEY TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow, following the recognition of the distinguished Senator from Minnesota (Mr. MONDALE), the distinguished Senator from California (Mr. TUNNEY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO PENDING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of Senator TUNNEY'S remarks there be no morning business or no morning hour and that the Senate proceed directly to the pending resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRECEDENTS FOR PAYING COUNSEL FEES

Mr. ERVIN. Mr. President, before we adjourn, I ask unanimous consent that a statement showing the precedents for the Senate to pay counsel fees be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

The Republicans will propose amendments to the Gravel resolution which would prohibit the financing of Senator Gravel's legal expenses. However, there are a number of precedents for this provision of the resolution.

During recent history the Senate has, on two occasions, authorized the retention of private counsel to represent Members and staff aides who have been sued in their official capacities when the issues involved in the litigation relate to the privileges of the Congress. In the first case, *Dombrowski* v. *Eastland*, the Judiciary Committee voted to retain Roger Robb as counsel to represent Senator Eastland and Mr. Sourwine. Upon the request of Chairman Eastland, the Rules Committee authorized payment out of the Judiciary Committee's funds for attorney's fees, expenses and assessed court costs. In the second case, *McSourley* v. *McClellan* now pending in court, the Permanent Investigating Subcommittee has followed a similar procedure to retain H. Jack Miller to represent Chairman McClellan.

In the Eastland and McClellan cases, the plaintiffs sued because Senate Committee employees carried out the orders of their Committee Chairman to seize documents and records belonging to the plaintiffs. It was further alleged that the Senators and employees involved had used the Committee processes. In the Gravel case the Department of Justice is seeking to question an aide of the Senator's because that aide carried out the directions and orders of his Senator.

The Justice Department has also claimed that the Senator and his aide used the Committee process for an improper purpose. The only difference between the prior cases and the Gravel case is that Senator Gravel decided to intervene to protect the Senate and himself whereas Senators Eastland and McClellan were sued. However, it now seems reasonably clear that Senator Gravel acted wisely for at the time the subpoena was issued the Senate was not in session and he had only 36 hours within which to act. If he had not moved to intervene, the Senate's vital interests would have been totally unrepresented.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:30 a.m.

Senators GRAVEL, MONDALE, and TUNNEY will each be recognized for not to exceed 15 minutes, and in the order stated.

There will be no period for the transaction of routine morning business.

The Senate will then immediately resume its consideration of the Ervin-Mansfield resolution, on which there is an agreement of 1½ hours on the resolution and 1 hour on any amendment thereto.

When that resolution has been disposed of, the Senate will take up S. 3178, the suspension of section 315, equal broadcasting time. Final action is hoped for tomorrow on the equal broadcasting time bill.

The leadership also hopes to dispose of S. 2895, dealing with egg prices. Moreover, if cleared, the leadership hopes to dispose of Senate Joint Resolution 193, Cape Canaveral, and S. 3153, Gulf Islands National Seashore.

There will be rollcall votes tomorrow, and we may very well have a long day.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. SAXBE. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m., tomorrow.

The motion was agreed to; and at 6:35 p.m. the Senate adjourned until tomorrow, Thursday, March 23, 1972, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 1972:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jarold A. Kieffer, of Minnesota, to be an Assistant Administrator of the Agency for International Development, vice Herbert Salzman, resigned.

U.S. DISTRICT COURTS

Otto R. Skopil, Jr., of Oregon, to be a U.S. district judge for the district of Oregon, vice Alfred T. Goodwin, elevated.

James M. Burns, of Oregon, to be a U.S. district judge for the district of Oregon, vice Gus J. Solomon, retired.

U.S. COAST GUARD

The following named officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Charles J. Hanks.

HOUSE OF REPRESENTATIVES—*Wednesday, March 22, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Search me, O God, and know my heart: try me and know my thoughts: and see if there be any wicked way in me and lead me in the way everlasting.—Psalm 139: 23, 24.

Eternal Father, to whom the darkness and the light are both alike in the midst of the troubles of these trying times, worn and weary by worry and work, we turn to the quiet calm of Thy presence. For a moment we would be still and know that Thou art God.

Endow us with insight to understand the needs of our people and help us to work for greater justice in our land, for fuller freedom among the nations and for an enduring peace in our world. May we realize that Thou art our Father, our fellowmen are our brothers, and we are our brothers keepers. With this vision of Thy kingdom may we make our decisions, mold our laws and build our Nation. Thus may we walk from darkness to light, from weakness to strength, from fear to faith and from any ill will to an abiding good will. In the mood of the Master, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 3054) entitled "An act to amend the Manpower Development and Training Act of 1962," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. RANDOLPH, Mr. TAFT, Mr. JAVITS, Mr. SCHWEIKER, Mr. DOMINICK, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 764. An act to authorize the disposal of lead from the national stockpile and the supplemental stockpile;

S. 773. An act to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile;

S. 1379. An act to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes;

S. 3086. An act to authorize the disposal of nickel from the national stockpile; and

S. Con. Res. 55. Concurrent resolution providing for the recognition of Bangladesh.

HOUSING BOOM CONTINUES TO PACE OUR ECONOMIC EXPANSION

(Mr. WIDNALL asked and was given permission to address the House for 1

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minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIDNALL. Mr. Speaker, the unprecedented boom in new home construction accelerated in February. Private housing starts soared 8.4 percent over the previous month, to a seasonally adjusted annual rate of nearly 2.7 million units. This unusually strong advance indicates that the housing sector will continue to be a potent contributor to the economic expansion and provide the new homes so essential to the well-being of this Nation's families.

It is important to put these statistics in perspective. The many record-breaking months of housing construction recently may give some the idea that the housing sector has always been strong. This is, of course, a mistaken impression. Until recently, we have never had a year when housing starts totaled 2 million units. Until recently, we would have to go way back to 1950 to find a month when housing starts reached an annual rate of 2 million.

During the 1960's, housing starts never reached an annual total of even 1.6 million units. In contrast, the total for 1971 is now estimated to be nearly 2.1 million units. February 1972 is the third consecutive month that the level of starts has remained above the 2.4 million unit mark. And the level of permits for new home construction remains at 2.1 million, suggesting that starts will remain strong for many months to come.

It is easy to find bad economic news if one searches hard enough. But the housing sector will give pessimists no consolation. Housing construction has been unusually vigorous. And the signs are that this sector will continue to add strength to the current economic expansion.

HON. OGDEN R. REID WELCOMED TO DEMOCRATIC PARTY

(Mr. HAYS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HAYS. Mr. Speaker, I join with my colleague, the gentleman from Indiana (Mr. BRADEMAS) and the majority leader in welcoming the conversion of the gentleman from New York (Mr. REID) to the Democratic Party. I have been a friend of OGDEN REID since he came to the House. I think he is a sound, dedicated, hard-working Member. I think he will be a valuable addition to our party.

Might I say this is in great contrast to the mayor of Fun City, who lately converted to the party, Mr. Lindsay. I also knew him when he was here. He served on my NATO Committee. He made absolutely no contribution. He is phonier than a Confederate $3 bill with Abraham Lincoln's picture on it.

TRIBUTE TO THE LATE LAURENCE E. TIERNEY, JR.

(Mr. KEE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KEE. Mr. Speaker, at 2:45 a.m. this morning, Mr. Laurence E. Tierney, Jr., known widely by his friends in "Larry," died at St. Mary's Hospital in Richmond, Va., following extensive and complicated surgery.

Mr. Speaker, Mr. Tierney was a neighbor and very dear personal friend of mine in my home city of Bluefield, W. Va., and he was known as the tower of strength. A man of complete dedication not only in southern West Virginia but throughout a good part of the United States.

Unfortunately, time does not permit me to list his unexcelled positions of responsibility in numerous business enterprises, each one of which grew and prospered under his able leadership. While he retired from many of his business activities, he had the ability to select extremely qualified men to carry on under his most capable direction.

Some time ago, he sold his vast coal interests and at the time of his death, he was chairman of the board of directors of the Flat Top National Bank in my home city of Bluefield. The example he set will long continue to influence and inspire us.

Mr. Speaker, while we are all filled with sadness, I take this opportunity to extend my prayers to Mr. Tierney's family and I have a strong feeling that he will watch over us from his house in the kingdom of heaven.

DRUG ABUSE PREVENTION

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, yesterday President Nixon signed into law the Drug Abuse Office and Treatment Act of 1972. This bill gives permanent status to the Special Action Office for Drug Abuse Prevention. Under this Office, Government efforts will be coordinated to prevent drug addiction through education, treatment rehabilitation, training and research, and tough law enforcement. The Office will pull together the drug abuse prevention threads which now run independently through 13 Federal agencies. It is my belief that this new approach, coupled with the full cooperation of the Congress and the people, can not only root out the misery peddlers on our city streets, but also provide help to the many victims of this national problem. We must present a balanced attack on this problem. That is, we must move through tough law enforcement against the supply sources for illegal drugs while at the same time moving through strong drug abuse prevention programs against the demand for drugs among our citizens.

We need to fumigate every corner of the breeding grounds for drug addiction. Intense, coordinated efforts such as planned by the Special Action Office for Drug Abuse Prevention will give us a good start on this massive problem.

THE NEWEST CONSUMER FRAUD

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Iowa. Mr. Speaker, I noticed in the newspapers yesterday there were two full-page advertisements by Giant Foods and Supervalue alleging to help the consumer to spend his money better. I was curious, so I went out this morning shopping to the Giant store and the Supervalue store across the road in the 3900 block of Minnesota Avenue. I found as a matter of fact the cost per unit of proteins in the food they are pushing was more than in the food they do not want people to buy. In fact some cuts of meat were as little as one-fifth as expensive per protein unit as pizza, which is the kind of food one ad encouraged people to buy. These ads constitute an outright consumer fraud. They take the consumer's money to buy an advertisement to mislead the consumer. During a special order today following other business previously scheduled, I am going to detail the facts relative to this newest consumer fraud.

INTEREST RATES ON HOUSING

(Mr. PATMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATMAN. Mr. Speaker, I join my good friend, WILLIAM B. WIDNALL, from New Jersey, the ranking minority member on the Banking and Currency Committee, in expressing appreciation that we have a large number of housing starts. It is wonderful.

However, it is a great pity that the people who are building these homes are having to pay from $30,000 to $40,000 on the purchase of a $20,000 home, in interest rates. I believe it is terrible we permit that to be done.

We have been unable to reduce the rates. They can be reduced. They could be reduced to 5 percent on housing loans to the purchaser and owner. There are ways of doing it without additional cost to the Government, to save the people tremendous sums of money. I certainly am dissatisfied that we are not able to do more to save the consumer more money on the purchase of homes, something that is so necessary in the promoting of environmental quality.

THE EFFECT OF CHANGING THE PAR VALUE OF GOLD ON INTEREST RATES

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, it seems to me that implicit in the action which was taken yesterday to devalue the dollar, sponsored and fathered by the gentleman from Texas (Mr. PATMAN) is an increase in interest rates and inflation, because, if I read the papers correctly, many hundreds of millions, perhaps billions of dollars will be extracted from the U.S. Treasury to take care of the so-called short fall in U.S. contributions to various international institutions due to the deliberate dollar devaluation.

I wonder who is going to take care of the "short fall" for every citizen of this country whose dollars will also be depreciated as a result of yesterday's action by some 8 percent.

CONFERENCE REPORT ON S. 18, GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY

Mr. MORGAN. Mr. Speaker, I call up the conference report on the bill (S. 18) to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 14, 1972.)

Mr. MORGAN (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read. It was printed in the RECORD on March 14, I am sure the Members have read the report and the statement.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania.

Mr. MORGAN. Mr. Speaker, I yield myself 5 minutes.

After long and frustrating deliberation, the managers on the part of the House reached agreement on S. 18, which authorizes the funds necessary to keep Radio Free Europe and Radio Liberty operating until the end of the current fiscal year—June 30, 1972.

The Senate agreed to the House figure of $36 million for fiscal year 1972, an increase of $1 million over the Senate authorization.

The House bill included an authorization for fiscal year 1973, but the Senate refused to agree to any authorization for fiscal year 1973. The House accepted the Senate provision which provides funds only through next June 30.

The Senate conferees agreed, however, as set forth in the statement of the managers "that further legislation will be considered before the end of the fiscal year."

The principal issue which confronted the conference committee was the fact that the majority of the Senate conferees wanted Radio Free Europe and Radio Liberty to close down next June 30.

The House conferees insisted that we would not accept the Senate bill if, by accepting their bill, we were put in the position where we might be said to have accepted the Senate contention that the two programs were to terminate on June 30. We did not agree to the termination of of these programs, and the statement of managers includes a statement agreed to by both sides that further legislation will be considered before the end of the fiscal year.

We were confronted with the fact that both Radio Free Europe and Radio Liberty had run out of money and would have to close down unless agreement was reached.

The continuing resolution which had financed their operations since last July expired on February 22. They had been able to meet their payrolls for a couple of weeks, but they said it was necessary to notify their employees that they were closing down unless an agreement on the authorization was reached on March 15.

The Committee on Foreign Affairs was impressed by the testimony of the witnesses who appeared before us last fall in support of Radio Free Europe and Radio Liberty. People who had lived behind the Iron Curtain and who had depended on these two programs for uncensored news gave convincing testimony as to the effectiveness of both of these operations.

I remember particularly that when there were riots at certain seaports in Poland over a year ago, the only way that news of these riots reached the people of Poland outside the cities was from the broadcasts of Radio Free Europe.

I believe that the United States should continue to support these programs. I also believe that this view is shared by a majority of the other body.

The latest information I have is that more than 60 Senators have joined in sponsoring Senate Resolution 272, expressing support for Radio Free Europe and Radio Liberty, but the Senate conferees apparently were not influenced by this indication of the attitude of a majority of the Senate.

The bill that passed the House on last November by a vote of 271 to 12 provides a much more realistic and constructive approach than the legislation we have brought back from conference.

I believe that the conference report before us is the best agreement that could be reached under the circumstances, however, and I urge its approval.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. MORGAN. I am glad to yield to the distinguished gentleman from Michigan.

Mr. GERALD R. FORD. Let me compliment the gentleman from Pennsylvania, the distinguished chairman of the committee, and the gentleman from California (Mr. MAILLIARD), the ranking Republican member of the committee, for trying to get a better settlement than has been brought back to the House today. I know that both of them and the other members of the conference on the House side strove mightily to attempt to get a longer life for Radio Free Europe and Radio Liberty and better funding, but complications arose in the conference which, unfortunately, could not be resolved except for the conference report which is before us today.

Could the gentleman from Pennsylvania outline, if possible, what he thinks will happen between now and the end of this authorizing legislation?

Mr. MORGAN. I understand that funds have already been appropriated and are available as soon as the authorization is approved. I can assure the minority leader that as soon as the message comes up from the Executive asking for an extension for the year 1973, the Committee on Foreign Affairs will hold hearings and take action to bring the matter before the House before the end of the fiscal year I believe that the proposal for a study commission to decide what future arrangements should be made for continuing these programs as provided in the House is a good idea and will receive careful consideration by the Foreign Affairs Committee when the matter comes before us again. I feel it is the best approach, and I hope we can extend the life of the agency through 1973 until this study is completed.

Mr. GERALD R. FORD. I thank the gentleman, and I wish him well because I agree with him that this program has had a fruitful and beneficial life from the point of view of the United States. To kill these two programs now I think would be a most unwise act as far as our country is concerned.

Mr. MORGAN. I think that the many expressions of support for Radio Free Europe and Radio Liberty which came from all parts of the country show that these programs are in the best interest of the United States.

Mr. GROSS. Mr. Speaker, will the gentleman yield to me?

Mr. MORGAN. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Would the gentleman refresh my memory? Is the $36 million provided in the conference report the total for fiscal 1972?

Mr. MORGAN. That is right.

Mr. GROSS. The total authorization for this purpose for fiscal year 1972?

Mr. MORGAN. That is correct. This is for fiscal year 1972 which ends June 30.

Mr. GROSS. I thank the gentleman.

Mr. MORGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PODELL).

Mr. PODELL. Mr. Speaker, we have before us a bill to amend the United States Information and Education Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty.

Radio Liberty's history reads of good worthy goals, accomplished by not-so-worthy means. The revelation that Radio Liberty's espousal of the cause of freedom was financed with Central Intelligence Agency funds illustrates this point most cogently.

Thus I welcome S. 18, designed to make Radio Liberty an agent of the public interest, financed by the public and accountable to it. I welcome the proposed study commission and its goal to evaluate the need and appropriateness of such broadcasting in an era of detente.

But there is one sort of broadcasting that is clearly needed now, today, more than ever. That is regularly scheduled Yiddish broadcasts directed to Soviet Jews. Such broadcasts should not replace the regular news and feature items aired in Russian. They should be in addition to such Russian language material.

Such programs serve a dual purpose:

First, they would provide information on cultural, educational, and religious

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topics that Russian Jews can find nowhere else. For in Russia, all books on Jewish history and culture are locked in libraries for the use of scholars with official authorization. And I need not tell you that the Russian Government rarely favors interested Jews with such permission. In fact, several courageous men and women have served sentences in the notorious Russian labor camps for exactly this crime—unauthorized possession of Jewish educational material. Radio Liberty Yiddish programing could fill this gap now in a time when the consciousness of Russian Jews and their interest in their cultural heritage grows daily.

Second, Yiddish broadcasts to Russian Jews by a radio station financed by the U.S. Government would communicate to the Soviet Jews struggling to retain their cultural identity in an atmosphere of persecution and repression that the people of the United States support them in their valiant fight.

Some people have minimized the potential impact of such broadcasts with deceptive figures on the number of Jews who speak Yiddish. It is true that most Soviet Jews do speak Russian; but it is also true, and much more significant, that most Soviet Jews understand Yiddish. Many, in fact, prefer to use it as a means of retaining their Jewish identity.

Some Americans, free to educate themselves and their children as they see fit, look at the decreasing usage of Yiddish in this country and wrongly conclude that Yiddish is a language of the "shtet Europe shetl" that exists no more. I disagree with this conclusion.

Soviet Jews have no freedom to send their children to cultural schools. But they do have Yiddish with its cultural richness and texture, that expresses 2,000 years of Jewish history like nothing else can, to teach their children. They would be glad, as emphasized by many prominent young Russian Jews who have escaped to the West, for Radio Liberty's help in that task.

It is a task that Radio Liberty can safely undertake without fear of upsetting our efforts to achieve a detente with the Russians. I base this conclusion on a news interview that quoted Ambassador Anatole Dobrynin, of the Soviet Union, as saying that such broadcasting would have no effect on Russian-American relations.

I have written to the Secretary of State and to Radio Liberty on this matter.

I hope that Radio Liberty will use its new freedom wisely and in the public interest, and broadcast regularly scheduled programs in Yiddish.

Mr. MAILLIARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of the conference report on S. 18, the bill to authorize funds for the operation of Radio Free Europe and Radio Liberty.

It was an extremely difficult and frustrating conference. I am keenly disappointed that we were not able to sustain the position of the House, which had passed a reasonable and constructive bill on November 19, 1971.

I am sure most Members are aware of this intransigence of several of the Senate conferees. In their effort to kill the radios, they rebuffed our every effort to negotiate a reasonable compromise.

While the conference agreement leaves much to be desired, it does at least continue the radios through the remainder of this fiscal year. It specifies that the conferees agreed to legislation which will continue the programs at the authorized rate of $36 million only for the balance of the current fiscal year "with the clear understanding, however, that further legislation will be considered before the end of this fiscal year."

I hope the House will demonstrate its strong support for the continuation of Radio Free Europe and Radio Liberty by voting overwhelming approval of this conference report.

Mr. BROOMFIELD. Mr. Speaker, the adoption of the conference report on S. 18 today represents the culmination of many months' laborious effort to save Radio Free Europe and Radio Liberty as voices of freedom behind the Iron Curtain. While it is necessary to accept this report, the legislative solution it contains is inadequate because it provides for the continuance of these two valuable radio organizations only until the end of this fiscal year. This is an insufficient reflection of the confidence this body has shown in the two radios. With the adoption of this conference report, we are now faced with the prospect in the near future of going through the hearings again and repeating the whole legislative process in order to obtain legislation for next year. The House bill would have provided a 2-year authorization and a commission to carefully study the desirability of continuing the radios and making their recommendations to the Congress before the end of that period.

In conference, the Senate conferees seemed to be unaware of the fact that the name of the game when the conferees of the two bodies meet is compromise. The Senate conferees refused to budge one iota from their 1-year authorization and from the requirement that the funding be through the State Department rather than through an independent source.

You will recall, Mr. Speaker, that the House version of S. 18 passed this body with 27 votes in favor and only 12 votes against. The Percy-Humphrey sense of the Senate resolution, Senate Resolution 272, advocating the continuance of Radio Free Europe and Radio Liberty has now been cosponsored by 67 Members of that body. This is a clear indication of what the Members of Congress think of the work that is being done by the radios.

As a dramatic indication of how important the voice of Radio Liberty is to those compelled to live behind the Iron Curtain, in the Soviet Union, a letter was sent this week to Congress signed by 97 residents of Israel who were able to leave the Soviet Union. Their plea to the Congress is to preserve Radio Liberty. In their letter they say:

> It is very difficult to explain to you, people of a free country, how vital and important it is for everybody behind the Iron Curtain to get a true and objective information about world affairs.
>
> We suppose that you have already received many letters and requests from righteous persons all over the world, asking you not to close down this station. We believe that they are, as we are, wondering how could you even take into consideration the shutting down of this source of encouragement and hope for so many people!

The record of the hearings in committee is replete with similar statements by former residents of Eastern Europe. We have done the right thing in preserving the radios but it is unfortunate that we must start our labors anew in order to keep the radios from falling victim to those who seek their demise.

The fact that there will be legislation concerning the radios is a tribute to the persistence, patience, and leadership of the distinguished chairman of the Foreign Affairs Committee, the gentleman from Pennsylvania.

Mr. DERWINSKI. Mr. Speaker, I support the conference report with reluctance. I believe Radio Free Europe and Radio Liberty should have long-term authorization and appropriations support, not the very limited time set by this report.

It is my understanding that necessary steps will be taken in the House and Senate to overcome the obstructionist tactics of the junior Senator from Arkansas and legislation extending the operations of these two radio stations will develop in time.

I would remind my colleagues of the House that much as we wish it, the battle for the minds of men is not yet over. So long as censorship prevails in the Soviet bloc, their citizens will seek to know the truth.

If we tire of the competition and write off the minds of millions in the Soviet bloc, we reduce their ability to influence their governments toward the liberalization of policies. To achieve a generation of peace, we must continue to compete for the minds of men.

Mr. SCHEUER. Mr. Speaker, my recent trip to the Soviet Union increased my understanding and appreciation of the vitally needed service to Soviet citizens—Jews and non-Jews alike—provided by Western radio broadcasts. In my conversations with Jews and dissidents in Moscow and other cities, I was told over and over again that the programs of the Voice of America and Radio Liberty, BBC, and Kol Israel make available not only hard information suppressed by official media, but also build for them a deeply needed emotional bridge to the West.

The broadcasts reassure them that they are not alone, that people in the outside world have not forgotten them and continue to take a sympathetic interest in their struggle for basic human rights.

I share the desire to end the cold war and its relics. But, as the Washington Post has noted, Radio Liberty's broadcasts are not "provocative, propagandistic diatribes." Instead, Radio Liberty provides the people of the Soviet Union with news that they are unable to obtain in any other way, and it does so, again in the words of the Post, "professionally, responsibly and effectively." The broadcast of news in this manner cannot be viewed as a continuation of the cold war, and the free flow of information cannot be viewed as an obstacle to the continued search for detente.

It may very well be that the broadcasts of Radio Liberty ought to be further toned down, but the need for reform should not impel us to "throw the baby out with the bathwater." We should make every effort to support Radio Liberty, and the desire for better relations between the United States and the Soviet Union should not prevent the acceptance of this bill which will permit Radio Liberty to continue its broadcast operations.

Mr. RODINO. Mr. Speaker, I am very pleased to give my strong support to the conference report on S. 18, to permit continued funding for Radio Free Europe and Radio Liberty through fiscal year 1972. However, I am at the same time deeply distressed by the recent impasse that for a time threatened to silence the broadcasting of factual news and opinion by these two stations to the peoples of the Soviet Union and the Communist East bloc nations.

It is imperative, in my judgment, that we immediately move to consider legislation to resolve the future role of Radio Free Europe and Radio Liberty following this brief reprieve for the stations' operations.

I have a special interest in these two voices of freedom, Mr. Speaker, for I am the author of Public Law 90–215, enacted in 1967, which amended the Immigration and Nationality Act to permit the naturalization of the dedicated employees of Radio Free Europe and Radio Liberty. Previously these individuals, who for long years selflessly served the interest of the United States abroad, had been unable to obtain citizenship. Despite their permanent resident alien status, they could not fulfill the residency requirements of our Immigration and Nationality Act because they remained in Europe to transmit messages of truth and hope to the peoples of Russia, Bulgaria, Czechoslovakia, Hungary, Poland, and Romania.

I urge approval of the conference report, and I would like to include in the RECORD an article from Time magazine of March 6, and an editorial from the Newark Star-Ledger of March 16 commenting on the importance of continuing the broadcasts of Radio Free Europe and Radio Liberty.

It is my hope that Congress will act expeditiously to consider the role of Radio Free Europe and Radio Liberty, and the proper means of financing their broadcasts, for, as the Time article noted:

> They have both won a reputation for veracity and reliability inside and outside the Communist countries.

The articles follow:

[From Time, Mar. 6, 1972]

TURNING OFF THE RADIOS

For more than two decades, the Soviet Union and its Eastern European allies have tried to silence Radio Free Europe, which beams programs of news, music and political commentary to five Eastern European countries, and Radio Liberty, which broadcasts exclusively to the Soviet Union. Last week both stations were on the brink of being shut down—by U.S. Senator J. William Fulbright.

The chairman of the Senate Foreign Relations Committee is waging a singlehanded and (so far) highly effective battle against the two stations whose broadcasts from West Germany, he feels, jeopardize America's efforts to improve relations with Communist nations. "These radios," says Fulbright, "should take their rightful place in the graveyard of cold war relics."

STOP PAYMENTS

One basis of Fulbright's two-year-old campaign is that the stations, instead of being the private organizations that they claimed to be, were actually supported by the Central Intelligence Agency. Last spring the Nixon Administration ordered the CIA to stop its payments and proposed the creation of a public-private corporation similar to COMSAT that would run the two stations under congressional scrutiny. But Fulbright has created a deadlock between the House and Senate over bills that would keep the stations alive until this or some other new arrangement could be worked out. As a result, a temporary congressional appropriation expired last week, leaving RFE and Radio Liberty with only enough money for a few more weeks of operation.

As it happens, Fulbright's criticism of the stations is itself a cold war relic. To be sure, when they were founded in the early 1950s, both Radio Free Europe and Radio Liberty were indeed propaganda tools that sought to undermine the Communist governments. To its enduring discredit, Radio Free Europe, in the opening stage of the 1956 revolution, encouraged Hungarian freedom fighters to believe that the West would intervene militarily on their side. Since then, however, there have been massive personnel and policy changes at both stations.

MUSIC HOURS

Most of the old émigré right-wingers, who unrealistically ranted for an overthrow of the Communist regimes, were weeded out in favor of younger and more perceptive East Europeans and Soviet defectors. In general, these staffers have tried to encourage a process of liberalization within the Communist societies. No one can evaluate to what degree the stations have affected developments in the East bloc, but they both have won a reputation for veracity and reliability inside and outside the Communist countries.

Radio Free Europe employs 1,600 people, 960 of them at its headquarters in Munich. Operating on a $21 million budget, it broadcasts a total of 557 hours each week in native language to Poland, Czechoslovakia, Rumania, Bulgaria and Hungary. About half of the programs is news and analysis of events in the various East bloc countries. Other programs range from music hours featuring the latest Western rock to special reports on living conditions of foreign workers in Western Europe.

Much of RFE's information comes from monitoring of East European news services and radio broadcasts, and interviews with travelers. The station's 100 political analysts, many of them natives of Eastern Europe, often are able to draw deductions that an official Eastern European commentator could never make. Example: the notion that the Polish government actually encourages alcoholism because it collects a big tax on vodka.

To protect its reputation for accuracy, RFE's broadcasts, if anything, err on the side of caution. When reports of Alexander Dubcek's ouster first came from Prague over a Western news ticker, RFE waited for Czechoslovakia's confirmation before airing the item. Despite the fact that for years RFE held up Yugoslavia as an example of how a Communist regime could peacefully develop toward liberalism, RFE has given extensive coverage to the Croatian crisis that has shaken Yugoslavia's progress toward greater governmental freedoms. Judging by the annual polls of East bloc tourists in Western Europe, RFE's audience is impressive: 78% of all radio-listening Poles, 81% of the Hungarians, 77% of Rumanians, 78% of Bulgarians and 60% of the Czechoslovaks. At present, all the East bloc countries except Czechoslovakia and Bulgaria have given up trying to jam RFE since the broadcasts tend to get through anyhow.

Samizdat Essay. Radio Liberty, which has a $14 million budget, employs 800 persons, including 250 Soviet defectors. It broadcasts 24 hours daily in 19 languages. A research staff of 40 gleans Russian publications for details about happenings in the country. Through private channels, Radio Liberty receives underground *samizdat* (literally, self-publishing) manuscripts that are clandestinely circulating in the Soviet Union and broadcasts them to listeners in Russia.

At Radio Liberty, a typical day's broadcasting, in addition to hourly news bulletins, might include a *samizdat* essay by a Soviet engineer on the need for economic reform in Russia and a synopsis of a Polish film that is not being shown in Russia. Radio Liberty tries to fill in gaps caused by Soviet censorship. For example, it carries criticism by Western psychiatrists about Soviet imprisonment in mental hospitals of political dissenters.

The Soviet and Eastern European regimes understandably want RFE and Radio Liberty closed down since they challenge the governments' control over the information reaching their people. Despite Fulbright's argument that the stations must be silenced as a U.S. contribution toward relaxing tensions in Europe, many Western Europeans maintain exactly the opposite. As one West German editorial put it: "In this era of *détente*, it is all the more important that the voice of free opinion is not silenced." Even though his Ostpolitik seeks better relations with the Communist countries, West German Chancellor Willy Brandt obviously agrees. He has consistently rejected Polish and Soviet suggestions that the stations' licenses to operate from West German territory be withdrawn.

[From the Star-Ledger, Mar. 16, 1972]

VOICES OF FREEDOM

The Nixon Administration has won a partial victory in averting the unfortunate shutdown of Radio Free Europe and Radio Liberty, which have played vital roles in keeping open lines of communication for people in Eastern Europe and the Soviet Union.

The transmissions of these stations have provided factual news of the outside world to people whose governments would prefer to force-feed with distorted domestic propaganda.

Despite a highly favorable report by the Library of Congress, which made a study at the request of the Senate Foreign Relations Committee, the stations were threatened with extinction because of differences between House and Senate conferees on bills authorizing the continuation of these broadcasts.

Under an arrangement worked between the White House and congressional aides, the Administration agreed to drop its efforts to obtain long-term funds for American-operated stations and accepted a plan to keep them on the air at least three more months.

The two stations were set up at the height of the cold war to broadcast news and commentary to people behind the Iron Curtain. They have been attacked and reviled by Moscow and other Communist countries because their transmissions often included news not available in the tightly-controlled Communist media.

The existence of electronic allies of liberal elements in the Communist world could be a bargaining point for the President when he visits Moscow next May. Any final decision on the fate of Radio Free Europe and Radio

XUM

Liberty should be deferred until after Mr. Nixon returns from the Soviet Union when Congress can take a fresh look at U.S.–Russian relations.

Mr. MORGAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13592, NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 904 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 904

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13592) to amend the Public Health Service Act to provide for the prevention of sickle cell anemia. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. BURTON. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from California.

(By unanimous consent, Mr. BURTON was allowed to speak out of order.)

(Mr. BURTON asked and was given permission to revise and extend his remarks and to include extraneous matter.)

DEMOCRATIC STUDY GROUP WELCOMES REPRESENTATIVE OGDEN REID TO THE RANKS OF THE NATIONAL DEMOCRATIC PARTY

Mr. BURTON. Mr. Speaker, as chairman of the Democratic Study Group, I am pleased to welcome Representative OGDEN REID to the ranks of the National Democratic Party in the House of Representatives. As noted in an editorial in this morning's New York Times, he has long been a leader of the progressive wing of the Republican Party. His joining our party brings to us "another future leader of great decency, dedication, and talent."

Since the latter part of the 19th century, Representative REID's family has devoted itself to public service in the finest tradition of the Republican Party. In light of this tradition, it is easy to understand Representative REID's disillusionment with the current direction of the Republican Party.

We encourage men of conscience on the other side of the aisle to emulate Representative REID's fine example. Thus strengthened, we will go on to make the House of Representatives the progressive, responsive institution conceived by the founders of the Republic.

The editorial follows:

DEMOCRAT REID

Leaving the Republican party is a much tougher wrench for Representative Ogden R. Reid than it was for Mayor Lindsay. His grandfather was a founder of the G.O.P. and its Vice Presidential candidate in 1892 on a slate headed by Benjamin Harrison. The Westchester Congressman was the last member of his family to edit The New York Herald Tribune in its long career as a voice of intelligent Republicanism.

That Mr. Reid has decided he can no longer stay in the party is graphic evidence of how far to the right it has drifted under the leadership of President Nixon. Unquestionably, the stiff primary challenge Mr. Reid faced from powerfully backed conservative elements in the state G.O.P. helped prompt his switch into a Democratic party that is hardly at the peak of its popular appeal or internal unity. But an even stronger spur was the increasing distaste Mr. Reid felt for pretending ties with an Administration whose policies he could not swallow on such issues as civil liberties, education, child care, the fight against racial discrimination and the pace of extrication from Vietnam. Above all, his break came out of despair at the divisive trend of most Administration approaches.

As believers in a strong and vital two-party system, we are sad to see the Republican party in this state—so long a leader in the party's progressive wing—becoming a conservative bastion with diminished appeal to independents of the type responsible for the repeated elections of Governor Rockefeller and Senator Javits. But the Governor himself has been a poor recent steward of that tradition and Mr. Reid risked total isolation. His decade of service in the House has been marked by steady growth in the quality and diversity of his accomplishment. Still short of his 47th birthday, he brings to the Democrats another future leader of great decency, dedication and talent.

REPRESENTATIVE REID QUITTING GOP; PLANS RACE AS A DEMOCRAT

(By Richard L. Madden)

WASHINGTON, March 21.—Representative Ogden R. Reid of Westchester County, whose family's involvement with the Republican party dates back almost a century, will announce tomorow his switch to the Democratic party.

Friends of the 46-year-old liberal Republican said that among the factors involved were a decision that he could not support President Nixon for re-election, the prospect of a difficult Republican primary fight in his newly drawn Westchester district, and a feeling that his chances for advancement to statewide office, such as Governor, were blocked on the Republican side.

Mr. Reid, who is completing his 10th year in the House and who has been increasingly critical of the Nixon Administration, scheduled a news conference for 10:30 A.M. tomorrow at the Carlyle Hotel in New York City to make what his office called "an important political announcement."

Mr. Reid was reported by his office to be in New York and unavailable for comment. However, other political figures—Republican as well as Democratic—who have talked to him in recent days said they were convinced that he would announce his candidacy for reelection as a Democrat.

Such a shift would follow by seven months the move by Mayor Lindsay, a political ally of Mr. Reid, into the Democratic party and would further weaken the ranks of the so-called progressive wing of the Republican party in New York State.

In anticipation of Mr. Reid's announcement, the Westchester County Republican organization, which had been scheduled to hold a convention in White Plains tomorrow night to designate Congressional candidates, postponed its meeting. Republican officials began discussing potential candidates who might make a strong race against the Representative.

PERSUASION SAID TO FAIL

It was understood that John N. Mitchell, the former Attorney General who is now directing Mr. Nixon's re-election campaign, met with Mr. Reid last weekend in an apparently unsuccessful effort to talk the Representative out of bolting the Republican party.

At a news conference in Albany today, Governor Rockefeller acknowledged that he had discussed the matter with Mr. Reid "over the last two or three weeks." The Governor indicated that he expected a party switch.

Mr. Rockefeller said that any statement should come from Mr. Reid, whom he praised as a "long and old friend" who had been a strong supporter of previous Rockefeller campaigns for the Presidency and Governor. The Governor added:

"Now I know, and have known for quite a while, that he [Mr. Reid] has been frustrated with getting—the problem of getting things done—in Congress, and that his rate of progress onto the statewide scene in the state has not been as rapid as I think he would like to see it. So I understand the considerations he faces."

"THE WRONG PARTY"

Mr. Rockefeller continued: "Now, my personal feeling would be that for anyone to switch his allegiance from the Republican party to the Democratic party would be joining the wrong party at the wrong time, but that is a personal feeling.

Two years ago Mr. Reid scored only a narrow victory in the Republican primary, but he won handily in the general election, with his traditional drawing of Democratic and independent votes.

Max Berking, the Westchester County Democratic chairman, declined comment on Mr. Reid's intentions, but he said that he thought the Representative would be welcomed by Democratic officials, who are scheduled to meet Thursday night to designate candidates.

While Mr. Reid has been increasingly critical of the Nixon Administration, a decision to leave the party was regarded as somewhat uncharacteristic for the Representative, whose ties to the Republicans have been strong.

His grandfather, Whitelaw Reid, was the unsuccessful Republican nominee for Vice President on Benjamin Harrison's ticket in 1892. Mr. Reid, a former president and editor of the now defunct New York Herald Tribune, was the United States Ambassador to Israel in the Eisenhower Administration.

If Mr. Reid is re-elected as a Democrat, his 10 years of seniority in the House also might be endangered.

Mr. O'NEILL. Mr. Speaker, House Resolution 904 provides an open rule with 1 hour of general debate for consideration of H.R. 13592, the National Sickle Cell Anemia Prevention Act.

The purpose of H.R. 13592 is to amend the Public Health Service Act to provide for the prevention of sickle cell anemia.

A national program will be established for diagnosis, prevention, and treatment of the disease together with screening and counseling programs and informational programs.

Grants and contracts by the Secretary are authorized for the establishment and operation of voluntary screening and counseling programs as part of other existing public health care programs. In order to carry out this section of the legislation, $20 million are authorized for fiscal year 1973, $25 million for fiscal year 1974, and $30 million for fiscal year 1975.

The Secretary is authorized to make grants and contracts for research and development programs. In order to carry out this section of the bill, $5 million are authorized for fiscal year 1973, $10 million for fiscal year 1974, and $15 million for fiscal year 1975.

The bill sets forth the requirements applicable to grants under the act.

Mr. Speaker, sickle cell anemia is one of the greatest killers among young black children in the Nation today. Annually, an estimated 1,155 new cases are discovered; and for each of these new cases a very painful and usually fatal disease has begun. This figure for the estimated number of new cases discovered is considerably higher than the estimate for other major hereditary childhood diseases. For instance, cystic fibrosis has only 1,206 new cases discovered annually; muscular dystrophy, 813.

At least 50,000 black Americans suffer from sickle cell anemia. Each year, one in 500 black births is afflicted with this crippling disease, and at least 5,000 require hospitalization. Although there is a wide range in the severity of the disease process, black Americans afflicted with this disease rarely survive to adulthood. Most die before they reach the age of 20.

It is important to distinguish between those who have the sickle trait and those that suffer wiht the disease. Those who have only one positive sickle cell gene may not suffer from the disease, but can transmit the disease to their children. Experts have estimated that of the 25 million black people in America, approximately 2.5 million may have the sickle cell trait. This means that if two carriers produce a child, there is a 25-percent chance that the child will have sickle cell anemia and a 50 percent chance that the child will be a carrier.

Sickle cell anemia results from an abnormal hemoglobin molecule in the red blood cells which cause the cells in the body to take on a sickle S-shape. Once the cells have this form, several clinical manifestations may ocur: Severe anemia **can result;** the normal flow of blood to **the vital organs** such as the heart, kid**ney, lungs, is impeded** by the sickle**shaped cell. When** the normal flow of **blood is impeded,** intense pain results; **most victims die** from the disease since the repeated oxygen crisis from lack of blood flow to vital organs causes a toll on the body.

Sickle cell anemia is a genetically hereditary form of anemia which afflicts blacks almost exclusively. At the present time, there is no known cure for this disease.

I need not emphasize the significance and importance of the legislation before us today. The national program established by H.R. 13592, National Sickle Cell Anemia Prevention Act, would not only conduct research to improve the treatment of persons suffering from sickle cell trait or sickle cell anemia. More importantly, the bill authorizes grants and contracts to assist in establishing and operating voluntary sickle cell anemia screening and counseling programs. The screening process would be to determine who has the disease and who are the carriers of the disease; this is the one major area of the disease which needs to be further developed.

It is estimated that between 8 and 13 percent of the black population carries sickle cell trait. This bill will enable tests to be run in schools in black areas to help both parents and children understand the disease and understand how best to keep healthy those who are afflicted with the disease or those who carry the trait.

This bill is a stepped-up effort to make a real national commitment to attack this crippling and, in most cases, fatal hereditary disease. Research treatment and information about sickle cell anemia have been conducted by NIH and the Veterans' Administration. President Nixon, in his health message to Congress in 1971, called for an increase of $6 million in the budget for research into sickle cell anemia. These efforts are only initial commitments to find ways to treat and cure this disease. H.R. 13592 authorizes $25 million for the first fiscal year this act goes into effect. But this, too, is only a beginning to help victims of sickle cell anemia.

While I wish to express my strong support for this measure, I feel that the bill as reported by the committee is only a halfway measure since there are two commonly found genetic blood disorders leading to anemia in America, the other one being Cooley's anemia. Initially, this anemia was prevalent of persons of Mediterranean descent, namely Greeks and Italians. Today, however, America's Mediterranean population has intermarried. The disease is now found not only in Americans of Italian and Greek origin, but also in Americans of Jewish, Scandinavian, and even Oriental origin. Like sickle cell anemia, the victim of this disease rarely lives to adulthood. Like sickle cell anemia, Cooley's anemia is a hereditary disease in which 25 percent of children born of individuals with even a mere trait of the disease will have a severe form of the disease and 50 percent will be carriers. While the severity of the disease covers a wide range in sickle cell victims, victims of Cooley's anemia always suffer from severe forms. From early life on, the victims of Cooley's anemia must undergo daily blood transfusions in order to maintain a blood count sufficient for survival.

Like sickle cell anemia, not much Federal research and grant programs have been given to find treatment for victims of Cooley's anemia. I believe that both forms of anemia are serious problems and that Federal assistance is essential to make progress against these two fatal diseases. Why should this act merely provide funds and assistance to attack sickle cell anemia and do nothing for the equally fatal Cooley's anemia? For these reason, I strongly support BOB GIAIMO's amendment for $7.1 million in Federal assistance to combat Cooley's anemia.

Mr. Speaker. I urge the adoption of the rule in order that the legislation may be considered.

Mr. LATTA. Mr. Speaker, I agree with the statement just made by the gentleman from Massachusetts, Mr. O'NEILL, the purpose of the bill is to establish a national program for diagnosis, prevention and treatment of sickle cell anemia together with screening and counseling programs and informational programs.

Sickle cell anemia is said to occur in approximately one in 500 black births in the United States per year. Although there is a wide range in the severity of the disease process, those who have the disease rarely survive to adulthood.

The cost of this bill is $25,000,000 for fiscal year 1973, $35,000,000 for fiscal year 1974; and $45,000,000 for fiscal year 1975.

Since H.R. 13592 is a clean bill, introduced after the conclusion of hearings, the report of the Committee on Interstate and Foreign Commerce does not include reports from the executive agencies on this particular bill. However, other bills dealing with the same subject, were opposed by HEW on the grounds that programs already existing within HEW were sufficient to achieve the purposes of these bills. The other executive agencies expressing views either concur with HEW or oppose particular sections of the bills.

There are no minority views included in the report of the Committee on Interstate and Foreign Commerce.

The bill was ordered reported unanimously by a voice vote. Similar legislation passed the Senate on December 8, 1971—S. 2676.

Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. QUILLEN).

(By unanimous consent, Mr. QUILLEN was allowed to speak out of order.)

MISUSE OF FLAG BY NBC

Mr. QUILLEN. Mr. Speaker, the National Broadcasting Co., in its primary election coverage this year, has, in my opinion, violated the Federal Flag Code by using the U.S. flag in its advertising and as an introduction to its election campaign coverage.

For the past several weeks, I have watched with distaste and repulsion as NBC flashes its "Decision '72" before millions of television viewers. I object to the use of the U.S. flag as a part of the numeral seven and I contend that this image is in very poor taste.

To those of us who have a deep feeling for our flag and its symbolism, this action on the part of NBC is degrading and disrespectful.

Mr. Speaker, I do not take the floor to question the patriotism of the officials or anyone at NBC, but to spotlight this violation of the Federal Flag Code in the hope that it will immediately be corrected.

Volume 36 United States Code, section 176(i), states:

The Flag should never be used for advertising purposes in any manner whatsoever.

The use of the flag in advertising for campaign coverage by NBC is clearly an infraction of the Federal Flag Code.

Unfortunately, the Code does not prescribe any penalties for noncompliance with its rules, nor does it include any other provision for enforcing compliance. The Code, as distinguished from the antidesecration law, is intended to be a guide to be followed on a voluntary basis by all U.S. civilians or civilian groups to the end that, as far as practicable, the manner in which the flag is displayed shall be uniform.

Surely, if a television network of the stature of the National Broadcasting Co. cannot abide by these guidelines, how can we expect our citizenry to show proper respect for the flag. More importantly, how can we impress upon our young people that this emblem is the traditional symbol of our free land.

While NBC's use of the flag in the numeral 7 of its "Decision '72" format might might not constitute an intentional or knowing contempt of the flag, I contend that it is wrong to include it in this way. Indeed, it is an insult to this emblem of justice and freedom—the embodiment of our Nation's principles.

I am confident the network artists can come up with a better promotional gimmick for its election coverage and special reports this year than having the flag imposed in the numeral 7 in their "Decision '72" advertising.

The National Broadcasting Co. and all television networks and news media have a tremendous responsibility to the American public. They are a great influence on the thinking of our citizens and they are charged with setting a good example.

Their purpose is not to offend and I feel in most instances they strive to conduct their programing and news broadcasts in the best possible taste.

However, by using the U.S. flag as a promotional gimmick to advertise their "Decision '72" coverage, the National Broadcasting Co. is violating the Federal Flag Code in the worst possible respect.

Needless to say, Mr. Speaker, I hope that last night's coverage of the Illinois primary is the last time I personally have to watch this distasteful misuse of the American flag.

Mr. LATTA. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. O'KONSKI. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 85]

Aspin	Gallifianakis	O'Hara
Baring	Gallagher	Passman
Belcher	Gaydos	Patman
Biaggi	Gray	Pike
Bingham	Hagan	Pirnie
Bolling	Halpern	Pryor, Ark.
Cabell	Harvey	Purcell
Celler	Hawkins	Rangel
Chappell	Hébert	Rees
Chisholm	Heckler, Mass.	Reid
Clark	Heinz	Rostenkowski
Clay	Howard	Ruppe
Collins, Ill.	Hull	Saylor
Conyers	Johnson, Pa.	Scheuer
Corman	King	Shoup
Crane	McEwen	Sisk
de la Garza	Mahon	Smith, Calif.
Dellums	Mallary	Stanton, James V.
Dowdy	Metcalfe	Stokes
Dwyer	Mikva	Stubblefield
Edwards, La.	Mitchell	Teague, Tex.
Eshleman	Moorhead	Yates
Fuqua	Obey	

The SPEAKER. On this rollcall, 363 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13592) to amend the Public Health Service Act to provide for the prevention of sickle cell anemia.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13592, with Mr. EVINS of Tennessee in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. SPRINGER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 13592, the proposed National Sickle Cell Anemia Prevention Act.

This is a 3-year bill with total appropriation authorizations of $105 million to provide for voluntary sickle cell anemia screening and counseling programs; for informational and educational programs; for research programs; and for treatment programs.

Sickle cell anemia is an inherited blood disease primarily affecting black Americans. Approximately 1,000 black infants are born each year with sickle cell anemia, and it is estimated that between 25,000 and 50,000 individuals are currently afflicted with it. These unfortunate individuals usually die before the age of 20; few survive beyond age 40; and most are disabled before death. There is no known cure for the disease.

In general, the program contemplated under the bill will involve screening individuals for the sickle cell trait, and counseling individuals with this trait that in the event they marry a person who also has the trait, the likelihood is one in four that a child born to them will have sickle cell anemia; two in four that a child will carry the sickle cell trait; and one in four that a child born to them will neither have sickle cell anemia nor the genetic abnormality known as the sickle cell trait.

The bill also provides for further research into the diagnosis, treatment, and prevention of the disease.

The bill was considered by the Subcommittee on Public Health and Environment, and unanimously reported to the full committee. The bill was unanimously reported to the House by a voice vote; I know of no opposition to the bill, and urge its passage.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I want to commend the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) and the members of his Committee on Interstate and Foreign Commerce for bringing forth this much needed legislation to provide $105 million for a 3-year Federal program to combat sickle cell anemia.

I was pleased to move in the Rules Committee that this measure—H.R. 13592—be reported out favorably, and, I am happy to say, the bill was reported out unanimously.

Sickle cell anemia is an affliction which primarily affects blacks and yet, many of its potential victims do not understand its painful, and frequently fatal, implications.

The Congress, devoted for more than three decades to major efforts to deal with the various diseases, has previously taken no notice of this ailment which hits one out of every 500 black children and causes the death of many of them before the age of 20.

Cystic fibrosis, which afflicts only one in every 1,400 children, is known to every potential donor of charitable funds; but cystic fibrosis hits home in the white suburbs as well as in the black community.

Sickle cell anemia is associated primarily, however—but not exclusively—with blacks. Those who carried the new gene had an advantage over those who did not. The disadvantages of the mutation are manifest when a child inherits the sickle cell gene from both parents.

The estimates vary as to the number of blacks afflicted with this disease; but it is generally agreed that 40,000 to 50,000 persons have the disease, and an additional 8 to 13 percent of all blacks carry the trait.

One thing about sickle cell anemia is not in dispute. Those who have the disease rarely grow to maturity; thus, it is a disease of children and young adults. Its victims do not survive, but the carriers of a new generation of victims do survive and reproduce.

Current treatment for those suffering from the disease is minimal, at best. This treatment can minimize, however, the sickle cell "crisis" and prolong the life of its victims.

One of the objectives of this legislation would be to provide medical research to find ways to cope with these crises, as well as to develop programs to identify the carriers of the trait, so that they can minimize the possibility of future pairing of the single cell trait.

Federal support for research on sickle cell anemia has previously been provided by the National Institutes of Health, but the budget for fiscal year 1971 was a mere $1 million. This was split between the National Heart and Lung Institute and the National Institute of Arthritic and Metabolic Diseases.

In the 1972 budget, an additional $5 million dollars of the Heart Institute's budget was earmarked for programs dealing with sickle cell anemia. But, this is an insignificant fraction of the almost $2 billion in Federal funds allotted for medical research.

This legislation would show the dramatic increase in congressional support for sickle cell anemia research, which is so long overdue. Without a doubt, sickle cell anemia research is an idea whose time has come.

I strongly urge, not only for the black people of our country, but for black people everywhere, that the House approve this very vital legislation.

Mr. STAGGERS. Mr. Chairman, I thank the distinguished gentleman from Florida.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Chairman, I congratulate the committee for bringing out this much needed legislation. Sickle cell anemia has long been a cruel burden for many of our citizens, an inheritable, debilitating, painful and often fatal disease. With the heavy thrust of the Federal Government to stamp out this disease, there is very real hope for the eradication of the disease in the near future. I am happy to urge the prompt enactment of this legislation to do precisely that.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. MADDEN. Mr. Chairman, I want to commend the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) for bringing this legislation to the floor of the House.

The pending bill (H.R. 13592) which was unanimously reported out of the Rules Committee yesterday, is identical with the legislation I filed several months ago along with a number of other Members of the House.

Chairman STAGGERS and members of the House Interstate and Foreign Commerce Committee are to be commended for the ample hearings held on this legislation and also for reporting the same out of committee for House action.

Sickle cell anemia is a deadly disease and has affected thousands of individuals and families throughout the Nation over the years. I do hope that this legislation is acted upon favorably by the House today as it will provide an initiating program and involve the expenditure of approximatley $105 million over the next few years to effect and promote scientific research for the purpose of curbing and eliminating this mysterious scourge inflicted upon so many of our people.

It is unfortunate that there is at present no effective medical attack or concentrated effort to learn the nature, origin, and risk of this disease. The Congress must persist and strengthen all efforts of research to combat this disease.

More than 10 years after sickle cell anemia was identified as the tragic killer, we are finally beginning to become aware of its terrible tolls. It is a blood disease resulting from the inheritance of a genetic factor relating to the so-called sickle cell trait. It is a painful and deadly disease. It kills over half its victims before the age of 20. Few survive beyond the age 40 and most are crippled long before death.

The disease strikes approximately one out of every 500 black persons. Medical research estimates that over 2 million Americans carry the so-called sickle cell trait. These persons are generally not in danger of the disease itself, but the children of parents who both carry the trait, run high risk of inheriting the disease.

Yet, when compared to other serious diseases, sickle cell has received only minimal attention and research compared with the frequent occurrence of other diseases—neglect of sickle cell anemia research is inexcusable. Cystic fibrosis, a disease that affects primarily white persons occurs with a frequence of one in every 2,940 births. Sickle cell occurs in roughly one out of every 500 births of black children.

There is still no nationwide voluntary organization devoted to sickle cell anemia, but groups in many cities throughout the country are now active and increasing in effectiveness. There is still no cure for sickle cell anemia and it would be cruel for us today to promise one. Thus this bill will provide new impetus and support for continuing and expanding research efforts. In addition to research however, there is a tremendous need to provide education of the public on the nature and inheritance of sickle cell disease.

I do hope that the House today will unanimously vote for the pending bill without adopting any crippling or curtailing amendments.

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the origin of the sickle or half-moon shaped cells in the bloodstream of many black citizens is not clearly traceable. Scientists believe that it developed centuries ago as a defense of the system against malaria. We do know that those who have what is known as the sickle cell trait—one such gene—do resist malaria remarkably well. When a child is born with two such genes, however, it ceases to become a blessing and becomes a curse. Such a child will probably not live beyond 20 years and all through those years it will suffer much pain at irregular intervals. Once this condition exists there is little to be done.

Research goes on but it is well recognized that more research would be desirable. This bill would provide some extra money for that purpose. It is not claimed here that the problem is being neglected. On the contrary, there are Government programs of several types presently underway. Research supported by NIH amounts to about $1.5 million. Maternal and Child Health Services under social security give some help as does the new family planning activities approved by Congress last year.

This bill is intended to give somewhat greater direction and support to the effort and particularly to upgrade and emphasize the aspects of screening and counseling. This is vitally important because adults with the sickle cell trait are very apt to produce a child with the disease and this is a most unsettling thought. By encouraging adults to be tested before marriage the incidence can be greatly lowered. It is basically a family planning problem. Information must be developed and disseminated to bring the story to those who may be carriers. There are probably 2.5 million people in the United States who carry the sickle cell trait and about 50,000 with the actual disease.

The bill before us today provides $25 million for fiscal year 1973 for both research and screening. The administration has already provided about $15 million for these purposes in its budget and probably will not go much beyond that, but some further leeway is provided in case progress indicates the desirability of stepping up the effort later in the year which will extend to July 1973. The next 2 years provide $35 and $45 million, respectively, and it is hoped that progress made during the first year will make the use of such sums practical. The Senate bill passed last December provides considerably more and will have to be comprised when we later meet in conference.

I recommend passage of H.R. 13592.

The question is asked as to how this bill compares with the legislation in the other body. The Senate passed fairly the identical bill in December 1971 as S. 2676. Their figures for 1973, 1974, and 1975 were as follows: $33 million, $49 million, and $65 million. With the exception of the fiscal year 1975, our figures very much approximate those of the Senate. I would anticipate that when we go to conference we will have no difficulty in resolving that question. Actually I believe our figures are adequate in this field.

Personally I would sort of stand on our figures pretty firmly insofar as I have anything to do with a conference.

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Mr. HALL. Mr. Chairman, will the gentleman yield at that point and along that line?

Mr. SPRINGER. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the statements of both the chairman and the ranking minority member of this committee. Certainly the time has come when we should and must do something about this dread genetic disease. There is a point to which I shall speak later, but I wish now to rise to the point of funding in view of the recent technological breakthroughs in the testing and mass surveys that can be made using special urea solutions and computers which are already in operation for immediate determination, and at 2 cents per test instead of a dollar a test. Did the committee have this under consideration rather than using the proprietary Sickledex test?

Mr. SPRINGER. All of what the gentleman has talked about was gone into by the committee. It is my understanding that as of yesterday, when we were talking about this, not in the subcommittee, we discussed that fact that the matter of testing is something more complicated than it is pictured in the amendment which will later be offered. It is a little more difficult in testing, but outside of that we think what we are doing at the present time is not adequate, but we believe we are approaching something which will be of great value.

Mr. HALL. Mr. Chairman, will the gentleman yield further?

Mr. SPRINGER. I yield to the gentleman from Missouri.

Mr. HALL. Possibly I did not get my point across. I think we have a technical breakthrough here, not only in the research requisite for origin and diagnosis of the disease, but for mass surveys and isolation of those who carry it, with all the advice, with all the treatment they require, and, finally, in the treatment of the disease, but specifically in a technique of mass survey that can be computerized. These are metabolic and molecular breakthroughs. Indeed, it is being done in some of the services—NIH and the U.S. Army, plus the Veterans' Administration. If we were to collate and coordinate with those people so that the time is ripe for the borning of this self-help domestically, to possibly eliminate the disease, much in the same manner as polio was eliminated, simply by taking a cube of sugar with urea, if and when it is done.

Therefore, I am complimenting the committee, but at the same time I am hoping that you are aware of the reduced cost of mass surveys and testing at the time that you set up the appropriation, and I hope you will stick by your guns, even in conference, if it is found that you do not need all of this funding, that it can be reduced, rather than added onto as requested by the other body.

I include the following:

SICKLEDEX TEST FOR HEMOGLOBIN S—A CRITIQUE

(By Robert M. Nalbandian, M.D.; Raymond L. Henry, Ph. D.; Jeanne M. Lusher, M.D.; Lt. Col. Frank R. Camp, Jr., M.S.C., U.S.A.; and Col. Nicholas F. Conte, M.D., M.C., U.S.A.)

(The Sickledex test has been proposed as "specific" for hemoglobin S in the absence of a disclosure of the principle and reagents. Its convenience and simplicity has already assured widespread usage. But serious errors will be made unless the chemistry of the test is understood and coupled with the insights of modern molecular hematology. Evidence indicates that the Sickledex test consists of potassium phosphate, sodium dithionite, and saponin. When this test is used with insight, much diagnostically valuable information can be obtained.)

The proprietary Sickledex test is rapidly gaining favor as a diagnostic test for hemoglobin S because of its speed, simplicity, and convenience.[1-7] This wide usage is proceeding in the absence of knowledge of the reagents and the principle of the test. However, when in 1968 Diggs and co-workers proposed the Sickledex test,[1] the reagents and principle were not disclosed. While the Sickledex test is an excellent screening test, it has distinct limitations unless molecular basis for the test is clearly understood.

Studies in our laboratory [8] led us to the conclusion that the Sickledex reagent consists of a quantity of phosphate buffer, sodium dithionite, and saponin and so was very similar to the Itano solubility test.[9] If into such a reagent system an appropriate quantity of hemoglobin S in intact red blood cells is introduced, a series of events will occur as follows: (1) the cells will lyse; (2) the hemoglobin S tetramers will deoxygenate; (3) the conditions at the molecular level will be ideal for the formation of microfilaments and microcables; [10 11] (4) when hemoglobin S is present a nematic crystal system will form.[12 13] The presence of hemoglobin S will thus be recognized by the appearance of a turbid solution, which in the Sickledex test is regarded as positive. However, under such conditions not only will hemoglobin S form a turbid nematic liquid system but so also will other non-S sickling hemoglobins such as C (Harlem), C (Georgetown), Bart's (personal communication, H. Lehmann, July 1969), H,[14] and possibly others too.

In an attempt to confer additional specificity to the test, Henry et al [15] and Nalbandian [11] and co-workers modified the Sickledex test by the introduction of urea, since it has been shown that urea would disperse those nematic liquid crystal systems uniquely caused by hemoglobin S (or its structural variant hemoglobin C [Harlem]). In our own laboratories (Blodgett Memorial Hospital, Grand Rapids, Mich, and US Army Medical Research Laboratory, Fort Knox, Ky) we have prepared reagents made from potassium phosphate, sodium dithionite, and saponin which function entirely satisfactorily and are in no detectable way inferior to the proprietary and undisclosed Sickledex solution. This has been achieved at a reagent cost of about 2 cents per determination in contrast to the substantially higher cost of the proprietary Sickledex test reagent.

Knowledge of the presumptive reagents, and principle of the test lead to an understanding of false-positive and false-negative reactions, and the pitfalls of faulty technique. These have been well discussed in part by Diggs and Walker.[2] False-negative Sickledex test reactions may be obtained by (1) inadequate quantities of blood from anemic patients (hemoglobin levels below 10 gm/100 ml or hematocrit readings less than 30%); (2) deterioration and inactivity of the reducing agents (probably sodium dithionite); (3) deterioration and inactivity of the lytic agent (probably saponin); (4) various improper techniques in illumination and visualization of the lined reader scale; and (5) quantities of hemoglobin S too small to detect as at birth and, possibly, in transfusions. False-positive tests have been recognized in the Sickledex to be due to (1) polycythemic blood or the addition of too much blood in relationship to the quantity of reagent; (2) interference by dysglobulinemias such as macroglobulinemia, myeloma, and cryoglobulinemia. We reiterate that hemoglobin Bart's will give a false-positive Sickledex test, and so may non-S sickling hemoglobins such as C (Harlem), a clinically benign disease, C (Georgetown), possibly Alexandria,[4 11] and Heinz-body-forming hemoglobins.

It is generally not appreciated that hemoglobin S is genetically delayed and does not begin to become the predominant hemoglobin component until after three months of age.[16] Maximal levels of hemoglobin S are not achieved until 5 to 6 months of age. Hence, it is pointless to attempt to screen black babies for the presence of hemoglobin S before 6 months of age by any test unless extraordinary measures are employed. Indeed, it may give erroneous results, since hemoglobin Bart's may be present at birth in some cases of thalassemia.[16]

All hemoglobin specimens which test positive by the Sickledex test should be studied by electrophoresis and, if desired, by the urea modification of Henry et al (see above).

FOOTNOTES

[1] Diggs LW, Schorr JB, Ascari WQ, et al: A new diagnostic test for hemoglobin S. Presented as an exhibit before the 22nd joint annual meeting of the American Society of Clinical Pathologists and the College of American Pathologists, Miami Beach, Fla., Oct. 1968.

[2] Loh WP: A new solubility test for rapid detection of hemoglobin S. *J Indiana Med Assoc* 61:1651-1652, 1968.

[3] Diggs LW, Durst D, Walker RD: The test tube turbidity method for detection of HBS. Read before the International Congress of Hematology, Munich, Germany, Aug 1970.

[4] Ballard MS, Radel E, Sakhadeo S, et al: A new diagnostic test for hemoglobin S. *Pediatrics* 76:117-119, 1970.

[5] Canning DM, Huntsman RG: An assessment of Sickledex as an alternative to the sickling test. *J Clin Path* 23:736-737, 1970.

[6] Loh WP: Evaluation of a rapid test tube turbidity test for the detection of sickle cell hemoglobin. *Amer J. Clin Path* 55:55-57, 1970.

[7] Diggs LW, Walker R: Technical points in the detection of sickle cell hemoglobin by the tube test. *Amer J Med Techn* 37:33-36, 1971.

[8] Nalbandian RM, Kessler DL, Henry R: Nonspecificity of tests for hemoglobin S. *Bull Path* 10:277, 1969.

[9] Itano HA: Solubilities of naturally occurring mixtures of human hemoglobin. *Arch Biochem Biophys* 47:148-159, 1953.

[10] Nalbandian RM, Henry RL, Nichols BM, et al: *The Murayama Test: I. Evidence for the Modified Murayama Hypothesis for the Molecular Mechanism of Sickling, report 893.* Fort Knox, Ky, US Army Medical Research Laboratory, 1970.

[11] Nalbandian RM: *Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications.* Springfield, Ill, Charles C Thomas Publisher, 1971.

[12] Harris JW: Studies on the destruction of red blood cells: VIII. Molecular orientation in sickle cell hemoglobin solutions. *Proc Soc Exp Biol Med* 75:197-201, 1950.

[13] Perutz MF, Mitchison JM: State of haemoglobin in sickle-cell anaemia. *Nature* 166:677-679, 1950.

[14] Heller J, Yakulis V: A simple and reliable test for sickling. *JAMA* 203:990, 1968.

[15] Henry RL, Nalbandian RM, Nichols BM, et al: *An Automated Screening Method for the Specific Detection of Homozygous and Heterozygous S Hemoglobin,* report 898. Fort Knox, Ky, US Army Medical Research Laboratory, 1970.

[16] Nalbandian RM, Henry RL, Camp FR Jr, et al: Embryonic, fetal, and neonatal hemoglobin synthesis: Relationship to abortion and thalassemia. *Obstet Gynec Survey* 28: 185-191, 1971.

Footnotes at end of article.

NEW STRATEGY FOR SICKLE CELL DISEASE

The importance of the two papers by Nalbandian and his associates published elsewhere in this issue of The Journal is that they demonstrate how, armed with determination and a suitable screening test, concerned civil authorities can efficiently survey a population at risk from sickle cell disease.

Unfortunately, there is still considerable doubt about what type of treatment should be offered to those affected persons such mass surveys bring to light. Despite the wide publicity it has attained, the use of intravenous urea as a remedy for the painful sickle cell crisis has many problems associated with it, though these are currently being evaluated by investigators in several research centers.[1]

The protocol recommended by Nalbandian [2] requires intensive care facilities, venous catheterization with the tip positioned by x-ray in the superior vena cava and an indwelling urinary catheter. A sterile 30% solution of urea in 10% invert sugar is infused slowly to maintain levels of blood urea nitrogen in the range of 150 to 200 mg/100 ml. Urea and electrolyte concentrations are measured at hourly intervals. Other chemical and hematological procedures are recommended. Water balance is carefully monitored. The infusions are continued until "the patient reports complete or virtually complete relief from pain."

Since the pains associated with the crises are due to varying degrees of focal stasis of sickled erythrocytes leading to hypoxia, perivascular edema, and infarction, and since the duration of crises is variable, it is difficult to evaluate therapeutic effectiveness. One of the handicaps of any form of treatment is that the drug cannot go to the focal area involved because the blood vessels are obstructed by sickled cells. It is therefore imperative that treatment be started before infarction and necrosis have occurred.

The disadvantages of any form of intravenous therapy for recurrent sickle cell crises are the necessity of admissions to emergency rooms and hospitals, the technical difficulties, and the expense. Skilled intravenous teams are necessary, but are in short supply. In infants and children, those who most often have painful crises, intravenous therapy is impractical, while adults may have veins that are hard to find and to cannulate, especially if they have been used frequently in the past. During the severe crises patients writhe in agony, object to restraint, and find it difficult to hold still for hours or days while intravenous solutions slowly infuse. It is erroneous to state that treatment with urea is inexpensive just because commercial urea costs approximately $1 per pound. By the time the urea has been prepared in intravenous kits together with the sugar solution solvent, the cost is many tens of dollars, while to this sum must be added the cost of admission to an intensive care ward, of the hematological tests, and of the physician's fee.

Urea owes its effectiveness to the fact that it easily traverses cell membranes, breaks molecular bonds, and causes the helical aggregates (tactoids) of reduced hemoglobin within the red cells to revert to the soluble state. Unfortunately, urea in high concentrations is also capable of causing alterations in molecules other than sickle cell hemoglobin and in cells other than erythrocytes.

Whether or not urea fulfills its expectations and proves to be the answer to sickle cell crises, patients with sickle cell anemia and related diseases owe a debt of gratitude to Dr. Nalbandian and to other investigators for helping to increase public awareness and concern about the magnitude and seriousness of the problem, for exploring new methods of treatment, for developing more specific tests, for the introduction of an automated test, and for the popularization of mass screening programs.

The idea that chemical engineering at the molecular level may make it possible to overcome the handicaps of an hereditary abnormality serves as a challenge to explore the possibilities of other drugs [3,4] that may be as effective as urea, while being easier to administer and of less toxic potential.

L. W. DIGGS, M.D.

MEMPHIS.

[1] Scott RB: Urea therapy in sickle-cell anemia. *New Eng J Med* 285:1025–1026, 1971.

[2] Nalbandian RM (ed): *Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications.* Springfield, Ill. Charles C Thomas, 1971.

[3] Cerami A, Manning JM: Potassium cyanate as an inhibitor of the sickling of erythrocytes in vitro. *Proc Nat Acad Sci* 68:1180-1183, 1971.

[4] Kraus LM, Kraus AP: Carbamyl phosphate mediated inhibition of the sickling of erythrocytes in vitro. *Biochem Biophs Res Comm* 44:1381, 1971.

Mr. SPRINGER. May I say in reply to my colleagues from Missouri that not only did we go into this funding quite carefully, but I have also talked to the chairman of the Subcommittee on Appropriations which handles this matter. He intends to make a statement a little later in the day as to what has been done to date. We do not want to leave the impression that nothing in this field has been done and that we are originating something new. I would like all of our colleagues to know what has been done and what this legislation proposes to do.

In addition, the gentleman from Kentucky, I think, wants to reply to a question that my distinguished colleague from Missouri brought to his atention a moment ago.

Mr. CARTER. In response to the distinguished gentleman from Missouri, say the committee has gone into the cost of these tests and, indeed, there has been a breakthrough which we need to take advantage of, and we trust that it will cost less money than was thought previously.

I thank the distinguished gentleman for yielding.

Mr. SPRINGER. Mr. Chairman, I yield 6 minutes to my distinguished colleague, the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, a disease that attacks one of each 500 children in the Nation, kills more than half its victims before they are 20 years old and which inflicts great pain and crippling is hardly the sort of malady that would normally go neglected in terms of research and prevention in a nation such as ours.

If a nation of enormous generosity toward funding the eradication of countless diseases around the globe, many of which never were important threats in the United States; in a nation in which biomedical research will not rest until ways have been found to deal effectively with all threats to American health—in such a nation a disease such as sickle cell anemia would likely have a difficult time perpetuating itself. We could well expect the kind of campaign that would be mounted to deal with such a heinous child-killer.

But, as you all know, such has not been the case. American medical crusades have been directed against any number of ailments of similar or reduced threat to the American populace. Yet attempts to understand and control sickle cell anemia have largely been of the token variety.

I speak today not to argue whether or not the most significant reason for this past misplacement of medical care priorities has had to do with the reality that sickle cell anemia strikes not one of every 500 children in America, but rather one of every 500 black children. This neglect may indeed be an accurate production of the present sociological climate in this Nation; but arguing this premise is not my present concern.

It is my concern, as a Congressman and as a physician, to see that this neglect of a disease that afflicts about 2 million black Americans is dealt with immediately in correct proportion to its degree of threat to American health.

In my estimation, the provisions of these bills presently being considered represent an effective early response to that threat. That is why I helped sponsor them; the $90 million asked for here should be granted with no more delay to research and counsel people about this child-killing disease in repayment to black America for this period of gross medical neglect. The Nation at the very least has a moral obligation to provide immediate facilities and resources for counseling on the scope of the disease.

People have a right to know if they are unknowingly carrying the sickle cell trait.

The program of voluntary testing must be extensive enough to reach all black persons, so couples who have recessive sickle genes will know they do, thus enabling them to decide if they want to risk the 1 in 4 chance that any children they create together will be stricken with this killer disease. To keep these persons needlessly in the dark any longer would be unimaginably cruel.

The second, more clear-cut concern is to reduce that 1 in 4 ratio.

Medical research has conquered all manner of killers in the past; a concerted effort, at long last, by the same medical researchers could do the same to sickle cell anemia. We will never know what success we can have until we give it a far harder try than ever we have in the past.

I do not confirm or reject all the rhetoric connected with the history of nontreatment of sickle cell anemia. This Congress must not concern itself with such rhetoric until there is time for retrospect after this child-killer is eradicated from this Nation. I have no patience with delaying rhetoric when the lives of children are at stake.

I urge my fellow Congressmen to join me in support of this truly emergency legislation. Each moment spent here in argument is time wasted for the saving of lives.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the distinguished gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I wish to associate myself with the remarks of

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the distinguished gentleman in the well and point out to the House of Representatives that our subcommittee is particularly fortunate in having our good friend, the gentleman from Kentucky, on the committee. He is a practicing physician. Likewise, on the Democratic side we have Dr. Roy, the gentleman from Kansas, so we have two medical doctors on our subcommittee which deals with all these health problems. I believe that our country is fortunate to have the very qualified expert services of these two gentlemen.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for his very kind remarks.

I would like to say, in return, not because of the compliment the gentleman paid me, but because I really know and feel over the years that the gentleman has been one of the greatest legislators in this body, and that he is a great compromiser.

I am in hopes that in the near future Mayor Washington in his wisdom will see fit to name the vocational training school here in the District of Columbia, which was fathered by the distinguished gentleman from Minnesota, the Ancher Nelsen Vocational School.

Mr. NELSEN. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the Delegate from the District of Columbia, Mr. WALTER FAUNTROY.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 13592 and to commend the fine work of this committee, and in particular the fine work of its subcommittee, whose chairman, PAUL ROGERS, was so helpful. The speed with which the committee held hearings and reported this bill indicates to me the concern of many Members of Congress about the tragedy of this dreaded disease which affects primarily black people causing their death and heaping upon them a pain and suffering which no one should have to bear. It is a pain and suffering which is made harder because of the dearth of programs and the dearth of funds which could, if available, perhaps find the cure and an alleviation of the affliction.

Sickle cell anemia strikes one of approximately every 500 young black children killing more than half of them before they reach the age of 20. It is a genetic malady whose horrors are passed from generation to generation recurring predictably when the necessary genetic conditions are present. The gene is normally passed onto the children of parents who both carry the sickle cell trait. Approximately one in 12 blacks carry the trait with the chance of both parents carrying the trait being one in 144.

Blacks who inherit the disease itself suffer periodic crises in which the normally spherical red blood cells are distorted into crescent-like shape. These deformed cells block narrow capillaries, depriving nearby tissues of needed oxygen and causing excruciating pain. Persons who have only the trait generally do not need care for this condition, as it generally does not cause any difficulty except in instances of extreme stress at certain altitudes or during certain phases of other ailments.

Each major crisis—and there is an average of three per year—requires an average of 7 days hospitalization. In addition, there are generally four to five less serious crises that, while they do not require hospital treatment, require varying degrees of restricted activity. It is not necessary to detail the distraught feelings and the financial loss that affect parents whose children are suffering with this disease.

Yet, the problem instead of decreasing, as are many others, is becoming greater. The majority of blacks now live in urban areas. For these areas, because of the incident rate, the disease becomes not just a significant health problem, it has become a prevalent health problem demanding immediate attention. To understand the meaning of this, one must look at the incident rates for other major cogenital and genetic childhood diseases. Muscular dystrophy occurs at rates of one per 5,000 births, cystic fibrosis at one per 2,940, and diabetes mellitus at one per 2,500, while sickle cell anemia occurs at the rate of one per 500. In 1967, there were 1,155 cases of sickle cell anemia, 813 of muscular dystrophy, and 1,206 of cystic fibrosis.

Here in the District of Columbia, where the black population approaches 70 percent, it is estimated that the costs of care for the 1,000 afflicted children approaches $4 million. And, the disease far exceeds childhood diabetes, nephrosis or cystic fibrosis as a cause of illness.

Like many other diseases, the key to effective pallative treatments is early diagnosis. Today, there are inexpensive screening tests which can be offered prior to marriageable age.

Those who are found to carry an abnormal hemoglobin gene could be counseled to be sure that their mates were tested. Only in this way can heterozygote pairs be detected, and only in this way can informed decisions be made about childbearing among "at risk" parents. This is not to suggest that a couple will decide to have no children; it is to suggest that whatever they do will be done on the basis of an informed and intelligent decision.

The bill (H.R. 13592) which is now before you, establishes a national program for diagnosis, prevention, and treatment of sickle cell anemia, together with screening and counseling programs and information programs. My original bill and a similar measure that passed the other body are more far reaching than the bill reported to you today. These other bills would have brought the Veterans' Administration and the Department of Defense directly into the screening programs; but, while these provisions were deleted by the committee, the bill I am urging you to support is still a giant step which, if you will take it, is a most important commitment to the finding of a cure and a prevention of this dreaded disease.

Since the purpose of this bill is to provide a coordinated and overall effort against sickle cell disease, the primary thrust of the bill, in addition to research, is the providing of funds for the creation of screening and counseling programs. Screening will allow black parents to learn whether their combination of genes presents a high chance of their passing the disease onto their offspring. Based on this information, counseling programs can advise the parents of alternatives. As Dr. Robert B. Scott has written in the AMA Journal—

> Whether a young couple will decide to have no children or plan a family of limited size or disregard the knowledge of the risk would be entirely their own decision, one which no one could make for them. However, the opportunity to protect their families from the tragedy of sickle cell anemia will have been offered.

This is the reason that I had hoped we would have included the Department of Defense because it is here that so many young men come through in a systematic and orderly way. Until we have a volunteer army, I think it is safe to presume that every young man will be examined by the Armed Forces medical people who could determine if he were a trait carrier and then either offer him counseling or direct him to the places where counseling is available. If we had done this, we would have maximized the utilization of the services that we are providing in this authorization.

I point this out merely because of the enormity of the tragedy when uncounseled persons marry and have, through chance, children with the disease. We must do something to alleviate this misfortune. The start to that "something" is in this bill with those above mentioned aspects and its second thrust of providing grants for research, and the development of programs for diagnosis, prevention and treatment of sickle cell anemia. Under this provision, funds would be made available to public and nonprofit private entities such as medical schools, hospitals and foundations, for the development of programs in basic research, in reaching those people who are not now reached by any existing program.

Mr. SATTERFIELD. Will the gentleman yield?

Mr. FAUNTROY. I am glad to yield to the gentleman.

Mr. SATTERFIELD. I would just like to comment on one thing. The gentleman mentioned that the Senate bill was more extensive than ours. I assume you are referring to that part of the Senate bill dealing with the Veterans' Administration. I just want to take this opportunity to assure you and the House that, although the committee bill does not include the Veterans' Administration, the Subcommittee on Hospitals of the House Veterans' Affairs Committee has conducted public hearings on this subject and is now in the process of attempting to develop legislation.

Mr. FAUNTROY. Thank you. I will look forward to passing that, also, when it comes through.

Mr. SPRINGER. Mr. Chairman, I yield as much time as he may consume to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I rise in support of H.R. 13592, the National Sickle Cell Anemia Control Act. On January 31, 1972, I introduced H.R. 12750 which also provides for the control of sickle cell anemia and is similar to the measure we have before us today.

At this point I include an article from the December 2, 1971, issue of the Buffalo Challenger, a black weekly, and I call attention to the quote of Dr. Lemuel Diggs where he emphasizes that episodes of the disease "are considered medical emergencies":

DRIVE URGED FOR SICKLE CELL ANEMIA

Sickle cell anemia, a hereditary disease that strikes hundreds of thousands of people—Black and white—throughout the world requires much more basic laboratory and human research before doctors can discover a cure for the blood disorder, experts concluded after a two day symposium that ended in New York yesterday. (11/19/71).

Physicians also told the 1200 symposium participants at the Commodore Hotel that the number of babies with sickle cell anemia born to future generations could be reduced substantially if more genetic counseling services were offered to patients.

The doctors urged that continuous counseling be given in the new cases detected by blood tests at the screening clinics that are springing up across the country.

Symposium scientists also said that more could be done by applying what is already known in the everyday medical care of sickle cell patients.

Further, the doctors stressed that much misinformation has been disseminated concerning what the disease does to its victims in this country. Africa, Greece, and other Mediterranean countries, India, Central and South America and elsewhere.

Sickle cell anemia, which was the first disease found to result from derangements of molecular machinery, affects people in two ways—one serious, the other minor. A laboratory test called hemoglobin electrophoresis can distinguish between the two forms—the disease and the trait.

In the overwhelming majority of cases no health hazard exists for the person with sickle cell trait, doctors emphasized at the symposium. An estimated 10 per cent of the Black population in this country carries the sickle cell trait.

Dr. Yvette F. Francis, who directs the sickle cell clinic at Jamaica Hospital here said, that each time a woman with a sickling trait becomes pregnant from a man with the sickling trait, the chance is one out of four or 25 per cent, that the baby, regardless of sex will get the disease.

No health problem exists, the geneticists said, if a person without the sickle cell trait marries someone with the sickle trait. Half the children produced by such couples would have the harmless sickle cell trait, but none would have sickle cell anemia.

Sickle cell anemia is gaining increasing public attention, partly because it concerns at least two million American Blacks and also because politicians are paying more attention to the problems and costs of delivering health care.

These were among the reasons why the Medical Society of the County of New York, National Foundation March of Dimes and Foundation for Research and Education in Sickle Cell Disease sponsored the symposium about a disease that has existed since ancient times, but was first reported in a medical journal only in this century.

Sickle cell disease results because too many of its victim's red blood cells are destroyed, thereby making the person anemic.

Anemia is the condition that results when the blood has too few red cells to carry the oxygen needed to meet the body's biochemical demands.

For reasons that scientists said, they did not fully understand, many of the red cells in sickle cell anemia patients become knife-like and fragile when exposed to low amounts of oxygen.

When red cells, sickle, they clog small arteries, cut off further oxygen supplies and perpetuate a vicious cycle that can seriously damage organs such as the kidney, lung, bone or brain.

Some sickled cells, depending on the duration of their exposure to low amounts of oxygen, can resume their normal oval shape when exposed to high levels of oxygen. Nevertheless, sickle cells survive for shorter periods than the 100 day life span of normal red cells.

Beginning in infancy sickle cell anemia can produce bizarre painful symptoms anywhere in the body of a person who inherits a double dose of the sickle genes.

Dr. Lemuel W. Diggs of Memphis said that the disease usually occurred in repeated, painful episodes, called "crises," that are considered medical emergencies.

Mr. Chairman, that is exactly what we have before us today—a medical emergency. One just has to be impressed with the magnitude of the extensive manifestations and complications that this disease can produce. Here is a condition that among other things can produce severe pain, blindness, strokes, lung clots, heart attacks, heart failure, miscarriages, gallstone, chronic healing-resistant skin ulcers, poor weight gain, mimics the clinical picture of rheumatic fever, and appendicitis, leads to frequent infectious complications such as pneumonia, septicemia, and meningitis, and then seemingly, so as an act of kindness to the problems just elucidated, death itself.

The magnitude of 2 million people in this country are affected with this condition and we are practically all aware of other diseases such as diabetes, tuberculosis, and leukemia. It is appalling that although the latter occur with less frequency, many people do not even know the sickle cell amenia is in existence.

Mr. Chairman, sickle cell anemia is a hidden, stalking killer, and can be likened to the closing lines from the immortal pen of Edgar Allen Poe's classic tale of striking similarity, "The Masque of the Red Death." Unless we likewise chart the proper course of action, "this thief in the night, too, can spread darkness, decay, and death over the inimitable dominion of many a proud and beautiful people."

Mr. STAGGERS. Mr. Chairman, I yield whatever time he may need to the gentleman from Missouri (Mr. SYMINGTON), a member of the subcommittee.

Mr. SYMINGTON. Thank you, Mr. Chairman.

I simply wish to say that I join in the remarks, particularly those of my colleague on the committee, Dr. CARTER, and I share the views of the distinguished ranking member of the committee, Mr. NELSEN, that through the presence and the active interest of the two men of medicine who serve on the committee, we have benefited greatly. We have also benefited on the floor from hearing from my own distinguished colleague from Missouri, Dr. HALL. We are indeed lucky to have men with these disciplines available when we try to get this type of legislation through.

Basically, I think all three of them have agreed that this bill is essentially preventive medicine in and of itself, and this is the kind of medicine that we had better start practicing in this country, considering the cost of curative medicine.

This bill recommends counseling, which will be absolutely essential in order to help stabilize the number of afflicted people, and give us time—and we are indeed going to need a little time—to do the research that this bill also provides for.

Let us hope in another few terms of Congress we can consider this job done.

Mr. EDMONDSON. Will the gentleman yield?

Mr. SYMINGTON. I am glad to yield to my colleague from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I want to congratulate the gentleman on his thoughtful statements about this bill and on the significance of it as a new approach to a very serious national health problem. We need to make a commitment of this kind to solve such problems in our country.

I would like to commend the committee for the fine work on this bill. I support it enthusiastically.

Mr. SYMINGTON. I do want to state on my own behalf and I am sure on behalf of other members of the subcommittee that we give our thanks to the chairman of the subcommittee, Mr. ROGERS of Florida, for the leadership he has shown in this matter.

Mr. STAGGERS. Mr. Chairman, I yield time he may require to a member of the subcommittee, Mr. ROY of Kansas.

Mr. ROY. Thank you, Mr. Chairman.

I rise in support of the bill.

I would also like to associate myself with the remarks of the other members of the subcommittee and would like to congratulate our chairman Mr. ROGERS and Mr. NELSEN, the ranking minority member, for their expeditious handling of this legislation.

As an obstetrician and gynecologist, I am acutely aware of the need for genetic counseling, the provision for which is provided for by legislation, for those who are likely to have children with sickle cell anemia. I believe this is an especially important part of this bill.

Sickle cell disease is a disease affecting the red blood cell which until recently has been neglected by our society. It affects primarily the people of African origin. It is estimated that 10 percent of approximately 2.5 million black men and women in our country are carriers of the sickle cell trait. Additionally, it is calculated that one in 500 blacks will have the disease. If two people with the sickle cell trait marry, one in four of their offspring may have the disease, and two in four may carry the trait.

The people who are affected by sickle cell anemia are subjected to approximately three "crises" a year which consist of extreme pain and swelling of hands and feet, joints, and abdominal pain. Over a period of time, leg ulcers and jaundice develop, bones become abnormally shaped; kidney failure, heart failure and blindness may also develop. The most tragic result of this disease is that very few people with it live beyond the age of 25.

This situation must not be allowed to continue. This bill would give us the means to carry out voluntary screening and counseling for sickle cell trait and anemia of our fellow black Americans.

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In this way, those who carry the trait will be knowledgeable of its potential damage. This bill also provides funding for research into the treatment of this disease for which there is no known treatment.

I strongly urge unanimous passage of this bill as a step in the attack of this dread disease.

Mr. STAGGERS. Mr. Chairman, I would like to say that I agree with the statements made about Dr. CARTER and Dr. ROY and Mr. NELSEN and PAUL ROGERS and every member of the subcommittee. They have worked long and hard on all of the bills that have come out. Without fear of contradiction, I can say that this subcommittee turns out probably twice as much legislation as any other subcommittee in the House. And, all of it is for the benefit of all the people of this land.

We have neglected too long the health of America. We are just now beginning to come to the point where we realize that this is one of our weak points.

In addition, Mr. Chairman, I would like to say that the subcommittee certainly has done a great job and I again want to compliment each and every member of this subcommittee for the time they have put into this program and the work which they have done on it.

I now yield, Mr. Chairman, to the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I thank the chairman.

Mr. Chairman, I thank our distinguished chairman of the full committee for his kind remarks on behalf of all of the members of the subcommittee. Under his leadership and direction and his urging and prodding the subcommittee has been a very active subcommittee. It has tried to do what in my opinion is a competent job for the Congress and for the American people.

Mr. Chairman, this bill that we have before us today, H.R. 13592, is an important bill and, particularly, it is an important bill to Americans all over the country in every community.

Sickle cell anemia is a genetically transmitted blood disorder which affects an estimated 50,000 Americans and it is believed that another 2.5 million Americans carry the genetic trait which may cause the disease to be transmitted to their offspring. The disease is marked by extremely painful "crises" caused when sickle cell hemoglobin is deprived of oxygen and the normally round doughnut-shaped red blood cells take on a sickle or quarter moon shape. These sickled cells are unable to pass through the capillaries and jam up causing the oxygen deprived tissue to die. Afflicted persons are also extremely susceptible to infection and have an average life span of about 20 years.

The existence of sickle cell anemia, which afflicts black people almost exclusively, has been known for over 60 years. Yet, as recently as 1968 a survey in Richmond, Va., found that only 30 percent of those questioned had even heard of the disease. Medical researchers referred to sickle cell anemia as the forgotten disease until very recently. There is no known cure for the disease and most treatment methods are in experimental stages at present. Until very recently federally funded research in this area was virtually nonexistent.

Mr. Chairman, this bill is the first meaningful effort by the Federal Government in dealing with this significant health problem, sickle cell anemia. The bill provides for a national program to combat sickle cell anemia under a new title XI of the Public Health Service Act. The bill provides authorizations for $75,000,000 for screening, counseling, and education programs, and $30,000,000 for research and programs for diagnosis, prevention, and treatment of sickle cell disease over the next three fiscal years. I might also add that this program is strictly voluntary and the law would provide for strict confidentiality of all test results, records, or other information gathered as a result of participation in this program.

Mr. Chairman, sickle cell anemia is a real problem and it must have a real solution. We must move now to bring the resources of the Federal Government to bear on this problem and we must initiate programs which will hopefully result in the prevention of this disease and treatment methods for those 50,000 Americans who presently suffer from the ravages of sickle cell anemia and the 2,500,000 who are carriers. Certainly these people have a right to expect to live a normal life free from the daily expectation of pain and even death they now face.

Mr. Chairman, this legislation does zero in on a specific disease. It does not go to every blood disease in the country. We are trying to do something for this specific disease—sickle cell anemia. That is the only disease which the hearings zeroed in on. Until the committee has a chance to spread upon the record the necessity of doing something for other specific diseases and to develop information concerning what the research effort ought to be and in what direction it ought to be geared—then I hope the House will sustain the committee in having as its sole purpose the zeroing in on sickle cell anemia.

I would urge that this House pass this bill, showing that we are serious in getting to the solution of this problem of sickle cell anemia.

Mr. SPRINGER. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, Mr. GERALD R. FORD.

Mr. GERALD R. FORD. Mr. Chairman, I take this time only because within the last several years in my hometown of Grand Rapids, Mich., some excellent research and testing work was done on the problem of sickle cell anemia. As a result of those tests in the Grand Rapids school system, under the distinguished leadership of Dr. Robert M. Nalbandian, some interesting and constructive results were achieved. As a consequence of this leadership in the city of Grand Rapids, under Dr. Nalbandian, a local television station WZZM—channel 13—undertook to put together a documentary, at their own expense, telling the story of sickle cell anemia.

I am glad to report that that television documentary, solely put together under talent, has been nominated as one of ten candidates for a television Emmy award in the documentary field. Naturally, I would hope that this locally produced television documentary "Paradox of Neglect," would be selected as the winner in the Emmy competition. However, whether that particular documentary wins or not, the Grand Rapids school system under the technical leadership of Dr. Nalbandian has performed a superb service in the medical field by conducting these tests with the black school children in Grand Rapids.

I have in my possession a number of technical documents describing the work that was done by Dr. Nalbandian and his team. The results that have been achieved certainly justify the program. These results were achieved at minimal cost and expense. I freely admit that prior to my lengthy conversations with Dr. Nalbandian I did not understand what the disease was and knew less about the seriousness of it. But after seeing the documentary film produced by WZZM-TV and after spending a considerable amount of time with Dr. Nalbandian, I want to compliment the Interstate and Foreign Commerce Committee for launching this expanded attack upon sickle cell anemia. This disease poses a most serious probem. This legislation will get us started on the right kind of program.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. SPRINGER. Mr. Chairman, may I say that the subcommittee is familiar with the work that has been done in the Grand Rapids schools, and it is excellent. It is too bad that we cannot insert in the RECORD the film which the distinguished minority leader has mentioned, but I trust that when we get back into the House that the gentleman will take the liberty of inserting the material, which I know he has at hand, in the RECORD, in order that our colleagues may know a summary of what has been done in this field in Grand Rapids.

Mr. GERALD R. FORD. Mr. Chairman, I thank the gentleman from Illinois (Mr. SPRINGER) for his comments.

I will place in the RECORD the material that Dr. Nalbandian and his associates have given me.

I say further that if you have not seen this television documentary, "Paradox of Neglect," you should make an effort to do so. It is the most dramatic depiction of sickle cell anemia that I have ever seen. It is much easier to understand from seeing and hearing than it is to understand from reading. I would hope that at some future time this film would be made available for individuals in the House to see.

I am glad to say that after the film was shown to Senator EDWARD BROOKE that he filmed an introduction to the film which is now part of the documentary. He was convinced it was one of the finest television documentaries he had ever seen, and he was glad to be a part of it.

So I would urge the Members of the House to see the film, and if they cannot I will try to get the text so that they can get the benefit of this fine work.

Mr. Chairman, at this point I insert in the RECORD a number of reports on sickle cell anemia and Dr. Nalbandian's work, which have appeared in medical publications. The reports follow:

[From the Journal of the National Medical Association, January 1972]

SICKLE CELL ANEMIA—CONQUEST OF A MOLECULAR DISEASE

(By Robert M. Nalbandian, M.D., Associate Pathologist, Blodgett Memorial Hospital, Grand Rapids, Mich.; Adjunct Associate Professor of Physiology, School of Medicine, Wayne State University, Detroit, Mich., Consultant to U.S. Army, Medical Research Laboratory, Fort Knox, Ky.

Sickle cell anemia is a cruel, crippling, episodic disease. Although it lingers, it is lethal for its victims, 99% of whom are black. The epochal paper of Pauling and associates [1] formulated and supported by experimental evidence the penetrating concept that sickle cell anemia was caused by genetically controlled structural features of an abnormal hemoglobin molecule. According to Pauling this disease now has "a known molecular basis for pathogenesis, a molecular basis for diagnosis, and a molecular basis for treatment." [1] His statement is supported by a series of brilliant investigations since 1949 on hemoglobin at the molecular level. Murayama of the National Institutes of Health achieved a major, significant advance when, based upon his construction of a precision scale model of the hemoglobin molecule, he elucidated his hypothesis [3 4] for the molecular mechanism of sickling, recently only slightly modified by him.[3] Our inferences and deductions, made from the assumption that the modified Murayama hypothesis was correct, have produced an astonishing number of important discoveries, strengthening thereby the validity of his hypothesis very substantially. As a consequence, for the first time in medicine, we have a uniquely comprehensive view of a lethal disease extending as a continuous spectrum from the aberrant hemoglobin molecule to the clinical level of diagnosis and treatment in the afflicted patient.

These recent advances, all derived from the Murayama hypothesis, are discussed in detail elsewhere. [2 5 8]

1. The Murayama test is the first specific test with a molecular basis for the detection of S hemoglobin.[3 5 8]

2. A therapeutic molecular strategy director at the sickling event was developed.[2 5 7] This consisted of mounting a chemical attack on the implicated hydrophobic bonds between interacting tetramers of S hemoglobin.

3. In the search for a chemical desickling agent the specifications of molecular properties were first derived from molecular theory and *preceded* the selection of urea.[3 5]

4. An automated dithionite test [10] and a tube version,[9] each with a molecular basis for the detection of hemoglobin S, have been developed, appropriate for mass screening of large human populations. The automated method processes 120 specimens per hour at a reagent cost of 2c each. These testing techniques have been shown to be entirely accurate in two extended field trials: 1) more than 23,000 soldiers examined at the U.S. Army Medical Research Laboratory at Fort Knox, Kentucky and 2) over 5000 black school children and indicated blood relatives in Grand Rapids, Michigan.

5. Experimental work has led directly to the design of successful clinical protocols for the use of intravenous urea in the treatment of sickle cell crisis [2, 6] and the use of oral urea in the prophylactic treatment of sickle cell disease.[2, 7]

The therapeutic decision *deducted* from molecular information to use urea in the treatment of sickle cell disease moved Pauling to write: [2] "Most methods of therapy have been empirical in origin. We might consider that medicine is now entering a new stage in which detailed molecular understanding of the nature of disease will be used effectively in the search for therapeutic methods." The protocols [2, 6-7] which we have published for the intravenous and oral modes of urea therapy in the treatment of sickle cell disease were evolved with great care over the past 2 years, drawing upon the collected experience of several clinicians at several medical centers. The treatment is safe and effective IF the protocols are faithfully followed in all particulars. Urea, even though produced in the liver and endogenous to the body, when used as a pharmaceutical agent may, like any other agent, be mishandled with adverse consequences for the patient. Hence, faithful compliance with the provisions of the published protocols is essential if therapeutic failures and medical misadventures are to be avoided.

These investigations of the therapeutic use of urea for sickle cell disease and shown to be safe and effective are now in the final stage of evaluation, namely, controlled randomized studies. Substantial funding will be required to expedite the last phase of this research. Our clinical protocols are published [2 6-7] for the attention of serious students of this disease so that evaluation of this chemotherapeutic modality may proceed at an accelerated pace by the use of identical, reliable protocols simultaneously at independent medical centers. Until such studies have been completed and reported, these protocols are not intended for general medical use. Pauling states [2] that the urea modality of treatment "offers a great promise for the future. The suffering of the sickle cell homozygotes can be and should be decreased by the use of methods of therapy" as described.

While the conquest of this disease is of vital concern to 500,000 American blacks and to millions of Africans and non-blacks elsewhere in the world there are even more profound aspects to this body of research. Lethal effects of a genetic disease have ostensibly been conquered by chemical methods deduced from a fund of specific, highly sophisticated molecular information. Our attention was directed toward the incorrect structure of the genetic product, S hemoglobin, rather than toward the incorrect code in the gene. By chemical manipulation of the hemoglobin S molecule with urea, the deadly property of sickling was inhibited without interference with the critically essential function of oxygen transport. Certainly, this is exquisitely delicate molecular remodeling. The methods culminating in the chemotherapeutic use of urea in sickle cell disease now become a model for the conquest of other genetic disease, well before the era of gentic engineering.

Investigators are invited to turn their attention to these recent innovative diagnostic and therapeutic advances in sickle cell anemia at the molecular level of reference. There are no final answers in medicine. Imminent discoveries beckon us all onward.

FOOTNOTES

[1] PAULING, L., H. A. ITANO, S. J. SINGER, and I. C. WELLS. Sickle Cell Anemia, A. Molecular Disease. Science, 110:543, 1949.

[2] NALBANDIAN, R. M. (ed.), Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications, Chas. C. Thomas Co., Springfield, Ill. 1971.

[3] Listing of U.S. Army Medical Research Laboratory Reports No. 893 through 898. New Eng. J. Med., 284:165, 1971.

[4] MURAYAMA, M. Molecular Mechanism of Red Cell "Sickling." Science, 153:145, 1966.

[5] MURAYAMA, M. Structure of Sickle Cell Hemoglobin and Molecular Mechanism of the Sickling Phenomen. Clin. Chem., 14:578, 1967.

[6] NALBANDIAN, R. M., G. SHULTZ, J. M. LUSHER, J. W. ANDERSON, and R. L. HENRY. Sickle Cell Crisis Terminated by Intravenous Urea in Sugar Solutions—a Preliminary Report. Am. J. Med. Sci., 261:309, 1971.

[7] NALBANDIAN, R. M., J. W. ANDERSON, J. M. LUSHER, A. AGUSTSSON, and R. L. HENRY. Oral Urea and the Prophylactic Treatment of Sickle Cell Disease—a Preliminary Report. Am. J. Med. Sci., 261:325, 1971.

[8] NICHOLS, B. M. and R. M. NALBANDIAN, R. L. HENRY, P. L. WOLFF and F. R. CAMP, JR. Murayama test for Hemoglobin S: Simplification in Technique. Clin. Chem., 17:1057, 1971.

[9] NALBANDIAN, R. M., B. M. NICHOLS, F. R. CAMP, JR., J. M. LUSHER, N. F. CONTE and R. L. HENRY. Dithionite Tube Test—A Rapid, Inexpensive Technique for the Detection of Hemoglobin S and Non-S Sickling Hemoglobin. Clin. Chem. 17:1028, 1971.

[10] NALBANDIAN, R. M., B. M. NICHOLS, F. R. CAMP, JR., J. M. LUSHER, N. F. CONTE and R. L. HENRY. Automated Dithionite Test for the Rapid, Inexpensive Detection of Hemoglobin S and Non-S Sickling Hemoglobinopathies. Clin. Chem. 17:1033, 1971.

AN AUTOMATED MASS S.C.A.T. PROGRAM IN GRAND RAPIDS SCREENING PROGRAM FOR SICKLE CELL DISEASE

(By Robert M. Nalbandian, M.D.; Bruce M. Nichols; Albert E. Heustis, M.D.; Winston B. Prothro, M.D.; and Frederick E. Ludwig, M.D.)

The automated dithionite test, which identifies hemoglobin S at reagent cost of 2 cents each and at a rate of 120 specimens per hour, has been used successfully in both civilian and military mass screening programs for the detection of sickle cell disease. Black school children in Grand Rapids, Mich., were used as the initial test population for a trial of the technique in an ordinary community. Families of those students with positive tests were selected out of a total black population for additional testing. Several patient-controlled options were then offered to afflicted families, including choice of physician, clinics, treatment, and genetic counseling. Country-wide adoption of this automated method should lead to the accumulation of accurate statistics for the first time on incidence, morbidity, mortality, gene frequency, and susceptibility to other diseases of sickle-cell afflicted individuals.

A comprehensive mass screening program for sickle cell disease which includes diagnosis, treatment, and genetic counseling has been successfully accomplished with the black population of Grand Rapids, Mich. The automated screening technique processes specimens at the rate of 120/hr per unit at a reagent cost of 2 cents each and requires only 0.5 ml of anticoagulated whole blood.

While there are numerous screening programs for the detection of sickle cell disease in operation at various medical centers in the United States, these programs are limited in scope, reaching only a small number of the black population at risk. Furthermore, tests in current use do not have a known molecular basis for specificity and none are automated.

TECHNIQUES

All specimens were collected in 5-ml vacuum test tubes with edetic acid (EDTA) as the anticoagulant.

All blood specimens collected in the initial mass screening are processed by the auto-

mated dithionite test.[1] Periodic updating of the population at risk is to be conducted twice a year. Such updating may be done conveniently by either the automated dithionite test or the dithionite tube test[2] at no difference in cost. The reagents of the dithionite tests (four types have been developed) essentially consist of (1) potassium phosphate, (2) sodium dithionite, and (3) saponin. When hemoglobin S, either homozygous or heterozyous, red blood cells are exposed to such reagents, the cells lyse, the hemoglobin deoxygenates, and a nematic liquid crystal forms which interferes with the transmittance of light. Loss in transmittance does not occur with hemoglobin A in such systems. Diagnostically significant curves are obtained by automated techniques with the use of a sequential multiple analyzer. Details of principle, techniques, and documentation of the validity and reliability of the test have been published elsewhere recently.[1,2] False-negative results may be obtained if the sodium dithionite or the saponin is not potent or if there is very severe anemia. False-positive tests may be obtained with hemoglobin Bart's and perhaps some other non-S sickling hemoglobins. Therefore, since the automated dithionite test is a mass screening technique, hemoglobin electrophoresis of all positive dithionite specimens will not only yield accurate diagnoses for hemoglobin S, but also will lead to the identification of other hemoglobinopathies, now often overlooked or misdiagnosed.

Hemoglobin electrophoresis at pH 8.4 was done by the equipment and method of the Helena Laboratories, Beaumont, Tex.

All collection of blood specimens was done in several Grand Rapids schools by teams of "bleeders" consisting of a clerk and a paid, professionally skilled person who did the actual venipuncture. The latter included medical technologists, registered nurses, medical students, and physicians. At all bleeding stations, either a doctor of medicine or a registered nurse supervised the overall operation. A simple code for identifying individuals and schools was developed and used. All collected specimens of blood were refrigerated but not frozen on the day of collection and were processed in an interval from a few hours up to ten days after collection.

Each positive tested individual was given at the genetic counseling session a wallet card identifying the hemoglobinopathy as suggested by Moran.[3] Instructions were given that the card was to be shown whenever medical attention or hospitalization is sought.

In our study (Table 1) 309 cases of sickle cell hemoglobin were found among 5,192 individuals tested. The total cost per test (Table 2) was 82 cents each. The total cost per positive test was $13.69 each. Using our methods and techniques, LTC Frank R. Camp, Jr., and COL Nicholas F. Conte of the US Army Medical Research Laboratory, Fort Knox, Ky., have successfully screened to date more than 23,000 troops and have found over 165 cases of sickle cell hemoglobin at a cost per test of 0.17 cents and a cost per positive test of $19.03 each (unpublished data). Dr. Leo P. Cawley (oral communication, March 1971) and Dr. Edwin L. Bemis and associates (oral communication, Sept. 1971) have instituted current community-wide mass screening programs in their respective cities by the use of our techniques. Commander Lawrence G. Dickson of the US Naval Medical Research Institute, Bethesda, Md. (oral communication, July 1970), has coupled our automated dithionite test with an automated technique for the detection of glucose-6-phosphate dehydrogenase deficiency. The results of mass screening of naval recruits for these factors may ultimately be used as a basis for determining geographical zones of assignment for military duty.

TABLE 1.—SUMMARIZED DATA ON POPULATION BASE AND RESULTS OF MASS SCREENING PROGRAM

	Number of students			
	White	Black	Not specified[1]	Total
Grand Rapids school system	27,041	7,917	----	----
Screening tests performed	52	4,465	675	5,192
Hemoglobinopathy diagnosed:				
AS	1	264	41	306
SC	----	1	1	2
SS	----	1	----	1

[1] The race of 675 students was not specified because of clerical omission.

TABLE 2.—*Summary of expenses involved in screening program—5,192 tests*

	Cost
Reagents	$259.05
Supplies (vacuum test tubes, needles, etc)	1,233.71
Electrophoresis (supplies, reagents)	24.10
Wages:	
Professional	1,693.09
Nonprofessional	1,019.80
Total	4,229.75
Cost per test	0.82
Cost per positive test	13.69

COMMENT

Comprehensive Mass Screening Program.—Any mass screening program for the detection of hemoglobin S must be designed so that the lowest possible cost per positive test will be achieved. Otherwise the cost of mass screening of the total US black population would come to a prohibitive sum.

In metropolitan areas comprehensive mass screening can be achieved economically in two phases. The first is an initial mass screening by automated technique of black school children at selected schools. Second, the blood relatives of children showing positive tests are tested. In these families, individuals with positive tests are then further tested by hemoglobin electrophoresis to determine hemoglobin genotypes, information which is highly pertinent to genetic counseling. Such an approach eliminates the needless screening of large numbers of sickle-cell-negative individuals and keeps the cost of the screening program low. The screening program requires a semiannual updating of the population by screening tests. All black school children entering at the kindergarten level or transferring into the school system at any grade level are tested. Again, the families of positive-testing students are also tested.

We believe that voluntary, well-publicized educational programs antedating by several weeks the initial and subsequent mass screenings are essential to the success of this type of project.

Patient-Controlled Options.—All individuals or families detected during the program to be afflicted with sickle cell disease were offered a set of options: (1) They were free to do nothing more. (2) They could seek the advice of a physician of their choice. (3) They could seek the advice of a physician knowledgeable in the indications and administration of urea therapy. (4) They could visit the sickle cell anemia clinic and obtain urea treatment from designated physicians at the Blodgett Memorial Hospital. (Urea therapy, which is still under investigation and evaluation[4-6] was used as part of an ongoing research program in the absence of other known effective treatment for sickle known effective treatment for sickle cell disease.) (5) Finally, they were given the opportunity to obtain family-wide genetic counseling from black geneticists from Michigan State University. (The genetic counseling aspect of this program is under the guidance of Prof. Herman Slatis and will be reported subsequently by him and his colleagues elsewhere.)

FUTURE COMPREHENSIVE SCREENING PROGRAMS

On the basis of our experience with this mass screening program we wish to emphasize certain points.

1. For maximum effectiveness, screening programs should be presented to the entire community by black leaders including physicians, dentists, nurses, and religious leaders. Essential to the success of the program is a preceding educational campaign making use of the news media—radio, television, newspapers, and magazines. In addition, parent-teacher associations and health-oriented groups are most useful, and educational projects on sickle cell disease at all grade levels in the school system if undertaken well in advance of the actual screening will be effective in mobilizing students to participate. In those schools where such programs were well carried out almost 99% of the student body gave blood specimens.

2. The mass screening of a segment of the population of a large metropolitan area is a complex undertaking. The logistics must be closely coordinated among the personnel of the local school system, the health department, the physician's organizations, the local hospital laboratories, medical technologists, and registered nurses.

3. The opportunity for human error is markedly reduced if the actual bleeding team consists of professional personnel, while a registered nurse or a physician should also be in attendance when blood specimens are being collected.

4. In order to avoid possible medicolegal entanglements, the program must be free and voluntary. Permission slips signed by the parents authorizing the collection of the blood specimen and the performance of the test should always be obtained.

5. In our study we noted some reluctance by high school students to submit to testing. A particular effort should always be made to involve this particular age group since afflicted individuals of reproductive age will benefit most from genetic counseling.

6. Careful record compilation and coding is essential if each community is to continue to benefit from such a program.

Comprehensive mass screening programs (diagnosis, treatment, genetic counseling) for sickle cell disease can now be mounted in any interested community, since an automated, inexpensive testing technique is now available. Such a model study has been successfully accomplished in Grand Rapids, Mich. As a consequence, there are now a small number of successful, ongoing civilian and military mass screening programs for the detection of sickle cell disease by techniques and methods described and cited in this paper.

[1] Nalbandian RM, Nichols BM, Camp FR Jr, et al: Automated dithionite test for the rapid inexpensive detection of hemoglobin S and non-S sickling hemoglobinopathies. *Clin Chem* 17:1033–1037, 1971.

[2] Nalbandian RM, Nichols BM, Camp FR Jr, et al: Dithionite tube test: A rapid, inexpensive technique for the detection of hemoglobin S and non-S sickling hemoglobin. *Clin Chem* 17:1028–1932, 1971.

[3] Moran, T. J.: Detection of hemoglobin S in a community hospital. *JAMA*, to be published.

[4] Nalbandian RM (ed): *Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications*. Springfield, Ill. Charles C. Thomas Publisher, 1971.

[5] Nalbandian RM, Shultz S, Lusher JM, et al: Sickle cell crisis terminated by intravenous urea in sugar solutions: A preliminary report. *Amer. J. Med. Sci.* 261:309–324, 1971.

[6] Nalbandian RM, Anderson JW, Lusher JM, et al: Oral urea and the prophylactic treatment of sickle cell disease: A preliminary report. *Amer. J. Med. Sci.* 261:325–334, 1971.

ABSTRACT NO. 51—MASS SCREENING FOR HEMOGLOBIN S IN LARGE CIVILIAN AND MILITARY POPULATIONS BY THE AUTOMATED DITHIONITE TESTS

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Four new dithionite tests have recently been developed for the detection of hemoglobin S. One of these, the automated dithionite test, has been used in large mass screening programs in metropolitan and military populations constituting in aggregate a field-test of over 27,000 individuals. The automated technique processes 120 specimens per hour on a ½ cc of anticoagulated whole blood at a reagent cost of 2¢ each. In Grand Rapids a comprehensive mass screening program was undertaken successfully. The initial test population were the black school children. Positive testing children identified the affected families in the community. Members of such families were then also tested. Several patient-controlled options were offered including choice of physician, clinic treatment, and genetic counseling. By this selective approach to the black population at risk in large metropolitan communities the needless effort and expense of screening sickle cell negative individuals is avoided, resulting in a low total cost per test (83¢ each) and a low total cost per positive test ($13.85 each) when all administrative costs are included. Detailed data of the Grand Rapids survey and the more than 20,000 troops studied at the U.S. Army Medical Research Laboratory will be presented. The automated dithionite test is an efficient reliable technique suitable for the mass screening of large human populations for the detection of sickle cell hemoglobin. An ancillary gain in the universal utilization of this automated, objective, reproducible technique will be the accumulation of accurate statistics for the first time on incidence, morbidity, mortality, gene frequency, and susceptibility to other disease of sickle cell victims.

ABSTRACT—A COLLECTED BIBLIOGRAPHY OF CLINICAL ADVANCES IN SICKLE CELL DISEASE BASED ON THE MURAYAMA MOLECULAR HYPOTHESIS

OBJECTIVE

To collect and make conveniently available in one source a bibliography of all scientific communications dealing with diagnostic and therapeutic advances in sickle cell disease derived from the Murayama hypothesis for the molecular events involved in the sickling of a hemoglobin S red cell.

METHOD

The published papers, abstracts, presentations at national and international scientific meetings, a book, a scientific exhibit, a television documentary, and other scientific communications are collected and arranged in the order of publication or presentation. Listed in this bibliography are 74 such items. The cited research work emanates principally from three institutions: Department of Pathology, Blodgett Memorial Hospital, Grand Rapids, Michigan; Department of Physiology, School of Medicine, Wayne State University, Detroit, Michigan; and the US Army Medical Research Laboratory, Fort Knox, Kentucky.

CONCLUSIONS

The Murayama hypothesis for the molecular events involved in the interior of a sickling hemoglobin red cell is based in part on his construction of a precision scale model of the hemoglobin S molecule. Murayama, drawing in part upon the molecular investigations of others, such as Pauling, Braunitzer, Konigsberg, Muirhead, Perutz, and Ingram, has in effect provided us with a molecular definition of disease and a description of molecular interaction which has pathogenetic significance in sickle cell disease. This is the first time any disease has been understood in such terms at the molecular level in medicine. The cited references in this bibliography are all directly derived from the Murayama hypothesis either by deduction or inference. These scientific communications represent advances at the clinical level. Our group has bridged the growing gap between advancing sophisticated basic science work and an effective transliteration of such information into clinical gains in sickle cell disease. All of the following discoveries are such extensions of the Murayama hypothesis:

1. Five inexpensive, new tests for hemoglobin S, each with a molecular basis: (a) Murayama test; (b) four dithionite tests.

2. Several successful mass screening studies for sickle cell hemoglobin in large military and civilian populations by the automated dithionite test.

3. A therapeutic molecular strategy for mounting a chemical attack on the intertetrameric hydrophobic bonds essential to the sickling event.

4. The theoretical specifications defining an effective desickling agent including some particulars of molecular structure which antedated and led to the selection of urea.

5. Optical and electron microscopy evidence for the desickling effect of urea.

6. The evolution of a safe and effective clinical protocol for the intravenous use of urea in sugar solutions in the treatment of acute sickle cell crisis without the effect of narcotics or analgesics.

7. The evolution of a simple clinical protocol for the oral, prophylactic treatment of sickle cell disease and related clinical conditions.

Each and every time a prediction was made from the Murayama hypothesis experimental results confirming the deduction or inference were consistently forthcoming. Without too much exaggeration, one may view the Murayama hypothesis as a scientific cornucopia of innovative clinical advances in sickle cell disease.

It is for the convenience of the serious student of sickle cell disease who may wish to advance the clinical knowledge of sickle cell disease by the *molecular route* of the Murayama hypothesis that we have compiled this pertinent bibliography.

The citations in this publication span only two years—from November 1969. The scientific content of these citations only begins to suggest the truth, power, and beauty of the Murayama hypothesis. It is our hope that other workers will pick up this powerful tool which Murayama has given us and will advance the clinical gains in diagnosis and treatment of sickle cell disease, a deadly if lingering affliction which numbers its worldwide victims in the untold millions.

A COLLECTED BIBLIOGRAPHY OF CLINICAL ADVANCES IN SICKLE CELL DISEASE BASED ON THE MURAYAMA MOLECULAR HYPOTHESIS

PAPERS

1. Nalbandian, R. M., D. L. Kessler, and R. L. Henry. Nonspecificity of tests for hemoglobin S. Bull. Path. 10:277, 1969.

2. Nalbandian, R. M., and D. L. Kessler. The Murayama test, a specific test for hemoglobin S. Bull. Path. 10:323, 1969.

3. Nalbandian, R. M., R. L. Henry, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf. The Murayama test. Part I. Evidence for the modified Murayama hypothesis for the molecular mechanism of sickling. USAMRL Report No. 893, 17 September 1970 (DDC AD No. 715 248).

4. Nalbandian, R. M., R. L. Henry, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf. The Murayama test. Part II. Principles, technique, interpretation, and data. USAMRL Report No. 894, 17 September 1970. (DDC AD No. 715 249).

5. Nalbandian, R. M., R. L. Henry, M. I. Barnhart, and F. R. Camp, Jr. Sickling reversed and blocked by urea in invert sugar: Optical and electron microscopy evidence. USAMRL Report No. 895, 17 September 1970. (DDC AD No. 715 250).

6. Nalbandian, R. M., R. L. Henry, G. Shultz, F. R. Camp, Jr., and P. L. Wolf. Sickle cell crisis terminated by use of urea in invert sugar in two cases. USAMRL Report No. 896, 17 September 1970. (DDC AD No. 721 005).

7. Henry, R. L., R. M. Nalbandian, B. M. Nichols, P. L. Wolf, and F. R. Camp, Jr. Modified Sickledex tube test. A specific test for S hemoglobin. USAMRL Report No. 897, 17 September 1970. (DDC AD No. 715743).

8. Henry, R. L., R. M. Nalbandian, B. M. Nichols, P. L. Wolf, and F. R. Camp, Jr. An automated screening method for the specific detection of homozygous and heterozygous S hemoglobin. USAMRL Report No. 898, 17 September 1970. (DDC AD No. 715744).

9. Nalbandian, R. M., R. L. Henry, T. N. Evans, F. R. Camp, Jr., P. L. Wolf, and N. F. Conte. Embryonic, fetal, and neonatal hemoglobin synthesis: Relationship to abortion and thalassemia. USAMRL Report No. 910, 17 November 1970. (DDC AD No. 717231).

10. Nalbandian, R. M., R. L. Henry, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf, Molecular basis for a simple, specific test for S hemoglobin: The Murayama test. Clin. Chem. *16*:945, 1970.

11. Nalbandian, R. M., R. L. Henry, F. R. Camp, Jr., P. L. Wolf, and T. N. Evans. Embryonic, fetal, and neonatal hemoglobin synthesis: Relationship to abortion and thalassemia. Obstet. Gynec. Surv. *26*: 185, 1971.

12. Nalbandian, R. M., and T. N. Evans. Sickle cell disease: A molecular approach to pathogenesis, diagnosis, and treatment. Mich. Med. *70*: 411, 1971.

13. Nalbandian, R. M. The molecular basis for the pathogenesis, diagnosis, and treatment of sickle cell disease. Lab. Med. 2:12. 1971.

14. Nalbandian, R. M., G. Shultz, J. M. Lusher, J. W. Anderson, and R. L. Henry. Sickle cell crisis terminated by intravenous urea in sugar solutions—a preliminary report. Amer. J. Med. Sci. *261*:309, 1971.

15. Nalbandian, R. M., J. W. Anderson, J. M. Lusher, A. Agustsson, and R. L. Henry. Oral urea and the prophylactic treatment of sickle cell disease—a preliminary report. Amer. J. Med. Sci. *261*:325, 1971.

16. Nalbandian, R. M., R. L. Henry, M. I. Barnhart, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf. Sickling reversed and blocked by urea in invert sugar. Amer. J. Path. *64*:405, 1971.

17. Nichols, B. M., R. M. Nalbandian, R. L. Henry, P. L. Wolf, and F. R. Camp, Jr. Murayama test for hemoglobin S: Simplification in technique. Clin. Chem. *17*:1059, 1971.

18. Nalbandian, R. M., R. M. Nichols, F. R. Camp, Jr., J. M. Lusher, N. F. Conte, R. L. Henry, and P. L. Wolf. Dithionite tube test—a rapid, inexpensive technique for the detection of hemoglobin S and non-S sickling hemoglobin. Clin. Chem. *17*:1028, 1971.

19. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., J. M. Lusher, N. F. Conte, R. L. Henry, and P. L. Wolf. Automated dithionite test for the rapid, inexpensive detection of hemoglobin S and non-S sickling hemoglobinopathies. Clin. Chem. *17*:1033, 1971.

20. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., N. F. Conte, J. H. Lusher, and R. L. Henry. The detection of sickle cell disease in large human populations by an

XUM

automated technique. USAMRL Report No. 936, 11 June 1971.

21. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., J. M. Lusher, N. F. Conte, R. L. Henry, and P. L. Wolf. Dithionite tube test—a rapid, inexpensive technique for the detection of hemoglobin S and non-S sickling hemoglobin. USAMRL Report No. 942, 4 August 1971.

22. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., J. M. Lusher, N. F. Conte, and R. L. Henry. Automated dithionite test for the rapid, inexpensive detection of hemoglobin S and non-S sickling hemoglobinopathies, USAMRL Report No. 943, 4 August 1971.

23. Nichols, B. M., R. M. Nalbandian, R. L. Henry, P. L. Wolf, and F. R. Camp, Jr. The Murayama test for hemoglobin S—a simplification in technique. USAMRL Report No. 944, 4 August 1971.

24. Nalbandian, R. M., R. L. Henry, J. M. Lusher, F. R. Camp, Jr., and N. F. Conte. Sickledex test for S hemoglobin—a critique. USAMRL Report No. 945, 4 August 1971.

25. Henry, R. L., R. M. Nalbandian, B. M. Nichols, P. L. Wolf, F. R. Camp, Jr., and N. F. Conte "An Automated, Modified Sickledex Test Technique for the Specific Detection of Homozygous and Heterozygous S Hemoglobin." In *Advances in Automated Analysis*, New York, Mediad, 1970, pp 471–476.

26. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., N. F. Conte, J. M. Lusher, and R. L. Henry. The detection of sickle cell disease in large human populations by an automated technique. Milit. Med., 1971 (in press).

27. Nalbandian, R. M., R. L. Henry, P. L. Wolf, and F. R. Camp, Jr. Molecular basis for the specific test for hemoglobin S (Murayama test). Ann. Clin. Lab. Sci. 1:26, 1971.

28. Nalbandian, R. M., R. L. Henry, M. I. Barnhart, and F. R. Camp, Jr. The molecular basis for the treatment of sickle cell crisis by use of urea in invert sugar solutions. Ann. Clin. Lab. Sci., 1971 (in press).

29. Henry, R. L., R. M. Nalbandian, R. M. Nichols, P. L. Wolf, F. R. Camp, Jr., and N. F. Conte. Modified Sickledex tube test: A specific test for S hemoglobin. Clin. Biochem., 4:196–207, 1971.

30. Nalbandian, R. M., R. L. Henry, J. M. Lusher, F. R. Camp, Jr., and N. F. Conte. Sickledex test for S hemoglobin—a critique. JAMA 218:1679–1680, 1971.

31. Nalbandian, R. M., B. M. Nichols, A. E. Heustis, W. B. Prothro, and F. K. Ludwig. A mass screening program for sickle cell disease. JAMA, 218:1680–1682, 1971.

ABSTRACTS

1. Nalbandian, R. M., D. L. Kessler, B. M. Nichols, R. L. Henry, F. R. Camp, Jr., P. R. McCurdy, and P. L. Wolf. The Murayama test: The first specific test for hemoglobin S. J. Reticuloendothel. Soc. 7:654, 1970.

2. Nalbandian, R. M., D. L. Kessler, R. L. Henry, F. R. Camp, Jr., B. M. Nichols, P. R. McCurdy, and P. L. Wolf. The molecular basis for the first specific test for hemoglobin S: The Murayama test. Fed. Proc., 29:423, 1970.

3. Nalbandian, R. M., R. L. Henry, B. M. Nichols, D. L. Kessler, F. R. Camp, Jr., and K. K. Vining, Jr. The molecular basis for the treatment of sickle cell crisis by intravenous urea. Ann. Int. Med. 72: 795, 1970.

4. Nalbandian, R. M., D. L. Kessler, R. L. Henry, M. I. Barnhart, F. R. Camp, Jr., P. R. McCurdy, and B. M. Nichols. The molecular basis for the first specific test (Murayama test) for hemoglobin S and the therapeutic use of urea. Abstracts, 6th Int. Meeting of the Reticuloendothelial Soc., 1970, p 106.

5. Nalbandian, R. M., D. L. Kessler, R. L. Henry, F. R. Camp, Jr., P. R. McCurdy, P. L. Wolf, and B. M. Nichols. The molecular basis for the first specific test for hemoglobin S: The Murayama test. Abstracts, 13th Int Congr. Hemat., 1970, p 333.

6. Henry, R. L., R. M. Nalbandian, D. L. Kessler, M. I. Barnhart, F. R. Camp, Jr., and B. M. Nichols. The molecular basis for the treatment of sickle cell crisis by intravenous urea. Abstracts, 13th Int. Congr. Hemat., 1970, p 260.

7. Barnhart, M. I., J. M. Lusher, R. L. Henry, and R. M. Nalbandian. Electron microscopic evidence of reversal of sickling in crisis by iv urea in invert sugar. Blood, 36: 837, 1970.

8. Nalbandian, R. M., R. L. Henry, F. R. Camp, Jr., and P. L. Wolf. A unique, specific test for S hemoglobin. Lab Invest. 24:441, 1971.

9. Nalbandian, R. M., R. L. Henry, F. R. Camp, Jr., and P. L. Wolf. An electron microscopic study of reversal of red cell sickling. Lab. Invest. 24: 442, 1971.

10. Barnhart, M. I., J. M. Lusher, R. L. Henry, and R. M. Nalbandian. Reversal and inhibition of sickling by ruea-glucose. Fed. Proc. *30*:684, 1971.

11. Nalbandian, R. M., B. C. Houghton, R. L. Henry, and P. L. Wolf. The molecular basis for the oral, prophylactic use of urea in the treatment of sickle cell anemia. Fed. Proc *30*:684, 1971.

12. Nalbandian, R. M., R. L. Henry, P. L. Wolf, and F. R. Camp, Jr. The molecular basis for each of three new specific tests for S hemoglobin. Amer. J. Clin. Path. *56*:131, 1971.

13. Nalbandian, R. M., R. L. Henry, G. Shultz, and N. Avery, Jr. SS crisis treated successfully by urea in invert sugar. Ann. Intern. Med. *74*:827, 1971.

14. Nalbandian, R. M., R. L. Henry, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf. "Molecular Basis for a Simple, Specific Test for S Hemoglobin: Murayama Test." In *The Year Book of Pathology and Clinical Pathology*, W. B. Wartmen (ed). Chicago, Year Book Publishers, 1971, pp. 357–358.

NATIONAL AND INTERNATIONAL MEETINGS

1. Nalbandian, R. M., D. L. Kessler, B. M. Nichols, R. L. Henry, F. R. Camp, Jr., P. L. Wolf, and P. R. McCurdy. The Murayama test: The first specific test for hemoglobin S. Presented at the 6th Annual National Meeting of the Reticuloendothelial Society, San Francisco, Cal., Dec. 2–5, 1969.

2. Nalbandian, R. M., D. L. Kessler, R. L. Henry, F. R. Camp, Jr., B. M. Nichols, P. R. McCurdy, and P. L. Wolf. The molecular basis for the first specific test for hemoglobin S: the Murayama test. Presented at the 54th Annual Meeting of the Federation of American Societies for Experimental Biology, Atlantic City, New Jersey, April 12–17, 1970.

3. Nalbandian, R. M., R. L. Henry, B. M. Nichols, D. L. Kessler, F. R. Camp, Jr., and K. K. Vining, Jr. The molecular basis for the treatment of sickle cell crisis by intravenous urea. Presented at the 51st Annual Meeting of the American College of Physicians, Philadelphia, April 12–17, 1970.

4. Nalbandian, R. M., D. L. Kessler, R. L. Henry, M. I. Barnhart, F. R. Camp, Jr., P. R. McCurdy, and B. M. Nichols. The molecular basis for the first specific test (Murayama test) for hemoglobin S and the therapeutic use of urea. Presented at the 6th International Meeting of the Reticuloendothelial Society, Freiburg, Germany, July 28–August 1, 1970.

5. Henry, R. L., R. M. Nalbandian, D. L. Kessler, M. I. Barnhart, F. R. Camp, Jr., and B. M. Nichols The molecular basis for the treatment of sickle cell crisis by intravenous urea. Presented at the 13th International Congress of Hematology, Munich, Germany, August 2–8, 1970.

6. Nalbandian, R. M., D. L. Kessler, R. L. Henry, F. R. Camp, Jr., P. R. McCurdy, P. L. Wolf, and B. M. Nichols The molecular basis for the first specific test for hemoglobin S: the Murayama test. Presented at the 13th International Congress of Hematology, Munich, Germany, August 2–8, 1970.

7. Henry, R. L., R. M. Nalbandian, B. M. Nichols, P. L. Wolf, F. R. Camp, Jr., and N. F. Conte. An automated, specific method for the detection of S hemoglobin. Presented at Technicon International Congress, New York, N.Y., November 2–4, 1970.

8. Nalbandian, R. M. Molecular basis for the specific test for hemoglobin S (Murayama test). Presented at 38th Annual Meeting of the Association of Clinical Scientists, Washington, D.C., November 6–8, 1970.

9. Nalbandian, R. M., B. M. Nichols, and D. L. Kessler. The Murayama test for hemoglobin S—methodology. Presented at 38th Annual Meeting of the Association of Clinical Scientists, Washington, D.C., November 6–8, 1970.

10. Nalbandian, R. M. Molecular basis for the treatment of sickle cell crisis by the use of urea in sugar solutions. Presented at 38th Annual Meeting of the Association of Clinical Scientists, Washington, D.C., November 6–8, 1970.

11. Barnhart, M. I., J. M. Lusher, R. L. Henry, and R. M. Nalbandian. Electron microscopic evidence of reversal of sickling in crisis by iv urea in invert sugar. Presented at 13th Annual Meeting of the American Society of Hematology, San Juan, Puerto Rico, December 6–8, 1970.

12. Nalbandian, R. M., R. L. Henry, P. L. Wolf, and F. R. Camp, Jr. The molecular basis of each of three new specific tests for S hemoglobin. Presented at the Interim Meeting of the American Society of Clinical Pathologists, Las Vegas, Nevada, February 19–26, 1971.

13. Nalbandian, R. M., R. L. Henry, F. R. Camp, Jr., and P. L. Wolf. An electron microscopic study of reversal of red cell sickling. Presented at the 60th Annual Meeting of the International Academy of Pathology, Montreal, Quebec, Canada, March 9–13, 1971.

14. Nalbandian, R. M., R. L. Henry, F. R. Camp, Jr., and P. L. Wolf. A unique, specific test for S-hemoglobin. Presented at the 60th Annual Meeting of the International Academy of Pathology, Montreal, Quebec, Canada, March 9–13, 1971.

15. Nalbandian, R. M., R. L. Henry, G. Shultz, and N. Avery, Jr. SS crisis treated successfully by urea in invert sugar. Presented at the 52nd Annual Meeting of the American College of Physicians, Denver, Colorado, March 29–April 2, 1971.

16. Nalbandian, R. M., B. C. Houghton, R. L. Henry, and P. L. Wolf. The molecular basis for the oral, prophylactic use of urea in the treatment of sickle cell anemia. Presented at 55th Annual Meeting of the American Society for Experimental Biology, Chicago, Illinois, April 12–17, 1971.

17. Barnhart, M. I., J. M. Lusher, R. L. Henry, and R. M. Nalbandian. Reversal and inhibition of sickling by urea-glucose. Presented at the 55th Annual Meeting of the American Society for Experimental Biology, Chicago, Illinois, April 12–17, 1971.

18. Nalbandian, R. M., R. L. Henry, B. M. Nichols, F. R. Camp, Jr., and P. L. Wolf. Molecular basis for a simple, specific test for S hemoglobin: the Murayama test. Presented at the 23rd Annual Meeting of the American Association of Clinical Chemists and the 15th Annual Meeting of the Canadian Society of Clinical Chemists, Seattle, Washington, August 9–13, 1971.

19. Nalbandian, R. M., B. M. Nichols, F. R. Camp, Jr., R. L. Henry, and P. L. Wolf. Dithionite test for hemoglobin S: a tube and automated technic with a molecular basis for specificity. Presented at the 24th Annual Meeting of the American Association of Blood Banks, Chicago, Illinois, September 12–16, 1971.

20. Nalbandian, R. M., G. Shultz, J. W. Anderson, and J. M. Lusher. Acute sickle cell crisis treated by intravenous urea in sugar solutions. Presented at the 14th Annual Meeting of the American Society of Hematology, San Francisco, California, December 5–7, 1971.

BOOK

Nalbandian, R. M. (ed). Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications. Charles C. Thomas Co., Springfield, Illinois, May 1971.

EXHIBIT

Murayama M., R. M. Nalbandian, F. R. Camp, Jr., and N. F. Conte. Molecular basis for sickling and therapeutic use of urea. Scientific exhibit, constructed by Armed Forces Institute of Pathology. From: National Institutes of Health, Blodgett Memorial Hospital, Department of Pathology, Wayne State University School of Medicine, Department of Physiology, and US Army Medical Research Laboratory, Fort Knox, Ky.

BOOK CHAPTER

Nalbandian, R. M. "Advances in the Molecular Pathology of Sickle Cell Disease: Clinical Applications." In *Advances in Clinical Pathology*, American Society of Clinical Pathologists.

ENCYCLOPEDIA ARTICLE

Nalbandian, R. M. Sickle cell disease. The World Book Encyclopedia, 1971 (in press).

TELEVISION DOCUMENTARY

Nalbandian, R. M., and M. Murayama (technical advisors). Paradox of Neglect. TV Documentary (52 minutes running time), Station WZZM, Grand Rapids, Michigan.

LETTERS

1. Nalbandian, R. M., D. L. Kessler, and R. L. Henry. Anthropoid diseases in animals. New Eng. J. Med. *282*:103, 1970.

2. Nalbandian, R. M., P. L. Wolf, and F. R. Camp, Jr. Specificity of tests for hemoglobin S. JAMA *215*:489, 1971.

3. Nalbandian, R. M. Urea for sickle-cell crisis. New Eng. J. Med *284*:1381, 1971.

4. Nalbandian, R. M. Urea treatment of sickle-cell crisis. New Eng. J. Med. *285*:408, 1971.

INTERNATIONAL SYMPOSIUM

Mammen, E. F., G. F. Anderson, and M. I. Barnhart (eds). Sickle cell anemia. President at 20th Annual Symposium on Blood. Department of Physiology, School of Medicine, Wayne State University, Detroit, Michigan, January 20–21, 1971. Supplement to Thrombosis Diathesis et Haemorrhagica (scheduled for 1972).

Mr. SPRINGER. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I wish to express my full and complete support for H.R. 13592, the National Sickle Cell Anemia Prevention Act, and the national commitment it makes to find a way to diagnose and cure this inherited blood disease which primarily afflicts black people.

The Federal Government can no longer stand in the background and ignore the urgent need to put its muscle behind a concerted effort to study and control this tragic affliction. Most who have the disease will not live to age 20 after having suffered an incredibly agonizing life. Interest and research in the disease have been growing rapidly but much remains to be done. Federal resources can make the important difference between an early cure and a lifetime of suffering. That is why this legislation is a giant step in that direction.

Mr. SCHEUER. Mr. Chairman, I rise in support of this legislation to establish a national program for diagnosis, prevention, and treatment of sickle cell anemia, a blood disease which strikes only black Americans. This genetic disease, carried by one out of every 12 blacks, afflicts one out of every 500 black babies born in this country. It is a painful, deadly malady which has received far too little attention until very recently.

This legislation provides for a voluntary screening and counseling program and programs to develop and distribute educational materials relating to sickle cell anemia. The bill authorizes an initial $25 million for fiscal year 1973, increasing to $45 million by fiscal year 1975. These sums will greatly help reduce the incidence of this disease and bring new resources to bear on the problems of diagnosis and cure. I am confident that this bill will receive the overwhelming, favorable endorsement of the House today.

Mr. BADILLO. Mr. Chairman, I rise to offer my enthusiastic support for this legislation and to again emphasize for the RECORD that it is being enacted over the objections of the administration—just another example of how distorted and misdirected the Nixon administration's priorities really are.

It seems incredible that we have failed for this long to establish a national commitment to deal with the dread disease of sickle cell anemia. We know that more than 2 million Americans carry the so-called sickle cell trait; that the disease is incredibly painful, killing over half its victims before the age of 20 and crippling most before death.

We know, too, that sickle cell anemia is genetic in origin and that one out of every 12 black persons is a carrier.

When we compare the incidence of sickle cell anemia at birth with other diseases occurring among all races, the implications become obvious: in the United States, one out of every five black infants is born with sickle cell anemia while one out of every 2,500 of all races is born with diabetes, one out of every 2,880 with leukemia and one out of every 5,000 with muscular dystrophy.

In April 1969, the Harlem Hospital in New York sponsored a community health fair and tested a random sample of black people from the community for sickle cell anemia. Of 47 tested, seven showed the sickle cell trait—almost 15 percent.

The bill before us today is a start, but an important one. It will establish a national program for diagnosis, prevention, and treatment, a voluntary screening and counseling program, and new programs to develop and distribute educational materials relating to this dread disease. An important feature of the bill provides for community representation in the development and operation of programs.

I regret that the House bill is not as broad in scope or as generous in funding as is the Senate version and I particularly regret the failure of the House bill to bring the Veterans' Administration and the Department of Defense into the screening programs.

On balance, however, the bill deserves the support of every Member of this House and immediate implementation by the Department of Health, Education, and Welfare.

Mr. CONYERS. Mr. Chairman, after many silent years, the public and the Congress have finally recognized the need for public funds to fight the painful and tragic disease of sickle cell anemia which afflicts so many black Americans.

Only as recently as February 1972, President Nixon declared sickle cell anemia an area of administration concern. Now that the Senate has taken swift and generous action to give substance to administrative concern by unanimously passing the National Sickle Cell Anemia Act, the House must meet its responsibility.

The bill reported out by the House Interstate and Foreign Commerce Committee is a good one. It is not, however, as generous as its Senate counterpart. Whereas S. 2676 authorizes $142 million to fight sickle cell, the House version authorizes only $105 million. I would hope that we would raise the level of House funding to meet Senate levels. Adequate funding is essential if the fight against sickle cell is to be successful.

Furthermore, I should like to see included in the House version, those sections of the Senate bill which would provide protection of Armed Forces personnel and of veterans through the Department of Defense and the Veterans' Administration.

It is commendable that the Senate was able to pass such worthy legislation and that the House committee acted so quickly. It is reassuring that at long last the Congress considers sickle cell anemia not only a national problem, but one demanding national effort and priority.

Mr. STOKES. Mr. Chairman, today we meet to vote on a bill of utmost importance to black Americans, the National Sickle Cell Anemia Act. I would like to demonstrate how and why sickle cell anemia is so widely feared in the black community, and why this legislation is badly needed.

The statistics speak with a loud and disarming voice: 50,000 Americans are afflicted with sickle cell anemia and they lead intolerably painful existences as a result, rarely living past the age of 30. Two million other black Americans carry the sickle cell trait, and run the risk of transmitting the disease to their children.

Until now, little Federal money has been spent in the fight against this dreaded disease. Today, however, we vote on a bill which will change that situation. H.R. 13592 would provide $25 million for fiscal year 1973, $35 million for fiscal year 1974, and $45 million for fiscal year 1975. With these funds, voluntary screening and counseling programs would be instituted, along with programs to distribute educational materials to black communities. Persons nearing child-rearing age would be given first priority, followed by children under the age of 7.

We have learned two important lessons from our efforts to fund programs designed to combat sickle cell anemia. First, we have discovered that, if black people had not banded together to fight the political and medical establishment, the disease would still be ignored or unknown today. Second, we must realize that the battle against sickle cell anemia

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is only part of the larger war against insufficient and inadequate health care in urban and rural communities throughout the land.

If this bill is passed by the House today, as I am confident it will be, we cannot afford to rest on our laurels. Instead, we must follow this bill through its implementation, and then move on toward a national system of health care which will insure that we never again make the mistake of neglecting a major disease.

Mr. WILLIAM D. FORD. Mr. Chairman, I want to join with my colleagues today in urging prompt passage of H.R. 13592, the National Sickle Cell Anemia Prevention Act.

This bill would establish programs for the diagnosis, prevention, and treatment of one of the most neglected health problems in the United States. It is estimated that between 50,000 to 80,000 Americans are afflicted with this disease. Approximately one in 500 black children will suffer from sickle cell anemia and its effects are particularly tragic. The average victim of the disease, under age 6, may require up to 10 visits to the hospital each year. After age 10, this child may expect to spend a minimum of 4 weeks of every year in the hospital, with each hospital visit costing almost $1,000. One-half of the victims die before they reach the age of 5, and 80 percent die before age 30. Despite these shocking statistics, the disease is still incurable and treatment methods are grossly inadequate.

In his health message to Congress on February 18, 1971, President Nixon stated that one "disease target for concentrated research should be sickle cell anemia." The President went on to say that:

> It is a sad and shameful fact that the causes of this disease have been largely neglected throughout our history. We cannot rewrite this record of neglect, but we can reverse it.

I completely share the President's views as expressed in this statement, and Congress, by the introduction of this legislation is obviously prepared to set forth a national commitment to combat this disease. But in spite of the administration's inspiring rhetoric, administration spokesmen opposed this bill during its consideration by the House Interstate and Foreign Commerce Committee.

Mr. Chairman, there have been many occasions during the Nixon administration when Congress has been called upon to take the leadership in areas where the administration's verbal promises have not been followed through with action. The administration's position on this bill, however, presents a shocking example of its continual lack of concern for the urgent problems afflicting black Americans in this country.

I strongly urge passage of this bill as a first step toward demonstrating Congress' desire to put forth a national commitment to eradicate this dread disease.

Mr. ANDERSON of California. Mr. Chairman, as an author of a bill which would establish a national sickle cell anemia program, I rise in support of H.R. 13592.

This measure would establish a national program for diagnosis, prevention, and treatment of sickle cell anemia—a disease that kills half of its victims before their 20th year, and most of the rest by age 40.

This painful and deadly blood disease is inherited when both parents carry the sickle cell trait. Approximately 2,500,000 black Americans carry this trait and pass it along to their offspring. Approximately one black child cut of every 500 born in the United States inherits this often fatal disease.

The bill before us today, H.R. 13592, would attack sickle cell anemia on two fronts: First, to determine who has the trait and the disease, and to counsel those who are afflicted, the bill provides $75 million over the next 3 years for the establishment and the operation of voluntary sickle cell anemia screening and counseling programs in the communities. In addition, information and educational material will be developed relating to sickle cell anemia and it will be distributed to doctors and clinics, and also to the general public.

Second, to develop methods of diagnosing, treating, and preventing sickle cell anemia, the bill authorizes $30 million over the next 3 fiscal years.

Currently, a variety of tests are available for the detection and the diagnosis of sickle cell disease. Several recently developed screening tests can be administered at less than 50 cents per sample.

Our efforts to detect the cause of sickle cell anemia have been quite successful. However, there is a great need to improve methods of treating those who have the anemia. Most physicians in treating sickle cell patients have used blood transfusions, surgery, and intravenous therapy to combat the disease. Unfortunately, these methods of therapy do not appear to provide complete relief or to remedy the cause of the disease. In some cases, the treatments have serious side effects. The bill before us today should result in the development of improved methods to treat and control the deadly disease.

I am pleased that grants and contracts will be made to organizations on the local level, since many community minded individuals and organizations in the area of Los Angeles that I represent, have been in the forefront of the fight to prevent sickle cell anemia.

As the Senate has already adopted similar legislation, I am hopeful that this measure will be rapidly approved in conference, and signed into law in the coming weeks.

Mr. ADDABBO. Mr. Chairman, I rise in support of the national sickle cell anemia bill, H.R. 13592, adopted unanimously by the House committee. I shall also support the amendment proposed by my good friend and colleague, Mr. GIAIMO, to bring Cooley's anemia under the bill. I do not feel that the inclusion of this amendment will in any way dilute the sickle cell anemia programs.

Sickle cell anemia is a vicious blood disease that is peculiar to black people. It is estimated that as many as 50,000 people suffer from this disease and few live beyond the age of 20. Many die much earlier after much suffering involving long periods of hospitalization.

The bill would establish a national program for diagnosis, prevention, and treatment of sickle cell anemia. It would also establish a voluntary screening and counseling program and programs to develop and distribute educational materials relating to this disease. Participation in the program would be strictly voluntary and all information discreetly handled.

This crash program is warranted in order that we make a commitment in the fight to control this vicious disease. Until now almost no Federal resources have gone into the study and control of the disease. Within my own district, there are many concerned citizens and organizations, who at their own expense and time, are working on this serious problem.

The Giaimo amendment, to bring Cooley's anemia under the bill, is a step in the right direction. This particular blood disease affects children of Italian and Greek background and study and control of this particular disease should also be included under these programs.

I fully support the sickle cell anemia bill and the Giaimo amendment, to include Cooley's anemia.

Mr. ROSTENKOWSKI. Mr. Chairman, sickle cell anemia is a malicious bigoted disease of the blood that affects one out of every 500 black people in the United States. It is a cruel, painful, and costly disease that has no cure, no prevention, and, until now, a disease that has been disgracefully neglected by the Congress and the medical society. An attempt to find a cause and a cure for sickle cell anemia is long overdue.

Today, Mr. Chairman, the House will consider the National Sickle Cell Anemia Act. This act will provide a national diagnosis, prevention, and treatment program for sickle cell anemia. It will also establish a voluntary screening and counseling program as well as programs to develop and distribute educational materials relating to sickle cell. As a primary sponsor in the House of the Sickle Cell Anemia Act, I cannot urge my colleagues strongly enough to support the quick passage of this act.

Sickle cell anemia kills most of its victims before they reach 20 years of age. It is clear that a widespread screening for the disease could provide black families with information concerning the probability of this genetic disease effecting their children, and thus, considerably limit its occurrence. This screening program and the research programs combined with extensive counseling and educational programs are a major step forward in establishing a national commitment in dealing with sickle cell anemia. Again, I urge unanimous support in the House for the Sickle Cell Anemia Prevention Act.

Mr. HILLIS. Mr. Chairman, I take the floor today to support legislation which is important to a great segment of our society.

It is unfortunate that in years past there has been no great concentrated effort to combat sickle cell anemia.

It is unfortunate that this dreaded disease has been allowed to thrive not only in the United States but throughout the world.

This amendment will set up a national program for the prevention and treatment of this disease.

We must remember that some 80,000 people throughout the world die annually of sickle cell anemia.

We must remember that those who have inherited this disease rarely live past the age of 20 years old.

We must remember that out of 25 million black Americans, 2.5 million are born with traces of sickle cell anemia and 50,000 of these Americans receive the full dose of this disease.

It is also important to remember that this disease is not only fatal, but extremely painful. A person who has sickle cell anemia can expect six to seven critical painful attacks each year.

I, and the great majority of Americans, for the past generations have supported campaigns to combat cancer, TB, heart disease and many other killers of mankind.

It appears as if sickle cell anemia has long been without a chief opponent.

With this amendment, this will end. I say, let us make a beginning. Let today be the beginning of our war against sickle cell anemia.

Mr. RODINO. Mr. Chairman, I am pleased to support the amendment that will be offered by our distinguished colleague (Mr. GIAIMO) to provide an additional $7.1 million for research, screening, treatment, and training programs for Cooley's anemia. I want, at the outset, to pay tribute to our colleague's fine work in bringing to our attention this widespread disease, which is incurable and usually fatal, and which was little known until he initiated his effort to combat it.

I strongly support H.R. 13592, the National Sickle Cell Anemia Act. There is an urgent need to act effectively to provide help for the many citizens, primarily black people, who are afflicted with this agonizing disease or who carry the genes to transmit it to their children.

Since Cooley's anemia is similar to sickle cell anemia, it would be most appropriate to expand the bill before us to provide additional authorization for programs to attack Cooley's anemia. Initially Cooley's anemia, medically termed *thallasemia major*, was peculiar only to persons of Mediterranean descent—Italians and Greeks primarily. However, with generations of intermarriage it is now found among Americans of many other racial strains. By including Cooley's anemia programs under H.R. 13592 we would be establishing one act to cover both these genetic blood disorders.

The nature of our country's population interchange means, undoubtedly, that the range of this disease will increase. It seems imperative to me that we begin now to provide needed help, instead of waiting until the magnitude of the problem is such that we will have to undertake a vast crash program when it reaches epidemic proportions.

Mr. GREEN of Pennsylvania. Mr. Chairman, I am happy to rise in favor of this most important legislation for the prevention of sickle cell anemia.

The tragedy of sickle cell anemia is the tragedy of problems afflicting blacks in that they go virtually unrecognized, unattended, and unsolved.

Perhaps because sickle cell anemia is a disease which afflicts blacks exclusively, its urgency has gone virtually unnoticed.

This has been manifested by the meager amounts spent on sickle cell research and by the absence of reliable treatment for the thousands of blacks suffering from the disease. Even where there are projects working for a solution to this problem, the lack of funds has been devastating.

Funds are sorely needed for research, counseling, public education, and volunteer screening, in both civilian and Government sectors. Also, it is absolutely necessary that centers for research and training in sickle cell anemia be developed. The legislation before us would provide for these important steps.

We must now pass this legislation! We can no longer ignore this disease which afflicts more than 100,000 black people across the country and the children of over 20,000 blacks in the city of Philadelphia.

Mrs. HICKS of Massachusetts. Mr. Chairman, I rise in support of H.R. 13592, the National Sickle Cell Anemia Control Act. This bill will provide Federal assistance for a disease that has crippled nearly 2 million Americans. H.R. 13592 provides approximately $100 million for programs to combat sickle cell anemia. It is time we gave this disease a top priority for in order to prevent or ameliorate its damaging symptoms support of relevant research grants are necessary. I commend the chairman and members of the House Interstate and Foreign Commerce Committee for favorably reporting this bill.

My district which is the Ninth Congressional District in Massachusetts lies within the city of Boston.

According to the U.S. Census 1970, as reported by the Research Bureau Boston Redevelopment Authority: In Boston, 104,483 of the 641,000 citizens are of black ancestry; this equals approximately 16.3 percent. The census of 1970 almost certainly underestimated the actual population of black citizens and there has been a definite increase in the number of blacks in Boston during the last year or so. It would be realistic to state that the population of blacks in Boston currently numbers between 110,000 and 120,000 which is approximately 20 percent of the population and live in the South End, North Dorchester, and Roxbury areas. A number of surveys have been conducted in the last 35 to 40 years as to the prevalence of sickle cell trait. The several surveys conducted of urban population give a prevalence level as stated of sickle cell trait of 8.5 percent which means that Boston contains in its population approximately 9,000 individuals with sickle cell trait. Accordingly, the prevalence in Boston of sickle cell anemia must be about 180 individuals.

Today I would like to confirm my continuing support for a significant increase in Federal funds for an attack on sickle cell anemia. I introduced in May of last year, H.R. 8423 in the belief that it was time to establish a priority effort to gain control of and eliminate this terrible disease of black America.

Sickle cell anemia was first identified more than 60 years ago. Research on a cure for this disease was initiated shortly thereafter but the first major breakthrough in demonstrating the molecular basis for the disease did not occur until 1949 when Dr. Linus Pauling, a well-known biochemist and Nobel prize winner, showed that the characteristic sickling of the red blood cell was due to an abnormal hemoglobin molecule. Just recently, and using Dr. Pauling's work as a basis for the investigation, a small step has been taken toward the evaluation of a new chemical treatment for patients in the acute stages of the disease. We need to exploit this progress which has been achieved if we are to avoid another half century of awaiting a cure.

This disease is unusual in its occurrence. Sickle cell anemia is limited primarily to black citizens of our country who have inherited the trait for the disease from each of their parents. The evidence suggests that the disease became established in the Negro population as a result of some poorly understood evolutionary processes associated with a resistance to malaria. In Africa, where this disease had its origin the biochemical protective mechanism afforded blacks with the sickling trait a greater degree of resistance against the lethal effects of malaria than blacks without the trait. As a result this mutation of the hemoglobin molecule has survived.

Individuals who inherit the trait for the disease from each of their parents suffer terribly from the disease. The manifestations of the disease in small children is particularly pitiful to see and patients with the disease seldom live beyond the age of 40. One difficulty in combating the disease has been that the disease requires special testing for identification and diagnosis and this testing has not been really available.

Federal support for investigation of sickle cell anemia is scattered throughout several institutes of the National Institutes of Health, including the National Institute of Arthritis and Metabolic Diseases; the National Heart and Lung Institute; and the National Institute of General Medical Sciences; and the Health Services and Mental Health Administration. Although coordination of effort has been assigned to the National Heart and Lung Institute, the history of research on this disease indicates that it has never received any priority of attention.

In 1971, President Nixon announced that Federal funds to combat sickle cell disease would be increased to $6 million. While this level of funding represents almost a fourfold increase in effort, it is not nearly enough to take immediate advantage of the knowledge which is already available and to extend this knowledge to the black population. Clearly what is needed is some means of improving the lot of individuals affected with sickle cell anemia, hopefully by so modifying this aberration of hemoglobin that it does not cause symptoms, or at worse, causes very minor symptoms. This means research. As I have indicated, there have been a few promising signs for the treatment of the disease. Genetic counseling services and screening to

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identify the presence of the disease could be provided. These services should be provided to their fullest extent. Genetic blood disorders have been neglected for too long. Research, training, screening, prevention, and treatment programs will be established and coordinated effectively with passage of this legislation.

Mr. BYRNE of Pennsylvania. Mr. Chairman, I rise to express my wholehearted support for H.R. 13592, the National Sickle Cell Anemia Control Act.

Mr. Chairman, the terrible disease of sickle cell anemia most commonly strike black children, afflicting them with a life of pain. Most of its victims are unable to live beyond the middle thirties. Despite the prevalence of the disease and its unbearable consequences, little research has been conducted into methods of treatment and possible cures. Recently, however, scientific findings have indicated that there is a very real chance to do something about sickle cell anemia, if a concentrated effort is made.

Mr. Chairman, what is required is a national commitment against sickle cell anemia. This commitment must take the form of a substantially stepped-up research program within the National Institutes of Health to combat this dreaded disease which hopefully will lead to its eventual elimination.

Mr. Chairman, this bill provides the tools for this national commitment. I urge its immediate adoption.

Mr. RYAN. Mr. Chairman, it is essential to establish an effective national program for diagnosis, prevention and treatment of sickle cell anemia, an inherited blood disease which afflicts an estimated 50,000 black Americans. Another 2.5 million may be carriers of the trait. The purpose of H.R. 13592 is to establish such a program.

This bill would also establish a voluntary screening and counseling program and programs to develop and distribute educational materials relating to sickle cell anemia. Participation in any program would be wholly voluntary, with a guarantee of confidentiality of information obtained in the screening, counseling, and treatment process.

The National Sickle Cell Anemia Prevention Act also authorizes the Secretary of Health, Education and Welfare to make grants and contracts for projects for, first, research in the diagnosis, treatment, and prevention of sickle cell anemia, and second, the development of programs for diagnosis, treatment and prevention of sickle cell anemia.

The bill authorizes $25 million for fiscal year 1973, $35 million for fiscal year 1974, and $45 million for fiscal year 1975.

The bill also provides for community participation in the development and operation of programs, and gives priority screening and counseling first to persons entering childbearing years and second to children under 7. Priority for contracts and grants is to be given areas which HEW determines to have the greatest number of persons in need of the programs.

Sickle cell anemia is caused when an individual inherits two genes—one from each parent—which have the property of causing sickle cell anemia. The particular characteristic of sickle cell anemia is the occurrence of an abnormal hemoglobin molecule in the red blood cells, which causes the normally doughnut-shaped red blood cells to become crescent or sickle-shaped. Once the cells have assumed this shape, it becomes difficult for them to pass through the capillaries. Thus they accumulate in these vessels and block the flow of blood to surrounding tissues. The usual symptoms that result are stunted growth, pain, swelling of the joints, hemorrhage, tissue death, and consequent failure of vital organs such as the heart, spleen, and kidneys. Blindness, stroke and ulcers of the leg also occur. As a result, most sickle cell anemia victims fail to live beyond the age of 20.

This disease is believed to have developed in Africa centuries ago, because the single sickle cell gene is effective in combatting certain types of malaria.

Although the original bill sponsored by the distinguished gentleman from the District of Columbia (Mr. FAUNTROY) and the Senate passed bill are more far-reaching than this bill, nonetheless this bill is a major step forward in dealing with sickle cell anemia. I urge that it be passed by this House.

Mr. SPRINGER. Mr. Chairman, I have no further requests for time.

Mr. STAGGERS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Sickle Cell Anemia Prevention Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to prevent sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs as part of other existing public health care programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS FOR RESEARCH AND PROGRAMS FOR DIAGNOSIS, PREVENTION, AND TREATMENT

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research in the diagnosis, treatment, and prevention of sickle cell anemia, and (2) the development of programs for diagnosis, prevention, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $7,500,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which assistance is sought;

"(3) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(4) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(5) in the case of an application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their childbearing years and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait:

"(6) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(7) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

COMMITTEE AMENDMENT

On page 4, strike out line 14 and all that follows down through line 19, and insert in lieu thereof the following:

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975."

The committee amendment was agreed to.

AMENDMENTS OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Chairman, I offer several amendments and ask unanimous consent that they be considered en bloc as they all deal with the same subject matter.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. GIAIMO: Page 1, line 5, insert "and Cooley's" immediately after "Sickle Cell".

Page 2, line 20, insert "and Cooley's" after "sickle cell".

Page 4, insert after line 25, the following:

"PROGRAMS RELATING TO COOLEY'S ANEMIA

"SEC. 1103. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of Cooley's anemia screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia.

"(3) The Secretary may make grants to public and nonprofit private health profession schools for fellowships for training in the diagnosis, treatment, and prevention or Cooley's anemia. Fellowships provided under grants under this paragraph shall be limited to such amounts as the Secretary finds necessary to cover the cost of the training of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(4) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(3) For the purpose of making grants under subsection (a)(3), there are authorized to be appropriated $150,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(4) For the purpose of carrying out subsection (a)(4), there are authorized to be appropriated $25,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

Page 5, line 2, strike out "1103" and insert in lieu thereof "1104".

Page 5, line 9, strike out "1104" and insert in lieu thereof "1105".

Page 7, line 4, strike out "1105" and insert in lieu thereof "1106".

Page 7, line 6, insert "and Cooley's" after "sickle cell".

Page 7, line 13, strike out "1106" and insert in lieu thereof "1107".

Mr. GIAIMO (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the remainder of the amendments be dispensed with, since they are merely technical amendments renumbering the various sections, and that they be printed in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The gentleman from Connecticut (Mr. GIAIMO) is recognized.

Mr. GIAIMO. Mr. Chairman, I want to commend the committee headed by the distinguished chairman, the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Illinois (Mr. SPRINGER), the ranking Republican member; also the gentleman from Florida (Mr. ROGERS) who I know has done a great deal of work in this area and has a real dedication to the health needs of the American people.

Mr. Chairman, I support this legislation. I think we must do more in the area of sickle cell anemia research, screening and dissemination of information.

But, I do think if we are going to undertake this job at long last, we should not stop on the 1 yard line—we ought to go the additional 1 yard and do the complete job in this area of trying to find a cure for anemia and to set up a proper screening process.

This legislation commonly known as sickle cell anemia legislation is in fact legislation designed to find a remedy, a cure, treatment, and to set up screening processes for a genetic blood disorder. That is the heart and soul of this type of legislation. The doctors who are engaged in research in this area are trying to obtain more knowledge and to find cures for this genetic blood disorder.

Now, what is this genetic blood disorder? It is prevalent in two important types that few laymen and Congressmen heard about, just a few short years ago. If you had asked the man in the street what sickle cell anemia was 5 years ago, very few would have known. The same goes for Cooley's anemia.

Basically, sickle cell anemia is a genetic blood disorder manifested in an irregularity in the red blood corpuscles, which affects predominantly, as the chairman of the committee said, in 99 percent of the cases, people of the black race. We have 25 million blacks in the United States. And we must get started in that work.

Cooley's anemia, on the other hand, is a similar, very much the same genetic blood disorder affecting the red blood corpuscles, and this type of anemia affects not the black race but those peoples from the Mediterranean areas, of whom there are more than 20 million in the United States.

Who are they? There are Italians, there are Greeks, there are Spanish-speaking people, people of Spanish background, which includes not only those from Spain but those from Puerto Rico, those from Mexico, and the great Spanish areas of the Southwest. Also, many Mediterranean people have intermarried in Europe and the United States with other peoples not from the immediate Mediterranean area. So concelvably in the United States there are upwards of 20 or 30 million people or more who carry the genetic disease, or the gene which

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can bring about Cooley's anemia. Cooley's anemia is a very similar type of malady wherein the children as in the case of those with sickle cell anemia, rarely live past the age of 30 years of age, if they attain that. Children with Cooley's anemia are incurable and must be kept alive with blood transfusions at least every 3 or 4 weeks.

If we are going to have a large Federal effort in this area, as we are and as we should, let us not put ourselves in the position of saying the Government is going to help those children who are afflicted with sickle cell anemia, but that it will not help the 200,000 people in this country who are afflicted with Cooley's anemia. Are we going to say "no" to the many millions who may not be afflicted but who may be carriers of Cooley's anemia, to those people whose ancestors came from the Mediterranean area, are we going to say, "We are not going to do anything for your children or for you."

The disease is still relatively small in number—200,000. The best time to control this disease would be before it spreads, and the way to do that is to set up these screening processes at the same time that we do research.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 5 additional minutes.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from New York.

Mr. BIAGGI. I commend the gentleman from Connecticut for his amendment and also for his affirmative approach to the fundamental legislation dealing with sickle cell anemia. I would like to associate myself with his remarks.

Mr. Chairman, I support the amendment offered by the gentleman from Connecticut (Mr. GIAIMO). This amendment would include funds for research, training, screening, prevention and treatment programs for Cooley's anemia under this act.

Cooley's anemia is a genetic blood disorder which is similar to sickle cell anemia. At one time, this disease only afflicted persons from the Mediterranean area. Over the course of generations, however, the disease has been carried to persons of a wide variety of backgrounds. Sickle cell anemia is almost identical to Cooley's anemia and the methods of treatment and research are very similar. The primary difference between the two is that sickle cell anemia is confined almost exclusively to members of the black race, while Cooley's anemia afflicts a wide variety of people. Indeed, a cure must be found for both of these fatal diseases.

Cooley's anemia has stricken approximately 200,000 young Americans. They suffer from pallor, softened bone structure and other grievous symptoms. Most of the victims die before they are 20 years of age. Unfortunately, as with sickle cell anemia there is no known cure for this illness. In addition, the victims must undergo a continuum of blood transfusions.

Mr. Chairman, these dreaded afflictions are very closely related. In fact, an individual may have sickle cell anemia and Cooley's anemia at the same time, but a separate screening process is necessary to detect Cooley's anemia. In other words, if it is discovered that a person may be suffering from sickle cell anemia he will not know that he has Cooley's anemia until a separate test is conducted. For these reasons, I support the amendment offered by the gentleman from Connecticut (Mr. GIAIMO) so that a coordinated attack can get underway to combat both of these genetic blood disorders.

Time is of the essence. We must get these programs underway immediately before these diseases claim the lives of more of our youth.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Connecticut.

Mr. MONAGAN. Mr. Chairman, I wish to compliment the gentleman on his amendment, which I support.

The National Sickle Cell Anemia Act which we are now considering is progressive legislation and I am confident that all present comprehend the misery and suffering which this dreaded disease has caused in the past and continues to cause for thousands of our fellow Americans. But we must also consider the far reaching and devastating effects of Cooley's anemia.

Although a distinct disease Cooley's anemia, like sickle cell anemia is a disorder of the hemoglobin of the blood and is transmitted generically. There are over 100,000 Americans afflicted with this painful disease—and tragically the majority are children. The disease becomes manifest during the first year of life. Those afflicted require frequent and costly blood transfusions to correct their anemia. They also suffer malformed development leading to brittle, easily broken bones and alteration in facial appearance. In most instances, death occurs before the 20th year.

The existing programs in the research of the causes and possible cures for this disease are totally inadequate. In fact, at this time very little is known about Cooley's anemia even though it was described as a separate and specific type of blood disease about 1925 by Dr. Thomas B. Cooley. These programs must be given adequate monetary resources to carry their activities to effect.

We must not continue to neglect those individuals afflicted with Cooley's anemia. I have received numerous communications concerning the tragic experience of years of anguish and enormous medical expenses and the ultimate death of a son, daughter, nephew, niece or grandchild. Decisive action must be taken by this Congress before additional children become the victims of this killing malady. I urge my colleagues to support the amendment which Mr. GIAIMO has offered to provide $7.1 million for research, screening, treatment, and training programs to ease and eventually eliminate the agony of Cooley's anemia.

Mr. GIAIMO. I thank the gentleman.

Let us do a complete job so that when children come in for screening they are not turned away because they may not be suffering from sickle cell anemia but, in fact, may be suffering from Cooley's anemia.

I have a letter from Alexander Wiener, M.D., New York University Medical Center. Some may ask, "Who is Dr. Wiener?" He is the discoverer of the Rh factor in children. He urges support for this amendment and says in effect: Let us get started on the entire job in anemia, which is found prevalently in two types, sickle cell and Cooley's.

Yale University has done extensive work in this area. Dr. Harold A. Pearson, professor of pediatrics at Yale, encourages us to include Cooley's anemia.

We are not going far afield. We are not bringing in all types of illnesses and diseases. We are not making a Christmas tree out of this legislation. We are dealing with the same genetic blood disorders which bring about anemia, and we are saying they are found in two types, sickle cell and Cooley's, one which affects blacks and one which affects those whites of Mediterranean origin. Let us get started on both now.

We are going to save ourselves a great deal of suffering and hardship for families in the future if we can identify these diseases and counsel those people who may be carrying the genes in them and passing them on to their children yet unborn. Let us not do half the job.

Also I want to commend the many people who have worked with me in this connection in recent months. I would like to commend especially my good friend, the gentlewoman from Connecticut (Mrs. ELLA GRASSO) who has taken an extreme interest in this matter, as well as the gentleman from Massachusetts (Mr. CONTE) and the gentleman from New York (Mr. PODELL) and the gentleman from New Jersey (Mr. MINISH) who could not be here, because he had to be back in New Jersey, but he is very strongly in favor of this legislation.

I think the committee can do this. It will be said and it has been said in the committee report that they would like to hold some hearings and do some work on this, and that they are not opposed to this legislation. I know they are not, but the hearings are going to be purely a repetition of the hearings we have had. We are going to be having the same people come in and tell us what the disease is, and tell us that they do not know too much about it, that there is no hope of a cure at the present time, that they want to do more research, and that they want to set up screening and counseling services so they can find the people who are carrying the genetic disorder.

I do not think we should wait. I think once we have started on this course, and once we have undertaken to do something about sickle cell anemia, we should go that additional 1 yard over the goal line and do something for the people who are suffering from Cooley's anemia, who are suffering the difficulties we find with those who are suffering from sickle cell anemia.

Mr. Chairman, I urge favorable treatment of the amendment.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman from Connecticut. I wish to commend him now for the great service he is performing in alerting us all to the very real dangers of Cooley's anemia.

I might say here that I have done all I could in my service on the Subcommittee on HEW of the Committee on Appropriations to see that the sickle cell anemia was fully funded last year, and I will continue to do so this year.

The alarming factor about this disease is the rapidly rising number of people that are being afflicted by it. At one time the disease was confined only to persons of Mediterranean background. Now, however, it has spread through intermarriage to persons of Jewish, Scandinavian, German, and even oriental backgrounds. Cooley's anemia now affects about 200,000 young Americans, few of whom will survive the age of 20. It spares no race or nationality.

The time to act is now. We have seen the tragedy that delay has wrought with regard to sickle cell anemia. Let us not compound this tragedy by waiting until Cooley's anemia claims more victims than sickle cell anemia.

Let us seize the initiative now. To my mind, this legislation is the perfect vehicle for launching an attack on both these diseases. Both are genetic blood disorders. Both share common traits and universal modes of research and treatment. Both work an unspeakable severity upon their victims. Both can strike an individual at the same time.

I urge my colleagues to support this amendment which would provide funds for research, screening, treatment, and training programs for Cooley's anemia. Its acceptance would in no way diminish the importance we are placing on finding a cure for sickle cell anemia. Rather it would expand our dedication and commitment by authorizing a concerted effort to control both these severe blood disorders.

Thank you, Mr. Chairman.

Mr. BIESTER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Pennsylvania.

Mr. BIESTER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Connecticut. I commend him for his initiative and I commend the gentleman in the well for his support.

Mr. CONTE. I thank the gentleman very much.

Mrs. GRASSO. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered to H.R. 13592 by my friend and colleague from Connecticut (Mr. GIAIMO).

As the first sponsor of legislation introduced this session of Congress to establish a national program to seek an effective treatment and cure for sickle cell anemia, I would like to commend the gentleman from West Virginia (Mr. STAGGERS), the gentleman from Florida (Mr. ROGERS), and the entire committee for the bill before us. Passage by the House of H.R. 13592, the National Sickle Cell Anemia Prevention Act, will provide the vital beginning of necessary medical programs for the diagnosis, prevention, and treatment of sickle cell anemia. For far too many years this disease has brought pain, suffering, and death to its victims. The time for providing the necessary Federal funding to meet this medical crisis is long overdue.

While applauding this attempt to combat such a dread affliction, I believe that this amendment to provide $7.1 million for a program to fight Cooley's anemia would greatly strengthen the bill before us.

Today, few Americans have heard of Cooley's anemia—save the families and friends of those unfortunate individuals afflicted with this disease. Although two distinct diseases, Cooley's anemia and sickle cell anemia have certain similarities. Like sickle cell anemia, Cooley's anemia is a genetically transmitted hemoglobin disorder. Individuals suffering from the disease suffer from severe anemia, enlargement of the spleen, characteristic changes in the skin and facial features, and a greatly shortened life expectancy. At this time no specific therapy is available for the victims of Cooley's anemia, although periodic blood transfusions will keep individuals alive through their teens.

Cooley's anemia most frequently appears in the descendants of people from the Mediterranean littoral. At this time the possibility exists that more and more people may be affected as succeeding generations intermarry and pass the trait to other ethnic groups.

Adoption of this amendment, Mr. Chairman, would enhance the purpose of the National Sickle Cell Anemia Prevention Act. This bill establishes a procedure for a national attack against a genetic blood disease. Why limit the scope of the legislation to diagnosis, prevention, and treatment of a single anemia? Now is the time for the Congress to provide the funds requested to assist programs dealing with a similar genetic blood disease.

Let us not wait until the incidence of Cooley's anemia reaches frightening proportions. Let us begin a concerted attack on Cooley's anemia by providing the funds needed to initiate the treatment of this disease.

It is my heartfelt hope that the House will pass this important amendment to H.R. 13592.

Mr. COTTER. Mr. Chairman, I rise in strong support of H.R. 13592, the National Sickle Cell Anemia Control Act of 1972.

The need for this legislation is obvious. Over 2 million American youngsters suffer the ravages of this dread disease. For too long we have not paid sufficient attention to this genetic blood disorder, and our current situation is directly attributable to this neglect. This disease primarily affects our black citizens and the ravages of this disease not only cost an incalculable total in human suffering, but deprive our Nation of the contributions of these individuals.

By supporting H.R. 13592 we are moving to end this neglect. Action is overdue and I am happy that in this, my first term, the House is acting to correct this oversight. This legislation provides over $100 million to launch a coordinated attack on this disease. This $100 million will be used for necessary research, training of medical personnel, and screening and testing programs, and, of course, prevention and treatment of the disease.

I earnestly support this needed legislation.

On another matter, Mr. Chairman, I will support an amendment offered by my good friend and distinguished colleague from Connecticut (Mr. GIAIMO) to add $7.1 million for new research into Cooley's anemia. These additional funds would be used to study the causes and find a cure for Cooley's anemia, a disease which primarily affects our citizens of Italian and Greek descent.

I urge my colleagues to support this bill and this amendment.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 13592, the National Sickle Cell Anemia Prevention Act. It is only through an overwhelming national commitment that we can make real inroads into the conquest of this most painful and often fatal disease.

This hereditary blood disease attacks an average of one in every 500 black children born, and it is estimated that 50,000 black Americans currently suffer from it. At present there is no known cure, and most treatment methods are in experimental states. And although it ranks as one of the most prevalent childhood diseases—with an average of 1,155 new cases discovered annually, compared with 1,206 new cases of cystic fibrosis and 813 of muscular dystrophy—until very recently federally funded research in this area was virtually nonexistent.

Now, with this national prevention program, we can be hopeful that successes will come from this concerted effort. Medical research, when adequately funded, can have significant results, as has been demonstrated many times already. This act creates a research program for diagnosis and treatment together with a voluntary screening and informational program. Such programs would be very valuable in identifying the 8 to 13 percent of the black population that is estimated to carry this genetic sickle cell trait and in providing them with the counseling services so important in dealing with this disease.

It is outrageous how Congress has neglected for so long taking decisive action to initiate a sickle cell anemia prevention program, and I call upon Congress now to support H.R. 13592 and to direct a full-scale effort toward the eradication of this disease.

Mrs. HICKS of Massachusetts. Mr. Chairman, I rise in support of the amendment. I should like to commend the gentleman from Connecticut (Mr. GIAIMO) and also all Members who are supporting this amendment.

This amendment will authorize Federal funding for medical research and screening programs intended to assist the victims of Cooley's anemia and the millions of children yet unborn, who may have the disease. Cooley's anemia is a disorder of the blood's hemoglobin transmitted genetically. The severe form of Cooley's anemia known as Thalassemia or Mediterranean anemia is found in one

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of every 1,000 American children born of parents whose ancestors were natives of countries surrounding the Mediterranean Sea—predominantly of Greek and Italian origin.

The time is now for the Federal Government to provide the necessary funding for research and detection funds for those who suffer from this disease. This Congress should make a priority effort to gain control of and eliminate Cooley's anemia.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

I am sympathetic with the distinguished gentlemen and gentlewomen who would amend this bill.

Cooley's anemia only affects children usually under 1 year of age. It is characterized by an increased fragility of the red blood cells; that is, the red blood cells just will not stand up, they burst and the child becomes anemic and dies.

Actually, a relatively small number of people throughout the United States are involved.

We have a much needed bill here today, one which has been studied for some time but which has not received sufficient appropriations or sufficient emphasis; that is, the bill concerning sickle cell anemia. I do not believe it is a propitious time to dilute this legislation we have here today.

We might, if we took in all the anemias, consider many more. We do not have just sickle cell anemia, or sicklemia, as it is called, and Cooley's anemia, but we have also many more which are equally devastating, and are some of the worse diseases that are known.

For instance, we have pernicious anemia. We have anemia due to deficiency of folic acid. We have anemia due to iron deficiency. We have anemia due to pyridoxine deficiency. We have anemia due to different conditions of the hemoglobin, a lack or a deficiency in the SC hemoglobin. There are so many that if we covered all of them this bill would be a monstrous thing, a Christmas tree, and we would be opening up a great can of worms.

So let us today agree to study Cooley's anemia, to have hearings on that at some time in the future, and if it deserves appropriations we can do that at a later day.

At the present time we are confronted by a disease, sickle cell anemia, which does present a much greater problem to a larger segment of American society today. Let us continue as we have begun and target in or zero in on this particular disease of sickle cell anemia.

If we do not concentrate on this, the effect of our efforts today will be greatly diluted. Therefore, I would urge that the amendment be defeated.

Mr. ROY. Mr. Chairman, I rise in opposition to the amendment.

I commend the gentleman from Connecticut (Mr. GIAIMO) for his excellent presentation and for the fact that he brought to the attention of this body a disease which is indeed a severe disease.

I do not feel, however, that it is proper to amend this bill which is specifically directed toward sickle cell anemia by adding provisions for Cooley's anemia.

I think there is one important thing that should come to the attention of this body; namely, at the present time money is being spent in the area of research on Cooley's anemia. In fact, the information I have received is that $630,000 is being presently spent on Cooley's anemia and $1.2 million is being spent on sickle cell anemia. This is a ratio of 1 to 2. The ratio of the number of people with Cooley's anemia versus those with sickle cell anemia is probably in the neighborhood of 1 to 40. The American Public Health Association informed me that the best estimate they could give with regard to the number of people afflicted with Cooley's anemia was 15,000. The Cooley's Anemia Society estimates it is 100,000. I heard the figure today of 200,000. We are aware of the fact—and it is very well confirmed—that there are over 600,000 people with sickle cell anemia. By the same token, we are aware of the fact that there are 2.5 million people with the traits of sickle cell anemia.

What we are doing with this bill, which is of extreme importance, is we are finding those with sickle cell anemia traits. We are making money available to test a large population so we know who has the traits and what marriages are likely to result in sickle cell afflicted offspring. In this way we have a chance of bringing about a stop to sickle cell anemia.

The great question I have with regard to Cooley's anemia is whom do we test? It is apparent that those of Mediterranean origin, the Italian people, the Greek people, and the Middle Eastern people, are afflicted, but, as was so well pointed out by a number of people who spoke before me, the marriages have been great within and without these groups and, in all probability, if we would test all the people in this Nation who are likely to have Cooley's anemia, we will be testing about half or more than half of the population.

How can we test that number? The only test presently available for Cooley's anemia traits is hemoglobin electrophoresis, which usually costs $20 per person. If we are going to spend $20 per person to test, by Mr. GIAIMO's own admission, perhaps 20 million or 30 million people, then we are talking about a tremendous appropriation of money.

Again I want to point out that the only way we can presently do anything effective about sickle cell anemia, and Cooley's anemia is by identifying those with the traits before they mate and before they have offspring, because the offspring will be born with the disease. After we identify those with the disease we can only treat the anemia.

So we have no idea and personally I have no idea and those on the committee who have had the opportunity to study it have no idea what the cost would be to have an effective testing program for the genetic trait of Cooley's anemia.

By contrast, with sickle cell anemia, we know that we can test all black people in this Nation for probably $100 million or less and, as my distinguished colleague, Dr. HALL pointed out, we can test them rather inexpensively, for perhaps as little as 40 cents per person rather than the $20 per person to test for Cooley's trait.

For these reasons, I oppose the amendment.

I think it is worthwhile that Cooley's anemia has been brought to our attention and that the committee may indeed wish to hold hearings on this disease. However, to bring this in as an amendment to this particular bill would not be proper nor appropriate; for we are zeroing in, as our chairman has stated, on sickle cell anemia which afflicts a great number of black people in this Nation.

Therefore, Mr. Chairman, I urge this body to vote down the amendment offered by the gentleman from Connecticut (Mr. GIAIMO).

Mr. SYMINGTON. Mr. Chairman, will the gentleman yield?

Mr. ROY. I yield to my colleague from Missouri.

Mr. SYMINGTON. Mr. Chairman, I think the members of the committee should take into account what the gentleman from Kansas has said because of its application to the need for hearings on the questions he raises concerning the manner in which Cooley's anemia must be studied and the feasibility of various approaches to it, none of which we have had an opportunity to observe or hear about from qualified people in the scientific and medical disciplines.

I certainly and I fervently hope and trust that the opposition of the committee to the suggestion that Cooley's anemia should not be tacked onto this bill is not misinterpreted as a lack of interest or concern on the part of the committee in that disease.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. SYMINGTON. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes.

Mr. SYMINGTON. Mr. Chairman, I have asked for this time to simply conclude by saying that the questions already raised here on the floor concerning Cooley's anemia should make us all realize that this is no time to add this amendment to a bill that has been worked on for weeks and weeks and, in fact, months, in order to give us an understanding of a very difficult disease, sickle cell anemia. I do not doubt that Cooley's anemia is equally difficult to understand and equally deserving of hearings. I hope such hearings can be held, but we cannot hold them here on the floor of the House.

Mr. NELSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall be very brief.

I would like to point out the fact, as has been mentioned previously, that this subcommittee has produced a vast amount of health legislation such as the health manpower bill, the cancer bill, the drug abuse bill, and I could go on and name many, many more bills which we have brought out.

As I pointed out earlier we have some experts on our committee that help to guide our course. It was the feeling of our committee in considering this bill that we should confine our efforts in this particular case to sickle cell anemia. I wish to add that the Giaimo amendment

brings to our attention another problem to which we should give more thought and consideration before we proceed to pass legislation in regard to it.

I think that it would be most inappropriate to tie it to the bill we now have before us.

So, I would hope the amendment is defeated and that we may go on and pass this bill in its present form to deal with a problem that is so extensive and so severe, as has been pointed out today by the doctors on our committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GIAIMO. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendments were rejected.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Appropriations Subcommittee having jurisdiction over the funding of our health programs, I am concerned over the impression some people are giving that nothing is being done on the sickle cell problem.

In fact, a great deal is being done, the Federal budget for programs to deal with this disease was increased tenfold from fiscal 1971 to fiscal 1972—from $1 million to $10 million.

For the fiscal year beginning this July, the administration has proposed another 50-percent increase, which would bring the funding level to $15 million. And these are dollars which would bear directly and specifically on sickle cell anemia. Throughout the National Institutes of Health we have numerous research programs and projects which may provide some of the answers we are seeking for sickle cell. Millions of dollars are going into basic research on blood and genetic abnormalities, the results of which may shed light on how to effectively combat sickle cell anemia.

For fiscal 1973, the administration is proposing to spend some $4.5 million for comprehensive research and community service centers. Another $6.5 million would go into screening and education clinics. Some $3.7 million would be expended directly on research through the National Heart and Lung Institute, and other national institutes. About a quarter of a million dollars would go into information and education efforts apart from what I have just mentioned.

[Dollars in millions]

	Fiscal year—	
	1972	1973
1. Comprehensive research and community service centers	$4.5	$4.5
2. Screening and education clinics	1.8	6.55
3. Research	3.7	[1] 3.7
4. Information and education	0	.25
Total	10.0	15

[1] To be administered by Health services and Mental Health Administration.

[2] Includes $1,000,000 in National Institute of Arthritis and Metabolic Diseases, National Institute of General Medical Services, and the National Institute for Child Health and Development. The remaining $2,700,000 is in heart and lung.

The bulk of the additional $5 million proposed for fiscal 1973 would go into the screening and education clinic program to be conducted primarily through the Health Services and Mental Health Administration.

At least three methods of sickle cell anemia therapy are thought to be promising and warrant a clinical trial to find out how effective they are. The first phase of this clinical study is now underway. Comprehensive centers of research and service will serve not only as teaching institutions, but as places where research can be conducted and the results of that research can be made available directly to the people who are affected by this disease.

I do not quarrel with the intent behind this legislation, but I think we should try to put it in perspective. A substantial effort is already being made to deal with this disease, and as a member of the Appropriations Committee, I intend to see that it continues. However, there are many other diseases that seriously affect large segments of our population, and in the context of the dollars we have available for health programs I believe we should try to maintain a reasonable, overall balance of effort.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 13592, the National Sickle Cell Anemia Prevention Act.

For those Americans who have worked so long to gain national awareness of the sickle cell problem, House consideration of this measure is rightfully a source of tremendous encouragement. I think we would have to admit that, in the not too distant past, few of us were even aware of sickle cell anemia, much less sensitive to the toll this vicious disease takes in pain, suffering, and death of black Americans.

In retrospect, it is difficult to understand the low priority which has been given to the study of sickle cell anemia. History shows us that sickle cell disease has been known for more than 60 years and the fundamental nature of its biochemical cause for more than 20 years. When examining the incidence of the disease, we find that one out of every 12 blacks is a carrier of the sickle cell trait. One out of every 500 black children born in this Nation is afflicted with sickle cell anemia and faces a short, agonizing life. But our support of biomedical research on sickle cell anemia has not been given the priority which one would expect if priorities for research were determined by the seriousness and incidence of a disease. That progress which has been made on sickle cell disease is the work of a few devoted and brilliant individuals—in frequent instances, the dogged, determined efforts of black physicians working with limited resources.

With the passage of H.R. 13592, we can establish for the first time a significant Federal program for the prevention of sickle cell anemia. The legislation provides $105 million over a 3-year period for widespread screening for the sickle cell trait as well as research programs to find ways of diagnosing and curing the disease. On the whole, I believe the committee has devised a commendable program, though I would have preferred bringing the Veterans' Administration and the Defense Department directly into the screening programs for sickle cell disease, as does the bill already passed by the Senate.

Mr. Chairman, many of us were sponsors of the various sickle cell bills considered by the committee. While we may have differed somewhat over what approach to take, we were nevertheless united in calling for a national attack on sickle cell disease. I am confident that the National Sickle Cell Anemia Prevention Act would be a tremendous step forward in establishing the level of national commitment needed, and I hope it will be met with our unanimous support.

Mr. HALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like simply to add that had I had an opportunity to speak on the last amendment I would have quoted from Dr. Robert Nalbandian, M.D., writing in "Laboratory Medicine," pages 12–50, May 1971, and further quoting Dr. Linus Pauling; the fact that:

> Sickle cell anemia is the first disease to have become thoroughly understood, the first disease for which a clear and complete explanation of its manifestations can be formulated, and for which we have developed a method not only for controlling the crisis of the disease, but it is the first disease for which there is a known molecular basis for its origin, or pathogenesis, a molecular basis for the diagnosis and a molecular basis for treatment.

As an old surgeon with a rusty scalpel, we had nothing to do with the treatment of this disease, but I did study it years ago under Dr. H. Gideon Wells and E. R. LeCount, when it was first beginning to be understood; and it would in my opinion be an error to complicate this bill with the treatment of another disease which has not been fully exploited, and for which the research and technical breakthrough has not been accomplished for a mass screening and treatment; and the panacea of pouring more funds and personnel into a project not yet ripe for borning.

Therefore I consider the action of the committee on this amendment was good and proper.

Mr. BIAGGI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this bill.

Mr. Chairman, the National Sickle Cell Anemia Control Act is an urgently needed piece of legislation. This hereditary disease, which is found primarily among members of the black race, has remained incurable primarily because of a lack of Federal support to find a cure. This fatal disease results in the occurrence of an abnormal hemoglobin in the red blood cells. It causes its victims to suffer prolonged agonizing pain sometimes lasting for years before they finally die.

What is even more tragic, however, is that the primary victims of this disease are young children. Nothing is more heartbreaking than to see one of these children suffering from anemia, pallor, weakness, poor physical development, jaundice, enlargement of organs like the

heart, liver, and spleen, and even ugly skin ulcers. They also are more susceptible to infections, paralysis, and blindness.

The effect upon the black community of this one disease is so sizable that a continued effort to find a cure must be made immediately. The anemic, or active form of the disease occurs in about one in every 500 black births in the United States. The median age of survival is 20 years. Moreover, the extensive hospitalization required in the treatment of this disease forces the victim to miss school, work, and the many other normal functions of their daily lives that contribute to growth and development.

I have cosponsored legislation which would provide funds for research toward finding a cure for this horrible disease and I wholeheartedly support the bill under consideration.

Another, closely related hereditary blood disorder which affects approximately 200,000 young Americans is Cooley's anemia. This disease was originally found only among persons of Mediterranean background, but due to intermarriage through the generations, it now affects a wide variety of persons of differing backgrounds.

The research methods, screening, prevention and treatment programs could easily be integrated with the sickle cell anemia program. For this reason, I will support the amendment which will be offered by the gentleman from Connecticut (Mr. GIAIMO) which would include Cooley's anemia in this legislation.

Over the course of the past several years we have spent a great deal of money to conquer such hereditary diseases as cystic fibrosis or phenylketonuria. We must now make an all-out assault to combat sickle cell anemia and Cooley's anemia as well.

We must continue our struggle to rid the world of all diseases which afflict mankind. This cannot be accomplished, however, without the Federal research funds necessary to carry out this noble objective.

I hope that my colleagues will join with me in supporting this major piece of legislation. I would also hope that the amendment offered by the gentleman from Connecticut (Mr. GIAIMO) will be passed and thus make the act even stronger.

Today isn't soon enough to begin the fight to wipe these related diseases from the face of the earth.

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PICKLE. Mr. Chairman, sickle cell disease, the most common inherited disorder in the United States, is believed to be present in more than 2 million black Americans. Although the disease occurs in a relatively benign "carrier" form known as "sickle cell trait," approximately 1 in every 500 black infants is born with the life-threatening form of the disease called "sickle cell anemia." There is no known cure.

The disease is due to a genetically determined defect in hemoglobin, the respiratory pigment in red blood cells which enables them to carry oxygen throughout the body. Under conditions of diminished oxygen supply or physical or emotional stress, the abnormal hemoglobin molecules become attached to one another in such a way as to distort the normally doughnut-shaped red cells into a distinctive crescent or sickle-shape, hence the name sickle cell anemia. The inability of these sickled cells to pass freely through smaller blood vessels creates a "logjam" effect, blocking the flow of blood surrounding tissues and causing the extreme pain known as the sickle cell "crisis."

A person is relatively safe if he carries the sickle cell trait, however, it is important that the person realize the incidence of sickle cell anemia should he marry someone who also carries the trait If both parents carry the sickle cell trait, they stand a 1-in-4 chance that one of their offspring will have sickle cell anemia, hence the importance of counseling and education programs to advise future parents who are double trait carriers of the problems to be expected if they should wed.

In 1970, $100,000 was spent on sickle cell research in a Nation that spent $1.6 billion on research. Four million dollars were spent on cystic fibrosis which strikes one in 3,000, and $10 million were spent on muscular dystrophy which strikes one in 5,000. Moreover, a total of $14 million were raised by various charity organizations supporting cystic fibrosis and muscular dystrophy whereas the National Sickle Cell Anemia Foundation was able to raise only about $75,000.

Today I rise in support of the National Sickle Cell Anemia Act. Although this bill does not go quite as far as some would like, it is a certainly giant step in the direction of curbing this dread disease.

Among other things, this bill would provide:

First, $75 million over the next 3 years for screening, counseling, and educational and informational activities.

Second, $30 million over the next 3 years for research in the diagnosis, treatment, and prevention of sickle cell anemia and the development of programs for diagnosis, treatment, and prevention of sickle cell anemia.

Third, all participation in any of these programs would be voluntary.

Mr. Chairman, I urge the adoption of this legislation. We must not wait any longer to direct our resources against this malady.

Mr. WIDNALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this time I would just like to extend my full support on this legislation. It is a measure that is urgently needed. I wish to commend the members who sponsored this bill, for the work they have done on it, as have many other Members of the Congress, and I want to congratulate the committee on the work they have done on the bill they have brought in.

Mr. Chairman, I most earnestly urge that the House will overwhelmingly approve this bill, H.R. 13592, the National Sickle Cell Anemia Prevention Act.

Last October, I cospensored H.R. 11257, which was also titled the National Sickle Cell Anemia Prevention Act.

Subsequent committee action by the Committee on Interstate and Foreign Commerce resulted in the unanimous passage of a clean bill, the one we vote on today. I am pleased that the committee has taken expeditious action on this urgent problem.

It is imperative that the Nation move quickly on this problem because the increase in sickle cell anemia cases can be stopped cold with education, diagnosis and counseling.

The magnitude of this problem is indicated by the some 50,000 Americans who suffer with sickle cell anemia. However, the potential tragedy is much greater. An estimated two and a half million Americans have the trait. Their ignorance of the genetic consequences which result from a couple who both have the trait and bear children, can mean a generation of Americans severely afflicted by sickle cell anemia.

While sickle cell anemia strikes one in 500 black persons, the fact that one in ten carries the trait should alert us to the great potential danger in this blood disease.

Recent tests in Washington, D.C. schools, which have been limited by a lack of funds, indicate that a thorough testing of the students is necessary.

The money we authorize here, $25 million for fiscal 1973, $35 million for 1974 and $45 million for 1975, can carry out the programs initiated, such as that in the District school system.

Support is needed now and I urge my colleagues to recognize the need for immediate approval of this bill.

Mr. TIERNAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my strong support for H.R. 13592, the National Sickle Cell Anemia Control Act.

The tremendous need for this legislation is undeniable. Approximately 40,000 to 50,000 persons in this country have sickle cell anemia, and an additional 8 to 13 percent of the black population carry the trait. This genetic disease occurs in 1 out of every 500 black babies, most of whom do not live beyond the age of 20.

The bill we have before us today would provide for research, training, screening, prevention, and treatment programs. The $100 million provided for in H.R. 13592 should be looked at as only a beginning, but it is certainly a giant leap toward establishing a national commitment to effectively deal with sickle cell anemia.

To date we as a nation have not even devoted to this disease a significant fraction of the money we have applied to research into other childhood diseases. And yet back in 1967 there were approximately 1,155 new cases of sickle cell anemia, compared with 813 cases of muscular dystrophy. This is not to say that we should devote less money to the cure of muscular dystrophy, but that we should substantially increase our commitment to deal with sickle cell anemia.

We have ignored this disease too long. I urge all of my colleagues to support H.R. 13592.

Mr. Chairman, I also wish to lend my support to the amendment proposed by my able colleague from Connecticut (Mr. GIAIMO) which would provide support for grants, contracts, and fellowships for research and treatment of Cooley's anemia. Cooley's anemia, sometimes called thalassemia, is also a genetically determined form of anemia which occurs primarily in peoples of Mediterranean origin. In this disease, the fundamental defect is inability to synthesize adequate amounts of hemoglobin, the substance in red blood cells which enables them to carry oxygen. Although the true incidence is not known and obviously would vary from area to area depending upon the percent of population of Mediterranean origin, the best available estimates are that about 200,000 individuals in this country carry the gene. Unfortunately, much needs to be learned concerning treatment of the disease and I believe that major emphasis on research on Cooley's anemia is warranted. I therefore support the efforts of my colleague from Connecticut to include support for Cooley's anemia as part of this bill.

Mr. HALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I said before, during the general debate, and specifically during the 5-minute rule on the bill, there has never been a disease that has been as well researched, and whose time has come for borning of Federal support in the domestic area, as is the case of sickle cell anemia.

Its origin is most interesting, probably having to do in the black areas of Africa with nature's own evolving of a defense mechanism against malaria of the most devastating variety.

The methods by which it causes its destruction are now well known and, as I said, very recently, the molecular etiology or pathogenesis of the disease is now thoroughly understood, and a rapid screening method of inexpensive molecular—and computerized—diagnosis has been well developed and utilized.

Finally, the treatment in the form of molecular treatment is available, and it is now predicted will become as simple as the preventive treatment of poliomyelitis and other diseases. Indeed, I would like to join with the members of the committee, and particularly the gentleman from Grand Rapids, Mich., the distinguished minority leader of the House (Mr. GERALD R. FORD) in referring to the beautiful work done by one of our outstanding groups of researchers and technicians in developing the new replacement of the proprietary test for hemoglobin-S.

I would even commend the issue of Laboratory Medicine published by the American Society of Clinical Pathologists for May of 1971 and its editorial and its "critique," or seminar on the actual diagnosis, treatment and prophylaxis of sickle cell anemia.

Even the vaunted Journal of the American Medical Association for December 13, 1971, has both editorials and a compendium of articles by the same doctor who did his work in Grand Rapids, Mich., in this area, the distinguished Dr. Robert M. Nalbandian, Associate Pathologist of the Department of Pathology at Blodgett Memorial Hospital in Grand Rapids.

I have not been privileged to see the television film that was prepared locally and privately, but I do want in closing to simply read the statement by twice Nobel Laureate, Dr. Linus Pauling, when he said that sickle cell anemia is the first disease to have become thoroughly understood.

This is an outstanding statement, all of its own.

In concluding my remarks, I will simply request that we again ascertain that the breakthrough in using simple urea, sodium citrate, or other chemical drugs for mass screening technique and diagnosis plus treatment, might well be considered in lieu of the expensive or proprietary Sickledex tests.

I have nothing against proprietary tests developed by private enterprise research and perpetrated by people who are available, but I would be against using this with taxpayers' funds when there are such simple and decisive molecular screening tests available using the simple chemicals available at less than $1 per pound for such tests, plus preparation costs.

Mr. Chairman, the following is an article by Dr. Robert M. Nalbandian to which I referred earlier in my remarks:

[From Laboratory Medicine, May, 1971]

THE MOLECULAR BASIS FOR THE PATHOGENESIS, DIAGNOSIS, AND TREATMENT OF SICKLE CELL DISEASE

(By Robert M. Nalbandian, M.D.)

(NOTE.—Robert M. Nalbandian, M.D., is Associate Pathologist, Department of Pathology, Blodgett Memorial Hospital, Grand Rapids, Mich. Dr. Nalbandian is the editor of a new book, Molecular Aspects of Sickle Cell Hemoglobin: Clinical Applications, with a foreword by Professor Linus Pauling, twice Nobel Laureate, published this month by Chas. C. Thomas Co., Springfield, Ill.)

Contrary to current discussions in the medical and paramedical press, sickle cell disease is one of the best understood of diseases.

The devastating ravages of sickle cell disease are not generally appreciated. This genetic affliction is cruel, crippling, lingering, and lethal.

It first manifests at about five to six months after birth because it is delayed in its clinical expression due to genetic switching mechanisms involving the production of incorrectly structured beta-S globin chains in the S hemoglobin molecule.

The clinical course is punctuated by agonizing episodes of bone-cracking plain and temperature elevations with anemia, listlessness, lethargy, infarcts of virtually all organs of the body including the spleen, bone, lung, and central nervous system.

Some victims are struck with blindness, aphasia, crippling, paralysis, and convulsions. Others have episodes of severe abdominal pain mimicking the acute surgical abdomen which can lead to unnecessary surgery and increased hazards of death under anesthesia. Clinical manifestations also include leg ulcers, jaundice, increased susceptibility to infection, and hyporegenerative bone marrow activity.

Sociologically, these victims are often poor students and poor workers, frequently unable to earn adequate incomes. They are hopelessly demoralized. Furthermore, they are impoverished by expensive hospitalizations of varying frequency.

Ultimately, they may become addicted to narcotics which are used by frustrated physicians as an act of therapeutic desperation even though such treatment is known to be ineffective in eliminating the pain.

Finally, these victims die prematurely after years of suffering the blows of this crushing disease. What a staggering penalty to pay because of the genetic substitution of two amino acids among 574 per molecule of hemoglobin!

In 1949, Linus Pauling and associates[1] produced experimental proof and established sickle cell anemia as the first example of a molecular disease in which the molecular structural anomaly of hemoglobin was genetically controlled.

Three years later, Pauling predicted[2] that when the complete structure of the hemoglobin molecule would be discovered, such knowledge would permit the development of improved therapeutic methods. Pauling's prophecy has been fulfilled in less than 20 years!

A remarkable series of investigations dating from 1949 at the molecular level on hemoglobin culminated in 1966 by the brilliant, singular achievement of Dr. Makio Murayama at the National Institutes of Health when he published his hypothesis for the molecular mechanism of sickling in hemoglobin S.[3]

This astonishingly accurate hypothesis was evolved from his construction of a precision model of the hemoglobin molecule on a scale of 127 million to 1. Murayama has discussed in detail his recently, slightly modified concepts.[4]

We have extended the Murayama hypothesis by our inferences and our deductions. As a result we have developed a series of recent advances at the molecular level of reference,[4]

1) the development of three specific tests for S hemoglobin, each with a molecular basis;

2) a therapeutic strategy for the treatment of sickle cell crisis consisting of a chemical attack on the intertetrameric hydrophobic bonds responsible for the sickling event as specified by Murayama;

3) the theoretical and deductive specification of molecular properties for an ideal chemotherapeutic agent which antedated and led to the selection of urea;

4) the evolution of a clinical protocol for the intravenous use of urea in the treatment of acute sickle cell crisis,

5) the evolution of a clinical protocol for the oral use of urea in the prophylactic treatment of sickle cell anemia.

All of these discoveries are a direct consequence of the modified Murayama hypothesis and are a confirmation of the validity of his prescient molecular view of sickling since his hypothesis has proved so fruitful in the prediction of these discoveries. And so the Pauling prophecy of 1952 has been fulfilled precisely.

THE MURAYAMA TEST

Elsewhere,[4-6,8] we have shown that all tests in use today in hospital laboratories to diagnose sickle cell hemoglobin are nonspecific. The Murayama test (named by us in recognition of his elucidation of the molecular mechanism of sickling) is a simple, visual method for the detection of the existence of the implicated hydrophobic bonds essential to the sickling event in concentrated, deoxygenated hemolysates when S hemoglobin is present.

The unique property of such hydrophobic bonds is that the intermolecular bonds weaken as 0° C. is approached. Hence, they have a "negative temperature coefficient of gelation." That is, such systems exhibit phase changes which are thermally dependent.

Footnotes at end of article.

Appropriately prepared hemolysates of S hemoglobin are thus a gel at 37° and a liquid at 0° and are reversibly so at the limits of this temperature range—just the opposite of jello!

The molecular specificity of this test is predicated on the submolecular pathology of amino acid substitutions in the beta-S globin chains of the hemoglobin S molecule.

We have correctly predicted from molecular structure the differential behavior of such non-S sickling hemoglobins as C (Harlem), I, and C (Georgetown) under conditions of the Murayama test.[4 6] Details of data and techniques have been published elsewhere.[4 6]

DEDUCTIVE SELECTION OF UREA AS A CHEMOTHERAPEUTIC AGENT

As another extension of the Murayama hypothesis, we reasoned[4 7] that mounting a chemical attack on the implicated hydrophobic bonds required an agent which among other specifications had the capacity to break hydrophobic bonds plus specific molecular structural features which have been detailed elsewhere. Such deductive specifications led to the selection and use of urea for this purpose.

Our initial experiments with one molar urea in aqueous solutions did reverse cells sickled by 2% $Na_2S_2O_4$ *in the persistent presence of that reducing agent*. Within a half hour, however, extensive evidence of hemolysis was observed. Shortly thereafter, we discovered that urea in sugar solutions (invert sugar or glucose) served as an effective and ideal desickling agent without producing any hemolysis.

Extensive optical and electron microscopic evidence of such desickling activity of urea has been provided by one of the members of our research team, Dr. Marion I. Barnhart, Professor of Physiology at Wayne State University in Detroit.[4 7]

MODIFIED SICKLEDEX TEST

The Sickledex test was offered in 1968 as a "specific test for S hemoglobin" without benefit of disclosure of the principle of the test or description of the reagent.

In 1969, in the *Bulletin of Pathology*, we published our views that the Sickledex test was, in fact, a derivation of the Itano solubility test published some 15 years earlier, and, in view of the present day knowledge of over 150 hemoglobinopathies, could not be considered to be specific any longer.

We regard the Sickledex test as an excellent screening procedure. Hence, we knew that the principle of the test was, at essence, a measure of the solubility parameter of deoxygenated hemoglobins, the principle of the Itano solubility test.

We have discussed in detail elsewhere[4 8] the fact that sickle cell hemoglobin tests predicted on solubility parameters alone are no longer valid since there are now known to be other hemoglobins which will give false tests under the specified conditions of the Sickledex test. Among such false positive tests, we predicted that hemoglobin Bart's would so behave. This has been confirmed by experimental evidence.[4 8]

In association with Henry and co-workers, we modified the Sickledex[4 8] by the addition of urea to "positive" tests, reasoning that nonspecific nematic liquid crystal systems produced by one or another of a non-S sickling hemoglobins, would remain intact in the presence of urea, *i.e.*, positive tests would remain positive in the presence of urea; whereas such liquid crystal systems mediated by hydrophobic bonds as in hemoglobin S would reverse in the presence of urea, i.e., positive tests would become negative in the presence of the hydrophobic-bond-destroying urea.

Details of data and techniques and a detailed discussion of principles and interpretation have been published elsewhere.[4 8]

An automated version of our Sickledex modification has been adapted[4 9] to a two-channel Auto-Analyzer so that one line carries an aliquot of blood in Sickledex solution and the other carries an aliquot of the same blood specimen in a urea-Sickledex solution. Under these conditions there is a distinct *gain* in percent transmittance of light in the urea-Sickledex channel, since the nematic liquid crystal system responsible for the turbidity (sickled S hemoglobin) is dispersed by the urea.

This automated system has recently been proven accurate and feasible in the mass screening of large human populations for the detection of S hemoglobin in extensive field studies conducted jointly with the U.S. Army Medical Research Laboratory at Fort Knox, Ky.

Because of the relatively high cost per determination of the proprietary Sickledex test, we have determined in our laboratory (BMH) that reagents prepared by us consisting of potassium phosphate, $Na_2S_2O_4$ (sodium dithionite), and saponin provide perfectly satisfactory working solutions in no detectable way inferior to the stock solutions vended by the developers. This confirms our 1969 assertion that the Sickledex test is derived from the Itano solubility test.

Furthermore, in studies currently underway in our laboratory, the cost of the test has been reduced from $1.00 to 2½¢ per determination. Thus, for 2½¢ per test (reagent cost) on ½ cc. of EDTA-collected whole blood, automated determinations for the diagnosis of both sickle hemoglobin and non-S sickling hemoglobin have been conducted at the rate of 120 per hour.

The survey of large human populations in metropolitan areas for case finding of sickle cell disease leading both to medical genetic counseling and to treatment (see below) is now a proven technique. All that is required at present to make advances in diagnosis and treatment as well as accurate statistics in this area of human disease is interest and funding. Details of data and techniques are discussed elsewhere.[4 9]

INTRAVENOUS UREA IN THE TREATMENT OF SICKLE CELL CRISIS

Explicit and detailed protocols for the intravenous use of urea in sugar solutions have been published.[4 10] In every case of acute sickle cell crisis where the specific provisions of our published protocols have faithfully followed we have never had a therapeutic failure, a medical misadventure, or a death. Hence, explicit compliance with our protocols in the treatment of acute sickle cell crisis will result in safe, effective treatment of acute sickle cell crisis without the use of narcotics or analgesics.

We have completed our safety and feasibility studies and are currently entering a large series of controlled, randomized studies as the final phase of evaluation of our protocols. We have made these protocols available to interested investigators who wish to conduct independent controlled series of studies of their own. However, we urge faithful compliance with all provisions of our protocol in order to maintain safety and therapeutic effectiveness.

ORAL, PROPHYLACTIC TREATMENT OF SICKLE CELL ANEMIA

The therapeutic basis for oral prophylactic urea rests on the experimental demonstration in our laboratory[4 10] that it takes less urea to block the sickling event in susceptible cells than it does to reverse sickling in aliquots of such cells. The theory for such therapeutic efficacy of low doses of oral urea has been discussed in extenso elsewhere.[4 10]

The intravenous therapeutic modality for the termination of an acute sickle cell crisis is spectacular and impressive, but is rather expensive, requiring hospitalization, and, most important, represents treatment after the vasculo-occlusive episodes and attendant tissue injury.

Since sickle cell disease injures tissue systems in episodic fashion by crisis, the use of oral urea is designed to mitigate and specifically to eliminate sickle cell crisis, correct the anemia by increasing the red blood cell survival time, relieving the enormous metabolic load on the bone marrow organ.

With our preliminary study in more than 80 cases of sickle cell disease managed on oral prophylactic urea, the therapeutic responses have been impressive to date. Also, details of cases of priapism, hematuria in heterozygotes, SC hemoglobinopathy in pregnancy, and near crisis-like states all responding to oral prophylactic urea are either in press at present or await completion of concurrent studies.

The advantages of the oral modality of treatment over the intravenous regimen are that it is simple, inexpensive, safe, avoids incremental tissue injuries, and restores the patient to productive activity. The promise of oral prophylactic urea for the homozygous S diseases victim is a productive, painfree, full life span—all for pennies a day since urea costs only $1.00 per pound.

After an extensive study of our detailed research work on sickle cell anemia, Linus Pauling, twice Nobel Laureate, recently wrote:[4 1] "Sickle cell anemia is the first disease to have become thoroughly understood, the first disease for which a clear and complete explanation of the manifestations could be formulated." He states[4] that our work has led to the development of a method "for controlling the crisis of the disease. Sickle cell anemia has thus become one of the first diseases for which there is a known molecular basis for pathogenesis, a molecular basis for diagnosis, and a molecular basis for treatment."

FOOTNOTES

[1] Pauling, L., et al.: Sickle Cell Anemia, a Molecular Disease, Science 110; 543–548, 1949.

[2] Pauling, L.: The Hemoglobin Molecule in Health and Disease, Proc. Amer. Phiosoph. Soc. 96: 556–565, 1952.

[3] Muryania, M.: Molecular Mechanics of Red Cell Sickling, Scence 153: 145–149, 1966.

[4] Nalbandian, R. M. (ed.): Molecular Aspects of Sickle Cell Hemoglobin; Clinical Applications, Springfield, Ill.: Charles C. Thomas, May 1971.

Author's Note: The next six listed U.S. Army Medical Research Laboratory Reports, numbers 893–898, are available from The Defense Documentation Center, Cameron Station, Virginia 22314, or from The Clearing House for Federal, Scientific, and Technical Information, Department of Commerce, Washington, D.C. 20310.

[5] Nalbandian, R. M., et al.: The Murayama Test: Part I. Evidence for the Molified Murayama Hypothesis for the Molecular Mechanism of Sickling, report 894, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

[6] Nalbandian, R. M., et al.: The Murayama Test: Part II, Principles, Techniques, Interpretation, and Data, report 894, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

[7] Nalbandian, R. M., et al.: Sickling Reversed and Blocked by Urea in Invert Sugar: Optical and Electron Microscopy Evidence, report 895, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

[8] Henry, R. L., et al.: Modified Sickledex Tube Test: A Specific Test for S. Hemoglobin, report 897, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

[9] Henry, R. L., et al.: An Automated Screening Method for the Specific Detection of Homozygous and Heterozygous S Hemoglobin, report 898, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

[10] Nalbandian, R. M., et al., Sickle Cell Crisis Terminated by Use of Urea in Invert Sugar in Two Cases, report 896, U.S. Army Medical Research Laboratory, Sept. 17, 1970.

Mr. ROGERS. Mr. Chairman, I move to strike out the last word.

Mr. O'KONSKI. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-nine Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 86]

Abourezk	Harvey	Reid
Baring	Hébert	Rosenthal
Belcher	Hicks, Wash.	Rostenkowski
Bow	Hull	Saylor
Clark	Johnson, Pa.	Scheuer
Clay	Jonas	Seiberling
Collins, Ill.	Jones, Ala.	Shoup
Conyers	Karth	Sisk
Dingell	Melcher	Stanton,
Dowdy	Metcalfe	James V.
Dwyer	Mikva	Steiger, Wis.
Edwards, La.	Minish	Stubblefield
Eshleman	Morse	Teague, Tex.
Fuqua	Obey	Thompson,
Galifianakis	O'Hara	N.J.
Gaydos	Passman	Udall
Gibbons	Patman	Wilson,
Gubser	Pryor, Ark.	Charles H.
Halpern	Rangel	Wright
Harsha	Rees	Yates

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. EVINS of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 13592, and finding itself without a quorum, he had directed the roll to be called, when 374 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order of no quorum was raised, the gentleman from Florida (Mr. ROGERS) had been recognized.

The Chair recognizes the gentleman from Florida.

Mr. ROGERS of Florida. Mr. Chairman, I would urge the passage of this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. EVINS of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13592) to amend the Public Health Service Act to provide for the prevention of sickle cell anemia, pursuant to House Resolution 904, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 392, nays 0, not voting 39, as follows:

[Roll No. 87]

YEAS—392

Abbitt	Davis, Ga.	Hogan	Nedzi	Roush	Taylor
Abernethy	Davis, S.C.	Holifield	Nelsen	Rousselot	Teague, Calif.
Abourezk	Davis, Wis.	Horton	Nichols	Roy	Terry
Abzug	de la Garza	Hosmer	Nix	Roybal	Thompson, Ga.
Adams	Delaney	Howard	O'Konski	Runnels	Thompson, N.J.
Addabbo	Dellenback	Hungate	O'Neill	Ruppe	Thomson, Wis.
Alexander	Dellums	Hunt	Passman	Ruth	Thone
Anderson,	Denholm	Hutchinson	Patman	Ryan	Tiernan
Calif.	Dennis	Ichord	Patten	St Germain	Ullman
Anderson, Ill.	Dent	Jacobs	Pelly	Sandman	Van Deerlin
Anderson,	Derwinski	Jarman	Pepper	Sarbanes	Vander Jagt
Tenn.	Devine	Johnson, Calif.	Perkins	Satterfield	Vanik
Andrews	Dickinson	Jonas	Pettis	Scherle	Veysey
Annunzio	Diggs	Jones, Ala.	Peyser	Schmitz	Vigorito
Archer	Dingell	Jones, N.C.	Pickle	Schneebeli	Waggonner
Arends	Donohue	Jones, Tenn.	Pike	Schwengel	Waldie
Ashbrook	Dorn	Karth	Pirnie	Scott	Wampler
Ashley	Dow	Kastenmeier	Poage	Sebelius	Ware
Aspin	Downing	Kazen	Podell	Selberling	Whalen
Aspinall	Drinan	Keating	Poff	Shipley	Whalley
Badillo	Dulski	Kee	Preyer, N.C.	Shriver	White
Baker	Duncan	Keith	Price, Ill.	Sikes	Whitehurst
Barrett	du Pont	Kemp	Price, Tex.	Skubitz	Whitten
Begich	Eckhardt	King	Pucinski	Slack	Widnall
Bell	Edmondson	Kluczynski	Purcell	Smith, Calif.	Wiggins
Bennett	Edwards, Ala.	Koch	Quie	Smith, Iowa	Williams
Bergland	Edwards, Calif.	Kuykendall	Quillen	Smith, N.Y.	Wilson, Bob
Betts	Ellberg	Kyl	Railsback	Snyder	Wilson,
Bevill	Erlenborn	Kyros	Randall	Spence	Charles H.
Biaggi	Esch	Landgrebe	Rarick	Springer	Winn
Biester	Evans, Colo.	Landrum	Reuss	Staggers	Wolff
Bingham	Evins, Tenn.	Latta	Rhodes	Stanton,	Wright
Blackburn	Fascell	Leggett	Riegle	J. William	Wyatt
Blanton	Findley	Lennon	Roberts	Steed	Wydler
Blatnik	Fish	Lent	Robinson, Va.	Steele	Wylie
Boggs	Fisher	Link	Robison, N.Y.	Steiger, Ariz.	Wyman
Boland	Flood	Lloyd	Rodino	Stephens	Yatron
Bolling	Flowers	Long, La.	Roe	Stokes	Young, Fla.
Bow	Flynt	Long, Md.	Rogers	Stratton	Young, Tex.
Brademas	Foley	Lujan	Roncallo	Stuckey	Zablocki
Brasco	Ford, Gerald R.	McClory	Rooney, N.Y.	Sullivan	Zion
Bray	Ford,	McCloskey	Rooney, Pa.	Symington	Zwach
Brinkley	William D.	McClure	Rosenthal	Talcott	
Brooks	Forsythe	McCollister			
Broomfield	Fountain	McCormack			
Brotzman	Fraser	McCulloch			
Brown, Mich.	Frelinghuysen	McDade			
Brown, Ohio	Frenzel	McDonald,			
Broyhill, N.C.	Frey	Mich.			
Broyhill, Va.	Fulton	McEwen			
Buchanan	Gallagher	McFall			
Burke, Fla.	Garmatz	McKay			
Burke, Mass.	Gettys	McKevitt			
Burleson, Tex.	Giaimo	McKinney			
Burlison, Mo.	Gibbons	McMillan			
Burton	Goldwater	Macdonald,			
Byrne, Pa.	Gonzalez	Mass.			
Byrnes, Wis.	Goodling	Madden			
Byron	Grasso	Mahon			
Cabell	Gray	Mailliard			
Caffery	Green, Oreg.	Mallary			
Camp	Green, Pa.	Mann			
Carey, N.Y.	Griffin	Martin			
Carney	Griffiths	Mathias, Calif.			
Carter	Gross	Mathis, Ga.			
Casey, Tex.	Grover	Matsunaga			
Cederberg	Gubser	Mayne			
Celler	Gude	Mazzoli			
Chappell	Hagan	Meeds			
Chisholm	Haley	Melcher			
Clancy	Hall	Michel			
Clark	Hamilton	Miller, Calif.			
Clausen,	Hammer-	Miller, Ohio			
Don H.	schmidt	Mills, Ark.			
Clawson, Del	Hanley	Mills, Md.			
Clay	Hanna	Mink			
Cleveland	Hansen, Idaho	Minshall			
Collier	Hansen, Wash.	Mitchell			
Collins, Tex.	Harrington	Mizell			
Colmer	Hastings	Mollohan			
Conable	Hathaway	Monagan			
Conte	Hawkins	Montgomery			
Corman	Hays	Moorhead			
Cotter	Hechler, W. Va.	Morgan			
Coughlin	Heckler, Mass.	Morse			
Crane	Heinz	Mosher			
Culver	Helstoski	Moss			
Curlin	Henderson	Murphy, Ill.			
Daniel, Va.	Hicks, Mass.	Murphy, N.Y.			
Daniels, N.J.	Hicks, Wash.	Myers			
Danielson	Hillis	Natcher			

NAYS—0

NOT VOTING—39

Baring	Harvey	Rostenkowski
Belcher	Hébert	Saylor
Chamberlain	Hull	Scheuer
Collins, Ill.	Johnson, Pa.	Shoup
Conyers	Metcalfe	Sisk
Dowdy	Mikva	Stanton,
Dwyer	Minish	James V.
Edwards, La.	Obey	Steiger, Wis.
Eshleman	O'Hara	Stubblefield
Fuqua	Powell	Teague, Tex.
Galifianakis	Pryor, Ark.	Udall
Gaydos	Rangel	Yates
Halpern	Rees	
Harsha	Reid	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Belcher.
Mr. Rostenkowski with Mr. Shoup.
Mr. Mikva with Mr. Johnson of Pennsylvania.
Mr. James V. Stanton with Mr. Halpern.
Mr. Rees with Mr. Harvey.
Mr. O'Hara with Mr. Saylor.
Mr. Minish with Mr. Powell.
Mr. Sisk with Mrs. Dwyer.
Mr. Teague of Texas with Mr. Eshleman.
Mr. Stubblefield with Mr. Harsha.
Mr. Hull with Mr. Chamberlain.
Mr. Fuqua with Mr. Reid.
Mr. Udall with Mr. Steiger of Wisconsin.
Mr. Metcalfe with Mr. Dowdy.
Mr. Baring with Mr. Galifianakis.
Mr. Rangel with Mr. Gaydos.
Mr. Conyers with Mr. Scheuer.
Mr. Yates with Mr. Pryor of Arkansas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from the further consideration of the Senate bill S. 2676, a similar bill to H.R. 13592, just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act shall be cited as the "National Sickle Cell Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents, both of whom bear the sickle cell trait;

(3) that efforts to control sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved;

(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the control, research, and treatment of sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"GRANTS FOR SICKLE CELL SCREENING AND COUNSELING PROGRAMS

"SEC. 1101. (a) The Secretary is authorized to make grants to and enter into contracts with public and nonprofit private agencies, organizations, or institutions to assist in the establishment and operation of voluntary sickle cell anemia screening and counseling programs and to assist in developing and making available information and educational materials relating to sickle cell anemia to all persons requesting such information or materials, and to inform the public generally about the nature of sickle cell anemia and the sickle cell trait.

"(b) In making grants and contracts under this section the Secretary shall give priority to areas within States having the higheat percentage of population in need of sickle cell anemia screening and counseling programs; with a further priority to community-based organizations in such areas.

"(c) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975.

"RESEARCH AND RESEARCH TRAINING GRANTS

"SEC. 1102. (a) In order to promote research and research training in the diagnosis, treatment, and control of sickle cell anemia, development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and the development of centers for research, testing, counseling, control or treatment of sickle cell anemia, the Secretary is authorized to make grants to public or nonprofit private agencies, organizations, or institutions and to enter into contracts with public or private agencies, organizations, or institutions and individuals for projects for research and research training in such fields.

"(b) For the purpose of making payments pursuant to grants and contracts under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $10,000,000 for the fiscal year ending June 30, 1974; and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title (whether by grant or contract) shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from or to participation in, any other program.

"APPLICATIONS

"SEC. 1104. A grant under this title may be made upon application to the Secretary at such time, in such manner, containing, and accompanied by such information as the Secretary deems necessary. Each application shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant:

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded under this title; and

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any eligible person requesting screening, counseling, or treatment, and shall include notification of all eligible persons of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

PROTECTION OF ARMED FORCES PERSONNEL

SEC. 4. (a) The Secretary of Defense is authorized and directed to promulgate rules and regulations to provide for screening and counseling of members of the Armed Forces (including their dependents), civilian employees of the Department of Defense, and persons examined at Armed Forces examining and entrance stations, for the sickle cell trait and sickle cell anemia.

(b) Such rules and regulations shall provide for—

(1) voluntary screening for the sickle cell trait for persons described in subsection (a) who request such a test, at no cost to such person;

(2) communication to such person described in subsection (a) of the results of such test;

(3) voluntary referral of individuals determined to possess a positive trait to an appropriate military or civilian counseling or treatment agency;

(4) notification to persons described in subsection (a) of the cost-free and voluntary nature of the screening and referral programs implemented pursuant to this section;

(5) education of persons described in subsection (a) regarding the nature and inheritance of the sickle cell trait and sickle cell anemia; and

(6) assurance that all information obtained on specimens submitted voluntarily under this Act shall be held confidential except for (A) such information as the patient (or his guardian) consents to be released or (B) statistical data compiled without reference to the identity of such patient.

(c) The Secretary of Defense shall provide for voluntary counseling or treatment of such persons described in subsection (a) found to have the sickle cell trait or sickle cell anemia at an appropriate military or civilian facility as the case may be.

(d)(1) The Secretary of Defense shall prepare and submit to the President for transmittal to Congress on or before April 1 of each year a comprehensive report on the administration of this section.

(2) The report required by this subsection shall contain such recommendations for additional legislation as the Secretary of Defense deems necessary.

(e) The participation by any individual in any program or portion thereof under this section shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

PROTECTION OF VETERANS

SEC. 5 (a) Chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"(a) The Administrator is authorized to offer to any veteran who is receiving hospital or domiciliary care or medical services under this chapter or is receiving an examination to determine eligibility for benefits under this title, a screening examination for sickle cell trait or sickle cell anemia, including providing to such veteran full information regarding the nature and inheritance of sickle cell trait and sickle cell anemia and regarding the availability to such veteran of a screening examination under this subchapter, and to provide such a screening examination upon such veteran's request.

"(b) Upon a finding that such veteran has the sickle cell trait or sickle cell anemia, the Administrator is authorized to offer, and, if such veteran requests, provide for counseling (which shall include such a screening examination and counseling for the veteran's spouse, when requested, and a complete explanation of the veteran's eligibility for hospital care and medical services under this chapter) and/or necessary hospital care and medical services for a disability arsing from such trait or anemia.

"(c) The Administrator shall ensure that each veteran receiving benefits under laws administered by the Veterans' Administration receives, as soon as practicable after enactment of this subchapter, full information regarding the nature and inheritance of sickle cell trait and sickle cell anemia and the availability of screening examinations and treatment for such trait and anemia.

"§ 652. Research

"The Administrator shall carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter, subject to the provisions governing voluntary participation and confidentiality in section 653 of this title. For the purpose of carrying out such research, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to ensure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled wtihout reference to patient names or other identifying characteristics.

"§ 654. Reports

"(a) The Administrator shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subchapter.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Administrator deems necessary."

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.
"652. Research.
"653. Voluntary participation; confidentiality.
"654. Reports."

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 2676, and insert in lieu thereof the provisions of H.R. 13592, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Sickle Cell Anemia Prevention Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to prevent sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a)(1) The Secretary may make grants to public and nonprofit private entities, an may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs as part of other existing public health care programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS FOR RESEARCH AND PROGRAMS FOR DIAGNOSIS, PREVENTION, AND TREATMENT

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities; and may enter into contracts with public and private entities and individuals, for projects for (1) research in the diagnosis, treatment, and prevention of sickle cell anemia, and (2) the development of programs for diagnosis, prevention, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which assistance is sought;

"(3) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(4) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(5) in the case of an application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their child-bearing years and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

"(6) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(7) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under the title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary detemines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

The motion was agreed to.

XUM

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Public Health Service Act to provide for the prevention of sickle cell anemia."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13592) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their own remarks on the bill just passed, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PROTEST AGAINST $2.1 BILLION FOREIGN MILITARY ASSISTANCE REQUEST

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, I rise today to add my vote of protest against congressional approval of the $2.1 billion foreign military assistance request for fiscal 1973 which the administration has placed before this Congress.

My protest is based on several grounds.

First and foremost is the fact that this country is already short on money for the everyday needs of the American people. In the name of prudent management and stemming inflation the Office of Management and Budget has callously impounded, reserved, and refused to spend the funds Congress appropriated for educational, housing, transportation, environmental programs. How can we then possibly justify spending over $2 billion for foreign military aid with the hope of some vague, long-term, highly questionable goals when we cannot manage to apply the American taxpayer's dollar to the immediate and critical needs here at home?

My second grounds for protest rests on those goals themselves and what the American people will buy or secure for that $2 billion. I seem to remember that our first involvement in Southeast Asia was in the form of military equipment. Do we want that? Do we even want intensified involvement in the military planning of other nations? Does that purchase security for us at home?

I think not. Actually at the worst we may with that $2 billion purchase another war for ourselves because where our arms go, there also go our political and economic interests. And even if we do not become directly involved in a war, acting in the role of an arms supplier we thereby provoke innumerable conflicts between rival nations. Without our prized military assistance these nations could not so easily and precipitously engage in fighting wars among themselves.

Finally, Mr. Speaker, the Congress expressed its intent regarding foreign military assistance in extended argument and debate last year, finally completing this discussion a short time ago. I believe that lengthy consideration reflected attention to the increased complaints of the American people about this kind of spending and the effort to reconsider some of our priorities. I do not believe that we should allow that healthy reappraisal to be frustrated by restoring those funds for fiscal 1973.

COMPENSATION TO THE NAVAJO TRIBE FOR RECREATIONAL USE OF FORMER RESERVATION LANDS AT GLEN CANYON

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, I am introducing for myself, Mr. SAYLOR, Mr. UDALL, Mr. STEIGER of Arizona, Mr. LLOYD, and Mr. MCKAY, a bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon Recreation Area, Ariz., and for other purposes.

This proposal is the result of Executive Communication No. 1685 and is a step towards fulfillment of an agreement with the Navajo Tribe for the use of their former reservation lands transferred for recreational use at the Glen Canyon Recreation Area. This bill directs that the Secretary place the annual franchise fee received from the Park Service-concessioner-operated Rainbow Bridge floating marina facility at Lake Powell into a separate fund of the Treasury and to transfer that fee to the Navajo Indian Tribe in consideration of the tribe's continued agreement to the use of their former reservation lands for recreation purposes. Compensation is intended to commence after passage of the legislation and is intended to be the sole compensation for any claim the tribe may have for past compensation for the use of their lands at Rainbow Bridge.

The Navajo Tribal Council has approved the use of the former reservation lands for this purpose. The tribe's approval, however, and its agreement to any recreational use of former reservation land within the recreation area, as well as cooperative development of contiguous tribal lands, is contingent upon the transfer of the annual franchise fee as provided in this proposal.

Although there are no other situations wherein franchise fees are transferred by the National Park Service to an Indian tribe, there are two areas of the National Park System involving similar circumstances. At Bighorn Canyon National Recreation Area, Mont., the Crow Indian Tribe of Montana is given a preferential right to construct and operate revenue-producing facilities on certain Federal lands, and to retain any resulting revenues. At Canyon de Chelly National Monument, Ariz., located entirely on Indian lands within the Navajo Indian Reservation, the concessioner pays an annual franchise fee directly to the tribe.

The text of the bill is:

H.R. 14029

A bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon Recreation Area, Arizona, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of law requiring such fees to be credited to miscellaneous receipts in the Treasury of the United States, there shall be placed in a separate fund in the Treasury of the United States the annual franchise fee received by the Secretary of the Interior from concessioner-operated facilities at the Rainbow Bridge floating complex in Forbidding Canyon, within the Glen Canyon Recreation Area, Arizona, and the Secretary of the Interior is authorized to transfer such fees annually from said fund to the Navajo Tribe of Indians in consideration of continued agreement by the tribe to the use of lands transferred to the United States from the Navajo Indian Reservation for the purpose of anchoring such facilities.

H.R. 13832, LIQUEFIED NATURAL GAS SHIPS AND FACILITIES—A MATTER OF HIGH NATIONAL PRIORITY

(Mr. ANDERSON of Tennessee asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Tennessee. Mr. Speaker, on March 15, I introduced legislation which would authorize the U.S. Government to negotiate the construction, outfitting and equipping of 40 ships for the purpose of transporting liquefied natural gas. The delivery date for these ships would be no later than January 1, 1980.

The purpose of this bill is to meet an impending energy crisis which, from all indications, the United States will experience by the year 1985. A reprint of the bill follows the text of this statement.

Another aim of this legislation is to establish a new national energy policy which would insure adequate energy to meet the projected needs of our domestic and industrial economy during the next decade.

There are several additional goals. One relates to atmospheric pollution. Natural gas burns almost pollution free. Then, conservation. Vast quantities of natural gas are still being flared to the atmosphere at wellheads throughout the world. This is a shameful waste, particularly when we consider the well-being of future generations.

I am fully aware of the complexities and difficulties of trying to look and plan ahead on matters of public needs. However, we must begin planning for the next decade before a growing energy crisis becomes a national catastrophe.

Authorities estimate that at the present rate of energy consumption in the United States, combined with a continuing decrease in domestic supply of energy sources, by 1985, we will be required to import over 40 percent of all forms of energy consumed. This will include the importation of approximately 15 million barrels of oil per day and 12 trillion cubic feet of natural gas per year. We are currently importing 3.4 million barrels of oil per day and it is anticipated that the growth rate of oil imports will be 300 to 400 percent during the next 15 years.

A massive cutback in the anticipated growth rate of energy consumption is not the solution if we are to survive and compete effectively as an industrial nation and support a relatively high standard of living, though certainly we must pay strong attention to conservation of energy resources.

The primary sources of energy in the foreseeable future will continue to be oil and gas. Coal and nuclear power will continue to provide substantial inputs, but even with the coal industry doubling its output and nuclear plants increasing their megawatt yield 80 times, these sources will provide only 37 percent of our national needs in 1985.

In addition, all the nonconventional sources combined, such as hydroelectric, geothermal, tidal, and solar power, will provide less than 3 percent of our total energy needs in 1985.

The remainder of our energy needs, estimated to be 60 percent of the total, will be supplied from petroleum and natural gas.

If oil imports grow at the currently projected rates, in 1985 our oil needs will require between 300 and 350 oil tankers of 250,000 deadweight tons in service. The United States has no harbor capable of accommodating this size tanker.

Should an energy crisis come to the United States today, it is anticipated that we could meet and accommodate our energy needs for about 1 year at the most.

To meet such a crisis would mean relaxing air pollution standards so that high sulfur fuels could be consumed along the east coast and particularly in the energy deprived Northeastern sector of the country. It would mean increasing domestic oil production, depleting onhand reserve stocks and production from uneconomical wells. Even with these "emergency" measures we may be able to stand off the crisis for only about 17 months.

Mr. Speaker, we must direct our efforts toward a new national energy policy and we must look for new sources of energy which will most effectively meet the impending crisis.

I believe liquefied natural gas is that source. The ships and facilities will be costly. I estimate we are talking about a public commitment of at least $3 billion and a private commitment of $12 billion for a total of $15 billion. But these ships must be built in U.S. yards and they must be manned by U.S. crews. The potential is for at least 75,000 new jobs. To let the ships be built abroad, the LNG market commandeered by other nations, will not only wipe out that job potential, but place us as captives in the LNG marketplace. Other countries can charge whatever they want and cut off our supply at the slightest whim.

The use of LNG is not a new theory since we are already importing quantities of it to meet peak winter demands in the cold Northeast. But, if we are already using this form of energy producing fuel, and we know how to produce it, why do we face an energy crisis? The problem is in transporting the gas. The United States currently has no ships capable of carrying LNG and the future will determine that the country with the transporting capability will control the market of this vital energy form.

Ten points can be made which give credence to the need for more U.S. participation in the LNG field:

First. Presently, the public and industrial demand for LNG is growing at the rate of 3.4 percent per year while discoveries of new domestic gas reserves are declining.

Second. If the present trend continues, the United States will face a shortage of 20 trillion cubic feet of gas per year by 1985. And, if automobiles were to convert to LNG, which can be easily accomplished, the LNG requirement in this country would increase by 35 percent.

Third. At the same time the role of LNG on the world energy market is rapidly expanding with the United States being the largest user, consuming more than two-thirds of the world's supply.

Fourth. By contrast, the Soviet Union currently consumes 20 percent of the world's total supply of LNG and Western Europe about 5 percent. But Western Europe may soon increase their gas usage to approximately 10 percent as pipeline networks from the U.S.S.R. and the Netherlands are completed.

Fifth. Those countries now planning to increase LNG imports include France, Italy, Spain, Japan, as well as the United States.

Sixth. Thus far, the United States LNG efforts have been directed principally toward storage sites and highway-based semitrailers, 50 of which have been built and are operating mostly in New England and California.

Seventh. U.S. consumers along the east coast have been importing LNG from overseas via foreign-flag ships to meet the needs of the winter months. Our role in the transportation of this gas is virtually nil.

Eighth. Six Western European nations and Japan are leading the international field in LNG ship interest and construction. Today there are 13 LNG ships in service and 20 more on order.

Ninth. The closest the United States has come to operating a liquid natural gas carrier is the *Marine Eagle*, a converted T–2, which is being used as an ammonia carrier along the east coast.

Tenth. The United States, with its highly developed space technology, is fully capable, more so than any other country, of leading the world in the construction of LNG ships and facilities.

All of our space flights have utilized liquefied gasses. Various kinds of metals have been proven; pumps, compressors, insulation and refrigeration techniques have been tested and used in orbital and lunar missions.

We have the experience, capability, and knowledge to move ahead in this field if we put our space and ship technology to work together.

Since the famous New York blackout in October 1965, there have been literally hundreds of other power shortages and failures across the United States. In my own Tennessee Valley country we have seen the reserve coal supply dwindle from 60 days to as few as 1½ days. We are being warned and alerted that new directions must be taken to insure ample energy in the future.

The bill which I have introduced is but the first step in assuring that our future energy needs will be met. At a later date I plan to offer legislation for the construction of additional shore-based and off-shore LNG facilities. Meanwhile, it is important that we not delay the ship construction program which would mean a great deal to our country in terms of meeting the energy crisis, the unemployment problem, and providing a much needed stimulant to the entire maritime industry.

U.S.-owned and operated LNG ships are obviously in the national interest. The country which owns and operates these ships will have a profitable business and obviously will exercise control over the world's supply of LNG reserves.

We need these ships. Vast amounts of proven and unproven reserves are constantly being discovered in Alaska and in several nations overseas. To allow another nation to take the lead and monopolize the LNG transporting market would be detrimental not only to our economic interests but could lead to international politics depriving us of vital energy sources during some future international crisis.

Regulations and policies of the past will no longer suffice.

We cannot afford to follow our present shortsighted policy with respect to energy development and consumption. If we do, we will have the sorry task of telling the Nation, "Sorry, out of gas." It is imperative that we move aggressively and immediately into the LNG shipbuilding field. From time to time I will have additional comments regarding the ships and other parts of the system.

Mr. Speaker, in conclusion, I include in the RECORD a copy of a letter sent to the President by the Commission on American Shipbuilding urging a program of mass production of LNG carriers:

DEAR MR. PRESIDENT: In accordance with the mission of the Commission on American Shipbuilding, defined in Public Law 91–469, the undersigned members of the Commission, since their appointment by you in January 1971, have been actively "reviewing the status of the American Shipbuilding industry, its problems and its progress toward increasing its productivity and reducing production costs."

The Commission's activities have included visits to shipyards in the United States, Europe, and Japan as well as inspections of specialized operations related to shipbuilding activities. In addition, both collectively and individually, we have consulted with a substantial number of national and international shipbuilding experts.

The Commission plans to submit a final detailed report of its findings and recommendations, as directed, prior to October 21, 1973. However, certain developments, which are currently accelerating, appear to make an interim report a matter of some urgency. These developments relate to a unique opportunity now available to the U.S. shipbuilding industry which, if not promptly supported by the coordinated actions of certain agencies of the U.S. Government, may be irrevocably lost to foreign competition. A potential multi-billion dollar U.S.

market over ten years is involved. The immediate, favorable impact on U.S. employment and trade balances would substantially support the goals established by your Administration. This Commission feels, as a result of its assessments to date, that this market can be developed by U.S. shipbuilders if, but only if, the Administration takes the initiative in coordinating and supporting this program.

Before specifically discussing this emerging multi-billion dollar market for U.S. manpower and materials, it may be appropriate to summarize certain interim findings of the Commission which relate to the foregoing.

First, we find it has been clearly demonstrated that, with the enactment of the Merchant Marine Act of 1970 under your sponsorship, many United States shipyards, with the market opportunities implicit in that statute, have already undertaken considerable investment in capital improvements and new facilities.

Second, we find that, even though the volume of construction of a series of standard ships under multiple-ship contracts has been only partially started, the United States shipyards are definitely prepared to make significantly larger modernization investments when the shipbuilding volume so warrants.

Third, we are encouraged that to date the shipbuilding industry is meeting the required milestones for declining subsidy support; in fact, in several recently awarded contracts, the construction differential subsidy goals have been exceeded.

We should now like to refer to the specific market opportunity mentioned earlier. This is the market for liquefied natural gas (LNG) tankers. To meet the energy shortages which will occur around the world, and particularly in this country, in increasing degrees of severity, and to meet the environmental criteria for providing this energy, we believe it will be necessary to move vast tonnages of LNG from the gas fields of the world to the United States, northern Europe, and Japan. Much of this gas is now being wasted and strong political pressures are being brought to bear on United States' interests in all gas and oil producing areas. The technological problems of consumers have been resolved. The only open question is whether or not the United States' shipbuilding industry will participate in this market.

The LNG tankers now being designed, with a typical capacity of 125,000 cubic meters of containment space, will be in the approximate price range of 80 to 90 million dollars. At least 100 tankers of this capacity will be needed within ten years.

The technology of these tankers, insofar as the fabrication of their cryogenic tankage and handling systems is concerned, owes its origins in large degree to the United States aerospace industry. It is believed that, as in the case of many other highly sophisticated similar systems, United States production costs will not show anything like the degree of difference, vis-a-vis foreign costs, which exists in the building of other types of ships. Therefore, a lesser degree of support, well below the goals established in your program, appears to be enough to win our rightful share of this market.

It should be pointed out that virtually all major foreign maritime nations receive some form of government support to encourage shipbuilding. For example, the Japanese shipbuilding industry today, through the effective force of industry/government cooperation, coordination, and imaginative adaptation and improvement of techniques developed in the United States during World War II, enjoys over half of the total, world-shipbuilding export market. Japanese flag owners also receive special price considerations.

Japan has moved to a position of shipbuilding prominence by the creation of an environment which has made this tremendous achievement possible. This environment has been shaped by governmental encouragement, careful monitoring, and support, mostly in the form of financing, credit, and tax devices designed to attract domestic as well as export ship construction contracts. These devices have generated a continuity of workload which, in turn, has (1) insured a stable level of shipyard operations, (2) enabled an expansion of national capacity, and (3) produced a favorable economic climate for shipbuilding.

Shipbuilding has thus become a substantial factor in Japan's national economy and balance of trade. It is regarded as a prestige industry essential to the national good, and the marketing of shipbuilding capabilities has been effectively cultivated with considerable stimulus and input on the part of the Japanese Government. As a matter of interest, the Commission has observed positive steps by the Japanese shipbuilders to insure a substantial position in the LNG market.

Until the enactment of the Merchant Marine Act of 1970, the United States private shipbuilding industry had been plagued by an environment in terms of limited, spasmodic markets and stifling procedures, beyond the industry's control. The situation is now changing. From our studies, inspections, and assessments thus far, there are substantial indications that most of the major problems within the private shipbuilding industry of the United States can be solved by an expanding and steady volume of contracts, stable employment for the labor force, and a more favorable total environment, all of which are closely related. The above, thus, are our interim findings and conclusions and are submitted with the hope that they will be helpful to you and your Administration in the formulation of national policies pertaining to our maritime posture, of which the shipbuilding industry is an integral ingredient. We believe, as is obvious from the foregoing, that the LNG tanker market presents the greatest, foreseeable opportunity to further our national shipbuilding goals, as well as improve our national maritime posture.

H.R. 13832

A bill to authorize the construction of forty liquified natural gas carriers to meet the energy crisis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Commerce is authorized to enter into contracts with shipbuilders of the United States or the Commonwealth of Puerto Rico for the construction, outfitting, and equipping of not to exceed forty LNG ships, with ship delivery date not later than January 1, 1980. Such contracts shall be awarded by competitive bidding to the lowest responsible bidder, with the right reserved in the Secretary to disapprove any and all bids: *Provided, however*, That the Secretary of Commerce may negotiate contracts with shipbuilders at what he determines is a fair and reasonable price if the shipbuilder (1) submits backup cost details and evidence that the price is fair and reasonable and (2) agrees that the Controller General of the United States, or any of his authorized representatives shall, until the expiration of three years after final payment, have access to and the right to examine any pertinent books, documents, papers, and records of the shipbuilder or any of his subcontractors related to the negotiation or performance of any contract or subcontract negotiated under this Act and will include in his subcontracts a provision to this effect.

(b) The Secretary of Commerce shall include in each contract for the construction of ships under this Act a provision that the shipbuilder, subcontractors, materialmen or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph (k) of section 401 of the Tariff Act of 1930: *Provided, however*, That in respect to other than major components of the hull or superstructure and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this subsection will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is a concise explanation for the basis thereof, then the Secretary of Commerce may waive such requirements to the extent necessary to prevent such delay.

(c) No shipbuilder shall be deemed a responsible bidder, and the Secretary of Commerce shall not negotiate a contract with any shipbuilder, unless the Secretary of Commerce determines that the shipbuilder possesses the ability, experience, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. Each bid, or negotiated price, submitted to the Secretary of Commerce shall be accompanied by all detailed estimates on which it is based. The Secretary of Commerce may require that the bids of any subcontractor or other pertinent data accompany such bid or negotiated price. All such bids and data relating thereto or to a negotiation price shall be kept permanently on file.

SEC. 2. (a) The Secretary of Commerce is authorized to sell to any citizen of the United States, as defined in section 2 of the Shipping Act, 1916, for operation in the United States domestic trade, any vessel constructed under the Act.

(b) The purchase price of the vessel shall be its construction cost less straight line depreciation on the basis of a twenty-five year life to the date of sale. The purchaser shall pay 12½ per centum of the purchase price at the time of sale and shall pay the balance and not to exceed twenty-five equal annual installments with interest at a rate not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (2) an allowance adequate in the judgment to the Secretary of Commerce to cover administrative costs, the balance of such purchase price and the interest thereon being secured by a preferred mortgage on the vessel sold and otherwise secured as the Secretary of Commerce may determine.

SEC. 3. The Secretary of Commerce is authorized to sell to any citizen of the United States, as defined in section 2 of the Shipping Act, 1916, for operation in the United States foreign trade, any vessel constructed under this Act. The purchase price shall be the construction cost of the vessel, less construction-differential subsidy determined under section 502(b) of the Merchant Marine Act, 1936, depreciated on a straight line basis and on the basis of a twenty-five-year life to the date of sale. Construction-differential subsidy for the purposes of this section shall not exceed 35 per centum of the construction cost of the vessel. The purchaser shall pay 25 percentum of the purchase price at the time of sale and shall pay the balance in not to exceed twenty-five equal annual installments with interest at a rate of not less than (1) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (2) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs, the balance of such purchase price, and the interest thereon, being secured by a preferred mortgage on the vessel sold and otherwise secured as the Secretary of Commerce may determine.

SEC. 4. (a) The Secretary of Commerce is authorized to charter, to any citizen of the United States, any vessel constructed under this Act for operation in foreign or domestic trade with an option to purchase the vessel.

(b) If the vessel is chartered for operation in domestic trade, the annual charter hire shall be 4 per centum of the depreciated construction cost of the vessel plus the sum of (1) a percentage of the depreciated construction cost, computed annually upon the basis of a twenty-five year life of the vessel, determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the term of the charter, adjusted to the nearest one-eighth of 1 per centum and (2) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs. The option to purchase for operation in domestic trade shall be at the price specified in section 2 of this Act.

(c) If the vessel is chartered for operation in foreign trade, the annual charter hire shall be 4 per centum of the construction cost of the vessel less construction-differential subsidy determined under section 502 (b) of the Merchant Marine Act, 1936, depreciated on a straight-line basis and on the basis of a twenty-five-year life to the first day of the year for which the charter is to be paid plus the sum of (1) a percentage of the foregoing amount determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth of 1 per centum and (2) on allowance adequate in the judgment of the Secretary of Commerce covering administrative costs. The option to purchase for operation in foreign trade shall be the price specified in section 3 of this Act.

SEC. 5. Vessels built under this Act shall be documented under the laws of the United States and shall remain so documented for twenty-five years.

SEC. 6. Operating-differential subsidy under the Merchant Marine Act, 1936, shall not be paid for operation of any vessel built under this Act.

SEC. 7. The term "foreign trade" as used in this Act means trade between United States, its territories or possessions, or the District of Columbia, and a foreign country.

SEC. 8. There are authorized to be appropriated such sums as are necessary, to remain available until expended to carry out the purposes of this Act.

BANKRUPTCY OF OIL IMPORT QUOTA PROGRAM IS NOW CLEAR

(Mr. CONTE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, as an article in today's Washington Post by Thomas O'Toole points out, a top administration official responsible for oil import policy acknowledged to me yesterday that the United States has now reached a point where it will be necessary to substantially increase oil imports.

The admission, made by Assistant Interior Secretary Hollis M. Dole in testimony before a House Small Business Subcommittee chaired by our colleague NEAL SMITH, is, of course, not a total surprise. Federal Power Commissioner John Carver, only last week, testified before us to the same effect.

Even major oil companies are now admitting this must happen. And, more significantly, the Texas Railroad Commission, which for years has artificially held down oil production to maintain high prices—in what is called "market demand prorationing"—last week abandoned its controls for the first time in 24 years. I will have more to say on the decline of prorationing in a few days.

Nevertheless, Secretary Dole's admission is also significant, since he and his Department for years have been the chief protectors of the domestic oil industry, at the consumer's expense.

Ever since oil quotas were first imposed in 1959, I have warned they would only serve to more rapidly deplete our own resources at a terrible cost to the consumer. President Nixon's own task force on oil import controls conceded in 1970 that quotas now cost consumers more than $5 billion a year in artificially higher prices. In fact, when we add to that figure the $4.3 billion a year we lose in revenues due to the oil depletion allowance and other unjustified tax breaks for this industry, the annual tab comes to $9.3 billion.

In return for all this Government largesse we have been promised that domestic exploration would be increased to assure an adequate supply of domestic oil. What has happened, in fact, is that the major oil companies have spent far more on foreign than domestic exploration, and as a result we are fast running out of oil.

Mr. Speaker, we must not wait until the oil quota system collapses of its own weight. The consumer cannot be asked to continue to pay a terrible price for the transparent illusion of "national security." The time has come to enact my bill—H.R. 638 and identical bills, H.R. 4933, 4934, 4935, 5186 and 6851—which has more than 90 cosponsors, to repeal oil quotas and stop this inexcusable rape of the consumer now.

The article referred to follows:

INTERIOR AIDE SEES OIL IMPORT NEED IF U.S. OUTPUT BECOMES INADEQUATE

(By Thomas O'Toole)

A top official of the Interior Department conceded yesterday that the United States might have to raise its oil import quotas because domestic oil production is unable to keep pace with demand.

"We're looking right now at the possibility of a shortfall of crude oil in the U.S. and we're not prepared to say there won't be a larger deficit," Assistant Secretary Hollis M. Dole told the House Committee on Small Business, which is investigating the impact of the energy shortage on small business. "We're going to have to take a completely new look at our quota system."

Dole pointed out that Texas and Louisiana had raised their oil production "allowables" (Texas 100 per cent) in the last week, and that Venezuela was straining its capacity to keep up with U.S. demand.

Dole said the East Coast is already getting 50 per cent of its crude oil and 68 per cent of its fuel and heating oils from Venezuela.

"From what we know about Venezuelan reserves it is unlikely they will be able to furnish us with much more than they are now," he said. "This is why we must turn to North Africa and the Middle East."

Dole debated with Rep. Silvio Conte (R-Mass.) about when the United States must relax the restrictions on Middle East oil and by how much.

"You have to take oil where you can get it," Conte said. "Remove all restrictions, remove all quotas, and you'll see this whole thing stabilize itself."

Dole replied that the U.S. is still reluctant to raise its import quotas to admit Middle East oil.

"I'm not sure it would stabilize," he told Conte. "It would be my hope that it would, but I'm not all that sure."

"Well, we might not agree," Conte answered, "but you're getting closer to my way of thinking than the last time you were here before this committee."

While conceding that the U.S. might be easing its stand on oil imports, Dole said it is doing so with great reluctance.

"It's true we're coming closer to raising the imports," Dole said, "and this is what disturbs me—the impact our reliance on foreign oil has on national security."

Dole's relaxed stand on imports comes at a time when the U.S. oil industry has eased its own position. In recent weeks the industry has said production is no longer able to keep pace with demand.

WELCOME TO HON. OGDEN R. REID TO THE DEMOCRATIC PARTY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this opportunity to say just a word with respect to the distinguished gentleman from New York, the Honorable OGDEN R. REID, who has just made a determination to become a member of the Democratic Party. Mr. REID is one of my closest personal friends in Congress, and has served as the ranking minority member of the Select Subcommittee on Education, which I have the honor to Chair, and of which he has always been a diligent, dedicated, hard-working, and public-spirited member. This has been, I know, a difficult decision for Mr. REID. I am confident that having become a member of the majority party he will continue to display the same sense of dedication and hard work that he has demonstrated in the other party.

I must here note, Mr. Speaker, the unusual significance of Mr. REID's decision, for his grandfather was a founder of the Republican Party and in 1892 its candidate for Vice President when Benjamin Harrison ran for President.

Moreover, Mr. Speaker, Mr. REID was the last member of his family to serve as editor of the New York Herald Tribune, long an example of responsible Republican journalism.

In addition, OGDEN REID also served with great distinction as U.S. Ambassador to Israel under President Eisenhower.

I might add, Mr. Speaker, as one who was brought up as a Methodist, I may

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say that the decision of Congressman REID to join the Democratic Party after having served in the Republican Party for so many years only shows that it is never too late to be saved.

Mr. Speaker, I include at this point in the RECORD the text of an editorial in the New York Times of today, March 22, 1972, entitled, "Democrat REID":

DEMOCRAT REID

Leaving the Republican party is a much tougher wrench for Representative Ogden R. Reid than it was for Mayor Lindsay. His grandfather was a founder of the G.O.P. and its Vice Presidential candidate in 1892 on a slate headed by Benjamin Harrison. The Westchester Congressman was the last member of his family to edit The New York Herald Tribune in it's long career as a voice of intelligent Republicanism.

That Mr. Reid has decided he can no longer stay in the party is graphic evidence of how far to the right it has drifted under the leadership of President Nixon. Unquestionably, the stiff primary challenge Mr. Reid faced from powerfully backed conservative elements in the state G.O.P. helped prompt his switch into a Democratic party that is hardly at the peak of its popular appeal or internal unity. But an even stronger spur was the increasing distaste Mr. Reid felt for pretending ties with an Administration whose policies he could not swallow on such issues as civil liberties, education, child care, the fight against racial discrimination and the pace of extrication from Vietnam. Above all, his break came out of despair at the divisive trend of most Administration approaches.

As believers in a strong and vital two-party system, we are sad to see the Republican party in this state—so long a leader in the party's progressive wing—becoming a conservative bastion with diminished appeal to independents of the type responsible for the repeated elections of Governor Rockefeller and Senator Javits. But the Governor himself has been a poor recent steward of that tradition and Mr. Reid risked total isolation. His decade of service in the House has been marked by steady growth in the quality and diversity of his accomplishment. Still short of his 47th birthday, he brings to the Democrats another future leader of great decency, dedication and talent.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am happy to yield to the majority leader.

Mr. BOGGS. I concur in the remarks made by the distinguished gentleman from Indiana, and welcome to the ranks of the majority party in the House the distinguished gentleman from New York (Mr. REID). I, like the gentleman from Indiana, have known the gentleman from New York well and favorably for many years. I first came to know him when he was our Ambassador to Israel back in President Eisenhower's administration.

I have watched his work here since he first came to Congress. He has been conscientious, able, innovative, and dedicated. We are glad to have him, and I know he will make a great contribution to our party.

Mr. Speaker, in this connection, I include an editorial from today's New York Times:

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Mr. BRADEMAS. I thank the distinguished majority leader.

EASY ANSWERS TO ECONOMIC PROBLEMS?

The SPEAKER pro tempore (Mr. LINK). Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 60 minutes.

Mr. GIBBONS. Mr. Speaker, our history books are filled with the stories of leaders who chose easy but illusionary answers to their difficulties, only to have their countries follow these answers to ruin. And those who have not learned from these mistakes will be condemned to repeat them.

Today we live in a terribly complex and interdependent world—a world in which there literally are no easy answers to the difficulties which confront us, and yet those who would have us accept this kind of answer persist.

False but expedient answers have always been damning, but how much truer this is today than it has ever been. Certainly we can no longer afford the luxury of picking easy, illusionary answers to any of the real problems facing us, be they political, social, or economic.

Last fall a number of us became quite concerned about the easy answers which were being offered to solve our domestic and international economic problems. We saw foreign countries made the scapegoats for all of these difficulties, and the claim was made that we could restore our economic health if only we would cut ourselves off from these foreign devils.

This solution was simple enough, all right, but it had virtually no connection with the facts of our economic situation. Also, history warned us of the perils of a country's trying to protect its economic interests by building a wall of trade restrictions around its borders. Our attempt to do so in the 1930's proved to be cruel folly.

So, in the belief that the answer of "protectionism" was a false and perilous one, our bipartisan group of Members set about trying to find out more about the reasons for our economic problems and their relation to international trade and investment.

As part of this effort to educate ourselves and others about the facts of our economic problems, we conferred with a number of economic experts. In fact, we are still doing so. We also scheduled a series of three special orders in the House on the relation between trade and investment and the health of our domestic economy.

Having tried to show in the first two special orders last fall how needless and foolish "protectionism" is, it seemed only fair that we should focus our attention on the real economic issues for the United States in this third special order and on constructive measures which might be taken to deal with these issues effectively.

We hope not to fall into the "easy answer" trap which we have criticized so strongly, for these economic issues are not easy ones to solve. Rather, we hope to talk about more fruitful and realistic solutions to our economic problems than protectionism or trade restriction, which only denies the reality of our economically interdependent world and can harm us all irreparably.

We do not claim special expertise in the economic field, but we are guided by what we think to be some important contributions by those who specialize in this area. We intend to continue trying to understand our economic problems better and to develop remedies to them. We offer our thanks to those who have helped us in this regard and we hope they will continue to do so.

Our first special order on November 19 was concerned with the great benefits to the United States and to the whole world which flow from world trade and continued international cooperation. The second special order, on December 8, dealt with the very real danger that the severe trade restrictions which have been proposed by some Americans would not only fail to protect the interests of this country economically, but would surely result in retaliation which could plunge the whole world into another series of depressions and trade wars.

Since these special orders, our findings on the benefits of trade and the dangers of trade restrictions continue to be confirmed.

Andrew Brimmer, a member of the Board of Governors of the Federal Reserve System, recently completed an excellent study regarding the positive effects of trade on our economic well-being. I would like to include that statement at the end of my remarks.

Without a doubt, imports not only make a wide variety of goods available to Americans at reasonable prices, but they are also immensely important in keeping American industry on its toes. Commerce Secretary Peter G. Peterson recently told the Joint Economic Committee of Congress:

> I don't even remember in my previous business incarnation ever waking up, driving to work and thinking how glad I was to have competitors. Deep down I suspect a few of us really enjoy competition. It was easy to like foreign competitors even less. But we certainly learn, if too slowly and reluctantly, to respect the enormous importance of competition in spurring us to improve products and lower costs in ways we would not otherwise do.

I have asked this question many times before: Where would many American motorists be today if the practical little Volkswagen had not become available as an alternative to the large American cars which were being produced by U.S. automobile manufacturers?

On December 14 I made a statement in the House about the false claims of some textile manufacturers that they were being put out of business by cheap foreign imports and thus many American workers in these industries were losing their jobs. The fact was that in many of these cases, mismanagement, changes in consumer tastes, or other causes completely unrelated to imports were responsible.

At the end of my remarks today I would like to include some information on the health of another American industry which has sharply attacked imports as responsible for their difficulties—the footwear industry. I do so because I believe that it is most important that we face up to the facts about trade. This is not to deny that some few of our domestic economic problems may have some connection to our foreign trade, but let us be very sure that we do not foresake the very substantial benefits of trade for false reasons.

In our first special order I pointed to the report and papers of the President's Commission on International Trade and Investment Policy as a good source for a balanced presentation of our domestic and international economic situation. While I may disagree with a few of the recommendations offered by the Commission, I believe their "program for action" is as valid and important today as it was when the report was issued in July of last year.

I am pleased that we have made progress in some of these areas and deeply regret that we have not shown the leadership and sense of urgency about these matters which the Commission judged necessary.

As the Commission and many others have ably pointed out, improvement of our domestic economic situation is key to both meeting the current objections to trade and allowing us to continue expanding the benefits we reap from trade.

We have seen that trade simply cannot be blamed for our domestic economic problems and that, even according to the goal of domestic employment, we stand to lose much more than we would gain by trade restrictions.

Further, it has become apparent that our failure to deal effectively with our high unemployment and inflation rates, coupled with an out-of-date international monetary system and a virtually useless adjustment assistance program, is basically what brought us to the brink of international economic disaster by August 15 of last year.

It is my own feeling that we must do more to restore our domestic economic health, particularly in the area of employment. I strongly support the "Jobs Now" program which has been proposed in Congress and I look forward to the first report of the Productivity Commission. Our own Science and Astronautics Committee has done a good deal of work on the subject "Science, Technology and the Economy" and has made some specific recommendations on the implications of its findings for our international economic problems in their interim report.

There are also indications that we must have a better organization of Government agencies who deal with our domestic and international economic policies, as well as better coordination with Congress on decisionmaking in this area.

Dr. Harald Malmgren, a noted international economist and an adviser to Ambassador William Eberle, our Special Representative for Trade Negotiations, has stated in his new book that we must give much more attention and priority to our international economic interests. In fact, he believes that we need a whole new international system for stabilizing economic and trade relationships to contain conflicts. This multilateral economic peacekeeping apparatus should be supplemented, Malmgren says, by economic negotiations equivalent to the current strategic arms limitation talks—SALT.

I believe that many of Dr. Malmgren's suggestions, including ones relating to Government reorganization and better coordination of international economic policy, deserve serious consideration. At the end of my remarks I would like to insert a review of Dr. Malmgren's book which appeared recently in the Journal of Commerce.

There have been many other recommendations for a more active Government role in areas such as data collection, economic planning and the expansion of support for research and development, as well as for changes in Government policy in areas such as antitrust law and taxation. The issues involved here may be complex ones, but I think they are too important for us not to investigate these recommendations carefully and make these changes where they are appropriate.

With regard to antitrust laws as they affect companies doing business abroad, there can be little doubt that there is a need for clarification of the laws, for instance as they related to export associations. Federal Trade Commission Chairman Miles Kirkpatrick recommended in his testimony on the Export Expansion Act certain changes in the antitrust laws as they relate to export associations. In any case, there is certainly a need for clarification.

Because I think it may be of interest, I'd like to include at the end of my remarks information on the value of an export association to the phosphate producers in my home district of Tampa who produce for export. I would also like to insert a statement on the value of our "metrification" as it relates to trade.

Our proceeds from trade represent only 4 percent of our GNP. Nonetheless, there is evidence to indicate that the expansion of our trade can actually help restore our domestic economic health.

For some time our balance of trade suffered from the fact that the American dollar was overvalued in relation to other currencies. The recently approved devaluation of the dollar in terms of gold by 8.57 percent, coupled with a 12-percent realinement of the dollar with the currencies of our major trading partners, should be of great help in making our exports more competitive in world markets. Whatever progress we can make in reducing inflation and improving productivity will also do so, and we can expect an additional 60,000 jobs for each $1 billion gain in our balance of trade.

Our success in this area will be a fleeting one, however, if we do not assume more leadership than we have since August 15 in establishing negotiations on a new international monetary system which will have the reserves to facilitate expanded world trade and investment and an exchange rate mechanism which will be stable and yet flexible enough to avoid the kind of exchange rate crises which have characterized the system in recent years.

Immediate negotiations on the convertibility of existing dollar balances should be undertaken in order to maintain the functioning of the international monetary system. Some good recommendations on this issue are contained in the forthcoming report of the Joint Economic Committee on the President's 1972 Economic Report.

A number of recent studies have shown how multinational corporations, which operate in this country and abroad, contribute to our economic welfare. Private and Government studies have revealed that—

U.S. multinational corporations increased exports by 180 percent between 1960 and 1970, as compared with a national average of 53.5 percent for the country's businesses as a whole.

One hundred and twenty-one multinationals surveyed showed employment increases in the United States during 1970 of 31.1 percent, as compared with a 12.3-percent growth in U.S. manufacturing employment in general.

The major reason for multinational companies to establish plants in foreign countries is the problem of retaining foreign markets and overcoming tariff and trade barriers. Far less than 10 percent of overseas production is for American consumption. Thus, this production benefits Americans by increasing employment in this country to some extent and by enabling American multinationals to make foreign sales which they would have otherwise lost to businesses from other countries.

We cannot of course continue to benefit from expanded world trade and investment unless existing international economic barriers to these activities are removed wherever possible.

In this connection, I think it is most

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encouraging that the United States, Europe, and Japan have agreed to embark on a major new round of trade negotiations in 1973. No country can expect to have its own way completely at these negotiations. However, the very fact that we will be sitting down with the other major trading nations of the world to try to achieve mutually beneficial changes in our various national trade and investment policies is a most promising development.

The United States is the world's richest country and the world's largest single export market for other countries, while our exports represent one-fifth of all free world trade. However, the other countries of the world are growing strong economically and, particularly with the increasing unification of Europe, it has become obvious that the United States cannot dictate terms on the international scene—nor should we want to do so.

It is of course hard to achieve a balance between negotiations aimed at our economic self-interest and statesmanship aimed at harmonizing international economic relations and promoting world peace. However, I fear we have erred recently on the side of self-interest, unreasonable demands on countries which are old friends of ours, and undue delay, as in the area of international monetary reform. I sincerely hope that we can look forward to leadership in the administration and in Congress reflecting the realization that cooperative multilateral solutions to our international problems are absolutely essential.

The Foreign Economic Policy Subcommittee of the House Foreign Affairs Committee will hold informational hearings in late April on our existing adjustment assistance program and proposals to improve it which have been made. Hopefully, these hearings will extend to proposals which would provide some Government assistance in legitimate cases of economic dislocation, regardless of whether an increase in import competition was the reason for the dislocation or whether some other economic factor was involved.

In general, I think it can be said that we have made some impressive progress in starting to find solutions to our real domestic and international economic problems.

As I have indicated, I think much more remains to be done in certain areas, and I sincerely hope that we will continue to progress toward these solutions on the basis of the ever-increasing information on our economic problems which is becoming available to us.

Our welfare and that of the whole world depends on our ability to find cooperative solutions to these pressing problems.

The inserts follow:

IMPORTS AND ECONOMIC WELFARE IN THE UNITED STATES

(Remarks by Andrew F. Brimmer, member Board of Governors of the Federal Reserve System before the Foreign Policy Association, February 16, 1972)

IMPORTS AND ECONOMIC WELFARE IN THE UNITED STATES

Last October, when I accepted the invitation to appear before this Association at this time, I indicated that the subject matter of my remarks would concern "The Dollar at Home and Abroad: Perspectives on the International Economic Position of the United States." That umbrella topic was chosen because it was impossible to anticipate at that time the outcome of the multilateral negotiations then underway among leading industrial countries to realign foreign exchange rates. But it was understood that I would focus on a more limited aspect of the general subject—the specific topic depending on the circumstances prevailing in the international arena at the time I actually appeared before you.

In the meantime, an historic realignment of exchange rates has occurred, and its general features have been thoroughly and widely reported. While the international payments system established at Bretton Woods facilitated the growth of world trade and investment for more than a quarter of a century, serious imbalances among the leading industrial and trading nations did develop in recent years. Undoubtedly, the principal manifestation of this disequilibrium is the large and persistent deficit in the United States balance of payments.

I am indebted to several members of the Board's staff for assistance in preparation of these remarks. Mr. Samuel Pizer had overall responsibility for the staff effort. Mr. Daniel Roxon made the estimates of employment effects of foreign trade, and Mrs. Barbara Lowrey helped with the analysis of the effects of import restrictions on consumer prices. Mrs. Betty L. Barker also provided assistance in the analysis of both employment and price effects. Of course, I alone bear responsibility for these remarks.

The elimination of that deficit has been an important national objective, and the realignment of exchange rates agreed to last December in Washington should help us achieve that goal over the next few years.

A keystone of that agreement was the decision by the United States to propose a devaluation of the dollar by 7.89 per cent. On February 9, the U.S. Treasury Department transmitted to the Congress a proposal to raise the official price of gold by 8.57 per cent (from $35 to $38 per ounce)—and thus fulfill the pledge made at the Smithsonian meeting. Another feature of that agreement was the expectation that the United States would obtain significant modifications in trade practices abroad that actually or potentially hampered our exports.

In the last few weeks, the United States has worked out liberalizing arrangements for some exports to Japan and the members of the European Economic Community (EEC), and discussions are continuing with Canada. Moreover, on February 11, the United States and the EEC jointly called for multilateral discussions starting in 1973 with the aim of erasing existing barriers to trade. Australia and Canada have indicated their support of such talks, and the support of other countries is also being sought.

Against the background of these events, the foreign exchange markets are still adjusting to the rate realignment and the existence of wider margins of fluctuation. Congressional hearings on the gold price bill are scheduled to begin next week. Consequently, under these circumstances, I decided to focus my remarks today on one aspect of U.S. international economic relations where the issues involved are clearly drawn—although by no means settled. I thought that a discussion of the relationship of imports to the welfare of American consumers would be both interesting and of considerable domestic significance at this time.

In the view of a sizable number of Americans, imports are "bad" while exports are "good." Of course, this unfavorable view of imports is not hard to understand: it is partly a legacy of the eighteenth century mercantilist notion that a nation could increase its wealth by selling more to foreigners than it brought from them—and by collecting the favorable balance in gold! But it is also partly the result of a more modern idea that a country can increase domestic employment through maximizing exports while keeping imports to a minimum. Undoubtedly still other sources of the bias against imports could be identified. But whatever the explanation, the net result is to create a bad image of imports in the eyes of a sizable proportion of American citizens. In fact, with few exceptions, the same situation exists in most other countries.

In our own land, the hostility toward imports is probably more widespread than it has been for many years. One can detect this hostility in public opinion polls, newspaper editorials—and above all in the polemics of protectionist organizations. Moreover, it appears that sentiment in Congress is becoming increasingly sympathetic toward plans to limit imports.

I had hoped that the campaign to place severe restraints on imports had passed its highwater mark a year or so ago when the effort to impose quotas on textiles and shoes failed to win Congressional approval. Sadly, however, a new—and far more comprehensive—movement to restrict imports has been launched, and a number of supporting voices are being heard in both houses of Congress. One particular proposal would impose quotas on an extremely broad range of imported commodities while also severely limiting foreign direct investment by U.S. corporations. In the public at large, a noticeable number of traditional defenders of freer trade (especially some segments of organized labor) are abandoning their positions to join the ranks of the protectionists.

This rising tide of protectionism is not only distressing: it is also fundamentally against the best interest of American consumers. If the effort is successful and imports are severely limited by quotas, the range of consumer product choices will be narrowed considerably; consumer prices will be appreciably higher, and the burden will fall most heavily on those low-income groups least able to bear the costs.

Given this prospect, it is urgent that those of us who believe in the benefits of freer trade do what we can to help prevent the protectionists from building a fence around the American market. We must not be misled by the mistaken argument that the advocates of restrictions of imports are protecting the jobs of American workers. I am aware of the spurious argument which holds that "workers are consumers," "consumers have to work in order to consume," so the interest of the two groups are the same. The fact is that workers work for income, and they maximize their welfare by spending their income on as wide a range of goods and services as possible—paying the lowest prices they can find. To obtain income, it is obviously necessary for most people to work, and the expansion of job opportunities is obviously important. But we must avoid confusing the situation of consumers with that of employees in particular industries.

The rest of these remarks is devoted to a discussion of imports and economic welfare in the United States. The principal focus is on the employment effects of foreign trade and the costs to consumers of restricting imports by quotas and similar devices. Several key conclusions can be summarized here:

Studies I have made suggest that the foreign trade sector of the United States economy may be generating more than 750,000 jobs, even after allowing for the number of jobs that might be displaced by competitive imports.

The existing quotas on sugar may be costing American consumers as much as $300 to $500 million each year, and the recently arranged agreement restrictions imports of man-made fiber and woolen textiles into the U.S. may cost consumers as much as $300 million in 1972. Petroleum quotas apparently cost consumers an extra $5 billion in 1969 alone.

Competition from imports also helps to dampen increases in prices of domestically produced products. This conclusion is clearly suggested by the behavior of prices for several categories of items during the inflation that has prevailed in this country since the mid-1960's.

These and several other points are explored more fully below.

GROWTH AND IMPORTANCE OF IMPORTS

In 1971, imports amounted to $45.7 billion. Exports totaled $42.8 billion. So last year the United States recorded a trade deficit of $2.9 billion.[1] The trade deficit in 1971 reflected a year-to-year rise of nearly 15 per cent in imports in contrast to a gain of about 2 per cent in exports. Over a longer horizon, the growth of imports has been equally dramatic. Between 1961 and 1971, the level of imports rose by $31.1 billion, an increase of 214 per cent. Over the same decade, exports rose by $22.6 billion, an increase of 113 per cent.

While exports have grown only slightly faster than the American economy as a whole during the last decade, imports have grown about 1½ times as fast. As a result, the ratio of imports to gross national product (GNP) climbed from 2.79 per cent in 1961 to 4.36 per cent in 1971. At the same time, the export-GNP ratio edged up from 3.87 per cent to 4.08 per cent.

The main explanations of these divergent trends are widely known: the rapid expansion of aggregate demand in the United States (especially after 1964) induced a significant rise in imports of materials required to sustain domestic production. As the economy expanded, consumer incomes rose appreciably, and a sizable share of the increase was spent on foreign goods. Moreover, because of the inflation associated with the Vietnam War, the competitiveness of U.S. exports declined progressively. Simultaneously, foreign producers found it increasingly possible to undersell some U.S. products in our own market. Although trade barriers executed or maintained by some of our principal trading partners clearly hampered the growth of U.S. exports over the last decade, the basic disequilibrium in our own economy in the last half of the 1960's—aggravated by the rigidity of exchange rates—was a major cause of the sluggish performance of exports in the face of a vigorous advance in imports.

OVERALL IMPORTANCE OF IMPORTS

While imports represent only a small share of total GNP (4.36 per cent), their importance in the supply of *goods* available in the United States is much greater—in excess of 8 per cent. In a number of particular sectors and industries, the share is even higher. In this context, we can put aside those categories of commodities in which imports are our only source of supply—such as bananas, coffee, cocoa and tea.

In the last two years, over 15 per cent of new automobiles purchased in the United States were foreign-type imports (cars imported from Canada are considered to be domestic-type). In other consumer goods lines, imports were equally or more important. For example, in 1970, imports represented the indicated percentages of domestic supply in the following lines:

	Percent
35 mm still cameras	100
Magnetic tape recorders	96
Motorcycles	90

Footnotes at end of article.

Hairwork (toupees and wigs)	85
Radios	70
Amateur motion picture cameras	66
Black and white TV's	52
Sewing machines	49
Sugar	*45
Leather gloves	30
Footwear (nonrubber)	30
Liquors	*28
Flatwear	22
Canned sea food	*20
Wine	*20
Textiles (including apparel)	12

*Percentage in 1968, the year for which latest data are available.

Of course, imports are not limited to consumer-type goods. Many of our imports are industrial materials which are essential to domestic production. For instance, in 1968, imports constituted the following percentages of domestic supply.

	Percent
Natural abrasives	100
Manganese ores	95
Bauxite	88
Scouring products	40
Iron ores	35
Pulp mill products	31
Copper (smelted)	27
Lead and zinc ores	27
Potash	27
Steel	15

In interpreting these rough measures of U.S. market penetration by imports, one should remember that the ratios summarize greatly varying situations in a number of large and diverse product lines. For instance, in both textiles and steel, there is a significant number of specific and major product categories in which imports account for well over half of total domestic consumption. Nevertheless, taking the economy as a whole, imports still represent only a modest fraction of total production, and foreign producers have captured only a small share of the overall market in the United States.

U.S. FOREIGN TRADE AND DOMESTIC EMPLOYMENT

As I indicated above, opposition to imports is increasing partly because the inflow of foreign goods is said to have an adverse effect on American jobs. With domestic economic activity moving at a slow pace last year—and with the number of unemployed now exceeding 5 million—this opposition to imports has been further strengthened. Thus, it might be helpful to put in perspective the effect of U.S. foreign trade on domestic employment.

In interpreting the estimates presented below relating domestic employment to foreign trade, it is necessary to keep their tentative nature in mind. In making the estimates, care was taken to spell out explicitly the assumptions made and the nature of the statistical information on which I relied. The use of estimates, of course, cannot be avoided if economic analysis is to be employed for the illumination of vital issues of public policy. So, while the figures must be used with caution, they do provide an indication of the magnitudes involved.

The number of jobs related to our foreign trade—that is, generated by imports as well as by exports—is not insignificant. In 1969, according to estimates made by the Bureau of Labor Statistics (BLS) in the U.S. Department of Labor, about 2.6 million jobs could be attributed to the $37.5 billion of exports of merchandise in that year. Thus, about 69,000 jobs were associated with each $1 billion of exports in 1969.[2] Export-related employment covers persons engaged directly in producing for exports (termed primary employment) as well as those employed in industries supplying goods to those industries which actually do the exporting (termed indirect export employment). According to the BLS studies, the ratio of primary to indirect export employment is approximately 1 to 1—that is, for every job in the industry doing the exporting, there is a supporting job in another industry providing goods to the export industry.

The number of jobs currently related to exports apparently is roughly the same as that estimated by BLS a few years ago. This conclusion is based on a new estimate which I made using the BLS technique to update the latter's 1969 figures. According to my rough estimate, there were approximately 2.65 million jobs related to export activity in 1971. Since the value of merchandise exports last year amounted to about $40 billion (in 1969 prices), there was an average of 66,000 jobs per $1 billion of exports.[3] This estimate suggests that increased productivity in export industries has almost kept pace with the growth of export volume, so there has been little net gain in export-related jobs.

In the aggregate, export employment accounts for about 4 per cent of total private employment. However, the relative share of export-related employment is much higher in a number of important sectors. About 9 per cent of total employment in agriculture in 1969 was related to exports, while in the manufacturing sector BLS estimated that exports accounted for about 7 per cent of total employment—or about 1½ million jobs. Among manufacturing industries, the contribution of exports to employment was particularly high in the construction machinery industry (27 per cent), engines and turbines (15 per cent), office and computing machines (13 per cent), and aircraft (14 per cent).

IMPORT-RELATED EMPLOYMENT

The estimation of domestic employment related to imports is far more difficult than was the case with exports. In the first place, some imports clearly compete with domestically-produced goods. So the task here is to estimate the employment that *theoretically might* occur—assuming other factors are constant—in the event that these imports *were* produced in the United States. Secondly, other imports do not compete with domestically produced goods but rather are necessary for domestic production or require distribution and marketing services. Thus, they increase employment opportunities in the domestic industries using the imports. In order to get some measure of the employment effects of imports, it is necessary to classify imported products according to their competitiveness with domestic products. This, of course, is no simple task, and—frankly—no one has been able to devise a uniformly acceptable method to do this.

However, if the assumption used by the BLS in developing estimates of the "hypothetical" employment that might result from producing "competitive" imports in the United States is accepted (i.e., that 75 per cent of all imports fall into this category), the number of such jobs was approximately 2.4 million in 1969. In view of the sharp rise in the *volume* of imports since 1969 (about 12 per cent compared with a much smaller increase in output per person), it is not unlikely that the number of such jobs in 1971 was somewhat higher. As with exports, the employment estimates include both direct employment necessary to produce the item and the indirect labor necessary to provide the supplies, material and services incorporated into the final commodities.

Again, as noted above, the sharp rise in the number of jobs affected has aroused labor unions and others to become increasingly critical of national policies promoting freer trade and less mindful of the advantage of such a system to the domestic economy. Consequently, the employment aspects of foreign trade might be elaborated somewhat further.

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It is important to keep in mind that estimates of employment gains from restricting imports represent "hypothetical" employment. They do *not* represent the actual number of jobs lost because of imports which would be gained in the absence of imports. For example, without a concerted effort to reallocate resources, the U.S. would be unable to find people with the requisite skills—not to mention other resources—to produce imports domestically. Rather the effort to replace imports with domestic products in recent years would have placed additional stress on the economy and further heightened inflationary pressures. But probably most important of all, a large-scale effort to substitute domestic products for imports would bring about a reduction in exports. Some imported items have embodied materials or components which are exports of the U.S.—for example, automobiles from Canada which incorporate parts exported from the United States; imported transistorized appliances which include exported electronic components; and imported textiles which contain domestic cotton. Any employment created by domestic production of imported items which contain U.S.-made components would be offset, in part, by the loss of employment related to the exports of the components. More generally, exports pay for our imports, and restriction of one part of our foreign trade (imports) is bound to react on the other part (exports). Hence the job gains on the import side would be partly offset by jobs lost on the export side. Expressed another way, the jobs related to exports are not independent of imports.

The remaining 25 per cent of imports are generally considered to be "noncompetitive" with goods produced in the United States. These imports include some products which are not produced at all in the United States—e.g., coffee, cocoa, chromite, tea, etc. Of course, it is conceivable that, with a sufficient expenditure of effort and resources, it might be possible to produce some of them domestically, but the amount of employment that would be created is purely speculative and is not of any practical interest. Moreover, there are a number of imported goods that are comparable to domestic goods—but which are in short supply in the United States—such as bauxite, asbestos, and newsprint. These imports supplement domestic production. To expand production of these goods to replace imports would also require a large—and probably very costly—investment of labor and capital.

Obviously imports that are not produced at all or which are needed to supplement short supplies in the United States are clearly different in their impact on the economy from those which are "competitive" with domestic goods. "Noncompetitive" imports are generally accepted as integral and necessary inputs into the domestic economy, and they are undoubtedly beneficial to domestic output and employment. Certainly there are many U.S. jobs involved in processing, transporting and marketing these goods. These jobs, together with jobs similarly involved in marketing and shipping "competitive" imports, are *real* jobs that actually exist today, and they are not at all like the "hypothetical" employment that might result from producing competitive imports domestically.

Clearly there must be a considerable number of jobs associated with the $45 billion of imports recorded in 1971. Unfortunately, there are no official estimates of such jobs. However, using the input-output tables and the level of merchandise imports in 1971, I made a rough calculation of the number of jobs associated with the processing and marketing of imported goods which are considered noncompetitive (25 per cent of imports) as well as with the domestic marketing of competitive imports. The very rough estimate suggests that in 1971 about 650,000 jobs were directly related to such activities. Unlike the estimates of jobs related to exports and to competitive imports if produced domestically, this estimate does not include the indirect employment which might result from the processing of crude and semifinished industrial materials or other noncompetitive imports. There is no way of determining whether employment in supporting industries is dependent on the existence of these imports. It is possible that the bulk of the employment in such supporting industries also provide materials to industries processing domestically produced materials, and such jobs would exist without the imports. However, if employment in these supporting industries is primarily dependent on imports, then the estimated 650,000 jobs generated by imports would be on the low side.

There is still another contribution that imports make to domestic employment which is often overlooked. Because of the relative cheapness of foreign products as compared to domestic products, domestic consumers have extra disposable income to spend on other products. For example, in 1971, competitive imports were about $40 billion landed in the United States. If foreign products were 10 per cent cheaper than domestic goods (and I realize this is a crucial assumption), then American consumers would have roughly $4 billion more to spend on other goods than if they had bought these competitive imports domestically. Since it is estimated that about 100,000 jobs are created for every $1 billion of expenditures by consumers, then approximately 400,000 additional domestic jobs could result from the savings made by consumers in buying the cheaper foreign goods. (Actually this is overstated since part of the $4 billion saved by consumers would also be spent on foreign goods. If foreign goods constitute about 10 per cent of total expenditures, then the amount available for expenditure on domestic goods would be $3.6 billion with a job contribution of 360,000.)

OVERALL EMPLOYMENT EFFECTS

To sum up, when one attempts to estimate domestic employment related directly or indirectly to U.S. foreign trade, it is necessary to include: (1) the employment generated by exports, (2) the jobs associated with the processing and marketing of imports, and (3) the employment resulting from consumers buying cheaper foreign products. In combination, these jobs clearly exceed the number of "hypothetical" jobs which might result if competitive imports were produced in the United States. Again, the estimates of foreign trade-related employment presented here are rough, and they should be interpreted with caution. Yet, they do demonstrate that the question of jobs cuts both ways. One may hope that this perspective will be kept in mind as the role of imports is debated.

IMPORTS AND CONSUMER WELFARE

The importance of imports to consumers should not be minimized. The availability of imports means that consumers are able to buy products not produced domestically—or that they are able to choose among a greater variety of styles or a broader range of prices than if only domestically made goods were available. For example in 1970, the Presidential Task Force on non-rubber footwear concluded that ". . . from the consumer point of view, imports have opened up important new options. The extremely low-priced imports, priced often far below any comparable domestic footwear except canvass-upper, rubber-soled footwear, have provided entire *new* lines of basic foot coverings. At the other end, there can be little doubt that styles developed abroad in the higher price ranges have also provided new consumer choices." As is widely known, for many years imports of foreign automobiles (such as Volkswagen) offered American consumers the only choice of small cars.

The fact that imports enable consumers to buy lower-priced goods than are available domestically can be documented in a variety of ways. One way is to compare the prices of domestic and imported products where this can be done directly. Thus, in late 1970, the average price of imported footwear and imported apparel was estimated to be only 60 per cent of the price of domestically produced items.[4] In the case of automobiles, there may be as much as a $1,000 differential between the average price of foreign and domestic-type cars, although, of course, the actual vehicles are quite different. But the imported automobiles are clearly andvantageous to lower income consumers. The world price of a barrel of petroleum may be one-third less than the domestic price at the well-head. And the list could be extended still further.

However, an even better way to illustrate the price advantage of imported goods to consumers is to examine the effects of restricting such imports by the imposition of quotas. Several specific cases involving important consumer items can be cited:

Petroleum: Mandatory quotas on petroleum have been in effect for an extended period of time. It is estimated that they have kept domestic prices perhaps more than $1.25 per barrel higher than world prices. According to the Cabinet Task Force on Oil Import Control, which submitted its report in early 1970, ". . . in 1969 consumers paid $5 billion more for oil products than they would have paid in the absence of import restrictions. By 1980 the annual cost to consumers would approximate $8.4 billion. Without import controls, the domestic well-head price would fall from $3.30 per barrel to about $2.00, which would correspond to the world price. Although we cannot exclude the possibility, we do not predict a substantial price rise in world oil markets over the coming decade." A majority of the Task Force recommended that the present quotas be replaced by a system of tariffs involving a lesser degree of protection.

Unfortunately, the Task Force's recommendation was not accepted, and American consumers have continued to provide a substantial subsidy to domestic producers of petroleum products.

Sugar: Quotas on sugar imports have been in effect since the mid-1930's. The policy is aimed at stabilizing prices and supporting the domestic sugar industry. While the sugar control program is obviously complex, one undisputed result has been to peg sugar prices in the United States considerably above world prices. One of the reasons why the world price is much below that in the United States is that foreign producers, after supplying their quotas at very favorable prices in the United States, in the United Kingdom, and in a few other countries using quota systems, can afford to sell their residual supplies on world markets at very low prices and realize a reasonable overall profit margin.

If the United States (and other countries) were to remove controls on sugar imports, the price to the U.S. consumer would fall, the world price would rise somewhat, and a single effective price would be established at some level between the two. Of course, the exact level cannot be estimated in advance, but a rough idea can be gotten of the magnitude of the subsidy which American consumers are providing to producers and distributors of domestic sugar. In 1970, total consumption of sugar in the U.S. was over 20 billion pounds. Of this amount, 55 per cent was produced domestically, and 45 per cent was imported. Roughly one-third of total consumption was accounted for directly by consumers, and the remainder served as intermediate inputs for industry. In the end, however, consumers of final products had to pay for the full (and higher) costs of sugar. Consequently, using actual prices published, we can estimate the cost of sugar quotas to consumers, although the latter did not purchase directly the entire supply available for consumption.

In the four years 1968–71, the U.S. wholesale price of sugar averaged about 3 cents per pound higher than the estimated import price. (The estimated import price is about 1 cent higher than the world price because of duties and freight.) given this price differential, the cost of the sugar quota can be estimated. First, we can assume that the domestic wholesale price would be forced down to the prevailing import price in the absence of quotas and that the domestic retail price would fall by the same *absolute* amount as the domestic wholesale price, i.e., by 3 cents per pound. Ths reduction of 3 cents per pound, would have saved an American consumers of sugar roughly $600 million. valued at the retail level, in 1970.

Of course, it is entirely possible (and indeed probable) that, with the elimination of quotas, a new price for sugar would fall between the current domestic price and the import price—rather than declining all the way to the current world market value.[5] Nevertheless, the savings to consumers would still be substantial—perhaps in the neighborhood of $300 million to $500 million.

Textiles: The recently concluded multinational agreement fixing quotas on imports of man-made fiber and woolen textiles will have a sizable impact on American consumers. The agreement will limit the growth of such imports from Japan to 5 per cent a year, and from Korea, Taiwan and Hong Kong to 7½ per cent a year, compared with an average rate of growth of nearly 20 per cent in the last few years. Consequently, the imposition of the quotas should have noticeable effects. In 1971, imports of such textiles were approximately $2 billion. In the absence of quotas, and if recent growth rates continue, they could rise to perhaps $2.4 billion in 1972 (ignoring the effects of the exchange rate realignments agreed to last December). Under the quotas, however, these textile imports will be limited to a value of about $2.1 billion. Thus, if total demand remains unchanged, an additional amount of textiles (valued at $300 million, f.o.b.) would have to be supplied by domestic producers.

How much more in excess of $300 million will American consumers pay for this foreign dock-side value of goods? It has been estimated that the normal mark-up of imports of textiles and apparel is approximately 50 per cent. So at retail, the quota-prohibited imports would have cost consumers $450 million. However, if we use the relative price of apparel as a means of valuing total textile imports, we would estimate the average retail price of domestically produced textile goods to be about 5/3 the price of imported items. On this basis, the domestic retail value of the same $450 million of foreign imported textile goods would be about $750 million, if they were produced and sold domestically. Therefore, American consumers would have to pay about $300 million *more* than they would have spent on the imported items.

Automobiles: Another illustration of the possible impact of quotas is provided by an estimate of what might have happened if automobile imports had been subject to a quota during the last five years—a period during which imports more than doubled. In 1966, imports of foreign-type cars amounted to 651,000 units. If a quota had been imposed limiting the growth in the number of imported vehicles to 5 per cent per year, by 1971 imports could not have exceeded 830,000. Since the actual level of cars imported was 1,563,000 in 1971, there were 733,000 more automobiles imported than would have been permitted by a quota. If we assume that the total number of cars purchased would have been unaffected by a quota, American producers would have been able to sell an additional 733,000 units.

However, the additional cost to American consumers would have been substantial. As indicated above, the difference in the average price of foreign-type cars and domestic automobiles may be at least $1,000. Consequently, consumers might have had to pay $700–$800 million more for automobiles in 1971 than they actually did. (Again this assumes that the higher prices would not have reduced the level of demand—in actuality an unlikely outcome.)

The conclusion suggested by these examples is clear: quotas or other quantitative limitations on imports are extremely costly to consumers. While they obviously preserve a larger share of our market for domestic producers, the ultimate burden falls on households and individuals whose real economic welfare is diminished.

IMPORTS AND DOMESTIC INFLATION

Not only do imports offer consumers the possibility of lower-priced substitutes, but they also help to dampen increases in prices of domestically produced goods. By introducing added competition, imports may encourage more efficient and cheaper domestic production. Several dimensions of the inflation that has prevailed in the United States since the mid-1960's offer evidence suggesting that imports probably helped to moderate price increases of a number of domestically produced items.

Of course, in reviewing this evidence, one must not overlook the fact that other factors besides the availability of imports influenced price movements in particular sectors. Specifically, supply bottlenecks and domestic price support programs undoubtedly played significant roles. But, on balance, the role of imports apparently was also important in dampening price increases in several segments of the economy.

The evidence can be traced generally in the behavior of a number of components of several leading price indexes during the periods 1964–69 and 1969–71. These data indicate that in the case of wholesale prices, all commodities in the index (WPI) rose by 12.5 per cent in the 1964–69 period. However, price changes among major categories varied widely.

The effects of quota restrictions on the behavior of domestic prices were particularly noticeable in the case of farm products, a category containing a wide range of items subject to quantitative import limitations. For this group, the WPI rose by 15.8 per cent in the years 1964–69. The rise for foods and feed was especially sharp—e.g., meats, poultry, and fish, 31.6 per cent; dairy products, 22.4 per cent. These increases in food prices undoubtedly weighed heavily on the lowest income groups who must spend a proportionately larger share of their income on food.

If we use the components of the GNP implicit price deflator as measures, an even sharper picture emerges. The total index rose by 17.8 per cent in the 1964–69 years. However, among components, the prices of services and structures (for which there are few foreign substitutes) rose much more rapidly than the prices of goods. The advance for services was 21.7 per cent, and the rise for structures was 26.3 per cent. But of more significance, within the goods category, the largest price rises occurred among commodities in which imports could not grow because of quotas.

The same general pattern of price changes is evident in the data for 1969–71. Although the excess demand (generated partly by the Vietnam War effort) had eased considerably by the close of 1969, domestic inflationary pressures continued.

Again, the influence of imports on the behavior of prices was clear: in general, in categories in which foreign competition was restricted because of quota limitations, prices rose more rapidly than in categories where imports were free to expand.

While we have been focussing on the effects of imports on consumer prices, it is important to remember that imports used as inputs in production may also help to keep down the final price of consumer goods. If producers are able to draw on the cheapest source of inputs (which may come from abroad), then final consumer products can be less expensive.

CONCLUDING OBSERVATIONS

The foregoing discussion should have demonstrated that imports bring enormous benefits to American consumers. The availability of foreign goods broadens the range of consumer choice and also helps to dampen pressures on domestic prices. This conclusion is recognized by most observers—even by those who favor increased restrictions on imports.

However, as I noted at the beginning, the key issue in the debate over import controls turns on the relation between imports and domestic jobs. The evidence presented here clearly shows that foreign trade has a positive effect on domestic employment. Yet, having made this point, I would raise the question of whether a job comparison is the most meaningful way of evaluating the value of trade to the U.S. economy. In one sense, on a job basis one might hope that there were *more jobs related to imports* than to exports.

This would indicate that we as a nation are exporting those goods where the level of productivity is relatively high, while importing goods of industries where the level of productivity is relatively low. In this way, we would be fostering those efficient domestic industries while importing items produced abroad in industries in which our production is relatively less efficient.

Perhaps a more relevant evaluation of the impact of trade and its effect on employment should be at the aggregative level and the overall improvement to our society in general. If one accepts the proposition that one goal of our society is to provide consumers with an increasing volume of goods and services at the lowest possible costs, i.e., with an increasingly higher standard of living, one also should be prepared to accept goods from foreign sources as well as those produced domestically. In this sense trade is beneficial to the overall growth of employment and output in the U.S. economy. True, there will be structural problems as imports grow and change in composition. But the overall benefit to our society vastly outweighs the frictional and temporary adjustment problem.

In my judgment, higher imports represent a transitional problem to our economy—although a serious one—and we have to seek ways to reallocate our domestic resources so that we will reap the benefits from trade by providing (both to ourselves and countries abroad) those goods and services in which we are most proficient. In this way, we can maintain the strength of our economy by remaining sufficiently resilient and flexible to take full advantage of all the resources available to us both domestically and from the rest of the world. This, of course, is the basis of the principle of international specialization on which the continued and accelerated growth in national and world economic welfare is based.

What must be kept in mind is that the function of exports is to pay, in real terms, for our imports. To the extent that imports involve less real resources (and are thus cheaper in real terms), consumers can obtain more goods than they otherwise could. These savings can be passed on in the form of additional spending, and the stimulative

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effect of the additional consumer outlays can have a cumulative impact on economic growth and employment.

I do not mean to imply by the above comments that certain industries and individuals are not having serious difficulties as a result of the sizable expansion of imports of finished manufactured goods into the United States in the last 10 years. Obviously certain industries and people do need help. However, restrictions on imports, in my judgment, are simply not the appropriate way to provide this help. Rather, we need retaining, financial benefits, and relocation assistance for labor and other resources displaced by competitive forces (and this includes pressures from domestic sources—such as new technological developments—as well as from foreign competition).

On the other hand, providing new adjustment assistance to affected industries should not be aimed at perpetuating them indefinitely through a government subsidy. Instead, our objective should be to assist the human and other resources involved to move to those expanding sectors of the domestic economy where they can be employed to greater advantage. This may be to other types of manufacturing or to the production of badly needed services in the health and educational areas.

I understand the national Administration is examining the whole question of adjustment assistance and expects to present a vastly revamped program to Congress that would be much more effective than the one presently used. This is a program which all of us should support.

FOOTNOTES

[1] These figures for trade are those used in the balance of payments accounts.

[2] The BLS estimates of employment related to exports was derived by first determining output generated in individual industries by exports. Through an analysis of input-output relationships, both the primary and indirect outputs generated were calculated. The outputs for each industry were then translated into employment by estimated average output per person (productivity). The employment estimates for each industry were summed to get an overall employment estimate. The estimated average employment per $1 billion of exports was derived by dividing this employment estimate by the value of exports in 1969.

[3] To update the employment estimates from 1969 to 1971 in a rough manner, I relied on the BLS techniques. Two statistics were needed: (1) the change in the volume (real) of exports from 1969 to 1971; this was 6.3 per cent. (2) the change in output per person (productivity) from 1969 to 1971; this was 4.4 per cent. Export employment in 1969 was 2,600,000 jobs; if this number is multiplied by the index of increase in real exports from 1969 to 1971—i.e., 1.063 per cent—and the product is divided by the increase in productivity, the result is the number of 1971 export-related jobs. The calculations for estimating export employment in 1971 are as follows:

(1) Export employment, 1969, 2,600,000.

(2) 1971 export volume relative to 1969, 1.063.

(3) 1969 employment times 1971 volume index [(1) × (2)], 2,763,000.

(4) 1971 productivity relative to 1969, 1,044.

(5) 1971 employment adjusted for increased productivity [(3) ÷ (4)], 2,646,000.

[4] See Andrew F. Brimmer, "Import Controls and Domestic Inflation," a paper presented at the University of Maryland, College Park, Maryland, November 11, 1970.

[5] It should be noted in passing that, in the last few months, the world price of sugar has risen sharply because of production shortages. Experts on the sugar industry see this development as a temporary phenomenon which should pass fairly soon.

STATEMENT BY CONGRESSMAN SAM GIBBONS

In June 1970 the American Footwear Manufacturers Association spokesman, W. L. H. Griffin, appeared before the Committee on Ways and Means advocating the imposition of absolute quotas on imports. In response to my questions, Mr. Griffin admitted that in the 1960's—a 10-year period in which he cited the great growth of imports—his company, Brown Shoe of St. Louis, Missouri, had steadily rising profits and that its profit ratio, sales to profits, had steadily increased during this period when imports were supposed to have hurt the industry. Just last month Mr. Griffin announced that Brown Shoe Company's net earnings had increased 8.3% for the fiscal year ended October 30, and that net sales had increased 9.5% to $505,730,000 for fiscal 1970. Mr. Griffin credited the improvements largely to aggressive and effective marketing of the firm's products, efficient scheduling and manufacturing, careful inventory control and continuing efforts to control all costs rigidly.

Another substantial American footwear producer, Interco, reported this month that net earnings in the fiscal year ended November 30 rose 14.2% over a year ago, on a sales gain of 8.9%. Interco's Chairman, M. R. Chambers, reported that fiscal 1971 was the eighth consecutive year in which the figures exceeded the previous year. I have always had confidence in the American management-union team being able to meet foreign competition, and these facts demonstrate the resilience of our U.S. footwear industry.

I read with considerable interest the *Footwear News* story of November 25, 1971, in which Interco and the union leaders are meeting with the government to reach an agreement on the amount of the increase in wages for shoe workers. I trust that all parties will be cautious in seeking too great a wage increase, for fear that the consequent rise in production cost would price their shoes out of the market. In 1970, a special inter-agency task force issued an exhaustive 122-page report on the U.S. footwear industry. Among its many conclusions was that "import competition has not prevented the industry from raising footwear prices, raising them, in fact, at a faster rate than most components of the price indexes. Moreover, the period of greatest acceleration in price increases was accompanied by the most rapid growth of imports." In another study of the industry conducted by the Federal Reserve Bank of Boston, a significant conclusion, along these lines, was reached, "In fact, many New England shoe manufacturers feel that the major constraint upon the leve] of their output is not foreign competition, but the high cost of labor in New England."

The *Wall Street Journal* recently, taking note of shoe imports, said that their "major impact has been made principally on the marginal producer". The article noted that other companies have been "able to maintain their relative market positions by diversifying, aggressively promoting branded lines, providing retailers with good in-stock support on reorders, and improving their manufacturing efficiencies."

The Government Task Force Report found an essentially healthy domestic shoe industry and specifically noted that the individual companies with problems were invariably those that were "undercapitalized and vulnerable to conditions in credit and financial markets," or were lacking in design, creativity and sales ability. The overall conclusion was strong and unequivocal: "The facts and information available to the Task Force do not, in its judgment, constitute a case of injury to the overall footwear industry."

[From the Journal of Commerce, Mar. 2, 1972]

DOMESTIC FOOTWEAR INDUSTRY SEES 1972 PRODUCTION RISE

The domestic footwear industry, buoyed by the effective devaluation of the dollar and pinning its hopes on more imaginative styling, sights a rise in production this year, spokesmen for the industry said yesterday.

This would be the first rise in U.S. shoe output since 1968.

The currency realignment has finally reversed the tide of shoe imports, and domestic production of leather and other nonrubber footwear should rise by 5 per cent this year to about 565 million pairs, said Harold B. Gessner, chairman of the American Footwear Industries Association, Inc.

Imports are still rising, but the realignment of currencies has greatly slowed the growth rate, Mr. Gessner, who also is president of Oomphies, Inc., and Mark Richardson, president of the association, indicated.

STYLING FACTOR

Better styling of American shoes both for men and women is at least as much responsible for the comeback, they contended.

The increased emphasis on shoe styling, they said, results from the rising popularity of casual clothes that require or suggest compatible footwear such as fashion boots for women and high heeled shoes for men.

The gains in total shoe sales are being made in the face of rising costs for both labor and material. Costs are expected to go up 10 per cent this year. The Argentine government's limitation on hide exports also is a problem for American shoe makers.

Shoe retailers and manufacturers who retail themselves are pushing their merchandising operations vigorously. One large chain opened 350 new stores last year and plans to open more than 200 this year.

Imported non-rubber shoes cut rapid inroads into the American market in the 1960s, reached 290 million pairs or 32.7 per cent of all U.S. sales in 1971. That represented a gain of 10.4 per cent over 1970, following a 20.5 per cent jump in 1970 from 1969.

[From Footwear News, Feb. 24, 1972]

U.S. SHOE REORDERING PACE UP

CINCINNATI.—Reorders during the first two weeks of February have been running about 20 percent ahead of last year, Philip G. Barach, president of U.S. Shoe Corp., told Footwear News Tuesday.

In an interview following the 10-minute annual shareholders' meeting at the company's executive offices here, Barach said, "I happen to think retailer inventories are low. The fact that Easter is two weeks early this year is a variable, but hemlines are stabilized and the return of good-looking feminine styles bid well for us.

Barach said the company "Is still laboring with the shoe retailing area. It's still in a turn-around stage. The next quarterly report will tell a clearer story."

Barach added however, that the Wm. Hahn division "has continued to show substantial growth and earnings strength."

Barach also said that U.S. Shoe domestic manufacturing facilities are running at full capacity.

"If this keeps up we could be in the pleasantly interesting position of looking for more capacity."

He said that no decision will be made until summer and he emphasized that if additional facilities are needed they will be leased rather than built.

At the shareholders' meeting, attended by 16 people, most of whom are officers and directors of the company, Barach said first quarter 1972 sales for U.S. Shoe were up 9.3 per cent and earnings were up 6.9 per cent.

First quarter sales amounted to $85,619,000, compared with first quarter sales of $78,328,000 for 1971.

Net earnings amounted to $3,388,000, equal to 50 cents a share, compared with net earnings of $3,169,000, or 47 cents, for the first period last year.

The 1971 amounts have been restated to include the operations of the Casual Corner of companies of Atlanta and Washington, D.C., acquired on a pooling-of-interests basis subsequent to Oct. 31, 1971.

Barach said the manufacture of U.S. Shoe brands in Spain and Italy has brought about a "tougher mix of shoe which is turning it into a plus for us. We've been able to add styles that we ordinarily couldn't produce here.

PER MAN HOUR FIGURES

"We're in a hedge position," said Barach. "We won't commit to brick and mortar.

"You can't put your head in the sand about imports," Barach said. "This is the way we're trying to meet the competition until there is a voluntary control bill."

Barach said the average wage for shoe workers in the U.S. is $2.50 an hour, compared to 57 cents an hour in Spain and $1.40 an hour in Italy.

He said productivity in Spain and Italy amounts to 7 pairs per man hour compared to 10 pairs per man hour in the U.S.

He said imports amounted to about 15 per cent of U.S. Shoe's wholsale sales in 1971 compared to an industry average of about 30 per cent.

In a statement prepared for release at the annual meeting, Barach also said:

Initial orders for advance fall lines have been good and "retailers showed considerable enthusiasm for our lines at the recent New York Guild Show in January.

"We sense an improved tone both in the level of general retail activity and in the reception of all of our lines. This should augur well for continued sales improvement throughout the year, provided the general economy holds firm.

"We are now encouraged that our initial sales objective of exceeding last year by at least 8 per cent is reasonable and attainable. If accomplished, our sales volume for fiscal 1972 would approximate $360 million."

(Sales for 1971 amounted to $324 million.)

"The wind now is at our backs," Barach told FN. "At this time last year, it was in our face."

Elected to the 17-man board were Charles E. Carples, executive vice-president of U.S. Shoe's Specialty Retailing division, and Arnold Dunn, corporate vice-president and president of the Marx & Newman division.

They replace Walter Marx, chairman of the Marx & Newman division, and David Falk, retired senior vice-president-merchandising of the Bloomingdale's division of Federated Department Stores.

[From Footwear News, Jan. 20, 1972]

BANKS RATE NE FIRMS A–1

(By Jack Shea)

BOSTON.—The New England footwear manufacturing industry has emerged from three very lean years in good financial shape. That's the opinion of bankers and financiers here, who are positively cheery about the industry—at least on a short-term basis.

They believe footwear companies have produced better managers; are well-financed, which aided the survivors when conditions were at their worst, and know their marketplace better, thanks to greater style involvement. Management has been improved in some cases by undergoing a baptism of fire and in others by adding new people.

At the First National Bank, which of the Boston banks is believed to have the largest number of shoe firms as clients, Henry Allen, vice-president, New England division, said, "I have only one client I'm worried about; a year ago I couldn't have said that."

Leon Bishop, vice-president of the New England Merchants National Bank, which is primarily financing men's businesses these days, told FN, "We are in good shape and most of our clients are unsecured." Unsecured creditors are considered financially stable enough to borrow without pledging physical assets.

Finance companies, too, like the shoe industry. At James Talcott, Inc.'s Boston office, Arthur V. Duffy, vice-president, predicted better days for the industry. He has not seen an influx of clients and explained that companies which have lost their image as "bankable" risks are Talcott's market.

Finance companies also service young companies struggling to become bankable—but there aren't many of them these days, either, he said.

Moneymen said that even in the hardest of times, profitable shoe firms had no trouble getting working capital at rates based on the particular situation.

Interviews with a cross-section of financiers unearthed only one case where a shoe man is getting prime rate. Mostly, conventional bankers begin at 1½–2 points above prime, and finance companies with unsecured accounts get 12–13 per cent or more.

According to Benjamin Bowden, senior vice-president at the First, part of the optimism is based on "the trouble imports have had recently with deliveries, and a style changeover." A problem with domestic makers in recent years has been "a lack of styling out of footwear, which is necessary, particularly in women's shoes, because shoes are not worn out, they pass out of fashion," he said.

The current situation is not without pitfalls, however.

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On secured loans, lenders will take 50–60 per cent of inventories, and 70–80 per cent, higher in some cases, of receivables as collateral.

As several lenders explained, the rash of closings in recent years has glutted the second-hand machinery market with many machine types. Thus the market value of that machinery is lower and less can be advanced against it.

Inventories also, are watched more closely. Stories are told here by rueful bankers who ended up owning stocks which style obsolescence had made unattractive in the wholesale market.

Most lenders relate loan transactions to individual applicants. "I want to know his track record, what he's got, where his market is and what he wants to do," said one.

A second phenomenon, and one, sources said, which demonstrates better management mettle, is a trend to longer collection periods and the response by makers.

Al Hermes, an analyst at Dun & Bradstreet's Boston office, told FN, "Collections have been sticky the past two years, beginning with the credit crunch. Using that as a crutch, many firms are now using their creditors to help finance their business."

Other lenders report a movement to 60-day payments, up from the conventional 30-day period. Others said suppliers and tanners are bearing the brunt of the "waiting game."

Import buying, generally done with money "up-front," together with the money crunch, has further drained retail pockets, thus adding to their liking for longer payment terms, bankers say.

Manufacturers are rising to it, several said. Duffy, at Talcott, said, "Managements now realize the importance of financial controls."

At Green Shoe Manufacturing Co., James Ridge, credit manager, confirmed that his company is taking a more active look at receivables. Several divisions have been computerized recently and a look at the receivables chart shows "we've remained about constant over the past year or

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Herbert Greif, president of the Geo. E. Keith Co., Brockton, Mass., said his company is also taking a more firm position on payments.

Asked to rate retailers as payers, most sources said independents are having the most difficult time paying and, while department stores get mixed reviews, virtually all said discount chains manage to work the maximum time limit from their customers.

There are reports, too, that chains will hold up payment on billing technicalities. One source cited a chain refusing payment on thousands of pairs until an invoice ambiguity involving 24 pairs was resolved.

Still others point to the necessity of complex forms for chains because of the volume and diversity of their buying. "The manufacturers must learn to conform to chain billing procedures," says Bowden at First National.

Despite these problems, manufacturers still like the chains because of the volume bought and because "you know the money is there, you know you are going to get it," said one women's novelty maker.

Inventory control is another area of better management control because manufacturers are learning to take the bit, bankers said.

Merchants' Bishop said, "The alert people always controlled inventories better. Some learned the hard way, but now most are aware of it.

"A man with a $40 retailer these days who doesn't sell it the first time around, is now selling it for what he can get, He may not make money on it, but he is at least getting rid of it," he said.

[From the Journal of Commerce, Mar. 3, 1972]

MULTILATERAL ECONOMIC PEACEKEEPING SYSTEM URGED BY NIXON TRADE AIDE

(By Muriel Allen)

WASHINGTON, March 2.—The world needs an international system for stabilizing economic and particularly trade relationships to contain conflicts—a multilateral economic peacekeeping apparatus.

This is the theme of a new book by Harald B. Malmgren, an adviser to President Nixon's special trade representative, William D. Eberle. As the Nixon Administration tentatively explores strategies for proposed 1973 economic negotiations with its major trading partners, Dr. Malmgren believes it is considering the broad gauge approach he recommends to give economic issues top priority in foreign policy.

Dr. Malmgren points out that President Nixon is emphasizing the need for the economic superpowers to enter into an era of economic negotiations equal to the Strategic Arms Limitation Talks (SALT) and other military defense bargaining. A major economic thrust could be launched in May when the President goes to the Russian summit meeting. A full range of trade and investment issues could be raised at that time, Dr. Malmgren believes.

1973 TALKS

The 1973 talks will represent a breakthrough because the Common Market has agreed for the first time to work on agricultural and industrial issues concurrently.

Noting that there are few proposals on how to reform the world trading system, Dr. Malmgren discusses three major areas for negotiation in his book, "International Economic Peacekeeping in Phase II." These are nontariff barriers, tariffs, and the need for a safeguard system "to get people in sensitive industries to go along" with movements toward freer trade.

What can the U.S. Government do to modernize domestic and international economic

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policies? Dr. Malmgren argues for a "strong, but very small, staff on the Council on International Economic Policy, the director of which is equal with the director of the National Security Council staff. This group should perform all of the functions required by the President."

The State Department "should be restructured gradually to place functional bureaus above regional bureaus," the book says, and the economic area staffed with a mixture of foreign service officers and civil servants not permanently attached to state, serving the secretary directly.

In handling all matters under international negotiations, the Commerce Department should establish a close working relationship with industry. The Agriculture Department should strengthen relations with farm organizations through a consultative committee.

The Labor Department should appoint an advisory board on world economic policy. These actions would leave the White House free to consider "only the most heated political issues directly," Dr. Malmgren reasons. The staff director of the Economic Policy Council should work directly with the Congress to eliminate current poor coordination between the legislative branch and departments.

Economics should be given "a far higher priority" in terms of time and staffing so that the President and secretary of state are better briefed on relationships between economic, security, and political issues in foreign policy, Dr. Malmgren suggests.

The executive branch could make a major bipartisan effort to secure congressional support for a joint resolution to assist the White House to work out necessary economic long-range reforms, Dr. Malmgren said at a news briefing on his proposals. This would build up confidence at home and in other countries in the U.S. Government's determination to avoid patchwork solutions.

If this country continues a piecemeal approach to monetary crises or trade conflicts, "businessmen as well as governments would continue to be walking through a minefield" threatened by economic explosions, the author warned.

Japan, Europe, Canada and the U.S. "have to be drawn together and enmeshed in multilateral discussions on all economic problems . . ." although implementing reforms "will be a politically painful course. It can only be accomplished if politicians see that they must play a major supporting role."

This will require changes in previously sacrosanct national economic policies, especially agriculture, Dr. Malmgren said.

Economists agree the recent monetary crisis means that the broken down international economic system has to be replaced. Dr. Malmgren believes officials in key capitals are close to consensus on how to reconstruct that system. He emphasizes that trade liberalization alone will not be meaningful, and that work on lessening industrial and agricultural trade barriers must parallel monetary reform.

Dr. Malmgren points out that there will always be quotas to protect sensitive industries and that government's will never completely stop intervening in trade matters because of political considerations.

But the economist stresses the crucial importance of a new strategy for nontariff barriers into which nations policy decisions would be fitted. . . .

[From the Journal of Commerce, Jan. 4, 1972]

U.S. PHOSPHATE ROCK PRODUCERS UNITE TO EXPAND EXPORT FIRM PRICES

(By Al Wyss)

Faced with intense competition both in this country and overseas, a number of major United States producers of phosphate rock are taking steps to act as a combined force to hold and expand export markets and to obtain better prices.

Under the Webb-Pomerene Act, five major U.S. producers, accounting for about three-fourths of U.S. exports, are negotiating all export contracts as a group through the recently formed Phosphate Rock Export Association (Phosrock). The companies belonging to Phosrock—namely American Cyanamid, Conoco, W. R. Grace, International Minerals & Chemical Corp. and Occidental Chemical Co.—expect to reap a number of advantages from their association, including reduced marketing expenses, bigger export volume, lower freight rates and better, or higher, prices because of increased negotiating or bargaining strength.

Exports of Florida phosphate rock are estimated to have totaled over 12 million tons in 1971, valued at about $88 million.

An export association has been critically needed by the U.S. industry, a leading supplier in world markets, second only to Morocco. Competition in the U.S. for the last several years has been severe, fed to a great extent by overproduction and overcapacity, with the result that export prices have come down sharply as the various U.S. producers continually cut prices in order to take business away from one another. As a result prices of the 10 to 12 million tons of phosphate rock exported in recent years came down from about $7.00 a ton in 1968 to a little over $5.00 per short ton, f.o.b. mine, in the past year.

OVERSEAS COMPETITION

Moreover, competition from overseas phosphate rock producers has been tough and is likely to get tougher as production is expanded and new production comes on stream, such as in the Spanish Sahara.

Despite this increasing foreign production, phosphate rock produced in Florida, which accounts with North Carolina for about 83 per cent of U.S. output and most of this country's exports, is still one of the best lowest cost sources in the world for this raw material. Most of the phosphate rock produced in Florida is used in fertilizers.

Production of all marketable phosphate rock in the U.S. in 1971 totaled about 38.0 million short tons valued at $203.7 million. Exports of Florida phosphate rock as reported by the Bureau of Mines for the first nine months of 1971 were approximately 9.2 million tons valued at $66.1 million. Shipments were made to 32 countries with Japan, Canada, West Germany, and Italy receiving 57 per cent of the total.

The newly formed and still not fully organized association already has achieved encouraging results by negotiating big contract sales at prices which show a better return. A sales contract was negotiated for the shipment of substantial tonnage of Florida phosphate rock to Latin America. Even more recently, a contract was negotiated by Phosrock calling for increased tonnage to Europe.

In negotiating such contracts, Phosrock is attempting to restore all or at least some of the price cuts which took place in recent years because the level to which prices sank showed a very low return and for some producers a loss.

William W. Chadwick, president and chief executive officer of Phosrock, pointed out that the association is just getting organized. Although it was technically organized about a year ago, it only started marketing operations after Conoco joined the group last July. It is expected that Phosrock will be fully staffed and organized by next July.

Mr. Chadwick, who is on loan from International Minerals & Chemical and has had extensive experience in export sales of phosphate rock, will set up headquarters at Tampa, Fla.

Aside from the elimination of price-eroding competition among the five U.S. producers, Phosrock will improve profit margins for the firms involved by combining overseas marketing activities, Mr. Chadwick pointed out. The association also is expected to secure better freight rates because of the more substantial volume handled by Phosrock, making it a more important customer to ship lines.

The association will be able to offer a much larger and varied line of phosphate rock grades for overseas customers.

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The big problem the years ahead will involve rising world production as output is expanded and new mines come on stream. One of the biggest new suppliers will be the Spanish Sahara which is expected to come on stream within the next few years, with an initial production of about 3 million tons, still relatively modest compared to the U.S.

Production in the Spanish Sahara, however, is expected to rise to about 10 million tons in the following several years. In addition, expansions are planned by Russia, Tunis, Egypt, Israel, Algeria and other countries. Some of these are relatively small individually but in the aggregate the increased output could have an adverse impact on world markets and prices.

As one industry official recently said: "If an industry ever needed an export association this one really does."

An adverse impact upon the competitive position of the Florida industry in the world market place also is expected to result from the State of Florida's mineral severance tax which took effect July 1, 1971. This tax will be 3 per cent on the mineral value through 1973, going to 4 per cent through 1975 and to 5 per cent thereafter. A tax credit, not to exceed 25 per cent of the tax paid, will be allowed for reclaiming mined out areas and current mining areas.

Phosrock will, moreover, be in a more advantageous position to meet intensifying competition from foreign producers which is likely to develop as mines and production in other countries are expanded and new mines come on stream.

Mr. Chadwick points out that U.S. producers could face serious problems in the future because of the nature of overseas competition. Practically all overseas production is either government-controlled or owned jointly by governments. Frequently, such suppliers will sell in world markets for badly needed foreign exchange or political reasons, regardless of the profit or economic factors involved.

On the other hand, it is also to the advantage of such producers to obtain as good a price as possible for their product to build foreign exchange.

Major producer and exporter is Morocco which has a definite advantage in selling to European markets because of the freight rate differential.

The U.S. industry, however, does have a number of plus factors working for it, including its efficient low cost production and the high quality and variety of its product. In some countries quality is relatively poor and deposits meager.

And more recently, supply and demand in the U.S. appears to be coming into better balance, following a number of years of excess capacity.

[From the Journal of Commerce, Jan. 5, 1972]

ON THE RIGHT TRACK

Those in and out of the government who are seeking ways and means of increasing American exports could do worse than study what five major producers of phosphate rock are doing to accomplish that very thing on their own hook. They are taking advantage of the little-used Webb Pomerene Act to establish a joint force in the export field.

An article by Al Wyss in this newspaper yesterday explained how and why this action is being taken. As an export product, Florida phosphate rock has been encountering bruising competition from that of Morocco and soon will face more from sources in the Spanish Sahara. Prices have been forced down to a level that makes it very difficult to market U.S. phosphate rock in Europe by traditional means, especially when the relatively high costs of shipping that commodity across the Atlantic are taken into account.

What the producers felt they needed was a single organization that could negotiate with foreign buyers, with overseas ship operators and reduce export prices by paring their marketing costs. No two or more of the five companies are allowed by the antitrust laws to agree on prices and trade practices with respect to sales in the domestic market. But the Webb-Pomerene Act permits them to do so with respect to foreign sales so long as their organization is properly registered with the Department of Justice and provides the government with regular reports on its activities.

There is, however, something curious about the Webb-Pomerene Act and the uses to which it has been put. It was passed just after the First World War as a means of enabling American exporters to meet the competition they had previously experienced and expected to experience again from the large cartels of Great Britain, Continental Europe and Japan.

So this statute—a relatively simple affair as antitrust legislation goes—has been in effect for more than 50 years. In some lines of business export associations have formed under its protection and functioned for varying periods, one of them involving lumber and another plywood. But most of the participants in these associations have been relatively small companies. The larger forms of business enterprise have tended to shun Webb Pomerene. They have done so for what strikes them as a good reason.

The Justice Department's Antitrust Division has never had much enthusiasm for exemptions from antitrust prosecution contained in various federal laws (the Interstate Commerce and Civil Aeronautics acts provide other examples), and in the years following the Second World War let it be known on several occasions that not only was it less than enthusiastic about Pomerene, it thought it should be repealed. Without ever saying so directly, the department managed to convey to all who would listen the dark suspicion that any firms in the same line of business who got together on export prices and practices would simultaneously seize the opportunity to discuss the same subjects in relation to the domestic market.

This message was not lost on the nation's major exporters. They read it as meaning that those who grouped together in export associations, no matter how legal, could expect to find their activities at home subjected to very severe scrutiny indeed. Even a firm doing its utmost to comply with every stricture of the antitrust laws tends to avoid this kind of inspection, if possible. After all, it can always make mistakes. So can the Department of Justice. Why court harassment unnecessarily when in most cases the export business at stake is only a fraction of the business generated by the big home market?

Why indeed? But there are circumstances under which a more general resort to Webb Pomerene might develop. The stage would be set for this if the department would indicate that it is now taking a more relaxed view of these matters and that a company joining in a Webb Pomerene export association won't find itself automatically made the object of the department's deepest suspicions and probes.

Will that be the case? Some of the members of the new Phosphate Rock Export Association are highly visible on the American business landscape: American Cyanamid, Conoco and W. R. Grace. These are not small business firms in any sense of the word and the assumption must be that they are going into their Webb Pomerene venture with their eyes open. If their operations prove a success we wouldn't be surprised to find that they will have emulators. But much, as we say, will depend on the attitudes of the Department of Justice.

Everyone knows that the United States must find some way of increasing its exports if it is to clear up its balance of payments deficits by means that won't court another depression. The President has already made one key move in this direction by devaluing the dollar. A greater resort to Webb Pomerene export associations could provide another. It won't work miracles, but it would make more sense to us than some of the other incentives we have heard proposed—among them the use of export subsidies.

IMPROVED WORLD TRADE POSITION FORESEEN FOR METRIC AMERICA

MARCH 16, 1972.—Today in Washington Rep. Sam Gibbons (D-Fla.) called for an end to bushels and pecks. "The metric system is just plain common sense," said Gibbons. "We are handicapping ourselves economically by clinging to what were originally only makeshift units of measurement."

Gibbons has just introduced legislation to establish a national policy relating to conversion to the metric system over a ten-year period. "Americans have been dragging their feet on this issue since the days of John Quincy Adams," Gibbons pointed out. "We must take action now.

"Our balance of trade has taken a disastrous turn for the worse," Gibbons continued. "Metrication will improve our world trade position by increasing our competitiveness in two ways. First, our products will be more acceptable in foreign markets if they are made to generally recognized standards and measurements. Our export market is almost totally metric. Second, using the metric system would improve productivity at home, many businessmen believe.

"Even more important than improving our trade position is preventing it from deteriorating," Gibbons went on. "We must act now to make sure that we are not left out of international negotiations to establish world-wide standards. It is estimated that within 10 years a complete set of product standards will be agreed upon. U.S. standards are unquestionably superior in many, many areas.

"But if we don't speak the common international language, metric units, we will be unable to fight for international adoption of our standards. They will be set in our absence.

"The question is not whether the U.S. will go metric, but how and when. We are already partly on the metric system. In 1970, 10% of manufacturing in the U.S. was carried out by firms employing metric standards to some extent, and the percentage has increased since then. Over 90% of producers in both manufacturing and nonmanufacturing industries questioned in an exhaustive Department of Commerce study expressed themselves in favor of conversion to metric units. The cost should be low: the pharmaceutical industry, for instance, which has already converted reported the total cost as 0.05 of 1% of value added by manufacture. We must establish a national coordinated policy framework to facilitate our producers' changeover.

"The U.S. has been debating the pros and cons of metrication for 200 years," Gibbons concluded. "Meanwhile, the issue has been decided throughout the world. Today the U.S. is the only major trading nation with no official commitment to the metric system. Surely it is time to conclude our lengthy deliberations, to unite production in this country in a single system of measurements, and to move at once towards a metric internationally competitive America.

Mr. CULVER. Mr. Speaker, I welcome this opportunity to join the dialog on "Constructive Alternatives to Protectionism." This is a matter of central concern to the Congress and more specifically to the Foreign Affairs Subcommittee on Foreign Economic Policy. I should like to take this opportunity to acquaint Members with an initiative we are taking in this field. On March 1 of this year I introduced with 80 cosponsors a concurrent resolution on the subject of trade adjustment assistance in relation to our foreign economic policy. This resolution (H. Con. Res. 546–549) has been referred to my subcommittee and will form the foundation for informational hearings starting April 24. At a later date we will release further details on these hearings, including the scope and nature of the questions on which we will be seeking testimony. At this time I would like to review the background against which the resolution has been introduced.

Mr. Speaker, many Members of this House and of the other body have expressed concern in recent months about foreign trade disadvantages being experienced by American firms and workers. Some have pointed to unfair trade practices engaged in by foreign companies and governments, which have gone unchallenged by the Executive. Others have suggested that root difficulties are to be found in our domestic economy, through lack of vigorous competition and declining innovation and productivity. A major debate is shaping up on the degree of trade expansion we need or can afford, and how best to promote the interests of industry and labor and the consumer. There is dispute in Congress—as there is among the affected groups, both about the facts of the matter and about their significance.

But there are a few facts on which a substantial consensus does appear to be emerging. One is that the concerns being voiced by labor and management in the affected sectors of our economy are real concerns, and cannot be ignored or swept away by resort to conceptual slogans, whether of "free trade" or "protectionism." Another is that at least one of the remedial concepts to which we have paid lipservice, and partially embodied in legislation—namely, trade adjustment assistance—has been employed so ineffectively and inadequately in practice as never to have been given a meaningful test. Still a third fact which few deny is that to the extent the United States reacts unilaterally in the world arena to trade problems and stresses, we risk incurring political losses so serious as to endanger our country's security and well-being.

These at least are among the tentative conclusions derived from a series of hearings held last year by the Foreign Affairs Subcommittee on Foreign Economic Policy, which I chair. We examined successively the economic impact of enlargement of the European Common Market; the international implications of President Nixon's new economic pol-

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icy; and the state of our politico-economic relationships with our two major trading partners, Canada and Japan.

Our own efforts with regard to internal conversion assistance as a constructive alternative to aggressive mercantilist practices or protectionism dating back to the 1962 Trade Expansion Act, are virtually stillborn. The criteria used for adjustment assistance have been so difficult to meet—on occasion even self-contradictory—and the procedures so cumbersome that in the past decade only two firms have ever received any substantial assistance from the Government. I ask leave to have reproduced at the close of my remarks an article from the Wall Street Journal of December 8, 1971, entitled "Promises, Promises," which documents the failings of this program.

Nor does the record of the European Common Market to date seem very much better. Regional and social assistance were included as goals of the Rome Treaty, and funds have been allocated for relief of distress in the coal and textile industries—which have declined in employment by roughly 50 and 25 percent, respectively, since adoption of that treaty. But the level and sophistication of assistance have been nowhere near adequate, it appears, to relieve chronic underemployment in regions like southern Italy, and the outlay for economic conversion has been totally dwarfed by expenditures to subsidize inefficient farming operations under the community's common agricultural policy.

Thus, both domestically and internationally, there appears to be a pressing need for examination of workable schemes for economic conversion as an alternative to destructive trade wars. If our farmers and coal producers are more efficient than those in Europe and Japan, that efficiency should be recognized in access to export markets. By the same token, if firms and workers in other sectors of our economy fall behind their foreign competitors in efficiency, they should have available to them a meaningful and effective array of alternative investment and employment opportunities.

Mr. Speaker, I am not so naive as to expect that economic conversion assistance alone can prove a panacea to all our trade problems and perplexities. Other remedies, both bilateral and multilateral, will no doubt have to be employed from time to time, at least in the short term, to counter genuinely unfair practices by foreign governments and industries. We do not in fact know how much help we can expect from a workable economic conversion program, because we have never had one. Nor do we know how much of our economic conversion needs are attributable to trade pressures, as opposed to other factors operating within our domestic internal economy such as shifting technology and changes in the priorities of Government programs. We do or should know that our country and its constituents—workers, investors, and consumers—along with the peoples and governments of other friendly lands, would be better off if we had answers to these questions.

It is to stimulate the exploration for those answers that I have introduced, in company with 80 cosponsors, a concurrent resolution expressing the sense of the Congress regarding the importance to our foreign policy of devising effective measures of trade adjustment assistance. With leave, I ask that the text of this resolution together with the names of the cosponsors be printed at the close of my remarks. I must say that I have been very gratified by the depth and breadth of support from my fellow Members for this initiative—extending as it does to representatives of both parties from all regions of the country. It seems obvious that we share a conviction about the importance of examining this subject.

And 1972 is the year in which to do that. Discussions among governments are now underway to prepare for a possible new round of multilateral trade negotiations to commence next year. This year is also scheduled to witness the completion of the ratification process for enlargement of the Common Market. And the executive has let it be known that it plans to submit no new trade legislation to the Congress this year. We can thus use this year to lay a solid informational and analytical foundation for the legislative consideration that is bound to be called for in 1973. In that context, I am hopeful that the concurrent resolution we have introduced will be both useful and pertinent.

H. Con. Res. 546

Concurrent resolution expressing the sense of the Congress regarding steps to strengthen the foreign policy of the United States through measures relating to the domestic economy.

Whereas, in an increasingly interdependent world no longer dominated by the actions or authority of a few superpowers, the United States needs a foreign policy that will foster sustained, effective, and consistent relationships with other countries, based on sober assessments of long-term mutuality of interests; and

Whereas an international economic posture for the United States that looks beyond immediate issues to a workable pattern of worldwide fiscal trade, and investment cooperation is essential to such a foreign policy; and

Whereas the ability of the United States to maintain an effective, long-range, and consistent foreign policy has been and remains periodically subject to disruption as a result of stresses felt by various sectors of the United States economy from foreign trade disadvantages; and

Whereas the experience of other nations in pursuing adjustment policies and devising mechanisms to deal effectively with similar stresses and dislocations may have pertinence for appropriate United States policy in this field; and

Whereas presently available means of adapting the United States economy to such stresses have been ineffective and inadequate and are in need of reexamination: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that domestic policies which promote the economic strength of the United States are a necessary prerequisite to the effective implementation of a consistent and constructive foreign policy in the 1970's and beyond; and that the United States Government should exert every effort to examine and prepare workable, responsible, and efficient measures to promote the legitimate interests of American workingmen, consumers, investors, and business in order to be able to carry out a foreign policy which will promote the national interest and the achievement of balanced and stable world relationships.

Promises, Promises: Firms Hurt by Imports, Assured of Help in 1962, Find It Tough To Get—So Far, Only Two Recipients Win Federal Aid Intended To Encourage Free Trade—The Plastic Piano Sits Silent

(By John Pierson)

Washington.—At stake, it would seem, is peace, prosperity, free trade and nothing less than the future of the plastic piano.

You see, Estey Piano Co. of Union, N.J., and Bluffton, Ind., has been badly hurt because the government agreed to lower the tariff that kept the price of foreign-made pianos high. So the government agreed to help Estey design a less expensive plastic model, which would make the company competitive again, to help keep Estey in business until the new piano was ready and then to help produce it.

Now, after a considerable outlay of time and money all around, the government has changed its mind. Estey has laid off its 100 workers and put its factory—situated in Indiana—up for sale. (There's only an office in New Jersey.) The fate of the plastic piano is in doubt. Says Estey President Robert Mehlin, whose family has been making pianos for six generations: "We have been very seriously injured by this whole thing."

What has happened to Estey is symptomatic of what has happened to a program enacted nine years ago that was supposed to be free trade's answer to protectionism. Let us cut tariffs, free-traders told business and labor, and we'll help you adjust to the inevitable flood of imports. For workers, the help was to come in the form of extra unemployment benefits, retraining and relocation money. For companies, the law specified loans, technical advice and tax breaks to help them modernize present product lines or move into new ones.

ONLY TWO GOT HELP

Nearly a decade after enactment of the Trade Expansion Act of 1962, U.S. imports have doubled, thousands of workers have lost their jobs and hundreds of companies have been hurt. While many workers have been getting benefits, only two companies—a shoe manufacturer and a producer of barber chairs—have received any substantial assistance from the government. Another shoe company has been told it will get help.

This failure of the government to make good on its promise to business can only swell pressure for new protectionist moves, free trade advocates fear. This year the Nixon administration has imposed a 10% import surcharge and has won an agreement limiting Asian shipments of synthetic and woolen textiles—atop earlier restrictions on cotton textiles and steel. If new U.S. import restraints should follow, free traders foresee higher prices for American consumers and added bitterness between the U.S. and its trading partners.

For the first seven years after Congress passed the law, the Tariff Commission was the villain of the piece. From October 1962 to October 1969, 13 industries, eight individual companies and six groups of workers asked for help but were turned down by the commission. In November 1969, after a change in membership, the commission began interpreting the law less strictly; it ruled that the piano industry had been injured by imports resulting from tariff cuts.

Since then, two other industries (flat glass and barber chairs), 17 individual companies and 64 worker groups have passed the injury test, either through yes votes of the commission or through tie votes that President Nixon has broken in favor of assistance. The latest to qualify are Bibb Manufacturing Co., a textile maker based in Macon, Ga., and 1,000 of its workers and former workers.

SO WHAT HAPPENED TO ESTEY?

The Labor Department has certified some 20,000 workers for extra unemployment benefits. But of the 18 injured companies that so far have applied to the Commerce Department for relief, one has been denied help, two have received loans, one has been promised a loan and 13 applications are pending; Estey, which once was authorized by the Commerce Department to obtain a loan, is getting only technical assistance.

Here's what happened to Estey.

In February 1970, two months after the Tariff Commission ruled that the piano industry was injured, President Nixon gave piano makers temporary "escape clause" relief from tariff cuts and made them eligible to seek adjustment assistance.

In March 1970, Estey asked the Commerce Department for permission to apply for help: In June 1970, after determining that Estey was indeed among the injured of the industry, Commerce Secretary Maurice Stans declared the company could submit an aid proposal.

During the next nine months, Estey, the department, a management consultant hired by it, and the Small Business Administration worked out a package that included a $90,000 grant and a $2.6 million loan. The grant was technical assistance for building a prototype plastic piano and for a study to make sure there was a market for the new product. The loan was for paying off Estey's prior creditors, financing continued production of wood pianos until the plastic one was ready and building a new plant.

BIG PLAY FOR STORY

Last March, Secretary Stans certified that Estey's proposal was "reasonably calculated materially to contribute to the economic adjustment of the firm" and "authorized" the grant and loan. A Commerce Department press release heralded Mr. Stans' action. Newspapers in New Jersey and Indiana gave the story big play.

In April, Edward Killam, then director of the department's trade adjustment assistance division, wrote Estey's creditors that the government money "will be available to liquidate obligations of the firm . . . including any obligations which may exist to you."

Under the law, once he has certified a company's adjustment assistance proposal, the Secretary of Commerce first asks the Small Business Administration if it wants to make the loan and the Economic Development Administration if it wants to make the grant. If either agency says "no," then the Secretary "may" provide the help himself.

In May, the EDA said it was willing to give Estey $90,000 for the prototype piano and the market study. Then things began falling apart.

In July the SBA said it was "deferring" action on Estey's loan. Until the prototype and the study were successfully done, the SBA said, there was no "reasonable assurance"—as required by the law—that Estey could repay the government. Commerce Department sources suspect that the SBA simply preferred to have the department risk its own money.

Meanwhile, Mr. Killam had been replaced as director of trade adjustment assistance by Lewis Kaufman, former Los Angeles partner of Goldman, Sachs & Co., an investment firm. Mr. Kaufman viewed the program somewhat differently from Mr. Killam. For example, he felt that no funds should go to pay off prior creditors. As he saw it, the program was meant "for the economic adjustment of firms, not as a creditors' relief act."

Bothering Mr. Kaufman, too, was the fact that some of Estey's creditors were also principal stockholders. Although Estey's proposal stipulated that the stockholders would wait for their money until the government got its money back, Mr. Kaufman says he still worried that the loan would go to "bailing out" stockholders rather than revitalizing Estey.

So despite Mr. Stans' March authorization, despite the Commerce Department's press release, despite Mr. Killam's letters to banks and other creditors, the department joined the SBA in deferring action on the $2.6 million loan.

And in September, it refused a request from Estey for enough money to keep going until the prototype was built and the market study completed early in 1972.

Late in September, Mr. Mehlin told a Senate Commerce subcommittee that the department had a right to change its mind about the program, but he argued that once Secretary Stans had approved Estey's proposal, "he should certainly live up to that commitment."

Harold Scott, Assistant Secretary of Commerce for domestic and international business, called the Estey case "unfortunate." According to Mr. Scott, trade adjustment assistance had "languished as a relatively inactive feature" of his department, handled mainly "at the staff level."

FROM CHAIRS TO CABINETS

Mr. Mehlin said he was closing his plant in Bluffton and laying off his 100 workers, many of them experts who would be hard to replace if and when the plastic piano went into production. But he now says he'll try to persuade his creditors to hold off and not force Estey into bankruptcy. With the help of the EDA's $90,000 grant, he's going ahead with the prototype and the market study. He still believes that the new piano has "terrific" potential, and he hopes, one way or another, to prove it.

While Estey was having its ups and downs, 17 other companies were applying for help in adjusting to imports. Two have received it.

In September 1970, the BSA loaned $2 million and guaranteed a private loan of another $2.1 million to Emil J. Paidar Co. of Chicago, a maker of barber chairs. The loans were to help Paidar diversify for moving into production of dental cabinets, too. The EDA has provided $22,000 of technical assistance.

Paidar used the loans to begin work on a new plant, but Paidar President John Dlouhy says he now wants to sell the new plant and acquire another company that makes dental cabinets. So he's asking Commerce for an additional $3 million.

And early this year, the SBA loaned $1.4 million to Benson Shoe Co. of Lynn, Mass. The EDA provided $200,000 of technical assistance, and the Commerce Department gave tax aid in the form of an extra two years of net operating loss carryback.

VARIOUS STAGES OF SUSPENSE

Benson President Phillip Kaplan says government aid has allowed him to reorganize management, production and sales methods. Volume has doubled with only 20% more help. "To us the program has been good," says Mr. Kaplan.

Both these loans included funds to pay off creditors, a standard SBA practice. Both were made before the Commerce Department got adjustment assistance money of its own. Thus, the SBA had to decide the issue for itself, unlike in the Estey case.

Now that it has its own money, the Commerce Department has just agreed to lend $662,000 to help breathe new life into Louis Shoe Co. of Amesbury, Mass. The EDA will kick in $100,000 of technical aid.

Meanwhile, 13 other companies are in various stages of suspense. Some submitted their aid proposals months ago and are waiting anxiously for a response. "I just hope they can get us the assistance in time," says Victor Pomper, president of H. H. Scott Inc., a Maynard, Mass., producer of hi-fi equipment.

A few companies have gotten past the Tariff Commission but are still waiting for Commerce Department permission to apply for help. Robert Bretzfelder, president of Krakauer Brothers, a New York City piano maker, says that every time he sends department officials some figures to prove that his company has been injured, "they ask for more figures." This has been going on for half a year. "If a company was really on the brink of going out of business and had to wait this long, they'd be out of business," he says.

Commerce officials deny it, but these delays may have had something to do with the resignation last month of Mr. Kaufman, the adjustment assistance director. "There have been some suggestions that things happen faster," Mr. Kaufman concedes. "Maybe my problem is that I'm used to dealing with large, successful companies and not with small, unsuccessful ones."

But clearly there are other obstacles to winning trade adjustment assistance. The requirements for proving injury are so tightly written that few companies to begin with get by the Tariff Commission. After that, the procedure for getting help is so complicated that only a few have received it. Division of the authority for dispensing aid permits apparent buck-passing, as in the Estey case.

There may be a basic inconsistency in the law's requirements that companies must be "seriously" injured to be eligible for help and give "reasonable assurance" of repayment. By allowing companies working capital to pay creditors and meet other current expenses only in "exceptional" cases, the law holds little hope for firms like Estey that are on the brink of ruin.

Recently, President Nixon's Commission on International Trade and Investment Policy recommended a number of reforms in adjustment assistance. Among other things, it said one agency should be responsible for operating the program and there should be easier loan terms. Going further, it is urged the government to anticipate import adjustment problems and identify industries most likely to be hurt.

List of Cosponsors

James Abourezk (S. Dak.).
Bella Abzug (N.Y.).
Brock Adams (Wash.).
John B. Anderson (Ill.) R.
Thomas Ashley (Ohio).
Les Aspin (Wis.).
Nick Begich (Alaska).
Jonathan Bingham (N.Y.).
Edward Boland (Mass.).
Richard Bolling (Mo.).
John Brademas (Ind.).
Jack Brooks (Tex.).
Herbert Burke (Fla.) R.
Phillip Burton (Calif.).
James Corman (Calif.).
John Davis (Ga.).
Ronald Dellums (Calif.).
Edward Derwinski (Ill.) R.
John Dow (N.Y.).
Robert Drinan (Mass.).
Pierre du Pont (Del.).
Don Edwards (Calif.).
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Dante Fascell (Fla.).
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William Ford (Mich.).
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Peter Frelinghuysen (N.J.) R.
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Joseph Karth (Minn.).
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Arthur Link (N. Dak.).
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Spark Matsunaga (Hawaii).
Lloyd Meeds (Wash.).
Abner Mikva (Ill.).
Patsy Mink (Hawaii.).
William Moorhead (Pa.).
Bradford Morse (Mass.) R.
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John Moss (Calif.).
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James Symington (Mo.).
Frank Thompson (N.J.).
Morris Udall (Ariz.).
Jerome Waldie (Calif.).
Charles Whalen, Jr. (Ohio) R.
Lester Wolff (N.Y.).
Sidney Yates (Ill.).
Gus Yatron (Pa.).
Clement Zablocki (Wis.).
John Zwach (Minn.) R.

Mr. FRENZEL. Mr. Speaker, in the year immediately following World War II, the U.S. dominance of international trade was almost total. Ours was the only significant industrial complex which emerged from that war that was not only intact, but improved. So strong was our economy, and thus our currency, that at the Bretton Woods Conference the dollar became the standard of international exchange.

During the immediate postwar period, U.S. technology and production facilities were so superior that other nations were forced to establish restrictive barriers in the form of tariffs, quotas and other types of limitations in order to allow their own domestic industries to grow. Their products and services needed protection before they could become competitive. If not actually encouraging these barriers, the United States did little to prevent them from being established.

Since the end of the war, in the intervening 25 years, our economic and trade dominance has declined. Some of the reasons are that the European and Japanese economies have revived, that the technologies of other nations have caught up, that the policy of establishing trade restrictions, both tariff and nontariff, was expanded, that our burden of international defense spending did not shift in proportion to the increasing economic viability of other nations and, perhaps most of all, that our Government and our people remained largely passive in the highly competitive international trading game. Our decline was such that in 1971, for the first time in my lifetime, and in that of most of the Members here, our country showed a negative balance of trade.

We will never again, and perhaps never want to, regain the international economic dominance which we enjoyed 20 years ago, but there are steps we can take to improve our lagging international stature.

In recent weeks we have heard much discussion on the merits of protective legislation, specifically the Investment Act of 1972, more commonly known as the Burke-Hartke bill. This legislation is well intended, and perhaps in the short run might be helpful. But the long-term effect of establishing rigid barriers for further imports and limiting U.S. participation in foreign markets will undoubtedly eliminate many more jobs and further our relative economic decline.

There are many alternatives to protectionism. Some changes can be effected which will allow for an immediate improvement in our international trade balance. Important negotiating strides have been made toward reduction of certain of the quantitative barriers which the European Community has imposed on agricultural products and other products as soybeans, oranges, juices, and arrangement with Japan for such products as soybeans, oranges, juices and quality beef. Additionally, the United States and the European Community have communicated to the Director General of GATT their desires to review and to negotiate improvements in all areas of international trade. The stated desires for cooperation will hopefully bring more favorable trade arrangements for U.S. producers which in turn will create more job opportunities for U.S. citizens. Had the Congress expressed a strong desire for more restrictive trade regulations, we undoubtedly would not have been able to negotiate favorably with any other nation in the world.

Though there are some offices, and certain individuals in our Federal Government, who are actively working toward a more favorable export climate, many exporters still find resistance within our own Government, particularly in trade relations with the Eastern European nations. The only large trade market in the world which has not been fully tapped is the Eastern European market.

Though the 1969 Export Administration Act eliminated some of the barriers, Commerce Department approval for sales in eastern Europe is laboriously slow. Commerce ought to be seeking advice from appropriate elements of government when authorizing such sales, but the ad hoc, poorly structured nature of the Interagency Committee, which reviews these contract proposals, has proven to be cumbersome and in many cases have placed U.S. manufacturers at a serious competitive disadvantage. I represent an area which includes several of the major computer products manufacturers. The continuing cutbacks in aerospace and defense have limited the existing domestic markets for these firms and have limited their ability to concentrate funding on important research and development. By opening the eastern European nations for the sale of nonstrategic equipment, without transfering any of the basic technology, the vigor of a domestic industry and the availability of U.S. jobs have been further enhanced.

In the past few months I have been made aware of two instances where producers of computer products have been able to find markets in east Europe nations and have eventually been given Commerce Department clearance, but not before being delayed for what I feel was an undue amount of time. The delay in both instances jeopardized the sale for which both Japanese and British manufacturers were also bidding. I would urge that the Commerce Department review, with the intent of streamlining the procedures by which these approvals can be granted.

If the Burke-Hartke bill has a strength, it is the desire to tighten the restrictions on dumping and on the countervailing duties. While the United States may never match some of its foreign competitors in the types of financial and promotional assistance it provides for exporters, we can at least work to eliminate many of the anticompetitive actions of foreign governments which allow their manufacturers to undercut the prices of domestic products, which force American producers to either produce cheaper goods or get out of the market.

I would also urge a greater use of adjustment assistance for the domestic industries and firms which are put at a competitive disadvantage with foreign competitors. Though Commerce now has the statutory authority to provide this assistance, it has been reluctant to exercise this authority. This inaction has caused the affected industries to further retrench and has strengthened the cause of protectionism. While every U.S. citizen should feel that he has a right to a job if he is actively seeking work, we do not necessarily have the legislation to provide him with a job in the same industry which provided jobs for his father and grandfather. If the United States is to regain its technological superiority and thus preserve a vibrant economy and job climate, it is vital that our energies and resources be committed to new and innovative ideas and industries.

One of the unfortunate fallacies which has arisen from the current debate is the theory that the multinational firms have been exporting jobs as they have established facilities abroad. While there may be instances of jobs which have gone abroad, the evidence which I have seen has conclusively proved that the multinational firms have produced many more U.S. jobs which are dependent on their foreign activities. If protectionist legislation is passed, I am confident that many of the multinational firms will be forced into flight from the United States and the job availability in this Nation will be further weakened.

The Congress should fully consider any legislation which would affect our foreign trade. In my judgment, we will err grevi-ously if we attempt to preserve the product mix, the trade balance and the trade partners which typified our international involvement in the decade of the sixties. By such action we will lose forever the ability to ever again compete on equal terms in international markets.

We must demand equality from our trading partners, assistance from our Government, better technology from our trading companies and improved productivity from our work force. Our long-term well being depends in part on our ability to compete internationally. Protectionism only means we have resigned from international competition.

Mr. FRASER. Mr. Speaker, there is increasing concern over the continuing, chronic high rate of unemployment in the United States today. Roughly 5½ million people are out of work. Ten years ago, during the last period of high unemployment in our country, the scapegoat was automation. Today it is rising imports and the growth of multinational corporations. The unemployment situation improved in the sixties, without adoption of any of the then popular proposals to restrict automation. It improved because of expansionary Federal fiscal and monetary policies. If jobs are to be found for all, similar policies are needed today, combined with effective anti-inflation measures. We must not repeat the fatal error of Smoot-Hawley, an error that helped precipitate the Great Depression. The proffered cure of import quotas and restrictions on overseas investments could be disastrous. We must keep international trade channels open—remove restrictions, not impose new ones.

Only a tiny percentage of the 2 million persons who were put out of work last year lost their jobs because of foreign competition. But whatever the cause, we must do something to help these unfortunate people over the difficult transition period of retraining for a new job and possible transfer to a new locality. Ideally, we should do something to help all displaced workers, no matter what the source of their unemployment. However, sometimes we have no choice but to approach problems piecemeal. Because our past trade adjustment assistance program has proved of little help to workers who have sorely needed that help, I would like to discuss today a new, effective program that could aid workers and at the same time alleviate pressures for restrictive trade measures.

Let me trace briefly the origins of the current system of trade adjustment assistance and the reasons for labor's disenchantment with it. In the Trade Expansion Act of 1962 the President sought authority to reduce tariffs by as much as 50 percent. Adjustment assistance provisions were offered as a conciliatory measure to labor but were so hedged with restrictions as to prove virtually useless. The Ways and Means Committee, in reporting the bill, expressed the purpose of the adjustment assistance provisions for workers in this fashion:

> Their displacement will be the price of the national gain from expanded trade and in those cases where it would be inappropriate to assist these workers and their employers by increasing tariffs or otherwise restricting imports, they should be helped to adjust to the new international competition—to become able to enjoy its benefits themselves.

This was a praiseworthy objective, but the words proved empty ones.

A Department of Labor report on the adjustment assistance program for workers under the Trade Expansion Act points out that there has been "tacit acceptance by organized labor that adjustment assistance was a chimera and the requirements of the law could not be satisfied." As Frank V. Fowlkes pointed out in the October 9 edition of the National Journal—

> Workers and firms, who were reluctant to accept the assistance program as a substitute for protection to start with, have been frustrated by delay, red tape and rejection.

From the passage of the act in October 1962 until November 1969, the Tariff Commission denied every petition submitted to it by workers, firms, and industries. Only after the Automotive Products Trade Act of 1965 had shown that adjustment assistance was practicable, did the adjustment assistance program under the Trade Expansion Act begin to function at all.

Under this act, an affected firm, industry or group of workers has to show to the Tariff Commission's satisfaction that: first, an increase in imports has resulted from a trade agreement concession granted by the United States and, second, that this increase in imports is the major cause of the injury suffered. An affirmative finding on the part of the Tariff Commission provides the basis for Presidential action. The President, in turn, authorizes the petitioning of firms and industries to apply to the Secretary of Commerce, and the petitioning of groups of workers to the Secretary of Labor, for assistance.

Such assistance under the 1962 act is further restricted by the requirement that the worker must have been employed for from 1½ to 3 years prior to separation. Payments are 65 percent of the average weekly wage, or of the average weekly manufacturing wage, whichever is less. Benefits continue for a year after separation, or for an additional half year if the worker is undergoing training. Because the process is lengthy and unwieldy, in the few cases where such assistance has been granted, it has generally been retroactive, paid in a lump sum, long after the adjustment has been completed. Retraining for all practical purposes has been lost in the shuffle; actually it should be the prime focus of the whole thing since an "adjustment" to the changed economic situation is the objective.

The Automotive Products Trade Act of 1965, which provided assistance to workers who lost jobs because of the United States-Canada auto agreement, eased the criteria of eligibility. Petitioners no longer had to show that the changed trade situation had been the major cause of their displacement, but only a primary cause. They could also qualify for assistance if injury had occurred because of declining production for export. Under this act the Tariff Commission was relegated to the status of a factfinding body, and determination of eligibility rested with the President.

Under the Automotive Trade Products Act, 21 workers' petitions were filed for adjustment assistance. Fourteen of these were granted, and some 2,000 workers received payments totaling more than $4 million, of which, however, only $61,000 went for retraining. This act expired in 1968.

It was not until November 1969 that the very first petition for adjustment assistance under the Trade Expansion Act of 1962 was acceded to by the Tariff Commission, 7 years after enactment of the legislation. Small wonder that labor has lost faith in a program of trade adjustment assistance. From November 1969 to March 1971 of 66 petitions for assistance filed by groups of workers, the four-man Tariff Commission found evidence of injury in 16 cases. It divided evenly on 20 cases, and it found no injury in nine cases. The President found in favor of the workers in the 20 tied decisions. Thus, 29 out of the 66 groups of workers who have applied have been certified eligible for assistance.

A 30th favorable decision was reached this January when the President decided to permit firms and workers in the marble and travertine industry to apply for trade adjustment assistance. One of these firms is the Vetter Stone Co. of Kasota, Minn. The determination in this case was, wisely, not to increase tariffs on finished marble and travertine, but to seek the elimination of tariffs on all unfinished and some semifinished marble and travertine imports. This move will lower costs for domestic producers and let them adjust genuinely by competing more successfully against foreign bidders. U.S. employment in producing finished marble products will probably thus be increased.

My distinguished colleague, the gentleman from Wisconsin (Mr. ASPIN) and I have introduced the Workers Readjustment Assistance Amendments of 1972—H.R. 13854—which would improve the machinery of granting assistance and make such assistance easier to obtain. This bill would make the following changes in the current program:

First, new machinery would be set up to administer the program. Twelve regional councils would replace the unresponsive Tariff Commission. The Secretary of Labor would appoint to each council three members from labor, three from industry, and three from the public sector. These councils would determine the eligibility of workers for assistance.

Second, workers would have to show that unemployment or underemployment had been brought on by an appreciable increase in imports or by an appreciable decline in production for export. Under current law an increase in imports has to be shown to be the major cause of injury.

Third, the requirement that the increase in imports causing injury must arise from a trade concession would be dropped.

Fourth, the 1½- to 3-year employment requirement prior to separation would be shortened to 1 year. The existing provision discriminates unwisely against new labor force participants. They are the workers least protected by other means. They have no seniority and no claim to separation pay and are thus in the most need of assistance.

Fifth, payments would be increased to 100 percent of average weekly wages and would continue for 1 year, or a year and a half if the worker were undergoing retraining.

Sixth, relocation allowances would no longer be limited to heads of families. As the law now stands, it does not offer help

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to youthful workers who may want to transfer away from a hopeless employment situation.

Corresponding legislation is also needed to speed up procedures and liberalize criteria for assistance to affected firms and industries.

I wish to emphasize, Mr. Speaker, that current economic troubles do not stem from foreign trade competition. International trade makes up only 8 percent of our gross national product. Moreover, recent studies have made a strong case that the number of jobs lost because of changes in exports and imports has been minimal—only 16,600 from 1970 to 1971—and that U.S. investment overseas has actually increased employment overall here at home. Five thousand of the 40,000 employees of the 3M Co., owe their jobs directly to international operations. Minneapolis Honeywell has had 5,000 jobs created in the United States because of exports, jobs that would not otherwise exist.

In the long run, our future prosperity and the peace of the world depend upon an enlightened system of multilateral, nondiscriminatory trade. In the short run, however, workers caught in the existing unfavorable situation should be helped. The right way to deal with legitimate grievances of domestic industries is through adjustment assistance, liberalized and speeded up to help when the help is needed—when workers are laid off and not many months later. Labor has been disillusioned too long by the assistance they have been unable to obtain under the Trade Expansion Act of 1962. We must show them that such assistance is possible, now.

Mr. CORMAN. Mr. Speaker, since 1962 the U.S. trade policy has been moving steadily away from the liberal trade approach which has characterized it since 1934. The Trade Expansion Act of 1962, which had overwhelming support in Congress, led to the Kennedy round of trade negotiations. Yet, since 1962, quantitative restrictions on imports, including "voluntary restraints" by foreign suppliers, has risen to the point that the liberalizing effect of tariff cuts in the Kennedy round has been reduced.

Several arguments have traditionally supported a liberal U.S. trade policy in the post World War II era:

By exchanging goods which we can produce most efficiently for goods which can be produced more efficiently by others we will improve our economic growth and national wealth.

Imports can help to alleviate the problem of inflation and can help to maintain necessary competitiveness among U.S. industries.

Consumers are given a wider choice of goods at lower prices.

Discrimination against the United States is reduced among foreign economic groups such as the Common Market and the European Free Trade Association, thus protecting our exports and acting as a disincentive for foreign investments by American firms.

On balance, free trade creates jobs in this country by the need for more labor to produce exported goods.

It is apparent now that if no action is taken to reverse the present momentum on trade restrictions, we can only look toward further erosion of our traditional freer trade policies. We need to explore the possibilities of stemming such erosion.

On February 11, this year, the U.S. trade negotiators, principally the Secretary of Commerce and his advisers, and representatives of the Common Market Community, stated jointly that multilateral discussions would start early in 1973 with the aim of erasing existing barriers to trade, particularly the nontariff trade barriers. Canada and Australia have already indicated that they are eager to join such discussions in the light of their peculiar Empire preference, as these were affected when Britain joined the Common Market. The United States is now actively seeking the support of other major trading countries for such a trade conference.

During the last few weeks the urgent problem of our trade deficit has been discussed here at length because of the drastic "quota" law that has been introduced to minimize the harmful effects of excessive imports of like or competitive products.

It is evident, however, that the whole question of protectionism has arisen due to the fact that certain basic industries have had to contend with excessive imports, not only undercutting U.S. prices but also causing widespread layoffs and closing of plants. This has led to strong statements that only a "quota" law could be the remedy against such injurious imports.

But such protectionism is not the answer. There are constructive alternatives. My colleague, the Honorable SAM GIBBONS, has taken the lead in stating that freer trade has benefits for all and that restricting our import trade not only will upset the U.S. traditional free trade philosophy but will invite retaliation from our trading partners. Not only will such restrictive action reduce consumer choice of available articles, but it will undoubtedly raise the prices of domestically produced goods. A hard and fast proposal to restrict imports is just not the answer.

I wish to associate myself with the views of Mr. GIBBONS that there are constructive alternatives to protectionism. I believe that the American consumer should have the final say as to his choices. It is up to us to help prevent the protectionists from building a fence around the American market. While there is certainly a need to protect U.S. commerce from unreasonable import restrictions or other policies which discriminate against U.S. trade, a viable case cannot be made that restricting imports would really protect the jobs of American workers. I am optimistic that with devaluation, removal of trade barriers, additional export expansion incentives, wider participation in export drives and governmental credit and insurance programs, we will be able to generate at least 750,000 new jobs in foreign trade in the near future. And none of these programs is restrictive of imports.

The proponents of "protectionism" may say that this is an optimistic appraisal. But, according to the Bureau of Labor Statistics, using 1969 figures, about 2.6 million jobs could be attributed to the $37.5 billion of exports of merchandise in that year. Thus each $1 billion of exports generated 69,000 jobs. To this total one could actually add another 69,000 supporting jobs in related industries. In 1971, the estimate is that about 66,000 jobs are generated for each $1 billion worth of exports. It seems obvious that the more we push the export trade, the more our employment will rise.

In the aggregate, export employment accounts for about 4 percent of total private employment. But actually, in some important sections of the country, the employment ratio is far higher. In agriculture it is 9 percent, in manufacturing 7 percent, in construction machinery it rises to 27 percent, engines and turbines 15 percent, office and computing machines 13 percent, and aircraft 14 percent.

On the other hand, it is far more difficult to estimate the domestic employment related to imports, because we assume theoretically that these imports were produced in this country. Naturally, imports may be absolutely necessary to our manufacturing industries. Here, using BLS figures, it was estimated that in 1969 approximately 2.4 million people were engaged in import and related activities.

I would also like to stress another factor which is often minimized, namely that by introducing added competition, imports may encourage more efficient and cheaper domestic production.

All in all, higher imports into the United States during the last few years represent a transitional problem in our economy. With realinement of our national resources, with a wider assistance program to those individual companies that are in difficulties due to various causes, and above all, with a concerted effort by our thousands of smaller companies that have not yet even tried to sell in foreign markets, we can stabilize our international trade in such a way that our exports can show a growing surplus, our consumers get the best prices on goods, and our overseas trading partners will continue their long-established associations with us.

In any discussion of the U.S. free trade concept, one other factor concerns me deeply—and that is that our liberal trade policies since World War II have been in a large sense an important component in our foreign policy. Our exports were essential to the reconstruction of Japan and Europe and an essential corollary to the Marshall plan and to our later technical assistance programs to developing countries. It is evident that our trade policies have, and will continue to have, a strong impact on the overall foreign policy of the United States. If we permit our trade programs to become protectionist, we turn our back on the world. We then begin the road back to the isolationist policies of the earlier years in this century, and thus lose our influence in being an effective force for world peace.

Beyond the consumer who is helped through importation of certain goods; beyond the creation of jobs a nonrestrictive trade policy would provide; beyond the prospective increase in our gross national product and additions to our national wealth, this country's role in the keeping of world peace—often minimized—is reason enough why this country must clearly continue to follow the road of a liberal trade policy.

Mr. UDALL. Mr. Speaker, I want to congratulate the gentleman from Florida (Mr. GIBBONS) for initiating this educational series of discussions on the Nation's trade policies. Few subjects are so important and so dimly understood.

The relative merits of free trade policies and protectionism have provided this country with one of its most persistent debates. Yet all too infrequently has that debate emerged from academia and officialdom and entered the world of those most affected by the outcome—consumers.

Such an unusual public debate on the trade issue was sparked 3 years ago in Arizona when the Agriculture Department—bowing to the pressures of domestic growers—issued a marketing order severely limiting the import of Mexican tomatoes into my home State. My investigation of that incident led me to write an essay which has bearing on current arguments being made for and against protectionist legislation.

The essay follows:

PROTECTIONISM VERSUS FREE TRADE: THE GREAT TOMATO RHUBARB AND OTHER WAR STORIES

"The United States reached a turning point in its life as a nation when Congress overwhelmingly approved the Trade Expansion Act. By its action, Congress rejected economic isolationism and the status of a second-rate economic power for the U.S. It accepted the challenges of competing at home and abroad with the world's toughest competitors. It accepted the responsibilities of Western leadership." Columnist Sylvia Porter in the 1963 World Book Year Book.

This congressman and the Department of Agriculture are locked in a struggle right now—a struggle which may be just an opening round in a broad new war between domestic producers and consumers. Historically this is a kind of war in which consumers finish last.

At issue at the moment is a new order, printed in the Federal Register January 4, which sets new and higher standards for tomatoes sold in interstate commerce. Behind it is an attempt by tomato growers in Florida to reduce competition from tomato growers on the West Coast of Mexico. Since the Mexican tomatoes are generally vine-ripened, whereas Florida tomatoes are shipped green, a careful writing of the new regulation has had the effect of keeping a substantial portion of the Mexican product off the U.S. market. The Department of Agriculture acknowledges its new marketing order, drafted by the Florida Tomato Committee, will cut Mexican tomato shipments by 20%. Growers and shippers say it will be somewhere between 30 and 50%.

Since U.S. imports through Nogales have made it one of the principal points of entry for this Mexican produce, this restriction can have dire effects on many of my constituents, on the economy of Santa Cruz County and—perhaps most importantly—on U.S. relations with Mexico, our important neighbor to the South.

What's more, this kind of import restriction—and let's call it exactly what it is—can result in the adoption of similar protectionist or retaliatory measures by other nations. In the case of Mexico this could mean the loss of many more U.S. jobs than would be gained for agricultural workers in Florida. The reason: we sell far more goods to Mexico than Mexico sells to us. In 1967 we sold Mexico $1.2 billion in goods while spending $749 million on Mexican imports; this has been the consistent pattern for years. Some Mexican officials are already talking about retaliating by buying farm machinery in Europe rather than the United States.

The angry reactions of my Nogales constituents and others to this new trade barrier recall the protests of 3½ years ago when the United States reduced the amount of liquor which could be brought back, duty free, from other countries. Our neighbors in Nogales, Sonora, are still reeling from that blow engineered by bourbon distillers in Louisville, Kentucky, and other centers of domestic liquor production.

Tomatoes and liquor—these are but two small items in a growing debate over foreign trade policy in this country. Already we have seen major efforts mounted in Congress to restrict imports of steel, textiles, meat, dairy products and numerous other commodities claiming a need for protection from foreign competition. Arizona is involved in many direct and indirect ways. Some examples which cross my desk:

A Cochise County rancher, resenting the import of Australian beef which, he says, competes with American-grown beef and drives down the price, demands a lowering of beef import quotas.

A pack bag manufacturer who does part of his manufacturing in Arizona and part in Mexico protests U.S. textile import quotas which limit the number of finished pack bags he can bring back into this country.

A stockholder in U.S. Steel writes me to do something about the increasing imports of German and Japanese steel, which he believes will cut into sales of American steel products.

An Arizona firm seeks help from this same congressman in nailing down a $750 million contract to supply iron ore pellets to the Japanese steel industry and, simultaneously, asks the U.S. government to prohibit an American group from investing money in Australia for development of iron ore to supply the same Japanese market.

Arizona cotton growers, enraged by President Nasser's false charges against our country during the Middle East War, ask me to cosponsor a bill denying cotton import quotas to nations having severed diplomatic relations with us—namely Egypt and the Sudan. I cosponsor such a bill. It passes but is vetoed.

Arizona's industrial development leaders urge manufacturers to establish "twin plants" along the Mexican border, employing Arizona labor for a part of the production, cheaper Mexican labor for the remainder. They see this form of enterprise as a great boon to Arizona's industrial growth and as the answer to competition from countries having significantly lower labor costs, such as Taiwan and Japan.

An Arizona newspaper tells the story of a plant in Flagstaff which was forced to shut down because it couldn't pay the federal minimum wage of $1.60 an hour. Out of work: 33 Navajo Indians. The explanation: competition from Taiwan and Mexico.

Who can say where the answer lies? Would Arizona be helped by import restrictions—on both beef and tomatoes? Would we be better off with free trade, to encourage "twin plants," or limited trade, to help foster Indian employment in Flagstaff? Is it better to permit beef imports which make hamburger cheaper for Arizona housewives, or to restrict them for the benefit of Arizona cattlemen? These are complex questions which have no simple answers. But I think it's important to realize that, just as we see import restrictions from many points of view in Arizona, people in other states also have their special problems and their special, and often conflicting, points of view. Since this is one nation, and not 50, the job of the President and the Congress is to arrive at policies which are of greatest benefit to the nation as a whole. And as a congressman I see my job as striving for a delicate balance between contending interests in my district and between the interests of my district and of the nation as a whole.

For Arizona and the nation one must ask: where will all this lead? What are the implications of protectionism and of free trade for our economy, for domestic wage levels, employment and unemployment, the stability of the dollar and our role in world affairs?

ARGUMENTS FOR TRADE RESTRICTIONS

One of the most outspoken opponents of free trade in this country is O. R. Strackbein, chairman of the Nation-Wide Committee on Import-Export Policy. He sees the U.S. economy as terribly weak and shaky, unable to meet the challenge of competition from abroad. To those who might have imagined that competition was the great strength of our economic system his words may come as something of a shock. Here is what he wrote in a statement which just crossed my desk:

"The competitive weakness of this country makes our economy stand like an island plateau against the pounding waves and tidal flows that beset it from all sides. The natural sequence will be a leveling process that will continue, unless it is halted, until we are level with the sea."

Those who view our position in this light argue that the lower wages paid in other countries inevitably will result in a drop in the production and sales of the same commodities and products turned out in this country. In the end, as they see it, our standard of living will be reduced or our industries will wither and die.

To these people the "reciprocal trade" concept introduced by President Roosevelt in the 1930s was a terrible mistake, and the Trade Expansion Act of 1962 was a disaster. The latter set the stage for negotiations, just completed last year, to reduce the tariffs we assess incoming products and pay to ship our products into other countries. Prompted by the severe competition of the European Common Market, that act—which, as your congressman, I supported—gave authority to the President to reduce existing tariffs by 50% in exchange for concessions from other nations, and to eliminate tariffs on those products where the United States and Common Market countries dominated world trade. As a result of the so-called Kennedy Round of negotiations many of those decisions are now history, and others are awaiting congressional action on what is known as the American Selling Price (basically, a "temporary," "infant-industry" protective tariff established for benzenoid chemicals after World War I and left untouched to this day).

Without doubt tariffs are the most effective device for stopping imports. But this tactic is no longer available for most commodities. Protectionists are now turning to non-tariff barriers especially import quotas. The import quota says to Japan, for example: we won't tax the steel you ship in, but we'll limit your imports to so many million tons per year. The size regulation on Mexican tomatoes is another form of nontariff barrier. The effect is the same—to lessen competition and prop up domestic prices. Through pressure on Congress to enact such quotas industry groups hope to do indirectly what they can't do directly through tariffs. Presumably domestic producers benefit, but domestic consumers pay more for what they buy.

As the protectionists see the situation, any gain realized by consumers in the form of lower-priced goods can only be a short-term advantage because ultimately their own income and jobs will suffer. Scratch a consumer, they say, and you'll find someone whose income is derived from U.S. production. Anything that threatens U.S. produc-

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tion of any commodity or product threatens U.S. consumers, too.

Mr. Strackbein states this case very clearly. In answer to those who say we can meet the threat of foreign competition through cost-reduction and modernization of plant facilities he says:

"Also, no one should deceive himself that significant cost-reduction is a mild operation. In terms of employment it is harsh and drastic. We have a classic example in coal mining. In the mid-'fifties this industry was moribund because of encroaching competition from diesel oil, natural gas and imported residual fuel oil. The only hope of survival lay in cost reduction. The objective was indeed accomplished by the introduction of machinery that supplanted men in a gargantuan ratio. The coal industry saved itself but the cost in coal miners' jobs was two out of every three. Employment dropped at a dizzying rate, falling from 480,000 to 140,000 or less in fifteen years. The problem known as Appalachia was a direct result. The cost of relief and inhuman misery was 'unthinkable' and had it been appreciated ahead of time, would no doubt have been avoided as intolerable."

In other words, he believes we should not have modernized the coal industry, not made it competitive with coal production in other countries, but rather subsidized the coal industry in order that it could continue to employ 340,000 men it no longer needed. The implications of this philosphy for an economy that prides itself on its efficiency and competitiveness are rather startling if you think about them.

Significantly, I think, this is not the position of most American industries, of the U.S. Chamber of Commerce or the American Farm Bureau Federation. However, it is the position of many segments of the economy insofar as their own industries are concerned. In other words, many of these groups favor the principle of free trade—but not for their industry. They're happy to lower or eliminate trade barriers on everything else, but they see a desperate need to restrict the import of German bicycles or Swiss watches or English shoes. It's like being against all Federal spending except that in your own state. And it is from the special appeals of many such segments in our economy that the campaign for new trade restrictions has taken shape. The danger is that, acting out of concern for their own special problems, these industry groups, combined, might succeed in turning back the clock in our country's trade relations.

Turning back the clock could mean a return to the protectionist days of the Smoot-Hawley Tariff of 1930. That act, a reaction to the stock market crash of 1929, not only shut off imports but reduced our exports—through reprisals—to a mere trickle. Coming at the very start of the depression that rash act robbed us of hundreds of thousands of jobs just when the economy was least able to handle such a loss.

ARGUMENTS AGAINST RESTRICTIONS

Ever since the mercantile days of Adam Smith and his *Wealth of Nations* in 1776 there has been one matter on which nearly all economists have agreed: that nations benefit from free trade and are harmed by high tariffs. Yet protectionism remained for nearly 200 years as the prevailing rule in world trade. Only in the years since World War II have we seen any significant departure from this pattern. The big breakthrough, of course, was the tariff-lowering arrangement known as the European Economic Community, or Common Market. The huge advantages accorded members of the Common Market in trade among themselves made it a virtual necessity that the United States take steps to improve its competitive position; the Trade Expansion Act of 1962 was the result.

Old ideas don't die quickly, however, and we're now seeing a reaction set in. The old protectionist arguments are being paraded anew, and I think it's important that we weigh the counter arguments:

Trade that is essentially free increases each trading nation's standard of living. This is so because goods tend to be produced by the most efficient producers in each country. For any given level of manpower a greater supply of goods and services can be made available for the enjoyment of the people that would be the case if inefficient producers were kept in business through trade barriers.

Protectionist fears arise from a totally impossible eventuality—a situation in which a nation would import vastly more goods than it sold abroad. But, basically, goods are paid for with other goods; goods are the currency of international commerce. Increased imports ultimately require increased exports, and vice versa. Commerce is impossible without something close to a balance between the two. Thus, the number of jobs lost through imports will always be balanced in the main by the jobs gained through exports.

Unrestricted trade increases the real income of workers in trading nations. First, through the pressures of competition it forces each nation to strive for its greatest efficiency, to produce those goods which it can turn out at the greatest economic advantage to itself; thus, there is a need to get the greatest production out of each worker, and through this heightened efficiency there are the means to increase wages. Secondly, the availability of less-expensive goods (take, for example, the superb Japanese cameras you can buy today at really modest prices) makes the income of workers go farther than ever before.

The ready availability of imports serves as a check against inflation. When demand outstrips supply, the normal result is an increase in prices, often detrimental to producer and consumer alike. The importation of goods from abroad (provided they're not blocked by tariffs or quotas) can avoid such inflationary situations. And, of course, the steady competition from foreign goods will force our economy to reduce costs and hold down prices, thereby relieving the pressures of inflation.

From the foregoing you may sense that I am a "free trader." I tend to be, as does President Nixon. However, I believe every situation relating to our trade with foreign countries deserves careful analysis: I'm willing to acknowledge that an occasional justification can be made for temporary restrictions on the import of certain goods. The maintenance of industries capable of meeting our needs in time of war (when foreign sources may be cut off), the encouragement of new industries having the potential for real competitiveness at a later date—situations of this kind make sweeping generalities hazardous and broad principles subject to occasional exceptions. And that's why Congress will spend so much time this year talking about the problems of so many segments of our economy—about dairy products, textiles, steel and all the rest.

HOW STRONG IS OUR ECONOMY?

Behind the drive for new trade restrictions is the fear that our economy can't stand the test of international competition, as Mr. Strackbeln so dramatically stated. Let's take a look at this economy which is so weak and fragile:

Between 1959 and 1967 steel imports rose by 7 million tons. But in the same period U.S. steel production rose by 34 million tons and employment in the steel industry increased by 24,000 jobs.

In 1960 the per capita, after-tax, spendable income of the U.S. population was $1,883 expressed in terms of 1958 dollars. On the same basis per capita, after-tax income is now $2,473—a gain of close to $600 in just eight years.

In 1960 we had total civilian employment of 66 million. Today we have 78 million jobs—a gain of 10 million jobs in eight years.

In 1960 we had 3.8 million unemployed. Today, after adding 20 million people to our population, we have only 2.8 million unemployed. Our unemployment rate of 3.6% is among the lowest in the world. Some even argue that it's too low.

In 1960 our total national product in durable goods was worth $81 billion, expressed in 1958 dollars. In 1968 our durable goods production had risen to $124 billion—a gain of 53% in eight years.

In 1960 our total product of non-durable goods was $60 billion. Last year it stood at $82 billion—a gain of 37% in eight years.

Our Gross National Product in 1960 was $503 billion, compared to $861 billion in 1968. Expressed in 1958 dollars, the 1960 total was $487 billion, the 1968 total $707 billion—a gain of $220 billion. That gain, discounting the effect of inflation, is equivalent to the total 1960 national product of the entire Common Market—Belgium, France, Germany, Italy, Luxembourg and the Netherlands—plus Austria, Denmark, Norway, Portugal, Sweden and Switzerland. That's not our total product—that's just what we added in eight years.

I should think that anyone, reading these figures, would see in them signs of a very healthy, strong and competitive economy. These are not products of protectionism; they're the result of increasingly free trade, marked by declining trade barriers through this eight-year period. To see this economy as one about to be leveled by intenational competition is, in my judgment, like seeing the New York Jets last month as a team on the verge of collapse.

BUT WHAT HAPPENED TO OUR TRADE SURPLUS?

Some of the fuel for this year's trade debate will come from recent statistics showing a sharp drop in our traditional foreign trade surplus last year. Here are some quick figures:

1959: Exports, $16.4 billion; imports, $15.6 billion; surplus, $.8 billion.

1960: Exports, $19.6 billion; imports $15 billion; surplus, $4.6 billion.

1967: Exports, $30.9 billion; imports, $26.8 billion; surplus, $4.1 billion.

1968: Exports, $33.8 billion; imports, $33.1 billion; surplus, $.7 billion.

The 1968 surplus was actually $726 million, a drop from the expected $1 billion surplus. Protectionists undoubtedly will see this as the beginning of the end unless the dike is plugged fast.

Just as one game doesn't make a season, one year doesn't make a trend. The Commerce Department attributes the 1968 decline to strikes and strike-threat situations in steel, copper, and aluminum, and to a boom in the domestic economy making possible the purchase by consumers of more foreign luxury goods, especially automobiles, and including "American" cars made in Canada. Imports represented 3.8% of our Gross National Product, compared to 3% in recent years—still a very modest figure.

It is also helpful to note that our trade surplus in 1959 was just $789 million, yet a year later it had bounced back to $4.6 billion. In any case, most economists consider it important only that there be a reasonable balance between exports and imports; there is not great advantage to big surpluses. In fact, any surplus means some other country or countries will have a deficit—and thus a net loss of jobs. It's unreasonable, in their view, to insist that the United States *always* have a surplus and its trading partners, taken as a block *always* have a deficit.

OTHER TROUBLESOME QUESTIONS

Even though every U.S. President since Franklin D. Roosevelt has favored tariff reduction, and even though that has been the policy of this country since passage of the Reciprocal Trade Agreement Act of 1934, protectionists still argue that free trade will reduce our wages, working conditions, living standards and profits to the levels of our poorest trading partners. Countering these arguments is not easy because international trade is such a poorly-understood subject. These are some of the questions raised:

1. It's immoral to buy goods from nations with substandard wages. We ought to use trade as a weapon to force other countries to raise wage levels.

2. Cheap foreign labor will produce unemployment in this country. Charity begins at home.

3. High wages in this country, held up in part by the minimum wage laws, make it impossible for us to compete with cheap-labor countries.

Trade advocates see little merit in these arguments. They answer:

1. Since the world's resources aren't distributed evenly, trade is an absolute necessity, not only within the borders of individual countries, but between countries. How else could non-agricultural countries survive? How would a one-crop economy, producing only coffee, or rubber, feed its people? History shows that the more nations engage in trade, the higher are their standards of living. Without trade they couldn't possibly advance. Higher wages cannot come from production for which a country is not suited.

2. As long as exports and imports are essentially in balance, as many jobs are gained as lost. If exports are in surplus, as they traditionally have been for the United States, there will be a net gain in employment.

3. How could there be exports at all if lower wages always gave the foreigner an advantage? The truth is that lower cost, not lower wages, determines competitiveness, efficiency, availability of resources and other factors are often far more important than wages in determining prices.

F. W. Taussig, a Harvard economist, answered these arguments some years ago when he wrote:

"In the United States by far the most common and most effective argument in favor or protection is that it makes wages high or enables wages to be high. With many persons it is an accepted article of faith that American wages can be kept high, and the American standard of living can be maintained, only if there is protection against the goods made by the cheaper labor of other countries . . . This fear of universal leveling rests on ignorance or misunderstanding of the causes that lead to the differences between countries in money wages, in prices, in general prosperity . . . None put forward in favor of protection are more specious and widely held, none are more fallacious."

THINGS TO WATCH FOR

As the new Nixon Administration gets to work on the many problems facing this country you may want to watch for indications of the President's position on some of these foreign trade issues. Here are the major ones:

Tariff-cutting authority under the Trade Expansion Act of 1962 expired June 30, 1968. President Nixon may ask for an extension of that authority permitting him to take new initiatives in reducing tariffs.

Congress last year failed to act on President Johnson's proposal to eliminate the so-called American Selling Price system, a post-World War I tariff which gives special "infant industry" protection to our giant chemical industry. The Johnson Administration agreed to seek repeal of the ASP in exchange for tariff concessions by other countries. President Nixon may or may not abide by that commitment; if he does, he may face difficulties from congressmen and senators having large chemical plants in their states.

During the campaign President Nixon said he had sympathy with some of the temporary measures proposed to prevent excessive imports of such products as textiles and steel. However, he said last week he opposes import quotas. It will be interesting to see how he responds to mounting pressures from industries seeking such relief.

YOUR THOUGHTS ARE WELCOME

In this report I have tried to present as complete a picture as possible of the foreign trade debate that is shaping up in Congress this year. I have tried to depict for you the kind of situation I face as your congressman—a situation in which I must represent both producers and consumers, both those who seek import restrictions and those who stand to benefit from the free flow of foreign imports of various kinds. I intend to keep trying to do the best job I can of representing all of you.

As I indicated at the outset, producers tend to carry more weight in these debates than consumers. I expect that will continue to be true, not because it's right but because producers of steel, textiles, chemicals—and Florida tomatoes—are better organized and can bring greater pressure to bear on the decisions of government. As a consumer and/or producer you can sit back and watch as the show begins, or you can become part of it. I'll welcome your views.

MORRIS K. UDALL.

Mr. SYMINGTON. Mr. Speaker, I would like to add my voice to those here today calling for us to seek alternatives to protectionism as a solution to our trade problems. Not only does construction of protectionist barriers to foreign trade invite retaliation through enactment of similar measures by our trading partners abroad, but it would seriously undermine the international cooperative efforts to alleviate the crisis in the international monetary system attempted at the Smithsonian in December.

Many words have recently been spoken against the protectionist forces at work among us. Erza Solomon, a member of the Council of Economic Advisers, in remarks made before the American Management Association in February, attacked the notion that "severe protective moves will create jobs." Mr. Solomon noted that the very jobs which our exports created will be eliminated when we stop importing. Further, Mr. Solomon states that the protectionists ignore that fact that "the average job created by shutting off imports is far less economically productive than the average job lost by an evaporation of export markets."

Mr. Solomon maintains that—

The best argument against this line of reasoning is a letter written 150 years ago by a French economist. He wrote in behalf of the fictitious Candlemaker's Society of Paris appealing to the French Government to board up all windows, because the light from the sun, available too cheaply, was competing unfairly with the employment of poor hard-working candlemakers who would otherwise be enjoying a boom in the manufacture of their products. He even pursued the argument further, if only the windows could be boarded up, then the large boom in candlemaking would spread its benefits over the rest of society when the people employed spent their wages and profits buying goods and services from the rest of France.

Clearly the answer for the U.S. is not in that direction but rather in the opposite one. As other nations master the art of producing the older products like textiles (200 years old), steel (100 years old), and cars (60 years ago), it is up to the more technologically advanced societies like the U.S. to create new markets in new products that embody new technologies. We have played this game very successfully for 80 years and there is no reason whatever to believe that we need to be less successful at it in the decades ahead.

Another interesting speech encouraging the United States to seek alternatives to protectionism to improve our balance of trade was delivered recently before the 12th Annual Conference of the Containerization Institute by Robert M. Norris; Mr. Norris is the president of the National Foreign Trade Council. It is his conviction that we should try to improve our trade situation, not by withdrawing behind protectionist barriers, but by facing the realities of import quotas, exchange controls, administrative restrictions and other obstacles to trade and seeking their removal through international agreements for reciprocal reduction of non-tariff barriers. I would like to submit the major portion of Mr. Norris' speech for the RECORD:

A MAJOR PORTION OF THE REMARKS PREPARED FOR DELIVERY BY ROBERT M. NORRIS, PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL, BEFORE THE TWELFTH ANNUAL CONFERENCE OF THE CONTAINERIZATION INSTITUTE, MARCH 14, 1972.

Before we can think about realism in world business, it seems to me important to first think about our foreign economic policy. For nearly 40 years, United States foreign economic policy has been founded upon expanding U.S. international trade and investment. Just as recently as February 9, President Nixon, in his report to Congress on U.S. Foreign Policy for the 1970's, stated:

"A retreat by any nation or group of nations into protectionism, or attempts to gain advantage over others by means of neo-mercantilist policies, will deal a severe blow to the international cooperation which underlies the strength and prosperity of all nations." In the same document, the President calls for "a general expansion of world trade including improved access for American products to foreign markets."

Foreign economic policy, to the extent possible, should be formulated for the longer run. Unfortunately, however, these policies become frustrated by five-alarm, short-term measures.

On the positive side, it seems to me that the New Economic Program provided a badly needed shock last August to the system of fixed exchange rates which had been the monetary mechanism for world trade since the Bretton Woods agreement of July 1944. The Smithsonian Accord reached last December 18th in Washington initiated a new transitional phase for the monetary system, averting the immediate threat of economic warfare. Exchange rates have stabilized within wider margins, so that foreign traders can do business with a greater degree of certainty. Nevertheless, there remains a massive "dollar overhang" of U.S. dollars in foreign hands, waiting to be repatriated. Following our almost incredible $30 billion balance of payments deficit last year on an official settlements basis, the dollar holdings of foreign central banks have shot up to more than $29 billion, and this, plus other foreign holdings, have brought the total dollar "overhang" to more than $50 billion.

We must not be impatient about the reflow of dollars which are held abroad. The enactment of the Administration's gold bill, increasing the official dollar price of gold by eight and a half per cent, should do much to help. But until this takes place, there can be some continued uncertainty about monetary developments. The dollar is not yet out of the woods—or should I say Bretton Woods.

In any event, for the short-term at least, American traders now have the advantage

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of a general upward realignment of foreign currencies, averaging around seven per cent, thus making American products more competitive. Actually, calculations of the average appreciation of the currencies of our major trading partners (except Canada) indicate a greater advantage of 10 to 12 per cent for the dollar.

We in the Council welcome the realistic realignment of exchange rates as an interim step toward a truly workable international monetary system. We believe that a foremost imperative for world economic progress is to resolve disparities which had developed in the functioning of the Bretton Woods system.

Another fact of life in the real world of international business is the significant number and variety of non-tariff barriers still obstructing commerce in the aftermath of the tariff cuts negotiated at Geneva under the Kennedy Round and completed at the start of this year. Some say it is time for a Nixon Round of negotiations aimed at removal of non-tariff barriers. Others say there will be no trade bill in Congress this year, which would authorize the United States to enter new trade talks, because of the fear that it would be saddled with protectionist amendments.

Pending new negotiations, world traders must face the reality of import quotas, exchange controls, administrative restrictions and other obstacles to trade. More than a thousand of these arbitrary barriers are said to be listed in a document compiled by the secretariat of the General Agreement on Tariffs and Trade.

We must continue to support stronger initiatives to achieve trade expansion through international agreements for the reciprocal reduction or removal of non-tariff barriers. These negotiations must call for sound bargaining based on the principle of enlightened national interest, promising real advantage for expanding markets for U.S. products, with the interest and well-being of agriculture as well as industry fully comprehended.

Negotiations with the European Economic Community thus assume particular importance. The coming expansion of the Common Market raises serious questions for United States traders. Will the enlarged Market maintain its wall against American farm exports? Will it keep up its preferential arrangements with African countries? We should call for a phasing out of discriminatory trading arrangements and would hope instead for progress in trade liberalization on the most-favored nation basis. The conditions for world trade must be based on equity and reciprocity.

We can no longer rest assured that we enjoy a monopoly on all advanced technology or on production techniques or even managerial skills and know-how. Our trading partners abroad challenge us for markets in Latin America, Africa, Asia and even in our own backyard.

Indeed, our shares of markets have been declining in the face of this competition. World exports last year are estimated to have amounted to $343 billion, of which the United States exported $43 billion, or 12.6 per cent of the total. Ten years ago the world total was $134 billion, of which the United States had a 16.7 per cent share.

Last year the United States had its first trade deficit since fiscal year 1893, amounting to more than $2 billion. Even taking into consideration the boost for American competitiveness provided by the New Economic Program, it must be recognized that some time will elapse before any substantial improvement in our trade balance will be realized. Realistically, a trade deficit estimated at about $1 billion for 1972 would probably be in the ballpark. Another significant balance of payments deficit is clearly in the offing. However, we should look for an improvement in our balance of payments as well as the beginning of a buildup in our trade surplus in 1973.

We are still the world's leading exporter and importer, and I know that—competition or no competition—we intend to keep it that way. You gentlemen, who are on the firing line of world trade, know better than any that America can compete.

But today there is a clear negative reality; namely, the threat to the future growth of our foreign markets in the form of legislation which would have a disastrous effect on America's international companies and the U.S. economy. I refer to the Burke-Hartke bill, entitled "Foreign Trade and Investment Act of 1972," which in its restrictive and protectionist trade aspects, could be more damaging to America's real economic interests than was the Hawley-Smoot Tariff Act of 1930. This legislation would create a new agency to impose quotas on imports of certain goods, would establish controls on the transfers of both capital and technology, and would increase taxation on foreign source income primarily by doing away with the long-established credit allowed for foreign taxes paid and making immediately taxable all foreign earnings even though not remitted as dividends.

Much has been said and written about this proposed legislation. Much will continue to be said and written. In November of last year we in the Council published a document on this subject as a result of a survey of our membership entitled, "The Impact of U.S. Foreign Direct Investment on U.S. Employment and Trade." If I were to make just one point today, the enactment of the Burke-Hartke bill would achieve effects just the opposite of those intended by the proponents of the bill. Instead of saving jobs for American workers, it would cost jobs of American workers. Instead of helping exports, it would curtail exports.

One can readily understand the emotional basis for legislation of this type. When Americans are out of work, the instinct is to pass a law, or do something drastic so they can go back to work. But this bill is self-defeating. It assumes that management is more interested in creating foreign jobs than in creating jobs at home. That is just not so.

The basic problem of maintaining full employment and an equitable bearing of the burden of adjustment to changes in industrial production and trade patterns must not rely on restrictive measures as proposed in the Burke-Hartke bill, but should rely on expansionist approaches which would increase the contributions of international companies to our balance of payments and which would increase the level of employment in the United States and internationally. It is one of today's realities that United States growth is tied directly to world economic growth and cannot be increased at the cost of growth elsewhere.

It is my hope that labor organizations who seem to be campaigning so actively for the Burke-Hartke bill will begin to appreciate the true economics of what they propose before it is too late. Nobody wants a return to the Hawley-Smoot era or to the Depression and the shrinkage of world trade which came with it.

To try to reach full employment through restrictive measures aimed at cutting off imports, slowing the flow of technology and prohibiting foreign direct investment is to multiply several fold the effects of the "beggar-thy-neighbor" policies of the 1930's. Rather, we should be pursuing policies which seek to solve the problems of industrial growth and change through expansion and not contraction or economic isolationism.

At the New York Economic Club dinner the other night, Secretary of Commerce Peter G. Peterson was asked how he assessed the political outlook for the Burke-Hartke legislation and whether the Administration planned to take an active role in working for its defeat. In referring to the economic climate which prevailed just before the New Economic Policy was announced last August, Secretary Peterson said:

"In that environment, with high unemployment, I think I can say almost emphatically that the odds of your getting something like the Burke-Hartke bill, which I would consider a national disaster, were much higher than they are at the present time."

He went on to say "the Administration is doing everything it can to make its position clear—that the effects that are being discussed today are very understandable, they're very human and we must do something about the unemployment problem in this country—we've got to do more about the whole adjustment process—which is getting more serious, but to do it in a way that would close off America would not only have the most serious kinds of effect on our competitiveness on our productivity, indeed on our jobs, but in my view on the kind of world that it would become if this country were to close itself off, because we are entering a world where you cannot separate economics from politics."

Earlier I referred to the progress which you have all made in the effective use of containers. I would be remiss if I did not also commend progress that has been made in a corollary area, namely, that of documentation. The National Committee on International Trade Documentation has shown that our annual foreign trade amounts to 18 million shipments, export and import, and these shipments create more than 800 million documents which generate a total of more than six billion copies. The cost of documents is said to be about 7 per cent of the cost of the product. Much has been accomplished in the direction of the simplification of all this paperwork, notably the development of the United States Standard Master for International Trade, a format which will incorporate commercial forms with the Government Bill of Lading, Drawback Form, Export License and Customs Entry Forms.

Even greater progress in this partnership between government and business is again one of the realities of doing international business.

The Office of Facilitation of the Department of Transportation has provided leadership on the governmental side in the alignment of commercial and governmental documents; in achieving agreement with other shipping nations for an intermodal through Bill of Lading applicable to all surface cargo movements; in studies for a standard transportation commodity description and code system, a uniform system of marking and identification of containers, and other steps toward the development of coordinated transportation services in the intermodal environment which characterizes today's transportation industry.

All concerned agencies of Government are strongly bending their efforts toward helping American traders to expand sales abroad. For example, there is the Administration's legislation for the DISC. The Domestic International Sales Corporation is a means for achieving limited deferral of taxes on export sales income to thus make us more competitive internationally. Without going into the details of this new mechanism, I commend it to the attention of any exporter or potential exporter who has not already looked into its possibilities. Besides the statutory departments of our government such as State, Treasury, Commerce and Agriculture, we have as partners with business of course the Export-Import Bank of the United States and such other agencies as the Foreign Credit Insurance Association and the Overseas Private Investment Corporation.

The National Export Expansion Council is another example of effective government-business partnership. This organization originated with a directive by President Eisenhower on March 17, 1960 which resulted in the creation of a National Export Expansion Committee of five members. Today, as the National Export Expansion Council, it is composed of some 80 business, labor and professional leaders. It is concerned with advising the Secretary of Commerce on overall coordination of the national export expansion program. The 19-member Executive Board provides planning and policy direction and develops recommendations on international business programs, working through five action committees, export finance, taxation, transportation, export promotion and trade and investment in developing countries.

In turn, the 42 Regional Export Expansion Councils, which coincide with the Department of Commerce field offices, are comprised of dedicated private businessmen and professionals who develop and implement practical programs to stimulate greater interest in exporting. They serve in an advisory capacity on a great variety of export trade matters to assist those who are already in and those who want to enter the export field. I urge everyone here to fully utilize and take advantage of the services and programs of the Regional Export Expansion Councils and the Field Offices of the Department of Commerce.

Last year the United States exported $65 billion worth of goods and services. This was equal to about six and a half percent of our gross national production of goods and services. We can raise this percentage. I am confident and find great comfort in the knowledge that, supported through your work and efforts, American leadership in world trade can and will continue.

Mr. ASPIN. Mr. Speaker, on March 16, the distinguished gentleman from Minnesota (Mr. FRASER) and I introduced the Workers Readjustment Assistance Amendments of 1972. This legislation will improve and liberalize rules of eligibility and benefits for workers who seek adjustment assistance. The present system, Mr. Speaker, to be quite blunt, is a disaster. The Tariff Commission which determines eligibility of workers and of firms has been totally unresponsive to the needs of both groups. Between 1962 and 1969 not one single application for workers adjustment assistance was approved by the Tariff Commission. Since then the number of approved applications has been extremely limited.

The purpose of our legislation is to remove the Tariff Commission from the process of determining workers eligibility for adjustment assistance. Our bill provides for the establishment of 12 regional councils known as industry councils that will be made up of three representatives of labor, three representatives of management, and three public members all appointed by the Secretary of Labor. The regions outlined in the legislation will parallel the present Federal Reserve districts.

The purpose of this decentralization of the process is to wrestle control from Washington's central bureaucracy which is unfamiliar and unsympathetic to the problems of both workers and firms around the country. Members serving on an industry council will know the problems of their particular region. While industry councils based on a single industrial sector could easily become self serving, a regional council offers the necessary balance between excessive central control and dominance by the narrow interests of a single industry.

Not only have we attempted to establish a middle ground in setting up an industry council, but we also have tried in this legislation to stake out a middle position between extreme free traders and extreme protectionists. A few free traders are willing to offer concessions to foreign competition without providing assistance to displaced workers. Many protectionists are willing to throw away all of the important benefits that free trade provides rather than lose a few jobs. Our bill will permit the continued expansion of free trade, which eventually produces more jobs than it destroys, and at the same time provide adequate compensation for affected workers.

It is my hope that if the Congress during this session debates the issue of trade, it will take into serious consideration striking this proposed balance between extreme free trade and protectionism. Free trade is the best route to economic prosperity but it cannot be achieved without providing displaced workers with a chance to start a new life, and find a new job.

SCHOOL BUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, I have requested time this afternoon to bring together my colleagues from the Congressional Black Caucus and many of our colleagues in the House to discuss President Nixon's proposals concerning school busing. We will be discussing the President's statement of March 17, 1972, and two bills which have been introduced to implement his recommendations.

The first of the bills, H.R. 13915, was introduced by the gentleman from Ohio (Mr. MCCULLOCH), the gentleman from Michigan (Mr. GERALD FORD), and the gentleman from Minnesota (Mr. QUIE). It is entitled the "Equal Educational Opportunities Act" and has been referred to the Committee on Education and Labor.

The second bill, H.R. 13916, was introduced by the gentleman from Ohio (Mr. MCCULLOCH) and the gentleman from Michigan (Mr. FORD). It is entitled the "Student Transportation Moratorium Act."

Before discussing the specifics of the two bills, I must comment briefly on the President's statement and the policy it reflects. There seem to be several basic themes. The first theme is that the struggle to dismantle the dual system of schools is over. By proclaiming victory, President Nixon justifies his proposal to limit the remedies which have been most successful in bringing about desegregation. Several times he states that:

The dismantling of the old dual system has been substantially completed.

That statement is tragically and grossly incorrect. The administration's own data indicate the minimal progress which has been made since Brown against Board of Education was decided. On June 13, 1971, the Department of Health, Education, and Welfare released data on desegregation of schools. In the continental United States the following figures indicate the degree of de facto segregation which remains:

NEGROES BY STATE—NUMBER AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Negro		Negroes attending											
				0 to 49.9 percent minority schools		50 to 100 percent minority schools		80 to 100 percent minority schools		90 to 100 percent minority schools		95 to 100 percent minority schools		99 to 100 percent minority schools		100 percent minority schools	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	43,353,568	6,282,173	14.5	1,467,291	23.4	4,814,881	76.6	4,274,461	68.0	4,041,593	64.3	3,832,843	61.0	3,331,404	53.0	2,493,398	39.7
1970	44,877,547	6,707,411	14.9	2,223,506	33.1	4,483,905	66.9	3,311,372	49.4	2,907,084	43.3	2,563,327	38.2	1,876,767	28.0	941,111	14.0

Thus, 49.4 percent of black students are still in schools which are over 80 percent black, and 14 percent of black students are still in 100 percent segregated schools.

The figures on blacks in the 100 largest school districts are even less encouraging.

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NEGROES IN 100 LARGEST (1970) SCHOOL DISTRICTS BY GEOGRAPHIC AREA—NUMBER AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Negro		Negroes attending: 0 to 49.9 percent minority schools		50 to 100 percent minority schools		80 to 100 percent minority schools		90 to 100 percent minority schools		95 to 100 percent minority schools		99 to 100 percent minority schools		100 percent minority schools	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	10,328,038	3,195,127	30.9	415,162	13.0	2,779,965	87.0	2,468,005	77.2	2,298,320	71.9	2,148,363	67.2	1,745,219	54.6	1,041,396	32.6
1970	10,482,814	3,387,423	32.3	544,109	16.1	2,843,314	83.9	2,431,526	71.8	2,224,162	65.7	2,000,227	59.0	1,513,616	44.7	710,181	21.0
32 Northern and Western:[1]																	
1968	5,747,849	1,796,111	31.2	248,067	13.8	1,548,044	86.2	1,303,789	72.6	1,171,311	65.2	1,047,760	58.3	752,904	41.9	296,376	16.5
1970	5,787,264	1,909,984	33.0	250,812	13.1	1,654,172	86.9	1,359,940	73.3	1,269,931	66.5	1,129,751	59.1	801,715	42.0	316,148	16.6
6 Border and District of Columbia:[2]																	
1968	1,340,469	470,901	35.1	62,122	13.2	408,779	86.8	375,791	79.8	357,807	76.0	343,097	72.9	278,341	59.1	145,386	30.9
1970	1,360,862	487,435	35.8	66,122	13.6	421,313	86.4	383,259	78.6	364,189	74.7	342,118	70.2	286,306	58.7	150,463	30.9
11 Southern:[3]																	
1968	3,239,720	928,115	28.6	104,973	11.3	823,142	88.7	788,425	84.9	769,202	82.9	757,506	81.6	713,974	76.9	599,634	64.6
1970	3,334,688	990,004	29.7	227,175	22.9	762,829	77.1	648,327	65.5	590,042	59.6	528,358	53.4	425,595	43.0	243,570	24.6

[1] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin and Wyoming.

[2] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia.

[3] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

These statistics demonstrate two points. Clearly, desegregation is far from completed. Perhaps even more important, desegregation has progressed much more slowly in the North and West than in the South. The lack of progress in the North reflects the greater degree of segregation in housing in urban areas. The chance of a neighborhood school being segregated are greater in the North than in the South because of housing patterns. Busing, which has sometimes been used to bring together students from different neighborhoods, has been a valuable tool in desegregating these schools. It cannot be lightly discarded.

Another of the President's themes is that busing, in and of itself, is somehow objectionable. His view appears to be that the inconvenience, the disruption, and the expense of busing outweigh the benefits of desegregation. He admits that the courts turned to busing because it offered a realistic and immediate aproach. A busing plan benefits students now in school, not students yet unborn, as plans to construct new facilities would. Because he is satisfied that the struggle for desegregation is over, the President sees no harm in eliminating the effective and immediate tool of busing.

President Nixon cites Chief Justice Burger's statement in the Swann case to the effect that schools cannot be made to solve all of the probems of racial discrimination. Ironically, he never mentions the discussion, in the same opinion, of busing. The reason for this omission is obvious. The Chief Justice, speaking for the unanimous court, upheld the district court's conclusion that assignment of students to their neighborhood schools would not have produced a dismantling of the dual school system in Charlotte. In short, busing was not merely justifiable but necessary in that instance. *Swann* v. *Board of Education* (402 U.S. 1, 29–32 (1971)).

The President's proposal directly conflicts with the reservations of Chief Justice Burger about "rigid guidelines—for application to an infinite variety of problems." Swann at 29. The President would have national uniformity. Courts would be deprived of flexibility to deal on a case-by-case basis with local problems. Busing, which the court upheld in Swann, and which has been successfully used in many cases would be uniformly prohibited.

Finally, President Nixon speaks of equalizing educational opportunities without busing. His plan smacks of Plessy v. Ferguson. He would leave the students, black and white, affluent or destitute, where they are. He speaks of providing additional funds to the poorer schools to bring them up to parity with the better schools. Actually, his proposal provides no new or additional funds to improve poor schools. It simply shifts funds already budgeted, eliminates the cost of busing, and continues programs which were to be funded for just 1 year. In short, the President has once again spelled out a "benign neglect" policy both with respect to desegregation and to improvement of the quality of education.

Let me now comment specifically on the substance of the President's proposals, the bills themselves. The moratorium bill, H.R. 13916, provides for a halt to busing for purposes of desegregation. Busing, under a court order or a desegregation plan submitted under title VI of the Civil Rights Act of 1964, would be stopped until July 1, 1973 or the date of enactment of permanent legislation, whichever is earlier. The bill contains "findings" by the Congress to the effect that busing has been extensive and excessive and that there is a need for national uniformity of standards on reassignment and busing for purposes of desegregation. Nearly 45 percent of all students are bused, and less than 3 percent of that total are bused for purposes of desegregation. Busing can hardly be considered either extensive or excessive. I share the view expressed by Chief Justice Burger that national uniformity on the subject of busing is not only unnecessary but impossible if we are sincere about desegregation. Swann at 29 to 32.

My basic opposition to the moratorium bill is that it will leave thousands of black children where they are, in poor, segregated schools, while the Congress considers ways to improve their lot. Busing, which can provide some relief to some of those children, would be proscribed. This lost time will never be regained. I submit that this moratorium is essentially similar to a stay of proceedings which is available in court proceedings. Why should Congress grant a stay in all cases, including those which are not even on appeal, when that relief is available through the appellate court process.

It makes for more sense to allow the courts to continue to weigh the arm to black children against the expense and inconvenience of carrying out a busing order in individual cases. I note that the courts frequently issue such stays and expedite the appeal process. This was done very recently by Judge Haynsworth in the Richmond case decided by Judge Mehrige.

Whatever happens on the issue of a moratorium on busing, we must confront several very serious policy questions in the equal educational opportunities bill, H.R. 13915. That bill is proposed as the ultimate, long run program to desegregate schools. In reality, it would perpetuate and even promote segregation. The grandiose and eloquent statements of policy are empty because of severe limitations on existing remedies.

The congressional finding in section 3(a)(2) that "the abolition of dual school systems has been virtually completed and great progress has been made and is being made toward the elimination of the vestiges of those systems" is more than a self-serving declaration by the Nixon administration. It will become a convenient excuse for courts and the administration to stop desegregation efforts where they are. It tells courts and administrations that we have gone far enough.

In sanctifying the neighborhood school concept, the bill promotes the theory of separate but equal schools. Given the realities of present housing patterns, neighborhood schools will be segregated. The bill provides no remedies to deal with this situation and eliminates two remedies which have been fashioned by the courts. Busing is proscribed absolutely with respect to students in the sixth grade and below, and is virtually impossible to justify for students in the 7th grade and above. Decisions like that by Judge Mehrige in the Richmond case would be all but eliminated. That case involved the merging of school districts despite politically determined boundary lines. Section 404 of this bill would require, as the basis of such an order, a showing that the "lines were drawn for the purpose—of segregation—and had the effect of segregating children among public schools." This imposes a nearly unbearable burden on a plaintiff seeking relief. He must go back to the time of the creation of the districts and show that lines were drawn to establish segregated schools. In many cases, this simply is not true and in nearly all cases it could not be proven. This section thus eliminates decisions like that in the Richmond case.

Finally, I must express my complete amazement at the provisions contained in section 406. The section provides that:

> On the application of an educational agency, court orders or desegregation plans under title VI of the Civil Rights Act of 1964 . . . shall be reopened and modified to comply with the provisions of [the] act.

The effect of this section would be to permit all of the existing court orders and desegregation plans to be challenged on the basis of the limitations of remedies contained in this bill. Busing plans would, of course, be the most seriously affected. Desegregation programs which are now operating effectively and with a minimum of controversy would be subject to attacks which would reopen old wounds and undo all gains. The doctrine of stare decisis would be meaningless. Cases which have been through years of appeals would be relitigated with all of the delays and expenses that would involve. This provision amounts to a retroactive rollback of many of the gains for which we have struggled so long.

I have serious doubts about the constitutionality of the President's proposals to limit desegregation remedies. Congress clearly has the power to enforce 14th amendment guarantees.

The power of Congress to restrict or dilute the guarantees of the 14th amendment was specifically considered by the Supreme Court in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1965). Speaking for the majority, Mr. Justice Brennan said that section 5 of the 14th amendment "does not grant Congress power to—restrict, abrogate, or dilute" the guarantees of equal protection and due process. Morgan at note 10, page 651. I submit that this is exactly what the administration bills are designed to do.

The personal rights of litigants to equitable relief, where appropriate, would be cut off by this legislation. The determination of the proper scope of equitable relief should be left to the courts. The President should ponder the statement on the subject by Chief Justice Berger in the Swann case:

> In seeking to define the scope of remedial power or the limits on remedial power of courts in an area as sensitive as we deal with here, words are poor instruments to convey the sense of basic fairness inherent in equity. Substance, not semantics, must govern, and we have sought to suggest the nature of limitations without frustrating the appropriate scope of equity. *Swann* at 31.

The administration proposal would "frustrate the appropriate scope of equity" and would deny litigants their personal rights to adequate, effective relief. Substantive rights without appropriate remedies become meaningless.

In view of the provisions I have discussed, it is hardly surprising that the council of black appointees of the Nixon administration is reportedly dissatisfied with the President's proposals and is studying changes. What is distressing about that report is that the black appointees apparently had virtually no input into the drafting of the bills. The administration plan is far more than an antibusing plan, it is a plan to limit future desegregation efforts and to roll back many of the gains.

We have come to expect the worst from an administration which began its civil rights enforcement efforts by intervening to delay desegregation of Mississippi schools.

Able, dedicated civil rights leaders like Frank Render, Leon Panetta and Clifford Alexander worked within the administration but were forced out because of their effectiveness and unwillingness to back down. These bills are the culmination of a progression of actions which have chipped away at our gains and made further progress more difficult. We begin today to struggle against the constraints of this regressive legislation.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the subject matter of my special order today.

The SPEAKER pro tempore (Mr. LINK). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. RANGEL. Mr. Speaker, I believe that most Americans are against any form of racial discrimination and that they accept the fundamental provision prohibiting it. It follows, therefore, that any child, black or white, has the right to be free from discrimination in our public schools.

President Nixon, however, believes otherwise.

In his speech to the Nation and in the legislation he has just sent to Congress, the President has clearly cast his ballot in favor of racial discrimination, injustice, and unequal opportunity. He has submitted a bill with the misnomer, Equal Educational Opportunities Act, a proposal which, if enacted, would guarantee unequal, antieducational, nonopportunities for millions of black American children.

A close examination of the Presidential proposal makes it obvious that he has surrendered to the forces of regression and racism. His bill opens with a series of fallacious findings which would lay down a smokescreen of deceit in front of our citizens. Were Congress to adopt the President's contention that "the abolition of dual school systems has been virtually completed and great progress has been made and is being made toward the elimination of the vestiges of those systems," then Congress would shut its eyes to the truth: the Department of Health, Education, and Welfare has reported that only a minority of black children—in the North and in the South—attend integrated schools.

The truth is that school busing constitutes the largest transportation system in the country and that only a small percentage of those who ride the buses each day do so for reasons of racial or educational equality; they simply live beyond walking distance of any neighborhood school. Furthermore, since students will travel by schoolbus for many years to come, the President and Congress must take decisive action to establish rigid schoolbus safety standards—regardless of the present controversy.

We did not hear the voice of President Nixon raised when it was black children who were bused away from their own neighborhoods to segregated schools. But the administration would now outlaw the use of busing to achieve a positive result.

The Nixon legislation shows a total lack of understanding of the system of justice which we have developed over the past 200 years. He criticizes the Supreme Court for failing "to establish a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system," ignoring the fact that our courts are bound to consider the individual circumstances in each case. We all recognize that each town and city is different, and that is senseless to argue that the courts should disregard variations found in specific cases. However, the cardinal concept is, however, well established: racially discriminatory and unequal schools are intolerable under our Constitution.

We are told that the President is opposed to discrimination, yet his legislation would curb the equity powers of our courts to remedy the effects of that discrimination. Adoption of the President's bill would render the right to equal and quality education a meaningless sham.

We are told that the President believes in "law and order," yet he proposes that any school desegregation case already decided under title IV of the Civil Rights Act of 1964 be reopened at will. Does "law and order" mean overturning the antidiscrimination laws and court decisions of the past? Yes, according to the President.

Congress cannot morally adopt the Nixon plan. It cannot in good conscience succumb to the lure of the bigot. It cannot now reverse the slow, hard-won progress made by those who believe in civil rights and equal opportunity for all Americans.

The question of busing has become a presidential red herring designed to perpetuate racial discrimination and deny educational opportunity to black children.

Mr. CONYERS. Mr. Speaker, I sometimes wonder how far a President will go to mislead his countrymen, and how far they will let him go before realizing that they have been swindled. Surely Mr. Nixon has gone too far this time trying to coax the public to participate in his antibusing sideshow. A proposal which appears to contain something for everybody is in reality the worst kind of political sham.

Mr. Nixon is playing a game which threatens to tear at the already delicate legal and social balance in this country.

XUM

He has chosen to cater to the fear of the powerless and to manipulate the power of the fearful. Quality education, no matter how important and basic to a nation's growth, will not solve the problems of school desegregation. And school desegregation, no matter how vital to a healthy, integrated society, will not by itself bring us quality education.

There is no question that a horrendous deficiency exists in today's education. Thousands of schools, black and white, are inadequately funded, poorly staffed, and isolated from the mainstream of American life. Money is desperately needed to rectify the deficiencies of these schools and it must come in great quantities and soon. But, Mr. Nixon's legislation, promising as it may appear to some on the surface, does not solve the economic needs of education. While minimal emphasis is placed on aid to ghetto schools, the bill basically rearranges funds which have already been requested by the President.

Quality education is more than airy classrooms, well-paid teachers, and lots of books. There can be no quality education without integration. Quality education means an educational experience which will lay the foundation for intelligent participation in a democratic society. Children who are raised in isolation can hardly be expected to understand their society and its workings. And, since children learn more from each other than from any other resource of the education environment, there can be no better way to achieve this understanding than through schools which are representative of their society. Integrated education that has the support of the community is working in hundreds of American communities in every region. It can and does result in better education for all children—black and white, rich and poor.

The ruse of "quality education" is not the worst of the Nixon hoax. The President has used as his final justification for the busing moratorium recent polls which say black parents do not like busing either. But what he has not dealt with is the sentiment supported by a recent Gallup poll that 80 percent of the black people interviewed believe that if busing will get them what they want—which is good education for their children—then busing it will have to be.

By rejecting busing out of hand, Mr. Nixon is creating an impression that the courts have ordered excessive busing. This is simply not true. Court-ordered busing has generally not been excessive, nor have courts engaged in indiscriminate racial balancing.

There is a popular belief that busing to desegregate schools has resulted in more overall busing. This has not been the case. Children have been bused so long as there have been buses. A careful look at the Department of Health, Education, and Welfare statistics on busing since 1929 shows that while the number of children bused to school has risen gradually, along with an increase in the total number of children, the rate of increase has not. That is to say, in 1929, 7.4 percent of all schoolchildren were bused. That figure rose about 10 percentage points every 10 years up to 1959. It did not increase after 1954. What is more, the rate of increase has actually dropped since 1959. Yet in the 18 years since Brown against the Board of Education busing has not been massive, where is the basis for current fears? How many times have children been bused to maintain segregated patterns of education? Where are the cries against busing poor little children far from home then? How many times have children been bused past white schools to black schools farther from home?

Despite his public promise to find means to replace busing as a tool of integration, Mr. Nixon has simply not delivered. His revelation that he found an alternative to busing turned out to be just another Presidential pretense. Instead of replacing that so-called bad means to a good end, he has left open the possibility of a bill of questionable constitutionality, sought the enactment of legislation which would inhibit the Federal courts or administrative agencies from rectifying acts which have already been declared illegal by the Supreme Court, and generally muddled an already confused and desperate problem.

Although by the President's own claim, the proposed moratorium on busing would only forbid implementation of new busing ordered by the courts, closer examination of the bill throws this already doubtful proposal into further question. Section 406 of the so-called Equal Educational Opportunities Act states:

> On application of an educational agency, court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 in effect on the date of enactment of this Act and intended to end segregation of students on the basis of race, color, or national origin shall be reopened and modified to comply with the provisions of this Act.

With administrative support and diligent application, this small, unobtrusive section could become the tool for destroying the foundation of desegregated education as we have come to understand it—modest as it has been—in the past 18 years.

So, where are we left now? We could be saddled with legislation which is claimed to do much but which in effect would do very little. It would neither meet the desperate economic needs of education, nor would it resolve the dilemma of integrated education. Those who have remained loyally committed to fighting separate and unequal societies have now been told that the 1954 Brown decision and the Civil Rights Act of 1964 are no longer basic underpinnings of national domestic policy. Even those who oppose busing but favor integrated education have been cheated. And in the process of confusing the issue, the President may very well have succeeded in doing great damage to our constitutional and judicial structure.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the distinguished gentleman from Maryland.

Mr. MITCHELL. First I want to commend my distinguished colleague, Congressman STOKES, for taking this special order, and I wish to further commend him for the very succinct and precise presentation he has made with reference to the latest maneuver by the Nixon administration. This maneuver, as Congressman STOKES has indicated, is clearly a continuing part of the effort of the administration to wipe out the gains that black Americans have made.

I believe we have to speak bluntly and honestly to this. I believe the schoolbusing issue is the "white herring" of this political campaign year. It is a much better "white herring" than "law and order" was 4 years ago, because it involves children, motherhood, neighborhood, and the American Constitution. Forty to 65 percent of all school children—depending upon whether you read the school bus or the public transportation statistics—are riding something to school already.

Busing is a very good "white herring" indeed.

Antibusers say they cannot be accused of racism, because they can point to significant numbers of blacks who are themselves against busing. They conveniently ignore the fact that blacks have reasons—centuries of reasons and decades of school desegregation legislation—leading them to conclude that it is time to stop holding out hopes, false hopes, to yet another generation of kids, and start educating their own children, controlling their own schools, and improving their own neighborhoods. But do not believe for a minute that this widespread disillusionment is limited to busing, or even education in general, a fact which I have never heard brought out by the big-time antibusers when they gleefully point to black support.

For most of the antibusing forces in this country, however, the issue is so emotional that it is not affected by blacks for or against. People who might have had trouble supporting unembellished racism, can wholeheartedly support a euphemism for racism. Especially when it involves kids and the American Constitution. And when it occurs in the total absence of moral leadership by the American chief of state.

I thank the gentleman for yielding.

Mr. STOKES. I thank the gentleman from Maryland for his remarks.

I now yield to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. First, Mr. Speaker, I would like to commend the gentleman from Ohio for the very fine statement which he has made and for this opportunity which he has given to set the record straight.

I am in agreement with what he has said, and I feel he has made a great contribution to a clarification of the issues in this controversy.

I would like at this particular point, Mr. Speaker, to have inserted in the RECORD a record of the Nixon administration on school desegregation actions and inactions.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

CHRONOLOGY OF THE NIXON ADMINISTRATION'S SCHOOL DESEGREGATION ACTIONS AND INACTIONS

1969

Jan. 29: Five southern school districts, against which Title VI proceedings had been exhausted and termination of federal funds were pending, were given a 60-day period of delay by HEW Secretary Finch. Finch said if the districts came up with acceptable plans, they would receive the lost funds retroactively.

Feb. 6: The President said of freedom-of-choice plans for desegregation—If the plan were "simply a subterfuge to perpetuate segregation, then the funds should be denied to such a school system." But, if a plan were found "to be one which actually is bringing an end to segregation" then it would be "appropriate".

Feb. 10: HEW Secretary Robert H. Finch said that the Nixon Administration would move to enforce school desegregation legislation "nationally, not just in the South." "You've got de facto segregation in every part of this country," he declared, "and we're going to go after it."

March 10: Secretary Finch's interview in U.S. News & World Report alluded to some impending change in the HEW school desegregation guidelines. In addition, the Secretary was quoted as saying that HEW must retain its enforcement powers: "We cannot turn (the entire enforcement-compliance field) over to the Justice Department now because we have built up a certain momentum in education, in terms of getting school districts to recognize that a . . national goal has been set. If you were to chop off everything now in my department, just let Justice handle compliance. . . . I think a lot of this momentum that has been built up would be lost." (See July 3, 1970)

March 14: HEW General Counsel designate Robert Mardian sent Secretary Finch a memorandum advocating, among other things, that HEW might permit an extension beyond the previously established 1969 target date for total desegregation and that this policy could be implemented without any particular public announcement. This memorandum was exposed in an Evans and Novak column.

March 18: The Leadership Conference on Civil Rights received assurance from Secretary Finch that there would be no change in the guidelines.

March 24: Secretary Finch disavowed the Mardian memorandum.

April 15: The *Washington Post* reported that Administration sources claimed that the guidelines were being "revamped" because they were "vague and ambiguous." Secretary Finch and Attorney General Mitchell reportedly attended meetings at the White House on the guidelines.

April 15: The HEW Office for Civil Rights initiated enforcement actions under Title VI of the Civil Rights Act of 1964 against Ferndale, Michigan. This was the first HEW action against a northern district.

April 22: Office for Civil Rights Director, Leon Panetta's letter in response to a letter from Jack Greenberg of the NAACP Legal Defense Fund to Secretary Finch: "The Department is not contemplating any changes in the guidelines at this time."

May 16: Leon Panetta, in a speech in Atlanta, said: "Why can't we continue to use free choice? . . . The answer is that the Supreme Court ruled against it. . . . HEW policies are controlled by that decision."

May 13: HEW submits two year plans to a South Carolina Federal District Court giving 21 districts another year of freedom of choice.

June 20: Jerris Leonard commented that the Administration's position would be that districts are required to desegregate by the target deadline (September 1969) where that was possible." He was also quoted as saying "It's wrong to set arbitrary deadlines." (Washington Post, June 20.)

June 28: Secretary Finch was quoted as saying there would be no relaxation of the guidelines. (New York Times, July 1.)

July 1: Secretary Finch proposed to the White House that a new policy statement on the school desegregation guidelines contain no provisions for more time to comply with the law. (New York Times, July 1.)

July 3: Attorney General John N. Mitchell and HEW Secretary Robert H. Finch announced that no longer would the Administration rely chiefly upon fund cut-offs by the HEW Department to bring districts into compliance. Instead, major emphasis would shift to the use of lawsuits initiated by the Justice Department against noncomplying school systems. Such a shift would, Finch and Mitchell said, minimize the need for termination of funds.

The deadline of September 1969 for complete desegregation was reaffirmed. But the Administration said it would permit exceptions for school districts with "bona fide educational and administrative problems." It continued:

"It is not our purpose here to lay down a single arbitrary date by which the desegregation process should be completed in all districts or to lay down a single arbitrary system by which it should be achieved."

The policy statement was deplored by civil rights leaders and lauded by southerners. It was criticized by the U.S. Commission on Civil Rights as a change to a less effective means of bringing desegregation. School desegregation statistics released by the HEW Department showed that areas under court order achieved substantially less desegregation than those under the jurisdiction of the Department.

July 3: Leon Panetta, Director of the Office for Civil Rights, announced that he planed to send all southern school superintendents a letter explaining the new policy. (Washington Post, July 4.) A few days later Secretary Finch was quoted as saying that no letter of explanation would be sent. He said it was "unnecessary."

July 5: White House Press Secretary said that the Administration was "unequivocably committed to the goal of finally ending racial discrimination in schools."

July 7–8: The Department of Justice filed five school desegregation suits in the South and one in the North. HEW sent termination orders covering three districts to Congress for the one-month waiting period before final cut-off of federal funds. One district submitted an ineffective plan which was accepted by HEW during that month. The other two districts were terminated. These were the last fund terminations for 12 months. In previous years, fund cut-offs had averaged over 150 per year.

August 1: The Department of Justice filed a statewide suit against Georgia to end segregation in the state's public schools.

August 3: The Whitten Amendment to the HEW Appropriations Bill was passed by the House. This Amendment would, in effect, have prohibited HEW from requiring anything other than freedom of choice plans. The Administration took no position on the Amendment. Later, in the Senate, it opposed the amendment.

August 13: In Attorney General Mitchell's speech to the American Bar Association, he said: "The extravagant rhetoric of the last few years have offered promises which cannot be delivered, and have set as immediate goals programs which will take a decade to complete."

August 25: The Administration asked the Federal Courts to delay desegregation in 33 Mississippi districts from September 1969 until September 1970. On August 28 the Fifth Circuit granted the Administration request.

August 26: Civil rights lawyers in the Justice Department met to draft a protest against the Nixon Administration's decision to delay desegregation in southern school districts. The lawyers charged that the Administration had bowed to political pressure from southern Members of Congress to relax the guidelines.

September 16: Vice President Agnew said he was against busing children "to other neighborhoods simply to achieve an integrated status of a larger geographic entity."

September 22: On "Issues and Answers", Secretary Finch said that HEW would continue to use ousing as a method of achieving school desegregation.

September 27: Assistant Attorney General for Civil Rights, Jerris Leonard, said, "if the court were to order instant integration nothing would change. Somebody would have to enforce that order." (Washington Post 9–28–69)

October 14: The Department of Justice filed suit against Waterbury, Connecticut. It was the second northern suit filed by the Nixon Administration.

October 29: The Supreme Court in *Holmes v. Alexander* unanimously rejected the Administration's request for desegregation delay in 33 Mississippi districts. It directed immediate desegregation, stating that maintenance of segregated schools under the guise of "all deliberate speed" was no longer acceptable.

October 30: Attorney General Mitchell said, in response to the Supreme Court decree, that the Justice Department would bring every available resource to bear in enforcing the decree. He said, "All Americans, state and local officials, judges, federal officials, and citizens will be called upon to understand, cooperate, and comply. If we believe in a society based on the rule of laws, we will do so without hesitation."

December 8: In a news conference, President Nixon said concerning the Oct. 29 Supreme Court order for immediate school integration, that he intended "to carry out what the Court has laid down. I believe in carrying out the law even though I may have disagreed as I did in this instance with the decree that the Supreme Court finally came down with."

December 31: Again, the Administration asked the Supreme Court to delay until September 1970 the desegregation of "uncommitted districts" of the South. The Supreme Court rejected the request on January 14.

1970

January 6: Secretary Finch expressed concern about the South's new private schools. He said there was a move, which he supported, within the Administration to end tax exemptions for private schools chartered to avoid desegregation in public schools. He estimated 300–400 private schools had opened in the South since enactment of the 1964 Civil Rights Act.

January 22: The Justice Department stated in its Pasadena, California, school desegregation brief that all black neighborhoods were no excuse for all black schools. The Department said, "Under the facts in this case, use of a strict neighborhood school policy and a policy against crosstown busing take on constitutional significance as a violation of the Fourteenth Amendment."

February 1: Vice President Agnew announced that President Nixon planned to establish a Cabinet-level committee to counsel southern school districts about implementing court-ordered desegregation plans "in the least disruptive way."

February 12: White House Press Secretary Ronald L. Ziegler indicated that President Nixon believed the North and the South should be subject to Federal school desegregation orders. He re-emphasized that Nixon had "consistently opposed and still opposes compulsory busing of school children to achieve racial balance."

February 17: Leon Panetta was forced to resign as Director of the Office for Civil Rights. He charged that the Administration was willing to yield to southern political pressure at the expense of the dsegregation enforcement effort. (See Panetta book, "Bring Us Together: *The Nixon Team and the Civil Rights Retreat*", 1971)

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February 17: President Nixon promised Federal assistance to school districts "in complying with the courts' requirements." He made the statement during his announcement of a Cabinet-level committee, chaired by Vice President Agnew, to aid schools under court orders to desegregate immediately.

February 21: HEW General Counsel Robert Mardian was named Director of the Cabinet Committee on School Desegregation.

February 24: The HEW Civil Rights Reviewing Authority found that the Columbia, South Carolina school system had failed to desegregate its schools as required by Title VI of the Civil Rights Act of 1964. Secretary Finch said he believed Columbia officials had acted in good faith and that he would reconsider the Reviewing Authority's decision if it were appealed to him.

March 1: Secretary Finch condemned the desegregation orders involving busing for Charlotte-Mecklenberg, North Carolina, and Los Angeles, California.

March 3: Two HEW staff members resigned over the pace of school desegregation and 125 other HEW employees in the Office for Civil Rights sent a letter to Mr. Nixon expressing "bitter disappointment" over the forced resignation of Leon Panetta, director of the office.

March 4: John Ehrlichman, President Nixon's chief domestic adviser, said that he opposed the integration of Negro and white students in the public schools if it only served the purpose of mixing the races and did not upgrade over-all educational standards. The White House aide said he believed "that when a change in the racial makeup of the schools is undertaken for a purely social end, that's a misuse of the schools."

March 6: More than 1,800 HEW employees signed and sent a petition to Secretary Finch requesting an open meeting on school desegregation policies.

March 6: Thirty-seven top black officials in the Nixon Administration met with the President and urged him to clarify his position on school desegregation and to take more action in the field of civil rights. The meeting marked the first time the President had met with all his black appointees at one session.

March 9: Vice President Agnew said the most effective means of ending *de facto* segregation in the United States was by creating opportunities for better housing and better jobs for Negroes, not by busing school children simply to achieve racially balanced schools.

March 24: President Nixon pledged in an 8,000-word document that his Administration would not abandon or undermine the school desegregation gains since the Supreme Court's 1954 ruling outlawing "separate but equal" educational facilities. The President said it was his "personal belief" that the 1954 decision "was right in both constitutional and human terms."

He continued:

"I have instructed . . . officials of the Government to be guided by these basic principles and policies:

"Deliberate racial segregation of pupils by official action is unlawful. . . . It must be eliminated at once.

"Segregation of teachers must be eliminated. . . . Each school system in this nation . . . must move immediately . . . toward a goal under which 'in each school the ratio of white and Negro faculty members is substantially the same as it is throughout the system.'

"With respect to school facilities, school administrators throughout the nation . . . must move immediately to assure that schools within individual school districts do not discriminate with respect to the quality of education.

"Transportation of pupils beyond normal geographic school zones (to achieve) racial balance will not be required.

"Federal advice and assistance will be made available on request, but Federal officials should not go beyond the requirements of law in attempting to impose their own judgment on the local school district.

"Racial imbalance in a school system may be partly *de jure* in origin, and partly *de facto*. In such a case, it is appropriate to insist on remedy for the *de jure* portion, which is unlawful, without insisting on a remedy for the lawful *de facto* portion.

"*De facto* racial separation, resulting genuinely from housing patterns, exists in the South as well as the North; in neither area should this condition by itself be cause for Federal enforcement actions. *De jure* segregation brought about by deliberate schoolboard gerrymandering exists in the North as the South; in both areas this must be remedied. The law should be applied equally."

Mr. Nixon revealed that the Government planned to allocate $1.5 billion over the next two years to help school districts in the North and South alleviate the effects of racial segregation.

He repeated his opposition to student busing simply as a means of achieving racially balanced schools without improving the quality of education, and he said that he was in favor of the neighborhood-school concept.

April 8: Secretary Finch and the new Office for Civil Rights Director, J. Stanley Pottinger, held a press conference in which Pottinger announced that HEW would begin monitoring Southern school districts which had agreed or been told by a court to desegregate. (Washington Post 4–8–70) (HEW has never monitored court-ordered plans.)

April 9: The Department of Justice filed an amicus brief in the Charlotte-Mecklenburg case suggesting that Judge McMillan had committed "an abuse of discretion" by ordering an "extreme" busing plan.

April 11: The Commission on Civil Rights criticized President Nixon's March 24 policy statement on school desegregation as inadequate, overcautious and possibly signaling a major retreat on the issue of school integration.

April 13: The Department of Justice filed a memorandum with the Fifth Circuit Court of Appeals spelling out its strong reservations about the Manatee County, Florida, court order busing provisions.

April 16: Attorney General Mitchell said that everyone has "the right to reject unreasonable requirements of busing and to send their children to neighborhood schools." He said this right is "just as important as the right of all of our citizens to be assigned [to schools] without regard to their race." (Washington Post 4–17–70)

April 27: James E. Allen Jr., U.S. Commissioner of Education, said he intended to continue his work to end school segregation whether it was *de facto* or *de jure*. This statement was at odds with President Nixon's Policy statement March 24 that his Administration could do nothing about *de facto* segregation resulting from neighborhood residential patterns.

April 28: Three Nixon Administration chief civil rights officials and their aides met with South Carolina school administrators and told them that all public schools in the South must implement desegregation plans by the time classes resumed for the fall term. OCR Director, J. Stanley Pottinger said his office soon planned to emphasize enforcement against northern segregation and that "it is time to move as vigorously in the North as other administrations have moved in the South." (Washington Post 4–29–70)

May 5: Secretary Finch said on a television interview program that the Supreme Court should move against school racial segregation caused by housing patterns.

May 21: President Nixon formally asked Congress to appropriate $1.5 billion over the next two years to be used primarily to help finance desegregation of southern schools and to spur northern school districts to integrate voluntarily.

May 25: HEW notified more than 1,000 school districts that they must remove language barriers and other discriminatory practices which handicap national-origin minority children.

May 26: The Justice Department intervened in a desegregation suit in Senora, Texas. This was the first Administration action in a case involving primarily Mexican-Americans.

June 5: The announcement was made that Secretary Finch was leaving HEW to move into the White House as a counselor to the President.

June 10: Dr. James E. Allen Jr. was asked to resign as Commissioner of Education and Assistant Secretary of HEW by Secretary Finch. Allen attributed his dismissal partly to his views on desegregation. He accused the Administration of lacking commitment to the total desegregation of schools. Allen said Finch had told him "he had been directed to seek my resignation."

June 10: The Internal Revenue Service (IRS) announced in a new policy directive that private schools practicing racial discrimination in their admissions policies would have their tax-exempt status revoked. IRS said, however, that a published open admissions statement would be accepted as proof that there was no discrimination.

June 13: New HEW Secretary Richardson said the Administration was doing everything it could under present standards to produce more desegregation in the North.

June 25: Secretary Richardson said he would use Title VI of the Civil Rights Act of 1964 federal fund cut off powers if necessary to enforce school desegregation. (No funds had been terminated since August 6 1969.)

June 26: The Justice Department filed an amicus brief before the Supreme Court in opposition to the plaintiffs in the Charlotte-Mecklenburg desegregation case.

June 27: Assistant Attorney General Jerris Leonard chastized critics of the Nixon Administration's handling of school desegregation. He said, "I think it's about time that our politically motivated critics stop accusing a department of footdragging [when it] has made more progress in school desegregation in 17 months than was made in 15 years. . . . I'm getting pretty annoyed by the cynical, asinine criticism. All it does is tend to lessen the confidence of black parents and others who are fighting for desegregation." (Washington Star 6–28–70)

July 2: Secretary Richardson ordered the cutoff of federal funds to three school districts under Title VI of the Civil Rights Act of 1964. *There have been no fund cutoffs since.*

July 9: The Justice Department filed suit against 46 southern school districts for failing to produce acceptable desegregation arrangements. Six more suits were filed July 10.

July 16: Assistant Attorney General Leonard confirmed Justice Depatment plans to send a 100-man Federal task force to establish five regional command posts throughout the South in an effort to reduce the potential for disturbances and receive complaints of discrimination as hundreds of southern districts implemented desegregation arrangements for the first time. This activity was in response to the decisions of the Supreme Court and in spite of Administration footdragging.

July 17: The Justice Department issued a statement in Attorney General Mitchell's name declaring that information indicating 100 lawyers were being sent to the South was "premature" and that no decision had yet been made on the number of lawyers to be used.

July 19: Secretary Finch said on "Issues and Answers," "We are not sending any large augmentation of people into the South."

July 20: President Nixon, during an impromptu news conference, said "Our policy . . . is cooperation rather than coercion . . . there cannot be instant integration. But segregation must be ended. That is the law of the land and it is necessary for us to go forward and to end it (segregation) with a transition period which will be as least difficult as possible."

July 30: President Nixon, on sending U.S. officials to the South, said "As far as the number of Federal officials that should be sent to the South, let me emphasize that that will be based on whether those southern districts or states that have this problem of desegregation ask for help, either Justice Department or HEW experts. We are not going to have force—a force policy in this area . . . Our policy is one of cooperation, rather than coercion."

(Top Administration spokesmen told reporters later that the President had erred and that officials would be sent into these areas at the Justice Department's initiative).

August 14: President Nixon visited New Orleans to state his Administration's intention to avoid treating the South as a "second-class part of the nation" in the matter of school desegregation. He said he would meet the responsibility to uphold the Supreme Court desegregation decision. "This is one country, one people, and we are going to carry out the law in that way, not in a punitive way—treating the South as basically a second-class part of the nation—but treating this part of the country with the respect that it deserves, asking its leaders to cooperate with us and we with them."

Mr. Nixon said he had rejected a Federal approach of waiting for trouble and then ordering in Federal enforcers. "I have no patience with those from the North that point the finger at the South and then overlook the fact that in many northern cities and northern states the problem may also be a very, very difficult one."

August 15: Columnists Evans and Novak pointed out that Vice President Agnew had been removed from active participation on the Cabinet Committee on School Desegregation, reportedly to preserve Agnew's standing in the South.

September 6: The New Orleans Times-Picayune reported on an earlier meeting with a group of southerners in which President Nixon stated he had a higher responsibility to enforce the law—and beyond that, to lead the nation out of the energy-tapping racial morass. He said it was time to settle these things, to clean the slate so that the next generation could start fresh.

October 12: The U.S. Commission on Civil Rights reported that there had been a "major breakdown" in the enforcement of the nation's legal mandates forbidding racial discrimination and urged President Nixon to exercise "courageous moral leadership." The 1,115-page report was entitled "The Federal Civil Rights Enforcement Effort."

October 12–14: Solicitor General Erwin N. Griswold, arguing the Government's case before the Supreme Court against student busing and racial balance in the schools in the Deep South, said that white students might flee the South's public schoolrooms if school desegregation were passed too vigorously.

On racial balance in the schools, he said, "I cannot find that in the Constitution." But he rejected the argument that the Constitution prohibited assigning children to schools on the basis of race in order to break up segregated schools.

October 19: The NAACP Legal Defense Fund filed suit against HEW, charging it with "general and calculated default" in its enforcement of Federal school desegregation guidelines.

November 24: Six private civil rights groups charged that the $75 million Emergency School Assistance Program was improperly administered. They found and documented, among other things, that grants went to districts engaging in racial discrimination and projects which were racist in their conception..

November 25: The Office of Education said it planned to send inspectors between then and January 15 to all 812 school districts given grants under the Emergency School Assistance Program, and "where we find violations we are going to crack down." (Washington Post 11–26–72)

December 11: The Office of Education earmarked $3.2 million to help retrain about 1,500 black teachers and principals who had been dismissed or demoted as a result of school desegregation. The Administration made no similar announcement, however, to move legally against districts which discriminatorily dismissed and demoted school personnel.

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March 15: The General Accounting Office issued a report on the $75 million Emergency School Assistance Program citing "weaknesses" in the administration of the program. It said the "weaknesses . . . were due, to a large degree, to [a] desire for expenditious funding, at the expense of a more thorough review and evaluation of school districts' applications." The findings confirmed those of the private civil rights groups in their report.

March 16: Senator Robert Dole, Republican National Chairman, said the Nixon Administration must find a credible salesman to improve its image among black voters. He said, "We haven't convinced black Americans that there has been a commitment from this Administration for their cause."

April 20: The Supreme Court ruled in the *Swann v. Charlotte-Mecklenburg* case, among other things, that busing was an acceptable desegregation tool. In so doing, the Court rejected the position advocated by the Nixon Administration.

April 21: Ronald L. Zeigler, White House Press Secretary announced, "The Supreme Court has acted and the decision is now the law of the land and it is up to the people to obey it. It is up to local school districts and courts to carry out the court decision. The Departments of Justice and HEW will carry out their statutory responsibilities."

April 22: Secretary Richardson said in a speech to an NAACP Legal Defense Fund dinner in New York City, "We are committed to the full enforcement of the requirements of the law. But we are convinced that these requirements can now be fulfilled more effectively by cooperation than by coercion, by persuasion than by force."

May 14: HEW submitted a desegregation plan for Austin, Texas to a federal district court which called for several non-contiguous school zones and required extensive busing necessitating the purchase of up to 100 new buses.

May 28: In an interview, reported in the Atlanta Constitution, Secretary Richardson said southern cities would be told "you now have new tools" to finish the desegregation job and the government will help in any way it can.

June 1: HEW submitted a desegregation plan for Nashville, Tennessee which, like the Austin plan used non-continguous zones and extensive busing.

July 19: A federal court judge rejected the HEW plan for Austin, Texas and adopted instead the local district's plan. The Justice Department had until August 3 to file an appeal.

July 30: The Office of Education sent a memorandum to governors, state and local school superintendents, and HEW personnel concerning priorities under a Congressionally approved resolution continuing the funding of the Emergency School Assistance Program. The memorandum announced that transportation costs would be given very low priority and that local educational agencies were "expected to fund their transportation needs through state and local resources." This memorandum was sent out after Dr. Goldberg himself had earlier told representatives of several groups that money available under the continuing resolution would be used to support additional busing.

August 3: The Justice Department appealed the Austin decision, but accompanied the appeal with a statement from President Nixon which made three points:

First, the District Court decision had to be appealed because it was inconsistent with recent Supreme Court decisions. However, "In the process of the appeal, the Justice Department will disavow [the HEW] plan on behalf of the government."

Second, the President stated:

"I am against busing as the term is commonly used in school desegregation cases. I have consistently opposed the busing of our nation's school children to achieve a racial balance, and I am opposed to the busing of children simply for the sake of busing. Further, while the Executive Branch will continue to enforce the orders of the court, including court ordered busing, I have instructed the Attorney General and the Secretary of Health, Education, and Welfare that they are to work with individual school districts to hold busing to the minimum required by law."

Third, the Administration would submit an amendment to the Emergency School Assistance Act, passed by the Senate but still before the House of Representatives, to prohibit the expenditure of any of those funds for busing.

August 11: Presidential Press Secretary Ziegler disclosed that the President had told the Justice Department and HEW, orally and in writing, to carry out their school desegregation responsibilities "whenever possible without the use of busing." This he topped off with a threat to bureaucrats:

"Those who work within the government are going to be responsive. Those who are not responsive quite possibly will find themselves in other assignments, and quite possibly in assignments not in the Federal Government."

In his pronouncement Mr. Ziegler failed to make clear that Secretary Richardson and Attorney General Mitchell had both approved the Austin desegregation plan. The White House staff had also reviewed the plan, so it must be assumed that they at least had not disapproved it.

August 12: The U.S. Commission on Civil Rights strongly condemned the President's August 3 statement, saying "What the nation needed was a call to duty. Unfortunately, the President's statement almost certainly will have the opposite effect . . . of undermining the desegregation effort."

August 18: The Justice Department asked for a delay in the implementing of an extensive busing plan in Corpus Christi, Texas—a plan drawn up and submitted by HEW 12 weeks earlier. Corpus Christi is 50 per cent Mexican-American and 5 per cent black. Justice Black granted a short delay the next day.

August 19: HEW Office for Civil Rights initiated enforcement proceedings against Prince George's County, Maryland for failure to desegregate according to the requirements of the *Swann v. Charlotte-Mecklenburg* decision.

August 31: Chief Justice Burger refused on technical grounds to stay a racial balance plan for Winston-Salem, North Carolina. Instead he took the unusual step of clarifying" the *Swann* decision. He said that if lower courts "read this court's opinions as requiring a fixed racial balance or quota they would appear to have overlooked specific language" in the *Swann* opinion. Copies of this "clarification" were sent routinely to federal judges with a notation that it was for their "personal attention" followed by the initials "WEB." Some judges were reported to be insulted and distressed by the Chief Justice's "guidance."

September 13: Secretary Richardson said in

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a press conference, "In the situations where busing is being required now by court orders, by voluntary plans that have been negotiated with HEW, the amount of busing required is necessary in order to eliminate the vestiges of a dual school system. That doesn't mean—as Chief Justice Burger has reemphasized—that the busing is being required in order to achieve racial balance. It is to eliminate the vestiges of the officially required segregation under old laws."

November 7: Ronald Ziegler announced that on November 5 President Nixon telephoned House Minority Leader Gerald Ford to congratulate House Republican leaders on the anti-busing amendments attached to the school desegregation aid bill that week. The Administration did nothing to prevent the House approval of the anti-civil rights amendments added to the higher education bill. President Nixon, in fact, was the chief advocate of one of the amendments. (*Washington Post* 11-7-71)

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January 6: An Office of Education official wrote the head of the Florida School Desegregation Consulting Center stating that the Center could not draw up a desegregation plan requested by a federal judge for Memphis, Tennessee. He said the Center can only draw plans at the request of a local school district. This was a new policy. HEW funded Centers like the Florida one have drawn hundreds of plans including the one for Austin, Texas which was withdrawn on August 3.

January 20: In his State of the Union Message, President Nixon said he opposed "unnecessary busing for the sole purpose of achieving an arbitrary racial balance.

February 14: President Nixon met with Congressional proponents of a constitutional amendment to prohibit busing. While he declined to endorse such an amendment for the time being, he said, according to his press secretary, "We do have a national problem, we are not going to leave the situation as it is . . . we are looking for a remedy." Zeigler characterized the problem as ". . . a situation where there is court-ordered busing of such magnitude that it is widely believed to be counterproductive to the children of this nation."

Mr. HAWKINS. following that, I would like to have inserted also a statement contained in a telegram to the President prior to his educational message in which the leaders of prominent national organizations have pleaded with him to refrain from the type of divisive tactics he employed.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

TELEGRAM TO MR. NIXON

MARCH 13, 1972.

DEAR MR. PRESIDENT: We understand that you plan to issue shortly a comprehensive statement on your administration's position on educational policy, including racial segregation and bussing in the nation's public schools.

Since you met, in a well publicized meeting, with those favoring a constitutional amendment to prohibit bussing and to halt desegregation progress, we feel it is only fair that you meet with us at your earliest convenience, and before adoption or dissemination of any school policy. We wish to discuss with you our strong views that:

1. Racial isolation of our children—black and white—in our nation's schools is an educational and legal wrong;

2. Every reasonable means should be employed to end such racial isolation including bussing;

3. The issue at hand is compliance with the law. The constitutional rights of black school children should not be subjected to the political needs of the moment;

4. Our schools are our children's first major involvement with our public institutions and to permit them to incorporate and reflect residential racial discrimination is no less indefensible, legally and educationally, than to fail to eliminate, root and branch, vestiges of official discrimination; and

5. The constitutional rights of school children and quality education are the major issues facing us. Neither can be ignored or achieved by endless debate on peripheral issues like bussing. Black school children should no longer be required to wait for their achievement or to bear a disproportionate burden in their achievement because of America's inability or unwillingness to provide equally for all our children. What is called for now is strong moral presidential leadership counselling compliance with the law as decreed by the Courts of our land rather than defiance and backtracking.

Dr. Ralph Abernathy, President, Southern Christian Leadership Conference, 334 Auburn Avenue, NE, Atlanta, Georgia 30312.

Jack Greenberg, Executive Director, NAACP Legal Defense and Educational Fund, Inc., Ten Columbus Circle, New York, New York 10019.

M. Carl Holman, President, The National Urban Coalition, 2100 M Street, N.W., Washington, D.C. 20037.

Dorothy Height, National Council of Negro Women, 1346 Connecticut Avenue, N.W., Washington, D.C., 20036.

Vernon Jordan, Executive Director, National Urban League, 55 East 52nd Street, New York, New York.

Bayard Rustin, Executive Director, A. Philip Randolph Institute, 260 Park Avenue, South. New York City, New York 10010.

Roy Wilkins, Executive Director, NAACP, 1790 Broadway, New York, New York 10019.

Mr. HAWKINS. Mr. Speaker, while attempting to project an antisegregation public posture, it is the policy of this administration to "pay off" the maintenance of black ghetto schools as a means of avoiding the legal and moral responsibiilties of implementing and enforcing constitutional rights.

The President gives the impression of creating a new policy and making available new Federal funds for what he calls "quality" education. As a matter of fact he is merely bending along with the winds of political pressures and reemphasizing "separate and unequal" schools under the guise of so-called compensatory education.

Despite his own admission that conclusive evidence to support compensatory programs is not available, he is willing to ignore constitutional requirements on the nebulous basis that by spending $300 per child, equal educational opportunities can be achieved.

Actually, the President is resting his case on the racial-inferiority concept of "cultural deprivation" that assumes that black children are deficient and not their schools. He ignores the vast amount of data available that support the theory of the socioeconomic composition of the student body being more important to student achievement than such inputs as class size, teachers, and expensive physical facilities. He is willing to take the costly and wasteful road for the political mileage.

This is not to conclude that only by integration can any improvement be made. The problem is how, if not by desegregating our schools, and at what cost? And who is going to pay it?

It must be obvious that a 3 to 4 percent annual inflation rate, it would require much more than $2.5 billions in new money merely to repair the monetary policy damage to our schools.

Even more, successful compensation education will require structural and reorganizational changes in school systems, a vast amount of community control in decisionmaking, and three to four times more money than is now being expended. In addition we would have to address ourselves to both racism in our society and revolutionary changes in the power structure. That all this is about to happen is as unlikely as a snowstorm in Washington in the summertime.

Even restricting the problem to cost alone, would involve an expenditure three times the current level on title I—ESEA—or about $3.5–4 billion, plus strengthening teacher personnel, and capital expenditures for many more classrooms. The total has been estimated to exceed $15 billion a year and with no assurance of substantial and lasting success.

In partial recognition of this cost the President proposes to rescue only about a fifth of the target population of disadvantaged children. This he calls "the critical mass" concept of confining the benefits to fit into a Federal outlay of $2.5 billion. This raises a curious legal question as to the constitutional rights of the ignored children who will be denied even compensatory education.

It is this brutalizing assault on children we know to be in need of educational and constitutional protection that constitutes the danger in Nixon's political expediency. His words of sophistry that "conscience and the Constitution both require that no child should be denied equal educational opportunity" are revealed as a sham and a ploy without substance, with no expectation of fulfillment.

The President's proposals have set us on a dangerous course of confrontation that leads to disunity, despair, and even violence. In a period which calls for greatness, he has abdicated to the bigots and political demagogues. It is now left to the Congress to lead. And, I submit, Mr. Speaker, this is our opportunity and responsibility if we would uphold the Constitution and move our country ahead.

Mr. STOKES. Mr. Speaker, I thank the gentleman from California for his contribution.

Mr. Speaker, I now yield to the distinguished gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I want to commend the distinguished gentleman from Ohio for arranging this special order so that we would have at least a moment of rationality on this particular subject.

Mr. Speaker, I ask unanimous consent at this time to place in the RECORD a number of editorials which have vigorously opposed the recent statements on this subject by the President. The Boston Globe, the Milwaukee Journal, the Washington Post, the New York Times, and many others have criticized as incredible and unbelievable, President Nixon's statements.

The SPEAKER pro tempore (Mr. LINK). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The material referred to follows:

[From the New York Times, Mar. 18, 1972]

FALSE BUSING CRISIS

President Nixon has snatched the anti-busing ball off the muddy field of Florida primary politics and is trying to carry it to a November touchdown, whatever the price in national division. In his televised address Mr. Nixon rejected demands for a Constitutional amendment to ban school busing, not because it would trivialize the Constitution, but only because "it takes too long."

With a strident appeal for "action now" that lent a presidential imprimatur to the hysteria already distorting this issue, Mr. Nixon has asked Congress to pass legislation that would "call an immediate halt to all new busing orders by Federal courts."

Far from adding perspective to the argument, the President further confuses it by inveighing against the busing of children over long distances to inferior schools "just to meet some social planner's concept of what is considered to be the correct racial balance. . . ." He wants to save a generation of children from the policies of those who are putting "primary emphasis on more busing rather than on better education."

All this paints an alarming picture of a reality that does not exist. No new legislation is required to prevent the courts from mandating racially balanced schools. In a unanimous ruling based on an opinion written by Chief Justice Berger last April, the Court upheld busing as a means of dismantling dual school systems. At the same time, however, the Court stated explicitly that it had neither mandated nor considered desirable the establishment of a racial balance or of any "fixed mathematical norms."

The Burger ruling stressed that, where there was no history of discrimination, "it might well be desirable to assign pupils to schools nearest their homes." It specifically questioned the wisdom and proprietary of transporting children over long distances.

Thus, it is clear that the Supreme Court does not require the kind of indiscriminate busing Mr. Nixon wants to outlaw. No legislation is required to prohibit a Federal court from ordering what the Supreme Court has already declared undesirable. Mr. Nixon must surely know that the principal aim of desegregation is to allow children who have been confined to inferior schools to be given access to superior ones, and not vice versa. Many children moreover have long been bused over long distances, in order to maintain segregation.

The President's second proposal—the Equal Educational Opportunities Act of 1972—aims at improving schools now attended by poor children, in other words primarily the segregated schools. This is what desegregation was all about in the first place. It is in those districts which have failed in the nearly two decades since the historic Brown decision of 1954 either to desegregate or to improve the schools attended by black children that Federal courts have been driven to order busing.

There is little in the President's call for spending $2.5 billion to upgrade poverty schools attended by black children that Federal courts have been driven to order busing.

There is little in the President's call for spending $2.5 billion to upgrade poverty schools that is not already contained in the Elementary and Secondary Education Act of 1965. Regrettably, neither the Federal Government nor many state and local school authorities have shown the will and skill to put the act and the funds to effective use.

President Eisenhower made little secret of his personal coolness toward the 1954 desegregation ruling, but he enforced the law as defined by the Court to the limit of his Presidential power. When the Chief Executive now appeals for legislation to limit the authority of the judiciary, he tampers with the foundations of government under law; for he diminishes the capacity of the courts to gain voluntary and peaceful compliance for their rulings. Such compliance is never more vital than in times of deep social conflict. It is an asset not to be squandered for temporary political gain.

[From the Boston Globe, Mar. 18, 1972]

A TERRIBLE INJUSTICE

President Richard M. Nixon has, as he likes to say, made one thing perfectly clear in his 15-minute television address Thursday night and in his special massage to Congress on Friday. He has adopted the busing issue as a prime vote-getter in his campaign for re-election.

The Southern strategy is in full bloom again. And what is not so clear is where this leaves Alabama Gov. George C. Wallace, who may have thought that he had the issue all to himself. Yet it is becoming quite clear where all this is leaving or could leave the nation—back in 1954, before the US Supreme Court ruled that racial segregation in the public schools is unconstitutional.

The President's action was both political and opportunistic—two adjectives that are not necessarily contradictory. Before the returns from Florida, Mr. Nixon had planned only a written message to Congress on busing. But with Wallace polling 42 percent, and 74 percent of Florida's votes favoring a constitutional amendment to ban school busing, the President changed his mind and took to the airwaves.

It was a blatant piece of free campaigning and the Democrats would do well to demand equal time.

"Busing" has become a code word, and the President surely had to know this and take advantage of it. Forty percent of all schoolchildren in this country are bused every day to regional, parochial or private schools with no protest at all. But when busing for purposes of racial balance is involved, it becomes another matter.

When the President took office he also took a solemn oath to "preserve, protect and defend" the Constitution, which vests in the Supreme Court the judicial power to interpret the Constitution. The Supreme Court has ruled—and unanimously—that busing is one of the tools—not the only tool, but one of them—that may be required to desegregate public schools.

Mr. Nixon has now gone farther than he went last Aug. 3 when he opposed "the busing of our nation's schoolchildren to achieve racial balance," which in itself seemed to call into question the Supreme Court's ruling.

He will now, he says, take action to stop such busing, because "a number of . . . lower Federal courts . . . have gone too far, in some cases beyond the requirements laid down by the Supreme Court in ordering massive busing to achieve racial balance." Doing all this by a constitutional amendment "deserves a thorough consideration by the Congress," he says, but has "a fatal flaw. It takes too long."

And so what he proposes is a law calling "an immediate halt to all new busing orders by Federal courts, a moratorium on new busing." It is bad enough for a Chief Executive to contravene the ruling of our highest court, but in this case he is asking the legislative branch of government to join him in dictating to the third branch established by the Constitution he is sworn to uphold.

And in what case pending in a lower Federal court would he have the Justice Department intervene, not on the side of the Constitution, but on the side of those charged with violating it?

Would it be similar to the case involving Charlotte, N.C., and its surrounding county, decided last April 21 in a unanimous opinion written by Chief Justice Burger? In that case, the decision approved a new busing plan that meant less busing, not more, to achieve racial desegregation. Under the old, dual school busing system, pupils at all grade levels had averaged 15 miles of busing one way, for an hour a trip. Under the new system, an elementary school student would average only seven miles, and not more than 35 minutes.

And it is not alone a matter of how far Congress, already divided, will go on this spurious and divisive question of changing the law of the land. Mr. Nixon says he will have the Justice Department intervene in "selected cases" in which lower courts have exceeded Supreme Court requirements on busing.

Is he not willing to recognize that the final arbiter of lower court decisions that exceed its own is the highest court itself, and that so intervening in the judicial process is to load the judicial dice?

No amount of words, under such attractive headings as "The Equal Educational Opportunities Act of 1972," can hide the terrible injustice of what is being proposed. All in all, it was a demeaning day for our country.

[From the Washington Post, Mar. 18, 1972]

MR. NIXON ON SCHOOLS AND RACE

In his address to the nation on Thursday evening, Mr. Nixon played fast and loose with the hopes of two quite different constituencies—those committed to an immediate rollback of busing orders, and those committed to the pursuit of quality desegregated education. When you have read the documents the White House withheld until the morning after the President's public address and when you consider that those documents—draft legislation and the rest—are meant to fulfill the expectations the President raised, you can understand why the fine print was kept out of view for a day.

The President's proposed moratorium on more busing, for instance, would, if enacted by Congress, leave busing previously ordered by the federal judiciary intact—the buses, like the caissons, would go rolling along. True, that much, at least, might have been divined from an attentive reading of Mr. Nixon's Thursday-night remarks. But the hoax played on those other Americans who took seriously Mr. Nixon's remarkable revelation that he had come up with an alternative to busing and one that would produce desegregation, is something else again. Busing, the President said, "is a bad means to a good end," and he went on: "The question, then, is 'How can we end segregation in way that does not result in more busing?'" He then announced to the nation that he had found the way. "The proposals I am sending to the Congress," he pledged, "provide an answer to that question." Well, they do not. There is nothing there. Mr. Nixon has neither found nor presented an answer to the question he raised. Rather he has recommended rejuggling some funds, having a pass at a court-curbing bill of questionable constitutionality, and enacting legislation that would ultimately inhibit the federal courts or administration agencies from remedying what are concluded to be illegal acts of segregation.

We shall return to the specific provisions of the legislation which Mr. Nixon has proposed. These are divided between two bills. The first which would remain in force only until the second had been enacted (or until July 1, 1973), if there were no action on the second bill) would forbid implementation of any new busing ordered by courts for the

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purpose of desegregating schools. It is a highly dangerous and highly political maneuver—one that would interfere with the courts' capacity to fulfill their constitutional obligations and which would also presumably provide Mr. Nixon with political credit in certain antibusing circles and yet one which would offer no relief to those districts currently in the midst of implementing comprehensive busing orders.

The second bill fetchingly named the "Equal Educational Opportunities Act of 1972," rearranges funds (almost all of these already requested by the administration) so that some emphasis is put on aid to ghetto schools. So far as desegregation is concerned, it sticks fairly closely (with a few exceptions) to the definitions of illegal segregation that the Supreme Court and most of the lower federal courts have been using as the basis of busing orders. What it would change is the nature of available remedies. Busing of children below the sixth grade would be limited by a standard that would be different for each district and the standard would be wholly unrelated to the constitutional violation found. It would thus do nothing to achieve the uniform national policy Mr. Nixon has professed to be seeking. Busing of older children would be undertaken, as it now is by most courts, only as a last resort and if no lesser remedy will serve.

What is so disappointing—and so reckless—in all this is that Mr. Nixon's proposals sport with a desperate national need. Never mind that the reason the federal courts have increasingly been obliged to function as school boards is that the Nixon administration has systematically withdrawn executive branch support from implementation of the Civil Rights Act of 1964—it is true, as Mr. Nixon suggested, that the nation needs a uniform and wise national policy concerning desegregation that will see the courts, the Congress and the executive branch functioning together and to an agreed-upon end. And never mind that much of the progress in desegregation that the Nixon administration claims credit for was produced by its loss of court cases trying to inhibit desegregation—it is true that we have come to a point where better means are required to reach the "good end" of school desegregation.

But the President has done nothing to fulfill these desperate national needs. He has offered recommendations that at most will make them more apparent and perhaps less soluble. Black Americans and white Americans who have labored at some cost and some risks to "give life to the law" (In Mr. Nixon's phrase) have had the rug pulled out from under them. Those in affected districts who have argued that the law must be obeyed and that the commitment of the Brown decision of 1954 and the Civil Rights Act of 1964 must be fulfilled have been abandoned by the President. Blacks who had been led to believe since 1954 that this country's commitment to equality was real and irreversible have been given good reason now to doubt that it is either. The conflict between the federal judiciary and the other branches of government has likely been exacerbated, not helped or healed. Beneath the rhetoric, Mr. Nixon in fact said very little. It is amazing that he could manage at once to say so little and do so much harm.

[From the Washington Post, Mar. 22, 1972]

MORE ON THE PRESIDENT'S "ANTI-BUSING" PROGRAM

The President's mish mash of proposed "anti-busing" legislation has now gone to the Hill. It is, as we have already observed, fraudulent in its failure to provide even half the things the President has claimed for it, of questionable constitutionality so far as its court-curbing features are concerned, and disgraceful in the willingness it reveals to kick equality in the head for the sake of short term personal political gain. For anyone who may imagine that the two legislative measures Mr. Nixon has proposed are to be taken seriously as an attempt to deal with the tormented problem of race and schools or that they reflect the end product of some consistently held belief regarding desegregation or "equal educational opportunity"—to use the elevating phrase—we think a little historic perspective may be in order. This most recent maneuver by Mr. Nixon can best be understood in relation to his administration's 2-year record on the legislation at hand.

We will leave aside that part of the record which is not specifically connected with this legislation—the incredible ziggings and zaggings on racial policy as a whole, the apparent compulsion to sport not just with constitutionally commanded principles and constitutionally protected rights, but also with the fate of so many schoolchildren and with that of so many school and community leaders who have been trying to act equitably and in good faith. For the measures Mr. Nixon has now sent to Congress relate specifically to his so-called emergency school aid act, legislation that grew out of a statement he made on school desegregation two years ago almost to the day.

Then, as now, the President was responding somewhat belatedly to the pressure of a confused and tension-filled situation which he had done much to create. He had done so by swinging his administration back and forth, by summarily going into court to slow down a desegregation order the administration had previously been supporting in court, by losing the case and bringing on a unanimous Supreme Court demand that desegregation be accomplished—and be accomplished forthwith. Subsequently, the Congress went into an acrimonious and inconclusive debate, threatening all manner of curbs on both the federal judiciary and the provisions of the Civil Rights Act of 1964. At about this point in the fracas, it was announced that Mr. Nixon would make a statement.

The presidential statement of March 24, 1970, contained a pledge to abide by the Supreme Court's rulings in these matters, and Mr. Nixon also disclosed that his administration had decided to recommend an expenditure over two years of $1.5 billion "to be put . . . into programs for improving education in racially-impacted areas. North and South, and for assisting school districts in meeting special problems incident to court-ordered desegregation." Since it turned out that, among other things, the administration had neither decided where the money would come from nor how it was to be spent, another two months elapsed before the proposal was submitted to Congress. The House took its time and did not get around to passing the measure until winter. Without administration support, it appended an "anti-busing" proviso to the bill, one that would have prevented its funds from being used to support busing in certain situations. The Senate refused to accept this version and with administration guidance, advice, encouragement and support refashioned the bill into a much more integration-minded measure—and one from which any anti-busing provision was notably absent. With administration and joint leadership support, it passed the Senate 78 to 8.

That was in late spring of 1971. By summer, Mr. Nixon was abruptly to announce another turnabout. He now wished a stiff "anti-busing" provision to be put into the legislation, one that would prohibit the use of any funds for the purpose of busing—even busing that had been ordered by the courts and which affected districts had no choice but to pursue. The President revealed this latest swerve in the course of announcing that the Austin busing plan, which his administration had been in court trying to put into effect, was no longer the administration's plan. (Although it had been cleared personally with Attorney General Mitchell and Mr. Nixon's White House aides, the plan was now to be disparaged as the work of "bureaucrats.")

Despite the protests of school officials who believed that funds earmarked to aid in the process of desegregation could best be used by them to implement busing orders, the House put the Nixon "anti-busing" proviso into its new version of the bill, added a few even more stringent amendments and sent its handiwork back to the Senate. Mr. Nixon, who had congratulated Minority Leader Ford for his role in helping pass the whole "anti-busing" package, thereupon fell silent again. The administration observed the whole recent uproar in the Senate over the Griffin and other amendments with what it termed "benevolent neutrality"—first cousin, presumably, of "benign neglect." Only after a series of tense votes and reversals and after it had observed Minority Leader Scott fighting desperately to bring enough party members along to spare the bill Senator Griffin's embellishments and after a fairly decent Senate version of the bill had reached conference, did the President publicly speak or deign to give guidance. He had a whole new set of ideas he told the world Thursday night—some of them more regressive than the worst features of the House-passed bill.

As the congressional rematch gets underway, it seems to us important that a few things be held in mind. One is that "busing" is a fake issue—and not just because of the patent fakery with which the administration has been manipulating it. For it is not "busing" that Mr. Nixon is seeking to undermine by this program, but rather the integrity of the courts, the vitality of the constitution, and the commitment this country has long since made—or was thought to have made—to the rescue of those black schoolchildren who are trapped in an environment which must destroy them and of which the schools are a single, but essential part. He is not alone in his instinct for retreat. You hear a lot of scholastic argument from others these days about how test scores show that this won't work or that won't work and about how the school can't do it all and about how money isn't "the answer" or integration isn't "the answer"—and in the name of this exquisite polemical stalemate a monstrous national cop-out is being justified. That there is no single universally applicable or desirable method for meeting our constitutional social responsibilities surely does not suggest that we should merely forget them. But that is the course Mr. Nixon has now urged on the country. It will require the efforts of a lot of brave and wise men in Congress to reject what he has asked.

[From the Milwaukee Journal, Mar. 17, 1972]

LEADING THE COUNTRY BACKWARD

President Nixon's highly political television statement on school bussing was a confusion of doubletalk. We already knew that he opposed bussing, but where does our leader lead us from there?

He sidestepped the question of constitutional amendment to stop bussing. He said Congress should thoroughly consider it, but that its fatal flaw is that it would take too long to accomplish. Thus, he permits the belief that he favors a constitutional amendment without actually going on record in support of one.

Nixon correctly noted that some lower federal court orders for bussing had gone beyond what the Supreme Court has so far specifically required. That, of course, is in the nature of the court system. It is misleading to imply, as Nixon did, that the Supreme Court would necessarily declare those orders invalid. In fact, the Supreme Court so far has refused to do that.

In asking Congress to declare a moratorium on all new court ordered bussing, Nixon raises

once again, but does not answer, the question whether Congress can stop the courts from enforcing the Constitution. Congress cannot, and the Senate specifically rejected the idea in finally voting down the Griffin amendment. Even some of bussing's strongest opponents among those pressing for a constitutional amendment say that Congress through legislation cannot do it.

Nixon says, perhaps correctly, that a majority of Americans oppose bussing while favoring continued desegregation. The question then, he says, is "How can we end segregation in a way that does not result in more bussing?" He did not answer the question. Instead, the legislative proposal he outlined on TV is nothing more than warmed over compensatory education—the old idea of improving education in existing, racially isolated schools. Where is he leading us, back to "separate but equal," back before 1954, when the Supreme Court declared "separate but equal" to be unequal inherently.

And how, instead of leading the fight for desegregation and court ordered integration, the Justice Department is to be sent into the battle against bussing for that purpose. After 18 years it is to reverse its field and take us backward.

As for Nixon's $2.5 billion concentration of federal funds on improving education in poor urban and rural schools, it is welcome, and in fact the government is already doing much of that. But it has nothing to do with the question how, specifically, he plans to "provide better education for every child in America in a desegregated school system," as he promised early in his speech.

The president ended his address by saying that the way we handle this complex issue "is a supreme test of the character, the responsibility and the decency of the American people." Thursday night he flunked.

Mr. DRINAN. Mr. Speaker, I would also ask unanimous consent to insert at this point in the RECORD an article by Carl T. Rowan in the Washington Evening Star of March 22, with the title "Busing Stand a Sad Chapter in U.S. History."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The material referred to follows:

BUSING STAND A SAD CHAPTER IN U.S. HISTORY

(By Carl T. Rowan)

For many reasons, personal and professional, I have strained to find something good to say about President Nixon's latest pronouncement on school busing. But I am driven to the conclusion that the President's proposals mark one of the saddest chapters in this nation's history.

A periodically glorious campaign to make this one society of mutual admiration and respect, which began full-force back in the 30's, has been dragged to an end. For the first time in half a century the President of the United States has arrayed himself and the immense powers of the executive branch on the side of "separate but equal." He is decreeing generations more in which the poor, the have-nots, wind up without a remote chance to succeed in that race we call the pursuit of happiness.

Nixon turned some neat phrases about integration and equality of opportunity, but they can never camouflage the truth that he was retreating before the charge of George Wallace, bending to the howl of the mob, both of whom he unwittingly armed when he put the phrase "forced busing" into the language.

The White House may call it a "libel" on the American people, but the naked truth is that bigotry is now riding high in this country, so high that even the President is crowded into a position where he appears to be either its prisoner or its ally.

Nixon beseeches Congress to direct the courts not to order any more busing for racial balance. The President must know that he cannot seize the schools any more than Harry Truman could seize the steel mills in the face of a disapproving court. Congress simply cannot forbid federal constitutional rights of this nation's children. And let no one forget that busing is simply a form of relief to children who have been subjected to a panoply of officially sanctioned injustices.

Nixon may believe that his "strict constructionist" Supreme Court will go along meekly with whatever Congress orders, but I rather suspect that even his most conservative appointees will see the dangers of this meat-cleaver attack on the judicial branch.

Millions of black Americans find bitterly amusing Nixon's argument that a constitutional amendment would "take too long" and leave thousands of youngsters to endure busing next year.

Where has Nixon been during the 17 years and 10 months since the *Brown vs. Board of Education* decision when black parents and children were screaming that "it takes too long" to escape the discriminations and humiliations of Jim Crow schools that our highest court had outlawed?

Justice delayed was justice forever denied to millions of black kids who finished their entire public schooling without getting one iota of judicial relief. Suddenly, when it comes to canceling their late relief, the White House finds that time is of the essence!

The truth is that from Wild Goose, Minn., to Sloppy Gulch, Fla., the school buses will roll on, with more than 18 million children aboard, from now until Richard Nixon is just a name in the history books. Because busing is the passport of white children to equal education. The record will show that the only buses derailed were those carrying black children toward a reasonable chance to secure their American birthright.

I know Nixon proposes to mollify minority and poor children with his "Equal Educational Opportunities Act of 1972" and a $2.5 billion expenditure.

Even if we give the President credit for the most egalitarian of intentions (which I frankly find it hard to do), there are some dismaying flaws to his proposals:

He is offering a warmed-over "compensatory education" scheme with extra financing from unnamed sources. I have documented in previous columns how earlier outlays of billions for educating the deprived and speeding desegregation wound up in swimming pools and fancy frills for affluent whites. Until the White House spells out the guarantees that vast new money will actually be spent to benefit the poor, experience dictates that we regard the new scheme as a pretty piece of wool to be spread over gullible eyes.

Even if the government does pour some money into neighborhoods occupied by blacks, Puerto Ricans, Indians, it would still be a reversion to "separate but equal." It would scarcely differ from 1952 and 1953 when legislatures in South Carolina and other Southern states were pumping money into showcase schools for blacks (after generations of abominable neglect) to try to head off the outlawing of Jim Crow.

Nixon has to know that allocating $2.5 billion to remedy the plight of schools for the poor is like weeping into the Pacific Ocean in an attempt to make it run over. He must know that however flamboyant the gestures toward the ghettos may now be, there is absolutely no possibility of equal education opportunity if you keep the poor, black, brown and red in separate schools while the rich and influential bask in the sanctuaries of their "neighborhood" emporia of education. Money flows toward affluence—and influence.

Much of the nation wants to rid itself. But some of us have to live with the reality that Nixon has asked Congress to underwrite an educational setup that guarantees this country remaining two nations, quite divisible, one white and one black, with liberty and justice for some.

Almost all of us will live to rue this sad interlude in the life of an already too troubled society.

Mr. DRINAN. Mr. Speaker, it has now been 17 years and 10 months since the Brown decision, when the Supreme Court ruled that with all deliberate speed there should be integrated schools. Now, 17 years and 10 months afterwards we have the President giving an address on this subject in which he never once mentions the term integrated. He asks, rather, that we have a moratorium on integration for 2 more years.

This raises a most fundamental moral and constitutional issue: Does this proposal constitute an unlawful invasion of the Federal Courts' jurisdiction and involve a violation of the doctrine of separation of powers? I am certain that scholars and others will agree that the President has unlawfully confronted the Federal Courts of this country.

Contrary to what the President has said, the courts have not ordered massive busing to establish racial balance. Not a single example of such judicial activity has been cited by the President nor by anyone who has supported his particular viewpoint. Not a single decision has been cited, even though in his address the President said at least three or four times that there have been judicial decisions which are unreasonable.

There is specific judicial protection against any unreasonable busing decisions given by Chief Justice Burger in the Swann decision of April 20, 1971, and I cite the very language of the Chief Justice:

> We find no basis for holding that the local school authorities may not be required to employ bus transportation as one tool of school desegregation. Desegregation plans cannot be limited to the walk-in school.

Chief Justice Burger goes on to say:

> Busing will not be allowed to significantly impinge on the educational process.

The Chief Justice went on to define what unreasonable busing is, and these are his words:

> When the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process . . .

It seems to me that the alleged rights sought to be protected by the President have already been precisely anticipated by the U.S. Supreme Court. Every decision requiring busing is appealable. If the people at the local level think that a decision is unreasonably burdensome, they have their remedy, and their remedy should not be in the Congress; it should be by appeal through the normal, established, legal process, in the courts.

The President is asking the Congress now to join him in fundamentally eroding the authority of the courts and the Constitution.

It seems to me that now as never be-

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fore we have to have rationality and we, in the Congress, have to deescalate continually the rhetoric that has reached the White House.

The President of the United States has said that busing is a bad means to a good end. But he gave no good means to that end, which presumably still is good, in his judgment.

As has been noted here previously, more than 18 million children every day go to school on a bus, and a very tiny minority of that group go there by reason of court-ordered integration.

I will conclude, Mr. Speaker, by quoting the very sound and wise words of Senator MONDALE, chairman of the Senate Select Committee on Equal Educational Opportunity.

He cut through all the rhetoric and put it calmly this way:

> We have only two choices; we can assume our share of the burden. We can begin to ask the right questions—not whether we should resist school desegregation, but how we can best work to assure that school integration is conducted in a sensible, educationaly beneficial manner. We can fulfill the commitment to equality of opportunity which we have made in the past. We can build on the hopeful examples of successful integration, help the courts avoid educational mistakes, and make school desegregation work.
>
> Or we can stand in the schoolhouse door. We can resist the rulings of the Supreme Court and the advice of educators. We can abandon all the efforts of the past 17 years to eliminate discrimination and end racism—in pursuit of a policy of national resistance toward what the Constitution requires and what each of us knows to be morally right.

I am afraid, Mr. Speaker—and I say it with sorrow—that the President of the United States has chosen to stand in the schoolhouse door.

Mr. STOKES. Mr. Speaker, I thank the gentleman from Massachusetts for his contribution.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to my colleague, the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman. I would like to commend him for obtaining this special order on an issue which unfortunately has become—by virtue of the President's involvement and utilization of the politics of fear, divisiveness and expediency—one of the No. 1 questions today in America.

Yet when we are dealing with the fact that busing has so become the No. 1 issue in America, we are still bombing and maiming and killing in Vietnam, we still have mass unemployment, inadequate housing, inadequate health care and all the other critical problems that daily affect human beings in this country. I find it a major travesty in human justice—one that reflects very negatively on the politics of this country.

At the risk perhaps of being repetitious, I want only to make some brief remarks.

In addressing myself to the President's proposal: First, I find it ludicrous that the President of the United States can engage in implicit intimidation of the lower courts. I think that issue should be at least addressed and focused upon for and by the American people.

Second, when the President suggests legislation that would limit the ability of the judiciary to do the job that it is constitutionally charged to do, we walk into a very dangerous area of separation of powers, which, in my estimation, must be maintained if there is to be any humanity or any sense of democracy in this country.

Third, the President's proposal that we spend $2.5 billion to bring some level of equality of education to those who are educationally deprived and even harmed in America—I find that also ludicrous.

It was interesting that the President never mentioned where he was going to obtain the $2.5 billion. I think we can speculate with great accuracy. The $2.5 billion will come out of the pockets and out of the hands of the poor who would have received that $2.5 billion in some other form, except for expediency by the President who now comes rushing to the aid of the country—and interestingly enough—during a presidential election year.

When you place that $2.5 billion a year to elevate the level of education for millions of young people in this country in juxtaposition to $2.5 billion that we are spending each year to fight squalor and poverty, it becomes only enough money to address itself to, perhaps, 3 percent to 5 percent of the total needs of the human beings who live in dire poverty. But we can quickly release $2.5 billion to enhance the level of education in this country.

Again, it only points to expediency, and not for real relief of the human needs that exist in America today.

Finally, I close with a few remarks that you and I as Members of the Congressional Black Caucus as elected Members of this body and who are ostensibly concerned about human justice and human rights should—and must—oppose every single effort to pass antibusing legislation on the floor of the Congress.

First, any constitutional amendment that goes to the issue of limiting busing would be, in my estimation, a very dangerous precedent. When the U.S. Congress infringes upon the rights of the judiciary with a constitutional amendment, what makes us believe that next week, next month, or next year it would not limit other human rights and other human justices?

When we start such a precedent, it is very difficult to turn it around.

Second, I do not believe that this body should be involved in the process of limiting the powers of the judiciary as laid out in the Constitution of the United States. Whether we like many of the decisions that the Supreme Court has made or not, whatever human liberties we are experiencing in this country have been because the Supreme Court has been willing to legislate through the judicial process. Why? Because, over the years, we in this body or in the other body have not been strong enough or committed enough to legislate in very controversial areas.

Perhaps that is because some of us are too preoccupied with being reelected to office rather than in solving human problems.

Third, any effort to pass legislation which would cut off the limitation of Federal funds into a community for this purpose also strikes at title V, section (b) of the 1964 Civil Rights Act. That act is not the most powerful instrument in this country, but it certainly provides a handle by which some of us can stop the flow of Federal funds into communities where discrimination exists. I think this instrument should be an instrument that is not damaged.

So I would urge all of my colleagues to think very clearly about the constitutional implications, the issue of the separation of powers, and the lack of funds which the President has proposed in terms dealing with this very grave problem. If he was talking about $20.5 billion a year, maybe we would be in the ball park.

Fourth, it would be my hope that I would be a Member of this body where the overwhelming majority of the people here were focused on the major and critical problems that are facing the people of this country, black and white, red and yellow, young and old, rather than continuing to project expediency and the divisiveness of an issue—busing—that should not be the No. 1 question in America.

I close by thanking the gentleman for his courage and articulateness in focusing on this serious issue, and I thank him for the opportunity he has afforded us to join him in his special order.

Mr. STOKES. I thank the gentleman from California for his remarks and his contribution to the special order.

I yield to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Speaker, I want to join the gentleman in expressing my appreciation for his taking this special order so that others can join him in responding to a very serious question facing the Congress and the country.

Last Thursday the President calmly informed the Nation that busing as a means of assuring quality education for our children was no longer acceptable to his administration. While Mr. Nixon was really saying was that he wanted to go back to 1896 when the Supreme Court enunciated the doctrine of "separate but equal" in the case of Plessy against Ferguson. In so doing, he implied that the Supreme Court's 1954 decision in Brown against Board of Education, which held that separate facilities for black and white citizens were inherently unequal, should be ignored or overruled.

Furthermore, it is quite clear that the President denies the law of the land, the 1964 Civil Rights Act and other statutes enacted in the struggle to make equal opportunity a reality in the United States of America.

I do not believe that the American people will be misled by this attempt to dupe them. Therefore, I believe it becomes the responsibility of Representatives in Congress to oppose vigorously the proposals of the President.

In asking for a moratorium on busing, and allegedly asking for billions of dollars to promote a so-called "equal educational opportunity" program, the President is callously overlooking a fact which the courts accepted 20 years ago and which most Americans, in the calm of ordinary discussion, recognize today—that separate facilities are inherently unequal.

During the past 25 years thousands of Americans—white and black—have walked on picket lines, sat in lunch counters, and paraded in marches in the effort to realize the goal of an integrated, quality school system and indeed, an integrated society. In recent years their efforts have begun to fruition in that Congress and the courts have acted by law to provide equality for all Americans. It is important to keep in mind that those of us who are speaking here today are supporting busing and other methods of integration not merely for the sake of integration, but because it is crystal clear that only when our schools are integrated will there be quality educational opportunity for both black and white students, and that only this can bring about hope for political and social equality for black and white students.

Busing is a means, and not the only means, to achieve the end of equal, quality education. It is where necessary, an acceptable means and one which we cannot abandon merely because we are in an election year.

I want to note at this point my opinion that any action taken by Congress to restrict the power of the courts to order busing is unconstitutional. Article III of the Constitution empowers the Congress to limit the jurisdiction of the Federal courts, but that power is circumscribed by the due process clause of the fifth amendment; that is to say, Congress may not exercise its article III authority in a manner which will deprive any person of due process of law. It is plain that Congress cannot prevent the Federal courts from considering constitutional questions. It follows quite naturally from this that the courts cannot be prevented from ordering whatever remedies are necessary and proper to vindicate these rights. As Justices Rutledge and Murphy said in *Yakus* v. *United States*, 321 U.S. 414 (1944):

> Whenever the judicial power is called into play [as it must be in a constitutional case], it is responsible directly to the fundamental law and no other authority can intervene to force or authorize the judicial body to disregard it.

Since the question of equal protection of the laws is a constitutional one, the Federal courts automatically have jurisdiction to consider it; having this jurisdiction, they must have the power to order whatever remedies are necessary to effectuate it.

What President Nixon proposes as a "new" substitute for quality integrated education is in fact not at all new. The $2.5 billion which he seeks in Federal funding for inner-city schools has long been authorized under title I of the Elementary and Secondary Education Act.

We cannot turn our backs on the effort to rectify the effects of 250 years of slavery and an additional 100 years of a more subtle bondage.

We cannot turn our backs on such court decisions as Brown against Board of Education and Swann against Charlotte-Mecklenburg, and such enacted and accepted statutes as the Civil Rights Act of 1964. This is the law of the land, and it should be the law of the land, and it must be the law of the land. What we must do now is to see that it is carried out.

The President is using the issue of "busing" as both a code word and a smokescreen for his real issue—opposition to integrated and equal opportunity in education, in housing, and in employment. Congress must recognize that and fight it as such.

Mr. STOKES. Mr. Speaker, I thank the gentlewoman from New York for her contribution to this special order.

Mr. Speaker, I yield to the distinguished gentleman from Massachusetts (Mr. HARRINGTON).

Mr. HARRINGTON. Mr. Speaker, what we need today is not just speaking out against President Nixon's message on busing, though I intend to speak out each day on that moral outrage. What we need now is action by a courageous Congress to thwart its effect on the courts, and on the Nation. It is a policy which will continue the hatred and disharmony in the nation between those of the white race, and those of the black. It is a policy based on a remarkable misunderstanding of the constitutional principles involved in recent court cases from Denver to Pontiac to Richmond. And it is a policy which threatens to throw this Government into a constitutional crisis pitting the power of the judiciary against that of the Congress. The President has sought to commit the Nation to a dangerous policy designed to produce maximum political effect with minimum positive results for quality education either in the cities, or in the suburbs. Quality education can never be separate education. Separate education is inherently unequal, whether caused by law or not. And unequal educational opportunities is indefensible from a moral if not constitutional standpoint.

There is no confusion in the courts about busing. The Supreme Court set out in Swann against Charlotte-Mecklenburg and Taylor against Board of Education exactly what the Constitution mandates. The Court has not insisted upon racial balance. What it does insist upon is that no governmental action be taken on any level which furthers school segregation, and that where such action has been taken in the past, the Government in question must take remedial action to undo its segregationist efforts.

Emerging from the President's message is a commitment to separate but equal educational opportunities, a philosophy rejected time and again since Brown in 1954. In accepting that antique premise, the President demonstrates an inexcusable naivete when he claims that the schools should not serve a major social purpose. Schools are never neutral—never. They are the most potent social force of any nation. In segregated areas, they serve to reinforce a never-ending cycle whereby minority and low-income families are forced to live, eat, recreate, and educate in a confined lifestyle which is stifling to their humanity and certainly abhorrent to any sense of social justice. Government complicity in this segregation cannot be tolerated.

From a budgetary standpoint, the President's message is a fraud. A renaming of $2.5 billion already in his 1973 budget will not provide even a beginning toward the goal of acceptable urban education. That sum includes a title I commitment $4.6 billion below the congressional authorization level for title I programs under the Elementary and Secondary Education Act, and will reach less than half of the pupils in this country between the ages of 5 and 17 who should qualify for supplemental assistance. Past administrative actions on education round out the picture: Appropriations in excess of the President's inadequate requests have met with two stern vetoes. For him now to talk of quality education is fraud.

Finally, Mr. Speaker, I most resent the political context of the busing message, with its bow to pressure from those who would seek their own self-interest at the expense of social progress and equal opportunity. It is a cheap political ploy against the courts and the Constitution in an election year. And I resent being called an extremist by the President because of my support of integration and equal opportunity. That seems an irresponsible label for a man who says he is calling on the "collective wisdom and experience" of the Congress in dealing with the busing issue.

Mr. STOKES. I thank the distinguished gentleman from Massachusetts for an excellent contribution to this subject.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the distinguished gentleman from California (Mr. CORMAN).

Mr. CORMAN. I thank the gentleman for yielding.

I join my colleagues in commending the gentleman for taking this special order. The matter we discuss is of utmost importance to this Nation.

I remember some 7 years ago, when the leadership of this Nation was in other hands, the President of the United States stood in this Chamber and said, "We shall overcome." He meant that we would overcome the vestiges of human slavery in this Nation, racial segregation.

He devoted much of his energy, effort and time as our President in helping to overcome segregation.

In 1967, when much of this Nation erupted in violence and there was an obvious social sickness in our land, he asked 11 of us to look as carefully as we could at what happened, why it happened, and what ought to be done about it. We unanimously concluded that this Nation would never free itself from the threat of that madness, so long as we maintained a dual society.

We also concluded that the next important point at which we must strike down this dual society was in our public schools.

There is no question but that every American is greatly affected by his edu-

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cation, not only what he learns in school but what his experiences are in school. It is what the U.S. Supreme Court was saying in 1954. The Court was not concerned about whether a board of education was of good heart or of malicious intent. What the Court was looking at was little children who sat in classrooms and what happened to them. The Court said that if you isolate children by color, you are inherently unfair to them; you demean them and deprive them of equal education.

Many children who were born that year are finishing high school this year in racially segregated schools. Their right to equal educational opportunity is gone forever. There is nothing we can do about that.

What does the President now suggest we do about 5-year-olds whose educational experience is ahead of them? He seems to imply that we must stop any opportunity those 5-year-olds have of going into a U.S. court and saving themselves from a racially segregated school life.

But he goes on to plead for Federal funds to, as he puts it, offer for the first time real equal educational opportunities.

A willingness to spend any Federal money on aid to elementary and secondary education is a change from President Nixon's historic position. One might reasonably assume that school children in this country were as bad off in 1950 and 1960 in this regard as they are in 1972. It is a fact that in 1950 Congressman Nixon, as a member of the House Education and Labor Committee, cast a crucial vote to kill Federal aid to education. In 1960, then Vice President Nixon cast a tie-breaking vote in the Senate for the same purpose—to block Federal aid to education.

I do agree with the President that we must spend money now for quality education for every school child. This in no way alters the constitutional fact that racially segregated education is not and cannot be quality education.

Looking specifically at the President's moratorium proposal, to whom is he speaking and what is he saying? He is speaking to American children who have gone to court, pleaded their case, convinced a judge that they are being denied their constitutional rights, and have had their grievances redressed. This has happened in about 600 cases across this land. Richard Nixon now says to those children, "I, as your President, snatch from your hands that victory. I do not deny your rights or your need for help, but I, with the help of the Congress, will intervent to deny you your remedy."

The President misreads the Constitution. I believe he misreads the sense of fairness of the American people. Clearly no parent wants his own child bused to an inferior school. He does not want his child to walk to an inferior school. But clearly he does not want to impose on other children what he rejects for his own.

We were angered when we saw pictures a decade ago of grown people assaulting and spitting upon little girls entering integrated schools in Louisiana for the first time. We saw little to be admired in a Governor who stood symbolically in the schoolhouse door. When we sort out carefully what President Nixon has said, we will realize that the President's adversary is not a judge, a bureaucrat, or an extreme social planner. Rather the President's adversary is a 5-year-old child, probably black, who wants a chance to live the American dream.

I have a young lady in my office who grew up under that old segregated system. I asked her to write for me what she thought about school desegregation. Her name is Winifred Burrell. I ask unanimous consent that I may include her remarks at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BUSING

In 1954, the Supreme Court of the United States ruled that "Separate educational facilities are inherently unequal" and ordered that desegregation of public institutions be accomplished "with all deliberate speed." It has been eighteen years since this landmark decision, Brown v. Board of Education of Topeka, and it appears that "all deliberate speed" is a slow deliberate process since the majority of our Nation's schools are still segregated. Very understandably, conditions in different localities, North-South, urban-rural, vary so widely that rigid rules could not be laid down to govern all situations. It was, therefore, left to the lower federal courts and-or local school districts to devise the means necessary to abolish segregated schools in a particular area. This, however, presented a major problem for the school districts simply because integration is not an easy matter. It is neither simple nor popular, and resistance to any plan or method could be expected. Finally, in 1969, the Supreme Court ruled that the time in which schools were to desegregate with "all deliberate speed" had expired and school systems were ordered to desegregate immediately. As a result, federal courts across the Nation ordered massive student busing, if necessary, as an immediate and economical remedy. Not unexpectedly, adverse public reaction spread rapidly and anti-busing forces moved swiftly to create an atmosphere of confusion and rebellion. Busing students, however, is not the total answer to the problems involved in integrating our schools, but it is a step forward toward the ending of segregated schools and the beginning of quality education for all.

Before the 1954 Supreme Court decision, Black and white students alike were bused to segregated facilities. Even today, forty percent of the Nation's public school children are being bused to and from their respective schools. Busing in itself has never been viewed as undesirable, but busing to achieve integration has been labeled as unconstitutional, unfair and unjust. It is, therefore,the word "integration" not "busing" that draws the thin line of distinction from acceptance. It is further noted that the basic need for busing as a tool to eliminate segregated schools is merely a direct result of segregated housing patterns. If the neighborhoods were integrated, the schools would automatically become integrated. This, unfortunately, is far from being realized.

To show the changes in housing patterns and school compositions, I cite my own experience as an example of the trend. In 1952 I was in the 7th grade when my family moved into a predominantly white neighborhood in Washington, D.C. A white junior high school was situated approximately three blocks from our house. I was, however, compelled to attend a segregated junior high school in another section of town. This meant I had to walk past the white junior high school to use public transportation to attend a segregated school. By the time I graduated from junior high school, the Supreme Court decision had been handed down, and school officials used residential boundaries for the abolishment of separate institutions. During this period of time, however, this predominantly white neighborhood had rapidly diminished to a predominantly Black neighborhood and the all white junior high school was now integrated with an all Black community. It was, therefore, impossible to integrate two elements because you only had one component part. Specifically, the housing barrier has long been the contributing factor which justified a dual educational system. Busing, however, can be used to overcome this barrier and, thus, provide the fully integrated educational systems guaranteed by the law.

Busing will also ensure quality education for all, especially the Black student. Black students have been subjected to inferior education for decades. Studies have shown and proven that educational separation produces educational inequality. It is, therefore, essential that Black people be given the opportunity to enter the mainstream of American life, and quality education is a first step toward this end. Further, quality education is necessary for the national security and economic prosperity. But most important it will make possible the enrichment of an individual's life. Black students, traditionally, have been educated in schools where facilities and curricula are inadequate and by teachers who, themselves, often are products of the separate and unequal system in which they teach. Since Blacks have never been accepted as an equal part of this Nation in a society that rejects and attempts to dehumanize them, it is no wonder that they are ill-equipped to compete or adjust. It is, therefore, imperative that Blacks be afforded the opportunity to receive quality education no matter what the cost, and since busing is one of the methods devised to accomplish this, it should be used, when and where necessary, as a move toward the ending of unequal educational facilities in this country.

Busing, very simply, is only one device that can be implemented to ensure quality, integrated education. It cannot change the attitudes and minds of a society that has long believed in "separate but equal" educational systems. Even though quality education was a myth under the separate but equal statute, it was the intent of the Supreme Court to rectify this fallacy. It is unconscionable that this Republic committed since its inception, and written into the Constitution by which it is governed, to the principles of freedom, justice and human dignity for all its citizens, should continue to separate children in school simply because of the color of their skin. A child born in 1954 was given a great opportunity when the historic Supreme Court decision was handed down. This same child has now completed his high school education under the same conditions that prevailed at the time of his birth. Although the Supreme Court charted the course, separate educational facilities are still sanctioned in this country. Maybe the child born today will be afforded his inherent rights as a citizen as dictated by the Constitution.

Mr. STOKES. I thank the distinguished gentleman from California.

I now yield 1 minute to the distinguished gentleman from California (Mr. WALDIE).

Mr. WALDIE. I appreciate the gentleman yielding.

I commend the gentleman for bringing this matter before the House.

I am one sitting here today who is troubled and deeply troubled by conscience and, I think, my own questionable courage on the issue. My conscience has been, I think, clarified by what I listened to today, and I am encouraged. I wish there had been others in this House who were as troubled as I am and who are uncommitted, who would have been able to sit here today and listen to this debate. It is sad that but a handful of Members were on the floor during this presentation and most of them were already persuaded as to opposition to the President's proposal. Those not so persuaded might have learned.

Mr. STOKES. I thank all of my colleagues who have participated in this special order. I think you have rendered a real service on the part of the House and on the part of this Nation.

Mr. BURTON. Mr. Speaker, I would like to commend my colleagues for bringing some light to this issue which has, to date, generated a good deal of heat but all too little understanding.

I have received a number of communications from leaders in my community and in the Nation which will help to put this issue into some perspective. Excerpts of these letters follow:

Kathryn S. Blalock, president, League of Women Voters of San Francisco:

Thank you for your vote on March 8 against inclusion of strong anti-busing provision in the higher education bill . . . We cannot afford to eliminate any method which will achieve the goal of quality integrated education.

The Reverend James M. Purcell, cochairman; Dr. Robert Bulkley, cochairman; Rabbi Roger Herst, cochairman, San Francisco Conference on Religion, Race, and Social Concerns:

We ought to tell you that we are opposed to the anti-busing amendment, however, because we are firmly committed to integrated schools and while we would want any school system to explore ways other than busing to achieve integration, we would not rule out busing.

The real issue, Congressman Burton, has not changed since 1954. It remains equal educational opportunity and the elimination of segregation and discrimination and we must use creative and imaginative means to achieve those ends. This means not foreclosing busing as a possibility.

Rev. John J. O'Connor, executive director, Catholic Social Service of San Francisco:

I am writing to urge you to refrain from signing the discharge petition on H.J. Res. 620. I feel this proposed Constitutional Amendment would strike down progress toward school integration.

Lucy Wilson Benson, president, League of Women Voters of the United States:

Vote against instructing conferees to insist on House busing amendment to Higher Education Bill S-659.

Clarence Mitchell, legislative chairman, Leadership Conference on Civil Rights:

On behalf of our 127 national organizations we urge you to oppose any effort to instruct Higher Education Act conferees on any anti-civil rights provisions.

Andrew J. Biemiller, director, Department of Legislation, AFL-CIO forwarding text of President George Meany's statement. The Meany statement reads:

The President's message on busing significantly omits any commitment on the part of his Administration to enforcing the law of the land—quality, integrated education for America's school children.

He does not commit his Administration to the expenditure of one penny in new money to improve the educational opportunities of disadvantaged children. The Elementary and Secondary Education Act—already on the books—authorizes in Title I far greater expenditures than the President is proposing. The Emergency School Aid Act—already passed by both the House and Senate—is the source of the rest of the money the President proposes spending. In fact, the $2.5 billion the President talks about is far short of the authorized spending level in ESEA for the improvement of disadvantaged schools.

Ever since his inauguration, the President has consistently opposed increasing the appropriation for the program designed to improve schools attended by the disavantaged.

He twice vetoed congressional efforts to increase federal funding of the nation's schools—including tens of millions of dollars for aid to disadvantaged schools. One of these vetoes was carried out in front of a national television audience.

Now the President is back on national television trying to convince the American people that he has changed his opinion on improving the educational opportunities of disadvantaged children. This is political chicanery.

No new legislation is needed to improve educational opportunities for the disadvantaged. An excellent law is already on the books. What is needed and what has been lacking, however, is Presidential leadership to encourage the Congress to increase the appropriations to their full authorized level.

Further, the "busing moratorium" President Nixon proposes is a cynical attempt to reward those who said "never," and to undermine the moral leadership of those citizens who endeavored to comply with the Constitution and the Supreme Court's 1954 decision.

The Administration has chosen a course that, at the least, is at the margin of constitutionality. The real loser in this Nixon-inspired constitutional confrontation will be the integrity of our legal system.

The Administration, while invoking the slogan "law and order," has repeatedly struck at the courts, which, since the time of John Marshall, have been regarded as the ultimate line of defense for constitutional liberty. It now proposes, in the guise of regulating the courts' jurisdiction, to deprive them of the power to enforce the 14th Amendment by busing orders designed to eradicate the last vestiges of the segregated "dual school" system, even where that is the only method sufficient to secure true desegregation. If the 14th Amendment can be deprived of its vitality in this way then none of our constitutional rights is secure.

The harm to the constitution is no less severe because the proposed legislation is of limited duration—to expire five months after the presidential eletcion. For the rights in question are those of individual school children and once lost for any school year cannot be recaptured.

The AFL-CIO remains firm in its commitment to quality, integrated education. We are, therefore, opposed to the President's current political maneuvers on this question.

Mr. RYAN. Mr. Speaker, at a time when our Nation desperately needs firm moral leadership, the President has abdicated and alined himself with those who would make political capital out of racial distrust and discord.

Instead of calmly reminding the American people that a clearly established line of Supreme Court decisions, starting with Brown against Board of Education in 1954, requires the integration of schools, and the use of busing where necessary to dismantle the dual school system, the President enunciated a new doctrine of nullification in his message on the busing of school children.

The legislative package the President has presented to Congress concerning busing is certainly designed to halt the progress achieved over the last two decades in eliminating the dual school system. The legislation presented by the President is both deceptive and of questionable constitutionality. In engaging in this maneuver, the President encourages the public to lose respect for the landmark Supreme Court decisions in this field and falsely raises hopes that the difficult problem of busing will now be solved. It is a sad day for this country when the actions of its Chief Executive encourage the citizenry to lose respect for the law.

Specifically, the President has proposed: first, a moratorium on all new or additional busing orders lasting through July 1, 1973, or until the passage of substantive legislation; second, the Equal Educational Opportunities Act of 1972 which would combine the already existing programs operating under parts of title I of the Elementary and Secondary Education Act and the proposed Emergency School Assistance Act, which is pending in Congress, to provide money for schools in poor neighborhoods and offer these impoverished districts some extra money, as a way of compensation for the lack of busing. This program, in other words, is a disguised throwback to the old Plessy against Ferguson doctrine of separate but equal school facilities, which the Supreme Court explicitly overruled in the 1954 Brown against Board of Education decision.

In so ruling the Court found that separate schools are inherently unequal, despite whatever monetary efforts might be expended on the black school system. That finding of the Court has been borne out in more recent studies of the education system. The massive report of James S. Coleman, of Johns Hopkins University, entitled "Equality of Educational Opportunity" suggests that the home environment is the best way to achieve good school performance, and that mixing of social and economic groups in schools leads to improvements in performance and is a much more promising approach than raising expenditures and facilities and teachers in largely segregated schools of poor communities.

Thus does the President attempt to implicitly reverse the Supreme Court and foster the unconstitutional concept of separate but equal schools. The Pres-

ident does not serve the country well by dancing to the tune of Gov. George Wallace on this issue. Moral leadership was what was required, and it was sadly not forthcoming.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. STOKES) has expired.

THE NIXON MANIFESTO—SEPARATE BUT EQUAL

(Mr. CLAY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLAY. Mr. Speaker, the President has once again exploited the executive privilege of free public air waves. This time in a nationally televised speech, President Nixon disgracefully called for a return to public education as it existed prior to May 17, 1954. By appealing to the baser instincts in the American people, our President added fuel to the flames of racial hate which now engulfs our country. He started his defense of a separate but equal society on a false premise that U.S. district courts have been ordering "massive busing" for the purpose of racial balance. What might I ask, constitutes "massive busing?" Is it real or illusory? Does it exist in fact, or does it exist only in the minds of those who vehemently oppose the extension of full rights to all Americans?

The real issue, indeed the only issue at stake in the busing controversy, is that of race. The so-called evils of busing only become emotional monsters when that big yellow bus terminates at the little red schoolhouse which happens to have many black students enrolled. There is no such animal in the American educational system known as the "neighborhood school." Anyone who alludes to it is injecting a dimension into the debate which smacks of racism. The fact is, that more than 60 percent of all American children attending school today are arriving there by bus.

If our President were honest, if the majority of our citizens were honest on the question of busing—we would not be confronted today with the so-called solutions to the so-called evils of busing. If busing entails all the evils our President contends, such as creating serious risks to the health and safety of children; disrupting their educational process; and impinging significantly on their educational opportunity, then, our President is advancing the wrong solutions. I would think that our President would be advocating that no Federal funds be used to finance buses or schools where children are enrolled who live more than 3 miles from school. If indeed there is an existence of neighborhood schools, I see no reason for a child to attend a school more than 3 miles from home.

For the President of the United States to provide the forum and vehicle to create the climate for respectability of racists and racism is diabolism. His intentions must be held in suspect by any decent person who knows him and his past performances. In one breath he calls for a moratorium on all busing for racial balance and in the next proposes to spend $2.5 billion to provide equality education for minorities. It seems unbelievable to me that he could make such a statement in light of the fact that just 18 months ago in his veto message to the Congress he said, $453 million for elementary and secondary education, handicapped, vocational and adult education, student college loans, and libraries was "the kind of big spending that is wrong for all the American people." In fact, his budget for fiscal 1972 included only $1.85 billion for all elementary and secondary education. How then can any intelligent person believe that President Nixon is serious about spending a meager $2.5 billion to improve the quality of education for minorities? A closer look at the $2.5 billion which Nixon now proposes reveals no new commitment of funds but rather a "hold the line" effort in an attempt to spend the same amount as is now being spent.

Under President Nixon, we have witnessed the whole thrust of the 1960's to eliminate the degrading, dehumanizing effects of racism reversed. Under the Kennedy and Johnson administrations, racial and social injustices were confronted as moral and legal wrongs to be rooted out from our society. Neither Kennedy nor Johnson was reluctant to use the entire weight of the Presidential Office to embrace and promote the concept of racial equality. Unfortunately, President Nixon has chosen to follow the lead of men like Adolf Hitler and Woodrow Wilson. President Nixon prefers demagoguery to decency. He prefers to "bleed-white" than to "lead right." If President Nixon is genuinely interested in improving the quality of education for the deprived, denied children of the ghetto, then he should use the resources of this great Government of ours to improve the quality of life in all aspects for them. He cannot support "economic discrimination" in suburban housing which is equated with racial discrimination and yet contend that ghetto children are being denied quality education because of the conditions under which they are forced to live. He is, in effect, responsible for them being forced to live under those conditions. The President opposes "forced" busing on the one hand but protects "forced" patterns of housing discrimination on the other.

He cannot shed tears for those same black children who are bused to suburban areas to receive quality education and at the same time deny their black parents equal job opportunities by refusing to enforce the laws against discriminatory hiring.

Sitting back and watching how the wind blew in Florida, the President seized upon the results of that State's busing referendum. Mr. Nixon may win additional support from the racist segment of our population but in the process of gaining these votes, he is taking the Constitution into his own hands to turn the civil rights clock back to 1896. For blacks, the journey on the road to equality has been a long and trying one. Obstructionists such as Mr. Nixon have always attempted to block the road to total equality. But he and his kind cannot turn back the clock, cannot deny blacks their constitutional rights without endangering the constitutional rights of whites.

Those who drafted the Constitution and the Declaration of Independence foresaw the kinds of hysteria and pandamonia that would exist in days like this. They knew that men who normally are protectors of the Constitution and the rights of individuals would be called upon by ignorant mobs to set aside the rights of individuals and in effect destroy the Constitution.

Thomas Paine so eloquently put it when he said:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but be that stands it now, deserves the love and thanks of man and woman.

Seldom in our Nation's history has the need for a reasoned approach to our many social, political and economic problems been more clearly felt. Yet, we permit ourselves to be confused and divided by issues that are magnified and distorted out of all relation to reality.

The matter of school busing to achieve integration is one such issue. Our ability to separate out the real problems from the contrived may well prove a supreme test of our ability to maintain a democratic, pluralist society.

The American Jewish Committee reasserts its unequivocal commitment to an integrated society and to quality public education for all. Integrated public schools offering equal educational opportunity are a necessary component of that society.

We are unalterably opposed to a constitutional amendment against busing or any other executive or legislative technique which would undermine this commitment.

We make no attempt to ignore or minimize the many practical difficulties involved in integrating schools. Many Americans are resisting court-ordered busing because they honestly feel it would jeopardize the quality of their children's education. Many are concerned for their children's safety. Some support has also developed among our racial and ethnic minorities for a retention of separate schools as part of their political and social drives. These real problems have been exploited by cynical politicians who fan hysteria and offer simplistic solutions to complicated social issues.

The current emotional debate over busing loses sight of some of the important facts; first, 18 million schoolchildren—40 percent of the total school population—are normally bused to and from school for reasons that have nothing to do with racial balance; second, in Mississippi, South Carolina, and Alabama there has been a 2- to 3-percent decrease in the number of students bused since 1967–68 in the process of desegregating previously segregated schools. The issue, therefore, is not "massive" or "forced" busing, but rather whether there should be new constitutional, legislative, and executive prohibitions on the use of any busing in desegregation plans that are developed by local communities or directed by courts.

The American Jewish Committee believes that there should be no such prohibitions, and that a variety of school integration approaches must be used to achieve the twin goals of integration and quality education.

We must not permit "the busing issue" to divert us from the complex of economic, social, and political issues crying out for solution in order to improve the quality—and the equality—of life for all Americans.

MEAT PRICES

The SPEAKER pro tempore (Mr. LINK). Under a previous order of the House the gentleman from Iowa (Mr. SMITH) is recognized for 30 minutes.

(Mr. SMITH of Iowa asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, in yesterday's newspaper appeared two full-page advertisements, one by Giant Food Stores and the other by Safeway Food Stores, both of which alleged to contain information which could help consumers fight inflation.

The Giant Food Store ad reads, in part, as follows:

> You have the right to be informed about meat prices. Meat prices are high and from all predictions will remain high. Beef is near the highest level since the end of the Korean war. Why are they so high? It begins at the source: Livestock prices were not and are not now controlled under the present economic program. Less meat is reaching the market. Prices from our suppliers have skyrocketed. Because of all these reasons, you will find higher prices on almost all fresh meats.
>
> We consumers can help bring prices down. Buy less meat. Use other forms of protein.

Then, they list as examples many kinds of fish, both fresh and frozen, as good buys. Dried beans, lentils, cereal grain products, macaroni and spaghetti, and peanut butter too, when combined with animal proteins and other foods, such as dairy products, make a meal of high quality protein.

Then it says:

> There are lower-priced, nutritious substitutes for high-priced meat. In addition, Giant has provided some valuable shopping tools that can help you get the most nutrition for your food dollar. Nutrition information is posted for 85 items in all Giant stores. Check the posters to find nutritious alternatives for the more expensive foods.
>
> The unit price, that is the cost per measure, is posted for most items sold in Giant stores. Use unit pricing. It is there to help you. There are ways to beat the high cost of meats.

It is signed by Esther Peterson who takes the title of "Consumer Adviser to the President of Giant Food."

Then the ad on Safeway Stores says, in big, black print:

> HELP FIGHT INFLATION AND EAT WELL, TOO!

Under that it says:

> There is something you can do to help fight inflation. It's something all of us can do in the fight against higher food prices. Let's use more of the many nutritious foods which are plentiful and lower in price. When you serve one of these, you save money right now. Also, you help to speed the day when costs will go down on other foods.
>
> We will be telling you in Safeway newspaper ads and through store signs which foods are current "Inflation-Fighters."

Then it lists a number of foods it says one should buy to fight inflation, such as scrapple, bologna, some pancake mix, and some other foods.

Now, Mr. Speaker, my curiosity was raised enough that I went to both a Giant Food Store and a Safeway Food Store, which are across the street from one another near the 3900 block of Minnesota Avenue. After shopping and comparing the prices in those stores I can only conclude that these ads are an outright consumer fraud designed to mislead customers to buy foods which contain less of the needed nutrients per dollar of expenditure. While in almost every instance the comparable food at the Safeway store was cheaper than in the Giant store, the foods Safeway promoted in their ad as "Inflation-Fighters" in fact cost more per protein unit than other available foods including some meats. This is another example of how consumers are being charged more money than necessary in order to pay for advertising which commits a fraud upon them.

The Giant ad states that "Beef is near the highest level since the end of the Korean war," and says that the cause is that "livestock prices were not and are not now controlled." While beef is barely higher than it was 20 years ago, the earnings per share of stock of the Giant Food Corp., which operates in the District of Columbia, Maryland, and the Virginia area, on an adjusted basis, have increased more than 100 percent in the last 4 years, from $1.13 in 1967 up to $2.65 for the past 12 months. The earnings per share of stock on Safeway Stores, Inc., for the same period advanced from $2 up to $2.91, or 45 percent in just 4 years. Instead of diverting attention toward a product that has barely increased in price in 20 years, it seems one place they could better help fight inflation would be to take less profit and spend less of the consumers' money for advertisements designed to mislead consumers.

The Giant advertisement was centered on the idea that meat prices are too high, but that Giant offers several good protein alternatives such as fish, eggs, cheeses, and various other products mixed with animal protein. Upon checking prices, I found an interesting fact. I broke these products down from a table that is in a handbook published by the Department of Agriculture Research Service which shows the amount of protein in each of the various foods.

For example, it shows that on round steak of choice grade there are 91.6 grams of protein per pound. At the price that was quoted in the store that is 1.6 cents per gram. On the other hand, chuck roast, which was featured as one of these "inflation fighters," was 89 cents a pound, but it only contains 18.7 grams of protein per pound, so that the cost per gram was 4.7 cents.

In fact, the "inflation fighter" chuck roast is three times as much per gram of protein as is the choice round steak.

Also it was noteworthy that big bologna, for example, which contains all kinds of leftovers and cereals, and some other foreign substances to meat, as binders, is actually as highly priced per protein unit as round steak.

Mr. Speaker, I insert at this point a list of the various foods that I checked.

The material referred to follows:

	Price per pound	Gram of protein per pound	Price per gram of protein, in cents
Round steak (choice grade)	$1.49	91.6	1.6
Ground beef	.75	81.2	.92
Stewing lamb	.39	83.5	.45
Sliced ham	.79	90.7	.87
Big bologna	.93	60.3	1.52
Chicken legs	.75	51.2	1.47
Chicken thighs	.69	61.6	1.1
Turkey	.57	55.6	1.0
White enriched bread	.29	39.5	.73
Chuck roast (choice grade)	.89	18.7	4.7
Perch filet (frozen or fresh)	.79	31.5	2.5
Catfish filet	1.09	79.8	1.36
Carp fish (whole)	.49	24.5	2.0
Eggs, grade A large per dozen $0.49 per 24-ounces dozen equals	.39	52.1	.6
American cheese	.89	105.2	.84
Swiss cheese	1.26	119.8	1.05
Cottage cheese	.33	61.7	.53
Scrapple	.43	39.9	1.08
Margarine (corn oil)	.49	2.7	18.1
Cheese pizza, $0.79 for 13½-ounces	1.00	40.4	2.7
Pizza with sausage, $0.79 for 13½-ounces	1.08	35.4	3.05

In several instances good meat of cheaper cuts that were available were much cheaper, in fact, than some of the so-called inflation fighters.

The Giant ad alleged that cereal grain products combined with meat is cheaper and indeed it should be. However, you will notice in the table I am inserting in the RECORD that the cereal grain product combined with proteins in the list is pizza.

According to a handbook printed by the U.S. Department of Agriculture Research Service on the composition of foods, the grams of protein per unit figure out in such a way that their pizza is 280 percent as much per protein unit as ham and also 180 percent as much per protein unit as choice grade round steak. It is over 500 percent as much per protein unit as stewing lamb and of course cheaper cuts of meat would be even cheaper than pizza by comparison. So the ad directs attention away from cheaper foods per protein unit.

The Giant ad claims "The unit price, that is the cost per measure, is posted for the items sold in Giant stores." In fact, the only products I saw which told how much protein it contained were dog food and cat food. What good does it do a housewife who is shopping for protein nutrients to know that a certain box contains one pound of some mixture if the protein content of the mixture is not available?

The most important item in most people's diet is proteins. Indeed most people eat too few proteins and too much of the foods which can be stored as fat. The Giant ad was allegedly directed at how to secure a better buy in proteins. Indeed more education is needed on how to shop for protein. However, the Giant ad contained misinformation and if the advice therein were followed would result in customers making the worst buys

in the store in terms of cost per edible protein unit.

Unless a consumer goes to the store armed with a computer and a table showing protein content of each of those foods, they have little chance to know which is the best buy.

When a company increases their margin of profit per share of stock so much that they more than double that profit in 4 years and still have money to buy full page ads to divert the attention of customers from those profits and also mislead them into buying products which cost more per protein unit, it is time for consumers to stand up to those companies which engage in such false advertising techniques with consumers' money and to divert purchases away from such stores as Giant and Safeway to stores which do not use these shoddy practices.

The Giant ad is signed by Esther Petersen who is given the title of "Consumer Advisor." I must conclude that if she advised on this, she was advising Giant how to extract more money for less from consumers.

While prices were cheaper in most every instance at the Safeway store, they too were promoting products which in many instances cost more per protein unit and claiming the higher cost products were "Inflation-fighters."

It is surely past time for supermarkets to either use the truth as a prerequisite in advertising or else stop advertising. Perhaps this specific example will help direct consumers' attention toward the need for an analysis on foods and to be wary of claims by consumer advisers whose paycheck comes from the company that makes higher profits from fraudulent advertising.

We also need a consumer protection agency to take effective action in cases like this.

Meanwhile consumers can protest this kind of activity by avoiding the Giant and Safeway and those who engage in such practices.

I hope Mrs. Knauer of the Office of Consumer Affairs will also give it her attention.

Mr. LANDGREBE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. LANDGREBE. Mr. Speaker, I would like to compliment the gentleman from Iowa on his very close scrutiny of this matter and for bringing this information to the floor of the House of Representative. I would associate myself with the gentleman's remarks.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. LINK. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. LINK. Mr. Speaker, I commend the gentleman from Iowa for bringing this matter to the attention of the House and the Nation.

Mr. Speaker, the retail cost of a representative market basket of food rose $21 during 1971 and $20 of that $21 went to middlemen. Only $1 went to the farmer-producer.

In the past 20 years, farm prices have increased only 7 percent compared to 340 percent for wage earners, 430 percent for Government employees, 200 percent for business and professional people, and 300 percent for receivers of dividends. In the same 20-year period, farm production costs have increased by 50 percent.

The following statistics on live cattle and retail meat prices in a midwestern city in 1952 and 1972 should be noted. In January of 1952, the producer received $39 per hundredweight for prime cattle and $35.50 to $38 for most choice to prime.

Now, 20 years later, on February 16, 1972, the producer received virtually the same price, $38 for prime and $34 to $37 for most choice to prime. Yet, in the same 20-year period, the price to the consumer in the market has virtually doubled.

On January 9, 1952, the consumer paid, 85 cents per pound for Swiss streak; 49 cents for hamburger; 79 cents for rib streak; 79 cents for beef stew; 98 cents for sirloin; 85 cents for round steak; 65 cents for beef roast; and 69 cents for prime rib.

On February 16, 1972, the consumer in the same supermarket paid $1.69 for Swiss steak; 98 cents to $1.19 for hamburger; $1.59 for rib steak; 98 cents for beef stew; $1.68 for sirloin steak; $1.38 for round steak; $1.19 for beef roast; and $1.29 for prime rib.

Mr. Speaker, these figures speak for themselves. Clearly, the producer should not be made the scapegoat for the rising cost of living.

Mr. SMITH of Iowa. Mr. Speaker, I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Speaker, I want to commend the gentleman from Iowa (Mr. SMITH) for taking this special order to draw the attention of the House to a misleading advertisement concerning the price of meat. It is timely that the public be informed that a full page advertisement by Giant Food chain in this morning's Washington paper is not giving complete and accurate facts to the public on the price of meat available in their stores and other stores throughout the country.

The wholesale price of choice steer beef on June 15, 1970 was $47.50. Last week, on March 15, the whole sale price was $54.45—both figures Omaha basis. This reflected a 14-percent increase over a 21-month period.

For the same period—June 15, 1970, pork loins wholesaled at $58.80, but on March 15 of this year, the wholesale price was $53.15, or close to 10 percent less. Combining the two wholesale prices on the choice steer beef with its modest increase and the pork loins or pork chops with their modest decrease in price, it is very much apparent that the price increases in red meats since mid-1970 until last week are not the responsibility of the producer. The wholesale price of pork and beef combined are very nearly the same as the combined wholesale price of the two red meats were almost 2 years ago.

The responsibility for the increase in retail prices of red meats which the Giant ad says have skyrocketed is clearly the responsibility of the middlemen and the retailer. It would seem to me that the Giant Food chain executives could well explain to the public that they are not paying the producers of pork and beef any bonuses but are buying these products at very nearly the same combined prices that they purchased them for in mid-1970.

If there are going to be recommendations for fish and seafoods as a substitute for red meats, Giant and other food chains could well start a campaign to protect their consumers by advocating passage of a bill which I have had in Congress for 2 years which would require the inspection of all fish and sea foods for wholesomeness, sanitation, and healthfulness. We do have laws requiring inspection of all meat, poultry, and dairy products but we allow fish and seafood products to go uninspected, leaving the consumers unprotected in sanitation and health requirements.

The consuming public deserves to have complete honesty with presentation of all the facts concerning the price and quantity of the products that they buy in their huge retail food industry.

Mr. SMITH of Iowa. I want to thank the gentleman. I certainly wholeheartedly endorse his comments concerning the need for fish inspection.

I also note in the cable that carp fish, which are usually considered to be the poorest fish to buy, are more than twice as high in protein per unit as ground beef at the Giant store today.

RIGHT-TO-READ PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, I would not have thought it possible, but the Department of Health, Education, and Welfare has stooped to a new low in its dealings with the Prince Georges County public school system.

On January 5, 1972, HEW notified the county school board that it had approved a grant for the national right-to-read program to be administered at the Randolph Village Elementary School in my neighborhood. On January 24, HEW notified the board that it would not fund the program.

It is this sort of cruel game playing by HEW which leads me to question more strongly every day if HEW really has the interests of schoolchildren at heart.

The terrible irony of HEW's most recent "now you see it, now you don't" move is that it penalizes most severely the very students it claims it is most anxious to help—educationally disadvantaged black children.

In its noncompliance action against the Prince Georges County School Board, HEW contended the board had not met desegregation guidelines and cited as an example the predominantly black Randolph Village Elementary School.

HEW claims it initiated the noncompliance action to insure quality education in predominantly black schools—a goal which we all share—and then it turns around and withdraws funds from the very type of program that is so desperately needed to provide quality education in those schools.

It makes no sense whatsoever.

Mr. Speaker, let us all hope that the President's recent firm policy against busing will finally put a halt to the absurd activites of HEW which are playing havoc with our schools.

THE DISTRIBUTIVE EDUCATION AT WILLIAMSVILLE NORTH HIGH SCHOOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, believe today's young people are too often judged en masse by the example of the small minority who make headlines. It is sometimes easy to forget that the vast majority of today's youth are hard working individuals deeply concerned about their future and the future of their country.

I am proud to call attention today to an outstanding group of young people in my district the Distributive Education Clubs of America (DECA) at Williamsville North High School, Williamsville, N.Y., under the creative leadership of coordinator Richard Barry. This fast-growing youth organization has effectively been working with business in a cooperative effort to help preserve and promote our free enterprise system. I would like to bring to the attention of my colleagues the following background information concerning DECA which is available thanks to the efforts of my good friend Morry Poummit, chairman of the Board of Colad, Inc., Buffalo, N.Y.

The Distributive Education Clubs of America (DECA), of which the Williamsville Chapter is a part, is a national organization which combines work and study for students interested in merchandising, marketing, management and service operations. DECA brings together the business community and public schools, providing students with a combination of theoretical and practical job training and businessmen with capable, mature, career minded employees.

Before World War II, a survey was taken by an education committee of high school graduates who did not go to college. The survey showed that 35 percent of these students went into the distribution of products. These young people were the future clerks, salesmen, stockboys, cashiers, and other retail store employees.

Often when they applied for a job, the first question asked was "What training and experience do you have?" Not having either, they were generally rejected and had to continue looking for employment.

So the educators got together and created courses in distributive education, which had to do with salesmanship, merchandising, displays, advertising, promotions, et cetera. It was hard to interest students in taking these courses primarily because they were new and teachers were inexperienced. This has all changed, but let me continue with the historical background.

Between 1937 and 1942 schools created distributive education courses. To interest students in these courses, clubs were formed and adopted names like Future Retailers, Future Distributors, Future Merchants, and Distributive Education Clubs.

Statewide meetings were held between 1941 and 1944 because the local chapters grew and felt the need to communicate with each other. By 1945 State conferences and associations were organized and about this time the idea of a national organization was born.

In 1946 the U.S. Office of Education called a meeting of State distributive education supervisors to develop plans for a national organization. The first conference was held in Memphis, Tenn., in 1947. There were 17 charter members including New York State. In 1948 at the second conference in St. Louis, the official name was adopted—DECA. To better understand what the letters mean, they are DE—Distributive Education—DECA—Distributive Education Clubs of America.

The growth and development of DECA has been rapid. Nationally, there are now 4,000 DECA chapters with over 120,000 members. In New York State we have 133 chapters with 3,500 members.

The national organization is supported by leading American business firms. It administers a scholarship program, makes awards to outstanding students and conducts student leadership conferences.

Past growth and plans for the future give every indication that DECA is destined to become one of the leading youth organizations of our time. This growing success of DECA nationally is due in large part to the tireless efforts of local chapters such as the club at Williamsville North High School which has set an example for excellence unmatched nationwide.

Last year at the Distributive Education Clubs of New York 11th Annual Leadership Conference, Williamsville North High School won more prizes than any chapter in the country had ever won and I would like to list these awards at this time:

1. Chapter of the Year.
2. Student of the Year, Boy.
3. Student of the Year, Girl.
4. Job Interview, Boy.
5. Display Judging.
6. Studies in Marketing on Home Furnishings Manual and Footwear Manual.
7. Second Place DECNY Sweetheart.
8. Third Place Job Interview, Girl.
9. Third Place Display Construction.
10. Four Honorable Mentions.

In addition, one of the chapter's members was elected president of New York State and came very close to being national president. The Williamsville North High School DECA coordinator, Richard Barry, has done a tremendous job and is to be commended for his efforts. His students are presently working on a marketing project that is sponsored by Colad and Buffalo Niagara Sales and Marketing Executives (SME).

I would like to share with my colleagues more detailed information concerning DECA and the accomplishments of the DECA chapter at Williamsville North High School. Therefore, I am proud and pleased to include in the CONGRESSIONAL RECORD at this time an article which appeared in the publication "You and Your Schools" and general information concerning DECA:

COOPERATIVE EDUCATION

DISTRIBUTIVE EDUCATION

The Distributive Education program is probably the most widely known and highly publicized part of the whole, in part because of the huge success of DECA, the students' merchandising club. Distributive education is a three-year program, with a student registration of approximately 125 in each of the two high schools, which has as its most important purpose the recognition by each student of his own abilities, the training of each student in the selling of those abilities, and the presentation to each student of the wide range of opportunities available to one of his abilities.

Classes in Distributive Education include those in psychology, selling and marketing, career choosing, and personal inventory. Students as juniors are placed in jobs fitting their interests and abilities on a part-time basis, usually in the afternoon, five days a week or less. These young people take a full academic course in morning modules at their high school, report to a job for as much as four hours a day in the afternoon, and receive on-the-job training there.

Many students take Distributive Education courses who cannot, because of their academic load, take a job. These students can benefit from the realistic look at the business world which these courses offer them, even though they are not able to take advantage of the unique training which is to be had working in business itself.

Graduates of the Distributive Education Course have entered many colleges such as SUNY at Buffalo, Erie County Community College, Alfred University, and schools such as the Fashion Institute of Technology, and Foxmore Institute. Students earn one regents credit for each year of on-the-job training taken under the sponsorship of the Distributive Education Department, as well as regents credits in all their morning courses. Thus, graduates are fully capable of making different choices: that of attending a four-year college, that of attending a technical school full time, that of studying part time and working part time while further developing skills or going into the work which they will know ahead of time they enjoy and are suited to and in which they have good training.

INDUSTRIAL CAREER TRAINING

The goals of the Industrial Career Department, remain those of recognition of abilities, relevant experience, and development of personal skills, and knowledge of career opportunities.

The Industrial Careers section, headed by Robert Bedell, a teacher with 18 years with this District has sections in both high schools, and is a two-year course. Students must be 16 years old to enter the course, and are placed upon entering the course in a suitable industry.

Courses taught include work in learning about industrial opportunities, personal assessment, and work skills. About 35 students are registered in this department, and

all are worked with by Mr. Bedell on a one to one basis. The placement of each student is decided on the basis of his personal likes, his hobbies, his abilities, and his personality. There is constant communication between Mr. Bedell and the employer to check student progress.

In this department students learn things which adults in the working world take for granted, but which students need guidance to react to in a positive manner. For example, young people who have had no experience in applying to industry for a job need facts to properly make out an employment application. Income taxes and the making out of returns is another factual matter taught to students in this program. The importance of work attitudes, including punctuality, proper work clothes, pleasant personality, and attention to direction are all taught and practiced in actual work conditions.

Graduates of this course have, in many cases, been highly successful in their chosen professions. One young man is now teaching automobile body work for General Motors, and flies to classes all over the country. Another is a baker for a large baking department, having come close to being a dropout before he was placed in a position he enjoyed and to which he believed he could contribute skills learned in the Industrial Careers Department.

Another student graduated from the Industrial Careers Department after working while studying as a machinist with a Williamsville industry. He went into the Navy and earned a machinist rating as a result of his training at Williamsville High School. He then returned to Williamsville and to work for his former employer. He is now a machinist, training students from the Industrial Careers Department in that same industry.

SECRETARIAL OFFICE TRAINING

The Secretarial Office Training course, enrolling about 130 students, is on a morning-study, afternoon-office-work schedule. Most of these students are seniors, but a few juniors are judged advanced enough in their secretarial studies to be allowed to work afternoons in offices also. It should be understood that all students who take shorthand, typing, and office practice are not part of the Secretarial Office Practice course, but only those who have advanced well in their secretarial studies and who want the experience of on-the-job training.

Mr. Mauro is in charge of office placement, and he is assisted by two teacher advisors at High School North, Mrs. Therese Ferrara, secretarial teacher and Miss Clare McCabe, office practice teacher and at High School South, Miss Jean Poorten, secretarial, and Miss Lois Blair, office theory. These teachers rate students as to excellence in their studies for Mr. Mauro who then suggests three names of students who are competent to fill the positions, but the employer is to make the final choice. Further, Mr. Mauro believes that each student would have practice which is gained by talking to an employer about a specific job.

These teacher advisors have a personal knowledge of the ability, achievement and personality of these girls, as does Mr. Mauro. They also help her with any work problems individual to her own job. To receive credit for the work experience, the student must satisfy both the employer and the teacher advisors as to his performance.

In talking of Cooperative Education, which includes, in the Williamsville plan, three departments—Distributive Education, Industrial Careers, and Secretarial Office Practice, it should be understood that all students who take vocational training are not in these programs. In fact, few of the students in business or vocational training are taking Cooperative Education courses. Students in Cooperative Ed must be screened for commitment, for academic ability (since they must do academic work in a half day while other students may have a full day for such study), and for cooperativeness. Although students earn a small paycheck each week, the important facet of the Cooperative Education idea is that actual business experience is invaluable training for life itself. Most students see the Cooperative Education experience that way, and find the relevance of the courses taught in school valuable in giving them facts on which to base future career choices, and business experience which is of use in developing attitudes which business will pay money for.

MR. MAURO, DIRECTOR

Coordinator of the Cooperative Education Department, Ralph Mauro has been a member of the Williamsville District staff for 13 years. He became coordinator in 1964, with his principal duties encompassing both department administration and placement work for the Secretarial Office Training Section. This year he is teaching a class in career planning at Williamsville North.

A lifetime Buffalo and Western New York resident, Mr. Mauro graduated from Canisius College, and he received his Masters Degree in Education Marketing from SUNY at Buffalo. He now lives in Elma with his wife Betty and his five children, Peggy, a sophomore in high school; Patty, a student in junior high school; Francis and William in elementary school; and Michael, 4, still at home. The whole Mauro family enjoys water sports and spends as much time as weather allows in swimming and boating.

Mr. Mauro is a believer in the ability of young people to offer individually something worthwhile to their community. He is working with other community residents in Elma to form a Boys Club there. His long range educational goals include (1) working toward early career education in the middle schools—offering courses which would expose students to the world of work, work's dignity and the relationship of each student to the occupational world; (2) expansion of supervised on-the-job training; and (3) insuring that work experience is included as an integral part of each student's program.

COOPERATIVE EDUCATION

Cooperative education is a three-pronged weapon to attack and conquer the evils of unemployment, student apathy, inexperience, and lack of commitment. Called "cooperative" because both the Williamsville high schools and local business and industry cooperate to train local young people, this unusual Williamsville program offers training for life—training in:

1. Selling themselves.
2. Using their capabilities to best advantage.
3. Good work techniques.
4. The specific skills of the kind of job they want.
5. Having a successful employment interview.
6. Making out employment forms and resumes.

To make this program work well and to the best interests of the employers in our area and to place the right type of student in each job, Mr. Ralph Mauro coordinates and is liaison for the 3 areas. Cooperative Education comprises three areas—Distributive, Industrial, and Secretarial. Mr. Richard Barry at North High School and Mr. John McCracken at South High School are Teacher-Advisors for Distributive Education. Mr. Robert Bedell is in charge of Industrial Training division in both schools. Secretarial Office training has Mr. Mauro in charge of placement with the assistance of Mrs. Therese Ferrara at High School North and Miss Jean Poorten at South.

COOPERATION FROM EMPLOYERS

Much is required of these employers who must not only train the students in their own work systems, but must also cooperate with the school district in assessing each student's abilities and attitudes to the work world, and in paying each student for his work. The employers gain students who stay on the job because of counseling, school credit gained, and learning of the business world in general. In many cases the employer has the opportunity to employ full time a young person whom he has trained when that employee has finished his further schooling or training.

The Cooperative Education Department is labelled a success by the businessmen who have gained useful and well-trained employees, by students who have received invaluable experience and training, and by the community of Williamsville at large which has great numbers of young people more fitted to join the world of business.

COOPERATIVE EDUCATIONAL PHILOSOPHY

The Cooperative Education department of the Williamsville high schools has as its aim to train good dependable and loyal employees But far more than that, the department works to help students learn the value of their own possible contribution to the world of work and learn the best possible way to make this contribution. That these aims have been met is proved by the hundreds of interested businessmen who year after year hire students from the Cooperative Education department, who sing the praises of the students with whom they have worked and the members of the department who have made this relationship possible. Students of the department have been accepted into colleges all over the country, better fitted to choose their college course, and better fitted to earn part of their college expense. Students of the department have made their way successfully in many phases of business and industry over the years that the department has functioned. Students return to the members of the Cooperative Education department to get further counseling in career choices, to tell members of the department of their successes and triumphs, and to give members of the department further insights into aid which may be given members of the student body not yet out of school.

Because of the one to-one relationship which this sort of training necessitates, teachers and coordinators of the program know their students well and this individualization makes for increasingly valuable knowledge in training for Cooperative Education.

The exceedingly wide range of career opportunities available to be tested by interested students, from carpenters to interior decorators, from landscape designers to auto mechanics, from accountants to salesmen, widens each year as the employment market changes and as members of the department find that there are more and more demands for their students.

The Cooperative Education department offers courses of interest to all high school students, to those who want a work study program and to those who do not, to those who believe they have a career choice well in mind as well as to those who have no idea what they want to do in the complex business network of the United States. Members of the Cooperative Education department believe in their courses so thoroughly that they recommend at least a few of them for each high school student, and high school students in all ranges of ability who have taken one or more of the courses agree in that assessment.

GENERAL INFORMATION ON DISTRIBUTIVE EDUCATION CLUBS OF AMERICA

WHAT IS DECA?

The Distributive Education Clubs of America—otherwise known as DECA—is an organization whose program of leadership and personal development is designed specifically for students enrolled in Distributive Education. Distributive Education is a program of instruction which teaches marketing, merchandising and management.

Any student enrolled in any Distributive Education instructional program in the nation is eligible for membership in his local DECA Chapter, his State Association of DECA and National DECA. Each Chapter elects its own student officers and the DE Teacher-Coordinator serves as the Chapter Advisor. All Chapters within a state comprise a State Association of DECA, which is under the leadership of the State DECA Advisor. Each such unit elects student officers as leaders for that particular group. National DECA is composed of State Associations. Student delegates elected by each state in turn elect their own national officers. DECA, Inc., the legal sponsoring unit of this national youth movement, elects a Board of Directors, which is the policy making group of DECA.

DECA is a non-profit, non-political, nonsecretarian, youth organization. All Chapters are self-supporting, with members paying local, state and national dues.

DE students have common objectives and interests. Each is studying for a specific career objective in marketing and distribution. Chapter activities have a powerful psychological effect upon the attitudes of students and, for many, DECA is the only opportunity which they have to participate in social activities of the school and to develop knowledge of the responsibilities of citizenship.

DECA Chapters are to DE students what a civic or professional organization is to a group of businessmen. Chapter activities are recognized as a part of the total educational program because of their development of leadership ability, professional attitudes, better citizenship characteristics, and social growth of the individual. DECA Chapter activities are always centered in the school. These Chapter activities serve the teacher-coordinator as a teaching tool by creating interest in all phases of marketing and distribution study.

The DECA Chapter is the showcase for student achievement and progress. Through its activities, students with an interest in marketing and distribution are attracted to the DE program. No set pattern of operation is prescribed for any local Chapter; however, the majority plan activities which include social, civic, professional, and benevolent activities and adopt projects which provide for school and community betterment.

DECA activities provide DECA members an opportunity to serve as leaders and followers, and provides an opportunity for them to receive state and national recognition which they would not have otherwise.

GOALS OF DECA

To assist State Associations in the growth and development of DECA.

To further develop education in marketing and distribution which will contribute to occupational competence.

To promote understanding and appreciation for the responsibilities of citizenship in our free, competitive enterprise system.

ADULT GUIDANCE

National DECA is composed of State Associations of DECA. These State Associations have been duly chartered by the Distributive Education Clubs of America, Inc., upon approval of the Board of Directors.

On the national scale, the governing bodies are both student and adult. Distributive Education Clubs of America, or DECA, refers to the student area. It is composed of five divisions: High School, Junior Collegiate, Collegiate, Alumni, and Professional. For these five divisions each State Association selects national voting delegates, who, at the National Conference, elect their own National Officers, and conduct the business of that Division.

The adult governing body is DECA, Inc. This is the legal sponsoring agency of DECA and its membership is composed of the head State person responsible for Distributive Education, or his appointed representative in each chartered Association. This group is represented by a Board of Directors, elected by the members of DECA, Inc. The Board of Directors consists of thirteen members including nine persons elected by and from the membership of DECA, Inc., the immediate past President of the Corporation, plus an appointed treasurer, and the Vice President of the Distributive Education Division of the American Vocational Association. Two meetings annually of DECA, Inc., are held at a designated time and place to coincide with the annual American Vocational Association Convention and the annual National Leadership Conference of DECA. The Board of Directors meets as necessary.

DECA—WHAT IT IS—WHAT IT DOES

WHAT IS DE?

Distributive Education identifies a program of instruction which teaches marketing, merchandising and management.

WHAT IS DECA?

DECA identifies the Program of Youth Activity relating to DE—Distributive Education Clubs of America—and is designed to develop future leaders for marketing and distribution.

DECA is the only national youth organization operating within the nation's schools to attract young people to careers in marketing and distribution.

DECA AND THE STUDENT

DE students have common objectives and interests in that each is studying for a specific career objective. DECA activities have a tremendous psychological effect upon the attitudes of students, and many students have no other opportunity to participate in social activities of the school or to develop responsibilities of citizenship.

DECA members learn to serve as leaders and followers, and have opportunity for state and national recognition that they would not have otherwise.

DECA AND THE SCHOOL

DECA Chapter activities are always school-centered, thus contributing to the school's purpose of preparing well-adjusted employable citizens. Chapter activities serve the DE Teacher-Coordinator as a teaching tool by creating interest in all phases of marketing and distribution study, and serve as an avenue of expression for individual talent.

The Chapter is the "show window" for student achievement and progress, and is the public relations arm of the DE instructional program. It attracts students to the DE program who are interested in marketing management and distribution careers and assists in subject matter presentation.

DECA AND THE COMMUNITY

DECA members have made numerous studies and surveys to aid the economic development of their own community. Individual and group marketing projects continue to encourage this type of contribution.

Many businesses favor hiring DE students because of their interest in training and their related school study of that particular business. Many leaders in business and government have praised DECA for its civic-related activities.

DECA AND THE NATION

DE instruction and DECA activity constantly emphasize America's system of competition and private enterprise. Self-help among students is the rule rather than the exception, and DECA leaders give constant encouragement to continued education.

History has proven that whenever a nation's channels of distribution fail to function, that nation is shortlived. As DECA attracts more of our nation's youth to study marketing and distribution, the total DE program becomes a vital necessity to our national security.

NATIONAL DECA MONTH

The purposes of National DECA Month are to call attention to the Distributive Education program, to enhance the educational facilities of your school and to highlight the activities of DECA. DECA Month is held in March each year and should be centered around local and/or statewide DECA activities. Promotional materials are made available to Chapters and State Associations to aid any planned observance.

THE DECA FOUNDATION

The DECA Foundation is a legal body representing the Distributive Education Clubs of America, Inc. Statements within the Articles of Incorporation give DECA the privilege to receive and spend monies for educational purposes. It also gives protection to those who make financial contributions to DECA for these purposes. The DECA Foundation was officially chartered under the laws of the Commonwealth of Virginia on February 2, 1960. DECA's Board of Directors constitutes the membership of The DECA Foundation and establishes policy for its operation. The national Program of Youth Activity is financed by contributions to DECA and is administered under policy established by these Directors.

ADVISORY GROUPS

There are several groups which serve in an advisory capacity to the Board of Directors. One of the most prominent is the National Advisory Board. This group is composed of organizational representatives which contribute financial support to DECA. Regular NAB meetings are held twice each year, normally during the AVA convention and the DECA National Leadership Conference. The NAB is of invaluable assistance to our youth movement.

Other advisory groups include the American Vocational Association, the National Association of Distributive Education Teachers, the Council for Distributive Teacher Education, the National Association of State Supervisors of DE, the National Association of State Directors of Vocational Education, and the U.S. Office of Education.

DECA HEADQUARTERS

National DECA Headquarters houses the employed staff of DECA, Inc. The Executive Director, employed by the Board of Directors, is responsible for the administration of National Headquarters and for executing the policies established by the Board of Directors. His exact duties are described in Article II of the Articles of Incorporation of the Distributive Education Clubs of America, Inc. Other staff members are responsible for the development, promotion, and coordination of many DECA activities between National Headquarters and State Associations.

DECA TERMINOLOGY

DECA, Inc—legal identity of adult group responsible for the youth program of DECA. Chartered in 1946. Meets twice each year.

DECA—term used in referring to the student organization: local, state or national.

The DECA Foundation—created to assist and encourage DECA members to continue career study in marketing and distribution; serves as a financing arm for DECA.

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Board of Directors—elected by members of DECA, Inc., to set policy for DECA, Inc., and The DECA Foundation.

National Advisory Board—representatives from organizations contributing financial support to DECA. Serves in advisory capacity to Directors. Meets as necessary.

Regional Leadership Conferences—leadership meetings held generally in the fall of the year in each of four DECA Regions for the purpose of providing an opportunity for leadership development of State Association Officers and DECA Advisors.

National Leadership Conference—annual climax of year's DECA activity. Purposes: recognize outstanding individual ability and classroom achievement; inspire individual and group leadership. High School Division NLC approved by the National Association of Secondary School Principals.

National Delegates—student representatives elected by State Associations to conduct the official business of the student organization. National officers are elected by and from these delegates.

The DECA Distributor—official publication of DECA, Inc. Circulation 125,000 with readership estimated at two to one. Supplemented by the DECA Dateline.

DECA Headquarters—national offices of DECA: DECA, Inc.; and The DECA Foundation, located at 200 Park Avenue, Falls Church, Virginia 22046.

PUBLICATIONS

The DECA Distributor is the official national magazine of The Distributive Education Clubs of America. Each student member receives a copy of The DECA Distributor through his Chapter Advisor. In addition, the DECA Dateline is sent to each Chapter Advisor for Chapter use. Many other brochures are available at a very nominal charge from National Headquarters.

MEMBERSHIP ITEMS

Beginning in the fall of 1962, a navy blue blazer with the DECA emblem on the left breast pocket was approved as the official identifying uniform of DECA. It is available through Approved Suppliers who meet specifications as may be approved by the Board of Directors of DECA, Inc. In addition, membership pins and other appropriate identification items are available through DECA Approved Suppliers of these items. Each supplier is listed in the Suppliers and Sales Project Guide published annually for Chapter use.

SALES PROJECT GUIDE

At the beginning of the school year each DECA Chapter is provided with a Suppliers & Sales Project Guide to assist Chapters in planning sales project activities for the year. All DECA Approved Sales Project Companies and Suppliers are described in this publication. Chapters may order approved DECA Supplies or products direct, using the appropriate order forms supplied in the Guide.

GROWTH AND DEVELOPMENT

The Chapter Develops

During the period between 1937 and 1942, when cooperative programs in Distributive Education were becoming more widely established, the students in these Distributive Education classes began to form Distributive Education Clubs. This was a spontaneous effort on the part of the students and occurred simultaneously throughout the country. Why did this happen and what need were these clubs filling? Several basic factors were involved.

First, Distributive Education students were employed away from the school campus at their training stations during the afternoon—at a time when many of the other students in their school were involved with the school's extra-curricular activities. The Distributive Education students were, therefore, missing a very important part of school life.

Secondly, these students of Distributive Education had a common interest—their great desire for professional and personal growth.

Thirdly, they felt the need—common to everyone—to *belong*, to develop socially, and to be a part of the group.

Thus, local Chapters began to spring up all over the country. These early clubs adopted many names—*Future Retailers, Future Distributors, Distributors, Future Merchants,* and *Distributive Education Clubs.*

Between 1941 and 1944, when it became apparent that the strength of local Chapters was growing and when they began to feel the need to communicate with each other, a few States held statewide meetings of Distributive Education Clubs. By 1945, a few states had officially organized State Associations and were holding state conferences. During this time, the idea of a national organization was born.

The National Organization Develops

In 1946, the United States Office of Education invited a represented committee of State Supervisors of Distributive Education to meet in Washington, D.C., with representatives of the USOE, to develop plans for the national organization of Distributive Education Clubs and to prepare a tentative constitution and an organizational chart.

As a result of this preliminary meeting, the national organization was launched and the first Interstate Conference of Distributive Education Clubs was held in Memphis, Tennessee, in April, 1947. At that meeting, delegates from twelve states unanimously adopted a resolution to form a national organization. The organization was officially endorsed by the *National Association of State Directors of Vocational Education,* meeting at the same time in Chicago, Illinois. Officers were elected and committees were appointed to prepare a charter and a constitution for consideration at the next year's conference.

The second National Leadership Conference, held in St. Louis, Missouri, in 1948, saw the adoption of the constitution and the official name, the Distributive Education Clubs of America, designated DECA, and the acceptance of 17 charter member states. They were: Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington.

In order to provide interim leadership, the President of the *National Association of State Supervisors of Distributive Education* appointed a *National Advisory Committee* to serve in lieu of an executive secretary. In 1949 an incorporation meeting, made up of State Supervisors and Advisors of affiliated states, elected the Board of Trustees of the Distributive Education Clubs of America, Inc., to serve as the policy-making body for DECA. DECA was officially chartered under the laws of the Commonwealth of Virginia in 1950.

The development of DECA has been closely followed by many outstanding national, state, and local business organizations, and many have given support assuring the continued growth of DECA.

The *American Vocational Association,* by vote of the House of Delegates, became an official sponsor of the Distributive Education Clubs of America on December 1, 1950.

National Headquarters Develops

In 1951, DECA committees began developing plans for a full-time national organizational structure. Included in these plans were a National Headquarters, *The DECA Foundation,* and other activities designed to promote the welfare of the Chapters, and the State Associations.

In 1953, a National Headquarters was established for DECA and set up at 1010 Vermont Avenue, N.W., in Washington, D.C., in space provided by the *American Vocational Association.* At that time the first Executive Secretary of DECA was employed. The first issue of The Distributor, the national publication of DECA, was presented just prior to the second annual conference in St. Louis. From 1947 to 1953, the Oklahoma Distributive Education state staff edited and published The Distributor.

While the Distributive Education Clubs of America—DECA—is a student organization and is operated by students under an adopted constitution, DECA, Inc., is the legal sponsoring group of the youth movement and is composed of the head State persons responsible for Distributive Education in those states affiliated with DECA, Inc.

The DECA Foundation was established to provide for legal acceptance of gifts, donations and the establishment of funds needed to operate the National Headquarters and the DECA National Program of Youth Activity. Many national, state, and local business organizations have become vitally interested in the DECA movement. Many have given and continue to give financial aid to DECA.

In 1957, donors to *The DECA Foundation* made it possible for DECA to add a Member Service Department to its National Headquarters and to employ a Program Director to head that Department. The annual DECA National Leadership Conference still remains as one of the highlights of the National Program of Youth Activity. A National Officer Training Conference, began in 1957 as an annual function and remains a valuable part of the training of National DECA Officers.

Since 1958, some states have been sending delegations representing junior colleges and other post secondary institutions to the National Leadership Conferences, in an effort to find ways and means to establish DECA Chapters in such institutions. Official recognition was given to this effort in 1961 by a change in the national constitution to allow those states interested to form Post Secondary Divisions. The first National Officer Training Conference for this Division was held in December, 1962, in connection with the *American Vocational Association* convention, meeting in Milwaukee, Wisconsin, at that time. The following year, 1963, the Post Secondary Officer of the High School Division in an effort to more closely coordinate the activities of both Divisions.

In 1960–61 The DECA Scholarship Loan Awards Program was developed and the first scholarship loans were awarded in 1962. This one program has done more than any other DECA activity to help erase the stigma of Distributive Education being a program of terminal education. From 1962 to 1970, approximately 160 scholarship loan awards were given to DECA members.

In 1967, a Public Relations Department was added to the DECA Headquarters, and in 1968 a Publications Department was added, with each Department having its own Director. Both of these Departments have aided greatly in DECA development.

During the 1969 National Leadership Conference in Atlantic City, Alaska became the last state in the Union to be chartered as an affiliated State Association of DECA. Alaskan Delegates received a standing ovation during the chartering ceremony symbolizing a true DECA welcome. Also in 1969 the Board of Directors granted approval to establish four DECA Regional Leadership Conferences as a part of DECA's Program of Youth Activity, to provide additional opportunity for leadership Development activities to a greater number of DECA members.

During the 1970 National Leadership Conference in Minneapolis, Voting Delegates of both Divisions of DECA approved a completely revised Constitution. This major revision allowed for the expansion of DECA to five Divisions: High School, Junior Collegiate, Collegiate, Alumni, and Professional Divisions. Collegiate and Alumni representatives held developmental meetings during the Conference to draft Bylaws for their Divisions and to plan for Divisional development.

Membership in DECA has continually increased each year from 793 members in 1947 to almost 110,000 members in 1970. During each year of its existence, DECA has experienced a substantial membership increase. The number of State Associations affiliated with this national youth movement has increased from twelve in 1947 to 52 in 1970, including the District of Columbia and Puerto Rico.

The growth and development of DECA has been rapid. Many interested educators and business organizations have given their advice, their cooperation, and their support. Past growth and plans for the future give every indication that DECA is destined to become one of the leading youth organizations of our time.

Membership growth

1948	793
1950	5,127
1952	9,200
1954	11,196
1956	12,431
1958	15,235
1960	19,122
1961	22,183
1962	24,939
1963	29,885
1964	36,889
1965	47,359
1966	59,260
1967	72,426
1968	83,783
1969	97,960
1970	108,226

NATIONAL ADVISORY BOARD

History

The National Advisory Board is a group of individuals who represent interests giving financial support to DECA. The Board was created by a joint desire of the DECA Board of Directors and those investing funds in DECA development. DECA, Inc., first approved the appointment of a "National Business Advisory Board" on April 25, 1954, and one meeting of that group was held in New York City in January, 1955, under the direction of George M. Stone (Executive Secretary of DECA, 1953–55). Primary purpose of that meeting was to discuss ways and means of gaining financial support for DECA.

Following that meeting, no other formal meetings of this group were held; however, several of the individuals attending that meeting were most helpful in DECA financial development.

In the spring of 1956, the name of this advisory group was changed to the *National Advisory Board* and the first official meeting of this group was held that fall. Both the name and the purpose of the group have remained unchanged since that time.

Purposes

To serve as a liaison for all financial interests in matters of DECA development.

To serve in an advisory capacity, as requested by the Board of Directors of DECA, Inc.

To lend support to the promotion of DECA.

To assure equal recognition of each contributing interest regardless of the amount contributed.

Operating policies

(Adopted December 6, 1966)

(Revised December 10, 1968)

I. Name

The organization shall be known as the NATIONAL ADVISORY BOARD of the Distributive Education Clubs of America (DECA), and may be referred to as NAB.

II. Purpose and objectives

1. The purpose of this organization shall be to serve in an advisory capacity to the Board of Directors of DECA, Inc.

2. The basic objectives shall be to serve as a liaison for all financial interests in matters of DECA development and to lend support to the promotion of DECA.

III. Membership

1. Any organization contributing Five Hundred Dollars ($500) or more annually to DECA, Inc., is eligible for membership and to name a representative to serve on the NAB. An organization shall become a member by invitation, and membership shall be in the name of the organization and not the representative.

2. All candidates for membership shall be approved by vote of the Executive Committee.

3. If a representative is unable to continue to serve, it shall be his responsibility to notify his company which should designate his successor.

IV. Officers

1. The officers shall be a Chairman, a Vice Chairman, and a Secretary. All officers shall be elected at the winter meeting of the NAB and shall hold office for the succeeding two years or until duly qualified successors are elected.

2. *Chairman*—The Chairman shall preside at all meetings of the NAB and its Executive Committee. He shall appoint Chairmen of all Standing Committees and other special committees as soon after his election as practicable. He shall be an ex-officio member of all committees except the Nominations Committee. He shall perform all duties incident to his office and shall recommend such action as may be deemed by him likely to increase the usefulness of the NAB. In the event the Chairman, the Vice Chairman, and the Secretary are absent from meetings of the NAB or Executive Committee, the Chairman shall appoint another representative on the NAB to preside.

3. *Vice Chairman*—The Vice Chairman shall oversee the broadening of financial support for DECA, shall arrange to have representatives of new organizations get acquainted with the officers and other members at the semi-annual meetings, and shall assist the Chairman in the performance of his duties at the Chairman shall determine.

4. *Secretary*—The Secretary shall keep a record of the procedings of all meetings of the NAB, shall send out notices of meetings, and shall prepare other records for NAB as necessary.

V. Executive Committee

1. The Executive Committee shall consist of no more than 16 members of the NAB. These members shall be the Chairman; Vice Chairman; Secretary; Chairmen of the Standing Committees; the immediate past Chairman; and six representatives elected from the membership at large. Members of the Executive Committee may serve simultaneously as an elected member and as an appointed chairman of a Standing Committee, described in Policy VI.

DIAMOND CLUB PROGRAM

Purpose

To provide funds for the Program of Youth Activity conducted by DECA on local, state and national levels in the following areas:

Awards and recognition, leadership conferences, program development.

Leadership training, public information, scholarship loans.

Definition: The Diamond Club Program is a project that allows State Association of DECA to strengthen and expand their program of youth activity for student members of DECA. It also provides an avenue for business, individuals and organization to financially support a youth program designed for their direct benefit.

The Diamond Club Program is the plan approved by the Distributive Education Clubs of America for self-support of the State Association. The goal of the Diamond Program is to build and sustain a sound financing program for the State Association on a continuing basis.

Need: The need of each State Association to have a sound financing program has been documented repeatedly by surveys. The need for an avenue through which to conduct their own DECA program including the State local, state, and regional businesses can support a given state has also been recognized by the State Association Advisors, Board of Directors of DECA, Inc., and the National Advisory Board. The Diamond Club Program combines in one package an effective plan for solving both of these needs.

Information on any aspect of the Diamond Club Program can be obtained by writing DECA Headquarters.

MEMBERSHIPS

The *Diamond Club Membership* is an exclusive recognition by DECA for those individuals and business interests who are giving maximum support toward student members of DECA in their own state. It entitles the contributor to personal recognition on the Diamond Club membership roster, a personalized membership card, an inscribed membership certificate, a subscription to all state and national publications of DECA, an opportunity to participate in the Diamond Club of your State Association, publicity releases by the State Association in cooperation with the contributor, and other recognitions by the State Association and the Distributive Education Clubs of America as may be appropriate. Cost: $500 or more.

The *Sustaining Membership* of the Diamond Club Program is a recognition of those individuals and business interests who desire to support the Diamond Club Program of their state to the extent implied. *A Sustaining Membership* entitles the contributor to a personalized membership card, an inscribed membership certificate, and personal recognition by the State Association of DECA as may be appropriate. Cost: $100 to $499.

The *Supporting Membership* of the Diamond Club Program is a method of recognizing those individuals and business organizations who may desire to support the Diamond Club Program of their state on a limited basis. *A Supporting Membership* entitles the contributor to a personalized membership card, a membership certificate, and recognition by the State Association of DECA as may be appropriate. Cost: $10 to $99.

DESIGNATION AND PROTECTION OF NATURAL AREAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 10 minutes.

Mr. BLACKBURN. Mr. Speaker, on February 17, I had the pleasure of introducing legislation which would grant the Secretary of the Interior the power to develop a program for the designation and protection of natural areas throughout the United States.

Presently, the only program available to the Secretary for the preservation and protection of natural areas is the wilderness system. Unfortunately, land must already be in Federal hands for this act to apply. Though the land and water conservation program does provide a 50–50 matching grant for the development of land and water resources for recrea-

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tional purposes, it does not apply to saving natural areas. Thus, the Interior Department does not have authority to grant aid to States and local governments to acquire natural areas of geological or ecological significance. The legislation which I introduced would grant the Secretary of the Interior the power to make 50-50 matching grants for this purpose.

I have found, through my studies, that there is a need for an expanded program to protect natural areas in order to achieve an increased appreciation of the natural history of the United States. Their appropriate use, including environmental education, scientific research, and public appreciation of these areas will be encouraged if they are so protected. Most of us remember our youth in which there were large expanses of natural areas. Unfortunately, with the continuing urban sprawling, these areas are being destroyed and we face the danger that future generations will not have the chance to use nature's wonders as we did.

I realize that in any program of this nature there should be an orderly system and criteria established for designating which areas deserve protection and assistance. Therefore, under title II of my legislation, I establish an Advisory Council on the Preservation of Natural Areas. The members of the Advisory Council shall be the Secretaries of the Interior, Agriculture; Housing and Urban Development; Transportation; Defense; Health, Education, and Welfare; the Smithsonian Institution; the president of the Natural Resources Council; and 10 appointments made by the President of the United States from the public. This Council will advise the President and the Congress on matters relating to the implementation and the coordination of this act with other Federal and State activities. Furthermore, the Council shall establish a national registry of areas which are endangered and will be first to receive funding under this act.

Preservation and protection of our natural areas at this time in our country's history is of prime importance. If we wait too long, there will be little left to protect. I urge prompt consideration of my bill.

EMERGENCY STRIKE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Florida. Mr. Speaker, I am pleased to join with my colleagues and give my views on strike legislation intended to provide a more effective means for protecting the public interest against national emergency disputes involving the transportation industries. I cosponsored H.R. 12692, along with 76 of my colleagues.

The action taken by the Subcommittee of the House Interstate and Foreign Commerce Committee on March 1, which killed any possible action on this measure this year, is regrettable.

It is unfortunate that the Members of Congress will not have a chance to vote on this bill this year, and it is manifestly unfair to the American people that they are placed at the mercy of management-labor negotiators who have the power to create massive unemployment, food, fuel, and supply shortages, and even to undermine our entire economy. The recent examples of the British coal miners strike and the British mail strike, presage similar chaos in our own country if the present laws are not changed.

Labor leaders oppose compulsory arbitration and want to continue with voluntary arbitration to arrive at what they call a balance of interests between labor and management. In theory this is free enterprise functioning at its best. But, in reality, labor disputes directly involving the public have three parties; namely, labor, management, and the general public—and the materials of all parties are not represented. To me the public's interests are paramount, and the public is not being represented, nor is its welfare being taken into account in prolonged labor strikes. Since the public doesn't have a voice in the negotiations, the average citizen suffers more than either labor or management.

All fair-minded Americans are in agreement that the workingman should be protected against unscrupulous employment practices, but, by the same token, the average workingman and the American public must also be protected against unscrupulous labor practices. Our present labor laws, regrettably, are outmoded today and put the public at the mercy of the labor bosses who must put on a big show and continually demand higher wagers or face the possibility of losing their high position at the next union officers election. Strikes, today, are everybody's business, especially those massive strikes involving large corporations like General Motors, or the recent railroad and dock strikes. Everybody suffers—the employer, the striker, those who work in allied industries whose paychecks are dependent upon the strikers going back to work, and the average citizen who consumes the product or service. It is the consumer in the long run, whether he is a union man, a nonunion man, a worker, or a striker, who ultimately must "pay the freight" because of resulting inflation which brings higher costs and reduces the purchasing power of his hard earned dollar.

Today, in our highly integrated economy, big business and big labor, control such a tremendous amount of our national output, that it is folly to permit such a reckless disregard for the public interest, lest we soon have no nation and no economy with which to deal.

I joined with my colleagues in the Congress in offering a proposal which each of us felt was a viable alternative to compulsory arbitration, but it has been rejected. What we had hoped for was that in cases where a threatened strike or lockout could deprive any section of the Nation of essential transportation services, the President would be authorized to appoint a board of inquiry to study the issues, file a public report and submit to the President recommendations for settlement of the strike. Further, upon receipt of the report from the board, the Secretary of Labor would initiate one or more of the following:

First, a 30-day back-to-work order;

Second, a call for partial operation of struck facilities;

Third, require both labor and management to submit a list of resolved and unresolved issues and submit their final offers for settlement of the strike;

Fourth, appoint a three-member panel to select the final offer from those submitted if settlement has not been achieved.

Nothing in the bill we offered would change the current operation of the Taft-Hartley law with respect to nationwide strikes, nor the use of the 80-day cooling-off period. The bill applied solely to the railroad, airline, maritime, longshore and trucking industries.

The effect of such legislation would be that when existing methods for settlement of strikes are exhausted—which could be a lengthy process—an automatic system would set in to end the strike and preserve the public interest. This would replace the present system where all branches of government get into the act—legislative, judicial, and executive—on each and every major strike.

The law has been applied ineffectively to bring trade unions under the judicial structure so that the same rules are applied to them as to all others in society. Over a period of many decades, however, labor unions have been able to establish a position wherein their activities are virtually immune to actions brought in Federal and State courts. As a consequence, nonunion employees and others have been denied adequate legal protection against coercion and violence, and the general public has been denied protection against economic injury. Badly operated unions by themselves cannot destroy the free market economy, but they may nevertheless make it function so badly as to provide its gradual decline, and, either consciously or unconsciously harm all in our society.

The Congress has been forced to act seven times since 1963 to prevent strikes in the railroad industry alone, and still no effective, permanent, mechanism has been set up to settle national emergency disputes. True, there is a paucity of labor laws. Essentially there are five: First, the Clayton Act of 1914 which regulated issuance of injunctions in labor disputes; second, the Railway Labor Act of 1926 which provided the first interventionist policy for the Federal Government; third, the Norris-LaGuardia Act of 1932 which drastically limited jurisdiction of the Federal courts in labor disputes; fourth, the Wagner Act of 1935—the original National Labor Relations Act—which created the National Labor Relations Board and intervened to eliminate employers' resistance to unionization, and fifth, the Taft-Hartley Act which emphasized freedom of choice of employees to join or not to join a union. This lack of regulation is not an accident. Congress has been controlled by a liberal majority for most of the recent past and the labor leaders have always been affiliated with the liberals. As a direct consequence there are not enough votes in the Congress in my opinion to pass a bill designed to outlaw compulsory unionism or to in any way reform labor unions since the majority of those on the Labor Committees in both the House and Senate are strongly labor oriented.

With H.R. 12692 my colleagues and I tried to find an equitable and effective compromise position which would preserve the right of labor to strike and yet at the same time guard the public's interests. But alas even this was rejected.

Thus it seems we will have to tolerate prolonged and widespread transportation strikes until the public in righteous indignation demands otherwise. Perhaps the passage of time and the continued abuse of power by strike negotiators will finally enrage the electorate sufficiently to force those they send to Congress as their representatives to support legislation which benefits the people of America rather than just a strong special interest group. Until then however we will be compelled to tolerate outrages such as the recent west coast dock strike which lasted a record number of days and affected all U.S. ports including Port Everglades which is in my district and the Port of Miami just south of my district.

Port Everglades is the shipping site for much of the Florida citrus crop that is exported. The dock strike caused serious disruption not only to citrus shipments which had a drastic effect on the entire Florida citrus industry and the pocketbooks of housewives buying oranges but affected other industries too. It jeopardized over 15 years of effort in establishing overseas markets for Florida citrus products and further added to our already unfavorably lopsided balance of payments.

Agriculture products both exports and imports were greatly reduced. The reduced demand for exports caused by the strikes depressed prices to farmers and raised prices in supermarkets.

Farm income was further reduced by the additional cost of diversion to open ports increased storage costs, and spoilage where adequate storage was not available. These lower prices and increased costs were hard for the farmers to bear. How were the farmers and orange growers' interests represented in the west coast dock strike negotiations?

While I favor the right of our working man to better his condition and I am fully in accord with the principle of free collective bargaining, I feel it should be apparent to all that the succession of laws passed by Congress over the past decades and the rulings of the courts have combined to insulate organized labor bosses from due process, in both equity and law. I feel that this power has often been wielded unfairly, and that all Americans, including both management and the working man has suffered because of it. A proper solution to the problems created by labor-management struggles is of critical importance to the economic and moral health of all the people of our Nation.

THE CLEAN WATER PACKAGE OF AMENDMENTS TO H.R. 11896

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, next week the House will take up the bill called the Federal Water Pollution Control Act Amendments of 1972—H.R. 11896—which was reported out of the Public Works Committee on March 11, 1972—H. Rept. 92-911.

At the outset, let me state that the committee bill contains a number of very fine provisions relating to the construction of municipal waste treatment systems and the conduct of antipollution research and related programs. Many of them are superior to provisions in the strong Senate-passed bill—S. 2770—relating to these same subjects.

The House bill shifts the emphasis away from the water quality standards approach of 1965 which, after nearly 7 years, has met with little success. Water quality standards have been approved only for interstate waters, and then only in 27 of 54 jurisdictions—the 50 States, Puerto Rico, District of Columbia, Virgin Islands, and Guam. Even where approved, many States have unilaterally extended timetables for compliance. Existing Federal law does not even require such standards for intrastate waters, although some States have adopted them. Disputes over the standards, lack of enforcement, and virtually no effluent controls have added to the ineffectiveness of these standards. Moreover, the existing law continues the outmoded theory that our waterways have an unlimited capacity to assimilate wastes.

The House bill, like the Senate bill, wisely transforms the Federal antipollution effort into a program of effluent limitations to control water pollution at the source. Water quality will be a measure of program effectiveness and performance, rather than the sole means of pollution control.

But the Committee bill (H.R. 11896) is far weaker than the Senate bill in the areas of establishing effluent standards and goals after 1976, enforcement, permits to control waste discharges, citizen participation, and worker protection.

In addition, the committee bill would severely limit antipollution enforcement under the Refuse Act of 1899 and emasculate the National Environmental Policy Act of 1969 and the Fish and Wildlife Coordination Act—three laws that are giving the public, for the first time, an opportunity to require the Federal Government and polluters alike to give full consideration to the antipublic effects of their actions on our environment.

Our colleagues—Representatives ABZUG and RANGEL—have already detailed for us the weaknesses of H.R. 11896 in their "Additional Views" (H. Rept. 92-911, p. 393) on the bill. Their views were reprinted in the March 16, 1972, issue of the CONGRESSIONAL RECORD (pages 8805-8813). I need not repeat them here.

When H.R. 11896 is taken up in the House, we will offer the "Clean Water Package of Amendments." That package is already cosponsored by 40 Members of Congress. The amendments will be offered in an effort to strengthen the bill in line with the stronger Senate-passed bill (S. 2770).

The "Clean Water Package of Amendments" will:

Establish that, by 1981, without further action by Congress, polluters must use the best available technology, taking into account the costs thereof, to clean up the wastes they pour into our waterways. Section 304 of the bill, of course, sets forth the following "factors" relating to the assessment of "best available technology": age of equipment and facilities involved, the process employed, the cost and economic, social, and environmental impact of achieving effluent reduction, and foreign competition. Our amendment does not, in any way, affect the "no discharge" goal declared by the House Committee in section 102(a) of the reported bill. With or without our amendments, that declared goal would be a part of the bill;

Provide more national control over the State programs of discharge permits, in order to prevent economic hardship and interstate competition for industries, communities, and workers and to insure that the water quality objectives of the bill are achieved;

Strike from the bill provisions that give polluters who violate this bill or the Refuse Act a total immunity until 1976 from enforcement actions, merely because they file an application for a permit;

Strike from the bill language that would gravely restrict the rights of any person to sue polluters and the Environmental Protection Agency, so as to establish that his rights in water pollution control should be no less than the rights which Congress established for any person in the Clean Air Act and which the House adopted on February 29, 1972, in the noise control bill (H.R. 11021);

Provide criminal sanctions against polluters who willfully violate an EPA order to abate their pollution; and provide adequate worker protection.

The "clean water package of amendments" will also prevent the weakening of the Fish and Wildlife Coordination Act and the National Environmental Policy Act of 1969—NEPA.

The committee states in its report on H.R. 11896 (H. Rept. 92-911) that it did not "intend . . . to decrease or limit the consideration of fish and wildlife" in the administration of the water pollution program (p. 137). But despite this helpful legislative history, the bill amends the Fish and Wildlife Coordination Act. The plain language of the amendment not only limits, but totally eliminates, such "consideration" in the case of future discharges and dredge and fill permits issued under provisions of

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the bill. Our amendment will carry out the stated intention of the committee.

The committee, in explaining the NEPA amendment in the bill (H. Rept. 92-911, pp. 137-139), relies entirely on a statement made on the floor of the Senate. We have seen, however, that, since then, a great deal of controversy has arisen in that body and elsewhere over the precise meaning of the NEPA amendment—see National Journal, Feb. 26, 1972, pp. 336-349. Moreover, the House Committee revised the Senate version of this language, causing further uncertainty as to its meaning. The Committee report cites the recent Kalur decision which held that environmental impact statements under NEPA must be filed for Refuse Act permits, and then asserts that if that decision is upheld on appeal, EPA may still be required, despite this amendment, "to prepare" such statements.

We feel certain that the House should not support such a vague and ambiguous amendment, particularly when there is such great uncertainty as to its effect and scope. The House Committee on Merchant Marine and Fisheries, which developed and held hearings on NEPA and has jurisdiction over it, is presently holding hearings on the very problems to which this NEPA amendment in H.R. 11896 is supposedly addressed. The bill being considered by that committee is H.R. 13752. Moreover, that committee will shortly have before it a study by the General Accounting Office on the administration of NEPA. We think that committee, because of its jurisdiction over NEPA, should be given an opportunity to complete the extensive review it has begun and to act on H.R. 13752. Certainly, the deficient piecemeal approach in H.R. 11896 should not be passed by the House while the parent committee is actively trying to work out such problems as may exist in the administration of NEPA.

The "Clean Water Package" is supported by a broad-based group of environmental, civic, labor, farmer, and other groups, including:

Amalgamated Clothing Workers of America.
Bass Anglers Sportsman Society.
Clean Air, Clean Water, Unlimited.
Common Cause.
Environmental Action.
Environmental Policy Center.
Friends of the Earth.
Izaak Walton League of America.
League of Women Voters of the United States.
Minnesota Conservation Foundation.
Minnesota Environmental Control Citizens Association.
Minnesota Public Interest Research Group.
National Consumers League.
National Farmers Union.
National Wildlife Federation.
Northern Environmental Council.
Oil, Chemical, and Atomic Workers International Union.
Save Lake Superior Association.
Sierra Club.
Sport Fishing Institute.
Trout Unlimited.
United Automobile Workers.
United Steelworkers of America.
The Wilderness Society.

The New York Times on March 20, 1972, printed an editorial urging adoption of our "Clean Water Package" of amendments. At this point in the RECORD, I insert the New York Times editorial on H.R. 11896:

[From the New York Times, Mar. 20, 1972]

AND CLEAN WATERS

The water-pollution control bill, which Senator Muskie sponsored and his colleagues long ago approved by a vote of 86 to 0, is even more far-reaching and hence in worse trouble. Between heavy fire from industry and moderate fire from the Administration the Senate bill may be shot down, or existing controls may be seriously weakened in the name of improvement.

Of the changes made by the House Public Works Committee, one of the sharpest setbacks is the drastic modification of the Senate's objective to decrease effluents into the nation's waters for the next thirteen years, by which time (at least this is the goal) they would be eliminated altogether. The House committee, while theoretically retaining the goal, would subject the plan to a study by the National Academy of Sciences, to be followed by a second vote in Congress—by which time a lot of foul water will have flowed under the bridge. Not content to weaken the Senate bill, the committee would also reduce the effectiveness of the EPA by shifting primary responsibility for the issuing of effluent permits to the states, a grave backward step.

Representatives Reuss of Wisconsin and Dingell of Michigan are striving to reverse these stultifying changes with a "clean-water package" of amendments. Unless the efforts of these two outstanding conservationists succeed, there may be no clean water legislation in this Congress at all—a disastrous setback to a cause that cannot afford any delay.

The following Members have joined in urging our colleagues to support these amendments:

LIST OF MEMBERS

Henry S. Reuss, Thomas M. Pelly, John E. Moss, Lucien N. Nedzi, Dante B. Fascell, Floyd V. Hicks, David R. Obey, William D. Ford, Bella S. Azbug, Paul N. McCloskey, Jr. Martha W. Griffiths, Philip E. Ruppe, James G. O'Hara, Ken Hechler, H. John Heinz, III, Benjamin S. Rosenthal, Robert O. Tiernan, Robert W. Kastenmeier, Dan Rostenkowski, Les Aspin.

John D. Dingell, John P. Saylor, Ray J. Madden, Thaddeus J. Dulski, Gilbert Gude, John H. Dent, Silvio O. Conte, Donald M. Fraser, Jack F. Kemp, Charles C. Digga, Jr. John Conyers, Jr., Michael Harrington, Thomas M. Rees, F. Bradford Morse, Charles B. Rangel, Charles A. Vanik, Abner J. Mikva, Donald W. Riegle, Jr., John G. Dow, Ogden Reid.

We urge our other colleagues to join us in cosponsoring these amendments.

The clean water package of amendments follows:

I. AMENDMENTS TO TITLE III OF H.R. 11896, AS REPORTED

Re: Requiring use by 1981 of best available technology

1. In section 301(b), on page 267, line 19, strike the words "except as provided in section 315,"; and

2. In section 315, on page 346, strike the sentence beginning on line 19 and ending on line 2, page 347.

II. AMENDMENT TO TITLE III OF H.R. 11896, AS REPORTED

Re: Criminal sanctions against polluters who willfully violate EPA pollution abatement order

In section 309(c)(1), on page 306, line 25, before the words "any permit" insert the following: "any order issued by the Administrator under subsection (a) of this section, or".

III. AMENDMENTS TO TITLE IV OF H.R. 11896, AS REPORTED

Re: Permits to control the discharge of wastes into the nation's waterways

1. In section 402(a)(5) on page 358, strike all after the period in line 7 through to the end of line 24 inclusive.

2. In section 402(b), on page 359, lines 15 and 16, strike "unless he determines that adequate authority does not exist:" and insert in lieu thereof the following: "if he determines, and publishes his determination, that adequate authority does exist:"

3. In section 402(b), on page 359, lines 18 and 19, strike out "any applicable" and insert in lieu thereof: "all".

4. In section 402(d), on page 362, line 25, insert a comma after the word "Administrator"; and on page 363, line 2, strike "(b)(5) of this section" and insert in lieu thereof the following: "(d)(1) of this section that such State proposes to issue a permit,".

5. In section 402(e), on page 363, line 13, after the period insert the following: "No waiver shall be made under this subsection unless regulations have been first promulgated under subsection (f) of this section relating to the category of point sources with respect to which each waiver is proposed".

6. In section 402(1), on page 365, line 1, after "a" insert "valid"; and strike out the sentence beginning on line 5 and ending on line 19.

IV. AMENDMENTS TO TITLE V OF H.R. 11896, AS REPORTED

Re: Citizen suits

1. In section 505(a), on page 377, line 24, and in section 505(b), on page 379, line 5, strike out the word "citizen" and insert the word "person".

2. In section 505(b), on page 379, line 14, strike out the words "issued by the Administrator";

3. In section 505(g), on page 381, strike lines 1 through 6; and in line 7, change "(h)" to "(g)".

V. AMENDMENTS TO TITLE V OF H.R. 11896, AS REPORTED

Re Employee protection

1. Section 507, on page 384, between lines 7 and 8, insert the following:

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act."

2. In section 509, on page 385, on line 21, after the comma, insert the following: "or carrying out section 507(e) of this Act,".

VI. AMENDMENTS TO TITLE V OF H.R. 11896, AS REPORTED

Re: Fish and Wildlife Coordination Act and the National Environmental Policy Act of 1969

1. In section 511(b) on page 389, line 2:, strike "and"; and on line 22, change the period to a semi-colon and insert the following: "and (4) the issuance of permits under sections 318, 402, and 404 of this Act."

2. In section 511(d), page 390, strike lines 6 through 16 inclusive.

LOSS OF A COLLEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, today Republicans lost a colleague with the announcement by the gentleman from New York, Representative OGDEN REID, that he is changing his party affiliation. Often the temptation is felt by some on such an occasion to criticize, to level charges of "turncoat" and disloyalty. I think such criticisms overlook a broader issue.

There are wide-ranging philosophical differences within each of our two major parties. Many have insisted that this is desirable, that the parties to be truly national must be all-embracing and reflect every shade of opinion. I have never subscribed to this concept of political parties.

At the inception of the Republic, the hope and expectation was that the country would never witness the emergence of what James Madison in Federalist 10 described as factions, but what we later came to describe as political parties. Ironically enough, it was James Madison himself who was instrumental in developing the first political alternative to the prevailing orthodoxy in the form of a political faction which developed into the first Republican Party which elected Thomas Jefferson in 1800. This was a wholly natural development.

The kind of consensus hoped for by our Founding Fathers represented, perhaps, the one area where they failed properly to understand the nature of man. What they learned in short order is that unanimity is rarely the incident of human councils. Perhaps they knew it all the time and their aversion to faction was simply an expression of hope that we could find a new unanimity to guarantee the survival of the great experiment they had launched.

The Republican Party of Jefferson and Madison was not intended to represent all things to all men. On the contrary, it grew out of the deep conviction entertained by Madison, Jefferson, and others that those who represented the incumbent administration—identified as Federalists at that time—increasingly resurrected the specter of monarchical government. They deliberately chose the word "Republican" to describe their alternative because they were profound believers in republican institutions and saw them as antithetical to oligarchical or monarchical systems. In short they formed an opposition party that rested on the most profound differences that can exist amongst men in their understandings of the role government should play.

At the Constitutional Convention in Philadelphia there was a plan for the Federal Republic circulated amongst the members and authored by Alexander Hamilton. It called for a totally centralized form of government. While Hamilton preferred to use the word "President" to describe the head of that government, the government was so centralized in form that the President would have been a virtual dictator or king. Hamilton went so far as to recommend that Governors of States should not be elected but rather appointed by the President. Clearly, had Hamilton's views prevailed, the system of government created would have more nearly represented the dictatorships we are all too familiar with in the 20th century rather than the one we have. Jefferson, by contrast, believed that government is the servant of the people and the vigor of republican institutions rests upon local autonomy and local responsibility.

Those who today insist upon blurring meaningful distinctions between parties really do a disservice to the purpose of political parties. That purpose is not to guarantee that those on either side of the philosophical spectrum shall always win, but rather that we shall always be guaranteed the right to register meaningful dissent.

The gentleman from New York has obviously made a decision of conscience that was not easy but proper. There is still a residuum of meaningful difference between the Republican Party's approach to problem solving and the Democratic Party's approach to problem solving. My colleague opted in favor of the national party that more nearly reflects his own philosophical convictions.

FULTON URGES CATTLE HIDE EXPORT CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, the American shoe industry, the American shoe worker, and the American shoe consumer face a very serious price-cost squeeze which is on the verge of causing very serious economic dislocation and pressure to increase inflation.

What has been taking place and continues at this very moment is that American cattle hides are being exported at increasing rates only to be used for the manufacture of foreign footwear which is then imported back into this country at increasing rates.

According to a statement of March 2 of this year by House Ways and Means Committee Chairman MILLS, the price of American hides has roughly doubled over the past year. This increase in exports has been matched by an increase in shoe imports. In 1960, imports equaled about 5 percent of U.S. domestic production. In the past year, this ratio had grown to almost 50 percent of domestic production and, in the month of January, it was two-thirds.

In the past, in the case of steel and textiles, the American Government has moved to quick action when the ratio of imports to U.S. production reached only 10 percent.

So, in voicing my concern over the problem of cattle hide exports, I join with many other concerned individuals who are talking about real damage to a vital domestic industry. We are not just crying "wolf."

At this point, I would like to quote from a letter on this subject from a representative of one of the Nation's leading footwear producers which was sent to Commerce Secretary Peterson on February 16, 1972:

> Obviously, as the price of hides increases, the price of leather we make our shoes from also increases. Since hide costs constitute a good part of the ultimate price to the consumer, we will be forced to raise our prices substantially to cover the cost of these increases. Not only will this help increase the cost of living, but at the same time, we will inevitably lose additional business to our overseas competitors. You are very familiar, I know, with the basic problem we have in the shoe industry—competing against the cheap labor, tax advantages, subsidies and other artificial stimulants that the foreign exporters use. We have certainly felt the effects of this in our business and have been forced to discontinue operations in at least three plants.

Mr. Speaker, this is not an uncommon situation or plight in the American footwear industry today. Help is needed and it is needed immediately.

Some time ago, on February 2, 1972, I wrote the Secretary of Commerce urging immediate export controls on cattle hides. In reply, I was told that the Department was considering the options available for relief. However, since that time, absolutely nothing had been done by the Department of Commerce or our Government to alleviate this situation.

Therefore, today I once again communicated to the Department of Commerce through Secretary Peterson my profound concern over this matter and urged, also once again, that immediate action be taken to apply the necessary export controls.

Unless this action is forthcoming, elementary economics warns that the American footwear industry as we know it may well be doomed in the very near future.

XUM

THE ADMINISTRATION OF JOHN BELL WILLIAMS, GOVERNOR OF MISSISSIPPI, 1968–72

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. GRIFFIN) is recognized for 15 minutes.

Mr. GRIFFIN. Mr. Speaker, during the term of any administration few people commend it but many are quick to criticize, some perhaps rightfully so. But at its conclusion the task remains for history to judge, not based upon the manner of man but rather on the deeds and accomplishments of the man and his administration. It is indeed very difficult for us all to look objectively at a recent public record and render a fair judgment, but history does not judge hastily and therefore can remain objective in its assessment. But as it is with the judgment of history, we always find that the deeds and the accomplishments when finally realized and viewed in proper prospective are credited to the one man who made them possible, and rightfully so.

In January of this year the Honorable John Bell Williams completed his term as Governor of the State of Mississippi. I do not attempt here to prejudge history on this administration but do attempt to look at it objectively, not at the man himself but the deeds and accomplishments. And after looking at these deeds and accomplishments I believe we must credit the man, John Bell Williams, with a job well done.

Even in these turbulent times, we in Mississippi were able to find hope—to find direction and to dedicate ourselves to the task that was before us to achieve a great and prosperous future.

Mississippians under the John Bell Williams administration were able to enjoy a tremendous program of improvement for public education. Appropriations for higher education were doubled in an effort to build a university, college, and junior college system where our young people did not have to leave our State to obtain a good education. In the past 4 years four more junior college campuses were opened making a college or vocational education accessible to all citizens.

During the past 4 years, through a successful industrial development program in our State, over 54,000 new jobs were created by new or expanding industries. In a period when other sections of our country were experiencing slowdowns, Mississippi's economy continued to swing upward to new heights.

With the establishment of a coordinator of Federal-State programs in the Governor's office, the Williams administration became Mississippi's first to seek actively Federal funds in various aid and assistance programs to upgrade the quality of life for all Mississippians.

During the Williams administration, there were enacted sales tax reform, income tax reform, the new Drug Control Act, medicaid, the largest highway construction program in our history, penal reform and many more that will benefit the future of Mississippi.

Few of the programs of the past 4 years that I have mentioned here are short lived gains or contributions. On the contrary, they go to the very construction of a strong foundation upon which our people can build their homes for a prosperous future and fulfill their hopes and needs for that future. Many years will undoubtedly pass before the full benefit of many of these programs are realized but the passage of years will not dull the memory of the contributions and accomplishments that have been made nor who made them. Rather like a fossil, the years will leave an indelible mark upon the bedrock on which our State is built.

And I believe that when the judgment of history is finally made on the administration of John Bell Williams, without fanfare of politics or polls of public opinion, the deeds and accomplishments will speak for themselves and place it high among the most successful and progressive administrations in the history of Mississippi.

A few days before passing the torch to his successor on January 18, 1972, John Bell Williams addressed the Mississippi Legislature in joint session. I am sure that many who served with Mr. Williams in this body, would be interested in his farewell address. It follows:

FAREWELL ADDRESS

Mr. President, Mr. Speaker, distinguished members of the joint assembly: I speak to you today for the last time as Governor of the State of Mississippi.

As the shadows lengthen in the fading hours of this administration; as the sun sets to rise again in the expectant dawn of a new administration but a week hence, it is well that our reflections on an eventful yesterday become the prologue to an even greater tomorrow.

The last four years have seen periods of great political controversy; yet these were resolved according to the representative system under which we live. Our State has been strengthened thereby.

During these years, our State fell victim to the most extensive and destructive natural disaster ever to strike the Western Hemisphere; yet our people rose to the occasion, overcame adversity, and effected the most speedy and complete recovery ever experienced under comparable circumstances.

These years have known tragedy; they have known triumph. For me, as Chief Executive of this State shouldering the responsibilities imposed upon me by my oath of office, there have been moments of glorious victory and moments of agonizing frustration. These years have brought heartaches and happiness, disappointment and satisfaction. But in the final analysis, the sum total of these emotional experiences is a further enhancement of my indestructible faith in the collective wisdom of our people as expressed through their elected officials; an even stauncher conviction that our basic republican form of government is the finest ever conceived in the mind of man for the management of orderly society; and last—and perhaps most important to me—an even more intense feeling of confidence in the innate goodness of our people.

Today, in compliance with the laws of our State, I appear before you to give a report of the state of the government; and, in accordance with custom, to recommend to you for your consideration such programs as, in my opinion, will promote the welfare of the people of Mississippi.

I shall not make suggestions for legislative action in new areas. This, in my opinion, is properly the prerogative and responsibility of the distinguished Mississippian in whom the majority of our people have reposed their faith and confidence to serve as Governor of our State for the next four years.

However, I think it proper to suggest to you certain courses of action designed to effect the continuation and strengthening of worthwhile programs already before the people of Mississippi.

Some of these programs had their genesis in our administration. Others were a part of the continuing process of government as we in America know it; programs initiated in previous administrations and passed along to us, in turn, for our consideration.

Herein lies much of the vigor—and one of the principal virtues—of our system of government. We maintain a continuity of interest and purpose which allows one administration to build on the successes of those who have served before. Seldom is this affinity violated to the point where sharp cleavages in government policy are discernible.

It is my confident belief that the transition from the outgoing administration to the one incoming will be harmonious and will result in an orderly exchange of powers.

In a few days we will complete what, by any objective standard of evaluation, must be recorded as a productive, progressive, and responsible administration of the governmental affairs of the people of Mississippi.

Although I believe that the true impact of this administration has not yet been felt fully, nor its implication for the future progress of Mississippi as yet adequately understood and appreciated, I am confident that the judgment of history will deem these four years among the most notable in the life of our State and the general welfare of its people.

In the campaigns of 1967, a general consensus prevailed as to our greatest priority needs; those commanding most urgency in their fulfillment. Succinctly, these major needs, on which everyone agreed, were in the areas of educational improvement and highway construction.

In 1968, the first year of the present administration witnessed the enactment of the largest and most comprehensive program of improvements to public education ever achieved by any Administration. That act of responsibility by the elected representatives of our people might well be considered the real break-through in Mississippi education.

Never before had so many of our people and their elected officials been so united in their support of quality education for our children, the most precious of all our resources. Succeeding years brought forth more improvements, and public education enjoyed its greatest era of general support. At the outset of our administration, we determined that we were going to make it a true landmark period in education; to create a standard by which future progress could be judged. The record of the past four years shows that we accomplished that goal.

At the same time we were striving to upgrade the quality of instruction in our public schools, we faced the most trying and difficult circumstances—perhaps the greatest single threat to the existence of public education—that had confronted our people since the dark and shameful days of Reconstruction. In spite of many harsh impositions and provocations, our people and their elected officials exercised remarkable and commendable restraint. There has been little disruption; and through the patience, fortitude and determination of our people, public education in Mississippi survived its most critical period in one hundred years.

Because of interference through Federal courts and the meddling of Federal bureaucracy, public school conditions in many areas of our State were considered to be intolerable by many of our individual citizens and parents. Parents feared—in many cases with full justification—a deterioration of instructional standards within the public school system in certain communities, and sought refuge for

their children in a private school system. These four years have seen a most phenomenal growth in the numbers and quality of private educational facilities, fortunately in most instances without a feeling on the part of our people that public and private education are incompatible or that one must resist the other. We must continue to urge our citizens to accept the existence of public and private education as being complementary rather than competitive. They must accept the fact that both can live side by side without conflict and accomplish the purpose intended for both: the education and enlightenment of a generation of our children.

Means have been sought to provide some form of public support to these private institutions which are serving the public good. In each instance where we sought to assist, Federal courts arbitrarily frustrated our efforts. Even now, I hope that some means can be found by which this segment of secondary education might be given public financial support.

Because of the priority placed by the present administration on quality education; our schools—for the first time—have been able to compete favorably with those of other States in efforts to attract and retain better and more qualified teachers. During the last four years, teachers' salaries were increased by 39%, while at the same time, expenditures per child from State and local sources rose a total of 44%. A reduction in the teacher-pupil ratio—commonly known as a teacher-unit—from 30 to 27 pupils, provided an opportunity for more individual instruction for the child.

Our public junior college system has shown unprecedented growth in this period of time, and now ranks as second to none in the entire Nation. Enrollment in our public junior college system has nearly doubled during this administration. We are now within reach of our ultimate goal of providing a minimum of two years of college to every young Mississippian who is willing to work for it and who will undertake to pursue that education in a responsible manner.

For the first time, divisional status within the Department of Education was conferred upon our junior college system by Act of the Legislature, thus giving due recognition of the importance of this vital and indispensable segment of our educational system.

Four new junior college campuses have been opened in the past four years, and two more will be opened next September. Strong new programs have been established in basic education, occupational training, manpower development and remedial education, and State support for junior colleges has more than doubled during the past four years.

Annual State funding for vocational education—an indispensable element in the future economic development of our State—has almost doubled. Most important, this new emphasis on vocational education has created a new appreciation for vocational technical training among the people of our State. It has created a new image; one which will help guide thousands of our citizens into new fields of employment and create new opportunities for the realization of individual ambitions for happiness, production and prosperity.

This, in part, is the effort we are making to upgrade education—and thus the economic well-being—of all Mississippians.

We have seen also a strengthening of the entire college and university system within the State. The general support for the eight public senior colleges and universities more than doubled during this administration, and capital improvements for these institutions have totalled more than 44 million dollars.

The level of support now enjoyed by our institutions of higher learning is the highest in their existence; yet, it is but a step toward greater progress that can and must be accomplished in this area of education.

The last four years experienced an alarming trend throughout this country on the part of many college students. Rebellion against authority, disruption of the orderly processes of education, student riots, demonstrations, and violence were the order of the day on a disturbing number of campuses in this country. It is to the everlasting credit of Mississippi's youth that during this period, characterized by uncertainty and turbulence in our colleges, Mississippi students and faculty members—with few exceptions—deported themselves in the best traditions of American citizenship, displaying respect for law and order on our campuses. It is my fervent hope that the nightmare of this era of conflict shall have given way already to an awakening of the responsibilities of citizenship so vital to an orderly society. To those administrators, faculty members and students responsible for keeping these troubles in our State to a minimum, we can but give an expression of profound appreciation.

During the 1969 Extraordinary Session, the Legislature established and funded the Mississippi Authority for Educational Television. On February 1, 1970, Channel 29 in Jackson was activated, and has been in operation continuously since that time. Since that time, enabling legislation has been enacted and funds provided for the completion of a network designed to serve the entire State. I would urge your continued support of educational television as a potentially indispensable aid to our educational efforts.

Perhaps my greatest single disappointment during my four-year term as Governor came when the Senate refused—by the slim margin of two votes—to finance the much needed statewide four-lane highway construction program to which but a few weeks earlier it had given an overwhelming vote of approval. It is paradoxical that those who succeeded in defeating this legislation gained nothing more than a Pyrrhic victory, because in less than two months the oil companies had increased the retail price of gasoline as much as two cents, with none of the increase going to the construction of better highways for Mississippians. Those who took part in frustrating the approval of financing of this initial program must assume the burden of responsibility for delaying for a year and a half the initiation of any major highway construction program in Mississippi; and further, they must hold themselves accountable for the increased costs of bond financing and the higher costs of highway construction caused by this delay.

Because our primary highways had fallen into such a deplorable state that they were impeding our economic development and contributing to one of the highest and most tragic highway casualty rates in the country, it was inevitable that something had to be done. Consequently, having been forced by circumstances to compromise the initial program, it is yet noteworthy that this administration eventually succeeded, in 1969, in enacting what is nonetheless the largest single highway construction and improvement program ever undertaken within the bounds of our State.

The program adopted at the Extraordinary Session of the 1969 Legislature was the first major highway construction and improvement program that had been undertaken since the late 1930s.

Despite the fact that much is said today about the need for a four-lane highway construction program—an emphasis to which I fully subscribe as evidenced by my initial recommendations—this emphasis on four-laning should not obscure from the minds of the Legislature and the public the other important work which has been performed on our highways during this administration.

Under the three hundred million dollar highway program secured in 1969, tremendous improvements have been made on our existing primary and secondary highways. To date, we have committed less than one-third of the initial three hundred million dollar program to the cost of modernizing and improving some 1200 miles of highways, and an additional 600 miles of such improvements have been programmed.

Preliminary engineering and right-of-way acquisition is progressing to begin major four-laning on sections of U.S. Highways 78, 82, 49, 6 and 45. Passing lanes and other safety promoting facilities have been and are being constructed on many routes.

Most of the work on Highway 45 from Corinth to Waynesboro and Highway 84 from Natchez to Waynesboro is under contract, and plans to let the rest of it to construction are in this year's highway program.

In addition, we recently announced application for Federal funds through the Mississippi Division of Appalachian Development which will lead to four-laning of U.S. Highway 78 from Fulton to Tupelo.

We have already programmed nearly 300 additional miles of four-lane highways in Mississippi. This includes the following highways:

78 from the Tennessee line to Holly Springs.
78 from New Albany to Tupelo.
6 from Batesville to Oxford.
82 from Greenville to Winona.
82 from Starkville to Columbus.
49 from Jackson to Yazoo City.

Furthermore, numerous four-lane bypasses have been programmed to expedite the movement of highway traffic around numerous communities which include, among others: Philadelphia, Morton, and Louisville on Highway 15; Meridian and Macon on Highway 45; and Brookhaven on Highway 84.

The enactment of the 1969 Program made possible an acceleration of construction schedules and completion dates for Interstate 55 between Winona and Canton, moving the target date ahead by more than a year. Through the efforts of the Governor's Emergency Council, established following the incident of Hurricane Camille, the completion target date for Interstate 10 from Louisiana to the Alabama line has been moved ahead by two years.

Much more needs to be done in the area of highway construction, if Mississippi is to continue, even, to maintain its present pace of economic acceleration. It is my fervent hope that—at long last—it might become possible to remove the stumbling block of sectionalism from our highway planning. The absence of a modern highway system in North Mississippi, where it is most desperately needed at this point in time, is a severe deterrent to the economy of South Mississippi as well, though it may not be immediately apparent to the jaundiced eye of provincialism. Past experience suggests that too many Mississippians tend to consider the need for highway construction on a regional or local basis rather than to view it in the perspective of a modern statewide network of traffic arteries. There might have been a time in our State when this narrow viewpoint could be justified with some semblance of reason. However, the demands of today's volume of vehicular traffic are such that this viewpoint can no longer be accommodated with any degree of sanity or commonsense. Economic needs, safety requirements, and today's volume of traffic make it absolutely imperative that we continue to embark upon new programs so as to insure a maximum of highway mobility and safety for our people. The program in this administration will not be enough to meet the current needs in this area, not to mention the requirements of the future. This is a challenge which you as members of the next administration are destined to encounter.

XUM

Much of the past four years has been plagued with a nationwide business recession, a continuing squeeze on capital available for expansion, and an uneasy foreign situation. Yet, remarkably, the industrial development of Mississippi attained record-breaking heights.

During this period, the years 1968 and 1970 were recorded as the two best years in the State's history insofar as industrial progress is concerned.

From 1968 through 1971, almost 54,000 new jobs for Mississippians were announced by new and expanded industries. We must maintain and even accelerate this pace, for it should be stressed that when we talk about new jobs we must plan ahead for jobs in the next ten years for the young people between 10 and 19 years of age who already are in our educational system.

We have made great progress—and we need to make even greater strides forward. But the fact becomes apparent—when one contemplates the record—that under every administration beginning with the first administration of Governor Hugh White and continuing through the present, the Agricultural and Industrial Board, which administers our statewide industrial development effort, has consistently, year after year, turned in a record of performance scarcely equalled by any other agency in the entire State of Mississippi.

I am confident that this excellent record of professional competence, industry, and devotion to the progress of Mississippi will continue.

Soon after my inauguration, the Office of Coordinator of Federal-State Programs was established within the Governor's Office by Executive Order. Its purpose was to provide assistance to State departments, agencies and institutions in the development of Federal programs so that the people of Mississippi can be assured fair, efficient, and coordinated planning and administration of these programs.

Since the creation of this office, Mississippi has invested slightly in excess of 700 thousand dollars of State funds in programs administered by this office. This investment, in turn, has generated more than 310 million dollars in Federal funds that have been applied to developmental planning and action programs for the improvement of conditons for our people. It was the creation of this office that made possible the establishment of a Division of Comprehensive Health Planning, responsible for the development of plans to utilize with maximum effectiveness the health resources available within our State and to plan for new and expanded health services for our people. Some of these activities include a major State Health Agency Study, an Appalachian Health Care Study in cooperation with the University of Mississippi School of Medicine, and the organization of work which eventually led to the enactment of a fiscally sound and workable program of Medicaid in Mississippi, now providing medical needs for more than 263,000 aged, indigent, disabled and needy citizens of our State.

The Federal-State office was responsible for the establishment of the Law Enforcement Assistance Agency through which millions of dollars have been channeled for the improvement and strengthening of State and local law enforcement agencies. This has been accomplished primarily in the areas of police training and equipment, juvenile delinquency, narcotics and organized crime control and the upgrading of correctional institutions and methods.

The Division of Appalachian Development geographically limited to twenty eligible counties in Northeast Mississippi, has invested more than 20 million dollars in roads, airports, hospitals, schools, colleges, water and sewer systems, and recreational facilites through implementation in Mississippi of the Appalachian Regional Development Act of 1965. This has proven to be a Federal program which nonetheless takes its direction from the local level and the disposition of those funds is determined without Federal dictation or domination.

The Governor's Highway Safety Program, instituted in 1968, has financed programs of motor vehicle registration and inspection, driver education and licensing, a major helicopter ambulance demonstration project, and has made available to local communities and counties thirty-five ground ambulances. The full potential of this program is yet to be realized; but in its infancy, it has made a noteworthy contribution to the welfare and lives of our people.

Largely through the efforts of the Governor's Highway Safety Program, a workable and acceptable Implied Consent Law was proposed by me and adopted by the Legislature. This was much needed legislation in the interest of protecting lives and property on our public highways, and will go into operation later in the spring. No doubt it will contribute substantially to a reduction in highway accidents, fatalities and injuries.

The Division of Economic Opportunity, the Division of Manpower, the Council on Aging, and the Governor's Committee on Employment of the Handicapped have added to the benefits enjoyed by our people as a result of the establishment of the Office of Federal-State Coordinator.

The Office of Federal-State Programs has played a vital role in the acceleration of progress and the orderly development of our State during the past four years. Because of the proliferation of Federal programs available to the States which properly fall within the purview of this Office, its administrative structure might well need revision. I would suggest that a serious study be conducted into the present operational apparatus, in order that such revisions or reorganizations as might be indicated could be applied in the interest of promoting more efficiency and manageability of these programs. Should these programs be kept under the direction of the Governor's Office, or should they be incorporated in the creation of a new department, it is my feeling that a line of authority should be more clearly defined. It should be remembered that although this program is but four years old; and while only a proportionately small outlay of State funds is required for its operation, it is responsible for the expenditure of hundreds of millions in Federal funds for the development of our State.

Last year, the Legislature enacted for the first time a major drug control Act, recognizing the need to cope with a problem that becomes more intense with each passing day. This Act, while not perfect and definitely in need of further refinements; nevertheless, provides for the first time a means by which our State can meet the problem effectively. As part of the Drug Control Act, the Legislature created a statewide drug enforcement agency, the first of its kind in our State's history. This agency has now been activated and staffed under the direction of Mr. Ken Fairly, a well qualified and aggressive law enforcement administrator. A great portion of its operational funds is provided through the law enforcement assstance agency, and its work is already beginning to be felt—and favorably.

Regrettably, Mississippi does not have appropriate facilities for the rehabilitation of those who have fallen victim to the drug traffic. Recent experiences, all tragic, have shown that commitment of these young victims of the drug traffic to the State Penitentiary as common criminals is not the answer to the problem.

While penal confinement is necessary in the case of professional drug peddlers—human monsters who deserve neither mercy nor quarter—the unwitting youngsters who fall prey to these monsters deserve the help and understanding of society. Most of these youngsters suffer emotional or psychological problems; otherwise, they would not seek escape from reality through hallucinogens or opiates. Accorded proper treatment by society and given competent professional help, a vast majority of these youngsters can be rehabilitated and returned to society as productive citizens. To this end, I would hope that you might devote serious time and study to a more efficacious approach to this problem than has been followed in the past. Perhaps the answer lies in the establishment of controlled treatment centers to which this type of offender might be committed—hopefully, salvaged. It is possible that other answers are available; in any event, I am confident that a detailed study of this and alternative approaches to the solution of the drug abuse problem is not merely in order, but absolutely imperative at this time.

No chronicle of events or accomplishments during this period would be complete should it fail to emphasize the outstanding work of the Governor's Emergency Council in the successful recovery efforts following Hurricane Camille. Created by Executive Order, this Council was charged with the tremendous responsibility of coordinating, planning, supervising and maintaining surveillance over the rebuilding of the Gulf Coast and South Mississippi; acting as liaison between our local political subdivisions and Federal Disaster and Relief Agencies, and making certain that our beautiful and once prosperous Gulf Coast would reacquire its former eminence with the greatest of dispatch. Their outstandingly successful efforts in accomplishing this end—a goal now surpassed—deserve the commendation of all our people.

The swift and effective response of the Mississippi Legislature in providing a State appropriation of ten million five hundred thousand dollars for the use and benefit of the political subdivisions in the disaster stricken area was an act of the highest responsibility. Nor could I fail to mention, and express appreciation for, the millions of dollars in cash relief and emergency items that poured into South Mississippi in the wake of Hurricane Camille from private sources. Mississippians will never cease to appreciate, nor will we forget these generous outpourings from the hearts of a compassionate people of a great nation.

Taking advantage of the knowledge gained through the experience of Hurricane Camille, the emergency relief and recovery effort that followed the subsequent series of tornadoes that devastated a number of Delta communities has been commended by the Office of Emergency Preparedness as the most swift, efficient, and wholly satisfactory undertaking of such nature in the life of that agency.

The Education and Research Center completed in 1969, the new Carrol Gartin Justice Building now under construction, the Walter Sillers State Office Building soon to be dedicated, the Robert E. Lee properties (which include the former hotel now occupied by State agencies, the 301 Building, the Burroughs Building and several large parking areas) acquired by purchase, and the soon-to-be started Mississippi Wildlife Museum will stand long as physical symbols of an era of progress designed to provide greater services to the people of Mississippi.

The establishment at the Mississippi State Penitentiary of first-offenders' camp, prerelease centers for men and women, improvement and modernization of existing housing facilities for inmates, a significant extension of vocational education facilities, aptitude testing of every incoming inmate, the construction of new and expanding inmate recreational facilities the construction of an employees' recreation center, are but a few of the improvements that have been effected at that institution. These improvements along with the application of modern principles in the science of correction, have contributed to the sharp, and almost unbelievable, reduction in the rate of returns by prisoners following their initial release from custody. This is further enhanced by the fact that, while paying their debt to society, these prisoners are given an opportunity to mold themselves into productive citizens through training and experience gained at the Penitentiary.

This institution, once regarded as nothing more than a "hell-hole" of brutality and human dereliction, is now highly regarded as a model institution of its type by correctional authorities in other parts of America.

Last year, the Legislature enacted a bill that called for additional changes in the physical plant and operation of this institution. This legislation is well intended, and contains some forward-looking innovations. However, I would point out that the bill contains numerous deficiencies that will need correction, as I pointed out to you in the message accompanying my approval of the bill. Further, its implementation is going to be expensive and a burden on the taxpayers of our State. I would suggest that this act be given further study with the view of adding such amendments as might be necessary in the interest of the institution and the taxpaying public.

Tourism is a major industry in our State. While we have witnessed since 1970, the growth of tourism from a 260 million dollar enterprise to one now grossing nearly a half billion dollars, we have yet to scratch the surface of our potential in this area. Our State Park System has added three new State Parks and three historic sites to the facilities which it manages for the recreation and entertainment of our people and our out-of-State tourist guests. Our Mississippi Park System under efficient and aggressive management has contributed substantially to the economy of the State. Much is yet to be done, however, toward the improvement of this system, and cannot be done at the present level of funding for operations and capital improvements. This problem deserves your attention.

The restriction of time precludes further elaboration—even mention or enumeration—of advancements brought about in other agencies in the interest of better government and more services to the people. For this reason, accomplishments of other agencies during this Administration—while no less important in the context of the whole—will have to be delineated elsewhere. Suffice it to say though, that in every category of State government there has been progress and accomplishment, and I invite your scrutiny of these activities.

By reference, I call to your attention for review and further study the recommendations submitted in my message to the last Regular Session having to do with a proposed reorganization of the Executive Branch of our State government. This message was submitted on January 13, 1971, and its text is contained in the journals of both Houses. I hereby renew the suggestion that consideration and study be given to a needed reorganization of these agencies. The Report of the Mississippi Commission on Efficiency and Economy in State Government has previously been made available to each of you for your study. Some of its recommendations, if not all, might well serve as the basis for bringing about desirable reforms in the organizational structure of our State government.

I take great pride in the achievements of the past four years. I take greater pride, even, in the fact that these achievements have been attained without disturbing the fiscal integrity of our State government. Our fiscal posture is one of strength and solidarity. At the close of this Administration—even after providing the services herein mentioned—we will pass to the incoming Administration an unencumbered cash balance in our general fund in excess of $15 million—a most enviable position among the several State of our Union.

In conclusion, permit me to extend congratulations to each of you upon your election and the trust and confidence reposed in you by your constituencies. As a member of the Legislature, you hold one of the most important offices within the gift of our people. It is my prayer that you will be the beneficiaries of God's richest blessings in the years to come, and that He will guide and direct you in all your deliberations as you seek to serve the best interests of your people.

To the Governor-elect, I offer the same congratulations and the same prayer and pledge my help and cooperation to him as he takes the helm of our Ship of State as its pilot to guide it through the uncharted waters for the next four years.

To the people of our great State, I express profound appreciation for the confidence placed in me four years ago, and for having given me the opportunity to serve in the highest and most responsible office in the State.

To the thousands of fine citizens of our State, whose prayers and expressions of sympathetic understanding and approval have given me needed encouragement and inspiration during these four years, I extend my profound gratitude.

To my family and to my staff, I express publicly my appreciation for their loyalty, perseverance, patience and support throughout this trying, but richly rewarding, period in my life.

I would express gratitude to my fellow chief executives throughout the country for the great honors extended to Mississippi through my selection as a member of the Executive Committee of the 50-State National Council of State Governments; for having permitted me to serve as Chairman of the 15-State Appalachian Regional Commission; and for having selected me as Chairman of the 1971, 19-Jurisdiction Southern Governors' Conference. My election by my fellow governors to serve them in these capacities brought great honor to me personally. More importantly, it gave recognition to the fact that Mississippi—despite what may be said by our detractors—still commands a position of highest respect among the sisterhood of States.

This administration has moved the State forward through turbulent waters. It is axiomatic that the winds of progress that fill the sails to move the Ship of State ahead are the same winds that create the waves that make its journey perilous and difficult.

Next week you will have a new Governor. He deserves your support and your prayers. I wish for him, and you, a successful and productive administration.

In the campaign of 1967, I stated to my audiences: "I believe I can make you a good Governor; I know that I can make you an honest Governor."

Now, at the close of my administration, I would paraphrase by saying: "I hope I have made you a good Governor; I know that I have made you an honest Governor."

I take comfort on this day in the knowledge that I have done my best. Whatever mistakes I may have made were those of the head and not of the heart, for I have given dedicated service to Mississippi to the full measure of my strength, my energy, my time and my talent. I have fought consistently and unwaveringly in support of the same principles and philosophies I advocated in my candidacy for this office. I can but express regret that I did not have more to give.

We await the judgment of history.

ADMINISTRATIVE DISCHARGES CAN BE UNFAIR

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to bring to the attention of this House subjects which are not often raised in legislative forums: Homosexuality in the Armed Forces and the administration of military justice with reference to the absence of due process in many administrative discharge proceedings in the military services.

Currently, there is a matter involving a young man, whose case I am making public at his request, who is charged with allegedly engaging in a homosexual act. Seeking an opportunity to defend himself by requesting a court-martial where he would have his day in court, RMSN Robert A. Martin, Jr., USN, wrote to me on January 19, 1972, stating:

After 1½ years in the Navy, during which I have had a spotless record and high performance marks, the Navy is now trying to give me an undesirable discharge. The charge: "suspected homosexual involvement." That's right, I am accused of being suspected! The Personnel Officer at the US Naval Support Activity Naples (FPO NY 09521), CWO4 Price, who would play the part of the prosecutor against me in an Administrative Discharge Board hearing, himself told me he didn't have any proof against me.

He went on in his letter to say:

As a journalist by profession and training (before enlisting in the Navy I was a reporter for the New York bureau of the Associated Press) I am particularly aware of the consequences of the stigma attached to a less-than-honorable discharge in what remains in its employment practices a conservative profession. . . . If the Captain believes a court martialable offense has occurred, he should bring it to a court-martial rather than use the administrative discharge procedures to punish a person without a proof of wrong-doing.

I believe that RMSN Martin is right in his demand and that an individual should have the right, particularly in situations which could have such grave consequences to one after discharge from the Navy, to a trial to determine whether or not he is in fact guilty as charged. In support of his request for a court-martial so as to enable him to confront his accuser, I sent the following letter to the Department of the Navy:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 29, 1972.

CONGRESSIONAL LIAISON,
Department of the Navy,
Washington, D.C.

DEAR SIR: I am writing to you concerning RM3 Robert A. Martin, Jr., 157-40-7679, AF South Box 148, FPO New York 09524.

In view of the gravamen of the charges against him and what the effect of a general discharge given for homosexuality will have on his career in the future, I believe justice requires that he be given a court martial, as he has requested, so that he might defend himself against the charges.

It was never intended, in my judgment, to permit discharges under less than honorable conditions as a way of allowing the Navy to avoid proving charges in a serious case. He is aware of the penalties that might flow from a conviction at a court martial which are greater in degree than those from administrative proceedings, and he is willing to take his chances because he believes he is not guilty of the charges.

I would therefore appreciate your giving him the opportunity to defend himself in court and your advising me of the disposition of the matter.

Sincerely,

EDWARD I. KOCH.

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In response, the Navy informed me that final action will not be completed in this matter until late April 1972.

At the present time, no decision has been made concerning his request for the court martial. Surely, this is an elementary right—the right to a full hearing with an opportunity to cross-examine one's accuser. Also interested in this matter involving the right to due process is Senator SAM J. ERVIN, JR., chairman of the Senate Subcommittee on Constitutional Rights.

I believe that the time has come for overhauling the legal processes used by the armed services in connection with discharges based on alleged homosexual acts. Prior to receiving the correspondence from RMSN Martin, I had correspondence on this subject with the Department of Defense which I am setting forth:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 7, 1971.

Secretary MELVIN LAIRD,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I have on occasion received complaints from young men in the Army who have been discharged as the result of their being homosexuals. The discharge which they receive as I understand it is often less than honorable and obviously has a chilling effect upon their personal and professional lives after they leave the service.

I would appreciate your advising me whether the barring of homosexuals in the Armed Forces is by law or by regulation, and if the type of discharge they receive, which often appears to be punitive, is by law or regulation. I would appreciate receiving your comments on this matter and informing me, if the policy is governed by regulation, whether you would consider changing those regulations so as to permit honorable discharges to those discharged for homosexual conduct.

Further, I should like your point of view on the proposal advanced by some that private homosexual conduct off the base should not bar service in the Armed Forces. Prime Minister Pierre Trudeau summed up my feelings when he said "the state has no business in the bedrooms of the nations."

Sincerely,

EDWARD I. KOCH.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., July 20, 1971.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of July 7, 1971, regarding Department of Defense policy concerning homosexuals in the Armed Forces.

The enclosed Fact Sheet regarding Department of Defense policy on homosexuals in the Armed Forces is provided for your information. No changes are contemplated regarding this policy.

The policy regarding the type and character of administrative discharge governing the separation of homosexuals from the Armed Forces is contained in Department of Defense Directive 1332.14, "Administrative Discharges," dated December 20, 1965 [Sections VII.G, 6, and 1.2.) A copy is enclosed for your information.

The nature of a discharge issued as a result of being adjudged by court-martial is specifically governed by Federal statute, 10 United States Code 925. This section encompasses all unnatural sexual intercourse between humans or between humans and animals. Some homosexual relations could come within the provisions of this section. The maximum punishment which may be imposed for a violation of Section 925 is outlined in paragraph 127c, Table of Maximum Punishment, *Manual for Courts-Martial, supra* as follows:

By force and without consent: Dishonorable Discharge, confinement at hard labor for 10 years, total forfeiture of all pay and allowances.

With a child under the age of 16 years: Dishonorable Discharge, confinement at hard labor for 20 years, total forfeiture of all pay and allowances.

Other cases: Dishonorable Discharge, confinement at hard labor for 5 years, total forfeiture of all pay and allowances.

The accused may be charged with assault with intent to commit sodomy in violation of 10 United States Code 934. The maximum punishment in violation of Section 934 is a Dishonorable Discharge, confinement at hard labor for 10 years, and total forfeiture of all pay and allowances.

The *Manual for Courts-Martial* is an Executive Order of the President of the United States as prescribed by Section 836, 10 United Code. All branches of the Armed Services are bound by its provisions.

I trust that the information provided will be of assistance to you. Your interest in matters pertaining to the Military Services is appreciated.

Sincerely,

LEO E. BENADE,
Major General, USA, Deputy Assistant Secretary of Defense.

HOUSE OF REPRESENTATIVES,
Washington, D.C. August 11, 1971.

Secretary MELVIN LAIRD,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to you with further reference to the question of homosexuals in the Armed Services, about which I wrote to you on July 7, 1971.

While I do not approve of the Department of Defense's policy to discharge all homosexuals automatically from the military, I would like to direct this letter to change which could be made in current policy regarding the type of discharge given to homosexuals. When referring to a homosexual in this letter, I mean only a consenting adult who has engaged in homosexual acts on his or her own time and not in public.

Apparently, each branch of the service has a certain discretion in deciding how such an individual is to be discharged, and that such persons usually are not given court martials but are discharged administratively. According to existing regulations as set forth in the Department of Defense Directive No. 1332.14, December 20, 1965, a homosexual could be given administratively either an honorable (Unsuitability G–6) or undesirable (Unfitness I–2 or Misconduct J–1) discharge.

With an undesirable discharge, it is my understanding that any veterans' benefits to which an individual might otherwise be entitled can be cut off at the discretion of the administering agency. Furthermore, the discharge papers are marked "under terms other than honorable" accompanied by a code number signifying sexual deviation. This type of discharge is, in effect, a harsh, punitive measure, one that hardly reflects the contemporary and more enlightened attitude of society today towards an individual's sexual preferences.

Not only is present military policy on this matter cruelly out of date, but I believe that what little discretion exists relating to the method of discharging homosexuals is being abused. By way of illustration, I refer you to SECNAV Instruction 1900.9, April 20, 1964, which in my estimation encourages Naval personnel to give undesirable discharges to any homosexual or suspected homosexual. On the first page of this document, paragraph 4f states:

"When processing an individual by administrative action in accordance with this instruction and when the conditions prompting such action are essentially voluntary participation in aberran sexual activity, the separation of the individual will normally be characterized as having been "under conditions other than honorable." Administrative processing of cases should therefore contemplate such an ultimate disposition."

I cannot see that homosexual behavior in the military is an "offense" which merits this type of discharge. While it is apparent that the leaders of the military, in order to maintain discipline, feel it necessary to exclude homosexuals; there is no need to gratuitously punish them with an undesirable discharge.

Usually these individuals are being punished for a failure to comply with the special dictated of an artificial society which they were forced to join. Many, no doubt, were unaware of their homosexual tendencies before joining the service. Furthermore, the present policy of indicating the reason for discharge as sexual deviation constitutes an invasion of privacy. The military can, of course, keep its own records indicating why an individual was separated, but that information ought not in any way be made public.

What might be argued by some to be the concern of the military in one's personal life while an active military duty certainly ought not to be the concern of others in civilian life.

I would hope that you would give serious attention to this matter and advise me whether or not you would be willing to alter present Department of Defense policy, so that homosexuals, as defined in this letter, are given honorable discharges. Particular attention should be given to issuing new directives to supercede any documents such as SECNAV 1900.9 referred to above.

Sincerely,

EDWARD I. KOCH.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 19, 1971.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of August 11, 1971, requesting that the Department of Defense alter current discharge policy so that a homosexual would be given an honorable discharge when the consenting adult engages in homosexual acts on his or her own time and not in public.

We cannot agree that Department of Defense policy concerning the discharge of homosexuals, as enumerated in my letter of July 7, 1971, is "cruelly out of date and does not reflect the contemporary and more enlightened attitude of society."

It is noted that in your reference to paragraph 4f, SECNAV Instruction 1900.9 dated April 20, 1964, the following was omitted:

"Whenever a higher character of separation is found to be warranted upon departmental review, such will be effected and command submitting case shall take pains to note all circumstances favorable to the individual which would affect the type of discharge to be awarded."

Accordingly, we do not believe this paragraph, when considering its full meaning and coupled with the total intent of the Instruction, encourages the issuance of undesirable discharges to homosexuals.

At the time a person is separated from the military service he is furnished a DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) which reflects the type of discharge, reason and authority. A separation designator number instead of a narrative statement is used to reflect the reason for separation. This is done to afford the individual who receives a less than honorable discharge some protection from stigmatism which could result from words used to describe the reason for his discharge. The release of these separation designator numbers is closely monitored and provided only to governmental agencies indicating a "need to know." Accordingly, this information is not made a matter of public knowledge.

I trust that the information provided will be of assistance to you. Your interest in matters pertaining to the military services is appreciated.

Sincerely,

LEO E. BENADE,
Major General, USA, Deputy Assistant Secretary of Defense.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 7, 1972.

Maj. Gen. LEO E. BENADE, USA,
Deputy Assistant Secretary of Defense, Department of Defense, Washington, D.C.

DEAR GENERAL BENADE: I am writing to you with further reference to the question of homosexuals in the Armed Services. I thank you for the response which you sent and which I am enclosing.

I assume from the reference to paragraph 4f, SECNAV Instruction 1900.9, that it is your intent that the Department of Defense whenever possible will provide an honorable separation as opposed to an undesirable discharge to homosexuals. I would appreciate being provided with the number of undesirable discharges issued as the result of homosexual activity each year for the last 5 years, and, if the records are available within that same period, the number of honorable discharges issued to homosexuals.

With respect to the separation designator numbers and your belief that they are not a matter of public knowledge, may I tell you that they indeed are. Employment agencies are well aware of these numbers and as I am sure are many others. What purpose does it serve to place the designator number on the discharge when that information can be kept in the file? In view of that, I would ask you to consider reviewing a change in this area.

Thank you for your interest in this matter.

Sincerely,

EDWARD I. KOCH.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., January 17, 1972.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of January 7, 1972, requesting additional information on the matter of homosexuals in the Armed Forces.

The enclosed chart depicts the administrative discharges issued for homesexual tendencies or sexual perversion during fiscal years 1967–1971.

In regard to your comment regarding separation designator numbers (SDN) being public knowledge, it is re-emphasized that the Department of Defense does not make SDNs a matter of public knowledge.

It should be noted that the purpose of DD Form 214 is threefold: (1) provides the recipient with a brief record of a term of net service during his current term of service. (2) provides various Governmental agencies with an authoritative source of information, and (3) provides the military service information for administrative purposes. The form serves a multitude of purposes and the elimination of data such as "reason for separation and authority" would drastically reduce the value and use of the document. For example, the elimination of SDNs from the data element "reason for separation and authority" on the DD Form 214 would cause a lengthy delay by the Veterans' Administration in determining an individual's eligibility for veterans' benefits inasmuch as a time-consuming search and review would have to be made of the veteran's record which is retired to the appropriate record center of the Service upon his discharge.

While the Department of Defense is committed to a periodic re-examination of policies relating to the preparation of and the inclusion of data on the DD Form 214, no changes are contemplated concerning the elimination of SDNs from the document.

I trust the information provided will be of assistance to you. Your interest in matters pertaining to the Armed Forces is appreciated.

Sincerely,

LEO E. BENADE,
Major General, USA,
Deputy Assistant Secretary of Defense.

DEPARTMENT OF DEFENSE—ADMINISTRATIVE DISCHARGES
HOMOSEXUAL TENDENCIES

	Honorable	General	Total
1967	64	414	478
1968	230	322	552
1969	254	192	446
1970	250	192	432
1971	204	214	418
Total	1,002	1,324	2,326

SEXUAL PERVERSION

	Honorable	General	Undesirable	Total
1967	[1]	[1]	[1]	[1]
1968	117	293	654	1,065
1969	140	370	586	1,096
1970	119	421	419	1,019
1971	93	439	235	767
Tota	469	1,584	1,894	3,947

[1] Data not available.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 28, 1972.

Maj. Gen. LEO E. BENADE, USA,
Deputy Assistant Secretary of Defense, Department of Defense, Washington, D.C.

DEAR GENERAL BENADE: Thank you for your letter of January 17th responding to my earlier correspondence concerning homosexuals in the Armed Services.

Because the military's definition of "sexual perversion" includes more than homosexual acts between consenting adults it is impossible for one to interpret how many of those undesirable discharges, listed in your table of administrative discharges, were for homosexual activity between consenting adults. Only a comparison of honorable, general, and undesirable discharges specifically relating to homosexual activity between consenting adults would reflect the military's present policy towards this so-called "offense." If you have such specific figures, I would appreciate receiving them.

It appears from your letters that the Department of Defense has no intention at this time of altering its present policy regarding homosexuals. While I do not want to prolong this correspondence endlessly, I do want to state that in my opinion your reasons for refusing to eliminate SDN's from discharge-papers are not persuasive. If and when the Department of Defense conducts a "periodic re-examination of policy, I trust the elimination of SDN's will be approved, for indeed their meaning is public and their effect harmful.

Sincerely,

EDWARD I. KOCH.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., February 4, 1972.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your letter of January 28, 1972 regarding homosexuals.

The administrative discharge statistics provided in my letter of January 17, 1972 represents the complete break out of data maintained by this office.

Thank you for your letter.

Sincerely,

LEO E. BENADE,
Major General, USA, Deputy Assistant Secretary of Defense.

LIGHT ON CRIME

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, my correspondence and discussions with constituents reflect the growing concern with the menace of street crime. I have attempted to make practical proposals to deter what has become an intolerable situation in New York City. My blow the whistle on crime campaign and my bill to relieve our local police of the responsibility to guard foreign missions are two of these recommendations with which you are perhaps familiar.

Today I am introducing a bill, H.R. 14022, to establish a Federal light on crime program. This legislation would mandate the expenditure of $30 million in each of the next 3 years specifically for the purchase and installation of high-pressure sodium-type lights. The funds would come in grants made directly to local governments on a 75-percent Federal, 25-percent local share basis.

High-pressure sodium lights are able to illuminate a city street far better than our traditional street lighting. They, in a sense, turn night into day and their effectiveness as a deterrent against crime is undeniable.

In Washington, D.C., after installation of high-level lighting in high-crime areas, crime decreased by 31 percent.

Gary, Ind., installed 5,000 new street lights. Criminal assaults dropped 70 percent and robberies 60 percent.

In Chattanooga, Tenn., crime in a 12 block area dropped 70 percent after lighting.

This program I am proposing involves relatively low costs, and can have an immediate impact on reducing street crime. This is a program designed to light our streets for people rather than just for cars; it is a program designed to return the streets to the people.

New York City and other localities have initiated their own, high level lighting plans on a limited scale, combining private and local government funding. Some such light illuminates parts of our own East Side even now. But in a time of budgetary crisis in local government, it is clear that the Federal Government should provide funding for high intensity lighting.

An infusion of Federal funds would allow the type of massive lighting program which I believe we need in our urban areas, and which localities can never finance alone. Rather than having only individual blocks sporadically lighted, Federal funding cou'd conceivably insure that whole communities would be illuminated, to the benefit of residents and merchants alike.

I hope that the Congress will give prompt consideration to H.R. 14022. We

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must do what we can to move the country to the date when we can all "see the light" and end the terror in our streets.

MARIHUANA: A SIGNAL OF MISUNDERSTANDING

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today the National Commission on Marihuana and Drug Abuse issued its report on the use of marihuana in this country. Entitled, "Marihuana: a Signal of Misunderstanding," the report recommends that possession of marihuana for personal use no longer be an offense. The Commission would also eliminate the sanctions against casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration, not involving profit.

As the one who introduced the original legislation establishing the Commission, I am pleased with the report that has been issued. The Commission has been judicious in its weighing of the evidence and considerations surrounding marihuana use and reasonable in the recommendations it has made. These recommendations go a long way in placing marihuana in proper perspective.

I plan to offer legislation in the House to implement the report's basic recommendations for the Federal decriminalization of marihuana.

If implemented, the Commission's recommendations will help to change the present legal framework and remove penalties that almost everyone concedes are not justified and not effective in deterring usage. The harsh and unrealistic treatment given marihuana users under Federal, and particularly State laws, has undermined the credibility of the Government's policies vis-a-vis the hard drugs, and has distracted our law enforcement efforts from the serious drug abuse problems facing us today.

It is important that the Congress and the States act to correct the criminal code relating to marihuana which indeed is a result of a "misunderstanding" about the substance we are dealing with. We must be sure that this Presidential Commission's report is acted on and not left to become moribund like so many of its predecessors.

Mr. Speaker, I would like to submit for printing in the RECORD the summary of the 184 page report provided by the National Commission on Marihuana and Drug Abuse. It follows:

NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE,
Washington, D.C., March 22, 1972.

The National Commission on Marihuana and Drug Abuse unanimously recommended today a policy of discouragement for marihuana use. While rejecting legalization of the drug itself, as in the case of alcohol, the Commission declared that an effective discouragement policy does not require making private possession of marihuana a crime nor does it recommend putting its users in jail.

In its Report, *Marihuana: A Signal of Misunderstanding*, which was submitted to President Nixon at the White House and to the Congress, the Commission recommended that possession for personal use in private and casual not-for-profit sales in private not be made criminal offenses.

However, the Commission recommended the retention of heavy penalties for cultivation, trafficking, and possession with intent to sell. Use in public would be a criminal offense and the drug, if found in public, would be contraband and subject to seizure. (A list of all recommendations is attached to this information sheet.)

In making the presentation, Raymond P. Shafer, former Governor of Pennsylvania and Chairman of the 13-member Commission appointed by President Nixon (see attached list), said "The Commission exercised judicious restraint in making its recommendations. We unanimously agree that marihuana use is not a desirable behavior, and we agree that society should discourage use. Nevertheless, we feel that, placed in proper perspective with other societal problems, citizens should not be criminalized or jailed merely for *private* possession or use."

Marihuana: A Signal of Misunderstanding is based on an intensive fact-finding effort which began shortly after funds became available March 22, 1971. The investigation included more than 50 commissioned projects, public and student hearings, and surveys of the general public, law enforcement and medical communities.

Governor Shafer emphasized that "We have attempted to tell the American people the truth about marihuana. In our Report, we have tried to separate fact from fiction and to clear up the many misunderstandings surrounding the marihuana controversy."

The following are some of the major findings presented in the Report:

WHO USES DAUG

At least 24 million Americans 12-years-old and over have used marihuana at least once, and at least 8.3 million are current users.

More than 40% of college and graduate students have tried the drug.

Of those persons who have ever used marihuana, 41% of the adults (18 and older) and 45% of the youth (12–17) no longer use it.

The great majority of marihuana users use the drug less than once a week, probably on weekends, or at a party.

Two percent (500,000) of "ever-users" can be classified as heavy users and use the drug more than once a day.

THE EFFECTS OF MARIHUANA

There is no evidence that experimental or intermittent use of marihuana causes physical or psychological harm. The risk lies instead in the heavy, long-term use of the drug, particularly of the most potent preparations.

Marihuana does not lead to physical dependency. No tortuous withdrawal symptoms follow the sudden cessation of chronic, heavy use. Some evidence indicates that heavy, long-term users may develop a psychological dependence on the drug.

The immediate effects of marihuana intoxication on the individual's organs or bodily functions are transient and have little or no permanent effect. However, there is a definite loss of some psychomotor control and a temporary impairment of time and space perceptions.

No brain damage has been documented relating to marihuana use, in contrast with the well-established brain damage of chronic alcoholism.

A careful search of literature and testimony by health officials has not revealed a single human fatality in the United States proven to have resulted solely from use of marihuana.

Tests on monkeys have demonstrated that the dose required for "overdose death" is enormous and for all practical purposes unachievable by humans smoking marihuana.

No reliable evidence exists indicating that marihuana causes genetic defects in man; however, since fetal damage cannot be ruled out, the use of marihuana is not advisable during pregnancy.

The incidence of psychosis from marihuana use is exceedingly rare, and such reactions tend to occur in predisposed individuals.

MARIHUANA AND PUBLIC SAFETY

The evidence indicates that marihuana does not cause violent or aggressive behavior or crime.

Recent research has not proven that marihuana use significantly impairs driving ability; however, reliable research has not yet been conducted and the Commission strongly suspects that the acute effects of marihuana use (such as spatial and time distortion and slowed reflexes) may impair driving. The Commission believes that driving while under the influence of any intoxicant is a serious risk to public safety.

MARIHUANA AND PUBLIC WELFARE

From what is now known about the effects of marihuana, its present level of use in American society does not constitute a major threat to public health; the high-risk group constitutes the 2% of American "ever-users" who use the drug heavily and pose a concern for public health officials.

The Commission emphasizes the need for increased research into long-term psychological effects, especially with regard to effects on motivation.

Although some segments of society fear that marihuana use leads to idleness and "dropping out," little likelihood exists that the introduction of a single element such as marihuana use would significantly change the basic personality of any person; rather, an individual is more likely to drop out when circumstances join to produce pressures which he cannot handle effectively.

MARIHUANA AND OTHER DRUGS

Recognizing that one of the most controversial issues in the study of marihuana is its relationship to other drugs, the Commission explored in depth the hypothesis that marihuana use leads to the use of other drugs.

The overwhelming majority of marihuana users do not progress to other drugs, although statistically marihuana users are more likely to experiment with other drugs than are non-users.

Marihuana use does not dictate whether or which other drugs will be used.

As stated by Governor Shafer, "If any one reason can characterize why people in the United States escalate their drug use and become multidrug users, it is peer pressure."

ENFORCEMENT OF THE MARIHUANA LAWS

The Commission was directed by Congress to evaluate the existing federal and state laws relating to marihuana. The vast majority of arrests occur at the state level (at least 200,000) as opposed to the federal level (approximately 4,000). In a study of enforcement in six metropolitan jurisdictions in different states, the Commission found:

93% of the arrests in the sample were for possession.

69% of the arrests were preceded by no investigation, occurring in vehicles or on the street.

Arrests were concentrated among the young (88% were 25 or under); typically the arrestee was a white male, in school or employed in a blue collar job, without a prior record.

Two-thirds of the arrestees were arrested for possession of an ounce of marihuana or less.

Offenders were generally (67%) arrested in groups of two or more persons.

The Commission pointed out that the criminal justice system often responded to this unusual group of "criminals" in a lenient way:

At least 48% of the adult cases and 70% of the juvenile cases were dismissed by the police, the prosecution or the judiciary.

One-third of the arrestees were convicted and sentenced.

Of those convicted of possession, 24% were incarcerated, usually for a year or less.

The Commission concluded that the law enforcement community has adopted a policy of "containment." "Although effort is sometimes expended to seek out private marihuana use," the Report states, "the trend is undoubtedly to invoke the marihuana possession laws only when the behavior (possession) comes out in the open." Governor Shafer added: "The overriding feature of the present marihuana laws is the threat of arrest for indiscretion."

After considering the effects and social impact of marihuana use, the Commission considered four alternative social control policies for the drug: (1) Approval; (2) Elimination; (3) Neutrality; and (4) Discouragement.

The Commission emphasized that society should not approve or encourage the recreational use of any drug. On the other hand, the Commission concluded that elimination of marihuana and its use is unachievable, and the drugs' relative potential for harm to individuals and society does not justify a social policy designed to seek out and firmly punish those who use it.

The most difficult qeustion, the Commission explained, was whether society should try to dissuade its members from using marihuana or should defer entirely to individual judgment, remaining neutral. After lengthy consideration of this issue, the Commission chose to recommend to the public and its policy-makers a social control policy seeking to discourage marihuana use, while concentrating primarily on the prevention of heavy and very heavy use.

The Commission's next step was to consider three legal responses as a means of implementing the discouragement policy: (1) total prohibition; (2) partial prohibition; and (3) regulation.

The Commission explained that the total prohibition scheme now in effect prohibits all marihuana-related behavior, including possession for personal use. Partial prohibition would prohibit cultivation and distribution of the drug but would not prohibit private consumption or acts related to consumption. The distinct feature of a regulation scheme (legalization) is that distribution of the drug is legal.

The Commission, rejecting both the present system and the regulatory scheme, was of the unanimous opinion that marihuana use is not a sufficiently grave problem to subject its users to criminal procedures, but that legalization was inadvisable for a drug which does alter short-term perception, which has uncertain long-term effects and which may be of transient social interest.

Instead, the Commission recommended a partial prohibition scheme which symbolizes a continuing societal disapproval of use, yet removes the criminal stigma and threat of incarceration for users, and also maximizes the flexibility of future public responses as new information comes to light.

The major features of the recommended scheme are that:

Production and distribution of the drug would remain criminal activities as would possession with intent to distribute commercially;

Marihuana would be contraband subject to confiscation in public places;

Criminal sanctions would be withdrawn from private use and possession incident to such use, but, at the state level, fines would be imposed for use in public;

In order to keep use private, possession of more than one ounce in public would be prohibited;

In addition, casual, not-for-profit transfers of small amounts, permitted in private, would be prohibited in public.

Specific recommendations for federal and state law are attached).

Five of the 13 Commissioners differed in minor respects regarding the recommendations. Commissioners Rogers, Carter and Ware agree with the discouragement policy and the decriminalization aspects of the recommendations but would recommend, in addition, a civil fine for possession of any amount of marihuana and would limit casual transfers only to those instances where there is no remuneration at all. Commissioners Hughes and Javits believe that marihuana should not be contraband, that all not-for-profit sales should be excluded from the criminal sanction, and that the "ounce or less" requirement for possession in public should be removed.

"A most important question," said Governor Shafer in explaining the Commission's position, "and one which it is still too early to answer, is whether the use of marihuana is fad or fashion. It is possible that the widespread use of marihuana could well disappear of its own accord."

In the Commission's opinion, the proposed partial prohibition scheme would permit the law enforcement community to concentrate on what it is best able to do, reduce trafficking and supply of the drug. At the same time, the Commission believes that responsibility for discouraging consumption should rest with non-legal institutions, such as family, schools, church, and the medical profession.

In anticipation of the Commission's responsibility to present a report on all drugs in 1973, Governor Shafer said.

"From the many surveys and research studies, and from our formal and informal hearings and deliberations, it is evident that the phenomenon of drug abuse in our country poses a very serious threat to our society which will require a massive and sustained effort in drug education and in the revision of our laws to make them uniform, appropriate, effective, and humane. However, such responses are in effect only medications that will help to contain the social illness of drug abuse. The causes of drug abuse must be identified more precisely and must be attended to by the cooperative efforts of all institutions of our society. We will not be able to deal effectively with the problem of drug abuse until we find answers to the larger problem of the diminishing concern among some of our citizens for such matters as long-range personal objectives, self-discipline and the sense of public obligation."

I. Federal

a. Possession of marihuana for personal use would no longer be an offense, but marihuana possessed in public would remain contraband subject to summary seizure and forfeiture.

b. Casual distribution of small amounts of marihuana for no remuneration, or insignificant remuneration not involving profit would no longer be an offense.

c. A plea of marihuana intoxication shall not be a defense to any criminal act committed under its influence, nor shall proof of such intoxication constitute a negation of specific intent.

II. State

a. Cultivation, sale or distribution for profit and possession with intent to sell would remain felonies (although we do recommend uniform penalties).

b. Possession in private of marihuana for personal use would no longer be an offense.

c. Distribution in private of small amounts of marihuana for no remuneration or insignificant remuneration not involving a profit would no longer be an offense.

d. Possession in public of one ounce or under of marihuana would not be an offense, but the marihuana would be contraband subject to summary seizure and forfeiture.

e. Possession in public of more than one ounce of marihuana would be a criminal offense punishable by a fine of $100.

f. Distribution in public of small amounts of marihuana for no remuneration or insignificant remuneration not involving a profit would be a criminal offense punishable by a fine of $100.

RECOMMENDATIONS*

* The 13 Commissioners are in basic agreement with the Report and its recommendations. However, several Commissioners diverge with specific recommendations and their opinions are presented in a footnote on pages 151–165. A brief summary of this footnote follows:

Commissioners Rogers and Carter agree with the discouragement policy and the decriminalization aspects of the recommendations, but feel that the contraband concept is not a sufficiently strong expression of societal disapproval of the use of marihuana. They would recommend, in addition, a civil fine for possession of any amount of marihuana in private or in public. This civil fine would not be reflected in a police record.

Commissioner Ware agrees completely with the statements of Congressmen Rogers and Carter but wishes to reemphasize that the social policy and legal scheme adopted is applicable only to marihuana and should not be construed to embrace other psychoactive drugs. He advocates some penalty short of criminalizing the users, such as a civil fine or some type of extensive drug education. Further, he is opposed to the use of any drug, including alcohol, for the express purpose of becoming intoxicated.

Commissioners Hughes and Javits, while agreeing with the Commission's recommendation that the private use of marihuana be taken out of the criminal justice system, disagree with three specific recommendations relating to the implementation of the discouragement policy.

First, they would eliminate the contraband provision from the partial prohibition scheme adopted by the Commission. Second, believing the Commission has not set forth a clear standard as to what constitutes the casual not-for-profit sale, they recommend that all not-for-profit sales be excluded from criminal sanction. Third, they feel there is no need to retain criminal sanction on public possession of more than one ounce of marihuana and would permit public possession of "some reasonable amount" for personal use.

g. Public use of marihuana would be a criminal offense punishable by a fine of $100.

h. Disorderly conduct associated with public use of or intoxication by marihuana would be a misdemeanor punishable by up to 60 days in jail, a fine of $100, or both.

i. Operating a vehicle or dangerous instrument while under the influence of marihuana would be a misdemeanor punishable by up to one year in jail, a fine of up to $1,000, or both, and suspension of a permit to operate such a vehicle or instrument for up to 180 days.

j. A plea of marihuana intoxication shall not be a defense to any criminal act committed under its influence nor shall proof of such intoxication constitute a negation of specific intent.

k. A person would be absolutely liable in civil court for any damage to person or property which he caused while under the influence of the drug.

ANCILLARY RECOMMENDATIONS

In addition to these legal recommendations for federal and state action, the Commission believes certain other ancillary recommendations should be presented for action.

Legal and law enforcement recommendations

I. Federal

a. Federal law enforcement agencies, especially the Bureau of Narcotics and Danger-

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ous Drugs and the Bureau of Customs, should improve their statistical reporting systems so that policies may be planned and resources allocated on the basis of accurate and comprehensive information.

b. The Federal Bureau of Narcotics and Dangerous Drugs should increase its training programs of state and local police with special emphasis on the training in the detection of trafficking cases.

c. Increased border surveillance, a tightening of border procedures, and a realistic eradication program to diminish the supply of drugs coming into the country, coupled with a more effective program for diminishing the domestic production and distribution of marihuana, are required.

II. State

a. All states should adopt the Uniform Controlled Substances Act to achieve uniformity with regard to marihuana and other drug laws, with the exception that the legal response to possession for one's own use be uniformly adopted in accordance with our recommendation in Chapter V of this report.

b. Each state should establish a centralized compulsory reporting and record-keeping authority so that adequate and accurate statistics of arrests, sentences and convictions on a statewide basis are available.

c. Those states requiring physicians to report drug users seeking medical assistance should change such requirements to insure the confidentiality of the drug user's identity, so that persons needing medical help will feel free to seek it.

III. International

If the United States should become a signatory of the proposed Psychotropic Convention, we recommend that cannabis be removed from the existing Single Convention and consideration be given to listing it in the proposed Psychotropic Convention among drugs which have similar effects.

Medical recommendations

1. Fuller coordination of the marihuana research conducted by governmental and private agencies is needed to reduce the duplication of effort, assure a diversity of new approaches and new objectives, and to provide efficient integration of findings into the available body of knowledge.

2. Research efforts to develop an inexpensive, easy method for detecting and quantifying the presence of marihuana in the blood, breath or urine of a person suspected of being intoxicated should be accelerated.

3. An accelerated program for funding foreign research should be undertaken immediately.

4. Increased support of studies which evaluate the efficacy of marihuana in the treatment of physical impairments and disease is recommended.

5. Community-based treatment facilities should be promoted in caring for problem drug users utilizing existing health centers when possible and appropriate.

6. Public health courses on the social aspects of drug use should be included in the curricula of the schools of the health professions.

Other recommendations

1. The Commission recognizes that several state legislatures have improperly classified marihuana as a narcotic, and recommends that they now redefine marihuana according to the standards of the recently adopted Uniform Controlled Substances Law.

2. A single federal agency source should disseminate information and materials relating to marihuana and other drugs. The National Clearinghouse for Drug Abuse Information should be charged with this responsibility.

3. The Special Action Office for Drug Abuse Prevention in the White House should be responsible for the coordination, development and content review of all federally supported drug educational materials and should issue a report as soon as possible, evaluating existing drug education materials.

4. The Commission notes the significant role played by the voluntary sector of the American community in influencing the social, religious and moral attitudes of our nation's citizens and recommends that the voluntary sector be encouraged to take an active role in support of our recommended policy of discouraging the use of marihuana.

COMMISSION MEMBERS

By law, the National Commission on Marihuana and Drug Abuse has 13 members. Nine public members were appointed by the President who also named the Chairman and Vice Chairman (five maximum from one political party).

Of the four congressional members, two were named by the President of the Senate and two by the Speaker of the House (two from each political party).

Raymond P. Shafer, Chairman, former Governor of Pennsylvania, Chairman of the Board and Executive Director, Teleprompter Corporation, New York.

Dana L. Farnsworth, M.D., Vice-Chairman, former Director of Health Services, Harvard University, Cambridge, Massachusetts.

Henry Brill, M.D., Director of Pilgrim State Hospital, West Brentwood, New York.

Representative Tim Lee Carter (R-Kentucky).

Mrs. Joan Cooney, President of the Children's Television Workshop and Producer of "Sesame Street," New York, New York.

Charles O. Galvin, Dean of Southern Methodist University, Law School, Dallas, Texas.

John A. Howard, Ph.D., President of Rockford College, Rockford, Ill. and President of the American Association of Independent College and University Presidents.

Senator Harold E. Hughes (R-Iowa).

Senator Jacob K. Javits (R-New York).

Representative Paul G. Rogers (D-Florida).

Maurice H. Seevers, M.D., Professor and former Chairman of the Department of Pharmacology, University of Michigan, Ann Arbor.

J. Thomas Ungerleider, M.D., Assistant Professor of Psychiatry, U.C.L.A. Neuropsychiatric Institute, Los Angeles.

Mitchell Ware, Attorney, Mazza, Mazzio and Ware, Chicago, former Superintendent of the Illinois Bureau of Investigation, Chicago.

REMEDY OR PUNISHMENT?

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, the phenomenon of local and regional problems having a "ripple" effect on the national welfare is not uncommon in this Nation and I take this opportunity to call such a situation to the attention of my colleagues. The contribution of Western reclamation to the benefit of the whole Nation has been recited on numerous occasions throughout this century, frequently in response to vague and unfounded criticism.

On May 26, 1964, I spoke to my colleagues here in the House of Representatives on the subject of the reclamation program and the following statement is just as valid today as it was then:

The multipurpose reclamation program carried on through which the Department of the Interior's Bureau of Reclamation is the principal instrument through which the Federal Government, guided by the Congress, seeks to develop the water and related land resources of the arid and semiarid western lands. The dry West comprises more than one-half of our Nation's total land area. It is the most rapidly growing sector of our economy and ranks as the best and most important customer, client, branch office and factory of the long-established business and industrial community of the Eastern States.

The continued well-being and growth of the West—and the East—depends in large measure on the successful development and wise use of a single natural resource. That resource is water.

The development of that resource, Mr. Speaker, is at a critical crossroads as described in a statement by the director of the Colorado Water Conservation Board, Felix L. Sparks. To those who have any question about Mr. Sparks' statement, I suggest that the scientific principle that says, "For every action there is an equal and opposite reaction," has application in political science, as well. When considering the reaction of Mr. Sparks and the rest of us who associate ourselves with him, please consider the action which has prompted it.

The statement follows:

WASHINGTON, D.C.,
March 20, 1972.

Mr. Chairman and Gentlemen of the Council:

I appear here today as a representative and director of the Water Conservation Board of the state of Colorado at the direction of the members of that board to express opposition to many of the salient features of the proposed principles and standards. The Colorado Water Conservation Board is charged by statute with the responsibility for protecting, developing and conserving the waters of the state of Colorado and the prevention of floods. The board has overall responsibility for state water planning and has the specific responsibility of coordinating its activities with those of other states and the federal government. It was one of the first state water planning agencies established in the United States and has functioned in this capacity now for over thirty years.

The state of Colorado supported the enactment of the Water Resources Planning Act in 1965. We were in accord with Section 103 of that act which directs this council to develop uniform procedures for federal participation in the planning and development of this nation's water resources. We are, however, appalled at the results.

The principles now under consideration have been proposed for the use of the many thousands of people in the state and federal governments who are responsible for water resource planning. They should, therefore, be comprehensible to the average person engaged in such endeavor. Unfortunately, the principles consist mostly of random economic theories expressed in rambling and extensive prose. No precise analysis of much of the verbal garbage contained in the proposed principles is possible. However, the conclusion is inescapable that an initial decision was made that water resource development is an evil thing which could be best controlled by a process of bureaucratic strangulation. While it was not easy to reach these conclusions in the mind-numbing process of analyzing the proposed principles, we offer the following supporting observations.

The water resource planning process is already a time consuming and costly endeavor. The average time lag for projects in Colorado from date of initial study to construction exceeds twenty years. For many projects this time lag has exceeded thirty years. It can hardly be argued that water resource projects are hastily conceived and thereafter hastily constructed. Nevertheless, this interminable delay is to be stretched out even further, and perhaps into the millennium, if the proposed principles are adopted. The ingredients for this delay are contained in the quixotic assumptions that everyone from the man in the street to the man in the White House should be directly involved in the planning process, assisted by layer upon layer of governmental agencies.

The more obvious tool for delay is the fluctuation of the so-called discount rate. This fluctuation is not new but only aggravated by the proposed principles, as I shall illustrate.

In 1965 a series of disastrous floods occurred in the state of Colorado with the tragic loss of over twenty human lives and staggering property damages in excess of a half a billion dollars. The greatest flood in terms of water volume, but not in property damage, occurred in the Bijou Creek drainage of northeastern Colorado. The Corps of Engineers was immediately requested, among other things, to initiate planning leading to the control of floods on Bijou Creek. By late 1969 the Corps had developed a feasible plan for controlling floods originating in that area. Those plans were then submitted for review at the Washington level, but a funny thing happened. They were returned to the Omaha office for reformulation using a new and higher interest rate. Under this new criteria, the Corps presented its revised plans to the state water board about two weeks ago, almost seven years after the 1965 flood. The revised plan drastically reduces the previously planned control of Bijou Creek floods. Since this revised plan cannot be submitted to the Congress before next year, it will be subject to another new and increased interest rate if the proposed principles are adopted. And so ad infinitum.

It is most interesting to note that the proposed principles apparently place no value on human life nor on human suffering. Apparently these elements have no monetary value.

Having made these generalized unkind observations, I would like to turn to a few more specific criticisms, including the proposed seven percent discount rate. I do not purport to fully understand the theoretical opportunity cost of federal investment as it relates to the discount rate, a rate actually described in the principles as being at ten percent. This rate apparently is borrowed from a study made by a Mr. J. A. Stockfisch in 1969 for the Institute for Defense Analyses. If in fact the average rate of return on the investment of private capital is ten percent, then the millions of Americans who annually invest their capital at a lesser rate should be somewhat surprised. Why, for instance, should Americans invest millions of dollars annually in treasury bills which are currently returning less than four percent. Perhaps all investors should hold out for a ten percent rate, or even seven percent. The results on the American economy would be interesting and probably catastrophic.

The originators of the proposed discount rate also suggest that the opportunity rate is based in part on the alleged fact that the federal government foregoes tax revenues when it competes with the private market to build water resource projects. It has long been my understanding that the federal government taxes the interest which is received by investors on government securities. No weight apparently was given to this fact, nor the fact that water resource projects in themselves generate considerable tax revenues, or, in the case of flood control projects, reduce tax deductions by reducing casualty losses.

I realize that these criticisms of the proposed discount rate may not be accurate. Those of us who live in the real world sometimes find it difficult to adjust our thinking to the Olympian world of abstract economics. Nevertheless, the proposed rate smells more like a device to prevent further water resource development in this country than it does to promote the welfare of its citizens, a welfare based to a major extent on the use of water and the prevention of water-caused disasters.

In the event the proposed discount rate is not sufficient to destroy federal participation in water resource development, the five year construction start requirement can be used to administer the coup de grace. As we read the proposed principles, authorized projects on which actual construction or other similar activity is not commenced within five years from date of authorization will be reviewed in accordance with the proposed principles. The words "or other similar activity" are confusing. We know of no activity which is similar to construction except construction itself. We urge that as a minimum change, the Council consider inserting the words "or advance planning", in lieu of the words "or other similar activity".

It is extremely rare to have construction commence on any project within five years from the date of authorization will be reviewed in accordance with the proposed principles. The words "or other similar activity" are confusing. We know of no activity which is similar to construction except construction itself. We urge that as a minimum change, the Council consider inserting the words "or advance planning", in lieu of the words "or other similar activity".

It is extremely rare to have construction commence on any project within five years of date of authorization. The time lag between authorization and the initial appropriation for advance planning is usually at least two years. A time lag of four or five years is not unusual. Advance planning usually consumes another three or four years, primarily because of fiscal limitations.

As an example of the already ridiculous time lag, I cite the example of the Savery-Pot Hook unit, a joint Colorado-Wyoming project. This project was accorded a top priority by the Colorado Water Board in 1938. It was finally authorized by the Congress in 1964. Although advance planning was completed several years ago, construction has not yet started. However, construction funds have been appropriated by the Congress for the past two years but withheld by the Office of Management and Budget. By what legal authority that agency is able to flaunt the laws of Congress, we have not been able to determine. We are not unaware of the domination of the Office of Management and Budget in the preparation of the proposed principles, although the Water Resources Planning Act gives that agency no such authority. The ironic comedy of the five year limitation is that the Office of Management and Budget can, and is, making it impossible to get project construction started within the five year period.

Insulated and protected from normal democratic procedures, the administrative branches of this government are rapidly assuming the total executive, judicial and legislative functions separately reserved by the Constitution. If the laws enacted by Congress can be ignored and rejected by the shadowy fourth body of administrative government, the question remains as to why we bother with the elective process in the first place.

During the past decade, ten multi-purpose water resource and flood control projects have been authorized by the Congress for construction in the state of Colorado, on which construction has not yet started. Because of past fiscal limitations, there is no way that construction on seven of these projects can be started within the proposed five year time limit. With a little more help from the Office of Management and Budget, the other three projects can also be pushed into the never ending cycle of re-analysis. Cumulatively, over 200 years of planning effort and several millions of dollars have been applied to achieve the present status of these projects. Now it is proposed that the hopes, dreams and aspirations of thousands of our citizens be callously crushed by administrative fiat. We may be forced to submit to this type of administrative tyranny, but not without a fight.

We vigorously dissent to this limitation in all of its aspects. Its adoption would constitute a flagrant invasion of the powers reserved to the Congress. Its use would constitute an effective veto over acts of Congress in a manner neither contemplated nor permitted by the Constitution or statutory law. Not even a tortured construction of the Water Resources Planning Act can justify this limitation as a part of planning principles and standards. We therefore urge that this provision be eliminated.

The proposed principles provide that: "The regional development objective will be used in formulating alternative plans only when directed." While we are not sure what this means, the statement appears to violate Section 104 of the Water Resources Planning Act. That section plainly states without reservation that special regard shall be given to achieving optimum use of water in the area involved. While national goals are also to be given special consideration under the quoted section, there is nothing in the act which indicates that national goals are to have any preference.

Neither national goals nor the national economy are separate entities. They are merely the total of many component parts. National goals are at the best difficult to define and are constantly changing. If regional objectives must be subjugated to some mystic and ever changing national goal, then this nation is doomed to stagnation. We therefore urge that the proposed principles follow the mandate prescribed by Congress.

We note that the Council reserves the authority to amend whatever standards are adopted from time to time. This provision appears to be necessary and in accordance with the powers granted by the Congress. However, we find neither comfort nor justification in the statement that such amendments are subject to concurrence by the Office of Management and Budget. The question naturally arises as to whether or not Congress created a Water Resources Council or a subservient arm of the Office of Management and Budget. A careful reading of the Water Resources Planning Act does not reveal that the Office of Management and Budget was to play any part in the formulation of water resource planning principles. This is a futile argument, but we make it anyway.

It has been reported that a former huckster for Lipton tea has made the statement: "All dams are an obscenity. Floods and pestilence have been a means of controlling population." The gentleman is entitled to his opinion, but there are others who would disagree. There are people in West Virginia today, both living and dead, who would certainly disagree. I know from past association that this Council would also disagree with the statement, but I am not so sure about the other agency which participated in the preparation of these proposed principles.

In Colorado, as in most western states, about fifty percent of our total yearly water supply flows down our rivers during two months of the year. In order to support our current population and economy, we must store the excess waters of the spring runoff for use during the remainder of the year. This requires dams.

Most civilizations and their cities developed along perennial streams and rivers. Such was and is the case here in the United States. I am sure that most people do not feel that they should be drowned or their property destroyed because of mankind's ancient habits. Flood protection also requires dams. If all of these dams are obscene, then let us be classed as an obscene people.

We believe that the proposed principles

and standards for water resource planning unjustly and illogically single out water resource development for discriminatory treatment. We know of no other governmental activity, either federal or state, which is subjected to a similar discount rate or planning procedures.

There have been, and probably will continue to be, errors in judgment in the development of our natural resources and the treatment of our environment. Remedial measures are necessary. However, the proposed principles appear to be more punitive than remedial. We therefore urge that they be revised in their entirety in a comprehensible form, with the objective in mind that both water resource development and flood control will forever be essential to the welfare of the people of this nation.

WHY SOVIET ARMS WORRY UNITED STATES

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, I think it is vitally important that we in the Congress are aware of what our top Defense specialist is saying about Soviet military capabilities and what is needed on our part to insure an adequate defense posture for our country.

In a recent interview, Secretary Laird said:

Based on the evidence I see, it is my belief that the Soviet Union is trying for military superiority over the United States by the latter part of the 1970's and during the 1980's. And we are not matching this effort at the present time.

We can ill afford not to maintain that level of technological superiority we now hold over the Soviet Union. To pursue a course of unilateral disarmament as some would have us do would be catastrophic for the United States.

For the benefit of our colleagues, I insert the entire interview of Secretary Laird as appears in the U.S. News & World Report for March 27 following my remarks:

INTERVIEW WITH DEFENSE SECRETARY LAIRD: WHY SOVIET ARMS WORRY UNITED STATES

Q. Mr. Secretary, your annual Defense Report to Congress has created considerable discussion. What do you mean by the new "strategy of realistic deterrence" you are putting into effect?

A. I am pleased with the growing discussion of national-defense issues which this report, together with the President's Foreign Policy Report which preceded it, have brought about.

What we are talking about is peace—how to achieve it and how to maintain it.

Essentially, my report to the Congress tells how we are achieving the transitions from war to peace, from a wartime economy to a peacetime economy, from a draft-dominated armed force to one peopled with volunteers, and from an era of confrontation to an era of negotiation.

I believe the American people are coming more and more to understand that the Nixon Administration has made fundamental changes in how we plan for our nation's safety and security, and for achieving the President's goals of peace and of an improving quality of life for all Americans.

The strategy of realistic deterrence is the Defense Department's plan for implementing the Nixon Doctrine and the strength and partnership pillars of the strategy for peace outlined by our Commander in Chief. Meaningful negotiations—the third pillar—are made possible by adequate strength and stronger partnerships.

Q. Is the U.S. maintaining its military strength in today's world?

A. Not as much as we should be, particularly in the area of maintaining technological superiority.

I believe we have adequate defense forces today, but I am concerned about the period from 1975 on. I don't want any future President of the United States to be in a position where he has to crawl to any negotiating table anywhere in the world. That's what we are talking about as far as the real issues of the defense budgets are concerned—the maintenance of the future strength of the United States.

Since I became Secretary of Defense, I have tried to inform Congress and the American people about the program that the Soviet Union embarked on in 1965 to modernize both their conventional and strategic forces. Based on the evidence I see, it is my belief that the Soviet Union is trying for military superiority over the United States by the latter part of the 1970s and during the 1980s. And we are not matching this effort at the present time.

For example, our research-and-development requests to the Congress in recent years have been cut substantially.

Q. What can you tell us about these cuts?

A. Take fiscal year 1972 [which ends June 30]. That budget did not pass the Congress until last December, six months after the fiscal year began. We had asked Congress for an 800-million-dollar increase in research and development to maintain the technological superiority which is so important to the future of this country. Congress cut that requested increase by 50 per cent—400 million dollars out of our total research-and-development request for fiscal 1972. You can't maintain technological superiority that way.

In this year's budget, we are asking Congress for 1 billion dollars more than they gave us last year. I hope that the Congress will recognize that in a free society which is competing with a closed society technological superiority is an absolute must.

Q. What about reports that the Russians are dismantling some of their armaments?

A. The only things they are retiring are obsolete ships and weapons systems in favor of new ships, new aircraft and new types of strategic and theater missiles.

They are going forward at a tremendous rate with their naval construction, both conventional and nuclear. In the nuclear field, they now have under construction or in being about 43 of the Y-class submarines, each carrying 16 ballistic missiles.

Our ballistic-missile nuclear-submarine force consists of 41 Polaris-Poseidon ships. Looking to the future, what concerns me is that the Soviet Union by the end of next year will likely move ahead of us in numbers of Polaris-type submarines. At the present rate of Soviet construction—if we decided to construct any ballistic-missile nuclear submarines—they would have over 70 by the time we could build and have operational No. 42.

Q. What can you tell us about land-based missiles?

A. As you know, the Soviet Union has already moved ahead quantitatively in land-based missiles. They have more than 1,500 missiles capable of reaching targets in the United States. We have 1,054—the same number approved by the Congress in the mid-1960s.

Q. How do the two nations compare in strategic bombers?

A. We have some 500 bombers assigned to the Strategic Air Command at this time. This number includes about 70 of the smaller FB-1s, with the remainder of the force composed of B-52s. The Soviets have about 200 bomber aircraft assigned to their long-range-aviation forces. About 50 of these are configured as tanker aircraft for in-flight refueling. They also have built and are flying several of their new "Backfire" bombers.

Q. Well, then, why aren't you worried right now?

A. There is a simple answer to that. We have superiority today because of our technology. We have, I believe, a two-to-three year lead over the Soviet Union in technology, in the Poseidon submarine and the Air Force's Minuteman III with their multiple independently targeted re-entry vehicle (MIRV).

However, their land-based missiles are bigger than ours and therefore have a greater "throw weight" than ours. By that I mean their bigger boosters give them a greater capability to deliver more and bigger warheads with their existing missiles than we have in our existing forces.

Given their technological capabilities, I'm sure they can match our technology within two or three years.

That is why it is absolutely essential that we maintain technological superiority over the Soviet Union, and why I put such a high priority on our research-and-development budgets for the Army, Navy and Air Force.

That is also why it is so important to us in the Department of Defense that the United States seek a really adequate limitation of strategic arms, not only defensive but offensive weapons as well.

As President Nixon made so clear last May 20, it is essential that any agreement between the United States and the U.S.S.R. must include offensive as well as defensive-weapons limitations. The safety and security of the American people require this.

That is why, as I have stated before congressional committees, we cannot accept a ceiling on anti-ballistic-missile systems [ABM] without a ceiling on land and submarine-based offensive missiles as well.

Q. Do you think the present negotiations between the U.S. and the Soviet Union for a strategic-arms-limitation treaty will produce suitable results for us?

A. At present, we feel that in the not too distant future we and the Russians can move from arms competition to strategic-arms limitation and from there to limitations on other types of weapons, including conventional weapons. Also, I would hope we can move toward mutual limitations on military assistance, another area where the Soviets have placed great emphasis in recent years.

But it is my strong view that it would be a great and dangerous mistake for the U.S. to take unilateral disarmament actions. In short, we must have verifiable mutual-arms-limitation agreements.

Q. What do you mean by verifiable?

A. Let me be perfectly candid with you. President Nixon is leaving no stone unturned in his pursuit of better relationships with the Soviet Union. But let us not forget, either, that the President recognizes full well the profound differences and disagreements that will continue to exist between the Soviet Union and the United States.

We cannot eliminate those differences overnight, because they have to do with different ideas about the rights and responsibilities of men and governments, and about different approaches in dealing with other nations.

I believe that great nations today can be peaceful adversaries without being belligerent antagonists. But to continue to move in this direction we must have confidence on both sides that any agreements we do enter into are, in fact, being honored.

To put it bluntly, this President and this Secretary of Defense are not going to place the destiny of the United States, or of our friends and allies, at the mercy of the hoped-for good will of any other power. That's why verification is so important as we seek to resolve what can be resolved in our relationships with the Soviet Union and to control what cannot be immediately resolved.

Q. What are some of the things the Department of Defense is doing now to keep our forces ahead technologically?

A. Let's take this year as an example. We have asked Congress for a supplemental appropriation of 35 million dollars to enable us to go forward with what, for the time being, we call ULMS—the undersea long-range-missile system. Shortly, we will be announcing a new name for the ULMS. This is a successor to the Poseidon nuclear submarine, which itself is a conversion of the Polaris submarine which was developed in the 1950s.

As a matter of fact, as a member of Congress I sponsored the amendment appropriating more than President Eisenhower's Administration asked for in its 1957 budget for building up our Polaris force.

Today, I might add, the tendency of Congress is to cut rather than increase military appropriations. Other key programs in the pending defense budget include the B-1 strategic bomber, the airborne command post, and the F-14 and F-15 aircraft.

When I was a member of Congress, representing the seventh district of Wisconsin, I was often distressed when the executive branch refused to recognize the coequal status of the Congress in national-defense responsibility and refused to spend "add-on" money voted by the Congress for national defense.

Let me tell you that this is one Secretary of Defense who will spend every dollar over and above our requests that Congress deems necessary. I have made this position known at every opportunity in my testimony before Congress in the last three years.

"WE ARE STANDING STILL"

Q. Aside from nuclear-ballistic-missile submarines, how does the Soviet Navy compare with that of the United States?

A. Well, they've gone forward also in attack-type submarines which are nuclear powered. They outnumber us in this area. They are also moving ahead vigorously in major surface-combatant-ship construction, including a very large cruiser with multiple missile systems.

We aren't standing still, of course, in ship construction in the face of this momentum. When I became Secretary of Defense we were spending less than a billion dollars a year on our shipbuilding and conversion program. We increased that to 2 billion dollars within a year, upped it to 3 billion last year, and now are asking for about 3.6 billion dollars.

Of course, our concern about the nature and scope of the Soviet threat is not confined to their impressive gains in nuclear and naval capabilities. For example, as I noted in my Defense Report, Soviet and other Warsaw Pact forces continue their growth both in quality and in quantity, including new tanks, lift forces, and several new types of aircraft.

Q. What has been the extent of our slowdown in arms spending?

A. In total defense-budget terms, from fiscal year, 1969, to our proposed fiscal year, 1973, budget request, we have gone down from about 9 per cent to about 6.4 per cent of our gross national product for national-security outlays, and from about 45 per cent to 31 per cent of total federal-budget outlays. Those figures represent 20-year lows.

Much of that reduction, of course, is attributable to the winding down of the war in Vietnam and to implementation of our new strategy of realistic deterrence.

While it is difficult to draw exact comparisons, the Soviet Union continues to devote a greater share of its gross national product to national security than we do. In money terms, while they are operating from a GNP about half the size of ours, they are spending in U.S. dollar equivalents just about the same amount as we are on national security. And, of course, their commitment to North Vietnam has averaged somewhere between 500 million and 1 billion dollars annually since 1965, while the U.S. had to devote as much as 22 billion dollars in its peak spending year—1968—to the war in Vietnam. Furthermore, the Soviet Union puts from 30 to 35 per cent of its military budget into manpower-related costs. We spend from 52 to 56 per cent of our military budget for such costs.

So, even with the great burden of U.S. Vietnam costs steadily declining, the personnel-cost disparity in the two budgets leaves Soviet planners with approximately 65 to 70 per cent of their budget for modernization in such areas as strategic forces, shipbuilding, and other improvements in missiles and conventional forces against roughly 45 per cent available to our planners.

Now, if you project that ahead for five to seven years in terms of actual money available for modernization in U.S. nuclear and conventional forces, you can see that we could be in trouble in the last half of the 1970s if you assume that the Soviets are spending at about the same over-all rate in defense programs as we are.

Q. What's the answer?

A. A top priority, let me repeat, is to maintain technological superiority. We also must move ahead with the weapons-modernization programs for all our active-duty forces and with the increases I've asked for in the National Guard and Reserve programs.

We also must have a strong and effective security-assistance program to help our friends and allies under our new "total-force concept." In talking to students and other Americans, I stress the point that we intend to avoid future Vietnams—that we no longer intend to be the cop on every beat—but we don't intend to cop out on our world leadership role, either. To make that commitment work, we need a strong military-assistance program, and Congress has to support it.

The only other alternative is to cut back on our treaty commitments and accept a free-world security gap—but I don't see any bills being introduced in the Senate with any support to repeal any of those commitments that have been entered into under our constitutional processes, including Senate ratifications.

I think these measures, if we can go ahead with them, can and will meet the Soviet challenge, deter war and restore and preserve peace.

Q. Are you getting the support you need from Congress?

A. Not entirely. Last year, for example, Congress cut our requests by about 3 billion dollars.

BEYOND "MILITARY REALITIES"

Q. Is it true, as some Democratic politicians are saying, that we now accept the principle of armed parity with the Soviet Union instead of superiority?

A. Let me put it this way:

In my view, a vast majority of the American people may perhaps be willing to accept parity in the area of strategic nuclear weapons, but under no circumstances would they or should they accept inferiority. Certainly, as Secretary of Defense, I would never recommend or accept inferiority.

The sufficiency of our armed forces is a matter that cannot be judged strictly from the standpoint of military realities. Global political realities are also very much involved. I am concerned about what the political effect would be on our allies—or, for that matter, on the people of the United States—if the Soviet Union acquired a vastly superior nuclear force, whether on land, at sea or in the air.

In other words, it is crucial to the achievement of lasting peace that neither our own citizens nor our friends and allies ever have reason to question the adequacy of our strength or our resolve.

Q. Do you believe this year's political candidates understand this?

A. All presidential candidates should look at this matter very carefully, for I believe that a vastly superior strategic force in the hands of the Soviet Union is something that no President ever would want to face.

And, gentlemen, let me repeat that this fiscal year, 1973, defense budget that we are fighting for doesn't involve so much the strength Richard Nixon will have as Commander in Chief in his second term. It has much more to do with assuring the necessary strength for the Presidents who will succeed him in the post-1976 period. Our long-range planning takes into account the challenges and requirements that will face our future Presidents.

Q. If you get from Congress what you want for research and development, along with money for construction, what would the United States armed forces get out of it?

A. Let's use an example:

If we go ahead with the ULMS program which I mentioned earlier, the follow-on step from the Poseidon program, the first 10 of the new missile-firing submarines could be replacements for our 10 oldest Polaris-type submarines.

Adm. "Bud" [Elmo R.] Zumwalt, the Chief of Naval Operations, Adm. H. G. Rickover and others here assured me that if we can go forward by April 1 with the design contract for the new-type submarine, we will be able to get the first ULMS by 1978.

The ULMS involves a new system which, as presently planned, will carry 24 missiles and enable submarines to operate out of bases in the continental United States. This means—and it's very important—that it will have a beneficial impact on our crews. This is difficult duty, and as we worked toward the volunteer service and zero draft calls, the idea of nuclear submarines based in the United States is appealing.

Q. What are the Soviet capacities in this area?

A. They are turning out the Polaris-type or Y-class submarines at a current rate of about nine a year, and they could go even faster. These submarines are not as good as ours, because we have a technological lead. Our submarines are quieter and less susceptible to detection.

However, it takes a long time to develop new weapons and techniques, which limits our margin of safety.

Q. Mr. Secretary, do you foresee any immediate changes in the U.S. military position in Asia as a result of President Nixon's visit to Peking?

A. The military position and our military commitments there have not changed. Our treaty obligations have been ratified by the United States Senate. We will maintain those treaty obligations.

Of course, our posture will continue to change somewhat as we implement the Nixon Doctrine, which calls for building stronger partnerships with our allies and helping them to take some of the defense responsibility in their own areas, so the United States will not have to be the cop on every beat in the world.

The Nixon Doctrine also calls for a strong military position on the basis of total-force planning—taking into consideration, that is, the capabilities of our allies and using their available resources to the best advantage in the area that is involved.

All this has enabled us to withdraw a great many of our military forces from Asia—not only from Vietnam but also from other Asian countries. That, as you know, has been going on for some time now. We are in transition from war-fighting forces in Asia to peacetime Nixon Doctrine deterrent forces.

Q. Will there be withdrawals from Asia beyond those planned in Vietnam?

A. Yes, as partnerships with our allies are strengthened. They have to be willing to take over certain responsibilities. After all, these

are *mutual* defense treaties we have with them, and sometimes that mutuality gets overlooked.

Take, for instance, Japan. That's a mutual-defense treaty, and when I talk to my Japanese friends I certainly try to emphasize that fact. We are providing and will continue to provide the nuclear umbrella. I feel certain that our friends in Japan understand the mutuality of that defense arrangement, which requires from them an increased contribution to the security within their country and within their area, particularly in view of the Okinawa reversion.

Q. Is anybody out there listening to you?

A. I think they are. The proposed defense budget of Japan has been increased—not substantially, but an increase nonetheless.

I think the Cambodians have done very well and the Vietnamese have done well. So have the Koreans and our friends on Taiwan. The Thai, I think, are going better than they have in the past.

Q. What has this meant for the U.S.?

A. It means that we have been able to withdraw well over half a million people from that part of the world. I think the South Koreans are stronger today, militarily, than they were when this Administration took office. Yet we have 20,000 fewer Americans there.

Q. How soon are U.S. forces going to leave Taiwan?

A. I hope that Congress approves the increase over last year's program that we have asked for in our military-assistance program there. I will do the best job I can in defending that increase and, also, the sale of excess military equipment to Taiwan. We are, for example, going to continue our training programs.

Q. But how fast will you withrdaw U.S. forces?

A. As we apply the Nixon Doctrine and tensions ease, we will not maintain an American presence there longer than is needed. There are not as many American servicemen on Taiwan as there were when I became Secretary of Defense. We will continue to make withdrawals, based to some extent on our continuing progres in turning over military responsibilities in Vietnam to the South Vietnamese, because that is tied in with our presence on Taiwan.

Q. What about American withdrawal from Vietnam itself?

A. We completed Phase 1 of Vietnamization last year—turning over ground-combat responsibilities to the South Vietnamese. Phase 2, which deals with turnover of logistics, artillery and air support to the South Vietnamese, also is moving along very well. It will, of course, take longer because of the training that is required, but Phase 2 is on schedule or ahead of schedule in all areas.

For instance, the South Vietnamese have taken over respensibility for in-country naval operations and most in-country air-support requirements.

I might also point out that under the Vietnamization program we have withdrawn several million tons of U.S. material, a reduction of some 80 to 85 per cent of the material we had in Vietnam at the peak of U.S. involvement. I think that is quite an accomplishment and a tribute to the superb leadership of Gen. Creighton Abrams.

Phase 3 involves the phasing out of the military-advisory program, and we are into that, too.

Altogether, we will be down to 69,000 American servicemen in Vietnam by May 1, from the high point of the 549,500 authorization when the Nixon Administration assumed office.

The whole program of Vietnamization is going along well, and the South Vietnamese are in a position where they have the capability to handle their internal security—very adequately, I believe. That doesn't mean that they are going to win every time they meet the enemy. They are going to have some tough fights, because the enemy has substantial capabilities.

Q. When will Vietnamization be officially completed?

A. The third phase takes you down to a position where the total U.S. forces will be lower than at the start of President John F. Kennedy's Administration, when we had about 800 or 900 military advisers in Vietnam.

When Phase 3 is completed, American military presence in Vietnam will be terminated. But President Nixon has made it clear that this will not happen until the question of Americans held prisoners of war has been settled and the missing in action have been accounted for.

Q. Is there any prospect of hastening that?

A. The fastest way to terminate U.S. involvement in the war still is through negotiations. As to the prisoner-of-war issue, I believe that question will be solved when the enemy decides to abide by the Geneva Conventions which he signed and yet is violating in at least 16 different ways at the present time.

The Geneva Conventions are not subject to negotiation. I think the pressure of the Communist world, the nonaligned world and the free world will have to be brought to bear on the enemy to abide by these conventions.

As you know, the President has designated the week of March 26 through April 1 as a national week of concern for our prisoners of war and missing in action. I would also point out that the President, Secretary of State William P. Rogers, and I bring this humanitarian matter to the attention of every foreign leader we see, and I will be doing it again in Europe in May.

REAL IMPORTANCE OF VIETNAMIZATION

Q. Do you expect anything to come out of present negotiations with the North Vietnamese?

A. I have been more optimistic about the Vietnamization program, I think, than anybody else in Washington since it got started. Vietnamization—rather than negotiations—is proving to be the means by which we are terminating American involvement in Vietnam.

Q. But haven't U.S. bombings of North Vietnam been stepped up? Why is that?

A. What has increased recently is the number of enemy firings at our unarmed-reconnaissance flights. And I can assure you that, as long as I am Secretary of Defense and they fire at our reconnaissance aircraft, the escorting planes will retaliate. Our fliers have the authority to strike back when threatened; and they will continue to protect themselves.

SHARING THE BURDEN IN EUROPE

Q. Mr. Secretary, is the partnership idea that you feel is working so well in Asia getting results with our European allies, too?

A. Yes. We have had an improvement in what our partners in the North Atlantic Treaty Organization are doing.

They have moved forward with a billion-dollar European-defense-improvement program. They have also increased their military budgets. The Federal Republic of Germany this year has Cabinet approval for a 13 per cent increase in its defense budget.

Over all, the defense budgets of our European allies will be increased by about a billion dollars, or 6 per cent. In real-term purchasing power, this does not add up to the full 6 per cent because of inflation. Clearly, there is a growing awareness on the part of our NATO allies of the need to share the burden, and the things they have done in the last 18 months are all to the good.

Q. Are they still reducing the number of men they keep under arms?

A. The number of individual servicemen has remained fairly constant. One country, Denmark, may institute some reductions. We've had communications about this, and I hope they will not do it.

Q. Why does the Pentagon resist so strongly any suggestions of reducing American forces in Europe?

A. As we move from a period of arms competition to a period of arms limitation, this is not the time to take unilateral actions—either on the part of the United States or any of its allies. We feel in the Pentagon—more strongly, I think, than any other department of Government—that it is most important for us to arrive at arms-limitation agreements. Unilateral disarmament in any form, however, would be a dangerous mistake and would weaken the chances for such agreement.

Q. Do you think we can do business with the Russians in the fields of arms control and mutual reduction of forces?

A. It is not a question of doing business. It is a question of arriving at verifiable agreements that would put a downward pressure on the chances of conflict and an upward pressure on the prospects for lasting peace. I believe that we can arrive at agreements in these areas if the compliance is verifiable.

I would always stress the importance of just what means of verification are necessary and of making sure we have those means. In some cases this would require onsite inspection, but in many areas there are other means of verification which can be used.

Q. Turning to another subject, Mr. Secretary, what is the situation in the Mediterranean at the present time?

A. The importance of the Middle East in Soviet strategic planning has clearly increased. They are establishing bases in the Mediterranean area. Their warships have increased their steaming days in the Mediterranean to about 20,000 a year, from the approximately 750 steaming days they averaged in the early 1960s. They are operating there to a much greater extent than we are.

If you apply the total forces of the United States and our allies in that area, we have a realistic deterrent for the next few years. But as this Soviet momentum continues, we must watch the situation closely and, together with our allies, take offsetting actions when required.

Q. How concerned are you about the growth of Soviet activity in the Indian Ocean?

A. The Russians have a greater presence there than we do. It is of concern to us, of course. It should also be of interest to Japan, and I've told the Japanese that. They get a tremendous amount of their oil from that region, and there is a continual stream of ships moving through the Indian Ocean to and from Japan. Unquestionably, Japan must be concerned about insuring that those shipping lanes remain open.

Q. Would this call for a Japanese naval presence in the Indian Ocean?

A. It could.

Q. Will we also have to increase our activities there?

A. We might.

Q. Mr. Secretary, there is a lot of talk about problems of drugs, desertion and racial conflict among servicemen. What can you tell us about the morale situation?

A. We have those problems and we're doing something about them. In drugs, we have instituted a very satisfactory testing procedure to determine drug usage. We're looking to our whole system of military justice as it applies to whites and blacks, and we have set up an institute to help train officers and noncommissioned officers in the handling of racial problems.

Q. What are you doing about the advancement of black officers?

A. We have more black general officers and flag officers than at any time in history. We have carried out a promotion policy to the point where we have our first black admiral. We are also recognizing women. We have our first women generals in the Air Force and Army, and we will have our first woman admiral in the Navy within six months.

Q. How confident are you that you have reliable and well-motivated people in the armed services—people you can depend on in any emergency?

A. I'm very confident that we have good people and that our "human-goals program" will assure even further progress. We have raised salaries of our lower-ranked enlisted personnel by 325 per cent since 1964. We have made Selective Service a lot fairer, and we are having to draft fewer and fewer men. When President Nixon took office, about 300,000 a year were being drafted. This year, we will draft fewer than 50,000—less than it has been in any year in the lifetime of our draft-age men and women.

Q. Do you think you can do away with the draft entirely and go to all-volunteer forces?

A. We have set a target date of July 1, 1973. This means we will have to recruit volunteers more intensively. To do that we must be able to compete for talent in our high schools and on college campuses.

Q. Are colleges a trouble spot for you?

A. I wouldn't say so. A few years ago college campuses were voting to discontinue Reserve Officers' Training Corps, for example. At some of those campuses now, we are being asked to reinstate it, and we have a waiting list of colleges for our ROTC program.

Q. If you're getting rid of the draft, do you believe that it's time to grant amnesty to those who fled to Canada and Sweden and other places to avoid the draft?

A. No, I do not. Today is not the time—not when we are continuing to use Selective Service and have men involved in Vietnam, held as prisoners or unaccounted for as missing in action. Whether you're talking about blanket amnesty or selective amnesty, it's just not the time to consider the question.

I would point out, however, that our country historically has always tempered justice with mercy.

Q. With the end of the draft in sight, is this going to place more emphasis on the National Guard and the Reserve forces for your manpower in emergency?

A. Yes. For too many years, they have been treated more or less as stepchildren. Their missions too often did not relate to national strategy. Their programs too often did not adequately challenge young men and women. Their equipment was not good enough.

That is why we've asked for an increase of 600 million dollars for the National Guard and Reserve program. That is why we're going to transfer a billion dollars' worth of equipment to the Reserve and National Guard in fiscal year 1973—the highest level of equipment ever transferred to them.

Along with that I have assured Congress and the Governors of our 50 States that we're going to give them increased responsibilities in our total-force planning. Guardsmen and Reservists understand that in case of another emergency, they will be called first. It won't be like Vietnam where we used draftees and shunned the trained men of the Reserve and the National Guard.

Q. Mr. Laird, moving over to domestic politics for a moment, what role do you expect to take in the 1972 presidential campaign?

A. I plan to discuss as much as I can with the American people the importance of effective national-security planning. I won't be making purely partisan political appearances, but I won't hesitate a moment to defend national-security programs which I believe are essential to the safety and security of our country.

I would welcome invitations from the Democratic and Republican platform committees to testify on the nonpartisan issue of national security.

Q. What are your plans if President Nixon is re-elected to a second term?

A. After the President's re-election, I plan to spend some time with my family. As to what I will do after that, it has been my policy as Secretary of Defense not to make unnecessary forecasts or predictions, and I'm not going to make a personal exception to that policy right now.

OLDER AMERICANS FOOD PROGRAM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am sure you know now deeply gratified that the Congress has now authorized the program of better nutrition for the elderly which I proposed in 1970. I am also very pleased by the favorable response this legislation has received throughout the country. An excellent example, I think, is the following editorial by Mrs. Virginia Weldon Kelly, which apeared February 22, 1972, in the Long Beach, Calif., Press-Telegram:

HOT MEALS FOR THE ELDERLY COMING UP

President Nixon has endorsed the legislative measure, passed by the House on Feb. 7, to provide a hot meal at least five days a week for the nation's elderly. There are 23 million 60-plus citizens.

Almost identical legislation was passed unanimously by the Senate in November.

The legislative authorizes $100 million for fiscal year 1973 and $150 million for fiscal year 1974.

Sponsors of the measure expect that President Nixon will sign the legislation about March 2 in a White House ceremony.

House sponsors were two Democrats, Claude Pepper, Florida, and John Brademas, Indiana. The bi-partisan Senate sponsors are Edward Kennedy, Massachusetts, and Charles Percy, Illinois.

Rep. Pepper has been a pioneer in working for hot meals for those 60 or more.

Pepper asserts that the longer older Americans can remain in their own homes, the better their physical and emotional health will be, and the less will be spent on nursing home care under Medicare and Medicaid. He points out that 25–30 per cent of the nation's elderly suffer from "tea and cast"malnutrition.

The program is general primarily towards the poor but meals and other nutrition services would be available to those better off on an ability to pay basis.

Under the two-year program, the federal government would finance up to 90 per cent of the cost of state-sponsored hot food programs for those 60 and older.

The programs would be operated for the states by public or private institutions or catering services, agencies, church groups, or political sub-divisions. It is expected that church homes, other benevolent groups, and retirement villages could participate.

Hot meal programs would be set up in church halls, schools, firehouses, senior citizen centers, service clubs, and other well located places.

Older citizens will be given preference in employment in the program, but there will be opportunities for teen-agers who need jobs. The Congress hopes that thousands of high school and college students will give their services along with more mature volunteers.

Each meal would be required to provide at least one third of the calories and balanced diet recommended by the Food and Nutrition Board of the National Academy of Sciences National Research Council.

It is also hoped that participants can take home a cold meal for supper.

Transportation to and from the meals would be taken to those who are temporarily or chronically ill.

A recent survey has revealed that only 12,000 shut-ins in the nation are now receiving meals-on-wheels operated by churches and other groups.

The special nutrition program was also suggested by the White House Conference on Food, Nutrition and Health in 1969.

The scope of the problem was outlined recently in the report of President Nixon's Task Force on Aging. It stated that insufficient income was only one of the causes of malnutrition. Other causes include: physical inability to shop or to cook, chronic disability, lack of knowledge on nutrition—and loneliness.

This week in a Connecticut Avenue chain supermarket, a 92-year-old woman, leaning on a cane, said she had walked three blocks in 23 degree weather. She bought a pint of milk but did not buy a loaf of bread for her supper. She could not carry it. A reporter took her home. On the way, she said she had never heard of the new nutrition legislation.

One of the biggest problems, congressional leaders say, will be informing the elderly.

Mrs. Richard M. Nixon's special interest is volunteerism. The Older Americans Food Program can be a worthwhile interest for everyone.

ADDRESS BY HON. WILBUR MILLS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on March 3 at Atlanta, Ga., at the second National House Staff Conference Institute for the Study of Health and Society, the distinguished gentleman from Arkansas, chairman of the House Ways and Means Committee, Hon. WILBUR MILLS, delivered a very significant and able address setting forth a comprehensive program to provide for the health needs of the people of this country.

In view of the concern that all of the American people should have access to the best of medical and hospital care, it is a matter of special interest to observe the deep study and the broad understanding which Mr. MILLS exhibits in respect to this critical subject. Since legislation of this character would come from the Ways and Means Committee of the House, the thinking of Chairman MILLS is particularly meaningful to Members of the House and to the people of our country. Mr. MILLS is respected by all the Members of this House, as well as by the Members of the other body, as a man with an extraordinary grasp of the problem of adequate and proper medical care, as one possessing a great knowledge in this and related fields, and as a most important figure in the passage of such legislation.

Therefore, Mr. Speaker, so that my colleagues and fellow countrymen might profit by Mr. MILLS significant thinking in this most important field of health care, I ask that his address appear in the RECORD following my remarks:

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REMARKS OF CONGRESSMAN WILBUR D. MILLS

Good morning, ladies and gentlemen. I very much appreciate the invitation to be the keynote speaker at this, the Second National House Staff Conference. And I want to thank Doctor Roy, the distinguished Representative from Kansas, for his introductory remarks. He has already established a well-deserved reputation in the House on health matters.

The wide ranging subject matter which will be taken up by your conference over this weekend illustrates once again the active period of ferment and change which permeates the health field today. This period of reexamination of priorities and methods in health is most obvious among physicians themselves. And this is a most encouraging sign. I have become convinced from my experience as a legislator over the last 30 years that legislation cannot by itself drastically modify an industry as large and as complex as our health industry. I must say, though, it appears that the threat of legislation has some influence on encouraging the health professions to recognize and seek solutions to serious problems in American health care. But whatever the motivation, I am greatly pleased to see the active consideration of these problems and the work toward finding solutions to them so clearly illustrated in this conference.

While the motivation for change must come largely from within the health professions, if we are to see real rather than merely paper progress, there is much that government can do to support that progress. I would like to take the major part of my time discussing in general terms what the government's role might be, but a word or two first about the present situation.

This audience is well aware that government already plays a very substantial role in health. And you know that the debate surrounding national health insurance is not whether the government should become involved in health but how much more and in what way. The magnitude of the present government role can be illustrated by two simple facts. The first fact—two government programs alone, medicare and medicaid, are paying out more money in this fiscal year for patient care than will all of the private health insurance organizations combined. The second fact—out of a total of $75 billion in fiscal year 1971 spent for health, government at all levels paid $28.5 billion, or 38 percent.

What additional activities are appropriate for government in meeting our present problems? Let me try to answer that in terms of what I see as possible major elements in any national health insurance legislation likely to be approved by the House of Representatives.

The first element will likely be a new program of health care for the poor. The present medicaid program, while it has done much to improve health care for the poor, needs to be replaced with a program which will make a uniform set of benefits, at least as comprehensive as those available to the middle income groups, available to all of the poor in all areas of the country. The Administration bill, as you know, meets none of these conditions.

The second element will be a program to improve the health insurance protection, both in quality and quantity, available to the great bulk of Americans in the middle income groups. I will not repeat for this audience the date which indicate the spotty coverage and irrational premium setting devices which characterize our present arrangements. Just as one example, a musician who supports his family by entertaining the patrons in a small restaurant more than likely has to pay twice as much for the same health insurance as his neighbor who works in a small factory. Why is this? Because private health is not very likely to underwrite a low-cost insurance policy in a small restaurant.

I believe government can help in this area by providing the mechanism under which virtually every American family, regardless of its situation, will have the same basic coverage at about the same price. And I believe that we can do it without having to place on the Federal bureaucracy the entirely impossible administrative task of managing our entire health complex.

For employed Americans and their families we can follow the general idea of our existing workmen's compensation programs by requiring that all employers provide a basic set of health benefits largely at employer cost. In this way we could avoid the serious problems inherent in the Administration bill where the employer merely has to offer the insurance. We could quite easily and appropriately extend the purposes of the unemployment compensation program to include maintenance of health insurance protection during periods of unemployment I would, however, have employers, employees and the government share equally in the cost—employers should not be asked to shoulder the entire burden.

We will also need a system to assure basic benefits to the self-employed and perhaps small employers. The Administration bill would attempt to rely upon risk pools to accomplish this objective but their spokesmen admit they have not been able to find a way to do it. It may be that we will have to develop two or more nationwide options under government auspices to provide health insurance coverage to these groups on at least as favorable terms as those for employees of large firms.

With these three major elements, mandated health coverage for the employed and self-employed and their families, continuation of the coverage during periods of unemployment, and the same benefits for the poor, we will have constructed a system which will provide the same basic benefits to virtually all Americans.

And as a supplement to all of these we will need a system for meeting catastrophic health costs. But I have become pretty well convinced that the catastrophic element of the bill must measure the catastrophe by comparing the amount of a family's medical expenses with its financial situation. That seems to me to be essential, since what is a catastrophe in one family would not be in another. The working family man with a wage of $9,000 a year can be bankrupted a lot easier than a man with an income of $100,000. An approach which would relate health costs to taxable income would seem to hold the most promise of assuring adequate protection for those who need help while avoiding spending public funds for those who do not need it.

While these are the major steps we might take to meet problems of inadequate insurance protection against health costs, there are problems related to health care delivery and costs which we will also need to consider. We cannot deal with the demand side of health care without looking into the supply side.

While there is not time for me to go into all of the things we might do to improve the delivery of health care I would like to mention a few possibilities. But before I do let me remind you that one common theme in the hearings last fall on health insurance was the need to use the payment system to encourage change in delivery. To apply an old adage, we are being asked to call the tune as the ones who pay the piper. I think we will call a few tunes, not to put the bureaucrats in charge of health, but to give support to positive forces for change in health care.

For example, we could require private insurers as well as government programs to use medical foundations, called a professional services review organization under the Senator Bennett amendment, to perform all utilization review functions. And we could add to that a provision setting up a medical group at the national level composed of representatives of the various medical specialties to advise local foundations about current changes in recommended diagnostic and therapeutic practices.

The Administration has recommended that third party payments not be made for health facilities which have been built or expanded without specific approval of a health facilities planning agency. We will give this proposal serious consideration. These are just two examples of the tunes we might call. Before we complete action on this bill there might be quite a medley of tunes.

Before I conclude my remarks this morning there is one other element of a national health bill which I personally believe is very important. Our present maternal and child health and crippled children's program—title V of the Social Security Act—needs to be substantially augmented. This program has demonstrated its capacity to markedly reduce infant mortality and to improve the health of children and their mothers wherever it is in operation. In fact, this program may very well account for most of our improvement in infant mortality rates in recent years. We can no longer tolerate an infant mortality rate in one census tract twice that of the next census tract which happens to have a maternal and child health project. We know we can reduce mortality so now we must.

This program has shown also that we must recognize a special need among at least some portion of the poor. It will not be enough to give a basic benefit package to those living in some of our ghettos if we do not accompany it with programs which will educate them in how to use health care and which will assure the availability of quality health services. I do not believe in a two-level health system—one for the poor and one for the rest of the population and we will do everything we can to avoid it.

In conclusion, I would like to repeat what I said at the outset. The impetus for real and lasting change in our health system to meet its problems must come largely from those working within the system. The problems of rising cost of disorganized and ineffective methods of providing health care, of increasing dependence on foreign medical graduates so desperately needed in their own countries, and other problems to be discussed in this conference cannot be solved by government alone. Legislation can effectively support forces for change, it cannot create them. We in Congress will continue to view carefully the steps you are taking to meet known problems. We will need your thoughtful advice on how legislation can best support emerging solutions to the problems. I hope you will give us your help freely and objectively so that together we can work toward a health financing and delivery system which will be what all Americans deserve.

INCREASING SOCIAL SECURITY BENEFITS: CONTINUING STRUGGLE NEARS SUCCESS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, it is with great pleasure that I have today joined with my good friend and colleague from California (Mr. BURTON) and other Members of the House, in writing to the distinguished chairman of the House Ways and Means Committee, WILBUR MILLS, expressing our support for his recent announcement urging that social security benefits be increased 20 percent. As the sponsor of legislation proposing a 20-percent increase, I am particularly encouraged by Chairman MILLS' endorsement.

One of the major goals of my congressional career has been to help achieve a substantial increase in social security benefits. More than any other group in this Nation, senior citizens have been victimized by a ruthless inflation and many are unable to live in dignity for lack of adequate income despite a life of hard, dedicated work. It is my belief that the Federal Governmnet must make social security a genuine source of security for the elderly. Thus, shortly after joining the Congress in 1965, I introduced legislation in the House which would have increased social security benefits by 50 percent. This proposal was a companion measure to a bill introduced in the Senate by the late New York Senator, Robert F. Kennedy. Although at the time, both Senator Kennedy and I knew it would take a long, hard battle to place more money in the pockets of the elderly, we did not shrink from the challenge.

The years following the introduction of that proposal have shown the Congress unprepared to provide senior citizens with the income they need and deserve. In 1967, the Congress approved a 13.5 percent increase in benefits. While voting for the increase, I insisted that it was far from adequate. So, in 1968 and 1969, I urged adoption of an additional 35 percent increase. In the Tax Reform Act of 1969 and the Debt Ceiling Act of 1970, the Congress enacted increases totaling 25 percent. However, during those years, inflation was at its peak and the needs of our senior citizens far exceeded what the Federal Government provided. Thus, despite these increases, I remained convinced that the effect to secure adequate assistance for the elderly would have to continue. Therefore, last year, I introduced H.R. 9300, an omnibus social security proposal which is now pending before the Ways and Means Committee and which would provide, among other things, for a boost in benefits of 20 percent.

Last summer, the House adopted and sent to the Senate H.R. 1, a comprehensive bill which would enhance benefits—but only by 5 percent. While the Senate has been considering that bill for many months, support for raising this meager increase has mushroomed. With the backing now of Chairman Mills, the chances for a truly progressive and substantial increase in benefits look brighter than ever. It is my strong hope that the Members of the Senate will realize the urgency of providing genuine security for our senior citizens and speedily enact H.R. 1 with the 20 percent increase. However, if prospects for passage of the controversial H.R. 1 in the very near future are dim, I would urge separation of the increased social security benefits provision from the rest of the bill and prompt enactment of the greater benefits. With Chairman MILLS' leadership, I am sure that the overwhelming majority of Members of the House will vote to accept the 20-percent increase.

THE CREDIBILITY CRISIS

(Mr. STAGGERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STAGGERS. Mr. Speaker, my attention has been called to an address by Mr. J. L. Robertson, Vice Chairman of the Board of Governors of the Federal Reserve System, given before the Independent Bankers Association of America on March 15, 1972. Mr. Robertson's topic is "The Credibility Crisis."

This is a problem that is spreading over wide areas of our society. As Mr. Robertson rightly points out, both the political and business worlds are feeling its effects and it has become a grave problem for our communications media. Our Investigations Subcommittee in particular has been the recipient of many complaints and allegations concerning the presentation of manufactured or staged events being presented to the public under the guise of bona fide television news stories and documentaries.

I think that Mr. Robertson's remarks effectively raise some very basic issues which are in need of increasing attention and analysis. I commend it to your reading:

THE CREDIBILITY CRISIS

In searching for a subject for my remarks here, it occurred to me that since, in the formulation of monetary policy, I have been in the front lines longer than anyone else—more than two decades—I should say something about the economy, perhaps pinpointing the mistakes of the past, explaining how we got to where we are, and indicating where we go from here. But the more I thought about it, the more certain I was that that objective was not a good one. At least with respect to where we go from here, the papers are full of prognostications—some by persons whose only qualification would seem to be an academic degree. I think all I need to say to you on that subject is that, at long last, the fallacious and enervating doctrines of "gradualism" and "benign neglect" have been discarded—unfortunately, at the cost of price and wage controls—and that we are now headed in the right direction. Given time, the psychological attitudes of businessmen and consumers will change for the better. The wisdom and steadfastness with which we formulate and adhere to sound monetary and fiscal policies, while awaiting those changes in attitude, will determine not only the extent to which we succeed in reducing both inflation and unemployment, but also the time when we can safely dispense with controls.

Having given up that objective, I turned to another. I thought perhaps the Hunt Commission Report would meet my needs. But the more I read that report, the more inappropriate it seemed, because the good and bad ideas are so intertwined and knotted together that it is almost impossible to unravel them. In this political year, I am sure Congress will not be able to do so. Why should I impose on your time to discuss them now? Besides, few of you have any doubts about my views on any portion of the report. And so, again, I changed objectives.

The other day a play opened in Philadelphia called "The Selling of the President," in which the candidate is portrayed as having been born and raised in Broken Bow, Nebraska, my home town—a town about which bankers have been hearing for as long as I have been making speeches. The play is based on the book, "The Selling of the President 1968," by Joe McGinniss. I read that book and Broken Bow was never mentioned. Why was it injected into the play? My guess is that the playwright is a banker on the side who is utilizing what he learned at your conventions to get to Broadway—or, perhaps, to enhance the credibility of his play.

Credibility is what I want to talk about today. We have heard a lot about credibility gaps in recent years. But I would put it more strongly. Our society is suffering from a credibility crisis. It affects the political world and the business world. It is a grave problem for our communications media. Our educational institutions and even our family life are touched by the growing lack of trust and confidence.

Some efforts have been made to augment credibility in the business world by enacting legislation. You in the banking business have been touched by this through the Truth in Lending Act, which has been under my wing from its inception. We are now seeing a major governmental effort to get a higher degree of truth in advertising. It must come as a great shock to many of the denizens of Madison Avenue to be confronted with demands that they both explain what they mean and provide proof when they claim that brand X is 20 per cent faster or brand Y lasts 10 per cent longer. Those percentages always remind me of Chinese economic statistics—they sound fine but you seldom know what the base is.

I do not know whether this drive for truth in advertising will ever get to the point where a certain newspaper is asked to prove that it really gives its readers "all the news that's fit to print," or whether a certain magazine will be asked to provide the statistics that will show that it really is "the world's most quoted news weekly." Probably not. One of the strange facets of the tell-the-truth campaign is that it has the enthusiastic support of most of the mass media, as long as it does not apply to them. The media agree that you bankers should be scrupulously honest in informing your customers about your interest charges. At the same time, some of them contend that "freedom of the press" gives anyone who has access to a printing press or a microphone the right to lie and deceive, even if those lies are part of an effort to incite people to perform illegal acts, such as blowing up banks.

Examples of this curious double standard are not hard to find. One government agency, the Food and Drug Administration, is willing to use the full force of the law to stop an advertiser from exaggerating the effectiveness of its mouthwash in combating cold germs. But another agency, the Federal Communications Commission, was apparently unwilling to even so much as slap the wrist of a powerful television network for showing its vast audience a baby that (according to the network) was dying of starvation, when the actual cause of death was premature birth and had nothing to do with malnutrition.

The protective mantle of the First Amendment to the Constitution has been draped around such varied activities as peddling pornography, pushing pot, and advocating arson, but it has not been extended to provide protection to those who would stretch the truth in their efforts to sell mouthwash or gasoline. Perhaps it is felt that the mendacity of Madison Avenue is a greater threat to our well being than the intellectual drivel of the pushers of drugs, debauchery, and destruction. But a consequence of our unprecedented tolerance of dissemination of destructive falsehood is the growth of the great credibility crisis that now confronts us.

We find the communications media being used to undermine the credibility of everyone who represents authority, whether it be the government official, the business leader,

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the police, the school teacher, or the mere parent. In turn, the credibility of the media is called into question, and the public regards with increasing skepticism what they are told by the press and the broadcasters. An ace political correspondent of the *Washington Post* put it this way:

"The measure of the failure of the newspapers is the open skepticism and even derision with which they are viewed by their customers. The press has as big a credibility gap as any institution in this society."

A well known liberal academic, with extensive experience in high government positions, Daniel Patrick Moynihan, has voiced deep concern about the degree to which irresponsible behavor on the part of the news media is making it difficult for our government to perform its assigned tasks effectively. In an article published last year, Mr. Moynihan said:

"Hence the conditions are present for a protracted conflict in which the national government keeps losing. This might once have been a matter of little consequence or interest. It is, I believe, no longer such, for it now takes place within the context of what Nathan Glazer has described as an 'assault on the reputation of America . . . which has already succeeded in reducing this country, in the eyes of many American intellectuals, to outlaw status . . .' In other words, it is no longer a matter of this or that administration; it is becoming a matter of national morale, of a 'loss of confidence and nerve', some of whose possible consequences . . . are not pleasant to contemplate."

We can see those consequences emerging already. On the one hand, there is a growth in the number of cynics who believe nothing; on the other, we see an increase in the number of "true believers" who are guided by nothing but their own unshakable convictions. The cynics are bogged down in apathy and indecision. The true believers are fired with fanaticism, not tempered with knowledge. The ability of our people to cooperate to promote the general welfare is vastly diminished, as we find it increasingly difficult to reach agreement on what the general welfare is.

For example, virtually every country in the history of the world, including ours, has always placed high priority on maintaining its ability to defend itself against potential enemies. This priority was well stated by Adam Smith two hundred years ago when he wrote in The Wealth of Nations: "Defense is much more important than opulence."

When Smith wrote those words, no one enjoyed much opulence in terms of present day standards. It is shocking that in a society that has more motor cars, television sets, air conditioners, etc., etc. per capita than any country in the world, the cry is going up that we cannot afford to spend the money required to provide ourselves with an adequate defense against our potential enemies. We are told that we must reorder our priorities and that national defense must be shoved far down the list. This is not just the cry of some "lunatic fringe". It is a theme that is put forward by serious contenders for high political office. It is supported by influential newspapers and by some of the most influential voices heard on that powerful medium, network television.

I do not question their motives, but I do question their judgment, and I am shocked by some of the methods that they employ to influence public opinion. Let me cite a couple examples of the methodology.

A few months ago one of the best known TV commentators in the country told his vast audience that two-thirds of the regular tax income of this country was spent on the military. He compared this unfavorably with the old state of Prussia, which he said was criticized around the world for spending half of its income on the military. The implication was that the United States is more militaristic than Prussia was in its heyday.

The statistics used by this commentator were incorrect. In the last fiscal year, our expenditures on national defense amounted to a little over 40 per cent of the revenues of the federal government. This year it is estimated that defense expenditures will amount to less than 36 per cent of federal revenue—a far cry from the figure of two-thirds used by the television commentator. After his figures were challenged, the commentator attempted a lame justification which made little sense. He and his network refused to correct the misleading impression that was given to the estimated fifteen million people who heard the original broadcast. They refused to even acknowledge the fact that a far more valid measure of the relative defense burden carried by different countries is the ratio of defense expenditures to GNP. They have not informed their audience that in the last fiscal year the total defense expenditures of the United States amounted to just a little over 7 per cent of our GNP, the lowest this ratio has been for many years.

The commentator in question makes no bones about the fact that in his judgment the United States spends far too much on defense. He is one of those who wants to see our priorities drastically reordered. He appears to overlook the fact that it will not be Americans who reorder our priorities if we so weaken our defenses that we are unable to protect ourselves from an attack. However, he is entitled to his judgment. What he is not entitled to do, in my opinion, is to use his privileged position as a national television commentator to persuade others of the correctness of his judgment by feeding them false information.

The president of CBS News would appear to agree, because a few years ago he made this statement:

"Anybody in news who is unfair, biased or inaccurate—deliberately or negligently—despoils his journalistic heritage and demeans his profession."

That is a fine statement. Unfortunately, however, it would appear that it is not invariably heeded even in his own organization. You may recall that a year ago CBS broadcast a documentary called "The Selling of the Pentagon", which aroused great controversy. This CBS production has probably been charged with more inaccuracy and bias than any comparable television production to date. I will cite only one example, not the most important, but one which is indisputable because it involves the use of false statistics.

In introducing the theme of huge Defense Department expenditures on public affairs, CBS noted that about $30 million a year was budgeted for such expenditures. However, it pointed out that an "unpublished" study by the prestigious Twentieth Century Fund had estimated that such expenditures might be as high as $190 million. CBS displayed a graph showing that this was more than all three television networks combined spent on their news programs. However, investigation by the critics revealed that at the time the CBS program was aired, the study by the Twentieth Century Fund had been published and that it contained no such figure. On the contrary, it said that no accurate estimate of total Defense Department spending on public affairs could be made. Although one of the papers prepared for the study had included the $190 million estimate, the Twentieth Century Fund had not wished to lend its prestige to a figure that it did not consider to be reliable. The Twentieth Century Fund dropped it, but CBS did not. Whether this inaccuracy was deliberate or negligent I cannot say, but to borrow the words of the CBS official I just quoted, those responsible for it demean their profession. What is sadder still is that CBS has admitted the facts but has not to this day apologized for the inaccuracy or corrected the misinformation which it disseminated.

However, the most important criticism of this particular TV production centers on the basic veracity of the documentary.

There are those of us who think that if the taxpayer is to be asked to support a defense program that costs around $80 billion a year, the government has a responsibility to tell him why it is necessary and what is being done with his money. CBS rejected that viewpoint so completely that it made no mention of it whatsoever in its documentary. The basic issue at the heart of this program was never debated. CBS assumed that expenditures to inform the public about the need for national defense were unnecessary and then went on to show that they were being made, implying that it was showing the public examples of illegitimate and wasteful activities. It seems safe to infer that what the producers wanted to accomplish was not the trimming of a few million dollars from the Defense Department budget to save the taxpayers money. They were clearly after bigger game. If the government could be denied the right to finance an information program to maintain public support for national defense then those such as the commentator I discussed earlier would find it much easier to win public support for really huge cuts in our national defense. The documentary clearly implied that we no longer needed to be as concerned with national defense as we once were, since we had been living in an era of peaceful coexistence for over a decade. That decade, I might note, included such events as the building of the Berlin Wall, the Cuban missile crisis, the Vietnam War, and the Soviet invasion of Czechoslovakia.

I call these matters to your attention today, rather than discussing with you banking matters or the state of our economy, because I, too, have become impressed with the importance of assigning proper priorities to our national goals. I had the privilege recently of reading the manuscript of a forthcoming book by General Lewis W. Walt, who retired last year from his post as Deputy Commandant of the Marine Corps. General Walt is not only a great soldier, but he is a most articulate and perceptive observer of the current scene.

His book bears an omnious title: "America Faces Defeat". It begins with words that everyone concerned with reordering priorities ought to think about. He says:

"Most living Americans have grown up in the most powerful nation on earth. Under the cover of that strength we have enjoyed an affluence hardly equalled in the history of any nation. This era ended in 1971. Today, we are a second-class power and we will have to accept that role for at least four years. Perhaps longer, possibly, forever."

He goes on to say:

"The individual citizen has not yet felt the impact of this basic change from strength to weakness, from leadership to compromise. Each of us will feel it as the world market for our goods and services shrinks; as we find ourselves increasingly alone within the community of nations; as we are forced to abandon the noble projects we have devised for the health, education and welfare of every living American.

"Instead, we shall have to learn once again the harsh lessons of weakness, of being trampled upon, and how it is to tighten our belts in privation and gird ourselves for nearly hopeless conflicts. We face, today, either defeat or years of national tragedy."

Those are strong words—too strong, I am sure, for those TV commentators who juggle figures to persuade the public that America is already spending far more than necessary on national defense. I will be surprised if General Walt is invited to discuss his book and its dire warning on the popular TV talk shows. I will be surprised if our leading newspapers and magazines give it any serious attention, but not because it would be disquieting to the American people to hear such warnings. The media spokesmen are constantly telling us that they should not be blamed for conveying so much bad news to the public. They explain that if the news is bad, they have a sacred obligation to report it, and we should not conclude that they like it any more than we do. On that basis, of course, the media would not shrink from alerting the American public to the bad news that General Walt is bringing out in his forthcoming book.

My guess is that General Walt's warning will be largely ignored for the same reason that similar warnings voiced by other distinguished Americans have been ignored in recent years. The explanation lies in these words penned by David Broder of the *Washington Post:*

"Selectivity is the essence of all contemporary journalism. And selectivity implies criteria. Criteria depend on value judgments, which is a fancy word for opinions, preconceptions and prejudices."

It would be naive to suppose that the criteria for news selection employed by a TV commentator or a newspaper editor who believes that we are already spending far too much on defense would lead him to give prominent attention to the warning of General Walt.

That is why those of us who by chance are aware of such things must avail ourselves of opportunities to discuss them and to inform others. We must not permit our country to be immobilized and rendered defenseless by media manipulation.

Because of the credibility crisis, the average citizen is hard-pressed to know who and what is to be believed. I am prepared to admit that I am no expert on military matters. Perhaps experts such as General Walt who voice these disturbing warnings are wrong. But if we follow their advice and keep our defenses stronger than might really be necessary, what have we lost? Nothing more than a slight retardation in the expansion of what is the highest level of living the world has ever known. If, on the other hand, we follow the advice of those who say that a strong defense is not necessary and it develops that they are wrong, what will we lose? Our lives, our freedom, our country. I have no difficulty in choosing the side on which I would rather err.

I make no apology for appearing before you today to talk about matters that are not related to banking. We are Americans first and bankers second. When our country is in danger, we ask our sons to interrupt their studies and careers, to shoulder arms and give their lives if necessary to defend us. It behooves all of us who have passed that age and who have risen to positions of leadership in our communities and our profession to take whatever steps we can to insure that our country remains strong; that we not slip into war or—worse—into surrender from weakness.

The likelihood that the national news media will continue to ignore the warnings of experts in this field may create the impression that what I have said to you today is a minority view of doubtful validity. In my view, that would be a false impression, flowing from what Theodore H. White has described as the increasing concentration in fewer hands of the cultural pattern of the United States. Mr. White has said: "You can take a compass with a one-mile radius and put it down at the corner of 5th Avenue and 51st Street in Manhattan and you have control of 95 per cent of the entire opinion-and-influence making in the United States."

That explains, perhaps, why we get the monotonous sameness of opinion from our national news media, much of it very much at odds with the deeply held views of what I believe to be the great majority of American people. There is no acceptance of the idea that those encompassed by Mr. White's circle ought to reflect the views of the people. One of the most prominent TV commentators reacted to such a notion by saying:

"More responsive to the public. What are they talking about? . . . I'm not about to adjust the work I do according to the waves of popular feeling that may come over the country. No responsible person can do that."

That surely means that the voices of the people must more frequently be heard in contradiction of the waves of feeling that emanate from that tiny group of men in Manhattan that make up, according to Mr. White, 95 percent of the opinion-and-influence making in the United States.

Let no man be deterred. It has been said that it is easier to find a score of men wise enough to discover the truth than to find one man intrepid enough, in the face of opposition, to stand up for it. Perhaps that one takes his counsel from Daniel De Foe, who said: "He that has truth on his side is a fool, as well as a coward, if he is afraid to own it because of other men's opinions."

DISASTER AT BUFFALO CREEK

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, on February 26, 1972, a coal refuse retaining "dam" located on the property of the Buffalo Mining Co. failed and released millions of gallons of water and tons of refuse, resulting in some 150 persons dead or missing, and extensive property damage, including loss of homes and family possessions.

The Interior Department recently reported that the dam in question was constructed by the coal company to retain mine waste waters—often referred to as "blackwater"—which result from the daily mine operations. The State of West Virginia would not allow the company to discharge the water into nearby Buffalo Creek, because the mine water was polluted.

Instead of developing an effective treatment system, the coal operator sought the cheapest means of meeting the State requirement. The operator constructed a dam to retain the polluted water. But, as Interior found, this dam was not constructed to retain safely "large volumes of water over any lengthy period of time. Dams of the type that failed helped meet State water pollution control requirements, but their structural stability in terms of holding impounded water was deficient in several respects. In short, dam construction standards and controls should have been taken into account more fully in the design of the dam to meet clean water requirements."

But the Interior Department's report misses one important point—dams, whether well-constructed or not, are not an adequate substitute for treating mine waste water.

Even water impounded behind a well-constructed dam must regularly be released to avoid overflow or another disaster. If the polluted water is released without treatment, it will degrade our waterways.

Today, there are many so-called retaining dams in West Virginia and in other States which are used by coal operators to trap mine waste water. In West Virginia, the Governor has ordered the water released in many of them. But in time, if this situation is allowed to continue, these impoundments will refill again.

We must avoid this. Such dams are a hazard from both a safety and pollution control standpoint.

In a few days, there will come to the House floor H.R. 11896, as reported by the House Public Works Committee on March 11, 1972—the Federal Water Pollution Control Act Amendments of 1972.

That bill contains several fine provisions relating to the construction of waste treatment systems and water pollution control research. But it also is, in many respects, far weaker than the bill (S. 2770) which passed the Senate last November by a vote of 86 to 0.

I have joined our colleagues, Representatives DINGELL and REUSS and over 30 other colleagues in cosponsoring the "Clean Water Package of Amendments" which will bring H.R. 11896 closer to the stronger Senate bill.

At that time, I will also offer an amendment to provide that the Administrator of the Environmental Protection Agency publish, within 6 months after enactment, regulations for the effective treatment of mine water wastes that result from underground mining operations. Thus, for example, where an underground mine uses an impoundment to treat mine water wastes and regularly or occasionally discharges the water behind the impoundment, these regulations would establish guidelines for the treatment of those wastes by means other than impoundments. Where impoundments are permitted, the regulations will establish requirements for their construction and operation.

I urge my colleagues to join me in support of my amendment to H.R. 11896.

We cannot afford, in West Virginia or elsewhere, another tragedy like that which occurred at Buffalo Creek last month. We should not let the coal operators of this Nation establish, under the guise of complying with antipollution laws, unsafe conditions that threaten lives. These operators should be required to install effective treatment systems that insure safety to people and prevent pollution of our waterways.

The text of my amendment to H.R. 11896 as follows:

AMENDMENT TO TITLE III OF H.R. 11896, AS REPORTED

(Proposed by Mr. HECHLER of West Virginia)

Page 291, between lines 11 and 12, insert the following:

"(b) The Administrator, after consultation with appropriate Federal and States agencies and other interested persons, shall publish within six months after the date of enactment of this title (and from time to time thereafer) regulations for the effective treatment, including, where appropriate, the safe storage for treatment purposes of mine water wastes resulting from new or currently operating undergound mines. Effluent limitations for point sources established by this title shall, where applicable, be in accord with such regulations. Upon promulgation such regula-

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tions would be subject to the enforcement provisions of section 309(a) of this title."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. KYROS for Wednesday, March 23, 1972, on account of official business.

Mr. BARING (at the request of Mr. TIERNAN), for Thursday, March 23, through March 29, 1972, on account of official business.

Mr. HALPERN (at the request of Mr. GERALD R. FORD), for today, and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STEIGER of Wisconsin, for 60 minutes, on March 29, and to revise and extend his remarks and include extraneous matter.

Mr. SMITH of Iowa, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. ASPINALL, for 30 minutes, on March 28, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. LANDGREBE) to revise and extend their remarks and include extraneous material:)

Mr. HOGAN, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. BLACKBURN, for 10 minutes, today.

Mr. BURKE of Florida, for 15 minutes, today.

Mr. CRANE, for 5 minutes, today.

Mr. HEINZ, for 15 minutes, today.

(The following Members (at the request of Mr. CLAY) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Mr. REUSS, for 60 minutes, on March 23.

Mr. FULTON, for 5 minutes, today.

Mr. GRIFFIN, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDMONDSON and to include extraneous matter in three instances.

Mr. ROONEY of New York, and to include extraneous material.

All Members to have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the special orders given by the gentleman from Florida, Mr. GIBBONS, and the gentleman from Iowa, Mr. SMITH.

(The following Members (at the request of Mr. LANDGREBE) and to include extraneous matter):

Mr. BELL in two instances.

Mr. SPRINGER in two instances.

Mr. KEMP.

Mr. WHALEN.

Mr. SHRIVER in two instances.

Mr. WYMAN in two instances.

Mr. DERWINSKI in three instances.

Mr. ARCHER.

Mr. ASHBROOK in three instances.

Mr. MCKINNEY.

Mr. MCCLURE.

Mr. FRENZEL.

Mr. THOMSON of Wisconsin.

Mr. BRAY in two instances.

Mr. SCHWENGEL.

Mr. GOLDWATER in two instances.

Mr. PRICE of Texas.

Mrs. DWYER in three instances.

Mr. BROWN of Michigan.

Mr. HOSMER in two instances.

Mr. MINSHALL in two instances.

Mr. KEITH.

Mr. TERRY.

(The following Members (at the request of Mr. CLAY) and to include extraneous matter:)

Mr. BADILLO in three instances.

Mr. GONZALEZ in three instances.

Mr. HAGAN in five instances.

Mr. BIAGGI in 10 instances.

Mr. CARNEY.

Mr. ASPIN in 10 instances.

Mr. WOLFF.

Mr. DIGGS.

Mr. PICKLE in six instances.

Mr. ADDABBO.

Mr. STEPHENS.

Mr. HANNA in two instances.

Mr. WILLIAM D. FORD in two instances.

Mr. RARICK in three instances.

Mr. ANDERSON of California in two instances.

Mr. PURCELL.

Mr. BEGICH.

Mr. BRASCO in two instances.

Mr. GRAY in two instances.

Mr. BINGHAM in two instances.

Mr. KLUCZYNSKI in two instances.

Mr. FOUNTAIN in two instances.

Mr. GREEN of Pennsylvania in two instances.

Mr. DRINAN in two instances.

Mrs. MINK in three instances.

Mr. SYMINGTON in two instances.

Mr. GRIFFIN.

Mr. MONAGAN.

Mr. FAUNTROY in five instances.

Mr. MILLER of California in five instances.

Mr. RYAN in three instances.

Mr. ROY in two instances.

Mr. SCHEUER in four instances.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 764. An act to authorize the disposal of lead from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

S. 773. An act to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

S. 1379. An act to authorize the Secretary of Agriculture to establish a volunteers in the national forests program and for other purposes; to the Committee on Agriculture.

S. 3086. An act to authorize the disposal of nickel from the national stockpile; to the Committee on Armed Services.

S. Con. Res. 55. Concurrent resolution providing for the recognition of Bangladesh; to the Committee on Foreign Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

ADJOURNMENT

Mr. CLAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, March 23, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1765. A letter from the Director, Office of Management and Budget Executive Office of the President, transmitting a report that various appropriations listed therein have been apportioned on a basis which indicates a necessity for supplemental estimates of appropriations, in order to permit payment of pay increases, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1766. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report showing the total amount of assistance-related funds obligated in, for, or on behalf of Cambodia during the 6 months ended December 31, 1971, pursuant to section 655(f) of the Foreign Assistance Act of 1971; to the Committee on Foreign Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

1767. A letter from the Comptroller General of the United States, transmitting a report on improvement needed in manpower training at the Boston Skills Center under the program administered by the Department of Labor and the Department of Health, Education, and Welfare; to the Committee on Government Operations.

1768. A letter from the Comptroller General of the United States, transmitting a report on how the Department of Defense improved the use of cargo space on ammunition ships by better planning; to the Committee on Government Operations.

1769. A letter from the Comptroller General of the United States, transmitting a report that more effective use of program resources could be made by the Economic Development Administration of the Department of Commerce, to alleviate unemployment; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture. H.R. 9676. A bill to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee; with an amendment (Rept. No. 92-939). Referred to the Committee of the Whole House on the State of Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13591. A bill to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes (Rept. No. 92-940). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. S. 2713. An act to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released (Rept. No. 92-941). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 9135. A bill to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Garden (Rept. No. 92-942). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on the impact of Federal installations on Small Business (Rept. No. 92-943). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself, Mr. ABBITT, Mr. FISHER, Mr. GOODLING, Mr. STEIGER of Arizona, and Mr. WINN):

H.R. 13998. A bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law; to the Committee on Education and Labor.

By Mr. ASPIN (for himself and Mr. MCKINNEY):

H.R. 13999. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize design standards for schoolbuses, to require certain standards be established for schoolbuses, to require the investigation of certain schoolbus accidents, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BADILLO (for himself, Mr. ADDABBO, Mr. BINGHAM, Mr. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. DELLUMS, Mr. DOW, Mr. EDWARDS of California, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mrs. HICKS of Massachusetts, Mr. KASTENMEIER, Mr. KOCH, Mr. MIKVA, Mr. MOORHEAD, Mr. RANGEL, Mr. ROSENTHAL, Mr. RYAN, Mr. SEIBERLING, Mr. STOKES, and Mr. SYMINGTON):

H.R. 14000. A bill to establish comprehensive and developmental child care services in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself and Mr. PEYSER):

H.R. 14001. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGHAM (for himself and Mr. WALDIE):

H.R. 14002. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. BINGHAM (for himself and Mr. ANDERSON of Tennessee):

H.R. 14003. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the registration and licensing of food manufacturers and processors, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself and Mr. KOCH):

H.R. 14004. A bill to provide Federal citizen anticrime patrol assistance grant to residents' organizations; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H.R. 14005. A bill to authorize a Coast Guard appropriation for alteration of bridges over the navigable waters; to the Committee on Merchant Marine and Fisheries.

By Mr. CORMAN:

H.R. 14006. A bill to grant full credit for military service in the computation of railroad retirement annuites for disability in the case of persons also eligible for pension, compensation, or other benefits as a result of such service; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mr. GOLDWATER):

H.R. 14007. A bill to amend the Disaster Relief Act of 1970 to authorize cancellation of 25 percent of the principal of certain loans; to the Committee on Public Works.

By Mr. COUGHLIN:

H.R. 14008. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DENHOLM:

H.R. 14009. A bill to declare that certain federally owned land is held by the United States in trust for the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Indian Reservation in North and South Dakota; to the Committee on Interior and Insular Affairs.

H.R. 14010. A bill to amend section 130 of title 23 of the United States Code to provide for the illumination of certain railway-highway crossings; to the Committee on Public Works.

By Mr. DUNCAN:

H.R. 14011. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

H.R. 14012. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 14013. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 14014. A bill to amend the Federal Aviation Act of 1958 to prohibit the expenditure of Federal funds for certain airport development projects unless the Secretary of Transportation certifies that there has been afforded the opportunity for public hearings to consider the economic, social, and environmental effects of such development and its consistency with local planning, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FOLEY (for himself, Mr. LEGGETT, Mr. MCFALL, Mr. JOHNSON of California, Mr. MCCORMACK, and Mr. MOSS):

H.R. 14015. A bill to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended; to the Committee on Agriculture.

By Mr. GIAIMO (for himself and Mrs. GRASSO):

H.R. 14016. A bill to amend the public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 14017. A bill to amend title 18 of the United States Code to permit the mailing of lottery tickets and related matter, the broadcasting or televising of lottery information, and the transportation and advertising of lottery tickets in interstate commerce, but only where the lottery is conducted by a State agency; to the Committee on the Judiciary.

H.R. 14018. A bill to amend title 39 of the United States Code to exempt certain newspaper advertisements of lotteries which are legal under applicable State law, or sponsored by a State, from the list of nonmailable matter; to the Committee on Post Office and Civil Service.

By Mr. GROVER:

H.R. 14019. A bill to establish a contiguous fishery zone (to the outer limits of the Continental Shelf) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. GUDE:

H.R. 14020. A bill to establish the Potomac National River in the States of Maryland, Virginia, West Virginia, and the District of Columbia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER (for himself and Mr. RAILSBACK):

H.R. 14021. A bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees; to the Committee on the Judiciary.

By Mr. KOCH (for himself, Mr. ANDERSON of Tennessee, Mr. EILBERG, Mr. ASPIN, Mr. CÓRDOVA, Mr. DONOHUE, Mr. GALLAGHER, Mr. GREEN of Pennsylvania, Mr. HELSTOSKI, and Mr. RANGEL):

H.R. 14022. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. LENT:

H.R. 14023. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. MCFALL (for himself, Mr. PERKINS, Mr. MCDADE, and Mr. ZABLOCKI):

H.R. 14024. A bill to amend the Public Works and Economic Development Act of 1965 in order to increase the authorization of appropriations for the fiscal year ending June 30, 1973, for public works and development facilities grants, and to require that a larger percentage of such appropriations be expended in certain redevelopment areas; to the Committee on Public Works.

By Mr. MOLLOHAN:

H.R. 14025. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to provide protection from impoundments of water used in connection with the operation of coal mines; to the Committee on Education and Labor.

By Mr. PIKE:

H.R. 14026. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial see of the United States," approved October 14, 1966; to the Committee on Merchant Marine and Fisheries.

By Mr. RODINO:

H.R. 14027. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

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By Mr. SHIPLEY:

H.R. 14028. A bill to support the price of milk at 90 percent of the parity price for the period beginning April 1, 1972, and ending March 31, 1973; to the Committee on Agriculture.

By Mr. SKUBITZ (for himself, Mr. SAYLOR, Mr. UDALL, Mr. STEIGER of Arizona, Mr. LLOYD, and Mr. MCKAY):

H.R. 14029. A bill to authorize the Secretary of the Interior to transfer franchise fees received from certain concession operations at Glen Canyon Recreation Area, Ariz., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STAGGERS:

H.R. 14030. A bill to amend the Public Health Service Act to extend for 3 years the authorization for grants for communicable disease control and vaccination assistance; to the Committee on Interstate and Foreign Commerce.

H.R. 14031. A bill to provide increases in railroad retirement benefits comparable to those provided by the Social Security Amendments of 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself, Mr. CLEVELAND, Mr. COLLINS of Texas, Mr. DENNIS, Mr. GRIFFIN, Mr. MELCHER, and Mr. SCHMITZ):

H.R. 14032. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. VANIK:

H.R. 14033. A bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; to the Committee on Education and Labor.

By Mr. VANIK (for himself, Mr. ROSENTHAL, Mr. BADILLO, Mr. BIAGGI, Mr. CLARK, Mr. DELLUMS, Mr. EILBERG, Mr. FRASER, Mr. GIBBONS, Mr. HALPERN, Mr. HOSMER, Mr. KOCH, Mr. PODELL, Mr. RODINO, and Mr. CHARLES H. WILSON):

H.R. 14034. A bill to repeal the meat quota provisions of Public Law 88-482; to the Committee on Ways and Means.

By Mr. WHALEN (for himself, Mrs. DWYER, Mr. KYROS, Mr. KASTENMEIER, Mr. BURKE of Massachusetts, and Mr. HICKS of Washington):

H.R. 14035. A bill to authorize the President, through the temporary Vietnam Children's Care Agency, to enter into arrangements with the Government of South Vietnam to provide assistance in improving the welfare of children in South Vietnam and to facilitate the adoption of orphaned or abandoned Vietnamese children, particularly children of U.S. fathers; to the Committee on Foreign Affairs.

By Mr. BEGICH:

H.R. 14036. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

By Mr. DORN:

H.R. 14037. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of mica films; to the Committee on Ways and Means.

By Mr. GUDE (for himself, Mr. HOGAN, and Mr. BROYHILL of Virginia):

H.R. 14038. A bill to facilitate the resolution of medical malpractice suits in the District of Columbia; to the Committee on the District of Columbia.

By Mrs. HICKS of Massachusetts:

H.R. 14039. A bill to permit collective negotiation by professional retail pharmacists with third-party prepared prescription program administrators and sponsors; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. CEDERBERG, Mr. GERALD R. FORD, and Mr. PUPPE):

H.R. 14040. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. SCOTT:

H.R. 14041. A bill to provide a startup tax adjustment program for small business and for persons engaged in small business; to the Committee on Ways and Means.

By Mr. MANN:

H.J. Res. 1126. Joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972; to the Committee on the Judiciary.

By Mr. McDADE:

H. Con. Res. 570. Concurrent resolution: The Northern Ireland Resolution; to the Committee on Foreign Affairs.

By Mr. PERKINS (for himself, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. O'HARA, Mr. HAWKINS, Mr. WILLIAM D. FORD, Mrs. MINK, Mr. SCHEUER, Mr. MEEDS, Mr. GAYDOS, Mr. CLAY, Mrs. CHISHOLM, Mr. BIAGGI, Mrs. GRASSO, Mrs. HICKS of Massachusetts, Mr. MAZZOLI, Mr. BADILLO, and Mr. REID):

H. Res. 905. Resolution urging supplemental appropriations to implement the President's message of March 17, 1972, calling for equal educational opportunities; to the Committee on Education and Labor.

By Mr. BADILLO:

H. Res. 906. Resolution calling for an increase in appropriations for title I of the Elementary and Secondary Education Act; to the Committee on Education and Labor.

By Mr. THOMPSON of New Jersey:

H. Res. 907. Resolution providing funds for the expenses of the investigations and studies authorized by House Resolution 819; to the Committee on House Administration.

H. Res. 908. Resolution providing expenses for the Committee on Interstate and Foreign Commerce; to the Committee on House Administration.

H. Res. 909. Resolution to provide funds for the further expenses of the investigation and study authorized by House Resolution 20; to the Committee on House Administration.

H. Res. 910. Resolution providing for the expenses of the House Select Committee on Crime; to the Committee on House Administration.

H. Res. 911. Resolution to provide funds for the expenses of the investigations and studies authorized by rule XI(8) and House Resolution 304; to the Committee on House Administration.

H. Res. 912. Resolution to provide for the further expenses of the investigation and study authorized by House Resolution 201 for the Committee on Armed Services; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

342. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to the recent report of the Commission on Population Growth and the American Future, which was referred to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 14042. A bill for the relief of Jose Carlos Recalde Martorella; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 14043. A bill for the relief of Lt. Col. Horace Hill, U.S. Air Force Reserve (retired); to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 14044. A bill for the relief of Richard Burton, SFC, U.S. Army (retired); to the Committee on the Judiciary.

By Mr. PODELL:

H.R. 14045. A bill for the relief of Tino Cattabiani, his wife, Caterina Cattabiani, and their minor son, Pier Maria Cattabiani; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

203. The SPEAKER presented a petition of the City Council, Alexandria, Va., relative to placing the Liberty Bell on tour of the 50 States, which was referred to the Committee on Interior and Insular Affairs.

EXTENSIONS OF REMARKS

THE NEW OCCUPATIONAL SAFETY AND HEALTH ACT

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HUNGATE. Mr. Speaker, there is considerable interest in possible revision of the Occupational Safety and Health Act of 1970, and I thought this recent analysis in the "American Bar Association Journal" of March 1972 should be helpful:

THE NEW OCCUPATIONAL SAFETY AND HEALTH ACT

(By William B. Spann, Jr.)

After extensive committee hearings and floor debate, the Occupational Safety and Health Act of 1970 was passed by Congress in December of 1970 and signed into law by the President as Public Law 91-596. The effective date of the act was April 28, 1971. Standards were promulgated on May 29, effective August 27; thus, aggressive enforcement of the act began on that date. With several exceptions, the act applies to all employment throughout the states and possessions. It is expected that it will apply to more than 4.1 million businesses and 57 million employees.

Legislation of the application of this breadth deserves, indeed demands, the study and attention of lawyers, for there are few practitioners who will not have occasion to give advice that should take this act into account. Ignorance of the application and provisions of the act could be disastrous. The act has teeth; its penalties are severe; criminal sanctions are provided, including imprisonment if a death occurs; and no one would want to advise a calculated risk under the act.

THERE ARE THREE BASIC ELEMENTS OF THE ACT

The act contains three basic elements: (1) the issuance of occupational safety and health standards by the Department of Labor; (2) provisions for federal enforcement of these standards; with (3) effective and in some cases severe sanctions or penalties when violations occur. Its primary purpose as defined in Section 5 of the act is that each employer "shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm . . .".

The heart of the act insofar as the need for legal advice is concerned is Sections 8 through 13 and Section 17, which deal with inspections and investigations, the issuance of citations, procedures for enforcement, judicial review and penalties. In the various steps entailed in the issuance of citations and notices and the procedures for enforcement, arbitrary and rather short time limits are established: While it is too soon to have authoritative court interpretations of those limitations, we may assume that they will receive the same strict construction the courts have applied to other acts protecting employees. A company that wants to protect itself under the act must do so within the confines of the act or not at all.

ACT IS A VALID EXERCISE OF POLICE POWER

Under the present status of the law, the act will be upheld under the commerce clause as a valid exercise of the police power for the protection of the health and welfare of the public. While the enforcement proceedings appear to be somewhat harsh and almost summary in nature, they do afford due process. I would expect any contest over constitutionality to fail.

Section 8 deals with inspections, investigations and record keeping. It provides that an agent of the Secretary of Labor may enter, without delay and at reasonable times, any establishment, construction site or other area where work is performed. The agent is required to present appropriate credentials, to the owner, operator or agent in charge, but inspection cannot be avoided by hiding out or by being indefinitely out of the city. In the Congressional debates, it was suggested that if after a reasonable time no one shows up admitting to be the agent in charge, the inspector may regard any employee as the agent in charge for the purpose of presenting his credentials. No advance notice of inspection will be given, and, indeed, Section 17(f) of the act provides that any person giving advance notice without authority from the secretary or his designees may be punished by a fine of not more than $1,000 or imprisonment of not more than six months, or both.

EMPLOYER MUST KEEP ACCIDENT AND ILLNESS RECORDS

Section 8 also gives to the secretary subpoena power over a witness for the production of evidence enforceable in the United States district courts and requires certain accident and illness records to be kept by the employer.

During the inspection a representative of the employer and a representative authorized by the employees must be given an opportunity to accompany the inspector, and if there is no authorized employee representative, the inspector may consult with a reasonable number of employees. The inspector may also question privately any employer, owner, operator, agent or employee.

Inspection may also be requested by employees or employees' representatives by giving written notice to the secretary or his authorized representative of the claimed violation or danger. A copy of this notice is required to be provided to the employer at the time of inspection, but the names of those giving the notice may, upon their request, be eliminated. Upon receipt of this notice, the secretary must determine whether reasonable grounds exist to make a special inspection and, if he determines there are no reasonable grounds, he must advise the employees or their representative in writing of this determination. There are also procedures for employees to give written notice of alleged violations while an inspection is going on.

Section 9 deals with the issuance of citations. If, as a result of the inspection, the secretary's representative believes that an employer has violated the provisions of the act, he must issue with reasonable promptness a written citation setting forth the nature of the violation, including a reference to the provision of the act, standard, rule, regulation or order alleged to have been violated. In addition, this section fixes a reasonable time for abatement of the violation and provides that a notice in lieu of citation may be issued for *de minimis* violations. The report of the conference committee of Congress suggests that reasonable promptness for issuance is not more than seventy-two hours from the time the violation is detected (Conference Report 91-1765). It is required that the citation be posted prominently by the employer at or near each place of violation, and the failure to do so is subject to a civil penalty of $1,000 for each violation.

CITATIONS NOT CONTESTED ARE NOT SUBJECT TO REVIEW

Section 10 sets forth the procedure for enforcement. If a citation issues under Section 9(a), the secretary within a reasonable time after termination of the inspection or investigation must notify the employer by certified mail of the penalty, if any, proposed under Section 17, and the employer has only fifteen working days from receipt of the notice to notify the secretary that he intends to contest the citation or proposed assessment of penalty. Under Section 10 (c), any employee or representative of employees may within fifteen working days of the issuance of the citation contest the time allowed for the abatement of the citation as unreasonable. If the employer fails to give notice of an intention to contest within fifteen working days of the receipt of the notice of the penalty or the employees fail to give notice within fifteen days of the citation contesting the time allowed for abatement, "the citation and assessment as proposed shall be deemed the final order of the [Occupational Safety and Health Review] Commission [established by Section 12 of the act] and not subject to review by any court or agency".

If an employer contests a citation or penalty in good faith, the time permitted by the secretary for abatement does not begin to run until the entry of a final order by the commission. If the citation is not complied with within the period for correction allowed, the employer then is notified of the penalty for failure to comply, and he has fifteen days to contest this proposed penalty.

It should be made clear that there are two penalties. Upon the issuance of a citation, a penalty is involved and the penalty as proposed is enforced in some amount even though the violation is corrected within the time allowed. More about the nature of this penalty later. If the violation is not corrected within the time allowed, a second and more severe penalty is assessed. Under the act, the violation when cited incurs a penalty, the theory being that the employer himself should maintain safety standards without the necessity of an inspection.

In case of any contest, the secretary must immediately advise the commission, which consists of three members appointed by the President by and with the consent of the Senate. The commission affords the opportunity for a hearing, following which the commission, based on findings of fact, issues an order affirming, modifying or vacating the secretary's citation or proposed penalty or directing other appropriate relief. This order becomes final thirty days after its issuance. Rules of procedure before the review commission have been issued, but are too detailed and complex for explanation here.

PROVISION FOR JUDICIAL REVIEWS IS LIMITED

Judicial review is provided by Section 11 of the act for any person adversely affected or aggrieved by an order of the commission. The parties seeking review must file a petition in the United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, within sixty days following the issuance of the commission's order. The court has authority to grant temporary relief or a restraining order and has power to enter, upon the pleadings, testimony and proceeding in the record, a decree modifying, affirming or setting aside the order of the commission and enforcing it to the extent that the order is affirmed or modified.

The provision for judicial review is sharply limited. No objection which has not been urged before the commission can be considered by the court unless the failure or neglect to do so is excused because of extraordinary circumstances, and the act provides that the findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. This writes into the act the rule with regard to the findings of fact by the National Labor Relations Board of *Universal Camera v. National Labor Relations Board*, 340 U.S. 474 (1951). It is provided, moreover, that the commencement of the proceedings in the circuit court do not operate as a stay of the order of the commission unless the court expressly so orders.

It appears that the judicial review provided will furnish very little relief to employers from an order by the commission. Even if a party can establish the need for additional evidence before the court, the court must return the case to the commission to take this evidence and make it a part of the record, and the commission may then modify its own findings or make new findings. The substantial evidence rule would apply to any further review by the court after the additional hearing before the commission.

Section 11(b) gives a right to the secretary also to obtain review of a final order of the commission by filing in the circuit court and, if no petition for review is filed with a court of appeals within sixty days of the commission's order, the commission's findings of fact and order are conclusive in connection with any petition for enforcement filed after the expiration of the sixty-day period. When the secretary files with the circuit court for enforcement, the clerk of the court, unless otherwise ordered by the court, enters as a matter of routine a decree enforcing the order, thus permitting contempt proceedings before the court to implement enforcement. In these enforcement proceedings the court of appeals may assess all of the penalties provided in Section 17 of the act in addition to invoking any other remedies available to it.

WHEN EMPLOYEES CAN BRING AN ACTION

Section 11(c) provides protection against discharge or discrimination to any employee who files a complaint. Should an employee complain to the secretary of this action against him within thirty days of the alleged violation, and if the secretary determines

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that a violation has occurred, he may bring an action in a United States district court for all appropriate relief for the employees, including rehiring or reinstatement with back pay.

The commission's principal office is located in the District of Columbia, but it may hold hearings or conduct proceedings at any other place. The chairman of the commission is authorized to appoint hearing officers, and the report of the hearing officer becomes a final order of the commission within thirty days after he reports unless a member of the commission directs that the report be reviewed by the commission. Thus, there is no certain right of review of the hearing officer's findings by the commission and, under, the substantial evidence rule applicable to court review, the hearing officer's findings of fact frequently will be the ultimate findings.

Section 13 provides for a special procedure that gives the United States district courts jurisdiction on petition of the secretary to restrain any conditions or practices that are found to be such that a danger exists which could reasonably be expected to cause death or serious physical harm either immediately or before the danger can be eliminated through the routine enforcement procedures. The district court may, on the filing of this petition, grant a temporary restraining order immediately, but this can be effective for no longer than five days. A hearing must be set within that period if an ex parte restraining order is granted.

HOW EXISTENCE OF IMMINENT DANGER IS DETERMINED

Section 13(c) places determination in the individual inspector as to whether imminent danger exists. The inspector is required immediately to inform the affected employees and employers of the danger and that he is recommending to the secretary that relief be sought. Section 13(d) provides that if the secretary arbitrarily or capriciously fails to seek relief, any employee who may be injured by reason of this failure or the employee's representative may bring an action against the secretary for a writ of mandamus to compel him to seek such an order. Translating the language of the act to plain parlance, this means simply that if an inspector advises an employer that an imminent danger exists which may cause death or serious physical harm and that he is recommending that a temporary injunction be sought by the secretary, the secretary can be expected to act almost immediately to obtain a restraining order that would shut down the entire operation or that portion of it which threatens death or serious physical harm. This section has not been used yet, and it is anticipated that its use will be rare.

A recapitulation of the penalties in Section 17 is in order. Subsection (a) provides that any employer who willfully or repeatedly violates the act or any court rule or order promulgated or regulations prescribed, may be assessed a civil penalty of not more than $10,000 for each violation.

Subsection (b) provides that any employer who has received a citation for a serious violation shall be assessed a civil penalty of up to $1,000 for each violation, and Subsection (c) that if the employer is cited for a violation not deemed to be a serious violation, he may be assessed up to $1,000. The only difference between the serious and nonserious violation is the permissive nature of the penalty if it is regarded as nonserious. From this point on, the penalties become more severe, adding strong teeth to the act.

Subsection (d) provides that any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction, may be assessed a civil penalty of not more than $1,000 for each day during which the civil violation continues.

Subsection (e) states that an employer who commits a willful violation that causes death of an employee shall, upon conviction, be puished by a fine of not more than $10,000 or by imprisonment of not more than six months, or by both, and after the first conviction, the penalty is doubled, that is, a fine of not more than $20,000 or imprisonment of not more than one year, or both.

Subsection (g) provides for any person making any false statement, representation or certification in any document filed or required to be maintained under the act, upon conviction, a fine of not more than $10,000, imprisonment for not more than six months, or both.

Subsection (j) gives to the commission authority to assess the civil penalties. Recall that the secretary's office first proposes the civil penalties and, if they are not contested within fifteen days, they automatically become the order of the commission. If the matter is contested, then the commission would have authority to set the penalties within the limits stated.

This short review of the new Occupational Safety and Health Act should make it clear that all lawyers, not just those who regularly advise employers or labor organizations, should know the major provisions of this legislation and how it affects clients who will come for guidance. It is a major step on the part of the Federal Government into the national employment picture.

MERCY COLLEGE OF DETROIT

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRIFFITHS. Mr. Speaker, it is with pleasure that I place into the RECORD an article on the new president of Mercy College of Detroit, Sister Agnes Mary Mansour. Sister Agnes Mary not only is a Detroiter but a graduate of Mercy itself, which I am proud to say is a part of my 17th Congressional District. The sister's outstanding work as a teacher and scholar is recognized throughout the country and her new plans and projects for Mercy offer much promise to the Detroit community. The article written by Katherine Sudomier, which appeared in the Detroit News Sunday magazine, follows:

A QUIET NUN WANTS TO REVOLUTIONIZE HEALTH EDUCATION

(By Katherine Sudomier)

By the time dark-eyed Agnes Mary Mansour graduated from Mercy College of Detroit and had gone on to become a Sister of Mercy, she had some very distinct ideas about what was wrong in the training of hospital personnel.

Many were being "over-educated" for the jobs they were doing; some were attending college for four years for a position they could learn in a single year. The educational waste was discouraging to students and added to hospital costs of patients.

Today—with a doctorate in biochemistry, several years of college teaching experience and a year's fellowship in administration to boost her along—she is in a position to do something about it. She was inaugurated Friday as Mercy's president, but her plan already is in motion.

A five-year experiment underwritten by $445,000 in federal Health, Education and Welfare funds promises to revolutionize the preparation of students in the field of allied health sciences. The sum spread over five years was part of $2½ million given in 1971.

In short, Sister Agnes Mary's approach to education of students in associated medical fields provides education in at least two stages, allowing a student to get off at an early level with potential certification in his or her study area.

It is designed to reduce college dropouts and prepare needy students for a job sooner; lower medical costs may be an added bonus. Most of all, the concept may be workable in a whole variety of academic fields outside medicine, even engineering.

It has special attraction to the high school graduate who is not sure he wants to spend four years in college. Under the Mercy plan he can spend two or four years and leave at either stage with a specific job capability. Still the program is built into the context of a four-year liberal arts curriculum.

The basic concept of the program appears so simple that it seems amazing no one has done it before.

Since its announcement, Mercy has received a flood of applications from people of all ages anxious to participate in the program.

There is one hitch: In the program financed by HEW, Mercy necessarily must limit the number of students able to participate. Sister stresses that the HEW grant basically finances a test run of the concept.

The first year is being spent in gathering additional faculty and planning the curricula. The next four years will test its merit. So, at the moment, Mercy must encourage many applicants to enroll in other areas of study.

Because of its innovative nature, it immensely improves the job advancement prospects of health field technicians and professionals.

Sister believes for better health care, greater responsibility must be given to well prepared but lower ranked medical personnel, who are left dilly-dallying with test tube cleaners and low salaries.

Recognizing her capability, HEW this month named her as consultant in the development of allied health manpower in the department's special area which assesses the merits of health education programs seeking federal funds.

Mercy, perhaps best known until now as the alma mater of a recent Miss America (Pamela Ann Eldred), will try to alter the entire U.S. medical caste system with this new approach. What attracted HEW interest was the plan's basic belief that many people in medical fields are overtrained for the jobs they perform. Also, important allied health jobs could be filled more quickly.

Initially, Mercy's program will mean more graduates in the three fields included in the HEW-funded project—medical technology, medical record library science and dietetics. The college hopes to add others as the experiment proves itself.

Sister Agnes Mary's fondest hopes are tagged to her theory for the next stage: Graduates of two-year programs will do the more routine technical tasks now done by those with baccalaureate degrees. These latter professionals are expected to relieve doctors of many duties they now perform, allowing them more time to spend on greater medical problems.

Under current practice a medical technologist isn't allowed to release test results to patients, even though he makes and evaluates the test in many instances. More of the routine, semi-skilled jobs now being performed by over-qualified graduates will open up to undergraduates who are trying to pay their way through college.

Moreover, the upgrading of the lower-rank job will open job opportunities for those who want a skill they can learn quickly and cheaply.

"Better distribution of the health services is absolutely vital for better health care," Sister warns, adding that if professional groups don't help raise the status of these fields, the government might.

In Michigan there is one doctor for every 933 people, with an even higher ratio in rural areas. This compares favorably to South Carolina, with one physician for 1,341 residents, but unfavorably with New York, with one doctor for each 518 people.

"In one clinic I know of there is no difference between the job performed by the four-year graduate medical technologist and the two-year certified lab assistant, except the pay," says Sister.

Sister Agnes Mary admits she had great reservations about assuming the new job of president. "If Mercy is going to have a bad administrator, it may as well be someone who loves the college, too," she says, with unconvincing meekness, in her super-tidy office.

To understand what she gave up to be college president, you have to know what she had: She had a rare kind of partnership with her students, where college was not only fun but a shared learning experience, instead of an advise and consent forum.

Sister was a resident advisor in Manning Hall, the only girls' dormitory at Mercy. It is the only dorm, except for a small house which harbors a handful of Mercy's male students. Mercy went co-ed in 1964, now has 400 full and part-time male students.

Her room in Manning had snatches of poetry on wall posters. One poster read: "Life is Big."

"You always knew she would welcome you," says a senior student, "despite countless chemistry tests. And if you had a problem, she always came up with some kind of solution, at least something to grab onto."

When Sister joined the students for card games or sports, she gave her all. "She's fantastic at cards," says a student, "and she likes all sports . . . volleyball, baseball, touch football, horseshoes." In fact, Sister is a basketball coach for the college's women's team, a sideline she hopes to continue in spite of the multiple demands of her new office.

Most of Mercy's students are first generation college goers who commute, as did Sister Agnes Mary when she attended Mercy 20 years ago. They are from middle class families which have worked hard to afford college. (Over 60 percent receive some financial assistance.)

Mercy is a "practical" liberal arts college. You don't go there if your chief goal is to learn cocktail party chatter. That's another reason she thought so hard—and so successfully—about a stepladder approach to education: Some students simply couldn't last out a four-year course. They'd need to get off, and get jobs and, maybe, finish later.

"Most of our students come with a strong desire to serve," says Sister Agnes Mary. "They come asking: 'How can I best learn to give of myself.' It puts an obligation on us educators to foster this desire, to let it grow."

As Josephine ("Jo") Mansour she attended St. Charles Elementary and High School on Detroit's East Side. Her father worked for Murray Body Corp. and her mother came from the Mabarak real estate family. Her parents still live in the neighborhood around Townsend and St. Paul. "It's always a kiss on the cheek when you go there," says a friend of Sister's.

"Her mother and father say: 'How'd it go today, Jo?' And she says: 'Oh fine.' And that's all. They don't make anything big out of her job. But they are sweet folks, and so proud of her they beam all over."

Sister Agnes Mary says she felt the call to a religious vocation during high school and her undergrad years at Mercy, but: "I wouldn't admit it." After college graduation she admitted it and began to prepare to become a Sister of Mercy. She says: "I knew by then it was what I wanted for aure, and I've never been sorry. I had plenty of time to make up my mind."

Stymied as a med tech grad, Sister got her master's degree at Catholic University in Washington, D.C., returned to Mercy and taught chemistry, got her doctorate in biochemistry at Georgetown University in Washington, returned to be chairman of Mercy's Chemistry Department and then the Natural Science Department.

In 1970–71 school term Sister Agnes Mary was an American Council on Education administrative intern at the University of Kentucky in Lexington.

Mercy offers all its professional programs within a liberal arts context. Besides its interest in the health field, the college has special programs aimed at civic betterment. Among these are preprofessional social work and a law enforcement and protection program, coordinated by former Detroit Police Commissioner Johannes Spreen, and featuring present Commissioner John Nichols and his wife, Jean, as lecturers.

"I want the corner of Southfield and Outer Drive to be truly a college of Mercy," Sister says, reflecting on her own philosophy.

"We want to prepare students who are intellectually competent, deeply compassionate and committed to serve their God and their fellow man.

"We want to learn enough so it just all flows into their profession."

If all goes well, the training of medical personnel in the country may be vastly changed because of her.

THE TAIWAN CONCESSIONS: A RED CHINESE VICTORY?

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. SCHMITZ. Mr. Speaker, in times like these we need to recall the words of Patrick Henry on the eve of the American Revolution, in response to the appeasers of his day:

They cry Peace, peace! when there is no peace. Is life so dear, and peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God!

Fortunately there are still voices in our land that will not let us forget the reality of chains and slavery, the reality of a tyrant government's unending war against its own people, that lies behind all the talk of peace and understanding with the Red Chinese regime in Peking. Fortunately there are still voices that will not let us forget that our President, in his recent visit to Peking, took a very long step toward forcing the last 15 million free Chinese into subjection to these same Communist tyrants. Here are two of those voices—William F. Knowland's and Tom Anderson's. The editorial "The Taiwan Concessions: A Red Chinese Victory?" appeared in former Senator Knowland's newspaper, the Oakland Tribune, on February 29. The article "All-Time Murderer" was one of Tom Anderson's widely syndicated "Straight Talk" columns early this month.

The articles follow:

THE TAIWAN CONCESSIONS: A RED CHINESE VICTORY?

When President Nixon revealed last July he was going to Peking for a face-to-face summit with the leaders of Communist China, the question of Taiwan was generally acknowledged to be the starting point for any accord that might be reached.

At that time, we labeled the whole venture a "gamble where the odds are heavily against (the United States) from the start." Our concern for the integrity of this nation's solemn treaty obligation with the Taiwan government was shared by many diplomatic observers familiar with the powerful, conflicting forces churning about in the frothy geopolitical cauldron of Asia and the Far East.

Now that the President's epic journey to the heartland of Chinese communism has ended, the worst fears of last summer seem fully confirmed, and the "gamble" appears only to have paid off in terms of a signal diplomatic victory for Premier Chou En-lai and his Marxist government in Peking.

By failing to confirm in the joint communique with Chou the U.S. commitment to protect Taiwan against external attack, the President even seems to have gone far beyond the previously announced Nixon doctrine abdicating the U.S. role of a global anti-Communist force. Remaining aloof and neutral in another's dispute is one thing, ignoring a promise to protect a friend is quite another.

The United States now acknowledges Chou's long-standing claim that Taiwan is part of China, and the promise of eventual withdrawal of all U.S. troops from the island seems to portend the day when an armed invasion will be launched by Communists secure in their knowledge that there will be no U.S. response.

Chou promises to "liberate" the 15 million Chinese on Taiwan, but as the reporters who accompanied Mr. Nixon related, there are already precious few liberties under the Chinese Communists. All mainland Chinese life is so closely controlled that true freedom and true liberty, even approximating the American meaning, are simply not known and not permitted.

But all this Mr. Nixon has known for many years. Is the President now prepared to sacrifice the Nationalist government and the Taiwan people to a life of Marxist slavery in order to find an accommodation with Chou En-lai?

There were no counter-concessions by Chou or by Red party Chairman Mao Tse-tung, and until these Red leaders show evidence beyond mere words of a true intention to work towards Asian peace, then the President's virtual disavowal of a solemn American treaty obligation seems both unprofitable and potentially dangerous.

Indeed, the people of Taiwan may be excused for reacting with the same uncomfortable nervousness as did the people of Czechoslovakia after Britain's Prime Minister Neville Chamberlain returned from Munich with the proud announcement of his "peace in our time" deal with Chancellor Adolph Hitler of Nazi Germany.

ALL-TIME MURDERER

(By Tom Anderson)

Measured in terms of murders, Mao Tse-tung is the greatest criminal of all time. He has been responsible for the murder of an estimated 64 million people. Millions of them were his enemies. Other millions were merely unfortunate enough to be old, sickly, unable to work. Mao Tse-tung had them killed, like we would kill chickens or hogs, and then had their bodies ground up and spread on the land for fertilizer.

Our President is thus now planning a gigantic "Marshal Plan" for Red China. Since they have no gold, or even dollars, and virtually nothing to sell us, the President plans for us to give them billions of dollars worth of fertilizer and other goodies. Our government, of course, will pay our Big Business a good price for the food fertilizer, trucks, tires, farm equipment, computers, cars, elec-

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tronic equipment, etc., sent to Mao. Thus Big Business will have more profits and we can delay the coming financial crash. Also our Tycoons can be more generous in their donations to the Administration in the coming Presidentidal campaign. And, we might even have a favorable balance of trade once again. Most important of all, however, this gigantic aid to Mao Tse-tung will save his regime from toppling and enable them to defeat that old warlord Chiang Kai-shek and conquer Formosa.

These grants will also make Russia jealous and this will open the door for us so we can give them more billions of dollars in goods and equipment to make their brand of tyranny work too.

With China and Russia fat and happy and us bankrupt, we have thus postponed the anticipated conflict between them and assured ourselves that the only war between them will be the one they fight over our grave.

Have you wondered why you have not read any report or seen any TV news by the commentators who accompanied Nixon, which told you the truth about Mainland China? The answer is simple. No honest reporter was allowed to go.

The following truth from *Review of The NEWS* gives us the real story:

"Correction, Please!—Item: From an article in Reader's Digest for February 1972:

"Despite a flint-like quality of mind and body, Chou (En-lai) can be very human. Once he stopped at a rural commune to chat with some school-girls who were taking their turn at farm work. 'Did you cry when you first arrived here?' asked the Premier, noticing their muddy clothes. The answer was 'No.' But Chou continued, 'It would not have mattered if you did. It's only human to cry when you are not used to something.'

"Correction: One might as well depict Adolf Hilter as a lover of small animals; This maudlin effort by the *Digest* to portray a Communist cutthroat as a man of compassion is a betrayal of the trust of millions of its readers. And it is especially outrageous since the *Digest* has itself published numerous articles over the years about the horrible conditions which are the norm in Chou's China.

"The scholarly journal *Issues And Studies* for March of 1971 carries a review of a recent biography of Chou En-lai in which the reviewer states: "The author further points out Chou's genteel and elegant manner is in extreme contrast to his ruthless way of handling the Communist Party's secret service. The most shocking example known was the case of Ku Shun-chang's in 1931. . . . Ku Shun-chang, a top secret agent and captain of the assassination team under Chou's command, was arrested by, and then defected to, the (Nationalist) government in 1931. After defecting, Ku revealed important information. This led to a massacre of Ku's whole family, who were all buried alive on the instructions of Chou En-lai. In the official files of the French Concession in Shanghai, where the murder took place and was later disclosed, Chou remained a wanted murderer.' The *Reader's Digest* conveniently overlooks many such cases in its puff about Chou.

"Then there are the untold millions consigned to slave labor camps in Red China. Even the United Nations admitted in 1955 that 20 to 25 million Chinese were in 'regular' forced labor camps, and that an additional 12.5 million were in 'corrective' labor camps. By 1968, some 25 million Chinese had perished in those camps. And it is Chou En-lai who oversees the operations of those death camps—murder facilities to which the *Reader's Digest* applies the euphemism 'continuing disciplinary migrations'!

"In 1966, nearly 11 million Chinese youths were organized into what was called the Red Guard, gangs of Communist storm troopers that blanketed China with disruption, terror, and bloodshed for three years—all with the advice and consent of Chou En-lai. In *Peking's Red Guard*, a thoughtful book coauthored by Dr. S. C. Y. Pan and published by Twin Circle, we read that: "Lin Piao was acclaimed their commander, and Chou En-lai and Chu Teh became their advisors. With these men at their head, the Red Guards acquired prestige, and most important, the support and power which enabled them to do whatever they wanted in order to carry out the Great Proletarian Cultural Revolution."

"Ma Sitson, China's leading violinist, gave to *Life* magazine in 1967 an eyewitness account of Red Guard activity. The great violinist observed: "Elsewhere in the city (Peking) there were many terrible incidents during this period. Students at one high school actually beat to death every one of their teachers. The woman who lived next door to us in the west city was accused of having a radio transmitter and sending messages to Chiang Kai-shek. Red Guards pulled her from her house into the street and killed her. People spoke of heaps of unburied bodies rotting in the mortuaries."

"The *Digest's* slant in this article is also illustrated when it says: 'Now with President Nixon's spectacular policy reversal and the overwhelming U.N. vote, Mainland China's 750 million people are coming into their own.' This is madness! One might as well write that the people of Germany came into their own when Hitler was rounding up the Jews. Rather, the *Digest* should have reminded its readers of the following analysis by the Asian People's Anti-communist League: 'Let us always bear in mind that the Communist system is more cruel and inhumane than any in previous history. It is diametrically different from the traditional system which had been preserved through long ages.' The families of 64 million Chinese murdered by Chou En-lai and his Comrades will testify to that!

"There is a saying among refugees from Chou's China that the Yellow River is at flood tide, swollen with the tears of the Chinese people. Those are the tears *Reader's Digest* should be concerned about, instead of eulogizing the mass murderer with whom President Nixon is now breaking bread."—Copyright 1972, The American Way Features.

SHOPPING FOR AUTO INSURANCE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HUNGATE. Mr. Speaker, in these days of debate on no-fault insurance, it appears the insurance commissioner of the State of Pennsylvania has found a somewhat different approach to the citizens' problems regarding automobile insurance. The following article merits further study:

[From The Commercial Appeal, Memphis]

SHOPPING FOR AUTO INSURANCE

How do you pick an automobile insurance company?

Some do it simply by giving their business to a friend who happens to be an insurance agent. Some do it because they have seen a company's name in an advertisement. Some others do it by finding a company which is willing to write insurance to cover the applicant and his family, having found that other companies would not.

All that maybe changing, if what happened recently in Pennsylvania is extended throughout the nation.

That state's insurance commissioner, Herbert S. Denenberg, has issued what he says is the first "Shopper's Guide to Auto Insurance." Prepared by the Pennsylvania Insurance Department, this guide compares annual premiums in six different rating territories for the 12 largest automobile insurance writers who write approximately 50 per cent of the auto insurance business in Pennsylvania.

The guide reveals amazing variations in premiums for the same classification of policyholders. For example, a 19-year-old driver, for specific coverage, faces premiums in Philadelphia that vary from $1063 to $1716. And an adult driver in Bedford and Fulton counties of that state can find premiums that vary from $132 to $212 for the same coverage.

The publication has met strong resistance from the insurance companies, of course. The insurance commissioner admits his guide is "not to be used as the last word" in selecting an insurance company. He says the consumer should be aware other factors can enter into premium differences. These differences can include variations in policy coverage features, service of agents, financial strength of the companies.

To his critics, he offers the same advice he gave last year when there was strong criticism of a similar guide to Pennsylvania hospitals. It is: "If you don't like it, publish a better guide yourself."

It seems to be sound advice. Maybe insurance companies should be working on such guides of their own, with their own explanation of differences in premiums, now that the existence of such differences is coming out into the open.

A TAXATION WITH REPRESENTATION

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. SCHMITZ. Mr. Speaker, several weeks ago one of my constituents, Mrs. Harold Alderfer of Costa Mesa, Calif., wrote me a letter which expresses more vividly than any other I can recall receiving, just what the relentless "soaking" of the hard-working, productive middle and lower middle income taxpayer is doing to our country and our people. Mrs. Alderfer has no quarrel with me, as she now realizes, since I fully agree with what she says about taxations, welfare, and the courts, and have consistently voted against the increases in Government spending which require high taxes, and for limiting the power of the courts which has been so much abused. But it would appear that she does indeed have a quarrel with many other Members of the body, who I hope will consider how they might answer her if she were their constituent. Her indictment is directed toward the Congress of the United States as a whole.

The following letter is published with Mrs. Alderfer's written permission. In view of her sentiments expressed in it, I am especially proud that in her second letter giving me permission to insert this one in the RECORD, she tells me that:

In my 42 years, I have never felt so well represented by a Congressman."

The letter follows:

COSTA MESA, CALIF.,
February 4, 1972.

JOHN G. SCHMITZ,
U.S. Congressman, 1208 Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN SCHMITZ: This letter comes from an extremely worried mother of 3, who cannot seem to control the fate of our family any longer because of the high cost of living and taxes imposed on us by you lawmakers.

We have always tried to live within our $10,000 annual income. There are no luxuries such as vacations, new cars, new clothes, entertainment etc. All the money earned in the family is spent on food, house payments and taxes, the bare necessities.

We are in a critical state financially as we can no longer keep up with the inflationary costs of food, taxes etc. We have had to borrow on our life insurance to merely pay the taxes and we have no reserve. When we purchased our 9-year old home, it was what we thought we could afford. Within a year the valuation went up and our taxes followed and they keep going up each year.

Across the country people in the professions such as doctors, big industry and the like have received raises. My husband did not get a raise. The cost of postage, food and clothing keep going up. It makes me angry when I see how welfare costs have gone up. I'm not against helping people but I am against being taxed to feed hippies, transients and helpless individuals who don't even try to help themselves and complain about not getting enough help.

People like us who have gone along paying higher taxes supporting these people are finding ourselves getting into the same predicament—the tremendous difference being that we have tried for so many years to stay with a job, have done menial work just to pay taxes and foregone all luxuries because we need all the money earned to buy food for the family. If you lawmakers don't do something for people like us, believe me, there will be an uprising and it won't stop until something is done for people like us who are genuinely trying to make a go of living.

Another thing has become a laughing matter. What has happened to our court system? The criminals come out looking like angels and we the people and our law enforcement people are made to look like tyrants. What is happening to our country? We have Sirhan Sirhan, Angela Davis, Richard Spec and others, who are in jail or prison going almost free. The cost of holding their trials etc. keeps mounting and we are paying for that—but what is so maddening is that the people they murdered cannot speak for themselves and we seem to be helpless to do anything for the dead. Why has it become more glamorous to be a criminal type than one who supports the laws of the country?

So many things in this country need reform. America is becoming a sad country, it reminds me of what we fought for long ago—taxation without representation! Can't you representatives do something for us? We pay your salary. I love this country and don't like what is happening to it.

Is there anything you people can do to help this family? There must be many thousands like us who are at the breaking point as a family. Where can we go? What can we do? Is welfare the next step? You people who set the taxes are devouring this family. Does it make you feel good?

Sincerely,

MRS. HAROLD ALDERFER.

ASSISTANT SECRETARY FOR TOURISM, C. LANGHORNE WASHBURN, TESTIFIES BEFORE HOUSE SMALL BUSINESS SUBCOMMITTEE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HUNGATE. Mr. Speaker, as chairman of the Subcommittee on Environmental Problems Affecting Small Business, of the Select Committee on Small Business, which recently concluded the first part of a series of hearings on small business opportunities in outdoor recreation and tourism, I believe the hearings have produced some valuable information which will be of great benefit to the Congress.

I would particularly like to call attention to the testimony of the Assistant Secretary of Commerce for Tourism, Hon. C. Langhorne Washburn, who spoke about the efforts of the U.S. Travel Service in promoting tourism to this country from abroad.

Secretary Washburn is to be commended on the high quality of his statement and for his enthusiasm and cooperation in testifying before the subcommittee.

Because of the great interest of my colleagues and the American people in this subject, I am inserting Secretary Washburn's statement at this point in the RECORD:

STATEMENT OF C. LANGHORNE WASHBURN, ASSISTANT SECRETARY OF COMMERCE FOR TOURISM

Mr. Chairman and members of the Committee, I appreciate the opportunity to testify before you today.

I will begin by outlining the importance of international tourism and what it means to our economy, cite some specific characteristics of foreign travel in the United States, discuss briefly some of the programs of USTS and EDA designed to increase foreign tourism to the United States and improve the host facilities for both foreign and American tourists, and conclude with my thoughts on the role of small businesses in foreign tourism and recreation.

OVERVIEW

The international travel market is a multi-billion dollar foreign exchange earner representing the largest item of international world trade. Last year, world-wide international travelers took 181 million trips and spent an estimated $19.9 billion. The United States received 7.6% of the arrival market, hosting 13.8 million arrivals, and 14.6% of the dollar market, earning $2.9 billion. With respect to other host countries of the world, this Nation ranks first in terms of tourism receipts and fifth in terms of the volume of visitor arrivals.

To me, the importance of the entire market cannot be stressed enough. World-wide, this market grew 137% between 1960 and 1970 and is expected to continue to grow at an estimated 7% per year, reaching 280 million trips by 1980. Yet, in the last 10 years, the U.S. share of the total remained relatively constant. This country has merely been keeping pace with a growing market. The untapped VISIT USA potential is tremendous and expanding each year, as per capita incomes continue to rise throughout the world. It is currently estimated that some 82 million people of the world have the financial ability to travel to the United States. Further importance of this market can be seen in the following:

Each tourist from overseas countries equals an export item worth $400.

Each $20,000 spent by foreign tourists in the U.S. creates one job. Hence, last year, foreign tourist spending (excluding transportation) provided for 122,580 new jobs.

For every 100 people directly employed in the travel industry, 60 to 100 back-up jobs are created in related industries.

Dollars earned from tourists stay in the local area directly benefiting the residents and small business of the area.

It is factors such as these, in addition to the fact that the United States is behind other national governments in tourism promotion—currently, we rank 19th—that led President Nixon in his State of the Union Message to request "that the budget for the United States Travel Service be nearly doubled in the coming year."

In addition there are certain factors currently at work which we must capitalize on fully through increased promotion abroad. In 1972, such factors favoring increased foreign travel to the United States are (1) the recent U.S. dollar adjustment which makes it less expensive for foreign travelers in this country, and (2) the reduction of air fares across the North Atlantic. In 1976, the Bicentennial and Winter Olympics are expected to provide a great impetus for increased travel to this country. In fact, we are anticipating between 22 million and 25 million visitors in 1976, with receipts expected to total about $5 billion. I would like to make sure this forecast is reached, if not surpassed by (1) the proper and adequate promotion of this country abroad; and (2) developing the necessary tourist facilities to fully host these visitors.

SPECIFIC CHARACTERISTICS AND DIMENSIONS OF FOREIGN VISITORS TO THE UNITED STATES

Origin—Foreign visitors to the United States come from every corner of the globe but in the greatest numbers from Canada and Mexico, comprising 82% of all arrivals and 59% of all foreign exchange earnings. Visitors from overseas countries, while accounting for only 18% of the arrival market, represent 41% of our tourist dollar earnings. Looking more closely at the overseas market, Europe represents the most important area, accounting for 45% of all *overseas* arrivals.

Key European countries are the United Kingdom with 13% of the overseas market (325,555), followed by West Germany with 8.1% (203,010); France with 5.4% (133,604); Italy with 3.7% (93,421); and the Netherlands with 2.4% (58,748). The second most important geographic area is Asia/Oceania, accounting for 24.4% of all overseas arrivals, with Japan (311,066—12.5%) and Australia (70,860—2.8%) being the two dominant countries. The third key area is South and Central America, representing 17.1% of all overseas arrivals with the main tourist generating countries being Venezuela, Colombia, Brazil and Argentina.

Earnings—Our earnings from these visitors vary according to their country of origin. In terms of overall averages, excluding transportation, each overseas and Mexican visitor is equal to an export worth $400. When Canadian visitors are included, the figure is lower—$200. Thus, while Canadians comprise the majority of foreign visitor arrivals, their per capita expenditure in the United States is the lowest, equaling only $90. Consequently, considerably more Canadian visitors are needed to equal the per capita spending of the West German ($375), Mexican and Japanese ($500) or Venezuelan ($675) visitor.

Seasonality—Over 40% of our foreign visitors come to this country during the summer

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months of June, July, and August, while less than 20% arrive during the winter months of November, December, January and February. This seasonality is representative of all international travel, primarily brought about by employers encouraging their employees to take summer vacations, with entire companies in Europe being closed during July or August and by the summer vacations of school children. This problem has been receiving increased attention by the Organization for Economic Cooperation and Development (OECD) Tourism Committee which is presently investigating possible solutions.

Average Length of Stay—Length of stay, as per capita expenditure, similarly varies with the visitor's country of origin. The overall average for all overseas visitors is estimated at 15 days, with Europeans staying an average of 17 days; South Americans, 15 days; Japanese 10 days; Mexican visitors who travel outside the border area stay on the average of 10 days; and Canadians, 5 days.

WHERE DO THEY GO/WHAT DO THEY SEE?

Perhaps the one generality which could hold true is that foreign visitors are interested in *"seeing America"*—just as our citizens are interested in doing when they travel within this country. Our outdoor scenic attractions as well as the sights and sounds of our big cities, day or night, are appealing to the foreign visitor. To cite some specific examples, the American Frontier West with its Indians, mountains and deserts, are particularly popular with Europeans, chiefly among the West Germans. The warm, sunny areas of the United States, and sandy beaches are popular, notably among the British, Scandinavians, and Canadians. The Japanese are interested in seeing all that is possible in the time allotted—from beaches to big cities to industrial plants.

Shopping in our major cities is a popular activity, particularly among Latin Americans, as is visiting Disneyland or Disney World. In fact, large festivals or exhibits are generally popular with Latin Americans as exemplified (1) in the increase (up 50%) in Mexican visitors to this country during the period of the Hemisfair in Texas; and (2) the number of Mexicans visiting a USTS exhibit in Mexico City—over 1,000,000 in 3 months.

There appears, however, to be some discrepancy between what visitors would *like* to do and what they *actually* do. Generally, they stay within a small radius of the U.S. port at which they enter. For example, the majority of Mexicans visit only the states of California, Arizona, New Mexico and Texas. Europeans generally visit the Middle to Northeastern areas of the United States. Latin Americans see areas in the Southeastern United States, notably, Florida and Puerto Rico; while visitors from Asia primarily tour Guam, Hawaii and the West Coast of the United States.

Why is this so? Besides the usual degree of discrepancy between intentions and actions, it may be due to such facts as (1) an increase in travel costs to see places outside the major port of entry; (2) fear of not being able to communicate outside the major gateway cities; (3) less familiarity with the interior of the United States; and (4) the existence of few available organized tours, although more are offered now than 5 years ago.

It is in this area that I feel the small businessman has a definite role to play—in serving the foreign tourists' needs, particularly outside of the big cities. The trend currently, is toward more promotion of areas other than the already popular foreign tourist destinations auch as New York City and Northeastern U.S. Chicago is becoming increasingly popular as a gateway city for foreign visitors. Las Vegas, last year, became an official international port of entry. Airline advertising is beginning to feature travel to areas West of the Mississippi as well as to the East. All this actively represents an attempt to make America more accessible and attractive to the foreign visitor to better meet his needs and expectations.

USTS PROGRAMS

The programs of the United States Travel Service designed to promote and host foreign visitors can generally be classified under two broad headings: (1) stimulating demand; and (2) improving tourist plant facilities. Some of the specific programs are outlined below:

(1) Stimulating demand

Consumer advertising campaign costing over $2 million in Canada and Europe, reaching over 30 million people.

Distribution of over 6 million informational brochures (in German, French, Spanish, Italian and Japanese) featuring U.S. regions, gateway cities, historic sites, and national parks, in all of the major tourist generating countries.

Special "high visibility" VISIT USA exhibits in Canada, Mexico and Japan. Total visitor attendance was estimated at 3.5 million.

VISIT USA familiarization tours for 3,000 foreign tour operators and foreign travel writers to acquaint them with the attractions and tour offerings of the United States.

VISIT USA seminars with the U.S. travel sellers and foreign tour packages. The purpose of these seminars is to save the foreign tour operator the time and money of a trip to the U.S., and to encourage him to develop and sell moderately priced VISIT USA package tours for both groups and individuals.

(2) Improving tourist plant facilities

Hotel/motel language certification program

To date, 182 hotels and motels have multilingual staffs at their front desks, switchboards and restaurants, speaking Spanish, French, German or Japanese. The hotels are publicized abroad and display a USTS plaque indicating "Welcome" in the various languages.

Multilingual Port Reception Program

Multilingual student port receptionist corps are in operation in New York's Kennedy International Airport, Seattle/Tacoma and San Juan international airports. USTS conducts this program in cooperation with the local authorities. The Receptionists assist incoming foreign visitors in clearing Customs and Immigration and on making transportation connections.

Travel Phone USA

Travel Phone USA is nation-wide, multilingual, toll-free telephone interpreter service sponsored by USTS in cooperation with TraveLodge International. The visitor can dial the service from anywhere in the Continental United States (except Alaska) and obtain telephone interpreter assistance, or answers to his travel-related questions, in Spanish, French, German or Japanese. USTS explains the availability of this service in brochures distributed abroad. In addition, television clips produced by USIA on the Travel Phone USA have been seen by more than 360 million residents overseas.

Americans-At-Home is a USTS organized community-operated host plan for foreign visitors. 73 cities throughout the United States are participating from Syracuse, New York to Joplin, Missouri, to Tucson, Arizona. The program is designed to enable foreign visitors traveling without sponsorship to get to know Americans informally in their homes. USTS prints in nine languages and distributes abroad a folder giving details and telephone numbers of the community-sponsoring groups around the country.

In addition, in the area of tourist plant development, the National Tourism Resources Review Commission is currently studying the existing facilities and will make recommendations on the type of programs needed to meet the needs of all tourists—both foreign and domestic, to 1980.

Two other major USTS programs, I believe I should also mention are: (1) The International Convention Office; and (2) Matching Grants Program.

(1) *International Conventions Office* located in Paris, played a substantial role in winning 8 major international congresses for the United States last year, bringing the total to 26 congresses since its opening in 1969. Foreign attendance at these 8 new congresses is expected to equal 21,000 with spending in excess of $5.9 million. In addition, last year, a Washington-based USTS international conventions manager was appointed to provide domestic support to the Paris Office in the total effort to attract a larger share of the world's international congresses.

(2) *Matching Grants Program*—Last year, USTS launched its new matching grants program with regions, states, cities and public or private non-profit organizations, for the purpose of increasing promotion and improving domestic services for foreign visitors. USTS is allowed to fund up to 50% of the total cost of the project—available USTS funds equaled $550,000 last year. As of March 1, 17 grants have been made totaling $215,000; 3 have been for the production of films, 1 for a travel mission to Japan, 2 for convention bureaus for the installation of simultaneous language translation facilities and the remainder for joint advertising with USTS in Canada and Mexico.

In addition to USTS programs, many of those of the Economic Development Administration (EDA) involve tourism development. Since 1965 EDA has invested over $98 million for tourism and recreation projects to benefit lagging economies especially in rural areas of this Nation.

Some specific examples of this agency's programs include public works grants for state park development and tourism and recreation projects on Indian reservations. Grants and loans for state park development totaled approximately $20 million and included parks in the states of Alabama, Arkansas, Kentucky, Tennessee, Virginia and West Virginia, while grants and loans were provided to 25 Indian reservations in 15 states totaling $31.4 million.

In addition, EDA provides business loans and working capital guarantees and has funds available for feasibility studies and management and operational technical assistance to tourism and recreation related activities.

SMALL BUSINESS AND TOURISM

I believe that small business enterprises can play an important role in servicing the needs of foreign tourists in their particular areas by providing:

(1) The needed people-to-people contact, and

(2) The necessary tourist facilities, particularly in rural areas and smaller cities of the United States.

(1) People-to-people contact

Perhaps one of the best ways to see and learn about a foreign land is on a personal basis, a person-to-person contact. It has oftentimes been said that "It is the people that make the place." In fact, the Bahamian Ministry of Tourism was so concerned with the unfriendly image of its people that it launched a nation-wide "hospitality" campaign and began training all individuals servicing the tourist—from taxi driver to waiter to shopkeeper to hotel clerk, to be friendly, congenial hosts, representing the Bahamas as a Nation.

(2) Foreign tourist facilities

Small businesses have a most important part to play in servicing the foreign tourist—from the guest-house owner, the restaurateur specializing in home cooking, the talkative shopkeeper, to the local tour guide. Foreign visitors want to see this part of America as well as the big cities, the hotels, restaurants and large department stores.

Small businessmen can work with those communities who belong to the USTS Americans-At-Home Program. Each community could plan for the supply facilities it feels are warranted by the current and expected volume of foreign visitors to their area, and to the extent the community is desirous of developing tourism in their area. USTS can provide additional assistance with matching grants to the community, group of communities, city, state or entire region, for increased promotion or development of tourist facilities for foreign visitors.

While the program limits grants to nonprofit organizations, the small businessmen can work with the local recipient of the grant. Currently, USTS is helping to increase the flow of visitors to destinations outside of the major gateway cities by not only providing grants to Miami, Las Vegas, San Francisco, but also to New Orleans, Lincoln, Nebraska, and the Southern Highlands of North Carolina, Tennessee, Georgia and Virginia.

TOURISM AND THE ENVIRONMENT

I have stressed repeatedly to both industry and state travel leaders the need for the proper development of tourist attractions, preserving existing destinations, and nurturing and protecting the essential characteristics which attract tourists to an area. Something seems to happen when tour destinations are developed too rapidly and without proper planning. They seem to lose their appeal. They become spoiled. And tourists leave them and move on to new "in" spots.

I believe tourism is wholly compatible with environmental values. Indeed, development of the kinds of attractions which tourists appreciate will most often involve "showing off" the environmental values which this nation has to offer, so that it is in the interest of the tourism industry to protect this environment. Thus, tourist development can exist symbolically with the culture and heritage of the community when it is planned properly. I believe that the travel industry has recognized the challenge of proper environmental development. In fact, The Travel Research Association, an industry-government association, consisting of universities, advertising agencies, airlines, hotels and motels, and government tourist associations, devoted its most recent conference to "Tourism and the Environment."

The foregoing was intended to provide you with the broad overview of international travel to the United States, the programs designed to increase the flow of tourism to and within this country, and a role small businesses can play in this important and growing market.

Mr. Chairman, this concludes my formal statement. I shall be happy to respond to any questions you or the members of this Subcommittee may have.

Mr. Speaker, I was also pleased to have my good friend, Mr. Harold Koplar, chairman of the Missouri Tourism Commission and chairman of the St. Louis Tourist Association, testify before our subcommittee. He brought some valuable insights to our investigation of tourism, such as the growing trend of large companies to locate conventions in foreign countries because of cheaper cost for accommodations.

Mr. Koplar cited examples where large corporations arranged sales meetings in Portugal or other overseas locations. Sometimes they send as many as 4,000 of their employees to foreign tourist resorts as part of a tax-deductible sales meeting.

Mr. Koplar suggests that we reexamine our tax structure in regard to deductions for business conventions with a view toward encouraging greater domestic business travel. I feel this has merit and should be studied.

COOLEY'S ANEMIA RESEARCH DESPERATELY NEEDS FEDERAL FINANCIAL SUPPORT

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. GIAIMO. Mr. Speaker, the medical research community searching for the cause and cure of Cooley's anemia is large and growing, but desperately in need of Federal financial support.

Federal support would earmark Cooley's anemia as a particular priority for intra- and extra-mural programs of the National Institutes of Health, and continued support of the clinical research program of NIH will provide the subsidies to research facilities necessary to support study and service for patients with this and other mysterious but widespread diseases.

The high quality of existing medical research in this field—demonstrating the existence of a base of knowledge nearly ripe for practical application—has been shown in reviews of work on Cooley's nemi in the medical literature.

In 1966 and now in the March 16, 1972, issues of the New England Journal of Medicine, for example, review is made of research into the basic genetic and phycological causes of Cooley's anemia.

In 1964 and again in 1969 the New York Academy of Sciences and the Cooley's Anemia Blood and Research Foundation for Children jointly sponsored symposia on the problems of Cooley's anemia, resulting in the collection and publication of research papers totaling over 1,300 pages.

Much basic research has been done, therefore, with little or no Federal help. It is well known, however, that particular areas of medical research blossom when Federal direction and support are given. Researchers in basic areas are more able to direct their studies to practical ends, the clinical or applied part of medical research is enhanced within the institutions and organizations that conduct sophisticated medical research, results are more easily disseminated within the scientific community, avoiding duplicative work, and the work stimulated and supported by private foundations or general purpose research grants is brought to its fullest scientific and practical fruition.

Cooley's anemia is not unknown to medical research, Mr. Speaker, quite the opposite; but the practical help available to the physician or pediatrician who deals with Cooley's anemia is pitifully small. It is time to give national direction and support for this work, so that the patients and families affected by Cooley's anemia will benefit from the best our Nation's scientific and medical community has to offer.

THE SOVIET THREAT

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 21, 1972

Mr. THURMOND. Mr. President, the February 1972 issue of the Aiken, S.C., Chamber of Commerce "News and Views" contains therein a timely article entitled "A Lesson From History."

I found the article to be a particularly interesting analogy of our present international situation. The author warns against deluding ourselves into believing that simply because we desire peace, others in the world will not seek to destroy our way of life. Although we have long heard the idle boasts of the Soviets to defeat our system, we must take heed of their growing military strength and face the reality that peace may be better obtained through bargaining from a position of power.

Mr. President, I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LESSON FROM HISTORY

"The Soviets' present buildup of strategic forces, together with what we know about their development and test programs, raises serious questions about where they are headed and the potential threats we and our allies face. These questions must be faced soberly and realistically." President Richard M. Nixon, *U.S. Foreign Policy for the 1970's: A New Strategy for Peace*, Report to the Congress, February 18, 1970.

The President of the United States issued the above warning to the Congress almost two years ago. Since that time the circumstances which provoked the warning have become much more serious. Yet no action has been taken to counter the danger.

For nearly 25 years Marcus Porcius Cato ended all of his speeches in the Roman Senate with the solemn intonation: "Besides, I think that Carthage must be destroyed." By 151 B.C. he had won his point; Rome declared war on Carthage and a fleet set sail for Africa. But the Carthaginians, now peace-loving and unprepared for major war, sought desperately to avoid it. The Roman Senate promised their hastily dispatched envoys that Carthage would be spared if 300 children from the most prominent families would be given up as hostages. With great uneasiness and lamentation, this was done. Next, the Carthaginian ambassadors were summoned to hear the Roman demand that Carthage surrender her remaining ships and implements of war. This, too, was done. Finally, the Romans demanded the evacuation of the city so that it could be burned to the ground.

When the Carthaginians heard this final demand they realized they had been tricked. In one of history's greatest acts of perfidy. Wild with grief and anger, they tore limb from limb the leaders who had urged appeasement and frantically sought to rebuild their defenses. In two months, while the Romans massed their forces, they produced 8,000 shields, 18,000 swords, 30,000 spears, 60,000 catapult missiles and a new fleet of 120 ships. But it was too little and too

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late. Following a bitter siege of three years, the Roman armies broke through the walls and nearly the whole population of Carthage perished by the sword. The city was then razed to the ground and the soil was sown with salt. The destruction was as complete as might be the most devastating nuclear attack of today's world.

MODERN PARALLELS

Historical analogies are never exact, of course, but the lessons they teach about the attitudes of men and government are instructive. The America of today would do especially well to pay some attention to the sad story of Carthage. Because if we do not soon come to our senses we will be well on the way toward a rerun, with ourselves this time cast in the unfamiliar role of the victims.

Cato called for the destruction of Carthage because he saw that it was regaining its prosperity after its earlier defeat under the great Hannibal, who had invaded Italy and had very nearly conquered Rome itself. Cato believed that the world of his day could not accommodate two strong antagonistic powers, and that Carthage would again become a military threat to Rome if left unchecked. Therefore, he persuaded his countrymen to launch a preventive war.

In reality, the people of Carthage had no further imperial ambitions. They wished only to be left in peace to develop trade and commerce and pursue their "domestic priorities." They must have been well aware of Cato's exhortations and of the developing Roman attitude, but they did little to prepare for war, hoping thereby not to provoke the Romans. When the prospect of war nevertheless became immediate, they sought to avert it by the most abject appeasement, including submission to total disarmament. When this policy was unsuccessful they chose to fight rather than surrender but by then their resources were hopelessly inadequate to the task. The result was that they, as well as their city, perished forever.

For more than 25 years, since the U.S. and the U.S.S.R. became the two preeminent world powers, we have heard the Soviet equivalents of Cato proclaim the undying "conflict of social systems" in which they have sworn that their system will emerge as the victor. Desiring no conflict of any kind ourselves, and wishing only a live and let live arrangement with our adversaries, we have allowed ourselves to be comforted by Soviet assurances that war is not necessary to the triumph of their system. And we have been generally content to leave in slavery those who have fallen victim to their system in order not to appear "provocative."

At the same time, we have listened to our own philosophers assuring us that nuclear weapons have rendered war "unthinkable" because it is supposedly, "unwinnable." Thus bemused, we have watched, with apparent lack of official or popular concern, as the overwhelming military superiority which we once enjoyed over our enemies has ever more rapidly melted away. That superiority, with official blessing, has given way to what is now called "sufficiency."

Whether or not the Soviet Union is now operating upon some Hitlerian timetable leading up to an actual attack upon the United States, in order to remove us once and for all as a military rival, is debatable. Quite possibly no decision has yet been made that this is necessary—not yet.

What does seem certain beyond reasonable doubt is that a period of almost unimaginable danger, not a "generation of peace," lies ahead of this country. This stems from a combination of two factors. One is the political rot and erosion that is sweeping almost completely through what was once known as the "free world." The other is the rapidly accelerating momentum of the Soviet strategic military buildup.

A RUSSIAN AIRCRAFT CARRIER? THE IMPLICATIONS ARE OMINOUS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial from the Los Angeles Times:

[From the Los Angeles Times, Mar. 17, 1972]

A RUSSIAN AIRCRAFT CARRIER? THE IMPLICATIONS ARE OMINOUS

(By Robert S. Elegant)

MUNICH.—The Soviet Union is building a very large ship in its Black Sea shipyard at Nikolayev, which has during the past five years completed the helicopter assault-and-antisubmarine carriers Leningrad and Moskva.

The new ship poses both a riddle and a challenge. It might be simply a large tanker or passenger ship. It could be another helicopter carrier, though its estimated size of more than 30,000 tons would be unprecedentedly—and counter-productively—large for that function. But the chances are strong that the Russians are building their first conventional aircraft carrier, though intelligence cannot confirm that conclusion.

If the hull under construction is an aircraft carrier, its significance would exceed by far the metal, electronic gear, aircraft and highly trained air crews, whose cost will be at least $500 million and, perhaps, twice that figure. The United States, Britain and other Western powers would still deploy many times that number of carriers. But a Soviet carrier would, in the long run, affect the world balance of power.

Since the weight of the evidence indicates that the mysterious hull is an aircraft carrier, non-Soviet strategists must proceed on that assumption. Her construction would indicate, first, that the Soviet Union has taken the fundamental decision to alter its previous policy of relying upon shore-based aircraft to support naval activities and upon submarines for long-range operations. Building an aircraft carrier, even as a pilot model for more and bigger carriers, would mean that the Russians are preparing to back their bid for world influence with hardware—and much hard cash.

Above all, building a carrier would demonstrate that the Soviet Union has, however tentatively, reversed its previous ingrained objection to aircraft carriers as "bourgeois, imperialist weapons."

Once again Moscow would be reaching far outward for power. Perhaps First Secretary Leonid Breznhev of the Party would use a carrier as a bargaining counter in his long-term effort to win agreement on naval parity with the West. But even a single carrier is a fearsomely expensive chip in the international poker game—and admirals are notoriously reluctant to surrender advantages once gained.

Taken together with intensive Russian research into vertical and short take off and landing aircraft, a new carrier would pose a threat of Soviet expansion into areas where Moscow has previously been weak or even unable to deploy armed force. Moscow doesn't need carriers to maintain its influence in the Mediterranean, since it already possesses many air fields around the perimeter. Moscow does need carriers to operate effectively in the Atlantic and, above all, in Asia.

From the Indian Ocean to Australia to the Pacific, Russian carriers could temporarily or permanently, establish naval superiority over medium-sized or large areas. The consequent command of the sea could exert tremendous political influence.

The curious feature of command of the sea is that you either possess it or you don't. If you do, you needn't fight to dominate shipping and commerce in an area. If you don't, fighting won't do much good.

In Southeast Asia, the Kremlin wishes to contain Chinese influence which does not now assert itself through naval force and is unlikely to do so in the foreseeable future. Nonetheless, Russian naval power can exercise the strongest counter-influence throughout the area.

In the Far East, as also in Southeast Asia, the Russians could find themselves either working against or cooperating with Japan, which must, in the long run revert to naval power to assert new influence and to protect her lines of communication. The countries of the area, already deeply worried by Japanese commercial domination, are becoming vitally concerned about Japan's future military power. Russian naval expansion, sustained by new naval air power could either serve as a counterweight or be cast decisively onto the same side of the scales as Japanese power. In either case, Russian influence would increase enormously.

A carrier force could, thus, enable Moscow to retrieve certain present disadvantages in the world power struggle. The Kremlin could either "scale up" its carrier force in both size and numbers of "trade off" all or a portion for agreements with the non-Communist powers.

At the very least, the construction of a carrier force would enable the Kremlin to keep all its options wide open over a long period of time—albeit at a very high cost.

NATION TO CENTER ON PEVELY, MO.

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. ICHORD, Mr. Speaker, the population center of this country has always been located east of the Mississippi River. However, various research organizations now tell us that based on projected population growth during the 1970's the center of population in this Nation will creep across the Mississippi and be located close to Pevely, Mo., by 1980.

Mr. Speaker, Pevely, Mo., which is in Jefferson County, is in the congressional district which I serve at the present time. I call attention to this fact because this shift clearly points to the fact that Missouri and, especially, such counties as Jefferson are growing and thriving.

At this point, I would like to insert in the RECORD for the consideration of all the Members the Associated Press story on the shift of the center of the Nation to Pevely:

[From the Springfield (Mo.) Leader-Press, Feb. 11, 1972]

NATION TO CENTER ON PEVELY

KANSAS CITY—The nation's population center continues its movement west during the decade of the 1970s and will creep across the Mississippi River for the first time in 1980, a financial firm's research department said today.

Based on its estimates of the 1980 Census and patterns of growth, the research group predicted the nation's demographic center will be near Pevely, Mo., located about 25 miles south of St. Louis and six miles west of the Mississippi River.

Pevely is about 35 miles southwest of Mascoutah, Ill., the 1970 population center.

The projection was made by the research department of Waddell & Reed, Inc., a Kansas City-based national financial services complex.

"It is more than a mere titular honor for a place to be pinpointed as the population center of the country," said William A. Reasoner, the firm's president and chief executive officer.

"It is also an indication of the real growth potential for the surrounding area. Pevely, for example, is located in a region that is expected to grow significantly during the rest of this decade as St. Louis suburban development radiates outward," Reasoner said.

The nation's population center has moved westward steadily since the first census, conducted in 1790, placed the demographic center near Chestertown, Md., 23 miles east of Baltimore.

MODEST HERO SAVES CHILDREN'S LIVES

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. McKINNEY. Mr. Speaker, last week in Stamford, Conn., 33 families were left homeless, victims of a disastrous fire which swept their neighborhood. Out of this tragedy, a modest man emerged a hero. Had he not acted as he did, seven children might not be alive today. That man is Ray Mitchell who rescued the seven children from one of the burning buildings. He came away with his hair singed and, as the Stamford Advocate has noted, his modesty intact. Mr. Speaker, I believe that Mr. Mitchell deserves the commendation of the Members of this House. At this point in the RECORD, I would like to insert Advocate reporter Bob Masullo's account of Mr. Mitchell's heroics:

SEVEN SMALL CHILDREN OWE LIVES TO MODEST HERO

(By Bob Masullo)

Forty-nine-year-old Roy Mitchell came out of Monday night's West Side fire, which destroyed four black ghetto tenements, with his hair singed and his modesty intact.

Because of his actions, seven small children are alive today who otherwise might have died in the fire.

However, on Monday night at the Red Cross emergency room in the West Main St. Community Center, where he registered for aid along with other victims of the fire, he said nothing of his deeds, even when asked by a reporter for his account of the event.

An adult daughter, Miss Brenda Mitchell of 213 Selleck St., gave the following account Tuesday of what her father did at the fire:

"He was babysitting for seven children in the apartment of Mrs. Mozzel Person (apartment number six in 5 Roe Park Ave.). The children were in a bedroom and my father was sitting on the porch when the fire started.

"Two-year-old Brenda Williams came out on the porch all upset. She could not talk, but he knew something was wrong from the way she was acting.

"He went inside and the fire was all around. So he rounded up all the children and got them outside as fast as he could. (The apartment was on the ground floor).

"When he got outside one of the kids (Eugenia Person, 6) told him, 'The baby is still inside.'

"He ran back in, although the fire was already very bad, and got the baby (Germain Williams, 7 months) and brought her outside to safety. That's how he got his hair singed, when he ran back in."

Miss Mitchell identified the other children as James Hussel, 5; Reginald Person, 5; Kimley Robertson, 6, and Jacqueline Hussel, 2.

According to Miss Mitchell, the Williams children are grandchildren of Mr. Mitchell; the Robertson child is Mr. Mitchell's godchild; the Person children are the grandchildren of Mrs. Person, and the Hussel children are related to Mrs. Person.

ENVIRONMENTAL ZEAL HAS OUTRUN COMMONSENSE

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HOLIFIELD. Mr. Speaker, the people of California will be faced with an initiative measure on their June 6 primary ballot. The measure is proposition No. 9 and it is titled "The Clean Environment Act of 1972." This measure has been placed on the ballot by a group that have named their organization the People's Lobby.

Because of the attractive title "Clean Environment Act" people may confuse the contents of the bottle with its attractive label. I trust this will not occur and do not believe it will occur if the general public really understands the dangerous provisions in the act.

Proposition No. 9 is a perfect example of environmental zeal having outrun commonsense and reality. It cloaks the most harsh and unconstitutional provisions under a pious title.

Briefly, the proposition would close down all industrial and home sources of any air pollutant for at least half of each year. No one is permitted a hearing and no court may intervene—in other words, due process of law is denied.

The 20 million people of California are to be denied an adequate supply of electricity for a period of from 5 to 12 years through a moratorium on the construction of new pollution-free nuclear powered generating plants.

Most of the proven and effective insecticides, pesticides, and herbicides are to be outlawed in spite of the fact that known substitutes are more dangerous to man than those to be outlawed.

Most of what the proposition demands is impossible, the remainder is ridiculous.

I have said before and I restate again, "If this act passes, it would drive most of California's business out of the State or into bankruptcy." The people of California are literally being "propositioned" down a primrose path to economic ruin.

The people of California are being asked to vote upon a proposition which will have a lasting and drastic effect upon their own lives and the future of the State.

They are being asked to exchange their jobs, economic well-being, convenience, and some of their constitutional rights for the false hope that this measure will bring about a clean environment.

The people should not make this choice without fully undertsanding the contents of the initiative. It is doubtful that the 500,000 citizens who signed the petition to place this measure on the ballot had the slightest idea as to its real contents. And since the very long initiative will have to be explained on the ballot in very terse terms, the voters will not know of its contents on election day.

The Congress has enacted the Environmental Policy Act and created the Environmental Protection Agency to enforce that act. The Clean Air Acts of 1967 and 1970, along with clean water legislation which will soon be passed, are forward-looking laws which rightly take into account the technology and availability of economic support—taxes and profits—to support an antipollution effort. The California Legislature has, following many hours of hearings and debate, passed numerous antipollution laws. These laws are very strict but also take into consideration what is possible.

The initiative was apparently drafted without the benefit of legal or scientific expertise. Its terms do not reflect the sober deliberation found in laws enacted under the legislative process.

If there, in fact, was deliberation it appears to be aimed solely at the destruction of the industrial and agricultural base upon which 8,721,000 workers must depend for a livelihood. In 1971, more than 600,000 people were unemployed in California. More than 100,000 other persons had given up, and dropped out of the labor force. The employment picture will not be much better in 1972.

The imposition of this ill-conceived law will, without doubt, drive most of California's business and industry out of the State or into bankruptcy. Already financially depressed county and city governments will also be bankrupted. No tax revenues would be available to retain the services of many of the 1,137,000 State and local government employees.

Stated simply, the imposition of this law would result in the greatest depression California has ever experienced.

Further, the initiative would not halt pollution. It is aimed at the source of only 15 percent of total air pollution, and ignores the cause of 85 percent—the automobile.

Little is known about the leadership or membership of the organization which originated the initiative. Whoever they are, it must be said that they are insensitive to the basic needs of those in our State who must live on fixed and low or moderate incomes.

Perhaps the members of that organization can afford the extremely high prices of food grown on organic farms. Perhaps their resources will allow them to move and seek employment in an-

XUM

other State. And perhaps their standard of living needs no improvement. But this is not the happy lot of the many people who would bear the greatest burdens—the loss of jobs and higher prices.

No one will disagree that the problems of pollution abatement must be met head on and solved. However, we have a choice of methods. We can seek solutions within the realm of the "real world" where technology and the economy permit; or we can follow the approach of the so-called Clean Environment Act and strike out blindly.

Every thinking voter should reject the initiative and urge their elected and appointed officials to proceed with all possible speed on the course of reason.

I append to my remarks an excellent editorial printed in the Los Angeles Times on March 12, 1972, on this measure, proposition No. 9:

WRONG WAY TO CLEAN UP THE AIR

It's called the Clean Environment Act, a title of such respectability and promise that hundreds of thousands of Californians were glad to sign petitions to put it on the ballot. It will go to the voters next June 6, as Proposition 9.

It is being touted as a comprehensive assault on pollution. It is in fact a slapdash and deceptive measure which, if enacted, would probably increase air pollution, disrupt control procedures, and cost the people of California untold millions in unnecessary expenses and penalties.

Begin with air pollution. The thrust of Proposition 9 is to set highly technical and rigid standards for the sulfur content of diesel fuel and the lead content of gasoline. Now as it happens neither of these elements contributes in any significant way to photochemical smog, which is the main air pollution concern in Southern California. Both are pollutants, to be sure; what the proposed legislation disregards is the actual extent of pollution involved, the variations in the problem from area to area, and the costs to consumers of eliminating the contaminants.

Consider sulfur oxides, which definitely are not a good thing to have around. These come mainly from the burning of fossil fuels, like coal and oil, that contain sulfur. The primary sources are stationary sites—power plants and the like. Yet Proposition 9 would drastically reduce the sulfur content only of diesel fuel sold trucks, busses and cars.

The relevancy of the assault on sulfur in diesel fuel aside, there is the serious question of practicality. Refineries can be built to produce low-sulfur diesel fuel, but the oil industry says this would take at least two years and a huge capital investment. The oil industry, to be sure, is not the most objective source when it comes to questions of air pollution caused by fossil fuels. But the fact remains that enactment of this proposed law could threaten a major disruption of transportation in California and mean added costs for goods to all consumers. And for a purpose whose necessity is by no means evident.

Then there is leaded gasoline. Lead does have to be taken out of gasoline, chiefly so smog control devices can work properly. Proposition 9 says that after July 1, 1976 no more leaded gasoline could be sold in California. What it doesn't say is what will happen to the millions of pre-1971 cars that will still be on the road then which require leaded gasoline to run efficiently. It doesn't say what it would cost motorists to convert their older cars to run on lead-free gasoline, if converters were available. And it ignores the federal government's sensible timetable for phasing out leaded gasoline, an action that makes the proposed ban of doubtful legality.

Proposition 9 would make it unlawful to build nuclear power plants anywhere in the state for the next five years. Period. It takes no note of the state's constantly growing electricity energy needs, which include the need for power to help clean up the environment. What it does do is invite the further construction of fossil fuel power plants to help fill the energy gap that nuclear-generated power plants should be filling. That would mean putting into our air the contaminants that nuclear plants spare us, including those same sulfur oxides that the restriction on diesel fuel pretends to attack! It makes no sense at all.

The measure would also ban the letting of new leases or renewal of existing ones for oil or gas drilling along the coast, from three miles offshore to one mile inland. While we also oppose offshore oil exploration and drilling near the coastline, we can see no sound reason for extending the ban one mile inland.

The proposition provides for penalties for violations of any air pollution laws. The penalty is a fine of .4% of the gross income for the previous year for any person or company guilty of a violation. The penalty could be levied every day until the violation is corrected. As Norman Livermore, secretary of the State Resources Agency, has noted, this could apply even to a motorist "whose car smokes too much." We believe polluters should be penalized. But the sledgehammer, inflexible approach of Proposition 9 is not the way.

There is more in this initiative that is of doubtful utility, wisdom and legality. In the area of air pollution its provisions, if enacted, seriously threaten to add to our problems rather than to alleviate them. That one fact alone is sufficient to require the defeat of this proposal.

No doubt the motivation and chief appeal of this initiative has been frustration, the feeling that special interests have succeeded in inhibiting enactment or enforcement of necessary environmental protection laws, that local air pollution control boards have not been vigorous enough in cracking down on polluters, that there has not been a strong enough sense of urgency on the part of officials to environmental threats to public health. There is more than a little truth in this, as we have noted often before.

But bad law is not the solution, and that's what Proposition 9 would be. It would, if passed, trigger legal challenges and court fights that could go on for years, and worse, could lead in the meantime to a halt in further necessary steps to combat pollution. That wouldn't help the cause of environmental clean-up, and it wouldn't help the people of California. Proposition 9 should be defeated.

GOOD ADVICE FOR ALL AMERICANS

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. WYMAN. Mr. Speaker, once again the Warner and Swazey Co. in an advertisement appearing in the current issue of the U.S. News & World Report offers sound advice to all Americans. Essentially, the message is to try a little harder.

This is so true. If each of us would only put a little more effort into making the daily lives of someone else a little better, there is no telling what could happen. It just might become that better America to which we all aspire. The ad follows:

TRY SAYING "GOOD MORNING" AS THOUGH YOU REALLY MEANT IT

Then (tomorrow, say) try treating some teen-ager like an adult.

Find someone to praise for doing a good job—waitress, bus driver, newsboy, store clerk, anyone.

Show respect for an older person's experience (or fortitude).

Be patient with someone who doesn't understand as quickly as you do.

Write or phone someone having a difficult time. Say you know it's rough, but you have faith in him.

Look pleasant.

If you're white, go out of your way to be polite to a black man or woman; if you're black, to a white.

Do your job a little better. Maybe you'll get some praise, but certainly you'll get more satisfaction.

Help someone—a cripple across a street, a young man or woman looking for a job (whether you can give it or not, give him hope) or an older one, discouraged in his.

Contribute to some church or charity—money if you can, time if you can't.

It just could be that this sort of understanding is what this country needs right now. Try it tomorrow—all day tomorrow. You might be surprised!

PAUL C. ALLEN

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert in the RECORD the story of one of Michigan's outstanding labor leaders, Paul C. Allen. His efforts in the early days of union growth and his long-time service with Riggers and Machinery Erectors Local 575 stand as tribute to the men and women of America's labor movement. The story, which was printed in the program of a testimonial dinner recently given in his honor, follows for everyone to read:

PAUL C. ALLEN

Riggers and Machinery Erectors Local 575 is a small local union by most standards. It has less than 1,000 members and its jurisdiction covers only a very small part of the labor movement.

But, this local's members enjoy a high standard of living through the good wages and fringe benefits that have been negotiated for them by their union.

If you asked the members how this happens to be, you'd get the same answer from all of them. It's the same answer you'd get from the old-timer of the union scene, the so-called "pros" of the business of representing people. They all say:

"Paul C. Allen."

There is no doubt that Paul Allen has made all this possible.

Once a big burly man, rough and ready to fight for what he believed was right for the working man and coming up in an area when this was necessary, Paul was seen on many a picket line in the 30's when unions were making their greatest organizing efforts.

Born in Wabash, Ind., Oct. 8, 1915, the youngest of three children of Paul Allen and his wife Julie Bramble Allen, he watched his dad who was a railroad man and inherited his union-mindedness. Upon graduation from high school, he came to Michigan in 1927.

He joined and was initiated in Riggers Local 575 Nov. 1, 1937, which was then under the supervision of the International Union and in 1938 he was elected the first president of the union.

He negotiated the first collective bargaining agreement and has negotiated every contract since, having set a precedent for the Building and Construction Trades with the Riggers being the first union to include Health and Welfare benefits in their contracts.

In 1941 he was elected a Business Agent and for a time was General Organizer for the International Association of Bridge, Structural and Ornamental Iron Workers. He is now Business Manager of Local 575, having been re-elected to the post without opposition for 23 years. He has also served as President of the Iron Workers District Council of Michigan and Vicinity since 1960.

Local 575 is regarded as one of the most efficiently operated union organizations in America. The union has its own headquarters in Union Center, 14333 Livernois, modern complex which is a far cry from the one-room office on the third floor of a building on Erskine where the union started more than 35 years ago.

The building houses optical and dental care facilities, a doctor's office and a credit union—all provided without cost to the members. The union owns and makes beds available to members at the McNamara Hospital in Warren. It awards two scholarships annually. It has two recreation and retirement centers, a "Sunrise Village" at Marathon, Fla., and another at Leonard, Michigan and was even negotiating for a cemetery.

"We owe it to our members," said Paul, "to protect them on and off the job . . . from cradle to casket."

A supplemental pension plan, unequalled anywhere in the labor movement, has added a degree of financial security and dignity to the entire membership, young and old alike.

Those are the bare facts of the things that can be directly attributed to his leadership and foresight. Looking closer at Paul Allen, you see a very humane man who very rarely wears a tie and who more than likely will be puffing a cigar while he talks to you.

He is a dedicated family man with a wonderful wife, Ruth, and three sons and a daughter.

Believing strongly in the rights of the individual, Paul saw the grave injustice in the conviction of his friend, Jimmy Hoffa and he stood by, working diligently throughout the long fight for his release. And, Paul would do this for other friends.

He found out for himself that he had a multitude of friends when just a little over a year ago he lost his vision. When he regained his sight through what he termed "a miracle of God and medical science," he wrote in his column in HARD HAT, the local's widely-read newspaper, "I have learned a lot about my friends. I have discovered there are a lot of wonderful people. They probably have always been there, but I suppose I never really appreciated them. . . until now."

He paid particular tribute to his wife Ruth, who he married in 1952 and who he said, "above all others, was there at all times, reading to me the many, many pages of material that I have these many years as a union leader had to read and digest so that we could act in the best interests of the members."

And, much as he has done all along the way, he looked to the future, saying, "Now we can go on with our programs for the members. Believe me, the future looks brighter than ever . . . I can see it does!"

DRUG ABUSE: THE PEOPLE MUST ACT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. PRICE of Texas. Mr. Speaker, America does not have a drug problem. What we have is a people problem. Drugs have been around for centuries and have essentially changed very little. But what has changed is the climate, acceptability and hunger within large segments of our society for these kinds of products. Turning on with drugs has in the past decade become fashionable, in some circles even respectable, and for many an acceptable way of thumbing their noses at the government and society. We are, in fact, in the midst of a drug culture that is threatening the very future of our society if we do not act swiftly and forcefully to bring it under control.

We are constantly being told by some experts that drug abuse is a symptom of a sick society and that it is hardly surprising that people are seeking to escape through drugs from a world full of so many complicated problems. When I hear this kind of talk, I wonder how many young people will be persuaded by these words that they are predestined to become junkies and speed freaks. What the experts ought to be telling us is that the drug abuser is an individual with a basic character weakness. He cannot face up to stress and expects ready, instant answers; when the easy answers are not available he has to escape through artificial means. Drug abuse must be separated from the other problems of our society, not viewed as a symptom of those other problems. In the end it is really not that complicated—either you use drugs or you do not. What we need is to spend more time teaching our children how to deal with problems, not how to avoid or escape them.

There are also some people who would argue that every individual has the right to use his body as he chooses and that the drug abuser is not hurting anyone but himself. Frankly, I find this unacceptable. Everyone whose life is touched by the addict—his family, his friends—suffers because of his habit. And, of course the ultimate victim is society as a whole, which must shoulder the expense of his treatment, his lack of productivity, and the crime to which he eventually must turn to support his habit. The addict also contributes to the ongoing activities of organized crime, for it is this group which reaps the profits of his expensive habit. Furthermore, drug abuse is infectious; friends and associates are often the means through which drugs are introduced to still more people. The truth is that the drug abuser does not exist in isolation, and his actions are exacting a terrible toll on society.

But despite all the harm that drug abusers themselves cause, none of their offenses are as great as those of the pusher—the individual who makes a profit by exploiting the weakness of others. These men are vultures in our society, feeding on the curse of drug abuse. All of our law enforcement agencies must be mobilized to bear down on them and their activities; they deserve no mercy. I can think of no penalty too severe for those who deal in the narcotics traffic, for they are killers on the installment plan. We must be relentless in our effort to halt the traffic in illicit drugs and to severely punish those who make their livelihood from it. And not only must we deal severely with individuals involved in this illegal traffic, but we also must deal strictly with any nation—be it France, Thailand, or any other—which does not cooperate with our effort to halt the production and traffic in illicit narcotics. Strict economic and diplomatic sanctions must be applied against such nations.

Still another group of people who are causing a great deal of uproar these days are those who call for the legalization of marihuana or for the lifting of penalties for its use. We have been subjected to endless arguments as to whether marihuana is harmful and whether it is better or worse than alcohol, but no one has come up with any certain answers. The Commission on Marihuana will be reporting imminently, and I can only hope that we will not be hearing more unsubstantiated claims that marihuana is really not very harmful and therefore we ought to be more lenient regarding its use. The plain truth is that marihuana is a drug, and the warning signals that it may be harmful are numerous. The recent "Marihuana and Health" report issued by the National Institute of Mental Health pointed out that marihuana can provoke psychotic episodes in unstable individuals, impair driving ability, and may cause other serious effects about which little is known. Dr. William E. Bunney, Director of NIMH's Division of Narcotic Addiction and Drug Abuse, stated that the effect of heavy use of marihuana over long periods of time is "one of the biggest question marks." And Dr. Bertram S. Brown, Director of NIMH, commented that "the current state of scientific and medical evidence" does not justify making the use of marihuana legal. We certainly do not need another socially approved intoxicant, and the use of marihuana ought to be vigorously discouraged, at least until we have more knowledge concerning its effects.

One of the most important things I have learned from my vantage point as a Representative is that people spend far too much time talking about drug abuse instead of taking action to eradicate it. They talk about the drugs that are being abused, the bizarre effects that they have, and why people take them. Everyone is alarmed and shocked, but they just shake their heads, substitute talk for action, and sit back and depend on Congress to enact legislation. This is ridiculous. With drugs as with so many of the other problems which face us, we must have more than concern, more than rhetoric, and more than legislation; if we are to survive we must have action, and that ac-

tion must come from an alert and concerned American public which is determined to eradicate this curse from our land.

ST. PATRICK'S DAY PROGRAM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. BIAGGI. Mr. Speaker, when St. Patrick's Day comes around each year, every American becomes a "Friendly Son of Erin." We are all aware of the torments taking place today in northern Ireland. But beyond these troubles we should also take note of the genius of Irish culture and civilization to which America owes so much.

I feel especially privileged to bring to the attention of my colleagues the work of the Irish-American Cultural Institute, the premier international Irish organization and publishers of Eire-Ireland, the quarterly journal of Irish studies. The IACI is the first and only national and international organization in the United States devoted exclusively to promoting the culture of Ireland, past and present. It is not a social, fraternal, or a religious organization. It promotes no causes but the cause of Irish culture: the whole of national intellectual and cultural life. The IACI's board of directors and national council include members from across the United States and from Ireland. Honorary cochairmen of the institute are HSH Princess Grace of Monaco and Mr. I. A. O'Shaughnessy, St. Paul, Minn.

This week, Mr. Speaker, the IACI is presenting the Catholic University of America the Washington Irish Fortnight, a unique concentration in Irish culture. The program will run through March 27. Distinguished cultural leaders, scholars, musicians, and authors have been brought from Ireland for this cooperative international venture with prominent Americans.

The program consists of illustrated and regular lectures, performances, and demonstrations. An array of scholarly and creative talent focuses on various facets of Irish culture and civilization—art, music, archeology, literature, and history.

I would like to add that the undergraduate student government and the graduate student association of the Catholic University of America are cosponsoring the Washington area Irish Fortnight on behalf of Catholic University, in recognition of the university's long association with the promotion of Irish culture.

In 1896, a few years after the university's founding, an endowed Chair of Celtic was established. This has provided for perpetual research and teaching in Celtic at the Catholic University. For the more than 70 years since the Ancient Order of Hibernians endowed the Celtic Chair, many of America's foremost Irish scholars have worked in the university's division of Celtic studies. They have provided leadership for research in the intellectual and cultural world, and have brought home to the academic community and to the public the value and meaning of Irish civilization.

It should also be noted, Mr. Speaker, that the IACI is presenting the Irish Fortnight in St. Paul, Minn., and in Seton Hall University, Newark. In recognition of the extraordinary contributions which the institute is making to our culture the Senate of the State of New Jersey recently adopted a resolution commending its president, Dr. Eoin McKiernan.

Mr. Speaker, because I am so deeply appreciative of the institute's work and because I know that our colleagues will want to hear about the Irish Fortnight I include in my remarks the program of the Washington Irish Fortnight:

FRIDAY, MARCH 17

Maloney Hall—8:00 p.m.

Film Short: The Art of the Celtic High Cross.

Lecture: "Gods of the Gaels"; *Liam Gogan,* Formerly Deputy-Keeper of Irish Antiquities in the National Museum of Ireland (Dublin).

Chairman and Commentator: Louis J. Luzbetak, SVD, Ph.D., Executive Director of CARA

SATURDAY, MARCH 18

Maloney Hall—8:00 p.m.

Lecture: "What Makes An Irishman Laugh?"; *Tony Butler,* Critic for the Evening Press (Dublin).

Chairman and Commentator: Art Buchwald, Syndicated Columnist (The Washington Post).

SUNDAY, MARCH 19

Caldwell Hall—2:30 p.m.

Lecture: "The First Irish in Eighteenth Century America"; *Thomas Hanley, S.J., Ph.D.,* Editor of the Carroll papers for the Maryland Historical Society and the American Catholic Historical Association.

Chairman: Al. Philip Kane, Esq., Washington, D.C.

Caldwell Hall—4:00 p.m.

Lecture: "Feeling In Irish Poetry"; *Eoin McKiernan,* PhD., Litt.D., President, Irish American Cultural Institute.

Chairman: Rev. Gilbert Hartke, OP, Head, Department of Speech and Drama, Catholic University.

SUNDAY, MARCH 26

Caldwell Hall—2:30 p.m.

Lecture: "Anglo-Irish Sensibility—From the Eighteenth Century to Today"; *Alec Reid,* Irish author and interpreter of Beckett.

Chairwoman: Sr. Anne Francis Cavanaugh, RSM, Ph.D. Superior General, Sisters of Mercy of Eire.

Caldwell Hall—4:00 p.m.

Lecture: "An American-Irish Sensibility—The Art of Flannery O'Connor"; *Riley Hughes,* Founder and Director, Georgetown University Writers Conference.

Chairwoman and Commentator: Mrs. Eugene J. McCarthy, author; Vice-President, Church Women United.

MONDAY, MARCH 27

Caldwell Hall—8:00 p.m.

Film Short: Megalithic Monuments of Ireland.

Lecture: "Revelations from Irish Archaeology"; *M. J. O'Kelly,* Archaeologist, U. C. Cork.

Chairman: Courts Oulahan, Secretary-Treasurer, Society for the Preservation of Historic Ireland.

McMahon Hall—9:30 p.m.

Lecture and Demonstration: "Traditional Irish Pipe Tunes"; *Paddy Maloney,* Managing Director of Claddagh Records.

Chairwoman: Barbara Murphy, Coordinator Fortnight Music Committee.

FRIDAY, MARCH 24

Maloney Hall—8:00 p.m.

Lecture: "Irish Nationalism: The Impress of History"; *Donal Macartney,* Lecturer in Modern Irish History, University College, Dublin.

Chairman and Commentator: Carroll Quigley, Ph. D., Historian; author of Tragedy and Hope, A History of the World in Our Times.

Maloney Hall—9:30 p.m.

Lecture: "III. The Irish Character: The Welding of Cultures"; *Sean O Tuama.*

Chairman and Commentator: Riley Hughes, Ph.D., Founder and Director, Georgetown University Writers Conference.

SATURDAY, MARCH 25

Caldwell Hall—8:00 p.m.

Lecture: "Irish Nationalism: The Amalgam of Forces"; *Donal Macartney.*

Chairman and Commentator: James Kirwan (Counsellor), Press and Information, Embassy of Ireland.

MONDAY, MARCH 20

Caldwell Hall—8:00 p.m.

Performance: Irish Folk Music; Sung and played by Tomas O. Canainn Trio; (Matt Cranitch, Tom Barry), award-winning group in all-Ireland music festivals.

TUESDAY, MARCH 21

McMahon Hall—8:00 p.m.

Lecture: "Jack B. Yeats: Ireland's Foremost Emerging Painter?"; *James White,* Director, National Gallery of Art, Dublin.

Chairman: H. E. William Warnock, Ambassador of Ireland.

WEDNESDAY, MARCH 22

Caldwell Hall—8:00 p.m.

Lecture: "I. The Irish Character: The Historical Revelation"; *Sean O Tuama, Ph.D.,* Premier author and poet in Gaelic and in English.

Chairman: The Honorable, Mario Biaggi, M.C.

Caldwell Hall—9:30 p.m.

Lecture: "The State of Celtic Studies in America"; *Robert Meyer, Ph.D.,* Chairman, Celtic Department, Catholic University.

Chairman: Robert Lado, Ph.D., Director, Department of Languages and Linguistics, Georgetown University.

THURSDAY, MARCH 23

McMahon Hall—8:00 p.m.

Lecture: "II. The Irish Character: The Internal Contradictions"; *Sean O Tuama.*

Chairman: The Honorable, William Taft, former Ambassador to Ireland.

SPACE IS OUR NEW FRONTIER

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. FUQUA. Mr. Speaker, the outstanding gentleman from Texas, the Honorable OLIN E. TEAGUE, was recently quoted in the Wednesday, March 1, 1972, edition of the Eagle of Bryan-College Station, Tex. This editorial discussing the 10 years since the epical flight of John Glenn, the first American to orbit the earth, quotes "TIGER" TEAGUE on our national space effort. I could say little to improve upon either the editorial or my friend's and colleague's words. The editorial follows:

SPACE IS OUR NEW FRONTIER

Ten years ago, John Glenn stirred the hearts of Americans as he made this nation's first orbits of the earth. For almost five hours, Glenn held much of the world's attention as he overcame problems to complete his mission.

Now, an incredibly swift decade later, the Moon Era is drawing to a close. The ultimate goal of Glenn's flight was to put a man on the moon. Next December Apollo 17 will make America's last scheduled manned landing. Apollo 16 will touch down this spring.

Public attention remained riveted on successive space spectaculars which developed the men and hardware for the moon. When Neil Armstrong and Buzz Aldrin landed the Eagle of Apollo 11 on the moon in 1969, the world watched. Since then, interest and funding have fallen drastically.

In 1971, $3 billion was spent on space research and development. This represented a small fraction of our total federal expenditure. In the ten years since the space program was initiated, the program has contributed to opening new frontiers in technology and science.

But the broad questions that have been raised focus on the issue as to why we should be in space at all. With our massive domestic problems would we not have been better off waiting, until these problems had at least been gotten in hand.

In a recent interview, U.S. Rep. Olin Teague stated "...there was plenty to be done in Europe when Columbus first sailed. If Columbus had waited until Europe had no more internal problems, he would still be waiting."

And Teague could just as easily have added other names to the list—names which stand out in history as representing the finest efforts of man to open new frontiers. Those names would include Darwin, Marco Polo, Eric the Red, Dewey, Livingston, Rogers, Magellan, and ad infinitum. These names were grabbed at random. Some went in peace, some to conquer, some for trade, some with scientific problems to research.

These men in their time moved forward into new worlds—and those new worlds today are part of our everyday life.

It is fact that the only new worlds left today are out in space. And because man is both inquisitive and acquisitive, the urge to explore must be tempered by the need to maintain global balances. We can not forget that Russia is very much in space.

As Teague said..."only so long as the United States is a major space power will the FREE use of space be available to mankind. Space today is the high ground militarily. To abrogate the field to a potential enemy is to court disaster."

History teaches us that point very well.

UNEMPLOYMENT: THE TRUTH OF THE MATTER

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. ABZUG. Mr. Speaker, a recent article on the editorial page of the Washington Post is an extremely cogent articulation of the problem of unemployment among various groups in our economy—especially women. I am including the article in the RECORD for the edification of my colleagues:

UNEMPLOYMENT AS AN ISSUE IN THE ELECTION

(By Alice M. Rivlin)

One might have expected unemployment to be among the simplest and most comprehensible issues of the election campaign. A high unemployment rate means that the economic machinery is not functioning properly, right? That's bad for the incumbents, because they are in charge of keeping the machine running. What could be simpler than that?

But to no one's surprise the administration does not see it this way and has launched a multi-pronged verbal onslaught designed to diffuse the unemployment issue and make it a lot more complicated. The administration's argument reminds one of the old story about the man who returns a borrowed pot to the owner with the statement: I deny that it is broken; anyway, it is not my fault, because it was already broken when you gave it to me; and furthermore I've done everything I could to fix it. The administration's line on unemployment goes something like this: (1) unemployment is not as serious a problem as it might seem because many of the unemployed are women and young people; (2) anyway, unemployment is not our fault, because it was a necessary consequence of winding down the war; and (3) we are doing everything either we or the Democrats can think of to fix it up.

Administration spokesmen, of course, do not actually say that unemployment is not serious—on the contrary. "We recognize that unemployment is a serious problem," Council of Economic Advisers Chairman Herbert Stein told the Press Club last month. "At the same time," he continued, "it would be a travesty to call it a disaster or to compare the situation with the Great Depression. This is especially true when it is recognized that in 1971, 48 per cent of all unemployment was accounted for by people aged 16 to 24 and another 23 per cent by females 25 years of age and older." Without saying why, Dr. Stein left the clear implication that unemployment of women and young people is less serious than the unemployment of mature men. He also pointed out that a lot of young people are not in the labor force—as though that eased the plight of those that were—and that some of those counted as looking for work were also in school.

Dr. Stein is right, of course, that a higher proportion of the unemployed are women and young people than, say, a decade or two ago. This is partly because there are proportionately more women and young people in the labor force than there used to be, but it is mostly because unemployment rates for these groups have gone up relative to those of experienced men. Both phenomena—the increase in women and young people in the labor force and the relative rise in their unemployment rates—have been taking place gradually over the years. They are not features of the current recession.

The administration's apparent contention is that unemployment of women and young people does not cause as much pain and suffering as unemployment of mature males because other people do not depend on their incomes. But this is only partly true. Many women, especially black women, head families, and so do many men under 25. The 23-year-old married man with a new baby and no assets to fall back on may feel his unemployment more keenly than his father. There is also psychological damage. The young person who can't find work may end up pretty discouraged with himself and society. Even loss of a part-time job may be serious, if it means dropping out of school.

Wives tend to earn less than their husbands, but that does not mean that no one depends on their incomes. The black family which is finally making it because both husband and wife work may feel just as desperate about the payments on the house or the car when the wife is out of work as when the husband is.

In any case, the unemployment rate is not so much a measure of economic pain and suffering—the poverty rate is a more sensitive indicator of that—as a measure of the health of the economy. It is also probably a pretty accurate proxy for the way people *feel* about the economy, which is why it matters in elections. If jobs are hard to get, people know about it. They worry about their own jobs; they postpone the vacation or the addition on the house or the store. It may not matter much to their state of mind whether the particular person they heard was out of work was Sam's father, or Harry's wife or Aunt Sue's oldest boy.

The second argument—that unemployment is attributable to de-escalation of the war—is a recurrent theme in the President's speeches. "We all know why we have an unemployment problem," he told the Nation on August 15. "Two million workers have been released from the armed forces and defense plants because of our success in winding down the war in Vietnam. Putting those people back to work is one of the challenges of peace . . ." "It is obvious," he repeated in his last economic message, "that the unemployment problem has been intensified by the reduction of over two million defense-related jobs . . ." And in the State of the Union address, he pointed out again "that if the more than two million men released from the armed forces and defense-related industries were still in their wartime jobs then unemployment would be far lower."

These presidential assertions that peace causes unemployment—vaguely reminiscent of Marxist theories that a capitalist system needs imperialism to maintain prosperity—are not stressed in the Report of the President's Council of Economic Advisers for the simple reason that they are not very accurate economics.

The attribution of the unemployment to military cutbacks implies that defense expenditures create employment and that other government expenditures do not. But there is no basis for this. If the administration had fully offset drops in military spending with increases in civilian programs, the de-escalation need not have created any aggregate unemployment at all, although there would have been local difficulties arising from the fact that the defense and civilian employment might have been concentrated in different places.

In fact, however, prior to August 1971, the administration deliberately pursued a policy of *not* offsetting the military cutbacks fully with increases in civilian spending. They were consciously holding down total government spending in order to create slack in the economy and reduce the inflation. It was not an implausible policy, although the human costs were bound to be high. Many economists thought at the time that it would be worth creating some unemployment in order to lower the rate at which prices were rising.

However, the policy did not work. Unemployment rose all right, but the inflation stubbornly refused to subside. Finally, in August 1971, the administration abruptly changed its strategy, began fighting inflation directly with wage and price controls, and started to use the budget to stimulate rather than cool off the economy. In view of this history it would be far more accurate to attribute current unemployment to a well-intentioned but unsuccessful attempt to fight

inflation without price controls, than to attribute it to de-escalation of the war.

The third argument—we are doing everything anyone could do about unemployment—was strongly stated by Dr. Stein in his remarkable speech to the Press Club, "This administration has, I believe, the most powerful, comprehensive, coherent program for dealing with unemployment that any administration ever had . . . We are running the biggest budget deficit ever, except for World War II . . . We have the most comprehensive price-wage control system ever except during the Korean War and World War II . . . We have suspended the convertibility of the dollar . . . We are spending this year about $10 billion for manpower programs and unemployment compensation . . ." The message is: you Democrats have a lot of gall criticizing us; after all, we're playing your song and playing it louder than you ever played it yourselves.

This recital of Republican accomplishments boggles the mind—at least for a moment. If you had offered 100 to 1 odds a year ago that Stein would be standing before the Press Club crowing about deficit spending, devaluation, and comprehensive price controls you would have had no takers. If you had predicted that the Republicans would actually be exaggerating the size of their deficit you would have evoked the sympathetic half-smile that people reserve for harmless nuts.

But look carefully at that whopping $39 billion deficit now predicted for the fiscal year ending June 30, 1972. In the first place, most of that deficit is a result of the sluggish economy, not a response to it. Tax collections are below what they would have been at full employment and some kinds of expenditures (such as unemployment compensation) are higher. The full employment deficit, a much better measure of the stimulative effect of the federal budget on the economy, is much smaller ($8 billion, not $39 billion) and very recent. In the first half of this fiscal year the government actually ran a small full employment surplus.

Moreover, the full employment deficit in the second half of the fiscal year (January-June 1972) is at least partly accomplished by pushing expenditures that would normally have occurred later into the current six month period. For example, the administration has indulged in a bit of calendar reform—the most original budget idea since Julius Caesar?—and has at least temporarily abandoned the twelve month year. Thirteen months worth of public assistance payments will be made to the states in the current fiscal year, leaving only eleven payments for next year. This maneuver has the effect of making this year's deficit look bigger (and next year's look smaller), but it has no real economic effect. States are not going to get their money out to poor people any faster than they would have anyway. Some of the other devices used to enlarge the current deficit seem equally unlikely to have any real economic effect. As George Perry put it in testimony before the Joint Economic Committee recently, the current "deficit looks to be about 10 parts slack-induced . . . 1 part full-employment deficit, representing a noticeable but not excessive fiscal push on the economy; and 1 part hope, representing estimates of expenditures that may never materialize."

That the administration is finally using the budget to stimulate the economy is good news; whether they are pushing hard enough remains to be seen. One could certainly make a case for creating deficits in a more stimulating way—giving consumers a tax break rather than investors and spending more on programs that create jobs directly, such as public service employment.

In the end, of course, it may turn out that the unemployment issue is really very simple after all. The average voter is probably neither interested in nor influenced by the who-struck-John arguments of the economists. If he has the gut feeling—based on personal observation, unemployment rates, or whatever evidence comes to his notice—that the economy is moving forward he will vote for Mr. Nixon; and if he doesn't, he won't.

EDITORIAL DRIVEL ON CAPITAL PUNISHMENT

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. WYMAN. Mr. Speaker, today's Washington Post editorializing that somehow capital punishment is outmoded cruelty unbecoming a free state is more editorial drivel. Justifiable homicide has always included capital punishment, derived in part from the ancient "lex tallonis"—an eye for an eye and a tooth for a tooth.

Every person subject to the jurisdiction of American jurisprudence should know that if he or she willfully and deliberately with premeditated design, kills another human being, that they will forfeit their own life.

The sanctity of the lives of law-abiding citizens must be protected by the assurance of capital punishment in those relatively narrow range of situations in which innocent citizens are deliberately slain by willful criminals.

There can be no question but that the prospect of capital punishment is a deterrent to some people. How many murders it actually deters is impossible to determine—just as it is equally impossible to assert that the absence of the penalty of capital punishment results in a higher rate of first degree murder. In this era of rising crime, including such truly horrible, deliberate murder, as the Manson garroting of Sharon Tate, a helpless 8-months pregnant girl, or the methodical slaying of a dozen migrant farmworkers or the hiring of an assassin to slay for financial gain, society deserves and is entitled to the protection of the prospect of capital punishment. It also is entitled to firm, swift justice, not only in trial but in appellate review and in execution of sentence.

As for calling capital punishment cruelty—this is more editorial drivel. It is no more cruel than imprisonment for life plus 99 years—and a heck of a lot less expensive to boot.

An editorial follows:

KILLING IN MARYLAND

Del. Devin Doolan has introduced in the Maryland House of Representatives a modest, sensible and humane proposal for the substantial limitation of capital punishment as a factor in the state's criminal justice system. His bill would not totally abandon the death penalty as a punishment—a position dictated in our judgment by respect for the sanctity of human life and by a recognition that the state can best foster such respect by its own observance of it. Nevertheless, it would take a significant stride forward. It would do away with execution except for persons found guilty of the killing of a law-enforcement officer during the commission of another felony, murder committed by someone inside a penal institution or premeditated killing by someone previously twice convicted of that crime.

The adoption of this measure would put Maryland among those states and territories which have recognized that the death penalty is inconsonant with contemporary standards of civilization. Eleven have abolished it outright; five more have narrowly limited its application, as in Mr. Doolan's proposal, to a few extremely serious crimes. The country as a whole has manifested its repugnance for killing its convicts by almost completely avoiding that gruesome punishment in recent years. In 1935, capital punishment was a commonplace in the United States; 199 human beings were put to death officially in that year. In 1967, there were just two executions; and there have been none at all since then. Leadership in the deliberate abandonment of this outmoded cruelty would be becoming to the Free State.

COMPRENSIVE TAX REFORM

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. ASHLEY. Mr. Speaker, today I am joining Senator GAYLORD NELSON in sponsoring a comprehensive tax reform bill designed to make the Federal tax system more equitable and to generate more revenue.

Sometimes is very wrong with a system in which people earning $50,000 a year pay no more in taxes than persons earning $5,000. We must restore the integrity of our most progressive tax—the Federal income tax—by closing the loopholes which permit the rich to frequently pay less than the poor and some of the very rich to pay nothing at all.

The measure I am introducing today would not only make our tax system fairer, it would provide some of the revenue necessary to enable the Federal Government to develop a national health care system, reduce the burden on property taxes as a basis of educational funds, rebuild our cities, provide increased employment opportunities, and clean up our environment.

Some of the major provisions of the bill, which would produce $15 billion or revenue in 1973, are as follows:

First, substitute a $150 tax credit for the $750 personal exemption. At present a personal exemption is worth $525 to the top bracket taxpayer and only $107 to the taxpayer in the lowest bracket. This change would reduce taxes for approximately 30 million taxpayers with income below $10,000, while still returning an additional $1.9 billion a year to the Federal Treasury.

Second, tax capital gains at death. Under our present system, if a taxpayer bought $3 million worth of stock in 1958 and sold it today for $10 million, he would have to pay a capital gains tax on the $7 million increase in value. But if he holds the stock and passes it on to his heirs through his will, neither he nor his heirs will ever have to pay tax on the amount of the increased value of the stock while he held it. By taxing the $7 million as a capital gain at death, the bill would eliminate an unjustifiable loophole and raise $3 billion a year.

Third, place a 15 percent ceiling on all mineral depletion allowances. In 1966, the top 20 American oil companies made $4¾ billion in profits, yet they paid Federal income taxes at the rate of only 8½ percent. At the same time, the Treasury estimates that the cost of the average well was recovered 19 times. While the oil depletion allowance was reduced from 27½ percent to 22 percent by the Tax Reform Act of 1969, there is still no valid reason for not reducing it further. A reduction to 15 percent would save $400 million a year.

Fourth, repeal the asset depreciation range (ADR) system of accelerated depreciation for business property. This scheme to allow rapid writeoffs was written into the Revenue Act of 1971 to encourage businesses to invest in new plant and equipment. But with business currently using only 74 percent of the plant and equipment it already has—and the 7 percent investment tax credit of the 1971 act also designed to encourage such investment—the ADR provision is likely to have little impact on investment. On the other hand, its repeal would bring in $2.4 billion in 1972 and $3 billion annually thereafter.

Fifth, broaden the application of the minimum tax. The minimum tax provision which was included in the 1969 Tax Reform Act has reduced the number of persons with reported incomes in excess of $200,000 who pay no Federal income tax from over 300 to 112. By making more items subject to the minimum tax and by increasing the tax rates from a flat 10 percent to 50 percent of the regular income tax rates, we could eliminate the gross inequity of the very rich paying little or no taxes and at the same time raise an additional $3 billion.

Overall, a comprehensive tax reform bill such as I have proposed would make our tax system far more progressive and equitable and would also yield the revenue necessary to provide the social services we want, without diminishing job creation or exploration for important minerals, the major ostensible justifications for these tax breaks.

LABOR MOVES AGAINST TAX LOOPHOLES

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. WALDIE. Mr. Speaker, the efforts by the American labor movement to bring about a dramatic closing of present tax loopholes should be commended by every taxpaying American.

Legislation being considered by the Congress to achieve such tax reform should have highest priority during this session.

Clearly, Mr. Speaker, the will of the people is for enactment of these reforms and I would like to state at this time my unequivocable support for these efforts.

Mr. Speaker, the County Employee, official publication of the Los Angeles County Employees Association, recently published an excellent report on this matter entitled "Labor Moves Against Tax Loopholes."

I would urge all my colleagues to read this informative article.

The article follows:

LABOR MOVES AGAINST TAX LOOPHOLES

Demanding drastic and immediate tax reform, AFL–CIO leaders have blamed the Democratic-controlled Congress, as well as President Nixon, for shifting billions of dollars in taxes from big business to the working man and plunging the U.S. into its worst debt deficit in history.

Wealthy corporations and their stockholders have been relieved of their fair share of the Federal tax burden, according to the AFL–CIO Executive Council, and "the great majority of Americans whose living standards depend on a job and a paycheck will be called upon to make up the balance."

AFL–CIO Chief Economist Nathaniel Goldfinger said the national debt under Mr. Nixon has risen to historic heights, and the AFL–CIO is supporting Chairman Wilbur D. Mills of the House Ways & Means Committee in his efforts to force the Nixon Administration into tax reforms.

Mills, the powerful Democratic Congressman from Arkansas, called on President Nixon to submit proposals by March 15 for closing the glaring loopholes in the Federal income tax structure. However, Budget Director George Shultz said he was not optimistic, when asked to evaluate chances for plugging tax loopholes.

HUMPHREY BLASTS $18 BILLION TAX GAP

On another front, Sen. Hubert H. Humphrey called for comprehensive changes in the Federal tax structure to close gaping loopholes that result in an annual tax loss of $18 billion.

Humphrey called the Federal tax structure "rigged in favor of the wealthy few at the expense of the many—rigged in favor of unearned income, rigged against you—the working man." He said America has become "a nation that is privately rich, but publicly poor.

"The top two percent in income earn 22 percent of all income, but pay less than 10 percent of the total tax bill," the 1968 Presidential nominee said, adding that the Treasury Dept. admits more than 100 Americans making over $200,000 a year paid no income tax at all.

Pointing out that one-fourth of the population earning $8,000 to $14,000 must shoulder 36 percent of the total tax bill, Humphrey declared:

"The time has come for tax justice for the American working family. The time has come for a tax system that says to the super rich, to the banker growing wealthy on sky-high interest rates, that you must carry your fair share of the load," Humphrey said, adding:

TAX BREAK OF $9 BILLION FOR BIG BUSINESS

"Our tax system is full of inequities—breaks for the wealthy and special interests, and loopholes. The reason your tax bill is too high is that the bill for the favored few is too low. One large oil company earns more than $2.8 billion a year but pays less than 11 percent of its income in taxes, while a worker with a wife and two children earning $8,000 a year pays about the same rate.

"Is it fair that big business got a $9 billion tax break in the Revenue Act of 1971? I say no—no more fast write-offs and no more phony loopholes.

"Is it fair that 10 percent of our people can take advantage of all kinds of tax dodges and tax shelters to avoid paying taxes? I say no. The American public is through subsidizing generations of wealth.

"The Treasury Department has become the blocking back for big business, and the little man has no one running interference for him in Washington."

INSURANCE FIRMS PAY ZERO TAXES

Meanwhile back in Sacramento, spokesmen for "Project Loophole" charged that legislation aimed at reducing insurance company tax breaks has turned into a "quarter-million dollar investment bonanza."

"Voters were hoodwinded" said a spokesman for the group formed by State Sen. Mervyn M. Dymally (D-Los Angeles) to probe State tax inequities.

As a result, according to "Project Loophole," twelve insurance firms based in California paid No State taxes at all in 1970.

The Project Loophole figures have been confirmed by the State Board of Equalization.

In a related development, State Sen. David A. Roberti (D-Los Angeles) reintroduced legislation to eliminate the insurance company tax loophole. But similar efforts have failed—most recently during the 1971 legislative session—due allegedly to the influence of the powerful insurance lobby in Sacramento.

QUIET TRAGEDY OF RURAL AMERICA

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DENT. Mr. Speaker, in a recent issue of New Priorities, I read an article which underscores the growing concern many of us have about the decline of family farms and resultant migration of rural Americans to our already overcrowded, blighted urban areas. Mr. Samuel Bougher, the author of this compelling study, accurately identifies the culprits of this unfortunate trend. I think my colleagues will find this article not only enlightening, but worthy of a reconsideration of our national priorities. Also, I think it relates directly to a provision in H.R. 7130—the minimum wage bill reported by the Committee on Education and Labor—with respect to the coverage of conglomerate enterprises.

I insert the following article in the RECORD at this point.

THE QUIET TRAGEDY OF RURAL AMERICA

(By Samuel Bougher)

THE PROBLEM

While the nation's attention was focused on the plight of its cities, and metropolitan Americans rested comfortably with their Jeffersonian notions of the family farmer satisfying his physical and spiritual needs from the soil, major forces have been at work transforming rural America into a network of corporate fiefdoms. We are now on the verge of closing American farming—and with it large parts of rural America—to all except the giant conglomerate.

America's number one industry is food—not defense hardware, not transportation, not electronics. In 1970, the American grocery bill came to $91 *billion*. Add in the restaurant tab, and the total food bill for that year was $114 billion. The federal government spends more than $5 billion a year in direct agricultural outlays and loses millions more because of agricultural tax loopholes.

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Yet little public attention has been directed to the drastic change in character of landholding patterns in America, or to the government policies—a patchwork of contradiction, counterproductivity and confusion—that have encouraged that change.

What has been happening to American agriculture since World War II? The total number of farms has been declining rapidly, while the average size of farms has been increasing. In 1945, there were about six million farms averaging 167 acres each. In 1971, there are less than three million farms, averaging 389 acres. Half as many farms, averaging twice as large in 25 years. In short, farmland has not been retired, it simply has been concentrated in fewer hands. USDA officials estimate that within the next two decades, 500,000 large-scale corporate farms will do the work of today's three million enterprises.

The truest picture of what has been happening in rural America can be seen by examining who is selling how much. In March of 1970, 56.5 percent of America's farmers accounted for less than eight percent of all farm sales, while 13 percent, the largest of all farms, wound up with two-thirds of all U.S. farm sales.

Meanwhile, 70,000 family farmers each year have been forced to give up farming—as a profession and a way of life—and leave rural America, eventually taking with them the non-farming rural service people who have lost their markets. While the American city has become almost unbearably overcrowded, large areas of America have become rural ghosttowns, snapshot negatives of the urban ghetto. Eighty percent of the people in the United States now live on ten percent of its land.

Who are the farmers left behind, the operations that buy out their departing brethren and grow larger and larger? What are the names on the mailboxes in rural America today? The American family farmer is being replaced by the vertically integrated "total food system." Today's American family is named H. J. Heinz Company, Coca Cola Corporation, Stokely Van Camp, Campbell Soup, Ocean Spray Cranberries, Prudential Insurance Company, Ralston-Purina, General Foods, Green Giant, Dow Chemical, Penn Central, Union Carbide, Goodyear Tire, Tenneco, etc. Those who originally sold to the farmer, or purchased from the farmer, have become the farmer.

The family farmer has not been the only victim of the new corporate land grab. Agribusiness has consistently exploited farm workers. To the industry, these field laborers are a necessary evil, wanted when it is time to hoe a field or harvest a crop, but definitely not wanted once the task is done. Farm workers are perceived as just another cost of production, not human beings. More attention is devoted to the tomatoes than to the people who pick them.

Farm workers are almost exclusively an agri-business problem. Small farmers—those grossing less than $5,000—paid only 5.2 percent of the farm wage bill in 1954. Eighty-eight percent of all farm wages were paid by the largest 13 percent of all farms. But the wages they paid are among the lowest in the country. Even farm workers who are able to obtain year-round employment—less than 12 percent of the total—earn less than $3,500 a year.

The condition of America's farm workers and their families is no secret. Farm worker families today still live in stifling shelters without heat, plumbing, privacy or hope for human happiness.

It is not the inevitable workings of history that made agri-business dominant and farm workers subservient in rural America; rather it has been the carefully managed impact of government policies. Farm workers are not the ones that have shaped these policies, nor have the great mass of small and medium size farmers been the ones to make the choices; the policies are the product of agribusiness and their powerful spokesmen in Washington. Just as farming has become concentrated in fewer and more powerful hands, so has the rural political power.

THE CONFERENCE

There are a number of important issues that could be discussed at a conference on the plight of rural America, including:

1. The relationship between the urban problem and the rural problem. A million people have been leaving rural America each year. Attempting to solve the urban problem without a recognition that the disease of the city was contracted in rural America is like trying to bail out a boat with a hole in the bottom.

2. Are we in danger of forever losing the rural alternative as a way of life? Are we destined to become a thoroughly urban nation, with rural America simply a factory for our food and fiber? Is the process reversible? How?

3. What has been the role of government in promoting this transformation in rural America? Who runs the Department of Agriculture for whom? How do our tax laws encourage corporate farming to the detriment of the family farmer? Are government farm subsidies responsible for creating the agriculture of bigness?

4. Why have we made no progress in eliminating rural poverty since the President's Commission on Rural Poverty poignantly documented the extent of the problem in 1967? Why aren't farm workers thoroughly covered by social security unemployment insurance, workmen's compensation, minimum wage laws, child labor standards, and legislation permitting collective bargaining?

5. Where do we want to go in rural America? Who decides? Should the powerful control? Are the present directions our manifest destiny?

6. *Solutions.* Should the federal government initiate a policy of *land reform in America*, buying land back from the largest farms and selling it to farm workers and other low income families at liberal credit terms? Should the federal government use its procurement power to help reverse the flow from rural America? Should agricultural subsidies be pegged to income rather than production? Should farm workers come fully within the social legislation of the past three decades?

CLEAN WATER PACKAGE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DINGELL. Mr. Speaker, under date of March 17, 1972, a group of 36 Members of the House sent their colleagues a letter urging support of the clean water package of amendments to the pending water pollution control legislation—H.R. 11896. I include the text of the letter and the names of the cosigners at this point in the CONGRESSIONAL RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 17, 1972.

DEAR COLLEAGUE: In a few days the House will take up the bill (H.R. 11896) called the Federal Water Pollution Control Act Amendments of 1972. The Clean Water Package of Amendments will be offered to strengthen the bill in line with the stronger Senate-passed bill (S. 2770).

The Clean Water Package of Amendments will:

Establish that, by 1981, without further action by Congress, polluters must use the best available technology, taking into account the costs, to clean up the wastes they pour into our waterways;

Provide more national control over State programs of discharge permits, in order to prevent economic hardship and interstate competition for industries, communities, and workers and to insure that the water quality objectives of the bill are achieved;

Strike from the bill provisions that give polluters who violate this bill or the Refuse Act a total immunity until 1976 from enforcement actions, merely because they file an application for a permit;

Provide that the rights of citizens to sue polluters and the Environmental Protection Agency, which this bill would gravely restrict, should be no less than the rights which Congress established in the Clean Air Act and which the House adopted on February 29, 1972, in the Noise Control bill (H.R. 11021);

Prevent the weakening of the National Environmental Policy Act of 1969 and the Fish and Wildlife Coordination Act;

Provide criminal sanctions against polluters who willfully violate an EPA order to abate their pollution; and

Provide adequate worker job protection.

The Clean Water Package is supported by a broad-base group of environmental, civic, labor, farmer and other groups, such as: Amalgamated Clothing Workers of America; Bass Anglers Sportsman Society; Clean Air, Clean Water, Unlimited; Common Cause; Environmental Action; Environmental Policy Center; Friends of the Earth; Izaak Walton League of America; League of Women Voters of the U.S.; Minnesota Conservation Foundation; Minn. Environ. Control Citizens Assoc.; Minn. Public Interest Research Group; National Consumers League; National Farmers Union; National Wildlife Federation; Northern Environmental Council; Oil, Chem., and Atomic Workers Intern. Union; Save Lake Superior Association; Sierra Club; Sport Fishing Institute; Trout Unlimited; United Automobile Workers; United Steelworkers of America; The Wilderness Society.

We urge that you support adoption of the Clean Water Package which will be printed in the Congressional Record of March 20, 1972.

Sincerely,

Henry S. Reuss, Thomas M. Pelly, John E. Moss, Lucien N. Nedzi, Dante B. Fascell, Floyd V. Hicks, David R. Obey, William D. Ford, Bella S. Abzug, Paul N. McCloskey, Jr., Martha W. Griffiths.

Philip E. Ruppe, James G. O'Hara, Ken Hechler, H. John Heinz, III, Benjamin S. Rosenthal, Robert O. Tiernan, Robert W. Kastenmeier, John D. Dingell, John P. Saylor, Thaddeus J. Dulski.

Gilbert Gude, John H. Dent, Silvio O. Conte, Donald M. Fraser, Jack F. Kemp, Charles C. Diggs, Jr., John Conyers, Jr., Michael Harrington, Thomas M. Rees, F. Bradford Morse, Charles B. Rangel, Charles A. Vanik, Abner J. Mikva, Donald W. Riegle, Jr., John G. Dow.

PRICE OF MEAT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRASSO. Mr. Speaker, it is my strong conviction that the Secretary of Agriculture, Earl L. Butz, should immediately resign from his post in the Cabinet.

Secretary Butz talks as if he is a friend of the American farmer; but in reality, he is less a friend of the farmer than he is a monumental insult to the American public. Since he became Agriculture Secretary last December, Mr. Butz has consistently demonstrated a callous indifference to the needs and the pleas of the American people. He has tried to force them to their knees by not only praising rising meat prices, but also blaming consumers and their spending habits for meat price hikes. And what is their crime? Consumers merely want to include meat in their family diet.

Last week, my colleague STEWART MCKINNEY, of Fairfield, and I wrote to President Nixon urging him to impose an executive freeze on meat prices until such time as the Price Commission revises the guidelines applicable to food prices. In our letter, we stated that meat prices in the Northeast have risen by 8 percent, sometimes even as much as 11 percent, in the last 2 months. It is anticipated that consumers will spend a record $125 billion for food in 1972—that is $6.6 billion more than in 1971; and to a great extent that 4.5-percent increase will be taken up by meat price increases.

The wholesale price index for foods rose 1.8 percent in February—including raw agricultural products which are totally uncontrolled, and processed foods, which are controlled. At that rate, meat prices this year will rise a horrendous 21.6 percent.

Secretary Butz' reaction to uncontrolled food prices is unsuppressed glee. The present prices for beef—the highest since the Korean war—provide "the best way to insure a good supply of better cuts of beef that I prefer," he recently said in a speech in Houston, Tex. Clearly the Secretary is unconcerned that millions of Americans are troubled by exorbitant increases in prices for hamburger, frankfurters, and other so-called cheaper cuts of meat. He says salaries are increasing—it seems his philosophy is that people should get ahead in order to stand still.

And if any attempt is made to give the consumer a chance to catch his breath—by instituting a freeze on meat prices or food price controls, for example—this presumably intelligent, rational high Government official cries that he will "fight like a wounded steer" to prevent any slowing of meat price increases. In addition, he threatens the public with empty meat counters and meat rationing. Secretary Butz recognizes the rising tide of pressure from increasingly angry and dismayed consumers to halt further erosion of the shrinking family food dollar. That is the "attack" he resents and against which he invokes his "wounded steer" posture.

It is understandable that an Agriculture Secretary would defend the interests of farmers. After all, the American farmer is the most efficient food producer in the world, and yet he receives a smaller reward for his investment than other industries, has little control over what he gets for what he produces, and in general is in economic trouble despite Government subsidies.

However, it is also true that rising food prices do not translate into a corresponding increase in income for the farmer. His share in the percentage of retail food price increases has grown steadily smaller over the years. What happens to food prices happens to them between the farm and the grocery store. The average annual food bill for consumers rose from $2,223 to $2,244 between 1970 and 1971, with all but $1 of the $21 increase going to processors and retailers. The point is that farmers are not to blame for climbing food costs.

It is also understandable that the administration would like to curry favor with farmers during this election year by keeping food prices high and boosting farm subsidies by nearly $1 billion to a record high of more than $4 billion. However, this plan does not require as its goal the breaking of the consumer's back. The administration seems to be concerned about rising meat prices—meat imports—mostly cheaper grades—have been allowed to increase by 7 percent, though this will have an admittedly negligible impact on prices; Cost of Living Council Director Donald Rumsfeld says he is concerned; and Price Commission Chairman C. Jackson Grayson suggests that if consumers ate less meat, or sought cheaper cuts of meat; the upward pressure on prices might be eased. More important was President Nixon's recent comment to his newly-sworn economic advisor, Marina von Neumann Whitman:

Now get those food prices down!

I look forward with interest to the President's response to Congressman MCKINNEY's and my letter urging an immediate freeze on meat prices.

What is hard for me to understand is Secretary Butz' flippant and condescending attitude toward the American people during this period when all of us are trying in a rational manner to bring about economic recovery and provide a better life for all Americans. Mr. Butz' reaction to the 7-percent ceiling increase in meat imports for cheaper cuts is that, to his pleasure, housewives will not be helped much.

I guess she wants a nice choice roast or a good sirloin steak. She doesn't like hamburger too much.

The housewife may not prefer hamburger; but if Secretary Butz has his way, she will be lucky to be able to afford enough for her family on special occasions.

Such a shocking performance ill becomes a Cabinet officer whose job is to serve the public interest. To be sure, we will not be intimidated by him in our efforts to ease the burden of the family food shopper. To the man who cheers soaring meat prices while consumers struggle to put meat on the family table, my suggestion is that he would best serve the public interest by resigning immediately from a post which requires far more sensitivity, reason and tact than are reflected in his statements to the American public.

THE POLICY OF "ASSURED DESTRUCTION"

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. BOB WILSON. Mr. Speaker, free-swinging freshman Congressman FLOYD SPENCE is the product of a football scholarship at the University of South Carolina. Captain of the track team and basketball player, Spence also collected highest scholastic and student government honors. He brought this same fire and leadership to law school and to civic, military and political life. At 43, SPENCE is a veteran South Carolina lawmaker and now, on the Washington scene, an outspoken proponent of a national defense posture that will serve to keep America viable and a cornerstone of world peace.

It is a pleasure to include as a portion of my remarks the following article from Survive magagine:

SOVIET ARMS BUILD-UP AND THE POLICY OF "ASSURED DESTRUCTION"

(By Congressman FLOYD SPENCE)

The annual Soviet Armed Forces display on November 7, honoring the revolution of 1917, did not show any new missiles or strikingly new weapon systems. But that is certainly no cause for complacency or rejoicing. The build-up of the Soviet arms arsenal and their expansion of defense research and development in search of new and better weapon systems continues at a steady pace.

In his speech at the Moscow ceremony, Soviet Defense Minister Marshal A. A. Grechko stressed again that "the most important task is to raise the defense capacity of the USSR, the combat power of the Soviet armed forces and their constant preparedness . . ."

In line with this statement, it is significant that this year's military parade in Moscow was seconded by a display of Soviet naval strength in the port of Havana, Cuba. A naval detachment consisting of two submarines and two submarine chasers, under the command of Rear Admiral N. V. Soloviev, arrived in Havana several days before the November 7 commemoration to participate in the Cuban celebrations. The Soviet vessels displayed anti-aircraft rockets, and atomic missiles were clearly visible on the decks of the larger submarine chaser. Friendly Cuban visitors queued up on the piers in long, curious lines and were invited aboard for a close-up look.

The menacing language of this show of strength in American waters should not be overlooked or misunderstood. This is the first time the Soviet armed forces have ever celebrated their revolutionary holiday in any official way in the waters of the North American continent.

Ever since the time of Lenin, the Communists have said continually that they must gain not only a strategic superiority but a complete and effective supremacy over the capitalist world—in weapons technology, armed forces strength, economic capacity to produce decisive weapon systems, and psychological and moral readiness to use these weapons. That was what Krushchev meant when he used his famous phrase "we will bury you." The Soviets have behaved according to their statements, but for some strange reason, which I confess has always baffled me, their pronouncements are considered by too many Americans to be only so much meaningless propaganda

Many people, including leading govern-

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ment officials, expected and hoped that after gaining parity, both the United States and the Soviets would level off and stop further expansion of their weapon systems.

In 1968 we agreed to join with the USSR in negotiations on strategic arms limitations, the so-called SALT talks. The United States at this time had 1,054 ICBM's, 656 SLM's and over 600 long-range bombers; the Soviet Union had a total of 600 ICBM's, including 100 heavy SS–9's. Since 1968 there have been five rounds of SALT, alternating between Helsinki and Vienna. During the three years of negotiation, the Soviet Union has increased its ICBM arsenal by about 900, to the present figure of about 1,500 or 1,550 units, including approximately 300 SS–9's.

The United States was serious about arms limitations and did not increase the actual number of its ICBM's. We began only a replacement program wherein the improved Minuteman III was substituted for out-dated Minuteman I and II missiles and some MIRVing of individuals warheads was undertaken.

Contrast this with the Soviet Union, which has maintained the ICBM construction rate of about 300 new missile systems annually, or about 150 to 180 new missiles from one SALT negotiation round to the other. In 1971, space reconnaissance revealed that the Soviets were preparing new and bigger silos for ICBM's, the number of which by October, 1971, was estimated at 100. These new underground silos are capable of accommodating missiles even larger than the formidable SS–9. As Hugh Sidey noted in the October 15th issue of Life magazine, our best experts are still uncertain as to precisely what this new construction means, weaponwise.

In the area of missile defense, the Soviet Union has about 67 ABM sites, with SA–7 missiles capable of missile intercept at high altitudes. According to more recent reports, a group of about 50 new launchers is being deployed for ABM interceptors with much higher velocity. Our modest Safeguard ABM program is dwarfed by comparison.

During October, Soviet technology succeeded in actually intercepting a satellite in flight, linking the interceptor with it and blowing up both. This is a feat we have yet to perform. If the Soviets can intercept and destroy their satellites in flight, they may soon be able, if they are not already, to intercept and destroy our surveillance satellites. This is the only practical means we have of keeping abreast of arms developments taking place within their closed society. Their ability to destroy these reconnaissance satellites means they would control the timing of any possible future direct confrontation. In the critical days or weeks preceding such possible strike they could eliminate our ability to anticipate or observe the preparations for the strike.

Further, the Soviet strategic missile force now has 750 medium-range units capable of reaching U.S. installations in Western Europe and the Far East for which the United States has no comparable equivalent, either through NATO or otherwise.

Then there is the Soviet Navy. It has grown much faster than anybody could anticipate or predict. In the short period of 14 years, under the command of Admiral S. Gorshkov, the Soviet submarine and surface fleet grew to a strong force capable of staging in the waters of the world a naval exercise, code named "Ocean," which surpassed any similar maneuver by any country or group of countries in the entire naval history of the world. In 1968 the USSR started its Y-class submarine program. This is its principal submarine-launched missile carrier. It is estimated that about 17 such submarines were operational by the end of 1970, and at the rate of about one sub per month, they have close to 27 at the present time. The Soviet surface fleet concentrated on adding new missile cruisers ("Kresta" class), destroyers ("Kynda" class), and the small speedy "Komar" and "Osa" boats in numbers surpassing any estimates and predictions. As a result, the Soviets can now maintain a permanent fleet of about 40 to 60 ships in the Mediterranean Sea alone, putting an end to the U.S. Sixth Fleet's complete control of the area and exerting strong political impact in the Middle East, North Africa, and Southern Europe.

The Soviet Union is evidently dedicated to supporting its recent political initiatives with a strong, balanced armed force which will be superior to the United States in the areas of strategic missiles, air force, naval power, and conventional on-the-ground weaponry. They engage in negotiations designed to limit or reduce armaments only for the purpose of speeding up and implementing this final Soviet superiority. The theoretical reasoning of mutual advantage, implicit in "parity," "sufficiency," or "flexible deterrence," has not affected to any appreciable degree the basic Soviet thrust toward a stronger, superior military force and a position of real prevailing strength, both militarily and politically. In pursuit of this goal, the Soviets channel a considerable portion of their resources to expand their armaments research and production. As Mr. Sidey accurately noted in his article, their research and development budegt has, for years, exceeded "anything necessary for mere parity with us."

The great weakness of our so-called "assured destruction" posture has been its underlying assumption that the leaders of the USSR respond, as our people do, to the threat of massive retaliation with its toll in death and destruction.* Nothing in the moral or political system they espouse warrants such an assumption, and nothing in the record of their recent arms development indicates concern in that regard.

What is far more likely is that we will, indeed, awake one day soon to find the Soviets have achieved some massive new breakthrough in weapons technology which will render our defensive system obsolete.** It is not in terms of striking particulars but in terms of overall growth and input into research and development and the number and complexity of new Soviet weaponry developments, that this prediction is justified. It simply stands to reason that a nation engaged in extensive weapons research and development will, sooner or later, come up with a breakthrough. Certainly one engaged in only minimal research and development, as we have been, is not likely to be able even to cope with such a breakthrough by others, let alone achieve one itself.

In short, "assured destruction" is not defense—it is merely psychological warfare. And I am convinced it was propounded by people who had a rather poor grasp of both defense and psychology.

The policy of "assured destruction," which is meaningless to the Soviets but grates on the moral principles of Americans, should be scuttled in favor of a forthright policy of dynamic research and development, an unmistakable posture of military strength with a balance between defensive and offensive systems, and a resolute civilian population bolstered by an adequate and visible civil defense. It is to the support of programs and funding essential to such a policy that I have pledged myself as a member of the House Armed Services Committee.

* See English translation of Soviet book Civil Defense (1971) analyzed by Joanne Gallar in May–June 1971 issue of Survive.

** See "The Myth of 'Assured Destruction'" by Eugene P. Wigner, Survive, July–August 1970.

DEVELOPMENT OF A NATIONAL MANPOWER POLICY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, the National Manpower Advisory Committee of the Department of Labor recently convened a conference commemorating the 10th anniversary of the enactment of the Manpower Development and Training Act of 1962 here in Washington, D.C. on March 16–17, 1972. One of the principal speakers to the conference, which was addressed by the Secretary of Labor, James D. Hodgson and others, was Dr. Sar A. Levitan, distinguished labor economist and director of the Center of Manpower Policy Studies at the George Washington University.

Dr. Levitan, who is also vice chairman of the National Manpower Policy Task Force, delivered a speech on the need for the development of a comprehensive national manpower policy as we move into the second decade of major Federal initiative in this vital area. His remarks were indeed penetrating and I would like to share with my fellow Members of Congress the remarks of an esteemed friend.

DEVELOPMENT OF A NATIONAL MANPOWER POLICY

(By Sar A. Levitan)

Each of us has a favorite tale of what changes MDTA has wrought. These stories deal with the millions who turned to the programs for help, the hundreds of thousands who have learned saleable skills and the dollars and cents that they are now earning instead of collecting unemployment insurance or welfare checks. The more sophisticated among us, who talk to computers, come up with impressive benefit-cost ratios that offer proof positive that MDTA has been worthwhile. In brief, we are better off today because we have had the MDTA for 10 years.

But I am running ahead of my story. The script for these festivities calls at this stage for a review of how it all came about.

So let us reminisce. My major qualification for the honor bestowed today apparently is longevity: I'm supposed to tell it as it all really was, based upon personal recollection. Regrettably, I was out of the country when the Smith-Hughes Act was debated and passed. So I'll have to telescope my observations on more recent history.

THE SAME PROBLEMS PERSIST

It was only 11 years ago that Congress embarked upon the first of a long and growing series of programs to aid the structurally unemployed. The legislation dealt with federal aid to depressed areas and was proposed for workers stranded in areas of high chronic unemployment. The proposal called for annual federal expenditures of $10 million to retrain workers whose skills have become obsolete. This was too much for some members in Congress; they thought that the federal government has no business spending good taxpayers' money to train unemployed workers. They loudly expressed the fear that from little acorns big trees would grow and that this little program would lead to vast new federal expenditures. And, thank heaven, they were right. Top manpower policy shapers no longer talk in millions but in billions. As the acknowledged wit of MDTA once remarked, little did he know when he learned fractions in school that in planning manpower programs point one would mean not a dime but a hundred million dollars.

But the quantum jump from millions to billions may be misleading. The scene has not changed as radically as these numbers might suggest. A student of manpower problems today might be forgiven if he has the feeling that the current arguments about manpower policy sound familiar and are reminiscent of the debate that led to the passage of MDTA. It seems that the arguments are just as pertinent today as they were in 1962. A common denominator is still reported by the Bureau of Labor Statistics with annoying repetition as it was 10 years ago: that the rate of unemployment is hovering around 6 percent and a drop to 5.7 percent is no cause for rejoicing and hardly a harbinger of full employment. Critics complain today as they did a decade ago that we should focus more on the 94 percent who are working than on the 6 percent who are unemployed. To clinch the argument they point out that more people are working today than ever before. And in each case, both today and a decade ago, they are correct for the population and economy have grown and the number of employed has continued to rise. But that does not fill the stomachs or satisfy the aspirations of those who are on the outside looking in, searching for useful work but not finding it.

Ten years ago we came up with a good and satisfactory reason—to some—explaining these 6 percent who are left out. We were told that there was really nothing wrong with the economy except that these unfortunates are "structurally" unemployed. And that was that. This explanation was supposed to lead to solutions. The answer we came up with is that if we train the unemployed they will find jobs and we'll all live happily ever after.

It takes more than just a token commitment to establish a society in which every person seeking work can find useful employment. So today again there are those among us who argue that we should settle for less than full employment. I don't believe it. And we have clearly seen that we can reduce forced idleness well below 4 percent, though we should achieve this goal with different methods than we used in the mid 1960s.

Ten years ago when we argued the same issues, the debate was couched more in visceral reactions than in good solid numbers. We have made a great deal of progress in the past decade. We have learned—at least some of us—that the overall average unemployment ratio is a very useful social barometer. But averages by themselves obviously do not tell the full story—a man and a horse have on the average three legs. When national unemployment hovers around 6 percent, unemployment in urban poverty areas is nearly twice as high and among minority youth it is 5 times as high. Disturbing as these statistics are, the recommendation of the technicians to discontinue these series because of alleged flaws in the data, and the eagerness with which policymakers acted on these recomendations, casts doubts on the sagacity of their judgments, leaving a gnawing feeling about their motivation.

Nonetheless, the old "solution" of blaming the messenger for the message persists. Ten years ago we were also dissatisfied with the monthly BLS reports about unemployment, and one national publication came out with an ingenious explanation: It's all the fault of bureaucrats who exaggerate unemployment problems because they have a vested interest in high levels of unemployment. You will have to judge for yourself the amount of progress we made in this area.

The MDTA and other manpower programs are hardly to be blamed for high unemployment. Instead, it would be more appropriate to credit these efforts for the hundreds of thousands who have been helped. Only the most enthusiastic backers and those who opposed stronger medicines to reduce unemployment have viewed manpower programs as a nostrum for our unemployment ills.

THE PROPER ROLE OF MANPOWER PROGRAMS

Unfortunatly, it has become commonplace to expect too much from manpower programs. Manpower programs do not create jobs nor should they be expected to eliminate poverty or discrimination. Manpower policies are likely to affect only marginally inflationary pressures or the ills of a complex urban society such as family breakup, pollution, and congestion. Nonetheless, social scientists, politicians, and statesmen have placed unrealizable, possibly naive, trust in manpower programs that encourages rhetoric in place of hardnosed analysis. Economists have claimed that an expansion of manpower programs would reduce unemployment by 2 percent and responsible statesmen have been no less sanguine about the presumed promises of manpower measures.

Newly emerging welfare policies perhaps best illustrate this faith in manpower programs. Conservative legislators who are normally most careful with the taxpayers' dollar and (when they do loosen the purse strings, it is not to help the poor), have shown a remarkable eagerness to spend vast sums of money on manpower programs in the hope of reducing welfare outlays. Both Democratic and Republican administrations have clung to this faith. President Kennedy urged training programs for welfare recipients to motivate them to seek economic independence. His slogan was "rehabilitation instead of relief." President Nixon recommended vast outlays for "workfare instead of welfare."

A decade of experimentation with manpower programs for welfare recipients does not justify optimism about using training programs as a means to reduce relief rolls. Welfare reflects both the multiple handicaps of recipients and the generosity of taxpayers who bear the costs. There are good reasons for expanding manpower programs to aid those who depend on meager relief, but saving public expenditures is not one of these.

Relief is given to the destitute not because it necessarily improves the efficiency of the economy, but out of compassion for those in need. So, too, training programs should be offered to those who have difficulty competing in the free labor market because they need help and not because of the impact of these expenditures upon the national economy. It's not at all improbable that the development of training programs for the poor will reduce their long run dependence upon welfare. If this happens, so much the better. Appropriate training may help some poor people to escape dependency but we should not expect training to cure poverty. More than a quarter of the poor are 55 or older and thus not likely to profit from training. Even more of the poor are in female-headed families. A sizeable group of these women have health problems, more have inadequate education, and even more have skills which command little remuneration even when they can find work. Most have young children in need of day care, which is in short supply nationwide and is more likely to be expensive than dependable. Transportation and health difficulties, the children's needs, and pregnancy often interrupt training or employment. And most crucial is the fact that jobs are not available to all who overcome these obstacles.

Other examples could be cited of the exaggerated faith that has been placed in training. Members of my own trade have tried to sell training as a new snakeoil, good for all ailments. Expansion of manpower programs, according to these enthusiastic proponents, will cure the economy from inflation, unemployment, ease the trade-off between the two, and improve the environment, to boot. Training increases some individuals' chances of being hired but does not expand the economy's complement of job slots. Thus, it affects the distribution rather than the degree of unemployment. Even if all those seeking work received training, the level of unemployment—forced idleness—might be reduced only marginally.

Even though there is usually slack in the training system and facilities do not operate at full capacity, training programs leave much to be desired as countercyclical tools because they cannot be expanded or contracted at will. It takes considerable time to develop facilities, gather instructional staff, select applicants, and enroll students. By the time the unemployed complete their course of training, the economic conditions that called for the expansion may have changed. Because human lives are involved, training programs cannot be expanded or contracted like an accordian and cannot be easily adjusted to changes in business conditions. We do not base enrollment in Harvard or Stanford or Duke on the level of unemployment. Enrollment in skill centers or the Job Corps should also be based on individual needs.

Manpower programs were initially designed to aid workers whose skills are obsolete. By expanding beyond remediation into prevention, these emerging institutions manifested the evolving democratic tenet that society should not segregate sections of the population to remain—without hope for improvement—the hewers of wood and drawers of water. Training can provide paths for upward mobility, not only for those who have difficulty competing for even entry jobs, but also to those who aspire to more skilled and challenging jobs. But the resources available for manpower programs are quite limited in comparison to the vast universe of need. Therefore, successive administrations and Congresses have placed increasing emphasis upon serving those in greatest need. Until the outbreak of the recession, from which we are hopefully recovering, manpower programs attempted increasingly to serve those who are discriminated against in the labor market and those who have difficulty in competing for sustained gainful employment. But the cost of this choice was to play down the upgrading function of MDTA.

The last decade was a period of experimentation and development of infrastructure for manpower programs. It was also a period of introspection. Possibly no other social program has undergone as close scrutiny by the Congress, the academic community, and the administrators of the program. We know everything that is wrong with these programs and also quite a lot that is right with them. The latest happening in manpower—the Emergency Employment Act—also indicates that we have already developed an efficient structure capable of acting when an emergency arises. It is not easy to give away a billion dollars and to hire 130,000 people within 6 months. But this is exactly what the Manpower Administration has done—most efficiently.

Conventional wisdom about the snail's pace of government action notwithstanding, the manpower administrators have demonstrated the capability to act massively and speedily.

LESSONS OF THE DECADE

From experimentation and introspection, manpower administrators have learned important lessons. Time will permit here to

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single out seven conclusions on which most observers would agree.

1. First and foremost, investing in human resources makes sense. Cost-benefit ratios are always open to question, and vary markedly from program to program, but those who vote funds for manpower programs can find comfort in the finding that society gets back more in terms of productive work and reduced support than it expends to provide manpower services. The investment, so say the numerologists, is justified in dollar and cents without even considering the less tangible benefits.

2. There is no single clientele for manpower service, but rather a whole range of groups in the labor force which can benefit. MDTA was designed to assist the technologically displaced. The poor, regardless of cause, were included under the Economic Opportunity Act in 1964, and services were extended on a large scale to welfare recipients after 1967. Recently, there has been an increase in services for veterans and for unemployed engineers and scientists. Gradually, what is emerging is a comprehensive human resources approach and, hopefully, a comprehensive human resources policy, which seeks to develop and utilize fully the abilities of all citizens.

3. Just as many types of persons may benefit, there are no simple solutions for varying problems. It is now recognized that basic education, counseling, medical care, and other services may be required along with training, and these multiple services are now offered by manpower programs or by related governmental efforts. Each target group may need a variety of services. The ideal of one-stop comprehensive delivery to the needs of each individual and each area remains elusive and may actually be impractical in many cases.

4. To provide various services for many groups requires careful coordination. The establishment of numerous separate institutions is not efficient. As manpower efforts have expanded, the federal government has funded programs for all sorts of occasions and for all types of people. This proliferation of manpower efforts has led to a great deal of waste. The Manpower Development and Training Act has continued, to borrow Garth Mangum's phrase, to be the "foundation of manpower programs." But the superstructure frequently extended beyond its foundations and has therefore become wobbly. Ten years of experience has demonstrated the need to develop a more consolidated and comprehensive program.

5. A promising development has been the establishment of institutional training facilities. A decade ago such facilities were not available for adult men and women. It is a mistake, however, to separate those seeking remedial education from persons who seek other educational pursuits. As more and more adults return to school to recharge their intellectual batteries and to renew their skills, remedial education and training can become an integral part of a general adult education program. A comprehensive manpower program would coordinate the learning of adults needing training and those pursuing avocational interests.

6. On a broader scale, it has been learned that even with a complete range of manpower services, clients may still have employment problems because of their location, racial or other discrimination, or other flaws in the labor market rather than in the individual. Manpower programs have helped to spotlight these barriers to full participation in the labor market and have contributed to their decline, though, alas, not yet to their breakdown. Indeed, one of the most important contributions of the manpower programs is their dissemination of information. The employment problems of various labor market groups are more widely understood than ever before. There is much broader insight into the causes of these problems and the ingredients to their solution. The gradually emerging discipline of manpower is also a vested interest group to work for increased human development efforts.

7. A final contribution of the last ten years has been to provide a more rigorous foundation for public policymaking. In the manpower field, more than ever before, an attempt has been made to measure and evaluate the impact of the programs, to improve their design on the basis of these measurements and evaluations, and to experiment with new approaches. Though in many cases, these results fell far short of what have been accomplished, manpower policymaking was far ahead of other areas. Its methods are now being applied elsewhere, and hopefully, research, evaluation, and experimentation will be an integral part of all efforts in the future.

A FAVORABLE BALANCE

Federal manpower programs are rapidly reaching maturity. The Office of Management and Budget has estimated that the federal outlays alone for manpower programs during the current year will carry a price tag of $4.3 billion and the cost will rise above the $5 billion mark by next year. Even with the dwindling value of the dollar, the manpower programs are now an important industry supporting an army of newly certified and aspiring manpower experts.

It may come as news to the newly emerging academic manpower complex that training programs have also benefited hundreds of thousands of clients, though by no means all the 7 million who have gone through the Labor Department's work and training programs. Many enrollees have learned new skills and the families of many more have been fed—after a fashion—while the enrollees have undergone training.

A realistic appraisal of the developing federal manpower policy must acknowledge the limitations of manpower efforts and recognize that training in itself does not produce jobs even for those who have mastered their lessons. The argument that manpower programs are no substitute for fiscal and monetary policies by no means denigrates the proper role of these measures. We must continue to rely upon fiscal and monetary policies to achieve high employment while manpower programs focus on helping individuals develop their potentials to earn a living and to function with dignity.

AN EPITAPH BY THE HONORABLE LESTER G. MADDOX

HON. FLETCHER THOMPSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. THOMPSON of Georgia. Mr. Speaker, the Lieutenant Governor of Georgia, the Honorable Lester G. Maddox, recently wrote an epitaph, which he says he hopes will be used as a memorial should America ever fall to her enemies.

I believe that the thoughts expressed in this epitaph are worthy of consideration by the Members of Congress and by all Americans. For that reason, I include it in the RECORD.

Here lies the remains of the United States of America, born a free republic on July 4, 1776, in Philadelphia, Pennsylvania; delivered by the hands of patriots who so loved freedom that they dared to demand it, standing ready to sacrifice their fortunes, even their very lives, to insure that freedom was established and preserved.

The infant republic was threatened from every quarter. Its own mother country sought to end its life with the sword. Hostile forces, coming by ship and by horseback, tortured the infant with cannon, arrow, and pen. But the infant continued to survive and grow and prosper, nurtured by the love of men and women, now long forgotten, who would not accept tyranny at any price.

And the young nation grew to adolescence. In this period of its growth, it was torn in half by the divergent philosophies, and weak from loss of blood, its wounds healed slowly. But nourished by a strong faith in God and its principles of private enterprise, private property rights, states' rights, and respect for human dignity, the scars of civil war all but completely faded, and the century-old nation matured to become a giant among nations.

Many were envious of the wealth and prosperity of the vibrant, burgeoning, republic. While Americans sang of "spacious skies," "amber waves of grain," and "fruited plains," nations without America's abundance of freedom and plenty cried out for food to feed their starving masses, and multitudes flocked to the shores of the one nation which promised every individual an opportunity to reach his full potential.

The greedy came not with outstretched hands, but with clenched fists. But America, with unprecedented industrial muscles developed through the system of private enterprise, and with an unyielding spirit born of a long life of freedom, turned back every aggressor and remained the greatest nation of all time.

But then, with a full belly, weary of war and confident that the land and the hard-won freedom were secure, the giant slept. The American people grew apathetic. They stored away their feelings of patriotism along with the flags they once waved proudly. Politicians became followers rather than leaders, and as crime swept the nation, government failed in its first responsibility, that of protecting the lives and property of its citizens. The people ceased to be secure in their homes and safe on the streets.

The people surrendered public education, and a million times more important, they surrendered their children, the nation's most precious resource, to a federal "police state," which acted without constitutional authority in stealing away the rights and freedoms of America's children and their parents.

America turned from God, grew self-righteous, and began playing God rather than praying to Him, and communism, drug addiction, pornography and immorality ate steadily away at the moral and spiritual strength of the nation.

When tyrants came and nudged him with riots, anarchy, crime, war, and threat of war, the giant only mumbled, "okay," rather than rising to fight.

And so, gradually, communism and socialism replaced capitalism and freedom. Private property rights were abolished a little at a time, and the Constitution of the United States was re-written by judicial tyrants and bureaucratic dictators until ultimately, it became totally meaningless and was discarded.

Human dignity and personal initiative were gradually eroded and replaced with government handout programs until, finally, every citizen received a government paycheck, and none remained to produce the needed wealth.

Faith in God was replaced by faith in man, faith in government, faith in political parties, and faith in immortality of the United States of America.

In his last moments, the giant opened his eyes. In one final, valiant effort, he tried to get back to his feet, but he was kicked back down by the iron boot of tyranny.

His last words were, "Don't give up hope. All we need is more dollars . . . just a few more dollars, . . . just a few more dollars . . ."

May the greatest nation the world has ever known rest in peace.

UNEMPLOYMENT PROBLEMS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRASSO. Mr. Speaker, the city of New Britain, Conn., in my Sixth District, is experiencing a critical unemployment problem with over 6,200 unemployed persons representing 12 percent of the labor market. Seventy percent of the unemployed are heads of households. The statistics are truly startling.

In an attempt to alleviate the problem, Mayor Stanley J. Pac has conducted under the Emergency Employment Act an in-depth analysis of the unemployment situation in New Britain. The mayor is to be commended for his imaginative and worthwhile use of EEA funds. For the analysis of the problem has provided the background material necessary to develop projects and programs that will be of benefit in reducing unemployment in New Britain.

On February 25, it was my pleasure to cosponsor with Mayor Pac a conference in New Britain at which Federal, State, and local government agency representatives, business and labor leaders came together to discuss the report and make appropriate recommendations. It is our strong conviction that stepped-up intergovernmental cooperation is the most effective way to translate Mayor Pac's detailed unemployment report finding into constructive programs. Indeed, all of us are working for the objective of creating more jobs and improving the quality of life in New Britain.

For the benefit of my colleagues, I am inserting in the RECORD a statistical profile of unemployment in New Britain, along with Mayor Pac's preface to the study. The analysis includes the identification of those unemployed, the number of heads of household, number of veterans, occupational skills, and other pertinent information.

The analysis follows:

STATISTICAL PROFILE OF UNEMPLOYMENT IN NEW BRITAIN, CONN., FEBRUARY 25, 1972

Today's conference has been called to discuss the almost unprecedented economic and unemployment crisis to face the city of New Britain in over twenty years. Historically, it must be said that this city has, for too long a time, been overly dependent upon the defense and aerospace industries for its survival. As a consequence, far ranging national cutbacks have all but crippled our local economy and involuntarily "benched" a staggering segment of the professional, technical, structural and machine trade groups which constitute our city's greatest asset . . . its highest skilled labor force.

The enclosed material well illustrates this staggering joblessness which pervades our labor ranks. They are a result of an in-depth study of unemployment in our city by the staff of the public employment program.

The purpose of this research effort was to accurately number and define unemployment in New Britain, and to analyze the resulting data in order to develop sound action proposals aimed at combating the unemployment program.

Raw data for this study was gathered from employment application card files at the Connecticut State Employment Office in New Britain.

As evidenced by the results, this city is faced with a problem that is just too big for us to cope with at the local level.

		Percent of category	Percent of total New Britain unemployed	Percent of labor market unemployed
I. Unemployed (Jan. 21, 1972):				
(1) Females	2,715		43	36
(2) Males	3,562		57	47
Total	[1] 6,277		100	83
II. Head of household unemployed:				
(1) Females	824	19	13	11
(2) Males	3,555	81	57	47
Total	4,379		70	58
III. Minority group unemployed:				
(1) Spanish	453	52	7	6
(2) Nonwhite	420	48	7	6
(3) Oriental	4			
(4) American Indian	1			
Total	878		14	12
IV. Disadvantaged unemployed:				
(1) Spanish	175	23	3	2.5
(2) Nonwhite	162	21	3	2.5
(3) White	426	56	6	5
Total	763		12	10
V. Unemployed in excess of 52 weeks	867		14	11
VI. Combined veterans unemployed:				
(1) Veterans (V)	710	59	11	9
(2) Special veterans (SV) and Vietnam era	499	41	8	7
Total	1,209		19	16
VII. Labor market area unemployed:				17
(1) New Britain	6,277			83
(2) Plainville	488	6.4		
(3) Berlin	404	5.3		17
(4) Other	400	5.3		
Total	7,569			

[1] New Britain unemployed, city of New Britain only: Represents 14.2-percent unemployment rate in labor market area, New Britain labor market area employment equals 43,960.

OCCUPATIONAL GROUP OF UNEMPLOYED (JAN. 21, 1972)

Group	Amount	Percent of unemployed
1. Professional, technical and managerial	428	7
2. Clerical and sales	1,251	20
3. Service	594	10
4. Farming, fishing and forestry	48	1
5. Processing	183	3
6. Machine trades	1,452	23
7. Bench work	777	13
8. Structural work	878	14
9. Miscellaneous	576	9
Total unemployed in New Britain	6,277	100

CITY OF NEW BRITAIN
OCCUPATIONAL GROUP OF UNEMPLOYED VETERANS
(Jan. 21, 1972)

Group	Amount	Percent of unemployed veterans
1. Professional, technical, and managerial	135	11
2. Clerical and sales	164	13
3. Service	80	7
4. Farming, fishing, and forestry	8	1
5. Processing	32	3
6. Machine trades	214	18
7. Bench trades	37	3
8. Structural work	403	33
9. Miscellaneous	136	11
Total, unemployed veterans	1,209	100

CITY OF NEW BRITAIN
OCCUPATIONAL GROUP OF UNEMPLOYED MINORITIES
(JAN. 21, 1972)

Group	Amount	Percent of minority unemployed
1. Professional, technical, and managerial	21	2
2. Clerical and sales	106	12
3. Service	125	14
4. Farming, fishing, and forestry	7	1
5. Processing	68	8
6. Machine trades	201	23
7. Benchwork	129	15
8. Structural work	95	11
9. Miscellaneous	126	14
Total, minority group unemployed	878	100

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*City of New Britain—College educated unemployed**

Still attending:	
Business administration	17
Education	8
Accounting	4
English	4
Sociology	4
Liberal arts	4
History	3
Math	3
Art	2
Economics	2
Psychology	2
Data sciences	1
Science	1
Physical education	1
Police administration	1
Communications	1
Merchandizing	1
Marketing	1
Interior design	1
Total (1 percent of total)	61
College graduates:	
BS-BA degrees:	
Psychology	7
Economics	5
Sociology	4
History	3
Math	3
Physical education	3
Biology	2
Drama	2
Education	2
Political science	1
Medical	1
Physics	1
Chemistry	1
Geography	1
Liberal arts	1
Music	1
Languages	1
Management	1
Marketing	1
Total unemployed holding BS or BA degrees	41
MS and MA degrees:	
Economics	1
Math	1
Education	1
History	1
Physics	1
Counseling	1
Total unemployed holding MS or MA degrees	6
PHD degrees: Chemistry	2
Total of unemployed holding degrees (.008 percent)	49

*These statistics reflect only those unemployed individuals whose college major differed from their stated occupation.

City of New Britain—Technical, professional, managerial unemployed

Technical:	
Mechanical draftsman	7
Draftsman	11
Product designer	18
Design checker	2
Manufacturing engineer	3
Assistant engineer	6
Time study engineer	8
Electronic engineer	3
Electronic technician	5
Engineering scheduler	1
Engineer	8
Chemical engineer	1
Radio engineer	2
Marine engineer	1
Design engineer	2
Laboratory tester	6
Process planner	4
Systems analyst	3
Computer sciences	8
Metallurgist	1
Surveyor, construction	4
Radio operator	2
Medical technician	4
Aerial photographer	1
Total, technical (1.75 percent)	109
Professional:	
Architect	2
Financial analyst	4
Credit analyst	1
Controller	1
Economist	4
Assessor	1
Accountant	21
Purchasing agent	9
Marketing specialist	3
Sales/service	5
Mathematician	4
Chemist	4
Physicist	1
Biologist	3
Social scientist	2
Political scientist	2
Lawyer	1
Security officer	1
Revenue agent	1
Commercial designer	7
Fashion artist	2
Musician	1
Communications	9
Shipmate	1
Athlete	2
Physical education/sports instructor	4
Teacher	50
Teacher's aide	2
Director/special education	1
Teacher/mentally retarded	1
Psychology/counseling	7
Employment interviewer	2
Interpreter	1
Librarian	2
Medical/dental assistant	12
Nurse	6
Pharmacist	2
Health inspector	1
Airplane pilot	2
Administrative assistant	8
Administrative contractor	2
Social worker	19
Total, professional (3.5 percent)	217
Managerial:	
Manager	65
Manager trainee	17
Company president	4
Production manager	3
Superintendent/construction	7
Supervisor	5
General foreman	1
Total, managerial (1.75 percent)	102
Total, technical, professional, and managerial unemployed (7 percent)	428

CITY OF NEW BRITAIN, DEFINITION OF AGE GROUP OF UNEMPLOYED

	Number	Percentage
Age group:		
16 to 20	632	10
21 to 29	2,069	33
30 to 39	917	15
40 to 49	1,071	17
50 to 65	1,320	21
66 and over	268	4
Over 45:		
Male	1,007	
Female	973	

TECHNICAL/PROFESSIONAL UNEMPLOYED[1]

Category:	Amount
Medical[2]	39
Computer science	15
Management	8
Psychiatry	6
Electronic technology	5
Mechanical	4
Education	4
Language interpreter	3
Photographer	3
Dental	2
Communications	2
Accounting	2
Personnel	2
Banking	1
Expeditor	1
Tax examiner	1
Market research analyst	1
Journalism	1
Total	59

[1] This is a list of unemployed individuals who possess skills and training in addition to their primary occupations.
[2] 85 percent of this figure is composed of nurses aides.

ARMY HELICOPTER GUNSHIP

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. GIAIMO. Mr. Speaker, one of the most urgently needed items for the Army's inventory of defense systems is the helicopter gunship.

A diversified Army helicopter gunship is needed to counter some very serious threats. For instance, in the European theater the Warsaw Pact and Soviet forces maintain a superior margin of mobility because of a greater number of armored vehicles than NATO has. However, NATO and the United States could offset or balance that edge by having mobility in the form of helicopter attack units supported, of course, by low-flying helicopter gunships.

In guerrilla warfare or counterinsurgency, the Air Force close air support systems cannot flush out the enemy as capably as a helicopter gunship can. The helicopter gunship can fly along contours at low altitudes, change to slow speeds, and, of course, move vertically and turn about in a way that provides a more accurate and timely response to the needs of ground troops. The infantry soldier's survival can be further assured.

Whereas the Air Force close air support systems can interdict from high altitudes and destroy generally defined targets, which is necessary, they cannot identify and segregate individual targets during periods of harried close combat without the support of specialized forward air controllers and a sophisticated communications system, while the helicopter gunship can provide support almost instantaneously. Helicopter gunships can support small but highly important patrols or other small engagements when it would appear too costly to provide the Air Force systems.

A helicopter gunship rides "shotgun" during an air assault. After the troops are on the ground, the gunship continues to support by fire. It stays close to the unit it is supporting and can perform as a protective lead element, or a rear guard, or it can defend the flanks. The Air Force close air support systems must fly too fast. The main concerns of the Air Force close air support systems should be the larger obstacles which are the main impediments to an infantry unit's progress, which is why they would maintain much napalm and large rockets.

The gunship can land in an emergency. It can change its role and evacuate wounded if necessary. It can aid the commander of ground troops to reconnoiter. It can serve as a command ship.

The V–STOL quality gives the system a broad range of advantages that fit the needs of the infantry. I sincerely hope that the request for funds for the Army's helicopter gunship will be supported by this Congress.

THE GAPS IN OUR AIR DEFENSE

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HÉBERT. Mr. Speaker, in my opinion Claude Witze, senior editor of Air Force magazine, is one of the most knowledgeable and reliable reporters on the Washington scene, and I have had the privilege of inserting several of his past articles in the RECORD.

Today I want to insert an in-depth report entitled, "The Gaps in Our Air Defense," a subject in which we all should be interested.

As you know, I immediately launched an investigation into the surprise landing of a Cuban plane in New Orleans on October 26 of last year to determine how it was able to enter our airspace undetected.

My Armed Services Investigating Subcommittee learned that there was a 1,500-mile gap in our air defense system along the southern border of the United States. Fortunately, I was able to get a commitment from Secretary of Defense Melvin Laird a short time after my subcommittee report was made public that a radar would be installed at Whitehouse, Va., to plug that gap.

Mr. Witze's article deals with our entire air defense situation, and I insert it at this point:

THE GAPS IN OUR AIR DEFENSE

(By Claude Witze)

About two and a half years ago, Gen. Seth J. McKee, Commander in Chief of the North American Air Defense Command (NORAD), was asked by the Joint Chiefs of Staff to evaluate the impact of a proposed shutdown of half a dozen long-range radars, then part of the network guarding the USA from attacks by hostile bombers.

The General's reply was that if six radars had to be closed down, for budget reasons, they should be selected from the area along the Gulf of Mexico, because that was the least critical area.

However, he added, "we will be vulnerable to embarrassement by undetected and unchallenged flights entering the U.S. . . ."

"When was that written" General McKee was asked last November by Rep. F. Edward Hébert, chairman of the House Armed Services Committee.

The witness gave the date as September 4, 1969.

"You certainly have been embarrassed," the Congressman continued.

"Yes, Sir," was the General's answer.

The General was not alone. Mr. Hébert has been embarrassed, too, most of all last October 26, when a Russian-built AN–24 transport, out of Havana, Cuba, landed at Moisant International Airport in New Orleans. Mr. Hébert represents New Orleans in Congress, and national defense is his personal legislative bailiwick.

The Armed Services chairman had been upset previously, on October 5, 1969, about a month after General McKee wrote to the JCS. That was the day an armed Cuban MIG–17 flew undetected from Havana to Homestead Air Force Base in Florida and landed while the Presidential aircraft, Air Force One, was parked nearby.

Both incidents resulted in examinations by Mr. Hébert's committee. It was only two weeks after the New Orleans surprise that his Armed Services Investigating Subcommittee, chaired by the chairman himself, called a hearing.

The report on that session came up with these conclusions:

1. Existing US air defense is virtually useless. It is more concept than actuality.

2. In a series of economy moves, beginning in 1963, our detection and intercept capabilities have rapidly deteriorated despite a steadily increasing threat posed by submarine-launched missiles and newly developed Soviet long-range bombers.

3. Because of the failure to maintain a viable US air defense system, sovereign US airspace cannot be effectively protected from intrusions by foreign aircraft, civil or military.

4. A 1,500-mile opening in our air defense exists on the southern US perimeter between Florida and California. The area is virtually devoid of military surveillance and air defense command and control.

5. The Cuban plane incidents of 1969 and 1971 demonstrate that any foreign power can, at will, violate the southern US airspace without detection or interception. More importantly, they suggest that any enemy having the capability to attack from the south would be immune from detection and interception.

COMMITTEE RECOMMENDATIONS

The committee made two recommendations to the Secretary of Defense:

1. Accelerate the upgrading of existing outmoded and ineffective continental air defenses by inclusion of the Airborne Warning and Control System (AWACS), the Over-the-orizon Backscatter Radar (OTH-B), and the Improved Manned Interceptor (IMI).

2. Utilize, as an interim measure for southern air defenses, the OTH-B system presently available for detection and surveillance.

If Mr. Hébert seems unduly alarmed, there are more reasons for it than two airplane sorties from Cuba. The truth is that Soviet bomber flights along the fringes of North America are routine. Alaska, Canada, and Iceland are common territories of interest and the Russian flights are monitored by American and Canadian interceptors. Our Defense Department has a policy of keeping silent about this, although the Canadian government shows little reticence in this regard. At NORAD Headquarters in Colorado Springs, Colo., there is a file of motion-picture films, taken from accompanying interceptors, of innumerable examples of Russian bombers on probing flights.

General McKee makes it clear to visitors at his command post at Ent AFB, Colo., that the two Cuban flights are different only in that they terminated in the continental US. Soviet bombers fly over our fleets in the Atlantic and Pacific and skirt the continent with regularity. They are checking NORAD's response time. They are recording the frequencies of our command-and-control systems and radars. They are giving Russian bomber crews realistic training. They are observing our naval activity.

And NORAD is not alone in facing these feints. Reports from Europe say Soviet aircraft are probing NATO defenses in the same manner. Almost daily they are testing NATO's ability to react. The British Royal Air Force sees a great deal of Russian Bear and Badger bombers, many of them headed for Cuba. In Castro's country they not only can receive fuel and maintenance, but they profit from the experience of navigating and operating at the edge of the United States.

Like General McKee, Mr. Hébert is interested in broader aspects of the problem than those dramatized by the Cuban act in his own front yard.

In his report on the most recent hearing, the chairman points out there has been little change in our concept of air defense since the late 1950s, when Russian bombers were the only threat. Since then, the missile has assumed stature as a strategic weapon, "although the bomber threat has not significantly diminished."

At the same time, the report says, to save money, air defense forces on the continent have been cut sixty percent. It fixes 1963 as the start of this degeneration. As money became scarcer, the decision was made to deplete the southern defense ring in favor of the northern borders.

SURPRISED REACTION

Out in Colorado Springs, a component neighbor of NORAD is USAF's Aerospace Defense Command, headed by Lt. Gen. Thomas K. McGehee. General McGehee sounds a little surprised when he talks about the reaction in Congress to a couple of episodes in which the southern defense ring has been penetrated by airplanes from Cuba. He points out that there was little objection in Congress back in 1963 when the first steps were taken. According to the General's recollection, the first surveillance radar to be dismantled was in Texas. And the only Congressman to complain with vehemence was Edgar F. Foreman, a Texas Republican and Armed Services Committeeman. When the radar was taken out, the hole was called "Foreman's Gap."

Now the gap is about 1,500 miles long, and the Cubans know it can be penetrated with ease. The aircraft that landed in New Orleans last October—Mr. Hébert says it was flown in by Fidel Castro's personal pilot—was designated Cubana 887. Early on the morning of the flight, the Havana Air Traffic Control Center filed an instrument flight rule (IFR) flight plan for a proposed trip from Havana to New Orleans. The message designated the flight as Cubana Special One, not Cubana 877.

This flight plan was filed directly with the Federal Aviation Administration's switching center at Kansas City, Mo., and relayed at once to centers at Houston and Miami as well as the New Orleans International tower. Word also was passed on to NORAD, FAA headquarters, and the State Department. The plan called for Cubana Special One to depart Havana at 9:00 a.m. with estimated arrival in New Orleans at 11:59 a.m. Intended airspeed was 240 miles an hour at an altitude of 14,000 feet.

The Cubans violated a couple of regulations right at the outset. There is a rule, instigated by the State Department and presumably enforced by FAA, that says any flight from Cuba is required to file its flight plan five days in advance. This wasn't the case and when FAA asked Havana if Cubana Special One had taken off, FAA was told it had not departed. In fact, Cubana 877 had already been in the air about forty minutes. On top of this, at no time was FAA told how

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many passengers were aboard or their identification. Mr. Hébert says one of those aboard was the chief of Castro's central intelligence organization.

"There is no evidence," the Armed Services report says, "that any of the US authorities advised the Cuban authorities that the flight plan filed by Havana failed to conform to US requirements in at least two important respects and, therefore, would not be approved."

STICKY MATTER

On the morning of October 26 there was another sticky matter in the news about Cuba that obviously had a bearing on how FAA handled what turned out to be Cubana 877. Washington was concerned about an American Airlines 747 and 235 passengers that had been hijacked to Havana and kept there more than two days. James Murphy, Director of the Office of Air Transportation Security, was the man in charge of the problem on the morning of October 26. Under questioning, he was asked whether he challenged the Cubans when they failed to give five days' notice for the flight.

"We were having a hard time with the Cubans that particular day," Mr. Murphy replied. "The night before—because of the American 747 and 235 people on the ground—the Havana Center told the Miami Center to stop bugging them. They didn't want any more transmissions. We tried to be very selective in communicating with Havana Center until it really counted. . . ."

Mr. Murphy said he waited until fifty-three minutes after the flight plan called for Cubana Special One to have taken off, then ordered Miami to ask whether the aircraft had taken off or not. He suspected, by this time, that Cubana Special One had something to do with the hijacked airplane and the release of the Americans aboard. He said, "We were urging the State Department and other elements to treat the Cubans with courtesy and consideration on their arrival" because he did not want to jeopardize the release the 747 and the Americans aboard.

As for Cubana Special One, the inquiry found Havana replied to Mr. Murphy's query at 9:54 a.m., saying the aircraft had not departed. Later evidence showed Cubana 877 had taken off at 7:15 a.m. and was in the air for thirty-five minutes before the flight plan was filed. It arrived in New Orleans at 11:17 a.m., nearly an hour earlier than the arrival time estimated in the flight plan for Special One.

The first knowledge US officials had of an impending arrival was a request for landing instructions received at New Orleans International at 10:57 a.m. The aircraft identified itself as Cubana 877 and said it was twenty-five miles away at 4,000 feet. Cubana 877 was cleared for landing at 11:12 a.m. There is no further reference to Cubana Special One.

Who was on board? Twenty-one Cubans who said they came to town to attend an International Sugar Cane Technological Conference. In addition to arriving without an approved flight plan, they had no US visas for admission to this country.

The uninvited and unannounced Cuban guests were put up, for a couple of days, at a Hilton Hotel adjacent to the New Orleans airport. Then they were moved, to quarters that were less expensive to the US government. They spent the next half-dozen days at the Belle Chasse Naval Air Station, where they were bedded down in—of all places—the F. Howard Hébert Bachelor Officers Quarters. From here, they were sent home, without a taste or smell of sugar.

STATE NOT SPARED

The committee report does not spare the State Department. Kenneth M. Smith, FAA Deputy Administrator, testified that "we got nowhere" in first efforts to find out whether any visas had been issued.

An hour and twenty minutes after the proposed departure of Cubana Special One, the word came back from State that visa applications for the sugar-cane conference had been denied about a month earlier.

As a matter of fact, the State Department had known for over a year that Cubans were making a determined effort to attend the conference. The Armed Services Committee argues that State "should have brought this information promptly to the attention of all agencies concerned with national security, in order to insure a ready response to a possible illegal entry. However, although the problem was discussed over a period of months, there is no evidence that either NORAD or CONAD was advised of the pending problem or that any contingency plan had been agreed upon."

Further, in discussing NORAD's participation, the report concludes that it was exactly eight minutes after the Cubans had deplaned at New Orleans that the command had a call from the State Department representative at the National Military Command Center. The message: Due to Soviet Prime Minister Kosygin's arrival in Cuba that day, the Havana airport was closed and the proposed flight—of Cubana Special One, later Cubana 877—could not take off.

"Under these circumstances," the report says, "it would not be too difficult to understand why NORAD might have been less than certain as to what, if anything, it should do."

General McKee's attitude was stated, loud and clear, on the stand. He was asked whether he was of the opinion that the Cubans really were headed for the conference on sugar, or "did they have something else in mind?"

The answer was that from the way the flight was conducted and the fact that it was not detected "indicates to me that they underflew our radar, which did give coverage in the Cuban area. Also, since they didn't report in at the mandatory reporting points as they should have done, it is my opinion they didn't want us to know they were there until they arrived."

The General was reminded that even though he doesn't have the equipment, he has the responsibility.

"If they had come in, let's say, and dropped bombs or something or other, you would be the fellow that would be on the pan, would you not?"

The General replied this was most likely.

General McKee raised a point of his own about the State Department's requirement for five days' notification of unscheduled flights from Cuba to airports in the U.S. There had been a long discussion about it, and the USAF captain who got the first word on October 26 testified that he did not know of the requirement.

"That response might have led you to believe that others of us were aware of that requirement," General McKee told the hearing. "The facts are that I was not aware of it, and I have been unable to determine that anyone in NORAD was aware of it."

JCS CHAIRMAN

There were two star witnesses heard on the subject of air defense capabilities. In addition to General McKee, the committee had a long session with Adm. Thomas H. Moorer, Chairman of the JCS.

The General reviewed the role of CINCNORAD and his responsibilities to the President, the Prime Minister of Canada, the JCS, the Secretary of Defense, and their military counterparts in Canada. NORAD is binational; it uses the strength of USAF's Aerospace Defense Command (ADC), the Canadian Forces Air Defense Command, and the U.S. Army Air Defense Command.

Back in 1958, when NORAD was established, it had substantial forces. What has happened since then is shown in this tabulation:

NORAD WEAPONS

	1960	1971
Nike/Hawk batteries	270	63
Fighter squadrons (Reg.)	65	14
Fighter squadrons (ANG)	38	15
Bomarc squadrons	9	7
Total	382	99

By June 30, 1972, the fourteen regular interceptor squadrons will be cut to nine and, by June 30, 1973, reduced again to seven, half of the 1971 strength. The Fiscal 1973 proposed budget, sent to Congress in January, also indicates the Army's surface-to-air batteries will be depleted to only twenty-one. The number of Bomarc squadrons already stands at five instead of seven.

NORAD RADARS

	1960	1971
Long-range radars	187	99
Gap fillers	105	0
Total	292	99

In the same time period, personnel assigned for air defense of the continent were reduced by about sixty percent, from 246,720 to 94,575.

In his testimony, General McKee emphasized that he does not have forces to cover our southern approaches. There are from four to six interceptors on alert at Homestead AFB in Florida. He said that in the past year the 20th NORAD region, which is responsible for air defense of the southeastern U.S., has detected a total of 176 unknown aircraft.

"I can say," he told the committee, "that our anti-bomber defense systems are obsolescent and generally nonexistent along our southern border. We still have precisely the same types of weapons that we had in the early 1960s, but they are now ten years older, and we have them in far fewer numbers. In spite of this phase down in weapons and personnel, CINCNORAD's responsibilities have not diminished."

PRIORITY DEPLOYMENT

Later, the General said he must use what he has on a priority basis. Russia has the capability to threaten our survival and that is why his limited arsenal is deployed the way it is. He said the master plan drawn up in 1967 was based on the premise that the savings achieved by phasing down the system would amortize the procurement of a more modern defense force.

It was repeatedly pointed out that the decisions to phase down air defense are made by the Joint Chiefs of Staff and "at a higher level." NORAD gets its orders from the JCS. The Hébert hearing called Admiral Moorer, JCS Chairman, to testify.

The Admiral, always a blunt witness on Capitol Hill, made no bones of the fact that "fiscal realities" dictate some JCS decisions. He said the big threat from Russia lies in their nuclear missile capability; their bombers could strike targets in the southern states, but better options are in hand at this time.

So far as Cuba is concerned, Admiral Moorer testified that it has Russian MIG–17 and MIG–21 aircraft, the latter with an operating radius that would permit attacks no further away than Florida. American deterrent power, the Admiral believes, is enough to eliminate the risk of such an assault. He indicated the JCS still stands in support of the air defense modernization program drafted in 1967. Under questioning he gave the anticipated operational dates for the OTH–B, IMI, and AWACS projects. The dates were deleted by the censors.

For the improved interceptor, Admiral Moorer suggested, probably for the first time in public, that either the Navy's Grumman F–14 or the USAF McDonnell Douglas F–15 could fill the bill. In Colorado Springs, General McGehee indicated to this reporter that ADC has been working on a proposed modification of the new USAF aircraft, the F–15 that can fill the requirement later in the 1970s.

In his testimony, Admiral Moorer somehow did not seem to share the distress of General McKee and Congressman Hébert over their embarrassment at the violation of our airspace and regulations by Cubana 877. He was asked what he would do if he had more money. "Would you fill this gap as a top priority, or put it somewhere else?"

The Admiral replied that he would favor more modernization.

"You might procure the AWACS aircraft, for example, when it becomes available, so that it could be redeployed quickly to establish a barrier along the southern area in order to prevent these single-plan run-ins.

"I think you are always going to have the possibility that a single plane flying on the deck can penetrate almost any system that you could develop. It would be very expensive indeed to build up a system in this area that [would be] 100 percent leakproof. It would be very expensive for the purpose of intercepting one or two aircraft a year, if you consider these priorities that I have discussed.

"On the other hand, I realize fully the psychological impact and the need for the United States to protect this airspace. It is a highly desirable capability, as I have said. But at the rate we have been reducing the defense budget, and viewing at the same time the condition of the current air defense forces, I would have to look at the problem in totality to see just where we should put the money."

It was suggested by Rep. Samuel S. Stratton of New York that the Cubans might attempt an attack against a US target and Russia would intervene by threatening nuclear war if the US retaliated.

The Admiral said he does not think the Kremlin would be willing to trade Moscow for New York in order to support Castro "on such a junket as these MIGs might indulge in." He puts his faith in continued deterrent power.

STORED RADAR

It was while Admiral Moorer was testifying that the inquiry learned there is a backscatter radar (OTH-B) in storage. In early December, at the final session of the Armed Services hearing, witnesses were called from the Office of Naval Research and the International Telephone & Telegraph Corp. (ITT) to discuss the status of this project. A vast amount of the testimony was deleted by Pentagon censors, upon publication of the transcript. What was learned is best summarized in the committee report:

"The brightest spot in this depressing picture was supplied by certain military and civilian witnesses, who testified that Over-the-Horizon Backscatter (OTH-B) radars are in operation overseas today, and have been for some time, and such a unit is now available to provide immediate detection capabilities along our southern perimeter," the report says.

"Experiments with OTH-B detection systems have been conducted since the late 1940s; but at that time results were inconclusive as to their value for military purposes. In the late 1950s, greater attention was directed toward the development of OTH capabilities when the Navy proved it could detect nuclear testing. In the early 1960s, the Navy constructed an OTH-B and began reporting missile launches, as well as nuclear testing.

"Later, techniques were developed to detect aircraft and cruise missiles that can be launched from submarines. The operational capability of OTH was proven in the deployment of such radars overseas. Confirmation of the OTH capabilities has led to plans to develop a sophisticated OTH-B system for US air defenses to be operational in the mid-1970s. However, a used system, which is now available, can provide interim detection capabilities along our southern perimeter."

The report continued:

"Estimates provided by industry witnesses indicated that coverage of the Florida Straits, and practically the entire Gulf of Mexico by the existing OTH-B radar, can be achieved in six months. They also testified that the first-year costs, including refurbishment, installation, and site preparation, as well as one year of operational manning, are estimated at $5.7 million.

"The subcommittee urges the Department of Defense to take immediate action to install the presently available OTH-B at a location that would close the gap in our southern defense perimeter. The subcommittee also urges the rapid development, procurement, and deployment of the improved OTH-B to insure the integrity of our entire CONUS defense detection capability. This, of course, is but the first step in the critically needed upgrading of our CONUS defense which, in addition, must also include the new Airborne Warning and Control System (AWACS) and Improved Manned Interceptor (IMI).

"These two systems can also be operational by the mid-seventies and, when used in connection with the OTH-B, can give this country real defensive security. This must be accomplished with all speed, for each passing day makes more dangerous 'the calculated risk' which has been permitted in the name of economy."

What the report failed to point out in this otherwise revealing summary of OTH-B capabilities is that the new advance in radar contributes to more than our defense against intrusions by airplanes, be they bombers or irritating little flights like that of Cubana 877. The OTH-B, once fully operational, will be part of the continent's strategic warning system.

A NEW SOVIET BOMBER

In recent months, the Russian surge to achieve nuclear superiority has been well publicized. *Jane's Weapons Systems*, published last November, reported that the Soviet Union has "overtaken, and in some cases surpassed, the West in developing missiles and other weaponry." More recently, there was the appearance of a new bomber, named "Backfire" by NATO. *Jane's* says it is supersonic with a low-altitude capability at no loss of speed. Also, that "the approximately equivalent US B-1 bomber project is only at the mockup stage, while Russia has two Backfire prototypes flying."

In Colorado Springs, air defense experts argue that the Russian aircraft now in use for offshore missions near North America are a credible threat to the United States. Heaviest is the TU–95 Bear, with an unrefueled range of about 8,000 miles. It can carry a 25,000-pound bomb load.

The commercial version of this airplane, the TU–114, regularly flies nonstop from Havana to Moscow. Bear bombers fly nonstop Moscow to Havana in seventeen hours—that trip has become routine. They are turboprops.

There is a smaller, medium-range Soviet bomber called the Badger, frequently seen off Alaska, and a supersonic medium-range bomber named Blinder. The Defense Department estimates there are 750 aircraft in these two classes, plus 110 Bears and ninety Bisons, an older all-jet bomber.

The credibility of this threat is accepted at NORAD and obviously is of major concern to the Armed Services Committees of both the House and Senate. No report is complete, however, without reference to the skepticism that prevails in other key areas.

It suffices to call attention to last year's hearings of the Subcommittee on Defense Appropriations of the Senate Appropriations Committee. The Chairman is Allen J. Ellender, who hails from Louisiana and is a political neighbor of F. Edward Hébert.

Mr. Ellender, who has visited Russia and considers himself something of an expert on that country, its intentions and capabilities, says "they are not building bombers to any extent." He says the force they have is old and he fears that "the moment we start building the B–1 . . . they are going to go back and try to imitate us.

"I have contended all along that we have put Russia on the defensive for the last fifteen or twenty years. That is what we have done. That is why you see so many Russian ships in the Mediterranean. We have been in the Mediterranean for twenty-two years, and they just recently have come there."

The hearings were held last April, but the censored transcript was released only about the first of this year. In it, Chairman Ellender engaged in exchanges on Russian military stature with Grant L. Hansen, Assistant USAF Secretary for Research and Development, and Lt. Gen. Otto J. Glasser, Deputy Chief of Staff for R&D.

Mr. Hansen pointed out that the F–106 air defense interceptor is fourteen years old. That situation must be remedied and other R&D money for the next few years must go to finish development of the B–1, the F–15, the A–X, and AWACS. There are other items essential to our defense, including better surface-to-air missiles, optically aimed weapons, improved reconnaissance devices, unmanned observation platforms, and relays for guidance and control. So far, there is no development program for the IMI.

Mr. Ellender's response was to recall the history of the North American B–70 bomber. He said the project was stopped because the Russians improved their high-altitude defense system, which also forced the US to alter B–52 tactics and put the aircraft on the deck. "How do we know," the chairman asked, "they won't develop a low-altitude defense system that will counter the B–1's low-level capabilities?"

The response was that the B–1 will be versatile; it can go high and fast, and go low, using sophisticated penetration aids.

Facing General Glasser, who outlined the case for OTH–B and AWACS, the Appropriations Chairman challenged the spending of "tremendous sums" for a warning system aimed at Russian bombers, arguing that it escalates the arms race. Again, he depreciated the threat from Russian bombers.

General Glasser testified that the OTH–B proposed funding for Fiscal 1972 was $3.6 million, added to prior funding of $8.6 million. Then there was this revealing exchange:

Chairman ELLENDER: In view of the limited threat against the continental United States, just why do you feel it necessary to spend all of these funds to develop new aircraft warning systems?

General GLASSER: As you know, we have hard evidence of a bomber prototype, which is well advanced in the Soviet Union and which could be in production long before we would be able to put in these reactive defenses.

Chairman ELLENDER: That has been going on for several years?

General GLASSER: Yes, Sir.

Chairman ELLENDER: When we develop a new weapons system, the Russians emulate us or develop a countermeasure to our action. The development of the B–1 may well ac-

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celerate the development of more sophisticated Russian bombers. Don't you agree?

General GLASSER: I am not in a position to agree with you, but I would have to point out that it would be reckless of us to engage in unilateral disarmament.

This discussion, essentially about the chicken and the egg, is going to be continued in 1972. Considering the opinions of Mr. Hébert, Generals McKee, McGehee, and Glasser, Admiral Moorer, and Mr. Ellender, the debate is not likely to wane.

The right answer could be dictated in Moscow.

Until it is, the NORAD command and Congressman Hébert appear to be the only principals truly embarassed by such events as the flight of Cubana 877.

THE NEW YORK TIMES AND NEW YORK POST SCORE PRESIDENT NIXON'S BUSING STAND

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. RYAN. Mr. Speaker, President Nixon's message to Congress concerning the busing of children to achieve racial balance in schools failed to provide the Nation with the leadership it needs to deal with this highly charged emotional issue. Instead of reminding the American people that a clearly established line of Supreme Court decisions, starting with Brown against Board of Education in 1954, requires the integration of schools and the dismantling of the dual school system, the President chose to aline himself with those who make political capital out of racial distrust and discord.

The proposed moratorium on all new or additional busing orders would be a legislative usurpation of judicial power, which at the least would provoke a constitutional crisis. It is a direct assault upon the Supreme Court's desegregation decision and should be rejected.

Two of New York City's major newspapers, the New York Times and the New York Post, have in editorials on March 18 forthrightly scored the President's decision to extract maximum political capital from the busing issue.

Both of these editorials which point out how the President is confusing the issue, lucidly and cogently discuss the busing question; I commend them to the attention of my colleagues:

[From the New York Times, Mar. 18, 1972]

FALSE BUSING CRISIS

President Nixon has snatched the anti-busing ball off the muddy field of Florida primary politics and is trying to carry it to a November touchdown, whatever the price in national division. In his televised address Mr. Nixon rejected demands for a Constitutional amendment to ban school busing, not because it would trivialize the Constitution, but only because "it takes too long."

With a strident appeal for "action now" that lent a President imprimatur to the hysteria already distorting this issue, Mr. Nixon has asked Congress to pass legislation that would "call an immediate halt to all new busing orders by Federal courts."

Far from adding perspective to the argument, the President further confuses it by inveighing against the busing of children over long distances to inferior schools "just to meet some social planner's concept of what is considered to be the correct racial balance. . ." He wants to save a generation of children from the policies of those who are putting "primary emphasis on more busing rather than on better education."

All this paints an alarming picture of a reality that does not exist. No new legislation is required to prevent the courts from mandating racially balanced schools. In a unanimous ruling based on an opinion written by Chief Justice Burger last April, the Court upheld busing as a means of dismantling dual school systems. At the same time, however, the Court stated explicitly that it had neither mandated nor considered desirable the establishment of a racial balance or of any "fixed mathematical norms."

The Burger ruling stressed that, where there was no history of discrimination, "it might well be desirable to assign pupils to schools nearest their homes." It specifically questioned the wisdom and propriety of transporting children over long distances.

Thus, it is clear that the Supreme Court does not require the kind of indiscriminate busing Mr. Nixon wants to outlaw. No legislation is required to prohibit a Federal court from ordering what the Supreme Court has already declared undesirable. Mr. Nixon must surely know that the principal aim of desegregation is to allow children who have been confined to inferior schools to be given access to superior ones, and not vice versa. Many children moreover have long been bused over long distances, in order to maintain segregation.

The President's second proposal—the Equal Educational Opportunities Act of 1972—aims at improving schools now attended by poor children, in other words primarily the segregated schools. This is what desegregation was all about in the first place. It is in those districts which have failed in the nearly two decades since the historic Brown decision of 1954 either to desegregate or to improve the schools attended by black children that Federal courts have been driven to order busing.

There is little in the President's call for spending $2.5 billion to upgrade poverty schools that is not already contained in the Elementary and Secondary Education Act of 1965. Regrettably, neither the Federal Government nor many state and local school authorities have shown the will and skill to put the act and the funds to effective use.

President Eisenhower made little secret of his personal coolness toward the 1954 desegregation ruling, but he enforced the law as defined by the Court to the limit of his Presidential power. When the Chief Executive now appeals for legislation to limit the authority of the judiciary, he tampers with the foundations of government under law; for he diminishes the capacity of the courts to gain voluntary and peaceful compliance for their rulings. Such compliance is never more vital than in times of deep social conflict. It is an asset not to be squandered for temporary political gain.

[From the New York Post, Mar. 18, 1972]

THE POLITICS OF DISCORD

President Nixon's special message to Congress contains some elaboration and even modification of his televised address on school busing. But it does not alter its basic thrust. Mr. Nixon has clearly chosen to extort maximum political dividends from the tensions surrounding the living controversy and forfeited another chance to assert courageous moral leadership. In a situation that cried out for reason and reconciliation, he has let down many men, women—and children—who have been conscientiously striving to find an honorable common ground, including his own Senate leader, Hugh Scott (R-Pa.).

But before commenting on either his prose or his proposals, let us begin by saying it would be a misfortune if Mr. Nixon's opponents were to fall into the trap of allowing him to convert this issue into the central argument of 1972.

The tragedy is that the busing controversy has been—and apparently will continue to be—a cruelly diversionary, divisive conflict. No matter how it is resolved in the legislative arena at this juncture, the Supreme Court will still be heard from. Mr. Nixon is deluding the country by suggesting that the program he outlined can be imposed overnight.

Moreover, and perhaps more important, regardless of the immediate legislative result, the deep unrest and frustration afflicting so much of America will remain essentially unchanged. The drug plaque responsible for much of the nation's crime—inside and outside the schools—would not be remotely affected by the stoppage of the buses. No jobless Vietnam veteran would gain employment. Explosive economic inequities would be unaltered. And the distortion of national priorities embodied in the military budget would remain a flagrant example of conspicuous human waste.

Mr. Nixon could have performed a momentous mission by placing the problem in such perspective rather than injecting new emotionalism into the debate. He could have recognized and saluted the areas—especially in the South—in which busing has proved to be an entirely positive weapon in achieving both desegregation and quality education. He could have recalled the long, sad history of the busing of black children to maintain segregated schools.

But he did none of these things. While professing to discern the complexity of the problem, he offered simplistic—and largely spurious—answers little different from those George Wallace had proposed. He delivered a harsh blow to the thoughtful leaders of the black community who have been striving to resist the new tide of separatism in their own ranks. He derisively assailed the "social planners" whom he seemed to accuse of insensitivity to the unease of parents and of a mindless attachment for the busing process. But it was a Republican Chief Justice named Earl Warren who presided over the court in the celebrated case that is now the real center of the storm.

Mr. Nixon depicted himself once again as a man walking the "middle ground" between rival extremists. If that were truly his position, he would have backed the Scott-Mansfield amendment approved by the Senate.

That amendment essentially borrowed the language used by Chief Justice Burger last April when he declared objections to busing became valid "when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

These words are responsive to the concern voiced by parents in situations where busing plans would expose children to manifestly hazardous areas and inferior schools. While such provisions might be subject to abuse, they appeared to reflect a consensus of moderate, responsible Senate opinion.

Mr. Nixon's moratorium is far closer to the essence of the rejected Griffin amendment and plainly raises grave issues of constitutionality. For while Griffin urged a permanent busing ban—rather than a moratorium—the principle of legislative usurpation is the same.

If the President had aligned himself with the Scott-Mansfield position and advanced a program for genuinely expanded school aid, he could have justly portrayed himself as a voice of restraint and affirmation. Instead he has chosen a course that invites repudiation by the Chief Justice he appointed. He has appeared to resurrect the doctrine of "separate but equal."

Perhaps worst of all, he has helped to promote the delusion that the country can find the way to peace and tranquillity by stopping new buses for 15 months. He has set the stage for a long, bitter, distracting legislative struggle. That is the most melancholy aspect of this dismal interlude.

JUDGMENT OF TV EXECUTIVES AND NEWSCASTERS QUESTIONED

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HÉBERT. Mr. Speaker, the judgment of television executives and newscasters was brought into question most ably recently in a speech delivered by Mr. J. L. Robertson, Vice Chairman of the Board of Governors of the Federal Reserve System.

His remarks deserve wide distribution, and for that reason I am inserting them at this point in the RECORD:

THE CREDIBILITY CRISIS

(By J. L. Robertson)

In searching for a subject for my remarks here, it occurred to me that since, in the formulation of monetary policy, I have been in the front lines longer than anyone else—more than two decades—I should say something about the economy, perhaps pinpointing the mistakes of the past, explaining how we got to where we are, and indicating where we go from here. But the more I thought about it, the more certain I was that that objective was not a good one. At least with respect to where we go from here, the papers are full of prognostications—some by persons whose only qualification would seem to be an academic degree. I think all I need to say to you on that subject is that, at long last, the fallacious and enervating doctrines of "gradualism" and "benign neglect" have been discarded—unfortunately, at the cost of price and wage controls—and that we are now headed in the right direction. Given time, the psychological attitudes of businessmen and consumers will change for the better. The wisdom and steadfastness with which we formulate and adhere to sound monetary and fiscal policies, while awaiting those changes in attitude, will determine not only the extent to which we succeed in reducing both inflation and unemployment, but also the time when we can safely dispense with controls.

Having given up that objective, I turned to another. I thought perhaps the Hunt Commission Report would meet my needs. But the more I read that report, the more inappropriate it seemed, because the good and bad ideas are so intertwined and knotted together that it is almost impossible to unravel them. In this political year, I am sure Congress will not be able to do so. Why should I impose on your time to discuss them now? Besides, few of you have any doubts about my views on any portion of the report. And so, again, I changed objectives.

The other day a play opened in Philadelphia called "The Selling of the President", in which the candidate is portrayed as having been born and raised in Broken Bow, Nebraska, my home town—a town about which bankers have been hearing for as long as I have been making speeches. The play is based on the book, "The Selling of the President 1968", by Joe McGinniss. I read that book and Broken Bow was never mentioned. Why was it injected into the play? My guess is that the playwright is a banker on the side who is utilizing what he learned at your conventions to get to Broadway—or, perhaps, to enhance the credibility of his play.

Credibility is what I want to talk about today. We have heard a lot about credibility gaps in recent years. But I would put it more strongly. Our society is suffering from a credibility crisis. It affects the political world and the business world. It is a grave problem for our communications media. Our educational institutions and even our family life are touched by the growing lack of trust and confidence.

Some efforts have been made to augment credibility in the business world by enacting legislation. You in the banking business have been touched by this through the Truth in Lending Act, which has been under my wing from its inception. We are now seeing a major governmental effort to get a higher degree of truth in advertising. It must come as a great shock to many of the denizens of Madison Avenue to be confronted with demands that they both explain what they mean and provide proof when they claim that brand X is 20 per cent faster or brand Y lasts 10 per cent longer. Those percentages always remind me of Chinese economic statistics—they sound fine but you seldom know what the base is.

I do not know whether this drive for truth in advertising will ever get to the point where a certain newspaper is asked to prove that it really gives its readers "all the news that's fit to print," or whether a certain magazine will be asked to provide the statistics that will show that it really is "the world's most quoted news weekly". Probably not. One of the strange facets of the tell-the-truth campaign is that it has the enthusiastic support of most of the mass media, as long as it does not apply to them. The media agree that you bankers should be scrupulously honest in informing your customers about your interest charges. At the same time, some of them contend that "freedom of the press" gives anyone who has access to a printing press or a microphone the right to lie and deceive, even if those lies are part of an effort to incite people to perform illegal acts, such as blowing up banks.

Examples of this curious double standard are not hard to find. One government agency, the Food and Drug Administration, is willing to use the full force of the law to stop an advertiser from exaggerating the effectiveness of its mouthwash in combatting cold germs. But another agency, the Federal Communications Commission, was apparently unwilling to even so much as slap the wrist of a powerful television network for showing its vast audience a baby that (according to the network) was dying of starvation, when the actual cause of death was premature birth and had nothing to do with malnutrition.

The protective mantle of the First Amendment to the Constitution has been draped around such varied activities as peddling pornography, pushing pot, and advocating arson, but it has not been extended to provide protection to those who would stretch the truth in their efforts to sell mouthwash or gasoline. Perhaps it is felt that the mendacity of Madison Avenue is a greater threat to our well being than the intellectual drivel of the pushers of drugs, debauchery, and destruction. But a consequence of our unprecedented tolerance of dissemination of destructive falsehood is the growth of the great credibility crisis that now confronts us.

We find the communications media being used to undermine the credibility of everyone who represents authority, whether it be the government official, the business leader, the police, the school teacher, or the mere parent. In turn, the credibility of the media is called into question, and the public regards with increasing skepticism what they are told by the press and the broadcasters. An ace political correspondent of the *Washington Post* put it this way:

"The measure of the failure of the newspapers is the open skepticism and even derision with which they are viewed by their customers.

The press has as big a credibility gap as any institution in this society."

A well known liberal academic, with extensive experience in high government positions, Daniel Patrick Moynihan, has voiced deep concern about the degree to which irresponsible behavior on the part of the news media is making it difficult for our government to perform its assigned tasks effectively. In an article published last year, Mr. Moynihan said:

"Hence the conditions are present for a protracted conflict in which the national government keeps losing. This might once have been a matter of little consequence or interest. It is, I believe, no longer such, for it now takes place within the context of what Nathan Glazer has described as an 'assault on the reputation of America . . . which has already succeeded in reducing this country, in the eyes of many American intellectuals, to outlaw status . . .' In other words, it is no longer a matter of this or that administration; it is becoming a matter of national morale, of a 'loss of confidence and nerve', some of whose possible consequences . . . are not pleasant to contemplate."

We can see those consequences emerging already. On the one hand, there is a growth in the number of cynics who believe nothing; on the other, we see an increase in the number of "true believers" who are guided by nothing but their own unshakable convictions. The cynics are bogged down in apathy and indecision. The true believers are fired with fanaticism, not tempered with knowledge. The ability of our people to cooperate to promote the general welfare is vastly diminished, as we find it increasingly difficult to reach agreement on what the general welfare is.

For example, virtually every country in the history of the world, including ours, has always placed high priority on maintaining its ability to defend itself against potential enemies. This priority was well stated by Adam Smith two hundred years ago when he wrote in *The Wealth of Nations:* "Defense is much more important than opulence."

When Smith wrote those words, no one enjoyed much opulence in terms of present day standards. It is shocking that in a society that has more motor cars, television sets, air conditioners, etc., etc. per capita than any country in the world, the cry is going up that we cannot afford to spend the money required to provide ourselves with an adequate defense against our potential enemies. We are told that we must reorder our priorities and that national defense must be shoved far down the list. This is not just the cry of some "lunatic fringe". It is a scheme that is put forward by serious contenders for high political office. It is supported by influential newspapers and by some of the most influential voices heard on that powerful medium, network television.

I do not question their motives, but I do question their judgment, and I am shocked by some of the methods that they employ to influence public opinion. Let me cite a couple examples of the methodology.

A few months ago one of the best known TV commentators in the country told his vast audience that *two-thirds* of the regular tax income of this country was spent on the military. He compared this unfavorably with the old state of Prussia, which he said was criticized around the world for spending *half* of its income on the military. The implication was that the United States is more militaristic than Prussia was in its hey-day.

The statistics used by this commentator were incorrect. In the last fiscal year, our expenditures on national defense amounted to a little over 40 per cent of the revenues of the federal government. This year it is estimated that defense expenditures will

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amount to less than 36 per cent of federal revenue—a far cry from the figure of two-thirds used by the television commentator. After his figures were challenged, the commentator attempted a lame justification which made little sense. He and his network refused to correct the misleading impression that was given to the estimated fifteen million people who heard the original broadcast. They refused to even acknowledge the fact that a far more valid measure of the relative defense burden carried by different countries is the ratio of defense expenditures to GNP. They have not informed their audience that in the last fiscal year the total defense expenditures of the United States amounted to just a little over 7 per cent of our GNP, the lowest this ratio has been for many years.

The commentator in question makes no bones about the fact that in his judgment the United States spends far too much on defense. He is one of those who wants to see our priorities drastically reordered. He appears to overlook the fact that it will not be Americans who reorder our priorities if we so weaken our defenses that we are unable to protect ourselves from an attack. However, he is entitled to his judgment. What he is not entitled to do, in my opinion, is to use his privileged position as a national television commentator to persuade others of the correctness of his judgment by feeding them false information.

The president of CBS News would appear to agree, because a few years ago he made this statement:

"Anybody in news who is unfair, biased or inaccurate—deliberately or negligently—despoils his journalistic heritage and demeans his profession."

That is a fine statement. Unfortunately, however, it would appear that it is not invariably heeded even in his own organization. You may recall that a year ago CBS broadcast a documentary called "The Selling of the Pentagon", which aroused great controversy. This CBS production has probably been charged with more inaccuracy and bias than any comparable television production to date. I will cite only one example, not the most important, but one which is indisputable because it involves the use of false statistics.

In introducing the theme of huge Defense Department expenditures on public affairs, CBS noted that about $30 million a year was budgeted for such expenditures. However, it pointed out that an "unpublished" study by the prestigious Twentieth Century Fund had estimated that such expenditures might be as high as $190 million. CBS displayed a graph showing that this was more than all three television networks combined spent on their news programs. However, investigation by the critics revealed that at the time the CBS program was aired, the study by the Twentieth Century Fund had been published and that it contained no such figure.

On the contrary, it said that no accurate estimate of total Defense Department spending on public affairs could be made. Although one of the papers prepared for the study had included the $190 million estimate, the Twentieth Century Fund had not wished to lend its prestige to a figure that it did not consider to be reliable. The Twentieth Century Fund dropped it, but CBS did not. Whether this inaccuracy was deliberate or negligent I cannot say, but to borrow the words of the CBS official I just quoted, those responsible for it demean their profession. What is sadder still is that CBS has admitted the facts but has not to this day apologized for the inaccuracy or corrected the misinformation which it disseminated.

However, the most important criticism of this particular TV production centers on the basic veracity of the documentary.

There are those of us who think that if the taxpayer is to be asked to support a defense program that costs around $80 billion a year, the government has a responsibility to tell him why it is necessary and what is being done with his money. CBS rejected that viewpoint so completely that it made no mention of it whatsoever in its documentary. The basic issue at the heart of this program was never debated. CBS assumed that expenditures to inform the public about the need for national defense were unnecessary and then went on to show that they were being made, implying that it was showing the public examples of illegitimate and wasteful activities. It seems safe to infer that what the producers wanted to accomplish was not the trimming of a few million dollars from the Defense Department budget to save the taxpayers money. They were clearly after bigger game. If the government could be denied the right to finance an information program to maintain public support for national defense, then those such as the commentator I discussed earlier would find it much easier to win public support for really huge cuts in our national defense. The documentary clearly implied that we no longer needed to be as concerned with national defense as we once were, since we had been living in an era of peaceful coexistence for over a decade. That decade, I might note, included such events as the building of the Berlin Wall, the Cuban missile crisis, the Vietnam War, and the Soviet invasion of Czechoslovakia.

I call these matters to your attention today, rather than discussing with you banking matters or the state of our economy, because I, too, have become impressed with the importance of assigning proper priorities to our national goals. I had the privilege recently of reading the manuscript of a forthcoming book by General Lewis W. Walt, who retired last year from his post as Deputy Commandant of the Marine Corps. General Walt is not only a great soldier, but he is a most articulate and perceptive observer of the current scene.

His book bears an ominous title: "America Faces Defeat." It begins with words that everyone concerned with reordering priorities ought to think about. He says:

"Most living Americans have grown up in the most powerful nation on earth. Under the cover of that strength we have enjoyed an affluence hardly equalled in the history of any nation. This era ended in 1971. Today, we are a second-class power and we will have to accept that role for at least four years. Perhaps longer, possibly, forever."

He goes on to say:

"The individual citizen has not yet felt the impact of this basic change from strength to weakness, from leadership to compromise. Each of us will feel it as the world market for our goods and services shrinks; as we find ourselves increasingly alone within the community of nations; as we are forced to abandon the noble projects we have devised for the health, education and welfare of every living American.

"Instead, we shall have to learn once again the harsh lessons of weakness, of being trampled upon, and how it is to tighten our belts in privation and gird ourselves for nearly hopeless conflicts. We face, today, either defeat or years of national tragedy."

Those are strong words—too strong, I am sure, for those TV commentators who juggle figures to persuade the public that America is already spending far more than necessary on national defense. I will be surprised if General Walt is invited to discuss his book and its dire warning on the popular TV talk shows. I will be surprised if our leading newspapers and magazines give it any serious attention, but not because it would be disquieting to the American people to hear such warnings. The media spokesmen are constantly telling us that they should not be blamed for conveying so much bad news to the public. They explain that if the news is bad, they have a sacred obligation to report it, and we should not conclude that they like it any more than we do. On that basis, of course, the media would not shrink from alerting the American public to the bad news that General Walt is bringing out in his forthcoming book.

My guess is that General Walt's warning will be largely ignored for the same reason that similar warnings voiced by other distinguished Americans have been ignored in recent years. The explanation lies in these words penned by David Broder of the *Washington Post:*

"Selectivity is the essence of all contemporary journalism. And selectivity implies criteria. Criteria depend on value judgments, which is a fancy word for opinions, preconceptions and prejudices."

It would be naive to suppose that the criteria for news selection employed by a TV commentator or a newspaper editor who believes that we are already spending far too much on defense would lead him to give prominent attention to the warning of General Walt.

That is why those of us who by chance are aware of such things must avail ourselves of opportunities to discuss them and to inform others. We must not permit our country to be immobilized and rendered defenseless by media manipulation.

Because of the credibility crisis, the average citizen is hard-pressed to know who and what is to be believed. I am prepared to admit that I am no expert on military matters. Perhaps experts such as General Walt who voice these disturbing warnings are wrong. But if we follow their advice and keep our defenses stronger than might really be necessary, what have we lost? Nothing more than a slight retardation in the expansion of what is the highest level of living the world has ever known. If, on the other hand, we follow the advice of those who say that a strong defense is not necessary and it develops that they are wrong, what will we lose? Our lives, our freedom, our country. I have no difficulty in choosing the side on which I would rather err.

I make no apology for appearing before you today to talk about matters that are not related to banking. We are Americans first and bankers second. When our country is in danger, we ask our sons to interrupt their studies and careers, to shoulder arms and give their lives if necessary to defend us. It behooves all of us who have passed that age and who have risen to positions of leadership in our communities and our profession to take whatever steps we can to insure that our country remains strong, that we not slip into war or—worse—into surrender from weakness.

The likelihood that the national news media will continue to ignore the warnings of experts in this field may create the impression that what I have said to you today is a minority view of doubtful validity. In my view, that would be a false impression, flowing from what Theodore H. White has described as the increasing concentration in fewer hands of the cultural pattern of the United States. Mr. White has said: "You can take a compass with a one-mile radius and put it down at the corner of 5th Avenue and 51st Street in Manhattan and you have control of 95 per cent of the entire opinion-and-influence making in the United States."

That explains, perhaps, why we get the monotonous sameness of opinion from our national news media, much of it very much at odds with the deeply held views of what I believe to be the great majority of American people. There is no acceptance of the idea that those encompassed by Mr. White's circle ought to reflect the views of the people. One of the most prominent TV commentators reacted to such a notion by saying:

"More responsive to the public! What are they talking about? . . . . . I'm not about to adjust the work I do according to the waves of popular feeling that may come over the country. No responsible person can do that."

That surely means that the voices of the people must more frequently be heard in contradiction of the waves of feeling that emanate from that tiny group of men in Manhattan that make up, according to Mr. White, 95 per cent of the opinion-and-influence making in the United States.

Let no man be deterred. It has been said that it is easier to find a score of men wise enough to discover the truth than to find one man intrepid enough, in the face of opposition, to stand up for it. Perhaps that one takes his counsel from Daniel De Foe, who said: "He that has truth on his side is a fool, as well as a coward, if he is afraid to own it because of other men's opinions.

YOUNG REPUBLICANS ENDORSE STRONG SPACE PROGRAM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 20, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the Young Republican National Committee on March 10, 1972, endorsed the space shuttle program. Because of the importance of this commitment of these young people to a major national effort I am inserting in the RECORD the press release from the Young Republican National Federation and a copy of their resolution endorsing the most important space activity of this decade—the development of a low cost transportation system to space—the space shuttle:

YOUNG REPUBLICANS ENDORSE STRONG SPACE PROGRAM

WASHINGTON.—The Young Republican National Committee, at its meeting March 10, 1972, endorsed the space shuttle program.

The resolution urges "Congress to supply adequate funding for the Space Shuttle Program to guarantee the growth of the United States in future space ventures and to insure continual lead in space exploration and scientific development."

"Because the United States is number one in space," the resolution says "the space program has been responsible for economic growth and employment of many communities throughout the United States, and has greatly aided in the progress of medical and scientific technology, thereby advancing world progress.

RESOLUTION

Whereas, the United States is number one in the space program; and,

Whereas, the space program has been responsible for the economic growth and employment of many communities throughout the United States; and,

Whereas, the space program has greatly aided in the progress of medical and scientific technology, thereby advancing world progress,

Therefore be it resolved that the YRNF does hereby endorse and support the space program and urge the Congress of the United States to supply adequate funding for the Space Shuttle Program, to guarantee the growth of the United States in future space ventures, and to insure our continual lead in space exploration and scientific development.

FOXES AND CHICKEN COOPS—PHASE 2½

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. O'HARA. Mr. Speaker, in earlier installments of this series on the Nixon administration's penchant for asking the foxes to protect the chickens, I have concentrated on the Labor Department's ingenious interpretation of its clear legislative mandate to promote and protect the interests of wage earners. But this inventiveness is not, in the Nixon era, limited to the Labor Department.

It is worthwhile, for example, to take a look at the personnel of the Price Commission and the Pay Board to understand why it seems that working people are making most of the sacrifices in the President's endless "war on inflation," while big business cheers from the sidelines and continues to enjoy whatever it is big business expects to enjoy during Republican administrations.

Mr. Duane Emme has written a recent article on where the wage freezers and price fixers in this administration come from. Like my earlier insertion on the backgrounds of Labor Department officials, this brief biographical summary is most illuminating.

The summary follows:

PEOPLE WITH CORPORATION TIES HOLD KEY POSITIONS IN PHASE II

(By Duane Emme)

WASHINGTON (PAI).—Labor has charged that President Nixon's Phase II program is shaped to favor corporations over workers and consumers—and revelations about the people running it continue to show a tilt in that direction.

Leo Perlis, director of AFL–CIO Community Services, told a luncheon meeting of the AFL–CIO Maritime Trades Department that all of the present Price Commission members have strong ties to corporate managements.

Meanwhile, an examination of the Pay Board shows that four of its ten top staff people are from business. Three are from government, one from education, one is a lawyer and one is a former Air Force officer. There are no key people on the staff with union backgrounds.

Here is a rundown on some of the corporation connections of Price Commission members:

Chairman C. Jackson Grayson, currently on leave as Dean of the School of Business Administration at Southern Methodist, has had an academic career that has been liberally mixed with work for corporate managements. He has helped train executives for Motorola, IBM and Sun Oil Co. He has been a consultant to Sun, Humble and Marathon Oil Companies and Standard Oil of Ohio.

William Scranton, former governor of Pennsylvania, was board chairman of Scranton-Lackawanna Co. and has served on the board of International Textbook Co., Scott Paper Co. and Fidelity Bank & Trust.

John W. Queenan was the managing partner of Haskins & Sells, an accounting firm with a number of business firm clients.

J. Wilson Newman is former board chairman and chief executive officer of Dun & Bradstreet, the noted financial directory firm He has served on the boards of Chemical Bank Corp., General Foods and Consolidated Edison.

Robert F. Lanzillotti, has had a career as a professor of economics at several universities but he also has been a consultant to the Michigan Bankers' Association, U.S. Steel Corp., and the Swift Co.

William T. Coleman is a partner in a noted Philadelphia law firm with a long list of corporation clients.

The Price Commission has seven members but the seventh post is vacant. It was held by Mrs. Marina V. N. Whitman who resigned to join the President's Council of Economic Advisers. Ironically, she was the only one of Nixon's seven original appointments without apparent ties to business.

Biographical data furnished by the Commission on its members shows none of the business background of members except to touch upon it slightly in the sketches on Grayson, Queenan and Newman.

A look at the biographies of the top staff people in the Commission indicates that nearly all of them come from government careers. There are some with legal backgrounds but any corporate experience they may have had is not identified.

However, conspicuously missing from any key or even influential staff posts are people from union positions or consumer organizations. The sole representative of labor in any notable position is John Tomayko, Steelworkers' director of pensions and insurance, a member of the health services advisory committee to the Commission.

Labor's complaint on the tripartite members of the Pay Board, 15 in all, has been that at least three of the five so-called "public" members are not truly representative of the public; William Caples is a former Inland Steel vice-president and Arnold Weber and Neil Jacoby come from government posts in which they helped formulate Nixon economic policies.

In turning to the biographies of the Board's top staffers, four acknowledge a background with links to corporations:

Executive Director Robert P. Tiernan is a former tax attorney and labor counsel for Kaiser Aluminum and Chemical Corp.; John W. Ross, special assistant to Chairman George Boldt, comes from a labor relations post on the management side of the Wall Street Journal; R. T. McNamar, director of economic policy and case analysis, is a former tax attorney for Standard Oil of California; and Jack E. McGregor, general counsel, was president of a professional hockey team and Pittsburgh's "Business Man of the Year" in 1966.

A search through the Board's staff turned up ony two people from labor careers, neither in key posts: Frank Burhardt of the Painters serves in the economic policy division, and Charles McDonald of the Communications Workers, is an attorney advisor in the legal section.

CLEAN WATERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. FRASER. Mr. Speaker, next Monday and Tuesday the House will take up the Federal Water Pollution Control Act Amendments of 1972. The following editorial in the March 20 edition of the New York Times states succinctly the need to strengthen this bill:

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AND CLEAN WATERS

The water-pollution control bill, which Senator Muskie sponsored and his colleagues long ago approved by a vote of 86 to 0, is even more far-reaching and hence in worse trouble. Between heavy fire from industry and moderate fire from the Administration the Senate bill may be shot down, or existing controls may be seriously weakened in the name of improvement.

Of the changes made by the House Public Works Committee, one of the sharpest setbacks is the drastic modification of the Senate's objective to decrease effluents into the nation's waters for the next thirteen years, by which time (at least this is the goal) they would be eliminated altogether. The House committee, while theoretically retaining the goal, would subject the plan to a study by the National Academy of Sciences, to be followed by a second vote in Congress—by which time a lot of foul water will have flowed under the bridge. Not content to weaken the Senate bill, the committee would also reduce the effectiveness of the EPA by shifting primary responsibility for the issuing of effluent permits to the states, a grave backward step.

Representatives Reuss of Wisconsin and Dingell of Michigen are striving to reverse these stultifying changes with a "clean-water package" of amendments. Unless the efforts of these two outstanding conservationists succeed, there may be no clean water legislation in this Congress at all—a disastrous setback to a cause that cannot afford any delay.

ALL-AMERICAN CITY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. GIAIMO. Mr. Speaker, the town of North Branford, Conn., has recently been named an "All-America City," one of nine municipalities in the Nation so honored. I am extremely proud to have this town in my congressional district.

This town of nearly 11,000 people has been awarded the designation "All-America City" primarily because of the high level of citizen participation evidenced in a recent change in the town's governmental structure.

We all know, Mr. Speaker, how often apathy is found in municipal government, and how often personalities and heated arguments overshadow rational debate in the city and town elections of America.

North Branford, however, has proven that widespread civic action can take place in an atmosphere of debate, exchange, and positive action. The importance of North Branford's designation as an All-America City in recognition of this civic action is not that one side was "right" and another "wrong" during the referendum that changed the town's government, but that both were "right" in going about that change with widespread citizen involvement.

Mr. Speaker, the involvement of the people of North Branford in changing their form of government was such that more than a fifth of the population signed the petition forcing a referendum, and more than two thirds of the town's voters turned out to vote on the question.

Entry in the All-America Cities competition was made in behalf of North Branford by the North Branford League of Women Voters, and Mrs. Maurice Raymond, chairman of the Charter Revision Commission, presented the town's case at the National Municipal League Conference on Government in Atlanta.

More information and evidence of North Branford's achievement is contained in the following article and editorials which I would like to submit for RECORD:

[From the Hartford Courant, Mar. 1, 1972]

A STATE TOWN HONORED

For so small a state, Connecticut has won over the years a large share of national awards for community progress. And now another has been added. As announced the other day, North Branford has been named one of the nine All-America Cities for 1971 by the National Municipal League. Thus are hearty congratulations in order for the New Haven suburb of little more than 10,000 persons.

As many will recall, two other Connecticut communities won the same All-America Cities distinction last year. And the awards to Enfield and Bloomfield were equally deserved. If one still tends to think of these three communities as small towns, that makes their achievements all the more remarkable in competing with far larger municipalities across the country. And there is considerable variety in the reasons for the awards to Connecticut in the past two years.

North Branford, for instance, has been cited for "the efforts of its citizens to reform an obsolete local governmental structure." Local government is always a highly subjective matter, of course. And whether the council-manager system, now in effect in North Branford, is better than the traditional selectmen-town meeting form of government which it replaced is still debatable. What is especially noteworthy, however, is the fact that many responsible residents of the town believed so earnestly in the necessity for a change that they worked hard for it.

Thus, at the behest of an organization called Citizens for Council-manager Government, a special election was held last March on a new charter. And 67 per cent of the town's eligible voters turned out, favoring the council-manager system by a tally of 1,713 to 1,547. But perhaps the real winner was the democratic process. The large turnout for the election was attributed by the National Municipal League to a door-to-door campaign conducted by the citizen's group. The average turnout for special elections in Connecticut, the League has noted, is 24 per cent.

Last year, in Enfield's case, that town was cited for citizen participation in a variety of municipal functions. More specifically, the community was applauded for the imaginative $5 million Thompsonville redevelopment program, school-building projects and commercial and industrial expansion, notably a proposed 500-acre industrial park. As for Bloomfield, it was commended for its forward-looking, educational planning. The town had launched a desegregation program which includes a $5.5 million middle school for housing all fourth, fifth and sixth grade pupils, while a redistricting plan is providing an equal race mixture in the lower grades.

There are those of late, including the Wall Street Journal, who regard the All-America Cities awards as mere boosterism, signifying little. We don't agree. When citizens work tirelessly to improve their own communities, there is nothing so rewarding as a sincere pat on the back. And it's nice that North Branford has joined Enfield and Bloomfield (and Hartford as well) in earning that nod.

NATIONAL HONOR FOR NORTH BRANFORD

We congratulate the Town of North Branford upon its selection as an All American City—one of only nine municipalities in the nation to be chosen for the high honor. The citizens of neighbor cities and towns can profit by the example and inspiration of the healthy civic interest that won the coveted award for the relatively small community of 10,654.

This marks the first time since the mid-1950s that an All-America Cities flag has flown in this region. The only other community in the area to win it was New Haven itself, honored as it underwent the pangs of pioneering in redevelopment. The accomplishments that brought the honor to New Haven are visible today—despite difficulties experienced by the city in common with other urban centers. It is most likely that in the years to come, North Branford will profit by its extraordinary achievement.

Politics being what it is, there may be some residents of North Branford who resent the honor, which grew out of controversy. It was bestowed for the display of civic interest that was channeled to action, with resultant change in the town's form of government. Whether one feels the change is for the better or worse, it seems plain enough that apathy was not countenanced by the citizens of North Branford. There should be satisfaction on the part of all over the fact that so many citizens of the town took part in the decision to establish a council-manager form of government.

No less than 250 to 400 residents instigated the campaign that eventually involved so many townspeople. An unprecedented turnout of 67 per cent of the voters approved the change by a close vote of 1,713 to 1,547. Such a turnout is highly commendable when the undramatic issue, important though it is, involves government structure and no personalities.

But all along the line, high interest was stimulated by a non-partsan drive in the face of Town Hall obstruction and lassitude. The selectmen had refused to implement the recommendation of a charter commission that the voters express themselves at the poll. But the campaign leaders wouldn't take delay for an answer.

A petition to force the referendum was circulated through citizen action. That petition was signed by 2,008 voters when only 690 signatures were required—an indication of the intensity of the effort. The determination held all the way, right down to the business of convincing a town meeting to overrule the selectment on the referendum date so that more citizens would be likely to vote.

The voice of the people has been heard and heeded in North Branford through citizen initiative that has put the town in the national spotlight.

PRESIDENT NIXON MEETS RESPONSIBILITY ON BUSING

HON. HENRY BELLMON

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 21, 1972

Mr. BELLMON. Mr. President, the message which President Nixon sent to Congress on busing deserves the full attention and fair consideration by every Member because it represents a sincere effort by this administration to come to grips with a controversy which has become the most heated and highly emotional issue of the year.

The specific legislative proposals offered by the President requires serious study, which I am confident they will receive from the appropriate committees. There should be an adequate opportunity for debate, in order that all Members may be able to have all the necessary information before making a final decision on the President's proposals.

While the merits of the administration's plan are yet to be fully examined, however, the message alone has already accomplished one worthwhile purpose. It has served to inject a leveling influence into a situation where panic threatened to rule.

President Nixon's approach will not be pleasing to those who seek a simple, sudden, single-shot solution to the complex and longstanding problem of educational inequality. Neither will it please those who wish to return to the totally separate educational system of pre-1954. This is a problem which does not lend itself to immediate settlement and it is far too important to be swept back under the rug.

Sometimes the role of the Chief Executive is to serve as a balance wheel to keep the country from tearing itself apart. President Nixon has met that responsibility to a high degree in the recommendations he has made to the Congress.

Although busing is not a product of Congress, but of the courts, integration of the public schools is not a problem we can ignore.

Totally aside from the constitutional ramifications of the matter—about which competent and fair legal minds disagree—there is another issue that must be decided. The question is: Are black people here to stay and are white people ready to admit that they are?

If the answer is "Yes," then two courses of action are open. One is to pursue a course of action which has the end result of confining blacks to separate areas where they are maintained largely with huge sums of welfare payments. Around and through these communities will be needed an army of police to control crime and contain fear. Also needed will be another army of medical and social workers to contend with the problems of alcoholism, drug abuse, unemployment and illegitimacy. The net contribution of such a community is negative.

Another choice is to follow Thomas Jefferson's admonition as expressed in the Declaration of Independence:

We hold these truths to be self-evident, that *all* men are created equal, that they are endowed by their Creator with certain unalienable rights . . ." This theme was further extended in the Constitution which says, in the 14th Amendment: ". . . nor shall any state deprive any person of life, liberty or property without due process of law; nor deny to *any* person within its jurisdiction the equal protection of the laws."

Even one who has never considered himself to be a great social reformer cannot ignore the plain requirements of this language nor deny the direction our Nation's founders had in mind when this language was adopted.

The main point to keep in mind is simply this: Where, in what direction, is the country headed?

Until the 1954 Supreme Court decision in Brown against Board of Education, public school systems for more than 50 years had been allowed to operate under laws which permitted racially separate school systems, if those systems also were theoretically equal. In many States, the result of this doctrine was the enactment of laws which either required or officially sanctioned racially separate or dual school systems.

In such situations, regardless of how close a school was located to a home, children in the family were assigned to school on the basis of their race. In order to assure racial segregation, it was frequently necessary to bus both black and white children many miles each day.

In the Brown case, the court declared that "separate educational facilities are inherently unequal" and ordered that school desegregation be accomplished "with all deliberate speed."

My own State of Oklahoma, which had pioneered in breaking down color barriers at institutions of higher learning, moved rapidly and successfully to implement the court order and to end the dual school system. During the decade that followed, Oklahoma compiled an excellent record of progress in civil rights, moving away from separation in many areas—eating places, hotels and motels, public facilities, transportation and employment. The same thing has happened generally over the country.

These changes have come slowly and sometimes painfully. The real question before Congress and the country now is, Shall we continue in this direction or do we begin to move back to where we were 18 years ago?

This country was established by those who believed that every citizen deserves an opportunity to fully develop whatever abilities and talents he has. It was believed that the Creator did not limit brains and talent to members of any race or class.

A nation that denies full participation in society and an opportunity for making a full contribution to any citizen because he is in the minority becomes a little weaker and a little less desirable place to live for everyone.

This, then, is the fundamental question that must be answered. I feel that the country must continue moving in the direction of bringing the races closer together by offering equal opportunity for all. This standard certainly should apply to education, because a person who is denied an education in his youth will find doors to opportunity closed to him all the rest of his life. A government which fails to provide an educational opportunity to its youth cannot through welfare or any other means make atonement later.

Over the years Congress has tried numerous times to enact a law dealing with the busing of students, but these attempts have been overturned as soon as they get into court. A prime example is the Civil Rights Act of 1964, which stated that:

No local educational agency shall be forced or required to bus or otherwise transport students in order to overcome racial imbalance.

During the most recent Senate action on this subject, a number of antibusing amendments were introduced to education appropriations legislation previously passed by the House. Most attention was focused on two of these—the Griffin amendment and the Scott-Mansfield amendment.

Mr. President, I ask unanimous consent that a comparison of these two amendments and a summary of the key provisions of each be printed at this point in the RECORD.

There being no objection, the comparison and summary were ordered to be printed in the RECORD, as follows:

COMPARISON OF GRIFFIN AND SCOTT-MANSFIELD AMENDMENTS

GRIFFIN	SCOTT-MANSFIELD
Section 901—No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.	**No comparable section.**
No comparable section.	**Section (a)—No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act, including this Act, may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written request of appropriate local school officials: Provided, however, that no court, and no officer, agent, or employee of the United States shall order the making of such a request: And provided further, that no funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process.**

XUM

COMPARISON OF GRIFFIN AND SCOTT-MANSFIELD AMENDMENTS—Continued

GRIFFIN—continued

Section 902—No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

Section 903—Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

Section 904—If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

SCOTT-MANSFIELD—continued

Section (b)—No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially less than those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Section (c)—Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

No comparable section.

SUMMARY OF KEY PROVISIONS OF GRIFFIN AND SCOTT-MANSFIELD AMENDMENTS

GRIFFIN

Federal courts would be forbidden by Congress to issue school desegregation orders that would have the effect of requiring busing.

Federal officials would be forbidden to withhold or threaten to withhold federal funds in order to coerce or induce school districts to begin or continue any desegregation program that would have the effect of requiring busing.

Federal district court orders that require busing or consolidation of school districts to achieve racial balance would be stayed until all appeals have been exhausted.

SCOTT-MANSFIELD

Federal funds could not be used for busing to overcome racial imbalance, unless requested in writing by local school officials.

No court or federal official could order a school district to request federal funds for that purpose.

No federal funds could be used for busing when the time or distance or travel is so great as to risk the health of the children or significantly impinge on the educational process.

Federal officials would be barred from urging, persuading, inducing or requiring local school districts to spend state or local funds for busing unless constitutionally required.

Federal officials would be barred from pressuring a local school district to bus students to a school where educational opportunities are substantially less than those at a neighborhood school.

Federal district court orders that require busing from one school district to another or consolidation of school districts to achieve racial balance would be stayed until all appeals have been exhausted, or until June 30, 1973.

Mr. BELLMON. Mr. President, as the summary shows, the amendments contain many similar provisions.

The Scott-Mansfield amendment, which was approved by the Senate, answered most of the criticisms that have been raised by opponents of busing. By prohibiting the use of Federal funds for busing unless requested in writing by local school officials, the responsibility and authority was placed on local boards of education which are in the best position to make decisions. It prevents courts from ordering school districts to request Federal funds and guards against Federal agencies pressuring schools into using State or local funds for busing.

Under this amendment, no Federal funds may be used to transport students when the time or distance of travel may be harmful to their health or education. Also, Federal officials are barred from making a school district bus students to a school where educational opportunities are substantially less than those at their neighborhood school.

The basic difference between these two amendments, as I saw it, was that the Griffin amendment would completely remove busing as a tool to achieve school integration, while SCOTT-MANSFIELD would place heavy restraints on busing but not do away with it entirely.

Until a better solution is found, it is my feeling that Congress should not forbid the use of busing everywhere and under every circumstance. Therefore, I could not support the Griffin amendment. The Scott-Mansfield amendment offers a reasonable, workable approach to the problem and for that reason I found this particular legislation more preferable.

Also to be considered is the fact that both these amendments would be subject to challenge in the courts and it was generally felt that SCOTT-MANSFIELD had a better chance of being upheld though admittedly even this is questionable.

The battle is far from over on the busing issue. There will be other votes, in both the House and the Senate. There will be much speechmaking, letterwriting, and arguments pro and con.

Nobody I know of likes or wants busing to achieve school integration, although busing has been practiced for years without being regarded as evil. As members of a farm family, my wife and I and our three girls all have had to ride the bus to public school.

However, I fully recognize the intense public concern that has been generated in Oklahoma as well as other parts of the country as a result of Federal court rulings on the question. I can well understand the frustration and anger that citizens may feel under the pressure of Federal authority.

In this statement, I have attempted to set forth my feelings on the subject to this point. On a final note, and perhaps as a guide to future consideration of this difficult problem, I ask unanimous consent to insert a portion of the 1971 report of the U.S. Commission on Civil Rights.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

BUSING AND THE NEIGHBORHOOD SCHOOL

Two emotionally charged issues have intruded into the public debate over school desegregation and have tended to cloud understanding rather than clarify discussion. These are "busing" and the "neighborhood school." Those who have used them as arguments against desegregation ignore certain plain facts. One is that every day of every school year 18 million pupils—40 per cent of the Nation's public school children—are bused to and from school, and the buses log in the aggregate more than two billion miles each year. Another is that the trend of modern-day educational thought is away from the neighborhood school—a self-contained unit serving a relatively small student population—in favor of larger school units where economies of scale frequently make possible a broader curriculum, provision of new educational equipment, and special services not financially possible in schools which serve small numbers of students.

This happened in Oklahoma in the late 1940's and early 1950's when over 3,000 rural neighborhood schools were closed and the students were "bused" to schools in town.

To discuss desegregation in terms of "busing" and "neighborhood schools" is to remove the issue from the legal and educational context to which it belongs and transfer it to the arena of emotion and politics. Neither busing nor the organizational structure of school systems is an end unto itself. Rather, each is a means to the end of desegregated, quality education. As this Commission pointed out last April:

. . . the emphasis that some put on the issue of busing is misplaced. As most Americans would agree, it is the kind of education that awaits our children at the end of the bus ride that is really important.

Mr. BELLMON. Mr. President, it is my firm conviction that this is something everyone can agree on—the President, Congress, the courts, educators, parents and children, black or white. I am hopeful that the people of this country, with the vast public and private resources we have at our disposal, can unite in a common goal to achieve the objective of the best possible education for every child in this Nation.

THE HIGH COST OF WATER POLLUTION CONTROLS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. CRANE. Mr. Speaker, it has become commonplace for those concerned with problems in American society to refer to such problems as crises and to propose crash programs designed to stem the onrushing tide of disaster.

In most instances the solutions proposed by critics are neither as new nor as innovative as they suppose them to be. Critics of medical care, for example, call for national health insurance and Government-controlled medicine. Critics of the welfare system call for a guaranteed annual income system conducted from Washington. Those concerned with unemployment simply advocate that Government hire all of those without jobs.

The alleged solutions and responses are simply the same old answer of "let the Government do it," which we have heard in response to so many other problems in the past. Government, we may recall, was meant to solve the farm problem, the problem of slum housing, the problem of inflation. Government, through the Office of Economic Opportunity, was going to assist those who were underprivileged in gaining the education and training they needed. In all of these cases, Government involvement has compounded rather than solved the problem.

Now the Congress is discussing the problem of water pollution. This problem exists, as does the farm problem, the problem of slums and all of the other problems which crusading reformers hope to solve by turning them over to Government bureaucrats.

The Senate has passed a bill and the House is considering a bill which will, its sponsors tell us, produce clean lakes and rivers all across America. The bill provides a clear-cut timetable: By June 30, 1974, municipal sewage pollution facilities will provide the equivalent of secondary treatment. By July 1, 1974, construction grants for treatment facilities will be made on a regional, or areawide basis, rather than on a city or town basis as in the past. By January 1, 1976, industrial sources of pollution will be required to have the best practicable control technology. By January 1, 1981, industry will cease water pollution discharges. By 1985, the discharge of all pollutants from all sources into navigable water will be eliminated.

In an important article in Barron's of January 31, 1972, Washington attorney Douglas Caddy notes that:

The Administration and industry representatives argue that the setting of these goals and deadlines is unrealistic and could lead to a new undermining of the confidence of the citizens in their government when expectations are not fulfilled.

Environmental Protection Agency Administrator William Ruckelshaus told a National Press Club luncheon that the provision for the elimination of all discharges into waterways by 1985 is not technically feasible.

The demands made upon American industry may not be only unreasonable, but also not possible. In his article, Mr. Caddy points out that:

Industry is . . . disturbed over the logistical problem of meeting the Phase I January 1, 1976, deadline, since EPA regulations defining the treatment facilities will not be available until 1973. The design and installation of sophisticated treating facilities for large or complex manufacturing plants involve a lead time of several years.

Beyond this, Mr. Caddy writes, is the fact that:

Phase II will see a separate and more stringent standard for treating facilities. Thus, after massive investment in Phase I facilities, industry may quickly find that they do not satisfy the act's requirements.

Another aspect of this legislation which is of growing concern is the fact that under this bill any citizen would have the right to initiate a civil suit against any party who is alleged to violate an effluent limitation or a Federal or State abatement order, or against the EPA Administrator for failure to perform a nondiscretionary act. Businessmen, on the other hand, are unfairly denied the right to challenge the Administrator's actions in civil or criminal enforcement proceedings.

It is unusual that a Congress which is concerned with unemployment and the fact that American industry is becoming less and less competitive in the world market would place such new restrictions and limitations, as well as expenses, upon business. Economist Paul McCracken warned that the impact of this water legislation could "turn out to be proportionately heavy on industries and products that are important to our foreign trade" and could lead to enlarged structural unemployment, the most difficult to control because it is caused by disappearing markets.

Congress should carefully consider the implications of this legislation. All of us seek cleaner air, cleaner lakes and cleaner rivers. The question involved is not our goal, but whether particular legislative remedies bring us closer to such goals, or make their achievement less possible and less realistic, as well as more costly. I wish to share Mr. Caddy's article, "Effluent Society? Pending Water Pollution Controls Would Cost Industry Dear," with my colleagues, and insert it into the RECORD at this time.

[From Barrons, Jan. 31, 1972]

EFFLUENT SOCIETY? PENDING WATER POLLUTION CONTROLS WOULD COST INDUSTRY DEAR

(By Douglas Caddy)

Now that Congress has reconvened for its second session, it will pick up where it left off in processing major legislation. At the top of the list is the Federal Water Pollution Control Act Amendments of 1972, an impressive title for an array of concepts and proposals which may drastically affect the balance sheets of American corporations for at least the next decade.

In the opinion of most Congressional leaders, the new water bill could be the most important legislation enacted by the 92nd Congress. One thing is certain: if the proposed 1972 amendments to the Federal Water Pollution Control Act of 1965 are adopted without substantive modification on the floor of the House, their potential impact upon the economy and upon industry, agriculture, labor and government will be profound. The bi-partisan leaders of the House Public Works Committee, in announcing that the Committee had ordered its bill HR 11896 reported on the day before the first session of Congress ended, described it as "the most significant water improvement legislation ever reported to Congress," meaning the 1972 offspring amendments certainly outshine their parent act passed seven years ago.

SENATE VOTE

The Senate passed its own bill S. 2770 on November 3. The vote of 86–0 clearly reflected the absence of controversy and debate, although Senators James Buckley (R.-C., N.Y.) and Lloyd Bentsen (D., Texas), who serve on the Senate Public Works Committee, voiced concrete reservations about some of the bill's provisions. The Senate Public Works Committee in the past two years devoted 33 days to public hearings on the water legislation, heard 171 witnesses, received 470 statements for the record, compiled 6,400 pages of testimony and held 45 executive sessions. In the end, even the two slightly critical Senators, joining in praise for Senator Edmund

Muskie (D., Maine) for skillfully guiding the bill toward successful passage, voted "yea" and sent the measure to the House.

Rep. John Blatnik (D., Minn.), Chairman of the House Public Works Committee, almost immediately indicated he strongly opposed reopening the public hearings on the legislation which his committee, like its counterpart in the Senate, had been conducting for months. The Adminstration, supported by industry and state governments which felt the Senate bill weakened their pollution control powers, pressed for new hearings. Within a week after having voiced opposition to the hearings, Rep. Blatnik succumbed and scheduled final hearings for December 7–10.

The four days of hearings saw a parade of prominent witnesses—from the Republican governor of New York, Nelson Rockefeller, to the then Chairman of the Council of Economic Advisers, Paul McCracken—criticize the Senate and House bills as embracing the wrong goals and establishing dangerous regulatory powers. Nevertheless, on December 16 the House Committee voted to order its own bill, stronger in some aspects than the Senate version, sent to the House floor where it will be voted upon, perhaps as early as February. Rep. Robert Jones (D., Ala.), who is Acting Chairman while Rep. Blatnik recovers from a slight heart seizure, and Rep. William Harsha (R., Ohio), ranking minority member, declared the House bill goes "with the overwhelming bi-partisan support of the Committee's members."

COMPLEX PROVISIONS

One reason why little or no opposition is voiced against the legislation in Congress is that few members of Congress admit they understand the amendments' complex provisions and concepts. Indeed, it is worth noting that the Senate Public Works Committee on October 28 voted to report its bill but the actual text and committee report were not available until November 1, the day before the Senate was scheduled to vote. S. 2770 is 190 pages long and its length and complexity undoubtedly deterred many Senators from reading the bill in the 24 hours between the time the bill became available and the debate and vote. Thus, the Senate almost blindly relied upon the collective judgment of its Public Works Committee, which strongly recommended passage.

It was not until after Senate passage that the Administration and other critics awoke and began to clamor for a re-examination by the House Committee. S. 2770 and H.R. 11896 (as introduced on November 19—the text of the final bill will not be ready until February) must be read sentence by sentence to pierce their complex concepts and provisions. After doing so, one veteran Washington lawyer described the bills as "virtually a world's fair of legislative ingenuity and legal intricacy."

The controversy that has developed since Senate passage swirls around five concepts embraced by both bills:

First, the legislation sets a series of goals to be achieved and deadlines to be met in order for the country to obtain pollution-free water.

By June 30, 1974, municipal sewage pollution facilities will provide the equivalent of secondary treatment.

By July 1, 1974, construction grants for treatment facilities will be made on a regional, or area-wide basis, rather than on a city or town basis as in the past.

By January 1, 1976, industrial sources of pollution will be required to have the best practicable control technology.

By January 1, 1981, industry will cease water pollution discharges.

By 1985, the discharge of all pollutants from all sources into navigable water will be eliminated.

INTERIM GOAL

There is one general interim goal: to make lakes and streams clean enough by 1981 for swimming and for the propagation of fish, shellfish and wildlife.

The Administration and industry representatives argue that the setting of these goals and deadlines is unrealistic and could lead to a new undermining of the confidence of the citizens in their government when expectations are not fulfilled. Environmental Protection Agency Administrator William Ruckelshaus told a National Press Club luncheon on the same day that the House Committee ordered its bill reported that the provision for the elimination of all discharges into waterways by 1985 is not technically feasible.

Earlier, in committee testimony, the chairman of the Council on Environmental Quality, Russell Train, also criticized the goal. After noting that "since wastes will not simply disappear and must be disposed or recycled in some way," Train observed, "a no-discharge requirement presupposes that it is uniformly preferable to dispose of all waterborne waste on the soil or in the air rather than in the water, except where some type of re-use is possible. It is true that the land should be considered and quite possibly used to a much greater extent as an alternative to water for waste disposal, particularly for wastes that are composed of usable nutrients. However, I am aware of no evidence that land can be regarded as the best or even a viable solution for all or most waste disposal requirements. There are practical limits on land availability; there is potential for contamination of soil and ground waters be heavy metals and other materials.

"These and other questions need, and are receiving, further research and investigation. Moreover, surface water has a capacity to absorb a certain amount of wastes without harm. Although we certainly should not abuse or strain this capacity, neither should we ignore it, especially not without weighing the environmental hazards of alternative disposal choices." Train further noted that incremental costs of abatement increase greatly as higher levels of reductions are required. This is shown in the accompanying table.

EFFLUENT LIMITATION STANDARDS

The second major concept is abandonment of water quality standards developed under the 1965 Act and substitution of effluent limitation standards. Premised on a determination of the beneficial uses to be made of a given body of water, water quality standards include a description of the quality necessary for such uses, stated in physical, chemical and biological measures. A schedule of remedial actions to achieve and preserve such quality is included.

The proposed effluent limitation standards would require the progressive restriction on discharges into the water until the point is reached when no pollution effluent is discharged, i.e. 1981 for industry, and 1985 for all other sources.

EPA Administrator Ruckelshaus, in criticizing the substitution of effluent limitation standards for water quality ones, points out that this concept would forbid tertiary chemical treatment of sewage. Such a aystem is currently being installed at the Blue Plains sewage plant for the District of Columbia and, according to Ruckelshaus, the discharges from this treatment will be just short of drinkable quality. However, under the concept of effluent limitation the treated discharges could not be put into the Potomac River. According to Ruckelshaus, the alternative will necessitate the building of huge lagoons for sewage sludge settlement and the use of irrigation or some other system for the return of disinfected sewage effluent to the land, EPA favors the new legislation building upon the existing foundation of water quality standards and employing effluent limitation only as a tool to achieve such standards.

BEST PRACTICABLE

The legislation's third major concept is to achieve the "no discharge" goal and effluent limitation standards through two phases. Phase I would require industry to apply the "best practicable control technology currently available" by January 1, 1976. Phase II would require industry to apply the "best available control technology" by January 1, 1981, if it is unable to eliminate completely the discharge of pollutants. A part of this concept is that all new point sources or discharge for 28 industrial groups (such as textile, steel, paper, chemical, etc.) will be required to use the "best available technology" and, if practicable, to meet a standard of performance which permits no discharge of pollution.

Industry representatives express concern over this concept because the legislation fails to define adequately what constitutes best "practicable" control technology, opening the possibility that the EPA or private parties in citizen's suits allowed under the act, might take the position that any control technology which is "possible" or "capable of being used" (the dictionary definition of practicable) is required. Since the two bills establish a precise standard of "secondary treatment" for publicly owned plants, they argue that precise standards should be applied to industry.

Industry is also disturbed over the logistical problem of meeting the Phase I January 1, 1976, deadline, since EPA regulations defining the treatment facilities will not be available until 1973. The design and installation of sophisticated treating facilities for large or complex manufacturing plants involve a lead time of several years. Moreover, thousands of plant owners will be competing at the same time for the equipment and construction labor. There is already about $7 billion worth of waste treatment facilities for which federal financial assistance has been committed, construction of which is incomplete or not yet under contract. Still another problem is that Phase II will see a separate and more stringent standard for treating facilities. Thus, after massive investment in Phase I facilities, industry may quickly find that they do not satisfy the act's requirement.

NO SOLACE

The citizen's suits and administrative and judicial procedure set forth in the amendments comprise the fourth major concept. Since the act will permit citizen's suits to enforce compliance, industry may find no solace in the suggestion that EPA will be reasonable in applying the act and in resisting literal compliance.

The amendments would allow any citizen to initiate a civil suit against any party who is alleged to violate an effluent limitation or a federal or state abatement order, or against the EPA Administrator for failure to perform a non-discretionary act. If EPA or the state initiates a civil or criminal action on its own against the alleged violator, no court action may take place on the citizen's suit.

Any party who willfully or negligently violates its discharge permit or who violates several other specific provisions contained in the amendments shall be liable to a fine up to $25,000 per day of violation and/or one year in jail. The penalty for the second conviction is $50,000 per day and/or two years in jail.

The Senate bill requires a petition for review of EPA's promulgation of standards relating to new sources of toxic pollutants and any petition for review of the EPA Administrator's acceptance or rejection of a state's procedure for controlling new sources or issuing permits to be filed within 30 days in the U.S. Court of Appeals for the District of Columbia. A challenge to the Administrator's actions cannot be raised in civil or criminal enforcement proceedings.

FAIR SHAKE

Industry representatives argue these provisions substantially deprive interested parties, including the states, of access to judicial review. Since the U.S. Court of Appeals in the District of Columbia is characterized by some as a "liberal" court, they believe that they would receive a fairer shake if appeals could be filed in the U.S. Court of Appeals for the appropriate local circuit.

The House bill contains a provision which may prove to be a superior judicial procedure. It requires the President, through the Department of Justice, to study and make recommendations on the advisability of establishing an Environmental Court to resolve disputes over administration of pollution control measures.

The final concept embodied in the amendments is contract authorization. This would eliminate the budget-appropriation process of Congress and would give EPA direct authority to enter into contracts. At stake is the contracting authority to disburse vast sums of public sums. The House bill calls for a total outlay of $27 billion over four years—$7 billion more than the Senate bill. The Administration had originally recommended $8 billion for the same time span.

Of the $27 billion in the House bill, $20 billion would be for sewage-treatment plants, including construction of collection systems. The Senate bill authorizes $14 billion for plant construction. Both bills, in bypassing the normal budget-appropriation process, allow EPA to enter into long-term contracts with regional authorities. The federal share of construction costs under HR 11896 would range from 60% to 75%, depending on the state's contribution. This compares with 60%–70% in S. 2770 and 30%–55% in existing law. Both bills also authorize reimbursement to cities and states for their sewage plant construction work since 1965 ($2.4 billion in S. 2770 and $2.75 billion in HR 11896).

SIDESTEPS SAFEGUARDS

EPA Administrator Ruckelshaus, who would have the authority to disburse the billions of public funds, is opposed to contract authorization—as are a number of Senators. He says it "sidesteps all the safeguards and discipline provided by the budgetary-appropriation process. . . ."

The concept of contract authorization raises perhaps the most fundamental question concerning the potential impact of the water act amendments: will the economy be adversely affected?

Paul McCracken believes it may well be. In testimony before the House Committee last December he observed: "If new programs are taken in without seeing clearly the magnitude and character of future commitments, they may get out of line with our capability in the future to produce, thereby imposing severe strains and distortions on the economy. . . . We are already on an expenditure course such that federal outlays will tend to rise more rapidly than the increment of revenues that ongoing economic growth will yield with any given system of tax rates."

He warned that the impact of the water legislation could "turn out to be proportionately heavy on industries and products that are important to our foreign trade" and could lead to enlarged structural unemployment, the most difficult to control because it is caused primarily by disappearing markets.

In concluding, McCracken indicated his prepared remarks held three implications:

(1) "The commitment involved in H.R. 11896 is large. Required capital outlays for a sustained period would be equal to something like one-tenth of business fixed investment, and another like amount would be spent for operating costs.

(2) ". . . It would appear physically to be very difficult for this country under its system of construction as currently organized to produce the physical plants to achieve the level of effluent removal suggested by 1981 by either the Senate or House bills. Over the last two years the rate of growth of construction of waste disposal facilities has been 25% annually. This compares with a long-term rate of growth of approximately 6%. . . . Higher levels of activity in this sector could lead to more rapidly escalating inflationary pressure. . . ."

(3) The question of the economic feasibility of carrying the removal level to 100% "is not answered by whether even purer water is better but whether after achieving a reasonably high level of removal the large resources involved to achieve small further gains could contribute even more to our material welfare if they were to be used elsewhere. . . ."

IMPORTANT EFFECT

The economic common sense contained in McCracken's comments had an important effect. Committee members agreed to insert a new provision in their bill to require that within two years after enactment the National Academy of Sciences would complete and report to Congress a study of the social, economic and technological effects that would result from achieving the 1981 clean water goals. The requirement that industries must use the best available pollution control technology would not come into force until the Congress takes action to implement the findings of the National Academy of Sciences study. Practically, this might mean the 1981 requirement would not take effect unless Congress reimposed it.

Of course, even if provision requiring this study is retained in the bill on the floor of the House, it may be struck out when the House and Senate bills are sent to conference committee. Nevertheless, the McCracken testimony and the proposed study do serve to focus the attention of the entire House not on the question most frequently posed up to now: "Do we need this legislation if we are to clean up our waters?" but instead: "If we pass this legislation, will its environmental benefits be more than offset by the social, economic and technological costs required to implement it?"

If Congress enacts the water act amendments, President Nixon is not likely to exercise a veto. To do so, as Ruckelshaus says, would open him to accusations that he favors "dirty water." Accordingly, Ruckelshaus cautioned the House Committee members in enacting legislation: "We must be as careful as surgeons. We must take care not to throw the proverbial out with the bathwater."

TOTAL NATIONAL COSTS OF SUCCESSIVE LEVELS OF POLLUTANT REMOVAL

[Dollar amounts in billions]

Level of removal	Total cost	Cost per incremental percentage point of removal
85 to 90 percent	$61.0	$0.7
95 to 99 percent	119.0	6.0
100 percent	317.0	66.0

Source: Estimates of the Council on Environmental Quality and the Environmental Protection Agency. In effect the data are in terms of 1971 dollars, since no price inflation has been built into the data. Total costs include a 10-year program of capital expenditures and 20 to 25 years of operating costs for those facilities.

STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA IN WORCESTER, MASS., LEADS THE WAY IN DEMONSTRATING THAT IT PAYS IN CASH, AS WELL AS IN HEALTH, TO QUIT SMOKING

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DONOHUE. Mr. Speaker, as the Member of Congress representing the city of Worcester, Mass., in which the State Mutual Life Assurance Co. of America is located, I am proud of the most effective social development partnership for progress this great company has with all our community elements and I earnestly feel the company officials and employees deserve our universal congratulations and commendation for being the first in their field to provide incentives to consumers to quit smoking by offering them lower premiums on life and health insurance policies.

In this regard, a very enlightening article entitled "The High Cost of Smoking," by Walter S. Ross, in the March 1972 issue of the Reader's Digest, gave national editorial recognition to State Mutual's non-cigarette-smoker life insurance program in these extracted words, and I quote:

It started in 1964, when the Surgeon General's famous report disclosed that cigarette smokers had an overall death rate 68 percent higher than non-smokers. Subsequently, State Mutual Life Assurance Company of America began advertising, "The non-cigarette smoker is a better life-insurance risk. He's entitled to a better rate. So we've given it to him." State Mutual started selling life insurance in minimum amounts of $10,000 at approximately a three-percent discount to all who could honestly sign the statement, "I do not now smoke cigarettes, nor have I smoked any cigarettes for at least the past 12 months." This would save a 31-year-old non-cigarette-smoking man $15.60 a year on a $30,000 policy. On larger policies, savings are higher.

Through 1971, State Mutual had sold more than $1.2 *billion* of non-smoking insurance; today this insurance accounts for 35 percent of the company's new business. State Mutual finds that not only are the non-smoking policyholders better risks, but that they buy larger policies, and hold onto them more consistently. Perhaps it's easier for them to pay premiums because of the money they save on cigarettes. A 30-year-old man can buy $10,000 policy with what he saves on a pack and a half of cigarettes per day. Today, 11 other companies have non-smokers' insurance.

Mr. Speaker, the very timely and interesting Reader's Digest article mentioned above emphasizes that cash incentives, to nonsmokers, are being extended in other business fields and they are part of a wholesomely developing national trend because most businesses are increasingly discovering that being concerned about and contributing to the improvement of the quality of life for the consumer is not only good citizenship but also good business in a better country. In its particular industry State Mutual Life Assurance Company of America has

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shown the way; to others we simply say—go and do likewise—for your own, for your consumer's and for the Nation's best interest.

THE CONSEQUENCES OF SEGREGATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. EDWARDS of California. Mr. Speaker, we need, I think, to be constantly reminded of the evil consequences of segregation in our society. In the recent debates on integrating the suburbs and the use of busing to desegregate the schools there has been little, if any, mention of the terrible cost of continued segregation for the minority communities. Yet while the debate continues, the heavy toll of lost opportunities is exacted daily, often beneath the level of our notice and hidden from our consciences. The just completed report of the 20th century fund on "The Job Crisis for Black Youth" gives us the latest accounting of the damage inflicted upon blacks by continued segregation and denial of opportunity. This report deserves the attention of everyone in the Congress, and I hope that we will all read it to become more aware of the human casualties we are creating daily in our society by our continued refusal to end the racial segregation which permeates almost every segment of American life.

I commend to the immediate attention of all in this body the recent Washington Post editorial on this important study:

PROBLEMS OF BLACK YOUTH

"When hope dies, its heirs are desperation and despair," said James B. Conant a decade ago, warning of the "social dynamite" planted in our cities by the enforced idleness and empty expectations of "hundreds of thousands" of young people. The warning is cited in a study of "The Job Crisis for Black Youth" conducted by a special task force for the Twentieth Century Fund (Praeger, $3.95). It found that the "hundreds of thousands" have multiplied, particularly among black ghetto youth and that the "social dynamite" which some years ago exploded at Watts and the subsequent ghetto riots, is now detonating in a steadily increasing barrage of crime. "As against a white adult unemployment rate of 4.6 per cent during the second quarter of 1971," the task force reports, "the over-all black teen-age unemployment rate was 34.9 per cent— or more than seven times greater; in the poverty areas it was 39.1 per cent. For black adults between the ages of 20 and 24 the unemployment rate was 19 per cent."

The causes are numerous and, in part, obvious: our general failure to generate sufficient jobs at adequate wages for all who want to work; racial discrimination; the near-breakdown of the inner-city schools which permit young people to drop out or graduate from high school without the minimum skills required for desirable jobs; the lack of an alternative to formal schooling of adolescents and the reluctance of employers to hire young blacks and train them for other than dead-end jobs. Another often-cited cause is the flight of industry to the suburbs which leaves the inner-city resident with fewer opportunities for low-skill jobs at the bottom rung of the ladder to upward mobility. But that, says the study, is somewhat of an oversimplification. Because of the growth in services and government activities the number of jobs for unskilled workers has actually increased. The trouble is that many of these jobs are filled by commuters from the suburbs and, more important, that the number of black migrants and poorly educated inner-city youngsters is increasing even faster than the jobs. This trend continues to accelerate. And so does the prospect for crime. One cause, of course, is the despair of ghetto life and the contacts youth makes on the street. But a major and most disturbing factor, says the study, "may be the rising 'legitimacy' of crime, to the extent that blacks see it as an expression of civil disobedience"—as a form of protest.

The task force acknowledges that there are no easy solutions and that a many-faceted attack is needed. It would give priority to creating public-service jobs for all young people who can't find jobs in private industry, step up funding of antidiscrimination efforts and expand services, including child care, family planning and part-time employment for young black women who suffer the highest unemployment rates.

In the end, however, the nation, including its black leaders, must recognize that the problems of ghetto youth are essentially the problems of the ghetto. And these problems will become worse, no matter how much we spend or how well we mean, as long as we continue to house the black and the poor almost exclusively in the inner city. We can, perhaps, ameliorate ghetto conditions. But we cannot eliminate its inherent evil until we eliminate the ghetto itself.

RAIL PASSENGER CUSTOMERS NEGLECTED

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRASSO. Mr. Speaker, I deeply regret that the House, in its consideration of H.R. 11417, the National Railway Passenger Corporation Review Act, refused to accept the amendment to make the so-called inland route between New Haven, Conn., and Boston, Mass., a permanent component of the Amtrak system.

This amendment would have provided intercity rail transportation between New Haven, Wallingford, Meriden, Berlin, and Hartford in Connecticut, and Springfield, Worcester, Framingham, and Boston in Massachusetts. Such a provision would have done much to rekindle interest in rail transportation among the people of central Connecticut and central Massachusetts.

The inland route to Boston from New Haven includes over 1.2 million more people than the present Shore Line route. Although an important goal of Amtrak is creation of a balanced transportation system, Amtrak now runs 10 trains daily along the Shore Line route, but only one train daily from Springfield to Boston. Many more individuals would avail themselves of Amtrak trains if a more balanced route were inaugurated. Of the numerous people who drive from Hartford to Boston each year, a large number would gladly travel by train if the opportunity were offered.

Since the amendment considered would have required only a minimum of three trains daily along the inland route, it would not have jeopardized the existing Amtrak Shore Line route.

Instead of revitalizing intercity rail traffic, Amtrak continues to neglect potentially rich market areas by refusing to schedule rail service along those routes which would serve a large number of potential travelers. The Northeast is not alone in this problem. Other sections of the country also are without effective rail service. A large, untapped pool of potential rail passenger customers is being neglected by the current state of intercity rail transportation. Perhaps Amtrak will someday recognize this potential and take advantage of the promise it offers.

SICKLE CELL ANEMIA: RESEARCH, TREATMENT, AND DETECTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. RANGEL. Mr. Speaker, the House of Representatives is scheduled to consider legislation—landmark legislation—to fight the deadly sickle cell disease which afflicts black Americans. Sickle cell anemia, an inherited blood disease, strikes approximately one out of every 500 black children born in the United States. Most of its victims die a painful death before their 20th birthdays.

In December of 1971, the Senate passed S. 2676, a bill which would provide $142 million over the next 3 years for Federal aid in the research, treatment, and detection of sickle cell anemia. The House Committee on Interstate and Foreign Commerce has reported out H.R. 13592, a bill less comprehensive than the Senate measure and providing $105 million—$37 million less than the Senate version—to combat this menace to our health. We in the House of Representatives would be remiss in authorizing anything less than our colleagues in the Senate to implement the National Sickle Cell Anemia Prevention Act. In addition, we have a moral obligation to guarantee that full appropriations swiftly follow enactment of this legislation.

I urge my colleagues to join in support of this desperately needed action. Promising research developments based on years of work have been revealed. Increased programs to educate possible carriers of the genetic sickle cell trait are reaching the black communities of America. We must not let these hopeful signs be crushed by the failure of Congress to authorize and fund the war on sickle cell disease.

EVALUATION OF COUNCIL ON ENVIRONMENTAL QUALITY—A COMMENTARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DINGELL. Mr. Speaker, I insert into the CONGRESSIONAL RECORD an excellent historical commentary on the Council on Environmental Quality entitled "The Council on Environmental Quality: an Evaluation," by Mr. Richard N. L. Andrews, published in the January-February 1972 issue of the Journal of Soil and Water Conservation:

THE COUNCIL ON ENVIRONMENTAL QUALITY: AN EVALUATION

(By Richard N. L. Andrews)

(NOTE.—Richard N. L. Andrews is a Ph.D. candidate in environmental planning at the University of North Carolina, Chapel Hill.)

The Council on Environmental Quality has collected generous shares of both praise and blame for the course that federal environmental policy has taken in the past two years. However, it is not clear that how significant a role CEQ actually has played in this process. It is useful, therefore, to evaluate its powers, achievements, and problems during its first years of existence in order to put in accurate perspective both its potentials and its limitations.

CEQ was created by Congress as part of an unusual legislative package which not only established a "national policy on the environment" but included what were described as "action-forcing provisions" to assure implementation of that policy by federal agencies.[4] In CEQ, Congress created an ongoing institutional focal point for environmental policy-making and review.

The administration originally opposed creation of a statutory council, preferring instead to work through a cabinet-level coordinating committee. But Congress insisted, pointing out that while the cabinet committee filled a need for interdepartmental coordination, it had neither the time, the expertise, nor the independence of traditional departmental missions to provide consistent, expert advice to the president on environmental policies and trends.[5] CEQ was created therefore, as a three-member body of "exceptionally well-qualified men," appointed by the president and subject to Senate confirmation. To it was attached the staff of the Office of Environmental Quality, created by the Water Quality Improvement Act of 1970. (Public Law 91-224).

CEQ'S AUTHORITIES

By law CEQ is authorized to:

Assist the president in preparing the annual environmental quality report,

Gather information on environmental conditions and trends,

"Review and appraise" federal activities affecting the environment,

Develop and recommend environmental policies to the president,

Conduct ecological and environmental investigations and research,

Report annually to the president, and

Conduct such other studies as the president may request.

Once congressional determination to create a statutory council became clear, President Nixon used the enactment of the law as a springboard for a sweeping set of environmental policy initiatives. He stressed environmental considerations strongly in his state of the union message, budget message, a special environmental message to Congress in February 1970, and an executive order directing abatement of pollution emanating from federal facilities. One month later, in the executive order directing implementation of the procedures of the National Environmental Policy Act, he clearly went beyond the specific requirements of the law by authorizing CEQ to:

Conduct public hearings and conferences on environmental issues,

Coordinate (not merely review and appraise) federal activities affecting the environment,

Issue guidelines to federal agencies for compliance with NEPA, and

Issue such other instructions to the agencies and request such information from them as necessary to fulfill its responsibilities.

The significance of these added authorities hardly needs to be emphasized. First, they clearly underscore the commitment of the administration as well as Congress to environmental policy initiatives. Second, they give to CEQ powers otherwise held by few if any agencies in the executive office, except the Office of Management and Budget, to guide and influence the policies and actions of other federal agencies.

The administration's policy commitment to environmental quality has remained clear since that time as well in a stream of executive orders, legislative initiatives, and policy statements, including emphasis in each of the annual presidential messages to Congress. Thus whatever may be said of CEQ's actions, the actions have been taken in the context of a clear mandate from both Congress and the president to harmonize federal actions with environmental quality goals.

The limits of CEQ's powers must also be noted, however. CEQ is not an environmental czar, nor even a new national resources planning board. It has no authority to veto the actions of any other agency, nor even to require an agency to file the detailed statement of environmental impact required by Section 102(2)(C) of NEPA. It does have the power to review agency actions for environmental impact and to give advice both to the agency and to the president. But in any intractable conflict with another agency, CEQ's power is limited to its ability to persuade the president to take action. Its influence on the agencies can thus be explained only by its success in persuading the president to adopt its recommendations, or by its success in persuading agencies to adopt its recommendations voluntarily and thereby avoid later adverse consequences in the wider forums of congressional, judicial, and public opinion.

ACCOMPLISHMENTS TO DATE

Activities

Since its establishment, CEQ has been responsible for or contributed to a wide range of policy actions, including at least six executive orders: reversal of a ruling by the Internal Revenue Service denying tax-exempt status to nonprofit environmental law groups; discontinuation of construction on the Cross-Florida Barge Canal; formulation of the president's 1971 environmental legislative program; establishment, organization, and budgeting of the new Environmental Protection Agency; special studies leading to legislative initiatives by the president for control of ocean dumping and toxic substances; and regular advice, staff work, and recommendations to the president on such issues as eagle killings, oil spills, stream channelization, nuclear testing, the Alaskan oil pipeline proposal, international treaties, land use problems, and the upcoming United Nations Conference on the Human Environment.[5]

CEQ also has published two annual reports,[1 2] the first a primer on environmental problems, the second a more sophisticated discussion of present trends and recent progress in resource management, the innercity environment, and the relationships of recent developments in law and economics to environmental problems.

The most far-reaching of CEQ's activities in terms of impact, however, has been its oversight and guidance of the implementation of NEPA's procedures by federal agencies. CEQ issued interim guidelines to the agencies in April 1970 and in July of that year published a list of the agencies that should be consulted about particular types of environmental impacts. In January 1971 it issued notice of its intention to revise the guidelines. The revised guidelines were issued three months later.

Despite these guidelines and CEQ's continuing review and assistance to the agencies in implementing them, a substantial lack of uniformity is still evident in the quality of the responses by many agencies. To suggest the reasons for this unevenness, it is useful to look briefly at the guidelines themselves.

Guidelines

Two basic policies are evident in both the interim and revised guidelines. First, although new procedures are required which may, in turn, affect choices between alternative projects and other types of actions, no new explicit rules of preference for making such choices are stated. The guidelines require that environmental impacts be considered in the decision-making process, and they imply clearly that some amount of bias in the direction of minimizing adverse environmental impacts must be introduced in the process of choice. But they do not show clearly how heavily such considerations are to be weighed against traditional agency objectives and budgetary constraints in making particular decisions or how much the administration is willing to sacrifice in attaining other goals (such as water resource development, highway construction, economic growth, and budget control) to achieve environmental goals.

The second policy is that much of the responsibility for implementation is left to the agencies themselves, minimizing the number of specific across-the-board requirements imposed by CEQ. There are obvious reasons for this policy, including the variation in situations and procedures among agencies which precludes governance of all by a single set of definitions and requirements, and also the newness and inexperience of CEQ which precludes sufficient understanding of the agencies' situations and modes of operation to prescribe operational rules for them. NEPA itself was written in general terms in recognition of the procedural differences that would be required to achieve its purposes in the varying contexts of different agencies. On the other hand, such a policy also made inevitable a chaotic transitional period of administrative adaptation.

Within these two policies, the guidelines serve to define particular points of ambiguity in the law, such as the "fullest extent possible" to which agencies are expected to comply with NEPA and the relationship between NEPA's impact statements and the water quality certification requirements of Public Law 91-224. The guidelines also suggest the range of topics that should be covered in the procedures and environmental statements prepared by the agencies.

In addition to clarifying and expanding somewhat this range of topics, the revised guidelines include one particularly significant policy change. They direct that no proposed administrative action significantly affecting the environment shall be taken until at least 90 days after a draft statement and 30 days after a final statement of environmental impact has been sent to CEQ and made public.

This requirement is, for better or worse, a significant departure in administrative de-

Footnotes at end of article.

cision-making. In effect, it establishes a public right to know of proposed administrative actions and their foreseeable consequences before they occur, increasing the possibility that opposition will develop from those individuals and groups who are adversely affected. As Haefele[3] pointed out, the requirement raises the issue of who should decide among alternative uses of resources and how.

Critics of the provision contend that such access creates chaos, opening the administrative process to interminable questions of effects and to repeated "bites at the apple" to stop or stall projects by opponents. CEQ itself initially opposed inclusion of the provision. The interim guidelines did not contain it, and it was included in the revised guidelines only after direct threats by Congress to establish it by statute.[7]

Advocates of the provision, however, argue that administrative problems can be cured by better administration and sensitive rulemaking, by adapting to the law and bringing the environmentally concerned public into the planning process when alternatives are being generated and considered rather than by trying to keep it out until the last possible moment; that both the spirit of NEPA and the letter of the executive order implementing it in fact require such public participation as early and as fully as possible; and that during the first year of implementation before the guidelines were revised several agencies demonstrated clearly their willingness to suppress environmentally adverse information until the action was practically a *fait accompli*.

In summary, some difficulties that agencies have experienced in implementing of omission in the interim guidelines, due CEQ's guidelines may be attributed to errors largely to the newness of CEQ in governmental decision-making processes. Presumably, revisions in the guidelines have ameliorated most of these problems.

A greater portion of the agency difficulties may be attributed to the transitional problems of attempting to develop and implement new environmental planning procedures, especially in response to judicial interpretations of the law. Most of these problems also should subside as the transition is weathered and agencies settle into the new procedures.

The remaining problems which exist in some agencies appear to be the result of administrative failure to respond effectively to the new mandate. One such failure is recalcitrance on the part of some agencies not traditionally concerned with environmental quality. Another is the failure of some agencies traditionally concerned with conservation to make the much smaller adjustments that are needed, incorporate environmental quality considerations and early public participation at defined points by clear rulemaking, write environmental statements from the data they already have, and get on about their work. Environmental evaluation and citizen participation in planning need not stifle administrative decision-making, as the new chairman of the Atomic Energy Commission has so ably shown. These processes, however, do represent a challenge requiring better evaluation and better administration, and CEQ's guidelines have catalyzed this challenge.

CEQ'S PROBLEMS

In addition to the legal limitation on its power to compel action, CEQ has suffered from several administrative problems during its first two years. None of these appear insuperable, however.

The first such problem was prolonged birth pangs. Heavy responsibilities were thrust upon it immediately after its inception, but it was not fully funded until December 1970. It thus operated for nearly a year with an inadequate staff borrowed from other agencies. In addition, it operated during a period of three major reorganizations of the executive branch and was given only six months before it was required to submit its first annual report. These circumstances forced initial concentration on short-range programs rather than on the more comprehensive mandate of the law.

A second and ongoing problem is the small size and unbalanced composition of CEQ's staff. It would be impossible for any staff of only 23 professionals to review the environmental activities of all federal agencies by any more rational criterion than political controversiality, simply because of the magnitude of the job, let alone conduct long-range environmental analyses in addition. Of CEQ's 23 professionals, as of April 1971, only four had advanced degrees in the sciences and two in economics, compared with eight in law and four in public administration.[8] The Council simply has not had the capabilities to carry out the full mandate of NEPA and has been forced instead to focus on the most politically controversial issues which are not necessarily the most environmentally important ones.

A third and related problem is the lack of any objective framework for systematically evaluating the environmental consequences of federal actions and weighing them against traditional costs and benefits. In the absence of such a framework, CEQ is limited to attempting to prevent the worst alternatives—actions which beyond any reasonable doubt would have seriously adverse environmental consequences—and to preventing the most politically controversial actions to protect the president's and, indeed, its own environmental reputation—actions which may or may not actually be the most threatening to environmental quality. The "squeakiest wheel" theory of administrative choice is hardly unique to CEQ, but it is a particularly important and difficult problem in a policy arena such as environmental quality where complex systems of solutions are needed, but quick, visible, and politically saleable solutions are demanded.

Finally, CEQ must operate aware of the fact that its future effectiveness is intimately related to the fate of the environmental issue in general, an issue presently in vogue but subject to all the uncertainties and instabilities of such issues. The reality that political support for environmental quality is primarily of the diffused sort characteristic of consumer issues makes it imperative that CEQ maintain public credibility and keep environmental quality alive as a political issue—to the extent that it can do so in its role as advisor to the president.

WHAT NEXT?

Despite its problems, CEQ has had considerable success and hopefully will continue to experience such as transitional problems are resolved and federal agencies become accustomed to planning and managing for environmental quality as a matter of course. CEQ's future depends no less than in the past on the ongoing commitment of the president to environmental quality goals since its power is limited to its ability to persuade him; but if present trends in environmental indicators are accurate, CEQ's area of policy responsibility will be an important subject for federal planning and action through the foreseeable future.

In addition to the proposals in the president's 1971 environmental legislative program, two particular problems appear likely to figure prominently in CEQ's activities in the near future. The first is land use, an issue on which several bills already are pending in Congress. This issue is a natural outgrowth both of concern over pollution and of national environmental policy since many if not most environmental problems result from the ecologically inappropriate use of land and its associated resources.

The second problem is project evaluation criteria, especially the problem of relating environmental quality criteria to traditional economic criteria for project justification. Language in the conference report on CEQ's appropriation for fiscal year 1972 directed CEQ to consider economic effects in conjunction with environmental criteria[5] and the decision by a federal court of appeals last summer construed NEPA as requiring a balance of economic and environmental factors in decision-making.[9] Moreover, guidelines proposed by the Water Resources Council (but not yet officially adopted by the president) for the evaluation of water resource projects direct that such evaluation be carried out in a genuinely multiple-objective framework rather than under the present single criterion of natural economic efficiency.[10] The issue is a most difficult one, but one with which both CEQ and the Office of Management and Budget (as well as the individual agencies) must grapple. Possibly, a joint effort by these agencies might produce new and better methods for project evaluation that would provide clear information, if not preference rules, for trading off economic and environmental considerations.

CEQ, however, is only a focal point for environmental policy-making and not the sole repository of such policy-making in the federal government. The actions or inactions of nearly all federal agencies affect environmental quality. Responsibility for it rests with the agencies, not with CEQ, and its maintenance and restoration are probably the most challenging task to confront agency administrators and planners in recent years. CEQ's creation was a necessary but by no means sufficient condition for achieving national environmental quality goals.

FOOTNOTES

[1] Council on Environmental Quality. 1970. *Environmental quality—1970. Washington*, D.C. 326 pp.

[2] Council on Environmental Quality. 1971. *Environmental quality—1971.* Washington, D.C. 360 pp.

[3] Haefele, E. T. 1971. *Decision-making in common property resources.* J. Soil and Water Cons. 26 (4): 132–134.

[4] U.S. Congress. 1970. *The National Environmental Policy Act of 1969, Public Law 91–190.* U.S. Code Annotated 42, Sec. 4321–4347. Washington, D.C.

[5] U.S. Congress, House. 1971. *Agriculture—environment and consumer protection programs, fiscal year 1972.* H. Rpt. 92–376. Washington, D.C.

[6] U.S. Congress, House, Committee on Merchant Marine and Fisheries. 1969. *Council on Environmental Quality.* H. Rpt. 91–378. Washington, D.C.

[7] U.S. Congress, House, Committee on Merchant Marine and Fisheries. 1970. *Administration of the National Environmental Policy Act.* Hearings, serial no. 91–41, part I. Washington, D.C.

[8] U.S. Congress, House, Committee on Merchant Marine and Fisheries. 1971. *Administration of the National Environmental Policy Act.* H. Rpt. 92–316. Washington, D.C. 107 pp.

[9] U.S. Court of Appeals, District of Columbia Circuit. 1971. *Calvert Cliffs Coordinating Committee vs. Atomic Energy Commission.* No. 24,839 and No. 24,871, decided July 23, 1971. Washington, D.C. 40 pp.

[10] Water Resources Council. 1970. *Report to the Water Resources Council by the Special Task Force.* Washington, D.C.

ANTI-COMMUNIST CHROME COMES TO AMERICA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. RARICK. Mr. Speaker, the Burnside affair attempting to prevent entry of Rhodesian chrome into the United States leaves many questions unanswered. For example, where did the protesters who call themselves the Committee of Blacks Against Oppression obtain their information that the Santos Vega was loaded with "illegal" Rhodesian chrome and under whose discipline and orders were the so-called demonstrators reacting?

Importation of chrome from anti-Communist Rhodesia is by express orders of a law passed by the U.S. Congress and signed by the President which states that whenever a strategic war material can be obtained from a free world country rather than a Communist country, it should be so done. Actions against the Rhodesian chrome shipment as illegal can only be regarded as an act of disobedience against the laws of the United States. Certainly no American would disobey his own Nation's laws in the interest of national defense to support an emotional United Nations theory of economic embargo.

These misinformed and misguided demonstrators do not understand the law and facts; for if they act with full knowledge, then they are being used as nothing more than an activist lobby in support of the Soviet Union, which is not only the Communist nation supplying the military hardware—the MIG airplanes and SAM missiles killing American fighting men in Vietnam—but is an all-white nation where all of its people, even its own citizens, are oppressed.

For a so-called Committee of Blacks Against Oppression to lobby on the banks of the Mississippi River in the United States for continuation of a Russian monopoly on chrome is a ridiculous exploitation by whoever is calling the signals.

SPORTS CORPS—COACHES

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MORSE. Mr. Speaker, one of the most effective, least costly, and remarkably successful Government programs designed to promote international friendship and understanding and to supply a critically needed manpower shortage in developing nations of the world has been the Sports Corps, a branch of the Peace Corps. Now slightly over one year old, the Sports Corps has placed 283 American coaches in some 25 countries around the world, many of whom will be serving as coaches for these nations at the upcoming Olympic games in Munich.

Sports Corps files are replete with enthusiastic praise for the work of these American coaches who have not only provided specialized athletic training, but have also instilled a deep sense of national pride and respect in the teams they coach. The success of the Sports Corps has not, however, been limited to the coaching of international olympic teams; U.S. Sports Corps athletes receive the same warm and enthusiastic welcome when they provide a heretofore lacking coach for a community high school or for a college in a developing nation.

Mr. Speaker, the enormous impact and importance of sports in forming and strengthening global understanding is, I feel, far too often overlooked, but it is an aspect of international relations that has, over the years, been highly successful. Recent history provides us with numerous instances when athletes from different countries have come together in mutual endeavors, while at the same time, political leaders from these countries have been unable to establish effective lines of communication among themselves.

Endeavors like the Sports Corps, the International Sports program operated by the Department of State, and the numerous private organizations contributing to international understanding through sports, deserve our fullest praise, support, and encouragement. They can and have very effectively opened many doors to better international understanding.

Two articles from last week's Washington News call attention to the achievements of the Sports Corps and its dedicated and talented director, Mr. Glenn C. Randall, a former world class athlete and National Olympic Coach, whose enthusiasm and talent have gone far in developing the Sports Corps. Glenn Randall's experiences in coaching Pakistan's Olympic Team in 1964, 1965 and his subsequent work in fostering international athletic programs have given the Sports Corps such a high reputation that requests from all over the world for volunteer coaches are flowing into Peace Corps Headquarters.

I am pleased to share the following two articles with my colleagues, which describe Mr. Randall's achievements, and those of Mr. Jay Jackson, a Sports Corps coach serving in Honduras, and I ask they be inserted in the RECORD at this point:

COACH MAKES GOOD IN A NEW PEACE CORPS

(By Tom Quinn)

The Peace Corps sometimes seems to sneak up on people. On Monday you're "considering" the possibility of leaving for awhile your comfortable suburban enclave and, boom—on Thursday you're halfway to Morocco or Malaysia or, in the case of Jay Jackson, Honduras.

For more than a year now, Jackson has been a one-man basketball program in that poor Central American republic. He returned to Washington, D.C., last week to pick up some textbooks for his nationwide coaches clinic in Honduras and to have a back operation.

This week he is back down there preparing the national all-star team for the upcoming Central American Championships.

Two things about Jackson struck me as unusual during a conversation just before he left for the South:

This 6-foot-4, lean, blond, blue-eyed man is not what people have come to regard as a "typical Peace Corps Volunteer."

He certainly is not a typical basketball coach.

In the first place, Jackson is 35 years old. He and his wife, Flora, not only volunteered themselves but also their children: Jay, 7, Jeff, 6 and Jim, 2. This is an example of a recent new emphasis under director Joe Blatchford for Volunteer families. When the Jacksons decided to apply for the program over a year ago there were 30 participating families. Now there are 167.

But if Jackson had been the typical basketball coach of his high school team in Oak Harbor, Wash., he never might have considered the Peace Corps.

"But I wasn't. When I finished my fourth year as basketball coach at Oak Harbor I found I was disillusioned," Jackson said. "I always thought athletics were supposed to be for the kids, but I was beginning to realize that in the States it's not so much how you play the game but whether or not you win . . . or lose."

About that time, he ran into a friend who with his wife had taught in a Peace Corps program in Ethiopia. Jackson casually mentioned he wouldn't mind a change of scene and boom,—three weeks later the Peace Corps called to ask if he'd like to go to Tunisia.

Within a few weeks, the Jacksons' destination changed from Tunisia to Morocco to Honduras but that's not surprising since the Peace Corps is a government bureaucracy whose organization is somewhat less together than its ideals.

"When we first got there, things were kind of slow. Flora got an intestinal problem and had to return to the states. I wasn't making much headway myself. In fact, I was overwhelmed with the lack of facilities, lack of discipline and general inertia in Honduras," Jackson said.

For example, in the Honduran capital, Tegucigalpa, three people handled the whole basketball program for four high schools and 16 primary schools. They would visit each school, one by one, twice a week for an hour each visit. On each occasion 60–80 children would vie for a chance to shoot the two or three basketballs allotted to each school.

"At that point we were discouraged but we decided to stick it out as long as possible," Jackson said.

Then a couple of things happened to change everything. Jackson traveled to the north coast of Honduras to give a clinic in San Pedro Sula. The people there were more enthusiastic than the Tegucigalpans and when the clinic was finished they flew his wife to San Pedro Sala for a special fiesta of thanks.

"Boy, I'll tell you, it was a real tear jerker," Jackson recalled. "And I went back to Tegucigalpa a new man. We felt accepted for the first time."

The Jacksons then moved out of their suburban, American-type home in the Honduran capital and set up housekeeping instead in a colonial building downtown.

"Now we were beginning to feel a part of the people," Jackson said.

Mrs. Jackson started a nutrition program in poor "barrios" of Tegucigalpa and she has had, so far, a 1,000 per cent success, dispensing vitamins and breakfasts to 120 youngsters. (She started out with 12.) The Jacksons are even trying to adopt one of the children who participates in the program.

Jay, meanwhile, has made headway, too. He is successfully conducting coaching and referee clinics and when he leaves next year he figures to have increased the number of qualified referees from six to 25 in the country and the number of coaches from three to 30.

The national basketball team is undergoing a weight program to strengthen the players for what Jackson calls a "pressing-running game—sort of a UCLA program without height." Indeed, there are only two players as tall as 6–4 on the team.

"It will take more than two years to build up the quality of basketball—I'd say the national team right now is about on the level of a good high school team—but at least we're laying the foundations," Jackson said.

In the meantime, the Jacksons have discovered they can get along fine without such

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USA basics as the telephone, television, automobiles, frozen foods and hot water.

"The interesting thing is that in the past year and a half we have had more family life together than anytime in our 10 years of marriage," Jackson said. It used to be that everything was all work from seven in the morning to 10 or 11 at night back home.

'But this experience has really given us, as a family, a lot more sense of purpose and accomplishment. And we've made the kind of trans-cultural friendships that, well, were really hard to find back home.

"We had the feeling we weren't really of service to anyone in Oak Harbor but in Honduras it has been exactly the opposite. There we have come up against what I guess you could call 'real' rather than 'imaginary' problems.

"And it's been even more rewarding for the kids, who didn't seem to have our problems adjusting."

Listening to Jackson reminds me of what a radical friend told me recently: "The true revolutionary puts his flesh on the line with his ideals."

That does fit Jackson, altho he is probably more an "evolutionary" than a "revolutionary." His presence in Honduras is supposed to stabilize the country rather than revolutionalize it.

Still, Jay Jackson is no phony. The world could use a lot more like him.

SPORTS CORPS BUILDS TEAMS—AND NATIONS

(By Tom Quinn)

"Did you know that Pete Maravich got more to sign a professional basketball contract than the combined sports budgets of all the countries on the continent of Africa? Now that's a good example of the sports gap."

—Glenn Randall, director of Sports Corps

When Glenn Randall agreed to coach the track and field team of Pakistan in 1964–65 neither he nor anyone else foresaw that experience engendering Sports Corps, a new and of Peace Corps.

"The West Pakistanis are direct descendants of Alexander the Great—a people who run like the wind and are as big physically as doors," Randall said. "When president Ayub Khan requested a coach, the State Department contacted me thru Sports International and I leaped at the chance.

"Pakistan was not much in Asia, but after months of preparation when we finally went to the Asian Games, we (Pakistan) set 18 Asian records.

"Overnight Pakistan became the track and field power of all Asia—just because of one American coach."

Randall did not forget that remarkable lesson. Five years later, he helped found Sports Corps with the intention of sending qualified volunteers to Third World countries in order to:

Teach instructors as well as students of these countries.

Form scholastic leagues and sports clubs.

Coach national teams and athletes to represent their country.

Today, only 16 months after the founding of Sports Corps, 283 American coaches are serving in 25 countries trying to do what Randall accomplished in Pakistan. Fifteen countries will have American coaches at the Olympic Games in Munich, thanks to Sports Corps.

The idea, Randall says, is not to train athletes simply to break records. "This is the easy, logical, safe way for us to form and maintain very strong friendships in these countries," he said in his office in the Peace Corps building on a corner of Lafayette Park.

"The fact is," Randall continued, "we are one of the few arms of Peace Corps that is immediately accepted and appreciated by all countries. And with no suspicion and none of that Big Brotherism.

"Man, even President Nixon has said that sports and cultural activities are the best vias of communication between us and the Communist block countries. It follows that sports is one of the most natural ways for 'developing countries' to get to know us and for us to get to know them."

Bill Toomey, Olympic decathalon champion and world record holder, was one of the first Americans to accept the Sports Corps challenge. Joe Blatchford, young Peace Corps director, and Randall decided to test out the idea of Sports Corps by sending Toomey to Venezuela, Ghana, Honduras, Ethiopia and Kenya. He returned full of enthusiasm.

"We watched a whole newly-formed nation—Kenya—being brought together by the strength of distance runner Kip Keino so we knew what a strong force sports could be in a country. Strong national figures or teams can instill incredible pride in the people," Randall said. "It may sound strange but we found if a people can believe in a team they often believe in themselves."

Just after Sports Corps formed in late 1970, Randall and Toomey toured 19 Asian countries and asked them if they would accept Sports Corps volunteers. "Everyone said yes unhesitantly," Randall said, "tho many of these same countries were equivocal about the rest of the Peace Corps."

Toomey is now in charge of promotion and recruitment for Sports Corps, but others who embody the program include:

Mrs. Wilma Sutherland, M.A. in physical education and former Professor of PE at the University of California, is directing a teacher training program for the public schools of Valencia, Venezuela.

Bob Clotworthy, for 10 years the head swimming and diving coach at Princeton University and an Olympic gold medalist in diving is the national swimming coach in Venezuela.

Bill Sweek, a sparkplug on two recent UCLA NCAA champion basketball teams, is in Tunisia as national coach.

Bob Shul, Olympic 5,000 meter champion in Tokyo in 1964, coached the Malaysia track and field team to 18 gold medals in 24 events in recent South East Asian Peninsular Games. And Malaysia had never won more than six events in the games before Shul's arrival.

To this writer, the most important example of the effectiveness of Sports Corps is the case of Chile. When I passed thru Chile in 1966, students had shut down a university in Conception because of widespread belief that Peace Corps volunteers were CIA spies.

Whether or not this was true is not important. The Chilean government was about to ask the United States to remove the Peace Corps from Chile simply because they had enough problems without it.

Since then, Chile has voted in a Communist president and the United States has been cold in its diplomatic relations with the country.

Sports Corps, however, is going strong in Chile. It is accepted and lauded. The Chilean national swim and fencing coaches are both Sports Corps volunteers. Former University of Delaware coach Dan Peterson is not only the Chilean national basketball coach but five of his ex-players are distributed thruout the country in a highly organized network to develop Chilean basketball players.

Randall, however, is far from satisfied. Now he wants to:

Lead the United States into Red China. "We'd love to help the President set up an exchange program with Red China . . . we are the vehicle to do it and now is the time—in the spirit of the Olympic ideal."

Set up a National Academy of Sports in the USA. "To promote American excellence in all sports. We're only good at five of 31 world sports."

Set up an international "Corps of Olympic Volunteers"—athletes and coaches from developed nations to spread thruout the Third World much as Sports Corps is doing, except on a multi-national scale.

Promote a "domestic Sports Corps" principally dedicated to speaking out FOR sports as an alternative to drug abuse among America's youth.

All of this seems like a lot to ask from a nation beset with the bills for problems at home and abroad—but it's not so much.

"The entire Peace Corps could be supported on what we spend for just two or three missiles," Randall said, "and, believe me, compared to the whole Peace Corps budget, Sports Corps is just taxi fare."

THE FAILURE OF PUBLIC HOUSING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. EDWARDS of California. Mr. Speaker, the failure of Baber Village in Prince Georges' County, following fast upon the decision to demolish much of the Pruitt-Igoe high-rise housing project in St. Louis, is a stark commentary on the failure of public housing to provide the decent, safe, and sanitary housing for the Nation's poor that has been promised in the national housing programs of the past 3 decades. During hearings by the Civil Rights Oversight Subcommittee of the Committee on the Judiciary on the enforcement of the fair housing laws by the Federal Government, we explored with administration officials and public witnesses the reasons for this failure. The answers we received were consistent with those set forth in the excellent editorial in today's Washington Post: public housing is doomed to failure so long as it continues to perpetuate the patterns of racial and class segregation which characterize our Nation's housing patterns. The Washington Post is right, what is needed is not new housing placed in the same old segregated patterns, but new communities that provide housing opportunities for all.

The Washington Post editorial follows:

NEEDED: NOT HOUSING BUT COMMUNITIES

Great hopes were raised when only four years ago the nation's first Secretary of Housing and Urban Development, Dr. Robert C. Weaver, broke ground for Baber Village, an apartment house project for some 200 families of meager means, at the Mount Pleasant area, just north of Central Avenue in Prince Georges' County. Here was to be a new approach to housing the poor that would avoid the old mistakes of public housing—a program that had become thoroughly discredited.

"Decent, safe and sanitary" public housing to provide shelter for those who cannot afford the going market price for it, first became a national program in 1936 under the New Deal. It has been in trouble ever since. One of the troubles was (and is) that public housing projects concentrate large numbers of poor and poorly educated people in isolated ghettos. At least 60 per cent of the families who live in these projects are black or Spanish speaking. Another trouble is that, due to restrictions imposed by Congress (which at one time, for instance, would not tolerate such "luxuries" as a balcony) many, if not most of these projects were poorly designed, devoid of beauty and amenity. The worst trouble is that the public housing projects tend to provide just housing without the social services, recreation and education that the poor need more urgently than people of means. Most projects are located on the other side of the railroad tracks, as it were, far removed from shops, schools and job opportunities and all the other "facilities" that facilitate climbing the ladder of what the sociologists call "upward mobility."

Thus, public housing became highly unpopular, so unpopular, in fact, that many communities actually passed laws to prohibit it. In some instances even the poor themselves refused to move into these projects, preferring instead to live in "indecent, unsafe and unsanitary" slums. If the slums were razed for urban renewal, freeways and other new construction, they would crowd into other parts of town and thus create new slums.

Though none of this had anything to do with *the principle* of public housing, the program barely crept along. We have yet to build the 810,000 public housing units Congress called for back in 1949. And roughly one half of the public housing constructed during the 1960's was built not for large families most in need of it, but for the elderly (who need housing, too, of course, but are more acceptable, somehow, than a lot of noisy children).

The Kennedy and Johnson administrations, as a result, launched a bewildering proliferation of new federal housing subsidy programs. Baber Village was built under one of the first of these, known to housing professionals as 221 (d) (3). The idea of this section of the 1961 Housing Act is that nonprofit organizations, such as church groups or labor unions, should house the poor rather than the government. It is done with generous federal mortgage guarantees and sharply reduced interest and insurance charges. Some hailed this approach because it seems to strengthen free enterprise. Others called it "a gimmick." The fact is that many of these 221 (d) (3) projects have worked out extremely well. The Sursum Corda development at First and M Streets, NW, for instance, a cluster of townhouses and small apartments for some 200 families, sponsored by a group of Catholic church organizations, is a model of its kind. Others, like Baber Village, which is sponsored by the African Methodist Episcopal Church, merely confounded the old public housing mistakes. Baber Village is isolated, poorly designed and far removed from shops, schools and job opportunities. What is more, its sponsor invested less than $5,000 in the project and lacked all knowledge and experience in housing construction and management.

Afflicted by shoddy construction, crime vandalism, Baber Village is in dire distress. More than a quarter of the houses are vacant and the African Methodist Episcopal Church is unable to raise the money for repairs and the mortgage payments. They have therefore decided to ask HUD to foreclose the mortgage and to turn the problem back to the U.S. government.

The heart of the problem is, of course that decent, safe and sanitary housing alone—public, private or in-between—is simply not enough. It must be supplemented by adequate community services, police protection, medical care, transportation, recreation and the rest. In short, it is time to stop building housing for the poor and to start building communities that include everyone.

MASS TRANSIT, YES; MORE HIGHWAYS, NO

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. BRASCO. Mr. Speaker, the cities of our Nation are choking to death on the automobile. Cities like New York have desperate need of a massive transfusion of Federal funds for urban mass transit. Such action by Government is long overdue and desperately needed. We have already arrived at a point where it is practically impossible to move large numbers of city residents across metropolitan areas with regularity. If we do not act swiftly, our urban areas as we have come to know them will cease to exist. Urban mass transit subsidies by Government are utterly vital.

When I return home to my district in New York, I hear on all sides the legitimate and increasingly desperate request by constituents for this kind of action. Many urban Congressmen have petitioned the administration, seeking some understanding of the plight of our people. In response we receive mumbling and promises of vague future actions.

It is most difficult to impress upon this relatively isolated group of powerful men and women the urgency of our need.

Instead of some truly swift, comprehensive policy, we receive more highway plans, complete with destructive impact upon viable neighborhoods of our cities.

When will the people who decide our transportation priorities understand the last thing we want or need or will tolerate is more expressways? Why should more suburbanites be able to dash through the heart of our cities on their way to work or to their homes in suburbs? These roads tear apart good neighborhoods, displace honest, hard-working urbanites and in the end only further pollute the air. In effect, new superhighways create far more problems than they solve.

America has been on a roadbuilding orgy for at least the past 15 years, mainly through the Interstate Highway System, with 42,500 miles in total mileage. It has been and is being financed by the trust fund through user taxes virtually every American pays. Yet these funds are untouchable for other, more vital purposes, such as urban mass transit. A massive, shrewd, well-organized and well-financed highway lobby prevents any such use of these moneys. Attempts have been made to bring into being a similar trust fund for urban mass transit. I, for one, have joined in sponsorship of legislation to accomplish this goal. Yet the highway lobby, working closely with the administration, has held mass transit forces at bay, frustrating their legitimate efforts to cut the Gordian knot of traffic we are choking on.

Costs of the Interstate Highway System have been immense in terms of actual dollars expended, environmental damage sustained and priorities reversed. Immense amounts of ill will have been created, particularly among city groups who have become victims of these roads and their people removal programs. It is vital that the Secretary of Transportation tell us what his transportation blueprint for the future is going to look like. It is also vital that he inform the Nation of what the cost of future roadbuilding is going to be in terms of environmental damage.

These roads promote suburban flight away from cities. This, in turn, leads to urban blight. As a corollary of such programs, commerce is siphoned away from cities, taking jobs and tax money away from where they are needed most. This, of course, leads to downgraded municipal services and lack of people in urban areas.

The Interstate system has uprooted people in huge numbers; 58,000 in 1970 alone. By making it ever easier to use cars instead of rapid mass urban transit, we deplete our oil reserves. Over 38 percent of annual petroleum production in the United States goes into making gasoline, according to the National Petroleum Institute.

Autos on roads cause at least 39 percent of the Nation's appalling, growing air pollution, according to the Environmental Protection Agency, and as much as 80 percent of it in certain cities. Yet this year, highways will get $5.2 billion from the Federal Government, while rapid transit systems will have to be satisfied wtih $750 million. This is senseless, especially to a State and city like New York, which pays into the Federal Treasury far more than it receives in return from all Federal programs.

Nevertheless, the handwriting is on the wall. In every city across our Nation people are coming to realize they just do not have to endure this kind of outrage on their pocketbooks, nerves, and lives.

Groups are organizing all across the Nation, and highways are being stopped one by one by outraged, alert, aware groups through court actions. Virtually every month another victory is scored against these roads.

Last November, the courts stopped a federally funded freeway in San Francisco because the State had failed to make an adequate environmental study. One week later, highway foes got Interstate 90 in Seattle halted for the same reason. Victories in Washington against freeways threatening neighborhood integrity of the city have heartened freeway opponents across the entire United States.

My Borough of Brooklyn desperately needs attention to its transportation needs through a Federal mass transit commitment. The people I represent will not accept further puerile excuses and delays. In every way we can, we shall oppose the highway juggernaut until some measure of sanity is restored to the Nation's transportation priorities.

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MY RESPONSIBILITY TO FREEDOM, BY CAROLYN RUSS

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. QUILLEN. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies Auxiliary conducts a Voice of Democracy contest.

This year nearly 500,000 secondary school students participated, and the winning contestant from each State was brought to Washington for the final judging for five national scholarships which were awarded as the top prizes.

I am extremely proud that the winner in Tennessee in Miss Carolyn Russ from my hometown of Kingsport. A senior at Dobyns-Bennett High School, Miss Russ is the daughter of Mr. and Mrs. Erwin Russ. She hopes to pursue a teaching career or a career in the humanities.

Residents of Kingsport have great pride in Miss Russ and it is significant to note that in 1966 her brother, David, won the same contest and went on to become national winner.

Miss Russ has an impressive record at Dobyns-Bennett. She is a National Merit Scholar semifinalist, a nominee as Outstanding Teenager of America, has won tournament awards for debating, oratory and impromptu speaking, as well as receiving awards in Latin, math, and Tennessee history.

She is a member of the National Honor Society, the Beta Club, and the Science and Humanities Seminars.

The theme of this year's VFW contest was "My Responsibility to Freedom." I have all the confidence in the world in our young people, and after reading Miss Russ' essay, my confidence is greater than ever before.

It is a pleasure to make this prize-winning essay available for readers of the RECORD. At the same time, I wish to commend the Veterans of Foreign Wars for its continued interest in the Nation's young people.

The essay follows:

MY RESPONSIBILITY TO FREEDOM

(By Carolyn Russ)

Freedom is a bell! "A bell is no bell till you ring it." How shall I ring it? What is my responsibility to freedom?

I view freedom as a gift, and consider a responsibility to be something which *must* be fulfilled. When considering my responsibility to freedom I find that the idea of *preserving* freedom seems to be the central one, with a cluster of related ideas around it. Foremost among these related ideas are two which are basic to the preservation of freedom.

The first is most often mentioned—the negative idea expressed as "refraining from abusing freedom". It is easy to see that abuse destroys freedom since it causes quick destruction. This is apparent even in elementary school. When the teacher allows whispering, and someone forgets and shouts, the freedom to whisper is quickly withdrawn. Abuse of freedom and restrictions are directly proportional: as one gets larger the other gets larger. But, restrictions and freedom are inversely proportional: as restrictions get larger, freedom gets smaller.

I accept the idea of not abusing freedom as one way I can preserve it.

Less obvious is the second idea that *using* freedom is a way of preserving it because destruction of freedom by non-use is a more gradual destruction. This gradual destruction like Sandburg's Fog, "comes on little cat feet", and therefore is possibly more dangerous. Like man's vestigial appendix, freedom unused gradually shrinks into uselessness.

I accept the responsibility of *using* freedom in order to preserve it.

How may I, a high school student, use my freedom? Here my point of view is limited. I have only limited experience. I have a limited area of influence. I have limited opportunities. Maybe the word "student" is the key. *Learning* is my job—my way of using freedom.

What do I learn? Again I start with the obvious: learning the historical and structural facts of our American government, from the names of the signers of the Declaration of Independence to the name of my congressman, from the provisions of the Bill of Rights to those of the 26th amendment. I must not neglect these.

But I cannot stop here. I need to learn what other generations have thought—their political, theological and scientific philosophies—to evaluate them, and to use them as a base upon which to build my own thoughts. Through a variety of experiences I need to learn the essential art of understanding and getting along with people. Finally, I must learn how to speak and write about my ideas effectively, for, if I cannot express myself, I have failed in using my freedom.

All this learning is going to take a while—the rest of my life, I guess—so, at the same time I will have to start working—working, I hope, with wisdom enough to work until *real* solutions are found. To illustrate how I feel about this, let me talk about the problem of pollution—something everyone feels he must do something about. We have an abundance of people going out on Saturdays and picking up aluminum cans and chewing gum wrappers. This is all well and good—so far as it goes. But I can see the day coming when everyone will say, "Look, there's no trash along our highways. The pollution problem is solved." And meanwhile dirty air and impure water will be killing us all.

Solving a problem in this manner can be compared with trying to get rid of an iceberg. A team of people chopping on the iceberg with icepicks pretty soon might chop away the peak above the water. Good! Yet seven times as much of that iceberg remains underneath the water and, with the top part gone, it's hard to see the iceberg is there until your ship is wrecked upon it.

What is my responsibility to freedom? It is to preserve it by using it, not abusing it, by learning all I can so as to be able to share it, to be concerned, and to act responsibly to reach real solutions.

Freedom is a bell. A bell may be rung so that it produces discordant noise or harmonious music. May I ring the bell of freedom with a tone that is clear and strong and pure, for freedom is my responsibility.

THE LATE HON. JAMES W. TRIMBLE

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1972

MR. GIBBONS. Mr. Speaker, I would like to join those eulogizing our former colleague, James W. Trimble, for I feel a distinct, personal loss in his passing. When I was a young freshman in the Congress, he showed me many acts of kindness. He was never too busy to take time to talk to me and to explain either the issues of the day or the intricate parliamentary procedures before the House. He was always available for advice and counsel and gave unstintingly of his time. I shall never forget his many deeds of kindness, and I am certain that many others benefited from his unselfish acts.

Jim Trimble was deeply dedicated to the public interest and served the 3d District of Arkansas well for 22 years. He was a member of the Public Works Committee, and later, the Rules Committee of the House of Representatives. He was greatly respected by his colleagues.

To his loved ones, I join many others in offering deep sympathy in this time of deep sorrow over his passing.

INEQUITIES IN THE RENT REGULATIONS UNDER PHASE II

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MINISH. Mr. Speaker, I wish to call to the attention of the membership the following letter addressed to the members of the New Jersey delegation by Mr. Martin Aranow, president, New Jersey Tenants Organization, in which he cogently summarizes the inequities in the rent regulations under phase II.

The "horror stories" may be downgraded by the Rent Advisory Board, but they are all too real for a great number of tenants not only in New Jersey but throughout the Nation.

I have expresed my deep concern to the Chairman of the Price Commission and I hope prompt and effective remedial action will be forthcoming. If not, the Banking and Currency Committee, on which it is my honor to serve, will conduct oversight hearings to insure that the administrtaion of the stabilization program is in compliance with the intent of Congress,

Mr. Aranow's letter follows:

NEW JERSEY TENANTS ORGANIZATION,
March 14, 1972.

Congressman HUNT,
Congressman SANDMAN,
Congressman HOWARD,
Congressman THOMPSON,
Congressman FORSYTHE,
Congressman WIDNALL,
Congressman ROE,
Congressman HELSTOSKI,
Congressman FRELINGHUYSEN,
Congressman RODINO,
Congressman MINISH,
Congresswoman DWYER,
Congressman GALLAGHER,
Congressman DANIELS,
Congressman PATTEN.

DEAR REPRESENTATIVES: The federal wage price rent freeze is just not working.

Under the Phase 2 guidelines landlords are permitted to legally increase rents virtually without ceilings. We can document cases where landlords have raised rents 35% and 45%—all within the legal requirements of the Phase 2 regulations.

The regulations are confusing to landlords, tenants and to the Internal Revenue Service in various locations throughout the state. The elderly and those on fixed incomes are not the only people being hurt. People who have leases are the most severely discriminated against. This happens to be predominantly middle class apartment dwellers.

We feel that we are literally "banging our heads against a stone wall" since our meeting with Rent Advisory Board Executive Director James Tanck only produced sympathy—and no changes. It is now up to you, our representatives, to try and do something. Perhaps public hearings or other types of pressure are in order to make the administration fully aware of what they are doing to innocent people. This fact is clear, it is morally wrong to limit a man's wages to 5.5% and allow his rents to skyrocket to as much as 45%.

We need your help now. When Mr. Tanck heard of the large rent increases occurring in New Jersey he said, "there are always a few horror stories."

Please feel free to contact us should you desire any further information. As of this point the outlook is bleak and it is our sincere hope that you can make the difference. We look forward to hearing from you in the near future.

Very truly yours,

MARTIN ARANOW,
President.

TRIBUTE TO JACK PROVO

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. FRENZEL. Mr. Speaker, on Friday, March 17, the Minneapolis Tribune carried an editorial praising the governmental career of Hennepin County Board Chairman Jack Provo. The occasion was Chairman Provo's retirement from the Hennepin County Board.

The editorial correctly identifies Provo's major achievement which was providing Hennepin County, a jurisdiction of over 1 million people, with updated capabilities which allow it to perform its duties effectively, efficiently, and economically.

From the day he began his service on the Hennepin County Board, Jack Provo relentlessly pursued excellence in county government. The present structure of Hennepin County government is testimony to Provo's effective work both in the legislature and among his fellow board members.

The people of Hennepin County will miss Chairman Jack Provo's leadership.

The Tribune editorial follows:

PROVO'S COUNTY BOARD TENURE . . .

Hennepin County Board Chairman Jack Provo was not an original member of the Republican "Young Turks" who entered Hennepin County politics in the early 1960's to provide a decade of enlightened, progressive leadership in county and state government. But Provo fit this pattern when, after an intra-party fight for endorsement in 1964, he was elected a county commissioner on a platform that stressed expansion of the role of county government.

Since then, Provo has been an important part of the controlling board majority that accomplished just such an expansion under the chairmanship, earlier, of Robert Janes and, since 1969, of Provo himself. Buildings—the county Government Center and a new General Hospital—have been the most obvious county board concern for a number of years. But the board's major contribution in the Janes-Provo years has been to reorganize and professionalize county government—equipping it with the capabilities necessary to shed its old custodial role, to accept new responsibilities and to concentrate on problem-solving during a period in which suburban population and political power expanded rapidly.

When Provo leaves the county board in September to become Hennepin County District Court administrator, most of the "Young Turks" will be gone. A few—Janes, Bill Frenzel—have moved to Washington; others—Wayne Popham, John Yngve—have, like Provo, chosen to retire from elective office. Replacing officials of such quality is not easy.

Both political parties have turned up some men of similar caliber—County Commissioner Thomas Olson and Minneapolis Alderman John Cairns, for example, and state legislators Arne Carlson, Thomas Berg and Robert Tennessen. Provo's resignation re-emphasizes the need and the responsibility of the parties, if they are to fulfill one of their major purposes, to offer more such candidates to the voters.

ANTIMILITARY COLLEGES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DUNCAN. Mr. Speaker, the cooperation between the military and our institutions of higher education has produced the finest military officers in the world. Recently, some of these institutions have let their political feelings be known by barring ROTC units from their campuses. It seems that educators who are supposed to instill the principles of understanding and objectivity in our youth are now violating those principles by letting their biases be known.

The editorial which I have inserted in the RECORD today makes an excellent case for eliminating Defense Department subsidies to schools which have lost their objectivity toward the military.

The editorial follows:

[From the Knoxville News-Sentinel, Feb. 26, 1972]

ANTIMILITARY COLLEGES

More than a dozen of the big colleges and universities have phased out military training courses, or are in the process.

Yet some of these schools, Harvard in particular, have continued to receive Federal funds for teaching officers of the armed forces.

Rep. F. Edward Hébert, chairman of the House Armed Services Committee, has threatened to push a special law to bar military officers from colleges which have dropped ROTC or forbidden military recruiters on campus.

There already is a law of this type, but some Pentagon officials have said they didn't think it applied across the board.

The Pentagon has said it will send servicemen "to the most appropriate graduate school" despite Hébert's threat.

In any event, Hébert is in the process of using his formidable influence to prevent any service from sending officers to institutions which have banned either ROTC or recruiters.

As he points out, there are thousands of colleges and universities in this country, and the armed forces surely can find schools which offer suitable courses without subsidizing institutions which otherwise don't want any part of the military.

The decisions to drop ROTC or bar recruiters were forced, in most cases, by dissident student groups or faculty groups. Schools which buckled to those demands hardly are appropriate places to send young officers for advanced or specialized training at taxpayer expense.

THE "WRONGS" COMMON CAUSE IGNORES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. CRANE. Mr. Speaker, in considering the problems facing the Nation, too many individuals and organizations tend to see only those alleged "evils" which tend to reinforce their own preconceived notions.

Businessmen, accordingly, rarely see the faults of businessmen, and labor leaders rarely see the faults of unions. Similarly, we do not depend upon Government bureaucrats to tell us what is wrong with the administration of Government agencies.

It would be expected, however, that an organization which holds itself out as one which seeks the public interest, rather than the interest of a particular group, would concern itself with "wrongs" wherever they might be found.

Common Cause holds itself out as such an organization, yet it has proven very one-sided in its assessment of the Nation's problems.

Two "wrongs" which Common Cause has failed to identify, according to Arthur Krock, former Washington bureau chief of the New York Times, are:

1. The monopolistic power of organized labor, derived from a combination of (a) legal immunities from acts, including "muscular diplomacy," which would be illegal if performed by any other group, and (b) the gratitude of politicians to the unions for large contributions to their campaign expenses through "educational committees."

2. The callous exploitation of elementary-school children as pawns by vote-seeking politicians and fanatic reformers who are racists in reverse.

Common Cause has not seen fit to concern itself with the excesses of union power and the hypocrisy of enforced school busing. School busing, opposed by more than 75 percent of the American people, yet imposed upon them by bureaucrats and the courts, seems of no interest to an organization which alleges to be a "people's lobby."

Mr. Krock points out that an organization which calls itself an "ombudsman" for the people should speak out in behalf of the deepest felt needs of the people, such as for safe streets. He notes that the public has a right to expect such an organization providing a courageous voice against—

The prevalent crimes of violence, and a detailed denunciation of a legal system which tolerates the hideous crime of rape by allow-

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ing the rapist almost to count on going unwhipped of justice.

Yet what are the reforms Common Cause urges—a "date certain" for withdrawal from Vietnam and opposition to the SST. Mr. Krock concludes that—

If the Nation is to be "rebuilt," I do not find a likely bidder for the contract in the application Mr. Gardner has entered for Common Cause.

I wish to share Mr. Krock's article, which appeared in the Washington Post of February 11, 1972, with my colleagues, and insert it into the RECORD at this time. The article follows:

THE POWER OF ORGANIZED LABOR AND BUSING: CERTAIN "WRONGS" WHICH COMMON CAUSE IGNORES

(By Arthur Krock)

Common Cause, described by its founder, John Gardner, as a people's lobby working to "rebuild this nation . . . heal [it] and set it again on the path to greatness," has just issued over his signature an appeal for new members. In four single-spaced typewritten pages of lofty prose, Mr. Gardner has specified certain "wrongs" which Common Cause is "pushing" to correct. But conspicuously absent from these specifications, and hardly even to be inferred from a flood of generalizations, are two "wrongs" which bear down more heavily on the people than the safe and routine few Mr. Gardner has cited as reforms that Common Cause is "pushing."

These two wrongs are: (1) The monopolistic power of organized labor, derived from a combination of (a) legal immunities from acts, including "muscular diplomacy," which would be illegal if performed by any other group, and (b) the gratitude of politicians to the unions for large contributions to their campaign expenses through "educational committees." (2) The callous exploitation of elementary-school children as pawns by vote-seeking politicians, and fanatic reformers who are racists in reverse.

The "labor movement," to which Mr. Gardner referred as one of those reforms which "welled up out of the people" on the prompting of such citizens' organizations as Common Cause, began as a liberation of workers from the brutal exploitation of employers. But under legislative, judicial and executive favoritism it has developed into an economic and political tyranny which subjugates the general welfare to its own. In the process of so-called collective bargaining national unions are armed unilaterally with the weapon of strikes which, under the threat of paralyzing all communications and whole industries, confront management with the choice of agreeing to contracts that feed the fires of the inflation kindled by previous contracts, or shutting down their production.

When union strike funds are exhausted, the strikers can increase the burden on the taxpayers by going on welfare. If management attempts to continue production, the union involved in the dispute need only throw out a picket line to restrain the members of uninvolved unions from carrying out their contracts to remain on the job. And this despite the fact that the striking union may be shot through with corruption and its demands outrageous by any standard.

Yet no call for laws ending strikes which suspend national transportation is to be found in the statement of the aims of Common Cause.

If any protest against conditions that are "wrong" has "welled up" strongly from the people, it is against the crazy-quilt pattern of busing to effect a mathematical racial balance in the public schools. The doctrinaries, both the high-minded and the mush-headed do-gooders, plus the mercenary politicians and political judges who have aligned with them, are uprooting small children from their neighborhoods, friends and families and sending them miles away by bus to areas from which other groups are being transported to the home neighborhood of the first.

Yet all the Supreme Court has ruled so far is that no state or sub-division may exclude a child from an elementary school by reason of his race. If a good school is nearby and the school of his choice is on the other side of town, the Supreme Court thus far has not said the state or sub-division must provide his transportation.

But a diligent search of Mr. Gardner's appeal for new Common Cause members discloses only this timid reference to a condition which is foremost among the things that are "wrong" with this country: "Your children attend crowded schools."

In a document with such a high degree of self-asserted righteousness of self-anointment as the ombudsman of the downtrodden, the reader also has a right to expect what he will not find—even a trace of—an extended arraignment, and a courageous one, of the prevalent crimes of violence, and a detailed denunciation of a legal system which tolerates the hideous crime of rape by allowing the rapist almost to count on going unwhipped of justice. Yet no violence committed by one person on another is more degrading to the victim than this desecration of a woman, or more capital a crime, justifying the extermination of the creatures who commit it and making detailed identification of the suspect the duty of the press.

Instead Mr. Gardner's statement reports that Common Cause is "pushing" reforms that require no courage to do this political voting rights, "a date certain" for total withdrawal from Vietnam, no SST, tax favoritism.

If the nation is to be "rebuilt," I do not find a likely bidder for the contract in the application Mr. Gardner has entered for Common Cause.

CELEBRATE CENTENNIAL

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MILLER of California. Mr. Speaker, the city of San Leandro, located in Alameda County on the eastern shore of San Francisco Bay is celebrating its centennial.

San Leandro is a viable community with lovely homes and supported by an industrial complex in no way detracts from the beauty of the city, and yet helps to support its activities.

The mayor of San Leandro is the Honorable Jack Maltester who has been honored by his fellow mayors by being elected president of the National Conference of Mayors and serving on several important government boards.

San Leandro is a good community in which to live and work, and I am proud to have it as a part of the congressional district I represent.

I want to join with San Leandrans in celebrating their 100th birthday and, as a part of these remarks, include a brief history of the city:

SAN LEANDRO

CENTENNIAL PHILOSOPHY

The Centennial has been planned as a community event. It includes activities reminiscent of past celebrations and also activities and events such as parades and dinners for San Leandrans and their guests.

The philosophy of the Centennial is to bring San Leandrans together to enjoy each other and their community, to work and play together and to remember San Leandro's history and its present as well. The Centennial Committee also hopes to provide the city with a permanent souvenir of the celebration. This is the Casa Peralta, which was purchased and donated to the city by Mr. and Mrs. Jack Brooks. Now housing the Centennial staff, it will be a public property to be used for cultural, youth, recreation and senior citizen activities, as well as for museum display purposes.

The Centennial is also planned as a way of rededicating ourselves to our city's future—to realize its prospects and opportunities and dedicate ourselves anew to working for them.

The first pioneers came thousands of years ago, in the great periodic migrations from Asia to the American continent. They were Indian people, hunters and gatherers. These shell-mound people lived on the San Leandro shoreline as early as 3000 years ago. They found a lush land, teeming with birds, game, and shellfish, and they stayed. They were probably the ancestors of the Costanoan people the Spaniards found when they explored the area 2800 years later.

The Spanish called them Costanos, "coast people." Anthropologists used the term Costanoan for the groups from the East Bay and the Peninsula (including San Francisco) down the coast to Big Sur and Soledad who spoke languages from the same language family.

There was no division into tribes, the people thought of themselves as belonging to villages—rancherias as the Spanish called them. To locate these rancherias we have to rely on the records of the Spanish explorers and missionaries, because almost all the rancherias had been destroyed or abandoned before the Americans came.

While the Spanish explorers in 1772 and 1776 never reported villages in Oakland or San Leandro, the Indians may still have had rancherias on the beach or in the redwoods.

There was an Indian village on San Lorenzo Creek, and there were another four or five to the south on each creek between San Lorenzo and Milpitas. They were of average size in 1772 and 1776, perhaps roughly 100 people in each. We do not know their names, although one rancheria near Mission San Jose was named Oroison.

The Indian way of life at San Leandro was in tune with nature. Before the white men came, the Indians lived in houses made of poles covered with tule matting. There was a temescal or sweathouse in every village, shaped like an inverted basket and covered with mud. The people took sweatbaths daily, which prevented several skin diseases. Women wore only short aprons, one in front and one in back, made of tule, deerskin, or fiber from bark. Their faces usually were tattooed in lines or rows of dots. Men and children went about naked, though in cold weather members of both sexes threw rabbitskin blankets over their shoulders. The hair was left long but worn tied on the top of the head with twine, apparently by both men and women. Men often were bearded.

At the winter solstice a dance was held regularly at Mission San Jose by the Costanoans.

THE EXPLORERS, THE MISSIONS, AND THE RANCHOS

Two centuries ago, in the early morning of March 26, 1772, 16 men broke their camp on the San Lorenzo Creek and crossed into what is now San Leandro. They were the Fages-Crespi expedition, and they were the first white men to explore San Leandro. Captain Pedro Fages led the group, which included 12 soldiers, a muleteer, an Indian servant, and Father Juan Crespi, who performed religious services and kept a diary. In the diary Crespi described San Leandro as part of a level plain with relatively few trees except in the creek. The land was good, though, and covered with wild grasses, herbs, and tules. The group did not apply a name to San Leandro or its creek.

Four years later, on March 31, 1776, another expedition, the Anza expedition, camped on San Lorenzo Creek and the next day explored San Leandro. Diaries were kept by both Captain Juan Anza and Father Pedro Font. Father Font described San Leandro Creek on April 1 as "an arroyo with little water but with a deep bed grown with cottonwoods, live oaks, laurels and other trees . . ." They saw four bears and reported them plentiful here, ". . . for we saw several Indians badly scarred by bites and scratches of these animals." Evidently these Indians were seen in San Leandro.

With the founding of Mission San Jose de Guadalupe on June 11, 1797, the padres really began to change the way of life at San Leandro. Almost all the local Indians were brought to the mission and converted to Christianity during the next 15 to 20 years. The majority lived in Indians huts around the mission (Mission San Jose). Their labor built the mission, plowed the fields, and tended the stock. This was a large job, because the mission lands extended north to San Leandro Creek.

Many of the Indians became vaqueros, and San Leandro became a place for rounding up the northern stock, El Rodeo de San Leandro. The name, after St. Leander (a Spanish bishop), may have occurred before Jose Joaquin Estudillo—the city's founder—arrived: or Estudillo may have been the first to use it, if St. Leander was his patron saint as Freeman once reported.

In 1834 the missions were secularized. That meant that the administration of the mission buildings, lands, and herds was taken over by the Mexican government. Some of the land and stock was given to the faithful Indians tending them in San Leandro and elsewhere. Some of it was dispersed in the form of land grants. In 1836 Estudillo brought 300 white heifers to San Leandro from Rancho Pinole nd established his home here on the bank of San Leandro Creek, about where Donovan Drive and Brookside Street now meet. On January 8 of the following year Estudillo filed for a grant of the Rodeo do San Leandro, between the Arroyos of San Leandro Creek and San Lorenzo Creek. After waiting for five years, Don Joaquin realized his application must have been lost, and he filed a new one. Four months later he received the grant, October 16, 1842. It included all the land between the two creeks from the hills to the Bay, except the lands occupied and cultivated by Indians. He called it Rancho San Leandro.

When the Americans came, they bought or squatted on what land the Indians had held on to. As the ranchos broke up, the Indians gradually intermarried with the Mexican population and became indistinguishable from it, especially since most had Spanish names given them by the padres or rancheros. No treaties or settlements ever were made. The descendants of the Costanoans reconstructed themselves as the Ohlone Indian Tribe in 1971.

Life on the Estudillo Rancho was gracious, pastoral, and unhurried. Don Joaquin made a good living from his rancho, and through the trade of hides and tallow with New England merchant ships was able to buy fine silks for his wife and daughters, casks of brandy for entertaining, and may other things that could not be produced here easily. He had more than 100 Indian vaqueros and servants at one time. There was time for roundups: dances: meriendas (picnics); bullfights; and visits to relatives in the East Bay, San Francisco, and Monterey. Life was good.

Estudillo had married Juana Martinez (March 30, 1805 to November 8–14, 1879) on February 6, 1823, and they had 10 children by 1842 when Don Joaquin applied again for his grant. The children were: Concepcion (born 1825, wife of John B. Ward), Ramon (born 1827), Gertrudis (born 1829), Antonio (born 1830), Maria de Jesus (1831–1909, wife of William H. Davis), Vicente (1833–1893), Luis (born 1836), Magdalena (born circa 1842, wife of John Nugent), Dolores (born circa 1841, wife of Charles H. Cushing), and Jesus Maria ("Chumalia") Estudillo (born circa 1844, died 1910). Their stories are told in Shaffer's history and San Leandro Recollections, Centennial publications.

The Estudillos gave the Plaza and land for the County Courthouse (Clarke and W. Estudillo), for St. Leander's Church, and for several parks on San Leandro Boulevard (formerly the ball park and the tennis courts). Davis and Ward laid out the town of San Leandro on February 27, 1855, St. Leander's Day. They drove around the county in a buggy to get votes to move the county seat to San Leandro, and they built the Estudillo House. Ward built the first dam across San Leandro Creek to provide water, and it was he who opened up Washington Avenue in 1860 as a street to San Lorenzo.

These are just a few of their activities that shaped the town. Magdalena, Maud, Sybil, and Elsie avenues were named after the Nugent family. Chumalia Estudillo (who usually went by J. M. Estudillo) was a town trustee and quite active in civic events.

Ygnacio Peralta owned all San Leandro north of the Creek (and Oakland to Church Street and to 69th Avenue). This was his part of the Rancho San Antonio grant (from San Leandro to El Cerrito) that had been given to his father, Luis Maria Peralta, in 1820. It was in 1842 that Don Luis rode up on the East Bay hills with his sons and divided the grant among them.

We do not know the exact year Ygnacio moved here, but he had built an adobe by 1842 on San Leandro Creek (near the end of 105th Avenue in Oakland). He was across the creek from the Estudillos in their first adobe. Ygnacio (April 3, 1791–May 9, 1874) and his wife, Rafaela (Sanchez) Peralta (born 1800), had 12 children: Marcia del Carmen (1819–1874), Jose Francisco (born 1820), Miguel Antonio (born 1825), Joaquin (1827–1869), Maria Ludovina Columba (1828–1917) Luis Maria (born 1831), Jose de Jesus (born 1833), Juan Bautista (born 1835), Maria Antonia (1836–1926), Gabriel or Barilla (born 1839), Rafael (born 1840), and one, possibly another Maria, who died young. Records of marriages of all but Joaquin, Luis Maria, Rafael, and the young Maria are in existence.

THE COMING OF THE AMERICANS—IMMIGRANTS 1850–1871

San Leandro had only a handful of American settlers before 1850. One of the earliest was William Heath Davis (1822–1909), who came to California as a cabin boy on one of his father's ships from Hawaii as early as 1831. By 1838 he had advanced considerably to supercargo, then became an owner of Yankee trading ships. He met his future wife in 1842. He soon ran a merchandise store in San Francisco. He finally married Maria de Jesus Estudillo in 1847 and came to San Leandro, where he lived with the Estudillos for several years.

The second American son-in-law, John B. Ward, came to California during the Gold Rush in 1849 (though he had visited the coast as a cabin boy in 1840). He came to this area after a try at the mines, and married Concepcion Estudillo in November, 1851. In late 1849 Thomas W. Mulford, Moses Wicks, A. R. Biggs, E. Minor Smith, and W. C. Smith, all of whom had come during the Gold Rush, crossed the Bay in a whaleboat and settled as duck hunters and squatters in the area of the present Mulford Gardens. Mulford and Wicks remained and played major roles in the development of the large-scale farming, shipping, and oyster industries of San Leandro.

OBSERVATIONS ABOUT OUR LEGAL SYSTEM

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HALPERN. Mr. Speaker, last December, a most significant message was delivered by a public-spirited, dedicated American citizen. The contents of this address touched me so deeply that I feel, in view of the timeliness of this message, that it should be brought to the attention of the Members of this body.

I refer to the address of Harry Goldsmith before the annual president's dinner of the Grand Jurors Association of Bronx County, N.Y. Mr. Goldsmith, the outgoing president of the association, delivered a most inspiring and forceful address in which he made certain observations about our legal system—observations which, if translated into action, would contribute immeasurably to the fight against the rising crime rate and the scourge of narcotics abuse.

I was particularly pleased to note that Mr. Goldsmith's colleagues in the Grand Jurors Association and his many friends and admirers have honored this remarkable man many times before. He is, to be sure, a very exceptional human being. Harry came to the United States in 1937, leaving the horrors of Nazi Germany behind him, and from that time on he has been an active participant in numerous civic and community projects. This man is indefatigable, his vision laudable, and his perseverance unmatched. As he has said many times "It has always been very easy for me to give—but very embarrassing for me to receive." This is the creed by which Harry Goldsmith lives and his friends and community are all the better for it.

I know personally of Harry Goldsmith's contributions to worthwhile causes through his unrelenting efforts to find solutions to the problems of drug addiction, particularly as it affects adolescents. Mr. Goldsmith served for several years as a member of the Lay Board of Riverside Hospital, the only facility in the world at the time dedicated solely to the treatment of preadult addicts. This institution was established by the city of New York nearly 20 years ago under a State-enacted adolescent civil commitment law which I was priviledged to sponsor. For some while I served as chairman of that board and I witnessed first-hand the trials, the frustrations, the agonies of the addiction problem which began to plague us during the 1950's. Mr. Goldsmith, despite the discouragements that would have dissuaded a lesser man, became even more determined, even more relentless in his efforts to find the answers, and has been devoting every spare moment toward that end.

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That is why I was so pleased with the recognition accorded Harry Goldsmith by the Bronx Grand Jurors. That is why his words—so sincere, so genuine—mean so much.

Mr. Goldsmith's speech on the evening of December 2 was guided by his usual inspiration and ability to see things as they really are. I would, at this time, like to share with my colleagues his speech of December 2 so that they might learn of this warm and dedicated community leader and reflect on his thoughts.

The speech follows:

THE GRAND JURORS ASSOCIATION, OF BRONX COUNTY, ANNUAL PRESIDENT'S DINNER, DEC. 2, 1971

Reverend Clergy, Distinguished Guests and Friends: Mr. Chairman, Judge Dollinger, thank you very much for your kind words.

It is with sincerest gratitude that I accept this gift from the Grand Jurors Association. It has always been very easy for me to give—but very embarrassing for me to receive. It is almost painful for me to answer when I am being praised and I am the recipient of a wonderful award presented on behalf of an elite group of citizens—by a friend, one of the outstanding jurists in our community.

My family and I accept this great token of recognition with the deepest humility and appreciation of the spirit in which it was presented.

In 1937 this country opened its door and gave me the opportunity to become a citizen, raise a wonderful family and blessed me with many loyal friends. During the first few years in this country I learned what the words poverty and desperation meant, but with hard work and some luck, I overcame these obstacles. Having fled from the injustices, prejudices and ravages of a Nazi Fascist ideology, I dedicated myself to the struggle for safeguarding our sacred democratic principles, which have provided equality and justice for all our citizens.

I have chosen to be active in the fight against drug abuse and have devoted my time to the Grand Jury system, which is pledged to the promotion of justice, and is one of the finest instruments in protecting the innocent. It encourages civic participation by the people. It enables the community to temper justice with mercy.

Those of you who have served on the Grand Jury know the feeling of disappointment and hopelessness, after spending weeks listening to case after case. However, we *must not be* discouraged, but continue to use the Grand Jury system to see justice done, because the delay of justice is injustice.

We are fortunate in Bronx County to have a human dynamo, a vigorous, energetic and forceful District Attorney, Burt Roberts, who is capably assisted by a brilliant, loyal and devoted staff.

We have in our county, under the outstanding command of Chief Anger and Inspector Courtenay, the finest and most efficient police force in all of the boroughs. We also have compassionate judges who are respected for their fairness, impartiality, and who sit for many a long day in judgment under extremely trying circumstances.

If we, ladies and gentlemen, analyze the phrase—"life, liberty and the pursuit of happiness," we know, based upon our daily experience with the Grand Jury—that *life* is cheap in the streets of Bronx County; that *liberty* does not exist for many of our citizens, locked in their homes behind gates, after dark (and especially for many of our senior citizens who are involuntary prisoners afraid to walk the streets of our once safe borough). And—there is little *happiness* for those who want to enjoy the fruit of their labor.

We are all frustrated in our efforts to break the cycle of crime and injustice. We must, however, continue our pursuit to find some answers to these horrendous problems. I suggest that all of us, both in our public and private capacities, be first and foremost, citizens of courage, determination and deep conviction. We must be ready to struggle for honest and just values, regardless of the consequences. We must not yield to community pressure nor become instruments of political power groups.

After sitting for years on the Grand Jury, I have made certain observations, which I would like to share with you.

1. Innocent victims of crimes should enjoy the same constitutional rights and privileges that are given to the perpetrators.

2. We need a uniform Federal gun law, which would prohibit the sale of guns. Every time there has been a homicide, the perpetrator has had easy access to a weapon.

3. The Sullivan law should be rigidly enforced.

4. There seems to be an indiscriminate and flagrant amount of bail jumping. Bail should be set to guarantee the appearance of the defendant in court.

5. Bail should be revoked if a person is arrested for a felony while awaiting trial on another charge.

6. Bail should be denied if a person who is arrested for committing a felony has in his possession a shot gun, sawed-off shot gun, or a machine gun.

7. In felony narcotic cases, bail should be denied.

8. More emphasis should be placed upon the prevention of crime and upon the supervised parole and probation, rather than upon long jail sentences. To accomplish this, we need more qualified probation, parole and warrant officers.

9. Justice should be meted out in such a way as to have the greatest effect upon the defendant. His appearance in court must not become a revolving door.

10. Corroboration should not be necessary on a rape indictment, especially when children are the victims.

11. The facilities and the staff of the courts, and the D.A.'s office should be enlarged to meet the ever increasing volume of cases.

12. The fee of the Grand Juror should be sufficient so that no person who has the ability and desire to serve shall be denied the right for reasons of financial hardship.

Ladies and gentlemen, distinguished guests, *you* provide the hope to all New Yorkers who seek peace in their homes and safety in the streets. I hope that you will use your influence, when appropriation bills are being considered, both in the State Legislature and in the Congress, so that we can implement some of these ideas and improve all services. Let us all recognize that law leads to freedom and lawlessness to servitude. We are living on borrowed time, and the need for action is acute. Rousseau said "to live is not merely to breathe—it is to act".

I hope the father of all mankind will guide us in these troubled times so that we can cope with the many problems sweeping our community. Let us show compassion and understanding for those less fortunate than we are. Let us not talk brotherhood—let us be brothers. May life, liberty and the pursuit of happiness be once again the touchstone for every member of our community.

May I share with you a short story that sums up my sentiment?

There was an ancient philosopher who was challenged by a young man: "Tell me, old man, is the bird in the hand behind my back dead or alive?" And the man of wisdom replied, "The answer lies in your hand".

Ladies and gentlemen—the answer lies in *our* hands.

ANTHONY HENNINGER

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HANLEY. Mr. Speaker, the role of a mayor in any of our American cities is indeed challenging and demanding. And, thank God, many of our more courageous citizens choose to "bite the bullet," and offer their talent, time, and dedication to the electorate as candidates for mayor of their respective cities. If the majority of the people are convinced of the candidates superior qualification, he is elected and as such assumes great challenge and responsibility.

I am sad to say that a man who met that challenge, a close friend of mine, died last Friday. He had spent his twilight years in retirement after rendering great service to his community.

I refer to the Honorable Anthony Henninger who served the city of Syracuse, N.Y., in truly exemplary fashion through the years 1957 to 1961. Mr. Henninger passed away on March 17, and his absence creates a real vacuum in my home community and certainly in the life of his wonderful wife, Susan, to whom I express my deep sympathy.

Mr. Henninger's life style is probably best expressed in the content of the following articles:

HE ENRICHED SYRACUSE

(By Joseph V. Ganley)

(Joseph V. Ganley who covers the Washington scene for The Herald-Journal, Herald-American, was city hall reporter in Syracuse for many years. Here he reminisces about Anthony A. Henninger, a mayor he came to know well in official and social circles and on the golf course as well.)

Former Mayor Anthony A. Henninger, who died yesterday in Crouse-Irving Memorial Hospital, came to Syracuse 50 years ago to shop for a transmission plant. He acquired an operation on Plum St., which later became the New Process Gear Co., and stayed to make Syracuse his home.

There is no doubt that the community has been a better place for his staying.

"Tony" Henninger was 80 at his death, but until his recent illness, he was one of the youngest men in town.

The results of that original purchase may be seen out on Fly Road where the modern New Process Gear plant operated by Chrysler Corp. is a testament to Mr. Henninger's industrial stewardship.

He served the city as mayor from 1958 through 1961 and the accomplishments of those years are all around us. Henninger High School on the East Side, named after him; Corcoran High on the West Side, named after another mayor, Thomas J. Corcoran; a couple of junior high schools, two or three elementary schools, the new airport at Hancock Field and the Lake Ontario water system, to name the major ones.

His public philanthropy is known. What is not so visible is the "secret" side of Tony Henninger—the side that dispensed financial aid to scores of young men for college education, and to old employes when they were in need.

Anthony Henninger's was a unique, many-sided personality. A strong character, carrying an imposing physical presence, he never lost his respect for his associates in those early days in the automotive business in Muncie, Ind., his birthplace, Toledo, Ohio, and Detroit.

Two of them, the famous Walter P. Chrysler and W. C. Durant, were never anything but "Mister" Chrysler and "Mister" Durant to Tony.

Many anecdotes could be told about Tony—he was one of the most generous persons around, yet would save pencil stubs and hated to lose a golf ball. He gave his $20,000 salary quadrupled to charity when he ran city hall, yet he made a federal case out of saving soap and toilet tissue.

Few know that in his early days in Muncie, he peddled papers to earn money for his keep, and played piano and booked dance bands during his early youth. He played semi-pro baseball and loved the game all his life. He was a Yankee fan—he loved a winner.

There was nothing dull about Tony Henninger. Another unique character, the late Alexander F. "Casey" Jones caught the "flavor" of the mayor in an editorial in 1961 when Henninger was leaving city hall:

"If he pauses to look back on that old pile of drab colored stone, he will chuckle to himself and murmer: 'There was never a dull moment. Nice to have known you.' "

It was nice to have known you, too, Tony. And, with your beloved wife, Susan, we'll miss you.

ANTHONY HENNINGER CITED AS "MAN FOR ALL SEASONS"

(By Ramona B. Bowden)

A concelebrated Mass of Resurrection was conducted yesterday in St. John the Evangelist Roman Catholic Church for Anthony A. Henninger who died Friday.

Attending were leaders in the industrial, business, educational and sports world as well as former mayors, members of the judiciary, representatives of state and local government. With many friends and a long list of honorary bearers, they filled the large church to near capacity.

In the presence of the Most Rev. David F. Cunningham, bishop of the diocese, who offered the final prayers and gave the absolution, the Mass was concelebrated by the Rev. Msgr. Edgar M. Holihan, pastor, with the Very Rev. William L. Reilly, S.J., president of LeMoyne College, and the Rev. Robert F. Grewen, S.J., former president of LeMoyne. Assisting were Msgr. Richard Clark, Msgr. A. Robert Casey, the Rev. Charles Fahey, and the Rev. Francis J. Pierson.

In his eulogy, Monsignor Holihan said, "With the idea of death, our world today seems to be involved with the finality of leaving here a question mark. But Christianity gives the answer. We know what it says, but we do not believe it. But Christ means exactly what He says 'I am the Resurrection, I am the life. . .' "

"Every individual here was born into this life as a pilgrim to pass through in the companionship of man and with God, so that God will call him to eternal companionship with Himself. The whole purpose of creation is to do the best we can to the glory of God and the good of souls including our own," said the priest.

"When you have a magnanimous spirit like Mr. Henninger and know we have various shades of generosity, we see the example of one who is leaving us and going to God. We've seen the example, the courage, the success, the concern for others, and we see ourselves as little people with small awareness of others," he said.

"Mrs. Henninger, priests, ministers, family and all your friends, we offer you our deepest sympathy, our continual prayers for his eternal rest and our prayers for comfort and strength for yourself," said Monsignor Holihan.

In deference to Mrs. Henninger who is a member of Park Central Presbyterian Church, the pastor, the Rev. Bradford N. Pusey, gave his tribute to Mr. Henninger who had been a generous benefactor to Park Church:

"He was an industrialist of imagination and success. He was a champion for education and a promoter of the best in competitive sports. He demonstrated that government for and by the people works. He crusaded for community health and cultural enrichment. To everything he touched he gave generously of his resources, time, energy, skill and wealth. But over-arching all he did and was, Anthony knew himself to be a child of God. There was no necessity to translate his faith into words; his daily lifestyle exhibited that the heart of Christianity was the Sermon on the Mount and the Golden Rule.

"If ever the city of Syracuse shall raise up "a man for all seasons" must it not be for this faithful husband, courageous leader, generous benefactor, trusted friend and mentor in the ways and will of God, Anthony A. Henninger?" said Mr. Pusey.

ANTHONY A. HENNINGER

For almost 50 years, the name of Anthony A. Henninger has been in the forefront of scores of movements to help make Syracuse a better community in which to live.

The passing yesterday of the handsome, white-haired former mayor marked the end of a career in which Tony Henninger became known as an enlightened industrialist at the helm of the old New Process Gear plant, as an enthusiastic backer of baseball whose generosity and hard work helped bring Triple A competition back to MacArthur Stadium, as a benefactor and Regent of LeMoyne College, and as a hard working mayor who gave the city strong leadership.

It became a by-word that when Tony Henninger got behind a good project, it was bound to succeed. His enthusiasm inspired many others to join with him, and his public gifts to LeMoyne College, Syracuse University, to his church and to all good causes won him the admiration of thousands.

Less than five years ago he, a devout Catholic, and Mrs. Henninger, a Presbyterian, contributed $80,000 to purchase a chancel organ for Park Central Presbyterian Church as a memorial to their son, Robert Anthony Henninger.

Syracuse University conferred on him in 1951 its highest award, an honorary doctor of laws degree. LeMoyne College, where he had established the Anthony A. Henninger Scholarship Fund, gave him its Salterrae (Salt of the Earth) medal in 1968 in recognition of 20 years of service as a charter member of its Board of Regents and former chairman of its board.

He was pleased when the new East Side high school near Teall Avenue was designated the Anthony A. Henninger High School as one of five schools begun during his administration. At that time, then-Mayor William F. Walsh noted, "Nobody has been more dedicated to the children of this city than he."

When a member of the school's first graduating class presented Mr. Henninger a Class of 1965 ring, the former mayor mused, "The last time I received a ring was when I was married. I don't mind being married to Henninger High School."

CAMP FIRE GIRLS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRASSO. Mr. Speaker, during the past 62 years, 4 million American women have participated in the Camp Fire Girls. The organization's emblem is, of course, a campfire, which symbolizes both the warmth of comradeship and the spirit of the out of doors. Its motto reflects the Camp Fire Girls' worthy goals: "Worship God, seek beauty, give service, pursue knowledge, be trustworthy, hold on to health, glorify work, be happy."

At this time, we celebrate the anniversary of the founding of Camp Fire Girls by Dr. Luther Halsey Gulick. Over three generations, this organization has continued to grow and to have a positive influence on the daily lives of its members.

Our Nation has benefited from the good citizenship qualities exemplified by the dedicated leaders of the Camp Fire Girls. It was Dr. Gulick's conviction that because adolescence is such a critical period in the lives of young people, and because women are playing an increasingly important role in all aspects of society, an organization such as Camp Fire Girls is needed to provide young women an opportunity to develop to their full potential as community leaders and good citizens.

We are very grateful that Dr. Gulick was so successful in establishing such a program. For this reason, it gives me pleasure to salute the Camp Fire Girls—an organization that abounds in resourcefulness, energy, and imagination—on this important anniversary.

SEARCHING FOR CAUSE AND CURE OF COOLEY'S ANEMIA

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. GIAIMO. Mr. Speaker, the medical research community searching for the cause and cure of Cooley's anemia is large and growing, but desperately in need of Federal financial support.

Federal support would earmark Cooley's anemia as a particular priority for intra- and extra-mural programs of the National Institutes of Health, and continued support of the clinical research program of NIH will provide the subsidies to research facilities necessary to support study and service for patients with this and other mysterious but widespread diseases.

The high quality of existing medical research in this field—demonstrating the existence of a base of knowledge nearly ripe for practical application—has been shown in reviews of work on Cooley's anemia in the medical literature.

In 1966 and now on the March 16, 1972, issues of the New England Journal of Medicine, for example, review is made of research into the basic genetic and physiological causes of Cooley's anemia.

In 1964 and again in 1969 the New York Academy of Sciences and the Cooley's Anemia Blood and Research Foundation for Children jointly sponsored symposia on the problems of Cooley's anemia, resulting in the collection and publication of research papers totaling over 1,300 pages.

Much basic research has been done, therefore, with little or no Federal help. It is well known, however, that particular areas of medical research blossom when Federal direction and support are given; researchers in basic areas are

more able to direct their studies to practical ends, the clinical or applied part of medical research is enhanced within the institutions and organizations that conduct sophisticated medical research, results are more easily disseminated within the scientific community, avoiding duplicative work, and the work stimulated and supported by private foundations or general purpose research grants is brought to its fullest scientific and practical fruition.

Cooley's anemia is not unknown to medical research, Mr. Speaker, quite the opposite, but the practical help available to the physician or pediatrician who deals with Cooley's anemia is pitifully small. It is time to give national direction and support for this work, so that the patients and families affected by Cooley's anemia will benefit from the best our Nation's scientific and medical community has to offer.

H.R. 9615—IMMIGRATION VISAS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mrs. GRASSO. Mr. Speaker, the passage by the House of H.R. 9615 is a welcome event in the lives of so many people. This bill creates additional immigration visas for a period of 4 years. It will do much to correct some of the injustices which resulted from the transformation of the immigration program from an earlier system based on national origin quotas to the present one of "first come, first served."

It was not so long ago that the system of national origin quotas led to the parting and long separation of families. While one member of the family might be able to come to America, others would be left at the docks—waiting for an opening in the restrictive quota system. Years would go by with fathers living far from sons; with sisters separated from brothers. Each year the list of requests for visas would grow; each year only a certain number from any one country would be granted. No provision in the old law would allow the unused visas of one country to be transferred to those in another country.

The Immigration and Nationality Act Amendments of 1965 eliminated the national origins quota system and provided for a certain period of transition to eliminate some of the backlog of previous visa requests.

But even this welcome legislation had its flaws. The case of the present fifth preference immigrant—the brothers and sisters of U.S. citizens—provides a prime example. When the old law was repealed, 158,696 individuals fit under this category. Because the terms of the old law were overly restrictive to Southern Europeans, Italy had the largest oversubscription. Its 114,717 registrants were more than two and a half times as large as the registrants of all the other countries of the world combined. Originally, a 5-year phaseout period for preferential admissions had been considered.

However, when this legislation became law, the final transition period for removing the backlog of preferential requests amounted to only 3 years. As a result, of all the countries of Europe, only Italy still retains a significant backlog of fifth preference requests for visas. Italian-Americans still wait for their brothers and sisters to join them in America. They still wait for the joy of seeing their brothers and sisters arrive to begin a new life.

The passage of H.R. 9615 will alleviate most of this backlog. Italy will receive over 28,000 of the nearly 40,000 additional visas created for the four-year life of this act. Families will be reunited. The long wait will then be over. Happiness and love will pour from grateful hearts.

In addition, the amendments of 1965 resulted in a type of reverse discrimination, as epitomized in the sharp curtailment of immigration from Northern Europe. Prospective immigrants from Great Britain, Ireland, and Germany have been unable to qualify under the new preference system. The new legislation passed by the House would help remove this distinct disadvantage through the formula of granting special visas to certain countries. Under the provisions of this legislation, Great Britain and Germany would receive the maximum total of 7500 visas annually. Ireland would receive 4096, while Poland would be entitled to 2970 visas annually for 4 years.

Mr. Speaker, the last vestiges of inequitable and discriminatory immigration system of the past must be removed. I was pleased to give my support to this legislation which passed the House, and hope that it will receive quick and favorable consideration in the Senate.

THE 100TH ANNIVERSARY OF OUR NATIONAL PARK SYSTEM

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. GERALD R. FORD. Mr. Speaker, this month marks the 100th anniversary of our National Park system, which began with the creation of Yellowstone National Park in legislation enacted by the Congress and signed by President U. S. Grant. Yellowstone was not only the first National Park in the United States, but the first such wilderness recreational area set aside by any nation for the benefit of future generations, and it set an environmental example for the world a full century ago.

In an unusual full-page public service advertisement in the March 1 edition of the Wall Street Journal, Sunset magazine and Books of Menlo Park, Calif., tells the story of the inception of our National Park system and urges Americans to celebrate the centennial by visiting one or more of them this year. With signs of spring all around us, it is a message well worth heeding.

The text of the anniversary ad follows:

PEOPLE LAUGHED AT JOHN COLTER—HE CLAIMED TO HAVE SEEN GREAT SPOUTING GEYSERS NEAR THE YELLOWSTONE, NATURALLY, NOBODY BELIEVED IT IN 1807

John Colter wasn't looking for geysers. He was looking for beaver pelt. Having left the Lewis and Clark expedition, he was on his own, and a man has to make a living.

Somehow, on his trapping jaunts, he happened upon the bubbling potholes, craters, and geysers near the headwaters of the Yellowstone. But nobody believed his story (any more than they believed Jim Bridger 20 years later). After all, weren't frontiersmen noted for telling tall tales?

In fact, it was not until 1870—63 years after Colter's first sighting—that a survey party out of Montana verified, in spite of their own previous disbelief, that the phenomena of "Colter's Hell" actually existed.

Suddenly those unbelievable geysers had become reality—and the whole magnificence of Yellowstone a nation's opportunity.

TODAY IS AN IMPORTANT ANNIVERSARY

Just 100 years ago this very day, on March 1, 1872, an Act was signed into law by President Grant, setting aside two million acres of Yellowstone's splendor as a "pleasuring ground for the benefit and enjoyment of the people."

This was the world's first national park; the first time in history that a superlative natural resource had been set aside for purely aesthetic, emotional, and non-material satisfactions as a national park. Truly an environmental milestone.

And what an amazing chain reaction it started.

Since 1872, our National Parks have grown to include nearly 300 areas of natural, cultural, and historical significance in the American heritage. And vast new tracts of wilderness and reaction land are being added through a program which President Nixon has called The Legacy of the Parks.

The national park concept is also one of our most successful "exports." More than 100 nations have been inspired by our example to establish over 1,200 national parks and reserves of their own.

Think how all of these priceless treasures will be valued 100 years from now, just as we value our Yellowstone today.

WE'RE ALL INVITED TO THE BIRTHDAY PARTY

President Nixon has invited all of us in America, and all our good friends beyond our borders, to join in celebrating the 100th birthday of our National Parks.

The invitation is issued in the form of a Presidential Proclamation, designating 1972 as National Park Centennial Year.

So how does one participate?

The folks at Sunset Magazine and Books, being by nature do-it-yourself advocates, think the best way to celebrate this national birthday party is to go and visit a National Park. Or, better still, several.

It's the kind of party in which the guests have all the fun.

Why don't you go? You won't have to travel far, if you don't wish to, because these shrines of heritage are all around us. Or, if you're willing to journey at bit further, visit one of the fabled places you've heard about all your life, but have just been putting off until "someday."

It's a wonderful way for families to explore the richness of their country together.

While some parks are heavily populated on big holiday week-ends, their reasonably long seasons afford you plenty of other time choices. (Several parks have all-year accommodations and camping facilities.)

WHY IS SUNSET SO INTERESTED?

Sunset Magazine and Books are part and parcel of Western America, where, by good fortune, nature has located a vast number of the most spectacular areas in the National Park System.

From Alaska's Mount McKinley to New Mexico's Carlsbad Caverns, Colorado's Rocky Mountain to Hawaii's Haleakala, we Westerners are blessed with an abundance of National Parks.

Because travel and exploration are important aspects of Sunset's service to its readers, our editors have become recognized authorities on the lore of National Park areas in Western America.

This goes back to 1898, when the maiden issue of Sunset Magazine had a National Park, Yosemite, as its feature article.

Since then, literally thousands of pages in Sunset publications have been devoted to helping people derive enjoyment from their National Park experiences.

Why is Sunset so interested? Because we believe that the existence and influence of National Parks are among the most precious of American legacies—and that the dedicated people of the National Park Service make a matchless contribution to world communion.

That is why we invite you to share in cherishing, preserving, and enjoying these wonderful manifestations of man's best wisdom.

And why we have sponsored this anniversary day message.

Some of your most rewarding experiences, by the way, will be the explorations you can make on foot, away from roads and beaten paths.

Hopefully, your visits will inspire you, as it has us at Sunset, to support the addition of more such worthwhile areas. To meet the expanding needs for human enrichment in the next century of parks, millions of Americans and their government representatives must make an all-out commitment to work together for more parks and wilderness areas.

And, if, perchance, you find yourself where it all began at Yellowstone, just quietly tip your hat to the same patriarchal geyser John Colter saw, and say, "Happy Birthday, Old Faithful."

HOUSE OF REPRESENTATIVES—*Thursday, March 23, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Our help is in the name of the Lord, who made heaven and earth.—Psalms 124: 8.

Our Father God, who art the life within our souls, the law within our minds, and the love which warms our hearts, direct us with Thy most gracious favor and further us with Thy continual help that this day may be a great day because Thou art with us and we are with Thee.

In the haste and hurry of a swiftly moving age may we be strengthened by Thy spirit to live by the light of love, to walk in wise ways and to serve our country faithfully with high honor.

Most heartily do we pray that Thou wilt bless our President, our Speaker, and Members of Congress. Grant unto them courage, faith, and wisdom, and so rule their hearts and direct their endeavors that justice, peace, and good will may everywhere begin to prevail: To the honor and glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following titles:

H.J. Res. 208. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1426. An act to establish the Van Buren Historic Site at Kinderhook, N.Y., and for other purposes;

S. 3129. An act to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes; and

S. 3166. An act to amend the Small Business Act.

The message also announced that the Vice President, pursuant to Public Law 84–1028, appointed Mr. HATFIELD as a member of the Board of Visitors to the U.S. Military Academy in lieu of Mr. YOUNG, excused.

EQUAL RIGHTS FOR WOMEN

(Mrs. GRIFFITHS asked and was given permission to address the House for 1 minute.)

Mrs. GRIFFITHS. Mr. Speaker, not only do I want to thank all of you and all of the Senate for this day, making it possible for women to be considered as human beings under the Constitution, but also I wear these flowers today to celebrate the fact that Hawaii is the first State to ratify the equal rights amendment.

CALL OF THE HOUSE

Mr. KYL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 88]

Abourezk	Eckardt	Murphy, N.Y.
Alexander	Edwards, La.	Nelsen
Anderson, Ill.	Eshleman	O'Hara
Ashbrook	Foley	Pelly
Ashley	Ford,	Pryor, Ark.
Badillo	William D.	Pucinski
Baring	Forsythe	Rangel
Belcher	Fulton	Rees
Brooks	Fuqua	Riegle
Buchanan	Galifianakis	Rosenthal
Camp	Gallagher	Rostenkowski
Carey, N.Y.	Gaydos	Saylor
Celler	Gray	Scheuer
Chamberlain	Hagan	Shoup
Chappell	Halpern	Springer
Chisholm	Hastings	Staggers
Clark	Hawkins	Stanton,
Clay	Hébert	James V.
Collins, Ill.	Hull	Stokes
Conyers	Johnson, Pa.	Stubblefield
Davis, Wis.	Jones, N.C.	Teague, Calif.
de la Garza	Kemp	Teague, Tex.
Dellums	Kyros	Wampler
Dent	Landrum	Yates
Diggs	McKinney	Yatron
Dorn	Metcalfe	Zablocki
Dowdy	Mikva	
Dwyer	Mitchell	

The SPEAKER. On this rollcall 351 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS UNTIL MIDNIGHT TOMORROW

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tomorrow night to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FORTY-FOUR DAYS AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, 44 days ago our esteemed colleague and chairman of the House Ways and Means Committee, WILBUR MILLS, wrote to President Nixon requesting him to submit to the Congress a plan for tax reform. The chairman asked that the President submit his proposals by March 15 in order for Congress to have time to act on them in this session. It is March 23, and nothing has emerged from the Nixon administration except silence.

Perhaps this silence is an indication that the administration believes the issue of income tax reform is a passing fad, drummed up by the media. It is not. When it is public knowledge that because of special tax loopholes more than 1,300 people with incomes in excess of $50,000 paid no taxes in 1970, the issue of tax reform will not go away. When the public knows that because of the oil depletion allowance, our 19 largest oil corporations pay a smaller percentage of their combined net earnings in taxes—less than 9 percent of $9 billion in 1970—than the worker who earns $9,000 a year, the issue of tax reform will not go away. When our largest steel firm, with net earnings of $154 million, can boast in a report to

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its stockholders that it paid no Federal income tax in 1971—the issue of tax reform will not go away.

Private and corporate tax loopholes make a mockery of the progressive principles on which the Federal income tax was originally based. They shift the burden of the cost of Government from those who are best able to bear it onto others who are not. Tax loopholes also deprive the Government of billions of dollars in revenue every year. These funds are lost to the public at a time when they are desperately needed for domestic social programs. If we are going to restore equity to our tax laws and faith in our Government, tax reform is an urgent necessity.

We have asked the President to make his proposals—to offer the Nation responsible leadership on the question of income tax reform. To date he has given no indication that he intends to take any action.

The deadline for the expiration of the Federal debt ceiling increase is June 30. The Congress cannot in good conscience approve another debt increase without meaningful action toward raising additional revenue. The only fair way to do this is income tax reform.

We cannot wait much longer for the President to act.

RELEASED TIME FOR REGISTRATION

(Mr. LEGGETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, a bipartisan group of Members of Congress is sponsoring a young-voter registration program we call "Released Time for Registration."

The purpose of this program is to encourage high schools to make voter registration an official school activity for 18-year-old students. Now that the 26th amendment has enabled all 18-year-olds to vote, it seems most highly desirable that they do so. After all, they are the ones who are going to have to live with national policy the longest; in that sense they have the largest stake in the future of our country.

Sponsors of the program are Republicans DELLENBACK, QUIE, WHALEN, FINDLEY, MOSHER, BELL, and Minority Leader JERRY FORD working with Democrats RICH PREYER, JOHNSON of California, ANNUNZIO, DRINAN, UDALL, BOGGS, and LEGGETT.

We are urging all our colleagues to contact the high school principals in their district, informing them of the deadline for registration to vote in this year's primary election. We urge that registration be made an official school activity.

Principals can follow the example of Jeb Stuart High School in nearby Fairfax, Va., by busing all 18-year-olds to the county seat for registration.

They can release students from class to go and register on an individual or class basis.

Or they can bring registrars right into the school.

In any case, we must act quickly. Young people need to have a symbolic and substantive voice in running the country. I urge all my colleagues to write not only to their high school principals but to their local NEA chapters, school boards, League of Women Voters, student vote organizations, et cetera, urging immediate action. All of these groups are already working on this project nationally.

STATE PRESIDENTIAL-PREFERENTIAL PRIMARIES

(Mr. TAYLOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. TAYLOR. Mr. Speaker, today I introduced a bill that would require all State presidential-preferential primaries to be held on the same day. Twenty-five of these primaries are scheduled this year—up from 14 in 1968—and they are stretched out over several months.

This system of multiple primaries leaves candidates broke and exhausted and leaves the public confused, tired, and sick from an overdose of politics.

The present system places too much emphasis on the results of one State which may or may not represent a valid cross-section of American opinion.

I agree with Senator MANSFIELD that the present system is a "political circus or road show" and that it is not fair to the candidates or the voters. For the underfinanced candidate, this system is fatal.

I am not convinced that presidential-preferential primaries should be held at all, especially under the present system when in many cases delegates are not bound to support the winner.

But, if we are going to conduct these primaries, they should all be held on the same day and many of the evils in the present system would be removed.

HAWAII FIRST IN EQUAL RIGHTS

(Mr. MATSUNAGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATSUNAGA. Mr. Speaker, as Hawaii's Representative to Congress and cosponsor of the equal rights amendment I take pride in coming to the well today to announce that the 50th and youngest State of the Union has paved the way to ratify the amendment and granting equal rights to women. The Hawaii State Legislature has distinguished itself by becoming the first to ratify the constitutional amendment adopted by the Congress. This the Hawaii Legislature did within 2 hours after the Senate approved the House initiated legislation.

I do hope that a minimum of 75 percent of the other States will follow the leadership of their youngest sister State. May the pure child take them by their hand.

REPEAL ELECTION REFORM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, since the Congress enacted the so-called Federal Election Campaign Act of 1971—and I voted for it—there has been nothing but confusion and a galaxy of contrary interpretations.

In fact, certain liberal newspapers, in their zeal to promote their reform kick, have in large measure been responsible for the enactment of this legislative atrocity.

I have long favored a revision of election laws to limit amounts contributed as well as to be expended and have sponsored and cosponsored bills to eliminate the inequities. But under this new law, labor union leaders can still pour millions into buying their own handpicked candidates, and the little fellow with limited means is really not protected.

Further, the reporting requirements, and complicated administrative details are so complex and burdensome that one can hardly be a candidate without risking the possibility of going to jail.

Mr. Speaker, obviously the Congress is unhappy about what it has done, and upon close examination of the fine print in the law, many feel we should fall back and start over again.

We recognize some of the press will scream in righteous indignation, but the old law is much better than the bad new one. Since Congress was somewhat stampeded into enacting election reform, I am proposing a simple repealer; if adopted, we can then systematically legislate a reasonable election reform bill, under normal conditions, and pass a good law without being under the gun of an impending general election.

I trust my colleagues will join me in this course of action.

ARE MEAT PRICES OUT OF LINE?

(Mr. ZWACH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ZWACH. Mr. Speaker, the over-the-counter prices of meat are causing a great deal of concern throughout our country. Some of our big chain stores are urging their customers to substitute other products for meat and some of the Members of the House of Representatives have authored legislation to eliminate quotas on meat imports.

I wonder if any of these people have ever taken a look at what has happened to our food dollar in the past 20 years?

Twenty years ago, the average consumer spent $896 per year for food.

Of that amount, $448 went to the producer and $448 went to the middleman. The producer got 50 percent of the food dollar and the middleman 50 percent.

Today, the average expenditure is $1,224.

Of that total, the producer now gets only $447, a dollar less than he got 20 years ago, but the middleman's share has increased to $767.

The middleman now gets 62 percent of the food dollar and the producer only 38 percent.

In the past 20 years, farm income has increased only 7 percent, but the average wage earner's salary has increased 340 percent, business and professional incomes have increased 200 percent and corporation dividends 300 percent. The producer of meat at the farm level is receiving less than he did 20 years ago.

It is easy to see that the producer is still at the bottom of the economic ladder and that meat, at the producer level, is still a great bargain in view of the income increases of the rest of our people.

CONDUCT OF U.S. OFFICIALS OVERSEAS

(Mr. HUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNT. Mr. Speaker, I have read with considerable interest reports that certain members of the Senate Foreign Relations Committee would like to initiate an inquiry into the alleged behavior of Ambassador Arthur Watson on a recent flight from Paris to Washington. I commend them for wanting to look into this matter. It seems to me that the deportment of officials who represent this country overseas may well be a legitimate area of public interest and should be thoroughly examined by the Congress. But in our interest to look into one highly publicized affair, we should not avoid looking into others which may have been equally damaging. Accordingly, if the Senate Foreign Relations Committee thinks the allegations about Mr. Watson are worth examining, in the interest of equity, I will have to ask the State Department to make available to me their files on other American officials who travel or work overseas. The reports about Ambassador Watson are not the only reports available on the deportment of American officials overseas. The State Department keeps files on Congressmen, Senators, and other public officials as well. If Ambassador Watson's behavior is worth examining, so is their behavior. All American officials—whether they are Ambassadors or not—represent the United States when they are traveling in foreign countries. If the Senate Foreign Relations Committee thinks it is their duty to begin looking into this area, I think we have to look into it thoroughly.

GRADE SCHOOL CHILDREN TO MARCH

(Mr. BROYHILL of Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, yesterday word reached a number of us in the House that a few left-wing radical leaders associated with the District school system were planning a street march using grade school children to exploit their own political bankruptcy.

The news was too degrading to believe—but I call to the attention of the House, Mr. Speaker, that this bizarre event is actually scheduled for Saturday in the streets of the Nation's Capital.

It is an all-time low in cheap, callous, cradle-snatching cruelty and I urge as strongly as I can that this body of the Congress, Mr. Speaker, rise as one to condemn the politically depraved that have planned it.

I sent a telegram this morning to Mayor Walter Washington urging that he condemn this pitiful parading of schoolchildren for the purpose of massaging the egos of a few disgruntled and disgusting so-called community leaders who exploit children in frustration over their own political failures. I urge the Mayor to withdraw permits. I urge, Mr. Speaker, that all Members of the House make known their anger to Mayor Washington by calling or sending telegrams demanding an end to endangering the minds and lives of our District grade school students by dragging them into the hazards of our streets as helpless pawns of political madness.

FEBRUARY RISE IN INDUSTRIAL OUTPUT

(Mr. COLLIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLIER. Mr. Speaker, the dispensers of gloom and doom on the state of our economy in recent months will, I am sure, be pleased to know that the February rise in industrial output of 0.7 percent was the largest rise since last September.

Mr. Speaker, last week the Federal Reserve Board released the industrial output figures for the month of February, 1972. The February rise in industrial output of 0.7 percent, seasonally adjusted, was the largest rise since last September. This rise in production is encouraging not only because of its large size, but because it is a continuation of an upward trend in industrial production which started last September, after President Nixon's new economic program was inaugurated.

Additionally, the February gain was broadly based. From January to February the index of production of consumer goods rose from 118.3 to 119 percent of the 1967 base period, business equipment production grew from 97.6 to 98.3 percent and materials production rose from 108.4 to 109.7 percent.

By industry grouping, the performance was also strong. Manufacturing production rose in February from 106.4 to 107.2 percent, durable goods production from 99.4 to 100.4 percent and nondurable goods production from 116.5 to 117.1 percent.

The high output of household appliances, carpeting, and furniture during February is especially good news, because it indicates that strengthening consumer confidence in the economy is being reflected in rising purchases. This news concerning industrial production, when combined with the reports we have had in the past month of growing strength in business plans to invest in new plants and equipment during January, and business expectations regarding sales and inventory investment during the first quarter of 1972, is further evidence that we are engaged in a strong, broadly based economic expansion.

THREE MEMBERS OF PAY BOARD RESIGN

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, yesterday three members of the Pay Board resigned, claiming that they had been the victims of "flagrant favoritism." I do not propose to say who has been right or wrong in past Pay Board decisions because I have not been privy to the considerations of the Board. But I must express my concern and even criticism of any member of the Pay Board, whether management, public, or labor, who would quit out of anger before this important work of economic stabilization is done. We must all move together if we are to curb inflation. There comes a time when the national interest is paramount. That time is now, and it is regrettable that any person or group would not be willing to put his own interests second to the interests of the entire country.

One of America's greatest strengths has always been its ability to compromise, its ability to bring together divergent points of view for the common good. On the other hand, some of our greatest problems have arisen when any one group has decided to throw in the towel on established ways of doing things, has decided that their one group could best decide things for all the people, adopting a sort of "my way or I will not play" attitude.

Steps have been taken in the last 8 months or so to bring galloping inflation under control. Statistics indicate that these steps are working. But these steps were always based on one important assumption: That substantially all the people would be willing to cooperate, would be willing to put the national interest above all else. It is my hope that those members who resigned from the Pay Board will reconsider and will return to make a contribution to economic stabilization.

GRADE SCHOOL CHILDREN TO MARCH

(Mr. HOGAN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. HOGAN. Mr. Speaker, I share the concern of the gentleman from Virginia (Mr. BROYHILL) over the utilization of schoolchildren in the District of Columbia to propagandize their parents.

I am particularly distressed by a flyer bearing a cartoon which personally attacks the President of the United States. I think it is in grossly poor taste. I also deplore the fact that officials of the District of Columbia school system are exploiting children for propaganda purposes.

Mr. Speaker, I deplore this shocking cartoon because it attacks Mr. Nixon as an individual. I deplore it because it at-

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tacks him as the President of the United States who, regardless of political affiliation or position on a particular issue is entitled to respect. I deplore it because innocent children are being manipulated for political purposes.

A SUCCESSFUL FEED GRAIN SIGNUP

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, the final feed grain signup figures announced by Secretary Butz in Kansas City yesterday afternoon show a most gratifying participation by American farmers. The 37 million-plus crop-acres already enrolled more than double the 17-million-acre set-aside of last year. This should reduce corn production substantially and give our farmers a chance for more adequate prices in the marketplace next fall.

No doubt there will be some "gloomsayers" who will continue to predict another huge corn crop and repeat their oft-repeated opinion that the 1970 Agriculture Act cannot possibly succeed. But by this heavy signup the feed grain producers of American have demonstrated their confidence in and strong support of the present program. The Secretary has for his part certainly used the flexible features of the program to good advantage, adding new options when the original provisions did not appear to be attracting sufficient participation.

I am, of course, happy to note that my own State of Iowa exceeded its USDA assigned goal of 3.8 million acres by almost 300,000 acres. Iowa has once again enrolled the most acres, followed by Texas, Nebraska, and Illinois, in that order.

I want to commend all ASCS personnel at the Federal, State, and local level for outstanding performance of duty in conducting this signup. The extra options added in the revisions made their task of explaining the program to producers unusually difficult this year. And this burden came hard on the heels of extremely heavy loan activity arising from the large corn carryover, with a combination of loan processing and signups requiring much extra time and effort from ASCS staffers. But the wide spread participation announced yesterday shows they certainly rose to the occasion. It is not inconsiderable achievement to have more than doubled the acres set aside from 1 year to the next.

I congratulate the Department of Agriculture and the Nation's farmers on getting the 1972 feed grain program off to such a good start. They have improved prospects for a successful program and an improvement in feed grain income this year.

CHILDREN'S MARCH

(Mr. QUIE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. QUIE. Mr. Speaker, as the gentleman from Virginia (Mr. BROYHILL) and the gentleman from Maryland (Mr. HOGAN) have indicated, of all the demonstrations that have taken place in the Nation's Capital in recent years, the so-called Children's March for Survival scheduled for this Saturday is by far the most cynical and ill conceived.

The National Welfare Rights Organization and other groups sponsoring this demonstration are using the lure of puppet shows, theater, and games, free kites and balloons to politicize little children for their own purposes.

In so doing, they have been guilty of a vicious and slanderous attack on our Nation's President by distributing in the public schools of this city a pamphlet containing a cartoon of the President with the caption, "Nixon doesn't care" about hungry children.

Such tactics can only rebound to the detriment of their expressed cause, the sidetracking of the President's welfare reform proposal and a workable program of day care for the children of working mothers, reducing Federal aid to the District, and delaying home rule.

I urge the sponsors of this demonstration to reconsider the folly and the waste and the dangers of perverting little children's minds in this political fashion. The reaction of the Congress and the public will be the reverse of that for which they hope.

ANNOUNCEMENT OF BRIEFING ON THE REPORTING ASPECTS OF THE NEW CAMPAIGN EXPENDITURE LAW

(Mr. BOLLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLLING. Mr. Speaker, I have been asked to make the announcement that on Monday, Tuesday, and Wednesday, of next week in the hearing room of the Committee on Ways and Means, there will be a briefing, morning and afternoon, on the reporting aspects of the new campaign expenditure law. That briefing will be carried out by a variety of people, but it will include the Clerk of the House and the Comptroller General of the United States. The morning briefing will be at 9:30 or 10 a.m.; the afternoon briefing will be at another time to be established. But each Member will receive written notice to this effect.

I am further informed that on Wednesday afternoon the new provisions of law dealing with tax deductibility, and so on, will be a special subject for that briefing.

CHILDREN'S MARCH

(Mr. DELLENBACK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. DELLENBACK. Mr. Speaker, lobbying is a valid and traditional part of the legislative process. Public meetings and marches are often perfectly proper. But I am shocked at reports that schoolchildren in the District of Columbia, who cannot possibly know what they are being asked to do, are being talked and hoodwinked into participating, directly or indirectly, in a lobbying march this Saturday that is completely out of line.

The reported attacks on President Nixon are unfounded, unfair, inaccurate, and slanderous.

For public tax dollars to be used for such purposes as those here involved, is counterproductive and will make much more difficult the task of those of us in this body who are genuinely interested in advancing the causes of the District and its people.

LEGISLATIVE BRANCH APPROPRIATIONS, 1973

Mr. CASEY of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 2 hours, one-half the time to be controlled by the gentleman from Michigan (Mr. CEDERBERG), and one-half to be controlled by myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13955, with Mr. ANNUNZIO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. CASEY) will be recognized for 1 hour, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 1 hour.

The gentleman from Texas is recognized.

Mr. CASEY of Texas. Mr. Chairman, I yield myself such time as I may consume for an explanation of the bill.

Mr. Chairman, this is the usual annual appropriation bill for the legislative branch of the Government for the next fiscal year. Included in the bill are funds for the operation of the House of Representatives, the various joint activities of the House and Senate, the Architect of the Capitol, the Botanic Garden, the Library of Congress—including the Congressional Research Service—the Government Printing Office, the General Accounting Office, and the Cost-Accounting Standards Board.

Conforming to long practice, funds exclusively for operations and activities of the Senate—including two items jurisdictionally under the Architect of the Capitol—are left for decision and insertion by that body.

The various items in the bill are spelled out in the committee report. Many more details are carried in the printed hearings. I will give a few highlights of the bill at this time.

This is the first year that I have had the privilege to serve as chairman of the Legislative Subcommittee of the Committee on Appropriations and it was with a heavy heart that I accepted this chairmanship. As you all know, the vacancy occurred due to the untimely death of our dear friend, the late George W. Andrews. Appropriately, the usual gratuity payable to the heirs of a deceased Member is included in this bill for his widow. It is a difficult assignment to follow in his footsteps.

The weight of my task has been lifted through the help and cooperation of the chairman of our full committee, Mr. MAHON of Texas, and all of the members of the subcommittee—Mr. EVANS of Colorado, Mr. HATHAWAY of Maine, Mr. ROUSH of Indiana, Mr. BEVILL of Alabama who was appointed to fill the vacancy on the subcommittee, Mr. CEDERBERG of Michigan, Mr. RHODES of Arizona, and Mr. WYATT of Oregon. I purposely omitted mentioning Mr. Bow of Ohio, the ranking minority member of both the full committee and of the subcommittee as this will be the last year he will be helping to present this bill to the House. We regret he is not going to be with us after the close of this Congress, but we wish him well in his forthcoming retirement from active congressional service.

SUMMARY OF THE BILL

The bill contains recommendations totaling $427,604,764, which is $47,030,661 below appropriations enacted to date for fiscal year 1972 and $6,022,240 less than was requested in the budget for fiscal year 1973. Appropriations for 1972 enacted to date total $474,635,425. The budget estimates for 1973 considered by the committee total $433,627,004.

In considering the comparison with 1972, it should be noted that appropriations have not yet been made to cover the half-year cost of the 5.5-percent pay increase which went into effect on January 1, 1972, as well as certain wage board salary increases. Appropriations to cover these 1972 pay costs will be included in the second supplemental appropriation bill, 1972, which is scheduled to be reported next month. A total of $17,251,700 is included in the bill we are considering today to cover the cost of the pay raises in fiscal year 1973.

The fact that total recommendations are $47,030,661 less than 1972 appropriations is due to two nonrecurring items in 1972. The 1972 appropriations included $32,994,000 for the cost of reimbursing the U.S. Postal Service for official mail costs of the Congress for 2 years—1971 and 1972. The amount for 1972 was made for advance payments on a quarterly basis to conform with practice in effect throughout the rest of the Federal Government. Appropriations for 1972 also included $71,090,000 for construction of the new Library of Congress James Madison Memorial Building.

As I noted earlier, the recommendations for 1973 are $6,022,240 less than requested. This reduction is primarily in three areas: first, funds requested for reimbursing the U.S. Postal Service for the costs of handling congressional mail; second, additional staff requested for the Congressional Research Service, and third, additional staff requested for the General Accounting Office.

HOUSE OF REPRESENTATIVES

The sum of $141,601,770 is recommended for the operation of the House of Representatives during the coming year. This is $9,009,200 more than has been appropriated to date for the current year and over $6,000,000 is for pay increases and related costs. The remainder is primarily within the categories of workload and increased costs. The House has authorized additional allowances for itself, there is an increasing utilization of clerk-hire by the Members, and full year funding has been provided for the 214 new police positions on the House side authorized last year. Taking into account the pending pay supplemental for 1972, the increase is $6,093,600. The allowance is $359.500 less than requested.

I want to call special attention to the language in the report regarding the House Library-Document Room. This activity, which by law is under the Office of the Clerk of the House, is a duplication of service and materials both with the Library of Congress and the Document Room operated by the Doorkeeper of the House. In the opinion of the Committee, as stated in our report, this activity should be phased out by the end of fiscal year 1973. However, it is not the intention of the Committee that the library facility located at the back of this chamber, to my right, be closed. This small library facility is serving the immediate needs of the Members on a day-to-day basis when the House is in session and arrangements should be made to continue this service.

No funds are included in the bill for the installation of a closed circuit television system and other security apparatus in the various buildings on Capitol Hill under the terms of House Concurrent Resolution 550 which was adopted by the House a week ago, on March 16. Inasmuch as this resolution requires action by the other body and there are some questions as to how the cost of such a system should be funded, no action has been taken at this time. Possibly consideration can be given to a supplemental appropriation later on.

The Clerk of the House requested $327,000 for furnishing offices contemplated to be located in the Congressional Hotel. The request was denied as no definite plans have been made as to what activities might be housed in that building.

The committee has inserted $5,000 for the procurement of a portrait of Speaker ALBERT. This is the longstanding practice.

JOINT ITEMS

A total of $26,095,144 has been approved for the various joint activities of the House and Senate. This recommendation is $11,624,011 below 1972 appropriations enacted to date and $3,245,490 below the total amount requested for 1973. The entire reduction is in the reimbursement to the U.S. Postal Service for official mail costs of the Congress, which I mentioned earlier. Appropriations for this purpose are now made in advance in accordance with forecasts of the Postal Service as to volume and cost. Payments are made on a quarterly basis and adjustments to actual costs will be made at the end of the year. The appropriation, as recommended, will become available immediately upon enactment of the bill into law and will be available for such adjustments as may be necessary for 1972. Adjustments necessary at the end of fiscal year 1973 can be considered at that time.

ARCHITECT OF THE CAPITOL

The bill includes recommended appropriations totaling $19,764,900 for 1973 for those items of a joint nature or relating solely to the House. The recommendation is $570,000 above the amount requested due to the inclusion of several reappropriations of unobligated balances required for the continuation of a number of construction and renovation projects into the next fiscal year.

There are no major projects funded in the 1973 budget. Most of the increases allowed are to meet pay costs and the increased costs of supplies and materials. The sum of $50,000 has been provided for the continuing program of improvement and modernization of electrical wiring in the Capitol. Provision has been made for the alteration and modernization of three elevators on the House side of the Capitol. The Committee approved the installation of railings on sections of the central portico on the East Front of the Capitol, as well as modifications to the first floor corridor adjacent to the House restaurant and Sergeant at Arms bank. This work will be done in conjunction with the mural decoration project instigated by the Capitol Historical Society.

The bill also includes funds for the replacement of equipment and other improvements to the House restaurant facilities in both the Capitol and House office buildings. The Committee has approved $98,300 to improve the two corridors in the Capitol leading to the Attending Physician's office and the Minority Leader's office. These corridors are currently most unattractive with a combination of white bathroom-type tile and windows reminiscent of tenement house back porches. The design proposed by the Architect is in keeping with the crypt and rotunda areas which are immediately adjacent to these corridors. Funds are also included for a security system for the steam and chilled water tunnels connecting the Capitol Power Plant and the various buildings on Capitol Hill served by that facility.

WEST CENTRAL FRONT OF CAPITOL

There are no funds in the bill for the West Front project. The Members of the House are aware of the action of the Commission for Extension of the United States Capitol on March 8, 1972, in directing the Architect of the Capitol to proceed with the preparation of final plans for extending the west central front.

In reviewing the history preceding this action, I would refer back to Public Law 91-145, approved December 12, 1969.

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This law, the Legislative Branch Appropriation Act, 1970, appropriated $2,275,000 for the extension of the Capitol including $250,000 for the employment of independent nongovernmental engineering and other services on the feasibility and cost of restoring the west central front. The law provided, and I quote:

Provided further, That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids;

(4) That the cost of restoration would not exceed $15,000,000; and

(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: Provided further, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol.

On July 1, 1970, Speaker McCormack, Chairman of the Commission for Extension of the United States Capitol, announced the employment of Praeger-Kavanagh-Waterbury, Engineers-Architects of New York, to make a study of the feasibility of restoring the west central front of the United States Capitol. The consulting firm submitted its report on December 30, 1970. The Commission met on March 8 and I quote from a portion of the resolution adopted unanimously by its members:

Whereas, the restoration feasibility and cost study and report of the Praeger-Kavanagh-Waterbury, Consulting Engineers-Architects, made pursuant to Public Law 91-145, was considered by the Commission at its meeting of March 8, 1972, in Room EF-100 of the Capitol; and

Whereas, the Commission established to its satisfaction that all five of the conditions specified in Public Law 91-145, relating to restoration, cannot be met; Now, therefore, be it resolved,

That the Architect of the Capitol is hereby directed to proceed with the preparation of final plans for extending the west central front in accord with Plan 2 heretofore approved by the Commission.

No additional money is needed at this time. The money for the preparation of final plans for extending the west central front was appropriated in Public Law 91-145. There is no need for construction funds at this time. They could not be utilized.

LIBRARY OF CONGRESS

An amount totaling $78,161,450 is recommended for the operating expenses of the Library in the coming fiscal year. The major increases for fiscal year 1973 relate to the Congressional Research Service. A request was made for 120 new positions. The committee has recommended 86, which will provide a total staff of 524.

Construction of the new James Madison Memorial Library Building is currently underway and occupancy is scheduled for February 1975. The bill provides $4,000,000 for the initial outfitting of the building. Most of the money is for compact shelving. The committee was advised that approximately 20 months leadtime is required for the fabrication and installation of these shelving units.

GOVERNMENT PRINTING OFFICE

The bill provides $63,739,900 for the Government Printing Office which includes $46,500,000 for congressional printing and binding. The remainder, $17,239,900, is for the activities of the Office of the Superintendent of Documents, which are primarily of a revenue producing nature.

The volume and cost of congressional printing and binding continues to increase. The allowance is an increase of $8,500,000 over 1972 appropriations and includes $7 million to reimburse a deficiency in the 1972 appropriation for charges incurred for fiscal year 1971 work which were paid out of the 1972 appropriation. There is no effective way to determine in advance the volume of congressional printing which the Government Printing Office is called upon to produce.

Estimated expenditures for fiscal year 1973 work total $39,500,000, an increase of $5,500,000 over the $34 million estimated for 1972. Three major areas of increase are the Congressional Record; bills, resolutions, and amendments, and hearings. The cost per page of the Congressional Record continues to increase—from an estimated $140 per page in 1972 to an estimated $170 per page in 1973.

RESTRICTION ON PRINTING FUTURE EDITIONS OF UNITED STATES AND DISTRICT OF COLUMBIA CODES

The committee has included language in the bill, on page 26, which will restrict distribution of future new editions of the United States and District of Columbia Codes to each Member of the House and Senate to not more than two sets. Under the terms of the 1947 law (1 U.S.C. 211) each Member of the House and Senate is entitled to 10 sets, although the committee understands that the current practice is to limit distribution to five sets for House Members and seven sets for Senate Members. In an effort to avoid what looks like a nonessential expenditure, the committee has proposed this restriction. Over 2,900 sets of the 1970 edition of the United States Code have been delivered to the folding rooms of the two Houses for distribution to the Members and officers of the two bodies. The cost of printing the 1970 edition, which was done by the Government Printing Office, exceeds $1 million and does not count the cost of printing supplements during the 6-year interim before a new edition is put out.

The restriction will go to only new editions and will not affect supplements to the 1970 edition as they are published. It will not affect distribution to committees, including the Committees on the Judiciary. It will not affect the copies distributed to depository libraries, or to the Superintendent of Documents for sale. The restriction does not affect the availability of a set of the U.S. Code Annotated or the Federal Code Annotated under the authority of House Resolution 506 of the 90th Congress.

GENERAL ACCOUNTING OFFICE

The bill provides $95,820,000 for the operation of the General Accounting Office during the next fiscal year, and includes $1,600,000 for the Office of Federal Elections. This office has been set up to carry out the activities assigned to the General Accounting Office by the Federal Election Campaign Act and the Presidential Election Campaign Fund Act.

The Committee has allowed 120 of the 238 new positions requested which will provide a total of 4,889 man-years of employment in the regular staff and 35 man-years in the Office of Federal Elections.

CONCLUSION

I have outlined the highlights of the bill. The various items are explained in more detail in the report as well as the printed hearings.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman.

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I notice with interest that the new Postal Service Corporation attempted to charge the House on the basis of the first-class rate for all mail, letters or packages, sent out by Members and, of course, by the House committees. Apparently the Postal Service also ought to make this retroactive. Is it not correct, that they tried to charge the top rate for all mail, bulk as well as first-class mail?

Mr. CASEY of Texas. That is correct. The Post Office Department has been put on a business basis and the Postal Service officials are trying to get all the revenue they can. The gentleman is quite correct—they are going to try to bill us first-class rates for everything we send out.

Mr. GROSS. I am sure that they are on the right track in trying to make the Postal Service pay its way to the fullest extent but they do not charge anyone else first-class rates for bulk mail, and I am pleased the committee denied the appropriation for that purpose.

Mr. CASEY of Texas. We are going to see that we are not treated any differently from anyone else.

Mr. GROSS. That is precisely the point. As to the question of the budget for cars, I assume that the leadership is being well taken care of in the matter of Cadillacs these days?

Mr. CASEY of Texas. I will say to the gentleman, you will find this bill provides for three automobiles and chauffeurs only.

Mr. GROSS. Only three?

Mr. CASEY of Texas. Yes, sir.

Mr. GROSS. That represents a reduction?

Mr. CASEY of Texas. Yes; I think it may over the years. This was not done this year, but possibly it has been done down through the years. We have only three—for the Speaker of the House, the majority leader, and the minority leader. They are the only ones who have chauffeurs on this side of the Capitol.

Mr. GROSS. I am glad to hear that. I am getting more favorable reports than ever before with respect to this legislative housekeeping bill.

Now, with regard to special window glass for the Library of Congress—what occasions that?

Mr. CASEY of Texas. We did not allow the special windows for the Library of Congress.

Mr. GROSS. But they were asked for?

Mr. CASEY of Texas. They asked for them, but those windows would have cost about $200 apiece. They would have cost somewhere in the neighborhood of $40,000 and it was just for the first floor. The committee wondered, if they were concerned about safety, why was the request just for the first floor. If somebody is going to throw a rock at them, they could throw it up to the second floor.

We did not think there should be any more concern for that particular facility than any other facility on the Hill or other Federal buildings in the city.

Mr. GROSS. Have they had window breakage at the Library of Congress?

Mr. CASEY of Texas. There has been no particular destruction at the Library of Congress and that was one of the reasons we thought we should deny this request. They based their request on anticipated trouble—there was fear on their part.

Mr. GROSS. The committee is allowing the General Accounting Office $1,600,000 for this new Federal Elections Office.

Mr. CASEY of Texas. Yes, sir.

Mr. GROSS. What provision is being made for the Clerk of the House, whose office, I assume will do most of the work for the House of Representatives?

Mr. CASEY of Texas. The Clerk has been authorized a number of new positions by the Committee on House Administration. He told us this is a new operation and he might be coming back with a request for additional funds. But as of right now he has what we think he should have in order to carry out the duties placed upon him.

Mr. GROSS. Would the gentleman briefly state what the function of the General Accounting Office will be in this matter?

Mr. CASEY of Texas. The General Accounting Office will gather information on the presidential race. It includes primary expenditures and what-have-you. They will receive and retain that information on expenditures for public view and reporting as required by the act. They are supposed to make audits, as I understand, to see if there have been any violations.

Mr. GROSS. But the GAO will have no function with respect to the House or Senatorial elections?

Mr. CASEY of Texas. It is my opinion that they will not.

Mr. GROSS. I thank the gentleman for his responses.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman from Indiana.

Mr. ROUSH. I observe with great pleasure that there is restrictive language in the bill which will provide for the phasing out of the House library. Does the gentleman have any idea as to how much money this will save if this library is phased out?

Mr. CASEY of Texas. No; I really do not, though I think it would be a little less than $100,000. I will say this: The gentleman from Indiana is one of those who raised this question, and I commend him for it. He has gone into other phases of activities funded in this bill. He probably knows the answers better than I do, since he has been so active in exploring some of these duplications of services that we should be dispensing with.

Mr. ROUSH. It is true, is it not—and I do not know the exact amount—but it is true that there are nine employees involved in the operation of that library?

Mr. CASEY of Texas. That is true, but I do not think you can say that we are going to phase out all of them, because we want to retain the library at the back of the Chamber.

Mr. ROUSH. Would not the gentleman agree that that library just off the House floor could be operated by the Library of Congress, just as they operate their annexes over in the Rayburn Building, perhaps even with greater efficiency in that during the time we are discussing a bill which has reference to a particular subject, they could supply experts to be on hand during that period of time?

Mr. CASEY of Texas. I will not go that far, but I would agree with the gentleman until we have an opportunity to dig into the question a little more. I will say that we have started the task. I am with you in phasing out the duplication of services that are unnecessary.

By the same token, I do not want to see the membership denied services they have been getting and need. There seems to be satisfaction with the service rendered by this small floor facility. I do not want to get someone who is not responsible to the House running such a facility.

Mr. ROUSH. I would certainly agree with the gentleman in that regard. I would advise the gentleman and also the other Members of the House that I have now legislation in hand, which will be introduced next Wednesday, which will do away with this House Library, which is, according to the officials of the Congressional Library, entirely duplicatory of the work they are doing and work which is being done elsewhere, as far as the document room is concerned, this could be easily absorbed by the document room, which is presently run by the Doorkeeper.

Mr. CASEY of Texas. Again I want to commend the gentleman from Indiana on his very active participation in the hearings and also for his diligence in trying to help us save money. I think you are doing it in a proper manner, that is, submitting a measure for full hearing and investigation.

Mr. ROUSH. I appreciate the gentleman's comment. If the gentleman will yield further, I would like to refer to the printing of the United States Code. As the gentleman knows, I advocated that we do away with the furnishing to Members of the United States Code, period. I did this because of the provision in the law which permits a Member to receive a copy of the United States Code Annotated. There may be some wisdom in the action that the committee has taken here, and I am certainly not at this time going to object to it. However, I would also like to advise the House in this connection that it is my intention to seek an amendment to the law which provides for the providing of a Member with the United States Code Annotated, which will place that set of books in the Member's possession, just as we place a typewriter in a Member's possession. It belongs to the office and not the Member.

The law also provides that a Member who leaves the Congress, as I did, and comes back can get another set of the United States Code Annotated. I think that again is ridiculous. I was offended when a book salesman came to me with a twinkle in his eye and suggested I had available to me a second set of this very, very expensive legal set of books.

I want to compliment my chairman for the diligence he has given to these matters. I believe there is much to be done, and I appreciate the chairman's indication that he is going to look into many of these matters in the future when we have the time and opportunity to do so. I think the gentleman has done a remarkable job in these very few weeks he has had the chairmanship of the committee.

Mr. CASEY of Texas. I sincerely thank the gentleman from Indiana.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I, too, want to congratulate the chairman on the work of the subcommittee. I note with pleasure an entry which indicates a considerable sum for the revision of Cannon's Procedure and Hinds' Precedents of the House. Can the gentleman give us any indication as to when the new edition of the Precedents can be made available to the Members?

Mr. CASEY of Texas. I cannot tell the gentleman when it will be made available. There has been some delay in finding the caliber of people needed to do the work.

Mr. ROUSH. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman from Indiana.

Mr. ROUSH. Mr. Chairman, I do not know if I can provide an authoritative answer, except I have discussed this matter with the Parliamentarian. As I recall, he advised me it would be probably 2 or 3 years before they would be available.

Mr. CASEY of Texas. I thank the gentleman from Indiana.

Mr. SISK. Mr. Chairman, will the gentleman yield?

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Mr. CASEY of Texas. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding.

I think I would like to direct a question to the gentleman in connection with the Congressional Research Service. It was my understanding that the Director of the Congressional Research Service had sought, as I recall, 120 new positions. I believe—is it not correct, Mr. Chairman—that 86 of those positions have been allowed in this bill?

Mr. CASEY of Texas. That is correct. There have been 120 requested, and we are recommending 86, which will increase the staff to 524. They were given 75 new positions last year.

The gentleman knows we are anxious to see that the Members of this House get all the service they need, and that was the purpose of creating and expanding the Congressional Research Service. By the same token, it is difficult to find some of the people qualified in the areas required.

Certainly we want them to build up as rapidly as possible, but we do not want to overdo it to the extent that unqualified people are hired. We have confidence in them, but we are concerned over how rapidly they are growing—and frankly, also, we have to find proper space for them to operate in this year.

Mr. SISK. If the gentleman will yield further, let me commend my good friend, the gentleman from Texas. I know of his interest in this matter. I appreciate it very much. The gentleman from Missouri (Mr. BOLLING) and I have had an opportunity to testify before the gentleman's committee to indicate our interest, and I am in no sense criticizing the action of the committee, but I am only trying to take care of many of us who are very much concerned about seeing that the Congressional Research Service is built up as rapidly as possible to meet the needs of Members and the needs that were in the minds of the Congress at the time of the Reorganization Act.

I want to commend the gentleman for his making at least a substantial improvement over what was in the bill last year.

I well recognize, and I want to agree with the gentleman that these are specialists and very highly qualified people if we are going to get the kind of people who will do the job. They are not easy to come by.

As I say, I am not here in any way criticizing, but I would like to set the record straight. I understand there was some statement made that I might offer an amendment in connection with this matter. I am not going to offer such an amendment, but I want to join with the chairman and other members of the committee in urging that the committee continue to watch this matter, and to the extent we can that we make of the Congressional Research Service as quickly as possible a true source of expertise and help and assistance for the committees of Congress, in the House and the Senate.

Mr. Chairman, I thank the gentleman for his courtesy in yielding and his courtesy to myself and the gentleman from Missouri (Mr. BOLLING).

Mr. CASEY of Texas. I commend the gentleman from California and the gentleman from Missouri (Mr. BOLLING), for their desire to see that the intent of the reorganization act which the gentleman handled and sponsored, of upgrading service to the Members of the House, is carried out. I assure the gentleman if we find we have made a mistake we will come back here and give assistance.

Mr. SISK. I thank the gentleman.

Mr. CEDERBERG. Mr. Chairman, I yield myself such time as I may consume.

The distinguished gentleman from Texas, the chairman of the subcommittee, has given us the details of this appropriation bill, and certainly there is not any reason to go over that ground. Therefore, I will take but a very few minutes.

I should like to say that the subcommittee has restrictions as to how far it can go in cutting this kind of a bill, or any kind of a bill, because of the legislation which makes these appropriations in order.

I would also say, when we refer to actions taken in the legislative area by other committees, that places more burdens mostly on the General Accounting Office. Almost all the legislation we pass these days gives them new responsibility. This naturally requires that we give them new personnel and funds to finance them.

There has been discussion as to the congressional reorganization, called congressional reform. This has caused increases in personnel and increases in cost.

Then there is the election reform bill, which is placing an unusual burden on the General Accounting Office. No one really knows what burden is going to be placed on the Clerk of the House or the Clerk of the Senate, so we will have to feel our way along on that type of legislation.

I believe it is fair to say, on congressional reform, until we get the regulations we as Members of the House do not know where we stand. So it is going to be some time before we really know what the increased costs are going to be as to implementing much of this legislation.

We have done our best under the able guidance of the chairman of the subcommittee to provide what we think is necessary to carry on the activities covered in this bill.

We have not given any of the agencies everything it wanted. We cut the personnel request of the General Accounting Office and of the Congressional Research Service, and I believe we cut some for the Clerk of the House, who, I can see, is on the floor today carefully watching us as we pass out the appropriation over which he will have a great deal of jurisdiction.

I can only say I believe we in the subcommittee have diligently tried to do what is necessary to provide services for the legislative branch. I believe the legislative branch and the areas under our jurisdiction deserve the same kind of consideration, no better but no worse than the treatment of other agencies either in the judiciary or the administrative branch of the Government. This is what we have tried to do, and I believe we have done it.

Mr. CASEY of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I take this time today because I would like to be able to offer an amendment to this particular legislation, dealing, of course, as Members are well aware, I believe, with a subject which has concerned me for a number of years since I first came here, the west front of the Capitol.

I would like to offer that amendment today, but unfortunately the only meaningful kind of amendment to meet my purpose would represent legislation on an appropriation bill and would therefore be out of order; so I am not able to offer it.

There is nothing in this particular bill on the west front, but the legislative appropriation bill has traditionally been the vehicle by which we in the House have had the opportunity, and the only opportunity, and a somewhat limited opportunity, it was, to address ourselves to this question of whether the west front should or should not be extended.

So I think it is appropriate that as we discuss this bill for fiscal year 1973 we should at least bring ourselves up to date on this particular issue of the west front, even though we are estopped at the moment from doing anything about it. Members who have been here for a couple of terms will recall the last time we had any discussion on this subject was in December 1969 on the 1970 legislative appropriation bill. That was a very detailed discussion and a rather bitter one. We had a record vote and we took a number of other actions in this House to deal with the subject of the west front and to try to resolve some of the controversies that occurred at that time in that particular bill.

In fact the very thing I object to most here today is that there is nothing in this bill today that would give us any opportunity to deal with this subject in the light of what has happened since 1969. The details of the study we ordered in 1969 have now been made public, and yet the House itself is denied an opportunity to vote one way or the other on this controversy in the light of this study. Unfortunately a preliminary decision on that has already been made in secret, behind closed doors, with no record, and without even the courtesy of a discussion of the facts that were made available to Congress in a study authorized back in 1969.

Those who were here in 1969 will recall the big argument given at that time for extending the west front of the Capitol—and the gentleman from Illinois (SID YATES) was down here with charts and drawings and practically terrorizing every Member of the House into believing that we stood in imminent danger of destruction—was that George Stewart had told us that the whole front was going to fall down unless we approved the extension project.

So in order to find out whether that

charge was true and whether the only way to prevent the west front from falling down was to extend it, we appropriated $200,000 for an independent, professional study by an expert firm of engineers. That study was made and was submitted to the Congress in January 1971.

In spite of all the heart-rending arguments we had heard on the floor, this report said conclusively and decisively not only that that claim was a lot baloney, and that the west front of the Capitol is not falling down, but that you do not have to extend it in order to fix it up. That repair job in fact, can done for $13.7 million instead of the $45 million or $60 million or $70 million that might be otherwise required for the extension so the Praeger report concluded.

Mr. JACOBS. Will the gentleman yield?

Mr. STRATTON. Let me just complete my argument, if I may, and then I will be glad to discuss the matter with the gentleman.

Yet, in spite of the fact that that report had been made by a reputable firm—and we got all of the best people in the industry and in the engineering field to recommend who should do the study—there has never been one single word of comment by the so-called commission on the extension of the Capitol about the fact that the Praeger report had totally demolished the argument of George Stewart and Mr. Campioli and SID YATES and everyone else who had been talking about the west front.

Instead, other day, on the 8th of March, 15 months after the Praeger report was made public, they met in some quiet little chamber in the capitol and said:

> We are going to go ahead and extend the Capitol in spite of that report and in spite of the cost.

Now, how did they justify that action? Well, they hung their argument on two things. First, the 1969 legislation had said that five conditions had to be met to end the extension plan. One of them was that you had to be able to restore the Capitol for not more than $15 million. Actually the Praeger report says you can do the restoration job for $13.7 million. Yet this group of nonengineers, these nontechnicians said:

> We are not sure; maybe restoration might cost more than $15 million; so we are going to turn down the whole report and instead foist a $60 million or $70 million cost on the American taxpayers.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. Mr. Chairman, I want to present my argument first, because it is somewhat complicated, and then I will be delighted to discuss the issue with the gentleman.

So what other reason did they give for undertaking this great expense, now that we know for certain that the west front is not falling down? Well, they claim we need more office space in the Capitol. So, we are going to have to turn this Nation's number-one historic shrine into a grand Howard Johnson's, and provide 253 special, hideaway offices for senior Members who do not want to ride back to the Rayburn, Longworth or Cannon Buildings in between quorum calls or recorded teller votes. That is the reason, Mr. Chairman, that we are told we will have to spend $45 million or $50 million more than we need to on the west front. Yes, we are going to destroy the Nation's number-one historic shrine, and we are going to cover up the last remnants of a historic building that even the British were not able to destroy in 1814.

That is the issue that is really facing us, even if we are not being allowed to vote on it.

Do you want to let them go ahead and make that decision? Or should not we, as Members of the Congress who authorized this study back in 1969, at least have the right to vote on what we best ought to do in the light of the conclusions of the Praeger report, for which we spent so much money.

And the thing that disturbs me most, Mr. Chairman, concerns the Architect of the Capitol. Those who were here during the 1969 controversy will recall that one of the biggest issues was that we had an Architect of the Capitol who was not really an architect. George Stewart never made any pretense to being an architect. He was a builder, and he wanted to build—and, by gosh, he certainly did build. And he did everything he could to push his building projects through. He even put those dramatic supports out there on the west front and led everybody to believe the building really was going to collapse, so he could build up more psychological momentum to construct a new west front, and so have another memorial building project to his credit. Well, George Stewart passed away and we got ourselves another architect, and we got what we had been trying to get—a real, professional architect. In fact he was a member of the prestigious American Institute of Architects, who had been one of those who had said very clearly, as an architect, that this historic Capitol building should not be tampered with.

Well, what happened? Once this new Architect, George White, went to work, he forgot all about being a professional architect. Instead he became an office boy. He let himself be pushed around by the establishment who told him: "We just have to have more of those hideaway office spaces." And so instead of giving the Congress the benefit of his professional ability as an architect Mr. White allowed himself to be pushed around. Well, Mr. Chairman, we already have enough people down in that office now, beginning with Mr. Campioli, who can easily be pushed around by the establishment.

What we needed was an architect with the courage of his convictions. But this fellow has not given his professional opinion to the Members of Congress. And I have said he ought to resign. I say it again: I feel sincerely he should resign. He is flying under false colors.

So this is where we stand today, Mr. Chairman. We have $2 million appropriated back in the 1970 bill which is going to be used now for plans on a project that we have already had in the planning stage for 10 years. I just hope that money will continue to be used, as it should be used for planning on paper, and will not be used for clandestine construction work, because at some time we are going to have to vote on this issue. I think that this House ought to be able to make that final decision, and I just hope the Architect doesn't try to be cute and use his $2 million to try to present us with a fait accompli we would have trouble reversing.

If the future of the country lies in the hands of the collective wisdom of the House and Senate, then why is it that the future of the Capitol Building shall be so unique and all-important that decisions affecting it cannot be handled except by the top leadership?

That is the issue we ought to address ourselves to, and I am sorry it is not here for us to act on. But I have introduced appropriate legislation. I had a special order on this on the 16th of March, and I sent a "Dear Colleague" letter to every Member of Congress on the 20th of March. I know we are all fed up with "Dear Colleague" letters; but if you are interested in this important issue of the west front it is only one page long. All the relevant arguments are there. I hope that you will read it and I welcome the support of Members in this fight—which is only now beginning, I might add.

The CHAIRMAN. The gentleman from New York (Mr. STRATTON) has consumed 10 minutes.

Mr. CEDERBERG. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Chairman, I hope there is no one here who may seriously question my interest in and my concern for the preservation of the Capitol. Few, I believe, and I confess humbly, surpass my interest in the history and the heritage of this great monument, our Capitol.

I will begin by suggesting to you and telling you, as many of you already know, that originally as a historian, I was opposed to both the east front and the west front extensions. But because of my growing interest, I researched this question and I have studied it in depth. The original plans were considered. The needs were noted. I have changed my mind. I was wrong and I have said so at different times on the floor of the House.

One of our troubles around here is that an institution for publicity in this area insists on only publishing one side of the story. On March 8 and 9, I took the floor and discussed this matter and commented on the decision of the Commission. This organization for publicity was made known of this, but not one line was in the paper. But, the opposition was there.

So I invite now, Mr. Chairman, the publicity facilities here, and one in particular, to pay attention to another side and to note what other people have said who are competent and who are interested and who are just as dedicated and concerned about this.

Now having commented on that, let me talk about change. My colleagues, there have been many changes in this Capitol Building. It is not a status quo-

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building just as this Nation is not a status quo institution.

We had the original design—and the first dome was a low dome. Then wisely and because the Congress needed more space, in 1850 a move was made to expand the Capitol and the result is this room—with one comparable to it on the Senate side.

Then it was noted that there was something wrong with that low dome and that it was out of proportion. So it was recommended that we put a dome on like you see on the Capitol.

Then there was the question of need for balance on the west front and the terrace idea was conceived and an extension was conceived at that time.

In 1904 this Congress, looking forward to that extension part of the project to develop some bronze doors and there are three magnificent bronze doors on the east front now and they tell a magnificent story of our early history.

There is another set of doors which will be on display soon that will be designed for the west front, but because something happened we never could get on with this business. Every time it was up, there was somebody on the House floor opposing it. Even when we changed from gas light to electric light, some of the wise men in the Congress on the House and Senate side both commend: Well, what is the matter with the gas light? This electric business is just a fad and it is dangerous and we should not do it.

There was debate about the dome. So change has been a tradition and the status quo has not been the tradition.

Now as to the hideways—I have been, I think, and every man can if he wants to, get into every room in this building. Some are not convenient to get into—you have to go through a manhole to explore the area where they dug there one time.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman.

Mr. JACOBS. I would like to see the gentleman get into the room where this committee met, the Appropriations Committee. I understand that no Members of Congress except members of the committee were admitted while the hearings were going on.

Mr. SCHWENGEL. I knew about those hearings. But I happen to trust those people very much. They are our representatives.

While we are commenting on that, I will say I have been able to find it and I have gone there and no discourtesy was shown. I found out what took place there. There was an honest evaluation of the facts and they were acting in accordance with the wishes of the Congress.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. Yes, I yield to the gentleman from Indiana.

Mr. JACOBS. Does the gentleman take the position that hearings on the expenditure of public money should be closed, that that is perfectly all right, and that we should just trust the members of the committee?

Mr. SCHWENGEL. I do not endorse that, of course, but that is not the question.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. The committee was glad to receive all Members who expressed an interest in coming to the committee, and all such Members did come and were heard.

Mr. JACOBS. Mr. Chairman, will the gentleman yield further?

Mr. SCHWENGEL. I yield to the gentleman from Indiana.

Mr. JACOBS. That is not an answer to my question. The question is whether Members can attend, not as witnesses, but to observe other witnesses. I would like the committee to state whether that would be permitted.

Mr. SCHWENGEL. Under the provisions of Congress, as the act was passed originally, the amendment called for a study and report, that the Commission would make the judgments, they did so, and they reported. When this happened, I went down here to see what happened. As far as I was concerned, they were very courteous.

I know what has taken place. I have every confidence in the judgment of these people, and I have confidence, I will say, in the new Architect. He is a qualified architect, and to question his integrity when he comes here is just not fair. I do not believe these kinds of people are affected by politics and political pressures. He could make a lot more money than he is getting, I believe, in private practice. So why should he worry about a job? Why should he not represent the best interests of the people?

Someone mentioned Campioli. He was one of the great architects of all time. He was hired by the Rockefeller Foundation and developed the Williamsburg layout there. This man is a traditionalist. Originally, like myself, he was opposed to both the east front and the west front extensions. But he was wise enough to recognize the facts and he changed his mind.

Now, I am not worried about hideaways. Any Member of the Congress can get into any room in the Capitol he wants to get into, and that includes those rooms that are used by Members on the other side. Of course, there are not nearly so many over here. Percentagewise, more of the Members on the other side can be taken care of.

Let me tell you about a great need here, my friends. The dome section of the Capitol, to me, is holy ground. That is the center of this building. That is where a lot of important events have taken place. That is where our great statesmen have lain in state. That is the reception center. I am ashamed of it.

I do not like something else. When a carload of people come here from Iowa, Texas, Indiana, New York, or elsewhere, some of whom are 65 years of age and older, they have to park a block and a half away, walk, climb 47 steps, and there is not even a restroom anywhere in the area. There is no place to sit down and relax. But there will be if we have an extension. We will have a nice driveway up the west front. They can walk 14 steps, get on a moving platform, and move into the reception center and begin their tour at that point. What is wrong with that? Nothing, of course.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I am glad to yield to the gentleman from Texas.

Mr. CASEY of Texas. I want to commend the gentleman for his activities in seeing that the Capitol becomes what it should be, a thing of beauty. If Members will look around, they will see that little by little we are accomplishing some of the things that need to be done. They will notice that our old Chambers are starting to get a little cleaning. Our committee has helped in getting junk off the balcony. I think by the time the centennial arrives and we have our celebration, we will have more pride in this building.

Mr. SCHWENGEL. Mr. Chairman, I now want to comment for the RECORD on the following questions:

First. Statements relating to Congressman STRATTON's remarks on the floor March 16, 1972; the action of the Commission March 8, 1972; and the restoration and other reports.

Second. Resolution of the Commission March 8, 1972, containing the Commission's decision and the law relating to the restoration study and the extension of the Capitol.

Third. Law authorizing the extension of the central portion of the Capitol—east and west fronts—under direction of the Commission created therein.

Fourth Editorial from the Evening Star, March 10, 1972.

Fifth. Memorandum from the Architect to the Commission, March 6, 1972.

Sixth. Background of George M. White, Architect of the Capitol.

The material referred to follows:

NOTES ON WEST FRONT OF THE CAPITOL

(If Congressman Stratton tries to stop planning through amendment or other device on the Legislative Branch Appropriation Bill, 1973)

1. Stratton stated in his speech on the floor of the House, March 1972, that he had introduced three separate bills to accomplish his objectives. These bills were referred to the Committee on Public Works. Why is he now attempting to circumvent the regular legislative processes through an appropriation bill?

2. The House debated the West Front problem fully on September 19, 1969, and agreed to appropriate $2,000,000 for the final planning of the extension. Mr. Stratton's amendment to stop this was defeated by the House, CONGRESSIONAL RECORD, volume 115, part 19, page 26389.

As far as the House was concerned, we could have proceeded then, more than 2 years ago, with the extension, which would have saved the escalation that has resulted in the meantime—some $10,000,000 to $15,000,000.

It was only after the insistence of some members of the other body that the provision for a so-called restoration study was agreed to in conference and the extension was postponed until the restoration study could be received and studied.

Any escalation of the cost of the extension, therefore, can be laid at the doorstep of the restorationist. It is not the fault of the Commission or the Architect of the Capitol.

3. The Commission composed of the Speaker, the Majority Leader and the Minority Leader on this side; the President of the Senate, the Majority Leader, and the Minority Leader on the Senate side; and the Architect of the Capitol, is about as representative of the Membership of the Congress as anyone could hope for. Yet, the gentleman from New York (Mr. Stratton) would characterize the Commission as some kind of a monster who goes about making arbitrary decisions. He even wants the Commission abolished. Well, I think we can all draw our own conclusions from such explosive oratory. If he can't have his way, then all is wrong.

4. The Commission has done precisely what the Congress mandated in the Legislative Branch Appropriation Act of 1970. The charge that we have done otherwise is absolute nonsense.

Five conditions were spelled out in the Legislative Branch Appropriation Act, 1970, which restoration must meet in order to be considered by the Commission. If *all* those considered were not met to the satisfaction of the Commission, then the law said the Commission shall direct the preparation of final plans for the extension as already approved by the Commission. This is exactly what the Commission has done.

5. Before our meeting of March 8, 1972, the Commission had received from the Architect of the Capitol the restoration report, the Architect's comments on the report and on his effort going back over a period of more than a year, and his professional judgments relating to the west front problem. At the meeting, we had available the Preliminary Plans and estimates of cost for the extension, and all the background information, including hearings, debate on the floor, committee reports, etc., during the last several years on this question.

Near the close of the Commission's discussion, Congressman Ford, read aloud each of the 5 conditions specified by the law and asked Architect White to comment on each one. The following resulted:

"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;"

Mr. White stated that the wall can be made relatively safe and sound. However, he said, there is grave doubt that it can be made durable and beautiful except with continued and substantial maintenance.

Representative Ford then read the next condition:

"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2";

Mr. White said that this was a true statement.

Representative Ford then read the following conditions:

"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;

"(4) That the cost of restoration would not exceed $15,000,000;"

Mr. White stated that conditions 3 and 4, taken together, cannot, in his opinion, be said to be capable of attainment.

Representative Ford then read condition (5):

"That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: Provided further, That after consideration of the restoration report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol."

Mr. White stated that condition (5) can be met.

Mr. White said that after a great deal of study and soul-searching, he concluded that he should not think in terms of "preservation" or "extension", but he should think in terms of what would best serve the people of the Nation. The building has a tremendous meaning for the people because it is to them a symbol of democracy and a Temple of Liberty. He said that the great mass of the people who view the Capitol see it as a beautiful scene and are unconcerned with the theoretical priorities of importance of various exterior features. Their money, he concluded, would be best spent by proceeding with the extension rather than trying to save the one remaining old wall.

Mr. White was asked if he had complete jurisdiction of the building and full responsibility for it, would he restore it or extend? He said without hesitation that he would extend the old west central front.

6. George M. White, Architect of the Capitol: Mr. White was highly recommended to the President for appointment in his present position by the American Institute of Architects. He is a professional engineer, a professional architect, as well as a member of the bar. When he was appointed as Architect of the Capitol, he was an officer of the AIA. His leanings were toward restoration as a result of his association with the AIA. After studying the west front problem for more than a year and after his experience as Architect of the Capitol, he felt compelled in the interest of sound judgment and good planning to recommend the extension, rather than the so-called restoration.

7. Mr. Stratton mentions the cost of the restoration study, of approximately $245,000. It should be remembered that the Congress also spent some $266,000 for the extension study, preliminary plans and estimates of cost, which were also before the Commission when its decision was made and which have been before the Congress since 1967. Every Member of the Congress was sent a copy by former Speaker McCormack.

8. Mr. Stratton says the Commission's action was wrong "no matter what the 1970 appropriation bill may say." The gentleman is well known as a "law and order" man. Why then would he expect the Commission to ignore the very precise provisions of the law?

9. Mr. Stratton says the restoration report "totally demolished all the contentions that had underlain the long pressure for the West Front extension."

Mr. White, a professional architect and engineer, says that is not true. He says "The structural adequacy of the west wall is, in fact, indeterminate. As many experts will declare that it is stable as will say that it is unstable. But even those who support the position of stability admit to the indeterminacy of the loading computations and, therefore, say that the wall should be strengthened as an insurance against the probability of a possible failure." Even the restoration report recommends structural restoration.

10. Mr. Stratton seeks to prove that all five conditions are met by the restoration study. Even those who prepared the restoration did not believe this was true. Example:

In the transmittal letter accompanying the restoration, it is stated:

"The restoration can be accomplished within the general guidelines set forth by Congress as a directive to the Commission for Extension of the Capitol."

Page IV of the report under "Findings" it is stated:

"Restoration methods can be specified to form a basis for performance of the work by competitive lump sum construction bids."

Page 15 of the report:

"A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis."

Commenting on the first quotation: The Congress enacted five specifics—not general guidelines.

Commenting on the second quotation: No where in the report is there an explanation of how this can be accomplished. Just a bare statement.

Commenting on the third quotation: This is, in effect, an admission that those responsible for the restoration agree that a lump sum bid procedure cannot be utilized—they recommend a cost plus procedure for the restoration work.

11. Mr. Stratton admits that the cost of restoration could go over the $15,000,000 limit established by the Congress, but he attributes this to escalation. The restoration report in explaining the cost estimates (page 15) says: "Unit costs include an escalation factor."

12. Mr. Stratton does not like what the Commission has done. Well, that is no surprise. And we respect his right to differ, but in so doing he should look at *all* the facts, and not just those that suit his purpose. The decision on the West Front was made and should have been made on the facts, the evidence, and sound judgment—not upon intemperate, wild and misleading statements such as we have read of late in the Congressional Record and in at least one local newspaper.

13. The decision of the Commission was a wise, thoughtful, and reasonable decision. It was made in an atmosphere of calm study and consideration, with each Member of the Commission taking part and expressing his views. Still, there was a unanimous vote in favor of going ahead with the extension.

14. Hideaways—Mr. Stratton says there is no reason to extend the building except to have "secret hideaways" in the Capitol. When the East Front was extended, the House portion was put to use for official business of the House—there are no hideaways in that extension. Why should he try to mislead the public and his colleagues into thinking the West Front extension would be given over for hideaways for House Members?

ADDITIONAL RESPONSES TO STRATTON'S REMARKS

1. Remarks have been made by Stratton concerning the proposed extension transforming the Capitol into a super Howard Johnson's, inferring that the appearance of the building would change and that the interior would provide services of that nature. Such demagoguery obscures the facts and speaks only to the emotions. A model of the extended building has been in Statuary Hall for several years. Can anyone see *any* Howard Johnson appearance in that design? The old plan to provide visitors' facilities in the Capitol has long since been abandoned in favor of the new Visitor Center in Union Station. The exterior of the extension will be a faithful continuation of the classical design of the Capitol with which everyone is familiar. The renderings of the Associate Architects' proposal are and have been available for everyone to see and clearly indicate the enhancement of the magnificent appearances of the building.

2. Remarks by Stratton and Randall regarding the Washington Post editorial state their agreement that the editorial was "well reasoned and reach valid conclusions." On the contrary, the editorial was intemperate, emotional, inflammatory and largely non-factual.

The editorial characterizes the Commission's unanimous decisions as "an arrogant maneuver of dubious legality." Even Mr. Stratton admits the legality of the decision when he says, "It is true that the provi-

sions of Public Law 91-145 do not require the Commission to justify their decision or to make any report to anybody."

The editorial criticizes the design itself, when even the American Institute of Architects in their testimony stated that the design was not in question. To the contrary, some of the most respected designers of classical architecture in the Nation have viewed the proposed design as an improvement to the West Central Front.

The editorial states that "William Thornton's softly elegant sandstone facade is the only visible link to the Capitol's beginnings." What sandstone? The original sandstone has been covered with layer upon layer of gray paint since 1819. Plate # 1 in the Praeger report clearly shows the cracked, messy and miserable appearance of the so-called elegant stone once the paint is removed.

The editorial says that the Olmstead terraces will be ruined. Not so. In fact, changes to them will hardly be noticeable and, instead, they will become more beautiful and broader in vista than they are now. Even the American Society of Landscape Architects (and Olmstead was a Landscape Architect) reviewed the plan and had no objection to it. The perspective of the dome will be enhanced by the design strength of the new pediment that will be incorporated over the extended portico.

So, it is rather obvious that the last vestige of objectivity was wrung from the editorial policy of the Post in this instance.

3. Mr. Randall remarks that "As I recall, all the Architects of America were against this change and all the historians were against it." That is a blatant exaggeration to say the very least. A substantial number of highly respected and nationally prominent architects have testified and expressed themselves in favor of the extension. The official position of the American Institute of Architects is by no means representative of *all* of the architects in the *Institute* membership, and certainly doesn't represent even the majority opinion of all of the *registered* architects in America.

It is also interesting to note that the Architect of the Capitol was a Vice-President and Member of the Board of Directors of the American Institute of Architects and he also opposed the extension until he became aware of all of the facts involved, and he has now changed his position and supports extension.

4. Stratton remarks that the Praeger report confirms that the Capitol is not going to collapse. *Not true.* The Praeger report clearly says that *in their opinion* collapse is not *imminent, but* because of the indeterminacy of the loading forces, no one can be certain of that, and therefore the wall should be strengthened and repaired. The Praeger report does *not* say there is no danger.

5. Stratton says the report states that "We can fix it up so that the cracks are gone." *Not true.* The report states clearly that the wall will continue to crack even after their recommended procedures.

6. Stratton says the existing bracing is a "public relations gimmick." *Not true.* The visible bracing is primarily at the portico and the Praeger report agrees with the necessity for the bracing to prevent the collapse of the portico. The portico is *not* the wall.

7. Detailed study indicates a thicket of unknowns that can never be adequately penetrated. An attempt to restore the wall will lead to endless maintenance and repair at no predictable cost limitation, as indicated by the Praeger report itself in its factual portions.

Comments on the West Front of the Capitol Discussion

There are some basic facts about which there is no substantive or actual disagreement.

Fact No. 1: The wall must be strengthened in some way, either by an attempt to do so in its present position or by a positive method of buttressing through additional laterally placed walls that will be part of an extension. Prior information *and* the Praeger report substantiate this.

Fact No. 2: The existing wall, if an extension is provided, will *not* be disturbed. It will remain in place and continue to be partially exposed on the interior as is the old East Front original wall.

Fact No. 3: The design of the extension is a virtual reproduction of the existing appearance, is *not* a point of contention by architects, and, if anything, is viewed by experts in classical architectural design as an improvement and an enhancement of the basic appearance of the Capitol from the west. This results from the original design having been related to the old, small, low dome, rather than the existing dome which was added in 1865.

Fact No. 4: The proposed extension will reproduce the existing classical details at all points where it can be done, as was done on the East Front, in order to recreate the original design insofar as possible.

Fact No. 5: The existing terraces will be disturbed only in part and will be extended in accordance with the extension of the wall itself, and, again will reproduce the existing design insofar as possible.

Fact No. 6: The wall in question totals only *20%* of the total exposed existing walls of the Capitol; thus 80% of the exterior of the building will not be disturbed in any way.

POSITIONS

The *building* itself—the Temple of Liberty—is the shrine to the American people and a symbol of freedom and democracy throughout the world. The dome, the wings, the steps on the East Front, the general appearance of the building as a unified whole, form the shrine that lives in the minds of people everywhere. The 20% of the exterior wall is *not* the shrine but is being made to appear so on the part of those whose sentiment brings them to believe that any disturbance to the building at all is a disturbance to the shrine. History tells an opposite story. There have been 15 separate and distinct changes to the bulk of the Capitol and countless changes and alterations, numbering into the hundreds, on the interior of the building. (See the attached list.) The history of the building has been one of continuous change and growth as the Nation has changed and grown and the needs of the Congress have similarly changed and grown.

At one time in the history of the Nation this single building housed the Supreme Court, the Library of Congress, and all of the offices of all of the Senators and all of the Congressmen. The space demands gradually forced the removal of the Supreme Court in 1935, the Library of Congress in 1898, and the working offices of the Senate and the House into buildings which now form the Capitol Hill complex. There remains in the building, especially on the House side, the dire need for space in proximity to the legislative chambers for those supportive functions of the legislative process that are a necessary part of the legislative process. Not only do the separate branches of the legislature require supportive offices of their own, but the legislative process has evolved an increasing number of joint conferences and other joint Senate-House activities which are requiring increasing volumes of space close to the legislative chambers. These space requirements are increasing year by year.

The Praeger report contains a number of ambiguities which are resolved in favor of strengthening the existing wall in its present location instead of buttressing with the walls of an extension. There is no doubt that the wall can be strengthened in some fashion in that way. The body and substance of the report do not substantiate some of the opinions which are presented in the form of conclusion to the report. A great many ambiguities are apparent as one reads the details and supportive information in the report itself. These unknowns and ambiguities can lead to a quicksand of entrapment in terms of the final possible cost of restoring the wall in place.

A real question exists as to whether an expenditure of $20 to $30 million to repair the wall and get no usable space in return is a valid expenditure of the taxpayers' money. The differential between the cost of $20 to $30 million and the cost of the extension, which is estimated at $50 to $60 million, will result in the creation of 270,000 gross square feet of space so that the citizens of this Nation will receive something tangible in return for the expenditure of their funds. We must concern ourselves primarily with what will best serve the people of this Nation. The needs of their elected representatives to enable them to properly conduct the legislative process will be served through the expenditure of public funds to provide necessary space. The people will not be served through an expenditure of 20 or 30 millions of dollars which will result in a repaired, patched, painted wall in the Capitol of the greatest Nation on earth.

If we were discussing the building as a whole, the people undoubtedly would want funds to be spent for the preservation of this Shrine of Democracy. But we are not talking here about the *building* as a whole. We are talking merely about a piece of wall. That kind of sentiment for this living, working building, which is part museum and visited by millions of Americans every year, and yet is an active legislative business building, must be placed on the scales against the tremendous need of the legislature for additional space. Our space needs will not diminish. They will increase as the population increases. We will need space in many ways, one of the most important of which is space in proximity to the legislative chambers.

The need for continued repair and maintenance to the wall, if it remains in place as an exterior wall of the building, is indicated by the Praeger engineering report. The report states: "If the wall voids were filled, exterior cracking would be inhibited by transfer of stress to interior portions of the wall. Generally, however, *cracking will continue to occur* as the wall adjusts to temperature change." The report then recommends a series of control joints which, in theory, are supposed, but not guaranteed, to control the locations of the cracks. The report then says, "With these measures *future cracking should occur at a much reduced rate.*" This is an example of numerous places in the report where an opinion is expressed which leaves the decisionmakers to live with the result in the event that the opinion is not borne out by future experience.

It will be noted that the report does not say future cracking *will not* occur, nor does it say that future cracking *will be* reduced. It merely says future cracking *should* occur at a much reduced rate.

The question of condensation on the interior wall is examined in only a very cursory fashion in the report and leaves a great measure of doubt as to the future needs for maintenance and repairs as interior plaster may become damaged from moisture. The appendix to the recent AIA report indicates a similar concern for this problem.

Continuous painting of the wall forever into the future is recommended by the report, not only as a preservative method but also to cover the blemishes that will occur in the wall as a result of the repair process that the report recommends. The report says, "Effective grouting will require relatively close spacing of drill holes vertically and horizontally in the upper walls." These holes are recommended to be drilled every three feet in both directions. "This would increase the need for the replacement stone required to obtain an unflawed surface, possibly in excess of that available in the East Front storage piles. For Scheme 2 this would mean either some proportion of *artificial replacement stone,* or toleration of a pock-marked appearance on a fairly regular grid. Under Scheme 1 this would be of no concern, since patch marks would be painted over."

The report also says, "Future damage by intrusion of moisture or paint can be *controlled* by the application of a stone preservative and joint sealer, a *procedure which should be applied at regular intervals.*"

The report thus indicates that the restoration will, at the very best, be a patchwork process with a result that requires continuous maintenance and painting in order for the appearance to approach the level of being satisfactory.

This is further indicated in the report by the statement that the removal of the existing paint, some of which is an eighth of an inch in thickness, cannot be accomplished without damage to the existing stone. "The experience gained by the test removal of paint, performed as part of this study, indicates that it will not be possible to completely remove the paint and paint stain without some damage to the stone."

The report contains several gratuitous opinions of a non-engineering nature, which indicate a bias that raises the question of credibility with regard to the report's conclusions, especially since the broad conclusions do not appear to follow the weight of the evidence in the body of the report.

The following quotations are examples: "Some stones are so far eroded that they should be replaced but others, less seriously deteriorated, *may be tolerated as an expected sign of age.* . . . The Capitol is 150 years old and should give an impression of venerable age, not a crisp newness that denies its historical background." Neither of these are opinions in areas in which the engineering firm holds itself out to be competent. They appear to be added in order to rationalize some preconceived notions.

The body of the report states, "A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis." Thus, although the report concludes that a competitive lumpsum fixed price construction bid or bids *can* be obtained, it nevertheless recommends that the work should *not* be accomplished on that basis.

The entire question of cost is thus left wide open. Even the AIA report says, "It would be impossible for anyone at this stage of study to guarantee a total restoration cost." The AIA report also says, "The Task Force recognizes that the work could be done on a competitive, lumpsum, fixed price construction bid or bids but we feel that competitive bidding for a fixed profit and overhead *with the work being done on a cost basis* should be strongly considered in the same way the White House restoration was accomplished."

The appendix to the AIA report makes the following statement in commenting on the Praeger report: "There is discussion of the thermal effect of solidification of the wall resulting from the infilling of the present cavity. This phenomenon is not discussed in great detail other than to conclude that there is to be predicted a 10% net increase in heat gain or heat loss in the solidified wall. The effect of this change in the internal structure of walls of such comparatively great mass bears closer investigation. It is probable that it will require an interval of time, perhaps 18 months to 2 years, for the long stabilized thermal and hydro balance within the walls to become re-established, responsive to modifications resulting from the filling of the voids and the possible modification in the reverse permeability or breathing property of the wall."

In further comments, the appendix to the AIA report states, "It is difficult to accept the categorical statement that 'condensation in the wall will not occur during the summer'. The computations on Figure 22 do not appear to indicate a recognition of the lag in change of the ambient humidity and temperature of the internal wall volume and it is possibly questionable whether the conclusions shown thereon are valid without further experimental documentation."

Thus, we find that even those who support the Praeger report find serious difficulties in accepting it in toto. If one examines the report *objectively* and one recognizes the responsibility of having to face the future with the possibilities of future difficulties and additional repairs and, thus, additional costs, in the saving of the wall, then one must conclude that these factors will lead the Congress into a thicket of unending difficulties with the wall if it should decide to try to save it. That circumstance, coupled with the dire need for space, will bring any dispassionate, reasonable man to the conclusion that an *extension* to the United States Capitol will best serve the people of this Nation.

1. Original North Wing:
Begun 1793—completed 1800.
Senate occupied from 1800–1859.
House occupied 1800–1801, 1804–1607.
Supreme Court occupied 1801–1935.
Library of Congress occupied 1800–1824.

2. 2-story Senate Chamber converted to separate stories with Supreme Court occupying lower chamber from 1810–1860.

3. Temporary structure at location of Statuary Hall occupied by House from 1801–1804.

4. South Wing completed in 1807. Occupied by House 1807–1857.

5. Both North and South Wings (and 1-story wooden connecting passageway) burned in 1814 and reconstruction was completed in 1819.

6. Central Section begun in 1818 and completed in 1829. Library of Congress occupied 2 stories of West Central Front 1824–1897. Altered to provide office spaces after 1897.

7. Present Senate and House Wings begun in 1851 and completed in 1859.

8. Old low dome replaced from 1856–1865.

9. West Central section reconstructed following a fire in 1851.

10. Terraces on North, South and West added 1884–1892.

11. Gas explosion in old North Wing required reconstruction in 1898.

12. Original wood roof construction replaced with steel and concrete in 1902.

13. Cast iron and glass skylights over both Chambers from 1857–1949 replaced from 1949–1951.

14. East Front extension constructed 1958–1962.

15. Interior alterations and changes 1958–1972.

Commission for Extension of the U.S. Capitol—March 8, 1972

Whereas Public Law 91-145, approved December 12, 1969, provides:

EXTENSION OF THE CAPITOL

For an additional amount for "Extension of the Capitol", $2,275,000, to be expended under the direction of the Commission for Extension of the United States Capitol as authorized by law: *Provided*, That such portion of the foregoing appropriation as may be necessary shall be used for emergency shoring and repairs of, and related work on, the west central front of the Capitol: *Provided further*, That not to exceed $250,000 of the foregoing appropriation shall be used for the employment of independent nongovernmental engineering and other necessary services for studying and reporting (within six months after the date of the employment contract) on the feasibility and cost of restoring such west central front under such terms and conditions as the Commission may determine: *Provided, however*, That pending the completion and consideration of such study and report, no further work toward extension of such west central front shall be carried on: *Provided further*, That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids:

(4) That the cost of restoration would not exceed $15,000,000; and

(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol.

Whereas, the restoration feasibility and cost study and report of Praeger-Kavanagh-Waterbury, Consulting Engineers-Architects, made pursuant to Public Law 91-145, was considered by the Commission at its meeting of March 8, 1972, in Room EF-100 of the Capitol; and

Whereas, the Commission established to its satisfaction that all five of the conditions specified in Public Law 91-145, relating to restoration, cannot be met: Now, therefore, be it resolved,

That the Architect of the Capitol is hereby directed to proceed with the preparation of final plans for extending the west central front in accord with Plan 2 heretofore approved by the Commission.

CARL ALBERT, Speaker of the House of Representatives, Chairman; HALE BOGGS, Majority Leader of the House; GERALD R. FORD, Minority Leader of the House; SPIRO T. AGNEW, President of the Senate; MIKE MANSFIELD, Majority Leader of the Senate; HUGH SCOTT, Minority Leader of the Senate; GEORGE M. WHITE, Architect of the Capitol.

Legislation Governing Extension of the Capitol Project

(Public Law 242, 84th Congress, as amended by Public Law 406, 84th Congress, Public Law 88-248, 88th Congress and Public Law 91-77, 91st Congress)

Extension of the Capitol: The Architect of the Capitol is hereby authorized, under the direction of a Commission for Extension of the United States Capitol, to be composed of the President of the Senate, the Speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, the minority leader of the House of Representatives, and the Architect of the Capitol, to provide for the extension, reconstruction, and replacement of the central portion of the United States

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Capitol in substantial accordance with scheme B of the architectural plan submitted by a joint commission of Congress and reported on March 3 1905 (House Document numbered 385, Fifty-eighth Congress), but with such modifications and additions, including provisions for restaurant facilities, and such other facilities in the Capitol Grounds, together with utilities, equipment, approaches, and other appurtenant or necessary items, as may be approved by said Commission, and for such purposes there is hereby appropriated $5,000,000, to remain available until expended, and there are hereby authorized to be appropriated such additional sums as may be determined by said Commission to be required for the purposes hereof: *Provided*, That the Architect of the Capitol under the direction of said Commission and without regard to the provisions of section 3709 of the Revised Statutes, as amended, is authorized to enter into contracts and to make such other expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of this Act and, prior to any appropriations being provided for extension, reconstruction, and replacement of the west central portion of the United States Capitol, to obligate such sums as may be necessary for the employment of nongovernmental engineering and other necessary services and for test borings and other necessary incidental items required to make a survey, study and examination of the structural condition of such west central portion, to make reports of findings, and to make recommendations with respect to such remedial measures as may be deemed necessary, including the feasibility of corrective measures in conjunction with extension of such west central portion."

[From the Washington Star, Mar. 10, 1972]

WHITE'S RIGHT VOTE

When the late J. George Stewart was the non-architect Architect of the Capitol, that anachronism was widely blamed for Stewart's persistent campaign to extend the west side of the U.S. Capitol rather than patch up its eroded surface.

"Fire Stewart!" was the battle cry in those days, the argument being that no real architect would for a moment support such a project.

Thus, upon Stewart's death in 1970, his replacement predictably turned out to be an impeccably credentialed professional, George M. White, the new man, was not only a respected former vice president of the American Institute of Architects, he had personally shared—before taking on the new job—that outfit's objections to any alteration in the dimensions of the Capitol. So what's happened?

Well, after more than a year's day-to-day exposure to the needs and realities of the Capitol, Architect White joined the House and Senate leadership this week in voting unanimously to proceed with an addition that will reproduce precisely the architectural features of the present worn-out west front and provide, in the process, a lot of space for some essential facilities the Capitol now lacks.

And, also predictably, a few strident voices now are calling for White's resignation. But most of the steam by now has gone out of this tired old refrain, and it's high time. White's decision was not, as the charge goes, a cave-in to political pressures. It springs from a wealth of exposure to facts he did not have a year ago, and which most of his critics still do not have.

Among the things he came to realize, White says, was that "the Capitol is not a museum." Indeed it is not. It is the workshop of Congress. As such, the Capitol's entire history during the past century and a half has been one of constant change and growth, accommodating to Congress' changing needs and paralleling—if one chooses to look at it that way—the growth of the nation itself.

The marvel is that this sequence of changes—some, in the earlier days, involving drastic architectural modification—invariably has added to rather than detracted from the allure and symbolic magnificence of the beloved old building, while keeping pace with Congress' urgent space requirements.

That tradition was scrupulously upheld in the controversial extension of the Capitol's east front a dozen or so years ago. It will be, as well, by the project on the west which White rightly endorsed this week.

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., March 6, 1972.

Memorandum to the members of the Commission for Extension of the U.S. Capitol:

The primary purpose of this meeting is the consideration by the Commission of the January, 1971 report of the firm of Praeger-Kavanagh-Waterbury, Consulting Engineers and Architects, relating to the feasibility and cost of the restoration of the West Central Front of the Capitol, as proposed in such report.

Under the prevailing statute providing for this report, the Commission is charged with the responsibility of establishing to its satisfaction whether the five conditions specified in the law are met.

If the Commission determines that the five conditions are *not* met, then the law provides that the Commission shall direct the preparation of final plans for extending the West Central Front in accord with Plan 2 which the Commission has heretofore approved.

If the Commission concludes that the five conditions *are* met, then the law provides that the Commission shall make recommendations to the Congress on the question of whether to extend or restore the front.

LAW RELATING TO THESE DETERMINATIONS

In the Legislative Branch Appropriation Act, 1970, (Public Law 91-145), the Congress simultaneously appropriated $2,000,000 for preparation of final contract drawings and specifications for carrying out Plan 2 for extension of the West Central Front of the Capitol and $250,000 for engineering and other necessary services for studying and reporting on the feasibility and cost of restoring the front.

The law provided that pending the completion and consideration of the restoration study and report, no further work toward extension was to be undertaken.

The law also contained the following provisions which are pertinent to your consideration today:

"That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids;

"(4) That the cost of restoration would not exceed $15,000,000; and

"(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol."

Upon direction of the Commission for Extension of the United States Capitol, after exhaustive study, the engineering contract for the restoration study was awarded to Praeger-Kavanagh-Waterbury, Engineers-Architects of New York City, on July 1, 1970.

The Praeger report was received at the end of December, 1970, and was forwarded immediately to all Members of the Commission and released to the press and others interested.

STATEMENT OF THE ARCHITECT OF THE CAPITOL RELATING TO HIS STUDY OF THE WEST FRONT PROBLEM

Early last year, as the newly appointed Architect of the Capitol, and in anticipation that the Commission in Charge, before reaching a conclusion on the matter, would seek my professional judgment in assisting them to evaluate the Praeger report, I began a detailed professional review of all available information relating to the history and development of the West Central Front proposals.

Among the activities in which I engaged during the review are the following:

1. A careful and diligent open-minded study of the Praeger report.

2. A physical examination of both the interior and the exterior of the original west walls.

3. A careful review of testimony given over a period of many years before various House and Senate Committees concerned with the proposals for the extension of the West Front of the Capitol, and before the Commission for Extension of the United States Capitol.

4. A reading and review of the record of the floor debates in both the Senate and the House that led to the various actions of the Congress.

5. A review of the legislation, committee reports, and other documents on the subject.

6. Study of the Mueser, Rutledge, Wentworth & Johnston engineering report of 1957.

7. Study of the 1964 engineering report of The Thompson & Lichtner Co., Inc.

8. A study of the various reports of the former Architect of the Capitol, as well as reports made to him by the Associate Architects for the Extension Project.

9. Meetings and discussions of the various past studies, and of the Praeger report, with the staff of the Architect of the Capitol.

10. Requested and received advice and counsel from the American Institute of Architects which responded by appointing a new Task Force to re-examine the AIA position. We engaged in several conferences and a written report from the Task Force was received.

11. Asked three prominent general contractors, an officer and members of the AGC, for their opinion with regard to estimates of cost as outlined in the Praeger report and the feasibility of obtaining competitive, lumpsum bids.

12. Conversed at some length with Mr. E. H. Praeger himself in order that I might obtain verbal clarification of a number of what I considered to be ambiguous or contradicting portions of the written report.

13. Conferred with the Advisory Architects, Consulting Engineers, and others.

14. Conferred with other individuals who have maintained a long interest in the Capitol, including Senators, Congressmen, and design professionals.

15. Spoke with a British stone preservation expert who inspected the Capitol, and then read several of his papers regarding the deterioration of stone generally and in England in particular.

16. Inspected, at no cost to the Government, several European restoration projects.

17. Personally examined the space needs of the House of Representatives and, to some degree, the space needs of the Senate. Have explored all areas on the House Side of the Capitol, from the basement through the attic, and many of the Senate areas. Several discussions have been held with Senator Jordan about my proceeding with a full space study of Senate facilities and he has now approved my proceeding with that study.

18. Examined and studied the matter of how the Congress uses the building, how the public (visitors) also uses the building, and further, how their respective and simultaneous needs must be considered.

19. Spent untold hours in review of the various data and in the reading of articles by many persons concerned with preservation, planning, the history of the Capitol, and in the re-examination of the Praeger report.

PROFESSIONAL JUDGMENTS OF THE ARCHITECT

After these many months of study and investigation, I am prepared to offer the following professional judgments, which for the purposes of this brief presentation have been necessarily simplified:

1. The structural adequacy of the west wall is, in fact, indeterminate. As many experts will declare that it is stable as will say that it is unstable. But even those who support the position of stability admit to the indeterminancy of the loading computations, and, therefore, say that the wall should be strengthened as an insurance against the probability of a possible failure. Thus, although there appears to be no imminent danger of an immediate collapse, there may well be concentrations of forces that have accumulated through structural and other changes over the years and that could, under certain circumstances, be triggered and released. There appears, then, to be no basic disagreement regarding the need to strengthen, and thus stabilize the wall in some fashion. Further, there appears to be no disagreement that this goal may be achieved in at least two ways, one of which is through restoration, or a strengthening of the wall in situ, and another of which is through an extension of the building itself, which will, in effect, buttress and thus strengthen the wall.

2. There appears to be no disagreement with regard to the extenior appearance of the proposed extension, nor any disagreement with regard to the total appearance of the Capitol that would result.

3. That human characteristic which manifests itself in our desire to save and preserve at least some of our heritage, whether it be personal, national, or international, finds a high degree of intensity in some, and it may then be expressed in the feeling that preservation is a primary goal in and of itself. I submit that the intensity with which that desire exists in the spectrum of people's feelings must, in this instance, be weighed against some of the physical needs of the Congress that must be met. If the Congress, for example, were to commission the design of a new legislative complex, the designers would undoubtedly need to assist in the writing of a program which would describe the physical needs of the Congress in the transaction of its daily business. The configuration of the building or buildings would arise from a study of these needs. In this existing legislative building, viz., the Capitol, these needs have changed and expanded over the years, and, indeed, are continuing to do so

It is apparent that complex problems such as these are not generally capable of simple solutions. Recognizing that it may thus be an oversimplification to so state, it is nevertheless my opinion that the Congress must weigh the sentiment of preservation against its physical needs, taking into account the various alternative methods of providing needed space in close proximity to the legislative chambers.

4. The argument can be made that the fact that the West Front contains the last remaining exposed original wall, is indicative of the past life and hence the growth of this living, working symbol of democracy and freedom that is the capitol. Sometime, of course, acceleration in the growth of our Nation may diminish and perhaps that point is already in sight. It has therefore been suggested that the existing physical outline of the Capitol be considered inviolate at its present location. Somewhere that position must surely be taken, but it appears that it is not necessarily valid to presume that it cannot be taken at some other location, such as, for example, that of the proposed extension.

5. The final cost of the proposed restoration appears to be indeterminate. Most experts feel that the cost will certainly be more than $15,000,000, notwithstanding the written statement in the Praeger report. The requirements of items 3 and 4 of Public Law 91-145, previously quoted, indicated that a lumpsum contract for restoration of not more than $15,000,000 must be capable of being obtained. I interpret these two items, taken together, as meaning that the Congress has set a fixed, limited, i.e., maximum, cost of $15,000,000 as one of the criteria for the feasibility of restoration. Experience in the construction of buildings indicates that a lumpsum contract, in and of itself, is not an assurance that the designated sum will indeed be the final cost. It is my considered professional opinion, based upon my recent investigations as outlined above, that the restoration, as proposed, cannot be accomplished for a total final cost of $15,000,000. In that connection, it is important to recognize that even though the cost per square foot of an extension might appear to be high because of the particular kind of construction that would be necessary, any expenditure for restoration, because no space would be added, would result in what mathematically results in an infinite cost per square foot.

It is, further, worthy of note that there is no disagreement among the advocates of the various positions that restoration work generally, and the West Front of the Capitol in particular, should, because of its specialized nature, be accomplished through the medium of a cost plus a fixed fee contract rather than through a lumpsum agreement obtained on a competitive bid basis.

Although the specifics of the other three provisions of Public Law 91-145 can generally be said to be capable of being met, with the obvious possibility for disagreement regarding what is "safe, sound, durable, and beautiful for the foreseeable future", I believe that it would be inappropriate to presume that the cost limitation can or could be met.

SUMMARY

Summarizing, then, I submit the following judgments: (a) although it is relatively stable, the west wall needs repair and strengthening; (b) the restoration method of strengthening the wall cannot be accomplished for a guaranteed cost limit of $15,000,000; (c) the Congress must weigh and decide upon the relative importance and the appropriate methods of providing for its space needs in the Capitol, as compared with the admittedly highly desirable goal of preserving the exposed physical wall.

Additional information will be available at the meeting of the Commission.

GEORGE M. WHITE,
Architect of the Capitol.

GEORGE M. WHITE

Born in Cleveland, Ohio, November 1, 1920. Four children: Stephanie 19, Jocelyn 18, Geoffrey 17, and Pamela 14. Holds the degrees of Master of Science and Bachelor of Science from the Massachusetts Institute of Technology (1941). Master of Business Administration from the Graduate School of Business of Harvard University (1948); Bachelor of Laws from Case Western Reserve (1959). He is a Registered Architect in Ohio, a Registered Professional Engineer in Ohio and Massachusetts, a member of the Ohio Bar, and certified by the National Council of Architectural Registration Boards, and the National Council of State Boards of Engineering Examiners.

A former electronics design engineer and assistant division manager, Electronics Dept., General Electric Company (1946), he has practiced as an architect and as a consulting engineer since 1948.

Former member of the Faculty in Physics and in Architecture at Case Western Reserve University.

A Fellow of the American Institute of Architects, he is a former A.I.A. Vice President and Board Member; Member and former Chairman of the A.I.A. Documents Board and Insurance Committee; Chairman of A.I.A. Task Forces on Structure, on Professional Liability Insurance, and on Labor Liaison; member of the National Panel of Arbitrators of the American Arbitration Association, the National Society of Professional Engineers, the American Bar Association, and the Bar of the Supreme Court of the United States. Awarded the Gold Medal of the Architect's Society of Ohio.

Author of numerous articles on Professional Liability, Professional Corporations, and Construction Law.

President, Director, and Trustee of several real estate development organizations; President of Whitecliff Inc., a 100 bed extended care facility; Chairman of the Board of Merriman Holbrook, Inc., a marine hardware manufacturer.

Appointed Architect of the Capitol in January 1971.

Mr. Chairman, the following is the essence of a letter to the editor that provides in part the answers to some questions raised by the Washington Post.

To the Editor of the Washington Post:

It seems to me that your editorial "Obstinate Vandalism on Capitol Hill" is most unfortunate, inaccurate, and highly misleading. The editorial appears calculated only to inflame—not to inform. It is the same old refrain such as experienced in former years. One must conclude that all objectivity has been wrung from your editorial policy on the West Front matter. The editorial reflects a closed mind—"None so blind as those who will not see".

It is amazing that you characterize the Commission's unanimous decision as "an arrogant maneuver of dubious legality". One assumes that your editorial writer is capable of reading and understanding the very clear language of the governing statute—language which I might say was inserted at the request of those sponsoring restoration:

"That after submission of such (restoration) study and report and consideration thereof by the Commission, the Commission *shall direct* the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), *unless* such restoration study report establishes to the satisfaction of the Commission: (1) That * * *" (emphasis supplied)

and then the five well-publicized conditions to be met by restoration are stated in the law.

The entire membership of the Commission met on March 8, 1972, considered the report, and established to its satisfaction that all of the five conditions specified could not be met. It therefore unanimously directed the Architect of the Capitol to proceed with the preparation of final plans for the extension,

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precisely as mandated by the statute. When a Commission of Congress carries out the responsibilities placed upon it by Act of Congress, how can any fair and reasonable editor charge arrogance and dubious legality?

Your criticism of the design of the approved extension is indicative of your frantic state of mind insofar as this project is concerned. Even the various groups from the American Institute of Architect who have reviewed the plans have had no objection to the design. The American Registered Architect's Society has endorsed the design.

How long will you continue to mislead your readers by such worn out and inaccurate statements as the extenders would "bury the last remaining external vestiges of the Capitol as it was originally designed and built. William Thornton's softly elegant sandstone facade is the only visible link to the Capitol's beginning • • •." This makes me chuckle just a bit. I am sure your writer knows (or he should know) that Dr. Thornton's "softly elegant standstone" has not been seen for over 160 years. What one sees is the old cracked stones, patched up over the years, and buried under numerous coats of grey paint—yes, paint, not softly elegant sandstone. Dr. Thornton's work (as changed by Architects Bulfinch and Latrobe) have not been seen for many generations. If you wish to see how "elegant" this old sandstone is, I invite you to examine Plate 1 in the restoration report, showing the messy and miserable appearance of the old stone once the paint is removed.

The Olmstead terraces will be ruined? Not at all, in fact, changes to them will hardly be noticeable and they will become even more expansive and more beautiful with the magnificent new front as a backdrop. The American Society of Landscape Architects should know about such things. They reviewed the plans and had no objections. In fact, they assisted the Architect by making several helpful suggestions.

The perspective of the dome, far from being hurt, will be enhanced by the new front with its central pediment.

Relative to the five conditions which the restoration study was required to meet: although the restoration report contains a passing, general statement "Further, the restoration can be accomplished within the guidelines set forth by Congress", the same report contained the following qualification in another part of the report:

"The third Commission condition stipulates that 'restoration can be so described or specified as to form the basis for performance of the restoration work by competitive bid or bids'. A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis."

This language indicates that even those who prepared the restoration report did not believe a competitive lumpsum contract was feasible, although they, in effect, had previously stated otherwise in their general statement. We all know that the only meaningful competition on a cost-plus-a-fixed-fee contract is on the fixed fee itself (perhaps 10% of the contract) and even that figure is usually subject to adjustment if unknowns are encountered.

Since the Commission's decision, I have had the opportunity to discuss the five conditions with George White, the Architect of the Capitol, who is an eminently qualified architect and engineer. He advised me that, in his professional judgment (after studying the project for over a year), the two requirements relating to the cost and lumpsum bid features could not be met and he also doubts that the requirement relating to safety, soundness, durability and beauty could be met to any great degree. Therefore, it is his judgment that only two out of five conditions could probably be met.

But he also informs me that his recommendation in favor of extension was founded on a much broader basis than the five conditions. That basis is "what solution would best serve the people of the United States", and on that question, he felt compelled by sound planning and good judgment to vote in favor of extension.

You conclude that the crumbling west wall is now proven to be a myth by the restoration report. If that is so, then why does the restoration report state that "a structural restoration program is required"? If the poor condition of the west wall is a myth, why spend more than $15,000,000 on it?

I sincerely believe the Commission and the Architect have made the right decision and I would express the hope that you would now appreciate and respect that decision although you previously espoused restoration. I have noted with much satisfaction the editorial favorable to the extension in the Washington Evening Star and I invite you to join us in carrying forward the now approved extension.

A unanimous decision of the Leaders of the Congress, from both the Senate and House and from both sides of the aisles, plus the Vice President and the Architect of the Capitol, deserves support—not condemnation.

FRED SCHWENGEL,
Member of Congress.

Mr. CEDERBERG. Mr. Chairman, I yield 9 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, today the House takes up the first appropriation bill for fiscal 1973. By it we give the executive branch new obligational authority.

Are we putting the cart before the horse? Have we adopted a budget for the Government for the ensuing year? Have we matched spending plans with revenue, and made decisions as to what shall be done about the difference? The answer is "No."

Even the smallest business firm and the smallest municipality adopts a budget before it starts spending money for the coming business year.

Under the Constitution, the House of Representatives is given the purse strings of Government, but at no time from one end of the year to the other does the House adopt a budget.

Instead we receive the President's budget recommendations, make no decision whatever on them, but instead start appropriating money piecemeal.

It is, of course, human nature, and therefore the nature of the House, to avoid grasping the nettle of difficult decisions. No Member relishes voting for less spending, for high taxes. We are not eager to vote up or down a resolution which contains the entire fiscal picture for the ensuing year—the revenue forecast, a limit on obligational authority to be granted by means of the various appropriation bills and resolutions, whether measures are needed for added revenue, and/or higher debt ceiling. Certainly, during my 12 years, the House has never faced squarely prior to the commencement of a fiscal year the entire budget picture.

By this neglect the House has effectively let the purse strings slip from its hands, placing the executive branch more effectively in the driver's seat.

The fiscal situation has truly become hypercritical as noted in the letter we all received 2 days ago from Chairman MAHON. In stark terms he pictured the crisis that is upon us. I wish he had gone on to spell out a remedy, or even propose a step or two out of the tangle.

Nevertheless we should all be grateful to the chairman for this information. It helps to focus attention on the problem. And certainly recognition of a problem is the first essential before a solution is found.

I have a suggestion to make, and I speak of it at this particular time because if my suggestion were acted upon the House could not in today's circumstances consider this appropriation today.

My proposal is a rule change under which the House could not consider any appropriation bill for the ensuing fiscal year until it has first adopted a resolution containing a House-authorized Federal budget for the year.

Here is the first part of the rule change I propose:

The Committee on Appropriations and the Committee on Ways and Means of the House of Representatives are authorized and directed to meet jointly at the beginning of each regular session of Congress and after due study and review, including consideration of the economic report and budget recommendations of the President, report to the House a resolution containing a House-authorized Federal budget for the ensuing fiscal year not later than 60 days after both Presidential reports have been received.

The proposed budget shall include:

First. Estimated overall Federal receipts from all sources;

Second. The maximum aggregate amount to be granted in obligational authority for all purposes, together with a maximum amount for each appropriation bill or resolution;

Third. Specific recommendations as to adjustment in revenue measures and/or public debt level necessitated by a deficit or surplus, if such is shown by budget figures on aggregate expenditures and receipts.

The balance of the language deals with requirements for the appropriation bills and resolutions as they subsequently come forward. Its main provisions would require a two-thirds vote for the House to appropriate more obligational authority than provided in the House-approved Federal budget.

You will note the 60-day provision. This would give the subcommittees on appropriations approximately until March 1 to hold hearings on the President's budget. In some cases the hearings could be completed in that time. In other cases not. In all cases the subcommittees could come up with a well-educated estimate of appropriation requirements for the ensuing year and thus participate in an informed way with the Ways and Means Committee in developing the resolution containing the House-approved Federal budget.

The resolution would set an aggregate obligational authority limit for each subsequent appropriation bill. For example, it would set a limit for the legislative branch, the bill not before us.

After the adoption of the budget resolution, the appropriations committee could then—and only then—bring forward for action the bill for the legislative branch. If the total figure in the bill did not exceed that in the House-approved Federal budget, the appropriation could be approved by a simple majority. If it was in excess, a two-thirds vote would be required.

Conference reports and continuing resolutions would be subject to the same provision.

The important difference would be that, unlike today, the House would have a solid, responsible point of reference when it began the appropriations process.

It would have decided the fundamental questions of appropriation ceilings, and the equally important question of how the funds required by these appropriations would be secured—how much by taxation, and how much by higher public debt; that is to say, inflation.

That, I suggest, is a businesslike, responsible way for us to proceed with our fiscal business. It holds the promise, I think, of curbing deficit financing.

Does my proposed rule change have a chance of acceptance? I have asked several of my colleagues, as well as members of the professional staff of the House, that question. I get little encouragement, even though all acknowledge that the present system is not working satisfactorily and something must be done.

One man, a professional of great experience, put it this way: "A lot of things, including this plan of yours, could be done—if there is the will. I am strongly inclined to believe the House lacks the will to make a reform of this magnitude."

Maybe so. Maybe this effort of mine is a waste of time. Maybe a better plan can be devised. I hope so. This is the best I have been able to come up with in consultation with perhaps a dozen others, but I am eager to scrap it in favor of a better approach.

Here is the full text of the rule change I propose:

RULE ON HOUSE-AUTHORIZED FEDERAL BUDGET

SEC. —(A) The Committee on Appropriations and the Committee on Ways and Means of the House of Representatives are authorized and directed to meet jointly at the beginning of each regular session of Congress and after due study and review, including consideration of the economic report and budget recommendations of the President, report to the House a resolution containing a House-Authorized Federal Budget for the ensuing fiscal year not later than 60 days after both Presidential reports have been received.

The proposed budget shall include:

1. Estimated overall Federal receipts from all sources;

2. The maximum aggregate amount to be granted in obligational authority for all purposes, together with a maximum amount for each appropriation bill or resolution;

3. Specific recommendations as to adjustment in revenue measures and/or public debt level necessitated by a deficit or surplus, if such is shown by budget figures on aggregate expenditures and receipts.

(B) No bill or resolution carrying appropriations for the ensuing fiscal year shall be in order for consideration by the House until the House-Authorized Federal Budget for such year has been approved.

The report on each such bill or resolution must include a statement in one of the following forms: "The provisions of this bill (or resolution) conform to the requirements of the House-Authorized Federal Budget for fiscal 19— and will not cause it to be unbalanced in any respect. The bill (or resolution) as reported will appropriate $——, and when this amount is deducted from $——, the maximum amount for this appropriation bill (or resolution) under the House-Authorized Federal Budget for fiscal 19—, the remaining balance is $——."—or—"The provisions of this bill (or resolution) do not conform to the requirements of the House-Authorized Federal Budget for fiscal 19—. The bill (or resolution) as reported will appropriate $——, and when this amount is deducted from $——, the maximum amount for this appropriation bill (or resolution) under the House-Authorized Federal Budget for fiscal 19—, a deficit results in the amount of $——."

Any bill or resolution carrying appropriations whose report fails to include a statement in the first form shall require the approval of two-thirds of those Members present and voting, a quorum being present. This requirement shall not be waived or suspended.

(C) The joint statement of managers to accompany a report made by a committee of conference on a bill or resolution carrying appropriations shall include a statement in one of the following forms: "The provisions of this conference report conform to the requirements of the House-Approved Federal Budget for fiscal 19— and will not cause it to be unbalanced in any respect."—or—"The provisions of this conference report do not conform to the requirements of the House-Authorized Federal Budget for fiscal 19—."

A conference report on a bill or resolution carrying appropriations which fails to include a statement in the first form shall require the approval of two-thirds of those Members present and voting, a quorum being present. This requirement shall not be waived or suspended.

During reading of today's bill, I will offer an amendment.

For obvious reasons, it deals only with a cut in spending. It has nothing to do with taxes. I am under no illusions about its fate. It will not be accepted. It would cut the appropriation by $55 million—representing a cut of 14 percent below the President's budget request.

I offer it to focus attention on our budget problem, and to show how much surgery is needed to come up with a balanced budget in fiscal 1973. I am not suggesting that the best way to meet the entire budget problem is with the axe. Some cuts are necessary and certainly desirable, but we should also look at revenue. If we plan to keep on with the vast programs—even just those now on the books—we should be raising additional tax revenues, not cutting taxes.

But the sad fact is that we seem unlikely to do either. We are unlikely to raise taxes, and we are unlikely to cut spending much either.

That is why I have come to the conclusion that the rational, practical way to meet the problem is through a fundamental change in House rules of procedure, a change which will cause all Members to face up at one time at the beginning of the year to the broad interrelated questions of spending, revenue, debt, and inflation—and then make some decisions, before the actual spending process starts.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I compliment the gentleman from Illinois on the statement he is making and the proposal he has made. He is trying to bring some discipline into the fiscal affairs of the country.

I applaud the gentleman for his effort. I believe his proposal needs some refinement, and I do not approve all of it, but I do applaud the gentleman's efforts, and I hope he will continue them.

Mr. FINDLEY. I thank the gentleman very much.

Mr. CEDERBERG. Mr. Chairman, I have no further requests for time and yield back the remainder of my time.

Mr. CASEY of Texas. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The clerk proceeded to read the bill.

Mr. CASEY of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

LEADERSHIP AUTOMOBILES

For purchase, exchange, hire, driving, maintenance, repair, and operation of an automobile for the Speaker, $18,780.

For purchase, exchange, hire, driving, maintenance, repair, and operation of an automobile for the majority leader of the House, $18,780.

For purchase, exchange, hire, driving, maintenance, repair, and operation of an automobile for the minority leader of the House, $18,780.

The clerk read as follow:

Amendment offered by Mr. JACOBS: On page 1 strike out lines 23, 24, and 25.

On page 8 strike out lines 1, 2, and 3.

Mr. JACOBS. Mr. Chairman, this amendment simply deletes two of the three chauffeur-driven limousines provided for in this bill, the two assigned to the two floor leaders of the House of Representatives.

Mr. Chairman, I have and have had for, I believe, about 4 or 5 years now a bill introduced here to eliminate all chauffeur-driven vehicles from the U.S. Government with the exception of one each for Cabinet members and so many as the President may require, the Speaker of the House of Representatives, the Chief Justice, and the Vice President of the United States.

It was in March 1801 when a gentleman living close by the Capitol arose in his boarding house and dressed and went downstairs and had breakfast with the other boarders in the boarding house and then walked to the Capitol and was inaugurated as President of the United States.

Well, things have changed since Thomas Jefferson took office, and I think

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we all realize as a practical matter the need for these automobiles in the case of certainly the President of the United States for his security. However, I must say where I come from and I suspect where everybody else comes from, when a person gets a car with his job the car has something to do with the job. I think it would be rather crowded on the floor to have two Cadillac limousines trying to maneuver around. I understand the floor leaders' jobs to be here on the floor. That is where their services are performed.

I offer this amendment with no enmity for my good friend from Michigan or my good friend from Louisiana and without any personal reference whatsoever.

Just as an example of what I think is spending that is unnecessary in the Federal Government, I think a public servant does not need a servant to drive him around or, if he does, maybe he is not in good enough shape to serve the public.

Mr. CASEY of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not know why Thomas Jefferson walked to his inauguration, but I am sure the streets in Washington were much safer then than they are now.

However, I think it is a little ridiculous to say that we have cut out some other chauffeur-driven automobiles, so we should cut out these. I certainly think the two floor leaders here deserve the courtesy and the convenience, if you will, of having those cars, because they are certainly in need of them.

I urge that the amendment be defeated.

Mr. CEDERBERG. Mr. Chairman, I rise in opposition to the amendment.

I think this amendment would be a serious mistake. The work of the majority and minority leaders does not confine itself to the floor of the House of Representatives in the United States Capitol. It takes itself to many other places around this city. The demands on the majority and minority leaders are unbelievable. I think the least we can do to lighten their load as they try to carry out their legislative leadership responsibilities is to give them this kind of service so that they can cover the areas that need to be covered.

I know from personal experience and my contacts with the minority leader that it is almost an impossible job, and it is that way for the majority leader, too. They need this help.

Mr. HOSMER. Will the gentleman yield?

Mr. CEDERBERG. I am glad to yield to the gentleman.

Mr. HOSMER. If the amendment now pending were to pass, would it still leave automobiles for some nonelected officials of the House like the Clerk and the Sergeant at Arms?

Mr. CEDERBERG. Yes.

Mr. JACOBS. Will the gentleman yield?

Mr. CEDERBERG. I am glad to yield to the gentleman.

Mr. JACOBS. I just wonder. I agree they would be. The only thing is to pass the bill that I am going to introduce, then, and I have a discharge petition pending with two signatures on it, which I introduced 12 months ago, so if the membership rejects this amendment, I hope they will expedite that bill by signing that petition.

Mr. CEDERBERG. How many names do you have on that discharge petition?

Mr. JACOBS. I said there are only two on it, which would get rid of all of the limousines throughout the Federal Government. So if anybody is interested in it, even if you do not have a limousine, you can make it down to the well and sign the petition.

Mr. CEDERBERG. The gentleman has made his contribution and we appreciate it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 29, after line 20, add the following: "SEC. 105. Money appropriated in this Act shall be available for expenditure in the fiscal year ending June 30, 1973 only to the extent that expenditure thereof shall not result in total aggregate net expenditures of all agencies provided for herein beyond 86 per cent of the total aggregate net expenditures estimated therefor in the budget for 1973 (H. Doc. 215)."

Mr. FINDLEY. Mr. Chairman, back in 1967 an amendment became quite prominent, and I must say quite popular, under the name of the Bow amendment, and, except for the percentage figures set forth in the language just read by the Clerk, the amendment now before us is identical with the Bow amendment.

At that time the percentage figure in the Bow amendment was 95 percent, the objective at that time being to reduce the expenditure for the ensuing fiscal year by 5 percent. The percentage figure set forth in this revised language, which is in my amendment, is 86 percent, meaning a reduction in expenditures in the ensuing fiscal year of 14 percent.

Why the difference? I came to the 14 percent figure as being the amount that would have to be deducted from each main element of the President's budget in order to bring the budget into balance.

I know if there is any discussion on this amendment it will be argued that this is a bare-bones appropriation bill, the salaries and almost everything in it are mandated by statute, required by law, and that if we are going to have an amendment like this it will necessitate cutting our salaries, cutting our staff, cutting a lot of very important and essential things. No doubt that is true. But, nevertheless, if we are serious about trying to find a way to balance the budget by cutting spending and spending alone, this is the magnitude of the cut that we have to be thinking about, because anything less, at least on an across-the-board basis, applied to every appropriation bill as we expect it to come forward, will simply not do the job.

Now, in all candor I do not expect this amendment to be accepted. I doubt if a 5 percent amendment would be accepted. There is not the will to cut spending on this bill or any other appropriation bill. But, as the chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON), so dramatically presented to us by his letter of 2 days ago, we are confronted with a fiscal crisis, and the magnitude of it is such that we ought to be seriously considering doing something beyond what we have been doing the last year or so.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Chairman, I think we are all interested in holding the line on spending. I know that the gentleman is making a very dramatic speech about his concern, which is a concern that we all have.

Mr. FINDLEY. I like the gentleman's adjective.

Mr. CEDERBERG. As I stated before, the amounts that are in this bill are the results of other legislation that has been pending.

What was the gentleman's vote on the Congressional Reorganization Act?

Mr. FINDLEY. I believe I voted affirmatively on it.

Mr. CEDERBERG. Through that we have gotten I do not know how many hundreds more employees.

Mr. FINDLEY. I might tell the gentleman that when the conference report on the tax cut came around last year, I voted "no." I do not know how the gentleman voted, but I voted "no."

Mr. CEDERBERG. That is not the question involved here.

Mr. FINDLEY. I think it is part of this problem.

Mr. CEDERBERG. How did the gentleman vote on the election reform?

Mr. FINDLEY. I voted for that. That is another expense.

Mr. CEDERBERG. That is another expense, and a new office and additional expense for the General Accounting Office, the Clerk of the House of Representatives, and the clerk of the Senate.

The gentleman is making his pitch in the wrong place.

Mr. FINDLEY. This is the only place available.

Mr. CEDERBERG. The gentleman should do it before it gets here. It is too late when it gets here. You have to do it earlier.

Mr. FINDLEY. It is too late in a lot of places, like the public debt ceiling; that comes much too late, too. We are too late now, if we wish to make changes in individual appropriation bills to conform to an approved budget because we have had no budget resolution for the Federal Government.

We should have required the approval of a budget resolution and thus face squarely all the elements in the budget, and made a decision on it before we start appropriating moneys.

Mr. CEDERBERG. That requires a change in the Rules of the House.

Mr. FINDLEY. So we are way behind in a lot of respects.

My point is that we had better start thinking about a different way to proceed if we are going to avoid a fiscal disaster.

Mr. CEDERBERG. I do not disagree with the gentleman in that regard.

Mr. FINDLEY. The other side of the coin is that if we are not going to be able to cut spending by 14 percent on every appropriation bill that comes before us this year, and wish nevertheless to achieve a balanced budget, we are going to have to think of where to get new revenue.

I do not know of any proposal that is under active consideration now to rescind tax cuts that were voted last year or impose new revenue measures.

I would hate to see the House delay another year.

Does the gentleman agree with me that it would be wise for us to adopt a Federal budget before we appropriate any money?

Mr. CEDERBERG. I would like to see something done in that area if it can possibly be worked out. I talked with the gentleman privately about that matter.

Mr. FINDLEY. Yes.

Mr. CEDERBERG. I talked with the gentleman about that in the office and raised that question about this in the budget.

Mr. CASEY of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, of course, the goal that the gentleman from Illinois seeks is a commendable one. We all wish we could find some way to get ourselves out of this financial dilemma But, I would point out—even if we should adopt this amendment, I do not know who would administer it because this branch of Government is not like, let us say, the Department of Agriculture where you have one department. There are a number of different segments of the legislative branch and there is no possible way that you can intelligently—or unintelligently—administer this proposal unless we just limit it to certain items.

Many of the items are of a mandatory nature that have to be done. Athough the gentleman's idea is a commendable one—there is no way it can possibly be administered.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman.

Mr. FINDLEY. Mr. Chairman, I appreciate the gentleman yielding.

This same point was brought up when Mr. Bow offered this amendment 6 years ago.

Mr. CASEY of Texas. Was that to this bill?

Mr. FINDLEY. Yes—to this very bill. His response was—Well, somebody put together the bill that is now before us and there must have been some authority to bring the pieces together. His presumption was that that same authority might deal with the cutting process.

Mr. CASEY of Texas. You mean this committee, for instance?

Mr. FINDLEY. Whatever authority put together the piece of legislation that came in the budget request.

Mr. CASEY of Texas. Mr. Chairman, I urge that the amendment be defeated.

Mr. GUBSER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I feel justified in rising in opposition to this amendment, because if my memory serves me correctly—I voted for very few, if any, of the so-called Bow amendments. I do not believe in a meat axe approach to budget cutting. I believe in a selective approach.

In the 20 years that I have served as a Member of the House, I never once presumed to lecture my colleagues and I shall not do that today.

As a normal human I have no corner on morality and I make no such claim. But nevertheless I do think it is time the House took a look at the way it has been conducting itself in recent years.

I am reminded of the line from Hamlet, "The lady doth protest too much me thinks."

I am wondering why in recent years we seem to assume a massive sense of guilt about everything that we do. The finger of accusation is pointed at the House of Representatives and we assume the burden to prove we are not dishonest.

Last year we passed a bill to prove we are not political crooks regarding campaign expenditures.

It was a good idea and I voted for it. But in our haste to prove ourselves innocent we passed a bill which almost no one understands. Our pell-mell rush to prove that the Congress of the United States was not a composite of crooks produced an ambiguous piece of legislation.

My father always used to say to me, "Think highly of yourself and then try to live up to it."

I think it is about time that we, the Members of Congress, start thinking of just what we are and what we represent. I have told many people in my congressional district that I will take any 435 people that anybody wants to pick coming out of any church any place in the United States on any Sunday morning, and the level of integrity and honesty of the Congress of the United States will be above those 435.

This is a great body which makes the decisions which determine the future of mankind. It is a responsible and important body that needs no defense.

Do you realize that not more than 11,000 men and women in the history of the United States have ever been priviledged to serve as Members of Congress and have been given that honor? I think we have a right to feel proud of what we are.

Yes, we make mistakes because we are human. But they are honest mistakes. And I think it is about time that by our actions on the floor of the House we stop saying in effect "We are guilty."

Let us appropriate the money that is required to run this legislative branch. I think the amendment should be defeated.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the gentleman from California.

Mr. HOSMER. I am somewhat intrigued with the amendment offered by the gentleman from Illinois, but I would like to make some legislative record briefly. If the amendment is adopted, and a 14-percent reduction is required, I would hope that it would not come out of the payment to widows and heirs of deceased Members, or the Office of the Chaplain, or the books for the blind, or the medical supplies for the attending physician, or the Capitol Police, or the power supply for the Capitol, at the very least. There probably are other items that I could mention.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, guilt or no guilt, honest or dishonest, this Government is spending money that it does not have as represented by the $40 billion deficit in this fiscal year of 1972 and the projected built-in budget deficit of $25.5 billion for fiscal 1973. And if there is anyone in this House who believes it will end with a $25.5 billion deficit, that individual has another guess coming.

I am going to support the gentleman's amendment, and it is strong medicine—but strong medicine is necessary these days if ever we are going to correct this situation of going head-over-heels deeper and deeper into debt each year. I am going to support the gentleman's amendment, but I can inform the gentleman from Illinois here and now that I am not going to support the new international organization he is sponsoring, and which is going to cost a lot of money if it is approved.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. FINDLEY. I guess a more pertinent question will be, will the gentleman support my proposed rules change under which the House can adopt a resolution with a House-approved Federal budget in it before we can appropriate any money? Does the gentleman feel that that would be a constructive step forward?

Mr. GROSS. I will support any proposal put before the House that brings some kind of order out of the financial chaos that confronts this country.

Mr. FINDLEY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was rejected.

Mr. CASEY of Texas. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the Chair, Mr. ANNUNZIO, chairman of the Committee of the Whole House on the State of the Union, reported that the committee, having had under consideration the bill (H.R. 13995) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

Mr. CASEY of Texas. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. KEATING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 363, nays 9, not voting 59, as follows:

[Roll No. 89]

YEAS—363

Abernethy	Corman	Hansen, Wash.
Abourezk	Cotter	Harrington
Abzug	Coughlin	Harsha
Adams	Crane	Harvey
Addabbo	Culver	Hathaway
Anderson, Calif.	Daniel, Va.	Hawkins
	Danielson	Hébert
Anderson, Tenn.	Davis, Ga.	Hechler, W. Va.
	Davis, S.C.	Heckler, Mass.
Andrews	Dellenback	Heinz
Annunzio	Dellums	Helstoski
Archer	Denholm	Henderson
Arends	Dennis	Hicks, Mass.
Ashley	Derwinski	Hicks, Wash.
Aspin	Devine	Hillis
Badillo	Dickinson	Hogan
Baker	Diggs	Holifield
Barrett	Dingell	Horton
Begich	Donohue	Hosmer
Bell	Dorn	Howard
Bennett	Downing	Hungate
Bergland	Drinan	Hunt
Betts	Duncan	Hutchinson
Bevill	du Pont	Ichord
Biaggi	Eckhardt	Jacobs
Biester	Edmondson	Jarman
Bingham	Edwards, Ala.	Johnson, Calif.
Blackburn	Edwards, Calif.	Jonas
Blanton	Eilberg	Jones, Ala.
Blatnik	Erlenborn	Jones, N.C.
Boggs	Esch	Jones, Tenn.
Boland	Evans, Colo.	Karth
Bolling	Evins, Tenn.	Kastenmeier
Brademas	Fascell	Kazen
Brasco	Fish	Keating
Bray	Fisher	Kee
Brinkley	Flood	Keith
Brooks	Flowers	King
Broomfield	Flynt	Koch
Brotzman	Foley	Leggett
Brown, Mich.	Ford, Gerald R.	Lennon
Brown, Ohio	Ford, William D.	Lent
Broyhill, N.C.	Forsythe	Link
Broyhill, Va.	Fountain	Lloyd
Buchanan	Fraser	Long, La.
Burke, Fla.	Frelinghuysen	Long, Md.
Burke, Mass.	Frenzel	Lujan
Burleson, Tex.	Frey	McClory
Burlison, Mo.	Gallagher	McCloskey
Burton	Garmatz	McClure
Byrne, Pa.	Gettys	McCollister
Byrnes, Wis.	Giaimo	McCormack
Byron	Gibbons	McCulloch
Cabell	Goldwater	McDade
Caffery	Gonzalez	McDonald, Mich.
Carey, N.Y.	Goodling	McEwen
Carney	Grasso	McFall
Carter	Gray	McKay
Casey, Tex.	Green, Oreg.	McKevitt
Cederberg	Green, Pa.	McKinney
Celler	Griffin	McMillan
Chamberlain	Grover	Macdonald, Mass.
Chisholm	Gubser	
Clancy	Gude	Madden
Clausen, Don H.	Hagan	Mahon
	Haley	Mailliard
Clawson, Del	Hamilton	Mallary
Cleveland	Hammer-schmidt	Mann
Collier		Martin
Collins, Tex.	Hanley	Mathias, Calif.
Colmer	Hanna	Mathis, Ga.
Conable	Hansen, Idaho	Matsunaga
Conte	Mayne	Railsback
Mazzoli	Randall	Steele
Meeds	Rarick	Steiger, Ariz.
Melcher	Rees	Stephens
Michel	Reid	Stokes
Miller, Calif.	Reuss	Stratton
Mills, Md.	Rhodes	Stuckey
Minish	Riegle	Sullivan
Mink	Roberts	Talcott
Mitchell	Robinson, Va.	Taylor
Mizell	Robison, N.Y.	Teague, Calif.
Mollohan	Rodino	Teague, Tex.
Monagan	Roe	Terry
Montgomery	Rogers	Thompson, Ga.
Moorhead	Roncallo	Thompson, N.J.
Morgan	Rooney, N.Y.	Thomson, Wis.
Morse	Rooney, Pa.	Thone
Mosher	Rosenthal	Tiernan
Moss	Roush	Udall
Murphy, Ill.	Rousselot	Ullman
Myers	Roy	Van Deerlin
Natcher	Roybal	Vander Jagt
Nedzi	Runnels	Vanik
Nichols	Ruppe	Veysey
Nix	Ruth	Vigorito
Obey	Ryan	Waggonner
O'Hara	St Germain	Waldie
O'Konski	Sandman	Wampler
O'Neill	Sarbanes	Ware
Passman	Satterfield	Whalen
Patman	Scherle	Whalley
Patten	Schneebeli	White
Pelly	Schwengel	Whitehurst
Pepper	Scott	Whitten
Perkins	Sebelius	Widnall
Pettis	Seiberling	Wiggins
Peyser	Shipley	Williams
Pickle	Shriver	Wilson, Bob
Pike	Sikes	Wilson, Charles H.
Pirnie	Sisk	Winn
Poage	Skubitz	Wolff
Podell	Slack	Wright
Poff	Smith, Calif.	Wyatt
Powell	Smith, Iowa	Wydler
Preyer, N.C.	Smith, N.Y.	Wylie
Price, Ill.	Snyder	Wyman
Price, Tex.	Spence	Young, Fla.
Pucinski	Springer	Young, Tex.
Purcell	Stanton, J. William	Zablocki
Quie		Zion
Quillen	Steed	Zwach

NAYS—9

Findley	Kyl	Miller, Ohio
Gross	Landgrebe	Schmitz
Hall	Latta	Steiger, Wis.

NOT VOTING—59

Abbitt	Dow	Landrum
Alexander	Dowdy	Metcalfe
Anderson, Ill.	Dulski	Mikva
Ashbrook	Dwyer	Mills, Ark.
Aspinall	Edwards, La.	Minshall
Barling	Eshleman	Murphy, N.Y.
Belcher	Fulton	Nelsen
Bow	Fuqua	Pryor, Ark.
Camp	Galifianakis	Rangel
Chappell	Gaydos	Rostenkowski
Clark	Griffiths	Saylor
Clay	Halpern	Scheuer
Collins, Ill.	Hastings	Shoup
Conyers	Hays	Staggers
Curlin	Hull	Stanton, James V.
Daniels, N.J.	Johnson, Pa.	
Davis, Wis.	Kemp	Stubblefield
de la Garza	Kluczynski	Symington
Delaney	Kuykendall	Yates
Dent	Kyros	Yatron

So the bill was passed.

The Clerk announced the following pairs:

Mr. Daniels of New Jersey with Mrs. Dwyer.
Mr. James V. Stanton with Mr. Minshall.
Mr. Hays with Mr. Halpern.
Mr. Mikva with Mr. Anderson of Illinois.
Mr. Rostenkowski with Mr. Davis of Wisconsin.
Mr. Fulton with Mr. Shoup.
Mr. Dent with Mr. Johnson of Pennsylvania.
Mr. Delaney with Mr. Hastings.
Mr. Chappell with Mr. Ashbrook.
Mr. Clark with Mr. Eshleman.
Mr. Aspinall with Mr. Camp.
Mr. Kluczynski with Mr. Landrum.
Mr. Yatron with Mr. Saylor.
Mr. Kyros with Mr. Metcalfe.
Mr. Stubblefield with Mr. Kuykendall.
Mr. Alexander with Mr. Mills of Arkansas.
Mr. Curlin with Mr. Hull.
Mr. Inouye with Mr. Nelsen.
Mr. Scheuer with Mr. Conyers.
Mr. Murphy of New York with Mr. Kemp.
Mr. Staggers with Mr. Bow.
Mr. Symington with Mrs. Griffiths.
Mr. Rangel with Mr. Galifianakis.
Mr. Dulski with Mr. Collins of Illinois.
Mr. Gaydos with Mr. Clay.
Mr. Baring with Mr. Abbitt.
Mr. Yates with Mr. Pryor of Arkansas.
Mr. Dow with Mr. Dowdy.
Mr. de la Garza with Mr. Belcher.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASEY of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill (H.R. 13955) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following date the President approved and signed a bill and a joint resolution of the House of the following titles:

On March 21, 1972:

H.R. 10834. An Act authorizing the State of Alaska to operate a passenger vessel of foreign registry between ports in Alaska, and between ports in Alaska and ports in the State of Washington, for a limited period of time; and

H.J. Res. 1097. Joint Resolution making certain urgent supplemental appropriations for fiscal year 1972, and for other purposes.

OLDER AMERICANS—A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-268)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

When I addressed the White House Conference on Aging last December, I pledged that I would do all I could to make 1972 a year of action on behalf of older Americans. This message to the Congress represents an important step in fulfilling that promise.

Many of the actions which are outlined in this message have grown out of concerns expressed at the White House Conference and at related meetings across the country. The message also discusses a number of steps that have already been taken or that were announced at an earlier date. All of these actions are part of our comprehensive strategy for helping older Americans.

The momentum which has been generated by all these steps—old and new—will move us toward the great national obectives which the White House Conference set forth. I pledge that this momentum will be sustained as we follow through on these initiatives and as we keep other recommendations of the White House Conference at the top of our agenda, under continuing review.

This message, then, does not represent the last word I will have to say on this important subject. It does, however, identify those administrative steps which we are taking immediately to help older Americans, along with a number of legislative initiatives which should be of highest priority on this year's congressional agenda.

We often hear these days about the "impatience of youth." But if we stop to think about the matter, it is the elderly who have the best reason to be impatient. As so many older Americans have candidly told me, "We simply do not have time to wait while the Government procrastinates. For us, the future is now." I believe this same sense of urgency should characterize the Government's response to the concerns of the elderly. I hope and trust that the Congress will join me in moving forward in that spirit.

A COMPREHENSIVE STRATEGY FOR MEETING COMPLEX PROBLEMS

The role of older people in American life has changed dramatically in recent decades. For one thing, the number of Americans 65 and over is more than six times as great today as it was in 1900—compared to less than a 3-fold increase in the population under 65. In 1900, one out of every 25 Americans was 65 or over; today one in 10 has reached his 65th birthday.

While the number of older Americans has been growing so rapidly, their traditional pattern of living has been severely disrupted. In an earlier era, the typical American family was multigenerational—grandparents and even great-grandparents lived in the same household with their children and grandchildren, or at least lived nearby. In recent years, however, the ties of family and of place have been loosened—with the result that more and more of our older citizens must live apart or alone. The rapid increase in mandatory retirement provisions has compounded this trend toward isolation. Under such conditions, other problems of older persons such as ill health and low income have become even more burdensome. And all of these difficulties are intensified, of course, for members of minority groups and for those who are blind or deaf or otherwise handicapped.

The sense of separation which has characterized the lives of many older Americans represents a great tragedy for our country. In the first place, it denies many older citizens the sense of fulfillment and satisfaction they deserve for the contributions they have made throughout their lifetime. Secondly, it denies the country the full value of the skills and insights and moral force which the older generation is uniquely capable of offering.

The major challenge which confronts us, then, as we address the problems of older Americans is the new generation gap which has emerged in this country in recent decades between those who are over 65 and those who are younger. The way to bridge this gap, in my judgment, is to stop treating older Americans as a burden and to start treating them as a resource. We must fight the many forces which can cause older persons to feel dependent or isolated and provide instead continuing opportunities for them to be self-reliant and involved.

If we can accomplish this goal, our entire Nation will reap immense benefits. As I put it in my speech to the White House Conference on Aging, "* * * any action which enhances the dignity of older Americans enhances the dignity of all Americans, for unless the American dream comes true for our older generation, it cannot be complete for any generation."

From its very beginnings, this Administration has worked diligently to achieve this central objective. To assist me in this effort, I established a special task force on aging in 1969. In that same year, I elevated the Commissioner on Aging, John Martin, to the position of Special Assistant to the President on Aging, the first such position in history. Later, I created a new Cabinet-level Committee on Aging, under the leadership of the Secretary of Health, Education, and Welfare, to ensure that the concerns of the aging were regularly and thoroughly considered by this Administration and that our policies to help older persons were effectively carried out. To provide greater opportunity for older Americans to express their own concerns and to recommend new policies, I convened the White House Conference on Aging—which met last December and which was preceded and followed by many other meetings at the grassroots level. I asked the Cabinet-level Committee on Aging to place the recommendations of the Conference at the top of its agenda. And I also asked the Chairman of the Conference, Arthur Flemming, to stay on as the first Special Consultant to the President on Aging, so that the voice of older Americans would continue to be heard at the very highest levels of the Government.

One dimension of our efforts over the last three years is evident when we look at the Federal budget. If our budget proposals are accepted, overall Federal spending for the elderly in fiscal year 1973 will be $50 billion, nearly 150 percent of what it was when this Administration took office. One particularly important example of increased concern for the elderly is the fact that overall Federal spending under the Older Americans Act alone has grown from $32 million in fiscal year 1969 to a proposed $257 million in fiscal year 1973—an eight-fold increase. This figure includes the $157 million I originally requested in my 1973 budget, plus an additional $100 million which I am requesting in this message for nutrition and related services.

How much money we spend on aging programs is only one part of the story, however. *How* we spend it is an equally important question. It is my conviction that the complex, interwoven problems of older Americans demand, above all else, a *comprehensive* response, one which attacks on a variety of fronts and meets a variety of problems.

This message outlines the comprehensive strategy which this Administration had developed for bridging the new generation gap and enhancing the dignity and independence of older Americans. That strategy has five major elements:

1. Protecting the income position of the elderly;
2. Upgrading the quality of nursing home care;
3. Helping older persons live dignified, independent lives in their own homes or residences—by expanding and reforming service programs;
4. Expanding opportunities for older people to continue their involvement in the life of the country; and
5. Reorganizing the Federal Government to better meet the changing needs of older Americans.

A SUMMARY OF MAJOR INITIATIVES

In addition to discussing important actions which have been taken in the past or are now underway, this message focuses attention on the following major items of new and pending business.

1. *To protect the income position of older Americans, The Congress should:*
—enact H.R. 1 as soon as possible, thus providing older Americans with $5½ billion of additional annual income. H.R. 1 would increase social security benefits by 5 percent, make social security inflation-proof, increase widow, widower and delayed retirement benefits, liberalize earnings tests, and establish a floor under the income of older Americans for the first time;
—repeal the requirement that participants in part B of Medicare must pay a monthly premium which is scheduled to reach $5.80 this July. This step would make available to older persons an additional $1.5 billion—the equivalent of roughly another 4 percent increase in social security benefits for persons 65 and over;
—strengthen the role played by private pension plans by providing tax deductions to encourage their expansion, requiring the vesting of pensions, and protecting the investments which have been made in these funds;
—enact revenue sharing proposals designed to provide the opportunity for significant property tax relief; and
—enact my proposed consumer protection legislation which deals with problems which are especially acute for older citizens.

The Administration will:
—continue its investigation of alternative methods for financing public education in such a manner as to relieve the present heavy reliance on property taxes;
—propose major improvements in the military retirement system, including a one-time recomputation of retired pay;
—continue the battle against price inflation, with special emphasis in the health care field;
—develop a program to foster greater awareness among older citizens of their legal rights under the Inter-

state Land Sales Full Disclosure Act; and

—develop a program designed to help each State create consumer education programs for older citizens.

2. *To upgrade the quality of nursing home care,*

The Congress should:

—make it possible for the Federal Government to assume the entire cost of State inspection of homes receiving payments under the Medicaid program; and

—approve my request for additional funds for training nursing home personnel.

The Administration will:

—continue to strengthen and expedite other portions of my 8-point program for upgrading nursing homes, including my commitment to withdraw Federal funds from those homes that refuse to meet standards and to make adequate alternative arrangements for those who are displaced from substandard homes; and

—develop proposals for protecting older persons in the purchase of nursing home services.

3. *To help older persons live dignified, independent lives in their own homes or residences,*

The Congress should:

—appropriate the $100 million I requested for the Administration on Aging in my 1973 budget;

—appropriate an additional $100 million for nutritional and related purposes;

—appropriate $57 million for other programs under the Older Americans Act, bringing total spending under this act to $257 million—an eight-fold increase over fiscal year 1969;

—renew and strengthen the Older Americans Act, which so many older persons rightly regard as landmark legislation in the field of aging—extending it for an indefinite period rather than for a specified period of years;

—create a new, coordinated system for service delivery under this act, so that the Administration on Aging can help develop goals for such services, while State and area agencies create specific plans for achieving these goals; and

—allow States and localities to use some of the funds now in the Highway Trust Fund to finance their mass transit programs, including special programs to help the elderly.

The Administration will:

—ensure that Departments and agencies involved in the field of aging identify the portion of their total resources that are available for older persons and ensure that use of these resources is effectively coordinated all across the Government;

—strengthen the role already played by local officials of the Social Security Administration and other agencies in providing information about Federal services to older persons and in receiving their complaints;

—launch this summer a new Project FIND—a program which will enlist the services of Government workers at the grassroots level in an outreach effort to locate older persons who are not involved in Federal nutrition programs and who should be;

—step up efforts to meet the special transportation needs of older Americans, giving priority to community requests for capital grants that aid the elderly from the Urban Mass Transportation Fund;

—provide more and better housing for older Americans by issuing new guidelines for two HUD programs to make them more readily applicable to the elderly, by extending the mortgage maturity for the FHA-insured nursing home program, by drawing upon research of the Law Enforcement Assistance Administration to reduce crime, by encouraging the provisions of more space for senior centers within housing projects for the elderly, and by developing training programs in the management of housing for older persons.

4. *To expand opportunities for older persons to continue their involvement in the life of our country,*

The Congress should:

—appropriate the funds I have requested for such action programs as Retired Senior Volunteers and Foster Grandparents;

—authorize the ACTION agency to expand person-to-person volunteer service programs, helping more older Americans to work both with children and with older persons who need their help; and

—broaden the Age Discrimination in Employment Act of 1967 to include State and local governments.

The Administration will:

—work with 130 national voluntary groups across the country in a special program to stimulate volunteer action; and

—develop a national program to expand employment opportunities for persons over 65, through programs such as Senior Aides and Green Thumb, by urging State and local governments to make job opportunities available under the Emergency Employment Act of 1971, by working through the public employment offices to open part-time job opportunities in both the public and private sector, and by reaffirming Federal policy against age discrimination in appointment to Federal jobs.

5. *To improve Federal organization for future efforts,*

The Administration will:

—strengthen the Secretary of Health, Education, and Welfare's Advisory Committee on Older Americans—providing it with permanent staff capability to support its increased responsibilities;

—arrange for the Commissioner of Aging, in his capacity as Chairman of the Advisory Committee on Aging, to report directly to the Secretary of Health, Education, and Welfare;

—create a Technical Advisory Committee on Aging Research in the Office of the Secretary of Health, Education, and Welfare to develop a comprehensive plan for economic, social, psychological, health and education research on aging.

PROTECTING THE INCOME POSITION OF OLDER AMERICANS

Perhaps the most striking change in the lives of most Americans when they turn 65 is the sudden loss of earned income which comes with retirement. The most important thing we can do to enhance the independence and self-reliance of older Americans is to help them protect their income position. I have long been convinced that the *best* way to help people in need is not by having Government provide them with a vast array of bureaucratic services but by giving them money so that they can secure needed services for themselves. This understanding is fundamental to my approach to the problems of the aging.

The success of this income-oriented strategy depends in turn on giving effective attention to two factors: first, where older Americans' money comes from and second, what it is used for.

WHERE THE MONEY COMES FROM: REFORMING AND EXPANDING GOVERNMENT PROGRAMS

The most important income source for most older Americans is social security. Accordingly, improvements in social security have been the center piece of this Administration's efforts to assist the elderly. Today, approximately 85 percent of all Americans over 65 receive regular cash benefits from social security, while 93 percent of those now reaching age 65 are eligible to receive such benefits when they or their spouses retire.

Since 1969, social security cash benefits have been increased twice—a fifteen percent increase in January of 1970 and another ten percent increase one year later. These increases represent a $10 billion annual increase in cash income for social security beneficiaries. As I suggested, however, in my 1969 message to the Congress concerning social security reform, *bringing* benefit payments up to date alone is not enough. We must also make sure that benefit payments *stay* up to date and that all recipients are treated fairly.

My specific proposals for achieving these ends are presently contained in the bill known as H.R. 1—legislation which is of overwhelming importance for older Americans. This bill passed the House of Representatives in the first session of the 92d Congress and is presently pending before the Senate Finance Committee. I continue to believe firmly that H.R. 1 is the single most significant piece of social legislation to come before the Congress in many decades.

Let us consider the several ways in which this legislation would help the elderly:

1. *An Additional Increase in Social Security.* Under H.R. 1, social security benefits would be increased by an additional 5 percent effective in June of 1972. This increase would provide $2.1 billion in additional income for older Americans during the first full year that it is effective. It would mean that social security benefits would be one-third higher after this June than they were just 2½ years ago. *This represents the most rapid rate of increase in the history of the social security program.*

2. *Making Social Security "Inflation Proof."* Under H.R. 1, social security payments would, for the first time, be automatically protected against inflation. Whenever the Consumer Price Index increased by 3 percent or more, benefits would be increased by an equal amount. Payments that keep pace with the cost of living would thus become a guaranteed right for older Americans—and not something for which they have to battle again and again, year after year.

3. *Increased Widow's Benefits.* About 58 percent of the population age 65 and over are women, most of whom depend primarily on social security benefits earned by their husbands. Under the present law, however, widows are eligible for only 82½ percent of the retirement benefits which would be paid to their late husbands if they were still alive. H.R. 1 would correct this situation by increasing widows' benefits to 100 percent of the benefits payable to their late husbands. It would similarly expand the eligibility of a widower for benefits payable to his late wife. Altogether, this provision would mean that about 3.4 million widows and widowers would receive increased benefits totaling almost three quarters of a billion dollars in the first full year.

4. *Increased Benefits for Delayed Retirement.* Under present law, those who choose not to retire at age 65 forfeit their social security benefits for the period between the time they are 65 and the time they finally retire. H.R. 1 would allow retirees to make up a portion of these lost benefits through higher payments after retirement. Benefits would increase by one percent for each year that a person had worked between the ages of 65 and 72.

5. *Liberalized Earnings Tests.* Like the increased benefit for delayed retirement, the liberalized earnings tests contained in H.R. 1 would encourage more of our older citizens to remain active in the economic life of our country. This is a step which I promised to take in the 1968 campaign and for which I have been working ever since.

It is high time this step was taken. Those who *can* work and *want* to work should *not* be discouraged from working—as they often are under the present law. By reducing the barriers to work, we can increase the sense of participation among older citizens and at the same time tap their energies and experience more effectively.

Under H.R. 1, the amount that a beneficiary could earn without losing any social security would be increased from $1,680 a year to $2,000 a year. That ceiling, in turn, would be automatically increased each time there was a cost of living benefit increase in social security. In addition, for those who earn in excess of $2,000, the potential reduction in social security payments would also be lessened. Under the present law, benefits are reduced by $1 for each $2 of extra earnings, but this rate applies only to the first $1,200 earned above the exempt amount. Additional earnings beyond that level now cause benefits to be reduced on a $1 for $1 basis. Under H.R. 1, benefits would be reduced on a $1 for $2 basis for all earnings above $2,000—no matter how much more a person earned.

6. *Adult Assistance Reform.* One of the most important elements of H.R. 1—and one of the most under-publicized—is its provision to place a national floor under the income of every older American. H.R. 1 would replace the present Old Age Assistance program with a single, federally-financed program which would provide a monthly income of $150 for an individual and $200 for a couple when fully effective.

This program would assist 4.5 million elderly persons instead of the 2.1 million currently reached. It would also eliminate the practice of placing liens on homes as a condition of eligibility. Eligibility for assistance would be determined on the basis of need without regard to the income or assets of relatives. Relative-responsibility rules would not be a part of this new program.

I believe this reform is particularly important since it channels massive resources—some $2.8 billion in additional annual benefits—to those whose needs are greatest.

7. *Special Minimum Benefits.* H.R. 1 would also provide special minimum benefits for people who have worked for 15 years or more under social security. The guaranteed minimum benefit would range from $75 a month for a person who had worked 15 years under social security to $150 a month for a person with 30 years of such work experience. At maturity, this provision would increase overall benefit payments to $600 million.

H.R. 1: THE NEED FOR PROMPT ACTION

In addition to all of these benefits for older people, H.R. 1 would have enormous benefits for many younger Americans as well. Clearly the passage of this bill is a matter of the very highest priority. I have made that statement repeatedly since I first proposed this far-reaching program in 1969. As I make that statement again today, I do so with the conviction that further delay is absolutely inexcusable. To delay these reforms by even one more year would mean a loss for older Americans alone of more than $5 billion.

It is my profound hope that the Senate will now carry forward the momentum which has been generated by the passage of H.R. 1 in the House of Representatives, thus seizing an historic opportunity—and meeting an historic obligation.

WHERE THE MONEY COMES FROM: MILITARY, VETERANS AND FEDERAL EMPLOYEE BENEFITS

We are also making significant progress toward improving the retirement income of career military personnel, veterans and Federal employees.

1. *To improve military benefits,* I will soon submit legislation to the Congress for recomputing retirement pay on the basis of January 1, 1971 pay scales, thus liberalizing annuities for current retirees. I will also submit legislation to provide—for the first time—full annuities for retired reservists at an earlier age, and to revise benefit payments so that retirees receive their full annuities when they are most needed, at the conventional age of full retirement. I hope these proposals will receive favorable consideration.

In addition, I support legislation to provide military retirees with a less expensive survivor annuity plan—one which is similar to that now provided to retired civil servants.

2. *Benefits for veterans* are also improving. Our efforts to improve both the quality of care and the number of patients treated in Veterans Administration hospitals will have a major impact on older veterans, since more than one-fourth of all VA patients are over 65. The staff to patient ratio at VA hospitals will be increased to 1.5 to 1, an all-time high, if our budget proposals are accepted.

The fiscal year 1973 budget also provides for further increases in nursing home care with the result that the authorized number of VA-operated nursing beds will have doubled since 1969 and the number of community contract beds and State home beds built and operated with VA subsidies will have increased by one-third over the same period.

In addition, I have signed into law significant improvements in pensions for elderly veterans which relate benefits more closely to need and protect recipients from income loss because of increases in the cost of living. In January of 1971, pensions were increased by an average of 9.6 percent. One year later, they went up an additional 6.5 percent and a new formula was adopted relating benefits more closely to need for the first time.

3. *Federal Employee Benefits* are also up. Retirement benefits for Federal employees have been liberalized in several instances, and—under a more generous formula for determining cost of living increases—annuities have gone up nearly 16 percent in the last 2½ years. In addition, the Government's contribution to Federal health benefit premiums of current and retired employees has been substantially increased.

WHERE THE MONEY COMES FROM: REFORMING THE PRIVATE PENSION SYSTEM

Only 21 percent of couples now on our social security rolls and only 8 percent of non-married beneficiaries are also receiving private pensions. While this picture will improve somewhat as workers who are now younger reach retirement, nevertheless—despite the best efforts of labor and management—only half the work force is presently covered by private pension plans. As the White House Conference on Aging pointed out, the long-range answer to adequate income for the elderly does not lie in Government programs alone; it also requires expansion and reform of our private pension system.

Late last year, I submitted to the Congress a five-point program to achieve this goal. It includes the following items:

1. *Tax deductions to encourage independent savings toward retirement.* Individual contributions to group or individual pension plans should be made tax deductible up to the level of $1,500 per year or 20 percent of earned income,

whichever is less. Individuals should also be able to defer taxation of investment earnings on these contributions.

2. *More generous tax deductions for pension contributions by self-employed persons.* The annual limit for deductible contributions to pension plans by the self-employed—on their own behalf and for those who work for them—should be raised from $2,500 or 10 percent of earned income, whichever is less, to the lesser of $7,500 or 15 percent of earned income.

3. *Requiring the vesting of pensions.* Persons who have worked for an employer for a significant period should be able to retain their pension rights even if they leave or lose their jobs before retirement. Unfortunately, many workers do not now have this assurance—their pensions are not vested. To change this situation, I have proposed a new law under which all pensions would become vested as an employee's age and seniority increased. Under this law, the share of participants in private pension plans with vested pensions would rise from 31 percent to 47 percent and the overall number of employees with vested rights would increase by 3.6 million. Most importantly, among participants age 45 and older, the percentage with vested pensions would rise from 60 percent to 92 percent.

4. *The Employee Benefits Protection Act.* This legislation was first proposed to the Congress in March of 1970; it was strengthened and resubmitted in 1971. It would require that pension funds be administered under strict fiduciary standards and would provide certain Federal remedies when they are not. It would also require that plans provide full information to employees and beneficiaries concerning their rights and benefits.

5. *A study of pension plan terminations.* In my December message, I also directed the Departments of Labor and the Treasury to undertake a one-year study concerning the extent of benefit losses which result from the termination of private pension plans. This study will provide the information we need in order to make solid recommendations in this field, providing needed protection without reducing benefits because of increased costs.

WHERE THE MONEY GOES: THE BURDEN OF HEALTH COSTS

Growing old often means both declining income and declining health. And declining health, in turn, means rising expenditures for health care. Per capita health expenditures in fiscal year 1971 were $861 for persons 65 and older, but only $250 for persons under 65. In short, older Americans often find that they must pay their *highest* medical bills at the very time in their lives when they are *least* able to afford them.

Medicare, of course, is now providing significant assistance in meeting this problem for most older Americans. In fiscal year 1971, this program accounted for 62 percent of their expenditures for hospital and physicians' services and 42 percent of their total health payments. In addition, an estimated 40 percent of Medicaid expenditures go to support the health costs of the elderly, while other programs provide significant additional assistance.

But serious problems still remain. Accordingly, this Administration has been working in a number of ways to provide even more help for the elderly in the health-care field. One of our most important proposals is now pending before the Congress. I refer to the recommendation I made more than a year ago that the Congress combine part B of Medicare—the supplementary medical insurance program, with part A—the hospital insurance program, thus eliminating the special monthly premium which older persons must pay to participate in part B—a premium which will reach $5.80 per month by July. I have reaffirmed my commitment to this important initiative on other occasions and today I affirm it once again. Elimination of the premium payment alone would augment the annual income of the elderly by approximately $1.5 billion, the equivalent, on the average, of almost a 4 percent increase in social security for persons 65 and over. I hope the Congress will delay no longer in approving this important proposal.

Our concern with health costs for older Americans provides additional reasons for the prompt approval of H.R. 1. Under that bill:

—Provision is made for extending Medicare to many of the disabled (about 60 percent of whom are age 55 and over) who are drawing social security benefits and who have had to give up work before reaching regular retirement age;

—Medicare beneficiaries would have the opportunity to enroll in Health Maintenance organizations—organizations which I strongly endorsed in my special message on health policy because of my conviction that they help to prevent serious illness and also help to make the delivery of health care more efficient;

—Provision is made for removing the uncertainties relative to coverage under Medicare when a person needs to use extended care facilities after hospitalization.

In my recent message to Congress on health policy, I indicated a number of other measures which will help reduce the cost of health care. I spoke, for example, of the special attention we have been giving under Phase II of our New Economic Policy to the problem of skyrocketing health costs, through the special Health Services Industry Committee of the Cost of Living Council. I indicated that a number of cost control features would be introduced into the Medicare and Medicaid reimbursement processes—with the overall effect of reducing health costs. I have also called for new research efforts in fields such as heart disease, cancer, and accident prevention—initiatives which also promise to reduce health problems—and health bills—for older persons.

WHERE THE MONEY GOES: INFLATION

Inadequate retirement incomes are strained even further when inflation forces older persons to stretch them to meet rising costs. Because older persons are uniquely dependent on relatively fixed incomes, they are uniquely victimized by the ravages of inflation. While my proposals for making social security benefits inflation-proof will provide significant help in defending the elderly against this menace, it is also important that we take on this enemy directly—that we curb inflationary pressures.

This goal has been a central one of this Administration. When I came to office this country was suffering from a massive wave of price inflation—one which had resulted in large measure from the methods chosen to finance the Vietnam War. The problem of reversing this wave by conventional methods was a more stubborn problem, frankly, than I expected it to be when I took office. By the summer of 1971, it became clear that additional tools were needed if inflation was to be quickly and responsibly controlled. Accordingly, I announced last August a New Economic Policy—one which has received the strong support of the Congress and the American people.

I have been especially gratified that older Americans—whose stake in the battle against inflation is so high—have rallied to support this new economic program. With their continued support—and that of all the American people—we can carry this battle forward and win a decisive victory.

One key element in that battle, of course, is to be sure that Government spending programs, including those which help the elderly, are responsibly financed. If they are not, then inflation will merely be reignited and Government policy will merely be robbing older Americans with one hand of the aid it gives them with the other.

WHERE THE MONEY GOES: PROPERTY TAXES

Two-thirds of all older citizens—and 78 percent of older married couples—own their own homes. For these Americans—and for many younger Americans as well—the heavy and growing burden of property taxes constitutes one of the most serious of all income-related problems. Even those who rent their homes often bear an unfair burden since property tax increases are frequently passed along in the form of higher rents. The reason these burdens are so onerous, of course, is that the income from which property taxes must be paid by the elderly is usually going *down* at the very time the taxes are going *up*.

Property taxes in the United States have more than doubled in the last 10 years. The problems which this fact implies are felt by Americans of all ages. But elderly Americans have a special stake in their solution.

I am committed to doing all I can to relieve the crushing burden of property taxes. I have been proceeding toward this end in two ways. First, I am continuing to push for passage of our general and special revenue-sharing proposals, legislation which would channel some $17 billion into State and local budgets and thus provide a significant opportunity for property tax relief. At the same time, as I indicated in my recent State of the Union Address, I am also moving to change the system through which we finance public education. In developing a new approach, I will draw on the recommendations of the President's Commission on School Finance, the Advisory Commission on Intergovernmental Relations, and other analyses such as those which are being performed under the direction of the Secretaries of the Treasury, and of Health, Education, and Welfare. The purpose of this intensive investigation is to develop ways of putting this Nation's educational system on a sounder financial footing while helping to relieve the enormous burden of school property taxes.

REDUCING INCOME TAX BURDENS

Recently approved and pending changes in the income tax laws also provide special help to older persons. Under these provisions, a single person age 65 or over would be able to receive up to $5,100 of income without paying any Federal income taxes, while a married couple with both husband and wife 65 or over would be able to receive up to $8,000 of such tax-free income.

WHERE THE MONEY GOES: PROTECTING ELDERLY CONSUMERS

The quality of life for older Americans depends to a large extent upon the responsiveness of the marketplace to their special needs. It is estimated that elderly persons now spend over $60 billion for goods and services every year—and they will be able to spend billions more if my proposals for increasing their income are enacted. Our economy should be responsive to the needs of older Americans; they have a high stake in advancing consumer protection.

Through organizational changes, administrative actions and legislative recommendations, this Administration has been working to provide needed protection for the American consumer in general—and for the older consumer in particular. The several pieces of consumer legislation which I have submitted to the Congress are designed to reduce dangers which are especially acute for older consumers—and I again urge their enactment.

In addition, I am asking my Special Assistant for Consumer Affairs, in cooperation with the Secretary of Housing and Urban Development, to develop a program for helping to enforce the Interstate Land Sales Full Disclosure Act by fostering greater awareness among older citizens of their legal rights under this legislation.

Recognizing that the complexity of today's marketplace demands great sophistication by the individual consumer, our primary and secondary schools have stepped up their programs for consumer education. Unfortunately, many older Americans have never had the opportunity to benefit from such programs. The Office of Consumer Affairs is therefore developing guidelines for adult consumer education programs with particular emphasis on the needs of the elderly. To carry out these guidelines, I am asking my Special Assistant for Consumer Affairs, working in cooperation with the Secretary of Health, Education, and Welfare, to develop a program of technical assistance to help the States create consumer education programs specifically designed for older citizens.

A COMPREHENSIVE EFFORT FOR IMPROVING INCOME

The key characteristic of my strategy for protecting the income position of older Americans is its *comprehensiveness*. For it would help to augment and protect the income older persons derive from social security, adult assistance, Federal military, veterans and civilian benefits, and private pensions, while at the same time curbing the cruel drain on those incomes from rising health costs, inflation, taxes and unwise consumer spending. I hope now that the Congress will respond promptly and favorably to these proposals. If it does, then the purchasing power of the elderly can be enhanced by billions of dollars a year—an achievement which could do more than anything else to transform the quality of life for Americans over 65.

UPGRADING THE QUALITY OF NURSING HOME CARE

Income related measures can help more older Americans to help themselves; they build on the strong desire for independence and self-reliance which characterizes the older generation. We must recognize, however, that some older Americans—approximately five percent by recent estimates—cannot be primarily self-reliant. These older men and women require the assistance provided by skilled nursing homes and other long-term care facilities. For them, a dignified existence depends upon the care and concern which are afforded them in such settings.

In June of 1971, at a regional convention of the National Retired Teachers Association and the American Association of Retired Persons, I pledged to meet the challenge of upgrading nursing home care in America. I expressed my determination that nursing homes, for those who need them, should be shining symbols of comfort and concern. I noted that many such facilities provide high quality care, but that many others fall woefully short of this standard. I observed that those who must live in such facilities are virtual prisoners in an atmosphere of neglect and degradation.

Following that speech, I directed the development of an action plan to improve nursing home care and I announced that 8-point plan in August of 1971. I am pleased to be able to report that we have made significant progress in carrying out that plan. We have delivered on all of the eight promises implied in that program. Let us look at each of them:

1. *Training State Nursing Home Inspectors*—Through February of 1972, almost 450 surveyors had been trained in federally-sponsored programs at three universities. Contract negotiations are underway to continue ongoing programs and to establish new ones at two university training centers.

2. *Complete Federal Support of State Inspections Under Medicaid*—Legislation to raise the level of financial participation by the Federal Government in this activity to 100 percent was submitted to the Congress on October 7, 1971, as an amendment to H.R. 1. This proposal is awaiting Congressional action.

3. *Consolidation of Enforcement Activities*—A new Office of Nursing Home Affairs has been established in the Office of the Secretary of Health, Education, and Welfare. This unit is directly responsible for coordinating all efforts to meet our July 1, 1972, deadline for inspections of skilled nursing homes and for certification of these facilities in accordance with proper procedures.

4. *Strengthening Federal Enforcement*—142 new positions have been allocated to the Medical Services Administration to enforce Medicaid standards and regulations. Added emphasis is being placed on the audit process as a tool for enforcement; 34 additional positions are being added in HEW's Audit Agency to perform audits of nursing home operations.

5. *Short-term Training for Professional and Paraprofessional Nursing Home Personnel*—This program is currently funded at the $2.4 million level and is scheduled to train 20,000 persons. The fiscal year 1973 budget which I submitted to the Congress contains $3 million to train an additional 21,000 persons.

6. *Assistance for State Investigative Units*—A program to develop and test investigative-ombudsman units to respond to individual complaints and to other problems in the nursing home area has also been initiated. As an interim mechanism, nearly 900 social security district and branch offices have been designated as listening posts to receive and investigate complaints and suggestions about nursing home conditions.

7. *Comprehensive Review of Long-term Care*—The Office of Nursing Home Affairs is now carrying out a comprehensive analysis of issues related to long-term care.

8. *Cracking Down on Substandard Nursing Homes*—Progress is also being made on this important front. Last December I signed legislation which, among other things, authorizes Federal quality standards for intermediate care facilities, thus giving us additional authority to guarantee a decent environment for those who live in long-term care facilities.

Every State providing nursing home care under the Medicare and Medicaid programs has now installed systems for surveying and certifying nursing homes. In the area of fire-safety and other safety guidelines, a coordinated set of standards for home providing care under these programs is being put into effect.

Medicaid compliance activities have also been stepped up. Onsite Federal reviews of State Medicaid certification procedures have been carried out. Deficiencies in those procedures were found in 39 States. These deficiencies were publicly announced by the Secretary of Health, Education, and Welfare on November 30, 1971, along with a timetable for correcting them. Since that time, 38 of the 39 States have made the necessary corrections. We have determined that every facility receiving Medicaid funds must have been inspected and correctly certified by July 1, 1972.

While we prefer to upgrade substandard homes rather than shut them down,

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we will not hesitate to cut off money when that is necessary. As of February 11, 1972, in fact, 13 extended care facilities had been decertified for participation in Medicare. In such cases, as I have often pledged before, we are firmly committed to seeing that adequate alternative arrangements are made for those who are displaced.

In fiscal year 1971, the Federal Government contributed $1.2 billion to the cost of nursing home care. We should also remember, however, that more than 40 percent of the annual expenditure for nursing homes is borne by private sources. In addition to seeing that Federal tax dollars are properly spent in this area, it is also important that private individuals are protected when they purchase nursing home services. I have asked the Secretary of Health, Education, and Welfare to develop proposals to deal with this dimension of the nursing home challenge.

SPECIAL SERVICES TO FOSTER INDEPENDENCE

Improving the income position of older Americans and upgrading nursing homes—these are two concerns which have been of highest priority for this Administration in the past and which will continue to be central in the future. As we work to develop a truly comprehensive strategy, however, other agenda items have also been emerging as areas of special emphasis, particularly those involving public and private services which can help older persons live dignified, independent lives in their own homes for as long as possible.

INCREASED RESOURCES FOR THE ADMINISTRATION ON AGING

Since the passage of the Older Americans Act in 1965, the Administration on Aging has had the lead Federal role in developing and coordinating such services. While that office has accomplished many significant things, the importance and urgency of its mission have outstripped its financial resources.

It was to help remedy this situation that I announced at the White House Conference on Aging last December that I would call for a five-fold increase in the budget of the Administration on Aging—from $21 million to $100 million. As I will discuss below in greater detail, I am now requesting an additional $100 million for nutritional and related purposes, money which would also be spent through the Administration on Aging.

With this substantial increase in funds, we would be able to step up significantly our efforts to develop and coordinate a wide range of social and nutritional services for older Americans. Our central aim in all of these activities will be to prevent unnecessary institutionalization—and to lessen the isolation of the elderly wherever possible.

EXTENDING THE OLDER AMERICANS ACT

Since its passage in 1965, the Older Americans Act has served as an important charter for Federal service programs for the elderly. Unless the act is promptly extended, however, the grant programs it authorizes will expire on June 30th. This must not happen. I therefore urge that this landmark legislation be extended—and that the extension be indefinite, rather than limited to a specific period of time.

STRENGTHENING THE PLANNING AND DELIVERY OF SERVICES

In addition, I am asking that the Older Americans Act be amended to strengthen our planning and delivery systems for services to the elderly. Too often in the past, these "systems" have really been "non-systems," badly fragmented, poorly planned and insufficiently coordinated. My proposed amendments are designed to remedy these deficiencies.

We should begin by helping to develop and strengthen the planning capacities of the State agencies on aging and of new area agencies on aging which would be established within each State. Up to 75 percent of the administrative costs of these new area planning agencies would be funded by the Administration on Aging, which would also establish general goals to which activities at the State and local levels would be directed. One of the major priorities would be to enhance and maintain the independence of older citizens.

The State and area planning agencies would plan for the mobilization and coordination of a wide range of resources—public and private—to meet such goals. The Administration on Aging would be authorized to fund up to 90 percent of the cost of social and nutritional services provided under plans developed by the area planning agencies. In fiscal year 1973, $160 million would be allocated in formula grants for nutritional and social services. An additional $40 million would be allocated in special project assistance to develop new and innovative approaches and to strengthen particularly promising area plans.

By establishing overall objectives and by providing both money and mechanisms for a stronger planning and coordination effort, we can ensure that resources and energies which are now widely scattered and fragmented can be pulled together in ways which will notably increase their impact.

COORDINATING FEDERAL EFFORTS

Even as we strengthen coordination at grassroots levels, so we must do a better job of coordinating Federal programs. As this message makes clear, efforts are being made all across our Government to help older citizens. But if there was one clear message at the White House Conference on Aging, it was that this wide range of Federal resources must be better coordinated. To help achieve this important objective, I have directed my Special Consultant on Aging to work with all these agencies in an intense new effort to develop coordinated services.

As the first step in this effort, I have directed those agencies whose programs have a major impact on the lives of older persons to provide the Cabinet-level Committee on Aging, within sixty days, with the amounts they identify as serving the needs of the elderly. In addition, I am directing that each agency identify, within the total amount it expects to spend for its aging programs, a sum that will be available to the States and localities for purposes related to the Older Americans Act. The Administration on Aging will then provide this information to the States so that it can be utilized in the State and local planning process. State aging agencies will also be able to transmit their views on proposed Federal programs, thereby furthering the interchange of information and strengthening overall coordination.

Under these procedures, we can ensure that all resources for helping the elderly are fully marshalled and coordinated, in a way which is responsive to the special needs of every State and locality in our land.

ESTABLISHING INFORMATION AND COMPLAINT CENTERS

We must also work to improve communications between the Federal Government and older Americans and to alert the Government to areas of special need. Because older persons often have some difficulty moving about conveniently, and because services are often fragmented and channeled through complex bureaucratic mechanisms, it is especially important that the elderly have one place to turn where they can obtain needed information and let their views be heard.

As I have already noted, we have been moving in this direction under my program to upgrade the quality of nursing home care. Following the directive which I announced at the White House Conference on Aging, social security offices have also been expanding their information and referral services for the elderly. District and branch offices are now handling more than 200,000 such inquiries each month—and that number is expected to increase. A task force is now at work within the Social Security Administration to examine ways of improving this service.

As another step in this direction, I have directed the Cabinet-level Committee on Aging to examine ways in which we can use other Government offices—such as the General Services Administration's Federal Information Centers and the Agricultural Extension Service's local offices—in further expanding and improving our information and complaint services.

FIGHTING HUNGER AND MALNUTRITION

In addition to our overall funding and coordination proposals concerning Federal services, we are also moving ahead in a variety of specific service areas. One of the most important is the fight against hunger and malnutrition among the elderly.

The thought that any older citizens—after a lifetime of service to their communities and country—may suffer from hunger or malnutrition is intolerable. Happily, since I submitted my message on hunger and nutrition to the Congress in May of 1969, we have made significant strides toward eliminating this problem among all age groups in America. Our efforts to increase incomes have been central to this endeavor, of course. But our special food assistance programs have also been substantially augmented.

If my budget proposals for fiscal year 1973 are accepted, overall spending for food stamps will have increased ninefold since 1969. In the coming fiscal year, an estimated 2 million elderly participants in the Food Stamp Program will

receive benefits of $343.5 million, compared with only $45.8 million in fiscal year 1969. Virtually every county in the Nation now offers either the Food Stamp or the Food Distribution Program; in early 1969, nearly 500 counties offered neither. In all, 2.5 million older Americans benefit from at least one of these programs.

Food assistance is important to the elderly. They benefit not only from nutritious food but also from the activity of preparing meals and sharing mealtimes with others. To maximize these benefits, the Department of Agriculture in January revised its regulations to improve the nutrition program and expand participation.

But more needs to be done. Many older persons who are entitled to food stamps or to surplus commodities are still not receiving them. Why is this the case? In many instances, older Americans do not realize they are eligible for participation. The agencies which provide assistance are often unaware of older persons who need their services. Some older persons choose not to participate—out of pride or out of fear that accepting food assistance may subject them to the arbitrary treatment they associate with the present welfare system. In some cases, older persons want to participate but find that necessary transportation is unavailable.

To overcome the barriers which keep older Americans from full participation in food assistance programs, we are launching this year a major outreach campaign called Project FIND. This campaign will be conducted through a senior citizen awareness network made up of federally operated or funded field offices and outreach workers. It is my hope that Federally-supported personnel will be augmented in this effort by volunteers from State local government offices and from the private sector. For ninety days, all these workers will go out across our country to find those who should be participating in nutrition programs but who are not yet involved.

Last night, I signed into law S. 1163, a new national nutrition program for the elderly. This program will provide prepared meals in a group setting and delivered meals for those who are confined to their homes. I welcome this effort. Because of my strong feeling that this area should be one of priority action, I will submit to the Congress—as I suggested above—an amendment to my 1973 budget to provide an additional $100 million for nutritional and related services. My proposed amendments to the Older Americans Act would further strengthen this effort by ensuring that the Food Stamp Program is planned as part of a more comprehensive service effort.

Other steps will also be taken in this area. In some areas, for example, space at federally-assisted housing projects will be utilized for feeding older persons. The support of State and local governments of civic and religious organizations and of the food services industry will also be solicited. Maximum use will be made of existing technical resources, including skilled personnel who have worked with the school lunch program and other special programs of the Department of Agriculture. The time has come for marshalling all of our resources in a comprehensive campaign to meet the nutrition needs of older Americans.

PROVIDING BETTER TRANSPORTATION FOR THE ELDERLY

For many older Americans, lack of mobility means poor access to friends and relatives, to government services and to meaningful participation in the community. Unless we meet the challenge of providing better transportation for older persons, our efforts in other fields will not be as effective as they should be. This is why I told the delegates to the White House Conference on Aging that I would, by administrative action, require that Federal grants which provide services for older persons also ensure that the transportation needed to take advantage of these services is available.

In addition, the Department of Transportation is significantly increasing its program for developing new ways to meet the public transportation needs of older persons. The approaches which are being tested include special new transportation services to take elderly citizens from housing projects and other residential areas to hospitals, senior citizen centers, social service agencies, employment opportunities and the like; and demand-responsive services whereby the elderly are picked up at their doorsteps and taken to specific desired destinations.

Once new ways have been developed for meeting the transportation needs of the elderly, we must also make them generally available. One proposal which could help significantly in this effort is the recommendation recently submitted to the Congress by the Secretary of Transportation under which some of the funds now in the Highway Trust Fund could be used by States and localities to augment resources in the mass transportation area.

I hope the Congress will give prompt approval to this important plan. The flexibility it provides would allow State and local officials—who know best the transportation needs of the elderly within their own jurisdictions—to give special consideration to meeting those needs. I am asking the Secretary of Transportation to develop specific suggestions for assisting the States and localities in these undertakings.

In addition, the Department of Transportation is ready to give priority attention to community requests for helping older Americans through capital grants from the Urban Mass Transportation Fund and is willing to commit significant resources to this end. I urge the States and localities to move immediately to take advantage of these resources.

MEETING THE HOUSING NEEDS OF OLDER CITIZENS

This Administration has also worked hard to respond to the very special housing needs of older Americans. It is expected, for example, that an all-time record in producing subsidized and insured housing and nursing homes for the elderly will be achieved this year by the Department of Housing and Urban Development. In the current fiscal year, nearly 66,000 units of subsidized housing for the elderly will be funded under HUD's housing assistance programs—a figure which should rise to over 82,000 in fiscal year 1973. In addition, accommodations for over 14,000 people, mostly elderly, will be provided this fiscal year under HUD's nursing and intermediate care facility programs—and nearly 18,000 such accommodations will be provided next year. Finally, a large number of elderly citizens will benefit from other housing funded by this year's record number of nearly 600,000 subsidized housing unit reservations. Clearly, we are making substantial progress in this important area.

A number of other administrative steps have also been taken to ensure that this new housing is responsive to the special needs of the elderly. For example, Secretary Romney recently announced new guidelines for the Section 236 subsidized rental program for lower income elderly tenants. These guidelines will help ensure greater variety in building types, including highrise structures, and more flexibility in their locations. As a result of these guidelines, older persons will find such housing arrangements even better suited to their particular needs.

The Department of Housing and Urban Development has also issued initial guidelines for the new Section 106 (a) program which will provide technical assistance to non-profit sponsors of low and moderate income housing—including housing which is specially designed for the elderly.

In addition, the Department will extend the mortgage maturity for its Federal Housing Administration insured nursing home program up to a maximum of 40 years. This decision will not only reduce monthly occupancy charges to patients, but it will also enable sponsors of residential housing to "package" residential and nursing home complexes more easily. The proximity of these facilities will permit elderly persons temporarily to vacate their residential units for short term nursing care—and at the same time remain close to family, friends, and the environment to which they are accustomed.

I have also directed the Secretary of Housing and Urban Development to work with the Administration on Aging in developing training programs dealing with the management of housing for the elderly.

The Law Enforcement Assistance Administration has undertaken an intensive research effort to determine factors which encourage or inhibit crime in residential settings and to develop total security systems to reduce crime in housing projects. The Department of Housing and Urban Development plans to use the results of this effort in its housing programs. I have also made grant funds available through the Law Enforcement Assistance Administration for reducing crime in areas housing older persons. Already, in two cities, funds have been granted specifically for this purpose.

Crime is an especially serious problem for older citizens. Through these and

other measures, we will continue our strong effort to meet this challenge.

Two years ago my task force on aging observed that "older persons would make greater use of many of the services society intends them to receive if these services were made more accessible to them. One reason that the number of senior centers has increased so fast is because centers facilitate the packaging, marketing, and delivery of services." The task force also noted that, "although the number of senior centers has rapidly grown in recent years, centers are still too limited in number to reach more than a fraction of the older population." In my judgement, a natural location for a senior center is a housing facility occupied primarily by older persons.

The Department of Housing and Urban Development administers two housing programs under which such facilities can be made available to older persons living in the project and in the surrounding neighborhood: the Section 236 Program and the Public Housing Program. Both of these programs provide specially designed housing for lower income older persons. The law under which these programs are administered contains language which allows the financing of facilities designed primarily for use by older persons including "cafeteria or dining halls, community rooms, workshops, infirmaries . . . and other essential service facilities."

To increase the supply of well located senior centers, I have instructed the Department of Housing and Urban Development to encourage greater provision of community space for senior centers within subsidized housing projects for the elderly. The Department will consider the community's overall need for these centers in determining the appropriate scale of centers within such housing projects.

On other fronts, the Farmers Home Administration in the Department of Agriculture is taking steps to meet the housing needs of elderly persons who live in rural areas. Under the Section 502 program, for example, thousands of elderly families have received millions of dollars in loans for home ownership and repair. The Section 515 program, which provides favorable interest loans with repayment periods of up to 50 years to stimulate the development of rental housing in rural areas, has also moved forward. Rental units financed under this program have tripled from 1969 to 1973.

EXPANDING OPPORTUNITIES FOR INVOLVEMENT

It is important that we give sufficient attention to the things our Nation should be doing for older Americans. But it is just as important that we remember how much older Americans can do for their Nation. For above all else, what our older citizens want from their country is a chance to be a part of it, a chance to be involved, a chance to contribute.

I am determined that they will have that chance. For as I told the White House Conference, "we cannot be at our best if we keep our most experienced players on the bench." This Administration is deeply committed to involving older citizens as actively as possible in the life of our Nation—by enhancing their opportunities both for voluntary service and for regular employment.

IMPROVING VOLUNTARY SERVICE PROGRAMS

Voluntary social action has long been recognized as one of the great distinguishing characteristics of America, a force which has helped to unite and focus our diverse people in the pursuit of common goals. And even as the voluntary spirit has helped our country move forward more effectively, it has also provided those who have volunteered for service with a greater sense of fulfillment.

The voluntary spirit is particularly relevant to the lives of older Americans. The White House Conference on Aging, for example, called attention to "ways in which older Americans could fulfill themselves by giving service to one another and to their communities." Delegates to the Conference called for "a national policy . . . to encourage older adults to volunteer," and urged "that existing national older adult voluntary programs should be expanded and funded at adequate levels in order to serve extensive numbers of volunteers." They urged a mobilization of public and private organizations to strengthen the volunteer movement.

I agree completely with these judgments. That is why, at the time of the White House Conference, I pledged to move successful voluntary programs from demonstration status to full operation on the national level, an expansion effort that is rapidly moving forward.

I requested, for example, that the Foster Grandparent program be doubled to $25 million, providing for 11,500 foster grandparents to serve 23,000 children each day—50,000 children in all each year—in some 450 child care institutions throughout the country. I also asked that ACTION's Retired Senior Volunteer Program (RSVP) be tripled to $15 million so that as many as 75,000 senior volunteers could be involved in community services.

When the RSVP program has developed to the full extent permitted by the new appropriations, as many as 11,000 volunteers will be serving older persons in nursing homes and other extended care facilities, bringing companionship and personal assistance to some 45,000 residents who might otherwise be lonely and isolated. At the same time, as many as 13,000 part-time RSVP volunteers will be serving as homemaker and health aids, enabling thousands of older persons to continue to live in their own homes. By using senior volunteers in a variety of programs, we can foster that human contact which brightens the lives both of those who are served and those who volunteer.

But other new steps are also needed in this area.

As one such step, the Congress should enact legislation which would enable the ACTION agency to expand person-to-person volunteer service programs for older Americans. These efforts would build on the successful experience of the Foster Grandparent program. One important characteristic of such programs is that so much good can be accomplished, so many people helped, for a relatively small dollar investment. It would indeed be tragic if we did not capitalize on this opportunity.

Measures are also needed to improve coordination among the many Federal and non-Federal volunteer activities which affect the aging. As one important step in this direction, the Administration on Aging and the National Center for Voluntary Action have enlisted the cooperation of 130 national voluntary organizations in a program to help older men and women in 300 communities live dignified lives in the familiar settings of their own homes. Too often, older Americans are displaced from such settings simply because small problems such as simple home repairs, shopping and trips to obtain health care have become too difficult. And yet, with only minimal assistance from volunteers, these problems could easily be met.

I have directed the ACTION agency to work in every possible way to help provide such assistance. Already, the RSVP program is moving forward in this area. I am confident that other ACTION program volunteers can also make a major impact in this field. It is my hope, too, that communities will consider the elderly residents of federally assisted housing projects as a source of volunteer manpower for serving other older persons.

As we move ahead with this entire program, we should take encouragement from successes of the past. One which is particularly noteworthy is the program in Mount Vernon and Edmunds, Washington, where local citizens have designed a unique bridge across the generation gap called STEP—Service To Elderly Persons. Under this program, volunteers from the local high schools have undertaken, on a regular basis, to assist elderly persons in performing small tasks, while at the same time providing them with companionship and renewed hope. Everyone gains from a program of this sort. If leaders at every level are alert to such possibilities, our progress can be enormous.

Often in quiet ways, the people of the United States have been responding to the challenges of our society with compassion and resourcefulness. Now it is for those of us who have the responsibility for national leadership to provide the Federal assistance which can help such voluntary efforts go even further and accomplish even more.

EMPLOYMENT OPPORTUNITIES FOR OLDER CITIZENS

Discrimination based on age—what some people call "age-ism"—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person's unique status as an individual and treats him or her as a member of some arbitrarily-defined group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working.

We are responding to this problem in a number of ways. The Department of Labor, for example, has filed over 80 suits under the Age Discrimination in Employment Act of 1967—30 of which have been successfully concluded. I will soon propose to the Congress that this act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments. I will also send a directive to the heads of all Federal departments and agencies reaffirming and emphasizing our policy that age shall be no bar to a Federal job which an individual is otherwise qualified to perform.

The Age Discrimination in Employment Act relates to persons between the ages of 45 and 65. I recognize that persons falling within this age group are confronted with special problems in the employment area and that we should do everything we can to resolve these problems. It is also important, however, that we help open employment opportunities for persons over 65. To this end, I have requested the Secretary of Labor to urge the States and local communities to include older persons in the opportunities provided by the Emergency Employment Act of 1971, and to work with our public employment offices so that they will be in a position to help open job opportunities for the over 65 group, including opportunities for part-time employment in both the public and private sectors.

I also asked last fall that funds be doubled for special Operation Mainstream projects for low-income older workers—such as Green Thumb and Senior Aides. This measure can mean that as many as 10,000 older persons will be employed in activities that provide useful community service.

ORGANIZING FOR FUTURE ACTION

One of the important concerns of the White House Conference on Aging was the way in which the Government is organized to deal with the problems of older Americans. It was because I share this concern that I established my original task force on aging, appointed the first Special Assistant to the President on Aging and the first Special Consultant to the President on Aging, set up a new Cabinet-level Committee on Aging and called the White House Conference.

In a similar manner, the Secretary of Health, Education, and Welfare has taken steps to ensure that the voice of older Americans speaks loud and clear within that Department. He has informed me that he will strengthen the Department's Advisory Committee on Older Americans and provide it with staff capability to support its increased responsibilities. The Commissioner of Aging, in his capacity as Chairman of the Advisory Committee, will report directly to the Secretary.

Another important organizational concern involves Government research activities which concern the process and problems of aging. It is important that the same scientific resources which have helped more people live longer lives now be applied to the challenge of making those lives full and rewarding for more Americans. Only through a wise investment in research now, can we be sure that our medical triumphs of the past will not lead to social tragedies in the future.

What we need is a comprehensive, coordinated research program, one which includes disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics. To coordinate the development of such a program, a new Technical Advisory Committee for Aging Research will be created in the office of the Secretary of Health, Education, and Welfare.

A GENERATION NO LONGER FORGOTTEN

We all grow old; the younger generation today will be the older generation tomorrow. As we address the needs of older Americans, therefore, we are truly acting in the best interest of all Americans. The actions and proposals which have been outlined in this message are designed to address those needs and meet those interests.

When I spoke about the problems of the elderly back in 1968, I described our older citizens as "an entire generation of forgotten Americans." But since that time, as this message clearly demonstrates, that situation has sharply changed. Today, it can truly be said that at all levels of Government and in all parts of the country, "the aging have come of age." Much work still remains, to be sure, but we can conclude with assurance that the aging are forgotten no longer.

Just before the First World War, one of the brilliant young writers of that day penned a line which has since become a hallmark of the period: "It is the glory of the present age," he wrote, "that in it one can be young."

Since that time, the generation of which he wrote has come through a troubled and challenging time—through two World Wars and a Great Depression, through the difficult experiences of Korea and Vietnam. The members of that same generation have led this country through a time of social and economic change unparalleled in world history. And they have come through all of these challenges "with colors flying." Because of their success, we now have the opportunity to complete their quest for peace and justice at home and around the world.

At such a moment, one obligation should be very high on our list of priorities: our obligation to this older generation. Let us work to make ours a time of which it can be said, "the glory of the present age is that in it men and women can grow *old*"—and can do so with grace and pride and dignity, honored and useful citizens of the land they did so much to build.

RICHARD NIXON.

THE WHITE HOUSE, *March 23, 1972.*

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the remainder of this week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the distinguished minority leader yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in reply to the gentleman from Michigan, we have concluded the legislative program for this week, and I will ask permission to go over until Monday in a few minutes.

The program for next week is a relatively short program because of the Easter recess.

Monday is District Day, but there are no District bills.

The first bill to be considered will be H.R. 11896, the Federal Water Pollution Control Act Amendments, under an open rule with 4 hours of debate. If we complete action on that bill by Tuesday night or Tuesday afternoon late we will consider on Wednesday H.R. 13188, the Coast Guard authorization, subject to a rule being granted, and H.R. 13324, the maritime authorizataion, subject to a rule being granted.

Mr. GERALD R. FORD. With the consideration of the rule on Monday for the Federal Water Pollution Control Act Amendments, and 4 hours of general debate, would the gentleman from Louisiana anticipate we would begin to read the bill for amendment on Monday?

Mr. BOGGS. I would not. I would anticipate we would not begin to read the bill for amendment until Tuesday.

Of course, conference reports may be called up at any time and any further program will be announced later.

The Easter holiday recess will begin at the close of business on Wednesday, March 29, and continue until Monday noon, April 10.

ADJOURNMENT OVER TO MONDAY

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that business scheduled for Calendar Wednesday on Wednesday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

THE FAA DICTATES—PART 7

(Mr. KARTH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KARTH. Mr. Speaker, I must confess that I approach this final comment in my series of reports on the arrogance of the FAA Administrator, Mr. John H. Shaffer, with some weariness. This feel-

ing is not brought about by research involved in compiling this report or its writing. Rather it is from the certain feeling that although this is the last of my series it will no doubt not be the end of the Administrator's meddling and intervention in the question of a second airport in the Twin Cities. Mr. Shaffer has gone back on his word before to me and I seriously doubt that the exposure of his conduct through my reports to the House will deter him from future pressure tactics.

If there is any cause for optimism it is from the assurances from the local officials involved that they will resist intimidation from Mr. Shaffer. As I said before I have never questioned Mr. Shaffer's right to express a "professional" opinion on a matter involving aviation and the Twin Cities. I do question his right continually to bludgeon local officials and to break his repeated pledges of neutrality.

The other note of optimism arises from the feeling that through these reports I have alerted our colleagues in the House to the threat that Mr. Shaffer represents. If nothing else this series has informed our colleagues of what to expect if a Member of the House finds himself on the opposite side of a question with Mr. Shaffer.

Mr. Speaker, I have been asked by some of our colleagues, in the light of Mr. Shaffer's conduct in this affair, why I have not called for his resignation or his firing. I have not done this, Mr. Speaker, because the conduct of the Administrator which is notable for his incredible charges that those who oppose his views are "myopic, archaic, and have their heads in the sand," has stripped the Administrator of whatever influence that he might have.

While I have been constantly dismayed by his refusal to stay out of State and local matters his insistence upon butting in again and again has left him in the position of the boy who shouted "wolf" once too often. His bulldozing tactics have lost their effectiveness. With this being the facts of life there is no need to ask that Mr. Shaffer either resign or be removed from office—his actions have made it such that the office is now impotent so far as Twin Cities officials are concerned. The office might as well be vacant so far as making any difference to those who once sought his advice.

And so, Mr. Speaker, I conclude this story of the sorry and indefensible conduct that has been displayed by the Administrator. I end not on any note of elation for it is hardly a proud duty to document the arrogance of a Federal bureaucrat who occupies a responsible position of public trust. But it is a duty I felt necessary to perform so that others will be warned in the future.

U.S. POSTAL SERVICE TX–786

(Mr. PICKLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, many Members are growing concerned with the U.S. Postal Service. The new corporation has not yet proven they can give better service, yet they have increased the rates.

To compound the irony, the Postal Service has fueled the fire by eliminating—for all practical purposes—the postmarks of colorful towns throughout the United States in favor of some numerical gibberish like TX–786.

I see no justification for destroying the facts and fictions and traditions which have grown up around such colorful postmarks in my district as Snook, Dime Box, Pflugerville, and Cat Spring. There is something basically wrong with a hardhearted or hardheaded bureaucrat who prefers a bunch of postmark numbers to Patman's Switch.

I think it is time the Congress assert itself in saving a little bit of Americana.

Recently, I prepared a newsletter on this subject and, in the hopes that more will join in this cause, I include that report now:

U.S. POSTAL SERVICE TX–786

That's what was postmarked on a letter that came in yesterday. It did not come from the Pacific Fleet or Henry Kissinger somewhere in China. It came from Schulenburg, Texas. It could have come from Pflugerville, Prairie Lea, Wimberley, or Bluffton.

In one fell swoop, the Postal Service has replaced local color, history, and pride with a set of numbers which might warm a mathematician's heart—but not a hometown booster's.

When I raised this question earlier, a news service ran the story on the national wire. I received sympathetic letters from throughout the United States, Canada, and Puerto Rico. Obviously, the people don't like being computerized.

The Postal Service in Washington attacked me as being "political."

Nuts.

Washington Postal Services officials say their job is to deliver the mail—period. I disagree. They—this new corporation—say someone in Snook can still get their local postmark. But I note that they have to go downtown to the Post Office, usually between certain hours, to do so. And a whole lot of the mail will still simply be "Postal Service number so-and-so."

I think a compromise could be worked out using both the U.S. Postal Service jargon and still retaining the local postmark. The small communities are the guts and backbone of this nation. Their fierce hometown pride should not only be preserved but encouraged.

Besides . . . how does J. Edgar Hoover trace an extortion letter from U.S. Postal Service IA503?

Footnote: Ever heard of Nameless, Texas? That's in our district. The name came from an earlier hassle with Washington. Nameless is not far from Trail's End and it used to be called Fairview. But, one of my constituents in a delightful letter last week writes: "Washington, D.C., wrote there was already a Fairview. Three or four names were suggested but were all turned down. The folks got mad and wrote back—let'a be nameless, and be damned." And so the town was called Nameless. That's what the Postal Service apparently is trying to call all our towns.

Nuff said.

TAX BREAKS FOR HOMEOWNERS

(Mr. GREEN of Pennsylvania asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GREEN of Pennsylvania. Mr. Speaker, today I am introducing a bill which would eliminate the tax benefits presently being received by slum landlords and which would provide a new tax deduction for average homeowners who make improvements in their residences.

For far too long we have been subsidizing the destruction of residential properties in our cities.

The average homeowner who cares enough about his neighborhood and his home to keep the property up gets no tax breaks. Instead, he is likely to be subjected to an increased assessment and, therefore, winds up paying higher taxes for having repaired his property. Yet, we give greedy, nonresident slumlords tax breaks in the nature of a depreciation allowance, whether or not they operate their buildings in compliance with the law.

My bill is designed to change that by giving assistance to the average guy who keeps up his home and denying depreciation allowances to nonresident owners who maintain their properties in violation of Federal, State, county, or municipal housing codes. It provides $1,000 per year deduction for expenses incurred in having exterior painting, plastering, carpentry repairs, plumbing and heating work, electrical work, roofing, and painting done to owner occupied residential property. Any other similar items which lengthen the structural life or soundness of the building would also be covered.

The absurdity of our whole housing concept is that, after we have encouraged destruction with our tax policies, we then ask taxpayers to pay billions to correct our mistakes.

This absurdity must end. My bill is a step toward ending it.

The bill follows:

H.R. 14062

A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements in owner-occupied residential property and to eliminate the property depreciation allowance for certain non-owner-occupied rental property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as section 219 and by inserting after section 217 the following new section:

"SEC. 218. REPAIR OR IMPROVEMENT OF TAXPAYERS' RESIDENTAL PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement (including exterior painting, plastering, carpentry work, plumbing and heating work, electrical work, roofing and glazing, pointing, and any similar items which lengthen the structural life or soundness of the building) of the taxpayer's owner-occupied residential property.

"(b) LIMITATIONS.—The deduction allowed a taxpayer under this section shall not exceed $1,000 for any taxable year. (2) No deduction may be allowed under this section with respect to any capital expenditure."

(b) The table of sections for such part VII is amended by striking out

"SEC. 218. Cross references"

and inserting in lieu thereof

"SEC. 218. Repair or Improvement of Taxpayers' Residence.

"SEC. 219. Cross references."

(c) Section 62 of such code (relating to definition of adjusted gross income) is amended by inserting after paragraph (8) the following new paragraph:

"(9) Repair or Improvement of Taxpayers' Residence.—The deduction allowed by section 218."

(d) Section 167 (a) of such code (relating to depreciation) is amended by deleting the period at the end of subsection (2) thereunder and inserting "except non-owner-occupied residential rental property which is maintained in violation of Federal, State, county, or municipal housing codes or regulations."

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

THE 151ST ANNIVERSARY OF GREEK INDEPENDENCE

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, March 25 marks a milestone in the proud history of Greece. One hundred and fifty-one years ago, on March 25, 1821, Greek patriots raised the flag of revolt against their Turkish oppressors. The cause of Greek independence immediately caught the imagination of the American people, and expressions of sympathy and solidarity were forthcoming from communities across our Nation. Although the Greek struggle for independence was long and bitter, the tide turned with the intervention of the British, French, and Russian navies at the Battle of Navarino on October 20. 1827, when the Turkish fleet was defeated and destroyed. Subsequently, a peace treaty was signed at Adrianople calling for Turkish recognition of Greek sovereignty. At long last, after more than 400 years of foreign domination, Greece was recognized as a free and independent nation.

During the next century, the Greeks devoted their efforts to establishing a stable government and to promoting economic stability and social progress. When they were threatened anew with the opening of World War II, again they showed their fierce devotion to freedom and independence. On October 28, 1940, Greece rejected the Fascist ultimatum to surrender. "Okhi!"—"No!"—was the Greek reply, and this famous response is remembered annually in the Okhi Day Holiday which celebrates the Greek determination to remain free.

The end of World War II brought no respite to the Greeks. Their country was devastated, and they faced a new threat within their borders in the form of armed Communist bands seeking to overthrow the Government. However, once more they showed courageous determination to preserve their liberty at all costs. The struggle against the Communist threat was aided substantially by America's pledge to assist the Greek people in their fight against the Communist rebels. America's pledge became popularly known as the Truman doctrine for it came in the form of an announcement on March 12, 1947, by former President Harry S. Truman. At that time, Truman noted:

The valor of Greece . . . convinces me that the Greek people are equal to the task.

Finally, in 1949, America's faith was rewarded, for hostilities came to an end and the Greek struggle against the Communist forces was successfully concluded.

The ideal of democracy, born in ancient Greece over 2,000 years ago, has prevailed, and in fact, has inspired other nations in their struggle against oppressors. And the notable Greek contribution to philosophy, art, medicine, mathematics, drama, and countless other areas has influenced in large measure the course of history and the advancement of world civilization.

It is thus a pleasure to extend greetings to the Greek people in my own city of Chicago, in our Nation, and all over the world on the occasion of their Independence Day and to recall a century and a half of genuine friendship between the people of America and the people of Greece.

HIGH RETAIL BEEF PRICES BENEFIT NO ONE

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, last Friday, March 17, I appeared before the Democratic Study Group's Consumer Task Force on Food Prices to discuss current beef prices. I pointed out that Kansas and Midwest beef producers were not the beneficiaries of high retail beef prices; that indeed prices for cattle on the hoof were no higher than they were 20 years ago while retail beef prices had risen from 40 to 70 percent.

This week Giant Food stores took full-page advertisements on a pro bono publico basis to advise consumers to buy substitute foods and boycott beef; that beef prices were the highest since the Korean war and that the problem was at the source, that is, the farmer.

That, of course, is a complete falsehood. Fortunately, the majority leader in the other body, the esteemed Senator from Montana, nailed this point in a statement Wednesday.

Yesterday I wrote Joseph Danzansky, president of Giant, and William S. Mitchell, president of Safeway Food Stores, in an effort to point out a few facts that they both conveniently overlooked. I also took occasion to call the matter to the attenion of Mr. Newbold Noyes, editor of the Evening Star, in which the Giant full-page ad appeared. The Star is an estimable newspaper and I do not believe it would wittingly want to be a party to what is passed off as an institutional advertisement designed to inform the public which instead misleads the consumer buying meat at the retail counter.

Mr. Speaker, we are all consumers. None of us is happy with high prices for anything, including beef. Neither my wife nor Kansas beef producers are happy about high retail beef prices. I am simply fed up with this campaign to make the beef producer the culprit when the entire price rise goes to the middleman—the processor and the packer and the wholesaler and the retailer.

Incidentally, I note that Secretary of Agriculture Butz is quoted in the Evening Star as having told some guests at the White House Tuesday evening:

Giant right now is getting a higher profit on poultry without reducing the price that it was getting on beef.

That is morality for you; urging housewives not to buy beef because you can make more profit on poultry!

Mr. Speaker, I include my statement before the Consumer Task Force, the text of my letters to Giant and Safeway and to the Evening Star at this point in the CONGRESSIONAL RECORD.

HIGH RETAIL BEEF PRICES BENEFIT NO ONE

(Statement of Hon. JOE SKUBITZ, Republican of Kansas, before the Consumer Task Force of the House of Representatives Democratic Study Group)

Thank you, Mr. Rosenthal. I am grateful to you for the opportunity to appear here at this hearing into food prices.

I don't want to be misunderstood. I am a consumer and I speak for consumers in my own District of Kansas. They too are suffering from high food prices and high meat prices and they too, like all of us, are looking for relief. Too many people who know that Kansas is an important beef producer, that livestock is the State's number one industry, jump to the conclusion that Kansans approve of these high retail beef prices.

The fact is that Kansas consumers and Kansas beef producers feel about high retail beef prices just as Mr. Rosenthal does, just as his New York housewives do, and just as my wife does.

Indeed, food prices are high not only in New York City and in Kansas but throughout the country. As a matter of fact, retail meat prices are actually higher in some stores in Kansas and Nebraska than they are in New York and Washington retail stores. High retail beef prices have not benefitted and do not now benefit Kansas livestock producers by a single penny.

The high meat price cluprit is higher processing costs, higher labor costs, higher transportation costs. These are the factors that have been directly reponsible for retail meat price hikes that average more than 40% during the last twenty years. It is these factors and the invisible profit margins to those who handle meat from the day the animal leaves the slaughtering pen until it is picked up in a saran-wrapped fancy package on the chain store meat counter that are largely responsible for today's beef prices in the stores.

I aim to set the record straight, to document what has happened to livestock prices and retail meat prices over the past twenty years, and once and for all to remove the misplaced and unjustifiable blame placed on livestock growers for high retail meat prices.

I want to refute as emphatically as I can the mindless and totally unrelated suggestion now being heard in various quarters that the way to solve the meat price situation is to lift quotas on foreign beef and import it from Australia or Argentina or Mexico. The facts tend to prove that increases in beef supply, whatever their source, do not greatly affect the retail price. They do and will drive down the price of beef on the hoof for the American livestock producer with no benefit to the consumer.

Let us now look at a few figures. Twenty years ago, in 1952, cattle prices on the hoof stood at 140% of parity; in short, they were 40% higher to the cattleman than what had been established as a then-equitable

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price based on all other existing comparable costs. In January of 1952 the average price for cattle on the hoof was about $35 per hundred weight. Some higher grades brought $39 a hundred.

Now 20 years later, cattle on the hoof were selling a week ago at 88% of parity, a price 52% lower relatively than the cattle producer received for his beef 20 years ago. Indeed, the average slaughter price for beef in Kansas last month was $32.60 per hundred weight. The price has since dropped another $1.20 a hundred to $31.40. Cattlemen in Kansas this past week got 15% less for their average beef than was paid 20 years ago.

Match that price fact with anything else you buy!

Now let's look at the comparative retail prices of beef in the stores twenty years ago and now. I asked the Bureau of Labor Statistics for a compilation of average retail beef prices in New York and Washington on the nearest identical dates for the same cuts of beef. Let me read them to you.

Here are the New York comparative prices:

	March 1952	January 1972	Percent increase
Round steak	$1.18	$1.71	47
Rib roast	.85	1.16	40
Chuck roast	.77	.81	7
Hamburger	.66	.93	49
Here are the Washington comparative prices:			
Round steak	1.13	1.42	29
Rib roast	.88	1.22	40
Chuck roast	.76	.80	7
Hamburger	.66	.69	5

I might note that since hamburger varies so widely in quality, the indicated price increase is probably not significant.

Perhaps a more valid and meaningful comparison may be derived by scanning newspaper advertisements in the two cities 20 years ago and recently. Afterall, these are the prices that the consumer pays at the meat counter.

So, while the price of beef at the farm remained static, what happened to the retail price at the friendly neighborhood chain store in New York and Washington. Well, let's look at the record, the newspaper advertisements.

In New York, according to advertisements in the New York News of March 3, 1952, chuck roast was selling for 69¢ a pound at the A & P and Safeway; rib roast was quoted at 79¢ a pound at Safeway; ground beef at 65¢ a pound at both stores; pot roast at 85¢ and round pot roast at 97¢.

In Washington, on March 1, 1952, Giant in an advertisement in the Washington Post quoted rib roast at 71¢, chuck roast at 61¢, ground beef at 59¢, sirloin and round steak at 87¢ and porterhouse steak at 97¢ a pound. Acme and Food Fair prices on the same cuts, when advertised, were identical on that day.

Now, let's look at the prices for the same cuts of beef, the same advertisements in the same newspapers in some of the same stores in 1972, twenty years later.

In the New York News of February 14 and 16, ground round was $1.09 per pound at Daitch-Shopwell and Bohacks, an increase of about 70% over twenty years ago. Chuck roast was quoted only by Daitch's and at 99¢ per pound, an increase of 42%. Round roast, priced by Bohacks, ranged from $1.29 for the bottom roast to $1.39 for the top round, an increase of from 32% to 42% from the ordinary pot roast of 20 years back.

Unfortunately, a detailed comparison, cut by cut, is not possible since all four stores checked in New York—Grand Union, Bohacks, A & P and Daitch-Shopwell—advertised new and entirely different cuts than in former years—another device which permits the price to be raised to the consumer.

The story is about the same in Washington. In the March 6 advertisements in the Washington Post, chuck steak was 99¢ a pound in two stores and 98¢ in one, an increase of approximately 60%. Rib roast was quoted at 99¢ a pound at the A & P, a relatively modest increase of just under 40%. Safeway quoted ground beef at 69¢ a pound, and Magruders and Acme priced ground chuck at 89¢ a pound, an increase in ground beef of 20% and of ground chuck of approximately 40%. Safeway posted rib roast on March 9, at $1.49 a pound and Magruders had the same cut at $1.09 compared with Giant's 71¢ a pound 20 years ago, increases of 103% and 70% respectively.

I won't burden the record further. I think the point is clear. Retail meat prices, laying aside differences in cuts, are on the average at least 40% higher today than they were 20 years ago in our large eastern metropolitan areas.

Labor costs have jumped enormously at the processing and packing plants and in the retail stores. Hourly wages in packing plants have gone up 44% in the last decade alone while hourly wages in retail groceries and butcher stores have jumped 48% in the past ten years. The housewife is paying for these costs in the added price for beef. Transportation costs have soared tremendously and again the consumer is paying for that in the retail cost of beef.

Mr. Rosenthal, in his statement in the February 18 CONGRESSIONAL RECORD, included an editorial from the New York Post critical of Secretary Butz's suggestion that a consumer boycott of meat prices will bring down prices. The New York Post editorial suggested more foreign beef imports to stop American livestock producers from fattening their profits!

Some fattening! Some profits!

The Post, incidentally, has raised the newsstand price of its paper 200% in the same twenty year period. Would it be fair to suggest that this is price gouging? Of course not. The Post doesn't have to convince anyone that its labor costs and its newsprint costs and all its other costs probably went up 100% or more to justify the present 15¢ per copy as compared with 5¢ a copy in 1952.

One wonders why the Post, in its wisdom, is so willing to charge the cattle producers with making high profits when, unlike the Post, their selling price today is actually lower than it was 20 years ago.

It cannot be emphasized too strongly that cattle prices at the slaughtering pens are today lower than they were twenty years ago. Why?

Simply because the cattle grower had to meet the same inflationary spiral, the same increased costs of labor, the same rise in transportation costs that the New York Post had to meet and that all American business has had to meet.

Unfortunately, unlike the Post, the cattle producer has not been able to pass on the added cost. To bring them to market, his cattle cost him the same 40% to 60% more in labor and feed prices but he gets no more for them because he is paid what the packing house corporations and conglomerates dictate.

The answer must be obvious even to the least informed. The increased cost in meat at retail—that tremendous spread in price between what is paid the grower on the farm and what the housewife pays at the butcher counter—has gone to the middlemen. That 40%, 50% and even 100% margin went to the people between the farmer and the housewife and the people who work for them.

Mr. Rosenthal expressed it well when he said that " . . . the sad thing about this food price increase is that the individual farmer will probably see very little of the money because it will be going to the agribusiness corporations including the packers and processors."

If we are going to look into what has happened to food prices these past 20 years, and specifically beef prices, I suggest that this investigation zero in on national wage policies. Basic farm prices just have not been a factor in the food price rises of recent years.

Price controls and raising beef import quotas will not, in my judgment, reduce meat prices at retail. Meat consumption in this country has risen from 60 pounds per capita 20 years ago to 117 pounds per capita this past year and our cattle ranchers and feeders continue to increase production to meet demand without having increased the slaughter price.

I submit, Mr. Chairman, that this is a remarkable accomplishment and one to be commended. What we need in this country, and in my State of Kansas, is further encouragement to the beef producers to produce and market more cattle. They need better prices to meet increasing costs.

I suggest Mr. Rosenthal, that the time has come for consumer advocates and leaders like yourself to launch a crusade to reduce that middleman spread and bring prices down where they belong, based on what the grower is now getting for his cattle.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 22, 1972.

Mr. JOSEPH B. DANZANSKY,
President, Giant Foods, Inc.,
Lanham, Md.

DEAR MR. DANZANSKY: Giant Foods' full page advertisement in yesterday's (March 21) Evening Star amazes me and all informed persons. If your "consumer advisor", Mrs. Peterson, is responsible I suggest that she be a bit more careful of her facts and that you, as one who prides himself on being a public spirited citizen, pay somewhat more attention to the facts before approving new public policies for a major food supplier in this area.

Item. Why don't you compare beef prices on the hoof today with those of 20 years ago? You will find that the price per hundred weight is actually lower than in 1952.

Item. Why don't you compare Giant's retail prices for a series of beef cuts yesterday with those for the same cuts twenty years ago. You will find that they range from 40% to 70% higher.

Item. Why don't you tell the consuming public who is getting this 40% to 70% markup; why not explain graphically just how the housewife's dollar spent for beef is being distributed and to whom?

Item. Why not attempt to deal factually and intelligently with the wage spiral over the past twenty years as a major factor in the increased cost of meat to the consumer and its effect on meat prices by the packer and processor and by you as the retailer.

Item. Why use such an inflammatory and misleading statement that "beef is at the highest level since the end of the Korean war" and "it begins at the source" which is designed to suggest that the reason for high meat prices in your stores is because cattle prices on the farm are high. Wouldn't it have been more honest to put the facts in proper perspective?

a. For example. Twenty years ago beef prices paid to the producer by the packers were 140% of parity; today they are at 88% of parity or less. Does that indicate that the beef producer is the mercenary culprit? Even Mrs. Peterson must understand that *all* prices and wages have changed in twenty years and that parity is merely a reflection of existing costs and prices. Is it fair to suggest that the beef producer is supposed to absorb the increased costs for labor and feed over the past twenty years and should now sell his beef for less—52% less in relative parity levels than he did twenty years ago?

b. Last Friday Omaha prices for prime live steers were $35.75 a hundred pounds, down $1 a hundred for the week and down $2.40 a hundred for the twenty-year high in January. Kansas prices for average beef ranged around $32 a hundred pounds. Nevertheless, cattle shipments of 23,000 head at the 11 major terminals were 30% greater than a week ago. In the preceding week, 600,000 cattle were slaughtered at the federally inspected packing plants, 19,000 more than the previous week and the largest volume in more than two months. Does this look like the beef producer is the greedy culprit holding back his product for higher prices?

Item. Why not tell consumers why meat prices at retail gyrate widely, sometimes from day to day or week to week; why Giant has "specials" on certain meats or cuts of meat every other day. Wouldn't it be more honest to explain that the control of meat prices rests largely with the packers and processors who determine the prices paid for cattle and the price the retailer pays them? Wouldn't it be fair to explain that their daily and weekly quotations to you affect and control your prices to the consumer?

I am not disputing your right to buy full page advertisements, nor the Star to accept them, to suggest that consumers buy meat substitutes, particularly if Giant does not enjoy the margin of profit on beef that it does on fish or poultry or cheese. But you have no right, in my judgment, to suggest that a boycott of beef by consumers is the appropriate manner in which to bring the farmer to heel when he is today relatively worse off economically than any segment of our economy.

As a busy man, involved in all sorts of community enterprises, I doubt that you would have the time to read the text of my recent statement on retail beef prices before the Rosenthal subcommittee of the Democratic Study Group. But perhaps you could suggest that Mrs. Peterson and your advertising people glance through it before they prepare additional so-called public interest advertisements.

Regretfully yours,

JOE SKUBITZ.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 22, 1972.

Mr. WILLIAM S. MITCHELL,
President, Safeway Stores, Inc.,
Oakland, Calif.

DEAR MR. MITCHELL: As president of Safeway Stores, Inc., I presume you are knowledgeable about, and perhaps responsible for, Safeway advertising suggesting that current beef prices are inordinately high and that consumers boycott meat purchases and buy substitute protein food. Could I suggest that it would be prudent to be a bit more careful of the facts, all of the facts, so that the buying public will not be misled.

Safeway particularly, as a feeder, slaughterer and retailer, in effect a vertical conglomerate in this field, should exercise especial caution since it, as the complete middleman knows where the spread goes between slaughter prices and retail beef prices at the Safeway counter.

Item. Why don't you compare beef prices on the hoof today with those of 20 years ago? You will find that the price per hundred weight is actually lower than in 1952.

Item. Why don't you compare Safeway's retail prices for a series of beef cuts yesterday with those for the same cuts twenty years ago. You will find that they range from 40% to 70% higher.

Item. Why don't you tell the consuming public who is getting this 40% to 70% markup; why not explain graphically just how the housewife's dollar spent for beef is being distributed and to whom?

Item. Why not attempt to deal factually and intelligently with the wage spiral over the past twenty years as a major factor in the increased cost of meat to the consumer and its effect on meat prices by the packer, processor and the retailer and by you as all three plus a feeder and producer.

Item. Why use such inflammatory and misleading statements designed to suggest that the reason for high meat prices in your stores is because cattle prices on the farm are higher. Wouldn't it have been more honest to put the facts in proper perspective?

a. For example. Twenty years ago beef prices paid to the producer by the packers were 140% of parity; today they are 88% of parity or less. Does that indicate that the beef producer is the mercenary culprit? Even Safeway must understand that *all* prices and wages have changed in twenty years and that parity is merely a reflection of existing costs and prices. Is it fair to suggest that the beef producer is supposed to absorb the increased costs for labor and feed over the past twenty years and should now sell his beef for less—52% less in relative parity levels than he did twenty years ago?

b. Last Friday Omaha prices for prime live steers were $35.75 a hundred pounds, down $1 a hundred for the week and down $2.40 a hundred for the twenty-year high in January. Kansas prices for average beef ranged around $32 a hundred pounds. Nevertheless, cattle shipments of 23,000 head at the 11 major terminals were 30% greater than a week ago. In the preceding week, 600,000 cattle were slaughtered at the federally inspected packing plants, 19,000 more than the previous week and the largest volume in more than two months. Does this look like the beef producer is the greedy culprit holding back his product for higher prices?

Item. Why not tell consumers why meat prices at retail gyrate widely, sometimes from day to day or week to week; why Safeway has "specials" on certain meats or cuts of meat every other day. Wouldn't it be more honest to explain that the control of meat prices rests largely with the packers and processors who determine the prices paid for cattle and the price the retailer pays them? Wouldn't it be fair to explain that their daily and weekly quotations affect and control your prices to the consumer?

I am not disputing your right to buy full page advertisements, nor the newspapers to accept them, to suggest that consumers buy meat substitutes, particularly if Safeway does not enjoy the margin of profit on beef that it does on fish or poultry or cheese. But you have no right, in my judgment, to suggest that a boycott of beef by consumers is the appropriate manner in which to bring the farmer to heel when he is today relatively worse off economically than any segment of our economy.

As a busy man, I doubt that you would have the time to read the text of my recent statement on retail beef prices before the Rosenthal subcommittee of the Democratic Study Group. But perhaps you could suggest that others of your staff and your advertising people glance through it before they prepare additional so-called public interest advertisements.

Regretfully yours,

JOE SKUBITZ.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 22, 1972.

Mr. NEWBOLD NOYES,
Editor, The Evening Star,
Washington, D.C.

DEAR MR. NOYES: I am well aware that the editorial department does not concern itself with advertising—except, of course, to the extent that advertising helps keep a newspaper alive.

Nevertheless, it has occurred to me that in-depth news handling and fairness might suggest to the Food Page editor, or even to a discerning editorial writer, that the Giant advertisement referred to in my letter to Mr. Danzansky, and in similar advertisements by Safeway, is certainly misleading and may not be entirely factual. A newspaper such as the STAR owes its readers more, I believe.

Sincerely,

JOE SKUBITZ.

INTERNATIONAL MONETARY REFORM—LET US GET GOING

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

Mr. REUSS. Mr. Speaker, by passing overwhelmingly earlier this week H.R. 13120, to modify the par value of the dollar, the Congress has constructively cooperated with the administration Phase I of international monetary reform.

I am confident that Congress will cooperate equally constructively with the vastly more important phase II of international monetary reform. This is the sense of the one agreed statement of all Members—Republican and Democratic—of the joint committee in its 1972 joint economic report, released today. While differences throughout the 150-page report by Republicans and Democrats, and by Members of each party, were deep and wide on almost every issue, all agreed in the following statement:

> We must promptly start negotiations on longer term international monetary reform. We should explore the potential of utilizing such reform as a means to promote capital flows toward less developed countries. A reformed international monetary system should guarantee sufficient exchange rate flexibility.

To the same effect are the report's majority views on international economics, pages 59 to 67; the minority views, pages 126 to 136; and the additional views of Senator JACOB K. JAVITS, pages 137 to 139.

This same view—that international monetary reform is needed, and that negotiations should start now—runs through the mainstream of international monetary utterances since the crisis of last August 15.

On September 13, 1971, the six of the European Economic Community—France, West Germany, Italy, Netherlands, Belgium, Luxembourg—came on strong for a reconstruction of the international monetary system, stressing the modification of fixed parities, the growing reliance on "reserve instruments collectively created and managed internationally," and attention to "the needs of developing countries." Three days later, Japan, Canada, Great Britain, Sweden, and Switzerland, indicated their adherence to the declaration of the six.

The spirit of reform was reiterated—this time with the United States joining in—in the December 18, 1971, communique which followed the group of 10 Smithsonian meeting in Washington. That communique concluded:

> The Ministers and Governors agreed that discussions should be promptly undertaken, particularly in the framework of the IMF, to consider reform of the international monetary system over the longer term. It was agreed that attention should be directed to the appropriate monetary means and division of responsibilities for defending stable ex-

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change rates and for insuring a proper degree of convertibility of the system; to the proper role of gold, of reserve currencies, and of Special Drawing Rights in the operation of the system; to the appropriate volume of liquidity; to re-examination of the permissible margins of fluctuation around established exchange rates and other means of establishing a suitable degree of flexibility; and to other measures dealing with movements of liquid capital. It is recognized that decisions in each of these areas are closely linked.

The spirit of reform is thus bipartisan, multinational, desperately needed, and long delayed.

And what of the administration, and particularly the Treasury, where the responsibility lies?

Like a patient suffering with a fever, the Treasury's attitude toward reform comes in fits and starts, interspersed with periods of profound coma. There was the swashbuckling activity of August 15, followed by months of ambiguity and inaction. Then there were the great December moments at the Azores and the Smithsonian, followed again by months of innocuous desuetude.

Just in the last few days have come some overt and visible signs that the administration and the Treasury are again thinking about monetary reform. The Treasury's view on international monetary reform is that it is "wrestling with the complexities of this most complex subject."

All sorts of bold new ideas, undreamt of in the Smithsonian philosophy, are being floated. As reported in the New York Times of March 11, Secretary Connally is toying with "an idea for a future world economy divided openly and purposely into several major blocks."

Again, as reported in the Wall Street Journal of March 20, Secretary Connally advocates an "automatic discipline" against countries that run chronic surpluses in their balance of payments, a discipline which would require surplus countries to give up part of their excess monetary reserves to a special fund from which deficit countries could borrow. The idea was so new, reported the Wall Street Journal, that the Secretary has not yet been able to discuss it with his "key strategist," the Under Secretary for Monetary Affairs.

The principal thing holding the Treasury back, it appears, is its inability to decide on just whom to negotiate with.

I speak today, because I believe there is a proper forum for the negotiation of international monetary reform, one that should be convened without delay; that there is a proper subject matter for negotiation, with most of the technical details already well thought through; and that there is a proper timetable, one looking toward the practical achievement of monetary reform by the time of the annual meetings of the International Monetary Fund–World Bank in Washington next autumn.

I shall discuss these questions of Reform—Who? Reform—What? and Reform—When? And I believe that the Congress will support constructive initiatives by the administration along the lines I project.

REFORM—WHO?

On the question of the proper parties and forum for negotiating international monetary reform—an obvious first order of priority—the Treasury's position, as stated in the Wall Street Journal of March 20, hints at simultaneous negotiations in three places:

> One among the traditional "Group of Ten" key industrial countries, one in another group representative of the 20 nations on the executive board of the IMF, and a new group representing major power blocks.

Simultaneous negotiations with three vaguely overlapping groups sounds to me like a poor way to proceed. We do not have enough expert jugglers to keep three balls in the air at once. Neither does anybody else.

Apart from the dispersion of energy involved in simultaneous negotiations in three forums, two of the three forums suggested are poor ones. Secretary Connally himself has criticized the Group of Ten as being "limited to industrial nations and wealthy nations." He is quite right. With the UNCTAD countries about to assemble in an indignation meeting in Santiago, Chile, in the next few weeks, it does not make sense to pick a forum for monetary reform which would exclude them.

Likewise, to adopt the Treasury's obsession with "major power blocs" concedes too much to the curse of bigness. Why in the name of commonsense do we want to go around forming power blocs—European, Japanese, African, Latin America, or any other kind? Within the power bloc, they tend to set up a hateful master-slave relationship. Between and among the power blocs, they make for aggressiveness, when what is needed is cooperation.

That leaves the third Treasury suggestion—"another group representative of the 20 nations on the executive board of the IMF." While the suggestion is somewhat misleadingly put, it has great merit.

In fact, the International Monetary Fund, through its Managing Director Pierre-Paul Schweitzer, on January 24, 1972, unfolded in great detail an excellent plan for a ministerial group of 20 who between them would represent all the 120 countries of the IMF. Basically, this would simply involve an upgrading to the ministerial level of the present 20 executive director groupings. Some of the IMF executive directors, like the United States, represent but one major country. Others represent a group of countries, such as the Netherlands-Austria-Yugoslavia-Israel grouping. Still others represent a greater number of less developed countries, such as the executive director grouping for 18 African countries which have all emerged from French colonialism.

The IMF January 24 suggestion is that each of these 20 groups be a little club, with a head and some deputies which would give broad-scale representation—usually through finance ministers or central bank presidents—to the various countries in the grouping. Frequent rotations would insure fairness to all countries in the grouping.

The January 24 initiative has been well received in discussions between executive directors of the fund since January.

Here is a way to achieve unity through diversity. We ought to adopt the IMF suggestion tomorrow, and convene the new 20-member streamlined monetary parliament within the next few weeks. It should stay on the job until a reform is agreed upon, for presentation to the fund's governors and then for ratification by the Fund members.

REFORM—WHAT?

Once this 20-member group has convened, it needs an agenda. Here, again, the International Monetary Fund has been spending the months since August 15 most usefully. Its able staff has refined the issues and posed some answers on the whole gamut of problems involved in international monetary reform. Dozens of staff papers have culminated in the basic document "Reform of the International Monetary System—A Sketch of Its Scope and Content," dated March 7, 1972. The paper and its predecessors have been widely discussed by the executive directors and staff of the fund, and tentative agreement is beginning to emerge.

The document concerns itself with all the basic questions of monetary reform: How to bring about prompter changes in exchange rates; how to consolidate outstanding dollar and sterling balances into special drawing rights; how to finance balance-of-payments deficits and surpluses of reserve countries; how to attain symmetrical multicurrency intervention; how to make special drawing rights rather than gold the standard in which par values are expressed; how to provide an attractive rate of interest of special drawing rights; how to make the international monetary system better serve the needs of developing countries.

The March 7 "Sketch" could serve well as a starting point for the 20-member group negotiation. For the "Sketch" so to serve would not require that the United States agree with its every point. But negotiations must start somewhere, and the "Sketch" is a good place to start.

REFORM—WHEN?

Nothing concentrates a monetary expert's mind better than the knowledge that he is expected to produce something. The goal of a new monetary agreement by the September meeting of the Fund and Bank should do just that. If the broader questions of international monetary reform are pursued with the same zeal that attended the pursuit of the realinement of last December, there should be no difficulty in accomplishing what is needed in the 6 months between now and next fall.

Nobody—certainly not the United States—will win by further delay. Delay simply exposes the world to the danger of further monetary crises, to a return to autarchy and fragmentation. Let us move.

PORNOGRAPHIC MATERIALS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 5 minutes.

Mr. HEINZ. Mr. Speaker, I am introducing a bill that I believe will substantially reduce the flow of pornographic materials and will also protect individuals against invasion of privacy.

Many people find today that the privacy of their own home will not protect them or their children from receiving mail that is unsolicited, unwanted, objectionable, and in some cases obscene. This is a type of invasion of privacy that can and must be put to a stop.

Junk mail comes to many of us because our names have appeared on mailing lists which have been sold to commercial enterprises without our knowledge or consent.

The bill I present today, Mr. Speaker, is designed to protect the individual's right of privacy by prohibiting the sale or distribution of certain information. This particular bill, in effect, would give the individual the right to control what is known about him or her and insure that information collected for one purpose will not be used for another.

The right to privacy is one every American should enjoy. To deprive anyone of this right by denying control over what he or she receives through the mail should be illegal.

I hope the House will give this bill the immediate attention it deserves.

FEDERAL FISCAL RESPONSIBILITY

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 30 minutes.

Mr. ESCH. Mr. Speaker, today I am introducing legislation which I hope will help the Congress reassert its role in assuring Federal fiscal responsibility. I would like to take this opportunity, before giving details of the bill to commend the work of the distinguished ranking minority member of the Appropriations Committee (Mr. BOW) in working toward the goal of fiscal responsibility. His original proposal in 1970 helped generate my interest in this area.

For too long Congress has been talking too much about fiscal responsibility and doing too little about it. There are at least four major areas of needed reform: Congress must institute a total limitation framework on spending. Each Member of Congress has his own set of priorities, but generally they total up to more than the available revenues. By setting an annual spending limitation, Congress would finally face up to the limitation in available dollars.

Second, there has been a lack of predictability in funding. The Legislature has failed to pass appropriation bills on time and thus the agencies and departments have been forced to function on a costly and ineffective day-to-day basis.

Third, the Federal bureaucracy has often been slow in paying its own bills to local and private contractors, causing undue hardship and costs for the individual citizen.

Finally, the legislative branch has never asserted its rightful role in determining that once funds were authorized and appropriated they should be spent. For too long the executive branch has held indiscriminate power to impound funds for specific programs and thus to subvert the intent of the Congress. The bill which I am introducing today, the Fiscal Responsibility Act of 1972, moves toward the correction of these deficiencies. It is not a bill which may attract dramatic headlines, but I believe it could become a most significant instrument for meaningful congressional reform in the area of fiscal responsibility. It reaches out to the pressure points in the authorization-appropriation-expenditure cycle to develop more effective means of channeling Federal funds. Surely our taxpayers deserve this.

In the last few months my congressional office has received a large volume of mail requesting that I help to put Congress back on the road to fiscal responsibility.

The Fiscal Responsibility Act of 1972 has four titles. Title I moves the Federal fiscal year to coincide with the calendar year. This section will help Federal budget planners and Members of Congress in doing long range comprehensive planning for the budget. At the present time Members of Congress are forced to consider the 1,100-page budget document hurriedly if they want to decide on the budget before the beginning of a new fiscal year. In recent years this has forced Congress to pass a continuing resolution which allows an agency to operate while Congress finishes its appropriations process.

Title II of the bill requires Congress to establish an annual expenditure limitation. The Congress would be required to establish this limitation 45 days after the President's annual economic message. This would force Congress to consider our Federal budget in light of limited dollars and competing priorities.

Title III of the bill establishes a Federal impoundment procedure. It establishes two types of impoundment. The President may impound funds in a department or agency on a percentage across-the-board basis and must notify Congress immediately of this action. Either House of Congress then has 60 days to disapprove of the impoundment to force the President to stop the impoundment.

If the President decides to impound funds for a particular program in a department or agency without regard to the percentage limitations he must prenotify the Congress of his intention and wait 60 days before proceeding with this special impoundment. Congress has been increasingly critical of impoundments which are targeted at particular programs. This requirement should help to limit this procedure.

The impoundment portion of the bill also includes a special section aimed at Federal officials who are unreasonably slow in disbursing funds to State and local units of government or to private contractors. If extra costs are incurred by the recipient of Federal funds because of a delay of 60 days or more, the Federal Government becomes liable for those extra costs.

The final section of the bill authorizes the Congress to undertake a study of budgetary and fiscal alternative procedures. Hopefully, this will allow Congress to continue in its upgrading of Federal budgeting procedures. In his fascinating book, "Politics of the Budgetary Process," Aaron Wildavsky states that:

> The overriding concern of the literature on budgeting with normative theory and reform has tended to obscure the fact that we know very little about the budgetary process.

The study authorized in title IV of my bill should help us to gain the knowledge necessary to reevaluate our budgetary procedure for the future.

In the next few weeks I am hopeful that many of my colleagues will join me in supporting a reassertion of the integral role which the Congress should play in assuring Federal fiscal responsibility. The Fiscal Responsibility Act of 1972 offers some positive solutions to problems in our budgeting system and I am hopeful that my proposals will receive thorough consideration this year.

I include a text of the bill and a title by title analysis of the Federal Fiscal Responsibility Act of 1972 for the benefit of my colleagues.

H.R. 14057

A bill to assure greater Federal fiscal responsibility

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Federal Fiscal Responsibility Act of 1972.

DECLARATION OF PURPOSE

The Congress declares, that in light of the increasing complexity of the Federal Government, and in light of the Constitutional requirements for congressional involvement as an integral partner in the budgetary process and because of the recent modernization of the Executive Departments' budgetary procedure that

(1) The Congress should begin to consider the Federal budget and other fiscal policies in a systematic and analytical manner;

(2) The Congress should reestablish its primary role in developing the monetary and fiscal policies of the Government of the United States;

(3) The Congress should begin to examine alternatives to present budgeting and appropriations procedures to insure that it may consider budgetary and fiscal policies in a systematic and analytical manner;

(4) the Congress should begin to consider the budget in a comprehensive manner so that competing programs and departments can be considered in a unified budget strategy which recognizes the increasing demands on the Federal tax dollar;

(5) the Congress should establish budgetary and fiscal procedures which will assure the orderly and timely channeling of funds from the Federal Government to the States.

TITLE I—MODIFICATION OF THE FISCAL YEAR

SEC. 101. Effective with the second calendar year which begins after the date of enactment of this Act, the fiscal year of all departments, agencies, and instrumentalities of the United States shall be the calendar year.

SEC. 102. The Director of the Office of Management and Budget is authorized to make provision by regulation, order, or otherwise for the orderly transition by all departments, agencies, and instrumentalities of the United States affected by section 101 of this title from the use of the fiscal year in effect on the date of enactment of this Act to the use of the fiscal year prescribed by section 101 of this title.

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TITLE II—ESTABLISHING CONGRESSIONAL EXPENDITURES LIMITATIONS

SEC. 201. Except as otherwise provided in this title, the expenditures and net lending (budget outlays) of the Federal Government during each fiscal year shall not exceed that amount which the Congress shall fix by concurrent resolution no later than forty-five legislative days, as that term is used in title II of this Act, after the latest day set by law for the budget message of the President with respect to such fiscal year. In fixing such limitation, the Congress shall consider relevant economic indicators, program goals and budgetary considerations which will be helpful in establishing a comprehensive budget strategy.

SEC. 202. The limitation set by section 201 of this title shall be increased by an amount equal to any net increase in total expenditures and net lending (budget outlays) during such fiscal year with respect to relatively uncontrollable outlays under then existing law, open-ended programs and fixed costs.

SEC. 203. The limitation set by section 201 of this title shall also be increased by an amount equal to the net increase in receipts over the estimated receipts upon which such limitation was fixed.

SEC. 204. Not later than 15 days after the sine die adjournment of each session of the Congress, the Director of the Office of Management and Budget shall report to the President and to the Congress his estimate of the net effect of action or inaction by the Congress on total expenditures and net lending (budget outlays) recommended by the President for the fiscal year following such session. If such estimate indicates that total expenditures and net lending (budget outlays) for that fiscal year would be in excess of the limitation established by section 201 of this title, as adjusted in accordance with sections 202 and 203, the Director shall specify in such report, for each activity for which he estimates expenditures and net lending to be in excess of the amount recommended therefor by the President, the pro rata reduction in expenditures and net lending required to comply with that limitation, as adjusted. Expenditures and net lending (budget outlays) for any such activity for that fiscal year shall not exceed the amount which would have been permitted by congressional action thereon, reduced by the amount specified in the Director's report.

SEC. 205. In the administration of any activity as to which (1) the obligational authority is reduced in order to effectuate reductions in expenditures and net lending (budget outlays) required by section 204 of this title, and (2) the allocation grant, apportionment, or other distribution of funds among recipients is required to be determined by the application of a formula involving the amount appropriated or otherwise made available for distribution, the amount remaining available for obligation after such reduction shall be substituted, in the application of the formula, for the amount appropriated or otherwise made available. Neither the United States nor any of its officers shall be liable for any part of the difference between the amount appropriated or otherwise made available for any activity and the amount as so reduced.

TITLE III—ESTABLISHING A FEDERAL IMPOUNDMENT PROCEDURE

SEC. 301. (a) Whenever the President impounds any funds appropriated by law out of the Treasury for a specific purpose or project, or approves the impounding of such funds by an officer or employee of the United States, he shall, within ten days thereafter, transmit to the House of Representatives and the Senate a special message specifying

(1) the amount of funds impounded,

(2) the specific projects or governmental functions affected thereby, and

(3) the reasons for the impounding of such funds.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

SEC. 302. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise), appropriated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and,

(2) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 303. (a) Except as provided for in Section 304(c), the President shall cease the impounding of funds specified in each special message within sixty calendar days of continuous session after the message is received if such impounding shall have been disapproved by either House of Congress by passage of a resolution stating in substance that that House does not favor the impounding.

(b) The Provisions of this section and Section 304 shall be considered as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(c) With full recognition of the constitutional right of either House to change the rules (so far relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) For purposes of this section and section 304, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty day period.

(e) Any resolution of disapproval as provided for in subsection (a) of this section and in subsection (c) of section 304 shall be referred to the committee in each House whose responsibility includes the authorization of appropriations for the department or agency whose funds have been impounded.

SEC. 304. (a) Except as provided in subsections (b) and (c) of this section, the President shall not impound any funds from appropriations made by the Congress for any appropriations categories of any department or agency of the federal government unless such impoundment is made in all appropriations categories of that department or agency on the basis of equal percentage impoundment among appropriations categories.

(b) Variations of up to 10 percentage points in the impoundment of funds between individual appropriations categories within a department or agency shall not be deemed as unequal percentage impoundment among appropriation categories for the purposes of subsection (a) of this section.

(c) In the event that the President desires to impound funds for a particular appropriations category within a department or agency without reference to the limitations established in subsections (a) and (b) of this section he shall submit a Presidential message as provided for in Section 301 of this act prior to any such impoundment. Either House of Congress shall have thirty days of continuous session, from submission of the message, to disapprove by passage of a resolution stating that that House does not favor the proposed impounding in contravention of subsections (a) and (b) of this section. After such time the President shall be allowed to impound that appropriations category without regard to provisions in that section.

(d) For the purposes of this section, the term "appropriations category" means each designation of a use or program in the acts of Congress appropriating funds.

SEC. 305. Any costs which are incurred by the recipient of Federal funds as a result of delay, in disbursing such funds, in excess of sixty days after the date on which such recipient was to receive such disbursement according to notification from the appropriate Federal authority shall be reimbursed by the Federal Government. The district courts of the United States shall have exclusive original jurisdiction to hear and determine cases brought under this section. This section shall not apply to any costs incurred by the recipient of federal funds as a result of delay consequent to the impounding of such funds under this title.

TITLE IV—PROVIDING FOR AN ANALYSIS OF FISCAL PROCEDURES

SEC. 401. It is the purpose of this title to authorize a study of the impact of past, present, and anticipated appropriations procedures in the Congress, including the feasibility of two-year funding of some Federal programs.

SEC. 402. (a) There is established the Fiscal Responsibility Study Commission (hereinafter referred to as the "Commission"), which shall consist of:

(1) The Comptroller General;

(2) The chairmen of the Appropriations Committees of the Senate and the House of Representatives;

(3) The ranking minority member of each of such Appropriations Committees;

(4) The chairman and the ranking minority member of the Senate Committee on Finance; and

(5) The chairman and the ranking minority member of the Ways and Means Committee of the House of Representatives.

(b) The members of the Commission shall serve without compensation and shall select from among themselves a Chairman, who may, under such rules as the Commission shall establish, appoint such staff at such salaries as may be necessary to carry out the duties of the Commission.

(c) The Commission shall—

(1) study the impact of past, present, and anticipated appropriations procedures in the Congress;

(2) consider the feasibility of funding selected Federal programs on a two-year basis; and

(3) consider such other matters in their deliberations which will assist the Congress in attaining the ability to examine budgetary questions in a comprehensive manner.

(d) No later than December 31, 1973, the Commission shall report the results of its study to the Congress, together with such recommendations including recommendations for legislation, as it deems appropriate. Upon the filing of its report under this subsection, the Commission shall cease to exist.

TITLE-BY-TITLE ANALYSIS

THE FEDERAL FISCAL RESPONSIBILITY ACT OF 1972

Title I—Changing the Fiscal Year.

This title changes the Fiscal Year to coincide with the calendar year the second year after enactment.

Title II—Establishing Congressional Expenditures Limitations.

Congress is required to establish a limitation on expenditures 45 days after the President delivers his economic message to the Congress. 15 days after the Congress adjourns sine die the Director of the Office of Management and the Budget is required to supply Congress and the President with his estimate of expenditures and if expenditures will exceed the limitation established he will specify the pro rata reductions required to bring expenditures within the limitation.

Title III—Establishing a Federal Impoundment Procedure.

This title creates two types of federal impoundment procedures. The first type of impoundment is called proportional impoundment. This procedure requires the President to notify the Congress in the event that he impounds funds on a proportional basis among appropriations categories in the department or agency where he impounds funds. The proportional impoundment limitation is not violated by variations among appropriations catagories of up to 10%. Either House then has 60 days to disapprove of the impoundment for it to cease.

If the President decides to impound funds without regard to the proportional limitation in a department or agency, he must notify the Congress thirty days in advance of the proposed special impoundment. If either House of Congress does not disapprove of the special impoundment within the required time period the President can proceed with his special impoundment for the appropriations catagory of the department or agency.

One section in this title also indemnifies recipients of federal monies against excess costs incurred as a result of delays in disbursement for non-impounded funds in excess of sixty days.

Title IV—Authorizing a Study of Fiscal Procedures.

This title authorizes a study of fiscal procedures conducted by a commission composed of the Comptroller General and the leadership in each House of the Appropriations Committee and the Ways and Means Committee of the House and the Finance Committee of the Senate. The commission has a life of one year to study alternatives to present fiscal and budgetary procedures including the possibility of funding some programs on a two year basis. At the conclusion of the study the commission will report back to Congress with recommendations.

CRIME IN THE CITY

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 25 minutes.

Mr. HOGAN. Mr. Speaker, one of the great contributions of the city in the history of man has been the opportunity city life holds for dialog among men, for exchange of ideas, for development of the arts, and literature—in short, for the advancement of civilization. Every great civilization has had a great city.

But today we continue to face a problem that holds the seeds for destruction of the very essence of the city—the ease and availability of contact with other men.

The problem is crime—crime that has distorted and perverted the way we live and the way we react to our fellow man.

I know of a doctor who has told his wife she must not drive into Washington, D.C., after dark. And she has insisted that he always ride with a dog on his night rounds.

Most of the women volunteers who help my staff from time to time will not come into Washington after dark to work at my office, and most resist coming into town even during the day.

In New York—I was there recently for subcommittee hearings on the problem of illegal aliens—in New York, the Broadway theaters have moved up their starting times to help people get off the streets and home earlier at night. But they are having attendance problems because the people just do not want to come into the heart of Manhattan at night.

My good friend Barry Farber, the radio personality, has been inundated with mail from people who are fed up with crime and who are supporting his efforts to launch a campaign against crime.

Not only are people afraid to go for a walk in their neighborhood after dark all across this Nation, they are afraid in their own homes. People are increasingly afraid to stop and help a stranded motorist. They avoid getting involved. Not long ago a young girl, half naked, ran out of the woods along Pennsylvania Avenue, screaming for help. It is estimated that between 300 and 400 people must have seen her and not one person stopped. The girl was found the next morning—raped and murdered.

Last year in Texas a serviceman was shot in a suburban neighborhood. He ran from house to house pounding on doors, begging someone to give him help, asking someone to call a doctor. Not one person answered the door. Every resident waited until he had moved down the block and then peered through partly opened doors to watch his progress. When the police finally arrived on the scene, the man lay dead in the middle of the street.

Just how serious and widespread the problem of crime is, I think, was evident in the article on crime which appeared not too long ago in Life magazine. In that issue Life presented the questionnaire responses of 43,000 readers. The survey provides strong evidence of how widespread the fear of crime is.

Life pointed out that three-fourths of those who responded worry about their safety in their own homes. The questionnaire also asked the respondents if they feel safe on the streets of their community at night. Sixty-one percent replied, "no." In cities of over half a million, the number of "no" answers rose to 80 percent.

A great deal of this fear is justified by experience. More than four out of 10 respondents reported that they or a member of their family have been victims of a crime within the past year. In cities of over a million, almost three out of five said they had been the victim of a crime.

The question is: What can we do about crime and the poison it spreads through a community?

Well, I think we have found part of the solution in the District of Columbia. Through a combination of providing large amounts of money for more and better police protection, strengthening the laws against crime and by reorganizing the courts through the District of Columbia Crime Act we have made dramatic progress in curbing crime in the District of Columbia.

In the last year since the beefing up of the police department and implementation of the Crime Act, which I was privileged to help move through the House, crime decreased by about 13 percent. In January crime hit a 5-year low and then in February set another new 5-year low.

Part of that success is due to the reorganization of the court system which has dramatically reduced court backlogs and insured swift prosecution of criminals.

Since its peak in June 1970, the Washington court backlog of felonies has been reduced by 80 percent. Last year the U.S. attorney's office returned about 4,000 indictments, nearly double the average number of indictments for the last 20 years when the U.S. attorney's office was downgrading felonies to misdemeanors because of the court backlogs.

No longer can a criminal commit a crime in Washington and feel that, even if he is caught, he will not have to face a serious penalty. That is a powerful deterrent to crime.

The District of Columbia Crime Act also nearly doubled the number of judges, allowed the hiring of 25 more assistant U.S. attorneys and created the Public Defender Service.

The result has been a decrease in crime. And, in my opinion, the District of Columbia crime bill should be a model for the Nation. Similar national legislation, I think, would be a major step in our fight against crime, but much more is necessary.

In my home county of Prince Georges for example, where there has been a disturbing increase in crime in the past few years, there appears to be a need for additional police officers. Washington, D.C., with 760,000 residents, has about 5,000 police officers. Prince Georges County, with 670,000 residents, has 630 county police officers. And the various municipalities have an estimated total of 265 part-time and full-time officers. That makes a total of about 900 police officers for a sprawling county that is farther from tip to tip than Washington is from Baltimore.

As part of an attempt to help the Prince Georges County police, I have sponsored legislation which would allow a Prince Georges policeman to pursue into the District of Columbia, anyone he has reason to believe has committed a criminal offense.

Because of current restrictions on pursuit, there are frequently times when county law enforcement officers have to stop at the District line and watch criminals slip away.

For example, last year a Prince Georges police officer spotted a man driving with an obscured license tag and when he tried to stop the car the driver tried to outrun him. Fortunately the officer was able to stop the man before he could cross into the District of Columbia and escape.

When the officer went to ticket the driver, he discovered that the driver was a suspect in an armed robbery, and inside the car he found a wig, a gun, a bag full of money and a note stating:

This is a holdup. Give me your tens and twenties.

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If the officer had not been able to stop the driver before the county line, an armed robber would have escaped. My legislation would close that escape route.

On the national level there are some other steps we can take to combat crime. Drug addiction and drug-related crime are areas we must attack.

The President has just signed into law a $1 billion drug bill which I supported and spoke in favor of in the House.

The law establishes a Special Action Office in the White House for drug prevention. The Office will organize coordinated efforts across the country to combat drug abuse.

Under the law a national center for training in drug prevention techniques will be established; treatment and rehabilitation of victims will be increased and improved: research will be conducted for a substitute for methadone in dealing with heroin addiction; and grants will be provided for State drug programs.

Enactment of the drug bill was especially gratifying to me because I have sponsored similar legislation as a member of the Republican Task Force on Drug Abuse.

I believe this bill is an important step in our battle against drugs and drug addiction, but I believe much more must be done, and I pledge that I will continue to work toward legislation which would provide for involuntary commitment of any individual a court determines is an addict. The commitment would be, in effect, a quarantine of a sick person whom we must take out of society and help to get well for his sake and society's sake.

I am also sponsoring legislation which calls for mandatory jail sentences with no possibility of parole for nonaddict pushers. Harsher penalties must be levied on pushers.

In an effort to keep runaway youths from having to turn to crime to sustain themselves, I am also sponsoring the runaway youth bill. The bill would provide youths with a place to stay briefly, strengthen the interstate reporting methods on runaways, provide notification to parents of the location of their children and offer counseling services to the youths and their families.

Those are some of the directions we are moving in to combat crime—increased police protection, streamlining of the courts, combating drug addiction and drug-related crime, and helping runaway youth. But there is one other area of crime control which demands our attention. That is America's prison system.

As John Mitchell said not too long before he resigned as Attorney General:

> The state of America's prisons comes close to a national shame. No civilized society should allow it to continue. . . . Four out of every five felonies committed in the United States is the work of a person with a criminal record. And two out of every three men released from prison are back in trouble with the law again in a very short time.

Mr. Mitchell put the case very bluntly. It does only limited good to train and equip our police forces or streamline our judicial system if our prisons are turning out criminals faster than they can be rounded up and tried. Until we bring our corrections systems into the 20th century, our other efforts will be frustrated.

In fiscal 1971 the Law Enforcement Assistance Administration provided more than $100 million to States and other units of government—solely to improve corrections.

And in fiscal 1972 the figure will be more than double that, coming close to a quarter of a billion dollars. That represents almost 100 times as much as we spent on corrections reform 3 years ago. ago.

The Safe Streets Act has provisions which require, in effect, that States virtually double their corrections spending. Furthermore, this legislation reflects the latest in corrections thinking, and requires that the money be spent on modern, community-based systems—not on perpetuating the old fortress-type prisons.

And we must learn to use the time a man serves in prison to equip him to live a useful life in the community.

If we can accomplish these goals, coupled with drug control, better police protection, and streamlined courts, then I think we are on our way to halting the spread of crime.

The "crime" of crime is what it does to man and his relationships with other men. We must be able to live without fear so that we can live as man should live—freely, openly, and dedicated to the service of one another.

NATIONAL STANDARDS NEEDED FOR SAFE DRINKING WATER

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 5 minutes.

Mr. ROBISON of New York. Mr. Speaker, many of us who have been working for the past 2 years for national drinking water standards were heartened by the recent testimony of Robert W. Fri, Deputy Administrator of the Environmental Protection Agency, before the Senate Subcommittee on Environment. In the course of his statement, Mr. Fri gave EPA's endorsement for legislation which would have the Administrator of EPA set national drinking water standards for all health-related aspects of drinking water.

This endorsement of the principle of national standards may well remove the last impediment to House consideration of this legislation, which now rests in the Public Health and Environment Subcommittee of the House Committee on Interstate and Foreign Commerce. Our colleague from Florida (Mr. ROGERS), who is chairman of that subcommittee, took the leadership on the question of safe drinking water last May, when his subcommittee held extensive hearings on H.R. 1093, sponsored by Chairman ROGERS and several members of his subcommittee, and H.R. 437, the Pure Drinking Water Act, which I introduced in this Congress.

During those hearings, Administrator Ruckleshaus, of the Environmental Protection Agency, stated that EPA could not support the legislation pending before the House Interstate and Foreign Commerce Committee. Mr. Ruckleshaus indicated that EPA would continue its study of problems relating to drinking water supplies and would consider the need for both administrative and legislative actions. We are not exceptionally pleased to see that EPA has indeed concluded that national standards are necessary to insure the safety of drinking water, and the way is clear for expeditious House consideration of legislation which would insure that the best available technology is used to protect against chemical, bacteriological and viral pollution of drinking water.

I am very happy, Mr. Speaker, to be able to insert in the RECORD at this time the remarks of the Honorable Robert W. Fri, Deputy Administrator of the Environmental Protection Agency:

STATEMENT BY HON. ROBERT W. FRI

Mr. Chairman, I am pleased to have the opportunity of appearing before this Committee to testify on EPA's program for the protection of drinking water and to discuss Amendment 410 to S. 1478, the proposal relating to that program.

The Federal government's responsibility for protecting drinking water is centered in the Environmental Protection Agency, which inherited this authority from the Department of Health, Education, and Welfare in 1970. Historically, this program has been based on the Federal responsibility for preventing the spread of communicable diseases in interstate commerce, pursuant to the Public Health Service Act. Under this Act, EPA enforces regulations which preclude interstate carriers from utilizing water from sources which have not complied with certain required drinking water standards.

Regulations adopted under that authority are used to enforce standards for those systems which serve interstate carriers; presently, this enforcement authority applies to 665 out of an estimated 30,000 public water supply systems serving both large cities and small towns and applies only as such water is used by interstate carriers.

Under that authority drinking water standards have been established. These U.S. Public Health Service Standards, last revised in 1962, contain certain mandatory limits and recommended limits concerning physical characteristics and chemical and biological constituents affecting the quality of the water. Our regulations concerning drinking water also deal with requirements for effective control programs to limit the future risk potential of structural or operational defects of water supply systems.

Violations of the mandatory aspects of the Standards lead to prohibition of the use by interstate carriers of water drawn from that system pending the application of additional treatment or the development of an additional drinking water source. The Standards impose these mandatory limits on levels of coliform bacteria, arsenic, barium, cadmium, chromium, cyanide, lead, floride, selenium, and silver intake which can clearly affect the health of the user.

In addition, the Standards recommend limits on certain physical characteristics and chemical constituents of drinking water which are primarily of aesthetic concern in that they impart undesirable taste and odors to the water, cause discoloration of plumbing fixtures and the like.

Since the jurisdiction of our existing program is limited to those water supply systems serving interstate carriers, our enforcement covers only half of the 160 million people served by community water supply systems. We would point out, however, that most large cities and the States use the Standards in regulating the quality of their drinking water supplies. An extrapolation of the Comunity Water Supply Study, a field inspection and evaluation of 969 community water supply systems conducted by HEW in 1970, indicated that approximately 5.4 percent of the national population or 8 million people are served water that is potentially dangerous in that it fails to meet the mandatory standards set by the Federal government. These 8 million people receive unsafe water from an estimated 5,000 of the nation's community water supply systems surveyed in the Community Water Supply Study. In the majority of cases these deficient systems are smaller systems serving smaller communities. In relation to this, national health figures indicate that during the ten-year period from 1961 to 1970, there were at least 128 known outbreaks of diseases or poisoning attributed to drinking water.

While the Community Water Supply Study shows that most Americans are receiving drinking water that meets health standards, it also indicates that many of our Nation's water supply systems are subject to potential problems because individual water supply systems contain structural or operational defects; because they are manned by improperly trained personnel; and because many State and local control programs are inadequate. As a result of the inadequacies in State surveillance programs revealed by the 1970 Community Water Supply Study.

We are evaluating nine additional State control programs, we have also been reviewing the manpower and training needs required to administer public water supply programs at the State and local levels of government. We believe, as a result the Community Water Supply Study, that a lack of trained personnel is one of the greatest problems in insuring an adequate and safe water supply for the public. We have determined that the States employ about 300 engineers in water supply activities, which is about one-third the number which we believe is needed to support an effective program at the State level.

EPA is also conducting a research program to provide a better scientific base to assure safe and asthetically acceptable drinking water for public consumption. The research includes inquiry into such areas as identification and evaluation of disease producing and toxic agents that may appear in drinking water supplies, development and evaluation of water treatment processing, and development of simple and rapid methods of detection and quantification of bacteria, virus, chemicals, and toxic agents in water.

The Community Water Supply Study showed that poor operating and surveillance procedures and inadequate physical facilities, while more prevalent in smaller communities, exist in all types and sizes of water supply systems, in both large cities and small towns.

Our concern is to assure the application of adequate and up-to-date standards of quality for safe, healthful drinking water and that water supply systems are in fact reliable in delivering safe water supplies. This objective necessarily entails the use of trained and competent staffs for operating and maintaining the systems so as to deal with difficulties of the individual water system in an effective manner. We believe that this effort should and must be implemented at the State and local level.

Although our study and analysis is not yet completed, several deficiencies have clearly emerged in the over-all national approach to providing safe public drinking water supplies. First, the application of Federally enforceable standards is not broad enough to cover all community water supply systems. Second, State and local control programs, because of deficiencies in their planning, training, and enforcement activities are not providing adequate regulation of local water supply systems. Finally, from a reliability standpoint, many of the systems themselves are not capable of delivering drinking water capable of delivering drinking water of acceptable quality on a continuing basis because of their lack of adequate facilities and sufficient numbers of trained personnel.

In view of these shortcomings, we have concluded that Federal legislation is needed to address certain aspects of the overall situation. As a result we are recommending to the Committee what we believe to be the essential ingredients for legislation to correct the problems of providing safe, reliable supplies of drinking water.

Such legislation should in our view contain the following elements:

1. The Administrator should be authorized to set National drinking water standards, which would be addressed to all health related aspects of drinking water. These standards would limit the chemical, biological, radiological, or other health related contaminants that might appear in drinking water. The standards would also include requirements for the operation and maintenance of water supply systems insofar as necessary to assure achievement of the health related limits described above. We believe that the setting of such standards should be a Federal responsibility because standards needed to protect health do not vary with locality and the Federal Government can bring greater resources to assess the complex health and technical aspects involved.

2. The application of such standards should be clearly limited to drinking water supplied, and not to raw water sources. Extending the purview of standards beyond the goal of upgrading the quality of drinking water and supply systems would be a duplication of the provisions of the Federal Water Pollution Control Act, under which standards have already been established and would continue to be established relating to such raw water sources.

3. In addition to the National standards which relate to health aspects, we believe that EPA should develop and publish recommended limits relating to other constituents and characteristics which affect drinking water, such as taste, odor, and color. I would emphasize that these would be recommended limits as distinguished from the standards which specify mandatory limits. Such recommended limits are helpful as guidelines for States and localities to set out desirable characteristics for which they should strive for their public drinking water supplies even though a health risk is not involved.

4. The primary enforcement responsibility for drinking water standards, in our opinion, should lie with the States and localities. Federal authority to enforce the drinking water standards should come into play only if the States and local governments fail to act. Primary responsibility for assuring safe drinking water now rests with State and local government, and that is where we are convinced it should remain. The difficulties that we have identified with the National programs of drinking water do not stem from the present roles of respective levels of government but rather from inadequate coverage of enforceable Federal standards and from inadequate State and local programs. The solution of those problems would not, in our opinion, be effected by changing the roles of Federal or State governments in this area, but by assuring the enforcement of National standards and by strengthening State and local programs. In order for enforcement to be effective, a dual requirement should be included which would provide in cases where substantial adverse health risks are involved for immediate notification first, to State authorities and, through the States, to the Administrator and second, to the users of the water supply system. Such notice should include the extent and nature and possible health effects of such noncompliance with National standards and the remedial measures which will be taken to correct the problem. Additionally, in cases where the State or locality fails to take prompt remedial action, the Administrator should have authority to institute administrative orders as appropriate to regulate uses of the water supplies in question, prohibit new connections, regulate the source of contamination or prohibit delivery of contaminated water.

5. Each water supply system authority should have to report regularly (at least annually) to the State agency regarding the quality of water delivered. The states should also have to report to the EPA annually regarding the quality of water delivered by each system in the State. Such a reporting system is important because it would provide continuing and pertinent information as to contaminant level and operation and maintenance procedures of the individual water supply.

6. States and localities should develop strong programs of surveillance, enforcement, technical assistance, training, and long-range planning. We see a Federal role in this regard directed toward the provision of research and technical assistance in those areas that are beyond the capabilities of the States.

7. Any drinking water legislation should clarify that the Administrator continue to be authorized to promote and conduct research into all aspects of water hygiene. We believe such research is necessary to provide the scientific data and methodology that will enable the Federal, State, and local entities involved in the supplying of drinking water to effectively perform their respective responsibilities.

Mr. Chairman, it appears that many of these elements, which we consider necessary in any Federal drinking water legislation, are provided in Amendment 410 to S. 1478. However, we have difficulty with the following aspects of this Amendment. First, we do not believe that program grants as suggested in Section 302(m) are necessary or desirable. They would serve to help erode State responsibility and make State agencies dependent on Federal support. We believe that enforceable Federal standards, coupled with adequate monitoring requirements, will serve to stimulate improved local programs.

Second, we feel that the standards published pursuant to Section 302(a) of that Amendment should not apply to the "raw water source" or drinking water supply. In the same regard, the "National Water Hygiene Standards" of Section 302(b), which relate to various undesirable substances in "lakes, rivers, streams, bays, inlets, or other inland and coastal waters" are, in our view, an inappropriate requirement. These two provisions are duplicative of, and in possible conflict with, the provisions of the Federal Water Pollution Control Act and its Amendments now pending before the Congress. Under that Act, water quality standards have been established for various surface waters. Those standards specifically address water to be used as drinking water supply. Multiple inconsistent standards directed to the same end are not only unnecessary, they would in all likelihood thwart both the solution to the drinking water as well as the pollution problem.

We also have difficulty with Section 302(j) of Amendment 410 which would establish a "National Water Hygiene Advisory Council". We would prefer not to have such a body created by statute and feel that it would limit the administrative flexibility so necessary to properly perform our responsibilities.

I will now be happy to answer any questions that you might have.

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ALL-VOLUNTEER MILITARY FORCE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 15 minutes.

Mr. STEIGER of Wisconsin. Mr. Speaker, 6 months ago Congress made one of the most important commitments in its history—a commitment to provide our Nation with an all-volunteer military force.

That commitment was clearly evidenced in two ways. One, of course, was the pay boost voted for men and women in uniform. The increase—the largest ever voted by Congress— has raised military pay to a level on a par with the civilian sector.

But Congress second indicator was perhaps its most important one. Members of both Houses of Congress showed a clear reluctance to pass the draft extension bill. And when they did pass it, they made it plain that a majority did not intend to extend the draft again.

This fact was recognized—and clearly stated—only a few hours after passage of the draft extension bill last September 21 by Dr. Curtis W. Tarr, Director of the Selective Service System. Speaking at the Air Force Association's 25th Anniversary National Convention, Dr. Tarr said:

> My speculation on this is that . . . we are moving in the direction of an all-volunteer force and that it is not likely that Congress, two years from now—if they have the same feeling that they have now—will re-enact the draft. I have talked to many a man in the Senate who has said, "Look, I am going to vote for you this time, but this is the last time."

The mood of Congress which Dr. Tarr elucidated has not changed, in my view. The commitment is just as strong and growing. And the progress which has been made in our transition from an army of draftees to one of volunteers has justified that commitment.

The volunteer army concept was met with a good deal of skepticism last fall. There are still skeptics today, but their numbers are dwindling.

Headlines in military newspapers in recent months are indicative of the progress which has been made. "Recruits Make DOD Happy," said the March 1 Air Force Times. The same paper on February 16 headlined a story, "Reserve Forces Gain Despite Zero Draft Quotas." Similarly encouraging headlines have appeared as well in the Army and Navy Times.

High ranking officials in the Defense Department and within the services have also been quoted as saying that an all-volunteer army is near. All too often, though, they have spoken of it as merely a possibility, something which we might achieve if everything goes right.

Secretary of the Army Robert F. Froehlke, in testimony before the House Armed Services Committee on March 8, said this:

> Whether a volunteer army is desirable and attainable is open for debate. I answer both questions in the affirmative but recognize there is room for an honest disagreement. I believe there is not room for disagreement on the program we have developed to achieve a volunteer army. This program is a must whether or not the draft disappears.

I say this program is a must because the draft will disappear. We are going to have a volunteer army. It is going to happen, whether everything goes right or not. For this reason, it is imperative that we make every effort to insure that the transition is made as efficiently, as smoothly, as successfully as possible. If it is not, all of us will pay for the lack of preparation—both through increased defense budget demands and through a less effective defense force.

We cannot permit such a tragic thing to happen.

This is why I am taking this occasion to introduce legislation aimed at addressing areas of particular concern. I am pleased that the distinguished Congressmen SPARK MATSUNAGA, BOB WILSON, and CHARLES BENNETT have joined as sponsors.

Thus far, problems have been dealt with on a general basis—pay has been increased, efforts have been made to improve living and working standards within the military, some irritants have been removed.

But, what of specific problems? What can we do to encourage men to enlist or reenlist for special shortage skills? To convince health officials to join or stay in the military? To guarantee that our Reserves and National Guard will not be weakened in a nondraft environment?

The Honorable Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve Affairs, told a Senate Armed Services Committee subcommittee that the use of incentives was being considered by the Defense Department.

Such incentives are the substance of the legislation which I am introducing. This bill, "The Uniformed Services Special Pay Act of 1972," addresses the areas which most need to be addressed.

Incentives included in the legislation are special enlistment pay, special Reserve Forces pay, special officer pay, and special reenlistment pay. These special pays have been grouped as a package because they represent the final new compensation programs which should be needed to attract young men and women into the military.

As I noted, general pay requirements have been met by the November 15 and January 1 pay increases. But we need special programs to insure that we are not faced with shortfalls in key areas during this transition period.

If we allow this to happen, it will not foredoom the volunteer army as a viable concept—rather, it will simply increase the cost of implementing it later. And money spent later to supply medical help, or lawyers or technicians, or Reserve Forces, is money taken away from programs such as housing or travel which can benefit all servicemen—careerists and Reserves alike.

The timeliness of this special pay package is unquestionable. These steps, if enacted soon, will provide sufficient time—more than a year until reliance on the draft is terminated—to replace the draftees and draft-motivated volunteers who are presently maintaining some specialized positions.

But, most importantly, the bill provides for accomplishing this in a cost-effective manner. Key features of this incentive system include: The ability to be turned on and off so as not to contain either a permanent cost or a wasteful period of termination costs; the ability to be applied directly at decision points, at enlistment and reenlistment; and the ability to be applied selectively to individuals and/or skills, without overpaying occupations for which needs are already being met.

The proposal is designed to apply to initial enlistment into the Active and Reserve Forces; initial entry into selective high-skill officer positions; and reenlistment into certain Active and Reserve occupations. This approach has the approval of the Secretary of Defense and the Office of Management and Budget. At our request, DOD staff members have assisted the intensive staff work that went into our preparation.

It is being introduced in the other body by Senators GORDON ALLOTT and ROBERT STAFFORD. The fiscal year 1973 budget for the Department of Defense has an allocation of $376.4 million designed to fill the President's commitment to Senator ALLOTT for military pay raises.

The Senator has recognized, though, that there is greater need for this package of incentives than there is for another across-the-board raise. I share his feeling that the approach taken in this bill is the only one which will accomplish what must be accomplished before July 1, 1973.

The program here is designed to achieve everything the pay raise would have and substantially more—for less money. That it represents a savings of some $177.7 million is an added dividend. Its projected cost is $198.7 million, compared with the budgeted $376.4 million. And the long-term savings are even greater. The pay increase would create self-perpetuating, ever-spiraling expenses. Our proposal not only saves money right now, but it will save countless additional millions which will be required if we do not make provisions for meeting these needs until they reach critical levels.

Many of the measures being implemented at the present time are designed with the same intent as this proposal—to spare us added expense later. Whatever the cost of improving barracks, hiring civilians for KP and other jobs, and upgrading the quality of food, the price must be considered cheap. For by making the military more attractive, we increase the likelihood of enlistment and reenlistment by thousands of young men and women. And with each reenlistment we save thousands of dollars that would otherwise be spent recruiting and training replacements for those who leave the military. This bill will provide incentives for men and women to enlist, but more importantly, it will provide incentives for them to stay in the military.

Already we are seeing dramatic indications that our transition to a volunteer military is scoring successes that even its most ardent supporters might not have expected. Lt. Gen. George Forsythe, Gen. William Westmoreland's special assistant for the modern volunteer army, told a Senate Armed Services Subcommittee that enlistments in December 1971 were 20 percent higher than the number in the same month a year earlier. But of greater significance is the fact that 88 percent of these men were high school graduates and that the quality of the enlistees was up 80 percent, based on intelligence ratings. The general also said that the number of black enlistees has held at the 10- to 11-percent level. These statistics refute the old argument that an all-volunteer army might be a black army or an army of high school dropouts.

Assistant Secretary Kelley reported to the subcommittee that enlistments for combat arms have risen from 250 per month in 1970 to more than 3,000 per month in 1971 and 1972. And these overwhelming increases have been made without relying on the combat arms enlistment incentive pay which Congress authorized last year. Use of incentive pays, coupled with enlistment options and concerted recruiting efforts, should cause those totals to have another dramatic rise.

We have, as General Forsythe has said, gone the first 12 or 13 miles of a 20-mile hike. We have hiked that distance in a remarkably short time. We still have miles to go to reach our goal—but we know that goal will be met. What our incentives proposal provides is a means of making those last few miles a little easier and a lot less costly. And without this legislation, we may have to walk beyond that 20 miles before we can rest.

The volunteer army will be a reality—to a large extent it is already. Let us do all we can to make it as good an army as we possibly can.

EMERGENCY STRIKE LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. MATHIAS) is recognized for 5 minutes.

Mr. MATHIAS of California. Mr. Speaker, California is an export State. The value of farm products exported during fiscal year 1971 was well over half a billion dollars—$555.1 million.

Direct losses from the 1971 west coast dock strike approximated $23.8 million to California agriculture. The costs of storage, spoilage, increased transportation due to diversion of commodities to alternate ports, loss of foreign markets, failure to meet contract obligations, dumping of export-bound produce on the domestic market—thus depressing prices for farmers across the Nation—and placing agriculture in a disadvantageous position as far as renegotiating contracts overseas is concerned are only a few of the factors which have battered California and American agriculture.

The loss of export markets alone due to the longshoremen's strike—markets developed over the past 10 to 20 years—cannot be estimated, but it could amount to billions of dollars and take years to rebuild.

Our farmers and the entire Nation need legislation that will prevent crippling national transportation strikes in the future. We cannot afford another west coast dock strike.

The important thing to remember is that the losses that result from transportation strikes, like the dock strike, are not just figures to be looked at and then discarded. They represent the livelihood of people, more people by far than are responsible for the long, devastating work stoppages we have witnessed in recent years.

The refusal of the Transportation and Aeronautics Subcommittee of the House Interstate and Foreign Commerce Committee to report out an emergency strike bill was unfortunate. But we cannot let this temporary defeat halt our efforts to get responsible legislation enacted. We need a reasonable and orderly plan of action for settling these disputes and we cannot give up until we get it.

U.S. INTERESTS IN THE MIDDLE EAST

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 20 minutes.

Mr. HAMILTON. Mr. Speaker, in the Middle East, crises come and go, governments rule and fall, but the problems persist. Most Americans think only occasionally of the Middle East, and when they do, it is usually in connection with strife and turmoil. Yet, through it all, the Middle East, an area where three continents join, remains important to us.

World leaders like President Nixon continually approach Middle East issues with either cautious optimism or reluctant pessimism but invariably with a warning that the Middle East is a dangerous area, a "powder keg." That caveat refers to the two central problems of the Middle East, and North Africa for the United States—the intentions of the Soviet Union in the area and the Arab-Israeli conflict. Most Americans can be forgiven if they do not fully understand why this vast area of sand and sea, populated by 100 million people, is of so much concern. The observations that follow are simply an effort to explain what U.S. interests are in this area.

Unlike Southeast Asia where many Americans have had increasing difficulty defining precisely our interests and objectives for the present, much less the future, the Middle East is an area where the United States has definite long- and short-run interests. Even so, it is probably an overstatement to say that the United States has many vital interests in the Middle East. The two interests there that can be labeled vital to America really transcend the area: First, we have an important interest in seeing that local conflicts and rivalries do not develop into major wars, perhaps involving the great powers; second, it is definitely in our interest that no outside power dominate the region.

The United States major asset in this respect are the Middle East States themselves. Although some alarm is expressed here about the increased presence and involvement of the Soviet Union in the Arab world, the Arab countries are not about to give up their long-cherished and recently won independence.

While peace and stability are the overriding objectives of the United States in the Middle East, several nonvital, but nonetheless significant, interests combine to give the United States an important stake in what happens in this region between Europe, Asia, and Africa.

It is useful to consider these interests under four broad categories: strategic interests, economic interests, cultural interests, and the commitments derived from these interests. Although our cultural and economic interests in the area are significant, primary emphasis has been given to political and strategic considerations in the weighing of our policy alternatives in this region.

STRATEGIC INTERESTS

First. A primary strategic interest of the United States is to maintain the right of access to the area. The importance of our access to Middle East oil will be discussed below. The Middle East sits at the strategic crossroads of three continents with important links in those three continents, and the maintenance and development of lines of communication to and through the area is important. International waterways, air routes, and international communications networks crisscross the entire region and maintenance of access to these facilities is an important strategic interest of the United States. Without access, the United States would be a diminished power, unable to make itself felt in vast and critical areas of the globe.

Second. This strategic interest in maintaining access to the area requires a viable American military presence in case that access is threatened. Such a viability, however, does not automatically necessitate any permanent military presence. Our military missions in Saudi Arabia, Jordan, Turkey, and Iran, our communications stations in Iran and Ethiopia, the 6th Fleet, and the small naval presence on Bahrayn may come under increasing attack both here in the United States and in the Middle East, requiring the exploration of a variety of flexible, alternative means of maintaining military options in the area.

Third. The United States has a general interest in the political and social development of the entire area and all its peoples, and a particular interest in the preservation of friendly governments. The two only became incompatible when the governments we consider friendly are not committed to the emergence of a congenial and compatible world of free and interdependent nations or to political and social development. We ignore the 100 million people of the Middle East and North Africa at our own peril. Their development is in our interest and in the interest of peace throughout the region.

Fourth. A related American interest in the Middle East is to reduce Arab dependence on the Soviet Union and assure that no outside power dominates the area. While there is much disagreement over the means of carrying out this interest, there is no challenge to the validity of the objective.

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It is important, however, to draw a distinction between the need for the United States and the Soviet Union to recognize each other's legitimate interests in the Middle East and the U.S. interest in denying the Soviet Union dominance in the area.

ECONOMIC INTERESTS

The United States also has significant economic interests in the Middle East today, and they will become even more important in the next decade. These interests—freedom of trade, access to Middle East oil, and freedom of oil transport—are prime economic considerations for the United States.

At present, American trade and investment in the Middle East and North Africa produce a net annual inflow of almost $2 billion into the United States—no small contribution at a time when the U.S. balance-of-payments deficit is greater than at any time since World War II. Oil is responsible for much of this and American oil companies have invested over $4 billion in Middle East and North African oil ventures.

While given less publicity, the U.S. trade surplus in the Middle East and North Africa is, nonetheless, significant. In 1970, for example, this trade surplus was about $1.4 billion. This figure becomes even more important when it is known that the worldwide U.S. trade surplus was $2.69 billion. American products, technology and machinery continue to be popular throughout this vast area.

Although the present economic importance of Middle East oil for the United States must be seen largely in terms of its contribution to our balance of payments since less than 5 percent of U.S. consumption needs came from the Middle East, this is not likely to remain the case for long.

Though our need for Middle East oil and natural gas will never equal Japan and Western Europe's dependence on it for over three-fourths of their fuel needs, estimates indicate that by 1980, the United States may have to obtain a substantial percentage of its projected oil needs from the Middle East. The figures are staggering. The non-Communist world currently consumes about 40 million barrels of oil a day; the United States consumes about 18 million barrels of that. In 1980, it is estimated that the non-Communist world will consume between 80 and 100 million barrels and the United States 24 of that figure. At the present rate, the United States can get only 12 million barrels from domestic sources, including Alaska. Of the remaining 12 million barrels needed, about nine will have to come from the Middle East, and that figure will then represent between 35 and 40 percent of total U.S. consumption needs.

Without doubt, the economic importance of the Middle East for the United States is going to increase sharply in the near future.

CULTURAL INTERESTS

The United States also has many cultural assets and interests throughout the Middle East. Some represent a legacy of American missionary and philanthropic enterprises which have played a crucial role for decades in the preparation of Middle East elites. Robert College in Turkey, founded in 1863, the American University of Beirut, founded in 1866 and the American University in Cairo, founded in 1919, are three such institutions. Several newer educational institutions in Israel and elsewhere have also served to strengthen the cultural assets of the United States in the Middle East.

In particular, the Hadassah Hospital and the Weizmann Institute have helped strengthen and foster the natural ties between many Americans and the State of Israel.

More generally, the Middle East is recognized throughout the world as the cradle of civilization, the birthplace of the Judeao-Christian heritage and the preserver of the Greco-Roman tradition long after the Greek and Roman civilizations had faded into dark ages. The Holy Land in particular and the heritage nurtured in that land evokes for millions of Americans a cultural and religious bond that transcends nation-states and their difficulties. For Jews and Christians of this country peace and open borders in the Middle East, especially in Palestine, mean access to the origins of their faith, and they cannot conceive that the land where that faith was nurtured should be in a state of war.

Finally, numerous educational and cultural organizations in this country promote and preserve our cultural ties in the near and far reaches of the vast Middle East and North Africa area. The intensity of feeling in the United States for Israel and other countries in the region is only one manifestation of the strength of our cultural interests there.

RESULTING COMMITMENTS

All these interests can be seen most prominently in terms of U.S. legal and political commitments. These commitments are both formal and informal, unilateral, bilateral and multilateral. They can be considered under six broad headings:

1. MULTILATERAL COMMITMENTS

Both NATO and CENTO play important roles in the Middle East, and reflect U.S. interests in the Middle East. These commitments also create obligations for the United States in this area.

Turkey and Greece have participated in NATO since the early 1950's and they play a crucial role in NATO's security in the Eastern Mediterranean. Farther east, Turkey, Iran, Pakistan, and England are joined together in CENTO, with the United States serving in a nonsignatory active role. This regional alliance promotes both defense coordination and economic cooperation in the span between the Bosphorus and the Hindu Kush.

2. BILATERAL COMMITMENTS AND OBLIGATIONS

We have few well-defined bilateral commitments in the Middle East. A vague obligation to Iran and other indigenous signatories of CENTO under a security agreement in 1959 can only be coupled with an even vaguer security agreement with Saudi Arabia.

We have an obligation to "consult" with the Iranian Government on appropriate measures, including the use of armed forces, if Iran is attacked. With Saudi Arabia, a 1951 Mutual Defense Assistance Agreement formed the basis for a relationship, involving mainly military assistance, which has since been buttressed by a series of letters, some by American Presidents, reassuring the Saudi Arabian Government of our interest in its territorial integrity. Precisely what these obligations mean for the 1970's remains obscure.

3. MORAL AND POLITICAL COMMITMENT

The United States has a moral and political commitment to the defense of Israel which is assumed by both the U.S. Government and the Government of Israel but not defined anywhere precisely in writing. Below the government level, this interest in and commitment to Israel's well-being and security has special cultural, political, and moral overtones for many Americans.

Since 1948, successive Presidents and other high U.S. officials have reiterated, if in less strong language, President Truman's statement of October 28, 1948, in which he stated:

> It is my responsibility to see that our policy in Israel fits in with our foreign policy throughout the world; it is my desire to help build in Palestine a strong, prosperous free and independent democratic state. It must be large enough, free enough and strong enough to make its people self-supporting and secure.

Most Presidential statements have been more general. President Johnson, for instance, quoted John Kennedy on August 2, 1966, stating—

> We support the security of both Israel and her neighbors . . . we strongly oppose the use of force or the threat of force in the Near East . . .

The security of friendly governments in the Middle East remains an important American interest in the Middle East today.

4. UNILATERAL POLICY STATEMENTS

Often, the United States has defined its commitments in special pronouncements. The Truman doctrine of March 1947, the Eisenhower doctrine of January 1957, and Johnson's five-point pronouncement in the Arab-Israeli conflict in June 1967 can be considered important declarations of U.S. intentions in this area.

Both the Truman doctrine and the Eisenhower doctrine pledged America's dedication to the principle that force shall not be used internationally for any aggressive purposes. Both also state that the integrity and independence of the states in the region should be preserved. On June 19, 1967, President Johnson delineated five principles of peace: Every nation's right to live in peace; justice for all refugees; respect of maritime rights; end of the arms race; and respect for the political independence and territorial integrity of all the states of the area. This unilateral policy statement has formed the basis for much of the United States peace efforts since 1967.

5. MULTILATERAL POLICY STATEMENTS

Two keys to U.S. policy in the Middle East since 1945 have had multinational backing. The 1950 tripartite declaration supporting the territorial status quo in the area and the U.N. Resolution 242 of November 1967 are thought to be the most significant statements we have in the Middle East. From 1950 to 1967, the tripartite declaration was the most quoted statement by American Presidents on Middle East policy. Since 1967, the U.N. Resolution 242 has served the same purpose.

In the tripartite declaration, the United States, England, and France declared "their deep interest in and their desire to promote the establishment and maintenance of peace and stability in the area." They go on to state that if "any of these states was preparing to violate frontiers or armistice lines," they would "immediately take action, both within and outside the United Nations, to prevent such violation."

The U.N. Resolution 242, passed unanimously by the Security Council in November 1967, had much broader international support, including that of the Soviet Union, and it has served as the basis of a search for a just and lasting peace between the parties to the dispute. It is not a commitment or obligation to take action, rather it gives international support to a peace in the Middle East, based on the provisions of the resolution.

The main provisions of this resolution recommended: "withdrawal of Israeli Armed Forces from the territories occupied in the recent conflict;" "termination of all claims or states of belligerency;" "freedom of navigation through international waterways in the area;" "a just settlement of the refugee problem;" and "guaranteeing the territorial inviolability and political independence of every state in the area."

6. UNILATERAL PLEDGES

The United States has also made a few unilateral pledges to specific countries at particular times. Such a pledge was made to Jordan in 1957 and to Saudi Arabia in the early 1960's. Each pledged American support for the maintenance of the territorial integrity of the countries.

CONCLUSION

The overextension of the U.S. political, military, and economic commitments abroad is causing increasing anxiety here at home. It is also causing politicians and policymakers to reevaluate U.S. interests everywhere in the world. From this process of reexamination, there will hopefully emerge a set of commitments in the 1970's and 1980's commensurate with our interests. Vietnam has served as a dramatic and painful catalyst in the questioning of every foreign commitment, military alliance, and economic and political tie. This review should properly include those in the Middle East.

As this brief statement is intended to convey, the United States has many politico-strategic, economic, and cultural interests throughout the entire Middle East area. The preservation of these interests depend on a strong commitment of the United States to peace and stability in the area and to a Middle East free from external domination.

It is precisely because war and the present situation of neither war nor peace threaten our interests that we seek a peace settlement of the Arab-Israeli conflict. Peace and stability are the only way to assure our access to the Middle East, its peoples, and its economic and cultural resources. These interests must be uppermost in our minds as we shape policies for the years ahead.

PROJECT SANGUINE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, yesterday I publicly released a report prepared by the Army Corps of Engineers on Project Sanguine that raises serious questions about the adverse environmental damage Project Sanguine may cause.

In its report, the Army Corps of Engineers terms parts of the Navy's draft environmental impact statement inconclusive and notes that the impact statement contains omissions and, in one instance, very little information on environmental questions.

What amazes me is the fact that the Corps of Engineers, which has been extremely unsympathetic to environmental control, should raise such serious doubts about Project Sanguine.

Specifically, the Corps of Engineers document states that power generated by Project Sanguine could "be high enough to be dangerous to a person" who touched an insulated wire which is grounded at a long distance. If an individual touched a particular insulated wire that was grounded at a long distance and which had the same potential energy as the electromagnetic field being projected by Project Sanguine, he would receive a shock.

The Corps of Engineers also points out that studies on the corrosion of underground pipeline is "inconclusive." Furthermore, the Navy has not estimated the cost of mitigating such corrosion.

The corps notes quite correctly that in its draft environmental impact statement the Navy dealt at length with the mitigation of telephone interference. However, little information was included on electrical ground potential that will require numerous devices to prevent telephone interference. Even the Navy's draft impact statement last year revealed that the cost of eliminating telephone interference may be as high as $500 per customer—an unfair burden to be assumed by both Wisconsin's consumers and telephone companies.

Most of the tests on Project Sanguine have been conducted on cables above ground while Project Sanguine itself will consist of a series of buried underground cables. As a result the Corps of Engineers' predicts "some of the test results may be subject to question."

Unless all the serious environmental questions raised by the Corps of Engineers are satisfactorily answered in the Project Sanguine final impact statement scheduled for release April 7, that final statement will be inadequate.

The Corps of Engineers' report which I am releasing today is a comment on the Navy's draft environmental impact statement issued a year ago. The report is dated October 4, 1971.

As my colleagues know, the National Environmental Policy Act requires that all Federal agencies submit a draft and eventually a final environmental impact statement to the Council on Environmental Quality that assesses the impact of any major Federal project on the human environment.

The Navy has informed me that the final environmental impact statement for Project Sanguine will be issued on April 7 despite the fact that is is based on only interim results. The Navy has requested that an additional $450,000 in next year's budget for further environmental studies. If more funds are needed for environmental studies, how can the Navy possibly claim that its upcoming report is a final impact statement?

The Corps of Engineers in its reports says that all problems mentioned should be investigated and discussed in the final impact statement but the Corps assumes that eventually all the problems with Project Sanguine can be solved. I believe, Mr. Speaker, the Navy must study Project Sanguine until it is absolutely clear that the building of the project will not adversely affect the environment of Wisconsin.

I have serious doubts that the impact statement scheduled to be issued April 7 will truly be a final impact statement conforming to the National Environmental Policy Act.

The Corps of Engineers report follows:

OCTOBER 4, 1971.

Commander W. K. HARTELL,
Project Sanguine Office, Naval Electronic Systems Command Hdq., Washington, D.C.

DEAR COMMANDER HARTELL: This letter responds to Admiral Crawford's request for comments of the Corps of Engineers on the draft environmental impact statement for Project Sanguine.

Recognizing that a final system design has not been developed and that final site selection has not as yet been made, the draft statement appears to contain adequate provision for further studies of environmental aspects of the proposed project.

There are no existing water resource projects of the Corps of Engineers located in the general area of Wisconsin and Michigan being considered as the site of project Sanguine, nor does it appear that there would be any conflicts with proposed or on-going Military Construction or Civil Works programs of the Corps.

Inclosed are technical comments concerning possible effects of the proposed low frequency ground currents on metal structures, communications relaying systems, hazardous electrical potentials and biological systems.

The opportunity afforded us to review your draft statement is appreciated, and it is hoped that those comments will be of assistance to you in perfecting the final environmental statement for project Sanguine.

Sincerely yours,

WILLIAM L. BARNES,
Colonel, Corps of Engineers, Executive Director of Civil Works.

TECHNICAL REVIEW COMMENTS—PROJECT SANGUINE—ENVIRONMENTAL IMPACT STATEMENT

1. The study with respect to the effects of Project SANGUINE on corrosion of underground pipelines is inconclusive and the methods and cost of mitigation have been omitted. The effects of a-c ground currents on steel pipeline corrosion have been discussed but effects on lead sheaths for power and telephone lines or on buried aluminum culvert pipe were not included. Stray a-c currents have been shown to cause highly accelerated corrosion of lead and aluminum.

2. The antenna grounds will consist of buried bare copper ground mats probably made up of interconnecting cable and ground rods. The expected effects of galvanic corrosion between the copper grids and steel pipe, steel foundations, etc., in the grid area that have a low resistance connection to the grid should be discussed in the report. There have been many instances of rapid corrosion of underground piping and conduit systems located near buried copper ground mats if there are low resistance paths for current to flow between the copper and steel.

3. The effects of Project SANGUINE on telephone and power systems resulting from induced potentials have been discussed in considerable detail in the report but very little information has been included on the effects on these systems from the rise in ground potential from the flow of ground currents. On telephone circuits, in addition to neutralizing transformers for protection against induced voltages, insulating transformers, carbon block protectors, drain coils, protector tubes and similar devices may be required on some telephone circuits for protection from differences in ground potential. Differences in ground potential could also adversely affect power system ground fault protective relaying. An indication of current flow in grounded neutral connections is often used for ground fault detection. Neutral currents resulting from Project SANGUINE could require a reduction in relaying sensitivity.

4. The report indicates that step potentials will be very low; however, transferred potentials resulting from rise in ground potentials could be hazardous. The difference in potential between a point on the earth's surface near an antenna ground and some distant point could be high enough to be dangerous to a person standing at one location and touching a conductor grounded at the other location. Low conductivity (high resistivity) is desirable for transmission efficiency but undesirable from a potential gradient standpoint, as the potential gradients are proportional to earth resistivity.

5. The foregoing are considered to be possible problems and should be investigated and discussion, including proposed remedial action if required, included in the final report after completion of the detailed design. It is believed that all of the foregoing would be amenable to correction or mitigation.

6. It is noted that both the North Carolina and Wisconsin test facility antenna lines between the transmitter and antenna grounds were run overhead supported on utility poles. The report indicates, however, that these cables for Project SANGUINE will be insulated buried cables underground. For this reason some of the test results may be subject to question. In general, however, buried conductors would probably reduce interference effects. It is also unknown if burying these conductors would have any adverse biological effects, but it has been common practice in the past to use such cables for many years for power distribution systems without any noticeable biological effects.

HUCKLEBERRY FINN NATIONAL RECREATION AREA

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER), is recognized for 10 minutes.

Mr. ALEXANDER. Mr. Speaker, today I would like to call to the attention of my colleagues a bill which I recently introduced. This is H.R. 13831, which calls for the Department of the Interior to undertake a study of the desirability of establishing a Huckleberry Finn National Recreation Area on the Mississippi River. I propose that this recreation area begin at the mouth of the Missouri River at St. Louis and include all of the lower Mississippi to the Gulf of Mexico.

In the opening lines of his book, "Life on the Mississippi," Mark Twain wrote:

The Mississippi is well worth reading about. It is not a common place river, but on the contrary is in all ways remarkable.

I am in complete agreement with Mr. Twain. But, I would go further and say that the Mississippi River country is in all ways remarkable and well worth protecting and making its wonders available to visitors.

Nearly a century after Mark Twain penned his manuscript, Hodding Carter, in another book, expressed some of the feeling modern day residents of Mid-Continent America have for the river. In the opening lines of "Man and the River," Mr. Carter wrote of the Mississippi:

This river beside which I live is made up, think some of us, of the spirit and muscle of God; and, at times, of Satan's own sinews.

For us who know and live and fear and profit from and delight in it, the Mississippi gives reason for great pride—not just that of the people of a rich and powerful mainstream and its valley, but the pride of a man who has become the persistent tamer. For certainly in the history of mankind there is special place for such conflict between these protagonists, between man and the river, and for old tales and new of courage and brain and brawn, of men who live beside and deal with the torrent that is in perpetual motion.

This magnificent Mississippi River and its environs have played an integral part in this Nation's historical, cultural, commercial and recreational development. It can truly be said that this river, which practically runs the length of the Nation, is the thread which unifies the East and West of the United States.

In proposing the establishment of the Huckleberry Finn National Recreation Area, I have taken these aspects of the river's role into account. It is my intention that the unique opportunities for recreational, historical, cultural, educational, and natural qualities of this region be utilized and developed in harmoney with wise commercial use of the inland waterways and streambanks.

My bill requires that in his study of the establishment of this recreation area, the Secretary of the Interior recognize that there are certain established private and public land uses which are compatible with the intent of my proposal. Among these would be, of course, hunting clubs, marinas, boat docks. fishing camps, camping and recreation areas, picnic grounds, wilderness areas bird sanctuaries, and game refuges.

The need for expanding the national park system is amply demonstrated, I believe, even in a brief look at the visitor pressures on the existing parks and acreage additions which have been made since 1950. Visitor pressures on the park system have grown tremendously. A major reason for that is the increased income many of the Nation's families have enjoyed and the rising amount of leisure time they have for exploring their homeland.

The number of visitors for all units of the national park system, except the National Capital Parks, rose from 33.25 million in 1950 to 72.28 million in 1960. Yet, only 30,000 acres were added to the system during that decade. The number of visitors more than doubled between 1960 and December 1971—reaching 200.5 million persons. But, between 1962 and 1972, the gross acreage in the park system grew by less than 9 percent.

The National Park Service predicted early in 1971 that the number of visitors to all the national park system units, except the National Capital Parks, would rise to 256.4 million by 1980.

There is evidence of growing concern among National Park Service personnel and private conservation and recreation groups that visitor pressures are reaching a point where new restrictions on park use must be established.

Some of the suggestions which have been made include:

Prohibiting private vehicles of visitors from traveling in the parks and resorting to the use of public transportation within the parks;

Limiting the number of private cars entering a park on a given day;

Expanding the advance reservation system for overnight stays in the parks; and

Limiting visitors to the parks during seasons of intensive use.

Already the Park Service is being forced by visitor pressures to experiment with limiting the number of visitors to back-country areas of four parks. On March 1, Secretary of the Interior Morton said on a national television program that this experiment would be operated this year in the Great Smoky Mountains National Park, the Sequoia National Park, King's Canyon National Park, and the Rocky Mountain National Park.

On the same day, the Secretary suggested that changes may be necessary to bring more control to the numbers of persons using campgrounds in the national parks. And, in a recent interview with the U.S. News & World Report, George Hartzog, Director of the National Park Service, indicated that expanded use of mass transportation, which was first experimented with in 1970, is being strongly considered. Limited service is already in operation in Yosemite and the Everglades National Parks.

In his 1971 environment message to the Congress, President Nixon supported the expansion of the Nation's recreation lands. Such an increase could help relieve the pressures on the national park system. That is another factor supporting the development of the Huckleberry National Recreation Area. In his message, the President said:

Merely acquiring land for open space and recreation is not enough. We must bring parks to where the people are so that everyone has access to a nearby recreation area.

That is what my proposal for Huckleberry Finn is intended to do. Combined with the proposal of our colleague, Congressman JOHN KYL of Iowa, for the upper Mississippi, we have the opportunity to provide a national recreation area that stretches from Lake Itasca in Minnesota to the Gulf of Mexico. To do so, I believe

would give this Nation one of its most valuable additions to the national park system since the program was established.

During his service in the House of Representatives, the Honorable Frank Smith became a leading force in the effort to bring this Nation to a recognition of its responsibilities in this area. In his book, "The Politics of Conservation," Mr. Smith wrote:

The resource and conservation challenge for America during the final third of the Twentieth Century is not limited to water supply, recreation or pollution (of water, land or air). It involves new concepts of joint planning for urban growth, massive new transportation techniques, and total acceptance of the essentiality that all resource use and development is for the purpose of improving the environment and the life of the human resource. Is the American governmental machinery sufficiently flexible to respond to the challenge?

Through my bill, we, the Members of the Congress, have an opportunity to respond positively to the resource and conservation challenge. We must act now, before the National Park Service is forced into the position of posting a "no vacancy" sign before our parks—before we reach a "standing room only" situation which cheats park visitors out of the opportunity to freely enjoy the natural pageant which they have traveled many miles to enjoy—before visitor pressures on the recreation areas become so great that they spoil or destroy what we have meant to preserve while using.

For ourselves and future generations, we must act to insure the wise protection and maximum use of the historical, cultural, educational, recreational and natural qualities of the Mississippi River—this river which is so remarkable in all ways.

"CAMP FIRE GIRLS' WEEK" IN ALASKA

The SPEAKER. Under a previous order of the House, the gentleman from Alaska, Mr. BEGICH, is recognized for 10 minutes.

Mr. BEGICH. Mr. Speaker, in recognition of the valuable experience provided for America's young people by the Camp Fire Girls program, Gov. William A. Egan of Alaska has designated the week, March 19–25, 1972, as "Camp Fire Girls' Week" in the State of Alaska. This proclamation underscores for the Alaskan people the noteworthy achievement of this program and its continued relevance in a changing epoque. It is my hope that a similar regard for the Camp Fire Girls excellent program be forthcoming in all the States of the Nation. I am pleased now to present the statement issued by Governor Egan:

PROCLAMATION—CAMP FIRE GIRLS

Camp Fire Girls commemorates its Founders Day on March 17, 1972, and celebrates its 62nd anniversary during Birthday Week, March 19–25, 1972.

Camp Fire is a vital and exciting program for young people. Through its recreational, camping, conservation, crafts, service, and other activities, it stresses a spirit of adventure, a sense of curiosity, and enjoyment of life to its fullest.

Camp Fire encourages each person to grow and learn in her or his individual way because it believes that each person is different and that these differences should be respected and enjoyed. Camp Fire emphasizes the need to give all people a chance to "do something" to influence decisions that affect their lives.

We need young people who will become thoughtful and concerned citizens and who are not afraid to act on their own beliefs. Camp Fire encourages independent and responsible attitudes in its girl members, its adult members and leaders, and its male high school age member who have recently joined the organization.

"Do something" is a fitting motto for Camp Fire's 62nd birthday. At a recent conference for high school age students, there was open discussion on issues like: conservation and ecology, drugs and escape, schools, prejudice, and political and social action.

Camp Fire is to be congratulated for its spirited "do something" attitude of social involvement and for its creative work with young people.

Therefore, I, William A. Egan, Governor of Alaska, do proclaim the week of March 19–25, 1972, to be Camp Fire Girls Week in Alaska.

Dated this 6th day of March, 1972.

WILLIAM A. EGAN, *Governor.*

Lieutenant Governor.

BLACK LUNG STATISTICS

The SPEAKER. Under a previous order of the House, the gentleman from West Virginia, (Mr. KEE) is recognized for 15 minutes.

Mr. KEE. Mr. Speaker, recently I requested the Social Security Administration to report to me on the current status of black lung claims. These have been made available and reflect a remarkable implementation of the Black Lung Act.

I am extremely proud to have been the original sponsor of this great legislation which has eased the economic burden of thousands of stricken miners, miners' widows, and other dependents. I had occasion to strengthen that legislation when it became apparent that a mere X-ray could not be conclusive proof of the existence or nonexistence of the disease. More detailed examinations under my criteria have resulted in many miners receiving compensation who would not have been diagnosed as black lung victims under a cursory examination.

Since the passage of this bill I have received over 20,000 letters from my coal mining constituents asking for assistance in processing their claims. This I have and am gladly doing for I feel that I am rendering a public service to the good people in my district. I am happy to report that during the past 2 years my office has processed in one phase or another on the average of 65 letters daily with an average of three approvals a day.

Within the Fourth District of West Virginia, newly formed from the old fourth and fifth districts, more than 14,700 claims have been approved covering 28,700 human beings—or nearly 60 percent of all persons in the entire State of West Virginia receiving benefits. More than $61,440,000 have been paid these claimants between January 1970 and December 1971. Federal benefits have reached $3 million per month in the fourth district.

Much has been accomplished, but much, much more remains to be done. Hundreds of appeals are pending on behalf of denied claims. Each and everyone has, and will continue to receive my personal and energetic attention. At this point I would like to submit all the data made available to me by the Social Security Administration.

CHART 1—BLACK LUNG STATISTICS

As of December 31, 1971	Claims allowed	Monthly payments	Total cumulative amount
Cabell	152	$28,578	$527,489
Logan	2,362	483,579	10,410,224
McDowell	3,090	629,969	13,732,967
Mercer	1,575	319,894	6,184,294
Mingo	1,713	364,611	7,599,089
Raleigh	3,887	764,973	16,377,311
Wayne	136	28,262	524,545
Wyoming	1,771	355,716	6,083,637
Total	14,686	2,973,582	61,439,586

CHART 2—BLACK LUNG STATISTICS

As of Dec. 31, 1971	National	Percent[1]	Pennsylvania	Percent[1]	Kentucky	Percent[1]	West Virginia	Percent[1]	West Virginia new 4th district	Percent[1]
Total filings	348,000		113,000		38,000		66,000			
Total processed	323,000		104,000		35,000		62,000			
Total allowances[2]	160,000	50	70,000	67	11,000	31	28,000	45	14,700	53
Miners	88,000		38,000		6,000		17,000		10,000	
Widows	72,000		32,000		5,000		11,000		5,000	
Total current beneficiaries	240,000		95,000		20,000		49,000		28,700	
Miners	81,000		34,000		6,000		16,000		9,100	
Widows	69,000		31,000		5,000		11,000		5,600	
Dependents	90,000		30,000		9,000		22,000		14,000	
Total benefits paid, Jan. 1, 1970 to Dec. 31, 1971	$532,610,000		$228,401,000		$41,370,000		$103,895,000		$61,440,000	
Total monthly benefits being paid	28,182,000		11,793,000		2,289,000		5,450,000		3,000,000	

[1] Percentage of allowances for total processed.
[2] Includes reconsideration and hearing benefits and benefits subsequently terminated due to death.

Note: The foregoing figures are estimates as of Dec. 31, 1971, by Social Security Administration and are rounded off to the nearest zero.

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CHART 3—BLACK LUNG STATISTICS

1. Total Filings and Total Processed for New Fourth Congressional District were not available as of 12/31/71.

2. 14,700 to 28,000 West Virginia Total Allowances were in District.

3. 28,700 of 49,000 West Virginia Current Beneficiaries were in District.

4. $61,440,000 of $103,895,000 of West Virginia Total Benefits Paid were in District.

5. $3,000,000 of $5,450,000 West Virginia Total Monthly Benefits Being Paid were in the District.

6. West Virginia and District Denial estimates included itemization which consisted of counties outside the new Fourth Congressional District. For example, the Huntington District Social Security Office reported figures including Cabell, Lincoln, Mason and Wayne Counties—(1,265 denials): Bluefield Office (includes Mercer—2,063 denials): Logan Office (includes Logan and Mingo—5,798 denials): and Welch Office (includes McDowell and Wyoming Counties—5,170 denials).

PRISONER OF WAR RELEASE ACT

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, I, joined by 30 Members of the House of Representatives, today introduced the Prisoner of War Release Act, which would bring an immediate end to the Indochina air war and within 30 days of enactment have all U.S. ground troops out of Indochina. An identical bill was introduced in the Senate today by Senators GRAVEL, Democrat of Alaska, and MONDALE, Democrat of Minnesota.

Last December 16, Air Force Secretary Robert C. Seamans, at a news conference, and in reference to the air war in Indochina, said:

No matter how you look at the air activity of the U.S. over there, the trend is definitely downward. . .

His comment was based on the average monthly bombing of 50,000 tons per month in Indochina for the months of July through November of 1971.

Since that optimistic appraisal of Secretary Seamans, President Nixon has dramatically escalated the air war.

In late December, while the Congress was in recess, the President ordered massive air strikes against North Vietnam, a total of 1,000 sorties over a 5-day period. This was in direct violation of the declared policy of the Congress that all U.S. military operations in Indochina be terminated at the earliest practicable date, as set forth in section 601 of the Military Procurement Act of 1971, Public Law 92-156.

Subsequently, Department of Defense figures showed that, during February of 1972, 67,536 tons of bombs were dropped on all of Indochina, a 35-percent increase over the figures for the latter part of 1971 and higher than the monthly average for all of the last year.

Additionally, from January 1 through March 20 of 1972, there were 100 so-called protective reaction bombing raids against North Vietnam. This is five times the 20 strikes flown in the first 3 months of 1971 and will soon surpass the 108 strikes flown during all of 1971. It is also five times the total number of 20 bombing raids against North Vietnam in all of 1970.

Other facts that point up the escalation of the air war include these:

Forty-two additional B-52's were added to those operating out of Thailand and Guam in February of 1972, thus doubling the B-52 force in the Southeast Asian theater.

In February of 1972, for the first time since November of 1970, three aircraft carriers were operating off Vietnam, with reports of a fourth heading in that direction. Each aircraft carrier carries 75 attack planes.

In January, in conjunction with the Indochina Education Council here in Washington, we sponsored a "counter-briefing" on U.S. policy in Indochina. Prof. Arthur Westing of Windham College, Vt., and Prof. Egbert Pfeiffer of the University of Montana described to the assembled audience the devastating ecological effects U.S. weaponry has had on the environment in Indochina.

Slides shown by the professors illustrated the enormous damage caused by just one 500-pound bomb dropped by a B-52 bomber, and the processors estimated that the bombing had already created some 23 million craters in Southeast Asia, each of them perhaps 30 to 40 feet across and about 20 to 25 feet deep. With the present acceleration of the air war, it is mind boggling to conceive of the scope of the permanent damage the United States is continuing to inflict on the Indochina environment.

Recent Harris polls, released in the Washington Post of March 13 and March 16 show beyond a doubt that the Vietnam war still remains a "very live issue" among the American people and that no more than 23 percent of the public feels that it is "close to an end." Additionally, by better than 2 to 1, Americans say they are opposed to leaving behind American bombers and planes piloted by the U.S. Air Force and Navy. If the media were only to faithfully report at least the monthly Department of Defense bombing figures, this majority of Americans would be better equipped to persuade their Senators and Representatives that they vote to end both ground and air wars as quickly as possible.

Today we are introducing legislation—identical to that proposed by Senators GRAVEL and MONDALE and being introduced in the Senate today—to swiftly bring an end to the conflict. Our bill, in effect, would bring an immediate end to the air war and within 30 days of enactment have all ground troops out of Indochina.

With a special effort on the part of the media and the public, those of us in the Congress who long for peace in Indochina hope to be successful in 1972 in bringing about the enactment of this bill.

The text of the legislation follows:

H.R. 14056

A bill to provide for the cessation of bombing in Indochina and for the withdrawal of United States military personnel from the Republic of Vietnam, Cambodia, and Laos

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That subject to the provisions of Section 3 of this Act, no funds heretofore or hereafter appropriated may be expended for longer than thirty days after the enactment of this Act to support the deployment of United States Armed Forces or any other military or paramilitary personnel under the control of the United States in or the conduct of military or paramilitary operations in or over the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, or Laos.

SEC. 2. (a) That no funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct off-shore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within Laos, Cambodia, Thailand, or the Democratic Republic of Vietnam.

(b) No funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within the Republic of Vietnam unless the President determines any such bombardment or air operation clearly to be necessary to provide for the immediate safety of United States Armed Forces during their withdrawal from the Republic of Vietnam, and submits to the President pro tempore of the Senate and the Speaker of the House for immediate transmission to the respective bodies of the Congress, within 48 hours of each such bombardment or operation (or if the Congress is not in session, as soon thereafter as it may return), a written report setting forth the time, place, nature, and reasons for conducting such bombardment or operation.

SEC. 3. (a) If, by twenty days after the date of enactment of this Act, the Democratic Republic of Vietnam and other adversary forces in Indochina holding American prisoners of war have not made arrangements for the release and repatriation, by the date in Section 1, of all such prisoners:

(1) the date in Section 1 shall be extended for thirty days, and

(2) the Congress may by joint resolution authorize such further action as is recommended by the President to secure the release and repatriation of American prisoners of war.

(b) Nothing in this section shall be construed to affect the authority of the President to arrange asylum or other means of protection for individuals who might be physically endangered by the withdrawal of United States military or paramilitary personnel from the Republic of Vietnam, Cambodia, or Laos, or to arrange for the return of United States equipment or stores from the Republic of Vietnam.

THE RUNAWAY YOUTH ACT

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. WILLIAM D. FORD) is recognized for 10 minutes.

Mr. WILLIAM D. FORD. Mr. Speaker, today I am joining with my colleague, the distinguished gentleman from Washington (Mr. MEEDS) in introducing the Runaway Youth Act. This bill provides for the establishment, maintenance and operation of temporary housing and counseling services for runaway youth to facilitate their return to their families. It also provides for strengthening interstate reporting and services for parents of runaway children and for the development of research on the size of the runaway youth population.

Similar legislation has been introduced in the other body by the Senator from Indiana (Mr. BAYH), the distinguished Chairman of the Senate Subcommittee to Investigate Juvenile Delinquency, and is presently pending before the full Senate Judiciary Committee.

The basic purpose of this bill is to prevent juvenile delinquency. Its premise is that it is more effective and less expensive to prevent criminal activity by rehabilitating young people with minor problems now rather than to deal with them in the future after they are convicted for committing a serious crime.

Most runaways have committed no crime except running away from home, which is actually against the law of most States. However, because these people are young, inexperienced and alone, they face the substantial danger of having to commit crime to live. A runaway under 18 usually has no money and is unemployable. Since most are from suburban homes and run to our major cities, they are totally unprepared for survival.

Many drift into petty larceny like shoplifting. Selling drugs to buy food is also common. Many young girls have turned to prostitution rather than go home. Often the runaway experience provides a young person with his first initiation into the life of a criminal.

While I have been aware that the problem of runaway children has existed for sometime, I have only recently learned of the extent of its seriousness. The Senate Subcommittee to investigate Juvenile Delinquency recently held hearings which highlighted in detail this national problem.

From these hearings we have learned that nearly 1 million children run away each year and we provde almost no help for them. The police can do no more than arrest the runaway and send him home. However, this does nothing to solve the problems that caused the child to run away in the first place. Moreover, many of those who are arrested by the police are detained in juvenile institutions or in adult jails. There they are forced to associate with tougher juvenile delinquents and even adult criminals, often with damaging consequences.

Aside from prison and detention facilities, there are presently only a few underfunded, understaffed, but highly effective private programs providing temporary shelter care for runaways in several of our large cities. These programs provide the young people with an alternative to staying on the street. They contact the child's parents and give counseling to the young person so that he may better understand some of the problems that caused him to run away. The counselors in these programs bridge the gap between parent and child in an effort to make the return home as untraumatic as possible. These are the institutions which this bill proposes to assist and expand.

Mr. Speaker, as a Congressman and as a father I am deeply concerned by the plight of young runaway children. The Runaway Youth Act provides an excellent means to provide the services which these troubled youths so desperately need. If we help these troubled young people now when they are runaways, we probably will never have to deal with most of them in the future—either as juvenile delinquents or as matured criminals.

Mr. Speaker, I hope my colleagues will give this proposal the prompt and favorable consideration which it merits. At this point I would like to insert the text of the Runaway Youth Act into the RECORD:

H.R. 14061

A bill to amend the Juvenile Delinquency Prevention and Control Act of 1968 to meet the needs of runaway youths and facilitate their return to their families without resort to the law enforcement structure

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Runaway Youth Act".

SEC. 2. The Juvenile Delinquency Prevention and Control Act of 1968 is amended by redesignating title IV (and cross references thereto) as title V, by redesignating sections 401 through 411 (and cross references thereto) as sections 501 through 511, respectively, and by inserting after title III the following new title:

"TITLE IV—RUNAWAY YOUTHS

"FINDINGS AND DECLARATION OF POLICY

"SEC. 401. The Congress hereby finds that—

"(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

"(2) that the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

"(3) that many of these young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

"(4) that the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

"(5) that in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

"AUTHORIZATION OF GRANTS AND TECHNICAL ASSISTANCE

"SEC. 402. (a) The Secretary is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this section beginning July 1, 1972, and ending June 30, 1975. Grants under this section should be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaways in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grants should be determined by the number of runaway children in the community and the existing availability of services. Among applicants priority should be given to private organizations or institutions who have had past experience in dealing with runaways.

"(b) (1) To be eligible for assistance under this section, an applicant must propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without the permission of their parents or guardians.

"(2) In order to qualify, an applicant must submit a plan to the Secretary meeting the following requirements and including the following information. Each house—

"(A) shall be located in an area which is demonstrably frequented by or easily reachable by runaway children;

"(B) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient proportion to insure adequate supervision and treatment;

"(C) shall develop an adequate plan for contacting the child's parents or relatives in accordance with the law of the State in which the runaway house is established and insuring his safe return according to the best interests of the child;

"(D) shall develop an adequate plan for insuring proper relations with law enforcement personnel, and the return of runaways from correctional institutions;

"(E) shall develop an adequate plan for aftercare counseling involving runaway children and their parents within the State in which the runaway house is located and assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway house is located;

"(F) shall keep adequate statistical records profiling the children and parents which it serves;

"(G) shall submit annual reports to the Secretary detailing how the house has been able to meet the goals of its plans and reporting the statistical summaries required in subsection (b) (2) (F);

"(H) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary; and

"(I) shall supply such other information as the Secretary reasonably deems necessary.

"(c) An application by a State, locality, or nonprofit private agency for a grant under this section may be approved by the Secretary only if it is consistent with the applicable provisions of this section and meets the requirements set forth in subsection (b). Priority shall be given to grants smaller than $50,000.

"(d) Nothing in this section shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other ways meet the requirements of this section and agree to be legally responsible for the operation of the runaway house. Nothing in this section shall give the Federal Government and its agencies control over the staffing and personnel decisions of facilities receiving Federal funds, except as the staffs of such facilities must meet the standards under this section.

"(e) The Secretary shall annually report to Congress on the status and accomplishments of the runaway houses which were funded with particular attention to—

"(1) their effectiveness in alleviating the problems of runaway youth;

"(2) their ability to reunite children with their families and in encouraging the resolution of intrafamily problems through counseling and other services;

"(3) their effectiveness in reducing drug abuse and undesirable conditions existing in areas which runaway youth frequent; and

"(4) their effectiveness in strengthening family relationships and encouraging stable living situations for children.

"(f) As used in this section, the term 'State' shall include Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

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"(g) (1) The Federal share for the construction of new facilities under this section shall be no more than 50 per centum. The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(2) The Secretary shall pay to each applicant which has an application approved 90 per centum of the cost of such applications.

"(3) Payments under this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"(4) There is authorized to be appropriated for each of the fiscal years 1973, 1974, and 1975 not to exceed $10,000,000 to carry out this section.

"INFORMATION AND STATISTICS

"SEC. 402. (a) The Secretary shall gather information and carry out a comprehensive statistical survey defining the major characteristics of the runaway youth population and determining the areas of the country most affected. Such survey shall include, but not be limited to, the age, sex, socioeconomic background of runaway children, the places from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report to Congress not later than June 30, 1973.

"(b) There is authorized to be appropriated a sum not to exceed $500,000 to carry out this section."

THE 54TH ANNIVERSARY OF THE INDEPENDENCE OF BYELORUSSIA

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. HATTEN) is recognized for 5 minutes.

Mr. PATTEN. Mr. Speaker, today I ask my colleagues to join with me in observing the 54th anniversary of Byelorussian independence. On March 15, 1918, the Byelorussian National Republic was born, and in spite of all the brave and heroic sacrifices by the people, the young Byelorussian state was unable to maintain its independence against the onslaught of overwhelming Bolshevik forces.

These are indeed brave people. During the years before World War I, Byelorussians pursued the cause of giving a national identity to their land. They continued despite Russian attempts to counteract their distinctness.

The first all-Byelorussian Congress met in Minsk on December 5, 1917. This Congress was attended by 1,872 delegates who were democratically chosen. They represented all Byelorussian political parties and organizations. After meeting for 12 days the Congress adopted a resolution endorsing the right of every nation to self-determination. They called for, in addition, the formation of a democratic government to be known as the Byelorussian National Government.

These people continued their fight for independence and on March 25, 1918, the Byelorussian National Republic solemnly proclaimed the independence of Byelorussia and issued the following decree:

A year ago, the peoples of Belorussia, together with all the peoples of Russia, threw off the yoke of Russian tsarism which, taking no advice from the people, had plunged our land into the blaze of war that ruined most of our cities and towns. Today we, the Rada of the Belorussian National Republic, cast off from our country the last chains of the political servitude that had been imposed by Russian tsarism upon our free and independent land. From now on, the Belorussian National Republic is to be a free and independent power. The peoples of Belorussia themselves, through their own Constituent Assembly, will decide upon the future relations of Belorussia with other states.

The dreams of these people are not fulfilled today. Their fine past has led to a tragic present. The Byelorussian Soviet Socialist Republic was created in place of the Byelorussian National Republic. It is merely an administrative arm of the Moscow government and does not represent the hopes of these people.

March 25 is celebrated by people of Byelorussian heritage throughout the free world as a symbol of their aspirations. I ask all of you to join with me in this observance and to work for the freedom of this land.

EQUITY DEMANDS EXPANDING HEALTH BENEFITS FOR FEDERAL EMPLOYEES

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, I am introducing a bill which would almost double immediately the Federal Government's share of health insurance payments for Federal employees and would provide for full coverage within the next 5 years.

Presently, the Federal Government pays 40 percent of the cost of health insurance for Federal employees. H.R. 12202, reported out of the House Post Office and Civil Service Committee, but not yet considered by the House, would increase the Federal share 35 percent over the next 5 years to a peak of 75 percent in 1976. This proposal, however, is far from adequate. I urge that the Congress increase the Federal share to 75 percent immediately and to 100 percent by 1976.

In the 91st Congress, we adopted a policy which promised that Federal employees would receive salary and benefits comparable to those enjoyed by their counterparts in private industry. An increasing number of firms in private enterprise pay the entire cost of employee health insurance. Fairness demands that the Federal Government do no less for its employees.

Furthermore, the cost of insurance for Federal employees has jumped in the past year. For example, last January, Blue Cross-Blue Shield premiums rose by almost 22 percent. Federal employees have been particularly hard hit by the skyrocketing costs of health insurance. The average civil servant with a salary of $10,000, enrolled in a plan designed to provide good coverage, finds he must pay almost $500 in annual premiums. At the same time, inflation has taken a serious toll on the scheduled pay increases for civil servants and the higher costs of education and providing for a family make it extremely difficult for the conscientious Federal employee to make ends meet. In light of existing economic hardship and the basic equity which Federal law requires, I believe the House should speedily approve this increase for our civil servants.

THE 54TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GERALD R. FORD. Mr. Speaker, March 25 marks the 54th anniversary of the day when the Byelorussian people proudly proclaimed their independence only to be overwhelmed by Bolshevik invaders.

In the year 1972 lovers of freedom among the Byelorussians just as proudly proclaim that the Byelorussian Soviet Socialist Republic established in place of independent Byelorussia is simply an administrative arm of the Soviet Union and does not truly represent the Byelorussian people.

I firmly and fervently believe in the right of national self-determination, Mr. Speaker. The only government worthy of the name is that which governs by consent of the governed. Let it be noted here and now that there has never been a free election in Byelorussia during the 54 years since it first was absorbed into the Union of Soviet Socialist Republics.

In their dedication to truth and freedom, Americans salute freedom-loving Byelorussians here and throughout the world on the 54th anniversary of their independence day. We share with them the hope that one day they will realize their national aspirations and retrieve the rights which are properly theirs.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ASPINALL, to extend the time of his special order on Tuesday, March 28, from 30 minutes to 1 hour.

(The following Members (at the request of Mr. HEINZ) to revise and extend their remarks and include extraneous material:)

Mr. HEINZ, for 5 minutes, today.
Mr. ESCH, for 30 minutes, today.
Mr. HOGAN, for 25 minutes, today.
Mr. ROBISON of New York, for 10 minutes, today.
Mr. STEIGER of Wisconsin, for 15 minutes, today.
Mr. MATHIAS of California, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 10 minutes, today.
Mr. HAMILTON, for 20 minutes, today.
Mr. ASPIN, for 10 minutes, today.
Mr. ALEXANDER, for 10 minutes, today.
Mr. BEGICH, for 10 minutes, today.
Mr. KEE, for 15 minutes, today.
Mr. DUNCAN, for 10 minutes, today.
Mr. DRINAN, for 10 minutes, March 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HEINZ) and to include extraneous material:)

Mr. CLEVELAND.
Mr. BELL.
Mr. DERWINSKI.
Mr. KEITH.
Mr. HORTON in three instances.
Mr. WYMAN in two instances.
Mr. EDWARDS of Alabama.
Mr. HOSMER in two instances.
Mr. GOODLING.
Mr. ZWACH.
Mr. HILLIS.
Mr. GROVER.
Mr. BROWN of Ohio.
Mr. HUNT.
Mr. CONABLE.
Mr. CHAMBERLAIN in two instances.
Mr. ROBISON of New York.
Mr. GROSS in two instances.
Mr. BAKER in two instances.
Mr. TERRY.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous material:)

Mrs. HICKS of Massachusetts.
Mr. YATES.
Mr. ANNUNZIO in two instances.
Mr. CARNEY.
Mr. GONZALEZ in two instances.
Mr. HAGAN in three instances.
Mr. RARICK in three instances.
Mr. ROGERS in five instances.
Mr. HAMILTON.
Mr. BOGGS.
Mr. BEGICH in three instances.
Mr. RODINO in two instances.
Mr. BURKE of Massachusetts.
Mr. HUNGATE in three instances.
Mr. LEGGETT in three instances.
Mr. ROY.
Mr. PEPPER.
Mr. MILLER of California in five instances.
Mr. WILLIAM D. FORD in two instances.
Mr. O'NEILL in two instances.
Mr. REID.
Mr. WALDIE in six instances.
Mr. ASPIN in five instances.
Mr. PUCINSKI in six instances.
Mrs. GRASSO in 10 instances.
Mr. GALIFIANAKIS.
Mr. EDMONDSON in three instances.
Mr. GRIFFIN in two instances.
Mr. SMITH of Iowa.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1426. An act to establish the Van Buren Historic Site at Kinderhook, N.Y., and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3129. An act to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3166. An act to amend the Small Business Act; to the Committee on Banking and Currency.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 208. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, March 27, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1770. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to foster the development and implementation of an integrated system, to be privately owned and operated, for the prompt and accurate processing and settlement of securities transactions effected on national securities exchanges and in the over-the-counter markets, which will assist in assuring the proper functioning of the securities markets and which will be responsive on a nondiscriminatory basis to the needs of issuer companies, brokers, dealers, banks and other members of the securities industry and the public investors; to the Committee on Interstate and Foreign Commerce.

1771. A letter from the Secretary of Commerce, transmitting the annual report of the Foreign-Trade Zones Board and the reports of several of the foreign-trade zones for fiscal year 1971, pursuant to section 16 of the Foreign-Trade Zones Act of 1934, as amended; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Interior and Insular Affairs. H.R. 13435. A bill to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; with an amendment (Rept. No. 92-944). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: House Resolution 913. A resolution providing for the consideration of H.R. 11896. A bill to amend the Federal Water Pollution Control Act (Rept. No. 92-945). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT (for himself and Mr. DANIEL of Virginia):

H.R. 14046. A bill to provide credit for depletion in reduction of the accumulated earning tax base; to the Committee on Ways and Means.

By Mr. BADILLO (for himself, Mrs. ABZUG, Mr. BINGHAM, Mr. BURTON, Mr. COLLINS of Illinois, Mr. DANIELSON, Mr. DONOHUE, Mr. EDWARDS of California, Mr. HELSTOSKI, Mr. KOCH, Mr. MIKVA, Mr. MITCHELL, Mr. PODELL, Mr. RANGEL, Mr. REES, Mr. ROSENTHAL, Mr. RYAN, Mr. SCHEUER, and Mr. WOLFF):

H.R. 14047. A bill to assure opportunities for employment to unemployed and underemployed persons, to assist States and local communities in providing needed public services, to provide job training and guidance when necessary, and for other purposes; to the Committee on Education and Labor.

By Mr. BARING:

H.R. 14048. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 14049. A bill authorizing the President to proclaim the weekend of September 15-17 as "God Day Weekend"; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 14050. A bill to provide Federal health insurance for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Ohio:

H.R. 14051. A bill to amend the Communications Act of 1934 to permit noncommercial broadcast stations to deny, under certain circumstances, access to their facilities by candidates for Federal elective office; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Massachusetts (for himself, Mr. RUNNELS, and Mr. VIGORITO):

H.R. 14052. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. DEL CLAWSON:

H.R. 14053. A bill to provide for the U.S. District Court for the Central District of California to hold court at Santa Ana, Calif.; to the Committee on the Judiciary.

By Mr. DEVINE (for himself, Mr. KING, Mr. DICKINSON, Mr. GOODLING, Mr. SCHERLE, Mr. DEL CLAWSON, and Mr. GROSS):

H.R. 14054. A bill to repeal the Federal Election Campaign Act of 1971 and to revive and reenact the Federal Corrupt Practices Act, 1925; to the Committee on House Administration.

By Mr. DRINAN (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. BADILLO, Mr. BURTON, Mr. CONYERS, Mr. DELLUMS, Mr. DOW, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. KASTENMEIER, Mr. KOCH, Mr. MIKVA, Mr. MITCHELL, Mr. RANGEL, Mr. ROSENTHAL, and Mr. RYAN):

H.R. 14055. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

XUM

By Mr. DRINAN (for himself, Mr. ADDABBO, Mr. BEGICH, Mr. BINGHAM, Mr. BURKE of Massachusetts, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. MCCLOSKEY, Mr. MATSUNAGA, Mr. NIX, Mr. PODELL, Mr. REES, Mr. RIEGLE, Mr. ROYBAL, Mr. SARBANES, Mr. SCHEUER, Mr. VANIK, and Mr. WALDIE):

H.R. 14056. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. ESCH:

H.R. 14057. A bill to provide greater assurance of Federal fiscal responsibility; to the Committee on Government Operation.

By Mr. FISH:

H.R. 14058. A bill to amend the Rail Passenger Service Act of 1970 to require the National Railroad Passenger Corp. to provide free or reduced-rate transportation for certain railroad employees and their eligible dependents to the same extent such transportation was available to such employees and their dependents on the date of enactment of that act; to the Committee on Interstate and Foreign Commerce.

H.R. 14059. A bill to amend the Railroad Retirement Act of 1937 to provide for the purchase of certain securities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 14060. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAM D. FORD (for himself and Mr. MEEDS):

H.R. 14061. A bill to amend the Juvenile Delinquency Prevention and Control Act of 1968 to meet the needs of runaway youths and facilitate their return to their families without resort to the law enforcement structure; to the Committee on Education and Labor.

By Mr. GREEN of Pennsylvania:

H.R. 14062. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements in owner-occupied residential property and to eliminate the property depreciation allowance for certain non-owner-occupied rental property; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 14063. A bill to protect the individual's right of privacy by prohibiting the sale or distribution of certain information; to the Committee on the Judiciary.

By Mr. HICKS of Massachusetts:

H.R. 14064. A bill to amend section 37 of the Internal Revenue Code of 1954 to increase the credit against tax for retirement income and to coordinate it with the maximum yearly social security retirement benefit; to the Committee on Ways and Means.

By Mr. HOLIFIELD (for himself, Mr. HOSMER, Mr. PRICE of Illinois, Mr. ANDERSON of Illinois, Mr. EDMONDSON, Mr. ASPINALL, Mr. MCCULLOCH, Mr. YOUNG of Texas, and Mr. HANSEN of Idaho):

H.R. 14065. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for production and utilization facilities under certain circumstances, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. HUNGATE:

H.R. 14066. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. JARMAN:

H.R. 14067. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. LUJAN:

H.R. 14068. A bill to establish regional Federal medical malpractice boards to reduce the expense of bringing, and the awards granted in, medical malpractice suits in the United States; to the Committee on the Judiciary.

By Mr. MCCULLOCH:

H.R. 14069. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes; to the Committee on the Judiciary.

By Mr. MILLER of California:

H.R. 14070. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Astronautics.

By Mr. MIZELL:

H.R. 14071. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. NIX:

H.R. 14072. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the cost of necessary treatment, and to authorize project grants to increase the availability and effectiveness of such treatment; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. CEDERBERG, Mr. HILLIS, Mr. RIEGLE, Mr. TAYLOR, and Mr. ZWACH):

H.R. 14073. A bill to amend the Agriculture Act of 1949, to provide for adjustments in the support price of milk during its marketing year; to the Committee on Agriculture.

By Mr. PATTEN:

H.R. 14074. A bill to amend title VII of the Housing and Urban Development Act of 1965; to the Committee on Banking and Currency.

By Mr. PEPPER:

H.R. 14075. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 of compensation paid to law enforcement officers shall not be subject to the income tax; to the Committee on Ways and Means.

By Mr. ROONEY of Pennsylvania (for himself, Mrs. ABZUG, Mr. BIESTER, Mr. BOLAND, Mr. BRASCO, Mr. CAREY of New York, Mr. CLARK, Mr. CONTE, Mr. DENT, Mr. ESHLEMAN, Mr. FLOOD, Mr. GALLAGHER, Mr. GARMATZ, Mr. HALPERN, Mr. HASTINGS, Mrs. HICKS of Massachusetts, Mr. MOORHEAD, Mr. NIX, Mr. PIKE, Mr. SCHEUER, Mr. WARE, and Mr. BYRNE of Pennsylvania):

H.R. 14076. A bill to amend titles 18 and 39 of the United States Code, to permit the mailing of lottery tickets and related matter, the broadcasting or televising of lottery information, and the transportation and advertising of lottery tickets in interstate commerce, but only where the lottery is conducted by a State agency; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 14077. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. SANDMAN:

H.R. 14078. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 14079. A bill to amend the Immigration and Nationality Act to permit adoption of more than two children; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin (for himself, Mr. BENNETT, Mr. BOB WILSON, and Mr. MATSUNAGA):

H.R. 14080. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Mr. STRATTON (for himself, Mr. ASPIN, Mr. BIAGGI, Mr. BRAY, Mr. BROWN of Michigan, Mr. DERWINSKI, Mr. DOW, Mr. DUNCAN, Mr. FLOWERS, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. JACOBS, Mr. RANDALL, Mr. REES, Mr. RONCALIO, Mr. SATTERFIELD, Mr. VAN DEERLIN, and Mr. WHITEHURST):

H.R. 14081. A bill relating to the expenditure of funds for repair or construction work on or about the U.S. Capitol; to the Committee on Public Works.

By Mr. STRATTON (for himself, Mr. ASPIN, Mr. BRAY, Mr. DOW, Mr. DUNCAN, Mr. FLOWERS, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. JACOBS, Mr. RANDALL, Mr. REES, Mr. RONCALIO, and Mr. SATTERFIELD):

H.R. 14082. A bill to abolish the Commission for Extension of the United States Capitol, to repeal the authority for the extension of the west-central front of the U.S. Capitol, and for other purposes; to the Committee on Public Works.

By Mr. STRATTON (for himself, Mr. ALEXANDER, Mr. ASPIN, Mr. BIAGGI, Mr. BRAY, Mr. BROWN of Michigan, Mr. BROYHILL of North Carolina, Mr. DERWINSKI, Mr. DOW, Mr. DUNCAN, Mr. FLOWERS, Mr. GROSS, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HECHLER of West Virginia, Mr. JACOBS, Mr. LATTA, Mr. MIKVA, Mr. NEDZI, Mr. RANDALL, Mr. REES, Mr. REUSS, Mr. RONCALIO, and Mr. SATTERFIELD):

H.R. 14083. A bill relating to the expenditure of funds for the restoration or extension of the west-central front of the U.S. Capitol; to the Committee on Public Works.

By Mr. STRATTON (for himself, Mr. SCHEUER, Mr. VAN DEERLIN, Mr. WHITEHURST, and Mr. WINN):

H.R. 14084. A bill relating to the expenditure of funds for the restoration or extension of the west-central front of the U.S. Capitol; to the Committee on Public Works.

By Mr. TAYLOR:

H.R. 14085. A bill to provide a uniform date for the holding of all presidential primary elections; to the Committee on House Administration.

By Mr. TEAGUE of Texas:

H.R. 14086. A bill to amend title 38, United States Code, to eliminate the withholding of compensation and retirement pay for certain veterans being furnished hospital treatment or domiciliary care by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. VANDER JAGT:

H.R. 14087. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

H.R. 14088. A bill to authorize a program to develop and demonstrate low-cost means of preventing shoreline erosion; to the Committee on Public Works.

H.R. 14089. A bill to amend the Internal Revenue Code of 1954, to promote additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting, to establish an insurance corporation within the Department of the Treasury, and for other purposes; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 14090. A bill to use mortgage refinancing to help preserve low- and moderate-income housing; to the Committee on Banking and Currency.

By Mr. CHARLES H. WILSON:

H.R. 14091. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida (for himself and Mr. HALPERN):

H.R. 14092. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL:

H.J. Res. 1127. Joint resolution authorizing the President to proclaim annually the day of May 21 as "National Women in Education Day"; to the Committee on the Judiciary.

By Mr. BURLISON of Missouri (for himself, Mr. BROOMFIELD, Mr. DANIELSON, Mr. FISHER, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. LEGGETT, and Mr. SCOTT):

H.J. Res. 1128. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. PATTEN:

H.J. Res. 1129. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII,

343. The Speaker presented a memorial of the House of Representatives of the State of Hawaii, relative to federalization of the State welfare systems, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. HECKLER of Massachusetts:

H.R. 14093. A bill for the relief of Jose de Medeiros Moura and his wife, Maria Idalina Medeiros Moura; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 14094. A bill for the relief of Appalachian Regional Hospitals, Inc., and the Methodist Hospital of Kentucky; to the Committee on the Judiciary.

SENATE—*Thursday, March 23, 1972*

The Senate met at 9:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for Thy mercies which are new every morning and for the promise that they who wait upon the Lord shall renew their strength. Use us this day and every day in bringing to fulfillment Thy holy purposes for this Nation and the world. Direct us in our efforts that they may be spent in high endeavor for an order of justice and peace. Equip us with the graces of charity, kindness, and firmness in the right as Thou dost help us to see the right. Lead us as the shepherd of our souls into green pastures of divine truth and to the cool waters of spiritual renewal. Bring us at last to that abode of peace and rest of those whose lives are in accord with Thee.

In Thy holy name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 22, 1972, be disposed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPANSION OF THE GULF ISLAND NATIONAL SEASHORE IN THE STATES OF FLORIDA AND MISSISSIPPI

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 675, S. 3153.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 3153) to amend the act of January 8, 1971 (Public Law 91-660; Stat. 1967), an act to provide for the establishment of the Gulf Islands National Seashore, in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, line 3, after the word "thereof", strike out "'$17,774,000.'" and insert "'$17,774,000 (June 1970 prices).'"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of January 8, 1971 (Public Law 91-660; 84 Stat. 1967), is amended by deleting from the second sentence of section 2(a), "one hundred thirty-five," and inserting in lieu thereof "four hundred," and by deleting from section 11, "$3,120,000," and inserting in lieu thereof "$3,462,000," and by deleting "$14,779,000," and inserting in lieu thereof "$17,774,000 (June 1970 prices)."

Mr. EASTLAND. Mr. President, S. 3153 is a sound piece of legislation and I urge its approval.

I want to commend the distinguished Senator from Nevada for his usual fine performance in expediting consideration of this legislation. I also want to express my gratitude to the distinguished Senator from Washington for his efforts on this important measure. S. 3153 would equip the Gulf Islands National Seashore to serve our people properly in the present. This is an important and necessary objective. Additionally, it would provide a headquarters for the seashore which would satisfy the splendid potential present in this undertaking for the Gulf Crescent and, indeed, for the United States.

My State has participated generously in this undertaking by making Magnolia State Park in its entirety available to the seashore. Enactment of this bill will increase the headquarters area from 135 acres to 400 acres. This additional acreage will provide us with a much improved visitor installation. Duplication of facilities or services will be eliminated and visitor enjoyment of this attractive area would be much enhanced. Interpretive and visitor services will be made available, and school and youth groups can be properly accommodated on a year-round basis.

A right-of-way will be acquired and a 1-mile long access road will be constructed to U.S. Highway 90. Here we have a vital component for our headquarters—safe and easy access into and out of the park area for the countless thousands of Americans who will utilize and enjoy this national asset.

I submit that the very modest additional cost is fully justified by the advantages provided to the seashore, our people, and our country. I am pleased to note that the Department of the Interior has recommended enactment of S. 3153 and that the Office of Management and Budget has advised that it has no objection from the standpoint of the administration's program. In the interest of our citizens and in the furtherance of our mission to develop adequate park and recreational facilities, I urge the passage of S. 3153.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. GRAVEL) is recognized for not to exceed 15 minutes.

(The remarks Mr. GRAVEL made at this point on the introduction of S. 3409 and the remarks of Mr. MONDALE are printed in the section of the RECORD devoted to the transaction of routine morning busi-

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ness under Statements on Introduced Bills and Joint Resolutions.)

RESCISSION OF ORDER RECOGNIZING SENATOR TUNNEY—TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing the distinguished Senator from California (Mr. TUNNEY) be vacated; that there now be a period for the transaction of routine morning business for not to exceed 30 minutes; and that at the conclusion of that period the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STEVENSON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the remarks of the distinguished Senator from Connecticut (Mr. WEICKER), the distinguished Senator from Illinois (Mr. STEVENSON), now presiding over the Senate, be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the conclusion of the 15-minute orders tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

REPORT ON APPROVAL OF LOAN TO CENTRAL IOWA POWER COOPERATIVE

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Central Iowa Power Cooperative of Marion, Iowa (with an accompanying paper); to the Committee on Appropriations.

REPORT ON DISPOSAL OF SURPLUS MILITARY SUPPLIES, EQUIPMENT, AND MATERIAL

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report pertaining to the disposal of surplus military supplies, equipment, and materiel for the second quarter, fiscal year 1972 (with an accompanying report); to the Committee on Armed Services.

PROPOSED CONSTRUCTION AT MILITARY INSTALLATIONS

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

PROPOSED UNIFORMED SERVICES SPECIAL PAY ACT OF 1972

A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED SECURITIES TRANSACTION PROCESSING ACT OF 1972

A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation entitled "Securities Transaction Processing Act of 1972" (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

REPORT OF FOREIGN-TRADE ZONES BOARD

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Foreign-Trade Zones Board, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Finance.

REPORT ON CAMBODIA OBLIGATIONS

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on Cambodia obligations, for the first two quarters of the fiscal year 1971 (with an accompanying report); to the Committee on Foreign Relations.

PAPERS RELATING TO THE PRESIDENT'S DEPARTMENTAL REORGANIZATION PROGRAM

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, for the information of the Senate, a document entitled "Papers Relating to the President's Departmental Reorganization Program (with an accompanying document); to the Committee on Government Operations.

REPORT ON PROJECT PROPOSALS UNDER SMALL RECLAMATION PROJECTS ACT OF 1956

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on the receipt of an application from the Semitropic Water Storage District, on behalf of the Pond-Poso Improvement District of Wasco, Calif.; to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF SECTION 3401, TITLE 18, UNITED STATES CODE

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF TITLE 38, UNITED STATES CODE

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code in order to authorize an agreement with the Republic of the Philippines providing for hospital care and medical services to be furnished Commonwealth Army Veterans and new Philippine Scouts for service-connected disabilities, and for other purposes (with accompanying papers); to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A resolution adopted by the city council of Alexandria, Va., praying for authorization of a tour of the Liberty Bell; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives (Rept. No. 92-709).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1973. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes (Rept. No. 92-710).

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with amendments:

S. 141. A bill to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes (Rept. No. 92-711).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 276. A resolution authorizing the printing of additional copies of Senate hearings entitled "The Budget of the United States, Fiscal Year, 1973," (Rept. No. 92-712);

S. Res. 278. A resolution authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution" as a Senate document (Rept. No. 92-713);

S. Res. 279. A resolution authorizing the printing of the report entitled "The Economics of Clean Air" as a Senate document (Rept. No. 92-714);

S. Res. 283. A resolution authorizing the printing of additional copies of the 1972 Annual Report of the Joint Economic Committee (Rept. No. 92-715);

S. Res. 287. An original resolution relating to the printing and distribution of legislative proceedings with respect to the deaths of former Senators Hayden, Robertson, and Holland (Rept. No. 92-716);

S. Con. Res. 63. A concurrent resolution to establish a Joint Committee on Inaugural Ceremonies of 1973;

S. Con. Res. 70. A concurrent resolution authorizing the printing of additional copies of Senate hearings on the Consumer Product Safety Act of 1971 (Rept. No. 92-717); and

H. Con. Res. 557. A concurrent resolution authorizing the printing of additional copies of House Report 92-911 (Rept. No. 92-718).

A 1972 JOINT ECONOMIC REPORT—REPORT OF JOINT ECONOMIC COMMITTEE (S. REPT. NO. 92-708)

Mr. PROXMIRE. Mr. President, the Employment Act of 1946, section 5(b)(3), requires that the Joint Economic Committee, not later than March 1 of each year, shall file a report containing its findings and recommendations with respect to each of the main recommendations made by the President in the economic report. This year the date for filing the committee's report was extended to March 28 by Public Law 92-232, dated February 15.

I, therefore, submit, from the Joint Economic Committee, a report entitled "1972 Joint Economic Report," and ask unanimous consent that this report may be printed together with minority and other views.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

PRINTING OF REVIEW OF REPORT ON METLAKATLA HARBOR, ALASKA (S. DOC. NO. 92-64)

Mr. RANDOLPH. Mr. President, I present a letter from the Acting Secretary of the Army, transmitting a report dated November 6, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on a review of the report on Metlakatla Harbor at Metlakatla, Alaska, requested by a resolution of the Committee on Public Works of the U.S. Senate, adopted February 4, 1964. I ask unanimous consent that the report be printed as a Senate document, with an illustration, and referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. METCALF) announced that on today, March 23, 1972, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 23, 1972, he presented to the President of the United States the following enrolled bills:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD (on behalf of Mr. McGOVERN) (for himself and Mr. MUNDT):

S. 3408. A bill to provide for the distribution to Mdewakanton and Wahpakoota Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets Nos. 359 through 363, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. HUGHES, Mr. McGOVERN, Mr. NELSON, Mr. PROXMIRE, Mr. TUNNEY, and Mr. STEVENSON):

S. 3409. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos. Referred to the Committee on Foreign Relations.

By Mr. ALLOTT (for himself, Mr. STAFFORD, Mr. TOWER, and Mr. CRANSTON):

S. 3410. A bill to amend chapter 5, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

By Mr. TOWER:

S. 3411. A bill to facilitate Federal Ship Mortgage Insurance for drydocks and drilling vessels. Referred to the Committee on Commerce.

By Mr. WILLIAMS (for himself, Mr. BENNETT, and Mr. TOWER) (by request):

S. 3412. A bill to foster the development and implementation of an integrated system, to be privately owned and operated, for the prompt and accurate processing and settlement of securities transactions effected on national securities exchanges and in the over-the-counter markets, which will assist in assuring the proper functioning of the securities markets and which will be responsive on a nondiscriminatory basis to the needs of issuer companies, brokers, dealers, banks, and other members of the securities industry and the public investors. Referred to the Committee on Banking, House, and Urban Affairs.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 3413. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENSON:

S. 3414. A bill for the relief of Alexandria Nicholson. Referred to the Committee on the Judiciary.

By Mr. HRUSKA (by request):

S. 3415. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 3416. A bill to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes. Referred to the Committee on Armed Services.

By Mr. MOSS:

S. 3417. A bill to amend title 5, United States Code, to regulate certain activities of Federal employees, and for other purposes. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. HUGHES, Mr. McGOVERN, Mr. NELSON, Mr. PROXMIRE, Mr. TUNNEY, and Mr. STEVENSON):

S. 3409. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos. Referred to the Committee on Foreign Relations.

Mr. GRAVEL. Mr. President, I rise today to introduce legislation which I hope will carry with it the support that it deserves, and I say that because this legislation, if passed by the Senate and then subsequently by the House of Representatives and signed into law, could bring to a close the most tragic saga in American history, the war in Vietnam.

The bill that I send to the desk, cosponsored, along with myself, by Senators CRANSTON, MONDALE, HUGHES, McGOVERN, NELSON, PROXMIRE, and TUNNEY, would end the war. It is not a long bill. It is presented on two pages, but it is long in its impact. It has three sections.

The first section is an "end the war" section. That is, very simply, after 30 days from the enactment of this legislation no further funds would be available to continue any type of military or paramilitary operation in Indochina.

The second section would stop the bombing.

This second section is broken down into two points—part (a), which is to stop the bombing in Cambodia, Thailand, Laos, and the Democratic People's Republic of Vietnam.

The part that concerns the bombing in South Vietnam is taken up in paragraph (b) of section (2), and states that the President of the United States can use bombing there, but only when it involves the immediate safety of the troops being withdrawn.

This, of course, is important because we all do have a concern with the loss of life of Americans, and we want to assure the people of this country, the mothers and fathers of the children who are in Vietnam as a part of American policy, that they will be given the maximum amount of safety as they are brought home. However, because of the irresponsible use of bombing by the Chief Executive today, I feel it is important to provide and it has been included in this section, that when and if the President chooses to use bombing in South Vietnam he report to the Congress why, and give the particulars concerning the use of bombing.

This, I want to underscore, I find very important. He should render an accounting to Congress, and thereby an accounting to the American people, because the Congress itself has been held in darkness concerning what is going on with respect to the bombing.

This is a ridiculous situation. I say ridiculous because that is the only word for it. It is quite obvious in this particular case that all a person in Indochina needs to do is walk out of the door of his house, and he can see and count the airplanes and count the number of bombing strikes. Of course, the American people cannot do that.

When it is asserted that secrecy is necessary because security is involved in the bombing, there is only one group of people that this secrecy is bound to affect, and that is the American people, not the Indochinese people, not the people that are being bombed.

The third section of this legislation deals with the prisoners of war. Here again I want to make a very strong statement, because I think a strong statement is in order. It is very simple—that this administration, with forethought, has developed a POW issue in this country with the intention of arousing the emotions of the American people so as to

develop their resolve to maintain military presence in Indochina.

Well, that tactic has failed. It has failed not because of perspicuity by the Congress in acting as an adversary to the administration, but it has failed because the wives of the prisoners have found out what a gigantic hoax has taken place. The wives themselves felt that they were being used, and reacted accordingly.

That, of course, is the reason why we have two POW groups in this country, one representing the POW wives who are disenchanted with the activities of the present administration, and another group which innocently has been manipulated to effect a preconceived notion of what public opinion should be in this country.

History is replete with examples of the fact that when you are at war, your prisoners are not returned. To do so would not make any sense. In fact, I could be wrong, but the only case I know of in which prisoners were released during the course of a war in recent history was a situation that took place during the civil war in China in the 1940's. The forces of Mao Tse-tung released troops they had captured in large numbers back into the countryside, because of the effect on the people they hoped the release would have.

We have a section in this amendment which addresses the POW question, because we truly want to see them returned. But there is only one way the POW's will be returned, and that is to end the war. Any thought of continuing the war fails to provide any personal, humane, or emotional consideration for the men who are held prisoners. And the number of prisoners is increasing with every bombing raid, every time an American plane is shot down.

Mr. President, this is the intent of the bill introduced today. I know that my colleague, the Senator from Minnesota (Mr. MONDALE), who is in the Chamber, will add his voice in support of the bill which we introduce together. I wish a larger number of Senators had joined us, but this is an election year, and I do not think their resolve is as strong as it has been in the past. I hope that with the efforts of the peace community throughout the Nation, as a result of the introduction of this legislation, the people will come forward and press for its passage, and that we will develop a stronger resolve in Congress as a result of the pressure of the people.

But more importantly, I believe the introduction of this legislation will, in an election year, bring about an accountability, because we fully intend to bring this measure up for a vote through one parliamentary device or another. The membership of this body will have to vote on ending the war in 1972, the year we were promised that the war would be ended.

I think it is tragic that we have not seen through the ruse that was perpetrated. I think it was a ruse. It is a little strong to say that, but when we are talking about loss of lives, we have to go a step beyond the normal amenities. I say it was a ruse because Richard Nixon, in 1968, campaigned with the promise that he had in his pocket a secret plan to end the war. Now, 3½ years later, we find that there was no secret plan to end the war. There has developed a plan to wind down the war, but if anyone in 1968 had campaigned on the premise of winding down the war, he would never have been elected. Quite obviously this will be an issue in 1972, regardless of what statement is made by Mr. Nixon and his colleagues. It will be an issue because, very simply, the American people do not want to wind down the war, the American people want to end the war. I think we in Congress have the responsibility to shift from the rhetoric of winding down the war to the reality of ending the war.

The reasons for our continued participation in this war are varied. But it seems to me at this point that to continue the war, in the face of all these reasons to end it, boggles the imagination and stultifies the mind.

All of the reasoning in support of continuing the war is bankrupt. The first reason offered is that we will continue the war until we get our prisoners back. But logic tells us we will get our prisoners back the moment we tell those who hold them we want to end the war.

The second reason is that we are trying to give these people in South Vietnam the opportunity for self-determination. Well, the history of the last year is testimony that that is a hoax. I say—and I underscore the word three times—that it is a lie. Anyone who says that today is telling an outright lie, because that is not what is happening. Any normal, intelligent person need only read the newspapers to know that. You do not have to be privy to classified documents; just read the newspapers.

A year ago on Memorial Day I stood on this floor trying to bring to the attention of the American people the passage of an act in the assembly of South Vietnam that would restrict the participation in free elections for the Presidency there. That act was passed because its chief opponent in the assembly, a man of my own age, was incarcerated on a phony charge of assault with intent to kill, and was released with the proviso that the votes would be there for the passage of that act. That person thereafter attempted to file for office in October, and was physically stopped from entering the filing place. There were guards at the door. So he no longer sits in the assembly.

We saw a law passed, in what our Government euphemistically calls a democracy in South Vietnam, whereby the person who was the Vice President of South Vietnam could not even qualify to run for President.

Mr. MONDALE. Mr. President, I am proud to join the Senator from Alaska today in introducing legislation designed to bring about immediate withdrawal of all our forces from Indochina, a speedy return of our prisoners, and an end to the bombing.

Our bill is simple. It requires total withdrawal within 30 days in exchange for a release of our prisoners. It would prohibit all further bombing of Indochina except as the President determined necessary to protect our troops in South Vietnam as they withdraw.

Our purpose is simple. We want to end American involvement in the war and end it now. We think the American people should know clearly how the Senate will face that choice in 1972.

The time is long past for lengthy speeches on this war. The Senate may debate or alter the details of our amendment. But in the end, it will all come down to the basic question: Do we let this nightmare continue?

I am not sure any more that we can really grasp what we have done in the war—and what the war has done to us.

The Senator from Wisconsin (Mr. NELSON) stood on this floor a few weeks ago and told us that our bombs and herbicides had ravaged millions of acres of land in Indochina. If only we knew and understood, he said, we would stop it.

Last spring, the Vietnam Veterans Against the War came to Washington to tell us in voices choked with tears and anger how this war had ravaged a generation of young Americans as brutally as our bombs destroy the land and people of Indochina. If only we understood, they told us, we would stop it.

But the nightmare goes on.

It goes on for the more than 200 families in my State of Minnesota and thousands more around the Nation who have lost sons and husbands and fathers since 1969, since this administration promised peace. It goes on for the men who still remain in the firebases, in the aircraft over Laos or North Vietnam, and in the POW camps.

It goes on for the thousands of civilians we kill with each bombing raid over Indochina. It goes on for the hundreds of thousands who are refugees because of our bombing.

The administration tells us, of course, that the casualty lists are at an all-time low. And perhaps the President can feel that Vietnam is no longer a political issue. Perhaps there is, as I said here last December, some gruesome threshold of public outrage over the killing of American boys and the savagery of the war on other people. The horrible truth may be that neither the administration nor the Congress cares enough to stop this carnage so long as the weekly casualties are politically acceptable.

But then there are casualties that never show up in Pentagon figures or political polls. There are fearsome and often fatal wounds to the spirit of a nation that wantonly destroys and refuses to face the truth. By letting this war happen, we broke faith with our own generation. By failing to stop it even now, we are breaking faith with the future.

There is no more need here to argue the realities of the war policy—the folly and senselessness of our involvement in Southeast Asia have been documented beyond any doubt. The reasoning has been done. We are left, as always on the great issues, with our conscience.

No one can honestly question now how the vast majority of Americans would vote on our bill—the gold star families, the young men who may yet have to lay down their lives, the millions from our farms to our cities whose desperate needs are starved because of the waste of this war.

But we should remember yet another constituency, one that will not appear in our correspondence, speak to a pollster, or vote for a Senator or a President. Those are the more than 50,000 dead Americans from this tragedy. As the columnist Pete Hamill wrote so movingly:

> They are scattered all over this country, in lonely cemeteries, silent through still another winter, killed by Asia, killed by malignance, killed by ignorance, and killed by cowardice. A lot of those kids will be 21 forever . . . we will never know what they might have been; we do not know which of them might have written songs, scribbled novels, painted murals across the walls of New York; we don't know which of them might have cured cancer or played the outfield for the Yankees or run a great gas station in Oklahoma or rode horses at dusk through the steppes of Montana. They are all dead. We will never find out about their lives.

Those men too should be with us when we search our consciences and vote on this amendment.

So we will try once again to end the nightmare. And if we fail again, we will keep trying.

For we are doing more than voting on a foreign policy or the conduct of a war. We are recording for history our character as a nation.

Mr. President, I ask unanimous consent that the Gravel-Mondale bill be printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the provisions of Section 3 of this Act, no funds heretofore or hereafter appropriated may be expended for longer than thirty days after the enactment of this Act to support the deployment of United States Armed Forces or any other military or paramilitary personnel under the control of the United States in or the conduct of military or paramilitary operations in or over the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, or Laos.

SEC. 2. (a) That no funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within Laos, Cambodia, Thailand, or the Democratic Republic of Vietnam.

(b) No funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within the Republic of Vietnam unless the President determines any such bombardment or air operation clearly to be necessary to provide for the immediate safety of United States Armed Forces during their withdrawal from the Republic of Vietnam, and submits to the President pro tempore of the Senate and the Speaker of the House for immediate transmission to the respective bodies of the Congress, within 48 hours of each such bombardment or operation (or if the Congress is not in session, as soon thereafter as it may return), a written report setting forth the time, place, nature and reasons for conducting such bombardment or operation.

SEC. 3. (a) If, by twenty days after the date of enactment of this Act, the Democratic Republic of Vietnam and other adversary forces in Indochina holding American prisoners of war have not made arrangements for the release and repatriation, by the date in section 1, of all such prisoners—

(1) the date in section 1 shall be extended for thirty days, and

(2) the Congress may by joint resolution authorize such further action as is recommended by the President to secure the release and repatriation of American prisoners of war.

(b) Nothing in this section shall be construed to affect the authority of the President to arrange asylum or other means of protection for individuals who might be physically endangered by the withdrawal of United States military or paramilitary personnel from the Republic of Vietnam, Cambodia, or Laos, or to arrange for the return of United States equipment or stores from the Republic of Vietnam.

Mr. MONDALE. Mr. President, it is hard to recount fully the horror of our bombing policies in Vietnam.

A recent Cornell University study on the air war in Indochina tells us that civilian casualties in Laos have totaled 10,000 more in the period 1969 to 1971 than in the earlier period 1965 through 1968. That study estimated that throughout Indochina an average of 130,000 civilians have been killed, wounded, or refugeed each month since 1969. That compares to an estimated 98,000 each month during the period 1965–68.

According to Senator KENNEDY's Subcommittee on Refugees, the number of refugees in Laos since 1969 has grown to twice the total number during the period from 1965 through 1968. Homeless victims of the war in Laos now number more than 10 percent of the population of that country. Senator KENNEDY told us last April that our bombing in Laos is responsible for at least 75 percent of these refugees.

If one is a villager in Laos, Cambodia, or South Vietnam, the terror of this supposedly disappearing war is greater than ever before. According to our own official Department of Defense figures, the United States dropped 400,000 tons of bombs more in the period 1969 to the present than in the period 1965 to 1968. The tonnage totals for the period since 1969 are greater than those of all the bombs we dropped in World War II and the Korean war combined.

Let me read that again. The tonnage totals for the period since 1969—tonnage of bombs dropped on Southeast Asia—was greater than all the bombs we dropped in World War II and the Korean war combined.

Or, to put it another way, every month our bombs are falling on Indochina at the equivalent tonnage of twice the nuclear bomb we dropped on Hiroshima. And that is going on today, as we speak of a generation of peace.

We have dropped almost 3 pounds of explosive per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land measuring 26 feet deep and 40 feet in diameter.

Land destruction in Indochina involves 80 percent of the timber forests and 10 percent of all the cultivated land in the region.

Let me repeat that. Every month, our bombs are falling on Indochina at the equivalent tonnage of twice the nuclear bomb we dropped on Hiroshima. We have dropped almost 3 pounds of explosives per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land, measuring 26 feet deep and 40 feet in diameter.

Mr. President, the distinguished Senator from Wisconsin (Mr. NELSON), perhaps the Nation's greatest environmentalist, recently introduced what he called the Vietnam War Ecological Damage Assessment Act of 1972, in which he recounted in detail the ecological disaster we are visiting on Southeast Asia.

We talk about deaths; we talk about injuries; and those, of course, are unspeakable. But he gives the other part of the problem as well: What we are doing in creating the ecological nightmare in Southeast Asia. He points out the following:

> Suppose we took gigantic bulldozers and scraped the land bare of trees and bushes at the rate of 1,000 acres a day or 44-million square feet a day until we had flattened an area the size of the State of Rhode Island, 750,000 acres.
>
> Suppose we flew huge planes over the land and sprayed 100-million pounds of poisonous herbicides on the forests until we had destroyed an area of prime forests the size of the State of Massachusetts or 5½ million acres.
>
> Suppose we flew B–52 bombers over the land dropping 500-pound bombs until we had dropped almost 3 pounds per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land measuring 26 feet deep and 40 feet in diameter.
>
> Suppose the major objective of the bombing is not enemy troops but rather a vague and unsuccessful policy of harassment and territorial denial called pattern or carpet bombing.
>
> Suppose the land destruction involves 80 percent of the timber forests and 10 percent of all the cultivated land in the Nation.
>
> We would consider such a result a monumental catastrophe. That is what we have done to our ally, South Vietnam.
>
> While under heavy pressure the military finally stopped the chemical defoliation war and has substituted another massive war against the land itself by a program of pattern or carpet bombing and massive land clearing with a huge machine called a Rome Plow.
>
> The huge areas destroyed pockmarked, scorched, and bulldozed resemble the moon and are no longer productive.
>
> This is the documented story from on-the-spot studies and pictures done by two distinguished scientists, Prof. E. W. Pfeiffer and Prof. Arthur H. Westing. These are the same two distinguished scientists who made the defoliation studies that alerted Congress and the country to the grave implications of our chemical warfare program in Vietnam, which has now been terminated.
>
> The story of devastation revealed by their movies, slides, and statistics is beyond the human mind to fully comprehend. We have senselessly blown up, bulldozed over, poisoned, and permanently damaged an area so vast that it literally boggles the mind.
>
> Quite frankly, Mr. President, I am unable adequately to describe the horror of what we have done there.
>
> There is nothing in the history of warfare to compare with it. A "scorched earth" policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and mutilated that vast areas can never be used again or even inhabited by man or animal.
>
> This is impersonal, automated, and mech-

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anistic warfare brought to its logical conclusion—utter, permanent, total destruction.

The tragedy of it all is that no one knows or understands what is happening there, or why, or to what end. We have simply unleashed a gigantic machine which goes about its impersonal business destroying whatever is there without plan or purpose. The finger of responsibility points everywhere but nowhere in particular. Who designed this policy of war against the land, and why? Nobody seems to know and nobody rationally can defend it.

Those grand strategists who draw the lines on the maps and order the B–52 strikes never see the face of that innocent peasant whose land has been turned into a pock-marked moon surface in 30 seconds of violence without killing a single enemy soldier because none were there. If they could see and understand the result, they would not draw the lines or send the bombers.

If Congress knew and understood, we would not appropriate the money.

If the President of the United States knew and understood, he would stop it in 30 minutes.

If the people of America knew and understood, they would remove from office those responsible for it, if they could ever find out who is responsible. But they will never know because nobody knows.

By any conceivable standard of measurement, the cost benefit ratio of our program of defoliation, carpet bombing with B–52's, and bulldozing is so negative that it simply spells bankruptcy. It did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

These programs should be halted immediately before further permanent damage is done to the landscape.

The cold, hard, and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best.

This has been a hard speech to give and harder to write because I did not know what to say or how to say it—and I still do not know. But I do know that when the Members of Congress finally understand what we are doing there, neither they nor the people of this Nation will sleep well that night.

For many reasons I did not want to make this speech but someone has to say it, somewhere, sometime.

Mr. President, the Senator from Wisconsin then asked for some tables to be printed in the RECORD which were provided by Dr. Arthur H. Westing, and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

MUNITIONS EXPENDITURES

[In millions of dollars]

Year	South Vietnam	North Vietnam	South Laos	North Laos	Cambodia	Total Indochina
1965	594	65	60	10	0	630
1966	1,778	255	135	20	0	2,188
1967	3,634	415	200	30	0	4,278
1968	5,185	330	310	40	0	5,866
1969	4,674	0	490	420	0	5,583
1970	3,333	0	655	240	115	4,344
Total	19,099	1,065	1,850	760	115	22,889

ECOLOGICAL IMPACT

Country	Number of craters (in millions)	Area with "shrapnel" (in million acres)	Area cratered (in thousand acres)	Earth displaced (in million cu. yds.)
South Vietnam	19.1	23.9	309.9	2,500
Military region I	(6.1)	(7.6)	(98.4)	(794)
Military region II	(3.8)	(4.8)	(62.0)	(500)
Military region III	(8.3)	(10.3)	(134.2)	(1,083)
Military region IV	(.9)	(1.2)	(15.3)	(124)
North Vietnam	1.1	1.3	17.3	139
Laos	2.6	3.3	42.4	342
Southern Laos	(1.8)	(2.3)	(30.0)	(242)
Northern Laos	(.8)	(1.0)	(12.3)	(99)
Cambodia	.1	.1	1.9	15
Total Indochina	22.9	28.6	371.4	2,996

ALL INDOCHINA

[In millions of pounds]

Year	Air munitions	Surface munitions	Total munitions
1965	630		630
1966	1,024	1,164	2,188
1967	1,866	2,413	4,278
1968	2,863	3,003	5,866
1969	2,774	2,808	5,583
1970	1,955	2,389	4,344
Total	11,112	11,777	22,889

IMPACT OF U.S. MUNITIONS

[In pounds]

Expenditure	South Vietnam	North Vietnam	Laos	Cambodia	Total Indochina
Per acre	446	26	45	3	125
Per person	1,091	58	992	18	513

B–52—ASSUMING AN AVERAGE OF 7 SORTIES PER MISSION

[In numbers of missions]

Year	Military region I	Military region II	Military region III	Military region IV	Total South Vietnam
1967	527	284	269	10	1,090
1968	1,137	644	1,143	148	3,072
1969	319	440	1,777	98	2,634
1970	624	274	366	150	1,414
Total	2,607	1,642	3,555	406	8,210

Note: Although breakdowns for 1965 and 1966 are not available, the totals approximate 138 and 550, respectively.

Mr. MONDALE. Mr. President, the bill which the Senator from Alaska and I and others are introducing today is designed to end that carnage, and end it now, and stop this totally inexcusable and inhumane devastation which our country is visiting on Southeast Asia. We can no longer tolerate its continuance. I believe that the bill, if adopted, will bring it to an end.

I yield the remainder of my time to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. I thank my colleague from Minnesota for yielding me this time. I also want to thank him for the encouragement he has given me in bringing this bill to the floor of the Senate today. This is a matter which I have been deliberating for some months—what to do and how to do it—and it is due to his resolve and the strong feelings he has on this subject that we are now doing something today. I want to thank him not only as a colleague of mine in the Senate, but also as an American citizen.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the distinguished Senator from Iowa (Mr. HUGHES), who is one of the cosponsors of this bill.

There being no objection, the statement by Senator HUGHES was ordered to be printed in the RECORD, as follows:

THE GRAVEL-MONDALE BILL

Mr. President, I am pleased to join my distinguished colleages in sponsoring this legislation which would bring an end, once and for all, to our military involvement in Indochina. Senators Gravel and Mondale have performed a particular service by drafting a measure which brings clearly into focus the problem of the continuing air war in that region of the world.

The American escalation of the war in Vietnam and in Laos began in the air, and it looks now as if we will continue massive aerial bombardment long after the number of U.S. ground forces drops to a level of military insignificance. Until we end all of our war-making in Indochina, we will not have ended the war. And until the war ends, we have no reason to expect the return of our men who are held prisoner.

Despite all the claims of progress in ending the war—the reduced casualties, fewer ground troops, lessened costs—the American people still know that the war is "pretty big," as a Harris poll revealed last week. By better than two-to-one, they also oppose the policy of bringing home ground combat troops but continuing the air war. Other surveys have also shown the widespread and even growing discontent over a war which does not end.

In a few weeks we will have more men stationed outside Vietnam yet involved in the air war than we have men in South Vietnam itself. The 30,000 Americans in Thailand and nearly equivalent number stationed offshore have the capability to bring continued devastation to the land and people of Indochina. If the bombing continues at the rate for December—the most recent figures available—it means more than 3 million pounds of explosives every day.

The statistics of this war are so staggering that many people try to blot them out of their minds. Yet all of the numbers have a human factor which no computer can ever calculate.

How can we put a value on the 55,000 American dead, not to mention the hundreds of thousands of Vietnamese dead?

How can we measure the true impact of the bombing, which is now more than double the total U.S. bombing in World War II and Korea?

How can we add up the long run social costs of a policy which has defoliated an area of prime forests the size of Massachusetts and has driven perhaps one-fourth of the people of Laos and Cambodia from their homes?

The numbers go into official reports, but the shrapnel still rips through human bodies and the warfare leaves permanent scars on the hearts and minds of the people we were supposed to protect.

In the past the American people saw the horror of war every day on their television sets. Now that the automated air war has become the prime U.S. activity, the war is harder to visualize or report. Even the bomber pilots admit not knowing precisely what damage they have caused, since that assessment is made by others. As one pilot told Life magazine: "All we can see are our losses and no fruits for our efforts."

The news reports in recent weeks make it clear that the war is changing, not ending, and that it may even be reescalating.

The United States has increased its carrier fleet off the Vietnamese coast and has doubled the number of B–52s assigned to fly in Indochina.

We have already lost as many multi-million-dollar fighters over Indochina this dry season as during the same period last year.

The number of so-called protective reaction strikes against North Vietnam is already almost equal to the total for all of 1971.

There have been more B–52 raids on targets in the South Vietnamese Central Highlands in the last 30 days than in the previous 18 months.

Despite all the bombing, men and material still get through in sufficient numbers to threaten a major offensive. For weeks we have been told that such an offensive is coming; now we hear that it is set for Saturday. Meanwhile, the Wall Street Journal's assessment remains accurate: "the only offensive so far this year has been in the air. . . ."

Most disturbing of all, there is really no end in sight to this war. The Washington correspondent of the *Philadelphia Inquirer*, James McCartney, reached this conclusion after several discussions with leading policymakers: "As officials sum it, prospects now are for continued bombing for an indefinite period, though perhaps at reduced levels; continued fighting in both Laos and Cambodia; at least some U.S. casualties; continuing high rate of South Vietnamese combat deaths and casualties, running to tens of thousands a year." Top Administration officials, McCartney says, say that "they do not know when the war may end, or how."

I believe that the Congress can find an answer to that question and can bring the end to this war which the American people so strongly desire. The legislation introduced today would end the killing within 30 days after enactment and would provide the needed incentive to obtain the release and repatriation of the Americans held prisoner.

Whether one views the history of peace negotiations as sincere or half-hearted, the fact remains that we have neither peace nor our POWs. The Gravel-Mondale bill offers hope for both.

Mr. GRAVEL. Mr. President, I send to the desk the bill introduced by the Senator from Minnesota (Mr. MONDALE), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from California (Mr. TUNNEY), and myself.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, the bill will be received and appropriately referred.

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by me of last October 5, 1971, entitled "Cessation of Bombing in Indochina."

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

CESSATION OF BOMBING IN INDOCHINA

(Statement by Senator MIKE GRAVEL)

While we deliberate today in this chamber American planes will ease into the sky over Southeast Asia. They will drop tons of explosives, guided to the flesh of human beings by the most elaborate and impersonal technology.

Hovering over Laotian rice fields, the A–119 Stinger gunship can put a piece of shrapnel into every square foot of an area the size of a football field.

On the ground are three million Laotians, the heaviest bombed people in the history of warfare. They will huddle in their caves and field trenches, and some will die. Many will not see the sun for months, fear keeping them in their covered bunkers during daylight hours.

In the name of America the planes come.

Over the past ten years 700,000 Laotians have been made refugees, tens of thousands have been killed or wounded, and hundreds of thousands forced to live much of the time in caves and trenches.

The bombing raids also come in the name of the United States Senate, until we legislate otherwise.

The war is not winding down for the peoples of Indochina. Since the much heralded bombing halt over North Vietnam, the planes have not come home. They've simply shifted their targets into Laos and Cambodia.

The bombing has continued at 100 tons an hour, 2,400 tons a day. The rate of civilian casualties and refugee generation, indicative of the overall level of violence, has if anything increased during the last two years.

Recent hearings before the Senate Subcommittee on Refugees reveal that since the invasion of Cambodia nearly one quarter of that country's population—1,500,000 people—have become refugees. In the last few months in South Vietnam more refugees have been created than at any time since the 1968 Tet offensive.

The bombing of North Vietnam has been resumed. As recently as September 21 an armada of 250 U.S. planes attacked targets in the North, and this raid was followed on successive days by two more so-called "protective reaction" strikes. At present the bombing of North Vietnam has reached an average rate of once every four days, and according to North Vietnamese reports 106 villages in addition to missile sites have been struck. The Meatgrinder in Vietnam, which has taken 325,000 civilian lives and wounded more than a million since 1965, is still whirling. As the South Vietnamese Minister of Information commented in 1968, South Vietnam has been devastated by an alien air force that seems at war with the very land of Vietnam.

The Amendment I offer is quite straight forward. Let us stop the bombing, not just partially over North Vietnam but in all Indochina—except for those strikes inside South Vietnam demonstrably related to the security of our withdrawing troops. Is it really the desire of the Senate to continue to send out those planes?

An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American boys are slowly coming home, but they are leaving an automated war behind. There is every danger, as Noam Chomsky has warned, that we intend to turn the land of Vietnam into an automated murder Machine. Computer technology and a small number of troops manning aircraft and artillery are creating a U.S. destructive presence that may literally hover over Southeast Asia for years to come. In the midst of this the public is confused, pacified by the diminishing troop levels, yet vaguely troubled by continuing reports of devastation.

Eluding recognition, hidden in the technoeuphemisms of military speech, is the reality of our policy. "Selective Ordnance"—a rather dull and technical sounding term until one realizes it masks the use of napalm against human beings. "Harassment and Interdiction"—a rather light-hearted term until one understands that it represents the random hurling of destruction into jungle areas.

These antiseptic words obfuscate horror-filled realities, and thereby circumvent public judgment. "Surgical air strike"—one pictures a diseased cancer benevolently removed from the countryside. But the cancer is the peasantry. In World War II the cancer was the Jews, and the operation was the "final solution". In the name of America, how many executions are taking place from the air in Indochina.

It is the enormity of our mistake that clouds it. If we were wrong, how wrong we were! Nothing will bring back those who have died, or the lost arms and legs, eyes and ears. But let us commit ourselves at least to stop the bombing of those who remain.

How the people of this country, a good people, industrious people and generous people, could have come to visit such destruction on another nation is difficult to comprehend. Orwell in his masterpiece 1984 depicts such carnage as the result of technology gone mad, removed from common experience, giving reality to surrealistic nightmares. We may have intervened in Indochina for commendable reasons—even that is questionable—but at some time the machine got out of control and we could not turn it off.

Picture the battlefield in Laos. Light spotter planes at 2,000 feet; A–1E, A–26 and T–28 prop bombers, AC–47 and AC–130 gunships, flare ships and rescue helicopters at 5,000 feet, F–4, F–105 and B–57 Jet fighters and Jet reconnaissance aircraft at 10,000 feet: KG 135 super-tankers at 20,000 feet; C–130's filled with electronic gear designed to coordinate the bombing at 25,000 feet: B–52 bombers at 30,000 feet; C–130's of Hillsboro control overseeing the entire operation at 35,000 feet and SR–71 reconnaissance aircraft at 70,000 feet.

And on the ground is the Laotian peasantry. Listen to their reactions and thoughts as recorded in refugee interviews.

"The planes came like birds and the bombs fell like rain." Another—"there wasn't any night when we thought we'd live until morning . . . never a morning we thought we'd survive until night."

And another—"I just stayed in my cave. I didn't see the sunlight for two years. What did I think about? Oh, I used to repeat, please don't let the planes come, please don't let the planes come, please . . ."

And another—"before the village was beautiful and filled with happiness and there was a large field of fruit trees. But when I left my village all I saw were the holes of the bombs and the burning houses and the people who had died so pitifully."

And another—"Our lives became like one of the animals who search to escape the butcher."

And this continues every hour—200,000 pounds of bombs, every 9 days the equivalent of one Hiroshima. From 1965 to 1969, 70 tons of bombs for every square mile of North and South Vietnam were dropped, 500 pounds for every man, woman and child. In just the first five months of 1971 there were 780 million pounds of bombs dropped over Southeast Asia.

PART II

The airwar is not even militarily effective. Secretary of Defense McNamara revealed in 1968 that it could at best reduce the flow of supplies along the Ho Chi Minh trail by only 10%–15%. At a cost of over $100,000 per truck destroyed. Former Under Secretary of Defense Townsend Hoopes has pointed out that in the history of bombing campaigns, only when the sources of production are attacked can the logistical flow of supplies be effectively impaired. In this case that would involve strikes against China and the Soviet Union. A study of the hamlet evaluation reports reveals that the number of villages under government control in South Vietnam varied independently of the level of the air campaign over the North.

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On the ground the bombing raises enemy morale and alienates civilians. Pathet Lao defectors indicate that before the heavy bombing in Laos they managed only a 30% rate of voluntarism among their forces. However, after the massive attacks of late 1968 the figure jumped to almost 100%. Better to die fighting than in a trench was the feeling of one Pathet Lao recruit.

As I have indicated, the air war is not isolated in any one country in Indochina. The Vietnam war has indeed become the Indochina war. But information concerning the extent of U.S. bombing in Laos has been limited and concealed by the Executive Branch, so I would like to discuss in more detail the situation in those skies.

Since 1964 the United States has been engaged in an aerial campaign over Laos. The bombing was seriously escalated in late 1968 and early 1969 when restrictions against civilian targeting were significantly related. The air war has involved in Laos alone an estimated cost of 5–7 billion dollars, innumerable Laotian casualties, and over 400 pilots either dead, missing in action, or captured.

Even traces of these facts were kept officially from the public until March 1970. The same pattern of duplicity and deception which the Pentagon Papers have shown to characterize our entry into Vietnam has been repeated in Laos.

Currently a strict Gray-out is imposed on U.S. operations there, with little information besides official reports available to the press. Reporters are not permitted to accompany attack and spotter planes on their missions as they are in Vietnam. Most pilots are apparently under instructions not to talk with newsmen. The Air Attache in Vientienne is similarly inaccessible. Recent requests by Congressman McCloskey for photographs of previously existing Lao villages to confirm their continued well being have gone unmet by the Pentagon. Military officials have failed as well to provide Congressman McCloskey with a listing of all bombed civilian targets in Laos.

But there are some unofficial sources of information. These nearly unanimously tell one story—that of massive bombardment of civilians under Pathet Lao control. Congressmen McCloskey and Waldie found, in a U.S. information survey initially concealed from them by the Embassy, that 75% of the 190 respondents from 98 villages had had their homes bombed. In addition 97% had seen a bombing attack and 61% had seen a person killed. Congressmen McCloskey and Waldie also conducted their own interviews, and all 16 refugees queried, from 7 different villages, testified to the aerial destruction of every single dwelling in their hamlets.

A report by U.N. expert Georges Chapelier in December 1970 stated that in the Plaine des Jarres "by 1969 the intensity of the bombings was such that no organized life was possible in the villages . . . Jet planes came daily and destroyed all stationary structures. Nothing was left standing. The villagers lived in trenches and holes or in caves. They only farmed at night. All of the interlocutors without exception had their villages completely destroyed. In the last phase, bombings were aimed at the systematic destruction of the materials bases of the civilian society.

At one time there were more than 50,000 people living in the Plaine des Jarres. There is virtually no life there now.

One village chief indicated that in 21 hamlets not one home was left standing. In his own village 45 percent of the 2600 inhabitants never left their trenches.

A sample of 25 villages from the Plaine des Jarres revealed casualty rates of 5–10 percent from the bombing It is estimated that 50 civilians are killed for every Pathet-Lao casualty.

In 1968 Jacques Decornoy, the Southeast Asian desk editor for *Le Monde* traveled through Pathet Lao controlled areas. According to his interviews, 65 villages in the Sam Neua district alone had been destroyed by U.S. air power. Traveling through the devastated areas he depicts it as "a world without noise for the surrounding villages have disappeared. The inhabitants themselves living in the mountains."

Such testimony is of course contrary to our government's official position that "never before has such care been taken to spare civilians in bombing raids."

The picture burnt into one's imagination is that of hundreds of thousands of Laotians desperately huddling in caves and trenches as U.S. planes roar overhead. Again it is the enormity of the suffering endured by these poor people which blinds us to our own policy. I will rerun the picture, because we must break through the psychic numbness we have developed.

There are hundreds of thousands of poor peasants, noncombatants, living underground in fear of U.S. air power in Asia. There are entire areas of former civilization reduced to near cave man standards by the most advanced nation in the history of the earth. For what? no matter for what, it is indefensible.

At Nuremberg Teleford Taylor, chief U.S. Prosecutor, argued that where the military profits of any policy are dwarfed by the civilian casualties, such a policy is indefensible. The massive air war by the U.S. against the peoples of Indochina is indefensible. Every B–52 raid, every A–119 K stinger drop is criminal.

The situation in Laos is not appreciably different from what is currently occuring in Cambodia. As the Senate Subcommittee on Refugees noted, the same pattern of destruction is being repeated relentlessly throughout Indochina. It is up to the Congress to terminate it. The President has made it clear that he intends to continue the bombing, stating in February this year, "I will not place any limitations on the use of air power."

Secretary of Defense Laird has indicated that we intend to maintain a naval and air presence in Southeast Asia indefinitely after the last ground troops are withdrawn. The Pentagon, which seems to have statistics available for all categories and contingencies, lacks even an estimate of the likely civilian casualties this presence will cause. Such considerations do not seem to have a high priority in current American decision making. The so-called "gook rule" which haunted the Calley trial has far more profound implications for the air war.

On the afternoon that the U.S. helicopters and attack planes accompanied the South Vietnamese into Laos the President issued a statement on our environmental crisis. Within it he quoted from T. S. Eliot's "Murder in the Cathedral." "Clean the air, clean the sky, wash the wind . . ." It would have been revealing for the President to have quoted further: "The land is foul, the water is foul, our beasts and ourselves are defiled with blood.

A rain of blood has blinded my eyes . . . Can I look again at the day and its common things and see them all smeared with blood through a curtain of falling blood? We did not wish anything to happen."

Let us stop the bombing, withdraw our troops and begin to "take stone from stone and wash them."

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD excerpts from remarks I made to the Fund for New Priorities dinner in New York City on January 14, 1972.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE CONTINUING AIR WAR

(Excerpts from remarks by Senator MIKE GRAVEL)

The Nixon Administration's recent resumption of heavy bombing of North Vietnam once more raises a basic moral question: what right do our leaders have to kill and maim men, women, and children halfway across the globe who pose no threat to this Country?

As usual, the Administration is claiming that it is bombing only "military" targets. This may or may not be true. One remembers, after all, that the Johnson Administration claimed the same thing.

Even if the Administration is bombing only "military" targets this time, there can be no doubt that it also is causing serious civilian casualties. In a rural country like North Vietnam most so-called military targets such as bridges and factories are located in and around heavily populated civilian areas. Hanoi reports that in the most recent raids bombs fell on a hospital, and even military sources admit that American jets hit North Vietnamese army barracks as they went after nearby airfields.

The Cornell Air War Study quotes a memorandum by former Defense Secretary McNamara, in which he estimated that the bombing was causing 1,000 civilian casualties every *week* during the sustained raids of 1967. An equivalent casualty rate in the U.S. would be more than 600,000 per year.

Interviews with U.S. pilots indicate that most of the bombs we drop on North Vietnam are anti-personnel ordnance such as pineapple or guava bombs. These bombs contain hundreds of steel pellets.

One sortie of this type of bomb sends over half a million of these pellets spewing over an area half a mile loug and an eighth of a mile wide.

During the Christmas raids alone it was announced that American planes flew over 1,000 sorties against North Vietnam. It is, therefore, not hard to believe the following Associated Press dispatch, dated December 29,: "Hanoi claimed that in Thanh Hoa Province on Sunday the U.S. planes killed 24 civilians and wounded 47. A broadcast said most of the casualties were caused by steel pellet anti-personnel bombs dropped on workers in the fields."

It's not a very pretty thing what our bombers are doing to these people.

But it's still going on right now. This month alone another 50,000 tons of anti-personnel bombs, napalm, and white phosphorous are raining down upon not only the people of North Vietnam, but Laos, Cambodia, and South Vietnam as well.

We won't be told of the victims, of course. To the extent we learn anything it will be of "protective reaction" strikes, "interdiction" missions, and the bombing of supply depots.

But there are human beings under those bombs, and they will continue being killed and maimed until we, the American people, demand an end to this bombing.

In just the eight months since President Nixon told the American people in his April address to the Nation that "Vietnamization has succeeded", there have been an additional 1,302 Americans killed in the Indochinese War, and 4,870 more wounded. Deaths among allied forces in that same period have risen 15,595, and the Pentagon estimate of the number of new deaths among those people it chooses to call the "enemy" is 56,030. That last figure is no doubt conservatively low.

These numbers tell of the *failure* of Vietnamization, not its success.

An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American ground troops are slowly coming home, but they are leaving an automated war behind. Computer technology and a small number of troops manning aircraft and artillery are creating a U.S. destructive presence that may literally hover over Southeast Asia for years to come. In the midst of this the public is confused, pacified by the diminishing troops levels, yet vaguely troubled by continuing reports of devastation.

In his mid-December newsbriefing Secretary of the Air Force Seamans sought once again to play down the air war. The basic point Seamons tried to make was that the air war was not escalating, that in fact it had been wound down. As such, his remarks represent a relativistic apology for the continuing raids, a logic more appropriate for 1984 than 1972—the logic of permanent war.

It is an insult to the American people to portray the air war as fading away when in 1971 somewhere between 750,000 and 800,000 tons of bombs were dropped over Indochina. Though down from the peak years of 1968 and 1969, this figure represents:

a) nearly 40% of all the U.S. air ordnance expended during the Second World War,

b) nearly 80% of all the air ordnance expended during the three year Korean War,

c) the equivalent of 37 Hiroshimas, or roughly one every nine days.

Most importantly, the Nixon Administration has made it clear that the bombing is to continue indefinitely even after the last American ground troop comes home (if he ever does). Even if reduced by 50% the air war still would continue at an average level greater than that of the Korean War.

But there are many indications that the reductions in the bombing are bottoming out. Pentagon sources, for example, indicate that B–52 strikes, though currently down 60% from their peak in 1968, are to continue indefinitely at their present rate of 1,000 per month. And although tonnage figures registered a 30% decline from 1969 to 1970 they dropped only 23% from 1970 to 1971.

At a time when the Harris Poll indicates that 65% of the American people feel the war is "immoral", and oppose by a 57 to 29 margin continued American bombing in order to achieve political ends, it is indefensible to continue the strikes at any level.

In regard to Secretary Seamans' "wound down war", it is worth noting that the Senate Refugee Subcommittee found that, "In this year, 1971, more civilians are being killed and wounded in the three countries of Indochina, and more made refugees, than at any time in history. Most of the casualties are caused, and people made refugees, by American and allied military activity."

Secretary Seamans also underplayed the seriousness of the Administration's expansion of the air war into Cambodia (all of the 140,000 tons absorbed by Cambodia are Nixon tons) and the doubling of the strikes within Laos during these last three years. A recent General Accounting Office study of the war in Cambodia found that two million of that nation's seven million population had been made refugees since the May, 1970 invasion, largely as a result of the bombing. In Laos more than 700,000 have been refugeed out of a total population of less than three million. Senator Kennedy—Chairman of the Senate Refugee Committee—estimates that three-fourths of the Laotian refugees were produced by American bombing.

Secretary Seamans also took great pride in the growth of the South Vietnamese Air Force, now one of the largest in the world. It is questionable, however, whether the American people wish to continue to pay the massive cost of such a Vietnamese force. It is questionable whether the American people wish to fight a war by proxy which 65% of them believe to be morally wrong. It is questionable whether the American people are as anxious as the President to find a magic combination of mercenaries and machines that will allow permanent war in Indochina.

Though the number of sorties and tonnage figures have declined, there has been an escalation in the technology applied. Administration spokesmen are quick to point out the "provocative" escalations of the other side when SAMs or higher caliber anti-aircraft weapons are introduced, but they are boastful about our own deployment of a new generation of aerial weapons. In recent years our laser guided bombs, tele-guided bombs, more sophisticated anti-personnel bombs, and the gradual refinement of automated battlefield and its sensor computer bombing have all raised the "ante" throughout Indochina.

In the name of America, how many executions are taking place from the air in Indochina?

It is the enormity of our mistake that clouds it. If we are wrong, how wrong we are! Nothing will bring back those who have died, or the lost arms and legs, eyes and ears.

The Christmas raids against North Vietnam represent a serious escalation of the war. But what we must realize is that they amount to only a drop in the bucket when compared to the total air war. The 1,000 sorties flown against North Vietnam accounted for less than 10% of the total tonnage expended over Indochina last month.

But the strikes do illustrate the logical extension of the Administration's escalations into Laos and Cambodia—namely, the renewal of the bombing against the North. In 1971 "protective reaction" strikes totalled over 100, as compared to 20 in all of 1970. And the rationale of the raids has been expanded beyond their original self-defense justification to the familiar purpose of strategic bombing to weaken the North's ability to fight the war in the South. Historically the failure of such bombing and its significant civilian casualties is well documented.

The President has made it clear that he intends to continue the bombing, stating, "I will not place any limitations on the use of air power."

Secretary of Defense Laird has indicated that the Administration intends to maintain a naval and air presence in Southeast Asia indefinitely after the last ground troops are withdrawn. The Pentagon, which seems to have statistics available for all categories and contingencies, lacks even an estimate of the likely civilian casualties this presence will cause. Such considerations do not seem to have a high priority in current American decision making. The so-called "gook rule" which haunted the Calley trial has far more profound implications for the air war.

At Nuremberg the United States argued that where the military profits of any policy are dwarfed by the civilian casualties, such a policy is indefensible. Clearly, the massive air war by the U.S. against the people of Indochina is indefensible.

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD a handbook prepared by Project Air War and the Indochina Resource Center entitled "Air War—The Third Indochina War."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR WAR—THE THIRD INDOCHINA WAR

(A handbook prepared by Project Air War and the Indochina Resource Center, March 1972)

"In the defense report which I made to Congress this year, I tried to point out that we would be continuing air and sea power and the presence of air and sea power in Asia for a good time . . . This idea that somehow or other the Nixon Doctrine means that we will not have air or sea power in Asia is a great mistake . . ."

Secretary of Defense Melvin Laird on NBC's "Meet the Press," November 14, 1971.

Project Air War and the Indochina Resource Center are projects of the Indochina Education Council which was established by agencies of the United Church of Christ, the United Presbyterian Church in the U.S.A., and the United Methodist Church to help meet the crucial need for informing the American people about the ongoing war in Indochina.

PROJECT AIR WAR

Project Air War is one of the major information centers in the country studying and analyzing the ongoing war, a conflict which has escalated in the air even as U.S. foot-soldiers have been withdrawn. The Project provides both authoritative statistical data about today's automated war and a tragic picture of what life is like for hundreds of thousands of Indochinese peasants living under constant bombing.

Project material has already appeared in The New York Times, Washington Post, Time, Boston Globe, St. Louis Post-Dispatch, San Francisco Chronicle, Congressional Record, CBS and NBC national news, the Mutual Radio network, transcripts of Congressional hearings, and a wide variety of other publications.

Project staff members speak at community meetings, college campuses, and academic gatherings; are called upon frequently by congressional offices and media representatives for background information; and work closely with several national peace groups.

INDOCHINA RESOURCE CENTER

The Indochina Resource Center serves as an independent clearinghouse for information on contemporary Indochina. The Center incorporates nine general sponsors from the academic associates who provide a wide range of inputs.

The Center provides reliable, up-to-date information from specialists on the social, economic, cultural, political, and historical realities of Vietnam, Cambodia and Laos. This information, which is often otherwise unavailable, is made accessible to Congress, journalists, peace groups, and others concerned with Indochina through the twice-monthly newsletter, Indochina Chronicle, in books and articles, as well as by direct contact. The Center also provides direct answers to specific requests, sets up briefings and seminars, and is currently developing a series of audio-visual exhibits on Indochina for loan.

ESSAY BY A 29-YEAR-OLD LAO REFUGEE

"There was a pagoda on the hill right next to my village. The airplanes shot it and started a fire. Two monks were killed there together. On account of the war, the planes thought that there were soldiers in the pagoda so they shot it. But there weren't any. Only the monks died.

From *Voice from the Plain of Jars*, ed. by F. Branfman, Harper and Row, 1972. Original collection of essays and drawings by Laotian peasants.

ABBREVIATIONS

Publications and Wire Services:
AmRep, American Report.
AP, Associated Press.
Chronicle, Indochina Chronicle.
Cornell study, The Air War in Indochina, Institute for International Studies, Cornell University.
CR, Congressional Record.
DNSI, Dispatch News Service International.
Harvey, *Air War: Vietnam*, by Frank Harvey.
NewRep, The New Republic.
NYP, New York Post.
NYT, New York Times.
PNS, Pacific News Service.
Post, Washintgon Post.
Star, Washington Star.
UPI, United Press International
Organizations and other:

XUM

AFSC, American Friends Service Committee.
ARVN, Army of the Republic of Vietnam.
CCAS, Committee of Concerned Asian Scholars.
CamAF, Cambodian Air Force.
DoD, Department of Defense.
DRV, Democratic Republic of Vietnam.
FY, Fiscal Year (begins July 1, ends June 30).
GAO, Government Accounting Office.
GPO, Government Printing Office.
Ibid., Same source as quoted above.
IVS, International Voluntary Service.
NARMIC, National Action/Research on the Military Industrial Complex.
NEARMIC, New England Action/Research on the Military Industrial Complex.
NLF, National Liberation Front of South Vietnam.
PAW, Project Air War.
PRG, Provisional Revolutionary Government of South Vietnam.
RLAF, Royal Laotian Air Force.
SSAS, Subcommittee on U.S. Security Agreements and Commitments Abroad of the Committee on Foreign Relations, U.S. Senate.
SRS, Senate Subcommittee on Refugees.
USAF, United States Air Force.
VNAF, Vietnamese (South) Air Force.

INTRODUCTION

This handbook has been prepared by Project Air War and the Indochina Resource Center, two Washington-based research projects concerned with the air war. The material presented in this handbook is but a fraction of the information on file in our offices, and we welcome requests for further help.

This manual was conceived in the belief that this election year 1972 may well be the most crucial period in the Indochina War. The war is not ending. It is not even "winding down." The Nixon Administration is waging a massive and highly sophisticated air war which is even more destructive than the ground war of preceding years.

Ironically, domestic opposition to the war has been diminishing. Domestic dissent in the past has been largely due to high draft calls, numerous American casualties, and extensive press coverage. In today's air war, however, conscription and American deaths are down, and news is carefully managed. The air war has been removed from the front pages and TV screens. As a result, many Americans have been convinced that the war is ending.

This handbook has been designed to help U.S. newsmen, political figures and peace groups do what correspondents in Indochina can no longer do: reveal the facts about today's air war to the American pepole. The graphics and source material are intended especially for use in leaflets, speeches, articles, posters and brochures.

The manual is divided into three sections:

1. *Documented source material on the air war*—Material is broken down into 17 topics. A fact sheet has been prepared on each topic, consisting primarily of statistics and quotes from the Department of Defense, Congressional hearings, books, and newspaper and magazine articles.

2. *Graphics*—The middle section of the handbook contains camera-ready photographs, drawings by bombing victims, and charts, diagrams and cartoons on the air war.

3. *Resource Bibliography*—A list of readily available groups, articles, pamphlets, audio-visual and other materials for further action-oriented research on the air war is appended.

It is our belief that the use which is made of this handbook and similar information will play a crucial role in ending the Indochina War. Public pressure to end the war in this election year will depend to a large extent on public awareness of the full extent of today's air war

The effects of the Third Indochina War will be felt far beyond Indochina. It is clear that the air war represents a new age in the history of military conflict, an era of automated war. One of the few limitations on our leaders to wage such war now and in the future is informed public opinion here at home.

Public awareness of the air war in this key election year may well affect the fate of millions throughout the Third World in the years to come.

OVERVIEW

A giant apparatus of destruction is today firmly installed in and around Indochina. Fifty thousand American airmen and 500 strike aircraft ranging from the huge B–52 to the killer gunship, located at a dozen mammoth airbases and aircraft carriers, are waging full-scale aerial warfare.

The Nixon Administration, while removing U.S. foot soldiers, remains fully committed to a 20-year-old goal of American leaders: keeping U.S.-supported regimes in power in Indochina.

For this reason the Administration has invaded Cambodia and southern Laos, doubled the bombing of Laos and introduced 10,000 new Thai soldiers there, renewed the bombing of North Vietnam, dropped over 3 million tons of bombs on Indochina and killed, wounded or made homeless over 3 million civilians (source: SRS). For the same reason the Administration's newest negotiating stance still insists that the U.S. government have a say in determining who will rule in Indochina, the very reason the war has been fought for over two decades.

Tactics have changed, but the goals have not. The Nixon Administration took office committed both to maintain pro-American Indochinese governments and to withdraw American ground troops from Vietnam. Under the Nixon Doctrine the Third Indochina War (1969–?) began, substituting American air power for American ground troops. The First Indochina War (1946–54) was primarily a French colonial war; the Second Indochina War (1961–68) was the Kennedy-Johnson commitment of American ground troops. The Second Indochina War proved too costly to maintain.

The Nixon Administration has thus turned to a new form of war, one in which machines do most of the killing and destruction, unknown to the American people; a war in which an American President can claim to be bringing peace even as he continues to wage a full-scale and bloody war from the air.

Militarily, this new war is a variation of former Gen. James Gavin's "enclave" strategy. A majority of the people of Indochina has been concentrated in and around the major towns and bases. Within these American-controlled zones, a wide variety of political, economic and cultural measures are undertaken to break the spirit and culture of resistance which has thus far proved the main obstacle to U.S. military success. The vast regions outside the American-controlled zones—including two-thirds of Laos, three-quarters of Cambodia, all of North Vietnam, and much of South Vietnam—are basically free-fire zones, subject to American bombing any time of the day or night. Well over two-thirds of Indochina has thus been turned into a virtual free-fire zone where the new warfare is being tested.

This new war is *automated* war, waged by machine with ground troops playing a secondary role; it is *total* war, making no distinction between military and civilian targets, destroying everything below; and it is *secret* war, carried out without the knowledge of the American people.

This new war is the air war, the Third Indochina War.

Automated war

Always in the past air power has been used to supplement a large expeditionary ground force sent abroad. Substantial bombing has, of course, been carried out before: during World War II, the Korean War, the Second Indochina War. But in the past such bombing has always been meant to support an expeditionary ground army which did the bulk of the fighting and dying. Between 1965 and 1968, for example, most American bombing was employed to aid the half million strong American ground force in South Vietnam by weakening NLF rear bases, supply lines, and strike teams.

What is new today is that bombing is the heart of American military policy; ground forces play a secondary, though still important, role. American air power today does more fighting, costs more, and involves more men than the dwindling force of U.S. foot soldiers still engaged in combat. Asian foot soldiers are used to support American bombers by: (1) "showing the flag" when going in after bombing has caused guerrilla retreat and taking out supplies and refugees; (2) providing static defense for the major towns and bases; and (3) serving as "live bait" to draw guerrilla fire so American pilots will have some idea where to bomb.

Total war

The air war, by its very nature, is destroying everything below: homes, schools, gardens, pagodas, rice fields, forests, animal life and, of course, any people caught in the open.

When American leaders chose to massively bomb the poor, rural lands of Indochina, they inevitably undertook war against the society as a whole. The only strictly "military" targets regularly locatable from the air were roads and bridges, with the exception of a few North Vietnamese factories destroyed early in 1965. Other "military" targets, such as soldiers, trucks, arms depots, or anti-aircraft batteries, are but sporadically found and are assumed to be inter-mixed with the civilian population. The Air Force and Navy have introduced hundreds of aircraft into the skies of Indochina, ordering that aircraft must be used as often as possible and cannot return to base without dropping their bombs. As a result, pilots inevitably wind up systematically destroying the civilian and social infrastructure.

One of the most striking examples of this total war from the air is the Plain of Jars in northeastern Laos. The Plain of Jars was a thriving, vibrant community of 50,000 when the Pathet Lao guerrilla movement occupied it in May, 1964. The United States then began bombing it, striking in ever-increasing intensity until September, 1969, when U.S.-supported Meo guerrillas took the survivors off the Plain. During these years, everything on the Plain was leveled. Today it is a deserted wasteland. There was almost no ground fighting on the Plain during these 5½ years. It is the first society in history to be erased from the map by total, automated war.

Secret war

Through blatant news management, the Nixon Administration has been able to wage a full-scale war while convincing most Americans that it is attempting to end the war. Secrecy is the means of keeping the war politically "acceptable."

The public was first informed of the Laos air strikes in March, 1970, six years and 350,000 sorties after they began. Sen. William Fulbright complained at that time that, "The President does not have the authority, nor has the Congress given authority to engage in combat operations in Laos, whether on the land or in the air." The Nixon Administration has unilaterally expanded the air war into Cambodia and recently reinitiated massive bombing of North Vietnam. With the air war's funding scattered in the general budgets of the services and the CIA, it eludes effective control by Congress.

The Nixon Administration has prohibited the press from observing most of the air war first-hand, by refusing to allow newsmen to go on bombing raids outside South Vietnam, keeping unsympathetic journalists off Thai airbases, and not allowing free access to American pilots in Udorn, Thailand. Since such censorship was not practiced in Vietnam (newsmen were always permitted to go out on bombing raids, and have free access to bases and pilots there), it is clearly not due to any need for military security. Rather, the goal seems to be to keep the truth from the American people.

Before 1969, 70 percent of the tonnage fell within South Vietnam (source: Cornell study) and most of the bombing was carried out from South Vietnamese airbases. Since 1969, two-thirds of the tonnage has fallen outside South Vietnam (*Ibid.*), mostly from Thai airbases. The Administration has refused to fly newsmen to scenes of battle in Laos and Cambodia, where most of the fighting has taken place. Newsmen are only infrequently taken in on short, packaged tours, and are invariably kept away from freshly bombed areas. Thus newsmen usually have been unable to observe newly bombed regions taken by American-supported troops. Once again, this was not the policy in South Vietnam, where first-hand reports of aerial devastation did much to create sentiment against the war in this country.

Administration officials have successfully created the illusion of a sterile, antiseptic air war waged only against "military" targets. They have done this by: (1) classifying all information about the air war besides overall tonnage and numbers of airmen out of public and congressional reach; (2) coining such euphemisms as "protective reaction" and "limited duration protective reaction" strikes to mask massive and sustained bombing raids; and (3) maintaining time and time again, in press conferences, speeches, and congressional hearings, that civilian targets are never bombed.

Reports are filtering back to the states that the U.S. has begun clandestine bombing in northern Thailand. The reports may or may not be true, but the point is that unless Congress and the press are permitted to investigate such claims, there can be no effective check on the President's power to bomb anywhere, at any time.

THE FUTURE

The Nixon Administration has made it clear on numerous occasions that it has no intention of ending this automated, total, and secret war.

Indeed, all prospects are for further intensification and escalation of the Third Indochina War. In February, 1972, for example, it was revealed that the number of B–52s and aircraft carriers in the Indochinese theatre would be doubled.

By November, 1972, the Third Indochina War will be the second longest in American history (surpassed only by Johnson's ground war). Unless Americans elect a President committed to total withdrawal, there is no end in sight.

The agony of Indochina may have only begun.

DIMENSIONS

The air war continues at a high level. During 1971, 763,000 tons—the equivalent of 35% of all American air ordnance expended during World War II—were dropped on Indochina (DoD). The potential for sudden escalation remains great, as exemplified by the 5-day Christmas raids against North Vietnam and the more than ten-fold increase in strikes within South Vietnam during February.

The Cornell study cites Pentagon plans to continue the air war at the current level. B–52 sorties, for example, down from a peak of 1,600 a month to 1,000 a month, are programmed to continue indefinitely at the current rate. In defending the bombing, Administration spokesmen invariably point to reductions from 1969 levels, thus laying the groundwork for permanent prosecution of an air war at "acceptable levels."

The operational heart of the bombing has shifted from South Vietnam to land bases in Thailand and aircraft carriers in the South China Sea. Already 45,000 of the 73,000 U.S. air personnel directly involved with the bombing are located outside of Indochina proper. May 1, 1972 will mark the first time that the number of American airmen and American ground troops in Indochina will be equal in the history of this war or perhaps any war.

Geographically, the brunt of the bombing has shifted from inside North and South Vietnam to Laos and Cambodia. Under Nixon the bombing of Laos has doubled, and all of the 150,000 tons over Cambodia have fallen since May 1970. Recently, for all practical purposes, the Johnson bombing halt over North Vietnam has ended.

During the last three years the technology of the automated battlefield has escalated and the size of the South Vietnamese Air Force has been increased until it now stands as the sixth largest air force in the world.

SORTIES AND TONNAGES

Sorties 1971

USAF	160,000
VNAF	36,000
(DoD)	

Tonnages 1971

[In tons]

Allied (DoD)	763,000
South Vietnam*	270,000
Laos*	445,000
Cambodia*	90,000

*Cornell study

Note: Totals for the breakdown tally slightly higher than the DoD figures for total "Allied." Tonnage and sortie figures for "protective reaction" strikes are not included.

Protective Reaction Strikes

1970 (DoD)	21
1971 (DoD)	108
1972 (first 35 days) (DoD)	35

The ¾ million tons of bombs dropped on Indochina in 1971 represent:

(a) The explosive equivalent of 38 Hiroshimas (one Hiroshima=20,000 tons);

(b) 80% of the air ordnance expended during the 3 year Korean War (966,000 tons);

(c) 5 times the tonnage dropped on Japan during World War II (154,000 tons);

(d) 23 times the total tonnage dropped by the British during their successful ten year counter-insurgency in Malaya (33,000 tons).

(Library of Congress Report to the Senate Foreign Relations Committee, *Impact of the Vietnam War*, 6/71, and the Cornell study).

The total of 6.3 million tons of bombs (DoD) dropped on Indochina from 1965–1971 represents:

(a) 250 pounds for every man, woman, and child in Indochina (population 49 million);

(b) 22 tons for every square mile of territory in Indochina (area 284,000 square miles or about the size of Texas);

(c) More than twice the 3.1 million tons of bombs dropped during World War II and the Korean War combined. (*Impact of the Vietnam War*)

The majority of the bombs dropped on Indochina have been dropped since President Nixon took office (3.2 million tons since 1969—DoD). The current bombing rate, 50,000 tons during November and 61,000 tons during December, represents:

(a) More than 2½ Hiroshima a month;

(b) More than 3 million pounds a day;

(c) More than 2,000 pounds or a ton a minute.

The Executive branch has made it clear on many occasions that it intends to wage a prolonged air war:

"I am not going to place any limitations upon the use of air power." (Pres. Nixon, 2/17/71)

"Under the [Nixon] Doctrine," Laird said, "the United States is prepared to provide material assistance and air and sea assistance to our allies and friends in Asia." (*Post*, 1/21/71)

"'U.S. ships and warplanes will remain on duty in Southeast Asia after the last American soldier leaves Vietnam,' Defense Secretary Laird indicated yesterday." (*Post*, 4/4/71)

If necessary, we will "not only continue our air strikes, we will have to step them up." (Pres. Nixon, 11/12/71)

"In the defense report which I made to Congress this year, I tried to point out that we would be continuing air and sea power and the presence of air and sea power in Asia . . . This idea that somehow or other the Nixon Doctrine means that we will not have air or sea power in Asia is a great mistake." (Sec. Laird, "Meet the Press," 11/14/71)

"High level DoD officials say there are no current plans to cut any of these forces [400+ attack bombers in Southeast Asia] . . . The Administration now appears to be approaching the level [of airpower] which will be maintained indefinitely." (Michael Getler, *Post*, 1/14/72)

"Air sorties in southeast Asia will also be stepped up by 50%."

(From a privileged account of a National Security Council meeting; reported by Jack Anderson, *Post*, 1/20/72)

"The buildup reflects what informed officials say is a U.S. intention to use all air assets available."

(*Post*, 2/10/72 on the dispatch of an extra carrier to the Gulf of Tonkin and the readying of additional attack aircraft)

Men, bases, and aircraft

Until mid-February, two aircraft carriers were regularly on station in the South China Sea with 13,000 men and approximately 120–150 attack aircraft. The recent addition of the Kitty Hawk and Constellation has doubled the force, raising it to the peak levels realized in 1968. (CBS News, 2/9/72)

With the addition of the third and fourth carrier to the South China Sea and the activation of 40 additional B–52s, there are now nearly 600 attack aircraft in Southeast Asia. These additions have increased the American bombing force in Indochina by more than 40%.

South Vietnam

As of January 6, 1972 there were 28,000 U.S. airmen stationed within South Vietnam (DOD). Their numbers are scheduled to decline to 16,000 by May 1.

Danang remains a major strike base. Cam Ranh Bay, a majo support base, is where the 7½ ton "Commando Vault" bombs are flown from. Several other bases, including Tan Son Nhut, are used regularly by U.S. aircraft.

Thailand

This is the heart of the air war. There are currently (1/72) 32,000 U.S. military personnel in Thailand (DoD), and 215 attack bombers (Michael Getler, *Post*, 1/14/72) stationed at the following five bases:

(1) Udorn, control center for the air war;

(2) Utapao, home for approx. 45 B–52s;

(3) Ubon, source of most F–4 activity over Cambodia;

(4) Korat, base for the radar planes of the electronic war;

(5) Nakon Phanom (NKP), location of the automated war's computers. (CBS News, 12/71)

AIRCRAFT

The aircraft used in the Third Indochina War are organized in the following manner: aircraft in South Vietnam are under the command and logistical support of the 7th Air Force, headquartered at Tan Son Nhut

XUM

Air Base; aircraft stationed in Thailand (with the exception of B–52s) are under the command and logistical support of the joint 7th/13th Air Force, headquartered at Udorn Air Force Base; B–52s, stationed at Utapao Air Force Base, Thailand, are under the command of the 8th Air Force (Strategic Air Command); the aircraft carriers in the Gulf of Tonkin (Yankee Station) are under the control of the 7th Fleet representative in Saigon.

Bases that are under U.S. control, and conduct attack missions are: Tan Son Nhut, Cam Rahn Bay, and Danang in South Vietnam (only Danang flies missions outside of South Vietnam); Udorn, Ubon, Khorat, Nakhon Phanom, and Utapao in Thailand are engaged in the bombing of locations outside of South Vietnam (North Vietnam, Laos, and Cambodia). There are usually two aircraft carriers on Yankee Station at all times. In principle each base or carrier has a tenant Wing, with 75–100 aircraft. The wings are divided into Squadrons, with approximately 20–25 aircraft assigned to each squadron. When necessary, squadrons may be further broken down in Detachments of 5–10 aircraft. In addition to its tenant wing, each base or carrier may have a number of detachments from other wings to carry out specific mission assignments (crash rescue, reconnaissance, base defense, etc.)

A mission (or strike) is a flight by one or more aircraft. A sortie is a single flight by an aircraft.

There are over 300 land based combat aircraft (excluding B–52s) involved in the air war. The number of carrier based combat aircraft fluctuates with the number of ships on Yankee Station at any time.

The aircraft in use in Indochina can be divided into 8 categories:

Fighter-bombers (F–4, F–100, F–105, F–5, F–8), designed for world wide mobility with supersonic speeds. These aircraft are designed for either air-to-air combat or air-to-ground combat roles. These aircraft often fly "cover" for unarmed reconnaissance and cargo flights and B–52s.

Attack aircraft (A–1, A–4, A–6, A–7, A–37, A–3, T–28, and A–26) are generally subsonic aircraft designed specifically for air-to-ground combat. Attack aircraft have the ability to stay over their targets longer, carry more ordnance and deliver their ordnance with more accuracy than fighter-bombers.

Observation aircraft (O–1, O–2, OV–10) are used primarily by Forward Air Controllers (FACs) for spotting targets from the air and directing attacks on them. These aircraft carry white phosphorus rockets for marking targets, and may carry a 7.62 mm mini-gun for strafing.

Gunships (AC–47, AC–54, AC–119, AC–130, UH–1 Huey helicopter, AH–1G "Cobra" helicopter) are flying gun platforms. The primary weapons are the 7.62 mm "Gatling" gun and the 20 mm "Vulcan" cannon. Both types of weapons are capable of firing 6,000 rounds of ammunition per minute, from a single gun. These weapons are designed primarily for close air support or to stalk mobile targets.

Electronic warfare aircraft (EC–47, EC–119, EC–121, EB–57, EC–130, EB–66) act as airborne command centers and relay stations for ground sensors. They can also function as electronic commuter-measures aircraft, jamming radar and producing signals that will mislead detection and gunnery systems on the ground.

Reconnaissance aircraft (RF–4C, RA–5, EC–47, SR–71) utilize camera and radar systems to make photo images and electronic signals for both pre and post bombing analysis. Systems used on these aircraft include: infra-red cameras and radar capable of picking out life by the differences between body heat and jungle heat, side-looking radar capable of transmitting reports to a ground station and making a permanent photo-image simultaneously.

Bombers (B–52 and B–57) are used for both strategic and tactical bombing missions. The B–57 operates at low levels, at the same altitude as a regular fighter-bomber. The B–52 operates at altitudes of 30,000 feet, isolating the aircrew from any chance of seeing their targets or victims.

Support aircraft (C–47, C–54, C–7, C–130, U–3, T–39, etc.) comprise the rest of the almost 1,000 aircraft in the 7th Air Force. These aircraft are used for medical evacuation, cargo and troop transportation, and any other miscellaneous activities that do not require a combat aircraft.

The skies of Indochina are covered with an umbrella of aircraft at any time of the day or night; FACs and observation aircraft at 2,000 feet; attack and gunships at 5,000 feet; fighter-bombers at 7,000 feet; reconnaissance and electronic warfare aircraft at 10,000 feet; KC–135 tankers at 20,000 feet, B–52 bombers at 30,000 feet, and the SR–71 at 70,000 feet.

The brunt of the air war today is being carried out by F–4s, B–52s, and gunships.

"The 7th Air Force has 33,000 military personnel and nearly 1,000 aircraft." (*Air Force Magazine*, 5/71)

"The B–52s bomb these [Ho Chi Minh] trail entrances daily, each dropping as many as 150 bombs of 500 pounds." (Craig Whitney, *NYT*, 12/3/71)

"[AC–47s] can start their deadly circle quickly, and in three seconds cover the area of an entire football field with one bullet in every square foot." (Lt. Col. Thomas Rickelsmen, USAF, *St. Louis Post Dispatch*, 11/24/65)

"When they [gunships] fire their guns, it looks as if a stream of brilliant candy apples is streaking from the aircraft to the ground." (Sgt. Robert Lessels, USAF, *Air Force Magazine*, 11/71)

"The Americans unleashed the terrifying 'Puff the Magic Dragon' [AC–47] and I could visualize the scene below. Men, women, children, caught like rats in a flood . . . No place to hide, no way to plead their case of innocence to the machine in the sky, no time to prepare for death." (Quaker worker, Quang Nai hospital, South Vietnam, *Vietnam*, 1969)

"The Douglas AC–47 'Spooky', the Fairchild-Hiller AC–119 'Shadow' and the Lockheed AC–130 'Stinger' . . . are all fitted with side firing weapons—three 7.62 mm Miniguns in the AC–47, four in the AC–119, and four 7.62 [mm] guns and four 20mm cannons in the AC–130." (Air Force Magazine, 5/71)

"The A–7 makes ground movement after dark a nightmare . . . the devastating accuracy of this aircraft is being applied to an increasing number of night missions." (Vought Aeronautics advertisement, *Air Force* Magazine, 1/72)

"A fighter-pilot who was based at Danang told me, 'We are going four or five hundred knots, and we can't see much ourselves. I've never seen a body or a person yet, and I've been on over a hundred missions. It's virtually impossible to see any movement on the ground. The FAC is the expert. We're only experts in delivery." (Jonathan Schell, *The Military Half*)

". . . I flew with a FAC pilot from Texas . . . The standard FAC plane was a Cessna–1 Bird Dog. It seated two, one in front and one in back; had a single propeller; and was armed with four tubes containing phosphorus rockets, two tubes being mounted under each wing. It could fly as slowly as forty miles an hour, and could hold an extremely tight corkscrew turn when the pilot wanted to look at one small area of ground for a sustained period . . ." (*Ibid.*).

"The converted D models of the B–52 can carry a total of 108 500-lb. bombs . . . This compares with the 51 capacity for either the 500 or 750-lb. bomb of the F versions available here when the aircraft first began operations in the summer of 1965. Total capacity of the D with 750-lb. bombs on board is 66 . . .

"The 750 and 500-lb. bombs continue to be the primary ordnance loads for the B–52's, although a variety of other ordnance currently is being employed." (*In the Name of America*, 1968)

". . . A military spokesman said today that the paratroopers had swept through part of the area of two B52 raids in the Iron Triangle last Friday. He said that 750-pound bombs with instantaneous fuses made craters only about four feet deep but blew down the jungle 300 feet around the crater.

"Delayed-fuse bombs, which go off after penetrating into the ground, left craters fifty feet wide, blew down trees to a distance of 75 feet from the crater rim and collapsed some tunnels 100 yards away.

"One 'complex' of about 25 farm huts was reported '75 per cent' destroyed by the B52s." (*Ibid.*)

"Gen. Talbott: The backbone of our interdiction force has been tactical fighters—primarily F–4s. The F–4s are being used more at night . . . F–4 squadrons have been equipped with a very accurate (deleted) navigation system . . . These sensors are integrated through computers to deliver several types of weapons including laser guided bombs." (Electronic Battlefield Hearings, 11/70)

AIRCRAFT CARRIERS

More than any other weapon system, the attack carrier has been adapted to the kind of conflict with the Third World that has characterized U.S. military intervention since World War II. Once an arm of the fleet, designed to protect naval ships from air attack and to provide a long-range strike force against opposing naval forces, the attack carrier has become a mobile platform from which to launch an air attack against ground targets.

The attack aircraft carrier is today playing a major role in the air war and is likely to play an even more important one in the future as U.S. ground troops and land-based air power is gradually withdrawn from South Vietnam. In February, 1972, three attack carriers were put on station in the Gulf of Tonkin, the largest number since the height of the bombing in 1968, and a fourth was on its way to join them. Though the actual number of combat sorties flown from carrier decks is kept secret, it is known that carriers launched almost half of the combat sorties against North Vietnam between 1965 and 1968 at the rate of more than 4,500 sorties a month. The sortie rate for fiscal 1972 was reportedly budgeted at 3,000 sorties a month.

The role of the attack carrier in Indochina is not surprising. With more than 75 combat planes, a crew of 5,000, and a fully integrated operations system, each attack carrier can maintain full-scale combat operations off the coast of Vietnam for months at a time, free of reprisal from enemy forces and without fear of changes in the political situation in Indochina that might force the withdrawal of U.S. land-based forces. Over the last decade or so the weapons system of the attack carrier has been completely redesigned to fight conventional land wars. Its aircraft, which in World War II could carry at most several hundred pounds of bombs, are now capable of carrying 12–18,000 pounds of bombs, more than the heaviest bombers of World War II. Its radar systems were once designed for operation over water; they have now been redesigned for land operations, including navigation systems that automatically fly planes at ground level over mountainous terrain. Over the last decade the Navy has designed and employed over a dozen types of anti-personnel weapons, useless against ships but very effective for killing and maiming guerrilla forces and the peasant populations that support them.

As a result of these and other changes, the attack carrier has become a major weapon

of counter-revolution. Its main role in the future will be much like its role in the past 25 years. Whether it will be Korea, China, Lebanon, Cuba, Thailand, Vietnam, Dominican Republic, Cambodia, or Laos again, or whether it will be some other country of the Third World in which an American government wishes to intervene, the attack carrier is likely to be the first U.S. force engaged and the last one withdrawn.

Adm. Elmo Zumwalt, chief of the U.S. Navy, said, "American naval operations would continue in the Gulf of Tonkin as long as necessary to protect U.S. troops in Vietnam and that there were no plans to withdraw U.S. aircraft carriers from the waters around Vietnam." (*Post*, 2/27/72)

"Aboard the USS *Enterprise*—Navy Pilots, flying off this huge floating airfield and other carriers in the Tonkin Gulf, are playing a bigger role than ever in the continuing American air war. . . . Virtually all the thousands of strikes (1,700 from the *Enterprise* alone in the last month) flown at the infiltration routes of the Ho Chi Minh Trail system in southern Laos are now launched either from the carriers or from air force bases in Thailand. (*Post*, 1/1/72)

"Officers aboard the 7th Fleet ships off the coast of Vietnam disclosed that Navy strength has been reinforced from an average of 10 ships to 16, including the aircraft carrier *Constellation* and support ships. The US Command made no mention of this or of the report that the manpower of the fleet was now 18,000 to 20,000 men instead of the 13,000 the Command had said. (*Boston Globe*, 2/15/72)

". . . the availability of a fourth carrier in the area will make it possible for the U.S. military command to keep at least three of the big ships on station at all times and available for strikes in the South, against the Ho Chi Minh Trail in Laos, or possibly in new reprisals against North Vietnam.

"Should things be going badly for the South Vietnamese, the United States could also forgo rotating one of the carriers into port for a rest and keep all four on the line." (*Post*, 2/10/72)

"Since we do not have a fortress America strategic concept, the position that our country takes with respect to the rest of the world definitely determines the number of carriers and, for that matter, the entire structure of the Armed Forces . . .

"This new carrier is not associated with particular force levels. It is needed to handle our modern aircraft, and it is needed to give the so-called long legs and mobility that is needed in this modern era. (Testimony before Senate Armed Services Subcommittee on the CVAN–70 Attack Carrier)

"The United States, of course, has a forward strategy. We are a maritime nation. We have operated our forces overseas because we prefer not to have to fight our wars within the United States. Therefore, we have designed our forces—air, Army and Navy—in such a way that they permit us to project power overseas. . . ." (Adm. Thomas H. Moorer, Former Chief of Naval Operations and Chairman of the Joint Chiefs of Staff, April, 1970)

What are the most probable warfare situations for carrier involvement in the future? . . .

"In the next 30 years, which is the lifespan of a carrier, most conflicts in which the United States will become involved will be below the threshold of general nuclear war. . . . Projecting the history of the past 20 years, if we become involved in a conflict it will most probably be a limited war similar to Korea or Vietnam. . . ." (Rear Adm. James L. Holloway, III, Former Chief of Strike Warfare Division, US Navy, April, 1970, CVAN–70 Attack Carrier Hearings)

"Yankee Station has had little or no publicity. Few people in the United States would know what you were talking about if you mentioned it. Yankee Station is not a siding in Back Bay, nor a rock 'n' roll radio station playing Colonial music. It's a position in the South China Sea about 100 miles northeast of Danang where American aircraft carriers cruise around in a methodical pattern and launch and recover fighter and bomber airplanes that are hitting North Vietnam . . ." (Harvey)

"The carrier on Yankee Station is a mobile, privileged sanctuary. It can be replenished from home with whatever it needs to fight. It can go anywhere in the world on short notice. It is immune from sneak missile attacks, since it is always moving. No capricious foreign government can order it closed (as can happen to a land base). The carrier can control its food, water, health and recreation very tightly. There are no mosquitoes to give you malaria. . . ." (*Ibid.*)

"Navy aircraft carriers have now proven their worth in this Vietnam war—and their potential for any wars of similar type that might erupt sometime in the foreseeable future. . . . The *Connie* (note: Constellation) is a sea-going airfield that can move around at 35 knots; houses more than 5,000 officers, men and tech reps; can hurl jets off her four steam cats like shooting beans; carries enough power to flatten targets just as flat as the Strategic Air Command's massive intercontinental bombers and missiles; can launch and recover day or night in very lousy weather; has a flight deck of 4½ acres; carries dozens of planes—fighters, bombers, photorecon, radar picket, onboard delivery and planeguard helicopters." (*Ibid.*)

"Now, for a moment, let's look at the big picture of operations on Yankee Station. The three big attack carriers often work as a team, and the planes from all three ships—more than 200 of them—go off in coordinated waves in strikes against a single target, sometimes going back time after time for days, until that particular target is simply battered to a pile of dust and rubble. . . Raids like this are undertaken, from time to time, when it is decided to eliminate a target for good and all. They are devastating. Their destruction would have to be seen to be believed. Dry-bones communiques detailing numbers of items hit and numbers of sorties flown simply do not tell the story at all." (*Ibid.*)

"Yankee Station happens to be one of the most important offensive bases of operations in this whole war, and nobody even knows the place exists, except for a few experts who follow these matters closely." (*Ibid.*)

"Aboard the 63,000-ton carrier *Coral Sea* . . . 28 fliers in the Sundowners Squadron heard the news that two more of their comrades faced indefinite imprisonment in North Vietnam. . . . The records say that Bob Pearl is 38 years old and that he has had four tours and 400 missions over Indochina since 1965. . . . Were the raids on the North worthwhile? 'All we can see are our losses and no fruits for our efforts. . . . I think people find it hard to agree with the party line about covering withdrawal. . . .' So, it seems that the attack carriers of the Seventh Fleet, doomed to act as floating mail-order houses for high explosives, will sail on and on, Flying-Dutchman-fashion, until—as the joke has it—they run aground on their own accumulated garbage." (John Saar, *Life* Magazine, 2/4/72)

"Before long, the pilots and the planes will be the last warriors and weapons the United States has left in Indochina.

"And barring a breakthrough in efforts to reach a settlement of the war or a reversal of American policy, the U.S. air armada flying from bases in Thailand and as many as three carriers in the Gulf of Tonkin, will remain indefinitely." (*Post* 3/2/72)

CIA AND MERCENARY AIR FORCES

CIA and local Asian air forces are playing a growing role in the air war as the Administration seeks to minimize overt American involvement. There is abundant documentation pointing to the participation of these air forces in opium smuggling as well as in combat. (See *Ramparts*, 4/71 for a fuller account.)

Local Asian air forces—supplied, maintained and directed by American "advisors"—are doing an increasing amount of the bombing. The size of the Vietnamese Air Force (VNAF) has increased dramatically, and the Royal Lao Air Force (RLAF), the Royal Thai Air Force (RTAF), and the Cambodian Air Force at slower rates. Although all the aircraft are piloted by Asians, Americans do everything else, from directing bomb loading to spotting for strikes.

Air America and Continental Airlines, privately owned, profit-making companies, operate under CIA direction and wage much of the supportive air war in Laos and Cambodia. The "charter" companies' planes perform troop transport and supply functions, spot for bombers, and engage in rescue operations for downed pilots. Air Force helicopters, helicopter gunships and giant C–130 cargo planes are "rented" to Air America for $1 a year in Laos.

Asian air forces

American aid to VNAF, FY 1970–72: $822 million.

American aid to RLAF, FY 1970–72: $128 million (DoD, *CR* 8/3/71).

"The Nixon Doctrine . . . was premised on the assumption . . . of increased U.S. military assistance." (Undersecy. of State U. Alexis Johnson, FY 1972 DoD Authorization Hearings.)

"An important factor in carrying out the Nixon Doctrine will be our military assistance program. We are requesting 48 million for development and 70.4 million for procurement of the International Fighter. In addition, we are requesting 10 million for initial spares. This aircraft is needed to provide an air defense capacity for [our] Asian allies." (Secy. of Air Force Robert C. Seamans, FY 1972 Senate DoD Appropriations Hearings.)

Sen. SYMINGTON. "Are we going to continue to put these billions into Southeast Asia? Is that the overall plan in the U.S. today?"

Secy. SEAMANS. "For the forseeable future we are going to continue to spend sizable dollars in Southeast Asia."

Vietnamese Air Force

"South Vietnamese military officers continue to deal in large quantities of heroin and to transport it around South Vietnam in military aircraft." (Rep. Robert H. Steele, House Subcommittee on Europe, 7/7/71.)

"The South Vietnamese Air Force is the sixth largest air force in the world." (Michael Getler, *Post*, 1/14/72.)

VNAF INVENTORY

Year	Fixed wing attack aircraft	Helicopters	cargo, recon.
January 1969	[1] 100	[1] 125	[1] 575
January 1972	(2)	(2)	1,000+
January 1973 [3]	300–400	500–600	1,200

[1] Approximately.
[2] Total fixed wing and helicopter 750+.
[3] Projected (1969 and 1973 figures, Cornell study, 1972 figures, DOD).

VNAF PERSONNEL

1968 (slightly under)	20,000
1972 (January)	45,000
1973 [1]	50,000

[1] Projected (ibid.).

VNAF ATTACK SORTIES

Year	Indochina (per month)	Laos	Cambodia
1968	2,250	None	None
1970	3,150	None	820
1971 [1]	3,490	40	1,100

[1] As of July 1971 (Cornell study).

"Mr. Seamans acknowledged that the Vietnamese 'will never be able to build the capability to do all that the United States Air Force has been doing in Laos. The Vietnamese Air Force . . . does not possess either B–52s or F–4s, the jet planes that do most of the trail bombing, and there are no plans,' Mr. Seamans said, 'to give it any.'" (Craig Whitney, *NYT*, 12/6/71)

"VNAF is being geared to fight a war where it will continue to have complete air superiority." [This superiority will apparently be provided by U.S. aircraft operating from Thailand and carriers in the South China Sea.] (Brig. Gen. Kendall S. Young, chief Air Force officer for Vietnamization)

Gen. RYAN. "They will not be able to supplant the complete U.S. Air Force in South Vietnam."

Sen. CASE. "At any time?"

Gen. RYAN. "That is correct." (Gen. John D. Ryan, Air Force Chief of Staff, Senate FY 1972 DoD Appropriations Hearings)

Asian Blood, American Money

"Lao T–28 bombers have attacked towns, Saravane being a well-known case in point . . . Laos Air Force pilots are . . . paid a bonus for each sortie so that there is an incentive not to adhere strictly to the rules of engagement [forbidding random bombing]." (Senate Foreign Relations Committee Staff Report on Laos, 4/71)

"There is a growing concern of the tendency of Laotian air force pilots from Luang Prabang and Long Cheng to dump their bomb loads on unauthorized targets, which is confirmed by U.S. military personnel. Only minutes after taking off the pilots reportedly hurry home to reload—and collect a dollar bonus for every sortie they fly. The indiscriminate bombing is causing loss of life on the ground and forcing villagers to flee their homes." (D. E. Ronk, *Far Eastern Economic Review*, 9/4/71)

"The VNAF bomb villages indiscriminately. They don't care where they bomb. A lot of times they'll wipe out a village because they or their commander has a grudge against it, maybe it wouldn't make the proper payoffs." (Ronald Ridenhour, former G.I. whose insistent prodding broke the My Lai story, in a PAW interview)

CIA air forces

"There is a large U.S. civilian (paramilitary) fleet operating in Laos run by Air America, Continental Air and Lao Air Transport . . . under contract with AID, although funds are provided by AID, the DoD, CIA, and the State Department. The funding arrangements are worked out in Washington." (Foreign Relations Committee Staff Report on Laos, 4/71)

"Air America is under the management of George Dole, a CIA employee. . . . He is looking to the future, carefully developing the airlift capabilities of other companies he runs for the CIA, such as Southern Air Transport. . . . The sole purpose for the existence of SAT is that the agency be ready for the contingency that some day it will have to ferry men and material to some Latin American country . . . without of course having to contend with the Congress or anybody else." (Victor Marchetti, highest ranking CIA official to "go public," a former participant in CIA daily staff meetings chaired by director Richard Helms.)

CIA-Directed air forces in Laos

Inventory

20 helicopters.
12 C–123s °.
7 C–7As °.
10 Porters.
7 C–46s.
1 Volpar.

Estimated cost

FY 1970: $23 million.
FY 1971: $26.2 million.

Personnel

Air America: 276–415.

(Senate Foreign Relations Committee Staff Report on Laos, 4/71).

"The CIA has changed its rules in an attempt to stop the use of its private airline, Air America, for transport of drugs [opium and heroin] in Laos. Although only two months ago CIA director Richard Helms adamantly denied there had been any agency involvement in this traffic, he is now said to have told a secret Congressional hearing that there was involvement but it has stopped." (Flora Lewis, *Post*, 7/23/71)

"The CIA has involved us in this covert operation, an opium war. The clandestine yet official operations of the U.S. government could be aiding and abetting heroin traffic here at home." (Sen. John Tunney in a campaign speech before the Los Angeles Chamber of Commerce)

"John E. Ingersoll, director of the Bureau of Narcotics and Dangerous Drugs, in testimony before the House Select Committee on Crime, said that middle-level government officials and military men throughout Southeast Asia were deeply involved in the traffic in opium, the product from which morphine and heroin is refined." (Felix Belair, *NYT*, 6/6/71)

AUTOMATED WARFARE

Mechanized war

A giant apparatus of mechanized war—consisting of aircraft, huge airbases and aircraft carriers—has become the centerpiece of American intervention in Indochina. When John Kennedy and Lyndon Johnson chose to escalate, they increased U.S. ground troops; when Richard Nixon escalates, as on the 11th of February 1972, he dispatches more B52s and aircraft carriers.

The goal of this mechanized war is to replace U.S. personnel with machines, so as to reduce dollar costs; reduce domestic dissent occasioned by American deaths; increase combat efficiency by removing American foot soldiers who will not fight; and remove the war from the political arena by making it secret and unsusceptible to congressional or public pressures.

"In Vietnam where artillery and tactical air forces inflict over two thirds of the enemy casualties, firepower is responsive as never before. It can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not . . . On the battlefields of the future, enemy forces will be located, tracked, and targeted almost instantaneously through the use of data links, computer assisted intelligence evaluation, and automated fire control. With first round kill probabilities approaching certainty, and with surveillance devices that can continually track the enemy, the need for large forces to fix the opposition physically will be less important . . . Today, machines and technology are permitting economy of manpower on the battlefield, as indeed they are in the factory. But the future offers even more possibilities for economy. I am confident the American people expect this country to take full advantage of its technology—to welcome and applaud the developments that will replace wherever possible the man with the machine . . .

"I see battlefields or combat areas that are under 24 hour . . . surveillance of all types. I see battlefields on which we can destroy anything we locate, through instant communications and the almost instantaneous application of highly lethal firepower." (Gen. William Westmoreland, *CR*, 10/16/69)

"For America in the '70s to follow this tactic—to fight a war with this technology and with mercenaries . . . so that we don't see the person we kill—is reprehensible. We kill people with technology because we don't have the will to fight ourselves." (Rep. Paul McCloskey, *National Observer*, 1/8/72)

Although bombers now wage most of the war, Asian ground soldiers still play an important, if secondary, role. Bombers can kill and destroy, but they cannot hold territory; they cannot take refugees or search out enemy supplies; they often cannot locate their targets. These essential tasks are left to U.S.-supported Asian troops.

Vang Pao (CIA-supported Meo leader in northern Laos) would move out, identify the enemy, pull back, and the air power would come in." (Gen. Petit, SSAC, 12/15/71, p. 784)

"They're just using those kids as cannon fodder. The Americans send them out a few klicks so they can find out where the communists are. Then they call the bombers in. The Cambodians don't do anything and they're dying like flies. Sometimes they're even caught in the bombing raids themselves." (Richard Boyle quoted in "Cambodia: Nixon Doctrine Incarnate," *AmRep*, 12/24/71

"As the operations evolved . . . new tactics appeared, calling for the ARVN units to stay mobile . . . They reduced the heavily outnumbered ARVN battalions to the role of live bait. The troops spent their days and nights running and hiding while U.S. airpower struck at the pursuing North Vietnamese Army (NVA). Saigon spokesmen claimed the tactics were very successful, but some Vietnamese called them 'inhuman'." (John Saar, *Life*, 4/2/71)

General WILLIAMSON. "We are making unusual efforts to avoid having the American young man stand toe-to-toe, eyeball-to-eyeball, or even rifle-to-rifle against an enemy that may outnumber him on the battlefield. We are trying to fight the enemy with our bullets instead of the bodies of our young men—'firepower not manpower.'"

Senator CANNON. "In your judgment, will this type of equipment be effective in protecting our logistic and supply installations that will remain after we have substantially completed our Vietnamization program?"

General WILLIAMSON. "I am confident it will." (Electronic Battlefield Hearings, 11/70)

General EVANS. "Besides supporting real-time employment of Commando Bolt F–4s and gunships, sensor intelligence is an input for establishing most of the targets in Laos . . . What is most important, gentlemen, is that we can gather this type of intelligence without exposing one American soldier to enemy action." (*Ibid.*)

The electronic battlefield

The air war in Indochina has served as a laboratory for the development of elaborate and expensive electronic devices as instrumentation for an "electronic battlefield." The goal is automated and computerized warfare, providing an all-weather, day-night capability.

Areas have been seeded with air-dropped devices that can detect vibrations or people; they can listen to sounds; they may be sensitive to metallic objects, to heat radiation, or to chemical emanations from human beings. The information is transmitted by radio to receivers on mountain tops or in continuously airborne manned and unmanned communications aircraft. The signals are then relayed to a central computer in Thailand where the responses of the various sensors are correlated and the decision to strike a certain region is finalized.

A new system recently introduced in Indochina called Pave Phantom is automated to the extent that the pilot need merely punch data on the desired target position in his computer's keyboard, together with information about his chosen weapon, and the computer will steer the aircraft over the target and release the weapon.

The chosen weapon is often another electronic wonder, a "smart bomb." One smart bomb is guided to its target by radar. Another, a laser bomb, homes in on a spot of light beamed from another plane flying at a safer level. The T.V. bomb has a television camera in its nose; "shown" a picture of the target, it homes in on the identical image on the ground.

Technology had made some conventional weapons, such as gunships, even more devastating. The new four-engined AC130E gunship, armed with rapid-firing 40 mm cannon, seeks its prey with infra-red vision devices, see-in-the-dark TV, and sensors that detect electrical noises of trucks' ignition systems. After being directed to the target area by ground computers, the aircraft is placed on the automatic system and the on-board computer takes over, flying the aircraft and aiming and shooting the cannon.

"The code name for the electronic operation is Igloo White. It was designated for fighting a war in hostile territory, offering the enemy absolute control of the surface territory while maintaining air superiority above. The system does not require U.S. ground troops to assure success. It meets restrictions placed on ground operations in Laos." (George Weiss, *Armed Forces Journal*, 2/15/71)

"I personally think it [electronic battlefield] has the possibility of being one of the greatest steps forward in warfare since gunpowder." (Sen. Barry Goldwater, Electronic Battlefield Hearings, 11/18/70)

"We got the Ho Chi Minh trail wired like a pin ball machine. Before, the enemy had two things going for him. The sun went down every night and he had trees to hide under. Now he has nothing." (Air Force officer quoted by George Weiss in "The Air Force's Secret Electronic War," *Military Aircraft*, 1971)

"An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American boys are slowly coming home, but they are leaving an automated war behind . . . We intend to turn the land of Vietnam into an automated murder machine. Computer technology and a small number of troops manning aircraft and artillery are creating a U.S. destructive military presence that may literally hover over Southeast Asia for years to come." (Sen. Mike Gravel, *CR*, 10/5/71)

"All these devices and weapons share the same fault. They are indiscriminate. Like the people sniffer they draw no distinction between friend or foe, civilian or soldier, adult or child, and will impartially call down an automated death on all who cross their path." (CCAS, *The Indochina Story*, p. 96)

"Automated warfare has certain 'advantages.' Instruments do not defect. They are not known to take consciousness-expanding drugs. They have no ethical qualms about killing civilians. They do, more or less, what they are told. They represent a cheap mercenary army. In the end we will have the machines fighting the 'gooks' with no human beings involved on either side! We are manufacturing a slave army of mindless machines to police the world; the very existence of such advanced technology will bring strong pressures for its use to counter 'insurgency' all over the world. If unchecked, such a sequence of developments may prove to be the most ominous consequence of American military involvement in Southeast Asia." (Cornell study)

"If ground troops sometimes will not, and usually cannot, distinguish between enemy and innocent in a guerrilla war, we know that aerial bombardment never can. The sensor which detects body heat, the aircraft thousands of feet in the air, the computer complex many miles distant, are completely neutral and indiscriminate. Even the so-called "smart bombs" cannot tell the differences; they destroy everything in their target area." (Sen. George McGovern in a speech, 12/14/71).

Senator CANNON. What happens when you get into the more densely populated areas?

General DEANE. If you get into more densely populated areas you are not going to be able to tell friend from foe so these devices in themselves would not be particularly helpful to you. Now, you could tell that tanks as opposed to passenger cars were passing through the town, but in terms of people you would not know whether they were friendly people, merchants, or soldiers. (Electronic Battlefield Hearings, 11/70)

DEANE. A sensor-aided combat surveillance system consists basically of the following common components: detection devices called sensors, which pick up the movement of vehicles or troops; a communications link (usual radio) from the sensor to a 'readout' device; the 'readout' device, which receives sensor transmissions and shows when each sensor is picking up a target; and display and processing equipment to assist in counting the targets and in determining their direction and rate of movement. Individual systems may also include special munitions, aircraft, etc., which I shall mention later.

Major ANDERSON. First, the road is cut at a point difficult to bypass, using highly accurate guided weapons. Laser-guided bombs have been performing most of this function. Next, antimateriel landmines are emplaced. . . . Third, antipersonnel landmines are emplaced over the antimateriel mines. . . . Fourth, sensors on both sides of the munitions package determine if truck traffic is getting through the package. Sensors in other locations are used to determine other routes taken by enemy. (*Ibid.*)

Mr. GILLEAS. How do we prevent sensors from killing innocent people versus enemy troops?

General DEANE. You say the sensors won't tell you. And the sensors might give you an indication if over an acoustic sensor you heard voices and determined from the conversation that they were enemy, that is the only way I would know you would be able to tell . . . You could have in Vietnam, for example, a group of woodcutters coming back down the trail that might look like a squad to them; you could make a mistake, I think." (*Ibid.*)

General EVANS. Our current family of sensors . . . was designed specifically for use in Southeast Asia. We believe the system has demonstrated significant potential for enhancing future tactical operations worldwide, and Tactical Air Command has in fact stated a requirement for integration of Igloo White technology into TAC's worldwide operational capacity. To provide this capability, improvements must be made to accommodate present sensor design to the much more severe environmental conditions to be found in many other areas of the world which are of military interest." (*Ibid.*)

Costs of the electronic battlefield

$3.25 billion through FY 1971, exclusive of munitions. (Sen. William Proxmire, CR, 3/23/71, pg. S3618).

Future costs could reach $20 billion in the next decade. (Sen. William Proxmire, *CR*, 7/13/70, pg. S11115).

The sensor program in Indochina with its air and ground weapons and munitions cost $1,680,600,000 through fiscal year 1971. (Electronic Battlefield Hearings, 11/70)

"The Pentagon is concealing essential facts regarding its expenditure of more than $3 billion on the electronic battlefield." (Sen. William Proxmire, *CR*, 3/23/71, pg. S3618)

INEFFECTIVENESS

The employment of massive technology by the U.S. has led to the deaths of many innocent civilians and animals, while its military value is subject to question. The sensors cannot distinguish between friend and foe, animal and human, and the decision to call in warplanes is made without this knowledge. The guerrillas have ingeniously confused the "people sniffers" by hanging pails of urine in the trees. The heat sensors are deceived by small fires and guerrilla signs that warn, "Avoid this area, there are devices that are listening for you" dot the landscape. Every advance in American technology brings new countermoves by the "backward" guerrillas. The organized and determined guerrillas can withstand, and thus defeat, the new technology, but many innocent peasants are caught by American firepower.

"On several occasions after heavy sensor activation the night before, morning patrols sent out in search of enemy bodies found dead water buffalo instead." (A former Army lieutenant, as reported by Sen. William Proxmire, *CR*, 3/23/71, pg. S3621)

"We must guard against mindless applications of new technologies just because it exists, applications which have little or no chance of success." (*Ibid.*)

ORDNANCE

The 2,000 tons of bombs dropped daily on Indochina constitute an unparalleled and sophisticated variety of weapons designed to maim and kill those below. These bombs can be divided into five distinct categories:

1. High explosives, ranging in weight from 250 pounds to the massive "Commando Vault" 15,000 pound bomb. (See also "Environmental Destruction")

2. Anti-personnel bombs are designed for use against unprotected human flesh. According to a paper delivered to the American Association for the Advancement of Science by Prof. E. W. Pfeiffer and Prof. Arthur Westing, at least 50 percent of all bombs dropped on Indochina are anti-personnel bombs:

A. 1,000 pineapple bomblets can be dropped by one aircraft in a single flight. When dropped, the pineapples send 250,000 steel pellets spewing in a horizontal pattern across the land.

B. The Guava can explode on impact, in the air, or with a time delay fuse, with each aircraft throwing 400–500,000 ball bearing pellets in a 360 degree pattern. The guava can inflict casualties on those who are hiding in holes, or in bunker or cave entrances because of this spraying pattern. The equivalent fire power in terms of conventional land war would make the 1,000 pineapples equal to 13,160 infantrymen each firing one clip from an M–16 rifle; the guavas are equivalent to twice that, or 26,320 infantrymen firing a standard clip from an M–16.

C. The Flechette, or "nail" bombs, contain several hundred 1 inch barbed nails in each 3 inch bomblet. The flechette is designed to enter the body, shredding muscles and body organs as it passes through the body, by the path of least resistance, i.e. the ricochet effect. Both pellets and flechettes are difficult to remove, sometimes necessitating exploratory surgery in order to insure removal.

"Often the nails [flechettes] will knife right through the target, although at certain angles they do have a tendency to tumble immediately on impact, and after piercing the skin a tumbling nail can cause a gaping wound."

(Dean Morton, CBS News, 3/29/71)

3. Incendiary bombs, designed to burn their victims, vary as to temperature, adhesiveness, and effective range. These include napalm, super napalm, napalm B, napalm paragel, thermite, magnesium, white phosphorus, and NPT.

A. Napalm variants are characterized by their large range of effectiveness—sheets of flame envelop everything for hundreds of yards.

B. White phosphorus is characterized by the fact that it burns on contact with oxygen. "Willie Peter," as pilots refer to it, cannot be extinguished, which means that it usually has to burn its way to the bone before it goes out, and has a more localized dispersal pattern than napalm.

C. NPT, napalm-phosphorus-thermite, dispersed over a wide area, burns at a high temperature, and is difficult to extinguish. It is a combination of the deadliest characteristics of other incendiary agents.

"In the civilian hospital at Can Tho, I

XUM

saw a man who had a piece of white phosphorus in his flesh. It was still burning." (Harvey)

4. Air to ground missiles have come into greater use in recent years. The most common are either laser guided or teleguided missiles, called "smart bombs." Conventional bombs with laser guidance systems are dropped from an aircraft, and then home in on a beam that guides the bomb to its target. Teleguided missiles include the "Walleye" and "Bullpup," which fall on the image projected on the pilot's screen. The latter are used particularly against caves or suspected underground complexes, and are accurate within 6 feet when dropped from 4 miles away.

5. Area denial mines are designed to make large areas of land uninhabitable for human life. These weapons include:

A. The Dragontooth and Gravel mines, which are camouflaged to blend in with the land, and are dropped by the thousands every month. The gravel and dragontooth are designed to blow the foot off the person who steps on it, or the hand off anyone who picks it up, but neither one will destroy a truck tire if rolled over.

B. The Spider mine or the WAAPM (Wide Area Anti-Personnel Mine) has eight fine wires that extend from it. When a wire is tripped, ball bearing-like pellets are thrown for a distance of 60 meters. Unlike other weapons, area denial weapons are not dropped on a specific target, but rather entire areas are flooded with them.

"It (the gravel mine) is purely antipersonnel. If a person steps on it, it will blow his foot off. If a truck rolls over it, it won't blow the tire."

(Maj. R. D. Anderson, USAF, Electronic Battlefield Hearings, 11/70).

EXAMPLES OF ORDNANCE USED IN INDOCHINA

BLU 24/26, Guava bomblets, each holding 260–300 pellets, and 50 grams of explosive. Different fuses determine if the bomblet will detonate on impact, in the air, or with time delay. 360 degree spray pattern when detonated.

BLU 31, 750 pound mine dropped from a plane, armed with a seismatic sensitive fuse. The mine buries itself on impact, and can be detonated by the vibrations from a single truck.

BLU 52, 270 pounds of CS II riot control agent. The chemical CS causes vomiting, nausea, tears, and muscle spasms. It can cause death to the elderly, infants, and the sick.

M–36, 800 pound casing containing 182 incendiary bomblets.

PAVE PAT II, 2,500 pound propane gas bomb, used as an incendiary device.

CBU 28, Dragontooth mine. Anti-personnel, area denial mine.

CBU 34/42, WAAPM, Wide Area Anti-Personnel Mine. WAAPM is an area denial weapon with a spraying pattern of 60 meters.

CBU 24/49, Anti-vehicular bombs. The CBU 24 detonates on impact; the 49 is dropped ahead of a convoy and uses a time delay fuse.

CBU 46, Flechette bomblets. Each bomblet has hundreds of 1 inch barbed "nails" that are designed to enlarge wounds and shred body organs. Hundreds of bomblets can be dropped in a single sortie.

XM–51E, Gravel mine. 3 inch cloth bag containing explosive powder and two plastic pellets. Operation is similiar to the dragontooth. An added feature is the use of plastic, which necessitates exploratory surgery.

(The above data was gathered from the hearings of the Electronic Battlefield Subcommittee of the Preparedness Subcommittee, of the Senate Committee on the Armed Forces, Nov., 1970.)

"Phosphorus has the particularity that inside the wound or burn, it burns slowly. On occasion this slow combustion lasts up to 15 days. At night can be seen the greenish light produced by the material that continues burning the flesh and bones. Besides this, accompanied by the wounds and the profound burns, the victims suffer a severe intoxication produced by the augmentation by three or more times the quantity of inorganic phosphorus in the body."

(Dr. Abraham Behar, [French physician visiting North Vietnam in 1967], quoted by J. B. Neilands, Asian Survey, 1970)

"That white phosphorus is used as an antipersonnel weapon was confirmed in a press report in 1969: 'We killed them one by one with grenades, direct hits with Willie Peter—white phosphorus artillery shells—or with napalm.' This is a statement attributed to a major serving as a commander in the Special Forces' Fifth Mobile Strike Force."

(J. B. Neilands et al., *Harvest of Death*, 1972)

"This is the BLU–52 chemical bomb. It is a standard firebomb case. It becomes a BLU–52 when filled with 270 pounds of CS–1 or CS–2 riot control agent. Its operation is quite simple. After the bomb is released, the thin-skinned bomb case breaks open an impact with the ground, spreading its contents over a wide area . . . CS–1 will last for 3 to 5 days and CS–2 will last for 30–45 days . . . Their effects are nausea, choking, and copious weeping. They have been employed to a very limited degree in South Vietnam on carefully selected targets. [Deleted]."

(Major Anderson, Senate Electronic Battlefield Hearings, 11/70)

COSTS

Conservative estimates place the annual costs of the air war at some $3 billion. Actual costs probably run much higher.

However, in terms of the cost of the air war to the Indochinese people and compared to pre-1970 war costs for the U.S., this is a relatively inexpensive war, intended to be a protracted and perhaps a "permanent" war.

Costs have shifted from maintenance of a ground army to military aid and development of electronic counterinsurgency weaponry. "Smart bombs cost . . . $12,500 for the T.V. bomb kit. Conventional bombs cost anywhere from $224 for a 500 pounder to $1,864 for a 3,000 pounder" (AP dispatch in the *Philadelphia Bulletin*, 1/14/72). One Walleye missile costs $25,000. The Pentagon acknowledged that the cost of the sensor detection system alone had reached $1.6 billion by November 1970.

SOME FIGURES

1966–71, total air war costs, $27.5 billion, or approximately ¼ of the war's overall costs. (Cornell study).

1971, $2.79 billion, or approximately $60 per family of four.

Operating costs: $2.2 billion.

Aircraft attrition: $.6 billion (*Ibid.*).

Cost per day, 1971, $7.64 million.

Projected costs, $2 to 4 billion annually (Cornell study).

CHRISTMAS RAIDS AGAINST NORTH VIETNAM

Estimated cost of plane, losses Dec. 17–Jan. 1: $24 million (conservatively tallied at $2 million/plane, 12 planes lost, DoD).

Sortie costs: $8.5 million (based on DoD figure of 1,000 sorties).

PRODUCTION COSTS

1 B–52, $8 million (AP dispatch, 1/9/72).

1 F–4, $4 million (Sec. Seamans, 1972 Air Force Appropriations Hearings).

1 Huey Helicopter, $250,000 (*Ibid.*)

1 Shrike air-delivered missile, $35,000 (CBS News, 1/19/72).

1 aircraft carrier, $960 million (Sen. Allen Ellender, *CR*, 1/25/72).

ELECTRONIC BATTLEFIELD

Total costs, $3.25 billion (Sen. William Proxmire, *CR*, 3/23/71, based on Senate Electronic Battlefield Hearings).

Future costs, as high as $20 billion (Sen. William Proxmire, *CR*, 7/13/70).

DoD acknowledged cost of sensor program, FY 1967–71, $1.68 billion (Senate Electronic Battlefield Hearings, 11/70).

Operating cost of Thai based computers, $625 million (Orville Schell, *AmRep*, 9/24/71).

Developmental cost of Wide Area Anti-personnel Cluster Bomb (WAAPM), $86.3 million (*Ibid.*).

OPERATIONAL COSTS (AVERAGE COSTS)

1 fighter-bomber sortie, $8,500 (*Ibid.*).

1 truck destroyed on Ho Chi Minh Trail, over $100,000 (Sen. Mike Gravel, *CR*, 10/5/71).

COST OF AMERICAN AID TO INDOCHINESE AIR FORCES

FY 1970, VNAF, $245 million, RLAF, $46 million.

FY 1971, VNAF, $350 million, RLAF, $79 million.

FY 1972, VNAF, $337 million, RLAF, $83 million.

(DoD, *CR*, 8/3/71, p. 12938.)

SOME TRADE-OFFS

The cost of one month's 1,000 B–52 sorties would approximate the Administration's 1971 attempted $47 million cutback in the school lunch program, reducing the number of students assisted by nearly 600,000.
(PAW)

The cost of one fighter bomber sortie equals the annual salary of one teacher. One week of no fighter bombing would reserve enough funds (approx. $24 million) to reopen the Dayton public schools, and finance for one year the Independence, Missouri public schools, both closed last November for lack of money.
(SANE)

The $52.5 million cost of the helicopters lost in the Laos invasion in 1971 equals the cost of 17 local health centers, each treating 40,000 patients annually.
(*Ibid.*)

The air war's $350 million helicopter operating costs for 1971 (Cornell study) represent twice the estimated federal outlays in 1971 for the operation and support of the Federal Court System, assistance to state and local courts, and legal aid to low income citizens.
(The Urban Coalition)

The fuel for one jet for one hour equals 2½ months of food for a family of four.
(*Science for the People*, 11/71)

One aircraft carrier costs the same amount as public housing for 270,000 people.
(Sen. George McGovern, *NYT*, (12/6/71)

ON THE OTHER HAND

While the Administration spent nearly $3 billion on the air war in 1971, the President:

(1) Vetoed the $2.1 billion daycare-childcare bill;

(2) Vetoed the Public Works Bill due to its allocation of $2 billion for federally financed jobs in areas of high unemployment;

(3) Called for an OEO cutback of $545 million in its FY 1972 budget;

(4) Called for a cutback of $50 million in aid to elementary and secondary schools in its FY 1972 budget;

(5) Called for a cutback of $88 million for the school milk program in its FY 1972 budget;

(6) Called for a cutback of $28 million in aid to public health centers and clinics in its FY 1972 budget;

(7) Called for $132 million less than Congress had previously authorized for solid waste disposal programs in its FY 1972 budget;

(8) Called for $129 million less than Congress previously authorized for the fight against air pollution in its FY 1972 budget;

(9) Called for $92 million less than Congress previously authorized to combat alcoholism in its FY 1972 budget;

(10) Announced that it had spent only $422 million of the $1.25 billion allocated by Congress in FY 1971 for the construction of solid waste treatment facilities;

(11) Called for expenditures of $900 million less than recommended by the Urban Coalition for federal assistance to urban areas in its FY 1972 budget.

The above figures are less timely now due to the Administration's recent release of its proposed FY 1973 budget. While this budget contains generally moderate increases for domestic programs, it still allocated only $430 million for the war on cancer. "[The] National Cancer Institute got far less than it felt it needed." (*Post* 1/25/72)

HUD's budget for 1973 was below its 1972 level, containing a $50 million cut in federal subsidies for private apartment rentals.

The FY 1973 budget contained no new money requests for water and sewer grants. Congress has appropriated $850 million since mid-1970, of which only $550 million has been spent by the Executive branch.

IMPLICATIONS—WAR ON THE CHEAP

"A continuing air war, largely conducted and entirely supported by the U.S., will inflict ever-widening costs on the peoples of Indochina while reducing U.S. costs to little more than a normal peacetime readiness level for 'permanent war.' When one takes into account the future technological possibilities for warfare-from-a-distance and when one considers the relative cheapness of this kind of mechanized war for the U.S., there emerge far-reaching implications for the possible future conduct of American foreign policy."

(Cornell study)

CORPORATE INVOLVEMENT

The air war is dependent on the readiness of manufacturing and research companies to seek contracts for the development and production of weapons systems. The war industry is a lucrative one; profits from weapons manufacture are substantially higher than profits from similar size nonmilitary manufacture. The continuing substitution of electronic weapons systems for manpower means, of course, that a higher percentage of war costs go directly to corporations rather than to soldiers, and that the future has become brighter for arms makers.

"The Vietnam build-up virtually assured American businessmen that no economic reverse would occur in the near future." (Pres. Johnson, "Economic Report of President Transmitted to Congress," GPO, 1/70)

"Electronic warfare is our business." (Headline from full-page ad by GTE Sylvania in *Electronic Warfare*, Convention Issue, 1971; see graphics section)

"Systems Specialist Electronic Warfare—A substantial increase in business activities requires experienced systems professionals to join our Applied Research Staff. . . . Areas of responsibility will include: Receivers, Transmitters, Computer Interface, Electro-Optical Devices, Lasers. . . . The Hallicrafters Company, A subsidiary of Northrop Corp. . . . An Equal Opportunity Employer" (Ad from the *Post*, 1/16/71)

"A General Accounting Office survey of 146 military contracts showed a 23.8 percent average profit on total capital investment and 56.1 percent on equity (capital supplied by stockholders). A private study showed defense contractors earning 17.5 percent profits on total investment, compared with 10.6 percent profit for civilian contractors of comparable size, between 1962 and 1965." (*A Rich Man's War and a Poor Man's Fight: A Handbook for Trade Unionists on the Vietnam War*, Washington Labor for Peace, 1971)

"Congress was first informed in November, 1970 of military expenditures for an automated battlefield—expenses that began with the creation of the Defense Communications Planning Group in 1966, and totalled at least $3.25 billion before Congress was informed." (Report of Senate Armed Services Committee on its Electronic Battlefield Hearings, 11/24/70)

"Honeywell's production of fragmentation weapons has greatly increased since Nixon took office and began 'winding down' the war. In 1968, the Army bought 41,987,278 fragmentation weapons. In 1970, it bought 101,001,700—more than twice as many. As measured by corporate production of killing machinery, the war is winding up, not down." (Honeywell Project, "Honeywell: Controllers of Power, Masters of War," 1971)

Contracts of Honeywell, Inc. to produce anti-personnel weapons for use in Indochina:

$50 million for Submarine Tactical Missile, to fire cluster bomb unit-laden missiles from offshore;

$55,000 for research and development on the Dart Bomb whose spinning darts "grind up human flesh;"

$6 million for a Fuel Air Explosive Munition, designed to cause a vast incendiary explosion of vaporized fuel;

Over $100 million for the Wide Area Anti-Personnel Mine.
(*Ibid.*)

"Raytheon Co., largest war manufacturer in Massachusetts, makes 80 percent of all U.S. aircraft borne missiles. Its contracts for the Sparrow and Sidewinder air-to-air missiles, both used in Indochina, have totaled $735 million between 1966 and 1972. The surface-to-air Hawk missile, produced for use in Indochina as well as for sale to Israel and Jordan, has accounted for $730 million in Raytheon contracts in the same period. A GAO study found a 30 percent inefficiency rate in Hawk production." (Richard Krushnic, "Raytheon Company: Heart of the Massachusetts Military Industry Complex," 1971. Contract values are quoted by Krushnic from W. E. Hutton & Co., "Field Report on Raytheon Company," 2/71, p. 16)

These were the leading military contractors for the Indochina War from 1965 to 1970, with total contract values in millions:

McDonnell-Douglas	$3,388.5
Lockheed	1,455.7
Textron	1,210.5
Olin	1,141.4
Ling-Temco-Vought	974.5
Grumman	$950.2
General Motors	780.4
DuPont	681.3
Boeing	646.2
Honeywell	642.4

(Washington Labor for Peace, *A Rich Man's War and a Poor Man's Fight*)

"General Electric supplies the rapid firing 20 mm Vulcan cannon and 7.62 mm miniguns which together can fire over 24,000 rounds of ammunition a minute (from a single AC–130E 'Surprise Package' gunship). Such fire power capability in the air represents the military's answer to an 'enemy' who cannot be seen, and whose presumed territory of activity must be overwhelmed with gun fire.

[GE's other contracts to supply the Indochina War include manufacturing engines for F–4 Phantom jets, Igloo White computer equipment, television guidance systems for the Walleye "smart" bomb, radar jamming systems, the "laser target designator" for laser-guided bombs, and special television equipment designed for night-time bombing. The company's annual military contracts totalled over $1 billion in both 1970 and 1971. 1971 military sales are estimated to have earned $2.60 per share.] (NEARMIC, "General Electric Company," 2/72)

Some of United Aircraft's contracts for Indochina weapons manufacture:

Pratt and Whitney subsidiary: $100 million a year for Navy F–14 and Air Force F–15 jet engines; F–111 engines; $35 million a year for Navy A–4 and A–6 engines;

Hamilton Standard subsidiary: wingsweep actuators for the F–14;

Radar and cockpit display systems, and weapons delivery systems;

Sikorsky subsidiary: CH–53A/D helicopters, $50 million a year.

(Richard Krushnic and Susan Wolf, "More than any other State in the U.S., Conn. is the Warfare State," pamphlet, NEARMIC, 2/72)

"Air Force.—We were pleased to announce, in the May Scope, the winning of the 20 mm SAPHE projectile development project from Eglin. . . . This is one of a family of ammunition programs that we are trying to get under our belt. On the Air Force production side, the big item—the WAAPM air delivered mine—is enjoying a fine reputation in actual use; its performance is very good." (SCOPE, a Honeywell in-house publication, 6/69)

"Our Air Force business continues to grow, and this pattern will continue into 1970. The procurement 'mix,' however, is having some large excursions, creating serious impacts on our factory. In general, FY70 quantities appear to be emphasizing cluster bombs and minimizing unitary warhead bombs and fuzes. This is good for our CBU production at St. Louis Park, but it hurts our bomb fuze production at Hopkins." (*Ibid.*)

"Air Force F–15. Sperry's There! For this nation's newest air superiority fighter—being built by McDonnell-Douglas-Sperry is developing the attitude and heading reference system, the digital air data computer, the multifunction display, and the flux valve." (Sperry Rand Flight Systems ad, *Air Force Magazine*, 7/71)

"Safe. New Proximity Fuze can only be armed after leaving the plane. . . The new SAFE fuze is based on Motorola's experience in advanced and current GP bomb fuzing, dispenser fuzing, missile and rocket fuzing, guided ordnance fuzing, artillery and mortar fuzing, and small caliber projectile fuzing. For more information, write Motorola Government Electronics Division, 8210 E. McDowell Rd., Scottsdale, Arizona 85252." (Motorola ad, *Air Force Magazine*, 1/72)

"Electronics is big business, and getting bigger, both here and abroad. . . The big question is the defense market, now leveling off with the winddown of the war in Southeast Asia. There are indications, however, that new and complex weapon systems, based on advances in technology, will be needed to replace present systems. Such trends could increase defense purchases of electronic equipments and components and halt further decline in defense procurements. Smoothing the industry-government interface in this critical area is one of our main jobs at Electronic Industries Association (EIA)." (V. J. Adduci, EIA president, *Air Force Magazine*, 7/71)

"One thing is clear. . . The military services, and notably the Air Force, are going to depend more and more on electronics for both management and operational requirements. I know I speak for the electronics industry of the United States when I say we stand ready to do our part in satisfying the needs of national defense." (*Ibid.*)

"Goodyear Aerospace Associative Processors can provide significant benefits in other radar, electronic warfare, communications and data base management systems. . . Airborne and ground based electronic warfare and radar signal processing tasks are already under way. You can put this technology to work for you. Save money and improve your system performance. When we say it, we mean it. For further information call Wayne (Brubaker, our Digital Systems Marketing Manager) (216) 749–3631 or write Goodyear Aerospace Corporation, Department 911 VG, Akron, Ohio, 44315." (Goodyear ad, *Air Force Magazine*, 7/71)

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POW'S—PAWNS OF WAR

An American has been shot out of the sky and captured or listed as missing in action once every three days since President Nixon took office. Hundreds more were prisoners when he began his administration. None will be freed as long as the air war continues.

There are those in this country who argue that the POWs must remain in prison, rather than be released through some "unglorious" total withdrawal, so that others will not have fought in vain. But this argument assumes that we can "win" some sort of victory that will make our sacrifices in Indochina justifiable.

What if we must at some time withdraw anyway? We will at such a point have subjected these men and others yet uncaptured to more unnecessary years of imprisonment.

It is clear that further air raids will only increase the numbers and prolong the imprisonment of American POWs. One thing is certain: As long as the air war continues, more men now free will be shot out of the sky, killed, wounded, or captured until the bombing ends.

Number of American POWs—January 20, 1972

In North Vietnam:	Totals
North Vietnamese	346
DOD	*385
In South Vietnam:	
NLF	18
DOD	90
In Laos: DOD	5

* Including 20 listed as dead by the North Vietnamese.

"Some wives and parents . . . believe that top-level U.S. policy makers are being deliberately misleading when they denounce the North Vietnamese as liars because the Hanoi officials say they can't produce an accounting of anything like 1,600 men [the total number of prisoners and missing claimed by DOD]. (North Vietnam has produced a list of 339 men [as of 9/30/71] it says have been captured.) These wives and parents auspect that Washington's demand for the accounting is just a throwaway bargaining ploy for the Vietnam negotiations in Paris . . .

"'I think they're misleading us for their own purposes,'" one Missing in Action mother claims. (*Wall Street Journal*, 9/30/71)

Partisan nature of POW families situation

Congressman Les Aspin, on January 22, 1972, "released documents that showed that the Republican National Committee has become a dominating influence in the affairs of the avowed nonpartisan National League of American Families of Prisoners and Missing in Southeast Asia (the major organized group of relatives of detained and missing U.S. servicemen) . . . The documents disclosed that by April 1971 the GOP National Committee was giving financial advice and political support to the organization." (*Am Rep.* 2/18/72)

"POW/MIA Families for Immediate Release is angry at having to swallow the same story about the President's plan to help American POWs when every time a bill is offered and a door is opened to help us end this war and get out POWs, the administration maneuvers and pressures with scare tactics to their key supporters in the House to slam it.

"President Nixon has blatantly abandoned the prisoners and is creating two residual forces—one in Southeast Asia to continue the war, and one in this country consisting of POW/MIA families who are not going to remain quiet about these defenseless pawns." (Shirley Culbertson, POW sister, *Post*, 11/27/71)

"He talks about a bloodbath," said one ladylike wife, "but he's not kidding us. He's got to choose between President Thieu and my husband, and if he doesn't choose my husband, you can bet he's going to hear from me. We've been polite enough, and we know we've been had." (*Star*, 7/13/71)

North Vietnam's position on release of POWs

"The more Nixon wants to force his terms on the North Vietnamese people by increasing his air attacks, the longer will be the list of U.S. pilots captured in North Vietnam." (North Vietnamese Army newspaper *Quan Doi Nhan Dan* quoted in *NYT*, 12/29/71)

"It is not we who use the prisoners as pawns. It is Mr. Nixon who uses the prisoners as pawns in the political aims. But we should wonder why Mr. Nixon still uses the political problems for his aims. Why does he not make a statement: Now we stop any commitments to the Saigon administration . . . and we will no longer maintain this administration. And then the Vietnamese problems will be very rapidly settled—both military questions and political questions. And then all prisoners, all American servicemen, will go home." (Xuan Thuy, North Vietnamese delegate to the Paris peace talks, *NYT*, 2/7/72)

Treatment of POW's

An interview with a POW (Lt. Commander David Hoffman of San Diego) captured during the recent Christmas raids revealed the conditions of his confinement:

"'How did they treat you, the people who captured you?' I asked.

"'I was treated very well. I was taken to a village, their village, and was given dry clothing, food, and medical attention for my broken arm right away, and I was given a place to rest.'

"Lt. Commander Hoffman appeared to be in good health and was amazingly cheerful considering the fact that he was a prisoner. He went on:

"'Since being brought to the detention camp here I have been treated very well. I was taken immediately to the hospital, the doctors examined my arm and started treatment so that it would heal properly. I have been well-fed and clothed and provided good shelter. My treatment has been very, very good.'

"Vietnamese in Hanoi had told me that captured American pilots are fed more than North Vietnamese soldiers simply because of the difference in their accustomed diets and body size. One senses from the Vietnamese that they recognize the political importance of the pilots and make considerable effort to provide for them within their means. Spokesmen at every level in Hanoi repeatedly stressed that they were committed to repatriating all U.S. pilots, but only after a reasonable settlement of the war, which they insist is contained in the PRG's Seven Point Peace Plan . . ." (Banning Garrett, PNS, 2/9/72)

"'We are checking every possible lead' and 'run out' every indication that POWs might be released, Mr. Nixon said. But he cautioned against soaring hopes, charging that 'we are dealing with a savage enemy, one with no concern for humanitarian ideals.'" (*Post*, 9/29/71)

"If I was a prisoner of war, I would rather be captured by the Viet Cong than by the United States Marine Corps. The Viet Cong need prisoners for bargaining purposes and we don't. After beating our prisoners, and torturing them, and having a good time, we killed ours." (Scott Camil, former Marine sergeant with 20 months combat experience in Vietnam and nine medals, *AmRep*, 2/18/72)

"The $13,168,000* requested (FY 1972) for 'Missing in Action and Prisoners of War' covers the pay and allowances of the Air Force officers who are missing in action or prisoners of war . . ." (Gen. Kidd, FY 1972 DoD air Force Appropriations Hearings)

* Note: Total covers only Air Force personnel, not Navy or Marine airmen.

The large majority of POWs are pilots and crews of the air war in Indochina.

U.S. treatment of Vietnamese prisoners

The treatment of American POWs by the Vietnamese may be a legitimate question. It is highly debatable, however, whether any American has the right to raise it. American torture and murder of Vietnamese prisoners has been well-documented for years.

"The commander of the A team, had conjured up a system of electrical torture . . . the captain asked questions of a prisoner, who was stripped naked, and electrodes from these field telephones were attached to the back of his neck, to his armpits, to his genitals, and his feet . . . when the captain didn't like the answer, he gave some kind of signal to the sergeant who gave him an electrical charge and the fellow would jump and scream." (Steve Noetzel, testimony at first Winter Soldier hearings, *CR* 4/6/71)

"At another point, I had identified one of the members of the village committees for VC logistical supply, as I remember. In any case, he was picked up and brought in . . . as a detainee, not a POW, but a detainee. The fellow was put in the same hootch with the four cages . . . and he was forced to lay on the floor with his hands tied behind his back and they would insert . . . a woden peg, a dowel with a sharpened end, into the semicircular canal of the ear, which would be forced into the head little by little as he was interrogated. And eventually, did enter the brain and killed the subject, the detainee . . ." (Bart Osborne, Veteran, testimony before Dellums War Crimes Inquiry, *CR* 3/1/71)

SECRECY—EXECUTIVE DICTATORSHIP

The air war in Indochina is a Presidential war, initiated and directed from the White House. For a period of five years, from 1964 until 1969, U.S. aircraft bombed northern Laos without even the awareness of the Congress, much less its consent. The President has continued to execute the bombing campaigns without once seeking the advice and consent of the Congress.

Traditionally the ultimate power of the legislature has resided in its power of the purse. However, the air war's funding is nonspecific, buried in the general budget of the services and so eludes effective control.

The secrecy over the nature and the extent of the war is maintained by restricting newsmen's movements and access to information. Newsmen are not allowed to go out on bombing raids outside of Vietnam where, since 1969, ⅔ of the tonnage has fallen. All information about the air war except gross tonnages and sorties remains classified.

Although many of the real facts about the bombing have filtered out to a small segment of the public, the Administration's news management of the air war has proved largely successful. The devastation has been taken off the front pages and TV screens. This modus operandi of secrecy has ineffectualized Congress' role in foreign policy decisions, and muffled public dissent, while placing control over the conduct of the war into our nation's privy council.

"The Air Force says that only five men, three of them military officers, are in the regular operational chain of command that selects bombing targets in Indochina: Pres. Nixon; Defense Secretary Laird; Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff; Adm. John S. McCain, Commander of Pacific Forces; and Gen. Creighton Abrams, U.S. field commander in Vietnam." (*Post* 1/17/72.)

Symington: "Are you saying that the President of the United States . . . [by himself] has the right to put U.S. military troops in airplanes over a foreign country over a period and direct the bombing of that country . . ."

Ambassador William Sullivan: ". . . yes, sir." (SSAC 12/70.)

"The carrier is a particularly appropriate instrument of preaidential power. Movement of a carrier requires no prior consent of Congress. It also costs very little, in extra money, so such a movement is virtually outside the congressional control over the purse strings." (*Star*, 12/21/71)

[Sen. J. W. Fulbright complains about Congress not being informed for 5 years about the U.S. bombing in Laos.] Ambassador William Sullivan: "But if there were any direct questions asked of me about U.S. air operations . . ." Sen. J. W. Fulbright: "You see, we did not know enough to ask those direct questions . . . we were not aware of these activities [the bombing] though we had had some hearings on it." (SSAC, 12/70)

"Since February, 1970, we have been using B–52s in northern Laos on a regular basis, a fact the Committee had not been told and that was not made public until . . . May 3, 1971." (James G. Lowenstein and Richard M. Moose, staff assistants, SSAC, 8/71)

". . . there is no real knowledge of what is going on in Laos. We do not know the cost of the bombing. We do not know about the people we maintain there. It is a secret war." (Sen. Stuart Symington, SSAC, 12/70)

". . . the United States is reluctant to place on the public record through the statements of officials precise definitions of what the U.S. involvement or operations in Laos have entailed." (*Ibid.*)

"We made a big thing . . . about stopping the North Vietnam air strikes. But at the same time, we were increasing in secret the air strikes against Laos." (*Ibid.*)

"There is an evident determination among us officials in Laos to prosecute the war with only gradually reduced secrecy . . ." (SSAC, 8/71)

"There is considerable doubt in my mind," Sen. Symington told his colleagues, "whether the Congress, if presented with a straightforward proposal to spend half a billion dollars to carry on such activities [within Laos] would have agreed to do so; but insofar as we can determine, no congressional committee, before this year, was ever given any comprehensive picture of our operations in Laos." (Sen. Stuart Symington, SSAC, 12/30)

"Because of the Vietnam experience, Congress is keeping a tight purse string on Cambodian aid. The Nixon administration has gone behind congressional backs, however, to sneak military supplies into Cambodia through South Vietnam and Indonesia." (*Post*, 1/11/72)

"The only figure the people of the United States know we are putting into Laos is some 50 million in economic aid, but when you add up the figures . . . it is over a billion and a half dollars annually that we are spending." (Sen. Stuart Symington, SSAC, 12/70)

"A strict gray-out is imposed on U.S. operations . . . with little information besides official reports available to the press. Reporters are not permitted to accompany attack and spotter planes as they are in Vietnam. Pilots are under instructions not to talk to newsmen. The Air Attache in Vientiane is similarly inaccessible . . ." (Sen. Mike Gravel, *CR*, 10/5/71)

"American reporters are not permitted to film air bases in Thailand primarily because the Administration does not want the vast installations publicized." (Phil Jones, CBS News, 12/21/71)

"Requests to go to other places were turned down . . . The U.S. still does not admit to all American casualties in Laos. It will give air casualties on U.S. missions originating in Laos, but not from the 7th Fleet, Vietnam or Thailand, and downed in Laos. U.S. air attaches here refuse to talk to the press. Saigon gives some of the U.S. air losses but no details of the sorties. U.S. forward air controllers and combat airmen continue to fly in unmarked aircraft on Laos missions. Skyraiders from Thailand with U.S. pilots. Lao air force T1T 28s sometimes flown by Americans, and Ravens, the forward air controllers, do not carry American markings . . ." (Tammy Arbuckle, *Star*, 2/6/72)

". . . Asked about this change in U.S. air policy, a U.S. Embassy spokesman here said he had 'no information and no comment' on the report . . . Guzowski's statement is the stock answer the U.S. Embassy gives here for any questions on the U.S. air war in northern Laos. U.S. Air Force attaches in the office here with over 90 Americans refuse to give press statements or see the American press . . . The aim of this press policy apparently is to cover up U.S. air involvement in close support actions with Lao, Thai and Meo troops in Laos." (Tammy Arbuckle, *Star*, 12/23/71)

"Military briefings give little or nothing in the way of details. No news reporters accompany the flights. And even the statistics on number of sorties and tonnage of bombs dropped are withheld or lumped together with the figures for Vietnam . . ." (Richard Dudman, *St. Louis Post Dispatch*)

". . . 76% of 96 small villages in northern Laos were destroyed by bombing in 1969. Cluster bombs and white phosphorus were used against the civilian population of a country against whom the United States is not at war. The bombing was done under the direction and control of the State Department, not the U.S. Air Force. Both the extent of the bombing and its impact on the civilian population of Laos have been deliberately concealed by the State Department for at least the past 9 months which have elapsed since the July 10 report." (Rep. Paul McCloskey, SRS, 4/71)

"By 1967 the CIA had become a forceful advocate of bombing population centers in Pathet Lao territory. Unlike Vietnam, where its main function was intelligence-gathering, the CIA has been intimately involved in operations here. It directs the 30,000 man Armee Clandestine, which does the bulk of the fighting. And with its own team of photo interpretors, control of reconnaissance aircraft, and teams of local ground observers the CIA plays a key role in targeting sessions as well. As the Armee Clandestine began suffering reverses on the ground, the CIA held that heavy bombing of the Pathet Lao civilian infrastructure was necessary." (Fred Branfman, *Boston Globe*, "Air War: Laos," 12/70)

"The Pentagon is concealing essential facts regarding its expenditure of more than $3 billion on the electronic battlefield." (Sen. William Proxmire, CR, 5/23/71)

INEFFECTIVENESS

The bombing does not stop guerrilla advances on the ground or significantly impair the flow of supplies. It is militarily and politically counterproductive because of its tendency to alienate civilians and assist insurgent recruitment.

The guerrilla nature of the fighting neutralizes much of the traditional combat role of air power. American planes can rarely locate enemy forces who move in small groups by night under the cover of the forest. The number of stationary "military" targets in a guerrilla war are relatively few and strategically unimportant. Those that are struck are quickly repaired. DoD statistics indicate that less than 10 percent of all sorties are flown in close air support of embattled troops. The vast majority of the raids involve "harassment and interdiction" missions against an unidentifiable enemy and elusive logistical networks.

Efforts at interdiction have proven extremely costly and ineffective, undermined by the very low level of externally supplied materials necessary to fuel the insurgency and by the willingness of the Russians and the Chinese to provide the level of aid necessary to replace any losses. The DoD has estimated that the insurgency requires only 15–30 tons daily of imported material to maintain a moderate level of activity. This amount of supplies can be transported in 10–15 trucks or on 75–150 bicycles each fitted with an A-frame. As Dr. Marvin Golderberger, director of the 1966 DoD evaluation of the air war, has pointed out, it is impossible to prevent 150 bicycles from moving through the jungle.

General ineffectiveness

"Half of the bombs dropped miss their target areas for purely technical reasons." (Cornell study)

"These strikes provided the enemy with about 27,000 tons of dud bombs and shells, more than enough to make all the mines and booby traps which were thought to have killed over 1,000 U.S. soldiers that year [1966]." (*Ibid.*, p. 4–8)

"Just as the senseless brutality of the Battle of Britain, designed to break the British will, as psychologically counterproductive, so the use of air power in Indochina may have a similar consequence. Such a reverse effect, though difficult to determine with certainty, has been attributed to U.S. air power in Indochina by several studies.

As one civilian strategist put it, the best weapon for fighting a guerrilla is a knife, the worst a bomber." (*Ibid.*, p. 1–8)

"All bombing does is chain you deeper to the war. Bombing doesn't work. There is not a shred of evidence that it works." (Leslie Gelb, director of the DoD task force that prepared *The Pentagon Papers*, 2/4/72)

Hansen: "F–105s dropped 654 bombs and 32 Bullpup missiles in over 100 sorties against a bridge in North Vietnam [Thanh Bridge] . . . Five aircraft were lost and the bridge never did collapse."

Sen. Young: "With all those bombs they never got near the bridge?"

Hansen: "That is correct. The delivery accuracy was so poor that even though a large number of bombs were dropped and several planes were lost in the effort, there were not enough bombs that were put on the precise points that they had to be to blow out the bridge." (Asst. Secy. of the Air Force Grant Hansen, Senate DoD Appropriations Hearings, 4/27/71)

Gen. Tompkins: "Most H. & I. [harassment and interdiction] fire is utterly worthless. What you are doing is map-type fire at likely assembly areas, crossroads and trail, and you hope you will bong somebody. It is a great waste of ammunition."

Sen. Cannon: "Is there any way you could provide us with the cost effectiveness of H. & I. fire, or is that impossible?"

Gen. Tompkins: "Unless you are blessed with the luck of the devil, I would say it is zero return on H. & I." (Maj. Gen. R. McC. Tompkins, former commanding general, Third Marine Division, Vietnam; Electronic Battlefield Hearings, Senate, 11/19/70)

Ho Chi Minh Trail interdiction

"The air war is not even militarily effective. Secretary of Defense McNamara revealed in 1968 that it could at best reduce the flow of supplies along the Ho Chi Minh Trail by only 10–15 percent, at a cost over $100,000 per truck destroyed. Former Under Secretary of Defense Townsend Hoopes has pointed out that in the history of bombing campaigns, only when the sources of production are attacked can the logistical flow of supplies be effectively impaired. In this case that would involve strikes against China and the Soviet Union." (Sen. Mike Gravel, *CR*, 10/5/71)

"The North Vietnamese continue to be able to get the supplies to Cambodia and South Vietnam they require." (Senate Foreign Relations Committee Staff Report, 4/71)

"One reason why there is some skepticism about truck kills claimed by the Air Force is that the total figure for last year greatly exceeds the number of trucks believed by the Embassy to be in all of North Vietnam (*Ibid.*)

"I don't care how many trucks they [the Air Force] claim, they just aren't doing it. . We're getting about 10 percent, maybe 20 percent; we can't stop them. Never could

XUM

This goes back a long way, too. You just cannot stop an army by air bombing." (An American military intelligence officer "with long experience monitoring supplies over the Ho Chi Minh Trail," in a dispatch from Vientiane, DNSI, 10/11/71)

Ineffectiveness in South Vietnam

"The U.S. bombing effort in both North and South Vietnam has been one of the most wasteful and expensive hoaxes ever put over on the American people." (Former Marine Commandant David Shoup, *The Atlantic*, 4/69)

The U.S. has dropped over 4 million tons of bombs on South Vietnam, two times the tonnage that was absorbed by Europe and the entire Pacific theater during World War II. Yet there is no evidence that the bombing has achieved any significant objectives. The most dramatic example of this was the 1968 Tet offensive in which massive bombing throughout the country failed to offer any barrier to free NLF movement around the country, including the American Embassy. While wholesale flattening of South Vietnamese cities and towns is considered a factor in American retrenchment after the offensive, the overall effect of the bombing was probably counter-productive to American ends by hastening disaffection in the cities. (PAW)

NLF Recruitment Rates

1961	35,000
1962	31,000
1963	30,000
1964	46,000
1965 (first year of intensive U.S. bombing)	120,000

(Roger Hilsman, *To Move a Nation*, 1969.)

Ineffectiveness in North Vietnam

"Thus in spite of an interdiction campaign costing at least $250 million per month at current levels, no significant impact on the war in South Vietnam is evident." (Secy. of Defense McNamara, *Pentagon Papers*, 11/17, 66)

"I don't believe that any amount of bombing within practical limits would have substantially reduced . . . infiltration." (McNamara, *Quotations, Vietnam: 1945–1970*, ed. by William Effros, 1/67)

"Twenty-seven months of American bombing have had remarkably little effect." (CIA bombing study, 5/67, in *NYT* account of the *Pentagon Papers*, p. 535)

"We do not believe that renewed U.S. bombing of North Vietnam (short of unthinkable massive civilian attacks) will have any measurable effect on Hanoi's ability to mount and support military operations in the South at past or current levels." (Twelve spokesmen for the Federation of American Scientists, including Leslie Gelb, director of DOD task force that prepared the *Pentagon Papers;* Morton Halperin, former Deputy Asst. Secy. of Defense 1967–69; Townsend Hoopes, Deputy Asst. Secy. of Defense, 1966–67 and Undersecy. of the Air Force, 1967–69; Dr. Marvin Golderberger, Chairman JASON Division of the Institute for Defense Analyses and director of 1966 DOD review of the bombing; 2/4/72)

"The indirect effects of the bombing on the will of the North Vietnamese to continue fighting, and on their leaders' appraisal of prospective gains and costs of maintaining the present policy have not shown themselves in any tangible way. The bombing clearly strenghtened popular support of the regime by engendering patriotic and nationalistic enthusiasm to resist the attacks." (Institute for Defense Analyses study for DoD, 1966)

Laos and Cambodia

In Cambodia, guerrillas now control from 70–90 percent of the territory, despite a bombing campaign of some 150,000 tons since May, 1970. (PAW)

In Laos, the bombing campaign since May, 1964 has included over 500,000 sorties, 1.5 million tons of bombs, and installation of a $3–5 billion electronic targeting network in the south. Restrictions on bombing of civilians have been lax. Yet guerrilla forces control more territory than before the bombing began. (PAW)

"Despite the application of massive U.S. air power, the Pathet Lao now control more territory than ever before . . . We can only conclude that the widespread American bombing has on balance had a clearly counterproductive effect." (Cornell study, p. 11–5)

"As the bombing increased the Pathet Lao forces started getting more volunteers, whose attitude was 'better to die a soldier than to stay home waiting for the airplanes to kill you.' " (*Monitor*, 3/14/71)

"The bombing raises enemy morale and alienates civilians. Pathet Lao defectors indicate that before the heavy bombing of Laos the communists managed only a 30 percent rate of voluntarism among their forces. However, after the massive attacks of late '68 the figure jumped to almost 100 percent." (Sen. Mike Gravel, *CR*, 10/5/71)

"Life in the caves has its inconveniences for the peasants. It is even more serious for the political and administrative people who have to rule an immense mountainous country, stretching from China to Cambodia, where distances are counted less in kilometers than in days and nights of marching. Nevertheless, the people work on without any sign of giving in. 'Owls by day, foxes by night' goes the Laotian proverb. During the day the owl goes to earth in the shadow, but, at night, the fox comes out." (Jacques Decornoy, "Owls in the Grotto," *Le Monde*, 7/4/68)

Christmas raids

"What disturbed some pilots most about the decision to go back over North Vietnam was the feeling that political rather than tactical considerations governed the timing of the strikes. A solid cloud screen laid by the northeast monsoon blanketed North Vietnam. Phantoms without remote bombing systems were as reliant on planes with target-acquisiting radar as blind men are on Seeing Eye dogs. And the overcast, the pilots claimed, left them especially vulnerable to SAMS, a costly lesson learned five years ago at the price of many lives. Said an angry veteran, 'If you can see the ground you can pick them up easily at launch. When they come through cloud the booster is burned out and they're almost impossible to see. In 1967 we stopped bombing through overcast because there was no way of avoiding a fast-moving SAM. It's crazy to go through it all again.' " (John Saar, *Life* Magazine, 2/4/72)

Secret Jason study conclusions

"As of October 1967, the U.S. bombing of North Vietnam has had no measurable effect on Hanoi's ability to mount and support military operations in the South. North Vietnam supports operations in the South mainly by functioning as a logistic funnel and providing a source of manpower, from an economy in which manpower has been widely under-utilized. Most of the essential military supplies that the VC/NVA forces in the South require from external sources are provided by the U.S.S.R., Eastern Europe, and Communist China. Furthermore, the volume of such supplies is so low that only a small fraction of the capacity of North Vietnam's flexible transportation network is required to maintain that flow. . . .

"Despite heavy attacks on NVN's logistic system, manufacturing capabilities, and supply stores, its ability to sustain the war in the South has increased rather than decreased during the Rolling Thunder strikes. It has become increasingly less vulnerable to aerial interdiction aimed at reducing the flow of men and materiel from the North to the South because it has made its transportation system more redundant, reduced the size and increased the number of depots and eliminated choke points.

"The second objective of the bombing, to raise South Vietnamese morale, had been substantially achieved. There had been an appreciable improvement in South Vietnamese morale immediately after the bombing began and subsequent buoyancy always accompanied major new escalations of the air war. But the effect was always transient, fading as a particular pattern of attack became a part of the routine of the war. There was no indication that bombing could ever constitute a permanent support for South Vietnamese morale if the situation in the South itself was adverse.

"The bombing campaign against NVN has not discernibly weakened the determination of the North Vietnamese leaders to continue to direct and support the insurgency in the South. Shortages of food and clothing, travel restrictions, separations of families, lack of adequate medical and educational facilities, and heavy work loads have tended to affect adversely civilian morale. However, there are few if any reliable reports on a breakdown of the commitment of the people to support the war. Unlike the situation in the South, there are no reports of marked increases of absenteeism, draft dodging, black market operations or prostitution. There is no evidence that possible war weariness among the people has shaken the leadership's belief that they can continue to endure the bombing and outlast the U.S. and SVN in a protracted war of attrition."

(Pentagon Paper summary of 1967, Gravel edition, reprinted in F.A.S. newsletter, 2/72.)

IMPERSONALITY-WARFARE FROM A DISTANCE

The United States in Indochina is attempting a revolution in warfare, massively increasing firepower while placing the individual fighting man far from the consequences of his actions. The gun-toting foot soldier of yesterday is being replaced by the technician who monitors computer printouts of enemy troop movements hundreds of miles away and by the bomber pilot who programs strikes on an unseen "enemy" thousands of feet below. Killing becomes impersonal. The new soldier need not confront dying men and mangled corpses. Instead, he fills out damage assessment reports and computes "kill ratio" probabilities.

"Some pilots may have occasional qualms about dumping thousands of pounds of bombs, rocketry and napalm on an unseen enemy, but these doubts appear to be easier to overcome. . . . Aboard ship there is nothing that distinguishes the identity of the allies or the enemy. The maps would be different, but the carrier might as well be off the coast of Nicaragua or New Guinea." (Peter Osnos, *Post*, 3–2–72).

"When I was bombing the North, I knew there were houses down there. I could see buildings and houses and structures. You know there are people in those things. But at the same time I see them shooting at me and you see all this stuff coming up at you and it's a matter of survival." (Lt. Cdr. Bill Townsend, F–4 pilot on USS Constellation, fourth combat tour, quoted by Peter Osnos, *Ibid.*)

"Sometimes, when you're not flying you can sit down and think about the morality of the war, the morality of killing. But you've got to recognize one of the big differences between what we do and what your standard Joe Smeddley, a private in the Marine Corps does. "He's down there on the ground slogging around with these guys. He's sitting there with somebody maybe 15 feet away from him and they're both emptying their guns at each other. "He sees much more, as far as killing each other or being injured or whatever, than we ever see. It's an antiseptic situation in that airplane. You never get closer to the ground than maybe 5,000 feet." (Lt. J.G. Bart Flaherty, F–4 pilot on USS Constellation, to Peter Osnos. *Post*, 3–2–72)

"Several of us went to the roof about 3 a.m. The Americans unleashed the terrifying 'Puff the Magic Dragon,' a DC3 that spews forth 5000 machine gun bullets a minute. As I watched it circle overhead last night, silhouetted against the low clouds in the light of the flares, flinging indiscriminate bolts of death earthward, I could vividly visualize the scene below. Men, women, children and animals, caught like rats in a flood. No place to hide, no way to plead their case of innocence to the machine in the sky, no time to prepare for death. The beating the civilians are taking in this war is beyond adequate description. . . .

"The cold, mechanical, compassionless way that monster circled around and around and around, ruthlessly pursuing an unseen 'enemy,' stabbing viciously earthward again and again, probing, searching, killing and maiming all in its path. . . . Man's inhumanity to man has reached its climax in Vietnam."

(A Quaker worker in Quang Ngai, 2/69, in "Vietnam 1969," quoted in NARMIC, *Weapons for Counterinsurgency*, 1970)

[Note: The newest version of Puff the Magic Dragon, the A–130E "Surprise Package," fires 24,000 rounds per minute.]

"They seemed to fire whimsically and in passing even though they were not being shot at from the ground nor could they identify the people as NLF. They did it impulsively for fun, using the farmers for targets as if in a hunting mood. 'They are hunting Asians.' (Description of helicopter gunship attack in Quang Ngai by *Asahi* correspondent Katsuichi Honda, quoted in CCAS, *The Indochina Story*, 1970, p. 99)

"He learns how it feels to drop bombs on human beings and watch huts go up in a boil of orange flame when his aluminum napalm tanks tumble into them. He gets hardened to pressing the firing button and cutting people down like little cloth dummies, as they spring frantically under him. He gets his sword bloodied for the rougher things to come." (Harvey)

"Decision makers in Washington remain isolated, both geographically and imaginatively, from the effects of their decisions. The culture and traditions of Indochina remain strange and remote, as does the historical and political background of the present conflict. The people themselves are pictured as pawns who count their own lives cheaply and respond like marionettes to manipulation from Peking or Moscow. . . .

"The U.S. has never suffered aerial bombardment. Suppose the North Vietnamese had been in a position to carry out occasional air raids in retaliation for the bombing of their country, say against Seattle, who can doubt that the tenor of the bombing discussions would have changed radically? The decision to bomb or not to bomb would have quietly taken on an added dimension of reality." (Cornell study, p. 11–7)

"The technology of the war has changed dramatically. Our planes now kill, from 30,000 feet, the brothers and sisters of the same civilians Lieutenant Calley gunned down from thirty feet." (Harvey Cox *NYT*, 12/2/71)

"Gunship pilots were absolutely the most gung ho killers. 'You killed 24? Well, I got 28.' This sort of competition was rampant. They were gung ho to get as many as they could. They reminded me of the Nazi SS, the stories we heard in the sixth grade, homicidal maniacs . . . The services encourage them by not acting to stop them." (An American pilot to Fred Branfman)

"In those 61 missions in which I flew, all my targets were listed as 'suspected' troop concentrations, 'suspected' truck farms, 'suspected' bunker areas. Always 'suspected.' I never saw any of my targets." (Capt. Ron Knappy, former B–52 crewmember)

"This little beauty here will deliver 6,000 rounds per minute. What I do is I roll in there with guns blazing, hose down the place, jinking and rolling around, then I release the CBU's out the back, pull out of my dive. So I get them from the front with my guns and the back with my CBU's!" (Pilot of Detachment 2, 56th Special Operations Wing, Danang Air Force Base, to Fred Branfman, 11/70)

"I'll be frank. I'm trained to kill people. I don't like it particularly—but when the time comes I'm prepared to do it. It's just like your experts in the political or economic field are allowed to do their specialties. When it's in the military phase I feel I should be allowed to employ my expertise. I mean, I guess you could say I want to be allowed to employ my expertise just like Eichman or something." (F–4 pilot, Saigon, to Fred Branfman, 11/70)

"The overall mood is hard to gauge precisely since, whatever their personal feelings, most fliers feel obliged to obey commands from above with maximum efficiency and minimum discussion. In the presence of outsiders they button up tighter than a self-sealing fuel tank . . . Still . . . years of confusion, compromise and ambivalence over the Vietnam war have sapped the gung-ho spirit which flowed from the conviction of right and might. . . . The dangerous missions go on, but the motivation to defeat a detestable enemy is gone. The fliers find their satisfaction in the superlative execution of flying, which is both passion and profession for most of them, and perhaps the chance to test their skills against a MIG. Of anger or vengeance I found none." (John Saar, *Life* Magazine, 2/4/72)

"At breakfast a lone Phantom pilot is scaling a mound of grits with a fork. 'Going back and bombing the North? There are strong feelings for and against. I think it was dumb, but I'm not going to tell you what I really feel because I signed on. Either you do what they want,' stabbing the air with the fork, 'or you go turn in your wings.' " (*Ibid.*)

"The distance technology places between the killer and his act has resulted in a basic psychological change in the nature of warfare. . . . Navigators plot bombing raids on coordinates, not villages; pilots pull levers from 5,000 feet up, not triggers at human forms 100 yards away; photo interpreters see bomb craters and destroyed 'enemy structures,' not headless children or napalmed grandmothers; and to the extent the general public is informed, it is to read of 'tactical air support, against enemy fuel dumps, arms depots, and troop concentrations. . . .

"Men are freed from the hatred, doubts, greed or rationalization that killing usually entails. The issue of guilt becomes meaningless. Conscience and morality are irrelevant. One does not set out to kill and therefore, psychologically, one does not." (Fred Branfman, *Liberation*, 2/4/71)

"'No, I mean, you can't let it get to you, or you couldn't go on,' Major Billings objected. 'It gets completely impersonal. After you've done it for a while, you forget that there are people down there.' 'Yeah, everything looks so calm up where we are,' Major Nugett said. 'We can't even tell when we're getting shot at. We forget what's going on down on the ground . . .'

". . . Captain Reese sang rapidly; 'Strafe the town and kill the people, drop napalm in the square, get out early every Sunday and catch them at their morning prayer.' At dinner . . . that evening . . . the pilots began to make jokes in which they ridiculed the idea that the bombings they guided were unnecessarily brutal . . . The joke-tellers appeared to bring out their remarks with considerable unease and embarrassment . . . All the jokes seemed to deal, indirectly, with the conflicts of conscience that had arisen in the conversation . . ." (John Saar, *Life* Magazine, 2/4/72)

LIFE UNDER THE BOMBS

Right now tens of thousands of Indochinese peasants are huddling together in caves, holes and trenches, hiding from the 2,000 tons of bombs which continue to rain down upon Indochina daily.

Most of the air attacks are currently occurring in the guerrilla-controlled portions of Indochina, subjecting several million people to bombing at any time of the day or night. By American Embassy estimates, 800,000 people in Laos and 1.4 million people in Cambodia inhabit these zones. Project Air War estimates that over a million people from both Vietnams live under less intense attacks.

The bombing has been responsible for the complete disruption and breakdown of civilian life in many areas under bombardment.

"During 1967 and 1968 most moved into the forest in the vicinity of their villages. They constructed small bamboo shelters near caves, dug trenches into hills or camouflaged holes by sticks and leaves. . . . It took four people about a month to dig a trench or hole suitable for a family. . . . Older people and children form an unusually high percentage of the victims. This was because the children were the most likely to become afraid and fail to find shelter during a raid. Older people 'could not run fast enough' or did not react quickly due to the disabilities of age. . . . They worked on their fields mainly at night, with the aid of small kerosene lamps. . . . The danger of lighting fires is also often mentioned. Smoke by day or fire by night tended to attract the bombers. People were often afraid to cook, and found it difficult to bear the cold during the freezing dry season nights. . . . The refugees interviewed are in some ways relatively fortunate—they are out of the firing line." (Fred Branfman, *Far Eastern Economic Review*, 2/27/71)

(*We Promise One Another*, poems from an Asian war. Published by Indochina Mobile Ed. Proj.)

Fruit of War

Give me the pellet-bomb "fruit",
A militia woman says softly.
—Why is it you seem beautiful as
a sparrow
Yet kill people so terribly!

Her eyebrows wrinkle, frowning.
—It is like this, isn't it:
You are really ghouls,
Savoring the fine taste of death!

You've become so refined—
Guava bombs, then pineapple bombs.
Death: it's a profitable business,
It, too, needs a beautiful facade.

—*Huy Can.*

"The refugees commonly described the killing of their water buffalo, and the fact that they had to live in holes or caves, farming only at night when the bombing became so intensive in 1969." (Rep. Paul McCloskey, SRS, 4/71)

". . . During the bombing, her [Ban Na Ngu] life was difficult. She had to live in a small hut in the forest and did the cooking only one time a day in the early morning." (USIS Laotian interviews, SRS, 4/71)

"99% of the people [interviewed] said bombing made life difficult for them; two thirds holding that it made earning more than a bare subsistance living impossible in its intense periods." (SRS, 4/71)

"Due to the bombing, the PL [Pathet Lao] advised the woman . . . to move to a shelter in the bush . . . Cooking was a problem: she had to make a stove and no smoke from it could be allowed to be seen. Clothes had to be dried inconspicuously lest they become bomb targets." (SRS, 4/71)

[Tens of thousands of inhabitants from the Plain of Jars were forced by the bombing] . . . "to move out of their homes and into trenches, caves and bunkers, . . . by all ac-

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counts the situation has been somewhat similar for the estimated 192,000 people living in Sam Neua Province . . . One Western diplomat reported whole communities living underground." (Daniel Southerland, *Monitor*, 5 14/70)

"Refugees from the Pathet Lao zone all tell harrowing tales of entire villages living in caves and holes in the ground, farming their rice by night in order to escape the bombing." (Hugh Greenway, *Life*, 4/3/70)

"In talking to refugees we heard what days and nights under bombardment are like. Refugees tell of being forced to live in holes and caves, of having to farm at night, of the systematic destruction by U.S. war planes of the human basis for society." (James Malia, former IVS volunteer in Laos)

"On each side of the road there are heaps of scrap metal, pieces of aircraft, the containers of anti-personnel bombs, empty munitions casings, detonated anti-personnel mines . . . You sink up to your knees in an impalpable dust, the earth having become dust under the impact of bombs and incendiary weapons . . . nothing lives in this dust, not even crickets. Only men resist." (Jacques Decornoy, *Le Monde*, 3/13/71)

(Refugee stories collected by Fred Branfman, Project Air War. Graphic section contains sketches by the following five storytellers).

"The person in this picture was hit by a napalm bomb and burned. This was the first time I had seen such a bomb; at that time no one knew that there were firebombs. We hadn't been very careful. In all the years of my life, up to now, I only have seen bullets from the planes. But never burned like this. If someone is hit by napalm, you can't go to help him. If someone went to help, he also would catch on fire. I thought about this when I was in the hills. In our lives now we didn't know which day we would be troubled or which day we would die. Every day we just stayed in the holes in the forest without seeing the sunlight. It was like that until there weren't so many airplanes. Then I fled to live on the side of the government which helps us get food. But forgetting the village of my birth is impossible. All the time my thoughts go back to my home." (Male: 32 years old)

"One friend of mine went to the village to get rice for his mother and father to eat. He crossed the field to the hill and the airplanes saw him and shot and killed him so that you couldn't even see his body. It was scattered all over the field." (Boy: 12 years old)

"In the earlier time my village had a school which was built by the strength of the villagers. But it was really just an ordinary school. This school was built in a level field. There were students who would assemble there to study. I myself studied at this school many years ago. But then it came to the year 1967, and this school was struck by the airplanes until it was level. Nothing was left. Many planes had shot around it. It made us lack for a school in which to learn our lessons." (Author: 23 years old)

"In my life it was the first time I saw a person die. One time in the year 1967, as was her custom, my old aunt prepared things to sell in the market. That day she arose at six in the morning, put fruit in her basket, then walked out of the village on her way to the market. Just as she arrived at a place where there was a small stream, and she stopped to rest, an airplane saw her and shot a smoke bomb at her. She was afraid but before she could run away, her body was hit. Blood came out everywhere. She tried to return to the house but just as she arrived, she died. Before she could say any last words. Her children and her husband were most angry that they had lost her so. Everyone was disconsolate. After that day no one went to the market anymore.

But truly at that time there were many dangers. Like when the planes dropped bombs and napalm burned the village and people died. Some people ran into the holes and were hit. No one had courage enough to help the people who were hit by napalm. They just screamed until the end, and died. I am overcome with pity and my tears fall. I do not lose the thoughts of those people who lost their lives. That is when we had to flee from our villages." (Author: 20 years old)

"In my village there was one man who was 22 years old. He went to graze his buffalo in the forest. The airplanes dropped bombs and killed the buffalo. He ran away from that place, but not in time. He was hit in the waist—cut right in two. For two days you could see him like that." (Man: 22 years old)

Refugee comments collected by Fred Branfman, Project Air War

"The planes came like birds and the bombs fell like rain"

". . . just stayed in my cave. I used to repeat, please don't let the planes come, please don't let the planes come, please . . ."

"When I left my village all I saw were the holes of the bombs and the burning houses and the people who had died so pitifully."

"Our lives became like one of the animals who search to escape the butcher."

"We would try and find places where we thought the planes wouldn't bomb but in the end they bombed everywhere."

"I asked the Major how he distinguished members of the Vietcong from the rest of the population. 'If they run is one way,' he said. 'There are a lot of ways. Sometimes, when you see a field of people, it looks like just a bunch of farmers. Now you see, the Vietnamese people—they're not interested in the U.S. Air Force, and they don't look at the planes going over them. But down in that field you'll see *one* guy whose conical hat keeps bobbing up and down. He's looking, because he wants to know where you're going. So you make a couple of passes over the field, and then one of them makes a break for it—it's the guy that was lookin' up at you—and he's your V.C. So you look where he goes, and call in an air strike.'" (Jonathan Schell, *The Military Half*)

"Sometimes you see the V.C.s hiding by plastering themselves against the wall of one of those paddies. One trouble is, aside from these rockets, we don't have any weapons. But once I about ran a guy to death. I caught him out in the open, and I'd make a pass and he'd run for it, and then I'd make a pass in the other direction and he'd run the opposite way. Then he'd hide in some trees, and when I'd make a pass at him he'd make a break for it. I must have chased him for about an hour before I got some planes to put in a strike." (*Ibid.*)

"'Say, do you want those two churches down there?', Major Billings asked the ground commander. 'That's affirmative,' the ground commander replied. 'O.K., here goes,' said the Major . . . a bomb hit the back of one church directly—the church with the white flag on the pole in front . . . When the smoke cleared, the church was gone except for its facade, which stood by itself, with its cross on top. The white flag still flew from its pole . . . Several of the rockets from the next volley hit the other church, obliterating its back half and leaving two holes the size of doors in the roof of the front half . . . On my way back [days later] . . . I had an opportunity to talk for fifteen minutes or so with several members of a group of about a hundred civilians . . . I discovered that a group of people who had lived around the two bombed churches in Thanh Phuoc were present . . . I asked the group around me where they had gone when the bombing began, and I received a hail of answers. 'We went in our caves.' 'We didn't come out for three days. We ran out of food'. 'I want to go back to find my sister.' 'My house was bombed.' 'We don't have anything to eat here.' 'Three people were killed.' 'Can I have some rice?' 'We don't have any blankets here.' 'All the houses were bombed.' 'We hid in the caves and brought the children.' 'We couldn't bring any possessions.' I asked whether they had been able to reach the camp with their families intact. 'I am thankful to say that all my children are here.' 'I don't know where my daughter is.' 'My daughters are here, but my son is gone.' 'My husband isn't here.' 'We couldn't bring anything.' 'I want to go back and find my father.'" (*Ibid.*)

Q. In Sub-district Khat, how many villages are there?

A. . . . there are 21 villages total. . . .

Q. . . . among those 21 villages, are there still any houses left?

A. Now, among those 21 villages, there is not a single house left.

Q. Why is there not a single house left?

A. The airplanes bombed them. . . .

Q. Now, the airplanes came since 19 hundred and what?

A. The airplanes bombed from 1965 until 1967; they didn't bomb much. But from 1968 until 1969 the airplanes bombed heavily. . . .

Q. During the day they came?

A. Yes. During the day a lot came, at night a few came. And in 1969 during the day a lot came and during the night a lot came also. . . .

Q. Now, in 1968–9 were the villagers inside the village, or did they go outside?

A. During 1968 and 1969 the villagers went out to live in the forest in holes . . . 1969 the villagers were no longer in the villages, they all went out to live in the forest. . . .

Q. When they were out in the forest, were there also villagers who died?

A. While they were out in the forest, there were also villagers who died . . . the airplanes bombed and hit villagers. . . .

Q. When the airplanes came, how did you feel?

A. When the airplanes came the people felt that they were afraid the airplanes would see and bomb them; were afraid the airplanes would think they were soldiers of the North Vietnamese Army. For that reason, the people wanted to save their lives, so they entered into the trenches to hide in order to protect themselves.

Q. Now, when the airplanes came to bomb you what kind of bombs did they use?

A. They used 100 kilo bombs; 1000 kilo bombs; anti-personnel bombs; small bombs; and 250 kilo bombs.

Q. Only those bombs?

A. No. There were also napalm bombs, burning bombs, as well as destructive bombs.

Q. Which kind of bomb were there the most of?

A. The anti-personnel bombs were the most, together with the 500 kilo bombs. There were also many napalm bombs. . . .

Q. Did they ever drop napalm in villages?

A. They did drop napalm in villages. . . .

Q. Now, as you said, "villagers died": the majority were of what age? . . .

A. . . . The majority were old people and children.

Q. Why?

A. They moved too slowly. When the airplanes came, they couldn't run quickly, they couldn't make it. (Tape transcript of interview with refugee Subdistrict chief, from Sub-district Khat, on the Plain of Jars. SRS, 4/71)

CIVILIAN CASUALTIES

The air war causes a high degree of civilian casualties

The heavy civilian toll taken by the bombing in the past has been well-documented, though the Department of Defense said in April, 1971 that it had ever attempted to study the number of civilians wounded or killed by American bombing. Although there is no way of knowing actual numbers of

killed and wounded at the present moment, we may assume that they are quite high. There are still several million civilians living in areas under bombardment, and still 50,000 tons of bombs falling monthly. The drop in monthly bombing tonnages which has taken place under Nixon does not reflect a decline in civilian casualties. His Administration has switched the focus of the bombing to Laos and Cambodia, where there are even fewer military targets than in Vietnam.

A recent Government Accounting Office report shows that the air war has been a major factor in producing nearly 2 million refugees in Cambodia, or one-third of the population. The Cornell study shows that the U.S. has dropped 140,000 tons on Cambodia, compared with over 1.5 million tons on Laos, where nearly a fourth of the population, or 700,000 have been refugeed.

The air war causes far more civilian than military casualties

U.S. bombers cannot locate guerrilla soldiers who sleep by day and move through the forest at night in small groups. Bombers usually wind up striking at the only signs of human life they can see from the air: fires, cultivated fields, footprints, cut or trampled grass, etc. These are located in and around villages. They are most often produced by civilians, who are tied down by their families and cannot live a life on the move. Those fixed targets designated as "military"—roads, ferry crossing, bridges—are precisely where the highest concentrations of civilians are. In rural lands such as Indochina, it is the roads, bridges and ferry crossings which attract civilian concentrations.

"The Defense Department maintains that air activities are conducted under a rigid policy of avoiding civilian targets. All the same there is ample visual evidence of the civilian toll—even though our own authorities don't include them in the body counts. And we know that one purpose of the bombing has been to accomplish economic and social destruction in areas deemed controlled by the enemy. But I fail to see how such debates are relevant to the victims. Their suffering is no less if we explain that they were hit by accident instead of design. Their injuries are no less painful if we tell them we tried to avoid them but could not, because our sophisticated weapons just are not that discerning. It makes little difference to the dead that they happened to be living in a militarily important part of their own country." (Press release from the office of Sen. George McGovern, 12/14/71)

"Our studies indicate that for every military casualty we get [from the bombing], we cause 50 civilian casualties." (Sen. Mike Gravel, *CR*, 10/5/71)

"Most Lao civilians learn very quickly that bombing necessarily follows the North Vietnamese." (Ambassador to Laos, William Sullivan, written reply to SRS question)

"The weight of air-drop munitions deployed by the U.S. in the years 1965–69 was more than 200 times the total weight of all types of munitions used by the insurgents during the same period." (Cornell study)

An American once intimately involved in U.S. bombing operations in Laos says an erosion of safe-guards against indiscriminate bombing there has taken place during the Nixon Administration. According to Mr. Jerome J. Brown, a reserve Air Force Captain and former Senior Air Force Photo Reconnaissance expert attached to the Vientiane Embassy, 1966–68, restrictions on American Air Force operations have been quietly relaxed while control over the air war by the American Ambassador in Vientiane has been reduced. (PAW)

"The rules of engagement were strictly adhered to from 1966 to 1968, but for all practical purposes after Ambassador William Sullivan left (in March, 1969) they appear to have been discarded and are only cited to placate congressmen in Washington," Brown said. (Michael Morrow, *Am Rep.* 12/3/71)

"There just aren't any villages in northern Laos anymore or in southern North Vietnam either, for that matter." (Aerial reconnaissance pilot in interview with Rep. Paul McCloskey, SRS, 4/71)

"A strategic target is any installation, network, or group of buildings, or the like, considered vital to a country's war making capacity, and singled out for air attacks." (USAF ROTC Manual)

In Laos, "Cluster bombs and white phosphorous were used against the civilian population of a country against whom the United States is not at war . . . both the extent of the bombing and its impact on the civilian population of Laos have been deliberately concealed by the State Department." (Rep. Paul McCloskey, SRS, 4/71)

"A hooch destroyed is a 'military structure'; a sampan is a 'waterborne logistic craft' . . . There are no spaces on bomb-damage forms for reporting civilian damage." (Cornell study)

"In Indochina the flow of refugees and the occurrence of civilian war casualties continues. In Vietnam nearly all indicators—including official reports to our government—document that the situation among the people continues to deteriorate. For them the war is not winding down. The monthly flow of refugees continues at a high level, some 100,000 by official count, during the first five months of this year. Civilian casualities are also on the increase . . ."(SRS 7/71)

"The technology of the war has changed dramatically. Our planes now kill. from 30,000 feet, the brothers and sisters of the same civilians Lieutenant Calley gunned down from thirty feet." (Harvey Cox *NYT*, 12/2/71)

"In this year, 1971, more civilians are being killed and wounded in the three countries of Indochina, and more made refugees, than at any time in history. Most of the casualties are caused, and people made refugees, by American and allied military activity." (SRS, *NYT* 4/3/71)

Laos

"The bombing contributes to at least 75% of the refugees, who number more than 700,000 of Laos' less than 3 million population." (Sen. Ted Kennedy, Chairman, SRS, 4/71)

"The intensity of the bombing was such that no organized life was possible in the villages . . . jet planes came daily and destroyed all stationary structures . . . the villagers lived in trenches, holes or in caves." (UN Advisor George Chapelier, from a paper on life in the Plain of Jars, SRS, 4/71, Appendix IIA)

"There used to be about 20,000 persons living in the town (Sam Neua) and adjacent villages. Today not a soul lives in the town. Not a single dwelling was spared by the American bombing. The destruction was more than any I had seen in N. Vietnam." (Richard Ward, UPI release, 8/2/71)

"The bombing is clearly the most compelling reason for moving. 95% of the respondents indicated their village had been bombed, 49% could not count the number of times, 61% had seen a person killed." (USIA survey of 200 refugees from nearly 100 villages in the Plain of Jars, cited SRS, 4/71)

"Until recently the area (Plain of Jars) provided a living for a population of more than 20,000. Now it is empty and ravaged, a striking example of what less than 3 years of intensive U.S. bombing can do." (T. D. Allman, *Newsday*, 1/17/72)

Cambodia

"The bombing is a 'very significant cause of refugees and civilian casualties.' More than 2 million of Cambodia's less than 7 million population have become refugees since the May '70 invasion and the beginning of U.S. and VNAF bombing." (U.S. GAO Study, *NYT*, 12/5/71)

"Inevitably the familiar pattern of Vietnam and Laos—in the destruction of the countryside, the generation of refugees and the occurrence of civilian war casualties—is being repeated in Cambodia." (Staff report of SRS, 9/70)

"The town is destroyed. But you have to expect that." (Lon Non, younger brother of Lon Nol, commenting on the use of air power to retake a Cambodian town, *Star*, 12/12/71)

"Cambodia is the Nixon Doctrine in its purest form." (Pres. Nixon, 12/12/71)

South Vietnam

"Aerial bombardment . . . (has) contributed significantly to civilian casualties, mass movements of people and the destruction of forests and farmlands. For the period from 1965 to April, 1971, the estimate of civilian casualties in South Vietnam is 1,050,000, including 325,000 deaths, while over 6 million of the population is thought to have become refugees. These figures mean that there is hardly a family in South Vietnam that has not suffered a death, injury, or the anxiety of abandoning an ancient homestead." (Cornell study)

"South Vietnam has been devastated by an alien air force that seems at war with the very land of Vietnam." (A former South Vietnamese Minister of Information, from *At War With Asia* by Noam Chomsky)

"More than 90% of the air strikes within South Vietnam are classed as interdictory. Guerrillas cannot readily be interdicted without assaulting the civilian population at the same time." (Cornell study)

North Vietnam

"Despite elaborate civil defense measures taken by the North Vietnamese, the civilian impact of the bombing was very heavy. In 1966 there were more than 23,000 casualties, 80% of them civilian. In 1967 the civilian noncombatant casualty rate was quoted at 1,000 per week." (Cornell study, based on estimates by the CIA and DoD)

The bombing of North Vietnam is strategic bombing. "Targets in a strategic bombing campaign are situated near predominantly civilian areas." (Cornell study)

"A military target is any person, thing, idea, entity, or location selected for destruction, inactivation, or rendering nonusable with weapons which will reduce or destroy the will or ability of the enemy to resist." (USAF ROTC Manual, 5/61)

"The concept of pinpoint bombing is clearly a gross idealization . . . to offset bombing inaccuracy many more bombs are dropped than are in principle necessary to destroy the target . . . (best illustrated by the saturation bombing of the B–52s) . . . more than half of the ordnance delivered falls outside the intended target zones because of purely technical factors . . ." (Cornell study)

Before he resigned as Secretary of Defense in 1977, Robert S. McNamara warned Lyndon Johnson: "There may be a limit beyond which many Americans will not permit the U.S. to go. The picture of the world's greatest superpower killing or seriously injuring 1,000 noncombatants while trying to pound a tiny, backward nation into submission on an issue whose merits are hotly disputed, is not a pretty one." (Clayton Fritchey, *NYP*, 1/10/72)

"Our pilots have never cared about being accurate in Laos. No one has any scruples except for one guy. Every strike out of here drops, but only about 1 in 10 are on target.

"The thing is the pilots don't care what they bomb. For example, in Cambodia there was this civilian caught out in the open. One of our pilots was cruising overhead with 8 CBU 46 bombs; the CBU has about a mile range. The son of a bitch just went in and dropped all 8 of them to get this one guy, who was killed. When they later told him it was a civilian, he didn't give a ——. All he had to say was 'too bad he got in the way.'"

XUM

(From a confidential interview with a pilot, PAW)

"The FAC pilots . . . said that we could not destroy an area until we had cleared the action with the Province Chief . . . [later] I asked Colonel Tho [Note: the Province Chief] what his role had been in the planning of Operation Benton . . . I learned that his method of giving clearance in an American military operation was not to review the targets of individual air strikes or shellings but to give the American ground commander a blanket clearance before the operation was launched . . . he said, 'I got a report this morning that V.C.'s blew up two churches,' I said that I had seen American planes bomb the churches. The Province Chief laughed for several seconds, and said, 'Well, in the fighting you cannot always tell what is happening, and you cannot always tell the difference between just regular houses and church.'" (Jonathan Schell, *The Military Half*)

ENVIRONMENTAL DESTRUCTION

The air war not only continues to kill human beings, but is destroying the land and ecology of Indochina as well.

The bombing continues to add to the millions of craters that have ruined much of the land surface of Indochina, and produced a multitude of malaria-breeding ponds. Millions of unexploded bombs and mines add to the difficulties of the peasants in reclaiming the land for farming.

The aerial spraying of vast areas of Indochina's crops and forests has deprived hundreds of thousands of people of their livelihoods, in Laos and Cambodia, as well as in South Vietnam. Although the spraying program has been discontinued, its effects are still felt today by those whose land has been defoliated, and even more tragically, by those who have borne deformed babies due to ingestion of chemical substances.

Today, land-clearing is accomplished by the "Cheeseburger" bomb which flattens everything within an area the size of two football fields, and the "Rome Plow," a giant tractor, in what has been called "the most intense land-clearing program known to history."

The most recent material available on ecological damage in Indochina has been prepared by two U.S. scientists who have done considerable research there, Dr. E. W. Pfeiffer, zoologist from the University of Montana, and Dr. Arthur H. Westing, botanist from Windham College, Putney, Vermont. Their most recent trip took place in August, 1971.

EFFECTS OF BOMB EXPLOSIONS

A. Craters and Unexploded Ordnance.

Number of bomb craters in Indochina: 20 million. (*Post*, 12/28/71).

Number of bomb craters in South Vietnam: over 10 million. (Pfeiffer, *Environment*, 11/71).

Craters caused by the standard 500-pound bomb dropped by B–52s are 20 to 50 feet wide and 5 to 20 feet deep. "The [crater] holes alone would cover a combined area of about 325,000 acres." (*Ibid.*)

"The water-filled craters breed mosquitos and other disease carriers. MACV [Military Assistance Command Vietnam] Information Pamphlet 6–70 stated: 'Malaria has been causing increasing concern in Vietnam . . . Up until recently it only affected regions of I and II Corps, but has now spread to other areas throughout the country' . . .

"We tentatively conclude that those cultivated areas hit heavily with conventional high explosives will be very difficult, if not impossible, to recultivate . . . The immediate problem of greatest concern is the vast number of unexploded mines, bombs, rockets, and so forth that must be removed if the land is to be resettled. Since the Department of Defense reports that approximately 1 to 2 percent of our air and ground munitions fail to explode, there are several hundred thousand of these randomly buried throughout Indochina." (*Ibid.*)

"Boun Than [11 year old Lao boy] stepped on a bomb while taking a bath . . . One or two country people are brought to Luang Prabang hospital almost every day with wounds of bombs that did not go off when they were supposed to . . . It is easy to understand the villagers' complaints that they can no longer tend their bananas, plant hill rice, or let their children out to play freely." (Michael Morrow, DNSI, in *AmRep*, 1/21/72)

B. Cheeseburger Bomb

The power of the BLU–82/B "cheeseburger" or "Daisy cutter" bomb 'is surpassed only by that of a nuclear bomb." It weighs 7.5 tons, has an 11-foot length, 4.5 foot diameter, and is dropped by parachute from the huge C–130 aircraft. It produces a mushroom cloud that rises 6,000 feet in the air. (Westing, *Environment*, 11/71)

"The Daisy Cutter is, in the words of one military officer we met in Vietnam, 'a super bomb with a super punch.' MACV has been using these bombs on a steady basis for more than a year and a half now, apparently with no mention of them in the official daily, weekly, or monthly war news summaries. One senior Seventh Air Force officer explained to us, 'They have such a devastating effect that we hate to give them much publicity.'" (*Ibid.*)

More than 150 cheeseburger bombs were dropped in 1971. (*Post*, 12/28/71).

LAND-CLEARING OPERATIONS

A. Bulldozers: Land-clearing is accomplished with herbicides and 20-ton Caterpillar tractors with 2.5 ton, 11-foot wide "Rome Plow" blades and 14 tons of armor. The tractors have levelled over 750,000 acres so far and continue at the rate of 1,000 acres a day. This is "the most intense land-clearing program known to history." (Westing, *Environment*, 11/71).

B. Herbicides: 100 million pounds of herbicides have been sprayed on Vietnam. (*Impact of the Vietnam War*)—20 percent of South Vietnam's forest area has been sprayed. (*Bioscience*, 9/1/71).

Over 5 million acres, 12% of South Vietnam have been sprayed with defoliating chemicals. A Japan Science Council report (1967) claimed that "anti-crops attacks have ruined 3,800,000 acres of arable land in South Vietnam." (Stanford Biology Group, "The Destruction of Indochina").

"The AAAS Herbicide Assessment Commission that visited South Vietnam last summer concluded that an estimated 6.5 billion board feet of lumber and other forest products have been destroyed at an estimated loss exceeding $500 million. Enough rice and other crops to feed 600,000 persons for a year were ruined in the 9 years of spraying, and soil nutrients lost after spraying will not be restored for at least 20 years." (Pfeiffer, *Science*, 2/19/71).

"Herbicides can cause genetic damage. Within the last two years, there have been numerous reports of increasing birth abnormalities throughout South Vietnam, and photographs of grotesquely deformed babies have begun to appear in Vietnamese newspapers." (*The Indochina Story*, p. 114).

C. Napalm: "Today, black is the dominant color of the northern and eastern reaches of the Plain [of Jars]. Naplam is dropped regularly to burn off the grass and undergrowth that covers the Plain and fills its many narrow ravines. The fires seem to burn constantly, creating rectangles of black. (T. D. Allam, "Plain Facts," *Far Eastern Economic Review*, 1/18/72, p. 18).

FOREST DESTRUCTION

35% of South Vietnam's 14 million dense forest acres have been sprayed.

6 million board feet of lumber have been destroyed, equivalent to:

30 years of Vietnam's lumber supply
$500 million in tax revenue

Half the mangrove forests in South Vietnam are "totally destroyed." (Cornell study)

"Land destruction involves 80% of the timber forests and 10% of all the cultivated land in the nation [South Vietnam]." (Sen. Gaylord Nelson, press release, 1/29/72)

"Before the war, more than 25 million acres of South Vietnam were covered by forest, representing about 60 percent of the country's total area of 43 million acres. So far, the war has claimed at the very least 3 million acres of the forest cover. The herbicide program has accounted for somewhat more than a third of this, the bulldozing somewhat less than a third, and the bomb, rocket and shell craters (plus damage from other munitions) the remainder." (Westing, *Environment*, 11/71)

"Only We Can Prevent Forests." (Sign above Operation Ranch Hand headquarters, Tan Son Nhut Airbase, Saigon).

". . . On certain days aggressor aircraft in three formations sprayed toxic chemicals over this road . . . The fire, consuming the dry leaves, burned endlessly for more than one month. The fire burned the branches and sometimes a fire-engulfed branch fell down . . . I felt [the area] was desolate, boundless and wide open . . . around the control point there was no longer a green leaf or an undamaged tree trunk . . . All hills and mountains look like immense brown shoals and everything is brown, from high mountain crests to the bottoms of valleys . . . Resin from bombs was spread over the roadway. The burned resin was as black as buffalo excrement and the unburned resin looked like dried frog saliva . . . a gust of wind blew. Dust flew like smoke over the hills . . . When we first arrived, mango trees blossomed in January and February and chestnut trees blossomed in the rainy season. How fragrant it was! Today nothing remains, nothing other than the strong odor of the overturned soil." (Khanh Van, from 15-part series in Nhan Dan, reprinted in "Life Along the Ho Chi Minh Trail," by Robert Keatley, *Wall Street Journal*, 12/1/72)

WAR CRIMES

The air war violates international law in several respects. Among the most extensively documented violations is the continued bombing of unprotected villages and hospitals, augmented by our illegal failure to aid civilian bombing victims. Similarly, there is no question about the increasing use of outlawed anti-personnel weapons specifically designed to maim their victims. Another example involves the Geneva Convention prohibition of "forcible transfers" of civilians. American bombing in free fire zones (now called "specified strike zones") offers peasants the grim choice between evacuation and life under the constant threat of death. When guerrilla forces command the support or tolerance of an area's populace, the Air Force's unpublicized policy is to treat civilians as military targets. The air war and the resulting exodus of refugees have virtually destroyed whole societies such as the Meos of Laos and the Montagnards of Vietnam in apparent violation of the International Genocide Convention.

"The attack or bombardment, by whatever means, of towns, villages, dwelling, or buildings which are undefended is prohibited." (Hague Convention, 1907, Article 25)

"A military target is any person, thing, idea, entity or location selected for destruction, inactivation, or rendering nonusable with weapons which will reduce or destroy the will of the enemy to resist."

USAF manual, *Fundamentals of Aerospace Weapons Systems*)

"95 percent of the respondents indicated their village had been bombed, 49 percent could not count the number of times; 68 percent had seen someone injured and 61 percent had seen a person killed."

(United States Information Service survey of 20 refugees from the Plain of Jars, 1970)

"The Army Field Manual says that it is illegal to attack hospitals. We routinely bombed and shelled them. The destruction of Vietcong and North Vietnamese Army Hospitals in the South Vietnamese countryside was announced at daily press briefings, the Five O'Clock Follies, by American military spokesmen in Saigon."

(Neil Sheehan, "Should We Have War Crime Trials?" *NYT Book Review*. 3/28/71)

"The bombers used 500 pound bombs, CBU anti-personnel bombs and napalm for the destruction of hooches. It was not unusual to destroy villages. To my knowledge no requests for approval of destruction of villages were ever denied by higher authority."

(Veteran of 20th Tactical Air Support Squadron, 504th Tactical Air Support Group of 7th Air Force, quoted by Joe Nicholson, Jr., DNSI, 1/3/72)

"Persons taking no active part in the hostilities shall in all circumstances be treated humanely . . .

"To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever . . .:

"(A) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture." (Geneva Convention, 1949, Article 3)

"In August, 1969, the jets bombed. Nang Pha Sli, my daughter-in-law, was in a trench. A bomb landed nearby, killing her father and wounding her mother and two other villagers. She was killed, shielding her year-old baby with her body. Soldiers? Oh, they didn't come near the villages. They knew they'd be bombed.

(Plain of Jars refugee quoted by Fred Branfman in "The Era of the Blue Machine," *Chronicle*, 10/15/71)

"Reports from South Vietnam suggest that indiscriminate firing on civilians from helicopters is not an uncommon practice. In a letter to the *New York Times* (June 3, 1971), William J. Simon, an adviser to the People's Self-Defense Forces in the Mekong Delta region during 1970, wrote: '. . . it cannot be denied that individual commanders of helicopter assault units either encouraged their subordinates or turned their heads at the practice of shooting at whatever moved in many areas. Responsible military officers and civilian officials at the highest level constantly registered complaints of indiscriminate rocket fire from Bird Dog observation planes and "joyrides" by helicopter pilots that turned into massacres of peasants.' Veterans have also testified to similar practices they call 'mad minutes' during which everything that moves is fired at." (Cornell study, p. 2–15)

"The wounded and sick shall be collected and cared after." (Geneva Convention, 1949, Article 3, Sec. 2)

"The new American aid program for Cambodia contains no funds specifically marked for civilian medical relief." (Neil Sheehan, "Should We Have War Crime Trials?" *NYT Book Review*, 3/28/71)

"The consignment of Vietnamese civilian war wounded to provincial hospitals that were little better than charnel houses has been a national scandal for the United States. The reports of the Kennedy Subcommittee [on refugees] describe the scenes of two wounded to a bed, no sheets or mattresses, no showers, filthy toilets, open sewers and swarms of flies spreading infection. In contrast the United States military hospitals are models of modern science. Given the wide publicity the deplorable conditions in these Vietnamese civilian hospitals have received over the years, would it be possible for the responsible leaders of the United States to contend that the neglect was not deliberate?" (*Ibid.*)

"It is specifically forbidden— . . .

"(E) to employ arms, projectiles, or material calculated to cause unnecessary suffering." (Hague Convention, 1907. No. IV, Annex, Art. 23)

"Most of the victims of anti-personnel bombs are not killed, rather they are maimed. The pellets from anti-personnel bombs are designed to cause irregular and hard-to-cure wounds. This sreves two functions. First, it means that instead of a single man dead and withdrawn from military production, six to ten people (as well as facilities and supplies) must care for him. Secondly, the sufferings of badly wounded victims tend to have greater demoralizing effect on the remaining population than the dead." (NARMIC, *Weapons for Counterinsurgency*, 1/15/70)

"A recent model of the fragmentation bomblet uses plastic pellets and casings, rather than steel. The reason for this is that these pellets are 'invisible' to x-rays, so doctors canot find them to remove." (Honeywell Project, "Honeywell: Controllers of Peace, Masters of War," 1971)

The dragontooth mine "is purely anti-personnel. If a person steps on it, it could blow his foot off. If a truck rolls over it, it won't blow the tire." (Maj. Raymond Anderson, Tactical Div., Air Force Directorate of Operations, before the Senate Electronic Battlefield Subcommittee, 11/19/70)

"Finally, there are the incendiary weapons, the most famous being napalm. Developments in this area include new delivery systems to involve more people, and new incendiary agents which will not wash out of the flesh but will keep burning long after the attack." (CCAS, *The Indochina Story*, 1970)

"Individual and mass forcible transfers . . . are prohibited, regardless of the motive." (Geneva Convention-Civilians, 1949, Art. 49)

"In Laos, the Plain of Jars, once the home of approximately 150,000 persons, has been almost completely evacuated in the course of the little-publicized war there. In January, 1970 about half of the 30,000 Laotians still remaining there were evacuated in a CIA-directed project." (CCAS, *The Indochina Story*)

Plans are reportedly underway to move up to 330,000 refugees to new camps hundreds of miles away from their homes. The move is called voluntary. South Vietnam's Minister of State, Dr. Phan Quan Dan, said, "When the refugees are moved out of their camps, the Government can turn much of the land into a free-fire zone. Then it will be much easier to fight the Communists." (John Isaacs, *NYT*, 1/28/72)

"The contracting parties confirm that Genocide, whether committed in time of peace or in the war, is a crime under international law which they undertake to prevent and to punish." (Genocide Convention, 1949, Article 1)

"In the present convention, Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

"(a) Killing members of the group;

"(b) Causing serious bodily of mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." (Genocide Convention, 1949, Article 2)

"Bombings were aimed at the systematic destruction of the material basis of the civilian society." (U.N. advisor Georges Chapelier, Plain of Jars: Social Changes Under Five Years of the Pathet Lao Administration")

The Plain of Jars held the first society in history to be completely destroyed by total, automated war." (*Chronicle*, 10/15/71)

The Americans are formulating, without appearing to do so, a demand which the Vietnamese cannot satisfy. They do offer an alternative: Declare you are beaten or we will bomb you back to the stone age. But the fact remains that the second term of this alternative is genocide . . .

"The genocidal intent is implicit in the facts. It is necessarily premeditated. Perhaps in bygone times, in the midst of tribal wars, acts of genocide were perpetrated on the spur of the moment in fits of passion. But the anti-guerrilla genocide which our times have produced requires organization, military bases, a structure of accomplices, budget appropriations. Therefore, its authors must meditate and plan out their act." (Jean Paul Sarte, "On Genocide," *Crimes of War*, Falk *et al.*, ed.)

"I remember asking one of the most senior American generals in the late summer of 1966 if he was not worried by all the civilian casualties that the bombing and shelling were causing. 'Yes, it is a problem,' he said, 'but it does deprive the enemy of the population, doesn't it?'" (Neil Sheehan, *NYT Book Review*, 3/28/71)

"U.S. Chief of Staff General Westmoreland could be convicted and hanged if the standards established after World War II were applied to his conduct of the war in Vietnam . . . By the same logic, the top civilian leaders of the U.S. could be convicted of the same offense." (Brig. Gen. Telford Taylor (ret.), chief U.S. prosecutor at Nuremberg, in *Nuremberg and Vietnam: An American Tragedy*)

GENERAL

"Is there any significant difference between killing a baoe-in-arms by a bomb dropped from a high-flying aircraft, or by an infantryman's point-blank gunfire? . . . The by now voluminous reportorial literature on the Vietnamese war leaves little doubt that air strikes are routinely directed against hamlets and even single habitations . . . In reliance on information of varying reliability. Obviously, these tactics are a response to the nature of guerrilla warfare, and the difficulty of sifting out the 'enemy' in a society where there are many shades of inimical activity, and friend and foe are not readily distinguishable. Making full allowance for these difficulties, however, it is clear that such reprisal attacks are a flagrant violation of the Geneva Convention on Civilian Protection, which prohibits 'collective penalties' and 'reprisals against protected persons,' and equally in violation of the Rules of Land Warfare." (Telford Taylor, Chief U.S. Prosecutor at Nuremberg, in *Nuremberg and Vietnam*)

"'In the mountains, just about anything that moves is considered to be V.C.,' an Air Force major told Jonathan Schell . . . And so, helicopters and small observation planes go 'squirrel-hunting' for individuals observed in the devastated areas, using machine-guns from the helicopters, and calling in air strikes—'sniping with bombs.' This is using the aircraft for the same purposes that the infantryman uses his gun, and the pilot ought to be held to the same standards of distinguishing combatants from non-combatants . . . this certainly is not the method of dealing with civilians suspected of hostile activity which is required by the laws of war, and is unlawful for the same reasons that the Son My killings were unlawful." (*Ibid.*)

"Other specific policies applied in South Vietnam are clearly open to question. These include the free-fire zones which would certainly have been roundly condemned by America if any other country has established them; these must be violations of the Geneva Convention.

"The use of bombing to produce refugees so as to create these free-fire zones seems an especially cruel 'deportation and other inhuman act' as referred to in the Nuremberg Principle.

"The widespread indiscriminate treatment of 'suspected' Viet Cong agents—a term applied to virtually everyone caught up in conflict—seems a thin effort to circumvent the Geneva Convention of 1949 ('Persons taking

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no active part in the hostilities . . . shall in all circumstances be treated humanely').

"There have been widespread reports of torture (or handing prisoners over to the South Vietnamese for torture) which would seem to violate the Nuremberg Principles and the Geneva Convention.

"The general bombing of villages and hamlets would seem to violate the Hague Convention, Articles 25 and 26 on bombardment of undefended towns and unannounced assaults. And the use of anti-personnel weapons and napalm might well violate Article 23—the use of arms calculated to cause unnecessary suffering.

"In Laos especially, the use of bombing to dry up the 'sea' of peasants in which the Pathet Lao 'swim' would be, if proved, especially criminal by all three standards." (Federation of American Scientist Newsletter, 2/72)

THE SPIRIT OF RESISTANCE

The main reason for the military failures of the air war is the spirit of resistance of the Indochinese peoples.

The Indochinese peoples struggling against the Americans have an astonishingly uniform and strong belief in their cause. They believe that they are fighting a just war for freedom and independence from foreign domination; that just wars will be won; and that people are more important than weapons. They see the United States as an invader who has come from far away to destroy and kill and try to stop a social revolution. They believe that it is their duty to throw out the western intruders and their collaborators.

The air war, far from stemming this spirit of resistance, has intensified it. At first, a large portion of the population was simply shocked and confused by surprise bombings which occurred while they were tilling their fields or walking to market. Why would such "iron monsters" wish to annihilate them? Their confusion soon turned to anger and even hatred. The massive and indiscriminate bombing branded the Americans clearly as aggressors—with no further proof needed. A peasant's only choice was fight or join the aggressors and their collaborators.

Blanket bombing has also forced the Indochinese to be more self-reliant, more imaginative at the local level. They have mobilized resistance from the village upward, sharing supplies, repairing roads, creating medical facilities, and dispersing children and old people to safer locations. Where the bombing is heaviest, the people overcome the threat by living and working underground in caves. In northern Laos, for example, it is common to find factories, schools, and clinics complete with electricity, underground. In all areas subject to U.S. bombing there is a strict and well-rehearsed discipline that promotes cooperation and minimizes casualties.

The Indochinese have even found ways to utilize the debris of U.S. bombing. Pots and pans are made from napalm cannisters; oil lamps from defused pineapple bombs; rings, bracelets, combs and surgical tools from the wreckage of U.S. planes.

The Indochinese do more than passively resist the air war. There is a well-planned strategy to shoot down the war planes. Peasants throughout North Vietnam and the liberated zones have small arms which have taken a heavy toll of aircraft. The small arms fire forces the attacking planes to a higher level where they are vulnerable to antiaircraft artillery and surface-to-air missiles. Although such air defenses are primitive and ineffective by American standards, more than 1,500 U.S. war planes have been downed and hundreds of pilots captured.

Confident that just wars can be won, and that people are ultimately more important than weaponry, millions of Indochinese have joined the struggle. Aircraft are to be feared, without question, but human ingenuity is a powerful antidote when there is adequate organization and the will to prevail. Constant movement at night, willingness to undergo severe privation, the ability to judge risks and potential, unending patience, and a near-mystical faith in indigenous traditions and culture—these are what have rendered the bombers militarily ineffective in the long run.

Out of the battlefronts of Indochina, the war today is only partially one of ideologies and national interests. For those under the bombs, it is most immediately an epic struggle of the human spirit against a barbarous and unfeeling technology. So far the human spirit is winning.

William S. Turley, Center for Vietnamese Studies, Southern Illinois University, in *Indochina in Conflict*, 1971: "Political participation in the Democratic Republic of Vietnam . . . is extended to virtually all citizens . . . the people take part in political activities that affect their lives, such as publicly criticizing local party cadres, electing village leaders, deciding when to move to a higher stage of collectivization, coordinating the use of collectively owned tools, deciding whether to introduce a new local industry or not and how to contribute to militia training and recruitment . . . repeated exercise of a degree of political participation never allowed in the pre-Resistance Vietnamese village is fairly convincing to the poor peasant that the regime is just and its rule good."

Konrad Kellen, Rand corporation, in *Indochina in Conflict*, 1971: "Few NVA soldiers seem to regard themselves as Communists. They see themselves as defenders of their country against yet another western intruder who can be made to desist."

Ibid: "Prisoner interrogations have revealed that, despite some problems between (insurgent) soldiers and the population as a result of the long war, the bond between them has remained close enough to provide physical and emotional support to the soldiers. The explanation seems to be that despite the rigors of the war, the soldiers continue to treat the local population with respect and otherwise attractive behavior."

Ibid: "The North Vietnamese government is perhaps one of the most genuinely popular in the world today. The 20 million North Vietnamese like it there, find the system just and their labor rewarding."

Ho Chi Minh, *Vietnam Courier*, April 28, 1966: "They are . . . mistaken in thinking their bombs and bullets can shake the determination of our people."

Ibid. "The war of resistance against U.S. aggression may drag on. Our people may have to face new sacrifices of life and property. Whatever happens, we must keep firm our resolves to fight the U.S. aggressors until total victory."

Taylor's Briefing of Key Officials on the Situation in November 1964, Document No. 87, *NYT* Version of Pentagon Papers: "The ability of the Viet Cong continuously to rebuild their units and to make good their losses is one of the mysteries of this guerrilla war. We are aware of the recruiting methods by which local boys are inducted or compelled to join the Viet Cong ranks and have some general appreciation of the amount of infiltration personnel from the outside. Yet taking both of these sources into account, we still find no plausible explanation of the continued strength of the Viet-Cong if our data on Viet-Cong losses are even approximately correct. Not only do the Viet-Cong units have the recuperative powers of the phoenix, but they have an amazing ability to maintain morale. Only in rare cases have we found evidence of bad morale among Viet Cong prisoners or recorded in captured Viet Cong documents."

Dr. Pham Ngoc Thach, Minister of Health, DRV, *North Vietnamese Medicine Facing the Trial of War*, 1967: "It is a moving, and at the same time comforting spectacle to see the children, on hearing an air raid warning, calmly slip into their shelters. Moving, because of the daily threats to their lives, and comforting, because it shows that even kiddies have learned how to defend themselves."

Dan Southerland, Monitor, 3/14/70: "As the bombing increased, the Pathet Lao forces in the district started getting more volunteers, whose attitude was 'better to die a soldier than to stay home waiting for the airplanes to kill you' . . . the bombing tended to heighten the fighting spirit of the Pathet Lao."

DRV, Vietnam #144: "A new wave of bombs caused heavy damage to a stretch of road. That night, an important convoy was to pass. The road ought to be mended before dusk. On hearing this, the ten girls of the fourth squad then working a long distance away offered to do the job . . . and the fourth squad kept its pledge. But at 17:20 hours, as soon as the road was repaired, the bombers came again and one of the blockbusters obliterated the shelter where the ten girls were taking refuge. All the girls died a heroine's death just as they had fulfilled their mission.

"In memory of those who had fallen, the girls of the brigade retained their names in their squads and they worked twice as much to do the job of the deceased. 'One more basket of pebble, one more rock in the name of our ten girls.' This slogan was written everywhere at the road repair site, even on the road."

Arthur Dommen, *Conflict in Laos*: "It is well, in this age of guided missiles and computerized war games, to recall once again what makes men fight in the Philippines, or in Indochina. What makes youth in their teens, with sharpened bamboo spears and homemade revolvers, pit themselves against French tanks? What makes a squad of guerrillas who have lived for a week on a handful of rice a day brave machine-gun fire to assault a fortified outpost?

"The State Department's characterization of Ho Chi Minh as 'the mortal enemy of native independence in Indochina' did not quite ring true with young men and women who at this moment were defending their villages against French flame-throwers and napalm bombs. It is not difficult to see why."

Robert Keatley, *Wall Street Journal*, 12/1/71: "Earlier this year a North Vietnamese journalist named Khanh Van presented a remarkable account of life along [the Ho Chi Minh Trail] many truck trails. The account appeared as a 15-part series in Nhan Dan, Hanoi's official newspaper, and was presumably designed to rouse patriotic fervor back home . . . But it also tells more. It makes clear that trail workers are human beings—not just abstract targets for high-flying U.S. jets—and that they too can hurt and bleed. It tells of suffering and pain, seemingly endless hard work and constant danger. It reminds an American that the war is grim on both sides of the battlefield. And it prompts wonderment at the tenacity of Hanoi's forces, and questions of why they believe this unrelentingly militant road to political power is still so necessary . . . . the account makes clear that the men on the trail are not only mortals but, specifically, Vietnamese mortals—with a culture quite different from that of the attackers above."

Ibid.: "Elsewhere Mr. Van meets a soldier who recalls that his ninth grade teacher, a Miss Kim Chi, told his class: 'If ever you become soldiers, no matter in what armed branch you may be, you must maintain an imposing appearance and a romantic quality. . . . For instance, a signal combatant shows his imposing appearance by braving bomb smoke in order to reconnect the wire, and he has a romantic quality when he installs the wire on trees so that birds can perch on it and sing.' It's difficult to imagine GIs getting similar guidance."

George Smith, *P.O.W.: Two Years with the Vietcong:* "The bombing got more and more intense. First they were coming a couple of times a week, then every morning, then twice a day, three times a day, sometimes all day long. . . . It really began to wear on me. Every day! Every day! I'd get up and try to eat my breakfast, and the first bomber would arrive before I'd finished. I became very nervous about the whole thing. . . . Every day was unnerving. Your adrenalin was constantly flowing. I could never figure out why they'd [Note: their NLF captors] construct a camp at ground zero of a bomb range, unless they felt that . . . nobody would ever suspect anybody of building a camp at the end of a dive path. On those terms I suppose it would be safe. It made me nervous as hell, but we never got hit . . .

"I talked with Little King. [Note: one of his NLF captors] He'd been with them about as long as I had. I asked him why he'd joined the NLF. He said that his family had been very poor, but that didn't prevent the Diem regime from coming and taking away every damned thing they had. He knew that his family was just one of many. . . . He felt that they were the people who should be in control of the country, that they were *his* people. He seemed very sincere. Nobody was forcing him to stay there. He was very pleased with the life he had taken up and was very definitely motivated to winning the war. . . . I regretted not knowing more about each of them. They'd never told us much about themselves, but then we'd never asked. We just lay on our beds feeling superior . . . Gradually I had changed. I had learned humility, I believe . . . I changed from my arrogance and nastiness to liking people, from my superiority to feeling that the Vietnamese were pretty good people. Some of the honest culture of an oppressed people must have worn off on me."

Fred Branfman, *Washington Monthly*, 7/71: "Interviews with Pathet Lao defectors indicate that far from breaking the enemy's will, the bombing strengthened it. 'Before, maybe only 20–30 percent of the young men would volunteer to join the Pathet Lao army," explains one defector. 'But by 1969, 90 percent and more wanted to join.'"

Former Pathet Lao soldier, interviewed at Sayaboury defector camp. Fred Branfman, *Liberation*, Spring, 1971: "I was once up on the Iron Mountain for four months . . . famous throughout Pathet Lao territory. . . . the mountain guarded the approach to the Plain of Jars. It was very important. We held it from 1964. The Americans did everything they could to get us off it. But they never could. We called it the Iron Mountain because the Americans bombed it so much. The whole top part had been leveled off. . . . It was really desolate up there. There were no civilians, no animals or livestock, just we soldiers sleeping in our bunkers. We even had to carry our food and water all the way up. Sometimes we would go for days without eating.

"Was I unhappy? Oh no. That was the happiest time of my life. You see, we knew we were protecting the people from the Americans.

"We were proud to be there.

"The planes came over all the time. We would crouch down low until they got close, then we would let loose. It was really a good feeling to be up there on the mountain, shooting at the airplanes.

"If they had only come to shoot me, I wouldn't have cared so much. After all, I was a soldier. Also, we had our methods for hiding and they rarely killed any of us.

"But they had been trying to kill all the villagers in our region for years. The villagers are just farmers, they just grow rice. They didn't do anything against those pilots. I am a Lao man. Those villagers are Lao, my people.

"I wasn't afraid of the planes at all . . . when they came low we would shoot them down. When they stayed up high, they could not do so very much damage because they didn't know where we were.

"The man who pilots the plane is a man just like me. He eats food just like me. He has a brain just like me. If he comes to shoot me, I will shoot back.

"I wasn't afraid.

"He is only another human being, just like me. . . ."

RESOURCES

Groups

Following is a list of groups from which materials can be obtained:

American Friends Service Committee (AFCS), 160 N. 15th St., Phila., Pa. 19102.

American Report Radio (ARB), 133 Mass. Ave. N.W., Rm 101, Washington, D.C. 20005.

Campaign to End the Air War, 339 Lafayette St., NYC 10012.

Center for the Study of Power and Peace (CSPP), 110 Maryland Ave., N.E., Washington, D.C.

Clergy and Laymen Concerned (CALC), 627 West 125th St., NYC 10007.

Community Video Center (CVC), 1411 K St., N.W., Washington, D.C.

Computer People for Peace (CPC), The Dolphin Center, 137 A West 14th St., NYC 10011.

Congressional Hearings (CH). Free upon request to appropriate committee. Also obtainable through local Congressman or Senator.

Congressional Record (CR). Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Dispatch News Service International (DNSI), 1826 R St., N.W., Washington, D.C. 20009.

Earth Magazine (E), The Agricultural Building, Embarcadero at Mission, S.F., Ca. 94105.

Earthlight Video (EV), 354 Broadway, Cambridge, Mass. 02139.

Glad Day Press (GDP), 308 Stewart Ave., Ithaca, N.Y. 14850.

Honeywell Project (HP), 529 Cedar Ave. South, Minneapolis, Minn. 55401.

Indochina Resource Center (IRC), 1322 18th St., N.W., Washington, D.C. 20036.

Liberation (L) 339 Lafayette St., NYC 10012.

National Action Research on the Military Industrial Complex (NARMIC), 160 North 15th St., Phila., Pa 19102.

National Council of Churches. Office of Resource Studies (NCC), 475 Riverside Drive, NYC 10027.

New England Free Press (NEFP), 791 Tremount St., Boston, Mass. 02110.

New Hampshire Peace Action Coalition (NHPAC), 28 Profile Ave., Portsmouth, New Hampshire.

Non Violent Action (NVA), 2143 Market St., San Diego, Calif. 92102.

Pacific Studies Center (PSC), 1963 University Ave. East, Palo Alto, Calif. 94303.

Project Air War (PAW), 1322 18th St., Washington, D.C. 20036.

Ramparts (R), 2054 University Ave., Berkeley, Calif. 94704.

Raytheon Project-University Christian Movement (RP-UCM), 474 Center St., Newton, Mass., 02158.

St. Louis Project (SLP), 4372 Westminster Place, St. Louis, Mo. 63108.

Stanford Biology Study Group (SBSG), Box 3724, Stanford Calif. 94305.

Unsell (U), 637 West 125th St., NYC 10007.

War Resisters League (WRL), 339 Lafayette St., NYC 10012.

West Coast Video Project—Cosmic Productions (WCVP–CP), c/o Ed Rasen, 9 Sutter St., #300, S.F., CA 94704.

ARTICLES AND REPRINTS

Abbreviations below refer to resource groups listed on page 45.

Another Mother for Peace. "Automated Battlefield Producers and their Consumer Products". (NARMIC) 10 cents.

Branfman, Fred. "The Era of the Blue Machine". *Washington Monthly*, 7/71. Excellent overview of the air war. Pamphlet illustrated with drawings depicting the bombing by Laotian refugees. (PAW) 20 cents, 15 cents—10 or more, 10 cents bulk.

Branfman, Fred. "The New Totalitarianism". *Liberation*, Spring, 1971, 4 page glossy. Shorter, more general than "Blue Machine". (PAW) 15 cents, 5 cents bulk.

Branfman, Fred. "Life Under the Bombs". Collection of articles from *American Report* based on interviews with Lao refugees. Electrostencilled. (PAW) 15 cents, 5 cents bulk.

Branfman, Fred. "A Visit to a Refugee Camp". *Liberation*, Spring, 1971. Electrostencilled. (PAW) 5 cents, 3 cents bulk.

Branfman, Fred. "A Lake of Blood". *New York Times* Op Ed Page, 4/7/71. Electrostencilled. Air war in Laos and civilian casualties. (PAW) 5 cents, 2 cents in bulk.

Branfman, Fred. "Laos No Place to Hide". *Bulletin of Concerned Asian Scholars*, Fall, 1971. 30 page essay emphasizing air war in Laos. (PAW) 35 cents.

Branfman, Fred. "Air War Laos". *Boston Globe*, 1/26/70. Pamphlet emphasizing CIA role in targetting and air war policy decisions. (PAW) 20 cents, 10 cents in bulk.

Browning, Frank and Garrett, Banning. *Ramparts*, 5/71. "The New Opium War". The role of VANAF, RLAF, and the CIA's private airlines in transporting the opium harvest in Southeast Asia. (R) $1 back issue, 40 cents bulk.

Center for the Study of Power and Peace. "Air War in Indochina Fact Sheet". 12/71 4 page glossy. (CSPP) 20 cents, bulk rates on request.

Clergy and Laymen Concerned. "Air War Fact Sheet". January, 1972. 4-page basic primer, including such items as definitions of "tactical air strike", "sortie", etc. (CALC).

Chomsky, Noam. "Destroying Laos". *N.Y. Review of Books*. Incisive presentation of the war in Laos and the role of air power. (GDP) 25 cents.

Committee of Responsibility. "They Survived: Sample Case Histories of Victims of American Bombing in Laos". Contains 16 case histories; photos. (PAW) 20 cents, 15 cents in bulk.

Computer People for Peace. "The Technological Warlords". Specifically IBM, Litton and Honeywell; their air war electronic battlefield contracts. (CPP).

Decornoy, Jacques. "Laos The Forgotten War". *Le Monde*, 7/68. One of the few Western eyewitness accounts of the destruction and ongoing life under the bombs within guerrilla controlled zones, by a Southeast Asia Desk Editor of *Le Monde*. (NEFP) 15 cents.

Dickson, Paul and Rothchild, John. "The Electronic Battlefield—Wiring Down the War". *Washington Monthly*, 5/71. (NARMIC) 10 cents.

Haseltine, William. "The Automated Air War". *New Republic*, 10/16/71. 4 page glossy. (NARMIC) 10 cents.

Honeywell Project. "A Practical Guide to the Honeywell Business World". Honeywell's air war production: anti-personnel weapons and general input into the electronic battlefield. Entire packet of materials also available. (HP)

Indochina Resource Center. "*Indochina Chronicle #6 and #7.*" Booklet containing Branfman's "Blue Machine" and "The Air Force's Secret Electronic War" by George Weiss. The latter being a pro-war account from a military magazine. Also a 2 page fact sheet. (IRC).

Indochina Resource Center. "Summary of the Cornell Air War Study". Fall, 1971. An excellent 8 page overview and statistical summary. (IRC) 20 cents, 15 cents—10 or more, 10 cents bulk.

Morgan, Terry. "Bombing Aircraft of the U.S.". Arco Publishing Company, 1968.

McReynolds, Dave. "The Banality of Evil". *WRL News*, Jan–Feb 1972. 1 page. (WRL).

National Peace Literature Service. "War Crimes Bibliography and Comment". Includes Neil Sheehan's "Should We Have War Crimes Trials?" (AFSC).

NARMIC. "Ho Chi Minh Trail—Two Viewpoints". Contains 2 articles, one from a military journal and one distilled from North Vietnamese accounts of the Trail bombing. (NARMIC) 10 cents.

NARMIC. "Summary of NARMIC Background Report on the Automated Battlefield". 20 page glossy detailed overview of the automated war. No photographs. (NARMIC).

NARMIC. "Corporate Complicity Packet". Includes such items as: "The Components and Manufacturers of the Electronic Battlefield," Aug., 1971, 10 cents; "Information on Researching Local War Industries," 10 cents; "The Pentagon's Top 100 Contractors, FY 1971"; "Movement Guide to Stockholder's Meetings," 50 cents; a list of local war contracts awarded in your community, county, and state, $3 per county.

NARMIC. "Weapons for Counterinsurgency". Excellent 100 page booklet, well illustrated, including listing of corporations involved in weapons production. Unfortunately, currently out of print.

NARMIC. "Domestic Electronic Battlefield". Includes "War Toys for Adults". Barkan, *New Republic*, and "Science Fiction—or Tomorrow's U.S.?" Pacific News Service. 5 cents ea.

Nicholson, Joseph. "Bombing of Lao Villages Revealed". 25 page well documented article. (DNSI) 50 cents, bulk rates available.

Raytheon Project-University Christian Movement. "Raytheon Company—Heart of the Massachusetts Military Industrial Complex". (RP-UCM).

Robinson, Chris. "Electronic Battlefield". List of manufacturers of the components of the electronic battlefield.

Scott, Peter Dale. 'Air America Flying the U.S. into Laos". *Ramparts*, 2/70. Expose on the CIA's private enterprise air force. (NEFP) 10 cents.

Schell, Orville. "Better Killing Through Electronics". *Earth Magazine*, April, 1972. Excellent. Entire magazine is useful. (EARTH) 75 cents.

Schell, Orville. "Electronic Weapons Replace U.S. Troops as Killing Continues". *American Report*, 9/27/71. One page with WSP ITT boycott information on back. (NARMIC).

Siegel, Lenny. "Vietnam's Electronic Battlefield". Good overview. (PSC).

Stanford Biology Study Group. "The Destruction of Indochina: A Legacy of Our Presence". 9/10/71. (SBSG) 24 cents, 20 cents—21 or more, 15 cents—100 or more.

Van Dyke, John. "Prisoners of War in Vietnam". (GDP). 25 cents.

Vietnam Veterans Against the War. Inc. "Winter Soldier Investigation". *Liberation*, Spring, 1971. Entire *Liberation* issue very useful. (L) 75 cents back issue price.

Watson, Will. "Attack Carrier: The Constellation Papers". (NVA).

Westing, Arthur and Pfeiffer, E. W. "Land War". *Environment*, March 1971. Excellent booklet on the ecological effects of the bombing, well illustrated. (IRC) 25 cents, 20 cents—10 or more, 15 cents bulk.

SUBCOMMITTEE REPORTS

A) Senate Subcommittee to Investigate Problems Connected with Refugees and Escapees:

May 7, 1970 Hearings;
September, 1970 Staff Report;
April, 1971 Hearings;
July, 1971 Hearings.

Very useful background material on the bombing's generation of refugees and responsibility for civilian casualties. Extremely valuable appendices ranging from dozens of selected press articles to official government documents. The material is surprisingly readable.

B) Senate Foreign Relations Committee:

Impact of the Vietnam War, June, 1971;
"Hearings on Chemical and Biological Warfare," 1969.

Excellent summary of war statistics including refugees, cost, etc. in *Impact of the Vietnam War*.

C) Senate Subcommittee on United States Security Agreements and Commitments Abroad of the Committee on Foreign Relations:

October, 1969 Hearings on Laos;
April, 1971 Staff Report on Laos.

Very useful material. Especially effective in revealing Congress' lack of involvement in the decision-making process surrounding the air war. Also useful for indexing the dimensions of the air war.

D) Preparedness Investigating Subcommittee of the Armed Services Committee:

Air War Hearings, 1967;.
Tactical Air Hearings, 1968.

The 1967 hearings contain some useful documentation of the bombing's ineffectiveness. Best source for North Vietnam air war failure, though, is the Pentagon Papers.

E) Electronic Battlefield Subcommittee of the Preparedness Investigating Subcommittee of the Committee on Armed Services, U.S. Senate: November, 1970 Hearings.

Though highly censored, some useful information on the automated battlefield.

F) DoD Appropriation Committee, U.S. Senate: Hearings, FY 1972.

CONGRESSIONAL RECORD

October 5, 1971: Senate debate surrounding the Gravel amendment to limit the bombing in Indochina. (S15874–82, *CR*, 25 cents)

October 4, 1971: Senate debate surrounding military spending in Laos. (S15762–82, *CR*, 25 cents)

July 12, 1971 (H6540–63) and July 13, 1971 (H6672–78): Congressman McCloskey vs. Congressman Gubser. House debate over the nature of the American air war and specifically the degree of civilian casualties in Laos. Excellent posing of the issues. (*CR*, 25 cents)

BOOKS

Branfman, Fred (ed.). *Voices from the Plain of Jars*. Harper and Row, to be published Spring, 1972. A collection of drawings and essays by Lao refugees, describing life under years of American bombardment. Introductory essay by Branfman analyzes American bombing policy.

Broughton, Colonel Jack. *Thud Ridge*. Lippincott Company, 1969. A pro-war bomber pilot's account. Some insights into day-to-day operations and the minds of the men involved.

CCAS. *The Indochina Story*. Bantam, 1970. Excellent background. Explores war crimes, chemical and biological warfare, antipersonnel weapons, and political context.

Cornell University Center for International Studies. *The Air War in Indochina*. 200 pages. The most comprehensive and current analysis of the air war. First edition is completely exhausted. A second edition will go to press this spring. Contact the Indochina Resource Center.

Council on Economic Priorities. *Efficiency in Death: The Manufacturing of Anti-personnel Weapons*. Harper and Row, 1970. $1.50. Excellent.

Harvey, Frank. *Air War: Vietnam*. Bantam, 1967. 75 cents. Somewhat dated; readable, simple.

Klaire, Mike. *War Without End*. Random House, to be published Spring, 1972. Discusses the planning and technology of future American counterinsurgency efforts.

Luce, Don, *et al. We Promise One Another: Poems from an Asian War*. Approx. 100 poems. $2 or $1.20 in bulk. (IRC)

Neilands, J. B., *et al. Harvest of Death: Chemical Warfare in Vietnam and Cambodia*. Foreword by Gunnar Myrdal. The Free Press, 1972. The most comprehensive and objective study of American use of herbicides and toxic gases.

Schell, Jonathan. *The Military Half*. Vintage, 1968. $1.65. Somewhat dated but good background. A personal account of the destruction caused by the bombing.

Smith, George. *Two Years with the Vietcong*. Ramparts Press, 1971.

Taylor, Telford. *Nuremberg and Vietnam: An American Tragedy*. Quadrangle. An indictment by the Chief U.S. Prosecutor at Nuremberg.

OTHER

Slide shows

The NARMIC Slide Show on the Automated Air War. Excellent. 140 slides, with numbered script carefully footnoted. Running time 35 minutes. $50 plus $5 shipping and handling. Can be rented from the Indochina Resource Center at $15 for three days.

Air War Slide Show. From the New Hampshire Peace Action Coalition. 150 slides and tape soundtrack. Well done.

Films

"U.S. Technique in Genocide in Vietnam". Made in North Vietnam by the Commission on War Crimes. Depicts anti-personnel weapons and their effects. 20 minutes. B.W. $25 for a 3 day rental, $60 purchase. Add $5 for shipping and handling. (IRC)

"Chemical Warfare". Made in North Vietnam. Depicts the extent of use and effects of herbicides and CS gas. 30 minutes. B&W. $25 for a 3 day rental. $60 purchase. $5 shipping and handling, 1971. (IRC)

"The Big Bomb" DoD film. 5 minutes. Color, 16mm. Depicts the effects of the 7½ ton Cheeseburger bomb. $10 rental, $25 purchase. Add $5 for shipping and handling. (IRC)

Film depicting interviews with the workers laid off from McDonnel-Douglas—the contractors for the F–4. Includes footage of aerial destruction in Southeast Asia. 27 minutes. B&W. $30 rental, $200 purchase. (SLP)

Video tapes

Boston Winter Soldier Hearings. (EV) Overview—60 minutes. The Electronic Battlefield—60 minutes. The Air War—30 minutes Half-inch video tape in the Sony AV or CV format. $54 per hour, $30 per ½ hour, rentals somewhat less.

Fred Branfman Air War Talk. With pictures and other visual effects. 30 minutes. $30 purchase. Rentals possible for less. (CVC)

Honeywell War Crimes Hearings. (HP) 50 minutes. Rent approx. $20. $50 purchase. (flexible)

Indochinese War. Available Spring '72. Approx. 25 minutes. Possibly to be made into a film. (WCVPCP)

Radio spots

Approx. 10 short talks. Speakers include Fred Branfman—Journalist who interviewed over 1,000 refugees fleeing American bombing, Randy Floyd—former Marine bomber pilot who flew missions over North Vietnam, and air war humorist John Henry Falk. (ARR) Free

Anti-air war advertising

Unsell

Buttons and posters

Campaign to End the Air War

Military-industrial air force trade journals

Aviation Week and Space Technology (P.O. Box 503, Hightstown, N.J.)

Air Force Times (475 School Street, S.W., Washington D.C. 20024)

Air Force Magazine (Air Force Association, Suite 400, 1750 Penn. Avenue, Washington D.C. 20006)

Pentagon

The DoD can be called directly for certain informational requests such as the most recent tonnage statistics, etc. (202) 697–2873

CAPTIONS FROM BOOKLET

EC–121 are used throughout Indochina to relay the signals sent by the ground sensors. Other aircraft are used in this phase of the air war, including "drone" aircraft which require no pilot or air crew. These aircraft relay the signals to giant computer systems on the ground.

Thousands of sensors, such as those in this photograph, are planted throughout all of Indochina. The vibrations transmitted by the walking of a man or an animal are enough to cause the sensor to send a signal to an airborne relay station.

The IBM 360 computer system takes the information from the relay aircraft and the ground sensor, and integrates it with information stored in the memory bank. An image of the sensor net is displayed on a cathode tube [similar to television], and an Air Force officer monitors the sensor net. The computer prints a read out that is sent immediately to the command center.

Fighter-bombers, alerted by the command center, are dispatched to the area of the sensor signal. Guided by the computer read outs, the area is located without any effort on the part of the pilot, and the bomb load is dropped on the location designated by the computers.

Among the bombs used in Indochina are Cluster Bomb Units, large "mother bombs" loaded with hundreds of smaller bomblets. As the "mother bomb" casing breaks, the smaller bomblets tumble to the earth. Each of the "mother bombs" can carry as many as 500 smaller bomblets. Each of the smaller bomblets is loaded with hundreds of ball bearing shaped pellets.

As the bomblets fall through the air, the rotation causes the fuse inside the bomblet to arm. The guava bomblets [left] use three different types of fuses. One fuse will cause the bomblet to explode on contact with the ground. The second fuse has a time delay device in the fuse, allowing it to rest on the ground undetonated. The third fuse will explode the bomblet in the air, throwing ball bearing pellets in a 360° pattern for 60 meters. The 360° pattern makes anything above ground, or in holes and caves, a target.

The U.S. Air Force has defoliated an area of South Vietnam equal to the size of Massachusetts. The first regrowth is usually bamboo, which provides excellent cover for guerrilla actions; the program was recently terminated.

Laser and teleguided bombs, called "smart" bombs, can be directed to a target by the pilot that drops them. These bombs are accurate within six feet of a target when dropped from an altitude of four miles.

The pineapple [left] and the guava [right] both contain steel ball bearing like pellets that are useless against structures but can kill or wound a human being.

The majority of bombs dropped on Indochina have been dropped since President Nixon took office in 1969.

Other types of ordnance dropped on Indochina include incendiary bombs (napalm, thermite, white phosphorus and a combination of all three, NPT) and high explosive bombs (ranging in size from 250 pounds to the giant 15,000 pound "Commando Vault" or "Cheeseberger" bomb).

An A1–E attack aircraft drops a white phosphorus ("Willie Peter") bomb on a night mission. The pilot releases the bomb while traveling at a speed of several hundred miles per hour.

High explosive 750 pound bombs are dropped at altitudes of up to 35,000 feet [by B–52s] or as low as 3,000 feet [fighter-bombers].

The XM–41E "gravel mine" is used as an area denial weapon. The mine is dropped in the same fashion as other CBU bomblets, but it has no specific target. The mine rests on the ground until a person or animal steps on it or attempts to pick it up.

CBUs such as this BLU–66 contain flechettes instead of the ball bearing pellets. A flechette is a one-inch barbed nail, resembling a miniature arrow. When a flechette enters the body, its fins lacerate the muscle tissue and body organs. Flechettes usually lodge in a blood vessel.

The "dragontooth" (MK–36 system) is similar to the gravel mine in purpose and operation. It is dropped by the thousands over a target area and remains inactive until disturbed. Neither it nor the gravel mine has the power to destroy a truck tire, but will blow off a human foot if stepped on.

THE ONGOING CIVILIAN TOLL (AS OF AUGUST 1971)

	South Vietnam [1]	Laos [2]	Cambodia	Total
Killed	335,000	100,000	([3])	450,000
Wounded	740,000	250,000	([3])	1,000,000
Refugees	5,695,300	1,000,000	1,600,000	8,295,300
Total	6,770,300	1,350,000	1,600,000	9,755,300

[1] Kennedy Subcommittee on Refugees.
[2] Project Air War.
[3] Tens of thousands.

Note: Killed, wounded, and refugeed under Johnson (1964–68) 5,655,300; monthly civilian toll under Johnson (1964–68), 95,000; killed, wounded, and refugeed under Nixon (1969 to August 1971), 4,100,000+; monthly civilian toll under Nixon (1969 to August 1971), 130,000.

BUDGET DISTRIBUTION, BY SYSTEMS

[In millions of dollars]

	Fiscal years—					5-year total
	1967	1968	1969	1970	1971	
Conventional barrier system	15.6	16.9	2.3	.3	4.3	39.4
Air-supported system	137.4	182.4	175.6	92.4	181.8	706.6
Ground tactical system		12.1	174.2	81.1	128.8	396.2
Munitions [1]	177.0	212.6	59.6	39.2	50.0	538.4
Total	330.0	424.0	411.7	213.0	301.9	1,680.6

[1] Associated with air-supported system.

Source: Cost of sensor program from hearings before the Electronic Battlefield Subcommittee, U.S. Senate, November 1970.

I myself studied in this school many years ago. But then it came to the year 1967, and the school was struck by the airplanes until it was level. Nothing was left. Many planes had shot around it. It made us lack for a school in which to learn our lessons. Author: Lao man, age 23.

One friend of mine went to the village to get rice for his mother and father to eat. . . . He crossed the field to the hill and the airplanes saw him and shot and killed him so that you couldn't even find his body. It was scattered all over the field. Author: Lao child, age 12.

The person in this picture was hit by napalm and burned. . . . If someone is hit by napalm, you can't go to help him. If someone went to help, he also would catch on fire. I thought about this when I was in the hills: in our lives now we didn't know which day we would be troubled or which day we would die. Every day we just stayed in the holes in the forest without seeing sunlight. Author: Lao child, age 12.

In my village there was one man who was 22 years old. He went to graze his buffalo in the forest. The airplanes dropped bombs and killed the buffalo. He ran away from that place, but not in time. He was hit in the waist—cut right in two. For two days you could see him like that. Author: Lao man, age 22.

There was a wat on the hill right next to my village. The airplanes shot it and started a fire. Two monks were killed there together. On account of the war. The planes thought that there were soldiers in the wat, so they shot it. But there weren't any. Only the monks died. Author: Lao man, age 20.

Three jets came, dropping bombs. . . . We went to count the bombs and the holes of the bombs that had fallen on the wat and found that there were 28. Any many bullets which had also hit. The wat was lost completely. . . . After that, we didn't know if we should build another wat. If we built again, we were afraid it would be bombed again. Author: Lao man, age 69.

My village was hit often by bombs from airplanes and anti-personnel bombs. My house was hit and I lost everything. I knew the war and was very afraid. But I could not flee. Author: Lao school teacher, age 22.

But truly at that time there were many dangers. Like when the planes dropped bombs and napalm burned the village and people died. Some people ran into the holes and were hit. No one had the courage to help the people who were hit by napalm. They just screamed until the end, and died. I am overcome with pity and my tears fall. I do not lose the thoughts of those people who lost their lives. That is when we had to flee our villages. Author: unknown.

This was another occasion of lakes of blood from the war planes' coming. These people were going together into the cave, but at that moment a bomb came without any knowledge of its having been dropped. . . . Anyone who knows these things is filled with pity or empathy by the hundreds. Author: Lao artist, age 20.

Sao Toun's Mother: Sao Toun was one of my two daughters. She was 12 years old. One morning, about 10 a.m., in July 1969, a group of "T" planes came over our village. Sao Toun was hiding in a trench. But when she heard the noise of the plane she became afraid. She jumped out of the trench and began running. Then the planes dropped their bombs and she was killed. I only have one other daughter left. I . . . I . . . I . . .

(N.B. The interview could not be continued as Sao Toun's mother broke into tears.)

Nang Khammaa's Mother: Nang Khammaa was 20 years old. She was married and had two children. One day in June, 1968, about 5 p.m., Nang Khammaa went out to fetch our buffalo. Suddenly she heard the jets coming. She dropped to the ground and began trying to crawl back into a trench about 10 meters away. But before she could make it a bomb fell near her and she died from the explosion. The bombs were dropped by American jets. I don't know where the two children are now. Perhaps they are with their father on the other side.

Sao Doummaa's Mother: Sao Doummaa was my youngest daughter, the one I loved the most. She was 25, married, and had 2 children. One day in June, 1969 we were in our shelter when the planes came over. Sao Doummaa was nursing her 7-month-old. She jumped up to try to make it to a trench. But she was hit at the door by the bombs, and fell to the ground crushing her baby beneath her. . . . One other thing. This is a wedding photo of my daughter. She was 18. It's all I have to remember her by. I want to make a copy for her husband. Could you help me?

A Mother: I lost two daughters in a bombing raid in August, 1969. They were in a shelter a few hundred meters outside the village. The jets came overhead and dropped their bombs all around us, about 11 a.m. Some of the fragments from a bomb hit one of my daughters, aged 9, in the head. Other fragments hit another of my daughters, aged 4, in the side. They both died soon after.

XUM

Neighbors: This is a 13-year-old novice monk. He is from Ban Na O. He was playing around near his home about 5 p.m. one day in 1968. Suddenly planes came over and dropped napalm. He was burned.

Village Chief: This girl is 3 years old. In March, 1969, jets came over our village. This girl was being carried by her 9-year-old sister. It was about 9 a.m. The jets came over suddenly. The older sister began running for a trench carrying her little sister. But she didn't make it. A big bomb exploded and the little girl was hit by the fragments. She was wounded in her chest, stomach and abdomen.

Thao Siphan's Father: This is my son, Thao Siphan. He is six years old. He lost the fingers of his hand in a jet bombing raid on July 1, 1969. We were hiding in a shelter out in the forest. The jets, four of them, bombed about 11 a.m., dropping 24 bombs. Some of the bombs fell nearby and my son was hit, together with four others. Two of them were wounded. And two, a 56-year-old man, and a 7-year-old girl, were killed. My son is still terribly scared of Americans. He's afraid they'll hurt him again.

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD an article published in today's Washington Post entitled "Five Saigon Defense Aides Fired After Probe of Soldiers' Fund"—which is on the point I made earlier.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIVE SAIGON DEFENSE AIDES FIRED AFTER PROBE OF SOLDIERS' FUND

(By Peter Osnos)

SAIGON, March 23.—South Vietnam's Minister of Defense, Nguyen Van Vy, has submitted his resignation and five of his closest aides have been fired in a potential scandal involving the possible misuse of millions of dollars in a servicemen's fund.

The five officials—four colonels and a civilian—were the administrators of the Mutual Aid and Savings Fund for Soldiers, which draws 25 cent involuntary allotments from each soldier's paycheck.

The fund, established after the Tet offensive in 1968, has a total value approaching $10 million.

Vy himself has not been accused of any wrongdoing, but informed Vietnamese sources said he offered his resignation to President Nguyen Van Thieu at a meeting this morning after learning that his subordinates had been sacked.

It was not clear tonight whether the resignation will be accepted. Vy has been Defense Minister since Nov. 9, 1967.

No specific charges have been filed against the five Defense Ministry officials, but they have been subjected to bitter criticism recently in the local press, including an official army newspaper, for their handling of the fund.

The Mutual Aid and Savings Fund for Soldiers is intended to benefit the low-paid soldiers by putting their money to work in businesses and a bank controlled by the army as well as investing it in private business and financial institutions.

The fund has established a Bank of Industry and Commerce, which is to be housed in an impressive skyscraper under construction in downtown Saigon and has invested in, among other things, construction and canning companies.

Plans are for the returns to be used in social welfare programs for the families of the 1 million men in uniform and provide them with a sum of money if the soldiers are killed, disabled or discharged.

In addition, the investments are supposed to stimulate sluggish Vietnamese industry and eventually provide the jobs that will be necessary when the war ends and hundreds of thousands of men are demobilized.

"Basically it's a good idea," commented an official at the American embassy. "The Vietnamese are anxious to get the economy out of the hands of the local Chinese and remember, a lot of these officers would be in business if it weren't for the war."

Thus far, however, the soldiers complain they have not benefitted from the fund although some money—it is not known how much—has been distributed to orphans, widows and the severely disabled.

For the most part, the soldiers asserted through the press, their monthly contributions have been used to bring profits to a small number of people that manage the investments.

The soldiers also claim that they have no say in how their money is being used.

For example, they say they are not getting the best interest rate available from the banks. Last year interest for the soldiers was 10 per cent, compared to the 20 per cent offered depositors at commercial banks.

Even this money is not available to the soldiers until they are released from the army and so long as the fighting goes on few of them will be unless they are badly wounded.

"Soldiers are told they will share the profits," one Vietnamese journalist wrote tonight, "but up to now they have not done so."

The complaints have become so insistent that Vice President Tran Van Huong, who is conducting the Saigon government's latest anti-corruption drive, earlier this month ordered the mandatory contributions suspended pending the outcome of the investigation.

One suggestion made by American officials, who acknowledge they are not fully informed on the situation, in that the sacking of the defense ministry officials are related more to differences in policy than to direct evidence of graft.

"These fellows may just have been moving too slowly in getting the money turned around," one source said.

Beyond the question of how the fund is being handled is the issue of whether the military should be involved in business at all. Some critics have said that the army already plays too large a role in Vietnamese life without taking a growing part in the economy.

Mr. GRAVEL. Mr. President, it is clear that we do not have to be privy to Pentagon documents or secrets. Just read the daily newspapers, such as this article by Peter Osnos. The five Saigon defense aides were fired after a probe of a soldier's fund, which shows the corruption that exists within the Army of South Vietnam, corruption which is in a sense caused by the American taxpayers, because they pay this money.

Mr. President, let me close by mentioning that the bill which has just been introduced will also be introduced in the House today, concurrently with this one, by 30 or more Representatives who are joining us in this effort.

As a result of the rules of the Senate of this parliamentary body, 34 Senators could stop this war.

Mr. President, from the feasibility point of view, the war could be ended if 34 Members of this body chose to end the war.

As was so ably stated by my colleague from Minnesota, Mr. MONDALE, what is going on is carnage, a carnage in a proportion that some of us find difficult to believe and difficult to see why it is not understood by the leadership of this country and something done about it. This body could do it. A minority of this body could do it. I hope that this piece of legislation introduced today will discipline, in this election year, all of those seeking office. So often, in the course of 2-year, 4-year, or 6-year term, actions take place and people vote on something, and there is no accountability because the election is far distant. This piece of legislation will be here to act as a tool of accountability.

I hope that those Americans throughout the country who are concerned about the immorality of the collective action of this Nation will attend political meetings wherever there is a politician or wherever there is a candidate, and ask them this very simple question, "Do you want to end the war?" Put aside the rhetoric of presidential power. Put aside the rhetoric of convenience. Put aside the rhetoric of ego and put aside the platitudes and pontifications. Ask them the very simple question, "Do you want to end the war?"

If we do want to end the war, then we have got a chance in this piece of legislation to do it.

Ask them, "How do you stand?" If the candidate does not stand for ending the war as provided by this simple and clear proposal, then I would hope that those Americans who do choose to end the war will not vote for those individuals, because they do not deserve to occupy a high position in the government of this country.

By Mr. ALLOTT (for himself, Mr. STAFFORD, Mr. TOWER, and Mr. CRANSTON):

S. 3410. A bill to amend chapter 5, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

UNIFORMED SERVICES SPECIAL PAY ACT OF 1972

Mr. ALLOTT. Mr. President, 9 months ago we were involved in a divisive debate about what was at that time an unpleasant necessity—the conscription of young American men into the armed services. One year from now we may be on the brink of another such divisive debate.

I hope that can be avoided. I think it can be, if we act sensibly now.

If we act now to anticipate and solve the problems of transition to an all-volunteer Armed Force, there is a good chance that we can end the draft when the current draft law expires June 30, 1973. For that reason today I am sending to the desk a bill, the Uniformed Services Special Pay Act of 1972.

This act has been drafted in close consultation with the Department of Defense. More than 2 months of staff work has gone into refining this act.

The Secretary of Defense, Mr. Laird, supports this act. In a letter to me he says:

> I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an All-Volunteer Armed Force.

And he adds that—

> We wholeheartedly endorse it.

I ask unanimous consent to have Mr. Laird's letter of support printed in the RECORD at the conclusion of my remarks.

In addition, I have discussed this act with Mr. George Shultz, the Director of the Office of Management and Budget. I ask unanimous consent to have this letter of support for this act along with a copy of the bill printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. ALLOTT. Mr. President, the various measures incorporated in this act will cost $198.7 million in fiscal year 1973. Fortunately, the money is at hand, because the new budget contains $376.4 million to finance pay increases along the lines of last year's second Allott amendment.

I propose to use $198.7 million of that to finance the measures incorporated in this act, and to urge that the remaining $177.7 million be saved.

It is with great satisfaction that I report my conclusion, arrived at after much deliberation, that we can effect a substantial saving while making substantial progress toward ending the draft. To understand why this is so, one must understand where we are, and where problems remain.

THE AIM OF THE ACT

The Uniformed Services Special Pay Act of 1972 is the second and, we may hope, the final step in achieving a zero-draft environment.

Last year the Congress took a giant step toward creating conditions under which we can responsibly rely on volunteerism to meet our manpower needs. It did this by voting a $2.4 billion increase in military pay. This increase raised the previously underpaid ranks into a position of near parity with comparable civilian employees.

Senators will recall that last year both bodies voted pay increases in excess of $2.7 billion. There was some dispute about the wisdom of some of the cuts whereby the conference committee resolved the differences between the House and Senate pay plans. Some of us questioned the cuts because, at that time, the President had not decided to grant the January 1, 1972, cost-of-living increase to the military.

Fortunately, the President did grant that increase. As a result, compensation for all ranks now is very close to what would have been achieved last fall had the second Allott amendment—designed to restore the roughly $380 million cut by the conference—prevailed. As a result of the cost-of-living increase, compensation now is very close to the original Gates Commission recommendations, and the objectives sought by the Allott amendment as of last November 14 have been almost totally achieved. Only at the E–1 level—a position retained for less than 4 months generally—and the O–1 and O–2 levels is the pay now lower—and only slightly—than what the Allott amendment stipulated. Thus, it is now possible to change the focus of our efforts at encouraging volunteerism. Across-the-board pay increases, designed to increase the level of enlistments across the board—unselectively, are no longer crucial.

Last year's pay raise has been effective. The increase in the rate of enlistments, combined with the gratifying decrease in the total manpower needs of the Armed Forces, now leaves us with a different task. This new task, while much less expensive, is every bit as crucial. This is the task of providing cost-effective means of anticipating and preventing shortrun shortfalls in particular areas and regarding particular skills.

This task will be especially crucial during the vital transition period. Assuming that the draft ends June 30, 1973, we can expect this period to come during fiscal year 1974. At that time we can expect draft-motivated enlistees to leave the services at a high rate during the next year. Increased compensation and improved quality of service life will not have reached full effectiveness in attracting volunteers. For these and other reasons, we can expect the transition period to be one in which the services will need an effective means of adjusting to some short-falls. The four programs incorporated in this act are designed to provide this effective means.

In addition, these programs will be useful and necessary beyond the transition period. Even when the all-volunteer Armed Forces is firmly established, there will still be certain skills and professions which demand a premium because they are in short supply in both the military and civilian sectors. This is a dynamic problem. Over time, skills requiring a premium will change as well as the level of the premium necessary for a specific skill. In order to satisfy its requirements in competition with other claimants for the Nation's manpower, the DOD needs several kinds of incentive programs to attract and retain members with special qualifications and skills.

The incentives most suitable are special pay programs directed toward specific volunteers who give a service commitment for a stipulated number of years. Such special pay should be viewed as a prepaid wage differential based on the qualifications of the individual and the needs of the Armed Forces.

Such pay will be attractive to the individual. It will provide him a guaranteed amount, offered in a lump sum, of sizable amount. In addition, special pay best suits the DOD's needs because it is cost effective. It can be readily started, stopped or modified to meet changing needs of the Armed Forces for quantity, quality, and experience level of members in specific skills. Special pay programs are a traditional military compensation tool, and recent experience with variable pay administered in the manner envisioned for the future has proven very successful.

The following are the four special pay programs which the DOD will need to satisfy its manpower needs in a zero-draft environment:

First. Enlistment special pay: Expand the current legislative authority to include volunteers for skills other than the combat elements.

Second. Special pay for Selected Reserve Forces: Authorize payment for enlistment and reenlistment for members of the Reserve Forces.

Third. Special pay for officer retention: Authorize payment to officers in special skills or professions who are in critical supply. One payment authority is designed for members of the Medical Corps and a second and lower payment authority is designed for officers in other skills or professions.

Fourth. Selective reenlistment payment: Amend present legislaton to authorize a more cost-effective use of current enlisted retention incentive by offering special pay in selected skills only, increasing the ceiling on payment amounts, and permitting payments to be paid at other points in an enlisted career in addition to the first reenlistment.

COST ANALYSIS

The special pay principle offers the most cost effective means of meeting the anticipated selective manning requirement problems because of the inherent flexibility of its provisions. It may be varied in amount, skill, point of application. In addition it may be readily terminated. The following table provides a comparison of cost estimates for the special pay programs and the alternative basic pay package:

Cost comparisons of proposed payment package and alternative basic pay proposal, fiscal year 1973

[In millions of dollars]

Special pay program cost in addition to present program costs:	
Enlistment special pay	46.5
Reserve Forces special pay	82.2
Officer retention special pay for—	
Health professions	28.0
Lawyers, nuclear trained officers, new skill categories	27.0
Subtotal	55.0
Selective reenlistment special pay	15.0
Total	198.7
Alternative basic pay proposal	376.4
Difference	177.7

At this point it will be useful to examine in more detail the nature and cost of the four programs.

1. ENLISTMENT SPECIAL PAY

This will involve amending the relevant provisions of the recently passed draft act to expand entitlement to special pay to those additional volunteers who enlist for at least 3 years in skills other than combat elements. This amendment would remove the existing limitation which allows only those individuals in combat elements to receive a payment of up to $3,000.

Existing pay rates will attract most of the volunteers required to man most military skills. However, certain selected skills may require an additional incentive to attract the necessary volunteers. The skills requiring special pay, and the amount of pay required, will vary over time. Since it is not possible to predict the attraction incentive required, a cost effective program will involve varying the amounts of special pay, and the skill categories to which it attaches.

The cost will vary depending on the

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critical shortages faced by the Armed Forces. It is estimated that for fiscal year 1973 an additional $46.5 million will be required to allow payment to selected critical skills other than combat elements.

2. SPECIAL PAY FOR RESERVE/GUARD FORCES

This will provide enlistment and reenlistment incentives for qualified volunteers in the Selected Reserve of the Guard and the Reserve. The enlistment or reenlistment payment ranges up to a maximum payment of $1,100 for a 6-year enlistment or reenlistment for individuals in non-critical skills. The enlistment or reenlistment incentive would be selectively offered to satisfy critical skill shortages, ranging up to a maximum payment of $2,200 for a 6-year enlistment or reenlistment. Payments would be graduated on a percentage of years of reenlistment contracted. The lifetime sum of payments per individual would be limited to $3,300. The incentive is directed at prior service personnel as well as completely new volunteers in this program.

Under the total force concept the Reserve and Guard will be the initial and primary sources for augmentation of the active forces in any future emergency. Consequently, full manning of the Selected Reserve units is critical to the national security, and termination of the draft will make this objective more difficult to attain. Early indications of shortfalls in the strength of selected reserve units are causing concern to the DOD, and the leading military authorities in the Congress. Therefore, these financial incentives are needed if the DOD is to achieve its manpower goals.

It is estimated that the fiscal year 1973 cost of this proposal is $82.2 million, of which $59.2 million would be spent on the reenlistment bonus and $23 million on the enlistment special payment.

3. SPECIAL PAY FOR OFFICER RETENTION

This will provide special pay to an officer of the several services possessing a special skill designated vital and scarce by the Secretary.

It may be paid in addition to other pay and allowances to which that officer is entitled in an amount not to exceed $4,000 for each additional year beyond his initial service commitment that he agrees to remain on duty except in the case of a medical, dental or other health specialist who may be paid an amount not to exceed $17,000 for each additional year.

We need a more cost effective application of monetary retention incentives to meet the selective officer manning problems anticipated in the all-volunteer force environment. The zero-draft environment will require alert, precise responses to acute officer retention problems.

On occasion we have required officers desiring to depart from active duty to continue past their period of obligation to man our nuclear submarines and strategic aircraft. This is not an adequate solution to such problems. The 1971 Quadrennial Review of Military Compensation revealed that there is no question that improvement is necessary to meet our requirements in the medical field. In addition, prior to the review shortages in other officer categories had been identified by the DOD. This act would allow the Secretary of Defense to respond immediately to the retention problems at any career point in the medical, legal, nuclear-trained submarine officer, or other high-cost training investment skill. As a selective retention problem is alleviated the payment amount may be reduced or terminated immediately by the Secretary of Defense.

If the Secretary of Defense used the maximum payment in the medical field, the average annual cost would approach $110 million. However, it is estimated that offsetting costs through termination of the present continuation pay—$20 million annually—and strength reductions would result in a first-year incremental-cost increase of $28 million. Additional average annual cost of implementing the proposed payments for law specialists approaches $4 million.

There would be no additional cost for nuclear-trained submarine officers in fiscal year 1973 since they are presently receiving retention payments at an annual cost of about $3 million. Problems in other officer skill categories could potentially arise in the zero-draft environment resulting in cost modifications.

4. SELECTIVE REENLISTMENT PAYMENT

This will combine the regular reenlistment bonus and the variable reenlistment bonus—VRB—payments into a selective reenlistment payment. This payment will go to reenlistees in critically manned skills at the problem reenlistment point. The maximum payment will be $15,000.

The regular reenlistment bonus is paid to all reenlistees. Approximately 25 percent of this bonus is paid to reenlistees serving in skills manned in excess of 100 percent of requirements. This accounts for an annual waste of about $40 million. The variable reenlistment bonus, although paid only to individuals serving in undermanned skills, can be paid only for the first reenlistment. Since many reenlistment deficiencies occur beyond the first reenlistment, the VRB does not effectively solve the DOD's retention problems. By combining both these retention incentive programs into a selective reenlistment payment, the DOD can selectively place the proper incentive amount in critically manned skills and at the problem reenlistment point. This will allow for the maximum return on the retention dollar spent.

Additionally, the implementation of the selective reenlistment payment will allow for an attractive second reenlistment incentive to solve critical retention problems similar to those presently experienced by the Navy in the area of nuclear-trained petty officers.

The fiscal year 1973 retention program composed of the regular reenlistment bonus and the variable reenlistment bonus is budgeted for $419.7 million. By inaugurating the selective reenlistment payment, the regular reenlistment bonus program would be phased out. This phaseout would shift retention dollars from a less effective retention incentive to a more efficient program. This improved efficiency would satisfy the immediate DOD retention needs of an all-volunteer environment. Therefore the only costs involved in implementing the selective reenlistment payment would be approximately $15 million for transition costs.

CONCLUSION

Mr. President, this is the program which the Department of Defense wants, which the Office of Management and Budget endorses, and which the country needs. It is easy to understand why this is so.

The DOD is under the gun from two directions. It has a mandate to achieve the capability to meet its manpower needs without conscription. And its budget is under intense pressure. Thus the DOD, from the Secretary on down, has been happy to cooperate with us in arriving at a cost-effective program that will help it fulfill its mandate while easing budgetary pressures. We want to thank all those at the DOD who have been responsive to us while we were working on this bill.

The OMB is the world's foremost authority on all kinds of budgetary pressures. It is the storm center of the keen competition for our scarce resources. Naturally the OMB is pleased with any improvement in cost effectiveness. It is anxious to achieve the administration's goal of an all-volunteer armed force, which itself promises substantial long-run savings. In addition, the OMB is pleased to find an implicit savings of $177.7 million involved in submission of this act.

Finally, Mr. President, this is an act which the Nation needs. There is no subject on which there is more widespread agreement than the desirability of ending the draft. Young men, their parents and loved ones, in every section of this Nation, desire a return to the traditional American reliance on volunteerism.

I have said repeatedly that I do not know if we can achieve an all-volunteer armed force now. But I also have said repeatedly that we owe it to our young people—and to ourselves—to try.

Too often we find ourselves responding to events. This is our chance to master events. If we pass this now, we shall all have a more pleasant time in the spring and summer of 1973.

The Uniformed Services Special Pay Act of 1972 is the right measure, at the right time, for the right objective. I hope it will receive prompt attention, broad support, and swift passage.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, D.C., March 22, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: I have reviewed your proposed bill, the "Uniformed Services Special Pay Act of 1972," which was drafted in close consultation with the Department of Defense.

I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an all-volunteer Armed Force. It would provide the authority and flexibility needed to meet our principal manning problems, both in the active forces and in the Reserve components.

With the passage of P.L. 92-129 which amended the Military Selective Service Act of 1967, the Congress provided military pay rates reasonably competitive with pay in the civilian economy. By its action the Congress eliminated the serious inequities previously identified with Service pay, particularly for the first-term personnel.

Your bill would enable us to deal more effectively with the critical personnel shortages in the National Guard and Reserve Forces, which are 50,000 below the strength levels mandated by the Congress. There is no indication that these shortages can be overcome, or further supply shortages in the Reserve Forces avoided, without the special pay authority provided in your bill.

In addition, your bill reflects recognition of the fact that certain skills and professions may command a premium at any time because they are in short supply. The skills requiring such a premium will change over time, as will the level of the premium necessary to attract a sufficient supply of qualified candidates.

The incentive most suitable for Department of Defense needs is a flexible special pay authority paid to specific volunteers in return for a service commitment for a stipulated number of years. In this light the special pay may be viewed as a prepaid wage differential based on the qualifications of the individual and the needs of the Armed Forces.

As you know, there is under consideration a bill to provide a significant system of Sea Pay. Such a program is needed to compensate enlisted and officer members for long deployments at sea. Legislation in support of this program will be considered separately.

We appreciate the opportunity to comment on your proposed bill, and we wholeheartedly endorse it.

Sincerely,

MELVIN R. LAIRD.

EXHIBIT 2

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 23, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: The Office of Management and Budget has reviewed the proposed Uniformed Services Special Pay Act of 1972 which you have prepared with the assistance of the Department of Defense.

We consider it to be a desirable approach to providing the legislative authorities required to fill the gaps we anticipate will occur in the manning of the Armed Forces as we move away from the draft toward an All-Volunteer Armed Force.

We believe that in the consideration of this bill by the Congress, special attention should be given to the officer retention bonus for the health professions. Although the all volunteer principle requires that compensation recognize the higher income enjoyed by health professionals in the private sector, it is nonetheless important in determining the amount and incidence of the bonus to consider its impact on the supply of health professionals to the rest of the Federal Government and on the health services component of the President's economic stabilization program.

Enactment of your bill would be in accord with the program of the President. The costs of this measure are well within the amounts planned in the FY 1973 budget for volunteer force legislative proposals.

Sincerely yours,

GEORGE P. SHULTZ,
Director

EXHIBIT 3

S. 3410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Uniformed Services Special Pay Act of 1972".

SEC. 2. Chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 302 is amended to read as follows:

"§ 302. Special pay: physicians and dentists

"An officer of the Army or Navy in the Medical or Dental Corps, an officer of the Air Force who is designated as a medical officer or dental officer, or a medical or dental officer of the Public Health Service, who is on active duty for a period of more than 30 days is entitled, in addition to any other pay or allowances, to special pay at the following rates—

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay."

(2) Section 308 is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 308. Special pay: reenlishment

"(a) A member of a uniformed service who—

"(1) has completed at least 21 months of active duty (other than for training);

"(2) is designated as having a critical military skill; and

"(3) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a sum of money, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount.

"(b) Payments authorized under this section may be made in either a lump sum or in installments.

"(c) For the purpose of computing the reenlistment payment in the case of an officer with prior enlisted service who may be entitled to a payment under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

"(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a payment was made to him under this section shall refund that percentage of the payment that the unexpired part of his enlistment is of the total enlistment period for which the payment was made.

"(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

(3) Section 308a is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 308a. Special pay: enlistment

"(a) Notwithstanding section 514(a) of title 10 or any other provision of law, a person who enlists in an armed force for a period of at least three years, or who extends his initial period of active duty in that armed force to a total of at least three years, may, under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, be paid an amount prescribed by the Secretary concerned, but not more than $3,000. The payment may be paid in a lump sum or in equal periodic installments, as determined by the Secretary.

"(b) Under regulations approved by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a payment was made to him under this section shall refund that percentage of the payment that the unexpired part of his enlistment is of the total enlistment period for which the payment was made."

(4) Section 311 is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 311. Special pay: continuation pay for physicians and dentists of the Public Health Service who extend their service on active duty

"(a) Under regulations to be prescribed by the Secretary of Health, Education, and Welfare, a medical or dental officer of the Public Health Service who—

(1) is serving on active duty in a critical specialty designated by the Secretary;

(2) has completed his initial active duty obligation; and

(3) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty. Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.

"(b) An officer who does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made.

"(c) The Secretary shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by subsection (a) of this section and, whenever such special pay program is to be continued in operation, such report shall include the justification for continuing such program. The report under this section shall be made on a calendar year basis and submitted not later than April 1 of the succeeding calendar year."

(5) The following new section is added after section 311 and a corresponding item is inserted in the analysis:

"§ 311a. Special pay: officers of armed forces in health professions who execute active-duty agreements

"(a) Under regulations prescribed by the Secretary of Defense, an officer of an armed force who—

"(1) is qualified in a critical health profession;

"(2) is determined by a board, composed of officers in his profession, under criteria prescribed by the Secretary of Defense, to be qualified to enter into an active duty agreement for a specified number of years; and

"(3) executes a written agreement to re-

main on continuous active duty for the numbers of years specified;
may, upon acceptance of the written agreement by the Secretary concerned or his designee, and in addition to any other pay or allowances to which he is entitled, be paid an amount not to exceed $17,000 for each year of the active duty agreement. Upon acceptance of the agreement by the Secretary concerned or his designee, and subject to subsection (b) of this section, the total amount payable becomes fixed and may be paid in annual, semiannual, or monthly installments, or in a lump sum after completion of the period of active duty specified in the agreement, as prescribed by the Secretary concerned.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

"(c) Under regulations prescribed by the Secretary of Defense, an officer who has received payment under this section and who fails to complete his agreed period of active duty may be required to refund the amount received.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"(e) The Secretary of Defense shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The report shall be on a fiscal year basis and shall contain—

"(1) a review of the program for the fiscal year in which the report is submitted; and

"(2) the plan for the program for the succeeding fiscal year.

The report shall be submitted not later than May 13 of each year, beginning in 1973."

(6) Section 312 is repealed and the corresponding item in the analysis is stricken.

(7) The following new sections are added after section 311a and corresponding items are inserted in the analysis:

"§ 313. Special pay: officers of armed forces who execute active-duty agreements

"(a) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of an armed force who—

"(1) is entitled to basic pay;

"(2) has completed at least two, but not more than 11 years of active service;

"(3) is designated by the Secretary concerned as an officer possessing skills in a critical shortage specialty and whose retention on, or voluntary recall to, active duty would be of benefit to the United States;

"(4) is not receiving special pay under Section 302, 302a, 303, or 311a of this title; and

"(5) executes a written agreement to serve on continuous active duty as an officer in that specialty for a period of not less than one year, but not more than six years, in addition to any other period of active duty for which he is obligated;

may be paid, in addition to all other compensation to which he is entitled, a sum of money not to exceed $4,000 for each year of the active service agreement.

"(b) The total amount payable under subsection (a) of this section may be paid in either a lump sum or in installments over the life of the agreement. However, if an agreement is made before the expiration of the officer's initial period of obligated service, he may be paid at the beginning of—

"(1) the last year of that period; or

"(2) the fourth year of that period, if he has an obligated period of four or more years.

"(c) An officer who voluntarily, or because of his misconduct, does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part of the total active-duty period for which the payment was made.

"(d) This section does not alter of modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"§ 314. Special Pay: participation in the Selected Reserve of the Ready Reserve of an armed force

"(a) A person is entitled to special pay computed under subsection (b) of this section if—

"(1) he—

"(A) has not previously been a member of an armed force or a Reserve component thereof; or

"(B) has served in the armed forces—

"(i) on active duty (other than for training) for at least two years unless sooner released because of a reduction in force; or

"(ii) on active duty (for training or for other than training) for a period which, when added to his period of satisfactory participation in the Selected Reserve of an armed force, would qualify him for discharge or transfer from the Selected Reserve of that armed force; and

"(2) he is accepted for enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force, and if a former member of an armed force or a Reserve component thereof is in a pay grade above E–2; and

"(3) he agrees to remain a member of the Selected Reserve of an armed force for a period of not less than—

"(A) three years, if he has not previously been a member of an armed force, or a Reserve component thereof; or

"(B) one year, if he has previously served in the armed forces under any of the conditions specified in clause (1)(B) of this subsection.

"(b) The amount of special pay to which a person covered by subsection (a) is entitled is—

"(1) for those possessing critical military skills, as determined by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy—

"(A) up to $2,200 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, 10 percent of the total for one year, 22 percent of the total for two years, 37 per cent of the total for three years, 54 percent of the total for four years, or 75 percent of the total for five years; or

"(2) for those not covered by clause (1) of this subsection—

"(A) up to $1,100 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, the same formula as that prescribed in clause (2)(B) of this subsection.

"(c) A person may not enlist or reenlist in the Selected Reserve of an armed force for the purpose of receiving special pay under this section for a period of more than six years at any one time.

"(d) Special pay authorized under this section—

"(1) may be paid in a lump sum or installments;

"(2) is in addition to any other pay or allowance to which the person is entitled;

"(3) is payable for any period of enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force which, when added to the person's initial period of military service as described in subsection (a)(1)(B) (i) and (ii) of this section, does not exceed a total period of 12 years of service computed under section 1332 of title 10; and

"(4) may not exceed a total of $3,300.

"(e) A member who voluntarily, or because of his misconduct, does not complete the period of service for which he received special pay under subsection (b) of this section shall refund that percentage of special pay that the unexpired part of his reserve enlistment or reenlistment is of the total period of service for which a payment was made.

"(f) This section shall be administered under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

SEC. 3. Notwithstanding section 308 of title 37, United States Code as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act.

SEC. 4. Notwithstanding the repeal of section 312 of title 37, United States Code, by section 2(6) of this Act, an officer of the naval service who was entitled to special pay under that section on the day before the effective date of this Act, and who has received installment payment thereunder, shall continue to receive the remaining special pay installments due under that section, if he remains in active submarine service for the period stated in the agreement. An officer of the naval service who has executed a written agreement to remain in active submarine service, and who has not received payment under that section, may be paid under that section, or section 313 of that title, as added by section 2(7) of this Act.

SEC. 5. Section 207 of the Career Compensation Act of 1949, as amended (70 Stat. 338), is repealed.

SEC. 6. This Act becomes effective on July 1, 1972, except that section 314 of title 37, United States Code, as added by section 2(7) of this Act, becomes effective on the date prescribed by the Secretary of Defense, but not earlier than April 1, 1972.

Mr. STAFFORD. Mr. President. In 15 months and 8 days, the President's draft authority will expire and we will have an all-volunteer Armed Force. This Nation will have achieved a goal for which we have been working since 1967.

I say this, not in unrestrained optimism, but in near certainty. Both Congress and the administration have taken strong measures to end reliance on the draft. And while there may be slight difficulties recruiting special categories of men, I am convinced that this Congress and the administration will take whatever steps are necessary to insure the success of the volunteer Armed Force. The bill we are filing today is one of those steps.

In addition, I expect the President

and the Department of Defense to take those steps necessary at the operational level to insure that every effort is being made to meet our goals of attracting and retaining sufficient numbers of the highest quality manpower to meet the needs of national defense. With a fair effort there will be no need to extend the draft beyond June of 1973.

Mr. President, I would like to take a few moments to discuss some of the efforts made by this administration to end reliance on the draft, and some of the current operational difficulties we are facing. I will then put into perspective the need for the legislation we are filing today.

AN ENERGETIC GOVERNMENT

Led by the project volunteer task force in the office of the Assistant Secretary of Defense, the services have initiated a broad range of programs designed to improve service life and to attract true volunteers into the military.

Assistant Secretary of Defense for Manpower and Reserve Affairs, Roger Kelley recently noted several signs of progress. He indicated that:

Seven out of 10 enlistees were true volunteers in the last 6 months of calendar year 1971, compared to a ratio of 6 out of 10 a year ago, and 5 out of 10 2 years ago.

In the final 6 months of last year 25,000 more true volunteers enlisted than in the same period in 1970.

The mental abilities of enlistees as measured by the results of the Armed Forces qualifications tests, were better in 1971 than in 1970. Also, 12 percent more high school graduates enlisted than in 1970.

Combat arms enlistments in the Army increased from a monthly average of 250 in the last half of 1970 to 3,000 in the last half of 1971—an increase of 1,200 percent.

While it is still too early to measure the response to the pay raises passed by Congress last November, early indications are that true volunteer enlistments are up approximately 30 percent.

Some of the success shown by these figures must be attributed to the initiatives of the services—actions which cover a wide area. Education is a prominent one, for instance. We have known for some time that the opportunity for education and training has been the foremost attraction for a large proportion of true volunteers. And inservice training rebounds to the services in a more highly skilled technician and a better trained soldier.

The fiscal year 1973 budget provides funds for an increase in the Navy and Marine Corps associate degree program, Air Force's inservice tuition aid and counseling, and Air Force senior NCO professional military education. Funds in the past have been spent on expansion of offduty educational programs and increased use of educational counselors.

One of the most innovative actions taken to date has been the development of the "Community College of the Air Force" which will function to gain regional recognition and accreditation of the service's technical training courses by the associations of colleges and universities, thus giving the individual a head start upon his return to the civilian sector. When the other forces follow this initiative, the educational opportunities of the services will be even more attractive.

Contract hire of civilians for detail, custodial or KP activities has been an extremely successful initiative. Not only has it permitted additional training time, but removed what potential volunteers and actual recruits have shown in every survey to be the greatest irritant in military life.

In the Army alone, some 2,700 low-wage-rate or contract civilians have permitted some 3,300 soldiers to return to their primary military occupational duty. The savings in dollars is matched, I am sure by the increase in morale. The effects on retention of such a practice are yet unknown, but preliminary results show a substantially increased retention rate for the Army's first termers.

Modernizing the recruiting system is, of course, receiving special attention. The services, with the exception of the Navy, have done a commendable job.

The Army has just surpassed its fiscal year 1972 goal for number of recruiters in the field. The Marine Corps and Air Force are effectively at 100 percent already. The number of recruiting stations has increased substantially, including many colocations between the services where more effective use of space has produced a savings.

There has also been a long overdue improvement of living quarters, an increase in ROTC scholarships and subsistance funds for attracting the highest quality officers, and money in this year's budget for the Platoon Leaders Corps program in the Marines.

Noncost improvements have a prominent place in the move for an all-volunteer armed force. The most publicized have been those changes made by the Chief of Naval Operations Admiral Zumwalt.

They include among others some 168 "Standards of Service" published to improve service at commissaries, exchanges, and the like, action line telephones to permit anyone to suggest improvements in the Navy, establishment of 15 minutes as the maximum waiting time in lines, maximum of 2 weeks processing time for claims, permission for 30 days' leave with permanent change of station orders, and dozens of others.

The Army's initiatives stem in many instances from an energetic team working directly with General Westmoreland. SAMVA—for special assistant modern volunteer army—has been the initiator, promoter, and watchdog for much of the change within the Army.

Gen. George Forsythe and his deputy, Gen. Robert Montague are getting to be two of the best known in the Army for their activism and devotion to a three-part policy: First. Strengthening professionalism by building positive incentives to give superior service; second, improving Army life by reducing the negative aspects of service, the known sources of dissatisfaction; and third, upgrading the Army's recruiting system.

In a very real sense, the success of this team has meant the initial success of modernizing and professionalizing the Army. I personally will be watching their efforts and sincerely hope that General Westmoreland will continue to give them the support they deserve.

Within the three goals mentioned above, the Army has taken many steps. Basic training has been revised Army wide after a year long intensive experiment at Fort Ord Calif. Now, a recruit who extends himself and has above average skills can qualify in up to three military skills, not just one.

A Leadership Board and a Dynamic Training Board have been created by General Westmoreland to concentrate on the specific tasks of making the learning experience of the recruit a truly professionalizing experience.

An additional example, from among many, is that working hours have been made more standard, providing normal hours of work and reducing weekend and evening duty where possible.

Noncost actions by the Air Force have included the development of a guaranteed job enlistment program, guaranteeing in advance the specific training and job the enlistee will receive. The Air Force has also authorized a 6-year enlistment term in 10 specialities that require extensive training and combined it with a promotion to E–3 upon completion of basic military training.

All Air Force commands have been directed to take specific actions to reduce inspections, permit time off for excess duty hours, reduce formations and meetings to a minimum, eliminate the requirement for carrying a liberty pass, and increase the time for settling the family during moves between stations.

The Marines have also taken steps in the noncost area toward making the Marines the tough, no nonsense professional force it should be. Included, among other things, are its pilot programs started to combine recruit and individual combat training in order to eliminate duplication in training and administrative processing; its human relations awareness program concerned with race relations; a program of major commands conducting symposia of junior officers and senior noncommissioned officers for increasing ideas on overcoming irritants and enhancing the attractiveness of the services; a liberalized liberty policy for special occasions; and generally a new emphasis given by the commandant to open responsive channels of communication.

The lists of new programs, initiatives, and ideas promoted in an attempt to attract and retain sufficient forces to end reliance on the draft goes on and on. The services are moving in the right direction, and I compliment them for their energy.

OPERATIONAL PROBLEMS

Despite these accomplishments, I must point out some signs for concern.

While I recognize that perfection is an unrealistic goal, I also recognize that the movement toward a zero draft situation is in one of its most significant periods.

If efforts at the operational level fail, the services will be severely jeopardizing their opportunities to make themselves the truly professional, highly skilled force

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they should be. While carelessness on the operational level will probably not cripple the institution of an all-volunteer force, they will make the going tougher for the services, and more costly. It will be necessary to divert funds from long-overdue improvements in housing and educational benefits for the careerists, as well as other aspects of service life for all. It would be most unfortunate to slow down improvements in military life for the higher ranks, increase facilities for entertainment, recreation, athletic and moral activities, travel and other allowances for everyone, simply because of a lack of attention to the details during the upcoming transition period.

Let me be more specific about operational problems that can hurt the services. A recent report by the General Accounting Office indicated that $15.3 million was spent in recruiting, training, and discharging for reasons of unsuitability, about 22 percent—over 11,100—of male recruits who enlisted in the Marine Corps between December 1969 and September 1970.

This rate was more than five times greater than the rate experienced during the previous 12 years. It is clear that a decision was made to increase substantially the standards of those who were to graduate from basic training, and the Marine Corps chose to do so at the training level rather than at the recruiting station.

The need for this costly weeding out exercise was dubious at best; the manner in which it was undertaken was ill-conceived and costly—$15.3 million worth. The formal reply of the Department of the Navy recognized this problem when it stated:

> The findings of the subject report are correct. The recommendations provided are concurred with in principle and their intent can be accommodated by normal internal procedures.

A result of this carelessness, of course, was to increase needed accessions by some 5,000 to 10,000 during the crucial transition year ahead. Translated, the Marine Corps has made it more difficult and expensive for itself to attract and retain sufficient volunteers in the non-draft situation to begin July 1973. The attrition rate is now back to normal.

The Navy has had its failures as well, I am sorry to report. While the Army, Marine Corps, and Air Force have all achieved over 95 percent of their goals for increasing recruiter strength, the Navy, as of February 29, 1972, had achieved only 68 percent of its programed increase. Tied with that, of course, is the fact that the Navy for the last 6 months has missed its recruiting goal.

The Army over a year ago initiated a series of enlistment options, which aided it in achieving a substantial increase in the number of enlistees into the combat ranks. It was just this month, March 1972, that the Navy has evidenced its willingness to adopt strong measures to attract the needed men by creating two new enlistment options—to go into effect later this year. Such delay is surprising when it has been known for a long time that the Navy will face an extraordinarily high demand for accessions during fiscal year 1973—for only a 1-year period.

The Navy has, to be sure, bolstered its already personnel-oriented policies. But, retention is not the only element in maintaining a volunteer force. What is obviously missing, as the recruiting statistics show, is an energetic drive to obtain needed recruits—an effort which can be accomplished in tandem with improved manpower policies for retention. I think more can be expected of the Navy.

Assistant Secretary of the Army for Manpower and Reserve Affairs Hadlai Hull recently made the following statement:

> I am sure that to many outside the Army, some of the policies and actions we are taking this year appear at least to contradict other policies and actions, and often look insane. For example: we are releasing people six months early at the same time we are spending money on advertising and on expanded recruiter programs to attract people to join the Army; we are forcing people out of the Army—both officers and enlisted men—at the same time our goal is a zero draft Army; we have made it more difficult to get into the Army at the same time we are seeking more enlistments.

After nearly 12 years on the Armed Services Committee in the House, I can appreciate the complexity of the manpower questions facing the Army. But, I must go beyond Secretary Hull's statement and indicate that I believe that some of the policies the Army has adopted are in fact contradictory, not simply appearing contradictory.

In its efforts to increase the number of true volunteers in the forces, the Army is sacrificing the services of men already trained, even when only 6 months remains of their obligation, and they are expected to leave at that time. Some early-out policies have made the transition years more difficult, not less.

In its efforts to improve the quality of the serviceman, the Army has adopted the belief that this must be done overnight, rather than over a 2- or 3-year period. Sudden increases in standards will always be more difficult to absorb than a steady, programed increase.

Today's standards for enlistment into the Army are the highest they have ever been. And, while it is ineffective to have underqualified personnel in military positions, it is equally inefficient and costly to demand that an overqualified person maintain the same enthusiasm as someone more fitted to the job

In any event, the severe burden already on the recruiter is only magnified by such policies as giving no credit to the recruiter towards his quota for any non-high-school graduate in the lower mental groups—groups III and IV. The result is that recruiters do not look at any non-high-school graduates for fear of wasting their time even when the applicant may well be qualified for groups I or II—the highest mental groups.

It is impossible to judge the potential high-quality true volunteers who are denied entry into the services because of this carelessly adopted policy. If each Army recruiter were to miss just two men during the coming year, as a result of this policy, we will have 12,000 fewer volunteers than we should have. I find it hard to understand that with all of the testing and retesting that the services undertake, a more sophisticated direct approach cannot be adopted to weed out the undesirable, rather than a broad-brush, class approach.

Finally, in its efforts to reduce the size of the Army to congressionally mandated levels, the Army has gone the easy route and adopted a policy of limited entries now—and protection for as many of the senior men as possible. Chairman STENNIS himself has indicated that the force structure is currently a bit top-heavy. It is my understanding that we now have a higher proportion of high-ranking officers in the service than we did in World War II.

Trimming down forces is always a difficult task, but no one can deny that with a reduction in the Vietnam conflict, it was perfectly clear that a return to pre-Vietnam levels of forces was in store. The reduction cannot come as a surprise to many, although it may be inconvenient to some. Connected with its efforts to reduce the size of the force, is evidently the Army's policy to keep at a minimum the number of prior servicemen who are reenlisted into the service from the civilian sector.

Just last week, two more victims of such a policy—residents of Vermont—came to my attention. Both gentlemen had served satisfactorily in the military. Rather than reaccept these men at the E–4 or E–5 ranks, the Army had chosen to take two raw recruits—or in April, May, and June, two draftees—who will need full training and who offer no promise of making the service a career, which the two men above evidenced.

If, in fact, the military occupational specialties, which these men offer are ones which can be used by the services at the low level of E–4 or E–5—a rank achieved in almost no time by a raw recruit—then these men should have been reaccepted. All of the facts are not yet known in these cases, but they do point up a need for reexamination of a policy which, if it is as it appears, is making it more difficult and costly for the Army to acquire the men it needs under a no-draft situation.

I do not in any way infer that deliberate mismanagement is the cause for the problems I mention. What I do suggest is that extreme care must be taken during the next year to insure that a repetition of our experiences in 1947 and 1948 does not take place. We cannot afford carelessness in any areas, but certainly not in manpower accession and retention policies during this transition period. We cannot either increase the costs nor make more difficult our task as we move toward June of 1973 when the draft ends.

ROLE FOR CONGRESS FOR 1972

The Congress has certainly met much of its responsibility toward a volunteer armed force. I think the efforts taken by the chairmen of both the House and Senate Armed Services Committees has been exemplary.

Last year, we had weeks of hearings in open session on the desirability and feasibility of the volunteer armed force. The committees recommended and the Congress accepted a full program to give the volunteer force concept a fair trial.

The Congress took a dramatic step in increasing the pay of first-term servicemen, bringing their compensation up to a level roughly comparable to civilian counterparts. That move toward equity was long overdue, as we all knew. And, by doing this, we removed the single greatest obstacle to enlistment—a serious financial sacrifice piggy-backed onto sacrifices of time, strenuous work, and separation from families, to name a few.

Other measures passed as well. Increased scholarships for officers, provision for out-of-pocket expenses for recruiters, special pay for optometrists and special pay for combat arms enlistment were designed to achieve certain specific goals for the attraction of volunteers to the services.

What the Congress has done, in my opinion, and I have looked at this issue in some detail, is to insure an all-volunteer armed force in normal conditions.

There remains, to be sure, what I would call technical adjustments needed to insure a smooth move to a volunteer force. Essentially, these adjustments fall into two categories: The need for a smooth transition in the next couple of years to a steady State volunteer system, and the guarantee of a highly skilled class of applicants for military occupations which require superior technical ability.

I would like to discuss each of these points in turn.

First of all, and most important, is the necessity for putting the transition period—essentially the next couple of years—into perspective. If there is one fact which must stay in the forefront of everyone's mind as we move to an all-volunteer armed force it is that the requirements for new recruits over the transition period will be higher than they will be in a steady state all-volunteer force. In other words, it is necessary that more men enter the military services during fiscal year 1973 and part of fiscal year 1974 than will be required after that time.

In fact, during the transition period, required accessions will exceed those of the fiscal year we are now in. The army, for instance, will need approximately 20 percent more men during fiscal 1973 than it did during fiscal 1972.

One way of looking at this problem is to examine the proportion of the qualified males reaching 19 who are required for military service. The number during fiscal year 1973 for instance is approximately 50 percent of those who are qualified—remembering the artificially high standards now in effect. For a steady State force, that percentage drops to approximately 30 percent with the same standards.

The reasons for the higher needs during a transition period are clear:

First. Draftees and draft-motivated enlistees who enter during the prevolunteer-Army period will be leaving at a steadily high rate;

Second. Increased pay and changed conditions of service life will not have fully reached their effectiveness in attracting enlistees;

Third. The effects of the increase in the recruiting establishment fully realized as recruiters will still be relatively new in their territories and relatively inexperienced;

Fourth. There will be fewer males turning 19 in the transition period than the period following as the population continues to grow, a higher percentage of 19-year-olds will be required now;

Fifth. The full effects of capital-labor tradeoffs—the substitution of machines or equipment for men—will not be reached during the transition period, thus requiring in the shortrun a larger total force level;

Sixth. Training will still be required for more men, necessitating a larger training establishment and its concomitant support service;

Seventh. Management policies during this last several months during the reduction-in-force squeeze has been less than optimum, as suggested earlier, thus requiring more men than would otherwise have been necessary;

Eighth. The falloff in draft-motivated personnel has been, as was expected, more rapid than the increase in the supply of volunteers.

What is needed to insure that sufficient men enlist during the transition period is a mechanism which can be turned on and off. A most effective means of attracting men, under the circumstances, would be another across-the-board pay raise, as Senator ALLOTT has already indicated. It would be necessary to raise pay a significant amount simply to attract a high number of men during the coming years. Not only is an across-the-board raise a continuing expense, we would be paying everyone a higher rate than necessary to attract certain select categories of men.

In economists' terms, we need a cost-effective program that will put the money where the need is, but will not create a continuing expense when the demands of the transition period are past.

That tool is essentially the program we have outlined today. A special pay system was created to accomplish in part the capability of being spent when needed—during the transition period ahead—but also capable of being stopped when no longer needed.

The second category of technical adjustment to assure the success of the volunteer armed force with the best use of the dollar is a mechanism to meet the requirements for certain highly skilled men. The essential element here is that while the pay raises we passed last year are generally sufficient, they may not be for certain categories of high-aptitude men.

On the one hand we have a civilian economy which competes for highly skilled personnel by offering higher wages; and on the other hand, we have the military pay system which is frozen at grade level and length of service.

There is no way that the military system adequately recognizes the fact that certain jobs are more demanding and require more technical skill than others.

The civilian sector works on a wage-differential system, paying the man for the job he does, not for the length of time he has worked during his livelihood. The military does not. But, if it is going to compete effectively with other industry, then it must at least have the ability to recognize that there are certain jobs which demand more than others. Our special pay package is designed, in conjunction with the transition needs just outlined, to accomplish that goal.

Let me give a more specific example.

The Air Force during fiscal years 1972–74 will require about 28 percent of their total accessions in the electronic area. The Navy will need about 16 percent of its new recruits for nuclear power and advanced electronics training. The Army and Marine Corps have slightly smaller requirements of high aptitude personnel.

Not all of these men, of course, would need a special pay incentive to enlist. Many enlist simply for the valuable training experience. But, some skills are so scarce in the civilian sector that the added requirements of military life prevent the services from competing adequately.

What is needed is a special pay system which will recognize the job differential and serve to be the catalyst for attracting sufficient numbers in these select occupations. The skills are liable to change over time as well, and any authority should be designed to minimize excess cost. In fact, cost-effectiveness can be achieved by a program which permits the application of the special pay offered at one time and later withdrawn if it is found that it is not needed.

The special pay should also be designed to insure that the individual receiving it is not under the impression that it is a continuing pay—it should be in exchange for a specific number of guaranteed years of service. The program in this legislation is designed to do just that.

The strengths of this specific legislation are many:

First. The legislation meets the goal of insuring that the transition period will be smooth. It is fully expected that sufficient personnel to meet our national security needs will be attracted without the need of the draft and that this legislation is in fact an insurance policy.

Second. The legislation meets the goal of providing a tool to the Department of Defense to attract individuals in certain highly skilled occupations where the supply is short both in the civilian and military sectors.

Third. The legislation is designed to focus on the decision process of the individual where it can have its greatest effect, or as the economists would call it, its highest elasticity. The special pay is offered and agreed upon at the time of the decision.

Fourth. The legislation meets the goal of being the most cost-effective tool because the lump sum or installment payments can be turned on and shut off so that it will apply only for that length of time or to those skills where it is needed. This is preferable to an across-the-board pay raise which is on the books forever.

Fifth. The legislation develops for the first time in a comprehensive way, a recognition of a job differential compensa-

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tion—that system which is most effective in competing with the civilian sector and which is most cost-effective in terms of the national budget.

Sixth. The legislation entails no run-out costs, as do some current programs, and thus enhances its cost-effectiveness. Proficiency pay in today's service, for instance, provides for a reduction by 25 percent per year over the 4 years after a certain skill has been removed from the proficiency pay list. This is a costly system, but the only one which is fair to a serviceman who has been receiving the pro pay for several years in order to prevent a sudden drop in his standard of living. This is not the case with the special pay system in this legislation. Upon making the decision, the recruit knows how long he will have to serve in exchange for his special pay.

Seventh. Most important, the legislation is probably the final new piece of compensation legislation that will be needed, other than regular cost-of-living increases. Combined with the major across-the-board pay raises of last year, this legislation will provide the Department of Defense with every tool in the compensation area that it needs in order to attract and sustain a volunteer force, even during the difficult transition years. There will be no reason to extend the draft, nor will there be any reason to provide further compensation tools.

Eighth. Finally, the legislation is a full package. To be extravagant, it might be called synergistic, in that all of its parts relate to a more useful whole. The system of special pay is designed to cover the full scale of needs anticipated. It does not omit a single item from the full package concept.

The distinguished Senator from Colorado has discussed the various components of the program in some detail. I might add that a significant amount of careful staff work went into this legislation. The staff of the Assistant Secretary of Defense has been most helpful every time we turned to them for further information. The technical expertise they made available is most appreciated.

It is my hope that early consideration of this bill will be a possibility. The transition years are upon us very shortly, and it would be most desirable to have this legislation in effect by the time the summer recruiting months begin.

By Mr. TOWER:

S. 3411. A bill to facilitate Federal ship mortgage insurance for drydocks and drilling vessels. Referred to the Committee on Commerce.

Mr. TOWER. Mr. President, this bill would amend title XI of the Merchant Marine Act, 1936, so as to facilitate the construction, reconstruction, or reconditioning of floating drydocks and drilling vessels in U.S. shipyards by increasing the maximum percentage of "actual cost" of these vessels which may be insured by the Secretary of Commerce from 75 to 81½ percent.

The bill would not change present law as to the types of vessels eligible for insurance nor any other eligibility requirements. Its only effect would be to permit construction loan and mortgage insurance of up to 87½ percent rather than 75 percent for drydocks and drilling vessels so to facilitate their construction through private financing. This extension of the 87½ percent limit to these vessels will simply conform the provisions of title XI of the act to place all large nonsubsidized vessels on the same footing.

The availability of private capital for the financing of these vessels is now being impeded by the deficiency in the act to which this bill is directed. Its enactment would be most timely as one step in the effort to revive U.S. commercial shipbuilding to the degree necessary to meet the challenge of reduced dependence on Government subsidy. Only by taking all necessary legislative and administrative steps to assure an environment which will make construction and repair of U.S. yards attractive, will this goal be accomplished.

As the Commission on American Shipbuilding recently noted in a letter to the President on the environment in Japan which has made their current prominence in shipbuilding possible, their environment has been shaped by governmental encouragement, careful monitoring, and support, mostly in the form of financing, credit and tax devices designed to attract contracts. The Commission found that these devices have generated a continuity of workload in Japan which, in turn, has first, insured a stable level of shipyard operations, second, enabled an expansion of national capacity, and third, produced a favorable economic climate for shipbuilding.

Obviously, enactment of the bill will not of itself solve the problem of how to keep our shipbuilding and ship repair industry in a healthy condition. But as a step it is important.

From a shipbuilding point of view it should be noted that drilling vessel technology had its birth in the United States. It was not until early 1966 that the first major vessel of this category was delivered by a foreign shipyard—a $6 million vessel delivered by a Netherlands yard. The attached review recently issued by the Shipbuilders Council of America of the order book throughout the world for these vessels indicates that the United States no longer is alone in this field.

As for ship repair yards that would acquire the floating drydocks covered by the bill, the increased insurance coverage is of vital significance. The trend over the past decade is toward larger and larger ships in our merchant marine. Deadweight tonnages of over 200,000 tons make it impossible for maintenance and repair requirements to be handled by few presently available facilities. While it is true that there are a number of fixed facilities that can handle the repair and maintenance of these large vessels, they are for the most part allocated or potentially allocated to the construction of new naval and merchant ships.

It is known that a number of large drydocks are being contemplated for construction by U.S. shipyards at the present time. However, final decisions to go ahead are being withheld. Due to the very large fixed capital investment, it is imperative if floating drydocks are to be built that there be financing available at the lowest possible cost. Recent reductions in ship repair volume have accentuated the problems and pinpoint the need for enactment of the bill.

I ask unanimous consent that the table showing current orders for drilling rigs be printed at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WORLD ORDERBOOK FOR DRILLING RIGS

Shipyard	Type	Number	Amount (approximately)
United States:			
Avondale, Bayou Black, La	Semisubmersible	5	$104,000,000
Bethlehem, Baltimore, Md	do	1	16,000,000
Bethlehem, Beaumont, Tex	do	4	78,000,000
Do	Jackup	1	11,000,000
LeTourneau, Brownsville, Tex	Semisubmersible	4	76,000,000
Do	Floating	1	25,000,000
LeTourneau, Vicksburg, Miss	Jackup	7	66,000,000
LeTourneau Mar., Corpus Christi, Tex	do	1	10,000,000
Levingston, Orange, Tex	Semisubmersible	4	86,000,000
Do	Floating	1	10,000,000
Do	Jackup	1	10,000,000
Sun Shipbuilding, Chester, Pa	Floating	1	40,000,000
U.S. total		31	532,000,000
Foreign:			
Halifax, Nova Scotia, Canada	Semisubmersible	2	$37,000,000
Anders, Finland	do	1	20,000,000
C.F.E.M., France	do	2	40,000,000
Castella, Italy	Floating	1	14,000,000
Mitsubishi, Japan	Semisubmersible	1	15,000,000
Do	Jackup	1	15,000,000
I.H.C., Netherlands	Floating	1	14,000,000
Akers, Norway	Semisubmersible	4	81,000,000
Nylands, Norway	do	1	12,000,000
LeTourneau, Singapore	Jackup	2	18,000,000
Bethlehem, Singapore	do	2	20,000,000
Barreras, Spain	Semisubmersible	2	32,000,000
Foreign total		20	318,000,000
World total		51	850,000,000

Note: Principal source is Ocean Oil Weekly Report.

Mr. TOWER. Mr. President, I have been concerned for some time about the state of the merchant marine and the American shipbuilding industry. In 1966, I introduced a bill calling for a complete study leading to the revitalization of this strategic part of America's industrial capacity. In 1968, working with then Candidate Nixon, I worked on formulating the program, first unveiled in Seattle, which led to the Merchant Marine Revitalization Act of 1970. This measure has become the cornerstone of this administration's pledge to give the American shipbuilding industry the necessary tools to revitalize itself. The industry, I might add, has so far responded quite well to the challenge.

In this bill, Mr. President, we are extending certain new incentives to the drydock and drilling vessel portions of the shipbuilding industry, which form an important part of this complex. I urge the Senate to give this matter its most careful consideration. It will not only help in our overall economic recovery at virtually no cost to the Government, but it will also help to create many new and lasting jobs in Texas and elsewhere in what should be a growing industry.

By Mr. WILLIAMS (for himself, Mr. BENNETT, and Mr. TOWER) (by request):

S. 3412. A bill to foster the development and implementation of an integrated system, to be privately owned and operated, for the prompt and accurate processing and settlement of securities transactions effected on national securities exchanges and in the over-the-counter markets, which will assist in assuring the proper functioning of the securities markets and which will be responsive on a nondiscriminatory basis to the needs of issuer companies, brokers, dealers, banks, and other members of the securities industry and the public investors. Referred to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES TRANSACTION PROCESSING ACT OF 1972

Mr. WILLIAMS. Mr. President, at the request of the Securities and Exchange Commission, I am introducing today a bill designed to give the Commission additional authority over the handling, processing and settlement of securities transactions. In presenting this legislation, I am joined by my colleagues, Senators BENNETT and TOWER.

The purpose of the proposed Securities Transactions Processing Act of 1972 is to avoid a recurrence of the paperwork crisis which plagued the securities industry from 1968 to 1970. To the same end, I introduced S. 3297 on March 6, 1972, on behalf of myself and Senators BENNETT, PROXMIRE, STEVENSON, and TOWER.

Both of these two bills look to the private sector to provide the technical know-how to streamline the handling of securities transactions. Both bills seek to provide the statutory basis for the development of an efficient national system for clearance and settlement of securities transactions, a system which will be responsive on a nondiscriminatory basis to the needs of the investing public. In order to accomplish these goals each bill requires clearing agencies and depositories to register with the SEC, and each would authorize the Commission to supervise the activities and practices of such agencies.

While the two bills are similar in approach, there are some variances. The Commission's bill, for example, would extend its regulatory authority to cover corporate transfer agents and registrars and would empower the Commission to make rules concerning the form of certificates issued by publicly held corporations. The bill which I authored deals with State transfer taxes which have posed a problem in developing a national system for clearance and settlement and would instruct the Commission to begin working toward selective elimination of the stock certificate.

As stated in its recent report, the Subcommittee on Securities intends to give sympathetic consideration to this legislation and to the other legislative proposals arising out of the SEC's Study of Unsafe and Unsound Practices of Brokers and Dealers.

Accordingly, it is my intention to schedule hearings on these two bills together with S. 2551, introduced by Senator ROTH, at the earliest possible date. Hopefully our consideration of these bills will result in legislation providing the Securities and Exchange Commission with the statutory tools and the responsibility to assure that the investing public will not have to endure another paperwork crisis.

Mr. President, I ask unanimous consent that the full text of this proposed legislation together with the Commission's transmittal letter of March 22, 1972, and accompanying statement in support of the bill be printed in the RECORD.

There being no objection, the bill, letter, and statement were ordered to be printed in the RECORD, as follows:

S. 3412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Securities Transaction Processing Act of 1972."

SEC. 2. Except as otherwise provided in this Act, the provisions of the Securities Exchange Act of 1934 (15 U.S.C., sec. 78a and fol.; hereinafter referred to as the "1934 Act") apply as if this Act constituted an amendment to, and was included as a section of, such Act.

SEC. 3. For the purposes of this Act—

(1) The term "clearing agency" means any person who engages in providing facilities or serves as a distribution point for brokers, dealers or others in accordance with a system (A) for comparison among participants of data respecting the terms of settlement of transactions in securities; (B) for netting of purchases and sales of securities among participants to reduce the number of settlements of transactions; or (C) for allocation of responsibilities for payment and delivery among itself and participants in connection with the settlement of securities transactions.

(2) The term "transfer agent" means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of the 1934 Act or of securities which would be required to be so registered except for the exemption from registration provided by paragraphs (2) (B) or (G) of subsection 12(g) of the 1934 Act, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities.

(3) The term "depository" means any person who acts as the custodian of securities in accordance with a system whereby: (A) securities so held may (i) be transferred among participants without physical delivery or (ii) be made the subject of a pledge or of a security interest by participants without physical delivery or (B) such custody otherwise plays an integral role in the settlement of securities transactions among participants.

(4) The term "participant" when used with respect to a clearing agency or depository means a person entitled to direct use of the services provided by such clearing agency or depository.

(5) The term "appropriate regulatory agency" means—

(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank, acting as a transfer agent;

(ii) the Board of Governors of the Federal Reserve System, in the case of a member bank of the Federal Reserve System (other than a bank referred to in subparagraph (i) above) or a subsidiary thereof, acting as a transfer agent;

(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof, acting as a transfer agent; and

(iv) the Commission, in the case of all other transfer agents and all depositories and clearing agencies, required to be registered pursuant to this Act.

The terms "clearing agency" and "depository" shall not include (1) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (2) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent or safekeeping functions commonly performed by them.

Section 4. (a) No person shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, in order to perform the function of a depository or clearing agency with respect to any security (other than an exempted security) or the function of a transfer agent, unless such person is registered in accordance with this section 4.

(b) The Commission may by such rules and regulations or orders as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from subsection 4(a) or from any rule or regulation under this section 4 any person, security or transaction or any class or classes of persons, securities or transactions.

(c)(1) Any depository or clearing agency may be registered for the purposes of this section by filing with the Commission a registration statement which shall contain the information and be accompanied by the documents, below specified:

(i) Such data as the Commission may by rules and regulations require as to performance capability, measures and personnel standards for safe handling and custody of securities and funds, operational compatibility of the depository or clearing agency

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with other persons involved in the securities handling process, and access to the services provided by such depository or clearing agency; and

(ii) Copies of its charter, bylaws or rules, and instruments corresponding thereto and manuals and forms relating to operations and custody of securities and funds.

Except as hereinafter provided, registration under this subsection (c)(1) shall become effective sixty days after receipt of the registration statement by the Commission or within such shorter period of time as the Commission may determine.

(c)(2) Any transfer agent may be registered for the purposes of this section 4 by filing with the appropriate regulatory agency a registration statement which shall state the address of its principal office or offices for transfer agent activities, the length of time it has been acting as a transfer agent, and the identity of the issuers and issues of securities for which it is then acting as transfer agent, and shall contain such other information in such detail as the appropriate regulatory agency may require as necessary or appropriate with regard to performance of transfer functions, measures and personnel standards for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process. Any transfer agent required to register hereunder with a regulatory agency other than the Commission shall file with the Commission a notice which shall state its name, the address of its principal office or offices for transfer agent activity, the identity of the issuers and issues of securities for which it is then acting as transfer agent and the name of the appropriate regulatory agency with which it is filing a registration statement.

Except as hereinafter provided, a registration of a transfer agent filed under this subsection (c)(2) shall become effective thirty days after the receipt of the registration statement by the appropriate regulatory agency or within such shorter period of time as such agency may determine.

(d) The appropriate regulatory agency shall, after appropriate notice and opportunity for hearing, by order, deny registration to any depository, clearing agency or transfer agent seeking registration under subsection 4(c) if it finds that such denial is in the public interest and that such depository, clearing agency or transfer agent does not have procedures or the means to be able to comply with the provisions of this Act and the rules and regulations promulgated thereunder.

(e)(1) Pending final determination whether any registration of a depository, clearing agency or transfer agent under this section shall be denied, the appropriate regulatory agency may by order postpone the effective date of such registration for a period not to exceed ninety days, but if, after appropriate notice and opportunity for hearing (which may consist solely of affidavits and oral arguments), it shall appear to such agency to be necessary or appropriate in the public interest or for the protection of investors to postpone the effective date of such registration until final determination, such agency shall so order.

(e)(2) Any person registered under this section 4 may, upon such terms and conditions as the appropriate regulatory agency may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with such agency. If such agency finds that any such registrant or such other person for whom a registration statement is pending, is no longer in existence or has ceased to do business as a depository, clearing agency or transfer agent, as the case may be, it shall by order revoke, deny or cancel the registration.

SEC. 5. No depository or clearing agency shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to participate in the processing or settlement of any transaction in a security (other than an exempted security) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate with regard to minimum standards for the performance of functions, measures and personnel other persons involved in the securities standards for safe handling and custody of securities and funds, operational compatibility of the depository or clearing agency with handling process, and reasonable non-discriminal access to the services provided by such depository or clearing agency.

SEC. 6. No transfer agent shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as transfer agent with respect to any security (other than an exempted security), in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate with regard to minimum standards for the performance of transfer functions, measures and personnel standards for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process.

SEC. 7. No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to participate in the settlement of any transaction in a security (other than an exempted security) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate for the efficient and expeditious handling and settlement of securities transactions.

SEC. 8. It shall be unlawful for an issuer, any class of whose securities is registered under section 12 of the 1934 Act or which would be required to be so registered except for the exemption from registration provided by paragraphs (2)(B) or (G) of subsection 12(g) of the 1934 Act, by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form of format contravenes such rules and regulations as the Commission may prescribe as necessary or appropriate for the prompt and accurate processing of transactions in such securities.

SEC. 9. (a) Every depository, clearing agency and transfer agent required to be registered pursuant to this Act shall file with the appropriate regulatory agency, in accordance with such rules or regulations as such agency may prescribe as necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder, such information and documents as such agency shall require to keep reasonably current the information and documents required to be included in or filed with the registration statement pursuant to section 4 of this Act.

(b) Every depository, clearing agency and transfer agent required to register pursuant to this Act shall make, keep, and preserve such accounts, correspondence, memoranda, papers, books, records and other data for such periods and shall make such reports and file such information and documents with the appropriate regulatory agency, as such regulatory agency by rules or regulations may prescribe as necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder. Such accounts, correspondence, memoranda, papers, books, records and other data shall be subject at any time or from time to time to such reasonable periodic, special or other examinations by examiners or other representatives of the appropriate regulatory agency as such regulatory agency may deem necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder.

SEC. 10. (a) The appropriate regulatory agencies shall consult and cooperate with each other and, as may be appropriate, with State banking authorities having supervision over banks toward the end that the accounts, correspondence, memoranda, papers, books, records and other data required of banks acting as transfer agents, depositories or clearing agencies and the inspections thereof, be in accord with sound banking practices and fulfill mutual regulatory needs to the extent practicable.

(b) Compliance with the requirements imposed by this Act shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C., sec. 1818) in the case of—

(i) national banks or banks operating under the Code of Law for the District of Columbia, or subsidiaries of any such banks, acting as transfer agents, by the Comptroller of the Currency;

(ii) member banks of the Federal Reserve System (other than banks referred to in subparagraph (i) above) or subsidiaries thereof, acting as transfer agents, by the Board of Governors of the Federal Reserve System; and

(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) or subsidiaries thereof, acting as transfer agents, by the Federal Deposit Insurance Corporation. For the purpose of the exercise by any bank regulatory agency referred to in this subsection (b) of its powers under section 8 of the Federal Deposit Insurance Act, a violation of any requirement imposed under this Act upon banks registered as transfer agents shall be deemed to be a violation of the requirements imposed under the Federal Deposit Insurance Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such bank regulatory agencies may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) All of the functions and powers of the Commission under the 1934 Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the 1934 Act. Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some bank regulatory agency under subsection 10(b), the Commission shall enforce such requirements.

(d)(1) The Commission may, after appropriate notice and opportunity for hearing, by order, censure or bar or suspend or place limitations upon any depository or clearing agency or any transfer agent, other than a transfer agent referred to in subsection 10(b), or any officer, director or employee of any such depository, clearing agency or transfer agent, or revoke the registration of any depository or clearing agency or any transfer agent, other than a transfer agent referred to in subsection 10(b), if the Commission finds that such censure, barring, suspension, placing of limitations or revocation is in the public interest or for the protection of investors and that such depository, clearing agency or transfer agent or any officer, director or employee thereof has willfully violated or is unable to comply with any provision of this Act or any rule or regulation promulgated thereunder pertaining to such depository, clearing agency or transfer agent or any officer, director or employee thereof.

(d)(2) If a proceeding under subsection 10(d)(1) results in the suspension or revocation of the registration of a depository or clearing agency, the Commission shall, upon notice to such depository or clearing agency, apply to any court of competent jurisdiction specified in section 27 or 21(e) of the 1934 Act for the appointment of a trustee. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the depository or clearing agency involved, and the books, records and assets thereof, wherever located; and the court shall appoint the Commission or its designated agent as the trustee who, with the approval of the court, shall have the power to take possession and to continue to operate or to terminate the facility in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

(e) The authority of the Commission to promulgate rules and regulations under this Act does not impair the authority of any other appropriate regulatory agency to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

SEC. 11. (a) Nothing in the Act shall impair the authority of any State banking authority with regard to its exercise of regulatory or supervisory oversight over banks performing depository, clearing agency or transfer agent functions. The Commission and the Federal bank agencies referred to in section 10 hereof shall take into consideration, with regard to their compliance and enforcement activities, any program of inspection, examination and enforcement carried out by a State banking authority reasonably designed to insure compliance by banks with the provisions of this Act and the rules and regulations promulgated thereunder and shall seek as an objective the avoidance of duplicate regulatory oversight and undue burden upon such banks.

(b) At least fifteen days prior to the issuance for public comment of any proposed rule or regulation regarding transfer agents pursuant to sections 6, 9(b) or 13, and prior to the adoption of any such rule or regulation, the agency contemplating issuance or adoption of any such rule or regulation shall first consult with and obtain the views of each of the other Federal agencies designated in this Act as having responsibility for compliance by transfer agents with the provisions of the Act.

SEC. 12. The portion of a registration statement of a clearing agency or depository which may contain information regarding its constitution or charter, by-laws, rules, schedule of charges, and interpretative bulletins pertaining thereto, and the portion of a registration statement of a transfer agent which may contain information regarding its rules and procedures, and any proposed amendments to any of the aforesaid items, shall be available for public inspection. All other portions of any registration statement of a clearing agency, depository or transfer agent and all reports, information and documents required by the appropriate regulatory agency of clearing agencies, depositories and transfer agents and correspondence between such agency and clearing agencies, depositories, and transfer agents, insofar as such correspondence does not relate to proposed amendments to their charters, rules and similar matters, shall be exempt from the disclosure requirements of title 5, section 552 of the United States Code, but the appropriate regulatory agency may upon a finding that it is in the public interest make available to any person or to the public generally such of the exempt materials as it deems appropriate, and any such regulatory agency shall make available to any of the other regulatory agencies, upon request, such information or materials as may be required by such agencies for the purpose of enabling them to perform their duties under this Act.

SEC. 13. The provisions of this Act or of any rule or regulation thereunder shall not apply to any person acting as a transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless he acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this Act.

SEC. 14. Determinations of the Commission, for purposes of making rules or regulations pursuant to section 5, 6, 7 or 8 shall be after appropriate notice and opportunity for a hearing, and for submission of views of interested persons, in accordance with the rulemaking procedures specified in section 553 of Title 5, United States Code, but the holding of a hearing shall not prevent adoption of any such rule or regulation upon expiration of the notice period specified in subsection (d) of such section and shall not be required to be on a record within the meaning of subchapter II of chapter 5 of such title.

SEC. 15. This Act shall become effective on August 1, 1972, except that sections 4(a), 5, 6, 7, 8 and 9 shall become effective on December 29, 1972.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., March 22, 1972.

The PRESIDENT of the Senate,
The Speaker of the House of Representatives.

GENTLEMEN: I have the honor to transmit to the Congress a draft of a proposed bill to give the Securities and Exchange Commission additional authority over the handling, processing and settlement of securities transactions, particularly as those functions may be performed by securities depositories, clearing agencies, transfer agents, registrars, brokers and dealers. In addition, the proposed bill confers upon the Commission the power to determine the form and format of the stock certificate. The ultimate objective of the bill is to provide a basis for the development of an efficient national system for clearance and settlement of securities transactions, a system which will be responsive on a non-discriminatory basis to the needs of the investing public. The proposed bill is accompanied by a statement in support of the requested legislation and a section by section analysis of the bill itself.

In December 1970 the Congress passed the Securities Investor Protection Act of 1970 which established a program to protect customers' securities and cash in the hands of a broker-dealer to the extent of $50,000 per customer. Concerned then with the perilous financial condition of many broker-dealers and that customer losses of the magnitude of those of the 1968–70 period might happen again, the Congress called upon the Commission to undertake a study of the unsafe and unsound practices of broker-dealers and to recommend to Congress additional legislation needed to eliminate unsafe and unsound practices which might be revealed by the study. Following this directive the Commission submitted to the Congress in December 1971 its "Study of Unsafe and Unsound Practices of Brokers and Dealers" which contained a recommendation to the Congress that the Commission be given additional authority in the area of processing of securities transactions. This proposed bill is an embodiment of that recommendation.

It was concluded in our Study of Unsafe and Unsound Practices that the serious operational problems experienced by the securities industry during the period under study, especially the industry's inability to accurately and promptly process customer transactions, evidenced a need for greater scrutiny and control by the Federal government. For example, the transfer agent function, an activity which presently falls without the regulatory jurisdiction of the Commission, was handled efficiently by some transfer agents and issuer companies acting as their own transfer agent, and they automated their systems to the extent practicable given the lack of uniformity existing in the processing of securities. Yet many of the transfer agents, including some of the largest, turned out a substandard performance and were significant contributors to the paperwork crunch of the 1968–70 period. The brokerage community experienced serious communication problems with transfer agents in the past involving three important areas. Confirmation of open transfer items by brokers have been difficult to obtain from transfer agents. Transfer agents which normally act as disbursing agents have not revealed the certificate number on which they are paying a broker interest on dividends. The transfer of ownership process was during the paper crunch and continues to be a time consuming process, resulting in some cases in impairment of the financial condition of a broker. The foregoing demonstrates a need for regulation of transfer functions.

Responsibility for the back office problems must also be shared by the broker-dealers themselves. Broker-dealers were not sufficiently automated and did not have adequate personnel to cope with the volume of transactions and the cyclical nature of the brokerage business. Their procedures were not uniform, and their systems failed to interface with transfer agents, depositories and others involved in the processing of securities transactions. The proposed bill gives the Commission broad authority over the "back office" area of broker dealers.

Depositories and clearing agencies are becoming increasingly more important in the processing of securities transactions. In the past two or three years they have grown rapidly, and several self regulatory organizations are planning to or have already implemented new clearing systems. Because these depositories and clearing agencies are operated by self regulatory organizations they are subject to the administrative jurisdiction of the Commission. Depositories or clearing agencies could, however, be established by entities other than those regulated by the Commission, and there are plans to spin-off the largest existing securities depository into a New York State trust company. It is the Commission's view that these vehicles are inextricably a part of the securities industry and should continue to be subject to the Commission's regulatory oversight. In fact, our objective of a single unified nationwide system for processing securities transactions probably could not be fulfilled if depositories were permitted to escape the ambit of the Commission's responsibility.

The proposed bill contemplates that the Commission will set standards and procedures with regard to these entities in four principal areas: performance, particularly accuracy and prompt handling and settlement of securities transactions; operational compatibility; policies for reasonably non-discriminatory access to the facilities; and standards for safety of cash and securities in the custody of these entities.

The bill as drafted contemplates that the standards reflected in the rules and regulations to be promulgated by the Commission would apply uniformly to each entity, whether that entity be a bank, a non-bank transfer agent, a broker or any other person subject to the legislation. Inspection and compliance with the provisions of this proposed bill and with rules promulgated thereunder by the Commission, in the case of banks performing transfer agent functions, would be undertaken by Federal bank regulators. The Commission would have primary responsibility for inspection and compliance with regard to non-bank transfer agents and all other entities sought to be regulated.

It is clear that modern communications and computer technology have now advanced to the point where the transfer of stock ownership, the payment therefor and the documents controlling and recording the transfer of ownership and payment can be dramatically simplified and improved. From the individual and disparate attempts to improve the handling of certificates and the process

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of clearance and settlement there have evolved the basic ingredients for an integrated nationwide system of securities clearance, settlement and delivery. What is needed now is a public entity with the authority to direct and accelerate the evolution of these private efforts toward the objectives recited as the beginning of this proposed bill. Accordingly this additional legislative authority sought by the Commission is respectively requested.

The Office of Management and Budget has advised us that the enactment of this bill would be consistent with the objectives of the Administration.

By direction of the Commission.

WILLIAM J. CASEY, *Chairman.*

STATEMENT IN SUPPORT OF REQUEST FOR AUTHORITY TO REGULATE SECURITIES DEPOSITORIES, CLEARING AGENCIES AND TRANSFER AGENTS

A principal conclusion of the Study of Unsafe and Unsound Practices of Brokers and Dealers, conducted by the Commission as mandated by the Securities Investor Protection Act of 1970 and submitted to the Congress in December of last year, was a need for additional authorization on the part of the Commission in the area of processing of securities transactions. It was demonstrated in that Study that the improvement and modernization of the systems for clearing, settling, delivery and transfer of securities was required in order to reduce the possibility of loss to customers of the type caused by the operational breakdown and paperwork problem of the 1969–1970 period.

It is submitted that increased regulation by the Federal government of the transaction handling process is necessary to insure that standardization and automation within the limits of technological feasibility can be accomplished as rapidly as possible and to oversee the development of a nondiscriminatory nationwide approach to the processing of securities transactions which will serve the needs of industry participants and the investment public. Inasmuch as the processing of securities transactions is an integral part of the business of the securities industry the Commission is in the best position to determine standards and procedures for the entities sought to be regulated.

The Commission now has jurisdiction over the broker-dealer community, investment companies, stock exchanges, securities associations, issuer companies (in certain respects), and subsidiaries of exchanges and securities associations which perform clearance, settlement and depository tasks. However, certain tasks, such as the transfer and registration of transfer of certificates, are not directly within the Commission's regulatory jurisdiction and even the depository and clearance functions would appear to be subject to direct regulation by the Commission only if performed by entities which are registered with it. Therefore, in order to ensure that the transaction handling process can be made to function equitably and efficiently as a whole, the Commission recommends the enactment of the accompanying proposed legislation known as the "Securities Transaction Processing Act of 1972."

Three types of entities, directly involved in the processing of securities transactions, fall under the regulatory provisions of this Act. The first, securities depositories, are relatively new and a growing phenomena involving the deposits of securities in a central depository and transfer of title by bookkeeping entry. These are presently owned and operated by stock exchanges but there are plans to permit ownership by other financial entities. Those presently having access to securities depositories are brokers, dealers and a few large banks. It is expected that other financial institutions will soon have access to depositories. The second, clearing agencies, are presently owned and operated by the securities exchanges and by the National Association of Securities Dealers. Clearing agencies act for brokers and dealers by transmitting and processing information, certificates and funds after the execution of a trade. They seek to achieve an efficient settlement of securities transactions by reducing the burden and cost of the settlement process. The third type of entity, transfer agents and registrars, act as agents to issuer companies and are responsible for maintaining records of ownership of stock certificates and for monitoring the issuance of securities with a view to preventing unauthorized issuance. To the extent an issuer company performed its own transfer and registrar tasks it would be subject to regulation in respect of that function similar to a transfer agent or registrar.

The Act would give the Commission authority to establish, by rules or regulations, performance standards, business practices and rules of entities performing transfer, depository and clearing functions. In detail, the four areas in which the Commission seeks authority to set standards and procedures regarding depository, clearing agency and transfer agent functions are:

(i) Performance standards, particularly with regard to accuracy and prompt handling and settlement of transactions.

(ii) Operational compatibility, with the objective of a national approach to integrated systems where each participant in the securities process would to the extent practicable interface with other participants.

(iii) Reasonable non-discriminatory access to securities depositories and clearing agencies.

(iv) Standards as to safety of cash and securities in the custody of these entities.

Any person performing depository or clearance functions with respect to any security (other than exempt securities as defined in the Securities Exchange Act of 1934) and any person performing transfer agent functions with respect to any security of an issuer company registered under the Securities Exchange Act of 1934 or which would be required to register except for exemptions provided by sections 12(g)(2)(B) and (G) of that Act, would have to register with the appropriate regulatory agency as defined in this Act. The information contained in the registration statements of these entities coupled with the inspection and reporting powers conferred by this Act upon the agencies having responsibility for enforcement would form a basis for a compliance program and for establishment of standards of conduct and procedures for the processing of securities transactions.

To the extent transfer functions are performed by national banks, banks insured by the Federal Deposit Insurance Corporation or banks which are members of the Federal Reserve System, the appropriate regulatory agency for enforcement of compliance by such banks or subsidiaries of such banks with the provisions of this Act would be the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, respectively. The Commission would have responsibility for enforcement of compliance with regard to all other persons performing transfer functions and all persons performing depository and clearance functions.

Insofar as banks may be subject to this Act regarding their activities in the processing of securities transactions, the Act requires consultation and cooperation between the Federal banking agencies, the Commission and State banking authorities. Programs of inspection and enforcement carried out by State banking authorities which are reasonably designed to insure compliance by banks with the provisions of the Act would be given recognition in order to avoid duplicate regulatory oversight and undue burden upon banks.

The Act further confers upon the Commission authority to promulgate rules and regulations regarding the handling and settlement of securities transactions by brokerdealers and the form and format of certificates for securities. This authority is deemed necessary for the implementation of a total systems approach to the handling and settlement of securities transactions.

There follows a section by section analysis of this proposed legislation:

SECTION 1. SHORT TITLE

The short title of the legislation is "Securities Transaction Processing Act of 1972."

SECTION 2. APPLICATION OF SECURITIES EXCHANGE ACT OF 1934

Section 2 of the bill provides that the provisions of the Securities Exchange Act of 1934 shall apply as if the legislation constituted an amendment to, and was included as a section of, that Act.

SECTION 3. DEFINITIONS

Section 3 of the bill defines, for the purposes of this legislation, the terms: clearing agency; transfer agent; depository; participant; and appropriate regulatory agency.

SECTION 4(a). REGISTRATION REQUIREMENT

Section 4(a) prohibits any person from making use of the mails or any instrumentality of interstate commerce in order to perform any function of a depository or clearing agency with respect to any security (other than an exempted security, as defined in Section 3(a)(12) of the Exchange Act) or of a transfer agent, unless such person is registered as provided in this legislation.

SECTION 4(b). EXEMPTIVE PROVISION

Section 4(b) authorizes the Commission, conditionally or unconditionally, to exempt from the registration requirement of this legislation any person, security or transaction, or any class thereof.

SECTION 4(c). REGISTRATION PROCEDURES

Section 4(c) provides for the registration of depositories and clearing agencies with the Commission upon the filing of a registration statement and certain corporate documents. Registration of depositories and clearing agencies would become effective sixty days after receipt of the appropriate materials by the Commission. Section 4(c) also provides for the registration of transfer agents with the appropriate regulatory agency upon the filing of certain materials. Where a transfer agent registers with a regulatory agency other than the Commission, it must also file a notice as to certain matters with the Commission. Registration of transfer agents would become effective thirty days after receipt of the appropriate materials by the appropriate regulatory agency.

SECTION 4(d). DENIAL OF REGISTRATION

Section 4(d) requires the appropriate regulatory agency to deny registration, after appropriate notice and opportunity for a hearing, to any depository, clearing agency or transfer agent if it finds that such organization does not have the procedures or the means to be able to comply with this legislation and the rules thereunder, and that denial of registration is in the public interest.

SECTION 4(e). POSTPONEMENT, WITHDRAWAL AND CANCELLATION OF REGISTRATION

Section 4(e) provides that the appropriate regulatory agency may postpone the effective date of registration of a depository, clearing agency or transfer agent for a period not exceeding 90 days, except that, upon notice and opportunity for a hearing, it can further postpone registration until a final determination has been made as to whether registration should be denied. Section 4(e) also provides that a depository, clearing agency or transfer agent may withdraw its registration upon such terms and conditions as the appropriate regulatory agency specifies, and that

the appropriate regulatory agency shall cancel registration of a person no longer in existence or which has ceased to do the business for which it was registered.

SECTION 5. REGULATION OF DEPOSITORIES AND CLEARING AGENCIES

Section 5 makes it unlawful for a depository or clearing agency to make use of an instrumentality of interstate commerce to participate in the processing or settlement of any transaction in a security (other than an exempted security) in contravention of rules prescribed by the Commission in the following areas: minimum standards for the performance of functions; measures and personnel standards for safe handling and custody of securities and funds; operational compatability of the depositories and clearing agencies with other facilities and participants in the securities handling process; and reasonable, non-discriminatory access to the services provided by depositories and clearing agencies.

SECTION 6. REGULATION OF TRANSFER AGENTS

Section 6 makes it unlawful for a transfer agent to make use of an instrumentality of interstate commerce to engage in any activity as a transfer agent with respect to a security (other than an exempted security) in contravention of rules prescribed by the Commission in the following areas: minimum standards for the performance of functions; measures and personnel for safe handling and custody of securities and funds; and operational compatibility of transfer agents with other facilities and participants in the securities handling process.

SECTION 7. REGULATION OF BROKERS AND DEALERS

Section 7 makes it unlawful for a broker or dealer to make use of an instrumentality of interstate commerce to participate in the settlement of any transaction in a security (other than an exempted security) in contravention of rules prescribed by the Commission for the efficient and expeditious handling and settlement of securities transactions.

SECTION 8. REGULATION OF THE FORM AND FORMAT OF SECURITIES

Section 8 makes it unlawful for an issuer to make use of an instrumentality of interstate commerce to issue, either originally or upon transfer, securities whose form or format contravenes rules prescribed by the Commission for the prompt and accurate processing of transactions, provided that any class of such issuer's securities are registered under Section 12 of the Exchange Act or would be required to be so registered except for the exemption from registration provided by paragraphs (2)(B) or (G) of subsection 12(g) of the Securities Exchange Act of 1934.

SECTION 9(a). UPDATING OF REGISTRATION STATEMENTS

Section 9(a) requires depositories, clearing agencies and transfer agents to file such information and documents with the appropriate regulatory agency as that agency may require to keep reasonably current their registration statements.

SECTION 9(b). BOOKS AND RECORDS

Section 9(b) requires depositories, clearing agencies and transfer agents to make, keep and preserve, such accounts, correspondence, memoranda, papers, books, records and other data, and to make such reports and file such information and documents, as the appropriate regulatory agency specifies by rule Such records and information shall be subject at any time to reasonable examination by the appropriate regulatory agency.

SECTION 10(a). COOPERATION IN REGULATION

Section 10(a) provides that the appropriate regulatory agencies shall consult and cooperate with each other and with State banking authorities with respect to the books and records (and the inspections thereof) required of banks acting as transfer agents, depositories and clearing agencies.

SECTION 10(b). ENFORCEMENT BY BANK REGULATORY AGENCIES

Section 10(b) specifies the appropriate authorities to enforce compliance with the requirements of this legislation in the case of banks acting as transfer agents. The appropriate authority is: the Comptroller of the Currency with respect to national banks and banks operating under the Code of Law for the District of Columbia, and their subsidiaries; the Board of Governors of the Federal Reserve System with respect to member banks of the Federal Reserve System (not regulated by the Comptroller of the Currency), and their subsidiaries; and the Federal Deposit Insurance Corporation with respect to banks insured by said Corporation (not members of the Federal Reserve System), and their subsidiaries. Enforcement shall be effected under Section 8 of the Federal Deposit Insurance Act, and any violation of this legislation by a bank registered as a transfer agent shall be deemed a violation of the Federal Deposit Insurance Act.

SECTION 10(c). ENFORCEMENT BY THE COMMISSION

Section 10(c) provides that the Commission shall enforce compliance with the provisions of this legislation except insofar as enforcement is specifically committed to one of the bank regulatory authorities. Enforcement by the Commission is authorized whether or not a person is engaged in commerce or meets any of the other jurisdictional tests in the Exchange Act.

SECTION 10(d). DISCIPLINARY ACTION AND APPOINTMENT OF A TRUSTEE

Section 10(d) provides that the Commission may, after appropriate notice and opportunity for a hearing, by order, censure or bar or suspend or place limitations upon any depository or clearing agency, or upon any transfer agent (other than a bank transfer agent whose compliance with this legislation is enforced by a bank regulatory agency), or upon any officer, director or employee of any of such organizations, if the Commission finds that such action is in the public interest or for the protection of investors, and that such organization has willfully violated or is unable to comply with any provision of this Act or rule thereunder. Where a disciplinary proceeding results in the suspension or revocation of registration of a depository or clearing agency, the Commission shall apply to a court of competent jurisdiction (as specified in Section 27 or Section 21(e) of the Exchange Act) for the appointment of a trustee, which shall be the Commission or its designated agent. The trustee, in such a situation, shall have the power to continue to operate, or to terminate, the facility in an orderly manner, subject to terms and conditions prescribed by the court.

SECTION 10(e). AUTHORITY TO ADOPT ENFORCEMENT PROCEDURES

Section 10(e) provides that the authority of the Commission to promulgate rules under this Act does not impair the authority of the other designated regulatory agencies to make rules respecting their own procedures in enforcing compliance with the Act.

SECTION 11(a). AUTHORITY OF STATE BANK REGULATORY AUTHORITIES

Section 11(a) provides that nothing in the Act shall impair the authority of any State banking authority with regard to its exercise of regulatory or supervisory oversight over banks performing transfer agent, depository or clearing agency functions.

Section 11(a) also provides that the appropriate regulatory agencies take into consideration, with regard to their compliance and enforcement activities, any program of inspection, examination and enforcement carried out by a State banking authority which is reasonably designed to comply with the provisions of this Act.

SECTION 11(b). CONSULTATION IN THE REGULATION OF TRANSFER AGENTS

Section 11(b) provides that before a proposed rule regarding transfer agents is issued for public comment, or is adopted, by an appropriate regulatory agency, such agency shall consult with the other Federal regulatory agencies having jurisdiction over transfer agents.

SECTION 12. PUBLIC INSPECTION OF REPORTS

Section 12 provides that certain portions of the registration statement of a transfer agent, depository or clearing agency filed with the appropriate regulatory agency shall be available for public inspection. All other portions of such registration statement, and all reports, information and documents required of such organization, and correspondence between such organization and the appropriate regulatory agency (not relating to a matter subject to public inspection) shall be exempt from the disclosure requirements of the Freedom of Information Act. Under Section 12, however, the appropriate regulatory agency is authorized to make available to any person, or to the public generally, such exempt material as it deems appropriate in the public interest, and it shall make available to any of the other designated regulatory agencies such exempted materials as they may require for the performance of their duties under this Act.

SECTION 13. EXTRATERRITORIAL APPLICATION

Section 13 provides that neither this Act nor the rules thereunder shall apply to any person acting as a transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless such person acts in contravention of rules prescribed by the Commission to prevent evasion of this Act.

SECTION 14. RULEMAKING PROCEDURES

Section 14 provides that determinations of the Commission for purposes of making rules under sections 5, 6, 7 and 8 of this Act shall be after appropriate notice and opportunity for hearing and submission of views of interested persons, as specified in the Administrative Procedures Act, provided, however, that the holding of a hearing shall not prevent the adoption of a rule upon expiration of the specified notice period and that such hearing shall not be required to be on a record.

SECTION 15. EFFECTIVE DATE

Section 15 provides that the registration requirements, the prohibitions, and the rulemaking powers of the appropriate regulatory bodies under the Act shall become effective on December 29, 1972, and that the other sections of the Act shall become effective on August 1, 1972.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 3413. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J. Referred to the Committee on Veterans' Affairs.

Mr. WILLIAMS. Mr. President, on behalf of myself and Senator CASE, I am sending to the desk for appropriate reference a bill which provides for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J.

This cemetery was established in 1862 for members and honorably discharged members of the U.S. armed services, their spouses, and dependent children. For these 110 years, it has been the only Fed-

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eral burial grounds for veterans in New Jersey.

There are nearly 1,100,000 veterans living in New Jersey, and I know that many of these men would cherish the honor of being buried in a national cemetery.

I understand, however, that Beverly National Cemetery has been closed to new burials since the end of 1965 and that the only burials which could be permitted involve Vietnam casualties in sites relinquished by wives of deceased veterans and the surviving spouse of a member already buried.

Furthermore, during this period, the hundreds of veterans who had sought plots in the Beverly National Cemetery for themselves and their families have been told that they could not be accommodated there but possibly they could be in Baltimore or on Long Island. Certainly this is an unrealistic alternative to burial near their home in New Jersey.

Since 1964, the New Jersey State Legislature has approved legislation to memorialize Congress to provide additional cemetery facilities in the vicinity of Beverly. In February 1967, a law was enacted which authorized the Government to provide for the acquisition of lands for national cemeteries. Under this law, cemeteries have been established in several States and in certain foreign countries. Unfortunately, this precedent set following the Civil War cannot be continued for lack of space. The bill I am introducing today authorizes the Secretary of the Army to expand the national cemetery in or near Beverly and to acquire by gift, purchase, condemnation, or otherwise, approximately 130 acres of land contiguous to or in the vicinity of the Beverly National Cemetery. The acquisition of this land should provide sufficient burial plots to accommodate interment needs of New Jersey's veterans through 1985.

It should be noted that there is land surrounding the Beverly National Cemetery which could be acquired to meet the provisions of the bill without having to tear down any buildings. Furthermore, there is an "in lieu tax" section in the bill which compensates the local communities for loss of tax revenues.

I have every hope that the Senate will take prompt action on this legislation to ease a serious problem for veterans in New Jersey.

I ask that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) the privilege granted members and honorably discharged members of the United States armed services, their spouse, and dependent children to be allowed to rest in peace in a national cemetery was bestowed by a grateful nation through various Acts of Congress;

(2) provision for the acquisition of lands for national cemetery purposes was made in an Act of February 22, 1867, which has permitted our Government to establish burial grounds on United States soil for interment of these deceased Americans since shortly after the American Civil War, as well as permanent military cemeteries abroad for the interment of deceased military personnel of World War I and World War II;

(3) the Beverly National Cemetery located on a site presently comprising approximately sixty-four and fifty-five one hundredths acres in Beverly, Burlington County, New Jersey, was established beginning in 1862 for these said purposes, and is now filled to capacity;

(4) the wars that have since followed and the present Vietnam conflict present a mounting shortage of grave plots in our national cemeteries, thereby weighing heavily on the present administration's policy advocating the non-expansion of the national cemetery system;

(5) in testimony to the accelerated demand for grave plots in our national cemetery system, the Beverly National Cemetery during the last two years of its functional service burials had increased to approximately two thousand and seven hundred interments per year;

(6) throughout the past decade many nationally chartered veterans organizations have adopted formal resolutions expressing their concern with this long standing problem at Beverly National Cemetery, officially petitioning State and Federal officials to have the situation remedied by the Government's purchase of additional available and suitable land in the immediate vicinity of the present national cemetery at Beverly;

(7) the New Jersey State Legislature has memoralized the Congress for the past decade to purchase additional acreage surrounding the Beverly National Cemetery;

(8) it is estimated that at a reasonable rate of burials averaging two thousand five hundred per year approximately one hundred thirty acres of land will be necessary to sustain and keep open the Beverly National Cemetery for the next twenty years;

(9) the increasing demand and fierce competition for the use of land throughout our Nation will continually diminish the supply and tend to increase the cost of public acquisition of lands available and appropriate for national cemetery purposes;

(10) it is also recognized that the acquisition of additional land by the Federal Government for public use may cause an undue financial burden on the local tax structure and taxpayers of the area and that there is rich wisdom in softening any sharp and severe impact of an immediate loss of tax ratables to the local communities and citizens in the vicinity of the Beverly National Cemetery; and

(11) the Federal Government must act now to acquire lands as are now available and appropriate for the expansion of the Beverly National Cemetery so that they may be used and preserved for use for such purposes.

SEC. 2. That the Secretary of the Army is authorized and directed (1) to expand the national cemetery in or near Beverly, Burlington County, New Jersey, and (2) to acquire by gift, purchase, condemnation, or otherwise, approximately one hundred thirty acres of land contiguous to or in the vicinity of the Beverly National Cemetery to provide sufficient burial plots to accommodate interment needs of our veterans at the Beverly National Cemetery through the year 1985.

SEC. 3. (a) To the end that municipalities may not suffer loss of taxes by reason of the acquisition and ownership by the Federal Government of property under the provisions of this act, the Federal Government shall pay annually on October 1 to each municipality in which property is so acquired for a period of thirteen years following such acquisition the following amounts: In the first year a sum of money equal to that last paid as taxes upon such land and the improvements thereon for the taxable year immediately prior to the time of its acquisition, and thereafter the following percentages of the amount paid in the first year, to wit, second year 92 per centum; third year, 84 per centum; fourth year 76 per centum; fifth year 68 per centum; sixth year 60 per centum; seventh year 52 per centum; eighth year 44 per centum; ninth year 36 per centum; tenth year 28 per centum; eleventh year 20 per centum; twelfth year 12 per centum; thirteenth year 4 per centum.

(b) All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of the said municipalities, and to accomplish this end such sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

SEC. 4. The Secretary of the Army is authorized and directed to provide for the care and maintenance of the lands acquired under the authority of this Act as a part of the national cemetery system.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. STEVENSON:

S. 3414. A bill for the relief of Alexandria Nicholson. Referred to the Committee on the Judiciary.

Mr. STEVENSON. Mr. President, I am pleased to introduce today a bill for the relief of Alexandria Nicholson of Rockford, Ill. This 14-year-old girl, who has lived in this country since July 1957, is the AAU National Champion Trampolinist and under ordinary circumstances would be a leading contender for a key position on the U.S. 1972 Olympic team. She will not be allowed to compete for such a position, however, because her family has not yet obtained American citizenship.

The people of Rockford have long had the good fortune of being served by Alexandria's father, Dr. Merickston Nicholson, a native of Trinidad. They are proud of Alexandria's fine record and would like to see her represent this country in the Olympics at Munich this October.

The only factor which prohibits Alexandria from becoming naturalized before the preliminary competition in June is the fact that her family did not obtain official permanent residence status until 1971. Alexandria, who has been in this country from the age of 3 months, is an American by upbringing and will certainly be eligible for naturalization in the future. I have introduced this bill on her behalf, however, to accelerate this process and allow her to obtain citizenship in time to participate on behalf of the United States in 1972. I am hopeful that with the cooperation of the Immigration and Naturalization Service and the Senate Committee on the Judiciary, we will be able to give Alexandria the opportunity, for which she has worked hard, to enhance our country's Olympic record.

By Mr. HRUSKA (by request):

S. 3415. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I send to the desk for introduction a bill to authorize U.S. magistrates to use the probation provisions of the Youth Corrections Act. This introduction is made at the request of the Acting Attorney General on behalf of the Department of Justice.

I ask that the bill be appropriately referred. Further request is made that at the conclusioin of these remarks the text of the bill and the text of Mr. Kleindienst's transmittal letter be printed in the RECORD.

This proposal is a very simple technical change which would permit Federal magistrates to use the probation provisions of the Youth Corrections Act, 18 U.S.C. 5010(a)—relating to sentence—and 18 U.S.C. 5021(b)—relating to the issuance of a certificate setting aside the conviction. Use of these provisions is presently limited to Federal judges. The extension of this authority to magistrates would result in uniformity of treatment as well as speeding the work of Federal district courts. The complete terms of the bill are adequately explained in the transmittal letter.

It is my hope that the Judiciary Committee will have an early opportunity to consider the merits of this proposal.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That section 3401 of title 18, United States Code is amended by adding at the end thereof the following:

"(g) A United States Magistrate shall have the power to suspend the imposition or execution of sentence and place a youth offender on probation under the provisions of section 5010(a) of this title. The provisions of section 5021(b) of this title shall apply to probation granted under this subsection."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 23, 1972.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal to amend section 3401 of Title 18, United States Code, to authorize United States Magistrates to use the probation provisions of the Youth Corrections Act.

The Federal Magistrates Act, 18 U.S.C. 3401, authorizes magistrates to grant probation to persons they try and, when approved by a district judge, to use the probation service of the district court. However, magistrates are not authorized to grant probation to youthful offenders under the provisions of the Youth Corrections Act.

A youthful offender charged with a felony offense may be granted probation by the district court under the Youth Corrections Act; if he is unconditionally discharged prior to the expiration of the maximum period of probation his conviction is set aside. Fairness in the use of probation as a rehabilitative measure requires that the same opportunity to have a conviction set aside be given to the youthful offender who is convicted of a minor offense by a magistrate as is given one convicted of a felony in the district court and sentenced under the Youth Corrections Act.

This proposed legislation would authorize United States Magistrates to grant probation under the Youth Corrections Act to youthful offenders who are convicted of minor offenses. It would also provide that the conviction shall be set aside if the offender is unconditionally discharged from probation prior to the expiration of the maximum period of probation fixed by the magistrate.

We urge the early consideration and enactment of this measure which we believe will contribute to the successful rehabilitation of young offenders.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Acting Attorney General.

By Mr. THURMOND:

S. 3416. A bill to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces and who are in a missing status to accumulate leave without limitation, and for other purposes. Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, one of the most distressing problems our country has ever faced is the prisoner-of-war and missing-in-action tragedy. In my judgment, our country must be relentless in resolving this problem.

Meanwhile, there are many actions our Nation can take to provide for their welfare when repatriation becomes a long sought reality. This is one small way a grateful nation can express its humble gratitude for their courageous sacrifice and the incredible anxiety being experienced by their loved ones.

Mr. President, I hope our Nation is well prepared to receive these brave men who have endured inhumane treatment. In this connection, there are measures our Congress can take in behalf of their welfare and the welfare of their families when these men return to America. Some legislative action has been taken, but there are other actions that must be taken by the Congress.

One of these measures is to insure that the transition from imprisonment, or missing in action, to civilian life or continued military service, reflects the deep feeling all Americans have for these men.

Mr. President, in this connection, I would like to introduce legislation which will guarantee a relaxation and rehabilitation period of transition. As the law and regulations now stand, many of our soldiers, sailors and airmen could be deprived of over 200 days of leave because of their imprisonment by the enemy, or missing in action. Today, I am introducing legislation to prevent this loss of leave which will be a practical method to help during the transition period.

Mr. President, the purpose of this bill is to allow a military member who is captured or missing in action to accumulate leave in excess of the maximum of 90 days now provided in law, and to authorize payment for this accumulated leave as soon as possible after the member's return. The bill, if enacted, would allow members officially carried by the Department of Defense in a status of missing, missing in action, interned in a foreign country, captured, beleaguered, besieged by a hostile force, or detained in a foreign country against his will to accumulate leave without limit while in this "missing status." In addition the bill would provide payment for all unused leave in final settlement of a deceased military member's accounts, without regard to the existing 90-day limitation, provided that the member dies while in a "missing status."

The proposed effective date of the bill is February 28, 1961. This date was selected in order that the benefits might be extended to all members who enter "missing status" incident to duty in Vietnam; however, the benefits of the bill are not restricted to any particular geographical location but cover all who are officially designated as "missing."

As my distinguished colleagues know, many of our prisoners of war have been missing for 6 years, some for a longer period. These men would have been permitted to take annual leave of 30 days for each year of their active duty service had they not been prisoners of war.

Mr. President, unless the authority contained in this bill is enacted, our country will not be able to compensate our prisoners of war for the loss of the leave to which they are entitled and would enjoy under normal circumstances. I urge early consideration and enactment of this bill to avoid compounding the hardships and inequities which these brave men and their families continue to suffer.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2013

At the request of Mr. THURMOND, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2013, a bill to amend chapter 21, of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans.

S. 2467

At the request of Mr. HOLLINGS, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of S. 2467, a bill to amend the Natural Gas Act.

S. 2956

At the request of Mr. JAVITS, the Senator from New Jersey (Mr. CASE) and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2956, the War Powers Act.

S. 3297

At the request of Mr. WILLIAMS, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 3297, the Securities Industry Paperwork Modernization Act.

S. 3382

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3382, the Gifted and Talented Children's Education Assistance Act.

S. 3394

At the request of Mr. DOMINICK, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3394, a bill to legalize the ownership of gold.

SENATE JOINT RESOLUTION 200

At the request of Mrs. SMITH, the Senator from Tennessee (Mr. BROCK), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Joint Resolution 200, proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress.

SENATE JOINT RESOLUTION 215

At the request of Mr. MANSFIELD, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 215, proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States.

SENATE JOINT RESOLUTION 216

At the request of Mr. WILLIAMS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Joint Resolution 216, to establish a Commission on U.S. Participation in the United Nations.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED PROVIDING ADDITIONAL FUNDS FOR THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

S. RES. 286

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $40,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED RELATING TO THE PRINTING AND DISTRIBUTION OF LEGISLATIVE PROCEEDINGS EULOGIZING THE LATE SENATORS HAYDEN, ROBERTSON, AND HOLLAND

(Ordered to be placed on the calendar.)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 287

Resolved, That the legislative proceedings in the United States Congress relating to the deaths of the former Senator from Arizona, Mr. Hayden, the former Senator from Virginia, Mr. Robertson, and the former Senator from Florida, Mr. Holland, ordered to be printed by the Senate on January 26, 1972, as separate Senate documents, be printed and distributed, except to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses, on behalf of Members of Congress dying in office, are printed under sections 723 and 724 of such title.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 230

At the request of Mr. KENNEDY, the Senator from Utah (Mr. Moss) was added as a cosponsor of Senate Resolution 230, a resolution relating to underground nuclear weapons testing.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 998

At the request of Mr. CHURCH, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of amendment No. 998, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from South Dakota (Mr. McGOVERN), the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. Moss), the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. BYRD), and the Senator from New Hampshire (Mr. McINTYRE) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), supra.

NOTICE OF HEARINGS ON S. 3390

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations will hold hearings April 17–19 on S. 3390, the executive branch's proposal for authorization of foreign assistance for the 1973 fiscal year.

Secretary of State Rogers is scheduled to testify on April 17 and Secretary of Defense Laird on April 18. Public witnesses will be heard on April 19. The hearings will be held in room 4221 in the New Senate Office Building beginning at 10 a.m. each day. Persons wishing to submit statements should communicate with Arthur M. Kuhl, chief clerk of the committee, room S–116, the Capitol, telephone 225–4615.

I ask unanimous consent that certain tables which furnish information concerning the authorization request for military and related assistance be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SECURITY ASSISTANCE—SUMMARY OF PROGRAMS FOR FISCAL YEARS 1971, 1972 AND 1973

[In millions of dollars]

	Total obligational authority (fiscal year)			Net adjustments (fiscal year)			New obligational authority (fiscal year)		
	1971	1972	1973	1971	1972	1973	1971	1972	1973
Grant military assistance	$788.0	$545.0	$819.7	−$98.0	−$45.0	−$39.7	$690.0	$500.0	$780.0
Foreign military credit sales	743.4	550.0	629.0	−44.1	−150.0	−102.0	699.3	400.0	527.0
Security supporting assistance	573.0	583.1	874.5	−3.4	−33.1	−30.5	569.6	550.0	844.0
Contingency fund [1]	26.2	29.1	30.3	−3.7	.9	−.3	22.5	30.0	30.0
Other [2]	4.4	4.5	4.8	−.3	−.3		4.1	4.2	4.8
Total	2,135.0	1,711.7	2,358.3	−149.5	−227.5	−172.5	1,985.5	1,484.2	2,185.8

[1] Used for disaster relief and other unforeseen economic assistance requirements as well as for security supporting assistance.

[2] Special State Department administrative expenses under sec. 637(b) of the Foreign Assistance Act. (See "nonregional" tab).

SECURITY ASSISTANCE—COMPARATIVE FISCAL YEAR SUMMARY BY REGION 1971–73

[In millions of dollars]

	Fiscal year—		
	1971	1972	1973
East Asia and Pacific	$1,088.9	$325.3	$1,423.6
Near East and South Asia	772.6	592.2	695.0
Africa	65.2	33.5	37.5
Latin America	69.3	78.1	95.3
Europe	26.1	12.4	23.6
Nonregional	$112.9	$70.2	$83.3
Total, obligational authority	2,135.0	1,711.7	2,358.3
Less: Net adjustments	−149.5	−227.5	−172.5
New obligational authority	1,985.5	1,484.2	2,185.8

SECURITY ASSISTANCE—AVAILABILITY ADJUSTMENT AND PROGRAMS FOR FISCAL YEARS 1972, AND 1973

[In millions of dollars; fiscal years]

	Total		Grant military assistance		Foreign military credit sales		Security supporting assistance		Contingency fund and other	
	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973
Appropriation (NOA)	$1,484.2	$2,185.8	$500.0	$780.0	$400.0	$527.0	$550.0	$844.0	$34.2	$34.8
Transfers	−4.0	−1.2					−2.4	−1.2	−1.6	
Recoveries/recoupments	66.0	60.1	35.2	30.0			30.9	29.8	.5	.3
Reimbursements	5.9	6.6	4.0	4.7			1.9	1.9		
Reappropriations	5.8	5.0	5.8	5.0						
Net private credit	150.0	102.0			150.0	102.0				
Carryovers	3.2						2.7		.5	
Total, obligational authority	1,711.7	2,358	545.0	819.7	550.0	629.0	583.1	874.5	33.6	35.1

SECURITY ASSISTANCE AND SECURITY RELATED PROGRAMS

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971	Estimated fiscal year 1972	Estimated fiscal year 1973
Security assistance:								
Grant military assistance	$1,000.7	$742.3	$588.2	$453.1	$388.6	$788.0	$545.0	$819.7
Excess defense articles [1]	51.0	32.2	67.1	107.5	125.8	118.4	185.0	[2] 245.0
Foreign military credit sales	317.2	323.2	263.4	281.2	70.0	743.4	550.0	629.0
Security supporting assistance	717.7	727.2	601.9	471.1	525.0	573.0	626.6	874.0
Contingency fund transfers to security assistance	189.9	39.6	19.3	2.7	3.9	1.5	(3)	(3)
Total security assistance	2,276.5	1,864.5	1,539.9	1,315.6	1,113.3	2,224.3	1,906.6	2,567.7
Other security related programs:								
Military assistance service funded	838.5	1,496.0	1,591.7	2,130.4	2,093.4	2,325.9	2,339.4	2,055.0
Ship loans and leases [1]	5.3	8.9	20.3	2.5	7.8	15.4	30.0	[4] NA
Subtotal	843.8	1,504.9	1,612.0	2,132.9	2,101.2	2,341.3	2,369.0	[4] NA
Sales:								
FMS cash sales	1,467.7	805.1	849.7	1,438.5	863.2	1,329.4	2,280.0	2,220.0
Commercial cash sales	312.3	344.4	334.8	328.9	567.5	546.4	653.9	722.6
Subtotal	1,780.0	1,149.5	1,184.5	1,767.4	1,430.7	1,875.8	2,933.9	2,922.6
Public Law 480 funded—Common defense grant sec. 104(c)	135.8	105.0	150.3	92.8	108.0	191.7	101.4	112.3

[1] Legal value (⅓ acquisition value).
[2] Includes Vietnam.
[3] In fiscal year 1972, $30,000,000, and in fiscal year 1973 $30,000,000 are estimated overall for the President's Foreign Assistance Contingency Fund. An undetermined portion may be used for security-related items.
[4] Ship loans and leases data for fiscal year 1973 not available at time of publication.

ADDITIONAL STATEMENTS

PRESIDENT NIXON'S PROCLAMATION FOR NATIONAL WEEK OF CONCERN

Mr. HRUSKA. Mr. President, next week we begin the National Week of Concern for Prisoners of War/Missing in Action, as proclaimed by President Nixon according to the request of Congress. This Senator is proud to have been a cosponsor and active supporter of the Senate joint resolution which resulted in the designation of this very special week. Sunday, March 26, has also been proclaimed as a National Day of Prayer for the lives and safety of our prisoners of war and missing in action.

It is plain that our involvement in Southeast Asia is drawing to a close. At the same time, there has been no substantial easing of the lot of our men who are in the hands of the enemy. Our failure to make progress in this area is certainly not due to any lack of effort on the part of the Nixon administration. It is rather the result of dealing with a cold and inhumane enemy who has no regard for international obligations or the requirements of basic decency.

More than ever we must turn our thoughts and our efforts to the welfare of these men and their courageous families. The National Day of Prayer and the National Week of Concern provide an excellent focus for the minds and hearts of all Americans. On this occasion it is imperative that we show the enemy and the entire world that, regardless of other disagreements, our country stands united in protest and outrage against the refusal of North Vietnam and its allies to abide by the Geneva Prisoner of War Convention. We must make it plain by word and deed that America will not rest until every POW/MIA is either restored to his loved ones or fully accounted for to the satisfaction of this Nation.

President Nixon has spoken most eloquently on this situation in his proclamation commemorating this event. I therefore, ask unanimous consent that his Proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

(By the President of the United States of America)

A PROCLAMATION

1,623 American servicemen and some 50 U.S. civilians are now either missing in action or being held captive by North Vietnam and its allies. At the end of this month, the first men to be taken prisoner will begin their ninth year in captivity. This is the longest interment ever endured by American fighting men; it is also one of the most brutal.

The POW/MIA story of this long and difficult war is a tragic one:

The enemy continues adamant in his refusal even to identify all the Americans being held. He continues to flout the Geneva Prisoner of War Convention which establishes minimum humane standards for treatment of prisoners—a treaty to which North Vietnam is a signatory, just as are South Vietnam and the United States and 128 other nations. He continues to block impartial inspection of the prison camps. He continues to deny repatriation for seriously sick and wounded prisoners. He continues to ignore the prisoners' right to regular correspondence with their families.

And so those families suffer in spirit hardly less than their men suffer in the flesh. They live in a nightmare of unremitting anguish and gnawing concern. Many cannot even know whether their loved ones are still alive; those who do know this much, must live with their additional knowledge of the cruel conditions in which the prisoners exist.

Each new chapter in this outrage has stiffened the American people's determination to see justice done. We have stood and will continue to stand united as a nation in our concern and compassion for the prisoners and missing men. We mean to see this matter through.

Concern for the prisoners' plight, moreover, has spread to the people of goodwill around the world—and we may be confident that their humanitarian efforts, though so far rebuffed as callously as our own, will still continue as steadfastly as our own.

The United States has spared no effort—by diplomacy, by negotiation, by every other means—to secure fair treatment of our captive sons and brothers and to obtain their ultimate freedom.

As we set aside a special week of national concern for this continuing tragedy, and a special day of prayer for its resolution, we do so with a determination to persist in this effort—for principle, for peace, for the sake of these brave men and their parents and

brothers and sisters and wives and the children some have never seen.

Now, therefore, I, Richard Nixon, President of the United States of America, as requested by the Congress in Senate Joint Resolution 189, do hereby designate the period of March 26 through April 1, 1972, as National Week of Concern for Prisoners of War/Missing in Action, and Sunday, March 26, 1972, as a National Day of Prayer for the lives and safety of these men.

I call upon all the people of the United States to observe this week with such appropriate ceremonies and activities as will stir and sustain widespread concern for the missing men and prisoners, nourish the patient courage of their loved ones, and—above all—hasten the day of their safe return to home and freedom.

In witness whereof, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

RICHARD NIXON.

THE COST OF CAPITOL RESTORATION

Mr. PROXMIRE. Mr. President, the controversy over whether to extend or restore the west front of the Capitol has been with us for years. We all desire to preserve this great and cherished architectural masterpiece from the ruin of time, but some confuse extension with preservation. The west front is the last remaining exterior wall of the original 19th century building, and the proposed plans for extension would nonchalantly destroy the very work we wish to preserve. Forever lost would be the architectural genius of William Thornton, Benjamin Latrobe, and Frederick Law Olmstead.

This thought is appalling, but what astounds me even more is the absurd money game which the Extension Commission is using to justify extension plans. When Congress authorized a restoration study in 1969, prior to initiating the extension project, we stipulated that five conditions be met. The catch clause was the requirement that the restoration project not exceed the arbitrary limit of $15 million. When the engineering consultant firm of Praeger, Kavanagh & Waterbury completed their comprehensive study in January of 1971, they stated that the five requirements for restoration could be met, and specificallly, the costs could be held below the $15 million ceiling; perhaps as low as $13.7 million.

Asserting an authority beyond the spirit of the law, the Extension Commission rejected the study. They maintained that the Praeger report was wrong and that restoration simply could not be completed at a cost under $15 million.

But let us face facts. The study was authorized in 1969. It was completed in January of 1971. With inflation and construction costs soaring every year, nothing priced a year ago will hold that price now. Construction costs alone are increasing by 11 percent per year for nonresidential projects, and the Capitol plans are not immune.

Indeed, if the Extension Commission were to wait another year or two or five, the cost of restoration would be considerably higher than present estimates. This is hardly a startling revelation. The crux of the matter is that these costs are relative and not absolute, and it is enigmatic that the Commission is determined to hold the $15 million ceiling on restoration while ignoring increased costs for extension.

When the restoration limit of $15 million was imposed in 1969, the estimated cost of extension was $45 million. In other words restoration was considered worthwhile if it could be accomplished for one-third the cost of extension. Although the $45 million estimate for extension took into consideration a 7-percent annual cost increase in construction, that figure has risen sharply from $45 million in 1969 to well above $60 million today. It is unreasonable to expect the $15 million estimate to remain static. But whatever increases have occurred, the costs for restoration are still well below one-third the extension price. That is the significant point.

Finally, it is well known that Capitol Hill construction has always been an expensive proposition. The Rayburn Building, completed at a cost around $100 million, was the most expensive office building in the world. However, even the early $45 million extension estimate was predicated on a building cost of $166.95 per square foot. This would be no less than five times the cost of the Rayburn Building.

Even if we accept the questionable assertion that restoration figures are a bit understated, they are not comparable to the costs of our extension boondoggle. The $15 million ceiling was set in relationship to the cost of extension. It is disturbing that the Commission continues to ignore restoration plans while estimates for extension soar beyond the realm of practicality. Before plans for extension become irreversible, a full hearing should be given this matter by Congress.

MARYLAND DAY

Mr. MATHIAS. Mr. President, Maryland Day annually commemorates the founding of the colony of Maryland on March 25, 1634. Each year it provides us with the opportunity to recall some of the courage of the past that has created the present and that challenges us to equal it in the future.

The beauty and serenity of the Chesapeake Bay, its great tributaries, and the shores that limit them, even after 338 years of human traffic, give us an idea of the breathtaking beauty of the scene that greeted the eyes of the passengers on the *Ark* and the *Dove* in 1634. We can imagine the ship-bound immigrants watching, as Father Andrew White described it:

> Birds diversely feathered . . . eagles, swans, hernes, geese, bitters, duckes, partridge reade, blew, partie coloured and the like, by which will appeare, the place abounds not alone with profit, but also with pleasure.

We are forced by the conditions that exist in the bay today to envy the purity of the Chesapeake's waters which Father White found to be "the most delightful water he ever saw, between two sweet landes" and there is a challenge in this description. It does not require the expertise of an environmental engineer to recognize the danger that now confronts the Chesapeake. The choice must be made now, and Maryland Day, 1972, would be a good day to make it, whether the Chesapeake will be once again the most delightful water ever seen or whether it will become America's dead sea.

Every Marylander has a stake in this decision and a part to play in executing it, either by positive action or by passive neglect. Since most Maryland rivers and streams ultimately empty into the Chesapeake, most Marylanders have a direct, consequential relationship with the bay and its tributaries No one can be indifferent without being irresponsible.

The goal for Marylanders on Maryland Day, 1972, should be to restore the waters of the Chesapeake to the standards of sweetness and purity that existed on March 25, 1634. This will be difficult, expensive, extended, and controversial. It will require some sacrifice and great dedication. But the alternative is hardly acceptable. There are too many arid, uninhabitable sites of once prosperous civilizations not to heed the warning. Unless the Marylanders of 1972 act soon, it may well be that in another 338 years there will be no observance of Maryland Day on the despoiled, depopulated shores of the Chesapeake Bay.

I pledge myself to do my part to save the bay, and I call on every Marylander to join in this great work of healing and rehabilitation.

I ask unanimous consent that the article written by Douglas Watson, published in today's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORD FROM FATHER WHITE ON "ARK" AND "DOVE'S" GREETING

(By Douglas Watson)

Saturday is Maryland Day, when the state notes its 338th anniversary. On March 25, 1634, the first Maryland settlers landed in the Ark and the Dove at St. Clemente's Island in the Potomac River south of Washington.

The settlers were led by Gov. Leonard Calvert, representing his brother, Cecil, Lord Baltimore. Accompanying the expedition was Father Andrew White, S. J., a Catholic priest who sent the following report back to England.

Father White sailed in the Ark. The smaller Dove is the "pinnace" to which he refers. The adventurers stopped in the Caribbean islands of Barbados and St. Kitts before continuing on to Maryland, where one of their greatest concerns was the Virginians.

The settlers were greeted by Piscataway Indians, a tribe that has now vanished, but whose chief lived across the Potomac River from what became Mount Vernon. The Susquehannock Indians frequently raided the Piscataways, encouraging them to welcome the English settlers as allies.

Here are excerpts of Father White's "Brief Relation of the Voyage unto Maryland":

* * * * * *

On St. Cecilia's Day, the 22d of November, 1633, with a gentle northerne galle we set saile from the Cowes about 10 in the morninge. . . .

God would tende the matter, and sent that night soe strong a faire winde as forced a French barke from her ankor hold, driving her foule upon our pinnance, forced her to set saile with losse of an ankour, and take to sea, that being a dangerous place to floate in, whereby we were necessarily to follow, least we should part companie. . . .

Our master was a very sufficient seaman, and shipp as strong as could be made of oak and iron, 400 tunne, king-built, making faire weather in great storms. . . .

The winde grew still lowder and lowder, makeing a boysterous sea, and about midnight we espied our pinnance with her two lights . . . from which time till six weekes, we never saw her more, thinking shee had assuredly beene foundred and lost in those huge seas. . . .

From this time to our journey's end, about three months, we had not one howre of bad weather, but soe posperous a navigation, as our mariners never saw so sweet a passage.

When I say three months, I meane not we were so long at sea but reckon the time spent at Barbadoes and St. Christopher's, for were at sea onely seven weekes and two daies, which is held a speedy passage. . . .

As for Virginia, we expected little from them but blows, although we carried the kings letters to their governour . . . As for the savages, we expected to find them as our English ill wishes would make them . . .

On the 3d of March came into Chesapeake Bay, at the mouth of Patomecke. This baye is the most delightful water I ever saw, between two sweet landes, with a channell 4, 5, 6, 7, and 8 fathoms deepe, some 10 leagues broad, at times of yeare full of fish . . .

This is the sweetest and greatest river I have seene, so that the Thames is but a little finger to it. There are no marshes or swampes about it, but solid firme ground, with great variety of woode . . .

At our first coming we found (as we were told) all in armes; the king of Pascatoway had drawne together 500 bowmen, great fires were made by night over all the country, and the biggnesse of our ship made the natives reporte we came in a canow as bigg as an Iland, with so many men, as trees were in a wood, with great terrour unto them all . . .

Our governour was advised not to settle himselfe till he spoake with the emperour of Pascatoway, the seat of the emperour, where 500 bowmen came to meet them at the water side.

Here the emperour, lesse feareing them the rest came privately aboard, where he found kind usage and perceiving we came with good meaneing towards them, gave leave to us to sett downe where we pleased . . .

The Indians began to lose feare and come to our coart of guarde, and sometimes aboard our shipp, wondering where that tree should grow out of which so great a canow should be hewen, supposing it all of one peece, as their canows use to be. They trembled to heare our ordinance, thinking them feare-fuller then any thunder they had ever heard.

The governour being returned from Pascatoway . . . we came some nine or ten leagues lower in the river Patomecke to a lesser river on the north side of it, as bigge as Thames, which we call St. George's.

This river makes two excellent bayes, wherein might harbour 300 saile of 1,000 tunne a peece with very great safetie, the one called St. George's Bay, the other, more inward, St. Mary's. On the one side of the bay lives the king of Yoacomaco, on the other, our plantation is seated, about halfe a mile from the water, and our towne we call St. Mary's.

To avoid all occasion of dislike, and colour of wrong, we bought the space of thirtie miles of ground of them for axes, hoes, cloth and hatchets, which we call Augusta Carolina. . .

They had warres with the Sasquasahannockes, who came sometimes upon them, and waste and spoile them and their country, for thus they hope by our meanes to be safe. . . Is not this miraculous, that a nation a few daies before in general armes against us and our enterprise should like lambes yeeld themselves, glad of our company, giveing us houses, land and liveings for a trifle . . .

The natives of person be very proper and tall men, by nature swarthy, but much more by art, painting themselves with colours in olle a darke read, especially about the head, which they doe to keep away the gnats. . . They have noe bearde till they be very old, but instead thereof sometimes draw long lines with colours from the sides of their mouth to their eares . . .

Their apparell is deere skins and other furrs, which they weare loose like mantles, under which all their women and those which are come to mans stature, weare . . . skins which keep them decently covered. All the rest are naked and sometimes the men of the younger sort weare nothing at all.

Their weapons are a bow and a bundle of arrowes, an ell long, feathered with turkies feathers and headed with points of deeres hornes, peeces of glasse or flints . . . I have seene them kill at 20 yards distance, little birds of the bignesse of sparrows . . .

Their housese are built in an halfe ovall forme 20 foot long, and nine or ten foot high with a place open in the top, halfe a yard square, where they admit the light, and let forth the smoke . . . In one of these houses we now doe celebrate (the mass) having it dressed a little better than by the Indians till we get a better, which shall be as shortly as may be.

The naturall wit of these men is good, conceiving a thing quick to. They excell in smell and taste and have farre sharper sight than we have. Their diett is poane, made of wheat, and hominie, of the same, with pease and beanes together, to which sometimes they add fish, foul and venison, especially at solemne feasts . . .

They hold it lawful to have many wives, but all keep the rigour of conjugall faith to their husbands. The very aspect of the women is modest and grave . . .

As for religion we neither have language yet to finde it out . . .

I will end therefore with the soyle, which is excellent so that we cannot set downe a foot, but tread on strawberries, raspires, fallen sulberrie vines, acchorna, walnutts, saxafras, etc. . . . All is woods except where the Indians have cleared for corne. It abounds with delicate springs which are our best drinke.

Birds diversely feathered there are infinite, as eagles, swans, hernes, geese, bitters, duckes, partridge reade, blew, partie coloured and the like, by which will appear, the place abounds not alone with profit, but also with pleasure.

PRESIDENT NIXON'S ATTEMPT TO CRIPPLE THE FARMWORKERS UNION

Mr. MONTOYA. Mr. President, for more than 100 long and bitter years, America's farmworkers have labored with little formal, tangible recognition of their dreary plight.

Periodically, efforts have been put forth by concerned elements among us, seeking to stir the conscience of our country into constructive action and reform on their behalf. Most such attempts have ended in sterility, frustration, and abject failure.

Agonizing to relate, many agricultural workers today work maximum hours for minimum pay in pesticide-saturated fields, deprived of even elementary amenities. Agribusiness dominates vast land holdings, envisioning a time when our food will be controlled from seed to checkout counter. All employ significant numbers of farmworkers, and smaller growers take their cue from them.

In recent years, a new stirring has been felt in the fields where America's bounty is grown and harvested. A new series of ideals and leaders have emerged, epitomized and personalized by Cesar Chavez. Inspired by his message of freedom, equality, patriotism, nonviolence, and Christianity, these poor men and women, the "descamisados" of today, have begun to reach out for rights which should have been granted them years ago. Their struggle has been arduous, as they have been confronted everywhere by entrenched vested interests determined not to yield an iota of profit for necessities these people seek.

Every legal and extralegal weapon has been employed against them by today's malefactors of great wealth, these landed corporate barons. Buffeted and villified, the farmworkers have scored an impressive series of organizing victories. And where they have secured contracts, children live better, death rates decline, educational attainment increases and hope rears its head among the previously hopeless. Cesar Chavez is an honest, good man, humbly seeking equality for his beloved people. No amount of false defamatory propaganda can change that. He marches with the flag, rather than against it.

The principal weapon employed by these people has been the boycott, legitimately utilized on a thousand different occasions throughout American labor's history. By traveling to cities where nonunion produce is consumed, and informing sympathetic Americans of their plight, they have been able to peacefully present and win their case. If an enemy is to destroy the Farmworkers' Union, it must attack their legitimate weapon of the boycott. Only an instrument of government itself could mount such an illegal assault with any chance of success.

This has indeed transpired, and it is a sad day in American history. President Nixon is no friend of labor. In fact, he looks negatively at the entire concept of labor unionism. His administration has been characterized by the waging of economic warfare on the average man and political warfare on his institutions, primarily labor unions.

Always, the shrewdly delivered political blow has come with a semblance of legitimacy. Always wrap the flag around your dagger before using it. Make sure you piously disclaim ignoble motives before stabbing Caesar. In this case, the National Labor Relations Board has been degraded by its use as a tool with which to destroy the Farmworkers' Union.

On March 9, 1972, attorneys for the National Labor Relations Board regional office in Los Angeles filed a petition in the Federal District Court in Fresno, Calif., requesting a nationwide injunction against the Farmworkers' Union which would prevent current boycott activities.

The NLRB's theory behind this legal action is that the farmworkers are a "labor organization" in the meaning of the Taft-Hartley Act. Therefore, runs the formal reasoning, they are prohibited from engaging in secondary boycotts in spite of the fact that farmworkers are not entitled to any benefits or protection from or under existing Federal labor laws.

I believe, and most expert legal opinion available concurs, that these people and their activities are not subject to NLRB jurisdiction. They are, I believe, free to ask consumers not to shop at retail outlets carrying disputed nonunion products.

Previous NLRB behavior has dovetailed with this opinion, until very recently. President Nixon, obviously seeking to appease far rightwing sentiment, appointed Peter Nash as general counsel of the NLRB. From that time, difficulties commence for rights of farmworkers.

Every NLRB region in which charges have been filed against farmworkers has dismissed them. The farmworkers have received two letters from the National Board in Washington, one as recently as March 15, 1971, confirming they are not a "labor organization" under Taft-Hartley and not covered by secondary boycott provisions in section 8(b)(4) of the act.

Fact has not changed. Political expediency has simply shouldered it aside. The farmworkers still include only noncovered agricultural employees in their union. But the administration's desire to appease vested agribusiness reactionary interests dovetailed with impending political needs. The result is plain to see.

Farmworkers have no rights under the National Labor Relations Act. Therefore, th Board's action is morally reprehensible. However, morality is not this administration's strong point, as recent headlines indicate rather strongly. What the NLRB says, clearly, is that even though such workers have no rights under the act, they will be inhibited by its restrictions anyway, and specifically denied use of their only effective nonviolent tool, the boycott. In truth, this is their only substitute for rights granted all other workers, but which today are still denied them. In effect, therefore, the NLRB action seeks to turn the clock back and return farmworkers to the worst of times, when they had merely a right to die, pay taxes, inhale DDT and work from dawn to dusk for a pittance. How's that for progress?

Legally, the NLRB's action defies farmworkers equal protection under the law heretofore guaranteed by our Constitution's fifth and 14th amendments. It is an illegal attempt to abuse its equitable powers to issue cease and desist orders against alleged Taft-Hartley violations. Further, the NLRB is violating its statutory mandate not to spend any public money on agricultural disputes.

The Free Marketing Council, whose entire purpose for being is to defeat farmworkers, organizing attempts, is the group on whose behalf the NLRB has acted. It is a blatantly rightwing extremist group headed by a professional enemy of organized labor. Has the NLRB arrived at such a low point in its existence that it is to be administratively prostituted in such a manner?

In effect, then, the Republican Party and the Nixon administration are utilizing a once-respected organ of Government to smash the organizing activities of our Nation's poorest, most exploited group. It is war by the administration against minorities, particularly Mexican Americans.

Civilized nations gaze at such antics with amazement, wondering why we seek to resurrect the dark ages of man's struggle to be free and enjoy elementary human rights.

I have been in the forefront of those admonishing such people to utilize nonviolence—to believe in principles of America—in the compassion and basic fairness of the American people. I retain that belief now, and it is stronger than ever.

All the more reason why this administrative atrocity must be withdrawn. If the only legitimate means of protest is withdrawn from and forbidden to these humble seekers after justice, what else remains to them? Bitterness, anger, and a sense of betrayal.

Is the almighty dollar so precious to the powerbrokers of agribusiness? Is the administration so desperate to court rightwing favor? Can we turn our backs so cavalierly upon this legitimate striving to rise just a little within our society? Shall we deprive these people of any chance to enter the economic, political, and social mainstream of our national life?

President Kennedy gave his life for those rights. So did Robert Kennedy, who knelt on California dirt beside Cesar Chavez to show his support and belief in their cause. Has the clock come full circle so far and fast?

These farmworkers are Mexican Americans, blacks, Puerto Ricans, and Filipinos, in the main—a spectrum of America's minorities. They retain a belief in justice and the American promise of equality.

In every true sense of the word, farmworkers of our land who do not enjoy such elementary rights are still slaves. They may not bear the formal title of slave, but in fact they are relegated to such status.

To preserve them in that position by use of our formal governmental apparatus is a continual degradation of our country and its ideals. We are each less because of such a policy. Our country is less because of such a condition on their part.

None of us here can depart this Chamber and feel free as long as farmworkers toil for our benefit and receive a pittance in return.

Abraham Lincoln once stated, in his second annual message to Congress on December 1, 1862, as follows:

> In giving freedom to the slave we assure freedom to the free,—honorable alike in what we give and what we preserve.

This Republican President would do well to reread the words of that Republican President.

THE VOTER RESIDENCY RULE DECISION

Mr. GOLDWATER. Mr. President, it comes as no great surprise to me that the Supreme Court has struck down State and local residency rules applied to voters who move, something I have tried to change since 1964. If reports are correct, the High Court decision will mean that at least 5 million additional citizens will be added to the voting rolls in all elections—Federal, State, and local.

Mr. President, I became much concerned about these voter barriers in 1964, when, as the Republican candidate for President, I learned at firsthand of the enormous difficulty many of our servicemen, as well as civilians, were having in getting to the polls. I was amazed to discover that millions of citizens were prevented from voting for no reason other than that they happened to be moving.

For this reason, Mr. President, I made a start at attacking this problem by offering an amendment to the Voting Rights Act of 1965, which would guarantee that all U.S. citizens would be entitled at least to choose the officers who will run the U.S. Government. My proposal, which was cosponsored by 29 other Senators, was enacted in June of 1970. It completely abolished durational residence rules for all citizens who wish to vote for President and Vice President. I believe then that if any case could be made for stripping away the barriers which isolate our citizens from the polls, it would be a law which would secure the right of each citizen to vote for these high national offices. Fortunately, my prediction held up and the Supreme Court sustained the statute in late 1970.

With the Nation having gone this far toward ending excessive residence rules, the recent Supreme Court decision appears a logical extension of the 1970 statute. In fact, I notice that the Supreme Court has borrowed the same standard we wrote into the 1970 law, which preserves to each State a right to close its registration books 30 days before an election. In this way, each State will retain a practical period of time in which to prepare itself for the mechanics of the election and to check against fraud. Actually, most States now follow this practice in the case of longtime residents, and I do not think it will pose any hardship on States now to extend the same privilege to new residents.

Also, I recognize that nothing in the Court decision will prevent local officials from determining who is or is not a bona fide resident. This matter remains a decision for the State alone to decide.

Frankly, Mr. President, I was not certain whether States could be ordered to remove regulations governing local elections, but now that the Supreme Court has spoken, I am hopeful that each of our State and local governments will do its utmost to live with the new ruling and to allow the greatest number of citizens to vote.

TEXAS FIRST IN NEW READING-TUTOR PROGRAM

Mr. TOWER. Mr. President, on March 10–11, Houston, Tex., opened a new page in the history of America's productive heritage of volunteer citizen action to solve social and economic problems.

As a former teacher, I am especially pleased that Texas is the first State to participate in the National Reading Center's tutor-trainer plan.

Over 100 volunteer tutor-trainers participated in the National Reading Center 2-day Houston workshop.

Each of these trained volunteers will now return to his or her home community to teach other volunteers how to help children improve reading skills.

Organizations sponsoring the workshop were the Houston, Spring Branch, Deer Park, Galena Park, and Pasadena Park chapters of the Association for Childhood Education International; the Houston Volunteers for Independent Schools; the Houston City Council of PTA; the Parent Teacher Organization; the League of Women Voters; Rice University; Harris County Department of Education; and 32 school districts in the Houston area.

The National Reading Center is taking its tutor-trainer plan to 20 States this year, and the Center intends to create a corps of trained volunteer reading tutors in every State in the Nation by the end of 1973.

The Center is the working staff of President Nixon's National Reading Council; Mrs. Richard M. Nixon is honorary chairman and a leader in the President's national right to read effort.

Dr. Donald G. Emery, executive director of the National Reading Center, has written an excellent editorial which appears in the March 1972, School Administrator, journal of the American Association of School Administrators, on how volunteers may be enlisted to combat the reading crisis of this country. It is titled: "National Reading Center—At Your Service."

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NATIONAL READING CENTER—AT YOUR SERVICE

(By Donald Emery)

One of seven American adults cannot read well enough to understand newspaper want ads or questions on standard application forms. Up to 40 percent of the pupils in some big-city school districts are well below expected reading performance levels. Up to one quarter of the school enrollment needs more help in reading. We do, in fact, have a substantial reading problem in this nation, and it is time we got together to solve it. Yet we still do not have a usable performance definition of reading proficiency. This is no time to berate the schools for failing to solve the problem. Nor do we need lengthy explanations of how things got this way. This is the time to get on with some fairly obvious and some more difficult corrective measures.

First, let us teach all teachers how to teach reading skills, preferably before they begin teaching, but on the job if necessary. Let us see that classrooms and libraries, public places and homes have generous supplies of reading materials so children and adults can enlarge their reading skills. If parents by intuitive motivation teach very young children our oral language code by leaning heavily on attention, repetition and personal instruction, we should be able to achieve universal success with the printed code, too.

Learning to read proceeds best with direct personal instruction. But we don't have the teacher time or salary dollars to provide the amount of contact time that every child needs and deserves. A really trained volunteer reading tutor working under the supervision of the teacher can create the needed additional time for each child. The same principle holds for adults learning to read.

But volunteerism, while a great American tradition, has a bad name in some schools. The disenchantment often results from gratification of the volunteer's ego, lack of teacher orientation in how to use volunteers, and especially lack of volunteer training, which leaves the teacher with another problem rather than more help. At this moment, the preparation and use of trained volunteers is one of the few areas in which rapid improvement is possible.

The National Reading Council (NRC) has charged the Center to aid states in generating pools of trained volunteer reading tutors to help in schools where they are wanted. The National Reading Center is now involved in developing tutor training programs to produce 10,000 trained tutors in each of 20 states. Next year a similar program will be conducted in the remaining states. The volunteers are trained to provide supplementary services to the school's reading program. A handbook has been prepared to guide teachers in the effective use of volunteers trained by the Reading Center. The Center's program and materials have been developed by professionals and have been tested on the state level in Iowa, Ohio and Washington, D.C. A cooperative effort among voluntary organizations, the Center, local communities and school districts can produce a new human resource to help change the current reading scene. All responsible volunteer tutor programs should be encouraged. Partly through the trained tutor technique the Right To Read can become a reality in this decade.

The reading needs of adults require a massive effort, too. The Center is overseeing the development of new tutor programs directed to helping the adult worker, the dropout, the migrant worker, the Spanish-speaking American, the prison inmate and others.

Superintendents will be asked to assist in local recruitment of volunteers and in planning for their productive utilization. The Center recommends that local planning committees include school administrators, the PTA and local voluntary service organizations. For further information about how a single district can become part of a state's program working with NRC, write to Volunteers, National Reading Center, 1776 Massachusetts Avenue, N.W., Washington, D.C. 20036.

The school administrator is the key person to stimulate his community to recognize and fulfill the right of every adult and child to learn to read. The measure of his leadership will be whether he imaginatively marshals community cooperation and resources—including trained volunteer reading tutors—to confront both the in-school and out-of-school facets of the problem.

ESTABLISHMENT OF THE LONGFELLOW NATIONAL HISTORIC SITE

Mr. KENNEDY. Mr. President, yesterday we considered an unusual site, the Longfellow Home in Cambridge, Mass., for authorization as a National Historic Site. The trustees of the Longfellow home are not only donating the house to the Department of the Interior, but have offered a $200,000 donation toward its maintenance, administration, and operation. The Department of Interior has recommended the home for establishment as an historic site and has indicated that there will be no land acquisition costs, since the 1.98 acres of land on which the house stands will also be donated.

The Longfellow home is not only an outstanding example of 18th century architecture, but it also has a special historical significance for us. During the Revolutionary War, it was used as a hospital for colonials wounded at Lexington, Concord, and Bunker Hill. During 1775 and 1776, George Washington made this home his headquarters for 10 months during the seige of Boston.

Henry Wadsworth Longfellow, one of the most loved of American poets, came to this home in 1837 when he rented a room after he began teaching at Harvard. It was during this period that Longfellow's literary career began with the publication of "Hyperion, Voices of the Night," and "Ballads and Other Poems."

In 1843 Longfellow was given the home as a wedding present from his father-in-law. As the Longfellow biographer Edward Wagenknect pointed out:

> As fame came, and with the house in his possession, he crammed it with objects d'art and thousands of books, creating a scholar's paradise, which has happily been preserved to delight the scholars of a later and more troubled day.

We have an unusual opportunity to acquire this historic home, the carriage house, the formal garden, the land, and a gift of $200,000 toward maintenance of this site.

In the past we have seen too often the acquisition of an historic site long after its architectural or historic qualities have been devastated through lack of care and maintenance. This is not the case with the Longfellow home. This home has been preserved and maintained at a high standard of excellence through the care and concern of the Longfellow home trustees.

It is fitting that this national historic resource be preserved in public ownership for the benefit and inspiration of all our citizens and for generations to come.

RESIGNATION OF LABOR BOSSES FROM PAY BOARD

Mr. PEARSON. Mr. President, the resignation of the labor bosses from the Pay Board is a case where they not only put their position above the national interest, but above the best interest of the union members. Inflation must be stopped despite the labor bosses' attempt to destroy wage and price controls.

I urge President Nixon to continue the Pay Board with members from organized labor who have a greater sense of the national interest or to reconstitute the Pay Board with members representing only the public and the public interest.

THE NEW JERSEY SILVERLINERS

Mr. WILLIAMS. Mr. President, there are many groups and individuals across the Nation who have been bringing hope to the handicapped for many years.

The New Jersey Silverliners, who are former Eastern Air Lines stewardesses, have been devoting their time and energy over the past 5 years to the severely mentally retarded of Woodbridge State School in New Jersey. They have raised thousands of dollars to improve the living environment at the school, organizing musical shows and other extracurricular activities, and sponsoring needed

research at the school's hospital on the diagnosis of mental retardation.

They have demonstrated the potential which millions of handicapped individuals can realize. For too long the handicapped have been forced to the edges of society when they could be contributing members of it.

The New Jersey Silverliners have shown what one group of dedicated people can do. The country as a whole, working together, could do even more.

Mr. President, I ask unanimous consent that an article, describing the work of the New Jersey Silverliners and published in the Newark Star-Ledger, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RETARDED STUDENTS OFFER A LESSON IN POTENTIAL

(By Barbara Kukla)

A 14-year-old girl named Mabel stepped to the microphone on the auditorium stage and detailed a musical program, which would include songs by Burt Bacharach and Simon and Garfunkel.

The setting could have been any school in the state, but the program was both touching and unique, for the participants were residents of the Woodbridge State School, a state-operated facility for the severely mentally retarded.

More than that, the program was a lesson in human potential, for the children and adults, dressed in white choir robes with bright red bows, not only were having fun, but demonstrated keen musical ability.

It was Volunteer Day at the school and representatives from more than two dozen groups which support the school—merchants, high school students, women's organizations and civic clubs—applauded loudly for each selection. At the end, there was a standing ovation.

For the members of the New Jersey Silverliners, former Eastern Airline stewardesses who "adopted" the school five years ago and since have held two annual fund-raising events for it, the program provided additional proof that their efforts are worthwhile.

"Work for a school like this and the accomplishments of the residents should get tremendous publicity," said Mrs. Gene Schaffer of Cranford. "Schools like Willowbrook should be exposed but the hoopla surrounding it has been damning to the many good institutions and facilities such as Woodbridge."

As chairman of the Silverliners' annual inflight cocktail party and fashion show, Mrs. Schaffer has gotten singer Jimmy Roselli to serve as honorary chairman and main attraction.

The event is set for April 29, when 100 persons will board an Eastern jet, on loan to the organization, and fly along the East Coast during the party and show.

Eastern crews have volunteered their services for the champagne flight, which will feature fashions by Mason Edwards of Elizabeth. Annette Silverman will provide the commentary.

During the five years that the Silverliners have been helping the school, they have contributed $7,000 to the facility, purchasing trees, shrubs and flowers and a pony cart and saddle for the Children's Zoo at the school.

In 1970, the chapter undertook sponsorship of a newly established chromosome study of the school's 1,000-member population. The study is being conducted in the school's hospital.

The Silverliners, according to Mrs. Andrew Compton, president, supply all test kits for the program as well as materials for processing tests.

"With the support of WSS hospital sponsors, there has been a new beginning into the diagnosis of mental retardation," said Dr. Jacyntho Da Silva, medical director of the hospital.

In addition to the annual fashion show, the Silverliners also hold an annual Christmas school.

The organization cleared $1,600 last year with a one-day bazaar at the Menlo Park Shopping Center. Handmade articles by Girl Scouts, women's organization and other civic groups were donated for the event, which was coordinated by Mrs. William Murphy of Scotch Plains.

"The Silverliners," said Mrs. Joan Mills of the hospital staff, "have provided us with resources to do a number of things. Their interest and support has had a positive impact on the people who live and work at Woodbridge."

UNDERSEA LONG-RANGE MISSILE SYSTEM

Mr. TOWER. Mr. President, last July the organization known as Members of Congress for Peace Through Law issued a series of research papers on various aspects of our defense program. Most of these papers were extremely critical of the projects reviewed. Included among them was a scathing attack on the B–1 bomber program.

However, there was one notable exception. In the CONGRESSIONAL RECORD, volume 117, part 20, pages 26170–26173, the Senator from Wisconsin (Mr. PROXMIRE) inserted a study prepared by Representative CRAIG HOSMER which was highly laudatory of the Undersea Long-range missile system—ULMS—and concluded with this statement:

We should therefore encourage full steam ahead on ULMS development by approving the full fiscal year 1972 request for $110 million for this purpose.

The Senator from Wisconsin, in his prefacing remarks, heartily endorsed the study commenting:

Congressman Hosmer arrives at the same basic conclusion that a number of us have arrived at; namely that this system is of considerable importance . . . and that some considerable urgency should be given to evaluating the program because of its great potential.

Hardly 6 months later our colleague, in a statement issued for release on January 22, 1972, raised loud protest at the $900 million request in the fiscal year 1973 budget for telescoping research and development on this project and moving into the production stage.

One point of opposition is the failure to cut back on other programs. Surely this is a weak excuse for jeopardizing an admittedly valuable program. Indeed, most of the arguments hauled out at this time could have been made as relevantly last year when the program was being praised.

Describing the budget request as a "crash program" the Senator expresses amazement that we should want to move ahead with such recklessness.

And then he launches into the most interesting contradiction I have encountered in a long time. He says:

I see no need for anything approaching this tight a schedule. There are no breakthroughs in anti-submarine warfare technology now on the horizon which threaten the survivability of our Polaris and Poseidon boats.

Only three paragraphs later, he says:

There is one other thing to consider in deciding to move ahead with a new boat, a factor I have not yet mentioned but which might in the long run be more important than all the other considerations combined. We do not know yet what improvements in ASW technology the 1980's will produce. Under the circumstances, it is difficult to design a submarine optimized to counter those improvements. We do know, however, that the Navy's plans for ULMS call for a huge submarine—much bigger than the Polaris—and that many kinds of ASW techniques on which we and the Soviets are working could be much more effective against large rather than small targets for detection.

It seems to me that what the Senator is saying is this: The ULMS program really isn't urgent after all because we do not need it today and it may be outdated tomorrow.

What that kind of rhetoric overlooks is that, if we wait until the antisubmarine warfare breakthroughs come, it will be too late to develop an ULMS program that will cope with the breakthroughs which eliminate the effectiveness of Polaris and Poseidon.

In the meantime we are without the use of an admittedly more effective program at little or no increase in cost. For according to the Hosmer report—

"ULMS" high survivability, availability and reliability coupled with an effective maintenance program and system design will contribute to a lower cost per effectively deployed missiles, thereby reducing total system cost. The estimated expense of the entire ULMS system, plus ten years of operation is about $5 billion—approximately the same amount expended over the same period on the Polaris/Poseidon fleet.

In short, for following the recommendation of the study issued last summer by Members of Congress for Peace Through Law, the administration has now incurred the wrath of one of the organization's leading spokesmen.

I find a contradiction here for which I believe the public has the right to expect an explanation. To urge "full steam ahead" in July but be "hardpressed to find justification for any acceleration of the ULMS program . . ." in January deserves some explanation. To favor research and development but oppose production is not an explanation.

I should be glad to have some enlightenment on this amazing contradiction.

OCEAN POLLUTION

Mr. HOLLINGS. Mr. President, more and more evidence is being reported in scientific journals and newspapers about what man is doing to destroy the oceans. The New York Times of Sunday, March 19, contains an article by Boyce Rensberger about countless pieces of plastic being found by researchers in the Sargasso Sea.

The world environment is vast, and so are the great oceans of the globe. But they are no longer vast enough to escape the poisons from our industrialized society. Man has lived on this planet for more than a million years and has had to struggle with the environment for survival. Today, our struggle is to save the environment from man himself.

The famed ocean explorer Jacques Cousteau testified last October before the Senate Commerce Subcommittee on Oceans and Atmosphere, which I chair, that unless man acts swiftly, perhaps in the next 30 to 50 years, the oceans will die. Many scientists share the belief that man's existence on this planet is entwined with life in the sea. The time for study and research has passed. What we need today is action—action to save our oceans. Every kind of pollution, no matter from what source, eventually winds up in the oceans. What is flushed into the harbor at Hong Kong eventually will wash ashore at Trinidad. DDT and PCB washed down the Mississippi River wind up in the food chain of the Polar Bear far above the arctic circle. The anthropologist Thor Heyerdahl says that when he crossed the Atlantic on Ra II, the crew sighted drifting oil clots on every day of the trip but three when the weather was too bad for observation—and this was across 2,407 nautical miles.

The New York Times article points out that the tiny bits of plastic found in the Sargasso Sea may be one source of the PCB found in certain marine organisms. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLASTIC IS FOUND IN SARGASSO SEA—PIECES OF APPARENT REFUSE COVER WIDE ATLANTIC REGION

(By Boyce Reusberger)

Countless small bits of floating plastic, apparently the refuse of industrial society, have been found drifting over wide areas of a region of the Atlantic Ocean called the Sargasso Sea.

The finding was made by scientists from the Woods Hole Oceanographic Institution as they were towing nets through the Sargasso Sea in a routine sampling of marine life.

In their nets, amongst the strands of sargassum seaweed, from which the Sargasso Sea takes its name, the biologists found hundreds of small chunks of plastic. Some were recognizable as cigar holder, syringe needle shield, jewelry and button snap.

The report, which appeared in the current issue of Science magazine, was made by Dr. Edward J. Carpenter and Dr. K. L. Smith, Jr., both research biologists at Woods Hole.

The scientists calculated that the plastic bits were spread over a huge area, perhaps several thousand square miles, at a density of more than 9,000 per square mile.

The scientists suggest that because many of the fragments appeared brittle, they may have lost the plasticizing ingredients that normally keep them pliable.

They speculate that because many plastics contain PCB (polychlorinated biphenyl) as a plasticizer, such bits of plastic may be one source of the PCB that has already been found in certain marine organisms.

ENVIRONMENTAL HAZARD

PCB is chemically similar to DDT and, many authorities believe, adds to the environmental hazard of industrial chemicals.

In a telephone interview Dr. Carpenter said he had made no study of whether PCB might have seeped out of the plastic. "This is really just an incidental finding to our work," he said. "We're hoping our report will stimulate people who are more expert in this field to pick up on this."

Dr. Carpenter said he would guess that the plastics came from the dumping of solid wastes in the ocean and were carried into the Sargasso Sea by the surrounding currents.

The Sargasso Sea, a vast portion of the western half of the North Atlantic, lies in the middle of circular currents that create a low whirlpool effect, concentrating floating objects toward the center.

Dr. Carpenter said Woods Hole marine scientists had found plastic in a different form in the waters of Long Island Sound from Niantic Bay, near New London, Conn., to Buzzards Bay at Cape Cod.

In these waters the plastic is in perfect spheres ranging in size from one millimeter to three. Some are clear, some opaque white.

NOTICED IN JANUARY

"We've collected these in every tow made in these waters," Dr. Carpenter said. "We first started noticing them in January, but I'm sure we were picking them up before then."

Dr. Carpenter said the plastic spheres, some of which float and some of which drift submerged, appear to exist in the water in an average density of about one in every cubic yard of water. In some places, particularly Niantic Bay, however, the density reaches 20 per cubic yard.

Chemists at Woods Hole are conducting analyses of the spheres to determine their chemical nature and, they hope, to get clues to their origin.

Dr. Carpenter said that, aside from the PCB question, the only biological impact of the plastic in Long Island Sound and the Sargasso Sea appears to be that they provide a surface for the attachment of tiny marine organisms such as hydroids, diatoms and probably bacteria.

Thus, he said, presence of the fragments may tend to increase the local populations of such creatures with unknown consequences.

DOT HEADS IN RIGHT DIRECTION

Mr. MATHIAS. Mr. President, I commend the administration and the Department of Transportation for the new transportation policies recommended yesterday to Congress. These new policy departures which I have long been urging, promise to bring about a far-sighted, balanced transportation program for our Nation. They represent a victory for all Americans, and especially for harassed commuters and the residents of our crowded metropolitan areas.

Mr. President, for some time I have been calling for a new emphasis in our national transportation policy—a new direction that will assure that proper attention is given to all modes of transportation. America needs a balanced transportation policy. In the past, at different levels of technology, we have maintained turnpikes, canals, railroads, stagecoaches, riverways, and airways. Our goal is to move people and goods quickly inexpensively, and safely with little damage to our environment.

Today, we know that the highway alone cannot meet all our transportation needs. In the future we must find additional means of getting commuters from their homes to their jobs, of carrying shoppers to their stores, of carrying people from one part of a metropolitan area to another, as well as maintaining and expanding our superior roads and freeways. As one key way of achieving this needed diversification, I have recommended that the money in the Highway Trust Fund—which at present can be used only for highway related projects—be freed for use in various forms of mass transit, including commuter railroads, buses, subways, and regional mass transit systems such as that proposed for Baltimore.

This proposal, the Federal Aid Highway Act of 1972, S. 3037, which I introduced several weeks ago, along with the Senator from Connecticut (Mr. WEICKER) and several other Senators, would amend the legislation governing the highway trust fund to permit approximately one-half of the trust fund to be used for mass transit. It would give State highway officials new flexibility in building transportation systems that can best serve the needs of the people of their States. This bill would improve transportation planning in America by requiring long-range coordinated planning for all transportation modes within and among States.

I am therefore delighted to learn that the administration and the Department of Transportation have now agreed with the basic thrust of my proposal. In recommendations sent to the Congress yesterday, the administration calls for the use of the money in the trust fund for support of urban and rural transportation systems other than highways.

While the proposals of the administration are not identical with those contained in my bill, the goal I believe is the same. And the result, if the Congress will agree to these new departures, will be a better transportation system for all Americans.

I ask unanimous consent that articles describing the new proposals of the administration, published in the Baltimore Sun and the Washington Post, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Mar. 15, 1972]

VOLPE BACKS USING HIGHWAY FUND FOR URBAN MASS-TRANSIT PROJECTS

WASHINGTON.—John A. Volpe, the Secretary of Transportation, yesterday recommended that the Highway Trust Fund be used for urban public transportation or highways, at the option of state or local authorities.

The program would be achieved through creation of a Single Urban Fund authorized at $1 billion for the fiscal year starting July 1, 1973 and $1.85 billion for the following fiscal year.

The recommendation was contained in Mr. Volpe's report to Congress on highway needs, a document also calling for realignment of the federal-aid system for highways.

"This recommendation is as critical to the needs of the American public as any recommendation sent to Congress since I became Secretary of Transportation," Mr. Volpe said.

"If enacted by the Congress it will provide us with the means for meeting the pressing problem of urban transportation.

"It will give us the means to accomplish our mission of providing a balanced transportation system to create the facilities which will offer the people a choice, to plan for the increasing demands of the future and provide for the movement of people and goods in the most efficient, fastest and most convenient means possible."

CHANGING THE LAW

Mr. Volpe proposed amendment of the Highway Revenue Act of 1956 to authorize for the first time the use of trust funds for

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other than highway-related projects, starting July 1, 1973.

He said the specific legislation incorporating these and other proposals would be submitted to Congress shortly.

The funds available would be increased to $2.25 billion for the fiscal years from mid-1976 through mid-1979.

Under the proposal 40 per cent of the Single Urban Fund would be distributed to the nation's standard metropolitan statistical areas according to their share of the national population.

Forty per cent would be allocated to the states, on a population basis, and 20 per cent would be reserved for discretionary use by the secretary on urban transportation projects best suited to the needs of the cities.

All the funds would be allocated on a 70 per cent federal and 30 per cent state and local matching basis.

[From the Washington Post, Mar. 15, 1972]

ROAD FUND EYED FOR TRANSPORT

(By Jack Eisen)

Secretary of Transportation John A. Volpe, responding to a long campaign by big-city officials and environmental groups, urged Congress yesterday to permit use of the federal Highway Trust Fund for spending on improving urban mass transport.

Saying that his plan has active backing from President Nixon, Volpe called for a sweeping reorganization of the nation's road and transit programs, with the choice of roads or rails to be made chiefly by local officials.

Volpe acknowledged at a press conference that the proposal would probably encounter stiff resistance, notably from trade groups that make up Washington's highway lobby.

"It is a bold move," Volpe said, "but I am ready to stand up and argue the case with anyone, whether he is a trucker or a highway contractor."

The plan was detailed in a 49-page "national highway needs report" sent by Volpe to Congress.

It provides for completion by 1980 of the 42,500-mile interstate highway system, which has stirred controversies by uprooting neighborhoods in many urban areas, including Washington. As of Dec. 31, the interstate system was 77 per cent completed.

Under the new proposal, there would be no new nationwide road network, as such, to expand the interstate system, which has revolutionized the nation's motoring habits and rearranged its economic geography since it was undertaken in 1956.

Instead, the money would be channeled into what Volpe called a "single urban fund" for roads and transit, and into two other funds for rural roads.

After a transitional year in Fiscal 1974, the entire annual outlays—$6.5 billion in Fiscal 1975 and $6.85 billion in Fiscal 1976 through 1979—would come from the Highway Trust Fund, supplied chiefly by revenue from the federal gasoline tax of 4 cents a gallon.

In the 1976–79 period, the interstate program would get $3 billion annually, the single urban fund $2.25 billion, the rural funds $1.2 billion and other programs, such as safety, total of $400 million.

The separate capital program for urban mass transportation, authorized by Congress in 1970 to spend $3.1 billion from the general fund over a five-year period, would be abolished.

That program is now the only federal source of funds for building rail transit systems (apart from Washington's specially financed Metro subway), and for the purchase of rail cars and buses.

The Highway Trust Fund is now used to a limited extent to finance such transit projects as special lanes for buses.

Volpe's new program would provide 70 per cent federal financing, with the 30 per cent balance to be raised by the states or localities. Interstate federal financing would continue until the system's completion at 90 per cent.

The program proposes a national distribution formula based on metropolitan and state populations, and would share control of spending between the states and local communities. However, the Secretary of Transportation would keep control over 20 per cent of the urban funds for projects "best suited to the needs of the cities."

All the money would go for capital outlay—roadways, tracks, transit equipment—but could not be spent to subsidize operating deficits. Congress is considering a separate program for that over Volpe's objections.

Most initial reaction was cautious, with highway trade groups delaying comment.

Sen. Harrison A. Williams Jr. (D-N.J.), chief sponsor of the existing mass transit law, voiced concern through an aide that the needs of transit might be subordinated to the much larger highway program. Volpe denied this to newsmen.

The affiliated National League of Cities and U.S. Conference of Mayors praised Volpe for submitting the plan but questioned whether the Highway Trust Fund would be ample to finance both roads and rails.

The Highway Action Coalition, an ecology-oriented group, praised the purposes of Volpe's plan, but voiced reservations chiefly over the completion of the Interstate program and the lack of transit operating subsidies.

U.S. DISTRICT COURT JUDGE GEORGE S. REGISTER

Mr. BURDICK. Mr. President, I wish to take a moment of the Senate's time to pay proper respect and due tribute to a prominent jurist, Hon. George S. Register.

Judge Register retired from the Federal bench on December 22, 1971, after 16 years of distinguished service as chief judge of the North Dakota district. His death, on March 18, 1972, was unexpected because he had been in good health.

He was graduated from the University of Michigan School of Law in 1927 and practiced in Bismarck, N. Dak., until he was named to the Federal bench on July 27, 1955. During this period, he served as Burleigh County State's attorney for 24 years.

His judicial accomplishments were many. During his tenure, he served six times by assignment on the Eighth Circuit Court of Appeals and was appointed to a 15-judge team which tackled a backlog of cases in the Federal court in Brooklyn, N.Y. Seven times he served as a member of three-judge panels convened to rule on constitutional questions and, in each instance, he wrote the opinion for the court.

Despite his many professional accomplishments over a long and distinguished career, possibly the highest accolade that he received was the high regard and respect which was accorded him by both the bench and the bar.

Mr. President, I am deeply saddened by his death. Many citizens of North Dakota, including his former clients, his colleagues on the bench, and his fellow lawyers, will miss him. The Federal judicial system has lost the services of an able and experienced senior judge.

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS OF 1972

Mr. DOLE. Mr. President, the occupational safety and health legislation for which I voted in 1970 was enacted to deal with a difficult problem; it was intended to answer the need of assuring the health and safety of workers in every type of industry and business in the Nation. The objective of the act was laudable, but the variety of situations in which it was to be applied demanded legislation outlining a framework which would insure the development of reliable rules and a detailed explanation of the exact situations in which these rules would be applicable. During the course of debate on the act, considerable uncertainty developed as to which legislative approach should be taken.

RELIABLE MECHANISM NEEDED

After considering the various proposals, I came to feel that it would be desirable to include a more reliable mechanism for developing and enforcing reasonable health and safety standards. For those reasons, in the 1970 debate, I favored inclusion of provisions which emphasize cooperation among labor, Government, and management and shared responsibility for occupational safety and health among these sectors. The provision I favored would have set up a framework for the promulgation of strong but reasonable standards and would have established procedural safeguards to insure strong regulation and due process in their application. However, such provisions were not adopted by the Senate.

In the light of Congress failure to include these features, it is not surprising to me that confusion currently surrounds administration of the Occupational Safety and Health Act. I would suppose most of my colleagues in the Senate receive complaints daily as I do from small businessmen concerning the Occupational Safety and Health Act. I find that Kansas businessmen do not object to assuming the obligation of providing safe working conditions for their employees. In fact, most—the great majority—long ago accepted this responsibility by their wholehearted compliance with the strict and productive Kansas State occupation safety and health laws. But these Kansas businessmen do find it difficult to accept forced compliance with Federal regulations which have no meaningful application in their situation and which are often unknown and impossible for them to discover. I would also point out that the small businessmen are not alone in their opposition to the act. The communities in which these businessmen work and which their payrolls support also object to the occupational safety and health regulations which have forced many of the small businesses to close or at least seriously consider the possibility.

PROBLEMS IN RULE APPLICATION AND ADMINISTRATION

A wide range of difficulties, not all of which have been statutory, have come to light as businessmen have attempted to comply with occupational safety and health regulations. In a recent meeting,

a Kansas constituent informed an occupational safety and health representative that the OSHA regulations, as he understood them, would impose such a financial burden on him that he would be forced to close his business. The OSHA representative's unconcerned response was that a closed business would be in compliance with the regulations. The constituent owns a series of small businesses and has an outstanding job safety and health record. As a result of this response from the OSHA representative, the businessman has canceled his business expansion plans and intends to reduce the present number of persons employed. Kansas and the Nation cannot afford to pay this price for compliance with a law of questionable value, nor can such an attitude be tolerated on the part of Federal officials charged with cooperative efforts to implement the law.

Another constituent has informed me that even with the governing standards in his possession, compliance is still impossible, because of the lack of the standards applicability to his particular situation. In addition, he fears that the regulations could become outdated at any time without his notice. For these reasons, he has decided that it will be less costly and more certain for him to incur a fine and through the violation learn of his shortcomings than to attempt compliance in advance. Such a state of affairs is hardly conducive to respect for existing law, nor does it develop the needed interest in accomplishing the law's basic purpose of creating meaningful occupational safety and health standards.

KANSAS LAWS ADEQUATE

The objections Kansans have voiced to the occupational Safety and Health Act of 1970 are legitimate. They are not an attempt to avoid responsibility; rather, they are a plea for a rational, logical, unified approach to the problem of providing occupational safety and health standards which will serve the interests of all parties. The Kansas Legislature has responded to the situation by passing State OSHA regulations specifically pointed at answering Kansas needs and concerns. This legislation, if signed into law and found to insure a standard equal to or above the Federal standard, would return control of the Kansas occupational safety and health to the State of Kansas. In view of the State's fine record in the past, I firmly support these efforts by the State of Kansas to assume job health and safety responsibilities, and do not feel that individual States with good, proven occupational safety and health programs should be forced to disrupt their successful efforts to comply with Federal laws not adaptable to the State's particular needs. Of course, if States have deficient programs, they should be strengthened by the impact of Federal legislation where necessary. But I strongly feel that States and businesses who are giving proper consideration to job safety and health should not be needlessly harassed by Federal impositions.

EXEMPT BUSINESSES WITH LESS THAN 25 EMPLOYEES

With these views in mind, I have sponsored the Occupational Safety and Health Amendments of 1972 which are needed to alleviate the problems, while maintaining the basic strength and integrity of the 1970 act. The objectives of the Occupational Safety and Health Amendments of 1972 are twofold. First, they seek to limit application of the standards to only those situations where some reasonable association can be established between the proposed standard and the desired safety and health protections which are to result. The amendment proposes to exempt from application of the OSHA laws employers of fewer than 25 individuals. This exemption does not reflect a belief that such employers should not be responsible for the safety and well-being of their employees. Instead, the exemption reflects the reality that small businesses have, by their nature, built-in factors which promote safety and health protections. The close association between the small business employer and his employees fosters an understanding of mutual needs and expectations. The employer becomes directly involved with his employees as human beings rather than as only statistics on payroll and time sheets. Within this setting, the common benefits of safety and health measures become apparent to both parties and a much more reasonable basis is established for the formulation and application of safety and health standards than when rules drawn by a bureaucracy are sought to be applied. A reliance on this close employer-employee association and upon Kansas OSHA laws has for years provided adequate and meaningful protection for Kansas workers in a framework conducive to the growth of small business. I feel that continued reliance on these proven measures to provide protection in the future to small business employees is entirely justified.

PROCEDURES FOR RULE APPLICATION AND EVALUATION

A second objective of the amendments is to propose procedures specifically pointed at making certain OSHA standards reasonably conducive to attaining their expressed goals of improved job health and safety. In this connection, the amendments would require the Secretary of Labor, prior to the adoption of any standard, to publish an estimate of the average maximum cost of compliance by the average employer and to determine the possibility of compliance. The Secretary of Labor would also be required to evaluate each standard to determine its applicability within each class of business. After such evaluation, the Secretary would outline the specific class or classes of employers to which that standard is applicable. This step is essential to developing a reasonable and meaningful set of occupational safety and health standards.

The amendments contain several measures which will relieve employers from unreasonable penalties which would be imposed under the existing act. Many so-called national consensus standards were absorbed by the present act without any administrative or legislative determination that they would improve job health and safety. Many of these consensus standards were objectionable for both practical and procedural reasons, and in some cases they were admittedly outdated when made a part of the act. To prevent undue credence from being given such admittedly imperfect regulations and to provide a guideline for proposals to be adopted in the future, the 1972 amendments include the following limitations on the application of the Occupational Safety and Health Act of 1970:

First. A bar to using an employer's failure to comply with occupational safety and health standards which have been adopted by methods other than the normal administrative rulemaking process as evidence of negligence or wrongdoing in a civil action.

Second. A proscription against an employer being held strictly liable for a violation of standards on his premises if he has exerted reasonable efforts to comply with the standard and if noncompliance is the result of factors beyond his control.

Third. Protection for an employer being charged with violation of a standard developed through other than normal administrative rulemaking procedures unless he had 30 days prior actual notice of the standards.

Fourth. Provisions that an employer cannot be found liable for violating a standard if compliance with the standard would not have effectively constituted an improvement of occupational safety and health conditions.

These provisions are intended to hold employers liable only for violating standards of which they are aware and which are meaningfully applicable to them. They would in no way exempt employers from liability for violations which in fact breach reasonable safety standards. These proposals are intended to remove unreasonable OSHA requirements, while retaining full and adequate measures to protect the job health and safety of employees.

TECHNICAL ASSISTANCE AVAILABLE

One of the biggest objections Kansans have voiced about the 1970 act concerns its emphasis on forced compliance and strict liability as opposed to a coordinated approach which recognizes the responsibilities of both employer and employee in developing meaningful OSHA standards and conditions. I feel a coordinated effort on the part of the Government, labor, and business is needed to satisfactorily deal with the job safety problem. It is with the hope of fostering this cooperative spirit that the amendments provide technical advice, assistance, and consultation for businesses with fewer than 100 employees to assist them during the preceding calendar year in complying with reasonable and effective standards. In conjunction with this assistance, and in the firm expectation that it would produce better and more effective assurance of on-the-job health and safety, the amendments would provide that the act's standards and sanctions would not be enforceable against employers of from 26 to 100 employees for a year following the enactment of these amendments.

I feel that the rectification of existing occupational safety and health reg-

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ulations is of primary importance to both employers and employees in Kansas and across the country. The Occupational Safety and Health Amendments of 1972 propose the necessary measures to solve the inadequacies of the 1970 act and promote the goal of occupational safety and health protection for all workers.

RELIANCE ON EXECUTIVE PRIVILEGE BY PRESENT ADMINISTRATION

Mr. FULBRIGHT. Mr. President, Eric Sevareid of CBS is one of our most perceptive commentators, and one of his recent commentaries on the CBS Evening News is of particular significance.

On March 14, Mr. Sevareid spoke about the increasing reliance on "executive privilege" by the current administration, and the "very big growth in personnel and functions under immediate control of the White House."

Mr. Sevareid concluded:

To a growing body of Congressmen this whole condition is intolerable. If the head of our most secret agency, Central Intelligence, can be summoned by Congress, they see no reason why White House staff people should be immune. Immunity, they think, should cover categories of specific information, not categories of jobs or titles.

Mr. President, because I believe Mr. Sevareid's commentary is deserving of widespread attention, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

CBS TELEVISION NETWORK

SEVAREID. The Senate hearings on the business of ITT and the Republican convention have yet to hear from two potential star performers, the lady lobbyist, Dita Beard, and presidential assistant Peter Flanigan, chief link between the White House and the financial world. The White House has been resisting moves to have Flanigan testify, with the usual argument of executive privilege.

Executive privilege is what is called an inherent right. At least half our presidents since Washington have successfully maintained their immunity, and the immunity of information they regard as confidential to the President, from summoning by the Congress. In Eisenhower's time, the then Attorney General Rogers asserted that this executive discretion could not be controlled at all.

Congress also has an inherent right, the right to information necessary to the making of laws. It went recklessly far with this in the wild days of Senator Joseph McCarthy. Partly for that reason, Congress has been mild in its demands since, and administrations have been bolder in their refusals.

Two rights are in collision here. The matter has never had a Supreme Court test on a clear cut basis, and some authorities think it should. Obviously the Congress must have information; obviously communications between any President and his immediate staff must be privileged. Beyond that point the matter gets complicated, but a case can be made for breaking the impasse.

What has happened over the last years is a very big growth in personnel and functions under immediate control of the White House. A number of confidential presidential advisers are also administrators of agencies and committees: the lines on which they operate are external as well as internal, between themselves and the President. In various cases involving business firms, Flanigan has done more than advise the President; he has taken a direct hand in the settlement of these cases.

Henry Kissinger is listed as Assistant to the President for National Security Affairs. Nobody now has the formal title of Executive Secretary of the National Security Council. Kissinger has the job and the power without the title. He also chairs six committees dealing with foreign and military affairs. He, too, is involved in far more than simply advising the President. But he is immune to formal questioning by committees of Congress. He will deal with the press, and sometimes the public directly, but not with the Congress as such.

To a growing body of Congressmen this whole condition is intolerable. If the head of our most secret agency, Central Intelligence, can be summoned by Congress, they see no reason why White House staff people should be immune. Immunity, they think, should cover categories of specific information, not categories of jobs or titles.

ETHNIC GERMAN CITIZENS EXPELLED FROM HUNGARY, RUMANIA, AND YUGOSLAVIA

Mr. PERCY. Mr. President, following the Second World War, ethnic German citizens of Hungary, Rumania, and Yugoslavia were expelled from those countries even though most of their families had been residents and nationals of those countries for many generations. They were forced to leave their countries and thus lost their properties and most of their possessions.

For many years these ethnic Germans have appealed to the Federal Republic of Germany to compensate them for these losses. At the same time they have made many appeals to the Government of the United States to raise this issue with the West German authorities.

On February 12, 1969, the Federal Republic adopted the law governing indemnification for reparation, destruction, and restitution losses, and a handful of ethnic Germans now residing in the United States have made claims under that law. However, the law prescribes such narrow conditions for claims that it effectively precludes the payment of claims to the vast majority of ethnic Germans now in our country.

While it is not routine practice for the Government of the United States to act as an intermediary with another country on behalf of naturalized citizens who were not U.S. citizens at the time their losses were sustained, I believe it would be a magnanimous act if our Government would now make a representation on their behalf with the Federal Republic of Germany. I do not advocate a blatant intervention in this matter, but only the raising of the issue with the West German authorities to indicate our own concern for the welfare of these citizens.

In the first session of the 92d Congress, with Senators BAKER and HUMPHREY, I submitted Senate Resolution 79, expressing the concern of the Senate for the plight of the ethnic Germans and calling upon the Secretary of State to explore the possibility of obtaining for them some measure of compensation for their losses.

As a nation dedicated to the protection of individual rights, the United States should have a sympathetic interest in this problem. For that reason, the desirability of proceeding with Senate Resolution 79, and I am asking the Committee on Foreign Relations to hold hearings on the resolution in this session.

GENOCIDE CONVENTION: LEGAL QUESTIONS

Mr. PROXMIRE. Mr. President, no one has raised serious objections to the purpose of the United Nations Convention outlawing genocide. The primary objections which have been raised during the 23 years since the convention was first submitted to the Senate have concerned constitutional and other legal points.

Over the years, however, these objections have gradually subsided as it became apparent that the Genocide Convention in no way challenges or violates the Constitution or any Federal laws. As Supreme Court Justice William Rehnquist said when he was Assistant Attorney General:

Twenty years ago Solicitor General Perlman provided a detailed and scholarly statement to a subcommittee of the Foreign Relations Committee on the constitutional and other legal questions surrounding the Genocide Convention. In 1950 some of the questions concerning Federal jurisdiction and the treaty power were considered somewhat novel. However, developments in the intervening years—the extensive use of the treaty power and the growth of Federal criminal jurisdiction—have, it seems, illuminated both these areas to the point where I believe I can safely say that the questions before the Committee and the Senate are more matters of policy than questions of legal power.

It seems to me that the only matter of policy left is whether or not we want to oppose genocide as strongly and as officially as the United Nations Convention does. I can see many benefits in this in terms of enhanced prestige abroad and no drawbacks. Mr. President, I again call for the immediate ratification of this convention.

INTERNATIONAL TRADE—A TWO-WAY STREET

Mr. FANNIN. Mr. President, international trade is an important economic factor which has received increasing attention in recent years. This is as it should be, because international trade continues to gain in importance. It is the responsibility of Congress and the executive branch to insure that trade is a two-way street.

The President in his report to us dated February 9, 1972, pointed out that:

The European Community and Japan are now centers of economic power and strong international competitors. The Community today is the largest trading area in the world. Japan has made rapid advances in productivity and has become a vigorous exporter. But discriminatory trading arrangements are assuming greater importance. Additional trade barriers have been erected. And past reductions in tariffs have exposed other barriers to trade, which have not been adequately addressed.

It is important for us to help the President to pursue his goal of removing trade barriers and seeing that our trading

partners live up to their international agreements. The Honorable Peter G. Peterson, now Secretary of Commerce, released a report on December 27, 1971, when he was the Assistant to the President for International Economic Affairs, which is excellent. Section 3 of volume 1 deals specifically with a matter of great concern to the citrus-producing States of Arizona, California, Florida, and Texas. Mr. Peterson discusses as an issue for international action, the discriminatory preferences which continue to damage citrus growers in the United States. Mr. Peterson states:

The United States has long supported the multilateral, non-discriminatory approach to the management of international economic relations, as opposed to bilateralism and discrimination. The United States has global economic interests: it thrives best in a world of nondiscrimination. The American interest is not solely economic, however. Nationalism is politically divisive, whether practiced militarily or economically. The United States has tried to encourage the development of an international system which would contain divisive economic nationalism and exclusive regionalism, so that political as well as economic relations might operate to the general benefit of all countries.

Some countries have looked at their own interests differently. Working from a smaller economic base, and heavily reliant on trade with their close neighbors, these countries have at times preferred to work outside the framework of nondiscrimination and multilateral negotiation. Sometimes, for historic and cultural reasons, they have used preferential commercial relations as a basis for continuing political ties and promoting exports. The countries of the European Community have been most active in practicing this kind of economic diplomacy, providing, for example, preferential access to the Community for certain exports of a large number of African and Mediterranean countries, and in return requiring preferred access for European exports *into* the markets of these countries. These latter preferences are known as *reverse* preferences and while they are presumed to be of value to European manufacturers, they are of little value to the developing countries which are required to provide them. These special trading arrangements between the Community and certain developing countries are often tied to aid flows, so that a broad, bilateral economic relationship is maintained.

In volume 2, Mr. Peterson points out in his section on trade with the European Community that:

The affects on these preferences on our citrus exports to the Community is a clear example of what, from our standpoint, is a discriminatory act, detrimental to both U.S. economic interests and the principle of a multilateral, open-trading world.

The Senate expressed its concern last year when it unanimously passed a resolution calling upon the President to insist that the EEC end illegal preferences granted to Tunisia, Morocco, Israel, and Spain. These preferences violate the most favored nation provision of the General Agreement on Tariffs and Trade. The most favored nation provision of GATT is its foundation, and has been the cornerstone of U.S. trade policy since the 1930's.

The EEC recently announced that it was reducing its 15-percent common external tariff on imports of fresh oranges for the months of June, July, August, and September to the tariff rate of 5 percent. What the EEC did not announce was that it was continuing its 80 percent preference in favor of Tunisia and Morocco which works on a 12-month basis and its 40 percent preference in favor of Spain and Israel which also works on a 12-month basis. Neither did the EEC announce that it is entering into negotiations with these four countries who currently are seeking to obtain improved preferences from the EEC. It is unbelievable that the European Community would openly discriminate against the U.S. citrus exports in complete disregard of its international obligation expressed in GATT in light of the proof that it is damaging the U.S. citrus industry. Adding to the insult and injury is the agreement to enter into negotiations with the four preferred countries to see if their preferences can be improved. The United States must not allow such a result to occur.

Mr. President, if the European Economic Community is serious in its claims that it wishes to establish better relations with the United States on trade matters, then let the EEC prove it by eliminating illegal trade preferences granted to other nations.

A duty reduction for one-quarter of the year does not eliminate the discrimination against U.S. citrus. The duty reduction does not fulfill the EEC's international obligations in this matter.

Mr. President, more trade talks between the United States and the EEC are to be held this year and in 1973.

Our negotiators should insist that the EEC stop providing trade preferences which discriminate against U.S. citrus. Free trade is a two-way street, or it is not free trade. It is essential that we eliminate barriers such as these.

LEAD POISONING

Mr. KENNEDY. Mr. President, I invite the attention of the Senate to an article that details the hazards of excessive amounts of lead in our environment. The Senate Health Subcommittee recently conducted hearings on legislation I introduced to continue the Federal assault on childhood lead based paint poisoning.

In addition to the tragedies of mental retardation and death caused by childhood lead poisoning there is increasing evidence of the hazards facing our society from the widespread use of lead in many other substances in common usage.

Automobile fuel and pottery are additional sources of lead that contribute to the potential danger of lead poisoning in our modern society. Dr. Stephen K. Hall, writing in "Environmental Science and Technology," the journal of the American Chemical Society, has clearly described the increasing danger to health caused by the polluting effects of lead in our environment. I believe that we must move against the dangers of excessive lead because we know how to prevent its damaging effects. For that reason, I ask unanimous consent to have printed in the RECORD the article entitled "Lead: Pollution and Poisoning," written by Dr. Stephen K. Hall, and published in Environmental Science and Technology.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEAD: POLLUTION AND POISONING

(By Stephen K. Hall)

Lead has been mined and used by man for many years. Widespread early applications of lead are readily understood in light of its many desirable properties—relatively easily refined from natural ores, ductility, high resistance to corrosion, and other properties.

In both Greek and Roman culture, lead was used for manufacturing cooking utensils of the wealthy and in the lead pipes for the extensive plumbing systems of their homes. Studies indicate that Roman civilization deteriorated largely as a result of extensive lead poisoning (high incidence of infant mortality, mental retardation, and sterility) in the ruling class. This theory is supported by data showing a high lead concentration in the bones of their remains.

Of the nonferrous metals, lead is one of the most widely used in industry and everyday life. The annual consumption in the U.S. alone is well above one million tons. The storage battery industry is the largest consumer, about 40%, and the petroleum industry consumes about 20%, producing lead alkyls as gasoline additives. These 300,000 tons of lead are, of course, added directly into the ambient air. By contrast, only about 45% of the total lead consumed is recovered from metal products and batteries.

Today lead is an ubiquitous element present in food, water, and air. Lead aerosol is a common air contaminant. Dated samples of snow in northern Greenland indicate that up to 1750, there about 20 μg of lead per ton of ice until the Industrial Revolution. By 1860, this had increased to 50 μg/ton. The proliferation of the automobile since World War II also resulted in sharp increases—in 1940, 80 μg, in 1950, 120 μg; and in 1965, 210 μg. In the past two decades, man's continuing use of lead has produced an environmental level far above that which would exist naturally, and this could have grave consequences on human health.

SOURCES OF LEAD

Lead is a natural constituent of soil, water, vegetation, animal life, and air. Significant sources of naturally occurring lead include dust from soils and particles from volcanoes. In contrast to certain other metals such as mercury, lead in its elemental form is not a major source of poisoning.

In medieval times, the practice of "sweetening" wine with lead or lead acetate became a serious toxicological problem. Even today, alcoholic beverages of illicit origin are occasionally incriminated as the source of lead poisoning. Old automobile radiators are often used as the condenser component in illicit stills and contain enough solder to cause dangerous contamination of the "moonshine." Lead encephalopathy (disease of the brain), nephritis (disease of the kidneys) with gout, and other lead-related conditions have been reported in moonshine consumers.

Until the 1950's, most interior paints contained lead pigments which were a major source of childhood lead poisoning. Since then, lead oxide has been replaced by titanium dioxide. However, some old houses were painted countless times with leaded paint, and thick chips of leaded paint fall off as the walls and ceilings peel. Putty also contains lead and is even more likely to be found in substandard dwellings. Since children between the ages of one and four or five ingest nonfood particles of all types, about 8% of children in ghetto areas suffer from some degree of lead poisoning.

Another major lead source is earthenware pottery improperly glazed with lead. Large amounts of lead may be leached out of the glaze into certain foods. Today, man continues to pollute his environment with lead from other sources such as manufacturing.

use of pesticides, incineration of refuse, and combustion of coal and leaded gasoline. Available data indicate that combustion of leaded gasoline is the major source of atmospheric lead in urban areas.

ATMOSPHERIC LEAD

Antiknock agents of lead alkyls, in the form of tetraethyllead (TEL) or tetramethyllead (TML), have been added to most gasoline since 1923. Their use rapidly became a cause for concern because lead intoxication and even death occurred among those occupationally exposed. In 1925, the U.S. Surgeon General appointed a committee to investigate possible public health hazards in the manufacture, distribution, or use of leaded gasoline. In the following year, the committee proposed a set of regulations which were concerned only with precautions in manufacture and distribution. The proposed regulations were adopted voluntarily by the petroleum industry.

About 1930, an attack on the significance of lead as a hazard to the general public began, but for the following 30 years, there was little interest in the potential environmental pollution problem of lead. Then in 1958, the Ethyl Corp. sought and was granted an increase in the concentration of lead in gasoline by the Surgeon General. Today, the amount of TEL ranges from 2 to 4 g/gal of gasoline.

A survey in 1964 indicated only 88 cases of TEL poisoning reported in the U.S. and Canada, subsequent to adoption of the regulations in 1926, and only 16 fatalities. This record is not bad, considering that several million tons of TEL have been manufactured and distributed since 1926.

Lead exhausted by automobiles originates in the antiknock fluid in the gasoline. The fluid contains lead alkyls and organic scavengers, ethylene dichloride, and dibromide, whose function is to combine with the lead to form inorganic lead salts, chiefly bromochloride, that enters into the atmosphere as part of the exhaust gases. Since only negligible amounts of the lead alkyls in the gasoline are exhausted directly into the atmosphere, it is unlikely that the health of the general public would be affected.

The amount of lead discharged into the atmosphere in exhaust gases varies, depending on driving conditions from about 25% to 75% of the lead intake in the fuel. At low speeds, the lead tends to be retained in the exhaust system and is discharged at some later period when the engine is run at greater speeds. The level of atmospheric lead varies directly with the volume of traffic and the size of the community. Los Angeles, with a population of more than 2.5 million, has the highest lead concentration of the communities studied, with an approximate mean of 5 $\mu g/m^3$ of air. Other urban communities with a population greater than 2 million have values of about 2.5 μg. Communities smaller than a million have a mean atmospheric concentration of about 2 μg, and communities with a population of less than 100,000 have a mean value of about 1.7 μg. The mean today is rising by as much as 5% per year, and week-long averages 8 μg now occur in San Diego.

From the atmospheric precipitation samples collected by a nationwide network of 32 stations throughout the U.S., lead concentration is correlated with the amount of gasoline consumed in the area and the amount of lead in surface water supplies. Thus, any further rise in the dissemination of lead wastes into the environment can cause adverse effects on human health.

LEAD ABSORPTION

Two major routes by which lead enters the human body are the alimentary and respiratory tracts. Absorption of inorganic lead through the skin is insignificant. Trace amounts of lead are found in normal daily diets. The mean dietary intake of lead for adult Americans is approximately 300 μg/day. Approximately 6–7% of the metal ingested is actually absorbed, but the percent absorption does not appear to be materially influenced by the amount of intake.

In addition to the dietary intake, lead absorption by the respiratory tract has been studied. The amount of lead absorbed from a given air concentration varies according to the particle size. Particles of approximately 1 μ or smaller will probably be retained by the lung, with up to 50% retained in the body, and the remaining portion expired with air. Particles larger than 2 μ impinge on the mucous lining of the airways, are swallowed, and are handled as though ingested by mouth.

About 75% of particulate lead in vehicle exhaust is less than 0.9 μ in mean diameter, a size easily retained by the lung. For example, an urban adult, breathing air containing 3 μg of lead and respiring about 15m^3 of air per day, will absorb about 20–25 μg of lead from the respiratory tract. Roughly the same amount absorbed from a normal daily diet, this atmospheric lead contribution to the body approaches, and in some communities, even surpasses the contribution made by dietary intake.

LEAD METABOLISM AND EFFECTS

Under normal conditions, more than 90% of the lead retained in the body is in the skeleton. The amount of lead which is not retained in the body is excreted back into the gut in the bile and also excreted in the urine, sweat, hair, and nails. Long-term exposure at some daily level of lead is potentially hazardous because lead is a highly cumulative poison. Under conditions of abnormally high calcium metabolism, such as feverish illness or during cortisone therapy, lead may be mobilized and a toxic amount released from the skeleton. Only a small fraction of the total bone lead need be mobilized to add an appreciable increment to the small soft tissue pool.

With the passage of time, absorbed lead becomes progressively more deeply buried in the bone matrix. This develops a potentially dangerous pool of exchangeable lead which can persist for months or even years. Acute lead poisoning can occur long after exposure to abnormal amounts of lead has ceased.

Lead poisoning results from a very high levels of lead in the human body, particularly in the soft tissues. While in the soluble form, lead is both mobile and toxic, and most often affects the blood, kidneys, and nervous system.

The effect of excessive amounts of lead in the blood is anemia. The presence of stippled cells is characteristic of the blood of a patient with lead poisoning. Chronic nephritis, sometimes accompanied by gout, is a disease characterized by a scarring and shrinking of kidney tissues. In severe cases, it may lead to ultimate kidney failure.

The effects of lead on the central nervous system are seen in behavior problems characterized by convulsions or swelling of the brain. A single attack of acute encephalopathy can cause brain hemorrhage, mental retardation, and other permanent neurological injury. Similarly, repeated bouts of lead poisoning can also cause permanent brain damage ranging from subtle learning deficits to profound mental incompetence and epilepsy.

Chronic lead poisoning results from a slow buildup of lead over a period of years or the aftereffects of acute lead poisoning. Acute lead poisoning has easily recognizable symptoms, and if treatment is administered in time, permanent damage can be avoided. Chronic lead poisoning, however, without symptoms or with vague symptoms, is difficult to diagnose and may be recognized only after irreversible damage has been done.

CHILDHOOD LEAD POISONING

Lead poisoning in children is primarily a metropolitan disease in preschool age children who live in deteriorated housing previously painted with thick layers of leaded paint. As they are converted into slum tenements, much of the leaded paint peels and crumbles and is readily available to a young child. A chip of paint about the size of an adult fingernail can contain between 50 and 100 mg of lead. A child swallowing a few small chips a day easily ingests beyond the tolerable adult lead intake.

Lead poisoning is more dangerous in children than adults. During the first few weeks of abnormal ingestion of lead, generally no symptoms appear. After about six weeks, minor symptoms such as decreased appetite, constipation, clumsiness, fatigue, irritability, lethargy, headache, abdominal pain, and sometimes vomiting occur. Repeated ingestion of lead can lead to intermittent drowsiness and stupor, more persistent and forceful vomiting, and convulsions. With more prolonged or intense ingestion, the disease can culminate in intractable convulsions and coma (the symptoms of encephalopathy) and sometimes sudden death.

The minimum blood concentration of lead below which it is most unlikely that poisoning will occur is 80 μg of lead per 100 ml of blood for adults. In children, however, the threshold should be much lower. Mild symptons of lead poisoning have been found in children at 60–80 μg. As the blood-lead concentration rises above 80 μg, the risk of severe symptoms increases sharply. As many as 50,000 children in the United States today suffer from lead poisoning. Even though physical recovery is possible, brain damage and mental retardation often ensue, for the ages of one to four or five are critical years in the growth and development of the brain.

LEAD POISONING CONTROL

The most frequently used lead poisoning treatment is to bind the soluble lead to chelating agents which remove lead ions from soft tissues and prevent deposition of lead on the surface of the red blood cells. With chelating agents, high lead levels in tissues can be rapidly reduced to levels approaching normal, and adverse metabolic effects can be promptly suppressed. However, if there is a large residue of lead in the stomach, chelates may encourage such rapid absorption of lead that death occurs. Chelates may also release lead already stored in the bones, causing further complications. Chelating agents frequently used to treat lead poisoning are calcium disodium ethylenediamine tetraacetate (EDTA), 2,3-dimercaptopropanol or British Anti-Lewisite (BAL), and *d*-penicillamine.

Before chelating agents were available to treat lead poisoning, about two thirds of all children with lead encephalopathy died. Now the mortality rate is less than 5%. Unfortunately, treatment has not substantially reduced brain damage and mental retardation in the survivors.

Among the various substances that man concentrates in his immediate environment, lead wastes have been accumulating rapidly during the last century. As far as is known, lead is not a trace metal essential to nutrition.

One must remember that lead absorbed in seemingly harmless trace quantities over a long period of time can accumulate to exceed the threshold level for potential poisoning and produce delayed toxic effects. Concentrations of lead in soft tissues as well as in bones continues to rise from birth through the fourth or fifth decade of life. Furthermore, concentrations are higher in the U.S. than in other parts of the world.

Normal concentrations of lead in adults are below 40 μg/100 ml of blood. The average concentration of lead in Americans is 27 μg. The question is whether this average is normal or whether it represents a serious increase beginning with adding TEL to gasoline and thereby reflecting documented increase in environmental lead. If this is so, then any further increase might well be dangerous. Unfortunately, there is no baseline with which to compare contemporary populations. Low level effects are yet to be recognized.

Since 50% of airborne lead can be absorbed from diet, hopefully, the amount of airborne lead will remain constant since automobile and oil companies have started to eliminate leaded gasoline. Some states have laws prohibiting leaded paints for interior painting. However, applying lead-free paint over old leaded paint does not solve the problems. When paint peels, the leaded paint again becomes available to the child. Old leaded paint must be removed from substandard housing. Where rehabilitation is impossible, urban redevelopment projects should replace substandard housing.

Present American industrial standards consider 200 $\mu g/m^3$ to be an acceptable level of occupational exposure. A known effect of chronic lead exposure among industrial workers is peripheral nerve disease, affecting primarily the motor nerves of the extremities, while symptoms of acute lead poisoning are strikingly absent. Federal and state governments are reponsible for instituting effective control measures in industry.

Whether or not lead concentrations measured are hazardous to human health, any further increase of lead in the environment will result in further concentration in some food chains, leading ultimately to toxic doses for man or for some other important organisms. Lead pollution, therefore, must be controlled.

ADDITIONAL READING

Danes, R. H., Motto, H., and Chilko, D. M., "Atmospheric Lead: Its Relationship to Traffic Volume and Proximity to Highways," ES&T, 4, 318 (1970).

Chow, T. J. and Earl, J. L., "Lead Aerosols in the Atmosphere: Increasing Concentrations," *Science*, 169, 577 (1970).

Lazrus, A. L., Lorange, E., and Lodge, J. P., Jr., "Lead and Other Metal Ions in United States Precipitation," ES&T, 4, 55 (1970).

Habibi, K., "Characterization of Particulate Lead in Vehicle Exhaust-Experimental Techniques," ES&T, 4, 239 (1970).

Kehoe, R. A., "Toxicological Appraisal of Lead in Relation to the Tolerable Concentration in the Ambient Air," *J. Air Pollut. Contr. Ass.*, 19, 690 (1969).

FUTURE HOMEMAKERS OF AMERICA

Mr. TOWER. Mr. President, in these troubled times, we have witnessed a rash of negativism. Countless organizations have come forth to oppose something. Perhaps the two characteristics such organizations have in common is their negative approach, and, as a consequence, their short life. The antithesis of these organizations is the Future Homemakers of America.

For over 25 years, the Future Homemakers of America have made positive, significant contributions to the development of American youth. During the week of March 19 to 25, we are paying tribute to this fine group. The theme of National Future Homemakers of America Week is "Profiles in Youth." The FHA is emphasizing the positive qualities of American youth, who are challenged to be "caring, working, learning, discovering, improving, and solving." In essence, the members of FHA are striving for a better family life.

The Future Homemakers of America was founded on June 11, 1945. It is an incorporated, nonprofit national organization for students who are taking courses in home economics and other related subjects. The FHA is supported by membership dues.

Today, there are over 550,000 members in 11,000 chapters located in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and American schools overseas. The State of Texas has more than 70,000 members, making it the largest FHA State association.

In order to appreciate the goals and ideals of the FHA, I would like to state the eight purposes of the organization found as the constitution of the association of the State of Texas: First, to promote the joys and satisfaction of homemaking; second, to strengthen the function of the family as a basic unit of society; third, to encourage democracy through cooperative action in the home and community; fourth, to become aware of the multiple roles of men and women in today's society; fifth, to improve national and international relations; sixth, to provide opportunities for decisionmaking and for assuming responsibility; seventh, to involve youth with adults in individual and group activities; and, eighth, to develop interest in home economics, home economic careers, and related occupations.

As our society continues to change and evolve, the Future Homemakers of America will continue assisting our youth meet the challenges of tomorrow. "Toward new horizons" is the motto of the FHA, and it is a goal to which the entire Nation could aspire.

THE FEBRUARY CONSUMER PRICE INDEX

Mr. KENNEDY. Mr. President, the exorbitant and unconscionable rise in consumer prices for February announced today makes a mockery of the administration's irresponsible charges against the labor leaders who left the Pay Board yesterday. The essence of the protest by Mr. Meany, Mr. Abel, and Mr. Smith is that phase II is a failure in the fight against inflation. Surely, if the elaborate apparatus of the Price Commission cannot hold the line on rising prices to the promised level of 2 to 3 percent, there can be no logic or justice in the demand that labor hold the line at 5.5 percent for wage increases.

No one wants to see phase II fail. No one wants a situation in which labor representatives are unwilling to participate in the program. No one wants a program in which any single sector of the economy has to bear an excessive burden of the fight we all want to win to bring the economy back to health.

Perhaps this dramatic new one-two punch—the sudden labor walkout and the brutal February price increase—will wake up the administration and make it see the problem. Phase II is adrift on an aimless sea of bureaucracy. It must be made to function more effectively and more fairly for labor and business alike. Only then will it have the real confidence of all the American people.

INADEQUACY OF SBA LOAN CEILING

Mr. JAVITS. Mr. President, yesterday, the Senate passed S. 3166, a bill to amend the Small Business Act by increasing the amount which may be outstanding from SBA's business loan and investment revolving fund at any one time for purposes of particular SBA financial assistance programs.

I am gratified that the Committee on Banking, Housing and Urban Affairs reported, and the Senate passed, an amendment to the bill that Senator CRANSTON and I cosponsored, to increase from $25,000 to $50,000 the maximum loan that SBA is authorized to make, participate in, or guarantee to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, but I wish to express my concern over the fact that we approved the Banking Committee's cutback on SBA's lending authority for direct, immediate participation and guaranteed loans as well as other authorized loan commitments, from the $5.8 billion ceiling requested by the SBA to $4.1 billion.

We are all well aware that SBA exceeded its loan ceiling last year and that this caused unnecessary interference with the successful operation of SBA programs until Congress acted to establish an upward revision of the loan ceiling. Administrator Kleppe of the SBA in his testimony before the Subcommittee on Small Business on March 9 estimated that outstanding loans and commitments projected through fiscal year 1974 will total $5,626,000,000 and it was on this basis that SBA requested an increase in the ceiling to $5.8 billion. In addition, it should be noted that the Office of Management and Budget offered no objection to the SBA request for a $5.8 billion ceiling.

This is a critical period for small business. The need for successful delivery of SBA financial assistance to inner city, smaller urban, and displaced businessmen has never been greater. This definitely is not the time for false economy. I believe this matter should be given a thorough review when the bill goes to conference with the House and I urge the conference committee to restore the $5.8 billion ceiling requested by SBA.

Mr. President, I ask unanimous consent that Administrator Kleppe's statement of March 9 before the Committee on Banking regarding the ceiling legislation, as well as a statistical chart prepared by SBA showing ceiling levels and projections by program and overall, for fiscal year 1971 through 1974, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATOR THOMAS S. KLEPPE

Mr. Chairman, I appreciate the opportunity to appear before this Committee once again to discuss our current request for additional increase in the revolving fund ceilings stated in Section 4(c) of the Small Business Act. S. 3166, which you have introduced,

Mr. Chairman, would provide for the necessary increases.

S. 3166 would effect four amendments to the provisions of Section 4(c)(4) of the Small Business Act governing the total amount of loans, guarantees, and other obligations and commitments which may be outstanding at any one time from our business loan and investment fund. The first of these amendments would increase from $3.1 billion to $5.8 billion the amount which may be outstanding from the fund at any one time for the purposes of (1) our regular business loan program under Section 7(a) of the Small Business Act; (2) the loan program we administer, pursuant to Section 7(b)(3) of that Act, known generally as the displaced business loan program; (3) the trade adjustment loan program authorized by Section 7(e) of the Act; (4) the section 8(a) prime contract assistance program; and (5) the economic Opportunity loan program authorized by Title IV of the Economic Opportunity Act of 1964.

Our current budget projects indicate that, as of the end of this current fiscal year—less than four months from now, Mr. Chairman—our outstanding loans and commitments to be measured against the current $3.1 billion ceiling will total $3,041,700,000. This will leave virtually no reserve to carry us into Fiscal Year 1973. Although no decisions regarding our FY 1974 loan levels have been made, we estimate that our outstanding loans and commitments projected through FY 1974 will total $5,626,000,000.

It is on this basis that we have requested an increase in this ceiling to $5.8 billion, which would carry us through FY 1974 and permit an additional contingency reserve of $174 million.

Within the present $3.1 billion ceiling, there is a sub-ceiling governing the total amount which may be outstanding from the fund at any one time for economic opportunity loans made under Title IV of the Economic Opportunity Act. The current level of this sub-ceiling is $300 million. Our estimates for this program, projected through FY 1974, total $358.5 million. We have requested that this sub-ceiling for economic opportunity loans be increased to $450 million.

We are also requesting that the dollar ceiling governing the total amount which may be outstanding from the fund at any one time for purposes of the small business investment company (SBIC) program under Title III of the Small Business Investment Act of 1958, be increased from $450 million to $650 million. Our projections indicate that the present ceiling will not carry us through FY 1973. Although no decisions have been made regarding the SBIC program level for FY 1974, our projection is that outstanding loans and commitments through FY 1974 will total $565.4 million. Increasing the ceiling to $650 million, as we have requested, would allow an additional contingency reserve of $84.6 million.

Finally, Mr. Chairman, we are requesting that the ceiling governing amounts outstanding from the fund for purposes of the State and local development company loan programs under Title V of the Small Business Investment Act of 1958, be increased from $500 million to $700 million. Our projections here indicate that the total amount outstanding through the end of FY 1974 will equal $550 million. The requested $700 million ceiling would allow a very adequate contingency reserve for this vital program.

Except for the ceiling governing the State and local development company loan programs, our current projections indicate that none of the current ceiling figures will carry us through the next fiscal year. Most critical, of course, is the $3.1 billion ceiling which I first discussed. As I mentioned earlier, that figure will permit us to operate through the current fiscal year with very little room to spare. We ask the assistance of this Committee in recommending that the Senate promptly enact the provision of S. 3166 raising these ceiling figures to the levels necessary to carry SBA's programs through FY 1974.

This concludes my statement, Mr. Chairman.

SMALL BUSINESS ADMINISTRATION—BUSINESS LOAN AND PRIME CONTRACT LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$1,737.8	$2,297.0	$3,041.7	$4,105.9
Plus—new loan approvals:				
7(a) business	772.5	1,099.0	1,635.0	2,250.0
Economic opportunity	90.7	86.0	90.0	105.0
Displaced business	39.3	39.0	50.0	81.0
Trade adjustment assistance	4.5			
8(a) prime contracts (net increase)	8.5	3.7		
Total	915.5	1,227.7	1,775.0	2,436.0
Minus—repayments and cancellations:				
7(a) business	314.2	436.8	653.2	845.3
Economic opportunity	32.0	36.0	45.3	50.5
Displaced business	10.1	10.2	12.3	18.2
Trade adjustment assistance				1.9
Total	356.3	483.0	710.8	915.9

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, end of year	$2,297.0	$3,041.7	$4,105.9	$5,626.0
Current limitation	3,100.0	3,100.0		
Plus—contingency reserve				174.0
Recommended limitation				5,800.0
	June 30, 1970			
MEMORANDUM				
Outstanding by program:				
7(a) business	$1,420.8	1,879.1	2,541.3	3,523.1	4,927.8
Economic opportunity	150.6	209.3	259.3	304.0	358.5
Displaced business	153.6	182.8	211.6	249.3	312.1
Trade adjustment assist		4.5	4.5	4.5	2.6
8(a) prime contracts	12.8	21.3	25.0	5.0	25.0
Current EOL sublimitation		300.0	300.0		
Recommended EOL sublimitation					450.0

SMALL BUSINESS ADMINISTRATION—DEVELOPMENT COMPANY LOAN LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$291.4	$322.2	$369.3	$434.0
Plus—new loan approvals	56.2	77.0	100.0	155.0
Minus—repayments and cancellations	25.4	29.9	35.3	39.0

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, end of year	$322.2	$369.3	$434.0	$550.0
Current limitation	500.0	500.0		
Plus—contingency reserve				150.0
Recommended limitation				700.0

SMALL BUSINESS ADMINISTRATION—INVESTMENT COMPANY LOAN LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$284.3	$316.0	$388.9	$484.6
Plus—new loan approvals	47.7	78.0	100.0	84.1
Minus—repayments and cancellations	16.0	5.1	4.3	3.3

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, end of year	$316.0	$388.9	$484.6	$565.4
Current limitation	450.0	450.0		
Plus—contingency reserve				84.6
Recommended limitation				650.0

RULES OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, as required by section 133B of the Legislative Reorganization Act of 1970—Public Law 91-510—I ask unanimous consent that the rules of the Special Committee on Aging be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE SPECIAL COMMITTEE ON AGING

(As adopted June 12, 1963)

RULE 1

Convening of meetings.—Unless the Senate is in session and a different date within the month is ordered and notice given, the Committee shall meet regularly at 10 a.m. on the second Thursday of each month during the session. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary. Regularly scheduled meetings of the Committee may be postponed or cancelled by the Chairman should there be insufficient business before the Committee to warrant such a meeting. Subcommittee Chairmen may call meetings of the Subcommittees at such time as they deem necessary except that no such meetings may be called at a time when the full Committee is scheduled to meet. Special meetings may be called by a majority of all Committee or Subcommittee members upon written notice to the Clerk of the Committee. The Clerk shall give at least 24 hours notice to every member of the meeting, time, and place.

RULE 2

Presiding officer.—The Chairman of the Committee (or Subcommittee) or if the Chairman is not present, the ranking Majority member present shall preside at all meetings.

RULE 3

Quorums.—A majority of the Committee or any Subcommittee shall constitute a quorum sufficient for the conduct of business at executive sessions. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses and the taking of testimony at hearings.

RULE 4

Subcommittees.—Matters referred to the Committee shall be considered initially by the full Committee or by such Subcommittees as the Chairman, with the approval of the Committee, shall designate. Subcommittees may be established and their size determined by vote of a majority of all members of the Committee. The Chairman of the full Committee shall be an ex officio member of all Subcommittees. Party membership of each Subcommittee shall be proportionate to Party membership on the full Committee. Each Subcommittee is subject to these rules and any limitations imposed by the full Committee and is authorized (a) to hold and report hearings; (b) to sit and act during meetings of the Senate and during recesses or adjournment of the Senate; and (c) to require by subpoena or otherwise the attendance of witnesses and the production of documentary evidence.

RULE 5

Agenda and voting at meetings.—The business to be considered at any meeting of the Committee or a Subcommittee shall be designated by its Chairman and any other measure, motion or matter substantive or procedural within the jurisdiction of the Committee or a Subcommittee shall be considered at such meeting and in such order as a majority of the members of such Committee indicate by their votes or by presentation of written notice filed with the Clerk. Voting by proxy shall be permitted in the full Committee and all Subcommittees.

RULE 6

Right to counsel.—Any witness subpoenaed to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

RULE 7

Amendment of rules.—The rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

RULE 8

Reports.—Staff reports and Committee reports shall be printed only with the prior approval of a majority of the full Committee. The printing, as Committee documents, of materials not originating with the Committee or its staff shall also require prior approval of a majority of the full Committee. The printing of a Subcommittee report shall require prior approval of a majority of the Subcommittee concerned. With respect to the printing of Staff reports, the Chairman is authorized to conduct a poll of the Committee. In such cases, the Minority shall have the right to request reconsideration of the results of such poll at the next meeting of the Committee.

LIMITS ON THE RIGHT TO STRIKE

Mr. TOWER. Mr. President, on March 13, the Washington Star published an extremely perceptive article on one of the most important issues confronting the Nation—is there a constitutional right to go on strike? The article was written by Mr. Milton Viorst, a columnist whose opinions usually do not coincide with my own.

However, in this instance, Mr. Viorst has addressed himself to a number of questions which many public officials are reluctant to discuss. For instance, Mr. Viorst asks whether the labor movement should be allowed to destroy the effectiveness of the administration's economic stabilization program. In discussing this problem, Mr. Viorst asks whether there is a constitutional right to strike.

The author puts these issues in proper perspective by analyzing the current status of organized labor. It is ridiculous to suggest that the struggles facing organized labor today are the same that the movement faced earlier in the 20th century. Instead of fighting for the right to organize and represent workers on a regional and national basis, organized labor today is fighting for increased wages of an inflated nature and for the continuation of regressive work rules in industry that should have been reformed 20 years ago.

Organized labor today is engaged in a struggle to hold on to the status quo for the benefit of a few, at the expense of the remaining parts of our society, including those workers who are either unorganized by choice or command and those workers who belong to smaller unions without the political and financial influence enjoyed by big labor.

Mr. President, Congress has been reluctant to seriously consider the issue of labor law reform. However, it will soon become apparent to the majority of representatives that the American people will not stand for the continuation of the irresponsible public attitude that is held by the leaders of organized labor. It has become increasingly apparent to many Americans that economic threats, as exemplified by the attitude of the leadership of the dockworkers, cannot be tolerated if liberty and economic freedom are to be preserved.

Mr. Viorst's article adds to the education process that is needed if labor law reform is to gain the national attention that it deserves. I urge Senators to give this matter careful thought, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RIGHT TO STRIKE HAS ITS LIMITS

(By Milton Viorst)

The prospect of resumption of the West Coast dock strike—the consequence of the Pay Board's compromise finding on a labor-management wage settlement—raises important questions about the future of union power in American society.

First, it poses the problem of whether the labor movement is to be allowed to destroy the effectiveness of the administration's program of wage-price restraints, which on the whole has been working rather well.

Harry Bridges, president of the West Coast International Longshoremen's and Warehouseman's Union, had threatened to strike if "as much as one cent" was lopped off the settlement which the union negotiated independently with the shippers. George Meany, president of the AFL-CIO, has said he would support Bridges right down the picket line.

In fact, the Pay Board reduced the original settlement from 21 percent to 15 percent, which is a far cry from the 5.5 percent target it had established for wage raises. Obviously, the Pay Board was not indifferent to the longshoremen's threats, even if it did not capitulate completely.

Yet it is clear that if the longshoremen, by going on strike, force a larger settlement, then none of the Pay Board's decisions will be worth the press releases they're written on—and President Nixon's wage-price program will be shattered.

Because of the impact on overall economic policy at a critical time, then, the prospect of a walkout raises a second, even more fundamental question: Whether unions have an inherent right to strike whenever it might suit their fancy.

There certainly was a time when I would have answered with an unequivocal "yes." Those were the days when unions were fighting for their existence—against the hostility not only of employers, but usually of government and the courts. The left never doubted that the union was always right.

But the great labor struggles of the past—the Homestead strike, the United Auto Workers against Ford, John L. Lewis and the coal miners—represent a purer day of the union movement. As often as not these days, labor disputes are waged not so much against employers, but against the public and, often, against nonunion labor.

The current dock dispute is a good example. Both sides are going through a charade of who should benefit most from a reduction of some 30 percent—thanks to new technology—in the handling costs of cargo.

Obviously, it occurs to neither side to reduce prices.

Instead, the two sides make angry faces at each other and wind up with a sweetheart contract in which labor gets the wages it wants and management sets the prices it

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chooses. In such circumstances, it's hard to get emotional over labor's cause.

Yet Meany insists that labor has a constitutional right to go out on strike, notwithstanding economic policy and the Pay Board. It is curious how the Constitution becomes the last refuge of the economic royalists, no less so because the barons today are from labor as much as from management.

For myself, I have looked in vain through the Constitution for the right to strike. It seems clear that workers have the right to seek to coerce employers by a common refusal to work.

But I find nothing which says unions have the right to create economic paralysis or to deprive others of their living. In short, my own freedom reaches its limit when I hurt someone else. I have the right to free speech, but not to cry "fire" in a crowded theater.

And so the third question: Should the administration and Congress enact legislation requiring compulsory arbitration, for instance, when the well-being of society is involved?

Meany says such legislation would mean the destruction of free enterprise and would be the "antithesis of freedom." That's what the drugmakers said when told they had to make safe drugs, and what the steelmakers said when told they couldn't fix prices.

I say the right to strike has limits, like the right to threaten panic in a theater. Labor and management can fight their battles out to their hearts' content, but only so long as much or all of society isn't made to suffer for them.

THE PRESENT SITUATION IN ASIA

Mr. McGEE. Mr. President, in the 27 years since the cessation of hostilities marking the termination of World War II, we have experienced the good fortune of avoiding the outbreak of another widespread conflagration of much greater devastation.

The United States has played an instrumental role in preventing a third world war. We assumed the responsibility which fell on our shoulders in 1945 by virtue of the fact that we emerged from that conflict as the world's leading power.

The balance of power, without a doubt, has been responsible for the stabilization of Europe since World War II. That balance, and our willingness to participate in an alliance with the free North Atlantic States, was the major instrument in blocking Russian expansionism into Western Europe—an expansionism which has always been an historical trademark of Russia.

In today's Washington Evening Star, columnist C. L. Sulzberger presents a very excellent analysis of the present situation in Asia. Russia is now making a concerted thrust into Asia—a continuation of her expansionist tendencies.

As Mr. Sulzberger points out:

> Any future Asian stability depends on relationships between China, India and Japan that can be tolerated by Moscow and Washington.

He concludes that:

> Acting in tandem, Washington and Peking must now demonstrate such thrusts (Russian) are fruitless. Moscow may then see value in the vague new relationship developing to relax world tensions.

What this all means is that we have come a long way in the world. Yet we still have a way to go. Stability has been achieved in Europe and we must exercise the same resolve in striking that balance which will allow the new Asia to emerge without the hinderences of external forces which could be detrimental to this much desired development. We are at a critical stage in Asia, and the rest of the world has a great stake in the achievement of stability in this part of the globe.

I ask unanimous consent that Mr. Sulzberger's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCING THE "VACUUM" IN ASIA

(By C. L. Sulzberger)

One outstanding conclusion after a long Asian trip is that the postwar strategic balance is dissolving. Since there never was a truly stable balance, this means that a state of flux has set in. In no other area has this new power relationship become more obvious.

The old empires are gone except for odd vestiges like Hong Kong and Macao and a coalescing West Europe has yet to produce a comprehensible policy in the East. Both CENTO and SEATO, the main multilateral alliances, are dead, even if they twitch posthumously. Russia now presses to move into areas they embraced.

This has encouraged an effort by America and China to re-examine the region and find where they have common interests. It has also spurred fresh nationalism in Japan, of an economic, not a military sort.

Any future Asian stability depends on relationships between China, India and Japan that can be tolerated by Moscow and Washington. Peking will probably reconcile itself to the changed Indian situation and, without abandoning Pakistani friendship, return to the type of understanding with New Delhi that existed when Nehru was prime minister. This will ultimately help India to disengage from overreliance on Russia.

As China and the United States recognize certain mutual interests that transcend ideology, they will find it useful to work together in counterbalancing Soviet interest in India. Mrs. Gandhi might quite willingly play along, to frustrate Moscow's efforts to gain any preponderant influence in Southeast Asia.

Peking is better served by peace than war in Vietnam. It can better afford to see the Indochina peninsula neutralized rather than risk Soviet political gains there. Consequently the Chinese are less likely now to encourage Hanoi's precondition to peace: Replacing Thieu's presidential regime in Saigon with a parliamentary regime designed to gradually disintegrate the anti-Communist government.

The flaming issue between China and the United States—Taiwan—has been considerably defused. If some form of autonomy were to be offered when Chiang Kai-shek dies, most Taiwanese might accept this. The big change since Nixon's journey is that no future Taiwan formula can be unilaterally written in Washington.

Japan is vital to the New Look in Asia. Nixon's Peking visit, widely televised among the Japanese, will have a very long-lasting effect among them. For the first time since 1945 Tokyo recognizes the need to formulate its own individual foreign policy and this is bound to develop along more nationalistic lines.

At the 1964 Japanese Olympic Games the nation regained its self-confidence; at Expo '70 it became intoxicated with its progress; and the 1972 Nixon shocks on the dollar and China have completed the regeneration. It is likely that Japan, during this decade, will demand extrusion of all U.S. bases while remaining under the American nuclear umbrella.

Washington, Peking and Moscow must arrange a vague accommodation that each will help its respective Asian clients only if each other's forces or proxy forces invade the territory of those clients. Were there such an invasion, it should be known the interested major power(s) would help; otherwise not. Thus each would look after its interests while avoiding purely local conflicts.

Within such a general outline, which may be the purpose of presidential flights to both Moscow and Peking, it is even possible to imagine moves toward reuniting partitioned countries: Taiwan on a semi-autonomous basis; Vietnam in terms of regional collaboration as suggested by Saigon; Korea along lines reflecting Chancellor Brandt's attempts in Germany. The South Koreans have sent experts to Bonn to study these.

With respect to such modest initiatives, the major capitals must agree on what they will not accept rather than on what they will tolerate. This is the political road to an uneasy new Asia.

"Balance" is not a precise word any more than "vacuum." Even patently weak countries don't necessarily suck other influences in. Neither outer space nor the Antarctic is a vacuum. The only forces whose entry is attracted by weakness are those already pushing to enter.

That was once the case for the United States and China and is now the case for Russia. Acting in tandem, Washington and Peking must now demonstrate such thrusts are fruitless. Moscow may then see value in the vague new relationship developing to relax world tensions.

GETTING ACTION ON PRISON REFORM

Mr. JAVITS. Mr. President, the present crisis in the Nation's prison system results from three extraordinarily complex problems: confusion as to purpose, conditions in the prisons themselves and totally inadequate budgetary support.

We are told that a basic purpose of the corrections system is to protect society, by incarcerating individuals who threaten the security, safety, and property of the law-abiding majority.

By what standards do we decide who goes to prison and for how long?

With a rate of recidivism sometimes rating as high as 70 percent—is society being adequately protected?

We are told that another basic purpose is to provide facilities and services for the comprehensive rehabilitation of inmates in order to enable them to live productive lives when they return to society.

There is little doubt that in the national inquiry that is now underway in the media, in the Congress and elsewhere, these basic purposes and other underlying assumptions about our corrections system must be thoroughly and thoughtfully examined.

In this regard, Mr. President, I am pleased to note that my former Senate colleague, Charles Goodell of New York, who frequently spoke with force and effectiveness on this subject during his years in the Senate, has continued that commitment in private life. He is now chairman of the Committee for the Study of Incarceration, a particularly diverse and highly impressive group of lawyers, historians, academicians, and social scientists who have undertaken a complete reexamination of our basic assumptions about incarceration.

The important work of the committee, which is being funded by grants from the Field Foundation and the New World Foundation will constitute an important contribution to the basic public policy decisions which must be made in this field.

The Washington Post on Wednesday published an article written by columnist William Raspberry commenting upon the work of the committee.

Mr. President, I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

It is my own opinion that we have never adequately tried effective correctional rehabilitation in this country, that conditions within our prisons are sometimes inhuman, and that we will not succeed in reducing the level of violent crime in our society until we decide to put substantial new financial resources into the effort. We have placed upon the shoulders of the correctional system a good deal of public apathy concerning primitive prison conditions, and the problems of former offenders.

Three bills that I have introduced, S. 2962, S. 3049, and S. 3051, seek to establish national standards for the treatment of incarcerated offenders, a national corrections professions development program, and an innovative manpower training and job placement program for offenders.

It is my hope that the Senate will give its early attention to these and other bills on this critically important issue as soon as possible.

A front page article published in the New York Times of last Monday reported that the commissioner of corrections of New York City, Mr. Benjamin J. Malcolm, has adopted a new policy authorizing broader visitation rights for inmates. He also stated that inmate councils had been established within the city's corrections facilities to consider grievances and that more work release facilities were being established.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

These reform measures can only serve to lessen tensions and promote effective rehabilitation. But a great deal more must be done.

On Tuesday, I again visited the Manhattan House of Detention—known as the Tombs—and the criminal court facilities. My distinguished colleague from New York (Mr. BUCKLEY) and I examined the deplorable conditions which prevent our criminal justice system from working as fairly and effectively as it should.

The tour was arranged by Robert P. Patterson, Jr., chairman of the Committee on the Administration of Criminal Justice of the New York State Bar Association. Mr. Patterson and his committee have provided energetic leadership in the drive to enlist the business and professional sectors of New York in corrections and court reform.

Mr. President, the handwriting on the wall ought to be plain for all to see. Unless we begin to take the fact of correctional failure seriously, and act firmly upon that failure, the reality of crime in our society will continue to restrict our freedom and materially reduce the quality of life for us all.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AIMS OF PRISON REFORMS

(By William Raspberry)

Prison reform is a notion whose broad appeal grows even broader every time there is a prison revolt (as at Attica) or anything else that makes it clear to those on the outside just how horrible things on the inside can be.

And most of the talk about prison reform centers around various proposals for rehabilitating prisoners and making the prisons themselves less dehumanized and dehumanizing institutions: better educational programs, more psychological intervention, more comfortable facilities, better-trained guards, more individualized treatment—that sort of thing.

Don't put down the Committee for the Study of Incarceration as just another reform group. What the committee's 16 members have in common is a healthy skepticism of nearly all the conventional wisdom concerning prisons, including prison reform.

The committee, whose chairman and inspiration is ex-Sen. Charles Goodell, includes lawyers, historians, an economist, an anthropologist, a criminologist and one man chosen according to executive director Andrew von Hirsch, "because he was very bright and didn't know anything about prisons, and we thought we ought to have someone like that on the committee."

The first year's operation will be funded by a grant of $150,000 from the Field Foundation and $25,000 from the New World Foundation.

Even a cursory reading of its prospectus, working papers and staff memoranda suggests that the committee is likely to come up with some novel—and potentially very useful—conclusions. For instance:

"A major reason why we still maintain prisons, jails, asylums and reform schools, bad as these places are, is that we have no conception of how to replace them with anything better." Or:

"Repeated attempts have been made to 'reform' these institutions, but the abuses continue essentially unchanged. The system has shown an astonishing capacity to subvert reforms so as to reinforce existing practices." Or again:

Although the unspeakable conditions in institutions of confinement cry for action, there seems as yet to be little understanding of what kind of action would be appropriate.

"Continuation of reform efforts along traditional lines entails serious dangers of making conditions worse again. There must be a complete re-examination of what needs to be changed, and what the longrun objectives of change ought to be."

That last is crucial. For you cannot talk intelligently about long-run objectives until you ask the most basic question of all: Why do we have prisons in the first place?

It is clear that they don't reform the people we put in them. And while they do afford some protection from "dangerous" people, they do so only at the cost of incarcerating large numbers of people who would not be dangerous if unconfined.

Imprisonment of those who break the law doubtless has some inhibiting influence on the rest of us, but no one knows how long sentences must be to have that effect—30 days, 30 months or 30 years.

All of this is, of course, nonsense to "conservatives" who believe there already is too much mollycoddling of criminals. The committee knows this.

"Our main influence," says executive director von Hirsch, "probably will be on the liberals—the Ramsey Clarks who are still pushing for the same old reformist things: more psychiatrists, indeterminate sentences, individualized treatment.

"And every one of these 'reforms' only makes possible that much more arbitrariness.

"The No. 1 question we have to answer is, Why do we *have* these places?"

Von Hirsch has examined that question and his answers are worth another column

CITY TO LET CHILDREN VISIT PARENTS IN JAIL

(By Linda Charlton)

Within the next few days, children will be allowed to visit their mothers or fathers in the city's jails, according to Benjamin J. Malcolm, the Commissioner of Correction.

Mr. Malcolm announced this yesterday along with another change in visiting policy: Friends, as well as relatives, will be permitted to visit prisoners.

At present inmates, both in detention and sentence institutions, are allowed visits only from close relatives who are more than 16 years old.

ONE VISITOR AT A TIME

The visits—two 30-minute periods weekly for detention inmates and a single half hour on weekends for sentenced inmates—have been limited to one person. This, according to A. L. Castro, public relations spokesman for the department, is in large part because the booths in which the visits take place are small and because the prisons themselves are overcrowded.

State prisons, he said allow visits by inmates' children.

When, for the first time in the history of the city's prison system, children under 16 are allowed to visit their parents inside, they will have to be accompanied by an adult, Mr. Castro said. The policy will remain one person to a visiting period.

Mr. Castro said that the policy change would go into effect as soon as the orders had been written and the prisons had set up the procedures.

Mr. Malcolm said that during a recent conversation with an inmate at the Bronx House of Detention, the prisoner asked to see his children. The Commissioner said that he, in turn, asked the inmate whether the child might not be disturbed by seeing his father behind a pane of glass in the visiting booth.

"The inmate said," Commissioner Malcolm reported, "We poor blacks and Puerto Ricans are taught to accept these things. We live with it. We should make that determination. Not you." I was floored and I thought he was right.

Another change, the Commissioner said, will "allow the prisoner his choice" of visitors, not limiting him, as at present, to close adult relatives.

"Friends are sometimes closer to a person than a brother is," Mr. Malcolm said after the program.

The Commissioner made the changes in visiting policy known on the WNBC–TV program "Open Circuit," during which he answered questions telephoned in by viewers.

The restriction in visitors, the Commissioner said, was one of the grievances brought out by prisoners in his discussions with them, one of the "host of problems" he said would be considered by the new inmate councils being set up in the city's correction facilities.

He said that the council in the women's institution on Rikers Island had met twice "and so far it's doing extremely well."

Responding to a telephoned question, Mr. Malcolm said that a third work-release facility—there is now one in East Harlem and another in Brooklyn—"should be opening up within the next two months in the Bronx, on Southern Boulevard." If funds are

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available, he said, it is planned to open a fourth such facility "during the course of the year."

NEED FOR CHANGES IN THE GI BILL

Mr. CHURCH. Mr. President, today I presented testimony to the Senate Committee on Veterans' Affairs in support of legislation to improve veterans educational benefits.

I ask unanimous consent that my testimony, together with the supportive materials I provided the committee, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR FRANK CHURCH, BEFORE THE SENATE VETERANS' AFFAIRS COMMITTEE, MARCH 23, 1972

Mr. Chairman, I am pleased to testify in favor of legislation to update and improve the nation's programs providing benefits for the education and training of veterans.

I am especially interested in S. 1776, a bill introduced last year by my colleague, Senator Jordan, and myself. S. 1776 is designed to correct an inequity which has arisen under the current law, due to the changing nature of vocational education in the United States. Under the current law, a vocational education student receiving aid under the GI Bill may lose benefits for not attending a class he cannot attend because the school itself is not in session. This is a result of provision in the law which limits to 30 days the number of excused absences which a vocational education student may claim during any twelve-month period—excluding weekends or legal holidays established by Federal or State law. For every day in excess of this 30-day maximum, the vocational education student loses benefits.

This formula does not take into account periods other than state and Federal holidays and weekends which a school may establish as a vacation period. It is thus possible for a vocational student to lose benefits for "missing" a class session when, in fact, there is no class session to miss.

During a time when our vocational and academic educational programs were carried on largely by separate educational institutions, this discrepancy did not cause a large degree of inequity; however, as the members of this committee are aware, there has been a movement to combine vocational and academic education pursuits in the same educational complex. This combination means that academic and vocational students attend school on the same schedule. It also means that a student pursuing a vocational education who takes two weeks vacation at Christmas, when the school he attends is closed, can be penalized for as much as ten days' benefits, while his academic counterpart suffers no such monetary sacrifice. This type of discrimination against the vocational education student makes no sense to me.

I think the law should be changed to cure the inequity.

I must say, Mr. Chairman, that I was amazed that the Nixon Administration, by way of the Veterans Administration and the Office of Management and Budget, opposed such a change. I have read closely the report submitted in opposition to the bill and, in my view, it tortures logic, fractures fairness and totally begs the question raised by the legislation. The report should be rejected by the Committee, and S. 1776, or similar curative legislation, enacted.

The VA report speaks about the ability of the student to be absent 11½ per cent of the time and says this is reasonable; thus, no more time should be allowed. But that does not answer the basic question raised—is it fair to reduce benefits for lack of attendance when there is no school to attend?

The VA, in what surely has to be one of the less logical statements I have ever read coming from a government agency, says "To increase the amount of absence with pay which this bill would do would dilute the training schedules of the vocational-type course for the individual veteran. In these courses, shop practice and theory are essential instructions. To miss more than minimal of either would be detrimental to the veteran in his effort to succeed in the program." What the VA seems totally unable to comprehend is that this time we are referring to is time when the school is not in session anyway. There is no instruction taking place for the veteran to miss. There is no training taking place to dilute. It is a vacation period. School is not in session. I think the Senate can see this distinction even if the Veterans Administration cannot.

I hasten to add, Mr. Chairman, that I am not wedded to the specific language of S. 1776. If this committee feels that a different verbal formula would be more appropriate to the purpose sought to be achieved by the bill, namely, the equal treatment of students receiving vocational and academic training, I would support those changes which the Committee felt appropriate to achieving that desired result. I do think, however, that it is clear that this change in the law should be made.

Mr. Chairman, since introducing this legislation, I have received many letters from Idaho veterans and educators who deal with this problem daily. I have not received one unfavorable comment. I ask that the text of the letters I have received in support of the bill appear at this point in the record of the hearing. I further request that a copy of the press release which Senator Jordan and I issued at the time of the introduction of this bill and an editorial which appeared in the Twin Falls *Times-News* dealing with this subject also appear in the hearing record.

I urge this committee to reject the ill-founded objections to this bill voiced by the Nixon Administration and pass this legislation to grant equal treatment to vocational and academic students.

Mr. Chairman, I realize that this committee is also considering at this time legislation of broader breadth which will have a great impact upon all veterans education programs. It is clear that updating and change is necessary. The American Legion Magazine of March 1972, in its "Veterans Newsletter," pointed out the shocking fact that ". . . something like 59% of Vietnam vets don't go to college or take technical training at all, chiefly, they say, because they can't afford it!"

The Legion went on to point out that, in a recent survey conducted by Louis Harris and Associates, Inc., for the VA, 53% of the group which did not apply said they would apply if benefits increased and an additional 30% said they might apply. Why is it, Mr. Chairman, that these veterans feel they cannot afford to attend school under current benefit levels?

The answer lies in the tremendous increases in costs associated with advanced education. With 1966–67 dollars as standard, the cost of higher education in public institutions nearly doubled from 1956 to 1972. An even larger increase was recorded for private schools. Increases in veterans benefits have simply not kept pace with the increased costs of obtaining an education. It is time they were brought closer together. Until legislation to update and improve the programs is enacted, the G.I. Bill will continue to fall short of the goals for which it was established.

I am sure that this committee will give every consideration to the sound proposals advanced by the American Legion to improve existing programs. Until the programs are improved, what the Legion said in its March "Veterans Newsletter" will continue to be true:

"How does the veteran survive in college today? He works—if he can find a part-time job . . . He borrows—if he can . . . his parents help . . . if they can . . . his wife works—if he is married and she can . . . he scrounges for a grant or a fellowship of some kind—if any are available . . . Sometimes he must use a combination of all of those means—if he's resourceful and knowledgeable enough."

Mr. Chairman, I urge early action on the proposals to improve and increase benefits under the G.I. Bill. I would also like to request at this time that letters I have received from interested Idaho veterans, their families and veterans organizations in Idaho, pertaining to the need for improvements in these programs be included at this point in the hearing record.

In addition, I ask that an article entitled "Legion Presses Campaign to Increase Benefits in Veterans Education and Training Programs," which appeared in the March 1972 American Legion Magazine, which I have quoted in my remarks, appear at this point in the hearing record.

GOODING, IDAHO,
February 11, 1971.

Hon. Senator FRANK CHURCH,
Senator from Idaho, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: An editorial appeared in the Jan. 19th issue of the Time-News of Twin Falls, Idaho in which was pointed out an existing inconsistency between veteran college students of academic classes and those of vocational-technical classes.

The editorial also pointed out that this matter had been brought to the attention of our Idaho Congressmen but that they were "dragging their feet" and nothing is being done to correct the matter.

The editorial was discussed at a meeting of the Ladies Auxiliary to the Veterans of Foreign Wars to Post No. 3078, Gooding, Idaho and the Secretary was instructed to make inquiry into the situation.

In answer to our inquiry, Mr. Gerald R. Meyerhoepher, Director of Admission at the College of Southern Idaho, Twin Falls, informs us that the editorial is factual. He further states that as the Veterans Administration law now stands, a vocational-technical students attendance is taken daily. He has an annual (12-month) limit of 27–30 days which he can be absent before he is penalized. However the VA counts all days except the federal holidays as absences. Therefor, a student who never misses a day of school, which is unrealistic, can through regular school vacations such as Thanksgiving, Christmas, Easter and Semester exceed the imposed limit. The inconsistency is that no such requirement is placed on the academic student. We feel the vocational-technical student should be treated in the same way.

I am sure that you will agree with us, that this is unfair to the vocational-technical students or in modern phraseology, it is pure discrimination. Surely, there is something which our elected representatives from Idaho can do to help correct this inconsistency. The Ladies Auxiliary to the Veterans of Foreign Wars to Post No. 3078 asks that you exert every effort to help the veterans who are furthering their education in the vocational-technical field to receive the same rights as those of the academic field.

Yours truly,

BLANCHE LOEWEN,
Secretary, Ladies Auxiliary to the VFW, No. 3078.

GOODING, IDAHO, *April 3, 1971.*

Senator FRANK CHURCH,
U.S. Senator from Idaho, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: On behalf of the VFW Auxiliary and myself, I wish to thank you for your interest and action relative to inconsistencies between veterans who are enrolled in academic courses and those taking vo-tech courses.

I assume that the differential which now exists between the veteran students taking academic courses and those taking vocational education cannot be corrected without further legislation. Members of our VFW Auxiliary No. 3078 and myself feel strongly that vo-tech students should not be penalized for failure to attend classes when circumstances make it impossible to meet the requirements of not more than 30 days annual absence. In a letter from Mr. Gerald R. Meyerhoeffer, Director of Admissions at the CSI in Twin Falls, he stated that a student (vo-tech) who never misses a day of school, which is unrealistic, can through regular school vacations such as Thanksgiving, Christmas, Easter and semester exceed the imposed limit.

I am pleased to know that you have consulted with the Chairman of the new Senate Committee on Veterans Affairs, Senator Vance Hartke on this matter. I wrote about this complaint to Senator Len Jordan at the same time I wrote to you. He has written that he too is considering further legislation to correct this equity. Maybe you have already consulted with him on the matter.

I am very much in favor of higher education and that it be made available to all who desire it. However, I also believe that in a balanced economy we need plumbers, auto mechanics, electricians etc. as well as scientists, attorneys, doctors, business executives etc. And I further believe that many students who are not qualified for the achievement of a college degree can become very useful citizens if given the opportunity of a vocational education. One class of students should not be penalized while the other receives the privilege.

I thank you for the expediency with which you have handled this matter. The Times News is certainly wrong in stating that our Congressmen were dragging their feet on this matter.

Yours truly,

BLANCHE LOEWEN.

EDEN, IDAHO, *February 26, 1971.*

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your prompt attention and reply to my letter of January 25. I feel this is the first step in solving an absurd and unnecessary situation.

Mr. Kopan's letter does pinpoint several of the objections raised by the editorial, may I quote the letter?

"In enacting the veteran's education law, Congress gave consideration to the *differences* in the organization of colleges which offer courses leading to a standard college degree and of other types of schools and training programs."

This alleged difference puzzles me. In Idaho, post secondary vocational education is offered at North Idaho Junior College, Lewis Clark Normal School, Boise State College, College of Southern Idaho and Idaho State University. I have no statistics to support my belief, but I would guess at least 90% of the veterans enrolled in vocational training in Idaho are enrolled at one of these five institutions. Where is the difference in organization?

Mr. Kopan very neatly avoided the other objection raised by the editorial, that of the number of days of absences allowed. Mr. Kopan mentioned the allowed 30 days absence per year. However, he did not mention the regulation which requires that every school holiday which is not a federal holiday must be counted against the total of 30 days absence. I am sending you a copy of a 1967 letter which covers this matter (page 3).

I have recently been advised by telephone that this regulation is still in effect. So the editorial was correct—a veteran enrolled in a vocational course at the College of Southern Idaho actually has only 10 days of useable absences for an 11 month vocational course.

I am sending you a copy of the monthly certification blank. You will note that both the veteran and a school official must sign this card before a veteran will be paid. As the school official who signs this card, I am as liable for its correctness as is the veteran.

In closing, please allow me to state the objections of the veterans who are taking vocational training at the College of Southern Idaho, to this section of the G.I. Bill. First, they object to the implication that because a veteran chooses to enroll in a vocational course, he is either dishonest, or not smart enough to know when he should be in school. I realize this is not the intent of the bill, but this is the way the veteran reads it.

Second, they object to the uncertainty created by the monthly certification. Each month I talk to several veterans whose checks are from one to three weeks late in arriving. I am not knocking the Boise Veteran Administration office, I am sure they do the best job possible. Probably as many of the delays are caused by errors in my office as in the Veteran Administration office. No matter whose fault, writing a letter or obtaining a new card is a slow remedy when the veterans children are hungry.

The point is simply (I think) this: Why discriminate against 8% of the veterans being educated under the G.I. Bill? The object of the Bill is to help veterans gain education and employment. This discrimination certainly creates more problems than it solves, and I feel is in direct conflict with the intent of the Bill.

Sincerely,

NEIL V. CROSS.

THE RIGHT SIDE BY MIKE MCCURDY

A serious problem has arisen at the College of Southern Idaho's Vocational school, as well as at many other vocational schools. The Veterans Administration allows Vocational students attending school under the GI Bill of Education to miss only 28 days during their 11 month course of study for "excused absences" (personal illness, Official school business, death in the family, etc.). For any absence from the classroom not considered "excused", the student is "docked" on a per diem basis, from his monthly check for those absences.

Academic students have no attendance requirements to meet and receive their checks two to three weeks earlier than their vocational counterparts. This is due to an IBM attendance card that must be filled out by the vocational school administrative staff and turned in to the Veterans Administration. The VA must then process the cards and compute the amount of money due to each student. This processing is the cause for the long delay the vocational students experience each month in receiving their checks.

To make matters worse, the Veterans Administration has taken upon itself to pay the students for a full month of school, and then to add days to their excused absences for the days they were not in school.

School was dismissed on Thursday and the following Friday. They were not penalized for not being in school Thursday, since it was a legal holiday. However, Friday counted as an absence, even though school was not in session. During the Christmas vacation from Dec. 21 to Jan. 4, only Christmas Day and New Years Day were not counted as absences. The rest of the days were counted against the 28 allowable absences. Now the student has 10 days counted against him, when the school's doors were closed and there was no school to be absent from. If the VA continues this policy, Vo-Tech students will be penalized for three days absence during Spring Break in March and five days of absence during Teacher's Institute in June, over which the student has no control.

The student is being counted as absent when the school's doors were closed and he couldn't possibly attend school.

This now leaves the student only 10 days to be absent in 11 months of school. Any days over and above these 10 days are deducted from the student's check on a per diem basis, causing a financial burden on the student and his family. Vocational students spend a minimum of 30 hours per week in the classroom. This, coupled with homework, leave the student almost no chance to hold down even a parttime job. He is therefore, depending heavily on receiving a full check from the VA in order to meet his monthly budget.

Once his allowable 28 days are reached, he is docked for any absences over and above 28. This could easily cause a very severe hardship during the last months of school, quite possibly to the point that the student would have to quit school to support his family, since his "partial" VA check would not.

The Vocational school students wrote to Idaho's Congressmen in Washington concerning this problem. They received the reply that the attendance cards must be filled out for anyone at ending school under the GI Bill that is not working toward a normal college degree.

Is it not considered "normal" to earn a living as a draftsman, welder, auto mechanic, television repairman, or policeman? This in itself seems to be discriminatory against those whose interests are not in line with attending academic schools.

The IBM attendance card serves no useful purpose, except for keeping track of who was present or absent on a given day—and the instructors have this information as a part of their permanent records. The cards cause an unnecessary increase on the workload of both the school's administrative staff and the Veterans Administration.

The cards cost us, the taxpayers, thousands of dollars each month, to no good purpose.

The complete discontinuation of these IBM attendance cards would be in the best interests of everyone concerned. The time and money saved and the convenience to the vocational student.

VETERANS' ADMINISTRATION CENTER,
Boise, Idaho, February 8, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: This is in reply to your letter of February 2 in behalf of Mr. Neil V. Cross.

In enacting the veteran's education law, Congress gave consideration to the differences in the organization of colleges which offer courses leading to a standard college degree and of other types of schools and training programs.

Under the provisions of Section 1681 of Title 38, U.S. Code, the educational assistance allowance of an eligible veteran may be paid only for the period of his enrollment as approved by the Administrator. The allowance for a veteran enrolled in a course which leads to a standard college degree may be paid for any period when he is pursuing his course in accordance with the regularly established policies and regulations of the educational institution. Accordingly, allowances are paid to eligible veterans in such institutions upon receipt of evidence of en-

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rollment and such payments continue until the end of the period of enrollment, or until notice is received that the veteran has discontinued his training or that his conduct and progress does not meet the standard or regulations of the school. He is required to submit a certificate of attendance near the end of the academic year.

With respect to veterans enrolled in a course which does not lead to a standard college degree, the allowance may not be paid for any day of absence in excess of thirty days in a twelve-month period. It is necessary, therefore, for a veteran enrolled in such courses to report their attendance each month. No reduction of the allowance is made for absences until such time as a veteran has exceeded the allowable number of absences.

The procedures for reporting monthly attendance have been made as simple and convenient as possible. A certification card is mailed with each monthly check. If the card is misplaced or damaged, a new card may easily be obtained upon request to the VA Regional Office.

Sincerely yours,

LORYN E. KOPAN, *Director.*

COLLEGE OF SOUTHERN IDAHO,
Twin Falls, Idaho, November 23, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I have recently had correspondence from Senator Jordan, indicating the passage of S. 1776 seems doubtful at this time. You may be interested in other activity which could have effect similar to S. 1776.

In addition to my letters to you, I have attempted to draw attention to the inequities in the G.I. Bill by working through the American Legion. I am sending you a copy of a resolution I drafted, which recently was passed by our national convention. I hope you will be able to support this resolution.

S. 1776 and A.L. 471 are very similar in intent—S. 1776 would eliminate one of the most serious objections to monthly certification, A.L. 471 would completely remove monthly certification.

One other objection to the monthly certification is demonstrated by a situation which now exists with many vocational students here at the College of Southern Idaho. Although they have been in school over two months, many of our students have not yet received a G.I. Bill check. This is not because of direct discrimination by the V.A., but rather is a result of the extra time required to set up the accounts that require monthly certification.

There are a number of other difficult situations which arise as a direct result of the monthly certification, but I do not feel it is necessary to list them. Suffice it to say, there is no educational situation which would justify different procedures for vocational students from academic students.

Sincerely,

NEIL V. CROSS.

NO. 471 (IDAHO)—SPONSOR AND SUPPORT LEGISLATION TO AMEND TITLE 38 U.S.C. TO PROVIDE THAT VOCATIONAL TECHNICAL STUDENTS NOT BE REQUIRED TO MAKE MONTHLY CERTIFICATION OF ATTENDANCE

Whereas, since vocational technical education is classified as below college level training; and

Whereas, vocational technical colleges are directed under similar conditions as other institutions of higher learning; and

Whereas, vocational technical students have to be on campus for counselling and advising on the same basis as students in the academic programs; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31–September 1, 2, 1971, that The American Legion sponsor and support legislation to amend title 38, United States Code, to provide that a vocational technical student be required to make the same certification of school attendance as is required of a student enrolled in a course which leads to a standard college degree.

IDAHO STATE UNIVERSITY,
Pocatello, Idaho, June 16, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Boise, Idaho.

DEAR SENATOR CHURCH: We were very interested to learn that you have co-sponsored a bill to provide more equitable treatment for veterans enrolled in vocational education courses.

We live with this situation everyday in the School and we see the need for greater equality in the treatment of veterans on university colleges and campuses where vocational-technical programs are conducted. Many times here at the University, a veteran student enrolled in a vocational program is rooming with a student in an academic program. We think this situation is good and we are delighted that vocational-technical programs are an integral segment of the University. However, we do feel that certain VA policies regarding record keeping, attendance reporting and vacation pay, do discriminate against the vocational student, and it is very apparent to the vocational student that someone feels they are second class citizens.

We appreciate your interest in vocational-technical education and we support you in the very important work you are doing for the citizens of this state and nation.

Very truly yours,

HAROLD D. GARBETT,
Assistant Director.

DEAR SENATOR CHURCH: I am a Viet Nam returnee currently enrolled in Vocational training at the College of Southern Idaho and feel I am being personally persecuted by the Veterans Administration.

I have discussed this problem with various concerned persons and officials of this school. Neil Cross, Assistant Director, has allowed me to read recent correspondence with you concerning this particular matter. Also I have persued several letters concerning the V.A.s outlook of this situation. So I understand *what* is happening to me . . . and I also want to know *why* I am being discriminated against.

On October 26, 1970 I enrolled in the welding course at C.S.I. and following are the days of recorded absences *required* by V.A.

October, '70—28
November, '70—4, 17, 27
December, '70—2, 7, 21*, 22*, 23*, 24*, 28*, 29*, 30*, 31*
January, '71—No absences
February, '71—2, 18, 25
March, '71—1, 2, 8, 10*, 11*, 12*, 16

Please acknowledge I have put a star above the dates which were school holidays when I *could not* be in school. If there is question on the above dates they may be confirmed by C.S.I. officials.

My last two checks from V.A. have been considerably short. I assume because I have used up the allotted days of absence.

My main question is as a student of a full accredited institution why should I be handled differently because of my educational objective? The officials at the College of Southern Idaho also feel this biased handling is not necessary.

Your assistance on this matter will be greatly appreciated.

With Sincerity,

ANDREW J. RIKSEM.

LEWISTON, IDAHO, *May 10, 1971.*

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Our Vocational Education Counsellor has informed me of a new bill proposed to change some of the policies governing the restrictions placed on the Vocational Ed. students concerning the veterans benefits.

I am presently enrolled in a Mid-Management course at the Lewis-Clark State College, Vocational-Technical Division. We are working just as hard for our education as students in any Academic College; however, we receive less veterans benefits, and a cut in pay for school vacations and absences. We also get a percentage cut if we work in a co-op job. Other students work and get payed the full veterns benefits, why can't we?

I would like a copy of this bill sent to me if it is possible, and if some of these changes can be made, you will have my vote of confidence at election time.

Sincerely yours,

ROCKY R. GOFFINET, *Student.*

LEWISTON, IDAHO, *May 10, 1971.*

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Our Vocational Educational Counsellor has informed of a new bill proposed to change some of the policies governing the restrictions placed on the Vocational Education students.

I am presently enrolled in a Med-Management course at the Lewis-Clark State College. Vocational-Technical Division. We are working just as hard for our education as students in any Academic College, however, we receive less veterans benefits, and a cut in pay for school vacations and absences.

I would like a copy of this bill sent to me if it is possible, and if some of these changes can be made, you will have my vote of confidence at election time.

Sincerely yours,

LARRY D. CROUCH.

Senator CHURCH:

May I please extend my sincere thanks for the outstanding work you have done for me and my fellow veterans.

Our gratitude is more than words can convey.

Again, our thanks for an outstanding job.

Sincerely Yours,

DON J. STEVENS,
Vocational Veteran.

HARVARD CLUB OF BOSTON,
Boston, Mass., June 4, 1971.

Senator FRANK CHURCH,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I am writing to express my reaction in favor of the bill you propose to amend the restrictions on allowances for veteran students in vocational schools as regards attendance on regular school vacation periods.

The regulation as it stands needs to be rectified in all justice to the veteran student.

Sincerely,

FRANCIS J. HICKEY.

COLLEGE OF SOUTHERN IDAHO,
Twin Falls, Idaho, December 13, 1971.

Hon. FRANK CHURCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: As the representative body of the Area Vocational Technical School of the College of Southern Idaho, we are writing in regard to resolutions submitted to the Congress by you and Senator Jordan. In specific we are interested in those which would be amendatory to the G.I. Bill and would justly initiate a closer relationship between the policies followed for the academic student as compared to the vocational student.

Writing in behalf of the entire student body enrolled in our vocational technical school, we would like to thank you and Senator Jordan for the actions you have taken to remedy what we feel to be a rather discriminatory and undesirable situation. It is our concern that you realize our undivided support and appreciation, as well we are sure as that of other vocational technical institutions throughout our country.

In gratitude,

ROCKY L. METTS,
Vocational Student Council.

CITY OF POCATELLO,
Pocatello, Idaho, December 20, 1971.

Hon. FRANK CHURCH,
U.S. Senator, Office Building, Washington, D.C.

DEAR FRANK: We wish to recommend the enactment of Senate Bill #1776 which provides for more equal rights for Veterans enrolled in Vocational Technical Schools. We feel that those involved in this type of education are entitled to the same privileges and consideration as those enrolled in a standard college program.

This bill will provide vocational educational students allowances which are now permissible for those attending the same educational institution but receiving a standard college degree.

We will appreciate your favorable consideration of this bill.

Sincerely,

LUVERN C. JOHNSON, *Mayor.*

ASSOCIATED STUDENTS OF
THE UNIVERSITY OF IDAHO,
Moscow, Idaho, January 5, 1971.

Senator FRANK CHURCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: Just a note to tell you that the Students of Idaho appreciate your efforts in support of veterans in vocational education.

Thank you for your help!

Sincerely,

Miss MARY RUTH MANN,
ASUI President, President,, Idaho Student Government Association.

From the offices of:
Senator FRANK CHURCH,
Senator LEN B. JORDAN,

WASHINGTON, May.—A bill to provide more equitable treatment to veterans enrolled in vocational education courses was introduced this week by Senator Len B. Jordan and Senator Frank Church.

"It has been brought to our attention that veterans studying under the GI Bill are subject to being counted absent from their courses on some days when the school is not in session," Jordan said.

The present law provides that vocational students may have 30 days of excused absences during a twelve month period, not counting weekends and legal holidays established by Federal or state laws. If the student is absent in excess of thirty days, he does not receive compensation during any of such days.

"The difficulty is that most schools have vacation periods which do not consist solely of weekends or legal holidays. Hence, a veteran at an institution where a two week vacation period is allowed at Christmas time may be given unexcused absences for up to ten days during such a vacation," Jordan said.

"The bill which Senator Church and I are introducing is designed to correct this inequity. Veterans enrolled in vocational courses have served their country just as well as those enrolled in academic courses and should not be subjected to this unfair treatment as they pursue their educational goals."

Church said that he thinks it desirable that "many educational institutions today are providing both academic and vocational education under the same school administration." But to deny benefits to veterans enrolled in a vocational program "is clearly inequitable," Church said.

"The law should be changed to put both academic and vocational students on the same footing," Church concluded.

Both Senators said they hoped for early Congressional action on their bill.

May 7, 1971.

[From the Magic Valley's Home Newspaper, Jan. 19, 1970]

CHANGE NEEDED

There is a situation existing at the College of Southern Idaho—involving veterans attending the Vo-Tech school—which should be investigated and which should be corrected at the earliest possible time.

We are told the situation involves the matter of certification of the veterans attending the Vo-Tech school, the fact they receive their checks to which they are entitled days after those received by veterans of the Academic section, and the fact they are penalized for absences which are not really absences.

The matter was brought to our attention by concerned Vo-Tech students.

The chief trouble maker, they claim, is an IBM attendance card, issued only to the Veterans attending the Vocational-Technical section of the college, not the Academic veterans.

It is a case, they say, of Vo-Tech veterans being charged with absences when there was no school to be absent from.

For instance, school was dismissed Thanksgiving Thursday and the Friday following. Yet only Thursday was excused and Friday was counted as an absence. Again during Christmas vacation from Dec. 21 to Jan. 4, the Vo-Tech students were excused only Christmas and New Years day by the Veterans Administration. Thus the absence records now have 10 absences when, in fact, the school was not even open. If this policy is continued they will be penalized three more days during the spring break in March and an additional five days during teacher institute in June. The total will then be 18 days.

The 47 Vo-Tech students at the school have 10 days to be absent for any excusable reason for the year. Their counterparts in the Academic section are, in effect, paid until they fail.

If this situation exists—and we have no reason to doubt that it doesn't exist—then it should be corrected. The military didn't give these veterans separate fox holes nor did the enemy label his bullets.

We have been informed members of the Idaho Congressional delegation have, in fact, been somewhat non-committal on this situation. We believe they should, instead, dig into the matter immediately.

The veteran has earned the right to educational finance under the law and it should be the same to all veterans. There should be no discrimination just because one wants to learn how to repair an automobile and another wants to teach English.

A veteran should not be charged with an absence when, in fact, there is no school open.

It looks to us like the IBM card could be discontinued and reports made in a regular manner which would assure both Vo-Tech and Academic veterans receiving the same financial treatment. The trouble seems to be the interpretation of the law by the Veterans Administration.

It should not be difficult to change if members of our Congressional delegation would get a move on.

POCATELLO, IDAHO,
JULY 7, 1971.

DEAR SIR: I would like to take this opportunity to thank you for sponsoring legislation to increase the federal aid to Vietnam veterans to help them in school. I realize that this legislation might be hard to get through because of it's cost but I would like to thank you for working on it.

Sincerely,

TERRY KRANNING.

CAMBRIDGE, IDAHO,
July 8, 1971.

Senator FRANK CHURCH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: It was with great pleasure that I noted in the July 1st edition of the Idaho Statesman that you were the cosponsor of legislation to increase educational benefits to Viet Nam vets by a thousand dollars a year. It would allow veterans like myself with large families to return to school without depriving their families of the basic needs of life. I retired from the Air Force on July 1st after 20 years of service, and have been unable to find employment in Idaho or the nation even though I am a College Graduate and have been trying since last fall.

Boise State College has accepted me as a candidate for another BA in either business or education but I doubt that I will be able to attend as rent for suitable housing in Boise runs from $180.00 to $220.00 a month.

I hope that your legislation is passed and that many veterans will be able to attend school and retrain into jobs necessary in civilian life and to survive this inflation and depression the country is suffering from.

Sincerely,

DONALD L. WESTFALL.

BOISE, IDAHO,
January 6, 1972.

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

SIR: The high cost of educational expense is making it very difficult, if not impossible for many young veterans to complete their educations. I believe our experience with the GI Bill after World War II has made it clear that the national investment in education was a highly profitable one, bringing a return in tax dollars as well as improving the lives of these men and their families and the quality of our society.

To make available to the veterans of the latest war the opportunities enjoyed in the past, I would favor legislation to pay three-fourths of their tuition, books and fees up to one thousand dollars per year. Your support of such a bill would be appreciated.

Very truly yours,

W. A. HULET.

RESOLUTION

THE AMERICAN LEGION POST NO. 7,
Twin Falls, Idaho, January 10, 1972.

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedoms of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1971, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by The American Legion Post No. 7, at Twin Falls, Idaho in a meeting assembled in our Legion Hall in Twin Falls, Idaho, 5 January, 1972, that Post No. 7, urges your support for Resolution No. 342, 53rd National Convention, The American Legion sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

FRANK W. MOGENSEN,
Post Commander.

LEWIS-CLARK POST NO. 13 RESOLUTION

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furhering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by Lewis-Clark Post No. 13, at Lewiston, Idaho in meeting assembled in Lewiston, Idaho, 5 January 1972, that Post No. 13, urges your support for Resolution No. 342, 53rd National Convention The American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans."

ROBERT CROCKER,
Post Commander.

LEWISTON, IDAHO.

BONNERS FERRY, IDAHO,
January 7, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

Re: American Legion Resolution No. 342 (1971).

DEAR SENATOR CHURCH: I would like to take this opportunity to urge you to support the above resolution. This resolution is entitled "Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loans program for Vietnam Era veterans."

This particular generation of veterans, I believe, needs even more in an expression of "thank you" from its country than most. For one reason or another, the war became a most unpopular war, and therefore, these servicemen were faced with honoring or dishonoring a commitment they made at a time they were seeing a torn country at home. It is a tribute to them and to their family background that, notwithstanding the political turmoil, they honored an obligation they gave (albeit in many cases involuntarily).

Very truly yours,

PETER B. WILSON.

RUSSELL SMITH POST NO. 42 RESOLUTION,
WEISER, IDAHO

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by Russell Smith Post No. 42, at Weiser, Idaho, in meeting assembled in Weiser, Idaho, 5 January 1972, that Post No. 42, urges your support for Resolution No. 342, 53rd National Convention, the American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loans program for Vietnam Era veterans.

THEODORE N. BOKIDES,
Post Commander.

LAWRENCE DRESSER POST NO. 49 RESOLUTION,
EMMETT, IDAHO

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by Lawrence Dresser Post No. 49, at Emmett, Idaho, in meeting assembled in Emmett, Idaho, 13 January 1972, that Post No. 49, urges your support for Resolution No. 342, 53rd National Convention, the American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

ANDY ROBERTS,
Post Commander.

THE AMERICAN LEGION,
Boise, Idaho, January 31, 1972.

Hon. FRANK CHURCH,
Senator from Idaho,
Washington, D.C.

DEAR SENATOR CHURCH: My concern today is "Resolution No. 342, 53rd National Convention, The American Legion—Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loans program for Vietnam Era Veterans".

I have had the opportunity to visit Idaho State University, Boise State College and the College of Southern Idaho as Idaho State Legion Commander during this past year, and it has been transmitted to me that many Vietnam veterans have had to drop out of school for financial reasons. I can personally think of no better way of showing our gratitude to these Veterans than that of providing them with funds with which to go to school on.

I strongly urge you to give your support to this very important legislation.

Thanking you, I remain,

Very truly,

ELTON ASHTON,
State Commander.

GEORGE EDMUND THIEL POST NO. 107
RESOLUTIONS

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by George Edmund Thiel Post No. 107, at New Plymouth, Idaho in meeting assembled in New Plymouth, Idaho, 1 February 1972, that Post No. 107, urges your support for Resolution 342, 53rd National Convention The American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

CLARENCE S. NESBITH,
Post Commander.

NEW PLYMOUTH, IDAHO.

CASCADE, IDAHO,
February 3, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Enclosed you will find, copies of Resolutions drawn up by Frank Spickelmire Post #60, Idaho Department of the American Legion.

We, of Post #60 request your aid in completing the intent of these Resolutions.

Thank you.

Sincerely,

RICHARD J. HOLM,
Adjutant.

CASCADE, IDAHO,
November 20, 1971.

Mr. DWIGHT PIERCE,
Ninth District Commander, Idaho Department of the American Legion, Weiser, Idaho.

DEAR SIR: We, of Frank Spickelmire Post #60, being convened in regular monthly meeting of Post #60 November 18, 1971, hereby draw up these Resolutions to be presented at the Ninth District Mid-Winter Conference of 1972.

RESOLUTION

Whereas: In recognition of their service and sacrifices in various wars of this Country to protect the Freedom Of All Men, it has been customary for a grateful nation to assist Veterans in rebuilding their lives and enhancing their opportunities; and

Whereas: Despite increases in educational payments authorized by the Veteran's Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; Now, therefore, be it

Resolved, by Frank Spickelmire Post #60, at Cascade, Idaho in meeting assembled in Cascade, Idaho, 20th January 1972, that Post #60, urges your support for Resolution #342, 53rd National Convention the American Legion "Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era Veterans".

Thank you.

Sincerely,

HARVEY H. DEHAAS,
Commander.

BOISE, IDAHO,
February 12, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: My husband and I read in the Idaho Statesman that there is a bill coming up concerning increasing benefits payable under the G.I. Bill to college students.

My husband began going to Boise State College last month. He is a 29 year old father of two and as such qualifies for $243 a month under the present provision. He is carrying 15 hours and working two days a week. I am also working part time despite having two young daughters.

The only reason we are making a go of it financially, is that my husband has had a very successful insurance business for the past several years, and we have good savings and some stock.

With the small amount from the Veterans Administration at its present rate, if my husband can get his Ph.D. which is our goal, it will be necessary to use all our savings which we have had earmarked for our children's education.

Many students on the G.I. Bill find it necessary to work which puts a strain on their study time and as a result, many seem to fall by the wayside.

As very proud constituents of yours we would appreciate your favorable attention to this bill. And as always we appreciate your fine representation and are proud that such a great statesman hails from Idaho.

Sincerely,

Mr. and Mrs. PAUL L. RALSTON.

[From the Veterans Newsletter, March 1972]

LEGION PRESSES CAMPAIGN TO INCREASE BENEFITS IN VETERANS EDUCATION AND TRAINING PROGRAM

The Legion is continuing to press its campaign for legislation to provide tuition and subsistence benefits to veterans taking educational training under VA programs . . . Presently, subsistence payments range from $175 per month for single vets up to $230 per month for carried vets with two dependents.

A whole host of collegiate veterans organizations representing thousands of vets in school, various organizations of educators, guidance counselors, financial aid personnel, and college and trade school associations are backing the Legion's mandated position (1971 National Convention) . . . In the main, this calls for (1) payment directly to the educational institution of 75% of the tuition, books and other fees up to a maximum of $1,000 per year (2) a guaranteed and/or direct VA loan program for educational assistance and training (3) extension of maximum eligibility to 43 months.

As Veterans Newsletter went to press, a House Veterans Affairs Subcommittee on Education and Training is reported to have approved a 14% increase in subsistence payments to the present program and recommended adoption by the full Committee . . . The Senate Veterans Affairs Education Subcommittee was also readying bills on the same subject . . . But the House bill doesn't get to the heart of the problem—namely that many of today's veterans cannot go to school at all under available educational programs simply because they can't afford to . . . Among other things, they must eat, clothe themselves, travel to and from school, buy books and pay laboratory and other fees . . . It's well-nigh impossible in today's economy with the cost of everything rising despite efforts to keep the lid on, unless they have other resources.

Sometimes it helps to look backward in order to see ahead . . . In a 1968 report, the federal government's own Office of Education, Dep't of Health, Education and Welfare, stated that "the estimated average basic student charges (tuition, required fees, board and room) by publicly controlled institutions of higher education, in 1966–67 dollars, increased from $847 in 1956–57 to $1,034 in 1966–67. The charges are expected to reach $1,211 by 1976–77. The estimated average basic student charges by non-publicly controlled institutions of higher education were $1,486 in 1956–57, $2,125 in 1966–67 and are expected to reach $2,748 in 1976–77."

In actuality, the figures for 1976–77 are drastically underestimated . . . They've already been exceeded, mainly because of the thrust supplied by an inflationary economy. . . . A U.S. News & World Report article in February 1971 came a lot closer when it estimated the same items to average $1,417 in public colleges in 1971 and $1,492 in 1972; and then estimated the private college cost at $3,089 in 1971 and $3,281 in 1972 . . . Add the cost of clothing, books, transportation and necessary incidentals, and the picture gets worse . . . Using 1970–71–72 as a rough estimate a 10% increase per year in higher education costs when planning for the future.

The picture is slightly better at technical and vocational schools—but only because programs at those institutions generally average less than two years and thus tax the vet's finances for a shorter period of time.

How does the veteran survive in college today? . . . He works—if he can find a part-time job . . . He borrows—if he can . . . His parents help—if they can . . . His wife works—if he is married and she can . . . He scrounges for a grant or a fellowship of some kind—if any are available . . . Sometimes he must use a combination of all of those means—if he's resourceful and knowledgeable enough.

The essential point is this: Something like 59% of Vietnam vets don't go to college or take technical training at all, chiefly, they say, because they can't afford it!

Further, 53% of the group which did not apply for educational and training benefits said they certainly would apply if benefits were increased and another 30% said they possibly would apply. (These figures were taken from the recent research poll conducted for the VA by Louis Harris & Associates, Inc. . . . Focus of the research was the problems Vietnam era veterans face in readjusting to civilian life after their separation from the armed forces.)

Some may take advantage of low-cost government-backed educational loans that are available now to students if a bank in the area has funds to lend . . . But here the family's adjusted income is counted into the pot and this often creates an unnaturally high-seeming income level, thus effectively shutting out many deserving vets from the loans . . . The Legion is pushing to have family income discounted from such consideration . . . The Legion is also calling for direct and/or guaranteed loans to the student-veteran . . . Thus, if he can't get current money to pay for his education, he at least will have the option to borrow against his future and finance it at the lowest possible dollar cost.

By now it should not need to be said that the nation has an obligation to provide educational opportunities to all veterans whose careers were interrupted by military service so that they can reach the vocational and educational status they might have had if they had not served their nation . . . In a world that has increased its body of technical knowledge more in the years since WW2 than in all the years before that conflict, it is vital that students go beyond the secondary school level to get higher training . . . A technology that has produced computers, supersonic aircraft, laser beams, satellites and rockets to the moon and beyond, television, cathode ray tube writing, optical scanning devices, heart and organ transplants, and an array of other fantastic developments cannot function properly with human beings whose educational and training attainments stopped at or below the high school level . . . The nation must have people who can realize their full potential.

With unemployment for Vietnam era veterans running above 8%, the nation should take all steps necessary to make it possible for these young people to get education and training . . . At the very least, this would take them off the job market for a period of time . . . Then they can leap-frog back into the nation's work force at a higher level with increased skills and knowledge.

Write your Senator or Congressman, and the Senate and/or House Veterans Affairs Committee in Washington, D.C. . . . Let them know you favor legislation to provide financial help with tuition, fees, books and loans for today's G.I.'s so they'll have a better chance to get an education that will enable them to become more productive citizens.

BILL RAISING GI COLLEGE AID CLEARS HOUSE

WASHINGTON.—The House passed and sent to the Senate yesterday a bill that would increase monthly benefits to military veterans attending college to $200.

The vote was 358 to 0.

Estimated cost of the bill, which also would increase on-the-job training benefits nearly 50 per cent, is estimated at $1.2 billion over the next five years.

The bill would allow wives and widows of veterans to take correspondence courses and on-the-job training—and defines wives and widows as including husbands of female veterans.

The bill would increase benefits for the first six months of on-the-job training to $160 from the present $108. It would increase monthly checks for vocational education to $154 from the present $135.

The House Veterans Affairs Committee estimated that the number of people receiving benefits under the program will rise from the 1.1 million at the start of this year to 1.3 million in 1974 and then fall off to about one million in 1976 and 1977.

The increase in college benefits compares with current payments of $175 and a monthly allowance of $100 in 1966 when Congress passed the GI bill for Vietnam veterans.

The administration had asked an increase to $190 in the five-year extension bill.

COMPLEXITIES OF AN EFFECTIVE EDUCATION FOR CHILDREN

Mr. SCOTT. Mr. President, during his recent appearance on the CBS News program Comment, Daniel P. Moynihan discussed the complexities often overlooked in efforts to provide an effective education for our children. I ask unanimous consent that Mr. Moynihan's remarks, which were published in today's Philadelphia Inquirer, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OFTEN DISTORTED—SCHOOLS SHOULD NOT BE POLITICAL ISSUE

(By Daniel P. Moynihan)

Like many of us, I have begun to get caught up with the Presidential campaign. It is scarcely two weeks old, in terms of the primary contests, and already, I am appalled at what we put our politicians through.

If it keeps up, we are going to carry the victorious candidate into the White House on a litter. It's no way for a grown-up democracy to behave.

It is not just our political candidates who get used up and distorted in this process. It happens to issues also. We are not at our best at campaign time. Good men and women, seeking votes, no doubt, sometimes find themselves saying things they don't really believe. But that is the least of it.

The worst is that they find themselves saying things they don't understand. Nobody is to blame for this. I have been involved in enough Presidential campaigns to believe that deliberate deception or misstatement is a rare thing. It really is.

But in campaigns, you have to keep things simple, while most issues are complex. The result, inevitably, is distortion. And the longer the campaign, the more the distortion.

Education is one such issue. It has suddenly become a central subject of the politics of 1972. I would imagine that this will be the first Presidential campaign in our history in which education has had such a role.

The problem is that we have begun to learn something about education, and we find that so many of the things we have taken for granted just aren't so. Or don't seem to be.

What makes for a good school or a good student turns out to be a very complicated

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question, and most of the answers don't seem to reside in the school itself. Schools turn out to be pretty much alike in the way they affect young people, even where there are large differences in expenditures, which often there are.

The amount of money spent doesn't seem to matter much, at least after a certain minimum is reached. Things like the teacher-pupil ratio don't seem to matter much. That at least is the conclusion we're being forced to in our research at Harvard.

A distinguished economist not long ago described education as a pathological sector of the economy, which is to say that putting more resources into education doesn't seem to produce more product. Certainly in recent years, we have greatly increased our expenditure on education without, it seems, getting more education for our money.

This is not to say we are getting all that we want from our schools. Even if our schools seem equal in many respects, we are not getting equal students out of them. Levels of education achievement vary greatly and this has real consequences.

The problem is that schools don't seem to be the source of these differences. Young people arrive in the first grade with different levels of educational achievement, and 12 years later they leave school with these differences still intact.

Schools don't seem to add or detract very much. Until recently, we were reluctant to accept this limit on our knowledge and ability. But if we are going to be honest with ourselves, we are going to have to live with this new knowledge. There are no secrets, no magic cures.

I would like to see much more social and racial mixing in our schools, but other than that, I am not sure but we are doing about as well as we know how.

The trouble is that political campaigns are not a particularly good time for facing up to such limitations. That is why I am unhappy that education is becoming such a political issue. It won't help the schools, and it won't help the children. It will only raise tempers and inflate promises.

Doing better will be the work of many years and hard research. Politics is an honorable calling, but it is not a process of scientific enquiry.

ADDRESS BY SENATOR CRANSTON BEFORE WESTERN STATES OPTOMETRIC CONFERENCE

Mr. WILLIAMS. Mr. President, in the national discussion currently under way on methods of resolving the deficiencies of the Nation's health care system, there is one issue on which everyone agrees. That issue is the need for this Nation to develop the necessary numbers and types of health professionals and then to utilize their skills to the fullest capacity and in the most efficient manner.

Congress has recently enacted the Comprehensive Health Manpower Training Act of 1971, which I was proud to cosponsor, which will provide the Nation with the means to train these needed professionals. Among the professionals who will be trained under the provisions of this legislation are the optometrists. Several other legislative measures are under consideration which will bear up on the Nation's need to utilize fully the skills of the optometrist.

The Senator from California (Mr. CRANSTON), on March 2, addressed the Western States Optometric Congress. In his address he cited the importance of the optometrist to the provision of comprehensive health care and the several legislative initiatives under consideration by Congress which would encourage their training, utilization, and full participation in the provision of health care.

I believe his statement offers a comprehensive summary of what this Congress has done and is doing in the areas of concern to the optometrist.

Mr. President, I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR ALAN CRANSTON BEFORE THE WESTERN STATES OPTOMETRIC CONGRESS

It is a pleasure to be here with such a fine group, representing the best of professional optometry.

When I was invited to address this gathering, it was suggested that I speak about the Nation's health care problems. As you know, this has recently been a very active and heated political issue, especially since the 92nd Congress convened and we witnessed the introduction of a number of bills dealing with National Health Insurance.

I hope to present a somewhat different viewpoint in my appearance here today. I believe you will be more interested in hearing what the Congress IS doing in response to the Nation's health needs than hearing a reiteration of facts and figures indicating that we in Congress are aware of the problems and the need to do more. Therefore, I will attempt to outline current legislative activities bearing on solutions to some of our national health care inadequacies. I will also focus on items which have particular pertinence to your profession.

I have a deep personal interest in health matters generally and particularly in the process for rendering health care. I am privileged to serve on several Senate committees and subcommittees which have great responsibilities for the future direction of health care systems in this country.

I am convinced that our medical care system in America is itself suffering from a hardening of the arteries. With each passing day, our inability to heal and, more particularly, to maintain health for all Americans becomes clearer and clearer. The Medicare program provides a good example of the kinds of problems confronting us. There are over 21 million individuals eligible for benefits today and the net number of eligibles increases by approximately 900 every day.

With our growing population, and with the increasing concensus, on the part of both the consumer and the provider, that health care is a right not a privilege, the need to find new methods to make more efficient and effective utilization of current resources becomes more urgent. Obviously, each elderly person and each newborn child requires health care. And so, at various times, do all those in the age groups between. Thus, it becomes a problem of providing enough health services; and to provide them in a manner efficient enough to provide adequate services for the needs of all and to provide them through some means that will be economically feasible for both provider and consumer.

I am convinced that efficient and effective health care in America can be provided only through carefully planned approaches to the education of sufficient numbers of health care professionals, and the training of appropriate paraprofessional workers who can help to make each professional's time more productive.

I was delighted that amendments I offered to the Comprehensive Health Manpower Training Act of 1971, which provide incentives to medical and other health profession schools to train new types of paraprofessionals, were included in the legislation which was signed into law by the President this past Fall. This approach must be stressed if our health system is to have any chance of meeting the growing demands made upon it. I stress, in addition, that we must at the same time take steps to ensure that services performed by paraprofessional personnel continue to meet the high quality standards the patient has every right to expect. The professional's assistant should work in close collaboration with his principal—the physician, the dentist, the optometrist—and be responsible for duties for which he has been specially trained and which his preceptor has assigned to him.

The Allied Health Manpower Training Act, first enacted in 1966, will be considered for revision and extension during this Session of Congress. I feel confident we will be able to write into the law proper procedures to assure that funds for training paraprofessionals and allied personnel will be used to prepare health workers to provide services consistent with the highest standards of care.

The distribution of health manpower is another matter of vital concern to members of the Congress. Within the past two years, we have taken various steps toward improvement of the health personnel distribution situation, but it is still a very bleak picture in many parts of the Nation. You practitioners in this room are members of the profession with probably the best overall distribution of manpower of any health care discipline, with over 20 thousand optometrist licenses in existence and an impressive list of nearly 5,500 cities and towns where at least one optometrist is located.

Even with this comparatively good availability of optometric services in our Nation, however, it is still imperative that more optometrists be trained to meet the visual needs of the population. It is estimated an additional 15,500 optometrists will be required to meet these needs by 1980. Congress, in extending the Health Manpower Educational Assistance Act last Fall, recognized this need. Unfortunately, the administration proposed a substantial reduction of federal support of optometric schools under some programs and would have entirely eliminated optometry schools from other programs. But, as a member of the Health Subcommittee, I can assure you Congress resisted such a proposal and took positive action instead to retain optometry schools as eligible institutions under all provisions of the Act.

I was delighted also that Congress restored the nearly one million dollars for Special Projects grants and financial distress funding for Schools of Optometry in the appropriations act for the current fiscal year. In addition, in line with testimony I presented to the Appropriations Committee, Congress increased the level of capitation support from the sixty percent requested by the administration to over 74 percent of the amount authorized. With the commitment of these schools to expanded enrollments and innovations in their programs in order to meet national needs, I believe that the Federal government has a clear obligation to continue to provide the support that is necessary for these schools to participate in achieving our national health care goals.

Along with this type of direct Federal support for health manpower, I believe we must establish methods of better utilization of existing physical facilities. An outstanding example of the way this can be done is legislation which would encourage and expand the use of Federally-operated health facilities, such as Veterans Administration hospitals, as clinical teaching facilities for various health specialties.

As Chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I have introduced and completed

hearings on several bills I introduced to accomplish this purpose. S. 2219, the proposed "Veterans' Administration Health Manpower Training Act," would create such a system and I am delighted to report that the bill with amendments I proposed in Subcommittee was reported to the full Committee on February 16. Under provisions of this bill, students of optometry schools and colleges affiliated with Veterans Administration health care facilities could take a portion of their clinical training in VA facilities. The plan is to provide for maximum utilization of VA health installations for teaching purposes, to provide an excellent clinical teaching setting for fourth-year students; and to improve the availability of visual services to eligible individuals through the Veterans Administration health program.

Also included in this bill is a program for continuing education of professional and other health personnel on the staff of VA hospitals and on a veterans' reimbursable basis from the community.

With regard to another bill I introduced, S. 2354, the "proposed Health Care Expansion Act of 1972," I am delighted to announce to you that during the subcommittee's consideration of that bill on February 16, I offered an amendment to establish the position of Director of Optometry in the Veterans' Administration Department of Medicine and Surgery. And I am even more delighted to advise that the subcommittee unanimously voted to report favorably the bill, with this amendment, to the full committee. This new position of Director of Optometry would be at the same level as the VA head's of other professional disciplines. Establishment of this new position will provide needed coordination for existing VA arrangements with optometrists. The Director of Optometry will also provide leadership in the effective handling of cooperative clinical teaching programs authorized under my companion bill, S. 2219.

On other health care legislation, I see optometry as a profession playing an enlarging role. Many bills have been introduced dealing with Health Maintenance Organizations. I believe most of you would agree with me that HMO's are not necessarily the panacea for provision of health care. We should also preserve a role for individual practitioners, particularly in single-discipline and multiple-discipline group practice settings, so that patients who prefer may obtain their health care in the more traditional manner. However, the HMO concept does present another and potentially very useful option for providing health services with particular stress on preventive care and early diagnosis. HMO legislation holds the potential of serving as a means of making comprehensive health care available at reasonable cost and—with appropriate quality and utilization review required by law—of producing higher quality care.

Health Maintenance Organization programs cannot be successful, in my view, unless each such organization encourages the participation of all primary health care professions. Full participation of the individual practitioner should be possible with proper safeguards to assure appropriate participation of all professionals in the direction of the organization so as to make available to patients a full range of health services in the HMO setting.

I am sure you all will be glad to learn also that the Veterans Administration has just initiated an affiliation between the School of Optometry of the University of Alabama and the VA hospital in Birmingham to provide clinical training for optometrists and optometric technicians. This is the first such program in the VA system and could provide a model for similar affiliations between the twelve accedited schools of optometry and nearby VA teaching hospitals after S. 2219 and S. 2354 are enacted. Such training programs will help fill the need for the trained optometric manpower required to provide comprehensive care for the veteran as well as for the community.

I am hopeful we can secure enactment of my two VA medical bills this spring.

When such a program is adopted, I envision the Health Maintenance Organization system being converted or phased into the larger National Health Insurance program.

As to the possibility of a National Health Insurance plan being enacted during the 92nd Congress, a realistic prediction would be that passage of a comprehensive National Health Insurance bill will not occur before the next Congress. In addition to the problems of financing presented by such a plan, other thorny issues must also be resolved. These include significantly expanding our health personnel and facility capacity to meet the increased demand which necessarily will accompany the implementation of a national health program. We must also devise methods of integrating present programs into the new system with the least dislocation of services possible.

I am convinced that a National Health Insurance program eventually will be adopted. I believe it will have to follow most of the general outlines of the Health Security Act, S. 3, introduced by Senator Kennedy, of which I am a cosponsor. This proposal, I believe, offers the most comprehensive and far reaching solution to a massive problem. But, as I said, there remain a number of major problems to be resolved before we will be able to agree on a national plan.

Developing such dramatic, broad legislation requires considerable deliberation and the best thinking of all segments of society. You, as members of the professional community—as well as the consumers, facility directors and staff, health administrators, and third party insurers—must be fully consulted. We must avoid the massive management problems which have surfaced in the implementation of the Medicare and Medicaid programs. Your suggestions and comments will be heeded and welcomed. In this connection, I wish to express my thanks to your Washington office, which has been extremely helpful in keeping me aware of the issues in which you have an interest and in providing necessary data and facts whenever I have requested them.

I have also had the privilege of working on some other legislation of interest to optometry—Senator Randolph's amendments to the Randolph-Sheppard Act for the Blind and Senator Sparkman's amendments to the Federal Housing Act.

The proposed Randolph-Sheppard Act for the Blind Amendments Act (S. 2506), supported by your national association, would extend benefits of that program to more individuals and statutorily recognize optometrists as qualified to certify the visual condition of an individual who wishes to participate in Randolph-Sheppard programs. This would in many cases allow the visually handicapped person to enter the program earlier and provide the worker's family with assistance at the first possible moment. This bill will be considered in the near future by the Handicapped Subcommittee, on which I am the ranking majority member.

In the case of the FHA Title II program, S. 2269 is designed to reduce the number of practitioners required to qualify for Federally-guaranteed loans to build or remodel group practice facilities and properly equip them. This legislation could be of great help to residents of rural or inner city areas where it has been difficult to attract and retain health professionals. As a member of the Banking, Housing and Urban Affairs Committee, I voted for this bill, and believe it will aid many persons now deprived of convenient health services and help young practitioners seeking good opportunities to utilize their skills. The provisions of this bill will be considered on the Seante floor very shortly.

These legislative matters are but a few which will have both immediate and long-range impact on your profession and health care in America generally. Let me assure you that we in the Congress are today more health-conscious than any previous Congress. I fervently hope and believe we are turning to brighter days of being able to concentrate on domestic problems rather than undeclared wars. There is no doubt that the concept of health care as a primary right is one which has been laid down as a fundamental precept in these past few years. We must work now to ensure every American will share in the full fruits of the scientific and technological advances produced by members of all health and scientific disciplines.

As your great profession continues to broaden its horizons, the public will be better served, with optometrists an essential primary providers of a vital health service.

I'm pleased to be with a group of professionals who are so keenly aware of the goals of their own profession and how that profession can best serve the needs of the Nation. I urge you to continue and increase the interest you have demonstrated in good health legislation and your willingness to share your thoughts and recommendations with those of us who represent you in Congress.

RICHARD W. McLAREN AND THE ITT

Mr. HRUSKA. Mr. President, in 1969 President Nixon appointed one of the most distinguished members of the antitrust bar to be the new Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. That man, Richard W. McLaren, has just completed 3 years of exemplary service to the Nation as the head of this important office. He recently resigned to become a U.S. district judge for the northern district of Illinois.

During his term of office, Mr. McLaren was hailed as the most vigorous enforcer of the Nation's antitrust laws in over a decade. Some scholars and businessmen did not agree with his interpretation of some antitrust statutes, particularly section 7 of the Clayton Act, but all conceded that he had brought new energy to the division and had acted in a decisive and forthright manner to curb anticompetitive elements in the economy. It was with regret tempered by the knowledge that he would make a splendid contribution to the Federal bench that we saw him leave the Department of Justice.

Recently, however, Judge McLaren has had occasion to return to Washington to discuss some of his actions as Assistant Attorney General. It was Judge McLaren who filed the three suits against ITT seeking the divestiture of Canteen Corp., Grinnell Corp., and Hartford Fire Insurance Co. It was also Judge McLaren who determined on the basis of the facts presented to him that a consent decree requiring the divestiture of numerous corporations and setting a 10-year restriction on the acquisition of additional companies while permitting ITT to retain Hartford was the best way to terminate these three cases from the viewpoint of all concerned.

Judge McLaren's testimony before the Judiciary Committee was most informative and straightforward. It set to rest any suggestion that pressure had caused

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him to terminate these cases by means of consent decrees rather than by completing the litigation. His statements also clearly demonstrated that there was no connection between the settlement of these cases and ITT's pledge to the San Diego Tourist and Convention Bureau as some have alleged.

Last Sunday Judge McLaren was the guest on the CBS–TV news program "Face the Nation." His remarks at that time add greater emphasis to his Judiciary Committee testimony.

Mr. President, I ask unanimous consent that the transcript of that CBS interview be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FACE THE NATION

(As broadcast over CBS, March 19, 1972)

Guest: Judge Richard W. McLaren.

Reporters: George Herman, CBS News; Morton Mintz, the Washington Post; Neil Strawser, CBS News.

GEORGE HERMAN. Judge McLaren, as Assistant Attorney General, you wrote Mr. Kleindienst that the ripple effect of making IT&T get rid of the Hartford Insurance Company would shake the stock market and the entire national economy. Isn't that exactly the kind of company that should be broken up for the health of the nation?

Judge MCLAREN. I think I said that it might—that there was a risk of an adverse effect on the economy, and I also said that if there was an alternative way of handling the thing, we should take that alternative, and we did devise an alternative that amounted to a billion dollar divestiture. And I don't think that that's ever really gotten across to the country, that this is the biggest divestiture in history.

ANNOUNCER. From CBS Washington, Face the Nation, a spontaneous and unrehearsed news interview with Federal Judge Richard McLaren, who was Chief of the Anti-Trust Division of the Justice Department during settlement negotiations with the International Telephone and Telegraph Company. Judge McLaren will be questioned by CBS News Correspondent Neil Strawser; Morton Mintz of the Washington Post, and CBS News Correspondent George Herman.

HERMAN. It may have been, as you say, Judge McLaren, the biggest divestiture in our history, but is it what you wanted? Did you not say afterwards that not getting the trial before the Supreme Court of your idea of anti-trust law, was your greatest disappointment in office?

Judge MCLAREN. Well, I think that it was a disappointment not to have the Supreme Court confirm our theories of conglomerate merger, what was and what wasn't a violation, but I don't feel that my own personal desires can really stand in the way of eliminating a very lengthy litigation, taking away the possibility of immediate settlement, a result right now in other words, just because I want a Supreme Court ruling. And when we were able to get this very good, and I might say tough settlement, that I think has acted as a deterrent in this field—I couldn't justify taking perhaps two or three or four more years to take the matter to the Supreme Court.

MINTZ. Mr. McLaren, isn't the settlement that you accepted in mid-1971 almost identical to the settlement that ITT proposed in November of 1970 and that you turned down because you wanted to go to court?

Judge MCLAREN. No. No, I think that what they offered in the latter part of 1970 was to divest the Canteen Company, which was one of the three lawsuits, one of the three companies that we were after, and I think that they also indicated that they might be willing to divest part of Grinnell. This was in no sense the kind of a settlement that I felt we needed. You see, the big issue was should they be entitled to keep the Hartford Insurance Company. This is the number six insurance company in size, and it's a billion and a half dollar firm, we'll say, I think a billion dollars of income. Owing to the way in which ITT acquired Hartford, it would have been a tremendous loss to their shareholders and to the company itself. I think it would have weakened the company itself if it had had to divest Hartford. On the other hand, we could achieve the same anti-trust objectives by having them divest other insurance-related firms. And I don't think maybe you understand the size of these companies that are going to be divested.

There are four firms, Avis Rent A Car, number two in its business, Levitt, which is about number one in community housing; there's the Grinnell Fire Protection outfit which is number one in its field; and there's Canteen, which is number one or number two in the field of vending machines. Now, to give you an idea of the magnitude of those, three of them are going to be in Fortune's 500 largest industrials. Now that is a very large divestiture, and the fourth one is about number 600 on the Fortune scale.

STRAWSER. Judge McLaren, some observers are still wondering what was suddenly so convincing about the financial hardship argument offered by ITT Board member Felix Rohatyn, when most aspects of that argument were really two years old, and had been rejected.

Judge MCLAREN. No, I don't think that's a fair statement, Mr. Strawser, for this reason—repeatedly ITT had come in—in 1969 and 1970—and urged settlement, but they always urged it on the basis that I was wrong on our theories of law, that we were going to lose the case. Later on they came in and they said, well, you shouldn't want any more than this, this would serve anti-trust purposes and so on, and in every case I turned them down. It was not until Rohatyn came in to see Kleindienst—and why he went to see Kleindienst instead of coming to see me, I don't know—but then is the first time they ever made a hardship argument, and I felt that when you're talking about the—I think ITT was number six industrial firm in the United States, I had to think very seriously whether my objective of divestiture and restoration of competition was going to do more damage to the country as a whole than a alternative divestiture system, which is the one that we worked out. And I don't think that it's come across either in the reporting of this thing that that settlement program that we did devise, which, incidentally, stops ITT from further acquisitions, was worked out by my staff. Four of us worked on it and I think—I figured up the other day we have between us a hundred years of anti-trust experience.

MINTZ. Well, Mr. McLaren, aren't you really proclaiming here, when you take into account the ripple effect, the effect on balance of payments and so on, a kind of doctrine of squatter's rights, that once a company gets big enough, the government can't force the anti-trust laws forcefully because what's good for ITT is good not only for the United States but for the whole western world?

Judge MCLAREN. Well, I think it's an interesting idea, squatter's rights, but what I did here is exactly what I understand Senator Muskie has now proposed as a statute. He wants to make it a requirement that if a company over $250 million of assets makes a significant acquisition, it has to spin off or split off an equivalent amount of assets. Well, that's substantially what I did here. And, incidentally, Mr. Mintz, I recall discussing this with you back in 1969, when I think the first time I did it was with the Atlantic-Richfield-Sinclair merger; we split off other properties and so on. We later did it in the Gould-Clevite merger, if you remember that one. And we did it in LTV. I don't think that there's anything strange about this, as a matter of fact, when we announced the settlement, the New York Times ran an article that said the day of the giant merger is over, and——

MINTZ. Is it really over? Isn't it really true that by not going to the Supreme Court you could have let that Grinnell case be decided and then use that as a pattern for settling the ITT cases, and you would have had the greatest possible deterrent to holding back the conglomerate merger wave? What you have now is that when the stock market gets ripe, that merger wave can resume. I believe this is correct but of course I may be wrong.

Judge MCLAREN. I dare them to try it.

HERMAN. One thing that you said puzzles me a little bit, and perhaps I don't understand you fully. You said that one of the things that worried you was that divestiture that you were originally pressing would damage the stockholders of IT&T——

Judge MCLAREN. Right.

HERMAN. . . . and that this was one of the reasons why. Now if that is a sort of rule of thumb or a rule of philosophy of the Justice Department anti-trust suit about any merger, doesn't that mean there will be no more anti-trust suits? Doesn't every anti-trust suit depress the company's stock?

Judge MCLAREN. Oh, no, no, I don't think that that's a fair analysis—it's——

HERMAN. I'm not analyzing it, I'm trying to understand what you were saying.

Judge MCLAREN. It's a very unusual thing to take into account a hardship remedy. In fact, the Supreme Court said in the DuPont-General Motors case that—the legal argument was made that this would hurt the stockholdings and so on, and the Supreme Court said we can't take this into account, this is a matter where the basic thing is effect on competition. My point is if you can avoid a devastating effect on the stockholders of a company by an alternative remedy that does take care of all the anti-competitive consequences, I think you'd be derelict in your duty as a public servant not to take the alternative. There certainly is nothing punitive about one of these suits. We're not out to fine them a billion dollars, and when we found a way that we thought would eliminate all of the insurance-related aspects of this thing, through these other divestitures, well that's the route we took, and I still think it's a good settlement. I've challenged during the course of this thing various people to poll law professors, and I understand they have polled law professors, and out of seven, seven said it was a good settlement.

HERMAN. I've gotten somewhat the same results checking with some lawyers, and some friends. The thing that I'm interested in in the statement you just made is what seems to me the key word—all the competitive effects. Are you satisfied that the settlement that you made with IT&T-Hartford does solve all the competitive problems, all of them that you were worried about?

Judge MCLAREN. That's an awfully hard question to answer. I think it does, yes. In other words, there comes a time where you take away from the acquiring company, in this case ITT, various operations that it had at the time it made its big acquisition that you're challenging. If it didn't own Avis, if it didn't own Levitt at the time of the Hartford acquisition, we probably never would have sued them—you follow me?

STRAWSER. Judge McLaren, does it disturb you in this case to find that the outside financial consultant that you employed, Richard Ramsden, billed the government for only two days of work in a multibillion-dollar case—billed it for 242 dollars, I believe?

Judge MCLAREN. Well, I think it was three days; but nonetheless, I believe the Treasury people indicated they worked a week on it.

This isn't a terribly hard thing to analyze for an expert in his field, as I understand it, and I brought in an expert on it because I thought that a financial expert could do it more efficiently, and so on. I feel somewhat competent myself to analyze things like that. I spent four years, many years ago, in an—with a Wall Street firm, and did securities work and so on. I don't think I'm a complete ignoramus in the thing. And basically, I finally had to rely on my own feeling on what was best for the government in this case. And that was the basis of the settlement.

STRAWSER. Do you think you should've checked a little more closely on Ramsden's possible conflicts of interest, now that it turns out that he did not file a report with the government, apparently, on them?

Judge MCLAREN. Well, I—I really don't have too many facts on that. I understand that he had the necessary report or statement of his interests, and so on, on file at the Commerce Department. You see, the first time I used Ramsden was in the LTV case. We had a similar analysis problem there. At that time he was a White House fellow—he was working for the government. And as far as I knew, when we referred this matter to him, asked him to make a whole study on ITT, he was still with the government. So, in retrospect, and as a matter of fact since that time, we have taken on an additional man at the department, a man who's a professor in this more financial area, and I think I probably would've—if we'd had him then—I'd have used him too, for another cross view.

MINTZ. Mr. McLaren, I'll preface this by saying that your claim that the—that the settlement was highly regarded has a lot of bipartisan support; if that hasn't come out, it is true. But let me get on to something else which I think is terribly important about the whole picture. Let's see if this is accurate. A corporation so big that it could be called a private government, so wealthy it can easily grant or deny large sums to politicians and political parties, is able to discuss and negotiate crucial antitrust matters in secrecy with an aide to the President, cabinet members and key figures on Capitol Hill. Between stints as the President's campaign manager, the Attorney General runs the Justice Department, where he controls the antitrust division. My question is, doesn't a setup like this create potential for abuse? Shouldn't antitrust be insulated from political pressures? And if you agree that it should, how would you do it?

Judge MCLAREN. I think that's a kind of a 64-dollar question, Mr. Mintz. I don't know the answer to it. My experience, as you know, was in private practice of law in the antitrust field up until 1969. When I came into the government, I had known of, oh, political rumors and some sensational things in the newspapers. And I talked to Mr. Mitchell about it before I ever accepted this appointment as Assistant Attorney General, and we had a firm understanding, which he lived up to, incidentally, and so did Kleindienst—that we were going to decide antitrust matters on the merits, and that there wasn't going to be any political consideration in the—in our decisions.

Now you say, how do you—how do you enforce that, and I'm at a loss to know how better you enforce it than in many other areas of government, and that is that you simply get good people and you rely on their honesty and integrity. Incidentally, I feel very, very badly about the way many of the newspapers and—and television reporters, and so on, are saying that we abandoned the prosecution in this case. One writer even went so far, in a sarcastic way, as to say that we quashed the indictments. I think that the public is getting a terribly misleading picture of what happened here, and I agree that this can destroy faith in government. But worse than that, it's going to destroy the ability of any administration to get good professional people to come down here and—and take these technical and professional jobs, if they're going to be pilloried in the press.

HERMAN. Aren't you getting into a little bit of a semantic quibble there? Didn't you ask for a delay and then not pursue it? Isn't that dropping it or abandoning it, or something of the sort? I just—

Judge MCLAREN. No, no—look——

HERMAN. I think you're—you're blaming semantics here, on—on reporters.

Judge MCLAREN. Oh, no, that isn't fair—it isn't a matter of semantics. This morning's paper, one of them, said that we halted the prosecution. Well, that's—as Dean Griswold said when he testified, that's like saying the prosecutor is guilty of halting prosecution when the defendant comes in and pleads guilty. We got decrees, judgments, in all three of these cases. We didn't halt the prosecution. They caved in, in effect. And I think that we got probably a remedy that's one of the best accomplishments of the antitrust division in the last ten years. It's—

HERMAN. What had they done—what had they offered—when you first asked for a delay before the Supreme Court?

Judge MCLAREN. Well, the delay really didn't have anything to do with it. We're talking about two different things, and I don't know whether I can explain it quickly. Mr. Walsh, who was an attorney for ITT, came in with a letter toward the end of our filing time in the Grinnell case. You see—

HERMAN. Is that the letter in which he said IT&T might well lose?

Judge MCLAREN. Right. Now we had lost the Grinnell case in the lower courts, and we had bad findings against us by the trial judge—finding of fact. We had also lost the Canteen case, incidentally, before we settled this thing, and I don't think that's generally known. We had also lost the Hartford case on preliminary injunction. I don't think that's generally known. So that was the—the status in which we were negotiating. But when Mr. Walsh came in with his letter requesting a delay, he named—or, I don't know—the Secretary of Commerce, Council of Economic Advisors, Secretary of the Treasury, and he indicated in his letter that they all had ideas different from mine on the overall conglomerate merger picture, and they wanted us to delay filing our brief to give those other agencies a chance to have a say in our brief.

Well, I wasn't averse to doing that. After all, I'm part of an administration, and if the administration has different views on this, I don't think I'm God. I'm perfectly willing to—to handle it on the basis of an administration matter. And all we did was to delay filing that brief, which didn't make any difference whatsoever in the taking up of the case, because it couldn't have been—oh, I think we filed—delayed from April till May. Well, the thing couldn't come up till October in any event—the next term of court.

STRAWSER. Judge McLaren, you testified repeatedly that you were not improperly influenced in this case. But do you perhaps feel you've been caught in the middle—with all that's gone on around you—the evidence of the paper-shredding in ITT's Washington office, the evidence of the intensive lobbying by ITT against the antitrust policy, the Dita Beard alleged memorandum and all that sort of thing?

Judge MCLAREN. Well, I hold no brief for ITT, and I think if—I don't like to second guess another lawyer, but I am confident that it would not have been my decision to shred those papers if I were consulted. But I don't know what their circumstances were, and I—I don't—I don't particularly want to comment on it. I think I indicated before, I don't see why ITT didn't come to me in the first place instead of sending Rohatyn to see Kleindienst. My door was always open when I was head of the antitrust division. I said it about twice a week in speeches, and we would give people advisory comments on proposed courses of action.

HERMAN. Since you've said what you would or would not do in another—you've opened a door, as the lawyers say, since you've said you might or might not do something. Had you been in Mr. Kleindienst's office, in his shoes so to speak, would you have held several meetings with Mr. Rohatyn without bothering to tell—as I think Mr. Kleindienst testified—without bothering to tell Mr. McLaren?

Judge MCLAREN. Well, I'm glad you raised that. I was very interested to read all the people that Geneen had gone to see in this administration; and you know, not one of those people ever said a word to me about that? I think that's quite a—a compliment to this administration that those people did not put pressure on me. Of course, there are people in the other party too. I noticed—

HERMAN. But Mr. Rohatyn had gone—

Judge MCLAREN. —that a lot of Democratic senators were on Geneen's list.

HERMAN. Mr. Rohatyn had gone to see Mr. Kleindienst to talk about the case which you were working on, and Mr. Kleindienst didn't bother to mention it to you as I believe he testified, for a couple of meetings before he finally did. Would you have operated in that—?

Judge MCLAREN. No, I think you're wrong. I think that what happened was, Rohatyn came in one day and said, here is the kind of a pitch we want to make to McLaren—will you see if you can get us a meeting with him? Why didn't he ask that, I don't know. But Kleindienst—it was a short meeting, according to what Kleindienst had said—and he did ask me, and I said sure, I'll hear them. And a week or ten days later, they brought in Professor Saulnier and other experts and so on. We had a big meeting in my office, and Kleindienst sat over to the side. It was my meeting, and I said what we were going to do after that, and Kleindienst really didn't have anything to do with it after that. I would like to say something also about this word secret meetings. You know—

HERMAN. And which—a word I did not use.

Judge MCLAREN. Well, it's all over the papers, and it's another thing that I kind of object to. Every time you see somebody privately, is that a secret meeting in the sense of a clandestine, improper thing? That's the thing that's getting across to the people, and I don't think it's fair.

HERMAN. I don't know, sir, I'm not prepared to try the newspapers here. Let me ask you one other—

Judge MCLAREN. I shouldn't either, and I apologize.

HERMAN. Let me ask you one other in-their-shoes question. Do you think it was right and proper and also wise for IT&T to make this large pledge to an organization connected with the Republican Party while it was engaged in this litigation or these negotiations?

Judge MCLAREN. I just have no way of commenting on that. I knew nothing about it. It never came to my attention, even where the convention was going to be, until long after our negotiations. I never met Mrs. Beard, I never had anything to do with that. According to their story, as I understand it, for the big hotels to make contributions, particularly on a big opening, as I understand that Sheraton's going to have out there, that's a pretty customary thing.

HERMAN. But by five times customary. They are the second largest chain, they gave five times as much, I understand, as the first largest chain.

Judge MCLAREN. Well, they've got three hotels—I don't—I can't argue that—I knew nothing about it at the time, and I guarantee you that that Republican convention site and ITT's contribution had absolutely 100 per-

cent nothing to do with this settlement that I made.

STRAWSER. If, as Mrs. Beard claims, that memorandum that did link the two was a forgery all along, do you feel that it was unnecessary for you to sit through all those days of hearings in the Senate?

Judge MCLAREN. I don't—I—Mr. Strawser, it's completely inexplicable to me. Based on my knowledge of the events, what I said before was that the memorandum is absolutely incredible. Now whether it's spurious, a forgery, or just name-dropping, I just don't have any idea.

STRAWSER. Does it seem a little late for this charge to come out?

Judge MCLAREN. I don't know. I just don't have any comment at all. I don't understand it, it never had anything to do with me, and I wish, I assure you, it had never come up.

MINTZ. Mr. McLaren, I'd like to ask you a question about consent decrees which was the legal instrument used in the ITT case, which was used long before you took office, and in Democratic administrations as well as Republican. As a matter of fact, it's been used in about 80 per cent of all anti-trust settlements which are conducted, as you prefer, in private—

Judge MCLAREN. Right.

MINTZ.—and they exclude the economists, they exclude the competitors, they exclude the stockholders. What I want to ask is I'll use a specific example—the Justice Department sued the auto industry for conspiring for many years to suppress the installation and development of pollution controls, for conspiring, to put it in plain language, to poison the air. The industry escaped criminal prosecution by signing a piece of paper promising to never do in the future what it denied having done in the past. Now, how can a human being, who could be accused of poisoning the air, the water, or a person, sign a piece of paper and get off, and how can that human being be led to understand that we have equal justice under law?

Judge MCLAREN. You know that's a stop-beating-your-wife question. They didn't escape prosecution by signing a piece of paper. They were investigated by a grand jury under the prior administration.

When I came in there was pending a civil case against them. Now the only thing I can get out of that civil case is a consent—is a court order, which requires them to cease and desist from this conspiracy, which requires them to start competing with one another instead of being cozy about this business of eliminating pollution. Well, I negotiated with them, and in '69 in a matter of a few months I got that decree. Now that's all I could have gotten by trying the case for five years, and I got it right then—

MINTZ. I'm talking about process.

Judge MCLAREN. Well, what more could you ask of the process than a decree that puts them under the requirements of contempt of court to compete on this?

MINTZ. A human being can suffer in a way that a corporation, which is a legal paper of figment, cannot. Now publicity is one of the things that a corporation can be made to feel that's done wrong. When you settled or when anybody settles—it's not personal—that is denied.

Judge MCLAREN. Are you saying that publicity was more important than our getting that immediate remedy? You know—

HERMAN. We have about 20 seconds if you want to finish that thought.

Judge MCLAREN. Well, I think that immediate relief where we would get to work fighting pollution was much more important than that publicity-punishment kind of thing because there were private suits brought against them anyway.

HERMAN. On that point I have to break you off. Thank you very much for being with us today on Face the Nation.

DEATH OF GEORGE P. DELANEY

Mr. WILLIAMS. Mr. President, last month the labor movement lost a very dedicated worker when Mr. George P. Delaney passed away.

Mr. Delaney was an active member of organized labor for more than 40 years and was a union official for more than 30 years. He served with the State and the Labor Departments for many years as an expert in the international labor field and had a very long association with the International Labor Organization both as a delegate and a member of its governing body.

Most recently Mr. Delaney was the Washington representative for the International Longshoremen's Association.

Mr. President, I ask unanimous consent to have printed in the RECORD an obituary from the AFL–CIO News of February 19 concerning Mr. Delaney.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

GEORGE P. DELANEY DIES, ENVOY FOR U.S. LABOR

George P. Delaney, former international affairs representative for the AFL-CIO and retired State Dept. official, died Feb. 9 of a cardiac arrest shortly before his 63rd birthday.

Delaney, known to his friends as "Phil," had been with the State Dept. from 1963 until he retired last March as special assistant to the Secretary of State and Coordinator of International Labor Affairs. He served in the Labor Dept. 1959-63 in a similar capacity.

Born in Washington, D.C., Delaney became an apprentice molder at the U.S. Navy Yard in Washington in 1928. From 1938 to 1942 he was an international representative with the Molders.

After three years in the U.S. Navy during World War II, he joined the AFL as an international affairs representative and continued to serve in that post with the AFL-CIO following merger.

In a message of condolence to Delaney's widow and family, Federation Pres. George Meany and Sec.-Treas. Lane Kirkland called him a "devoted trade unionist who served his fellow workers with diligence in many crucial assignments . . . a warm friend, a true gentleman."

Delaney began a long association with the International Labor Organization in 1948 as a worker delegate and a member of the ILO Governing Body. He was influential in the adoption of ILO conventions on reduction of working hours and on the abolition of forced labor. He also was active in the formation of the International Confedration of Free Trade Unions.

Delaney left the AFL-CIO in 1958 to become the director of organization for the Operating Engineers. In 1959, he was named the special assistant for international labor affairs in the Labor Dept. and served on the U.S. government delegation to the ILO 1963-70.

Also, starting in 1964, he served as the first director of the Office of Labor Affairs in the Agency for International Development.

On his retirement from the State Dept. last year, Delaney was presented the department's Superior Honor Award and AID's Distinguished Honor Award.

Following retirement from the government, Delaney served as the Washington representative for the Longshoremen.

He is survived by his wife Margaret, four children and one grandchild.

POPULATION COMMISSION REPORT

Mr. PACKWOOD. Mr. President, the Commission on Population Growth and the American Future, on which I am honored to serve, has recently completed 2 years of intensive study and debate on issues related to this Nation's future. During our 2 years of work, we examined numerous aspects of population growth and distribution, and attempted to come up with recommendations which we feel would be of value in and of themselves, but which would also be significant in terms of restraining this Nation's population growth rate. Emphasis was and is on voluntarism. No form of compulsion was accepted, even by implication. Mr. President, these two points should be heavily underlined: First, that our recommendations are worthwhile in and of themselves. The demographic impact in many cases is marginal. And second, all recommendations support the voluntary approach to restraining our population growth rate. No compulsion is even implied.

Mr. President, the Commission is releasing its final report in three parts. Part 1 includes the Commission's findings. Parts 2 and 3 include recommendations. The first two parts have been released. Part 3 will be released in the next few days.

Although the text of the report is too long to be printed in its entirety in the RECORD, I commend it to my colleagues as "must" reading and urge their careful attention to the conclusions presented therein. Additionally, I ask unanimous consent that brief summaries of the first two parts be printed at this point in the RECORD, along with the statements of the Commission's Chairman, Mr. John D. Rockefeller III, upon releasing the report.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN D. ROCKEFELLER III, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE ON PART I OF THE FINAL REPORT

For the first time in the history of our country the President and the Congress have established a Commission to examine the growth of our population and its implications for the American future. The Commission was asked to assess the impact of population growth as well as distribution upon our Government, our economy, our natural resources and environment, and to make recommendations as to the means by which our Nation can achieve a population level suited to its needs.

In carrying out of this assignment we believe we have benefited greatly from the diversity of the Commission's membership. The range of occupations, ages, religious, races and experiences when focused on such diverse issues lends special strength to our final report.

Today we offer the first section of our report which constitutes the Commission's findings. In subsequent sections we will submit specific recommendations based upon these findings.

In my brief opening remarks I wish to point up several of our principal conclusions after two years of research and deliberation.

1. Population growth in this country should be regarded neither as a crisis nor with complacency. Alarm or indifference are both inappropriate responses. While our birthrate has been declining recently, there is no assurance as to its future course. If, however, it should continue to decline to the replacement level—an average of two children per family—our population will still continue to grow for nearly seventy years and mean the addition of 50 to 80 million persons by the end of the century. It takes a long time to arrest the momentum of population growth.

2. Because of the pervasive impact of population growth on every major facet of our lives, the Commission believes that the time has come for the United States to adopt a deliberate population policy.

3. The Commission concludes that in the long run no substantial benefits will result from further growth of the nation's population. Rather, it is our view that population growth of the current magnitude has aggravated many of the nation's problems and made their solution more difficult. The Commission believes that the gradual stabilization of our population would contribute significantly to the nation's ability to solve its problems. It would also enable our society to shift its focus inceasingly from quantity to quality; to assign higher priorities to what gives human life special meaning and value. As a Commission, we view population policy not as an end in itself, but as a means to facilitate the achievement of social goals desirable in their own right.

4. The nation has nothing to fear from a gradual approach to population stabilization. We have looked for, and have not found, any convincing economic argument for continued national population growth. The health of our country does not depend on it nor does the vitality of business or the welfare of the average person. In fact, a reduction in the rate of population growth would bring important economic benefits to all citizens, especially if the nation develops policies to take advantage of the opportunities for social and economic improvement that slower population growth would provide.

5. The Commission believes that slowing the rate of population growth would ease the problems facing government in the years ahead. Demands for governmental services will be less than they would otherwise be, and resources available to finance governmental activities greater. However, it would be a serious error to read these conclusions as comforting and reassuring. Under the most optimistic assumptions, as I have previously indicated, at least 50 million more people will be added to the U.S. population before the end of the century, increasing the demands on governmental services and making more difficult achieving a participatory political process responsive to contemporary conditions.

6. We must face the fact that Americans have suddenly become a metropolitan people. In 1970 roughly two-thirds of our population was metropolitan—it will approach 85% by the year 2000. Migration is from low-income rural areas to great metropolises and from inner cities to suburbs. Nearly 40 million, or 1 in 5 Americans, change homes each year. Of these, roughly 1 in 15, or 13 million, move across county lines. What is happening now is largely haphazard. What is needed is coordinated planning and assistance on a scale large enough to be effective.

7. Population growth is one of the major factors affecting the demands for resources and the impact on the environment in this country. From the standpoint of both resources and environment, the Commission believes considerable benefits would result over the next 25 to 50 years by a prompt reduction in population growth. This conclusion emerges with particular clarity with regard to water, agricultural land, and outdoor recreation.

We offer this report in the hope that our findings and recommendations will stimulate serious consideration and response by all of our citizens to an issue of great consequence to present and future generations. In doing so we would stress that in all of our deliberations our guiding objective has been the enrichment of human life, not its restriction. In advocating a national population policy, we seek to assure greater opportunity for all our citizens so that each may attain his full potential with respect and dignity.

COMMISSION RELEASE PART I OF FINAL REPORT

WASHINGTON.—The Commission on Population Growth and the American Future reported today that the nation can, if it must, solve the problems that continued population growth creates, but "we will not like some of the solutions we will have to adopt."

In submitting the first of a three-part Final Report to President Nixon and the Congress, the 24-member panel said that continued growth will commit the nation to:

"More rapid depletion of domestic and international resources, greater pressures on the environment, greater dependence on continued rapid technological development . . . and a more contrived and regulated society."

Continued growth of the magnitude recently experienced also will further aggravate many domestic social problems, making them more difficult to solve, the panel added, while slowing growth and eventually stopping it will buy time to address them.

"There is hardly any social problem confronting this nation whose solution would be easier if our population were larger," the Commission said.

But, cautioning that population policy is no substitute for social, economic and environmental policy, the Commission added:

"Successfully addressing population requires that we also address our problems of poverty, of minority and sex discrimination, of careless exploitation of resources, of environmental deterioration, and of spreading suburbs, decaying cities, and wasted countrysides."

The Commission noted that, because of the tight connection between population and these concerns, "what ever success we have in resolving these problems will contribute to easing the complex system of pressure that impel population growth."

These conclusions emerged in the findings of the Commission report, which followed two years of research and deliberations. Two additional parts will offer specific recommendations based on these and other findings.

Part One of the report focused on the national impact of population growth and distribution upon government services, the economy, the environment and natural resources.

While making no immediate specific recommendations, the Commission urged that a small group be established to act as a "lobby for the future."

This agency, the panel said, should identify potential population, resource and environmental problems well ahead of crises, establish priorities, sponsor research aimed at resolving these problems and formulate and recommend appropriate policies.

The Commission, headed by John D. Rockefeller 3rd, was established by Congress in March, 1970, at the suggestion of President Nixon.

More than 100 leading scientists and experts on economic, environmental, governmental and social problems were enlisted to assist in the Commission's program of inquiry.

In addition, more than 100 witnesses submitted testimony at public hearings in Washington, D.C., Los Angeles, Chicago, Little Rock and New York.

Noting that practically every aspect of life in this Nation acts upon and reacts to population change, the Commission urged the development of a coherent national policy on the subject.

The Commission said that even though the United States generally has a low population density, considerable open space and a declining birth rate, this should not eliminate concerns about population.

There is always a "population problem," the report noted "in the sense of achieving a proper balance between size, growth, and distribution on the one hand, and, on the other, the quality of life to which every person in this country aspires."

The "population problem" is long-run and requires long-run responses," the Commission observed. "It is not a simple problem. It cannot be encompassed by the slogans of either of the prevalent extremes: the "more" or the "bigger the better" attitude on the one hand, or the emergency-crisis response on the other. Neither extreme is accurate nor even helpful."

The issue of population, the Commission said, raises important questions of what people want and need, and what they are for, as well as where this nation is going and how it plans to get there.

Eventually, the panel said, the world and this nation will be unable to accommodate more growth, and that a judgment must be about on when that point will be reached.

"Our answer is that now is the time to confront the question: 'Why more people?'" the Commission said. "The answer must be given, we believe, in qualitative, not quantitative terms."

"Each one of the impacts of population growth—on the economy, resources, the environment, government, or society at large—indicates the desirability, in the short run, for a slower rate of growth."

"And, when we consider these together, contemplate the ever-increasing problems involved in the long run, and recognize the long lead time required to arrest growth, we must conclude that continued population growth—beyond that to which we are already committed by the legacy of the baby boom—is definitely not in the interest of promoting the quality of life in the nation."

The report described the history of population growth in the United States, noting that, at the peak of the baby boom after World War II, Americans were averaging more than three children per family, while today there are averaging about two and a half.

An average of three children per family would lead to a population of 322 million in the year 2000, nearly a billion in 2070, and ever-increasing growth, the report said.

A two-child average would lead to 271 million by the year 2000 and 350 million in 2070. The 2-child rate with no immigration, would eventually result in a stabilized population.

By two- or three-child families, the Commission said it meant "averages which can be made up by many possible combinations of family sizes, ranging from childless couples to those with many children."

The Commission said that, even though the birth rate has been dropping recently, "the baby boom is not over. The babies have merely grown older. It has become a boom in the teens and twenties. In a few decades it will be turning into a retirement boom."

The Commission said that strenuous planning efforts are required to accommodate the population this nation is committed to because, "we may be through with the past, but the past is not done with us."

HIGHLIGHTS OF THE COMMISSION'S FINDINGS

Population Growth

Since 1900, the United States has undergone a demographic revolution. Population has increased from 76 million to almost 205 million in 1970, an addition of 129 million Americans the nation has been called upon to accommodate over the past 70 years.

The United States has had a long history of diminishing growth rates—from an annual rate of 3.3 percent early in the 19th

Century to about 0.7 percent during the 1930's; up to about 1.9 percent during the 1950's, then down to its present level of 1.1 percent.

However, our population is now so large that even our low current rate of growth translates into about 2¼ million people a year—more than a city the size of Philadelphia.

We cannot predict how fast our population will grow in the years ahead, but we can be sure that, barring some unforeseen catastrophe, substantial additions to our numbers lie ahead. Regardless of transitory shifts in the birthrate, our population has a potential for further growth greater than that of almost any other advanced country. Even if we averaged only two children per woman and zero international migration, the population would continue to grow for another 65 or 70 years, adding another 70 million persons.

This is because of a pattern of early and nearly universal marriage and childbearing, fertility levels above those required to replace the parental generation, and a preponderance of youth in the population. Those born during the baby boom are reaching adulthood today and beginning to do many of the things their parents and grandparents did before them—finishing school, seeking jobs, developing careers, getting married, and having children of their own.

Population distribution

Americans are a metropolitan people. Our transition from rural to metropolitan has been rapid. At the beginning of this century, 60 percent of the people lived on farms or in villages. In 1970, about 70 percent of our population was metropolitan; it is expected to be 85 percent by the year 2000.

Natural increase is the primary factor affecting the growth of metropolitan population as a whole. Research showed that, assuming a 2-child family average, the metropolitan population would grow by nearly 40 million people between 1970 and the year 2000 through natural increase alone.

The shape of urban development is expanding from the scale of metropolitan areas, across adjacent counties to broad regions covering many counties and extending across state lines. Transportation technology, particularly our extensive highway system, permits us to move great distances within a short period.

Some people commute daily between New York and Boston or Washington. A century ago, Central Park was the city park for New York. Now the "city" is the urban region along the Atlantic seaboard and its park is the Shenandoah National Park. The scale at which we live is expanding well beyond formal metropolitan boundaries.

Urban regions appear to be a prominent feature of the demographic future, and, if our population distributes itself according to projections, 54 percent of all Americans will be living in the two largest urban regions—one stretching along the Atlantic seaboard and westward past Chicago, containing 41 percent of our population; the other in California, between San Francisco and San Diego, containing 13 percent.

Economy

Major economic changes are on the horizon regardless of future changes in population growth rates. In the year 2000, the average person is expected to consume more than twice what he or she does today.

The Nation has nothing to fear from a gradual approach to population stabilization bringing births into balance with deaths. Neither the health of our economy nor the welfare of individual businesses depend on continued population growth.

Average incomes could be as much as 15 percent higher with a two-child than a three-child growth rate.

While a slower growth rate would probably favor certain types of industries over others, it does not appear, for several reasons, that a lower population growth rate will cause serious problems for any industry or its employees.

A gradual approach to population stabilization would not reduce demand from current levels for any specific industry. This is because even under a two-child average, there is no year in which there would be fewer births than in the previous year.

From an economic point of view a reduction in the rate of population growth would bring important benefits, especially if the United States develops policies to take advantage of the opportunities for social and economic improvement that slower population growth would provide.

Resources and the environment

Population growth is one of the major factors affecting the demand for resources and the deterioration of the environment. The further we look into the future, the more important population becomes.

So long as population growth continues, resource and environmental problems will grow and will slowly, but irreversibly, force changes in our way of life.

Increasing numbers press us to adopt new technologies before we know what we are doing. The more of us there are, the greater is the temptation to introduce solutions before their side effects are known.

We in this country are tampering with the ecosystem in many ways, the consequences of which we do not begin to understand.

Population growth is not the sole culprit in ecological damage, and any belief that it is confuses how things are done with how many people are doing them. But the overall effect is a product of numbers times styles of life taken together. One multiplies the other to produce the total impact.

With slower population growth leading to a stabilized population, we gain time to devise solutions, resources to implement them, and greater freedom of choice in deciding how we want to live in the future.

We would be considerably better off over the next 30 to 50 years if there were a prompt reduction in our population growth rate. This is especially true with regard to problems of water, agricultural land, and outdoor recreation.

Continued growth would cause the area of water shortage to cover half the land area of the United States a half-century from now, even if we make maximum use of dams and other water storage facilities.

Continued growth, in combination with increasing affluence, will cause great pressure on outdoor recreation resources—so great that, rather than "getting away" to the outdoors, people will be applying for admission to it.

We can have a growing population or a sound environmental policy that restricts use of agricultural pesticides and fertilizers and thereby retards the growth of per/acre productivity. But, in the long term, we may be unable to have both without forcing farm food prices well above levels that would otherwise obtain.

The American future cannot be isolated from what is happening in the rest of the world. There are serious problems right now in the distribution of resources, income, and wealth among countries.

World population growth is going to make these problems worse before they get better. The United States needs to undertake much greater efforts to understand these problems and develop international policies to deal with them.

Government

Public service costs will be considerably higher under a three-child population than under a two-child population.

For example, education, which accounted for about 7.5 percent of GNP, or $74 billion, in 1970, would account for 13 percent of GNP in the year 2000 under the larger population projection.

However, only 9.7 percent of GNP would be required to provide the same quality of education to all in the year 2000 under the lower population figure.

The country will have to spend more in absolute terms for health, welfare, and other public services for a population growing at the 3-child rate than at the 2-child rate.

Population stabilization poses no threat to national security, and would ease the increasing rate of strain on our federal system.

Even if national population stabilized, there would still be changes in population size and composition in states and localities.

Among local jurisdictions, population change shows even wider variety than among states.

The imbalance between resources and demands for services is especially acute in the contrast between suburban communities and the central cities of our large metropolitan areas. The unequal effect on demand for local government services is illustrated in Louisville, Kentucky, where the central city encompasses less than half the population of the metropolitan area, but has more than 90 percent of the area's public assistance recipients.

In 1967, there were about 16,000 nonschool local governments in metropolitan areas. If recent trends continue, by the year 2000 there are likely to be over 32,000 such governmental units in metropolitan areas. The proliferation of specialized districts will account for half the increase.

Government represents not only a universally and vitally important segment of our national life that is affected by population change; it also constitutes the channel through which a national concern with population must act to affect the causes and cope with the consequences of population growth and change.

In a time of headlong technological change, economic growth, and continuously rising population, the ability of Americans to deal with environmental pollution, public safety, economic opportunity, racial and ethnic discrimination, and many other urgent issues is far from assured.

But it is precisely in this field—establishing effective and democratic governmental systems in metropolitan areas—that our existing governments have been most deficient. Archaic governmental boundaries, incongruity between the location of many problems and the location of the financial resources to deal with them, and inequities on the distribution of public services, tax burdens, and the judicial system have been cited as problems.

Social aspects

Our population problems cannot be resolved simply by inducing our "have-not" groups to limit the number of children they have. Family size is larger among minority groups, but any idea that our population growth is primarily fueled by the poor and minorities having lots of babies is a myth. Those minority people who have "made it" into the system have adopted the small-family pattern. The problem is that so few have made it. The task is to make the system work for them as it has for the majority.

Unless we address our major social problems in the short run—beginning with racism and poverty—we will not be able to resolve fully the question of population growth. And unless we can resolve the question of population growth, in the long run, it not only will further aggravate our current problems, but may eventually dwarf them.

Our population is unusual among industrialized nations because the proportion who ever marry has always been high and our average age at first marriage is the lowest of any advanced country in the world. The rising rate of marital dissolution does not mean, however, rejection of the married state. The evidence for this is that, increasingly, the divorced marry again.

While marriage is the common bond holding the family unit together, two developments are likely to have an impact on the family. One is the questioning of existing sex mores by young people, the other is the women's liberation movement which aims to improve the status of women and to change role relationships within the family.

None of these changes dictates the direction which reproduction within families will take or whether the responsibility for childbearing and child-rearing will be enhanced, or what will happen to the quality of family life.

Because of a history of relatively high birthrates, the United States has had a "young" population compared with that of many European nations. The median age in 1970 was 28. Future age structure will be affected by future rates of fertility. A 3-child level of fertility would lead to a median age of 27 in the year 2000. A 2-child level would lead to a median age of 37, leading some to be concerned that an older average population might be more resistant to change. However, we are led to the conclusion that the age structure of a population is unlikely to be decisive in the forms of social organization which emerge.

More and more Americans live in urbanized areas at densities far exceeding those in rural areas, but urban densities are not increasing. In fact, average density is actually declining because urban territory is expanding faster than urban population.

Other things being equal, we know that increases in density cause increases in air pollution and traffic and other forms of congestion. But in general, the research on the effects of population density on human behavior is sparse and the findings either inconclusive or negative.

It is just possible, however, that we may come to look at the decline in urban densities as a mixed blessing. If continued in the decades ahead, declining densities could produce a serious reduction of available open space where we can occasionally escape from the pace of urban life.

Population and public policy

In conducting the daily business of production and consumption, private market forces work well in general and over the short run to reduce costs, husband resources, increase productivity and provide a higher material standard of living.

But the market mechanism has been ineffective in allocating the social and environmental costs of production and consumption, primarily because public policies and programs have not provided the proper signals nor required that such costs be borne by those activities. Nor has the market mechanism been able to provide socially acceptable incomes for people poorly equipped to participate in the system for producing and distributing income.

Slower population growth opens up opportunities we would not otherwise have. But, even if a stabilized population is achieved, our economic, environmental, governmental and social problems will remain unless we develop policies to deal with the other sources of these problems.

Such policies have shown little conspicuous success in the past, not so much because of the impact of population on government, but because of the inadequacy of government's response to the challenge of population and the host of issues that surround it.

Long-term planning is necessary to deal with environmental and resource problems, but there are only beginning signs that government is motivated or organized to undertake it. A major commitment is required to bring minorities into the mainstream of American life, but the effort so far is inadequate. It is clear that the "real city" that comprises the metropolis requires a real government to manage its affairs; but the nation is still trying to manage the affairs of complex, interconnected metropolitan communities with fragmented institutional structures inherited from the 18th Century.

STATEMENT OF JOHN D. ROCKEFELLER 3D, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE, ON PART II OF THE FINAL REPORT

In this second section of the Commission's report we set forth our recommendations in regard to education, childbearing and childrearing. They represent two years of intensive deliberations by the Commission and its able staff, based on extensive research under contract to others.

1. From the beginning, the overriding goal of the Commission has been the enrichment of human life not its restriction. In advocating a national population policy we seek to assure greater opportunity for all Americans so that each may have a better chance of attaining his full potential with respect and dignity.

2. The Commission recognizes and would stress that many of its recommendations to achieve social goals desirable and important in their own right—for example, greater opportunities for women and children, and freedom of choice in reproduction. These recommendations, are, of course, also relevant to population growth.

3. There has been much talk and concern about controls and coercion in the population field. The whole thrust of the Commission's effort has been the attainment of social goals through voluntary action, to be determined by the individual in his own best interest.

4. We recognize that such voluntary action will only be meaningful if we have true freedom of choice. This will require changes in some of our attitudes, patterns of behavior, laws and governmental programs. Only in this way will all people have access to the full range of our society's opportunities and services—particularly we have in mind women, minorities and the young.

5. Underlying all its deliberations, the Commission has sought to strengthen the bonds of family life by enabling parents and prospective parents to plan their childbearing and child-rearing so that every new-born infant will be a wanted child, raised in an atmosphere of love, respect and responsibility, because his or her mother and father have chosen to become parents.

We of the Commission recognize that not everyone will agree with all of the statements and recommendations in our report. We ask you to think of the report as a whole and to remember the breadth and the importance of the subject with which we are dealing. We ask you to remember that the report represents the best thinking of 24 individuals from a cross section of our society in terms of race, religion, age, occupation, geography, and beliefs. More particularly we ask you to remember, as I have already indicated, that the overriding goal of the Commission is to raise the quality of life for all Americans.

FINAL REPORT: PART 2

WASHINGTON.—The Commission on Population Growth and the American Future today submitted to President Nixon and Congress Part Two of its Final Report, containing policy recommendations on education and childbearing and child-rearing.

The recommendations are designed to maximize understanding of human reproduction and its implications for the family, and to improve the setting in which children are raised, the panel said.

The 24-member Commission, headed by John D. Rockefeller 3rd, was established by Congress in March, 1970, at the suggestion of the President, to examine the impact of population change in the United States to the year 2000.

Part One of the Report, released last week, focused on the consequences of population growth and distribution for government services, the economy, the environment and natural resources.

The Commission will complete its two-year assignment with the submission next week of Part Three of the Report, which will include recommendations in such areas as immigration, distribution and research.

Principal recommendations in Part Two covered such subjects as childcare, contraceptive information and services, fertility control, fertility-related health services and research, status of women, and educational programs.

The Commission said that its aim was to develop recommendations "worthwhile in themselves, which at the same time, speak to population issues."

The panel said its recommendations are "consistent with American ethical values in that they aim to enhance individual freedom while simultaneously promoting the common good."

It listed four principal goals upon which the recommendations in Part Two were founded:

Maximize information and knowledge about human reproduction and its implications for the family;

Improve the quality of the setting in which children are raised;

Neutralize, so far as it is practicable and consistent with other values, those legal, social and institutional pressures that historically have been pronatalist;

Enable individuals to avoid unwanted childbearing, thereby enhancing their ability to realize their preferences.

The policies, the Commission added, are aimed at facilitating conditions which will "increase ethical responsibility and the opportunity for unbiased choice" in childbearing and child-rearing.

"At the same time, by enhancing the individual's opportunity to make a real choice between having few children and having many, between parenthood and childlessness, and between marriage and the single state, these policies together will undoubtedly slow our rate of population growth and accelerate the advent of population stabilization."

Highlights of the Commission's recommendations follow:

HIGHLIGHTS OF PART 2

Education

The amount and accuracy of information currently held by Americans on the subject of population leave much to be desired. Approximately six out of 10 questioned in our 1971 poll either did not know or could not guess the size of the world's population within one billion persons.

There is no evidence that anything approaching an adequate population education program now exists in our school system. The number of teachers trained is very low, and the number of teaching opportunities very small. Textual materials are scant and inadequate.

In view of the important role that education can play in developing an understanding of the causes and consequences of population growth and distribution, the Commission recommends enactment of a Population Education Act to assist school systems in establishing well-planned population education programs so that present and future generations will be better prepared to meet the challenges arising from population change.

To implement such a program, the Commission recommends that Federal funds be appropriated for teacher training, for cur-

riculum development and materials preparation, for research and evaluation, for the support of model programs, and for assisting state departments of education to develop competence and leadership in population education.

Life in the future will depend significantly on the characteristics of our children. Our interests is not limited to the number of children in our population, but extends to a concern for the quality of their development. How adequately are we raising our children and how can we insure that parents and children are given the opportunity for self-fulfillment?

The decision to marry and the decision to bring a child into the world should not be made lightly. Both marriage and parenthood should imply a deep personal commitment and a continuing emotional investment. As a nation, we have a responsibility to provide better preparation for parenthood. Some school systems throughout the country have included family life courses in their curriculum. The Catholic Church has been in the forefront in family life education and is working to inform children and their parents on issues involved in family living. Programs in home economics similarly provide training for marriage and parenthood. Supplementary to these school programs are the efforts of community groups, such as the Red Cross, in training and guiding prospective parents.

In proportion to the number of individuals who are and will become parents, our educational effort is insufficient. Community agencies, especially the schools, should become more sensitive to the need for preparation for parenthood and include appropriate subject matter in their programs. There is information and expertise in the various aspects of family life scattered throughout the public and private sector. The Commission suggests that the Department of Health, Education and Welfare provide financial support to programs designed to examine and coordinate existing information activities and resources in this field.

In our society today, many young people appear to be rejecting traditional sexual codes and experimenting with new life styles and new moralities. But, although there are many manifestations of change, it may be that the fundamental change consists of a greater willingness to submit our sexual attitudes and behavior to public discussion.

As a nation, we are reaching a consensus on the need for sex education; and there is widespread support for these programs from the general public. A number of states have passed legislation in support of sex education in public schools. Many responsible organizations have indicated their support for sex education programs.

A major goal of sex education is to improve human relationships by helping individuals deal more openly and reasonably with their sexual concerns. In addition, sex education programs aim to increase the individual's knowledge and appreciation of human sexuality.

Programs in sex education have the responsibility to present, in an appropriate manner, factual information on the emotional, physical, and social aspects of sexuality. Another goal of sex education is to enhance communications between the generations regarding sexual attitudes and behavior. Most would agree that the home should be the source of sound sex education. In fact, informal education about sexuality is constantly provided in the home environment as children are influenced by parental attitudes and behavior. Unfortunately, large numbers of parents feel factually and emotionally ill-prepared to handle the topic with their own children. Most adults have had no formal sex education and the characteristic lack of communication about sexuality is a source of great frustration and anxiety for parents and children alike. The community can assist in this difficult task by providing sex education for citizens of all ages—sex is a vital aspect of life for people in every age group, and education in sexuality should be an ongoing process.

The Commission recognizes that there is no best way to define or conduct sex education programs, and that local communities and groups must create programs which coincide with their values, resources, and needs.

Despite an increasing openness and public presentation of sexual matters, there remains a well-organized and vocal minority actively opposing programs of sex education. Some of these groups go so far as to interpret sex education as a politically inspired plot to teach young people how to engage in sexual activity, thereby officially condoning "immorality" and "perversion." We regret that these groups have successfully forestalled sex education programs in 13 states. The issue was underscored by the observation of a high-school girl at one of the Commission's public hearings that "the refusal to provide education will not prevent sex, but it certainly will prevent responsible sex."

Ignorance does not serve to prevent sexual activity, but rather promotes the undesirable consequences of sexual behavior: unwanted pregnancy, unwanted maternity and venereal disease. These problems seem particularly acute for the adolescent segment of our population. Unfortunately, society has been slow to face the fact that, with or without formal sex education, there is a considerable amount of sexual activity among unmarried people. A recent national study of unmarried teenage girls revealed that 14 percent of 15-year-olds and up to 44 percent of 19-year-olds reported having had sexual relations. Only 20 percent of these girls used contraception regularly. Such a low incidence of contraceptive use is particularly significant when less than half of these girls knew when during the monthly cycle a girl can become pregnant. Rates of illegitimacy among young women ages 15 to 19 increased by two to threefold between 1940 and 1968.

Venereal disease in the United States is considered by health officials an epidemic of unusual extent and severity. They estimate that over 2.2 million cases of infectious venereal disease were treated in the United States last year. The incidence of reported venereal disease is highest among persons under 25.

The Commission suggests that funds be made available to the National Institute of Mental Health to support the development of a variety of model programs in human sexuality. These programs should include school- and community-based projects in a number of different communities.

Sex education ideally should be focused in the home and supplemented by schools and other community groups including religious, medical, and service organizations.

The Commission supports those community agencies and educational institutions training professional sex educators, and urges more schools to include such training in their programs. Moreover, we encourage institutions involved in training professionals in the health and welfare fields, such as doctors, clergy, and social workers, to add courses in human sexuality to their curriculum.

Recognizing the importance of human sexuality, the Commission recommends that sex education be available to all, presented in a responsible manner through community organizations, the media, and especially the schools.

The children

There is no paradox in welcoming the trend toward smaller families and simultaneously viewing children as our most valuable resource. In the past, we have not given children as high a place in our priorities as in our rhetoric. Our nation's infant mortality rate is higher than that of 12 other nations.

Since 1935, the federal government has supported programs to extend and improve health services for mothers and children, especially in rural areas.

Federal support of these programs is not increasing significantly; and they are unable, as presently constituted, to meet the needs of all low-income women who are not receiving private health care.

Our nation should set a high-priority goal of providing comprehensive health care to all mothers and children. The costs to the nation are not excessive; the savings, in terms of improved maternal and infant health, would be considerable.

In 1970, almost 25 million children under 18 had mothers who worked at least part time; over 5.8 million of these children were under age six. Large numbers of these working mothers were the sole support of their families or supplemented incomes near the poverty level. Many middle-class women are also entering the work force.

The child-care arrangements made by working mothers, especially those whose ability to pay is limited, are frequently inadequate. Many children are cared for in their own homes by adult relatives or babysitters, but many are cared for by sisters or brothers who are themselves children. Only a small percentage are enrolled in nursery schools or day-care centers, and many of these are of low quality. At least one million young Americans receive no supervision at all—the so-called "latch-key" children who wander about after school or remain at home alone when ill. These conditions are unacceptable.

Many families would benefit from versatile part-day as well as full-day child-care programs, or from programs that could provide day and night care in case of a family emergency. Some of the opposition to the creation of a child-care system in this country is based on the beliefs that (1) it may be destructive of the family; (2) we cannot afford to undertake something as expensive as good developmental child care; and (3) by reducing the tension between motherhood and other roles, child care will encourage the birth of more children.

Aside from the quality of care, parents must be able to make the decision whether or not to use child-care services and to what extent. Any form of compulsory child care is unacceptable, including the requirement that mothers place young children in these programs in order to comply with regulations that exact training and employment as a condition for benefiting from assistance programs.

We believe that the demand for child-care services will continue to grow. The challenge is to make certain that they enhance the well-being of the child.

The Commission therefore recommends that both public and private forces join together to assure that adequate child-care programs, including health, nutritional, and educational components, be available to families who wish to make use of them.

Because child-care programs represent a major innovation in child-rearing in this country, we recommend that continuing research and evaluation be undertaken to determine the benefits and costs to children, parents, and the public of alternative child-care arrangements.

Status of women

The limitations on the rights and roles of women abridge basic human liberties that should be guaranteed to all, regardless of the future course of population growth.

Here, as in the control of reproduction, our goal is to increase freedom of choice. Just as we oppose coercion in the control of fertility, we oppose any effort—explicitly or implicitly—to penalize childbearing and parenthood. We reject the notion that either motherhood or childlessness is or should be made to seem unfashionable. Instead, we seek a greater range of options. Women should be able to choose motherhood, some work, or other interests. Both men and women should be free to develop as individuals rather than to fit some sexual stereotype.

It would be desirable to end sex differentiation in school courses, to train guidance counselors to view students as individuals, to channel educational and vocational interests without regard to sex, and to revise school books to show men and women in attractive roles both outside and inside the home.

More and more women are entering the labor market; today 43 percent of all women are in the work force.

Women have experienced and continued to suffer discrimination in employment. Often, they are paid less than men for the same work, and are barred from certain job positions by protective laws. Generally, they have less chance for advancement even when they remain in the work force for extended periods of time. Minority women have suffered the greatest deprivation in the labor market. Black women are consistently the lowest paid of all workers and the most likely to live in poverty.

As we have learned in the struggle for equal rights for minorities, an end to legal discrimination does not guarantee equality. However, equal opportunity cannot begin until all legal barriers to equality have been abolished. Women in the United States occupy a separate and unequal status under the law. At common law women were afforded few rights. Our Constitution was drafted on the assumption that women did not exist as legal persons. The legal status of women has improved in the past century with the adoption of the Nineteenth Amendment, alteration of some common law rules, and passage of some positive legislation. But equal rights and responsibilities are still denied women in our legal system. We believe this should be remedied. The right to be free from governmental action that discriminates on the basis of race, color, or creed is written into our basic document of government. We believe the right to be free from discrimination based on sex should also be written into that document.

The Commission therefore recommends that the Congress and the state approve the proposed Equal Rights Amendment and the federal, state, and local governments undertake positive programs to ensure freedom from discrimination based on sex.

Tax policy and public expenditures

The costs to parents of bearing and raising children represent only a portion of the true costs of children. All citizens, regardless of whether or not they have children, pay for the public costs of children.

None of the tax policies or expenditure programs which benefit children was instituted with the expressed intention of encouraging childbearing.

Some programs have obviously benefited families with children, but there is no proof they have encouraged the birth of additional children. For instance, tax exemptions for children benefit parents; but the amount of the deduction is so small in contrast to the cost of child-rearing, that it is difficult to imagine that anyone would have additional children in order to secure additional exemptions.

Public assistance programs, especially aid to families with dependent children, are frequently cited as encouraging reproduction among the poor. This cannot be demonstrated except insofar as assistance payments make it possible for these families to be better fed and cared for, and thereby strengthen their reproductive capacities. For years, the argument has been that, because assistance payments are based upon the number of children in the family, welfare mothers have more children in order to increase their monthly payment. Welfare payments and standards vary widely. In November 1971, the average payment per family in New Jersey was $250; in Mississippi, it was $55. Neither is large enough to support a family of any size well. In addition, most state standards of need are set in such a manner that progressively less is paid for each child; and 20 states have set maximum payments for each family regardless of the number of children.

The welfare family is a half a child larger than the average United States family, despite the image of larger families. Between the year 1967 and 1969, when welfare payments were increasing, the average family size of welfare recipients was declining. In New York City where, according to the pronatalist view, steadily increasing payments and program utilization in the years 1959 to 1970 should have encouraged more births, the percentage of welfare mothers bearing children each year dropped from 18.9 percent in 1959, to 11.3 percent in 1970.

The type of program that offers direct financial rewards for limiting childbearing would almost certainly offer greater inducement to the poor.

Bonus payments would serve to discourage childbearing only among the relatively few who are poorest. Therefore, it would not affect our overall growth substantially, and would weigh unevenly upon decisions about childbearing in a manner we find unacceptable.

We cannot foresee any goal with a higher priority than insuring the welfare of future generations. We believe the public support of children, at least at the present level, is justifiable. In fact, some of the Commission's proposals would have the effect of increasing that support for reasons which we also believe are justifiable.

Human reproduction

Contemporary American couples are aiming to have an average of between two and three children. Given the fact of youthful marriage, far-from-perfect means of fertility control, and varying motivation, many of these couples will have children before they want them and a significant fraction will ultimately exceed the number they want.

Recent research has disclosed a substantial incidence of such unplanned pregnancies and unwanted births in the United States. According to estimates developed in the 1970 National Fertility Study conducted by the Office of Population Research at Princeton University, 44 percent of all births to currently married women during the five years between 1966 and 1970 were unplanned; 15 percent were reported by the parents as having never been wanted. In theory, this incidence of unwanted births implies that 2.65 million births occurring in that five-year period would never have occurred had the complete availability of perfect fertility control permitted couples to realize their preferences. And these estimates are all conservative.

Unwanted fertility is highest among those whose levels of education and income are lowest. For example, in 1970, women with no high-school education reported that 31 percent of their births in the preceding five years were unwanted at the time they were conceived; the figure for women college graduates was seven percent.

Not all unwanted births become unwanted children. Many, perhaps most, are eventually accepted and loved indistinguishably from earlier births that were deliberately planned. But many are not; and the costs to them, to their siblings and parents, and to society at large are considerable, though not easy to measure.

There are also health costs involved. As President Nixon observed:

. . . involuntary childbearing often results in poor physical and emotional health for all members of the family. It is one of the factors which contributes to our distressingly high infant mortality, the unacceptable level of malnutrition . . .

There are many "costs" associated with unwanted fertility, not only financial, but health, social, psychological, and demographic costs as well.

The Commission believes that all Americans, regardless of age, marital status, or income should be able to avoid unwanted births. Major efforts should be made to enlarge and improve the opportunity for individuals to control their own fertility, aiming toward the development of a basic ethical principle that only wanted children are brought into the world.

Approximately 22 states prohibit the sale of all or some contraceptives, though allowing exceptions for doctors, pharmacists, or other licensed firms or individuals. Roughly 23 states prohibit commercial advertising of contraceptives, though most make exceptions for medical and pharmaceutical journals.

The same 23 states also condemn the display of contraceptives and of information about them, and at least 27 states, either expressly or inferentially prohibit the sale of contraceptives through vending machines.

One way or another, these laws inhibit family planning education, as well as family planning programs, and/or impinge on the ready availability of methods of contraception to the public. Whatever the original justification for these laws, their result is to prevent contraceptive information and supplies from being easily obtainable in general and, in some instances, to make them totally unobtainable.

Merely removing such laws will not automatically ensure freedom of access and choice. More is needed in the way of affirmative programs to distribute such information and supplies to all who may wish to use them. Nonetheless, it is desirable and important that laws not operate as impediments.

The Commission has recommended that: (1) states eliminate existing legal inhibitions and restrictions on access to contraceptive information, procedures, and supplies; and (2) states develop statutes affirming the desirability that all persons have ready and practicable access to contraceptive information, procedures, and supplies.

Fertility and health services

Prior to the second quarter of the 19th century, the law applicable to abortion in the American colonies, and in subsequently the expanding United States, was the Common Law of England. Under that law, women were free to have abortions before "quickening"—the first perception of fetal movement by the pregnant woman, which usually occurs between the 16th and 20th week.

In the second quarter of the 19th century, restrictive laws were enacted in 12 states. The only known contemporary authoritative texts explaining the reason for the enactment of these prohibitions of abortion before "quickening" relate to New York and New Jersey. Both point to the life and health of the pregnant woman as the sole objective in legislative view. Before the introduction of ether anesthesia (1846) and antisepsis (1867), any surgery was likely to cause death from shock or infection. Actually, at the time New York State adopted such restrictive laws in 1929, serious consideration was given to banning all surgical operations except when necessary for the preservation of life. Thus, in the drafting of such legislation, the concern of the lawmakers was medical rather than moral. It was in the latter half of the century that the sensationalism of Anthony Comstock inspired a moral fervor which resulted in moral considerations becoming the dominant element in highly stringent laws against abortion.

Currently, in 34 states, abortion is a crime except to preserve the life of the mother; 12 states have changed their abortion statutes consistent with the American Law Institute

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Model Penal Code provision on abortion which prohibits abortion except in cases where the mother's life or her mental or physical health is in danger, or to prevent the birth of defective offspring, or in cases of rape or incest. In 1970, abortion laws in Alaska, Hawaii, and New York were liberalized by law and in the state of Washington by popular referendum.

At its 1972 meeting, the House of Delegates of the American Bar Association passed a Uniform Abortion Act, stating that abortion may be performed by a duly licensed physician upon request.

The Commission recognizes that abortion is a complex issue requiring a thoughtful balancing of moral, personal, and social values. As the Commission moves toward a population policy for the United States, our principal objective is the enrichment of life, not its restriction. We share with our fellow citizens an abiding concern for the sanctity of all human life. Thus, we appreciate the moral decisions involved in abortion, as well as the possible insensitivity to all human life implied in the practice of abortion. It is from this perspective that we have approached three moral issues concerning abortion which we believe to be of foremost importance.

The first issue relates to the fetus, both as to the termination of potential life and determining when that life actually begins. The second relates to bringing into the world an unwanted child, particularly when the child's prospects for a life of dignity and self-fulfillment are limited. Third, there is the question of the woman who in desperation seeks an abortion. Our society faces a difficult decision when the woman believes her well-being is threatened and she sees no other way out but an illegal abortion with all its attendant dangers.

The Commission believes that a wise and sound decision in regard to the abortion question requires a careful balancing of the moral problems relating to the woman and the child along with those concerning the fetus.

In the development of western culture, the tendency has been toward a greater protection of life. At the same time, there is a deep commitment in our moral tradition to individual freedom and social justice. The Commission believes that the various prohibitions against abortion throughout the United States stand as obstacles to the exercise of individual freedom: the freedom of women to make difficult moral choices based on their personal values, the freedom of women to control their own fertility, and finally, freedom from the burdens of unwanted childbearing. Restrictive statutes also violate social justice, for when abortion is prohibited, women resort to illegal abortions to prevent unwanted births. Thus, medically safe abortions have always been available to the wealthy, to those who could afford the high costs of physicians and trips abroad but the poor woman has been forced to risk her life and health with folk remedies and disreputable practitioners.

Abortion is not new; it has been an alternative to unwanted birth for large numbers of American women (estimates ranged from 200,000 to 1,200,000 illegal abortion per year in the United States). The Commission regards the issue of illegal abortion with great concern and supports measures to bring this medical procedure from the backrooms to the hospitals and clinics of this country. It is becoming increasingly clear that, where abortion is available on request, one result is a reduction in the number of illegal abortions. Deaths as a consequence of illegal abortion have dropped sharply in New York since the enactment of a liberal abortion statute.

The Commission affirms that contraception is the method of choice for preventing an unwanted birth. We believe that abortion should not be considered a substitute for birth control, but rather as one element in a comprehensive system of maternal and infant health care. For many, the very need for abortion is evidence of a social and personal failure in the provision and use of birth control.

The demographic context

In reviewing the abortion issue, one central concern has been an evaluation of the demographic impact of abortion. We appreciate the historic importance of placing recommendations on abortion in a demographic context.

At the present time, it is difficult to make accurate quantitative statements concerning the demographic impact of abortion. We are unable to estimate the effect on the birthrate of an unknown number of illegal abortions. There is little doubt, however, that legal and illegal abortions exert a downward influence on the United States birthrate. Support for this general conclusion is found in the preliminary data from New York and the experiences of some other nations with liberal abortion policies, notably Japan and the Eastern European countries.

However, caution must be exercised in generalizing from the experience of other countries to the impact of abortion on United States population growth. The United States differs from these other nations socially, politically, economically, and most importantly, in the level of contraceptive practice.

Only limited data on the demographic consequences of abortion are available from New York. Our best estimate of the probable impact if the entire country were to follow the New York law would be a decline of 1.5 per 1,000 in the birthrate in the first year after restrictions were removed.

Public opinion on abortion is changing, tending to grow more liberal. Some 15 to 20 percent more women in 1970 than in 1965 approve of abortion for various reasons. The public opinion survey conducted in 1971 for the Commission indicates that half of all Americans believe that abortion should be a matter decided solely between individuals and their physicians; an additional 41 percent would permit abortion under certain circumstances, and 6 percent flatly oppose abortions under any circumstances. Estimates of the current state of attitudes on abortion doubtless depend very much on the phrasing of the question and the interpretation of the respondent.

The abortion issue raises a great number of moral, legal, public health, and demographic concerns. Based on their personal views, individual members of the Commission have ranked these concerns differently.

A few members of the Commission are opposed to abortion, concluding that it should be prohibited except to save the life of the mother.

Some Commissioners approve of abortion only under the specific conditions set forth in the American Law Institute model abortion statute. Their concern is that abortion be available only on a limited basis and that it be considered as a last resort to protect life or health.

The majority of the Commission believes that women should be free to determine their own fertility, that the matter of abortion should be left to the conscience of the individual concerned, in consultation with her physician, and that states should be encouraged to enact affirmative statutes creating a clear and positive framework for the practice of abortion on request.

Therefore, with the admonition that abortion not be considered a primary means of fertility control, the Commission recommends that present state laws restricting abortion be liberalized along the lines of the New York State statute, such abortions to be performed on request by duly licensed physicians under conditions of medical safety.

In carrying out this policy, the Commission recommends:

That federal, state, and local governments make funds available to support abortion services in states with liberalized statutes.

That abortion be specifically included in comprehensive health insurance benefits, both public and private.

Although current knowledge, if applied systematically, could bring about considerable progress toward reducing unwanted fertility, the successful control of reproduction depends greatly on the availability of efficient methods for regulation of fertility.

The development of the pill and the intrauterine device represent major innovations in contraceptive technology, but they are far from perfect solutions to the problem of control of reproduction. We must have contraceptives and other methods of fertility control that are safe and free of adverse reactions.

Methods of fertility regulation remain limited because our knowledge of basic reproductive biology is inadequate. We do not fully understand what governs ovulation, how long an ovum can survive, what governs sperm production, how long sperm survive, what governs a menstrual cycle, or how long it lasts. Such knowledge is essential for the practice of "rhythm" as well as for effective chemical or mechanical contraception. Unwanted and accidental pregnancies are only one consequence of our ignorance. Many couples avoid pregnancy only through use of methods that are cumbersome and produce a great deal of anxiety. Others who desperately want children cannot conceive. A large number of married couples suffer from problems of infertility; the ability to help them is sorely limited by the same lack of information concerning basic reproductive processes that inhibit effective contraception.

This knowledge is also essential for improving the outcome of pregnancy. Today, many mothers suffer the risk of serious injury, ill health or even death in pregnancy and childbirth. And too many children are born with physical and mental handicaps. We spend billions in therapy, remedial treatment, custodial care, and repair of damage that might have been prevented by a more complete understanding of the factors governing reproduction.

The Commission recommends that this nation give the highest priority to research in reproductive biology and to the search for improved methods by which individuals can control their own fertility.

In order to carry out this research, the Commission recommends that the full $93 million authorized for this purpose in fiscal year 1973 be appropriated and allocated; that federal expenditures for these purposes rise to a minimum of $150 million by 1975; and that private organizations continue and expand their work in this field.

Most Americans secure their health services through private physicians. Yet studies show that most physicians do not perceive it to be their function to actively provide fertility control services.

Very few current private or public health financing mechanisms pay for such items as office visits, drugs, and laboratory tests—the principal elements of contraceptive services.

With our growing recognition of the vital importance of adequate prenatal and infant care, it is regrettable that only a fraction of the costs of these services are defrayed by health financing mechanisms. Future generations of Americans should be born wanted by their parents, brought into the world with the best skills that modern medicine can offer, and provided with the love and care necessary for a healthy and productive life.

The Commission recommends a national policy and voluntary program to reduce unwanted fertility, to improve the outcome of pregnancy, and to improve the health of children.

In order to carry out such a program, public and private health financing mechanisms should begin paying the full cost of all health services related to fertility, including prenatal, delivery, and postpartum services; pediatric care for the first year of life; voluntary sterilization; safe terminations of unwanted pregnancy; and medical treatment of infertility.

Estimates have been made of the costs to American society of such a program. At current fees and institutional charges, the entire gamut of services for all who would require them, regardless of age, marital status, or income, is estimated to cost from $6.7 to $8.1 billion annually in the next five years. More than 70 percent of this cost would cover maternity and pediatric care, while the balance constitutes the total cost of voluntary fertility control. Individuals, public and private third-party mechanisms, and public health programs already finance all but about $1 billion of this total cost. But many persons do not receive all or some of these critical fertility-related health services as a result of inadequate insurance coverage, lack of income, differential access to medical resources, and inadequate public and private programs.

Total United States health expenditures in fiscal year 1971 are estimated at $75 billion, and our gross national product at more than $1 trillion. The cost to our society of paying for all necessary modern medical care related to the bearing of healthy wanted children thus would constitute nine percent of our national health bill, and less than 0.7 percent of GNP. On a per capita basis, the total annual cost of such a comprehensive program would be $32 to $34. In fiscal year 1970, per capita health expenditures of all types totaled $358.

These estimates do not, in fact, represent a true "cost" to our society. The expenditure of these sums for adequate fertility-related medical care would, in all probability, be more than offset by the benefits to individuals and society of the delivery of healthy children and the prevention of unwanted pregnancies.

The achievement of such a financing concept would go a long way toward making services available. However, it would not, by itself, remedy the present inequities in the distribution of medical services. It would not create physicians in communities which presently have none or too few, nor build adequate health facilities to replace obsolete ones. It would not guarantee the availability of the necessary trained manpower, nor provide the means whereby individuals would receive the full range of information necessary for them to choose wisely the services which best fit their needs.

We therefore recommend:

Creation of programs to (1) train doctors, nurses, and paraprofessionals, including indigenous personnel, in the provision of all fertility-related health services; (2) develop new patterns for the utilization of professional and paraprofessional personnel; and (3) evaluate improved methods of organizing the delivery of these services.

Until the time that private and public health mechanisms have been altered to include adequate coverage and provision of fertility-related services, the present federal programs that provide family planning services and maternal and child care must be continued and expanded.

The five-year plan for family planning services projects the total fiscal requirements over the next five years at between $392 and $434 million. While state and local governments and private philanthropy can and should increase their commitment to this national effort, most experts agree that by 1975, not more than $50 million can be supplied from these sources. The bulk of family planning funds must come from the federal government.

Present specific statutory authorizations for family planning services are not sufficient to meet the level of funding required. Medicaid cannot be expected to provide much assistance.

The Commission therefore recommends:

(1) new legislation extending the current family planning project grant program for five years beyond fiscal year 1973 and providing additional authorizations to reach a federal funding level of $225 million in fiscal year 1973, $275 million in fiscal year 1974, $325 million in fiscal year 1975, and $400 million thereafter; (2) extension of the family planning agent authority of Title V of the Social Security Act beyond 1972, and maintenance of the current level of funding of approximately $30 million annually; and (3) maintenance of the Title II OEO program at current levels of authorization.

Services for Teenagers

As a society, we have been reluctant to acknowledge that there is a considerable amount of sexual activity among unmarried young people. A recent national study, conducted by Johns Hopkins University, disclosed that over 40 percent of unmarried girls 15–19 years old reported having had sexual relations. The study further reveals that girls have a considerable acquaintance with contraceptive methods; over 95 percent of all girls 15 to 19, for example, know about the pill. Contraceptive practice, however, contrasts sharply with this picture. Although many young women who have had intercourse have used a contraceptive at some time, this age group is characterized by a great deal of "chance taking." The majority of these young women have either never used or, at best, have sometimes used the birth control methods.

Adolescent pregnancy offers a generally bleak picture of serious physical, psychological, and social implications for the teenager and the child. Pregnancy is the number one cause for school drop-out among females in the United States. The psychological effects of adolescent pregnancy are indicated by the frequency of suicide attempts among teenage mothers. A recent study estimates that teenage mothers have a suicide attempt rate 10 times that of the general population.

The Commission is not addressing the moral questions involved in teenage sexual behavior. However, we are concerned with the complex issue of teenage pregnancy. Therefore, the Commission believes that young people must be given access to contraceptive information and services.

Toward the goal of reducing unwanted pregnancies and child-bearing among the young, the Commission recommends that birth control information and services be made available to teenagers in appropriate facilities sensitive to their needs and concerns.

The Commission recognizes that the availability of contraceptive services alone is insufficient. It has recently been reported that among teenagers, the single most important reason given for not using contraceptives was the belief that, for various reasons, they could not become pregnant. Our survey reveals that nearly two-thirds of citizens are in favor of high schools offering information on ways to avoid pregnancy.

The Commission therefore recommends the development and implementation of an adequately financed program to develop appropriate family planning materials, to conduct training courses for teachers and school administrators, and to assist states and local communities in integrating information about family planning into school courses such as hygiene and sex education.

THE EEOC BILL

Mr. JAVITS. Mr. President, the final approval of the conference report on the bill to give the Equal Employment Opportunity Commission power to enforce the equal employment guarantees of title VII of the Civil Rights Act of 1964 marks a significant gain for the cause of civil rights in the United States. Approval of the conference report climaxed one of the most grueling fights in the Senate in recent years. I think all of us who are interested in the enactment of this legislation owe the distinguished Senator from New Jersey (Mr. WILLIAMS), who serve as the chairman of the Committee on Labor and Public Welfare, and its Labor Subcommittee, of which I am ranking minority member, a debt of gratitude for the wisdom and stamina he displayed during the 5 weeks the EEOC bill was on the Senate floor.

Mr. President, an article published in the Newark, N.J., Sunday Star-Ledger of March 12, 1972, discusses Senator WILLIAMS' role in managing the EEOC bill to its successful conclusion. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WILLIAMS' JOB DISCRIMINATION MEASURE DRAWS PRAISE

(By Joseph Carragher)

WASHINGTON.—Civil rights leaders and liberals are hailing congressional approval of a measure designed to end job bias for 15 million more Americans despite the last-minute adoption of court enforcement powers.

The battle for job equality was spearheaded by Sen. Harrison A. Williams Jr. (D–N.J.) and took five weary weeks of filibuster—by a record 38 roll call votes—before the Senate gave the Equal Employment Opportunity Commission the legal clout to end job discrimination.

The Southern filibuster was broken when Republicans, led by Sen. Peter Dominick (R–Colo.), supplied the necessary votes, providing that the court procedure be substituted for Williams' original "cease and desist" method.

This move was viewed as a victory for the Nixon Administration which vigorously opposed "cease and desist."

But, in the final analysis, Williams, chairman of the Labor and Public Welfare Committee said even with court enforcement it makes a "dramatic change."

"We've gone from no enforcement powers to enforcement powers for the first time," he said.

The new bill gives the EEOC the power to take an employer to court. It puts the resources of a potent government agency behind an individual.

Williams said he is convinced that court enforcement, while perhaps slower and more cumbersome than cease and desist, will produce the same results—equality.

The bonus from Williams' standpoint is the broadened EEOC coverage to smaller plants and unions and more importantly to state and local governments as well as to the nation's private and public educational system.

He estimated that 10 million state and local government employes would be covered as well as five million in smaller businesses and unions.

EEOC was created under the 1964 Civil Rights Act but was limited to working out findings of discrimination by negotiations.

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"That process, in operation, failed to get the job done," said Williams.

"In less than half of the instances where the commission made a finding of discrimination were the negotiations to resolve the problem successful," said the senator.

Williams explained that the individual could file suit himself but most who are discriminated against are those least able to afford the financial burden of a private law suit.

While most people think almost solely in terms of blacks when discrimination is discussed, Williams said the bill will help all minority groups and will be of major importance in eradicating discrimination against women.

The legislation still has a few hurdles to clear but no problems are expected enroute to final passage and law.

Because the House and Senate passed different versions, the bill had to go to a joint conference committee.

The Senate last week approved the House-Senate Conference report, which kept the expanded coverage intact.

Once the House acts favorably, the measure will be sent to the White House.

Signing of the measure will be the end of the trial for the legislation, which involved many hearings and research, that established a number of historic firsts.

For the first time, a civil rights bill was reported unanimously out of the Labor and Public Welfare Committee and for the first time, cloture was invoked on behalf of a bill coming out of that committee.

Fifty-three senators signed the final, successful cloture petition—a record for a civil rights bill—and 73 senators voted in behalf of cloture—another civil rights record.

But that doesn't mean it was easy, according to Williams.

That filibuster meant that Williams had to spend five solid weeks fighting off attempts to weaken the bill on the floor.

He had to marshal the support necessary to beat off the weakening attempts as well as the support required for cloture.

Williams did have strong backing, particularly from Sen. Jacob K. Javits (R-N.Y.) a co-sponsor and the ranking Republican member of the Labor and Public Welfare Committee.

Some of the comments by his Senate colleagues after final passage may serve to give an indication of Williams' performance.

"The fruit of his (Williams) efforts is a piece of civil rights legislation which is critical to our total effort to end discrimination," said Sen. Alan Cranston (D-Calif.)

Said Javits:

"The senator from New Jersey has given every fiber of his being to work which was involved and I think the entire country will appreciate that as the days go by."

NUCLEAR FISSION POWERPLANTS

Mr. WILLIAMS. Mr. President, the dialog about nuclear fission as a power source is growing daily. Since New Jersey is a very populous State with a rapidly rising need for power, this dialog is of direct interest to New Jerseyans, and they are becoming increasingly concerned about the possible risks inherent in the use of fission power. Since their concern is shared by citizens throughout the United States, I should like to present the following view to all those who are interested in this issue.

Mr. President, I ask unanimous consent to have printed in the RECORD for the benefit of the many readers of the RECORD, an article entitled "Do Nuclear Plants Make Deadly Neighbors," written by Dr. Barry Commoner, which appeared in the February 1972 issue of Today's Health, published by the American Medical Association.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DO NUCLEAR PLANTS MAKE DEADLY NEIGHBORS?

(By Barry Commoner, Ph. D.)

The once-bright promise of unlimited power from nuclear energy has been dimmed by growing fears of environmental damage and radiation-caused disease. In an excerpt from his new book, The Closing Circle, Dr. Barry Commoner, renowned ecologist and educator at Washington University, St. Louis, warns that "our capability to intrude on the environment far outstrips our knowledge of the consequences."

A sudden cloudburst drenched the city of Troy, New York April 26, 1953. As the rain fell, physicists in nearby university laboratories noticed a sudden surge on their instruments which measured "background" radiation.

They soon discovered that the rain was highly radioactive and surmised that radioactive debris—fallout—from nuclear tests in Nevada had been carried by winds across the country and brought to earth by the heavy rain. Some of the physicists warned their wives to bring the children inside; but they made no public report, for they were anxious not to violate rules of secrecy concerning U.S. atomic tests.

However, scientists have a strong tendency to communicate among themselves, and soon physicists in laboratories throughout the United States were privately testing the radioactivity in rainfall and in dust wiped off their cars. It was everywhere: air, rain, soil, food and water were contaminated by the radioactivity from nuclear explosions. Despite official secrecy, atomic energy had made its environmental debut.

The Atomic Energy Commission (AEC) had been created in 1946 to take charge of a massive U.S. program to develop the military, scientific and industrial potential of atomic and nuclear energy. By 1951, the United States had exploded 16 test bombs and the Soviet Union, 13. The following year Great Britain joined in with its first test.

These explosions took place in remote, uninhabited areas of the world and their results were blanketed in military secrecy. The AEC normally issued only a terse announcement that a test had taken place, that a bomb's radiation had been confined to a local area, and in any case was "harmless" to the public. Public discussion of the nuclear arms race was muzzled by Cold War hysteria and McCarthyism. But nature broke through these barriers.

All atomic radiation is destructive to living things, and many biologists regarded fallout as a potential hazard to everything alive. But, as the AEC was quick to point out, the fallout radiation reaching a person from the air, dust, or soil was low—not much higher than the intensity of radiation naturally emanated in the external environment from radium in rocks and by cosmic rays from outer space. And much of it was incapable of penetrating very deeply into the body. The hazard of such radiation, from outside the body, was slight—or so it seemed.

Then a new fallout term turned up in private conversations among scientists—strontium 90. My own experience is probably typical of most nonphysicists who had no professional interest in environmental radioactivity. I recall several cryptic remarks by physicist friends that radioactive strontium—strontium 90—had been detected in fallout. More meaningful was the worried look that accompanied the information; for some reason, which was never stated, strontium 90 appeared to be a particularly dangerous form of radioactivity.

As it happens, strontium, a natural, harmless element, and its radioactive isotope, strontium 90, both move through the environment in concert with calcium, a chemically similar element. And calcium is avidly withdrawn from the soil by plants, becoming incorporated into food and then taken up in the human body. Once fallout appeared on the earth, inevitably strontium 90 would accompany calcium as it moved through the food chain, ultimately becoming concentrated, along with calcium, in vegetables, in milk, in the bones of people.

Radiation from strontium 90 cannot penetrate through more than a small fraction of an inch of living tissue. However, once it is incorporated into the body, the isotope becomes closely packed around the living cells of the bone. These cells then lie within easy reach of strontium 90 radiation, and the risk to them—for example, from cancer—becomes enormously more severe than the risk from the same amount of strontium 90 outside the body. Suddenly, many of us in the scientific community began to worry about the fallout, and by the end of 1953 this concern broke through the screen of secrecy, and the fallout problem became public. Then a serious accident during an AEC test in the Pacific Ocean in March 1954 helped to dramatize the fallout problem—the unexpected exposure to fallout of the crew of the Japanese fishing boat *The Lucky Dragon*. A number of sailors suffered serious radiation sickness; several later died of it.

No one had *intended* to poison the earth with radioactivity or to threaten the health of human beings. But now, for the first time in the history of man, children grew up with strontium 90 built into their bones and iodine 131 imbedded in their thyroid glands.

What linked the secret, supposedly isolated, nuclear explosions to the children was the environment. Winds carried fallout debris from the test site across the face of the globe; rain and snow brought it to earth; the growth of grass and food crops drew it from the soil; foods carried fallout radioactivity into children's bodies; natural biological processes in their bones and glands intensely concentrated the radioactive elements and amplified the risk to the children's health.

The nuclear tests revealed how little we knew about the environmental network. When the test program began, it was assumed that fallout driven into the stratosphere by the force of a nuclear explosion would remain there for years, allowing time for much of the initial radioactivity to decay harmlessly. Only later was it learned that there are currents in the stratosphere that carry fallout to the earth in a matter of months and which, rather than allowing it to spread evenly over the globe, dump most of it in the North Temperate Zone. About 80 percent of the world's people live there.

We also learned, from fallout, how little was known about the risks incurred by large populations exposed to radiation or toxic substances. Before the advent of nuclear energy, medical experience with the internal effects of radiation was very limited.

Standards of radiation exposure were set on the assumption that, at some minimal level, the body would experience no harm at all from radiation, and the AEC used these standards in order to support their claim that fallout was "harmless" to the population as a whole. Finally, experiments showed that *every* exposure to radiation, however small, carries with it *some* risk, in the form of genetic damage or cancer; that there is no absolutely "harmless" exposure to radiation. So that in the end, despite its complex scientific features, the problem of exposure to radiation becomes not a scientific matter, but one of public morality. For no one can say, on scientific grounds, how many children ought to risk thyroid cancer or genetic defects from fallout for the sake of developing a new nuclear weapon, which itself is only a step toward world catastrophe.

Fallout made its political debut in the 1956 U.S. presidential campaign of Adlai E. Stevenson. Mr. Stevenson lost the election, but his defeat convinced many scientists of the vital need to get the facts about nuclear weapons to the public.

In 1963, much to the surprise of political observers, the United States Senate overwhelmingly confirmed the United States-USSR Limited Nuclear Test Ban Treaty ending the testing of nuclear weapons in the atmosphere by the two great nuclear powers. This unexpected event was a tribute to the political effectiveness of the scientists' campaign to inform the public of the facts about fallout.

It was only a small victory, for U.S. and Soviet nuclear tests continue in underground vaults, and China and France, which are not bound by the treaty, continue atmospheric testing. But although the Nuclear Test Ban Treaty has failed to stop the nuclear arms race, it has had two important results. The first, and most important, result is that it has saved lives.

The human cost of fallout is not exactly known. What is known, and widely acknowledged, is that a number of serious hazards to human health—cancer, genetic defeats, general life-shortening—are instigated by radiation. A good part of the natural incidence of cancer and genetic defects, worldwide must be due to the "natural" (i.e., prefallout) level of radiation from radioactive rocks and cosmic rays. From a comparison of the natural rate of radiation-induced genetic defects with the rate of defects following the extra radiation due to fallout, it can be estimated that fallout had probably caused about 5,000 defective births in the U.S. population and about 86,000 in the world population up to 1963. The United Nations Scientific Committee on the Effects of Atomic Radiation has made a similar estimate: between 2,500 and 100,000 serious genetic defects, world-wide, due to tests up to 1958. On the other hand, Dr. Ernest Sternglass estimates that fallout may be responsible for 400,000 infant and fetal deaths in the United States alone. Dr. Arthur R. Tamplin of the AEC's Livermore (California) Laboratory believes that a better estimate of the number of such deaths due to fallout is 4,000. Obviously the exact estimate of the human cost of fallout radiation is a matter of dispute. But the crucial scientific fact, which none of the contending parties now denies, is that fallout has exacted *some* cost in human disease and death.

The second important result of the treaty is that it established that nuclear weaponry is a *scientific* failure. We now know that nuclear weapons are, in fact, incapable of defending the nation: regardless of the outcome of a nuclear war between the two major powers, neither society would survive the holocaust. It is now widely recognized that the failure of nuclear "defense" lies in the ecological disasters that it would surely set off.

In April 1964, Dr. Gerald W. Johnson, associate director of the Plowshare program (an AEC program to use nuclear explosions for peacetime purposes) was asked: "Has Project Plowshare ever done anything of practical benefit to us?"

His reply: "The answer is no."

Today the answer is still no. Plowshare has been a $138 million exercise in futility. It has foundered in the environment.

The only peacetime use of nuclear energy which is now *operational* is the generation of electric power. Like every other nuclear activity in the United States, this is under the aegis of the AEC. In its enabling legislation, the AEC is charged with promoting the domestic use of nuclear energy. It also sets the safety standards for the construction and operation of nuclear plants, grants the necessary licenses and checks for violations. With this unprecedented range of administrative powers concentrated in a single agency, along with the AEC's overriding importance in the national military program and its essentially unhindered access to funds, the nuclear power industry has grown rapidly from its inception.

The first full-scale nuclear power plant in the United States went into operation in 1957. By 1965 there were 11 operating plants. In 1970 14 plants were in operation, and 78 more were under construction or in preparation. By 1975 84 plants are expected to be in operation. Although nuclear plants now account for only one percent of the nation's total electric output, this figure is expected to rise to 37 percent by 1980 and to more than 50 percent by 2000.

In the light of these statistics, the nuclear power industry in the United States would appear to be a spectacular success story. However, in 1970 a new subject dominated the industry's annual meeting: ecology. For the first time, the industry had been forced publicly to face the environmental consequences of its operation. And the outlook was not very bright.

Unlike fossil-fuel power plants, nuclear power plants do not produce chemical pollutants such as sulfur dioxide or dust. However they do produce radioactive pollutants. The AEC claims that this is no cause for public concern because nuclear plants release radioactive materials into the environment in amounts which are well below AEC safety standards. Nevertheless, in recent years public concern has been sufficiently intense to delay, and in some cases block, the construction of several projected power plants.

In 1963—the year of the limited Nuclear Test Ban Treaty—the AEC decided to establish a research group to "plan and conduct studies of environmental contamination due to release of radioactivity from nuclear detonations for peaceful or military purposes." Dr. John W. Gofman, professor of medical physics at the University of California (which operates the Livermore Laboratory of the AEC), was chosen to direct the program. Since 1963 Dr. Gofman, in collaboration with Dr. Tamplin, has produced a long series of reports on radioactive contamination of the environment. A chief outcome of this work is their proposal that the AEC radiation standards be reduced to 1/10 their present level—a proposal which was then intensely opposed by the AEC and the nuclear power industry.

Some sense of the scope of this controversy can be gained from the following: Drs. Gofman and Tamplin concluded that if the radiation dosage "acceptable" under AEC standards were in fact received by the total United States population, the result would be 32,000 extra deaths each year from cancer and leukemia. In rebuttal, the late Dr. Theos J. Thompson, an AEC commissioner, asserted that radiation exposure to the general population due to the actual operation of the nuclear power industry is less than 1/17,000 of the exposure permitted by the AEC standard. On the other hand, Dr. K. Z. Morgan of the AEC's Oak Ridge National Laboratory has calculated that extra deaths annually due to all types of radiation-induced disease resulting from present nuclear industry operations are about one-half percent of the deaths expected from exposure at the acceptable standard. This would leave little room for complacency, for the expected expansion of the nuclear power industry might well take radiation exposures beyond even the present "acceptable" standard by the year 2000, which itself might be reduced as well.

In 1971, after strongly resisting proposals for more stringent reactor emission standards, the AEC gave in to a degree by proposing an appreciable reduction in permissible radioactive release. However, in taking this action, the AEC gave no explanation for its earlier opposition to more rigorous standards or for its continued opposition to the Gofman-Tamplin proposal. Until these discrepancies are cleared up, the controversy over the environmental effects of nuclear power plants will continue. Yet on the outcome of this controversy hangs the entire future of the nuclear power industry.

On one hand, the industry is pressed to construct new power plants as soon as possible; on the other, it faces the need to choose between nuclear generators and conventional ones. The hope that the bonanza of nuclear power would enable the nation to expand power generation without restraint has suddenly been shattered against the same barrier which nuclear technology has confronted—the environment.

Our experience with nuclear power warns us that our capability to intrude on the environment far outstrips our knowledge of the consequences. It tells us that every environmental incursion, whatever its benefits, has a cost—which may be survival.

Yet this same experience with the first 25 years of the nuclear age has a more hopeful message: seen in its true, environmental context, the power of nuclear technology is subject less to the control of the technologist than to the governance of the public will.

NORTHERN NEW ENGLAND AIR SERVICE—A CREDIBILITY GAP

Mr. COTTON. Mr. President, over the past several months the Civil Aeronautics Board has had under consideration two matters which will have a significant impact upon the level of air service to northern New England or, more appropriately, the lack of such air service. The first is the matter of the Delta Air Lines, Inc.-Northeast Airlines, Inc. merger—Docket No. 23315; the second, the New England Service Investigation—docket No. 22973.

Throughout the deliberations of these two matters before the CAB, I and other equally concerned Members of the Congress have repeatedly sought to obtain a firm commitment from Delta Air Lines, as the surviving carrier in the proposed merger, as to its intention concerning service to northern New England, most particularly the States of New Hampshire and Vermont. As a matter of fact, a third forum was provided for this purpose by hearings held at my request in Lebanon and Durham, N.H., by the Aviation Subcommittee of our Committee on Commerce in September of last year. I personally know of no occasion at which Delta Air Lines has come forward forthrightly and said what it would or would not do with respect to air service to our region. Rather, it has consistently taken such ambivalent and ambiguous positions as to "abide by whatever terms and conditions the Board may see fit to impose upon any certificate awarded to Delta." Quite frankly, I find a "credibility gap," if not a "credibility chasm," as far as Delta is concerned with respect to future air service to the northern New England area.

Nevertheless, Mr. President, the handwriting now is clearly upon the wall as a result of an article published in Commuter Airline World of January 1972, reporting on a luncheon at which Delta Air Lines was host to New England com-

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muter air carriers, and a filing by Delta on March 14 for a new or amended certificate of public convenience and necessity. Delta is clearly out to "dump" certificated air carrier service from a number of points in northern New England. As a matter of fact, in a motion of March 21 filed with the CAB, Eastern alleges that Delta proposes "to abandon its postmerger responsibility to serve 18 of 26 New England area cities currently certificated to Northeast Airlines." In view of this, by letter of March 20 to Mr. Tom Beebe, chairman of the board and chief executive officer of Delta Air Lines, I have requested confirmation of such apparent intentions. At the same time, I have written to the Chairman of the CAB, the Honorable Secor Browne, requesting:

That action on the *Delta-Northeast Merger Case* (Docket No. 23315) be deferred pending clarification of Delta's intentions as the surviving carrier in the merger with respect to service for the northern New England area.

Mr. President, this is a most serious situation for States such as New Hampshire and Vermont. Except for trucks and buses, we have little reliable surface transportation. Adequate air service is our only remaining viable alternative for transportation necessary for the economic growth of our area. I, therefore, call upon all of those "bleeding hearts" at the Civil Aeronautics Board who for years have given us in northern New England lipservice and platitudes to act affirmatively for a change to insure that we are not once again "sold down the river" in the interest of expediency and economics. We need adequate air service to survive and to grow. We must have it, and I for one, on behalf of my constituency, am prepared to break out the "battle flag" to do everything in my power to see that we do get adequate air service.

Mr. President, I ask unanimous consent to have printed in the RECORD my letters of March 20 to Mr. Beebe and Chairman Browne, respectively, and a news release which I issued concerning this correspondence. I also ask unanimous consent that there be printed in the RECORD the March 14 motion filed by Delta Air Lines with the CAB; the motion filed by Eastern Air Lines in the pending merger case—docket No. 23315; and Delta's answer to that motion.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

MARCH 20, 1972.

Hon. SECOR D. BROWNE,
Chairman, Civil Aeronautics Board, Universal Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter which I have today sent to Mr. Tom Beebe, Chairman of the Board and Chief Executive Officer of Delta Air Lines, which I believe is self-explanatory.

I request that a copy of this letter be made available to each Member of the Civil Aeronautics Board and to all interested parties.

Thank you. With best wishes,

Sincerely,

NORRIS COTTON,
U.S. Senator.

MARCH 20, 1972.

Mr. TOM BEEBE,
Chairman of the Board and Chief Executive Officer, Delta Air Lines, Atlanta Airport, Atlanta, Ga.

DEAR MR. BEEBE: I recently had occasion to read an article appearing in *Commuter Airline World* of January 1972 reporting on a luncheon hosted by Delta Air Lines for New England commuter air carriers.

The article included a summary of what Delta told the New England commuter air carriers, noting in part the following:

(1) That Delta Air Lines favors certification for commuter air carriers;

(2) That "Delta is not interested in the Boston-La Guardia markets except as part of through service.";

(3) That "Delta is not eligible for subsidy in New England and will not inaugurate Allegheny Commuter-type arrangements in the area.";

(4) That "Delta does not intend to maintain the New England Northeast routes indefinitely and will conduct operations to provide the best return for its stockholders."; and

(5) That "Following the merger, Delta will eliminate F-227's as soon as possible and will require 6,000 foot runways for its DC-9's—the smallest aircraft it will operate."

If this report is accurate, then, when read in conjunction with your filing with the Civil Aeronautics Board of March 14th, my worst fears are about to be realized. I can only assume that if the merger between Delta Air Lines and Northeast Airlines is approved, it is the intention of Delta, as the surviving carrier, to sharply curtail service to such northern New England States as New Hampshire and Vermont. Accordingly, I would appreciate receiving from you at your earliest possible convenience a verification as to (1) whether the report as set forth in the publication, *Commuter Airline World*, noted above, is accurate, and (2) whether my interpretation of Delta's underlying intention in its March 14th filing with the Civil Aeronautics Board coupled with the report in *Commuter Airline World* does, in fact, portend a drastic curtailment of certificated air service to the northern New England area, especially with respect to north-south service to and from Boston and New York.

Your timely response to this inquiry will be greatly appreciated. Meanwhile, by copy of this letter to the Civil Aeronautics Board, I am requesting that action on the *Delta-Northeast Merger Case* (Docket No. 23315) be deferred pending clarification of Delta's intentions as the surviving carrier in the merger with respect to service for the northern New England area.

With best wishes.

Sincerely,

NORRIS COTTON,
U.S. Senator.

FROM THE OFFICE OF U.S. SENATOR NORRIS COTTON

WASHINGTON, D.C., March 20.—"My worst fears are about to be realized," said Senator Norris Cotton (R.-N.H.) today concerning the merger now pending before the Civil Aeronautics Board between Delta Air Lines and Northeast Airlines.

"Based upon a report on a luncheon in January hosted by Delta Air Lines for the New England commuter air carriers, and a March 14th filing by Delta with the CAB," said Cotton, "I can only assume that if the merger is approved, then it is the intention of Delta, as the surviving carrier, to sharply curtail service to such northern New England States as New Hampshire and Vermont."

"As a matter of fact," continued Cotton, "except for Manchester-Concord, New Hampshire and Burlington, Vermont, Delta's March 14th filing indicates an intention to provide no north-south service whatsoever in New Hampshire and Vermont."

"I can only speculate," said the ranking Republican of the Senate Commerce Committee, "that Delta is preparing to throw the last shovelful of dirt on the coffin of certificated air service to our northern New England area."

"For this reason," said the senior New Hampshire Senator, "I have today sent a letter to Mr. Tom Beebe, Chairman of the Board of Delta Air Lines seeking clarification of the intentions of Delta with respect to air service to our area and at the same time, I have requested the Civil Aeronautics Board to hold action on the merger in abeyance pending such clarification. We in northern New England have a right to know what Delta intends to do either for us or to us before this merger is approved, and Delta should be made to do so on the record without any more of its evasiveness!"

"Otherwise," concluded Cotton, "I fully intend to solicit the support of all equally-concerned Members of the Congress from northern New England to do everything in our power to prevent this merger until this is done. I do not think we in northern New England deserve to be sold another 'bill-of-goods'!"

[Before the Civil Aeronautics Board,
Washington, D.C.]

APPLICATION OF DELTA AIR LINES, INC.

Application of Delta Air Lines, Inc., for a new or amended certificate of public convenience and necessity.

Comes now Delta Air Lines, Inc. ("Delta") and, on the assumption that Northeast Airlines, Inc. ("Northeast") will merge into Delta, files this Application for amendment of a certificate of public convenience and necessity now held by Northeast pursuant to Section 401 of the Federal Aviation Act of 1958, as amended, and the applicable rules and regulations of the Civil Aeronautics Board.

I

Delta is a corporation organized and existing under and pursuant to the laws of the State of Delaware. Delta's general offices are located at the Hartsfield Atlanta International Airport, Atlanta, Georgia 30320.

II

Delta is a citizen of the United States, as defined by Section 101(13) of the Federal Aviation Act. Delta has determined by reasonable investigation that its President, all of its directors, and all of its managing officers are citizens of the United States and that at least 75% of its voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions. Delta is prepared to furnish at the hearing on this application such evidence, by affidavit or otherwise, as will satisfactorily prove the facts set forth above.

III

Delta holds permanent certificates of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail on domestic Routes 8, 24 and 54 and international Route 114. Northeast presently holds similar certificates on domestic Route 27 and international Routes 27F, 154, 158, and 167, and presumably such certificates will be transferred to Delta upon consummation of the merger.

IV

Delta hereby makes application to amend and realign Route 27 so that Delta shall be permanently authorized to engage in scheduled air transportation of persons, property, and mail, over the following route:

1. Between the coterminal points Miami and Ft. Lauderdale, Fla., intermediate points Tampa, St. Petersburg-Clearwater and Jacksonville, Fla., Washington, D.C., Baltimore, Md., Philadelphia, Pa., New York, N.Y.-Newark, N.J., Hartford, Conn.-Springfield, Mass., Worcester and Boston, Mass., and Manchester-Concord, N.H., and (a) beyond Manchester-Concord, the intermediate points Portland and Bangor, Me., and the terminal point Presque Isle-Houlton, Me., and (b) beyond Manchester-Concord, the terminal point Burlington, Vt.;

2. Between the terminal point Presque Isle–Houlton, Me., the intermediate points Bangor and Portland, Me., Manchester–Concord, N.H., Lebanon, N.H.–White River Junction, Vt., Burlington, Vt., Cleveland, Ohio, Detroit, Mich., and the terminal point Chicago, Ill.;

3. Between the terminal point Miami–Ft. Lauderdale, Fla., and the terminal point Los Angeles–Ontario–Long Beach, Calif.

The service herein authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named herein, except as temporary suspensions of service may be authorized by the Board; and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may continue to serve regularly any point named herein through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate, and may continue to maintain regularly scheduled nonstop service between any two points not consecutively named herein if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedures relating thereto as may be prescribed by the Board, the holder may, in addition to the service herein above expressly prescribed, regularly serve a point named herein through any airport convenient thereto, and render scheduled nonstop service between any two points not consecutively named herein between which service is authorized hereby.

(3) The holder shall serve Hartford, Conn., and Springfield, Mass., only on flights originating or terminating at Manchester–Concord, or a point north thereof, or originating or terminating at Philadelphia, Pa., or a point south thereof.

(4) The holder shall not engage in air transportation with respect to persons and property between Ft. Lauderdale and Miami, Fla.

(5) Presque Isle–Houlton, Me., and Manchester–Concord, N.H., shall each be served through a single airport.

(6) All flights serving Cleveland, Ohio, or points west of Cleveland shall serve at least one of the following points: Presque Isle, Bangor, and Portland, Me., Manchester–Concord, N.H., Lebanon, N.H.–White River Junction, Vt., or Burlington, Vt.

(7) No single-plane service shall be operated between Boston, Mass., or Hartford, Conn.–Springfield, Mass., on the one hand, and Cleveland, Ohio or points west of Cleveland on the other hand.

(8) The holder shall not engage in single-plane air transportation between Hartford, Conn.–Springfield, Mass. and Worcester, Mass.

(9) Flights between Hartford, Conn.–Springfield, Mass. and Manchester-Concord, N.H., Presque Isle, Bangor, and Portland, Me., must serve Boston as an intermediate stop.

V

A map drawn approximately to scale, showing terminal and intermediate points which will be served, giving the approximate mileages between adjacent points and principal overall distances will be made a part of Delta's Exhibits submitted at the hearing upon this application.

VI

Delta has been engaged as an air carrier in scheduled air transportation for a period of approximately thirty years, and is fit and willing and able to perform the air transportation for which the application is made.

VII

The type of aircraft which Delta proposes to use in the service applied for hereunder will be such aircraft as may be deemed appropriate at the time service is inaugurated. Delta presently owns Convair–880's; both standard and so-called "stretched" DC–8 and DC–9 aircraft; Boeing–747 aircraft; and Lockheed's L–100 all-cargo aircraft. In addition, Delta has Lockheed L–1011 and DC–10 aircraft on order. Upon the consummation of the merger, Delta will acquire Northeast's aircraft, which include DC–9, Boeing 727, and FH–227 aircraft.

Wherefore, Delta prays that the Civil Aeronautics Board grant its application herein.

Respectfully submitted,

FRANK F. ROX,
JAMES W. CALLISON,
Attorneys for Delta Air Lines, Inc.

[Before the Civil Aeronautics Board,
Washington, D.C.]

MOTION OF EASTERN AIR LINES, INC. TO REOPEN THE RECORD

In the matter of the Delta Air Lines, Inc.-Northeast Airlines, Inc. Merger.

Eastern Air Lines, Inc. (Eastern) respectfully moves that the record in this proceeding be reopened to permit further hearings upon the proposal of Delta Air Lines, Inc. (Delta), filed only one day in advance of the Prehearing Conference in the *New England Service Investigation* and long after oral argument in this case, *to abandon its post-merger certificate responsibility to serve 18[1] of the 26 New England area cities currently certificated to Northeast Airlines, Inc. (Northeast)*.[2] Since Delta would become the only air carrier with certificate authority at these New England points, if its merger with Northeast were approved herein, the issue of New England authority is critical to the Board's decision in this case. If the Board were to act on the record in this proceeding as that record now stands, it would be acting on a record which is fatally defective in that it nowhere reveals the true state of Delta's intentions with respect to New England service.

In support of this motion, Eastern states as follows:

I. THE STATE OF THE RECORD

Although Delta vigorously avoided throughout the proceeding below mentioning specifics of the New England authority it would operate if its merger with Northeast were approved, Delta repeatedly emphasized that it would effect substantial improvements in the service which financially ailing Northeast Airlines is currently providing. On brief to the Examiner the applicants deployed their argument more fully than they had been willing to do at hearing and said:

"The Surviving Corporation has . . . given concrete evidence in this case of its intention to improve service within New England. In this connection, Delta has a long history of *continuing* service to smaller cities. . . . Hence, Delta's basic service and developmental policies and philosophy should ensure the *utmost service possible for intra-New England markets* . . ." (Joint Brief of Delta Air Lines, Inc., Northeast Airlines, Inc. and Storer Broadcasting Co. to Examiner Arthur S. Present, Docket 23315, August 27, 1971, p. 35).

Further, Delta indicated that it had "tentatively" concluded that the surviving corporation should resume services at Keene, N.H. (JE–315, TR: 302) and that the surviving corporation would continue Northeast's truncated services in existence at the time exhibits were prepared (JE–315, JE–229, TR: 118, 125, 292, 688).[3] On the basis of these and other representations, the Examiner found—

"There is an extensive potential for improvements in single-carrier and single-plane services as traffic conditions justify and the opportunity to reinstitute and rearrange intra-New England services in the hands of a strong and very effective air carrier." (Recommended Decision of Examiner Arthur S. Present, Docket 23315, October 26, 1971, pp. 60–61).

Since Delta quoted this passage in its Brief to the Board in this proceeding, it clearly intended the Board to rely on the Examiner's finding that the Board could rearrange New England services *"in the hands of"* Delta. (See Brief of Delta Air Lines, Inc., Docket 23315, November 22, 1971, p. 5). Further, as Delta's counsel said in oral argument before the Board:

"If the merger is not approved, New England, Mr. Chairman, and Mr. Murphy, will lose the benefits of not only a strong and capable carrier, Delta, but a carrier with a long, successful history of service to smaller communities. Delta plans immediate improvements in some service in New England, and we will cooperate fully with the Board in a long-range program to solve New England's air service problems. While I am on this subject, I might point out that when this merger is approved, that Delta will acquire all of the certificate obligations of Northeast as well as the privileges. And this includes all of New England and the remainder of Northeast's system. We do not suggest in this case any amendment to Northeast's existing routes in this proceeding, and we impose no monetary limitations on our obligations to serve these communities pursuant to the certificates and in accordance with the Federal Aviation Act." (TR: 20, 21).

Unfortunately, this kind of puffery has already misled the Examiner and may also mislead the Board unless the true *facts* regarding potential New England authority are displayed on the record in *this* proceeding before the merger application herein is finally disposed of by the Board.

II. DELTA'S APPLICATION

In sharp contrast to Delta's statements now in this record are the changes proposed in Delta's application in Docket 24306. Delta not only seeks to rid itself of certificate obligations at all the points not now served by Northeast, but *also seeks to abandon six cities which even the allegedly-destitute Northeast has been capable of serving*. Delta seeks to "amend and realign" the Route 27 authority "on the assumption that Northeast Airlines, Inc. . . . will merge into Delta" (Application, p. 1) to *delete* the 18 cities noted previously and to eliminate restrictions now present in the certificate but not at issue in the *New England Service Investigation*.[4]

For example:

Delta seeks to delete Keene, New Hampshire, from the surviving carrier's certificate despite its prior indications to the contrary.

It also seeks to eliminate the north-south authority at Lebanon-White River Junction thus depriving it of all service to New York and Boston.[5]

Delta also seeks to *totally* abandon four Massachusetts points which Northeast has been serving on a seasonal basis: New Bed-

Footnotes at end of article.

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ford-Fall River, Martha's Vineyard, Nantucket, and Hyannis.

Since a prime rationale of a Northeast merger is the merged company's ability to provide better services to Northeast's certificated points, especially in New England where the poor quality of Northeast's services has long been blamed on its lack of adequate finances, it is particularly ironic that Northeast's wealthy suitor proposes to abandon service at these seasonal points which would have accounted for eight percent of the merged company's departures over the Northeast system in the forecast 1972 summer season.[8] Delta's decision to abandon Keene, Martha's Vineyard, Nantucket, New Bedford and Hyannis indicates the true nature of its commitment to New England. It is no wonder, in retrospect, that the firmest commitment Delta would actually make regarding New England service in this proceeding was that it would "abide by whatever terms and conditions the Board may see fit to impose upon any certificate awarded to Delta Air Lines in the *New England Service Investigation*" (TR: 300), and the omission of a general prayer for "such other, additional and/or different relief as the public convenience and necessity may require, including the award to Delta of authority to serve other points within the general area of the territory proposed to be served by Delta in this application . . ."[9] from its application may indicate an intention to fight, on legal grounds, the continuation of any certificate obligations not specifically applied for. Delta's waffling presents a vivid contrast with the proposal of Eastern and National herein to *retain* certificate responsibilities at points to be served by air taxis and to guarantee cross-subsidization of New England services up to $35 million over the next five years.

III. CONSIDERATION OF DELTA'S APPLICATION IN THE LIGHT OF THIS RECORD

Since Delta's application in Docket 24306 is predicated "on the assumption that Northeast Airlines, Inc. . . . will merge into Delta," the interrelationship between that application and this proceeding could not be clearer. The fact that Delta is seeking to enter markets awarded to Northeast for the primary purpose of supporting a better, superior New England service[9] requires that Delta's proposal for New England authority be considered in this case.

Further, Delta's Application in Docket 24306 and its Motion to Consolidate that application into the *New England Service Investigation* must be considered in this proceeding as the best evidence of Delta's intentions with regard to the authority it seeks in New England. By seeking significant changes in Route 27 certificate authority, Delta has at last provided *some* indication of what its plans for New England are. In addition, because Eastern did its best to secure some indication of Delta's plans for New England during the course of the hearing in this proceeding, it is also clear that Eastern cannot be faulted for failure to introduce evidence of this nature at an earlier stage of the proceedings.

Since Delta's application in Docket 24306 is subject to official notice pursuant to Rule 24(m)(1) of the Board's Rules of Practice, the Board cannot make any findings regarding the benefits to New England[9] from this merger without comparing, in open hearing, the proposals of Delta Northeast with alternatives to the merger.[10]

Since the timing of Delta's revelation of what cities it intends to serve in New England was solely within its control, Delta cannot complain that its delay in submission of that listing until the last possible moment should preclude a consideration of that listing as part of the merger case.[11] By refusing to reveal its plans for New England earlier in this proceeding Delta has been the sole cause of any delay which would be occasioned by consideration of potential New England authority at this time.[12] Only if the Board reopens the record in this proceeding can it evaluate the impact of approval or disapproval of this merger on New England. It is also important to note that the merger agreement between Delta and Northwest can be extended to June 30, 1972. It is quite possible that a reopening limited to the single issue raised by this motion, with expedited procedures, could reach the Board before that date.

Reopening the record in this proceeding would comport with Board precedents which allow reopening when significant material facts are revealed. In *Transpacific Route Case (International Phase)*, the Board found reopening required when "there is a substantial lack of specific details in the record essential to . . . proper disposition" of the case (34 CAB 106, 110 (1969)). The Board has reopened hearings on limited issues, such as those suggested herein, without reopening all the issues in the proceeding, (See *Pan American-Grace Airways, Inc., Mail Rates*, 11 CAB 535, 541, (1951)). Where a carrier has itself effected basic changes in its situation, the record has been reopened (See *Aerovias Interamericanos, Tocumen-Miami Service*, 18 CAB 510 (1954)), and such situations, wholly within the control of the applicant carrier, are clearly distinguished from the Board's denial of requests to reopen the record to include additional operating data relating to periods later than those utilized at hearing (See, *e.g., Great Lakes-Southeast Service Case*, 27 CAB 829, 852 (1958)). The relative merits of approval or disapproval of the merger proposed herein are so dependent upon the critical issue of service for New England that refusal to reopen this record would be an abuse of the Board's discretion.[13] Only if the Board compares evidence consistent with the Delta application and motion to alternatives to the merger can a meaningful and lawful evaluation of alternative plans for New England be made in ormulating a decision in this proceeding.

Wherefore, Eastern Air Lines, Inc. respectively moves the Board to reopen the record and hearing in this proceeding to require Delta to submit evidence of its plans for New England consistent with its application in Docket 24306.

Respectfully submitted,

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FOOTNOTES

[1] Keene, Laconia, Whitefield, Berlin, and Portsmouth, New Hampshire; Brunswick, Lewiston-Auburn, Rockland, Augusta-Waterville, and Bar Harbor, Maine; New Bedford-Fall River, Martha's Vineyard, Nantucket, and Hyannis, Massachusetts; Montpelier-Barre and Newport, Vermont; Lebanon, New Hampshire-White River Junction, Vermont; and New London, Connecticut. Delta proposes to retain certificate obligations at Lebanon-White River Junction only with respect to the New England-Great Lakes route not in issue in the *New England Service Investigation*.

[2] On March 14, 1972 Delta simultaneously filed its "Application of Delta Air Lines, Inc. For a New or Amended Certificate of Public Convenience and Necessity" in Docket 24306 and a Motion to Consolidate that application into the *New England Service Investigation*, Docket 22973. Thus, whereas Delta would inherit the Northeast Route 27 certificate as it presently reads if its merger with Northeast were approved herein, the above-referenced Delta application in the *New England Service Investigation* seeks an amended certificate which would exclude the 18 points noted in footnote 1 and thus demonstrates conclusively Delta's future intentions with regard to New England service if the merger is approved.

[3] Since Mohawk has now terminated its substitute service arrangements with Northeast, the service *currently* provided by Northeast is greater than that which the surviving carrier projected during the hearing (See Exhibits JE–315, JE–229).

[4] Delta's desire to provide the intra-New England service under consideration in Docket 22973 must be tested against the fact that it seeks new Montreal-New York authority, increased Boston-Hartford/Springfield authority and retention of Miami-Los Angeles authority in its New England application, despite the fact that such issues are clearly outside the scope of that proceeding.

[5] Since the issue of the Route 27 east-west authority between Lebanon-White River Junction and the Great Lakes is not at issue in the *New England Service Investigation*, Delta was forced to leave segment 6 of the certificate intact. The likelihood of providing an economically viable east-west service at Lebanon-White River Junction without authority in its two largest markets is so slim that Delta may soon be seeking deletion of the point altogether.

[6] JE–229, p. 6.

[7] See, *e.g.*, Amendment No. 2 to Application of Delta Air Lines, Inc., Docket 20030, August 3, 1970, p. 4.

[8] See, *e.g., New York-Florida Case*, 24 C.A.B. 94, 100 (1956).

[9] This record is also defective in its failure to include the effect of Delta's proposal to amend the Route 27 certificate upon financial results, public benefits beyond New England, and the surviving carrier's employees.

[10] Eastern and National have proposed an alternative in Exhibit EA–100, which is the subject of Eastern's application in Docket 23900.

[11] Further, the resurgence of Northeast's traffic and recent profits negate any claim that expedition is required to continue Northeast's operations. Exhibit JE–400, p. 158, submitted by the joint applicants herein on March 6, 1972, shows Northeast had a February, 1972, profit of $261,000, compared to a $429,000 loss in February, 1971, and a revenue increase of 18.5%.

[12] Any delay caused by the reopening of this record would be less than the delay in the *Eastern-Caribbean-Atlantic Acquisition Case*, Docket 22690, which has been before the Board since June 30, 1971.

[13] *Cf. Atchison, Topeka and Santa Fe Ry. Co. v. United States*, 284 U.S. 248, 52 S. Ct. 146 (1932). Although this case has subsequently been limited to its facts, the courts have apparently not considered a situation in which an agency refused to reopen a hearing to consider critically relevant facts which an applicant carrier withheld until after the hearing was completed.

[Before the Civil Aeronautics Board,
Washington, D.C.]

ANSWER OF DELTA AIR LINES, INC. TO MOTION OF EASTERN AIR LINES, INC. TO REOPEN THE RECORD

Delta Air Lines, Inc.-Northeast Airlines, Inc. merger:

On March 21, 1972, Eastern Air Lines filed a month with the Civil Aeronautics Board asking that the record in the *Delta-Northeast Merger Case* be reopened to receive evidence with respect to an alleged variance between the position taken by Delta in that case and the tentative position indicated by Delta's filings in the Prehearing Conference in the *New England Service Investigation*.

This is a procedural "gimmick" by Eastern, no more and no less, sired by the unchanging goal of obfuscating the issues and delaying the decision in the *Merger Case*, and born of desperation.

Eastern's paper, while rather liberally quoting carefully extracted portions of the record in the *Merger Case*, avoided the direct response of counsel for Delta to the question of Delta's position with respect to service to New England, which was as follows:

"We suggest that you transfer to Delta the Northeast certificate as is, with the suspensions and with the substitutions of service as they now exist. Delta will continue the service which Northeast now operates as is. We will take the suspensions and the substitutions as they come up pending the New England Service Investigation just as Northeast would have to do. And that is where we stand.

"We stand in Northeast's shoes with respect to New England. And I might conclude by saying since you have been looking for a solution to the Northeast problem for a long time that we offer you the solution, the time is now, and Delta is ready when you are."[1]

There is no basic inconsistency between this position and that tentatively adopted by Delta in the *Service Investigation*.

The fact of the matter is that the *Delta-Northeast Merger Case* was set up to determine whether Northeast should be merged into Delta, and nothing more. The *Merger Case* is not the forum for determination of the long-range service problems of the New England area.

In contrast, the *New England Service Investigation* was established to determine the long-range air service needs of New England. If the merger is approved, Delta will participate fully in that proceeding, just as Northeast would do if there were no merger and if Northeast could survive as an operating entity without merger.

It is the Board's responsibility to determine immediately, with the approval of the President of the United States, whether Northeast should be merged into Delta and upon what terms and conditions. The Board and the President should proceed to immediate decision of those issues. Decision has already been long-delayed, and all concerned recognize that Northeast is now a "failing business" in both the legal and a practical sense of the word.

Indeed, it is no doubt Eastern's express recognition of the economic crisis faced by Northeast, one of Eastern's principal competitors, that has led Eastern to seek still further delay in decision of the merger application.

On the other hand, in the *New England Service Investigation* it is the Board's responsibility to determine what air services are needed for the indefinite future by the people of New England, and by whom those services should be provided.

Assuming approval of the pending merger proposal, obviously Delta must—and will—participate fully in the *Service Investigation*, spelling out in that record its position with respect to the long-range issues there presented to the Board. Again assuming approval of the merger, obviously Delta must—and will—do whatever the *Board* ultimately determines in the *Service Investigation* is required by the public interest in the New England area.

This Eastern Motion appears to be just one more delaying tactic intended to forestall implementation of a merger which has been approved by the stockholders of both companies, has been strongly supported by the staff of the CAB and representatives of other government agencies (including the Department of Transportation), was not opposed by the Department of Justice, has been supported by all interested civic parties and approval of which has been recommended by the CAB trial examiner. It is to be hoped that the CAB will not permit this last-minute and obviously self-serving filing by Eastern to delay approval and implementation of a merger so obviously in the public interest.

The Board should dismiss Eastern's Motion forthwith and expedite transmittal of its decision in the *Merger Case* for Presidential approval.

Respectfully submitted.

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[1] Oral Argument transcript, page 236.

REHABILITATION OF PARAPLEGICS

Mr. WILLIAMS. Mr. President, approximately 125,000 people in this country are paraplegics, quadriplegics, amputees, or stroke victims. Five to ten thousand more individuals with significant spinal cord injuries are added each year.

Until a few years ago these people lived 2 years at the most after receiving their injuries; but the use of antibiotics, advanced surgical techniques, along with more skilled nursing care have now enabled them to survive a nearly average life span.

Yet today only a lucky few achieve a truly normal day to day life style. For most, the inability to move or to travel causes them to be restricted to beds or wheelchairs and dependent on others for the smallest tasks.

I have talked many times with Dr. Howard Rusk, director of New York University Institute of Rehabilitation Medicine, who is a leading authority in his field and who has dedicated his life to bringing hope to the handicapped. Dr. Rusk says that costs of rehabilitation are usually far less than costs of institutionalizing a patient. For example, the cost of rehabilitating a young quadriplegic, Dr. Rusk reports, is about $25,000. Institutionalizing such a 20-year-old patient with 50 years of life remaining can cost $750,000.

Responding to the need for more advanced mobility aids to help these patients, doctors in hospitals across the Nation have recently invented and experimented with a multitude of new mechanical and electrical devices.

At Rancho Los Amigos Hospital in Downey, Calif., quadriplegic patients are fitted in wheelchairs with a tongue-operated switch that provides finger, wrist, elbow, and shoulder motion, and powers the wheelchair, as well.

The new techniques required to develop devices such as this have sparked a new field of medicine called biomedical engineering which combines electronics, miniaturization and space-age materials to build the complicated aids for the handicapped.

One of the most promising methods of rehabilitative medicine stemming from this technological endeavor is the use of electricity to stimulate paralyzed nerves into action. Researchers have conducted experiments with implanted electrodes which the patients can trigger by other parts of his body and animals have been tested with implanted electrodes that are computer controlled. Another innovation is a wheelchair that uses eye movement to stimulate nerve action; although this particular device has received wide publicity it is still experimental and has serious drawbacks making it impractical as yet.

A major problem encountered with the advent of all of these new aids is the need to adapt almost every prosthetic or electrical aid to each patient who have varying kinds of disabilities requiring a variety of solutions. In addition, most hosptals do not have trained technicians or facilities equipped to repair most of the devices which have been invented.

Still, success stories are not uncommon among the people who are victims of paralysis or amputation. Some have achieved lives with a significant degree of self-reliance and self-respect which would not have been possible 10 or even 5 years ago.

In this area I have joined in sponsoring an amendment to H.R. 1, the Social Security Amendments of 1971, which would provide increased medicare and medicaid eligibility for the physically disabled. It would also include expanded outpatient services of physical and occupational therapy, testing, fitting and training in the use of prosthetic and orthotic devices as well as related rehabilitation counseling. I am hopeful that this measure will receive favorable action when H.R. 1 reaches the floor of the Senate.

Mr. President, I would like to have entered into the RECORD an article describing the new technology in rehabilitative medicine from Medical World News of March 10, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAKING THE IMPOSSIBLE POSSIBLE—NEW TECHNOLOGY ADDS SURPRISING DIMENSIONS TO REHABILITATIVE MEDICINE

In a corridor of the Bronx (N.Y.) Veterans Administration Hospital, a man in his twenties sits strapped in a wheel chair, surrounded by other patients. He is flipping through the sports pages of the newspaper, using a tongue depressor held in his teeth. Suddenly, he calls their attention to two reporters versions of the same story, and a scoffer down the hall questions the veracity of a particular point. Anxious to confront the skeptic, the young patient butts a pressure-sensitive box with his chin and goes whizzing off down the hall in his motorized wheel chair.

The hallway scene is reminiscent of the easy camaraderie of young men relaxing together anywhere in the world, except everyone present is a quadriplegic. Their ambulation through a number of ingenious devices is one of the newest achievements of the increasing cooperation between rehabilitative medicine and engineering.

"Anyone can see that electronic wheel chairs have made the difference between life and no life for many of our quadriplegics," says Dr. Peter Hofstra, chief of the spinal cord injury service at the Bronx hospital. As recently as about a year ago, most quadriplegics were still generally regarded as being permanently bedridden.

The extent of the problem in paralysis alone was pointed up by Dr. E. Shannon Stauffer, chief of the spinal injuries service at Rancho Los Amigos Hospital in Downey, Calif., a part of the University of Southern California School of Medicine. He told last month's meeting of the American Academy of Orthopaedic Surgeons that from 5,000 to 10,000 spinal cord injuries with significant paralysis occur yearly in the U.S. Currently, the country has about 125,000 traumatic paraplegics and quadriplegics. Moreover, their numbers are a consequence of medical progress; decades ago, most would not have lived.

"These patients represent new problems and new challenges to this generation of

physicians and surgeons," says Dr. Stauffer. Before the antibiotic era, most of these patients suffered an early, rapid, and septic death due to atelectasis and pneumonia, or they suffered a slow lingering death due to chronic urinary tract infection, pressure-sore ulceration of the skin, hypoproteinemia, and cachexia. Few patients survived more than two years.

But death soon after injury in these patients is now rare according to Dr. Stauffer. Physicians now promptly recognize early stages of various complications. More skilled nursing care is available, along with modern methods of medical resuscitation.

The result, says renowned rehabilitation authority Dr. Howard Rusk, is that most paralyzed patients can expect to live within a year or two of a normal life span, "if they follow the ground rules learned during their rehabilitation." The cost of rehabilitating a young quadriplegic, Dr. Rusk reports, is about $25,000. But, he told the January meeting of MWN's Editorial Board, "we can't afford not to spend it." He compared the $25,000 rehabilitation cost with the cost of institutionalizing a 20-year-old patient with 50 years of life remaining. "Put in a second-rate nursing home with a modicum of attendant care, $15,000 a year would be a bargain. Multiply $15,000 by 50 and that patient will cost $750,000."

The scene at Bronx VA is duplicated in other centers across the country, including USC's Rancho hospital. There, a medicine-engineering team has developed a number of innovative devices that enable patients to make functional use of residual nerve and muscle. One device, that the staff and patients have come to call "the golden arm," is an externally powered brace, controlled by a tongue-operated switch, that provides finger, wrist, elbow, and shoulder motion for quadriplegics. The multichannel switch can also control an electrically powered wheel chair, and Rancho patients have 200 acres in which to "roam" on their tongue-controlled, motorized chairs.

These examples are typical of how biomedical engineering is joining electronics, miniaturization, and space-age materials to a growing knowledge of the physiology, anatomy, and psychology of handicapped patients. This technologic enhancement of rehabilitation medicine is increasing the function and thereby the prospects of relative self-sufficiency for paraplegics, hemiplegics, quadriplegics, amputees, and stroke victims.

One physician-designer, Dr. Wladimir T. Liberson, associate professor of neurology and orthopedics at the University of Miami School of Medicine, thinks the era of electronic rehabilitation is here. Others apparently agree with him. A manual on upper-extremity prostheses, issued by the Veterans Administration in New York, reports that several electric elbows and hands are under development in this country. Furthermore, such electrically powered prostheses are already prescribed in Europe: In Germany, some 600 hands as well as other electric components have been furnished to patients; in Italy, more than 500 electric hands are in use; and in Canada, more than 300 electric hands have been prescribed.

The number prescribed in the U.S., so far, is only a tiny fraction of the European number, the report says, primarily because of the difference in the prosthesis distribution systems in Europe and the U.S. "In this country, the preponderant majority of prostheses are fabricated by private commercial shops in a decentralized system requiring each shop to become fully informed on the nature and best application of each device."

There may be another typically American reason for the limited use of electrical prostheses: Who's going to fix the gadget when it conks out? Unlike many other physicians, Miami's Dr. Liberson knows exactly what to do when a delicate piece of electrical equipment malfunctions. Since he designed it, he can also fix it.

Among his inventions is an electronically powered device that attaches to the impaired leg of a stroke patient. By stimulating the peroneal nerve, the device helps speed ambulation of stroke patients. Dr. Liberson reports that the stimulator has been used, with varying degrees of success, on 100 such patients. The device works best, he says on patients who are intelligent and highly motivated.

The Miami physician, who is also chief of the physical medicine and rehabilitation service at the VA hospital there, has designed a motorized brace for use by stroke patients in their first weeks of retraining.

But to Dr. Liberson, there are still more compelling reasons why electronic medicine will enhance the role of the physician rather than diminish it. "You simply cannot give a patient a new gadget and send him home with it," he cautions. "You have to be sure he really wants to use it. You have to listen to his complaints about it. You have to check to see what it does to his body. There is no such thing as electronic medicine. There are only electronic aids that can help a physician help his patients to live more fully."

Some of the new electronic aids on the horizon represent a complete departure from traditional thinking. For example: Why prop up wasted muscles with traditional crutches and braces? Why not use electrodes to stimulate nerves that control muscle movements? This idea already has clinical application with Dr. Liberson's peroneal nerve stimulator for which the electrodes are externally applied.

How about internal electrodes? Perhaps the most farout project exploring this idea at the moment is the animal study being conducted by Dr. Lawrence R. Pinneo of the Stanford Research Institute. Dr. Pinneo has implanted electrodes into the head of a rheus monkey that was paralyzed in its right arm after two operations removed part of the animal's cortex.

In spite of the paralysis, the monkey could reach for food when a computer fired the electrodes in his brain in the proper sequence. The monkey even learned to direct his own motions electronically. He figured out how to press computer buttons that helped him feed himself, scratch his back, and make a fist. Dr. Pinneo has published the results of the Stanford project in *Stroke*. Nevertheless, it will be some time before a computer and implanted electrodes stimulate the human brain to move muscles in paralyzed extremities.

Well, then, why not try to control muscles by applying electrical charges directly to the nerves? Implanted electrodes are already doing this for heart patients. Couldn't some version of this idea help impaired persons walk?

A biomedical engineering project at USC's Rancho hospital is exploring just such questions. The team takes its cue from one of the most successful electric protheses to date—the cardiac pacemaker. Says Dr. Jacquelin Perry, chief of the kinesiology service and head physician on the stroke service: "The principle of stimulating nerves of the leg is the same as for other parts of the body."

The hospital's "peripheral nerve stimulator" is a tiny radio receiver that is surgically implanted in the upper medial thigh. An electrode leads from the receiver down the thigh to the anterior crural region where it is anastomosed to the peroneal nerve. Stimulation is activated by a transmitter worn on the patient's belt and a heel switch installed in the shoe.

During the past three years, about 20 stroke patients have benefited in varying degrees from the nerve stimulator. But the results were not precisely quantifiable, says Dr. Perry, because equipment was being continually refined during the trial and the patienta being tested did not have exactly comparable types of disability. She explains, "There is no such thing as a stroke patient. There are different types of stroke patients with varying levels of disability." Dr. Perry sees current knowledge of stroke on a par with knowledge of arthritis two decades ago, when "medicine classed arthritis as one entity. We now know that nearly 60 different conditions comprise the disease known as arthritis. Much of the same thing is true of stroke. We are finding that patients are left with various levels and patterns of disability following a stroke."

Dr. Perry is guardedly optimistic about the future of peripheral nerve stimulation. For one thing, the causes of paralysis have changed from the time when most stroke victims died and when polio was a major crippler. "Polio destroyed nerves," she points out, "so there wasn't much we could do for polio patients. But the stroke patient is left with the peripheral motor system intact, opening the possibility of electronic stimulation. Our next goal is to try stimulating the nerves that influence the muscles that extend the hip."

Right now, the Rancho team is beginning a study of 20 more stroke patients using the peripheral nerve stimulator. Equipment design has been standardized, says Dr. Perry, so patients will have comparable units. Moreover, patients with closely similar disabilities have been selected for the test.

Dr. Perry thinks there is a future in medicine for electronic stimulating of leg and hip nerves and muscles. "We're going to get more and more people walking in this fashion," she predicts. "We're probably even going to be able to help patients with some types of spinal cord injury. Right now, we have the equipment developed to a point where it may cost about $1,000, which is not inexpensive, but it is a realistic figure. We no longer talk in terms of highly expensive equipment costing thousands of dollars. This is a reasonable direction in which to go."

Still another team at Case Western Reserve University School of Medicine has published preliminary reports on its attempt to implant electromyographic sensors directly into neck and shoulder muscles of severly paralyzed patients with high-level spinal injuries.

According to an engineer connected with the project, the Ohio team currently finds it possible to control one muscle at a time. "But human movement is a highly complex interrelation between various groups of muscles" he points out, "so you can see we're still in a very early stage."

This caution is echoed again and again by clinicians and technicians at various rehabilitation centers. One researcher groaned when shown a newspaper photograph of Dr. Wernher von Braun, the National Aeronautics and Space Administration's rocketeer, reportedly demonstrating "a sight-switch-controlled wheel chair."

"I wish NASA would give us a couple of their engineers for our hospital, to work with patients," the researcher said. "Maybe those fellows could make some real contributions in a real hospital setting, working with real patients, instead of blue-skying this stuff out of think tanks or blowing it up out of lunar dust."

Yet progress has been significant. A case history of hope vs realism in one new electronic rehabilitation aid lies in the electronic device known as the sight switch that powered Dr. von Braun's wheel chair. According to a NASA booklet, "the sight switch, designed to be worn on standard eyeglass frames, actuates electrical control devices by sensing variations in reflected light. The light source is a low-intensity beam directed into the white of the eye. A photodetector mounted adjacent to the light source senses the intensity of light reflected from the white of the eye." When the eye moves, the darker iris intersects the beam, a sudden decrease in reflected light is sensed by the photodetector, and a signal is generated to initiate an action.

However, because of differences in iris pigmentation, reflectivity of the sclera, and other reflective differences of the area around the eyes, the sight switch must be calibrated for each operator. Once the sight switch is adjusted for the individual operator, says NASA, no further adjustments are required.

This is fine, in theory, but unfortunately further adjustments are constantly required, according to Anthony Staros, director of the VA Prosthetics Center in New York City. The center performs research, development, and evaluations of various prosthetics, orthotics, and orthopedic aids for 166 hospitals in the VA program. Engineer Staros reports that changes in the ambient light—the light that differs from room to room—can activate the sight switch so erratically that the quadriplegic may lose control of the wheel chair. VA tests also found that the chair does respond to inadvertent eye motion, again causing the patient to lose control of the chair. One of the quadriplegics who volunteered to test the chair, reportedly needed a couple of days of bed rest after his experience. Nevertheless, the VA has not abandoned the principles. A sight switch prosthesis is now in the hands of engineer Ron Lipskin, at the Manhattan center, who is currently testing the instrument and conferring with engineers in government and industry in an effort to make the sight switch work as well for paralyzed veterans as it does on NASA drawing boards.

What's more, Lipskin already has a variety of electronic successes to his credit. One concerns an intra-oral tongue-activated electronic device that controlled a powered wheel chair.

The quadriplegic who tested the device complained that the switches were too small and too close together, because the box had to be tiny enough to fit inside his mouth. The patient despaired of every learning to differentiate among the tiny, closely packed switches. He also found that the unit caused him to salivate more than usual and later he reported getting electrical shocks because saliva had somehow seeped into the mechanical appliance.

But those few days in the motorized wheel chair had also triggered the patient's desire to be up and about. He asked Lipskin to figure out some kind of electronic switch for him. Lipskin did. He converted the tiny compact to an external unit that could be activated by the patient's chin. The quadriplegic then joined the dozens of others whooshing through the Bronx VA corridors.

Lipskin, an earnest young man with degrees in biology, chemistry, and engineering, uses this case history to pinpoint the stage at which most electrical prostheses are at the moment in this country: Just about every powered prosthesis has to be custom-made for each patient, or at least it has to be custom-adapted. In addition, the service provided by some well-known wheel chair manufacturers can be compared to the service provided by some well-known automobile manufacturers—generally, far from ideal. "What can a patient do with an electrical device that malfunctions?" Lipskin asks rhetorically. "Malfunctions bug us, and we're set up for them. Most hospitals are not." The need right now, he says, is for American or European manufacturers to come up with an electrical wheel chair that can be repaired by a trained, semi-skilled worker.

"Or perhaps motor units might be made in a simple, take-out unit, something like a battery-pack that is put into a flashlight. The patient could buy two units: one to run the wheel chair, and one to use as a spare for the time when the other is sent to the factory for repairs."

For each of Lipskin's problems, there is an eventual success story: One quadriplegic, enthused with the success of learning to use a powered wheel chair, decided that he would spend much of his time exploring the streets of the Bronx around the VA hospital. To help him in traffic, Lipskin fitted him up with a chin-controlled back panel of flashing red lights. To help keep him supplied with the water that a quadriplegic's kidneys need, Lipskin ran a thin plastic tube, also electrically controlled, from a water dispenser on the back of the chair.

Meanwhile, Dr. Stauffer points out that most of these patients are in their late teens or early twenties when they are injured. "With medical knowledge now available, we can give them and their families a prognosis of looking forward to a relatively normal life span. With this possibility of longevity goes the responsibility of improving the quality of life. These patients deserve and require the skilled medical care necessary to prevent and correct medical complications. It is not justified merely to keep them living."

Medical priorities for such patients include maintaining a bacteria-free, automatically emptying urinary tract, Dr. Stauffer says. There is increasing evidence that surgical techniques like hypothermia and myelotomy may be effective in reversing some early stages of pathophysiology that can progress to spinal cord destruction. Steroids may also be effective.

But at the present time, says Dr. Stauffer, no clinical studies indicate that early surgical procedures produce more benefit than closed reduction and traction treatment of the fractured spine. At the present time, skeletal traction for reduction and healing is the preferred method of treating fracture dislocations of the spine.

In some instances, where prolonged recumbency enforced by traction therapy is not desirable, it is possible to stabilize the spine surgically, and allow the patient to be mobilized out of bed soon after his injury. This can eliminate the complications of long periods of bed rest: muscle atrophy, skin-pressure ulceration, and joint contractures. Meanwhile, the patient is rapidly taught to be as functionally independent as possible.

This type of concentrated, special care is most effectively accomplished in specialized centers with personnel skilled in aiding these patients, Dr. Stauffer points out. And even after they are discharged from these special centers, such patients must be examined at least once each year for complications. The patients must also be checked to make sure that they are getting the help they need to adjust to their new lives.

For the family physician, perhaps the greatest hazard is thinking that a patient has been "rehabilitated" because an operation has saved his life and a prosthesis has been successfully fitted. Much more needs to be done. The prosthesis may need readjustment, which may require a number of visits. The patient must be taught to use it with self-confidence, which may take months. Sometimes, the entire process has to be repeated several times, until the happy combination clicks into place—the right prosthesis and the right attitude on the part of the patient.

Despite all of the exciting electronic advances on the rehabilitation horizon, the most important part of the entire process is still being able to tap the patient's will to live, and then his will to overcome his handicap. Without this, even the most new-fangled appliance will just gather dust.

One man whose working life has been dedicated to these principles is Dr. Rusk, the director of New York University's Institute of Rehabilitation Medicine. During a career that has made the Rusk Institute renowned throughout the world, Dr. Rusk has seen dramatic changes in society's attitude toward the physically handicapped. "As late as the 1940s, it wasn't unusual for amputees—think of it, amputees!—to be resigned to spending their lives in some back bedroom, even in our own country. In Poland right after World War II, I saw kids who hadn't been out of the house for years. I'll never forget that."

Today, thanks to the efforts of Dr. Rusk and others, it is not unusual even for quadriplegics to explore ways of earning their own livings.

One of the institute's prize pupils is a 23-year-old woman, born with bilateral upper hemimelia, and one leg dislocated at the hip. But she finished high school and college at the top of her class, and now earns her living as an occupational therapy assistant at the institute.

She lives alone, in a midtown Manhattan apartment. Each morning, she dons her mechanical hands by herself, takes a shower, cooks breakfast, catches a bus, and works a full day. "She teaches by precept and by example," Dr. Rusk says. "She's a living symbol of what hope can do."

Hope is dispensed in large helpings at the institute. "It doesn't do anyone any harm to be praised," says Dr. Rusk. "Sometimes, we have to search for things to praise. Something like this: 'Six steps today. Great. Yesterday you did only four. Tomorrow, you'll do eight. You'll see. Just keep working. Just don't give up.'"

In the foreseeable future, Dr. Rusk does not see electronics completely replacing hope or the doctor-therapist-patient rehabilitative relationship. "Naturally, I'm pleased to see all these new electronic aids," says Dr. Rusk. "Some of them have great potential. But right now, you almost have to provide an engineer to go along with each of them. We have a great variety of new mechanical appliances already in use, doing a magnificent job."

Some of the most exciting new advances in mechanical appliances are in the field of braces. For the first time in more than a century, the design of conventional leg braces is undergoing radical changes. Some of these changes result from new lightweight metals and alloys and a variety of tough new plastics. But the major reasons for the new designs lie in some findings on the nature of human locomotion. For example, recent studies show that transverse rotation is an important component of human motion. This transverse rotation may be considerable, as much as 30 degrees of relative rotation between the pelvis and the foot. Thus, this basic fact should have an important bearing on brace designs.

Most conventional braces, however, still restrict motion only to one plane. But a new plastic spinal brace, designed at the institute, provides for controlled motions in all planes. By its ability to wind and unwind, this tough, flexible plastic brace adapts to transverse rotation, as well as to motions in the frontal and sagittal planes. It is indicated for patients who lack motor power in the ankle-foot complex. Some advantages of the brace are immediately obvious: It weighs 6½ oz. It is not permanently attached to any one shoe, so patients can wear it with different shoes.

Summing up his career to date, Dr. Rusk says good-humoredly: "I started out as an honest internist, and now I'm regarded as part family doctor, part Billy Graham, and part Lydia Pinkham." Whatever else all of these interesting characters may have in common with Dr. Rusk, one obvious similarity is their knowledge of human psychology. All of them know what makes people tick.

Invariably, the basic problem with any amputee, or with any person needing physical rehabilitation, is getting him to accept his disability: This point came up again and again at several workshops at last month's American Academy of Orthopaedic Surgeons meeting. Without this acceptance, no prosthesis, no matter how ingenious, is likely

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to be beneficial. But this acceptance can transform even the simplest acts into an exhilarating adventure. Witness the young quadriplegic in the Bronx, to whom the most exciting adventure in the world is being able to order his own hamburger in a modest little cafe on a neighborhood street in the Bronx. To the ambulatory, it's nothing much; to him, it's everything.

AMPUTEE, NOW M.D., TEACHES OTHERS TO SKI

The ways of reaching into a patient's psyche, and tapping hidden sources of strength and endurance that may lie there, are infinitely varied. One young surgeon who knows this from personal experience is Dr. Michael B. Mayor, clinical instructor in orthopedics at Dartmouth Medical School. Now 34, Dr. Mayor was just 17 when his right leg was amputated because of a recurring tumor.

A tall, intense young man, Dr. Mayor vividly recalls the psychological stresses and strains. The hardest problem for his father, a highly intelligent man, was to resist the temptation to seek out "medical miracles" and to accept his son's amputation. And for the son, the hardest problem was to accept the fact that his leg was gone. He had had some months to realize that the amputation was inevitable. Still, he never truly realized what the word amputation meant until after the actual operation.

But Dr. Mayor found the strength necessary to finish high school, college, and medical school, and he was aided by a mechanical artificial leg. Currently, he wears an above-knee, artificial limb with a Gracinger foot and ankle, and a Du Paco hydraulic swing-phase control unit.

In addition to his immediate family, Dr. Mayor found emotional support from an orthopedic surgeon who was a family friend. Consequently, Dr. Mayor functions today in spite of his handicap and, reminiscent of his family's physician and friend, he is anxious to help other amputees to find their way to a new life. Dr. Mayor is hoping to set up a course in the Dartmouth area to teach amputees to ski. Unlikely as it may sound, the young orthopedist taught himself to ski. And when he lived in Cleveland, prior to accepting the appointment in Hanover, N.H., he conducted such a course. Moreover, skiing holds numerous pleasant memories for Dr. Mayor. The exhilarating rush down the slope, the sense of participation and even competition. There is still another nice memory. He met the woman who is now his wife while returning home from a skiing trip.

IMPROVED LAW ENFORCEMENT IN THE TREASURY DEPARTMENT

Mr. HRUSKA. Mr. President, earlier this month Secretary of the Treasury Connally announced a reorganization of some significance in the Treasury Department. He indicated that, effective July 1, the Alcohol, Tobacco, and Firearms Division would be transferred from the Internal Revenue Service to a new bureau directly under the supervision of the Assistant Secretary of the Treasury for Enforcement—at present, Eugene T. Rossides.

Mr. President, this is another example of the continuing effort on the part of the Nixon administration to upgrade and improve the quality of Federal law enforcement. This transfer has been under consideration for some time, and a sufficient period has been allowed for its implementation so that there should be no personnel difficulties or administrative entanglements. It will place some highly significant law enforcement functions closer to the policymaking level, where they will be subject to better coordination and control. I look forward to the completion of this transfer and the benefits to the entire country which will no doubt result from its implementation.

A fact sheet has been prepared by the Treasury Department which describes in some detail the activities which will be involved in this reorganization. Mr. President, I ask unanimous consent that the fact sheet be printed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

FACT SHEET

TRANSFER OF THE ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES PROGRAMS WITHIN TREASURY DEPARTMENT

Secretary of the Treasury John B. Connally has directed that the Alcohol, Tobacco and Firearms Division and related support activities be separated from the Internal Revenue Service and established as a new bureau under the supervision of Eugene T. Rossides, Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations). This transfer is to be effective July 1, 1972.

The Alcohol, Tobacco and Firearms Division is responsible for the administration and enforcement of several statutes concerning alcohol, tobacco, firearms and explosives. For example, the Division:

Collects excise taxes on alcohol and tobacco products;

Regulates and supervises the alcohol and tobacco industries;

Administers consumer related and trade oriented controls on alcoholic beverages;

Investigates violations of alcohol related laws;

Interdicts illicit distilling and bootlegging;

Administers certain controls on the manufacture, import, trade and disposition of firearms and explosives;

Collects transfer, occupational and excise taxes on firearms; and

Investigates violation of the gun and explosives control regulations.

The Alcohol, Tobacco and Firearms Division now employs nearly 4,000 people distributed among the National Office, seven Regional Offices, 42 Branch Offices and 376 local posts of duty. About 1,500 of these employees are concerned with the regulatory and tax collection activities while the other 2,500 are responsible for the related enforcement work. Congress appropriated $72,277,000 for fiscal year 1972 operations of the AFTD. Revenue collections by the Division during 1969, 1970, and 1971 came to $6.7, 6.8, and 7.0 billion, respectively.

This transfer is being undertaken as result of a comprehensive study of the optimum organizational placement within Treasury of the functions of the ATF Division. Placing these functions under the supervision of the Assistant Secretary who also supervises other Treasury law enforcement programs is expected to result in improved coordination and control of enforcement activities, and greater flexibility and effectiveness in the use of enforcement resources, without disturbing the revenue collection and regulatory control activities.

SUNNY ARIZONA

Mr. FANNIN. Mr. President, a wise man once said:

If a guy can't get himself into shape in Arizona, he doesn't deserve to be in the game.

In case you do not recognize the quotation, it came from Oakland baseball player Mike Epstein.

Mr. Epstein's astute observation was published in a very interesting article written by Washington Post staff writer Leonard Shapiro.

It is with some trepidation that I invite the attention of Senators who are in Washington on this cold and windy day to the article.

The temptation is great to fold up our operations here and head for sunny Arizona. I know, however, that Senators can resist this urge since we have so much important business before us in the coming weeks.

Mr. President, I ask unanimous consent that the article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPRING TRAINING IN ARIZONA TEMPTS THE UNWARY

(By Leonard Shapiro)

PHOENIX, March 21.—When Willie McCovey finally pricked holes in the Great Acupuncture Adventure last week, San Francisco baseball writers were more than a bit embarrassed over their failure to go directly to the source for their information.

They had heard that the Japanese doctor accompanying the visiting Tokyo Lotte Orions had examined McCovey, who has been suffering from bone chips in his hip the last four years.

The next day, written reports appeared, saying that the Giants' slugger actually had undergone acupuncture treatment.

"But he was only considering it," said Cappy Harada, who scouts the Orient for the Giants and had undergone acupuncture himself last week. "Nobody ever asked Stretch McCovey if he had it."

Contacted last week the day after the story broke, McCovey denied he had ever been pierced, adding that no one had been able to tell him the treatment did not hurt.

McCovey was somewhat upset, the writers hastily printed retractions, and the good life here in the Valley of the Sun had claimed a few more complacent victims.

The temptation to shirk responsibilities, particularly when covering baseball spring training, is constant in this area of sun and heat.

One columnist, sipping a drink on the shaded patio overlooking the pool at the motel home of the Giants, boasted that he had been in town two weeks and still had not been to a baseball park.

"It's too easy to catch them (players and coaches) in the lobby or at the pool," he said. "Sooner or later everybody shows up anyway. It's the easist assignment you could ever want."

The Giants, Brewers and Oakland A's are quartered in two hotels directly across the street from each other. The Chicago Cubs stay a few miles down the road in Scottsdale, and the San Diego Padres and Cleveland Indians take two-hour bus rides from their respective spring sites in Yuma and Tucson to play exhibition games here.

The Angels fly in from Palm Springs, Calif., and stay, for a week at a time, in the same hotel as the Giants and Brewers. One day last week, when the Padres decided to remain over night, five teams were quartered in the two hotels.

Players thrive here. No rain has dampened Phoenix since Dec. 29. There has been no visible accumulation of clouds in the past 10 days, and wind is almost nonexistent.

"You couldn't ask for better conditions," said Oakland's Mike Epstein, who had spent the last four springs in Pompano Beach, Fla., with the Washington Senators. "In Florida, you never could tell about rain or the wind. Here you just know you'll be playing every day.

"If a guy can't get himself into shape in Arizona, he doesn't deserve to be in the game."

Baseball has been coming west since the Giants and Cleveland moved to Arizona in 1947. The hot, dry climate, and more important, lower prices than in inflated Florida, were the main attractions.

Hotels and restaurants are plentiful, and rather reasonable. Accommodations are easily obtained, and the area offers a wide variety of extra-curricular activities—horse racing, dog tracks, theaters—that also have attracted many vacationing baseball fans.

The Giants have a huge San Francisco following, with many of their supporters vacationing here with the team in the spring. Even the Chicago Cubs "bleacher bums" manage to find time and money to head for the desert.

Phoenix seems to have something for everybody, including a malady known as Valley Fever, which should not be visited upon even one's worst enemy. A peculiar stench emanates from nearby stockyards but, fortunately, they do not operate during the day, and not many people go out at night.

Still, the players love it. The Latin Americans may choose from a great many Mexican and Spanish restaurants. Blacks, sometimes targets of subtle and not-so-subtle discrimination along Florida's Gold Coast, have few problems here. Even Jewish ball players have managed to discover a kosher delicatessen in nearby Scottsdale.

"Great lox and bagels," said Epstein, a frequent visitor. "Who could ask for anything more?"

PERSECUTION OF UKRAINIAN INTELLECTUALS BY THE SOVIET GOVERNMENT

Mr. WILLIAMS. Mr. President, in recent months the Soviet Union has relaxed somewhat its previously stringent policies on emigration—by allowing members of the Jewish minority to emigrate to Israel and other countries. The increase in the number of Jews granted emigration permits has been at least partly due to the role of world opinion. The uniform sense of outrage produced by reports of harassment and persecution of the Jewish community and of individual Jews in the Soviet Union led to a great outpouring of statements condemning Soviet policies and placed effective pressure on Moscow to adopt more humane policies.

We should not be deluded into thinking that a slight change in one aspect of the Soviets' treatment of their minorities implies a general liberalization in their attitude toward religious groups or toward what is called the nationalities question. Although official Soviet statements extoll the idyllic state of the "fraternal family of nations" which the U.S.S.R. claims to be, the validity of these pronouncements is belied by constantly increasing reports of persecution, particularly among the intellectuals of the various nationalities.

The dissident intellectuals of the Ukraine provide a typical and tragic example of the treatment meted out by the Soviet Government to those who dare to speak out in favor of human rights and national consciousness and against injustice and oppression of one culture by another. The list of prominent Ukrainian authors, poets, clergymen, students, professionals, and others who are known to have been sentenced to lengthy periods of incarceration and forced labor is a vast one and grows longer by the month. Let me briefly cite but a few of the most well known cases which have received attention, and see what principles their "crimes" have violated.

Archbishop Vasyl Velychkivsky was given a 3-year prison term in 1969 for allegedly committing "ideological sabotage under the cloak of religious functions, in favor of international imperialism." Clearly, his arrest was an example of religious persecution. Previously reported to have died in prison, he was released in poor health and arrived in Rome on February 24 of this year.

During the 1960's literary critic Ivan Dzyuba and journalist Vyacheslav Chornovil both wrote revealing books protesting the Soviet regime's policy of Russification in the Ukraine—through population transfers, neglect and distortion of Ukrainian culture and history, and the arrests and trials of the many intellectuals who opposed these policies. Chornovil, who smuggled out his accounts of the secret trials, was himself sentenced to hard labor for "anti-Soviet actions and slander" and was released in 1969.

Valentyn Moroz, a history lecturer, was sentenced in 1966 to a 4-year term at hard labor. After his release, he was once again put on trial in November 1970. In his writings, Moroz has denounced Russification of the Ukraine and the open violation of common justice in the Soviet Union generally.

In asking for the preservation of Ukrainian traditions and institutions, Moroz spoke in universal terms for the rights of oppressed nations not only within the Soviet Union but throughout the world. During the trial, Vyacheslav Chornovil was called upon to testify but refused to do so on the grounds that it was being held secretly, in violation of Soviet law. Moroz was sentenced to 9 years in prison and 5 years of exile.

In January of this year, Soviet secret police arrested 11 leading Ukrainian intellectuals including Vyacheslav Chornovil, on charges of dissemination of "deliberately false fabrications defaming the Soviet state." Conviction on this charge would carry a maximum sentence of 3 years. Prior to the arrests a series of house searches were carried out by the secret police, including a search of the house of Ivan Dzyuba. It is significant that all of the arrested intellectuals have been in the forefront of the Ukrainian nationalist movement, and it is significant that the arrests and searches tend to concentrate again and again on the same individuals.

What are the crimes that these people have committed? From a reading of their published underground works, it becomes obvious that in no way can they legitimately be accused of being anti-Communist, or even anti-Soviet. They are merely asserting their people's rights as outlined in the Universal Declaration of Human Rights, which was signed and ratified by the U.S.S.R., and in the Soviet Constitution. Article 18 of the declaration says that everyone has the right to freedom of thoughts, conscience and religion; clearly the treatment of Archbishop Velychkivsky was in violation of this most basic of humanitarian principles. Article 19 says that everyone has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This article was conveniently overlooked in the Soviet Government's policies toward Chronovil, Dzuba, and Moroz. The Soviet Constitution guarantees its citizens freedom of speech, freedom of the press, and freedom of assembly. It is not necessary to point out the dispensability of these freedoms when a Soviet prosecutor chooses to focus on "intents to undermine or subvert" the Soviet regime.

In light of the inhumane policies of the Soviet Government toward these and countless other intellectuals of the Ukraine and of the other Soviet nationalities, I think it is most appropriate for concerned citizens of the United States and of other countries to become actively involved in the struggle to achieve the justice which they deserve and are being denied. If world public opinion were mobilized as it has been in prior instances of flagrant violations of human rights, then perhaps the day will come when the Soviet Union will be able to tolerate the idea of a "fraternal family of nations" coexisting on an equal basis.

INNUENDOES, DISTORTIONS, AND OUTRIGHT LIES

Mr. FANNIN. Mr. President, I must once again protest the continuing innuendoes, distortions, and outright lies which are spewing forth from a columnist named Jack Anderson.

This morning's Washington Post contains another Anderson column and another Anderson lie.

This column states that I delivered a speech prepared by the Republican National Committee in an attempt to discredit him.

Mr. President, the fact is that the speech which I delivered here 1 week ago was not written by the Republican National Committee.

The speech was written in my office, at my direction, under my close supervision, by a member of my staff. If anything, the speech understates the contempt I feel for this journalistic garbageman.

Mr. President, it is obvious that I cannot testify as to all the allegations in the latest Anderson column. I can tell you, however, that the reference to me is totally erroneous and, therefore, I must assume that the rest of the column also is a figment of Mr. Anderson's fertile imagination.

This is not the first time that Mr. Anderson has carried erroneous information about me in his column. I am talking about factual information, not opinions he may have. He is entitled to his opinions, as warped as they may be, but he does have an obligation to get the facts straight.

Mr. President, the Senate has been used as a circus arena for Mr. Anderson's antics. He has made charges and failed

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to prove them. The Senate Judiciary Committee has not been presented with any reliable information which should affect in the slightest the recommendation that we confirm the nomination of Richard Kleindienst as Attorney General of the United States.

Mr. President, there has been frequent talk recently about a return to the so-called McCarthy era.

I would suggest that what has happened in the past month or so is McCarthyism in spades.

Jack Anderson is a self-appointed inquisitor.

When he makes his charges, the victim of his allegations is guilty until proved innocent He pleads journalist privilege when it comes to meaningful documentation: he must protect his sources.

The most frightening aspect of this amazing episode is the fact that Members of this Congress are paying any attention to what Anderson writes.

If the charges he makes came from reputable reporters—and there are thousands in this city—then I too would be alarmed by the allegations.

Mr. President, I make this statement simply to correct the misstatement of fact in today's Post and in a attempt to urge that we regain our perspective in this entire matter. I also wish to make it clear that this statement was prepared in my office. This is my statement; these are my deeply felt sentiments. These are the facts as I know them to be.

GEORGE MEANY ON BUSING

Mr. KENNEDY. Mr. President, in a forthright and sadly accurate statement today, AFL–CIO President George Meany analyzed the blatant flaws in the President's message on busing.

Mr. Meany noted that contrary to the impression given to millions of viewers, the President was not recommending a single additional dollar of Federal funding beyond what is already programed in title I and in the emergency school aid bill now in conference.

The AFL–CIO leader also aptly characterized the administration's course as one "that, at the least, is at the margin of constitutionality."

I commend to the attention of my colleagues the comments of Mr. Meany which I ask unanimous consent to have printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

FROM THE AFL–CIO

AFL–CIO President George Meany today made the following statement on President Nixon's busing message to the Congress:

The President's message on busing significantly omits any commitment on the part of his Administration to enforcing the law of the land—quality, integrated education for America's school children.

He does not commit his Administration to the expenditure of one penny in new money to improve the educational opportunities of disadvantaged children. The Elementary and Secondary Education Act—already on the books—authorizes in Title I far greater expenditures than the President is proposing. The Emergency School Aid Act—already passed by both the House and Senate—is the source of the rest of the money the President proposes spending. In fact, the $2.5 billion the President talks about is far short of the authorized spending level in ESEA for the improvement of disadvantaged schools.

Ever since his inauguration, the President has consistently opposed increasing the appropriation for the program designed to improve schools attended by the disadvantaged.

He twice vetoed congressional efforts to increase federal funding of the nation's schools—including tens of millions of dollars for aid to disadvantaged schools. One of these vetoes was carried out in front of a national television audience.

Now the President is back on national television trying to convince the American people that he has changed his opinion on improving the educational opportunities of disadvantaged children. This is political chicanery.

No new legislation is needed to improve educational opportunities for the disadvantaged. An excellent law is already on the books. What is needed and what has been lacking, however, is Presidential leadership to encourage the Congress to increase the appropriations to their full authorized level.

Further, the "busing moratorium" President Nixon proposes is a cynical attempt to reward those who said "never," and to undermine the moral leadership of those citizens who endeavored to comply with the Constitution and the Supreme Court's 1954 decision.

The Administration has chosen a course that, at the least, is at the margin of constitutionality. The real loser in this Nixon-inspired constitutional confrontation will be the integrity of our legal system.

The Administration, while invoking the slogan "law and order," has repeatedly struck at the courts, which, since the time of John Marshall, have been regarded as the ultimate line of defense for constitutional liberty. It now proposes, in the guise of regulating the courts' jurisdiction, to deprive them of the power to enforce the 14th Amendment by busing orders designed to eradicate the last vestiges of the segregated "dual school" system, even where that is the only method sufficient to secure true desegregation. If the 14th Amendment can be deprived of its vitality in this way then none of our constitutional rights is secure.

The harm to the constitution is no less severe because the proposed legislation is of limited duration—to expire five months after the presidential election. For the rights in question are those of individual school children and once lost for any school year cannot be recaptured.

The AFL–CIO remains firm in its commitment to quality, integrated education. We are, therefore, opposed to the President's current political maneuvers on this question.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Is there further morning business? If not, morning business is concluded.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair now lays before the Senate Senate Resolution 280 which the clerk will state.

The assistant legislative clerk read as follows:

S. Res. 280, authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of Article I, section 6, the so-called speech and debate clause of the Constitution.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, it is anticipated that if and when we get through with the pending business, the Senate will then turn to the consideration of Calendar No. 653, S. 3178, a bill to relieve broadcasters of the equal time requirements with respect to candidates for President and Vice President. That very likely will take the rest of the day, and it will be followed on tomorrow by the naval vessel loans bill, the egg bill, and a few other matters of importance which are on the calendar and which are debatable.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Mr. GAMBRELL). Without objection, it is so ordered.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The Senate continued with the consideration of the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Mr. ERVIN. Mr. President, I urge the Senate to adopt this resolution in order to protect the prerogatives of the Senate under article I, section 6, of the Constitution, which says that for anything said in a speech or debate, a Member of Congress shall not be questioned in any other place.

We have had some very illuminating opinions from the Supreme Court on this subject. The case which is now pending before the Supreme Court, and which involves the conduct of the Senator from Alaska (Mr. GRAVEL), presents a point which has not yet been elucidated by Supreme Court decisions.

We have had two leading cases heretofore decided in the Supreme Court, one of which was the case of Tenney against Brandhove, which the Supreme Court handed down on May 21, 1951, and which is reported in 341 U.S., page 367.

This case involved the question of immunity, under a similar constitutional provision of the State of California, of the action of a legislative committee.

Another case is the case of Dombrowski against Eastland. That decision was handed down on May 1, 1967, and is reported in 385 U.S., at page 82.

In both of those cases there were statements to the effect that the privilege given to a Senator by the speech and debate clause in the Constitution might not be sufficient to exonerate from responsibility and answer elsewhere an aide of the Senator.

I submit that the statements to that effect in those two opinions do not take note of the realities of the situation. All of us who are privileged to serve in the Congress of the United States know that it is absolutely impossible for a Senator or a Representative to do, in person, all the things which he undertakes to do in the execution of his office, and that it requires the assistance of others if he is to perfom even a small fraction of the obligations which devolve upon him.

When the Gravel case was heard in the circuit court of appeals for the first circuit, the court accepted this reality in its decision and held that under the circumstances of that case the immunity which excuse a Senator from answering elsewhere for acts committed by him in the execution of his office is shared by anyone who aids him in the execution of his office.

To my mind, it is highly important that the Senate should intervene in this case as amicus curiae and insist that the Supreme Court recognize this wise ruling made by the Court of Appeals of the First Circuit.

Manifestly, if this rule is not recognized and sustained by the Supreme Court in the appeal, the speech and debate clause of the Constitution will be of mighty little value to a Member of the Congress.

When the Gravel case originated in the District Court of the District of Massachusetts, the Government undertook to subpena and question Dr. Rodberg, who has been found by the Federal courts to have been an aide to Senator GRAVEL, concerning the activity of Senator GRAVEL and the activity of Dr. Rodberg in connection with the use by Senator GRAVEL of the so-called Pentagon papers, in a meeting of the subcommittee of which Senator GRAVEL was chairman.

Personally, I believe that the Senate should file an amicus curiae brief and claim the widest possible scope for this prerogative established by article I, section 6. I think an effort has been made and will be made on the part of the Government in this case to hold that the courts may inquire into the question of whether there was any irregularity in a committee meeting in which a Senator has expressed himself on a question of great public importance. I like to believe that the privilege was intended to grant immunity not only to the Senator, but also to any aide of the Senator in connection with anything which happens within the ambit of the Senate.

We have a very interesting case which was decided by the Court of Appeals for the District of Columbia on June 6, 1930, entitled Cochran against Couzens. This was a suit brought against then Senator Couzens for remarks made by him on the floor of the Senate. The plaintiff alleged in the suit that the Senator made a speech which had no relevance whatsoever to any matter then pending before the Senate, and that he made that speech on the floor of the Senate for the purpose of slandering the plaintiff, and that therefore Senator Couzens' conduct was not covered by the speech or debate clause.

The court of appeals in that case had this to say—and I think that this is something of the greatest significance:

It is manifest that the framers of the Constitution were of the view that it would best serve the interests of all the people if Members of the House and Senate were permitted unlimited freedom in speeches or debates. The provision to that end is, therefore, grounded on public policy, and should be liberally construed. Presumably legislators will be restrained in the exercise of such a privilege by the responsibilities of their office. Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues.

The court cited on that last point—that is, that Senators or Representatives who fail to restrain themselves as they should would be subject to discipline by their colleagues—article I, section 5 of the Constitution, which gives each House the power to discipline one of its Members for disorderly conduct.

I respectfully submit that the Senate has the power, under article I, section 5, to discipline a Senator for conduct which, in the eyes of the Senate, constitutes disorderly conduct. In other words, a Senator can be called upon by his colleagues to answer for his conduct and be questioned as to his conduct by his colleagues. But he cannot, I submit, under any possible interpretation of the speech or debate clause of the Constitution, be questioned elsewhere for his conduct in the execution of his office as Senator. To my mind, it is inconceivable that the speech or debate clause of the Constitution gives the executive branch of the Government or the judicial branch of the Government the power to make inquiry as to whether or not a meeting in which the Senator participated was regularly called in accordance with the rules of the Senate, or whether or not the Senator abused the rules of conduct which the Senate has the right to establish for its Members. If any such conclusion as that should be held, the speech or debate clause of article I, section 6 of the Constitution would be absolutely worthless.

Furthermore, I cannot conceive that the executive branch of the Government or the judicial branch of the Government can inquire as to whether or not the Senator's conduct was germane to some question then pending before the Senate, or germane or relevant to some question pending before a committee of the Senate. That is precisely the way I interpret the very vital opinion in the Couzens case, because here the allegation was that Senator Couzens was not acting in an official capacity, that his speech had no relevancy to any matter pending before the Senate, and that he made his speech for the purpose of slandering the plaintiff.

The court held that Senator Couzens was not liable, despite these allegations, because it said that the matter was governed by the averment of the complaint that the words which the plaintiff alleged to be slanderous were uttered in the course of a speech on the Senate floor.

This privilege is not confined to what happens on the Senate floor. We draw the necessity and some information about the scope of the privilege from the precedents of England. During the days of Queen Elizabeth, members of the House of Lords and members of the House of Commons were sometimes prosecuted by the Crown in the courts of England for seditious libel, based upon the allegation that the speeches they made in the House of Lords or in the House of Commons were punishable as seditious libels.

So this prerogative of Members of Congress secured to them by article I, section 6 of the Constitution, grew out of what transpired in respect of the Englishmen serving in the House of Lords or the House of Commons.

So in the Couzens case the court quotes with approval the opinion of Lord Denman in *Stockdale* v. *Hansard*, 9 Ad. and E. 1, as follows:

The privilege of having their debates unquestioned, though denied when the members began to speak their minds freely in the time of Queen Elizabeth, and punished in its exercise both by that princess and her two successors, was soon clearly perceived to be indispensable and universally acknowledged. By consequence, whatever is done within the walls of either assembly must pass without question in any other place. . . .

I venture the assertion that the words "any other place" which appear in the Constitution were borrowed by the drafters of the Constitution from the Stockdale decision.

If the privilege created by article I, section 6, is to be of any value to a Senator, it must not only cover what he says on the floor of the Senate or what he does on the floor of the Senate but also must cover anything which he does within the ambit of the Senate—that is, within the walls of the Senate. within the walls of any committee meeting.

This is what I conceive to be the result of the opinion of the Supreme Court in the case of Tenney against Brandhove. This case expressly holds that it covers whatever is done in committee. It also says that they cannot inquire into the motives of this Senator. In that case, the opinion was written by Mr. Justice Frankfurter, who quoted with approval the statements of Chief Justice Parsons in the very famous case of *Coffin* against *Coffin* (4 Mass. 1, 27), which was decided in 1808, and which involved a provision

of the constitution of the Commonwealth of Massachusetts similar to article I, section 6. I read from the Coffin opinion as it was quoted by Justice Frankfurter:

> These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I therefore think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution of the office; and I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

I think it would be wise for the Senate, as an institution, to intervene in the Gravel case and to assert that the privilege certainly extends as far as set forth by Chief Justice Parsons in Coffin against Coffin.

I should like to call attention to why this is necessary. In the Tenney case, Justice Frankfurter said:

> In times of political passion, dishonest or vindictive motives are readily attributed to legislative conduct and as readily believed. Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses. The courts should not go beyond the narrow confines of determining that a committee's inquiry may fairly be deemed within its province.

I invite the attention of the Senate to this significant statement:

> To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive.

In concluding this opinion, Justice Frankfurter said:

> We conclude only that here the individual defendants and the legislative committee were acting in a field where legislators traditionally have power to act, and that the statute of 1871—

That is, the Civil Rights Act—

> Does not create civil liability for such conduct.

I contend that it would be wise for the Senate to join in the intervention in this case and assert that the Senator has this privilege, that the Senator has this privilege regardless of whether his conduct is regular or irregular according to the procedures of the Senate, and that this privilege also extends to any aide who assists the Senator in doing the things which the Senator honestly believes to be within the execution of his office.

Certainly, if anything has become a tradition in the Senate, or if we can cite recent things as traditions, it has been for Senators to stand on the floor of the Senate or to rise in the meetings of the Senate committees and express their views in respect to the war in Southeast Asia. Certainly, that is not a usurpation of any function which is given, in the form of government, to the executive or to the judicial departments.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. BROCK. Is the classification of material a function assigned to the legislative branch?

Mr. ERVIN. The Senator has asked a very interesting question.

I think that the executive branch of the Government—this is an expression of my individual opinion, and it is inferentially supported, I think, by the majority of the nine separate opinions which were handed down in the New York Times and the Washington Post cases—has a right to classify material where the classification of that material is necessary to the national security, or where the classification of that material is necessary to protect the Armed Forces of the United States when they are engaged in hostilities with an enemy, or when the classification of that material is necessary to protect from exposure the plans which are contemplated for the operation of the Armed Forces of the United States.

I agree with the validity of the executive privilege, insofar as executive privilege covers the right to withhold from the Congress or the public discussions between members of the executive branch in arriving at the matter of policy. I would seriously question whether there is any basis for any absolute privilege on the part of the executive to classify material or to go beyond the scope of the executive privilege.

Mr. BROCK. Has not Congress given to the executive, by law, the right to classify and declassify information? I would further ask: Is there any law, anywhere, which allows an individual Senator to declassify information?

Mr. ERVIN. Well, the Senator has asked a very broad question. There is a very eminent scholar in the field of free expression, Prof. Thomas Emerson, who says that it is the obligation of the executive branch of the Government to maintain the security of documents that it wishes to withhold, and that when those documents come into the possession of another person, by any means whatsoever, that other person has the right, under the first amendment, to publish it.

Mr. BROCK. I think the Senator misses the point. The Senator quoted a case where Justice Frankfurter said we can only find in this particular situation a condition of culpability when the individual has usurped the function of the executive or judicial branches. I do not think the Senator has addressed himself to the question of whether classification or declassification is a function of the legislative branch and, if it is not, whether or not the action undertaken by the Senator from Alaska was not, in fact, usurpation.

Mr. MATHIAS. Mr. President, if the Senator will yield, I should like to comment very briefly on that. I think he has raised an interesting question and one that really commands the attention of the whole Senate because it involves the responsibility of the whole Senate.

Mr. BROCK. That is correct.

Mr. MATHIAS. I do not think that here we are dealing with the question of whether, if the law is violated, the violator may be a Member of the National Legislature, but I think that what we are dealing with here is who shall call him to task, whether it shall be the legislature itself or whether it shall be, as the Constitution expresses, "at some other place."

Now, whenever the Senate is in session—and the same is true in the House—the desk is open and any Member of the Senate can file a resolution of censure or any other disciplinary action he feels is required under the circumstances. I think that the Senate bears a heavy responsibility for the upright behavior of its own Members. I do not think that we should condone, either by silence or otherwise, things with which we disagree. It is healthy to discuss them. The point here is, as I have expressed it, not that one is excused from the observance of the law by being a Member of the National Legislature, but to whom he shall be responsible for any violations or alleged violations.

Mr. BROCK. I fully agree with that. I think there is a second question, if the Senator from Maryland will permit me to pursue the matter, and that is the question of how far this immunity can extend. In the New York Times case he was given immunity under freedom of the press. The Senator from Alaska was given immunity under section 1, subsection 6 of the resolution. Then the immunity is extended to a purported member of his staff—to wit, Dr. Rodberg, and then, apparently, the request is made to extend immunity further to the printing operation.

I think at some point it is relevant for the Senate itself and perhaps for the Supreme Court to consider what the absolute limits of immunity are. I do not really think that matter has been adequately debated in this body. Do we have the right as Senators to anoint those on whom we want to confer immunity? Is this simply the principle as indicated by some?

Let me pose to the Senator from Maryland another question, if I may. What if a friend or member of a staff of a Congressman—House or Senate—went into another Member's office and stole private documents and, on the basis of those documents, he prepared a speech for that particular Congressman, a political speech, which could be used in a campaign against that person who was offended?

I assume that under the rules being proposed, both the Senator and his staff member would be fully exempted from the operation of the law, unless the Senate or the House took action against him personally. But what action could be levied against the staff member for theft?

Mr. MATHIAS. Let me first of all say that I am sure the Senator from Tennessee agrees fully on this, that we would hope, if such a hypothetical circumstance should actually occur——

The PRESIDING OFFICER (Mr. GAMBRELL). The time of the Senator from North Carolina has expired. Who yields time?

Mr. BROCK. Mr. President, will the Senator from Ohio permit the Senator from Maryland to answer?

Mr. SAXBE. I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 2 minutes.

Mr. MATHIAS. If this hypothetical fact situation should occur—and I would hope that the good sense of the people who elected us would in itself be a sufficient guarantee that that kind of thing would never happen—but if it did, I would expect that the Senate would rise up in righteous wrath and strike down any Member who would condone that kind of activity, on his own part, or on the part of anyone else who stood in a confidential relationship with him.

Mr. BROCK. So would I.

Mr. MATHIAS. And so face a disciplinary tribunal of the Senate itself.

Mr. BROCK. What if the man who did it was a friend of the Senator's and he did not tell him that the documents were, in fact, stolen, and the speech was delivered in all honor and good conscience? Who prosecutes the friend?

Mr. MATHIAS. The part on which Mr. Justice Rehnquist expounded to the Subcommittee on Separation of Powers, clearly indicates that it has to be someone who is within the realm of being an adviser, someone who stands in a confidential relationship. I do not think that some volunteer who goes out without instructions and does not stand in a confidential relationship with respect to this transaction, but goes out, as they say in law school, on a frolic of his own and commits a crime, is within the protection that we are talking about here.

Mr. BROCK. That is the concern I have. The point I make is that the Senator from North Carolina has asked the Senate to file a brief presenting the most liberal possible presentation of the Constitution in this matter. I am deeply disturbed with the kind of case I have mentioned which would extend the prerogatives and privileges of an individual who happens to be an occasional adviser and personal friend and who had, in fact, committed a crime.

I think that there must be a more severe limit upon the constitutional privilege, so important to the freedom of debate in this body. The rights of the people are terribly important, too. I do not think the Constitution itself was ever intended to extend to that degree.

I am very conscious about how this privilege is presented and with what it concerns. It is a matter of great personal concern to me.

Mr. GOLDWATER. I do not want the Gravel resolution to pass or fail to pass without making known my basic feelings about the whole matter. I do not think we are on the right track when we appeal to the Supreme Court relative to the freedom of debate. The real problem has been the abuse of classified material. I imagine that every Senator has been cleared by the FBI for secret and top secret matters, and I have always thought that every Senator understood the nature of these papers. We can question the validity of a particular classification but the fact remains that if it is classified, it should not be discussed with anyone unless that other person is also cleared for the same level of classification. This to me, is the root of the Senator GRAVEL problem, and I will say here I dislike bringing his name into it but he is a Senator who made public papers called "The Pentagon Papers" which carried high classification at that time. This is not only a problem that has been brought up by the Senator's action, but we have seen a man named Ellsberg do the same thing, and we see a columnist named Anderson engaged in this practice almost daily. The question then comes down to this: How long will the Government tolerate these abuses? How long will it be before someone is placed before a court to test the laws which prohibit the divulging of classified material? The major point to my mind in this resolution is that portion which calls for the payment of all court costs, printing, and so forth. I will have a difficult time explaining to Arizona taxpayers why the costs involved in a case brought on himself by a Senator from another State should be borne in part by Arizona taxpayers. The language of the resolution is practically limitless and having experienced court costs quite recently, I know we are talking about something in six figures and if it becomes known that the Government is going to pay these costs, it could well go higher. I sincerely hope this resolution is defeated and then if the Senate is truly concerned about preserving its right to debate, I would suggest that a wiser, more sensible approach be made to it. To me, this is a very high priced can of whitewash.

AMENDMENT NO. 1080

Mr. SAXBE. Mr. President, I call up my amendment No. 1080.

The PRESIDING OFFICER (Mr. GAMBRELL). The clerk will report the amendment.

The assistant legislative clerk read as follows:

> On page 2 strike lines numbered 6 through 12 and insert the following:
>
> *Resolved*, That any expenses incurred pursuant to these resolutions in the above-mentioned litigation in the Supreme Court shall not be paid from the contingent fund of the Senate or any other public moneys.

Mr. SAXBE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SAXBE. Mr. President, I think that we have heard a very learned discussion here this morning about issues on which we generally agree, issues that have to do with the immunities of the Senate, traditional immunities that go back to the very birth of democracy when parliaments and legislative bodies first assumed authority.

I might say they assumed that authority after a great struggle, because the monarchs of the time were extremely reluctant to give up the power which they then exerted over the judicial as well as the legislative. This is why it is so jealously guarded.

Mr. President, I listened with interest to a whole string of cases which point out that this immunity had been fought over through the years. And we have a great precedent. However, I think that when we come down to the real nitty-gritty, what we are talking about this morning is dollars. And we are talking about assuming a cloak of responsibility in something that we do not want any part of. The minority are refusing to fund expenses that in any way can support the actions of the Senator from Alaska. They do not want to be included even by reference in these actions.

We feel that we can provide an adequate amicus brief to the Supreme Court of the United States. We have agreed to do so and are now preparing such a brief at no cost to the taxpayers.

What we are coming down to here and what the amendment I have offered would take care of is the nitty gritty of the matter: Who is going to pay the expenses of the Senator from Alaska in hiring lawyers to try to defend himself from an action which was wrong. We have discussed the fact that the Senate should adopt legislation, carefully washing its hands of what the Senator did, taking out any reference to his action, involving even his brief and record, over which we want no control.

We say as a minority that we will file a brief, and we will file a good brief. We will let the Supreme Court know what the precedents are. We will represent this situation. And what it is shaping up to be is that the Democratic majority, because they have in effect rallied to the support of a Senator who did something wrong, are attempting to bail him out. They will pay for the attorney's fees and pay the cost of prosecuting this action through the courts and the costs of hiring downtown lawyers who will prepare the brief.

We want this clearly delineated at this point. We, the minority, agree that a brief should be filed. But we think that the people who make the laws can defend those laws and can defend the action of the body of which we are a part.

We can do this without cost to the taxpayer and are willing to sacrifice our time, if necessary, to put together an adequate brief.

It was brought out in the discussion yesterday that laid the groundwork for this that there is no idea of what this fee will be. The fee can be set at any amount. There is no limit. There is no idea of what the total costs are going to be, whom they are going to hire, or how much they will pay. It is as open-ended as it can be. It is something that no legislative body, I believe, should adopt.

So what I foresee here today is that the Democrats with their votes, although very likely they may not like what he did, will nevertheless say: "He is one of ours. We will protect him. We will give him a color of responsibility in his disclosure of these secrets of our Government."

The Republicans say: "We do not want any part of it. We will vote against it. We will prepare our own brief. We will go our own way."

I think that the people of this country when they see that public funds have been expended and see the protection that is extended, will rise up and in no

uncertain terms will let the people and will let the Members of this body know that they consider it to be beyond the scope of his activity.

That is our attitude, and that is why I think this amendment, on which the yeas and nays have been ordered, sets out the first ground that we have to establish, that we are not going to extend the credit of this body for a Member with whom we do not agree and who we think did a wrong thing. We believe that we can offer our own brief and offer a good one.

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield?

Mr. SAXBE. I yield.

Mr. DOMINICK. Mr. President, I rise to support the amendment and support it with great conviction. For the life of me, I cannot understand why the Senate as a body should take the position that it is going to spend its money on legal fees and filing expenses in a case in which an individual Senator has voluntarily intervened in a case in which his own brief goes much further than I would think 90 percent of the Senators of this body would agree to. This case arises out of a blatant disregard for the classification of documents by the executive department and, in the process of doing this, not only disregards it but in fact violates the very laws which we have on the books to protect classified documents.

To ask the taxpayers of this country now to pay the costs of defending actions of this kind, seems to me to go far beyond anything that has ever been suggested in the Senate previously.

I gather that what the Senator's amendment does is to strike out not only the payment of the legal fees and expenses of the Senator from Alaska, but also says that we are not going to pay out of the contingent fund—namely public moneys—any of our own fees or expenses for any intervention by the Senate itself. Is that correct?

Mr. SAXBE. The Senator is correct.

Mr. DOMINICK. Mr. President, it is estimated, I would presume, that we have enough capable lawyers, such as the Senator from Ohio and the Senator from North Carolina, to file a brief which would be agreeable to the rest of the Senate and that the cost of filing of the brief and the printing fees would then be taken care of by voluntary subscription from Members of the Senate and other persons who might want to contribute funds for that purpose.

This gets away from using public tax funds for this purpose. It seems to me that this amendment goes to the heart of what we were discussing at some length last night and what has in fact been described this morning in connection with the colloquy between the Senator from Maryland and the Senator from Tennessee because this gives us some control over our own brief. It gives us some degree of control over how far we want to go in this brief, and it does not impose upon the overburdened taxpayers of this country an additional burden of taking on expenses which they, I am sure, do not want to take on either for the Senator from Alaska or for the protection of the Senate itself.

I want to say in the process of this debate that there are grave problems in the credibility of people in high office these days, be they in the Senate, in the House, or even in the executive branch of government. One finds this wherever he goes in this country. If the Senate should, as a result of our actions here, spend public tax funds on issues which the taxpayer himself feels should not be dealt with, we are further reducing the credibility of this body to be effective in a legislative way as well as in protecting the interests of the people of this country.

Mr. President, you know and I know that we are going to be accused of spending tax money for the purpose of protecting our own membership. Whether it is right or wrong makes no difference. This is going to be the attitude of almost anyone who is not a lawyer or a Member of the Senate. It is an attitude that I am sure will be taken in the public media. As I intended to point out last night, already there has been an editorial in the Scripps-Howard newspapers, in the Washington Daily News, at any rate, stating we should not take any action whatever in paying any fees or expenses of the Senator from Alaska. I certainly subscribe to that wholeheartedly, but I go further. I am not sure we should pay any of the expenses of the Senate in trying to preserve our own immunity in filing our brief before the Supreme Court. We have enough people in this body who are sufficiently concerned and who, I might add, are being paid out of public tax funds already at a fairly high level, that we could do something about the payment of necessary printing fees and court costs on our own without further burdening the taxpayers.

So I rise in wholehearted support of the amendment and I sincerely hope that it will be adopted. I wish that more Senators were in the Chamber so they might be influenced by this discussion. I know how busy everyone is but I think this is a matter of real principle. I wish we could get the membership here so they would be able to listen to the debate.

I thank the Senator from Ohio for yielding.

Mr. SAXBE. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am in complete agreement with the remarks of the Senator from Ohio and the Senator from Colorado. My only disagreement with the proposed amendment, which I will vote for, is that it does not go far enough.

Mr. President, I am not a lawyer; I can only speak as a layman interested in the processes of the Senate. I do not see this particular case as a trial over whether or not we have immunity in debate and statements on the floor of the Senate. I think it is a case of whether or not it is proper for a U.S. Senator to divulge classified material. This, I think, should have been determined by the Senate when the case first occurred. I so said on the floor of the Senate.

We are seeing in this country today the divulging of classified papers by a Dr. Ellsberg, by a columnist named Anderson, and the divulging of these papers by a U.S. Senator.

I think most of us are cleared for secret and top secret by the FBI and other agencies, and I think every Member of Congress understands it is against the law to divulge these classified materials.

I respect this so highly that I have adopted a policy of not keeping secret papers in my office safe any more. I am afraid of what might happen to them. Here at a time in our Nation's history when we are being attacked not only from without but more so from within, I think it is more important than ever that we maintain the classification prerogatives which have been granted to us by the executive branch of Government. We can argue whether or not these classifications are proper—I happen to think we are overclassifying—but nevertheless when a Member of this Congress sees a paper marked confidential, secret, top secret, or for your eyes only, I think it is highly improper and illegal for any Member to divulge this source in any way and at any time. I feel so strongly on this that I have been trying to find ways to bring suit against the newspaperman I have mentioned for his divulging of secret papers and for continuing to do that. Unfortunately, I find there is no way a civilian can do this; it has to be carried out by the U.S. Government; and I am urging the proper authorities to do this.

We are risking the future of our country, we are risking our defense plans, we are risking the future of our defense thinking, and we are risking the future of our foreign policy thinking when we allow anybody to see classified papers.

I would hope, although it is a late date, and with no disrespect to the Senator from Alaska, that we can look into this matter as the U.S. Senate, as suggested at that time and turned down by the leadership on both sides, to determine the propriety of the actions. I think this is what should be determined. I do not think there is any question about our right of freedom of discussion, but I do maintain there is a matter of propriety in the use of materials and papers that come to us in a highly classified way.

I agree wholeheartedly with the amendment. I do not think we should pay one dime, one cent of taxpayer money in the defense of any Senator at any time. I would be perfectly willing to paritcipate in a fund to provide printing costs. I understand they are relatively low. But I think we would be taking an action here that would be highly improper and distasteful.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator's time has expired. Who yields time?

Mr. SAXBE. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

Mr. ERVIN. Mr. President, I ask unanimous consent that the quorum call be had without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I send to the desk an amendment in the nature of a substitute for amendment 1080. Since I have written it out in my own handwriting, and my handwriting is extremely difficult to read——

The PRESIDING OFFICER. The Senator's amendment would not be in order until he has yielded back his time on the pending amendment.

Mr. ERVIN. I thank the Chair. I have some thoughts on the pending amendment.

I oppose the amendment offered by the distinguished Senator from Ohio. I personally think that the Senate should authorize at least the costs incurred in preparing and filing an amicus curiae brief. The amendment offered by the distinguished Senator from Ohio would preclude even the payment of this item of expense, because it would exclude the payment of any item of expense incurred or to be incurred by the Senator from Alaska as a party to the proceeding in the Supreme Court, and it would also preclude the payment of any cost of expense incurred by the subcommittee in the filing of an amicus curiae brief.

I think it is a proper part of a diligent defense for the Senate to pay the expenses incurred by a Senate committee. I just do not believe that private individuals should defray the costs of the filing of an amicus curiae brief for the Senate.

I agree with the distinguished Senator from Ohio that other Members of the Senate are capable of filing a brief in this case. I would number among those the distinguished Senator from Ohio, who has had a most distinguished career as attorney general of his own State.

Mr. SAXBE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. SAXBE. I thank the Senator for the fine compliment.

To avoid getting into an involved parliamentary situation here, in an area where I think that we can present this issue rather rapidly, if we yield back our time on the pending amendment and then the Senator offers a substitute, it would mean, then, that if I wanted to strike that part of the Senator's amendment dealing with the filing fees and the printing fees, it would be in the third degree and would not be proper. I have here an unedited transcript of a discussion we had this morning in that regard.

Would it not be true that if I were to ask unanimous consent to withdraw my amendment without prejudice, and then the Senator offered his substitute, then I would be in the first degree were I to offer an amendment to strike?

Mr. ERVIN. That would simplify the procedure very much.

Mr. SAXBE. Mr. President, I ask unanimous consent that the amendment which is before the Senate, on which the yeas and nays have been ordered, be withdrawn without prejudice at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2676) to provide for the control of sickle cell anemia, with amendments, in which it requested the concurrence of the Senate.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDENT pro tempore subsequently signed the enrolled joint resolution.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS OF THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The Senate continued with the consideration of the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Mr. ERVIN. Mr. President, I send to the desk a substitute resolution.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read the substitute resolution, with its preamble, as follows:

Substitute resolution replacing S. Res. 280.

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; and be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

Mr. ERVIN. Mr. President, the Senator from North Carolina has been informed that under the rules of the Senate, a substitute changing the preamble to the resolution is not in order at this time. For that reason, I ask that the preamble as stated in the proposed substitute be withdrawn.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The Senator will state it.

Mr. DOMINICK. It is my understanding that this is offered as a substitute for the resolution which was originally before us and as such would be considered as a whole.

The PRESIDING OFFICER. The Chair will state that this is a substitute for the whole resolution but that the amendment to the preamble would not be in order at this time.

Mr. DOMINICK. Is it the ruling of the Chair that all we were considering in this are resolving clauses, even though the entire amendment is before us?

The PRESIDING OFFICER. The Senator from North Carolina is offering a complete substitute for the resolving clauses of the resolution.

Mr. MATHIAS. Mr. President, reserving the right to object, I ask the Senator from North Carolina whether it is his intention, at a proper time in these proceedings, to offer the substitute for the preamble.

Mr. ERVIN. Yes.

In other words, as I understand the rules of the Senate, it would be improper at this time to attempt to change the preamble to the resolution, but if the resolution is adopted in its present form or in an amended form, then it would be entirely in order to amend the preamble itself; and the Senator from North Carolina will certainly offer an amendment to that effect at the proper time.

Mr. MATHIAS. I rest on the Senator's assurance.

(At this point Mr. GOLDWATER assumed the Chair.)

Mr. ERVIN. Mr. President, I think the crucial question presented by the original resolution and by the proposed substitute for the original resolution is whether the Senate, as an institution, should file an amicus curiae brief in its own behalf.

The Senator from North Carolina rec-

ognizes that the distinguished Senator from Alaska has incurred counsel fees in the U.S. district court, has incurred counsel fees in the U.S. Court of Appeals for the First Circuit, and has incurred various expenses in connection with the litigation in those two courts. While the Senator from North Carolina would be glad to support a resolution of the Senate to reimburse the distinguished Senator from Alaska for reasonable counsel fees and expenses incurred in this litigation, the Senator from North Carolina believes that that question should not be combined with the question of whether or not there should be reimbursement for past counsel fees or reimbursement for future counsel fees incurred by the Senator from Alaska. To my mind, that question, while of great importance to the Senator from Alaska, is of secondary importance to the Senate.

The changes in the original resolution which were made by the substitute can be stated to be three in number.

In the first place, the substitute strikes out the word "legislative" before the word "activities," in referring to the activities of the Senator from Alaska which gave rise to the case now pending in the Supreme Court. There is some objection by some Senators to the use of the word "legislative," on the ground that the event which gave rise to the litigation was not strictly legislative. I think that question is immaterial for present purposes, because what is material is the activities involved and whether or not they were within the scope of the speech and debate clause of the Constitution. So that is an amendment to which I think no one can reasonably object.

Second, there is a provision in the substitute which puts in a restriction which I think prudence requires to be placed in the resolution, authorizing the expenditure of money for any purpose under the resolution, and that is that those expenses shall be subject to the determination of the Senate or the rules of the Senate and not result in haggling between outside parties and the Members of the Senate or the Committee on Rules and Administration.

The most crucial change that is made by the substitute is this: The original resolution provided, in substance, that the expenses of the Senator from Alaska for counsel fees and other expenses in presenting his case to the court should be paid out of the contingent funds of the Senate. This provision has provoked a considerable difference of opinion in the Senate, and it poses a danger with respect to the crucial question—that is, whether the Senate, as an institution, shall intervene in the case in order to establish the prerogatives of Senators—and is combined with a matter which is alien to that.

So the Senator from North Carolina believes that the Senate should pay out of the contingent funds of the Senate the cost of printing the briefs and the cost of printing the records devolving upon the Senator from Alaska in order that the question might be presented by him. This expense would be comparatively small, and the substitute resolution would provide for the payment of that expense—merely the expense to be incurred or which has been incurred thus far by the Senator from Alaska solely in printing records and briefs for the Supreme Court.

That, in effect, is the sum total of the changes made by the substitute amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. DOLE. I am wondering whether there is any precedent either for paying or for not paying such fees, whether they be printing fees or attorney's fees. Has another Senator been involved before in a similar situation?

Mr. ERVIN. Yes; there is precedent.

Some months ago, all the members of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations were sued in the U.S. district court by a man——

Mr. DOLE. I understand. As the Senator has said, two questions are involved—first, the Senate as an institution; second, a Senator as an individual and his conduct.

I understand that the attorneys' fees are paid in cases involving the Senate as an institution. But I do not see the point when considering individuals acting on their own behalf.

For example, did Senator Joseph McCarthy have legal fees that were picked up by the Senate?

Mr. ERVIN. Senator McCarthy refused. It was proposed at the time of the censure proceedings against Senator McCarthy that the Senate should pay fees for the counsel, who was Edward Bennett Williams, who appeared on behalf of Senator Joe McCarthy at the hearing before the Watkins committee of which I happened to be a member. Senator McCarthy said that he did not desire to have those fees paid by the Senate. Edward Bennett Williams, his counsel, said that he did not desire to have the fees paid by the Senate. That was done in that case. But the case I started to mention is the one where I was sued for $50,000, which I did not have, as well as other members of the Permanent Subcommittee on Investigations. The obtaining of counsel and the payment of counsel fees were authorized by the Senate notwithstanding the fact that the case has never yet come to trial, and I trust that it never will come to trial.

I think of the case where Senator JAMES EASTLAND of Mississippi, as chairman of the Internal Security Subcommittee of the Committee on the Judiciary, and Mr. Sourwine, chief counsel of the Subcommittee on Internal Security of the Committee on the Judiciary, were sued for actions taken by Mr. Sourwine, as the Senator's counsel. In that case, the Senate paid the fees of counsel for both parties.

Mr. DOLE. There, the suit was brought against a group of Senators, but here the Senator from Alaska voluntarily intervened. That may make no difference. I am not certain which is why I am asking the distinguished Senator from North Carolina. But, I do see some difference. The McCarthy case is the only one I recall which involved the issue of revelation of classified information by a Senator. There were probably others prior to that time. We must also keep in mind that the Public Works Committee, which is a part of the Senate and has certain jurisdiction, met and did not agree to pay any transcript costs. Thus, I wonder why the full Senate would agree to pay any other costs of an individual Senator.

Mr. ERVIN. Well, of course, that is a question for the full Senate. I can see why there might be differences of opinion on that point. The Senator from North Carolina believes, however, that this is a justifiable expense the Senate might well incur; and so the Senator from North Carolina offers this substitute with the provision that the Senate pay out of its contingent fund the cost of the printing of the records and the briefs, but no other costs incurred by the junior Senator from Alaska.

Mr. DOLE. I assume it will be, but recently it has been discussed in our conference, and perhaps individual Senators might want to intervene in this case. Will this cover those? Will it pay for preparing their records and briefs?

Mr. ERVIN. No; I doubt seriously whether the Supreme Court would entertain a petition for intervention of amicus curiae on behalf of an individual Senator. Usually, that is restricted to organizations. This would cover only two items. It would cover the items incurred for all purposes by the bipartisan committee in connection with the filing of an amicus curiae brief on behalf of the Senate as an institution, and it would cover, in addition to that, only expenses incurred by the Senator from Alaska in the printing of the records and the briefs in the Supreme Court.

Mr. DOLE. But any other Senator——

Mr. ERVIN. I might add, and it is right interesting in this connection, that this case has three sides to it: the Senate side, the side of the Senator from Alaska, and the side of the Government.

Certainly, printing the briefs and the records of the Senate should be paid for by the taxpayers. The printing of the records and the briefs of the Department of Justice will be paid for by the taxpayers; so that I think as a matter of equity, to make certain that the Senator from Alaska can present his case in printed form, the taxpayers should also pay for the cost of printing his records and briefs as incurred by him.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, it appears to me that we are getting away from the main subject; namely, the integrity and the protection of the Senate, and that we are concentrating our fire erroneously on the merits of a case including an individual Senator, a Senator who happens to be a Member of this body in good standing. I might say that in my judgment this Senator had the right to do what he did when he did it, when he took the floor of the Senate on that night some months ago. This Senator also has incurred a great deal in the way of expense since that time. This Senator has, regardless of our personal feelings, been carrying on primarily not his fight but our fight.

No matter which individual Senators were involved, I would take the same position. I would, therefore, hope that we would not become so undignified in this body as to quibble over an amount which probably will not exceed $500 or $600. I think it is undignified for this institution to act in this manner. But even more importantly, I would hope we would recognize the larger issue—the only issue—that is here at stake.

If we want to find fault with a Senator—his name is hardly mentioned except that he is from Alaska—then the Senate should take what it considers the necessary action. But the Senate should do it on its own, apart from what the executive branch is trying to do—and I think that branch is entirely without the scope of its constitutional authority and responsibility—and what the judicial branch may do; and what those two branches of Government, together, may be able to accomplish unless challenged properly, amounts to a degradation of the Senate and constitutes waiver of our immunity.

As the distinguished Senator from North Carolina has said, this goes back to the days of the English kings. Mr. President, if you have not got immunity within these four walls, or in undertaking tasks in connection with these four walls, then you are losing the right to speak freely in this body.

That is the big issue.

If we want to "get" the Senator, then bring it out in the open and get him.

If we want to protect this institution, the Senate, I think we had better think twice and act together, because the Senator is not on trial. Basically, the Senate is on trial.

Mr. SAXBE. Mr. President——

The PRESIDING OFFICER. (Mr. BENTSEN). The Senator from North Carolina has the floor.

Mr. ERVIN. Mr. President, I want to say that I concur fully with what the distinguished majority leader has just said. I think that this question of classification in the case of the Pentagon Papers is largely beside the point. The Supreme Court has held that the New York Times and the Washington Post which acquired possession of the Pentagon Papers, in some way unknown to the Senator from North Carolina, could not have their rights under the first amendment to print the Pentagon Papers in the daily press restrained by the courts.

I think that is beside the point. There may be involved some argument on the question of law, as to the extent a Senator's counsel can go in the matter, but the important thing here is whether the Senate is sufficiently concerned about an attempt, not to exonerate a Senator, but an attempt to make a Senator answer, in some place other than the Senate, for his actions.

I take the position that if any individual Senator—I do not care much whether he disagrees with me, and I do not care how unpopular his views may be—cannot say what he wants to say at any time, then freedom in this Republic of ours is drawing to an end.

Certainly, on the question of classification or declassification, I can see a lot of controversy, as I have seen some of the most foolish things done in the name of classification that ever happened in this country.

It goes to the principle and the scope and the effect of the speech or debate clause and is of the greatest concern to the Senate. And I think it is justifiable to defray the mere cost of printing the brief and record which may be incurred by the Senator from Alaska in presenting this case to the Court and in making it possible—he and the Government making it possible—for the Senate to intervene.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, first I want to commend the Senator from North Carolina for introducing a substitute which goes a long way to correct some of the things that we found wrong with the original resolution. He makes it a bipartisan committee. He makes it a committee that can determine and fix the fees for any counsel that this committee needs. This committee will represent the Senate. In other words, we are not turning it over to outside counsel. But they will be empowered to employ counsel.

I think the Senator has gone a long way in recognizing that there are areas here that are repugnant to a great many Members of this body.

Some of the things are still not acceptable. However, in reply to the statement of the Senator from Montana, I point out with reference to his statement that we are isolating a Senator and censoring him, that I can only recall that this incident happened last June and not one step has been taken in the Senate toward any censure. It seems to me that, if we have a case to come before the court and say to the court, "You keep out of our business. We will police our own house," it will be very evident that nothing has been done.

I think, too, that, when the Senator from Montana says that the Senator from Alaska was fighting our fight, the Senator from Alaska was then before a rump session of the Buildings and Grounds Subcommittee in a room at midnight and disclosing classified documents of the U.S. Department of Defense and he is not fighting my fight. Such an idea is repugnant to me.

The very fact that we find ourselves in this situation is in itself a sorry reflection on the behavior of this Member of the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SAXBE. I yield.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, what I am referring to in my remarks was the court actions which had been undertaken. Although I am not a lawyer, I think I am on good constitutional grounds when I state again that on the basis of the participation of the Senator from Alaska in these court fights he was upholding the interests of the Senate under the Constitution.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. SAXBE. Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, like the Senator from Ohio, I want to inject a couple of statements about the statement made by the Senator from Montana. I know how deeply he loves the Senate. I know how deeply we all love the Senate. We may disagree with other Senators back and forth on certain matters, but as Members of this body we cherish what has been going on here for nearly 200 years under the Constitution.

I do not think, as the Senator from Montana said, that we are quibbling over $500. We are not quibbling about that. We are quibbling about a matter of principle. The question raised is whether the Senate and the taxpayers should—because they provide the funds by way of taxes—pay for the brief of the Senator from Alaska who was trying to extend immunity and anoint everyone that he has been in contact with since he has held office. That is not my idea of what the taxpayers or what the Senate of the United States ought to be asked to do. Insofar as secret sessions are concerned, we have had them in this body. They have been held in executive session. The galleries have been cleared and the press galleries have been cleared any time that anyone wanted to reveal any secret or classified information for the benefit of the Senate.

This particular material that was printed in a subcommittee hearing record by the Senator from Alaska was for the express purpose of publicizing classified information. It is exactly the opposite of what we have done in every other case.

I cannot say that we can put this on a par with other cases. Going beyond that and doing my best to be levelheaded and doing no more than expressing my disagreement with what went on, I point out that this substitute is certainly much better than the original measure. However, it does include, as I have said, the very problem over which we started the debate: Is there an obligation on the part of the Senate to try to extend—I should say try to extend by paying the expenses of the Senator from Alaska—the immunity in the words that are within article I, section 6, not only to a Senator and his aide, but also to every associate with whom he has ever dealt?

That is what we will do if we pay for the printing costs and for the costs of the filing of the brief, which has been done by the Senator from Alaska, as I understand it.

It has been said on the floor that this needs to be done because otherwise we do not have a case on behalf of the Senate to get before the Supreme Court. That is not so. We have the Government brief, and we have the petition granted by the Supreme Court.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield, if that is all right with the Senator from Ohio.

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Mr. SAXBE. That is perfectly satisfactory.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I would like to ask the Senator a question. I sympathize with him. There is a certain amount of rationality to his position. That is beyond dispute. However, I would like to ask him this question: Would we have felt differently if this were not what has been termed a "rump session"?

Mr. DOMINICK. If the Senator from Alaska had classified documents and had them written into the record and distributed them, I think I would have felt the same way.

Mr. PASTORE. Regardless of whether or not it were a legally called session?

Mr. DOMINICK. Yes; I think that does not involve the principle of privilege or the principle of law that the Senator from Alaska tried to establish.

Mr. PASTORE. The principle of law is senatorial immunity.

Mr. DOMINICK. No; that is the difficulty. If I may say so, senatorial immunity has been granted. And it has been granted to Rodberg by both lower courts.

The Senator from Alaska is appealing the decision to say that the immunity should be extended to everybody he has dealt with, whether on his staff or not.

Mr. PASTORE. Provided there is that intimate confidentiality and contact whereby that person in question acts in a certain way to enlighten the Senator so that the Senator can talk for the benefit of the people he represents.

Mr. DOMINICK. Well, the Beacon Press and the Massachusetts Institute of Technology Press, are all considered to be under this blanket. Certainly they are not all intimate confidants of the Senator.

Mr. PASTORE. I think we should draw a line of demarcation here between the jurisdiction of the Senate in deciding the qualifications of its Members and the jurisdiction of the executive branch or the judicial branch to tell us what they tolerate.

The Constitution says merely that the Senate should be the judge of the qualifications of its own Members.

Mr. DOMINICK. The Senator is correct.

Mr. PASTORE. The point is: When we brought up this matter in the Policy Committee—and I mean no disrespect of the Senator from Alaska—the consensus was that we did not agree with what the Senator had done. All were unanimous however that he had a right to do it. As the Senator from North Carolina has said—and I think this is strong language and I hope the Senator does not take offense, because this is not personal but merely an hypothetical illustration—if a Senator wants to make a fool of himself, that is his responsibility. But if he violates the rules of the Senate or if he violates the decorum of this body, that is another matter. The Senator has mentioned censuring on the part of the Senate. But what we are talking about here is this:

If GRAVEL loses his case before the Supreme Court is it really GRAVEL who has lost or have some of us lost in the future when the question of immunity arises? Is it the Senate that has lost? That is the important question and it is what the Senator from Montana is talking about.

We had hoped we could have made this a bipartisan measure; we would have lifted this up from a judgment whether you agree with the Senator or not.

Frankly, I tell the Senator from Alaska while he is here I would not have done what he did. I do not agree with what he did. But in my heart I cannot say he did not have the right to do it. The very prerogatives and the very rights of the Senator are now in question and the big question is: Who passes upon that? Who determines that?

Do we determine it here in the Senate or do we let the court of the executive branch do it? It is as simple as that.

Mr. DOMINICK. Mr. President, I say to the Senator from Rhode Island that I commend the major portion of his speech but I think we have some very difficult questions, some of which were raised by the Senator from Tennessee earlier.

Suppose, for example, the Senator and I both, as we do, serve on the Joint Committee on Atomic Energy and in the process we get highly confidential information. Suppose one of the Senators or one of the House Members, whoever it might be, decides for himself that he is more sensible about these things than anybody who classified them and gets up and makes a speech on the floor. I would say he is not subject to question on this, despite the fact he might have been a fool and might have jeopardized the security of the information. Whatever body is then in charge, whether it be the House or the Senate should take action and do something about it, and do it promptly. That is one case.

But that is not the case facing us here and that is my point. What we are saying here has been decided already by the court. The Senator from Alaska is trying to extend that immunity not just to himself and his aides but all associates who were in any way connected with the publication of the documents which were classified as secret and sensitive when released.

I know the Senator from Rhode Island could not be here yesterday; but at that time, I said that if that is done we are taking on the right of the anointment of anybody in the country by telling them material which is classified and having them repeat what we told them and because we have told them they are immune also. I do not think we can go that far.

That is why I am unwilling to pay printing costs and legal fees for this position in the Supreme Court.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. PASTORE. Would the Senator from Colorado question the right of the President to exercise executive privilege in having one of his aids not answer a subpena of Congress?

Mr. DOMINICK. No, I would not.

Mr. PASTORE. Then, why does not that same privilege extend to one of my employees who is operating for my benefit in order that I can execute my job.

Mr. DOMINICK. I think it does, and I hope it does.

Mr. PASTORE. Is that not what this case is all about?

Mr. DOMINICK. No. The question is whether the Senator can anoint anyone not on his staff and make them immune. That is the issue.

Mr. PASTORE. We are trying to interpret the immunity of the Senate and how far it goes as to its Members, and the question here is: How far does it go? I think the Senate should decide that question and not the court.

Mr. DOMINICK. I say to the Senator that I think we are largely in agreement, but having studied this matter very carefully I think we are going far beyond that. I agree with the Senator that we should do whatever is necessary and take whatever disciplinary action is warranted and as the Senate we should do it ourselves.

Mr. SAXBE. Mr. President, I offer an amendment in the nature of a motion to strike.

The PRESIDING OFFICER. The amendment is not in order until time has expired on the amendment.

Mr. ERVIN. Mr. President, I think a most serious question is involved in the Gravel case, a question which concerns the Senate and whether it is going to function in an effective way as a legislative body or an investigating body.

As I construe the appeal of the Gov- the Government has appealed to the Supreme Court. A writ of certiorari has been issued, as the Senator from Colorado said, and that is what gives me pause; that is what makes me feel the Senate as an institution should intervene in the case.

As I interpret the record in this case, the Government challenges a decision of the court of appeals for the first circuit that the speech or debate clause extends to an aide of a Senator. I do not think this Senate could possibly function effectively in the present day, when the Federal Government is concerned and Congress is concerned with multitudinous affairs, if the immunity of the speech and debate clause of the Constitution did not extend to aides. This is so because a Senator could not possibly function for a single day without the assistance of his aides.

It is true, as the Senator from Colorado said, that the U.S. Court of Appeals for the First Circuit has held, and I think for the first time—it is the first holding of this kind I know of—that the immunity given to a Senator, under the speech or debate clause, not to have to be called on to answer for his actions in the execution of his office, extends to his aides. I think it is absolutely essential for the Senate to intervene in that case and assert that point.

We are not trying the Senator from Alaska. It is not a question of whether the Senator from Alaska acted wisely or foolishly when he convened the subcommittee and read part of the Pentagon records into the minutes of that committee.

We had a judge in my town one time who was elected superior court judge. He went out into a strange county and held court. There was an old lawyer there named Colonel McLean. Colonel McLean went in the courthouse and listened to the judge operating and he came out of the court and somebody stopped the colonel and said, "What do you think about the new judge?" The colonel said:

The Constitution gives every man a right to make a damn fool of himself but I think the judge is abusing his constitutional right.

Now, the question of whether a man who is a Member of the Senate is making a damn fool of himself and the question of whether he is abusing his constitutional right to do so is a question which the Constitution reserves exclusively to the Senate and it is a power which the Constitution denies to the court and the executive branch of Government.

The question, as I see it, of whether the committee was regularly convened or irregularly convened is beside the point. I read to the Senate this morning from the opinion of Chief Judge Parsons of the Supreme Judicial Court of Massachusetts, as quoted by Justice Frankfurter in the case of Tenney versus Brandhove.

Chief Judge Parson's statement is quoted with approval by Justice Frankfurter as follows:

I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

That is beside the point.

The Constitution of the United States gives the Senate the exclusive power to judge the conduct of a Member of the Senate occurring within the Senate or within a committee or within the scope of his office. It provides, in article I, section 5, that each House may punish its Members for disorderly behavior. That is the provision of the Constitution under which the late Senator Joe McCarthy was censured by the Senate. That is the provision of the Constitution under which the late Senator Dodd was censured by the Senate.

The court of appeals, in the case against Senator Couzens, put its finger squarely on this proposition. We are not trying the Senator from Alaska for disorderly conduct. We are merely determining whether the Senate as an institution should intervene in this action in order to protect its prerogatives as a Senate and the prerogatives of each Senator.

The court said, in the Couzens case:

Presumably legislators will be restrained in the exercise of such a privilege—

That is, the privilege of speaking and taking action—

by the responsibilities of their office.

Then it says:

Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues.

As the distinguished Senator from Rhode Island has so well said, the question before us at the present time is not whether the Senator from Alaska acted wisely or foolishly, or whether we approve or disapprove of his conduct. The question before us is whether the constitutional provisions say we are the only ones who can judge a Senator on the basis of his conduct within the four walls of the Senate, or whether that power could be exercised by the executive or the judicial branches.

Mr. PASTORE. Mr. President, will the Senator yield?

We have a classic case right here at the moment which should be dramatized. We have both the Senator from Ohio and the Senator from Colorado conferring on the floor with their assistants.

Let us assume, by some stretch of the imagination, that the Attorney General was displeased with something suggested by the Senator from Ohio or the Senator from Colorado during the progress of this debate. Could he then justifiably bring before a grand jury the two aides who had been whispering in their ears? Is that not the question? Here they are, and they are sitting here, and they are consulting. It is part of their function as Senators to have advisory employees, and if the principal could not be reached, could the Attorney General, by subterfuge, reach the assistants, bring them before the grand jury, and ask, "What did he say to you and what did you say to him"?

Mr. ERVIN. That is my interpretation of the position of the Government. The Government contends that they could do exactly what the Senator from Rhode Island suggests—that they could subpena the aides to testify not only on what occurs on the floor of the Senate, but what occurs between them in a senatorial office or in a senatorial committee.

I think it is essential for us to sustain the ruling of the court of appeals on this point.

Mr. DOMINICK. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time of the Senator from North Carolina has expired.

Mr. DOMINICK. Will the Senator yield me 30 seconds or 1 minute?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may have 1 minute.

The PRESIDING OFFICER. The Senator from Ohio has time, the Chair will point out.

Mr. SAXBE. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I wanted to reply to the Senator from Rhode Island, because I think he brought up a very interesting point. I would say to my colleagues that there is no doubt whatsoever that aides should not be subject to subpena or cross-examined as to anything that happened on the floor. I am not so sure as to whether they might be summoned and questioned about their connections with other people other than their Senator-employer. It is on that point that I believe the Justice Department has taken issue with the court decision toward giving total immunity. Anyhow, it is not the aide situation in this case that the Senator from Alaska is contending for. It is not that. He is already immunized. He is seeking to extend the immunity to people who are not aides, who are so-called associates, who have been contacted outside the burden of any legislative duties.

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has expired or been yielded back.

Mr. SAXBE. Mr. President, I send to the desk an amendment in the nature of a motion to strike.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 3 in the third resolution, after the word "resolutions" strike the following: "including the expense incurred by the junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall" . . .

Mr. SAXBE. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. SAXBE. Mr. President, this amendment goes directly to the disagreement we have on the substitute. I think we can resolve the disagreement and we can accept the substitute as a reasonable compromise between both the minority and the majority in seeing that the Senate is adequately represented by a committee of the Senate, and that this committee would have the services of any attorneys they thought they were required to have to give them further advice.

We questioned whether we could not do all this on our own, but we do come to the conclusion that the part in the original amendment which has to do with the substitute, which has to do with paying the printing expenses of the Senator from Alaska, has been accepted. Therefore, this motion, which I deem is a simple motion, strikes that language, so that it will read that any expenses incurred by the committee pursuant to these resolutions be paid from the contingent fund of the Senate.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SAXBE. I yield.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Ohio, and wanted to comment on the statement made earlier by the Senator from Montana. I do not believe there has been any effort by anyone to embarrass the Senator from Alaska. I serve on the Public Works Committee and I see the chairman is here. I do not believe there has been any effort on the part of that committee to bring any embarrassment to anyone. This was a matter for the leadership to determine, but there is a matter of principle involved, whether we should be represented in the court.

I find it particularly interesting, as a minority member of this body, and with all the rights and privileges that we have, that there may be some precedent set on the basis of what the Senate does in this case, without any reference to the Senator from Alaska or any other person. Certainly, it is not the intention of the Senator from Kansas

or any other Senator to embarrass anyone. But I do believe, even though there may be no direct relation between that and what the issue before us is, what we do here today may set precedents and guidelines on the conduct of Senators, and particularly, minority members. We may have certain rights, too, as minority members.

As said yesterday—and I was challenged for making it partisan—we should consider at some time, if not in this debate, at some executive session, some guidelines on the rights and privileges and just how far a Member of the Senate may go. Can a Senator conduct an unauthorized meeting? Can a Senator invite the press to that meeting and then read classified documents? Can a Senator investigate any matter that he may want to investigate? Can I call a meeting in my office and investigate, as I said yesterday, the I.T. & T. or the A.T. & T., or anything else that may come to mind?

Apparently so and apparently I can make a public record of it if we establish this precedent.

I believe the Public Works Committee answered the question the Senator from Ohio has raised. It is my recollection that the Public Works Committee took no action on the cost of the transcript, and since we did not pay for the transcript, I see no reason for the Senate to pay from its contingency fund any amount for the brief. But if we are going to pay the cost of the brief, the Senator from Alaska's attorney's fee should be paid also. Either it is all right or all wrong; not half right and half wrong.

There is no question about the amount of the money, as the Senator from Colorado has said, whether it be $2,500 or $25,000. I have no information as to whether there was any profit made from the Beacon Press on the publication of these matters. That may be relevant as to whether we should pay any amount at all. But I do believe that at a meeting of the Public Works Committee, without any staff or official reporter present, it was decided that we take no action. The committee neither condoned nor condemned, as I recall, the actions of the Senator from Alaska.

The Senator from West Virginia is here, and he can state whether or not that is correct, that we did not agree to pay for the transcript, and that payment was made by the Senator from Alaska and the Senator from Connecticut.

Mr. RANDOLPH. Mr. President, will the Senator yield at that point?

Mr. DOLE. I yield.

Mr. RANDOLPH. What the Senator has said is correct.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, it is important to realize, as the Senator from Colorado has pointed out, that the Senator from Alaska applied for a writ of certiorari and the Department of Justice applied for a writ of certiorari. It is important to see what the Department of Justice is attempting to persuade the Supreme Court to rule on the appeal. I hold in my hand the petition of the Department of Justice on behalf of the United States for a writ of certiorari from the ruling of the U.S. Court of Appeals for the First Circuit. Let us see what the Department of Justice complains about, as a basis for procuring review of the decision of the Circuit Court of Appeals. I read from page 8 and the following pages of the petition. It complains of the following ruling by the Circuit Court of Appeals, and I think by the District Court:

> Dr. Leonard S. Rodberg may not be questioned about his own actions "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention" while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

This is the ruling of the Court of Appeals to which the Department of Justice excepts, and asks the Supreme Court to review it.

I read further from the Department of Justice petition:

> This case presents important issues under the Speech or Debate Clause of the Constitution. The court of appeals has interpreted the Clause more expansively than is justified by its language, by decisions of this Court or by the basic purpose of the Clause. It has also created a novel common law privilege that prevents questioning a legislative aide about matters not reached by the Speech or Debate Clause. The immediate impact of its rulings is effectively to bar inquiry by a grand jury into possible serious violations of the federal criminal laws. The decision also has the potential of impeding future grand jury investigations and precluding institution of otherwise legitimate criminal prosecutions. A decision of that significance warrants review by this Court.

This is the basic position of the Department of Justice, and the position it is going to press upon the Supreme Court in hearing the appeal.

The petition continues:

> The basic purpose of the Speech or Debate Clause is "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their action" (*Powell* v. *McCormack*, 395 U.S. 486, 505). Its goal is "to prevent intimidation by the executive and accountability before a possible hostile judiciary" (*United States* v. *Johnson*, 383 U.S. 169, 181). Although the primary intent of the Clause is to protect Congressmen from legal accountability, there is substantial justification for the court of appeals' conclusion that it also immunizes Senator Gravel from questioning "about" his legislative conduct by a grand jury, even though there is no possibility of his criminal prosecution.

The petition then goes on to the question of the aide, and whether the aide has or should have any immunity. The Department of Justice, and the position it is that point:

> No similar justification exists, however, for extending the Clause to immunize persons other than members of Congress from questioning by grand juries about Congressmen's legislative conduct. Conceivably the grand jury testimony of those persons touching on the performance of legislative acts might embarrass or impugn the motives of a legislator and conceivably that possibility might inhibit a Congressman in performing his legislative activities. But such inhibitions might also result from the possibility of criticism of a legislator's speech or conduct by constituents, other members of Congress or the press; legislators are no less sensitive to criticism than other people.

I digress from the reading to observe that if the Senator from North Carolina reads that rightly, the Department of Justice takes the position that the right of a grand jury to summon the aide of a Senator to testify about the Senator's conduct is to be likened unto the right of a constituent to criticize the Senator, or the right of the press to comment on the Senator's action.

That is a strange argument to the Senator from North Carolina, in view of the restrictions in the speech or debate clause.

I read further from the petition for certiorari:

> This kind of hypothetical hindrance of legislative activity is of a different order from that which would occur if the legislator himself were required to answer to the Executive or Judiciary or appear before a grand jury. His own time is in no way being expended. Nor is he personally being distracted in the performance of his legislative duties. See *Powell* v. *McCormack*, *supra*, 395 U.S. at 505.
>
> Whatever minimal added protection against harassment the legislator would receive if third-party testimony were barred is substantially outweighed by the strong public interest in unimpeded grand jury investigation of crime. Testifying before a grand jury is a public duty of the highest importance. The interest of society "is best served by a thorough and extensive investigation * * *." *Wood* v. *Georgia*, 370 U.S. 375, 392. See also *United States* v. *Johnson*, 319 U.S. 503, 513; *Blair* v. *United States*, 250 U.S. 273; *United States* v. *Bryan*, 339 U.S. 323; *Brown* v. *Walker*, 161 U.S. 594; *Hannah* v. *Larche*, 363 U.S. 420, 499 (Mr. Justice Douglas, dissenting). The public interest requires that all witnesses having knowledge of relevant events give their testimony. The court of appeals has seriously restricted the ability of the grand jury properly to perform its function in a manner that is unnecessary to implement the protections of the Speech or Debate Clause.

I digress from the reading to say it is rather astounding to the Senator from North Carolina that the Department of Justice overlooks the fact that there are many provisions in the law, such as the self-incrimination clause and many other rules of law, that prevent testimony being given to grand juries, or even to petit juries; and to place a higher value on the function of a grand jury to make an inquiry than upon the duty of a legislator to legislate for the interests of 200 million people in the United States seems to me to be acting upon a basis which is not only contrary to the Constitution, but also to what we call, in North Carolina, good horsesense.

I read further:

> Neither the language of the Clause nor relevant judicial interpretation requires this result. The Clause covers only "Senators and Representatives." As this Court pointed out in *United States* v. *Johnson*, 383 U.S. 169, 177–178, the constitutional provision is based on the formulation contained in the English Bill of Rights of 1689, which refers to "Freedom of Speech, and Debates or Proceedings in Parliament."

I invite the attention of the Senate to the next sentence:

> Neither of these provisions even suggests that the privilege was intended to extend to other persons merely because they have working or business relationships with a legislator.

In other words, the objective of the Department of Justice in applying for a writ of certiorari is to have it held that the Federal grand juries can subpena an aide of a Senator to testify about his connection and his activities within the scope of his employment by a Senator.

If the Supreme Court should accept that kind of view of the speech or debate clause, the speech or debate clause, under modern conditions, would have no value whatever for a legislator.

So I say that shows how serious is the question of the intervention of the Senate as an institution; and that is the matter involved in this case, rather than the conduct of the individual Senator whose activities gave rise to this case.

Mr. DOMINICK. Mr. President, I yield myself 7 minutes.

I listened to the Senator from North Carolina with my usual great interest. He analyzes things very carefully and very well, and he gave his side of the case against this amendment in a rather clear-cut way.

What he is saying is that we ought to pay Senator GRAVEL's filing fees and costs for briefs so that the Senate can intervene and object to what the Department of Justice is urging. In effect, that is what he is saying. With all due respect, this means that we are asking the taxpayers of this country to finance both sides of the issue. They already have paid for the Department of Justice. Now they are being asked to pay for the Senator from Alaska.

I have no objection to our going forward and paying our own expenses as a senatorial body, to make sure that the integrity of the Senate is maintained. I will agree with that. But I will not agree to expending taxpayers' money for the purpose of financing both sides of a dispute which the Senator from Alaska, in effect, brought on himself—not necessarily just by what he did in the committee, but by his intervention in a case in which Dr. Rodberg, I presume, could have brought up the same issue if he had wanted to do so.

We have a hypothetical situation as to whether any wrong has been committed. We have a voluntary intervention by one Senator, an intervention brought about by his own actions in the Senate, in an unauthorized committee meeting, revealing classified information, and doing it for the purpose of publication. Now we are asking the taxpayers of the United States to finance at least a portion of both sides of the case. For the life of me, I cannot understand that.

All I can say is that perhaps the Department of Justice is construing things too narrowly. On the other hand, I could also say that—in my opinion, at least—the Senator from Alaska's appeal is construing the speech and debate clause far too broadly. He is trying to anoint everybody with whom he has ever dealt with his own immunity, and I certainly cannot subscribe to that.

What we need to do is to take care of our own business, as a body, as a group of 100 Senators, to say that this is the position of the Senate, not that this is the position of the Justice Department or that this is the position of the Senator from Alaska.

By virtue of that, this resolution should be restricted to the actions of the Senate in paying for what the very fine committee, which I hope will consist of the Senator from North Carolina and the Senator from Ohio, will plead as our case in the Supreme Court.

I could review all the arguments we have had. The amendment of the Senator from Ohio, which would strike out the references to paying the printing costs and the costs of briefs in the Supreme Court for the Senator from Alaska, really brings this down to the fundamental issue. It is an issue of principle. It is not one just of money. It is an issue of basic principle that is before the Senate: That is, should we not, if we are going to intervene in a case of this magnitude—and it is of this magnitude—take care of our own expenses, our own legal fees, and our own printing costs? Those who have brought the situation on themselves should take care of any other expenses.

I thought about this for quite a while before I made that statement, because it is quite possible that in totally different circumstances it may seem advisable for a Senator either to defend himself or to intervene in a case which he thinks may affect his rights. Then the question is, under different circumstances, would we want the Senate to pay the fees? My answer is "No." Even in any kind of case we have before the Federal courts today, the prevailing party is occasionally awarded attorney's fees if the judge thinks it is overwhelmingly obvious that he should. But it is in the discretion of the judge. We are taking away the discretion of the judge here. We are saying that we are going to be the judge, when the Supreme Court actually is the judge. We are saying that we are going to take care of the expenses of this case, no matter what the circumstances may be. I cannot go along with that principle.

Mr. ERVIN. Mr. President, I should like to make one or two observations in reply to my good friend, the Senator from Colorado.

The taxpayer is going to bear the costs incurred by the Department of Justice in presenting to the Supreme Court the question of whether the speech or debate clause applies to Senators only and does not apply to their aides. The taxpayers are going to pay for that. I hope the taxpayers pay for any brief which may be presented by the Senate as an institution in reply to that contention, which, if accepted by the court, would make it virtually impossible for a Senator to function in this day and age and would render the speech or debate clause of the Senate totally worthless.

The Senator from Alaska has exactly the same interests in that part of the case that the Senate has. Since the taxpayers should pay for the expenses of the Department of Justice and for the Senate's expenses, and since the Senator from Alaska is going to present the same viewpoint of that restricted question that the Senate is interested in, I do not see why the taxpayers should not pay the cost of printing his brief. Let the taxpayers pay the costs all around, so far as the briefs are concerned.

We are not concerned with the question of counsel fees, though we are concerned with the fundamental question as to whether the Department of Justice can subpena the aides of a Senator to go before grand juries and testify to what they know about a Senator's conduct on the basis of knowledge they obtained by assisting the Senator in the execution of the duties of his office.

Mr. LONG. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. LONG. Do I correctly understand the Senator's position to be that it is his view, and the view of those who would vote like him on this matter, that the Government should not have to proceed against the employee of a Senator who had discharged his duties in pursuance of what the Senator was doing, which is protected by the Constitution under the speech and debate clause?

Mr. ERVIN. That is the position of the Senator from North Carolina and also the adjudication of the U.S. Court of Appeals for the First Circuit.

Mr. LONG. So that if the position taken by the Senate in passing this resolution is correct, would not the burden of that argument suggest that the Government had to file that suit to begin with?

Mr. ERVIN. It should never have summoned the aide of the Senator from Alaska to testify before the grand jury concerning things that he saw and heard the Senator speak by reason of his relationship to him as an employee.

Mr. LONG. Then, in the view of the Senator, if the executive branch is wrong and the Senate is right, that the expenses of the executive branch would be borne by the taxpayers. As I understand it, his argument follows that, with equal force, if the legislative branch thinks the executive branch is wrong, the logic should apply to the benefit of Congress, just as it should apply to the benefit of the executive branch if the executive branch should be either right or wrong.

Mr. BROCK. Mr. President, if I may interject there, the Senator is taking it one step further, and that is, to apply it to an individual Senator and not to the Senate itself. That is the complaint we have on this matter, not that we purport or propose not to pay for the briefings of the Senate. We have every intention to support that action. But the question is not about that at all. The question is not whether the Senator is right but rather, concerns the personal privilege of a staff member of the Senator from Alaska. That is a very different matter. It has nothing to do with the operation of this body to defend itself.

Mr. ERVIN. I do not care to prolong this debate, but I would say to my good friend from Tennessee that the question is whether this Senate is going to be the judge of the conduct of the Senator from Alaska, rather than to allow the executive branch or the judicial branch to judge that conduct, when the Senator from Alaska is certainly acting within

the traditional scope of what Senators do.

The only way that question will ever arise is when some individual Senator is alleged to have exceeded the bounds of prudence in the discharge of his duties. It is not conceivable that the entire Senate will ever do that. The entire Senate will never be all-wise or all-foolish. It is the actions of individual Senators that raise these questions.

Mr. MANSFIELD. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr MANSFIELD. Who brought the case against the Senator from Alaska in the first place?

Mr. ERVIN. The executive branch. That is, it brought the case in which the rights of the Senator from Alaska under the speech or debate clause were involved.

Mr. BROCK. No case was brought against the Senator from Alaska. Let us correct the record on that.

Mr. MANSFIELD. Where was the case brought?

Mr. ERVIN. I believe they obtained a more favorable decision in the court of appeals. That is my recollection.

Mr. MANSFIELD. Then from the appellate court to the Supreme Court.

Mr. ERVIN. Both the Senator from Alaska and the Department of Justice.

Mr. SAXBE. Mr. President, let me make it plain that there was no action brought against the Senator from Alaska.

Mr. ERVIN. No. It was a case that was brought, in which an inquiry was being made with respect to the official conduct of a Senator and whether his aide was also willing to testify.

Mr. SAXBE. Mr. President, I now yield 2 minutes to the Senator from Colorado (Mr. ALLOTT).

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Colorado is recognized for 2 minutes.

Mr. ALLOTT. Mr. President, I should like to make one or two remarks about this matter. One of the difficulties about it is that the issues, from the time I have been on the Senate floor—and, unfortunately, I have been involved in committee meetings most of the time—the issues of the case as they appear before the Supreme Court are not exactly clear. At least they do not apply to the basic issues as this particular Senator sees them. The basic issues are that an irregular meeting was called, one not authorized by the Senate. It was called at a very unusual hour. It was called without notice to its members. It was called on a subject outside the scope of that committee and then, when a so-called aide of the Senator was sought to be questioned, the real trouble began.

I want to say now, for the sake of the RECORD, and for the sake of the Senate, that Mr. Rodberg, the supposed aide, was never, in fact, an official aide of the Senator from Alaska.

I have just inquired of the disbursing office of the Senate, Mr. Ridgeley's office, and this man was never and has never been on the payroll of the U.S. Senate. He has not filed what every other employee of the Senate has to file, including our own personal aides, his oath of office.

With this situation, the Senator from Colorado finds himself in a very deep dilemma. Yes, I would hate to see the Supreme Court decide this without our interests being protected. On the other hand, I cannot agree and I will not agree to any resolution which does not delete all reference to printing costs or attorneys' fees for the Senator from Alaska.

I cannot agree to any resolution which does not provide an equal number of both parties upon such a committee as would be endowed by this Senate, because I have to be sure in my own mind that I am not going to be coupled in any way in the newspapers, in the press, in the media, with any kind of inferential support of what occurred in the Senate at that time.

It is a little ridiculous, it seems to me, to put into a resolution this clause—

> Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of legislative activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; . . .

When, the morning following this, and the day following it—1 or 2 days after, perhaps—the distinguished majority leader tells us that nothing wrong was done and, therefore, closes the door on the whole case. I must say, I think that we will be undertaking a terrible error. I would go along if there is no money and if there is an equal number of both sides of the aisle on that committee but, otherwise, I will have to oppose it entirely.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Who yields time?

Mr. SAXBE. I yield 3 minutes to the Senator from Tennessee (Mr. BROCK).

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes.

Mr. BROCK. Mr. President, to continue the comments of the Senator from Colorado (Mr. ALLOTT), there is one other ingredient missing. That is the fact that the act undertaken would constitute an illegal act for any person not covered by immunity under the law.

Mr. ALLOTT. I thank the Senator from Tennessee for that explanation. I was pressed for time in my comments and I did not get to complete my case, but that is so.

Mr. BROCK. Mr. President, let me comment further on what the Senator from North Carolina said, for whom I have such enormous respect, but differ with him on this occasion. He says that the taxpayers are going to pay for the costs of the case presented by the Justice Department and, therefore, we should pay the cost of the defense of the individual involved.

If that is true, then why not expand that principle to the realm of this entire Nation, because the Justice Department prosecutes hundreds of thousands of people in America every year. So if the principle should apply to a Member of the U.S. Senate, that the taxpayers are to pay the cost of his defense, why should we deny that opportunity to every other citizen in America who is prosecuted by this Government. We would, in effect, say that the Government should pay both the prosecution and the defense of every individual in the courts of this land where the Federal Government is the prosecutor?

The argument has no merit. The real point of this question is whether the Senate by its action on this measure expresses in any way, by any inference, or by any innuendo support or the condoning of the actions of the Senator from Alaska. The question really is how the action of the Senate will be judged by the American people.

I would find it very difficult myself to go to the people of Tennessee and say, "You have been levied a new tax by the Senate of the United States to pay the costs of the defense of one individual in the Senate."

I can go to Tennessee in good conscience and say, however, "We must act to protect the integrity of the Senate as a body and as an institution to have the rights, privileges, and immunities to engage in free debate for the collective defense of freedom of all the people of this country." However, I cannot and I will not go to the people of my State and say that I, as an individual Member of this body, have levied a tax upon them as taxpayers to pay for the filing of a brief or even for the printing of a brief for one individual Member of the Senate. That is the basic question the Senator from Ohio presented to us. It is a question of whether we act in defense of the Senate or in defense of an individual Senator.

We have every right to act in defense of the Senate as an institution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I do the same.

Mr. COOPER. Mr. President, would the Senator please withhold?

Mr. SAXBE. I withhold that, and yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I simply want to ask the Senator from North Carolina what he will argue before the Supreme Court. Is it the view of the Senator from North Carolina that under article I, section 6, a Member of the Senate or a Member of the House cannot be called before any other body or grand jury, no matter what speech he makes or what action he takes, not in the Senate or House?

Mr. ERVIN. No. That is not my position. My position is that anything he does in the execution of his office as a Senator, he cannot be called upon to answer for.

Mr. COOPER. Mr. President, this is specifically what the case is about, or one aspect of it. Would the Senator argue that a Senator who makes a speech or takes some action not in the House, as the Constitution says, but outside of Congress, has immunity?

Mr. ERVIN. Only if he is acting within the House of which he is a Member, or only if he is acting in the execution of his office. I think if he goes out on a stump and makes a speech, he would be just as answerable as anyone else. However, if in that case he is discussing a public question, he cannot be held for defamation unless they can show that he was actuated by malice.

Mr. COOPER. Mr. President, I raise the point because I think it is basic to the issue before us in the whole matter. The Senator from Alaska will agree, I am sure, that whatever took place, if it took place, as the Constitution says, in the House—and that means in the body of which he is a Member, in a proper meeting in the Senate or House of Representatives or in one of its committees or subcommittees—would be covered by article I, section 6.

The Senator from North Carolina would argue then, if he is one of those appointed—and I am sure he will be, because he ought to be—before the Supreme Court that a Member only has immunity if the actions complained of are taken in the House, meaning the body of which he is a Member, as the words "in the House" are the words contained in the Constitution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SAXBE. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

Mr. ERVIN. I would accept what Justice Frankfurter said in the case of Tenney against Brandhove, that is a legislator is immune when he is acting in the field where legislators traditionally have power to act. That would include acting in a meeting of the legislative body of which he is a member or acting in a committee.

As Justice Parsons of the Supreme Judicial Court of Massachusetts said in the case of Coffin against Coffin, which is a decision reported by Justice Frankfurter, it secures every member immunity for every statement by him made in the exercise of the function of that office without inquiring whether the exercise was regular and according to the rules of the office or irregular and against their rules.

In other words, my position is simply this: As long as a Senator is acting within the legislative field of a Senator, whether he does wrong or abuses his privilege, is something to be judged by the Senate and not by the executive or judicial branch of the Government.

Mr. COOPER. The Constitution says that at least the actions complained of must take place in the House. It does not mean, I am sure in this building, but also wherever he is acting as a Member of the Senate or House. Would the Senator be prepared to say to what extent his position could go? For example, if some unlawful act were committed, unlawful under the rules of the Senate and committed outside of the Senate or outside of a committee or a room and where no business was being transacted, and if two or three assistants were engaged in that same activity, would all be covered. If we are not careful, we could have unlimited immunity applied in almost every case.

I think the position of the Senate ought to be heard before the Supreme Court. It ought to be inquired into before the Supreme Court, in justice to us, and in justice to the Senator from Alaska, whether the meeting was one which falls within the protection of article I, section 6.

I feel that is very important. Would the Senator from North Carolina ask that the case be remanded to determine the facts.

Mr. ERVIN. No. I think the facts are already determined. I do not think there is any dispute on the facts.

Mr. COOPER. As I understand it, the ruling of the district court did not go into the facts as to whether or not the case actually fell within the protection of the Constitution.

Mr. ERVIN. The petition of the Department of Justice for their writ of certiorari implies to my mind that the facts were found. I do not think the facts are in dispute at all. I think it is a question of law.

Mr. SAXBE. I agree. The facts are not in dispute. They have been laid to rest.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

Mr. SAXBE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Ohio to the third resolving clause of the substitute offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL (when his name was called). Present.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 34, nays 47, as follows:

[No. 123 Leg.]

YEAS—34

Allott	Goldwater	Saxbe
Baker	Griffin	Schweiker
Beall	Gurney	Scott
Bellmon	Hansen	Smith
Bennett	Hruska	Stafford
Brock	Jordan, Idaho	Taft
Buckley	Mathias	Thurmond
Cotton	Miller	Tower
Curtis	Packwood	Welcker
Dole	Pearson	Young
Dominick	Percy	
Fannin	Roth	

NAYS—47

Aiken	Eastland	Moss
Anderson	Ellender	Nelson
Bentsen	Ervin	Pastore
Bible	Fong	Pell
Brooke	Fulbright	Proxmire
Burdick	Gambrell	Randolph
Byrd, Va.	Hollings	Ribicoff
Byrd, W. Va.	Javits	Spong
Cannon	Jordan, N.C.	Stennis
Case	Kennedy	Stevens
Chiles	Long	Stevenson
Church	Magnuson	Symington
Cook	Mansfield	Talmadge
Cooper	Metcalf	Tunney
Cranston	Mondale	Williams
Eagleton	Montoya	

ANSWERED "PRESENT"—1

Gravel

NOT VOTING—18

Allen	Hatfield	McGee
Bayh	Hughes	McGovern
Boggs	Humphrey	McIntyre
Harris	Inouye	Mundt
Hart	Jackson	Muskie
Hartke	McClellan	Sparkman

So Mr. SAXBE's amendment to the third resolving clause of the substitute resolution proposed by Senator ERVIN was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from North Carolina in the nature of a substitute (putting the question).

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question now occurs on the adoption of Senate Resolution 280, as amended.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMINICK. Mr. President, do we still have some time left on the resolution?

The PRESIDING OFFICER. Yes; there is time on the resolution.

Mr. DOMINICK. Mr. President, I seek recognition, then.

The PRESIDING OFFICER. The Senator from Colorado is recognized. There are 29 minutes remaining.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes, and I probably will not take that long.

For the benefit of my colleagues, however, I thought it was worthwhile putting this issue into proper context.

There is not any doubt in my mind that, at least from the monetary point of view, and from some of the language changes that have been made, the resolution now before us is better than the one that we had submitted to us initially.

Mr. President, may I have some order?

The PRESIDING OFFICER. The Senate will be in order.

XUM

Mr. DOMINICK. But there is also no doubt that what we are doing in this matter is asking the taxpayers to pay for at least a portion of the cost of both sides of the argument. They will be paying it through the briefs that have been filed by the Justice Department, which, in the opinion of the Senator from North Carolina, are too narrow in their interpretation of immunity; and they will be paying it, under this resolution, on behalf of the Senator from Alaska, who, in my opinion and in the opinion of many of us, goes far too wide in his grant of immunity.

Mr. President, I still do not have any order. There is not a soul listening.

The PRESIDING OFFICER. The Senator will suspend. The Chair will endeavor to get order.

Senators will please take their seats and refrain from audible conversation.

It will expedite the business of the Senate if Senators will take their seats and refrain from conversation.

The Senator from Colorado.

Mr. DOMINICK. We are left, as I have said, in a very untenable position, whereby we are being asked as a body to vote taxpayers' funds for a brief which I hope will be between the two, but in the process also voting taxpayers' funds for both sides of the argument, in which we are not agreeing with either side.

I find it extremely difficult, as far as I am concerned, to justify this type of resolution of the problem. It is not even what has been said about the making of a camel; namely, that it is a horse created by a committee. We do not even have a committee on this one to create this kind of camel. What we have done is do it ourselves.

We have a very, very poor situation from the point of view of the facts, because what we are being asked to do is to pay for the printing costs and the filing fees of the Senator from Alaska, who, on his own, released classified information, in violation at least of the spirit of the Senate, and voluntarily intervened in a suit. There was not even a suit, for that matter; but merely a grand jury investigating a possible violation. The aide brought a suit to quash the subpena, and the Senator from Alaska intervened.

It was not a question of a Senator being sued; it is not a case where a Senator is being questioned. The two lower courts have already held in favor of the defendant, if in fact Dr. Rodberg is a defendant, and that apparently is not being questioned in the suit. He is asking for immunity to be extended to members of the Beacon Press and members of the Massachusetts Institute of Technology Press, and every other person involved, not just aides in his office, or employees, but everybody he has been in contact with.

If we extend immunity that far in this day and age, as I said last night, with the publicity we get and with the media coverage that there is, anybody who is in touch with a Member of the Senate would be granted immunity regardless of whether he had been guilty of a criminal act or not.

I do not see how we can possibly go that far, and yet, as I read the Senator's brief, that is exactly what he is alleging. And here we are in the Senate as a body, saying that this is what we ought to underwrite.

Mr. President, we ought to take a middle course. We should be taking a course in which we say we are going to defend the rights of the Senate in our own brief, and pay our own costs, but not to favor a side and say we are going to spend the taxpayers' money in favor of either side.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. DOMINICK. I yield myself 1 additional minute.

Without going into the facts once again, I presume that my colleague has brought up the point that Dr. Rodberg has never been on the Senate payroll; and as far as the records show, has never taken an oath of office as an employee of the Senate. He may be an aide; I do not know. But he is certainly not an aide within the definition as we usually assign it.

In view of the facts presented, I find myself unable to support even the modified resolution that is now before us, and wish to say that I intend to vote against it.

SENATE DEALINGS WITH CONFIDENTIAL INFORMATION

Mr. DOLE. Mr. President, I believe there is a need for the Senate to consider in some detail the statutes, rules and procedures pertaining to our use of classified information. The importance of this consideration arises because a measure of uncertainty currently exists in this area, and it is the belief of the junior Senator from Kansas that each Member of this body should be able to maintain some reasonable degree of confidence in the standards by which the propriety of his conduct will be judged in this and other areas. This uncertainty has been emphasized by several events:

The unauthorized partial publication of the top secret McNamara papers by several newspapers with resultant litigation and public concern;

The action taken by the President in furnishing the Senate and House of Representatives with complete sets of the highly classified studies; and

The subsequent action of one Member of this body in communicating and disseminating portions of this same top secret study to the general public.

These events have pointed up the need for a clear and authoritative understanding on the part of each Senator of his duties, rights, and responsibilities in dealing with sensitive, secret, or otherwise classified information. Apparently, such a generally shared, specific understanding does not exist, and I feel it would be valuable if we could attempt to come to some fundamental appreciation of the acceptable and proper standards in this area.

The Senator from Kansas feels it is appropriate that this opportunity be taken to call the Senate's attention to these matters and raise questions, express opinions and suggest interpretations of the pertinent law and rules.

TWO AREAS OF AUTHORITY

To my understanding, we, as Senators and citizens, are dealing with several criteria with respect to "official information which requires protection in the interests of national defense." First, there are the general statutory regulations and executive decrees which apply to all Americans. Second, there are the rules and precedents of the Senate which obtain to impose certain limitations on congressional conduct.

PROVISIONS OF THE PUBLIC LAW

Starting with the broadest and most generally applicable authority, we find two provisions of the law which define the system for safeguarding official information and which proscribe certain conduct relating to such information.

EXECUTIVE ORDER NO. 10501

Executive Order No. 10501 of November 9, 1953, as amended, sets forth the criteria and procedures for "classification" of national defense information within the Government. It establishes three categories of classification, "top secret," "secret," and "confidential," and it sets certain administrative guidelines for the operation of the classification procedure.

THE ESPIONAGE ACT

Because it is a purely administrative instrument, Executive Order No. 10501 prescribes no sanctions against violation of its provisions; however, it contains a citation to the other principal authority in this field, the Espionage Act, chapter 37 of title 18, United States Code, section 793 of which covers "gathering, transmitting, or losing defense information."

This statute deals in part with deliberate espionage activities and with individuals who are unauthorized to possess or have access to or control over classified information, but these provisions are not relevant to this discussion, for no one suggests questioning the motives of Senators in dealing with information brought to their attention, nor is there any question that Senators are fully authorized to have possession of, access to or control over classified information of all degrees.

One provision of section 793 does appear to be pertinent to a determination of our position in relation to classified material. Subsection (d) reads:

> Whoever, lawfully having possession of . . . any document . . . relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated . . . the same to any person not entitled to receive it. . . .
>
> Shall be fined no more than $10,000 or imprisoned not more than ten years, or both.

The Senator from Kansas is unsure to what extent the congressional immunities conferred by article I, section 6, of the Constitution, restrict application of the Espionage Act to Senators, but it is well to be aware of the statute's language.

SENATE RULES AND PRECEDENTS

In addition to these provisions of statutory enactments and Executive orders, we, as Members of the Senate are bound by our own rules, regulations, and precedents.

Article I, section 5 of the Constitution states:

> Each House [of Congress] may determine the rules of its proceedings. . . .

And in pursuance of this authority the Houses of Congress have from time to time propounded rules and established precedents to govern their activities.

It appears to the Senator from Kansas that two authorities are in point as we consider obligations and duties of Senators in their capacity as Senators, when dealing with classified, confidential or secret matters.

RULE XXXVI

Standing rule XXXVI sets forth the procedures governing executive sessions, confidential communications of the President, and secret or confidential business or proceedings of the Senate. It reads in pertinent part:

> 3. All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret; and all treaties which may be laid before the Senate, and all remarks, votes, and proceedings thereon shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy, or unless the same shall be considered in open Executive session.
>
> 4. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.
>
> 5. Whenever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate by the President or the head of any department relating to any matter pending in the Senate, the proceedings in regard to which are secret or confidential under the rules, said documents and papers shall be considered as confidential, and shall not be disclosed without leave of the Senate.

This rule is clear in its inclusive scope, but it is not so clear as to what exclusions it entails, and it would appear that this rule, raises a question involving the interpretation of "confidential communications made by the President of the United States to the Senate."

Of course any physical item adressed to the Senate by the President whether letter, message or notice is entitled to confidential status, when so designated. Also, any object, document, volume or compendium delivered to the Senate and specifically cloaked in the mantle of confidentiality by the President would also be accorded privileged status under rule XXXVI.

The question which arises from this analysis, however, is whether the literal contents, aside from the physical objects, of confidential presidential communications, should be considered by the Senate to have the status accorded by rule XXXVI.

In facing this question a valid distinction should be drawn along the lines of reason, commonsense, and customary principles of law. It would not be fair, nor would it be consistent with the intent of the Senate, to interpret this language of our rules in such a way as to impose burdens upon Senators which would be inconsistent with the burdens placed on other citizens in similar circumstances. Rather, we should strive to read these rules in such a spirit as would lead us to an interpretation similar to that expressed by Congress in public legislation dealing with the same subject matter.

It seems unfair that we should expect each Senator to be familiar with every confidential presidential communication to the Senate; much less could every Senator be expected to have knowledge of the entire contents of these communications. It would be far beyond the bounds of reason and common understanding to impose on any Member of this body the obligation of knowing whether a given item of information before him were per se contained in some confidential or secret communication from the President and, therefore, subject to the operation of rule XXXVI. We are, or at least should strive to be, reasonable men, and we should attempt to govern ourselves according to reasonable rules.

But if it would be unfair to hold Senators accountable under rule XXXVI for unreasonable requirements of knowledge, it might be appropriate to attach the operation of the rule to information which, borrowing from the language of the Espionage Act, a Senator were to have "reason to believe" was part of a "confidential communication made by the President of the United States to the Senate."

In each case the Senate has to take into account all relevant facts, circumstances, and conditions in judging whether its rules have been adhered to, and it would be unwise to attempt to establish a more definite structure for determining the application of this rule.

SENATE PRECEDENT

There is another source of authority and guidance for the Senate in its proceedings, and it lies in the precedents the Senate has established on previous occasions when it has dealt with similar or analagous situations. Of course no two situations are ever exactly alike, but to a large extent some fundamental similarities and distinctions have been identified by the Senate and found useful in gaging a present course in the light of past actions.

THE M'CARTHY PRECEDENT

As far as the Senator from Kansas is able to determine there has been only one occasion when the Senate was called upon to discuss the liabilities imposed on a member for making unauthorized use of classified information. The incident in question resulted in a determination that the Senator's conduct did not constitute grounds for action against him. But the incident is instructive, because the Senate did consider and discuss the lines which separate appropriate and inappropriate conduct involving classified information, thereby establishing a precedent. The precedent may not be more than the fact of discussion, but I believe it goes further and shows at least the outlines of acceptable conduct if not the exact boundaries to be observed.

The Senator whose actions came under scrutiny in the case to which I refer was the late Joseph R. McCarthy of Wisconsin. It is unnecessary to go into the full history of this Senator's controversial career, but suffice it to say that the Senate, upon introduction of a motion of censure, convened a select committee to study the charges made against him. The select committee held extensive hearings and issued a thorough report. One of the five categories of charges against the Senator involved the alleged unauthorized receipt and misuse of confidential or classified information.

The particular incident which gave rise to this charge was set forth in the findings of fact contained in the select committee's report:

> 1. During the hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations, Senator McCarthy, in the course of the development of his defense, offered to make public the contents of a document bearing the markings of the Federal Bureau of Investigation, "Personal and Confidential via Liaison," which contained classified information relating to the national defense. This offer was not accepted by the committee.
>
> 2. In offering to make the contents of the document public, Senator McCarthy acted in the bona fide belief that the document was a valid rather than a spurious instrument and offered it in evidence as such.

The report of the select committee contained an extensive treatment of the relevant authorities dealing with classified material including Executive Order No. 10501 and the Espionage Act. If determined these statutes and executive decrees showed:

> . . . a legislative intent to protect documents relating to national security, to prevent concealment of felonies; to forbid publications or disclosures not authorized by law by any officer or employee of the United States of information coming to him in the course of his employment or official duty.

Furthermore, the statutes were cited as:

> . . . affirmative evidence of congressional cooperation with the Executive, in a common effort to discourage unauthorized disclosures of confidential documents or information relating to the national defense, or obtained in the course of official duties; and to prevent interference with or impairment of the loyalty or discipline of the Armed Forces.

In considering Senator McCarthy's conduct the committee observed:

> . . . the established facts show that Senator McCarthy attempted to make public over nationwide television the contents of a . . . bore a classfied or confidential marking. This conduct on his part shows a disregard of the evident purpose to be served by such a document and overlooks the serious import which attaches to a document affecting the national defense, and the dangers flowing from causing such information to become public knowledge. This transgression is nonetheless grave even though the Senator personally may have been, as he contends, of the opinion that the document did not contain security information. This disposition on the part of Senator McCarthy to determine for himself what is or is not security information regardless of the evident classified marking on a document, confirmed by the opinion of a duly constituted agency authorized to make such a ruling, evidences a lack of regard for responsibility to the laws and regulations providing for orderly determination of such matters. This conduct on

the part of Senator McCarthy is all the more serious when considered in the light of . . . [the Espionage Act] which provides that whoever having lawful or unauthorized possession of any document relating to national defense or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States, attempts to communicate the same to persons not entitled to receive it, is an offender against the criminal laws of the country.

The committee concluded that the letter in question was in fact a classified document, bearing what at that time was the highest classification of which the FBI was capable of conferring, and that it was entitled to statutory protection accorded such a document, but it went on to state a further view which I feel is essentially important to our attempt to define the limits of acceptable conduct.

The committee expressed the firm belief:

That representatives of the legislative branch have a complete legal right to obtain access to such documents by using the methods available to them to get such information by formal request to the classifying agency or to the Attorney General or to the President himself. It is only when such orderly methods are rebuffed that an issue between two coequal branches of the Government can or should develop.

It follows that any attempt to make public the contents or any portion of this 2¼-page document, affecting national security, would be a transgression upon authority. When Senator McCarthy offered to make public this document, which he knew involved information irregularly obtained and which on its face carried a classification of "confidential" by the FBI, it was an assumption of authority which itself is disruptive of orderly governmental processes, violative of accepted comity between the two great branches of our Government, the executive and legislative, and incompatible with the basic tenets of effective democracy.

The committee did not recommend that Senator McCarthy be censured on this category of charges. It did conclude that—

In offering to make public the contents of this classified document Senator McCarthy committed grave error. He manifested a high degree of irresponsibility toward the purposes of the statutes and Executive directives prohibiting the disclosure to unauthorized persons of classified information or information relating to the national defense.

When the select committee reported its findings and recommendations, the censure charges were debated at length on the floor.

One of the most prominent figures in the debate of the censure resolution was Senator Francis Case of South Dakota. A member of the select committee convened to study the censure charges, Senator Case took the floor to address in detail each category of charges contained in the committee's report and gave careful attention to the charge dealing with Senator McCarthy's use of classified information.

Senator Case shared the opinion of the committee that Senator McCarthy ought not to be censured for the conduct considered in category III. But the Senator's reasoning went beyond the committee's chief grounds for opposing censure which were the extenuating personal circumstances surrounding Senator McCarthy dealings with the classified information.

Senator Case felt that Senator McCarthy's conduct was not censurable for the simple reason that it did not constitute any abuse, misuse, or unlawful dealings with that information.

In setting forth his reasoning he cited the fact that the Senator from Wisconsin had possessed the information for more than a year and in the course of that time had in fact not abused or misused it. As he said:

Statutes may frown upon it now, under some interpretation, but the fact is that the junior Senator from Wisconsin in the more than a year during which he had the 2¼-page document in his possession did not make it public. He did not come to the floor of the Senate with it, where he might have claimed immunity.

Clearly, then, he cannot be charged with a wanton or reckless will to make the information public or to broadcast it to the world.

[T]he document, in my judgment, was properly classified and could only be declassified by the author of the original document, the FBI, when the purpose of classification had been served. But that is not the controlling point before the Senate, in my judgment.

The fact is that the document was not made public. The chairman of the Army-McCarthy hearings, the senior Senator from South Dakota [Mr. MUNDT], did not permit the document to be made public, and the chairman of the select committee, the Senator from Utah [Mr. WATKINS], has not permitted it to be made public. Senator McCARTHY did not insist that the document be made public. If he had had any wanton desire to make it public, he could have made copies of the document and could have issued it, or could yet bring it before the Senate. He has not done so. He submitted the document to the verdict of the chairmen of the committees in both hearings.

In short, Senator McCARTHY clearly did not make or seek to make wanton misuse of the two-and-a-quarter page classified document, but offered it only when it seemed to be essential to the determination of issues before a duly constituted committee of the Senate, and he let that committee be the judge as to whether or not any publication of it could be made.

Senator Case's distinction between proper and improper conduct was clear and simple. It was the distinction between publishing classified material to unauthorized persons and not publishing it. It was the distinction between talking about making the document public and actually doing so. It was the distinction between yielding to a "wanton desire" to make the document public and not making it public. Essentially, it was a distinction between obeying the law and violating.

CONCLUSIONS SUGGESTED

The final censure resolution upon which the Senate voted conformed with the select committee's recommendation and did not include the charge of misuse of confidential information. Nonetheless, the debate and discussion are instructive and would seem to lead to several conclusions:

First, the mere possession of classified information and discussion of the fact of its possession on the floor of the Senate and in Senate committees is not inappropriate conduct either in terms of the laws relating to that information or the Senate's views of its Members' responsibilities to those laws. After all, Senators are entitled to have sensitive information in their hands, and they should not be restricted in their efforts to inform themselves on the many important subjects with which they are charged to deal.

It would appear, too, that conduct falling short of actual publication is not considered by the Senate to violate its own standards. Surely Senator McCarthy went nearly as far as is it possible to go, short of public dissemination of the classified material in his possession. And the fact that he did not allow that material outside the confines of the Senate and its committee system was apparently recognized and appreciated by both select committee and the full Senate. Evidently a number of Senators felt that even the offer to make such information public was highly reprehensible, but not, without more, grounds for action.

The Senator from Kansas assumes from the record that the Senate's deliberations would have produced a substantially different result as to the category III charges if Senator McCarthy had taken the next step and actually made the 2¼-page document available to the public. Several points in the record lead to this conclusion:

The select committee condemned as "irresponsible" Senator McCarthy's offer to make the document public and castigated his action as a disruptive assumption of authority and violative of accepted comity between the legislative and executive branches. But it recognized the "stress and strain" under which Senator McCarthy was placed, the fact that the document was offered as part of his own defense, and that its contents were relevant to that defense. Therefore, both mitigation and justification were found for the Senator's conduct.

Senator Case relied on the facts of Senator McCarthy's conduct; that he did not make the document public, that he did not insist on its being made public, and that he remained within the orderly bounds of established committee procedure. As he said:

If he had had any wanton desire to make it public, he could have made copies of the document and issued it. . . . He has not done so.

Senator McCarthy let the committee "be the judge as to whether or not any publication of it could be made."

The statute speaks of a person who "willfully communicates" such information to "any person not entitled to receive it," and Senator McCarthy did not communicate the information in his possession to anyone other than Senators who were, just as he, entitled to receive it.

Thus, the McCarthy case in respect to the category III charges might have yielded a diffrent result—if Senator McCarthy had actually made the document public.

If he had made his offers to make it public outside the context of his own defense; or

If he had been acting outside the formal institutional structures of the Senate.

CONCLUSION

Of course, it is impossible to say what the outcome might have been if the facts had been otherwise, but the record is there, and in the view of the Senator from Kansas it does suggest several plausible conclusions. The statutes and rules are also open for discussion and interpretation, and, although other Senators may not share the views expressed here today, I believe it is important that a discussion of these matters be undertaken.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum on the scope and application of Federal statutes relating to classified information and a chronology of the development of Senate Rule XXXVI.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM: FEDERAL STATUTES RELATING TO THE HANDLING OF CLASSIFIED INFORMATION

This memorandum describes the provisions of the United States Code which concern the handling of classified information.

Although several of the below-discussed statutes avoid the term "classified information", it should be note that the requirements for safeguarding such information have been established by Executive Order 10501 (50 U.S.C. § 401 note). Executive Order 10865 (50 U.S.C. § 401 note) concerns the safeguarding of classified information within industry. For the sake of brevity, the prohibitive act sections of the statutes described herein have been condensed to include only that necessary for discussion.

The foremost sanction against the mishandling of classified information is contained in section 793 of title 18. Under subsections (a), (b) and (c), the Government's burden of proof is not insignificant: "Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation . . .". Subsection (a) of section 793 prohibits entry into, flight over, or obtaining information concerning any government defense facility, access to which has been restricted by the President. The copying, taking, making, or obtaining any sketch, photograph, model, instrument, appliance, or document "of anything connected with the national defense" is proscribed by subsection (b). Subsection (c) applies to the receipt "from any person, or from any source whatever . . . any writing [or] photograph . . . of anything connected with the national defense" knowing that such information was obtained, or will be disposed of, contrary to law. Subsections (d) and (e) prohibit the communication or transmittal of national defense information by persons having authorized [(d)] or unauthorized [(e)] possession of such information. The loss of defense information through gross negligence or the failure to report the loss of such information is prohibited by subsection (f).

A violation of any of the subsections of section 793 could result in a fine of $10,000 and/or imprisonment for not more than ten years. See generally *Gorin* v. *United States*, 312 U.S. 19 (1941); *Coplon* v. *United States*, 89 U.S. App. D.C. 103, 191 F.2d 749, *cert. denied*, 342 U.S. 926 (1951).

The death penalty may be prescribed for a violation of 18 U.S.C. § 794(a) which prohibits the transmittal of "information relating to the national defense" to any agent of a foreign government with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation. The same penalty can be applied in time of war[1] to a person who collects or transmits "information relating to the public defense, which might be useful to the enemy" with the intent that such information shall be communicated to the enemy.* See generally *United States* v. *Sobell*, 314 F.2d 314 (2 Cir. 1963), *cert. denied*, 374 U.S. 857; *United States* v. *Rosenberg*, 195 F.2d 583 (2d Cir. 1952); *cert. denied*, 344 U.S. 838).

Sections 795, 796 and 797 prohibit the photographing of defense installations, the use of aircraft to photograph defense installations, and the publication and sale of photographs of defense installations.

Knowingly and willfully transmitting or using "in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States" of any classified information concerning the nation's cryptographic or cryptographic intelligence system, or the cryptographic intelligence system of any foreign government is prohibited by section 798.[2]

Special provisions concerning documents relating to the National Aeronautics and Space Administration and the Atomic Energy Commission are found in 18 U.S.C. § 799 and sections 141 through 146 of the Atomic Energy Act of 1954 (42 U.S.C. §§ 2161–2166) respectively.

Section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. § 783(b)) provides:

"It shall be unlawful for any officer or employee of the United States . . . or of any corporation the stock of which is owned in whole or in major part by the United States . . . to communicate . . . to any other person whom such officer or employee knows or has reason to believe to be an agent . . . of any foreign government or an officer or member of any Communist organization, . . . any [classified] information. . . ."

Subsection (c) prohibits the receipt of classified information by any foreign agent or member of a Communist organization. Violations may be punished by barring further government employment and a $10,000 fine and/or ten years imprisonment. See generally *Scarbeck* v. *United States*, 115 U.S. App. D.C. 135, 317 F.2d 546 (1962), *cert. denied*, 374 U.S. 856.

Of course the unlawful taking of classified documents may also come under the purview of 18 U.S.C. § 641 (theft of public money, property or records) and 18 U.S.C. § 2071 (concealment, removal, or mutilation of documents filed in a public office). It is questionable, however, whether §§ 641 or 2071 are applicable to persons who receive and use copies of classified documents.

RULE 36: A CHRONOLOGY

1971—Jefferson records that "The President had no confidence in the Secrecy of the Senate."—Jefferson *Writings* I, 294–5; 305–9.

1792—House adopts Rule XXIX, Secret Session. "Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House."—Rules of the House of Representatives, § 914.

1795—Jay's Treaty submitted to the Senate. Though President does not suggest secrecy, Senate orders that members be "under an injunction of secrecy on the communications this day received from the President . . . until the further order of the Senate." Thirty-three copies printed. Injunction of secrecy later rescinded, but Senators enjoined not to allow any copies of the President's communication. Senator Mason of Virginia sends his copy to the editor of the *Aurora*. No formal censure by the Senate.—George H. Haynes, *The Senate of the United States: Its History and Practice*, pp. 665–666 (New York, Russell & Russell, 1960).

1800—President Adams requests consideration of French Convention of 1800 in strict confidence. Senate adopts rule that "all confidential communications made by the President of the United States to the Senate, shall be, by the members thereof, kept inviolably secret, and that all treaties which may hereafter be laid before the Senate shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy."—Senate Executive Journal, Dec. 22, 1800, p. 361.

1810—Senator Timothy Pickering of Massachusetts read on the floor of the Senate a letter from the French Minister for Foreign Affairs dated 21 December 1804 to the U.S. Minister in Paris. This was a confidential communication from the President. The Senate agreed to a Resolution offered by Senator Henry Clay by a vote of 20 to 7. As amended it read "Resolved, that the public perusal in the Senate of certain papers with open galleries by the gentleman from Massachusetts (Mr. Pickering) in his seat without a special order of the Senate removing the injunction of secrecy, which papers had been confidentially communicated to the Senate by the President of the United States, was a violation of the rules of this body."—S. Jour., 11th Cong., 3d sess., pp. 535, 536; Annals of Congress, 11th Cong., 1810–1811, pp. 66–83.

1831—In Senate debate Mr. Forsyth said: "It was soon found, as the government moved on, that if a desire was felt that any subject should be bruited about in every corner of the United States, should become a topic of universal conversation, nothing more was necessary than to close the doors of the Senate Chamber, and make it the object of secret, confidential deliberation."—Cong. Debates, VII, 294.

1844—In April Senator Benjamin Tappan of Ohio gave a confidential message from the President dealing with the Treaty of Annexation of Texas to the New York Evening Post, which published it. The Senate appointed a select committee of five Senators to determine the facts and "what proceedings it may be proper (for the Senate) to adopt in vindication of its privilege and authority." The committee was given subpoena power. The Committee reported "no color of excuse for the outrage." By a vote of 38 to 7 the Senate adopted this resolution: "*Resolved* That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority." The Senate then added to its standing rules, to apply prospectively, this rule: "Any officer or member of the Senate convicted of disclosing for publication any written or printed matter directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in the case of a member to suffer expulsion from the body."—28th Cong., 1st sess; J., pp. 439–443.

1848—A New York Herald reporter questioned before the Senate about publication

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* Section 794(b).

[1] Section 798 authorizes the provisions of § 794 to remain in effect "until six months after the termination of the national emergency proclaimed by the President on December 16, 1950."

[2] As enacted, title 18 contains two sections 798. See fn. 1.

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of the pending Mexican Treaty refused to answer. The Senate passed a resolution declaring him in contempt and held him in custody for one month.—Sen. Exec. Journal, VII, 404.

1854—On February 24 the President of the Senate was directed to send a note on behalf of the Senate to each member asking information as to disclosures in regard to the Treaty with Mexico. Replies discussed in executive session a week later failed to reveal the Herald reporter's source (see 1848).—Sen. Exec. Journal, IX, 249, 272–3.

1867—Senate lifted injunction of secrecy on Alaska Treaty debates, and various speeches on the claims against Great Britain by Sumner were published.—George H. Haynes, *The Senate of the United States: Its History and Practice* (New York, Russell & Russell, 1960), p. 667.

1885—The Committee on Rules interpreted the injunction of secrecy in Rule 36 as extending "to each step in the consideration of treaties, including the fact of ratification . . . which may be of the utmost importance and ought not to be removed except by order of the Senate, or until it has been made public by proclamation of the President."—Sen. Exec. Journal, March 21, 1885.

1888—Bayard—Chamberlain Treaty was published in Canada during U.S. Senate debate on removing the injunction of secrecy from it.—Haynes, p. 667.

1890—On February 19 the New York Tribune published the details of a pending treaty with Great Britain. The Senate was unable to learn the source of the disclosures.—Sen. Exec. Journal, XXVII, 475–477.

1899—Senate removed the injunction of secrecy from the treaty with Spain, but debates in following weeks were held in executive session.—Haynes, 667–8.

1900—One hundred years after the adoption of Rule 36, the Senate in executive session formalized the procedure for removing the injunction of secrecy by adopting this resolution: "*Resolved*, That whenever the injunction of secrecy shall be removed from any part of the proceedings of the Senate in executive session, or secret legislative session, the order of the Senate removing the same shall be entered by the Secretary in the legislative journal as well as in the executive journal, and shall be published in the Record."—Journal of the Senate, 1900, 131.

1904—On March 31 the Senate, after receiving a unanimous report from the Committee on Rules adopted the rule now designated as Rule 36.5. Senator Hoar explained the reasons for the rule as follows: "I may perhaps make a statement in a single word. It has been the practice of the Executive Departments, when they are asked by the various committees of the Senate for the papers relating to any nomination, to send all sorts of confidential communications bearing on the character of the appointee. Very often they are communications from active politicians in various parts of the country about the effect of certain appointments on political parties, and some of them are written in a very free and easy manner.

"In President Cleveland's time the Judiciary Committee used to have a good many communications setting forth the demerits of various divisions of the Democratic party and the merits of others; and such papers come here under all Administrations. I suppose probably those papers are confidential under the rules now; but there has been some little doubt in the minds of some Senators whether they are or not, and it has been thought best to make it clear.

"This is a unanimous report from the Committee on Rules. It merely provides that when any communications are sent to committees of the Senate in regard to matters which are themselves confidential by the President or any Department, those communications shall be treated as confidential unless the Senate shall order otherwise."—Cong. Rec., March 31, 1904, p. S–4027.

1906—Senator Spooner discussed the question of what may be revealed in open session of debates in executive session. He concluded that the attitude of the Foreign Relations Committee, all amendments and all arguments for and against a negotiated treaty sent in confidence to the Senate could not be revealed and were "as if never uttered."—Haynes, 668.

1918—On June 9 an unofficial text of the Treaty of Versailles was printed in the Congressional Record before the President had submitted it.

During the debate on ratification of the Treaty, Senator Brandegee argued too much plain speech might give offense to foreign countries. Senator Borah replied "What are these delicate questions which may offend foreign powers? These delicate questions are too often questions of dubious righteousness." Walter Lippmann later wrote, "Only a man who has risen by appealing to audiences rather than by making executive decisions would, I think, have said that."—Haynes, p. 668; *Men of Destiny*, p. 144.

1970—Legislative Reorganization Act makes Senate committees judge of question whether confidential matter in hearings may be disclosed, as follows: "Sec. 112(b). Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation."

The PRESIDING OFFICER. Who yields time?

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the resolution, as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 55, nays 27, as follows:

[No. 124 Leg.]

YEAS—55

Aiken	Fulbright	Pell
Anderson	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hollings	Randolph
Brooke	Javits	Ribicoff
Burdick	Jordan, N.C.	Roth
Byrd, Va.	Kennedy	Saxbe
Byrd, W. Va.	Long	Scott
Cannon	Magnuson	Spong
Case	Mansfield	Stafford
Chiles	Mathias	Stennis
Church	McGee	Stevens
Cooper	Metcalf	Stevenson
Cranston	Miller	Symington
Eagleton	Mondale	Talmadge
Eastland	Montoya	Tunney
Ellender	Moss	Williams
Ervin	Nelson	
Fong	Pastore	

NAYS—27

Allott	Curtis	Packwood
Baker	Dole	Pearson
Beall	Dominick	Schweiker
Belmon	Fannin	Smith
Bennett	Goldwater	Taft
Brock	Griffin	Thurmond
Buckley	Hansen	Tower
Cook	Hruska	Weicker
Cotton	Jordan, Idaho	Young

ANSWERED "PRESENT"—1

Gravel

NOT VOTING—17

Allen	Hatfield	McGovern
Bayh	Hughes	McIntyre
Boggs	Humphrey	Mundt
Harris	Inouye	Muskie
Hart	Jackson	Sparkman
Hartke	McClellan	

So the resolution (S. Res. 280), as amended, was agreed to.

Mr. ERVIN. Mr. President, I send an amendment to the preamble to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Mr. ERVIN. Mr. President, this is a technical amendment to adjust the preamble. It was read to the Senate previously. All it does is to provide that the preamble read to the Senate shall be the preamble to the resolution as passed.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution as amended, with its amended preamble, reads as follows:

RESOLUTION

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

Mr. MANSFIELD. Mr. President, there are some recommendations relative to the counsel to be appointed from the Democratic side and three associate counsel to assist the chief counsel. Would the Chair make those nominations at this time on behalf of the majority?

The PRESIDENT pro tempore. Under the resolution just agreed to, the Chair appoints the Senator from North Carolina (Mr. ERVIN) chief counsel, and the Senator from Mississippi (Mr. EASTLAND), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) as associate counsel.

The PRESIDING OFFICER (Mr. STAFFORD) subsequently stated: The Chair, on behalf of the President pro tempore, under Senate Resolution 280, makes the following appointments to the committee established by that resolution: The Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Ohio (Mr. SAXBE).

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on March 22, 1972, the President had approved and signed the following acts:

S. 1163. An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes; and

S. 2423. An act to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes.

PROGRAMS FOR OLDER AMERICANS—MESSAGE FROM THE PRESIDENT (H. DOC. NO 92–262)

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

When I addressed the White House Conference on Aging last December, I pledged that I would do all I could to make 1972 a year of action on behalf of older Americans. This message to the Congress represents an important step in fulfilling that promise.

Many of the actions which are outlined in this message have grown out of concerns expressed at the White House Conference and at related meetings across the country. The message also discusses a number of steps that have already been taken or that were announced at an earlier date. All of these actions are part of our comprehensive strategy for helping older Americans.

The momentum which has been generated by all these steps—old and new—will move us toward the great national objectives which the White House Conference set forth. I pledge that this momentum will be sustained as we follow through on these initiatives and as we keep other recommendations of the White House Conference at the top of our agenda, under continuing review.

This message, then, does not represent the last word I will have to say on this important subject. It does, however, identify those administrative steps which we are taking immediately to help older Americans, along with a number of legislative initiatives which should be of highest priority on this year's Congressional agenda.

We often hear these days about the "impatience of youth." But if we stop to think about the matter, it is the elderly who have the best reason to be impatient. As so many older Americans have candidly told me, "We simply do not have time to wait while the Government procrastinates. For us, the future is now." I believe this same sense of urgency should characterize the Government's response to the concerns of the elderly. I hope and trust that the Congress will join me in moving forward in that spirit.

A COMPREHENSIVE STRATEGY FOR MEETING COMPLEX PROBLEMS

The role of older people in American life has changed dramatically in recent decades. For one thing, the number of Americans 65 and over is more than six times as great today as it was in 1900—compared to less than a 3-fold increase in the population under 65. In 1900, one out of every 25 Americans was 65 or over; today one in ten has reached his 65th birthday.

While the number of older Americans has been growing so rapidly, their traditional pattern of living has been severely disrupted. In an earlier era, the typical American family was multigenerational—grandparents and even great-grandparents lived in the same household with their children and grandchildren, or at least lived nearby. In recent years, however, the ties of family and of place have been loosened—with the result that more and more of our older citizens must live apart or alone. The rapid increase in mandatory retirement provisions has compounded this trend toward isolation. Under such conditions, other problems of older persons such as ill health and low income have become even more burdensome. And all of these difficulties are intensified, of course, for members of minority groups and for those who are blind or deaf or otherwise handicapped.

The sense of separation which has characterized the lives of many older Americans represents a great tragedy for our country. In the first place, it denies many older citizens the sense of fulfillment and satisfaction they deserve for the contributions they have made throughout their lifetimes. Secondly, it denies the country the full value of the

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skills and insights and moral force which the older generation is uniquely capable of offering.

The major challenge which confronts us, then, as we address the problems of older Americans is the new generation gap which has emerged in this country in recent decades between those who are over 65 and those who are younger. The way to bridge this gap, in my judgment, is to stop treating older Americans as a burden and to start treating them as a resource. We must fight the many forces which can cause older persons to feel dependent or isolated and provide instead continuing opportunities for them to be self-reliant and involved.

If we can accomplish this goal, our entire Nation will reap immense benefits. As I put it in my speech to the White House Conference on Aging, ". . . any action which enhances the dignity of older Americans enhances the dignity of all Americans, for unless the American dream comes true for our older generation, it cannot be complete for any generation."

From its very beginnings, this Administration has worked diligently to achieve this central objective. To assist me in this effort, I established a special task force on aging in 1969. In that same year, I elevated the Commissioner on Aging, John Martin, to the position of Special Assistant to the President on Aging, the first such position in history. Later, I created a new Cabinet-level Committee on Aging, under the leadership of the Secretary of Health, Education, and Welfare, to ensure that the concerns of the aging were regularly and thoroughly considered by this Administration and that our policies to help older persons were effectively carried out. To provide greater opportunity for older Americans to express their own concerns and to recommend new policies, I convened the White House Conference on Aging—which met last December and which was proceeded and followed by many other meetings at the grassroots level. I asked the Cabinet-level Committee on Aging to place the recommendations of the Conference at the top of its agenda. And I also asked the Chairman of the Conference, Arthur Flemming, to stay on as the first Special Consultant to the President on Aging, so that the voice of older Americans would continue to be heard at the very highest levels of the Government.

One dimension of our efforts over the last three years is evident when we look at the Federal budget. If our budget proposals are accepted, overall Federal spending for the elderly in fiscal year 1973 will be $50 billion, nearly 150 percent of what it was when this Administration took office. One particularly important example of increased concern for the elderly is the fact that overall Federal spending under the Older Americans Act alone has grown from $32 million in fiscal year 1969 to a proposed $257 million in fiscal year 1973—an eight-fold increase. This figure includes the $157 million I originally requested in my 1973 budget, plus an additional $100 million which I am requesting in this message for nutrition and related services.

How much money we spend on aging programs is only one part of the story, however. *How* we spend it is an equally important question. It is my conviction that the complex, interwoven problems of older Americans demand, above all else, a *comprehensive* response, one which attacks on a variety of fronts and meets a variety of problems.

This message outlines the comprehensive strategy which this Administration had developed for bridging the new generation gap and enhancing the dignity and independence of older Americans. That strategy has five major elements:

1. Protecting the income position of the elderly;

2. Upgrading the quality of nursing home care;

3. Helping older persons live dignified, independent lives in their own homes or residences—by expanding and reforming service programs;

4. Expanding opportunities for older people to continue their involvement in the life of the country; and

5. Reorganizing the Federal Government to better meet the changing needs of older Americans.

A SUMMARY OF MAJOR INITIATIVES

In addition to discussing important actions which have been taken in the past or are now underway, this message focuses attention on the following major items of new and pending business.

1. *To protect the income position of older Americans, the Congress should:*
—enact H.R. 1 as soon as possible, thus providing older Americans with $5½ billion of additional annual income. H.R. 1 would increase social security benefits by 5 percent, make social security inflation-proof, increase widow, widower and delayed retirement benefits, liberalize earnings tests, and establish a floor under the income of older Americans for the first time;
—repeal the requirement that participants in part B of Medicare must pay a monthly premium which is scheduled to reach $5.80 this July. This step would make available to older persons an additional $1.5 billion—the equivalent of roughly another 4 percent increase in social security benefits for persons 65 and over;
—strengthen the role played by private pension plans by providing tax deductions to encourage their expansion, requiring the vesting of pensions, and protecting the investments which have been made in these funds;
—enact revenue sharing proposals designed to provide the opportunity for significant property tax relief; and
—enact my proposed consumer protection legislation which deals with problems which are especially acute for older citizens.

The Administration will:
—continue its investigation of alternative methods for financing public education in such a manner as to relieve the present heavy reliance on property taxes;
—propose major improvements in the military retirement system, including a one-time recomputation of retired pay;
—continue the battle against price inflation, with special emphasis in the health care field;
—develop a program to foster greater awareness among older citizens of their legal rights under the Interstate Land Sales Full Disclosure Act; and
—develop a program designed to help each State create consumer education programs for older citizens.

2. *To upgrade the quality of nursing home care,*
The Congress should:
—make it possible for the Federal Government to assume the entire cost of State inspection of homes receiving payments under the Medicaid program; and
—approve my request for additional funds for training nursing home personnel.

The Administration will:
—continue to strengthen and expedite other portions of my 8-point program for upgrading nursing homes, including my commitment to withdraw Federal funds from those homes that refuse to meet standards and to make adequate alternative arrangements for those who are displaced from substandard homes; and
—develop proposals for protecting older persons in the purchase of nursing home services.

3. *To help older persons live dignified, independent lives in their own homes or residences,*
The Congress should:
—appropriate the $100 million I requested for the Administration on Aging in my 1973 budget;
—appropriate an additional $100 million for nutritional and related purposes;
—appropriate $57 million for other programs under the Older Americans Act, bringing total spending under this act to $257 million—an eight-fold increase over fiscal year 1969;
—renew and strengthen the Older Americans Act, which so many older persons rightly regard as landmark legislation in the field of aging—extending it for an indefinite period rather than for a specified period of years;
—create a new, coordinated system for service delivery under this act, so that the Administration on Aging can help develop goals for such services, while State and area agencies create specific plans for achieving these goals; and
—allow States and localities to use some of the funds now in the Highway Trust Fund to finance their mass transit programs; including special programs to help the elderly.

The Administration will:
—ensure that Departments and agencies involved in the field of aging identify the portion of their total resources that are available for older persons and ensure that use of these resources is effectively coordinated all across the Government;
—strengthen the role already played by local officials of the Social Security Administration and other agencies in providing information about Federal services to older persons and in receiving their complaints;
—launch this summer a new Project FIND—a program which will enlist the services of Government workers at the grassroots level in an outreach effort to locate older persons who are not involved in Federal nutrition programs and who should be;
—step up efforts to meet the special transportation needs of older Americans, giving priority to community requests for capital grants that aid the elderly from the Urban Mass Transportation Fund;
—provide more and better housing for older Americans by issuing new guidelines for two HUD programs to make them more readily applicable to the elderly, by extending the mortgage maturity for the FHA-insured nursing home program, by drawing upon research of the Law Enforcement Assistance Administration to reduce crime, by encouraging the provisions of more space for senior centers within housing projects for the elderly, and by developing training programs in the management of housing for older persons.

4. *To expand opportunities for older persons to continue their involvement in the life of our country,*
The Congress should:
—appropriate the funds I have requested for such action programs as Retired Senior Volunteers and Foster Grandparents;
—authorize the ACTION agency to expand person-to-person volunteer service programs, helping more older Americans to work both with children and with older persons who need their help; and
—broaden the Age Discrimination in Employment Act of 1967 to include State and local governments.

The Administration will:
—work with 130 national voluntary groups across the country in a special program to stimulate volunteer action; and
—develop a national program to expand employment opportunities for persons over 65, through programs such as Senior Aides and Green Thumb, by urging State and local governments to make job opportunities available under the Emergency Employment Act of 1971, by working through the public employment offices to open part-time job opportunities in both the public and private sector, and by reaffirming Federal policy against age discrimination in appointment to Federal jobs.

5. *To improve Federal organization for future efforts,*
The Administration will:
—strengthen the Secretary of Health, Education and Welfare Advisory Committee on Older Americans—providing it with permanent staff capability to support its increased responsibilities;
—arrange for the Commissioner of Aging, in his capacity as Chairman of the Advisory Committee on Aging, to report directly to the Secretary of Health, Education, and Welfare;
—create a Technical Advisory Committee on Aging Research in the Office of the Secretary of Health, Education, and Welfare to develop a comprehensive plan for economic, social, psychological, health and education research on aging.

PROTECTING THE INCOME POSITION OF OLDER AMERICANS

Perhaps the most striking change in the lives of most Americans when they turn 65 is the sudden loss of earned income which comes with retirement. The most important thing we can do to enhance the independence and self-reliance of older Americans is to help them protect their income position. I have long been convinced that the *best* way to help people in need is not by having Government provide them with a vast array of bureaucratic services but by giving them money so that they can secure needed services for themselves. This understanding is fundamental to my approach to the problems of the aging.

The success of this income-oriented strategy depends in turn on giving effective attention to two factors: first, where older Americans' money comes from and second, what it is used for.

WHERE THE MONEY COMES FROM: REFORMING AND EXPANDING GOVERNMENT INCOME PROGRAMS

The most important income source for most older Americans is social security. Accordingly, improvements in social security have been the centerpiece of this administration's efforts to assist the elderly. Today, approximately 85 percent of all Americans over 65 receive regular cash benefits from social security, while 93 percent of those now reaching age 65 are eligible to receive such benefits when they or their spouses retire.

Since 1969, social security cash benefits have been increased twice—a 15-percent increase in January of 1970 and another 10 percent increase 1 year later. These increases represent a $10 billion annual increase in cash income for social security beneficiaries. As I suggested, however, in my 1969 message to the Congress concerning social security reform, *bringing* benefit payments up to date alone is not enough. We must also make sure that benefit payments *stay* up to date and that all recipients are treated fairly.

My specific proposals for achieving these ends are presently contained in the bill known as H.R. 1—legislation which is of overwhelming importance for older Americans. This bill passed the House of Representatives in the first session of the 92nd Congress and is presently pending before the Senate Finance Committee. I continue to believe firmly that H.R. 1 is the single most significant piece of social legislation to come before the Congress in many decades.

Let us consider the several ways in which this legislation would help the elderly:

1. *An Additional Increase in Social Security.* Under H.R. 1, social security benefits would be increased by an additional 5 percent effective in June of 1972. This increase would provide $2.1 billion in additional income for older Americans during the first full year that it is effective. It would mean that social security benefits would be one-third higher after this June than they were just 2½ years ago. *This represents the most rapid rate of increase in the history of the social security program.*

2. *Making Social Security "Inflation Proof."* Under H.R. 1, social security payments would, for the first time, be automatically protected against inflation. Whenever the Consumer Price Index increased by 3 percent or more, benefits would be increased by an equal amount. Payments that keep pace with the cost of living would thus become a guaranteed right for older Americans—and not something for which they have to battle again and again, year after year.

3. *Increased Widows' Benefits.* About 58 percent of the population age 65 and over are women, most of whom depend primarily on social security benefits earned by their husbands. Under the present law, however, widows are eligible for only 82½ percent of the retirement benefits which would be paid to their late husbands if they were still alive. H.R. 1 would correct this situation by increasing widows' benefits to 100 percent of the benefits payable to their late husbands. It would similarly expand the eligibility of a widower for benefits payable to his late wife. Altogether, this provision would mean that about 3.4 million widows and widowers would receive increased benefits totaling almost three quarters of a billion dollars in the first full year.

4. *Increased Benefits for Delayed Retirement.* Under present law, those who choose *not* to retire at age 65 forfeit their social security benefits for the period between the time they are 65 and the time they finally retire. H.R. 1 would allow retirees to make up a portion of these lost benefits through higher payments after retirement. Benefits would increase by one percent for each year that a person had worked between the ages of 65 and 72.

5. *Liberalized Earnings Tests.* Like the increased benefit for delayed retirement, the liberalized earnings tests contained in H.R. 1 would encourage more of our older citizens to remain active in the economic life of our country. This is a step which I promised to take in the 1968 campaign and for which I have been working ever since.

It is high time this step was taken. Those who *can* work and *want* to work should *not* be discouraged from working—as they often are under the present law. By reducing the barriers to work, we can increase the sense of participation among older citizens and at the same time tap their energies and experience more effectively.

Under H.R. 1, the amount that a beneficiary could earn without losing any social security would be increased from $1,680 a year to $2,000 a year. That ceiling, in turn, would be automatically increased each time there was a cost of living benefit increase in social security. In addition, for those who earn in excess of $2,000, the potential reduction in so-

cial security payments would also be lessened. Under the present law, benefits are reduced by $1 for each $2 of extra earnings, but this rate applies only to the first $1,200 earned above the exempt amount. Additional earnings beyond that level now cause benefits to be reduced on a $1 for $1 basis. Under H.R. 1, benefits would be reduced on a $1 for $2 basis for all earnings above $2,000—no matter how much more a person earned.

6. *Adult Assistance Reform.* One of the most important elements of H.R. 1—and one of the most under-publicized—is its provision to place a national floor under the income of every older American. H.R. 1 would replace the present Old Age Assistance program with a single, federally-financed program which would provide a monthly income of $150 for an individual and $200 for a couple when fully effective.

This program would assist 4.5 million elderly persons instead of the 2.1 million currently reached. It would also eliminate the practice of placing liens on homes as a condition of eligibility. Eligibility for assistance would be determined on the basis of need without regard to the income or assets of relatives. Relative-responsibility rules would not be a part of this new program.

I believe this reform is particularly important since it channels massive resources—some $2.8 billion in additional annual benefits—to those whose needs are greatest.

7. *Special Minimum Benefits.* H.R. 1 would also provide special minimum benefits for people who have worked for 15 years or more under social security. The guaranteed minimum benefit would range from $75 a month for a person who had worked 15 years under social security to $150 a month for a person with 30 years of such work experience. At maturity, this provision would increase overall benefit payments to $600 million.

H.R. 1: THE NEED FOR PROMPT ACTION

In addition to all of these benefits for older people, H.R. 1 would have enormous benefits for many younger Americans as well. Clearly the passage of this bill is a matter of the very highest priority. I have made that statement repeatedly since I first proposed this far-reaching program in 1969. As I make that statement again today, I do so with the conviction that further delay is absolutely inexcusable. To delay these reforms by even one more year would mean a loss for older Americans alone of more than $5 billion.

It is my profound hope that the Senate will now carry forward the momentum which has been generated by the passage of H.R. 1 in the House of Representatives, thus seizing an historic opportunity—and meeting an historic obligation.

WHERE THE MONEY COMES FROM: MILITARY, VETERANS AND FEDERAL EMPLOYEE BENEFITS

We are laso making significant progress toward improving the retirement income of career military personnel, veterans and Federal employees.

1. *To improve military benefits,* I will soon submit legislation to the Congress for recomputing retirement pay on the basis of January 1, 1971 pay scales, thus liberalizing annuities for current retirees. I will also submit legislation to provide—for the first time—full annuities for retired reservists at an earlier age, and to revise benefit payments so that retirees receive their full annuities when they are most needed, at the conventional age of full retirement. I hope these proposals will receive favorable consideration.

In addition, I support legislation to provide military retirees with a less expensive survivor annuity plan—one which is similar to that now provided to retired civil servants.

2. *Benefits for veterans* are also improving. Our efforts to improve both the quality of care and the number of patients treated in Veterans Administration hospitals will have a major impact on older veterans, since more than one-fourth of all VA patients are over 65. The staff to patient ratio at VA hospitals will be increased to 1.5 to 1, an all-time high, if our budget proposals are accepted.

The fiscal year 1973 budget also provides for further increases in nursing home care with the result that the authorized number of VA-operated nursing beds will have doubled since 1969 and the number of community contract beds and State home beds built and operated with VA subsidies will have increased by one-third over the same period.

In addition, I have signed into law significant improvements in pensions for elderly veterans which relate benefits more closely to need and protect recipients from income loss because of increases in the cost of living. In January of 1971, pensions were increased by an average of 9.6 percent. One year later, they went up an additional 6.5 percent and a new formula was adopted relating benefits more closely to need for the first time.

3. *Federal Employee Benefits* are also up. Retirement benefits for Federal employees have been liberalized in several instances, and—under a more generous formula for determining cost of living increases—annuities have gone up nearly 16 percent in the last 2½ years. In addition, the Government's contribution to Federal health benefit premiums of current and retired employees has been substantially increased.

WHERE THE MONEY COMES FROM: REFORMING THE PRIVATE PENSION SYSTEM

Only 21 percent of couples now on our social security rolls and only 8 percent of non-married beneficiaries are also receiving private pensions. While this picture will improve somewhat as workers who are now younger reach retirement, nevertheless—despite the best efforts of labor and management—only half the work force is presently covered by private pension plans. As the White House Conference on Aging pointed out, the long-range answer to adequate income for the elderly does not lie in Government programs alone; it also requires expansion and reform of our private pension system.

Late last year, I submitted to the Congress a five-point program to achieve this goal. It includes the following items:

1. *Tax deductions to encourage independent savings toward retirement.* Individual contributions to group or individual pension plans should be made tax deductible up to the level of $1500 per year or 20 percent of earned income, whichever is less. Individuals should also be able to defer taxation of investment earnings on these contributions.

2. *More generous tax deductions for pension contributions by self-employed persons.* The annual limit for deductible contributions to pension plans by the self-employed—on their own behalf and for those who work for them—should be raised from $2,500 or 10 percent of earned income, whichever is less, to the lesser of $7,500 or 15 percent of earned income.

3. *Requiring the vesting of pensions.* Persons who have worked for an employer for a significant period should be able to retain their pension rights even if they leave or lose their jobs before retirement. Unfortunately, many workers do not now have this assurance—their pensions are not vested. To change this situation, I have proposed a new law under which all pensions would become vested as an employee's age and seniority increased. Under this law, the share of participants in private pension plans with vested pensions would rise from 31 percent to 47 percent and the overall number of employees with vested rights would increase by 3.6 million. Most importantly, among participants age 45 and older, the percentage with vested pensions would rise from 60 percent to 92 percent.

4. *The Employee Benefits Protection Act.* This legislation was first proposed to the Congress in March of 1970; it was strengthened and resubmitted in 1971. It would require that pension funds be administered under strict fiduciary standards and would provide certain Federal remedies when they are not. It would also require that plans provide full information to employees and beneficiaries concerning their rights and benefits.

5. *A study of pension plan terminations.* In my December message, I also directed the Departments of Labor and the Treasury to undertake a one-year study concerning the extent of benefit losses which result from the termination of private pension plans. This study will provide the information we need in order to make solid recommendations in this field, providing needed protection without reducing benefits because of increased costs.

WHERE THE MONEY GOES: THE BURDEN OF HEALTH COSTS

Growing old often means both declining income and declining health. And declining health, in turn, means rising expenditures for health care. Per capita health expenditures in fiscal year 1971 were $861 for persons 65 and older, but only $250 for persons under 65. In short, older Americans often find that they must pay their *highest* medical bills at the very time in their lives when they are *least* able to afford them.

Medicare, of course, is now providing significant assistance in meeting this problem for most older Americans. In fiscal year 1971, this program accounted for 62 percent of their expenditures for hospital and physicians services and 42 percent of their total health payments. In addition, an estimated 40 percent of Medicaid expenditures go to support the health costs of the elderly, while other programs provide significant additional assistance.

But serious problems still remain. Accordingly, this Administration has been working in a number of ways to provide even more help for the elderly in the health-care field. One of our most important proposals is now pending before the Congress. I refer to the recommendation I made more than a year ago that the Congress combine part B of Medicare—the supplementary medical insurance program, with part A—the hospital insurance program, thus eliminating the special monthly premium which older persons must pay to participate in part B—a premium which will reach $5.80 per month by July. I have reaffirmed my commitment to this important initiative on other occasions and today I affirm it once again. Elimination of the premium payment alone would augment the annual income of the elderly by approximately $1.5 billion, the equivalent, on the average, of almost a 4 percent increase in social security for persons 65 and over. I hope the Congress will delay no longer in approving this important proposal.

Our concern with health costs for older Americans provides additional reasons for the prompt approval of H.R. 1. Under that bill:

—Provision is made for extending Medicare to many of the disabled (about 60 percent of whom are age 55 and over) who are drawing social security benefits and who have had to give up work before reaching regular retirement age;

—Medicare beneficiaries would have the opportunity to enroll in Health Maintenance Organizations—organizations which I strongly endorsed in my special message on health policy because of my conviction that they help to prevent serious illness and also help to make the delivery of health care more efficient;

—Provision is made for removing the uncertainties relative to coverage under Medicare when a person needs to use extended care facilities after hospitalization.

In my recent message to Congress on health policy, I indicated a number of other measures which will help reduce the cost of health care. I spoke, for example, of the special attention we have been giving under Phase II of our New Economic Policy to the problem of skyrocketing health costs, through the special Health Services Industry Committee of the Cost of Living Council. I indicated that a number of cost control features would be introduced into the Medicare and Medicaid reimbursement processes—with the overall effect of reducing health costs. I have also called for new research efforts in fields such as heart disease, cancer, and accident prevention—initiatives which also promise to reduce health problems—and health bills—for older persons.

WHERE THE MONEY GOES: INFLATION

Inadequate retirement incomes are strained even further when inflation forces older persons to stretch them to meet rising costs. Because older persons are uniquely dependent on relatively fixed incomes, they are uniquely victimized by the ravages of inflation. While my proposals for making social security benefits inflation-proof will provide significant help in defending the elderly against this menace, it is also important that we take on this enemy directly—that we curb inflationary pressures.

This goal has been a central one of this Administration. When I came to office this country was suffering from a massive wave of price inflation—one which had resulted in large measure from the methods chosen to finance the Vietnam War. The problem of reversing this wave by conventional methods was a more stubborn problem, frankly, than I expected it to be when I took office. By the summer of 1971, it became clear that additional tools were needed if inflation was to be quickly and responsibly controlled. Accordingly, I announced last August a New Economic Policy—one which has received the strong support of the Congress and the American people.

I have been especially gratified that older Americans—whose stake in the battle against inflation is so high—have rallied to support this new economic program. With their continued support—and that of all the American people—we can carry this battle forward and win a decisive victory.

One key element in that battle, of course, is to be sure that Government spending programs, including those which help the elderly, are responsibly financed. If they are not, then inflation will merely be reignited and Government policy will merely be robbing older Americans with one hand of the aid it gives them with the other.

WHERE THE MONEY GOES: PROPERTY TAXES

Two-thirds of all older citizens—and 78 percent of older married couples—own their own homes. For these Americans—and for many younger Americans as well—the heavy and growing burden of property taxes constitutes one of the most serious of all income-related problems. Even those who rent their homes often bear an unfair burden since property tax increases are frequently passed along in the form of higher rents. The reason these burdens are so onerous, of course, is that the income from which property taxes must be paid by the elderly is usually going *down* at the very time the taxes are going *up*.

Property taxes in the United States have more than doubled in the last ten years. The problems which this fact implies are felt by Americans of all ages. But elderly Americans have a special stake in their solution.

I am committed to doing all I can to relieve the crushing burden of property taxes. I have been proceeding toward this end in two ways. First, I am continuing to push for passage of our General and Special Revenue-Sharing proposals, legislation which would channel some $17 billion into State and local budgets and thus provide a significant opportunity for property tax relief. At the same time, as I indicated in my recent State of the Union Address, I am also moving to change the system through which we finance public education. In developing a new approach, I will draw on the recommendations of the President's Commission on School Finance, the Advisory Commission on Inter-governmental Relations, and other analyses such as those which are being performed under the direction of the Secretaries of the Treasury, and of Health, Education, and Welfare. The purpose of this intensive investigation is to develop ways of putting this Nation's educational system on a sounder financial footing while helping to relieve the enormous burden of school property taxes.

REDUCING INCOME TAX BURDENS

Recently approved and pending changes in the income tax laws also provide special help to older persons. Under these provisions, a single person age 65 or over would be able to receive up to $5,100 of income without paying any Federal income taxes, while a married couple with both husband and wife 65 or over would be able to receive up to $8,000 of such tax-free income.

WHERE THE MONEY GOES: PROTECTING ELDERLY CONSUMERS

The quality of life for older Americans depends to a large extent upon the responsiveness of the marketplace to their special needs. It is estimated that elderly persons now spend over $60 billion for goods and services every year—and they will be able to spend billions more if my proposals for increasing their income are enacted. Our economy should be responsive to the needs of older Americans; they have a high stake in advancing consumer protection.

Through organizational changes, administrative actions and legislative recommendations, this Administration has been working to provide needed protection for the American consumer in general—and for the older consumer in particular. The several pieces of consumer legislation which I have submitted to the Congress are designed to reduce dangers which are especially acute for older consumers—and I again urge their enactment.

In addition, I am asking my Special Assistant for Consumer Affairs, in cooperation with the Secretary of Housing and Urban Development, to develop a program for helping to enforce the Interstate Land Sales Full Disclosure Act by fostering greater awareness among older citizens of their legal rights under this legislation.

Recognizing that the complexity of today's marketplace demands great sophistication by the individual consumer, our primary and secondary schools have stepped up their programs for consumer education. Unfortunately, many older Americans have never had the opportunity to benefit from such programs. The Office of Consumer Affairs is therefore developing guidelines for adult consumer education programs with particular emphasis on the needs of the elderly. To carry out these guidelines, I am asking my Special Assistant for Consumer Affairs, working in cooperation with the Secretary of Health, Education, and

Welfare, to develop a program of technical assistance to help the States create consumer education programs specifically designed for older citizens.

A COMPREHENSIVE EFFORT FOR IMPROVING INCOME

The key characteristic of my strategy for protecting the income position of older Americans is its *comprehensiveness*. For it would help to augment and protect the income older persons derive from social security, adult assistance, Federal military, veterans and civilian benefits, and private pensions, while at the same time curbing the cruel drain on those incomes from rising health costs, inflation, taxes and unwise consumer spending. I hope now that the Congress will respond promptly and favorably to these proposals. If it does, then the purchasing power of the elderly can be enhanced by billions of dollars a year—an achievement which could do more than anything else to transform the quality of life for Americans over 65.

UPGRADING THE QUALITY OF NURSING HOME CARE

Income related measures can help more older Americans to help themselves; they build on the strong desire for independence and self-reliance which characterizes the older generation. We must recognize, however, that some older Americans—approximately five percent by recent estimates—cannot be primarily self-reliant. These older men and women require the assistance provided by skilled nursing homes and other long-term care facilities. For them, a dignified existence depends upon the care and concern which are afforded them in such settings.

In June of 1971, at a regional convention of the National Retired Teachers Association and the American Association of Retired Persons, I pledged to meet the challenge of upgrading nursing home care in America. I expressed my determination that nursing homes, for those who need them, should be shining symbols of comfort and concern. I noted that many such facilities provide high quality care, but that many others fall woefully short of this standard. I observed that those who must live in such facilities are virtual prisoners in an atmosphere of neglect and degradation.

Following that speech, I directed the development of an action plan to improve nursing home care and I announced that 8-point plan in August of 1971. I am pleased to be able to report that we have made significant progress in carrying out that plan. We have delivered on all of the eight promises implied in that program. Let us look at each of them:

1. *Training State Nursing Home Inspectors*—Through February of 1972, almost 450 surveyors had been trained in federally-sponsored programs at three universities. Contract negotiations are underway to continue ongoing programs and to establish new ones at two university training centers.

2. *Complete Federal Support of State Inspections Under Medicaid*—Legislation to raise the level of financial participation by the Federal Government in this activity to 100 percent was submitted to the Congress on October 7, 1971, as an amendment to H.R. 1. This proposal is awaiting Congressional action.

3. *Consolidation of Enforcement Activities*—A new Office of Nursing Home Affairs has been established in the Office of the Secretary of Health, Education, and Welfare. This unit is directly responsible for coordinating all efforts to meet our July 1, 1972, deadline for inspections of skilled nursing homes and for certification of these facilities in accordance with proper procedures.

4. *Strengthening Federal Enforcement*—142 new positions have been allocated to the Medical Services Administration to enforce Medicaid standards and regulations. Added emphasis is being placed on the audit process as a tool for enforcement; 34 additional positions are being added in HEW's Audit Agency to perform audits of nursing home operations.

5. *Short-term Training for Professional and Paraprofessional Nursing Home Personnel*—This program is currently funded at the $2.4 million level and is scheduled to train 20,000 persons. The fiscal year 1973 budget which I submitted to the Congress contains $3 million to train an additional 21,000 persons.

6. *Assistance for State Investigative Units*—A program to develop and test investigative-ombudsman units to respond to individual complaints and to other problems in the nursing home area has also been initiated. As an interim mechanism, nearly 900 social security district and branch offices have been designated as listening posts to receive and investigate complaints and suggestions about nursing home conditions.

7. *Comprehensive Review of Long-term Care*—The Office of Nursing Home Affairs is now carrying out a comprehensive analysis of issues related to long-term care.

8. *Cracking Down on Substandard Nursing Homes*—Progress is also being made on this important front. Last December I signed legislation which, among other things, authorizes Federal quality standards for intermediate care facilities, thus giving us additional authority to guarantee a decent environment for those who live in long-term care facilities.

Every State providing nursing home care under the Medicare and Medicaid programs has now installed systems for surveying and certifying nursing homes. In the area of fire-safety and other safety guidelines, a coordinated set of standards for homes providing care under these programs is being put into effect.

Medicaid compliance activities have also been stepped up. Onsite Federal reviews of State Medicaid certification procedures have been carried out. Deficiencies in those procedures were found in 39 States. These deficiencies were publicly announced by the Secretary of Health, Education, and Welfare on November 30, 1971, along with a timetable for correcting them. Since that time, 38 of the 39 States have made the necessary corrections. We have determined that every facility receiving Medicaid funds must have been inspected and correctly certified by July 1, 1972.

While we prefer to upgrade substandard homes rather than shut them down, we will not hesitate to cut off money when that is necessary. As of February 11, 1972, in fact, 13 extended care facilities had been decertified for participation in Medicare. In such cases, as I have often pledged before, we are firmly committed to seeing that adequate alternative arrangements are made for those who are displaced.

In fiscal year 1971, the Federal Government contributed $1.2 billion to the cost of nursing home care. We should also remember, however, that more than 40 percent of the annual expenditure for nursing homes is borne by private sources. In addition to seeing that Federal tax dollars are properly spent in this area, it is also important that private individuals are protected when they purchase nursing home services. I have asked the Secretary of Health, Education, and Welfare to develop proposals to deal with this dimension of the nursing home challenge.

SPECIAL SERVICES TO FOSTER INDEPENDENCE

Improving the income position of older Americans and upgrading nursing homes—these are two concerns which have been of highest priority for this Administration in the past and which will continue to be central in the future. As we work to develop a truly comprehensive strategy, however, other agenda items have also been emerging as areas of special emphasis, particularly those involving public and private services which can help older persons live dignified, independent lives in their own homes for as long as possible.

INCREASED RESOURCES FOR THE ADMINISTRATION ON AGING

Since the passage of the Older Americans Act in 1965, the Administration on Aging has had the lead Federal role in developing and coordinating such services. While that office has accomplished many significant things, the importance and urgency of its mission have outstripped its financial resources.

It was to help remedy this situation that I announced at the White House Conference on Aging last December that I would call for a fivefold increase in the budget of the Administration on Aging—from $21 million to $100 million. As I will discuss below in greater detail, I am now requesting an additional $100 million for nutritional and related purposes, money which would also be spent through the Administration on Aging.

With this substantial increase in funds, we would be able to step up significantly our efforts to develop and coordinate a wide range of social and nutritional services for older Americans. Our central aim in all of these activities will be to prevent unnecessary institutionalization—and to lessen the isolation of the elderly wherever possible.

EXTENDING THE OLDER AMERICANS ACT

Since its passage in 1965, the Older Americans Act has served as an important charter for Federal service programs for the elderly. Unless the act is promptly extended, however, the grant programs it authorizes will expire on June 30th. This must not happen. I therefore urge that this landmark legislation be extended—and that the extension be indefinite, rather than limited to a specific period of time.

STRENGTHENING THE PLANNING AND DELIVERY OF SERVICES

In addition, I am asking that the Older Americans Act be amended to strengthen our planning and delivery systems for services to the elderly. Too often in the past, these "systems" have really been "non-systems," badly fragmented, poorly planned and insufficiently coordinated. My proposed amendments are designed to remedy these deficiencies.

We should begin by helping to develop and strengthen the planning capacities of the State agencies on aging and of new area agencies on aging which would be established within each State. Up to 75 percent of the administrative costs of these new area planning agencies would be funded by the Administration on Aging, which would also establish general goals to which activities at the State and local levels would be directed. One of the major priorities would be to enhance and maintain the independence of older citizens.

The State and area planning agencies would plan for the mobilization and coordination of a wide range of resources—public and private—to meet such goals. The Administration on Aging would be authorized to fund up to 90 percent of the cost of social and nutritional services provided under plans developed by the area planning agencies. In fiscal year 1973, $160 million would be allocated in formula grants for nutritional and social services. An additional $40 million would be allocated in special project assistance to develop new and innovative approaches and to strengthen particularly promising area plans.

By establishing overall objectives and by providing both money and mechanisms for a stronger planning and coordination effort, we can ensure that resources and energies which are now widely scattered and fragmented can be pulled together in ways which will notably increase their impact.

COORDINATING FEDERAL EFFORTS

Even as we strengthen coordination at grassroots levels, so we must do a better job of coordinating Federal programs. As this message makes clear, efforts are being made all across our Government to help older citizens. But if there was one clear message at the White House Conference on Aging, it was that this wide range of Federal resources must be better coordinated. To help achieve this important objective, I have directed my Special Consultant on Aging to work with all these agencies in an intense new effort to develop coordinated services.

As the first step in this effort, I have directed those agencies whose programs have a major impact on the lives of older persons to provide the Cabinet-level Committee on Aging, within sixty days, with the amounts they identify as serving the needs of the elderly. In addition, I am directing that each agency identify, within the total amount it expects to spend for its aging programs, a sum that will be available to the States and localities for purposes related to the Older Americans Act. The Administration on Aging will then provide this information to the States so that it can be utilized in the State and local planning process. State aging agencies will also be able to transmit their views on proposed Federal programs, thereby furthering the interchange of information and strengthening overall coordination.

Under these procedures, we can ensure that all resources for helping the elderly are fully marshalled and coordinated, in a way which is responsive to the special needs of every State and locality in our land.

ESTABLISHING INFORMATION AND COMPLAINT CENTERS

We must also work to improve communications between the Federal Government and older Americans and to alert the Government to areas of special need. Because older persons often have some difficulty moving about conveniently, and because services are often fragmented and channeled through complex bureaucratic mechanisms, it is especially important that the elderly have one place to turn where they can obtain needed information and let their views be heard.

As I have already noted, we have been moving in this direction under my program to upgrade the quality of nursing home care. Following the directive which I announced at the White House Conference on Aging, Social Security offices have also been expanding their information and referral services for the elderly. District and branch offices are now handling more than 200,000 such inquiries each month—and that number is expected to increase. A task force is now at work within the Social Security Administration to examine ways of improving this service.

As another step in this direction, I have directed the Cabinet-level Committee on Aging to examine ways in which we can use other Government offices—such as the General Services Administration's Federal Information Centers and the Agricultural Extension Service's local offices—in further expanding and improving our information and complaint services.

FIGHTING HUNGER AND MALNUTRITION

In addition to our overall funding and coordination proposals concerning Federal services, we are also moving ahead in a variety of specific service areas. One of the most important is the fight against hunger and malnutrition among the elderly.

The thought that any older citizens—after a lifetime of service to their communities and country—may suffer from hunger or malnutrition is intolerable. Happily, since I submitted my message on hunger and nutrition to the Congress in May of 1969, we have made significant strides toward eliminating this problem among all age groups in America. Our efforts to increase incomes have been central to this endeavor, of course. But our special food assistance programs have also been substantially augmented.

If my budget proposals for fiscal year 1973 are accepted, overall spending for food stamps will have increased nine-fold since 1969. In the coming fiscal year, an estimated 2 million elderly participants in the Food Stamp Program will receive benefits of $343.5 million, compared with only $45.8 million in fiscal year 1969. Virtually every county in the Nation now offers either the Food Stamp or the Food Distribution Program; in early 1969, nearly 500 counties offered neither. In all, 2.5 million older Americans benefit from at least one of these programs.

Food assistance is important to the elderly. They benefit not only from nutritious food but also from the activity of preparing meals and sharing mealtimes with others. To maximize these benefits, the Department of Agriculture in January revised its regulations to improve the nutrition program and expand participation.

But more needs to be done. Many older persons who are entitled to food stamps or to surplus commodities are still not receiving them. Why is this the case? In many instances, older Americans do not realize they are eligible for participation. The agencies which provide assistance are often unaware of older persons who need their services. Some older persons choose not to participate—out of pride or out of fear that accepting food assistance may subject them to the arbitrary treatment they associate with the present welfare system. In some cases, older persons want to participate but find that necessary transportation is unavailable.

To overcome the barriers which keep older Americans from full participation in food assistance programs, we are launching this year a major outreach campaign called Project FIND. This campaign will be conducted through a senior citizen awareness network made up of federally operated or funded field offices and outreach workers. It is my hope that Federally-supported personnel will be augmented in this effort by volunteers from State local government offices and from the private sector. For ninety days, all these workers will go out across our country to find those who should be participating in nutrition programs but who are not yet involved.

Last night, I signed into law S. 1163, a new national nutrition program for the elderly. This program will provide prepared meals in a group setting and delivered meals for those who are confined to their homes. I welcome this effort. Because of my strong feeling that this area should be one of priority action, I will submit to the Congress—as I suggested above—an amendment to my 1973 budget to provide an additional $100 million for nutritional and related services. My proposed amendments to the Older Americans Act would further strengthen this effort by ensuring that the Food Stamp Program is planned as part of a more comprehensive service effort.

Other steps will also be taken in this area. In some areas, for example, space at federally-assisted housing projects will be utilized for feeding older persons. The support of State and local governments, of civic and religious organizations and of the food services industry

will also be solicited. Maximum use will be made of existing technical resources, including skilled personnel who have worked with the school lunch program and other special programs of the Department of Agriculture. The time has come for marshalling all of our resources in a comprehensive campaign to meet the nutrition needs of older Americans.

PROVIDING BETTER TRANSPORTATION FOR THE ELDERLY

For many older Americans, lack of mobility means poor access to friends and relatives, to government services and to meaningful participation in the community. Unless we meet the challenge of providing better transportation for older persons, our efforts in other fields will not be as effective as they should be. This is why I told the delegates to the White House Conference on Aging that I would, by administrative action, require that Federal grants which provide services for older persons also ensure that the transportation needed to take advantage of these services is available.

In addition, the Department of Transportation is significantly increasing its program for developing new ways to meet the public transportation needs of older persons. The approaches which are being tested include special new transportation services to take elderly citizens from housing projects and other residential areas to hospitals, senior citizen centers, social service agencies, employment opportunities and the like; and demand-responsive services whereby the elderly are picked up at their doorsteps and taken to specific desired destinations.

Once new ways have been developed for meeting the transportation needs of the elderly, we must also make them generally available. One proposal which could help significantly in this effort is the recommendation recently submitted to the Congress by the Secretary of Transportation under which some of the funds now in the Highway Trust Fund could be used by States and localities to augment resources in the mass transportation area.

I hope the Congress will give prompt approval to this important plan. The flexibility it provides would allow State and local officials—who know best the transportation needs of the elderly within their own jurisdictions—to give special consideration to meeting those needs. I am asking the Secretary of Transportation to develop specific suggestions for assisting the States and localities in these undertakings.

In addition, the Department of Transportation is ready to give priority attention to community requests for helping older Americans through capital grants from the Urban Mass Transportation Fund and is willing to commit significant resources to this end. I urge the States and localities to move immediately to take advantage of these resources.

MEETING THE HOUSING NEEDS OF OLDER CITIZENS

This Administration has also worked hard to respond to the very special housing needs of older Americans. It is expected, for example, that an all-time record in producing subsidized and insured housing and nursing homes for the elderly will be achieved this year by the Department of Housing and Urban Development. In the current fiscal year, nearly 66,000 units of subsidized housing for the elderly will be funded under HUD's housing assistance programs—a figure which should rise to over 82,000 in fiscal year 1973. In addition, accommodations for over 14,000 people, mostly elderly, will be provided this fiscal year under HUD's nursing and intermediate care facility programs—and nearly 18,000 such accommodations will be provided next year. Finally, a large number of elderly citizens will benefit from other housing funded by this year's record number of nearly 600,000 subsidized housing unit reservations. Clearly, we are making substantial progress in this important area.

A number of other administrative steps have also been taken to ensure that this new housing is responsive to the special needs of the elderly. For example, Secretary Romney recently announced new guidelines for the Section 236 subsidized rental program for lower income elderly tenants. These guidelines will help ensure greater variety in building types, including highrise structures, and more flexibility in their locations. As a result of these guidelines, older persons will find such housing arrangements even better suited to their particular needs.

The Department of Housing and Urban Development has also issued initial guidelines for the new Section 106(a) program which will provide technical assistance to nonprofit sponsors of low and moderate income housing—including housing which is specially designed for the elderly.

In addition, the Department will extend the mortgage maturity for its Federal Housing Administration insured nursing home program up to a maximum of 40 years. This decision will not only reduce monthly occupancy charges to patients, but it will also enable sponsors of residential housing to "package" residential and nursing home complexes more easily. The proximity of these facilities will permit elderly persons temporarily to vacate their residential units for short term nursing care—and at the same time remain close to family, friends, and the environment to which they are accustomed.

I have also directed the Secretary of Housing and Urban Development to work with the Administration on Aging in developing training programs dealing with the management of housing for the elderly.

The Law Enforcement Assistance Administration has undertaken an intensive research effort to determine factors which encourage or inhibit crime in residential settings and to develop total security systems to reduce crime in housing projects. The Department of Housing and Urban Development plans to use the results of this effort in its housing programs. I have also made grant funds available through the Law Enforcement Assistance Administration for reducing crime in areas housing older persons. Already, in two cities, funds have been granted specifically for this purpose.

Crime is an especially serious problem for our older citizens. Through these and other measures, we will continue our strong effort to meet this challenge.

Two years ago my task force on aging observed that "older persons would make greater use of many of the services society intends them to receive if these services were made more accessible to them. One reason that the number of senior centers has increased so fast is because centers facilitate the packaging, marketing, and delivery of services." The task force also noted that, "although the number of senior centers has rapidly grown in recent years, centers are still too limited in number to reach more than a fraction of the older population." In my judgment, a natural location for a senior center is a housing facility occupied primarily by older persons.

The Department of Housing and Urban Development administers two housing programs under which such facilities can be made available to older persons living in the project and in the surrounding neighborhood: the Section 236 Program and the Public Housing Program. Both of these programs provide specially designed housing for lower income older persons. The law under which these programs are administered contains language which allows the financing of facilities designed primarily for use by older persons including "cafeteria or dining halls, community rooms, workshops, infirmaries, . . . and other essential service facilities."

To increase the supply of well located senior centers, I have instructed the Department of Housing and Urban Development to encourage greater provision of community space for senior centers within subsidized housing projects for the elderly. The Department will consider the community's overall need for these centers in determining the appropriate scale of centers within such housing projects.

On other fronts, the Farmers Home Administration in the Department of Agriculture is taking steps to meet the housing needs of elderly persons who live in rural areas. Under the Section 502 program, for example, thousands of elderly families have received millions of dollars in loans for home ownership and repair. The Section 515 program, which provides favorable interest loans with repayment periods of up to 50 years to stimulate the development of rental housing in rural areas has also moved forward. Rental units financed under this program have tripled from 1969 to 1973.

EXPANDING OPPORTUNITIES FOR INVOLVEMENT

It is important that we give sufficient attention to the things our Nation should be doing for older Americans. But it is just as important that we remember how much older Americans can do for their Nation. For above all else, what our older citizens want from their country is a chance to be a part of it, a chance to be involved, a chance to contribute.

I am determined that they will have that chance. For as I told the White House Conference, "we cannot be at our best if we keep our most experienced players on the bench." This Administration is deeply committed to involving older citizens as actively as possible in the life of our Nation—by enhancing their opportunities both for voluntary service and for regular employment.

IMPROVING VOLUNTARY SERVICE PROGRAMS

Voluntary social action has long been recognized as one of the great distinguishing characteristics of America, a force which has helped to unite and focus our diverse people in the pursuit of common goals. And even as the voluntary spirit has helped our country move forward more effectively, it has also provided those who have volunteered for service with a greater sense of fulfillment.

The voluntary spirit is particularly relevant to the lives of older Americans. The White House Conference on Aging, for example, called attention to "ways in which older Americans could fulfill themselves by giving service to one another and to their communities." Delegates to the Conference called for "a national policy . . . to encourage older adults to volunteer," and urged "that existing national older adult voluntary programs should be expanded and funded at adequate levels in order to serve extensive numbers of volunteers." They urged a mobilization of public and private organizations to strengthen the volunteer movement.

I agree completely with these judgments. That is why, at the time of the White House Conference, I pledged to move successful voluntary programs from demonstration status to full operation on the national level, an expansion effort that is rapidly moving forward.

I requested, for example, that the Foster Grandparent program be doubled to $25 million, providing for 11,500 foster grandparents to serve 23,000 children each day—50,000 children in all each year—in some 450 child care institutions throughout the country. I also asked that ACTION's Retired Senior Volunteer Program (RSVP) be tripled to $15 million so that as many as 75,000 senior volunteers could be involved in community services.

When the RSVP program has developed to the full extent permitted by the new appropriations, as many as 11,000 volunteers will be serving older persons in nursing homes and other extended care facilities, bringing companionship and personal assistance to some 45,000 residents who might otherwise be lonely and isolated. At the same time, as many as 13,000 part-time RSVP volunteers will be serving as homemaker and health aides, enabling thousands of older persons to continue to live in their own homes. By using senior volunteers in a variety of programs, we can foster that human contact which brightens the lives both of those who are served and those who volunteer.

But other new steps are also needed in this area.

As one such step, the Congress should enact legislation which would enable the ACTION agency to expand person-to-person volunteer service programs for older Americans. These efforts would build on the successful experience of the Foster Grandparent program. One important characteristic of such programs is that so much good can be accomplished, so many people helped, for a relatively small dollar investment. It would indeed be tragic if we did not capitalize on this opportunity.

Measures are also needed to improve coordination among the many Federal and non-Federal volunteer activities which affect the aging. As one important step in this direction, the Administration on Aging and the National Center for Voluntary Action have enlisted the cooperation of 130 national voluntary organizations in a program to help older men and women in 300 communities live dignified lives in the familiar settings of their own homes. Too often, older Americans are displaced from such settings simply because small problems such as simple home repairs, shopping and trips to obtain health care have become too difficult. And yet, with only minimal assistance from volunteers, these problems could easily be met.

I have directed the ACTION agency to work in every possible way to help provide such assistance. Already the RSVP program is moving forward in this area. I am confident that other ACTION program volunteers can also make a major impact in this field. It is my hope, too, that communities will consider the elderly residents of federally assisted housing projects as a source of volunteer manpower for serving other older persons.

As we move ahead with this entire program, we should take encouragement from successes of the past. One which is particularly noteworthy is the program in Mount Vernon and Edmunds, Washington, where local citizens have designed a unique bridge across the generation gap called STEP—Service to Elderly Persons. Under this program, volunteers from the local high schools have undertaken, on a regular basis, to assist elderly persons in performing small tasks, while at the same time providing them with companionship and renewed hope. Everyone gains from a program of this sort. If leaders at every level are alert to such possibilities, our progress can be enormous.

Often in quiet ways, the people of the United States have been responding to the challenges of our society with compassion and resourcefulness. Now it is for those of us who have the responsibility for national leadership to provide the Federal assistance which can help such voluntary efforts go even further and accomplish even more.

EMPLOYMENT OPPORTUNITIES FOR OLDER CITIZENS

Discrimination based on age—what some people call "age-ism"—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person's unique status as an individual and treats him or her as a member of some arbitrarily-defined group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working.

We are responding to this problem in a number of ways. The Department of Labor, for example, has filed over 80 suits under the Age Discrimination in Employment Act of 1967—30 of which have been successfully concluded. I will soon propose to the Congress that this act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments. I will also send a directive to the heads of all Federal departments and agencies reaffirming and emphasizing our policy that age shall be no bar to a Federal job which an individual is otherwise qualified to perform.

The Age Discrimination in Employment Act relates to persons between the ages of 45 and 65. I recognize that persons falling within this age group are confronted with special problems in the employment area and that we should do everything we can to resolve these problems. It is also important, however that we help open employment opportunities for persons over 65. To this end, I have requested the Secretary of Labor to urge the States and local communities to include older persons in the opportunities provided by the Emergency Employment Act of 1971, and to work with our public employment offices so that they will be in a position to help open job opportunities for the over 65 group, including opportunities for part-time employment in both the public and private sectors.

I also asked last fall that funds be doubled for special Operation Mainstream projects for low-income older workers—such as Green Thumb and Senior Aides. This measure can mean that as many as 10,000 older persons will be employed in activities that provide useful community service.

ORGANIZING FOR FUTURE ACTION

One of the important concerns of the White House Conference on Aging was the way in which the Government is organized to deal with the problems of older Americans. It was because I share this concern that I established my original task force on aging, appointed the first Special Assistant to the President on Aging and the first Special Consultant to the President on Aging, set up a new Cabinet-level Committee on Aging and called the White House Conference.

In a similar manner, the Secretary of Health, Education, and Welfare has taken steps to ensure that the voice of older Americans speaks loud and clear within that Department. He has informed me that he will strengthen the Department's Advisory Committee on Older Americans and provide it with staff capability to support its increased responsibilities. The Commissioner of Aging, in his capacity as Chairman of the Advisory Committee, will report directly to the Secretary.

Another important organizational concern involves Government research activities which concern the process and problems of aging. It is important that the same scientific resources which have helped more people live longer lives now be applied to the challenge of making those lives full and rewarding for more Americans. Only through a wise invest-

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ment in research now, can we be sure that our medical triumphs of the past will not lead to social tragedies in the future.

What we need is a comprehensive, coordinated research program, one which includes disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics. To coordinate the development of such a program, a new Technical Advisory Committee for Aging Research will be created in the office of the Secretary of Health, Education, and Welfare.

A GENERATION NO LONGER FORGOTTEN

We all grow old; the younger generation today will be the older generation tomorrow. As we address the needs of older Americans, therefore, we are truly acting in the best interest of all Americans. The actions and proposals which have been outlined in this message are designed to address those needs and meet those interests.

When I spoke about the problems of the elderly back in 1968, I described our older citizens as "an entire generation of forgotten Americans." But since that time, as this message clearly demonstrates, that situation has sharply changed. Today, it can truly be said that at all levels of Government and in all parts of the country, "the aging have come of age." Much work still remains, to be sure, but we can conclude with assurance that the aging are forgotten no longer.

Just before the First World War, one of the brilliant young writers of that day penned a line which has since become a hallmark of the period: "It is the glory of the present age," he wrote, "that in it one can be young."

Since that time, the generation of which he wrote has come through a troubled and challenging time—through two World Wars and a Great Depression, through the difficult experiences of Korea and Vietnam. The members of that same generation have led this country through a time of social and economic change unparalleled in world history. And they have come through all of these challenges "with colors flying." Because of their success, we now have the opportunity to complete their quest for peace and justice at home and around the world.

At such a moment, one obligation should be very high on our list of priorities: our obligation to this older generation. Let us work to make ours a time of which it can be said, "the glory of the present age is that in it men and women can grow *old*"—and can do so with grace and pride and dignity, honored and useful citizens of the land they did so much to build.

RICHARD NIXON.

THE WHITE HOUSE, *March 23, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STAFFORD) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on Commerce.

(The nominations received today are printed at the end of Senate proceedings.)

COMMUNICATIONS ACT OF 1934

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 653, S. 3178.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, after discussing the matter with the joint leadership, the distinguished Senator from Tennessee (Mr. BAKER), the manager of the bill, the distinguished Senator from Rhode Island, I ask unanimous consent that on the pending business there be a time limitation of 1 hour on each amendment—I understand there will be only one amendment—and 1 hour on the bill.

The PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I shall not object—so far as I know, there will be only one amendment. I do not want to preclude the possibility that there might be others. But the time limitation is entirely agreeable.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. PASTORE obtained the floor.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

Mr. GRAVEL. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PASTORE. Mr. President, I yield to the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Rhode Island.

Mr. President, I want to make a few observations and comments on the action which has just been taken.

First, I should like to state that it was with some difficulty that I sat here constrained not to make any comments at all during the debate. I think it can be appreciated how difficult that was for me, but I want to underscore more importantly than that, that for the comments and the actions taken by the leadership, particularly the distinguished majority leader in his personal defense and the statements he made, I will be eternally grateful. The Senate itself should be grateful.

I want to note as well the esteem I have for Senator ERVIN. Of course, this gentleman needs no praise in this regard, because he has a reputation that goes far beyond this Chamber as a constitutional specialist. But the fact that the distinguished Senator from North Carolina (Mr. ERVIN) from the very beginning recognized the fundamental constitutional issues involved and came forward, long before today, on this issue, gives me cause not only to be proud to be a Senator but also to be proud to be associated with a man who can sense the problem and rise to the defense of the problem.

The issue here today was not my issue.

The issues here today concerned the prerogatives of the Senate. Those prerogatives could not have been more ably defended than they were by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished majority leader.

I also appreciate the comments of the distinguished Senator from Rhode Island (Mr. PASTORE), and the Members on the minority side who voted on my behalf—since I sense the pressures they may have been subjected to.

However, Mr. President, I think that we have only settled one thing today and that was the constitutional question.

If I could get the attention of the distinguished Senator from Ohio (Mr. SAXBE), I should like again to make the simple point that only one issue was settled here today and that was the constitutional issue, as to whether the Senate itself would go to the Supreme Court and fight for its own rights.

Mr. President, I should like to see other issues discussed. One issue that was talked about at great length was the issue of a Senator's giving out secrets, and the question of whether the rules were violated.

I should like to have the propriety, the spirit, the entire spectrum of my actions come before this body in debate. In that spirit and if, as a result of that debate, action should be brought against me by this body, then I am sure there would be some gentlemen who would choose to do that.

Thus, I should like, formally, to challenge the Senator from Ohio (Mr. SAXBE), the Senator from Colorado (Mr. DOMINICK)—they are not present in the Chamber at this moment but I will communicate this information in letters to them—the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. DOLE), the Senator from Tennessee (Mr. BROCK) and any other Senator that would want to debate the wisdom and efficacy of my actions on last June 29, and to state that I will take the floor under personal privilege—as I understand, under the rules, I can do—so that if these gentlemen will accommodate me, to be on time, be it tomorrow morning, be it next Tuesday, or any other time that they would choose, I will be happy to come forward and debate the issues involved and have a complete airing of the subject, because I think it will be salubrious not only to the Senate, but also to the people of this country, since the issue of secrecy and its misuses is so vital in a democracy.

Mr. SAXBE. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. Well, now, Mr. President, of course the Senator will be talking on my time.

Mr. SAXBE. Well, I think——

Mr. PASTORE. I am not trying to prevent the Senator from speaking.

Mr. SAXBE. I would just like 1 minute.

Mr. PASTORE. I will be glad to yield 5 minutes to the Senator.

Mr. BAKER. Mr. President, I will yield 5 minutes to the Senator.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, I did not hear all of the statement that the Senator from Alaska made, but I did hear enough of his statement to understand that he feels he is being greatly wronged by this body which has seen fit to come to his defense of an action which no one should be talking about——

Mr. GRAVEL. If I could correct the Senator there——

Mr. SAXBE. The Senator from Alaska has been championed by the distinguished Senator from North Carolina (Mr. ERVIN) who completely disassociated himself from the Senator from Alaska's actions, and felt called upon to refer to people acting as "damn fools," or people who were not quite all together when they were doing things. Well, he should. Because the actions of the Senator from Alaska indicated at the time a complete disdain for this body. He seemingly felt he was asked by a "higher cause" to disclose the secrets of this country and that he was the judge of that.

Now he wants to debate us all on the floor of the Senate. He has lost the focus of the people of the United States, which he tried to seize by a late night meeting, and he wants us to help get him back onto the front pages by now talking over a period of weeks in this body.

Mr. President, I want no part of that. I have said what I have to say. I am doing nothing to advance the cause of the Senator from Alaska or to try to elevate him to the herodom that he presumes to.

I think what he did was of questionable judgment. I think that what he did in disclosing the secrets, and the way he did it—the unusual way he went around at night and tried to get them printed and to hurry up and do it before the court ruled, is something that is only eligible for the disdain of this body.

Mr. President, I yield the floor.

Mr. GRAVEL. Mr. President, I thank the Senator from Rhode Island for yielding me this time. I only want to say now that, under personal privilege, I shall take to the floor, either tomorrow or next week, and suggest that anyone that wishes to join me in debating the matter be here at that time.

I thank the Chair for its indulgence.

COMMUNICATIONS ACT OF 1934

The Senate continued with the consideration of the bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

Mr. PASTORE. Mr. President, I yield myself such time as I may need and should like at this time to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Rhode Island will state it.

Mr. PASTORE. What is the pending business?

The PRESIDING OFFICER. The Chair will advise the Senator from Rhode Island that the pending business is S. 3178.

Mr. PASTORE. Mr. President, this measure was ordered favorably reported by the Committee on Commerce with only one dissenting vote. Similar legislation has passed this body on a number of occasions—but with the exception of the 1960 suspension—none has ever been enacted into law.

Mr. President, enactment of S. 3178 will further reduce the high cost of campaigning for the highest office in the land, and, as we know from the salutary experience of 1960, greatly contribute to a more widely and better informed electorate. Every Member of this body, I am certain, is fully in accord with both of these objectives.

During the committee's hearings on Federal election campaign legislation in this Congress, Mr. Julian Goodman, president of NBC, testified that if the equal time provision were repealed for presidential candidates his network will set aside four prime-time half hours for appearances by the presidential and vice presidential candidates of the two parties to use as they choose and without charge. And that is not confined to the two parties, may it please the Presiding Officer.

Dr. Frank Stanton indicated that CBS is prepared to offer this year between Labor Day and election day 8 hours of free time on the CBS television and radio networks for the major party candidates for President and Vice President to present their views. That offer is contingent upon repeal of section 315 as it applies to these particular offices.

The committee has also been assured by the networks that in addition to the time made available to major party candidates, free time will also be made available on a fair basis to the candidate of any significant third party, such as the American Independent Party as it was in 1968.

The price of network television time being what it is, I believe we would all agree that these offers of free time will further reduce campaign costs substantially.

When the network made their offers, it was made abundantly clear they were not conditioned upon a predetermined format. In plain words, the President or any of his opponents will not be required to debate in order to receive the free time the networks are offering.

There should be no misunderstanding on this point. Freedom for a candidate to choose his own format was the condition precedent to the committee's favorable report of S. 3178, and must be a condition precedent to its enactment.

Mr. President, no medium can contribute more to informing the electorate and thereby serving the democratic process than the broadcasting industry.

Insofar as presidential and vice presidential candidates are concerned, the proposed legislation will afford the licensee and candidates complete freedom to exercise their common judgment in developing times and programs for the candidates' appearances in the general election campaign.

Sufficient flexibility is being afforded the broadcaster to put to test his ingenuity. He cannot, in the event of difficulties encountered later, state that he has been restricted or limited by legislation. He has asked for this opportunity to develop a voluntary plan and it is being granted.

Mr. President, I want to say, so that there be no misunderstanding about this matter, that the very genesis of this idea, as I recall it, came from the mind of Adlai Stevenson, who was a candidate for the office of President against President Eisenhower. A bill was introduced. I believe, if my recollection serves me correctly, it was introduced by the former Senator from Oklahoma (Mr. Monroney) and by the Senator from Washington (Mr. MAGNUSON) to compel the various networks to give free time to the presidential and vice presidential candidates.

We had a prolonged hearing. At the time I wrote a letter to all former Presidents, and I wrote a letter to all the then candidates, including John Kennedy. I invited them to come before the committee and express their views. Naturally, of course, because they were parties in interest, most of them did not come. However, many witnesses did. And we received a great deal of correspondence. Among that correspondence was correspondence from former President Hoover. I also distinctly remember correspondence from Tom Dewey.

They took the position that inasmuch as this is a system of free enterprise, Congress should not mandate any industry to give anything away against its will. So, the networks came before our committee and objected to any compulsory provision in the law, and I think for good reason.

So, I called them in and we had some conversations. Finally, they agreed that if we would grant them an exemption under the law insofar as it applied to the office of President and Vice President, they would make free time available. And they on their own gave free time to the candidates of the major parties as well as significant candidates of third parties. That resolution was reported from the committee by me. And it was enacted into law and led to the so-called Kennedy-Nixon debates.

Since then the question has arisen whether a President of the United States should be embarrassed in any way or be compelled to debate against his own will or whether this would be used as an instrumentality by an opponent against the incumbent to embarrass the incumbent.

Frankly, I have always been conscious of the difficulties that were involved. And

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I thought there was substance to that suspicion and to that apprehension. So, at that time the networks came before our committee, I was more than careful to make sure that if we did grant this exemption under the law, the only reason it was being done was not to serve one party against another party, but for the benefit of the American people so that there would be proper exposure of the issues and so that the candidates themselves would have a reasonable opportunity to go before the American people because the cost for a national hookup is absolutely astronomical.

As a result of our discussion, it was agreed with the presidents of these networks that if we understood to do this, they would leave the choosing of the format to the candidates themselves. I am one of those who feel that I do not care who the President is, whether he is Republican or Democrat, I do not think he ought to be compelled to debate. I do not think that anyone ought to tell the President of the United States how he is going to present the issues to the people of the country. I do not care how dramatic or exciting a program might be. It is a matter of what he tells the American people and how he wants to tell them. And I think that the President of the United States is in a better position to make that decision than the president of a network.

So we made it absolutely clear that the format was to be of the choosing of the candidate. Naturally, of course, when the question came up, it was pointed out that there has always been an inherent advantage on the part of the incumbent. I can understand that.

I do not think that President Johnson ever wanted when he was President to debate a matter. After all, when one is President, he has a tremendous advantage. All he has to do is to buy a poppy from a 5-year-old girl and he is on the front page. The President can make his own decisions. He can call a news conference every week if he wants to. Who is to question the President of the United States? No one should.

If a candidate is not flush with money—and we have had times when candidates were poor, and I think that most candidates running now are not wealthy people—the question arises whether the campaign is going to be lopsided and whether the networks should not make a contribution to the public interest.

That is all this amounts to. In order to mollify those in opposition, the suggestion was made, "If you are going to exempt the President, why not exempt the Members of Congress." I do not have any serious objection to that really. The only trouble with that is that we did that the last time on the campaign expenditures bill and the House killed it. And if we put that in here, if we include the Members of Congress in here, they will kill this measure, too.

So, the best way to shut the door is to make it all-encompassing. We have already gone that way. We went to conference, and we tried hard. The result was that they killed it. So, we are trying to confine it now to the office of President and Vice President.

There is a further thing that can be said when we talk about the Members of Congress as against the office of President and Vice President. It is like talking about apples as against oranges because a Member of Congress only runs in a congressional district and a Member of the Senate only runs in a State.

Usually this does not involve the networks. It involves the local broadcasting stations, and there I do not think that we have experienced too much trouble.

Time and time again when I have run for public office, time has been afforded to me and to my opponent. Sometimes we have taken advantage of it, and sometimes we have not. But the point I make now is that there is a distinction between the office of President and the office of Senator insofar as the legislation we are considering today for the simple reason that we are talking about a nationwide program that is very expensive.

In many, many instances unless some free time is given many of these candidates would not have the money in order to buy the television time to fairly and completely present their side of the issues to the electorate. That is what this is all about.

The measure was reported from the committee with only one dissenting vote. This is not a partisan measure; if it were I would not be standing here. I am not trying to be self-righteous, but I think someday maybe some poor Republican who is not in office will be running for the Presidency, and I hope that man is HOWARD BAKER of Tennessee, and I want him to have all the emoluments and benefits of this splendid legislation.

Mr. BAKER. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, the bill, S. 3178, would repeal the "equal time" provision of section 315(a) of the Communications Act of 1934, as amended, for the candidates for the office of President and Vice President of the United States during the general election.

It does not present a new issue for this body. We faced it in 1960 when the provision was repealed for the presidential elections of that year. We faced it in 1964 when the then pending conference report on the joint resolution was tabled by a majority on the other side of the aisle. We considered it in legislation of the 91st Congress and again in the first session of this, the 92d Congress, in what has since become the Federal Election Campaign Act of 1971. On the last occasion, as the bill passed the Senate, the provision was repealed for all candidates for all Federal elective offices, not just the office of President and Vice President. The other body, however, passed no such provision and the proposed repeal which passed the Senate did not survive the committee of conference between the Senate and the House.

Once again, we face the issue of a limited repeal of the so-called equal time provision of section 315 applicable only to the two highest offices of the land, that of President and Vice President. Always, the issue remains the same. The difference is only one of whose ox is being gored since the incumbent political party is never prone to favor such a repeal. Thus, in 1964, a majority of those on the other side of the aisle successfully defeated such a proposal which would have allowed televised debate between President Johnson and our distinguished colleague on this side of the aisle, the Senator from Arizona (Mr. GOLDWATER). Today, the shoe is on the other foot and many of those who so vigorously opposed those of us favoring repeal of the provision in 1964, will today be equally vigorous to champion its repeal for the benefit of their candidate who will oppose President Nixon.

Mr. President, I supported and voted for repeal of the equal-time provision in 1960 and again in 1964. Thus, today with my President in the White House, I stand in much the same position as my distinguished colleague, the senior Senator from Rhode Island (Mr. PASTORE), did in 1964. Like him, I cannot now oppose this legislation—much as I would like to—and still be consistent and reconcile my votes in favor of such a measure in 1960 and in 1964. Accordingly, I shall support S. 3178, for what is "sauce for the goose is sauce for the gander." To do otherwise, in my opinion, would be pure hypocrisy on my part and represents an action which regrettably I cannot take in good conscience.

Mr. President, in view of the similarity between my position now and that of the distinguished chairman of our Communications Subcommittee (Mr. PASTORE) in 1964 when the conference report on a similar repeal of section 315 was tabled on a motion by the distinguished majority leader (Mr. MANSFIELD), I believe it appropriate to conclude my remarks by paraphrasing those of the distinguished senior Senator from Rhode Island (Mr. PASTORE) in that 1964 debate.

"I have nothing further to say than that the Senator from [New Hampshire] will remain consistent and constant on this legislation. I repeat—I have some qualms as to whether a President should have a confrontation with a candidate. There are two schools of thought on that particular subject. Be that as it may, I think the proposed legislation is in the public interest. The format is left up to the candidates themselves. They can arrange the format as they please and if they please.

It is unfortunate that this [issue] has been tied up for so long, whatever the reason. The problem is, who is going to debate whom, and who is going to embarrass whom by not wanting to debate? In spite of that, I move the adoption of the [bill].

Mr. President, on that occasion in 1964, I thanked the Senator from Rhode Island (Mr. PASTORE) for what I characterized as a rather lukewarm endorsement. Today I am compelled to reciprocate and give him my lukewarm endorsement.

Mr. PASTORE. Mr. President, may I say to my friend, the Senator from New Hampshire, that he could not be frigid if he wanted to. [Laughter.]

Mr. BAKER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I must say that in his typical open, diplomatic, and suave way the distinguished Senator from Rhode Island has come close to entirely disarming any argument I may have in opposition to this bill. Never in my fondest, wildest, most extreme dreams of fantasies did I think an argument would occur to the Senator from Rhode Island to the effect that the Senator from Tennessee would ever consider availing himself of these opportunities. My only remark would be that the Republic could not stand it.

I must say this is a unique situation as far as I am concerned. I have a boundless respect for the chairman of the committee, the Senator from Rhode Island (Mr. PASTORE), and a similar and equal respect for the distinguished ranking minority member of the committee, the Senator from New Hampshire (Mr. COTTON). I also find myself in the position of being the only member of the Committee on Commerce who voted against reporting the bill, but I also find it something of a paradox that the amendment I am about to offer to the Senate was agreed to by a vote of 71 to 21 when this matter was last before us just a few short months ago.

So you see, Mr. President, it is not as one-sided as it would seem—this 15-to-1 vote that occurred in the Commerce Committee—when I stood alone in opposition to my chairman and the distinguished ranking Republican member of the committee.

I shall have more to say on the general subject matter involved, but in order to expedite the proceedings of the Senate, I now send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting immediately after 'public office' in the first sentence thereof ', other than Federal elective office,'.

"Sec. 2. Section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format.' "

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the pending question now the amendment just submitted to the desk and reported by the clerk?

The PRESIDING OFFICER. That is the pending question, and, by unanimous consent, there is a time limitation of 1 hour on the amendment, to be equally divided between the Senator from Tennessee and the Senator from Rhode Island.

Who yields time?

Mr. BAKER. I thank the Chair. I yield myself such time as I may utilize.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, the purpose of this amendment is to build upon and improve S. 3178 in two specific areas.

The amendment repeals the equal time requirements of section 315 of the Federal Communications Act of 1934 for all candidates for Federal office and further provides that the candidate rather than the broadcaster determines the program format. The provisions are identical to an amendment to S. 382 adopted by this body last August, by a vote of 71 to 21. As one of the conferees on S. 382 last December, I shared with my Senate colleagues the conviction that in the rush for adjournment, we should not jeopardize the prompt enactment of the Federal Election Campaign Act of 1971 by having a protracted confrontation with the conferees of the other body over the repeal of the equal time requirements. Therefore, in order to insure prompt action in the area of campaign reform, we receded on that part of the Senate bill repealing the equal time requirements. However, when this body accepted our conference report it was made clear that prompt consideration of the equal time requirements during this session was essential in order to permit broadcasters to provide free time for the 1972 campaign.

As you know, Mr. President, all of the television networks, the National Association of Broadcasters, and individual broadcasters themselves, have urged that we repeal the equal time requirements. Quite frankly, broadcasters find themselves on the horns of a dilemma. If they provide free time to serious political candidates, they are by law required to give the same amount of time to fringe candidates who sometimes seek publicity for publicity sake alone.

But, Mr. President, while it is my view that section 315 has inhibited broadcasters from offering free time and coverage to candidates, the bill presently before the Senate, S. 3178, violates the principle of any sound logician. By endeavoring to limit the repeal of section 315 to the particular offices of the President and Vice President, we are in effect saying that the same inhibitions do not exist with respect to candidates for other Federal elective offices. I am, therefore, of the opinion, and the Senate concurred last year that, as the distinguished Senator from New Hampshire indicated and as the distinguished Senator from Rhode Island did as well, "what is good for the goose is good for the gander." In other words, if section 315 has produced the wrong result, then its inhibiting effect is not limited solely to presidential campaigns. In the interest of increasing the electorate's accessibility to candidates and issues, section 315 should not apply to any candidate for Federal office.

Mr. President, my amendment contains a second section that is of major importance not only to the President whoever he is, but to all Senators and Members of the House of Representatives as well. After the temporary repeal of section 315 for President and Vice President in 1960, it has become a tradition in contested elections for challenges, and in fact, demands, that debates take place before televised audiences. Traditionally, incumbent Presidents have declined to support repeal of section 315 for that reason. In 1960 debates were possible, because neither candidate was an incumbent but in 1964 that was not the case and President Johnson refused to debate Senator BARRY GOLDWATER. The reasons for an incumbent President's position on this question were clearly stated during hearings on campaign reform legislation last year in a colloquy between the Communications Subcommittee chairman, Senator PASTORE, and Senator HARTKE during the testimony of Dr. Frank Stanton, president of Columbia Broadcasting System:

Senator HARTKE. I think that Senator Pastore is making the point no matter how hard you try in the middle of a political campaign you could never really separate the candidate for President as the incumbent President and the President in his position as President of the United States. That is the point you are making, isn't it?

Senator PASTORE. Especially when the red telephone is right next to him anyway.

Senator HARTKE. I understand exactly what Senator Pastore is concerned about. It is the fact that you put a President in the position where it appears he ducks an issue which the American people think he ought to have answered but which for reasons he feels are in the national interest he doesn't. Then he is in a position where no matter what he does, he is wrong. If he violates his trust, should he violate his trust to the American people as President, in order to put himself in a position which he feels would give him the best chance of making a positive approach on a campaign? I think this is the problem with which we are constantly faced here. (Commerce Hearing, Serial 92–6, pages 384–385)

One does not have to go beyond the President's trip to China and scheduled visit to the Soviet Union for an example of areas in which the President would be susceptible to potentially embarrassing questions affecting our national security.

In fact, our experience with debates raises a serious question as to the effectiveness of this means of providing information to the electorate. Despite the continued fascination with the role that debates played in the 1960 presidential election, there is a difference of opinion as to whether they in fact substantially contributed to President Nixon's defeat. Most recently, a New York Times columnist described the debate between the five Democratic candidates for President in New Hampshire as being about as exciting as "watching grass grow." He continued that "no new issues were developed, no new ground covered," and an aide to one of the participants was said to have called it "a travesty—democracy dying a slow death." On March 7, 1972, a New York Times editorial shared the hope of a Muskie staff man that this might be "the end of the debates."

Today, I ask the Members of the Senate to consider very seriously whether they would be willing to subject themselves to the embarrassment, if not needless waste, of time involved in televised debates during a reelection campaign. If not, why would you put the President of the United States, whoever he is and whatever his party affiliation, in that position. I repeat, Mr. President, "what is sauce for the goose, is sauce for the gander" and to fail to recognize this fact would be to do a tremendous injustice to

the President of the United States, whatever point in the history of the Republic.

Mr. President, I listened with great interest to the frank and candid and very direct and lucid presentation of the distinguished Senator from Rhode Island when he pointed out that he, too, has expressed concern from time to time on the question of compelling the chief magistrate to subject himself to televised debate.

I respect the Senator from Rhode Island for making that allusion a part of his remarks at this juncture, because it does not clearly support the measure that he is pressing for the adoption of now; but it is characteristic of the Senator that he makes his present statement consistent with the statements he has made previously, such as those he alluded to and those alluded to by the Senator from New Hampshire.

I hope all of us might agree—I really believe that the overwhelming majority of the Members of the U.S. Senate would agree—that there is something so unique in the institution of the Presidency, wholly aside from the occupant of that office, his party affiliation, or his popularity or lack of it; a uniqueness that exists, because it is the unitary embodiment of one of the tripartite branches of Government, that it poses a considerable dilemma to require the President by statute, actually or practically, to appear in a televised debate.

I reiterate, I believe most of us would agree that is indeed a problem, as I have pointed out now and as was previously pointed out by the Senator from Rhode Island (Mr. PASTORE).

I wonder if we might go beyond that, Mr. President, and seek a consideration and agreement by a majority of Members of the Senate on another point that I believe was intimated in the remarks by the Senator from Rhode Island. As I understood him to say, he was not pressing for debates as such, but for an opportunity for the President or presidential candidates to minimize the cost of televised campaigning. I wonder if we might not go further, Mr. President, and try to tailor our formula in some sort of statutory language that would make it entirely clear that that was the purpose of our efforts here: For instance, that there would be no condition precedent to a joint appearance or to a debate, or any other condition to the waiver of equal time through some enactment of this Congress.

Mr. PASTORE. Mr. President, if the Senator will yield, of course, it is quite customary today, without this exemption, for the opponent usually to challenge the incumbent to a debate, and whether or not we pass this measure, no matter who is the Democratic candidate, he could always challenge Mr. Nixon, if he is a candidate for reelection, to a debate. And, of course, Nixon in all probability would say what Eisenhower said in 1956 to Adlai Stevenson. He said, "I don't care to debate," and that was the end of it. I mean no one paid much attention to it.

Whether we pass this measure or not, we are always up against the proposition that the underdog or the man on the outside is usually going to challenge someone else to a debate. That happens to the Senator and it happens to me, and we do not have free time.

What we are trying to avoid here is the fact that if free time is given, it be conditioned upon anything. We have made that abundantly clear; it is right in the report. And if the networks violate the understanding that I have, I will be first to come back here next time and ask that it be repealed.

But I would expect the candidates to say, "I do not want your free time if you are not going to let me decide how I am going to use it." That is what I would expect the retort to be, and I would not blame the candidate for taking that position.

I think, myself, that regardless of whether we have free time or not, the element of challenging to a debate is always there, because that depends upon the individual himself, whether or not he is going to get free time.

But every time we talk about this exemption, we talk about debates, and I bet the Senator dollars to doughnuts that if we pass this measure this afternoon, the headline tomorrow morning will be "Senate Permits Debates by the Candidates."

That is not true at all, because we have an understanding, and we wrote right into the report, as a matter of fact, the language that the Senator has adopted, more or less. We have a clear understanding that the format has got to be at the choosing of the candidate. I would not have it any other way.

The PRESIDING OFFICER. Will the Senator suspend to receive a message from the House, and for the Chair to make some appointments?

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STAFFORD). The Chair, on behalf of the Vice President, appoints the following Senators to the General Assembly of the Organization of American States, Washington, D.C., April 11–21, 1972: The Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS).

The Chair, on behalf of the Vice President, under the provisions of Public Law 301 of the 78th Congress, appoints the Senator from Florida (Mr. CHILES) to the Board of Visitors to the U.S. Merchant Marine Academy.

The Chair, on behalf of the Vice President, under the provisions of Public Law 207 of the 81st Congress, appoints the Senator from Georgia (Mr. GAMBRELL) to the Board of Visitors to the Coast Guard Academy.

COMMUNICATIONS ACT OF 1934

The Senate continued with the consideration of the bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes remaining on his amendment.

Mr. BAKER. Mr. President, I once again find myself in the position of agreeing with virtually everything my distinguished subcommittee chairman has said.

I do not doubt for 1 second, and I hope whatever part of this colloquy is looked upon as legislative history will reflect as much, that the Senator from Rhode Island does not think, the Senator from Tennessee does not think, and I hope no Member of this body thinks that the passage of this measure would mean there is going to have to be televised debate. But report language and legislative history are not the great comfort to me that statutory language would be, and at this point, I serve notice that at some point in this proceeding I intend to offer for the consideration of Senators a further amendment that would attempt to clarify our position.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. PASTORE. I hope the Senator will not do that, because beyond the time they have agreed to give, there may be a possibility of further time that could be accepted or rejected. I am a little bit concerned in that regard.

I think the networks should make a bigger contribution in the future than they have in the past, and they have been shackled from doing it, there is no question about it. This is the only way to remove those shackles.

I think the history is clear enough. I know what the Senator would like to do, and I join him in what he would like to do, but I am afraid that if we encumber this, we might defeat the whole thing. I am rather weary of that, and I hope the Senator will not go quite that far. I told the Senator before that I would move to lay his amendment on the table for only one reason, not because I want to shut off anything, but because I, myself, would have qualms of conscience in voting against the merits of what he is trying to do. I do not want to be placed in that position, and I hope he will avoid placing other Members of the Senate in that position. So I would like to take the position that I am doing it only as a parliamentary maneuver, in order to avoid having a conflict with the House of Representatives again and defeating the whole thing. That is why I am doing it.

Mr. BAKER. I fully understand the point made by the Senator from Rhode Island.

Mr. PASTORE. I do not want to vote against the merits of it.

Mr. BAKER. I am grateful that the Senator reiterates the point that I have made, so that it will be clear in the legislative history that repeal of section 315 does not mean debate or any other format of appearance is required.

Mr. PASTORE. Let me put it more categorically: If any network insists upon a debate format against the will of any candidate, it will be violating the spirit of this amendment.

Mr. BAKER. I thank the distinguished subcommittee chairman.

Mr. President, I would like at this point, on this issue, to read to the Senate for the RECORD a brief portion of the committee report on S. 3178, that portion of it which reflects my individual views. I am reading from page 9, and I shall not take very long. Mr. President, this is the language in my individual views:

> So while the argument is made by proponents of the bill that there will be no pressure on the President to debate, it is my belief that the opportunity for challenges and in fact demands for the President to debate his opponent will inevitably arise. In fact, if time is made available to the two major party candidates, the position of the networks on the question of format is not clear to me. During testimony before our subcommittee, Dr. Stanton expressed support for the concept of debates or "joint appearances." In Dr. Stanton's words (Commerce hearings, serial 92–6, p. 383):
>
> "Frankly, we believe, with some justification in terms of the research that has been done over the years, that we can best serve the American people and the candidates by not doing it in terms of a prepared delivered statement but by having an exchange, a question-and-answer approach, not necessarily in the format of a 'Face the Nation' or 'Meet the Press,' if you will, but where two serious minded candidates sit down perhaps with one or more journalists and talk about the primary—the high-priority issues before the people."
>
> Later Dr. Stanton sought to clarify his position in a letter to Senator Pastore but he again referred to the desirability of "joint appearances." Most recently, it was reported in the National Journal that Julian Goodman, President of the National Broadcasting Co., has taken the position that "repeal of the requirement would allow the networks to improve their campaign coverage by presenting debates between major candidates without having to include minor party aspirants."
>
> I can appreciate the networks desire to broadcast debates. By its very nature, broadcasting seeks to create suspense and drama. Debates between candidates do that. Unfortunately, they also create an atmosphere that has little relationship to the understanding of issues which should be of paramount importance in a presidential campaign.

That is the excerpt from my individual views in the committee report accompanying this bill.

Mr. President, I think this is a fairly unique parliamentary situation, because the Senator from Rhode Island and I agree on the basic and fundamental issue involved. That is, we are not paving the way for televised debates; but I am afraid the statutory language is subject to more than one interpretation, and these statements by the network officials give me great cause for concern.

So I hope that this colloquy, regardless of the outcome of the Senate's consideration of my amendment or amendments, will put to rest in the minds of network officials, in the minds of the public, in the minds of the FCC, in the minds of licensees, and in the minds of the courts any remaining belief that we are authorizing debates—we are not—and that in fact we are giving the maximum flexibility, as the report language says, to the candidates to choose their own format.

Mr. PASTORE. Insofar as the free time is concerned that they want to give, it was spelled out in my opening statement.

Mr. BAKER. I thank the Senator.

Mr. PASTORE. They might want to go beyond that. I refer the Senator to page 5 of the report. If they want to go beyond this offer of free time as they have specified, then the report reads:

> Rather, complete freedom is given to the broadcaster and the candidates to develop specific program formula for the appearance of candidates.

But it would have to be with the consent of the candidates themselves. That is above and beyond the time they have spelled out. I agree.

I repeat that insofar as the offer of time is concerned, it is my understanding that the candidate to whom the free time is offered will have the exclusive authority to choose his format. If that is not the case, then they will be violating the spirit of this law, and I will be the first to ask for its repeal.

Mr. BAKER. Mr. President, I might say further on this point that my subcommittee chairman will recall—and my colleagues in the Senate may recall—that I was one of a handful of Senators who opposed the provision of the campaign reform bill which in effect gave candidates for public office a discounted rate on television advertising.

Mr. PASTORE. That is correct.

Mr. BAKER. In that situation, we created a statutory obligation on the part of broadcast licensees to charge us no more than the lowest unit rate they charged to anyone else.

Mr. PASTORE. That is correct.

Mr. BAKER. I have just come from a meeting of my unofficial campaign staff in Tennessee and found, to my great surprise, the product of our handiwork in that respect. I am leading up to something else, not a primary observation about that section. I found out that I can buy spot announcements in Tennessee 12 percent cheaper than can Alka Seltzer, which is one of the heaviest advertisers in Tennessee. I never dreamed that I had done that for myself, but I did—at least, Congress did. Now we have a very substantial break in the cost of TV advertising.

I believe that the fair and equitable thrust of the bill by the Senator from Rhode Island is to extend the reform of the campaign reform bill, and I believe the Senator from Rhode Island said that in his remarks—that the purpose of this provision is to further extend the campaign reform embodied in our previous enactment, by allowing the networks to make free time available on an equitable basis.

Mr. PASTORE. Let me ask the Senator a question. Is he buying the time cheaper than anyone else who gets the cheapest rate?

Mr. BAKER. No.

Mr. PASTORE. That is the point. Perhaps Alka-Seltzer is in a different category.

Mr. BAKER. It is only because Tennessee has so few headaches.

[Laughter.]

Mr. PASTORE. I thought the Senator would come in with that drill.

Mr. BAKER. No. This one is, "I can't believe I ate the whole thing."

[Laughter.]

Mr. President, the point of my amendment and the pending business before the Senate, as I have said in my remarks—and I intend to close at this point—is that I recognize the laudable efforts of the Senator from Rhode Island to further extend the reform characterization of the previous campaign reform bill we passed. I disagree with certain portions of it. In any event, I believe that it is consistent with the purposes of the Senator from Rhode Island to apply this repeal of section 315, if we apply it at all, not just to the President and Vice President but also to election for every Federal office.

I reserve the remainder of my time.

Mr. PASTORE. May I say to the Senator from Tennessee, he knows the respect and admiration and affection I have for him—that he attended the conference with me, and he remembers quite well what our problem was. We were told very emphatically and categorically that because the Senate had included all Federal offices, the House would not accept it.

I tell the Senator very frankly that if this amendment is adopted, I think the Senator will agree with me that it will be flagged down in conference, and the House will just do nothing about it, and they will not act upon it, nor will they pass it.

In view of the colloquy we have had—I know how the Senator feels about this generally, and I am not trying to be facetious in this—I would appreciate it if the Senator would withdraw his amendment and let us have a vote on it up or down. Let us take our chances on what happens in the House. If they take it, they take it.

Frankly, this is the last time I am going to try it. I certainly will not pursue this any further. This means nothing to me personally. I think something needs to be done. We are merely completing everything we started to do when we passed the campaign expenditures bill. The Senator's form of the amendment was in that bill. It was rejected by the House in no uncertain terms. I tried hard. I even tried hard at that moment to get them to agree just to the office of President and Vice President; and they told me, as they told the Senator from Tennessee at the time,

that because we had done this, the House was in a bad mood.

Let us pass it the way we did previously, with just the President and the Vice President. Let it go over there. I tell the Senator frankly that if they do nothing about it, this is the last he will hear from me on this.

Mr. BAKER. Mr. President, I respect the position of the Senator from Rhode Island. I must respectfully decline to accept his gracious offer. I base that and what hopes I have in this respect on one fact: This amendment was adopted by the Senate, by a vote of 71 to 21, just a few months ago. This amendment was deleted in conference. I have no doubt that the House is in a different mood now than it was at the end of the session and that there is a realistic chance that they will consider this proposal.

I have no desire to detain the Senate with further lengthy debate. I am perfectly willing to have a vote on the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the Senator does not have enough time on his amendment to suggest the absence of a quorum.

Mr. PASTORE. I will give the Senator time.

The PRESIDING OFFICER. If time is yielded back by both sides, there will be time for a quorum call.

Mr. BAKER. Whatever is appropriate. I just want to get a sufficient number of Senators in the Chamber to ask for the yeas and nays.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The Senator has enough time.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PASTORE. Now, Mr. President, before I yield back my time, will the Senator from Tennessee feel offended in any way if I move to lay on the table his amendment, or does he want to vote on the merits?

Mr. BAKER. No indeed, I would not be offended.

Mr. PASTORE. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment is now yielded back.

Mr. PASTORE. Mr. President, I move to lay the amendment of the Senator from Tennessee (Mr. BAKER) on the table.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Tennessee (Mr. BAKER).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The result was announced—yeas 41, nays 39, as follows:

[No. 125 Leg.]

YEAS—41

Anderson	Fulbright	Nelson
Bentsen	Gambrell	Pastore
Bible	Gravel	Pell
Burdick	Hart	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Jordan, N.C.	Ribicoff
Cannon	Kennedy	Spong
Chiles	Long	Stennis
Church	Magnuson	Stevenson
Cranston	Manafield	Symington
Eagleton	McGee	Talmadge
Eastland	Mondale	Tunney
Ellender	Montoya	Williams
Ervin	Moss	

NAYS—39

Aiken	Dole	Pearson
Allott	Dominick	Percy
Baker	Fannin	Roth
Beall	Fong	Saxbe
Bellmon	Griffin	Schweiker
Bennett	Gurney	Scott
Brock	Hansen	Smith
Brooke	Hruska	Stafford
Case	Javits	Stevens
Cook	Jordan, Idaho	Thurmond
Cooper	Mathias	Tower
Cotton	Miller	Weicker
Curtis	Packwood	Young

NOT VOTING—20

Allen	Hatfield	McIntyre
Bayh	Hollings	Metcalf
Boggs	Humphrey	Mundt
Buckley	Inouye	Muskie
Goldwater	Jackson	Sparkman
Harris	McClellan	Taft
Hartke	McGovern	

So the motion to table the amendment of the Senator from Tennessee (Mr. BAKER) was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I send to the desk an amendment and ask that it be reported.

Mr. PASTORE. Mr. President, will the Senator yield? For the benefit of the Members of the Senate, will the Senator ask for the yeas and nays on his amendment?

Mr. BAKER. Yes. I will ask for the yeas and nays. I expect that the explanation, which I have already given in large measure, will not take more than a few minutes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair is advised that it will take unanimous consent to secure the yeas and nays until after the amendment has been read by the clerk.

Mr. BAKER. Mr. President, I ask the clerk to report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. PASTORE. Mr. President, I must object because I am going to make an offer to the Senator from Tennessee and show him why the language he is using now is quite different than that which he used before. If he takes the language he used before, I am willing to accept it. That is a fair offer. So I would like to have the amendment read.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

The amendment was read as follows:

On page 1, immediately after line 9, insert the following:

"SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format, and no such candidate shall be required to engage or to participate in a debate or joint appearance as a condition to use of any broadcasting station in connection with such campaign for election.'"

Mr. BAKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Tennessee on which there is 1 hour, equally divided between the Senator from Tennessee and the Senator from Rhode Island.

Who yields time?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAKER. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I want the Senator from Tennessee to understand that he and I have had quite a dialog on the floor with reference to the fact that whatever free time is given by the networks, the choosing of the format shall be the election of the candidate.

Mr. COTTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. We made that abundantly clear in the hearings and it was discussed here on the floor of the Senate. I think that time and time again the Senator from Tennessee said that he and I were in accord on that.

The only trouble with the language is that the Senator adds four other lines that he did not have in his previous amendment. If he is willing to confine it to "maximum flexibility in choosing his program format," and leave the rest out I am perfectly willing to accept it.

I think that carries out the idea and the spirit of the report and the spirit of those who testified before our committee. I said time and time again I did not want the President of the United States to be placed in the embarrassing position of having to refuse an offer to debate, although I think that offer can be made now, even if you have to buy the time. I am not out to embarrass anyone.

Originally the Senator did stop with "format." Now, the Senator has added four more lines. If he wants a codification of what is in the report I will accept his previous language and we can reach an understanding.

Mr. COTTON. Mr. President, will the Senator tell us the four lines again?

Mr. PASTORE. Well, he goes on to say in the second revision:

And no such candidate shall be required to engage or to participate in a debate or joint appearance as a condition to use any broadcasting station in connection with such campaign or election.

It is redundant, confusing, sloppy writing, and the intention is carried out by the first part in which we have the language which states:

When a licensee permits a legally qualified candidate for the Office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format.

It leaves it up to the candidate. Perhaps the candidates do want to debate. How do I know? But if a candidate said that he wants to do it, they would not have to give the time and they would not have to take it.

Mr. BAKER. I am going to suggest the absence of a quorum for a few minutes to consult further with the distinguished chairman of the subcommittee. First, I would like to make a few points which may be significant with respect to what the Senator from Rhode Island has suggested.

I believe that he and I agree on what this amendment means, and I think we agree nothing in the bill, nothing in my previous amendment, and nothing in this amendment would require a debate or joint appearance. We have said that repeatedly. The question is whether or not the language is subject to any other interpretation. That, of course, is the purpose for the language I have in this amendment.

The Senator from Rhode Island has posed a question which deserves mature consideration.

At this time I would like to have a brief quorum call so that we can consult further on the matter.

Mr. President, on my time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. The Chair is informed that they have been.

Mr. BAKER. Is the Senator from Tennessee correct that to change or modify the pending amendment would require unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the pending amendment be amended in the following respect, and I ask the clerk to read the modification.

The PRESIDING OFFICER. The Clerk will read the modification.

The second assistant legislative clerk read the modification, as follows:

"SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate, without dictation, maximum flexibility in choosing his program format.

Mr. PASTORE. Mr. President, if the Senator will yield, I am perfectly willing to accept this proposal, and we can expedite it by going to final passage.

Mr. BAKER. Mr. President, I ask unanimous consent that my amendment may be modified as read.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I am delighted with the statement by the Senator from Rhode Island. I am perfectly willing to vote on the amendment as modified.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the amendment of the Senator from Tennessee, as modified (putting the question).

The amendment, as modified, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

PERSONAL EXPLANATION

Mr. TAFT. Mr. President, I shall abstain from voting on S. 3178, the repeal of section 315 of the Communications Act of 1934 for presidential and vice presidential candidates in the general election campaign, because of a possible conflict of interest. Past connections with the broadcasting industry as a director, officer, and attorney, as well as personal and family holdings of interests in that industry, convince me that I should follow such a course on this and other legislation affecting broadcasting.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I yield back my time.

Mr. GRIFFIN. Mr. President, I yield back time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on passage of the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARK-

MAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 67, nays 13, as follows:

[No. 126 Leg.]

YEAS—67

Aiken	Ellender	Packwood
Allott	Ervin	Pastore
Anderson	Fong	Pearson
Baker	Fulbright	Percy
Beall	Gambrell	Proxmire
Bennett	Gravel	Randolph
Bentsen	Gurney	Ribicoff
Bible	Hart	Roth
Brock	Hughes	Schweiker
Brooke	Javits	Smith
Burdick	Jordan, N.C.	Spong
Byrd, Va.	Jordan, Idaho	Stafford
Byrd, W. Va.	Kennedy	Stennis
Cannon	Long	Stevens
Case	Magnuson	Stevenson
Chiles	Mansfield	Symington
Church	Mathias	Talmadge
Cook	McGee	Thurmond
Cotton	Metcalf	Tunney
Cranston	Mondale	Welcker
Dominick	Montoya	Williams
Eagleton	Moss	
Eastland	Nelson	

NAYS—13

Bellmon	Griffin	Scott
Cooper	Hansen	Tower
Curtis	Hruska	Young
Dole	Miller	
Fannin	Saxbe	

NOT VOTING—20

Allen	Hatfield	McIntyre
Bayh	Hollings	Mundt
Boggs	Humphrey	Muskie
Buckley	Inouye	Pell
Goldwater	Jackson	Sparkman
Harris	McClellan	Taft
Hartke	McGovern	

So the bill (S. 3178) was passed, as follows:

S. 3178

An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof a comma and the following: "other than the office of President or Vice President,".

(b) The amendment made by this Act shall take effect as of January 1, 1972.

SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: "When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election of such office, the licensee shall afford such candidate, without dictation, maximum flexibility in choosing his program format."

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, once again, the distinguished senior Senator from Rhode Island has shown his great skill and understanding of the Senate in having disposed of, within a very short period of time, a most difficult but a most important bill.

When JOHN PASTORE takes over the managership of a bill, the leadership and the Senate have little in the way of worry, because he knows his subject, he talks to the point, and he is able to convince doubters on occasion, as he did today. I want the RECORD to show that I think his skill, his management ability, his integrity, and his persuasion have once again—not for the first time this session—brought to a successful conclusion a bill very much needed and very much appreciated. I extend my personal thanks to the senior Senator from Rhode Island.

EGG INDUSTRY ADJUSTMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 657, S. 2895.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments on page 4, line 7, after the word "of", where it appears the first time, insert "(i) ten"; in line 9, after the word "provided", insert a comma and "and (ii) five representatives of consumers selected and appointed by the Secretary"; in line 11, after the word "members", where it appears the second time, strike out "selected and appointed" and insert "who are required to be producers or representatives of producers"; on page 5, line 4, after the word "years,", strike out "and," and insert "and"; on page 7, line 8, after the word "thereto," strike out "and all the terms and provision thereto"; in line 10, after the word "Act", insert "and is approved or favored:"; after line 10, insert:

(i) by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the care or ownership of flocks of one thousand or more fowl, or

(ii) by producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of one thousand or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining whether the program or amendment is approved or favored by such producers as required by this subsection, the Secretary may conduct a referendum among such producers and except in the case of an amendment shall do so. The requirements of approval or favor shall be held to be complied with if, of the total number of producers, or the total number of fowl, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under this subsection. The terms and conditions of the proposed program or amendment shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the program or amendment or any action relating thereto. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

On page 9, line 7, after the word "judicial"; strike out "reviews" and insert "review."; in the same line, after the amendment just above stated, insert "In determining the average cost of production, the Secretary shall include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary shall publish the average prices and costs determined by him under this subsection, together with an itemization of the major elements of cost considered and a description of the method used."; in line 17, after the word "following", insert "and no others"; after line 17, strike out:

(A) Require, or provide a method for requiring, the slaughter of such portion of each producer's total flock of egg-producing fowl as may be required to reduce such flock to a specified percentage thereof.

And, in lieu thereof, insert:

(A) Require, or provide a method for requiring, the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number; and fix, or provide a method for fixing from time to time, the percentage to be slaughtered. The exempt number shall be fifteen thousand fowl, except that in the case of any producer to whom any of the following apply, the exempt number shall be reduced by:

(1) the number of fowl owned by another in trust or otherwise for the benefit of such producer,

(2) that part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation,

(3) that part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership,

(4) the number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with such producer's funds and without the payment of adequate consideration to such producer therefor,

(5) such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(i) participating in the benefit of any exemption in excess of fifteen thousand fowl, or

(ii) increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (1) a producer who normally engages in caring for fowl for the account of others, or (ii) any other person, while retaining control of the marketing eggs produced by such fowl.

The Secretary may prescribe such exemptions from the foregoing sentence as may be necessary to prevent hardship or inequity. For six months following any slaughter required by this subsection, no producer shall, except to the extent provided by regulation issued by the Secretary, increase his flock of fowl above (1) the number therein at the time such slaughter was required, less the number required to be slaughtered or (ii) the exempt number, whichever is higher. The number of fowl owned by any producer and required to be slaughtered pursuant to this subsection shall be apportioned among the flocks cared for by such owning producer and by other producers pursuant to contract with such owning producer so that each such flock is reduced by the same percentage. Any slaughter required pursuant to this subsection shall be required to be made at such times and manner as will not unduly interfere with the orderly marketing of slaughtered fowl.

On page 12, line 11, after the word "fowl", strike out "has" and insert "have"; on page 13, after line 4, strike out:

(F) Exempt from specific provisions or from all provisions of the program an aggregate of ten thousand fowl owned or controlled by any one person.

At the beginning of line 8, strike out "(G)"; on page 14, line 9, after the word "district", strike out "courts" and insert "court"; on page 18, line 18, after the word "issue", strike out "to any" and insert "to, any"; on page 19, line 14, after the word "partnership,", strike out "coporation" and insert "corporation"; in line 19, after the word "term", strike out "egg"; in line 21, after the word "eggs", insert a comma and "or supplying housing or other facilities for the care of such fowl and caring for such fowl pursuant to a contract with the owner"; and, on page 20, after line 3, strike out:

(G) The term "owned or controlled" as used in section 7(F) shall mean any flock in which a person has a direct or indirect financial interest (except as a lienholder) or over which a person has either, directly or indirectly, actual or legal control.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act be known as the "Egg Industry Adjustment Act".

LEGISLATIVE FINDINGS

SEC. 2. It is declared that movement of excessive egg-producing fowl and eggs in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure, and burdens and obstructs the normal channels of interstate commerce. Eggs constitute one of the basic, natural foods of the diet. They are produced by numerous individual egg producers in every area of the United States. They move in large part in the channels of interstate commerce and such eggs which do not move in such channels directly burden or affect interstate commerce in eggs. All egg-producing fowl and eggs produced in the United States are in the current of interstate or foreign commerce or directly burden, obstruct, or affect interstate or foreign commerce in such commodities and products thereof. The supply of eggs for commerce necessarily is dependent upon the supply of egg-producing fowl. The only feasible way to regulate the supply of eggs in interstate commerce is by regulating the size of flocks of egg-producing fowl. Prices of commercial eggs, both at the consumer and producer levels, fluctuate according to supply and demand. Owing to causes beyond their control, producers of commercial eggs have, from time to time, been unable to anticipate the quantity of eggs reasonably required to meet the ultimate needs of consumers with the result that cycles of excess supply have often reduced market prices below actual cost of production and cycles of deficient supply have often caused relatively high consumer prices. Such fluctuations in supply and demand have from time to time repeatedly created unstable and chaotic conditions adversely affecting interstate commerce for both producers and consumers.

DECLARATION OF POLICY

SEC. 3. It is declared to be the policy of Congress—

(A) Through the exercise of the powers conferred upon the Secretary of Agriculture under this Act to establish and maintain such orderly market conditions for egg-producing fowl and eggs as will tend to provide to the producers of eggs prices which are reasonable in view of the prices of feeds, the available supplies of feeds, economic conditions affecting egg production, and other economic conditions which affect market supply and demand for eggs.

(B) To protect the interest of the consumer by (1) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (A) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (2) authorizing no action under this Act which has for its purpose the maintenance of prices to producers above the level which it is declared to be the policy of Congress to establish in subsection (A) of this section.

(C) The production of broilers and broiler breeder fowl is an industry separate and apart from the production of commercial eggs and is not in any way covered by this Act.

EGG INDUSTRY ADJUSTMENT BOARD

SEC. 4. (A) The Secrtary is authorized and directed to establish a fifteen-man Egg Industry Adjustment Board (hereinafter referred to as the "Board"), which shall be composed of (1) ten producers of commercial eggs, or representatives of such producers, selected and appointed by the Secretary as hereinafter provided, and (ii) five representatives of consumers selected and appointed by the Secretary.

(B) The Board members and alternate members who are required to be producers or representatives of producers shall be geographically and proportionately representative of commercial egg production areas of the Nation, as determined by the Secretary. Appointment shall be made by the Secretary from nominations submitted by commercial egg industry producer organizations. If the Secretary of Agriculture determines that a substantial number of commercial egg producers are not members of, or their interests are not represented by, any such commercial egg industry producer organization, the Secretary may select Board members from nominations submitted by such producers in a manner prescribed by the Secretary, so that representation on the Board will reflect, to the extent practicable, the proportion which those producers' commercial eggs bear to the total marketing of commercial eggs in the United States.

(C) Appointments to the Board shall be for a period not to exceed two years, and Board members and alternates shall serve at the pleasure of the Secretary. The Secretary may also appoint ex officio (nonvoting) members of the Board whose functions shall be advisory. Such members shall not exceed four in number and shall serve at the pleasure of the Secretary.

(D) The Board shall meet semiannually, or more often at the call of the Secretary, or upon petition of one-third of its members.

(E) The Board shall be terminated whenever the Board by a two-thirds vote of the members thereof requests such termination or if the Secretary determines that the continuation of the Board no longer tends to effectuate the declared policy of the Act. Such termination of the Board shall not preclude the Secretary from later reestablishing a new Board if he determines that such reestablishment will tend to effectuate the declared policy of the Act in the light of changed conditions.

(F) Members of the Board and their alternates shall serve without compensation, but shall be reimbursed by the Secretary for necessary expenses to the extent and in the manner prescribed by the Secretary.

DUTIES AND POWERS OF THE BOARD

SEC. 5. (A) The Board shall recommend to the Secretary a regulatory program for adjusting the supply of commercial eggs, including amendments thereto, containing provisions authorized by section 7 of this Act. The Secretary shall furnish the Board with such statistics, data, and other information as may be available to him from reports and records obtained under this Act, or otherwise, as may be required by the Board to reach an informed recommendation; but no such information shall reveal the individual operations of any person, except with the written consent of that person.

(B) The Board may advise the Secretary, if requested, in connection with the drafting of rules and regulations needed to effectuate the terms and provisions of this Act.

(C) The Board shall have such additional duties and responsibilities in connection with the administration of this Act as the Secretary may confer on it.

(D) The Board may, with the approval of the Secretary, accept any services, use of any facilities, or use of any personnel of any college, university, research organization, poultry trade association, farm cooperative association, or other qualified persons deemed necessary for the Board to meet its duties and responsibilities under this Act.

EGG INDUSTRY ADJUSTMENT PROGRAM

SEC. 6. (A) The Secretary of Agriculture may, upon recommendation of the Board and subject to the provisions of this Act, make effective and from time to time amend a regulatory program to adjust the supply of commercial eggs applicable to (1) egg producers and (2) persons engaged in the purchasing or acquisition of fowl for slaughter, if he finds that the program, or amendment thereto, will tend to effectuate the declared policy of this Act and is approved or favored:

(i) by at least two-thirds of the producers

who, during a representative period determined by the Secretary, have been engaged in the care or ownership of flocks of one thousand or more fowl, or

(II) by producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of one thousand or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining whether the program or amendment is approved or favored by such producers as required by this subsection, the Secretary may conduct a referendum among such producers and except in the case of an amendment shall do so. The requirements of approval or favor shall be held to be complied with if, of the total number of producers, or the total number of fowl, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under this subsection. The terms and conditions of the proposed program or amendment shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the program or amendment or any action relating thereto. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

(B) The Secretary may reject any program the Board may recommend, or any provisions thereof, and shall point out his objections thereto to the Board together with his recommendations, if any, so that the Board may modify its recommendations so that they will be acceptable to the Secretary.

(C) Any program or amendment thereto may be made effective by the Secretary as soon as practicable following a determination by him that the seasonally adjusted average farm price received for eggs by a representative sample (as determined by him) of egg producers is less than the average cost of production of such producers for a period of at least three consecutive thirty-day periods, and no such program may be continued by the Secretary following his determination that such seasonally adjusted average farm price has exceeded such standard for at least there consecutive thirty-day periods: *Provided*, That any determination made by the Secretary under this subsection shall be final and not subject to review including judicial review. In determining the average cost of production, the Secretary shall include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary shall publish the average prices and costs determined by him under this subsection, together with an itemization of the major elements of cost considered and a description of the method used.

TERMS AND CONDITIONS OF PROGRAM

SEC. 7. Any program made effective under this Act may contain one or more of the following and no others:

(A) Require, or provide a method for requiring, the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number; and fix, or provide a method for fixing from time to time, the percentage to be slaughtered. The exempt number shall be fifteen thousand fowl, except that in the case of any producer to whom any of the following apply, the exempt number shall be reduced by:

(1) the number of fowl owned by another in trust or otherwise for the benefit of such producer,

(2) that part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation,

(3) that part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership,

(4) the number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with such producer's funds and without the payment of adequate consideration to such producer therefor,

(5) such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(I) participating in the benefit of any exemption in excess of fifteen thousand fowl, or

(II) increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (I) a producer who normally engages in caring for fowl for the account of others, or (II) any other person, while retaining control of the marketing of eggs produced by such fowl.

The Secretary may prescribe such exemptions from the foregoing sentence as may be necessary to prevent hardship or inequity. For six months following any slaughter required by this subsection, no producer shall, except to the extent provided by regulation issued by the Secretary, increase his flock of fowl above (1) the number therein at the time such slaughter was required, less the number required to be slaughtered or (II) the exempt number, whichever is higher. The number of fowl owned by any producer and required to be slaughtered pursuant to this subsection shall be apportioned among the flocks cared for by such owning producer and by other producers pursuant to contract with such owning producer so that each such flock is reduced by the same percentage. Any slaughter required pursuant to this subsection shall be required to be made at such times and manner as will not unduly interfere with the orderly marketing of slaughtered fowl.

(B) Provide for adjustments and exceptions as may be necessary to provide equity and relieve hardship of persons whose production is substantially unrepresentative of their normal operations.

(C) Require all persons who purchase or otherwise acquire egg-producing fowl for slaughter, to provide a certification to the producer that such fowl have been slaughtered, and to require such persons to make such reports to the Secretary and maintain and make available such books and records as may reasonably be required by the program.

(D) Provide for administration of the program by the Secretary through such facilities and personnel of the Department of Agriculture (including local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended), as the Secretary may designate, and for the collection, compilation, and analysis of reports and other information obtained under the program.

(E) Recognizing differences in production factors in the production of commercial brown and white eggs, the Secretary may upon recommendation of the Board adopt and make effective different programs and apply different percentages and other provisions with respect to brown and white egg production if the Secretary determines such differences are warranted.

(F) Terms and conditions incidental to and not inconsistent with the foregoing provisions as may be necessary to effectuate the program.

SUSPENSION OR TERMINATION

SEC. 8. The Secretary shall, whenever he finds that any program issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, or is not in the public interest, terminate or suspend the operation of such program or any provision thereof.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 9. The provisions of this Act applicable to any program under this Act shall be applicable to amendments to such program.

PETITION AND REVIEW

SEC. 10. (A) Any person subject to a program, or to any regulation issued pursuant to this Act, may file a written petition with the Secretary, stating that any such program or regulation or any provision thereof or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The district court of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (A) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 11(A) of this Act.

ENFORCEMENT AND PENALTIES

SEC. 11. (A) The several district courts of the United States are vested with jurisdiction specifically to enforce and to prevent and restrain any person from violating this Act or any program or regulation effective pursuant to this Act. Any civil action deemed necessary to be brought under this Act shall be referred to the Attorney General for appropriate action.

(B) Any person who willfully violates any provision of any program or regulation issued by the Secretary under this Act, or who willfully fails or refuses to comply with said program or regulations, shall be liable to a penalty of not more than $5,000 for each offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States and each day in which such offense continues shall be deemed a separate offense.

(C) Provisions of this section shall be in addition to and not exclusive of the remedies provided now or hereafter existing at law or in equity.

REGISTRATION, REPORTING, AND RECORDKEEPING

SEC. 12. The Secretary may, by regulation, require the following, whether or not a program is currently in operation:

(A) Require egg producers to register with the Secretary.

(B) Require egg producers to report to the Secretary, as specified by the Secretary, with respect to their production of eggs, the size and age of their flocks of egg-producing fowl, the prices received by them for eggs, the costs of producing eggs, and such other information as may be required by the Secretary in the administration of the Act or the program.

(C) Provide that egg producers shall keep such books and records as may be required by the Secretary. Such books and records shall be open for inspection at all times during normal business hours by authorized representatives of the Secretary. The Secretary is authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memorandums as he deems relevant and which are within the control of such person, or any party having, either directly or indirectly, actual or legal control of or over such person or of any subsidiary of any such person.

(D) The Secretary may conduct such other investigation and require such other reports and records as he may determine to be reasonably necessary in the administration of the Act, or any program under the Act.

CONFIDENTIAL DATA

SEC. 13. All information furnished to or acquired by the Secretary of Agriculture in the administration of this Act shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board and only such information so furnished or acquired as the Secretary deems necessary to the enforcement or defense of the program or any obligation imposed thereunder, shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the program with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon reports of a number of persons subject to a program, which statements do not identify the information furnished by any person, or (II) the publication, by direction of the Secretary, of the name of any person violating the program together with a statement of the particular provisions of the program violated by such person. Any such officer or employee violating the provisions of this section shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and shall be removed from office.

REGULATIONS

SEC. 14. The Secretary is authorized to make such rules and regulations with the force and effect of law, as may be necessary to carry out the provisions of this Act and powers vested in him by this Act.

INVESTIGATIONS

SEC. 15. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether any person has engaged or is about to engage in any acts, or practices which constitute or will constitute a violation of any provisions of this Act, or of any person or regulations issued pursuant to this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records. If so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

DEFINITIONS

SEC. 16. As used in this Act:

(A) "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(B) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(C) The term "commercial eggs" or "eggs" means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing.

(D) The term "producer" means the person owning laying fowl engaged in the production of commercial eggs, or supplying housing or other facilities for the care of such fowl and caring for such fowl pursuant to a contract with the owner.

(E) The term "fowl" means commercial egg-laying chickens over twenty weeks of age.

(F) The term "United States" means the forty-eight contiguous States of the United States of America, and the District of Columbia.

SEPARABILITY

SEC. 17. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 18. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 19. This Act shall take effect upon enactment and expire two years after enactment.

Mr. MANSFIELD. Mr. President, I have talked to the interested parties and to the distinguished minority leader, and I ask unanimous consent that on the pending measure, if amendments are offered, they be limited to 20 minutes, the time to be equally divided between the sponsor of the amendment and the manager of the bill—incidentally, I know of no amendments—and that there be a limitation of 40 minutes on the bill, the time to be equally divided between the distinguished manager of the bill, the senior Senator from Georgia (Mr. TALMADGE), and the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), or whomever he may designate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 3 minutes, and that the time not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I designate the distinguished Senator from Iowa as the manager in charge of the bill on this side.

THE PAY BOARD

Mr. SCOTT. Mr. President, I agree entirely with the position taken by the distinguished majority leader this morning in regard to the walkout of the labor members of the Pay Board. I agree that it will take participation of big labor to help stop inflation, and I am certain that labor is as much interested in price controls and employment and the general economic situation as any one else.

I am very much afraid that if this walkout continues, it may increase the demands for legislation leading to compulsory arbitration in more than one field.

Real spendable weekly wages after taxes have risen 5.4 percent in the last 6 months, compared to a 1.3 percent increase in the previous 6 months. In the last 6 months, seasonally adjusted employment rose 1,123,000, while unemployment climbed by 234,000.

With respect to the Pay Board decisions, in a great majority of these cases labor has prevailed and has agreed, and in only a relatively small percentage of the cases has the decision been unsatisfactory to some or all of the labor members. So their views have not been ignored.

In his message today, the President states:

We cannot and will not allow any single group—business or labor—to be the exclusive judge of fairness in its own case. The public interest must come before any special interest.

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Although a few labor leaders have chosen to reject their public responsibility and have sought to justify their action with standard political rhetoric, this Administration will not accept an "anti-labor" label. On the contrary—there can be no more "pro-labor," "pro-workingman" stand than a firm decision to protect the buying power of the wage earner's dollar.

The President has directed the Pay Board to continue with its business representation reduced proportionately to equal the two remaining members on the labor side. The board will now proceed as a public board and will proceed on course, and the fight against inflation will go on until the American consumer and the American worker win the fight.

I hope that those leaders who have staged this walkout will reconsider, in their interest, in the interest of the American people, and particularly in the interest of the consumer.

Mr. President, I ask unanimous consent to have the full message of the President printed at this point in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

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THE WHITE HOUSE,
March 23, 1972.

STATEMENT BY THE PRESIDENT

The spirit of voluntary cooperation is the key to victory in the battle against inflation. I emphasized this point when I first announced my new economic policy last August and repeated it last October outlining the price stabilization program. I described at that time some of the sacrifices which millions of Americans were making in the fight against rising prices. And I indicated that our success in this struggle would ultimately depend on the willingness of all our people to "put the public interest ahead of the special interest"—and thus to continue that good fight.

That is why the decision of three of the five representatives of organized labor to resign from the Pay Board is a disservice to the American people.

Since it was established last October—at the specific urging of organized labor—this tripartite Board has been a central part of the Phase Two program.

There has been much strong evidence that this program is succeeding. In the six months from August, 1971 to February, 1972, the rise in the Consumer Price Index was cut to an annual rate of 3.3 percent, down from a 4.1 percent increase in the previous six months. Real, spendable weekly wages after taxes rose 5.4 percent in the last six months, compared to a 1.3 percent increase in the previous six months. In the last six months, seasonally adjusted employment rose 1,123,000, while unemployment declined by 234,000.

Any program of controls in a free economy will have its ups and downs. But what is important is that we are moving in the right direction. The Wage and Price control system is working. But continued cooperation of all Americans is needed if we are to win the battle against inflation.

In these circumstances, the decision of three of the labor representatives to walk off the job of fighting inflation is totally selfish and irresponsible.

The West Coast longshoremen's settlement was the only specific case referred to in yesterday's statement by the Executive Council of the AFL-CIO, a statement which severely criticized the general pattern of Pay Board decisions. The Pay Board disallowed a 20.6 percent compensation increase which Mr. Meany and his colleagues supported but approved a 14.9 percent increase, even though it was more than double the general limit which the Board had set.

The Pay Board was right and Mr. Meany was wrong on this issue.

The general pattern of decisions of the Pay Board is one with which the labor representatives have largely agreed. Of the 54 Pay Board decisions to date, labor has agreed in 36 of the votes—two thirds of the total. It has disagreed with only 13 decisions—or 25 percent. In one instance labor's representatives were split and in four instances they abstained. Over half of the Pay Board's decisions have been unanimous and, of the eight major wage cases voted on by the full board which have been the most controversial, labor has agreed with the outcome in five. When the labor representatives say that this general pattern is one of "flagrant favoritism," they must recognize that the pattern is one to which they have generally agreed.

It is true, of course, that labor's representatives have not prevailed in every instance—and that they did not succeed in their effort to uphold the full 20.6 percent longshoremen's increase. In a free society no one is right all the time and no one can have his way all the time. All participants must be ready to accept a reasonable amount of give and take.

Organized labor's views have not been ignored by the Pay Board. In fact, they have usually been accepted. But we cannot and will not allow any single group—business or labor—to be the exclusive judge of fairness in its own case. The public interest must come before any special interest.

Our economic policies will continue to require certain sacrifices of the American people. But I am convinced that these policies are also in the best interests of all the American people. I am especially confident that they serve the best interests of our working men and women. For wage earners know that wage increases which are inflated are illusionary wage increases—they are inevitably cancelled out by rising prices.

Although a few labor leaders have chosen to reject their public responsibility and have sought to justify their action with standard political rhetoric, this Administration will not accept an "anti-labor" label. On the contrary—there can be no more "pro-labor," pro-workingman stand than a firm decision to protect the buying power of the wage earner's dollar.

Inflation is a dangerous and difficult enemy. We have set the course in the battle against that enemy—and our decisions have won the overwhelming approval of the Congress and the American public. I am determined to stay that course; I shall not be deterred by the disaffection of a few union leaders who represent only 17% of America's 80,000,000 wage earners.

My obligation is to serve the public interest—and the public interest will be served.

I have directed the Pay Board to continue, but as a single public unit, with those labor leaders who wisely wish to remain balanced by a reduced number of business leaders. All will be public members with the special perspectives of labor and business represented in their deliberations.

I have directed the Price Commission to proceed on course, working alongside the Pay Board to cut inflation in half by the end of this year.

All rules and regulations remain in full force.

The fight against inflation will go on until the American consumer and the American worker win the fight.

EGG INDUSTRY ADJUSTMENT ACT

The Senate continued with the consideration of the bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Who yields time?

Mr. TALMADGE. I yield myself whatever time I may take.

Mr. President, this is a very simple bill. Eggs are selling at the lowest price in some 40 years. They have been selling below the cost of production for some 2 years.

I am informed by the egg producers associations that the net worth of egg producers now is a minus. In other words, if they sold all their assets, they could not pay all their debts. They are in a desperate condition and are going broke day by day throughout the United States simply because the supply of eggs is greater than the demand, and prices are below the cost of production.

One of the reasons for that, Mr. President, is that a vaccine has been developed which eliminates Marek's disease. Heretofore, that disease would kill off about 20 percent of laying flocks, but now virtually all laying flocks survive. In addition, the birds are healthier and they lay more eggs while the number of birds is not much higher than it has been in previous years.

Mr. President, the production of eggs is considerably higher. In order to do something about it, the egg associations throughout the United States, working together and working with the Department of Agriculture, tried to come up with a plan that would cost the Government virtually nothing. It would maintain, so far as practicable, the elements of free enterprise and, at the same time, try to bring the production of eggs in line with demand. They came up with a plan to create an egg board within the Department of Agriculture. This board would be composed of 15 members of which 5 members would be representative of consumers. This egg board would act in an advisory capacity to the Secretary of Agriculture.

Now if the Secretary of Agriculture, acting on the advice of the advisory board, approved the plan, it would be mandatory to have a referendum of the egg producers—and an egg producer is defined as anyone with a flock of 1,000 birds or more—and before the plan would become effective it would have to be approved by an affirmative vote of two-thirds of the producers or an affirmative vote of the producers owning or tending two-thirds of the number of birds. So the plan would not go into effect without the affirmative declaration of the producers of eggs themselves.

The plan could go into effect also only if the price of eggs sold for three consecutive 30-day periods is below the cost of production. Then, after a referendum of the producers, the Secretary of Agriculture could inaugurate an early elimination of the laying hens in the flocks.

I would point out that all laying hens ultimately are eliminated from the flocks. They are sold largely to canners. They go into canned soups. They are usually sold only at the expiration of the time of their laying efficiency. But in order to bring supply in line with demand, if this program goes into effect, the Secretary of Agriculture can authorize the elimination of a certain number of birds within each laying flock.

I would point out further, Mr. President, that all laying flocks of 15,000 birds are automatically exempt, so that the reduction in the number of birds would be in that part of the laying flocks in excess of 15,000 birds.

That, Mr. President, would protect the small producers and would affect only the large producers.

The pending bill is temporary in scope. It lasts only for 2 years. But the operation of the bill itself would be much more limited than the 2-year period.

First, it cannot go into effect unless eggs are selling at below the cost of production for 90 days and on an affirmative vote of the egg producers by a two-thirds majority in number or volume.

Second, if it stays in effect, it would automatically go out of operation as soon as the price of eggs equals or exceeds the cost of production for a 90-day period.

That, Mr. President, is the simple arithmetic of the bill. Some 44 egg associations in the United States vigorously support the bill. There are about 10 egg associations combined, as a rule, between poultry associations and egg producers, that oppose it. The overwhelming majority support it.

It cannot go into effect without the overwhelming support of producers. It will not cost the Government anything except the cost of administration.

On the last page of the committee report, Senators will find a letter from Under Secretary of Agriculture Campbell. The last paragraph on page 11 reads:

> S. 2895 would cost approximately $2.5 million for the first six months of operation and about $4 million each year thereafter.

That is a summary analysis of the bill.

Mr. President, the committee voted 10 to 2 to report the bill to the Senate and I hope that it will sustain the action of the committee.

Mr. President, I ask unanimous consent that my full statement and a complete analysis of the bill appear in the RECORD at this point.

There being no objection, the statement and analysis was ordered to be printed in the RECORD, as follows:

FLOOR STATEMENT ON S. 2895, THE EGG INDUSTRY ADJUSTMENT ACT

(By Senator HERMAN E. TALMADGE)

Mr. President, the Egg Industry Adjustment Act is a very simple bill. As reported by the Committee, it would provide for a 15 man Egg Industry Adjustment Board composed of 10 producer representatives, appointed by the Secretary of Agriculture from industry nominations, and five consumer representatives also appointed by the Secretary. Upon the recommendation of the Board, the Secretary would be authorized, if the seasonally adjusted average farm price was below the average cost of production for the preceding three consecutive thirty-day periods, to issue a regulation to adjust the supply of commercial eggs. The program could, among other things, require the slaughter of a uniform percentage of that portion of each producer's flock in excess of 15,000 birds. Flocks below this number would be totally exempted. This reduction would then have to be maintained for a six-month period except to the extent otherwise prescribed by the Secretary.

Brown eggs and white eggs could be handled under separate programs.

Producer approval of the program would be required by a two-thirds majority in volume of birds or number of producers. All producers owning or tending flocks of 1,000 or more birds would be eligible to vote.

The bill would become effective upon enactment and would expire two years thereafter.

Mr. President, the egg producers in this country are in a desperate situation. Egg prices have been the lowest since the early 1940's and egg production costs, like all other farm costs, are high.

The current depression in the egg producing industry followed a two-year period of reasonable prices that began in mid-1968 and culminated in late 1969 and the early 1970's. During that period the wholesale price of 10 per cent, AA, large eggs, in New York City peaked at 65 cents per dozen and averaged 62 cents per dozen in January, 1970. Two years later the value of eggs of the same quality in the same market averaged only about 30 cents per dozen, a decline of more than 50 per cent.

Since mid-1970 the egg industry has been in a severe cost-price squeeze. During 1971 prices received by egg producers averaged 18 per cent below the 1970 level, despite increased production costs. The situation in 1972 is even worse. During January and February of this year the New York wholesale price averaged about 30 cents per dozen compared with 36 cents during the comparable period a year ago and over 57 cents per dozen in 1970.

At these wholesale price levels, farmers are receiving an average of less than 20 cents per dozen for eggs they produce since the margin between the farm price and wholesale price generally runs about 10 to 12 cents per dozen.

These disastrously low prices have weakened the financial position of many producers to the point where unless relief is provided they will be forced out of the business.

The industry has made every possible effort to voluntarily cut back production to the point where reasonable returns could be expected. Thus far they have failed. One of the reasons for failure this time, whereas on other similar occasions they have succeeded, is a breakthrough in the control of Marek's disease.

Due to the tremendous efficiencies brought about by the use of a new vaccine to control this costly disease, a cut back in the size of the laying flock that normally takes place when extremely low prices prevail for a long period of time has not been sufficient to reduce the number of eggs available for marketing. Marek's vaccine has reduced the mortality of the replacement flock, reduced the mortality of the laying flock, and has increased the rate of lay.

The present over supply of eggs is not the result of increases in the laying flock. Department of Agriculture statistics show that the average number of layers for 1971 remained at about 322 million birds, the same level as in 1970, while production increased by 1.5 billion eggs from 70.2 billion in 1970 to 71.7 billion in 1971, an increase of five eggs per layer. During the first two months of 1972, the number of birds were slightly under this same period last year but one per cent more eggs were produced. This one per cent increase in egg production has resulted in a price decline from 36 cents per dozen for January and February of 1971 to only 30 cents per dozen for January and February of 1972, a 17 per cent decrease in price.

In order to prevent further disaster to egg producers, an additional slight reduction in the size of the laying flock is required. But farmers cannot make this necessary adjustment without help. They are only asking that after the price of eggs is below the cost of production for three consecutive months their government be allowed to determine, upon the advice of a Board representing both producers and consumers, the number of birds that need to be removed from the nation's laying flock in order to restore prices to a proper level and that the government as a disinterested third party referee this action so that everyone not exempted removes his fair share.

This industry, which has long been a strong advocate of the free enterprise system with a minimum of government regulations, is not asking for price support or other financial assistance on their products or even relief from the temporary loss that would occur with the early marketing of productive layers. They simply want the Secretary of Agriculture to help them adjust the size of their laying flock.

Many people may think it unreasonable or harsh to send these productive layers to market for slaughter. But let us look at the facts. There are well over 300 million layers in the flock today. All of these birds will eventually be slaughtered and sold either as stewing chickens or be used in processed foods, such as soup, or will be included in the statistics on flock mortality. An average of about five per cent of the flock is removed either by mortality or by marketing for slaughter each month. But this is not enough. A small additional percentage needs to be removed now. All the producers of eggs are really talking about is the requiring of early slaughter of birds that otherwise would be slaughtered any way.

There have been charges that this early removal of laying hens will drastically raise the price of eggs to consumers now and forever more. But this is not so. The bill specifies that when the price of eggs exceeds the cost of production for three consecutive 30-day periods, the program must be terminated.

This legislation is designed only to provide the machinery to stabilize prices and prevent the traumatic peaks and valleys caused by extremely low and high prices. It is not designed to guarantee profit or prevent losses to producers.

During consideration of the bill by the Committee a number of changes were made some of these would:

(1) Require producer approval of a program. In approving the bill the Committee felt it was responding to the overwhelming feeling of egg producers that some form of immediate action was necessary to correct an intolerable situation. However, the Committee also felt that producers should have an opportunity to express themselves on the proposal before implementation. Therefore a referendum requirement was added.

(2) Provide that five of the fifteen Egg Industry Adjustment Board Members would be consumer representatives;

(3) Restrict the management cost factor in computation of average production cost to a reasonable allowance for on-farm management personnel;

(4) Make it clear that the percentage slaughter requirement would be applied after deducting the exemption from the total flock;

(5) Increase the exemption to 15,000 fowl. The exemption originally provided in the bill was 10,000 birds.

However, the Committee felt that a 15,000 exemption was preferable since this larger number would offer additional protection to the small family farmers.

(6) Provide for reducing any producer's exemption as necessary to prevent him from sharing in two exemptions or increasing his exemption;

(7) Prohibit any producer for six months after a slaughter requirement from increasing his flock above the reduced size or the exemption, whichever is greater, except to the extent provided by regulation;

(8) Require contractors to apportion any reduction equally among their contract producers;

(9) Require slaughter at such times and manner as not to interfere unduly with the orderly marketing of slaughtered fowl.

Mr. President, this is a bill desperately needed to prevent bankruptcy of egg producers.

This is a bill which will not go into effect unless approved in a referendum by egg producers.

This is a bill which provides for a real expression of consumer interests.

This is a bill which provides special protection for the small family farm.

And finally, this is a bill which will permit egg producers to regulate their own operations without an outlay of government money in the form of subsidies or price supports.

Mr. President, I sincerely hope that the Senate will approve this measure.

Mr. President, I ask unanimous consent to have printed in the Record a section-by-section explanation of the bill.

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SECTION-BY-SECTION EXPLANATION

Section 1. Short title.—This section gives the act the short title, "Egg Industry Adjustment Act."

Section 2. Legislative findings.—This section sets out the facts that make the act necessary for the regulation of interstate commerce in eggs and egg-producing fowl.

Section 3. Declaration of policy.—This section declares it to be the policy of Congress to maintain orderly market conditions in order to provide producers and consumers with reasonable prices for eggs. This section also makes it clear that the broiler and broiler breeder fowl industry is in no way covered by this act.

Section 4. Egg Industry Adjustment Board.—This section requires the Secretary of Agriculture to appoint a 15 man Egg Industry Adjustment Board consisting of 10 producer representatives and five consumer representatives. The committee discussed the possibility of providing specifically for the inclusion of persons associated with egg marketing cooperatives and general farm organizations on the Board; but decided that the act clearly permits their inclusion on the Board and felt that no further provision was necessary. It seemed quite likely to the committee that such persons might be nominated by egg producers or producer organizations.

The board members who are representatives of producers are required to be (1) geographically and proportionately representative of commercial egg production areas of the Nation; and (2) appointed from nominations submitted by commercial egg industry producer organizations, except that the Secretary may select such Board members from nominations submitted by commercial egg producers whose interests are not represented by such producer organizations to the extent necessary to give those producers proportionate representation on the Board.

Board members would serve at the pleasure of the Secretary but not more than 2 years. The Secretary could also appoint up to four ex officio (nonvoting) members.

The Board would meet semiannually, or more often at the call of the Secretary, or upon petition of one-third of its members.

The Board would be terminated upon either a two-thirds vote of its members or a determination by the Secretary that its continuation no longer tends to effectuate the declared policy of the act. Termination would not preclude the Secretary from later reestablishing a new Board if such reestablishment would tend to effectuate the declared policy of the act in the light of changed conditions.

Members of the Board would serve without compensation, but be reimbursed for necessary expenses.

Section 5. Duties and powers of the Board.—This section requires the Board to recommend a regulatory program for adjusting the supply of commercial eggs. The Board would also advise the Secretary, if requested, on rules and regulations needed to effectuate the act, and have such additional duties and responsibilities as the Secretary may prescribe.

The Board could, with the approval of the Secretary, accept any services, use of any facilities, or use of any personnel of any college, university, research organization, poultry trade association, farm cooperative association, or other qualified persons.

Section 6. Egg industry adjustment program.—This section authorizes the Secretary to make the program recommended by the Board effective if he finds that (1) the seasonally adjusted average farm price received for eggs by a representative sample of egg producers is less than the average cost of production of such producers for a period of at least three consecutive 30-day periods, and (2) the program will effectuate the policy of the act and is approved or favored:

(i) By at least two-thirds of the producers who, during a representative period, have been engaged in the care or ownership of flocks of 1,000 or more fowl, or

(ii) By producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of 1,000 or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining such approval, the Secretary shall conduct a referendum among such producers. In the case of an amendment to the program he may, but need not, conduct a referendum. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

If a program provides a method for slaughter or for specifying slaughter percentages, and is approved by producers, the subsequent application of the method to fix specific percentages or to impose regulation pursuant to the method, as needed, would not require producer approval by referendum or otherwise.

Determinations by the Secretary as to approval or disapproval of a program by producers would be final and conclusive.

No program may be continued after the seasonally adjusted average farm price described in (1) above has exceeded the cost standard described in (1) above for at least three consecutive 30-day periods. Any determination by the Secretary of such price and cost would be final and not subject to review. In determining the average cost of production, the Secretary would include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary would publish the average prices and costs determined by him, together with an itemization of the major elements of cost considered and a description of the method used.

Section 7. Terms and conditions of program.—This section requires any program under the act to contain one or more of the following provisions and no others:

(A) A provision for the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number. The exempt number would be 15,000. To prevent evasion of the act the exempt number for any producer would be reduced by:

(1) The number of fowl owned by another for the benefit of such producer;

(2) That part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation;

(3) That part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership;

(4) The number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with such producer's funds and without the payment of adequate consideration to such producer therefor; or

(5) Such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(i) Participating in the benefit of any exemption in excess of 15,000 fowl, or

(ii) Increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (i) a producer who normally engages in caring for fowl for the account of others, or (ii) any other person, while retaining control of the marketing of eggs produced by such fowl.

The Secretary could prescribe exemptions from the foregoing exemption reductions as necessary to prevent hardship or inequity. For 6 months after being required to slaughter any of his flock, no producer could increase his flock except to the extent prescribed by the Secretary. Any slaughter by a contractor would be required to be apportioned pro rata among the flocks cared for by him and by other producers pursuant to contract with him. Slaughter would be required to be made at such times and manner as would not unduly interfere with the orderly marketing of slaughtered fowl.

(B) A provision for adjustments and exceptions as necessary to provide equity and relieve hardship of persons whose production is substantially unrepresentative of their normal operations.

(C) A provision requiring persons who acquire egg-producing fowl for slaughter, to certify that such fowl have been slaughtered, make reports to the Secretary, and maintain books and records.

(D) A provision for administration of the program by the Secretary through such facilities and personnel of the Department of Agriculture (including local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended), as the Secretary may designate, and for the collection, compilation, and analysis of reports and other information obtained under the program.

(E) A provision for different programs for brown and white egg production.

(F) Terms and conditions incidental to and not inconsistent with the foregoing provisions as necessary to effectuate the program.

Section 8. Suspension or termination.—This section provides for termination or suspension of the program or any provision thereof whenever it obstructs or does not tend to effectuate the act, or is not in the public interest.

Section 9. Provisions applicable to amendments.—This section makes the provisions of the act applicable to amendments to the program.

Section 10. Petition and review.—Any person subject to the program or any regulation under the act, may file a written petition with the Secretary, stating that such program or regulation is not in accordance with law and praying for a modification thereof or to be exempted therefrom. After a hearing, the Secretary's ruling upon such petition would be final, if in accordance with law.

Subsection (B) vests jurisdiction in the district court of the United States for the district in which such person is an inhabitant, or has his principal place of business, to review such a ruling if a complaint is filed within 20 days from the date of the ruling. If the court determines that the ruling is not in accordance with law, it shall remand to the Secretary with directions (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

Section 11. Enforcement and penalties.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and restrain violation of, the act. Violators of the act are also liable to a penalty of not more than $5,000 for each offense, which may be recovered in a civil suit, and each day an offense continues shall be deemed a separate offense. These provisions are in addition to any remedies now or hereafter existing at law or in equity.

Section 12. Registration, reporting, and recordkeeping.—This section authorizes the Secretary, whether or not a program is currently in operation, to—

(A) Require egg producers to register;

(B) Require egg producers to report with respect to their production of eggs, the size and age of their flocks of egg-producing fowl, the prices received by them for eggs, the costs of producing eggs, and such other information as he may require;

(C) Require egg producers to keep such books and records as he may require. Such books and records would be open for inspection at all times during normal business hours by authorized representatives of the Secretary; and the Secretary would be authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memorandums as he deems relevant and which are within the control of such person, or any party having, either directly or indirectly, actual or legal control of or over such person or of any subsidiary of any such person;

(D) Conduct such other investigation and require such other reports and records as he may determine to be reasonably necessary in the administration of the act.

Section 13. Confidential data.—This section requires that all information furnished to or acquired by the Secretary in the administration of the act is to be kept confidential. Only information necessary to the enforcement or defense of the program is to be disclosed, and then only in a suit or administrative hearing initiated by the Secretary, or to which he or any officer of the United States is a party, and involving the program with reference to which the information to be disclosed was acquired. Nothing in this section would prohibit (i) the issuance of general statements based upon reports of a number of persons subject to a program, which do not identify the information furnished by any person, or (ii) the publication, by direction of the Secretary, of the name of any person violating the program together with a statement of the particular provisions of the program violated by such person. Violations of this section would subject the offender to a fine of up to $1,000, imprisonment for up to 1 year, and removal from office.

Section 14. Regulations.—This section authorizes the Secretary to make such rules and regulations as may be necessary to carry out the provisions of the act.

Section 15. Investigations.—This section authorizes the Secretary to—

(A) Make investigations necessary to carry out the act;

(B) Administer oaths, subpena witnesses, compel their attendance, take evidence, and require the production of books and documents; and

(C) Invoke the aid of the appropriate court of the United States in requiring the attendance and testimony of witnesses and the production of books and documents.

Section 16. Definitions.—This section defines the terms "Secretary", "person", "eggs", "producer", "fowl", and "United States", as those terms are used in the act. Eggs and fowl are defined so as to make it clear that the act deals with chicken eggs sold for human consumption and egg-laying chickens over 20 weeks old. Produce is refined to make it clear that both the owner and the person tending the flock under contract are considered to be producers. United States is defined so as to make it clear that the act is confined to the 48 contiguous States and the District of Columbia.

Section 17. Separability.—This section provides that if any provision of the act is held invalid, the validity of the remainder shall not be affected thereby.

Section 18. Authorization.—This section authorizes the appropriation of such funds as are necessary to carry out the act.

Section 19. Effective Date and Expiration.—This section makes the act take effect upon enactment and expire 2 years after enactment.

Mr. MILLER. Mr. President, I regret that I cannot vote for the pending bill.

There is a serious problem of overproduction in the egg industry—everyone knows that. Moreover, I am persuaded that Federal legislation could be helpful in relieving the problem. However, this bill is not the way to do it.

On the basis of letters and telephone calls, I have concluded that the producers in my State are very evenly divided for and against.

Our committee received testimony against this bill from successful producers who asked to be left alone by their Government, stating that in their area or in their particular operation they were getting along reasonably well and felt they should not be forced to bear some of the cost of a problem which they did not cause. Many of the producers in my State have taken the same position.

The only way to accommodate these people—to avoid forcing them to cut their flocks because of a nationwide problem which does not apply to their locale, and which they had nothing to do with, would be to establish a voluntary program, with an adequate incentive to obtain sufficient flock reduction compliance to meet the problem. I offered an amendment in committee which would have done this—providing for Government price support in the amount of the cost of production. This was rejected by a very substantial majority of the committee.

And so we are left here with a compulsory program, subject, of course, to a referendum. However, the referendum allows producers having flocks as small as 1,000 layers to vote. Since producers having flocks of 15,000 or fewer birds are exempted from any forced reduction, they really would have nothing to lose and everything to gain by voting for the program in a referendum. This does not seem fair to those who want to be left alone and would vote against the program.

I believe that those who are inclined to favor this bill should realize that they could be ordered to reduce their flocks by as much as 20 percent in order to achieve the 8 percent total national reduction estimated to be needed to bring about stability in the egg markets. Some of them might be willing to do so. But in the case of those who want to be left alone and do not have a problem in their operation, this would be a severe blow to be forced upon them by their Government.

Mr. President, I reserve the balance of my time.

Mr. BURDICK. Mr. President, will the Senator from Iowa yield me some time?

Mr. MILLER. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Senator from North Dakota is recognized for 3 minutes.

Mr. BURDICK. Mr. President, I wish to express my opposition to S. 2895, the Egg Industry Adjustment Act.

In the past few weeks I have met with egg producers in North Dakota to discuss this proposal and, after the bill was favorably reported by the Senate Committee on Agriculture and Forestry. I contacted a number of these producers by telephone to discuss with them the provisions of the bill as amended.

They see no need for this legislation and have so informed me in forceful language in a telegram dated March 17 from Francis Schol, president of the North Dakota Egg Producers Association.

I ask unanimous consent that the text of the telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

Northwood, N. Dak., March 17, 1972.

Senator QUENTIN BURDICK,
Senate Office Building,
Washington, D.C.

Request your strongest opposition to S. 2895 Egg Industry Adjustment Act. The proposed legislation is completely unenforceable and serves only to establish a foot in the door to total government control of egg industry. The bill only seeks to bail out those who have expanded beyond sound business judgment while working a severe hardship on the producers who respond to the market. Giving authority to some—the one thousand to twenty thousand bird producers—to visit restrictions and curtailment on others—the over twenty thousand producers—is undeniably inequitable. The board of directors of the North Dakota Egg Producers Assn. unanimously oppose S. 2895.

FRANCIS SCHOL,
President, North Dakota Egg Producers Assn., Northwood.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the text as amended be considered as original text for purposes of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the committee amendments are considered and agreed to en bloc and the text as amended will be considered as original text for purposes of further amendment.

The bill is open to further amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. CURTIS. Mr. President, the pending legislation is not without a problem. It is a new department. Some concern has been expressed about certain matters concerning the administration of the act because, unlike acres that are farmed, there are no specific statistics on individual flocks of chickens. It is a

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type of industry that can fluctuate very rapidly.

Questions have been raised as to how effective the cutback would be of laying hens. Notwithstanding that, there are a number of egg producers who feel that the act ought to be tried.

I would be less than candid if I did not say also that there are a number of those who are very much opposed. I believe the RECORD should show these two facts, however.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TALMADGE. Mr President, I yield 3 additional minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 additional minutes.

Mr. CURTIS. Mr. President, no action can be taken under this proposal, should it become law, without a referendum. If a referendum is held, all producers who have flocks of 1,000 or more birds will be entitled to vote. And no order for a cutback in the volume of birds or in the number of producers can become effective unless the producers approve the proposed program by a two-thirds majority vote.

In other words, no program of reduction of laying flocks will become effective unless two-thirds of the producers approve it.

The second point I would like to mention and one that is entitled to consideration in this matter is that it does not involve a Government subsidy. In the past some efforts have been undertaken to increase the price of eggs and poultry, and particularly eggs, and they have run into a great deal of difficulty. There is no Government subsidy planned in this proposal.

It also should be pointed out that in a sense this is somewhat of a trial. If it is concurred in by the House and if the measure is signed by the President and becomes law, it is to be for a period of 2 years.

This is a new departure in many sections and we do not know the answer, but I felt it important to place in the RECORD the fact of the referendum, that there is not a Government subsidy involved, and that this is a program to be tried for 2 years.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I intend to vote against S. 2895, for I fear that this legislation would establish a precedent on production control that none of us would care to see created. This legislation authorizes the Secretary of Agriculture to order the reduction in flocks of laying hens in sufficient quantities to stimulate the price of eggs.

FIRST HENS—THEN SOWS AND COWS

Somehow there is a principle in this authorization that I cannot accept—for I can foresee the day when this body would consider passage of similar legislation that would authorize the similar killing of sows to stimulate pork prices—or to kill cows to raise beef prices.

I am eager to improve net farm income for all farmers, including the egg producing segment, however, control over the number of laying hens a farmer owns should be left to his own determination.

REFERENDUM NOT EQUITABLE

A producer referendum is, of course, now included in the legislation. Since this referendum will enable all producers with 1,000 layers or more to vote, this adds some justification for support of the measure, however, those producers who have not expanded their flocks recently to contribute to the excess production and who were in the minority in such a referendum will also be required to reduce their flock size. Such action, to me, represents an unconscionable taking of property without due process of law.

HATCH CONTROL BETTER SOLUTION

Also, I would concur with the recommendation of the Department of Agriculture that a better approach might well be the regulation of hatches and placement of started pullets.

Finally, the value of the information gained and service rendered in the taxpayer's behalf makes it difficult to justify the $4 million annual cost.

PROVIDES FOR FUTURE "KILLS"

Mr. President, I urge my colleagues to join me in opposing this bill. I do not deny that an emergency situation exists in the egg industry today with farmers receiving less for their eggs than it costs to produce them. That has been well documented. Such a critical situation should be met with legislation that will provide the desired correction now, but more important, that would prevent a recurrence of the overproducion. This legislation only provides future "kill" mandates to correct future overproduction.

VOLUNTARY REGULATION

It would seem to me that far less than $4 million could accomplish a program of voluntary hatch regulation by providing the egg producers with information on the number of layers on a regular reporting basis.

An emergency measure should eliminate the emergency and prevent its recurrence—not provide for that emergency's recurrence—at a cost of $4 million per year.

Mr. CHILES. Mr. President, I believe I am fully aware of the serious difficulties many egg producers are faced with today. But I do not feel S. 2895 as written will be able to accomplish its intended purpose, and may materially harm the small and medium-sized producer.

One of the provisions I especially object to is the fact that the act provides that any producer who has 1,000 fowl or more would be eligible to vote in the referendum. However, the legislation, in addition, provides an exemption of 15,000 fowl in connection with any mandatory fowl slaughter program approved in such referendum. This, in effect, means that a producer who has from 1,000 fowl to 14,999 fowl has the right to vote in a referendum but is exempt from any of the terms and conditions of the fowl slaughter program. This does not make sense to me.

After studying the bill and talking with egg producers I have concluded that this bill will not serve to accomplish its stated purpose, will almost surely add chaos to an already intolerable situation, and could do serious harm and irreparable damage to many of the family farm and moderate-sized independent producers. I voted against reporting the bill out of the Agriculture Committee and I do not favor its passage on the Senate floor today.

Mr. AIKEN. Mr. President, although this bill will not be the salvation of the egg industry, it will be of help to the smaller egg producers of the country, especially those who have less than 15,000 laying hens. Production of the large producers, some of whom have laying hens numbering into the millions, has really mushroomed, and the little fellow cannot stand the result. So Vermont, New York, and New England producers, I think for the most part, are in favor of this bill because they are the small producers. As I say, although any relief would be temporary, it would be helpful to the small producers.

Therefore, Mr. President, I support the bill.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, and I think I speak with the approval of the ranking Republican member of the committee and the chairman of the committee, that the vote on the pending measure, which I approve of because I think it is an important and needed step in the right direction, occur at the hour of 10:45 tomorrow morning.

The PRESIDING OFFICER. Does the Senator wish to waive rule XII?

Mr. MANSFIELD. Yes, I ask that rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask for the yeas and nays on the pending bill.

The yeas and nays were ordered.

CONFERENCE REPORT ON RADIO FREE EUROPE AND RADIO LIBERTY TO BE VOTED ON AT 11 A.M. FRIDAY, MARCH 24, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the conference report on Radio Free Europe and Radio Liberty at 11 o'clock tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the conference report covering Radio Free Europe and Radio Liberty occur at 11 o'clock tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. On that measure I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, we come in at 9 o'clock tomorrow. We have orders for four 15-minute speeches.

I ask unanimous consent that at the hour of 10 a.m. tomorrow, Calendar 611, H.R. 9526, an act to authorize certain naval vessel loans and for other purposes, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the way it looks now we might be able to complete our business around 12 o'clock noon tomorrow, and then the Senate will go over until 10 a.m. or 11 a.m. on Tuesday next. In other words, there will be no session this coming Monday. I think the Senate has earned a respite because its record in recent weeks has been magnificent.

EGG INDUSTRY ADJUSTMENT ACT

The Senate continued with the consideration of the bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

Mr. MILLER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MILLER. I would like to ask a question of the Senator from Georgia so that this may be a matter of legislative history on this legislation.

Mr. TALMADGE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, this has to do with the referendum which is called for in the bill. My recollection is that there is nothing said in the bill itself or in the committee report on this point, but would it not be the intention of the manager of the bill, one which I would share, that in implementing the referendum the Secretary of Agriculture would make a timely announcement well ahead of the referendum of the terms and conditions of the referendum so that the press and the news media would carry this information and would inform the general public about the referendum.

Mr. TALMADGE. I think that is an absolute necessity.

Mr. MILLER. I thank my colleague.

I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have asked for a record vote on this bill because of the principle involved. This bill is basically aimed at increasing the price of eggs by requiring the slaughter of a certain proportion of the chickens in this country and thereby reducing the number of eggs. I think it would be another example of Government interference in the marketplace. I speak in opposition to this bill on behalf of a great many of the farmers in my State who would like to see us gradually move away from Government interference in the marketplace and work toward a freer market to the greatest extent we can.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. PERCY. I yield.

Mr. TALMADGE. Is the Senator from Illinois aware of the fact that the Illinois Poultry Council and also the Illinois Poultry and Hatchery Federation are on record supporting this bill?

Mr. PERCY. I am aware of that.

Mr. TALMADGE. I thank the Senator.

Mr. PERCY. Mr. President, I believe the principle involved here is an important one. I can well imagine that if this is a situation that holds true for chickens and eggs and that the price is depressed, as it has been, and I recognize that it has been since sometime in 1970, this same condition exists in other areas. We had very low hog prices a year ago and farmers certainly complained about $17 hogs. But they did not come in and ask for the Government to slaughter hogs. That might have brought back recollections of three decades ago when we had hungry people in this country and we were slaughtering hogs to try to control prices. In the case of hogs, the producers themselves voluntarily reduced the size of their output. They did this without Government intervention, interference, and control over costs, and hog prices are back up this year. Prices are back up for hogs to $27 and $28 now. That is a much healthier condition than if the price had been brought up by Government intervention, because once the Government moves into an area it is exceedingly difficult to move it out.

As I understand the bill it would set up a 15-man Egg Industry Adjustment Board composed of 10 producer representatives appointed by the Secretary of Agriculture from industry nominations and five consumer representatives also appointed by the Secretary.

If they so recommended, the Secretary of Agriculture could issue a regulation to adjust the supply of commercial eggs by requiring the slaughter of a uniform percentage of each producer's total flock of chickens in excess of 15,000 birds.

To set up the program, a referendum would be held and two-thirds of all producers with 1,000 birds or more would have to approve.

It would require all egg producers to register; require them to report on their production of eggs, the size and age of their flocks, the prices received for eggs, the cost of producing eggs, and other information. They would have to keep books and records open to inspection at all times. The Secretary would be authorized to examine the producer's books, papers, records, income tax returns, accounts, correspondence, contracts, and so forth.

If a producer did not kill the right number of chickens, he could be fined up to $5,000 a day.

The program would cost $4 million a year in administrative expenses.

I recognize, and certainly egg producers in my own State have pointed out, that they are in a boom-and-bust situation on occasion, as certain other agricultural products are. They are in a cost-price squeeze, as farmers have been for many years. For the egg producers, since mid-1970, this has been more difficult than before that time.

At present there is an oversupply of eggs due to decreased mortality of chickens and control of disease. Chickens are simply laying more eggs this year than last year.

The bill is represented to be the most feasible way to meet the problem—and I certainly respect the Committee on Agriculture and Forestry's attempt to solve this problem—but I simply do not feel that the only way to adjust prices is through forced slaughter of chickens.

I earnestly and deeply believe in the over-all ability of letting market conditions prevail. This certainly was true in the case of hogs within the past year.

Furthermore this bill for the first time would allow an official of the Federal Government to go onto a farm and order a producer to slaughter and sell a certain amount of his production. This would be a very dangerous precedent for future crops and animals. This would put further Government regulation into agriculture and move farther away from market forces.

We also are at a time of a budget squeeze. This bill adds another $4 million to the Federal budget, which, while it is not exactly a lot when we consider the over-all economy and budget, will nevertheless result in increased expenditures. We will also have a new Federal agency which will hire people and require another office to take care of this kind of work.

Such new offices are very difficult to get rid of. We have the whole structure of government as an example of how we keep adding things to the responsibilities of the Federal Government.

Taking the sentiment of my own farmers and trying to speak in their behalf, I would say that weighing in the balance all the various alternatives, they would prefer that we move in the direction of letting the market prevail.

For that reason, I have asked for a record vote and for that reason I will vote against the bill tomorrow.

I thank the Senator for yielding to me.

Mr. MILLER. Mr. President, if my colleague is of the same mind, I am ready to yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. What is the pleasure of the Senate?

ORDER FOR ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ROTH AND BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the two leaders have been recognized tomorrow morning under the standing order, the distinguished Senator from Delaware (Mr. ROTH) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, before moving to adjourn, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL TUESDAY, MARCH 28, 1972, AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 10 o'clock a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 9 o'clock a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senator ROTH, Senator BYRD of Virginia, Senator WEICKER, and Senator STEVENSON.

At the conclusion of the unanimous-consent orders just referred to, the Chair will lay before the Senate—and under the order previously obtained by the majority leader, the time will be 10 o'clock—H.R. 9526, the naval vessel loan bill. Debate will proceed on that bill, and rollcalls on any amendment or passage of the bill could occur prior to 10:45 a.m., of course.

Under the order, at 10:45 a.m. a rollcall vote will occur on passage of S. 2895, a bill dealing with egg prices.

That will be immediately followed, at 11 a.m., by a rollcall vote on the conference report on Radio Free Europe. Senators are reminded, therefore, that there will be at least two rollcall votes tomorrow, and there may be more.

It is anticipated that the Senate will complete action on the various measures reasonably early tomorrow, so that all rollcall votes should be completed by 1 o'clock p.m. or thereabouts, if not earlier.

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 5:40 p.m. the Senate adjourned until tomorrow, Friday, March 24, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 23, 1972:

INTERSTATE COMMERCE COMMISSION

Rupert L. Murphy, of Georgia, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978, reappointment.

Alfred Towson MacFarland, of Tennessee, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978, vice John W. Bush, term expired.

EXTENSIONS OF REMARKS

FOOTWEAR PRICES TO RISE NEXT FALL

HON. WILBUR D. MILLS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MILLS of Arkansas. Mr. Speaker, I am including with my remarks a most interesting article written by Mr. Leonard Sloane in the March 21, 1972, issue of the New York Times entitled "Footwear Prices to Rise Next Fall."

The article clearly shows the justification for licensing and limiting exports of hides from the United States. The Department of Commerce should act now on such a request that is and has been pending.

The article follows:

[From the New York Times, Mar. 21, 1972]

FOOTWEAR PRICES TO RISE NEXT FALL

(By Leonard Sloane)

Footwear prices will rise between $1 and $6 a pair next fall as a result of abnormally large buying of American hides by foreign countries, according to domestic manufacturers, retailers and tanners. Speaking at a news conference yesterday at the National Shoe Fair, leaders of the four principal trade associations in the footwear industry said that prices would advance still higher unless temporary hide export quotas were imposed immediately.

"In 1968, the Government did impose an embargo for much less urgent reasons than there are today," Harold Gessner, president of the American Footwear Industries Association, said. "Even if the Administration imposes embargoes on shipments out of the country, it will take three to four months to put this situation in balance."

INCREASES CITED

The industry executives at the conference, in the Statler-Hilton Hotel, attributed the forthcoming footwear increases to the recent price rises in hides and leather.

Irving R. Glass, president of the Tanners' Council of America, asserted that the average price of cattle hides jumped from 12 cents a pound on Aug. 15, 1971, when President Nixon's New Economic Policy was announced, to 26 cents a pound last Friday. During the same period, he added, the average price of leather rose from 56 cents a foot to 68 to 74 cents.

The prices of hides and leather are not controlled under the Administration's economic stabilization program because they are agricultural products. Large shoe manufacturers can apply to the Price Commission for increases based on their higher costs, while retailers are permitted to maintain their normal markups.

DEVALUATION A FACTOR

In tracing the background of the short hide supply in the United States that was said to be responsible for rising prices, Mr. Glass pointed to the decline in cattle slaughter in Argentina as the origin of this crisis. The United States and Argentina normally supply 80 per cent of the world's hide supply, but last year's Argentina supply was reduced by 3.5 million head of cattle.

When the Argentine Government imposed quota restrictions on hide exports last May, foreign demand converged on the United States. The currency devaluation on Dec. 8, 1971, gave many of these foreign buyers from Western Europe and Japan a 10 to 18 per cent price advantage in purchasing American hides, the American shoe men said.

In calling for immediate action by the President under the authority granted to him by the Export Control Act, the shoe men emphasized their belief that farmers are not the beneficiaries of the higher hide prices, since hides are a byproduct of cattle. "The packers are profiteering at the expense of the consumers," said Mark E. Richardson, president of the footwear industries association.

Edward Atkins, executive vice president of the Volume Footwear Retailers of America, observed that "this could be the break of the dike for stabilization" if footwear prices were not brought under control.

"Temporary restraints on export of United States shoe supplies in 1966 within a few months stabilized a similar situation," he said. "Every day of inaction fuels inflation."

OTHER ACTIONS

In other actions, the Olin Corporation said that its Ecusta Paper division will increase prices of six types of lightweight printing papers by $1 per hundredweight, effective April 1.

The Pennwalt Corporation announced that it was advancing the price of 50 per cent liquid caustic soda shipped from its Lemont, Ill., terminal to $77.50 a ton, from $71.50 a ton, effective April 1.

THE FEDERAL BUDGET FOR 1973

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MAHON. Mr. Speaker, as has been our practice for a number of years and as now required under the Legislative Reorganization Act of 1970, the Committee on Appropriations in late January held an overall hearing on the President's budget for the forthcoming fiscal year 1973. Those hearings have just been printed and released. A copy was sent to each Member with the following letter:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 21, 1972.

DEAR COLLEAGUE: I enclose a copy of the overall hearings held by the Committee in late January on the FY 1973 budget, which I trust you will find helpful especially in connection with consideration of fiscal measures during the session. The hearings focused on the main features of the budget, its overall policy recommendations and economic and legislative assumptions. A number of subjects were covered.

There was considerable discussion of the so-called *full employment concept* under which spending is geared to *theoretical revenues* that would be received *if* the economy were operating at so-called full employment. Of course, the actual *Federal funds budget is projected heavily in the red*—$36.2 billion for FY 1973 on top of a reestimated $44.7 billion Federal funds deficit in the current FY 1972 budget—$80,898,000,000 for the 2 years, which is on top of a $29,866,000,000 Federal funds deficit last year (in other words, $110,764,000,000 now estimated for the 3 years). The Federal funds deficit closely approximates the increase in the Federal debt.

As you are aware, the budget projects *spending* (budget *outlays*) at $246.3 billion in FY 1973, nearly $10 billion above this year. Congress does *not*, however, act on the spending estimates, but rather on *new budget (obligational) authority* which totals $270,898,000,000 for 1973 in the President's budget (some $20 billion above the 1972 total).

Of this $270.9 billion new budget authority, *about $185.3 billion is subject to Congressional action at this session*—mostly in the appropriation bills. Appropriations for debt interest, for social security and other so-called permanent appropriations do not require annual Congressional action. And the $185.3 billion new authority requested for 1973 in turn involves actual spending (outlays), in 1973, of only about $126.8 billion; the remainder, if granted, would be paid out in future years.

As you know, actual spending (outlays) projected for any given year involves a heavy mix of (1) spending from new budget authority requested, (2) spending from large carryover balances of funds voted in previous years, and (3) spending from the so-called permanent appropriations that do not require annual appropriation action.

Furthermore, of the $185.3 billion new budget authority subject to action in this session, about $47.5 billion is for ongoing programs which first require authorization bill actions prior to taking them up in the appropriation bills. Another $10 billion involves new legislative proposals such as general revenue sharing.

I trust that you and your staff will find this material helpful and that you will feel free to call us for any further explanation you may wish.

Sincerely,

GEORGE MAHON,
Chairman.

Copies were, of course, also made available to the press and others. Copies are available—as long as the supply lasts—in the committee offices, room H–218 in the Capitol.

The budget is such an important document—touching as it does the lives and welfare of every American in one way or another—that I thought I should call attention to these hearings. The printed hearings contain much helpful information.

LABOR EDITOR DISCUSSES MINIMUM WAGE, BURKE-HARTKE BILL

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HICKS of Washington. Mr. Speaker, in an editorial in the Tacoma Labor Advocate, Editor Darlow I. Goertzen has made some interesting comments on minimum wage and the Burke-Hartke trade bill. I believe this editorial is worth reading and commend it to my colleagues:

[From the Tacoma Labor Advocate, Mar. 16, 1972]

DIGGING AROUND

When I see the constant, often undercurrent competition between capital, labor, and management, it reminds me of Uncle Sam and his three legged milking stool as told to me by my Uncle Martin.

As I recall in high school, I was studying American Government and the assignment was to tell which is the most important, management, labor or capital. I went to my Uncle Martin with the problem. He was a smart man, a philosopher in overalls. He was in the midst of milking his cow, Bessie. I said: "Uncle Martin, what's the most important—capital, labor or management?"

He looked up at me from his milking and said: "son take a look at the three-legged milking stool I'm sitting on. If you can tell me which of the three legs is the most important, I'll tell you which is most important—labor, capital or management." He was telling me in his own way that they're all of equal importance.

All we Americans, personified in Uncle Sam, are sitting on a three legged milking stool—one leg, labor—one, capital—the other management.

We're all drawing from our natural resources, represented by Bessie the cow.

Say one leg or two legs are thinned or attacked by termites. The stool becomes weak, imbalanced and "the body politic" or Uncle Sam has a heck of a time milking a cow.

If one would listen to the voice of capital, one would think that its importance warrants it to be one very thick leg on Uncle Sam's milking stool while labor's leg is riddled with "termites."

Because of a "new economic policy" unions have lost wage bargaining power and the President signed a compulsory arbitration bill aimed at West Coast Dock Workers—after the dockers had ratified a new contract and returned to work. "He signed it while in Peking, 'as a symbolic gesture,' according to Labor Secretary James D. Hodgson."

How can a nation survive without profit? It can't. And capital is honorable.

Labor asks for what it needs in minimum wages in many cases and higher wages in others to compete with the inflated cost of living today. Why shouldn't labor have it. Isn't labor as honorable as capital?

Huge management lay-offs, especially in the aero-space industries, are touted as being the result of "workforce reduction" and a natural event in a computerization age. But subcontracts and contracts made abroad by multinational firms lends itself to their lay-off. Shouldn't those who have been laid off in management survive? Aren't they honorable too?

Personally, I feel that a "smoke-screen" of wrongs have been thrown at Americana; but the real culprit is an out-and-out short sighted foreign trade policy.

In the AFL–CIO American Federationist, February 1972, Andrew J. Biemiller, Director of the AFL–CIO Department of Legislation states: "It is ridiculous for the United States to pursue any further a foreign trade policy that has cost her more than 700,000 jobs in the past 10 years."

Unless the three, labor, capital, and management, forgets about greed and works together—the three-legged stool is going to topple, Uncle Sam is going to have a spill and the cow will probably kick the bucket.

The question we must all ask ourself is: "what is to happen now to (the unemployed) the surplus "living?" Think about this when you vote this year. In the meantime, write to your congressmen and ask what are they doing about this "Burke-Hartke Trade Bill—a rational, 20th Century approach to correcting America's trade problems."

SPECIAL ANALYSIS OF OPERATIONS OF THE FREEDOM OF INFORMATION ACT, PREPARED BY THE CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information Subcommittee is presently holding a series of hearings on the administration and effectiveness of the Freedom of Information Act (5 U.S.C. 552) as part of its overall investigation of U.S. Government Information Policies and Practices.

In preparation for these hearings, the subcommittee queried executive departments and agencies last year on their experience under the act. Responses to our questionnaire have been tabulated and analyzed by Dr. Harold Relyea and Sharon S. Gressle, analysts in American National Government and public administration in the Government and General Research Division of the Congressional Research Service, Library of Congress. The subcommittee is grateful for the special research assistance provided by CRS in assisting in this and other projects connected with our hearings. The results of the special analysis follow my remarks.

Mr. Speaker, in 1966 the Congress took the first step toward guaranteeing the people's right to know what their government is planning and doing. The Freedom of Information Act was by no means a failure, nor was it an all-out success, but its shortcomings are due more to resistance on the part of the huge bureaucracy than to compromises which are inherent in the legislative process which created the law.

This is apparent from the analysis of the first 4 years of operation under the Freedom of Information Act. For every

17 times citizens used the law to try to get public records, they were denied the information one time.

On the surface, this looks like the Government is leaning over backward—at the rate of 17 to 1—to honor the Freedom of Information Act. But the executive agencies granted the public access to public information only because they were pushed over backward—only because the Congress passed a law to require the executive branch to honor the people's right to know. This is obvious when the figures show that, in spite of the law, nearly 2,200 requests for access to public records were denied, completely or in part.

Many Government agencies seem to be doing everything possible to ignore the Freedom of Information Act. Some agencies—and the Air Force is the worst offender—try to make their information operations look good by claiming that thousands of requests for routine Government documents are actually demands for access under the Freedom of Information Act. Other agencies—for example, the Civil Service Commission—keep no records and apparently have no interest in implementing the law.

Mr. Speaker, another indication of the attitude that government business is none of the public's business is the long time it takes an agency to act on a request for information. The major Government agencies took an average of 33 days to even respond to a request for public records under the Freedom of Information Act. And when the initial decision to withhold information was appealed by someone seeking the facts, the agencies took an average of 50 days to respond.

I am not surprised by the fact that corporations and lawyers representing private interests appear to be making the most use of the Freedom of Information Act. Those who can afford the expensive and time-consuming process of fighting for their right to know, will do so. I hope that the Congress can find a means to help the average citizen win his battles against the information bureaucracy.

I am surprised, however, that the reporters, editors, and broadcasters whose job it is to inform the American people have made so little use of the Freedom of Information Act. They were the major supporters of those in Congress who created the law. The free and responsible press is the keystone of an informed, democratic society and it should be the major user of the law designed to guarantee the people's right to know.

Mr. Speaker, the full text of the Freedom of Information analysis as prepared by the Congressional Research Service, Library of Congress follows:

THE ADMINISTRATION OF THE FREEDOM OF INFORMATION ACT

On July Fourth, 1966, the Federal Government's first Freedom of Information Act was signed into law. It became effective one year later, giving the departments and agencies of the Executive branch time to adopt rules explaining the procedures to be followed by any person requesting access to public records.

The Freedom of Information Act became section 552 of title 5 of the United States Code. It was the result of 11 years of investigation by the Foreign Operations and Government Information Subcommittee of the House Committee on Government Operations (formerly the Special Subcommittee on Government Information). It was also based on studies and investigation during most of the 11 years by Subcommittees of the Senate Judiciary Committee.

The new act repealed the so-called Public Information Section of the Administrative Procedure Act (Section 3) which had permitted Executive branch agencies to withhold government records "for good cause found" and "in the public interest." If no good cause could be found for withholding information, Section 3 permitted the government to release information selectively to persons "legitimately and properly concerned."

To explain the proper procedures for granting access to public records under the new Freedom of Information Act, the Department of Justice prepared a 47 page memorandum for all agencies of the Executive branch. The Attorney General's Memorandum issued in June, 1967 said that the key concerns of the law are—

that disclosure be the general rule, not the exception;

that all individuals have equal rights of access;

that the burden be on the Government to justify the withholding of a document, not on the person who requests it;

that individuals improperly denied access to documents have a right to seek injunctive relief in the courts;

that there be a change in Government policy and attitude.

After the Freedom of Information Act had been in operation four years, the Foreign Operations and Government Information Subcommittee began a series of studies and investigations to find out whether the new law was living up to the hopes of those who had worked for its creation and enactment for 11 years—and whether the Executive branch was administering the law in the spirit in which it was enacted, a spirit highlighted by the Attorney General's comments on the key concerns for the people's right to know the facts of government. The Subcommittee was mainly interested in the following sections of the Freedom of Information Law (5 U.S.C. 552) which spell out the right of access to public records.

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(b) This section does not apply to matters that are—

"(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

"(2) related solely to the internal personnel rules and practices of an agency;

"(3) specifically exempted from disclosure by statute;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

"(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

"(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

"(9) geological and geophysical information and data, including maps, concerning wells.

"(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress."

One step in the study and investigation was a series of questionnaires sent to all agencies of the Executive branch of the Federal Government by Congressman William S. Moorhead, chairman of the Foreign Operations and Government Information Subcommittee. The Freedom of Information Act, by its terms, does not apply to the Legislative or Judicial branches. The basic questionnaire covered the first four years of the Act's operations, from July 4, 1967 through July 4, 1971. The following are the questions:

1. How many formal requests for access to records under 5 U.S.C. 552 has your agency received between July 4, 1967, and July 4, 1971?

a. In how many cases was access granted?

b. In how many cases was access refused?

c. In how many cases was access granted in part and refused in part?

d. How many cases are pending?

2. For each of the cases in which access was *refused*, please provide the following information:

a. The name and address of the individual or organization presenting the request for access and the date upon which it was presented;

b. The date upon which access was initially refused;

c. The section of 5 U.S.C. 552(b) (1) through (9) which was the basis for the refusal;

d. Whether an administrative appeal was filed against the initial refusal and, if so, the date of the appeal;

e. The date of the agency action upon the appeal and the title of the individual who took the action;

f. Whether, before the final refusal, the agency consulted the Department of Justice as requested by the Department's memorandum of December 8, 1969, to General Counsels of all agencies.

3. For each of the requests for access to records which has resulted in court action under 5 U.S.C. 552, please provide the following information:

a. The case citation and the date court action was initiated;

b. A *brief* description of the agency records requested;

c. A citation of the section of 5 U.S.C. 552 upon which the agency relied to refuse access;

d. A *brief* explanation of the current status of the court action.

4. What legend is used by your agency to identify records which are *not* classifiable under Executive Order 10501 but which are not to be made available outside the government?

Please list each term and explain its application.

5. How many officials of your agency are authorized to classify material Top Secret under the terms of Executive Order 10501?

Please identify, by name and title, each individual so authorized.

6. How many officials of your agency are authorized to classify material Secret under the terms of Executive Order 10501?

7. How many officials of your agency are authorized to classify material confidential under the terms of Executive Order 10501?

Before the questionnaire was sent formally to all departments and agencies of the Executive branch of the Federal Government, it was pre-tested by discussing possible questions with a number of government officials who would have the eventual responsibility of answering the final questionnaire. Included were some who had participated in hearings while the law was being considered by Congress and others who had participated in drafting the Attorney General's Memorandum.

To analyze the questionnaire answers and assist in the research work necessary to help prepare the Foreign Operations and Government Information Subcommittee members for a series of hearings on United States Government information policies and practices, a special task force was set up by the Congressional Research Service of the Library of Congress. It included legal experts from the American Law Division and government experts from the Government and General Research Division, with the activities coordinated by Samuel J. Archibald of the University of Missouri Freedom of Information Center, serving as a consultant to the Congressional Research Service.

The analysis of the questionnaire answers was conducted by Dr. Harold Relyea and Sharon S. Gressle, analysts in America national government and public administration in the Government and General Research Division.

DATA ANALYSIS

Nature of the data

The nature of the data obtained by means of the Subcommittee's questionnaire must be qualified as to its validity. While the aggregate data provided by the Executive agencies on the number of information requests and their action upon the requests suffers no quality limitation, the sample of individual-requestor cases listed in answers to the questionnaire was biased. Agencies were asked to identify only those requestors who had been denied, either in whole or in part, the material they had sought. The usual characterization of a valid measurement is one which "measures what it purports to measure" or obtains the information being sought. The identification of those denied information under the provisions of the Freedom of Information Act (5 U.S.C. 552), was a major purpose of the questionnaire. On the level of measurement or accomplishment, the questionnaire and the data obtained are valid. Yet data consisting only of denial cases may have a bias. This bias becomes important when certain sociological generalizations are made within the analysis, such as the proportion of one type of requestor vis-a-vis another or averages of time lapses in acting upon requests. It is not, therefore, valid to generalize from the sample analyzed to the total number of requestors seeking information under the Freedom of Information Act. Those denied requests constitute approximately one percent of the total number of requestors. While this figure is skewed by the large number of requests reported by the Department of the Air Force, the total number of denials reaches only five percent of the total number of requestors when the Air Force figures are removed from the computations.

While the percentage of denials appears to be relatively small such statistics mask the fact that (minus Department of Air Force totals) for approximately every seventeen requests for information under the provisions of the Freedom of Information Act, one request is denied. And even this consideration ignores the quality of information requested, the public interest which might have been served by granting the request, and the basis upon which the public record was denied. Further, certain agencies have higher ratios of refusal than others—some, as will be indicated, denying more requests than they grant. In brief, such statistics demonstrate problems in the administration of an act which was designed to make disclosure the general rule and not the exception and to promote equal rights of access for all requestors.

Nature of the analysis

The focus of the analysis was chiefly upon agencies of the Federal Government which generally affect the public welfare or which, in the preliminary examination of returned questionnaires, indicated areas of special interest. While the overall survey covered some ninety executive departments and agencies, this analysis considers selected respondents.

Certain statistical findings in this analysis utilized available data rather than a total or randomized sample. Averages of lapsed time for action on initial requests or appeals were occasionally computed on less than the total number of reported cases due to incomplete details on each case. It should, therefore, be noted that certain totals of individual or category items listed in the major analytical chart do not coincide with the appropriate number of reported cases.

Quality of data

Responses to the Subcommittee's questionnaire were generally complete and detailed for most agencies, but in certain cases the agencies seemed to misunderstand the questions or they provided otherwise unusable information. The Department of Defense for example, acknowledged incomplete records to answer some questions. The Civil Aeronautics Board supplied aggregate information for fiscal year 1968 only. The Federal Highway Administration and the Federal Railroad Administration reported they kept no records on Freedom of Information Act requests.

In a number of instances details were omitted from agency responses. The number of requests for public records was not provided, for example, by the Department of the Army, the Department of Health, Education and Welfare, the Coast Guard, the Federal Maritime Administration, and the Civil Service Commission, though those agencies did provide information on individual denials. Often no initial request dates were supplied for individual cases or no dates on appeals were given, thus making the computation of time intervals impossible or limited to a few cases. In many responses the titles and citations of relevant court cases were garbled or missing. The Department of the Army, the Department of the Navy, the Department of State, and the Securities and Exchange Commission failed to cite appropriate sections of the Freedom of Information Act as a basis for refusing information.

Frequently, the responding agencies cited court cases which resulted from their refusals to provide materials but they failed to provide details on the administrative procedure which preceded judicial action. While the Air Force was way out of line in claiming to grant 202,714 requests for information under the Freedom of Information Act and to deny only 118 requests, some other agencies also appeared to inflate the figures on requests for information. The Agriculture Department claimed it granted 10,769 requests for information while denying only 137 requests; the Department of Transportation claimed 13,295 grants and 445 denials and the Civil Aeronautics Board claimed that 18,261 requests for information were received and only 33 requests were denied. The grant/denial record of other agencies seemed to be in line with their size and activity.

Those agencies which were out of line might have overstated the number of requests which were granted—counting a request for a routine government publication, for instance, as a demand for public records under the Freedom of Information Act—or the variations in numbers of requests cited may be one more indication that the Freedom of Information Act is held in minimum high regard by the agencies responsible for protecting the people's right to know in a democratic society.

The possibility was considered that agencies might cite many sections of the Freedom of Information Act as authority to refuse requests for information initially, but cite fewer and more defensible sections if challenged in court. The analysis indicates only nine instances where initial citations of authority for refusal differed from citations in court. Nor was the trend within these cases unidirectional; in some instances more sections of the Act were cited at the court stage than at the initial refusal stage.

Computations were made for the average number of days required for each agency to respond to initial requests for information and for the average number of days to respond to appeals of the initial denials. These time spans ranged from an average of 8 days (Small Business Administration) to 69 days (Federal Trade Commission) for responses to initial requests and from 13 days (Department of the Air Force) to 127 days (Department of Labor) for responses to appeals. For those agencies listed in the analytical chart, the average number of days taken to respond to initial requests was 33 (for 27 agencies); the average number of days to respond to appeals was 50 (for 20 agencies). In terms of the average time lapse on initial requests for agencies listed in the analytical chart, 11 agencies exceeded this average; 9 agencies exceeded this average for time on acting on appeals. The Departments of Health, Education, and Welfare, Interior, Justice and the Renegotiation Board exceeded the total average for both stages of the administrative process. Statistically, four agencies seem to be in no hurry to expedite requests for information under the Freedom of Information Act.

Only two agencies reported that they denied more requests than they granted. These are the Department of Justice and the Federal Power Commission, but in the latter case the outcome resulted from a total of only 8 requests. Other agencies indicated high refusal rates in their responses. These refusals are usually not overturned to any general extent when appealed within the agencies or when pressed in court. Of 296 requests which were appealed, 37 were granted and 196 were denied. Those remaining were granted in part, were pending, or results were unknown. Of 99 court cases which were initiated to obtain information denied by the executive agencies, 16 resulted in grants of the material sought and the remaining cases were either denied or appealed to higher courts.

XUM

FREEDOM OF INFORMATION ANALYTICAL CHART [FOR PERIOD: JULY 4, 1967-JULY 4, 1971,

Agency [1]	Formal requests	Access granted [2]	Access refused	Access granted in part [2]	Pending initial decision [2]	Refusals administratively appealed	Refusals sustained by administrative appeal	Refusals reversed by administrative appeal	Refusals reversed in part through appeal	Court action initiated [3]	Refusal sustained in court action	Refusal reversed in court action	Refusal reversed in part in court action	Average time for action on initial request [4] (in days)	Average time for action on appeal [4] (in days)	Types of requestors [3]								Bases for refusal [5] [Title 5 U.S.C.]								
																Corporation	Private law firm	Public interest group	Researcher	Non-Federal Government Agency	Labor union	Media	Congress	Other	552(b)(1)	552(b)(2)	552(b)(3)	552(b)(4)	552(b)(5)	552(b)(6)	552(b)(7)	552(b)(8)	552(b)(9)
Atomic Energy Commission	392	376	8	6	2	0				0				28		4	2		1				1	1		1	5	2				
Percent		(96)	(2)	(1.5)	(.5)									(4)																	
Civil Aeronautics Board [7]	18,261	(*)	33	3	0	5	1	2	2	2	0	2	0	[8] 10	[8] 30	16	10	1		4		1		4			2	25	5	1	9		
Percent														(31)	(5)																
Civil Service Commission [10]	(2)	(*)	(*)	(*)	(*)	1	1			0				26	7			2	2		1	1	2	15		2			8	5			
Percent														(23)	(1)																
Department of Agriculture [11]	11,093	10,769	137	79	9	17	11	1	5	2			2	20	52	40	18	22	7	9		15	12	21		2	13	71	17	14	37		9
Percent		(97)	(1.2)	(.7)	(.08)									(124)	(17)																
Department of Commerce [12]	182	109	50	9	4	11	11			[12] 8	1	1		18	64	13	18	1		1		6		10			8	37	21	10	1		
Percent		(60)	(27)	(5)	(2)									48	(11)																
Department of Defense [13] (Other than Air Force, Army and Navy)	2,732	2,638	64	29	1	4	3		1	[13] 2				15	23	21	7		6	1		1	1	9	8	16	14	23	27	1	2		
Percent		(96.5)	(2.3)	(1)	(.03)									(44)	(4)																
Department of Air Force	202,957	202,714	118	30	95	[13] 28	8	11	2	[13] 5		2	2	43	13	54	9	3	3	4	2	1	1	72	8	19	4	40	62	17	12	2	
Percent		(99.8)	(.05)	(.01)	(.04)									(134)	(25)																
Department of Army	(3)	(*)	(*)	(*)	(*)	14	8	4	2	[13] 1	1			(*)	(*, [12])	3	1		2		1	1	2	4	4			2	5	2	1		
Department of Navy	(3)	(*)	(*)	(*)	(*)	[9] 9				[13] 9	3		3	28	88	2	12		1	1			1	4			1	2	3	1	1		
Percent														(6)	(8)																
Department of Health, Education, and Welfare	368	258	77	16	17	[14] 8	5			[17] 5	1	2	1	54	71	6	10	6	4			9	1	22		1	8	10	15	7			
Percent		(70)	(21)	(4)	(5)									(55)	(5)																
Department of Housing and Urban Development	736	660	48	23	5	[18] 7	3	1	2	3		3		21	36	5	25	14		5		12	1	9		1	22	38	22	1	13		
Percent		(90)	(6.5)	(3.1)	(.6)									(71)	(5)																
Department of the Interior [16]	15	6	5	1	3	5	5			[13] 1				36	76	1	1	3						1			1		2			
Percent		(40)	(33)	(7)	(20)									(2)	(4)																
Department of Justice	535	215	311	9	0	[17] 14	6	[17]	[17]	[17] 9		6		60	65	106	15	5	1	2	1	8	2	169	1	1	4	3	28	244	38		
Percent		(40)	(58)	(2)										(50)	(10)																
Department of Labor [19]	(3)	(*)	33	(*)	(*)	7	2	4	1	1		1		28	127		18	1		1				13				9	8		29		
Percent														(31)	(6)																
Department of State [15]	195	171	12	9	3	[15]				[13] 2	1			48	[15]	2	3		2			3	1	13	[15]							
Percent		(87.6)	(6.1)	(4.6)	(1.5)									(24)																	
Department of Transportation [20]	13,764	13,295	445	13	11	[20] 55	44	5	3	[20] 8	4	1	2	27	40	29	9	3				3		54	1	5	37	15	28	7	23		
Percent		(96.5)	(3.2)	(.09)	(.08)									(77)	(48)																
Department of the Treasury [21]	1,625	1,175	338	79	33	46	45	0	1	[21] 8	3			41	43	20	59	7	1	21	1	11	6	74	4	49	56	59	52	21	33	3	1
Percent		(72)	(21)	(5)	(2)									(196)	(47)																
Environmental Protection Agency	1	1	0	0	0																										
Percent		(100)																													
Federal Communications Commission	98	63	26	7	2	[23] 5	4			[23] 1				27	30	13		6		1		6	3	6				18	10		7		
Percent		(64)	(27)	(7)	(2)									(35)	(7)																
Federal Power Commission	8	2	6	0	0	3	3			[24] 2				31	27	6													5			
Percent		(25)	(75)											(6)	(3)																
Federal Trade Commission	432	388	36	7	1	0				[24] 7		2	2	69		11	7	3	3	1		3		14			3	20	13	1	23	1	1
Percent		(89.8)	(8.3)	(1.6)	(.23)									(46)																	
General Services Administration	37	21	13	2	1	0				[25] 5			1	48		5	2				1			8	2	1		1	3	3	4		
Percent		(57)	(35)	(5)	(3)									(3)																	
National Aeronautics and Space Administration	1,019	984	5	10	20	0				1	1			41		6	4		1	2	1			1				7	6	2			
Percent		(96.5)	(.49)	(.98)	(1.9)									(10)																	
Office of Economic Opportunity [26]	1	1								[26] 1							1															
Percent		(100)																													
Office of Emergency Preparedness	3	3																													
Percent		(100)																													

Footnotes at end of table.

FREEDOM of INFORMATION ANALYTICAL CHART [FOR PERIOD: JULY 4, 1971]—Continued

Agency [1]	Formal requests	Access granted [2]	Access refused [2]	Access granted in part [2]	Pending initial decision [2]	Refusals administratively appealed	Refusals sustained by administrative appeal	Refusals reversed by administrative appeal	Refusals reversed in part through appeal	Court action initiated [3]	Refusal sustained in court action	Refusal reversed in court action	Refusal reversed in part in court action	Average time for action on initial request [4] (in days)	Average time for action on appeal [4] (in days)	Types of requestors [3]								Bases for refusal [5] [Title 5 U.S.C.]								
																Corporation	Private law firm	Public interest group	Researcher	Non-Federal Government Agency	Labor union	Media	Congress	Other	552(b)(1)	552(b)(2)	552(b)(3)	552(b)(4)	552(b)(5)	552(b)(6)	552(b)(7)	552(b)(8)	552(b)(9)
Office of Management and Budget	60	52	5	3	0	0				0				25		1	1		3	1				2	1				7			
Percent		(87)	(8)	(5)										(8)																		
Renegotiation Board	40	11	10	15	4	13	11		2	[27] 9	1		3	52	53	20	3	1	1					1		2	20	20	21		9		
Percent		(27.5)	(25)	(37.5)	(10)									(26)	(13)																	
Securities and Exchange Commission [28]	(3)	(*)	26	14	(3)	[28] 40	14	9	15	[13] 3	1			(*)	55	2	15	2	4				5	12								
Percent															(33)																	
Selective Service System	20	13	5	2	0	0				[29] 0				29		1		1						3			4			1		
Percent		(65)	(25)	(10)										(5)																		
Small-Business Administration	10	4	1	5	0	[30] 1				[30] 1				8	(*)			1		1		2	1	2			6	3	2		1	1	
Percent		(40)	(10)	(50)										(4)																		
U.S. Information Agency	7	5	1	1	0	0				0				(*)		1									1							
Percent		(71)	(14)	(14)																												
Veterans Administration	46	35	9	1	1	3	3			[31] 3		2		36	44	2		3			2	1		3			3		4	1		
Percent		(76)	(20)	(2)	(2)									(9)	(3)																	
Totals [32]	254,637	233,969	1,822	373	212	296	196	37	42	99	23	16	16			390	250	85	41	53	13	90	34	547	30	100	206	403	375	344	244	7	11
Percent																																

[1] The chart is not inclusive of all agencies responding to the questionnaire. The agencies listed were chosen because they generally affect the public welfare or because, in the preliminary examination of returned questionnaires, they indicated areas of special interest for analysis.

[2] Figures in parentheses are percentages of the total number of formal requests to the agency. Due to rounding the percentages may not equal 100 percent.

[3] Incidences of court action do not necessarily reflect the number of appeals lost and brought to court. Many agencies cited court cases and provided no previous administrative action data.

[4] The figures shown in parentheses are the number of cases on which the average is based.

[5] Identity of requestor (in cases of refusal only) was provided by the agencies. Judgments were made in instances where types were not explicitly stated. Therefore the categories may not be fully illustrative.

[6] Sections cited are the exemptions written into the Freedom of Information Act. The number of exemptions will not always justify with the number of denials due to multiple citations or lack of citation altogether.

[7] CAB provided total number of requests for fiscal 1968 only. Kept no records of requests granted. These refused cover the 4-year period.

[8] Unknown.

[9] CAB. Of the 31 cases (initial refusal) computed, 22 received action within 24 hours. On appeal, 3 cases received action in less than 15 days.

[10] CSC has not made it a practice to keep centralized records of requests; therefore no figures were provided. Were able to identify 23 denials through reference to the General Counsel's office. It is possible that other formal requests have been denied.

[11] Department of Agriculture response was decentralized. Each constituent agency replied independently. The replies indicated no unified recordkeeping policy.

[12] Department of Commerce cited 10 cases, action on which do not fall into chart categories: 7 were withdrawn before acted upon; 1 was for records at another agency; 1 was for nonexistent records; and 1 is unrecorded as to action taken. Of 8 court cases, only 3 were cited as requested. 2 were pending July 4, 1971; the other found for the agency. Of the remaining cases, 1 ordered release of documents (411 F. 2d 696) and 4 were reported as "Suit dropped. Resolved by access." Citations to the Code of Federal Regulations accompanied 5 U.S.C. 552(b) as basis for refusal.

[13] Department of Defense was decentralized in its replies. The constituent agencies, except Army, Navy, and Air Force, have been combined on the chart. Some question arises as to method of recordkeeping; i.e., Air Force reports over 200,000 formal requests for information; Army could give no statistics other than appeals (and no dates for appeal initiation); and Navy estimating that the number of cases would total millions, provided both initial denial and appeal information where possible. Navy provided a estimate for Marine Corps Headquarters: granted 16,804 access requests; denied 960 access requests; and granted in part 50 requests. No departmentwide statistics were charted due to the imbalance created by Air Force figures. Court action: The 2 000 (combined) cases are pending as are 3 from Navy and 1 from Air Force. Administrative appeal action: Air Force, no record for 7; Navy reported 1 appeal pending

[14] Department of HEW: Of 8 appeals, action was unknown on 2 and 1 is pending. Of 5 court cases, 1 is pending. HEW was irregular in its reporting of basis of refusal. In some instances it referred to only 5 U.S.C. 552(b), not citing specific exemptions and in some instances it relied solely on HEW public information regulations or combined those with code citations.

[15] Department of HUD: Of 7 appeals, 1 is pending.

[16] Department of the Interior interpreted formal requests to be those which were appealed or otherwise considered by the Solicitor. The sole court case was not a result of refusal for information, but rather a refusal to gather, from all field offices, the information together in Washington for plaintif's perusal. No final action was reported.

[17] Department of Justice: Of 9 court cases, 3 are pending. Appeal action: 6 modified (granted whole or in part): 1 pending and 1 record nonexistent.

[18] Department of Labor keeps no record of requests granted; when requests are initially denied copies of relevant correspondence are filed. The Code of Federal Regulations was also cited as a basis for refusal.

[19] Department of State has no formal appeals process. Of 2 court cases, 1 is pending. 5 U.S.C. 552(b) was general basis of refusal with no specific exemptions cited.

[20] Department of Transportation estimated the number of requests received as being over 14,000. Figures shown are those aggregated from the constituent agencies providing data. Of 55 appeals, 1 is pending and 2 have no record of action.

[21] Department of Treasury: Internal Revenue Service reported denial of access (whole or partial) in 306 instances; information was provided for 130 of those, the remainder being unidentifiable or granted on appeal. Of 8 court cases, 5 are pending.

[22] FCC reported 1 court case for which an appeal is pending. Action is unknown on 1 appeal.

[23] FPC reported 2 court cases, both of which are pending.

[24] FTC reported 7 court cases, 3 of which are pending.

[25] GSA: Of 5 court cases, 4 are pending.

[26] OEO reported 1 request which was not refused per se. The Director responded within 4 days stating that the document would be studied for possible release. Suit was filed the day the letter was dated. Before hearing the document was released.

[27] Renegotiation Board reported 9 court cases, 5 of which are pending

[28] SEC provided information only on Commission action which constitutes appeal action. No initial refusal or basis for refusal data was provided. Time for appeal was computed from time of initial request. Of 40 appeals, 2 had no action recorded. Of 3 court cases, 2 are pending

[29] Selective Service System reported 7 instances in which requests for information resulted in court action: refusal was sustained in 6 and reversed in 1. No previous administrative data was provided for these cases.

[30] SBA reported 1 appeal with action unknown and 1 court case which was declared moot.

[31] VA: Of 3 court cases, 1 is pending.

[32] Individual units may not equal apparent totals due to variations among agencies.

WALLACE MARTIN ON RESPONSIBILITY TO FREEDOM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. RARICK. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct a Voice of Democracy contest. This year nearly 500,000 secondary school students participated in the contest competing for the five national scholarships which were awarded as the top prizes. The contest theme was "My Responsibility to Freedom."

The winning contestant from each State was brought to Washington, D.C., for the final judging as guest of the Veterans of Foreign Wars.

I am honored and pleased that the winning speech from Louisiana was delivered by a resident of my district, Wallace T. Martin, 210 LSU Avenue, Baton Rouge, La. Wallace is the son of the Honorable Wade O. Martin, Jr., long time secretary of State of Louisiana.

I insert the text of the winning speech, as follows:

MY RESPONSIBILITY TO FREEDOM

(By Wallace Martin)

"Do Your Thing!" Haven't you heard this statement before? You see this slogan on pins, shirts, pants, flags, banners, bathroom walls, posters, and you hear it on records. The reason this slogan has become so popular today is because it refers to a person's individual freedom. However, this phrase is frequently misused and hypocritical; it is a deluder, too often promoting conformity instead of individuality. Perhaps a more honest slogan should read, "Do the Same Thing," or "Down With Individuality and Up With Conformity." Individuality is the most important and outstanding characteristic a person may possess. Individuality and freedom are synonymous. If a person is to be free, he must have the capacity to express himself in an individualistic manner.

In its true sense, "Do Your Thing" can exemplify America by reminding us that we are free to express our freedoms and our opportunities more than the people of any other country in the history of our world. The only word of caution here is that doing your own thing should be tempered with common sense and a sense of responsibility.

The differentiating factor between a democratic and a communistic form of government is freedom. Freedom allows a person many individual rights. It gives a person the right to assemble, to worship as he pleases, to secure private property, and to make his personal views public. These freedoms not only affect the country as a whole, but me as an individual. Without the freedom of speech, open public criticism would be an impossibility without fear of arrest, and even the mere idea of a peaceful protest would result in total failure due to governmental intervention. Without the freedom to secure private property, we could not own a car, a plot of land, or even a house in which to live. Since these freedoms affect me as an individual, it is my duty to take a personal interest in their preservation. The young generation of today will be the established generation of tomorrow, and if we do not exert an unending effort toward the continuation of freedom, tomorrow's generation will fail miserably.

In the past few years the younger generation has taken great steps toward student involvement in government and national problems, such as the war in Viet Nam, poverty, etc. This great interest was recognized recently by the nation, and a decision was made to allow eighteen year olds the right to vote. This new law now gives me the freedom to express my feelings in such a way that they will directly affect the nation. As a young voter, I must accept the responsibility to carefully select the candidates and to wholeheartedly support them. By exercising my voting right in a mature manner, I am fulfilling a small part of my responsibility to freedom. Also by becoming involved in these issues, I am setting a good example for others to follow. Involvement is the key to understanding and by becoming involved one gains experience which is the key to learning.

Since the importance of freedom is finally being recognized to such a great degree today, many new groups have been organized to protest the "establishment" and thereby promote freedom. These groups often greatly abuse their rights to freedom by considering these rights to be more of a license than a responsibility. They feel that this license gives them the right to continually protest, to allow their hair to grow until their appearance greatly resembles that of prehistoric man, the right to dress as if they had not the money to support a family of rats, the right to speak harshly and cruelly against all forms of establishment and the right to desecrate our parks with rebellious protest marches and sit-ins. This is not freedom; it is the lazy way out for people who did not try hard enough to have their ideas executed, their principles understood and their mores accepted. Now it is too late to ask for respect. They have been given the freedoms which are justly due them, but they have misused them and acted irresponsibly. Therefore, as long as they continued to abuse their rights and freedoms, they shall not be deserving of the public's admiration, trust or respect.

The United States of America has given me many freedoms; however, it is my duty as a citizen to prove myself worthy of them. As a youth, I can prove myself worthy by going to the polls on election day and voting as an individual, only influenced by my own conscience. I can become involved in today's issues and thus increase my understandings of life, and I can act as an individual—one who stands up and fights for what he believes is right and one who stands behind his ideas all the way, no matter how different they may be from others. I am a free individual, and I am extremely proud to be one. Won't you join me!

MY RESPONSIBILITY TO FREEDOM BY MARY ELLEN CARPENTER

HON. RICHARD W. MALLARY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MALLARY. Mr. Speaker, I want to share with you and include in the RECORD the essay written by the Vermont State winner of the Voice of Democracy Contest. A half-million young men and women competed this year for five national scholarships. All students submitted essays entitled "My Responsibility to Freedom" to the Veterans of Foreign Wars and VFW auxiliary who sponsor the contest.

Mary Ellen Carpenter is the Vermont State winner for 1972 and is the daughter of Russell and Mary-Elaine Carpenter of Bennington who are fine examples of our best American traditions. Mary Ellen is a senior at Mount Anthony Union High School in Bennington where she has not only been an excellent student, but has found time for a wide variety of outside activities. She has been editor of her high school yearbook, member of Model Congress for the past 3 years, high school band, Model U.N., Steering Committee, student representative to the Bennington Park and Recreation Commission, member of the National Honor Society, French Club, and was channel 8–TV program director. Mary Ellen has received many awards for her studies in Latin. She is presently the Vermont State Secretary for the Children of the American Revolution. Mary Ellen plans to pursue a career in law.

I am pleased to present the excellent winning essay by Mary Ellen who is worthy of this honor and in her essay she has displayed her dedication to the betterment of life for her fellow man:

MY RESPONSIBILITY TO FREEDOM

"Only free people can hold their purpose and their honor steady to a common end, and prefer the interests of mankind to any interests of their own." Woodrow Wilson made this statement in an address to Congress in 1917. I feel that these principles still hold true today. This is the result of the hard work and labor of many Americans from the birth of our country to present day to keep our nation and people free. The youth of America from Revolutionary times have shouldered a responsibility to this ideal of freedom.

I look to the past for ideas and ways that I can help preserve the high ideals put forth in the Constitution.

During the Revolutionary War the youth of our country played a quiet, but none the less important, role in our fight for independence. They carried many messages, helped feed and clothe our soldiers, cared for the wounded and, in some cases, even fought on the battlefields. They carried on the spirit of the Revolution with vigor.

Young people continued to be an influencing factor in the Civil War. Our country was torn apart by strife and dissension. The young citizens stood up for their beliefs in the War-Between-the States. The Northern youths smuggled slaves to freedom, and fought for the ideal of freedom for all. The Southern youths should not be overlooked. They spoke up bravely for what they felt was right and this is one of our greatest freedoms. Northerners may not have agreed with them, but the Southerners were allowed to say what they felt without fear of imprisonment.

World Wars I and II found our world in a state of turmoil. The youth of America kept up the morale of our men in uniform by their support and concern over the men. The young people also supported the policies of Presidents Wilson and Roosevelt to the extent that many were willing to risk their lives defending the freedoms that we enjoy.

During the fifties we were again involved in a conflict. Our troops were sent to a far area of the world to again act as the guardians of freedom. Many Americans lost their lives in the belief that they were helping the people of Korea.

The sixties found our country going through a great deal of internal strife. The poor were demanding more welfare money and blacks and women felt the pressure of job discrimination. Riots tore our cities apart. Three national figures were assassinated. Many citizens spoke out in open opposition tothe Vietnam War. Yet throughout this our country has endured. I feel it is because of our many freedoms granted by the Constitution and all the people that care about preserving these freedoms.

I believe that there are many lessons to be learned from my study of the past. My responsibilities to the freedom of this country are many and complex. I feel that as an American one of my greatest responsibilities is voting. Now that the 18 year old vote is a reality I must consider all of the qualifications of each candidate and make an intelligent choice. Involvement in politics on the local, state and, national level is also important. Letters to our representatives in Washington is one of the best ways to inform them how their constituency feels on vital issues.

Obeying the laws of our country is important to me. The laws were made for the majority of citizens and I do not believe that one individual has the right to interfere with the welfare of others.

Protecting the freedoms set forth by the Constitution is perhaps my greatest responsibility to freedom. Looking back on our country's history this is the one point I most often recognize as being important. In utilizing these freedoms I must not deny anyone the same freedoms. Each of us, as Americans, are entitled to the same rights regardless of age, race, sex, national origin or creed.

STATEMENT BY PARALYZED VETERANS OF AMERICA BEFORE COMMITTEE ON VETERANS' AFFAIRS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 21, 1972

Mr. THURMOND. Mr. President, Mr. Carlos Rodriguez, the president of the Paralyzed Veterans of America, addressed the Veterans' Affairs Committee of the U.S. Senate on Tuesday, March 14, 1972.

Mr. Rodriguez presented a six-point medical care program and 22-point veterans benefits program endorsed by the Paralyzed Veterans of America as their legislative goal for 1972. In addition, he outlined the various activities and services fostered by his organization to alleviate problems faced by our paralyzed veterans.

These veterans are the ones who have borne the direct burden of armed conflict—physical disabilities such as crippled spines and other paralyzing deformities. Their burdens are living examples of the terrible suffering and price that must be paid if our Nation is to remain inviolate and free.

Mr. President, I feel that the proposals of the Paralyzed Veterans of America contain many worthwhile ideas which I would like to bring to the attention of my colleagues in the Senate.

Mr. President, I ask unanimous consent that the statement be printed in the Extensions of Remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF CARLOS RODRIGUEZ

Mr. Chairman and Distinguished Members of the Committee: On behalf of the nearly 8,000 members, 26 chapters, and members of the Board of Directors of the Paralyzed Veterans of America, I wish to thank you for the opportunity of appearing here today to present our legislative recommendations. It is our first opportunity to address this Committee since its formation and, coincidentally, our first annual presentation since the granting of a Federal Charter to the PVA during the last session of this Congress.

Accompanying me today are members of the National Office Staff—our Executive Director, Mr. Michael W. Burns, and the National Service Director, Mr. Alan S. Langer—who will be happy to answer any questions you might have regarding our suggested programs. I would like to add that the PVA is proud of the fact that these two top administrative positions are filled by Vietnam combat veterans deeply committed to the needs of our organization's members of all ages and from all wars. Also present are our National Vice President, Mr. James E. Smith of California, and Mr. Harry A. Schweikert, who is the Administrative Assistant to the Executive Director.

The recommendations we wish to make are, we feel, constructive goals for consideration by Congress in the areas of health care, compensation, pension, survivor benefits and spinal cord research. Because of their number and complexity, I respectfully request that we be allowed to submit them for the record and this afternoon I will only speak to the major principles and philosophy contained in them.

I would like to congratulate the Committee for its action in the first session of this Congress which enabled passage of a number of measures which we have long favored. Mortgage Protection Life Insurance, the reestablishment of the Direct Home Loan Program, the increase in the Dependency and Indemnity Compensation (DIC), and the timely passage of the Pension increase are but a few of the achievements worth noting. Continued exploration of the health care needs by this Committee's Subcommittee on Health and Hospitals is another accomplishment which must be noted and applauded.

We are well aware that the Congress, like any deliberative body, never can fully complete the work placed before it. We know you are aware that much is left to be done if we are to provide excellent medical care and suitable benefits for our nation's deserving veterans. We truly hope the dynamic initiative of the past can continue at an increased level in the future. Only thus will we all successfully discharge our collective responsibility to veterans everywhere.

Throughout its 25 year history, the PVA has alwaya concerned itself with the medical care received by all veterans, while giving our special attention to those with spinal cord injury and disease. We continue in our belief that nothing will ever replace a dynamic program of rehabilitation for these veterans. This is absolutely necessary if we are to expect these severely disabled veterans to become once again productive taxpaying members of society. Such a program requires skilled professionals of all medical, paramedical and psycho-socio disciplines. It requires that these professionals be highly motivated and dedicated to this effort. Within the Veterans Administration today there are such people, but there are not enough of them. There must be more if these men are to be returned to society, accepted by society, and if they are to be prepared, medically and psychologically, to face the largely hostile and indifferent attitude they will meet when they leave the hospital.

Assistance in vocational and avocational guidance and counseling are also imperative. The need for increased education and training assistance for all veterans has never been greater. PVA supports H.R. 12828, recently reported by the Veterans Affairs Committee of the other body, as being a very large step in the right direction and we support it fully. We hope the Senate will see fit to accept the basic elements of this bill and speed its passage.

The advances made in the immediate medical aid to the combat casualty have presented America with a paradox. Fewer deaths, thankfully, have resulted; but more men have survived incredible wounds, only to face long arduous periods of rehabilitation which, while teaching them to live with their handicaps, will never erase them. Some of these handicaps are so disabling that work in the usual sense of the word becomes impossible. These men must rely heavily on compensation payments. These payments need to be raised, now, in order to provide them with an adequate income to meet rising living costs. We understand that the Subcommittee on Compensations and Pensions of this Committee will soon consider a raise in service-connected compensation. We ask that at that time they also consider the removal of the distinction between "wartime" and "peacetime" rates. We have never supported this distinction. The Veterans Administration has, for a number of years, favorably endorsed its removal, viewing it as discriminatory. Indeed, the date of the Tonkin Gulf incident is used to compute the so-called "Vietnam Era" for veterans' benefits purposes. Yet the Tonkin Gulf Resolution has been repealed by Congress, so we question what significance this date now has. The most recent Selected Service Law contains language in one section to indicate "hostile fire" was occurring in 1957. We ask for enabling legislation which would remove these arbitrary dates and consider "hostile fire" a possibility and, thus, "peacetime" an impossibility, since February 1, 1955.

The non service-connected veteran has always been presented with unique problems, but the spinal cord injured veteren of this type faces near disaster. He must live in the same world that we all live in, yet at an income expectancy far below his service-connected brothers. We have maintained for many years that the present pension system is not the appropriate answer for the severely physically disabled. More than ever before this type of veteran is not an older man in need of constant hospitalization, he is a veteran of this very long war, very often not yet 21 years old, who served honorably only to suffer disability after discharge. Is it fair to confine the hopes of a young and vital mind, capable of wondrous things even with his limited physical mobility, to a nursing home or to a poverty level income? We think not, and hope we may be allowed to work with you to develop a suitable pension system for these men. Even under the present system there are many measures which could be taken which would help to ease their burden. We have outlined them for you in our submitted document.

The Veterans Administration has accomplished a number of milestones in the field of medical research. Its research has had much to do with the development of pacemakers and other lifesaving procedures. We would deem it appropriate if that agency, which pioneered the care of paraplegia, would be the one which discovered the cure for spinal trauma and its resultant paralysis. But to do it, the Veterans Administration needs money and an ongoing program of cure/research. A minimum of $1 million annually should be allocated for this purpose. Hope of doing something about paraplegia should never be lost. Future generations should be free from it. We ask that a start be made so that someday groups such as ours may not even need to exist. A cure for the paralysis resultant from spinal trauma will insure our own obsolescence and if it could be made possible, we would be the first to applaud.

This has been but an overview of our rec-

ommendations, Mr. Chairman. Our submitted statement covers our proposals much more specifically and in greater detail. Our representatives will be more than happy to answer any questions you have now, and of course are available to work with you and your respective staffs, whenever they may be of assistance.

We hope this will be the first of many times we will be privileged to appear before this distinguished committee to submit our recommendations. We also hope the objectives we propose show originality and initiative and will become part of your legislative program.

Thank you, Mr. Chairman.

LEGISLATIVE RECOMMENDATIONS FOR 1972

MEDICAL CARE AND REHABILITATION

1. We fully support the provisions of S. 2354 and H.R. 10880 which provide more outpatient care for eligible veterans without the necessity of previous hospitalization; provide shift differential for nurses in Veterans Administration Hospitals and other recruitment and retention measures in the Department of Medicine and Surgery.

2. We fully support S. 1988 which would authorize medical care in private facilities for veterans with service-connected disabilities in cases other than emergencies.

3. Extension of VA Medical Benefits to wives and widows, and minor children of service-connected veterans in receipt of Aid and Attendance, with such services being provided at other than VA facilities.

4. Appropriation of not less than one million dollars annually as a line item in the Veterans Administartion budget, to insure an ongoing cure/research program and provide the critically necessary medical maintenance research in renal dysfunction in paraplegics.

5. Enactment of enabling legislation to provide uniform mandatory driver training programs at all VA Spinal Cord Injury Centers and other hospitals where necessary for all severely disabled deemed capable of benefitting from such training.

6. We fully support the provisions of S. 2077 which would provide a Court of Veterans Appeals so that veterans would have proper legal recourse beyond the Veterans Administration in claim adjudication for compensation and pension cases.

VETERANS BENEFITS

1. We fully support the recently reported bill, S. 2013, which would increase the P.L. 702 Housing Grant to certain severely disabled veterans from $12,500 to $20,000.

2. Discontinuance of the discriminatory differential in the rates of compensation between "peacetime" and "wartime" service-connected veterans who are totally disabled as a result of their military service.

3. Discontinuance of the discriminatory language of Title 38 requiring Vietnam Era veterans to meet direct performance of duty criteria in order to qualify for certain benefits.

4. Provide a 20 percent raise in the compensation rate now payable to totally disabled service-connected veterans.

5. Provide that the death of any spinal cord injured veteran injured while in service be considered of service-connected origin due to the complexity of physical impairments caused by that type of injury or disease.

6. Provide for immediate amendment of P.L. 91-666, the Auto Grant Law, to provide that further power accessories necessary for the safe operation and comfort be specifically provided for. Also substitute the less restrictive line of duty requirements imposed upon the same category of veterans in the Vietnam Era as in World War II and the Korean Conflict.

7. The repeal of the Tonkin Gulf Resolution no longer lends any "legal" basis for using August 4, 1964 as the date for computation of wartime rates of compensation and because of the presence of "hostile fire" throughout the present "peacetime" period, the date for these benefits should be set at February 1, 1955.

8. Due to the inequity of benefits available service-connected veterans who were medically "discharged" and those medically "retired," we request making the Career Compensation Act of 1947 retroactive to December 7, 1941, to provide equal benefits for each group of disabled veterans.

9. We support H.R. 8042 which would provide that duty in the WAAC would be considered service in the Armed Forces for compensation and pension purposes.

10. The PVA strongly recommends the adoption of a separate pension program for the total *physically* disabled veteran, and that this program be extended to "peacetime" veterans in need of regular Aid and Attendance.

11. An increase in Aid and Attendance allowances for both service-connected and non service-connected veterans, so that the amount received by either group would not be less than $336.00 per month.

12. Amendment of Title 38, Section 3012 (b) (1) to allow that eligible veteran's compensation continue until the last day of the month of his death.

13. Medical services should be on a "fee pay" basis for service-connected veterans while they are residing in a foreign country.

14. We urge amendment of the appropriate sections of Title 38 to allow medical supplies to be made available to non service-connected veterans who would otherwise be eligible except for their present employment.

15. Exclude social security disability benefits, or other retirement income in lieu of same, from computation of annual income for pension purposes.

16. We urge extension of the Veterans Administration Pension Program to those veterans disabled after honorable discharge who would otherwise be eligible except that it occurred during a so-called "peacetime" period.

17. Use of Veterans Administration medical facilities should be restricted to veterans only.

18. We urge that any retiree (retired for other than disability) from the Armed Forces, who has become totally and permanently disabled, be awarded from his branch of service the P.L. 702 Housing Grant and the benefits of P.L. 91-666 on the same basis as those retired or discharged for disability.

19. That the widow of a totally disabled veteran who was in receipt of Aid and Attendance, be awarded 50 percent of his compensation as a DIC benefit. This payment would be made to those married to such veterans for at least one year and would be stopped upon remarriage of the widow.

20. That an additional individual tax exemption be given to totally disabled, as is now the practice for the blind, who are paying income tax on wages earned or pensions received.

21. That a totally disabled veteran without dependents, shall continue to receive full pension benefits until the seventh month following admission to a Veterans Administration Hospital, and that any reduction that is made shall be limited to that portion received for Aid and Attendance.

22. To amend Section 351 of Title 38 to provide those veterans receiving compensation for disability due to VA treatment the additional benefits of the War Orphans and Widows Education Act, and, if totally and permanently disabled, the P.L. 702 Housing Grant and P.L. 91-666 Auto Grant should be awarded.

CROATIAN FRATERNAL UNION LODGE NO. 185 OF CAMPBELL, OHIO, HOLDS TESTIMONIAL DINNER HONORING 50-YEAR MEMBERS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. CARNEY. Mr. Speaker, on Sunday, March 19, 1972, I had the pleasure of addressing a testimonial dinner honoring the 50-year members of the Croatian Fraternal Union Lodge No. 185 in Campbell, Ohio. The Croatian people are certainly among the outstanding members of our society, and the Croatian Fraternal Union is the organization which unites Croatian-Americans in the United States.

In the beginning of this century, there were four Croatian organizations serving Croatian people in the United States of America. They were: Croatian League of Illinois; St. Joseph Society of Kansas City; Young Croatian Society of Whiting, Ind., and National Croatian Society. These organizations were small and more or less local, in character. Membership of these organizations realized that in order to grow numerically and financially they needed to merge together. They knew that in unity there is strength and "united we stand, divided we fall." A special convention in the fall of 1923 in Pittsburgh, Pa., approved the merger of these four Societies and the name chosen for consolidated organization was Croatian Fraternal Union of America. Today the Croatian Fraternal Union membership numbers over 100,000 with national officers located in Pittsburgh, Pa.

About 1928, a lodge of Croatian National Society and a lodge of Croatian League of Illinois, both located in Campbell, merged into one lodge, under the name of "Knights of Croatia" and official number given by home office was 185. In 1946, Ladies Lodge "Gorska Vila" also merged with Lodge 185, to be followed in later years by two English speaking lodges of Campbell—Campbell Croatians—and Struthers. At present, there are 390 members of Lodge 185 and there are 150 junior members.

The 50-year members honored at the dinner were: Maria Butina, Maria Colaric, Jelika Plante, Stephanie Sambolec, Mary Stanfar, Katrina Zugcic, Agne Vilk, Paul Vilk, Paul Hrosh, Eli Karapandy, Dom Kucic, Tomo Kukec, Matt Mihelcic, Dom Mlacovic, John Roper, Rok Sabol, Ivan Stanchin, George Stankich, Nick Urichich, and Mile Tomich.

The program for the evening was as follows:

National Anthem, Happy Hearts Tamburitzans—American and Croatian.
Angeline Zadravec, director.
Invocation, Rev. George Georgevich, St. Michael's Church, New Castle, Pa.
Dinner music, Happy Hearts Tamburitzans.
Welcome, William E. Borak, Chairman.

Toastmaster, Judge Joseph M. Kolmacic, Campbell Municipal Court.
Remarks, Judge John J. Leskovyansky.
Guest speaker, Hon. Charles J. Carney, U.S. Congressman.
Presentation of awards, Edwards J. Tomich, President.
George Tablack, special award.
Benediction, Rev. Charles Georgevich.
Dance, Libby and her all girl tamburitzans.

The members of the dinner committee were: Judge Joseph M. Kolmacic, William E. Borak, chairman; Edward J. Tomich, Marian Urichich, Maria Tekal, Kaye Rabousky, Maria Blazo, Mickey Stankich, Helen Chapella, Kaye Fraino, and Helen Urichich.

In my address I discussed the Croatians' historic struggle for freedom and the Croatian contribution to America. Mr. Speaker, I would like to insert my address in the RECORD at this time.

The address follows:

THE CONTRIBUTIONS OF CROATIANS TO THE AMERICAN HERITAGE

It is a great pleasure to address you on this occasion, and to have the chance of expressing my admiration for the spirit of Croatia in America, and the grand accomplishments of Croatian-Americans in every walk of our national life.

The most basic American freedoms, beyond question, are freedom of political expression and freedom of religion. And to Croatian people throughout the world these freedoms have a special historical significance.

CROATIAN STRUGGLE FOR FREEDOM

Following the experience of centuries of toil and drudgery without political power of any kind, the people of the Balkans began to organize, politically, toward the close of the Sixteenth Century. Feudal masters were taxing their hard-earned wealth to the point of rendering every man a pauper and regulating everything they did, in the spirit of oppression. The people protested, quietly at first, then angrily. In 1573, a spontaneous peasant uprising rocked all of Croatia, and in that moment the Croatian political conscience was born. Repressive governmental measures stamped out the peasant uprising, but could not stifle the burning desire for political reform.

The struggle for religious freedom was no less drastic and no less painful and disturbing. When the reformation movement attracted the attention of the Croatian people in the 1590's, it was savagely suppressed by the Arch Duke Ferdinand, and many Croatians fled the country in fear of their lives—a large number settling in Prussia. As time passed, however, the Prussian government became itself oppressive, and many Croatians decided on a second exodus, in search of liberty and religious independence. Their goal became the far-off American hinterlands, where it was said that freedom was a reality.

CAME TO AMERICA WITH COLUMBUS?

It has been written that Croatians were employed as members of the initial Columbus expedition, and there is no doubt that early traders visiting America included the Croatian brothers Konkendjevic, who landed here in 1520. Many Croatian and American writers have discussed the possibility that the Croatan Indians, who settled for the most part in North Carolina, were of Croatian origin.

EARLY CROATIAN-AMERICAN SETTLEMENTS

One of the initial Croatian groups of record to come to America accompanied an expedition to the colony of Georgia, in 1715, settling on the Ebenezer River, there to introduce to the new world the silkworm industry. They found that here indeed was freedom of religion and, comparatively speaking, freedom of political expression. They wrote home of this phenomenon, and in short time other Croatians were on the way.

A port-of-call for most Croatians sailing to the new world was New Orleans. Until the middle of the nineteenth century this was the chief Croatian settlement in the country. There they engaged in the oyster industry, controlling it for many years. Not all of them were fishermen, however. With the discovery of large iron and coal deposits, to the northeast, shortly preceding the American revolution, many Croatians traveled up to Pennsylvania and Ohio and other places where the mining industry was coming into being. Many became gold miners during the California gold rush of 1849. As time passed more Croatians flocked to the mines, and as the mining industries grew, so grew the Croatian communities in the mining areas. Centuries of hard physical labor had fitted the Croatian people to the task, and many hundreds of them took advantage of the fact.

Development of the locomotive and the establishment of the Baldwin locomotive works in 1831 gave steel a tremendous new outlet in Eastern Pennsylvania, and in a short time Western Pennsylvania was equally active. Johnstown became a major steel and coal center, and from the start the Croatian people had much to do with its creative capacity.

As a religious people, the Croatians have contributed heavily to the spiritual life of every American community in which they thrive. Pennsylvania today has the greatest number of Coatian parishes, the majority located near Pittsburgh. Although thousands of prosperous Croatians and their descendants founded only one Croatian parish in California, Croatians of lesser means have done considerably better in the east and middle west. Ohio has many also—among them the distinguished Sts. Peter and Paul Parish at Youngstown, founded by a large group of Croatian immigrants, July 4, 1911.

MAJOR CROATIAN CONTRIBUTIONS

Major Croatian contributors to the American heritage are numerous in almost every field of endeavor. In science there was Nikola Tesla, the great inventor in the field of electricity; in education there was Dr. Henry Suzzalo, past president of the Carnegie Foundation and author of many books on education; in business there was Captain Anthony Lucas, a pioneer in finding and producing petroleum in America; in art there was the great sculptor, Ivan Mestrovic.

Among the greatest singers of the current era, none surpasses the abilities of the extraordinary mezzosoprano Irene Kramerich of Youngstown, who made her debut in New York in 1955. Since then, she has appeared in almost every major opera house in the country and has also sung abroad. The New Orleans music critic, S. Meyers has proclaimed her one of the greatest of her time. In the sports world, Croatians of high ability include football coaches Joe Kuharich of Notre Dame and the Philadelphia Eagles, Nick Skorich of the Cleveland Browns; basketball stars George Mikan, known as "Mr. Basketball", and Leo Mogus of Youngstown; baseball stars Mickey Lolich and Johnny Pesky, and many others too numerous to mention.

The impact of Croatian tradition on America grows stronger, apparently, with every passing year, as the Croatian-American population continues to expand. Ohio has a group of over 70 thousand American Croatians of whom some 10 thousand immigrated after 1945. Cleveland's Croatians number more than 20 thousand. They have some 50 organizations and are one of the best known nationality groups in Cleveland. They have two parishes, one school, two national homes, two radio programs, and other establishments of their own. Moreover, Cleveland has the largest group of Croatian post World War II immigrants whose number is steadily increasing. Besides Cleveland and here in Youngstown, Croatian parishes also can be found in Akron and Lorain, where Croatian settlements are considerable. Other Ohio cities with Croatian settlements are Struthers, Canton, Dayton, Yorkville, Brewster, Warren, Mcdonald, Massillon, Dilles Bottom, Newton Falls, Powhatan Point, Willard, Girard, Toronto, Alliance, Toledo, Mansfield, and Columbia. All these places have lodges of Croatian fraternal organizations, and their own national homes.

According to the works of Croatian writers, the total number of Croatian immigrants to America is estimated at between 500 thousand and 800 thousand. On that basis, there are probably now—after three generations—over a million Croatians in the land. If these figures are correct, America today is the home of one-fifth of all Croatians on the face of the earth.

CROATIAN WORKINGMEN CREATE CROATIAN UNION

As the Croatian population began to grow in Pennsylvania, the need for organization became apparent to everybody. At the urging of the youthful journalists Zdravko Muzina and Peter Pavlinac, Croatian workingmen declared their mutual allegiance in January 1894, beneath the banner of "Harvatsko Radnicko Popuprajuce Drustvo Starcevic", a beneficial society honoring the name of the Croatian patriot Ante Starcevic. Muzina became the first president of the society. What he and his friends envisaged was a fraternal organization—a union of all Croatian societies, to aid sick workers and attend to funeral expenses. Soon, other Croatians were organizing for similar purposes, and in September, 1894, Muzina was chairman of a Croatian convention, out of which emerged the Croatian fraternal union of the United States.

The Croatian fraternal union is the best example of the spirit and vitality of the Croatian first, second, and third generations. By recent count the C.F.U. had about 117 thousand members, with some 1,069 lodges and junior nests in operation. During its seventy-six year existence, the C.F.U. has disbursed millions of dollars for fraternal and humanitarian purposes. The great strides, natural and spiritual, made by the Croatian people in this century must be attributed, at least in part, to the work of the Croatian fraternal union, which has demonstrated a civic concern worthy of the highest praise. Without such leadership, the tremendous gains of the last generation would have been impossible.

It is a great pleasure to have been with you on this occasion, and I wish you well, in the knowledge that you will ever persevere in the manner that has rendered the Croatian people among the outstanding members of American society.

HON. WATKINS M. ABBITT

HON. W. C. (DAN) DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DANIEL of Virginia. Mr. Speaker, while this action may be considered premature, as he will not retire until Jan-

uary, I cannot resist the temptation of informing the House of the high esteem in which our colleague, WATKINS M. ABBITT, is held by the press both in and out of the congressional district which he has represented so long and so well.

Here are some examples:

[From the Appomattox (Va.) Times-Virginia, Mar. 16, 1972]

ABBITT'S RETIREMENT

(By Calvin H. Robinson)

It seems but yesterday when friends and admirers here in Appomattox rallied to the news that our young Commonwealth's Attorney would seek to represent our District in the Congress of The United States. The veteran Patrick H. Drewry, of Petersburg had passed to his reward, and a respected State Senator, Hon. Morton Goode had announced as a candidate to succeed him. Appomattox was at the far western end of the District and only lately redistricted from the old Tenth District, long and ably represented by the late Harry St. George Tucker and A. Willis Robertson and more briefly by the late Judge Joel Flood. Population advantages favored the eastern end of the Fourth District. Yes, it seems but yesterday, as we recall what a great campaign effort followed, ending in victory for Mr. Abbitt. Many of our citizens remember election night that year as hundreds of supporters assembled at the court house to await the returns. It was a glorious victory for one of the finest men in our long and honorable history.

During the campaign, The Times-Virginian went all-out to support Mr. Abbitt. We wrote that he was the sort of public servant who could be elected and re-elected to build up all important seniority and who would faithfully represent his constituents. How right we were! Mr. Abbitt gained appointment to the Committee on Agriculture and soon became one of the experts in farm matters handling legislation so vital to our economy. Furthermore, Mr. Abbitt became a champion of the Conservative approach to public policy. He gained the respect of fellow Congressmen and went about his duties with skill and a natural gift for public affairs.

It is a testimony to his career that Mr. Abbitt rarely faced opposition for re-election. Many have said that Watt Abbitt knew, on a first-name basis, more people in his district than any other man in public life in Virginia. More than that, for he became the State Chairman for his party and was in constant demand for public appearances. The selection of an outstanding office staff enabled him to travel his District without neglecting his duties and the spread-out geography of his district, kept him in constant travel. Yet he found time to keep his home ties in Appomattox, with his church and civic groups and law practice. "A Man for All Seasons."

Somehow it is hard to realize that he has announced his retirement as of the end of his present term. We can only yield to his judgment. A new redistricting brought up a situation upon which he has decided that he can now safely "come home to Appomattox." Many of his friends think Watt Abbitt should make himself available for Governor. That would be a fitting climax to his great career.

As a Conservative, Mr. Abbitt was not always on the winning side in Congressional voting, but we are convinced that his convictions were sound and will eventually prevail.

The Times-Virginian congratulates Mr. Abbitt upon his outstanding career and feels that his usefulness will be called upon for future assignments.

When they call the roll in Washington, Abbitt is first on the alphabetical list. It is also first on our list.

(From the Danville (Va.) Register, Mar. 5, 1972)

AS REPRESENTATIVE WATKINS ABBITT STEPS DOWN

The decision of Representative Watkins M. Abbitt to retire from Congress at the end of his present term, a decision he said was reached some time ago but was announced only Friday after court action calling for a reapportionment of the State's congressional seats, is another step in the shifting of the political power center in Virginia.

Whether it is a long or modest step will depend upon what follows in the mapping of the congressional layout and who is elected in November to the Fourth District seat.

Watt Abbitt has served Virginia well in the House of Representatives for 24 years. Before his congressional service, he was Commonwealth's Attorney for Appomattox County for 12 years during which he developed into a political organizer of first rank among the younger leaders of the Democratic Organization headed by U.S. Senator Harry F. Byrd, It was widespread recognition of his ability and his service that enabled Abbitt to win election as successor to the late Rep. Patrick Henry Drewry of Petersburg on February 17, 1948.

Young Congressman Abbitt went to Washington and found a Republican majority in Congress and a crusty Harry S. Truman who was to campaign all that year against a "Do Nothing 80th Congress". Truman won re-election and so did Abbitt. And Abbitt kept on winning.

Virginians know Rep. Abbitt best for two things: As a powerful member of the House Committee on Agriculture, where he is fourth on the majority side; and as a member of the inner-circle of the conservative Democratic leadership of Virginia over the past quarter century, during half of which he was party state chairman.

Rep. Abbitt appeared on the verge of retiring from Congress two years ago but decided to stay on for another term when there were challenges to his continued tenure. He won handily. Now he can retire as an undisputed champion vote-getter in the Fourth and as a man who has a right to feel that he can take things easier because of his long and able service to the people of his district and to the nation.

By his retirement, Rep. Abbitt makes easier the task of the General Assembly in redrawing the lines of the congressional district with only numbers to be considered. When the present district lines were drawn, Democrats in the General Assembly were extending themselves to avoid putting Abbitt's home county into the Fifth District, so that he would not butt heads with Rep. W. C. "Dan" Daniel, also a Democrat.

Last month, when many Democratic leaders gathered in Richmond for a dinner, U.S. Senator Harry F. Byrd, Jr., remarked that the principal speaker, former Governor Mills E. Godwin, Jr., had a distinguished record of service but that there are Virginians who believe that he also has a future of distinction. It was assumed that Byrd meant Godwin would be available to run again for the governorship. It could be, in the light of the Abbitt decision, that former Governor Godwin might follow the precedent of former Governors Montague and Tuck and serve his district in the House of Representatives. He resides near the center of population of the Fourth District and would be a strong candidate, should it suit his inclinations to go to Washington.

[From the Petersburg (Va.) Progress-Index, Mar. 6, 1972]

CONGRESSMAN ABBITT'S DECISION

To thousands of his constituents it is a source of regret that Representative Watkins M. Abbitt of the Fourth Congressional District has decided not to seek re-election. The decision is not surprising since he was known prior to his most recent election to be seriously considering retiring from office. Instead he offered and went on to win a handsome victory against stiff opposition.

With almost a quarter of a century of service to his credit, Representative Abbitt is dean of the Virginia delegation in Congress. He has been repeatedly recognized and cited for his advocacy of constitutional government and for his support of sound fiscal principles.

Some attention centers upon expectation that his decision will simplify the redistricting task which the General Assembly faces, but the detail is overshadowed by the fact a long and distinguished legislative career will be coming to an end. He has served his party, his responsibilities as a legislator, and the interests of his constituents in a fine manner.

Political writers sometimes attached to him the description of the old-style Virginia congressman who was elected time after time without opposition. That never was quite accurate, and in recent years he demonstrated how to win handily over regular and write-in opponents, Republicans and independents. The election results attested to his skill at the same time they demonstrated that the majority of his constituents very much liked the quality of the representation they were getting.

Judging from the Democrats who in the past have considered seeking the nomination and the Republicans and independents who have sought the seat, the choosing of his successor could be quite a contest. With no one towering political figure—except former Governor Godwin, whose name raises interesting thoughts—in what the news likes to call the sprawling Fourth Congressional District, it might be a free-for-all.

[From the Lynchburg (Va.) News, Mar. 10, 1972]

"WAT" ABBITT'S VICTORY

For 24 years Watkins M. Abbitt has represented Virginia's Fourth District in the U.S. House of Representatives as well as any district has been represented in the Congress. He paid close attention to the problems of his constituents and he voted in the best, traditional interests of Virginia and the Republic.

Had there been more like him in the Congress, it is doubtful that there would have been a Korean or a Vietnam war, for the Communists would have known that the United States would have none of a no-win conflict, but would carry out its treaty obligations swiftly and surely.

The Federal budget would have been balanced and the national debt would have been reduced.

There would have been social legislation which would have opened areas of communication between the races, instead of "civil rights" which has restricted the rights of all citizens.

There would have been less, instead of more, government and governmental bureaucracy.

There would have been welfare only for those who cannot work.

The United States would have maintained its superiority in nuclear weapons, instead of falling behind its worst enemies.

Federal taxes would have been reduced, instead of increased to the point of confiscation.

The rights of the states would have been upheld, thereby strengthening the Federal system.

The courts would not have seized control of the nation's public school system in the name of "integration" and the Federal Government would not be controlling mass education in the country.

The unions would have been held as responsible for their conduct as management is.

Crime would have been curbed because court permissiveness would not have been tolerated, and rehabilitation and prison reform would have been strengthened.

The nation would have remained at peace, domestically, and with other countries. There would have been no spasms of violent upheaval on campuses or in the streets, and Communists would not have been coddled.

That's the way it would have been because that's the way he voted.

This is only a partial resume of what would have happened had we had more "Wat" Abbitts in the Congress. The nation would have been a hell of a lot better off. He tried. He voted his convictions of what constituted the best interests of all the people. He failed to stem the leftist tide, because there were not enough like him, and too many "progressives" without foresight and integrity. His failure, therefore, is the failure of the country. And what we have instead is the victory of his opponents. It isn't a pretty picture. We are a disunited, resentful, frustrated people, cut adrift from our traditional moorings, weakened at home and abroad, without goals or purposes which serve the cause of individual freedom.

Now that he is retiring, the best we can claim is that he, and those like him, succeeded in keeping the leftward march from becoming a headlong plunge into totalitarian chaos. In so doing, he and his compatriots have given the American people a little, last chance to come to their senses. That in itself, considering the odds against him, was a mighty victory for humanity, per se.

[From the Farmville (Va.) Herald, Mar. 10, 1972]

FACE TO THE RISING SUN

Virginia, especially rural Virginia, is the poorer for the decision of Watkins M. Abbitt not to offer his candidacy for reelection to Congress from the Fourth District. His announcement came as a surprise to a large number of constituents he has represented in the House of Representatives for the past 24 years. As a long-time member of the Agriculture Committee, chairman of the Tobacco Subcommittee and a member of the Peanut, Livestock and Grains Subcommittees, he has been in a position to contribute considerable influence in federal legislation protecting and marketing the farm crops in the far-flung, agriculturally oriented Fourth District.

He is a strict constructionist, one who knows the tenets of the Constitution, and the fearless courage to stand for the basic principles which have made this nation great. Attesting his devotion to high principles, he is a member of the Administrations Committee, and the committee on Standards of Office Conduct, popularly known as the "Ethics Committee," one of the most important committees in the House.

He stands four-square on solution of problems and legislation for the best interest of his constituents and ever alert in support of those institutions for the betterment of Virginia. While his most outstanding record in the Congress has been in the field of agriculture—support of farm prices, development of markets, support of rural electrification, soil conservation, forestry, crop insurance, and others—he has also advocated development of highways, education, transportation and Virginia's port facilities.

"Watt," as he is affectionately known throughout Virginia and in national circles, served as chairman of the Virginia Democratic Central Committee from 1964 until he resigned in 1970. He is well known and held in high regard throughout the State.

Recognized in Washington among his peers as one of the leading congressmen in serving his constituents, nothing deters him in looking after their best interests. Wherever two or three are gathered together, Watt is among them, yet his record for attending roll calls and other duties in Washington has not suffered.

In his home town of Appomattox, he has taken an active part in the religious and civic life, as a Deacon and Treasurer of Liberty Baptist Church, member of the Board of the Baptist Home at Culpeper. He is also an active member of the Elks Club, Moose Club, Lions Club and Woodmen of the World, and director of the Farmers National Bank at Appomattox. He is a man of "many hats" and gets under them because he is in almost perpetual motion.

His recent decision not to stand for reelection is an example of his dedication to his people and to the Commonwealth, as it made the court-ordered redistricting much more simple for the State Legislature.

His loss as a congressman is to be regretted, but it should lead to a larger service to his State. We know of no man in public life more dedicated to the interests of Virginia, and no Virginian with a wider experience, or more capable to carry the standards of Virginia forward in 1974 than Hon. Watkins M. Abbitt, as Virginia's next governor. It would be a fitting recognition of his years of service, and his administration in the office would redound to the benefit of the State. He has the know-how; he is conversant with the needs; he can attract the support and cooperation of the largest group of dedicated people in public life, and consolidate the political efforts of the Commonwealth into a solid working organization as can no other man.

We suggest Watt Abbitt for the next governor of Virginia.

ECOLOGICAL COMMITMENT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mrs. GRASSO. Mr. Speaker, the responsibility for the preservation of our environment, including the wildlife on our planet, is shared by all of us—not merely for a single designated day or week, but for each day of our entire life. It is appropriate, however, that at this time we pay particular attention to the needs and demands of our ecological commitment. Both Earth Day and the National Wildlife Week give us the opportunity to renew our vigor in this important area.

To be sure, the destruction of our planet has gone much too far. The blatant disregard for natural resources and careless disposal of poisonous chemicals and debris have placed in serious jeopardy our plant and wildlife. Man has polluted the air and the lakes, rivers and streams which serve us and beautify our surroundings.

Earth Week and National Wildlife Week should indeed remind us all of our commitment to the preservation of our environment. A positive attitude, a firm commitment and a high measure of citizen-government cooperation will undoubtedly contribute to an improved ecology for the benefit of us all.

The grave problem of extinction for animal species confronts us again. In the past, disaster has been narrowly averted by measures to preserve the buffalo, the whooping cranes, and the trumpeter swans which were all on the brink of extinction. However, the preservation of wild eagles is still in grave doubt. What a tragedy it would be if these majestic birds no longer graced our skies.

It is a great pleasure for me to pay tribute to the many fine organizations, church groups, and neighborhood associations which are dedicated to the goal of making the earth a better place to live—a showcase for the splendor of God's creation.

EASTERN STATE COLLEGE, OKLA., COACH WINS NEW TITLE

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. ALBERT. Mr. Speaker, Mr. Don Brown of Eastern State College at Wilburton, Okla., in my district has just been named "coach of the year" by Oklahoma-Arkansas Junior College coaches in region II of the National Junior College Athletic Association. In his seven seasons at Eastern State, Coach Brown's basketball teams have won 136 and lost 62 games and his baseball teams have been equally successful.

I am pleased to insert in the RECORD a copy of an article which appeared in the Statesman, All-American student newspaper at Eastern State, for Tuesday, March 7, which tells of this latest honor to come to Coach Brown:

BROWN NABS COACHING AWARD

Being recognized as an outstanding coach by his fellow coaches is just another honor for Eastern State's Don Brown who has been named Region II "Coach of the Year."

Coach Brown easily won the selection with near-unanimous results which is quite a tribute in an area full of successful junior college coaches throughout Oklahoma and Arkansas which constitute Region II of the National Junior College Athletic Association.

And this isn't the first time Brown has received an honor as "Coach of the Year," but the first from Region II.

While coaching high school ball at U.S. Grant High School in Oklahoma City, Brown was named Oklahoma City "Coach of the Year" in 1960 and 1962 for basketball and received the same honor for baseball coaching in 1962. Eastern State's student newspaper, The Statesman, named Brown "Oklahoma Juco Coach of the Year" in 1970.

Earlier this year he was named to the Century club, an honor roll of veteran coaches whose teams have won 100-or-more games in one sport.

The former Geary high school athlete joined the faculty at Eastern State in 1965 and has coached both basketball and baseball since that time. He played college basketball and baseball at Central State and later earned the masters degree at the University of Oklahoma.

"Busy, busy, busy" describes Brown's activities at Eastern where he not only devotes his time to coaching two varsity sports with the built-in time required for recruiting, scheduling and assisting graduates get located, but he serves as one of Eastern's three physical education instructors.

Brown coached nine years at U.S. Grant following one year at Midwest City and also served as athletic director his last three years at Grant.

His Grant teams won two conference championships in basketball in 1960 and 1962, one regional championship in basketball in 1960, and a conference championship in baseball in 1962.

Brown is in his seventh year at Eastern and has enjoyed much success during this period. In his first year, his basketball team compiled an 18–7 record and finished second in the conference. His next three teams were co-champions (14–9), third (10–15) and tied for second (22–8).

In 1969–70, Eastern climbed to 14th in the national poll with a 24–5 record and won the Oklahoma Junior Collegiate Conference undefeated. In 1970–71 Eastern came back strong to post a 25–8 record while repeating as conference champion.

This year Eastern finished second in the conference and posted a 22–10 season record going into the Region II Tournament Feb. 29–March 4 at Tulsa. Brown's basketball teams have a 136–63 record.

As an Eastern State baseball coach, Brown has coached his last three teams to conference titles. The 1971 team, ranked No. 1 in the nation based on the best win-loss percentage, won the conference and established a 25–4 record. Eastern swept the sub-district playoffs by taking four straight and advanced to the national-qualifying tournament in Kansas but couldn't advance.

The "Coach of the Year" recipient isn't limited to experience in high school and college coaching but has spent 11 summers coaching at the Chandler Baseball Camp and last summer volunteered to head the Wilburton Summer League Baseball programs.

In comparing his various coaching experiences, Brown said, "There's no big difference in coaching, whether at the high school or junior college level since the emphasis is on fundamentals—the real secret of coaching young folks."

"Biggest difference in junior college coaching is that the players have more desire to play because many of our basketball and baseball players at Eastern want to play senior college, university and, in some cases, professional ball," he said.

"In recruiting for junior college athletics, we have to find players who can play now and we can't afford the luxury of signing athletes who have definite potential to develop perhaps as a junior or senior," he added.

Brown chuckles when he tells the story about how he almost landed the great Bobby Murcer at U.S. Grant some years back. The big league scout, who signed both Mickey Mantle and later Murcer, asked Brown his opinion of Murcer's future in the pros.

"I'd watched Murcer play ball in high school and in Legion ball and I told the scout that I didn't think Murcer would make it as an infielder in professional baseball.

"And you know, I was right about his not making it as an infielder, but, boy, did he ever make it big as a superstar in the outfield," the grinning coach said.

The successful junior college coach reacted to a question about his future plans by explaining, "I'm not currently after a bigger coaching job but any coach wants to get to the top and likes to think about how he'd do in a higher level of coaching."

"In coaching, whether you're talking about high school, college or pro ball, a coach has got to keep pushing and not become complacent about his job and he'll find how quickly it spreads to the players," Brown said.

Agreeing that junior college athletics are really growing and that competition has become much tougher in his seven years here, Brown advocates the establishment of a state organization to set standards for all schools in lieu of the present two conferences and independents.

"Probably what is needed the most after we get the organization to establish standards is the creation of the position of Commissioner for Junior College Athletics to supervise and coordinate all athletics on the junior college level in Oklahoma," Brown said.

Admitting that being named "Coach of the Year" by his opposing coaches is a distinct honor, Brown can't enjoy sitting back and reflecting on the honor since the busy coach has just concluded the Region II basketball tournament and faces a 30-game baseball schedule beginning in March.

DINOSAURS ON U.S. ROADS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HANNA. Mr. Speaker, there has been substantial concern voiced by many in our country for the manner in which the Government is dealing with the problems created by the automobile, generally in terms of its noncoordinated, often apparently misbalanced approach. It is, therefore, refreshing to note an occasional suggestion which copes immediately with all aspects of the Government's efforts—and such a suggestion is put forth eloquently in the article I am including today in the RECORD.

Mr. Stanley I. Hart, a civil engineer with an extensive background in road development, presents in his article the suggestion that the size of the automobile ought more appropriately be the subject of regulation and control. I would commend this item to my colleagues' attention as I feel Mr. Hart's eloquent and comprehensive defense of his arguments bears careful consideration by all of those working to balance the automotive needs of our society with the obvious public health and welfare implications of a continuation of past trends of development and use of the automobile.

The article follows:

[From The Los Angeles Times, Mar. 12, 1972]

DINOSAURS ON U.S. ROADS

(By Stanley I. Hart)

Does the large size of American automobiles cause accidents?

One of my friends recently lost his mother-in-law. She suffered a heart attack at the wheel of her Cadillac and the car plunged through a freeway divider fence at 70 m.p.h. In the collision that followed, five people were killed.

One of the significant factors which contributed to those unnecessary deaths was her choice of a large prestige automobile.

If she had been driving a lighter and smaller car, it might not have plowed through the fence because, as Newton's Second Law of Motion states, force is the product of the mass of an object and its acceleration. Thus, the heavier the car, the greater the force it will exert in a collision.

Moreover, even if the lighter car had broken through the fence, its remaining energy would have been far less, greatly reducing the chance of serious injury or death. Being smaller, it might have missed the other car entirely.

While I was driving on the freeway not long ago, my Ford was struck on the left rear fender by a Lincoln that had wandered into my lane. The dent was half an inch deep and 12 inches in diameter. It cost $71 to repair

If one of our two cars had been one inch narrower, everything else having been precisely equal, there would have been no collision, no dent; I would have been on time for my appointment; all of the insured drivers as a group would have been richer by $71; and the owner of the Lincoln would not have had an embarrassing explanation to make to his insurance company.

The present design of the automobile (particularly its size) has an enormous and unfortunate impact on the public interest. This impact is shown in the increasing death and injury toll on the highways, in the increasingly rapid depletion of our resources of petroleum, in the pollution of our environment, in urban sprawl and in the congestion and inconvenience of our cities.

We could save tens of thousands of lives and hundreds of thousands of maimed and injured each year on American highways. We could save ourselves more than $50 billion in wasteful expenditures annually; we could free American highways and parking spaces of unnecessary congestion and we could reduce air pollution.

We could accomplish these things by creating and enforcing standards for the automobile industry that would establish optimum vehicle size, weight and power. These standards would also regulate the engine system, the suspension, the braking system, the body and chassis. The goal of these standards would be to prevent further abuse of the public interest and to obtain for it the greatest possible benefits.

Utopian? Perhaps. But let's examine the idea carefully.

Why do large cars have more accidents?

Your next accident, like almost all accidents, will be a random happening. Your automobile, out of control, will hurtle toward another car or toward a tree or a bridge abutment. The hurtling automobile is like a projectile, the bridge abutment its target.

The probability that your automobile will hit its target depends very much on the dimensions of your automobile and on the dimensions of its target. Smaller cars, narrower and shorter, are smaller projectiles, smaller targets. When a projectile is smaller, it is less likely to strike its target. When the target is also smaller, the probability of a "successful" hit is even less.

It is possible to show this "projectile-target" effect mathematically. Within limitations, we can calculate the probability of occurrence of a collision. For certain given and equal conditions, for instance, the probability of collision is reduced 27% when Volkswagen-sized automobiles are substituted for standard-sized automobiles.

Secondly, standard cars are not only larger, they are also much heavier. Their suspensions are notably less firm. The huge mass and the "Detroit mattress" suspensions have become part of our automobiles in response to our marketplace criteria. The American public, in its innocence, identifies the soft ride with "elegance," "prestige" and "comfort."

These elephantine automobiles on their tender springs are capable of high speeds. And because many drivers are not aware of the limitations of their cars in an emergency, they may find themselves trying to maneuver one of these monsters through a tight spot—with predictably unhappy results.

Another factor which contributes to the accident rate of large cars is, simply, scale. There is an upper limit to the size of machines which man can control with ease. Human beings also have dimension. Men can handle huge trucks, enormous ships and great airplanes if their crews are qualified by proper training and experience. But our automobile drivers are not properly trained.

The fourth factor may be the marked early depreciation of the larger automobiles. There is little prestige in a 10-year-old veteran of highways. A 10-year-old Cadillac, provided it is in excellent condition, might be worth just as much as a 10-year-old Volkswagen. However, it is far less expensive to buy new tires and parts for a smaller car than for a larger car. It is likely, therefore, that old large automobiles will be in a poorer state of repair than old small ones.

The New Jersey Highway Authority, in late 1969, conducted a study of accidents on its Garden State Parkway. And that small cars won the safety test.

Among the results of the study was the observation that, although the small cars were 36% of the total mix of small and large cars using the parkway, the small cars were involved in only 24% of the accidents. The large cars, 64% of the mix, were involved in 76% of the accidents.

The Garden State Parkway study shows that the large automobile is almost twice as likely to be involved in an accident as is the small car.

The California Highway Patrol says exactly the same thing. It studied statewide accidents (almost 100,000) for the year 1961. This is how it stated the results:

"The small cars in the California vehicle population show a lower rate of accident involvement than do conventional passenger cars."

The California report is similar to the New Jersey report in its proportionate breakdown of accident involvement by automobile size class. The smaller cars, 16.5% of the total mix of cars in California in 1961, had an accident involvement of only 11.5%. The larger cars, 83.4% of the mix, were involved to an extent of 88.6%.

This immunity to accident involvement on the part of small cars was unfortunately overlooked in the main thrust of these reports. The reports emphasized that the small cars, when they were involved in an accident, more frequently suffered serious injury to their occupants and damage to the machine.

Considering both the New Jersey and the California mixes of automobiles, which were one-third or less small cars, it is clear the small car usually had its collision with a large car. The deceleration of the smaller car in such a collision will certainly be several times that of the larger car. It is equally clear that the occupants of the smaller car, subjected to a comparative rapid deceleration, will be more seriously injured than the occupants of the larger car.

But the principal cause of the more serious threat to the occupants of the smaller car is the *difference* in the sizes of the two cars—not the *smallness* of the small car.

There are three other pieces of evidence: First, Allstate Insurance Co. gives a preferred premium rate to small cars—which seems to be witness to the fact that small cars have a better claim record.

Second, it was recently announced that the national accident rate for the first nine months of 1971 had inexplicably leveled out. This had occurred once or twice before in the past 25 years but had apparently been explained on one basis or another. In this case there appears to be no convenient explanation. It is suggested that the great increase in 1971 of smaller automobiles on the streets and highways of America is responsible for the decrease in accidents.

Third, the California Highway Patrol has announced that the traffic death toll on Los Angeles freeways for 1971 has declined, inexplicably, by 25%. During the years 1962 to 1969 our domestic cars increased their dimensions 10%. In 1969 their dimensions stabilized. The accident statistics did the same.

Since 1968 the sale of imported subcompacts has skyrocketed. After 1969 the domestic subcompacts entered the market with some success. The proportion of subcompacts on Southern California highways is now approaching 50%. Result: the accident rate is declining!

Is it utopian to hope that the automobile industry can be required by law to use reasonable criteria in the engineering and in the design of its products?

Some safety and air pollution standards are being slowly adopted by the federal agencies, but these are vigorously opposed by the industry on the ground that its freedom to manufacture and sell dangerous, wasteful and frivolous vehicles is somehow akin to those civil freedoms protected by the Constitution.

Advances are slow and the measures which have been adopted, such as the collapsible steering column and improved braking, are important, but they seem almost superficial compared to those measures which are technically possible. Vehicle size is not even in the question stage at the present time—presumably because it is sacred to the marketplace.

There is nothing new or unusual about such standards. The building industry has long operated under building codes which, despite some inefficiencies and occasional stupidities, have long protected the public interest from the abuses of the marketplace.

The aircraft industry is protected from marketplace pressures by FAA regulation. The American aircraft industry owes its success to the fact that its design standards are not allowed to deteriorate. The FAA airworthiness certificate has established and protected safety and efficiency in air travel throughout the free world.

The automobile industry has taken the firm position in the past that nothing can be done about traffic accidents—that the automobile accident toll is caused by foolish drivers. There is a half-truth in this. Certainly the foolish driver (and who among us has not been foolish on occasion) is often responsible for beginning the chain of events which leads to an accident. However, far too often the oversized and poorly designed automobile contributes critically to the unfortunate end of the chain.

Foolishness is not recognized as a capital offense in our law. Why then should we allow our fools (and the innocents they meet on our highways) to be sentenced to death or disfigurement by an automobile stylist?

At the present rate, one person in 50 will die in traffic accidents; one in five will be seriously injured. Half of these casualties will be unnecessary.

We must insist that the automobile be purged of marketplace gimmicks—the excess size and power, the fake, the frivolous and the waste—and that it be remade into an honest and efficient mode of transportation once again.

CHICKASHA, OKLA., ALL AMERICA CITY

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. STEED. Mr. Speaker, at noon on February 28, 1972, a special flag-raising ceremony was held in front of the city hall of a small, rurally oriented Oklahoma community. The occasion marked the unfurling of the official banner proclaiming Chickasha, Okla., an All America City for 1972.

Nine cities across the Nation were selected for the honor from among more than 100 entries in an annual contest sponsored by the National Municipal League and the Saturday Evening Post. The citizens of Chickasha have worked diligently and tirelessly for the past 4 years to revitalize their community, and in my opinion, have earned this citation as well as our congratulations and praise.

The following background information describing the hard work and devotion of the people of Chickasha will show just how it distinguished itself as an All-America City.

Chickasha's climb to recognition began in 1968 when civic leaders realized the rural-urban migration was hurting the southwestern Oklahoma community. Farm homes had been left empty. Thirty-eight downtown businesses had called it quits. The per capita income was down to less than $2,500, and the unemployment rate was above 6 percent.

The underlying problem was one of a deterioration of the socioeconomic condition. Chickasha needed two shots in the arm. The first necessity was for new industry and expansion of that which was already there. The second was to expand its present social programs so as to involve the new workers.

In order to overcome these problems, the community leaders called meeting after meeting of concerned citizens. Literally thousands of people attended called meetings in 1 year. The residents raised $250,000 to attract new industry, created an industrial development authority and approved industrial development bonds. A $1.4 million industrial park was established and roads and services necessary for firms were provided. It worked.

One corporation began a $9 million plant to employ 562 persons. A local firm expanded into the industrial area. Other firms came in and, altogether, the new park has accounted for more than 800 jobs.

At the same time another movement was taking place. An unbelievable enthusiasm had developed to solve and strengthen the social conscience of the city. Child care facilities were provided for 70 children through the combined efforts of the League of Women Voters and the chamber of commerce. Because of these efforts, Chickasha has been named as the pilot city for a five-State region of the Office of Child Development.

Volunteer workers joined to help start new programs in city schools. Workshops and training centers were established for the mentally and physically handicapped, and the Jane Brooks School for the Deaf was reinstated.

According to former Pennsylvania Gov. William Scranton, president of the National Municipal League—

The reason for the All-America City competition is to foster and recognize the efforts of people working and reasoning together in the endless struggle for constructive change—creating out of present divisiveness

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a strong, responsive and more humane nation.

The community action of Chickasha has certainly proved that it has accomplished its efforts toward this goal. I take my hat off to its leaders and to each individual who took part in the challenge of making Chickasha the All-America City it is today.

AN INTERVIEW WITH DR. DAN P. VAN GORDER ON FOOD PRICES AND AMERICAN AGRICULTURE—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people in an interview with the noted agricultural expert, Dr. Dan P. Van Gorder, on increasing food prices and American agriculture. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE IN AN INTERVIEW WITH DR. DAN P. VAN GORDER ON FOOD PRICES AND AMERICAN AGRICULTURE

Mr. RARICK. I have recently received numerous letters from constituents, mainly housewives, complaining of the increasing cost of food, especially meat products, and inquiring as to what can be done to halt the price spiral. The increase in meat prices seems to be nationwide. For example, during the past four months, a pound of bacon in Atlanta increased 22% from 59¢ to 75¢; and here in Washington, D.C., a pound of ground beef went up 18% from 59¢ to 69¢.

So, I thought today we'd talk about the high prices of food and meat products in the supermarkets—the causes and solutions to the problem.

To discuss this problem with me, we have as our guest Dr. Dan P. Van Gorder. Dr. Van Gorder is a long-time journalist and authority on agriculture whose farming column, "Things of the Soil," was nationally syndicated for 25 years. A Special Committee of Congress has referred to his files of farm statistics as the most complete and well-rounded in existence. Dr. Van Gorder is author of a startling book, *Ill Fares the Land,* which predicts a possible famine for this country if our agricultural policies are not changed. Welcome, Dr. Van Gorder, into the living rooms of our TV viewers.

What do you see, Dr. Van Gorder, as the causes for the recent price spiral of food products, particularly for beef?

VAN GORDER. First, of course, it is important in analyzing food price trends to recognize that prices are regulated either by the law of supply and demand or by regimenting, centralized control. The law of supply and demand was nullified in 1933 when the federal government clamped rigid production and marketing regulations on our formerly free farming industry. It is helpful, however, to observe that we of the temperate zone are a meat-eating people and our entire food economy is built around our once-prosperous livestock industry.

RARICK. You would say that meat today to the American people is like a status symbol—a sign of moving from lower or middle income levels to higher living standards—like the Joneses.

VAN GORDER. Yes, it is an interesting phase of our economy that general prosperity is so intimately interrelated with beef. For example, when the factory worker's wife goes to the supermarket and her husband is working only part time or is entirely unemployed, she probably buys a scrawny chicken. But if he is working steadily, wages going up and everything is prosperous, she buys a huge beef roast. Beef is actually a barometer—a chart indicating the wellbeing of urban workers.

RARICK. Well, Dr. Van Gorder, a few days ago President Nixon issued a proclamation authorizing imported meat quotas from foreign countries to be increased 7% over those of last year. Do you think this action by the President will be in the interest of the United States and our domestic livestock industry?

VAN GORDER. Definitely not. For example, in 1970 we imported $592,000,000 worth of footwear. This meant closed shoe factory doors and idled shoeworkers. When we increased beef and pork imports we are likewise hitting American farmers a lethal blow. And at the same time consumers, all consumers, are injured. We tend to overlook the truth that the farmer and the consumer are in the same boat—the wellbeing of one is inseparable from the wellbeing of the other. It is doubtful that our so-called farm problem will be solved until all consumers realize their dependence on a prosperous agriculture.

Apparently politicians in and out of government are blind to this simple truth and assume that the fewer than 3% of our total population remaining on the land are not worth considering—that is at the voting booth. I hope urban consumers will soon wake up to the fact that they are paying the bill for a major portion of the farm control tragedy.

RARICK. Dr. Van Gorder, what effect, if any, do you think the 7% allowable increase in foreign meat imports will have on the price of meat in the supermarkets of this country?

VAN GORDER. Little if any. For the five years, 1966 to 1970, inclusive, we imported over *four million tons* of beef. Thus, to increase or diminish this total by 7% or even 10% would make scarcely a dent in the retail supply or price. The greater importance lies in President Nixon's tacit admission that the United States, with its vast farming domain and varied climates and soils, with the most efficient farmers in the world, is supinely dependent on foreign farms for any meat at all. This is something the American people should be genuinely ashamed of. And I am certain they would be ashamed of it if their government officials would inform them of the sordid truth.

RARICK. In other words, we are importing foreign beef while paying our farmers not to produce by subsidizing them. Then we wonder why we have unemployment. Do you feel there is any relationship between the importation of meats and other foods from foreign countries and unemployment in this country?

VAN GORDER. The unemployment situation in this country is, I think, attributable directly to a general governmental policy that originated in the late 1920s and developed in the early 1930s—that we can have prosperity and at the same time pursue an appeasement course by importing ever-mounting quantities of manufactured goods and farm products from foreign countries. Too much emphasis cannot be placed on the fact that an American mill or factory worker, steadily employed, is the best customer the farmer has or can have. It is doubtful, despite State Department propaganda to the contrary, that exports of farm commodities have ever been a profitable phase of American farming, not only because we do not always collect the bills, but more importantly because foreign trade trends are subject to the uncertain vicissitudes of that game known as diplomacy. And as Bismarck once said, *"Nobody can imagine . . . . the emptiness and quackery that passes for diplomacy."* Unemployment in this country, and this means the entire welfare travesty, bears the unmistakable trademark of Made in Washington.

RARICK. Well, you do feel then that this new increase in foreign imports will lower meat prices?

VAN GORDER. No, I doubt it will have but little effect on the price of beef for this reason: This is our general election year, a quadrennial season when abnormal factors are at work. I predict that we are going to have skyrocketing beef prices—not because imports are increased or decreased but because the apparent dilemma will be politically profitable. Secretary of Agriculture Butz recently announced that beef rationing is in the offing. It will probably occur by late July. Then, after beef prices soar, the government, like the knight in shining armor, rushes in and rescues the beautiful maiden. But we cannot expect anything constructive from a policy based solely on error and deception. We must always remember that when meat control was adopted in 1933 as part of the entire farm regimentation scheme, we had been on an import basis for the previous ten years. Yet between 6 million and 7 million cows and heifers were sacrificed in 1933 and 1934—*cows and heifers*—an early demonstration of birth control or family planning.

RARICK. Present action is more or less like an extension of wage and price freeze into the food market. In other words, everyone will benefit theoretically for a short time except the farmer.

VAN GORDER. That's right.

RARICK. Now Secretary Butz also said that if he went to rationing or put a ceiling on the prices of meat that the consumer could expect to go to the meat market and find the meat shelves bare. If we ration meat do you still see that we will have any abundance of meat available?

VAN GORDER. I doubt that we'll ever have an abundance of meat on the meat counters of this nation until we get completely rid of government interference in the market place.

RARICK. Dr. Van Gorder, two years ago before the Agriculture Committee of which I'm a member we had as a witness, a farmer from North Dakota, Mr. John Scott. He made an unusual statement to us here in government. He said, "We who remain on the farms and ranches of this nation are fighting for survival. We simply cannot endure a continuation of the restrictions, regulations, and meddling that have beset us these forty years. We earnestly beg relief. We desperately need an end to federal farm programs." As a solution to the problem, what do you think should be done in the best interests of the United States citizens, the American farmers and meat processors?

VAN GORDER. I personally have known John Scott for several years. He's not only an intelligent, patriotic American and a good farmer but he has his fingers on the pulse of the farm situation particularly throughout the Middle West. In answer to your question, I think that there's but one course we can take and that is to get the government out of agriculture and get agriculture out of the government. I don't think there's any other solution. There is no halfway point because price control and the annulment of the law of supply and demand can't stop at halfway measures. You've got to go all the way. We must bow to complete control or demand and obtain complete freedom.

RARICK. In other words, do you have any suspicions in your mind that perhaps the problems we face today . . . couldn't have been more crucial if planned that way?

VAN GORDER. Well, personally I don't think many things happen by accident in government. I think it was planned that way. And there are too many coincidences and too many inter-related factors operating to think that it just happened. I think farm control is planned as I mentioned in my book to bring about complete rationing in this nation. Obviously that was the original and remains the present purpose of farm control.

RARICK. We have unemployment while many persons leave the farm and continue to crowd into urban life with welfare rolls increasing. Have you compiled any statistics regarding the correlation between the number of people who have fled the land and the number on relief?

VAN GORDER. Yes, I am glad you mentioned that matter because there is something that supports my theory that the entire farm control and urban welfare program are integral parts of a pre-planned strategem. Note this: Since 1933 the net loss of farm population in this country ranges between 16 and 17 million. The number of persons on relief today is between 16 and 17 million.

RARICK. Just by coincidence?

VAN GORDER. I do not think there is even a remote phase of coincidence in this. Rather it is a demonstration, probably a fatal demonstration, of cause and effect in operation, destroying the world's greatest industry (American farming) and bringing an end to constitutional government via bankruptcy, perhaps famine and incipient anarchy.

RARICK. What do you think was and is the overall goal?

VAN GOADER. Complete dissolution of the American way of life and the melding of this nation into a One-World government.

RARICK. On what do you base that opinion?

VAN GORDER. That question brings us back to our livestock industry again. In 1912 we suffered the first import balance of beef. The next year (October 1913) most meats were put on a free import basis. Only World War I saved our livestock industry from ruin, a ruin trend that resumed in the mid-1920s. Again World War II resuscitated this branch of our agriculture. But what of the present? In 1921 we imported $18,800,000 worth of edible animals and meat; in 1970 over $1,163,000,000 worth—an increase of more than 6,000%. Every statistical fact points the direction—*down and out.*

RARICK. Thank you very much Dr. Van Gorder. We've had as our guest today the noted author and expert on agriculture, Dr. Dan P. Van Gorder. We're happy to have had you on our "You've a right to know program" and wish we had more time.

VAN GORDER. Well I've enjoyed it anyway.

THE NATIONAL URBAN LEAGUE ON BUSING

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. HAWKINS. Mr. Speaker, on March 5, I had the pleasure of watching "Comment," an NBC television program, on which Mr. Vernon E. Jordan, Jr., appeared. Mr. Jordan, executive director of the National Urban League, presented his views on the busing issue.

Mr. Jordan, a native of Atlanta, Ga., is a graduate of De Pauw University of Indiana, and the Howard University Law School. In 1961, Mr. Jordan personally forced a path through an angry white mob so that a black coed could enter the grounds of the University of Georgia under court order. A year later, he became field secretary for the Georgia branch of the NAACP and led a successful boycott against stores in Atlanta that refused to hire blacks.

In assuming the leadership of the National Urban League, Mr. Jordan heads an organization that attacks economic and other institutional barriers to equal opportunity.

I am pleased to introduce into the RECORD the remarks of this brilliant and articulate leader of one of America's most important institutions:

STATEMENT BY VERNON E. JORDAN, JR., EXECUTIVE DIRECTOR, NATIONAL URBAN LEAGUE

The long-simmering controversy about busing to desegregate the public schools has flared into a full-scale debate that is being used as a political football to divide and polarize the nation. Constitutional amendments have been proposed which would recreate a system of dual schools, separate and inherently unequal. By appointing a top-level group to study ways to circumvent recent court decisions ordering integration and busing as one of the means to achieve it, the President has lent the weight of his office and the dignity of his position to those who have been defying the law of the land. And he has completely undermined his own statement of two years ago, when he said: "Quality is what education is all about; desegregation is vital to that quality."

It is clear to me that the attempts to inflame public opinion against busing, which is but one tool to desegregate the schools, represent a cease-fire in the moral and social revolution this nation has been struggling to achieve. By politicizing the issue, parents and children are being used as pawns in an effort to roll back and nullify the historic 1954 Supreme Court decision that held dual school systems unconstitutional and inherently unequal. But almost twenty years later half of the black children in Chicago, for example, go to all-black schools. To the extent that desegregation has been achieved, it has been in the South under court-ordered plans that frequently include busing.

The courts have spoken loud and clear on this issue. In last year's Charlotte-Mecklenburg decision, Chief Justice Warren Burger affirmed that "desegregation plans cannot be limited to the walk-in school," and the Court unanimously approved busing to achieve desegregation. In January, a Federal Court ruled in Richmond, Virginia, that political boundary lines cannot be used to prevent desegregation. Its order that the districts merge will probably mean slightly more busing and substantially more integration.

Busing is now controversial because it is a racial issue. America's school systems have always bused children; about forty percent of all students are bused to school for reasons that have nothing at all to do with desegregation. Black people need only think back a few years to recall how they were bused far from home, past nearby predominately white schools, to attend all-black ones. And many white parents today put their children on school buses that drive past integrated public schools and stop at all-white, segregrated private schools. Anyone who proposes that the current opposition to busing is not based on racial grounds is deceiving himself. I say if we could use busing as a means to implement segregation and defy the law, we can use it now to implement desegregation and obey the law of the land and the higher law of morality as well.

The hysteria over busing obscures the fact that what is at the end of the bus ride is what matters. White children in an all-white school environment are deprived of the diversity that reflects the world in which they will have to live. Many studies including one by the Civil Rights Commission, conclude that integration is a significant factor in giving black children and poor children a fairer chance at a better education.

Busing is a tool to achieve quality, integrated education. So long as the nation creates and maintains pockets of racial and economic isolation, it cannot afford to dispense with any mechanism that will implement and strengthen the role of its public schools in providing a democratic environment that prepares our children to live in a world that is three-fourths nonwhite. To have busing become prey to the kind of hysterical and irrational debate that can only polarize the nation further is tragic; to have busing eliminated would be disastrous.

It is highly possible that the proposed Constitutional amendments are but a smokescreen to obscure pending legislative action that would nullify the historic 1954 Supreme Court decision and return the nation to the institutionalized racial separation from which it is struggling to escape. It is entirely possible that liberal legislators will declare themselves against the amendments, only to pass legislation that accomplishes the same ends but will be buried in better-sounding phrases and less easily-understood complexities.

But we cannot escape the dilemma posed by the busing issue by taking cover in political expediency and verbal maneuvers. Busing is a phony issue. The real issue is whether this nation has the moral backbone to create a pluralistic, open society in which equality is not bargained away. Short-term expedience cannot substitute for moral leadership and rational action. In this issue, as in the great civil rights issues of the 1960's, the very soul of the nation is at stake.

THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962, AS AMENDED—A DOCUMENTARY HISTORY—PART II—THE 88TH CONGRESS

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. PERKINS. Mr. Speaker, under unanimous consent I insert in the RECORD the second installment of the documentary history of the Manpower Training and Development Act of 1962, as amended. Today's materials cover the development of an expanded and improved MDTA by the 88th Congress.

The material follows:

[88th Cong., 1st Sess., S. Rept. No. 458]

AMENDING THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

August 23, 1963.—Ordered to be printed.

Mr. RANDOLPH (for Mr. CLARK), from the Committee on Labor and Public Welfare, submitted the following Report together with Minority Views [To accompany S. 1716].

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 1716) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

PURPOSE AND EXPLANATION OF THE BILL

S. 1716 was proposed in a message to the Congress by the President on June 19, 1963. Its purpose is to postpone the effective date of the State matching requirements under the Manpower Development and Training Act of 1962 from June 30, 1964, to June 30, 1965, in order to provide the State legislatures with sufficient time to appropriate matching funds. This means that the Federal Government must assume full responsibility for financing for an additional year in order to

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maintain the training levels contemplated by the act at the time of its enactment. Accordingly, the bill also proposes to increase the third year authorization for training programs under the act from the present $161 million to $322 million.

NEED FOR THE BILL

A. Postponement of effective date of matching requirements

The Manpower Development and Training Act (hereinafter referred to as MDTA) provides for 100 percent Federal financing of occupational training programs during the first 2 fiscal years following its effective date and for 50 percent State matching of funds during the third fiscal year, beginning July 1, 1964. Accordingly, the establishment or the continuance of any training program in any State after June 30, 1964, will depend on whether the State assumes 50 percent of the training costs.

Twenty-nine of the State legislatures meet biennially in the odd-numbered years. For that reason it was necessary for them to authorize matching funds during their recent 1963 sessions if they were to meet the June 30, 1964, deadline.

Only four[1] of these States enacted the necessary authorization. The 25[2] legislatures which took no action will not reconvene until January 1965, well after the matching requirements go into effect. The failure of these States to act will necessarily require a rapid deceleration of their existing and projected training programs during fiscal 1964. Indeed, their programs will terminate at the end of the 1964 fiscal year unless Congress is willing, through S. 1716, to extend full Federal financing for an additional year. Eleven of the States in this group (Idaho, Indiana, Maine, Minnesota, Nebraska, New Mexico, Oregon, Utah, Vermont, Wisconsin, and Wyoming) have for this reason addressed letters and telegrams to the committee urging favorable action on the bill.

In its hearings on this bill, the committee was satisfied that the deadline set by the statute has failed to provide the State legislatures with sufficient time to assess the value and worth of the MDTA program. MDTA presented an entirely new approach to the critical problem of retraining the unemployed. The budgets for the States were developed in late 1962 at a time when the MDTA program was still in its early stages and was largely untried and not well understood. In 10 of the 29 States with biennial legislative sessions in 1963, no MDTA training of any kind was underway in the late fall when State legislative programs were being formulated. In the remaining 19 States only 63 MDTA projects involving less than 2,400 trainees had begun by late autumn.

The program began to gather momentum during the early months of 1963, but even now, within any one State, the total impact of the program is just beginning to be realized. It appears in retrospect that unless the State legislatures are afforded sufficient time to see the results which can be gained through a retraining program of this kind, the likelihood that they will appropriate funds from severely strained State treasuries is slight.

In an exchange with one of the witnesses during the hearings on the bill, Senator Len B. Jordan, of Idaho, a member of the subcommittee, speaking as a former Governor and State legislator, gave strong emphasis to this point. He expressed the judgment that the States needed more time than was given to them by MDTA to determine whether there was sufficient warrant for legislative action, referring to such factors as the high turnover among the members of the State legislatures, the inexperience of both the old and the new members with the MDTA program, and the shortness of the sessions. He noted that "the mills grind very slowly at the State level" and that in view of the consideration which he had emphasized, it was "expecting a good deal for these States to have come out wholeheartedly in support of this program" in their 1963 sessions.

Most of the States are extremely hard pressed financially. It should be remembered that the debt of our State and local governments has increased by 600 percent since World War II, while Federal debt increased by only 10 percent. No evidence was offered at the hearings indicating that the caution of the State legislatures is based upon any lack of interest or diminution in the widespread support for the MDTA program exhibited at the time of its enactment in 1962. To the contrary, Secretary Wirtz testified that the Department of Labor had received "positive, affirmative reactions" from almost all States with respect to the urgent need for the continuance of the training courses.

B. Increase in third-year authorization

The original goal set by MDTA provided for the training of approximately 400,000 of the unemployed during the 3 years authorized for the program. MDTA goals contemplated the training of approximately 200,000 trainees during its third year. The authorized appropriation of $161 million for this period required to reach this goal necessarily implied State matching in like amount since the condition of third-year training is that the State will assume 50 percent of training costs. If matching is to be postponed for 1 year as proposed by the bill, provision must be made for the assumption of the States share for the third year in order to maintain existing training goals. Thus the bill provides for a doubling of the Federal authorization for the fiscal year ending June 30, 1965, to $322 million.

MDTA has achieved its goal of 60,000 trainees in training set for it during its first fiscal year of operation. As of today training is proceeding at the rate of 106,000 trainees per year. Training capacity has now been developed to a point which will make it possible to meet the 3-year goal to train 400,000 unemployed provided, of course, that the necessary appropriation levels are maintained and that S. 1716 is enacted so that the life of the program may continue to the expiration of the original authorization.

CONCLUSION

The committee is satisfied that the MDTA program has maintained the pace necessary for it to realize the goals set for it by Congress when the program was enacted. It is noteworthy that 70 percent of the trainees completing training courses so far have been placed in jobs related to their training.

Extension of the requirement for State matching for 1 year as proposed by the pending bill should provide the Federal Government and each of the States with a full opportunity to give this important attack on the roots of unemployment a fair tryout so that the legislatures, both Federal and State, may determine whether the program should be continued.

The recommendation by the committee should not be construed by the States as in any way indicating that the committee does not expect them to assume their full share of the cost of the program once MDTA has demonstrated its effectiveness. A number of the members of the committee pointed out that within 9 months following the effective date of the Federal-State matching program under the Kerr-Mills medical assistance for the aged program, eight States had programs in effect; three States had submitted plans to the Department of Health, Education, and Welfare for approval; and seven additional States had enacted legislation but had not as of that time submitted their plans. Two years later 28 States had Kerr-Mills programs in operation, and 8 additional States had enacted enabling legislation which would become operative either at a fixed future date or upon approval of the plan by HEW. Within the comparable 9-month period under MDTA, only four States had enacted matching authorizations. Although the committee recognizes that the factors underlying matching in the Kerr-Mills program are distinguishable from those bearing on MDTA, it expects that State matching authorization under MDTA will proceed at an increased pace during the next 18 months.

If this bill is enacted, the committee will continue to maintain a careful review of the effectiveness of this program and of the States participation in it during the extended year of Federal support. Both factors will have a bearing upon any recommendations which the committee may make with respect to future legislation.

The committee has concluded, however, that the 12-month record developed thus far is totally inadequate as a basis for judging the worth of this important program dealing with the urgent domestic problems of unemployment. Enactment of the bill will make it possible for the fair testing of MDTA over the full term of 3 years as specified in the statute itself.

SECTIONAL ANALYSIS

Section 1(a) of the bill, as reported by the committee, amends section 203(d) of the Manpower Development and Training Act of 1962 by striking the year "1964" and substituting in lieu thereof "1965" with the result that State matching will begin on June 30, 1965, rather than on the earlier date.

Section 1(b) of the bill amends section 231 of the act by striking the year "1964" and substituting in lieu thereof the year "1965" with the same result as above.

Section 2 amends section 304(b) of the act by striking the words "a like amount" referring to an authorized appropriation of $161 million and substituting therefor the sum of "$322 million" as the authorization for the fiscal year ending June 30, 1965, for the purpose of carrying out title II.

DEPARTMENT REPORT

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 5, 1963.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for comments on S. 1831, a bill to amend the Manpower Development and Training Act of 1962, and similar bills, S. 1716, S. 1691, and S. 1725.

S. 1831 would amend the training provisions of the Manpower Development and Training Act in the following respects: (1) training for functional literacy and basic work skills would be authorized under the act, and persons receiving such training would be eligible for up to an additional 52 weeks of training; (2) the minimum age limit for training allowances for youths would be lowered from 19 to 16; (3) the proportion of total training allowances for youths under 22 years of age would be increased from 5 to 15 percent; and (4) to assure that youths are not encouraged to drop out of school to benefit from the above provisions, no allowances would be paid to youths until 3 months after dropping out of school.

S. 1716 provides for two amendments to the Manpower Development and Training Act. First, it eliminates the State matching provision in the act. Secondly, it increases the maximum authorization for title II in fiscal 1965 from $161 to $322 million to finance the elimination of matching.

S. 1691 provides for improved provisions for training allowances to youths similar to those embodied in S. 1831 except that: (1) the maximum proportion of total training allowances which could be spent on youths would be increased to 20 percent rather than 15 percent in 1965 and the maximum number of youths to receive such training in 1964 would be 45,000; (2) a 6 months' waiting period after leaving school would apply rather than 3 months; and (3) the authorization would be increased by $45 million in fiscal 1964 to finance such provision. As in S. 1831, this bill would also lower the minimum eligible age for training allowances to 16.

S. 1725 would also amend provisions of the act respecting training allowances for youths. The minimum age limit would be lowered to 18 rather than to 16 as in S. 1831, and the maximum proportion of such allowances to be used for training of youths would be increased to 20 percent, as in S. 1691, rather than to 15 percent, as in S. 1831.

Neither S. 1691 nor S. 1725 provide for literacy training as embodied in S. 1831.

As indicated in the President's message on civil rights to the Congress on June 19, 1963, improvements and expansion of the training provisions of the Manpower Development and Training Act is fully supported by this administration. This position was reiterated in the Secretary of Labor's testimony on S. 1831 and S. 1716 before your committee on July 16, 1963, when he fully endorsed enactment of these two bills. The Bureau of the Budget concurs fully with the Secretary's testimony. S. 1831, however, as introduced, does not include the increased authorization which had been requested for these purposes. We recommend that the committee amend the bill to provide these funds.

While the general nature of the amendments proposed in S. 1691 and S. 1725 are also along the lines supported by this administration, the specific changes proposed in each differ materially from those in S. 1831 or S. 1716. The latter two bills more accurately reflect the President's proposals in this area as outlined in his message to the Congress on Civil Rights, and therefore this administration would favor their enactment.

I am authorized to inform you that enactment of S. 1831 and S. 1716 would be in accord with the program of the President.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

(An act relating to manpower requirements, resources, development, and utilization, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

TITLE II—TRAINING AND SKILL DEVELOPMENT PROGRAM

PART A—DUTIES OF THE SECRETARY OF LABOR

* * * * * *

TRAINING ALLOWANCES

SEC. 203. * * *

(d) After June 30, [1964], *1965*, any amount paid to a State for training allowances under this section, or as reimbursement for unemployment compensation under subsection (h), shall be paid on condition that such State shall bear 50 per centum of the amount of such payments.

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PART B—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

GENERAL RESPONSIBILITY

SEC. 231. * * *

The State agency shall be paid 50 per centum of the cost to the State of carrying out the agreement, except that for the period ending June 30, [1964], *1965*, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement with respect to unemployed persons.

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TITLE III—MISCELLANEOUS

* * * * * *

APPROPRIATIONS AUTHORIZED

SEC. 304. * * *

(b) There are hereby authorized to be appropriated $97,000,000 for the fiscal year ending June 30, 1963, $161,000,000 for the fiscal year ending June 30, 1964, and [a like amount] $322,000,000 for the fiscal year ending June 30, 1965, for the purpose of carrying out title II.

* * * * * *

MINORITY REPORT ON S. 1716 OF SENATOR BARRY GOLDWATER AND SENATOR JOHN G. TOWER

We are opposed to the enactment of S. 1716.

The purpose of this bill, if enacted, would be to eliminate the provision contained in the Manpower Development and Training Act of 1962, requiring State matching for the fiscal year beginning July 1, 1964. Since the States would be relieved of their financial responsibilities under this program, the Federal Government would be required to finance 100 percent, the cost of the MDTA for fiscal 1965, at a cost of $322 million.

Since the enactment of MDTA in March 1962, only three States, Connecticut, Montana, and Tennessee, have enacted enabling legislation and completed action appropriating funds in order to receive Federal matching grants under this program. The legislatures of the remaining 47 States have either taken only preliminary action or no action at all. Because of this overwhelming lack of response to the MDTA by the State legislatures, the administration now urgently requests the Congress to waive the requirement for State matching and allow the Federal Government to foot the entire bill.

The Manpower Development and Training Act was enacted in March 1962. Since that time every State legislature has met either in 1962 or 1963 and most legislatures again will meet during 1964. Thus there has been ample opportunity for every State legislature in the country, if they so desire, to authorize the necessary matching funds. To date, however, only three States (Connecticut, $200,000; Montana, $20,000; Tennessee, $500,000) have authorized appropriated funds which represents approximately one-half of 1 percent of the total authorization of $161 million contained in the act.

The net effect of the proposed legislation is to relieve the States of the burden of assuming their responsibility under this program and transferring it to the back of the already overburdened and deficit-ridden Federal Treasury. And this is sought to be accomplished in full knowledge of the fact that 47 State legislatures have refused to enact matching legislation.

Secretary of Labor, W. Willard Wirtz, in his testimony before the Senate Labor and Public Welfare Committee commented:

"Lack of action by the States does not mean lack of interest. Instead, we have had urgent messages from many State employment service directors expressing their deep concern and earnest hope that these programs can be continued and accelerated."[1]

It is significant that while Secretary Wirtz may have received many messages from State employment service directors urging continuing of MDTA he apparently did not receive a single communication from a State legislature pleading for the passage of this bill. Since it is the legislature of the State and not the State employment service director which has the authority to appropriate State moneys, we believe that it is advisable for the Senate to give heed to what 47 State legislatures have refused to do, for whatever reasons, and therefore we urge the Senate to reject this legislation.

The administration's pressing entreaties for the passage of this proposal in the light of large-scale State inactivity stands in sharp contrast to its footdragging and general apathy to the implementation of the medical assistance for the aged program, the so-called Kerr-Mills Act, which too requires State matching.

It is common knowledge that the present administration, in its attempts to couple a medical assistance program for the aged to the Social Security System, has thrown up every roadblock at its command to hobble and shackle the Kerr-Mills Act. So far these attempts to scuttle that act have been unsuccessful as the record will indicate.

As of July 25, 1963, 32 States and territories have programs in effect for receipt of funds under Kerr-Mills; 12 have plans submitted, drafted, or in some other stage of implementation; and only 10 States need legislation. Compared to the nationwide disinterest exhibited by the States to MDTA, the Kerr-Mills program can be viewed as a rousing success.

It is our belief that any program, such as MDTA, which has the unqualified and enthusiastic endorsement of the administration, should stand or fall on its own merits without extraordinary inducements being offered in its behalf in order to keep it functioning.

BARRY GOLDWATER.
JOHN G. TOWER.

Appended below is the progress report on the medical assistance to the aged program (Kerr-Mills) as of July 25, 1963.

REPORT AS OF JULY 25, 1963—ACTIVITIES OF THE 54 JURISDICTIONS TO PUT INTO EFFECT THE PROGRAM OF MEDICAL ASSISTANCE FOR THE AGED

A. Programs in effect, 32 States:

Alabama, Arkansas, California, Connecticut, District of Columbia, Florida,[1] Guam, Hawaii, Idaho, Illinois, and Kentucky.

Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey,[2] New York, North Dakota, Oklahoma, and Oregon.

Pennsylvania, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virgin Islands, Washington, West Virginia, and Wyoming.[2]

B. Plan submitted; not in effect, 1 State:

South Dakota.[3]

C. Plan being drafted, 1 State:

Iowa (appropriation available after July 4, 1963).

D. Legislation enacted; plan not yet submitted, 5 States:

Kansas (effective January 1, 1964).
Minnesota (effective July 1, 1964).
Nebraska.
North Carolina (effective July 1, 1963).
Virginia (1962 session; effective January 1, 1964).

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[1] Connecticut, Kansas, Montana, and Tennessee.

[2] Alabama, Arkansas, Florida, Idaho, Illinois, Indiana, Iowa, Maine, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Vermont, Wisconsin, and Wyoming.

[1] Hearings before the Subcommittee on Employment and Manpower, Committee on Labor and Public Welfare, U.S. Senate, July 16 and 18, 1963.

[2] Plan submitted, not yet approved; program in operation as of July 1, 1963.

[3] To become effective upon approval of State's plan.

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E. Legislation in process to give basis for program or to provide appropriation, 2 States:
Passed both houses: Missouri.[4]
Legislation pending: Wisconsin.
F. Need legislation, 10 States:
Alaska
Arizona [5]
Colorado [5]
Delaware
Indiana [6]
Mississippi
Montana [5]
Ohio [5]
Rhode Island [5]
Texas [7]
G. Have authority for MAA; implementation indefinite, 3 States:
Georgia: Enacted 1961; no funds available.
New Mexico: Has legal authority; 1963 appropriation request denied.
Nevada: Enacted 1963; tax funds for program not voted.

[Senate, Sept. 4, 1963]

AMENDMENT OF THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Mr. CLARK. Mr. President, I turn to the pending business, S. 1716. It is a little bill on a big issue. The bill itself is only 11 lines long. It continues for a third year, or through fiscal 1965, which is June 30 of that year, the provisions of the Manpower Development and Training Act of 1962, which imposes the entire cost of the program on the Federal Government. In other words, it waives the provisions in the original bill, for 1 more year, which would require 50-percent matching on the part of the several States.

In determining whether to pass the bill, the Senate is really deciding—I hope today—to continue the Manpower Training and Development Act. However, if the extension is not passed, I think I can safely say, having heard all the testimony and having been chairman of the subcommittee of the Committee on Labor and Public Welfare which reported the bill, that the training program will die. It will die through apathy, just as it is getting off the ground; just as it is beginning to retrain in employable skills at the rate of 108,000 Americans per annum, retraining them in ways in which they will get jobs. Experience to date shows that 70 percent of those who have completed retraining courses will get those jobs.

The program is at present operating in all 50 States and in Puerto Rico and Guam.

Mr. CLARK. The program is just getting off the ground. There are good reasons why that is the case. The act was passed in 1962, but it was for an authorization only. The appropriation was not made until toward the end of the legislative session last year.

As is customarily the case with new programs of the Federal Government, a number of months were required to organize the program, to place it in operation, and to provide the necessary coordination betwen the employment offices in the 52 jurisdictions, the local school boards in the areas where such boards were responsible for the training programs, and the Department of Health, Education, and Welfare in Washington, where machinery was set up to enable that Department adequately to screen the training programs in the interest of preventing boondoggling and eliminating waste. Therefore, it was not until the spring of 1963 that the program really got underway.

During that period, there was nothing to show for the program in the several States. During that period, some 29 legislatures met. From everything we have learned from the testimony and our contacts with the State employment agencies, the States were not alerted and were not aware that if they did not provide money for meeting the Federal program with matching grants, the Federal program would grind to a halt on June 1 of next year. Twenty-nine State legislatures will not meet in 1964, for they meet only on a biennial basis. Accordingly, those States will have no opportunity, unless special sessions of their legislatures are called, to provide the matching grants necessary to continue the program after June 30 of next year.

Accordingly, at the request of the administration, the Committee on Labor and Public Welfare held hearings to determine whether the proposal requiring State-matching grants should be postponed for 1 year. The conclusion was reached, unanimously in the subcommittee, and by a vote of 13 to 2 in the full committee, that it was the better part of wisdom not to kill the program just as it was getting off the ground. Whether or not proposed civil rights legislation were to be brought before Congress, I would strongly urge the passage of this manpower development and retraining bill. There is every reason why the program should be continued for another year, in order that its full benefits and the impact of the reemployment which it generates might be brought home to the general public.

Nevertheless, I feel compelled to note that this particular bill was recommended in the President's message on civil rights, which he sent to Congress on June 19, 1963. I quote from page 9 of that message:

Specifically, I now propose:

(A) That additional funds be provided to broaden the manpower development and training program, and that the act be amended, not only to increase the authorization ceiling and to postpone the effective date of State-matching requirements, but also (in keeping with the recommendations of the President's Committee on Youth Employment) to lower the age for training allowances from 19 to 16, to allocate funds for literacy training, and to permit the payment of a higher proportion of the program's training allowances to out-of-school youths, with provisions to assure that no one drops out of school to take advantage of this program.

The first part of the Presidential recommendation, namely, an amendment to the act to increase the authorization ceiling and to postpone the effective date of State-matching requirements, is contained in the pending bill, S. 1716.

A few minutes ago, I sent to the desk S. 1831, a bill which would enact the other recommendations of the President's program. That bill is in the form of a report submitted by the Committee on Labor and Public Welfare. That bill also cleared the committee by a vote of 13 to 2; but it is only the relatively narrow amendment to the act, dealing with waiving State payment for 1 more fiscal year and, accordingly, increasing the authorization for expenditures under the program, to take up the slack at the Federal level, which will now not become available at the State level, that we are dealing with today.

Mr. CLARK. I believe the RECORD should show—and I should have so stated in my opening remarks—that the Senator from West Virginia is the principal sponsor of the bill. He reported the bill to the Senate from the committee. On several occasions he was kind enough to preside over hearings when it was impossible for me to be present. He has followed the bill with great zeal, and is probably the leading expert on the subject in the Senate today. I commend him and thank him for the speech he is making in support of the proposed legislation.

Mr. RANDOLPH. The Senator from Pennsylvania is very gracious. I assure him that it is my responsibility to join Senators who have sponsored the bill, those on the Committee on Labor and Public Welfare and other Senators on both sides of the aisle, in moving to successful passage this vital and urgent measure. I think the Senate will respond affirmatively to the proposal.

It was evident during the hearing on S. 1716, and, of course, on other amendments to the Manpower Development and Training Act—that the Congress, in enacting the original measure, admittedly did not allow adequate time for the development of the program and its assessment by the States before the deadline, when the States would be called upon to authorize matching funds.

So in proposing this amendment of S. 1716, we have come to the Congress in an effort to repair that impediment.

We are not considering a problem which is going to emerge 5 years from now. As the Senator from Tennessee [Mr. GORE] has said, it is at this moment a problem of national scope. It is a serious problem in the Appalachian States and in certain other States. It is here now. Whereas there has been automation in manufacturing and in mining, automation—by whatever word one wishes to characterize it—is now moving into the field of goods and services, marketing, and the activities of the Government itself, in the various agencies. For example, the Census Bureau has 50 statisticians today doing what it took 4,100 persons to do 10 years ago. In the Internal Revenue Service, in processing data on returns, 80 persons are today doing tasks which were carried on by more than 4,000 persons only a few years ago.

The ragged edge of a rail strike of a few days ago, with all its implications for a shutdown of a major portion of the freight carrying facilities of the country, had its basic cause in the loss of jobs. There are 40 percent fewer railroad workers handling the freight cargo of the United States, which is not much less than it was a few years ago. The problem daily becomes more acute. That is the reason why we faced a possible strike.

Two hundred thousand fewer persons a year are living on our farms. This attrition goes on every 12 months. People do not desire to go into the cities from our rural sections merely to make a move; it is because mechanization of the farm is a reality, as a mechanization of our transportation facilities, processes of mining and manufacturing.

So when the Senator from Tennessee speaks, as he did, so eloquently, although in brief remarks, about this problem being a national one, his statement is abundantly true.

Whereas the problem came with tragic impact a few years ago in West Virginia with the mechanization of our mines, and it is already moving into practically all other sections of our country.

I have faith that, regardless of party, Members of the Congress will respond to the urgency of continuing the program, because to return this measure to the committee would be to kill it. To propose loans would strike at the very core of the effort which is now emerging into a workable program.

We come forth today indicating that there was not sufficient time for the States to assess the program prior to their authorizing matching funds; we are attempting by this amendment to repair the deficiency.

The question of maintaining the present rate of progress in our manpower training program is of the utmost immediacy and urgency. To refer again to the testimony of Secretary Wirtz before our committee, the Secretary stated that:

"We have just finished the first year of the administration of this program. We finished • • • with considerable pride in the accomplishment. The thing has just been moved into high gear. And • • • it will slow down from here on out unless this matching problem is met, and met immediately."

The Congress must not allow this program to be placed in jeopardy because of the calendar of the State legislatures. The manpower development and training program is now in full stride, having passed its target enrollment of 60,000 for fiscal 1963, and is now maintaining an enrollment level of 108,000. Of those who have completed their training, an astonishing 70 percent have been placed in jobs for which they were trained under the Manpower Development and Training Act.

Yet, if S. 1716 is not enacted in this session, the entire—and I emphasize the word "entire"—manpower development and training program will be crippled. The original goal established by the Manpower Development and Training Act provided for the training of approximately 400,000 of the unemployed during the 3 years authorized for the program. This is hardly an extravagant program, in view of the continued rate of unemployment which hovers near 6 percent, with more than 4 million workers in a state of enforced idleness.

The original Manpower Development and Training Act program envisaged the training of approximately 200,000 persons during its third year. With this goal in view, the Congress authorized the appropriation of $161 million for this period, with the expectation that the States would match this with an equal amount. As has already been pointed out, however, at the time the budgets of the States were being drawn for fiscal 1963, the program had not been in operation long enough or on a sufficiently wide scale to elicit cooperative action from the State legislatures which convened in 1963. Twenty-five of those States—those which did not act this year—will not again have the opportunity until January 1965, 6 months after the deadline in the original Manpower Development and Training Act.

There are, therefore, only two alternatives before the Congress: to reject the remedial action proposed in S. 1716, and thereby cripple the manpower training program in all of the States; or enact S. 1716 to authorize the additional $161 million, and thereby help move the American economy forward by maintaining the thrust of the original intent of the Congress as expressed in the enactment of the Manpower Development and Training Act in 1962.

Today or tomorrow, when the vote is finally taken—and I trust it will be within a few hours—there will be an opportunity to accept the proposed amendment to the Manpower Training Act.

Mr. President, I cannot overemphasize the urgency of the need for S. 1716. As I have previously stated in the Senate, the Subcommittee on Manpower and Employment has for many months been conducting hearings on the entire range of manpower and employment problems. From every source of testimony we have received evidence of the drastic toll on our human resources being taken by unemployment.

Especially is this so among our young people. As Secretary of Labor Wirtz pointed out in testimony before our committee, although employment rose last year by some 800,000, unemployment also rose by 400,000 as a result of the continued growth of our labor force. The main impact of the increase of the jobless fell upon our most youthful group of workers. There were, in fact, 300,000 less jobs in June 1963, for young people under 20 than there were in June of the year preceding.

The administration has embarked upon a broad program to ameliorate the problems of our disadvantaged youth. The Manpower Development and Training Act is an essential part of that program. By deferring for 1 year the date at which the States must provide matching funds, the Congress will enable the Manpower Development and Training Act program to proceed with the task of making our young people more employable and providing them with a broader foundation in work skills. This program must not be placed in hazard by the calendar of our State legislative sessions nor by the contingencies of economic expansion and contraction. The need for maintaining a consistent level of activity in this program should be equally apparent to those who administer it in such matters as the approval of training programs under the act and the application of the test of a reasonable expectation of employment.

Though I would offer this precautionary advice to those who administer our manpower program, my primary responsibility is to bring to the attention of the Senate the preeminent importance of the need to enact S. 1716 and provide the additional authorization to keep the manpower program going at full strength. I therefore join the senior Senator from Pennsylvania [Mr. CLARK], who has provided such active leadership in the Manpower and Employment Subcommittee, in urging the Senate to approve the amendment under consideration. I have been joined in proposing S. 1716 by Senators CLARK, MCNAMARA, PELL, KENNEDY, MCINTYRE, and RIBICOFF. It is our belief that this measure is needed to insure the training of workers without cutting the very heart of the manpower program.

I recently returned from 5 days in my own State of West Virginia, where I found that the compelling need for the passage of the pending bill, to continue the Training Act unimpaired, is understood by our people. I believe Congress, if it carries this program forward, will do much not only to alleviate unemployment in our Nation, but also to enable us to meet the problems generated by the technological revolution of American industry. I therefore recommend approval of the pending measure.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

Mr. GOLDWATER. Mr. President, I have listened attentatively to the very able presentation made by the distinguished Senator from Pennsylvania (Mr. CLARK) and the equally able presentation made by the Senator from West Virginia (Mr. RANDOLPH). It is difficult to stand on the floor of the Senate and be opposed to retraining in general. It is like being opposed to mother love and wide roads.

However, some questions existed in the minds of the minority members of the Committee on Labor and Public Welfare; and I feel it is incumbent upon me to speak about them.

Senators who oppose the enactment of the proposed legislation are not opposed to retraining. I believe most Senators have committed themselves to further expenditures in this field in the President's civil rights package. They feel that training is constantly needed. However, we do not feel that the Federal Government should be the sole judge of where and how the training should be conducted.

We do not deny that there is something wrong, something that has been wrong for some time, something that crosses the paths of two administrations.

We must admit that there is something wrong, because there is continued unemployment at a rate which I do not believe anyone can find acceptable.

In July, according to the Economic Indicators, our unadjusted rate of unemployment ran at 5.7, which, while it is considerably better than it was in January, is a little worse than it was a year ago.

Retraining is a necessary thing. I believe basic training is urgently needed. That is one of the reasons why many Senators on this side of the aisle have supported vocational training and junior college proposals, and talked about and supported interest in industrial-type high schools or manual training high schools, aimed at young people who are not going through high school and never had any intention of going through high school. These problems could in large measure be solved. I remind Senators that the dropout rate when I was in high school was higher than the one we are experiencing today. In those days, however, a young boy who knew he was not going to finish high school could go to an industrial high school or a manual training high school, whatever the case might be, and there acquire some skill.

I agree with the proponents of the bill that today there is little or no demand for unskilled labor. The idea that if one cannot do something with his hands, he can always get a job using a pick and shovel, is a fallacy. Those days have passed. Automation has moved into the fields of the pick and shovel to the point that such jobs do not exist. It is to that group that the proposed legislation is directed.

Another factor I wish to touch on, other than the drop-out situation and the need for employment at higher skilled levels, is one that I mentioned earlier, which at least crosses over the administration's proposals, and probably more than that.

The only way in which jobs can be created is to have more capital investment. Capital investment is the lifeblood of any free enterprise economy. This has always been true. During or immediately following the years of high capital investment, unemployment has been reduced. As I look at Economic Indicators for August, I note that in 1957, capital investment, under the heading "Expenditures for new plant and equipment," was $36.96 billion. It dropped the next year, and then started to rise slowly. But the rate this year, 6 years after 1957, if the Indicators prove to be true, will be $39.24 billion, an increase in 6 years of $2.28 billion; or, to put it another way, an increase of about 5 percent over the 6 years.

We can retrain to perfection every unemployed person in the country; but if there are not jobs for them to step into, the retraining is wasted. Particularly is it wasted upon a man who wants to work. He does not want to be on relief. He wants to work with his hands and brain. He wants to be productive.

So before I proceed with my basic argument against the proposal, I call the attention of Senators to what I consider to be the real problem in the employment picture in America today. Our tax structure is so lopsided, difficult, and unfair that investment is not encouraged. More money is available for investment today than at any other time in the history of the country. If my memory serves me correctly, the amount is in the neighborhood of $400 billion in savings by the American people. This money is not being invested in new capital equipment, new factories, or new buildings at the rate I feel it should be invested, in order to relieve the basic unemployment problem. What should the rate be? I do not know. As a onetime businessman, I should judge that possibly a rate increase of 4 to 5 percent a year would produce the desired results. If that were true, instead of the figure running slightly more than $39 billion this year, compared with $36.96 billion in 1957, we could possibly expect it to be in the nature of $79.90 billion being spent for new equipment and factories in this year.

We can talk indefinitely about unemployment and education, and about what we intend to do for area redevelopment; but until this Congress or some subsequent Congress attacks the basic problem, which is wrapped up in taxation and is depriving the American wage earner and investor of initiative and

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[4] Awaiting action by Governor.
[5] Considered by 1963 legislature; not enacted.
[6] Vetoed by Governor. Was not reconsidered in subsequent special session.
[7] Passed resolution for constitutional amendment, which, if ratified by popular vote, may be followed by enabling legislation.

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ambition, and particularly the desire to have his money work for him, there will be a continuation of the unemployment problem throughout the country.

There must be some reason for the failure of the States to exhibit more interest than they have. I have read the hearings carefully. I have read the report carefully. I cannot find the answers that I think we should have, although possibly we cannot get them. I read from page 61 of the manpower retraining hearings before the Sucommittee on Unemployment and Manpower of the Committee on Labor and Public Welfare in the first session of this Congress. This report was submitted by Dr. M. D. Mobley, executive secretary of the American Vocational Association. The title of the report is: "Summary of Replies from State Directors of Vocational Education Regarding Matching Funds for the Manpower Development and Training Act for 1965."

At the outset, I invite the attention of Senators to the fact that the replies are from State directors of vocational education; they are not from the State legislatures or the Governors. Perhaps there would have been a much better understanding of what direction should be taken legislatively had we heard from the people charged with the responsibility of accepting the matching fund programs. The report contains a series of questions that Dr. Mobly answered. I shall read the questions and the answers:

1. If MDT matching funds for vocational education were requested from your 1963 legislature, indicate amounts requested.

Thirty-six States replied "none." Other States replied with amounts ranging from $83,000 to $3,150,000.

2. If MDT matching funds for vocational education were appropriated by your 1963 legislature, indicate amount appropriated.

Three States indicated that funds had been appropriated. One of these three States received one-half of the amount requested and no funds were earmarked for training or allowances.

3. If MDT matching funds for training allowances were requested from your 1963 legislature, indicate amount requested.

Thirty-nine States replied "none." Other States replied with amounts ranging from $100,000 to $3,150,000.

4. If MDT matching funds for training allowances were requested from your 1963 legislature, indicate amount appropriated.

None of the States had any funds appropriated.

5. If MDT funds for vocational education are to be requested from your 1964 legislature, estimate amount to be requested.

Forty States indicated "none." Other States replied with amounts ranging from $50,000 to $2 million.

6. If MDT funds for training allowances are to be requested from your 1964 legislature, estimate amount to be required.

Forty-six States replied "none." Other States replied with amounts ranging from $50,000 to $2,500,000.

7. Will your State be able to participate in the Manpower Development and Training Act program when matching is required?

Thirty-four States indicatd "no." Six States answered "yes." Other States replied "doubtful," "probably," "questionable," "depends," "only to a limited extent," "very unlikely," and "yes."

I note that the report is dated July 3, 1963. As was stated in the minority views, the purpose of the bill, if enacted, would be to eliminate the provision contained in the Manpower Development and Training Act of 1962, requiring State matching for the fiscal year beginning July 1, 1964. Since the States would be relieved of their financial responsibilities under this program, the Federal Government would be required to finance 100 percent of the cost of the Manpower Development and Training Act for fiscal 1965, at a cost of $322 million.

The reason why I read the report submitted by Dr. Mobley was to set forth the questions that arise in the minds of Senators who oppose the enactment of the bill.

Why have so many States refused to participate in the program? I am sure I have no pat answer for all the States. I cannot even give an answer as to why my State of Arizona has not participated, unless it be that under our vocational training program the State director or Governor or legislature may feel that the program is not needed. This question has not been answered. I would appreciate answers to it, because I think they would have some effect on the final disposition of the program.

Since the enactment of the Manpower Development and Training Act in March 1962, only three States, namely, Connecticut, Montana, and Tennessee, have enacted enabling legislation and completed action appropriating funds in order to receive Federal matching grants under this program. The legislatures of the remaining 47 States have either taken only preliminary action or no action at all.

Because of the overwhelming lack of response to the Manpower Development and Training Act by the State legislatures, the administration now urgently requests the Congress to waive the requirement for State matching and to allow the Federal Government to foot the entire bill.

Again, Mr. President, if we had had from the States some understandable answers as to why they were not interested in it, when all of the funds are Federal Government money, we might better be able to understand why the administration is urging the action it is urging today.

I may say that this act was passed in March 1962, and since that time every State legislature has met either in 1962 or in 1963. Most of the legislatures will meet again during 1964.

Thus, there has been ample opportunity for all the State legislatures in the country, if they so desire, to authorize the necessary matching funds. To date, however, only three States—Connecticut, $200,000; Montana, $20,000; Tennessee, $500,000—have authorized appropriated funds which represent approximately one-half of 1 percent of the total authorization of $161 million contained in the act.

The net effect of the proposed legislation is to relieve the States of the burden of assuming their responsibility under this program and transferring it to the back of the already overburdened and deficit-ridden Federal Treasury. And this is sought to be accomplished in full knowledge of the fact that 47 State legislatures have refused to enact matching legislation.

Secretary of Labor W. Willard Wirtz, in his testimony before the Senate Labor and Public Welfare Committee commented:

"Lack of action by the States does not mean lack of interest. Instead, we have had urgent messages from many State employment service directors expressing their deep concern and earnest hope that these programs can be continued and accelerated."

Again I invite the attention of the Senator from Pennsylvania to the fact that other requests, in this expression of urgency, have come from those from whom we would expect them to come—namely, the State employment service director.

It is significant that while Secretary Wirtz may have received many messages from State employment service directors urging continuing of the Manpower Development and Training Act, he apparently did not receive a single communication from a State legislature pleading for the passage of this bill.

I do not mean that it did not come or that it does not exist. It was not indicated that it did. If it did, I am not aware of it.

Mr. CLARK. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am glad to yield.

Mr. CLARK. I believe the Senator from Arizona is quite correct when he says there have been no urgings from the State legislators. I believe one can almost conclude that the State legislatures are rather disinterested in this program. For that, there could be two reasons: First, because the program did not really get underway until this spring; and therefore, the impact within the States is relatively small. In the State of Arizona only three projects, with a relatively small number of trainees, are underway However, I call the attention of the Senator from Arizona to page 186 of the hearings, where there appears a letter addressed to me by J. R. Cullison, director, vocational education, Phoenix, Ariz. My staff tells me that he is the State director of vocational education. In the letter he says:

"It appears that no State funds will be available to match Manpower Development and Training Act beginning July 1, 1964. The approval of S. 1716 is urgent."

It is probably true that a State director of vocational education has a certain vested interest in a program of this sort; so perhaps we should take his letter with a grain of salt, before giving his urgent recommendation our 100-percent backing. But I do think it is an indication that the man who is responsible at the administrative level for the vocational educational program in the State of Arizona believes the enactment of this bill is urgent. To me, that is fairly good evidence that we have, on the one hand, a program—which is just getting off the ground—with which he is familiar; furthermore, the fact that it has not gotten very far off the ground is one reason why members of the State legislatures are not particularly interested in it.

As I said earlier, in colloquy with the distinguished Senator from Georgia [Mr. RUSSELL], all of us know, I believe, the very heavy financial obligations of the States and their limited tax resources. I think those considerations, when taken together, explain why there has not been a great upsurging of support from either the State legislatures or the Governors. One may conclude from that—as my good friend the Senator from Arizona does—that we should drop the program because there is not any real urging behind it. But I would draw a different conclusion. I should say that there is an enormous amount to be gained by continuing the program, now running at the rate of 108,000 trainees a year, inasmuch as we have had the successful experience with the first 60,000 of the trainees of placing 70 percent of them in jobs because we have given them employable skills.

This decision must necessarily be a matter of judgment; but I respectfully disagree with the conclusions which the distinguished Senator from Arizona has drawn from the fact he has stated—which is correct—namely, that there has been no great urging from either the State legislatures or Governors for this proposed legislation.

Mr. GOLDWATER. I may say to the distinguished Senator from Pennsylvania, who has so well presented his arguments, that we always receive such notes of urgency from the State directors of programs financed in whole or in part by the Federal Government. Each year, I am urged by my good friend in Arizona, the head of the vocational training program, in which I have much faith and confidence, to build and build and build. But I do think it is unusual that at some point in the testimony there was not submitted an argument which presented the position of a State legislature or of a Governor. I would not take this position, except for the fact that 47 States have failed to act. If only a few States had failed to act—as in connection with the Kerr-Mills Act, which 32 States have taken advantage of—one would be justified in concluding that, for various

reasons, the other States had felt it wise to take advantage of the program.

Mr. Cullison, the Arizona State director, is a very capable man. With my limited knowledge of the field, I dare say probably he is one of the most capable fieldmen in the entire program. I think he probably would be influenced—as he should be for other purposes—by the map contained in the hearings; and I speak now only for my own State of Arizona and also from a rather intimate knowledge of the States directly to the east, to the west, and to the north. When I consider the rate of functional illiteracy, I find that 30 percent or more is entirely in the Navaho and the Apache Indian Reservations, where I doubt that an understanding of the English language is possessed by more than 10 to 15 percent of the people. They are very fine workers when they learn English and move off the reservations to places where they can employ their skills. When I consider the 20 percent or more in my State—represented, in large part, by those on the Navaho and the Apache Reservations; in fact, I may say that all of the shaded areas on the map are either very thinly populated or are populated by Indian tribes, most of whom—with the exception of those who live around the major cities—have not yet learned to speak English—I realize that that would constitute a convincing argument, if I considered only the map. But from my knowledge of New Mexico, I am sure that State also has—with one or two minor exceptions—the same problem, which fundamentally is an educational problem, which I may say we are dealing with.

After too many years of inattention in these fields, the Federal Government now has a highly commendable program of education on the large reservations which contain large populations. The rate of illiteracy will disappear almost entirely within the next 10 to 15 years. But when we discuss functional illiteracy I comment as I have done because it might appear that my State was in bad shape, when the truth is that the map reflects areas in which we could not expect to find any functional illiteracy.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. CLARK. I agree with what the Senator from Arizona has said about his own State. He knows far more about it than I could ever hope to know. I point out that the question of functional illiteracy is not involved in the pending measure. It has to do with matters that will be discussed when the bill S. 1831, comes to the Senate for action.

Mr. GOLDWATER. I thank the Senator from Pennsylvania for calling attention to that point. I thought I had the report on the other bill. But it is interesting anyway.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. RANDOLPH. The Senator from Arizona appropriately asked the attitude of the Governor of States in which no action had been taken. This afternoon I talked with the Governors of States in which no action had been He authorized me to say to the Senate that the program in West Virginia is important, and that men and women who are unemployed are now being trained under the program. The skills of those people will be channeled into productive work in the State of West Virginia, and, in some instances, West Virginians will work in other States.

I have the conviction that if Senators were able to talk with their Governors, 90 percent, or even more, of the Governors of the 50 States would enthusiastically endorse the program as it is now moving forward, and would ask that no curtailment or impairment of the program come from the Senate.

Mr. GOLDWATER. I thank the Senator from West Virginia for those remarks. I recognize that the problem which exists in his State is probably one of the most pressing and vital in the entire Nation. Many times I have said that in a State like West Virginia training and education is the only answer. While I believe more coal is being mined in West Virginia than was ever mined before, it is being done with about 30 percent of the people who were formerly employed in the occupation of mining. That situation gets to the very heart of the problem.

I wish that the committee had thought of those things before the report was written. I wish that Senators had consulted Governors and legislators to find out what their feeling is. When a program has been in progress and only three States have participated in it, some of those not participating being very conspicuous by their absence, I say that we are confronted with quite a mystery.

To continue briefly, since it is the legislature of the State and not the State employment service director which has the authority to appropriate State moneys, we believe that it is advisable for the Senate to give heed to what 47 State legislatures have refused to do, for whatever reasons, and therefore we urge the Senate to reject this legislation.

The administration's pressing entreaties for the passage of this proposal in the light of large-scale State inactivity stands in sharp contrast to its foot-dragging and general apathy to the implementation of the medical assistance for the aged program, the so-called Kerr-Mills Act, which too requires State matching.

It is common knowledge that the present administration, in its attempts to couple a medical assistance program for the aged to the social security system, has thrown up every roadblock at its command to hobble and shackle the Kerr-Mills Act. So far these attempts to scuttle the act have been unsuccessful as the record will indicate.

As of July 25, 1963, 32 States and territories have programs in effect for receipt of funds under Kerr-Mills; 12 have plans submitted, drafted, or in some other stage of implementation; and only 10 States need legislation. Compared to the nationwide disinterest exhibited by the States to the Manpower Development Training Act, the Kerr-Mills program can be viewed as a rousing success.

It is our belief that any program, such as the Manpower Development Training Act, which has the unqualified and enthusiastic endorsement of the administration, should stand or fall on its own merits without extraordinary inducements being offered in its behalf in order to keep it functioning.

In closing, I come to one of the chief fears of those who oppose the measure; namely, that it is not merely an extension of the program for 1 year with full participation by the Federal Government. If the Senate passes the bill, as sure as we are gathered here this Wednesday afternoon, the program will become another permanent program of the Federal Government. It will be another effort by the Federal Government to convince the States that the Federal Government can do these things better than the States can. As the proponents of the bill well know, the opponents of the bill do not lend themselves to Federal action unless it becomes absolutely necessary. Since 47 State legislatures have shown that they do not feel such Federal action is necessary, we who oppose the measure feel that the States can best do the job, or at least they should be given the opportunity to do it.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. CARLSON. Kansas is one of the States of the Union in which the legislature acted last January. Funds were made available as of January 1, 1964.

I should like to refer to the last statement by the Senator from Arizona. Looking to the future, there is grave danger that we will not require matching funds by States.

I believe I can speak rather frankly on the question, because our State has already made plans to match funds. But I am concerned that if the Senate passes the proposed legislation today, all that will be done will be to add 1 more year to the program. Next year we shall come back and attempt to do the same thing. I agree with the Senator from Arizona that that is the danger in the program. It is not the fact that there is a program with State matching funds. Our State has now voted matching funds, so I can speak frankly about the program. It is a good program. I have talked with people in my State about it. They are not complaining about the program. But I dislike voting for a program with the feeling that all we are doing is building a new Federal training program which I think should be taken care of through other programs, including vocational training and others.

I thank the Senator from Arizona.

Mr. GOLDWATER. I thank the Senator from Kansas.

Mr. PROUTY. Mr. President, I move that the bill, S. 1716, be recommitted to the Committee on Labor and Public Welfare with instructions to that committee to report the bill to the Senate not later than 1 week after the filing of a conference report on H.R. 5888, the Health, Education, and Labor Appropriations bill for fiscal 1964; or not later than 1 week after the Senate Committee on Labor and Public Welfare has reported to the Senate a Vocational Education bill, whichever shall last occur.

Mr. President, on the motion, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, I shall be very brief. At the outset, let me say that I have no intention of sabotaging the manpower retraining development program. However, I feel that we should look at this subject in a little deeper perspective than that in which it has been viewed up to now. The Committee on Labor and Public Welfare, through its subcommittee, held two committee meetings. Five witnesses appeared before the subcommittee. Three of them were administration witnesses, and the other two witnesses were persons who generally are sympathetic to this program.

Very few Senators, perhaps, realize the amount of money that is involved in the program. But I believe we should remember, too, that there are other bills before the Committee on Labor and Public Welfare dealing with this subject. That committee has voted to report another bill, which would add $100 million to this program for the current fiscal year, and $100 million for fiscal 1965.

The Senate has already approved an appropriation of $110 million. With the appropriation and authorizations which are being sought during the next 2-year period, that is, fiscal 1964 and 1965, $632 million will be available for the manpower program.

I have seen no evidence which suggests that this amount of money can be justified. As I have said, the subcommittee has spent very little time on the various bills which will be before it. In addition to requests for the manpower program, $100 million has been approved by the Senate for the Youth Employment Act, which is now in the House. The Senate has a bill before it at the present time for vocational education, starting with $108 million for fiscal 1964, and running up to $243 million in 1967.

I make my motion to recommit in the hope that the committee will combine the various vocational and educational training and manpower bills in order that we can determine how much money can judiciously be spent. Under the requests for the manpower development and retraining program, and appropriations already made, and the au-

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thorizations requested, we can spend up to $632 million during the next 2 years.

At the present time only 22,142 persons have enrolled in the program. If my motion is defeated, it will be my purpose to offer a substitute amendment which will combine two bills, the one which the Senate is now considering, S. 1716, and S. 1831, which the Committee on Labor and Public Welfare has voted to report to the Senate.

In effect, I would reduce the funds, but certainly would not cripple the program in any way. I feel that the proper approach at this time is to return the bill to committee, in order that the committee may consider all bills of a similar nature and make as certain as it can that there is no duplication of effort, which I am sure will be the case if the various bills which are before us, some of which have been approved and some of which have not been approved, become effective, in the interest of sound fiscal policy and with a sincere desire to make certain that an education and retraining program will be put into effect and will be effective, and also will be as reasonable in cost as can possibly be anticipated. That is the only reason I have submitted my proposal at this time to recommit the bill to the Committee on Labor and Public Welfare.

It will be noted that my proposal does not suggest that the committee should reduce the bill in any way. My purpose is to have all the bills brought before the committee, so that it can take sufficient time to study them and understand what they provide, and what is needed, and to invite experts from the agencies to tell us what the facts are. We have not had them; we could not possibly have obtained them during the two very brief hearings that were held.

In the interest of sound fiscal policy, and because I sincerely believe that a workable program can be effectuated for much less money than is proposed at this time, I hope the Senate will feel it proper to sustain the motion to recommit.

Mr. CLARK. Mr. President, first, the hearings, a copy of which is on the desk of every Senator, occupy 214 pages, most of them in small print. The hearings on this particular bill are a part of comprehensive hearings on the entire subject of manpower and employment, which has been before the subcommittee ever since the early days of the year. Much of the other testimony has a bearing on the pending bill in an overall, general sense.

The background and need for the bill have been as fully explored in the subcommittee as has any other piece of legislation with which I have had anything to do since coming to the Senate. The fact that only 5 witnesses testified with respect to this small bill of 11 lines is no indication that the very voluminous statements and the other testimony which have been adduced with respect to other phases of the whole unemployment subject have not been carefully considered by the committee. The two key witnesses were the Secretary of Labor and the Commissioner of Education, who should be well advised on the need for the proposed legislation.

Second, the subcommittee, of which the distinguished Senator from Vermont is a member, unanimously reported the bill to the full committee. To be sure, the Senator from Vermont reserved his right to submit amendments, and also reserved all his rights on the floor of the Senate.

I say without qualification that, as chairman of the subcommittee, during our hearings on the whole unemployment question, from the early days of this year forward, we have investigated the possibility of overlapping or duplication in various Federal-State programs. I think it is fair to say that there is no such duplication. In my opinion, the programs are inadequate in size. All of them are needed. I hope this one will be a part of the overall package.

The Committee on Labor and Public Welfare reported the bill to the Senate by a vote of 13 to 2. It is a part of the President's civil rights program—the first part to come before the Senate for action.

I believe the necessity for the proposed legislation has been established on the floor of the Senate this afternoon. I hope the motion to recommit will be rejected.

Mr. RANDOLPH. Mr. President, we must not operate under the misconception that there was a failure adequately to consider this proposal in the subcommittee. More than 40 persons either testified directly or filed statements with the subcommittee. I should like to have that statement clearly understood. I am sure the distinguished Senator from Vermont would not disagree with it.

Mr. PROUTY. I agree with the Senator. The statements were filed; but they are in small print, which is very difficult for anyone to read.

I am sure the Senator from West Virginia will agree that the subcommittee held only 2 days of hearings on the bill, and that only five witnesses appeared before the subcommittee. Am I not correct?

Mr. RANDOLPH. The Senator is correct. I said that some 35 statements were filed; and five witnesses appeared in person, making 40 or more witnesses, as I have indicated.

Mr. PROUTY. In addition to reporting the Senator's bill, the committee also voted to report another bill, one which involves $200 million for the present fiscal year and fiscal year 1965.

Mr. RANDOLPH. That is correct.

Mr. PROUTY. The Senate is not acting on that bill today; but it is a part of the package of the entire program.

Mr. COOPER. Mr. President, I shall vote against the motion to recommit, and I should like to express my reasons for so doing.

I believe it is rather unusual that, with the exception of four States, the State legislatures which met in session in 1963 did not take any action on the program, and did not provide matching funds. Also, I would have been glad to have heard more testimony and received more information about the effectiveness of the program, including the number of projects which have been started in the States and the placing of trainees at work.

My reasons for voting against the motion to recommit can be quickly stated. Perhaps a few of the States do not have the necessary funds, though that is doubtful. My judgment is that legislatures of the various States did not appropriate funds because they consider the problem of unemployment a national problem. I believe it is, too.

The reason that people are more fully employed in one State may result from special conditions. For example, the great defense industries in some States of the Union provide the people of those States full employment. But those industries are supported by the taxpayers of the United States through massive defense expenditures.

Similarly, unemployment exists in other States for reasons which are beyond the control of those States. These reasons include the great technological improvements which have closed industry and reduced employment. Perhaps the failure of the Congress to enact tax programs has also had its effect upon employment. I will admit to my leader that there is merit in what he has said about the fiscal program of the administration which has failed to move the economy. Continued deficits do have an adverse effect upon investment and unemployment.

Unemployment is not purely a local or a State problem. It is affected by great national movements and by circumstances which are beyond the control of State governments. I believe that the question of unemployment and its future impact is the most serious of the domestic problems which affect our country today.

It is argued in the Senate and by some who write to me that private enterprise can handle unemployment. But private enterprise is not handling this problem in the main, and the fact is that people are still out of work. The training program is probably the most sensible program we have to fit young and even older people for some productive employment.

I really do not see what would be accomplished by recommitting the bill. It will be reported to the Senate again, and we shall vote on the issue again, unless in some way it becomes involved in the question of civil rights. Then it might not be voted upon at all.

Because I believe the problem of unemployment is the greatest domestic problem that will be facing our country, and because it is a national problem and not a State problem, I think that we must provide for this training program to continue even if the Federal Government is to pay for it.

The program is underway. Funds needed have not been provided. It will not be possible to provide them the third year unless the Congress looks ahead and faces this problem.

For these reasons, I intend to vote against the motion to recommit.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. PROUTY. I think perhaps the Senator is not aware that my motion to recommit is not merely a straight recommittal motion. The committee would be directed to report after the conferees on the appropriation bill for the Department of Health, Education, and Welfare, relating to this program, made their report, or after the Committee on Labor and Public Welfare reported the vocational education bill.

The purpose of this procedure is to mesh all the various bills for vocational education, for retraining, and so forth into a package, if possible, so that Senators may know what they are voting for, and can provide adequate money, and not a nickel more.

If the motion should lose, I shall offer a substitute which would provide about $432 million for the training program during the present fiscal year and fiscal year 1965.

This motion is not directed as a blow against the retraining program, in which I believe. We have been asked to provide much more money than can possibly be spent efficiently or effectively. I think no Senator can justify throwing money away when it cannot be efficiently or effectively used. That is my interest in the proposal at the present time.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Vermont [Mr. PROUTY] to recommit the bill to the Committee on Labor and Public Welfare, with instructions.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

[No. 150 Leg.]

NAYS—44

Allott, Boggs, Carlson, Curtis, Dirksen, Dominick, Ellender, Goldwater, Hruska, Lausche, Morton, Pearson, Prouty, Robertson, Russell, Smith, Stennis, Thurmond, and Williams, Del.

YEAS—18

Bayh, Bartlett, Beall, Bible, Brewster, Byrd, W. Va., Cannon, Case, Church, Clark, Cooper, Dodd, Douglas, Gore, and Gruening.

Hart, Hill, Holland, Humphrey, Inouye, Javits, Johnston, Keating, Kennedy, Magnuson, Mansfield, McCarthy, McGovern, McIntyre, and Metcalf.

Monroney, Morse, Muskie, Nelson, Pastore, Pell, Proxmire, Randolph, Symington, Talmadge, Waters, Williams, N.J., Yarborough, and Young, Ohio.

NOT VOTING—37

Aiken, Anderson, Bennett, Burdick, Byrd, Va., Cotton, Eastland, Edmondson, Engle, Ervin, Fong, Fulbright, and Hartke.

Hayden, Hickenlooper, Jackson, Jordan, N.C., Jordan, Idaho, Kuchel, Long, Mo., Long, La., McClellan, McGee, McNamara, Mechem, and Miller.

Moss, Mundt, Neuberger, Ribicoff, Saltonstall, Scott, Simpson, Smathers, Sparkman, Tower, and Young, N. Dak.

So Mr. PROUTY's motion to recommit with instructions was rejected.

Mr. HART. Mr. President, it seems to me entirely appropriate that the Federal Government should extend for another year its 100-percent underwriting of the manpower development and training program.

The matching requirement was originally delayed for 2 years in order that the program might be gotten underway and its usefulness demonstrated to the States.

This has taken longer than anticipated. In many instances vocational education programs were not geared to undertake this kind of retraining program. Often the machinery had to be built from the ground up.

Also, these retraining programs have had to be initiated against the statutory requirement that there be an expectation of jobs for the trainees on their completion of a retraining course.

This has meant that the retraining program has not only been running a race again the abolition of semiskilled and unskilled jobs by automation, but it has also been faced with the fact of continuing unemployment among skilled persons. Happily this latter situation has improved over the last 2 years.

We in Michigan are ironing the bugs out of this program. The fact that 80 percent of those who have completed retraining courses have been employed is evidence that this program can prove of real value in Michigan if given a chance.

But it is clear that we do need additional time. Until the effectiveness of this program can be proven without a doubt in Michigan and across the country, we cannot ask the individual States, most of which have continuing fiscal problems and are burdened with the increasing costs of existing education programs, to appropriate funds for manpower retraining.

I believe it is equally clear that we cannot afford to let manpower retraining be stillborn because of the premature withdrawal of full Federal support.

Just as the fact of unemployment is a national problem, so too are the roots of unemployment national problems.

Because of the high mobility of Americans, the lack of educational and training opportunities in one State may well become the unemployment problem of another State. Michigan knows that unemployment in Detroit is the product not only of automation and the decentralization of the auto industry, but equally of the limited educational opportunities of many of our citizens who have moved to Michigan from other States in the last 25 years.

It is significant that the bill before us today is the result of a recommendation by the President in his civil rights message of June 19. It is significant because it means recognition of the vicious and perpetuating circle formed by discrimination, lack of education and training, unemployment, and economic deprivation.

Certainly manpower retraining is only a partial answer—but we cannot let even partial answers go unfulfilled.

Therefore, Mr. President, I believe it is imperative that we approve the bill before us and give the manpower development and training program this extra impetus to become the effective weapon against unemployment which I believe it can become.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1716) was passed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(d) of the Manpower Development and Training Act of 1962, as amended, is amended by striking out "1964" and inserting in lieu thereof "1965".

(b) The third sentence of section 231 of such Act is amended by striking out "1964" and inserting in lieu thereof "1965".

SEC. 2. Subsection (b) of section 304 of such Act is amended by striking out the words "a like amount" and inserting in lieu thereof "$322,000,000".

[88th Cong., 1st sess., S. Rept. No. 480]

AMENDING THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

September 4, 1963.—Ordered to be printed.

Mr. CLARK, from the Committee on Labor and Public Welfare, submitted the following report together with minority views.

[To accompany S. 1831]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 1831) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

PURPOSE OF THE BILL

In his message to the Congress on June 19, President Kennedy made certain recommendations "designed to improve the training skills, and economic opportunities of the economically distressed and discontented, white and Negro alike." Included in these recommendations were amendments to the Manpower Development and Training Act "not only to increase the authorization ceiling and to postpone the effective date of State matching requirements, but also (in keeping with the recommendations of the President's Committee on Youth Employment) to lower the age for training allowances from 19 to 16, to allocate funds for literacy training, and to permit the payment of a higher proportion of the program's training allowances to out-of-school youths, with provisions to assure that no one drops out of school to take advantsge of this program."

S. 1831 incorporates each of these proposals: [1] (1) It provides for training in reading, writing, and arithmetic, as well as manual training in the use of tools, for those of the unemployed who are unable to take occupational training courses because they lack these skills; (2) it provides for the expansion of the youth training program by lowering the age limit for youth training allowances from 19 to 16; and (3) it would increase the percentage of funds available for the youth training program from 5 percent of the estimated total training allowances to 15 percent.

EXPLANATION OF THE BILL

A. Pertaining basic education course

Section 1 of the bill provides for the establishment of training courses in functional literacy and basic work skills for the benefit of those persons who would otherwise be unable to take part in an occupational training program under the act. The term "functional illiteracy" means inability to read or to understand elementary written materials, instructions, or messages (such as help wanted ads), or inability to do elementary grade problems in arithmetic, or inability to write. In standard technical usage, the term "functional literacy" refers to educational attainments equivalent to less than 5 years of schooling. The term: "basic work skills" includes knowledge and familiarity with handtools and techniques which are common to a whole range of occupations.

Training under this provision of the bill will be provided by appropriate State education agencies and will include whatever instruction in the basic subjects of reading, writing, and arithmetic may be necessary to prepare an unemployed illiterate or semiliterate to qualify for direct occupational training available under the act. In addition to these elementary verbal and mathematical studies, the basic pretaining course contemplated by the bill can include manual training. This covers instruction in the use and application of handtools in such trades as woodworking, metalworking, and welding. The basic work skill courses can be joined with those in elementary verbal and arithmetical skills to make it possible for the trainees to continue training in a suitable occupational course.

These basic literacy and work skills are essential even to man a gas pump. A service station attendant must be able to fill out a credit card receipt and add up the charges.

It is expected that most of the candidates for the pretraining courses offered under the bill will be selected from among persons who have been rejected from the Manpower Development and Training Act program because of inadequate educational attainment. These persons, by and large, constitute the immovable hard core of the unemployed who, but for their inability to "read, write, or figure" might otherwise be eligible for training programs which would prepare them for useful employment. Rejections under the Manpower Development and Training Act are presently running as high as 8 to 1, with only a small percentage of the illiterate unemployed making the attempt to qualify for the Manpower Development and Training Act training. Candidates may also be drawn directly from the ranks of the illiterate or semiliterate in search of work if they demonstrate the required aptitude for regular training. Under normal circumstances, however, candidates who have completed more than eight grades of schooling would not ordinarily be eligible for enrollment in the pretraining courses with the possible exception of those special cases in which the comprehension level is well below what might be expected of the individual on the basis of his having completed eight grades of school.

The bill authorizes the payment of training allowances to trainees in these special courses on the same terms as now provided by the act to regular trainees. These payments are limited to unemployed persons who have had not less than 3 years experience in gainful employment and who are either heads of families or heads of households as provided in section 203(c) of the act. The bill authorizes a maximum period not to exceed 52 weeks for literacy training. This would be in addition to the regular 52-week period available under the present Manpower Development and Training Act occupational training program.

B. Lower age limit and increase in proportion of training allowances in youth training program

Section 2 of the bill provides for an urgently needed expansion of the Manpower Development and Training Act training provisions for out-of-school and out-of-work youngsters. It does this by dropping the age limit on youth training allowances from 19 to 16 and by tripling the proportion of these allowances from 5 to 15 percent of the total funds available for allowance purposes. The bill contains provisions to dissuade youngsters from dropping out of school in order to enroll in the program. It provides that no training allowance shall be paid to any

[1] Other than the proposal to postpone the effective date of State matching requirements which was incorporated in S. 1716, reported to the Senate on Aug. 23, 1963 (Rept. No. 458).

young person under 19 years of age who has not been graduated from high school unless the Secretary of Labor has satisfied himself that he has been out of school for at least 3 months during the regular school session and that all efforts to induce him to resume have failed. This screening process will include careful testing and counseling as well as close cooperation with the appropriate school or other local authorities to redirect the youngster in the most effective way possible.

The bill authorizes the appropriation of $100 million to be divided equally between the basic literacy and the expanded youth training programs for the current fiscal year and a like amount for the fiscal year ending June 30, 1965.

It is estimated that the 46,000 additional youths can be training during the current year under the provisions of the bill. It is also estimated that 50,000 of the severely disadvantaged adults can be given basic literacy and work-skill training during the same period.

NEED FOR THE BILL

Despite the success of the Manpower Development and Training Act program during its first 12 months of operation, it has become increasingly apparent that there are two glaring deficiencies in the program: (1) The failure to include the illiterate and the semiliterate, (2) the exclusion of the out-of-school and out-of-work youngster within the 16- to 18-year age bracket.

The first group represents the hard core of the unemployed of today. The second represents the hard-core unemployed of tomorrow. Together they constitute the forgotten one-quarter of the unemployed, numbering more than 1 million of present and future public charges. Under the Manpower Development and Training Act program as presently constituted, the men and the women in these groups cannot be trained for useful employment either because they cannot read or write adequately, if at all, or because, as a practical matter, they fall just below the age group reached by the Manpower Development and Training Act. Without occupational training they cannot find work.

The bulk of these people have the capacity to be helped and to help themselves onto the track of useful employment. The President's proposals, which have been incorporated into the bill, provide the means by which this can be done.

A. Basic literacy and basic work skills

There are 3 million in the labor force today who are severely handicapped by their inability to read and to write. These are the illiterate and the semiliterate, and few if any are equipped to find jobs in our rapidly changing economy.

More than 800,000 of them are counted among the unemployed. Of these a disproportionately high percentage are nonwhite. Most cannot be trained either because they cannot read or write at all or because their command of the three "R's" is so limited that they cannot follow instructions in the simplest occupations. Some have tried to enroll in the Manpower Development and Training Act training courses, but inevitably they have been screened out for failure to reach this threshold of educational attainment. Others, recognizing the hopelessness of their condition at this time, have not even made the attempt.

In the service-oriented economy of today, even the unskilled jobs require some ability to read, write, and compute. The jobs in the factories, stockyards, goods-producing industries, mines, and farms for which the illiterate and semiliterate in past years could qualify are no longer available. The great shift which has taken place toward the service industries has dispossessed this group and has left them stranded without the means or the capacity to adjust to the requirements of midcentury employment which might otherwise be available to them were it not for their literacy handicap.

They cannot qualify for training even in basic unskilled categories. Their lack of an acceptable comprehension level bars them from consideration as cooks, waiters, gas station attendants, chambermaids, hospital orderlies or practical nurses, to name but a few. One must know how to read, write, compute, and measure to take instruction in any of these occupations. This simple fact explains the plight of hundreds of thousands of severely disadvantaged unemployed today. This is why they have come to be known as the hard core unemployed.

The Manpower Development and Training Act cannot begin to chip away at this core and to rehabilitate this huge segment of the unemployed unless provision is made to bring these men and women to at least the minimal literacy level required for occupational training and employment in today's market. For them literacy training is truly vocational training. Without it they remain helpless.

The desperate conditions of the illiterate and semiliterate jobseeker is development by the Manpower Development and Training Act record. Twenty percent of all of the unemployed have less than 8 years of schooling. Yet less than 3 percent of the first 19,000 of the Manpower Development and Training Act trainees were in this group. Of Negro trainees in the manpower program, only 5 percent had completed no more than the eighth grade of school, although 44 percent of the Negro unemployed have not progressed past the eighth grade.

Of course, grade school attainment is not an accurate measure of the literacy capacity of a member of the unemployed. A study of welfare recipients in a Negro section in the south side of Chicago demonstrated that while 6½ percent of those on public assistance lacked 5 years of education, more than one-half of the group were functioning at comprehension levels below the sixth grade, the cutoff point which itself is below the minimum for participation in the complex economy of today. Thus, it is generally recognized that grade school attainment is at best only a rough and inexact measure of the literacy level needed for occupational training.

The manpower program, as it is now written, is geared to the selection of candidates who are most likely to succeed, and conversely is calculated to exclude from training those who most desperately need it. The aptitudes among the thousands of illiterates and semiliterates who have been excluded may be as high or higher than those of the more fortunate literate selectee. Those in the excluded group can be taught the three "R's" within 1 year (perhaps in as little as 4 to 6 months time according to the Commissioner of Education, Francis Keppel) and once taught, they can be trained and employed in occupations for which the Manpower Development and Training Act prepares them. The cost of salvaging the disadvantaged in the labor force is estimated at $2,000 per individual, one-half of which would be used for the literacy pretraining programs provided for in S. 1831 and the remaining half for occupational training under the Manpower Development and Training Act. Without this opportunity these people are doomed to jobless lives dependent upon public assistance, condemned to a life of poverty and social uselessness. Compared to the social costs of public assistance, the committee feels that the cost for redirecting this group into socially useful occupations is an investment we cannot afford not to make.

This point was emphasized by Raymond M. Hilliard, director of the Cook County Department of Public Aid in Illinois, in his description of a recent graduation ceremony marking the completion of the Cook County literacy course by 211 adults. In his statement to the committee he said:

"I wish that you could have been with me to see 25 men go off relief in a body at a graduation exercise of a class where they had learned to become Yellow Taxi drivers; 266 former recipients have now received this training, and 215 are currently employed. Many of these men were able to qualify because they had been taught to read and to write in our basic literacy classes, and, as a result, they could make out trip sheets, write receipts and reports, and read street signs."

The $50 million appropriation which the bill proposes for the basic literacy program would provide for 50,000 in this group.

B. Expansion of youth training provisions

The proposal to include the 16- to 18-year-old group under the youth training provisions of the Manpower Act has already been considered and approved by the Senate. In August 1961 it passed S. 1991 which eventually became the Manpower Development and Training Act of 1962. S. 1991 authorized the Secretary of Labor to pay training allowances to youths over 16 but under 22 whenever he found that such allowances were "necessary to provide occupational training." In the conference on the House and Senate bills in March of the following year, however, it was agreed to eliminate the 16–18 group from the youth training allowance program, thereby restricting the program, as a practical matter, to young men and women within the 19–21 age range.

The President's Committee on Youth Employment concluded in its report of April 1963 that the exclusion of these out-of-school and out-of-work youngsters from the Manpower Development and Training Act was a serious mistake and urged congressional reconsideration of this decision. The President, in his message of June 1963, followed these recommendations and proposed lowering the age limit for training allowances to 16, as provided for in this bill.

The experience during the first year under the Manpower Development and Training Act has demonstrated that these unemployed youngsters cannot be ignored. During the first 6 months of 1963, there was an average of 720,000 within this age group out of school and out of work, who were steadily moving in the direction of crime, delinquency, and hard-core unemployment. This figure climbed to 1,156,000 in May of this year, representing the biggest figure ever recorded since the Bureau of Labor Statistics began recording this data in 1949. One out of five of these youngsters is nonwhite.

There are additional tens of thousands of youngsters who, although out of school and out of work, are not seekng employment and are, for one reason or another, excluded from the official unemployment statistics.

Dropouts leave school for many reasons not necessarily related to their intellectual capacity or potential. Their reasons are rooted in the poverty, discrimination, and social chaos in which they have been reared. Their motivation has been corroded by a hostile society. Sometimes, their leaving school may reflect inadequacies of the educational system, directed too much toward teaching college and other aptitudes which have little direct relationship to the lives they themselves will lead.

Thirty-six million youngsters will enter the work force in the 1960's. Among these will be 7½ million dropouts, at least one-half of whom will be 16. Between now and the end of 1965 there will be 5½ million new entrants into the working force, and of these 2 million will be dropouts.

In the past year, there were 1,200,000 new entrants into the work force competing for only 800,000 new jobs.

Under the Manpower Act these youngsters may enroll in youth training courses, but they are not eligible to receive training allowances. These allowances are fixed at one-half of the unemployment compensation in the State in which the program is given (averaging approximately $17 per week). Exclusion of the 16–18-year-old group from the training allowance program has had the practical effect of removing them from the training program. Of the first 19,000 trainees enrolled under the act, only 4 percent were under 19 years of age, yet nearly 16 percent of all of the unemployed are in the 16–18 bracket, and most are dropouts.

These youngsters are generally severely disadvantaged with inadequate housing and minimal financial resources. Under these circumstances they have little comprehension of the need to continue their education.

Without the youth training allowances these youngsters lack both the means and the motivation to participate in a youth training program. In most cases their families cannot supply even the minimum sum which would be essential for clothing, carfare, and food. The small training allowances which the bill would make available to them should be sufficient to provide them with a reasonable opportunity to equip themselves for a useful adult life through the Manpower Development and Training Act training.

The same facts have demonstrated the urgent need for increasing the overall size of the youth training program from its present level of 5 percent to a more reasonable level of 15 percent of the total funds available for allowances generally. The alarming trends both with respect to the rate and the size of youth unemployment have been described above. Expansion of the size of the youth training program as proposed by the bill is required not only to provide training for the newly covered young men and women within the 16–18 group but also to provide a realistic training opportunity for the youngsters already covered. The reduction of the age limit to 16 and the increase in the proportion of funds available for training will make it possible to reach the tens of thousands of additional youngsters each year who desperately need guidance and training.

The bill recognizes the necessity for developing safeguards to insure that no 16- or 17-year-old youngsters will attempt to drop out of school to enroll in one of these programs.

It has been said that it would be penny wise and pound foolish to train thousands of older workers under the Manpower Development and Training Act and at the same time to allow thousands of young dropouts to become the unemployed and untrained of tomorrow. Unless the programs proposed by the bill are adopted, the future of these youngsters will be bleak and barren. The bill provides the means by which they can be returned to a training progam designed to fit their special situation.

The bill provides for an authorization of $50 million for the expanded youth training program which will make it possible to train an additional 46,000 youngsters for the fiscal year ending June 1964 and a similar amount for the year ending June 1965.

SECTIONAL ANALYSIS

Section 1 of the bill, as reported by the committee, would add a new subsection (h) of section 202 of the Manpower Development and Training Act of 1962, providing for the establishment of functional literacy and basic work skill training programs for eligible persons who thereby will be able to pursue courses of occupational training. Referrals under the new subsection (h) would be considered referrals for training within the meaning of the Manpower Development and Training Act with the following two exceptions: (1) The condition that there must be "a reasonable expectation of employment in the occupation for which the person is to be trained" specified in subsection 202(d) would not apply, and (2) trainees will be eligible for 52 weeks of basic literacy training allowances in addition to the 52 weeks which would be available to them under the present Manpower Development and Training Act occupational training program.

Section 2 of the bill would amend subsection (c) of section 203 of the Manpower Development and Training Act by striking out the word "nineteen" and inserting in lieu thereof the word "sixteen", thereby lowering the age limit for youth training allowances from its present level of 19 to 16. It would strike out the words "5 percent" in the same subsection and would insert in lieu thereof the words "15 percent", thereby raising the ceiling on youth training allowances from its present level of 5 percent of the total funds available for allowances to 15 percent. It also provides that no training allowance shall be paid to any individual under the age of 19 who has not been graduated from high school unless the Secretary of Labor is satisfied that the individual has been out of school for a period of not less than 3 months during the regular school session and that all procedures to induce the individual to return to school have failed.

Section 3 would expand the Secretary of Health, Education, and Welfare's authority under section 231 in order to enable him to enter into arrangements with appropriate education agencies to provide basic literacy and basic work skill training.

Section 4 would strike the word "vocational" from section 302 of the act and section 5 would make the same change in section 305(b) of the act in order to conform these provisions with the new section 202(h) providing for basic literacy training.

Section 6 would add a new subsection (e) to section 304, authorizing an appropriation of $100 million for the fiscal year ending June 30, 1964, and a like sum for the year ending June 30, 1965, for the purpose of carrying out title II of the Manpower Development and Training Act of 1962, of which the programs proposed by the bill are a part.

DEPARTMENTAL REPORT

EXECUTIVE OFFICE
OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 5, 1963.

Hon. LISTER HILL,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for comments on S. 1831, a bill to amend the Manpower Development and Training Act of 1962, and similar bills, S. 1716, S. 1691, and S. 1725.

S. 1831 would amend the training provisions of the Manpower Development and Training Act in the following respects: (1) Training for functional literacy and basic work skills would be authorized under the act, and persons receiving such training would be eligible for up to an additional 52 weeks of training; (2) the minimum age limit for training allowances for youths would be lowered from 19 to 16; (3) the proportion of total training allowances for youths under 22 years of age would be increased from 5 to 15 percent; and (4) to assure that youths are not encouraged to drop out of school to benefit from the above provisions, no allowances would be paid to youths until 3 months after dropping out of school.

S. 1716 provides for two amendmenta to the Manpower Development and Training Act. First, it elliminates the State matching provision in the act. Secondly, it increases the maximum authorization for title II in fiscal 1965 from $161 to $322 million to finance the elimination of matching.

S. 1691 provides for improved provisions for training allowances to youths similar to those embodied in S. 1831 except that: (1) The maximum proportion of total training allowances which could be spent on youths would be increased to 20 percent rather than 15 percent in 1965 and the maximum number of youths to receive such training in 1964 would be 45,000; (2) a 6-month waiting period after leaving school would apply rather than 3 months; and (3) the authorization would be increased by $45 million in fiscal 1964 to finance such provision. As in S. 1831, this bill would also lower the minimum eligible age for training allowances to 16.

S. 1725 would also amend provisions of the act respecting training allowances for youths. The minimum age limit would be lowered to 18 rather than to 16 as in S. 1831, and the maximum proportion of such allowances to be used for training of youths would be increased to 20 percent, as in S. 1691, rather than to 15 percent, as in S. 1831.

Neither S. 1691 nor S. 1725 provide for literacy training as embodied in S. 1831.

As indicated in the President's message on civil rights to the Congress on June 19, 1963, improvements and expansion of the training provisions of the Manpower Development and Training Act is fully supported by this administration. This position was reiterated in the Secretary of Labor's testimony on S. 1831 and S. 1716 before your committee on July 16, 1963, when he fully endorsed enactment of these two bills. The Bureau of the Budget concurs fully with the Secretary's testimony. S. 1831, however, as introduced, does not include the increased authorization which had been requested for these purposes. We recommend that the committee amend the bill to provide these funds.

While the general nature of the amendments proposed in S. 1691 and S. 1725 are also along the lines supported by this administration, the specific changes proposed in each differ materially from those in S. 1831 or S. 1716. The latter two bills more accurately reflect the President's proposals in this area as outlined in his message to the Congress on civil rights, and, therefore, this administration would favor their enactment.

I am authorized to inform you that enactment of S. 1831 and S. 1716 would be in accord with the program of the President.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted as enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

(An act relating to manpower requirements, resources, development, and utilization, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

• • • • • •

TITLE II—TRAINING AND SKILL DEVELOPMENT PROGRAMS

PART A—DUTIES OF THE SECRETARY OF LABOR

• • • • • •

SELECTION OF TRAINEES

SEC. 202. • • •

(h) Whenever appropriate, the Secretary of Labor may also refer for the development of functional literacy and basic work skills those eligible persons who will thereby be able to pursue courses of occupational training, and such referrals shall be considered a referral for training within the meaning of

this Act, except that the provisions of subsection (d) of this section shall not apply to the selection of persons under this subsection, and such persons shall be eligible for an additional fifty-two weeks of training allowances.

TRAINING ALLOWANCES

SEC. 203. • • •

(c) The Secretary of Labor shall pay training allowances only to unemployed persons who have had not less than three years of experience in gainful employment and are either heads of families, or heads of households as defined in the Internal Revenue Code of 1954, except that he may pay training allowances at a rate not exceeding $20 a week to youths over [nineteen] *sixteen* but under twenty-two years of age where such allowances are necessary to provide them occupational training, but not more than [5 per centum] *15 per centum* of the estimated total training allowances paid annually under this section may be paid to such youths[,]: *Provided, That no training allowance shall be paid to any individual who is under 19 years of age and has not been graduated from high school unless the Secretary shall have satisfied himself that such individual has continuously failed to attend school classes for a period of not less than 3 months during the regular school session, and that all appropriate procedures (including guidance and counseling by appropriate local authorities) to induce such individual to resume school attendance have failed.*

• • • • • •

PART B—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

GENERAL RESPONSIBILITY

SEC. 231. The Secretary of Health, Education, and Welfare shall, pursuant to the provisions of this title, enter into agreements with States under which the appropriate State vocational education agencies will undertake to provide training needed to equip persons referred to the Secretary of Health, Education, and Welfare by the Secretary of Labor pursuant to section 202, for the occupations specified in the referrals, *except that with respect to referrals under subsection (h) of section 202 the Secretary of Health, Education, and Welfare may make arrangements for the provision of the training to be provided under such subsection (h) through other appropriate education agencies.* • • •

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TITLE III—MISCELLANEOUS

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MAINTENANCE OF STATE EFFORT

SEC. 302. No training program which is financed in whole or in part by the Federal Government under this Act shall be approved unless the Secretary of Labor, if the program is authorized under part A of title II, or the Secretary of Health, Education, and Welfare, if the program is authorized under part B of title II, satisfies himself that neither the State nor the locality in which the training is carried out has reduced or is reducing its own level of expenditures for [vocational] education and training, including program operation under provisions of the Smith-Hughes Vocational Education Act and titles I, II, and III of the Vocational Education Act of 1946, except for reductions unrelated to the provisions or purposes of this Act.

• • • • • •

APPROPRIATIONS AUTHORIZED

SEC. 304. • • •

(b) There are hereby authorized to be appropriated $97,000,000 for the fiscal year ending June 30, 1963, $161,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965, for the purpose of carrying out title II.

• • • • • •

(e) In addition to the amounts authorized by subsection (b), there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965, for the purpose of carrying out title II.

LIMITATIONS ON USE OF APPROPRIATED FUNDS

SEC. 305. • • •

(b) Any equipment and teaching aids purchased by a State or local [vocational] education agency with funds appropriated to carry out the provisions of part B shall become the property of the State.

• • • • • •

MINORITY REPORT ON S. 1831

We are opposed to the passage of this legislation.

Briefly, S. 1831, would amend the Manpower Development and Training Act in the following manner: (1) Authorizing the Secretary of Labor to refer persons for courses in the development of functional literacy and basic work skills and to provide such persons with training allowances for an additional 52 weeks; (2) lower the minimum age limit for training allowances from 19 to 16 provided that the youth has failed to attend school classes for a period of not less than 3 months during the regular school session; (3) increase the amount that can be used to pay training allowances to youths from 5 to 15 percent; (4) authorize an additional appropriation of $100 million to carry out the above new programs.

The Manpower Development and Training Act (MDTA) came into being in order to assist men and women, who became unemployed due to automation, technological change, and relocation of industry, to receive training in skills needed to secure new employment. In the report submitted to the Senate by the Committee on Labor and Public Welfare in support of the Manpower Development and Training Act, the basic objectives of this program were outlined as follows:

"It (the bill) seeks to deal with one major aspect of the problem of unemployment in the United States by enabling workers whose skills, have become obsolete to receive training which will qualify them to obtain and hold jobs. Its provisions will also contribute to the the upgrading of many employed persons, so that they can make a greater contribution to the national economy.[1]"

Now, less than 2 years after enactment of the Manpower Development and Training Act, the worthy objections of this act are proposed to be diluted by attaching to it a functional literacy and basic work skills program. Like tail fins on an automobile, such a program can add nothing of value to the Manpower Development and Training Act and can only detract from its effectiveness.

The Secretary of Labor would be given the authority to refer persons for training, not in a skill or craft, but in a program of functional literacy; in other words to teach a person how to read, write, and do simple arithmetic.

This proposed new program would not be limited solely to unemployed men with a wife and children who have lost their jobs and must overcome their lack of a basic education before they can hope to rejoin the ranks of the employed. It is also contemplated to permit children as young as 16 years old who have quit school to be referred for functional literacy training and to be paid as much as $20 a week as a training allowance while learning the alphabet and the multiplication tables. Such a proposal would be ludicrous if it were not such a tragic and wasteful expenditure of the money gathered from the pockets of the American taxpayers.

The Senate is now being asked to put up another $100 million, part of which will be used to give children $20 a week just to go to school. This program raised some very interesting questions, the most important of which is: Since training allowances will be paid to children aged 16 and older, provided they are referred for training in functional literacy, what have these children been learning in school for the past 10 years? If a child has not been able to conquer such rudimentary subject matter as reading, writing, and simple arithmetic over a 10-year period, then what reason do we have to believe that the same child can master his functional illiteracy within the space of 1 year?

This legislation presupposes that there are no programs in operation today providing basic education courses and, therefore, it is necessary to provide such courses by way of the Manpower Development and Training Act. Obviously such is not the case. In addition to our public school systems throughout the country almost every community in the Nation offers adult education courses open to all who desire to obtain a basic education or improve and upgrade their education.

We firmly believe that the program set forth in this legislation has no place in a manpower training program. Further, we believe that the payment of training allowances up to $20 a week to children who have quit school will merely serve as an inducement for more children to drop out of school at a time when every effort should be made by parents, teachers, and other responsible elements of society to encourage and assist our young people to continue their education.

We urge the Senate to vote down this unwise and costly proposal.

BARRY GOLDWATER.
JOHN G. TOWER.

[Senate, Sept. 6, 1963]

Mr. CLARK. Mr. President, I yield myself such time as I may need on the bill.

S. 1831 is a companion measure to S. 1716, which was passed by the Senate on Wednesday of this week. Both bills incorporate amendments to the Manpower Development and Training Act of 1962, recommended by the President to the Congress. Both bills are of some assistance in the upgrading of the labor skills of minority groups.

In his message of June 19 President Kennedy made certain recommendations "Designed to improve the training, skills, and economic opportunities of the economically distressed and discontented, white and Negro alike."

He further recommended amendments to the Manpower Development and Training Act "not only to increase the authorization ceiling and to postpone the effective date of State matching requirements, but also—in keeping with the recommendations of the President's Committee on Youth Employment—to lower the age for training allowances from 19 to 16, to allocate funds for literacy training and to permit the payment of a higher proportion of the program's training allowances to out-of-school youths, with provisions to assure that no one drops out of school to take advantage of this program."

S. 1831 incorporates each of these proposals.

First, it provides for training in reading, writing, and arithmetic, as well as manual training in the use of tools, for those of the unemployed who are unable to take occupational training courses because they lack these skills.

Second, it provides for expansion of the youth training program by lowering the age limit for youth training allowances from 19 to 16.

Third, it increases the percentage of funds available for the youth training program from 5 percent of the estimated total training allowances to 15 percent.

The bill authorizes additional annual appropriations of $100 million for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965, in order to meet the cost of the expanded program.

The need for this bill arises from the fact that there are 3 million workers in our labor force today who can neither read nor write. Eight hundred thousand, or more than one-quarter of them, are unemployed. Perhaps as many as 25 percent of unemployed illiterates are Negroes.

In the first year of the Manpower Development and Training Act program eight applicants were rejected for every trainee accepted in the program. Many of them were rejected because they could neither read nor write, or had no knowledge of elementary mathematics, principally arithmetic.

In other words, they did not even have knowledge of the three R's, and yet, in order to be a gas station attendant today, one has to be able to handle a charge account; he has to be able to write out a bill; he has to be able to add and subtract; he also has to be able to do a little simple multiplication. A taxi driver has to be able to read road signs and his meter. He has to be able to make change. But 300,000 of our unemployed are unable to perform these elementary acts; and these are the hard core of the unemployed.

In addition to teaching the three R's under this bill, there would be training in how to use basic tools common to many occupations.

An interesting bit of testimony was that of Secretary of Labor Wirtz, who told the committee of an instance in which 500 women were interviewed recently in one public employment office before 30 were found to fill a class in practical nursing. In order to line up 20 trainees for hotel and restaurant cooks, 287 persons had to be interviewed. Many of those rejected were rejected because they could not read the simple instructions needed to carry on the occupation; others because they could not do the simple exercises in writing necessary to fulfill their jobs; still others because, as I have said, they could not add, subtract, or divide.

Under normal circumstances, those who will receive literacy training under the bill would have been applicants for ordinary occupational training in a manpower development and training course, but were rejected, because they could not read, write, or figure.

It is important that the intent of the literacy training program should not be confused with the normal instruction we expect of our educational system. We are speaking, by and large, of teaching older heads of households who must have some source of income while they learn the basic educational skills essential to obtain employment. We are talking for the most part about the 45-year-old unemployed coal miner and those who share his lot. The statistics on illiteracy among our unemployed reflect this: In March 1962, about only 4 out of 10 of workers 45 to 64 years of age had completed high school, compared to 6 out of 10 of those 35 to 44, and almost 7 out of 10 of those 18 to 44.

While the bill, for the sake of flexibility, permits literacy courses to run for as long as 52 weeks, Commissioner Keppel advised the subcommittee that the normal instruction period will last from 4 to 6 months. Of the $100 million which would be authorized additionally under the bill, it is expected that $50 million will be allocated to the functional illiteracy program provided by the bill, and that 50,000 literacy-deficient unemployed can be trained at that cost.

I turn now briefly to the parts of the bill dealing with youth. The bill would lower from 19 to 16 the age limit for training under the Manpower Development and Training Act, and it would increase the share of the training cost which may be allocated to youth.

Between January and June of this year a net increase of 400,000 unemployed between 14 and 19 entered the labor force. Only 100,000 of them got jobs. The remaining 300,000 were added to the unemployed. The unemployment rate for teenagers was 18 percent for boys and 19.3 percent for girls, compared to the national average of 5.6 percent.

It is important to note that these are young people looking for work they cannot get; and that of all the unemployed in 1962, 15.6 percent were under 19 years. Yet under the first year of the Manpower Development and Training Act, only 4.3 percent of the first 22,500 workers were under 19.

In making this change, the Senate is not being asked to do anything new. The age limit was brought down to 16 when the Manpower Development and Training Act was passed in 1962. The House raised the age limit, and in conference we accepted the House figure. In passing the pending bill, which I hope the Senate will do, it will be merely going back to the provision of the bill which the Senate passed last year.

Some concern was expressed that the training courses for young people might encourage them to drop out of school in order to receive training with pay. This matter was fully explored by the subcommittee with Dr. Keppel, the Commissioner of Education. We feel that we have eliminated the possibility of young people moving into training courses in order to receive pay for training while completing their education, by providing that before they can qualify they must have been out of school for 3 months of the school year, consecutively. In other words, they cannot quit school during vacation time, for a full 3 months, and then go back to school. They must really have dropped out of school and be bona fide seekers of jobs in the labor force, or they will not qualify under the act.

There was a good deal of discussion as to whether the period should be increased to 6 months in order to further discourage people from dropping out of school in order to take these courses.

It was the consensus of opinion of the large majority of the subcommittee members, based on Dr. Keppel's recommendations, that 3 months was about the right figure. No one can be sure, of course, but that was our view after looking into the subject quite carefully.

The other $50 million authorized under the program would go for the adult training to which I have referred earlier. Therefore, between the adult training for literacy and the expanded youth program, the appropriation requested would be split 50–50. I should point out that when we increase the percentage of the number of youth who can be trained under the bill from the 5 percent presently incorporated in the law to 15 percent, as called for by S. 1831, we are doing more than tripling the number of young people who can be trained. This is because the training allowance for young people under the act cannot exceed $20 a week, and is presently averaging at $17 a week, because it is fixed at one-half of the unemployment compensation payment made in the particular State.

When we triple the percentage of the youths who can be trained, we more than increase the actual number, because the money involved is less for the young people than it is for the older people.

I believe that adequately explains the purpose of the bill. I reserve the remainder of my time.

Mr. GORE. In the report I notice the reference to the purpose of the bill—namely, to protect against the possibility of purposeful dropouts from regular school in order to receive the stipends for training proposed under the pending bill. The committee report does not seem to me to spell out in satisfactory detail these safeguards. Will the Senator from Pennsylvania point them out?

Mr. CLARK. On page 2 of the bill is a proviso which stiffens to a certain extent the original proposal of the administration.

It reads as follows:

"*Provided*, That no training allowance shall be paid to any individual who is under nineteen years of age and has not been graduated from high school unless the Secretary shall have satisfied himself that such individual has continuously failed to attend school classes for a period of not less than three months during the regular school session, and that all appropriate procedures (including guidance and counseling by appropriate local authorities) to induce such individual to resume school attendance have failed."

In addition, the program will train only 50,000 young people a year. The fact is that 36 million youngsters will enter the work force in the 1960's. Among those will be 7½ million school dropouts, at least one-half of whom will be 16 or over. So that between now and the end of 1965 there will be 5½ million new entrants into the working force. Of these 2 million will be school dropouts. With those safeguards in the bill it seemed to the committee, based on the opinions given by Dr. Keppel, Commissioner of Education, and Secretary of Labor Wirtz, that with the 3 months' waiting period and the additional requirements of the Secretary being satisfied, there was very little prospect that a youngster would drop out of school in order to get this money for training allowance, or that the program would be abused.

Mr. GORE. What is the stipend?

Mr. CLARK. It is one-half of the weekly unemployment compensation payment for the State in which the trainee resides.

Mr. GORE. Which on a national average is what?

Mr. CLARK. It is about $17 a week. One could not get rich on that.

Mr. GORE. I thank the Senator.

Mr. PROUTY. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). The amendment of the Senator from Vermont will be stated.

The LEGISLATIVE CLERK. On the first page, line 8, it is proposed to insert "who are over 35 years of age or who have neither completed the eighth grade of school nor otherwise acquired the educational equivalent of the eighth grade of school and" after "persons".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. PROUTY. Mr. President, I believe that the amendment is agreeable to the senior Senator from Pennsylvania. I can explain it very briefly. Originally it was my purpose to prevent anyone who had completed or had the equivalent of an eighth-grade education from being eligible for any activity under the so-called literacy program envisaged by the bill. The Senator from Pennsylvania suggested that there were probably some people in the country who had had the equivalent of an eighth-grade education but were 35 years of age or over, and therefore perhaps have been unable to keep up on their reading and writing. It seems to me that those people would be very few in number. So with that change in the amendment, I am sure the Senator from Pennsylvania would be willing to accept it.

Mr. CLARK. Mr. President, I yield myself 2 minutes. The amendment offered by the Senator from Vermont would eliminate from the program, if I correctly understand—and I ask the Senator if I do—anyone under 35 years of age who had been through 8 years of school. Is that correct?

Mr. PROUTY. Or had the equivalent of 8 years of school.

Mr. CLARK. The amendment of the Senator from Vermont would not apply to older workers—those 35 years of age or over—regardless of how much schooling they had had.

[1] 87th Cong., 1st sess., S. Rept. No. 651.

Mr. PROUTY. The Senator is correct.

Mr. CLARK. Mr. President, I see no serious objection to the amendment. I have polled most of the members of the subcommittee. Therefore, on behalf of the committee, I am prepared to accept the amendment.

The PRESIDING OFFICER. Does the Senator from Vermont yield back the remainder of his time?

Mr. PROUTY. Mr. President, I yield back the remainder of my time.

Mr. CLARK. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. PROUTY. Mr. President, I offer a second amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Vermont will be stated.

The LEGISLATIVE CLERK. On the first page, line 7, it is proposed to strike out the words "functional literacy" and insert in lieu thereof the words "elementary reading, writing and arithmetic".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. PROUTY. Mr. President, I believe that this amendment is also agreeable to the chairman of the subcommittee.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. CLARK. I do not like the word "elementary." I understood that the amendment would merely refer to "reading, writing, and arithmetic." I would be prepared to accept an amendment to that effect, but when the word "elementary" is added, confusion might result. I hope that the Senator will be willing to withdraw the word "elementary" and make the language read "reading, writing, and arithmetic," in which case I would be happy to accept the amendment.

Terms such as "functional illiteracy" seem like gobbledygook. I like the simpler wording.

Mr. PROUTY. Mr. President, I modify my amendment by striking out the word "elementary" in the amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. CLARK. Mr. President, on behalf of the commitee, I accept the modified amendment.

I yield back the remainder of my time.

Mr. PROUTY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Vermont, as modified.

The amendment was agreed to.

Mr. PROUTY. Mr. President, I offer another amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Vermont will be stated.

The LEGISLATIVE CLERK. On page 2, line 18, it is proposed to strike out "3" and insert in lieu thereof "6".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. PROUTY. Mr. President, the amendment would require that in order for a school dropout to be eligible to participate in the training program under the act, he must have been out of school for 6 months continuously during the regular school term. The bill would require a 3-month period for school dropouts. The longer period of 6 months would lessen any incentive which a potential school dropout might have to leave school in order to enter the program.

It seems to me that the last thing we would wish to do under the program would be to encourage any boy or girl to drop out of high school by reason of the fact that he or she would be entitled to an amount up to $20 per week under the allowance program. It is extremely doubtful that a 3-month period would be sufficient to discourage many boys and girls who might have a tendency to or be thinking of leaving school. I think that would be most unfortunate. Dr. Keppel, the Commissioner of Education, expressed some concern about that particular question. He said "We do not know what will happen. If too many drop out, we can change the law."

But I think perhaps the time to do that is now. In its present form, the bill is superior to the act, which does not require any time limitation whatsoever. But I believe that a 6-month period is far more realistic than a 3-month period. I hope the Senator from Pennsylvania will see fit to accept the amendment.

Mr. CLARK. Mr. President, I yield myself 2 minutes.

Mr. PROUTY Mr. President, I reserve the remainder of my time.

Mr. CLARK. Let the RECORD show that the best judgment of the Commissioner of Education and the best judgment of the Secretary of Labor is that 3 months is a long-enough time to keep school dropouts out of these training courses. No one knows what the right period is. There is no experience. But the professional educators are of the view that it would be wiser to allow a youngster to start retraining if during the school year he had been out of school for 3 continuous months.

Vacation periods are not included. However, this must be in the realm of judgment and of speculation. After having conferred with the members of the subcommittee who are present in the Chamber, I am prepared to take the amendment to conference. Therefore, I will accept the amendment offered by the Senator from Vermont.

Mr. President, I yield back the remainder of my time.

Mr. PROUTY. Mr. President, I am grateful to the distinguished chairman of the subcommittee for accepting the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Vermont [Mr. PROUTY.]

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROUTY. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. After line 17 on page 3, it is proposed to add the following new subsection:

(h) Notwithstanding any other provision of this Act, not more than 30 per centum of the funds appropriated pursuant to the authorizations in this section shall be used for training costs, exclusive of training allowances, of projects under title II of this Act.

Mr. PROUTY. Mr. President, the amendment would limit the funds which could be spent for training costs of the projects under title II of the Manpower Development and Training Act. The amendment would place the limitation at 30 percent of the funds appropriated.

The Department, up to the present time, has been operating at this percentage, or relatively close to it. Considering the large authorization which was passed by the Senate on Wednesday, September 4, of this year, the amendment would insure that training costs would not increase merely because there was more money to be spent.

I have a list of obligations by activity, which shows that with respect to the $140 million appropriated by the House for this program the training cost allowance is about 33 percent. I would reduce the percentage to 30, because it seems to me that perhaps administrative expenses and other costs, while the program was getting underway, were somewhat higher than is necessary now.

I think the money should be made available to the trainees, rather than be used to build up a huge administrative staff which is perhaps not necessary.

I point out that this would not be a limitation of dollars, but would be a limitation of a percentage of the appropriations made.

I hope the Senator from Pennsylvania will accept the amendment.

Mr. President, I reserve the remainder of my time.

Mr. CLARK. Mr. President, I yield myself such time as I may require.

I regret that I must oppose the amendment. The amendment would to some extent put into a legislative straitjacket what ought to be the administrative discretion of the people who operate the program.

The Senator from Vermont has figures which appear to satisfy him that the administrative costs have been running about 33 percent. The figures the staff has made available to me indicate that these costs have been running as high as 40 percent. The Senator proposes to limit those costs to 30 percent.

I point out that it is a misnomer to call these costs administrative costs. We are paying some 40 percent of the money available to the local school districts to create and staff the courses necessary to do the retraining. This purpose of the program is not merely to pay training allowances to the people who are unemployed. In my opinion, that should be incidental. The purpose of the program is to finance, at the local school district level and through on-the-job training, an educational process for these people. To me it would be a grave mistake to put into the act definite cost percentages divided between training allowances and the necessary expenses for teacher's salaries, for the rent of classrooms, and for the buying of textbooks and tools with which training can be given. That is the purpose of the program.

I hope the Senate will not put the administrators into a legislative straitjacket. So far as the record shows, the administrators are doing a first-class job under the terms of the law, during the first year.

The committee will take a careful look at the program, as it has in the past. There will be a report from the Secretary month by month and year by year as to how the costs are divided.

I hope the Senate will exercise a bit of restraint as to writing legislative requirements into the act, and accordingly I ask for the defeat of the pending amendment.

Mr. PROUTY. Mr. President, I have seen the figures prepared by the staff or by someone downtown—I am not sure where they originate—which tend to justify the Senator's point of view. I have tried without success to determine how those figures were arrived at.

I have figures issued by the Department which indicate the obligations by activity. The estimate for 1964 shows that the training costs will amount to 33 percent. With respect to the appropriation of $140 million passed by the House a short time ago, the estimate indicates that the same figure will be applicable. The revised estimate for 1963 indicates that the costs for training will be 26 percent.

When we consider the $110 million appropriation approved by the Senate, we find that the training costs were 66 percent of the actual allowance payments. That seems rather high. I believe that the figure of 30 percent is adequate. If I can be persuaded later that it is not, I shall be the first to suggest a higher figure.

In view of the facts I have, which I think have not been rebutted to any successful degree, the figure of 30 percent is accurate, realistic, and one which we should require.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. PROUTY. I yield.

Mr. MILLER. Do I correctly understand the Senator's position to be that up to now the Department has actually been operating within a 30-percent limitation?

Mr. PROUTY. About 33 percent.

Mr. MILLER. About 33 percent. So it would appear that the Senator's amendment would not curtail or impede the operations of the Department?

Mr. PROUTY. It is not intended to. I am sure it would not.

Mr. MILLER. Why should the Department need to have more flexibility, to go over 30 percent? The Department should be trying to cut down, rather than to increase, the costs.

Mr. PROUTY. As the program expands, they will find it quite possible, if they so desire, to reduce the administrative figure. That includes administration as well as equipment, instruction, and things of that nature. The 30 percent figure is a generous, fair and realistic one. I hope the Senate will see fit to go along with my proposal.

Mr. MILLER. Mr. President, I thank my colleague for his response. I am inclined to support the amendment, and there should be a yea-and-nay vote on it, so I ask for the yeas and nays.

The yeas and nays were ordered.

The result was announced—yeas 18, nays 49, as follows:

[No. 152 Leg.]

Yeas—18

Aiken, Allott, Beall, Byrd, Va., Carlson, Curtis, Dominick, Goldwater, Hruska, Jordan, Idaho, Lausche, McClellan, Miller, Pearson, Prouty, Smith, Thurmond, and Williams, Del.

Nays—49

Bartlett, Bible, Brewster, Byrd, W. Va., Cannon, Case, Church, Clark, Cooper, Douglas, Eastland, Edmondson, Ellender, Ervin, Fong, Gore, and Hart.

Hayden, Hill, Holland, Inouye, Javits, Johnston, Jordan, N.C., Keating, Kennedy, Long, Mo., Magnuson, Mansfield, McCarthy, McGee, Metcalf, Monroney, and Moss.

Muskie, Nelson, Pastore, Pell, Proxmire, Randolph, Ribicoff, Robertson, Russell, Smathers, Stennis, Talmadge, Walters, Williams, N.J., and Young, Ohio.

Not Voting—33

Anderson, Bayh, Bennett, Boggs, Burdick, Cotton, Dirksen, Dodd, Engle, Fulbright, and Gruening.

Hartke, Hickenlooper, Humphrey, Jackson, Kuchel, Long, La., McGovern, McIntyre, McNamara, Mechem, and Morse.

Morton, Mundt, Neuberger, Saltonstall, Scott, Simpson, Sparkman, Symington, Tower, Yarborough, and Young, N. Dak.

So Mr. PROUTY's amendment was rejected.

Mr. PROUTY. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 3, beginning with "In" on line 13, it is proposed to strike out all down to and including the period on line 17, and insert in lieu thereof the following:

In addition to the amounts authorized by subsection (b), there are hereby authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1964.

Mr. PROUTY. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, as I said on the floor of the Senate on Wednesday, the Senate should consider all programs related to the one being considered today; that is, programs involving vocational and educational programs of one kind or another.

I should like to read into the RECORD—and I feel certain I have missed some items—the amount of money which has been either appropriated or authorized or for which requests for authorization have been made in the field of education, manpower retraining, and development.

The Senate has already appropriated $110 million for the manpower development and training program for fiscal 1964. The bill before the Senate, S. 1831, authorizes $100 million for fiscal 1964.

S. 1761, which the Senate passed on Wednesday of this week, authorizes $322 million for fiscal 1965.

S. 1831, the bill the Senate is now considering, authorizes $100 million for fiscal 1965.

That is a total of $632 million under the Manpower Development and Training Act for fiscal 1964 and fiscal 1965.

In addition to this amount, $100 million has been appropriated by the Senate for the Youth Employment Act. The vocational education bill, which is before the Senate at the present time, will appropriate for this year $108 million, and for fiscal 1965, $153 million.

Under the Area Redevelopment Act, there is a program involving $4,500,000 for retraining and vocational education.

There is also an additional appropriation or authorization for $15 million for the vocational education; another authorization of $50 million for vocational education.

These items total $1,072,500,000 for the next 2 fiscal years.

Perhaps I should say that I have added $30 million to that figure to conform with the House appropriations for the Manpower Development and Training Act.

Mr. LAUSCHE. Mr. President, will the Senator from Vermont yield?

Mr. PROUTY. I yield.

Mr. LAUSCHE. Do I correctly understand that in the next 2 years the Government will be spending $1,072 million under what is known as the Manpower Development and Training Act?

Mr. PROUTY. No; it is $632 million under the Manpower Development and Training Act. I say it will be spent; that is not completely accurate. That will depend on the amount appropriated. These are amounts which have been authorized or for which authorization is now being sought.

Mr. LAUSCHE. It will be $632 million under the Manpower Development and Training Act?

Mr. PROUTY. That is correct.

Mr. LAUSCHE. In addition, $440 million could potentially be spent under other authorizations?

Mr. PROUTY. That is correct.

Mr. LAUSCHE. So the total amount, from all sources, for retraining would be $1,072 million in the next 2 years?

Mr. PROUTY. Mr. President, I do not wish to impose on the time of Senators who already have general knowledge of the outcome of the vote on this amendment.

The information I have, based on this $632 million figure, is that during the fiscal year 1964, 204,000 individuals can come under 1 of the 3 programs envisaged by the Manpower Development and Training Act as the bill proposes to amend it and during the fiscal year 1965, 385,000 will be eligible. That total can be broken down in different ways, but that is the maximum number of those who can be included under the program and under the funds which have been either appropriated or authorized, or for which authorization is sought.

It seems to me it is humanly impossible for the Department to administer a program of this magnitude, inasmuch as it is just barely getting off the ground at the present time. If double the money could be profitably used for this manpower development and training program, I would be willing and happy to vote for it; but all this money is unnecessary. We authorized $322 million last Wednesday. Two days later we are asked to authorize an additional $200 million, which would make a total of $522 million.

None of that money needs to be spent for an illiteracy program. None of it needs to be spent for a youth program. None of it needs to be spent for an adult program. There is no need to spend it for all or for one or two of these programs. So what is proposed today is simply that we add a $200 million authorization to the $322 million authorization we approved last Wednesday. I believe there is no justification for doing this.

I believe my record shows that I am and have been a friend of legislation of this type. I believe we are faced with very serious problems affecting our young people, and our unemployed; and I want to do everything humanly possible to help them. But simply to authorize and, later to appropriate money is not enough. The program must be administered in an effective way. I believe Senators have approached this problem on the basis of faith, hope, and charity. All these are admirable virtues; but we must apply a little analytical judgment, as well.

I am not opposed to the program, but I object very strenuously to authorizing or appropriating about twice as much money as can possibly be spent.

Mr. President, that is about all I have to say. I favor the program; but I am opposed to throwing money away or appropriating more than can possibly be used in an effective manner. In my opinion, the issue before us is as simple as that.

Mr. President, I reserve the balance of the time under my control.

Mr. CLARK. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. CLARK. Mr. President, if this amendment is agreed to, the number of individuals who can be trained under this program and under the new program provided for in Senate bill 1831 will be cut from 100,000 to 60,000. In other words, if the amendment is adopted, 40,000 of those who now have no employable skills will continue to be unemployed.

The cost of the program is running about $1,000 a trainee. The Senator from Vermont proposes to cut $40 million from the program. Relatively few Americans are functional illiterates; most Americans can do elementary mathematics in their heads. So it is clear that if the authorization is reduced from $100,000,000 to $60,000,000, 40,000 people will be deprived of the benefits of the program. The issue before us is that simple.

Mr. President, I hope the amendment will be defeated.

I yield back the remainder of my time.

Mr. PROUTY. Mr. President, it should be pointed out that last Wednesday we added $161 million to the program authorization, thus increasing it to $322 million. Now it is proposed that we add $200 million to all that. Certainly the two should have been combined, so that at that time Senators could have known the total which would confront them.

The pending amendment would strike out of the proposed authorization $140 million which is absolutely unnecessary.

The remaining $60 million authorization would be somewhat larger than I think necessary; but I am willing to have that amount authorized, in order to make my amendment more palatable to Senators who otherwise might oppose it.

Mr. President, I yield back the remainder of my time.

The result was announced—yeas 29, nays 38, as follows:

[No. 153 Leg.]

YEAS—29

Aiken, Allott, Beall, Byrd, Va., Carlson, Cooper, Curtis, Dominick, Eastland, Ellender, Goldwater, Hill, Holland, Hruska, Johnston, Jordan, N.C., Jordan, Idaho, Lausche, McClellan, Miller, Pearson, Prouty, Robert-

son, Russell, Smith, Stennis, Talmadge, Thurmond, and Williams, Del.

NAYS—38

Bartlett, Bible, Brewster, Byrd, W. Va., Cannon, Case, Church, Clark, Edmondson, Ervin, Fong, Gore, and Hart.

Hayden, Humphrey, Inouye, Javits, Keating, Kennedy, Long, Mo., Magnuson, McCarthy, McGee, Metcalf, Monroney, and Morse.

Moss, Muskie, Nelson, Pastore, Pell, Proxmire, Randolph, Ribicoff, Smathers, Walters, Williams, N.J., and Young, Ohio.

NOT VOTING—33

Anderson, Bayh, Bennett, Boggs, Burdick, Cotton, Dirksen, Dodd, Douglas, Engle, and Fulbright.

Gruening, Hartke, Hickenlooper, Jackson, Kuchel, Long, La., Mansfield, McGovern, McIntyre, McNamara, and Mechem.

Morton, Mundt, Neuberger, Saltonstall, Scott, Simpson, Sparkman, Symington, Tower, Yarborough, and Young, N. Dak.

So Mr. PROUTY's amendment was rejected.

Mr. GORE. Mr. President, on the question of passage of the bill, I ask for the yeas and nays.

The yeas and nays were ordered.

The result was announced—yeas 41, nays 26, as follows:

[No. 155 Leg.]

YEAS—41

Aiken, Bartlett, Beall, Bible, Brewster, Byrd, W. Va., Cannon, Case, Church, Clark, Cooper, Edmondson, Fong, and Gore.

Hart, Hayden, Humphrey, Inouye, Javits, Keating, Kennedy, Long, Mo., Magnuson, McCarthy, McGee, Metcalf, Monroney, and Morse.

Moss, Muskie, Nelson, Pastore, Pell, Prouty, Proxmire, Randolph, Ribicoff, Scott, Walters, Williams, N.J., and Young, Ohio.

NAYS—26

Allott, Byrd, Va., Curtis, Dominick, Eastland, Ellender, Ervin, Goldwater, Hill, Holland, Hruska, Johnston, Jordan, N.C., Jordan, Idaho, Lausche, McClellan, Miller, Pearson, Robertson, Russell, Smathers, Smith, Stennis, Talmadge, Thurmond, and Williams, Del.

NOT VOTING—33

Anderson, Bayh, Bennett, Boggs, Burdick, Carlson, Cotton, Dirksen, Dodd, Douglas, and Engle.

Fulbright, Gruening, Hartke, Hickenlooper, Jackson, Kuchel, Long, La., Mansfield, McGovern, McIntyre, and McNamara.

Mechem, Morton, Mundt, Neuberger, Saltonstall, Simpson, Sparkman, Symington, Tower, Yarborough, and Young, N. Dak.

So the bill (S. 1831) was passed, as follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Manpower Development and Training Act of 1962 is amended by adding at the end of section 202 the following new subsection:

"(h) Whenever appropriate, the Secretary of Labor may also refer for the development of reading, writing and arithmetic and basic work skills those eligible persons who are over thirty-five years of age or who have neither completed the eighth grade of school nor otherwise acquired the educational equivalent of the eighth grade of school and who will thereby be able to pursue courses of occupational training, and such referrals shall be considered a referral for training within the meaning of this Act, except that the provisions of subsection (d) of this section shall not apply to the selection of persons under this subsection, and such persons shall be eligible for an additional 52 weeks of training allowances."

SEC. 2. Subsection (c) of section 203 of such Act is amended by striking out the word "nineteen" and inserting the word "sixteen" in lieu thereof, by striking out "5 per centum" and inserting in lieu thereof "15 per centum", and by striking out the period at the end thereof, inserting a comma in lieu thereof, and adding the following: "*Provided,* That no training allowance shall be paid to any individual who is under nineteen years of age and has not been graduated from high school unless the Secretary shall have satisfied himself that such individual has continuously failed to attend school classes for a period of not less than 6 months during the regular school session, and that all appropriate procedures (including guidance and counselling by appropriate local authorities) to induce such individual to resume school attendance have failed."

SEC. 3. Section 231 of such Act is amended by striking out the period at the end of the first sentence, inserting a comma in lieu thereof, and adding the following: "except that with respect to referrals under subsection (h) of section 202 the Secretary of Health, Education, and Welfare may make arrangements for the provision of the training to be provided under such subsection (h) through other appropriate education agencies".

SEC. 4. Section 302 of such Act is amended by striking out the word "vocational" before the words "education and training".

SEC. 5. Subsection (b) of section 305 is amended by striking out the word "vocational".

SEC. 6. Section 304 of such Act is amended by adding at the end thereof the following new subsection:

"(e) In addition to the amounts authorized by subsection (b), there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965, for the purpose of carrying out title II."

[88th Cong., 1st sess., House of Representatives, Rept. No. 861]

AMENDMENTS OF MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

October 18, 1963.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. Powell, from the Committee on Education and Labor, submitted the following report.

[To accompany H.R. 8720]

The Committee on Education and Labor, to whom was referred the bill (H.R. 8720) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY OF THE BILL

In his message to the Congress on June 19, 1963, President Kennedy suggested several amendments to the Manpower Development and Training Act of 1962, hereinafter referred to as MDTA. These were to—

"Increase the authorization ceiling and to postpone the effective date of State matching requirements * * * to lower the age for training allowances from 19 to 16, to allocate funds for literacy training, and to permit the payment of a higher proportion of the program's training allowances to out-of-school youth, with provisions to assure that no one drops out of school to take advantage of this program."

H.R. 8720 incorporates each of these proposals in modified form: (1) the State matching requirement for fiscal 1965 is waived and the act is extended for 2 additional years with the requirement that States match one-third and one-half, respectively, in fiscal years 1966 and 1967; (2) it authorizes training in education at the basic level for those unable to qualify for occupational training provided evidence exists of intention to undertake such training and for this group an additional 20 weeks of training allowances are authorized; (3) it provides for the expansion of the youth training program by lowering the age limit for youth training allowances from 19 to 17, subject to a restriction of a 1-year waiting period for school dropouts, by increasing the proportion of youth receiving training allowances to 25 percent of those receiving allowances and restricts the youth training allowances to those in special youth training projects; and (4) for these changes one-half of the President's request for new funds, $50 million, is authorized for fiscal 1964 and the full request, $100 million is authorized for fiscal 1965.

H.R. 8720 also incorporates in modified form many of the proposals developed by the Select Subcommittee on Labor under the chairmanship of Congressman Elmer J. Holland after extensive hearings and recommended in its bill, H.R. 8419. Thus (1) it provides for a minor widening of the eligibility requirements for those who can receive training allowances by reducing the work experience requirement from 3 years to 2 years and by permitting payment of an allowance to any one member of a family in training if the head of the family is unemployed; (2) it shifts from the National Advisory Committee to the Secretary of Labor the authority to require, where appropriate, the establishment of local and State advisory committees; (3) it provides for a training incentive of up to $10 a week and permits trainees to engage in part-time work up to 20 hours a week without a reduction in the training allowance; and (4) it authorizes a pilot program for labor mobility demonstration projects limited to a maximum expenditure of $4 million and with authority for this to expire June 30, 1965. Finally, the full committee provided in H.R. 8720 for additional utilization of private training institutions in those cases where the quality is comparable and the cost to the Federal Government is lower.

NEED FOR THE BILL

The record for the first 12 months of operation of MDTA is an unqualified success. It is now clear that the target set by Congress for the 3-year program of approximately 400,000 unemployed workers retrained and placed in productive employment will be achieved.

This success comes at a time when the need for retraining may be growing far beyond the level originally expected. One of the leading makers of automation equipment, John L. Snyder, chairman and president of U.S. Industries, Ltd., testified to the Senate Subcommittee on Employment and Manpower on October 3 as follows:

"Last week, before a Senate labor subcommittee, a top productivity expert for the Bureau of Labor Statistics stated that the Department felt that rising productivity—another way of describing automation—would eliminate 200,000 jobs a year, or 4,000 jobs a week.

"Personally, I think this is a gross underestimate of the real situation and that automation is a major factor in eliminating jobs in the United States at the rate of more than 40,000 a week, as previous estimates have put it."

Experience under the act so far demonstrates that three important changes are necessary at this time. First, to sustain the program over a period long enough to permit a fair appraisal, the present State matching requirement has to be postponed for 1 year. Second, the plight of the undereducated unemployed needs more attention and special provision is now made for them. Third, the present provisions for unemployed youth have likewise been improved.

The inadequately trained youth represents the hard-core unemployed of today. The uneducated represents the hard-core unemployed of tomorrow. Without help they have no other prospect than as public charges, currently and in the future. Yet the bulk of these unemployed have the capacity to be helped and can be put on the road to productive employment.

The changes provided in the bill will enable the training of approximately 93,000 additional persons divided equally between youth and adults on an annual basis. For this an increased authorization of $100 million annually is provided. Only half of this amount can be used in the remainder of this fiscal year and for that reason the increase in authorization for fiscal 1964 is $50 million.

Other changes provided by the bill reflect the experience so far with MDTA. With one exception they do not add significantly to the costs of the program. The exception, an improvement in the training allowance, can be absorbed within the existing authorization.

BACKGROUND

This bill fully reflects the findings made after 2 months of public hearings during July and August by the Select Subcommittee on Labor, Congressman Elmer J. Holland, chairman. Full opportunity was provided for all interested persons to be heard and a total of 39 witnesses appeared. Additional statements and material were furnished for the record. These witnesses reflected a wide range of experience with MDTA and most were qualified to appraise the achievements and deficiencies of the program. All levels of government, Federal, State, and local were represented. Others came from advisory committees established under the act, business firms familiar with the program, business organizations, and labor unions.

There was a remarkable consensus, considering the diversity of these spokesmen, to the effect that the program had been launched successfully during its first year despite great obstacles. Moreover, it appears that the goals set by Congress for the 3-year program will be met. Yet witnesses, with one exception, agreed that the full potential of the retraining effort could not be achieved without expansion and modification of the act. They provided supporting evidence of the need for the changes incorporated in the bills before the subcommittee, H.R. 6991, H.R. 7000, and H.R. 7377. They also proposed many additional changes to the subcommittee.

From among these many proposals by those in the best position to judge their validity and need, the committee selected only those having the highest priority in terms of the operation of the current program. Many worthwhile changes accordingly were rejected. This simply reflects a conviction that more experience, or in a word, know-how, is required before these and more novel proposals can be considered.

There was reflected also in the committee choices, general agreement with the philosophy expressed by Dr. George P. Shultz, dean of the Graduate School of Business, University of Chicago, in a speech to the annual meeting of the U.S. Chamber of Commerce which was furnished for the record. Dr. Shultz commented as follows:

"In looking to the future, then, we must recognize that a great many employers find it in their interest to provide training for their employees and we can infer that such training will help those in the median age ranges and with higher educational attainments to acquire specific skills. Many more employees will receive job training this way than through any governmental program, however grandly conceived. Yet the role of the Government program is a vital one. It should help those who fall outside the natural scope of private efforts. In so doing the Government takes on the toughest problems—but these are just the problems that would otherwise be neglected. The Government program, then, should be conceived not as massive and general, but as directed to special objectives derived from inadequate formal education and the residue of displacement left from a changing economy. The unskilled and the unschooled are most in need of help and least likely to get it from the present array of Government training programs."

The committee is aware some question may be raised as to the relationship of MDTA to the Vocational Educational Act of 1963. That there may be an overlap is apparent only under superficial examination. Historically, vocational education has been available throughout the country for many years. But it had little impact upon training of the displaced unemployed for the simple reason that no adequate means were available to maintain the financial support needed by a breadwinner for his family during the period needed to complete his training. The act passed by the Congress last year was primarily to plug this void. Some 60 percent of its appropriations is spent for training allowances alone. It covers training costs, but normally these are costs of special courses set up for full-time training outside the normal operations of vocational education. Moreover, new or expanded vocational training facilities cannot be provided under MDTA. Therefore, sums spent on vocational education are complementary to the program here under consideration, since additional facilities provide more opportunity for meeting effectively the training needs of the unemployed under MDTA.

MAJOR PROVISIONS OF THE BILL

EXPLANATION AND NEED

A. Postponement of effective date of State matching requirement and extension of the act

MDTA provides for 100-percent Federal financing during the first 2 fiscal years and for 50-percent State matching of funds during the third fiscal year, beginning July 1, 1964. Continuation of any training program in any State after June 30, 1964, therefore depends on whether the State assumes 50 percent of the training costs.

Twenty-nine of the State legislatures meet biennially in the odd-numbered years. For that reason it was necessary for them to authorize matching funds during their recent 1963 sessions if they were to meet the June 30, 1964, deadline.

Only four[1] of these States enacted the necessary authorization. The 25[2] legislatures which took no action probably will not reconvene until January 1965. Even those meeting in January 1964 will not be able to act in time to prevent a serious decline in the program. On this issue Secretary of Labor Willard Wirtz testified as follows on July 8:

"Beginning right now, however, any training program of 52 weeks will run into the next fiscal year and right up again to the matching requirement. Each succeeding week that goes by from now on cuts another week from the length of the training programs that can be approved without running into the matching requirement period.

"Because of the long leadtime involved in developing and approving training projects, as well as the length of many of the important courses, I must point out that the entire training program will begin to taper off early in this fiscal year in the absence of assured continuity of Federal financing.

"To be forced deliberately to slow down a program which has gotten off to a flying start would be a tragic waste—and more important, a tragic elimination of a new hope and a new opportunity for thousands of jobless workers."

These facts are incontestable, and events since July have validated Secretary Wirtz' dire forecast. The reasons for State inaction likewise seem understandable. Nothing in the record developed by the subcommittee would indicate that the States lack interest in the program, have doubts as to its value, or consider the costs to be too high. Instead, consider these facts: because of delays in the granting of appropriations the program did not begin until September 1962. By then the budgets to be presented to legislatures, meeting in January 1963 were in their final stages of preparation. In 10 of the 29 States with biennial legislative sessions in 1963, no MDTA training of any kind was underway in the late fall. In the remaining 19 States only 63 MDTA projects involving less than 2,400 trainees had begun by late autumn. Obviously, experience permitting a valid assessment of the worth of the program, was entirely lacking. Further it should be noted that the average training program extends for 22 weeks. Thus it was nearly mid-1963 before the early results were in. The increasing momentum of the program was not achieved until near the end of the second quarter of 1963. Full appraisal of the results in all areas of the country will not be possible until the end of 1963.

Consequently the committee has become convinced that full Federal financing for 1 more year is most urgently required. To do otherwise means the certain elimination of the program precisely at the time when graduates are beginning to emerge from training courses in sufficient numbers to provide the opportunity for a fair appraisal of the program. Having invested so much time, energy, and money so far, without being willing to continue long enough for a fair test, would be a high tragedy.

Approximately 60,000 unemployed entered training during the first fiscal year. Currently, training is proceeding at the rate of 108,000 trainees per year. Training capacity and accompanying knowledge is sufficient to provide confidence in our ability to train over 200,000 during the third year of the program. Thus the original goal set by Congress of approximately 400,000 unemployed retrained within the 3-year period now appears to be realistically in sight.

For this purpose a total authorization of $161 million for title II for the third year was provided. But to achieve this training goal State matching for an equal amount was contemplated. Therefore, if State matching is postponed, as proposed by this bill, provision must be made for the assumption of the States share during the third year. This is provided by the bill.

However, in the opinion of the committee Congress should at this time clearly preserve and reinforce the principle of State matching in MDTA. Therefore, simple waiver of the third year matching by States is not accepted. There is no disagreement with the fundamental soundness of the concept of shared financial responsibilities. Manpower development and training involves both national and local responsibilities. The unemployed reside in the localities. This is where job opportunities in the main are to be found. Only local agencies are in a position to determine these opportunities and provide, through training, for the matching of the worker and the job. Witness after witness when questioned confirmed the necessity for State financial support. Few were prepared to argue for full Federal responsibility. To most, State support seemed essential if the program is to be both effective and efficient. The committee, therefore, reaffirms its continued adherence to the principle of State matching.

The present bill is designed to make this possible. By extending the act for 2 additional years and providing for State matching of one-third and one-half, respectively, in fiscal 1966 and fiscal 1967 the committee believes a realistic proposal is provided. Waiving the State matching requirement for fiscal 1965 will provide sufficient experience with the program so that the Federal and

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[1] Connecticut, Kansas, Montana, and Tennessee.

[2] Alabama, Arkansas, Florida, Idaho, Illinois, Indiana, Iowa, Maine, Minnesota, Missouri, Nebraska, Nevada, New Hamsphire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Vermont, Wisconsin, and Wyoming.

State Governments can evaluate the results. If these prove to be favorable, the States will have sufficient time to act to provide for the continuation of the program. Moreover, the pressure on the financial position of the States is lessened since the stepup to the original level of 50 percent contemplated is spread over 2 years.

In making this proposal the committee is aware that its intentions can be misinterpreted. It should be understood that at no time during the deliberations of the subcommittee and full committee was there any consideration given to the possibility of full Federal financing. Instead of the commitment to State matching was accepted without question. There remained only the problem of devising a realistic means of achieving this goal. This, the committee believes, is provided by the bill. Therefore, it should be explicitly understood by all concerned that the committee has given full consideration to possible contingencies and cannot foresee any circumstances arising that would require further modifications in the State matching requirements.

B. The youth training program

The bill proposes changes designed to strengthen and broaden the youth training program. The enthusiastic response to the youth training program and its demonstrated potential in meeting the serious youth unemployment problem have convinced the committee that the program should be expanded.

From May 1962–63, the number of workers in the labor force increased by 1.2 million but only 900,000 new jobs were available. There was a resultant increase in unemployment of 300,000. Nearly the entire impact of this rise in joblessness was felt by the 16 to 19 year old youth in the labor market. Their unemployment rate rose to over 20 percent, approximately four times the rate of the adult labor force.

The record of youth unemployment for recent years during the month of October is presented in the following table:

TABLE 1.—UNEMPLOYMENT OF PERSONS 16 TO 21 YEARS OLD, NOT ENROLLED IN SCHOOL, BY AGE AND SEX, OCTOBER 1959–62[1]

Age and sex	Number unemployed (in thousands)				Unemployment rate[2]			
	1962	1961	1960	1959	1962	1961	1960	1959
Both sexes, total, 16 to 21 years	601	708	652	607	11.4	13.5	12.7	12.9
16 and 17 years	84	118	117	121	16.8	20.9	18.6	21.4
18 and 19 years	277	340	315	279	12.6	14.9	14.8	14.2
20 and 21 years	240	250	220	207	9.4	10.5	9.3	9.5

[1] "Special Labor Force Rept. No. 34," U.S. Department of Labor, Bureau of Labor Statistics.
[2] Percent of civilian labor force who were unemployed.

This record for the month of October is most relevant as it does not include youths seeking work during the summer vacation period. For October 1962, these youths, 16 to 21 years old and out of school, comprised only 7 percent of the labor force. Those who were jobless, however, accounted for 18 percent of the unemployed. It should be noted that these facts understate the true magnitude of the problem. Among boys 16 to 17 years old who have left school, only three out of four were working or seeking work. Hence there are tens of thousands of youths who are excluded from the official unemployment statistics presented above who are out of work and not in school.

This situation is certain to grow worse in the near future. The postwar baby crop is now beginning to reach working age. One million more young people will have become 16 in 1963 than reached that age in 1962. Although a steadily increasing proportion of young people have graduated from high school in the last 30 years at the same time changing technology is eliminating, at a faster pace, the unskilled jobs which traditionally provided work opportunity to those not completing their education. More than 5½ million new young workers will be seeking work between now and the end of 1965. Among these will be approximately 2 million school dropouts.

Three-fourths of all school dropouts in 1962 were 16 to 17 years old. Age 16 is the most common age for leaving school. Among nonwhites the rate is disproportionately high. In 1962, 57 percent of the nonwhite youth, 20 to 24 years of age, were dropouts. Yet, the corresponding rate for white youths of 28 percent is also too high. It is alarmingly true, as Secretary Wirtz has observed, that the dropout in our present society is committing economic suicide. The committee hopes that other programs will in time reduce the dropout rate to manageable proportions. In the meantime the Nation faces a current problem of crisis proportions. Dr. Conant has aptly characterized the present situation as social dynamite.

The Chief Executive in his message of June 19, 1963, followed the recommendation of the President's Committee on Youth Employment in its report of April 1963 and proposed lowering the age limit for training allowances to 16, subject to reasonable precautions to avoid the allowances becoming an incentive for those in school to dropout.

The record demonstrates that training allowances are essential to certain disadvantaged youths if they are to enter training programs. Those who have dropped out of school did so for reasons not necessarily related to their intellectual potential. Frequently, they come from a severely impoverished environment which has corroded their motivation. For this limited group the training allowance becomes essential to an effective training program. Lacking financial resources, these youths do not have access to the minimum sums required for carfare, food, and clothing and other expenses incurred during the training period. Moreover, the training allowance provides a favorable stimulus that can develop and sustain the interest required for successful training.

In the current program, Congress restricted training allowances to youth ages 19 to 22, and further restricted the proportion of the funds that could be used for such purposes to 5 percent of the total. Based on experience thus far this 5-percent limitation can be usefully raised.

Given these facts and in the light of the experiences so far encountered, the bill provides for urgently needed expansion of training provisions for out-of-school and out-of-work youth. It does this by reducing the age limit for use of the youth training allowance from 19 to 17. In proposing this change, the committee has recognized the necessity for developing safeguards to prevent any encouragement to youths to drop out of school so as to enroll in the training program, as follows:

First, at least 1 year must elapse before the school dropout becomes eligible for the training allowance, Second, the bill requires that local authorities are to use all appropriate procedures to secure a return of the youth to school and only after these have failed will the youth be eligible.

The committee is well aware of the fact that nearly every witness in the hearings supported the reduction of the age limitation to 16 and a waiting period for the dropout of from 3 to 6 months. It should be emphasized, however, that there is no waiting period for training itself. The waiting period applies only to eligibility for training allowances. The committee further recognizes the concern expressed by those currently working on youth projects over the possibility that a longer waiting period may contribute to the development of juvenile delinquency, thereby making more difficult subsequent training of the youth. Offsetting these possible dangers, in the committee's view, are the advantages that may be gained with a longer waiting period in terms of demonstrating to the youth the need for additional training if he is to qualify for meaningful job opportunities. Since most dropouts occur at age 16, the provision of a 1-year waiting period will make them eligible for training allowances at the new minimum age limit of 17.

The bill further provides for a change in the present ceiling of 5 percent of total funds for youth training allowances to a figure of 25 percent of the total trainees receiving allowances. The shift from a percentage of funds to the number of trainees provides for a simpler method of allocation. The 25-percent figure will permit approximately the same number of trainees as that contemplated by the President's proposal for a figure of 15 percent of total training allowance funds.

The President further proposed that $50 million additional funds be authorized annually so as to provide for the expansion in the youth training program. This additional money, which the committee recommends, would support an increase in the number of youth trainees from the approximate 10,000 at present to a rate of nearly 60,000 for the end of the current fiscal year. It is a point of outstanding significance, however, that this substantial increase will provide training for about 10 percent of the out-of-school and out-of-work youth.

Further, it should be noted the use of training allowances is restricted to those youth "who require such training allowance in order to undertake training," and "who are referred for training in accordance with section 202(b)." Section 2(b) of the bill contains the language of new section 202(b) of the act referred to above. This merely clarifies the authority already given to the Secretary to provide a special program for the testing, counseling and selection of youths by addition of the word "referral" and by specifying that the youths for whom this special program shall be provided are those "who because of inadequate educational background and work preparation are unable to qualify for and obtain employment without such training and schooling."

Recognition is thereby given to the broad differences existing among the unemployed youth. Those most seriously impoverished require special treatment if the training effort is to succeed. For them counseling must be enriched and made more extensive. Deficiencies must be analyzed and then corrected. Other developmental work in the area of basic work skills may be necessary prior to specific occupational training. These youth simply are not ready for, nor could they adjust successfully to, the more standardized occupational training programs. For them special tailormade programs are essential if the objective of successful employment is to be achieved. Since their needs are diverse and no single pattern will fit them all, maximum flexibility in approach, as authorized in this bill, is essential.

Other youth, less severely disadvantaged, can and do enroll in regular occupational training programs established under MDTA. Administrative convenience may at times produce separate classes of youth and adults

preparing for a particular occupation. Yet no fundamental changes in content or approach are thereby required. In these cases, the committee is convinced that provision for a training allowance to the youth is not required. Their position in this respect is similar to that of the unrelated and unemployed adults for whom training opportunities only are provided.

The training allowance, in other words, is not automatically available to every trainee. The committee continues to support thereby the original philosophy of the act which was reflected in the provision of a training allowance for those whose need was greatest. One example is adults with family responsibilities. Similarly the committee recognizes the need for the use of a training allowance in those cases where training might not otherwise be feasible such as the undereducated and disadvantaged youths.

It should be noted that the distinctions outlined above conform to the general practice of the Secretary of Labor under the act. Training allowances are already restricted to those youth for whom special programs are necessary. Hence no major shift in policy is required. It is expected, however, that effort may have to be directed to the question of providing in practice for meaningful and careful distinction of the special and regular programs required by this bill.

C. Basic education provision

Certainly one of the principal expectations of Congress at the time MDTA was passed, was that hard-core unemployed could be salvaged and returned to productive employment. Yet, when available job opportunities are discovered and the necessary training program devised, the vast majority of the unemployed cannot pass entrance examinations. In fact, large numbers cannot even be tested since they are unable to read or write. The original act was written carefully to insure that only those with a reasonable expectation of success would be accepted for training. Nationally, only one in eight of the unemployed have qualified. The chairman of the Indiana Manpower Advisory Committee, Mr. Franklin D. Schurz, provided testimony regarding a survey in South Bend, Ind., which revealed that 60 percent of the unemployed in that area could not qualify for projected training courses because of inadequate educational attainment.

The problem is illustrated very clearly by the figures given to the committee on the educational attainment of the unemployed. Twenty percent, or 800,000, have not completed the eighth grade in school. Another 16 percent, 640,000, have only an eighth grade education.

Three percent of MDTA trainees so far have come from among those with less than an eighth grade education. In the opinion of the committee the success of the retraining program at higher levels has demonstrated that we can now focus effectively on the even harder "hard core" of unemployed. These are the least educated and least usable workers in today's world. Without opportunity this group is predictably doomed to a lifetime of joblessness and dependence upon public assistance.

Mr. Raymond M. Hilliard, the director of Cook County Department of Public Aid in Illinois, has calculated the probable cost to society of such continued denendency to be in the neighborhood of $30,000 for a single individual. If they can be salvaged at a moderate cost of $1,200 to $1,500 the financial saving to society alone can be significant.

The central question is whether this group is potentially employable. On this question the evidence is overwhelmingly yes, provided we are willing to elliminate the educational deficiencies preventing their training. Cook County, under Mr. Hilliard's direction, has pioneered in this effort. By the end of the year, according to his testimony, they expect to have a 20,000 able-bodied and potentially employable welfare recipients in basic education training. That this program is working was amply demonstrated in the evidence Mr. Hilliard presented to the subcommittee. A brief excerpt provides some examples:

"In carrying out this program, I have witnessed some deeply moving scenes. I think of a boy who brought his father for the first night and who helps him with his homework and also of the 50-year-old man writing his name for the first time and then writing it over and over again. Or there is the father of 13 who dropped out of school 38 years ago in the third grade and who entered our literacy program, and in the space of 5 months raised himself or was lifted to a point where he passed an eighth grade examination and was awarded his elementary school diploma. On his graduation night, he remarked, "No kid of mine will ever drop out of school." He now has a good job and is also attending high school where in night classes he hopes to get a diploma in 2 years.

"This new program has, for the first time, brought hope to these people and this new hope is education itself. In Chicago, we have seen the new light of hope radiate from the faces of our welfare recipients. I wish that members of this committee had been with me to attend a recent graduation of 211 adults from the eighth grade and had seen the face of each, beaming with pride, illuminated with hope, as he or she received an elementary school certificate. I wish that you could have been with me to see 25 men go off relief in a body at a graduation exercise of a class where they had learned to become Yellow Taxi drivers; 266 former recipients have now received this training and 215 are currently employed. Many of these men were able to qualify because they had been taught to read and to write in our basic literacy classes and, as a result, they could make out trip sheets, write receipts and reports and read street signs."

Similar findings have emerged from special or demonstration projects which were designed to test the feasibility of training for illiterate and semi-illiterate adults. One of the most important of these experiments is underway at Virginia State College. Ninety men past the age of 25, including among them 50 who had exhausted their unemployment compensation and who could not have qualified for normal training, were placed in a special MDTA program. Because of inadequate education it was found that they would need a full year's training. A combined program was provided enabling these men to improve their educational skills while they were learning the job skills required to become electronic technicians, brick masons, automobile mechanics, sheet metal workers, and building maintenance men. Within 6 months those of the group, 40 percent, who had less than 7 years of schooling had averaged a gain of almost 2 school years in reading ability.

ELIGIBILITY FOR BASIC EDUCATION TRAINING

The bill proposes to provide greater opportunity for those now excluded from training by extending the period for which training allowances can be provided for another 20 weeks. Only those who cannot enter any occupational training because of inadequate education will be eligible for this additional training. The purpose of the provision is to make possible the development of the basic education skills which are required if a person is to qualify and benefit from any occupational training. It is expected that in the usual case this will involve special training in the general area of reading, writing, language skills, and arithmetic. The committee believes additional restrictions are unnecessary since the term "basic" can in the context of a training program be readily distinguished from advanced work to the extent the latter is found necessary, it qualifies more appropriately within the present provisions for occupational training. Those to whom the proposed provision applies face the quite different problem of developing their educational pretraining skills to the level required for entry into any occupational training. With this objective of the amendment establishing the distinction between the purpose and nature of basic education skills and those which are part of occupational training, the committee believes there will be little difficulty in practice in determining the precise content of the basic educational program which may need to be provided for a particular group of trainees.

Moreover, the proposal provides for necessary flexibility so that a wide range of possible combinations can be utilized. Committee members were impressed during the hearings with the success that has been achieved at Virginia State College in a program providing for simultaneous education and skill training. But there may be other situations where more success could be achieved by having the education training precede occupational training. No attempt was made by the committee to prejudge this question since it is possible either approach may work in some situation but not in others. Where the education training precedes occupational training, however, the bill provides that those referred must indicate their intention to subsequently enter occupational training. In these cases, too, it is provided that precise determination of occupational objective need not be made before the educational training begins, provided the Secretary has reasonable assurance that the level of educational training achieved will permit the trainee to enter occupational training of a type for which reasonable expectations of employment exist. The same test applied to other trainees remains, therefore, but unnecessary rigidities are avoided.

For the same reasons that flexible combinations of training are permitted, the bill also permits flexible use of the time permitted for training. The extended period of training permitted for this group simply recognizes that more time is required if they are to be made employable through basic education added to occupational training. How it is to be used can only be determined by those who are most familiar with the needs of the group to be trained and the requirements of the ultimate job situation. For some a few weeks of basic education training, followed by 15 to 20 weeks of occupational training may be sufficient. Others may require 7 or 8 months of basic education before a similar period of occupational training.

For this expanded program the President recommended an appropriation of $50 million on an annual basis and this is recommended by the committee. It is estimated that these funds will permit the training of 47,000 annually.

D. Training allowance

Section 3 of the bill provides for some needed adjustments in the training allowance provisions of MDTA. The necessity for these was amply demonstrated by witnesses during the hearings. The present level discourages many unemployed from undergoing training and is not sufficient to retain those who enter training if the opportunity for even a casual job arises while in training. Most trainees have family responsibilities. Normally having experienced a period of unemployment before entering training they cannot be expected to have sufficient resources available to support themselves and their families while in training. Moreover, the training itself imposes additional costs that would not otherwise be encountered in the form of transportation, food away from home, clothing, and incidentals. Those with

sufficient motivation to undergo the burdens of training ought not to be impeded or penalized by being placed in a worse position, as a result of such extra costs, than if they had remained on unemployment compensation. Therefore, to provide in part for those costs which are a practical necessity and thus reinforce the incentive to enter training, the Secretary is authorized to pay a training bonus of up to $10 a week over the current average level of unemployment compensation for the State. It should be emphasized that it is the committee's intent that up to $10 in excess of the average unemployment benefit is to be paid only where the training allowance is so low that it is jeopardizing the ability of the individual to maintain training.

In addition trainees are permitted by the bill to engage in nominal part-time work up to 20 hours a week without a reduction in the training allowance. Beyond that amount the hourly earnings for the excess hours will be deducted from the training allowance. The purpose of this provision is to provide a flexible offset rather than a penalty for initiative. As a by-product this will reduce some of the pressure on trainees to drop out whenever part-time work becomes available. The resultant saving to themselves and to the government should be signficant.

E. Advisory committees

Section 5 of the bill provides for changes in the present provisions of the bill. Presently the National Advisory Committee is given the authority to encourage and assist in the organization of these committees. Yet, this body which meets twice a year is hardly in a position to exercise this authority. As a result, only limited development has occurred. Wherever such committees are established, as demonstrated by testimony from the members of such bodies to the subcommittee, their contributions to the scope and success of the program has been impressive. Knowledgeable individuals representative of various sectors of the economy, serving in a volunteer capacity, are the best guarantee of both a wise and efficient utilization of the funds provided for MDTA. Therefore, the committee has become convinced that such bodies should be established at the local and State or regional level wherever appropriate and their advice sought before projects are approved. Authority for this is, therefore, transferred to the Secretary of Labor since this fits in with and is necessary to the discharge of his other operating responsibilities. While the Secretary is directed to establish such advisory committees it is recognized there might be situations such as rural areas and small towns where establishing such a committee would be difficult and serve no useful purpose. Therefore, such committees are not required if in the Secretary's opinion they are not appropriate. Even here, however, it is expected that at some higher level an appropriate and representative advisory committee would be established and could thereby be called upon for advice on the projects being developed.

F. Labor mobility demonstration projects

Section 5 of the bill provides authority for a pilot program of limited experimental work with relocation allowances and loans for the period ending June 30, 1965. For this purpose 2 percent of the appropriated funds of $4 million, whichever is less, is provided.

At the time of the original formulation of MDTA, proposals for relocation allowances received strong support before the committee. Without experience to provide guides, the committee ultimately concluded it would be premature to provide this authority. In the recent hearings on amendments to MDTA support for this authority in one form or another was overwhelming. Only one witness was opposed As is well known, several European countries have found the provision for relocation allowances to be a vital element in overall manpower programs. And academic experts seem to agree that similar provisions are adaptable to the American environment and would be of great value. Given this virtual unanimity of opinion and informed judgment, the committee believes limited authority to conduct experimental work should be provided. From this experience it can then be determined whether this assistance should be provided on a wider basis. If it should be decided to provide such authority, the experience permitted by this will provide the guidelines this committee will require in developing its legislative recommendations.

OTHER PROVISIONS OF THE BILL

A. The preamble

Section 1 of the bill provides for the insertion in the preamble after the words "sought out and trained" the words "as quickly as is reasonably possible" and the insertion after "afforded to these people" the words "with the least delay." Though the committee was satisfied with the achievements of those administering the program it was also impressed by the evidence presented by some witnesses regarding delays, obstructions, and confusion. Perfectly valid explanations may be provided and the instances may well be the isolated cases to be expected in a new program. Nevertheless, the change will serve as a reminder of the intention of Congress that this program be given a high priority. Therefore, it is to be expected that the respective Secretaries will maintain strict overall control of the direction, guidance, and policy of the program in order to insure as rapid progress as can be provided. Finally it is the committee's strong desire that a greater need for urgency be impressed upon all personnel connected with the program.

B. Reduction in eligibility requirements

Section 3, subsection (b), provides for some modest changes in the eligibility requirements. First, the present requirement for 3 years' work experience is reduced to 2. Relatively few individuals will be affected. Second, the head of household provision is modified to the extent of permitting a member of the family, where the head is unemployed, to receive a training allowance. Only one person in the family group will be permitted to receive an allowance at any one time. Again, relatively few individuals will be affected.

C. Reports

Section 9 of the bill provides for a change in the due date of the reports to Congress by the Secretary of Labor and the Secretary of Health, Education, and Welfare. The additional reports result from the extension of the MDTA provided by the bill. The committee believes they are essential to its continuing responsibility for appraising the results of a major new program such as this. The purpose of the change in the due date, by 1 month, is to prevent repetition of the experience wherein there is conflict in date between the preparation of the required report to the President and subsequent report of the President to Congress and the entirely different reports required of the Secretaries.

D. Private training institutions

Section 6(b) of the bill liberalizes the provision relating to the use of private training institutions. It should be noted that there are many private institutions with excellent reputations that have stood the test of time. With facilities in being and trained personnel on hand most are in a position to provide immediate training of the type required by the program. Yet, despite congressional expectations, they have not been used widely. Two factors produced this result. The present language read literally appears to exclude their use except in the extremity of absence or inadequacy of public facilities. Hence, many private institutions have not offered the use of their facilities. Second, many States have reinforced this literal impression of the language thereby further discouraging the use of private institutions.

To remedy this situation the bill substitutes for the present language criteria to govern the use of private institutions. Specifically, States are authorized to contract with private institutions whenever "such institutions can provide substantially equivalent training with reduced Federal expenditures."

The Secretary of Health, Education, and Welfare retains overall supervisorial responsibilities and can be expected to prevent any abuses in the exercise of this added authority. Thus the present MDTA provides in section 231 among other things for "continuous supervision of the training programs conducted under the agreement (with the State) to insure the quality of an adequacy of the training provided, protect the United States against loss, and assure that the functions and duties to be carried out by such State agency are performed in such fashion as will carry out the purposes of this title." Under this authority the Secretary can develop further the principle of cost competitiveness between public and private institutions provided by the bill and develop the controls required to insure compliance with the criterion of comparable quality.

COSTS

Section 7, subsection (b), provides for increased authorizations for fiscal years 1964 and 1965 and new authorization for the extension of the MDTA through fiscal year 1967. To expand the program along the lines suggested by the President and to provide thereby for the training of an additional 93,000 youths and adults, additional annual authorizations of $100 million is provided. Since full utilization of this new authority cannot be reached in the current fiscal year only one-half of this amount or $50 million is authorized.

The increase in the training allowance, in the event the full program contemplated by the MDTA is reached, is estimated to involve costs of from $35 to $40 million. The committee does not believe it is necessary to increase the authorization to provide for these costs and expects that this amount can be absorbed within the existing authorization. Moreover, other additional changes provided by the bill will either involve no costs or be so modest as to be readily absorbed within the existing authorization.

For fiscal year 1965, as previously noted, an increase in the authorization of $161 million is required as a consequence of the postponement for State matching for 1 year. Therefore, the total authorization for fiscal year 1965 will be increased to $422 million. In the 2-year extension it is expected the program will be maintained at the level achieved in fiscal year 1965. With the new State matching provisions, however, the Federal authorization is reduced to $281 million in fiscal year 1966 and to $211 million in fiscal year 1967.

Only changes in the authorization for title II as noted above are provided. Existing annual authorizations for title I and title III are continued unchanged.

OTHER COMMITTEE FINDINGS

Various other problems were brought to the attention of the subcommittee by witnesses. None of these appeared sufficiently widespread or so severe as to require amendments to MDTA at this time in the opinion of the committee. Rather they reflected misinterpretations of MDTA or presented problems for which administrative solutions are readily available. Though legislative action is not required, in fairness to these witnesses some explanation on the following points is deemed desirable.

A. Reasonable expectations of employment

The present MDTA requires (sec. 202(d)) that this test be met before a person is selected for training in an occupation. The principle is obviously sound as the objective of training is employment, not training. In practice, however, some problems have been encountered. Representatives of the Pittsburgh Chamber of Commerce, for example, contended local authorities were requiring employment commitments from local employers before approving a training project. To the Pittsburgh Chamber of Commerce this practice appears so rigid as to be self-defeating and rightly so. Here is but one instance of the effort by Congress to provide for maximum flexibility in MDTA. The term "reasonable" is nowhere defined. Yet, common usage and the deliberate choice of the word would suggest that Congress had in mind emphasizing the need for securing relevant information and the exercise of careful judgment. By no means can the word be stretched entirely from its normal meaning to imply certainty.

In addition the nature of a training program requiring leadtime and plans made months in advance must proceed at a steady pace. The valleys of the business cycle, which inevitably contract employment opportunities, must not impose short-run restrictions on training activities necessarily related to long-term considerations.

"Reasonable" must also be interpreted differently depending on the circumstances. Thus to make this determination initially for a particular occupation may require an employer survey. For subsequent projects, experience may be a sufficient guide. In other instances, a general skill survey will suffice. In still others, evidence developed from national sources or even comparable localities may be sufficient. Moreover, with developing experience, it should be possible for the Secretary to determine the kind of skill development for which training is to be provided. This will permit a partial reversal of the process, as some witnesses urged, so that the unemployed can be tested and counseled in order to determine their potential. With this information in hand those training courses best suited to their abilities and interests, but for which there is a reasonable expectation of employment, can be provided. In all cases, the wide knowledge of the informed individuals brought together on an advisory committee (otherwise provided for by H.R. 8720) can be tapped to determine information needs and to appraise the results.

Finally, we must reemphasize the role of judgment in the process. To rely on judgment, even expert judgment, requires candid recognition of possible errors. This risk can be reduced through experience but not entirely avoided. On the other hand endeavoring to reduce or eliminate the need for judgment in an effort to avoid error can only have the result of raising costs prohibitively through more and more information gathering. The resultant slowdown in the pace of the program may make it ineffectual. Obviously a balance between these risks is required and securing such a balance returns us full circle to the concept of "reasonable" once more. There can be no other test if the challenge is to be met with imagination and dispatch.

B. Occupational training

Some difficulties concerning the meaning of occupational training have been brought to the attention of the committee. Very rigid and narrow interpretations were applied in many areas during the early stages of the program. Most of these issues have now been resolved by the recent policy statement of the Under Secretary of Health, Education, and Welfare. It should now be clear that the training program need not be limited to the traditional curriculum developed for a particular occupational training program. Since the objective of the program is to enable the unemployed to acquire the skills and knowledge needed for available jobs, success in this effort requires a careful appraisal of their full training needs. Therefore, if some accompanying "academic" work is required as part of the skill needed to qualify for a job, then inclusion of such work in the training program is entirely in order. For the unemployed, occupational training cannot and must not be defined in such a way as to exclude such related instruction. With sufficient administrative flexibility these needs, if they cannot be met by a particular training institution, can be provided by contracts with related educational institutions.

Individual needs of trainees in a particular program may well vary. The standard program normally requires 30 hours of training a week. This can be tailor made to fit the common needs of the trainees and the occupation. With ingenuity additional individual needs may be met by utilization of existing educational programs through referral of the trainee.

While we believe "occupational training" embraces necessary related "academic" instruction, we also believe there are some limits that should be observed. Thus to take an extreme example we are convinced "occupational" does not embrace "professional" or a "pre-professional" training. Normally professional training requires college and postgraduate education. Certainly we could expect to find some valid cases of the need for and the potential of retraining at this level. Yet such needs, if they exist, lie outside the confines of the present act.

Finally it should be noted that the administration proposed to permit training programs imparting "basic work skills." These were described by Secretary Wirtz as "skills or techniques which by themselves do not qualify a person for a specific occupation but constitute integral parts of the knowledge necessary to proper performance." These were further described as "those skills that are common and necessary parts of a whole range of occupations but do not themselves constitute a specific occupation." The committee accepts and indeed urges the necessity of such training. However, in the committee's view no change in the present language is required. Within the context of the act, occupational training as noted earlier, necessarily is "tailormade" training. Specific training for a particular occupation is the central ingredient. But any additional knowledge required to make this training effective, so that employable graduates are produced, is to be encouraged. In connection with the special youth programs this broader interpretation is especially relevant.

C. Local and State priority in training

The present act (sec. 202(b)) requires that priority for training be extended to persons to be trained for skills needed, first, with the labor market area in which they reside, and second, with the State of their residence. Many witnesses contended this provision should be deleted in its entirety. It was argued this had prevented the training of persons in skills that are in short supply nationally but for which no local need could be demonstrated. Some asserted this had prevented the training of persons in an area bordering on a neighboring State for jobs available in that State.

Little of consequence would attend such a change. In practice these priorities could be expected to be observed since local agencies and advisory committees would have these preferences. More important the change is not necessary. The present language speaks only of two priorities. Other training possibilities are not thereby excluded. Thus, it is possible for a local area, unable to find job opportunities for its unemployed locally or within the State to train persons for jobs elsewhere. The only restriction would be the requirement in section 202(d) that the trainee evidence a willingness to move outside his area of residence in order to accept employment.

D. Apprenticeship needs

Some witnesses, noting the declining numbers of apprentices and the fact that a minimal amount, probably 10 percent, of our skill needs in the apprenticeable occupations are being met, urged greater attention to this area. Some promising experimental work with preapprenticeship training courses is already underway. These projects may increase the number of apprentices.

What seems to be required, however, if we are to make progress, is careful study over an extended period by all groups concerned with this area. In the opinion of the committee it would be appropriate for the National Advisory Committee to establish a representative study panel. This panel could be given the responsibility for preparing recommendations to the National Advisory Committee. This is in line with evolving practice since the National Advisory Committee has begun to establish panels with similarly assigned responsibilities for defined problem areas. The work of these study panels provides the basis for the proper exercise of the responsibility of the National Advisory Committee to "make recommendations to the Secretary relative to the carrying out of his duties under this act."

E. On-the-job training

This phase of training received considerable attention during the hearings. In part this interest reflected the original expectations when the act was adopted envisioning mended that a subsequent manpower report a sizable role for this type of training. These hopes have not materialized. For this situation a number of explanations might be offered. Most compelling, however, is the fact that this program was delayed. The operating procedures had been announced shortly lative appraisal would not be fruitful at this before the hearings began. Without more experience to go on, it was concluded that legistime. In view of the continuing interest of so many witnesses in this subject, it is recommof the President include a thorough review of this area. Once the problems and accomplishments have been documented legislative appraisal may be in order.

F. Local and State planning needs

Universally those connected with the local operating agencies expressed concern over the present system of allocating money only after a program is approved. Exploratory investigation and other developmental work is not reimbursed unless success in the form of project approval is achieved. Knowing this, local authorities hesitate to venture too far from proven paths. Hence an unknown amount of opportunities remain untapped. The committee has been reassured that these complaints are partially groundless and that in any event budget planning has been revised so as to provide solutions. To the extent this proves to be true it will be welcome to all concerned. Nevertheless the existence of such complaints suggest that continuing attention to these matters is required if the imagination and spirit of experimentation so essential to success is not to be inhibited.

G. Administrative relationships

The complex nature of the training task required an equally complex set of administrative arrangements. Separate but interrelated responsibilities were assigned to the Secretary of Labor and the Secretary of Health, Education, and Welfare. Operating responsibilities in turn are assigned to local and State agencies in the employment and education fields. Admittedly the task of insuring efficient and fruitful working relationships is a difficult one. Indeed it is remarkable that so few problems have arisen. Those witnesses most familiar with the actual operations were most complimentary regarding the fine working relationships that have been developed. Therefore the committee is satisfied that the complex set of governmental

relationships provided in the act is a workable one. And the committee is convinced that the approach followed by Congress in providing for maximum flexibility to these agencies in the operation of the program remains a sound one.

Section 303 of the act sets forth in positive terms the requirements for full use of available services or facilities of other agencies so as to avoid unnecessary expense and duplication of functions. The language of this section makes these obligations clear. Despite this, some examples have been brought to the attention of the committee suggesting the requirements are honored in the breach. This reminder, that the intent of Congress, as set forth in this section, cannot be avoided, may be sufficient.

However, the severity of complaints regarding the counseling and selection functions requires some additional comment. Counseling of the unemployed and prospective trainee is assigned to the Secretary of Labor. This activity in the field is usually carried by the Employment Service. Yet there are many instances where this counseling might be provided, with improved results and at a lower cost, by utilization of available counselors within the educational system. In such instances cooperative use is to be encouraged, in keeping with the general instructions of Congress, rather than obstructed. Since these problems were brought to the attention of the committee we urge that the Secretary of Labor and the Secretary of Health, Education, and Welfare investigate this further so that abuses, if any, can be promptly eliminated.

In this connection it should be noted there is wide recognition of deficiencies in the present performance of the counseling and guidance functions. Some witnesses have brought these to the attention of the committee. The National Advisory Committee was already aware of the need for improvement and responded quickly by establishing an expert panel to review and make recommendations concerning counseling, guidance, and testing activities. The committee shares this concern. We recognize the prospects for success of the entire training effort can be affected critically by the quality of the counseling provided the unemployed worker. We are confident administrators will be alert to the possibilities for administrative implementation of the suggestions of the study panel. To some extent, however, further legislation may be needed and the committe expects to undertake a full review following the completion of the work of the study panel.

II. The role of special or demonstration projects

The most encouraging findings of the committee relate to the unique and critically important contributions being made to the program by these projects. These pioneering programs embrace both youth and adults. Through them research is undertaken and new techniques developed. Results of this research may open up promising new avenues of approach to the training problems of the disadvantaged groups in the work force. Since the Department of Health, Education, and Welfare carries the responsibility for training it should develop more fully, than it has, its participation in this research.

Among the most promising efforts have been those that provide training components to programs utilizing a wide variety of public and private groups in a combined attack on a group of related problems. That these have been successful was abundantly demonstrated during the hearings. In fact evidence from these projects provided the most convincing proof of the need for and the feasibility of making the changes provided in H R. 8720. Throughout, the committee was impressed with the inventiveness, the scope, and the promise evident in these projects. Since increased knowledge and experience is our most critical need at this juncture in the development of a major new program, the committee urges that the present role assigned to these special projects be continued, and if possible, expanded.

I. Toward a positive labor market policy

The urgent need for the development of what is becoming known as a "positive labor market policy" is now becoming widely recognized. Much more is required if this concept is to become a reality. To this achievement the MDTA program makes important contributions. The training program is an important element. On this E. Wright Bakke in his recent book "A Positive Labor Market Policy" included in his summary the following:

"4. The bringing into the foreground of public, particularly legislative, consciousness of a positive approach to unemployed manpower resources more conducive to economic health and growth than the relief approach. For example, the transformation of underutilized to fully utilized manpower, the transformation of idle to active labor reserves, the transformation of redundant to available workers."

Also in title I of MDTA Congress specifically assigned a broader responsibility by describing the purpose of the act as requiring the "Federal Government to appraise the manpower requirements and resources of the Nation." To implement this and other objectives the Secretary of Labor is given broad authority to undertake studies, appraise our manpower development efforts, and to make reports and recommendations to the President. Similarly, the annual report of the President to Congress is expected to embrace the full range of manpower requirements, resources, utilization, and training. The opportunity and responsibility provided by this title is such that we can expect among other things to see emerging the outlines of an active and positive labor market policy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 8720, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962, AS AMENDED (PUBLIC LAWS 87-415 AND 87-729)

(An act relating to manpower requirements, resources, development, and utilization, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manpower Development and Training Act of 1962".

TITLE I—MANPOWER REQUIREMENTS, DEVELOPMENT, AND UTILIZATION

STATEMENT OF FINDINGS AND PURPOSE

SEC. 101. The Congress find that there is critical need for more and better trained personnel in many vital occupational categories, including professional, scientific, technical, and apprenticeable categories; that even in periods of high unemployment, many employment opportunities remain unfilled because of the shortages of qualified personnel; and that it is in the national interest that current and prospective manpower shortages be identified and that persons who can be qualified for these positions through education and training be sought out and trained *as quickly as is reasonably possible,* in order that the Nation may meet the staffing requirements of the struggle for freedom. The Congress further finds that the skills of many persons have been rendered obsolete by dislocations in the economy arising from automation or other technological development, foreign competition, relocation of industry, shifts in market demands, and other changes in the structure of the economy; that Government leadership is necessary to insure that the benefits of automation do not become burdens of widespread unemployment; that the problem of assuring sufficient employment opportunities will be compounded by the extraordinarily rapid growth of the labor force in the next decade, particularly by the entrance of young people into the labor force, that improved planning and expanded efforts will be required to assure that men, women, and young people will be trained and available to meet shifting employment needs; that many persons now unemployed or underemployed, in order to become qualified for reemployment or full employment must be assisted in providing themselves with skills which are or will be in demand in the labor market; that the skills of many persons now employed are inadequate to enable them to make their maximum contribution to the Nation's economy; and that it is in the national interest that the opportunity to acquire new skills be afforded to these people *with the least delay* in order to alleviate the hardships of unemployment, reduce the costs of unemployment compensation and public assistance, and to increase the Nation's productivity and its capacity to meet the requirements of the space age. It is therefore the purpose of this Act to require the Federal Government to appraise the manpower requirements and resources of the Nation, and to develop and apply the information and methods needed to deal with the problems of unemployment resulting from automation and technological changes and other types of persistent unemployment.

EVALUATION, INFORMATION, AND RESEARCH

SEC. 102. To assist the Nation in accomplishing the objectives of technological progress while avoiding or minimizing individual hardship and widespread unemployment, the Secretary of Labor shall—

(1) evaluate the impact of, and benefits and problems created by automation, technological progress, and other changes in the structure of production and demand on the use of the Nation's human resources; establish techniques and methods for detecting in advance the potential impact of such developments; develop solutions to these problems, and publish findings pertaining thereto;

(2) establish a program of factual studies of practices of employers and unions which tend to impede the mobility of workers or which facilitate mobility, including but not limited to early retirement and vesting provisions and practices under private compensation plans; the extension of health, welfare, and insurance benefits to laid-off workers; the operation of severance pay plans; and the use of extended leave plans for education and training purposes. A report on these studies shall be included as a part of the Secretary's report required under section 104.

(3) appraise the adequacy of the Nation's manpower development efforts to meet foreseeable manpower needs and recommend needed adjustments, including methods for promoting the most effective occupational utilization of and providing useful work experience and training opportunities for untrained and inexperienced youth;

(4) promote, encourage, or directly engage in programs of information and communication concerning manpower requirements, development, and utilization, including prevention and amelioration of undesirable manpower effects from automation and other technological developments and improvement of the mobility of workers; and

(5) arrange for the conduct of such research and investigations as give promise of furthering the objectives of this Act.

SKILL AND TRAINING REQUIREMENTS

SEC. 103. The Secretary of Labor shall develop, compile, and make available, in such manner as he deems appropriate, information regarding skill requirements, occupational outlook, job opportunities, labor supply in various skills, and employment trends on a National, State, area, or other appropriate basis which shall be used in the educational, training, counseling, and placement activities performed under this Act.

MANPOWER REPORT

SEC. 104. The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to manpower requirements, resources, use, and training; and the President shall transmit to the Congress within sixty days after the beginning of each regular session (commencing with the year 1963) a report pertaining to manpower requirements, resources, utilization, and training.

TITLE II—TRAINING AND SKILL DEVELOPMENT PROGRAMS

PART A—DUTIES OF THE SECRETARY OF LABOR

GENERAL RESPONSIBILITY

SEC. 201. In carrying out the purnoses of this Act, the Secretary of Labor shall determine the skill requirements of the economy, develop policies for the adequate occupational development and maximum utilization of the skills of the Nation's workers, promote and encourage the development of broad and diversified training programs, including on-the-job training, designed to qualify for employment the many persons who cannot reasonably be expected to secure full-time employment without such training, and to equip the Nation's workers with the new and improved skills that are or will be required.

SELECTION OF TRAINEES

SEC. 202. (a) The Secretary of Labor shall provide a program for testing, counseling, and selecting for occupational training under this Act those unemnloyed or underemployed nersons who cannot reasonably be expected to secure appropriate full-time employment without training. [Whenever appropriate the Secretary shall provide a special program for the testing, counseling, and selection of youths, sixteen years of age or older, for occupational training and further schooling.] Workers in farm families with less than $1,200 annual net family income shall be considered unemployed for the purpose of this Act.

(b) Whenever appropriate the Secretary shall provide a special program for the testing, counseling, selection, and referral of youths, sixteen years of age or older, for occupational training and further schooling, who because of inadequate educational background and work preparation are unable to qualify for and obtain employment without such training and schooling.

[(b)] (c) Although priority in referral for training shall be extended to unemployed persons, the Secretary of Labor shall, to the maximum extent possible, also refer other persons qualified for training programs which will enable them to acquire needed skills. Priority in referral for training shall also be extended to persons to be trained for skills needed within, first, the labor market area in which they reside and, second, within the State of their residence.

[(c)] (d) The Secretary of Labor shall determine the occupational training needs of referred persons, provide for their orderly selection and referral for training under this Act, and provide counseling and placement services to persons who have completed their training, as well as follow-up studies to determine whether the programs provided meet the occupational training needs of the persons referred.

[(d)] (e) Before selecting a person for training (*other than for training under subsection* (i)), the Secretary shall determine that there is a reasonable expectation of employment in the occupation for which the person is to be trained. If such employment is not available in the area in which the person resides, the Secretary shall obtain reasonable assurance of such person's willingness to accept employment outside his area of residence.

[(e)] (f) The Secretary shall not refer persons for training in an occupation which requires less than two weeks training, unless there are immediate employment opportunities in such occupation.

[(f)] (g) The duration of any training program to which a person is referred shall be reasonable and consistent with the occupation for which the person is being trained.

[(g)] (h) Upon certification by the responsible training agency that a person who has been referred for training does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, the Secretary shall forthwith terminate his training and subsistence allowances, and his transportation allowances except such as may be necessary to enable him to return to his regular place of residence after termination of training, and withdraw his referral. Such person shall not be eligible for such allowances for one year thereafter.

(i) Whenever appropriate, the Secretary of Labor may also refer for the attainment of basic education skills those eligible persons who indicate their intention to, and will thereby be able to, pursue courses of occupational training of a type for which there appears to be reasonable expectation of employment. Such referrals shall be considered a referral for training within the meaning of this Act, and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks.

TRAINING ALLOWANCES

SEC. 203. (a) The Secretary of Labor may, on behalf of the United States enter into agreements with States under which the Secretary of Labor shall make payments to such States either in advance or by way of reimbursement for the purpose of enabling such States, as agents for the United States, to make payment of weekly training allowances to unemployed persons selected for training pursuant to the provisions of section 202 and undergoing such training in a program operated pursuant to the provisions of this Act. Such payments shall be made for a period not exceeding fifty-two weeks (*except where authorized for individuals referred for training under section 202*(i)), and the amounts of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed *$10 more than* the amount of the average weekly unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent quarter for which such data are available: *Provided, however,* That in any week an individual who, but for his training, would be entitled to unemployment compensation in excess of such allowance, shall receive an allowance increased by the amount of such excess. With respect to Guam and the Virgin Islands the Secretary shall by regulation determine the amount of the training allowance to be paid any eligible person taking training under this Act.

With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than *$10 more than* the average weekly unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payment during the most recent quarter for which such data are available, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. This supplemental training allowance shall not exceed the difference between his unemployment compensation *$10 more than* the average weekly unemployment compensation payment referred to above.

For persons undergoing on-the-job training, the amount of any payment which would otherwise be made by the Secretary of Labor under this section shall be reduced by an amount which bears the same ratio to that payment as the number of compensated hours per week bears to forty hours.

The training allowance of a person engaged in full-time training under section 231 shall not be reduced on account of his part-time employment which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked in excess of twenty hours per week.

(b) The Secretary of Labor is authorized to pay to any person engaged in training under this title, including compensated full-time on-the-job training, such sums as he may determine to be necessary to defray transportation and subsistence expenses for separate maintenance of such persons when such training is provided in facilities which are not within commuting distance of their regular place of residence: *Provided,* That the Secretary in defraying such subsistence expenses shall not afford any individual an allowance exceeding $35 per week, at the rate of $5 per day; nor shall the Secretary authorize any transportation expenditure exceeding the rate of 10 cents per mile.

(c) [The Secretary of Labor shall pay training allowances only to unemployed persons who have had not less than three years of experience in gainful employment and are either heads of families, or heads of households as defined in the Internal Revenue Code of 1954, except that he may pay training allowances at a rate not exceeding $20 a week to youths over nineteen but under twenty-two years of age where such allowances are necessary to provide them occupational training, but not more than 5 per centum of the estimated total training allowances paid annually under this section may be paid to such youths.] The Secretary of Labor shall pay training allowances only to unemployed persons who have had not less than two years of experience in gainful employment and who are either heads of families or heads of households as defined in the Internal Revenue Code of 1954, or who are members of a household in which the head of the household or the head of the family is unemployed: *Provided,* That not more than one person in any one household may be receiving training allowances under this Act at any particular time. Notwithstanding the preceding sentence, the Secretary may pay training allowances at a rate not in excess of $20 a week to youths seventeen years of age or older who require such training allowance in order to undertake training, who are referred for training in accordance with section 202(b), and who are not entitled to allowances under the preceding sentence, except that no such training allowance shall be paid to any such youth who has not graduated from high school, unless the Secretary has satisfied himself that such youth has continuously failed to attend school for a period of not less than one year and that the local authorities after pursuing all appropriate procedures, including guidance and counseling, have concluded that further school attendance by such youth is no longer practicable under the circumstances. Not more than 25 per centum of the persons who are receiving training allowances (or who would be entitled thereto but for receipt of unemployment compensation) may be youths under the age of twenty-two.

(d) [After June 30, 1964, any amount paid to a State for training allowances under this section, or as reimbursement for unemployment compensation under subsection (h), shall be paid on condition that such State shall bear 50 per centum of the amount of such payments.] *For the fiscal year ending June 30, 1966, any amount paid to a State for training allowances under this section,*

or as reimbursement for unemployment compensation under subsection (h), shall be paid on condition that such State shall bear 33⅓ per centum of the amount of such payments, and for each fiscal year thereafter such amounts shall be paid on condition that such State shall bear 50 per centum of the amount of such payments.

(e) No training allowance shall be made to any person otherwise eligible who, with respect to the week for which such payment would be made, has received or is seeking unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law, but if the appropriate State or Federal agency finally determines that a person denied training allowances for any week because of this subsection was not entitled to unemployment compensation under title XV of the Social Security Act or such Federal or State law with respect to such week, this subsection shall not apply with respect to such week.

(f) A person who refuses, without good cause, to accept training under this Act shall not, for one year thereafter, be entitled to training allowances.

(g) Any agreement under this section may contain such provisions (including, as far as may be appropriate, provisions authorized or made applicable with respect to agreements concluded by the Secretary of Labor pursuant to title XV of the Social Security Act) as will promote effective administration, protect the United States against loss and insure the proper application of payments made to the State under such agreement. Except as may be provided in such agreements, or in regulations hereinafter authorized, determinations by any duly designated officer or agency as to the eligibility of persons for weekly training allowances under this section shall be final and conclusive for any purposes and not subject to review by any court or any other officer.

(h)(1) If State unemployment compensation payments are paid to a person taking training under this Act and eligible for a training allowance, the State making such payments shall be reimbursed from funds herein appropriated. The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the States and such amount shall then be placed in the State's unemployment trust fund account.

(2) If unemployment benefits under the Railroad Unemployment Insurance Act are paid to a person taking training under this Act and eligible for a training allowance, the railroad unemployment insurance account in the unemployment trust fund shall be reimbursed, from funds herein appropriated, for all of such benefits paid prior to [July 1, 1964, and for 50 per centum of the amount of such benefits paid on or after that date] *July 1, 1965, for 66⅔ per centum of the amount of such benefits paid during the fiscal year ending June 30, 1966, and 50 per centum of the amount of such benefits paid thereafter.* The amount of such reimbursement shall be determined by the Secretary of Labor on the basis of reports furnished to him by the Railroad Retirement Board and such amount shall be placed in the railroad unemployment insurance account.

(i) A person who, in connection, with an occupational training program, has received a training allowance or whose unemployment compensation payments were reimbursed under the provisions of this Act or any other Federal Act shall not be entitled to training allowances under this Act for one year after the completion or other termination (for other than good cause) of the training with respect to which such allowance or payment was made.

(j) No training allowance shall be paid to any person who is receiving training for an occupation which requires a training period of less than six days.

ON-THE JOB TRAINING

SEC. 204. (a) The Secretary of Labor shall encourage, develop, and secure the adoption of programs for on-the-job training needed to equip persons selected for training with the appropriate skills. The Secretary shall, to the maximum extent possible secure, the adoption by the States and by private and public agencies, employers, trade associations, labor organizations and other industrial and community groups which he determines are qualified to conduct effective training programs under this title of such programs as he approves, and for this purpose he is authorized to enter into appropriate agreements with them.

(b) In adopting or approving any training program under this part, and as a condition to the expenditure of funds for any such program, the Secretary shall make such arrangements as he deems necessary to insure adherence to appropriate training standards, including assurances—

(1) that the training content of the program is adequate, involves reasonable progression, and will result in the qualification of trainees for suitable employment;

(2) that the training period is reasonable and consistent with periods customarily required for comparable training;

(3) that adequate and safe facilities, and adequate personnel and records of attendance and progress are provided; and

(4) that the trainees are compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations hereinafter authorized, considering such factors as industry, geographical region, and trainee proficiency.

(c) Where on-the-job training programs under this part require supplementary classroom instruction, appropriate arrangements for such instruction shall be agreed to by the Secretary of Health, Education, and Welfare and the Secretary of Labor.

[NATIONAL ADVISORY COMMITTEE] ADVISORY COMMITTEE

SEC. 205. (a) The Secretary shall appoint a National Advisory Committee which consist of ten members and shall be composed of representatives of labor, management, agriculture, education, and training, and the public in general. From the members appointed to such Committee the Secretary shall designate a Chairman. Such Committee, or any duly established subcommittee thereof, shall from time to time make recommendations to the Secretary relative to the carrying out of his duties under this Act. Such Committee shall hold not less than two meetings during each calendar year.

(b) [The National Advisory Committee shall encourage and assist in the organization on a plant, community, regional, or industry basis of labor-management-public committees and similar groups designed to further the purposes of this Act and may provide assistance to such groups, as well as existing groups organized for similar purposes, in effectuating such purposes.] *For the purpose of making expert assistance available to persons formulating and carrying on programs under this title, the Secretary shall, where appropriate, require the organization on a community, State, and/or regional basis of labor-management-public advisory committees.*

(c) The National Advisory Committee may accept gifts or bequests, either for carrying out specific programs or for its general activities or for its responsibilities under subsection (b) of this section.

(d) Appointed members of the *National Advisory Committee* shall be paid compensation at the rate of $50 per diem when engaged in the work of the *National Advisory Committee*, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b 2) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(c)(1) Any member of the *National Advisory Committee* is hereby exempted, with respect to such appointment, from the operation of sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in paragraph (2) of this subsection.

(2) The exemption granted by paragraph (1) of this subsection shall not extend.

(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment, or

(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

STATE AGREEMENTS

SEC. 206. (a) The Secretary of Labor is authorized to enter into an agreement with each State, or with the appropriate agency of each State, pursuant to which the Secretary of Labor may, for the purpose of carrying out his functions and duties under this title, utilize the services of the appropriate State agency and, notwithstanding any other provision of law, may make payments to such State or appropriate agency for expenses incurred for such purposes.

(b) Any agreement under this section may contain such provisions as will promote effective administration, protect the United States against loss and insure that the functions and duties to be carried out by the appropriate State agency are performed in a manner satisfactory to the Secretary.

RULES AND REGULATIONS

SEC. 207. The Secretary of Labor shall prescribe such rules and regulations as he may deem necessary and appropriate to carry out the provisions of this part.

LABOR MOBILITY DEMONSTRATION PROJECTS

SEC. 208. *During the period ending June 30, 1965, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas; pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, having bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed. Where such assistance is provided in the form of grants, such grants may not exceed 50 per centum of the expenses incurred reasonably necessary to the transportation of the person who is relocating, and his family, and their household effects. Where such assistance is provided in the form of loans, or a combination of loans and grants, the total amount thereof may not exceed 100 per centum of such expenses and shall be made subject to such terms and conditions as the Secretary may prescribe. Of the funds appropriated for a fiscal year to carry out this title, not more than 2 per centum thereof, or $4,000,000, which is the lesser, may be used for the purposes of this section.*

PART B—DUTIES OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

GENERAL RESPONSIBILITY

SEC. 231. The Secretary of Health, Education, and Welfare shall, pursuant to the provisions of this title, enter into agreements with States under which the appropriate State vocational education agencies will undertake to provide training needed to equip persons referred to the Secretary of Health, Education, and Welfare by the Secretary of Labor pursuant to section 202, for the occupations specified in the referrals, *except that with respect to education to be provided pursuant to referrals under subsection (b) or (i) of section 202, the Secretary of Health, Education, and Welfare may make arrangements for the provision of the education to be provided under such subsection through other appropriate education agencies.* Such State agencies shall provide for such training through public education agencies or institutions or [, if facilities or services of such agencies or institutions are not adequate for the purpose,] through arrangements with private educational or training institutions *where such institutions can provide substantially equivalent training with reduced Federal expenditures.* The State agency shall be paid 50 per centum of the cost to the State of carrying out the agreement, except that for the period ending June 30, [1964] *1965*, The State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement with respect to unemployed persons, *and for the fiscal year ending June 30, 1966, the State agency shall be paid 66⅔ per centum of such cost.* Such agreements shall contain such other provisions as will promote effective administration (including provision (1) for reports on the attendance and performance of trainees, (2) for immediate certification to the Secretary of Labor by the responsible training agency with respect to each person referred for training who does not have a satisfactory attendance record or is not making satisfactory progress in such training absent good cause, and (3) for continuous supervision of the training programs conducted under the agreement to insure the quality and adequacy of the training provided), protect the United States against loss, and assure that the functions and duties to be carried out by such State agency are performed in such fashion as will carry out the purposes of this title. In the case of any State which does not enter into an agreement under this section, and in the case of any training which the State agency does not provide under such an agreement, the Secretary of Health, Education, and Welfare may provide the needed training by agreement or contract with public or private educational or training institutions.

RULES AND REGULATIONS

SEC. 232. The Secretary of Health, Education, and Welfare may prescribe such rules and regulations as he may deem necessary and appropriate to carry out the provisions of this part.

TITLE III—MISCELLANEOUS

APPORTIONMENT OF BENEFITS

SEC. 301. For the purpose of effecting an equitable apportionment of Federal expenditures among the States in carrying out the programs authorized under title II of this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare shall make such apportionment in accordance with uniform standards and in arriving at such standards shall consider only the following factors: (1) the proportion which the labor force of a State bears to the total labor force of the United States, (2) the proportion which the unemployed in a State during the preceding calendar year bears to the total number of unemployed in the United States in the preceding calendar year, (3) the lack of appropriate full-time employment in the State, (4) the proportion which the insured unemployed within a State bears to the total number of insured employed within such State, and (5) the average weekly unemployment compensation benefits paid by the State. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to make reapportionments from time to time where the total amounts apportioned under this section have not been fully obligated in a particular State, or where the State or appropriate agencies in the State have not entered into the necessary agreements, and the Secretaries find that any other State is in need of additional funds to carry out the programs authorized by this Act.

MAINTENANCE OF STATE EFFORT

SEC. 203. No training program which is financed in whole or in part by the Federal Government under this Act shall be approved unless the Secretary of Labor, if the program is authorized under part A of title II, or the Secretary of Health, Education, and Welfare, if the program is authorized under part B of title II, satisfies himself that neither the State nor the locality in which the training is carried out has reduced or is reducing its own level of expenditures for vocational education and training, including program operation under provisions of the Smith-Hughes Vocational Education Act and titles I, II, and III of the Vocational Education Act of 1946, except for reductions unrelated to the provisions or purposes of this Act.

OTHER AGENCIES AND DEPARTMENTS

SEC. 303. (a) In the performance of their functions under this Act, the Secretary of Labor and the Secretary of Health, Education, and Welfare, in order to avoid unnecessary expense and duplication of functions among Government agencies, shall use the available services or facilities of other agencies and instrumentalities of the Federal Government, under conditions specified in section 306(a). Each department, agency, or establishment of the United States, is authorized and directed to cooperate with the Secretary of Labor and the Secretary of Health, Education, and Welfare and, to the extent permitted by law, to provide such services and facilities as either may request for his assistance in the performance of his functions under this Act.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall carry out their responsibilities under this Act through the maximum utilization of all possible resources for skill development available in industry, labor, public and private educational and training institutions, State, Federal, and local agencies, and other appropriate public and private organizations and facilities.

APPROPRIATIONS AUTHORIZED

SEC. 304. (a) There are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1963, $3,000,000 for the fiscal year ending June 30, 1964, [and a like amount for the fiscal year ending June 30, 1965] *and each of the three succeeding fiscal years*, for the purpose of carrying out title I.

(b) There are hereby authorized to be appropriated $97,000,000 for the fiscal year ending June 30, 1963, [$161,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965,] *$211,000,000 for fiscal year ending June 30, 1964, $422,000,000 for the fiscal year ending June 30, 1965, $281,333,333 for the fiscal year ending June 30, 1966, and $211,000,000 for the fiscal year ending June 30, 1967*, for the purpose of carrying out title II.

(c) There are hereby authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1963, $1,000,000 for the fiscal year ending June 30, 1964, [and a like amount for the fiscal year ending June 30, 1965] *and each of the three succeeding fiscal years*, for the purpose of carrying out title III.

(d) There are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1962, for planning and starting programs under this Act.

LIMITATIONS ON USE OF APPROPRIATED FUNDS

SEC. 305. (a) Funds appropriated under the authorization of this Act may be transferred, with the approval of the Director of the Bureau of the Budget, between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(b) Any equipment and teaching aids purchased by a State or local [vocational] education agency with funds appropriated to carry out the provisions of part B shall become the property of the State.

(c) No portion of the funds to be used under part B of this Act shall be appropriated directly or indirectly to the purchase, erection, or repair of any building except for minor remodeling of a public building necessary to make it suitable for use in training under part B

(d) Funds appropriated under this Act shall remain available for one fiscal year beyond that in which appropriated.

AUTHORITY TO CONTRACT

SEC. 306. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare may make such contracts or agreements, establish such procedures, and make such payments, either in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as they deem necessary to carry out the provisions of this Act.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall not use any authority conferred by this Act to assist in relocating establishment from one area to another. Such limitation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

SELECTION AND REFERRAL

SEC. 307. The selection of persons for training under this Act and for placement of such persons shall not be contingent upon such person's membership or nonmembership in a labor organization.

DEFINITION

SEC. 308. For the purposes of this Act, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

SECRETARIES' REPORTS

SEC. 309. (a) Prior to March 1, 1963, and again prior to [March 1, 1964] *April 1, 1964, April 1, 1965, and April 1, 1966*, the Secretary of Labor shall make a report to Congress. Such report shall contain an evaluation of the programs under title I and part A of title II, including the number of persons trained and the number and types of training activities under this Act, the number of unemployed or underemployed persons who have secured full-time employment as a result of such training, and the nature of such employment, the need for continuing such programs, and recommendations for improvement.

(b) Prior to March 1, 1963, and again prior to [March 1, 1964] *April 1, 1964, April 1, 1965, and April 1, 1966*, the Secretary of Health, Education, and Welfare shall also make a report to Congress. Such report shall contain an evaluation of the programs under part B of title II, the need for continuing such programs, and recommendations for improvement. The first such report shall also contain the results of the vocational training survey which is presently being conducted under the supervision of the Secretary.

TERMINATION OF AUTHORITY

SEC. 310. (a) All authority conferred under title II of this Act shall terminate at the close of June 30, [1965] *1967*.

(b) Notwithstanding the foregoing, the termination of title II shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment or other obligation entered into prior to the date of such termination: *Provided*, That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, [1965] *1967*.

SUPPLEMENTAL VIEWS

When the basic legislation which became the Manpower Development and Training Act was originally considered by the Congress, a number of the undersigned Republican members of this committee participated in the complete rewriting of the proposal. We gave our full endorsement and support to the program's objectives. In fact, Republicans proposed retraining before President Kennedy did. We believe that on the basis of the highly encouraging results achieved during the limited experience of the program that our original approval of this undertaking has been more than justified.

As a result of experience gained from the administration of the act, we are convinced that the amendments proposed in the pending legislation are sound and will lead to a more effective realization of the aims of the basic program—the return of unemployed workers to the productive mainstream of our economy.

While we may not have accorded identical treatment and emphasis to every part of this bill had we been free to write it as we saw fit, the fact remains that most legislation is a product of compromise. In the development of this bill by the full committee, a number of proposals of no mean significance—the reintroduction of and insistence upon the State matching requirements, the upward adjustment of training allowances, the careful delineation of what is encompassed by "basic education training" and the absorption of the cost of certain new undertakings within present authorizations—were advanced by us and incorporated into this legislation.

If we could put forth one word of caution it would be this: While the new programs introduced by this legislation are in every respect worth while, experience has shown that the laying out and gearing up of new administrative projects requires a considerable time, and it may well be that all of the funds authorized in this bill will not in fact be needed. Indeed, if the established programs and the newly created programs are directed with administrative prudence, we question whether the full authorizations carried in this bill can be wisely expended.

Accordingly, in endorsing this legislation, we wish to make it clear that as the program unfolds, we shall look to the administrators to fully justify the funds requested under it.

PETER H. B. FRELINGHUYSEN.
WILLIAM H. AYRES.
ROBERT P. GRIFFIN.
ALBERT H. QUIE.
CHARLES E. GOODELL.
ALPHONZO BELL.
ROBERT TAFT, JR.

SUPPLEMENTAL VIEWS OF ROBERT TAFT, JR.

While the committee views as prepared express generally my feelings relating to the desirability of the changes proposed by H.R. 8720, a failure to substantiate the cost figures during the hearings and since the hearings makes necessary the expression of supplemental views.

The current level of expenditures and the appropriation approved by this Congress for the manpower development and training program would not substantiate the authorizations requested in section 7 of this bill. The Appropriation Act for the year 1963 provides a total of $110 million for this program, or $51 million less than the authorization already in the law. Therefore, even taking the figure of $50 million for the additional cost estimate for the fiscal year 1964, the current authorization is sufficient to incorporate the changes which would be authorized by this bill. The current level of expenditures and those estimated for the balance of this fiscal year reflect the difficulties in initiating programs of this type without considerable lag and considerable waste. With this in mind, it would seem that for the fiscal year 1965 there will be similar delays and lags in the program, and the current authorized expenditures level of $322 million will in all probability be sufficient to continue the orderly expansion of the program and to incorporate in the program the changes that would be authorized by this bill.

It is interesting to note that in the hearings witnesses were unable to substantiate the basis of the $100 million figure proposed by the President, and inquiries into the Department of Labor since that time have produced no breakdown showing the number of additional trainees expected to be put into training during the current year or the next fiscal year. In spite of directions given by the committee, concerned with the preparation of the committee report, there has been no detailed information available or provided to substantiate the additional cost of program changes and extensions that would be authorized by this bill. In the absence of any such information, increasing the current authorizations would not be justified and should be opposed.

ROBERT TAFT, JR.,
Ohio Member at Large.

MINORITY VIEWS

We, the undersigned, are strongly opposed to the enactment of this legislation. When this program was first put before Congress, a number of us urged that it be rejected. In view of the inauspicious experience under the program since its inception, we are even more firmly persuaded that the Congress should have heeded our original advice. But far from following a course of care and prudence in this regard, the committee has now brought forth a bill designed to further expand this dubious program in a number of doubtful areas, all at a tremendous increase in costs to the American taxpayer.

STATE MATCHING

The original legislation carried a provision that beginning July 1, 1964, the States would be required to match on a 50–50 basis any Federal funds appropriated to carry out this program. So "enthusiastic" was the response of the States that of the 29 State legislatures which convened last year, only 4 of them saw fit to take the action necessary to permit them to participate further in this program. This signal lack of response on the part of the States is being met in this proposed legislation by the simple expedient of deferring the condition of State matching and requiring the Federal Government to pick up the entire tab for yet another year. State matching is then belatedly brought back into the picture on a graduated basis. And in order to permit this graduation to occur, the life of the program is being extended for an additional 2 years to June 30, 1967, instead of being brought to a halt on June 30, 1965, as Congress originally decreed. This deferral of State matching is being bought at much too great a price. This factor, together with the extended life and expanded nature of the program will cost the American taxpayer in the neighborhood of $900 million, an expenditure absolutely unjustified in light of the precarious fiscal situation presently attending the National Government.

LITERACY TRAINING

While this legislation has for its announced purpose the training of citizens in occupational fields, one of the principal amendments now being offered will authorize training in basic literacy courses. The justification for this academic importation into an occupational program is difficult to follow. If there is a need for literacy training, certainly the facilities already available in our present public school programs, night and day, full time, and part time, are sufficient to cope with the problem. This proposed program of basic educational training is but another example of compounding error and waste by authorizing new programs and new expenditures without any provision being made for the proper use and coordination of existing programs and facilities.

EXPANDED YOUTH TRAINING

The pending bill authorizes a tremendous expansion in the so-called training of youth. This proposal, too, is marked by both extravagance and danger. Under this proposal, training allowances of $20 per week will be paid to eligible young people, 17 years of age and over, who participate in this program. At a time when almost every area of the Nation is deeply concerned with the problem of school dropouts, this legislation extends to the youth of our country an engraved invitation to drop out of school and to receive Federal payments of $20 a week for up to 70 weeks for so doing. Here again is an example of a broad new Federal program being introduced without proper regard for the objective to be achieved and without any reasonable effort being made to coordinate existing programs and facilities. While it is true that the proposed legislation attempts to incorporate some standards with respect to the type and class of youth which may qualify for these training allowances, the fact is that these standards are so general as to be virtually without meaning. And it is worthy of note that up to 25 percent of those entitled to receive training allowances under this bill may be selected from among the youth of the Nation.

INCREASED TRAINING ALLOWANCES

Another disturbing feature of the pending legislation is a provision which increases by $10 per week the training allowance which may be paid to eligible persons under this act. Under the original program, this training allowance was geared to the average weekly unemployment compensation of the State concerned. This amount is now being increased by a further outright Federal grant of $10 per week for each eligible participant. It is estimated that the cost of this single additional item will cost the Federal Government in excess of $30 million a year. This is a wasteful and unnecessary frill. And it menaces the independence and integrity of the State systems of unemployment compensation.

RELOCATION OF CHRONICALLY UNEMPLOYED

The proposed bill carries an authorization of up to $4 million for the purpose of carrying on a socioeconomic experiment in the relocation of the chronically unemployed. This program, which is bound by no meaningful legislative standards, represents a new departure in social experimentation on the part of the Federal Government. This precedent-shattering experiment may very well be seized upon by the social planners to move us even closer to the all-encompassing systems of social and economic regimentation which menace the free world on every side. This type of project, if it be approved by Congress at all, should be approved only after the most detailed consideration and studied reflection. This disturbing and ill-conceived recommendation has not had that type of measured consideration which it should command before being brought to the floor of the House.

GENERAL MATTERS

In addition to the foregoing major objections, the pending legislation contains a number of other proposed amendments designed to relax the existing program and render it more costly. In the first place the eligibility requirements have been relaxed and expanded, making many more persons eligible to receive Federal training allowances. In addition, all trainees will be permitted to work up to half time on the outside without suffering any diminution in their individual Federal payment. These changes are but symptomatic of the general tenor of the whole bill.

CONCLUSION

In view of the foregoing shortcomings and deficiencies, it is our considered opinion that Congress should not adopt the pending proposal. It is loaded with new and untried programs of unpredictable purpose and result, some involving a degree of social and economic experimentation far more radical than anything yet undertaken in this country. These new and untried endeavors are being embarked upon at an unreasonable and unjustified cost to the American taxpayer. We firmly believe that Congress would be well advised to reject the pending proposal and thus permit the curtain to be rung down on this whole unfortunate undertaking in the year 1965, as Congress originally stipulated.

DONALD C. BRUCE.
JOHN M. ASHBROOK.
DAVE MARTIN.
M. G. SNYDER.
PAUL FINDLEY.

[House, Dec. 12, 1963]

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8720) to amend the Manpower Development and Training Act of 1962.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8720, with Mr. Price in the chair.

IN THE COMMITTEE OF THE WHOLE

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. POWELL. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, this legislation before us, as has been indicated, has been tested and found extremely worth while. It was the first answer of this Congress to the challenge of automation. It was the brainchild of the distinguished Member from Pennsylvania [Mr. Holland], the chairman of the subcommittee and the author of the bill. The gentleman from Pennsylvania [Mr. HOLLAND] and I began working on this legislation the day after the elections 3 years ago. We worked here in Washington during November and December, even prior to the committee being organized. I cannot pay too much tribute to the gentleman from Pennsylvania [Mr. HOLLAND] and to his work in this field.

Also I would like to say that this comes from the Committee on Education and Labor with almost complete bipartisan support. I should like to commend my colleagues on the other side of the aisle who served with me on this committee for the way in which they have cooperated.

Mr. HOLLAND. Mr. Chairman, again I come before the House asking for the passage of this legislation.

Today we have H.R. 8720—amendments to the Manpower Development and Training Act—for discussion and passage.

This program has been in effect since July 1962, but in operation only since September 1962. Although there was an unavoidable delay, in initiating this program the year has seen the development of programs for approximately 100,000 unemployed workers.

Some have already completed their training, and 80 percent of those are now working. The remainder are still—or will be—attending classes.

There are, now, many more applications for training courses awaiting final approval by the Department of Labor. These will help thousands of other unemployed, but approval cannot be granted until we here in Congress pass these amendments.

This problem exists because of the delayed start of the program.

Our States were unable to estimate the amount of money they should appropriate to cover their share of the cost of future programs. Hence, partial action was taken by only four States.

This means that in 46 States any program which extends beyond next June cannot be approved by the Department of Labor.

We must remember that the procedures and methods for operating the Manpower Development and Training Act program had to be established. This was an entirely new approach to our nagging unemployment problem.

This was the first time that Congress had required two separate departments of the National Government to cooperate in the administration of a Federal program. We also required the cooperation of two departments in State government—and we carried this requirement to local government level also.

These organization problems have been solved and all the various levels of government are now in accord and operating with apparent efficiency.

The Manpower Development and Training Act program has gotten off the ground and the preliminary results are most encouraging.

Forty-nine of our States now want the Federal Government to underwrite the cost of this program for 1 more year. The Governors of those States made this request. This will give them time to prepare necessary legislation upon which their legislatures can act.

Because of this request, we are recommending the extension of Federal coverage for fiscal year 1965, the lowering of State's responsibility for fiscal year 1966 to one-third the cost, but reestablishing for fiscal 1967 the original State share of one-half the cost.

In H.R. 8720 we also recommend the training of more of our unemployed youth, the teaching of basic education for those who, without it, cannot qualify for occupational training you have provided, permitting trainees to work part time to augment their subsistence allowances, the granting of incentive payments, permitting additional use of private technical schools under certain conditions, the formation of advisory committees at State and local levels, the creation of a pilot program for the mobility of workers, and some minor word changes. Other Members will discuss these more fully.

Last year in this House I stated this program would not be the final solution to the unemployment problem. Rather, it would be the first of many steps we must take.

During 1963 we have seen an increase in the gross national product, an increase in sales and profits, an increase in productivity and output, but unemployment has not decreased. In fact, it is almost 6 percent today. Testimony has been given that we can expect thousands of jobs to evaporate.

In the past 10 days we heard that Studebaker auto division is closing. Five thousand jobs are eliminated. The Defense Department is cutting 25,000 jobs. Steel is laying off additional workers. Office jobs are being eliminated by the closing of district offices of United States Steel. Railroad workers write me that maintenance shops are being closed. In fact, official reports show that unemployment increased by 500,000 in November. What will December's figures show?

The New York Times said the first week of December should be known as computer week, for IBM, Minneapolis-Honeywell, General Telephone & Electronics, and General Electric all announced "newer, faster, smaller, and more versatile data systems are going on the market."

We can guess the results.

This is not the time to let the manpower training slow down—let alone stop.

We know we cannot help everyone who is unemployed, but we must help those we can.

We expect that from 1962 to 1967 over a million unemployed can be helped through the Manpower Development and Training Act. However, that leaves quite a few more million for local, State, and private groups to assist.

The Manpower Development and Training Act program will act as an example for these groups to supplement. The magnitude of this problem requires the cooperation of all America, for no one separate group can do this alone.

Do you realize that for 1962 over $4 billion was spent by public and private funds just to pay the direct costs of unemployment? We have no record of the indirect costs. Nor do we have a record of the public assistance money used for those unemployed, whose benefits expired and they were forced on relief. The States handle this with no report to the Federal Government.

Briefly, here are the known costs; Unemployment compensation, $3 billion; aid to dependent children whose parents are unemployed, $100 million; extension of surplus food program, $140 million; State employment offices, in handling claims, over $400 million; railroad insurance for unemployment, $100 million; State unemployment benefit payments in certain industries, over $100 million; social security pensions for those who cannot secure work, $880 million.

Shall we continue to waste money—both public and private—just to feed, house, and clothe our people? Or are you willing to invest less than 10 percent of that $4.7 billion and educate and train our unemployed workers?

Do we want to see our relief rolls increase or do we want our people to become self-sustaining?

I feel—and I am sure you agree—that the future of this Nation depends upon the intelligence and capability of its citizens. Our manpower is our most precious natural resource.

Therefore I ask you to help our people, our economy, and our Nation by supporting this bill.

The majority of the Members—on both sides of this House—supported this program last year.

This was a bipartisan effort to solve a bipartisan problem.

Machines and computers are not interested in whether the worker is Democrat or Republican. Our unemployed want us—who represent them now—to help them help themselves now.

Machines move in, the workers move out.

Let us think of the Nation today, not party politics.

Let us conquer unemployment together.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, as the ranking minority member of the Education and Labor Committee, I wish to make clear at the outset my general approval of, and support for, the pending bill.

When the original proposals authorizing a manpower training program were submitted to the previous Congress, the minority members of the Education and Labor Committee worked diligently to bring to fruition a sound and workable program. Actually Republicans advocated the principle and importance of retraining before President Ken-

nedy did. The bill as finally approved had strong bipartisan support.

Experience has demonstrated the basic soundness of this approach in identifying and coping with a number of the more difficult facets of our continuing unemployment problem. Notwithstanding the basic soundness and effectiveness of the original act, experience has brought to light a number of areas in which that act left something to be desired. We recognize now a number of areas in which minor adjustments can bring about improved results.

The bill before the House is, of course, fully explained in the report which has been submitted by our committee. I shall, therefore, confine my remarks to those areas of the bill which I deem to be the most significant and the most necessary.

BASIC EDUCATION TRAINING

Very early in the retraining program, it became apparent that great numbers of our chronically unemployed citizens did not possess even that modicum of literacy necessary to permit them to acquire and hold a routine job in our modern economy. Due to the changing times and the upgrading of the economy generally, almost all gainful employment today requires at least some mastery of the common skills of reading, writing, and arithmetic. The old-type jobs that require only physical endurance are fast fading from the scene. As the machine continues to move to a position of greater and greater prominence in almost every area of endeavor, it goes without saying that those who undertake to work in this new environment must be equipped to function effectively within it.

Unfortunately, Mr. Chairman, whether we like to admit it or not, hundreds of thousands of our people, young and old, do not possess the basic learning necessary to permit them to survive and go forward in this new and ever-changing economy. If they are ever to be retrained, if they are ever to be returned to the productive work force, they must be given supporting or concomitant training in basic literacy—in the three R's, if you will.

This bill seeks to meet that problem to the extent it can be met in this type of program. It authorizes basic education training when it is needed, and extends the period during which training allowances may be paid to trainees in order to encourage and facilitate such training. In my opinion this provision of the bill is absolutely essential if we are effectively to meet and overcome persistent hardcore unemployment.

EXPANDED YOUTH TRAINING

Another important and worthwhile feature of this bill is that which provides for a substantially increased training program for the youth of our Nation. One of the most tenacious, and at the same time appalling, aspects of the American unemployment problem is that it engulfs and stifles such great numbers of our young people. Above all else, we as a nation must find an effective method to deal with this problem at this level. We simply cannot let it be said that we are unable to create an opportunity for this generation of youth to move forward and play a full, effective, and self-sustaining role in our society. Yet the facts are alarming: While youth between the ages of 16 and 21—out of school—comprise only 7 percent of the available labor force, this same group accounts for upward of 20 percent of the unemployed. And the projected trend for future years serves only to indicate that the employment outlook for this age group will become even less inviting in the years immediately ahead.

Mr. Chairman, I am confident that we in this Chamber feel, and feel strongly, that every boy and girl in America should complete at least a high school education. We cannot, however, ignore the fact that, notwithstanding the best efforts of all concerned, millions of our young people have abandoned formal educational pursuits without completing high school, and that millions more are destined to do so.

Those who drop out of school are for the most part the least employable, and the most in need of training. This legislation faces up to this problem. While making every reasonable provision to see to it that these young people do not needlessly drop out of school, this legislation nevertheless undertakes to provide training for these young people, in order to equip them for employment and for a productive economic life. This effort simply must be made, if the Nation is to be spared a veritable generation born in poverty, reared on charity, and sustained on welfare. We have no choice but to make this investment in the future of America.

STATE MATCHING

I shall conclude my comments by discussing the principle of the State matching of funds which is carried in this proposal. At the time the original act was adopted, it contained a provision that, beginning with the fiscal year 1965, the funds to sustain this program were to be provided equally by the States and the Federal Government. However, due to the delays in appropriations and the inevitable administrative delays in getting the program underway, most States had little or no opportunity to appraise the program nor could they make the legislative and budgetary preparations necessary to meet the 1965 matching requirements.

In recognition of this fact, the pending bill does not require the States to put forth any funds for fiscal 1965. This fact, however, should not be taken to indicate any abandonment by this committee of the State matching principle. Indeed, the bill specifically requires that the States must provide one-third of the funds for this program in the 1966 fiscal year and one-half the funds in each fiscal year thereafter.

Mr. Chairman, my colleagues and I are strongly of the opinion that State matching is a sine qua non of this program. Every State and every community has an undeniable interest in, and an unavoidable responsibility for, meeting and resolving the grave problems at which this legislation is directed. Each and every State must contribute its utmost in these endeavors. The entire responsibility cannot and should not be left to the Federal Government alone. I am confident that the States will respond to this legislation. I know they will meet their responsibilities in full measure, for upon that response the fate of this entire program will undoubtedly depend.

CONCLUSION

As I have indicated, much worthwhile progress has been realized under this program. I should like to recount only a few of the facts and figures. They indicate not only what this program has done, but the great promise which this program holds for the future.

In the brief 15-month period since this operation began, training programs for more than 100,000 persons have been established, and another 30,000 persons have been approved for training. Training is now being offered in more than 300 different occupations, at least half of which are in white-collar and so-called skilled jobs. More than one-half of those engaged in these training programs have been drawn from the hard-core, long-term unemployed—the area in which continuing and effective work must be done if the problem of unemployment is to be successfully overcome.

Mr. Chairman, I support this legislation. Its purposes are worthwhile; its objectives mandatory. During the course of this discussion, however, a number of amendments will be offered, particularly in the area of the authorization of funds.

I should like to say that the chairman of the Committee on Rules, the gentleman from Virginia [Mr. SMITH] has expressed the belief that any effort to stop Federal expenditures is what he describes as an exercise in futility. I agree strongly that we must use restraint. However, in this retraining area I think it essential that we do not stop spending money, because I think it is money well spent. Of course, however, we should be wise in how rapidly we expand. We should hold down these proposed expenditures as much as seems consistent with what we are trying to attain.

Such amendments should be considered on their merits. We should support amendments which will protect the interests of the public while at the same time assuring the proper administration of the essential programs which this legislation embodies.

Mr. POWELL. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. PERKINS].

Mr. PERKINS. Mr. Chairman, I cannot overemphasize my interest in the Manpower Act. The single most significant, concerted, and broad step taken to combat unemployment has been taken under this act. In little more than 1 short year of operation, training Projects involving almost 90,000 trainees have been approved. Many thousands have already completed training and have been placed in training-related jobs. They have been able to complete training by having the assurance of a steady but modest income. For thousands of people it has meant renewed hope, renewed opportunity, and renewed dignity; and our Nation is that much richer in its human values.

In my own State of Kentucky this act has been significant. The amendments are essential if we will give to the program the provision necessary for it to reach the "hard core" of our unemployment. We in Kentucky have suffered from economic blight and the suffering brought in its wake. Large areas have been chronically depressed because of the automation and changed economic circumstances in the coal industry. These communities have unemployment rates far in excess of the national average, ranging as high as 20 to 30 and even at times 50 percent. Thousands of these citizens must be given an opportunity to return to productive work, and our youth must be given greater opportunities for training. Many of our people have been set adrift without skills to seek jobs in a labor market which increasingly requires high skill levels and technical know-how.

Mr. FRELINGHUYSEN. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. TAFT].

Mr. TAFT. Mr. Chairman, I rise to support H.R. 8720, the amendments to the Manpower Development and Training Act of 1962. May I say at the outset I would like to commend the chairman of the subcommittee and the members of the subcommittee for the careful study and attention to, and the very thorough hearings that were held upon, this bill. It is designed to deal with what is certainly one of the most important single problems upon the domestic scene in the United States today. Its importance, I am sure, from the point of view of economic problems, is exceeded, if by any other problem, only by the problem of restoring fiscal responsibility, about which the distinguished gentleman from Virginia talked to the House some little time ago. Yet I feel that while I am certainly concerned with the area of fiscal responsibility and our spending and deficit levels and the amount of our national debt, I feel that this measure certainly does not run in any way in conflict with those feelings if we can keep the authorizations down to realistic figures and continue to make the very solid progress that has been made in the program in the past without a waste of Federal funds in any way. I feel it is a problem of Federal concern as well as of State concern, because unemployment is certainly a nationwide problem to a very considerable extent.

While the cost is high, running somewhere, on the basis of the present experience, between $1,200 and $1,400 per trainee, although it is aimed ultimately at getting down to somewhere around $800 and $1,000 per trainee, I think all of us should realize that the cost we have here may well be recouped, and fairly quickly be recouped, if the program is successful, not only in the reduction in unemployment compensation payments, not only in the reduction in welfare payments and in the elimination of welfare payments by making those on the welfare rolls in some instances at least gainful producers again, but also in the increased taxes that will be brought in, particularly the social security taxes, and in the general additional production that would be created by rehabilitating and putting more men to work who cannot otherwise find jobs and will not be able to find jobs.

I think we should recognize that this is a serious problem. It is a problem which is not getting any better daily. From May 1962 to May 1963 the total number of persons coming into our labor force was 1.2 million. The total number of jobs increase in that period was only 900,000, leaving a red deficit figure of 300,000 jobs. We hear varying figures on account of automation and other causes, as to the large number of jobs that we are continually losing, which is a matter that I think should be of great concern to all of us. Yet at the same time that we have over 4 million unemployed in this country today it is not certain—there are no reliable figures on which we can draw for the specific proof, but it is pretty conclusive today just from looking at the want ads around the country—that there exist somewhere between 1.5 million and 2 million job possibilities, in this country, for which there are no persons trained to fill the bill.

I think that this measure takes the right approach toward this problem. It takes the approach of pinpointing a rightful attack on the problem of the unemployed. It is not a welfare program. It was never designed to be a welfare program. Its limitation in general is to heads of families. There are other limitations on availability of the program that indicate this.

As to the specific amendments let me comment briefly upon some of them. You have heard some comments already upon them, but I think perhaps something a little more can be said with regard to them. As to the matching principle which is continued by this bill, I might say that it is not continued by the Senate bill; and perhaps before we start on these amendments we ought to call the attention of the House to the fact that the two Senate measures, S. 1716 and S. 1831, are far more limited in principle than this one. They do only four things. They extend the program for training for youth down to the age of 16. They increase the amount of the appropriation at a rate of approximately $100 million a year. They provide another year without any matching. Also they provide that the basic education courses which may be had under that authorization and also under the authorization of this bill would be limited to reading, writing, and arithmetic.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from New York.

Mr. GOODELL. On the question of basic education I think it should be emphasized as a matter of legislative history that we discussed the types of basic education that would conform to the standards of this bill. It is our feeling—and I think the gentleman from Ohio would agree—that reading, writing and arithmetic provided the general description. That is, basic education would be limited to the most elementary levels.

There were people who indicated that they might try to define the term basic education in a rather broad way. I think it is the disposition on both sides of the aisle to have that term narrowly confined; would not the gentleman agree?

Mr. TAFT. I certainly do agree with the gentleman. That was the understanding in the subcommittee and in the committee discussions. There was no intention that the authority to provide basic education under these circumstances would extend, for instance, into the formal professional life, or enable people to finish the last year of high school so that they might qualify for some professional requirements.

Mr. GOODELL. Mr. Chairman, will the gentleman yield further?

Mr. TAFT. I yield to the gentleman.

Mr. GOODELL. The gentleman has referred to the matching principle. I would like for the record, and for the legislative history, to re-emphasize the importance of this matching principle. It is, perhaps, the most important reason why we have to enact this bill. It is because the States cannot be expected to match in the coming year.

I quote from the committee report on page 6:

"However, in the opinion of the committee, Congress should at this time clearly preserve and reinforce the principle of State matching in Manpower Development and Training Act. Therefore, simple waiver of the third year matching by States is not accepted."

"Witness after witness when questioned confirmed the necessity for State financial support. Few were prepared to argue for full Federal responsibility. To most, State support seemed essential if the program is to be both effective and efficient. The committee, therefore, reaffirms its continued adherence to the principle of State matching."

I think this sums up very emphatically the feeling of our subcommittee and our committee and the Congress, that matching is a key element in this program.

I, personally, could not support the program if matching, as a principle, were abandoned. I believe this is the feeling of the subcommittee.

Mr. GOODELL. Mr. Chairman, I would like to take this opportunity particularly to commend the gentleman from Ohio [Mr. Taft].

As the gentleman knows, last year in the last Congress I had the privilege of serving on this Manpower Subcommittee. I have missed it a great deal this year.

The gentleman from Ohio has done an indefatigable job. He has been conscientious and thorough in the consideration of these amendments. I think the gentleman has preserved, with the Democrats on that subcommittee, a completely bipartisan approach to this legislation.

Its conception was bipartisan in the Congress and I am happy to say that that atmosphere has been preserved. A great deal of credit belongs to the gentleman from Ohio for doing that at this session.

Mr. TAFT. I thank the gentleman for his remarks.

I would like to go on in my discussion to talk about one of the other amendments.

Mr. Chairman, there is an amendment under which the Secretary of Labor is authorized in his discretion to add to the training allowances, by the amount of $10 per week. The present training allowance paid under the basic program relates to the unemployment compensation levels of the particular States involved. They are at the level of the average unemployment compensation level payments.

Mr. Chairman, we had testimony before our subcommittee as to some of the differences which are presently in existence, which indicated that there were persons who were dropping out, trainees dropping out of these programs, because they found under the level of training allowances they simply could not swing it and were not able to adequately sustain themselves and continue this training.

We felt this was uneconomical, unwise, and that something should be done about it. Therefore, we gave the discretion to the Secretary of Labor in cases where he found that the level was such that this problem existed to add to the basic training allowances by the sum of $10 a week.

Mr. Chairman, now moving to one or two of the other amendments I would like to discuss, I would like to point out that there is a private-school provision in here.

The present practices which have been in existence since the program started in operation back in 1962, have for one reason or another practically eliminated all private schools in providing this training.

It was our feeling—and there has been incorporated into this act a provision to the effect that where there will be a savings, actually, of funds by the use of private facilities already in existence to provide this training.

Mr. Chairman, I would like to move on now to talk for a minute about the record of performance to date under this program.

I would like to point out to the House that the program has started somewhat more slowly than originally planned. I do not think any of us are critical of this fact. We have added the word "urgency," at the request of the gentleman from Illinois [Mr. PUCINSKI], in the preamble of the bill, in an attempt to indicate our concern for immediate action. At the same time, the practicalities of properly setting up these courses and getting them going on the basis they will be productive and do the job have to be started.

For fiscal year 1963 we find that the authorizations were $97 million, the actual appropriations were only $60 million. For the current year 1964 we find that the authorizations were $161 million, the appropriations, to date anyway, are at a level of only $110 million. I thought the House would be interested in learning the most recent figures as to the number of persons in training at the present time. So I made inquiry of the departments involved and came up with some figures I would like to call your attention to.

These are figures as of December 2, 1963. As of that date the number approved, for instructional programs actually approved, was 96,000. The number enrolled was actually 61,000. The number who had completed the courses was 28,500. As of June 30, 1963, the number that had been approved was only 60,000, and the actual number enrolled was 35,000. The number who completed their course was 7,500. There has been some lag here, and I think there is going to continue to be a lag in the original directed plans involved. So I expect to offer in this connection a reduction in the authorization which I do not believe in any way will cut into the program. This reduction in authorization will have the effect of maintaining the present total level of expenditures, the original target amount of expenditures of approximately $322 million per year in the program when it gets going in its full impact. It would continue to provide additional funds necessary to substitute for the State matching that were planned for in the year 1965, which has become impractical. I believe it is impractical. I had the privilege of serving on a finance committee in a State legislature for some 3 years, and I can assure you there has to be considerably more experience than you have had here, and considerably more understanding and ability to provide ahead the matching funds than we had under the practical operation period of this bill. It is impossible to get any legislative body to act favorably on such recommendations.

Mr. DENT. Mr. Chairman, I was just going to discuss the same features that the gentleman from Ohio talked about when he touched upon the extension of the right to educators and the commissions of education in the various States to use the existing facilities of private training schools when there are not adequate public facilities avail-

able and where the private schools can be used at an equal or lesser cost to the taxpayers. By doing so, we believe we are making it possible to extend the benefits of this legislation to a greater number of students who otherwise would not be able to take the training.

One small, but very important item in the proposed amendments to the Manpower Development and Training Act would clarify the role of private training institutions in the broad training program. To date, private schools have been little used because of wording in the act which suggests that they are a sort of last resort—to be used only if public institutions are "not adequate for the purpose." The amendment which I urge you to endorse would make it clear that training by private schools—many of which have long and distinguished histories as part of the training capacity of the Nation—should take its rightful place beside the herculean effort already put forth by public educational agencies in bringing about the goals of the manpower training program. The new language would encourage development of Manpower Development and Training Act courses in private institutions when equivalent schooling can be offered at a lesser cost to the taxpayer.

Accomplishments under the act are encouraging. Training opportunities have been approved, now, for over 100,000 unemployed and underemployed Americans, but we need not be satisfied with growth of the program to date when we can encourage expansion of the program into a wide range of training facilities which have been left largely untapped.

Public vocational education is not a new thing in America. Since 1917 the Federal Government has encouraged and assisted development of vocational training programs and facilities through the Smith-Hughes Act and subsequent laws. The existent public vocational facilities have proven their mettle over and over again—and most recently as they have shouldered the additional burden of the training courses which have lifted the manpower retraining program off the ground. Inevitably, though, facilities are crowded, and topflight instructional personnel is more in demand than in supply. Recognized training needs—in some areas—must await availability of schools, equipment, and instructors before program plans can be brought to completion. In other cases, approved courses have been held in abeyance while instructions were being sought. While time passes, selected trainees lose interest, and potential employers turn elsewhere for trained manpower.

If we are to meet the manpower challenge, we must mobilize all of our educational reserves, and among the readiest reserves are established private vocational and technical schools. These schools—the good ones—have space, equipment and expertise which is sorely needed in our fight against occupational obsolescence. The schools we want to work with are preeminent in their fields. Many have records of excellence which are widely recognized and appreciated by the men and women who hire skilled workers. The schools we want to work with maintain close ties with industry and commerce, and know from day to day the changing requirements of industry—the precise skills which applicants must have to compete for jobs.

Unfortunately, not every private vocational school offers the kind of service we can use. Some do not meet our standards. And I believe the amendment, as reported, assures us that we will work only with the ones that give us what we need. To participate, under the revised wording of the law, a school must offer training which compares favorably in every respect to that offered by public facilities and they must do it cheaper.

Quality of instruction would continue to be the responsibility of the Secretary of Health, Education, and Welfare, and the State and Federal educational experts will continue to keep an eye on the curriculum and how it is presented. All in all, the standards for participation in the manpower training program will be high, and I have confidence in them.

In summary, I submit that we would be two ways richer if we amend the Manpower Development and Training Act of 1962 to clearly authorize training in private facilities where quality standards are maintained and when costs are lower. First, we would open wide the door to expanded use of a valuable source of training expertise and second, we would get more training for our program dollar. I urge you to concur.

Mr. PUCINSKI. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, there are 4,070,000 people unemployed in America today. This is 5.6 percent of our total labor force. Of these 4 million unemployed, 1,119,000, or 27.9 percent, have been unemployed for 15 weeks or more; 580,000, or 14.6 percent, have been unemployed 27 weeks or more.

Mr. Chairman, let me show the members of the Committee what these chronically unemployed figures mean in dollars and cents to the taxpayers.

Last month the State of Illinois was able to reduce its public welfare payroll by 2,000 people through various efforts to get them a job. The savings on this has been apparent to the taxpayers of Illinois, which was $450,000 per month, or almost $6 million a year. Thus, you can see why it is important to get these people off the relief rolls and back to work.

Mr. Chairman, using this same formula and citing the figures which the gentleman from California used a moment ago, the figures of Mr. ROOSEVELT, it would appear that the State of California has saved the taxpayers more than $2 million a month, or $24 million a year by finding employment for 9,460 people that he mentioned under this program.

At the appropriate time I shall obtain permission to include a table at the conclusion of my remarks which shows what has been happening to chronic unemployment in recent years.

In 1953, 211,000 people, or 11.3 percent of the unemployed, were unemployed 15 weeks or more. In 1962 the figure rose to 1,119,000, or 27.9 percent.

In 1953, there were 79,000 people, or 4.2 percent of the unemployed, who were unemployed 27 weeks or more. In 1962 this figure jumped to 585,000, or 14.6 percent. These are people who are unfortunate and chronically unemployed, and it has cost the taxpayers of the various States of America in excess of $1.5 billion in various forms of public assistance for these chronically unemployed.

When we talk about cutting the bill, reducing the expenditures, you see what the alternative is if we do not enact this legislation.

This is a problem that is not only peculiar to the urban sections of the country, but to all of it, and I hope my colleagues from rural areas will consider these facts: While the total employment in the United States increased from 63.8 million in 1953 to 71.8 million in 1962, or an increase of 8 million people, the agricultural workers' opportunities decreased by 1.4 million in the same period.

This chronic unemployment involves a major change in manufacturing methods, a change in product demand, and a movement of industry location. Chronically depressed areas include the coal-mining communities and the older industrial centers of the East and Midwest. It was to these urban areas that marginal workers flocked after World War II, and are now not trained to take on the needs of new technological demands.

Intense competition, both foreign and domestic, insured an acceleration of that trend. Employment created by the manufacture of automated equipment and controls went largely to new manufacturing areas free of the disabilities of the older industrial centers. The latter areas received the unemployment resulting from the substitution of machines for men, and the improved methods further cut into manpower utilization, as did the competitive impact of new plants, both domestic and foreign.

Add to this the announcement today that 75,000 additional jobs will be wiped out by the budget cuts in the defense budget.

I have the privilege of serving on the subcommittee headed by the gentleman from Pennsylvania [Mr. HOLLAND] author of today's bill. We are now holding hearings on legislation to reduce the workweek from 40 to 35 hours. During these hearings it is becoming abundantly clear that a vast number of those now unemployed in America, just are not prepared to accept a position in our modern stream of technology.

This fact was repeated not only at our current hearings, but during the hearings on the manpower development amendments.

We have in this country today an estimated 11 million adults who have less than a sixth-grade education and cannot read or write.

These people constitute the largest segment of our chronically unemployed Americans. These are the people the legislation, to a great extent, hopes to reach. That is why we had to include in this bill a provision for basic literacy training under very rigid limitations.

This legislation also hopes to reach that growing army of Americans who have been displaced from skilled jobs in the advanced years of their life through automation. These middle-aged Americans have nothing but the relief lines to look forward to unless they can obtain new skills under this act.

You will notice this bill serves unequivocal notice on the States that they must begin assuming their responsibility in this entire field of retraining. Although the committee well realizes the financial crises which confront most of our States, it also directs the labor department to reduce bureaucratic delays to a minimum and incorporates a spirit of urgency into this act.

Mr. Chairman, this is a good bill. You will note that the senior members of our committee strongly support this bill in their minority report on page 38. This bill represents a sincere bipartisan effort by our committee to help the tragic victims of chronic unemployment in America. I hope it will be overwhelmingly approved.

Mr. GOODELL. Mr. Chairman, may I first emphasize my strong support for the Manpower Retraining Act and for the basic changes that we are making in that act in H.R. 8720. I think the experience under the manpower bill and its actual operation for just a little over a year now has been a resounding success. There have been many criticisms that have appeared in the press of late that we were not reaching the very hard, hard core. I think those criticisms ignore the problems and the requirements in getting a program of this nature underway. We have to crawl before we walk and walk before we run. I do not mean to say that we intentionally want to avoid the hard, hard core but it does take some special program and some special approach to get to these people who may have a language difficulty or who are lacking in a basic education requirement so that they cannot even undertake a job training course in the normal course of events.

Mr. Chairman, this legislation has been marked from the beginning by bipartisanship and I am very happy that it is continuing on that basis. About half of the trainees thus far have been those in the long-term unemployed group. I emphasize that because these are very serious problems. Many of these individuals are trying to support families and find themselves forced to resort to welfare payments or unemployment insurance. Therefore, in that respect they are a drain on the resources of society. The training program has been concentrated in that area and about half of the trainees fall in the category of long-term unemployed. The program tries to get them back to work and back to earning and back to paying taxes, and in that way and many other ways to get back into the general flow of our economy. We think this is the essence of the manpower retraining program and it has demonstrated its merit thus far.

Reference has been made to the fact that only four States chose to match the funds that are put up for training allowances and for the rest of the program by the Federal Government. Let us emphasize that this act was passed in March of 1962. We did not get the funds until September of 1962. These legislative bodies in the States that we are talking about went into session in January, 4 months after the funds were first made available to start the training program. When the legislatures met in these 29 States, in many instances there were no trainees whatsoever graduated and at work as yet, and in a good share of the other States they had no training programs even started as yet. Under those circumstances, we certainly could not expect the States to set up their programs for matching without any history at all to go on. We do feel now on a completely bipartisan basis there will be a sufficient history of experience at the State level so that those legislative bodies can now meet and they will either have to put up the matching funds starting in the fiscal year 1966 with one-third of the amount, and in fiscal year 1967 on a dollar-per-dollar matching basis or the program will just grind to a halt in their State.

I would emphasize that we wrote the committee report with great care. We chose the words very carefully as a legislative history for guidance to the department in the administration of this act.

I would like to ask the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. HOLLAND] with whom I worked so closely last year and with whom I have enjoyed working outside the subcommittee this year, if he does not agree with the legislative history that we have made here in the report and on the floor today, particularly with reference to matching and the basic education provision.

Mr. HOLLAND. I must admit that my colleague, the gentleman from New York [Mr. GOODELL] and others of our colleagues on his side of the aisle have done a wonderful job in cooperating with us to see that everything is made as clear as possible. We have cleared up a lot of problems that arose as the result of the failure of the administration to carry out our intent in the other bill and I am glad to have this opportunity to express my appreciation to the gentleman and to others of our colleagues who have cooperated with us and worked so hard to make this legislation as effective and as clear as possible.

Mr. GOODELL. Mr. Chairman, I would like to say here that the gentleman has been very generous in his credit to the minority side for their contributions in the past, and I appreciate very much the way he proceeded as a subcommittee chairman in a bipartisan fashion, but the gentleman does agree, I take it, with the legislative history that we have here today.

Mr. HOLLAND. Absolutely.

Mr. GOODELL. I appreciate that, and ask the gentleman from Michigan, who is also one of the most active Members on this particular manpower bill, if he does not agree with this legislative history.

Mr. O'HARA of Michigan. I would say, if the gentleman will yield, that the committee report has been very carefully drafted to express our exact intention in the amendments before the House today.

Mr. GOODELL. I appreciate the gentleman agreeing.

Mr. Chairman, I would emphasize here that we have in some respects made this program more conservative. We have done this with eyes wide open. The original act, for instance, provided for $20 a week training allowances to some youngsters in the 19- to 22-year-old group. We have lowered that age to 17 and required that they be out of school 1 year. We have also written very careful requirements in the act for qualification for that $20 a week payment by the students. It must go only to those who are in special youth training programs. It is defined in this bill as those who, because of inadequate educational background and work preparation, are unable to qualify for and obtain employment without special training and schooling.

Mr. Chairman, I would also emphasize the limitations we place specifically in this bill with reference to those who qualify for the basic education programs. It is limited to those who indicate an intention to, and will thereby be able to, pursue courses of occupational training of a type for which there appears to be reasonable expectation of employment. I would emphasize the words "reasonable expectation of employment." Obviously, when a person is undertaking a basic education which is necessary to qualify him to go into some sort of job or skill training, it is not possible always to have a specific job or a specific opening available at the end of the line with an offer from an employer that he will take this individual when he finishes. It is our desire and our intention that the individual with problems in his basic educational skills will qualify for the type of training in which there are openings generally in the community and in the area where he is taking that basic education and that skill.

Mr. Chairman, finally I would state that the gentleman from Ohio [Mr. TAFT] will offer an amendment to cut the funds that are provided here. As one who believes very deeply in the manpower bill, I think there is more money provided in the authorization than is necessary. I think we can cut that authorization without damaging the program. I would hope that if the cut that the gentleman from Ohio [Mr. TAFT] has proposed is too deep and turns out to be too deep and the Secretary comes forward with figures that demonstrate this—and he has not done that, in my opinion, thus far in our hearings and deliberations—that we can on a bipartisan basis restore what funds are necessary to keep this program operating and at full level, efficiently and effectively, to help our unemployed. Thank you.

Mr. O'HARA of Michigan. Mr. Chairman, I am impressed, as I am sure other Members of the House are, by the broad agreement that has been expressed by both Democratic and Republican Members of the House both on the performance of this act since its enactment, about a year and a half ago, and upon the advisability of the amendments that we are now proposing to this act.

There seem really to be only two areas of some disagreement. The first would be whether or not there is some duplication or overlapping between the Manpower Development and Training Act youth training program and that provided under the Vocational Education Act. The gentleman from Kentucky [Mr. SNYDER], mentioned that there are some 13 Federal education and training programs already. He then proceeded to deny he was certain about that figure. I do not know how many there are, either, Mr. Chairman; but I do know what kind of programs they are. They are not programs which meet the need this program was designed to meet.

Among existing programs are vocational rehabilitation; the World War II GI bill; the Korean GI bill; the War Orphans' Educational Assistance Act. In other words, none of these programs to which the gentleman has referred are designed to meet the problems of the unemployed, and particularly those hard-core unemployed who need training and skill development before they can find productive employment.

It is not our intention in this manpower development program, in its youth provisions, or any other part of it, to overlap or duplicate that which is being done under any other program. Neither is it our intention to overlap or duplicate that which is being done by any private industry on its own. The gentleman from Missouri [Mr. CURTIS] mentioned that he believes a large amount of training is already being done by private industry. Mr. Chairman, I wish to assure you that to the extent private training is being done by industry we do not wish to take over any part of that training and begin to support such training with Federal funds without advancing the training of any additional workmen. If, indeed, private industry is doing it, then it adds nothing to the total effort if we take over the cost of that effort.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I would like to ask the gentleman if one of the chief reasons why the manpower program has not moved faster is because of lack of adequate vocational facilities throughout the country?

Mr. O'HARA of Michigan. The gentleman is correct. That has been one of the problems under the program. We do not want to set up a duplicate set of vocational training institutions to train manpower trainees. This bill operates through the State vocational education agencies and through the State employment offices. It uses the facilities and personnel and services of those two State agencies.

Mr. CURTIS. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman from Missouri.

Mr. CURTIS. Mr. Chairman, I just want to be sure that I have been clear on this subject. I said in context let us remember that probably for every dollar spent here $10 was spent in the private section. I did not want to imply that I did not feel that this was being carefully done in the Federal sector. Indeed, I think it has been, and I think it is a part which the Federal Government can play in it.

Mr. O'HARA of Michigan. I thank the gentleman. I did not mean to imply that he had said so. I just want to call attention to the fact that there is an intention in this program only to supply a need that is not presently being met.

If it is being met by private training or, indeed, if it is in an area which requires such a minor skill that heretofore employees have not thought prior training to be a requisite to employment, we do not want to undertake training programs. We want to provide training only in those areas where it can be of real assistance to the manpower development program.

In some situations, such as the apparel industry, skill and training are not and never have been a precondition of employment because of the nature of its labor requirements and its hiring and training practices. When training assistance is granted to such industries in any area of the country, particularly if the industries are as mobile and highly competitive as the apparel industry, it has the effect of adding to unemployment elsewhere in the country. I am advised, for

example, that the existing labor supply in the apparel industry is more than ample to meet the Nation's needs.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Michigan. I shall be glad to yield to the gentleman from New York.

Mr. GOODELL. In talking about the distinction between vocational education and the manpower bill, the gentleman will recall that it was our intention and desire in writing the original act that, to the extent possible, the manpower setups that we have around the country that are handled primarily by the State and local authorities.

I think this has been done and is being done today.

I would like to commend the Secretary of Labor, Mr. Wirtz, in his administration of this act. I think he has been very wise and very restrained in the way he has approached this act and has been very assiduous in trying to adhere to our intention in the original act. I have great confidence that he will continue to apply himself and to see that his department employees will apply themselves to following the legislative history and the intentions which we have.

Mr. O'HARA of Michigan. I thank the gentleman for his contribution.

Mr. Chairman, I would like to make one further point: There has been some question about whether or not the authorizations contained in this act are needed. It has been pointed out that the authorizations in the last fiscal year and in the current fiscal year were not met by the amount which was appropriated, and that this is some evidence of the fact that we do not need additional authorizations.

Mr. Chairman, as has been pointed out here repeatedly in the debate this afternoon, the program was undertaken by the Department of Labor and by the Department of Health, Education, and Welfare in a very cautious way. They did not want to move ahead into a large-scale program before they knew what they were doing.

Mr. Chairman, we have this program underway and we are now ready to expand it. The State agencies have told the Department of Labor that they are ready now to proceed this year, if they can secure the funds, with the training of 134,000 trainees.

In addition, Mr. Chairman, we were very cautious about the on-the-job training program which we wrote into this bill a year and a half ago. The Department wanted to move cautiously in this area. In the first year of this program there were no on-the-job trainees because the Department was setting up its procedures and regulations.

However, we believe we are now ready to move in this area as well.

We would hope that we can have somewhere in the neigborhood of 35,000 on-the-job trainees in the next fiscal year, if we get the money.

Finally, Mr. Chairman, I would like to point out that under the beefed-up youth program provided by these amendments and under the various other provisions of this bill before us, we would hope, if the funds were available, to train in the neighborhood of 93,000 additional trainees per year.

So, Mr. Chairman, we are going to need some money to do that. I very much fear the cuts in the authorizations which have been suggested and the manner in which they may take effect would very much hamper the program, and I am sure we do not want to hamper the program.

Mr. Chairman, in conclusion, I would like to urge that the Members of this House consider this bill as our committee considered it; that is, with an eye not toward partisanship but with an eye toward what we can do in a constructive way for the unemployed of this country.

Mr. BRADEMAS. Mr. Chairman, the announcement this week by officials of the Studebaker Corp. of the termination of production of automobiles and trucks at the Studebaker plant in South Bend, Ind., means immediate unemployment for thousands of workers.

The unemployment situation at the Studebaker plant is further evidence of the importance of favorable action on the legislation we are today considering, amendments to the Manpower Development and Training Act. I say this because the programs of training and retraining which have been and will be established under this act represents one, and only one, but an important one, of the several weapons we must have in our arsenal of attack on unemployment.

I am pleased to say that we have already undertaken training programs under the Manpower Act in South Bend, Ind., and that our community, with wide support from leaders of business, labor, education, and local government, is ready to make further use of Manpower Act programs in an effort to help meet some of the extremely serious problems caused by this unhappy development at the Studebaker plant.

Let me speak for a moment in support of one particular amendment to the Manpower Act which is of special interest to us in South Bend. I refer to the amendment which will enable eligible trainees who need literacy training in order to qualify for occupation training to receive such training.

South Bend was one of the first cities in the United States to start a training program under the Manpower Development and Training Act. Mr. Schurz testified on August 15, 1963, before Congressman Holland's Select Subcommittee on Labor and described some of the problems which had been encountered in South Bend in carrying out an effective program.

In particular, Mr. Schurz pointed to the importance of broadening the act to, in his words, "permit more prevocational or academic training in such subjects as reading, writing, and arithmetic."

Again, to quote Mr. Schurz's testimony:

"Unfortunately, most of the hard-core unemployed do not have a sufficient educational background to succeed in vocational training for higher skilled work. Their great need is for academic training."

Mr. Schurz also urged that—

"To provide adequately for both academic and vocational training, the allowable training period should be extended up to an additional 52 weeks."

It is, therefore, from the experience of my own home community that I rise in support of this amendment to permit eligible trainees who require literacy courses to receive them if they are going to be able to qualify for vocational training.

Mr. HOLLAND. Mr. Chairman, I want to reassure the Members of this body that the observations of Mr. O'Hara regarding the intent of the program are correct. We recognized from the beginning that existing public and private training efforts should be maintained. In fact, special attention is given to this principle in the act.

Therefore, Mr. O'Hara is correct when he states there are some situations such as the apparel and garment industries where it would not be appropriate to use the manpower development program. In these instances it has been traditional for the employer to provide training on the job and prejob training has never been a precondition of employment. Moreover firms in these industries are highly mobile and compete vigorously with one another in a nationwide market. Training assistance to new firms, for example, in such an industry can have the effect of disrupting competitive relationships and end by forcing other firms to seek similar assistance. If assistance is not extended then unemployment may be created in one area offsetting employment being created elsewhere. And if training assistance is extended then the result can only be a shift in the training function from the industry to the Government. Certainly we want to avoid these possibilities since either would be contrary to the purposes of the act. This is an important matter and I am delighted that Mr. O'Hara has brought this to our attention. I think he should be complimented for the admirable clarification he has provided.

Mr. TAFT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

"Amendment offered by Mr. Taft: Section 7(b) is amended as follows:

"Strike the figure '$211,000,000' in lines 20-21 and insert in lieu thereof, '$161,000,000'.

"Strike the figure '$442,000,000' in lines 21-22 and insert in lieu thereof, '$322,000,000'.

"Strike the figure '$281,333,333' in line 22 and insert in lieu thereof, '$214,666,667'.

"Strike the figure '$211,000,000' in line 23 and insert in lieu thereof, '$161,000,000'."

Mr. TAFT. Mr. Chairman, as explained during the discussion on this bill, I offer this amendment because it is my feeling that the level of authorizations included in the bill is excessive. The original plan involved in this measure when enacted in 1962 called for an expenditure in the first year of around $97 million. Then it moved up to $161 million in the next year and went finally with State matching coming in in the year 1965 to a level of $322 million.

Mr. HOLLAND. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the subject of the cost of this program has been brought into this discussion. This is perfectly normal and as it should be.

However, in our debate the question has been raised whether or not the Government can afford to administer such a program. I think we should also consider whether or not the Government can afford not to undertake this task.

With unemployment in the Nation again on the climb, are we going to stand here and tell those displaced workers, "All we can do for you is let the State in which you live place you on the relief rolls"?

If we do, then we are breaking a law that this Congress passed in 1946, the Full Employment Act, as it states "The Government," that is, Congress, "is responsible to promote and insure maximum employment, production, and purchasing power."

We know every Member in this House is concerned about the plight of the unemployed. We have heard speech after speech on the need for action to secure the solution to their problem. Yet when the opportunity presents itself to help some of them we hear the cry, "The Nation cannot afford to do this."

We are aware that these amendments will incur additional expenditures. However, we are also aware that this is the wisest investment this Nation could make.

We have faith in our unemployed and we feel that, if given the chance, they will have the ability to pull themselves out of the rut of despair and the Nation will benefit from the returns it receives from this additional "investment."

In all the testimony we heard, during our hearings on this legislation this summer, representatives of industry, management, labor, education, and all levels of government testified that "Basic education is necessary if we are to get our unemployed into occupational training," and "More of our unemployed youth must be trained if we do not want to develop tomorrow's hard-core unemployed group." And all the witnesses knew more money would be required to do this.

The majority of Congressmen agree with the need for the amendments. However, some are reluctant to pay for them.

Mr. Chairman, if the need is there, and it is, then we must buy it. We cannot have one without the other.

Mr. O'HARA of Michigan. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, if you were to project the program as the gentleman from Ohio [Mr. TAFT] has done on the scale on which it has been operated during its first and experimental year, you would reach the same conclusion he has reached. But as has been pointed out repeatedly, two changes have taken place. First, this program, a new and experimental program, has made such progress that the department is ready to move ahead with it at the rate which the Congress had originally contemplated.

Second, the amendments made by this bill before us today, with respect to a stepped up youth program and, further with respect to taking on additional trainees who would go into combined basic education and skill courses, envisions an additional 93,000 trainees per year in those courses.

Finally, the on-the-job training program, one of those provisions of the bill in which the Members of the House who voted for this bill a year and a half ago put the most hope, did not cost a nickel for training in the last fiscal year. Very wisely the Department was moving slowly in setting up the procedures under which such a program would operate, and they are now ready to go. So we expect an expansion of this program. We would naturally and normally expect an expansion of this program. If we did not have one, we would be disappointed in the outcome of the legislation we enacted.

Very frankly, Mr. Chairman, if I had thought a year and one-half ago, that this program would never get any further off the ground than it did in its opening phases, I would never have come down here to vote for its enactment.

The point is, Mr. Chairman, we are ready to move at an accelerated rate. There are unemployed who qualify for training; who can take such training; and who can enter jobs. We want to help them and we are not going to be able to do so unless we have the money to do it.

Mr. Chairman, I am very much opposed to the amendment offered by the gentleman from Ohio although I agree with his analysis of the rest of the bill. I am sorry we have to disagree on this, but I am particularly opposed to his amendment as it affects not the current fiscal year but the next 2 fiscal years following this current fiscal year when we could expect some expansion and improvement in the program. So I would ask the House to vote down the amendment offered by the gentleman from Ohio.

Mr. TAFT. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman.

Mr. TAFT. I would like to ask the gentleman then if he does not agree that for this fiscal year at any rate, there is no need for any additional authorization? Do I understand the gentleman correctly to say that; and is it not true that the Department of Labor for all practical purposes has so stated?

Mr. O'HARA of Michigan. I would say to the gentleman, there is some room for a difference of opinion as to what is needed. I have not thought that the Department needed perhaps as much as it asked for the current fiscal year. But I think it could use some money in this current fiscal year. The Department probably will not need as much as we provided when we wrote the amount in the bill for the current fiscal year. But so far as the 2 subsequent fiscal years are concerned, I am really very much concerned.

Mr. GIBBONS. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Page 8, strike out lines 17 through 24, and insert the following:

"(b) Subsection (b) of such section is amended by striking out '$161,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965' and inserting in lieu thereof the following: '$161,000,000 for the fiscal year ending June 30, 1964, $407,000,000 for the fiscal year ending June 30, 1965, and $281,000,000 for the fiscal year ending June 30, 1966'."

Mr. GIBBONS. Mr. Chairman, the substitute amendment that I have offered for Mr. Taft's amendment simply does this: It provides for a different redistribution of the funds authorized by this bill. In actual dollars and cents it amounts to a $9.5 million, or a little more than that, savings on Mr. Taft's amendment. It is $276 million under the committee bill, and it would shorten the program. This is a brand new program and is certainly needed. I know it is needed in my community.

Last year because of a national policy change placing an embargo on Cuban tobacco the cigar industry in my district was greatly curtailed, and where that industry had at one time employed 10,000 people, it is now employing about 2,000 people. We have a vast retraining problem there.

This is a new and very rapidly expanding program. I think that the Congress should reserve to itself the right to come back and reexamine the program, see how the administration is carrying it out. I believe that the redistribution of funds, as I have proposed in my amendment, is a more equitable distribution than that proposed by the gentleman from Ohio [Mr. Taft]. I think it would allow the orderly expansion of the program under the administration and also allow Congress to rework the program in the light of the experience that we have had. Let us realize that this is a new program and one that Congress should exercise its responsibility on, to reexamine and rework it as we learn from experience.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman.

Mr. POWELL. Mr. Chairman, I would like to compliment the gentleman on his substitute. Although it does end up $9 million less than the Taft amendment it does give us an opportunity at an earlier date to review this program again. I would like to support the substitute.

Mr. GIBBONS. This amendment saves money. It will quicken the congressional review of the problem and it will certainly provide that there be no lag in this very well needed program.

Mr. TAFT. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, let us not be deluded by this amendment as an amendment which cuts back the total authorization by more than $9 million over the cut that I suggested in the authorization. It does that by the very simple expedient of cutting out the last year, the fiscal year 1967, from the program entirely and picking up the $161 million which my amendment had for that fiscal year. The bill actually had $211 million for the 1967 authorization and spread that back over the other 3 years.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Florida [Mr. Gibbons].

The question was taken; and on a division (demanded by Mr. Gibbons) there were—ayes 102, noes 105.

Mr. GIBBONS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Gibbons and Mr. Taft.

The Committee again divided, and the tellers reported that there were—ayes 137, noes 121.

So the substitute amendment was agreed to.

Mr. LANDRUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LANDRUM: Page 4, beginning in line 24, strike out "have concluded that further school attendance by such youth is no longer practicable under the circumstances" and insert in lieu thereof the following: "have concluded, after considering any assistance available (under section 13 of the Vocational Education Act of 1963), that further school atendance by such youth in any regular academic or vocational program is no longer practicable under the circumstances."

Mr. LANDRUM. Mr. Chairman, considerable discussion has been had here today about the possibility of conflict between this program, as it relates to the training of youths between the ages of 17 and 22, and the program contemplated in the Vocational Education Act of 1963. While it is true that various members of the committee have stated there is no intention on the part of the sponsors of this legislation, and certainly I believe there is no intention on the part of the agency of Government which will be charged with its administration to interfere with the vocational education program as contemplated in the Vocational Education Act of 1963, I believe that in order to allay these fears and to remove any question about whether the two programs may come into conflict that this amendment is necessary.

I do not see that it does any violence or harm whatever to the overall program contemplated in this legislation, and I do believe it clarifies the question of whether we will have under section 13 of the Vocational Education Act the work-study program, an opportunity for a conflict to develop and actual competition to arise between the Department of Labor and the Department of Health, Education, and Welfare.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LANDRUM. I yield to the gentleman.

Mr. O'HARA of Michigan. I just want to say it was our intention all along to avoid such conflict and the gentleman's amendment would clarify that point. I think the amendment the gentleman has offered is a good amendment.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. LANDRUM. I yield to the gentleman.

Mr. POWELL. I think the gentleman from Georgia has made a very worthwhile contribution to this bill, and I would like to accept the amendment.

Mr. LANDRUM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. LANDRUM].

The amendment was agreed to.

Mr. POWELL. Mr. Chairman, I ask unanimous consent that all debate on the bill, and all amendments thereto, close at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS:

Page 8, line 16, strike out "three" and insert "two".

Page 9, line 3, strike out "three" and insert "two".

Page 9, line 12, strike out "1967" and insert in lieu thereof "1966".

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. POWELL. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, so that the Members will understand exactly what is in this bill, if they will just take the bill and look at page 5, line 12, and read it, they will find it is still in there. Lines 12, 13, and 14 are still in there and lines 20 and 21 are still in there. I admit there is no authorization for the money for those years, but the 50-percent matching provision is still in here. It has not been stricken.

Mr. Chairman, I have stated on the floor

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that it is my intention to preserve the 50-percent matching formula, if I ever get to it.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. GOODELL. I agree with the gentleman, but I do not believe we are establishing firmly a 50-percent ratio, unless we authorize funds for the year in question. The gentleman's amendment stops the program at the end of the fourth year. So, anything we say about the fifth year is merely an expression of our desire and we cannot bind a future Congress.

Mr. GIBBONS. That is the way I understand it anyway. You cannot bind a future Congress anyway. We are just expressing our opinion here.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8720) to amend the Manpower Development and Training Act of 1962, pursuant to House Resolution 583, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

[For text, see P.L. 88–214, below.]

[Senate, Dec. 13, 1963]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 8720, so that the Senator from Pennsylvania [Mr. CLARK] may explain the situation.

The PRESIDING OFFICER (Mr. MCGOVERN in the chair) laid before the Senate the bill (H.R. 8720) to amend the Manpower Development and Training Act of 1962, which was read twice by its title.

Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CLARK. Mr. President, the bill is the House version of an amendment to increase authorizations for the Manpower Development and Training Act. Senators may recall that earlier this session the Senate passed S. 1716 and S. 1831, bills which deal in general with the training of school dropouts and the percentage of the total training allowance which could be used for youth training and the matching requirements which were imposed on the States under the original act, and which the Senate decided to waive until June 30, 1965.

The Senate bills also added 52 weeks of literacy training.

Instead of acting on the Senate bill, the House passed its own bill. I now ask the Senate to accept the House bill. This request is made at the suggestion of the Secretary of Labor, Mr. Wirtz. The bill has been cleared with the majority leader, with the minority leader, and with the chairman and all the other members, Republican as well as Democratic, of the Committee on Labor and Public Welfare.

I pay particular tribute to the Senator from Vermont [Mr. PROUTY], who has been a source of great strength to the committee and to the Subcommittee on Employment and Manpower throughout the passage of the Senate bills, and who is quite content to have the Senate act now on the substitute, the House bill.

Mr. DIRKSEN. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I am happy to yield to the distinguished Senator from Illinois.

Mr. DIRKSEN. I concur in the accolade bestowed by the distinguished Senator from Pennsylvania upon my compatriot the distinguished Senator from Vermont [Mr. PROUTY]. He has done yeoman work in this field. He introduced substitute legislation in connection with the Youth Conservation Corps and other matters, some of which has found its way into an improved manpower training bill. So I salute him for the great work which he has done.

Mr. CLARK. I concur in the statement just made by the minority leader.

The differences between the House bill and the Senate bill are relatively minor. The House bill is a little more extensive than the Senate bill.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, a compilation showing the differences between the House and Senate versions.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

HOUSE VERSION

1. Lowers the age of youths eligible for training allowances from 19, as in existing act, to 17. The 17-year-olds would have to have been out of school at least a year.

2. Permits up to 25 percent of the persons receiving training allowances to be youths under 22 years of age. (Present law limits youth training allowances to 5 percent of the total training allowances.)

3. Postpones all matching until July 1, 1965. (Present law requires such matching begin July 1, 1964.) The amendment would require one-third matching in fiscal year 1966.

4. Adds 20 weeks of basic education in reading and writing to training allowance period for those trainees receiving training.

5. Permits increases in the weekly training allowance to $10 above the State unemployment compensation payment. This provision is designed as an incentive to get unemployed workers to seek training rather than draw unemployment pay.

6. Permits trainees to work up to 20 hours part time without any loss in training allowances.

7. Reduces to 2 years the prior work experience required for trainees to be eligible. (Present law requires 3 years.)

8. Permits a member of the family, where the head is unemployed, to receive a training allowance. Only one person in the family group is eligible at any one time. (Present law limits training to heads of household.)

9. Provides, through demonstration projects, grants and/or loans to unemployed workers to help finance their relocation expenses.

10. Title II: Authorizes $161 million for fiscal year 1964, $407 million for fiscal year 1965, and $281 million for fiscal year 1966 for the training programs. (Present law authorizes $161 million for each of fiscal years 1964 and 1965.)

SENATE VERSION

1. Lowers the age to 16. Youth would have to have been out of school 6 months. (S. 1831.)

2. Permits up to 15 percent of the total training allowances to be used for youth training allowances. (S. 1831.)

3. Eliminates 50–50 match requirement for the duration of the program—that is, June 30, 1965 (S. 1716.)

4. Adds 52 weeks of literacy training. (S. 1831.)

Mr. CLARK. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table showing the differences in the authorizations in the two bills.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AUTHORIZATION FOR APPROPRIATIONS UNDER TITLE II, COMBINING S. 1716 AND S. 1831 FOR COMPARISON WITH H.R. 8720

Senate bill

Fiscal year June 30, 1964:	
New programs	$100,000,000
Old programs	161,000,000
Total	261,000,000
Fiscal year June 30, 1965:	
New programs	100,000,000
Old programs	161,000,000
Pick up State tab	161,000,000
Total	422,000,000
Fiscal year June 30, 1966	0

House bill

Fiscal year June 30, 1964:	
New programs	0
Old programs	161,000,000
Fiscal year June 30, 1965:	
New programs	85,000,000
Old programs	161,000,000
Pick up State tab	161,000,000
Total	407,000,000

Fiscal year June 30, 1966: $281 million, which with State matching of one-third ($140 million) brings program level to $422 million.

The bill (H.R. 8720) was ordered to a third reading, read the third time, and passed.

PUBLIC LAW 88–214

An Act to amend the Manpower Development and Training Act of 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Manpower Development and Training Act of 1962 (hereinafter referred to as "the Act") is amended by inserting after "sought out and trained" the following: "as quickly as is reasonably possible", and by inserting after "afforded to these people" the following: "with the least delay".

SEC. 2. (a) Subsection (a) of section 202 of the Act is amended by striking out the second sentence thereof.

(b) Section 202 of the Act is amended by redesignating subsections (b) through (g) as subsections (c) through (h), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) Whenever appropriate the Secretary shall provide a special program for the testing, counseling, selection, and referral of youths, sixteen years of age or older, for occupational training and further schooling, who because of inadequate educational background and work preparation are unable to qualify for and obtain employment without such training and schooling."

(c) Subsection (d) of such section (as so designated prior to the redesignation provided for in subsection (b) is amended by inserting after "training" in the first sentence thereof the following: "(other than for training under subsection (l))".

(d) Such section is further amended by adding at the end thereof the following new subsection:

"(l) Whenever appropriate, the Secretary of Labor may also refer for the attainment of basic education skills those eligible persons who indicate their intention to, and will thereby be able to, pursue courses of occupational training of a type for which there appears to be reasonable expectation of employment. Such referrals shall be considered a referral for training within the meaning of this Act, and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks."

SEC. 3. (a) Subsection (a) of section 203 of the Act is amended—

(1) by inserting in the second sentence of the first paragraph after "fifty-two weeks" the following: "(except where authorized for individuals referred for training under section 202(1)",

(2) by inserting in such sentence after "not exceed" the following: "$10 or more than",

(3) by inserting in the first sentence of the second paragraph after "less than" the following: "$10 more than",

(4) by inserting in the second sentence of the second paragraph after "compensation and" the following: "$10 more than", and

(5) by adding at the end of such subsection the following new paragraph:

"The training allowance of a person engaged in full-time training under section 231 shall not be reduced on account of his part-time employment which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked in excess of twenty hours per week."

(b) Subsection (c) of such section is amended to read as follows:

"(c) The Secretary of Labor shall pay training allowances only to unemployed persons who have had not less than two years of experience in gainful employment and who are either heads of families or heads of households as defined in the Internal Revenue Code of 1954, or who are members of a household in which the head of the household or the head of the family is unemployed: *Provided,* That not more than one person in any one household may be receiving training allowances under this Act at any particular time. Notwithstanding the preceding sentence, the Secretary may pay training allowances at a rate not in excess of $20 a week to youths seventeen years of age or older who require such training allowance in order to undertake training, who are referred for training in accordance with section 202(b), and who are not entitled to allowances under the preceding sentence, except that no such training allowance shall be paid to any such youth who has not graduated from high school, unless the Secretary has satisfied himself that such youth has continuously failed to attend school for a period of not less than one year and that the local authorities after pursuing all appropriate procedures, including guidance and counseling, have concluded, after considering any assistance available under section 13 of the Vocational Education Act of 1963, that further school attendance by such youth in any regular academic or vocational program is no longer practicable under the circumstances. Not more than 25 percentum of the persons who are receiving training allowances (or who would be entitled thereto but for receipt of unemployment compensation) may be youths under the age of twenty-two."

(c) Subsection (d) of such section is amended to read as follows:

"(d) For the fiscal year ending June 30, 1966, any amount paid to a State for training allowances under this section, or as reimbursement for unemployment compensation under subsection (h), shall be paid on condition that such State shall bear 33⅓ per centum of the amount of such payments, and for each fiscal year thereafter such amounts shall be paid on condition that such State shall bear 50 per centum of the amount of such payments."

(d) Paragraph (2) of subsection (h) of such section is amended by striking out "July 1, 1964, and for 50 per centum of the amount of such benefits paid on or after that date" and inserting in lieu thereof the following: "July 1, 1965, for 66⅔ per centum of the amount of such benefits paid during the fiscal year ending June 30, 1966, and 50 per centum of the amount of such benefits paid thereafter".

SEC. 4. (a) The center heading of section 205 of the Act is amended to read as follows: "ADVISORY COMMITTEES".

(b) Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of making expert assistance available to persons formulating and carrying on programs under this title, the Secretary shall, where appropriate, require the organization on a community, State, and/or regional basis of labor-management-public advisory committees."

(c) Subsections (d) and (e) of such section are amended by inserting "National Advisory" immediately before "Committee" each place it appears.

SEC. 5. Part A of title II of the Act is amended by adding at the end thereof the following new section:

"LABOR MOBILITY DEMONSTRATION PROJECTS"

"SEC. 208. During the period ending June 30, 1965, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of programs to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed. Where such assistance is provided in the form of grants, such grants may not exceed 50 per centum of the expenses incurred reasonably necessary to the transportation of the person who is relocating, and his family, and their household effects. Where such assistance is provided in the form of loans, or a combination of loans and grants, the total amount thereof may not exceed 100 per centum of such expenses and shall be made subject to such terms and conditions as the Secretary may prescribe. Of the funds appropriated for a fiscal year to carry out this title, not more than 2 per centum thereof, or $4,000,000, whichever is the lesser, may be used for the purposes of this section."

SEC. 6. (a) The first sentence of section 231 of the Act is amended by inserting before the period at the end thereof the following: ", except that with respect to education to be provided pursuant to referrals under subsection (b) or (l) of section 202, the Secretary of Health, Education, and Welfare may make arrangements for the provision of the education to be provided under such subsection through other appropriate education agencies".

(b) The second sentence of section 231 of such Act is amended by striking out ", if facilities or services of such agencies or institutions are not adequate for the purpose," and by inserting before the period at the end of such sentence the following: "where such institutions can provide substantially equivalent training with reduced Federal expenditures".

(c) The third sentence of section 231 of such Act is amended to read as follows: "The State agency shall be paid 50 per centum of the cost to the State of carrying out the agreement, except that for the period ending June 30, 1965, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement with respect to unemployed persons, and for the fiscal year ending June 30, 1966, the State agency shall be paid 66⅔ per centum of such cost."

SEC. 7. (a) Subsection (a) of section 304 of the Act is amended by striking out "and a like amount for the fiscal year ending June 30, 1965" and inserting in lieu thereof the following: "and each of the two succeeding fiscal years".

(b) Subsection (b) of such section is amended by striking out "$161,000,000 for the fiscal year ending June 30, 1964, and a like amount for the fiscal year ending June 30, 1965" and inserting in lieu thereof the following: "$161,000,000 for the fiscal year ending June 30, 1964, $407,000,000 for the fiscal year ending June 30, 1965, and $281,000,000 for the fiscal year ending June 30, 1966".

(c) Subsection (c) of such section is amended by striking out "and a like amount for the fiscal year ending June 30, 1965" and inserting in lieu thereof the following: "and each of the two succeeding fiscal years".

SEC. 8. Section 305 of the Act is amended by striking out "vocational".

SEC. 9. Subsections (a) and (b) of section 309 of the Act are each amended by striking out "March 1, 1964" and inserting in lieu thereof "April 1, 1964, April 1, 1965, and April 1, 1966".

SEC. 10. Section 310 of the Act is amended by striking out "1965" both times it appears and inserting in lieu thereof "1966".

Approved December 19, 1963.

LEGISLATIVE HISTORY

House Report No. 861 (Comm. on Education & Labor).

Senate Reports: No. 458 accompanying S. 1716 and No. 480 accompanying S. 1831 (Comm. on Labor & Public Welfare).

Congressional Record, Vol. 109 (1963):

Dec. 12: Considered and passed House.

Dec. 12: Considered and passed Senate.

RED CHINA AND NARCOTICS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ROONEY of New York. Mr. Speaker, recently I had brought to my attention a very interesting and really startling radio broadcast on the program entitled "Spectrum" delivered on the CBS radio network on February 23, 1972, by Jeffrey St. John:

SPECTRUM: VARYING SHADES OF PERSONAL OPINION ON CURRENT ISSUES

I'm Jeffrey St. John with my personal viewpoint.

George Washington observed in his famous Farewell Address that, "History and experience prove that foreign influence is one of the most baneful foes of republican government."

This Washington observation has special significance, as we stated in an earlier commentary, in view of President Nixon's Peking journey. First because of the growth of Red Chinese espionage activities in this country, and, second, Peking's use of hard drugs as a source of revenue to support such subversive activities.

The use of narcotics for ideological ends by the Chinese is not some political pipedream thought up by those disgruntled at the President's new diplomatic overtures. Ever since the establishment of the Reds on the China mainland they have been actively involved in drugs. However, it has only been in recent years that narcotics have served a specific ideological end, coinciding with the mushrooming of the drug problem in Western nations like the United States.

A confirmation of this fact is found in the political biography of the late Egyptian President, Nasser. In a 1965 meeting with

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Nasser in Cairo, China's Chou En-lai is reported to have told Nasser that one of Peking's goals was the demoralization of GIs in Vietnam by drugs. "Some are trying opium," Chou stated. "We are helping them. We are planting the best kind of opium, and we are going to fight them with their own weapons . . . we want to demoralize them."

Everyone knows by now the impact drugs have had on GIs in Vietnam. Dr. Robert Baird, a New York drug expert with 24 years in the field of drug addiction, contends that the Chinese are now preparing to use drugs to demoralize the American populace, especially young people, and for ideological purposes. Dr. Baird contends, moreover, that our nation is being misled that Turkey is the major source of hard narcotics. Dr. Baird estimates Red China produces 55 to 60 percent of the world's hard drugs. He contends that because of the Administration's new China policy this harsh fact is being played down.

Dr. Baird in the past has been right while the government experts and officials have been dead wrong. And Washington was right: "History and experience prove that foreign influence is one of the most baneful foes of republican government."

I'm Jeffrey St. John for Spectrum.

ETHNIC SYMPOSIUM IN NEW YORK

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BADILLO. Mr. Speaker, at a time when tensions are great between groups within our society it is encouraging to see a group of men and women, leaders and representatives of a broad range of ethnic groups in New York City, get together for a frank and candid dicusssion of the issues between them and possible means for reconciling differences.

I have long believed that the very survival of New York as a great city lay in the ability of its leaders to form coalition of the diverse elements which make up New York—coalitions based on the very and vital goals they hold in common and which must take precedence over the differences.

A week ago, 300 ethnic leaders came together at the Statler Hilton Hotel. Mention of but a few of those 300 serves to illustrate the diversity represented at the symposium: Bayard Rustin, the black civil rights leader; Msgr. Geno Baroni, a Roman Catholic priest who serves as the director of the National Center for Urban Ethnic Affairs; Jule M. Sugarman, the city's Human Resources Administrator; Luis Quero Chiesa, chairman of the board of higher education: Albert Shanker, president of the United Federation of Teachers.

Last week's symposium will, I sincerely hope, lead to an even broader dialog aimed at reconciling the tensions which threaten our city and our Nation. Because I believe what happened in New York has important implications for every area of our Nation, I present for inclusion in the RECORD the New York Times report on the symposium and commend it to the attention of my colleagues:

[From the New York Times, Mar. 16, 1972]

ETHNIC LEADERS DISCUSS THE ASSETS OF DIVERSITY

(By Peter Kihss)

Ciao is Italian for "Hi!" and CIAO is the short name for the five-year-old Congress of Italian-American Organizations.

Yesterday CIAO brought together more than 300 ethnic leaders—Italians, blacks, Puerto Ricans, Jews, and others—in a symposium at the Statler Hilton Hotel.

They heard Bayard Rustin, the Negro civil rights leader, propose a "consultative council for exploring creative ways out of problems which pose inter-ethnic conflicts."

A Roman Catholic priest, Msgr. Geno Baroni, director of the National Center for Urban Ethnic Affairs, delivered a keynote appeal for a "new American dream—the urban ethnic pluralistic society"—to enable "diversity to become an asset instead of a liability."

"There never was a melting pot," Mr. Rustin declared. "There never will be a melting pot. If there ever were, it would be such a tasteless soup that we would have to go and start all over."

Later, Ralph J. Perrotta, director of the New York Project of the National Urban Coalition, said a New York Center for Ethnic Affairs was being put together.

He forecast a start in the next few weeks with support from CIAO, the American Italian Coalition, the Hellenic American Council, the American Jewish Committee, black and Puerto Rican groups, the city administration and others.

In the wide-ranging discussion yesterday, Jule M. Sugarman, the city's Human Resources Administrator, said his chief desire would be "a job for everybody—then other problems would disappear."

Started by Mrs. Mary Sansone, now full-time executive director, to help the Italian-American poor, CIAO now has city funds to start three day-care centers and to establish services for the elderly.

In a discussion of ethnic groups' common problems, Mr. Rustin said:

"I urge Italians not to make the mistake many black people have made—that soul food, long hair, black poetry, black music and black drama are the way out for the masses of black people who do not have the things they need."

"The most serious problem facing America today is the economic situation," Mr. Rustin said.

"Everywhere in the world," he went on," people are substituting ethnicity for the solution of problems." Mr. Rustin called instead for rallying together for political power.

AGENDA FOR THE SEVENTIES

Monsignor Baroni declared that "just as blacks and browns" had led causes in the last decade, "white, middle-America ethnics will set the agenda for the nineteen-seventies." Such whites, he said, are "economically, culturally, socially and politically alienated" and disillusioned.

The question, he said, is: "Can we develop a political majority—whites, ethnics, browns, blacks—to reorder the priorities?" He added "We don't need a shuttle to the moon."

Calling for new leadership "for real equality and justice" and "a quality life," Monsignor Baroni said his mother used to offer a proverb, "life is like two loaves of bread—one to eat for the body, one to sell and buy flowers with."

During the discussions, Hulbert James, director of the National Council of Churches' antihunger program, charged that the city's school system was failing for blacks and that preschool Head Start programs were defined in white middle-class terms. He favored community control.

A Puerto Rican leader, Luis Quero Chiesa, chairman of the Board of Higher Education, said communities should organize to get ethnic study programs—"the more a migrant knows about himself, the clearer he will see his contribution to America."

One panelist was Mrs. Sansone's son, Ralph, a senior at Bishop Ford High School in Brooklyn. Mr. Sansone appealed for time for students to learn about their schools so that they could be involved in changes, and he favored ethnic studies that would go out into the community.

"I know Michelangelo was a great guy," he said, "but I find it hard to relate to him. If I can go into the community, I can relate to a lawyer or a garbage man."

COMMUNITY INVOLVEMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SCHWENGEL. Mr. Speaker, many of our smaller American communities are facing constant crises relating to necessary community services. While the Federal and State governments offer assistance in many areas, communities are often left to their own resources and devices to provide essential services.

The town of Vinton, in Benton County, Iowa, provides an excellent example of local concern and initiative. When ambulance service was brought to a halt 2 years ago, the residents responded by forming the North Benton Ambulance Service. A fund-raising drive produced $25,000, $5,000 above its goal. Volunteers were recruited to drive the ambulances.

The ambulance service, now in its third year, has become a profitmaking enterprise. David M. Edgar, director of the ambulance service, said that—

The people showed their dedication, interest and community pride, and that really made the difference.

At a time when adequate medical care is a unique problem in our rural areas, it is encouraging to find such programs. Recently, Picture Magazine of the Des Moines Register noted the outstanding achievement of Vinton and her citizens. I would like to share this story with you.

The article follows:

DO-IT-YOURSELF AMBULANCE PROJECT—VINTON VOLUNTEERS MEET EMERGENCIES

(By Nick Lamberto)

Two years ago Vinton, the Benton County seat, a city of 4,845 residents, responded to a crisis by forming the North Benton Ambulance Service after two funeral homes decided to quit such operations because of rising costs. Dozens of volunteers participated in the do-it-yourself project, principally in the opening fund drive in which the goal of $20,000 was exceeded by $5,000. It was a great example of a community picking itself up by its own bootstraps.

"It shows what citizens can do when they get together on something," says Bill Monroe, editor of the Cedar Valley Times.

"And it was done without help from the federal government."

The donated $25,000 was used to buy a new ambulance for $15,000 and a second-hand one for $3,000. The city furnished a two-stall heated garage next to City Hall, where a fire station once was housed.

IN ITS SECOND YEAR, SERVICE SHOWS PROFIT

The first year (1970) the city subsidized the program with $5,000 in funds; the county, through the board of supervisors, furnished $4,000. In 1971, the city added $2,500, which was put aside toward eventual purchase of a new ambulance.

Nine volunteers drive the ambulances. They are scheduled so all time periods are covered. All are trained in first aid. Their only pay is on a per call basis.

But the most gratifying news about the home-cooked project is that in its second year of operation (1971) it not only was self-supporting, but showed a profit.

David M. Edgar, 29, the ambulance service director and its only full-time employee, says a net profit of $1,407.99 was realized in 1971. Total income was $14,009.89; costs, $12,601.90. Assets, including some of the originally-donated money, include $7,500 in interest-bearing time certificates, $2,552.93 in savings, $2,453.78 in the operating account and $890 in accounts outstanding.

Edgar took over as manager in 1971. At the time, outstanding unpaid accounts totaled about $3,000. "I worked at this part of it," Edgar says. "I sent bills out every month and also made personal calls. I tried not to let them slide by. People in the county realize if the ambulance bills aren't paid tax money will probably have to be used, so they pay up."

The service charges $25 for any call made in Vinton, $35 for any in the county that brings the patient to the city's Virginia Gay Hospital. Transfers to Cedar Rapids, Waterloo or Independence cost $55, trips to Iowa City $75.

The nine ambulance operators are paid by the call—$5 for trips to Virginia Gay Hospital, $7 for runs to Cedar Rapids, Waterloo or Independence and $10 for trips to Iowa City.

"BASICALLY, WE COVER AREA OF 20-MILE RADIUS

"We serve anywhere we're called," Edgar says. "But basically we cover a 20-mile radius from Vinton, including Brandon, Dysart, south of La Porte City, Newhall and Urbana.

"We averaged about 30 calls a month last year, or a total of 360, with only 11 in December, an all-time low. The first year (1970) we had about 250 calls. There have been several instances where I think our presence has been the difference between life and death—in accidents and heart cases, in particular. Last year, people knew about us more and we got more calls."

Edgar became director last year after serving 10 months as night manager. "It was an ideal situation for me because I've always been involved in emergency work and it gave me time to continue my schooling," he says.

Edgar, born and reared in Ottumwa and a 1960 high school graduate there, was an air policeman for four years, serving the Air Force in Idaho, Alaska, Korea and Newfoundland. He was married in 1964 to the former Marilyn Jo Carroll of Ottumwa. They have a son, David, jr., 3, and a daughter, Christina Lynn, 7.

After attending William Penn College at Oskaloosa for a year, Edgar served as an Iowa highway patrolman for 3½ years before resigning to join the ambulance service at Vinton and to continue his schooling at the University of Northern Iowa, Cedar Falls.

Now in his senior year in college, Edgar drives a 90-mile round-trip on Mondays, Wednesdays and Fridays to attend classes and conduct practice teaching sessions. He's majoring in safety education and minoring in speech.

For his job as ambulance service director, Edgar receives $400 a month. He also earned about $2,200 in 1971 by serving as a justice of peace.

"Before an ambulance driver can turn a wheel he must take a standard first-aid course," Edgar says. "Then the drivers continue training by taking advanced first-aid courses."

The ambulance drivers include a banker, two service station operators, an assistant publisher, the owner of an advertising circular, a car salesman, a plumber, a postoffice employe and a barber. All are in their 30s or early 40s.

The drivers include David Henkel, Vernon Geiger, Rolland Dudden, Darrell Kenney, Dick Hogan, Ron Clemens, Jerry Michaels, Gene Relf and Dale Druschel. Four men being trained as drivers are Jim Henkle, Doug Conyers, David Edwards and Howard Edgar, 55, school custodian and father of David Edgar.

"We're constantly up-grading our equipment," says Director Edgar.

Is this the answer to the ambulance problem many cities face when funeral directors stop the service because the operation is not economical?

"It sure worked for us," Edgar says. "But to make it, you have to start out in the black so you don't have to struggle to make ends meet at first, and you need the personnel and the equipment. The people showed their dedication, interest and community pride and that really made the difference."

Dick Hogan, 37, assistant publisher of The Cedar Valley Times, serves as ambulance driver three or four days a month. "It's a rewarding experience," he says.

The list of those responsible for the success of the ambulance service probably would stretch beyond the horizon but in the tough early going back in late 1969, the Kiwanis Club committee and its chairman Galen Grote, the city council, county board of supervisors, hospital officials and Gary Thudium were mentioned in news stories about the crisis.

Says Editor Bill Monroe:

"It sure was the answer here. Our community is proud of the service and the way it was organized and originally funded. In a time when so many communities are faced with an ambulance service shortage, Vinton has established one that not only works, but works economically.

And that's what community pride and interest can do for cities such as Vinton when they won't take "no" for an answer.

NATIONAL FUTURE HOMEMAKERS OF AMERICA

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SPRINGER. Mr. Speaker, it is always encouraging to note the progress that the vast majority of our young people are making in preparing themselves for positions of responsibility and leadership.

We have a special opportunity this week to recognize the achievements of a large segment of our youth—more than a half million girls and boys in all parts of the country—who are students of home economics and related courses in junior and senior high schools.

The week of March 19–25 has been designated National Future Homemakers of America Week to honor these students who are members of 11,000 FHA and Hero-FHA chapters throughout the United States.

Most of us are familiar with the constructive work of this organization. For those who are not, let me say that the Future Homemakers of America is a vocational youth organization whose purpose is to help individuals improve personal, family, and community living, with the emphasis on career education. It was founded in 1945 and is sponsored by the U.S. Office of Education and the American Home Economics Association.

There are two types of chapters. FHA chapters are for students in consumer education, homemaking and family life education courses while Hero-FHA chapters are for students in home economics related occupations courses.

The 441 FHA and Hero-FHA chapters in Illinois have a total of 19,000 members and I am proud of the fact that their state president is a resident of the new 21st Congressional District, Miss Lee Ann Rust of Heyworth.

"Profiles of Youth" is the theme of National Future Homemakers Week. The young people are putting on programs and carrying out special activities to focus attention on their constructive efforts toward the goal of building a better life for themselves and for society.

They deserve our congratulations and our support.

BRAVE FIREFIGHTERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BIAGGI. Mr. Speaker, I would like to call the attention of my colleagues to a most enlightening summary of what is takes to be a fireman, which appeared in the Bronx Press Review.

In recognition of these brave firefighters, I have introduced legislation which would provide a $50,000 death benefit to the families of firemen, policemen, and correction officers killed in the line of duty. It also would provide a benefit to those permanently disabled in the line of duty.

We call upon our policemen and firemen to put their lives on the line every day; the least we can do is see that their families are provided for should they be killed or disabled.

I believe that this article will provide a better understanding of what kind of man becomes a fireman.

The article follows:

WHAT IS A FIREMAN?

He's the guy next door.

He's a man with the sharp memory of a little boy who never got over the excitement of engines and sirens and smoke and danger.

He's a guy like you and me, with warts and worries and unfilled dreams.

Yet he stands taller than most of us all.

He's a Fireman.

He puts it all on the line when the bell rings. A Fireman is at once the most fortunate and the least fortunate of men.

He's a man who savors life because he has seen too much death.

He's a gentle man because he has seen too much of the awesome power of violent forces out of control.

He's a man responsive to a child's laughter

because his arms have held too many small bodies that will never laugh again.

He's a man who appreciates the simple pleasures of life . . . hot coffee held in numbed, unbending fingers . . . the flush of fresh air pumping through smoke and fire convulsed lungs . . . a warm bed for bone and muscle compelled beyond feeling . . . the comradeship of selfless service and a job well done in the name of all men.

He doesn't wear buttons or wave flags or shout obscenities and when he marches, it is to honor a fallen comrade.

He doesn't preach the brotherhood of man. He lives it.

NEWSPAPERS COMMENT ON PRESIDENT'S SPEECH

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. WHALEN. Mr. Speaker, millions of citizens saw and heard the President's speech to the Nation last Thursday evening. The following editorials from the two major newspapers in my district, each of which identifies itself with a different political party, comment on the President's remarks. I believe my colleagues will find these observations of interest.

The comments follow:

[From the Dayton Daily News, Mar. 19, 1972]

NIXON REVIVES DOCTRINE OF "SEPARATE BUT EQUAL"

President Nixon has asked Congress to adopt the discredited separate-but-equal doctrine and to elevate it from a regional eccentricity to national policy. In the process, he is urging Congress to join him in a dangerous confrontation among the executive, legislative and judicial branches, potentially the most serious constitutional crisis this nation has suffered in modern times and one it certainly doesn't need.

Mr. Nixon's proposals are morally craven and scientifically perverse.

While swearing he remains committed to school integration, the President wants Congress to legislate against additional busing. Mr. Nixon and the antibusing hysterics to whom he is pandering know that busing is the only practical means to school integration currently. Mr. Nixon did not offer an alternative—and, in fact, has opposed programs to encourage residential integration, the only real (and even then far off) method.

If Congress accepts the President's proposals, as it seems likely to, it will march up to a battle with the judiciary. Mere legislation can't relieve the courts of their higher duty to the Constitution. Jurists who consider segregation unconstitutional must continue to rule so.

The crunch then will come to Mr. Nixon. Having proclaimed and even worked to legislate against busing, will the President enforce court rulings that countermand his policy? Or will he, as President Andrew Jackson did when the Supreme Court proved contrary, abuse the Constitution by refusing to act?

That apparent irresolution is typical of the contortions that were the sole constant in the President's antibusing message.

The President—well, say he misstated the facts when he held that busing has proved to be "a very bad" way to school integration. On the contrary, while most of us have heard overwhelmingly of the few places where busing has been traumatic, busing has worked well most places. It is a "very bad way" to the degrees that Mr. Nixon and others in power permit incomprehension and overaction to make it untenable.

Mr. Nixon's proffered sop—to blacks in cash, to whites as a balm for their consciences—is to waste some $2.5 billion in schools attended by the children of poor families in order to achieve "quality" education for all.

That has been proved not to work. Many communities have tried it.

The results have been uniformly disappointing. The plain fact is this: the mere change to school integration has improved the educational performances of more pupils, and improved them more substantially and lastingly, than have the much more costly attempts at compensatory education.

Mr. Nixon has declined the role of leadership in the nation's complex, urgent challenge of achieving racial justice. He has accepted the role of chief follower and has predicated it on a misappreciation of "democracy."

His basic point is that busing is wrong because most Americans think it is wrong, but the option of majority rule in this country always has stopped short of majority tyranny, short of the lynch-mob psychology in which, too, the majority claims its privilege.

Mr. Nixon is saying that the basic rights of blacks exist at the convenience of whites, because whites outnumber blacks. Imagine the reaction if he were to say, as by the same logic he could, that the basic religious freedom of Catholics is subject to the majority rule of Protestants!

The President is moving us—or more accurately, helping us move ourselves—into precisely the entrenched, segregated society that the Kerner commission feared and warned against as the most serious internal peril facing the United States.

[From the Journal Herald, Mar. 18, 1972]

MR. NIXON'S PLAN—THE POLITICAL DIMENSIONS OF ANTIBUSING

President Nixon's attack Thursday night on court-ordered busing of public school pupils for racial integration was a disheartening reminder of the enormous impact this issue will have on the national election this year. He commandeered the television time as our President; he spoke to us as a political candidate. A President assumes the sworn obligation to defend the Constitution. Mere candidates have no such duty.

The President could have saved time by saying forthrightly that all the polls—and more recently the Florida primary—show that a large majority of both blacks and whites want good schools without busing, and that a President with Mr. Nixon's tenuous and shifting majority dare not fly in the face that sentiment. That, coupled with his reminder that he has "spoken out against busing scores and scores of times over many years" are both realities.

But the rather tortuous exposition he gave of his views, sprinkled with hints of personal discovery of absolute truth and the expounding of ex cathedra dogma as to what the courts can and should do and what they have no right doing, gave him the image of a Wall Street George Wallace rather than a moderating national leader operating within the framework of separation of powers.

The President's approach was multi-faceted. He intimated that he liked the certainty of a constitutional amendment and that the busing issue warranted such action, but he sidestepped a firm position by saying the amendment process would take too long. The fact that he declined to deal with the many perils in the constitutional amendment approach was to us a disquieting evasion of a basic issue and almost invites ill-considered action if someone other than the President wants to initiate it.

The President's promise that the Justice Dept. would "intervene in selected cases where the lower courts have gone beyond the Supreme Court's requirements in ordering busing" creates the misleading impression that the Justice Dept. can pre-empt the role of the judiciary in determining the law of the land. That procedure may work in corporate law with something like the ITT case, but matters of civil rights aren't that facilely disposed of by the executive branch. The Justice Dept. can enter cases as a prosecutor or advocate but no more, and the President leaves himself open to charges of demagoguery by hinting at a more decisive role for the department in cases already in litigation.

Nor is it appropriate for a President to set himself up as judge and jury before the courts have acted. Mr. Nixon has done this repeatedly—in the Manson case, in the My Lai court martials and now in the busing issue. But he grossly exceeds both his power and propriety in so doing. The Supreme Court, in fact, has yet to establish requirements on busing, as Mr. Nixon surely must know, and his public judgments—or prejudgments—make him a ringleader in undermining respect for the court if the justices should not comply with Mr. Nixon's findings.

As an "action" remedy, the President proposes, first, legislation that would "call an immediate halt to all new busing orders by the federal courts, a moratorium on new busing." In other words, since it takes too long to amend the Constitution, we had better pass un-constitutional legislation. The legislation is of such doubtful constitutionality that it could well be tied up in the courts for years, but that eventuality might not be clear to most persons until after the presidential election in November, and we suspect therein lies its efficacy.

The second aspect of the President's program is to launch a massive program of federal aid to upgrade schools in minority areas. This is an attractive theory, one this newspaper advocated for many years, but it has proved both politically and educationally unworkable. Right here in Dayton attempts to channel additional monies into ghetto schools have brought cries from other areas of the city that this was discrimination in reverse, and that cry has had a substantial role in bringing down several tax levies. And without the substantial infusion of money needed for compensatory education it becomes an educational flop. And such a judgment does not get into the statistical data that reflect other difficulties growing out of isolating the lower economic classes, particularly blacks. To be sure, the compensatory programs have not been as thoroughly or systematically researched and evaluated as have the integrated programs, but that leaves their workability in doubt, not discredited, as the President would have us believe.

Finally, the prospect of federal aid to help communities upgrade their lagging schools seems to us a Trojan horse. The current scale of aid gives the federal government considerable leverage in determining local school policy. Hardly any school system is in a position to renounce federal aid. While the bait of additional substantial aid to head off busing may be attractive to many at first glance, citizens would do well to remember that as they dilute their equity in their own schools they also dilute control. We do not oppose federal aid where needed to achieve minimum standards in districts which lack the resources themselves, but districts that can support themselves are better off to do so than to be conned into accepting increased federal encroachment under the cloak of a popular political issue.

Moreover, there is no assurance that added federal aid for minority school areas will not increase resistance to increasing local support for schools and render the passage of levies even more difficult than in the past. We trust this federal bribery will be closely scrutinized by all voters, regardless of their views on busing.

For one of the few times in his tenure, Mr. Nixon has in a major address failed to confront an issue candidly. We have disagreed with his conclusions on some previous policy statements, but his presentations have always been thorough and methodical, whatever might have been one's reaction to some of his rhetoric. We feel the President has not measured up in this presentation, and the nation is the poorer for it.

GREEK INDEPENDENCE DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. KEMP. Mr. Speaker, in recognition of Greek Independence Day, Saturday, March 25, it is appropriate that we reflect upon the priceless contributions Americans of Greek extraction and the country from which they came have made upon the American system and way of life.

The word democracy is derived from the Greek words, demos, meaning the people, and kratos, authority.

Even as the ancient Greeks held that authority should come from the people, the Greeks who have emigrated to the United States have demonstrated to their fellow Americans that they hold this concept dear.

As we approach our bicentennial celebration of the American Revolution, I am reminded of the carving on the Archives Building here in the Capital which says "What Is Past Is Prologue."

When we consider America's heritage of individual liberties and freedom, we would do well to remember the origins of ideals and ideals embodied in our system of government.

Inevitably, we trace these origins to the birthplace of logic, the city-States of Hellene.

There, men became concerned with causes and effects, with abstract ideals of justice and with practical concepts of equitable government with human dignity.

Our Founding Fathers were thoroughly familiar with such philosophers as Plato and Aristotle. They avidly read the works of such historians as Thucydides and Herodotus. They knew the writings of Homer and Plutarch.

Our founders emulated the oratory of Demosthenes and the statesmanship of Pericles. Thus, ideas and goals upon which America was founded came, in large part, from Hellenistic culture as did the words which describe them.

I find it interesting that a contingent of soldiers from Zante, Greece, sailed to the new world to assist colonists during our War of Independence. Among these was Maj. Michael Vourtzis who served as an aide to General Lafayette in the Continental Army.

Now making his home in New York is Brig. Gen. Pericles Count Voultsos Vourtzis who is Prince Grand Master of the Sovereign Greek Order of St. Dennis of Zante, one of the more ancient, if not the most ancient chivalric group in world history.

Homer tells us that descendants of the first grand master, Laertes of 1200 B.C., aided Ulysses in the Trojan War. The order fought in the first crusade. In the 19th century, Knights of the Order proclaimed love of fellow man, battling want, alleviating misery, and mitigating need as formal teachings.

Among American leaders decorated with the order are President Nixon, Vice President AGNEW, and former President Truman. Others honored were Presidents Hoover, Roosevelt, Eisenhower, and Kennedy along with many Senators, Congressmen, Governors, generals, and admirals.

Mr. Speaker, this ancient order; the American Hellenic Educational Progressive Association which has 415 local chapters, including chapter 91 in Buffalo, and many other Greek organizations with thousands upon thousands of members are contributing to the enrichment of our communities, our States, and our country, even as their forebears did in antiquity.

As these Greek-Americans observe Greece's liberation from the Ottoman Turks, as they offer thanks for Greek independence in Buffalo's Annunciation Hellenic Orthodox Church and other places of worship throughout our Nation, it is fitting that we—who owe so much to the ancient Greeks and their ancestors who carry the torch of enlightenment and freedom—salute them on this historic occasion.

NATIONAL FUTURE HOMEMAKERS' WEEK

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. PRICE of Texas. Mr. Speaker, the National Future Homemakers of America is an organization founded almost 27 years ago to help young people improve their personal, family, and community ways of life.

This year's National Future Homemakers' Week, March 19 through 25, has as its theme "Profiles of Youth." As the leaders of the National FHA have emphasized:

This week gives us an opportunity to make the Future Homemakers' organization a familiar profile of leadership among our schools, community, and nation.

The young men and women who make up the FHA, interested as they are in planning and carrying out the numerous roles involved in being a homemaker and a wage earner, are active in individual and group activities designed to teach leadership, build character, and encourage community participation.

There are some 65,000 members of the Future Homemakers of America, organized into 1,600 chapters in Texas alone. To me this represents a most inspiring figure, for these young men and women will be parents and breadwinners in the not-too-distant future. That future cannot help but be a bright one when consideration is given to the efforts of these young people who have taken to heart the lessons taught in their home economics classes. But they have not let their education stop at the classroom door. These young FHA members are out actively working to improve the environment, with continuing efforts at cleaning up and preserving our natural surroundings.

I extend congratulations to all the chapters of the National Future Homemakers of America in the State of Texas, as well as to other chapters of the FHA throughout the country, as they strive to attain their vitally important objectives.

POLLUTION CONTROL: THE MISSING DATA

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. DORN. Mr. Speaker, Gov. Nelson Rockefeller testified before our House Public Works Committee that zero discharge would cost $2 to $3 trillion, and still not get the job done. Faced with these uncertainties as to cost and feasibility our committee has recommended a 2-year study by the institution with the highest possible professional expertise and integrity, the Natinoal Academy of Sciences. I commend to my colleagues and my fellow Americans the following splendid address by Mr. Willard F. Rockwell, Jr., chairman of the board and chief executive officer of North American Rockwell Corp., superbly pointing out the cost of zero discharge:

POLLUTION CONTROL: THE MISSING DATA

(By Willard F. Rockwell, Jr.)

Gentlemen, possibly you're familiar with that saying of Georges Clemenceau, "War is much too important to be left to the generals."

Sometimes in the midst of all this uproar over pollution control, I feel the need for a reverse twist to that saying: "Pollution control is much too important to be left to the dreamers."

Just two months ago the United States Senate passed a water pollution control bill whose ultimate cost, according to the National Industrial Pollution Control Council, could be $317 billion.

That's enough to shake the economic foundations of this country.

And that's what I want to talk about tonight—the economic challenge to this nation that exists because those with the power to impose such bills chose to ignore fundamental principles of science and engineering.

No one denies the existence of pollution.

I think we all agree: Mother Nature is in poor environmental health.

All of us have shared in some ways in creating this condition. And when I say all, I mean all—

from the industrialist who's years late eliminating pollutants from plant discharge;

to the municipalities who dump their sewage problems in the nation's rivers;

to the individual who throws the beer can

along the highway or the empty cigarette pack on the sidewalk.

I believe it's to the credit of all Americans that we do recognize our shortcomings; that we do recognize our responsibilities; and that individually and collectively we are doing a great deal about pollution control.

This nation is embarked on what may be the greatest research and development program in the history of the world. We're making the first tentative steps toward a national goal—the remaking of our total environment.

The cost of the task will be enormous.

The Apollo moon landing program, from the moment President Kennedy announced the objective until Neil Armstrong set foot on the moon, cost $24 billion.

In contrast, the cost of pollution control may be four, ten, even thirteen times as much.

In August 1970 the magazine *U.S. News and World Report* estimated the national pollution control price tag would be $71 billion.

The Wall Street Journal has forecast that $85 to $95 billion will be needed in the next five years to deal with pollution problems.

Just recently, William Ruckelshaus, head of the Environmental Protection Agency, spelled out his projection—a phenomenal $105 billion over a five-year period, with $25 billion of that sum coming from private sector investment.

We were just beginning to assimilate that figure when the Senate passed, 86 to 0, Bill 2770, the so-called Zero Discharge Bill. House Resolutions 11895 and 11896 deal with the same basic issues.

Zero discharge, the elimination of all pollutants, no matter what the discharge outlet, is a commendable concept.

The aims of the bill are good—but the lack of realism is appalling. Straining for absolutely pure water for universal usage adds astronomically to the cost.

The first 85–90 percent of water pollutants can be removed at a twenty-year cost, nationally, of just over $60 billion.

To remove approximately 9 percent more would cost a total of $119 billion!

To raise the removal level to 100 percent would cost a total of $317 billion!

Or put it this way: the first 85–90 percent involve outlays of $0.7 billion per percentage point of removal.

To eliminate approximately 7 additional points requires outlays of $6 billion per point

But to raise the level from there to 100 percent requires outlays of something like $66 billion per remaining point of removal!

Let me emphasize that this is just an estimate. It's difficult to be specific about cost because of the lack of data. But it's estimated that achieving the goal of pure discharge water from the 14 trillion gallons of industrial water alone could range anywhere from $7 billion per year to $7 trillion per year. The wide spread depends on the acceptable level of parts per million of total dissolved solids.

If we could put money considerations aside—and frankly, that's impossible, for it's going to have an economic impact on every man, woman, and child in this country—how would we, as engineers, approach this situation?

We may as well get used to this type of contemplation, because eventually the job is going to fall on engineers and scientists. Folk singers aren't going to be much help when it comes down to the nitty gritty. Pollution may bring about a whole new generation of folk songs, but even those people must realize that technology, and only technology, is going to bring about the pure air, the pure wate. all of us want so desperately.

And, legislators, as much as we will need their unflagging support, of necessity must fall back when the nitty gets gritty. Money is no substitute for technical skill. You engineers are the ones who'll be called upon to solve the problems connected with reshaping the world's environment.

When that job is handed to you—how are you going to go about it? What are the parameters of the problem?

Most of you have been involved, at some time in your careers, with major research and development programs.

You know that first you must have firm guidelines and a clear picture of the ultimate goal. Then you sketch on paper your ideas as to how that goal can be reached. Afterward you build a pilot plant, or a model, and you test your theories under every conceivable condition.

You furnish to the customer paying the bill a full report not only on the operation and efficiency of the proposed project, but every possible side effect.

There are hundreds, even thousands of questions that must be answered before any responsible engineer or scientist will move from R and D into the operating phase.

In seeking an example, my thoughts turn naturally to aerospace.

Many of you are familiar with the big research wind tunnels and know how they operate in development testing.

As a rule there's an area where tremendous amounts of compressed air are stored. A one-second valve swings open and the air rushes past the suspended aircraft model.

Very detailed instrumentation, including Schlieren optical systems, gives the engineers excellent readings on the exact behavior of the model—all the way from touchdown speeds to trisonic.

Frankly, no manufacturer would dare build an advanced aircraft without thousands of hours of these tunnel tests. The B–1 aircraft we're building, for example, involves 22,000 hours of testing in the tunnel.

And it's that kind of preparation we must have in pollution control.

We must place the national goal of clean air and clean water in a hypothetical research tunnel.

We haven't compiled the necessary data. A lot of serious research *has* been done in this area, but we haven't determined the total impacts of the program on our national economic plans.

And gentlemen, there will be total impacts. If Senate bill 2770 stands as written, the economic lives of 200,000,000 Americans may never again be exactly the same.

Paul McCracken, former chairman of the President's Economic Advisers, said just last month, "An overly ambitious pollution control program could paradoxically contribute to enlarged structural unemployment. Its adverse impacts would probably turn out to be disproportionately heavy on industries and products that are important to our foreign trades."

Harold Scott, the newly appointed Assistant Secretary of Commerce, is even more blunt in his appraisal. "You begin to cost our environmental solutions," Scott said recently in a *Forbes Magazine* interview, "and you find that theoretically many of our industries are going to be priced out of world markets."

Technology gets transferred in a hurry these days, and I don't think for one minute that our foreign competitors are going through the same multi-billion dollar development cycle we'll be facing here at home.

And yet some equalizing measures must be adopted, otherwise we must be prepared for foreign competitors to literally steal away some of our industries rendered non-competitive by pollution control costs.

It's a very real threat, one that has been recognized by the White House, where a special task force is studying industries whose world market position is weakened by U.S. pollution control regulations.

The National Industrial Pollution Control Council has set up a special International Environment Advisory Committee which is making a world-wide survey of possible cooperative efforts.

We're working jointly with Canada, for example, to restore the quality of the Great Lakes. We're developing bilateral relations in environmental matters with Mexico, Spain, Poland, Yugoslavia, and Rumania.

Even if we had no worries about our friends abroad, we have ample worries about the economic impact at home.

I'm convinced that this country has the technical capability to achieve success in this environmental clean-up.

I believe these essential technical aspects, the total and indispensable involvement of science and engineering, are being recognized by the people. Just the other day, the nation was told of a space satellite that will be used, starting this year, to monitor secondary pollution from strip mining operations in eastern Ohio.

And David Templeton, dean of Chemistry at the University of California in Berkeley, revealed how elemental is the need for technical awareness. Commenting on the heightened student interest in science this semester he said: "If you want to do something about pollution then you immediately get involved in chemistry."

Of course, that's what we've been saying, in a different manner, for years.

Chemistry, for example, is the key discipline in a major air study North American Rockwell's Science Center will perform for the California Air Resources Board.

That study involves scientists from Cal Tech, the University of Minnesota, and the University of California, who'll sample the air in the Los Angeles Basin, the San Francisco Bay area, and the San Joaquin Valley. They'll develop techniques and test instruments to measure and monitor the polluting aerosols.

Chemistry, too, will play a major role in eliminating sulphur dioxide from electricity-generating facilities. That'll be a billion dollar effort alone. And that cost will be on top of another billion dollars needed each year to remove fly ash from the same stacks.

However, it's not the technical problems that worry me. This country can solve them, just as we overcame those facing us when we set out for the moon.

It's the economic aspects that give me concern.

There are limits to how far and fast pollution abatement controls can be implemented without jeopardizing a national economic performance.

Just what does a $300,000,000,000 expenditure in a non-productive area mean to this country?

For one think it could mean a slowing in the vitally needed annual increase in our gross national product, an increase that hopefully takes care of the million and more people who come on the payrolls for the first time each year.

It was less than two decades ago that someone laughed at a presidential candidate when he predicted that some day 60 million Americans would need jobs.

Today there are 80 million Americans at work.

So if I say 100 million Americans will be at work within the next twenty years—I don't think I'll be laughed out of the hall—especially if it's your sons and daughters who will be numbered among those filling the new jobs.

Against that certainty, I find this interesting:

Andrew F. Brimmer, member of the Board of Governors of the Federal Reserve System, said, "There is a fundamental conflict between our efforts to maximize the growth of our gross national product as traditionally defined, and our efforts to devote a substantial share of our real resources to pollution control."

If I may take the liberty of paraphrasing Mr. Brimmer he's saying we can't have our cake and eat it, too.

The growth of real output in the United States depends heavily on the pace of investment in plant and equipment to expand productive capacity. Mark those words, *To expand productive capacity.*

The $20 million Bethlehem Steel spent last year on pollution abatement facilities didn't contribute to productivity, according to the chairman of the board, Stewart Cort.

Productivity is an essential ingredient of growth, and growth means jobs.

The American economy can't stand still. It can't idle its engines overlong, or pull over to the side of the road for a year-long nap. Were we to do this, the resulting national retrogression would profoundly affect not only our daily lives but our destiny as a nation.

We can't tolerate anything that will slow the increase of our gross national product.

And here I part company with William Ruckelshaus, head of the Environmental Protection Agency, Ruckelshaus, in a TV interview, questioned the need for the growth of the GP and he introduced a new term, I believe it was net national product, NNP.

Whatever the term, I believe the concept must stand two tests: What does it do to the economic health of the country? Does it create new jobs?

And jobs *are* at stake.

Plants are being shut down.

The *Christian Science Monitor* recently reported, "Businesses falling victim to tough new state and federal standards number in the hundreds, according to a count being kept by the federal Environmental Protection Agency."

"Everybody," according to Ted Rajda, director of review and coordination in EPA's office of enforcement, "is being hit—both municipalities and industry."

That's happening, and yet we're lacking important data, not only on plants that have already been shut down, but on the fate of those being debated daily as industries weigh the impact of these new costs and lost jobs.

President Nixon recognizes the challenge to jobs. A few months ago he said, "We have to realize that when the Congress, or the Administration carrying out the will of the Congress, sets certain standards to clean up the air or clean up the water, we must weigh against that how many jobs it's going to cost. If it's going to cost a disproportionate number we must reevaluate the decision.

So I don t think we're about to do as one of the environmentalists suggested offhandedly. He said: "We simple set up a Federal subsidy program for those whose jobs are lost."

I believe this country has learned some bitter lessons about swapping subsidies for jobs—and we're not about to go that route again.

However, as I mentioned, data on potential job loss is another vital input which we must have for our research and development in the environmental program.

Mr. Brimmer points out that from 1971 through 1975 it's going ot take about 10 percent of the cumulative increase of the gross national product to finance the capital investment to check pollution.

That may seem a bit remote, a bit difficult to grasp. Let's bring it down to something easier to visualize, corporate profits. Let's talk about steel.

Ed Gott, Chairman of the Board of U.S. Steel, reecntly said that more than $350 million have been authorized by the steel industry for pollution control facilities scheduled to go into operation this year. Total spending by the steel industry is approaching the $2 billion mark.

And that, according to Gott, is just the beginning. Future capital costs of air and water pollution controls in the steel industry are projected at $4.5 billion—a sum that is greater than the total profits of the American steel industry during the past five years!

Zero growth and zero profits may delight some of the environmentalists, but I don't believe our productive, intelligent citizens are going to allow this nation to commit financial suicide.

American industry will, of necessity, shoulder a great portion of the cost.

In the year just completed, investment in pollution control activities by American companies increased 46 percent over that of the previous year to a total of $3.6 billion.

That's 4.4 percent of their total capital investment.

This year it's estimated to rise to 7.6 percent, and within a year or two, 10 percent of all capital investment will be for pollution control equipment.

Various other industries are confronted by demands that will be a tremendous strain on their economic resources.

The electric utilities are going to be faced with a $3.2 billion cleanup bill. Six other basic industries will spend more than a billion dollars apiece.

James McSwiney, president of the Mead Corporation, has given us the impact on the paper industry of the so-called Zero Discharge bill.

Under present conditions, the American paper industry is spending $1 billion, 116 million to meet primary and secondary treatment standards for its present capacity of 170,000 tons per day by 1974–1975.

At that rate, according to Mead, the annual operating costs for pollution control equal 17 percent of the capital investment.

Now, to meet the proposed zero discharge requirement, the percentage of capital investment devoted to water pollution in the paper industry will increase drastically, jumping to 30 and even to 40 percent of capital investment.

The annual operating costs, which now range from two to four percent of manufacturing costs, will fluctuate in a wide range from 20 to 60 percent.

And selling price of paper will have to increase anywhere from 25 to 65 percent just to maintain the present unsatisfactory low return on invested assets in the paper industry.

This is the kind of data we need for *all* industries, for *all* affected companies, for *all* affected states, counties and municipalities. Because in a different form, we're going to experience this rippling effect of pollution-control costs nationwide.

Let me be precise about that impact.

The 1969 municipal per capita expenditures for welfare were $18.

For police they were $22.

For waste treatment they were about $22 per person served.

For education they were $34.

Zero discharge will take that last $22 figure and balloon it to $52.

Let me cite as a geographical and demographic example the proposed total water clean-up of the lower Delaware River. The activity and the costs will involve 3 states. 11 counties, and 377 municipalities. No one is going to escape that cost-net.

And perhaps no one want to escape. But let's insist on precise, detailed data before we get deeper into this gigantic program.

Only then can we make the critical judgments and hard choices which seek a reasonable balance between our national hopes and our national capabilities.

It may be that we will be forced to leave some things undone.

It may be that some goals must remain beyond our grasp—at least for the time being.

We *can* achieve our national pollution control goals.

But first, let's read all the data.

And if something is missing, if something is out of line, let's have the courage to call a halt, to demand more information before a commitment is made.

FORTY-THREE DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. DRINAN. Mr. Speaker, 43 days have elapsed since House Ways and Means Committee Chairman WILBUR MILLS wrote to President Nixon requesting the tax reform proposals the President promised in September 1971. In his letter, Chairman MILLS stated that such proposals should be submitted by March 15 in order for Congress to have time to act on them this year. It is now March 22, and the President's silence on the subject of tax reform continues to be deafening.

There is much evidence that the Members of this House are eager to abolish the notorious abuses of the tax system. Last week, the House Democratic Caucus resolved by an overwhelming vote that passage of legislation further increasing the Federal debt ceiling "will be jeopardized" unless the President supports substantial revenue-raising tax reform proposals. More than 100 Members of Congress have sponsored legislation recently proposed by Congressmen JIM CORMAN and HENRY REUSS to reform the tax laws. Many other Members eagerly await the opportunity to cast their votes on the side of a progressive, equitable tax system.

The current tax laws are so riddled with loop-holes that almost any wealthy individual can, if he works at it, avoid paying thousands of dollars in Federal taxes. Many deductions—including, for example, those which involve interest on State and municipal bonds, investment in railroad cars, and residential rental housing—are, as a practical matter available only to the rich.

Other special tax advantages worth millions and even billions of dollars to their beneficiaries are alleged to have a rational basis when in fact they are merely handouts to those who have more influence in the Congress and in the White House than the poor and middle-class citizens of our country.

The people are fed up with a Government which gives special advantages to huge corporations but which is insensitive to the problems of poverty, unemployment, inferior education, inadequate housing, unavailable medical care, and outrageously high taxes.

In 1970, the 19 largest oil companies in the country had net income before taxes of $8,857,753,000 but paid Federal taxes at the deplorably low average rate of only 8.7 percent. In 1970, Standard Oil of California had net income before taxes of $589.6 million but paid Federal income tax at the astonishingly low rate of 5 percent.

XUM

If President Nixon continues to refuse to support tax reform, I would like him to justify to my constituents why Standard Oil of California is entitled to pay Federal taxes at the rate of 5 percent when they are required to pay taxes at much higher rates.

I would like the President to explain to the people of this country the basis upon which 19 enormous corporations with an aggregate net income before taxes of $8.857 billion paid Federal taxes at the rate of 8.7 percent at a time when the Nixon administration has incurred a cumulative deficit in excess of $90 billion.

If the President believes that the present tax system is equitable, I would like him to explain to the citizens of this country why, in the 1970 taxable year, 2,817 individuals who earned between $20,000 and $25,000 paid not one penny in Federal taxes. I would like him to attempt to defend a tax system whereby 1,766 individuals who earned between $25,000 and $30,000 paid no Federal taxes. I would be grateful for his explanation of why 1,976 individuals who earned between $30,000 and $50,000 escaped paying even $1 in Federal taxes. I would also be grateful for his explanation of why 1,338 individuals who earned more than $50,000 in 1970 paid no Federal taxes whatever.

Tax reform is an idea whose time has come.

COMMENDATION OF AMBASSADORS RUSH, WATSON, AND INGERSOLL

HON. CHARLES H. PERCY

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Wednesday, March 22, 1972

Mr. PERCY. Mr. President, much has been said about political appointees in ambassadorial positions abroad. They have frequently been criticized. They have sometimes been praised. It is my own belief that, with proper selection, noncareer diplomats drawn from leadership positions in other phases of American life can infuse new blood and thinking into the Foreign Service. The selection process is all-important, however, just as it is the most important consideration, more important certainly than seniority, in selecting outstanding men and women from the Foreign Service to serve as ambassadors abroad.

I was pleased to note in the Washington Post of March 19, 1972, an excellent article about Ambassador Kenneth Rush, former chief executive officer of Union Carbide, a man whom I have enjoyed knowing in his business and diplomatic roles and whom I have greatly admired in both.

The Washington Post article to which I refer was written by John M. Goshko from Bonn. As Ambassador Rush was leaving to take his new job as Deputy Secretary of Defense, Goshko reports that:

Mr. Rush had earned a prominent niche in the galaxy of high-powered diplomatic talent that Washington has had here during the post-war period.

Goshko believes "the landmark of his—Rush's—tenure was the four-power Berlin agreement." He states that:

Rush was the principal ball-carrier for the Western allies during the 17 months of arduous negotiation leading to the agreement.

According to Goshko, French Ambassador Jean Sauvagnargues, one of the other Berlin negotiators, summed up Rush's performance by remarking:

He's a big-league talent.

Another diplomat said:

The Berlin agreement is Rush's monument. More than anyone else, he's the man who did it.

I also was pleased to note a substantive article in the Washington Post of March 17, 1972, by a very knowledgeable reporter, Jonathan C. Randal, about the outstanding work that Ambassador Arthur K. Watson, former president of IBM World Trade Corp., has done as Ambassador to France on one of the most difficult and challenging problems, the problem of drug abuse, which has disrupted family and ruined innumerable lives in our country. It also is an aspect of American life heavily responsible for crime, termed "America's No. 1 domestic problem" by the President earlier this week.

Randal reported that:

Ever since Arthur K. Watson took over as ambassador 2 years ago, he has "made it his No. 1 priority to lunch regularly with the French customs and police inspectors assigned to smash the traffic which has made Marseilles the major way station for drugs smuggled into the U.S.

Randal said that:

When Watson made his maiden speech to a French group—and concentrated on drugs—the reaction was frankly one of horror. American ambassadors were expected to allude to the Lafayette connection in Franco-American relations, not the drug connection.

The Post report said that:

Thanks to Watson's interest, the French government and public have stopped thinking that heroin is a peculiarly American problem and recognized its terrifying, if still limited, inroads on French society.

According to Randal:

Such concentration on drugs—and on Marseilles' key role in harboring clandestine laboratories which refine heroin—is typical of Watson's results-oriented outlook.

Randal notes that:

Seizures of heroin and morphine base in France have more than doubled from 1,015 pounds in 1970 to 2,950 pounds in 1971. Current seizures so far this year are for the first time running at an annual rate roughly equal to estimated heroin consumption in the U.S.

I have had the opportunity over a period, two decades to observe first hand Author Watsen's great contribution to American industry, and since his appointment as Ambassador to France, his great contribution to this and other aspects of American diplomacy.

Another noncareer diplomat who deserves mention as this time is Robert Ingersoll, former chairman of the board of Borg-Warner Corp., who is about to leave to take up his duties as Ambassador to Japan. Japanese press reaction to Mr. Ingersoll's appointment has been very favorable and augurs well for him in a challenging assignment which can have important results on the level of economic activity and employment in this country for many years to come.

John M. Lee, reporting from Tokyo in the New York Times of February 6, 1972, said:

All Tokyo newspapers have published detailed biographies of Mr. Ingersoll, and the Japan Broadcasting Corporation has televised an interview with him . . . The affiliations of Borg-Warner Corporation with leading Japanese companies . . . have been favorably commented on . . . Japanese businessmen who met him have welcomed the appointment of a business colleague.

Mainichi Shimbun of January 29, 1972, commented on the "warm, charming personality of Mr. Ingersoll" and the "careful and prudent way he answers reporters' questions." A headline in Sekai Shuho—economic weekly—on February 22, 1972, reads "Newly Appointed U.S. Ambassador to Japan a Businessman Full of International Sense." Zakai—economic magazine—in its March 1972 issue, says:

Mr. Ingersoll is well versed in Japan's economic affairs just like Dr. Edwin O. Reischauer, former ambassador to Tokyo, was an authority on things Japanese.

As Mr. Ingersoll leaves for Japan, I know we all wish him well. I have every confidence that vast experience in domestic and international business and his knowledge of the Japanese economy will be very helpful in working on the Japanese-American trade relationship. He will carry on the tradition of another distinguished Chicago businessman, R. Douglas Stuart, who was one of our Nation's most successful and effective envoys when he served as Ambassador to Canada.

The accomplishment of Ambassador Watson in seeking curbs on the illegal drug traffic, the achievement of Ambassador Rush in negotiating the Berlin agreement, and the promise of Ambassador Ingersoll on the eve of his departure for Japan, give me a great deal of satisfaction, which I know is shared by many Members of the Senate.

MY RESPONSIBILITY TO FREEDOM—PATRICIA WALSH

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. RHODES. Mr. Speaker, Miss Patricia Walsh, a very charming young lady and one of my constituents from Scottsdale, Ariz., was the winner of the Arizona Voice of Democracy Contest, sponsored each year by the Veterans of Foreign Wars of the United States and its ladies auxiliary. This year the contest theme was "My Responsibility to Freedom."

When you read Pat's speech, you will readily understand why this honor came to her—it speaks for itself with words that need no additions or explanations.

I hope my colleagues will take a few minutes to give themselves the pleasure of reading her delightful and excellent presentation.

The speech follows:

MY RESPONSIBILITY TO FREEDOM

(By Patricia Walsh)

My responsibility to freedom is something that I am not the first to encounter. On the contrary, this facet of life has been around since the first parents and the first politics. It is rather a confusing concept, since the two main words actually contradict each other. To me, responsibility means rolling up your shirt sleeves to do some work; holding yourself to promises; generally doing what you should when you're supposed to. Now, freedom on the other hand, is laying face up on a bed of green grass, watching big white clouds sail by on an eternal blue sea of sky. Quite two different pictures wouldn't you say? But perhaps I should refer back to a previous statement of mine concerning "parents and politics".

In this country, politics is a fairly confusing game, and to be truthful, I don't understand too much of it, but I would like to relate a little story to you concerning myself and our government. I will confess that for the past 15 years I have said the pledge of allegiance with little more ferverence than I would have recited a nursery rhyme. But that changed, I was at a footgall game, and as I stood watching the flag raising, something hit me and I knew; I understood. If it wasn't for this country, how could I have the plans I have (and they are rather scrambled). But even if I don't succeed, I'm being given the opportunity and isn't that in itself a fantastic advantage? I can love my own God and preach his teachings without fear. I can develop myself into the individual I want to be. I can be me, and that is the best gift you can offer anyone. My country has offered me this. Should I not offer to it the me it has helped to build? Responsibility, in return for freedom.

Now, to the more personal side of this topic—parents. My parents trust me—a fact I'm proud of, and because of this, they don't begrudge me my freedom; freedom for extra-curriculum activities, freedom of opinion, freedom of speech and so on. But there are two categories of freedom, foolish and reasonable. Foolish freedom is that which basks in its own existence. In other words, going to extremes when given the chance and then regretting it later. The best kind of freedom is the type in which responsibility is employed. Now that statement sounds stuffy and the first thought to enter many a mind is "What kind of freedom is that?" And yet, if you've ever experienced it, you know, and, what it's really like. It's going out on a date, having a good time, but not doing anything unlawful, immoral, or against your own principles. It's feeling completely happy without any momentary tinges of guilt. And so, the responsibility of freedom: the responsibility to yourself; to live a full satisfying life. And here the connection with politics is obvious. If in your personal life, you feel and exercise the responsibility of your freedom, it will carry over in your view of the government, leaving you with a well rounded life and a light, peaceful heart.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

SUPPORT FOR COMPREHENSIVE CHILD CARE SERVICES

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BADILLO. Mr. Speaker, since coming to Congress I have repeatedly expressed my strong concern for making available, to all who wish to use them, comprehensive and developmental child care services. When both bodies last year agreed on what I thought was an excellent program, I hoped that perhaps we could at last offer meaningful progress in this area to our Nation's children. The President's veto shattered that hope, of course. Since then, both the House and the Senate have been working hard to establish meaningful services for the children of our Nation in the face of continued administration opposition to such programs.

I am pleased, of course, with the increased Headstart provisions of H.R. 12350, the economic opportunity amendments recently passed by the House. However, I do believe that we must go beyond them in our commitment to the many youngsters who need comprehensive, developmental services. For this reason, I introduced on March 6 H.R. 13602 here in the House. I am pleased that 22 of my colleagues have joined me in cosponsoring this measure. For the information of my colleagues, I insert here their names in the RECORD:

LIST OF COSPONSORS

CALIFORNIA

James C. Corman.
Ronald V. Dellums.
Don Edwards.

ILLINOIS

George W. Collins.
Abner J. Mikva.

MAINE

William D. Hathaway.

MASSACHUSETTS

Michael Harrington.
Louise Day Hicks.

MICHIGAN

John Conyers, Jr.

MISSOURI

James W. Symington.

NEW YORK

Joseph P. Addabbo.
Jonathan B. Bingham.
John G. Dow.
Seymour Halpern.
Edward I. Koch.
Charles B. Rangel.
Benjamin S. Rosenthal.
William F. Ryan.

OHIO

John F. Seiberling.
Louis Stokes.

PENNSYLVANIA

William S. Moorhead.

WISCONSIN

Robert W. Kastenmeier.

TELEPHONE PRIVACY—VI

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ASPIN. Mr. Speaker, I am presently circulating for cosponsorship the Telephone Privacy Act, H.R. 1326, which would allow individuals to place a "no solicitors" sign on their telephones.

This bill would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option to require the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phonebook who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations and opinion poll takers. Also not covered would be debt collection agencies or any other individuals or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a fifth sampling of these letters into the RECORD, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

GRAND PRAIRIE, TEX.,
March 9, 1972.

RIGHT—ON

Only no exceptions, please.

CHARLES F. LEAR.

ORMOND BEACH, FLA.,
March 1, 1972.

Hon. LESTER ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: Congratulations for introducing legislation to end telephone sales solicitations! Telephone subscribers should not be subjected to this type of annoyance by an ever-increasing number of business organizations, over an instrument for which we pay a high price for service. The worst offenders are Arthur Murray Studios, photographers, and home repair or remodeling companies, with a few poll-takers who ask impertinent questions.

If you succeed in putting an end to this nuisance, you will have the gratitude of thousands of people all over the country.

Sincerely yours,

——— ———.

KANSAS CITY, MO.,
February 29, 1972.

Re Telephone Privacy Act.
Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: I was happy to see that you had introduced the above legislation. There was a short item in the Kansas City Star concerning this.

Because of my profession, it is necessary that I have a published telephone number and that I be available to answer my telephone during evening hours and on holidays.

XUM

Telephone solicitors are extremely disturbing to me, and our area has a large number of these. In fact, our only newspaper, the Kansas City Star, has recently called my home twice in the evening hours to ask whether or not I subscribe. This seems to be a flagrant invasion of my privacy in view of the fact that their records or those of their distributors reveal the information that I am a subscriber. We have recently had a number of magazine sales solicitations which have extended to telephoning business numbers during business hours to solicit subscriptions.

We will be interested in the outcome of your legislation.

Yours truly,

——— ———.

SHARON, WIS.
February 29, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE ASPIN: You are doing the public a great service with the Telephone Privacy Act. We have long considered phone calls soliciting sales an invasion of privacy but felt that the telephone company, like other large companies, would effectively bar any restrictions that might limit their business in any way.

For years family, friends, relatives and I have complained about nuisance calls from salespeople selling magazines, roofing, siding and you-name-it. They always call when a person is in the middle of something involved, when someone is ill or taking a nap, and worst of all, when those who work third shift are sleeping.

The only way people have been able to get away from these pestering calls has been to obtain an unlisted or unpublished number which caused much trouble when those outside the realm of family and friends needed the phone number urgently. It seems strange that the public should only have a choice of two evils as part of the telephone company's "service".

We're behind you all the way in the enactment of this legislation.

Sincerely yours,

——— ———.

THE SPIRIT OF FREEDOM LIVES IN BYELORUSSIA

HON. CHARLES H. PERCY

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Wednesday, March 22, 1972

Mr. PERCY. Mr. President, on March 25, 1918, the people of Byelorussia proclaimed their national independence and their determination to govern themselves in a democratic manner. However, their national independence was short lived—Soviet troops conquered the free state of Byelorussia within a year.

Nevertheless, through the long night of Soviet domination the people of Byelorussia have maintained their culture and identity. They have continued to express their firm determination to live in freedom and to govern themselves.

Accordingly we too express our belief in the sanctity of their cause and affirm our hope that the people of Byelorussia will again know freedom.

On this day we are united in spirit with those who desire freedom in Byelorussia. We can take heart from the fact that the spirit of freedom lives in Byelorussia, and we pray for the ultimate victory of freedom everywhere in the world.

THE ISSUE IS NOT BUSING—THE ISSUE IS INTEGRATION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SCHEUER. Mr. Speaker, the President's most recent recommendations on how and when to integrate schools have thrown this Congress once again back into the thorny thicket of schoolbusing. Last fall after extensive debate the House of Representatives dealt with the busing issue, at least temporarily, in a series of amendments to the Higher Education Act amendments bill. Understanding what we have already done may help throw some light on what we are about to do. To that end, I commend to the attention of my colleagues the thoughtful and intelligent interpretation of those busing amendments by my good friend Albert Shanker, president of the United Federation of Teachers, in his column in the March 19, 1972 New York Times:

WHERE WE STAND

(By Albert Shanker)

THE ISSUE IS NOT BUSING . . .

[NOTE.—This statement by Mr. Shanker on the busing issue was written before President Nixon's address to the nation on Thursday night, March 16.]

There can be no question that the so-called busing issue will continue to be a major one in the months—and perhaps years—to come. The Florida referendum may well set off similar balloting in other states. President Nixon is about to issue his own proposals, while members of Congress seek to resolve the issue through legislation and/or constitutional amendments. Various black groups are on opposite sides of the issue, their position depending upon whether their philosophy is "integrationist" or "separatist."

As the debate continues, it becomes increasingly clear that the issue actually *is not* busing. Millions of children are now bussed. The issue hinges on the difference between *desegration* and *integration*, between government action to eliminate *de jure* segregation and action to eliminate *de facto* segregation. The 1954 Supreme Court decision—and many others following it—declared that government agencies may not use the law to enforce segregation. (Such laws prevented white and black children from attending the same neighborhood school.) Recent court decisions, however, have gone far beyond the initial ruling in stating that the mere elimination of racial barriers is not enough; that government has a duty to bring together white and black children, in certain proportions, in all schools within a given geographic area.

All indications are that there is, at the present time, widespread opposition among whites and blacks to the recent decisions. But there is also overwhelming evidence of preponderant acceptance of the earlier decisions. The same Florida electorate which rejected "busing" by a 71% vote also rejected any return to dual segregated school systems and supported quality education for all children by a 79% vote. Tragically, the strong sentiment against "busing" is being cleverly manipulated to effect the undoing of nearly twenty years of desegregation efforts.

On March 8, the House of Representatives instructed the House conferees to demand that the Houes anti-busing amendments be included in the Higher Education and Emergency School Aid Bill. The three House amendments sponsored by Congressmen Ashbrook and Broomfield and Congresswoman Green go far beyond busing. In essence, they constitute the greatest threat to school desegregation in all the years since the 1954 Supreme Court prohibition against "separate but equal" schools.

The Ashbrook amendment provides that federal funds administered by the U.S. Commissioner of Education may not be used for the transportation of teachers or pupils or for the purchase of transportation equipment to overcome racial imbalance *or to carry out a plan of racial desegregation.*

The Green amendment provides that federal officials may not order or encourage state and local officials to use state and local funds for purposes for which federal funds could not be used under the Ashbrook amendment.

. . . THE ISSUE IS SEGREGATION

The intent of these amendments is clear. What sounds like a prohibition against busing is in fact a death blow to any plan to desegregate schools whether or not busing is involved. The language of the Ashbrook amendment is plain enough. "Or to carry out a plan of racial desegregation" would prohibit the use of federal funds for desegregation and would also prevent the federal government from requiring that federal funds given to school districts be used in a non-discriminatory manner.

The Broomfield amendment allows an automatic stay on any court order requiring desegregation, *whether or not that order requires busing,* until the order is appealed to the Supreme Court. Furthermore, the amendment is retroactive and would allow even those districts practising *de jure* segregation, even if such efforts have been under way for years and require no busing. Southern districts now integrated without busing could restore segregation, institute busing to keep white and black children separate, and shop around for a friendly judge before whom to begin the appeals process. With hearings and rehearings, it might take years before students could return to their integrated neighborhood schools.

If there was any doubt about this interpretation of the Broomfield amendment, it was dispelled by its author, in a colloquy on the floor of the House with minority leader Gerald R. Ford during the debate on the amendment:

"Mr. GERALD R. FORD. I would like to ask the gentleman several questions. First, is the Broomfield amendment retroactive?

Mr. BROOMFIELD. Yes, it is.

Mr. GERALD R. FORD. Is it retroactive in its entirety?

Mr. BROOMFIELD. In its entirety.

Mr. GERALD R. FORD. The second question is this: Your amendment states that the effectiveness of 'any order' to achieve a racial balance of students 'shall be postponed.' Now, does that mean that it would affect orders which have already been put into effect or put into partial effect? In other words, all would be suspended pending final appeal?

Mr. BROOMFIELD. That is correct . . .

Mr. GERALD R. FORD . . . is it the intent of the author of the amendment that this stay of any order during an appeal shall be equally applicable not only to orders involving forced busing but to desegregation cases generally?

Mr. BROOMFIELD. Yes, it would be, in both cases."

The conclusion to be drawn from this exchange in the House is inescapable. Whether or not busing is favored to promote school integration, these amendments, aimed at ending all federal enforcement of desegregation, even those without busing, must not become law.

JOSEPH S. EGER—MAN OF THE YEAR

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. GAYDOS. Mr. Speaker, the Junior Chamber of Commerce in the city of McKeesport, Pa., has made it a practice each year to single out for public recognition an individual who "most typifies" the high standards of civic service established by this fine organization.

This year I was pleased to learn the recipient of the "1972 Man of the Year Award" was a man I have known for many years; one who has given unselfishly of himself in order to better the lives of his fellow citizens—Mr. Joseph S. Eger.

Mr. Eger has been a leader in the struggle to help McKeesport, an industrial center, overcome the many problems which today face our Nation's urban communities. He has played leading roles in numerous community and civic projects and programs, the latest and most notable of which is to serve as chairman for a $2 million fund raising campaign for the expansion of McKeesport Hospital. This campaign is extremely vital, for the hospital serves not only the citizens of McKeesport but those of the entire Mon-Yough Valley area as well.

Mr. Speaker, I commend the McKeesport Jaycees upon their selection of this year's award winner and I join with Mr. Eger's many, many friends in applauding the recognition of an outstanding citizen. It is with great pleasure, therefore, that I insert into the RECORD an article from the Daily News of McKeesport, which describes the award dinner and Mr. Eger's service to his community:

JOSEPH S. EGER CITED AS '72 "MAN OF YEAR"

City businessman and civic leader Joseph S. Eger last night was honored as the 1972 Man of the Year by the McKeesport Jaycees.

More than 200 persons attended the Jaycees' 11th annual dinner at the Youghiogheny Country Club where Mr. Eger received a plaque and accepted a $500 initial contribution to the McKeesport Hospital Expansion Fund, which he heads.

In making the award Jaycees' President John Ryan praised Mr. Eger as "a man who most typifies the Jaycee creed as a fine example to the community."

Guest speaker at the event was John M. Wunderley, a member of the McKeesport Hospital Board of Trustees, chairman of the hospital's building committee, and a longtime friend of Mr. Eger.

Tracing Mr. Eger's rise from a part-time employee in his family's food market to his present post as chairman of the board of the Eger Motors Inc., Mr. Wunderley cited the award winner's community spirit.

He recalled Mr. Eger's participation in various community and civic projects and said this activity made him an obvious choice not only for the Jaycee award but also for the chairmanship of the $2 million McKeesport Hospital Expansion Fund.

"Joe Eger has always had a place in his heart for McKeesport. That's one of the big reasons he's being honored here tonight by the Jaycees," Mr. Wunderley concluded.

Responding, Mr. Eger said, "I have looked forward to receiving this fine honor. . . . I credit my success to the people.

"We must begin to generate enthusiasm to put McKeesport back on top. . . . This is a unique area, a center for a lot of communities and a vibrant shopping center.

"It gives me extreme pleasure to be a part of this, a part of something great."

Master of ceremonies for the dinner was Donald Henninger, manager of Bell Telephone Co.'s operations in McKeesport.

Previous winners of the Man of the Year award include J. Charles Peterson, M. A. Cancelliere, C. E. Palmer, John L. Laughlin, Robert M. Cox, William Hatcher, the late Cornelius (Neenie) P. Campbell, the late Dr. J. C. Kelly, the late Thomas A. Wilson and the late James S. Mack.

ILLEGAL ALIENS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BADILLO. Mr. Speaker, I was concerned to learn yesterday that the distinguished chairman of the House Immigration Subcommittee intends to hold additional hearings into the question of illegal aliens. As I have already mentioned to my good friend, Mr. RODINO, I do not believe enough substantive facts as to the nature and extent of an illegal alien situation are available on which to proceed with hearings. I feel it would have been more suitable to have either the staff of Judiciary Subcommittee No. 1 and/or some outside organization or agency conduct an exhaustive, independent investigation into any real or imagined problem of illegal aliens. If the findings of such a study warranted full-scale hearings, they could then be held.

The whole issue of illegal aliens has generated a great deal of controversy, particularly among Spanish-speaking persons in this country. Regardless of statements to the contrary, the term "illegal alien" has become a code word for Mexican Americans in the Southwest and Spanish-speaking persons from Latin American nations and the Caribbean on the east coast. Many of the charges which have been made about illegal aliens are irresponsible and, in many instances, are unproven and unfounded. Although I do not know what purposes they aim to serve, some individuals have presented distorted claims and figures on the number of persons living and working in the United States illegally.

In considering the issue of illegal aliens the Congress must realize that it shares the blame for any problem which may exist by having created the highly discriminatory annual limitation on the number of persons permitted to emigrate to the United States from Latin America. Not only our own Spanish-speaking citizens but our Western Hemisphere neighbors to the south deeply resent this ill-conceived artificial barrier. Also, they are interpreting the whole inquiry into the illegal alien question as an attempt to further restrict the entry of their families and friends into this country.

One of my greatest concerns about these hearings is that, irrespective of the fair and open manner in which they are conducted, I am fearful that the unfounded charges made at them will simply serve to fan the flames of prejudice and misunderstanding and that the inquiry will unnecessarily exacerbate tensions which already exist within the community. Spanish-speaking persons are bearing the brunt of this campaign and, as a result of half-truths and innuendos, they are being defamed and degraded. We have only to recall the humiliation heaped upon Mrs. Romana Bañuelos—a distinguished Mexican American from southern California—last year.

Earlier this month, on March 10 and 11, the Immigration Subcommittee conducted hearings in New York City. One of the witnesses was Mr. Rene Anselmo, executive vice president of Spanish International Network and a person intimately familiar with the Spanish-speaking community, not only in New York but throughout the country. Mr. Anselmo's testimony was very forceful and described many of the abuses and problems suffered by the Spanish-speaking alien. I must say that I do not subscribe to all of Mr. Anselmo's views and particularly do not believe the problem of employers recruiting Spanish-speaking workers from overseas is a realistic one, especially in light of the large number of Puerto Ricans anxious and able to fill the jobs for which they are brought to this country. Nevertheless, I do feel that Mr. Anselmo's comments warrant our colleagues' full and careful consideration and I am pleased to present his statement herewith for inclusion in the RECORD:

STATEMENT OF RENE ANSELMO, EXECUTIVE VICE PRESIDENT, SPANISH INTERNATIONAL NETWORK

My name is Rene Anselmo. I am an Executive Vice President of Spanish International Network, a group of Spanish language television stations: KMEX-TV, Los Angeles; KWEX-TV, San Antonio; WLTV, Miami and WXTV, New York.

Since whatever this Subcommittee does is going to effect the Spanish-speaking community, perhaps more than any other group in the country, we are grateful for this opportunity to speak out on their behalf.

We find ourselves at this point of time seeking to avert passage of legislation supported by organized labor which would make it a criminal offense for an employer to knowingly hire an illegal alien.

Since the term "illegal alien" is a code word for Mexicans in the Southwest and Spanish-speaking people from the Caribbean and South America in this part of the country, the bills pending before Congress to control their entry are all basically an attempt to further restrict the entry of Spanish-speaking people into the United States.

The effects of this legislation, if passed, will not only have a profound affect on our relations and national image in Mexico and Latin America; it will create a group permanent Second Class citizens in this country, who because they are brown or black or look foreign, will forever have to walk around with internal passports to prove that

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even though they don't look "American," they were indeed born here or are citizens.

Some of the people who have testified before this Subcommittee in other cities find nothing wrong with this. We do, and the community we serve does.

The current illegal alien problem was created in great part by the very forces who are here today seeking passage of this obnoxious legislation.

We think there are simpler solutions to control the influx of illegal aliens. Not new solutions, but simpler and certainly less burdensome, not only for the Spanish-speaking, but for society at large.

It is unfortunate that the issues involved in these hearings have been clouded by a well-planned campaign to create nation-wide hysteria being conducted by the American Federal Government Employees Union, in conjunction with vigilantes of yellow journalism.

You will recall the now famous "Tortilla Factory" Raids which were designed to gain nation-wide publicity for the union's cause by impugning the character of Mrs. Romana Banuelos, then a nominee for Treasurer of the United States.

Coincidentally members of the New York Local obliged the reporters of the Daily News and other newspapers with invitations to staged raids at factories around New York, at West Point and at the Maritime Academy.

We are told of how many illegal aliens were rounded up by these posses . . . we are not told of how many American citizens of Latin extraction who look just like an illegal alien, were subjected to the embarrassment and indignity of being rounded up and forced to prove their right to be here.

Indeed, some proponents of this legislation, such as State Senator Dickson Arnett, of California, cannot comprehend the protest and outrage of the Mexican-American community when subjected to Gestapo-like raids conducted by Immigration and Police officers who pull people out of their beds at 4:00 A.M., and haul them off to the station. He cannot comprehend why a citizen of Mexican-American descent should be so outraged, when the Officers are only performing their duty.

The American Federal Government Employees Unions have been seeking two objectives:

First, an increase in money and personnel for the Immigration and Naturalization Service, so it can step up the raids, which are already terrorizing Spanish communities.

The second, is to give support for more restrictive legislation, such as that being proposed here today, which given time, could turn this country into a nightmare police state.

Throughout all of this, both the unions and some of the press have used incredible, unsubstantiated charges to color and smear the illegal alien problem.

We called Mr. Richard Cull the Information Officer of the Immigration and Naturalization Service, and asked him if the numbers and accusations Mr. Ed Kavazanjian had fed the Daily News were correct.

Mr. Cull replied that the Department had no information that backed up the characterization of aliens made by the Daily News.

Mr. Sol Marks, New York District Director, said he was not at all sure about the accuracy of those articles.

Yet, the Immigration Employees Union and certain members of the press continue characterizing this entire class of people as being dope pushers, welfare racketeers, Communists, carriers of disease, criminals and the cause of our high rate of unemployment.

This campaign and its reporting is blatantly racist. We have not read about forays of Immigration Officers rounding up British Secretaries along Madison Avenue. We have yet to see in any newspaper headline the alleged sins of the Canadian, or German, or French illegal alien population, characterized by the press, as they have headlined those of the Spanish and Chinese here in New York.

Two things stand out when it comes to aliens, legal or illegal. First, the subject of immigration and all legislation affecting it has been based on fear, bigotry and the preservation of vested interests. Second, that in all these hearings and discussions over the years, the roles remain the same—only the actors change. Every argument you have heard and will hear from the Restrictionists regarding today's illegal alien problem has been used by their predecessors who labored so long to stem the flow of immigrants into this country and were responsible for the first restrictive immigration act of 1924 and its revision in 1965. Then, as now, these forces have fought the entry of foreigners into this country on the pretext that they:

(1) Take jobs away from American citizens.

(2) Lower the standard of living and depress wages.

(3) Carry communicable diseases.

(4) Drink alcoholic beverages (today they are accused of trafficking in drugs).

(5) Swell our welfare rolls.

(6) Constitute a burden on our public schools and services.

(7) They are subversives or anarchists (today they are communists).

(8) That we must protect these unfortunate people from the abuses of unscrupulous employers.

All these charges have been part and parcel of the verbal arsenal of restrictionists and racial purists for the past hundred years. It is ironic that the parents and grandparents of some of the people making these charges today were characterized in this same fashion. We have an illegal alien problem today because the proponents of the legislation before you were successful in establishing, for the first time in 1965, a quota system on legal immigration from the Western Hemisphere nations. They were successful in closing down the Bracero program in the Southwest and severely limiting the importation of temporary workers into other parts of the country. They have turned, and here I quote Mr. Delfino Varela who testified before this committee in Los Angeles, "They have turned the labor certification procedures into a farce."

These recent restrictions may have created a tighter labor market, and it may have protected the country from some of the undesirable traits foreign workers bring in with them, but it hasn't done much for our society at large, and it certainly didn't irradicate the work that had to be done nor the jobs that were available.

So, instead of a sensibly administered program to handle legal immigration on the basis of what is good for *all* of the people of this country and not just some of the people in this country . . . instead of a sensible and non-discriminatory system to administer the importation of temporary workers to perform the tasks most American citizens no longer want to perform . . . we are on the verge of creating a society where none but the Super Rich will be able to enjoy even the most modest amenities of life. We must endure poor service, ill treatment, shoddy workmanship, dirty streets, higher prices and tasteless, chemically grown and mechanically harvested foods.

We are forcing small farmers and small businessmen off the land and out of business by the millions. Our high-priced products can not compete in world markets, and we force our industry overseas to find the labor supply no longer available in this country.

At the same time, we oblige hundreds of thousands of decent human beings who need, and are willing to perform this work, to enter the country like criminals or vermin, or to be smuggled in like cheap cargo.

The Restrictionists will tell you here today that we must keep foreigners out because of our high unemployment rate and our swelling welfare rolls. There no longer seems, however, to be very much of a correlation between unemployment, welfare, and work that is available.

There is, on the other hand, high unemployment amongst skilled and highly trained workers—the very class of immigrant our laws encourage to enter legally here, while we perversely keep out seed immigrants who are so badly needed.

You have heard testimony around the country that the majority of these illegal aliens, strangers to the land, people who cannot speak English, are able to find work within 24 to 48 hours after entering this country. Not only that, they pay hundreds and sometimes thousands of dollars to buy forged papers or to be smuggled in to perform the jobs we are told do not exist, or are no longer needed in our economy.

Further, as you know from testimony before this subcommittee, most of these illegal aliens are working in jobs that pay minimum wage scales or far better.

We are asked by the Restrictionists to keep out foreigners so they will not be exploited by greedy employers. They gloss over the fact that a greedy employer is a greedy employer, whether he deals with a citizen or an alien and that we have the laws and the machinery to enforce or to establish wage scales and working conditions where they do not exist. We do not need to turn the country into a police state to remedy that situation.

The unions who are backing this legislation, despite their previous record in this area, would have us believe they only fought to protect the minority worker by demanding this action against illegal aliens. How can they protect minority workers when they engage in a publicity campaign which raises prejudice against all Spanish, Blacks from the Caribbean, Chinese and other groups whether they be citizens or non-citizens? How can they avoid these charges of racism when they seem to have little objection to white Canadians working here?

In 1970 the Immigration & Naturalization Service certified 26,862 Canadians as temporary workers in the United States. It admitted only 1,625 Mexicans. Yet, the Canadians with their superior education and knowledge of English, undoubtedly are better qualified to occupy the kind of jobs that Americans would want. There are currently 4,000 Canadians who have construction jobs in the United States. How is it that they have these jobs when our black and Puerto Rican citizens are pleading to be admitted to the construction unions. I am not by any means making a statement against Canadians, I am only pointing out that the call for criminal penalties and police state legislation is not necessarily directed against all aliens, it is skewed more heavily in the direction of certain nationalities. Certainly American labor should be protected from unfair competition. As I have already said, these illegal aliens rarely constitute "unfair competition" since they are doing jobs that no one else wants to perform.

We understand that this subcommittee feels a responsibility to make certain that Americans know their rights are being protected. It appears that the present threat from aliens to American workers, at this point, stems more from their being here in an illegal status. We feel that justice would prevail for all concerned if the use of alien labor were legalized—thus ending its blackmail status.

Industrialized nations of northern Europe who compete so successfully with us in overseas markets employ some six million aliens from their Southern neighbours. Such a program, properly organized as it seems to be, has enabled European manufacturers to lower their costs considerably and free their

own citizens for more interesting and rewarding jobs. It has had the further benefit of spreading prosperity and raising these countries' standard of living. Therefore, we propose that aliens be legally admitted into the United States as temporary workers to perform the jobs and services American citizens no longer want to perform. Perhaps what we are talking about is an administrative setup patterned on the procedures currently being employed by European nations, a system which granted temporary work permits on the basis of our country's needs and not on any national or racial basis, a first come, first served most qualified basis. This program would be outside the quota restrictions for permanent residence and would not include any citizenship rights. Foreign workers could receive a work certificate for a stated period of time, six months, a year, two years, whatever. The Department of Labor would publish job lists as it does now. The temporary alien worker would be required to pay an admittance tax to handle the cost of processing his papers, he would post a bond to insure that he would leave or be required to deposit a return trip airline ticket. If his job were unionized, he would join the union. He would pay taxes while he is here. Most important, he would not be entitled to unemployment or welfare benefits.

We know from past experience that the majority of alien workers, if assured that they will be able to come back again, prefer to return home to their families. There has always been a direct correlation between restrictiveness of our visa policies and apprehension of illegal aliens in this country. Nowadays, since we have practically cut off the legal flow of temporary works, many don't dare return for fear they won't find the means of getting in again. Further, we believe the government should offer an amnesty to the illegal aliens and allow them to get their papers and residence normalized, provided they are people of good character and are residing and working in this country today.

Lastly, and we cast no aspersions on any member of this Committee, it might not be a bad idea for a member of Congress of Spanish descent, be named to the House Committee of Immigration and Naturalization Service.

LEGISLATION TO EXTEND CHILDREN AND YOUTH AND MATERNAL AND INFANT CARE PROJECT UNDER TITLE V OF THE SOCIAL SECURITY ACT

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. KOCH. Mr. Speaker, I have introduced legislation to extend the Federal funding for the Children and Youth and Maternal and Infant Care projects for an additional 5 years as these special project grants under title V of the Social Security Act are scheduled to terminate on July 30, 1972, under current law.

This bill is cosponsored by 86 Members of the House and has been introduced in the Senate by Senators GAYLORD NELSON and EDWARD KENNEDY with 15 other sponsors. This week, the Senate Finance Committee has added an amendment to House Resolution 1 providing for a 2-year extension of these project grants.

These projects render quality medical care at low cost to mothers and children in low-income families within medically deprived communities. One such project specifically for teenagers was recently discussed in the American Medical News. I am appending a copy of that article for the interest of our colleagues.

The article follows:

PROGRAMS MEET SPECIAL NEEDS OF ADOLESCENTS

Thirteen-year-old Donald is subject to epileptic seizures. His parents are divorced and he lives with an over-protective mother who worries about him being away from home and tries to restrict his participation in sports and other school activities.

Donald's classmates occasionally make fun of him when he tells them about his "handicap." He becomes angry and a fight usually results.

Recently, Donald visited a special clinic for teenagers at Columbus (Ohio) Children's Hospital. He had been there before and received medication and advice on how to handle his situation.

On this occasion, Donald met for an hour with Thomas E. Shaffer, MD, the clinic's director. Dr. Shaffer had a frank discussion with Donald, told him a stronger medication might be necessary, and indicated that he would speak again with Donald's mother in an effort to provide him with more liberties away from home. Dr. Shaffer advised Donald to tell inquiring friends that he has a "special problem" instead of a "handicap" and make a greater effort to control his temper.

Another visitor to the Columbus teenage clinic was 12-year-old Becky, who doesn't want to be treated like a child, but is fearful of what becoming a teenager may mean. Her parents separated about a year ago and since then she has been resentful of her mother and younger brothers and sisters.

Becky believes most people are against her. In an effort to remain home from school, she complains of imaginary ailments. Recently she was hospitalized for emotional problems.

Alice Dawson, a social worker at the clinic, spoke separately with Becky and her mother, who accompanied Becky on this visit. Miss Dawson tried to make both Becky and her mother more understanding of each other.

Becky said she likes to see Miss Dawson because she is "good" as opposed to her mother who is "bad." The social worker tried to impress on Becky that no one is either "all good" or "all bad."

Donald and Becky are typical of the more than 100 inner-city teenagers who visit the outpatient clinic at Columbus Children's hospital each week. They are also typical of those who visit the more than 60 other adolescent outpatient clinics or wards at other hospitals and medical centers throughout the country.

Like Donald and Becky, most teenagers seen in these clinics have emotional, social, and behavioral problems in addition to medical problems.

Irene M. Josselyn, MD, author of *Adolescence*, wrote, "Adolescents are not reworking past problems, they are living through new and strange ones, and they need all the support they can get."

In recent years, pediatricians, family practitioners, and other health professionals have been paying more attention to the special problems of teenagers who find themselves at an awkward age. The problem, according to health officials, is that adolescents are at the far end of the pediatricians' field of interest and have not really been picked up by the internists and family physicians.

Now that the special needs of teenagers are beginning to be realized, there emerges a new problem: How can those needs be most successfully handled?

The American Medical Association, for one, has seen the need for improved health care for all children and young adults. Major emphasis will be given to this group during the AMA's National Congress on the Quality of Life, March 22–25, in Chicago.

Many health leaders have attributed the growing awareness of adolescent problems to J. Roswell Gallagher, MD, who is often referred to as the "father of adolescent medicine." Dr. Gallagher established the first special clinic devoted to teenage health in 1951 at Boston Children's Hospital. Just 10 years ago, there were still only a handful of these clinics, but the number has been growing rapidly since then.

Many of these outpatient clinics are university-based and part of teaching hospitals, like the one at Columbus Children's Hospital which is used by Ohio State U. as one of its teaching facilities.

The teenage clinic in Columbus opened in 1958 and operated for a half day twice a week in a portion of the hopsital's regular outpatient clinics. Now, it operates from 8:30 a.m. to 4:30 p.m. Monday through Friday in a separate clinic area some distance from the general outpatient clinics where younger children are seen.

Those needing care on evenings or weekends are seen either in the hospital's emergency room or in an evening clinic set up to handle trauma and other acute problems.

Although the age of patients is in the 12–19 range, the average age is about 15 or 16. Most are members of families that are on some type of welfare program. Approximately half of the teenagers originally came to the hospital's emergency room for primary care and then began to be seen in the clinic. The other half were referred by schools, other physicians, public health nurses and departments, and other agencies in the city.

Nearly 60% of the patients at Dr. Shaffer's clinic are girls, because of the heavy pediatrician, obstetrician-gynecologist influence among the staff and the emphasis on such programs as venereal disease, pregnancy prevention, and menstrual problems. The clinic operates primarily by appointments, of which 50–60% are kept. This is a good percentage, according to the staff, because teenagers make their own appointments and generally come alone after their first visit.

Dr. Shaffer said that 10 years ago his clinic in Columbus was relatively unknown. "Now people know about it wherever you go."

He defines the clinic as "a facility for providing comprehensive health services for youth." Included in comprehensive care, he lists the clinic's preventive, social, psychological, diagnostic, treatment, educational, and rehabilitative services.

"Teenagers are the last group whose problems have come to the surface," said Dr. Shaffer. "Many thought they had no real needs of their own."

According to Dr. Shaffer, nearly all the teenagers visiting the clinic are experiencing a crisis. "It may not be a crisis that threatens life. It may have resulted from family discord or a death in the family.

"We must look at this crisis and ask these young people how they look at themselves. We don't just take care of their shots and vitamins. We ask such questions as how are things at home or school, and if they are going steady. Teenagers must be with people they trust, and we try to get them to bring their problems out into the open," said Dr. Shaffer, who is vice president of the Society for Adolescent Medicine.

John Stephenson, MD, another pediatrician on the clinic staff, said that an attempt is made to reach out to all teenagers "whether their problem is a broken arm or a broken heart."

He added, "We're also trying to teach them how to use a physician in the future and such things as what a good physician does."

Dr. Stephenson said a major goal of the teenage clinic is its attempt to teach the con-

cept of adolescence to medical students and house staff at Children's Hospital.

"The problems of teenagers could be emotional or organic and it is a real challenge to get this point across to others who will be giving care across the country."

At various times each month, Dr. Shaffer and other members of his clinic staff conduct sessions with other disciplines throughout the hospital, including those who serve inpatients. Drs. Shaffer, Stephenson, and others at the teenage clinic are available as consultants to other youth-oriented programs in Columbus and also help staff a satellite clinic in another section of the city that is part of the hospital's children and youth programs.

Because the hospital is affiliated with Ohio State U. (Dr. Shaffer is also a professor in the department of pediatrics at OSU), all first-year residents spend one month in training at the teenage clinic and others further serve the clinic by taking an elective in adolescent medicine.

In addition to Drs. Shaffer and Stephenson, the permanent clinic staff includes another pediatrician who is on a fellowship in the department of pediatrics at OSU, the one rotating resident per month, three social workers, a registered nurse, a practical nurse, a receptionist, and a secretary.

A consulting psychiatrist and a consulting psychologist also serve the clinic. In addition, a gynecologist and dermatologist hold weekly clinics and an endocrinologist visits once a month.

Audrey Kalafatich, RN, is a volunteer nursing consultant to the clinic. She is in charge of the masters program in child health care at OSU.

"I try to help the kids get together with the medical treatment," Miss Kalafatich said. Last summer she conducted an eight-week group session on obesity for girls 13–16. This is a common problem among those seen at the clinic.

Mrs. Nancy Bruce, another social worker, believes the work the clinic does in prevention and early intervention is among its greatest values.

"We see problems from the very beginning and have a chance to do something before there is a major breakdown," Mrs. Bruce said. "We see a child, for example, who has a physical complaint and is missing school. This could be related to family problems."

A big problem in Columbus, she said, is that there are no social workers in the school system where many teenage problems could be spotted.

Mrs. Bruce indicated a big need for the teenage clinic is to develop more comprehensive services for unwed mothers and for adolescent mothers after delivery.

Some 80 pregnant teenagers come through the clinic each year. They are referred to the hospital's social services department. The role of the teenage clinic is to examine their problems and see that they are referred to prenatal clinics and receive followup services.

An extensive pregnancy prevention program is also conducted in the teenage clinic.

The clinic handles virtually all teenage problems. It doesn't deal with severe psychiatric problems but does have a consulting psychiatrist in Gene Arnold, MD. "Probably one-third of those who come to the teenage clinic could use some type of consulting or psychotherapy help," he said.

Basic drug detoxification programs are conducted in the stimulant and depressant areas, but the clinic doesn't get involved with hard drug users.

Like many other hospital-based outpatient clinics for teenagers, the Columbus clinic has financial problems. It has been receiving about $100,000 annually in state and federal funds as part of the federal special projects grant for children and youth and maternal and infant care given to the hospital five years ago.

Extension of authorizing legislation currently is needed so that these projects may continue without direct federal support after June 30. There has been considerable speculation on whether the programs will be extended.

In addition to visiting the Columbus, Ohio, clinic, *American Medical News* also spoke with other physicians concerned with adolescent medicine to learn more of the problems and needs of teenagers.

There was consensus that pediatricians, family practitioners, and other health professionals should get more involved in examining the behavioral, emotional, and social problems of teenagers in addition to treating their medical needs. Teenagers, it was pointed out, cause some unique problems for physicians and many physicians do not have the expertise or willingness to deal with these special problems.

Others indicated that teenagers may be reluctant to reach out to these hospital-based, "establishment-type" clinics. Instead, they may choose to go to a free clinic where more confidentiality and simplification of services may exist (AMN, Feb. 21, 1972).

Sprague Hazard, MD, chairman of the American Academy of Pediatrics committee on youth, said major emphasis of his committee is being given to examining alternative arrangements like the free clinics and trying to determine if the pediatric community should take a position on alternative arrangements.

His committee, Dr. Hazard said, also supports legislation on uniform consent for minors to allow teenagers to receive health care in a private and confidential as adults do.

Dr. Hazard, who is director of health services at Brandeis U., Waltham, Mass., said the committee also is concerned with health care of youths who are in detention. "We will take a strong position on this and plan to mount a national conference in this regard," he said.

He added, "Young people are human beings. They require dignified, compassionate, and nonjudgmental care. Moralizing over some of the unattractive behavioral patterns of the young is not the way to care for them. They must be treated as individuals."

V. Robert Allen, MD, a member of the AAP's committee on youth, said that "the teenager is not so much forgotten as he is ignored. We haven't concentrated specifically on their problems. Now that we're doing more of this, we must find out how to treat them more effectively."

Dr. Allen, director of student health services and assistant clinical professor of pediatrics at the U. of California at San Diego, said that in dealing with a teenager, a physician must realize what that teenager may consider to be his rights.

These rights, he said, include where to go for his needs, such as the hospital or free clinics; the right to confidentiality in discussing problems with physicians; and the right to have a voice in his own government.

"The young need as much legal and legislative help as they do medical help," Dr. Allen said, "and physicians must recognize this."

"Is all this concern over the young necessary? Yes it is. The survival of the human species may depend on it."

Although there needs to be greater awareness that teenagers have special problems, Dr. Allen said, "We don't need to create another group of specialists to care for them."

Robert Deisher, MD, is chairman of the recently-established committee on adolescence of the American Public Health Assn.

The committee, he said, will look into the need for more preventive services. He added that little concern or involvement in the problems of adolescents has been shown to date by local and state public health departments.

He called the minimal amount of financing for adolescent medicine a "national scandal."

Natalia Tanner, MD, a Detroit pediatrician, describes herself as a "crib-to-college doctor" since most of the teenagers she serves have been seeing her since infancy. This is not the case with some pediatricians who lose many of their patients when they reach their early teens.

Dr. Tanner, a former chairman of the pediatric section of the National Medical Assn. and member of several committees of the American Academy of Pediatrics, said that 75% of her office time is spent talking with teenagers about problems not directly related to their health needs. She discusses such subjects as their academic achievements, community activities, and employment needs.

"The key to success is relating to these patients and hearing what the kids have to say," Dr. Tanner said.

Finally, there is Felix Heald, MD, president of the Society for Adolescent Medicine, who believes that more innovative programs are needed for teenagers. Dr. Heald is also director of the division of adolescent medicine at the U. of Maryland Hospital and professor of pediatrics at the university's school of medicine. He suggested that comprehensive youth health centers are one model that could be established to provide medicine, mental health, and vocational and rehabilitative programs under one roof.

"Practicing pediatricians are unique because they have been sensitive to the social and medical needs of youth and have been very responsive in meeting these needs," said Dr. Heald.

Although there is disagreement on how adolescents should be treated, it is generally agreed by physicians that teenagers have unique problems and needs and should be managed differently from younger children and adults.

J. Roswell Gallagher, MD, once suggested, "If you don't like adolescents, don't treat 'em." But he added, "You don't have to be for sin or against parents, and you don't always have to agree with adolescents—but you should be on their side."

MORE FREE ENTERPRISE, LESS SOCIAL PLANNING NEEDED FOR TRUE PROGRESS IN AMERICA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. RARICK. Mr. Speaker, I have been somewhat dismayed on hearing on several different occasions recently the opinion expressed that the increasing population necessitates more Government control and regulation of our lives or that the increasing complexity of life requires that we give up some of our individual freedoms.

It appears to me, to the contrary, that as the population and the complexity of problems increase, the solutions to the problems call for more individual responsibility and free enterprise. The social planners and the social engineers are simply unqualified and unable to cope with the situation.

In an informative and thought provoking article entitled "Social Planners Have Stifled True Progress in America," Editor Ned Touchstone of the Councilor contends that energies of this great Nation are being wasted on social agitation and upon protection of entrenched international interests while inventive minds are being kept from technological progress which could benefit mankind.

I insert Mr. Touchstone's excellent article in the RECORD at this point and recommend it to our colleagues as containing ideas which if developed and implemented would lead to true progress in America:

[From the Shreveport (La.) Councilor, Feb. 22, 1972]

SOCIAL PLANNERS HAVE STIFLED TRUE PROGRESS IN AMERICA

(By Ned Touchstone)

America in 1972 has momentarily turned its back on great riches and prosperity to search diligently for a dime's worth of nightmare.

Think with me for a moment of what we could be doing with America's manpower instead of wasting it upon the futility of social revolution.

(1) Automobiles are badly needed which can be operated by electricity, by solar power or other forms of energy easily attainable by the genius of great men in our midst. There is a limit to our known petroleum reserves but there is virtually no limit to other forms of power which would already be in use if we were not busy with social revolution.

Meanwhile the same powerful forces in America who are involved in oil deals with the Red Chinese are working to PREVENT the development of new fuel sources. When an inventor such as Gene Irwin produces a simple device to cut the gas consumption in a car he is either bought out or persecuted. He mysteriously becomes the target of every conceivable federal agency and pressure group in the country if he refuses to sell out. Lurking in the background are people who claim to be "progressive" but who are actually anti-progress.

(2) Thousands of college students are needed to be the technological leaders of the next generation. Brains are the nation's scarcest commodity.

Meanwhile on campus confused professors are telling youngsters to "get involved" in two silly social experiments long ago discredited by history: Race-mixing and Socialism. Race-mixing has brought the downfall of every nation that ever tried it. Socialism has been tried since the dawn of history and has always failed.

(3) Rapid trains are badly needed in America to whisk travelers across the nation at 300 to 500 mph speeds. We know how to build such trains but private enterprise is paying such high taxes to support a space program that there isn't enough venture capital for needed earthbound systems! There will be plenty of time to develop the moon and far-off Mars long after passenger trains start to roll again.

(4) For prosperity, America will desperately need more people in the next generation, not fewer people. We especially need more of the kind of people who made America great.

Meanwhile the so-called "progressives" and disciples of doom have convinced the white people of America that they should reduce their birth rate. These propagandists haven't done a very good job of convincing colored people to slow down in this category. Result: A time-bomb has been set to destroy the nation and it can only be defused in the bedrooms of suburbia.

(5) The moaners and groaners about the non-existent "population explosion" say that there simply will not be enough food to feed the world in the next generation.

The truth: If the last two people on Earth were lazy or morons they might have trouble finding food. At any time when morons and loafers outnumber geniuses and workers by a 10 to 1 ratio there will be a food shortage, whether there are 10 people on Earth or 10 billion.

The seas of the earth contain food treasures beyond the imagination of those who spread their genocide messages on TV and in the sick, slick magazines. Not just fish, but other substances which can be converted to food.

If America can tear itself away from Social Revolution and get down to business again, we will see giant food industries along our coastlines and on the islands of the seas.

(6) We hear the "progressives" whining about a future shortage of electrical energy. But their wails prove only that they don't have brains enough to find the front door in a slow fire drill. If falling water can turn turbines and generate electricity, why not harness the waves of the sea?

The "progressives" talk about going to the moon to find answers to some of Man's problems on Earth. But the truth is that God so arranged his universe that He sent power of the Moon to the Earth and gave us brains to use it if we will. The moon pulls at the sea day after day causing great waves to crash upon the shore. It doesn't take a great amount of intelligence to realize that here is a source of energy—virtually unlimited—just waiting for the Social Revolution to end.

(7) I heard a University professor tell his audience that the world's supplies of silver, copper and magnesium are fast being exhausted. I suspect that the gentleman is a professor because he is too stupid to learn how to plow.

There has never been a geological survey of the mineral deposits of the Earth. In fact there has been a large scale search for only one mineral: petroleum. And probably petroleum is the only mineral which is in any real danger of depletion in the centuries ahead.

But even if there were no more deposits of silver, copper and magnesium to be found near the surface of the Earth, there remain three other great sources available to men of genius:

(a) Recovery of waste or unused minerals.

(b) Extraction from the sea.

(c) Possible deposits beneath the outer crust of the Earth, too deep to be recovered by methods now known to mankind.

(8) The self-styled "progressives" have tried to cure America's economic woes with a trick device they call Paper Gold, if it's paper, it ain't gold. Not even yellow paper.

Certainly the future may produce an economic system which doesn't depend upon gold, but not in the next 10 or 20 years or maybe the next 100 years. Nations might someday trade in certificates backed up by surplus foodstuffs frozen in the polar icecap and transported there by methods yet to be devised.

But for the moment, we need gold. Instead of Uncle Sam standing on the corner selling pencils, he needs to entrust this matter to citizens with vision and ability—not the social planners who got us into this mess.

Instead of throwing up our hands in despair we should use our brains to devise more been mined out. Our excuse: This gold costs too much to mine.

Instead of throwing up our hands in despair we should use our brains to devise more economical methods to mine such gold. If some of the work needs to be done with hands instead of brains we could impress some of these able bodied men who draw welfare checks year after year.

(9) Our "progressives" are still planning giant airports with huge runways. Only a few of our more intelligent people seem to realize that the day is coming when aircraft will land and take off vertically. If we could harness a few more brains to the problem, the day would be just around the corner.

(10) Self-styled "progressives" have been busy trying to find new ways to build houses that will not last until the mortgage is paid off. About 1935, bricklayers quit laying bricks with a Flemish bond. Too much trouble. Next they switched from brick to brick veneer. Building materials get shoddier every year and 2x4 studs get smaller and smaller. If the trend is not reversed we will soon be living in plastic bags and paper sacks hung on a broom handle frame.

Isn't it about time that we used our brains to build houses that will stand 100 to 300 years instead of 10 to 30 years? We claim to have great builders but they have been too busy erecting 235 houses to try to unlock the stone masonry secrets of the Peruvians who built houses which lasted thousands of years. Let's forget socialism for a few years and provide free enterprise incentive for men who will use their heads.

(11) Mankind has made miserable misuse of radio for a half century. Perhaps this is because men like Sarnoff and his ilk dominated the field and they were more interested in propaganda and selling toothpaste for Lever Brothers than they were in developing radio. Despite this feet dragging, we already have the technology for using radio 10 times more effectively than it is now being used to transmit information.

Information about ever conceivable subject, from stamp-collecting to vocational training, from flower-arranging to equipment sales, can be transmitted by radio in a usable form, through 24-hour rapid transmission for recorder reception.

A radio receiver can be easily built which will record a special program or programs equipped with a pre-set timing device. For instance: Contractors could get information upon new projects on a special broadcast from 1:10 a.m. until 1:18 a.m. each day. They would merely set a timer on their receiving set to trigger a tape-recorder to operate at that time. The sending station could transmit 40 minutes of transmission in eight minutes by transmitting from a tape played at five times regular speed. The receiving set would also record on a tape operated at five times regular speed, but played back at normal speed.

One transmitting station could transmit as much information as contained in a set of encyclopediae in little more than a day's time, but the receiver would record only that information that he desired.

Why aren't things like this being done in 1972? Simply because we are too busy with our ill-fated Social Revolution to concern ourselves with progress. The entire program could be put in operation for a tiny portion of what we are now spending to subsidize "Sesame Street" to brain-wash innocent little children.

THE FINAL ENVIRONMENTAL IMPACT STATEMENT ON THE PROPOSED TRANS-ALASKA PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ASPIN. Mr. Speaker, as you know, Monday the Interior Department issued its final environmental impact statement on the proposed Trans-Alaska pipeline, as required by the National Environmental Policy Act of 1969. The interior study is composed of six volumes on the environmental aspects of this pro-

posed project and the alternatives to it and three volumes on its economic aspects.

Because of the study's volume I would not want to give a definitive reaction to it at this time. However, I have looked with some depth into the study's environmental and economic comparison of the trans-Canadian pipeline alternative. The environmental analysis of the Canadian pipeline appears considerably more comprehensive, honest and accurate than the analysis contained in the draft impact statement. The economic analysis and comparison of the Canadian pipeline, which concludes that the trans-Canadian and the trans-Alaskan pipelines are "equally efficient," is inadequate and less than candid. In short, the economic analysis is a snow job. More will be said on this at a later date.

I would like to include in the RECORD today the transcript with Secretary of the Interior Rogers C. B. Morton aired on the "Today Show" Tuesday morning. Many of Mr. Morton's statements contain misinformation; some of his statements are actually contradicted by his own Department's impact statement. I am sure that those of my colleagues interested in this important project will find Secretary Morton's interview quite interesting. It follows:

AN INTERVIEW WITH SECRETARY ROGERS C. B. MORTON

FRANK MCGEE. The Interior Department put out a master study yesterday on what the proposed Alaska oil pipeline might do to the environment. The report concluded that the pipeline will be the cheapest way to get the oil out, but it would have damaging effects.

We've asked the Secretary of the Interior, Rogers Morton, to talk with us about that this morning and other ecological matters, as well. And Morton's in our Washington studio with "Today" Washington editor, Bill Monroe.

BILL MONROE. Good morning, Frank.

Secretary Morton, there's been some speculation that you might not make a decision on whether to accept the application to build this Alaska pipeline until after the election. Are you going to decide before that?

Secretary ROGERS C. B. MORTON. Well, I think it would only be fair to decide before that. I would like to leave the report sort of soak for about forty-five days or so so that people will have a chance to look at it and comment on it. But I think shortly thereafter, a decision should be made one way or the other.

MONROE. Is it possible you might come out with a decision between two and three months?

Secretary MORTON. Yes, quite possible. Of course, the only thing we're able to do is to inform the court, if we decide affirmatively, that we're going to decide affirmatively, because we're under an injunction not to proceed.

MONROE. A good deal of the material in your report indicates that the Canadian route—and there's no application right now for a Canadian route—but a Canadian route would be less damaging to the environment in several ways. There would be no tankers involved, so no oil spills at sea. Since it's expected that a gas pipeline would be built through Canada, if you built an oil pipeline, the two could go in the same corridor, so you wouldn't have two different corridors. And it would also be less earthquake prone through Canada. And yet, there's an assumption that the Interior Department and you will decide in favor of the Alaskan pipe.

Secretary MORTON. Well, as you said at the beginning, Bill, there is no application before us for a pipeline other than the one through Alaska.

I think, perhaps, you should give a little closer analysis to the report, because I believe the seismic risks are just about even both ways. Of course, the tanker problem cuts two ways also. Because if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker. And these tankers would be foreign flag tankers; they would be tankers over which we have no control, whereas the Valdez to West Coast tankers will be Jones Act tankers; they will be American ships; they will be of the highest standard.

So we could be—and the environmental balance could be thrown really against us, if we went through Canada. This would have to be analyzed. But the fact is that the Canadians, or any Canadian interest or Canadian oil companies, have not—or American oil companies, for that matter, have not chosen to go that route. The oil is needed in Region V, which is the West Coast. And I guess we'll have to make a decision on what we have before us.

MONROE. You concede, apparently, from what you've said, that it would be an advantage to go through Canada in the sense of having a single corridor for both gas and oil.

Secretary MORTON. Well, yes, from a single corridor point of view. But the American part of that corridor would be very small. And in the Alaskan land withdrawal, in the public interest withdrawal that we made the other day, we did set aside a corridor that would go underneath the Arctic wildlife range, just south of it, into Canada. There would be a great deal more land environment disturbed by a Canadian pipeline, a great deal more. And the cost of it would be probably over twice as much as the Alaskan concept.

And I believe that the technology for handling oil on the water—new ships, new techniques, new safety devices—will mean that we can handle oil that way probably, environmentally, more compatible than we can any other way. Because there's been a great movement, as you know, in this direction.

MCGEE. Mr. Secretary, this is Frank McGee in New York. At least three major environmental groups, I understand, are asking for further public hearings on this matter before a decision is taken by you and your department. Would you favor such hearings?

Secretary MORTON. Well, I'm going to leave the report open for comment from everybody for forty-five days. And we've circulated the report to libraries all across the country. And we're making it available at the lowest possible price to anybody who wants it. And I would like to hear from everybody who has something to say about it.

If you have a public hearing and give somebody an hour, an hour and a half, or something like that, to discuss it, it's so complicated and it's so big that I don't think we would learn anything new. I think the opportunity to get comments on which there could really be some valid evidence as to the adequacy of our report is better served by allowing, say, forty-five days. And if it takes more than that, and the public wants more time than that, I'm perfectly willing to give them more time than that to tell us what they think.

But to stand up for giving every witness an hour, say, and say there were a thousand witnesses that wanted to testify, I don't think we would learn anything, and we'd get a lot of material that we couldn't analyze and use. Whereas if the scholars will let us know what they think and these environmental groups will let us know what they think, we will incorporate these comments into the decision-making process.

MONROE. Frank or Roger.

ROGER CARAS. Mr. Secretary, is there any claim, or any truth to the claim, that the oil coming from Alaska is destined for a market in Japan and not for use in the United States?

Secretary MORTON. Well, it would seem very unlikely. In the first place, you couldn't get as much for it in Japan as you could in the United States. And the other point is that we're short of oil. And by 1980, for example, when this pipeline's just getting fully matured, I think that we'll be importing probably twenty-five to thirty percent of our oil requirement. The only possible avenue that I can see for a Japanese trade in this oil would be where we sent some oil from Valdez to Japan in exchange for oil that they had purchased, say, in Africa or in the Middle East and save some shipping thereby.

But there'd be no reason, economic reason whatsoever, to export this oil to any country.

MONROE. Mr. Secretary, do you look on the possible damage to the ocean from a pollution point of view, from the use of tankers between Alaska and the West Coast as the worst possible threat from this pipeline? The report says that accidents to tankers may cause spillage of as much as a hundred and forty thousand barrels a year. And it talks about chronic pollution in Valdez, Alaska area and the possible damage to salmon fish of about four hundred thousand dollars a year.

Secretary MORTON. Well, we think that by the kind of controls that we can install at Valdez in the terminal, in the maritime facility that such pollution could be avoided. But shipping, general shipping accounts for about—and the tankers—accounts for about sixty percent of the ocean oil pollution. About forty percent is accounted for by drainage from crankcases—from cars and buses and trucks.

MONROE. Coming into the ocean from the rivers?

Secretary MORTON. Yes, from the waterways. And there's no way you can cut it. If you bring this oil into the middle of the country, you're going to have to service the West Coast from oil that bought offshore. And then you have no control over the tankers. You'll have all kinds of convenience flags, foreign tankers, rust buckets, and everything else bringing that oil in. So you're probably going to get a lot less oil pollution in the ocean by controlling it with American ships and using this route.

That doesn't mean that I've come to the conclusion that this is what we ought to do. This is just one of the tools in the decision-making process.

CARAS. Bill, can I come in again?

MONROE. Yes.

CARAS. Mr. Secretary, this is Roger Caras again. Sir, history would seem to demonstrate that a seismic disturbance along the route of this pipeline is not a likelihood, but eventually, at least, would be a certainty. What can be done to keep the pipeline from rupturing in the event of a major seismic disturbance?

Secretary MORTON. Stipulations have been put into the design of the pipeline and agreed to by the applicants that will put the necessary loops in the pipeline to make it strong enough to withstand earthquakes. And we have learned a good deal about this over the last years, dating all the way back to the great San Francisco Earthquake. And I think combatting the seismic forces is an engineering practicality, and they can do it.

MONROE. The report indicates there might be some problems to caribou migration in terms of this pipeline presenting a barrier. Does that seem very serious to you?

Secretary MORTON. Well, this is one of the things I want to look at. I want to look at all the research that's been done. A lot of research has been done in this area. And test pipelines have been constructed in the Arctic, and the caribou so far have been willing to go over them, been willing to go under them. And if they're short enough, they go around them.

MONROE. Thank you very much, Secretary of the Interior, Rogers Morton.

TEXAS OIL GATES THROWN WIDE OPEN

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. PURCELL. Mr. Speaker, a drastic and extremely dangerous slowdown in American oilfield exploration is an indisputable fact. In 1952 there were almost 9,000 crew months of geophysical activity in this country. According to the Library of Congress, by last year this figure had declined to just over 2,500 crew months. During this time the number of active drilling rigs plummeted to a level only 37 percent of a 1952 figure of 2,641 rigs.

This downward trend has been imposed by Federal law and policy. The imposition came at a time when we should have been spending more and more time and energy in finding and developing viable energy reserves. The easy-to-find reservoirs, using known technology, have already been found. The percentage of successful discoveries has grown steadily worse. In 1958, 19.82 percent of all starts were successful; in 1968 only 14.56 percent produced anything. Of equal importance is the fact that the average depth of the successful starts has increased from 4,900 to 5,800 feet during this period, making the search more expensive for each attempt that is made.

Last week the Texas Railroad Commission ordered a 100 percent market demand factor for April. For the first time in almost a quarter century, our exploration levels are such that a decision of this kind finally became necessary. Mr. Speaker, this is the result of: First, a continuing insistence upon more and more oil import quota relaxations; and second, it is the result of a congressional decision to cut the oil depletion allowance by 20 percent, a move which was included in the Tax Reform Act of 1969.

Mr. Speaker, to those Members who voted for this 20 percent slash in the depletion allowance, I fervently hope the article which I am enclosing in the RECORD at this point will signal more strongly the desperate need for all possible incentives for the further development of our country's energy resources. In my opinion, the day this Congress allowed that cut to be included in a tax reform package was a very unfortunate one. If something is not done to reverse its damage, we could well be left in the lurch without our traditional energy reserves.

The recent step taken in Texas is the last step that can be made. It is an unfortunate one. But that makes it no less unavoidable. I am inserting an article from the Amarillo Daily News which describes the Texas decision. I commend it to the personal attention of every Member:

[From the Amarillo Daily News, Mar. 17, 1972]

TEXAS OIL GATES THROWN WIDE OPEN

(By Jim Walker)

EL PASO.—The Texas Railroad Commission Thursday ordered a 100 per cent market demand factor for April, the first time the gates have been totally opened for Texas oil since 1948.

Terming the El Paso meeting "historic and a rather sad one" Byron Tunnell, commission chairman, announced the 100 per cent factor after a parade of oil company executives gave their outlook on the state of the industry for the coming year.

The shortage of crude was the dominant theme of the executives. Nominations for April were up more than 157,754 barrels daily over March.

The announcement by Tunnell was made in the dramatic setting of a packed room atop the Holiday Inn Downtown in El Paso. Tunnell said he would like to be in Washington today "when the bottom doesn't drop out of the price of oil."

Tunnell's preference was obviously aimed at critics who have said market demand proration is simply a device to maintain the price of oil.

Tunnell said he was saddened because the rest of the world has always looked to Texas in the past "as that fine old warrior" who could fill in the oil needs in time of emergency. He said the "old warrior can't rise to the occasion" any longer.

Tunnell said the commission would keep a close watch on reservoir pressures and order a reduced level of production if evidence of damage to producing zones because of excessive production rates is reported.

He assailed federal policy saying, "At the very time incentives needed to be increased they were removing incentives." He alluded to a cut in the depletion rate and other tax changes which adversely affected the petroleum industry.

Tunnell said, "I'm firmly convinced the only way the industry can develop absolutely needed new reserves is to get a higher price."

He called on the federal government to "provide a profitable and stable investment climate to reverse downward trend of oil reserves."

Tunnell more than once said Alaskan North Slope oil must be brought to market "caribou notwithstanding."

Jim Langdon, commission member, questioned several executives on the possibility of synthetic crude filling some of the shortage.

W. A. Roberts, executive vice president of Phillips Petroleum Co., said synthetic fuel from shale oil will be a factor someday but noted the capital cost of development will be tremendous and predicted environmental problems for the process.

Avery Rush Jr., president of Diamond Shamrock Oil and Gas Co. of Amarillo, making his company's presentation before the commission, said the petroleum industry seems to have had some success in telling its story on the shortage of natural gas to the public. He said the industry has not had the same success in explaining the shortage of oil "and there is a crude shortage now."

He said, "The increasing import level for foreign crude oil is one of the major factors which continue to exert the wrong kind of pressure on our domestic exploration." He called for bringing in as many domestic sources as soon as possible including the Alaskan North Slope, Gulf of Alaska, Offshore Texas and Louisiana and synthetics.

He thanked the commission for "continuing to help lead the nation and our industry to a sensible balance between the demand for environmental perfection and the demand for hydrocarbons."

John K. McKinley, president of Texaco Inc., called on the commission to open the flow of Texas oil. He said, "In the present situation, in order to minimize the mounting shortages, we believe the domestic petroleum industry should produce its properties at the maximum capacity consistent with good conservation practice. Restriction of domestic production rates to lower levels does not appear justified since even at the highest anticipated production increased imports will be needed in the near future to supply the nation's energy requirements."

Wayne E. Glenn, president of Western Hemisphere Petroleum Division of Continental Oil Company, said, "Normal growth in product demand will soon absorb any surplus product stocks which may be on hand. Demand for all petroleum should increase approximately 5 per cent this year. If this estimate is accurate, then our domestic supply, in combination with import quotas already allocated, will not be adequate to meet the demand. We anticipate additional offshore and Canadian quotas will be issued this year to fill the gap."

NEW DIMENSIONS AT SBA

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ARCHER. Mr. Speaker, our former colleague, Thomas Kleppe, the administrator of the Small Business Administration, recently completed a cross-country trip to promote the benefits of SBA loans among the Nation's bankers. During his visit to Houston, he was interviewed by Preston K. Kirk for the Houston Business Journal.

The article resulting from the interview demonstrates the new spirit which my good friend, Tom Kleppe, has brought to the operation of SBA. For the benefit of my colleagues, I am inserting the following article from the February 28, 1972 edition of the Houston Business Journal.

The article follows:

SBA'S KLEPPE: FARMBOY, DROPOUT, BEATEN CANDIDATE

(By Preston F. Kirk)

So what does a former North Dakota farmboy, college dropout and unsuccessful senatorial candidate know about business? Plenty, if he happens to be Thomas S. Kleppe, 52, a self-made millionaire, two-term congressman and administrator of the U.S. Small Business Administration.

Plenty more when you consider his agency made 24,000 loans totaling $1.3 billion in working capital to small firms in 1971 and lined up government procurement contracts going to small businesses to the tune of $11.5 billion.

Kleppe, armed with missionary zeal, was in Houston Feb. 24 to review operations of the local SBA office during his cross-country campaign of convincing the nation's 30,000 banks that they can benefit themselves and their communities by making SBA loans.

Small businesses are generally not prime candidates for bank loans, he reminds. "That's where we come in. We don't make the loan, but we guarantee 90% of it," up to $350,000.

So why the longstanding reluctance by bankers, especially since the SBA has been guaranteeing loans for 20 years now?

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"Bureaucracy. Red tape," answers Kleppe (the name rhymes with peppy). "The negative attitude was it was not worth the time and trouble to go through the red tape provided by the federal government on a ½% or ¼% interest rate."

As a result the SBA, in the area of loans, has cut the number of government forms from 37 to 11, he stated. And along with this effort goes Kleppe's 13-month-old information campaign.

"We believe the banking community should use us as a catalyst in building the small business community," he emphasized. "After all, 95% of the nation's businesses are classified as small businesses, and these five million small businessmen, who account for about 37% of the Gross National Product, should have the same opportunity to strike it rich," Kleppe believes.

Apparently, somebody's getting the message.

"I'm very pleased with the progress coming from the banking community. Ten thousand banks have signed up in our agreements and it is growing. The desks of our loan officers are bulging."

The welcome side effect of creating new business is creating new jobs, and the SBA has the tools and resources to help Houston reach its goal of 160,000 job openings expected to be created during the next five years, Kleppe contends.

Of the Houston Chamber of Commerce projection, he said it is estimated 90,000 new jobs will be created and the remaining 70,000 will be replacements or attrition.

"SBA, obviously, can't do the job alone, but it has the resources and the expertise to help Houston reach that goal — particularly through its economic development program," he emphasized.

Since its inception, the federal agency's local development company program has helped create or save more than 6,000 jobs in Texas, with a total investment of over $25.5 million in federal and private capital, he reported.

"We believe it is important for each community to set up job goals, to publicize those goals and then institute community planning to reach them," Kleppe said.

Nationally, the administrator said the 3,532 facilities financed through SBA's local development company program have created, since the program's inception, some 119,000 jobs and saved or maintained over 50,000 more—for a total of 169,000 employment opportunities.

Estimating that 100 jobs bring about $750,000 of spendable income to a community each year, "these 169,000 jobs are providing over $1 billion in spendable income in over 3,000 communities," Kleppe said.

"Right here in Houston during the past fiscal year," Kleppe said, SBA increased its loan activity dollarwise by 90%—from $16.3 million to $31 million. "This means this great small business community of ours is alive and virile," he said.

"We are not in competition with the banks," he reminded. "SBA tries to fill that niche which is not bankable without a guarantee. We take risks that banks won't touch, and that's our job."

Tall and balding, the former president of the Gold Seal Co., a bleach and wax manufacturer, would probably admit the SBA can never hope to have the $14 billion the Federal Reserve estimates as the capital requirements of small business.

But it's not impossible. After all, Kleppe has bowled a perfect (300) game, survived the rodeo circuit, made a hole-in-one, and turned down a baseball offer by the St. Louis Cardinals!

"I will be asking for $5.8 billion next week," from Congress and the Office of Management and Budget, "and I feel we will get it. We've had tremendous support from the President and the administration," he said, denying that Nixon is partial to big business.

"The facts refute that Nixon favors big business. When our guaranteed authority of $2.2 billion was almost exhausted after seven months, I ran up to the (Capitol) Hill and asked for an increase to $3.1 billion, and we got it," he said.

If Kleppe wears on his sleeve his confidence in his former colleagues, then along beside it are his disappointments in the SBA performance.

Although 19% of the SBA-backed loans went to minorities, which compares favorably with the 16% minority population in the nation and outdistances the 3.5% minority-run businesses, many small businesses need management assistance more than they need capital.

"Management assistance is an important part of the small business' success or failure. We do not have enough manpower and I doubt we ever will have enough for a one-on-one basis," he lamented.

Kleppe said some management consultants had been hired and members of the Service Corps of Retired Executives (SCORE) had been utilized to "fill the gap, but pure volume has got us licked at this point, and we haven't got dollar power. We just haven't been given enough resources," he stressed.

Hopefully, funds going into the Commerce Dept.'s Office of Minority Business Enterprise (OMBE) will be used to address itself to management, giving the SBA some relief, Kleppe noted.

"We are not proud of our performance in the area of disaster loans," he added. The SBA made $300 million on 58,000 disaster loans in the last fiscal year, and "We're already over $300 million and only seven months into this fiscal year."

He said there have been five presidentially declared disasters and six declared by the SBA. "It is difficult because we can't project the need," he said.

Expanding on that subject, he said it is "penny wise and pound foolish" to try to collect small amounts above the built-in $2,500 forgiveness in disaster loans which victims are not required to repay. He said he is going to seek changes in that area with the intent of decreasing his agency's bookwork and required manpower to service the loans.

The other red badge of discouragement is the total cumulative loan loss, 4%, but "you can take either side of that debate," he said, "We keep working to reduce it." (The Houston region loss is about 3.5%, less than the national average.) "The highest rate of failures is in the service businesses.

"The important job is the judgment on the front end. If the judgment is bad, everybody loses: The small businessman whose pride is shattered, the SBA, the banker and the taxpayer.

Kleppe also made it clear the SBA has no prior restrictions on who it approves loans for—expect the news media, and loans handled by other agencies such as residential by FHA and farm loans by the Agriculture Dept.

Asked about SBA's position on franchised businesses, he admitted, "We've had some sad experiences."

The SBA came out this month in support of a proposed Federal Trade Commission regulation on disclosure requirements and prohibitions concerning franchising. Estimated annual sales of more than 400,000 franchise establishments now exceed $131 billion.

"We are interested in the franchisee getting what he is promised, and if it takes legislation, we'll be there!"

The SBA, variously described as a "sleeping giant" and a "resting place for jobless politicians," apparently has taken on new dimensions with Kleppe at the helm.

And he appears determined to stop the revolving door that has seen SBA administrators come and go every 14 months. He enters his 14th month in March.

EXPERIMENTAL R. & D. INCENTIVE AND ASSESSMENT PROGRAMS

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BELL. Mr. Speaker, there exists throughout this Nation a condition of unemployment that has heretofore reached epidemic proportions only among the culturally deprived, educationally deficient, and elderly. Today, however, we are witnessing a tragic expansion of unemployment into the ranks of the highly skilled and educated. No one group of individuals has felt the impact of this Nation's economic paucity more than those members of the scientific community previously engaged in aerospace technology. As a consequence, there is available a great abundance of talent and skill that is either being under utilized or totally ignored. When viewed in light of this country's deteriorating balance of trade and its serious domestic problems this unemployment situation becomes even more catastrophic.

Dr. Raymond L. Bisplinghoff, Deputy Director of the National Science Foundation, in testifying before the Subcommittee on Science, Research, and Development, evidenced a recognition of the need for Federal initiatives to encourage non-Federal investment in the area of research and development. It is Dr. Bisplinghoff's intention, by proposing such a program, to restore this country to its proper position as the leading exporter of technology as well as to establish the means of satisfying the pressing needs of the country. These can be accomplished, as Dr. Bisplinghoff suggests, by a more complete implementation of our existing scientific manpower.

The significance of Dr. Bisplinghoff's statement cannot be over emphasized. It is because of the importance of his statement that I include portions herein for consideration by my colleagues:

TESTIMONY OF RAYMOND L. BISPLINGHOFF

Mr. Chairman and Members of the Committee. It is a pleasure to appear before you today and to have this opportunity to present two new initiatives proposed by the National Science Foundation for FY 1973—the Experimental R&D Incentives Program and the R&D Assessment Program.

Before reviewing the details of these related programs, however, I believe it is important to consider the broad context that motivated our planning within the Foundation. These considerations, which are well known to the Members of this Committee, show clearly the need for a pattern of activity that is essential to the future well-being of the Nation but which, as a coordinated effort, has been lacking.

We are all aware of the economic difficulties that have beset this Nation, and indeed much of the world, in recent years. We are faced with unacceptable levels of unemployment, inflation with a concomitant lack of adequate increases in productivity, the gradually eroding position of the United States in international technological competition and our related deteriorating trade balance, and the multitude of unsolved problems that permeate all sectors and institutions of our society. As a people, however, we are less aware of the essential role that the national R&D enterprise has and potentially must have in

ameliorating these conditions. It is to this enterprise and its role that I should like to address my remarks.

The broader process through which R&D contributes to the economy is often called innovation. As was demonstrated in Traces—the recent NSF-sponsored study of the dynamics of innovation—this process is composed of several components, each of which is coupled to the others in a symbiotic manner. These components range from basic research at one end, through the activities of applied research and development, through design, engineering and production, to the diffusion and marketing of products and services at the other end. In this total process, R&D is usually a necessary but not a sufficient condition for innovation.

Whatever categories are used, there are clearly several pieces in the innovation process, each dependent on the other. *Of fundamental importance is the recognition of the overall unity that prevails throughout the total process.* If one piece were taken away, or even minimized below an appropriate threshold, the others would ultimately suffer. I say "ultimately" for the process rarely moves in an orderly time sequence from research to development to utilization by society. Experience has shown that the process is iterative, with strong feedbacks.

The innovation process today is itself a recent "innovation." Economic progress and industrial growth have historically resulted from the search for raw materials, the empirical development of new materials and devices, maximum use of available labor, and the availability of investment capital. In recent decades, however, a new factor has been added: the disciplined use of our intellectual powers in understanding nature and finding new ways to exploit it. This new factor has two unique attributes—it is never depleted and it is available for all to use.

In a recent study of important innovations in a large number of fields, it was shown that 60% to 80% resulted from the pull of practical demands, needs, conflicts, and problems. The remainder resulted from the push of new scientific or technological advances or opportunities. There is evidently much wisdom in the old adage, "Necessity is the mother of invention."

But there is also some truth in the reverse, for invention is frequently the "mother" of necessity. We can all identify the innumerable trappings of our lives, things we would not wish to do without and which we consider to be important parts of the quality of life. These have resulted in large measure from the market and product planning activities of successful, major businesses.

I do not wish to imply that industry, both large and small, is not now making a significant and continuing effort in R&D and in the dissemination of its results in the marketplace. Indeed, industry today is the major source of funding of R&D in the private sector, even surpassing the Federal Government with its defense and space programs. There is ample evidence of a direct and positive correlation between the Nation's support of R&D, its general economic growth, productivity increases, and the creation of new products and services. Such innovations as automatic transmissions, vinyl materials, computers, semi-conductor devices, nylon, and penicillin were all made possible through organized R&D efforts, both with and without the assistance of previous or associated Federal programs. The central problem we face is one of developing recognition and capability by industry in general of the full spectrum of opportunity for the exploitation of R&D throughout the civilian economy in meeting societal needs. This lack of recognition and capability is demonstrated by the concentration of a significant fraction of industrial R&D in relatively few companies. It will be desirable to find the means to extend the advantages of modern science and technology to small and medium industries and to all others that so far have been unable to afford it.

EXPERIMENTAL R. & D. INCENTIVES PROGRAM

Although it has become increasingly clear that the Federal Government has an appropriate role in the stimulation of innovation in the civilian sector, it is less clear how this role should be implemented. We have had many years of experience in conducting R&D in areas related to high-technology goods and services required for Federal programs. In 1971, 79% of Federal R&D funds were obligated for defense and space programs. Some of this R&D has produced a useful fallout in domestic areas. There are many ways in which the Federal Government can increase its involvement in the civilian R&D arena, but it is not clear which will be the most effective. That is one of the principal reasons for the experimental programs of the National Science Foundation and the National Bureau of Standards, both of which are proposed as new starts in the FY 1973 budget.

The goal of the National Science Foundation Experimental R&D Incentives Program is to experiment with incentives for increasing non-Federal investments in R&D and for increasing the efficiency and speed of conversion of R&D to new or improved products, processes, and services which contribute to improvements in the quality of life, employment opportunities, economic growth, productivity, and foreign trade. To achieve this goal, an experimental program is being developed which will draw on the resources of universities, trade associations, non-profit research institutes, private industry, government laboratories and State and local governments. The program will test and evaluate different incentives using selected combinations of these institutions.

The National Science Foundation and the National Bureau of Standards programs have different approaches to the same goals, yet they are complementary to each other. The National Science Foundation will rely heavily on the participation of universities working with and through industries. The National Bureau of Standards will rely heavily on the participation of industries. Past experience has shown that university faculty and students can make significant contributions to the solutions of problems if they are given a first-hand opportunity to work on them. The histories of World War II and the space, atomic energy, agriculture and health programs are full of examples of direct contributions by universities to the solution of national problems. In the TRACES study cited earlier, NSF examined the origins of five important U.S. innovations: magnetic ferrites, video tape-recorders, the oral contraceptive pill, the electron microscope, and matrix isolation. Of the key research and development events judged to be important in these innovations, nearly one-half were credited to university research.

Furthermore, the students graduated by universities involved in these problem-oriented activities have been educated in the new theoretical concepts and new technologies which industry requires for future progress. The identification of new and useful technologies for the future also requires the education of people who can practice them.

The experimental plan for the National Science Foundation program involves three considerations:

First, the problem areas within which the experiments will be performed will involve the potential for both social and private benefits. They will include the public service, private service, and manufacturing sectors.

Second, each experiment will identify one or more blockages in the innovation process and will test Federal incentives for overcoming them.

Third, each experiment will require careful evaluation to determine the degree to which the incentive mechanisms succeed. It is expected that the evaluation process will be continuous. That is, it will be carried out not only at the conclusion but also as the experiment progresses. Although valuable lessons will be learned early in many experiments, some will need to be carried on for periods of five or more years before useful and convincing results will be obtained.

Management plan—experiment R. & D. incentives program

Before describing the Experimental R&D Incentives Program in more detail, I should like to outline the management plan that we propose to follow. An awareness of this plan will be helpful in understanding the program design discussed later.

A program office reporting to the Deputy Director of the National Science Foundation will provide overall direction. Detailed project management will be carried out by the staffs of the several NSF Directorates.

An important element of the management plan will be an advisory board made up typically of representatives from universities, industry, State and local governments, labor unions, and industrial associations. This board will play a key role in assisting the Foundation in its task. We believe that advice from the performers and users of R&D, as well as those who are working in and familiar with the economics of the marketplace, should be brought to bear wherever possible in setting guidelines and selecting experiments. The staff will also work closely with the National Science Board, the NSF-Commerce Coordination Committee, and the Executive Office in designing and implementing the program.

The program will be started by the issuance of an NSF Important Notice describing it, supplying guidelines for experiments, and inviting proposals. Proposals for experiments will be evaluated by the NSF staff working with the advisory board. The board will meet as a review panel at least quarterly after the program commences. A review of proposed program elements will be conducted also by the NSF-Commerce Coordinating Committee prior to final decision. This Committee will be co-chaired by the Assistant Secretary of Commerce for Science and Technology and the NSF Deputy Director. Since several NSF Directorates will be involved, internal coordination will be assured by the Experimental R&D Incentives Program staff and by an NSF-wide committee chaired by the Deputy Director.

Guidelines for experiments—experimental R. & D. incentives program

It was mentioned earlier under the discussion of the management plan that the program will be started by the issuance of an NSF Important Notice describing guidelines for experiments and inviting proposals. Although it is our plan to ask the advisory board to aid us in formulating the final guidelines, we have prepared the following tentative list:

Each experiment should identify the product, process, service, or other end sought.

Each experiment should have a high potential for testing a clearly stated and important hypothesis related to blockages in the innovation process together with Federal incentives for overcoming them.

Each experiment will contain a significant commitment of non-Federal resources.

Each experiment should specify the degree of private and public investment over the life of the experiment.

Participating institutions must agree to make data available to NSF for purposes of evaluation.

Experiments and results will be public, subject to protection of rights to the use of patentable inventions in appropriate instances.

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Each applicant must demonstrate that:

The experiment is in the public interest.

There is a clear need for public investment.

Each experiment will generally involve more than one class of institution (e.g., industry—non-profit research institutes—university—government) and in each experiment, at least one of the participating partners should:

Have a demonstrated research capacity.

Represent the potential institutional users of the product, process, or service.

Each experiment must have a specific evaluation component built in at the beginning; some degree of success or failure of the incentive mechanism must be determinable at the close of the experiment.

Evaluation of experiments—experimental R. & D. incentives program

In designing experiments of the kind proposed in the Experimental R. & D. Incentives Program, it is of crucial importance to include an evaluation plan. The evaluation plan will be designed to test the degree of effectiveness of a particular incentive for increasing the efficiency and speed of the conversion of R. & D and for increasing the non-Federal investment in R. & D. Two evaluations will be made of each experiment. The first will be made by the performers of the experiment according to the plan built into the original proposal. The second will be made by an NSF group, that will include members of the R. & D. Assessment Program staff, who will provide an independent evaluation.

Although the criteria may vary, it is expected that the following questions will be common to most evaluations:

What specific blockages in the innovation process were identified by the experiment?

What incentives were identified and how effective were they in overcoming the blockages?

How is the efficacy of the incentives affected by type, size, and geographic location of the institutions?

Did any new or improved products, processes, patent disclosures, or services result from the experiment and what benefits were realized as a result?

Did any new companies, institutions, or institutional arrangements result from the experiment?

Were the institutional relations formed strong enough to have a high potential for permanency?

What specific Federal policies and programs are recommended to overcome the blockages that were identified?

Program design—experimental R. & D. incentives program

Underlying the design of the Experimental R&D Incentives Program is a set of assumptions which are best stated at the outset. It is assumed that:

1. There exists the potential for spawning new innovations in the civilian sector by coupling more effectively R&D resources to needs of the private and public sectors and industrial resources to the needs of the consumer.

2. Many such potential developments are in the best interests of the Nation and the participants, and some fraction of this potential is presently going untapped.

3. The Federal Government can provide incentives which will catalyze the realization of some of this potential in a manner which is cost-effective and socially beneficial from the national viewpoint.

While the first two assumptions are probably axiomatic, quantification of the number and type of untapped potential developments is necessary in order to test the third. That is, before the costs and benefits to the Nation of Federal programs can be evaluated, it is necessary to understand the extent and nature of the untapped potential and the cost-effectiveness and social benefits of a variety of Federal incentives which can be used to realize this potential. The Experimental R&D Incentives Program is directed at establishing a data base for future policy decisions from the results of a relatively small number of highly structured experiments.

The flow of innovations may be described simply in terms of three sectors of society:

(1) The R&D centers, consisting of universities, research institutes, governmental and industrial laboratories, and R&D companies. Within the R&D centers, we can identify three resources: dormant technology, new innovations, and human resources.

(2) The industrial and service sectors, consisting of private manufacturing, private services, and public services. These sectors are characterized by the products, processes and services they offer, the degree of concentration or fragmentation of the industry, and the degree to which technology is employed.

(3) The markets, domestic and foreign, consisting of consumers, government, and industry. The markets may be well-defined, diffuse, or nonexistent.

The flow of new innovations may be thought to proceed from the R&D centers to the industrial and service sectors, provided that technical feasibility is established, and then to commercial exploitation, provided marketing is successful. To achieve maximum effectiveness, the efforts of the R&D centers should be closely coupled to the needs of the manufacturing and services sectors, which will translate these innovations into commercially viable products, processes, and services. Similarly, the industrial and service sectors must be closely coupled to the needs and requirements of the markets.

There are a number of blockages which are associated with weak or non-existent coupling of the various sectors. Our problem, then, is to identify these blockages and determine how Federal incentives can be used to alleviate them in a cost-effective and socially beneficial manner. To this end, the Experimental R&D Incentives Program has been subdivided into three classes of experiments:

(1) Cooperative Research Initiatives, which will probe potential blockages in all sectors.

(2) R&D in the Service Sector, which will focus specifically on public and private services to ensure adequate coverage of this crucial area.

(3) Human Resources for Technology Innovation, which will emphasize the human resource aspects of the innovation process.

In discussing each of these classes, I will provide examples of blockages with suggested research projects to test Federal incentives for overcoming them. It is important to emphasize that the actual research projects, within a broad experimental design, will be solicited from the Nation's universities, government laboratories, research institutes, and industry, and will be performed by selected teams of these organizations.

Cooperative Research Initiatives

In the Cooperative Research Initiatives Program, experiments will be invited which may extend over a wide range of problem areas. The following examples, while not intended to be a complete list, are stated to illustrate the general characteristics.

A. Informational Blockages

This set of experiments is aimed at establishing a basis for the need for Federal financial incentives to couple more closely the R&D centers with the manufacturing and service sectors. Many elements of these sectors have not been closely coupled in the past. In some cases, there does not exist a formal mechanism by which industry can identify appropriate R&D resources and, conversely, the R&D community can identify industrial needs. It is conceivable that there are many cases in which the blockage is informational in character, rather than financial.

The informational blockage points may be in areas which industry and R&D centers would be willing to develop jointly and without Federal financial aid, but are not doing so because they are not cognizant of each other's needs and resources. There may be dormant technology, resulting from previous research efforts, which can be applied to an industrial need, but the potential user is not aware of its existence or applicability. Alternatively, the needs and problems of a fragmented or low-technology industry may not be apparent to R&D centers. In some cases, once the potential coupling is appreciated, industry may be willing to support the development without financial incentives.

A number of experiments can be conducted in which the Federal role will be limited to stimulating a comprehensive exchange of information. For example, university-industry teams may survey all companies in an industry to identify needs, potential economic and social benefits, and potential markets. The R&D community can be surveyed to identify applicable existing technologies, the R&D costs and risks, and the reasons why these new applications are not being pursued.

Technical blockages

It is likely that many potential cooperative developments will not be undertaken by industry without Federal financial incentives to remove blockages. For example, an industry may require a directed basic and applied research effort to stimulate a continuing flow of new innovations. In many fragmented industries, the risks may be too high or the magnitude of effort too large for any one company to undertake. The risks associated with establishing the technical feasibility of new concepts and embryonic innovations may be too high for individual companies or even entire industries. Yet in many instances, it may be in the national interest for U.S. industries to foster such innovations.

There are high risks associated with incubating new innovations and establishing their technical feasibility. These risks can be reduced to a level acceptable to industry by applying Federal incentives. The question to be tested is whether such incentives are cost-effective and socially beneficial from the national viewpoint. A variety of experiments can be conducted for innovations at various levels of development: from new concepts which require basic research to establish the foundations, to laboratory processes which require piloting to establish technical feasibility.

Marketing blockages

Many new innovations prove to be technically feasible and economically sound, yet they do not reach the commercial exploitation stage due to blockages in the marketing process. Where markets are highly fragmented, the marketing risks can be too severe for a company or an entire industry to undertake. In other cases, the marketing risks may be excessive because the market is not an established one or is not well-defined. Still other cases appear to exist in which a consumer market is well-defined although no U.S. company appears willing or able to meet the public demand. In spite of these difficulties, there may be a number of products and processes which, if marketed successfully, would be in the national interest. The question is what Federal incentives are required to reduce the marketing risks to acceptable levels and are such incentives cost-effective and socially sound.

A variety of experiments can be aimed at identifying and alleviating various potential marketing blockages. In highly fragmented markets, programs may involve working with consumers of a product or process to define common problems and needs and to formulate them in terms of requirements or performance standards. Other experiments may be aimed at assisting small companies or fragmented industries to develop more efficient approaches to the market.

R. & D. in the service sector

Although many of its features are similar to and may overlap with experiments in the Cooperative R&D Incentive Program, the R&D in the Service Sector Program is designed to ensure that this critical area receives adequate attention. As in the previous section, the following examples are intended to be illustrative and not all-inclusive of those that eventually will be supported.

A. Blockages in the Public Service Sector

Bringing forth technological innovations which can increase productivity or improve the quality of public services encompasses all of the problems described in the previous section, namely, information blockages and high risk blockages for establishing technical feasibility and markets. However, in the public service sector, these problems are sometimes aggravated by a lack of understanding—on the part of the user of new technology—of the technological concepts and the potential benefits to be derived. Even in areas where new technological advances have been demonstrated to be effective, many local and State agencies do not have adequately trained manpower to evaluate and apply the potential benefits.

A number of experiments can be conducted in efforts to couple more closely the R&D centers, the industries supplying devices and systems to the public service sector, and the State and local agencies which will employ the new developments. In service areas where high technology already exists but is only applied by a few, the Federal role may be limited to improving information transfer. In other cases, Federal aid may be required to aid State and local governments in hiring key personnel capable of assimilating the new technological innovations. Efforts would be directed at demonstrating to State and local governments the benefits to be gained from such in-house expertise.

For the service areas in which State and local governments presently maintain sufficient expertise to evaluate the potential of new innovations, there still remain problems of fragmented markets and insufficient support of R&D to foster new innovations.

As described in the previous section, a number of experiments can be sponsored to reduce the risks of researching and developing new devices and systems and of marketing those which are technically feasible.

B. Blockages in the Private Service Sector

Many of the problems associated with increasing the productivity of the private service sector are complex. There are social, economic and political factors, in addition to technological considerations. For example, while increased productivity in the private service sector may be in the best interests of the consumer, it may be counter to the best interests of the private service sector itself. Weighing these interests and formulating policy for resolving such blockages is the responsibility of our elected representatives. The R&D in the Service Sector Program will attempt to identify those technological alternatives which may result in alleviating blockages and, in this manner, provide an information base to aid future policy decisions.

A number of experiments can be conducted to identify dormant technologies and new concepts which may be applicable to the private service sector. For example, repair and maintenance of consumer durables is a large component of the total private service sector. It may be possible to reduce the total cost of purchase, repair, maintenance, and disposal of consumer durables by either modifying the original design or using more sophisticated technology in the servicing. University and industry or trade association teams can be formed under Federal sponsorship to evaluate the potential economic and social benefits by examining a selected number of consumer durable products.

Human resources for technology innovation

The objective of this portion of the program is to identify blockages and seek Federal incentives that will encourage personnel education, development, and exchange in ways that will facilitate the flow of concepts and ideas from laboratory to consumer, as well as enhance productivity. The examples that follow are illustrative of those that will be supported in this portion of the program.

Blockages in professional education and exchange

Although it is difficult to distinguish cause and effect, our incomplete knowledge of the innovation process is related to the small number of university staff and courses which focus on this total process. There is a need to provide broader opportunities for development of multi-disciplinary education in the total innovation process, including an understanding of entrepreneurship. Incentives to universities in the form of seed grants can be provided by the Federal Government to build up continuing faculty experience and student interest in this area.

It has long been recognized that the innovation process and the productivity of the various sectors of our economy depend critically on the timely interchange of people as well as their motivation and training. However, there remain many blockages in our institutional arrangements that prevent exchange of personnel. A variety of Federal incentives can be tested to alleviate this blockage. For example, they may include industry fellowships for graduate students or new graduates, exchange fellowships for university and industry employees, partial Federal support for visiting professors from institutions other than universities, and partial Federal support of faculty sabbaticals in industry and State and local governments.

Blockages to enhanced job satisfaction

The matching of human resources and job opportunities is a two-sided coin. In the past, the job market has usually been viewed in terms of adapting the labor force to the work styles required for maximum economic efficiency. However, rapidly rising educational levels of the population are creating pressures for job opportunities which are psychologically as well as financially rewarding. There is a growing unwillingness of youth to accept the character of the occupations offered by society on their present terms. In spite of the fact that the conditions of work are far better than they ever were, expectations have advanced much faster than the reality.

To the extent that greater personal fulfillment in work entails a loss of economic efficiency in a narrow sense, the collective goals of society and the personal goals of the individual may be in direct conflict in the near term. To achieve long-term harmony, more attention must be given to the conscious design of the work experience within the context of the technology of production. Thus, experiments can be conducted to explore the trade-offs between worker satisfaction and productive efficiency, and to seek new means, including technological innovations, of matching work styles to psychological needs.

NATIONAL R. & D. ASSESSMENT PROGRAM

The National Science Foundation also proposes the creation of a National R&D Assessment Program. *The goal of this proposed new program is to achieve a fuller understanding of the R&D and innovation systems and how they may better contribute to national goals and objectives, including improvements in the quality of life, employment opportunities, economic growth, productivity, and foreign trade.* It will provide a national R&D assessment capability consonant with the expressed needs of the Executive Branch and the Congress. These needs have been highlighted particularly in this Committee's hearings and symposia on science policy and on science, technology and the economy.

Although as a Nation we invested nearly $27 billion in R&D in 1971—and our economic growth and welfare depend on these investments—we have very little understanding of the details and dynamics of the process in the domestic sector. This is in contrast to a large body of information and skills in R&D systems and R&D management expertise in military and space activities. It is becoming increasingly clear that R&D is an important contributor to economic growth and productivity; but it is also clear that we understand only in the sketchiest way what its social rates of return are and how it is related to such factors as efficient use of resources, employment opportunities, and foreign trade.

THE MAN WHO BEAT ROOSEVELT

HON. WILLIAM L. SPRINGER
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SPRINGER. Mr. Speaker, 100 years is a long time. Not many of us are privileged to live that long. One of those who was lucky enough to make it into his 100th year is Godfrey Sperling, who is the father of Godfrey Sperling, Jr., the national political correspondent of the Christian Science Monitor.

When I first started in politics, Godfrey Sperling, Sr. was one of those who was active in politics in an indirect way. He had definite opinions and he always let people know where he stood. It was difficult to have a conversation with him without some of this independent political thought coming to the surface. But it was always a stimulating experience and to me it was especially so because I was in my twenties and he was in his seventies. Godfrey Sperling, Jr., at that time, was a reporter for one of the local newspapers in Champaign-Urbana—and a good one. In fact, he was so good, he is now the national correspondent for the Christian Science Monitor. In some ways, Godfrey, Jr. is a 1972 version of his dad at the same age. You might even use the old adage, "He's a chip off the old block." Especially, it seems to me, that Godfrey, Jr. has mellowed as time has passed and as he has covered important events in Washington. His dad is one of the old Reconstruction kind who would have loved to argue politics with my father who would also have been 100 years old on October 7, 1972.

From all I can see, Godfrey, Sr. is not slowing down any. He is just picking up speed for the second century. Not only do his friends wish him another good 100 years, but I would say that if anything happened to him, there would be a lot of disappointed and unhappy people in Champaign County, Ill.

Good luck, old timer.

I include the following article:

[From the Christian Science Monitor, Mar. 18, 1972]

THE MAN WHO BEAT ROOSEVELT

(By Godfrey Sperling Jr.)

CHAMPAIGN-URBANA, ILL.—The old-timer had become a living artifact. He was now

being viewed—and relied upon—by state and university historians as a human-geological rarity, one who could provide them with authentic insights into how the West looked before the turn of the century and how this part of the Midwest looked in the 1870's.

Upon graduating from college in the mid-1890's, the old-timer had gone to Idaho, Oregon, and Wyoming as an engineer-explorer. His job was to establish state boundaries. Now his notes and memories of what he observed as he made these primary surveys are being fed into oral-history tapes.

This, of itself, seems worth noting. But there was something more. The old-timer was entering his 100th year. Furthermore—and I say this with the pride for which a son may be pardoned—he is my father.

What do you say about your father As a boy I used to hear his stories of his "close calls" in the wilds.

Of how he and his surveying party were lost in a dense thicket of forest deadfall that tore off their clothes and left them battered before they finally made their way back to camp some 12 hours later.

Of how a rancher, infuriated because of a survey that lopped off some of his land, had drawn a gun and nearly killed Dad.

Dad never told tall tales. But there was one I found hard to believe: how he and a friend of his had come out of months in the mountains in 1915—"in great physical condition"—and, decided to try their hand at bowling in an alley in Boise. And how in this, his first try at the game, my Dad picked out a small ball (he was a wiry, 5 foot 2 inches, 125 pounds, at the time) and bowled a near-perfect 300 score.

Fifteen years ago he came to visit us in Winnetka, Ill. My boy, who was a pretty fair bowler, himself, had heard about Gramps' accomplishment and wanted to see what the elderly gentleman could do at the game. My Dad was willing. He took off his suit coat, untied his tie, removed his shoes.

Then in his stocking feet and with everyone at the community center alleys watching, this little old man let fly with a ball that rolled slowly, slowly, down the boards. Almost dying before it got to the pins, it finally hit. Strike! Then, once again, Dad took careful aim and blew the pins down with a ball that almost quit, but not quite. My boy was beaming, as was our whole family. Gramps had done it. He then said he had had enough. He never bowled again.

Dad was city engineer of Boise at the turn of the century. He and Sen. William Borah had been friends when Borah was just getting a start as a young attorney. Borah was the big man in my Dad's life. Like many Westerners Dad liked Borah's support of "free silver." To both of them the gold standard meant the hated Eastern establishment.

My Dad's own idea of politics was debating the issues. He was a rugged individualist, somewhat unpredictable in his party preferences. He voted for Wilson, disliked Roosevelt—FDR, that is. He liked Teddy.

For some 30 years my Dad was county surveyor of Champaign County, Ill., right around here. He was on the ballot and had to stand for office along with all the other county officers, together with the governor and the president, every four years.

In the 1932 landslide victory of Roosevelt, this "normally" Republican county went Democratic for the first time in the memory of man. It went Democratic, that is, except for Dad. He bucked the Roosevelt tide and won by 14 votes.

In a political year my Dad would tour the county, sharing the platform in township after township with other office seekers, including those who were after seats in the state Legislature.

Those were the days when "silver-tongued oratory" was still the fashion. In those days politics was largely a show. People came out for the "speaking," not the substance.

And then my little Dad would come out and, very quietly, tell the people that he would bring accuracy and integrity to whatever surveying services he would perform for them. And then he would sit down. I was always a little disappointed.

Four years ago the old-timer was visiting Washington and, among other people he was seeing, he was calling on Vice-President Humphrey. The two men "hit it off" well right from the start. "May I call you Dad?" asked Mr. Humphrey. "Can I call you Herbert?" Dad responded. And then, agreed on this familiarity, the Vice-President showed his new friend all around his spacious Capitol office, filled with pictures and memorabilia of famous Americans.

Before long the office was packed with workers from nearby offices, attracted to this scene of a particularly keen, little old man who was swapping stories and historical references with a Vice-President who quite obviously was enjoying himself hugely.

At one point Dad said: "Why would you waste your time with an old man like me?" "Don't give me that," said the Vice-President, smiling broadly. "I see those bright little eyes of yours—you are putting me on." Then they both laughed.

At the end, we paused at the door and Mr. Humphrey talked about his own father and how he "would give my right arm" to have him alive and with him today. "You know," he said, "I grew up debating the national issues with my Dad." "That's what we did, too," Dad said, pointing to me.

Then, as we turned to leave the office, the Vice-President raised his voice and said, "Well, Dad, go charging into your second century."

"I'll be back in five years," Dad said, as he walked out the door. And you can be sure that he will.

FTC URGED TO WITHHOLD ACTION AGAINST CEREAL MANUFACTURERS

HON. GARRY BROWN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BROWN of Michigan. Mr. Speaker, in December of last year the Federal Trade Commission announced the issuance of a proposed complaint and proposed order charging that four ready-to-eat cereal firms, the Kellogg Co. of Battle Creek, Mich.; General Mills, Inc., of Minneapolis, Minn.; General Foods Corp. of White Plains, N.Y.; and the Quaker Oats Co. of Chicago, Ill., had established and maintained a noncompetitive market structure and shared monopoly power for over 30 years through proliferation of brands and trademark promotion; through artificial differentiation of products; through unfair methods of advertising and promotion; through restrictive retail shelf space control programs; and through acquisitions of competitors.

In its proposed order, the Commission signified that it might order such relief as was supported by an adjudicative record and which was necessary and appropriate, including:

First. Divestiture of assets, including plants and other facilities, for the formation of new corporate entities to engage in the manufacture, distribution, and sale;

Second. Licensing of existing brands or trademarks and future brands or trademarks on a royalty-free basis for a specified period of time;

Third. Prohibition of acquisitions of stock or assets of firms engaged in the business of manufacturing or selling RTE cereals for a specified period of time;

Fourth. Prohibition of any practices found to be anticompetitive, including but not limited to shelf space services or use of particular methods of selling or advertising, and other provisions appropriate to correct or remedy the effects of such anticompetitive practices;

Fifth. Periodic review of the provisions of any order that may be entered.

Public attention was focused upon this action by the FTC when certain members of the media reported about the existence of a staff report indicating quite accurately the nature of the proposed complaint and the proposed relief which was ultimately incorporated into the proposed order. This information about the staff report apparently had been leaked to the media even in advance of any consideration of such staff report by the members of the Federal Trade Commission.

I was quite disturbed by the fact that this information had been leaked to the media since the public reaction to same as it was reflected to me indicated that the public felt the firms to be cited had engaged in conduct of a degree of culpability which I felt I would not be established when all of the facts were in.

My subsequent review of the proposed complaint and proposed order confirmed my suspicions and when my contacts with members of the staff of the Federal Trade Commission failed to produce the kind of results I felt were required under the circumstances, I decided direct communication with the members of the Federal Trade Commission was my only appropriate course of action. Therefore, on March 1, 1972, I wrote to each member of the Federal Trade Commission explaining my position on the matter and requesting that the Commission members reexamine their thinking before proceeding to formalize the proposed complaint and proposed order.

Since this matter has ramifications far beyond the immediate firms involved and since I feel the media has inadvertently emphasized only the FTC's side of the argument, I wanted to apprise my colleagues of my activity in this matter and, hopefully, prompt some interest in assuring fair and objective treatment of the firms involved by the FTC, my especial interest, of course, being the Kellogg Co., a constituent firm. All of the foregoing is better set forth in a press release issued at the time I wrote to the Commissioners, which press release incorporates a copy of such letters. The press release reads as follows:

FTC URGED TO WITHHOLD FORMAL ACTION AGAINST KELLOGG AND OTHER READY-TO-EAT CEREAL MANUFACTURERS

WASHINGTON, D.C.—Congressman Garry Brown (R-Mich.) today announced he has written to each member of the Federal Trade Commission [FTC] requesting that the Commission not proceed to formal complaint against a constituent firm, the Kellogg Company of Battle Creek, Michigan, in accordance with the proposed complaint and proposed order which was issued by the FTC on January 24, 1972.

The previously issued proposed complaint alleged certain unfair and improper practices which have resulted in maintenance of a highly concentrated and noncompetitive market structure in the production and sale of ready-to-eat cereals, and the proposed order, among other things, called for a breakup of the Kellogg Company, divestiture of assets, and licensing of brands or trademarks on a royalty-free basis. It is expected formal Commission action is imminent.

In his letter to the FTC, Brown pointed out that his objection to the FTC action was not that the FTC was investigating and considering remedial proceedings against the Kellogg Company and other ready-to-eat cereal manufacturers, if such proceedings can be justified but rather, that the proposed complaint and proposed order made allegations and intended corporate structure action which was not justified by the facts and circumstances applicable to Kellogg and the industry.

In announcing his contacting of the Commission, Brown said:

"Although I have still been denied access to the staff report upon which the Commission's proposed action is based, the information which I have been able to develop regarding this matter confirms the fears I expressed back in December of last year when I first learned of the 'staff report' through leaks to the media about its existence."

At that time, I said:

"Frankly, I am very disturbed that information about the staff report was leaked to the media before it was even formally considered by the FTC. A leak of this nature prompts disproportionate and improper suspicion about such a report and prejudices a fair and objective consideration of the matter by the Commission . . . I will find it extremely disturbing if it develops that this staff report was prepared by an over-zealous staffer, or staffers, who felt leakage of the matter to the media would prompt attention and imply a degree of culpability unjustified and unwarranted by the facts, and in this way make affirmative action by the Commissioners, from a public relations standpoint, almost mandatory."

In his letter to the Commission members, Brown contended that the staff of the FTC appeared to be ambivalent with respect to the origin and underlying rationale of the proceedings being taken by the FTC against Kellogg and other ready-to-eat cereal manufacturers and that this ambivalence had prompted him to contact the Commissioners directly rather than pursue the matter further at a staff level.

Contending that the proposed complaint and proposed order went far beyond that which the facts and circumstances justified or the situation required, Brown said:

"Even any reasonable extrapolation of the substantive allegations in the complaint provides no foundation for the structural and licensing remedies incorporated in the proposed order since all of the allegations in the complaint can be remedied and corrected, if the facts justify, through exercise by the Commission of its authority to correct 'behavioral' misconduct by the offending companies."

In his letter, Brown argued that the several allegations of the proposed complaint really constituted only one basic allegation, that being, that the Kellogg Company and the other ready-to-eat cereal manufacturers have been engaging in unfair and deceptive advertising.

"Somewhat simplified, the proposed complaint makes substantive allegations of proliferation of brands and trademark promotion; artificial differentiation of products; unfair methods of competition in advertising and product promotion; and, restrictive retail shelf-space control programs.

"I submit that the complaint itself is a masterpiece of 'artificial differentiation' of allegations.

"However one views the practices or results upon which each allegation is based, it becomes apparent that each such practice or result has as its only basis for success of efficacy a behavioral matter: advertising!

"There can be no effective proliferation of brands and trademark promotion; there can be no successful artificial differentiation of products; and, there can be no unfair methods of competition and product promotion in advertising—unless there is advertising! As I understand the law, it is totally within the authority of the Federal Trade Commission, and heretofore has been more properly its role, to control, regulate, even prohibit, through cease and desist orders, those practices found to be unfair or deceptive. Resort to an unwarranted and very possibly unauthorized, action such as the structural and licensing remedies contemplated by the proposed order is unnecessary at best," Brown said.

In his letter, Brown suggested that two of the Commissioners may very well have shared his doubts about the justification for the proposed complaint and proposed order when they failed to concur in the issuance of the complaint and order. The Commission was split 3–2 regarding such action.

Brown further questioned the authority of the Commission to proceed in the manner it intends as such action has been defined in the proposed complaint and proposed order, saying:

"Congress never intended the use of formal complaint and order proceedings against anything other than identifiable and provable behavior or misbehavior. I don't think it was an accident that the statute, granting but necessarily limiting the Commission's authority, uses the words 'methods', 'acts', and 'practices'. As pointed out above, if there is anything in the conduct of their business by the cereal companies which calls for correction under the law, I would fully support your action against them as the facts may warrant. But, I am unable to understand the posture of the Commission as it is reflected in the complaint and proposed order which assumes a basis in law and Congressional intent to reorganize corporate structures through divestiture and royalty-free licensing of the cereal industry or any other industry simply on the basis of the allegations contained in the proposed complaint."

In his letter to the Commission, Brown concluded:

". . . I urge you to reject proceeding formally on the complaint as *presently proposed*, particularly as it relates to the industry structure and royalty-free licensing provisions of the proposed order. If there is to be formalization of this proceeding, there should be stricken these references in both the complaint and the proposed order."

In announcing his intercession on behalf of the Kellogg Company with the Federal Trade Commission, Brown reiterated his belief that the consumer public has a right to know about the products it purchases and to be protected against any anticompetitive conditions which may exist and which may permit some to prosper unreasonably at the consumer's expense, but that the business community should not be required to be subjected to unwarranted and unjustified harrassment by government and the regulatory authorities, especially when that harrassment seems to have as its basis only the success of the business itself.

Brown's letter to the Commissioners follows:

FEBRUARY 29, 1972.

DEAR MR. COMMISSIONER: I am writing to you and each of the other members of the Federal Trade Commission since the proposed complaint against the Kellogg Company of Battle Creek, Michigan, a constituent firm, has had an extremely disturbing effect upon not only the Company, but its employees and the community itself; and, my contacts with staff members of the Commission have failed to satisfy my interest, concern, and desire for greater edification regarding the pending proceeding.

My dissatisfaction with my contacts and discussion of this matter with staff personnel stems not from any apparent lack of desire on their part to be reasonably cooperative, but rather from what appears to me to be an unyielding commitment to a conclusion reached when the rationale therefor as expressed by various staff personnel appears to be ambivalent. Let me provide an example.

When this matter first came to my attention due to the "leak" of the existence of the staff report, I sought explanation thereof from Mr. Alan Ward, Director, Bureau of Competition, who in turn referred me to your General Counsel, Mr. Ronald M. Dietrich, with whom I had a rather extensive discussion. In this discussion, I requested that I be provided with a background paper on the origin of the study of the ready-to-eat cereal industry as well as a resume of any similar actions heretofore undertaken by the Federal Trade Commission in which only a segment of an industry had been singled out for Commission investigation and action.

Pursuant to this request, I have been provided with a memo entitled, "Background of Breakfast Cereal Case" which, among other things, states that following a preliminary study performed by the Commission's Bureau of Economics, the staff was ordered by the Commission to undertake a more detailed investigation and the basis for such investigation was discussed in the Commission's proposed budget for Fiscal 1972. A portion of this discussion was incorporated in the material submitted to me relative to the origin of the study and in it appears the following:

"The breakfast cereal study provided a better understanding of the sources of high profits in a concentrated industry and the manner in which barriers to entry can be maintained through advertising. As a *pilot project* it provided experience which will be useful for study of major concentrated industries of a more complex nature, such as automobiles and steel." (Emphasis added.)

Despite this specific reference to the unique nature of the investigation and action as expressly stated by the Commission memo, an article in the *Wall Street Journal* of February 18, 1972 headlined, "FTC Aid Denies Move Against Cereal Makers Means More Attacks" reported that Mr. Lawrence G. Mayer, FTC Director of Policy Planning and Evaluation, had:

"...denied that the agency's proposed antitrust action against the Nation's four largest breakfast cereal makers is the 'door opener' for an attack against all concentrated industries."

This statement, viewed in the context of the staff's memo, leads me to only one conclusion, that being, that there is substantial lack of agreement at a staff level at least with respect to the underlying thrust of the present proceedings. This ambivalence is subtantiated by discussions I have had with staff members and was reflected at the press conference held at the time of the issuance of the proposed complaint.

Without placing any great significance upon this ambivalence except to explain my writing to each member of the Commission rather than continue my pursuit of the matter at a staff level, let me proceed to further identify my concern about and objections to the pending action.

Although I have been away from the practice of law for some time now and never considered myself an expert, or even much of a practitioner, before administrative tribunals, examination of the complaint and the substance set forth therein as a basis for

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the structural and licensing remedies advocated in the proposed order leaves me cold. Even any reasonable extrapolation of the substantive allegations in the complaint provides no foundation for the structural and licensing remedies incorporated in the proposed order since all of the allegations in the complaint can be remedied and corrected, if the facts justify, through exercise by the Commission of its authority to correct "behavioral" misconduct by the offending companies.

Somewhat simplified, the proposed complaint makes substantive allegations of proliferation of brands and trademark promotion; artificial differentiation of products; unfair methods of competition in advertising and product promotion; and, restrictive retail shelf-space control programs.

I submit that complaint itself is a masterpiece of "artificial differentiation" of allegations.

However one views the practices or results upon which each allegation is based, it becomes apparent that each such practice or result has as its only basis for success or efficacy a behavioral matter: advertising.

There can be no effective proliferation of brands and trademark promotion; there can be no successful artificial differentiation of products; and, there can be no unfair methods of competition and product promotion in advertising—unless there is advertising. As I understand the law, it is totally within the authority of the Federal Trade Commission, and heretofore has been more properly its role, to control, regulate, even prohibt, through cease and desist orders, those practices found to be unfair or deceptive. Resort to an unwarranted, and very possibly unauthorized, action such as the structural and licensing remedies contemplated by the proposed order is unnecessary at best.

Even the concern of the Commission, as that concern is expressed in the proposed complaint, relative to "restrictive" retail shelf-space control programs comes under and is equally subject to the above critique. If your staff has done an objective study of the allocation of shelf space in retail establishments, it has reported to you that shelf space is allocated according to sales volume; there is no specific allocation precedent to stocking of products except as is justified on this basis of sales. It is my understanding that whenever assistance is provided by, for instance the Kellogg Company to a retailer in computing the allocation of shelf space, it is done on the basis of sales volume information supplied by the retailer. Whether or not the retailer accepts the shelf-space allocation program recommended to him is within the retailer's total discretion, and he may make modifications before installing the program. Since such allocations are made on the basis of sales volume, it is putting the cart before the horse to claim that depending upon shelf space allocated, sales will result in proportion thereto. Rather, again, advertising may create the interest in products which results in sales, and the extent of the volume of sales determines the extent of the allocation of shelf space.

Not only does the "cart before the horse" cliche apply to the shelf-space question, but I respectfully suggest that it applies to the whole argument set forth in the complaint and the proposed order insofar as they relate to structural and licensing remedial action. It would appear to me that by some mental acrobatics, advertising, the energy and motivating force—the horse—has somehow become the cart to an animated, energetic, powerful force—company structure! I can't believe the members of the Federal Trade Commission are ready to engage in such gymnastics.

I suggest Commissioner MacIntyre and Commissioner Dennison may have shared this doubt when they failed to concur in the issuance of the proposed complaint. Possibly a "concentrated industries" case may be made out wherein corporate or organizational structure plays a sufficient role to justify a structural attack, but I again respectfully submit it is not in the ready-to-eat cereal industry or in the Kellogg Company.

Before concluding, I would like to raise a further question which remains unanswered in my mind. It seems apparent to me that however broad a view one might take of the Commission's mission and authority, Congress never intended the use of formal complaint and order proceedings against anything other than identifiable and provable behavior or misbehavior. I don't think it was an accident that the stature, granting but necessarily limiting the Commission's authority, uses the words "methods", "acts", and "practices." As pointed out above if there is anything in the conduct of their business by the cereal companies which calls for correction under the law, I would fully support your action against them as the facts may warrant. But, I am unable to understand the posture of the Commission as it is reflected in the complaint and proposed order which assumes a basis in law and Congressional intent to reorganize corporate structures through divestiture and royalty-free licensing of the cereal industry or any other industry simply on the basis of the allegations contained in the proposed complaint.

I do not believe that such action by the Commission was intended by the Congress in its establishment of the agency or has ever been contemplated by the Congress in its continuing review of appropriations for the agency. The fact that little support has been found in the Congress for a bill which has been introduced calling for nondiscriminatory action against "concentrated industries," seems to tell me, and I hope you, that there is little Congressional support for that which the Commission is attempting, not in even a nondiscriminatory way, but in a selective, even possibly an arbitrary and capricious, way.

In conclusion, I am told that under your rules the release by the Commission of a proposed complaint does not necessarily mean that each of you, or even a majority, has decided to formally proceed on the basis of the complaint released. It has been suggested that this may be particularly true where the Commission does not appear to have reached any agreement on what relief might be appropriate even if all the allegations of the complaint were sustained. Trusting this is true, I urge you to reject proceeding formally on the complaint as *presently proposed*, particularly as it relates to the industrial structure and royalty-free licensing provisions of the proposed order. If there is to be formalization of this proceeding, there should be stricken these references in both the complaint and the proposed order.

I apologize for the length and argumentativeness of this letter but knew of no other way to bring to your personal attention the sincere and serious concern I feel. I would much appreciate an opportunity to meet with you so that we might discuss firsthand any misunderstanding or misconception I may be laboring under relative to this matter. Pending the granting of an opportunity for such a discussion, I would greatly appreciate your sincere and careful consideration of the matter I have set forth herein.

With best regards,

Respectfully,

GARRY BROWN.

P.S. Although "the law does not require one to do a useless thing," I would again suggest that my access to a copy of the "staff report" might improve my understanding of at least the staff's view of the basis for the action . . . receipt would be appreciated.

Mr. Speaker, in addition to the concern I have expressed about the action of the FTC in the ready-to-eat cereal industry matter, others have voiced similar concern. One of the more in-depth, probing discussions I have seen touching upon this broad area is a speech given in Detroit in February of this year by Yale Brozen, professor of business economics at the Graduate School of Business, University of Chicago. Although his speech is more directed at the FTC's attack on advertising, it is relevant since it provides a good factual representation and critique of the FTC's charges about advertising in the ready-to-eat cereal industry. I think there are many of my colleagues who would be interested in what he has had to say and so I have excerpted those of his remarks which have direct relevance to the FTC-cereal industry controversy; they follow:

DETROIT SPEECH BY PROF. YALE BROZEN

The FTC is now calling on advertisers, industry by industry, to file with it documentary proof of all claims. Perhaps the FTC should be forced to substantiate its claims before issuing press releases which greatly mislead consumers. I have already told you about the misleading claims it made about Zerex advertising. It has also made misleading claims about its own virtues in asking for appropriations from Congress.

When the FTC made appropriation requests to Congress for fiscal 1971 and for fiscal 1972 it released a barrage of publicity about how it could reduce the price of ready-to-eat cereals by 25% by its efforts if it obtained the appropriations it requested. It told the news media that advertising by the industry cost 20% of retail sales (see memorandum of Rufus E. Wilson, dated May 15, 1969). In its budget justification material sent to Congress, it was a bit more discreet, claiming that "advertising expenditures as a percent of sales increased from 4.6% in 1954 to 18.3% in 1966." (Hearings, pt. 6 at 134, 1971). If the Federal Trade Commission staff had bothered to check the data instead of guessing, they would have found that advertising expenditures for cereals had declined from 11.3% in 1954 to 10.9% in 1970. They would have found that they never exceeded 15.1% in the entire period from 1954 to 1970 much less rising to a high of 18.3% or 20% as claimed. The Federal Trade Commission would be hard put to it to substantiate the claims it has made to Congress and to the public.

Further, their statement that the retail price of cereals would be or could be 25% less without advertising cannot be substantiated. One member of the Federal Trade Commission staff told the UPI that "if the cereal business became more competitive, say like the produce section of grocery stores, the consumer might save 25% or at least 15%." (Detroit Free Press, June 21, 1971). According to this FTC staff member, retail markups on cereal are high because manufacturers, with all their advertising clout, suggest retail prices to grocers giving the grocer a markup of 20%.

All I can say is that this is a remarkable display of ignorance which no one could possibly substantiate—not even the FTC. The facts are that the average retail margin on cereals is 14.1% (Chain Store Age, July, 1971, p. 62), not 20%. Second, if the cereals carried the kind of markups that prevail in the produce section of groceries, the price would have to go up. The average margin on produce is twice that on cereals—31.0% on produce versus 14.1% on cereals.

Third, if cereals were not advertised, they would be more costly to produce and would carry higher mark-ups—not lower margins at retail—contrary to the FTC's contentions. Ready-to-eat cereals had marked seasonal swings in their consumption prior to the advent of television advertising. December–January consumption rates were little more than half June–July consumption (12.7% of annual consumption in December–January, 21.0% in June–July 1940). With the advent of television advertising, December–January consumption is now only 16% below June–July consumption instead of 40% below. The saving in costs resulting from the smoothing of the consumption pattern by advertising has contributed to keeping the price of cereals low.

Fourth, if cereals were not advertised, the distribution and selling costs to manufacturers would be much higher. Cookie and cracker companies averaged only 2.2% of sales spent on advertising in 1964 in contrast to 14.9% spent by cereal companies. (National Commission on Food Marketing, p. 147). Did this reduce the wholesale cost of cookies and crackers as compared to cereals? The National Commission on Food Marketing found that it did not. In the absence of advertising, cookie companies were forced to spend 19.7% of sales on other selling and physical distribution costs while cereal companies spent only 7.7% of sales on these costs.

Cookie companies provide door-to-door delivery service, check shelves for out-of-stock items, and help stock store shelves. Cereal companies have found that the increased consumer demand resulting from advertising has caused retailers to carry fuller lines and to correct their "out-of-stocks" themselves. This made it possible for cereal companies to eliminate personal selling and panel truck service to store door, which had been common to the industry prior to 1950, with a considerable saving in cost. Advertising in the cereal industry has been a means enabling the cereal companies to economize on other costs—not simply an addition to cost which was passed on to the buyer.

Selling, other marketing, and distribution costs for cereals prior to 1940 average 35% of sales. With the rise of advertising in the cereal industry, marketing, delivery, and other distribution costs dropped to 25% of sales in the 1960's. The FTC should be praising the cereal industry for its successful use of advertising to cut costs instead of condemning it for its use of advertising.

The FTC also charges the cereal companies with using advertising to bar would-be competitors from the market and thereby monopolize the market. The FTC says that advertising is a barrier to entry by firms new to the market and by new products. This could hardly be more completely at variance with the truth. This claim cannot be substantiated. What can be substantiated is the opposite of this claim.

Advertising is a means of entry—not a barrier to entry. Advertising is a means of competing—not a method of monopolizing. Monopolists don't advertise. Competitors advertise. Where, for example, a single company is granted the franchise to supply both gas and electricity to a town, promotion and advertising expenditures are less than half the level they are when two different companies hold the franchise to supply gas and electricity (Paul S. Brandon, "The Electric Side of Combination Gas-Electric Utilities," The Bell Journal of Economics and Management Science, 1971) and compete with each other. If there were truly monopoly (or oligopoly) in the cereal industry, advertising expenditures would be much lower than they are. If there were "shared monopoly" as the FTC claims, one of the first things the monopolists would do would be to cut costs and increase profits by agreement to reduce advertising. That is what American Tobacco did in the nineteenth century after merging 95% of the capacity in the industry. The level of advertising in cereals indicates vigorous competition. Comes the FTC claiming, with its twisted "logic" and no substantiation, that the level of advertising is evidence of monopoly.

If advertising were a barrier to entry, we would expect low product turnover in industries with high levels of advertising. What we find is exactly opposite (Lester Telser, "Advertising and Competition," Journal of Political Economy, 1964). The more intense the level of advertising, the higher the rate of product turnover.

Advertising is used as a means of informing potential customers of the appearance of a new product. It is used as a means for entering a market—not as a means for barring entry, the FTC to the contrary notwithstanding. It is new products which are heavily advertised, not old products The *cereal industry has heavy advertising outlays* because it has been introducing new products. If it were not an innovative industry, its advertising outlays would be less. But the FTC says the cereal industry is not innovative. I would like to see their substantiation of that claim. . . ."

Mr. Speaker, as I indicated in my initial statement on this matter, there is a need for governmental assistance in the area of consumer protection, but our efforts in this regard will be counter-productive if we let our regulatory enthusiasm prejudice the potential for consumer choice, which is so essential to the welfare of the consumer.

INTRODUCTION OF BILLS TO AID MIA FAMILIES

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ROY. Mr. Speaker, yesterday I introduced two bills to aid the families of servicemen who are missing in action. There are approximately 60 servicemen who were missing before the special insurance policy for Vietnam, the servicemen's group life insurance, was approved and went into effect on September 29, 1965. Even though the monthly insurance premium continues to be deducted from the servicemen's regular pay, the families will not be eligible for the benefits should the GI be determined to have died during the period the insurance program was not in effect.

One of these bills, H.R. 13990, would extend the life insurance program to members of the Armed Forces in missing status. Any serviceman who was officially declared missing before September 29, 1965, and after February 28, 1961, and is declared dead prior to September 29, 1965, shall be considered for insurance purposes to have died on September 30, 1965.

The second bill, H.R. 13988, would authorize the payment of a death gratuity to the survivors of members of the Armed Forces who have been in a missing-in-action status and subsequently determined to have died during a period when no Government life insurance program was in effect.

The families of the POW's/MIA's live under a difficult emotional strain without this added legal burden. I hope that Congress will act soon to solve one of the problems of these families.

RHODESIAN CHROME ORE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. FRASER. Mr. Speaker, section 503 of the Defense Procurement Act of 1972, enables U.S. importers to break the United Nations-imposed sanctions against the oppressive Smith regime in Rhodesia. The supporters of that section contended that its adoption was in our "national interest." However many of us felt the amendment was designed to permit privately owned U.S. companies to protect their investment in Rhodesian chrome. There is no strategic need for Rhodesia chrome.

An excellent piece of investigative reporting appeared Sunday, March 19, 1972, in the Washington Post. Mr. Bruce Oudes traces the development of section 503 and identifies those who played a role in its promotion. Although the Department of State opposed the amendment, Mr. Oudes points out that the White House did nothing to prevent its passage. He indicates that certain members of the administration were in favor of breaking the sanctions and cooperated with the companies involved to accomplish that end.

Mr. Speaker, these are serious charges. To break an international treaty for national security purposes is a grave move. To do so is the interest of a handful of private companies is inexcusable.

The Subcommittee on International Organizations and Movements, which I chair, will reopen its hearings on the subject of sanctions in the near future.

The material follows:

RHODESIA ORE: HERE'S TO THEE, OH "CLUB 503"

(By Bruce Oudes)

"We love the people we are with, And raise a glass for Ian Smith . . ."

The words of the song rang out time and again through the holiday season and into the new year, not in Southern Rhodesia where Ian Smith is the prime minister of the white minority government, but here in Washington. Representatives of American industry and Rhodesian diplomats emptied their glasses to mark victory in a 6-year campaign to get the United States to violate the so-called "mandatory" economic sanctions against Rhodesia.

Those sanctions are being violated this week with the arrival in the United States of the first shipload of Rhodesian chrome ore. This makes this country the third U.N. member officially to sidestep the ban; South Africa and Portugal are the other two.

The alliance of Foote Mineral Co. of Exton, Pa., and Union Carbide with Rhodesia's white government extends well beyond the minimum necessary to protect their long-standing investment in that chrome-rich country. The two firms openly acknowledge they have been opposed to the U.N. sanctions from the start. Union Carbide actively worked to undermine it as early as 1966.

The Rhodesia-U.S. corporate clique informally is known as the "503 Club" commemorating the relevant section of the Military Procurement Act of 1971 allowing U.S. firms to import Rhodesian chrome, copper, asbestos, manganese, nickel, and dozens of other commodities, seemingly because of an overriding "national security" requirement.

XUM

However, as a knowledgeable Union Carbide source privately concedes, the "strategic" label was simply camouflage to get Congress to authorize U.S. firms to break the U.N. regulations.

An excellent description of the alliance linking white Rhodesia, conservative congressmen, Union Carbide and Foote Mineral is in their victory song, "The Absolutely Tentatively Provisional Official Marching Song of 'The 503 Club.'" To the tune of "O Tannenbaum," the song roasts liberal Democrats and the State Department, but not the White House, which has remained silent on the sanctions question.

"MANY FINGERS IN THE PIE"

According to Margaret Cox-Sullivan, a Union Carbide consultant who is "blow(n) a kiss" in the lyrics, "a lot of people got their fingers in the pie" writing it. The song project was a topic of conversation at a party marking the sixth anniversary of Rhodesia's unilateral declaration of independence at the International Club given by the Rhodesia Information Service, the Smith government's unofficial embassy here, on Nov. 11.

The ditty made its official debut at a Christmas party given by the RIS at its offices at 2852 McGill Terrace, NW, and since has been aired at numerous private affairs.

The song cites L. G. "Tony" Bliss, Foote's chairman of the board; John Donahey, Foote's public relations specialist; E. F. "Andy" Andrews of Allegheny Ludlum Industries, another warm supporter of "503"; Margaret Cox-Sullivan ("Margaret S."); commentator Fulton Lewis III, who has just visited Rhodesia a second time; and Kenneth Towsey ("Kenneth T."), RIS director, and his associate, John Hooper, among others. Bliss, Donahey and Union Carbide's Washington representative, Jerry Kenney, were among those present for the debut, Mrs. Cox-Sullivan said.

Sen. Howard Cannon (D-Nev.) is "a hit" in the song, presumably because of his support for "503" as well as his blocking a routine administration bill that would have released excess chrome from the national stockpile. David Newsom, assistant secretary of state for African affairs, is named among the clique's foes.

The complicated story culminating in the deft use of corporate muscle in Washington started almost half a century ago, Rhodesia, then a British territory, was discovered to have high-grade chrome ore. As American investment flowed in, it turned out that except possibly for the Soviet Union, Rhodesia had the world's largest known reserves of the premium ore.

This, however, had little meaning in political terms until Rhodesia's white-minority government declared its independence of British constitutional harassment in November, 1965, a move designed to stifle the black majority's demands for political power. Rhodesia's 5 million blacks outnumber whites in an ever widening 20-to-1 ratio. Britain's Labor government, fearful that its troops might mutiny if ordered to quell a rebellion by Rhodesia's "kith and kin" government, announced six months before the event that it would not use force to bring down and eventual white Rhodesian "uprising."

A COMPROMISE

Instead, Prime Minister Harold Wilson—under the pressure of world opinion—chose a compromise strategy of asking the United Nations to impose economic sanctions against Rhodesia. The last time a world organization attempted such a step was in 1936, when the League of Nations tried to quarantine Italy for invading Ethiopia. Thus far, the U.N.'s Rhodesia sanctions have been about as sieve-like as the League's.

The Johnson administration, rejecting suggestions that it urge Britain to use force to bring down the Smith regime, went along with Wilson. But when it became apparent that the majority of the world's industrial nations were secretly going to continue trading with Rhodesia, the United States decided that it would not vigorously protest, either publicly or privately, the violations.

According to a knowledgeable State Department official, Union Carbide began to undermine the sanctions in 1966 while the sanctions screws were not yet fully tightened. It hastily transferred dollars to its Rhodesian subsidiary to "pay" for 150,000 tons of chrome ore that had not yet left the quarantined country. This later became the basis for its claim that it should be granted an exception to permit import of the 150,000 tons. The Johnson administration, well aware of the ploy, rejected the claim, but the Nixon administration granted it in September, 1970, after extensive Union Carbide lobbying.

POWERFUL ARGUMENT

Meanwhile, Foote, which had not been that astute in 1966, began to think in terms of a permanent, legislated exemption from the sanctions. Rep. James Collins (D-Tex.) and Sen. Harry Byrd Jr. (Ind-Va.) introduced legislation a year ago which said that the President could not ban the importation of a strategic commodity from a "free world" country so long as it was being imported from a Communist country. In 1965, the United States imported about a third of its high-grade chrome from the Soviet Union. Since the sanctions, the Soviets have furnished more than half of U.S. high-grade chrome imports. Given the size of the U.S. stockpile and the relatively modest chrome needed for defense purposes, experts scoff at the thought that the Soviets could bring the United States to its knees by stopping chrome exports. But this was a powerful argument.

Union Carbide quickly associated itself with Foote's effort, and both testified before House Foreign Affairs and Senate Foreign Relations subcommittee hearings last summer in favor of the bill. Although they complained strenuously about sanctions violations by other nations, nowhere in the two firms' testimony did they suggest the United States begin blowing the whistle on violators—a step that would have made life rougher for the white-minority government but more equitable for the world's chrome users in sharing the burden of the loss of Rhodesian ore.

Instead they were foursquare against sanctions. Foote chairman Bliss told the Senate committee July 8: "The position of the Foote Mineral Company, and, I think the rest of the producers in the United States, is this: That it would be total chaos if indeed the sanctions or the embargo would be effective against Rhodesia, because that would eliminate their input into world markets and throw us all into the marketplace in Russia and Turkey, and I am exceedingly doubtful, as the statistics disclose, that those source materials would be adequate to take care of world demand." A Union Carbide spokesman said that accurately reflects his company's position.

Andrews of Allegheny Ludlum, who testified in favor of the legislation as chairman of the critical materials committee of the Iron and Steel Institute, took the same position in a telephone interview. "I opposed the embargo the day it went on for business reasons," he said. "The social and political aspects (of sanctions) have been overemphasized to the detriment of the economic aspects." Andrews said he visited Rhodesia in early 1970 and attended the Nov. 11 Rhodesian victory party. But he denied knowledge of the song, in which he is hailed as being "true blue."

BYRD AMENDMENT

When the Foreign Relations and Foreign Affairs committees blocked the legislation, by now known as the "Byrd Amendment," Sen. Byrd took it to the sympathetic Senate Armed Services Committee, which reported it as section 503 of the Military Procurement Act. When it reached the Senate floor in a series of roll calls Sept. 23, 30 and Oct. 6 the White House remained silent—as it had before and has since.

A White House aide maintains that it was preoccupied with other elements of the President's legislative program. But other sources suggest that corporate influence had carried the day in a fluid situation in which Henry Kissinger, the national security adviser, preferred not to focus on something as remote as Rhodesia.

One former White House staff member says that of the President's aides, speech writer Pat Buchanan was particularly receptive to Union Carbide's plight. Last week Buchanan said, "I was sort of involved two or three years ago, but I haven't been involved since."

A former Senate committee staff member said that now-Deputy Defense Secretary Kenneth Rush supported Union Carbide's case in private conversation in 1970 while in Bonn as U.S. ambassador. Rush, a Duke professor when the President was a student there, left the presidency of Union Carbide to join the administration.

In the Senate, Byrd stressed that the measure would effect only chrome. However, the administration more recently has allowed the import of some 72 products from Rhodesia, excluding tobacco, a major Rhodesian export but not a "strategic" one. That dividing line serves the interest of Virginia tobacco growers, who have prospered through the elimination of Rhodesian competition.

The Byrd amendment passed its last Senate test Oct. 6 with the assistance of key switches by Sens. William Roth (R.-Del.) and Lee Metcalf (D.-Mont.). Metcalf's office said later his switch was due to pressure from unspecified "Montana chrome-mining interests." The measure sailed through the House, 251 to 100, on Nov. 10.

While the corporations involved, the Rhodesians, and apparently the White House seem to share an unusual private coziness that has influenced U.S. Rhodesia policy during the present administration, it is only rarely that a candid remark seeps into the public record.

One such comment was made by John Moxon, who since then had retired as president of Carpenter Technology Corp. of Reading, Pa., before the House subcommittee last June. Moxon followed Andrews to the witness stand to testify as a consumer of chrome. The only thing he said he wanted to add to his carefully worded written statement was, "We also have in the back of our minds the apprehension that the same people that are upset about Rhodesia will become equally upset about South Africa and then we are in a mess . . ." He quickly added that he is "not in sympathy with an apartheid or any of these things." He called U.S. participation in the U.N. sanctions "a shortsighted decision."

One U.S. official who closely follows the influence of Foote and Union Carbide in American Rhodesia policy is philosophical. He notes that their mining subsidiaries in Rhodesia are still producing chrome which in turn is earning vital foreign exchange for the Smith government. "They've got a lot in common," he said thinking of Foote, Carbide, and Rhodesia. "You just don't work that closely together without getting involved."

MOVING FORWARD

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. GRIFFIN. Mr. Speaker, 11 years ago the people of Vicksburg and the State of Mississippi dedicated the beginning of a great industrial park and port facility that had long been a dream to return that city to a position of importance as a river port. This past week an addition was dedicated to this facility adding greatly to its importance.

And today we have a harbor industrial park and port at Vicksburg that serves not only as an important contribution to the economy of the city and State but also serves as a vital link for Mississippi products to the rest of the world.

In the past year alone the port of Vicksburg showed the largest percentage increase in tonnage of any port on the Mississippi River. With the addition to this new facility, the cargo capacity will be doubled.

I would like to include here in my remarks an editorial from the Vicksburg Evening Post noting the rapid development of this fine facility, and to commend those whose efforts helped bring about this development.

The editorial follows:

[From the Vicksburg Evening Post, Mar. 2 1972]

MOVING FORWARD

Back in the 1940s, a Chamber of Commerce committee was appointed to investigate the means to be taken to bring Vicksburg, once more, to a position of prominence as a river port. Known as the Vicksburg-Yazoo Project, this work was pursued by subsequent committees, until it began to bear fruit and an appropriation was made by the Congress through which the Corps of Engineers transformed waste and marsh land north of the city into a most attractive industrial park. The feat was accomplished by dredging the Yazoo and making the fill above flood stage.

With a fine industrial park of almost 250 acres, another part of the project was the erection of a terminal, and this resulted in one of the most modern terminals on the river.

On a cold day in February, 1961, the new facility was formally dedicated, with the hopes for steady progress expressed by all who had any part in the ceremonies.

Even the most optimistic could not have foreseen the rapid development of the park, and its growing importance to Vicksburg. Eleven years after dedication, the land is practically all occupied, and a study is now under way on expansion of the park.

Even more dramatic has been the tremendous increase in river commerce. Vicksburg is now and has been for the past several years, the number one river port in Mississippi. Today products of Vicksburg manufacture are shipped to overseas destinations and received there in the original barges and containers used for loading here. Today, after having strained the facilities of the terminal, we are ready for the dedication of a huge addition to them, which is but an indication of the real importance of our port.

Tomorrow, at 3 o'clock, this new addition to the Port of Vicksburg will be formally dedicated, and tomorrow night, at Memorial Auditorium, a dinner will be held honoring Senator John Stennis, who, down through all of the years, has been the guiding light in making possible the appropriations which made Vicksburg's great Harbor Industrial Park and Port not only an important part of our expanding economy, but a link with the rest of the world, as we now are taking full advantage of our big river.

Many, many people have had a part in the development of our Harbor Industrial Park and the Port of Vicksburg Terminal, but, during the last fifteen years the major share of the credit for the implementation of the plans which became reality, must go to the Warren County Board of Supervisors and to the magnificent administration of the facilities by the Warren County Port Commission.

Tomorrow's dedication will be but a forerunner of other progressive moves. We await, with deep interest, the designation of Vicksburg as a port of entry, and with equal interest, the results of the study of the possibility of expanded land facilities.

Vicksburg and Warren County are moving forward, and our port is making a major contribution to that progress.

GEORGE B. SHAMON

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. TERRY. Mr. Speaker, in the 12th chapter of Luke, it is written that:

For unto whomsoever much is given, of him shall be much required.

On Monday, March 20, the city of Auburn in my congressional district, lost a man whose entire life was dedicated to this principle. Mr. George B. Shamon, attorney, and former city clerk and corporation counsel of Auburn, unexpectedly passed away.

George Shamon, a life resident of Auburn, left a mark on his community which few could hope to equal, much less surpass. He was active in a multitude of civic activities including the YMCA, the School for Retarded Children, and the American Cancer Society.

I first met George at a "meet the student" forum for entering freshmen to Notre Dame. George graduated from that university in 1932 and played an active role in promoting it throughout the central New York area. Since that first opportunity to talk with him in 1941, I have respected this very able man for his dedication and concern for others. He was blessed with boundless energy and aptitude and he used those qualities to benefit the residents of his much beloved city of Auburn.

The Auburn Citizen Advertiser eulogized George Shamon on its editorial page. I include those comments as a most appropriate comment on the life of George B. Shamon:

[From the Auburn Citizen Advertiser, Mar. 21, 1972]

GEORGE B. SHAMON

George B. Shamon's heart has stopped. And it has left many individuals and organizations without a stimulating and important throb.

A native of Auburn, George Shamon was one of these individuals who put as much, if not more, back into his community as he took out. Whether it was the library, Mercy Hospital, the baseball team, Mt. Carmel High School, city government, or his church, he provided a spark and drive.

A competitor on the handball courts of the YMCA, before the bench in court, on the Democratic campaign trail or anywhere a bull session was going on, he had a zest and a strength of belief which were his trademarks. He loved to read and had a particular interest in history.

But to most, George Shamon was a warm and happy man whose size and sometimes booming voice hid a gentleness. He was most generous of his time, talents and money—in short, he was a soft touch. And as such, he lent himself to such organizations as the School for Retarded Children, the Cancer Fund and the YMCA–WEIU reaped the network.

Even a man-made Pacemaker couldn't keep George Shamon's heart going; we like to think that the reason was that it had gotten so big helping others.

AMCHITKA

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. THOMSON of Wisconsin. Mr. Speaker, I would like to remind my colleagues of the unwise hysteria that occasionally develops in the discussion of environmental matters. As the House is about to consider the Water Pollution Control Act of 1972, I think the advice of Francis and Bruce Harper of the Prescott Journal in Prescott, Wis., is most timely.

Messrs. Harpers' March 16 editorial reminds us that in the 4 months since the underground nuclear test on Amchitka Island, despite "expert" opinion that the blast would trigger earthquakes and tidal waves with massive destructive force, there have been no noticeable aftereffects.

The Amchitka test offered to some an opportunity to indulge in irresponsible and emotional oratory. As a steady defender of our environment, I would urge my colleagues to take a hard look at questions on this emotion-laden subject. Ask the hard questions, sift through the emotion for the hard facts. The threat to our environment is real enough without jeopardizing the credibility of our effort by indulging in harmful demagoguery.

I include in the RECORD Mr. Harper's thoughtful remarks for your careful consideration:

AMCHITKA

In November, 1971, catastrophe was supposed to have followed the Amchitka underground nuclear test that took place far out in the Aleutian Islands. Opponents of the test, either inspired by fear that ecology would be harmed or in pursuit of more sinister motives such as obstructing America's defense effort, predicted calamitous earthquakes and tidal waves. The blast was detonated on schedule and nothing of the sort took place. An AP dispatch reports that the blast ". . . apparently opened the way to making the Spartan antiballistics missile fully operational." On the scientific side, ". . . seismologists expect to extract significant new information on the causal mechanisms of (earthquake) after shocks, and hope to be

able to apply that knowledge to an improved understanding of natural earthquake source-mechanisms . . ."

The Amchitka nuclear test, since it failed to produce catastrophe as some expected, has been quickly forgotten by all but those concerned with the defense of the nation and the researchers and scientists who devote their lives to probing the unknown.

POLICE AND RISING CRIME IN THE SCHOOLS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BINGHAM. Mr. Speaker, in response to growing concern over crime in the public schools, I introduced the Safe Schools Act (H.R. 10641), which would establish a new category of Federal grants to better enable schools to provide security. These Federal funds would be used to carry out locally approved school security plans to reduce crime against children, staff and property.

An article in the March 19, 1972, New York Times, reports some interesting changes in the type of crime and violence occurring in the schools, and discouraging increases in the incidence of crime. Also, an informative and thoughtful article by Phyllis Meyers analyzing the complex legal and emotional issues involved in the use of police in the schools appeared in the January–February issue of City, a magazine of urban life and environment published by the National Urban Coalition. In view of the considerable interest in this aspect of the current crisis in our educational systems, I wish to submit the New York Times article by Leonard Buder, and the article from City, entitled "Police in the Schools: Two Troubled Institutions Meet," for the RECORD.

The articles follow:

[From the New York Times, Mar. 19, 1972]

CRIME AND VIOLENCE RISE IN CITY SCHOOLS

(By Leonard Buder)

The number of reported acts of crime and violence in and around city schools increased from 333 in 1970 to 580 last year, according to Board of Education figures.

These incidents involved assaults on teachers and students, including rapes, attempted rapes and molestations; robberies and purse snatchings; the setting off of smoke and fire bombs; and telephoned and written threats against school staff members.

Among the "untoward" incidents reported to board headquarters during the 1971 calendar year were 285 assaults on teachers and other school personnel—two fewer than in 1970 but well above the figures for previous years.

Last January and February there were a total of 170 such incidents reported, including 88 assaults on school personnel. If this rate continues, headquarters officials said, the 1972 totals will far exceed those for last year.

A TOTAL OF 197 ARRESTS IN 1971

The headquarters records show a total of 197 reported arrests of youngsters and adults last year in connection with school incidents, compared with 102 in 1970. However, officials point out that arrests are sometimes made days and weeks after the incident and are often not reported to headquarters.

Although the board's figures are generally regarded as an imprecise barometer—many school incidents are never reported to headquarters—such groups as the United Federation of Teachers, the High School Principals Association and the Council of Supervisors and Administrators have asserted that school violence was increasing.

Supervisors, teachers and headquarters officials who were interviewed recently also said that while school violence and unrest have been a persistent problem in this city as well as elsewhere for many years, there was a difficult character to the problem today.

Dr. George Patterson, an assistant superintendent at headquarters, who handles school security matters, said: "A few years ago, there were more group confrontations. Now we largely have pretty vicious individual assaults."

Similarly, George Altomare, the United Federation of Teachers' vice president for academic high schools, said:

"The schools are not the focal point of violence aimed at change. School issues are not involved, as they were some years ago, when students organized protests, peaceful and violent, to bring about change. Now it is student against student."

Although there was sometimes a racial or ethnic element—one Manhattan high school has been torn by conflict between blacks and Dominicans—in many schools, Mr. Altomare said, the problem was "essentially nonracial."

Edward Muir, the U.F.T.'s representative on the school stability team set up last year by the School Chancellor, Harvey B. Scribner, noted that there has been a re-emergence of "fighting gangs" in such areas as the south Bronx and northern Manhattan. These gangs conflicts, he said, frequently spill over into the schools.

HANDGUNS PROLIFERATE

"The tragic element that distinguishes this from earlier gang activity is the proliferation of handguns among teen-agers," Mr. Muir said. "The 'Saturday night special' [a cheap, small-caliber gun] has hit the high schools."

He added that he had heard of four shootings in and around schools in recent months.

Dr. Patterson also said he had heard that an increasing number of students were carrying guns.

"Some carry guns out of bravado, some for business—a stickup—and some for self-defense," he said.

PARENTS COMPLAIN

Parent and student complaints about violence in the schools and attacks on youngsters going to and from school have become a recurring theme at recent public-agenda meetings of the Board of Education. At these sessions unlike the regular calendar meetings, speakers can bring up any subject they wish.

At last Tuesday night's board meeting, a group of parents and elected officials from the northeast Bronx said that about 350 students had been kept home from Adlai E. Stevenson High School since last September out of fear for their safety. A parent spokesman said that students were being "mugged, robbed, intimidated, harassed and stabbed" by other students, who were members of south Bronx gangs.

SCRIBNER VOICES CONCERN

Chancellor Scribner, who in the past has emphasized that violence in the schools was, to a degree, a reflection of the violence in society, said yesterday that he was very concerned about the problem.

"Every student and teacher has the right to go to school in safety and without fear for his safety," he said.

Dr. Scribner said that he was planning to implement new measures to enable the high schools to cope more effectively with problem youngsters, including those who persistently refused to attend classes but congregated in school buildings and, in some instances, endangered the safety of others. He said these measures would be disclosed soon.

"UNTOWARD ACCIDENTS" LISTED

The record of school incidents is compiled by a unit of the Office of Educational Information Services at central headquarters. Each school day the office gives Dr. Scribner and other top officials a "Log of Untoward Incidents" reported by the schools. Among the incidents reported recently were the following:

An English teacher at a Brooklyn junior high school was assaulted by two intruders he had encountered in the hall. They hit him on the head with a hammer and knocked him down a flight of steps. The teacher was taken semiconscious to a hospital.

Students from a Bronx high school were attacked by a group of youths while waiting for buses. Several students were injured.

Two students sitting in the lunchroom of a Manhattan high school were attacked by four unidentified assailants. Both youngsters suffered stab wounds of the back and other injuries.

An 8-year-old boy, on his way back to class from the lavatory, was "accosted by a male intruder who dragged him to the fourth-floor landing leading to the roof and sexually assaulted him."

A Queens principal was robbed at gunpoint in his office by a young man, shortly after the end of the school day.

Occasionally the reports contain assertions from parents that teachers have assaulted their children.

PUPILS EXPRESS FEAR

Many school officials who were interviewed recently said that the daily reports gave only a fragmentary picture of the situation.

One board of Education official, who did not want to be identified, said that in many schools pupils were afraid to go to the toilet for fear that they would be accosted by other youngsters, who will demand or take their money, or be "molested" by "outsiders."

The official said that pupils and teachers also shunned deserted corridors and stairways during the school day and that principals often advised teachers not to remain alone in their classrooms during free periods or after school.

Deputy chancellor Irving Anker recently issued a directive to principals that women secretaries should not be asked to remain in the school office alone after school hours. The directive, issued in response to complaints from secretaries, said that when secretaries were asked to work after school, adequate protection must be provided for them.

An analysis of school incidents made a year ago by George Lent, who kept the headquarters log until he went on leave last fall, found that 70 per cent of the assaults on school personnel were committed by students, 10 per cent by parents of students and 20 per cent by intruders.

School officials generally report that intruders are a steadily growing problem. Some of the outsiders are adults, often drug addicts seeking something to steal.

But a number of them, Dr. Patterson said, are truants from other schools who prey upon younger pupils or are out to settle an old score. High school students, he noted, sometimes invade junior high schools and junior high school pupils may go to nearby elementary schools.

Mr. Lent also estimated that 30 to 60 per cent of all school incidents are not reported to headquarters.

Albert Shanker, president of the teachers' union, said that many teachers, parents and students do not report incidents to local school officials because they "have no confidence in the school system's procedures for dealing with violence" and fear that a complaint could possibly lead to another assault.

He said that "the question of safety and working without fear" would be a major item in the union's forthcoming contract negotiations with the Board of Education.

Not included in the board's tally of untoward incidents, although mentioned in the log, were bomb threats received by schools—a headquarters aide said that these had become "almost too numerous to count"—and acts of vandalism, fires and thefts occurring during non-school hours.

During one week earlier this month, 13 city schools were targets of bomb threats, including one Brooklyn elementary school that received five threats in a 55-minute period.

Some schools have also been plagued by fires of suspicious origin. At one Bronx high school recently, there were four false fire alarms one day. The next morning a fire was discovered in a classroom closet, forcing the evacuation of the building. An hour after classes resumed, another fire was discovered, this time in a lavatory, and again the building had to be evacuated.

SCHOOL VIOLENCE

The following table lists the number of violent incidents reported to the Board of Education in 1970 and 1971 and the number of arrests made. Some of the incidents were resolved without being reported to the police and some arrests were not linked to incidents referred to police.

Schools	Incidents		Arrests	
	1970	1971	1970	1971
Elementary	97	209	19	33
Intermediate-junior high	164	230	51	102
Academic	59	124	25	55
Vocational high	13	17	6	7
Total	333	580	101	197

Source: Board of Education Office of Education Information Service.

POLICE IN THE SCHOOLS: TWO TROUBLED INSTITUTIONS MEET

(By Phyllis Myers)

Men in blue are an increasingly common sight in the corridors of urban schools, but there is little agreement on their role.

Several weeks ago, I witnessed a scene that shook me into examining one of the dark corners of public school governance in our troubled cities: the increasing use of police power.

As I waited for a counselor in the corridors of my son's junior high school in Washington, D.C., a group of three young boys, all black, came sauntering by the counselor's office. One was repeating, "Hey man, hey man" rhythmically, at the top of his voice. The counselor asked them to leave. Two did, but the boy who was saying "Hey man" in that strange, loud, unregulated way pushed past her and opened a nearby door. Suddenly, an arm thrust out of the room, grabbed the boy, tossed him up and down, and said roughly, "Who're you saying 'Hey man' to"? As the door shut, I caught a flash of a policeman's uniform and then heard sounds of scuffling and shouting.

Somewhat shaken, I asked the counselor what was happening. "Don't ask me," she said firmly, "I'm not saying anything. I just don't like what's going on around here." When I reported the incident to the principal of the school, he told me he had nothing to do with what the police officer did, and that the officer was under command of the local police district, where I should make my complaint. I hadn't expected this answer, although I have lived in Washington for eight years and have always sent my children to its public schools. I pressed forward with a few questions that came immediately into my mind. Didn't the officer keep in touch with the principal about his activities in the school? No. Did he file a weekly, daily, or monthly report to the school? No, only at police headquarters. Were there any guidelines about what the officer did in the school, and his relationship to the principal? No, except what was worked out on the spot between the personalities involved. Was he armed? Yes. Who chose the officer? He was assigned by the local police headquarters. Did he have any special training? No.

The principal told me he didn't believe the police were needed in the school at all. As for the incident I saw, he confirmed what I had quickly sensed: The boy was very disturbed and didn't belong in a regular public school. Washington, however, had no special facilities for him. The principal concluded by saying that the officer involved, who also was black, was better than most, and that on the whole the relationship worked out "not too badly." (The officer had told the principal that the boy had attacked him first.)

The incident kept popping up in my mind and, as I talked about it with others in my community, they too seemed surprised about the same things I had been. I didn't want to blow up the incident out of proportion. It would take someone far more militant than I to call it brutality. But there it was. A hostile boy, an emotional and educational problem, had been mistreated. The uniformed policeman had reacted to his words as a simple case of "lip." The officer had acted wrongly both by the standards of the institution that was legally responsible for the boy and by the standards of the police department for which he worked. Yet, it was unlikely that anyone other than I would ever complain.

At about the same time, I became aware of a furor at a nearby high school. It seemed police were picking up large numbers of "truants"—over 100 a day, some said—riding them in squad cars to local police headquarters, filing charges, and only then bringing them back to school authorities and notifying parents. The police insisted that no new drive against truancy was under way, but that they were simply extending their successful pilot program tested in another part of the city last year as a result of studies linking truancy with neighborhood shoplifting. All sorts of questions came up. Was a student who was 5 ve minutes late en route to school a "truant"? Was a student over 16 a truant? Was a class-cutter a truant? Since the truancy law makes parents the offenders, was it legal for police to pick up students? If it was legal, was it wise to take them to police headquarters?

Three black students got into a fracas when one refused to give her name to a police officer. After some heated discussion, all were held incommunicado at police headquarters for a time variously estimated from one to four hours. Only after student protests escalated into a threatened mass walkout did parents, principal, and police get together. Students believe some of the ground rules have changed: Truants are now taken back to school, rather than to police headquarters; students over 16 are left alone. A policeman has been detailed to the school full time, both to quiet the school and as an Officer Friendly to hear student complaints. Asked whether it would not have been preferable to explain the stricter enforcement policy in advance to students, deputy chief of police Owen W. Davis replied: "Oh, that's not necessary. The students learn about it fast enough via the grapevine."

Spurred by these two incidents, I began to do some more thinking and talking with people about the role of police in public schools, both here in the District of Columbia and across the country. I tried to find out how often and when and under what conditions police were called in, who made the decision, if the impact of their presence were assessed, and what other kinds of options were considered. I was not at all sure that the rights of students and young people were either clearly defined or protected, nor that, in a situation where fear or hysteria had taken over, the best protection systems to deal with the problems had been worked out. I found it was not a subject anyone wanted to talk about very much. Crime in the schools turned out to be even less susceptible to rational discussion than crime in the streets.

I encountered an unexpected amount of hostility, as it merely to raise these questions were either to condone rampant criminal behavior in the schools or to infer that policemen were pigs. Whatever else it means, the calling in of police to schools symbolizes a terrible failure, reaching beyond the institutions out into the community, and while most people seem to agree that there is a new kind of problem, no one—including police and school officials—knows what to do about it.

While it was difficult to get to the facts, the situation seems to look this way:

The involvement of police in public schools has been on the rise in cities across the nation. Such involvement ranges, in increasing order of controversy, from image-building, Officer-Friendly type programs, to police-liaison programs that combine regular assignments of officers with a broader community relations and educational role in the schools, to regular beat-type assignments in the schools, to the use of police cadets as nonuniformed undercover agents.

The International City Management Association queried police departments in over 2,000 cities in June, 1970, and reported that 91 percent of police departments conduct special educational programs in schools; police departments in 94 cities (7 percent of the total, but one-third of the larger cities) said there was "continuous full-time police coverage of selected or all public schools."

However, the issue of whether police belong in the schools is less strident today than it was in 1968 and 1969 when racially and politically motivated student protests were at their peak and expanded the use of police in secondary schools as well as on college campuses. Some of the lessened concern today is related to a toning down of these crises; part of it, however, is related to an acceptance of the police presence as "a fact of life" in schools, as elsewhere in our cities.

While protests grab fewer headlines, the increase in juvenile crime continues to rise, at a rate most people consider alarming. According to the FBI uniform crime reports, juvenile arrests have jumped three times as fast as all arrests in the past decade; young people under 18 account for more than half of all arrests for auto thefts, larceny, burglary, and arson. Numbers like these lead easily to speculations about extensive crime spillover in schools, but statistics—to the extent they are available—are closely guarded, by police and education officials alike. The only known national survey, taken in 1970 by the Senate subcommittee on juvenile delinquency of a sample of 110 big-city school districts, concluded that "violence in our public schools has increased dramatically" but warned that its statistics were too sketchy to express more than a "trend."

The increasing use of police in city schools raises many new complex political, administrative, legal, and educational issues: Should police come in on their own volition, or only when invited? Should they take part in educational programs or restrict their activities to criminal wrongdoing? Should they be uniformed, carry arms, have an office? What kind of special training, if any, do they need? Who pays for the police? Do they have access to school records? What are young people's rights with respect to questioning, search, arrest? What are parents' rights? What are the school's responsibilities? The ICMA survey of police departments reported that half

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have written policies dealing with young people on school property, and among these there was a great variation of policies (let alone practices). I was able to locate only a handful of cities and states where written guidelines between the schools and police had been published.

In an increasing number of cities, students, sometimes aided by local civil liberties lawyers, have begun publishing their own rights handbooks, attempting to spell out the legalities of dealing with both police and school officials. Their effort exposes a worrisome vagueness about the law as it applies to young people. "It is a no-man's-land. Animals in our society have more rights than children," commented Mrs. Ruby Yaryan, a juvenile delinquency expert with the federal Law Enforcement Assistance Administration. It was only in 1970 that the Supreme Court affirmed that the Bill of Rights did not stop at the schoolhouse door.

A year ago, ICMA observed that despite the importance of the subject of police relationships with schools, "little research has been conducted on (its) nature and extent." This is just as true today. Roy C. McLaren, director of the field operations division of the International Association of Chiefs of Police, points out that any compilation of crime statistics or police practices is an extremely complex job—and in order to do so, someone has to want to know and pay for the effort. So far, there has not been enough public concern in this area says McLaren.

There are signs that pressure may be building up for change, however, as school systems reverse their traditional stance and call on the police for help.

"Historically, there has been a lack of cooperation between the schools and the police," says IACP's Richard Kobetz. "School authorities often wait too long to call in police. They are reluctant to think of these things. Yet, their first job is to protect life and limb." Until recently, admits Charles Baltimore of the Association of Secondary School Principals, school officials considered it a failure to call in the police. Now this has changed, says Baltimore—nevertheless proudly pointing out that in his years as principal of a racially changing school in the inner city, he never called for the police. Baltimore is concerned about the erosion of the principal's authority when police come in, that they might make the school "a military state." Kobetz is exasperated by this reluctance to use police officers. He says: "The role of policemen is very complex because Americans have made it so. First they give him a job, then they dare him to do it."

At the heart of the confusion is a clash between differing philosophies of how conflicts are controlled in a democratic society—by authority and fear, or by self-control and self-responsibility, repression or rapport—and uncertainty about what police are supposed to be doing. Is their primary function to keep order and apprehend criminals, with all other activities largely peripheral, or should a major portion of their time be devoted to prevention of crime? At the school level, these differing strains of thought break down into two basic approaches to handling disorder, violence, and criminal activity: one, to restrict police functions to emergencies and, if necessary, build a capability within the school system to handle most situations without calling in the police; and the other, to expand the role of police officers in schools by involving them more broadly in counseling and educational community programs, thereby breaking down barriers between young citizens and police officers.

The first approach is that advocated by McLaren, emphasizing that he is speaking as an individual and not for IACP: "If the calling in of police is a short-term temporary assignment to deal with emergency situations, then the use of police is entirely appropriate. But if the situation is going to be long-standing, then some security system ought to be worked out, paid for by the school system and accountable to it and the principals." He believes this would lead to a more effective use of manpower, since it "takes a higher level of police competence to investigate crimes than to stop fights."

In 1969, Education U.S.A., a publication of a National Education Association affiliate, reported that school systems in cities all over the country were adding substantial numbers of security personnel to their staffs. Often these are off-duty or retired policemen. Policies vary from city to city about duties, uniforms, and the gut issues of police powers—the right to arrest and to bear arms. Security officers in Detroit, hired "reluctantly" by former superintendent Norman Drachler as a result of fears he felt were "exaggerated," did not wear uniforms. In New York City, however, students protested the lack of identifying clothes, and guards were given special blazers. In Kansas City, security personnel felt unsafe without arms and were given Mace and handcuffs. In Oakland, Calif., "peace officers" are armed and have the power to detain suspects.

Out of the need to exchange ideas and practices about school-directed security programs, a new group, the International Association of School Security Officers, has sprung up in Fort Lauderdale. The organization is supporting a "safe schools" bill introduced by Rep. Jonathan Bingham (Dem-N.Y.) and cosponsored by the unlikely combination of Rep. Shirley Chisholm (Dem-N.Y.) and Louise Day Hicks (Dem-Mass.) which would give federal funds, through HEW, to schools to finance their own security systems. Such funds could not be used to support the introduction of "firearms, weapons, or chemical agents," but otherwise schools and communities would have broad latitude to work out what measures they preferred. According to Roger Majak, Bingham's assistant, it is the lack of funds that causes many school systems to turn to police departments. Sending funds to the schools would be a counterweight to the support now funneled by LEAA to police departments—estimated at $6 million—for programs to combat school crime.

While many see school-operated security forces as a more palatable approach to protection, some are fearful that such groups pose a new danger in themselves. Mark Furstenberg of the Police Foundation says he sees "no reason to have other police systems. All the experiments I have seen point against it." Where there is a need, he would rather see the police called in. "They are trained in the legal use of force, how to arrest and use weapons, and are, in most cities, accountable to the political forces. This is the nature of a police function in a democratic society." Emphasized Furstenberg: "The police attitude is, We prefer not to come into schools, but if we're needed, then we're coming in and going to use our own judgment."

If police are going to be in schools on a continuing basis, however, Furstenberg believes they should increase their positive role in the schools. This approach is exemplified by a series of model programs that began in Atlanta almost 40 years ago, but is more usually traced to Flint, Mich., in 1958 and Tucson, Ariz., in 1963. Although details vary, the police officers—still under command of police headquarters but called something like police-liaison officers, school resource officers, or monitors—are assigned to schools full time as part of a concerted attack on prevention and early detection of proneness to delinquency. Sometimes they take off their uniform, but they are always armed. In addition to normal police duties, the police may work with counselors and teach special law enforcement courses and refer young people with problems to service agencies in the community. Both Flint and Tucson report that such low-key involvement of the police has cut down the number of student arrests, rather than increasing them, as some feared.

While such programs have spread to about two dozen cities, their further proliferation has been limited by two major problems. One, cited by hard-pressed police departments, is manpower. In ICMA's survey of police departments, the main concern expressed about further assignment of police to schools seemed to be "lack of personnel." "Should a trained police officer be giving lectures to students?" asks a police official. Says Furstenberg, "I don't worry much about efficiency. We must remember this is our only opportunity for positive police contacts among students." But such contacts are not necessarily positive—as my own experience proved. Like so many other such programs, if the effort is not carried out carefully and sensitively, the impact can be marginal, or even negative. However, IACP's Bjorn Pedersen, who is assisting several model cities in developing police-school liaison programs, believes that many cities are now attracting sufficient "exceptional policemen" for such programs.

A second limitation has to do with the desirability of constant exposure to the police. The southern Arizona chapter of the American Civil Liberties Union unsuccessfully attacked Tucson's program as an "unnecessary extension of police authority." Mark Keane, city manager of Tucson when it adopted its police liaison program and now ICMA's executive director, says such criticism prodded the development of "precise guidelines" that "reduced fear of police abuse." The controversy still simmers, however, according to a recent article in School Management magazine, which quoted a Tucson psychologist's succinct summation of a deep strain in American views about police: "The basic thought (about) a policeman is that he is out on the street. If you need him, you go out and get him. If you have been bad, he comes after you. But he doesn't live with you."

Such ideas are hard to hold onto in these difficult days. As a thoughtful member of the parent board of my son's junior high school said when I told her of the incident concerning the boy and the police officer: "I know how you feel, but it is very hard to say. You can have one feeling in your living room—but if it is your child who is jumped on by a gang in the school yard, or if it is your child's new coat that is stolen, then your feelings change, and you want not one, but two policemen around."

I found no easy answers. Police and schools are interacting increasingly, but all too often, in a no-man's-land where effective relationships have not been thought through. As these two powerful and heavily strained institutions come together in new ways, they must work out public policies that ensure staff and pupil security in an atmosphere that teaches—by example—the rules, procedures, and laws underpinning our society.

Police in the Schools: Politics in Philadelphia

(By Lenora Berson)

On November 17, 1967, several thousand black public school students from all parts of the city of Philadelphia converged on the school administration building. Their purpose was to petition the authorities for black studies, more black teachers, and the right to wear Afro garb. The demonstration had been openly planned for weeks. Board of education members and superintendent of schools Mark Shedd had developed a plan to handle the student protest. They decided to meet with the black student leaders, to formally accept their petition, and publicly promise to consider it.

While the black students were inside the white limestone school complex, the crowd of 4,000 teenagers became restive. A few jumped on top of cars to lead songs. Police commissioner Frank L. Rizzo, who had been warily circling the demonstration, took this as a signal for action and shouted, "Get their asses!"

Several hundred policemen who had been stationed in ammunition-loaded buses on the edge of the crowd charged. A small riot ensued. The wounded were black students, a black school administrator, and a dozen white pedestrians several blocks away who had been hit in misplaced retaliation by the angry young blacks.

School board president Richardson Dilworth, a former mayor and a leading figure in legal as well as social circles, denounced the police action and Rizzo, now Philadelphia's mayor. School superintendent Shedd joined in this denunciation.

In retaliation against the criticism, Rizzo demanded the right to station officers *at his own discretion* within the schools.

Richardson Dilworth, on a CBS-TV documentary aired on December 23, 1971, recalled the circumstances under which the demand was made: "Toward the end of the (school board) meeting, the commissioner very ostentatiously threw a number of files on the table and said, 'I've got enough on every one of you,' pointing to us, 'to run you out of the city.'"

Mark Shedd supported Dilworth's charge. "Rizzo made it clear he was keeping a close surveillance on the board and the (school) administration and that he had sufficient information on every one of the board members and members of the administration, on our personal lives, that could be incriminating."

Shedd went on to quote Rizzo as saying: "Everybody in the room ought to be very glad they had a police commissioner who was a person who wouldn't use such information for his personal advantage, that Philadelphia had a police commissioner who is a responsible kind of person. He indicated that if everybody behaved themselves the information wouldn't be used."

Despite the threat, which Rizzo now denies making, the board rejected the commissioner's demand for complete autonomy over police in the schools.

Television and other media continue to graphically point out that what is freedom to men in one country at a particular time in history may not necessarily mean freedom to men in a different setting.

Like most citizens of the United States, I am able to take freedom from want, hunger, and fear for granted. As an American, I consider freedom of speech, press, religion, assembly, and all the other freedoms contained in the Bill of Rights, to be of the highest priority. However, I am also very much aware of the fact that to over half the people in the world today, freedom from hunger, want, and fear is of far greater relevance.

Even in our own country, black people have never known the freedoms enjoyed by their white neighbors. I can understand the frustration of struggling to obtain the freedoms which have been guaranteed but not extended to the black. In a speech delivered at Gettysburg during the centennial celebration of Lincoln's immortal address, Vice-President Lyndon Johnson touched upon this subject.

He said:

"To ask patience from the Negro is to ask him to give more of what he has already given enough. But to fail to ask of him, and of all Americans, perseverance within the process of a free and responsible society, would be to fail to ask what the national interest requires of all its citizens."

Recently, I have become aware of the passing of one of my freedoms—the freedom of childhood. At this time next year, the freedoms which I enjoy and which other people have been safeguarding for me will become part of my responsibility, too. It will be my duty to be an informed voter, an involved citizen of my community, and an industrious member of our society. These are basics of good citizenship which will be both necessary and rewarding to me.

Beyond this, however, I would hope that I could contribute to improving the quality of our freedoms for future generations. For too long, Americans have been satisfied with the blight of mediocrity and impoverished imaginations. We have confused status with standards.

Commercialism invades every facet of our lives, often in degrading and demoralizing ways. Our educational system has been allowed to drift too far into an intellectual abyss. Rather than sharing the best of our world with the least fortunate, we have allowed the best of our culture to become diluted, thus lowering the expectations of everyone.

Maybe by doing my best within the context of my life, by working to achieve harmony and understanding with other people, and by promoting the quality of excellence in our national life, I can be a positive force toward a better America.

As each generation comes of age, the cause of freedom has a special need.

In the words of John Gardner, author of "The Recovery of Confidence,"

"If we want a society built around the creative possibilities of the self-directing individual, then we have tasks to perform. Each of us has tasks to perform. Each of us is that self-directing individual. This free society begins with us. It mustn't end with us."

MY RESPONSIBILITY TO FREEDOM

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. KEITH. Mr. Speaker, this year's winner from the State of Massachusetts in the Veterans of Foreign Wars Voice of Democracy Contest was Miss Betsy Jean Bouchard of Kingston in my congressional district.

Built around the national contest theme, "My Responsibility to Freedom," Betsy's speech has an important and refreshing message for us all. I recommend its reading to my colleagues:

My Responsibility to Freedom

"My country 'tis of thee, Sweet land of liberty, Of thee I sing; Land where my fathers died, Land of the pilgrims' pride, From ev'ry mountain side Let Freedom ring."

I saluted my country as a child in grade school; proud to be able to sing those words. That was my introduction to the use of the word "freedom." What did freedom mean to me at that age? It was just another word, another pretty song. As I grew older and my interests broadened, so did my concept of freedom.

SHELVING CAPITAL PUNISHMENT

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. EDMONDSON. Mr. Speaker, I would like to share with you an editorial appearing in the March 12, 1972, edition of the Sunday Oklahoman regarding the abolishment of capital punishment. I believe this editorial contains some very interesting and challenging observations, particularly since the problem of violent crime is a harsh reality in our lives today.

I call your attention to the contention in this editorial that the public has not rejected capital punishment in view of the fact juries continue to prescribe it in spite of legal obstacles placed in the way of its implementation. Further, that crimes of premeditated violence continue widespread throughout the Nation, and undoubtedly repeaters, who are responsible for a great percentage of our crimes, have not failed to note the complete absence of legal executions anywhere in the country for more than 4½ years.

Another valid point is the grim situation facing prison personnel who must work daily with lifers" with no hope of parole. Can these men fail to wonder what they have to lose by committing further violence if the threat of capital punishment is removed?

Mr. Speaker, at a time when we need great wisdom in finding ways to bring about law and order in our Nation, I think we should consider the alternatives if capital punishment is eliminated as part of our judicial system.

I hope everyone who receives the CONGRESSIONAL RECORD will give careful consideration to the following editorial:

Shelving Capital Punishment

Interminable legal challenges and procedural nitpicking by the courts have brought capital punishment to a standstill throughout the nation.

It has fallen into disuse simply because the courts have made it impossible to carry out, and not because the people have rejected it. Public support of it is apparent in the fact that juries continue to prescribe it even as waiting lists of the condemned lengthen.

No convicted killer has gone to an electric chair, gas chamber or gallows anywhere in the country for four and a half years, but about 100 defendants still are being sentenced to death every year. The number awaiting execution now is about 680, including 15 in Oklahoma's death row at McAlster.

If the death penalty has become "unacceptable to society," as its opponents like to contend, its presumed rejection certainly isn't reflected in the findings of juries in capital cases.

Having placed insurmountable legal technicalities in the way of swift and certain capital punishment, its opponents then argue that it is "cruel" because of the lengthening wait between sentencing and execution. In ruling it in conflict with the California constitution's ban against "cruel or unusual punishment," the California Supreme Court said a death sentence was in fact the "lingering death" that most courts had agreed would be unconstitutional.

The California court said among other things that the state could not prove the deterrent effect of capital punishment. Proof of deterrence is difficult, particularly in unpremeditated killings—the spur-of-the-moment so-called crimes of passion. But a strong presumption of lost deterrence must be drawn from the proliferating crimes of premeditated violence now sweeping the nation.

The death penalty can't deter if the courts won't permit it to be carried out. The total absence of legal executions for more than four years hasn't escaped the notice of the

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criminal "repeaters" who are responsible for most of the nation's crimes.

To a convict serving a life sentence without hope of parole, the action of the California Supreme Court amounts to a license to kill penitentiary guards and other custodial employees. Such a convict would have nothing to lose. The grim implications won't be lost on prison personnel everywhere. If the ruling stands, its predictable effect will be to complicate enormously the staffing problems of California penal institutions.

Similar prison staffing problems will occur nationwide if the U.S. Supreme Court follows the California example and determines that the death penalty is in conflict with the federal Eighth Amendment's ban on "cruel and unusual punishments."

Another nationwide effect visible already in California will be the release on bond of persons charged with but not yet convicted of murder, since non-capital offenses ordinarily are bailable.

Even if the U.S. Supreme court decides the death penalty is not "cruel and unusual," its execution still will be tied up by an earlier ruling that it isn't proper in a murder case for the prosecution to challenge prospective jurors having conscientious or religious scruples against its infliction.

The death penalty isn't being carried out any longer, not because it has become "unacceptable to society" but because an incessant and organized campaign of litigation has kept the opposition to it always before the courts.

POVERTY BACKGROUND FOR OEO HEAD

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SHRIVER. Mr. Speaker, those of us who have had the opportunity of working with Phillip V. Sanchez, Director of the Office of Economic Opportunity, have been highly impressed by his deep commitment to making a success of OEO and really doing something for people.

I have found him to be an effective administrator who is concerned about cutting the redtape of bureaucracy as much as possible in order to get a job done.

The Kansas City Star recently published a feature on the job Mr. Sanchez is doing which is worthy of the attention of Members of Congress. Under the leave to extend my remarks in the RECORD, I include the article, which was written by Nick Thimmesch of Newsday, Inc.:

POVERTY BACKGROUND FOR OEO HEAD

(By Nick Thimmesch)

WASHINGTON.—My, oh my, the Office of Economic Opportunity, from which federal antipoverty efforts spring, is finally being run by a man with authentically poor origins. Sargent Shriver, Donald Rumsfeld and Frank Carlucci—former OEO directors—never knew hunger, want or discrimination, but Phillip Victor Sanchez, 41, the recently installed new boss of the "poorhouse" did.

As a scrawny 6-year-old, Sanchez joined his Mexican migrant family in California's Salinas Valley, picking fruit and cotton. In those depression days, his English was poor, and the opportunities limited. He soon acquired another handicap when his father abandoned his wife and the family of six children.

Sanchez didn't go on to make a million, American style. He chose a civic and government career, a hero to the Jaycees. At age 32 (1962) he was named Fresno County administrator, thus California's youngest county executive. He proved his stuff over the years, and the Nixon administration recruited him in 1971, making him director last fall. Now Sanchez, whose appearance is distinctly Mexican, finds himself where every OEO director before him has been—in controversy.

OEO directors have always heard charges that: The agency is underfunded and administered to oblivion; the poor aren't properly represented; and the legal aid program interferes with the rights of local government. Now the new directions of OEO, initiated by the Nixon administration, bring new charges that the agency is reckless and is systematically being dismembered.

"We've quit the nickel-and-dime approach," Sanchez says. "We're using research and development to get to the root causes of poverty in jobs, education, housing and income. We conducted a project to find out if performance contracting with schools would improve children's math and reading skills. We learned they don't, and maybe we saved school districts all over the country millions. We're trying education voucher experiments, and higher education programs for prison inmates.

"We did another with income maintenance and learned that families getting this assistance showed no decline in earnings. We would also like to blend children of working-class families with poor children into child development programs, charging the near-poor small fees."

The 984 Community Action agencies (down from 1,200 in the L.B.J. years) now hear "sophisticated advocacy" instead of "burn, baby, burn rhetoric," Sanchez says. "I wish the bureaucracy and members of Congress, who formed their impression of these agencies on the turmoil of a few years ago, would get off their duffs and visit us now. They'd learn the approach is more productive."

Sanchez talks warmly of a demonstration project in Jackson, Miss., where white architects and local bankers helped establish an OEO medical service center for poor blacks in a local school; and of a strawberry farm co-operative in Watsonville, Calif., established with a $500,000 OEO assistance grant and run by "migrant farmers with many kiddies."

He's also happy that for the first time a majority of OEO's 10 regional directors are minority people (three blacks and three Spanish-speaking).

The Nixon administration has spun off several major OEO programs, including Head Start, VISTA, manpower development and training and health services, to other government departments. But the administration's 1973 OEO budget request of $758 million is up $54 million from the 1972 appropriation by Congress of $704 million. The President also asked for an extra $34 million for HEW to pick up OEO's health programs.

OEO's funding level has not been significantly changed by the Nixon administration but it has shifted money to research and development. It also wants to make the legal services program a separate, independent corporation like Public Service Broadcast.

Sanchez says he's in accord with all of these. A lifelong Democrat, he converted to Republicanism in 1969, he says, because "Democrats took people with my kind of name for granted, and I've seen this administration do more for my people than what was done before."

"What brought me here," he says smilingly, "was not my distinguished record of writing campaign contribution checks or waving political banners. I burned my bridges to come here, and gave up a good job and a pleasant life in Fresno. I didn't come to Washington to be the pallbearer for OEO's funeral as some charge."

TRAVEL GROUP CHARTER PROPOSALS

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. MILLER of California. Mr. Speaker, I am very much concerned with the future and continued service of nonscheduled airlines, because of their great importance to this country's air transportation. I believe that eventually the nonscheduled airlines will be called upon to carry a larger volume of cargo and passengers.

In support of this belief, I include in the RECORD a press release issued by the National Air Carrier Association, Inc., in connection with the statement by their president, Edward J. Driscoll, in response to comments filed by the scheduled carriers in opposition to the Civil Aeronautics Board's travel group charter proposals:

"UNREASONED FEAR OF COMPETITION" BEHIND ATTACK ON CAB PROPOSAL—JUSTICE AND TRANSPORTATION DEPARTMENTS BACK LIBERALIZED CHARTER RULES

WASHINGTON, D.C.—March 15.—Scheduled airlines' objections to liberalized charter rules are based on an "unreasoned fear of competition," the nation's leading supplemental (charter) airlines told the Civil Aeronautics Board today.

National Air Carrier Association president Edward J. Driscoll made the statement in a reply to comments filed by the scheduled carriers in opposition to the CAB's Travel Group Charter proposals.

Claims that the new rules will bring about the eventual demise of scheduled air transport, reflect, said Driscoll "an unreasoned fear of competition and of any change in the status quo."

"They reveal an undue readiness to blame others—in this instance, the supplementals and the Board—for economic problems substantially of their own making.

"And they imply an obligation on the part of the Board—which simply does not exist—to make scheduled services profitable at whatever capacity or frequency levels the carriers choose to operate, without regard to the needs of the public for low cost bulk air transportation."

Mr. Driscoll pointed out that the Departments of Justice and Transportation had both commented favorably on the Board's proposal and had, in fact, suggested further liberalization—particularly in regard to the proposed six-month advance purchase requirement.

The Department of Justice statement said "there is in fact no persuasive evidence that expanding the availability of charters would substantially impair the operations of either the scheduled or supplemental air carriers."

Similarly, Mr. Driscoll said, more than 40 consumer groups, student organizations, colleges, unions, cooperatives, senior citizens and farmers' organizations have filed comments "supporting the travel group charter proposal, and in many cases urging the relaxation of restrictions."

Mr. Driscoll said that the scheduled carriers' claims of diversion "ignore the fact that the growth of scheduled passenger traffic in the transatlantic market—the only market in which charter services are a significant factor—has been sizable and consistent during the entire period of development of large-scale charter traffic."

During the past decade, he said, U.S. flag carriers have experienced a 17 percent annual growth rate—compared with 14 percent for IATA carriers as a group.

They also ignored the role played by their own "managerial misjudgments," he said. "In recent periods, both the U.S. transatlantic carriers and the IATA carriers as a group have increased available seats in transatlantic scheduled services more rapidly than the growth in traffic warranted."

NEEDS OF THE MENTALLY ILL CHILD IN THE DISTRICT OF COLUMBIA

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. McKINNEY. Mr. Speaker, on March 14, members of the District of Columbia Mental Health Association appeared before the House District Committee to discuss the needs and accomplishments of the association. Mrs. Sandra Bergman, a member of the Ad Hoc Committee on Childhood Mental Illness, presented an excellent statement which I am submitting at this time for the benefit of my colleagues who were not able to hear Mrs. Bergman.

The needs of the people of the District of Columbia are no different than the needs of people in every city and town in the Nation. More services and more money must be appropriated soon if we are to save the hundreds of thousands of citizens who are suffering from some form of mental illness. As Mrs. Bergman so ably points out, any expenditures we now make will save us many times that amount in future expenditures.

The testimony follows:

[Testimony before the Committee on the District of Columbia, March 14, 1972]

NEEDS OF THE MENTALLY ILL CHILD IN THE DISTRICT OF COLUMBIA

(By Sandra Bergman)

The D. C. Mental Health Association would like you, Mr. Chairman, and the members of your Committee, to know how deeply appreciative we are that you have given us this opportunity to talk to you about the plight of the mentally ill child in the District of Columbia.

Although we, as a chapter of the National Association for Mental Health, speak for all the mentally ill, not only children, we feel it is imperative that we give priority to the problems of children and adolescents in the District of Columbia, because that is where the need is the most acute; that is where the hope for change is the greatest.

In 1970 the National Association for Mental Health and its forty-seven Divisions throughout the nation with a membership of hundreds of thousands, focused on "Children in Crisis"—the problems of the mentally ill child in America. Our mental health association, fulfilling its commitment as the voice of the consumer-citizen, as the advocate for those persons who are already seriously ill and those who might be prevented from becoming seriously ill with preventative measures, has pursued the critical needs of children in this city, with few results.

At this point, I want to make it very clear that we do not speak for the Mental Health Administration or for any other part of the District government. Though our members sit on advisory task forces in a consultant capacity to the Mental Health Administration, we are in no way beholden to the city government. We speak only for the citizens of the District; especially for those in need of mental health help.

More specifically we speak for some four thousand members, and a 40-member Board of Directors that represents the entire metropolitan area. Our Board represents all ethnic groups, the socio-economic spectrum, the laymen and the professional. We have businessmen, inner city parents, doctors, social workers, teachers, and lawyers on our Board. We also have a Professional Advisory Board made up of the most outstanding members of the mental health profession in the city.

Yet we have been able to accomplish little in the way of meeting the needs of our children.

We have given benefit balls, appeared on television program after television program, held public forums, testified before the City Council and the Board of Education. I am sorry to tell you that most of our energy and good intentions have basically come to naught. Without your help we can have more benefits, more TV appearances, more workshops, seminars and lectures, and still not have the money or access to reach or help a fraction of the children needing help.

THE NEED

Thirty thousand children who need help from mental health workers live here in D. C.—and this is said to be an extremely conservative estimate by demographers at the National Institute of Mental Health and by the D. C. Mental Health Administration.[1]

How do we know that there are 30,000 children emotionally ill? We don't! We don't have their names and addresses. Nobody has really cared enough to find out. We have bits and scraps of information upon which we base these estimates.

The Mental Health Administration has come up with the figure of 30,000 by applying to the District of Columbia national percentages from the Joint Commission Report on the Mental Health of Children, published in 1969. This Report was commissioned by an Act of Congress. I refer you to Appendix A for a breakdown of the 30,000 figure.

Another way used by the Mental Health Administration to estimate the number of children seriously emotionally disturbed is to calculate the number of children receiving services from the Social Rehabilitation Administration. As of June 1971, the Children Services Division reported that 3,500 children were under care and supervision, and an additional 1,309 were at the Children's Center at Laurel. (These are court adjudicated children, those delinquent and declared beyond parental control.) This total of 4,809 does not include the children who are at Forest Haven, the institution for the mentally retarded children.

The Family Service Division caseload on June, 1971 included 52,911 children. Our Association was told that "one out of every four children (an estimate, again) is disturbed or maladjusted." So if we just total the number of children under the care of the Social Rehabilitation Administration we get an estimate of 13 to 14 thousand children with serious emotional problems. This does not include the thousands of children who have no connection with the Social Rehabilitation Administration.

DEFINITION OF EMOTIONALLY DISTURBED CHILD

In the interest of clarity I would like to differentiate between a child who is mentally retarded and a child who is emotionally disturbed. Mental retardation refers to subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior. Mental retardation does not preclude the development of normal personality and emotional functioning. The majority of children in our institutions for the retarded, excluding those with overwhelming retardation, are requiring such special care because of personality and adjustment disturbances which make it difficult for them to function in the community. Appropriate treatment and training would enable many of the children in our institutions such as Forest Haven to return to the much less costly established community programs.

Though we feel great compassion for mentally retarded children, our concern today is for the emotionally disturbed child.

An emotionally disturbed child is one who cannot cope with his life; his personality development has been interfered with or stopped by factors in his environment. He seems immature for his age and intellectual endowment, which is frequently quite high. He cannot interact in an acceptable way with his peers. Some have temper tantrums and crying fits; perhaps he bangs his head against the wall unceasingly; or he walks on all fours and barks like a dog; or he can only relate to a tree, not to his mother or teacher; or he withdraws inside himself and refuses to communicate with human beings; he cannot control his impulses, he cannot learn. And those who are most severely depressed, try to kill themselves. I will never forget a committee meeting early last spring at our office—a member of the Department of Education, took her seat wearily, and said: "I hate to see spring come, we have so many suicide attempts in the schools each spring."

When we speak of mentally ill children, there is a vast range of severity in describing their condition and their needs. One thing is certain: when a child begins to develop problems, if that child is not helped then, he will only get worse. The sooner a child in trouble can be diagnosed and helped, the greater the chance that his illness will not become severe.

I would like to tell you about the calls for help we receive in our office, calls which leave us depressed and frustrated because the appropriate facilities and services simply do not exist in D.C.

The wife of a United States Congressman, an Urban Service Corps public school volunteer, called asking us to recommend a residential facility for a seriously disturbed 14 year old girl who talks and talks, walks around the streets looking for her mother who deserted her, or shuts herself up in closets. She will not stay in a classroom. She has no money.

A private psychiatrist tells us she is keeping four disturbed children in her home along with her own children rather than let them go to an inappropriate institution or back to their own homes which have been the primary cause of their illness.

The Social Worker at the Hospital for Sick Children reports that a 12 year old boy with an I.Q. of 130 was sent to their institution from Junior Village in a catatonic state after 13 previous moves around different foster homes. He was an asthmatic, so the hospital, which is not a psychiatric facility, could take him in. He made a phenomenal adjustment and was placed in another foster home from which he was rejected in two days. When he was returned to the hospital, he threatened suicide. He was finally sent back to Junior Village and kept under lock and key.

At this same hospital they have a boy who is a cyclical vomiter. He saw his father burn his mother to death.

We had a school counsellor call asking for

[1] By applying to the District of Columbia national percentages from the Joint Commission Report on the Mental Health of Children, we can estimate that 1,770 D. C. children are probably psychotic; 5,900 to 8,850 children are severely disturbed, and between 23,600 and 30,000 are in need of help with some emotional problem.

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help. She had a bright but uncontrollable 6th grade girl who brings a pocket knife to school and threatens the other children. Did we know of any residential facility this girl could be placed in?

Two of our Board Members witnessed a 13 year old girl screaming and banging the walls of the detention room at Juvenile Court for 45 minutes. At five p.m. when the Judge returned from hearing cases they asked him what was wrong with the girl. He replied that she was "obviously psychotic." They asked him what would happen to her that night. He said she would be returned to the Receiving Home and, if there was anyone there to do so, someone would give her a tranquilizer.

We hear of hundreds of cases like these each year. And there is nothing we can recommend because there is no place for these children in Washington.

At the conclusion of this statement, Mr. Chairman, I would like to introduce to you for an informal conversation, three citizens who will tell you about their frustrations in trying to help emotionally ill children in this city: the mother of a disturbed child, a child psychiatrist in private practice, and the Director of the Information Center for Handicapped Children.

WHAT IS AVAILABLE FOR THESE CHILDREN?

I would now like to turn your attention to the facilities and services the Mental Health Administration and the private sector provide for these 30,000 children.

Our Association conducted a survey in 1970 to determine what was available both in the public and private sector to help these children. A copy is attached.

There are no public residential treatment centers for seriously ill children. There are less than 60 beds in the entire public sector for children, which includes St. Elizabeths. There are seven private facilities—among the finest in the country—capable of treating three hundred children at a cost of from $11,000 to $26,000 per child, per year. These seven private institutions, in addition to being beyond the means of all but the affluent families, have long waiting lists.

The Mental Health Administration has two day care centers caring for 44 children and two therapeutic nurseries caring for 17 children. Yet we have thousands of small children—under six—who are seriously emotionally disturbed, and require special care.

What does all this add up to—in terms of the vast numbers of children needing help? Not very much at all, as you can see.

In fact, we send 505 children at a cost of $1,300,000 per year on tuition grants to residential treatment centers—some as far away as Texas—because there are not enough appropriate facilities here. There is a waiting list of 398 children for these tuition grants.

It is the opinion of our Association that the highest priority need for children is the creation of a system of four comprehensive care centers, located in the four health areas of the city, A, B, C, D. Each of these centers would care for 100 patients on a daily basis, with residential facilities for twenty out of the 100 children.

"Residential treatment" is essentially a therapeutic mileu designed to provide corrective life experiences to counteract the damaging and painful experiences which led to the child's emotional disturbance. Residential treatment provides a variety of programs that include various forms of therapy (individual and group), education, nursing care, and the other kinds of adult supervision required for 24-hour living. The basic elements in treatment are "people, things and cultural patterns" within a consistent, planned and controlled environment.

This requires a staff of skilled personnel, trained and experienced in working with children, and able to collaborate in a complex and highly varied program. Such a program also requires close collaboration with people in the child's natural environment, such as parents, other family members and teachers. It should often include supportive therapy with the family. It also requires out-patient facilities for use as the child moves toward community living.

These residential facilities are necessary for youngsters with severe emotional disorders and mental illness. The severity of their disorders presents extremely complex problems: those of deep emotional hunger, extreme over-activity, withdrawal from the outer world, extremely high levels of aggression, violent uncontrolled behavior, bizarre and incomprehensible reaction patterns. A wide range of services are essential for the full care of such children. These children need more than individual treatment; they need an all-embracing care which is therapeutic in nature and which includes attention to their total development. For instance, they need individualized, highly skilled attention to their educational and recreational needs; and their daily routine needs to be handled with psychological skill.

Obviously, such treatment is expensive. In our local private institutions the cost ranges from $11,000 to $26,000 per child; in the state of Massachusetts where by law all children have been deinstitutionalized (those in correctional facilities, institutions for mentally retarded, etc.) and placed in small residential treatment facilities, the cost per child is estimated at $7,000 per year. The cost of providing residential treatment services at the Episcopal Church Home for Children in York, South Carolina is $9,115.50 per child, per year. The Executive Director of the Episcopal Church Home for Children, Mr. H. S. Howie, Jr. has stated that "without residential treatment services these children would have to spend their adult lives in state institutions." South Carolina's state Senator Waddell has estimated the cost of keeping a child in a state institution for his life expectancy at $1 million dollars for six children. To the cost of keeping a child institutionalized, we must add the other side of the picture . . . the 40 year work expectancy as a productive human being, the loss in state and federal income tax dollars.

But even more important than all of this . . . how can we measure the cost of the salvaging of a human personality?

Publications from the National Institute of Mental Health state that the average cost, nationwide in 1969 for residential treatment was $9,855 per child.

The D.C. Mental Health Association urgently requests that this Committee act favorably on legislation creating a system of "comprehensive care residential treatment centers." These centers, one for each geographic area of the city, should be kept small and as homelike as possible.

The Congress has already provided funds for constructing two such centers and $600,000 for operating costs, insufficient to run even one of them based on the program budget and staffing plan designed by Dr. Essex Noel, Director of the Mental Health Administration.

What we are requesting you to do today is to authorize the creation and operation of four centers or two more than are currently contemplated. The additional capital cost we estimate at 1.5 million dollars, the yearly operating cost would be approximately 4 million.

These figures are high, the benefits incredibly higher. We would all agree that it is impossible to place a price tag on the saving of a human life. But we also are aware that Congress understandably wants to know what they are buying with every public dollar. Accordingly, if we assume—and this is conservative—that these centers will treat 400 children each every year and that perhaps half of them will, because of the treatment, not have to undergo institutionalization, then, applying Senator Waddell's figures for the life-long lock-up, we will be saving $135 million for this annual expenditure of 4 million on the four centers. Would any of you hesitate to invest your money, let alone the public's in such a proposition?

SPECIAL EDUCATION

As you can see the creation of a system of residential treatment facilities is costly, yet so urgent for the severely ill child. It makes sense, it seems to us, to develop programs that will prevent thousands of children from ever needing residential care. The best way to do this is to improve the Department of Special Education of the D.C. Public Schools.

When we address ourselves to the problems within the Department of Special Education we become the advocate of all children, not just the mentally ill. Children who suffer from any physical handicap—bad vision, bad hearing, dyslexia, slight mental retardation—are particularly vulnerable to becoming emotionally disturbed. So we have a two pronged interest in the Department of Special Education. We are interested in seeing that the child who suffers from serious emotional disturbance is not denied his right to a free public education. Secondly, we are concerned with helping these already "exceptional" children (the ones who are blind, deaf, retarded, suffering from muscular or neuromuscular handicaps) from becoming emotionally disturbed.

The history of special education in D.C. has been one of late development, uneven growth, and constant pressure to do more with limited resources. Thus, quality of programming has suffered. Children now in special education programs are inadequately served because sufficient funds have not been made available.

When the regular classroom teacher believes that the child is not functioning well in the classroom, she refers the child for testing to the Department of Pupil Personnel. After a long wait, the child is finally tested. Then begins the really long wait. Some parents have reported to us that they have waited as long as three years after the child was tested and diagnosed as needing special education, before the child was finally placed in a special education class. In the meantime, the child was disrupting the classroom, making it impossible for the other children to learn. He was not learning at his potential level himself, due to his handicap. Chances are very good that at times his frustration level was overwhelmed and he acted in an aggressive and threatening manner toward his classmates and teacher. If his behavior was bad enough, he was dismissed from the school, and probably roamed the streets until his parents realized he was out of school. In fact, recommendations for special education placement either in the District program or through tuition grants far exceed the present program capacity.

As of the week of September 27, 1971, 1,501 children who require special education services were on "the waiting list" and are not now receiving those services. Most are attending regular elementary school programs.

The Department of Education has no data available on the adolescents or for those children and youth who are not now enrolled in a D.C. public school. The above figure of 1,501 on the waiting list represents only those children attending elementary schools who have actually been identified and diagnosed as needing special education classes. To service these children, a special allocation of $3.5 million dollars is needed immediately.

But that would be just the beginning.

According to the U.S. Office of Education, the Bureau for Education of the Handicapped there are an estimated 18,296 children currently living in D.C. who require special education services. We can only identify 6,264 of them by name; the others are still waiting to be noticed and tested.

To provide special education classes for the children in Washington who need these services would cost $41,566,260 per year. The FY 1972 Budget Request is for $6.995 million. To provide for minimal needs for only those children already identified would cost $10.563 million.

We believe that it is the right of every child in America to receive a free public education that meets his needs. Thousands of children in Washington are being denied this basic right. And their classmates are suffering also, because with so much disruption in the classroom, everyone loses.

For these reasons we believe it is mandatory at this time that Congress enact legislation to assure that funds are appropriated to meet the needs of emotionally disturbed children, and all children who are "exceptional," including the gifted children in our midst. The legislation should be both comprehensive and specifically enforceable. The Statutes of the District now merely provide that specialized instruction for the mentally disturbed child shall be furnished "if such instruction is available." There are no provisions for identification and placement of the child, financing or enforcement.

There is ample precedent for comprehensive legislation. The statutes of all of the states provide for special education of the disturbed child. They vary dramatically in scope and approach—thus approximately one-half of the states require mandatory special education while the other half adopt a voluntary approach. At their best, the state statutes represent an enforceable commitment to the emotionally disturbed child; at their worst, as in the District of Columbia, they are so vague as to be illusory.

We recognize that laws, of themselves, do not effect an instant cure. Thus 30 states during the 1968–1969 school year were serving less than 11% of their emotionally disturbed children. However, legislation evidences a written public policy to recognize, confront and deal with a social ill. Therefore, we support, and hope that your Committee will support when presented to it, legislation for the District of Columbia which:

Requires mandatory education for the exceptional child.

Establishes procedure for identification and placement of the child, and ensures due process for the child and family.

Designates the agency responsible for supervising the program and identifies the program facilities.

Establishes standards for teacher qualification and administrative staff.

Sets forth specific requirements for matters such as continuing evaluation, transportation of children, teacher-child ratios.

Provides for funding and enforcement mechanisms, to guarantee that these funds may only be used for special education and not merged into or diverted to other needs.

I would like to point out, Mr. Chairman, that your own state of South Carolina has enacted legislation creating residential treatment facilities for children; your state also has a statute calling for special education for handicapped children.

Again our cost analysis more than justifies our request. For $3.5 million we can handle an additional 1,500 children. If even 25% of them would otherwise be forced out of the school system into institutions, we will save $64 million over their lifetime, a return of close to 20 to 1.

CHILDREN IN FOSTER HOMES

The third and last recommendation we wish to make today concerns small children placed in foster homes in Washington. There are all kinds of reasons why children must be placed in foster homes, and all the reasons are unhappy. Perhaps their parents are separated, mentally ill, in jail, or have recently died. Sometimes simple poverty is the reason why children must be removed temporarily from their natural parents. There are over 500 children between birth and five years of age currently living in foster homes in the Washington area. Some of these homes are terrific. Some are gloomy and dreary.

Even while the search for better foster homes and more skilled and compassionate foster parents goes on, it is imperative that the D.C. government take measures supportive of foster parenthood, and these very high risk children. I say "High-risk" advisedly. A very large percentage of children who have lived in foster homes during the early years of their lives become mentally ill. It is incumbent on us to take preventive measures to protect these children.

The D. C. Mental Health Association embarked on a project five years ago to establish a model of a therapeutic nursery school for children in foster homes. After much careful planning by our most skilled professionals, we opened the "Child Learning Center" at Catholic University of America, in September, 1971. The pilot project, unique in the United States, was funded entirely by money we raised with our annual Bal du Futur.

The Center includes substantive learning of the Head Start type. But more importantly, it's purpose is preventive and therapeutic. The foster mothers assist the teachers, just as mothers in the neighborhood nursery schools do. But here the purpose is for the foster mother to learn specific child rearing techniques. Also, if problems develop, the teachers and social workers are trained to recognize them immediately and intercede to help the child. Weekly parents meetings are held so parents can explore their problems and discuss ways in which they might be more helpful to their children. This nursery school situation works to build the child's self esteem, strengthen the foster mother's understanding of what is going on inside the child, and give her an outlet for problems with her child.

We have built into this Child Learning Center some minimal evaluation techniques, and we hope to assess how this approach has benefited each child this coming June. Our research results will be general and individual.

It is our firm belief that an early childhood education system, perhaps based on the model we have developed, must be designed to meet the needs of children in foster homes, and be made available as soon as possible to these five hundred children in D.C.

Placing these children in foster homes, rather than a large institution, is both healthier for the children and less expensive to the city. We believe that the money saved by placing them in foster homes should be used to provide supportive services to these high-risk children; we believe this early childhood education system is a must for these children.

At Catholic University we are spending $2,000 per child per year. We believe it could be done less expensively by including more children in each nursery school. (We have only ten children in our Center because the physical facility is very small.) We would estimate that this type of model could be duplicated by the city at a cost of approximately $1,500 to $1,800 per child per year.

Our third request, Mr. Chairman, is that your committee act favorably on legislation creating an early childhood education system specifically geared to the needs of children in foster homes.

We are modestly seeking coverage of only 500 children at the outset, Mr. Chairman. Were one-fourth of them to have to go to St. Elizabeth's or jail, society would have to spend $20 million on them, not three-quarters of a million.

SUMMARY

In summary then, the three requests we make of this Committee today are that it act favorably upon legislation affecting these 30,000 or more children.

We ask you to authorize

I. The creation of a system of four "comprehensive care residential centers" for children and adolescents, to be placed in the four health sections of the city.

II. Enact a mandatory special education law.

III. Create a system of early childhood education facilities, including children in foster homes.

If we go home today, having failed to move this committee to action, then we or some other citizen group will come back in a year or two to repeat this request. Meanwhile, the cost of providing services for those needing special attention will easily be twice the substantiated figures or guesstimates we have unfolded to you today.

The cost to society will be horrendous: wasted lives, wasted human potential. There will be more children on drugs, committing crimes, dropping out of school. Continued neglect of these children can only mean continuation of crime, violence, disrupted classrooms, and innumerable unfulfilled and unproductive lives.

We think alternatives are clear: residential treatment services and more drop-outs, more robberies, more assaults, more Lortons, more St. E's, more wasted lives.

I know this kind of testimony is depressing, but so is reading our daily newspapers. We are past the urgent stage. We must provide treatment for these children who are, by anyone's definition, mentally ill. If we are ever to make a dent in the adult mentally ill population, we must begin by treating the problems of our children. We cannot continue to allow children to be sent to correctional institutions, when what they really need is psychiatric treatment.

I know that you recognize that the children of today represent our nation's future, our most precious national resource. In Washington, this morning, many children are out of school because they are emotionally ill and yet they go untreated. Hundreds more are finding their way to detention facilities at Laurel, or to Juvenile Court—something which could have been prevented if services had been readily available a few years ago.

The need is obvious. Our child-care professionals know how to help these troubled children; we know how to rehabilitate them. What we need from this committee is the committee to fill the glaring gaps in service which spell disaster for so many of our children.

COST ANALYSIS

Our request	Additional cost annually	Number of children served	Projected savings over institutionalization (millions)
I. 4 residential treatment centers.	$4,000,000	1,600	$135
II. Special Education...	3,500,000	1,500	64
III. Early childhood intervention.....	750,000	500	20
Total costs.....	8,250,000	3,600	219

BYELORUSSIAN INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. ADDABBO. Mr. Speaker, as Members of the House of Representa-

tives join in commemorating Byelorussian Independence Day this year, we should keep in mind the significance of these tributes at a time when our President is preparing for his forthcoming trip to the Soviet Union. The oppression of the people in captive nations and the colonized nations under Soviet control has not ceased with the passing of time, nor have the hopes of those people for freedom ceased to exist.

I want to join with my colleagues in remembering the proclamation of national independence by the Byelorussian people 54 years ago on March 25, 1918. The invasion by the Soviet troops shortly after that independence proclamation has not wiped out the memory of freedom for the people not governed by the Byelorussian Soviet Socialist Republic. The story of the courageous people of that nation has been told in this Chamber before and each year it is retold during the ceremonies marking the Independence Day.

As the President prepares his agenda for the Soviet Union trip, I wish him success in efforts to lessen world tensions and I urge him to keep in mind the people who have not known the fruits of true freedom or liberty, because of the policies of the Soviet Government. The thoughts of the Byelorussian people and their history will protect us in negotiating the agreements which will alter the future course of world history.

HELP FOR WILDLIFE

HON. KENNETH J. GRAY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. GRAY. Mr. Speaker, at a time when threats to our wildlife are said to be increasing, the protection and development of good wildlife areas through sound soil and water conservation measures is vital. Among those working to improve wildlife habitat areas, the farmer is a major figure.

In my own State of Illinois, where more than 90 percent of the land is privately owned, wild creatures are dependent almost entirely upon rural landowners to provide them with food, cover, and nesting areas. Farmers furnish animals and birds with much of their food through grain left in the fields, through special plants in areas set aside for wildlife and through cultural practices such as stripcropping, which provide a more favorable habitat for wild creatures. Illinois farmers, who build about 1,200 small pounds each year, and who plant many miles of trees, shrubs, and hedge rows, also provide wildlife with shelter and more abundant water supplies.

An excellent example of this assistance is the Pilgram Wildlife Area, covering some 13,000 acres in Perry County, Ill. It was developed by 35 local landowners or operators, who were aided by the Soil Conservation Service, the Perry County Soil and Water Conservation District, and the Illinois Department of Conservation.

To improve their land for wildlife, these 35 farmers planted 15 miles of multiflora rose hedgerows, which serve as corridors to and from nearby croplands and provide protection from weather and predators. About 600 more acres are planted to native grasses, legumes and other food for wildlife, such as buckwheat, lespedezas, and millet. Farm ponds in the Pilgram Wildlife Areas provide about 50 acres of bass, bluegill, and catfish farming, as well as water and nesting places for wild animals and birds.

Many Illinois farmers are deeply involved in providing better habitat for wildlife. They should be commended by all of us who benefit from their work.

NEW YORK CITY PROGRAM AGAINST DRUGS IN HIGH SCHOOLS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. WOLFF. Mr. Speaker, we are all aware of the destruction and tragedy caused by drugs in our society. It is particularly distressing to see drugs fall into the hands of the youth of our Nation and to know that many of our high schools have become breeding grounds for drug addiction. The incidence of drug-related deaths among teenagers has risen sharply over the years and many of our high schools are gripped in fear over the infiltration of drug-pushers among the students. The need for a massive preventive and educational effort to combat the spread of drug abuse in our high schools is imperative. Schools can and are more than willing to initiate and take the major responsibility for this drive to keep drugs out of the hands of the young; and many schools have already demonstrated the effectiveness of the drug programs they have instituted. Yet in spite of this and the compelling need for these kinds of programs, the State of New York has announced that they are going to cut off funds now being used by many New York school officials trying to set up drug abuse programs. In an attempt to trim their budget, the State of New York would sacrifice the well-being of their young; this seems to me a ruefully misguided effort.

One very important New York City program, in fact the Nation's largest antidrug program geared toward students, which will effectively be killed by a cutoff of funds, is SPARK—school prevention of addiction through rehabilitation and knowledge. SPARK has nine-member intervention and prevention teams in 12 New York City high schools: Evander Childs, Monroe, and Taft in the Bronx; Boys, Eastern District, and Wingate in Brooklyn; Julia Richman and Seward Park, Manhattan; Flushing, Francis Lewis, and Jackson, Queens; and Susan E. Wagner on Staten Island. SPARK employs professional counselers and former addicts in an intensive effort to keep students away from drugs before drugs can reach them.

In less than a year they counseled more than 133,000 students and achieved amazing results in preventing the spread of drugs and in helping those whom they could not reach in time. SPARK's program director, Mr. Arthur Jaffe, has announced that if the New York State legislature upholds the narcotics addiction control commission's decision not to refund education and preventive efforts, they will toll the death bell for SPARK and many similar programs throughout New York; and, unfortunately, the real victims will be the young people of New York.

Rather than cutting off funds for SPARK and its counterparts, the State should be expanding these efforts and giving these programs every possible means of encouragement. Mr. Speaker, I join with those who are urging the State to reconsider denying funds for preventive and educational programs as greatly needed as SPARK.

THE RAVAGED AND UNPROTECTED CONSUMER

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BRASCO. Mr. Speaker, the average American operates under a basic delusion; that somewhere, somehow, the Federal Government is protecting him and his family from impure food, untested drugs, and hazardous products of many kinds. Nothing could be further from the truth.

Consider the following facts. Four and one-half years after the Flammable Fabrics Act was passed, children are still dying of accidental burnings because their clothing is not made of fireproofed materials. Yet the act in question requires such flameproof fabrics to be on the market for such items. The Commerce Department, as is its wont, sputters feebly whenever anyone inquires of the progress of the measure's enforcement. We must content ourselves with the knowledge that in the eyes of this agency, consumer—particularly child—safety, comes second to the wishes of industry, which simply does not want to spend the money for enforcement. Also, it does not want to allow a precedent to be set of enforcement of a good law, for fear that a plethora of other evils it is hiding will surface and be subject to Government interest, legislation, and enforcement.

The moving industry is a raging scandal, victimizing one of every five Americans who move annually. Rates are fixed. Estimates are deliberately set low. Scheduling exists only in the expectations of the average family hoping that a mover they have contracted with will show up. Yet the Interstate Commerce Commission, charged with policing this noncompetitive industry, acts as if consumers are inconveniencing it when they seek redress for innumerable outrages against them.

Observe the American frankfurter, or hot dog, in the year 1972. Fifteen billion are sold annually. Yet it now offers less nutrition and more added fat and water than its predecessor did 35 years ago in the days of the Depression. In 1937, U.S. Department of Agriculture tests showed franks to average 19 percent fat and 19.6 percent protein. Today, percentages average out at 28 percent fat and 11.7 percent protein. A permissive USDA looks the other way while processors add 10 percent water, at a minimum.

USDA does not require full labeling of ingredients. It does allow franks to be touted as "all meat" or "all beef," which is a palpable fraud on its face. In this way, portions of beef cattle that could not be sold any other way is peddled to unsuspecting consumers. All edible offal, and just use your imagination, is allowed into such trashdogs and so-called sausage meats. Recently, Consumers Union conducted tests revealing that franks are commonly contaminated. Forty percent of widely available brands contained bacteria counts exceeding 10 million per gram. Putrefaction sets in at the 10 million per gram level.

Nitrite is commonly used as a cosmetic in many meat products. A question of cancer causation has been raised in regard to the effect of consuming nitrites. Consumers have petitioned USDA to ban all cosmetic uses of sodium nitrate and sodium nitrite. A suit has been filed in Federal Court to have USDA ban use of the growth-promoting hormone, stilbestrol, in cattle and sheep. Twenty nations have already banned this cancer-causing hormone. Not the good old USA. Why? Because this administration could care less about the health of consumers. Because the industry in question has far more clout with USDA and FDA than the American public.

There is another Federal agency that is a 14-carat disaster among agencies; that noted scandal of scandals; that collector's items among industry-controlled Government operations; the Food and Drug Administration.

From the same people who brought us Thalidomide and MER 29, we have a mammoth collection of cataclysmic decisions that have harmed uncounted thousands of innocent Americans.

There is the Safe Toy Act, enacted several years ago, which is by and large unenforced by FDA. A Boston lawyer had to come to Washington and show us stark evidence of the toys that maim and kill, before FDA would take even minimal action.

There is the Poison Prevention Packaging Act, designed to place childproof safety closures on the thousands of hazardous products that maim, injure, and kill 600,000 American youngsters under age 5 annually. It has been on the books almost 15 full months and still no product in the Nation is actually being sold with effective childproof safety closures as a direct result of FDA action and enforcement. Hurrah for FDA.

Has your child swallowed any lye in the form of a liquid-lye bowl cleaner recently? You can go out and replace what he or she drank by buying such horrible substances over the counter at your corner store. FDA has only published preliminary childproof safety standards on these and a few other products. Nothing is being done to really hold manufacturers' feet to the fire of enforcement in this area. Only aspirin and oil-based furniture polishes have had final compliance orders published in the Federal Register. And it will be months, at least, before safety tops are actually emplaced on these products.

I could continue these horror stories indefinitely, for it is important that Americans discover the disgusting but true facts about the Government operations they pay massive quantities of taxes for, but which do not give them even a modicum of protection in return.

It points out that the American consumer is not being granted any kind of real security by his Government.

The regulatory agency structure is a fourth level of Government, and is charged with a number of utterly vital functions in the area of consumer protection. Almost without exception, these agencies have become the captives of those they are supposed to regulate. This is especially pronounced under this administration.

Ordinarily, one could simply laugh it off and expect that eventually matters would improve. Such is not the case. Situationwise, this state of affairs is growing worse daily.

What is called for is a major reform on behalf of the consumer. A series of consumer protection functions should be stripped from agencies presently possessing them, commencing with FDA. This agency is so incredibly bad that to term it merely incompetent is to compliment its functionaries. Stronger words could easily be employed, but this is not the time or place for them. Such enforcement and consumer protection powers should be vested in a new agency entirely, set up solely for the purpose of protecting the consumer. That agency should have significant power, complete with subpena authority. Once such an operation is functioning, it should look into the reform not only of the specific evils I have just pinpointed, but into other areas as well. I speak of guarantees and warrantees made by companies that are not lived up to when consumers seek redress.

Life insurance is another area requiring a careful investigation. Trading stamps and phony promotion games utilized by oil companies to defraud the public are high on the list of reform. The entire area of drug pricing and ingredient labeling is literally shrieking for exposure, and deserves it immediately.

One could exhaust time and encroach upon eternity in listing the evils that are emptying consumer wallets, harming consumers themselves, and undermining cumulative public confidence in the marketplace as a whole.

Suffice it to say that people are dying, being crippled, being injured, and defrauded daily because Government will not protect them against shoddy goods, services, and practices. The very approach of Government is from a false philosophical premise: that it is more important not to harm industry than it is vital to protect human beings from harm.

Anyone for hot dogs?

CHURCHMEN REPORT ON U.S. BUSINESSES IN SOUTHERN AFRICA

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. DIGGS. Mr. Speaker, in November 1971 an ecumenical church team of 14 persons visited South Africa to research and report on the involvement of U.S. corporations in that society. The participants were representatives of the Episcopal Church, the United Presbyterian Church, the American Baptist Convention, and the United Church of Christ. They visited the Chrysler Corp., the First National City Bank of New York, the Ford Motor Co. of South Africa, the General Motors Corp., International Business Machines Corp., Mobil Oil Corp., Frank & Hirsch—distributors for Polaroid—Caltex—Standard Oil of California and Texaco—Standard Bank—partially owned by Chase Manhattan—and Goodyear Rubber Co. Their premise is that U.S. investment in Southern Africa is a focus for church concern and action. Mr. Speaker, I commend their report and insert it in the RECORD for the thoughtful attention of my colleagues.

The report follows:

U.S. INVESTMENT IN SOUTHERN AFRICA—A FOCUS FOR CHURCH CONCERN AND ACTION

(A report by an ecumenical Church team who visited South Africa in November, 1971 to research and report on the involvement of U.S. corporations in that land)

Southern Africa has become an area of major world concern. Throughout the subcontinent the majority of the people are denied participation in the governments which rule them, nor is such participation an accepted goal of the white minority regimes there.

The basic facts are that in South Africa, Namibia (South West Africa), Rhodesia (Zimbabwe), and the Portuguese territories of Angola and Mozambique, 36 million Africans, Asians, and Coloreds (mixed blood) are living under governments controlled by 5 million whites, governments which, by their laws and policies deny "non-whites" effective representation or participation.

In Mozambique whites represent 1 per cent of the population; in Angola 4 per cent; in Rhodesia 4.6 per cent; in Namibia 14 per cent; and in South Africa 19 per cent. Opposition to minority rule is particularly evident in the Portuguese colonies. In Guinea Bissau, Mozambique and Angola, the African Movements for independence have been fighting the Portuguese for the last ten years in a war that is largely unreported in the American press.

REPUBLIC OF SOUTH AFRICA

Under the banner of white supremacy the Nationalist Party came to power in 1948. At this stage the Nationalists's schemes of apartheid were crude white supremacist policies, and it was not until the advent to power of Dr. Verwoerd that a previously unschematic historic process was refined into a systematized program.

White fear of black domination has been an abiding factor in South African history. It was indeed "the South African way of life" that whites should rule and blacks should be

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their servants, but the Nationalists brought a religious fervor to this way of life, sincerely believing that they had supplanted the Jews as God's chosen people.

Dr. Verwoerd, then editor of the *Afrikaans* newspaper, Die Transvaler, said of the 1948 victory: "That which seemed humanly impossible was possible to God who has always watched over Afrikanerdom. It behooves each and all of us who contributed to the victory to thank Him in prayer for what He has brought to pass." [1]

Population of South Africa at the 1970 census was 15 million Africans, 4 million whites, 2 million Coloreds, and half a million Asians.

The basic pieces of legislation under which apartheid is maintained and extended are the Population Registration Act of 1950 and the Group Areas Act of 1950.

The first Act classified people into racial categories based on skin color, descent, general acceptance and repute. The second imposed compulsory residential segregation on whites, Coloreds, Malays, Asians and Africans. The Population Registration Act also provided for the issuance of identity papers to people of all races, except African men who were already forced to carry "pass books". These "pass books" are an essential component of police and government control over Africans.

To blacks the pass book is a symbol of servile status, characterized by mass raids, arrests and imprisonment. Between 1951 and 1962 an average of 339,255 people [2] were convicted under pass law offenses each year. By 1968–69 the figure had risen to 632,077 [3] people who were sent for trial for infringing the pass laws.

Based on the racial categories set down in 1950, and utilizing a vast body of previous racist legislation, the apartheid system is aimed at depriving "non-whites" of all social, political, and in fact, all basic human rights. Inter-racial marriage is, of course, forbidden, as are sexual relations between members of different races. All public social activities, public services, education, housing, transport, and sports are rigidly segregated.

Africans ("Natives" or "Bantu" in the pejorative language of South African legislation) do not have the right to vote, and South Africa's array of security laws prohibits them from participating in any meaningful political activity aimed at changing apartheid.

LAWS

The provisions of the security laws include the following laws:

The Suppression of Communism Act, which has been strengthened and broadened by 60 amendments since 1950, is so loose in its definitions that almost any form of difference with the South African government's policies may be and has been labelled Communism. One key clause in this law declares that any person deemed a Communist by the head of State is subject to punishment under the Act.[4]

The government has repeatedly used this power to silence opponents. South African law frequently is drafted so that it can be used as a political weapon; e.g., one clause of the Terrorism Act defines terrorism as "embarrassing the state in the administration of its affairs." Such phrases can be applied to any political activity, enabling the government to harass, intimidate, and destroy any opposition. The burden of proof under both the Suppression of Communism and the Terrorism Acts rests with the defendant, who is thus guilty until proven innocent.

The government has banned all organizations that effectively represent black opinion, and their leaders have been imprisoned or banned. (Many people have died while being interrogated by the Security Police.) The government maintains an extensive spy network to root out any political opposition.

Finally, the Minister of Police and Justice has the power to place anyone in solitary confinement for indefinite detention. He does not have to lay any charges, nor show any violation of the law. There is no appeal to the courts.

"BANTUSTANS"

The main focus of the government's policy of territorial apartheid is to force Africans out of the cities and on to rural reservations or "Bantustans". It has been estimated that under various pieces of legislation more than 1.1 million South Africans have been forced to move. Of these, more than 900,000 were Africans and only 2,624 were whites.[5]

The Bantu Authorities Act of 1951 ostensibly allows Africans to govern themselves in their "homelands", but in reality it concedes little more than local government functions. More importantly, the central government exercises close supervision, controls most significant fiscal functions and maintains an ultimate veto over actions of local councils, including selection of the candidates for a majority of the members. This Act was designed to separate the Bantustans from the political life of the nation—in that it has largely succeeded. All the urban areas are, of course, classified as "white areas", where Africans are considered temporary migrant laborers.

The reserves established by this and other legislation, in which the Africans had no effective voice, consist of 260 separate land areas, occupying a total of 6,500 square miles. Yet the reserves, encompassing less than 14 per cent of the country are supposed to contain and support 70 per cent of the population,[6] an impossible task.

Land on the reserves is desperately overworked; it cannot possibly provide the food and cash crops to maintain the present population, let along the large numbers of people that the stepped-up government enforcement of the resettlement laws brings in each year. Rather than bases for "separate development", the reserves are, in fact, "vast slums whose chief export is their manpower." [7]

BORDER INDUSTRIES PROGRAM

As part of a program to remove blacks from the cities, the government's Border Industries Program, aiming for decentralization of industry, provides incentives ranging from tax rebates to direct participation in capital costs to encourage corporations to build new facilities adjacent to the reserves. Thus, in addition to the substantial Government incentives, they get an abundant supply of cheap labor from among those who have been forced to resettle on the reserves. As a rule, wages in the border areas are one-half as much as those in the cities from which the African workers have been ejected. Any company building a new factory in a border area is a direct accomplice in the government's racist policy of removing blacks to the reserves.

INFLUX CONTROL

Although millions of Africans are still allowed to work in the cities,[8] there is an elaborate system of control over their movements, based on the checking and stamping of pass books. With minor exceptions, *all* Africans working in the cities are treated as temporary migrant laborers, "visitors who will never be entitled to any political rights." [9] For example:

No African residing in a town by virtue of a work permit issued to him is entitled to have his wife and children living with him unless he renounces all rights to live any place other than where the government sends him. (This creates a tremendous break up of African family life and creates thousands of married "bachelors" in the cities.)

No friend is entitled to visit him for more than 72 hours.

If he loses his job and cannot find another, he must go back to the reserve set aside for his tribute, even though he may never have been there and may have no relatives there.[10]

ECONOMICS AND APARTHEID

Economically, apartheid affects the kinds of jobs, wages, living conditions and fringe benefits that whites and "non-whites" may achieve.

The economic effect of apartheid, designed to ensure that the white minority retains control of and the major share of the national wealth, has the following results. Whites, constituting some 19.2 per cent of the population, receive an estimated 73.3 per cent of all cash income. In 1969, per capita income for Africans was $117 per year, compared with $1,591 for whites. In fact, whites in South Africa enjoy a standard of living that is in general higher than in Europe and taxes on income are lower than in most European countries.[11] Part of the reason for the relative affluence of the white South African is, of course, imbedded in the apartheid system. Servants are cheap and readily available, many locally-manufactured products are priced well below comparable items elsewhere due to the low labor costs in South Africa, and so on. It is fair to say that white South Africa's affluence is based solidly on the exploitation of the country's African, Asian and Colored inhabitants.

EMPLOYMENT

By law and custom, no "non-white" can ever hold a supervisory position over a white. All skilled or otherwise desirable jobs are reserved for whites.

"Job reservation", initiated as part of the Industrial Conciliation Act of 1956, protects whites from competition in certain types of skilled employment.[12] Under this system, applied to several major industries, only a white may replace a white in a certain job, only a white or a Colored may replace a Colored, down to the African who may be replaced by anyone. An employer may request an exception to this law in order to fill essential jobs for which there is a shortage of trained personnel of proper race, but the government retains exclusive discretion over the granting of these concessions.

Unions are another example of the disenfranchisement of the "non-white". As early as 1942 some strikes by Africans were outlawed. Under the Native Labour (Settlement of Disputes) Act, African workers continued to be denied the right to be considered an "employee." It follows that a non-person cannot negotiate labor agreements, so that the existence of African labor unions, which have no legal status, becomes meaningless. Africans are forbidden to strike. All negotiations on behalf of African workers are carried on by the Bantu Labour Board, composed of officials of the same government that denied them the right to negotiate for themselves. Colored unions do exist, but their powers are severely limited, so that, in effect, the ony meaningful negotiations are those between the white management and its white employees. The "non-white" majority is, once again, powerless.

EDUCATION

Whereas education is in most nations a catalyst for economic advancement, in South Africa it is a dead end street dedicated to keeping Africans as "hewers of wood and drawers of water". Education is compulsory for white, but not for black South Africans. The government spends approximately $20 a year per "non-white" child for education, $320 a year—or 16 times as much—per white child. Schoolbooks are free for whites but Africans must pay for them. In addition students are initially taught in their "native" tongue.

Since the laws in South Africa are made by an all-white group, they inevitably work to strengthen white prosperity, privilege and control. This then is the milieu within which U.S. investors must do business.

WHY WE WENT

American churches have long exhibited an interest in the peoples of Africa, and have been involved in mission work on that continent for more than 150 years.

In recent years American churches have emphasized in their mission undertakings that mission must be carried out *with* persons, not *to* them, and with a concern for the totality of the person.

A new understanding of mission and of stewardship that is emerging concerns the responsible use of the churches' investments.

Churches in the United States traditionally have used their investment portfolios to earn revenue for the support of religious work. The *source* of this revenue, however, is now becoming of increasing concern.

As churches receive the dividends from corporations, they also have a moral responsibility for the manner in which these profits are made.

Fifty years ago, most major Protestant denominations decided to refrain from investing in companies involved in the production or sale of alcoholic beverages or tobacco. In the mid-1960's, several denominations elected to use their stockholder rights to express their concern about the racial policies of Kodak, at the annual meeting, when the issue was the employment of black workers in Rochester, New York. In the late sixties, churches joined with other groups, including the United Nations, in expressing concern over a $40 million line of credit granted to the Republic of South Africa by ten major banks in the United States. The line of credit has since been cancelled.

In 1971 the Episcopal Church filed a stockholder motion for consideration by General Motors stockholders, urging the company to wind up all operations in South Africa. The United Presbyterian Church, the United Church of Christ, and others carried on conversations in 1970 and 1971 with the management of Gulf Oil Corporation concerning that company's business in Angola. The Southern Africa Task Force of the United Presbyterian Church filed a motion proposing, among other things, that Gulf withdraw from the Portuguese colony of Angola because its investment substantially strengthens Portuguese colonial control.

Each of these involvements has been an effort by churches to be responsible in the use of their investments, by coordinating those investments with their ethical and mission concerns. Thus the role of American industry in South Africa is a growing concern within churches as well as other institutional and individual stockholders.

American Christians and the churches of which they are members are forced to consider the following questions:

1. What is my responsibility if I am an investor in a company operating in southern Africa?

2. Can I as a Christian derive, without question, profits from a company which, in southern Africa, operates with immoral codes, laws, and practices?

3. Can I as a United States citizen justify passive participation in a company whose operations in southern Africa defy our national principles and policies for human rights?

4. How do I use my stockholder rights and responsibilities to bring pressure to bear on these corporations to affect their operations in southern Africa?

Recently the highest policy-making bodies of several major American Protestant churches have adopted guidelines for investments as a means of putting their concerns into practice. Further, they have authorized cooperative efforts with other denominations to strentghen the impact of these policies.

Based on such policies, and concerned with the basic injustice in southern Africa, six denominations recently sent 15 representatives to visit South Africa in order to examine the involvement of United States corporations in that country, particularly those in which the churches hold stock. It was the hope and plan of the team to visit the Gulf Oil facilities at Cabinda, Angola, as well, but after weeks of delay and without explanation, the Portuguese government rejected the team members' applications for visas—two days before their scheduled arrival in Angola.)

The Consultation, therefore, went to South Africa with the purpose of gathering facts from employers and employees, and other interested parties, regarding the role of American corporations in which many of our denominations are shareholders, as well as to gain a better understanding of the general situation in southern Africa.

A SENSE OF URGENCY—WHY WE MUST BE CONCERNED

The problems of justice in South Africa are not those of that nation alone, they affect all of us around the world.

Let it be clear that South Africa is not the only nation with problems of racial justice. Nonetheless, it is a nation in which an official policy of white supremacy is in operation—designed and enforced by a white minority government.

Control of government and the lives of the black majority in Rhodesia, Mozambique and Angola also rests in the hands of a white minority. The concern of American Christians for the situation in southern Africa is based on a number of factors:

1. There is no moral defense for a philosophy and policy of racism and colonialism.

2. The racial policies of South Africa are contrary to the policies of the world community as expressed by the United Nations, and to the principles of the United States.

3. The policies of South Africa, Rhodesia, and the Portuguese colonies are a potential source of racial war internally as well as between the white-ruled nations and black Africa.

4. Such massive investments in southern Africa by American corporations creates a vested interest in the preservation of the status quo, which is a strong influence on the formation and conduct of United States foreign policy.

UNITED STATES CORPORATIONS IN SOUTH AFRICA

South African government figures show that more than three hundred United States corporations operate in South Africa, with a total investment in 1969 of $834 million—an increase of 80 per cent over 1964. American investments represent 15 per cent of all foreign investment in South Africa. In 1969 it provided an average annual return of 16.8 percent ($127 million) of book value as compared with a world average of 11.3 per cent—the richest return on American capital invested abroad except for foreign oil fields.

American investment in South Africa constituted only 1 per cent of all U.S. foreign investment in 1969 but produced 1.6 per cent of all foreign earnings. About 50 per cent of U.S. investment in South Africa is in manufacturing—automobile manufacture and assembly, drugs, cosmetics, industrial equipment and machinery, tire and rubber manufacture, and tractor and farm equipment and distribution. Other substantial U.S. investments are in petroleum, mining and smelting.

However, U.S. investment in South Africa is much more significant to that country than the dollar amounts would indicate. American investment figures prominently in the key sectors of the economy that in turn stimulate the economy as a whole.

For instance, U.S. companies control at least 50 per cent of the auto market. This becomes of vastly greater significance when one considers the allied industrial growth stimulated by the auto manufacturing industry in tire and components manufacturing, road, highway and bridge construction, oil refining, and service station construction.

In addition the inflow of American technological knowhow and personnel cannot be discounted.

The Consultation realizes that when American corporations operate in foreign countries, they assume a number of obligations. There is the obligation to fulfill the expectations of the government of the host country which gives them the legal right to engage in business. They must, therefore, further the general political and economic goals set by the government of that country.

Corporations must also help to create a climate of public opinion or public acceptance of their product and/or presence, which will enable them to operate profitably in that country. However, recent history has shown that acceptance and approval by a few leaders of the government, industry and commerce is different from the acceptance and approval which comes when the majority of the people in a country recognize the corporation as operating with *their* interests also in mind.

Nevertheless, these corporations also represent the United States: American know-how, openness to change, and creativity, as well as American ideals of liberty and justice for all. Indeed, the total American system symbolically participates in the lives of various countries through the involvement of American industry and commerce.

ENGAGEMENT AND DISENGAGEMENT

One question confronting a group analyzing the role of U.S. business in South Africa is what is popularly known as the "engagement versus disengagement" dispute. There are arguments to the effect that the presence of U.S. firms in South Africa benefits rather than harms "non-whites". Others argue that the investment of one billion American dollars strengthens the white minority government in its control over the majority. A summary of some of the arguments used by both sides follows.

Proponents of engagement or continued U.S. investment feel that this creates jobs and money for all races, aiding the growth of a black middle class with increasing job and social mobility, and increased economic power. Education and economic growth, they argue, are a key to social change; withdrawal would only hurt the "non-white" South African. Moreover, they point out, strict apartheid and economic growth are incompatible, with the economy's need for "non-white" skilled labor conflicting with ideological imperatives.

Critics point to the ever widening economic gap between white "haves" and the African, Asian, and Colored "have nots", and that over the last decade an expanding economy has in fact seen an increase in repression and a loss rather than a gain in political and human rights for the "have nots".

While a few blacks might make it to a sort of middle class the vast majority would still under systematic racism, they argue. And, while withdrawal would economically inconvenience Africans, Asians and Coloreds as well as whites, it is clear that many black people would support disengagement if this would challenge the white government to alter its policies.

Recent events in Rhodesia would tend to support this point of view. In spite of all protestations to the contrary by the Smith government, the Rhodesian economy has been hard hit by sanctions, adversely affecting Africans who were unable to find jobs on a contracting labor market. But this most economically disadvantaged sector of the economy have shown their strong disapproval of Britain's proposed settlement which would set the economy moving again, but also legitimitize minority rule there. This indicates that they are prepared to bear the burden of economic hardship if this would further their claims to basic human rights. The desire for freedom outweighs narrow economic considerations.

The action of the Ovambo people of Namibia taking part in a mass strike in defiance of South African laws is another illustration of this. The strikers demanded repatriation to Ovambo (Ovamboland) where they

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were at all stages faced with the possibility of starvation if their actions were unsuccessful, or with brutal repression by the South African authorities in attempts to break their strike The strikers still chose this more difficult course.

Other arguments by advocates of engagement point directly at United States self-interest. They say that the United States needs South Africa because it is a major source of strategic materials, it is a stable, pro-American anti-Communist state, and controls the strategically important Cape sea route. Also, corporations can expect an average annual profit of 17 per cent which could possibly reach 30 per cent.

Opponents point out that this is the sort of logic which leads American into Vietnam-type situations. What happens to America's international image and her image at home if we oppose Communism at the cost of allying ourselves with a racial dictatorship? In fact, they contend, if revolution comes to South Africa the new government may well be anti-American since we had so little regard for black needs. It is true to say, also, that much of the legislation which has been used to suppress genuine black political aspirations in recent years was passed with the alleged purpose of "combatting Communism". Finally, high corporate profits made at the cost of exploiting cheap black labor should not necessarily be seen as a credit to America.

U.S. companies often explain that they cannot be involved in politics but are merely in South Africa doing business as usual. Besides, they are quick to add, if U.S. companies withdrew other companies would swiftly come in to replace them.

But critics state that investors in South Africa are inevitably involved in politics in a country where laws and custom are dominated by questions of race. The sale of a computer, the establishment of a new plant, assistance given to a government sponsored oil search, the decision to upgrade a black worker or sell supplies to the military, all have political overtones. One cannot escape from politics in South Africa.

In South Africa economics are dominated by political considerations and, therefore, any investor automatically is involved in furthering the political and economic goals of the white minority government. This is simply a fact of life in South Africa.

In addition, this massive infusion of much-needed foreign capital has clear political implications. As for other foreign companies taking their place if a U.S. firm withdrew, it is strange to argue that because others would do wrong if we did not, we should, therefore, continue. Furthermore, South Africa economic state is uncertain because of inflation and there are many indications that foreign business would not move in to replace U.S. firms if they withdrew. This might be the very time that a withdrawal by U.S. companies would tell white South Africa that apartheid is no longer acceptable to the world.

Advocates of disengagement or withdrawal of U.S. business contend that U.S. firms strengthen the unjust status quo in South Africa in many ways and we should in no way assist that system of discrimination and minority rule. They insist that American firms comfortably follow discriminatory laws which ensure that white South Africans are always given first preference and continued privilege on the basis of skin color.

Further, they reason, U.S. investment has helped strengthen and diversify the South African economy. This has advanced government plans to make South Africa impervious to outside influences so that white supremacy can continue unchallenged. They argue that American investment contributes to a healthy economy, reducing the possibility of dissension within white ranks as the government can silence opposition by pointing to increasing white prosperity. In fact it was only in 1970, when white bank balances were, for the first time, being affected by the country's economic ills, that voters reversed the trend of continually increasing support for the Nationalist Party, and the government lost seats in an election for the first time since 1948.

Finally, those supporting disengagement query U.S. contributions to South Africa's military potential which strengthens her ability to suppress possible internal protest by the majority. They conclude that U.S. firms bolster rather than weaken apartheid or minority rule and that companies should withdraw and cease any form of support for a system we abhor.

SOME SPECIFIC COMMENTS AND OBSERVATIONS ON U.S. COMPANIES IN SOUTH AFRICA

1. While every American company visited stated that they felt themselves to be "good" and "progressive" employers, we found that American companies as a general rule are not more enlightened in their employment practices nor in their sensitivity to the South African situation than are other companies in South Africa.

It must be made plain here that American corporations in South Africa reflect the customs and practices of that country rather than those of the United States. They are not notably "better" or "more humane" than the average South African or foreign corporation. The black workers with whom we talked by no means believed that American firms are more enlightened than other firms.

Local managements of the companies visited were consistent in their declarations that their presence does not mean their companies approve of the policies of apartheid. Many agreed that their past behavior has been too unquestioning of the customs of South Africa; they agreed that more could be done within the law to treat black employees more justly; and they acknowledged the value and necessity of outside pressure to bring about change.

2. Management in the U.S. does not necessarily get clear reporting of their "non financial" South Africa operations.

At General Motors we were told that South African management had reported to their Detroit headquarters that they had 30 employees in a minority training program. According to a report given us by black employees, there are only 8 trainees in fact.

Although all companies indicated that they report regularly to their parent companies, in no case was there an indication of clear guidelines in terms of race relations on what these reports should contain.

Again at GM, management reported there were 60 "nonwhites" receiving technical training at a technical school. In actuality, GM workers reported they were getting very little technical training. Rather, they were being taught elementary drawing, arithmetic, and communications skills, even though many of the people have had this instruction already. There are no blacks in this program; only Coloreds.

At Ford, we were told that black and white employees receive the same food even though in separate dining rooms. Our own observation was that they received distinctly different menus. The white workers received meat and the black workers received rice and eggs.

We conclude that reporting by management in South Africa to their U.S. manment and others is often not accurate, and therefore management in the U.S. paints a positive picture of their South African operations without sufficient data.

In addition it is often painfully clear to us from conversations with management both here in the United States and in South Africa that there is often a general ignorance of the real conditions which African, Asian and Colored South Africans face in their daily lives. This of course affects the company's labor policies in South Africa and adds to misinformation in the United States about South Africa.

Few, if any, managers in South Africa have any meaningful contact with "non-whites" outside of normal working relations. One member of an auto company's management team in South Africa admitted that he had never been in a "township", which is the segregated residential area for Africans. He, therefore, had no first hand experience of the terrible slums Africans are forced to live in.

3. Most companies do not pay "equal pay for equal work" despite their assertions that they do. It was our observation that many workers doing the same or comparable work were not receiving comparable pay. In addition the question of equal pay for equal work must be seen in the light of whether or not there are the same jobs open for black and white employees.

Many U.S. firms engage in "fragmentation" or breaking down of a job so that a task done by one white would be performed by two or three "non-whites", so that the equal pay concept did not apply.

Chrysler clearly said they do not pay equal pay for equal work, because the law of supply and demand and the pressure and privileges of white unions forces them to pay more to whites.

Goodyear management in South Africa said clearly they gave equal pay for equal work, then noted a differential between the starting pay of black and white workers, and finally clarified that those employed as tire builders are paid an equal piecework rate. Outside of tire building, our understanding of Goodyear policies do not indicate equal pay for equal work.

All this is in the light of the fact that provisions of the law do not prohibit equal pay for equal work, even though this has not been the custom.

More important than the question of equal pay for equal work is whether U.S. firms pay living wages to workers. Most U.S. firms follow the wage pattern in South Africa which pays "starvation" level wages to thousands of African, Asian and Colored employees. (Africans fare the worst.) It is indefensible that a U.S. company should be paying an employee doing an honest day's work a wage which is inadequate for his family to live on.

The Poverty Datum Line or "breadline" is estimated to be $100 a month for an average African family by the white Johannesburg City Council. But the "minimum effective income" level at which an average African family can live decently is estimated to be $140 a month by the white Johannesburg Chamber of Commerce. The South African Institute of Race Relations, among others, has urged that companies pay all employees wages at least equal to minimum effective income level instead of the poverty level.

All U.S. firms we interviewed paid most "non-white" employees well below that minimum effective level. In 1970 Chrysler's Pretoria plant paid an average monthly wage of $85 to African workers. Ford management told us in South Africa in 1971 that African workers in their Port Elizabeth factory averaged $123 a month (obviously starting workers make much less.)

Mobil management contended that they did not keep records of their wage levels but further research showed that Mobil paid a monthly starting wage of between $52 and $76 to "non-white" employees.

Needless to say white South African workers in these plants make excellent salaries.

The cause of this broad diversity in wage scales between whites and blacks is based not on a free labor market, but on the basis that blacks are not allowed by law to organize themselves or use traditional powers of withdrawal of their services, i.e. strikes. Therefore, any correctional steps are in the hands of corporate management. It is unconscionable that American firms pay wages below the "minimum effective level" for Africans, Asians and Coloreds.

4. The problem of justifying certain hiring practices on the basis of job reservation laws versus the role of "ancient custom".

Many companies argue that they are not able to train and advance black workers into more meaningful job categories because of restrictions by South African law. In fact, this appears to be more an example of following the norms and customs of South Africa rather than any particular law. The Job Reservation Act only applies to a very small percentage of businesses, therefore, most companies would be free under the law to advance their non-white employees and train them for better jobs at a much faster rate than they are doing.

It was clear in testimony from companies such as Mobil, re their office force and computer technicians, and all the oil companies interviewed in terms of their sales representatives, that job reservation does not apply by law to them. Below 3 per cent of all the jobs in South Africa are covered by specific reference in the Job Reservation Act, however, practically every manager with whom we talked expressed a fear that the government would impose additional limitations if they made any visible or aggressive steps in the training or advancement on "non-white" employees.

In contrast however, Polaroid reported to us in South Africa and subsequently in their statement of December 30, 1971, that the government has not intervened in nor attempted to interrupt their efforts towards non-white advancement.

The general excuse of U.S. firms is exemplified by a statement of Ford management that their company "is not discriminating on the basis of race or color, except insofar as legislation compels us".

5. Corporate planning by American industry in South Africa does not lead to programs which bring even minimal change within South Africa. For example, company grants made to universities are made overwhelmingly to white institutions. This tends to perpetuate the status quo.

Grants are made by U.S. companies to the South Africa Foundation, whose primary function is to lobby internationally for support of South Africa. Among the companies which have contributed to this Foundation are John Deere, Caterpillar, Mobil Oil, Caltex, International Harvester, Union Carbide, Chrysler, General Motors, and Barlow-Weyerhauser.

American companies belong to Industrial Councils which set wage levels in given industries. Company interests are represented at such meetings as are white workers, but the interests of African, Asian and Colored workers, the majority of the work force, are minimally represented at best.

In the absence of any right of African employees to organize, bargain collectively, or strike, Industrial Council meetings allow the companies to set minimum wages for their employees at the lowest possible level.

EMPLOYMENT PRACTICES

At a minimum, American firms doing business in South Africa can be expected to require at least the following:

1. Recognition in good faith of bargaining representatives for "non-whites".

2. A minimum wage which takes into account the poverty datum line and minimum effective living level for an average family for all "non-white" workers.

3. Fair job classifications and upward mobility for "non-whites."

4. Comparable pay for comparable work (i.e., "equal pay for equal work").

5. Employment of "non-whites" in personnel departments and management.

6. Recognition of human equality in manner of address, treatment, and respect.

EMPLOYMENT BENEFITS

7. Equal benefits for "non-whites" in matters of health, disability, retirement, and death benefits, on a non-contributory basis. This should include sick leave and pay.

8. The general lack of medical and dental services for "non-whites" requires that free medical and dental service be provided for "non-white" employees and their families.

9. The general lack of educational opportunity for "non-whites" requires that free vocational and educational assistance be offered to "non-white" employees as well as to their children (including libraries.)

10. The lack of minimally adequate and safe housing and transportation facilities require that company housing and transportation facilities be made available for "non-white" employees.

11. American firms should also provide free family counseling services and credit unions.

12. Profit-sharing plans, including ownership of company stock, should also be developed for "non-white" employees.

13. The harassment of "non-whites" by the police and courts requires that companies should provide free legal assistance to their "non-white" employees and their families.

GENERAL

14. Exemplary life-style by management—e.g. servants' wages, memberships, residences, personal relationships and behavior.

15. Utilization of "non-white" suppliers.

16. No further donations to organizations inside South Africa which support the status quo. Creative grants to groups working for social change.

17. Use of influence with the South African government to press for changes in restrictive laws and regulations.

18. Challenge of restrictive laws in the courts.

19. Reinvestment of all South African profits in the above programs until social change is evident.

20. No further investment from the United States unless earmarked for one or more of the above programs.

21. Quarterly review by U.S. management of South African activities of their company and reports in detail to shareholders.

Polaroid Corporation has been involved in a program called the "Polaroid Experiment" which includes several of the suggestions on this list. A November 1971 special report done on the Polaroid Experiment by the Institute of Race Relations concluded that as far as its impact on black wage levels in the country was concerned (1) "if it was intended to significantly improve the wages and working conditions of black South Africans in general it must be regarded as a failure" and (2) "if the intention was to create greater social concern among businessmen, it appears to have been moderately successful".

Even beyond this, Polaroid's contention that their program if adopted by other companies helps bring about social change is open to serious question. We do not propose this list to American companies under the illusory belief that following such a program would bring about the systemic change needed in South Africa. Rather we see it as a list of actions which would bring U.S. firms towards the status of a fair employer after decades of dependence on unfair labor practices to produce high profits.

THE OVERALL CONTRIBUTION OF U.S. INVESTMENT TO SOUTH AFRICA

The question of employment and labor relations in operation in South Africa is a real one. However, our concern for the plight of Black, Asian and Colored workers must also be seen in the light of the contribution a company may make to a strategic sector of the economy, economically strengthening South Africa to the extent that the white control and military power is bolstered.

A meaningful evaluation of the role of a company in South Africa must go beyond labor practices to examine the contribution of a firm to white minority government. For instance, what products does a company make that are used by the white police and military? Does a company's investment follow the long range political and economic plan of the government? Does this involvement bolster the confidence of the white electorate?

Even though, for example, IBM labor practices may be commendable, their leasing of a 360/50 computer for government use in the Population Registration Act directly assists the police state in suppressing dissent and controlling the activities of the Asian and Colored population.

For example, GM, Chrysler and Ford by following the government's local content program (which demands that cars must be built with a certain percentage of local products) have assisted the government in substantially strengthening and diversifying the South African economy and making it impervious to outside pressures. Products from these companies are also available to the military.

U.S. petroleum companies are actively engaged in a South African government program to search for and refine oil. According to the South African Financial Mail, a business magazine, "it was a political move that probably got South African oil prospecting off the ground; a United Nations resolution towards the end of 1963 urging member states to stop supplying oil to South Africa . . . But the lesson was not lost on Pretoria: South Africa would be in real trouble if its oil imports were ever cut off". Mobil and Caltex (jointly owned by Standard Oil of California and Texaco) control approximately 44 per cent of the market for all petroleum products in South Africa and several other U.S. firms are active in exploring.

Thus, our concern is not merely for the labor practices of U.S. companies in the Republic of South Africa but for the ways U.S. companies may strengthen the whole system of minority rule.

OUR CONCLUSION

Apartheid is wrong.

It imposes inferior status on some of God's people solely on the basis of their race. It promotes the domination of a large number of these people by a much smaller number of white people. It is dehumanizing and it is undemocratic.

Based on our understanding of the Scriptures and our first-hand knowledge of the situation in South Africa, we are convinced that any cooperation with or strengthening of apartheid is contrary to the fundamentals of Christianity.

Some of the participants in this Consultation believe that if American corporations adopted vigorous new policies they might, over a period of many years, make a contribution to improving the lot of the "non-white" worker.

Most of us believe that American corporations should totally disengage from southern Africa; that the presence of American corporations in which we are shareholders undergirds the system of racism colonialism and apartheid which prevails in southern Africa.

And we are unanimous in our conviction that American companies in southern Africa are not doing that which they are able to do and ought to be doing with regard to their "non-white" employees. But even progressive employment policies on the part of American companies will not bring the basic changes in society that we support because of our Christian commitment to freedom, justice and self-determination.

We acknowledge that the church of Jesus Christ has failed in its own responsibilities—in the U.S., South Africa and around the world—to help bring about that change in systemic racism to which the Gospel commits us.

OUR RESPONSIBILITIES

What can concerned Christians do, individually or together, in the light of the situation? The following are some suggestions. They do not represent all that can be done, but point to a number of possibilities.

1. Be informed yourself. Read and discuss all sides of these issues.

2. Inform others: write letters to editors of publications (especially newspapers), use radio and television, including forum-type programs.

3. Encourage study by local church groups and others on Church investment policies and southern Africa.

4. Investigate the investment policies, practices and portfolios of your local church and those of your regional church bodies as well as those of your pension fund, colleges, labor unions, stock clubs, and other groups. What are their holdings in companies with investments in southern Africa?

5. Visit or correspond with companies investing in southern Africa. Ask them about their policies.

6. Exercise your stockholder rights. Take part in stockholder meetings or send a representative. Initiate or support stockholder actions regarding southern Africa.

7. Speak up. Inform your government officials—local, state, and national—of your views. Seek their support and encourage them to speak out.

8. Consider what products, services and investments you buy on the basis of companies' policies, and inform those with whom you do business of your decisions.

9. Get further information from the appropriate agency of your denomination, or other groups concerned with aiding justice through investment practices. Many denominations will be involved in challenges to corporations investing in southern Africa and can be written for resource materials.

APPENDIX I—VISITATIONS

The consultation visited the following companies:

Chrysler Corporation
First National City Bank of New York
Ford Motor Company of South Africa
General Motors Corporation
International Business Machines Corporation
Mobil Oil Corporation
Frank & Hirsch (distributors for Polaroid)
Caltex (Standard Oil of California and Texaco)
Standard Bank (partially owned by Chase Manhattan)
Goodyear Rubber Company

APPENDIX II—CONSULTATION ON AMERICAN CORPORATE INVOLVEMENT IN SOUTHERN AFRICA, OCT. 29–NOV. 18, 1971

Participants

Episcopal Church

Mr. Robert Potter, Chairman, Committee on Social Criteria for Investments, New York, New York.

Mrs. J. W. Wilson, Member, Committee on Social Criteria for Investments, Detroit, Michigan.

Dr. Karl D Gregory, Member, Committee on Social Criteria for Investments, Detroit, Michigan.

Rev. Everett Francis, Public Affairs Officer, Executive Council, New York, New York.

Rt. Rev. Archie B. Crowley, Suffragen Bishop of Michigan, Detroit, Michigan.

United Presbyterian Church in the U.S.A.

Rev. Shelton Waters, Chairman, Southern Africa Task Force, Camp Hill, Pennsylvania.

Mrs. Joseph Young, Member, Southern Africa Task Force, Scranton, Pennsylvania.

Rev. Wilbur K Cox, Jr., Associate Chairman for Operations, Division of Church and Race, New York, New York.

Mr. Josiah Beeman, Staff Director, Southern Africa Task Force, Washington, D.C.

American Baptist Convention

Mr. Richard E. Ice, Deputy Executive Secretary, American Baptist Home Mission Societies, Valley Forge, Pennsylvania.

Mr. William T. McKee, Associate Executive Director, Ministers and Missionaries Benefit Board, New York, New York.

United Church of Christ

Rev. Harry Applewhite, Director of International Relations, Council for Christian Social Action, Washington, D.C.

Dr. William W. Plummer, Member, Council for Christian Social Action, Grand Rapids, Michigan.

United Methodist Church

Rev. Isaac Bivens, Associate General Secretary for Africa, Board of Missions, New York, New York.

Disciples of Christ

Mrs. Carl (Dorothy) France, Vice-President, Church Women United, Pulaski, Virginia.

FOOTNOTES

•"Non-white" is a dubious South African term which includes Africans, Asians, and Coloreds.

[1] Transvaler: 5/28/48

[2] Oxford History of South Africa: Vol. II, p. 200

[3] Annual Report, 1968–69, Commissioner of Police

[4] The Black Paper: An alternative policy for Canada towards Southern Africa. Toronto, Canada, 1970, p. 66.

[5] Rand Daily Mail: "A decade of repressive legislation in S.A." December 22, 1969.

[6] Peoples and Policies of South Africa, L. Masquard: London 1969, pp. 32, 33.

[7] Ibid.

[8] Cities and the rest of the country set aside for whites.—comprise 87% of the country's land surface, yet contain seven-twelfths of the total African population. Oxford History of South Africa: Vol. II, p. 416

[9] Sauer Report: Nationalist Party: 1948

[10] Economic Priorities Report: V1 No. 5-p. 7

[11] South Africa: An economic review; Barclays Bank, Johannesburg: Sept. 1969, p. 96

[12] Oxford History, Vol. II, P. 411

CASE HISTORY OF A POWER CRISIS

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. McCLURE. Mr. Speaker, electric power blackouts during the approaching summer and winter months are threatening large segments of our society. Meeting with Dr. Edward E. David, Jr., Director of the President's Office of Science and Technology, the House Republican Task Force on Energy and Resources was advised that nuclear powerplant delays are making serious power shortages likely in the Midwest and Southeast regions during this summer, and could create critical power conditions in the New England and Colorado regions during the winter.

The Federal Power Commission has urged all electric utilities, that have not done so, to develop contingency operating plans for emergency or short-supply situations. A suggested sequence of steps for utilities to follow, compiled by the FPC's engineering staff, have been sent to each utility, and illustrate possible actions to be expected during power supply shortages:

VOLUNTARY LOAD CURTAILMENT

1. reduce electricity use by the affected power system for unessential loads (warehouse lighting, office air conditioning, advertising displays, etc.)

2. interrupt service to industrial customers as provided by contract

3. ask large commercial and industrial customers to reduce unessential load

4. reduce voltage only if its effectiveness as a load relief technique is known and after consideration of the impact on customers' equipment

5. ask all customers to reduce unessential load (by public appeal through news media)

6. reduce voltage an additional amount if adverse impact on customer equipment can be avoided.

INVOLUNTARY LOAD CURTAILMENT

1. interrupt service to industrial customers after considering their load and system conditions

2. interrupt service to selected distribution feeders for short periods of time, alternating among circuits. Every effort should be made to provide continuous service to essential public facilities such as police, fire stations, hospitals, etc.

3. maintain records so that during subsequent power shortages care is taken to rotate interruptions throughout the service area in an equitable manner.

Contingency plans have been received by the FPC from most utilities and the Task Force on Energy and Resources will meet with Commission representatives soon for a detailed evaluation. It is important that the American people know what to expect if their electric utility cannot meet their power needs.

Britain has recently experienced a national crisis, resulting from a lack of electric power, which can serve as an indication of the importance of electricity for our daily lives. Their crisis demonstrated both the importance of coal as an energy source and the effects of a wide-scale electric power shortage on an industrialized modern society. A description of British life during the shortage is contained in a recent article by Electrical World magazine. As the article states:

A black market in candles developed with ordinary white-wax candles changing hands for 50¢ each. Butane gas stoves and lamps and standby electric generators disappeared from the market. Water supplies were cut in some areas, and milk was often rationed. Train services were out. Highway accidents and even crime increased. A London businessman who regularly visits New York was astonished at being mugged in his own London office.

The impact on workers and industry is dramatically illustrated by the numbers of men and women who were laid off, and is simply summarized in the article by, "All industries were affected."

On a more individual level, there is a photograph accompanying the article, labeled "People power when pumps don't work," showing a man drawing water into a pail from a crudely constructed wagon. This form of water supply is not right even in a small, isolated community, but it certainly is impractical for any major urban center. It serves, however, as one more example of the critical need for guaranteeing an adequate supply of reliable energy in the coming years. What may begin this summer in the nited States as minor inconveniences—or worse—could grow into major crises in future winters. The Congress should begin now, in a cooperative effort, to prepare a national energy program for the United States, to insure that we will have the necessary energy to meet our needs.

Mr. Speaker, I commend my distinguished colleagues, Representative ASPINALL and Senator HANSON, for having already brought to the attention of the Congress some of the possible consequences of electrical power shortages, and I am inserting the article from Electrical World in the RECORD at this point:

CASE HISTORY OF A POWER CRISIS

Last Jan. 9, British Prime Minister Edward Heath had plans to lead a strong, buoyant, thriving Britain into the Common Market. Exports were humming, easily outstripping imports. Inflationary wage claims were being resisted, opening the way to what would be an export-led boom that would soak up a million English unemployed. Ominously, that was also the day 280,000 British coal miners began a nationwide strike.

Five weeks and four days later, Heath's Conservative government was close to falling, most of Britain's power plants had run out of coal, miners had thrown up picket lines at two oil refineries, and even oil-fired power plants were running short of fuel. Millions of workers had been idled, and there was talk of calling out troops. Three days earlier, on Feb. 14, drastic rationing of power had begun. Some 20,000 firms with demand of over 100 kw were told to cut work to three days a week. Major electrical consumers such as the steel industry had power supply cut in half. British Ford laid off up to 30,000 of its 52,000 workers, and its daily auto production was halved. Ford's plants shut down on alternating schedules because component supplies had been disrupted.

British Steel Corp reported laying off 20,000 workers. The British textile giant, Courtaulds Ltd, closed one in three of its Lancashire spinning mills. Distillers Co Ltd was reported stopping Scotch whisky production altogether. Britain's uranium-enrichment plant was closed. British Aluminum Co Ltd, with power supplies for its 100,000-long-ton/yr smelter at Invergordon, Scotland, cut in half, worried about molten metal solidifying. All industries were affected.

And so too was normal, everyday life. The use of electricity for heating offices, stores, and entertainment halls was banned. Over half of Britain's street lights were switched off. Unemployment levels went up to over 11%.

When the strike began, CEGB had a record coal stockpile of 12.5-million long tons, and its normal winter rate of consumption was 1.5-million long tons a week. Though it had an eight-week supply, CEGB ran into trouble sooner because the coal was unevenly distributed. The strikers were quickly to set up picket lines, and other workers would not cross the picket lines.

Only three weeks after the strike began, with a demand of 12,000 Mw, CEGB was forced to drop voltage. Cuts of 3% to 6% were ordered throughout England and Wales. Pickets eventually succeeded in shutting down a 200-Mw oil-fired station at Kirkstall near Leeds, a plant that got oil only by rail, and where railroad workers refused to cross picket lines. Another station, closed for three weeks for lack of hydrogen coolant, went back on line when hydrogen was flown in by helicopter.

After initial voltage drops on Jan. 30, the operation was repeated Jan. 31. Voltage drops of 6% were forced Feb. 1 and 2. Demands were met during warm weather from Feb. 3–7.

A state of emergency was declared Feb. 9 because a "significant number of power plants are operating at reduced output and a number are closed," said CEGB. Electricity for advertising and display was banned immediately. Load shedding began Feb. 10—5% in some parts of the country and as much as 10% in other parts. A system of rotational power cuts began Feb. 11, beginning at 6 a.m. and continuing until midnight each day. Disconnects were originally 10%, then 15%. On high-risk days, some users were without power for up to nine hours, broken down into three three-hour cuts. In some areas of northern England, cuts lasted up to 12 hours.

The press and television warned consumers on when cuts were likely. In London, consumers were warned by momentary breaks a few minutes before the cuts began. Two days were called high-risk days, two were medium-risk days, and two were low-risk. Sundays were not classified.

A black market in candles developed, with ordinary white-wax candles changing hands for 50¢ each. Butane gas stoves and lamps and standby electric generators disappeared from the market. Water supplies were cut in some areas, and milk was often rationed. Train services were out. Highway accidents and even crime increased. A London businessman who regularly visits New York was astonished at being mugged in his own London office.

Cable communications to the US were out. St. Valentine's Day became "misery Monday" across the nation. The stock market plummeted, and the value of the pound dropped. The opposition Labor Party threatened to censure the government in the House of Commons, and the government warned of a total shutdown if the strike did not end in two weeks. Jaguar halted all production in its Coventry plant. Triumph Motors laid off 2,500 workers, and Rover halted all auto production, noting that all 14,000 employees would be affected by the end of the week.

In other words, Britain, once the mightiest nation on earth, a nation that withstood the full blast of a strong Nazi war machine, was brought to its knees by the lack of electric power.

Britain's coal strike ended Feb. 25, when the miners voted overwhelmingly to go back to work. Relaxation of load-shedding procedures began Feb. 28. The government lifted most of the remaining restrictions on industrial use of power, except for rotational power cuts and a continuing restriction of major power users to 85% of normal use.

A utility official acknowledged this "could be a risky operation." But it was a risk utilities were prepared to take to get other industries working again. Said Sir John Eden, Minister for Industry: "Against the background of heavy unemployment and with the full cooperation of the public, the government thinks this risk should be accepted."

Coal is expected to be in short supply for another week or so, since net weekly deliveries are 500,000 long tons, compared with consumption of 800,000 to 900,000 long tons weekly. So, as the strike ended and recovery began, England was ending each week with less coal than when the week started.

As soon as a pay deal was agreed to by union chiefs on Feb. 19, pickets were removed from Central Electricity Generating Board plants, and CEGB was able to shift coal from national stockpiles and from a stockpile of 500,000 tons held in Holland. Coal was also moved from stations with large stockpiles to stations with short stockpiles.

If CEGB had run out of coal, it would have been forced into a position where it would have had to depend entirely on oil-fired and nuclear stations, which account for only 26.7% of Great Britain's nominal capacity of about 52,000 Mw. In theory, this would have been enough to keep essential services going. But "there would be electricity for neither industry nor the home," said John Davies, Secretary of State for Trade & Industry. Furthermore, he said, CEGB had no experience operating at such low levels. "The certainty of being able to provide for essential services would have to be regarded as pretty precarious," he noted.

On Feb. 17, on the floor of the US House of Representatives, Rep. Wayne N. Aspinall (D-Colo.) said: "Great Britain today faces what may be the greatest threat to its security since World War II. The threat is not enemy bombers, but peacetime chaos caused by widespread power shortages.

"Britain's plight illustrates what can happen to any industrialized nation when there is a break in the fuel and energy supply lines. It also illustrates what could happen to the US if we fail to understand the severity of the energy crisis in our own country."

And in the Senate, Clifford P. Hanson (R-Wyo.) said: "No modern nation can survive if its lifeline of energy is severed. Without fuel there is no energy—no power to light or heat our homes, to cook our food—no power to run the multitude of machines needed to keep our factories in operation. Any serious disruption of vital fuel supplies simply means disaster."

VFW VOICE OF DEMOCRACY CONTEST WINNER

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. STEPHENS. Mr. Speaker, it is with a great deal of pleasure that I insert in the CONGRESSIONAL RECORD the Voice of Democracy Contest winning speech from Georgia, which was written by Miss Mary Beth Powers.

Although Mary Beth lives in Belvedere, S.C., she attends Aquinas High School in my district in Augusta, Ga. I am proud that this is the fourth consecutive year that a student attending school in my district has won this honor.

The theme of Mary Beth's speech is that "Freedom and Responsibility Are Inseparable." Her remarks are extremely thoughtful and pertinent, and I am glad to be able to share her speech with my colleagues:

MY RESPONSIBILITY TO FREEDOM

You are Number 301. The State provides for all your physical needs, and in return, you perform the tasks assigned to you. Life holds neither excitement nor difficulty, for you shoulder no real responsibility as long as you play by the rules. The only price is your freedom.

Now, picture a reverse situation. Chaos reigns in the lawless society. All may do as they please, yet they accomplish nothing. The "free" people of this society are not free to develop their talents or their humanity, for they must always be on guard against their "free" neighbors. Mutual mistrust smothers any sign of friendship, for "friends" may cheat, rob, or slander without fear of punishment.

In the first case, responsibility is tamely transferred to the State, while in the second it appears non-existent. Absent from both is true freedom. Conclusion: freedom and responsibility are inseparable.

The simplicity of this common phrase belies its tremendous significance. For me, it has come to mean that while freedom brings fulfillment and human dignity, it also makes life a great deal harder. If I expect to achieve my purpose in life, I cannot allow myself the luxury of permitting others to

control my life for me. To do so would mean lowering myself to the level of a pampered puppy. As Benjamin Franklin said: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

I must be willing to earn my freedom, to be satisfied with nothing less than complete freedom, and to accept the limitations which it entails.

Once having attained this, I am charged with two duties: The first is to preserve my liberty. Freedom resembles a garden. As long as I water it, fertilize it, and pull the weeds which threaten the plants, the garden flourishes. When I carelessly take it for granted, the lovely garden fails. Likewise, if I become apathetic, or lack the courage to speak out against injustice, to exercise my vote, or to develop my intelligence, my freedom will most certainly flounder. The preservation of liberty also demands that I guard against selfish abuse, for this leads to licentiousness. Therefore, all my important decisions must be carefully considered in the light of the questions, "Am I too docile?" or 'Am I reoelling for the sake of rebellion?"

The second, even more important responsibility calls for me to join with others so that, together, we may use our freedom to aid the poor, the uneducated, the crippled, and the despised to overcome their handicaps so that they may take their place in this great country, and in the entire world community itself. Unfortunately, this cannot be done in one grand gesture. A great deal of effort must be expended on a person-to-person basis in order to set the stage for broader efforts.

In short, I must make freedom more than just a word. I must cherish it, nurture it, fight for it, share it. Just as my predecessors passed freedom down to me, so must I pass it on to my children. God help me if I fail. God help us all.

JUDGE JOE R. GREENHILL—A GREAT TEXAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. PICKLE. Mr. Speaker, Austin and the State of Texas are blessed with many outstanding citizens and favorite sons. One of our most outstanding and well loved is the Honorable Joe R. Greenhill. Justice Greenhill has devoted his life to seeking justice for the citizens of Texas and the people of the United States. He is not in his 15th year on the Texas Supreme Court. Appointed to the court by Governor Price Daniel in 1957, he was reelected for 6-year terms without opposition in 1960 and 1966. He will next January be the chief justice of the Supreme Court of Texas.

A native of Houston and a graduate of the Houston public schools, Judge Greenhill attended the University of Texas where he received three degrees, B.A., B.B.A., and LL.B. He was elected to Phil Beta Kappa and other honorary societies, and was an editor of the Cactus, and the Texas Law Review. He is a director of the American Judicature Society, was chairman of the judicial section of the State Bar of Texas, 1969–70, and is also a former chairman of the mineral law section.

Recently during the Freedom Foundations' 23d annual awards ceremony at Valley Forge, Pa., Justice Greenhill was awarded the George Washington Honor Medal for his magazine article "Disaster Lobby Versus the Good of America," The article originally was an address by Justice Greenhill to the Biennial Scottish Rite appreciation dinner in Austin, March 23, 1971.

I am proud to honor this great Texan and my lifelong personal friend by sharing with you this award-winning article as printed in the Austin American. The article is as follows:

DISASTER LOBBY VERSUS THE GOOD OF AMERICA

(By Justice Joe R. Greenhill)

A large percentage of the guests of the Scottish Rite Bodies here tonight is made of the leaders of executive and legislative branches of our State government. You are conscious of lobbyists of various sorts, both good and bad. You know how to deal with them; and on balance, they perform a helpful and useful service.

But there has been another lobby which, of late, has exercised great influence. This particular group is not subject to the controls imposed on other lobbies; but it is powerful, and bears within itself a danger to our American way of life.

I'm talking about our "Disaster Lobby;" the people who preach that our State and national government is in a state of decay; is on the verge of catastrophe; that everything is wrong in government; that our industries which gave us the highest standard of living in the world are, because of pollution and profits, really enemies; and that unless, by stringent regulation, we virtually take over all utilities, transportation, and other industry, we will all perish in pollution; and that millions will be reduced to abject poverty.

Some of us heard Mr. Justice William O. Douglas speak at the Driskill Hotel last Saturday night. He suggests, as recounted in the front page story of Sunday's Austin paper that "Revolutionary steps are needed;" that people need to confront what he called the Goliaths of modern times "who assume that they have a God-given right to exploit the country, pollute the skies and the rivers, despoil estuaries, and convert every blessed tree into a dollar."

The publisher of Look Magazine, Mr. Thomas Shepard, recently addressed himself to the Disaster Lobby. In a speech in New York, he challenged many of the assertions of the Disaster Lobby, which he characterized as the most dangerous men and women in America.

Take the one about the world's running out of oxygen, and that eventually we will all suffocate. The National Science Foundation recently collected air samples at 78 sites around the world and compared them with samples taken 61 years ago. Result? Today there is precisely the same amount of oxygen in the air as in 1910, about 29.5 per cent.

Take the one that the air pollution of our cities is getting worse all the time. True, we need to work on this, and we have been working on it. But the air in New York City has less pollutants than it had in 1965; and its air is immeasurably cleaner than it was 100 years ago when people burned soft coal for heat.

Our waterways are not as pretty as they used to be, but they are not as deadly either. Our lakes and streams have been cleansed of cholera and typhoid; and the water we drink is the safest in the world.

And that scare about mercury in the tuna fish: The Disaster Lobby, fanned by a national magazine, said it had to be caused by industry. A fraction of it may have been, and all agree that it should be curtailed. But research showed that the mercury in the oceans came from deposits from nature; and that ALL the mercury dumped into the world's oceans in a year would amount to less than 40 carloads. This, Mr. Shepard says, would be like saying that a boy with a water pistol caused the Johnstown flood. Further proof? Fish caught 44 years ago and just analyzed contained twice as much mercury as fish processed this year.

The Disaster Lobby urges a return to "The Good Old Days." Well, 150 years ago, our life expectancy was only 38 years; the work week was 72 hours. The housewife worked and scrubbed away without a dishwasher, clothes washer, or vacuum cleaner. You chopped wood and froze in the winter, and sweltered in the summer.

Some of our radical friends would have their type of people take over the regulation of business enterprise and would socialize it, or communize it all together. I do not need to remind you that an iron curtain is necessary in Berlin to hide the fact that our free enterprise system, run, financed, and managed by free people, far outstrips the productivity and quality of Russia and all the other communist countries combined.

I'm sure you noticed last week that in Cuba, where Castro and the state have taken over farming, that new national laws went into effect requiring forced labor camps. And I'm also sure you remember that the first thing Castro did in taking over power was to get rid of all the judges. He replaced them with his political people; and individual liberty was, and still is, a dead duck.

The armed forces have been dealt a serious blow by the Disaster Lobby. In a recent address, General W. C. Westmoreland stated that, and I quote, "Never in our history, while fighting a war, have we concentrated so intensely on controlling our fire power to avoid civilian casualties and damage to civilian property; and in helping people in a foreign land. We have brought care to thousands who had never seen a doctor; we've built hundreds of schools; and our soldiers have devoted much of their own time to assist the Vietnamese in their search for a better life. "Unfortunately," Westmoreland concludes, "these events are not news."

Instead, the Disaster Lobby now concentrates the world's attention on the acts of a handful of people at My Lai. Our national TV and national magazines make sure that we, and all the world, including the communists, are furnished, even saturated, with ghastly pictures. And Mr. Justice Douglas, in running down our country, told us last Saturday night, again as quoted in the Austin paper, "We extol law, but shun it when we come to major international crises . . . How long can the consciences of men tolerate killing not only the man with a gun but all of his kinfolk and neighbors, whose demands never exceed a bowl of rice a day and education for their children?"

The result, whether designed or not, is that we get a feeling of national guilt. We are in danger of losing confidence in ourselves.

Well, as for me, I am sick up to here of the Disaster Lobby whose function is to spread distrust, discontent, and even rebellion.

I would like to join those who would emphasize what's right with America. William Lindholm, President of the Chesapeake Telephone Company, recently discussed the psychological warfare which we have waged on ourselves without knowing it.

Psychological warfare was originally designed to reduce the enemy's belief in his own cause, to make him distrust his leaders and colleagues, to raise serious doubts as to the justice of his system, and to make him lose faith in the stated objective of his society. Here is the Disaster Lobby. It sows the seeds of distrust and doubt against our own country and our own leaders.

The antidote is an offensive to close ranks

behind one's own cause, to reaffirm one's own ideals and purposes, and to bring moral courage and dedication to things one genuinely holds to be essential to his way of life.

We have had an overdose of the Disaster Lobby's psychological warfare. Its effects can be as deadly as a broadside from a cannon. We're taking an awful lot of this now. But if we lose our faith in ourselves and in one another, we become weak, however heavily armed we may be.

So let's think and act more on the positive side. Let's realize what's good in America and in Texas; let's renew our courage and dedication to things we know to be right.

It would be presumptuous of me to tell this group of dedicated people that our state and our nation today are the very finest ever known to man.

We enjoy more personal freedom than any people on earth. We are all free to worship as we please, without fear of governmental interference. We are one nation, under God. In spite of the cynicism and the "God is Dead" stuff, the Gallup polls show that 70 per cent of the American people think that religion is important; and that 97 per cent of Americans believe that there is a God, and that He is alive.

We are educating more of our population and to a higher degree than any nation on earth. Your problem is not whether to provide education for all, without regard for race or color, but how to do it, and where to get all the money it takes.

Our Texas highways are the very finest.

The per capita disposable income in America is about $3,000—45 per cent more than in Canada and in England; and 70 per cent more than in France. Minimum wages are higher, and workers are protected more than our founding fathers ever dreamed of. The purchaser and consumer are protected and warned at every turn. We take care of our sick, our disabled, and our aged by both public and private charity to the point that our financial resources are seriously strained.

We are told by the Disaster Lobby that we are unfeeling, cold, and insensitive to the needs of others. Answer? Last year, we Americans contributed more than 14 billions of dollars to charitable causes. Some say that this is just the work of foundations and big business. They surely helped.

But three-fourths of that 14 billion dollars came from people like you and me digging down in our pockets. The marvelous work of the Scottish Rite Bodies in assisting crippled children and others is an excellent example.

Yes, there is an abundance of what's good in America and in Texas. Instead of women working in sweatshops, instead of people working as share croppers on the farms, instead of the illiteracy and disease, there is an absence of misery in millions of men who will retire healthy, and with compensation, at age 65.

As Eric Hoffer has pointed out, all these good things have happened in the "only nation founded by the ordinary people, the masses." The best thing about America is her people. We are part of the people. But if we lose faith in ourselves, we will become what our critics, and the Disaster Lobby, say we are,

In order for us to appreciate the greatness of our country and government, and the fact that our form of government is really working at both the national and local level, we sometimes need to see ourselves as others see us;—not from the eyes of those who come here looking for trouble and to bolster the Disaster Lobby, but from the eyes of people who have come in search of freedom and peace.

In the current Reader's Digest, there is an article by Janita Atkins who, with her husband, fled virtually penniless from Poland. After having been here a few years, she was dismayed at what we here tonight call the Disaster Lobby.

She writes:

"Among some of our American-born friends it is not fashionable to be enthusiastic about America. There is Vietnam; there are drugs, urban and racial conflicts, poverty, pollution. Undoubtedly, this country faces urgent and serious problems. But what we, the newcomers, see are not only the problems, but also solutions being sought and applied.

"I love America because people accept me for what I am. They do not question my ancestry, my faith, my political beliefs.

"I love this country because when I want to move from one place to another, I do not have to ask permission. Because when I need a needle, I go to the nearest store and get it.

"I love it because I do not have to stand in line for hours to buy a piece of tough, fat meat.

"I love it because, even with inflation, I do not have to pay a day's earnings for a small chicken.

"I love America because America trusts me. When I go into a shop to buy a pair of shoes, I am not asked to produce my identity card.

"I love it because my mail is not censored, my phone is not tapped, my conversation with friends is not reported to the secret police."

There is more, but that is enough to convey her message.

We do have our problems, but we, and you are working very hard to solve them. We have a nation and a state of which we can be proud. Let's renew our faith in our country, our government, and in ourselves. And if we remember and follow the guiding principles of Free Masonry, and the will of the Supreme Architect of the Universe, we cannot help but succeed.

Let us ask the guidance of the Supreme Being, and do our best to follow His will, and no be distracted or dismayed by the Disaster Lobby.

I feel sure that I am authorized to say that Scottish Rite Masonry is proud of you, and has faith in all of us. I know that I have.

COMMONSENSE ON THE HOME PORTING ISSUE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. HOSMER. Mr. Speaker, over the years our colleague from New Jersey (Mr. FRELINGHUYSEN) has earned a splendid reputation for good judgment on issues and also as to the proprieties to be observed in the legislative process. Proof of this is to be found in the Washington letter to his constituents, which Mr. Frelinghuysen issued last week:

ON THIN ICE

Any student of Congress knows—and even a casual observer soon realizes—that the proper functioning of the legislative process hinges on the committees of the House and Senate. It is their evaluation, and modification, of the thousands of bills introduced each session which determines the flow and character of legislation. It is their failure to act, or to reach agreement, which keeps bills from reaching the President's desk.

Hearings by congressional committees may be primarily educational rather than legislative in intent. Such may have been the purpose of two days of hearings sponsored jointly last week by the House Foreign Affairs Committee. We were given the opportunity to examine the administration's recent decision to seek "home port" facilities in Greece.

The "home port" concept has been developed to maximize the utilization of our Navy—in this case the U.S. 6th Fleet stationed in the Mediterranean. Adm. Elmo Zumwalt, Chief of Naval Operations, and two spokesmen for the Defense and State Departments made a detailed presentation of the reasons for seeking to make "a home port" in Piraeus, the port of Athens. If agreement is reached with the Greek Government some 1,200 families of the crews of a carrier task force may be allowed to reside in Greece. The main consideration for the move, it was pointed out, was to improve the morale of our sailors, at a time when reenlistment is important.

Our committee began to tread on thin ice the second day when critics of home porting charged that the choice of a Greek port, rather than one of the 15 others under consideration, was unwise, as it constitutes "an embrace" of an unrepresentative regime. Here I felt we were departing from our role as a deliberative body. The hearings, though ostensibly to discuss "home porting," were being used for quite a different purpose.

It is true that Greece has been without a constitutionally elected government since 1967. It is also the case that the military regime which controls the Government has been the object of widespread criticism for its failure to reinstitute elected civilian rule. Yet hearings on a procedural matter such as "home porting" facilities are not an appropriate place for the investigation of internal policies of an ally.

What particularly disturbed me was an afternoon appearance, as critics of home porting, of two former members of the Greek Parliament, both of whom strongly oppose the present military government of their country. Their testimony was reminiscent of the hearings on Northern Ireland of the previous week. Like those hearings, this testimony presented only a partial picture. It allowed foreigners, very much interested in their own domestic political situation, a public forum to condemn not only their own government but the policy of the United States.

The fact is that the President feels—and many in Congress agree with him—that Greece is of considerable military importance to us, and also to the NATO alliance. While we naturally would like to see the Greek people actively involved in the political process, it is hardly likely that Congressional hearings can make a useful contribution to that end. Indeed, by airing our dissatisfaction with the unrepresentative character of the Greek regime, and allowing Greek citizens to attack its legality and to question American policy, our committee does tread on thin ice. The United States did not install the present Greek regime and has no power to bring it down. In my opinion, public agitation regarding an internal situation of a long-time friend and ally does not serve a useful purpose.

CHARLES REED BISHOP

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mrs. MINK. Mr. Speaker, one of the outstanding men in Hawaii's history is

Charles Reed Bishop who contributed significantly to the growth and development of the islands. This year Hawaii celebrated the 150th anniversary of his birth. An essay contest was held as part of the celebration.

I would like to insert in the RECORD, the winning essays written by three young girls from Hawaii, which accurately and sincerely describe the generosity and dedication of Charles Reed Bishop. The essay contest was sponsored by the Committee for the Sesquicentennial of the Birth of Charles Reed Bishop.

Miss Heidi Petersen is a fourth-grader at Hilo Union School, Miss Susan Murakami is a ninth-grader at Paauilo Intermediate School, and Miss Natalie Francisco is a junior at Laupahoehoe High School. All three students are from the island of Hawaii and each was judged winner in her respective division. The contest was conducted in the schools in Hawaii.

It is with great pride in these three winners that I offer their essays:

ESSAY ON CHARLES REED BISHOP

(By Heidi E. Petersen, Hilo Union School, Fourth grade, Hilo, Hawaii)

Charles Reed Bishop was a man loved by all Hawaii. He helped even her kings make decisions of great importance between Hawaii and the United States and foreign countries. One of the many things he helped with was the Hawaiian schools. He was president of the trustees for the Kamehameha Schools. He was a trustee and chairman of the finance committee of the Punahou School. He supported boarding schools throughout the Hawaiian Islands; such as Kawaiahao Seminary, East Maui Seminary, Kohala Girls School, Hilo Boys School and many others.

I feel that he was a very devoted man. I think he loved the Hawaiian children very much, because he did not have any children of his own. I know also that his devotion to his wife, Bernich Pauhi Paki Bishop was very strong. He loved her so much that when he died he wanted his ashes to go to Hawaii and to be put in a tomb beside hers.

He was so close to the Hawaiian people and loved them so much that before he went to San Francisco he gave all of the land his wife had inherited from her ancestors back to them in what is now known of as the Bishop Estate. She was of the alii. Other white men who came to Hawaii, cheated, or bought, or inherited land from their wives, but they did not give the land back to the Hawaiians instead they gave the land to their children. But Mr. Bishop gave the land back. So I think that he was a very honest and devoted man.

CHARLES REED BISHOP: FRIEND OF YOUTH

(By Susan Murakami, Ninth grade, Paauilo Intermediate School, Honokaa, Hawaii)

Charles Reed Bishop was a friend of Hawaii's youth. Because of his concern and affection for children, Hawaii benefited.

One of Bishop's most cherished objects of support was the Honolulu Library and Reading Room Association, which he helped to organize. On display were the Bishops' paintings from Europe and Mrs. Bishop's Hawaiian antiquities. For several years he was so engrossed with problems of his wife's estate that he gave little attention to the library. But in 1888, Bishop donated the 300-volume collection of the Fornander Library. Soon he became a trustee, and was a major benefactor. Through Bishop's generosity the library was able to purchase a vacant lot, buy books, and enlarge the building.

In 1889, Bishop started the Bishop Museum. It was a small, modest building of lava rock. Bishop donated ancient Hawaiian collections and manuscripts. Today the museum has grown into a large complex, which is acclaimed as one of the world's leading scientific and historical institutions. The museum has the world's largest collection of Hawaiian and Pacific research specimens and public exhibits. Just by visiting the museum, students can get a vivid picture of what life in Hawaii was like.

Concerned for the health and welfare of children, Bishop gave time and effort as well as money to help build health facilities. He was a trustee, treasurer, and Vice President of Queen's Hospital for thirty-five years and a benefactor of Kapiolani, Children's and Leahi Hospitals.

Bishop was a great supporter of education. This was expressed in one of his letters: "The principal of making a fair return so far as possible for value received, and gratitude for favors and opportunities provided, are essential parts in a sound education. Neither minors nor adults should expect to get anything worth having gratis."

His contributions to the Kamehameha Schools also reflect his interest in education. Bishop gave the Preparatory Department its facilities and money. He wanted the boys to learn "good morals and gentle manners, cleanliness of persons and clothing and . . . neatness in care of rooms and furniture." He also was the trustee and finance committee chairman of Punahou School. Bishop contributed his services, scholarships, buildings, and operating funds. He also supported the Kawaiahao Seminary, Kohala Girls School, East Maui Seminary and other boarding schools.

Bishop believed that educating the children was the surest way to promote wealth and prosperity. Under him public education became non-sectarian and tax supported.

Bishop s concern for the education, health, and welfare of the children showed him to be a sincere friend of youth.

THE MAN IN THE MYTH

(By Natalie Kapewa Francisco, Laupahoehoe High, 11th grade, Hawaii Island, Hawaii)

As quoted in a surfing magazine: "In the 19th century, mankind's myths, excerpts and success have been discredited, reduced to history . . . to lines and footnotes in books and magazines."

Mankind needs its myths of an honored benefactor. Lives, such as Charles Reed Bishop's, represent all that we universally aspire. When one of our kind reaches such a peak in his lifetime he transcends his own time, and he belongs to all ages.

Now what remains? Portraying the deep identity of a very rare man, Charles Reed Bishop's face gazes memorably out of a series of time-softened, ambertinted photographs.

The rare characteristics which originate from this rare identity are the sources of energy which generated the desire to seek an education. Education; the structure of learning and achieving knowledge, is the desire of many. Charles Reed Bishop, Man of Hawaii, stands alone in his achievement of education.

The numerous quoted excerpts from his letters convey the highest ideals and advice profitable to Hawaii's education. He gave intense interest to schools. Most of his interest was devoted to educating students toward industry. A characteristic of Charles Reed Bishop, quoted by Benjamin O. Wist reveals him "As a man imbued with ideals of service, possessed of faith in Hawaii and in public education as a means of promoting its social and economic welfare." This quotation supports his strongest belief that industrial education is a necessity of his concept of a successful program of studies.

To fully interpret his contribution to education and his educational philosophy, one must think and feel the words used in his excerpts. One must be capable of understanding this feeling in order to personally credit Charles Reed Bishop for his contributions to education.

As a young lad, Charles Bishop gained labor experience through employment in farming, accounting, bookkeeping and store clergying. At the youthful age of 24, his skillful ability in accounting was employed by the United States Consul. Preceding his appointment to the United States Consul, he married a glamorous 18 year old princess, Bernice Pauahi Paki. Following their marriage they lived during periods of great changes in the life of Hawaii.

A memorial to Princess Pauahi was the completion of the Bernice Pauahi Bishop Museum. This prominent landmark of Hawaiian history was the creation of Charles Reed Bishop. It became an example of the preservation of the rich heritage which the Hawaiians and many others admired and cherished. It was the summit of their achievements. Together Charles and Bernice apreciated the deep values of the past, but looked forward to the future.

Charles Bishop was outstanding for his contribution in other fields, such as religion, government, Hawaiian affairs, the establishment of hospitals and community activities. He contributed an abundant amount of services and interest to preserve Hawaii's rich heritage.

This was the life of Charles Reed Bishop which spoke for Hawaii's education and success. His ability and knowledge acted as a guiding light that will outlive our time. He was honored, respected and greatly loved.

Charles Reed Bishop was the subject of the myth. Myths and men such as Charles Reed Bishop live beyond their time; they live for all ages. We have not lost Charles Reed Bishop.

THE TABLES DOWN AT MORY'S

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. MONAGAN. Mr. Speaker, E. Robert Stevenson, an Old Blue from way back, has written a most interesting article, "The Gods Were With Us Yesterday," which appeared in the January issue of the magazine "Yankee."

Mr. Stevenson, who is the retired editor in chief of the Waterbury, Conn., Republican-American newspapers, not only sets the facts straight on Mory's famous restaurant but provides a nostalgic glow in recounting the story of that famous student pub. I append Mr. Stevenson's article herewith for the enlightenment and pleasure of my colleagues:

"THE GODS WERE WITH US YESTERDAY"
(NO GODDESSES ALLOWED, THANK YOU!)

(By E. Robert Stevenson, Yale '07)

If you are not a Yale man—or woman—you may not know that there really are "tables down at Mory's" on the walls and "the place where Louis dwells" is still going strong on York Street in New Haven—though Louis Linder has long since gone "from here to eternity." But now trouble's a-brewing!

Is even Mory's, "the good old Temple Bar we love so well," to succumb to the attack of women students, a few faculty members, and even some male students in this the second year of coeducation at Yale? Old-time graduates who remember the atmosphere of Yale and Mory's in their happy college days receive the news of this attack with keen resentment.

For generations Mory's has not been under the jurisdiction of the Yale corporation or faculty. Students who enjoyed its mugs of beer, its songs, and general good spirit of gathering there made the rules and ran the good old Temple Bar. Freshmen were excluded until their sophomore year when it was thought they had become seasoned enough for the good old tap house. It was not a saloon nor a bar for ordinary lunch snacks. Moriarty, the founder, had come from Fleet Street, London, where he had run or was familiar with English pubs and the character of what he set up at Yale was that of a pub. As the years rolled, Yale boys put its own special character into it.

From the earliest days Mory's had a sort of semi-membership. Boys who did not understand its character or know how to conduct themselves while there, were excluded. Its whole atmosphere made it a place for men. Never until Yale became coeducational had it occurred to men that girls would even want to go there. Yale had accepted women but Temple Bar boys could not throw tradition aside and open the door to girls, who began to press for entrance. Hence the irritation of the girls and their supporters. They have succeeded in having its license for selling alcoholic drinks suspended because it has excluded women. What will come of all this remains to be seen.

Mory's belongs with the years. It was boys of the Yale class of 1863 who brought Frank Moriarty and his wife to Yale. The pair had established a tap room in what has been described as a "dingy old building" on Wooster Street in New Haven, down toward the waterfront. In those days and for many years afterward, the Yale boathouse, where crew members kept their rowing shells and general boating paraphernalia, was on the east side of the Quinnipiac River at the end of the causeway just beyond Bell Dock.

Going to or from the boathouse, crew men walked along Wooster Street, where they discovered the pub. They liked it so much that they persuaded the Moriartys to move up near the university. The best place they could find at the time was on Court Street. There they warmly welcomed students to what came to be called "The Quiet House." There was plenty of song-singing but no record of disturbing noise. Perhaps the Moriartys successfully urged quietness and so it came to be called "The Quiet House."

For about ten years Frank presided there, gaining great popularity with the students. Seated about round tables, they drank beer, Fishhouse punch, or St. Croix rum. "The Mrs." Moriarty also won their hearts with her specially prepared Golden Bucks, Grilled Sardines, and Welsh Rarebit. From time to time both Mr. and Mrs. would sit at the tables with the boys and entrance them with tales of Scotland, Ireland, and England.

When her huband died in the early 1870s, "The Widow," as she then came to be called, bought an old house on Temple Street one block off Chapel Street, more convenient to the university. This became known as "Temple Bar." To aid her, "The Widow" hired one Louis Linder, who grew in popularity as is evident in the line of "The Whiffenpoof Song". . . "At the place where Louis dwells." When "The Widow" died, Louis stayed with Temple Bar for many years. It was there that the Whiffenpoofs came into being and from there they went out to travel and sing in concerts all around the nation. They protected their song for years for their own use, allowing no professional singing of it. Finally, Rudy Vallee was given permission and this popular singer used it again and again, giving it wide and popular acceptance.

Change came again. *The Journal-Courier*, a New Haven newspaper, bought for its own use the land on which Temple Bar stood. The Moriartys were gone, Louis was gone, but Yale men were not going to let the Temple Bar disappear. They bought another old house very much like the one on Temple Street. On York Street, it was still nearer to the heart of the university. It was remade, better to fit the uses of the old pub, and it still stands there in use today.

Not only were the round tables at which the boys sat removed to the remodeled structure but so were the tables that had long hung on the walls. For countless time it had been the custom to have each new table carved at the center with a large letter "Y". Then all around it each boy as he came would laboriously carve his own initials and his class numerals. As a table eventually filled with initials and numerals, it was hung for permanent keeping on a wall. Old graduates revisiting would be seen standing on chairs to try and find their own initials thus carved so long ago.

Preserved were the fancy glass wall notices designating the various food delicacies "The Widow" was in days past ready to prepare. The old pewter glass-bottomed beer mugs came, and the photos of outstanding football and baseball players, some seated upon the cherished campus wooden fence, the old London directory, the copy of *Punch*, and other treasures of that character that the Morys had brought with them from England for the delectation of youths who in those days did not so easily travel as they do today.

There preserved is a group picture fronted by Carrie Nation, famous saloon smasher of Kansas. The group with her in 1903 induced her to come to Yale by fraudulently representing themselves as a Temperance Society engaged in trying to reform Yale boys. She came and had her picture taken with the Temperance Society. Without her knowledge, as she stood in front, they held up whiskey bottles to enhance the picture.

My own recollections go back to a special group between 1903 and 1907 that met weekly at Mory's for a genial time. Sinclair Lewis, of *Main Street* fame, was one of us. It was his delight to imitate well-known characters. Our lecturing professor, William Graham Sumner, a distinguished sociologist, was one of them. Alleging that Sumner was speaking, one of Lewis's quirks ran: "Folkways—It's a rare word used by only the brightest minds in the country. In fact I might say it is used only by myself."

William Rose Benét, brother of Stephen Vincent Benét, was one of us. The younger brother, Stephen, not yet in college, visited on occasions to be warmly welcomed. Bill in later years, became an editor on the staff of *The Saturday Review*.

Two who had graduated shortly before us came back to work at Yale. When they found the fun we were having, they joined us. Clarence Day came to edit what was then *The Alumni Weekly*. Through his father's financing, he finally acquired the publication and turned it over to ownership by the university, which then made it a monthly publication.

Clarence, like Thurber, used to like to do funny little drawings as we sat around the table. On one occasion he drew the picture of a monkey hanging on the limb of a tree under which he wrote:

> Dear fellows, do not be annoyed
> Because I call it anthropoid
> It means resembling man 'tis true
> But still that man may not be you.

Brian Hooker had gone forth to work on the staff of *The New York Sun*, write lyrics for musicals, and lecture at Columbia University. He returned to teach English at Yale and so joined us. Hooker wrote a poem to the Temple Bar, most fitting at this time. It was entitled "The Gods Were With Us Yesterday" and in part ran:

> Look, and remember well, Time was
> When many a charmed and chosen few
> Made these bare chambers glorious
> For Bacchus and his retinue,
> When youth and song and mystic brew
> Could sublimate the mellowing clay
> 'Till lights Olympian glimmered through
> The gods were with us yesterday.
> Good night, Old Temple. Even thus
> Thine elders faded out of view,
> Old Sacraments turn blasphemous,
> Old Nymphs allure, where non pursue
> Prophet and warrior, Prince and Jew
> Gather to brush our dreams away,
> The sciences are with us, too—
> The gods were with us yesterday.

Finally, as envoy to the poem Hooker gave a warning that the people who try to break up Temple Bar may well give attention to:

> Princes of change, when all ye do
> Fares better than ye plan or pray,
> Some one—perhaps—will say of you,
> "The gods were with us yesterday."

MEASURING THE SOCIAL AND ENVIRONMENTAL STATUS AND PROGRESS OF COMMUNITIES

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. FRENZEL. Mr. Speaker, the business community has refined its ability to measure with precision the economic climate of a community, the profit or loss of its business concerns and the market penetration of its products.

But, despite the social awakening of the business community, no procedures have been developed to measure the social and environmental status and progress of communities. The First National Bank of Minneapolis, in its 1971 annual report, has attempted to establish a format for an annual social-environmental audit.

First Minneapolis, after further refinement, will be attempting to record the social and environmental progress of the Twin Cities community. Hopefully, the audit will indicate directions in which the community may want to direct its resources in ways which will improve the local quality of life.

The following is the text of the social-environmental portion of the First Minneapolis report. The proposed components and standards are, of course, tentative, but I commend this report to my colleagues and to the business institutions in their districts:

THE ANNUAL SOCIAL-ENVIRONMENTAL AUDIT . . . A PROBLEM AND A PROPOSAL

Over the past year, there has been much discussion and concern among leading businessmen about business' commitment to social-environmental improvement—whether that commitment is producing worthwhile results and by what criteria we can judge its effectiveness.

How can a company know that it is engaged in really necessary social-environmental activity? Who determines the value system and the criteria? If a business uses up a part of the natural environment or if its products adversely affect the environment, does our

present accounting system reflect that company's true cost of business? What accounting system would properly reflect this cost, or measure a company's real contribution towards solution of major problems in our urban society?

Answers to these questions are difficult, in part because there is no common agreement about the definition of a "good quality of urban life" or about what standards might properly be used to measure it.

Every business has standards of performance for profit, investment return, reward to employees and stockholders, and the quality and production costs of its products or services. These standards are reflected in a general accounting system that is accepted by most elements of society and especially by the business community. This accounting system is constructed to report a business' actual economic performance over a time period and to make it possible for the performance of one business to be compared with another.

Similarly, in its social-environmental commitments a business must have performance standards which have general recognition and acceptance, and an accounting system to measure them. Otherwise a business cannot know if it is satisfactorily meeting its social-environmental objectives.

To begin, there must be consensus about what constitutes a "good quality of urban life." Perhaps a way to do this to divide the "good quality of urban life" into its components. Some components generally approved in our urban areas are: aesthetically appealing communities, decent housing, safe streets, a clean and pleasant environment, effective health care, efficient transportation and good cultural, educational and job opportunities.

Within each of these components, achievement standards can be developed to fulfill the definition of a good quality of urban life. These standards would change from time to time as society's priorities change.

After achieving acceptable components and standards, a second step would be to develop a reporting mechanism, an accounting system whereby a company can determine what investment it made toward improvement of those quality of life components and standards to which it had addressed its effort. With this system a company can judge whether or not that investment really helped the community, i.e., whether there was a social profit or loss. Clearly, because so many variables affect the attainment of a community's quality of life goals, and because of the magnitude of the problems involved, precise measurement in some cases will be difficult. For these reasons, a company should focus its accounting on specific urban regions since it is there that the impact of business' actions will be most apparent.

Also while each component will be measured by its standards of performance, the social accounting system ultimately must permit the setting of relative values and priorities among components and the measuring of net profit or loss toward the ultimate total of a "good quality of urban life."

An example of possible components and standards for an annual social-environmental audit for the Twin Cities seven-county metropolitan area follows:

Under this concept a given company, because of its know-how or interest in certain fields of activity, may work for improvement of one or two components. A real estate development business, for instance, would probably have a greater interest in housing and in a transportation system than in other components.

Clearly, the business community alone does not control all the components in the quality of urban life. Government's responsibilities have a major impact on both the components and the standards. All segments of society must focus on the same goals because they all affect the outcome in some way. Increased dialogue between business and government will inevitably result in a better coordination of efforts to attain these quality of life goals.

By comparing the results from year to year, the business community will be able to measure trends and progress in its locality, and concentrate on those components most needing improvement. Whether there has been a profit or loss in a particular activity will enable the company and the community to decide which components require the most attention and improvement in the year ahead. For example, if the community decides to concentrate on an adequate transportation system, such a system can be measured by many standards. In measuring the adequacy of its transportation system, the community may discover that if it is to continue its present automobile-oriented system it will, among other things, be dedicating an unacceptable portion of its land and central business district to highway needs and parking.

There are several alternatives which a given company can follow in responding to this problem. It could work with other companies and with governmental agencies to develop a more effective and modern public transportation system. Or, it could initiate a program of incentives to encourage its employees to use public transit or organize car pools. Or, several firms might join together in sponsoring such programs. Whichever action is adopted, this accounting system will allow the company at the end of the accounting period to determine from agreed standards the effectiveness of its efforts, in terms of results for the company and for the community as a whole.

This proposal is a theoretical framework. It needs critical analysis and further refinement. To this end, First Minneapolis in 1972, through its Urban Development Department, will actively seek the assistance of and consensus among all interested civic, business and governmental groups in the Twin Cities metropolitan area.

Because this report is proposing quality of life components and standards for the first time, First Minneapolis has not attempted to make a precise accounting for the Twin Cities community. First Minneapolis believes that our Twin Cities urban area in 1971 is comparatively healthy in social and economic terms. During 1972, however, we hope to be able to measure the state of its social-environmental health by means of guidelines which are compatible with established business accounting principles.

PROPOSED COMPONENTS AND STANDARDS FOR ANNUAL SOCIAL-ENVIRONMENTAL AUDIT

Components (accounts) and standards

1. Job Opportunities: Percent of persons unemployed. Percent of persons who have changed jobs in the last five years. Percent of population employed. Percent of skilled jobs without people to fill them.

2. Pleasing and Healthy Physical Environment: Amount of pollution in the air measured against established standards. Amount of pollution in the water measured against established standards. Visual appearance of the area as judged by an urban environment committee on the basis of their own criteria. Percent of land dedicated to highway use. Percent of land preserved for parks and open space use.

3. Suitable Housing: Percent of substandard dwelling units. Number of communities with zoning ordinances permitting low and moderate income housing. Number of new housing starts in past year. Average number of persons per dwelling unit.

4. Good Health: Percent of infant mortalities. Life expectancy. Per capita incidence of heart disease. Venereal disease rate.

5. Adequate Income Levels: Percent of households earning less than $5,000 a year. Percent of households earning less than $10,000 a year. Number of people on various forms of public assistance, and annual net gains or losses for public assistance case loads.

6. Quality Education: Percent of high school graduates. Percent of high school dropouts. Percent of high school graduates going to college. Percent of high school students taking national comparative tests who score better than national averages.

7. A Safe Society: Number of violent crimes per 10,000. Number of misdemeanors per 10,000. Number of felonies per 10,000. Percent of core city and suburban persons who feel safe walking the streets at night in their neighborhood.

8. A High Level of Citizen Participation: Percent of eligible persons voting in city elections. Number of persons in city-wide civic groups or numbers of persons in neighborhood associations. Percent of persons over 21 donating to the United Fund.

9. Widespread Cultural Activity: Number of persons visiting: (a) Guthrie Theatre, (b) Walker Art Center, (c) Minneapolis Institute of Arts, (d) Minnesota Orchestra, (e) St. Paul Arts and Sciences Center, (f) Civic and semi-professional theatres. Number of community art exhibitions and concerts.

10. Adequate Transportation: Number of automobiles registered in metropolitan area. Percent of persons using public buses for daily transportation to work. Percent of one-passenger cars driving into downtown area in rush hours.

The Twin Cities area has attained national fame for its cultural activity. In 1971 the new Walker Art Center, adjoining the Guthrie Theatre, opened its modern and spacious galleries. The Walker, among many cultural institutions, receives substantial support from private enterprise.

GOALS OF POISON PREVENTION WEEK DESERVE SUPPORT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. SHRIVER. Mr. Speaker, in 1961 the Congress of the United States approved a joint resolution requesting that the President annually set aside the third week in March as Poison Prevention Week. This year, the 11th such week has been proclaimed by President Nixon, for the week beginning March 19.

Rarely have I witnessed a problem that so affects our entire society receive so little sustained public attention as poison prevention. Each year there are more than 1 million cases of poisonings in the United States, including those from gases and vapors. There are approximately 3,000 poisoning deaths each year. About half of these deaths are accidental. But, most tragically, fully one-third occur in children under 5 years of age in the quiet confines of the home.

A leading physician, Dr. Jay M. Arena, president of the American Academy of Pediatrics and a member of the medical advisory board of the Council on Family Health, tells us that poisoning is now the most common medical emergency that exists in modern pediatrics. Dr. Arena, who has had a long career as a pediatrician and who now heads the Duke University Hospital poison control unit, says that children's deaths from poisoning exceed the total of those from polio, measles, scarlet fever, and diphtheria combined.

Each year some 70,000 children under age 5 are involved in accidental poisonings. And at least two children in the age group die of poisoning every 3 days. Most often, these accidents occur between ages 1 and 3, when the child is just beginning to explore his environment and needs close supervision.

In my district alone, for the city of Wichita, Kans., and surrounding areas, 1,604 cases of accidental poisonings were recorded in 1971. These figures indicate the cases taken to hospitals in the area and do not reflect ingestions treated privately by physicians or resolved by parents at home.

Safety experts agree that the basic answer lies in the degree of concern for safety exercised by parents in their own homes. The less the concern the greater the threat of accidents. Seen in this light, the problem of poisonings becomes one of educating parents to understand the importance of using and storing household products safely and wisely. To be effective, even safety closures must be properly sealed. Otherwise their special caps will do nothing to prevent a youngster from reaching the container's contents. Labels provide no protection unless consumers read the warning message and instructions for proper use. Responsibility for the prevention of accidents must always rest in large part with parents at home.

National Poison Prevention Week is one positive national program which attempts to promote greater awareness of the dangers of carelessness. Unfortunately, it only occurs once each year. For the past 6 years, the manufacturers of proprietary medicines have sponsored the Council on Family Health to promote the safe use of medicines and all household substances throughout the year.

The council is the only private, nonprofit organization in the country concerned chiefly with the problem of accidental poisonings among children. It is supported solely through the voluntary contributions of member drug companies. The council's program is designed to reach millions of families through materials distributed to newspapers and magazines, radio and television, community organizations and consumers themselves.

Programs such as that of the Council on Family Health appear to be making significant contributions to the cause of family safety. The council, of course, supports Poison Prevention Week and seeks to carry out its plea for a safer America.

Aspirin products, because of their wide use in homes throughout America, are involved in a high percentage of poisoning cases among children under age 5. The National Clearinghouse for Poison Control Centers recently reported:

> The 1970 aspirin ingestion percentage of all reports showed a dramatic drop for children under five years of age and were 30 percent lower than the year 1969. . . . During the first six months of 1971, reports of aspirin ingestion are down another seven percent from the 1969 figures.

Industry has helped by voluntarily limiting the amount of aspirin in each bottle. Nevertheless, I am convinced that there is no substitute for a strong parental role in preventing these childhood poisonings.

For that reason, I believe all Americans should support the goals of Poison Prevention Week. The problem of poisoning is often a family-sized tragedy that does not make page one of the papers or the TV screen, but the heartbreak is no less real. It is a daily problem of national magnitude.

I commend the voluntary actions by groups such as the Council on Family Health, and those by the manufacturers of drugs and medicines, to reduce these deaths and injuries. But I also urge all citizens to help do their part to save this Nation's most important resource, our children.

FORD AMENDMENT TO PRESERVE STATES' "NO DISCHARGE" WATER POLLUTION LAWS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. WILLIAM D. FORD. Mr. Speaker, next week the House will begin consideration of H.R. 11896, the Federal Water Pollution Control Act amendments. This bill contains a number of very fine provisions relating to the construction of municipal waste treatment systems and the conduct of antipollution research and other related programs. The Public Works Committee has worked long hours in formulating this legislation, and I would like to commend them for their efforts.

However, there is one provision of this bill which many of us feel can be substantially improved. I refer to section 312 of title III, relating to marine sanitation devices. For this reason I intend to offer an amendment to this section which would preserve the right of States to prohibit the discharge of sewage from vessels operating on their lakes and rivers.

I am joined in offering this amendment by my distinguished colleague, the gentleman from Minnesota (Mr. FRASER) and a bipartisan coalition consisting of the following Members:

LIST OF COSPONSORS OF THE FORD AMENDMENT

Hon. Bella S. Abzug (N.Y.).
Hon. Paul Findley (Ill.)
Hon. Les Aspin (Wis.).
Hon. John Brademas (Ind.).
Hon. James J. Delaney (N.Y.).
Hon. John D. Dingell (Mich.).
Hon. John G. Dow (N.Y.).
Hon. Marvin L. Esch (Mich.).
Hon. Hamilton Fish, Jr. (N.Y.)
Hon. Seymour Halpern (N.Y.).
Hon. John Kyl (Iowa).
Hon. Alvin E. O'Konski (Wis.)
Hon. Abner J. Mikva (Ill.).
Hon. William E. Minshall (Ohio).
Hon. William S. Moorhead (Pa.).
Hon. Henry S. Reuss (Wis.).
Hon. Philip E. Ruppe (Mich.).
Hon. John P. Saylor (Pa.).
Hon. James H. Scheuer (N.Y.).
Hon. Charles A. Vanik (Ohio).

We are announcing our intention to offer this amendment at this time to afford our colleagues the opportunity to become familiar with some of the reasons why the adoption of this measure is s vital to the preservation of clean waters in our lakes and rivers and to the health of the residents of several States who might otherwise be the victims of overpolluted waters.

At this point I would like to insert into the RECORD the text of our amendment:

AMENDMENT TO TITLE III OF H.R. 11896

To preserve the right of States to prohibit discharge of sewage from vessels (sec. 312(f)),

On page 338, amend lines 4 through 25 to read as follows:

"(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such state require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters."

At the outset I would like to emphasize that our amendment would not require the Federal Government to do anything more than it is presently doing. It would cost the Federal Government nothing, and it would take no power away from the Federal Government. Our proposal would simply permit individual State governments to require greater environmental protection with respect to marine sanitation than the minimum Federal standards require if a State determines that such protection of the quality of some or all of its waters is necessary.

Many States have experienced serious problems resulting from the discharge of waste and sewage from vessels operating on their waters and now have laws and regulations which in effect prohibit the discharge of wastes and require vessels to be equipped with holding tanks or self-contained marine toilets. These devices are designed to retain all sewage produced on the vessel for subsequent disposal at a dockside or onshore waste collection and treatment facility.

As presently worded, the committee version of this bill would allow Federal standards and regulation to preempt existing State statutes and regulations. Under Federal standards, which incidentally, would not become effective until 5 years after they are promulgated, the dumping of wastes from vessels into our waters could be permitted after receiving treatment that may not even be as good as the secondary treatment now provided at most municipal sewage treatment plants.

In other words, the committee bill, if passed in its present form, could effectively cripple many very excellent State statutes and regulations now on the books which have stringent "no-discharge" standards probibiting the dumping of waste and sewage into its waters. This could only be construed as a terrible step backwards for the many hardworking citizens and elected officials in States throughout our Nation who have put forth a great deal of effort to enact these highly effective standards into law.

It is my understanding that there are approximately 20 States which now have "no-discharge" regulations in effect in

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one form or another. These include many of the Great Lakes States, such as Minnesota, Wisconsin, Indiana, Ohio, New York, and my own State of Michigan.

I am especially concerned, as are my colleagues from Michigan from both sides of the aisle, over the prospect of having Michigan's very fine law wiped out by the passage of the committee version of this bill.

Michigan's Water Pollution Control Act of 1970 was passed during the 1969–70 legislative session with strong bipartisan support from farsighted legislators in both chambers and from our Gov. William Milliken. It provides in part that "all toilet-equipped watercraft moored or operated on the waters of the State of Michigan are required to be equipped with holding tanks, self-contained marine toilets, or incinerating devices which will effectively prevent the overboard discharge of all sewage wastes produced on the vessel."

Mr. Speaker, it would be a shame for us to pass this very fine bill to combat water pollution with a provision that will effectively undercut some of the efforts which individual States such as Michigan have made in this same area with respect to improving marine sanitation standards. For these reasons we urge our colleagues to consider the merits of our amendment carefully. We are convinced that when the implications of this amendment are fully understood, a majority from both sides of the aisle can support this measure enthusiastically.

At this point I would like to submit for the RECORD a list of the most distinguished environmental, conservation, civic, and labor organizations in the Nation which are supporting this amendment:

LIST OF SUPPORTERS

Amalgamated Clothing Workers of America.
Bass Anglers Sportsman Society.
Clean Air, Clean Water, Unlimited.
Common Cause.
Environmental Action.
Environmental Policy Center.
Friends of the Earth.
Izaak Walton League of America.
League of Women Voters of the United States.
Michigan Student Environmental Confederation, Inc.
Minnesota Conservation Foundation.
Minnesota Environmental Control Citizens Association.
Minnesota Public Interest Research Group.
National Consumers League.
National Farmers Union.
National Wildlife Federation.
Northern Environmental Council.
Oil, Chemical, and Atomic Workers International Union.
Save Lake Superior Association.
Sierra Club.
Sport Fishing Institute.
Trout Unlimited.
United Automobile Workers.

SWISS BANKING SYSTEM

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. HANNA. Mr. Speaker, there has been an unusual interest in the present banking system in Switzerland since its origination in the early 1930's. So often, discussion of this system has been based on lack of knowledge and a misunderstanding of how the system works. Actually, it is very similar to our own banking practices.

The United States maintains close ties with Switzerland and its responsible financial community, and in relation to these links, our Government is endeavoring to extend and improve the availability of certain information in the areas of tax evasion cases involving American citizens with financial accounts in Switzerland. Our major effort in this regard has been the passage of the Foreign Secret Bank Accounts Act, now law, in 1971. In criminal areas, however, cooperation has come more readily and I feel it is very important that my colleagues in the Congress be aware of the true situation that exists in Swiss banking circles in such circumstances.

A recent, well-publicized case of alleged fraud and other questionable activities provides an example of the cooperation that Swiss banks offer in criminal matters involving U.S. citizens. Once the Swiss Government and banking officials realized that a criminal charge was imminent in this recent case, they acted quickly to provide all pertinent information in relation to the banking accounts held by the principals. The same procedure has been followed many times in the past when criminal activity was apparent. I think this attests to the fine liaison that exists between our two Governments.

In other types of cases, the reasons for the confidential nature of some banking accounts in Switzerland are founded largely in the lessons of recent European history. In times of military or political upheavals in other European countries, Switzerland provided a haven for those seeking protection from oppression and infringement on personal liberty. Years before Switzerland filled this role, prominent or political refugees often were located, captured, and returned to their country through detections of their banking accounts. Among other reasons, the liberty laws, which included the Bank Secrecy Act of Switzerland, were enacted to help safeguard the lives and well-being of these refugees.

In many respects the Bank Secrecy Act of Switzerland is comparable to our fifth amendment, since it extends and maintains the right to personal liberty and freedom for the sake of individual justice, regardless of national origin or citizenship.

In this light, these features of the banking system in Switzerland are dedicated to the service of mankind in the international arena, and I would like to commend those who help offer this safeguard of personal liberties. Three recent articles help describe the Swiss banking system in a more detailed fashion, and I insert them in the CONGRESSIONAL RECORD for the informational benefit of my colleagues:

[From the Canton (Ohio) Repository, Jan. 28, 1972]

SECRECY MISUNDERSTOOD

(By Henry J. Taylor)

The Howard Hughes autobiography mystery with its potential $650,000 fraud puts Swiss banks in the headlines again. And the reputable banks over there, like the Swiss Credit Bank now involved, bitterly and correctly resent this—and for good reasons.

Their justifiable fury centers on misconceptions about the Swiss Bank Secrecy Act. U.S.A. crooks, beware!

Switzerland's Wall Street is Zurich's Bahnhofstrasse, with Geneva now competing hard. It is commonly said that there are more banks in the nation than dentists. This is true. There are about 4,200 banking outlets, one for every 1,500 people. And many have functioned as shelters through Europe's Thirty Years' War, the Napoleonic conquests (including Napoleon's conquest of Switzerland), the Huguenot persecutions, the 1848 revolutions and Europe's last three major wars.

About one-fifth of the $22 billion bank deposits are from foreigners, mostly because of the worldwide confidence in the stability of the Swiss franc. It is completely backed by gold and instantly exchangeable for gold in Switzerland.

The Bank Secrecy Act, however, is merely a section of the nation's broad, salutary and humanitarian Liberty Laws. This legislation is dedicated to protecting the individual, the Swiss and foreigners alike, from the invasion of privacy and from harassment.

Hitler literally created them. The Liberty Laws were Switzerland's counterattack to the Nazi intrusions against German refugees in Switzerland and were codified in the early '30s.

Largely forgotten, the Nazis enacted a death penalty for any German found to have a foreign bank account. Hitler's Gestapo used every conceivable ruse to detect these. Switzerland's Bank Secrecy Act resulted within the Liberty Laws.

Today the law likewise protects refugees from Communist countries that, like the Nazis, constantly try to entrap them through bank deposits.

For example, the Swiss were incensed by the brutal Soviet reconquest of Hungary. To a man they said: "Es gefallt mir nicht!"—"I don't like it!" More than 200,000 Hungarians fled to Switzerland. Opening her doors Switzerland absorbed all 200,000—the largest per capita acceptance in the world. And the Swiss Ambassador to Vienna told me that in the first year after the Soviet reconquest of Czechoslovakia he issued Swiss entrance visas to Czechs at the year-long rate of 200 a day, with a 700 peak on some days. Switzerland granted political asylum to them all.

The Swiss defend the Bank Secrecy Act much as we do the Fifth Amendment in our Constitution, knowing it is abused for purposes not intended but that, in principle, the protection is immensely proper.

If a banker breaks the law, the maximum penalty is $4,000 and six months in jail. It would immediately kill any man's career in Swiss banking or Swiss business anywhere and no case has ever come to a Swiss federal court.

But here's where U.S. crooks, tax dodgers and others make their great mistake:

First the Bank Secrecy Act states that it does not apply when the bank has reason to believe, as in the Hughes case, that a swindle or other criminal activity may be involved. On such suspicion, all reputable Swiss banks cooperate vigorously and completely with the famous Nachrichtendienst, Switzerland's crack counterintelligence police, probably the best in the world.

Current treaties now being worked on by very able and effective American Ambassador to Switzerland Shelby Cullom Davis may result in the inclusion of U.S. tax evasion as well.

Second, the Bank Secrecy Act is entirely voluntary. There is not one word in the Swiss law that requires it.

Swiss banks, like ours, number each account for operational purposes. That's merely routine. The Bank Secrecy Act is entirely voluntary. You yourself must invoke it. You must notify the bank in writing that you demand secrecy. Invoking this is utterly and completely your responsibility.

Thus the question immediately and properly arises in the U.S. Internal Revenue Service: What is this citizen hiding?

The IRS can, and does, ask the U.S. citizen to notify the bank to withdraw the secrecy and the bank will immediately do so. But if the U.S. citizen refuses, the IRS correctly presumes that the citizen is dealing in fraud, and his fat is in the fire.

Don't—don't—open a so-called numbered account in Switzerland. When you invoke the secrecy your troubles may begin as of that instant.

[From U.S. News & World Report, Feb. 21, 1972]

IN THE HUGHES BOOK MYSTERY—NEW FOCUS ON HOW SWISS BANKS WORK

ZURICH.—Controversy over an unpublished book is now laying bare some of the supposed secrets of a financial system that has long been a mystery to most Americans—the Swiss banking complex.

The view is widespread in the United States and elsewhere that Switzerland's bank accounts, operating behind a barrier of legal protection, are ideal hiding places for ill-gotten funds.

Main reason for this reputation: the well-known "numbered" accounts, where the actual name of a depositor is concealed and only a few top officials of the bank know his identity—which, under Swiss law, they must not reveal except in certain instances.

CASE OF THE "HUGHES" BOOK

Focusing a spotlight on this financial situation is the mystery surrounding an alleged autobiography of industrialist Howard Hughes, turned over by author Clifford Irving to McGraw-Hill, Inc., and "Life" magazine for publication.

It was Mr. Irving, Zurich authorities claim, who used Swiss banks to clear checks of hundreds of thousands of dollars made out by McGraw-Hill to "H. R. Hughes."

Just how do Swiss banks operate?

For one thing, big money movements are less likely to be questioned than in many other countries. The Swiss bank-secrecy law of 1934 keeps most of these transactions concealed even from Government authorities.

Almost anyone can open a bank account in Switzerland without too much formality. This can be done at the counter or by mail. If an account is opened by correspondence, the banks generally ask the new client to make a personal call as soon as feasible.

In order to open an account, the client must fill in a special form with name, address, date of birth, nationality, profession—and possibly also the names of any other persons who are authorized to act on his behalf. Foreigners are generally requested to show their passports. A signature card is made out in duplicate, giving the name or names of persons entitled to sign—and a sample of their signatures.

FOR GREATER SECRECY

The famous "numbered" accounts are used to increase discretion within the bank. They carry only a number and, often, a code word added. If a person wants to open a numbered account, he is directed to a private conference room to meet with a senior bank officer. Foreigners are sometimes asked for a letter of introduction from a well-known bank. Some banks ask for minimum deposits of $25,000 or more, and there are extra charges since numbered accounts cause additional work.

The existence of supposedly "super-discreet" numbered accounts has undoubtedly attracted large amounts of money from wealthy people around the world, even some dubious funds. Swiss bankers say that "dubious" clients often present excellent credentials from first-class banking addresses in the U.S. and elsewhere abroad. Yet, the numbered accounts make up only about 3 to 4 per cent of all Swiss accounts, and the sums deposited there are less than 10 per cent of total deposits, according to one estimate.

The main advantage of a numbered account is the extra security it offers against indiscreet talk by banking personnel. Only two or three very senior officials know the identity of the account holder. Movie stars, politicians, other well-known persons have long preferred to hold numbered accounts in Swiss banks.

"DUMMY" ACCOUNTS

The name of a numbered-account holder, however, is always known to the bank, Zurich sources insist. They are not anonymous accounts. It is possible that people who want to remain truly anonymous will deposit funds through "dummies," either local lawyers or other persons.

Switzerland's famous banking secrecy applies to regular and numbered accounts in exactly the same fashion. Secrecy is protected by law—the Bank Act of 1934—whose violation is subject to legal penalties. A bank official who breaks the secrecy provision is liable to a fine of up to $5,200 or to a prison term of up to six months, or both. In case of negligence by the bank, the penalty is a fine of up to $2,600.

WHEN CRIME IS CHARGED

Swiss banking secrecy, however, is not absolute—as shown in the Hughes-book controversy. The Swiss, it is true, refuse to cooperate with foreign governments in cases of political, military, foreign-exchange or tax-evasion offenses.

On the other hand, the banking-secrecy provisions do not protect anyone who is accused of ordinary criminal activity. In cases punishable under Swiss law, banks are required to release information.

Thus banking secrecy was lifted in the case of the Irving-Hughes controversy once Swiss officials made charges of fraud and forgery against Mr. and Mrs. Irving.

The Swiss, indeed, point out that in this case they have been able to move more quickly than authorities in the United States.

Zurich bankers also generally urge American clients not to violate U.S. regulations. Swiss banks will not buy or hold gold bullion for the account of U.S. citizens or residents, and point out that U.S. margin requirements must be observed by American customers using credit for security purchases.

TAX DODGERS

Tax evasion is not regarded as a criminal offense in Switzerland, and the Swiss refuse to co-operate with foreign authorities seeking to track down tax dodgers who hold their money in Swiss banks. This has been a source of irritation to U.S. and other officials.

But the Swiss Government is increasingly willing to help the U.S. in its fight against organized crime, when Swiss bank accounts are involved. However, there is no shift in the Swiss tradition that the rules of taxation and banking secrecy will not be changed just to please foreign governments.

[From the New York Times, Mar. 19, 1972]

SWISS BANKS AND SECRECY

IRVING HOAX HELPS DISPEL MYSTERY OF ACCOUNTS

(By Victor Lusinchi)

ZURICH, SWITZERLAND.—Edith Irving is not all villianous to the Swiss bankers she hoodwinked when playing out her accomplice role in the Howard Hughes "autobiography" hoax engineered by her husband, Clifford Irving.

The bankers are not prepared to assign Mrs. Irving, a fellow Swiss, a niche alongside the apple-splitting William Tell in Switzerland's gallery of national heroes. But they do say that she at least did them one big favor when, with great impartiality, she enmeshed all of the "Big Three" Swiss banks in the hoax.

"Americans should now know the Swiss secrecy is not a dodge for protecting crooks and that no crook is safe because he put his money into a Swiss bank."

This is the way officials and legal experts of the Swiss Credit Bank, the Swiss Bank Corporation and the Union Bank of Switzerland put their reasons for showing some gratitude toward Mrs. Irving.

Her activities, they say, with a mixture of conviction and hope, have served to dispel much of the misunderstanding over Swiss banking secrecy by driving home that Swiss law, does not prevent the banks from cooperating fully in the unmasking of criminals.

But even though the Credit Bank described the episode as a "publicity bargain for the Swiss banks," all the banks involved in the hoax wish they had never seen Mrs. Irving.

"We first learned from the papers that a Swiss bank was concerned," an official of the Swiss Bank Corporation said. "We were glad that it was over there" he commented with a rueful smile while pointing across the street to the Credit Bank facing Zurich's Paradeplatz.

The smile was rueful because it was not long before the Bank Corporation was dismayed to learn that Mrs. Irving, having posed at Credit Bank as Helga H. Hughes in order to collect $650,000 in checks made out by the McGraw-Hill Publishing Company to H.R. Hughes, had subsequently crossed the street to transfer most of this money to an account she had opened with it under the usurped identity of Hanna Rosenkranz.

While the two banks were both taken in by Mrs. Irving, they believe that their procedures and practices cannot be faulted. This view is fully supported at the Swiss Bankers Association in Basel, where an official said that nothing in dealings with Mrs. Irving pointed to a need for any changes in Swiss bank practices.

At Credit Bank, the association official said, there was no reason for the member of the customer relations staff who handled the opening of the "Helga R. Hughes" account to suspect that the Swiss passport presented as identification had been doctored.

"After all," he commented, "our bank employes are used to being shown a Swiss passport and they cannot be expected to detect a forgery that only an expert would catch."

This is precisely the argument advanced at the Credit Bank. But here it is also said that the "H. R. Hughes" checks were not credited to the phony Helga Hughes account before approval was received from the issuing bank in New York and McGraw-Hill had been debited for them without raising any questions.

Subsequently, when the fraud was suspected, officials said the woman teller at Credit Bank who dealt with Mrs. Irving, and had correctly recorded her passport, was able to remember the author's wife and describe what she wore.

"For all these reasons," the officials commented, "this is a textbook case that we could use as an example for our trainees."

Similar reasons are invoked at Swiss Bank Corporation to explain why no cause is seen for changing any of its practices in the light of Mrs. Irving's misdoings. There are no grounds, the officials say, to suspect that the bearer of the West German identification document was anyone but the Hanna Rosenkranz it named.

This is why Paul-Dieter Klingenberg, the bank's legal expert, is vociferously indignant because an indictment in the proceedings against the Irvings in New York alleges that Bank Corporation, on learning that the Hanna Rosenkranz identity had been usurped, wanted to help cover up the fraud by transferring the account under this name

to another branch in Zurich at the end of December.

Mr. Klingenberg angrily denied the charge, as did with equal indignation a few hours later Zurich's public prosecutor, Peter Veleff. It was not until Jan. 21, Mr. Klingenberg said, that the oank was to learn that the Hanna Rosenkranz it knew was someone else than she purported to be.

At the Union Bank, in a branch of which at Winterthur, about 20 miles north of Zurich, Mrs. Irving deposited $31,000, officials also see the Irving case as having no repercussions on Swiss banking practices. Here, too, the prevailing opinion is that these were not at fault and there is little more the banks can do to forestall criminals from taking chances.

The bankers all seem satisfied that the cooperation they have been giving Mr. Veleff in bringing to light Mrs. Irving's dealings with Swiss banks is not damaging their reputation for assuring maximum secrecy to their clients.

Individual bankers questioned in their offices lining Zurich's Bahnhofstrasse and Paradeplatz say that they have no reason to think that they are losing any business because the Irving affair has shown that there are limits to Swiss banking secrecy. The bankers' association assures that it has heard none of its members mention any disaffection of clients.

If the golden rule of Swiss banking secrecy has become a little tarnished, it can be only in the eyes of the dishonest, the bankers assert. "This would be all to the better," one official of a "Big Three" bank said, "because we are not in business to deal with criminals."

The lifting of the secrecy veil in the case of Mrs. Irving's dealings and the freezing of the funds she had on deposit presented no problem for the Swiss banks, since they acted in response to a criminal complaint filed in Switzerland for crimes committed in Switzerland with a Swiss citizen as the suspect.

If no crime has been committed in Switzerland, the trans-Atlantic cooperation that permitted the rapid tracing of the movement through Swiss bank accounts of the illegally gotten McGraw-Hill funds would not have been as easily established in the absence of a legal assistance treaty between the United States and Switzerland.

Initiated by the United States in the hope of getting an accord that would help trap American tax evaders and Mafia types who might be using secret Swiss bank accounts as hiding places for their funds, negotiations for a legal assistance treaty with Switzerland have been dragging on for more than two years.

Some diplomatic sources in Bern, the Swiss canital, believe that, on balance, the Irving affair should help the negotiations by having pointed up the advantages of cooperation. But there are bankers in Zurich who are akeptical.

These bankers say that the way the Irvings have been able to stay out of jail despite their confessions and Switzerland's request for Mrs. Irving's extradiction has opened the eyes of many Swiss to the great differences in the legal systems of the two countries. This has served, according to these bankers, to harden opinion against making any concessions that might serve only to "displace from the United States onto Switzerland the burden of catching American criminals."

HON. JAMES W. TRIMBLE

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 15, 1972

Mr. EDMONDSON. Mr. Speaker, it was with profound sorrow that I learned of the death of a dear friend and beloved colleague, the Honorable James W. Trimble.

Jim Trimble represented the district in Arkansas which borders Oklahoma's Second District for many years, and he represented that district with honor, and ability and fidelity. He was a down-to-earth, sensible legislator with a great heart, who contributed in many ways to the advancement of the best interests of Arkansas and the entire Arkansas River Valley. He played a key role in the development of navigation on the Arkansas River, which is contributing so greatly to the economic development of both my district and the one he represented.

Jim Trimble leaves a host of friends who will remember him as one of the finest men ever to serve in the Congress. My family joins me in expressing our deepest sympathy to the Trimble family.

THE 197TH ANNIVERSARY OF PATRICK HENRY'S IMMORTAL SPEECH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RARICK. Mr. Speaker, on this date 197 years ago in St. John's Church of Richmond, Va., the Second Revolutionary Convention of Virginia met to make plans to defend their liberties. It was before this gathering that Patrick Henry made his famous speech the closing lines of which are so often quoted:

Gentleman may cry, peace, peace—but there is no peace. The war is actually begun. . . . Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!

Today as in the 1770's the freedoms of Americans are under attack by tyrannical forces. At the earlier time when our forefathers pledged to each other their lives, fortunes, and sacred honor, and placed their lives on the line so that future generations might have freedom, the oppression was imposed by England. Today the freedoms won for us through the blood of our forefathers are being whittled away by international satanic forces centralized by the United Nations Organization whose charter usurps our U.S. Constitution and whose assemblies have turned into propaganda halls making a mockery of its own charter and insulting the deliberative bodies of responsible governments.

The lamp of experience and the history of the past are just as valid and essential in guiding our steps today as they were in guiding the feet of our forefathers in the 1770's. And judging from the past, I desire to know what there has been in the conduct and operations of the United Nations Organization during the past 27 years to justify any hope that it will bring peace. How can an organization which rejects the Prince of Peace bring true peace? On the contrary, it has fostered and continues to promote the Communist style "peace"—a condition which exists when no opposition remains to Communist goals.

If we are to ever have genuine peace in our times, we must obey God's commandments and return to our proven theory of government under the U.S. Constitution. To help restore our Constitution, I have filed discharge petition No. 10 at the Clerk's desk where it awaits signatures of 218 Congressmen to bring up an immediate vote on H.R. 2632 to rescind and revoke membership of the United States in the United Nations.

There can be no peace without freedom. Our forefathers who passed on to us stewardship of constitutional liberties demonstrated that they preferred death to life under tyranny.

One of my constituents, an extremely patriotic lady and a direct descendant of Patrick Henry, has written to me on the significance of Patrick Henry today and of the dire need for brave men of the caliber of that great American patriot who will stand up for America and freedom today as Patrick Henry did in 1775. And there were those who regarded Patrick Henry as an extremist.

I include the letter of Mrs. V. E. Minhinnette along with the stirring speech of her forebear in the RECORD at this point:

MARCH 16, 1972.

DEAR CONGRESSMAN RARICK: The true Spirit of '76 was released one hundred and ninety-seven years ago when Patrick Henry rose and announced to his countrymen that he preferred death on his feet as a free man to life on his knees as a slave. His cry to arms was epitomized in the immortal sentence, "Give me liberty or give me death."

With those words, Patrick Henry announced that he was willing, yes, eager, to risk his life, his fortune, and his sacred honor and, of course, that of his family for the noble, just, and Godly cause of freedom. He knew what he risked when he delivered his famous address, but he knew for a certainty what his fate and that of his countrymen would be should they fail to take decisive action against the tyrannical government under which they were forced to exist.

Today, those leaders of our country who bray about the Spirit of '76 have betrayed that spirit; they have bottled it and placed a cap upon it. The spirit to which they allude is that of 84—1984. Those Judases who are selling our birthright of freedom, won by men like Patrick Henry, for an eternity of slavery betray the American people.

The cry of our leaders today is Peace, Peace at any price. Peace at the price of righteousness, peace at the price of honor, peace at the price of respect, dignity, and Christian principles. Peace without freedom is slavery and, if achieved, hell on earth will be the lot of our people.

In the 1770's, the tyranny against our forefathers was directed from England; today it is directed toward our people from Washington, D.C. The guardians of our heritage of freedom have become its destroyers. The actions of our leaders amount to spitting upon the grave of every American who, through the annals of our history, pledged his all for our country. The internationalists who seek to yoke us together with the chains of world government are traitors to our Constitution and our people.

We are being ruled and manipulated by power hungry tyrants who are morally bankrupt and lack the integrity, courage, and honor of our past leaders. Where are the Patrick Henrys of today? Unless we have men, brave men, who will stand as a bulwark for freedom and who will stand for the rights and interests of the American people, instead of prattling about the rights of the so-called World Community, then our country is surely doomed.

I would appreciate your inserting into the Congressional Record the famous address of Patrick Henry as a call to arms to those desiring to re-light the torch of freedom and once again release the Spirit of '76. As a statesman of another era said, "God, guts, and gun powder maintain liberty." We've got God, and we've still got gun-powder. We simply lack guts.

Sincerely and respectfully,

BABS MINHINNETTE.

PATRICK HENRY'S "WE MUST FIGHT" SPEECH' MARCH 23, 1775

Mr. HENRY. No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the house. But different men often see the same subject in different lights; and, therefore, I hope it will not be thought disrespectful to those gentlemen, if entertaining, as I do, opinions of a character very opposite to theirs, I shall speak forth *my* sentiments freely, and without reserve. This is no time for ceremony. The question before the house is one of awful moment to this country. For my own part, I consider it as nothing less than a question of freedom or slavery. And in proportion to the magnitude of the subject, ought to be the freedom of debate. It is only in this way that we can hope to arrive at truth and fulfill the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time through fear of giving offense I should consider myself guilty of treason toward my country and of an act of disloyalty toward the majesty of Heaven which I revere above all earthly kings.

Mr. President, it is natural for man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth—and listen to the song of the siren till she transforms us into beasts. Is this the part of wise men engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those who, having eyes, see not, and, having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it might cost, *I* am willing to know the whole truth; to know the worst and provide for it.

I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years to justify those hopes with which gentlemen have been pleased to solace themselves and the house? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with those warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation—the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array if its purpose be not to force us to submission? Can gentlemen assign any other possible motive for it? Has Great Britain any enemy in this quarter of the world to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us: they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British Ministry have been so long forging. And what have we to oppose them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we anything new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves longer.

Sir, we have done everything that could be done to avert the storm which is now coming on. We have petitioned—we have remonstrated—we have supplicated—we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. *There is no longer any room for hope.* If we wish to be free—if we mean to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained—we must fight! I repeat it, sir, we must fight!! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak—unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs, and hugging the delusive phantom of Hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of those means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat, but in submission and slavery! Our chains are forged, their clanking may be heard on the plains of Boston! The war is inevitable—and let it come!! I repeat it, sir, let it come!!!

It is in vain, sir, to extenuate the matter. Gentleman may cry, peace, peace—but there is no peace. The war is actually begun. The next gale that sweeps from the North will bring to our ears the clash of resounding arms. Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!

THE AMISH VERSUS WISCONSIN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. DERWINSKI. Mr. Speaker, from time to time, Government officials at various levels have created unnecessary complications for the Amish people.

Some years ago, it was the State of Iowa; at the moment, State officials in Wisconsin are the culprits. This point was effectively made in an editorial of WBBM Radio, Chicago, Ill., on March 16, 1972.

The editorial follows:

THE AMISH VERSUS WISCONSIN

Do children belong to parents or to the State? That's the question before the United States Supreme Court in the case of an Amish family and its battle with the State of Wisconsin.

The Amish . . . a frugal, rural closed society . . . are threatened because they refuse to bend to the will of state law. The Amish people have their own ideas on education, and apparently they're not good enough for Wisconsin taste.

Two years ago the Wisconsin Supreme Court ruled that the Amish had a constitutional right to keep their children, who do not usually attend school after the eighth grade, out of public high school despite the state's compulsory education law Still the Wisconsin Superintendent of Public Instruction is determined to press the issue, and is now appealing the case before the United States Supreme Court.

Perhaps it's not just the Amish educational system that rankles the Wisconsin authorities. Maybe it's the unconventional, anti-technological Amish lifestyle . . . and most important, perhaps it's the fact that it works. Educators say Amish children score well in achievement tests and are free from emotional stress. Too bad you can't say that about Chicago's public school children.

The Amish should be left alone. In fact, maybe we can learn something from them.

LAWRENCE C. ELLIOTT, NASHUA CITIZEN OF THE YEAR

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. CLEVELAND. Mr. Speaker, Lawrence C. Elliott, the father of 10 and an outstanding example of the finest qualities of good citizenship, was recently honored by the Greater Nashua Chamber of Commerce of Nashua, N.H., as their "Citizen of the Year." A more deserving individual would be difficult to find.

Larry Elliott has distinguished himself over the years as a hard worker, both in his business, as president of the Nashua Beef Co., and in community affairs where he has been most active in youth-oriented programs.

His contributions of time and money for the benefit of the youth of the community have demonstrated his dedication and unselfishness. He has faith in the younger generation, and that generation has in him an excellent example of good citizenship. Perhaps this example of dedicated public service, leadership, hard work, and concern for others is his most valuable contribution to Nashua and its youth.

The following is an excellent editorial, which recently appeared in the Nashua, N.H., Telegraph, lauding the accomplishments of this outstanding man:

CITIZEN OF THE YEAR

A Nashua father of 10 who has devoted much time and effort, and also money on

behalf of youth, was honored Wednesday night when he received the coveted Citizen of the Year award.

He is Lawrence C. (Larry) Elliott, a very popular choice with the more than 800 who gathered at the 46th annual dinner of the Greater Nashua Chamber of Commerce.

Of modest means in his youth but a hard worker, Larry is president of the Nashua Beef Company. He goes to work early and he labors until late if the occasion demands it. His diligence of effort is spread widely into other endeavors, largely to improve the welfare and conditions for Nashua's youngsters. He has done all these things—without fanfare.

He has said that if a youth is given half-a-chance, he will prove himself beyond expectations.

Larry has been a major booster for Bishop Guertin High School programs. It was through his leadership and generosity that an athletic field was developed, aptly named Elliott Field.

His concern for youths extends beyond Bishop Guertin High. He and his company sponsor a Little League baseball team and a Pop Warner football team, and a Junior Hockey team. He is active in the Junior Police program, a director of the Nashua Fresh Air Camp, and a member of the Advisory Board of St. Patrick's Community Center.

He is a director of River College here, and Nathaniel Hawthorne College in Antrim, and serves on the Advisory Board of Mount St. Mary Seminary and the N.H. Vocational-Technical College.

His public service, leadership and participation on behalf of youth through the years emphasize his dedication to helping improve the community.

It was a well-deserved recognition for the Chamber's selection. He and his wife (the former Shirley Canton) are the parents of 10 children.

NATIONAL FUTURE HOMEMAKERS OF AMERICA WEEK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. PICKLE. Mr. Speaker, the week of March 19 through 25, 1972, has been designated at National Future Homemakers of America Week. This is an excellent time to give these outstanding young people the recognition and praise they so rightfully deserve.

The Future Homemakers of America, first founded, in 1945, now has a membership of 550,000 in the United States with Texas claiming the largest membership with 70,000. This organization, sponsored by the U.S. Office of Education, American Home Economics Association, and the National and American Vocational Associations, has the overall goal to help individuals improve personal, family, and community living.

This goal is to be achieved by living up to the purposes set forth in the Constitution of the FHA: To promote the joys and satisfactions of homemaking; to strengthen the function of the family as a basic unit of society; to encourage democracy through cooperative action in the home and community; to become aware of the multiple roles of men and women in today's society; to improve national and international relations; to provide opportunities for decisionmaking and for assuming responsibility; to involve youth with adults in individual and group activities; and to develop interest in home economics, home economics careers, and related occupations.

This is an organization of fine young people. They are leaders today and will certainly be leaders of tomorrow. It is with pleasure that we should honor them this week.

Mr. Speaker, I have a personal commitment to the FHA, and that commitment came home this week as I received a letter from Jennifer Dujka, State president of the FHA, who attends East Bernard High School in my district.

I know this young lady to have strength of character and courage of conviction. Plus, she has a delightful singing voice.

In her letter to me, Jennifer looks back on this last year while she served as State president. Believe me, she has no regrets. Let me quote from her letter:

> I am seriously disturbed by some of today's publicity given to the minority revolutionary young people seeking their kind of peace through drugs and total rejection to "the society." During my year as State FHA president, I have become even more convinced that most of the youth in America are capable, responsible and concerned citizens.

Mr. Speaker, I vote aye for the FHA—and for all the dedicated young people like Jennifer.

MAN'S FUTURE IN SPACE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. TEAGUE of Texas. Mr. Speaker, last week, in London, England, at Westminster School, Dr. Thomas O. Paine, former Administrator of the National Aeronautics and Space Administration and presently vice president and group executive of the General Electric Corp., delivered the following address for the 1972 Tizard Memorial Lecture, entitled "Man's Future in Space":

MAN'S FUTURE IN SPACE

(By Thomas O. Paine)

INTRODUCTION

To be asked to present the 1972 Tizard Memorial Lecture is an honor and an opportunity for which I am most grateful. My topic, "Man's Future in Space", would, I believe, have intrigued Sir Henry Tizard. Although there are major differences between his development in the 1930's of the highly effective RAF fighter-director radar system of World War II, and our Apollo expeditions to the moon in the 1960's, he would recognize a number of common characteristics. He would understand the difficulties facing NASA in securing national decisions at the highest level involving complex technologies, major risks, and the allocation of large resources. He would appreciate, too, the problem of organizing dynamic government-university-industry teams capable of envisioning and constructing unprecedented systems and developing new operational techniques, while key components were still being designed and laboratory tested. He would be delighted with the technical achievements, particularly those involving the microwave technology he fostered, from radar mapping of the surfaces of Mars and Venus to color television of lunar exploration flashed around the world by communication satellites. Tizard would surely favor more cooperation in space among the western nations. I suspect he would also be interested in the varying perceptions of, and reactions to, the challenges and opportunities of space by scientists and engineers in the United States, the Soviet Union, Europe and Japan, and the characteristically different national aspirations expressed by their political leaders.

We would welcome today Tizard's superb technical judgment of the future value, pace, and goals of space technology, for he had a rare genius for selecting new frontiers of science and engineering capable of rapid advance with significant impact on world affairs. Although we can only speculate, I like to think that he would foresee continuing swift progress and an increasing importance in human affairs of space exploration and utilization. This I believe myself, and this is the thesis of my remarks today.

YEAR 1972 IN SPACE

Let's start our consideration of man's future in space with a quick out-of-this-world status report. As we meet here this afternoon the Soviet Spacecraft Mars 2 and 3 and the American Spacecraft Mariner 9 are in orbit above the dusty Red Planet transmitting their final scientific data to us across a hundred million miles. Other spacecraft beyond the sun are monitoring solar activity unobservable from earth to evaluate radiation hazards for next month's Apollo 16 expedition. Pioneer 10 is outward bound on a six hundred day passage through the Asteroid belt to a rendezvous with Jupiter in December, 1973. It will then be flung outward by Jupiter's gravity to become man's first spacecraft to leave the solar system forever, with a residual velocity at infinity of 23,500 miles per hour. (Incidentally, Pioneer 10 was launched twelve days ago with the record initial velocity of 31,413 miles per hour, which thrust it beyond lunar orbit in eleven hours, putting to shame our leisurely three-day Apollo lunar flights with their archaic 24,500 miles per hour translunar injection velocities). In orbit above the moon this afternoon are the Soviet Spacecraft Luna 19, launched five months ago on a photographic and gravimetric mission, and the Apollo 15 subsatellite ejected last August by the Spacecraft "Endeavor." On the lunar surface passive Laser-Ranging Retro-Reflectors are in place at Tranquility Base, Fra Mauro Station and Hadley Station, by which terrestrial observatories are measuring the quarter million mile earth-moon distance to within less than one foot. Three nuclear-powered science stations are routinely transmitting lunar seismic, magnetic, electrical, and atmospheric data to earth from a triangulation network that extends from Surveyor Crater Station in the Sea of Storms to Fra Mauro and Hadley Stations. In earth orbit this afternoon dozens of satellites are engaged in a wide variety of space missions, including gravitational surveys, atmospheric and oceanographic research, propagation studies, magnetosphere and radiation belt charting, military surveillance, equipment testing, geodetic mapping, navigation, weather observation, global communication and Solar and Stellar Astronomy in wave lengths from infra red through gamma rays. The most recent of these is the European Space Research Organization's satellite TD-1A, launched two days ago on a high energy astronomy mission.

These examples just hit the highlights of this afternoon's out-of-this-world activities. Let's conclude our brief status report with a few census data from space. At the start of this year, the United States and the Soviet Union had launched between them a total of 1,425 space missions: 764 by the U.S. and

661 by the U.S.S.R.. Last year, the U.S. launched 53 spacecraft and the U.S.S.R. 109. Thus the two nations combined are now sending forth about three spacecraft per week, ranging in mission from pure science to commercial telecommunications, in payload from less than a hundred pounds to 150 tons, and in destination from earth orbit to the moon, Mars and Venus—and now across 420 million miles to Jupiter, and on out into the vast reaches of galactic space. Every part of our eight billion mile diameter solar system is now accessible to man's far-ranging spacecraft.

This represents remarkably rapid progress when you reflect that all of today's activities in space have been developed since Sputnick beeped its message of a new age less than fifteen years ago. Many then scoffed at the possibility of human space flight, but within four years Yuri Gagarin had become the first man to orbit our home planet, and eight years after that Neil Armstrong, Buzz Aldrin and Mike Collins initiated human extra-terrestrial exploration on the lunar Sea of Tranquility. Today, seven Apollo expeditions have carried twenty astronauts around the moon, and eight have walked upon its ancient surface.

Will this rapid rate of technical advance continue? Where will it carry man in the next fifteen years? I hope you will pardon me if I speak to these questions in terms of the American post-Apollo program, of which I have some personal knowledge, and discuss probable Soviet and European space progress in relation to it.

THE 1970'S IN SPACE

In his first month in office, President Nixon called together the Vice President, the Secretary of Defense, his Science Advisor, and me as Administrator of NASA to meet as a task group. Our assignment was to develop for the new Administration a definitive recommendation and plan for America's future in space. Two months after the first moon landing we reviewed the completed Space Task Group Report at a meeting with the President. Entitled "The Post-Apollo Space Program: Directions for the Future," it provided him with the basis for a definitive statement setting forth the elements of a balanced new space program as a continuing part of American life. The report has also furnished the basis for subsequent NASA budgets and congressional reviews, and for specific proposals to other nations to encourage broader international participation in the forefront of space development and utilization to the benefit of all.

The President approved NASA's plans for increasing international cooperation in space in an informal meeting with Secretary of State Rogers, Dr. Henry Kissinger and me aboard Air Force One as we flew over the Pacific to the splashdown of Apollo 11.

To initiate discussions I transmitted the U.S. post-Apollo plans to Academician M. V. Keldysh, the distinguished President of the Soviet Academy of Sciences, and suggested we explore potential U.S.-U.S.S.R. cooperative programs and joint missions. He responded favorably, and this exploration has made steady progress since. I also invited the western space nations to review U.S. plans for the 1970's and consider greatly expanding their already extensive cooperative programs with NASA. This involved a series of personal discussions and briefings with governmental and industrial leaders in the space capitals of the Western World, including London, Paris, Bonn, Madrid, Brussels, the Hague, Ottawa, Canberra, and Tokyo. Encouraging progress has also been made here. As a result I am optimistic that by 1975 American Astronauts and Soviet Cosmonauts may be flying together in space, and by the end of the 1970's it is quite possible that they will be joined in orbit by men and women from many nations, including Great Britain. To see how these predictions might be realized, let's review NASA's proposed post-Apollo program.

THE POST-APOLLO PROGRAM

1. The space shuttle and space tug

The basic foundation for all future space activities is the reliable, economical space shuttle launch vehicle. This reusable, vertical-take-off rocket ship will resemble in size and shape a DC-9 jet aircraft. It will be 120 feet long, with a 75 foot delta wing for horizontal landing on conventional airstrips, and will receive augmented thrust from a booster stage during launch and initial climb. It should weigh about 2,400 tons fully fueled with liquid hydrogen and oxygen, (about 80 of the weights of a Saturn V rocket).

The space shuttle will be able to carry into orbit, and return to earth, about 25 tons of cargo in a hold 15 feet in diameter by 60 feet long. It will be able to carry a dozen passengers, making space accessible to all phycially fit men and women without astronaut training.

The reusable Space Shuttle's principal advanatge, which will have a major impact on man's future in space, is a large reduction in the complexity and cost of space transportation. At the dawn of the space age it cost more than $100,000 to put a pound of payload into orbit. A Saturn V rocket does the job today for less than $1,000—a hundredfold reduction in ten years. By the end of the 1970's the Space Shuttle should achieve an additional tenfold improvement to attain about $100 per pound of orbital payload, exclusive of development costs. Beyond this NASA engineers foresee the possibility of another tenfold reduction in the 1980's, which could cut the cost of a round-trip to orbit to about $10 per pound of payload, approaching the price of today's long-distance jet fares.

Space Shuttle rocket planes should initiate routine airline-like roundtrips into orbit within ten years, carrying equipment, supplies, construction materials, experiment modules, fuel, spacecraft, and scientists and engineers from participating nations on a wide variety of missions. Shuttle flights will render obsolete all other launch vehicles for earth orbit, and bring about a new generation of low-cost space equipment designed to be repaired and resupplied. The shuttle is the first leg of a new cislunar space transportation system that will become operational in the 1980's. The other two elements are permanent space stations in earth and lunar orbits, and manned and automated space tugs for moving men and supplies between low earth orbit and other orbits in the earth-moon system. An advanced space tug modified for landing will shuttle between lunar orbit and lunar surface bases; eventually it will use propellant oxygen recovered from lunar rocks by a process now under development at Houston. One reason why future Apollo missions will be searching carefully for water on the moon is to provide a convenient lunar source of hydrogen and oxygen for space refueling. This would enormously simplify lunar transportation—you can imagine how much by considering the difficulty of transatlantic jet flights if the aircraft had to carry enough fuel for round trips.

In evaluating man's future in space, one must certainly consider the impact of these onrushing technical advances upon the reliability, economy and utility of space flight. Both the United States and the Soviet Union will build space shuttle systems, with common docking arrangements. This will increase space flight safety by providing effective fast rescue capability. NASA has invited the western space nations to participate in the development and use of the Space Shuttle, space tug, and space station systems of the future. In response, ELDO, the European Launcher Development Organization, and ESRO, the European Space Research Organization, have been exploring the possibility of Europe undertaking to develop the Space Tug by 1980. ELDO has already funded several one million dollar studies of space tug configurations by competing European industrial teams. The NASA proposal is expected to receive serious consideration in the next few months by the European Space Conference ministers who must make the final policy evaluation and budget decisions.

If they decide to accept the U.S. offer, scientists and engineers from all the Western space nations will be sharing in the most challenging space developments of the 1970's. In the 1980's they will be using the space shuttles, space tugs, and space stations of the new cislunar space transportation system to carry out advanced missions in the forefront of science and technology.

President Nixon's new budget contains $5,500 million for shuttle development, so the European response is expected by July as the NASA shuttle program picks up momentum. I cannot predict the outcome because there are many political complexities, but I personally hope very much that the European ministers will select the bold and forward looking course and accept NASA's invitation.

I have mentioned space stations, and would like to say a few words now about the pace of progress to be expected in this field following the Apollo program.

2. Skylabs and space stations

If all goes well, Astronauts John Young, Charlie Duke and Ken Mattingly will lift off from Cape Kennedy on April 16th aboard Apollo 16, bound for the apparently volcanic region of the moon near Descartes. The last Apollo mission will then be flown on December 6th by Astronauts Gene Cernan, Dr. Jack Schmitt and Ron Evans aboard Apollo 17. They will explore the rugged highland ridges and lowland valleys in the moon's Taurus-Littrow area, and emplace there the final Apollo Lunar Science Station. This includes an exciting new physical experiment being rushed to completion in time for transport to the moon aboard the last Apollo flight: a tidal gravimeter that will use earth-moon interactions to detect gravity waves in space.

After Apollo 17 the large Saturn V rocket's capabilities will be redirected to launch on April 30, 1973, Skylab 1, a 150 ton earth orbiting space station experiment. The next day a smaller Saturn 1B rocket will launch the Skylab 2 mission, consisting of an Apollo Command Service module with a three-man crew, who will rendezvous with the orbiting station and activate it for an initial 28-day weightless mission. They will be followed by Skylab 3 on July 30th bearing a fresh three-man crew to live and work for 56 weightless days aboard the orbiting Skylab, carrying out a variety of tasks from solar astronomy to multispectral earth resource studies. The final Skylab 4 mission Astronauts will reactivate the station on October 28th for another 56-day sojourn, which could be extended if no medical problems develop, and the oxygen, food and coffee hold out. If Skylab proceeds on schedule, men will be at work in space more than half the time during the last eight months of 1973; by the 1980's I expect that there will always be men living and working somewhere in space.

The 1973 Skylab Program should establish man's ability to live and work effectively under prolonged weightlessness. This will tell us whether artificial gravity is essential for future space stations and other lengthy missions. The Skylab Astronauts will have ample opportunity to swim about weightlessly inside their 10,000 cubic foot laboratory, and outside in space suits tending the cameras of their large solar telescopes.

Skylab's 235 nautical mile orbit will be inclined 55° to the equator, making possible scientific observations of our entire planet between 55° North and 55° South Latitudes. This includes North America south of Hud-

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son Bay, Europe south of the Baltic Sea, and all of the continents in the Southern Hemisphere except Antarctica. From this mission should come valuable new knowledge in solar astronomy, astrophysics, weightless materials processing, earth resources, meteorology, oceanography, air and water pollution, geology, environmental sciences, medicine, and many other fields. In addition the Skylab mission will establish the design parameters, human factors, and operational requirements for the larger, permanently manned space stations of the future. These will be assembled in earth and lunar orbits from specialized modules carried aloft by space shuttles, and moved into designated position by space tugs.

The U.S. post-Apollo program does not now schedule a bigger and more permanent space station for the 1970's. The Soviet space program, which is estimated to be larger now than the U.S. program at its 1966 peak, or about twice the present NASA level, probably includes plans for a more advanced space station in the mid-1970's substantially larger and more permanent than the U.S. Skylab. This will be launched, assembled in orbit, and supported by large conventional rockets until the Soviet space shuttle becomes operational.

Although no timetable for the Soviet space station has been announced, the way will be prepared by the long duration Salyut/Soyuz missions expected soon. In addition Russian and American space experts have met in Houston and Moscow to study the feasibility of a joint U.S.-U.S.S.R. orbital flight in June, 1975. If approved by both nations, the mission would include rendezvous, docking, crew exchange, and joint flight of a Soviet Salyut/Soyuz Spacecraft and an American Apollo Command Service Module carrying a special docking adapter in place of the Lunar Module. The three cosmonauts and three astronauts would work together for several days, with one man at the controls of each spacecraft, leaving the other four free to move from one spacecraft to the other to conduct joint experiments. Although this program has not received final review and approval, the United States now has the surplus spacecraft and launch vehicles to carry out several such missions, and the Soviet Union also has the necessary equipment. The carrying out by astronauts and cosmonauts of such a mission would raise all of our hopes that the new frontier of space can be explored in peace by all mankind. In Antarctica Soviet scientists work at the American base and American scientists at the Soviet base; similar exchanges are in effect in our high energy physics laboratories. This open policy should also be pursued in the scientific space bases of the future.

The U.S. Skylab Program, the Soviet Salvut/Soyuz Program, the Soviet Space Station Program, and the proposed U.S.-U.S.S.R. joint space mission for 1975 will open orbital space for permanent occupation by man in the 1980's. This will involve the construction and operation of larger and more permanent workships, research stations, observatories and operational bases. Reliable and inexpensive roundtrip transportation between earth and orbit by space shuttle rocket planes will greatly accelerate the scale and utility of these permanent orbital installations. The motivations will range from scientific research to economic applications, and I would like to consider briefly now some of the potential scientific and economic returns.

SCIENTIFIC AND ECONOMIC RETURNS

Our initial observations from space have already greatly extended the breadth and depth of our understanding of man's total environment. Even America's first satellite, the small Explorer 2 launched in 1958, immediately relayed back surprising data on the radiation fields around the earth, leading to the discovery and mapping of the Van Allen radiation belts and the Earth's magnetosphere. Since then, many new scientific observations have been made from space of the earth, moon, planets, sun, stars, other astrophysical objects, and the fields and particles of interplanetary space. We are now routinely examining the universe around us from space platforms that record wave lengths of radiation which have never penetrated the earth'a atmosphere to ground based observatories. Our direct exploration of the moon has opened to view new chapters of the early history of the formation and evolution of our solar system three to five thousand million years ago. We have mapped most of the Moon and Mars in detail, inspected the Martian moons, and Soviet landers have reached the surfaces of Venus and Mars. The X-ray, Ultra-Violet and Infra-Red sky has been charted, and a new insight gained into solar processes at these wavelengths. The new 1,038 pound ESRO TD-1A satellite should further extend these observations, including measurements in the gamma ray spectrum of the sun, stars and galaxies.

International cooperation has made other significant contributions to scientific returns from space. In December 1970, the Italian-American cooperative program launched the first Small Astronomy Satellite from the Italian launch platform off the coast of Kenya. Named "Uhuru" (the Swahili word for "freedom"), it has mapped more than a hundred X-ray sources, including a number of apparent extragalactic sources. About half of the X-ray sources show rapidly changing frequencies and intensities, like the Pulsars discovered by British Radio Astronomers in 1968, although they emit no pulsed radio waves. Several of these unusual new pulsing sources appear to involve binary systems. These may provide our best opportunity to observe the elusive "black holes" in space—superdense objects with gravity fields so high that no radiation can escape. The Small Astronomy Satellite's new chart of X-ray sources suggests a new distribution of matter in the Universe, differing from that derived from terrestial telescope studies. Some of the new X-ray sources have been correlated with quasars, Seyfert galaxies, and dense galaxy clusters. The enormous energy released by these remarkable objects is as little understood today as nuclear energy was fifty years ago; elucidation of these processes could have equally significant impact.

While new scientific results from Orbiting Solar and Astronomical Observatories are increasing our wonder and understanding of the universe around us, space observations of our neighboring planets and the moon are changing our concepts of our home planet, earth.

MARS

It is too early to review and interpret for you this afternoon all of the exciting information Mariner 9 is sending back from Mars. The notion of Mars as a dead planet on the basis of the moon-like photos sent back in 1969 by Mariners 6 and 7 has been replaced in recent weeks with a recognition that Mars has been recently active internally. The planet's active crust includes the largest volcano yet discovered in the solar system: Nix Olympica, twice the size of Mauna Loa, in Hawaii, the earth's largest. Features have been mapped with a close resemblance to terrestial water erosion, including tributary streams and alluvial fans. This is baffling on a planet with a present atmospheric pressure so low that water sublimes directly from the solid to the gaseous state without liquifying. It has been hypothesized that Mars may pass through a 50,000 years cycle due to precession of the equinox in which the changing tilt of the poles might release sufficient glacial polar water to permit liquid water. A puzzling white area in the bottom of an equatorial crater might represent a salt layer left by evaporating water. The recent planet-wide dust storm and the presence of silica sand also indicate an active planet. It is simply too early to do more than speculate about the possible meaning of the many unexpected features revealed in the superb photographs that Mariner 9 is returning from Mars. Additional mapping information will be added by data from the Soviet Mars 2 and 3 spacecraft, which have transmitted images together with temperature, moisture and surface brightness readings, (including temperatures as high as 0°F). All we can say this afternoon is that Mars is far more interesting than had been supposed, and that our latest observations have increased the prospects for finding some form of life there.

The first unmanned U.S. spacecraft to land on Mars and search for life will be the Viking, scheduled to touch down on the Fourth of July, 1976. The Soviet Mars 3 descent module which landed last December 2nd may have been damaged upon landing by the severe dust storm then raging. Its data transmissions ceased after several minutes, with only 20 tantalizing seconds of television transmission, which was insufficient to form a picture. The Viking lander will be larger than Mars 3 and land with only 13 g impact rather than 500 g. It will carry sensitive instruments for television, meteorology, atmosphere and surface analysis, seismic sensing, magnetic measurements and life detection by several means. The optimum landing site for the search for life will be carefully selected from the detailed maps provided by Mariner 9 and Mars 2 and 3. The Soviets may dispatch additional landers in the 1974 and 1976 opportunities.

THE MOON

Although we now have far more information on the moon as a result of Apollo expeditions and Soviet Luna missions, as many questions have been raised as answers found, and the moon remains nearly as puzzling as Mars. The moon is relatively cold and inactive now, but it has had an active history, including melting, differentiation, lava flows, stratification down to 65 kilometers, impact cratering, and erosion. The heat flux from the interior of the moon measured at Hadley Station is unexpectedly high, as is the concentration of radioactive elements detected from orbit in Mare Imbrium. Strong evidence for an early internal magnetic field is puzzling, and so are the discharged "Mascon" gravity anomalies underlying the smaller Maria.

The evidence does suggest that the moon was probably not captured by, or fissioned from earth. It appears to have been formed by accretion of planetisimals and space debris orbiting the early earth about 4.6 thousand million years ago, about the time the solar system itself was formed. There is evidence for melting on the moon about 500 million years after it formed, and lava flows into the Maria 500 to 1000 million years after that. For the past 3 to 3.5 thousand million years, however, except for impact craters, the moon appears to have preserved intact for our study the ancient history of our earth and solar system.

Seismic observations on the moon are revealing unexpected features, including the fact that 80% of the moonquakes are occurring in one place 800 kilometers below the surface. Their periodicity suggests tidal stresses from earth as the triggering mechanism. Our expeditions have revealed a wealth of new information, but we have just barely scratched the lunar surface.

OTHER PLANETS

Although American and Russian spacecraft have flown to Venus, and a Soviet capsule has landed on its surface, little is yet known about this cloud-covered planet. Surface conditions are hardly hospitable, with a temperature in the range of molten lead, and a carbon dioxide atmosphere surface pressure equal to that at a depth of several thousand feet in the ocean. Next year another Mariner will fly by Venus, then continue on into Mercury to give us our first view of that small planet's scorched surface. At the end of 1973 we will receive Pioneer's report on mammoth Jupiter and its satellites, if the spacecraft survives its two-years passage through the asteroid belt. As we learn more about the moon and the planets, their origin, history, present status, and active processes, we are deepening our understanding of our own earth; this is awakening a new interest on the part of many people in terrestrial processes.

THE EARTH'S BIOSPHERE

Some commentators on current trends trace the present wave of increased ecological concern to the remarkable new perspective of our tiny planet transmitted to us by moon-bound Apollo Astronauts. Inspired by this new view of earth, the poet Archibald MacLeish wrote:

"To see the earth as it truly is, small, and blue, and beautiful, in that eternal silence where it floats . . ."

This struck a responsive note in many minds. The forbidding barrenness reported by our first probes to other worlds reinforced our concern for preserving the earth's thin biosphere, wherein all life that we know of exists.

The Earth Resources Technology Satellite Program will soon make available powerful new scientific and economic tools for studying the earth's biosphere and its vital processes. Nearly completed are two 1800 pound satellites planned for polar orbit 575 miles above the earth. These will transmit television and radiometric observations in four spectral regions covering the entire planet. The specific wave lengths have been selected from multi-spectral photographic studies made by aircraft and Apollo flights over "ground truth" test areas. The observations are not only able to discriminate between different agricultural crops, but can detect plant diseases, insect infestation, drought damage, poor fertilization, and similar problems. Successful examples range from corn mold in America to coffee tree blight in Brazil and Palm tree disease in India. Throughout the annual growing seasons in the northern and southern hemispheres Earth Resources Satellites will be able to monitor man's food supply and the natural phenomena which affect it.

Together Weather Satellites and Earth Resources Satellites will track the total fresh water resources of the planet. The water will be followed as it evaporates from the oceans, condenses into clouds, falls as rain, ice or snow, runs down the valleys, passes through hydroelectric plants and out onto irrigated plains or into the rivers and seas. Estimates of the savings that can be realized from more efficient operation of hydro projects suggest that this alone could pay for the entire Earth Resources Satellite Program. Global resource models in large computerized information systems will receive satellite data from space tracking networks, store and process the information, and provide displays and printouts of planetary resources, their status and trends. For the first time, the fields, the forests, the fisheries and the mineral resources of earth will be comprehensible on a planetary scale, and global information made available for the more enlightened use and protection of our biosphere by man.

Important technical contributions will be made to this program by the Skylab Astronauts, who will use their five months in orbit next year to select and calibrate remote sensing equipment, extend multispectral observations into thirteen spectral bands, and operate active micro-wave sensors with larger power outputs and antenna sizes than automated satellites can yet carry. Phenomena to be studied from Skylab include ocean wave conditions, sea and lake ice, snow cover, clouds, rainfall, flooding, urban heat and pollution, seasonal vegetation changes, geological formations, and soil moisture, types and textures.

Specific goals of the Earth Resources Program include a detailed land use map of the United States, classification and charting of U.S. geological and soil features, a current agricultural map of the U.S., and the development of advanced computerized image storage, processing, pattern recognition, and display networks. These will analyze and make available to specialists in many fields the vast quantity of valuable new information collected by this program.

Questions may arise over the ownership, distribution and use of global space observations. These extremely promising technological advances should encourage world leaders to face these questions and make appropriate institutional advances so that all men can derive maximum advantage from these powerful new tools of the space age. Perhaps it is optimistic to suggest that technical advances can transform politicians into statesmen, but there are few precedents. We have reached effective international agreements whereby all nations now have access to continuous meterological information from Weather Satellites. Every destructive typhoon and hurricane in our planet's atmosphere is now tracked with precision from space, with resultant great savings in life and property. Moscow and Washington are linked by the "Cold Line" which routinely exchanges global weather satellite data from U.S. and U.S.S.R. spacecraft. Similar institutional progress has been made among nations for the use of Communication Satellites. Effective national, regional and international organizations have been formed to create and operate compatible comsat networks. These are now providing reliable and low-cost voice, data and television communication all around the world. Navigation and air traffic control satellite systems should follow similar lines (allowing, of course, for some inevitable initial confusion).

The great economic and social value of earth orbiting application satellites are already apparent, although their full potential is not yet appreciated. Men on every continent regularly use these services today; shares can be bought in the enterprises that provide them. We must not, however, overlook the equal value of the new information about the earth's origin, history, environment, and destiny that our more basic lunar and planetary scientific programs are providing. Already studies of radiative energy transport in the atmosphere of Mars have contributed to terrestrial meteorology; lunar geological surveys have provided new clues to the early formation and structure of earth. The line between science and application in this rapidly advancing area is continually shifting and new scientific understanding of such questions as the origin of the Ice Ages might be of incalculable human importance.

CONCLUSION

My remarks today have ranged widely across the solar system, and beyond. We have reviewed some highlights of man's first fifteen years in space, and considered his impressive achievements to date. We have looked ahead to assess his potential future in light of the great opportunities we can foresee for a continuing swift pace of technological advance. A few of the valuable returns already realized and potential future values have been mentioned.

I have offered you some optimistic predictions of the rate of progress we should expect upon space missions and programs already underway or scheduled, and expressed my strong personal hope that the 1970's in space will be characterized by more widespread international cooperation and participation. There are grounds for optimism here. I have no doubt that the Soviet Union's rapid thrust forward in space will continue and even accelerate with the growth of the Russian economy. The United States program will not move forward so purposefully and massively, but within the normal give and take of the democratic budget process I expect NASA to continue to carry out an excellent program at the annual $3 to $3.5 thousand million dollar level to which I cut back after the moon landing. I thought this was a supportable budget level in 1969, and I still think so. I believe that the NASA budget will increase steadily later in the decade. The U.S. and U.S.S.R. space budgets are modest in relation to their gross national products; including military space programs the percentages are about half percent for the U.S. and two percent for the U.S.S.R. The returns from space are justifying these expenditures in many ways, from new science and technology to economic services to greater international stability. We are awaiting a decision on future European direction and pace. In addition to the values I have listed, there are other considerations, involving more basic human values, that I believe will continue to spur us on.

The opening of vast new areas for human exploration is a rare event; it occurred last in the fifteenth century on the Atlantic coast of Europe with the bold oceanic voyages of Portuguese, Spanish, Dutch, French and English seamen. Their adventurous trips beyond their traditional horizons eliminated "terra incognita" from the globe, and brought to Europe a broad world view which has vitalized western civilization ever since. Not all nations participated then, nor will they now. I believe we are in the initial stages of a new movement which will carry mankind beyond its present world view to a broader three-dimensional perspective embracing all of the space within the earth-moon system and beyond.

I am certain that by the end of this century men and women will be living and working in extraterrestrial space stations and in small colonies on the moon. The first few will have reached Mars. By then the first children will have been born outside the earth's biosphere and terrestrial life will be adapting itself to new worlds. A new sociology of extraterrestrial societies will evolve to suit growing communities of scientists, engineers and spacemen striving to create new human habitats in novel environments beyond earth. Perhaps history will repeat itself and once again the advanced social structures and governmental compacts evolved in new worlds will demonstrate new social possibilities to the old.

I use the analogy of the European settlement of new continents advisedly. The orbital space a few hundred miles above the continents of earth is in a real sense another continent, vast in extent, free of atmosphere, gravity, and national boundaries, overlooking all of earth below. Permanent structures will be built there in which work of great social, scientific and economic value will be carried out. Already three cargoes per week are being exported up to this new continent, and to maintain a balance of payments, we are importing back to earth valuable services of many kinds: meteorological, communication, geodetic, navigation, defense, and exciting new scientific research. Within a few years these services will be greatly expanded and significant new services added in earth resources, air traffic control, direct continental television broadcast and other areas. If some of the advances I have predicted do not occur on the timetable I projected, they will come later. They are inevitable.

Beyond earth orbital space, but increasingly within our reach, lie other new worlds to be explored and occupied: on the moon, and eventually on Mars. The power to modern technology will make life in these areas far safer and more comfortable than it was for

our ancestors wresting a marginal living from the hostile wilderness of America or Australia. The tall new ships to sail the three dimensional seas of space are under construction; the dangers are reasonably well charted; the wind and tide are fair for our voyage; new terrae incognitae call. Let me conclude this memorial to Sir Henry Tizard then, with these lines from Tennyson:

"Come, my friends,
'Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows, for my purpose holds
To sail beyond the sunset, and the baths
Of all the Western stars, until I die."

MASS TRANSIT AND THE HIGHWAY TRUST FUND

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mrs. ABZUG. Mr. Speaker, this morning, I had the privilege of presenting my views on mass transportation funding to the Subcommittee on Roads of the Committee of Public Works. In particular, I addressed myself to the need to make a portion of the Highway Trust Fund available for such funding.

Our policy of considering the various modes of transportation as separate and distinct entities is extremely short-sighted and, as I point out in my testimony, ends up injuring the favored modes as well as the disfavored.

Mr. Speaker, I include my testimony at the conclusion of my remarks:

THE HIGHWAY TRUST FUND

Mrs. ABZUG. Chairman Kluczynski, my colleagues on the Public Works Committee, it is indeed a pleasure to come before you today to present my views on the crying need to expand the uses to which the Highway Trust Fund is put.

According to the 1970 census, 73.5 percent of Americans—about 150 million people—live in urban areas; in addition, a substantial number of the remaining 26.5 percent commute to urban areas to earn their living. These people must be moved around—from office to office as well as between home and office—and they must move either in privately owned automobiles or in some form of public or semi-public mass transportation.

To far too great an extent, our national transportation policies have ignored the need to move *people* in favor of the need to move *goods*, and have ignored the need to move people and goods *within* urban areas in favor of the need to move people and goods *between* urban areas. The transportation situation in our urban areas is at a crisis level, and we must take giant steps to deal with it as soon as is humanly possible.

Existing mass transit facilities are, for the most part, unable to keep up with the demands made upon them. The facilities are old and subject to frequent breakdowns; the systems are uncoordinated and do not cover adequately either the central cities or the suburbs.

Our urban mass transit systems are not only unable to engage in needed construction and maintenance activities, but also unable to meet their day-to-day operating costs. As a result, fares are going up and up; in New York City, for example, mass transit fares have gone from 15 cents to 35 cents over the last 13 years, and they show every likelihood of climbing still further in the near future. This money is being taken from those who can least afford it—working men and women. Our failure to give adequate financial aid to mass transit, which is as much of an essential service for working people as is police protection, takes food out of their mouths and clothing from their backs. To add insult to injury, they must endure inhuman conditions just to get to and from work each day.

As if this were not bad enough, our failure to make mass transit attractive to potential riders who *can* afford cars leaves them willing to suffer through the noise, smoke and frustration of rush hour traffic, not to mention the agony of finding parking space at a reasonable price once they get where they are going. If people are willing to travel on the Long Island Expressway during the evening rush hour on a hot summer day—and tens of thousands are—then we have failed to meet our responsibilities with regard to mass transportation.

For transportation in and around crowded urban areas, autos are extremely inefficient. Per person carried, they take up far more space, use more of our dwindling supply of gasoline, create far more air and noise pollution, and create more congestion than mass transit facilities. Unfortunately—and largely as a result of the transportation policies of the federal government—state and local governments have been doing far more building of highways than of mass transit facilities.

Purely and simply, the reason for this is *money*. The Highway Trust Fund, created by the Highway Revenue Act of 1956, receives most revenues from federal excise taxes on motor fuels motor vehicles, and related products. Since its creation, the trust fund has received over $50 billion in such funds and has expended about $46 billion solely on highways. In the last ten years, expenditures from the fund have averaged about $4 billion annually. For highways in the interstate system, the federal share is 90 percent; for most other federally-aided highways, the federal share is 70 percent.

Mass transit, on the other hand, has been a poor step-child when it comes to federal help. Under the Urban Mass Transit Act, the total amount of funding authorized for both construction grants *and* loans is less than $3½ billion; for Fiscal Year 1972, only $900 million was appropriated and, believe it or not, the Administration has impounded $300 million of even that paltry sum.

The message of this comparison cannot be lost on anyone, and is certainly clear to state and local officials; build more highways, especially superhighways, and we in Washington will pay almost the entire bill; build mass transit facilities, and you are on your own.

It has been apparent for some time that this sort of policy, if allowed to continue, will strangle our central cities and, in the process, strangle the rest of our nation as well. As Secretary Volpe noted in his presentation last week, in speaking of his home state, Massachusetts:

"New highways across the State allow trucks to get from the New York border to within 10 miles of Boston in 2½ hours instead of 7 hours. When they get near Boston, however, it takes them an hour or more to go that additional distance because of the congestion."

My own home area, New York City, is much more crowded than Boston, and it faces a correspondingly more acute situation. The policy of encouraging long-distance highways over urban roads and/or mass transit facilities has hurt urban and suburban dwellers for many years; now, it has reached the point where it is severely injuring the long-haul truckers for whom the interstate system was designed. Thus, use of money from the Highway Trust Fund is entirely appropriated for the construction and operation of urban mass transit systems, for unless vast sums of money are spent on such systems, the traffic congestion in and around the urban centers of commerce will render the entire interstate system useless for business purposes.

There are those who say that the money which comes from highway use taxes should go back to the highways and no other place. By the same token, of course, we could argue that the revenue from liquor taxes should be used to build distilleries, bars and liquor stores. Furthermore, though there was some disagreement on the point, Secretary Volpe indicated that there was more than enough money in the Trust Fund and due to come into the Trust Fund to cover the cost of completing the interstate system, even if a substantial proportion of it were to be applied to mass transit programs.

A number of proposals for putting some of the money in the Highway Trust Fund into mass transportation have been advanced. Some, including the Administration, have suggested creating a single fund for both highway and mass transit programs; some have suggested earmarking a portion of the Highway fund for mass transit without changing its basic designation and purpose; some have suggested a form of revenue sharing under which funds for "transportation" are given to localities and states who then decide for themselves how the money should be spent. I am not going to suggest any one of these plans as the answer at this time: what I am trying to say is that we must stop looking upon the Highway Trust Fund as a sacred cow and start being realistic as to our transportation needs.

MAYOR CARTER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RODINO. Mr. Speaker, Mayor Matthew G. Carter is an individual whose beliefs and hopes for the betterment of our society, whose concern for the needs of all individuals from all walks of life, and whose insight into the problems confronting our suburban communities today have been respected and appreciated by a large number of New Jersey's citizens. He has served, specifically, as a positive source of leadership, direction, and confidence to the people of Montclair.

The enclosed editorial from the Montclair Times best expresses this man's deep devotion to the people whom he has so honorably served:

MAYOR SERVED MONTCLAIR WELL

Mayor Matthew G. Carter in 8 years as a member of the Town Commission has served the community well. His departure in May from the governing board will be regretted. His decision not to seek a third term as announced last week is understandable.

The people of Montclair have shown upon at least 3 occasions how they feel about Matthew G. Carter.

In 1964 he received the greatest number of votes among candidates seeking election to the Town Commission.

After serving as Vice Mayor and Director of Public Works, he received in 1968 for the second time the greatest number of votes among Commission candidates. This total, which had exceeded his previous tally by 1,003 votes, can be considered a personal tribute to the first black member of a Montclair governing board.

The 1968 election results brought him additional honor as the first black mayor of a large New Jersey community.

Three and a half years later Montclair residents in concert with those in the rest of Essex County received still another opportunity of registering opinions of Matthew G. Carter.

He sought a seat as a member of the New Jersey Senate. Though unsuccessful throughout the county, Mayor Carter received even more votes here than in Commission elections.

Mayor Carter can point with pride to many tangible accomplishments during his 8 years in office.

Among these are: activities designed to assure adequate water supplies; pioneer application for funds for a federally assisted code enforcement program; advancement of the Lackawanna Plaza Urban Renewal Project, and continuing efforts to improve housing, education, economic development, minority opportunities, fair housing and self-help programs.

Mayor Carter should derive even greater satisfaction from the influences he exerted toward the development of amicable solutions of potentially explosive problems.

These influences resulted from his background as a Christian minister and as a professional with the National Board of the Young Men's Christian Association.

When the town was confronted with issues that threatened to polarize opinion, everyone in the community, whether black or white, could turn for rationally-developed, calm and logical thought to a man who earned universal respect because of his deep and abiding understanding and liking for his fellow men.

Those seeking election to the governing board in May and all interested in furthering Montclair as a community would do well to adopt Mayor Matthew G. Carter's personal philosophy insofar as the goals of local government are concerned:

"The aim is to give leadership to all the people, on the one hand urging intelligent rather than emotional weighing of items, while spearheading the fight for human rights on the other. The community, as a whole, has a right to expect peace and protection of the law."

MARINE MAMMALS PROTECTION ACT

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. PEYSER. Mr. Speaker, on March 9 of this year, the House passed, by a vote of 362 to 10, much needed legislation to protect our ocean mammals from the slaughter which has threatened their very continued existence.

The worldwide population of marine mammals has been thinning at an alarming rate, plummeting by the hundreds of thousands within the past decade alone. Some animals—a few species of whale most notably—have been all but decimated. Many stretches of open sea and coastal waters once teeming with mammalian life are now barren of it.

I was pleased by the House action of March 9, in passing a strengthened version of the once rejected Marine Mammals Protection Act, and I only regret that official congressional business back in my district kept me from voting for this bill which I have so long advocated.

MY RESPONSIBILITY TO FREEDOM

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HUNGATE. Mr. Speaker, as you know, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a "Voice of Democracy" contest. The contest theme this year was "My Responsibility to Freedom." The following is the winning speech from Missouri, as delivered by Lynette Richarz of St. Charles, Mo.:

MY RESPONSIBILITY TO FREEDOM

How many times do you take for granted the things in your everyday life? How often do you take cokes or hamburgers or sight or hearing for granted? We're like this, aren't we? We can't seem to realize how vitally important something is until it's no longer there.

Imagine how frightening it would be to be engulfed in the total darkness of the blind person. Imagine never being able to see the beauties of nature, like the red, yellow, and brown leaves of an oak tree preparing itself for winter, or the soft pastels of a rainbow as it tells of the end of a rainstorm. Imagine never being able to glimpse a loved one's face, to see the look of love in his eyes. Imagine never being able to run or dance or skip or jump, or even to take a single unsupported step.

Just like you, I too rarely think of the many things I have to be thankful for. Only when it's no longer there is something truly valued for its worth. Will it be that way with freedom?

Freedom is a privilege, you know. It's a gift like sight and hearing and tasting. Isn't it strange that after all the wars fought to preserve it that so many people can nonchalantly accept freedom as their right and at the same time try to deprive others of their right to freedom? This is how it is, though.

Some young draft dodgers expect all the rights of freedom, but they refuse to protect freedom for others. The college radical burns down the campus ROTC building in a protest against war and violence. At the same time, he limits the freedom of the majority of the students who choose ROTC.

As a citizen of the world—though a young one—it's my responsibility to cultivate a genuine understanding and appreciation of the true worth of freedom. As a young American I believe that I can fulfill my personal responsibility to freedom right now. Tomorrow may be too late.

I can do this by respecting the basic human freedom of others as well as my own right to freedom. If John or Carol wants to express views on a controversial issue, who am I to close my mind to them simply because their ideas happen to differ from mine? If I want others to respect my right to freedom, so also must I respect theirs. For freedom has to be a two-way street, or there is no freedom. So also is it with a person of another race, creed, or religion. Any discrimination I might have against another human being merely because he may look different or believe in different ideals is in direct violation of that person's freedom.

Clearly then, until the vital role that freedom plays in human existence is fully understood and appreciated, many people will continue to exploit it. As one individual, I can't expect to change the whole world's thinking, but I can shoulder my part of the responsibility. Until I can say to each and every person I meet, "I respect you as a human being with the same unalienable rights to freedom that I have," I will not have fulfilled my responsibility. But I want to start right now to fulfill that responsibility and so I say to you as I will say to everyone I meet, "I respect you. I respect the freedom you have as a fellow human being."

R. E. OLDS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. CHAMBERLAIN. Mr. Speaker, this past Monday, March 20, I expressed in the House my hope that Ransom Eli Olds, one of our great automotive pioneers, might be honored by the issuance of a commemorative stamp.

The city of Lansing, Mich., is particularly proud of Mr. Olds' many accomplishments for it was there that he was born and educated, started his experiments with steam and internal combustion engines, and established his most successful business ventures. It is, therefore, understandable that Lansing is anxious that Mr. Olds' achievements in automobile production which literally put the world on wheels be recognized, and I am pleased to include in the RECORD the resolution recently adopted unanimously by the Lansing City Council urging that the Postmaster General issue a commemorative stamp in behalf of R. E. Olds:

RESOLUTION

Resolved by the City Council of the City of Lansing:

Whereas, August marks the 75th Anniversary of gasoline automobile production in America . . . and the world, and

Whereas Ransom Eli Olds of Lansing, Michigan emerged as the first automotive production genius whose early feats astounded the world and inspired the effort to put the world on wheels, and

Whereas Ransom E. Olds was the Father of the Automobile as the following facts proved:

In 1886 he built the first "horseless carriage."

In 1894 he brought out his first automobile with gasoline engine power.

In 1897 he organized the Olds Motor Vehicle Company, the first ever organized for the purpose of manufacturing an automobile.

He was the first man to produce automobiles in quantities.

The first automobile builder to produce a car sturdy and dependable enough to make cross-country run.

He was the first to advertise an automobile nationally (Saturday Evening Post 1902).

And he was the first to build a side entrance car.

Therefore be it resolved that in connection with the 75th Anniversary of gasoline automobile production in America, that the Lansing City Council go on record urging the Postmaster General to issue a commemorative stamp honoring Ransom Eli Olds in recognition of his contribution to the automotive industry.

And be it further resolved that a copy of this Resolution be sent to Postmaster General Klassen, Congressman Charles E. Chamberlain, and Senator Philip Hart. Senator Robert Griffin and the latter then be urged to contact the Postmaster General, urge his consideration of the request.

SOUND TRADE POLICIES

HON. ARTHUR A. LINK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. LINK. Mr. Speaker, I would like to take this opportunity to commend the distinguished gentleman from Florida (Mr. GIBBONS) for his efforts in pointing out the advantages that accrue from sound trade policies. If we are to understand and move toward resolving present domestic economic problems, we must be aware of the consequences of our actions on the interrelated world economy. Congressman GIBBONS has provided us with a view of at least part of that interrelated picture in this series of special orders on trade.

I will briefly sketch the important role of American agricultural exports and then point out some elements that are essential to the maintenance and improvement of our present healthy export situation.

American farmers supply about one-fifth of the world's agricultural exports. This makes us the world's largest exporter of farm products. These exports are a significant portion of the total value of U.S. production: Almost 17 percent of total fruit production; 33 percent of the value of cotton and corn; 42 percent of tobacco; and more than 60 percent of wheat and soybean production are exported. Overall, exports provide about one-seventh of U.S. farm income. The above figures point out the important contribution our agricultural exports make toward our trade balance and thus our balance of payments. To cite an example, in 1970 we exported $7.8 billion in agricultural products.

Although our food imports reduced the net figure somewhat, it is important to note that our agricultural trade balance was slightly over half of our overall trade balance. This is because, unlike some sectors of our economy, U.S. food and fiber producers are technologically progressive and competitive; there has been no pattern of American investment in competitive foreign farm ventures.

The importance of agricultural exports to both farm income and as a key element in our trade balance point to the need to work toward resolving difficulties that at present serve to curtail trade.

Last November, as a representative of the House Agriculture Committee, I attended a Conference on Agriculture Trade and Market Development in London. We talked a good deal about the European Economic Community, the trade problems created by its common agricultural policy, and about the implications of the expansion of the community in 1973. At present, while Japan is our largest overseas customer, nearly 20 percent of our agricultural trade is with EEC countries. We cannot hope to negotiate more favorable terms for our exports to the ECC if we adopt more restrictive trade policies. Indeed, agricultural exports would suffer more than any other category of exports as a result of retaliation should the United States adopt more restrictive trade policies. If, on the other hand, we move toward fairer access terms in the community, we will see expanded agricultural exports.

Our exports to Japan are also a concern to me. At present, the Japanese are moving toward fairer trade policies. On April 1, for example, the Japanese Government will remove its tariff on soybeans and establish a duty-free quota on feeder cattle. These actions will contribute to increased agricultural exports which cannot continue in the event of restrictive moves on the part of the United States.

In summary, American agricultural exports contribute much toward a favorable balance of trade and have a substantial impact on farm income. In view of this, it is clearly in our interest to move toward expanding trade, and not fall into shortsighted efforts that curtail trade.

NEXT STEPS IN LIMITING STRATEGIC ARMS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. FRASER. Mr. Speaker, Herbert Scoville, Jr., chairman of the Strategic Weapons Committee of the Federation of American Scientists, has written two more informative articles concerning strategic nuclear weaponry. One appeared in the March 1972 Bulletin of the Atomic Scientists and suggests that we:

First . . . wrap up the best possible ABM limitation at an early date . . . Second . . . have the U.S. and the Soviet Union authorities reach an understanding to stop for a short time all further strategic offensive weapons programs . . .

Scoville discusses the practical difficulties that this across-the-board moratorium might cause. But he is convinced that these can be surmounted. Given his experience in and knowledge of these matters we must give Scoville's proposal our close attention. The article follows:

[From the Bulletin of the Atomic Scientists, Mar. 1972]

NEXT STEPS IN LIMITING STRATEGIC ARMS

(Herbert Scoville, Jr.)

For more than two years, we have been trying to reach an agreement on specific limitations of individuals systems by using the pressure and bargaining chips of escalating weapons programs. Success, however, has eluded us. Why not try a new approach? Herbert Scoville, Jr., is chairman of the Strategic Weapons Committee of the Federation of American Scientists.

Formal SALT negotiations began more than two years ago, and preliminary discussions several years before that. Yet, to date, no specific limitations on strategic armaments have resulted; in fact, arms buildups on both sides have accelerated. In May of 1971, in a joint U.S.-USSR statement, President Nixon announced that the two nations had "agreed to concentrate this year on working out an agreement for the limitation of the deployment of antiballistic missile systems (ABMs)" and that "together with concluding an agreement to limit ABMs, they will agree on certain measures with respect to the limitation of offensive strategic weapons." With this high-level support, the negotiators returned to Helsinki in July, but no agreement was reached, and the talks were resumed in Vienna on Nov. 15 and recessed on Feb. 4, to be continued in Helsinki at the end of March. Meanwhile, President Nixon will be going to Moscow in May 1972 to enhance "the prospects for world peace." While retaining the goal of an early agreement, he stated on October 14, 1971, that if it were not achieved, strategic arms limitations would certainly be a topic for discussion in Moscow. Thus, despite hopes for a limitation last year, it appears quite possible that nothing will be firmly concluded until May—or maybe even later.

Since July 1969, when the present Administration agreed to proceed with SALT, there have been major increases in the strategic force levels of both the USSR and the United States (see table). The Soviets are reported to have increased the size of their ICBM (intercontinental ballistic missile) force from about 1,000 to more than 1,500, and the number of their SLBMs (submarine-launched ballistic missiles) from about 60 to nearly 400, and more are under construction. The United States in turn has completed the testing of MIRV systems (multiple independently targeted re-entry vehicle) for both Poseidon and Minuteman III, and begun their deployment so that already the total number of strategic warheads has been increased approximately 50 per cent, from about 2,500 to 3,800. This number will reach 7,000 in a few years. If these programs continue at the current rates for the next six months, the Soviets could lay down the keels for an additional five submarines with 80 missiles and begin deployment of 50 to 100 more ICBMs. They could at any time start testing their first MIRVs which could threaten Minuteman. The United States, in turn, might have begun conversions for the deployment of an additional 100 to 200 ICBM and 400 to 640 SLBM warheads. Simultaneously, the Russians have resumed construction on their ABM around Moscow, and the United States is deploying its Safeguard system. This continued offensive and defensive weapons race, while the SALT talks proceed, adds to the security of neither side. Furthermore, since it is unlikely that either nation will, in the initial argument, be willing to destroy already deployed weapons, it only serves to raise the level of any limit which might be finally agreed to.

Unfortunately, despite President Nixon's November 12 report of "significant progress in the discussion on limitation of defensive weapons," there still seem to be problems in realizing a firm agreement, even on ABMs. The United States is reported to be seeking a ceiling of 300 interceptors if they are in defense of missile sites, and of 100 if they are in defense of urban areas. Since the United States is deploying the former type of system and the Soviets the latter, this would leave an imbalance between the two countries which may be very difficult for the Soviets to accept. A willingness to compromise by one or, perhaps, both sides is necessary. This could be a serious stumbling block in the negotiation. The best solution would be to keep ABMs at the lowest possible level, although if both sides were allowed to have 300, it would still be a very useful agreement.

There are also likely to be problems in defining limits of ABM radars, the most critical item in this area. It is important that neither nation be allowed to deploy a net of radars which can provide coverage of a large fraction of the country. Such deployment might be foreclosed by restricting the locations at which ABM radars would be deployed, and perhaps also by limiting the number of radars which each side could have. Although it may be rather difficult to work out all these details, there should be no insuperable problems in reaching an agreement by May on ABMs.

In the offensive weapons area the problems to be overcome are significantly greater. The United States would very much like to bring the Soviet ICBM, particularly the SS–9, and the SLBM programs to a halt. The Russians, in turn, would like to have the Americans cease the Poseidon and Minuteman III conversion programs. They probably are also reluctant to limit significantly any of their offensive deployments without placing any restrictions on our FBS (forward-based systems) which have a capability of nuclear attack on the Soviet Union.

All of these areas involve complicated negotiations which may require protracted time. More than two years have already passed at SALT, but, from President Nixon's statement that "we are beginning now [November 12, 1971] to move into discussion of offensive weapons," it appears that we have only scraped the surface. Meanwhile, new weapons programs continue apace and, as the negotiations proceed, force levels continue to rise, making an eventual agreement more difficult to reach. It is probably already politically unacceptable to the Soviets to halt their MIRV program with the United States so far in the lead. At some point, the number of Soviet ICBMs will so far exceed the Americans' that it may be politically difficult to agree on a ceiling on launchers, even though the United States might have several times as many warheads. Already there are many outcries from the uninformed about American inferiority.

For more than two years, we have been trying to reach an agreement on specific limitations of individual systems by using the pressure and bargaining chips of escalating weapons programs. Success, however, has eluded us. Why not try a new approach?

First, let's wrap up the best possible ABM limitation at an early date. According to President Nixon's statement, this can be done.

Second, as a parallel step, let's have the U.S. and Soviet authorities reach an understanding to stop for a short fixed time all further strategic offensive weapons programs right where they are now.

Then, as a follow-on to this first phase of SALT, the delegations from both countries could sit down in this atmosphere of temporary restraint and negotiate which programs on each side would be allowed to resume.

STRATEGIC MISSILE FORCES

	United States				U.S.S.R. (Missiles and warheads[2])		
	Missiles		Warheads[1]				
	July 1969	January 1972	July 1969	January 1972		July 1969	January 1972
ICBM's:					ICBM's:		
Titans	54	54	54	54	SS–9's	180	280
Minutemen	1,000	1,000	1,000	1,400	SS–11's, 13's	630	1,050
					SS–7's, 8's	220	220
SLBM's:					SLBM's:		
Poseidon		80		960	Y class	32	384
Polaris	656	576	1,552	1,424	Old	30	30
					(3 SLBM/sub.)		
Totals	1,710	1,710	2,606	3,838		1,092	1,964

[1] When the Minuteman III and Polaris-Poseidon conversion programs are completed (about 1976), the U.S. will have more than 7,000 MIRV warheads.

[2] No tests of the Soviet MIRV's which could threaten Minuteman have yet been reported. They have tested missiles with 3 multiple warheads and these could be now in process of deployment.

Note: The Soviets had under construction, in 1971, 30 new large silos which could hold the SS–9 size missiles, and 60 smaller silos which could hold the SS–11. They also have under construction about 16 more Y-class submarines capable of launching 256 SLBM's. They have also tested a longer range SLBM (the present range is similar to the first generation Polaris), but this may require modification of the present Y-class submarines.

This would satisfy President Nixon's desire to restrict offensive as well as defensive weapons. It would be the same procedure that he has used with strong public support in his fight on inflation. He instituted a complete wage and price freeze for a 90-day period (Phase I), during which procedures were developed for allowing, during Phase II, limited increases that would not produce inflationary pressures. This approach was finally adopted when the standard piecemeal labor-industry bargaining procedures had failed to halt a runaway rise in the cost of living. Why not try this same approach with SALT, which has not only failed to stop the offensive weapons buildup but has also been used to justify new programs?

If all ongoing programs of both the United States and the USSR were halted now, our two countries would be frozen in a posture of mutual strategic deterrence. The security on both sides would clearly be greater than if each side were allowed to proceed unilaterally with the many new developments which are in process or possible. Starting from this stable position, it might then be feasible to negotiate what programs or actions might be carried forth to futher strengthen this position.

Such actions could, in some cases, involve proceeding with deployments which are now under way or research and development on certain new systems. On the other hand, in some areas it might be possible to agree on reductions in existing forces. For example, the United States could proceed with development and testing of a single warhead for the Poseidon missile as a potential replacement for the current MIRVs. When available, we could actually deploy it in submarines modified to handle Poseidon missiles. Since the single warhead in Poseidon could be replaced by MIRVs in a short time, this would provide added confidence that American security could not be threatend by a sudden ABM deployment. At the same time it would not arouse Soviet fears of a U.S. first strike as would be the case if MIRVs were actually deployed. The Soviets, in turn, might be allowed to complete their present SLBM program, thereby strengthening this key element in a secure deterrent force. Both sides might agree to phase out and reduce the numbers of land-based ICBMs which in time could become vulnerable and obsolete and create an incentive toward a first strike.

Hopefully, many presently ongoing programs would not be resumed at all. In such a climate, there would be little excuse for the Russians to continue building additional ICBM sites, although to harden existing ones without increasing the total number might be justifiable. Similarly, the United States could cease deploying additional MIRVed missiles since Soviet ABMs would be limited and future threats to our Minuteman silos reduced. Many new development programs could be restricted to the early laboratory phases since, in a situation of frozen stable deterrence, they would not be needed. Many decisions in the direction of restraint that would be very difficult or impossible in a dynamic situation would be greatly simplified in a static one.

PRACTICAL DIFFICULTIES

The institution of such an across-the-board freeze does, however, present a number of practical difficulties which must be faced. First, it is extremely difficult to stop, on short notice, construction programs and, perhaps to a lesser extent, testing programs which are in progress, particularly if such a halt may be only temporary. This could considerably increase the cost and create many management and labor problems when, and if, the programs are to be resumed. It might be necessary to allow construction already under way to proceed during the Phase I period of the freeze. Provided that this phase were kept short—let us say 90 days—the increase in force levels would not be very significant. It would be essential, however, that during this period both nations halt all new starts. A similar type of arrangement might be worked out for testing; for example, nations would be allowed to continue work with previously tested models, but would not be permitted to start new test programs.

Such a freeze would bring the Soviet SS-9, or similar large missile programs, to a halt and leave them with between 280 and 310 launchers, depending on how one deals with the problem of sites under construction. In submarines, the Russians would be restricted to somewhere between 23 and 42 of the Polaris type Y-class vessels. They would be left without having a tested MIRV system which could threaten Minuteman. The United States on the other hand, would be restricted to the conversion of 100-300 Minuteman missiles to Minuteman III, and of 5–16 Polaris submarines to Poseidon. We would have available two tested MIRV systems, but the accuracies of these are not considered sufficiently good to permit their use as first-strike weapons. No new intercontinental bombers could be built, and the U.S. B–1 program would be put into abeyance until the negotiators had decided whether this should be allowed to proceed.

While all the details of a complete freeze could not be verified, we could be confident that the Soviets could not secretly carry out, even during a much longer period than a 90-day Phase I, any programs that could significantly affect our deterrent. New deployments of both land- and sea-based missiles can be adequately monitored by U.S. unilateral capabilities. Long-range tests of missiles can likewise be observed, and major changes in the type of missile launched would be apparent. If ongoing construction were frozen during Phase I, some work could be carried out which might escape notice, but this could not have any significant effect during a three-month period. During Phase I, one of the first tasks of the negotiators would be to examine those actions which might be difficult to verify and which, if continued unilaterally for long periods in a secret program, could have an important effect on security.

Some procedures would have to be instituted to ensure that stalling on the Phase II negotiations was not allowed to place either nation in an unfavorable position. Since the freeze would be mutual, it would put both countries under obligation to abide by its terms, and any failure to do so would automatically allow the other nation to act unilaterally. An action in response to a violation could be much stronger than one taken in the absence of any understanding. In the static situation of a freeze, where both sides have a secure deterrent, it would probably be easier to control the desire for new weapons programs than in the dynamic situation where both sides are continuously developing and deploying new weapons.

BARGAINING CHIP

Once an understanding had been reached on which programs would be removed from the freeze and allowed to resume, the negotiators could put in firm treaty language those limitations which are still in effect. These should be easier to define in a situation where nothing was changing than one which was in a constant state of flux. The bargaining chip would be the threat of a breakdown in the fixed, secure, stable position, a much more satisfactory chip than new and unnecessary weapons programs.

Arms control negotiations could then move on relatively easily to areas beyond SALT. With many ideas for new technological developments in delivery systems restrained to the laboratory or to the minds of the scientists, a comprhensive nuclear test ban would be a logical move as a next step. Without the stimuli of continuing new systems developments, it would be hard to justify continued nuclear weapons testing in either the United States or the USSR. Both sides might see the advantage of placing a lid once and for all on continuing advances when they already have designs for an entire spectrum of nuclear weapons available.

A start might also be made toward placing restrictions on antisubmarine warfare, which, once ABMs are limited, would be the only potential long-term threat to the submarine-based deterrent. Limitations on forward-based nuclear delivery systems in support of our allies and on Soviet intermediate-range and medium-range ballistic missiles could be sought as key ingredients in reducing the risk of a nuclear holocaust in Europe. In time, we might move toward reducing the numbers of our land-based ICBMs, which could be perceived as vulnerable, and thus an incentive towards a first strike.

President Nixon might consummate this dramatic new approach of a complete freeze on offensive strategic weapons on his trip to Moscow in May. This could be done simultaneously with the announcement of an agreement limiting ABMs. The groundwork for such action could, of course, be prepared by the SALT delegation between now and then. The Senate indicated concurrence with this type of action when, a year ago, it passed, by a vote of 72 to 6, a resolution (S-211) proposing a moratorium on new weapons deployments pending the negotiation of a SALT agreement. A freeze of this nature would represent the most significant step toward controlling the nuclear arms race in our times.

The second article appeared in the March 25 issue of the New Republic. Scoville's analysis of the relative strengths of the U.S. and Soviet strategic arsenals is one of the best I have seen. It follows:

LAIRD'S LATEST ALARMS

(By Herbert Scoville, Jr.)

"The Soviet Union is continuing to create strategic capabilities beyond a level which, by any reasonable standards, already seems sufficient." So said President Nixon in his State of the World message on February 9. The point can be conceded. The Soviets have strategic forces well beyond those needed to deter a US attack, even if our strategic arsenals continue to increase at a high rate.

But what President Nixon's message did not say is that the US is also building forces greater than needed to deter a Soviet attack and prevent us or our allies from being coerced. The administration policy of "sufficiency" is only superiority in another cloak.

We are now placing MIRVs (multiple warheads which can be aimed at individual targets) on a large fraction of our land- and seabased ballistic missiles. Secretary Laird reports that during the past year we added warheads to our missile force at the rate of almost three a day. MIRV deployment as an alternative to building more missile launchers has long had strong support by the Joint Chiefs of Staff, and most of those who are now leading the hue and cry about Russian superiority in missile launchers are ignoring this warhead expansion. Our total offensive force loadings will, according to Secretary Laird, increase between mid-1971 and mid-1972 from 4700 to 5700 weapons while, during the same period, the Russians will only add 400 new weapons to their stockpile of 2100. At this rate, it will be a long time before they catch up.

All elements of our strategic forces are being improved far beyond the requirements of "sufficiency." We are deploying a new generation of missiles in both our land- and sea-based launchers when no current threat requires them. We are planning to build still more advanced missile submarines (ULMS) before there is any conceivable danger to the existing ones. We are building a new bomber, the B-1, years before the B-52s will become obsolete. We are deploying an ABM defense of Minuteman missiles which is not needed to preserve our deterrent, and is, moreover, inadequate and poorly designed to protect these missiles if the Soviets do develop a MIRVed ICBM force.

Over and over again, Secretary Laird and other Defense officials have stressed the *momentum* of the Soviet strategic build-up as justification for these additional weapons on the part of the US. On January 25, Laird prefaced his request for supplemental appropriations in this fiscal year with the statement: "These funds will be used for programs that we need to start now to meet defense requirements as a result of the Soviet weapons momentum."

What is this "momentum"? In his Annual Report of February 15, Laird described the Soviet strategic weapons developments which presumably worry him the most. The following item by item analysis of all of these leaves some doubt as to whether his concern is warranted.

CONTINUED DEPLOYMENT OF ICBMS

The increase in Soviet landbased ICBMs has in the past always been cited as the dominating element in the threat. The Russians now have 1520 ICBM launchers as compared to 1054 US launchers. Though some 100 new Soviet silos have been identified for new or modified ICBM systems, the build-up has been slowing down. Indeed, Mr. Nixon in his State of the World message noted that the USSR added only 80 ICBMs last year, compared to 256 the previous year. Secretary Laird now projects an increase of only 30 between November 1, 1971 and mid-1972, and points out that the SS-9, SS-11 and SS-13 programs may be over. So the "momentum" in total numbers of Soviet ICBM launchers seems to be petering out.

What about the large ICBMs—the SS-9s which were most feared as potential first strike threats to our Minuteman deterrent? Here, the pace has slowed even more dramatically. In August, 1969, the Soviets were reported to have more than 275 SS-9s operational or under construction, and Secretary Laird predicted an increase of 50 or more per year in then justifying the need for the Safeguard ABM. Now, two-and-a-half years later, he reports that there are only about 300 of these large type ICBMs operational or under construction—hardly a cause for new alarm this year or requiring major increases in funds for new US strategic weapon systems. Included in this Soviet total are the same 30 new large launchers that were first reported under construction a year ago. No new Soviet missile has been tested for these launchers even a year later, and even if a new missile were to be deployed in them, it would not signify any increase in previously estimated threats we've always assumed. The SS-9 is capable of launching any MIRV system the Soviets chose to develop. If they need a different missile to have a MIRV to threaten Minuteman, then our previous worries were greatly exaggerated. It is rumored that the Russians may accept a ceiling on large missiles at SALT (Strategic Arms Limitations Talks). If so, that would publicly commit them to *halt a program they have almost stopped unilaterally.*

Secretary Laird also refers to extensive testing since 1965 of a modification of the SS-9 which would permit it to be fired on a depressed trajectory or used as a fractional orbit bombardment system (FOBS). This was mentioned years ago by Secretary McNamara and is not provocation for increased concern today. Such a system would be less effective than the basic SS-9 in destroying our Minuteman missiles.

MIRVS

The Russian MIRV program is *now* behind where it was said to be in 1969 by the administration. At that time, Mr. Nixon and defense officials reported that the Soviets had been testing a multiple reentry vehicle system which had a "footprint" that appeared to threaten our Minuteman silos. Now Secretary Laird states that, "while the Soviets probably have not tested MIRV missiles thus far, they have conducted many tests of the SS-9 with multiple reentry vehicles (MRVs) since flight testing began in August 1968. The last MRV tests were in late 1970." What kind of "momentum" is this? The testing of a MRV on the small SS-11 ICBM, or even the deployment of MRVs as recently reported by Laird, subsequent to his report to Congress, calls for no panic. All authorities have conceded that MRVs, whether on the SS-9s or SS-11s, do not endanger our Minuteman. Cries of alarm for three years cannot alter the fact that there is no present evidence that the Soviets have started a MIRV program.

The President correctly states that the Russians have the basic technological ability to develop MIRVs, and this can be the only explanation for Secretary Laird's prediction that the "Soviet MIRV capability could be achieved next year." But there is no factual evidence to support such an estimate since testing has not begun. It would appear that Laird's prediction is even less valid and even more misleading than those made in 1969. For although the Soviets *could* being testing at any time, it would almost certainly be more than three years before they could deploy any system that could even marginally threaten Minuteman. With the limited number of large missiles that will be available to the Soviets in the near future, such a MIRV system would have to disperse accurately six or more warheads per missile. This is within the payload capability of the SS-9, but a very long time would be required before it could be developed, tested, and deployed in significant quantities.

SUBMARINE MISSILES

The Soviets have during the last three years been building up their submarine ballistic missile force. They have 25 operational Y-class submarines, each with 16 missiles; they are turning out additional submarines at the rate of 9 to 10 a year as compared with the eight a year estimated earlier. When all those now under construction are completed, however, they will only have achieved approximate numerical parity with the US. They will still be below the total Western forces, since the French and the British also have small missile submarine fleets. More important, President Nixon recently said that "our missiles have longer range and are being equipped with multiple independently targetable warheads. Moreover, our submarines are now superior in quality." This year, as last year, authorities have referred to a new long-range Soviet submarine missile, but it has been reported that this missile could not be fired from the Y-class submarines unless these are modified.

Since missile submarines are primarily deterrent weapons and cannot be used to attack either the Minuteman or Polaris portions of the US deterrent, it is hard to see how this Russian build-up would justify adding to US strategic forces. Our submarine strategic forces are "highly survivable," says Mr. Laird, and while there are indications that the Soviets are attempting to establish an area surveillance system and associated ASW (anti-submarine warfare) strike forces, they do not as yet have this capability. Other officials have testified that they have not been able to identify any developments that indicate a Soviet threat to our seabased missile deterrent.

None of the reported Soviet weapons programs require the construction on a crash basis of a new submarine missile system (ULMS), which may cost tens of billions of dollars and may be designed to cope with the wrong threat. This is not security; it is insanity.

STRATEGIC BOMBERS

Both the President and Secretary Laird have warned of a new Soviet supersonic bomber. What they have in mind is a medium-range aircraft, probably primarily designed for use in Eurasian situations and of little direct threat to the continental US. Laird reports "a probability that it has a capability for inflight refueling. With refueling it could reach virtually all US targets." He does not say whether these bombers could ever get back to Russia, if they were used against such targets. Again, the development of this type of Soviet bomber, about which we have known for several years, does not require expanded US programs in response. We now have an overwhelming quantitative and qualitative lead in strategic bombers.

ABMS

Laird also reports that "construction of the Moscow ABM system has resumed and testing of an improved ABM missile continues." He referred to this resumption last year and to the testing back in 1969. Nevertheless, Admiral Moorer, Chairman of the Joint Chiefs of Staff, has just said that the Moscow system, even with improved radars and more and better interceptors, could still be saturated by a very small part of our total missile force. It does not, therefore, endanger our deterrent. The U.S. has apparently been seeking at SALT, ABM limitations at levels *greater* than the present Moscow system, so it is hard to believe that the administration is really worried about the Moscow ABMs. Furthermore, the Soviets have been eager for an agreement to limit ABMs, and President Nixon has expressed optimism that this can be achieved at an early date, so the long-term danger from ABMs may never develop. If the SALT negotiations break down, the Soviet ABM program still does not warrant increases in U.S. strategic force levels for many years. We have ample lead time to put into effect any necessary countermeasures.

The deployment of a widespread space tracking system that would enable the Russians to predict the position of near-earth orbit satellites is described by Secretary Laird as a Soviet research and development effort worth mention. Presumably this system is composed of the same surveillance radars that a year ago he sought to associate with a Soviet ABM system. Apparently, the association is no longer considered quite so valid, and the fears generated in some quarters in past years are no longer as great. A space tracking system is not a major security threat; the U.S. has had one for more than 10 years.

In sum, in its current round of budget requests the administration has been crying wolf: it has not come forth with a single new development in the last year that in any way demonstrates a new threat to our strategic deterrent. The Soviet ICBM program is winding down and its MIRV program is many years behind original predictions. Only in the area of submarine missile deterrent systems has the Soviet program continued to roll forward, and here the U.S. is more than one generation ahead. The Russian strategic weapons programs are continuing, but their momentum is faltering.

In contrast, we have been moving forward with increasing speed on all fronts. We are deploying MIRVs rapidly so as to increase our force loadings at the rate of 1000 warheads per year. We are developing new guidance systems for these MIRVs. We are deploying a new model ICBM, Minuteman III, and modifying our submarines to fire the new Poseidon missile with a payload four times as large as the Polaris. We are not building any additional missile launchers, but no one has seriously adovcated our increasing these for many years. We have a far more extensive anti-submarine warfare program both in terms of deployment and in terms of research and development than the Soviet Union. We are proposing to commit large sums to a new missile submarine (ULMS), though our present system is far superior to the Soviet Union's. We are building a new intercontinental bomber. We are proceeding with an expanded ABM deployment and carrying out extensive research and development on next generation systems. Restraint in U.S. weapons programs is hard to find. The administration ought to drop the double standard by which it evaluates U.S. and Soviet strategic weapons.

CHARLES RENTZ—AN INSPIRATION TO ALL

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. FLOWERS. Mr. Speaker, the March 9 issue of the Democrat-Reporter of Linden, Ala., featured an article about Charles Rentz, a valued friend and constituent of mine. There is justified concern in this Nation for the welfare and condition of handicapped persons, and I would commend the following article and the inspiration of Charles Rentz to my colleagues and others:

CHARLES RENTZ ". . . AN INSPIRATION TO ALL OF US" WILL RECEIVE AWARD FROM ALABAMA GOVERNOR'S COMMITTEE

Charles Rentz, Marengo County Circuit Court Clerk and Register, has been chosen to receive the 1972 Handicapped Alabamian award from the Alabama's Governor's Committee on Employment of the Handicapped.

In a letter from W. Gene Kerlin executive secretary of the committee, Kerlin stated, "We are very impressed with your accomplishments and we want to honor you in our highest fashion. You are an inspiration to all of us and we are very proud of you."

The award will be presented to Rentz Friday, June 9 at a luncheon meeting of the Alabama Association of Circuit Court Clerks and Registers. The meeting will be in Florence.

Each county in the state nominates an individual for the award and the committee makes the final selection.

John Neel, editor of Ala-West magazine, captured the philosophy of Charles Rentz on paper. Here are some impressions the Sumter County editor had of the man and politician, Charles Rentz:

If you doubt that the human spirit, guided and strengthened by God, is capable of magnificient accomplishments, consider Charles E. Rentz of Linden.

It is no overstatement to describe what this man has done and what he is as magnificient.

You notice immediately that physically Rentz lacks much of what most of us take for granted. Both his arms end in stubs at about the elbow, and he doesn't have any legs much below the knees. His right leg terminates at about knee level in a small malformed foot. The left leg, shorter than the right, has only a small appendage that would have been a foot had prenatal development proceeded as it should.

Thus handicapped, Charles Rentz came into the world in 1902 at Myrtlewood. The neighbors, seeing the pathetic looking little fellow, probably shook their heads and concluded that he didn't have a chance to make his way in a tough, competitive world.

It was an obvious conclusion, but it turned out to be wrong, for the boy's physical shortcomings were counterbalanced by some powerful plus factors.

One plus—and a tremendous one—was the truly remarkable wisdom and courage of his parents, Mr. and Mrs. Sandy Rentz. Another was the willingness of his three brothers and one sister (he was next to the youngest), friends and teachers to accept him on more or less equal terms. Still another was his good fortune (a wise choice) in his wife and friends.

The key factor, of course, has been the burning spirit and determination of Rentz himself, his everlasting positive approach to all situations.

Through it all has been woven the fabric of God's love and concern—and His very real, practical help.

Today Rentz is the Clerk of the Circuit Court of Marengo County. He was first elected to the office in 1946 after running and being defeated in 1934 and 1938. He has since been reelected five consecutive times.

More importantly, Rentz has a wife and three daughters, a lovely home, a host of friends, and many other things that have enriched his life.

Remarkably, he can capably perform almost any physical maneuver that he needs for his day-to-day life. He drives his own car, which he himself modified with special controls. He moves confidently on his crutches, even up and down stairs, and rolls efficiently around his office on an ordinary office chair. He can dial a telephone, type, use an adding machine, play chords on a piano. His no-hands dexterity even makes it possible for him to dress himself, down to almost the final detail, being stopped only by the topmost button on his shirt. He can even put on his tie.

He keeps the family's huge lawn mowed with his riding mower. And if it or any other machine around the house or office breaks down, he is generally able to make the needed repairs himself, manipulating wrenches and other tools by holding them between his two shortened arms.

The quality of his no-hands handwriting is superb. Seldom does anyone around Linden need any fancy writing done that they don't bring it to Charles Rentz. He places pen or pencil between the padded ends of his arms and moves from the shoulders. Not as fast as the ordinary way, but the result is beautiful.

In short, Rentz has conquered his physical limitations. Refusing to be bound by them, he has soared above and beyond.

That physical overcoming is amazing enough to shame the ordinary griper and rationalizer into humble silence and renewed dedication. And to inspire those who struggle with their own handicaps, of whatever nature and whatever degree.

The thing about this man that impresses even more than his prodigious practical achievements, however, is the spirit which enables him to do the things that he does. The spirit which keeps him looking up in gratitude to God rather than down in bitterness to where his hands and feet should be.

"He is the happiest person I have ever seen in my life," Charles' wife Wittie says simply. "I have never seen him really blue. I have seen him quiet, when something was on his

mind. But it is usually something wrong at the office or some misunderstanding with someone."

Rentz's refusal to feel sorry for himself, to even give bitterness the time of day, is built upon something his mother taught him.

"One of the reasons I never allowed myself to question why?" he said, "was that if anyone ever had a religious mother, I did. She always taught me that the 'why's' of the Lord's work are never to be questioned."

He loves Paul's statement in the fourth chapter of Philliplans: "for I have learned, in whatsover state I am, therewith to be content," and, two verses down: "I can do all things through Christ, which strengtheneth me."

"My entire life is built upon my faith in my Creator, who has endowed me with so many blessings," says Rentz.

His faith is not just lip service, either. Growing up, he took part in family prayers each night, and he and Wittie (and their daughters before they grew up and married) read the Bible and pray together at breakfast each morning. Charles has been tithing since he began earning a living (before becoming Circuit Clerk he worked as a gravel checker, service station man, automobile salesman, insurance salesman, bookkeeper and during World War II, chief clerk of the Marengo Wage Price and Rationing Board of the office of Price Administration.

For more than 35 years, he has taught a Sunday School class at the Linden Methodist Church, and he has been doing lay speaking for more than 25 years.

"I don't think I would be stretching it to say that I have sung at 500 funerals," Rentz said. "All over the county and outside."

Rentz has a fine singing voice, sang with a quartet for some six years. He met his wife at an all-day singing in Choctaw County. One of his few regrets about the course of his life is that he did not take voice lessons from a school teacher who lived in Myrtlewood and boarded with the family.

"I thought it was sissy, and I wouldn't do it," he said, "and I am sorry that I didn't".

Rentz is active in professional and civic affairs as well as church work. He has served as president of the State Circuit Clerks and Registers' Association in 1958–59 and served on the organization's Legislative Committee. He was president of the Linden Lions Club in 1966–67 and is a member of the Nanafalia Lodge No. 35. His talks to church and civic groups often take him away from home. He has several out-of-state talks scheduled this fall. He makes as many of these inspirational talks as he is able, for he feels it is his duty to share his faith with others.

Charles Rentz has done so much, when he might have done so little. Who could have blamed him if he had spent his life in a wheelchair, allowing others to support him?

Well, Rentz would say that God wouldn't have liked him to be that way, nor would his parents. He himself, of course, would never allow himself to give up in such a manner.

But had his early years been shaped differently, perhaps he would not have been the kind of person who as he said, was taught that "can't" was not in the dictionary.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

OKLAHOMA VFW WINNER MAKES ELOQUENT PLEA

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. EDMONDSON. Mr. Speaker, we frequently hear criticism of today's youth, and doubtless some of the harsh words about certain actions are deserved. But we all too often fail to praise the millions of young people who are already fine citizens and who will be capable and effective leaders in the future of our country.

One outstanding young man is Kerry Holton, of Muskogee, Okla. Kerry delivered the winning speech in the Oklahoma Veteran's of Foreign Wars Voice of Democracy Contest, and I feel his words vividly and accurately represent the sense of heritage and responsibility felt by the vast majority of our Nation's young people.

It is a privilege to represent such constituents and a pleasure to share with you Kerry Holton's speech, "My Responsibility to Freedom":

MY RESPONSIBILITY TO FREEDOM

Freedom. A prized possession. So valuable to the human race, that men have sacrificed their very lives for that one thing—that one abstract feeling of freedom. But in America, freedom is not just an abstract feeling, it is the concrete foundation of our existence. The chance to live and rule one's own life. The opportunity to live to the utmost—a free man, that's what it's all about. To Americans, however, freedom carries something more than just a privilege. Responsibility is always coupled with privileges.

As I look around me, and really catch a true picture of America, I can't help but remind myself of our fight for independence and my direct responsibility to it. If you get right down to it, I am living here today because of certain years in American History 1776 . . . 1865. If it were not for Mr. Washington, Mr. Franklin, Mr. Jefferson, Mr. Lincoln, and so many other founding fathers of this nation, I would not be living in freedom today. Where would I be today if thousands of men had not fought for the preservation of this country, on countless battlefields, war after war. Just stop and think—great men have preserved America for almost 200 years, just for me, just because I'm an American. Many have died to keep this nation alive for their posterity—and we are the ones they died for. We definitely have the obligation to preserve American Freedom for future generations. We must keep alive those privileges which only we as citizens have.

I believe one of the most important responsibilities I have to freedom is simply to use those freedoms. Do we buy a new pair of shoes just to leave them locked up in the closet? Do we buy food just to let it rot and spoil? No, of course not. We didn't receive freedom just to store in the attic.

We received freedom to use. Because we are Americans, we have several opportunities directly resulting from our American freedoms.

American freedom has come to us because of the determination of men throughout our nation's history. Because of the hard-fought freedom, which we enjoy today, we have many precious opportunities.

Have you ever realized what the last four letters in the word American spell? I can. I can—in America and it is only made possible through my American Freedom. We ought to be proud, that we live in America, and we ought to get the most we can out of its opportunities.

We need to ask ourselves:

Would I be a responsible American . . .

If I did not care about its future?

If I made no attempt to preserve this great nation for those yet unborn?

Would I be a responsible American . . .

If I did not use my freedoms?

If I turned my back on the golden opportunities which only can be found in America?

We cannot escape our responsibilities. America will only be as good as we make it and as we preserve it. We must keep America great, as it was given us. Now, the responsibility is ours . . . to keep America just that way!

MILK PRICES

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. OBEY. Mr. Speaker, Secretary of Agriculture Butz recently announced that the support price for manufacturing milk will be continued at $4.93 a hundredweight for the marketing year beginning April 1, 1972. At the same time he announced that the purchase prices paid by the Commodity Credit Corporation—CCC—for cheese, butter, and nonfat dry milk to carry out the support program will also remain unchanged.

It should be noted that with these purchase prices the average price received by farmers for manufacturing milk during the present marketing year will be about $4.88 a hundredweight, 5 cents below the announced support price. In fact, as shown on the following table, dairy farmers received less than the announced supoprt price in 8 of the first 11 months of the present marketing year:

MANUFACTURING MILK

[Dollars per hundredweight]

	Support price	Average price received by farmers[1]	Deviation from support price
April 1971	$4.93	$4.84	−0.09
May 1971	4.93	4.81	−.12
June 1971	4.93	4.81	−.12
July 1971	4.93	4.81	−.12
August 1971	4.93	4.80	−.13
September 1971	4.93	4.82	−.11
October 1971	4.93	4.85	−.08
November 1971	4.93	4.89	−.04
December 1971	4.93	4.97	+.04
January 1972	4.93	5.01	+.08
February 1972	4.93	5.01	+.08

[1] Adjusted to annual average milk fat test of 3.67 percent.

The increased price during the last 3 months is largely a seasonal condition, reflecting the fact that milk production is at its lowest level during this period. With no change in CCC purchase prices, it is anticipated that the price received by farmers for milk during the coming marketing year will actually average several cents less than the announced support price.

If the Secretary of Agriculture is not willing to increase the support level for the coming marketing year, and I have indicated on more than one occasion that I think he should—at the very least he ought to increase the CCC purchase price for cheese, butter, and nonfat dry milk enough to guarantee our dairy farmers a price for their milk at least equal to the announced support price.

Mr. Speaker, what many of us are concerned about when we ask for increased price supports and an increase in the CCC purchase price of dairy products is the fact that farmers are the victims of inflation just as much as anyone else. Their problem is that without action from the Secretary of Agriculture, they have almost no way to hurdle these inflationary pressures.

During the current marketing year, inflationary cost increases absorbed by dairy farmers have caused the $4.93 a hundredweight price support level for milk to decline from 85 percent of parity on April 1971 to 79 percent of parity at the present time. For that reason I introduced legislation along with 27 cosponsors to require the Secretary of Agriculture to adjust the support price quarterly to reflect any increases in the parity price of milk. If this legislation had been in effect during the past year, for example, the support price for milk would have increased three times to maintain the support level at 85 percent of parity—with increases to $5.04 a hundredweight on July 1, to $5.08 on October 1, and to $5.11 on January 1.

The events of the last year, and particularly the last few weeks make abundantly clear the need for the enactment of my bill which would allow our dairy farmers to at least meet their increased costs of production during the year.

LET US FREEZE GOVERNMENT, TOO

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GOLDWATER. Mr. Speaker, recently a constituent, Mr. J. L. Feeney of Northridge, Calif., sent me a copy of an advertisement sponsored by the National Association of Life Underwriters. It is short and to the point, and I would like to share its important message with my colleagues:

LET US FREEZE GOVERNMENT, TOO

A MESSAGE ADDRESSED TO THE PRESIDENT AND MEMBERS OF THE CONGRESS

Under the current program of controls and freezes, you are:

Asking working men and women to make sacrifices in holding down prices.

Asking businessmen to make sacrifices in holding down prices.

What sacrifices will government make? Government surely doesn't want to ask others to make sacrifices it isn't prepared to make itself. If your program to control inflation is to succeed, government must do two things:

1. Cut federal spending.
2. Restrain the creation of money through the Federal Reserve System.

It is unfair to control the economic decisions of people—while letting federal spending run rampant. Government must do its part—it, too, must show self-discipline.

To halt inflation, federal government spending must be frozen—better yet—CUT, and the money supply restrained. Economic controls deal with the results of inflation. Frozen or reduced spending is one sure way to reduce inflationary pressures. As wage and price increases are deferred, so too should spending for new federal programs be deferred.

It is also time for Congress and all agencies of government to evaluate existing programs by their measurable results and get rid of the deadwood programs that have a proven record of ineffectiveness. Congress too seldom reviews the need for legislation previously enacted.

Will you, Mr. President and members of Congress, face up to these needs?

Only you have the authority to investigate, hold hearings, ask questions and sit in judgment of these spending questions.

If you don't know where and how to stop spending, then you should set up the proper mechanism to find the answers.

If the citizens of the United States must struggle under economic controls then government should, in all equity, restrain its own actions, with emphasis on reduced spending and a restrained money supply.

It is time for government to cooperate with the American taxpayer in this fight against inflation.

Mr. President and members of Congress, the responsibility is yours.

THE AGRICULTURAL LABOR RELATIONS ACT OF 1972

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. LEGGETT. Mr. Speaker, yesterday a number of us introduced a bill we call the Agricultural Labor Relations Act.

The purpose of this bill is to recognize, protect, and regulate the right of farm employees to bargain collectively. I believe we do it in a way that constitutes a reasonable compromise between the interests of the farmers and the workers.

Taking into account the 6-month backlog of the National Labor Relations Board, we decided to establish an independent Agricultural Relations Board of three members serving 5-year terms, appointed by the President and confirmed by the Senate.

Very briefly, the bill requires 20-day written notice of intent to strike. The employer can then invoke a 40-day mediation period during which the Federal Mediation Service shall attempt to resolve the dispute. If the dispute is not resolved within the first 20 days, the Mediation Service shall submit a list of five names from which both parties shall agree on one to serve as a special referee. The referee shall recommend a settlement not less than 5 days before the 40-day period expires. If the union accepts the referee's recommendations, they are binding on the employer. If not, the union may strike.

A similar procedure, with the positions of the union and the employer reversed, applies to a threatened lockout.

The bill provides for fair employee elections to choose a union. It authorizes the negotiation of a 7-day union shop and requires nonpreferential hiring. It prohibits secondary boycotts, but permits informational picketing.

This is the best arrangement we have been able to develop, but I do not claim it is the ultimate answer, or even that it is the best possible answer for 1972. We will certainly be open to suggestions and to constructive amendments.

BUSING

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MIZELL. Mr. Speaker, President Nixon has made two proposals designed to halt temporarily, and, ultimately, to eliminate completely, the ordering by Federal courts of massive busing of schoolchildren to achieve racial balance in public schools.

With his announcement of last Thursday night, and with the two legislative measures he sent to the Congress on Friday, President Nixon became the first Chief Executive to make any proposal to stop busing, and I salute him for his initiative.

His first proposal is for a moratorium on any new court orders requiring massive busing for racial balance. This moratorium extends to July 1, 1973.

The second, and more comprehensive proposal, is the Equal Educational Opportunities Act, which provides for an increase in funds to provide truly equal education in all of our Nation's schools and lays the groundwork for establishment of a nationwide neighborhood schools policy.

This second measure also provides a means of relief for school districts already suffering under the burden of massive busing, by providing a clause permitting the reopening of proceedings in courts to elminate currently required cross-busing plans and fashion alternate desegregation plans complying with the neighborhood school provisions of this act.

While I applaud the President's initiative in this issue, I see a danger in extending the moratorium beyond the conclusion of this Congress and through another school year.

I believe the net effect of so long a moratorium would be to lessen the urgency of passing the companion equal opportunities legislation, and thus leave school districts already under court order to bus with no relief for another full school term.

I believe we would do better to extend the moratorium only to August 1, 1972. This would give the Congress ample time to consider and act on the President's Equal Education Opportunity Act, and it would give local school districts sufficient time to prepare desegregation

plans for the coming school year along the more reasonable lines set forth in the President's legislation.

It has been speculated that these bills may not stand the test of constitutionality in the courts, and this is all the more reason for immediate action on these proposals. For if the courts rule these measures unconstitutional, then we will see beyond doubt the need for passage of a constitutional amendment such as the one that I have proposed, to prohibit cross-busing.

REVENUE SHARING

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BOLAND. Mr. Speaker, the Ways and Means Committee has reached agreement on a new revenue-sharing plan—a plan that promises to break free from the Federal Treasury $5.3 billion for distribution to State and local governments this year. It is a cheering sign for the country's Governors and mayors. Beset with financial problems unparalleled in recent memory, the States and cities these men govern need assistance desperately. State taxes, even though they have climbed to levels undreamed of even a few years ago, still cannot raise enough revenue. And local property taxes are so burdensome that homeowners everywhere are on the verge of revolt. Sources of revenue for many States and cities—indeed, for most of them—are withering away.

The rationale behind the Ways and Means Committee's revenue-sharing plan, like the rationale behind the rival plans that the committee has already dismissed, is quite simple: first, giving the States and cities a welcome new source of income, and second, giving them a chance to decide how to spend at least some of the Federal tax money their citizens pay. Governments must now grope through an almost impenetrable thicket of rules, regulations, guidelines, standards ad nauseam before receiving Federal grants—even the most routine grants, let alone the major ones. Applications are sometimes ensnarled in redtape for years.

Any unit of government, however big or however small, would be eligible for assistance under the committee's plan. Massachusetts, my home State, stands to receive $179.4 million—$75 million for the State itself; $104.4 million for its local communities.

I urge the promptest possible action on this legislation.

It should be among the very highest priorities of this Congress.

The New York Times today published an article on the revenue-sharing plan, and I commend the article to my colleagues.

[From the New York Times, Mar. 23, 1972]

HOUSE COMMITTEE AGREES ON REVENUE-SHARING BILL

WASHINGTON, March 22.—The House Ways and Means Committee reached agreement today on a revenue-sharing bill. This new system of Federal financial aid to state and local governments, termed revolutionary by the Nixon Administration, thus cleared its first and possibly highest Congressional hurdle.

The committee's bill would give much less money to the states than the Administration's original proposal, but much more to local governments, particularly large cities.

The bill differs in many other ways from the Administration's proposal, but the Administration said it was happy with the bill because it embodied the fundamental idea of handing over to state and local governments, for use with relatively few restrictions, money that had been raised through Federal tax collections.

SUM OF $5.3 BILLION PROVIDED

In all, the committee's bill provides $5.3-billion for this year. Of this, the states would receive $1.8-billion, compared with the $2.8-billion they would have received under the Administration's proposal.

It was considered likely that the bill would reach the House floor for debate and probable approval by the end of April.

There was little basis for guessing the fate of the bill in the Senate. But the pressure for approval from the nation's Governors, Mayors and county officials, many of whom are already budgeting on the assumption that the money will be forthcoming, was certain to be great.

The basic idea behind revenue sharing is not only to give financial help to state and local governments but also to remove from the Federal Government's hands the responsibility and power for setting detailed standards and requirements for the spending of Federal aid funds by these governments.

The Ways and Means Committee bill concerns only one portion, though the most important one, of the broad program of revenue sharing proposed by the Administration.

This portion is what was originally known as general revenue sharing because the Administration wanted the money turned over to the lower levels of government with no restrictions on the public purposes for which it could be used.

FUNDS ALREADY BUDGETED

The other portions of the Administration's original plan were called special revenue sharing because the money could be spent only for specified purposes, such as manpower training or urban development. Congress has taken almost no action on special revenue sharing.

The money for special revenue sharing was to have come essentially from funds already budgeted by the Federal Government for use in specific aid programs to the states or localities.

The general revenue sharing money was to have been new money, not previously budgeted or earmarked for any purpose.

That is why general revenue sharing is regarded as the most important part of the program.

Technically, the committee did not actually approve the bill today. It reached agreement in principle and asked its staff to draft a complete new bill for the committee to vote on right after the Congressional Easter recess.

Ways and Means traditionally operates this way, and major changes in the agreed-on language are rare.

Among the committee's decisions today was one to give at least some money to every local governmental unit, however small, so long as it was a unit organized for general purposes and not for a single purpose. An example of a single-purpose district would be a school district or a sewer district.

Originally, the committee planned to cut off aid to local governments serving populations of less than 2,500.

The committee's bill contains no restrictions on the uses a state government may make of the revenue-sharing money.

For local governments, the bill contains a list of authorized purposes for which the money may be used. The list is shorter than the one contained in the alternative revenue-sharing bill sponsored by the committee's chairman, Wilbur D. Mills of Arkansas.

In the committee's bill, there are actually two lists of authorized purposes, one covering capital outlays and the other covering spending for maintenance and operation.

Capital outlays would be permitted for sewage collection and treatment facilities, refuse disposal systems and public transit systems. Regularly recurring capital expenditures, such as routine replacement of buses, would not be a permissible capital expenditure.

As for maintenance and operation, revenue-sharing money could be used for public safety programs, including police and fire protection and building inspections; for environmental improvement, including sewage and garbage collection and disposal, and for public transportation.

Mr. Mills' bill had included youth, recreation and health programs and financial administration among the permissible maintenance and operation outlays. Capital expenditures for urban renewal and for the acquisition of open space would also have been permitted.

The main issue that the committee had to decide today was the formula for splitting up the shared revenues among the local governments with each state.

It decided on a complex set of alternatives that would give governors and state legislatures some leeway but by no means complete discretion.

DETAILS OF COMMITTEE BILL

Other important details include the following:

The bill contains prohibitions against use of any of the money for programs that discriminate on the basis of race, color, national origin or sex.

No Congressional action on appropriations would be required, either this year or subsequently, under the bill. The bill, once passed, would constitute what amounts to a permanent appropriation, for each of the five years the revenue-sharing program would be in effect.

A formula is included that is designed to make sure that state governments cannot reduce the financial aid they give to localities out of funds other than the revenue-sharing money.

A separate formula is designed to keep localities from transferring their own tax money out of the programs for which revenue-sharing funds are available and into other programs for which it is not.

The committee approved a system under which the Federal Government would collect state income taxes for the states, if desired. The system would include payroll withholding.

COMMENTS ON H.R. 11896

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GROVER. Mr. Speaker, sometime next week we will be taking up H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972.

This bill breaks new ground in a number of important areas, and I think it is safe to say that the bill represents a major breakthrough in the water pollution field.

Much debate will undoubtedly be had on the advisability of a "national goal" versus a "national policy" approach—as in S. 2770—to the effluent, no discharge deadline of 1985. In my own view, however, the most important provision in the bill is the part that deals with the nuts and bolts of eliminating pollution; namely, sewage treatment works construction. Title II of H.R. 11896 provides for a 60–75 percent Federal share of the cost of the treatment works. Treatment works is defined so as to cover all aspects of the treatment system, including sewage collection systems, which have not hitherto been included in treatment works grants.

The importance of this inclusion cannot be ignored because experience has shown that the collector sewers are often the single most expensive part of the treatment system. In that respect the Muskie bill (S. 2770) is a crushing blow to the heavily burdened taxpayers of Long Island, and for that matter, the country as a whole, because it fails to include collector sewers in the waste treatment grants.

Eighteen billion dollars is authorized for construction of these projects over the next 3 fiscal years. In addition, $2,750 million is authorized for reimbursement to State and local governments for projects whose Federal share was prefinanced by them because sufficient Federal money was not available.

It is such construction which will enable us to reach "no discharge" of pollutants. I urge your support.

WHO GETS THE CONSUMER BEEF DOLLAR?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. ZWACH. Mr. Speaker, there is a continuing controversy between consumer and producer advocates over the price of beef.

In an effort to explain why there should be such a difference in the price of beef to the producer and the over-the-counter price, Don Kendall, Associated Press farm writer, tells what happens to the beef dollar.

Mr. Speaker, I think this is information from which we can all profit. I insert it into the CONGRESSIONAL RECORD at this point:

Who gets the consumer beef dollar?

Allen Baker, a marketing specialist for the department's Economic Research Service, provided a breakdown of beef costs using figures for the fourth quarter of 1971, which included part but not all of the recent uptrend in cattle and beef prices.

A 1,000-lb. choice-grade live steer is sold by a farmer or feedlot operator for $327.79, or about 33 cents per pound, not including transportation or any marketing charges involved.

The packing company, which bought the animal, slaughters the steer and converts it into so-called carcass weight. By this time the steer has been divested of hide, internal organs and other byproducts which are not classified as red meat.

At this point, the packing company has a beef carcass weighing only 620 pounds. The carcass is sold on the wholesale market for $340.10, or about 55 cents per pound for the net remaining weight.

Meantime, the meat packer has sold the byproducts, including the hide, tongue, tripe and liver, weighing a total of 193 pounds, for $20.65. That amount is deducted by economists from the $327.79 paid the farmer to arrive at an adjusted "farm value" for the red meat of $307.14

The carcass sold by the wholesaler for $340.10 to a supermarket chain, a large hotel or perhaps a small independent grocery store now must be transported, cut up, packaged and, in the case of hamburger, ground up for consumers.

During this process, the retailer trims the 620-pound carcass of excess bone, fat and other waste material. That leaves 463 pounds of beef cuts from the original carcass.

But, on the average, there is a 5-per-cent reduction in the retail cuts from spoilage and theft. That leaves 439 pounds of beef available for retail sale to consumers.

The prices of the cuts vary widely, from about 69 cents a pound for hamburger nationally last December, according to the Bureau of Labor Statistics, to more than $2 a pound for the more prized steaks.

All told, the original 1,000-lb. steer was reduced to 439 pounds of meat selling for $468.40 total or about $1.07 per pound. That's more than three times the original on-the-hoof cost per pound of the live steer.

According to the breakdown, and allowing for the $20.65 received by the meat packer for byproducts, there was a markup of $161.26 from the time the steer left the feedlot until it ended up in shopping carts as red meat.

NATIONAL WOMEN IN EDUCATION DAY

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BELL. Mr. Speaker, I have introduced a resolution calling upon the President to designate May 21 as "National Women in Education Day." In a time of vigorous public debate over issues of widespread importance, the great majority of our Nation's women are pursuing educational and community service goals which will better enable them to exercise their franchise and the leadership which they have gained through responsible use of their vote.

In an effort to encourage women to continue their educational pursuits, Aware International—Association for Women's Active Return to Education—has offered scholarships for both part-time and full-time study to women beyond the usual college age. This year, Aware International is celebrating its seventh year of distinguished service and activity.

It is a privilege to commend this effect to my colleagues by offering a resolution calling for observance of "National Women in Education Day."

H.J. RES. 1127

Authorizing the President to proclaim annually the day of May 21 as "National Women in Education Day."

Whereas, it is recognized that a complex, technological society such as the United States requires expanded knowledge, acquired both formally and through experience, by all its citizens;

Whereas, the genius and skill of our Nation's youth is dependent in great measure upon the wisdom and technical knowledge of the Nation's women during the critical formative years;

Whereas, historically women have had less opportunity than men to participate to their own full educational potential;

Whereas, the women of the Nation have continually and persistently, at a cost of great personal sacrifice in many instances, expended energy, money, and time in acquiring advanced education from the Nation's great institutions of learning;

Whereas, further achievements by women will be encouraged by recognition of the contributions of the educated women of this Nation; Now, therfore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the President is hereby authorized and requested to issue annually a proclamation designating May 21 of each year "National Women in Education Day" and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

WHATEVER HAPPENED TO THE HOUSE JUDICIARY COMMITTEE?

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GROSS. Mr. Speaker, I have called attention several times in the past 4 years to the deplorable conduct of Federal Judge Robert E. Tehan.

This information has been brought to the attention of the House Judiciary Committee but I have no information that anything has been done by way of checking into the situation.

I have today received a copy of a letter sent to Chairman EMANUEL CELLER of the House Judiciary Committee which makes additional allegations of misconduct in the Seventh Federal Judicial Circuit.

In addition, I have written to Chairman CELLER with a request to know what has been done in this area, as well as what has happened to his committee's investigation into the grand jury charges against Judge Otto Kerner, an investigation the chairman said he ordered more than 3 months ago.

I include the copy of the letter to the chairman of the Judiciary Committee which I received today and which I am inserting in the RECORD at this point:

CRUMPACKER, ABRAHAMSON & REED,
Hammond, Ind., March 23, 1972.

EMANUEL CELLER, ESQ.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: I am writing to you as the Chairman of the House Judiciary Committee as well as to the other members of the Committee to bring to your attention the most sordid chronicle of misfeasance in contemporary federal judicial history. Would you please refer to my letter to the Attorney General under date of September 8, 1970, with memorandum attached (CONGRESSIONAL RECORD, volume 116, part 23, pages 31084–31086), and to the Woodmar Realty Company's correspondence and "Peti-

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tion for investigation into and impeachment of Milwaukee Federal Judge Robert E. Tehan" (CONGRESSIONAL RECORD, volume 117, part 12, pages 15409-15414).

Each member of the Committee and the Committee's staff were furnished with copies of these documents. These documents contain serious, accurate, unrefuted allegations of judicial corruption in the administration of a federal court trust, i.e., the 29-year Woodmar Realty Company reorganization in the Hammond, Indiana, federal district court. As of the present date, a much-needed bill of impeachment has not been drafted or approved by the Committee. To my knowledge, the staff has not conducted its preliminary investigation of these charges, as petitioned. Nor has it acted on Senator John J. Williams' call in April, 1970, on the floor of the Senate, for Judge Tehan's resignation or removal from the bench for his failure to file or pay either state or federal income taxes for nine years before being appointed.

The purpose of this letter is to bring to your attention more recently discovered patterns of judicial misconduct in the Seventh Federal Judicial Circuit (Indiana, Illinois, and Wisconsin) involving the Woodmar Realty Company case and other cases. Last December, another Seventh Circuit Federal Judge, Otto Kerner, was indicted for alleged tax evasion, bribery, perjury, mail fraud, and conspiracy. Judge Tehan's tax evasions and corrupt misconduct on the bench are far more flagrant than Judge Kerner's. It is now apparent that Judge Tehan and the present Chief Judge of the Seventh Circuit Court of Appeals, Luther M. Swygert, have been engaged in a unique exchange of intra-circuit jurisdictions. Neither judge had been handling out-of-state trial assignments, but in a handful of cases either embarrassing to or directly challenging their integrity, they in effect swapped cases. They presided over each other's "problems," helped keep the lids on each other's scandals, and saw that there were "favorable" decisions for each other's cronies. These cases are tracked throughout with footprints of judicial vindictiveness and dereliction, cronyism, and other serious irregularities.

The Woodmar Realty Company, which I represent, was stripped of all its valuable assets ($25,000,000 according to present tax assessor's records) during the time we were in Federal Court. Milwaukee Federal Judge Robert E. Tehan was first assigned to the Woodmar case in Hammond in *December of 1957* by his political henchman and Chief Judge of the Seventh Circuit Court of Appeals, F. Ryan Duffy. Thereafter, and from year to year, and over the protest of Woodmar's counsel, Judge Duffy's successor, Seventh Circuit Judge John S. Hastings, now retired, "temporarily" reassigned Judge Tehan to Hammond. Judge Tehan's last entry, *after 12 years*, was made on May 19, 1969.

Judge Tehan had come to Hammond, Indiana from Milwaukee, in December of 1957, and took possession of our company's $500,000 bank account and business affairs. We had courteously urged his colleague, Chief Judge F. Ryan Duffy, officiating with Judge Tehan in Milwaukee, to reassign a different Indiana Judge to our case. Our pleas and protests fell on deaf ears.

Judge Tehan had not ventured outside of Wisconsin on any other trial assignment. He was, thereafter, "reassigned," annually, to our case, over our protests, for the next ensuing twelve (12) years.

A former Lake County, Indiana Federal Judge (Luther M. Swygert) *who, likewise, had never been assigned to a trial outside of Indiana*, was simultaneously sent to Milwaukee by Chief Judge F. Ryan Duffy. Coincidentally, the Lake County, Indiana, Judge who then took over substantial court work of Judge Tehan's in the Eastern District of Wisconsin in Milwaukee was the same judge who had previously sat in our case for thirteen (13) years.

The circumstances under which the jurisdictions of the two Seventh Circuit Judges were switched by Judge F. Ryan Duffy and his successor, Judge John Hastings, on the appeals level, are *in part* as follows:

Judge Tehan, former chairman of a major Milwaukee County political party, reportedly had "overreacted" while on the bench, in favor of the United Auto Workers in the Kohler strike litigation. Again, in 1960, tax cases involving friends and political allies of Judge Tehan were in the offing and threatened to blow up in his face, along with the fact that Attorney Robert E. Tehan Jr.'s small law firm maintained a successful practice in his father's court and was being fed a number of lucrative bankruptcy cases by the court. If the Committee will also investigate the background and dispositions of the *Hayes, Margoles,* and *Cain* trials which were handled by Judge Swygert in Milwaukee in 1960–1961, as well as other 1960 tax cases in the Milwaukee Federal Court involving, for example, Judge Tehan's crony, Harry Kaminsky, and Edward Mesheski (Tehan's successor as head of the county party), it will be introduced to some of the other hanky-panky in the swapping of cases and related misfeasance in the federal court.

Hammond Federal Judge, Luther M. Swygert, also a former chairman of a major Lake County, Indiana, political party, had received a great deal of publicity in the local press when the Woodmar Realty Company's court-appointed fiduciaries' $287,000 fee claims came on for hearing in 1951. (They sought ⅔ of our net estate.)

On September 21, 1956, after suffering two nervous breakdowns and after consultations with Judge Duffy, the Hammond, Indiana, Federal Judge, Luther M. Swygert, had disqualified himself. He decided that, because he had been co-counsel with Donald C. Gardner (attorney for the Barrett Bondholders Protective Committee in the Woodmar reorganization in eleven (11) Barrett Bond foreclosure cases against Woodmar's real estate, prior to his getting on the bench in October of 1943, he could no longer, in *conscience*, sit in our case. *During the 13 years before he disqualified himself, much of our valuable real estate*, now worth over $25,000,000, was sold to insiders, including Donald C. Gardner, the Judge's former associate in the foreclosure cases against us. Neither Gardner nor Judge Swygert had made an accounting to their Barrett Bond owner-clients. Instead, they had them file lien claims against Woodmar's assets *for the entire face value of the bonds and coupons*.

The Indiana Federal Judge (Swygert) who thus disqualified himself *after 13 years*, was, at the time, a candidate for promotion to the Seventh Circuit Court of Appeals in Chicago—where Judge Kerner now sits. Five years after his disqualifying himself, his promotion was confirmed by the Senate (September, 1961).

The record discloses that the Lake County, Indiana, Federal Judge (Luther M. Swygert) who was sent up to Wisconsin in 1958 did not permit a hearing on a Barrett Bond lien claim during the thirteen (13) years that he had sat in our case. Later, the Federal Court of Appeals in Chicago, Judge Duffy dissenting, said that we could settle or try the 35-year-old outlawed municipal bond lien claims against what was left of our assets. (284 F. 2d 815). By that time the Court-appointed fiduciaries, including Donald C. Gardner, had scalped a substantial number of the defaulted City of Hammond Improvement Bonds (Barrett Bonds) for a few cents on the dollar and were getting ready to enjoy another windfall out of what was left of our assets in the Court's hands.

Notwithstanding the opinion and mandate of the Court of Appeals (284 F.2d 815), Milwaukee Federal Judge Robert E. Tehan, as Judge Swygert before him, didn't permit either a single settlement to be consumated or a single trial to be had on a lien claim. He struck all interrogatories and quashed all subpoenaes prepared by Woodmar for discovery purposes. Requests for hearings were ignored and denied.

Judge Tehan, ultimately, liberally rewarded one fiduciary (Davis) appointed by Judge Swygert with $123,000.00 of Woodmar's money for helping prevent Woodmar from either getting a hearing on, or effecting a settlement of, a lien claim. The attorneys who represented Judge Swygert's co-counsel, Donald C. Gardner, (*in state court criminal cases*) got $65,000.00 worth of checks signed by Judge Tehan on the Woodmar Realty Company's trust account in the Gary National Bank. Donald C. Gardner, Judge Swygert's co-counsel in the eleven (11) "class" Barrett Bond cases against our assets, resigned from the Indiana Bar in lieu of disbarment.

Judge Tehan also signed a $48,000.00 check payable to the Federal Registry at South Bend, in May of 1969, closing out our bank account. This was a malicious act, intended to impoverish Woodmar and thus prevent our being able to make any complaint. (The Court of Appeals, before Judge Swygert's promotion to that bench, had said that the residuary funds were ours. (284 F.2d 815).

Judge Cordell C. Pinkerton, who, as Hammond City Attorney, appeared before Judge Tehan in Hammond, is quoted on the front page of the July 25, 1971, Des Moines Sunday Register:

"Judge Cordell Pinkerton of the Lake Superior Court has been a witness to *what he believes is an example of legal robbery.*

"*It involves,* he says, *judges,* lawyers and the business and social establishment of the community and requires, he believes, varying degrees of naivete, apathy, lack of scruples *and outright crookedness.*"

The growing evidence of federal judicial misfeasance by Judges Tehan and Swygert in the aforementioned and other cases—the consequences of which continue to wreak serious hardships upon some of their victims—demands that an investigation by your Committee of these wrongdoings can no longer be pigeonholed if the Seventh Federal Judicial Circuit is to be free of taint and corruption. Accordingly, I ask you and the other members of the House Judiciary Committee to direct your staff to now undertake a full, formal investigation of such official misconduct in all of its ramifications.

Necessarily, I am in a position to furnish all documents, papers, pleadings, correspondence, etc. which have accumulated over the 29-year-period that the so-called "reorganization" was officially pending.

Very truly yours,

OWEN W. CRUMPACKER.

VOICE OF DEMOCRACY CONTEST

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BRADEMAS. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conducts a Voice of Democracy contest in which nearly 500,000 secondary school students participate.

I am very happy to report that this year the winning contestant for the State of Indiana was Mr. David Diamond of South Bend, Ind., a resident of my district.

Mr. Diamond's statement on behalf of the democracy is a very interesting one, and particularly pertinent in this election year when the people shall make their voice heard in the series of elections that are the characteristic feature of our democracy.

I would like to insert Mr. Diamond's speech in the RECORD at this point for the information and attention of my colleagues.

MY RESPONSIBILITY TO FREEDOM

(By David Diamond)

In 1816, Thomas Jefferson said, "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day."

Today, my responsibility to freedom can only be fulfilled if I remember Jefferson's words, and try my hardest to uphold them, every day of my life.

I look around, and everywhere I see newspapers, magazines, books, and pamphlets crying out to be read, and they are read, by a great number of people. But that number is small compared to the number of people who say, "I'll read it tomorrow," or "I'm not interested in that stuff," or "Leave that to people who understand it."

I look around, and I see important social, political, and economic issues waiting to be analyzed, discussed, and decided upon; and they are analyzed, discussed, and decided upon by a great number of people. But that number is small compared to the number of people who say, "I'll decide tomorrow," or "I'm not interested" or "Leave that to people who understand it."

You see, what people who say this sort of thing don't seem to realize is that freedom is not having things decided for you; freedom is not ignoring important issues; freedom is not putting off actions which perpetuate your awareness of current events. Freedom can only be lost, never gained when a person falls into rut of apathy, unenlightenment, and just plain ignorance.

It's not a hard rut to sidestep, but it calls for constant attention. It calls for interest: for wanting to know what's going on. It calls for enlightenment: and that means reading those books and magazines, and listening and forming opinions about current issues. Finally, it calls for knowledge, because it doesn't do much good to be interested; it doesn't do much good to read and discuss, if you don't understand.

In a democracy, the people choose leaders, decide policy, and run the government. It's done that way because of a love for a thing called freedom. But people can retain that freedom only as long as they choose good leaders, decide on sound policy, and run the government efficiently. And they can only do these things when they are interested, enlightened, and knowledgeable.

My responsibility to freedom is to enlighten myself and others, so that, as Jefferson said ", . . tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day."

ANOTHER HUGE CORN CROP?

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. SMITH of Iowa. Mr. Speaker, failure to implement a food reserve policy in this country causes unneeded loss of income to farmers and unnecessary variations in the supply of basic foods. When the administration opposed a feed grain reserve policy last fall, following the production of a huge surplus of grain, they set the stage for dislocations in both the grain and meat markets. With so much corn in surplus, livestock is being held back to be fed more grain and temporarily there is less meat than consumers would buy, but this will be followed by a big increase in the amount of excess fats to be carried on livestock marketed later this year. The grain producers lost, the consumers will not gain anything and it represents a failure of the Government to do what is needed which individuals cannot do for themselves.

An excellent editorial touching on these matters was printed in the Des Moines Register of Monday, March 20, 1972. It speaks for itself and is as follows:

ANOTHER HUGE CORN CROP?

The U.S. Department of Agriculture's planting intentions report is bad news for farmers and for Agriculture Secretary Earl Butz. The survey, taken Mar. 1, indicates that farmers will reduce corn acreage by only 8 per cent this year as compared with 1971.

With average weather conditions this would result in another huge corn crop this year, probably well above 5 billion bushels. (Last year's record crop was 5.5 million bushels.) This would depress prices of feed grains and encourage further expansion in livestock output. It would reduce commercial farmers' net incomes.

(Because the demand for food is so inelastic in America, an increase in supply of food products causes prices received by farmers to decline more than enough to offset the larger volume of sales. A smaller national supply of grain and livestock nearly always brings in more money for the farmer than a large supply.)

In January a preliminary planting intentions report indicated that farmers were planning to cut corn acreage only about 4 per cent. After that news, Butz came out with more incentives for farmers to take part in the feed grain program. But these evidently have had little effect.

Butz has been making speeches right and left about how hard he is working to help the farmer. He says he will "raise Cain" in the farmer's interest and will "fight like a wounded steer" to help farmers get more income. He has said several times that he was going to spend a lot of government money to raise farm income—he said he was spending money "like a drunken sailor" to help agriculture.

A sensible feed grain supply management program would do more to help farmers than all this big political talk by Butz and all the government spending. Butz has the authority to set a corn and feed grain acreage allotment this year. He could accomplish more reduction in production by doing that than he will by the "set aside" plan.

Many farmers can set aside all the required acres and get all the payments without actually cutting corn production.

Secretary Butz also could help farmers by supporting the grain reserve bill, a piece of legislation which would give him more power to manage the supply of grains. This would permit the accumulation of a reserve to be used to stabilize market supply from year to year.

Considerable grain could be put in storage from the 1971 crop. If the 1972 crop should be another big one, more grain could be put in reserve. Then a sharp cutback in output in 1973 could be safely planned for.

A well-managed grain supply stabilization program could help maintain commercial farm income at a high level, without Butz spending money like a drunken sailor. It would be a program to help farmers gain income through the market.

ACCIDENTAL POISONINGS—ARE WE DOING ENOUGH?

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. TERRY. Mr. Speaker, despite their continued presence in our society, some social problems draw relatively little public attention. The problem of accidental poisonings is a prime example. Although we know thousands of innocent children are needlessly injured each year, most poisonings occur quietly within the confines of the home.

Since March 19–25 marks the Nation's 11th annual observance of National Poison Prevention Week, I would like to take this opportunity to highlight some encouraging new developments in the area of poison prevention and also to suggest how we can continue working to protect our most precious resource, our children.

The Congress, in December 1970, gave final approval to the Poison Prevention Packaging Act. The intent of the law is the protection of children from accidental ingestion of the most potentially toxic household substances through the use of special safety packaging. In effect, the package must be so designed that most children under 5 will be unable to open the container. The package must still permit normal access to adults.

Although the packaging industry is still working on the perfection of a variety of containers which will, at the same time, be safe, effective, and practical for mass manufacturing and distribution, the Food and Drug Administration already has announced that safety closures will be used on all aspirin products by this coming fall. Special packaging, under the law, will hopefully also become standard for such other product categories as furniture polishes, controlled prescription drugs and linaments, by yearend.

We all known intuitively that safety containers are not going to solve the accidental poisoning problem. Children, with their natural ingenuity, will find a way to open almost anything—given the time. The Packaging Act, written with this in mind, specifies that safety packaging must simply make it difficult for children under age 5 to open the container in a reasonable time. The regulations for aspirin, for instance, require that 85 percent of children tested be unable to open the container. Therefore, of a hypothetical 1,000 children, 150 may still open an aspirin container with possibly dangerous consequences.

How serious is this poisoning problem? The Poison Control Center for the city of Syracuse, N.Y., in my home district, received 1,080 phone calls for poison emergencies involving children under 5 during 1970. For the same year, 302 children under 5 were either treated or ad-

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mitted to hospitals in Syracuse for poisoning symptoms. And seven deaths occurred during 1970 in the Syracuse area as a result of poisoning. An eighth death occurred in the neighborhood city of Auburn, N.Y.

Nationally, the Poison Control Centers received over 70,000 reports of accidental ingestions involving children under 5, with over 200 deaths registered. The Food and Drug Administration points out, in addition, that these are minimum figures, not reflecting cases treated privately by physicians or resolved by parents at home.

The problem is not new, nor has it been ignored, fortunately. The manufacturers of proprietary medicines—the household remedies used to treat minor ailments or symptoms—sought to perfect the development of an effective safety closures as early as 1950. In 1955, representatives of the industry met with the Food and Drug Administration and voluntarily agreed to limit the number of tablets in children's aspirin containers to a maximum of fifty 1¼-gram tablets. Also at that time, the warning, "Keep out of reach of children," was added to the package. By 1968, the industry reduced the contents of children's aspirin containers further, to 36 tablets, and an effective safety closure became a standard feature of children's aspiring packaging.

It is estimated that there are over 250,000 different types of products commonly used in homes throughout America. Of necessity, many of these are toxic in quantity, if accidentally ingested. They range from after shave lotion and bubble bath soaps to lighter fluid and fish bowl additives. The question is, why do children in some homes suffer accidental ingestions while children in other homes do not?

Safety experts agree that the basic answer lies in the degree of concern for safety exercised by parents in their homes. The less the concern, the greater the threat of accidents. Seen in this light, the problem of poisonings becomes one of educating parents to understand the importance of using and storing household products safely and wisely. To be effective, even safety closures must be properly sealed. Otherwise their special caps will do nothing to prevent a youngster from reaching the container's contents. Labels provide no protection unless consumers read the warning message and instructions for proper use. Responsibility for the prevention of accidents must always rest in large part with parents at home.

National Poison Prevention Week is one positive national program which attempts to promote greater awareness of the dangers of carelessness. Unfortunately, it only occurs once each year. For the past 6 years, the manufacturers of proprietary medicines have sponsored the Council on Family Health to promote the safe use of medicines and all household substances throughout the year.

The council is the only private, nonprofit organization in the country concerned chiefly with the problem of accidental poisonings among children. It is supported solely through the voluntary contributions of member drug companies. The council's program is designed to reach millions of families through materials distributed to newspapers and magazines, radio and television, community organizations and consumers themselves.

As part of the council's activities in connection with Poison Prevention Week, I understand that a public service film on the safe use of medicines was produced and distributed over the past 2 weeks to 300 television stations across the country. The color film, "Before You Take Medicines," was produced and distributed by the council in cooperation with the Federal Bureau of Product Safety.

The council's basic messages for consumers are: For safety's sake, devote a degree of care and concern to the use of products in the home, especially medicines. When using medicines and other products, always carefully read their labels. Store all potentially dangerous substances well out of sight and reach of children. And, finally, attempt to instill in children a respect for the proper use of medicines—something which may help alleviate the country's current drug abuse problem.

Programs such as that of the Council on Family Health appear to be making a significant contribution to the cause of family safety. Aspirin products, because of their wide use in homes throughout America, are involved in a high percentage of poisoning cases among children under age 5. The National Clearinghouse for Poison Control Centers recently reported:

> The 1970 aspirin ingestion percentage of all reports showed a dramatic drop for children under five years of age and were 30 percent lower than the year 1969 . . . During the first six months of 1971, reports of aspirin ingestion are down another seven percent from the 1969 figures.

The Clearinghouse explains:

> The reason, and thus the credit, for this successful reduction of aspirin ingestions in children cannot be identified exactly but clearly can be shared between the voluntary industry limitation of 36–1¼ gr. aspirin to a bottle, the intensive campaigns of governmental and private organizations to make the public aware of the situation and some voluntary safety packaging during 1970.

However, we cannot afford to stop our efforts. Among children under the age of 14, accidents are still the largest single cause of death—15,200 deaths in 1970. One out of every three children who die in the United States, die of an accident. And accidents kill more children than the five leading fatal diseases combined.

As Dr. Jay M. Arena, president of the American Academy of Pediatrics and member of the Council on Family Health's Medical Advisory Board, has said:

> About 90 percent of the medicine practiced in this country is practiced by mothers of families. Yet we do precious little to train mothers to carry out the job which they are going to do anyhow, with or without training.

The problem of poisoning lacks the drama of automobile accidents or the excitement of home fires. Yet it exists throughout the year. Poison Prevention Week is an effective way of drawing major national attention to the poisoning problem. And the efforts of private organizations such as the Council on Family Health are invaluable in helping to eliminate carelessness, the root cause of most accidents.

I hope that the Government, private industry and all sectors of society can join together to finish the job of accident prevention, and to make the homes of America safer for our children.

WEST GERMANY BULLIED BY MOSCOW THREATS OF CONFRONTATION

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HUNT. Mr. Speaker, we hear a lot about "detente" these days and in the current euphoric atmosphere we are tempted to accept the proposition that Soviet Communist leaders are a different breed from those of the 1950's and we need no longer be concerned that they will try to bully the world. We are admonished to negotiate—to open up dialog—to find bases for "mutually advantageous cooperation." To this end the President will visit Moscow in May.

It seems to me, however, that an article in the March 21 Washington Post betrays Leonid Brezhnev as the archetypical political bully and demonstrates that any effort at finesse on the part of the Soviets is purely for show or strategic gain.

In a major review of Soviet foreign policy, Brezhnev is quoted in the article by Robert G. Kaiser as saying:

> "We approach the forthcoming Soviet-American talks from businesslike, realistic positions," Brezhnev said. "We are fully aware of the importance of the state of Soviet-American relations for the life of the people of both countries, as well as for the entire international situation, for its further development in the direction of lasting peace or in the direction of growing military danger.
>
> That is why we consider it our duty to find such fields in the relations between the Soviet Union and the United States that would make it possible, without retreating from the principles of our policy, to establish a certain degree of mutually advantageous cooperation in the interests of the peoples of both countries and the strengthening of universal peace.

Yet the same article, referring to the same speech, reports on Brezhnev's comment regarding the Moscow and Warsaw treaties pending before the West German Bundestag as follows:

> As for opponents of the Treaties in Bonn, Brezhnev said they should realize that they could either accept the drafts before them or face the consequences—there could be no renegotiation of any part of them. The Christian Democratic opposition has proposed renegotiation clauses referring to the permanence of German borders, because they fear the current wording assures the permanent division of Germany.

This is clearly a threat aimed at German opposition to the treaties. Brezhnev has said, in effect:

> You must take what we give you or you get nothing.

He is known to have said the consequences will be renewal of "cold war" confrontations. And he has indicated a closed mind regarding any efforts at renegotiation.

If his talk of "lasting peace" and "strengthening universal peace" in reference to United States-Soviet relations had any sincerity behind it, he could not couple it with this kind of bullying threats against his neighbors to have his own way or else; and he would not be mixing so blatantly in internal German politics.

On the subject of negotiating with such people, a word to the wise should be sufficient—do not.

VETERANS OF FOREIGN WARS

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. DORN. Mr. Speaker, the Nation is fortunate to have the outstanding leadership of Comdr. Joseph L. Vicites during these critical times. Mr. Speaker, the Veterans of Foreign Wars of the United States have very effectively presented to the Congress a reasonable and responsible program. National Commander in Chief Vicites, his fellow national officers, the outstanding State officers, and the splendid VFW Washington office work constantly for a strong America and in behalf of all our veterans. The VFW is especially active and effective in advocating adequate medical care for our veterans and in protecting our superb VA hospital system.

Mr. Speaker, I commend to the attention of my colleagues and to the American people, the following splendid address presented before our House Veterans Committee on March 7, 1972, by Hon. Joseph L. Vicites, commander in chief of the Veterans of Foreign Wars of the United States.

The address follows:

STATEMENT OF JOSEPH L. VICITES, COMMANDER IN CHIEF, VETERANS OF FOREIGN WARS OF THE UNITED STATES, BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman and members of the Committee:

It is a great privilege for me and my comrades to appear before this distinguished Committee to present the current legislative program of the Veterans of Foreign Wars of the United States.

Each of us is aware, Mr. Chairman, that you and the members of your Committee honor not only our organization, but all American veterans by permitting us to come here year after year.

We are deeply grateful for your understanding of our problems; the generosity you demonstrate; the intelligent and enlightened programs you initiate; and the support and assistance you invariably provide to veterans and their dependents.

In our opinion no other Congressional Committee is so completely dedicated to nonpartisan service and the purpose for which it functions.

As most of you know, the Veterans of Foreign Wars of the United States had its de facto origin in 1899. Veterans of the Spanish-American War met almost simultaneously in Pittsburgh, Pennsylvania, Columbus, Ohio, and Denver, Colorado, to discuss the plight of their comrades. They subsequently joined forces at a meeting in Denver, where Post No. One, of our organization still prospers, and carries on the work of its founders.

From that humble beginning, the Veterans of Foreign Wars has grown steadily—until today, we have one million, seven hundred thousand members.

This is the twentieth consecutive year in which we will have realized a substantial increase in our membership. In August, we expect to go to our National Convention in Minneapolis with one million, eight hundred thousand men; and a half million ladies in our Auxiliary.

Our many programs of service to the veteran and his dependents; to our communities; and to the nation, are principally responsible for this continued growth. These programs, however, do not function or produce results by themselves. Hard work and effective leadership, on every level, are essential to their success.

Many of the men who are responsible for this success are with me here this morning. They are the Department Commanders, their Staff officers, National Committee members, and Post and District Officers, who have come from all over this great nation, and from several foreign countries, to attend our annual Washington Conference. Many of them will be visiting with the members of your Committee throughout the day, as well as tonight at the Sheraton-Park Hotel.

Neither time nor the purpose of my appearance here will permit me to review the varied programs of the Veterans of Foreign Wars. There is one, however, which both tradition and pride compel me to call to your attention. I refer to our annual Voice of Democracy Program.

This is a script-writing contest, annually participated in by high school students throughout our fifty states, the District of Columbia, the Pacific Areas, and the Panama Canal. The theme this year is: "My Responsibility to Freedom."

Five college scholarships, totaling $22,500, will be awarded to the winners of that competition at our banquet tonight. The first-place winner will deliver his or her speech, and receive the first prize of $10,000, to be used to further his or her education at the college or university of his or her choice.

Mr. Chairman, may I present the state and territorial winners to you and your Committee at this time. They are seated directly behind me, just a few rows back. Thank you.

Mr. Chairman and Members of the Committee, the legislative program of the Veterans of Foreign Wars is the product of resolutions officially adopted at our annual National Convention. Approximately three hundred such resolutions were approved at our most recent Convention, which was held in Dallas, Texas, August 13 to 20, 1971.

Immediately following that Convention, our National Legislative and National Security and Foreign Affairs Committees met here in Washington to review those resolutions. As a result of that meeting, a representative list of organizational mandates was selected, recommended, and approved by the various Committees, and by me as Commander-in-Chief, to make up our "Priority Legislative Program" for the current year. That program has been printed in an attractive brochure, and a copy has been furnished to each member of Congress, as well as other persons who have a responsibility to implement and carry out veterans programs.

It would be deeply appreciated, Mr. Chairman, if a copy of the Digest of our National Convention Resolutions, adopted in Dallas, and a copy of the brochure containing our V.F.W. Priority Goals for the current year might be made a part of my remarks and incorporated in my statement.

Mr. Chairman, and Members of the Committee, I think there can be no doubt that the most pressing concern of my organization is the future of VA hospitals.

On the one hand, the Office of Management and Budget has been pursuing a policy of reduction for many years, with the design of cutting veterans' medical care to an average daily patient load of 60,000 by 1975. On the other, are the efforts of your Committee and organizations such as mine to frustrate this soulless indifference to the medical needs of those who fight our nation's wars.

As you know, this fiscal year, the Congress found it necessary to halt an attempt by the Office of Management and Budget to cut veterans medical care in VA hospitals from 86,000 to 79,000.

The Veterans of Foreign Wars deeply appreciates the tremendous effort made by this Committee to provide and maintain adequate funds and personnel for VA hospitals, in spite of the dollar signs which apparently run through the blood streams of the Office of Management and Budget, in so far as veterans are concerned.

Your Subcommittee on Hospitals, headed by Chairman David Satterfield, produced undeniable evidence that the VA medical care system needed more, instead of less, personnel and services.

The House Appropriations Committee agreed, and added over two hundred million dollars to this year's VA budget to prevent such a cut.

Even more important, the House Appropriations Committee wrote into the bill a prohibition against reduction, and that is now a part of the law. I quote from Public Law 92–78:

". . . the foregoing appropriation shall not be apportioned to provide for less than an average of 97,500 operating beds in Veterans Administration hospitals or furnishing inpatient care and treatment to an average daily patient load of less than 85,500 beneficiaries during the fiscal year 1972."

In spite of this clear and legal Congressional mandate, I am advised that the Veterans Administration is taking care of only 83,000 patients, and cannot possibly care for the authorized number of 85,500 average daily patient load during this fiscal year. Obviously, the Office of Management and Budget has found a way to circumvent the will of Congress.

Yet there are waiting lists at many VA hospitals; and the rejection rate in some of them is excessive—running as high as sixty percent. The Veterans of Foreign Wars is deeply disturbed at this condition. And you may be sure, Mr. Chairman, and Members of the Committee, that we will expend every effort in support of your Committee and the Congress to see that this Congressional mandate is carried out.

We all know that the VA hospital system was created by the legislative acts of many Congresses, and the expenditure of many billions of dollars. It has been a vast and comprehensive undertaking by the official representatives of the people of this nation.

If I may summarize, for the record, the Veterans Administration is presently operating 166 hospitals; 202 outpatient clinics; 16 domiciliaries for elderly veterans; 76 nursing homes; 6 restoration centers; 3 blind rehabilitation centers; and 32 drug units.

This VA medical system, with its annual budget of approximately two billion dollars, took care of seven million of the nation's twenty-eight million veterans last year.

It is staffed by approximately 150,000 physicians, dentists, nurses, and paramedical health employees, on a full time basis. In addition there are about 83,000 private physicians who take care of veterans on a

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fee-for-service arrangement in their local communities.

The Veterans Administration is also a major source of medical education, training, and research. For example, the VA system provides training for one-half of the third and fourth year medical students in the nation. During the past year alone it provided training for 53,000 individuals in 60 different categories of health sciences.

VA hospitals and clinics are affiliated with 81 medical schools; 51 dental schools; 287 nursing schools; and some 400 universities, colleges, and junior colleges which provide training for both professional and technical health workers.

In addition, the Veterans Administration has led the way in the field of medical research. It developed the cardiac pacemaker, and drugs for treating TB. Both veterans and non-veterans are reaping the benefits of this giant of the health care business.

My organization is gravely concerned for the Veterans Administration's future role should a national health care system be established. We are concerned because the Office of Management and Budget has indicated in correspondence with members of Congress that the future of the VA hospital system is connected with national health insurance proposals now under active consideration by the House Ways and Means Committee.

The Veterans of Foreign Wars is greatly encouraged by an article prepared by the Chairman of the Ways and Means Committee, the Honorable Wilbur D. Mills, entitled "No, to Takeover of VA" which appeared in the February, 1972 issue of our V.F.W. Magazine.

Congressman Mills stated, in the next to last paragraph: "I am convinced we should not recommend federal health care legislation until the Administration provides firm information as to plans for the future of the VA program."

It will be deeply appreciated, Mr. Chairman, if a copy of the article by Congressman Mills, as it appeared in the February Issue of the V.F.W. Magazine may be made a part of my remarks at this point. Thank you. It is our fervent hope that the Congress will agree with him.

My organization is also deeply concerned over the status and the condition of our Vietnam Veterans. And, I am proud to report to you, Mr. Chairman, and to the members of this Committee, that the Veterans of Foreign Wars boasts approximately 450 thousand members who are veterans of that war.

Our boasting ceases, however, when we consider the fact that the unemployment rate among these young men remains excessively high, in spite of every effort to reduce it.

One of the most successful programs ever established by the Congress is the GI Bill. All veterans are grateful for it. The nation as a whole has profited by it.

Your Committee has developed and recommended a bill which carries out in greater part a priority goal of the V.F.W. for increased assistance to veterans taking education and training under the GI Bill. Your bill, as reported by this Committee, and approved by the House, will increase the rates for tuition, books, and fees by 14 percent.

It is noted too, that another provision in the bill proposes a 48 percent increase in on-the-job and apprenticeship training rates for jobless veterans under the GI Bill.

With no disrespect intended, Mr. Chairman, I note also that the distinguished ladies on your Committee appear to have struck a blow for "Women's Lib." A provision in H.R. 12828 accords women veterans the same status as male veterans, in so far as the veteran's spouse is concerned, under Veterans' Administration laws. We in the V.F.W. support this provision.

The Veterans of Foreign Wars strongly supports the legislation pending in this Committee which would transfer the jurisdiction over national cemeteries to the Veterans' Administration. Our national cemetery system should be continued and expanded. Burial in a national cemetery is a perpetual honor. It should be every veteran's right.

Certainly it should be distinguished from a plot allowance, or other subsidy, which is nothing more than an economic benefit to the veteran's survivors.

We in the V.F.W. have long campaigned for at least one national cemetery in each state, so that every veteran who so desires may be laid to rest in a national cemetery reasonably near his home. We urge the enactment of legislation which will carry out this recommendation.

Another matter of great importance to our membership is that of keeping the Veterans' Administration intact. Every year there are attempts being made to transfer VA programs to other agencies. This year there seems to have been a movement in the Congress to diminish the Veterans' Administration's jurisdiction over veterans programs. The most conspicuous example is legislation establishing a Special Action Office for Drug Abuse Prevention. This legislation creates a Drug Czar who will have the power of life and death over the VA regarding the treatment of veterans suffering from drug addiction.

We applaud your efforts, Mr. Chairman, to exempt the VA from this legislation. We also applaud Congressman Satterfield who, as a member of the Commerce Committee, had language put in the bill which tells this Drug Czar, in effect, to leave the Veterans' Administration alone. Your Committee, Mr. Chairman, has already developed and reported a veterans drug bill, now pending in the Senate, which is the traditional and proper way to handle this problem in so far as veterans are concerned. I refer to H.R. 9265, which was endorsed by our Dallas Convention. This is the bill that the V.F.W. will be pressing the Senate to approve.

Our organization will be working closely with your Committee for cost of living increases in the compensation rates for the more than two million service connected disabled veterans.

The Veterans of Foreign Wars is as anxious to see the end of the Vietnam War as anyone, but we want that end to be an honorable one. For that reason we stand firmly behind the President on his eight-point proposal for peace in Indo-China to bring American POW's home.

We strongly oppose bills now pending in Congress which would grant amnesty to draft dodgers who have fled to foreign countries in order to avoid military duty in our armed forces. If these draft dodgers wish to return to this country now that the war is practically over, they should be prepared to suffer the consequences for their crimes. They should never be permitted to return as heroes.

In conclusion, Mr. Chairman, may I again express my sincere gratitude for this opportunity to appear before this distinguished Committee.

It is our hope that each of you will be with us tonight at our annual Congressional Banquet at the Sheraton-Park Hotel, where we will be honoring one of your distinguished colleagues—the Chairman of the Foreign Affairs Committee, the Honorable Thomas E. Morgan of Pennsylvania. He will be the ninth recipient of our V.F.W. Congressional Award for outstanding service to the nation.

The dinner will begin promptly at 7:00 P.M., with a reception beginning at 6:00 P.M.

Thank you for your attention.

MEASURING OUR DEFENSES

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BROWN of Ohio. Mr. Speaker, there appeared in the March issue of the Armed Forces Journal an editorial written by a Mr. James D. Hessman. The editorial made known a suggestion made several months ago by my colleague, the Honorable WALTER E. POWELL, of Ohio, for the Congress to conduct hearings open to television coverage on the current state of the defense capabilities of the United States. I am pleased to share this information with you:

STRANGE BEDFELLOWS

Too little attention has been paid, we think, to the eminently sensible suggestion made a few months back by Representative Walter E. Powell (R-Ohio) that Congress conduct nationally televised hearings on the deteriorating state of U.S. defense capabilities.

The time is now, we think, to hold such hearings. As Jack Anderson, CBS, the Washington Post, Daniel Ellsberg, and other friends of the military are fond of saying, the American people have a right to know what is going on. We might add that the Democratic and Republican national conventions also have a right to know what is going on, and well in advance of the time they choose their candidates.

And what is going on is this: over the past seven years, while the United States has been sitting fat, dumb, and happy contemplating its Gross National Product, the Soviet Union has been moving steadily and inexorably forward, increasing its military power in every measurable category.

The USSR is and has been building ships, missiles, and aircraft at rates far, far in excess of what is needed for purely defensive purposes. Why? According to SecDef posture statements the Soviet Union in 1965 had 224 intercontinental ballistic missiles and 107 submarine-launched ballistic missiles. By mid-1972 the numbers will be 1,550 and 580, respectively. While this buildup was going on, the U.S. has been "reallocating priorities"—but not enough, according to several of those who would be Commander-in-Chief.

Other statistics are available: according to Defense Secretary Melvin R. Laird, by mid-1972 the USSR will have 10,000 surface-to-air missile launchers, and the U.S. will have 839; the USSR will have 3,100 fighter-interceptors and the U.S. will have 593; the USSR will have 64 ABM launchers and the U.S. will have none.

What have we done, by the way, to improve our defenses? Well, we decided, by one vote in a divided Senate, to build a limited ABM. Remember just prior to WWII when the draft was extended—also by a one-vote margin?

Let's look at the Navy: according to the authoritative International Institute for Strategic Studies (IISS), the Soviet Union has 295 submarines, the U.S. only 99. Except for carriers (the USSR has none and the U.S. has 16—average age 18), surface combatant fleets are about equal. Or would be, were it not for the fact that some 60 Soviet submarines and about 130 surface ships and patrol boats are armed with ship-busting cruise missiles.

And the merchant marine: in 1958, according to the Maritime Administration, the U.S. fleet numbered 3,061 ships, compared to 774 ships in the Soviet fleet. By 1975, however, according to MarAd projections, there will be only 270 ships in the rapidly aging U.S.-flag fleet, but by 1980 the Soviet-flag fleet will count an estimated 4,300 major vessels, aggregating 27-million deadweight tons.

And personnel: the USSR, says IISS, has 3,375,000 men in service. By mid-1973 U.S. active-duty strength will be 2,358,037—a gap of over 1-million men.

And geography: in recent years the USSR has entrenched itself in Egypt and other nations on the northern littoral of Africa, has cozied up to India, has established domain in the Eastern Mediterranean, and has clarified the neo-independent thinking of Czechoslovakia—has done everything expected of a Big Brother, in short, except come to the aid of Northern Ireland. American diplomatic ventures during the same time frame consisted of getting bounced out of Wheelus AFB in Libya (the USSR moved into the vacuum), sending troops to Southeast Asia and bringing them back again, and keeping the Washington Monument from being burned to the ground by student demonstrators.

You say we overstate the case? Well, perhaps. There's a lot of good things the U.S. has done, and a number of ways the USSR has bungled. And our military strength has improved—over the strenuous objections of some of our most esteemed legislators. We're MIRVing our missiles, modernizing our reduced forces, and getting more firepower per man.

But this begs the question. The Soviet Union is also MIRVing and modernizing, and doesn't seem worried that its military buildup has been financed at the expense of consumer programs.

The point is: by almost every quantifiable index of military strength the U.S. has been going down, down, down, and the Soviet Union has been going up, up, up.

This is something to worry about. We're also concerned about the so-called "domestic priorities," but survival, we say, must come first. Always.

Maybe Secretary Laird and Admiral Moorer and all the others are lying to us. We don't think so, but just to make sure we would like to see the case taken to the American people. We would like to see a select body, headed by Senate Armed Services Committee Chairman John C. Stennis and House Armed Services Committee Chairman F. Edward Hebert, conduct open, nationally televised hearings on the nature of the Soviet threat and what the U.S. is doing about it. (We realize there could be some problems with classification, but we're also told by people who should know that this need present "no real difficulty.")

We think such astute critics of the Pentagon as Senator William Proxmire (who sometimes seems politically motivated, but at least usually knows what he's talking about) should be invited to participate. Proxmire and a very few knowledgeable others (underrated and underpublicized Representative Otis Pike, for example) do their homework well and would make the Joint Chiefs and other DoD spokesmen put up or shut up. Which is as it should be.

Other people we would like to see testify are Senator George McGovern (who advocates cutting the defense budget to $50-billion) and various spokesmen for MCPL (Members of Congress for Peace through Law), who say they also want a strong national defense, but who advocate scrapping virtually every new weapons program which comes along. These anti-military people may be right, though. They should be given a chance to prove their case—Prove it, not merely assert it, which is what they have been doing for years.

We think, in other words, they also should be made to put up or shut up.

It's presumptuous, maybe, to think that Congress actually would hold such hearings as we propose in this grandiose scheme, even if they do make sense. But why not? The Army-McCarthy hearings, closest thing we can think of as a precedent, also made sense, and they changed the mood of America for the better in an earlier and much less dangerous age.

The strangest bedfellows you could think of, in the wake of "The Selling of the Pentagon," are the Columbia Broadcasting System and Chairman Hebert. But who knows? CBS could make a star out of Bourbon Street's favorite son, and the two of them working together could end up putting this nation back on top where it belongs.

ECOLOGY—A "WILD" IDEA?

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BAKER. Mr. Speaker, this week, March 19–26, has been proclaimed "National Wildlife Week" by President Nixon. This marks the 35th annual observation of wildlife week, sponsored by the National Wildlife Federation and its 50-State affiliates.

The theme of National Wildlife Week 1972, "Ecology: A Wild Idea," is thought-provoking. As this year's national chairman, film star—ecologist, Robert Redford, put it:

It may be a "wild" idea to believe we can reverse environmental destruction to . . . create a quality life for man, but this country was founded on the "wild" idea of independence, and not so long ago a "wild" idea took us to the moon. Ecology is another "wild" idea that will work.

As our forefathers met the challenge of taming the wilderness to found a new society, we today must meet the challenge of preserving a portion of this wilderness for generations yet unborn.

Posters publicizing this week's observance depict the American bald eagle, proud emblem of the United States, now threatened by extinction. Choice of this species, one of 101 listed by the Department of the Interior as "endangered," is particularly significant.

The bald eagle, symbolizing America on dollar bills and postage stamps, also stands for national strength, freedom, and quality of life.

Due largely to efforts of the National Wildlife Federation and other conservation-minded citizens, this great and noble bird, like the once-threatened whooping crane and American buffalo, is still extant.

It is appropriate this week that we pause to commend the National Wildlife Federation, its State affiliates, and nearly 3 million individual members working toward solutions to problems confronting man, wildlife, and the environment. It is also a meaningful time to contemplate our responsibilities to be wise stewards of the earth's resources. Recognizing that wildlife and human life are inseparable, that man and wildlife are dependent for survival upon common essentials, we can go forward together for the dual causes of resource conservation and environmental protection.

Activities of the Tennessee Conservation League, State affiliate of the National Wildlife Federation, and its members in conjunction with this year's observance are particularly praiseworthy. This year, the league distributed 1,400 kits containing environmental information to students in 147 school systems of the State. Such material should increase awareness among young Tennesseans of their tremendous natural heritage in the Volunteer State.

With continued able leadership of professional conservationists and a determination on the part of each of us to preserve and protect our natural resources, we can insure environmental quality, like other "wild" American ideas, will be achieved.

LESTER COWLE, 70, RETIRES

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. O'NEILL. Mr. Speaker, for many years, Lester Cowle has been a friend and servant to his fellowman. After 21 years of service at the Middlesex County Hospital in Waltham, he is retiring, but not quiting. Instead he will continue to assist the people of the hospital, both patient and staff, in a volunteer capacity. Lester Cowle's dedication to the care of others of all ages, is exemplary to the compassion which lies within us all. I respectfully request that all members read this fine case of charity and good will:

JACK OF ALL TRADES, LESTER COWLE, 70, RETIRES AT HOSPITAL

After 21 years, Lester Cowle has become more than an employee at Middlesex County Hospital in Waltham—more like an institution. Therefore, it seems only natural to him and his associates that when he retires this month, he will continue appearing regularly as a volunteer.

This is no "early retirement" for Cowle either—he just celebrated his 70th birthday.

Cowles likes people and finds his greatest pleasures in helping others. For the last several years his official title has been mailman at the hospital, but he expands his service to aide patients and staff whenever and however he can.

He will appear at 4 a.m. with a cup of coffee for a nurse on the night shift. He enjoys delivering newspapers to individual patients because it gives him a chance to get to know them. Recently he wrote a tobacco company all on his own and obtained free cigarettes for patients.

He figures that if he doesn't show up early for work, the other staff would worry about him—and he's probably right. Once he cut his leg quite badly, but he didn't want to have to stop long enough to have it looked after—he didn't want to be late for being early to work.

Besides his job, Cowle enjoys working "quietly" in political campaigns and has done so for many years on the local and county levels, for governor and U.S. Senator. "I like politics. It gets in your blood," he commented and then reminisced about the many friends he had made while campaigning. His past career includes serving for 32 years as chairman of the Maynard Democratic Council.

For many years Cowle was active in town affairs in Maynard where he worked for the Aspen Mills. He served as chairman of the town's Board of Health for 30 years. In that capacity, he brought patients to Middlesex

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Council Hospital to be admitted. This is how his interest in the hospital developed.

Also while living in Maynard, Cowle headed up the National Youth Association during the time of President Roosevelt. This program paid young people for doing various jobs. But Cowle's position was strictly a public service—no salary. For 24 years he was active in the Fraternal Order of Eagles there.

Cowle's favorite job at the hospital was running a store for the patients. One could buy stamps, ice cream, cigarettes, candy, writing materials and other items. From the small profits, Cowle would buy candy for the children patients who looked on him as a cross between grandpa and Santa Claus. But the store was closed a number of years ago—replaced by vending machines which perhaps are efficient but lack the personal warmth Cowle radiates.

SCHOOLBUSING

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 22, 1972

Mr. BADILLO. Mr. Speaker, although I was unable to participate in yesterday's discussion of schoolbusing under the special order of my good friend and colleague from Ohio (Mr. STOKES) I want to associate myself with the thrust of the remarks made by him and by my other colleagues who were able to obtain time to speak.

Although grave issues involving war and peace, economic stability, job opportunity and the future of our cities remain unresolved before Congress and the administration, none poses a greater threat to our basic institutions and to the hope for brotherhood among all Americans than the schoolbusing issue.

As this issue is developing, with impetus from the White House and Capitol Hill, it threatens to divide our society to a greater extent than we have seen in a century, and it threatens the basic principles of American democracy.

Let there be no doubt about what President Nixon has done with his proposal for a moratorium on schoolbusing, a limitation on the jurisdiction of the courts and a cynical attempt to return to the "separate but equal" docrine under the guise of a new cliche—"quality education."

Senator HUMPHREY, perhaps unintentionally in light of his recent about-face, described Mr. Nixon's maneuver aptly when he remarked last week that—

> The President has been able to get his finger up in the air and sense what's going on.

No doubt, the President determined that to take a strong antibusing stand would gain him political credit. But if sniffing the political winds and responding to fear and emotion as Mr. Nixon has done is to be the hallmark of national leadership in the United States, then the future of our Nation is in grave jeopardy.

If Congress aids and abets Mr. Nixon, it will be taking a giant stride toward fulfilling the Kerner Commission's dire prophecy of separate and unequal societies in this Nation. It will be helping to launch an unlawful and unwarranted invasion of the jurisdiction of our Federal courts and an insidious attack on the doctrine of separation of powers.

The record clearly shows that the courts have not ordered massive busing to achieve racial balance. As a matter of fact, Mr. Nixon's own appointee, Chief Justice Burger, laid down some very reasonable guidelines for busing in the Swann decision of April 20, 1971. The Chief Justice declared:

> Busing will not be allowed to significantly impinge on the educational process.

He went on to warn that—

> When the time or distance or travel is so great as to risk either the health of the children or significantly impinge on the educational process it would be considered unreasonable.

So how has the Court jeopardized the rights of anyone or threatened the quality of education?

What the President is clearly attempting to do is to erode the jurisdiction of the courts and the authority of the Constitution. If he succeeds, we will be seeing just a first step in the dismantling of the Bill of Rights.

The President's proposal to spend $2.5 billion for so-called quality education in disadvantaged areas is perhaps not as dangerous but equally fraudulent, for it really proposes nothing new in the way of funding for education program but relies primarily on funds already budgeted under title I of the Elementary and Secondary Education Act—and far below the authorized levels—plus funds under the school desegregation legislation.

If quality education meant something to this Administration other than a special code word, we would be dealing with budget requests for full funding of title I and all the other major education programs. Instead, the President's budget priorities continue to emphasize arms over education and subsidies for the rich over sustenance for the poor and hungry.

I think it vital for the forces of decency and fairness in Congress not to just react defensively to the President's proposals, but to move ahead by offering counter-proposals aimed at achieving comprehensive school integration, eliminating inequities in the quality of education within the States and from State to State, upgrading all levels of education with funding of education programs in line with real needs, and by enacting legislation to break down the housing patterns that perpetuate school segregation.

I have already introduced legislation in some of these areas and I will be offering additional bills in the next few weeks. I hope they will not only serve to continue the constructive dialog begun with Congressman STOKES' special order, but will help us establish a legislative program aimed at strengthening our society and its basic institutions, not destroying them as Richard Nixon and his associates would do.

SENATE—*Friday, March 24, 1972*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Make us ready, O Lord, for the welcome of Him who is King of Kings and Lord of Lords. May we receive the royal presence with open hearts, with palm branches of devotion and garlands of love. May we work as in the regal presence of the Creator and Ruler of all realms. Keep ever before us the kingdom of justice and peace on earth and the king who rules in might and splendor above all worlds.

For Thine is the kingdom and the power and the glory. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 23, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

BEEF PRICES

Mr. MANSFIELD. Mr. President, there has been a good deal of talk, statements in the press, advertisements and what not, urging people not to buy beef because the price is too high.

I think the record should be made clear that, so far as the price of beef on the hoof is concerned, the price now, which averages somewhere around 35 or 36 cents is not out of line and certainly is not responsible for the prices which the consumers have to pay today.

The cost of manufacture, processing, and distribution—not the meat as such as it is sold over the counter—has made the difference in meat prices today as compared to 20 years ago.

In comparison with take-home pay, the price of meat has become consistently smaller as average family income has moved upward. In terms of dollars and cents, the average retail price of meat has advanced about 35 percent in the past 20 years, while personal disposable income of U.S. consumers has increased, on the average, by more than 100 percent in the same period.

Those who are complaining about the price of beef should compare the price of beef today with what it was, on the hoof, 20 years ago, and they will find that the price per hundredweight is actually lower today. What they should do is compare retail prices of beef cuts today with those for the same cuts 20 years ago, and they will find that they range from 40 to 70 percent higher to the consumer.

I wonder why they do not tell the consuming public who is getting the 40- to 70-percent markup, and why it is not explained graphically just how the housewife's dollar spent for beef is being distributed, and to whom?

I wonder why they do not attempt to deal factually and intelligently with the wage spiral over the past 20 years as being a major factor in the increased cost of meat to the consumer, not to the producer, and its effect on meat prices by the packer, the processor, and by the retailer.

Twenty years ago, beef prices paid to the producer—that is, beef on the hoof—by the packers was 140 percent of parity. Today it is 88 percent of parity, or less.

Last week, Omaha prices for Prime live steers was $35.75 a hundred pounds, down $1 a hundred for the week, and down to $2.40 a hundred from the 20-year high in January.

Mr. President, I am in receipt of a number of letters from my State which, of course, is interested in the production of cattle, and I would like to read a portion of one letter from an old friend, Henry L. Esp, a rancher who lives in Hardin, Mont.

He writes:

> In the last 20 years personal income has increased 254% while livestock prices have increased 4%. Twenty years ago the housewife spent 23% of her income for food, today it is 16%, with a smaller percentage being spent for beef than at any time in the past.

Mr. President, what this administration is now doing—and I think doing wrongly—is increasing frozen beef, veal, and other meat imports by approximately 8 percent.

May I point out as an illustration that the farmer has, all too often, been the pigeon for the press in trying to place the blame for an increase in food prices at the wrong source.

Over the past quarter of a century, generally speaking, wheat has sold around $2 a bushel, all things considered. But during that period, bread has increased in price from 13 cents and 14 cents a loaf to around 40 cents, 41 cents, or 42 cents a loaf.

Is the wheat producer making money at that rate? Is he making money when his costs have increased four times?

The same reasoning applies to the beef producer, who is trying to get by on his own as much as he can, whose price has remained fairly stable—sometimes very low during that period.

Now that he is able to make a dollar or two, he gets the blame. Advertisements are taken out against the cattleman, supposedly on behalf of consumers, but nothing is said about the processing, the slicing, the packaging, and all the other factors which should be taken into consideration once the cattle have left the ranch and have been sent to market.

(At this point Mr. BYRD of West Virginia assumed the chair as Presiding Officer.)

Mr. MANSFIELD. So, I hope that the record will be made straight and that the truth, insofar as the wheat rancher and the beef producer are concerned, will be understood by the American people, and the blame will be placed, not on them where it does not belong, but on all the steps which take place once the wheat and the beef leave the ranch and the farm and go through the many procedures before it reaches the Safeway, the Giant, the A. & P. stores, and, finally, neatly wrapped up, neatly packaged and cellophaned is sold at an extraordinarily high price to the consumer.

I yield now to my colleague from Montana.

Mr. METCALF. My colleague, the distinguished majority leader, has performed a distinct service this morning in clarifying just where the increase in the price of food comes from.

I have just returned from Montana where I have been talking to the wheat farmers and to the livestock growers.

In my State we find universally that even though they have larger and larger capital investments than they have had at any time in their lives, even though they are operating on more and more land than anytime before, their net income and their purchasing power is declining year after year. This year Montana had one of the most severe winters in its history, and the livestock operators suffered badly. Yet the price of beef, as far as the general purchasing power is concerned, came down.

The Secretary of Agriculture has authorized increased quotas, as the majority leader has indicated, on chilled beef and goats and lamb. Certainly after this past winter we do not need any more chilled beef in Montana.

The wheat farmer today is getting less real return per bushel of wheat than he got in the depth of the depression; $1.20 and $1.30 a bushel on wheat is less real return in terms of today's inflated prices than $0.30 wheat back in the depression when we thought $1 wheat would be a good purchasing power.

It should be $4 wheat if the farmer has to buy machinery at today's prices, if he has to buy clothes at today's price, if he has to buy automobiles at today's prices, and if he has to buy tires and gasoline at today's prices. All of those things are inflated four or five times from the time of the depression.

The livestock operator is in exactly the same situation, and he is the real person who is being charged for this growing and spiraling increase in the price of meat that comes from the farmers of the Midwest, the Far West, and from our State of Montana.

It is the processor who, time after time, adds on a little bit more cost and adds a lot of profit on top of any cost. At 40 or 45 cents for a loaf of bread on $1.20 a bushel for wheat, it is outrageous as far as the return of the farmer is concerned.

The other day when the distinguished majority leader and I had legislation before the Committee on Agriculture and Forestry seeking to increase the price of feed grains 25 percent, some of the leaders of labor organizations and other organizations recognized that an increase in the price of wheat to the farmer would be infinitesimal as far as the consumer's cost is concerned. Others have supported our legislation for an increase in the price of feed grains and in the price of wheat.

Something has to be done to raise the net income of the farmers of America or the small towns where churches, schools, and post offices dot the landscape in those towns in the Middle West and Far West will be gone, and we will have left nothing but huge livestock operations and huge wheat farmers without anyone to go to the bank.

The local people there are concerned with the real vital growth of the people of America.

Mr. MANSFIELD. Mr. President, I thank my distinguished colleague and point out that in my reference to $2 wheat, I was bringing in the certificate plan which would still represent, I think, an approximate $2 average over the last quarter of a century and would hold up pretty well.

The Senator is right. We have small towns disappearing. The small towns have been the background of this country from the beginning. We have small towns disappearing. The price and the resulting increases in cost to maintain a farm is much greater.

We have a shifting away from the family-sized farm to the commercial-type farm as far as beef and wheat is concerned.

I think it bodes ill for the country to allow such procedures to be continued.

I emphasize again, along with my distinguished colleague from Montana, that the farmer, whether he produces wheat or beef, is not to blame for the high prices the consumers pay today.

I do hope that that truth, because that is what it is, would sink home.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for 15 minutes. The Chair thanks the Senator from Delaware for his usual courtesy.

Mr. MANSFIELD. Mr. President, if the Senator would yield for a moment, may I say to the distinguished Senator from Delaware who now has the floor, that having been born in Montana and having lived in Montana and having some of his family still in Montana, undoubtedly has an awareness of the situation as it affects the topics which the two Senators from Montana have discussed today.

Mr. ROTH. Mr. President, I would like to say that I share the concern of the majority leader so far as the agricultural sector of our Nation is concerned. As a matter of fact, not only do we have an agricultural background in my native State, but also in the State of Delaware a large industry, if one wants to call it that, is that of agribusiness. Yet, one of the real problems facing this Nation is that problem facing the small family farmer who, as the majority leader has said, has been the backbone of this country.

I think it is important that we do what we can to maintain his strength.

AGREEMENT ON THE NEUTRALIZATION OF SOUTHEAST ASIA

Mr. ROTH. Mr. President, before the President's departure for China, he described his trip as "not an end in itself but the launching of a process." The generally friendly atmosphere of the trip itself, the joint communique issued at its conclusion, and the initiation of regular bilateral discussions at a new site—Paris—indicate that this process has indeed been launched. The first question—whether to have direct communications with China and how to initiate them—has been settled. Now we are engaged in the consideration of a second question—how these channels are to be used and for what purpose. One purpose, one which has already been much discussed, is to improve the climate of bilateral relations between ourselves and the Chinese by eliminating insofar as possible potential areas of misunderstanding and miscalculation. A second purpose, one which is much more speculative in these opening stages of the dialog, is to use the new links to promote cooperation on general issues affecting the peace and stability of the world and especially Asia. I intend to explore in more detail one such area of possible cooperation—agreement on the neutralization of Southeast Asia. First, however, let me indicate why I believe that efforts in this direction are important to consider now.

We have been reminded often that the Sino-American dialog is one between the world's most powerful and the world's most populous countries. It is not surprising, therefore, that the nature of relations between these two countries should have important international implications far beyond its strictly bilateral aspects. Countries all over the world have followed the progress of the President's visit with the closest attention and examined the joint communique for its every nuance of meaning. Most expressed their hopes that the new detente would enhance the prospects for global peace. Some, however, mostly Asian countries, expressed their concern that the two large countries would come to an understanding that would be detrimental to the interests of their respective allies.

On our side, it was the statement in the joint communique on the eventual withdrawal of American troops from Taiwan that caused the greatest concern among our Asian allies, who are understandably worried that the United States is unilaterally dismantling the structure of security it has provided in East Asia for more than two decades. It is true that in the joint communique the United States acknowledges the position of Chinese leaders both on Taiwan and on the mainland that Taiwan is a part of China. The communique also supports the principle of noninterference in the internal affairs of other countries and advocates the normalization of relations with the Peking government, a position that would appear to weaken the basis of our defense treaty with the Nationalist Government. On the other hand, we have also reaffirmed our commitment to the Nationalists not to alter the defense treaty with Taiwan and the language of the joint communique links American withdrawals to diminished tensions in the area.

I believe that any general and genuine relaxation of tensions must be based upon some measure of confidence by the smaller Asian countries that the new diplomatic relationships do not undermine their freedom from interference and legitimate security interests. The United States must now make as one of its highest diplomatic priorities the reassuring of our allies—especially Japan and the countries of Southeast Asia. In the short run this can best be accomplished through the kinds of efforts our Assistant Secretary of State, Marshall Green, undertook in visiting and verbally reassuring our allies at the conclusion of the China trip. In the long run, however, this can best be accomplished by using the new channels of communication with China to promote alternative security arrangements that would be compatible with our own interests and those of the other large powers, and of primary importance, which would safeguard the interests and integrity of the smaller countries of the region. There can be no guarantee in advance that such arrangements could be worked out to the satisfaction of all parties, or that even if arrangements could be agreed upon, they would be honored. But it is useful to try to identify areas where possibilities exist so that we lose no chance to promote the cause of peace.

Possibilities can exist only where the countries indigenous to the area agree among themselves to live in harmony. More than a year ago, my respected senior colleague, Senator AIKEN, emphasized the importance of Asian initiative in any proposal for a conference dealing with the security problems of that region. Since the Senator spoke, there has been a significant but little noted Southeast Asian initiative, a ministerial conference of the countries of ASEAN, the Association of Southeast Asian Nations, which have proposed that Southeast Asia should be a zone of peace, freedom, and neutrality, free from outside interference.

To an American, the striking aspect of this neutralization proposal is its compatibility with our foreign policy aims for this part of the world. Neutrality and freedom from outside interference would guarantee the sovereignty and territorial integrity of Southeast Asian countries from aggression from outside the region. Just as importantly, neutralization should be compatible as well with the legitimate interests of the other large powers. It would be tantamount to removing non-Asian military presence from the area adjacent to China's southern frontier and should eliminate Southeast Asia as a potential bone of conflict between China and the Soviet Union, Japan, or ourselves.

The practical implementation of this proposal involved many difficulties. As a beginning, however, the United States could give sound endorsement to the Kuala Lumpur declaration of the ASEAN foreign ministers. This endorsement should make it clear that this country would welcome further initiatives by the ASEAN countries and would participate in a conference of larger powers called to express their common regard for the principles of neutrality. Such an initiative would challenge the Soviet Union and China to give concrete evidence of their adherence to the Bandung Principles, including those of nonaggression and noninterference in the internal affairs of other countries.

I do not believe that a single conference, no matter how well organized and prepared for, would be able to work out all the arrangements required to make neutralization of Southeast Asia a reality. But it could make a beginning. Initially, the great powers and the ASEAN countries might agree to the establishment in these Southeast Asian countries of a zone free of nuclear weapons. Such an agreement would help to provide the psychological atmosphere within which further accords might be achieved.

Unfortunately, I believe that such a conference would probably have to deal strictly with the ASEAN countries—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—which have made this proposal—and that it could not initially include the Indochina countries. The proposals that have emerged from both sides in Vietnam indicate that the central dilemma in that country is what it has always been—the shape of future political arrangements in South Vietnam. These arrangements are fundamentally a Vietnamese problem and cannot be resolved in the absence of accord among the various Vietnamese parties. On the bilateral level the United States and China can seek a better understanding of each other's positions and intentions, and these exchanges might help us to pursue our disengagement program with greater confidence. It is very unlikely, however, that the termination of either our military involvement in South Vietnam or Communist aid to the North would end a war that began before outside involvement and is only incidentally related to that involvement. It is just as unlikely that arrangements for the related countries of Cambodia and Laos could be concluded in advance of a Vietnam accord. I can only hope that the Vietnamese can come to an agreement that will respect the wishes of their own peoples and that at some future time Vietnam, Cambodia, and Laos can enter into the zone of peace, freedom, and neutrality that has been proposed by the ASEAN countries.

Effective international collaboration on Southeast Asia requires an expansion of the present dialog to include at least Japan and the Soviet Union both of which are Asian powers. Tensions would be increased rather than diminished if either country or large domestic groups within those countries believe that the Sino-American detente is somehow directed at them. The importance of close ties between Japan and the United States cannot be overemphasized. Japan is the second most productive country in the non-Communist world and has, by far, the largest economy indigenous to Asia. An American relationship with China that tended to alienate us from Japan could have adverse effects not only upon our own interests, but on those of China as well. Elements within Japan that advocate the acquisition of nuclear weapons could be strengthened. Other Japanese might urge a countervailing Japanese-Soviet alliance, greatly increasing tensions in Northeast Asia.

Mr. President, I will soon be visiting Japan under the auspices of the United States-Japan Parliament exchange program of the School of International Affairs of Columbia University. While there, I will explore the opinions of Japanese Government leaders and Diet members on recent diplomatic developments in Asia and on the concept of neutralization of Southeast Asia and share them with you on my return.

The United States would be ill-advised to try to exploit Sino-Soviet differences, just as China would be unwise to attempt to split the United States and Japan. The President has been very explicit on this point. The Soviet Union remains the most important foreign power with which we deal because militarily and technologically it is the only country with approximate parity to the United States. Here are the largest possibilities for damage to international stability just as there are some of the greatest opportunities for cooperation in such areas as space exploration and arms control. If we were to become associated with China's vendetta against its former ally it could only be harmful to our long-range interests by jeopardizing those limited agreements that have been so arduously negotiated with the Soviet Union over the past decade. It would be most foolish to believe that war between China and the Soviet Union could ultimately work to our advantage. The experience of this century has demonstrated that it is very difficult to remain aloof from wars involving the major countries because they eventually impinge upon our vital interests.

I believe that it would also be desirable that India be brought into any forthcoming discussions on the future of Southeast Asia. As the result of recent developments in the subcontinent and the consolidation of Mrs. Gandhi's internal position, India may take a more active role in international affairs in general and Southeast Asia in particular. Like China, India, with its population of 600 million, is a massive country adjacent to the region of Southeast Asia. For this reason, India's participation in the shaping of future arrangements should strengthen these arrangements and give India a positive stake in their preservation.

I would conclude on a note of caution. I have outlined a possibility for multilateral diplomacy in Southeast Asia, but even the initiation of intergovernmental discussions on the concept of neutralization, not to speak of the realization of the concept, is contingent upon many incalculable factors and upon the adjustment of the interests of both small and large countries involved in the region. A breakdown of collaboration among the ASEAN countries themselves or a failure of great power diplomacy to continue higher level contacts could close the opportunity that now seems open. The Sino-American link, for example, is only very tenuous. The joint communique makes it very evident that our positions and those of the Chinese differ decidedly on many international issues. Though we have both agreed to some general principles of international conduct, there are even difficult and highly controversial problems still to be solved in the future.

It is important that the administration, the Members of Congress, and the public remain sensitive to the differences of outlook and policy that underlie these broad principles because the greatest damage we could do to the developing dialog would be to delude ourselves into believing that harmony already exists and then suffer disappointment. Like the relationship itself, any broader proposals, such as that for the neutralization of Southeast Asia, must be approached cautiously and with an eye toward the interests of all the countries concerned. If we assess wishfully the interests of other countries or if we gloss over our own interests for the sake of a quick conclusion to a fine-sounding agreement, it would eventually reemerge to upset the accord. I hope, however, that with careful planning, pragmatic policy analysis, and astute diplomacy, we may find ways to adjust and conciliate interests that will diminish tensions and lead to a greater measure of international stability in the area of East and Southeast Asia.

Mr. President, I ask unanimous consent that a copy of the text of the Kuala Lumpur declaration be included in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

KUALA LUMPUR DECLARATION—NOVEMBER 29, 1971

We the Foreign Ministers of Indonesia, Malaysia, the Philippines, Singapore and the Special Envoy of the National Executive Council of Thailand.

Firmly believing in the merits of regional cooperation which has drawn our countries to cooperate together in the economic, social and cultural fields in the Association of South East Asian Nations.

Desirous of bringing about a relaxation of international tension and of achieving a lasting peace in South East Asia.

Inspired by the worthy aims and objectives of the United Nations, in particular by the principles of respect for the sovereignty and territorial integrity of all States, abstention from the threat or use of force, peaceful settlement of international disputes, equal rights and self-determination and non-interference in the internal affairs of States.

Believing in the continuing validity of the 'Declaration on the Promotion of World peace and cooperation" of the Bandung Conference of 1955, which, among others, enunciates the principles by which States may coexist peacefully.

Recognizing the right of every State, large or small, to lead its national existence free from outside interference in its internal affairs as this interference will adversely affect its freedom, independence and integrity.

Dedicated to the maintenance of peace, freedom and independence unimpaired.

Believing in the need to meet present challenges and new developments by cooperating with all peace and freedom loving nations, both within and outside the region, in the furtherance of world peace, stability and harmony.

Cognizant of the significant trend towards establishing nuclear-free zones, as in the "Treaty of the Prohibition of nuclear weapons in Latin America" and the Lusaka Declaration proclaiming Africa a nuclear-free zone, for the purpose of promoting world peace and security by reducing the areas of international conflicts and tensions.

Reiterating our commitment, to the principle in the Bangkok Declaration which established ASEAN in 1967, "that the countries of South East Asia share a primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their people."

Agreeing that the neutralization of South East Asia is a desirable objective and that we should explore ways and means of bringing about its realization, and

Convinced that the time is propitious for joint action to give effective expression to the deeply felt desire of the peoples of South East Asia to ensure the continution of peace and stability indispensable to their independence and their economic and social well-being:

Do hereby state:

"1. that Indonesia, Malaysia, the Philippines, Singapore and Thailand are determined to exert initially necessary efforts to secure the recognition of, and respect for, South East Asia as a zone of peace, freedom and neutrality, free from any form or manner of interference by outside powers,

2. that South East Asian countries should make concerted efforts to broaden the areas of cooperation which would contribute to their strength, solidarity and closer relationship".

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. BYRD) is recognized for not to exceed 15 minutes.

MISUSE OF HOUSING FUNDS IN NEW YORK

Mr. BYRD of Virginia. Mr. President, yesterday the New York Times reported that millions of dollars in housing funds reportedly are being misused in New York City. The Times reports that—

Scores of Federal and local indictments are imminent in Manhattan and Brooklyn for the alleged misuse of hundreds of millions of dollars appropriated to help solve the housing problem of the city's poor.

Persons close to investigations by Federal, state and city officials have disclosed in a series of interviews that vast sums, most of which came from the Federal Government, have been diverted from their intended purpose into the pockets of real estate speculators through schemes in which banks, lawyers, brokers, credit-rating organizations, contractors and city and Federal employes have cooperated.

Fraud and corruption in other programs designed to improve the lot of those living in the slums of the city are said to be even

more widespread and will also produce indictments, according to those investigating.

I think it is vitally important that the agencies of Government charged with the responsibility of administering tax funds take firm steps to see that those funds are properly handled.

Congress has developed and approved 168 different antipoverty programs. It has appropriated $31 billion to try to help the poor of our Nation.

It is important that those funds be handled in such a way as to carry out the objective of Congress; namely, to help the poor; but it is becoming increasingly evident that graft and corruption have got into many of the programs. So it is vitally important, as I see it, that the responsible executives and administrators take every necessary step to safeguard these public funds.

As best I can determine from the news accounts, at least three agencies are involved in the New York programs which are under investigation: the Housing and Urban Development Administration, the Department of Health, Education, and Welfare, and the Federal Housing Administration.

All of those agencies and departments have adequate personnel. There should be a closer policing of the vast sums of money which Congress is appropriating to try to help the needy and the poor.

When these funds are mishandled, misused, or misappropriated, two important groups of people suffer: One group is the poor for whom the funds are intended; the second group are the taxpayers of the Nation who furnish the funds.

When we speak of taxpayers, we are speaking of the working people. They are the ones from whom the funds come. The funds come out of the pockets of the wage earners. I submit that we who are in Government have a deep obligation to see to it that those funds are safeguarded and handled as a public trust.

I note, too, that under one of the programs, called the relocation program:

"Finder's fees" of up to $750 are paid to landlords who provide apartments for families on welfare, or families in urgent need of housing because of eviction from a development site, fire, or other emergency.

Investigators have found that unscrupulous landlords collect the finder's fee repeatedly for the same apartments by getting rid of welfare tenants a few weeks after they have moved in, at a cost of thousands of dollars to the taxpayers and infinite misery of the poor.

Mr. President, there is an area where the Department of Health, Education, and Welfare should move in, and move in fast. The Department should be seeking to protect the tax funds of the citizens of the Nation.

The Department of Health, Education, and Welfare now has 114,000 employees. They are able to involve themselves in all sorts of matters which are purely of a local nature, but they seem to be unable to involve themselves in the welfare area where the public and the poor people simultaneously are being taken advantage of by unscrupulous landlords, manipulators, and speculators.

So I would hope that those who have the responsibility for administering programs which Congress enacts, those who have the responsibility for the disbursement of public funds, would crack down, and crack down hard, on those who are misappropriating or misusing public funds.

I say again that there is only one place from which tax funds come, and that is from the pockets of the hard-working men and women of our Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "Millions in Housing Funds Reportedly Misused Here," written by Edith Evans Asbury, and published in the New York Times of yesterday, Thursday, March 23, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MILLIONS IN HOUSING FUNDS REPORTEDLY MISUSED HERE

(By Edith Evans Asbury)

Scores of Federal and local indictments are imminent in Manhattan and Brooklyn for the alleged misuse of hundreds of millions of dollars appropriated to help solve the housing problem of the city's poor.

Persons close to investigations by Federal, state and city officials have disclosed in a series of interviews that vast sums, most of which came from the Federal Government, have been diverted from their intended purpose into the pockets of real estate speculators through schemes in which banks, lawyers, brokers, credit-rating organizations, contractors and city and Federal employes have cooperated.

As a result of some of those schemes, whole neighborhoods—especially in Brooklyn and the Bronx—have been emptied of residents and ruined.

The misuse of city funds meant to rehabilitate slum housing and provide emergency repairs has already been exposed in several inquiries, including those by the City Council and Manhattan District Attorney Frank S. Hogan. As a result, several landlords, lawyers and city officials have been indicted, and more indictments are expected.

Fraud and corruption in other programs designed to improve the lot of those living in the slums of the city are said to be even more widespread and will also produce indictments, according to those investigating.

The relocation and "miniloan" programs of the City's Housing and Development Administration, both of which use Federal funds, are under investigation. So are the special loan programs of the Federal Housing Administration for the purchase of homes by low-income families.

Under the relocation program, "finder's fees" of up to $750 are paid to landlords who provide apartments for families on welfare, or families in urgent need of housing because of eviction from a development site, fire, or other emergency.

Investigators have found that unscrupulous landlords collect the finder's fee repeatedly for the same apartments by getting rid of welfare tenants a few weeks after they have moved in, at a cost of thousands of dollars to the taxpayers and infinite misery of the poor.

Speculators engaged in "block-busting" in several areas of Brooklyn have found the finder's fees an extra source of income as well as useful in their activities, according to sources close to the investigation.

SALES AND RESALES

"Block-busting" is the name given to a method whereby a speculator scares white families into moving out of a neighborhood into which a black or Puerto Rican family has moved, buys the house at a depressed price and resells to minority families at a higher price.

Current investigations show that here, as in other cities across the United States, block-busting speculators have been very successful in getting F.H.A.-insured mortgages large enough to cover most of the inflated price at which the house is sold to the minority family.

The purchaser, the investigators have found, is often persuaded to buy despite the fact that he cannot afford the house. When it turns out that he indeed cannot afford to keep the house, there is a foreclosure. The F.H.A. is responsible for the large mortgage balance. The same or another speculator then buys the house cheap and sells it again at an inflated price, again with an F.H.A. mortgage, to still another low-income victim who also gets foreclosed.

At each turnover of the house, the purchaser loses his down-payment and probably any faith he had in the white Establishment, says Patrick Cea, associate counsel in the office of Secretary of State John P. Lomenzo.

Mr. Cea has held numerous hearings at which details of the aforementioned cycle were described, and victims testified that the speculator supplied fraudulent credit ratings, employment records income verifications and other records to obtain F.H.A approval of the mortgages.

In one case, Mr. Cea said, the speculator supplied a "wife to sign the deed after the bona fide wife refused to."

As the result of the hearings, state-issued real estate licenses have been revoked.

"But that's the limit of our authority," Mr. Cea said. "On the way out of my office they can start selling all over again—as individuals."

Because Federal funds are involved, Secretary of State Lomenzo has referred his cases most of which occurred in Brooklyn, to United States Attorney Robert A. Morse, whose Eastern District includes Brooklyn.

United States Attorney Whitney North Seymour Jr. of the Southern District, is investigating alleged misuse of Federal housing funds in Manhattan.

WHOLE SECTIONS RUINED

Whole sections of Brooklyn and the Bronx—part of the East New York and Brownsville neighborhoods of Brooklyn and of the South Bronx, for example, have been devastated as the result of these F.H.A.-financed activities.

When the houses reach the point of no resale, they remain in the hands of F.H.A., which cannot resell them unless it uses government money to rehabilitate the houses.

In some cases, the F.H.A. has done this and sold the houses to the City Public Housing Authority. In most cases, however, the crumbling houses—or the lots on which they stood, are marks of blight.

In areas which have been designated for urban renewal or intensive code-enforcement programs, yet another Federal program designed to help low-income families solve their housing problems is under investigation.

This is the so-called 312 program provided Federal loans at 3 per cent interest for up to 20 years with a $17,000 a house limit for rehabilitation of owner-occupied one-to-four-family houses.

The city H.D.A. acts as a conduit for these loans, some of which are handled by the same department that administered the scandal-ridden Municipal Loan Program. District Attorney Hogan, who obtained several indictments in connection with the Municipal Loan Program, is also investigating the local handling of loans under the 312 program.

One hundred and fifty-four such loans, totaling approximately $3.3-million have been approved in the city since the 312 program began in 1964.

To be really successful, the misuse of Federal funds earmarked for programs to help families of low income requires the collaboration of government employes. Investigators have found evidence of such help among employes of both the city and Federal governments, and are presenting it to grand juries.

Senator Philip A. Hart, Democrat of Michigan, who has held hearings on similar patterns of housing fraud and corruption in other cities will hold two hearings on the subject here in May, with more hearings set for later in Washington.

"Although New York doesn't yet show up on the charts as having a serious foreclosure problem, evidence indicates that it soon will—and may rank well above the national average," Senator Hart said, when he announced the New York hearings.

Senator Hart is chairman of the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee.

"The subcommittee began the New York investigation about five months ago," the Senator said, "after requests from city and state officials that we do so." He declined to identify the sources of the requests.

He said the requests followed hearings in Boston that established that "an apparently noble idea—to provide housing for about 1,800 families with F.H.A.-insured mortgages resulted in an extension of the ghetto and great unrest in the communities."

The Senator said that "As an antitrust subcommittee, we are interested in what competitive forces work in the money market which induce mortgage companies to make bad loans."

Initially, Senator Hart said, the subcommittee will examine problems associated with the sale of one- to four-family homes in Bronx, Brooklyn and Queens underwritten by F.H.A. or guaranteed by the Veterans Administration. Later he said, attention will turn to multi-family dwellings financed with conventional loans, and to conversion of apartments to cooperatives.

The subcommittee's investigation has shown that "dramatic" racial changes in Brooklyn have resulted from "the great number of sales" underwritten by F.H.A. or guaranteed by V.A.

"Between 1960 and 1970, Brooklyn lost 740,000 whites, and gained 285,000 blacks and 220 Puerto Ricans" who seem to be "the victims of a plan which was designed originally to improve their lot in life," Senator Hart said.

IMPORTATION OF CHROME ORE FROM RHODESIA

Mr. BYRD of Virginia. Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator from Virginia has 8 minutes remaining.

Mr. BYRD of Virginia. Mr. President, on Monday, March 20, dockworkers at Burnside, La., unloaded 25,000 tons of Rhodesian chrome ore. That is the first time since 1966—almost 6 years ago—that the United States has been permitted to trade with Rhodesia.

In 1966, the United Nations, and subsequently President Johnson by unilateral action, placed an embargo on trade with Rhodesia. As a result of that embargo, the United States became dependent on Communist Russia for 60 percent of its chrome requirements.

The bulk of the world's chrome comes from Rhodesia, and when that source was cut off to the United States, the United States then had to go elsewhere. As I mentioned, we then became dependent on the Soviet Union for this strategic material.

Chrome is a vital and essential ingredient in many national defense items. It is necessary for use in all stainless steel products. It is necessary to use chrome in the production of jet aircraft, submarines, and many other defense elements.

Last November, Congress passed legislation which provided that so long as the United States imported strategic material from a Communist country, the importation of the same material from non-Communist countries could not be prohibited by Executive order of the President.

That legislation passed the Senate, it was approved by the House of Representatives by a vote of 251 to 100, and it was signed into law by the President of the United States.

I think that is a very important, necessary, and desirable piece of legislation, because it has ended U.S. dependence on Communist Russia for a vital defense material.

When I presented the legislation, Mr. President, I did so because it seemed to me that it is very illogical for the United States to be appropriating $80 billion for defense requirements and at the same time to be dependent upon Communist Russia for a vital defense material. Congress concurred in that view, and the legislation was enacted.

Of course, there are those in opposition who say that this supersedes and sets aside a mandate of the United Nation, it does. Yes, it does. But as U.S. Ambassador Christopher H. Phillips stated, even while the United States was complying fully with the sanctions against trade with Rhodesia, Rhodesia, according to Mr. Phillips, had been able to increase its exports of strategic commodities, such exports being as high or higher than in 1965.

"Somebody bought those goods," Phillips said. "Somebody has been buying them each year since the sanctions went into effect." Of course they have. Ambassador Phillips is the second ranking member of the American delegation, and he says at least nine nations with delegations on the Security Council, including most of the permanent members, had been accused of violating the sanctions.

Mr. President, many of the members of the United Nations were violating the sanctions, as Ambassador Phillips pointed out.

But whether they were or whether they were not, the United States, in my judgment, took the right action.

Congress took the right action in saying that so far as this strategic material is concerned, the United States will no longer be dependent on Communist Russia, but we will purchase that material from Rhodesia even though it is in contradiction to the sanctions put on by the Security Council.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

JUDICIAL FREEDOM AND MEANINGFUL NATIONAL COMMITMENT

Mr. WEICKER. Mr. President, the President of the United States has requested of the Congress certain legislation that is intended to:

First, give direction to the courts of this Nation on the matter of busing; and

Second, provide a program of educational funding that would assure equal educational opportunity for all our children.

In sending such programs to the Congress, the President has left an impression with the American people that busing can be halted by simply saying so to the courts, and that equal educational opportunity can be attained at minimal national inconvenience and out of pocket expense.

To all of which I respond, "In no way."

First, let me state now, as I have in the past, my personal disbelief in busing as a means of achieving equality of educational opportunity.

Second, I am as proud of the solid overall achievements in minority rights under Richard Nixon as I am angry with the political exercise of March 16, sometimes called the President's program on busing.

Our areas of disagreement are twofold:

First, constitutional;

Second, achieving equality of educational opportunity for $2.5 billion.

On October 21, 1971, the President addressed the Nation over television. That address announced his nominations of Lewis Powell and William Rehnquist to the Supreme Court. In the course of that speech, President Nixon stated:

Let me add a final word tonight with regard to a subject that is very close to my heart because of my legal background, and because of years of study of the American system of government. I have noted with great distress a growing tendency in the country to criticize the Supreme Court as an institution. Now, let us all recognize that every individual has a right to disagree with decisions of a court. But after those decisions are handed down, it is our obligation to obey the law, whether we like it or not and it is our duty as citizens to respect the institution of the Supreme Court of the United States.

We have had many historic, and even sometimes violent debates throughout our history about the role of the Supreme Court in our Government. But let us never forget that respect for the Court, as the final interpreter of the law, is indispensable if America is to remain a free society.

Those words accurately describe my feelings as to the role of the Judiciary in our Government. To be true to those words means rejecting the judicial interference advocated in the Student Transportation Moratorium Act of 1972 and the Equal Educational Opportunities Act of 1972. Why?

Because when our Founding Fathers set up the rules for building a nation they gave each branch of Government one swing at each pitch.

Referring again to the Powell-Rehnquist speech of October 21, the President stated:

You will recall, I am sure, that during my campaign for the Presidency, I pledged to nominate to the Supreme Court individuals who shared my judicial philosophy, which is basically a conservative philosophy.

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This the President has had unprecedented opportunity to do during his first term in office. Not only at the level of the Supreme Court but throughout the Federal judicial system. Since January of 1969 he has appointed four new Justices to the Supreme Court and 161 justices to the lower Federal courts. These figures represent an almost one-third turnover in the space of 3 years.

Certainly then, the ingredient of conservatism has been added to the Federal court system—a conservatism that most would agree was long overdue. But that was and is the President's swing at the pitch.

Referring again to the speech of October 21, which so magnificently set forth the philosophy of the founders of this country, the President said:

> By "judicial philosophy" I do not mean agreeing with the President on every issue. It would be a total repudiation of our constitutional system if Judges on the Supreme Court, or any other Federal court, for that matter, were like puppets on a string pulled by the President who appointed them.
>
> When I appointed Chief Justice Burger, I told him that from the day he was confirmed by the Senate, he could expect that I would never talk to him about a case that was before the Court.

May I suggest that because the talks to the judiciary are over television, as in the cases of Lieutenant Calley and busing, they are no less demeaning or suspect than if they were held one on one behind closed doors.

The function of Congress should not be to collaborate in such talks but to see to the business of legislative rather than judicial or executive solutions of America's problems. The courts, except as to number, type, and the character of the men who sit on them, are not our business. America is.

The time has come for each American to believe that the Federal courts exist for him as much as for the other fellow. Certainly each of us, at one time or the other, has felt left out because of a particular court decision. But the fact remains that the judiciary has played an important role in making this the Nation it was dreamt to be.

I think history shows that majorities have prospered in this country. But, it is what America has done for its minorities that gives meaning to the word "greatest," as in "the greatest Nation on earth."

"Majority and minority" does not mean white or black. It means the workingman; it means the diseased; it means the elderly; it means the uneducated. All of these were—and some still are—minorities in a rights or compassion sense. And since politicians, Presidents and Senators, are elected by majorities, logically the judiciary has drawn down the duty of being a voice for minorities.

Majority or minority aside, one thing I do know is that when the day comes that it is my ox that is being gored, I hope to God there is a court system in this land whose concern is me and principle rather than the President and the tempers of the times.

One comment in passing as to the constitutional amendment route. The reason I reject that as a way of handling the busing question has nothing to do with how long it would take, but has a great deal to do with its cheapening of the Constitution. The Constitution of the United States is a document for all generations, not just for the class of 1972. The last time we used it as a vehicle for handling a national craze, we invoked prohibition on January 16, 1920, only to repeal it on December 5, 1933. Such in and out legislating eventually would render the Constitution worthless.

In closing my arguments against what I believe to be the unconstitutional aspects of the two acts, I would like to address a few comments to my own State of Connecticut.

I would like each parent who has a child that is being bused in Connecticut under a Federal court order to stand up. The fact is that no such situations exist in our State. Whatever busing exists is strictly on a local, voluntary basis. The present status of litigation is two law suits. One is in the city of Waterbury relative to segregation, which law suit has been brought by the Justice Department. The Justice Department is not the Supreme Court, it is the Nixon administration.

The second is in the city of Hartford, again relative to segregation practices, by private individuals. There has been no trial at the lowest level, much less a court order.

Might I suggest to the people of Connecticut that instead of giving gratuitous encouragement to efforts intended to slow down the breaking up of de jure segregation—that is separate but equal—we utilize the time to take care of any de facto situations in our State, so that neither Congress nor the courts will legislate a solution for a problem that, if handled imaginatively now, can be handled voluntarily without busing.

In conclusion, certainly insofar as a Connecticut resident is concerned, he is getting nothing for giving up some of his constitutional rights. Our history is that we sold wooden nutmegs, we did not buy them.

With respect to the question of the Equal Educational Opportunities Act of 1972, my disagreement here lies not with the principle but with the substance of what has been proposed.

The impression has been left with the people of my State that this is a new program with new funding to build new schools. In fact, what has been proposed is already an ongoing program. No new money has been recommended. And no new concepts such as linking schools and home together have been proposed. It is like having your Christmas gifts given back to you as birthday presents.

I think it important to point to this shifting around of existing funds because many people have written me giving as their reason for support of the President's program their belief that the stated $2.5 billion makes them quits of what they recognize to be a valid national obligation of supplying quality education for all children. Unfortunately, catchup equality does not come that cheap. If the right and proper thing were to be done for America's disadvantaged, it would cost us not $2.5 billion in old funds but $12 billion per year in new funds. I base this figure on an estimated per pupil cost of $1,200 per year for a quality education. At the present time we are spending slightly over $900 per pupil. As there are 46 million children of elementary and secondary school age, this would mean the spending of an additional $300 per pupil or the spending of the aforementioned $12 billion.

Many persons believe, this Senator included, that fully an equal amount of money would have to be spent on housing in conjunction with education in order to achieve practical equality of opportunity. But so as not to drive away the remainder of those who came expecting a free show, I will stick to the $12 billion tab.

What it all adds up to in this area is that honesty nowadays seems to be the worst political policy. As clearly set forth in the Newsweek poll of February 25, 1972, Americans indicated their being equally opposed to busing and to segregated schools. It then follows, if busing is going to be rejected, that we have the job as the President has indicated of providing equality of educational opportunity for all Americans. I just think the American people have a right to know what that providing is going to cost and to be assured that it is going to do the job as advertised.

Having disagreed, I would like to state my alternatives to the President's proposals. I have a deep belief in the sanctity of our courts. Under no circumstance would I see that sanctity violated even in the smallest way for the shortest period of time.

In years past, many availed themselves of the right of unlimited debate on the Senate floor to slow the process of desegregation in this Nation. Should the occasion arise, I would hope my colleagues would avail themselves of the same right to slow the reintroduction of the separate but equal philosophy into the enactments of this body. What I am saying is that for those who think we are going to get the hot busing issue over the election year hump by a little moratorium on the courts, I suspect they are going to see the Senator from Connecticut and others still arguing the propriety of such a method right up to election day. And during that period of time the courts of the United States will continue to operate without Presidential or congressional back-seat driving.

As to assuring that we do have equality of educational opportunity, shortly after the Easter recess I will introduce legislation calling for an immediate and temporary 10-percent surcharge on all personal and corporate income taxes. The income thus generated would amount to approximately $12 billion a year and would be earmarked specifically for educational and housing programs aimed at the creation of equality of life opportunity.

That is it. Judicial freedom and meaningful national commitment. A judicial spur in the legislative and Presidential hide cannot hurt this country. The more we really want equality of opportunity the less the possibility of busing or any other contrived solution.

What we cannot have is liberty and justice for all with our prejudices and wallets intact.

To say otherwise is a commitment to mediocrity. I think that Connecticut and America still enjoy the harder challenge of excellence.

Mr. RIBICOFF. Mr. President, I wish to commend my colleague, the junior Senator from Connecticut, for his courageous speech this morning, which I have read with care and interest.

These are difficult times in this Nation, and I am pleased to see him stand up against the rush toward panic on the question of school integration.

Unfortunately, rather than exercising leadership to bring this country together, too many politicians of both parties are at the head of the parade leading back toward separate and ultimately unequal schools for minorities.

This is an issue that transcends party lines, and I am proud to stand here this morning with my colleague from Connecticut, Senator WEICKER, who is trying to bring some sense to this entire discussion.

Mr. WEICKER. I thank my distinguished colleague very much for his gracious comments.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. STEVENSON) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the agreement that the Senate begin debate on the naval vessel loan at 10 a.m. be negated temporarily, so that the distinguished Senator may have his full 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JUSTICE DEPARTMENT

Mr. STEVENSON. Mr. President, during my brief tenure in the Senate, some of my hardest decisions have required a balancing of the President's right to choose men for high office and the Senate's responsibility to advise and consent. I have recognized the presidential prerogative to choose those of his own persuasion if they be persons of intellect and integrity. On occasion, the process of decision has been long and arduous. The basis of decision has been obscured by the emotions of conflict. The nomination of Justice Rehnquist was such an occasion.

I consented to that appointment. I had no doubt about the character, the intellect, the integrity and professional ability of Mr. Rehnquist. I have such doubts about Mr. Kleindienst, the President's nominee for Attorney General. The Attorney General is the chief law enforcement officer of the United States. In the pledge of allegiance, schoolchildren, and all of us, reaffirm our dedication to justice in this Nation. And in large measure the responsibility for justice reposes in the Attorney General.

Justice has been symbolized as blind dispassion. That has not been the public's understanding of the Justice Department in recent years. We have had, an Attorney General between tours of duty as a campaign manager, and unable to forget either his past or future political responsibilities. We have had the image of a Justice Department functioning as an arm of a political presidency. Mr. Kleindienst, as Deputy Attorney General, has been an enthusiastic participant in that concept of justice.

I do not know the whole truth about the ITT settlement.

I do know that angry charges and countercharges of lying are an inauspicious beginning as the chief law enforcement officer of the Nation.

I do know as well that this administration has lost sight of the only acceptable standard against which to measure any public official, let alone the Nation's chief law enforcement officer.

The appearance of misconduct can erode public confidence as effectively as misconduct itself. I do not believe it is too much to demand that our public officials be free of even the appearance of impropriety. It is a harsh standard. At times it will work unfairly—but we accept any lower standard at the risk of undermining the very foundation of our self-governing society.

The Judiciary Committee's inquiry into the fitness of Mr. Kleindienst to be our attorney general—or, more precisely, its inquiry into the tangled dealings between various Republican figures and the executives of ITT—has placed the Justice Department under a cloud of suspicion and mistrust.

Why did ITT promise to help finance the Republican National Convention? Was the promise simply a disinterested, public-spirited gesture? Or did ITT hope to gain something from it—specifically, a favorable settlement in antitrust proceedings?

Did the Republican administration in Washington know what was going on—and did it, in fact, cooperate in the deal?

These are serious questions.

Because the hearings are unfinished, it would be premature to make a judgment on these questions now.

But there are some things that need to be said now. This episode in Washington is one that concerns not only the integrity of Mr. Kleindienst and Mr. Mitchell and Mr. Nixon, but the faith of every American in the system under which we live.

There is as yet no conclusive proof that ITT and the administration conspired to obstruct enforcement of the law. But if the word "impropriety" has any meaning, an impropriety has been committed.

No one has denied that ITT—whose case was under consideration by the Justice Department—made a substantial contribution to underwrite the Republication National Convention.

Spokesmen for the administration have given no sign that they find anything questionable about such a transaction.

But it is questionable. One newspaper put it this way:

> There is the larger question • • • of how one of the world's greatest corporations could think it proper or publicly acceptable, while its fate was in the hands of a Republican administration's antitrust department, for it to be secretly arranging to underwrite a large part of the Republican party convention. There is the other side of that question, which is how a responsible government, or political party, could find no impropriety • • •

It may be that there was no cynical deal between high officials of the Justice Department and those of ITT; certainly it is not likely that such a deal can be conclusively proved. The administration may be guilty of no more than insensitivity to the question of propriety.

Can anyone believe that ITT made its contribution without some hope of gain? Why else did its Washington lobbyist go to California to help arrange ITT's gift to the convention committee?

And why did the administration—at whatever time it learned of this questionable gesture—not see that it was questionable? Why? Because our highest leaders are insensitive to the moral issue and unaware of the high standard which must govern the conduct and the appointment of public officials. This is only one more depressing piece of evidence of that insensitivity.

It is not the first involving ITT. Three years ago Mr. McLaren, Chief of the Antitrust Division, sought to block ITT's acquisition of the Canteen Corp. Mr. Mitchell disqualified himself because his and Mr. Nixon's former law firm had represented an ITT subsidiary. Mr. Kleindienst took over. Mr. McLaren recommended that the Justice Department seek to enjoin the merger, but Mr. Kleindienst delayed action on Mr. McLaren's recommendation until it was too late to seek the injunction.

Other large companies with connections in the administration have fared equally well—or better. Elmer Bobst is a confidante, contributor, and crony of Mr. Nixon. He is also honorary chairman of Warner-Lambert which, like the ITT subsidiary, retains the former law firm of Mr. Nixon and Mr. Mitchell. As in the ITT-Canteen case, Mr. McLaren sought again to enjoin a merger—this time a merger between Warner-Lambert and Parke-Davis. Again Mr. Mitchell disqualified himself. Again Mr. Kleindienst took over. He talked to attorneys and representatives of Parke-Davis and Warner-Lambert. He says a Parke-Davis representative told him:

> That if this merger did not come about, Parke-Davis was going to get out of the research business.

Parke-Davis denies it told him any such thing. Mr. Bobst admits that he lobbied the White House. As in the ITT-Canteen case, Mr. McLaren's original recommendation was rejected. No injunction was sought, and the merger went through.

It seems at this point that corporations with known financial connections to Mr. Nixon and Mr. Mitchell manage to resolve their antitrust difficulties out of court and in the shadows.

Mr. McLaren is a man of undoubted integrity and ability. He undoubtedly did his best to enforce the law—and that may explain his hasty departure from the Justice Department.

His nomination to the Federal district court was received unexpectedly in the

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Senate on December 2. On that same day my consent to the nomination was obtained. The Senate Judiciary Committee gave it favorable consideration and the Senate confirmed—all within less than 24 hours.

I was told at the time that the district court in Chicago faced a backlog of cases—and that Judge Hoffman was requesting immediate senior—or part-time—status. The Congress, I was told would soon recess for Christmas, and so immediate action on the nomination was necessary. I now find there there was no backlog of cases and that Judge Hoffman did not want immediate senior status. I still do not know the real reason for Mr. McLaren's hasty departure from the Justice Department.

It is not only the antitrust division which is under suspicion. The chief of the criminal division departed in some haste, too—but for different reasons. His connections with the financial machinations of Texas politicians and others was revealed.

And powerful corporations are not alone in finding favor at the Justice Department.

The current issue of Life magazine charges that another Nixon benefactor and crony, C. Arnholt Smith, has enjoyed immunity from the law. Investigations of unlawful contributions to Mr. Nixon by or through companies controlled by Mr. Smith were reportedly squelched by the U.S. attorney in San Diego. That U.S. attorney, Mr. Harry Steward, was recommended by Mr. Smith for appointment and subsequently was exonerated for his role in this case by Mr. Kleindienst. It is said that Mr. Smith's companies channeled money illegally to Mr. Nixon's 1968 campaign through an advertising agency. This was done, it is charged, with impunity—and with some thanks to Mr. Kleindienst.

The benefactors of Republican politicians in Illinois have been recipients of similar favors from the Justice Department. We have a case involving an advertising agency with close ties to prominent Republican officials, which described its scheme in a letter dated February 10, 1964, as follows:

> If you have any contributors who would prefer to be billed by our firm in order to write it off as a business expense, please let me know and we will take care of the matter. We will send a duplicate of the invoice to you, and credit the—blank—campaign with that amount when it is paid.

In 1968 the Internal Revenue Service launched a tax fraud investigation of the advertising agency.

The case was referred to the U.S. Justice Department for prosecution of at least two offenders in June, 1969. It was still sitting in the Justice Department in March, 1970, when the Internal Revenue Service in Chicago sent an 11-page letter to the assistant attorney general in charge of the tax division asking for authorization of a grand jury investigation in Chicago.

There was no reply to the IRS letter of March 1970, until June 1970, shortly after the resignation of Thomas A. Foran, a Democrat, who was U.S. Attorney in Chicago at the time. The reply directed the IRS to drop the case.

Mr. Foran is a man of the highest integrity, but under the Federal Code of Regulations the former U.S. Attorney cannot testify regarding the facts in this matter unless permitted or authorized to do so by the Attorney General of the United States.

Details of this case were reported in an article in the Chicago Sun-Times on November 3, 1970, and I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Mr. President, I would urge the Judiciary Committee to investigate this case.

One might ask at this point—are all of these charges unfair, based only upon rumor? The answer is that conclusive proof so far is lacking. But the evidence to date indicates to me that only the tip of the iceberg is showing. However you look at it, the appearance of gross impropriety in the Justice Department is there. And it eats like acid at our faith in the impartiality of our judicial process. What is left to protect us? Who prosecutes the prosecutor? How can we "revere" the law, as Lincoln exhorted us—when the law is there, or so it seems, to be enforced against the many, but not the few? Who, the people must ask, is this Government of, for and by—Republican campaign contributors?

After the 1968 elections, Mr. Kleindienst held a conversation with a Mr. Carson, who had helped raise funds and campaigned for Mr. Nixon. Mr. Carson said he had a friend of substantial means who was under indictment and would like to make a campaign contribution to Mr. Nixon of between $50,000 and $100,000. That was after the campaign was over. Mr. Kleindienst said to Mr. Carson he could do nothing for the indicted friend. But he did not report the offer until after he learned the FBI was investigating. He was unable—or unwilling then—and apparently still is—to perceive that offer for what it was—a bribe. And now the man who cannot tell a bribe when offered is proposed for chief law enforcement officer of the United States.

What are we to think?

At a neighborhood party, an official of ITT finds it easy to arrange a meeting between Mr. Kleindienst and a spokesman for the giant corporation.

What about the others in our society—the people who literally and figuratively are not invited to the party?

The executives and lobbyists of ITT encountered no obstacles when they sought access in the corridors of power. Mr. Peter Flanigan, one of the President's assistants, has become known as an "ambassador to big business." But who speaks for the people? If such a man exists, he is not yet so famous, perhaps because his achievements are less apparent.

I believe the Justice Department should be free of partisanship and speak for all the people. I fear it is becoming a fundraising branch of Republican campaign headquarters.

Even before the election of 1968, Mr. Nixon had made the Justice Department a partisan political issue. After his election he installed his chief political operatives as the chief officials of the Justice Department. I do not claim the Democrats in the past have been free of all guilt. But I do believe that the past is no excuse for the present. And I cannot remember such a politicized Justice Department. These men do not deny their political role. They speak at partisan gatherings. They advise the President on partisan matters. Their statements on the nonpartisan issue of crime and violence are partisan. Even the FBI crime statistics are interpreted for partisan purposes.

With such a background, it is little wonder that many citizens are now inclined to believe allegations of money changing in the temple of justice. Perhaps if Mr. Mitchell and Mr. Kleindienst had been less aggressively partisan in the past, their denials would not be so widely doubted. But the matter goes deeper. If the Department of Justice is deeply tainted with the stain of partisan politics, the faith of the people in the processes of justice will be deeply shaken. And when the people do not believe in the legitimacy of their institutions, they will not accept the authority of those instiutions. What is at issue is not a matter of partisan advantage in one administration or another. The issue is whether, ultimately, our leaders will be able to lead, and our Government able to govern; whether the people believe those whom they elect.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period of not to exceed 10 minutes for the conduct of morning business with a 3-minute limitation thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield my 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for an additional 3 minutes.

THE JUSTICE DEPARTMENT

Mr. STEVENSON. Mr. President, last week one of the President's appointees to the Justice Department, Mr. Robert Mardian, an assistant attorney general, was reported to have complained about radicals and dissenters in government. The Wall Street Journal published this account of Mr. Mardian's complaint:

> Not only are "revolutionary terrorists" finding it easier to infiltrate the bureaucracy . . . but "we're getting more people in government who feel they should be ruled by a sense of conscience" rather than what the bureaucracy expects of them.

For my own part, I would prefer, and I believe the American people would prefer, that our public servants be guided by conscience. It would be best if conscience and obedience to bureaucratic expectations could coincide. It has been possible in the past—it could be again.

These are difficult days for men of conscience. These are days of fat political contributions and careless ethics. But before we carve Mr. Mardian's complaint above the portals of the Department of Justice, we should remember another quotation:

> When a man assumes a public trust, he should consider himself a public property.

That was Thomas Jefferson. What he said was true then and is today.

With the records of the Washington office of ITT shredded, and activities at the Justice Department and the White House shrouded in secrecy, it will be difficult to ascertain the whole truth in the matters now under investigation. But suspicion will persist and the erosion of public confidence in our public institutions will continue unless the doubts that now exist are dispelled.

The President can spare further embarrassment—not only to his administration, but to all of our institutions of self-government—by withdrawing the nomination of Mr. Kleindienst. I urge him to do so.

Failing that, I urge the Judiciary Committee to broaden its inquiry into these matters. If the President declines to withdraw the nomination of Mr. Kleindienst, I would hope that he will permit Mr. Flanigan to testify before the committee, and that Mr. Steward and Mr. Foran be permitted to answer questions that have been raised concerning the Justice Department's alleged role in blocking the prosecution of cases in California and Illinois.

No citizen who cares deeply about his country and the integrity of its institutions can really hope that these charges are true. But we do not know the truth. The charges and suspicions cannot be swept under the rug by the administration or by the Senate without substantiating public fears that the concept of equal justice has been corrupted by the Justice Department's willingness to recognize that some men and some corporations are more equal than others. I do not believe that we of the Senate can perform our constitutional duty to grant or withhold our "consent" to the nomination of Mr. Kleindienst until we do know the truth. And I for one will not vote to confirm his nomination until the doubts about his character and fitness are dispelled. They can only be dispelled—or substantiated—by a thoroughgoing investigation. I urge the Judiciary Committee to conduct such an investigation, if Mr. Nixon refuses to withdraw the nomination of Richard Kleindienst for Attorney General.

EXHIBIT 1

[From the Chicago Sun-Times, Nov. 3, 1970]

GOP AD AGENCY PROBE SOUGHT BY IRS

(By Ray Brennan and Max Sonderby)

An Internal Revenue Service attorney recommended last March that a federal grand jury investigate the income tax affairs of a Chicago advertising agency that has handled campaign work for Republican political candidates, the Sun-Times learned Monday.

The agency is James & Thomas Inc., 233 E. Erie, of which Thomas J. Drennan, political strategist for Gov. Ogilvie, was a partner, vice president and director until last March 30. In the IRS recommendation, no reference was made to Drennan except as a 50 per cent owner of the agency.

The request for a grand jury inquiry was made March 1, in an 11-page letter over the signature of Chicago IRS regional counsel Frank Conley to Johnnie M. Walters, an assistant attorney general in Washington, in charge of the tax division.

The letter raised the possibility of criminal indictment in connection with purported contributions to Republican campaigns by two Chicago area firms through the James & Thomas agency.

On June 30, about 3½ months after mailing of the 11-page letter, Vincent Russo, a veteran assistant attorney general in Washington, turned down the grand jury recommendation.

Russo said he did not believe a successful prosecution could be managed on the evidence outlined in the recommendation, and pointed out that the amounts of money involved were not large. Russo gave his decision in a letter to the IRS in Chicago.

Two federal officials in Chicago confirmed to the Sun-Times that the March 17 letter was sent to Walters, that it proposed a grand jury inquiry and that this newspaper's information as to the contents was correct.

They also confirmed that the turn-down letter was sent to the Chicago-IRS by Russo.

The recommendation letter to Walters stated that certain witnesses had refused to answer questions asked by IRS agents in Chicago and that they might be persuaded to testify if placed under oath before a grand jury.

One of the reluctant witnesses was named in the letter as F. Thomas Bertsche, president of James & Thomas, which until recently was located at 200 E. Ohio.

The letter suggested that a grand jury investigation might produce evidence that could lead to prosecution of Bertsche, although the evidence was lacking at that time. The letter continued:

"It is suggested that the indictment (of Bertsche) be returned before April 25, 1971, six years after the first false invoice was supplied by James & Thomas. . . ."

COMPANIES NAMED IN LETTER

The two Chicago area business firms named in the letter are the Flick-Reedy Corp., a major manufacturing concern in northwest suburban Bensenville and Schiller & Frank, architects at 23 E. Jackson.

The IRS investigation in Chicago involved an income tax practice long employed in handling campaign contributions from business firms to political candidates in Chicago, Cook County and Illinois. Such contributions are not tax-deductible under IRS regulations and political contributions by corporations are in general illegal.

Using the technique—frowned on by IRS as illegal—Mr. A, an advertising man, goes to Mr. B, a businessman, and suggests that he make a contribution to Mr. C, a candidate. As an incentive, Mr. A tells Mr. B in effect:

"I will send your firm an invoice (billing) for advertising. You pay the amount of the bill and I will send the amount to Mr. C for his campaign. You can then charge off the amount on your firm's tax return as a business expense."

"BUSINESS EXPENSE" CONTRIBUTIONS

In referring to possible prosecution, the March 17 letter stated:

"The apparent fraud on the revenue (income taxes) was accomplished by F. Thomas Bertsche's acts as the sole executive officer of James & Thomas of tendering false invoices which disguised political contributions as business expenses. . . ."

The purportedly false invoices were rendered, according to the letter, "in order to facilitate tax deductions of $2,000 by Schiller & Frank on its partnership returns for 1965 and $2,600 by Flick-Reedy Corp. on its income tax returns for the fiscal year ended June 30, 1965."

Conley wrote in the letter that documentary evidence was lacking to show that the two business firms did, in fact, deduct the payments on their taxes. The letter added:

"However, with respect to each return, oral admissions were made by the officers of the respective entities (firms) that the payments were deducted."

Officials of Schiller & Frank refused to submit their books and records to IRS agents for examination, the March 17 letter stated, adding:

"Similarly, the books and records of Flick-Reedy Corp. were not examined because, although it was a corporation, both Frank Flick and Arthur Conrad refused to testify (answer questions of IRS agents)."

Conley went on to quote Donald Schiller of Schiller & Frank as stating that he signed a $2,000 check made payable to James & Thomas, Conley added:

"Schiller has stated that he believes the $2,000 was entered on the partnership records as a promotion expense . . . His explanation of this payment to the development of a brochure is demonstrably false.

VIEWS EVIDENCE AS SUFFICIENT

"Lastly, Schiller signed the partnership (income tax) return for 1965."

Conley, then wrote that the present evidence was sufficient to support an indictment on a prima facie case against Schiller for violation of the U.S. Code 26–7206 (signing of a false income tax return).

In recommending possible prosecution, the March 17 letter further stated that the evidence also supported a conspiracy count against Schiller in conjunction with Bertsche and James & Thomas Inc.

As for a grand jury investigation, Conley pointed out to Walters in the letter:

"Primarily, through the records of James & Thomas Inc., the evidence will show that the payments made to it by Schiller & Frank and by a Flick-Reedy Corp. were indirect political campaign contributions. . . .

"In our view (the view of Chicago IRS agents), the facts involved in the instant (James & Thomas) case depict an aggravated situation which warrants the institution of recommended (grand jury) proceedings."

OFFER TO FUNDRAISERS

Conley went on to quote a letter dated Feb. 10, 1964 by Bertsche to an Illinois campaign fund-raising organization:

"If you have any contributors who would prefer to be billed by our firm in order to write it off as a business expense, please let me know and we will take care of the matter.

"We will send a duplicate of the invoice to you and credit the . . . campaign with that amount when it is paid."

When asked for comment Monday night, Bertsche referred all questions to a law firm of Schippers, Betar, Lamendella & O'Brien.

David S. Schippers, a former assistant U.S. attorney in Chicago and a member of the law firm, confirmed that he had conferred with Russo in Washington and that Russo had turned down the grand jury recommendation by Conley.

Schippers said that the recommendation has been resubmitted since Russo's original refusal. Conley proposed in the March 17 letter that Bertsche and certain other persons be prosecuted for conspiracy.

CONCEDES IRS QUESTIONING

Donald Schiller, 2730 Ridge, Highland Park, partner in Schiller & Frank, conceded to the Sun-Times that he was questioned by IRS agents about the advertising agency matter. As for statements in the Conley letter, Schiller said: "They (the IRS agents) are entitled to their belief."

Frank Flick, 1815 Merry, Oak Brook, president of Flick-Reedy, could not be reached for comment.

Drennan, when reached at his home, said he had no comment. However, he pointed out a number of times previously that he never had a part in management of James & Thomas and that he now has no connection with the agency.

XUM

Conley's recommendation in no way concerned Drennan's publicity firm, Chicago Public Relations Associates, 77 W. Washington, thus giving the firm a clean bill of health in the matter.

SUMMATION BY CONLEY

The Sun-Times disclosed on June 15, 1969 that James & Thomas was under income tax investigation concerning campaign contribution matters. The IRS inquiry began in 1968 and went back to 1963 political contributions.

In summing up the case Conley wrote that the scheme detailed in the letter of Feb. 10 (Bertsche's letter) was actually implemented.

He said that the Chicago IRS was satisfied that the documentary evidence established the political purpose of the payment to James & Thomas Inc. by Schiller & Frank and Flick-Reedy Corp.

He said that the officers of the contributors had steadfastly maintained that the disbursements were not political, but rather for services rendered to them by James & Thomas Inc.

However, Conley reported, the company officers refused to make statements to that effect under oath.

CITES INFORMATION FROM AGENCY

As documentary evidence in the case, Conley's letter cited information obtained from the James & Thomas books and records, which were obtained and examined by the Chicago IRS on a U.S. District Court order.

Conley wrote of the agency's records:

"These clearly show that the payments were made following the issuance of false invoices and the checks were credited to outstanding and long overdue accounts of campaign committees.

"Further, the job cost records of James & Thomas Inc. reflect the fact that it (the agency) incurred no cost whatsoever nor did it perform any services for the payors in question. We are talking about Flick-Reedy and about Schiller & Frank.

"Lastly, the job numbers assigned to the contributors were the same numbers previously given to the political accounts in question."

Conley referred to the $2,000 paid to the agency by Schiller & Frank, stating that the agency job number was 1,211 and that the billing was for "design and development of four-page, four-color brochure."

The same job number previously has been assigned to work done for a political campaign and represented payment for rental of billboard space, Conley noted. Conley added:

"As for the Flick-Reedy transaction, documentary evidence again points rather clearly to an indirect political contribution having been made and deducted (for income tax purposes) by the corporation."

Mr. GURNEY. Mr. President, I regret I did not come into the Chamber earlier to be able to hear all of the statement of the distinguished junior Senator from Illinois. I did come in and listen to the last minute or two. I gather that the import of the statement, at least that portion I heard, was that there was some doubt in the Senator's mind that the investigation was not being fairly and thoroughly conducted.

The senior Senator from Florida is a member of the Committee on the Judiciary and I have attended every day of hearings we have had so far in the renewed hearings on the confirmation of Mr. Kleindienst. I have not been there every hour of the hearings. One of the reasons I have not been there for every hour of the hearings is that the Democratic members on the committee are stalling and prolonging the hearings by asking questions over and over and over again that have been covered not once, not twice, not 10 times, not 25 times, but nearer 50 or 100 times. There is a great deal of politics going on in these hearings.

I know of no attempt by anybody on the committee, or for that matter, the administration, to hush up anything. We have had 3 weeks of hearings so far and there will be more on Sunday, Monday, and Tuesday, in Denver, Colo. This Senator is a part of the subcommittee that is going there.

I cannot remember in the 9 years I have been in Congress any confirmation of any public official that has been more thoroughly aired than this one has; and so far, I might say, listening to what has been going on, I have not found a shred of evidence, not a single shred of evidence, and I have either listened to all of it or read all of it, that ties Mr. Kleindienst in any respect to the contribution ITT made to the city of San Diego for the Republican Convention to be held there this summer, nor have I found any shred of evidence that indicates there was any impropriety at all on the part of the Justice Department in the settlement of this ITT antitrust suit.

As a matter of fact, if some of the objective writings are read about this—the Wall Street Journal in the past week or so had a couple articles—anybody with any sense at all would realize that this was the biggest antitrust settlement in the history of this Government and it was a harsh one so far as ITT was concerned.

Mr. President, the settlement caused the divestment from ITT of companies totally $1 billion in assets. I think it is very interesting that right after the settlement was announced the stock of ITT took a sharp drop on the market and many investors, so-called insiders, sold a great number of their shares of stock. Whether that was the right thing to do or not I do not know. But that is not a part of our hearings; it is a matter for the SEC to determine. But it indicates from what happened in the market and from what insiders did that this was not a sweetheart settlement so far as ITT was concerned.

One thing that troubles me at this juncture of the proceedings is that any Member of this body who is a lawyer should have second thoughts about prejudging what is going on in the Committee on the Judiciary in these hearings and what the final result will be until this matter is fully aired, until we have the evidence upon the table, until the Committee on the Judiciary comes to termination on these renewed hearings, and until this matter is thoroughly aired on this floor, as it will be.

It seems to me that all of us, as responsible Members of the Senate, should take this course of action instead of perhaps following some of the irresponsible writings and expressions I have seen on this matter day after day reported by the media in some newspapers and heard also on television, that give but a very small capsule picture of what has been going on in the proceedings in the Committee on the Judiciary. A great deal of the reporting of the testimony that actually has shown what has taken place has not reached the eyes of the public at all.

I can assure the Senator from Illinois that before the Committee on the Judiciary winds up I think we will have all the evidence that the Senate will need in order to make a judgment on whether we should confirm Mr. Kleindienst as Attorney General or not.

Mr. President, I yield back the remainder of my time.

EXTENSION OF TIME FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The time allotted for the transaction of routine morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time may be extended for 5 minutes under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR NATIONAL FORESTS

Mr. CHURCH. Mr. President, the young boy or girl sitting in class in Omaha or Oshkosh, in Chicago or Cincinnati, in Austin or Albany, is unlikely to know what clearcutting is all about. But those representing the lumber companies and Mr. John Whittaker at the White House know only too well the harm done to our national forests, when this method of harvesting timber is misapplied.

Well, it is time for all of us to learn more about clearcutting; to know when it can be used sensibly and when it should not be used at all; to know what sort of pressures are exerted for its use on marginal lands, and to know what can be done to prevent wrongful and wasteful clearcutting. After all, the national forests belong to all Americans.

During the last several years, Congress has heard mounting criticism of clearcutting as practiced in the management of our national forests. The misapplication of clearcutting—the knocking down of every tree in a designated area in the process of cutting marketable timber—is said to have occurred in such places, among others, as the Bitterroot National Forest in Montana, the Monongahela National Forest in West Virginia, and the Boise National Forest in Idaho.

In response to the growing concern about the misuse of clearcutting, the Subcommittee on Public Lands, which I chair, convened a series of hearings on forest management on the public lands. These hearings, beginning in the Spring of 1971, and extending into this year, provided an opportunity to review clearcutting practices. Forestry specialists from the universities, lumber industry spokesmen, witnesses representing conservation and environmental organizations, outdoor enthusiasts, sportsmen and private citizens, all testified. The committee also heard from the Forest Service and the Bureau of Land Management.

Following these public hearings, the subcommittee met to consider various courses of action. Recognizing that there is no single harvesting technique that will meet the needs of all forests in different parts of the country or the needs of all parts of a single forest, the subcommittee has drafted a series of recommended guidelines for the Forest Service and the Bureau of Land Management to apply to clearcutting in the future. These recommendations have been discussed with the Federal agencies which would administer them to make certain that they are technically sound. The subcommittee expects to issue its report, containing these guidelines, within the coming week.

I was dismayed to learn that the White House has decided to say nothing about clearcutting. An Executive order to restrict clearcutting has apparently been retracted under pressure from lumber and housing interests.

Mr. President, I do not know all the aspects of the process that led up to the White House's retreat on the clearcutting Executive order. I have, however, read two accounts of the process that are most revealing.

I ask unanimous consent that an editorial by Mr. Clare Conley, appearing in Field and Stream on this subject be printed in the RECORD. I also ask that an article by Mr. Lloyd Tupling in the February issue of the Sierra Club Bulletin be printed in the RECORD for the information of my colleagues. They shed a considerable light on the question of who is really in charge of our national forests.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Field and Stream, April 1972]

EDITORIAL

(By Clare Conley)

Before getting into this editorial I want to define what clearcuttig a forest amounts to. It is a method of harvesting trees which causes complete devastation. It is more harmful than a forest fire. The land is churned up over vast areas by big machinery. *Every* tree is cut down and most of the surface plants are killed. Until grasses and shrubs can get started again, the land is wide open to extreme erosion. Timber companies prefer this method of harvest because it is cheaper than cutting selected mature trees and leaving the remainder unharmed and because having once destroyed a mixture of kinds of trees on a certain tract they can then plant one type of tree which they prefer. These trees are planted in neat little rows for fast growth, all standing the same height and all reaching maturity at the same time for another cutting. But it is no longer a forest any more than an orchard is a forest. There are no open grassy glens, no bushes, no aspen or alders. Everything is crowded and shaded out by the trees, and for the major part of the growth years of the trees there is little food for animals or birds. It is a sterile sort of forest designed by a computer. This is what has been happening to our National Forests by those who cut trees for profit. But remember, the cutters do not own the forests—everyone does. Do you think this kind of mismanagement is good for you and your forests?

January 7, 1972—the final draft of an Executive Order to be announced by President Nixon was typed up and sent in secret to the U.S. Forest Service, the Council of Environmental Quality, and to the Bureau of Land Management. It put strict limits on the use of clearcutting—"Except for limited experimental and research purposes not associated with commercial timber sale," the order said. Recreation and scenic values were to be protected. Harm to wildlife was to be kept to a minimum and the beauty of the area was to be protected. Waters associated with a clearcut were not to be laden with eroded soil.

Furthermore, the order required future timber sales to have specifications for the operations of the timber companies. The maximum use of merchantable timber was to be made and the amount destroyed as slash was to be reduced. Cutting, skidding, or yarding was to be controlled near lakes and streams and a strip of forest was to be left along lakes and streams. Furthermore, the order stated, "Timber sale planning procedures will make adequate provision for obtaining and taking into account the views of citizens." Such an order would effectively put clearcutting back to the use for which it is logical—research and protection—not harvest. It would force the use of selective tree cutting, a method that has been socially and economically acceptable for decades.

January 8, 1972—National Forest Products Assn. Chairman L. L. Stewart (president, Bohemia Lumber Company, Eugene, Ore.) and NFPA president H. E. Sanders (president, Sanders Lumber Company, Meridian, Miss.) plus Industrial Forestry Assn. directors Paul F. Ehinger (vice-president, Hines Lumber Company, Chicago) and C. W. Bingham (vice-president Weyerhaeuser, Tacoma, Wash.) and president of Western Wood Products Assn. John Hampton (Willamina Lumber Company, Portland, Ore.) met with Secretary of Agriculture Butz, U.S. Forest Service Chief Cliff, Assistant Secretary of the Interior Loesch, and Bureau of Land Management official Storms. As reported in the *Industrial Forestry Assn. Facts* of January 11, 1972, "We *all* agreed on the undesirability of such an order. . . ."

January 10, 1972—A meeting set up by Butz with John Whittaker of the White House staff took place attended by Butz, Whittaker, Interior Assistant Secretaries Larson and Loesch, White House Staffer Fairbanks, Council of Environmental Quality Chairman Russell Train, Forest Service Chief Cliff, and eight forest industry spokesmen.

January 13, 1972—An official announcement released this day to the press stated that no Executive Order pertaining to clearcutting would be issued by President Nixon. In referring to the affair, Sen. Fred Harris of Oklahoma said that it once again proved an old political axiom that public interests win in public; and private interests win in private.

[From Sierra Club Bulletin, February 1972]

WASHINGTON REPORT

(By W. Lloyd Tupling)

Who would have thought that the Paul Bunyan crowd would themselves escalate clear-cutting of timber on Federal forest land as an environmental issue of national significance?

Always a controversial forest management practice, clear-cutting has been the target of conservationists for many years. But it took timber industry pressure on the Nixon Administration in recent weeks to thrust it full bloom into the political arena. Numerous newspaper articles which followed the shelving of a proposed presidential order restraining clear-cutting attest to this fact.

The scenario began late last spring when the Council on Environmental Quality, concerned about the criticism of clear-cutting approved by the Forest Service, launched a study of the practice, which requires the cutting of all trees on a tract selected for commercial timber production. Aside from the esthetic impact of denuding large sections of forest land, the study showed indications of soil erosion, stream pollution, wildlife habitat destruction and other adverse effects.

As a result, a proposed executive order was prepared for President Nixon's signature. The first section of the draft stated that as a matter of policy, "the Federal Government shall provide leadership in the development and application of environmentally sound forest management practices." (Why should anyone oppose that?) But, it went on to other sections, including one entitled, "Limitations on the use of clear-cutting." One of these limitations was that "there will be no clear-cutting in areas of outstanding scenic beauty . . ." As later developments revealed, this was the limitation which evoked the most violent response from timber industry opponents.

On January 11, a story appeared in the New York Times with the headline "President plans to limit clear-cutting in national forests; timber men are disturbed".

Disturbed. Indeed, they were frantic. Sources in the Department of Agriculture had alerted the National Forest Products Association around January 1 that the Council on Environmental Quality was pressing for early presidential action. A nationwide industry counterattack was immediately launched. The January 7 management report of the American Plywood Association declared "Threat of clear-cut curb demands urgent action!" and said the Association "joins with all other industry associations in urging every company in the industry to communicate at once with Secretary of Agriculture Earl L. Butz and Interior Secretary Rogers C. B. Morton, as well as with congressmen, documenting the drastic economic effects should an executive order be issued restricting clear-cutting of timber."

An industry spokesman denounced the regulation aimed at protection of scenic areas as the "dangerous one . . . an open invitation to litigation, protests and related activities which would handcuff the Forest Service."

On January 10, at the behest of officials of the National Forest Products Association, the newly-named Agriculture Secretary Earl Butz convened a meeting in his office which included John Whitaker, the President's special assistant; Harrison Loesch, Assistant Secretary of Interior; Chairman Russell Train of CEQ, Ed Cliff, Chief of the Forest Service, and his deputy, John McGuire. On January 12, a CEQ official announced that Train, Butz and Morton had jointly decided against pushing the presidential order. Ordinarily the existence or scuttling of an executive order draws scant attention in the national capitol. But this time the atmosphere was different. Headlines declared: "Butz leads fight against Nixon order," "See surrender to timber industry," "Limit on cutting timber dropped," "Nixon's aides switch after opposition by industry."

This press attention was enough to set off political fireworks from various directions. In Powell, Wyoming, Sen. Gale McGee, author of legislation for a two-year moratorium on clear-cutting, charged that "large timber interests continue to call the shots for the Nixon Administration on national forest management policies.

"The Administration's first really solid attempt to face up to the complexity of the clear-cutting issue has been thwarted by industry pressure," said McGee.

Sen. Fred R. Harris of Oklahoma was less charitable. "We ought to know more about this seemingly incestuous relationship between the timber lobby and the government," Harris declared. "We ought to know why Secretary Butz consulted the timber interests and no one lese. We ought to know the financial advantage to the industry of the decision not to restrict clear-cutting."

The demise of the Nixon clear-cutting order is only one of the number of recent developments spotlighting the need for full congressional review of national timber management practices. Experts at the Forest Service Forest and Range Management Station have prepared a report indicating that the amount of forest land suitable and available for timber production in western national forests may have been over-estimated by "as much as 22 percent." At the same time, tim-

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ber-harvesting on Bureau of Land Management areas in western Oregon is headed for a cumulative overcut of about 20 percent.

Obviously, if the amount of commercial timberland has been over-estimated and the allowable cut accelerates at the same time, Congress needs to take a hard look at Federal management practice.

TREATIES BETWEEN BONN AND POLAND AND SOVIET UNION

Mr. MANSFIELD. Mr. President, there is a segment of news, largely below the horizon, which I think is of transcendent importance to the future of Western Europe, and indirectly to this country.

There is a real danger that the West German Parliament will vote against ratification of the treaties negotiated last year between Bonn and the Governments of Poland and the Soviet Union. It is a chilling thought.

The nonaggression pacts involve, among other things, abandonment of West German claims to territories lost as a result of the Nazi defeat in World War II. The present borders with Poland and East Germany would be recognized as permanent.

In return, Bonn was given to understand that the Russians would cease their propaganda war against West Germany, cooperating in establishing greater freedom of movement to and from West Berlin, and otherwise help to normalize relations in the heart of Europe.

The Russians have indicated they will not sign the final protocol for the Berlin accord unless Bonn approves the Moscow and Warsaw Treaties. The United States and other Western Powers, for that part, indicate that if Moscow does not sign the Berlin protocol, they will not sit down for the European security conference the Russians have been so energetically seeking.

I ask unanimous consent that a very pertinent column by one of the country's best known and most trustworthy commentators, Mr. Marquis Childs, published in the Washington Post of today, Friday, March 24, and also an editorial from the Los Angeles Times under date of March 23, 1972, be printed in the RECORD.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

GERMANY TESTS ITS DEMOCRACY

Democracy is the worst possible form of government except all the others, Winston Churchill once said.

In Germany, where democracy is a new and rather tender plant, a test is just ahead so momentous that the importance of the consequences can hardly be exaggerated.

The treaties with the East, designed to ease tensions with Moscow and Warsaw, will be before the Parliament for ratification next month. Long and painstaking negotiation by Chancellor Willy Brandt and the able younger men around him was aimed at breaking the stalemate out of the Cold War. It was a recognition that the prewar past and the territories lost when the Nazi armies were defeated could never be restored.

Today there is a real threat that the treaties will be rejected as the slender majority of the coalition of Social-Democrats and Free Democrats is chipped away. Linked to ratification is the agreement between East and West Germany giving Berliners a status they have never had before. The whole structure put together with so much patient persistence could come crashing down.

One casualty in the general ruin might be the strategic arms limitation agreement on which the Nixon administration has put such a high stake. The present masters of the Kremlin, Leonid Brezhnev and Alexei Kosygin, are identified with the treaties and the thaw between East and West. It is a safe assumption that they have hard-line opponents who, if their policy should fail, would be ready to move in.

The reaction in the United States would be sharp. While the demand for cutting back the 250,000 American troops in Germany has subsided, with the hope of mutual agreed reduction by the two sides, it would be given a new force with proof that the Germans were bent on keeping alive the old hatreds and the old drive to restore the past.

Americans simply will not underwrite a new Cold War to gratify German ambitions. It is little more than 25 years since the smoke stopped rising from the gas ovens at Auschwitz and Belsen. The memory of that prolonged horror has not been wiped out.

This is something the Christian Democrats, bent on bringing down the Brandt government in a good old lustful power struggle, apparently fail to realize. Cutting back American troop strength as one way to relieve the pressure on the dollar would look very attractive.

The process of ratification is complicated. In the first instance the lower house, the Bundestag, can ratify with a simple majority. But then if the upper house, the Bundesrat, voted in the negative, the treaties must receive in the Bundestag an outright majority of 249.

That would mean for the Brandt government squeaking by with a one-vote margin. As the chipping process continues and something like panic seizes the Free Democrat partners in the coalition, this is teetering on the abyss.

Brandt's position is complicated by the rise in inflation and the threat of unemployment. Voters complain that many of the promises he made in the election campaign in 1969 for internal reforms have not been carried out. This has been due to circumstances largely beyond the chancellor's control.

Should the treaties be rejected, Brandt would dissolve the Parliament on a vote of no confidence and elections would be held in 60 days. The Social-Democrats might get a majority, according to present indicators. The damage, however, would have been done, with all those hopeful of restoring the past happy to see the door slammed.

For the whole world the signal would be loud and clear. The Germans were on the march again, as so often before with such terrible consequences for humanity.

UNITED STATES HAS STAKE IN BONN'S EASTERN PACTS

There is a real danger that the West German parliament will vote against ratification of the treaties negotiated last year between Bonn and the governments of Poland and the Soviet Union. It is a chilling thought.

The "nonaggression" pacts involve, among other things, abandonment of West German claims to territories lost as a result of the Nazi defeat in World War II. The present borders with Poland and East Germany would be recognized as permanent.

In return, Bonn was given to understand that the Russians would cease their propaganda war against West Germany, cooperate in establishing greater freedom of movement to and from West Berlin, and otherwise help to normalize relations in the heart of Europe.

Despite a certain vagueness in the Soviet commitments, a majority of Germans seemed to approve of the treaties at the time they were negotiated. Bonn's Western allies, too, generally applauded them—and still do—as a promising step toward detente.

The opposition Christian Democratic Party, however, has mounted a surprisingly effective drive to defeat the treaties. Already the pacts have been initially voted down by the Bundesrat. And there is a strong possibility that Chancellor Willy Brandt's government will lose in the Bundestag, the other house in the West German parliament, when the treaties come up for a vote in early May.

The consequences of such development might be unfortunate, indeed—not just for West Germany but for the whole mosaic of East-West relationships, including President Nixon's visit to Moscow in late May.

The Russians have indicated they won't sign the final protocol for the Berlin accord unless Bonn approves the Moscow and Warsaw treaties. The United States and other Western powers, for their part, indicate that if Moscow doesn't sign the Berlin protocol, they will not sit down for the European security conference the Russians have been so energetically seeking.

Soviet diplomats, alarmed by the possibility that the treaties won't be approved, have warned darkly that there won't be a second chance, that if the pacts are voted down the West Germans may as well get set for a renewal of the cold war.

This may be empty bluff, of course. But on the other hand it may not.

It should not be overlooked that the current Kremlin leadership has staked a great deal of prestige on the negotiations with Bonn. If the treaties are rejected, a leadership crisis might be precipitated. And that, in turn, would introduce a disturbing new element of uncertainty in the whole range of relations between Washington and Moscow—including the vitally important area of arms control.

The opposition Christian Democrats are not alone, of course, in questioning the sincerity of the Russian interest in European detente. They should ask themselves, though, if they really want to take responsibility—before history as well as the German voters—of voting down the Eastern treaties before Soviet motives can be decently tested at the conference table.

PREPARATION BY THE SECRETARY OF THE SENATE TO MEET OBLIGATIONS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

Mr. MANSFIELD. Mr. President, if I may have 1 additional minute so I may make an announcement in behalf of the distinguished minority leader and myself, I am happy to be able to report that the Office of the Secretary of the Senate is today completing preparation to meet obligations which the Congress has assigned to the Secretary under the Federal Election Campaign Act of 1971.

This act, which I introduced in its original form along with Senators CANNON, PASTORE, and PELL, and which passed the Senate by a vote of 88 to 2 last August 5, places comprehensive reporting and disclosure requirements and explicit limitations on media expenditures on all candidates for the Senate.

It is a complex act, covering a complex subject, and it has placed a heavy administrative burden on the Office of the Secretary of the Senate, who is one of the three supervisory officers along with the Clerk of the House and the Comptroller General. These three officers have engaged in a collaborative effort to keep the forms and regulations as similar as possible.

For its part, the Senate can be satisfied that every effort has been made by the Secretary's office to get this new law off on the right foot and to make compliance with this act as straightforward and uncomplicated as possible. I urge all

Members and their staffs to familiarize themselves with the forms and regulations which have been prepared and to take all necessary steps to comply. With this in mind, I ask unanimous consent to have printed at this point in the RECORD, the text of the Manual of Law, Regulations, and Accounting Instructions of the Secretary of the Senate, along with sample forms for the registration of political committees and for disclosure of receipts and expenditures by candidates, committees, and other persons required to report.

I also ask unanimous consent that the statement of the Secretary of the Senate before the Appropriations Committee, which pertains largely to the plans for administering the new law be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MANUAL OF LAW, REGULATION AND ACCOUNTING INSTRUCTIONS RELATING TO DISCLOSURE OF CAMPAIGN FUNDS FOR CANDIDATES FOR THE U.S. SENATE AND FOR POLITICAL COMMITTEES SUPPORTING SUCH CANDIDATES

PART I—THE LAW

The following is the full text of title III of Public Law 92-225, the Federal Election Campaign Act of 1971, which requires disclosure of receipts and expenditures made for the purpose of influencing nominations or election of candidates for the United States Senate.

Title III—Disclosure of Federal campaign funds

Definitions

SEC. 301. When used in this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or, (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Organization of Political Committees

SEC. 302. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of $10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section in periods of time to be determined by the supervisory officer.

(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(f)(1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C., 20402".

(2)(A) The supervisory officer shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this title during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political committee required under section 303, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 304 from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the supervisory officer.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 303. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall file with the supervisory officer a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the supervisory officer at such time as he prescribes.

(b) The statement of organization shall include—

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(1) the name and address of the committee;
(2) the names, addresses, and relationships of affiliated or connected organizations;
(3) the area, scope, or jurisdiction of the committee;
(4) the name, address, and position of the custodian of books and accounts;
(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;
(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;
(7) a statement whether the committee is a continuing one;
(8) the disposition of residual funds which will be made in the event of dissolution;
(9) a listing of all banks, safety deposit boxes, or other repositories used;
(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and
(11) such other information as shall be required by the supervisory officer.
(c) Any change in information previously submitted in a statement of organization shall be reported to the supervisory officer within a ten-day period following the change.
(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the supervisory officer.

Reports by Political Committees and Candidates

SEC. 304. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the apropropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and in the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing, except that any contribution of $5,000 or more received after the last report is filed prior to the election shall be reported within forty-eight hours after its receipt.
(b) Each report under this section shall disclose—
(1) the amount of cash on hand at the beginning of the reporting period;
(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions;
(3) the total sum of individual contributions made to or for such committees or candidate during the reporting period and not reported under paragraph (2);
(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;
(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;
(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);
(8) the total sum of all receipts by or for such committee or candidate during the reporting period;
(9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;
(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditures for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;
(11) the total sum of expenditures made by such committee or candidate during the calendar year;
(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and
(13) such other information as shall be required by the supervisory officer.
(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

Reports by others than political committees

SEC. 305. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the supervisory officer a statement containing the information required by section 304. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

Formal requirements respecting reports and statements

SEC. 306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.
(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the supervisory officer in a published regulation.
(c) The supervisory officer may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 304 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.
(d) The supervisory officer shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amount reported as provided in such regulations shall not be considered until actual payment is made.

Reports on Convention Financing

SEC. 307. Each convention or other organization which—
(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or
(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,
shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Comptroller General of the United States a full and complete financial statement, in such form and detail as he may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

Duties of the Supervisory Officer

SEC. 308. (a) It shall be the duty of the supervisory officer—
(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with him under this title;
(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;
(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;
(4) to make the reports and statements filed with him available for public inspection and copying, commercing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;
(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;
(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;
(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the national, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the national, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;
(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;
(9) to prepare and publish such other reports as he may deem appropriate;
(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;
(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;
(12) to report apparent violations of law to the appropriate law enforcement authorities; and
(13) to prescribe suitable rules and regulations to carry out the provisions of this title.
(b) The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.
(c) It shall be the duty of the Comptroller General to serve as a national clearinghouse for information in respect to the administration of elections. In carrying out his duties under this subsection, the Comptroller General shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—
(1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;
(2) practices relating to the registration of voters; and
(3) voting and counting methods.
Studies made under this subsection shall be published by the Comptroller General and copies thereof shall be made available to the general public upon the payment of the cost thereof. Nothing in this subsection shall be construed to authorize the Comptroller General to require the inclusion of any comment or recommendation of the Comptroller General in any such study.
(d) (1) Any person who believes a violation of this title has occurred may file a complaint with the supervisory officer. If the supervisory officer determines there is substantial reason to believe such a violation has occurred, he shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the supervisory officer, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.
(2) In any action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.
(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.
(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.
(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

Statements filed with state officers

SEC. 309. (a) A copy of each statement required to be filed with a supervisory officer by this title shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—
(1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and
(2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.
(b) It shall be the duty of the Secretary of State, or the equivalent State officer, under subsection (a)—
(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with him;
(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;
(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and
(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

Prohibition of Contributions in Name of Another

SEC. 310. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

Penalty for Violations

SEC. 311. (a) Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.
(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

PART II—REGULATIONS AND INSTRUCTIONS

The following regulations and instructions are issued by the Secretary of the Senate under authority of section 308 of the Federal Election Campaign Act, and supplement the provisions of the act.

A. Prescribed forms

All statements and reports required to be filed to disclose receipts and expenditures made for the purpose of influencing nominations or elections to the U.S. Senate shall be filed on forms prescribed by the Secretary of the Senate. If statements or reports are required to be filed in connection with election to other Federal offices, they shall be filed with each appropriate supervisory officer on the forms prescribed by that supervisory officer. Such statements and reports and any changes or corrections thereto shall be typewritten or printed legibly in ink. Use only black, blue or blue-black ribbon or ink.

Registration and Statement of Organization (Committees Only)

Each political committee which anticipates receiving contributions or making expenditures during a calendar year in an aggregate amount exceeding $1,000, any portion of which will be expended for the purposes of influencing the nomination or election of any candidate or candidates for the U.S. Senate, shall file a statement of organization with the Secretary of the Senate within 10 days after the effective date of the Act, or within 10 days after the organization of the committee, or within 10 days after the committee has information which causes it to anticipate receiving such contributions or making such expenditures exceeding $1,000. No political committee which is included within the scope of the act shall be exempted from filing a statement of organization with the Secretary of the Senate by reason of being required to file also with another supervisory officer.

Reports of Receipt and Expenditures (Candidates, Committees, and Other Persons)

Reports of receipts and expenditures required by the act shall be filed with the Secretary of the Senate by all candidates for the U.S. Senate and by those political committees which are required to file a statement of organization with the Secretary and have not been granted a waiver of such reporting requirement.
Persons who make contributions or expenditures in support of a candidate for the U.S. Senate, *other than* by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year, shall report such contributions in the same manner as do committees, as provided by section 305 of the act. Persons complying with this regulation may use the prescribed reporting forms which have been issued for committees, substituting the person's name wherever the identification of a committee is required by the form. Reports filed by such persons need not be cumulative. They shall be due on the same dates as are reports from candidates and committees except that persons complying with section 305 of the act need file reports only for those reporting periods within which such direct contributions or expenditures have been made.

B. Definitions

(See section 301 of the act for definitions of "election," "candidate," "Federal office," "political committee," "contribution," "expenditures," "supervisory officer," "person" and "State." See also section 102 of the act for additional definitions under title I.)
"Affiliated or Connected Organization" includes but is not limited to (a) an organization which organized the reporting committee primarily for the purpose of influencing the nomination or election of candidates for Federal office; or (b) an organization whose primary purpose is to support the reporting committee; or (c) an organization whose membership is generally similar to that of the reporting committee.
"Calendar Year" for 1972, the first year during which the act will be effective, means

the period from April 7, 1972, to and including December 31, 1972. No report is required to show any expenditures or contribution which occurred before April 7, 1972, the effective date of the act, except that any expenditure for communications media (as defined in title I of the Federal Election Campaign Act) *used* on or after April 7, 1972, shall be charged against the candidate's expenditure limitation applicable to the election for which it is used, regardless of when the use is paid for or contracted for. For further information concerning communications media spending, refer to the Comptroller General's Regulations on title I of the act.

"File," "Filed," and "Filing" means delivery to the Office of the Secretary of the Senate, Washington, D.C., by midnight of the prescribed filing date, or deposit as certified air mail, in an established U.S. Post Office, postage prepaid, no later than midnight of the second day next preceding the filing date. Certified mail receipts shall be retained as evidence of filing. Documents deposited within 500 miles of Washington, D.C., need not be sent by air mail, but shall be certified. *In the event the mailing deadline falls on a day in which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date.* All reports may be deposited in preprinted return envelopes supplied by the Secretary of the Senate, bearing a declaration of contents and requesting priority handling. In the event a report is too large to be inserted in the preprinted envelope, it should be packaged separately but the whole face of the preprinted envelope may be used as a mailing label. (See separate requirement for filing under "Complaints of Violation.")

"Full Name" and "Name" mean the identification of the person usually given for business purposes.

"Mailing Address" and "Address" mean building number, street number and ZIP code.

"Occupation and Principal Place of Business, if any" means, if self-employed, type of work or profession and city where self-employed; or, if employed, type of work or title, name of employer or employing organization and city of employment.

"Periodic Reports" means those reports of receipts and expenditures which shall be filed on the 10th day of March, June, and September and no later than the 31st day of January.

"Preelection Reports" means those reports of receipts and expenditures which shall be filed on the 15th and fifth days next preceding an election.

C. Special instructions regarding statements and reports

Personal responsibility

Any person required to file a statement, report, or other document with the Secretary of the Senate under the act shall be personally responsible for the timely filing of a complete and accurate report, statement, or document.

Committee officers

Every political committee shall have a chairman and a treasurer, who shall be separate individuals. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

Special Reports After Closing of Last Preelection Report

Any contribution of $5,000 or more (including a transfer of funds from a candidate or committee) which is received after the prescribed closing date for books for the last report prior to an election shall be separately reported within 48 hours after its receipt. Such contribution shall be reported to the Secretary of the Senate by telegraph or by hand-delivered letter giving the date and amount of the contribution and the full name and mailing address (occupation and principal place of business, if any) of the contributor. *All such contributions shall also be declared in the next periodic or preelection report due under the Act.*

Waiver of Filings

If a periodic report is due on or within 10 days of the filing date for a preelection report, the filing of the preelection report shall fulfill both requirements and shall be so indicated on the report form.

Waiver of reporting requirements

Any political committee required to file reports with the Secretary of the Senate may be relieved of the duty to comply with such requirement if all of the following conditions are satisfied—

(1) the committee is a local, city, or county committee and does not conduct its activities throughout the State or in any other State; and

(2) the committee primarily supports persons seeking State or local office; and

(3) the committee does not make contributions or expenditures in support of a candidate for election to the U.S. Senate in an aggregate amount exceeding $1,000 in a calendar year.

Upon receipt of such statement of organization from a committee that meets all of the above three requirements, the Secretary of the Senate will grant a waiver and so advise the reporting committee. Such waiver shall continue only for such time as all of the three above conditions are satisfied.

Identification Number for Committees

Upon receipt of a statement of organization, the Secretary of the Senate shall acknowledge receipt thereof, assign an identification number to the registering committee, and notify the committee of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed with the Secretary under the act, as well as on all communications concerning such reports or statements.

Changes and Corrections

Any changes in information previously submitted in a statement of organization, and any corrections to a statement or report shall be reported to the Secretary within 10 days following the date of the event prompting such change or correction. The change or correction shall be reported by letter in the same manner as was the information previously submitted, shall identify the form and the paragraph or schedule containing the information to be changed or corrected, and shall be verified by oath or affirmation by the person required by law to submit such information at the time the change or correction is reported.

Notification of Suspension, Dissolution or Termination

Any committee which, after having filed one or more statements of organization with the Secretary of the Senate, disbands or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000, shall so notify the Secretary. Such notification shall include a termination report and a statement as to the disposition of residual funds if the committee is disbanding and shall be verified by oath or affirmation and filed in the same manner as the statement of organization. Candidate for the U.S. Senate shall continue to file reports of receipts and expenditures for as long as they (1) continue to be a candidate or (2) continue to receive contributions or make expenditures in connection with an election. When they cease to be a candidate or when they cease to receive contributions or make expenditures in connection with an election, they shall file a termination report that covers the period from the closing date of the last previous report filed through the date of termination.

D. Accounting instructions

Dates for Closing Books

Reports of receipts and expenditures due on the 15th day next preceeding an election shall be complete as of midnight of the 22d day next preceding such election. Reports of receipts and expenditures due on the 10th day of the months of March, June and September and by the 31st day of January shall be complete as of midnight of the last day of the preceding month. All such reports shall be cumulative and shall cover the period from the closing date of the last previous report filed.

Canceled Check as Receipt

A canceled check showing payment of a bill, together with the bill or invoice stating the purpose of the expenditure, shall be deemed to be a receipted bill.

Cash on Hand

Cash includes but is not limited to money, balances on deposit in banks and savings and loan institutions, checks, negotiable money orders and other paper commonly accepted by a bank in a deposit of cash, and cash funds in other repositories.

Contributed Services

Services which a person is paid to perform or which are performed in lieu of regular duties for such person's employer, are deemed not to be voluntary services and should be reported and identified as a contribution in kind.

Disclosure of Receipt and Consumption of Contributions in Kind

Each contribution in kind shall be declared at fair market value and reported on the appropriate schedule of receipts, identified as to its nature and listed as "contribution in kind." The total amount of goods and services contributed in kind shall be deemed to have been consumed in the reporting period in which received. Each such contribution shall be declared as an expenditure at the fair market value and reported on the appropriate expenditure schedule, identified as "contribution in kind." (For exceptions concerning broadcast time donated to a candidate, see the Guidelines of the Federal Communications Commission pertaining to title I of the Federal Election Campaign Act of 1971.)

Uniform Identity of Contributors

In determining the aggregate of a person's contributions, the treasurer or candidate shall list contributions from the same donor under the same name. In each instance when a contribution received from a person in a reporting period is added to previously reported unitemized contribution from the same contributor and the aggregate exceeds $100 within the calendar year, the name, address, occupation, principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms. In addition, any subsequent contribution(s) received from a contributor who has previously been reported within the calendar year shall be listed on the prescribed reporting forms using the same name as previously reported.

Allocation of expenditures between candidates

A political committee making an expenditure for or on behalf of more than one candidate for Federal, State or local office shall allocate the expenditures among such candidates on a reasonable basis and report this allocation for each Federal candidate on the prescribed form to each appropriate supervisory officer. The treasurer shall retain for audit any documents supporting the allocation.

Allocations of expenditures for the use of communications media shall comply with the provisions of the Comptroller General's Regulations on title I of the act.

Manner of reporting debts and contracts, agreements and promises to make contributions or expenditures

Every contribution and expenditure in the nature of a debt incurred, or a contract, agreement, or promise to make contributions or expenditures entered into after April 7, 1972, which is in writing and exceeds the amount of $100, shall be reported in separate schedules on the reporting forms prescribed by the Secretary of the Senate until such debts, contracts, agreements, or promises are paid, liquidated, canceled, forgiven or otherwise extinguished. Such debts, contracts, agreements, and promises shall not be considered as part of the totals of receipts or expenditures until actual payment is made.

Records of proceeds of events

The treasurer of each political committee and each candidate shall keep full and complete records of proceeds from the *sale of tickets and mass collections* at each dinner, luncheon, rally, and other fund-raising event, and such records shall include the date, amount of proceeds, location, nature of each event and an itemized list of individuals who purchased tickets within the calendar year in an aggregate amount in excess of $100. They shall also keep full and complete records of the proceeds from the *sale of items* such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials.

Retained copies and records

Each treasurer of a political committee, candidate, or other person filing a report or statement with the Secretary of the Senate under the Act shall preserve a copy thereof for a period of not less than 6 years from the date of filing.

Each such person required to file any report or statement with the Secretary shall maintain records on the matters required to be reported, including vouchers, cancelled checks, bills, invoices, worksheets, and receipts, which will provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified and checked for accuracy and completeness, and he shall keep such records available for audit, inspection, or examination by the Secretary, or his authorized representatives, for a period of not less than 6 years from the date of filing of the reports or statements or of changes or corrections thereto.

Audits

Audits and field investigations may be made as directed by the Secretary of the Senate. All candidates, political committees and other persons required to file reports under these regulations shall keep adequate books and records. Such books and records shall be maintained on a current basis and shall be made available for inspection and audit by the Secretary of the Senate or his authorized representatives.

E. Public inspection and copying of reports

Reports and statements filed with the Secretary of the Senate under the act will be made available for inspection and copying in Room ST–2 of the U.S. Capitol by any person, commencing as soon as practicable after receipt but, in any case, not later than the end of the second day following the day of receipt.

A list of general rules with respect to the inspection and copying of documents, and a schedule of charges for copies as authorized by the act shall be posted in the Office of the Secretary of the Senate.

Any information copied or obtained from reports and statements shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. For purposes of this regulation, "any commercial purpose" means any sale, trade, or barter of any list of names or addresses taken from such reports and statements and any use of any such lists for any surveys or sales promotion activity. For purposes of this regulation, "soliciting contributions" means requesting gifts or donations of money, or anything of value for any cause or organization—political, social, charitable, religious, or otherwise. Violations of this subsection are subject to the criminal penalties provided in section 311 of the act.

F. Complaints of violations

Any person who believes a violation of title III of the act of these regulations has occurred which is within the jurisdiction of the Secretary of the Senate, may file a written complaint in person or by registered or certified mail with the Secretary. When a complaint is received, it shall be stamped to show the date and time of receipt, and acknowledged by registered or certified mail.

There is no prescribed form for a complaint, but all complaints shall be typewritten or handwritten legibly in ink. The name and address of the persons making the complaint shall be typewritten or hand printed on the complaint, and it shall be signed by such person and verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. A complaint shall name the alleged violator, describe in detail the alleged violation and shall be submitted together with any evidentiary material. Complaints will not be available for public inspection or copying.

No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify any violator, is unsigned or is not notarized.

PART III—OTHER TITLES

A. Title I—Campaign communications

The Law

Short title

SEC. 101. This title may be cited as the "Campaign Communications Reform Act".

Definitions

means broadcasting stations, newspapers,

SEC. 102. For purposes of this title:

(1) The term "communications media" magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment, used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(2) The term "broadcasting station" has "the same meaning as such term has under section 315(f) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representatives, or Resident Commissioner or Delegate to, the Congress of the United States (and for other purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(5) The term "voting age population" means resident population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

Media rate and related requirements

SEC. 103. (a) (1) Section 315(b) of the Communications Act of 1934 is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

"(2) at any time, the charges made for comparable use of such station by other users thereof."

(2)(A) Section 312(a) of such Act is amended by striking "or" at the end of clause (5), striking the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or", and adding at the end of such section 312(a) the following new paragraph:

"(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.".

(B) The second sentence of section 315(a) of such Act is amended by inserting "under this subsection" after "No obligation is imposed".

(b) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

Limitations of expenditures for use of communications media

SEC. 104. (a) (1) Subject to paragraph (4), no legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents multiplied by the voting population (as certified under paragraph (5)) of the geographical area in which the election for such office is held, or

(ii) $50,000, or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) for the use of communications media, or

(B) for the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3(A) No person who is a candidate for presidential nomination may spend—

(i) for the use in a State of communications media, or

(ii) for the use in a State broadcast stations,

on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively,

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had he been a candidate for election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph (3), a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communications Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Comptroller General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of a communications medium shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications medium.

(4) (A) For purposes of subparagraph (B):

(i) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(ii) The term "base period" means the calendar year 1970.

(B) At the beginning of each calendar year (commencing in 1972), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under paragraph (1)(A)(i) and (ii) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(5) Within 60 days after the date of enactment of this Act, and during the first week of January in 1973 and every subsequent year, the Secretary of Commerce shall certify to the Comptroller General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(6) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934—

(A) spending and charges for the use of communications media include not only the direct charges of the media but also agents' commissions allowed the agent by the media, and

(B) any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies in writing to the person making such charge that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (g) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) If a State by law and expressly—

"(1) has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,

"(2) has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,

"(3) has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and

(4) has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 104(a)(1)(B) or 104(a)(2)(B) (whichever is applicable) of the Campaign Communications Reform Act had such election been an election for a Federal elective office or nomination thereto;

then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

"(e) Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed $5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of either such subsection.

"(f)(1) For the purposes of this section:

"(A) The term 'broadcasting station' includes a community antenna television system.

"(B) The terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, means the operator of such system.

"(C) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

"(2) for purposes of subsections (c) and (d), the term 'legally qualified candidate' means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors."

Regulations

SEC. 105. The Comptroller General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103(b), 104(a), and 104(b) of this Act.

Penalties

SEC. 106. Whoever willfully and knowingly violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be punished by a fine of not more than $5,000 or by imprisonment of not more than five years, or both.

(See also regulations of the Comptroller General and Guidelines of the Federal Communications Commission pertaining to this title.)

B. Title II—Criminal Code Amendments

The Law

SEC. 201. Section 5991 of title 18, United States Code, is amended to read as follows:

§ 591. Definitions

"When used in sections 597, 599, 600, 602, 608, 610, and 611 of this title—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any individual, committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) 'contribution' means—

"(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds between political committees;

"(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

"(5) notwithstanding the foregoing meanings of 'contribution', the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;

"(g) 'person' and 'whoever' mean an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

"(h) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 202. Section 600 of title 18, United States Code, is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year, or both.".

SEC. 203. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contributions and expenditures

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

"(A) $50,000, in the case of a candidate for the office of President or Vice President;

"(B) $35,000, in the case of a candidate for the office of Senator; or

"(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(b) No candidate or political committee shall knowingly accept any contribution or authorized any expenditure in violation of the provisions of this section.

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both.".

SEC. 204. Section 609 of title 18, United States Code, is repealed.

SEC. 205. Section 610 of title 18, United States Code, relating to contributions or expenditures by national banks, corporations, or labor organizations, is amended by adding at the end thereof the following paragraph:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign, committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transactions.".

SEC. 206. Section 611 of title 18, United States Code, is amended to read as follows:

"§ 611. Contributions by Government Contractors

"Whoever—

"(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $5,000 or imprisoned not more than five years, or both.".

SEC. 207. The table of sections for chapter 29 of title 18, United States Code, is amended by—

(1) striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures.";

(2) striking out the item relating to section 609 and inserting in lieu thereof the following:

"609. Repealed.";

(3) striking out the item relating to section 611 and inserting in lieu thereof the following:

"611 Contributions by Government contractors.".

C. Title IV—General provisions

The Law

Extension of credit by regulated industries

SEC. 401. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 301(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

Prohibition against use of certain Federal funds for election activities

SEC. 402. No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971, and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

Effect on State Law

SEC. 403. (a) Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this Act.

(b) Notwithstanding subsection (a), no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure (as such term is defined in section 301(f) of this Act) which he could lawfully make under this Act.

Partial Invalidity

SEC. 404. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Repealing Clause

SEC. 405. The Federal Corrupt Practices Act, 1925 (2 U.S.C. 241–256), is repealed.

Effective Date

SEC. 406. Except as provided for in section 401 of this Act, the provisions of this Act shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act, whichever is later.

Approved February 7, 1972.

Legislative history: House Reports: No. 92–564 accompanying H.R. 11060 (Committee on House Administration) and No. 92–752 (Committee of Conference).

Senate Reports: No. 92–96 (Committee on Commerce), No. 92–229 (Committee on Rules and Administration) and No. 92–580 (Committee of Conference).

Congressional Records: Vol. 117 (1971):

July 21, 23, Aug. 2–5, considered and passed Senate.

XUM

Nov. 18, 29, 30, considered and passed House, amended, in lieu of H.R. 11060.
Dec. 14, Senate agreed to conference report.
Vol. 118 (1972):
Jan. 19, House agreed to conference report.
Weekly compilation of Presidential documents, Vol. 8, No. 7:
Feb. 7, Presidential statement.

Mr. MANSFIELD. Mr. President, in connection with the Federal Election Campaign Act of 1971, which goes into effect on April 7, I ask unanimous consent to have printed in the RECORD at this point for the information of the Senate various forms which have been developed by the Secretary of the Senate for use in reporting receipts and expenditures of candidates and political committees and in registering political committees.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE

Office of the Secretary of the Senate
Washington, D.C. 20510

REGISTRATION FORM AND STATEMENT OF ORGANIZATION FOR POLITICAL COMMITTEES

SUPPORTING CANDIDATES FOR U.S. SENATE AND ANTICIPATING CONTRIBUTIONS OR EXPENDITURES IN EXCESS OF $1,000 IN ANY CALENDAR YEAR

REQUIREMENTS FOR REGISTRATION OF POLITICAL COMMITTEES
(In accordance with the provisions of the Federal Elections Campaign Act of 1971)

A. This registration form will be filed with the Secretary of the Senate by the Treasurer of each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000, any portion of which is for the purpose of influencing the nomination or election of candidates for the U.S. Senate. It will be filed within 10 days after organization of the committee, or 10 days after the date on which the committee has information which causes it to anticipate contributions or expenditures in excess of $1,000, any portion of which is for the purpose of influencing the nomination or election of candidates for the U.S. Senate. Each such committee in existence on April 7, 1972, shall file a statement of organization with the Secretary of the Senate on or before April 17, 1972.

B. If the committee also supports candidates for the U.S. House of Representatives or for President of the United States, similar statements must be filed with the Clerk of the House of Representatives or the Comptroller General of the United States, respectively. A copy of each such statement of organization must also be filed with the Secretary of State of the appropriate State(s).

C. A copy of this registration and statement of organization shall be preserved by the treasurer of the political committee for a period of 6 years.

D. Any change or correction of information previously submitted in a statement of organization shall be reported to the Secretary of the Senate within 10 days following the change or correction. Amendment to a statement shall contain the date, identity of the committee, and the changed or corrected information, appropriately identified. Such amendment shall be verified by oath or affirmation.

E. Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the Secretary of the Senate. Such notification shall be verified by oath or affirmation and shall include a statement as to the disposition of residual funds if the committee is disbanded.

(See Manual of the Secretary of the Senate for Detailed Regulations and Instructions)

1. Full name of committee: .....
   Address: .....
   .....
   Date of this registration: ..... Identification Number Assigned by Secretary

2. Affiliated or connected organizations: (See Definition on page 4)

Name of affiliated or connected organization	Mailing address and ZIP code	Relationship
*		

3. Area, Scope and Jurisdiction of the Committee:
   (a) Will this committee operate in more than one State? _____
   (b) Will it operate on a statewide basis in one State? _____
   (c) Will it primarily support candidates at the State and local level? _____
   (d) Will it support a candidate for the U.S. Senate in an aggregate amount in excess of $1,000 during the calendar year? _____

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above if the information is continued on a separate sheet.

Name of Committee _____

4. (a) If committee is supporting individual candidates for the U.S. Senate, list each candidate by name, address, and party affiliation:

Full names of candidates	Mailing address and ZIP code	State	Party
*			

(b) List by name, address, office sought, and party affiliation, any candidate for other Federal office that this committee is supporting:

Full names of candidates	Mailing address and ZIP code	Office sought	Party
*			

(c) List by name, address, office sought, and party affiliation, any candidate for any other public office that this committee is supporting:

Full names of candidates	Mailing address and ZIP code	Office sought	Party
*			

5. If this committee is supporting the entire ticket of a party, give name of party: _____

6. Identify by name, address and position, the committee's custodian of books and accounts:

Full name	Mailing address and ZIP code	Committee title or position
*		

7. List by name, address and position, other principal officers of the committee, including officers and members of the finance committee, if any:

Full name	Mailing address and ZIP code	Committee title or position
*		

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above if the information is continued on a separate sheet.

8. Does this committee plan to stay in existence beyond the current calendar year?..... If so, how long? .....

9. In the event of dissolution, what disposition will be made of residual funds? .....

.....

10. List all banks or other repositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of bank, repository, etc.	Mailing address and ZIP code

11. List all reports required to be filed by this committee with States and local jurisdictions, together with the names, addresses, and positions of the recipients of the reports.

Report title	Dates required to be filed	Name and position of recipient	Mailing address and ZIP code

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above if the information is continued on a separate sheet.

State of _____

County of _____ ss.

I, _____, being duly sworn, depose (affirm) and say that the
(Full Name of Treasurer of Political Committee)
information in this Registration Form and Statement of Organization is complete, true, and correct.

_____
(Signature of Treasurer of Political Committee)

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D. 19____.

_____
(Notary Public)

[SEAL] My commission expires _____, 19____

RETURN COMPLETED REPORT AND ATTACHMENTS TO:
Hon. Francis R. Valeo, Secretary of the Senate, U.S. Capitol, Washington, D.C. 20510

UNITED STATES SENATE

Office of the Secretary of the Senate

RECEIPTS AND EXPENDITURES REPORT OF A CANDIDATE

FOR NOMINATION OR FOR ELECTION TO THE UNITED STATES SENATE

Name of Candidate .....
Address .....
.....

REPORT IDENTITY

(See Paragraph A under "General Information" on the back of this page.)

(a) Periodic report due: (Check one) March 10 ____ June 10 ____ September 10 ____ January 31 ____

(b) 1st Preelection report due 15 days before the

(Check)		(Date)
_____	General Election on.....	_____
_____	Special Election on.....	_____
_____	Primary Election on.....	_____
_____	Runoff Election on.....	_____
_____	Caucus or Convention on....	_____

(c) 2d Preelection report due 5 days before the

(Check)		(Date)
_____	General Election on.....	_____
_____	Special Election on.....	_____
_____	Primary Election on.....	_____
_____	Runoff Election on.....	_____
_____	Caucus or Convention on....	_____

(d) This is also a: First report ____ Termination report ____
(Check only when applicable)

VERIFICATION BY OATH OR AFFIRMATION

State of _____
County of _____ ss.

I, _____, being duly sworn, depose (affirm) and say
(Full Name of Candidate)
that this Receipts and Expenditures Report is complete, true, and correct.

_____
(Signature of Candidate)

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D., 19____.

_____
(Notary Public)

My Commission Expires _____, 19____.

[SEAL]

RETURN COMPLETED REPORT AND ATTACHMENTS TO:
Hon. Francis R. Valeo, Secretary of the Senate, U.S. Capitol, Washington, D.C. 20510

SENATE ELECTION FORM 2

XUM

Name of Candidate _____

SUMMARY REPORT COVERING PERIOD FROM _____ THRU _____

		Column A—This period	Column B—Calendar year to date
SECTION A—RECEIPTS:			
Part 1. Individual contributions:			
a. Itemized (use schedule A*)		$	
b. Unitemized		$	
	Total individual contributions	$	$
Part 2. Sales and collections:			
Itemized (use schedule B*)		$	$
Part 3. Loans received:			
a. Itemized (use schedule A*)		$	
b. Unitemized		$	
	Total loans received	$	$
Part 4. Other receipts (refunds, rebates, interest, etc.):			
a. Itemized (use schedule A*)		$	
b. Unitemized		$	
	Total other receipts	$	$
Part 5. Transfers in:			
Itemize all (use schedule A*)		$	$
	TOTAL RECEIPTS	$	$
SECTION B—EXPENDITURES:			
Part 6. Communications media expenditures:			
Itemize all (use schedule C*)		$	$
Part 7. Expenditures for personal services, salaries, and reimbursed expenses:			
a. Itemized (use schedule D*)		$	
b. Unitemized		$	
	Total expenditures for personal services, salaries, and reimbursed expenses	$	$
Part 8. Loans made:			
a. Itemized (use schedule D*)		$	
b. Unitemized		$	
	Total loans made	$	$
Part 9. Other expenditures:			
a. Itemized (use schedule C*)		$	
b. Unitemized		$	
	Total other expenditures	$	$
Part 10. Transfers out:			
Itemize all (use schedule D*)		$	$
	TOTAL EXPENDITURES	$	$
SECTION C—CASH BALANCES:			
Cash on hand at beginning of reporting period		$	
Add total receipts (section A above)		$	
Subtotal		$	
Subtract total expenditures (section B above)		$	
Cash on hand at close of reporting period		$	

*Schedules are to be used only when itemization is required. (See each Schedule for instructions.) When itemization is unnecessary for a given Part, the total of any amounts for that Part is to be entered as a lump sum on the "*Unitemized*" line of the appropriate Part of the Summary Report. The word "None" should be entered on any line of the Summary Report when no amount is being reported.

GENERAL INFORMATION

(In accordance with the provisions of the Federal Election Campaign Act of 1971, P.L. 92–225)

SEE MANUAL OF THE SECRETARY OF THE SENATE FOR DETAILED REGULATIONS AND INSTRUCTIONS

A. Each candidate for election to the U.S. Senate shall file with the Secretary of the Senate periodic reports of receipts and expenditures on the tenth day of March, June and September and by the thirty-first day of January in each year, and shall file preelection reports on the fifteenth and fifth days next preceding the date on which an election is held. All of the periodic reports shall be complete as of the close of the next preceding month and the preelection reports shall be complete as of midnight of the seventh day next preceding the filing date. Any contribution of $5,000 or more (including a transfer of funds from a candidate or committee) which is received after the closing date prescribed for books for the last report prior to an election shall be separately reported within 48 hours after its receipt. Such contribution shall be reported to the Secretary by telegraph or hand delivered letter and shall be declared in the next report due under the Act. (Sec. 304.)

B. The Reports of Receipts and Expenditures shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions for expenditures have been accepted or expended during a calendar year, the candidate shall file a statement to that effect. (Sec. 304.)

C. A copy of the Report of Receipts and Expenditures shall be preserved by the candidate filing under the Act for a period of six (6) years.

D. Any correction of information previously submitted in a Report of Receipts and Expenditures shall be reported to the Secretary of the Senate within ten (10) days following discovery of the error. Such amendment to the Report of Receipts and Expenditures shall contain the date, identity of the candidate, and the corrections appropriately identified, and shall be verified by the oath or affirmation of the person filing such information, taken before any officer authorized to administer oaths.

XUM

UNITED STATES SENATE

Office of the Secretary of the Senate

RECEIPTS AND EXPENDITURES REPORT OF COMMITTEES

SUPPORTING CANDIDATE(S) FOR NOMINATION OR FOR ELECTION AS UNITED STATES SENATOR

Name of Committee .....
Address .....

Identification Number

REPORT IDENTITY

(See Paragraph A under "General Information" on the back of this page.)

(a) Periodic report due: (Check one) March 10 ____ June 10 ____ September 10 ____ January 31 ____

(b) 1st Preelection report due 15 days before the

(Check)		(Date)
_____	General Election on	_____
_____	Special Election on	_____
_____	Primary Election on	_____
_____	Runoff Election on	_____
_____	Caucus or Convention on	_____

(c) 2d Preelection report due 5 days before the

(Check)		(Date)
_____	General Election on	_____
_____	Special Election on	_____
_____	Primary Election on	_____
_____	Runoff Election on	_____
_____	Caucus or Convention on	_____

(d) This is also a: First report ____ Termination report ____ (Check only when applicable)

VERIFICATION BY OATH OR AFFIRMATION

State of _____
County of _____ ss.

I, _____ (Full Name of Treasurer of Committee), being duly sworn, depose (affirm) and say that this Receipts and Expenditures Report is complete, true, and correct.

_____ (Signature of Treasurer of Committee)

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D., 19____.

_____ (Notary Public)

My Commission Expires _____, 19____.

[SEAL]

RETURN COMPLETED REPORT AND ATTACHMENTS TO:
Hon. Francis R. Valeo, Secretary of the Senate, U.S. Capitol, Washington, D.C. 20510

SENATE ELECTION FORM 3

Name of Committee _____

SUMMARY REPORT COVERING PERIOD FROM _____ THRU _____

		Column A—This period	Column B—Calendar year to date
SECTION A—RECEIPTS:			
Part 1.	Individual contributions:		
	a. Itemized (use schedule A*)	$	
	b. Unitemized	$	
	Total individual contributions	$_____	$_____
Part 2.	Sales and collections:		
	Itemized (use schedule B*)	$_____	$_____
Part 3.	Loans received:		
	a. Itemized (use schedule A*)	$	
	b. Unitemized	$	
	Total loans received	$_____	$_____
Part 4.	Other receipts (refunds, rebates, interest, etc.):		
	a. Itemized (use schedule A*)	$	
	b. Unitemized	$	
	Total other receipts	$_____	$_____
Part 5.	Transfers in:		
	Itemize all (use schedule A*)	$_____	$_____
	TOTAL RECEIPTS	$_____	$_____
SECTION B—EXPENDITURES:			
Part 6.	Communications media expenditures:		
	Itemize all (use schedule C*)	$_____	$_____
Part 7.	Expenditures for personal services, salaries, and reimbursed expenses:		
	a. Itemized (use schedule D*)	$	
	b. Unitemized	$	
	Total expenditures for personal services, salaries, and reimbursed expenses	$_____	$_____
Part 8.	Loans made:		
	a. Itemized (use schedule D*)	$	
	b. Unitemized	$	
	Total loans made	$_____	$_____
Part 9.	Other expenditures:		
	a. Itemized (use schedule C*)	$	
	b. Unitemized	$	
	Total other expenditures	$_____	$_____
Part 10.	Transfers out:		
	Itemize all (use schedule D*)	$_____	$_____
	TOTAL EXPENDITURES	$_____	$_____
SECTION C—CASH BALANCES:			
	Cash on hand at beginning of reporting period	$_____	
	Add total receipts (section A above)	$	
	Subtotal	$	
	Subtract total expenditures (section B above)	$	
	Cash on hand at close of reporting period	$_____	
SECTION D—DEBTS AND OBLIGATIONS:			
Part 11.	Debts and obligations owed *to* the committee (use schedule E*)	$_____	
Part 12.	Debts and obligations owed *by* the committee (use schedule E*)	$_____	

*Schedules are to be used only when itemization is required. (See each Schedule for instructions.) When itemization is unnecessary for a given Part, the total of any amounts for that Part is to be entered as a lump sum on the "*Unitemized*" line of the appropriate Part of the Summary Report. The word "None" should be entered on any line of the Summary Report when no amount is being reported.

GENERAL INFORMATION

(In accordance with the provisions of the Federal Elections Campaign Act of 1971, P.L. 92-225)

SEE MANUAL OF THE SECRETARY OF THE SENATE FOR DETAILED REGULATIONS AND INSTRUCTIONS

A. Each treasurer of a political committee supporting a candidate or candidates for election to the U.S. Senate shall file with the Secretary of the Senate periodic reports of receipts and expenditures on the tenth day of March, June and September and by the thirty-first day of January in each year, and shall file preelection reports on the fifteenth and fifth days next preceding the date on which the election is held. All of the periodic reports shall be complete as of the close of the next preceding month and the preelection reports shall be complete as of midnight of the seventh day next preceding the filing date. Any contribution of $5,000 or more (including a transfer of funds from a candidate or committee) which is received after the closing date prescribed for books for the last report prior to an election shall be separately reported within 48 hours after its receipt. Such contribution shall be reported to the Secretary by telegraph or hand delivered letter and shall be declared in the next report due under the Act. (Sec. 304.)

B. The Reports of Receipts and Expenditures shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee shall file a statement to that effect. (Sec. 304.)

C. A copy of the Report of Receipts and Expenditures shall be preserved by the treasurer of the political committee or other person filing under section 305 of the Act for a period of six (6) years.

D. Any correction of information previously submitted in a Report of Receipts and Expenditures shall be reported to the Secretary of the Senate within ten (10) days following discovery of the error. Such amendment to the Report of Receipts and Expenditures shall contain the date, identity of the committee, and the corrections appropriately identified, and shall be verified by the oath or affirmation of the person filing such information, taken before any officer authorized to administer oaths.

E. Every person who makes contributions or expenditures in support of a candidate for the U.S. Senate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Secretary of the Senate a report containing the information required by section 304 of the Federal Elections Campaign Act of 1971. This form may be used for such purpose. Reports required by this section shall be made only for those periods in which such expenditures have been made. They shall be filed on the dates on which reports by political committees are filed, but need not be cumulative. (Sec. 305.)

SCHEDULE A

ITEMIZED RECEIPTS—CONTRIBUTIONS, TICKET PURCHASES, LOANS, AND TRANSFERS

_____ Part No. _____
(Full Name of Candidate or Committee) (Use for itemizing Part 1, 2, 3, 4, or 5)

SEE REVERSE SIDE FOR INSTRUCTIONS
(Use separate page(s) for each numbered Part)

Date (month, day, year)	Full Name, Mailing Address, and ZIP Code (occupation and principal place of business, if any)	Aggregate Year-to-date (complete if applicable)	Amount of Receipt This Period
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	
		Aggregate Year-to-date $	

TOTAL THIS PERIOD _____
(Last page of this Part only)

Page ____

INSTRUCTIONS FOR PREPARING SCHEDULE A

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Receipts for Part 1, 3, 4, or 5 and in conjunction with Schedule B for Part 2. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to ITEMIZE ONLY THE RECEIPTS AS SPECIFIED BELOW FOR EACH PART. The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other receipts NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 1(a). ITEMIZED CONTRIBUTIONS.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for the reporting committee or candidate during the reporting period in an amount in excess of $100 or whose total contributions to date (aggregate) during the calendar year are in excess of $100. *Exclude from this part the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events which are reported in Part 2.* The actual amount of the contribution(s) received during this reporting period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's contribution(s) in this calendar year exceeds $100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent contribution(s) is received in the calendar year from the same contributor, each such subsequent contribution shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304(b) (2).]

Part 2. ITEMIZED TICKET PURCHASES FOR EVENTS SUCH AS DINNERS, LUNCHEONS, RALLIES AND SIMILAR FUNDRAISING EVENTS.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each person who has purchased one or more tickets for events such as dinners, luncheons, rallies and similar fundraising events during this reporting period in an amount in excess of $100 or whose total ticket purchases to date (aggregate) are in excess of $100. The actual amount of the ticket purchases during this period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's ticket purchase(s) in this calendar year exceeds $100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent ticket purchase(s) is received in the calendar year from the same contributor, each such subsequent ticket purchase shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304(b) (2).]

This is an itemization only to support Schedule B. The "Total This Period" amount should not be carried forward to Schedule B or the Summary Report. Attach Part No. 2 of this Schedule to Schedule B.

Part 3(a). ITEMIZED LOANS RECEIVED.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each lender and endorser of a loan(s) which has been received this reporting period in excess of $100 or whose total loans to date (aggregate) are in excess of $100. The actual amount of the loan(s) received during this reporting period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's loan(s) in this calendar year exceeds $100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent loan(s) is received in the calendar year from the same contributor, each such subsequent loan shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304(b) (5).]

Part 4(a). ITEMIZED OTHER RECEIPTS.—This is an account of receipts in the form of a refund, return, rebate, interest, investment or other miscellaneous receipt **not otherwise reported in Part 1, 2, 3, or 5.** Give the date, full name and mailing address (occupation and principal place of business, if any) of each person from whom one or more such receipts have been received in this reporting period in an amount in excess of $100. The actual amount of the receipt(s) during this reporting period will be entered in the "Amount of Receipt This Period" column. Do not use the "Aggregate Year-to-Date" box. [Section 304(b) (7).]

Part 5. ITEMIZED TRANSFERS IN FROM POLITICAL COMMITTEES AND CANDIDATES.—This is an itemized account giving the date, full name and mailing address of each political committee or candidate from whom any transfer of funds has been received within this reporting period in any amount. The actual amount of the transfer(s) during this reporting period will be entered in the "Amount of Receipt This Period" column. Do not use the "Aggregate Year-to-Date" box. [Section 304(b) (4).]

SCHEDULE B

ITEMIZED RECEIPTS—SALES AND COLLECTIONS

_____ Use for Part No. 2 only

(Full Name of Candidate or Committee)

SEE REVERSE SIDE FOR INSTRUCTIONS

Total Sum of Proceeds during the reporting period from:

1. Sale of tickets (List by event below)* ..... $_____
2. Mass collections (List by event below) ..... $_____
3. Sale of Items ..... $_____

Total (Carry forward to Part 2 of Summary) $_____

List of Sales and Collections by Event

Date of Event (month, day, year)	Type of Event	Amount From Sale of Tickets This Period*	Amount From Mass Collections This Period

INSTRUCTIONS FOR PREPARING SCHEDULE B

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Sales and Collections. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

Part 2. FUNDS RECEIVED FROM SALES AND COLLECTIONS.—This is an account of proceeds during this reporting period from (1) the sale of tickets to each dinner, luncheon, rally, or other fund-raising event; and (2) mass collections made at each such event. The sale of items (3) such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials during the reporting period shall be reported in the total amount. Ticket sales and mass collections must be listed by each event, giving the date and type of event and the amount of proceeds collected. Ticket sales to any individual in an amount *in excess of $100* during this reporting period or in an aggregate amount within the calendar year must be itemized using a separate Schedule A form which must be attached to support this Schedule B. (See Schedule A for instructions.) [Section 304(b)(6).]

SCHEDULE C

ITEMIZED EXPENDITURE—COMMUNICATIONS AND NON-COMMUNICATIONS MEDIA

Part No. ____
(Use for itemizing Part 6 or 9)

(Full Name of Candidate or Committee)

SEE REVERSE SIDE FOR INSTRUCTIONS
(Use separate page(s) for each numbered Part)

DATE OF PAYMENT (month, day, year)	PAYEE (Recipient of Payment) Full Name, Mailing Address, (occupation and principal place of business, if any)	PURPOSE OF EXPENDITURE (For communications media expenditures, also specify date(s) of use)	CHECK (√) EXPENDITURE BY ELECTION: Primary	General	Special	Runoff	Caucus or Convention	AMOUNT OF EXPENDITURE THIS PERIOD	ALLOCATE EXPENDITURES BY CANDIDATE (To be completed only by Committees supporting more than one candidate): Full Name, Congressional District (if applicable), State, and Party	Amount of Expenditure This Period

TOTAL THIS PERIOD ____
(Last page of this Part only)

Page ____

INSTRUCTIONS FOR PREPARING SCHEDULE C

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Expenditures for Part 6 or 9. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to ITEMIZE ONLY THE EXPENDITURES AS SPECIFIED BELOW FOR EACH PART. The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other expenditures NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 6. COMMUNICATIONS MEDIA EXPENDITURES.—This is an account of expenditures in any amount during this reporting period in the communications media, which are defined as television, radio, CATV, newspaper or magazine advertising, outdoor advertising, or expenditures for the costs of telephones, paid telephonists, and automatic telephone equipment used to communicate with potential voters. Itemize as to amount and date of expenditure and other data as indicated in the column headings. Expenditures include not only the direct charges of the media but also agents' commissions which should be separately stated if so billed. Date or dates of use or period of intended use are also required. If an expenditure is for two or more purposes, specify the amount of expenditure allocable to each.

If an expenditure was made before April 7, 1972, for use of communications media after that date, the use and amount must be reported and charged against the candidate's limitation applicable to the election in which used. Report the date or dates of use as well as the amount paid, the payee and other required information on a separate Schedule C appropriately labeled. Do not include the amounts paid in the total expenditures amount for the reporting period.

Only multicandidate committees (*i.e.*, those supporting financially more than one candidate) need allocate each expenditure on behalf of a candidate or candidates in the appropriate space. *Committees supporting a single candidate need state only once that all expenditures are on behalf of that candidate.*

Part 6 includes telephone canvass expenditures which are chargeable to the statutory limitation as communications media expenses, namely, for the costs of telephones, paid telephonists, and automatic telephone equipment obtained for the specific purpose of communicating with potential voters. It does not include normal telephone costs of a candidate, his staff and his authorized committees for campaign purposes, which are reported separately with other expenditures under Part 9. Nor does it include costs incurred by an individual volunteer for use of a telephone by him. [Section 304(b)(9).]

Part 9. NON-COMMUNICATIONS MEDIA EXPENDITURES.—This is an account of all other expenditures over $100 made during this reporting period and not included in Parts 7, 8, or 10, itemized as to amount and date of expenditure and other data as indicated in the column headings. If an expenditure is for two or more purposes, specify the amount of expenditure allocable to each.

In Part 9, the only other expenditures that need be allocated in the appropriate space are those of multicandidate committees (*i.e.*, those supporting financially more than one candidate) which are transfers of funds to a candidate or candidates or are specifically identifiable expenditures to or on behalf of a candidate or candidates. *Committees supporting a single candidate need state so only once.*

The schedule includes normal telephone costs of a candidate, his staff and his authorized committees for general campaign purposes; it does not include telephone canvass expenditures which are chargeable to limitation as communications media expenses, as described in the above instructions to Part 6. [Section 304(b)(9).]

SCHEDULE D

ITEMIZED EXPENDITURES—PERSONAL SERVICES, LOANS, AND TRANSFERS

_____ Part No. ____
(Full Name of Candidate or Committee) (Use for itemizing Part 7, 8, or 10)

SEE REVERSE SIDE FOR INSTRUCTIONS
(Use separate page(s) for each numbered Part)

Date (month, day, year)	Full Name, Mailing Address, and ZIP Code (occupation and principal place of business, if any)	Amount of Expenditure This Period

INSTRUCTIONS FOR PREPARING SCHEDULE D

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Expenditures for Part 7, 8 or 10. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to ITEMIZE ONLY THE EXPENDITURES AS SPECIFIED BELOW FOR EACH PART. The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other expenditures NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 7. ITEMIZED EXPENDITURES FOR PERSONAL SERVICES, SALARIES, AND REIMBURSED EXPENSES.—This is an account of expenditures by the committee or candidate for personal services, salaries and reimbursed expenses over $100 during the reporting period. Give the date, full name and mailing address (occupation and the principal place of business, if any) of the recipient, and purpose of each such expenditure. List the amount of the expenditure in the "Amount of Expenditure This Period" column. [Section 304(b)(11).]

Part 8. ITEMIZED LOANS MADE.—This is an account of loans made by the committee or candidate during this reporting period in excess of $100. Give the date, full name and mailing address (occupation and principal place of business, if any) of each person or committee to whom a loan was made. List the amount of the loan in the "Amount of Expenditure This Period" column. [Section 304(b)(5).]

Part 10. ITEMIZED TRANSFERS OUT TO POLITICAL COMMITTEES AND CANDIDATES.—This is an itemized account giving the date, full name and mailing address of each political committee or candidate to whom any transfer of funds was made within this reporting period in any amount. List the amount of the transfer in the "Amount of Expenditure This Period" column. [Section 304(b)(4).]

SCHEDULE E

DEBTS AND OBLIGATIONS

_____ Part No. _____
(Full Name of Committee) (Use for itemizing Part 11 or 12)

SEE REVERSE SIDE FOR INSTRUCTIONS

(Use separate page(s) for each numbered Part)

Date Incurred (month, day, year)	Full Name, Mailing Address, and ZIP Code (occupation and principal place and business, if any)	Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period

INSTRUCTIONS FOR PREPARING SCHEDULE E

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Debts and Obligations Owed by or to the Committee for Part 11 or 12. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any $8\frac{1}{2}$ x 11" paper providing only the information required in the same format. Obligations as used in these instructions mean contracts, agreements, and promises.

Part 11. DEBTS AND OBLIGATIONS OWED *TO* THE COMMITTEE.—This is an itemized account of debts and obligations owed to the reporting committee at the close of the reporting period. Give the full name and mailing address (occupation and the principal place of business, if any) of each *debtor*, together with the amount, date, nature of each transaction, cumulative payment(s) received to date, and the outstanding balance at the close of the reporting period. These debts and obligations shall continue to be reported on each subsequent report until extinguished. [Section 304(b) (12).]

Part 12. DEBTS AND OBLIGATIONS OWED *BY* THE COMMITTEE.—This is an itemized account of debts and obligations owed by the reporting committee at the close of the reported period. Give the full name and mailing address (occupation and the principal place of business, if any) of each *creditor*, together with the amount, date, nature of each such transaction, cumulative payment(s) made to date, and the outstanding balance at the close of the reporting period. These debts and obligations shall continue to be reported on each subsequent report until extinguished. [Section 304(b) (12).]

[Extract from Senate Appropriations Committee hearings on legislative branch appropriations 1973—Secretary of the Senate]

STATEMENT OF FRANCIS R. VALEO, SECRETARY OF THE SENATE

ELIMINATION OF CASH PAYROLL DISBURSEMENTS AND PAYMENTS BY CHECKS

Senator HOLLINGS. You may proceed, Mr. Valeo.

Mr. VALEO. Mr. Chairman and Senator Cotton: I appreciate this opportunity to come before the subcommittee to discuss the operations of the Offices of the Secretary of the Senate.

Since we last met, the major changes that have taken place under the jurisdiction of the Secretary's office have been in the Disbursing Office operations. Through the dedicated perseverance of Mr. William Ridgely, cash payroll disbursements have been eliminated and all payments to all Senators and employees are now made by check.

This removes the substantial security problem which, as you know from my previous appearances, had become, in my judgment, a most serious threat to the Senate and its personnel in recent years.

AUTOMATING OF PERSONNEL AND DISBURSING RECORDS

I can also report to you that substantial progress is being made in automating the personnel and disbursing records of the Disbursing Office. These are steps toward modernization of procedures which will enable the Senate to meet the growing complexity of its fiscal operations.

I repeat that they could not have been brought to fruition without Mr. Ridgely's determined efforts, and the able technical guidance of the computer staff which was assigned to this problem at my request by the Chairman of the Rules Committee and the cooperation of the Sergeant at Arms.

RESTORATION OF OLD SUPREME COURT CHAMBER

On another project which is of concern to me as Secretary of the Senate, I want to thank the committee for its persistent interest and support of the proposed restoration of the Old Supreme Court Chamber. I hope that, with the new proposal to divide the job in two parts, you will maintain your interest in this matter and that the traditional and unanimous Senate position will prevail in bringing an end to the long neglect of one of the great treasures of the Capitol.

FIXING OF SALARIES ON NOT-TO-EXCEED BASIS

Turning to the overall fiscal position of my office, I want to recapitulate our present position before I outline future needs. You will recall that for the past 2 years you have authorized me to fix salaries on a not-to-exceed basis. I can report to you today that we are finding this useful and helpful in the reorganization of the offices and also in achieving a considerable savings of public funds. As of February 29, a total of $52,316 was not being expended, out of the Secretary's aggregate appropriation excluding the Disbursing Office payroll and the Administrative Fund, for the present year.

PROPOSED PAYROLL ADMINISTRATIVE FLEXIBILITY

In recent appearances before this committee, I have requested a greater degree of administrative flexibility for the entire Secretary's payroll. I repeat that request today, although there is not time to go into it in greater detail. I would observe, however, that if I had that authority, with regard to all of the Secretary's offices, as I do with regard to expenditures of the Disbursing Office and my administrative payroll, I would not have to ask for the additional appropriations for new positions, which are now necessitated by the new circumstances in the Secretary's office.

FEDERAL ELECTION CAMPAIGN ACT IMPLEMENTATION

My principal purpose in coming before you today is to seek your approval of several budget items which arise from the new Federal Elections Campaign Act of 1971.

As you know, the Secretary of the Senate is designated as one of three supervisory officers who are held responsible for carrying out this new law.

SECTION 308: DUTIES OF THE SUPERVISORY OFFICERS

The act becomes effective on April 7, 1972. Several members of my staff have been working since December to assure that we will be able to meet the responsibilities of the act. The scope of these responsibilities is outlined clearly by section 308 of the act, entitled, "Duties of the Supervisory Officers", which I submit for the record at this point.

(Sec. 308 follows:)

"DUTIES OF THE SUPEAVISORY OFFICER

"SEC. 308. (a) It shall be the duty of the supervisory officer—

"(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with him under this title;

"(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

"(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

"(4) to make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

"(5) to preserve such reports and statement for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

"(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

"(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the national, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

"(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

"(9) to prepare and publish such other reports as he may deem appropriate;

"(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

"(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

"(12) to report apparent violations of law to the appropriate law enforcement authorities; and

"(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

"(b) The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements."

FLEXIBLE ADMINISTRATIVE ARRANGEMENTS

In circumstances which are now only partially predictable I am trying to make flexible administrative arrangements. In that way, I believe we will be able to keep costs at a minimum.

WORK VOLUME

Let me describe the problem which confronts us with regard to determining the volume of work. The Federal Elections Campaign Act requires each candidate and each committee supporting candidates for the Senate to render regular quarterly reports and also special reports 15 and 5 days before each election; this includes primary and runoff elections as well as the general election. It is reasonable to predict that we may receive in excess of 4,000 reports in the course of an election year. At this point, however, we have no way of predicting how voluminous each of these reports will be; some may run only three or four pages; others will run to several hundred pages per report. If the average report is 50 pages in length we will have a total volume of some 200,000 pages to file, display, copy, index, store, and retrieve over a year's time. The estimate is probably conservative.

Because of the cyclical nature of the report requirements, moreover, we know that the workload for receiving, processing, and displaying these documents is going to be highly variable. There will be high peaks of activity around the quarterly filing dates in March, June, September, and January, especially during Senate election years. There will be another intense peak of activity in the month preceding the general election in November.

STATE PRIMARIES: MEMORANDUM PUBLISHED BY OFFICE OF THE SECRETARY

In addition, there will be a continuing volume of reporting activity in connection with various State primaries between now and October. I submit for the record a memorandum which has just been published by my office, listing filing dates and the senatorial elections with which we will be concerned this year.

(The memorandum follows:)

[Office of the Secretary of the Senate]

"ADVISORY MEMORANDUM ON DISCLOSURE PROVISIONS OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

"SCOPE

"The Act repeals the Federal Corrupt Practices Act of 1925 and substitutes a broader set of requirements, including:

"Political committees

"Registration of all political committees, defined as organizations which have contributions or expenditures above $1,000 a year, any portion of which is for the purpose of influencing the nomination or election of Senators.

"Four quarterly reports of receipts and expenditures of all registered *committees* and also special reports 15 and 5 days before primary and general elections.

"Candidates

"Quarterly reports of receipts and expenditures of all *candidates* in both primary and general elections; also special reports 15 and 5 days before such elections.

"Individual supporters

"Statements by all *individual contributors* who expend in excess of $100 in a calendar year for the election of a candidate, if they do so *other than through contributions to committees or to candidates.*

"SCHEDULE OF REPORTING

"The Act becomes effective April 7, 1972, and, in general, reporting applies only to transactions on or after that date. The reporting schedule for 1972 is as follows:

"April 17.—Registration deadline for all political committees in existence on the date of enactment (February 7, 1972).

"June 10.—Quarterly reports of receipts and expenditures due from candidates *and* committees.

"Fifteen days preceding a primary or runoff election.—The first pre-primary reports of receipts and expenditures due from candidates *and* committees. (See following schedule for primary dates in individual States).

"Five days preceding a primary or runoff election.—The second pre-primary reports of receipts and expenditures due from candidates *and* committees. (See following schedule for primary dates in individual States).

"September 10.—Quarterly reports of receipts and expenditures due from candidates *and* committees.

"October 23.—First pre-general election reports of receipts and expenditures due from all candidates *and* committees. (15 days preceding the general election on November 7).

"November 2.—Second pre-election reports and receipts and expenditures due from all candidates *and* committees. (5 days preceding the general election on November 7).

"January 31, 1973.—Final reports on receipts and expenditures for the year 1972 due from all candidates and committees.

"March 10, 1973.—First quarterly reports of 1973 due from candidates *and* committees.

"PROCEDURES AND OPERATIONS

"The Act establishes the Secretary of the Senate as the supervisory officer for all elections pertaining to the United States Senate. With respect to these elections, the Secretary is required to:

"Develop and supply prescribed forms for all of the above reports and statements.

"Publish a manual of administrative regulations and reporting procedures.

"Make reports and statements available promptly for public inspection and copying by duplicating machine at cost.

"Keep all records for ten years.

"Maintain indexes and cross references, including a current list of the statements and reports pertaining to each candidate.

"Publish annually the accumulated reports and organizational statements (registration) of each political committee.

"Cooperate with States to assure maximum use of same reporting forms for Federal and State registry and reports.

"Investigate complaints of violations, by hearing procedures if required, with referral to the Department of Justice in the event of statutory violation.

Tabulate data reported by candidate and committees and publish annual summaries which contain the following breakdowns:

"Annual totals of the reports of candidates, committees and individuals.

"Total expenditures broken down as to candidate and party.

"Total expenditures for influencing nominations and for influencing general elections.

"Total contributions broken down as to candidates and committees.

"Total contributions by individuals in excess of $100."

ADMINISTRATIVE PAYROLL ADJUSTMENTS

To cope with the dual problem of unpredictable volume and variable intensity of activity, we propose an administrative plan which provides for a variable response. To put this plan into operation, adjustment will have to be made in the Secretary's administrative payroll, as follows:

FUNDING INCREASE

1. Increase the overall present total of the administrative payroll by $14,000 in the coming year.

TRANSFER OF TWO EMPLOYEES TO STATUTORY PAYROLL

2. Transfer two Senate employees presently on that payroll to the statutory payroll, since their duties are now, clearly continuing. The two positions are that of third assistant parliamentarian, presently No. 402 on the payroll and carrying a position gross-pay rate of $19,684, and the assistant messenger position presently No. 403. The position gross for this messenger's position is $8,547. I would propose to increase it to not exceed $9,583 on the statutory payroll since I plan to assign this position to the new campaign reports office with increased responsibilities. The effect of these two transfers will be to increase the aggregate statutory payroll of the office of the Secretary by $29,267, from the present level of $2,114,992 to $2,144,259, excluding $85,988 for the administrative fund.

These two steps, namely increasing the administrative payroll by $14,000 and transferring the two positions just cited to the statutory payroll, will make available a total of $42,200 in the administrative roll.

NECESSARY HIRING AND CONTINGENCIES

To this should be added $9,000 presently unobligated on the administrative roll, for a total of $51,200 available for hiring as deemed necessary to meet the needs of the new situation as well as any unforeseen contingencies which may arise elsewhere in the Secretary's offices.

It is my intention to use less than $30,000 of this total at the outset to employ two new secretarial-clerical assistants in connection with the new law. It is possible that experience may reveal the need to hire others, either in the clerical field or as qualified legal assistants. These needs simply cannot be predicted at this point.

XUM

OFFICE OF THE SECRETARY OF THE SENATE

SCHEDULE OF SENATORIAL PRIMARY AND RUNOFF ELECTION DATES, BY STATE, TOGETHER WITH CONCOMMITANT REPORTING DATES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 (REVISED AS OF MAR. 1, 1972)

1972—State	Primary election			Primary runoff election		
	Date	1st pre-primary report	2d pre-primary report	Date	1st pre-primary report	2d pre-primary report
Alabama[1]	May 2	Apr. 17	Apr. 27	May 30	May 15	May 25
Alaska[1]	Aug. 22	Aug. 7	Aug. 17	None		
Arizona	Sept. 12	Aug. 28	Sept. 7	None		
Arkansas[1]	May 30	May 15	May 25	June 13	May 29	June 8
California	June 6	May 22	June 1	None		
Colorado[1]	Sept. 12	Aug. 28	Sept. 7			
Connecticut:						
Democrat	Aug. 9	July 25	Aug. 4	None		
Republican	Aug. 16	Aug. 1	Aug. 11	None		
Delaware:[1]						
Democrat	(2)					
Republican	July 17	July 2	July 12			
District of Columbia	May 2	Apr. 17	Apr. 27	May 23	May 8	May 18
Florida	Sept. 12	Aug. 28	Sept. 7	Oct. 3	Sept. 18	Sept. 28
Georgia[1]	Aug. 8	July 24	Aug. 3	Aug. 22	Aug. 7	Aug. 17
Hawaii	Oct. 7	Sept. 23	Oct. 2			
Idaho[1]	Aug. 8	July 24	Aug. 3			
Illinois[1]	Mar. 21	Mar. 6	Mar. 16			
Indiana	May 2	Apr. 17	Apr. 27	None		
Iowa[1]	June 6	May 22	June 1	None		
Kansas[1]	Aug. 1	July 17	July 27	None		
Kentucky[1]	May 23	May 8	May 18	None		
Louisiana[1]	Aug. 19	Aug. 4	Aug. 14	Sept. 30	Sept. 15	Sept. 25
Maine[1]	June 19	June 4	June 14	None		
Maryland	May 16	May 1	May 11	None		
Massachusetts[1]	Sept. 19	Sept. 4	Sept. 14			
Michigan[1]	Aug. 8	July 24	Aug. 3	None		
Minnesota[1]	Sept. 12	Aug. 28	Sept. 7			
Mississippi[1]	June 6	May 22	June 1	June 27	June 12	June 22
Missouri	Aug. 8	July 24	Aug. 3	None		
Montana[1]	June 6	May 22	June 1	None		
Nebraska[1]	May 9	Apr. 24	May 4	None		
Nevada	Sept. 5	Aug. 21	Aug. 31	None		
New Hampshire[1]	Sept. 12	Aug. 28	Sept. 7	None		
New Jersey[1]	June 6	May 22	June 1	None		
New Mexico[1]	June 6	May 22	June 1	None		
New York	June 20	June 5	June 15			
North Carolina[1]	May 6	Apr. 21	May 1	June 3	May 19	May 29
North Dakota	Sept. 5	Aug. 21	Aug. 31	None		
Ohio	May 2	Apr. 17	Apr. 27	None		
Oklahoma[1]	Aug. 22	Aug. 7	Aug. 17	Sept. 19	Sept. 4	Sept. 14
Oregon[1]	May 23	May 8	May 18			
Pennsylvania	Apr. 25	Apr. 10	Apr. 20	None		
Rhode Island[1]	Sept. 12	Aug. 28	Sept. 7	None		
South Carolina[1]	June 13	May 29	June 8	June 27	June 12	June 22
South Dakota[1]	June 6	May 22	June 1			
Tennessee[1]	Aug. 3	July 19	July 29	None		
Texas[1]	May 6	Apr. 21	May 1	June 3	May 19	May 29
Utah	Sept. 12	Aug. 28	Sept. 7	None		
Vermont	Sept. 12	Aug. 28	Sept. 7			
Virginia[1]	June 13	May 29	June 8			
Washington	Sept. 19	Sept. 4	Sept. 14	None		
West Virginia[1]	May 9	Apr. 24	May 4	None		
Wisconsin	Sept. 12	Aug. 28	Sept. 7			
Wyoming[1]	Aug. 22	Aug. 7	Aug. 17	None		

[1] States in which senatorial elections occur in 1972.

[2] Convention undecided.

CONTRACTS WITH PRIVATE DATA PROCESSING FIRMS

It is proposed that other variable personnel needs be met by contract with private data processing firms and by the engagement of temporary professional or legal help, as necessary. This approach is taken in lieu of increasing the permanent personnel costs of the Senate. To understand what these costs may involve, I refer you to the following paragraphs of section 308(a) of the act which you have before you:

Paragraph 4, which requires the Secretary to make all reports filed available for public inspection within 48 hours and to permit machine copying on a reimbursable basis.

Paragraph 5, which requires the preservation of all reports and documents filed for a period of 10 years.

Paragraphs 3 and 6, which require maintenance of up-to-date cross indexes and lists of reports received.

TECHNICAL ADVICE OF COMPUTER SERVICES SUBCOMMITTEE OF THE COMMITTEE ON RULES AND ADMINISTRATION

Because of the great volume of documents involved in the complexity of meeting the time requirements, it has been apparent from the beginning that the required processing could not be accomplished by the usual manual means, so I have turned to the Computer Services Subcommittee of the Committee on Rules and Administration for technical advice as to how best the law can be complied with at the lowest cost to the Senate. If I may digress for a moment, I wish to note for the record the superb support and assistance which I have received to date from the Rules Committee and its distinguished Chairman, Senator B. Everett Jordan. He is doing everything possible to assist us in putting this law into effect.

RECOMMENDED MICROFILM SYSTEM: TECHNICAL PERSONNEL CONTRACT REQUISITE

The Computer Services Subcommittee has recommended that we meet the display, copying, and storage requirements of the act, in large part, by a microfilm system. The system involves contracting for technical personnel in varying numbers to meet fluctuating need and to process the microfilm on an overnight basis. The system also involves the leasing of various types of equipment, also on a flexible basis appropriate to varying need.

The technical personnel whose services are required are microfilm camera operators and key tape terminal operators. We are allowing for six persons in this category for an estimated 100 work days in the year. I am advised that there are firms which can supply such personnel on a variable basis.

Calculating from prevailing wage rates for this type of service, estimates are that total contract costs for such personnel could run to $43,200. I respectfully request authority to contract for these expenditures from the Senate's contingent fund with the approval of the Committee on Rules and Administration.

CONTRACT FOR DESIGN OF COMPUTER PROGRAMING SYSTEM

I request similar contracting authority for microfilm processing in the amount of $16,800, and to cover a nonrecurring contract cost of $40,000 for the design of a computer programing system for the daily cross indexes and lists which are required by paragraphs 3 and 6 of section 308 of the law.

TOTAL CONTRACT AUTHORITY

The total contract authority which is requested, then, for technical services is $100,000. I stress that it is a maximum figure and I want to assure this committee that every effort will be made to hold these costs to a minimum. Indeed, I am hopeful that a considerable portion of this total will not be expended. In the circumstances it seems to me that the use of contract authority in this regard appears to offer a far less costly means of complying with the act than would straight appropriations for employment of in-house permanent staff and services.

LEASING OF EQUIPMENT

In a related vein I want to outline for you the costs of leasing various items of equipment which are necessary to the processes which I have just outlined. It is my understanding that such leases would be entered into for the Office of the Secretary by the Sergeant at Arms. I am, therefore, not requesting this authority for myself but, with your concurrence, will ask that the Sergeant at Arms rent various items of equipment.

The item and the annual rental charges are:

Micro-film cameras (3)	$15,500
Micro-film reader-printers (3)	13,000
High-speed Xerox copier	10,800
Computer key tape terminals	5,500
Total	44,800

INDETERMINATE COSTS: ECONOMICAL PROCEDURE

These also are allowances based on uncertain estimates. We do not know, for example, what public demand will be made for copies of the contribution reports. It is possible that more units may be needed in peak periods. Conversely, we may find that some of the units may be removed, especially during nonelection years, thus reducing the rental charges considerably.

Hence, I believe the contract-rental route promises, again, greater economies than outright acquisition of this expensive and ever-charging equipment by the Senate. I should note, too, that a reasonable per-page charge will be made for all copies provided and these receipts should offset a part of the annual rental charges.

SECTION 308(A), PARAGRAPH 11: TRAVEL EXPENSES, LEGAL AND OTHER ASSISTANCE AND LOAN OF AGENCY PERSONNEL

Section 308(a) paragraph 11 requires the Secretary of the Senate to make audits and field investigations and section 308(b) directs the Secretary to cooperate with the officials of the several States to simplify the administration of the act. This will entail travel expenses and, very likely, the procurement of temporary or intermittent legal and other professional assistance, and coopted personnel from other agencies.

AUTHORITY PURSUANT TO SENATE RESOLUTION 267

I would like to note in this regard, and also with respect to my request for the other contracting authority, that Senate Resolution 267 which is now in force has provided the Secretary with temporary broad authority: (1) to make expenditures from the contingent fund of the Senate, (2) with the prior consent of the Government department or any agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of such department or agency, (3) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions to the extent applicable as a standing committee of the Senate may procure such services under section 202(1) of the Legislative Reorganization Act of 1946, and (4) to incur official travel expenses.

REPORT ACCOMPANYING RESOLUTION

The report which accompanied that resolution expressed the hope that the legislative branch appropriation for 1973 would provide a general continuation of that authority and I respectfully request that you will see fit to do so at the same levels of expenditure.

FUNDING AUTHORIZATION

Senate Resolution 267 made such a provision for $38,000. I also would ask this sum be authorized in a breakdown of $30,000 yearly for the reimbursable services of agency personnel and to hire fee-consultants, and $8,000 for official travel expenses.

GENERAL HOUSEKEEPING REQUESTS

There are two general housekeeping requests which I must bring to your attention in connection with the Federal Elections Campaign Act. The first deals with stationery supplies necessary to support the operations I have outlined above. The Rules Committee has already assigned two additional rooms in the Capitol to house these operations. They need to be outfitted. Total requirements for this purpose cannot be predicted precisely but to make adequate provision I request that the stationery allowance of the Office of the Secretary be increased from $3,900 to $5,900 I also request that the postage allowance for the Office of the Secretary be increased from $410 to $610 to cover such air mail and special delivery costs as may be incurred in making a timely distribution of official forms, regulations and other communications.

TOTAL COSTS

To recapitulate, my estimate of the total costs involved in carrying out the Federal Elections Campaign Act for Senate elections can be summarized as follows:

Increase in the Secretary's administrative payroll	$14,000
Increase in the Secretary's statutory aggregate (which releases equivalent funds in the administrative roll for new obligation)	29,267
Contract authority for expenditures from the contingency fund for technical services:	
Personal services	43,200
Film processing	16,800
Computer programing system (one-shot expenditure)	40,000
Engagement of temporary, intermittent or reimbursable personnel (legal and other professional)	30,000
Travel	6,000
Stationery supplies	2,000
Postage	200
Equipment rental, Sergeant at Arms	44,912
Total cost	228,379

BASIC CAPABILITY TO COMPLY WITH STATUTE AND SUPPLEMENTAL REQUEST FOR ANNUAL STATISTICS RECAPITULATIONS

The amount involved is substantial, considering that it covers only the estimated costs of the Senate elections, but the requirements of the new act are also substantial and formidable. In my judgment, the funds requested will provide a basic capability of complying fully with the Senate's share of the new law, with the sole exception of certain annual statistical recapitulations which the act also requires, and which we have not yet had a chance to go into fully. These will have to be the subject of a supplemental request. It is possible that we have overestimated on some items and underestimated on others. We simply cannot tell for sure until we have the benefit of at least a year's experience, so I ask the committee to give us what we believe is necessary for carrying out the congressional intent with my assurances that we will do whatever we can to minimize the expenditures.

Operations of secretary's office: option of making later requests

Because of the immediacy of the problems, I have addressed my testimony this morning almost entirely to the Federal Election Campaign Act. I would like the option of suggesting to this subcommittee, within the week and by letter, if I may, any further matters regarding the operations of the Secretary's offices which should have the attention of your members. I do not know that I will have such suggestions, but I would appreciate the opportunity of being able to give them.

Senator HOLLINGS. You certainly will have that opportunity, Mr. Valeo.

Page volume of reports: uniformity of procedure by Senate, House, and GAO

You state that you cannot tell how many pages may be involved, and there might be as many as 200,000 pages to file, display, copy, store, and retrieve. Has there been a coordination of the uniformity as between yourself, GAO, and the House side? Can you get one form? You might have one campaign committee giving to Senator Cotton and one to Senator Hollings and one to President Nixon. One committee like that would be the committee for intelligent and farsighted Government.

Mr. VALEO. Yes, sir. We have been meeting very regularly. We are designing our forms in concert with the GAO and the Clerk of the House. We have achieved agreement on practically all aspects of the basic form for each of the submissions that are required under the law.

Senator HOLLINGS. Will that form average a report of 50 pages?

Mr. VALEO. We figure an average of 50 but we cannot be sure because some will run several hundred. If you have to list every contributor of over $100, you can imagine in some instances this will be quite formidable.

Senator HOLLINGS. That would be listing names but there wouldn't be all that explanation.

Mr. VALEO. They would be listed as part of a committee report, perhaps, a campaign committee report.

Contracts

Senator HOLLINGS. The other thing is we don't want the tail wagging the dog about moving you out. I think it is good to hire and contract out this personnel.

Space for display of documents

You noted there are two rooms in the Capitol being assigned. This really ought to be set off some place outside the Capitol in a more accessible building so that anybody wanting to look at the files and examine the records wouldn't be trooping through the Capitol and bollixing up further the traffic in the passageways and what have you just to be checking on each fellow and who contributed.

I don't know who contemplated putting this in the Capitol of the United States.

Mr. VALEO. The rooms are actually on the terrace level of the Capitol. They are relatively small rooms. We had a third room there already assigned to the Secretary for other purposes. The three in conjunction with one another have been designed so that they can handle it. It is not in the middle of the Capitol. It is in one of the least crowded parts of the Capitol. But it is certainly available to the public. Since the press itself will be one of the principal consumers of this, and since they are in the Capitol themselves, it does seem to make sense to have it there. Also, for supervisory purposes in this first year, the operation should be near my office. However, in due course, the thing to do may be to move it somewhere else. There is no absolute necessity for it to be in the Capitol. I will put it that way.

Senator HOLLINGS. I thought it might expand and get bigger and more used. There are a lot of other places, of course, that are available to the press. We would not be taking it away from the press. The press is over all these buildings. It would be better in the New Senate Office Building where we are right now, where the press is also, than right over in the Capitol.

Mr. VALEO. I will be prepared to make recommendations of that kind on the basis of a year's experience. I can't foresee all of the contingencies at this time.

Senator HOLLINGS. Senator Cotton?

Senator COTTON. I think the chairman has covered the points. It was a very excellent statement.

Charges for use of Xerox machine

Senator HOLLINGS. We want to be brief, but let me ask you this: What happens to the funds you will collect for the use of your Xerox machines?

Mr. VALEO. We expect that to go back perhaps into a miscellaneous receipts fund of some sort. Actually, we haven't set up the actual bookkeeping arrangements. They will go into some sort of a miscellaneous receipts fund. I would be very appreciative of the guidance of your staff on that point as to the best way to proceed.

Senator HOLLINGS. We will coordinate with you.

Administrative fund increase: Official reporters

How about the addition in the administrative fund, the Official Reporters office. You had an additional clerical position last year.

Mr. VALEO. We have a situation with a very long-time employee of the Senate who has been ill and, possibly close to retirement. We have had to meet that situation by keeping a prospective replacement on the administrative payroll.

Date of statutory implementation: Alabama primary

Senator HOLLINGS. You will be ready to go on April 7?

Mr. VALEO. We hope to be. We expect to have these forms out. Our first situation arises with the Alabama primary.

Senator HOLLINGS. When is that?

Mr. VALEO. May 2.

Senator HOLLINGS. When would the reports be in to you for the May 2 Alabama primary?

Mr. VALEO. There would be one, 15 days prior to it and the second one, 5 days prior to it.

Senator HOLLINGS. That would be the middle of April.

Mr. VALEO. That is right. We expect to get the forms out for that primary by mid-March, along with a general distribution of the registration forms because committees, political committees, which are now in existence and were in existence at the date of enactment of the law, will have to begin to register on the 17th, actually, of April.

Introduction of associates

Senator HOLLINGS. Do your associates wish to add anything at this point?

Mr. VALEO. I wish to point them out. This is Mr. Orlando Potter and Mr. William Ridgely. Mr. Potter has been handling a good deal of the detail work on designing this system. Mr. Ridgely, of course, is responsible for what is happening in the Disbursing Office. Mr. St. Claire is in overall charge of the project for me.

Senator HOLLINGS. For Federal elections?

Mr. VALEO. Among other things, yes. He is Assistant Secretary.

Senator HOLLINGS. We appreciate very much your appearance. We will look forward to anything else you may have in the next week. Just submit any further testimony by

letter and we will cover it in our official record of the hearings.

Mr. VALEO. Thank you, Mr. Chairman.

Conclusion of hearings

Senator HOLLING. Thank you very much.

That will conclude the hearings of the subcommittee.

(Whereupon, at 12:18 p.m., Thursday, March 2, the hearings were concluded and the subcommittee was recessed, to reconvene at the call of the Chair.)

Mr. SCOTT. Mr. President, I wish to acknowledge the statement made by the distinguished majority leader, and the testimony of Mr. Valeo is of interest to all Senators. I commend it to their attention, particularly the effective date of April 7, 1972.

The first primary to be covered under the provisions of the Campaign Act itself would be the Alabama primary. Mr. Valeo has testified there will be ample time to have forms put out in time for compliance from that primary on.

As most of us know, the General Accounting Office has been preparing guidelines which will be useful. I understand the first guidelines are some 40 pages long. They are now trying to get down to some 14 pages. I would hope they could give us a careful summary or an index so w ecould make ready reference to what the requirements are, because this act is difficult to comply with, in view of its complexity and the wide provisions for reporting, for which I am in part responsible, as I offered a similar bill at one time.

Also, it should be called to the attention of the Senate that various regulatory agencies, such as the Federal Communications Commission and others, are preparing their own guidelines for the extension of credit or conditions under which credit cannot be extended to candidates or committees. I would hope that these provisions can be faithfully complied with. No candidate ought to be permitted to conduct his campaign on the cuff or at the expense of Government-regulated agencies.

So we are here plowing new ground. We are trying to implement an act which is desirable. Some flaws may develop as time goes along, but it seems to be better than the previous act. It is an act, however, which could be violated unintentionally, so that we are all on notice to do our very best to see that full and genuine compliance is observed, because the eyes of the country are on the Federal legislators in this regard.

I thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to state that, along with the distinguished minority leader, we thought it best that all this information be placed in the RECORD at this time. I want to commend the distinguished Secretary of the Senate, Mr. Francis Valeo, for the painstaking effort and outstanding job he has done, and done in such a short time, comparatively speaking. So, for all Senators, and for all candidates for the Senate, the information available under the new law will be contained in the CONGRESSIONAL RECORD for their study and their consideration.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in view of the shortness of time before the first vote occurs, that the time for the conduct of morning business be extended to 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NAVAL VESSEL LOAN BILL—PRIVILEGE OF THE FLOOR

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that Mr. LaBre Garcia and Mr. Forrest Rettgers be given the privilege of the floor during the consideration of H.R. 9526.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF MINIMUM AGE QUALIFICATION FOR SERVING AS A JUROR IN FEDERAL COURTS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1975.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1975) to change the minimum age qualification for serving as a juror in Federal courts from twenty-one years of age to eighteen years of age, which were, on page 1, line 3, strike out "(a)".

On page 1, strike out all after line 5, over through and including line 2 on page 2.

On page 2, strike out lines 6 through 13, inclusive, and insert:

SEC. 3. (a) Each judicial district and each division or combination of divisions within a judicial district, for which a separate plan for random selection of jurors, has been adopted pursuant to section 1863 of title 28, United States Code other than the District of Columbia and the districts of Puerto Rico and the Canal Zone, shall not later than September 1, 1973, refill its master jury wheel with names obtained from the voter registration lists, for, or the lists of actual voters, in, the 1972 general election.

(b) The District of Columbia and the judicial districts of Puerto Rico and the Canal Zone shall not later than September 1, 1973, refill their master jury wheels from sources which include the names of persons eighteen years of age or older.

(c) The qualified jury wheel in each judicial district, and in each division or combination of divisions in a judicial district for which a separate plan for random selection of jurors has been adopted, shall be refilled from the master jury wheel not later than October 1, 1973.

SEC. 4. (a) Nothing in this Act shall affect the composition of any master jury wheel or qualified jury wheel prior to the date on which it is first refilled in compliance with the terms of section 3.

(b) Nothing in this Act shall affect the composition or preclude the service of any jury empaneled on or before the date on which the qualified jury wheel from which the jurors' names were drawn is refilled in compliance with the provisions of section 3.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 676, 677, and then over to 680 and down through and including 687.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the measures in the order requested, and the clerk will state the first measure by title.

"THE ELECTORAL COMMISSION OF 1877" PAINTING

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 59) to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877," to the National Portrait Gallery of the Smithsonian Institution, which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 9, after the word "than", strike out "April 14, 1972" and insert "May 2, 1972"; so as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring). That the Architect of the Capitol shall, on behalf of the Congress, lend the Cornelia Fasset painting, "The Electoral Commission of 1877", located in the Capitol, to the Smithsonian Institution for the National Portrait Gallery exhibit of political memorabilia relating to elections from 1796 to 1968. Such loan shall be made so that the portrait shall be available for display by the National Portrait Gallery not later than May 2, 1972, and under procedures that will assure its proper preservation, display, and return to the Capitol as soon as practicable after September 5, 1972.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

JOHN D. ROCKEFELLER, JR., MEMORIAL PARKWAY

The Senate proceeded to consider the bill (S. 3159) to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 3, line 22, after the word "this" strike out "Act." and insert "Act, not to exceed, however, $3,092,000 (August 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That for the purpose of commemorating the many significant contributions to the cause of conservation in the United States, which have been made by John D. Rockefeller, Jr., and to provide both a symbolic and desirable physical connection between the world's first national park, Yellowstone, and the Grand Teton National Park, which was made possible through the efforts and generosity of this distinguished citizen, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to establish the John D. Rockefeller, Junior, Memorial Parkway (hereinafter referred to as the "parkway") to consist of those lands and interests in lands, in Teton County, Wyoming, as generally depicted on a drawing entitled "Boundary Map, John D. Rockefeller, Junior, Memorial Parkway, Wyoming", numbered PKY-JDRM-20,000, and dated August 1971, a copy of which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall establish the parkway by publication of a notice to that effect in the Federal Register, at such time as he deems advisable. The Secretary may make minor revisions in the boundary of the parkway from time to time, with the concurrence of the Secretary of Agriculture where national forest lands are involved, by publication of a revised drawing or other boundary description in the Federal Register.

(b) The Secretary shall also take such action as he may deem necessary and appropriate to designate and identify as "Rockefeller Parkway" the existing and future connecting roadways within the parkway, and between West Thumb in Yellowstone National Park, and the South Entrance of Grand Teton National Park: *Provided*, That notwithstanding such designation, such roads within the Yellowstone and Grand Teton National Parks shall continue to be managed in accordance with the statutes and policies applicable to these parks.

SEC. 2. Within the boundaries of the parkway, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. Lands and interests in lands owned by the State of Wyoming or a political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of another Federal agency shall, upon request of the Secretary, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the parkway.

SEC. 3. (a) The Secretary shall administer the parkway as a unit of the National Park System in accordance with the authority contained in the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

(b) The lands within the parkway, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $3,092,000 (August 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FOSSIL BUTTE NATIONAL MONUMENT

The Senate proceeded to consider the bill (S. 141) to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 17, after the word "owner.", strike out "When acquiring land by exchange the Secretary may convey to the grantor federally owned land under his jurisdiction which he classifies as suitable for exchange or other disposal. The properties so exchanged shall be approximately equal in fair market value, but in order to equalize values the Secretary may accept cash from, or pay cash to, the grantor."; and, on page 3, line 20, strike out "Act." and insert "Act, not to exceed, however, $4,469,000 (June 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the benefit and enjoyment of present and future generations outstanding paleontological sites and related geological phenomena, and to provide for the display and interpretation of scientific specimens, the Fossil Butte National Monument (hereinafter referred to as the "monument") is hereby established, to consist of lands, waters, and interests therein within the boundaries as generally depicted on the drawing entitled "A proposed Fossil Butte National Monument, Wyoming," numbered FBNM–7200, dated April 1963, revised July 1964, and totaling approximately eight thousand one hundred and eighty acres. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the monument from time to time by publication of a notice to that effect in the Federal Register, except that at no time shall the boundaries encompass more than eight thousand two hundred acres.

SEC. 2. The Secretary shall administer the monument pursuant to the Act approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

SEC. 3. Within the boundaries of the monument the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests therein owned by the State of Wyoming or a political subdivision thereof may be acquired only with the concurrence of the owner.

SEC. 4. (a) The Secretary shall permit the use of lands and waters within the monument for grazing and stock watering at such periods and places where such uses will not conflict with public use, interpretation, or administration of the monument for a period of thirty years from the effective date of this Act: *Provided, however*, That the Secretary shall have the power to extend the use of the lands for grazing and stock watering for as long after the thirty-year period as it is determined by the Secretary that such use does not conflict with the public use, interpretation, or administration of the monument: *And, provided, further*, That the use of lands within the monument for stock driveways shall continue in perpetuity at such places where this use will not conflict with administration of the monument.

(b) Upon termination of the uses set forth in subsection (a) of this section, the Secretary of the Interior is authorized to provide for the disposition and use of water surplus to the needs of the monument, to a point or points outside the boundaries of the monument.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this *Act, not to exceed, however, $4,469,000 (June 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.*

Mr. McGEE. Mr. President, I am pleased that the Senate is about to pass S. 141, to establish the Fossil Butte National Monument near Kemmerer, Wyo.

For many years the people of Wyoming have shared a great concern and a desire to conserve this most unique area for scientific, educational, recreational, and artistic purposes for future generations.

The proposed area for the Fossil Butte National Monument is located a short distance west of Kemmerer, Wyo., on U.S. Highway 30 North, a main artery of Interstate Highway 80, 30 miles to the south.

Mr. President, Wyoming is a vacation wonderland. Millions of tourists from all parts of the Nation visit western Wyoming every year. Fossil Butte is located on crossroads between Grand Teton National Park and Yellowstone National Park to the north, and Flaming Gorge National Recreation Area, which is located only 135 miles to the south.

Excellent highways and other modes of transportation make this area readily accessible from all directions. The investment which we propose to make in this area will therefore be repaid many times by providing the general public with an added attraction and recreational facilities, not to mention the preservation of a unique scientific and educational treasure.

Mr. President, it is difficult in words to describe the beauty of this area and the geological formations which have evolved from a metamorphosis of the earth's surface over a period of 500 million years. No other site in America has a more abundant supply of fossil fish deposits. As only one example of the fossilized marine life, Eocene fish fossils at Fossil Butte are believed to be the best and most significant in the United States and probably in the world. It is truly a paleontologist's paradise and has attracted the attention of the academic community and laymen alike for many years.

Since Senator HANSEN and I introduced the bill 5 years ago. I have received letters and expressions of support from as far away as Slippery Rock State College, in Pennsylvania, and as nearby as the University of Wyoming. There is understandably broad support for the conservation of the natural, historical, and recreational heritage which the Fossil Butte area contains. On the other hand, there is evidence of willful destruction and serious depletion of the public treasures to be found there. It is, therefore, imperative, I believe, that Congress act now to establish the Fossil Butte National Monument and preserve in perpetuity this national asset.

The proposed boundary of the Fossil Butte National Monument encompasses an area of 8,180 acres. The bill authorizes the Secretary of the Interior to adjust the

boundary from time to time should that become necessary and advisable. The total acreage, however, is limited by the terms of the bill to no more than 8,200 acres. Ninety-six percent of this land is already in Federal ownership; 380 acres are privately owned; and the remainder is owned by the State of Wyoming. The Secretary is authorized to acquire the State lands by donation or exchange and to purchase, exchange, or receive by donation the private lands and interests therein.

Mr. President, the Federal lands within the monument area currently provide grazing for cattle and sheep, and there are in effect and applicable to these lands approximately 20 grazing permits renewable annually. When this legislation was initially proposed, we encountered substantial opposition from those ranchers who held the grazing permits. They feared the loss of these important grazing privileges. Consequently, the many people who share a common interest in the Fossil Butte National Monument area, including members of the Kemmerer Booster Club, the western Wyoming resource conservation and development project, individual ranchers, and civic leaders, worked diligently to resolve this problem. As a result of these efforts, and with the unanimous approval of the entire Wyoming congressional delegation, section 4(a) of the bill was amended to provide for a 30-year period after the enactment of this bill during which the Secretary of the Interior shall permit grazing and stock watering within the monument area. Furthermore, this use may be continued after the 30-year period in instances where grazing and stock watering will not be in conflict with public use and administration of the area. The provisions of section 4(a) represent a reasonable compromise of divergent points of view and have my complete support. Typically, in the past, legislation has limited to 10 years the period during which the Secretary of the Interior could exercise control of grazing and stock watering in conjunction with his administration and management of areas set aside as national monuments or national parks. I believe, however, that this area is not typical in this respect and the uniqueness of the area justifies the 30-year provision contained in section 4(a). In fact, the public interest and the attractions of the area will be enhanced by cattle and sheep grazing in the area under proper management and control by the Secretary. Therefore, I sincerely urge the committee to adopt the provisions contained in section 4(a). Such action will certainly improve the chances of early congressional approval.

This proposal to establish the Fossil Butte National Monument has been endorsed by the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, on three different occasions since 1961. The National Park Service has made a thorough study of the proposal and the land area to be included, and, as a result of this study, the Secretary of the Interior has approved our proposal. Most importantly, it has broad and virtually unanimous endorsement among the people of southwest Wyoming and the State government.

Mr. President, I express my appreciation to the chairman and members of the Committee on Interior and Insular Affairs for the consideration which they have given this legislation. I hope it will receive final congressional approval in the near future.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF "THE BUDGET OF THE UNITED STATES, FISCAL YEAR 1973"

The resolution (S. Res. 276) authorizing the printing of additional copies of Senate hearings entitled "The Budget of the United States, Fiscal Year 1973" was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Appropriations five hundred and fifty additional copies of its hearings entitled "The Budget of the United States, Fiscal Year 1973".

AUTHORIZATION FOR PRINTING "PROGRESS IN THE PREVENTION AND CONTROLS OF AIR POLLUTION AS A SENATE DOCUMENT

The resolution (S. Res. 278) authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution" as a Senate document was considered and agreed to, as follows:

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 313, Public Law 91-604, the Clean Air Act Amendments of 1970) entitled "Progress in the Prevention and Control of Air Pollution" be printed as a Senate Document.

SEC. 2. There shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

AUTHORIZATION FOR PRINTING "THE ECONOMICS OF CLEAN AIR" AS A SENATE DOCUMENT

The resolution (S. Res. 279) authorizing the printing of the report entitled "The Economics of Clean Air" as a Senate document was considered and agreed to, as follows:

Resolved, That the annual report of the Administrator of the Environmental Protection Agency, to the Congress of the United States (in compliance with section 312(a), Public Law 91-604, The Clean Air Amendments of 1970), entitled "The Economics of Clean Air", be printed with illustrations as a Senate document.

SEC. 2. There shall be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF THE 1972 ANNUAL REPORT OF THE JOINT ECONOMIC COMMITTEE

The resolution (S. Res. 283) authorizing the printing of additional copies of the 1972 annual report of the Joint Economic Committee was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Joint Economic Committee three thousand additional copies of its report on the January 1972 Economic Report of the President.

DISTRIBUTION AND PRINTING OF TRIBUTES TO FORMER SENATORS HAYDEN, ROBERTSON, AND HOLLAND

The resolution (S. Res. 287) relating to the printing and distribution of legislative proceedings with respect to the deaths of former Senators Hayden, Robertson, and Holland was considered and agreed to, as follows:

Resolved, That the legislative proceedings in the United States Congress relating to the deaths of the former Senator from Arizona, Mr. Hayden, the former Senator from Virginia, Mr. Robertson, and the former Senator from Florida, Mr. Holland, ordered to be printed by the Senate on January 26, 1972, as separate Senate documents, be printed and distributed, except to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses, on behalf of Members of Congress dying in office, are printed under sections 723 and 724 of such title.

ESTABLISHMENT OF A JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1973

The concurrent resolution (S. Con. Res. 63) to establish a Joint Committee on Inaugural Ceremonies of 1973 was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That a joint committee consisting of three Senators, and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1973.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF THE CONSUMER PRODUCT SAFETY ACT OF 1971

The concurrent resolution (S. Con. Res. 70) authorizing the printing of additional copies of Senate hearings on the Consumer Product Safety Act of 1971 was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Commerce two thousand additional copies each of parts 1 and 2 of its hearings during the first session, Ninety-second Congress, on the Consumer Product Safety Act of 1971.

RESIGNATIONS FROM THE FEDERAL PAY BOARD

Mr. GRIFFIN. Mr. President, I deeply regret that four leaders of some of the Nation's largest unions have abandoned the fight against inflation.

I can only characterize the walkout—led by George Meany—as a callous display of contempt for the public interest.

While other workers in the country are supposed to go along with 5½-percent raises, George Meany is mad because longshoremen, who average nearly $7 an hour, are being held to a 15-percent increase—nearly three times what the guidelines provide.

The cost of living is now going up at the rate of about 3 percent a year—with wage and price controls in effect. Union members are consumers, too; and they must wonder like the rest of us what would happen to prices if Mr. Meany really got his way.

The battle against inflation will be more difficult without the cooperation of Mr. Meany and those who followed him. But the fight will go on, and President Nixon will win it.

QUORUM CALL

The PRESIDING OFFICER. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

S. 3419. An original bill to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT TO FILE WRITTEN REPORT AND JOINT REFERRAL OF BILL

Mr. MAGNUSON. Mr. President, I report an original bill from the Committee on Commerce. I ask unanimous consent that I have until April 10, 1972, to file the written report on the bill. Furthermore, I ask unanimous consent that the bill as reported from the Committee on Commerce be simultaneously referred to the Committees on Government Operations and Labor and Public Welfare for consideration of those aspects in titles I and II of the bill which fall within their respective jurisdictions; that the Committee on Labor and Public Welfare report the bill no later than May 23, 1972; that the Committee on Government Operations report the bill no later than May 25, 1972; and that on May 25, 1972 both the Committee on Government Operations and the Committee on Labor and Public Welfare, if they have not reported the bill by the respective dates, shall be considered to have been discharged from further consideration of the bill and that it be placed on the Senate Calendar.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, every effort is being made to cooperate in this endeavor. I have instructed my staff to furnish the two committees with tentative drafts of the report by early next week. I look forward to continuing cooperation in this important legislative undertaking.

I have cleared this matter with the chairman of the Committee on Government Operations, the Senator from Arkansas (Mr. MCCLELLAN); the distinguished Senator from Connecticut (Mr. RIBICOFF), who will be handling the bill, and with the distinguished Senator from Illinois (Mr. PERCY), who is the ranking minority member of that committee. I have also cleared it with the distinguished Senator from New Jersey (Mr. WILLIAMS), the chairman of the Committee on Labor and Public Welfare, and with the distinguished Senator from New York (Mr. JAVITS), who is the ranking minority member of that committee. I have also cleared it with one other Member.

For the record, Mr. President, this is a bill to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes. It is a long, complicated bill that has been in the making for almost 5 years.

The Commerce Committee appointed a separate, independent commission to make a study of product safety. They worked for 2 years and made a report. The Commerce Committee has had numerous hearings on this matter and many executive sessions. Finally, we ironed out a bill that we think is acceptable.

For the record, the bill provides for the setting up of an independent agency for product safety, rather than the proposal to keep it in HEW. The Committee on Labor and Public Welfare wants to consider the matter because it does transfer the responsibility for foods and drugs into this independent agency. These two committees want to look at factors within their jurisdiction. The remainder of the bill has been ironed out by the Commerce Committee.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BOGGS:

S. 3418. A bill for the relief of Kimiko Bethard. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON, from the Committee on Commerce:

S. 3419. An original bill to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes. Referred, by unanimous consent, to the Committees on Labor and Public Welfare and Government Operations, with instructions to report on May 23 and May 25, 1972, respectively.

By Mr. KENNEDY:

S. 3420. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Assistance Administration to carry out a program of financial assistance to encourage and assist the States in registering voters. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 3420. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Assistance Administration to carry out a program of financial assistance to encourage and assist the States in registering voters. Referred to the Committee on Post Office and Civil Service.

VOTER REGISTRATION ASSISTANCE ACT OF 1972

Mr. KENNEDY. Mr. President, I send to the desk of the Senate for appropriate reference the Voter Registration Assistance Act of 1972. The purpose of this bill is to establish a comprehensive program of Federal financial assistance to aid State and local governments in carrying out their existing voter registration programs. The bill also contains specific financial incentives to encourage State and local governments to modernize their registration procedures, and it offers additional financial incentives keyed to the success of registration programs in the enrollment of previously unregistered voters.

Two weeks ago on the Senate floor, by the narrow margin of 46–42, the Senate killed perhaps the most promising Federal voter registration legislation ever proposed. S. 2574, the National Voter Registration Act sponsored by Senator GALE MCGEE of Wyoming, would have accomplished two highly significant reforms in the area of voting—it would have allowed citizens to register by post card, and it would have reduced State and local residence requirements for voting to 30 days.

Thanks to the far-reaching decision of the Supreme Court in Dunn against Blumfield earlier this week, the problem of burdensome residence restrictions on voting has largely been resolved. In effect, a major portion of S. 2574, although killed by the Senate, has now been passed by the Supreme Court.

By the overwhelming margin of 6–1, with two Justices not participating in the decision, the Court held that Tennessee's durational residence requirements for voting—1 year's residence in the State and 3 months' residence in the district—was an unconstitutional infringement on the right of vote and the right to travel. As a result of the Court's decision, it is estimated that some 5 to 8 million mobile citizens will be eligible to vote in elections across the country this year. Equally important, the decision went far beyond the provisions of S. 2574, since it applies not only to Federal elections, but to State and local elections as well.

The only substantial objection raised against the Court's decision was the fear, expressed by a number of election officials, that State and local registrars would be under a heavy burden to comply with the tide of new applications for registration expected to flow from the decision. In part, the fear is strengthened by the strong implication in the Court's decision that registration may not be closed earlier than 30 days before an election.

Thus, the Court's ruling, in effect, is an invitation to Congress to provide assistance to the States in meeting their new constitutional obligations, and that is the purpose of the legislation I am introducing today.

The bill contains six principal provisions:

First, it offers to make "basic" grants to States and local governments in amounts up to 30 percent of the cost of carrying out their existing voter registration programs. Through this provision, the bill offers direct and immediate financial assistance to local registrars hard pressed to carry out their current duties.

Second, the bill offers a series of financial incentives to States and local governments to increase the percentage of eligible voters who are registered. The amount of such "incentive" grants may be up to 10 percent of the overall cost of the registration program for each increase of 5 percent in the percentage of voters actually registered. The amounts available under this provision will be in addition to the 30-percent basic grants for which States would be eligible under the first provision described above. Thus, a State that increases its percentage of registered voters from 70 to 75 percent not only would be eligible for its "basic" grant of 30 percent of the cost of the registration program, but also would be eligible for an 'incentive" grant of an additional 10 percent.

Third, the bill offers planning grants to States and local governments to modernize their voter registration procedures. South Carolina has taken the lead in using electronic data processing techniques for voters registration. The present bill would enable a grant to be made to pay the full costs of planning such computer or similar programs, with limits for the grants based on the number of eligible voters in the jurisdiction receiving the grant.

Fourth, the bill offers to pay the full cost of a post card registration program adopted by my State or local governments. The amounts available would, however, be limited to direct costs of preparing and processing the cards. In effect, this provision of the bill seeks to establish through voluntary means what S. 2574 would have made mandatory.

Fifth, the bill offers technical assistance to States and local governments to improve their registration procedures, including assistance in developing programs for the prevention and control of fraud. By this provision, innovative approaches to registration disclosed in any part of the Nation will be made available to all jurisdictions, and nationwide improvements will be facilitated.

Sixth, to carry out the financial assistance program proposed by the bill, a new agency—a bipartisan Voter Registration Assistance Administration—would be established in the Census Bureau. The Bureau already has extensive expertise in developing election data and in related voting programs. By building on the foundation now available, it should be possible to launch the proposed new program in time to make significant assistance available for the 1972 elections.

To me, voter registration is the key to voter turnout. In America today, the real obstacles in the path to the ballot box are the barriers imposed by the archaic and unreasonable voter registration procedures now used in virtually every State.

We know that Americans who are registered are Americans who vote. Across the Nation, the momentum is building to reform our obsolete registration procedures. S. 2574 was a near miss. I believe that, pending the enactment of the more comprehensive sort of a program envisaged by S. 2574, we have an obligation to assist the States in whatever way we can to meet the burden imposed by the Supreme Court's decision in the Dunn case, and to offer as much help as we can to encourage the voters of America to register. The cost is small, and the rewards to our democratic system will be enormous.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voter Registration Assistance Act of 1972."

SEC. 2. (a) Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 11—VOTER REGISTRATION ASSISTANCE ADMINISTRATION

"Sec.
"401. Definitions.
"402. Establishment.
"403. Duties and powers.
"404. Programs of assistance.
"405 Grants to carry out and increase voter registration.
"406. Grants to modernize voter registration.
"407. Grants for post card registration.
"408. Technical assistance and fraud prevention.
"409. Applications for assistance.
"410. Regulations.

"§ 401. Definitions.

"As used in this chapter—

"(1) 'Administration' means the Voter Registration Assistance Administration;

"(2) 'State' means each State of the United States, the political subdivisions of each State, and the District of Columbia;

"(3) 'election' means any primary, special, general or other election held for the purpose of nominating or electing candidates for any public office, including any election held for the purpose of expressing a preference for the nomination of individuals for election to the office of President or Vice President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates to such a convention; and

"(4) 'grant' means grant, contract, or other appropriate financial arrangement.

"§ 402. Establishment of Voter Registration Assistance Administration.

"(a) There is established within the Bureau of the Census, Department of Commerce, the Voter Registration Assistance Administration.

"(b) The President shall appoint, by and with the advice and consent of the Senate, an Administrator and two Associate Administrators for terms of four years each, who may continue in office until a successor is qualified. An individual appointed to fill a vacancy shall serve the remainder of the term to which his predecessor was appointed. The Associate Administrators shall not be adherents of the same political party.

"§ 403. Duties and powers.

"The Administration shall—

"(1) provide assistance by grant to States and political subdivisions thereof in carrying out and improving their voter registration procedures;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning elections in the United States;

"(3) provide assistance, upon their request, to officials of States and political subdivisions thereof concerning voter registration and election problems generally;

"(4) obtain facilities and supplies, and appoint and fix the pay of officers and employees, as may be necessary to permit the Administration to carry out its duties and powers under this chapter, and such officers and employees shall be in the competitive service under title 5, United States Code;

"(5) appoint and fix the pay of officers and employees for temporary services as authorized under subchapter II of chapter 1 of this title for temporary employees of the Bureau of the Census;

"(6) prepare and submit annually to the President and the Congress a report on its activities, and on voter registration and elections generally in the United States; and

"(7) take such other actions as it deems necessary and proper to carry out its duties and powers under this chapter.

"§ 404. Programs of assistance.

"In accord with sections 405, 406, 407, and 408, the Administration is authorized to provide assistance by grant, contract, or other arrangement to States and political subdivisions thereof in improving their voter registration procedures and increasing voter participation in elections.

"§ 405. Grants to carry out and increase voter registration.

"(a) The Administration authorized to make grants to any State or political subdivision thereof for the purpose of carrying out existing voter registration procedures. A grant made under this subsection shall not be in excess of thirty percent of the direct costs of carrying out the voter registration procedures of the jurisdiction receiving the grant.

"(b) In order to encourage and assist States and political subdivisions thereof to increase and expand their voter registration programs, the Administration is authorized to make grants to any State or political subdivision thereof which increases the percentage of eligible voters who are registered. The amount of such grant shall be ten percent of the direct costs of carrying out the voter registration procedures, for each five percent increase in the percentage of eligible voters registered above the percentage of eligible voters registered at the time of the most recent general election held in such jurisdiction.

"(c) The total amount of grants made available to a State or political subdivision thereof under this section shall not exceed the total direct cost of the voter registration procedures of such jurisdiction.

"§ 406. Grants to modernize voter registration.

"In order to encourage and assist States and political subdivisions thereof to modernize their voter registration procedures, the Administration is authorized to make grants to any State or political subdivision thereof for planning and evaluating a system of voter registration utilizing electronic data processing or other similar appropriate procedures. A grant made under this subsection shall not be in excess of a total of one-half cent for each potential voter in the jurisdiction receiving the grant, or $15,000, whichever is greater;

"§ 407. Grants for post card registration.

"The Administration is authorized to make grants to any State or political subdivision thereof to carry out programs of voter registration by postal card. The amount of such grant shall not be in excess of the full direct cost of preparing and processing such postal cards.

"§ 408. Technical assistance and fraud prevention.

"The Administration is authorized to provide technical assistance, including assistance in developing programs for the prevention and control of fraud, to any State or political subdivision thereof for improving voter registration and voter participation. Such assistance shall be made avilable at the request of States and political subdivisions thereof, to the extent practicable and consistent with the provisions of this chapter.

"§ 409. Applications for assistance.

"A grant authorized by section 405, 406, or 407 of this chapter may be made only upon application to the Administration at such time or times and containing such information as the Administration may prescribe. No application shall be approved unless it—

"(a) sets forth the authority for the grant under this chapter;

"(b) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this chapter, and provides for making available to the Administration, for purposes of audit and examination, books, documents, papers, and records related to any funds received under this chapter; and

"(c) provides for making such reports, in such form and containing such information, as the Administration may reasonably require to carry out its functions under this chapter, for keeping such records, and for affording such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.

"§ 410. Regulations

"The Administration is authorized to issue rules and regulations for the administration of this chapter."

(b) The table of chapters of title 13, United States Code, is amended by adding at the end thereof the following:

"11. Voter Registration Assistance Administration ---------- 401"

SEC. 3. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Administrator and Associate Administrators (2), Voter Registration Assistance Administration, Bureau of the Census."

SEC. 4. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

THE WAR POWERS ACT—AMENDMENTS

AMENDMENTS NOS. 1084 AND 1085

(Ordered to be printed and to lie on the table.)

Mr. FULBRIGHT submitted two amendments intended to be proposed by him to the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

STUDENT TRANSPORTATION MORATORIUM ACT OF 1972—AMENDMENT

AMENDMENT NO. 1086

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. GURNEY. Mr. President, I am today introducing an amendment to the "Student Transportation Moratorium Act of 1972" that was introduced March 21. This moratorium bill, as it stands, only stops future busing; it does not stop present busing. My amendment would equalize the situation by applying the moratorium to existing busing in the South as well as to proposed busing plans anywhere else in the Nation.

Specifically, my amendment provides that any busing order entered prior to passage of the moratorium bill will, upon application to the court, be reopened for consideration and its implementation stayed.

The language of this amendment closely parallels that found in section 406 of the proposed "Equal Education Opportunities Act of 1972" that is to come before us shortly. But, in addition, it provides an effective means of implementing a moratorium that would treat all our citizens in all parts of the country the same way—something the "Student Transportation Moratorium Act of 1972" presently fails to do. So, while this amendment does not represent a permanent solution, at least it will help bridge the gap until Congress chooses to act on this business of forced busing.

What is really involved here is a question of fairness. If we are going to have a moratorium on forced busing, it should apply to all sections of the country, not just some. Providing that the moratorium will not apply to the South is discriminatory in that it penalizes one section of the country for complying with the law while, at the same time, grants immunity to the rest. It would seem only logical that school systems which have already had busing forced upon them need this moratorium more, rather than less, than those that have not. A moratorium that applies to some school districts should certainly apply to those who are suffering the most; standards of fair play demand no less.

Those who might argue that this would mean a return to a dual school system in the South would do well to keep some figures in mind. In the recent Florida primary, 79 percent of the voters indicated they were opposed to any return to a dual school system. Also, recent studies show that southern schools are better integrated than those elsewhere; almost 44 percent of southern black pupils attend majority white schools, while only 28 percent of the blacks in the North and 30 percent of the blacks in the border States could make the same claims. Linking these two together, it is quite apparent that a return to segregated schools is neither the intention nor the issue; if it were, how does one explain the fact that three out of four southerners polled in 1970 expressed support for integrated schools. In short, most people in the South do not oppose desegregation; they just want what everyone else wants—fair treatment and the right to send their children to a neighborhood school.

There is no reason—particularly in view of the facts and figures just cited—that the South, simply by virtue of the fact that busing is already a fact of life there, should be denied these rights at the same time Congress is making it a policy to protect them elsewhere. If forced busing is wrong or undesirable, it is wrong and undesirable everywhere and to say anything else would be both unfair and inconsistent.

Forced busing affects everybody—young, old, rich, poor, parents, and those without school-age children. We all have to pay for it and we all have to live with it. Therefore, it seems essential that, if we are going to legislate in this area, we develop a uniform national policy that will apply to all people in all sections of the country without favoring one section over another.

Every indicator shows that a great majority of Americans—back and white—oppose forced busing. Whether it be in a referendum in Florida or at a political convention in Gary, Ind., the people have made their position quite clear. And that position is—do something to stop forced busing.

This moratorium, if passed in such a form so as to apply to everybody, will cool off the passions and give us the time to find the best way to deal with the problem. But, if the moratorium is to work and if it is to have the confidence of the American people, it must be fair and that means it must apply to existing busing as well as proposed busing.

My amendment would enable it to do just that. Therefore, I urge its adoption.

ADDITIONAL STATEMENTS

PAUL DOUGLAS' 80TH BIRTHDAY

Mr. PROXMIRE. Mr. President, Sunday, the 26th of March, is the 80th birthday of our friend and former colleague, Paul H. Douglas of Illinois. In the Senate we knew him as a fighting liberal who took on unpopular causes and fought them through to success. Civil rights, one man-one vote, depressed areas, improvements in social security, tax loopholes, consumer bills, the Indiana Dunes, the disclosure of union-management pension and welfare funds, the 1955 minimum wage bill, and a host of others.

A NUMBER OF DISTINGUISHED CAREERS

But Paul Douglas was more than a Senator. He had half a dozen other careers as well—fighting marine, Chicago alderman, university professor, arbitrator in the printing industry, and public citizen.

As chairman of the Joint Economic Committee, I should like to dwell today on Paul Douglas' academic career as an economist, in which he made a number of original contributions to knowledge.

PAUL DOUGLAS AS AN ECONOMIST

The education of Paul H. Douglas at Bowdoin College, Columbia and Harvard Universities laid the foundation for one of the most distinguished and productive careers in the profession of economics in this century. His doctorate was awarded by Columbia University in 1921 when he was already serving as assistant professor at the University of Chicago following teaching at the University of Illinois, Reid College, and the University of Washington. During World War I he served the Emergency Fleet Corp. During his career as an economist he was elevated to associate professor at Chicago in 1923 and full professor in 1925, holding that rank until he was sworn in as the Senator from Illinois in January 1949. He also served as a visiting professor in economics at Amherst College from 1924 to 1927 and at Oberlin College from 1930 to 1931.

During his career he had an active interest and worked extensively at economic theory, labor problems, taxation, money and banking, international trade,

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and social security. The areas in which he worked that produced the greatest contribution to the profession were in the fields of wages and social security. He became interested in wage theory and the related subject of the theory of production at an early stage in his career. A manuscript he produced entitled "The Theory of Wages" won first prize in an international contest in 1927. Considerably elaborated, it was published in book form in 1934. He also published "Real Wages in the United States: 1890–1926," the classic study on this subject at the time. His related interest in social security resulted in his book entitled "Social Security in the United States."

THE COBB-DOUGLAS FUNCTION

It was while he was visiting professor at Amherst that he began his work on the theory of production which led to perhaps his most enduring fame in the profession. In the spring of 1927 while working on the manuscripts that later became "The Theory of Wages" and "Real Wages in the United States" Douglas began studying time series for employment, fixed capital, and output in manufacturing in the United States since 1899. His interest sprang, by his own account, from the attempt to find a more secure basis for the theory of wages in terms of marginal productivity of labor and capital. He himself has reported that he went to his friend on the Amherst faculty who was a mathematician, Charles W. Cobb, who helped Douglas select the mathematical function relating production to capital and labor employed. The simple function they devised was already well known in mathematics and had been suggested over 30 years earlier by an English economist. Douglas, however, was not satisfied with mere theorizing about production. He and Cobb attempted to actually fit the function to statistical data comprising measurements of output, capital stock, and labor employed. He examined the consistency of his results with the available studies on income from the National Bureau of Economic Research to see whether the shares of labor and capital in value added corresponded to those derived from the fitted production function.

CRITICISM AND DERISION

Their researches were reported in December 1927, in a joint paper before the annual meeting of the American Economic Association. Thus was borne into the literature what has since been famed as the Cobb-Douglas production function. Initially the study was greeted with criticism and derision. Today it has become a classic in the field. Douglas and Cobb have been vindicated. One economist said recently that the reason the Lord rested on the 7th day, was that on the 8th day he created the Cobb-Douglas function.

VINDICATION

What followed was a long series of similar studies. The empirical results of the long series of studies pursued for some 20 years were broadly consistent and remain today broadly consistent with later research. For his distinctive contributions Douglas was widely honored by his profession. He was elected a fellow of the Econometrics Society, and in 1947 he was honored with the presidency of the American Economic Association.

By tradition, the president of the association presents the principal address at the annual meeting in December of the year he serves. Professor Douglas' presidential address in December 1947 was entitled "Are There Laws of Production," and in this paper he summed up 22 years of labor. But even as he prepared to deliver this summary of a life's work of contributions to his profession he was about to say farewell to the scholar's life. While he and his wife were preparing to go down to the ballroom where he was to read his paper to the AEA, the telephone rang in his suite, and he was told that he had been nominated by his party to be the candidate for the U.S. Senate from Illinois. A year later he was elected and sworn in as the Senator from Illinois and started another stage in the outstanding career of this remarkable man.

Paul Douglas, your friends and admirers salute you on your 80th birthday.

UNIVERSITY OF MARYLAND TERRAPINS

Mr. MATHIAS. Mr. President, the State of Maryland is known for the success of its professional athletic teams. Now the Baltimore Orioles, Colts, and Bullets will have to make room for a new championship-caliber cousin from the other end of the Baltimore-Washington Parkway. The University of Maryland Terrapins, under the direction of Coach Lefty Driesell, moved into the final round of the National Invitational Tournament last night defeating Jacksonville University, 91 to 77. The victory moved Maryland's seasonal record to 26 and 5, one of the best won-lost records in the Nation.

I congratulate the University of Maryland team and its coaches on their fine season. Like all Marylanders, I am eagerly awaiting Saturday's final round game with Niagara and anticipating the return of the Terrapins as NIT champions. This year the NIT, next year the NCAA.

I ask unanimous consent that two articles about the Maryland team, published in this morning's Baltimore Sun, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE MORNING AFTER

(By Bob Maisel)

For a team which critics have said is poorly coached, has little speed, less poise and is completely devoid of the killer instinct, Maryland continues to do all right for itself up there in Fun City.

The Terps are now 26–5 on the season, have advanced to the final round of the NIT in Madison Square Garden tomorrow afternoon, and it might even be that they discovered their missing killer instinct last night, blowing highly touted Jacksonville off the court, 91–77.

The first half was ragged, but in the second Maryland put everything together to play as well as I've seen them play all season. They scored 53 points in that second half, with everybody contributing behind the lead of Tom McMillen and Len Elmore.

For the game, McMullen had 25 points, Elmore 23, and between them they dominated the boards.

DOING IT THE HARD WAY

For much of the season, Maryland has done things the hard way, a mark of inexperience. But, even though they seldom won laughing, they nevertheless found some way to be on top at the end.

Last night, there was indication that more of the same was coming. On top by 11 and on the foul line near the end of the first half, the Terps missed the fouls, Jacksonville answered with two straight baskets and cut it to 38–31 at the buzzer.

Early in the second half, Maryland built its lead to 10, and seemingly in seconds Jacksonville had cut it to 3 at 50–47. Same old Maryland? Not this time. McMillen scored 8 of the next 10 points. Elmore got hot with him, the rest of the Terps got into the swing of it, and it was never again close.

Jacksonville is reputed to be a team with a strong running game, but the more you see of Maryland the more you realize that they play their best against the running teams. The teams which slow it down and stall have given them the most trouble.

The Terps are maturing, learning how to adjust.

WHICH WOULD BE YOUR CHOICE?

Quick . . . would you rather have, Wes Unseld or Fred Carter? Unseld or Bill Bradley? Walt Bellamy? Bob Lanier Paul Silas? Jerry Lucas?

One of the thankless jobs in sports is voting in various polls. If you come up with the right man at the end, that's the way it should be. You get no credit. If you pick one who is questionable, you hear about your incompetence from all sides.

Players especially are quick to put the rap on sports writers for doing a poor job of voting. So, yesterday for the first time I saw the complete tabulation of the vote for the Podoloff Trophy, which goes to the Most Valuable Player of the Year in the NBA.

The NBA players did the voting themselves and there certainly can be no quarrel with their selection of Kareem Abdul-Jabbar as the runaway winner. Or with Jerry West finishing second, Wilt Chamberlain third, and maybe John Havlicek fourth and Spencer Haywood fifth.

Even before then I started looking for Unseld, but without question I expected to see him somewhere in the top ten. The farther down the list I went, the more amazed I was.

Would you believe that altogether 27 players received votes, down to one each for Bellamy, Bradley and Carter, and that Wes Unseld did not even get a call?

Unbelievable . . . absolutely unbelievable. Bob Lanier finished ninth with two first-place votes, three seconds and two thirds for a total of 21 points.

You can't vote for players on your own team, so that lets the Bullets off the hook. But, it makes you wonder what the other players are doing while they are running around out there in their underwear, or sitting on the bench. They obviously aren't paying attention.

If Unseld isn't one of the 27 Most Valuable Players in the NBA you could fool every fan and every sports writer who has seen a game since the first day Wes stepped on a pro court out of Louisville.

Don't tell the players, though. They haven't found out about it yet.

So, any time a player gives us some guff about how we voted in one poll or another, just haul out your copy of the Podoloff Trophy results, stick it under his nose, and you'll have no more trouble from him.

Unseld isn't just valuable, he's the franchise.

SEATTLE HAS GRIPE

Then, there is the controversy over Gene Shue resting his regulars, going with the subs and losing the 2 games played since the Bullets clinched their division.

This is one of the dangers when you have so many divisions and have second place teams fighting for playoff spots. You can't blame Shue for trying to bring his team into the playoffs in the best possible shape. That's where the money and prestige are, and his spot is clinched.

You also can't blame them for griping in Seattle, though. They still had a chance to catch the Warriors until the Bullets decided to go with their reserves. Maybe the Warriors would have won the game anyway, but I doubt if Seattle is convinced.

Remember when the Colts lost their final game of the season, and actually appeared to benefit? If they had won, they would have played Kansas City in the first playoff game. When they lost they played Cleveland, a team that didn't figure to be as tough.

Systems like these open the door for suspicion and trouble.

Even though you can understand Shue's logic, there is still something about the whole thing that doesn't seem quite right. Maybe if he had told the fans of his plans a couple of days before, it wouldn't have been quite as objectionable.

They talk about not drawing the way they should, yet it doesn't do much to convince a man he should come back, when he pays his way in and doesn't see the regulars with the game and a playoff spot still in question.

TERPS GAIN NIT FINAL IN ROMP; NIAGARA WINS

(By Ed Winsten)

NEW YORK.—After all those weeks of tedious slowdowns, Maryland finally found a basketball team that wanted to run.

It turned out to be a delightful experience for the Terps, who manhandled Jacksonville University, 91 to 77, last night to gain the championship game of the 35th National Invitation Tournament at Madison Square Garden.

In the semi-final nightcap, Niagara defeated St. John's 69–67, on two free throws by Al Williams with five seconds remaining. St. John's had trailed by as many as 12 points before catching up with seven minutes remaining and keeping close the rest of the way.

In winning their 26th game of the marathon season, the Terps ran up the most points they have scored since December 29, when they crushed Western Kentucky, 103–67, in their Holiday Tournament. The next night they scored 90 in beating St. Johns'.

Chief reasons for the scoring binge were sophomore Tom McMillen and Len Elmore, who came up with 48 points between them. McMillen was 10 for 17 from the field and moved to within 6 points of Gene Shue's school record for a season.

Elmore also became the school's leading one-season rebounder with his 14 recoveries.

TERPS PARRY THRUST

McMillen and Elmore crushed Jacksonville's lone bid in the second half. After Harold Fox made it 52–49, Elmore hit a 16-footer, McMillen connected on two 20-footers and converted two free throws as the Terps ran off to a 60–49 lead with 10:15 to go.

"We were in a zone trap trying to catch up when McMillen hit those shots," said Jacksonville coach Tom Wasdin. "We were double teaming and gambling that he wouldn't hit them."

"I was concentrating on the outside shots because it was more effective," added McMillen. "I thought I should have done better inside, but I'll do anything to win."

Elmore was somewhat of a surprise, hitting 8 of 13 from the field, several from 15–17 feet.

"I do that all the time . . . in practice," said a laughing Elmore. "I don't usually take those shots but they left me open."

Elmore missed a few minutes near the beginning of the second half and getting bonked on the left eye. He passed it off as "somebody's head, or something." It hadn't swelled noticeably after the game.

COME OUT HOT

The Terps came out like gangbusters, swarming over the court early, in contrast to some of their slow starts.

"Now is not the time for a slow start," said Bob Bodell. "We had some team meetings about that this week. It's a matter of getting out there and running and hustling, that's all."

Bodell was called for an unusual foul while guarding Fox in the second half. Fox made a long jumper, then hit a free throw to make it, 50–47.

"I asked him (the official) about that," Bodell said, "and he said he called me for 'spearing.' I asked what that was, and he said he didn't want me to spear him (Fox) in the eye. I've never heard of spearing before.

"Fox, he's pretty quick," he added. "He ran by me a couple of times."

Fox, the Northwestern (Md.) High grad who had been looking forward to this game, finished with 26 points, mostly from long range.

"The points don't mean anything," he said. "We lost. Our defense wasn't as strong as usual, that was the main point of the game.

"Overall, they played a hellova game; I expect them to win the tournament. Their guards are deceptive," he added. "They look slow, but they're pretty quick. That Howard (White) is quick. And McMillen, he's a nice ball player."

Fox added that Maryland presented them with more problems than most teams, chiefly because of the mobility of McMillen and Elmore outside.

"We're used to playing teams with big guys who stay under the basket," he explained.

Niagara's victory saved the NIT of having to stage a rematch of Maryland's December Invitation Tournament in which the Terps defeated the Redmen.

St. John's, in this tournament for the 21st time, was without its star rebounder, Mel Davis, who tore a tendon in his knee Tuesday, and it hurt the Redmen underneath.

But even getting beaten off the boards, St. John's steadily whittled away and went up, 59–58, with 6.55 to go. Thirty seconds later, Marshall Wingate put Niagara back on top, 60–59.

Later, forward Bill Schaeffer made two free throws to knot the score at 67 with 46 seconds left, and Niagara ran off 40 seconds before Williams was fouled on a drive. The team's best free throw shooter, Williams put in both. Schaeffer's shot at the buzzer rolled off the rim.

THE 80TH BIRTHDAY ANNIVERSARY OF FORMER SENATOR PAUL DOUGLAS OF ILLINOIS

Mr. STEVENSON. Mr. President, March 26 will mark the opening of a new decade for an esteemed former colleague of many present in this Chamber and a friend of two generations of Stevensons—Paul H. Douglas, of Illinois, will be 80.

During the time I have served in the Senate, I have noted with pride the many times that Senator Douglas' colleagues have drawn attention to issues which he championed by drawing the name and spirit of Paul Douglas into the battle for the public good. His record in the Senate—established over 18 years—continues to serve as the impetus for much legislation important to America's people: Conservation of our natural resources, truth-in-lending, the development of underdeveloped communities, civil rights, medicare. It is an endless litany of endless fights for the common man. Senator Douglas, in retirement, is not resting on his laurels, his career completed. His work is still done in this Chamber and in the committee rooms of the Senate when the people win victories for justice, good sense, and decency in politics.

Paul Douglas is remembered and revered for his concern for his fellow man. It was relentless and uncompromising. The people of Illinois continue to reap the benefits of his fights to save the Indiana Dunes, to promote rural electrification and bring industry to areas of chronic unemployment. To Paul Douglas' gallery of Illinois heroes—John Peter Altgeld, Abraham Lincoln, and Jane Addams—the people of Illinois have added with their affection, respect, and gratitude this towering public servant.

The people of the United States continue to reap the benefits of his service. That service was moral leadership always granted in a spirit of trust, honesty, and kindness. Paul Douglas is a man with a loving and generous heart coupled with intellectual integrity and brilliance. His service goes back over long years as a teacher, a scholar, and author, a marine in combat, as alderman and Senator always in the service of his country. In no way can the Nation express its thanks to this gracious and wise man better than by recommitting itself to what Paul Douglas stood for.

NOMINATION OF ALFRED T. MACFARLAND AS A COMMISSIONER OF THE INTERSTATE COMMERCE COMMISSION

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Tennessee (Mr. BROCK), who is necessarily absent, I ask unanimous consent to have printed in the RECORD a statement by him relating to the nomination of Mr. Alfred T. MacFarland, of Tennessee, as a Commissioner of the Interstate Commerce Commission.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BROCK

I was extremely pleased to learn of President Nixon's nomination of Mr. Alfred T. MacFarland as a commissioner of the Interstate Commerce Commission.

Although my association with Mr. MacFarland has been relatively brief, we have become the best of friends. His accomplishments for Tennessee have long been a matter of the greatest pride to the citizens of my State.

A life-long Democrat, Alf MacFarland has a truly distinguished record of public service and his credentials are numerous. He has served as both a representative and senator in the Tennessee State legislature. He was general counsel to the Tennessee Public Service Commission and later became the State Commissioner of Revenue. From 1959 to 1961, Mr. MacFarland assisted the Governor as a member of his Cabinet and has participated as a board member on a host of State committees.

In addition to his tremendous efforts in behalf of Tennessee, he has maintained his

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own law office since his admittance to the bar in 1942.

I have the greatest respect for Alf MacFarland. He is one of the most erudite and accomplished individuals I know. I am delighted by his nomination and commend him for confirmation by the Senate.

SHIPBUILDING CLAIMS BY LOCKHEED CORP.

Mr. PROXMIRE. Mr. President, a year ago, I asked the General Accounting Office to look into the settlement of five consolidated shipbuilding claims filed against the Navy by the Lockheed Corp.

The Navy eventually paid $18 million to Lockheed in settlement of those claims.

Based on the General Accounting Office's investigation and my own understanding of the case, I have concluded that the settlement was wrong and unsupported by the facts.

The original claim was padded and puffed up to such a gross extent as to suggest intentional misrepresentation on the part of Lockheed.

The way this claim was handled by the Navy and its contractor has stretched claims procedures close to the point of corruption.

A Navy audit showed, according to a study done at my request by the General Accounting Office, that a significant part of Lockheed's claim included erroneous cost data and lacked adequate supporting documents.

Lockheed claimed that late delivery by the Navy of boilers for two destroyer escorts caused a 14-month delay on one ship and a 7½-month delay on the other. An audit revealed only a 48-day delay occurred in the first ship and that there was no delay at all in the construction of the second.

Lockheed's cost accounting system and other records were so inadequate that the additional costs claimed could not be related to specific Government actions.

Because of the lack of concrete evidence demonstrating the extent of the Government's responsibility, the GAO concluded that it was "not in a position to express an opinion of the reasonableness of the settlement."

It also appears that the claim, although treated in a consolidated fashion by the Navy for most purposes, was subdivided into five parts in order to avoid bringing it before the civilian Claims Control and Surveillance Group, formerly headed by Gordon W. Rule.

The Rule group had authority to review all claims in excess of $5 million. Although the Lockheed claim was settled for more than triple that amount, dividing it into five portions kept the claim out of its hands.

I ask unanimous consent to have printed in the RECORD the General Accounting Office report on this subject.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 15, 1972.

Hon. WILLIAM PROXMIRE,
Chairman, Joint Economic Committee, Congress of the United States.

DEAR MR. CHAIRMAN: Pursuant to our letter to you of June 16, 1971, and in continuation of our evaluation of the disposition of shipbuilders' claims for price increases on contracts awarded by the Department of the Navy, we have examined into the circumstances surrounding the initiation, evaluation, and settlement of five consolidated claims made by the Lockheed Shipbuilding and Construction Company. The claims amounted to $40.9 million as of August 22, 1969, and this amount was evaluated by Navy technical personnel. Subsequent to August 22, 1969, Lockheed informally revised the claims, which increased the total to $46.3 million. In May 1970 the Navy negotiated a settlement in the amount of $17.9 million.

The enclosure to this letter contains information on five Lockheed contracts, including the types of vessels involved, contract prices, delivery dates, and claim settlement amounts. The contracts were awarded on a fixed-price basis in the total amount of $83.5 million. The final amount paid, however, including additional amounts for escalation clauses, change orders, and claim settlements, was about $121 million.

LOCKHEED'S DEVELOPMENT OF CONSOLIDATED CLAIMS

A company official advised us that Lockheed, upon realizing that it was getting into a serious loss position on its Navy contracts, decided in 1966 to develop claims and to submit them to the Navy for the recovery of additional costs. Lockheed believed that the losses had been caused by actions for which the Government was at fault. During 1967 Lockheed established a team to develop claims for reimbursement of costs above those normally resulting from formal change orders or other written directions from the Navy.

The claims were based on a number of underlying causes, such as late and defective Government-financed material, defective or impossible Government specifications, late and defective lead-yard plans (working plans and other design data prepared by the contractor that had constructed the first ship of a new design class), increased inspection requirements, work in excess of specifications requirements, delays and disruptions caused by change orders, and various constructive changes (directions by the Government for changed or additional work not covered by formal change orders).

The contracts required Lockheed to accumulate and maintain data on a total-cost basis. Also Lockheed's cost accounting system did not provide for linking additional actual costs incurred to individual events or changes. Amounts claimed by Lockheed were established by estimating the amounts of additional labor and overhead which might have been expended because of Government actions plus the actual or estimated cost of additional materials used.

The Navy established a special task force for evaluating the claims and negotiating an equitable settlement with Lockheed. The task force consisted of a contracting officer in charge, a negotiator, a counsel, an engineer, an auditor, and a separate three-member technical evaluation team for each of the claims. Each three-member technical evaluation team consisted of an engineer, a counsel, and a technical analyst. The task force was able to get assistance as needed.

The Navy's task force spent approximately 1 year in evaluating Lockheed's claims. The task force auditor was provided by the Defense Contract Audit Agency and was responsible for determining the financial accuracy of the claims. The audits included such tests as verifying to the accounting records the labor and overhead rates and the material prices used by Lockheed to establish the amounts claimed. The audits showed that a significant part of Lockheed's claims included erroneous cost data and lacked adequate supporting documentation. The advisory audit reports recommended disallowance of about $8.9 million of Lockheed's claims, including $2.2 million of additional labor costs which exceeded actual recorded labor costs.

The technical evaluation teams were responsible for determining the reasonableness of the labor-hours and material items claimed. We found that generally they had evaluated each claimed item by (1) reviewing pertinent Navy and Lockheed records, such as letters and memorandums, to determine whether the event actually had happened as claimed, (2) reviewing Lockheed's claim-support records, such as cost-estimate schedules and ship-compartment diagrams, and (3) using their own experience and professional judgment to make an estimate of the number of man-hours and the amount of material that they considered reasonable. The following two examples illustrate the reviews made by teachnical teams:

1. Lockheed claimed 243,334 additional production man-hours attributable to late delivery of Government-furnished boilers for the construction of two destroyer escorts. Lockheed contended that delivery of the boilers for one of the ships had been delayed 14 months, or 424 days, and for the other ship had been delayed 7½ months, or 226 days.

To arrive at these figures, Lockheed evaluated the effects of the late deliveries on its ship construction plan by (1) developing from its records the total actual expanded man-hours by month for each ship and (2) having a team of Lockheed employees who had been directly involved in the work on the two ships estimate the amount of additional production man-hours attributable to the late delivery of the Government-furnished boilers. In a technical advisory report, the Navy stated that it (1) had divided man-hours claimed by Lockheed between the two ships by using a ratio developed from Lockheed's claim of the number of days' delay on each ship, (2) had investigated the ship's compartments whose construction Lockheed claimed had been disrupted by the late delivery of the boilers, and (3) had compared the actual boiler-installation dates with the scheduled boiler-installation dates for each ship.

The Navy found that the installation of boilers in one ship had been delayed 48 working days and that the installation of boilers in the second ship had not been delayed. In evaluating the hours claimed by Lockheed for the ship for which delivery of the boiler had been delayed, the Navy found that Lockheed's claim was based on the use of 65 men each day. By applying the 65-man figure to the 48 working days' delay on the ship, the Navy determined that 24,960 man-hours of delay had been caused by the late delivery of Government-furnished boilers compared with 157,167 man-days determined by the Navy to be the part of Lockheed's claim applicable to the late delivery. The Navy evaluator recommended disallowance of the excessive man-hours claimed, including all the 86,167 man-hours of labor determined by the Navy to be the hours claimed by Lockheed as applying to the second ship, for which the installation of boilers had not been delayed.

2. Lockheed claimed that 8,796 additional production man-hours were attributable to work not required by contract specifications to correct an overweight condition of the hydrofoil. Lockheed contended that the contract provided that the shipbuilder fabricate the hull and structure in accordance with certain specifications furnished by the Government and that, because of a defect in the Government specifications which caused the ship to be overweight, Lockheed had had to conduct a comprehensive, far-reaching research and engineering development effort to reduce the weight of the ship. Lockheed calculated the additional production man-hours required to correct this defect by (1) estimating the production man-hours expended to fabricate the hull and structure and (2) subtracting from this number the production man-hours estimated to have been originally bid for the hull and structure fabrication. In the technical advisory report, the Navy evaluators accepted Lockheed's contentions and concluded that, due to the extra effort involved, the 8,796 additional production man-hours claimed by Lockheed were reasonable.

CONCLUSIONS

Lockheed's cost accounting system and other records did not relate its additional costs to Government actions; therefore, the extent to which the Government was responsible for these costs was difficult to establish. In the absence of such accounting records, Lockheed based its claims largely on engineering estimates.

Because of the significant number of engineering and technical judgments that entered into the settlement and because of the lack of available documentation against which to verify the extent of the Government's responsibility, we are not in a position to express an opinion on the reasonableness of the settlement. We believe, however, that, under the circumstances, the Navy made a commendable effort to effect a reasonable settlement, and we did not find any basis for questioning the reasonableness of the settlement made.

We believe also that the Navy should require contractors to maintain records in support of claims. We have discussed the issue of adequate recordkeeping with the Navy. Navy officials advised us that they were exploring with an industry group problems that might be anticipated in requiring contractors to segregate direct costs for contract changes under the "Change Order Accounting" clause. The Navy also presented for the group's review a proposed "Estimating System Criteria Specification." In addition, the Navy stated that business review offices had been established at three supervisor-of-shipbuilding locations to study estimating and pricing techniques of major private shipbuilders constructing Navy ships.

In a report issued in February 1972 entitled "Causes of Shipbuilders' Claims for Price Increases" (B-133170), we reviewed other Navy actions designed to minimize the number and dollar value of shipbuilding claims and concluded that the Navy's actions held considerable promise for achieving their objectives. The Navy's actions include programs to improve ship specifications, to minimize delays and defects in Government-furnished equipment and information, and to promote a common understanding of quality assurance requirements.

We did not obtain agency or contractor comments on the matters included in this report.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

If we can further assist you in this matter, please let us know.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DESCRIPTION OF 5 LOCKHEED CONTRACTS

	NObs 4516	NObs 4619	NObs 4645	NObs 4680	NObs 4758	Total
Type of contract	Fixed price	Fixed price	Fixed price	Fixed price	Fixed price	
Award date	January 1962	March 1963	March 1963	July 1963	March 1964	
Type of work	Construction	Modernization, renovation, and conversion.	Construction	Construction	Conversion and repair	
Number of ships	3	2	2	1	2	10
Type of ship	Guided missile destroyer escorts.	Fleet oilers	Destroyer escorts	Hydrofoil	Ammunition	
Original delivery dates	February 1965, June 1965, October 1965.	June 1964, September 1964.	March 1966, July 1966	November 1965	July 1965, January 1966	
Actual delivery dates	March 1966, May 1967, May 1968.	December 1964, February 1965.	March 1968, October 1968.	March 1969	June 1966, November 1968.	
Original contract price	$28,453,995	$14,949,563	$19,721,200	$11,795,000	$8,545,515	$83,465,373
Causes of price increases:						
Change orders	3,182,855	5,112,776	547,421	182,458	8,606,934	17,631,444
Escalation	1,585,400		403,693			1,989,094
Claim settlement	4,247,000	1,727,000	3,811,000	4,000,000	4,115,000	17,900,000
Final contract price	37,469,250	21,789,339	24,483,314	15,977,458	21,267,549	120,986,910
Consolidated claim:						
Original	9,590,353	6,413,343	9,359,031	4,649,851	6,066,752	36,079,330
Revised Aug. 22, 1969	10,464,258	6,238,187	10,231,615	6,782,536	7,214,661	40,931,257

MARYLAND DAY, 1972

Mr. MATHIAS. Mr. President, it was 338 years ago tomorrow—March 25, 1634, that two small ships from England sailed up Chesapeake Bay and landed at what is now St. Mary's City in southern Maryland. These two shiploads of settlers had crossed the stormy Atlantic in winter seeking an opportunity to live in religious freedom on the then-wild shores of North America. They sought to escape the sectarian strife then wracking England and much of the rest of Europe.

It was in this settlement 15 years later that the famous Maryland Act of Toleration—one of the landmark documents in the attainment of civil liberties—was adopted. And it was from this settlement that the expansion of the State of Maryland developed.

The road to lasting religious freedom was a bumpy one; subsequent governments even in colonial Maryland were not as tolerant as that group of original settlers had been.

And the road to expansion has also been bumpy, from a few hundred Englishmen landing in lightly populated Indian country to the more than 4 million people who populate our State today.

It is appropriate on this occasion, symbolic of the origin of one of the first amendment rights which we hold so dear, to call attention to an article, "The Old Maryland Idea," which appears in the current issue of Liberty magazine.

Th author of this article pays well-deserved tribute to the few individuals, such as Lord Baltimore, the leader of the Maryland settlement, who were prepared to exert moral leadership against popular opinion of the 17th century on this issue.

I would also take this occasion to call attention to an article, "Maryland On the Half Shell," which appeared in the February issue of National Geographic magazine. In flowing text and glorious pictures, the Geographic has depicted the breathtaking beauty of Maryland's countryside and the dynamism of her cities—attributes which all Marylanders should pause and reflect upon on this date.

But the beauty of Maryland—as of our other States—is endangered by the neglect of modern civilization. I am taking this occasion to call attention to the need for urgent action to reclaim the beauty of Chesapeake Bay and its tributaries which existed 338 years ago.

Mr. President, I ask unanimous consent to include in the RECORD the two articles to which I have referred and a statement I am issuing on this occasion.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CHARLES MCC. MATHIAS, JR., BEING ISSUED IN BALTIMORE ON MARYLAND DAY 1972

Maryland Day annually commemorates the founding of the colony of Maryland on March 25, 1634. Each year it provides us with the opportunity to recall some of the courage of the past that has created the present and that challenges us to equal it in the future.

The beauty and serenity of the Chesapeake Bay, its great tributaries and the shores that limit them, even after 338 years of human traffic, give us an idea of the breathtaking beauty of the scene that greeted the eyes of the passengers on the Ark and the Dove in 1634. We can imagine the ship-bound immigrants watching, as Father Andrew White described it, "Birds diversely feathered—eagles, swans, hernes, geese, bitters, ducks, partridge read, blew, partie coloured and the like, by which will appeare, the place abounds not alone with profit, but also with pleasure."

We are forced by the conditions that exist in the bay today to envy the purity of the Chesapeake's waters which Father White found to be "the most delightful water I ever saw, between two sweet landes—" And there is a challenge in this description. It does not require the expertise of an environmental engineer to recognize the danger that now confronts the Chesapeake. The choice must be made now, and Maryland Day 1972 would be a good day to make it, whether the Chesapeake will be once again the most delightful water ever seen or whether it will become America's Dead Sea.

Every Marylander has a stake in this decision and a part to play in executing it, either

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by positive action or by passive neglect. Since most Maryland rivers and streams ultimately empty into the Chesapeake, most Marylanders have a direct, consequential relationship with the Bay and its tributaries. No one can be indifferent without being irresponsible!

The goal for Marylanders on Maryland Day 1972 should be to restore the waters of the Chesapeake to the standard of sweetness and purity that existed on March 25, 1634. This will be difficult, expensive, extended and controversial. It will require some sacrifice and great dedication. But the alternative is hardly acceptable. There are too many arid, uninhabitable sites of once prosperous civilizations not to heed the warning. Unless the Marylanders of 1972 act soon, it may well be that in another 338 years there will be no observance of Maryland Day on the despoiled, depopulated shores of the Chesapeake Bay.

I pledge myself to do my part to save the Bay, and I call on every Marylander to join in this great work of healing and rehabilitation.

[From the National Geographic, Feb. 1972]

MARYLAND ON THE HALF SHELL

(By Stuart E. Jones)

Sailing across Chesapeake Bay, we were overtaken and passed by a trim yawl *Despot's Heel* lettered on her stern. Later, berthed in a marina at sundown, I met the owner and mentioned his boat's unusual name.

"You aren't going to ask what it means?" he said. "You must be a native Marylander."

For the benefit of non-Marylanders, the line "The despot's heel is on thy shore" appears in the state anthem, "Maryland, My Maryland." The yawl's owner, I learned, was noted for running his boat aground; it was frequently on somebody's shore.

"It's a bit subtle," he admitted.

Maryland, like the name *Despot's Heel*, deserves the adjective "subtle," meaning "delicate, elusive, obscure, hard to distinguish or describe." That's the Free State—crammed with charms as delicate and elusive as the iodine scent of tidewater marshes, obscure as Baltimore's reasons for covering honest red brick with imitation stone, indescribable as a Blue Ridge sunset.

I know it fairly well, having been born and raised there, having gone away and returned several times. Recently I again became a resident—this time permanently, I hope, beside a quiet, lovely creek on the Eastern Shore.

Before settling there, I took a long look at Maryland in all its incredible variety, from thundering Atlantic surf in the east to forested mountains in the west, and southward from the Pennsylvania border to the Potomac River mouth, where southern Maryland ends and Virginia begins (map, pages 188–9).

But first I talked with Governor Marvin Mandel, a Baltimorean who succeeded a man whose name has become a household word—Vice President Spiro T. Agnew.

"I hardly think you can come up with a descriptive phrase any better than the one written by your late editor some years ago," said the Governor.

In a desk drawer he found a well-thumbed copy of NATIONAL GEOGRAPHIC for February 1927. He turned to "A Maryland Pilgrimage," in which Dr. Gilbert H. Grosvenor had described the state as "a delightful geographic miniature of America."

And so it is. Citizens like to boast that Maryland's 10,577 square miles include samplings of almost every physical feature of the United States.

I found that much had changed, especially in my native Baltimore. Not so long ago, that name might have evoked a response something like: "Oh, yes, that's the place you have to drive through to get from Washington to New York. Terrible traffic! And those monotonous white-marble steps!"

As if to oblige these critics, Baltimore had built a beltway-tunnel system that shunts traffic around its narrow streets and under its harbor. And the city, now 243 years old, had begun the formidable task of bringing itself up to date.

As I gazed down from high windows of One Charles Center, architect Mies van der Rohe's magnificent office building, the immediate surroundings seemed much like the business sections of Houston, or Atlanta or Boston. But beyond lay the familiar port, the Nation's third largest in foreign commerce, thrusting into the city's heart (pages 198–9) and reaching southeastward toward the Chesapeake. In the far distance a battery of belching chimneys marked Sparrows Point, where the Bethlehem Steel Corporation lights up the night sky with its vast furnaces and builds giant tankers and other vessels.

On a hilltop to the northeast I picked out the Johns Hopkins Hospital's 83-year-old administration building, its Victorian brick mass and copper-ribbed dome dwarfed by several newer structures housing clinics, laboratories, and departments of the famous teaching and healing institution (page 195).

To the west, the smaller, older, and equally distinguished University of Maryland Hospital and the university's schools of medicine, dentistry, pharmacy, and nursing were in the throes of expansion. As I watched, a Maryland State Police helicopter landed an emergency patient beside a waiting ambulance atop a campus parking garage.

Later, as I revisited neighborhoods I once knew well, it became clear that Baltimore was experiencing a profound social, political, and economic upheaval. In what I had remembered as an unusually class-conscious community, many of the city's staid old clubs had eased their membership restrictions. The newest, the elegant Center Club, announced at birth a policy of ignoring race, religion, and nationality of prospective members.

More and more, the city's large and immensely varied ethnic groups—especially a black population now pushing toward 50 percent of the 900,000 total—were making their voices heard. In 1970, for the first time in its history, Baltimore elected a black Congressman—Parren J. Mitchell, former professor of sociology at Morgan State College and veteran fighter for civil rights.

Another Baltimore congressional district containing both silk-stocking neighborhoods and inner-city slums, elected Paul S. Sarbanes, son of Greek immigrants, Rhodes scholar as Oxford, and brilliant lawyer.

Amid all the change, I found many Baltimoreans clinging to time-honored customs—like speaking their own "language."

Baltimorese reaches its finest flower in East Baltimore, in blue-collar neighborhoods like Highlandtown and Canton, where rowa of narrow flat-front brick houses with white-marble steps stretch for miles (preceding pages). These tidy, stable settlements are home to the machinists, carpenters, welders, shipwrights, tugboat crewmen, and others who do a busy seaport's hard work.

"Well, I guess I'll *washa dishes*," a typical East Baltimore housewife might say after serving breakfast and getting her man off to work. After performing that chore in the kitchen *zinc*, she will go outside to sweep the *payment*, or sidewalk.

In her lexicon smoke comes out of chimbleys. Ice does not melt; it *milks*. If you have a lawn, you mow it with a *paramour*.

After trips to the zoo *Droodle* (Druid Hill) Park, East Baltimoreans tell of seeing *larns*, *taggers*, and *zeebers*. In their neighborhood bars they talk endlessly about their baseball, football, and basketball teams and rejoice that they live in *Bawlmer, Merlan*, city of champions.

On my strolls I noted, too, that many rowhouse dwellers still find privacy behind colorfully painted window screens, an art form for which the city is noted. The passerby can't see through the charming picture, but the window sitter in his darkened parlor enjoys a clear view of happenings in the street.

Pictorial screens were introduced to Baltimore more than fifty years ago by the late William Oktavec, an immigrant from Czechoslovakia. In a small art-restoration and framing shop, I found Richard, one of his four sons, painting the "cozy-cottage" number" on a screen. It portrayed a red-roofed bungalow, with trees, ducks in a pond, and a curving lane (preceding page).

"This has always been the most popular subject," said Mr. Oktavec. "Next come a Swiss mountain scene and a mill with a waterwheel. Some customers send pictures of their own to be reproduced on screens."

In East Baltimore I heard of a schoolteacher who was surprised, and somewhat disturbed, to learn from her pupils that many parents knew little about the big city outside the painted screens. Deciding to remedy the lack, the teacher organized bus tours, and her invitations were accepted eagerly.

After several sight-seeing jaunts, she addressed a busload of parents one day:

"How many have seen Fort McHenry?"

All hands were raised. Similiar responses came when she asked about the Star-Spangled Banner Flag House, the Baltimore and Ohio Transportation Museum, the U.S. Frigate *Constellation*, and other standard attractions.

Then she asked, "How many have been to Charles Center?" Three hands went up.

Thus it happened that these Baltimoreans traveled the few miles from their homes to enjoy a closeup view of downtown Charles Center, one of the Nation's most spectacular urban-renewal achievements. In awed disbelief they trudged through the city's heart, where scores of shabby buildings had given way to a business-residential-entertainment complex that speaks of tomorrow rather than of the 19th century (following pages).

My own first brief view of Charles Center overwhelmed me. Driving into the city a few years ago after a long absence, I headed north on Charles Street and, as always, looked for the Sunpapers building where I once worked. It wasn't there. In its place, nearing completion, was the ultramodern Morris A. Mechanic Theatre, named for the show-business leader who endowed it. Nearby yawned great holes where familiar landmarks once stood. They would be replaced by office buildings, shops, high-rise apartments, shaded plazas, pedestrian malls on several levels, and underground parking garages.

By 1971 I found the mid-city project virtually complete and swarms of hard-hatted demolition and construction crews busy on the second phase—a drastic face-lifting that will turn the seedy Inner Harbor area into another modern complex. It will include a slender, pentagonal World Trade Center designed by I. M. Pei.

At 4:30 on a July morning I found myself about as far as one can get—in spirit if not in miles—from the Nation's seventh largest city. In pitch darkness I was standing on a rickety Eastern Shore pier, waiting to go crabbing with Raymond Eason.

Mr. Eason is a waterman. That means he is one of about 16,000 Marylanders who make their basic living from fruitful Chesapeake Bay and its myriad rivers, creeks, and coves.* It is a hard life, with modest financial rewards, but it offers independence—and that, say watermen, is a precious thing to have.

Watermen harvest crabs in summer, oysters in winter, soft-shell claims and many varieties of fish almost the year round. Some also farm a bit. Their wives keep house, tend truck gardens, work in seafood packinghouses, and drive school buses. Sons often follow their fathers' trade, and daughters become watermen's wives; so the cycle has

* See "Chesapeake Country," by Nathaniel T. Kenney, NATIONAL GEOGRAPHIC, September 1964.

gone since the 17th century, when the watermen's English forebears first settled along the shores of the bay.

Before dawn Mr. Eason arrived in a pickup truck with his grandsons John, 11, and Martin, 8. While Mr. Eason assembled his gear, I asked the boys if they expected to become watermen like their grandfather.

"No, sir," said John. "I'm going to be a backhoe driver."

"Me, too," said Martin.

Mr. Eason rumpled John's hair and chuckled. "They'll be watermen," he said.

We clambered aboard Mr. Eason's long, narrow workboat. He glanced at the sky, beginning to brighten in the east.

"Some people say crabbing's best when there's a full moon," he said. "No moon at all now, but we'll do all right. Been working these waters 26 years and never saw so many crabs."

Commercial crabbers use two basic techniques: potting and trotlining. The first employs baited pots, or traps, ingenious affairs of chicken wire and lath. Weights hold them on the bottom, and buoys mark their locations. Maryland law restricts commercial potting to the deeper waters of the bay and its major estuaries. Mr. Eason prefers trotlining, the legal method in shallow waterways.

As he steered out of Haskins Cove into Irish Creek, Mr. Eason throttled down to a two-knot crawl and began laying out his first trotline. Anchored and buoyed at each end, it stretched about half a mile. Other crabbers passed us, headed toward the broad Choptank River. By unwritten law each had established rights to his own crabbing grounds.

Chunks of fragrant salted eel were tied to the trotline at four-foot intervals. The Chesapeake blue crab (*Callinectes sapidus*) will eat almost anything. But, said Mr. Eason, "Eel's the best bait. It's tough—a crab can't chew it off and swim away before you catch him."

When two trotlines were in place, Mr. Eason began the harvest. He slipped the end of the first line over a roller projecting from the starboard gunwale. The boat's slow forward movement pulled the line out of the water.

Almost every bait had a crab attached, hanging on with its two powerful claws and greedily chewing eel. With a long-handled net Mr. Eason deftly plucked them off the line and tossed them into bushel baskets. Many he rejected, letting them hit the roller and drop back into the water.

"See what I mean?" he said. "There's a powerful lot of crabs in this creek, but too many of them are under the legal five inches."

Still, after three or four hours we had four bushels of jumbos, measuring six inches or more between the points of the shell. They would fetch top prices from restaurants that steam them with spices to provide one of the bay country's finest feasts.

Old-timers like Raymond Eason marvel at the new waves of settlers, mostly former city-dwellers like myself, who are advancing upon the Eastern Shore today. They come seeking quiet havens within shopping distance of such centers as Chestertown, Easton, St. Michaels, Cambridge, and Salisbury.

One real-estate broker told me of a New Yorker who called him not long ago. "About that Eastern Shore property you're advertising in today's *Times*," he said. "I'll take it, sight unseen."

"They come here looking for rural solitude," a neighbor of mine growled. "Well, if many more of 'em keep coming, there won't be much of that solitude left."

On summer weekends the migration from Baltimore, Washington, and other places to the Eastern Shore takes on lemming-like proportions. Near Annapolis, cars back up for miles as they wait to squeeze onto the two-lane Bay Bridge, which spans four and a half miles from shore to shore.

Sunday evening the tired, sunburned throngs head homeward and swelter through massive pileups of traffic at the bridge approach. While they wait, motorists climb out of cars and throw Frisbees. Some set up charcoal grills on the median strip. Children cry, dogs bark, radiators boil over, fathers snarl "Shut up!" A parallel three-lane bridge, expected to relieve all this, is scheduled to open in 1973.

Most weekend travelers head for Ocean City, Maryland, and other seashore resorts stretching northward along a broad, excellent beach into Delaware. Ocean City, a wind-swept, boarded-up town of about 1,500 half of the year, sees its population balloon to 200,000 in summer (pages 206–207). To the south, Assateague Island National Seashore, where wild ponies roam among the dunes (pages 228–9), draws capacity crowds of campers, picnickers, and fishermen.

For all its activity, the Eastern Shore remains a highly agreeable place, fully deserving of the compliment bestowed on the bay country by advertisements of a Baltimore brewery: "The Land of Pleasant Living." I like it best in autumn, when Canada geese and whistling swans fill the air with their wild clamor, fat oysters may be had for the gathering a few yards off the shore of my isolated creek, and nothing seems to have changed much since Capt. John Smith came this way in 1608.

From this watery, table-flat land a few hours by car can take you to a vastly different world of rounded, timeworn mountains, rocky gorges, and swift, sparkling streams.

To me, western Maryland shows its most beguiling face in the green, rolling dairy-farm country around the tidy whitewashed-stone town of Thurmont, in Frederick County. Here, on a Blue Ridge spur, I found one of our smallest and most unusual national parks.

Catoctin Mountain Park spearheads a program to get children out of urban areas and introduce them to woods and fields. Buses bring groups from Washington, D.C., and nearby Maryland counties to spend a week living together in lodges. In classrooms and on nature trails they learn about the environment, how early settlers made use of it, and what its preservation means to them and to future generations.

Most of the 5,769 acres in Catoctin Park, with their dense hardwood forests, hiking trails, campgrounds, and trout streams, are open to the public the year round. But in their center lies a heavily guarded, stoutly fenced enclave seldom entered by anyone except the President of the United States, his family, and his guests.

Camp David has been the secluded mountain retreat of Presidents since Franklin Delano Roosevelt, who christened it Shangri-La. Thus, campers and hikers at Catoctin Mountain Park can congratulate themselves on enjoying the same air and scenery that refresh their leaders.

A national park may seem an unlikely place for a moonshine still, but I found one at Catoctin. What's more, it was producing whiskey. I learned about it from Park Superintendent Frank Mentzer as we set out on an automobile tour.

At the crest of a hill we paused to enjoy the view. We looked down upon a lush green valley, clean and placid beyond belief. In a grove of trees at its center stood a trim white farmhouse surrounded by red barns. Fat cattle grazed in fields divided by weathered stake-and-rider fences.

"Harbaugh Valley," said Frank. "This is the view that always lifts my spirits. You won't find it named on many maps. It's just a small valley where the Harbaugh family has lived for generations. This, to me, is a piece of what's left of the America that Thoreau and Whitman were talking about."

"How about that moonshine still?" I asked.

"The Blue Blazes? OK, let's go see it."

Near the park's visitor center we turned off on a narrow trail that ran beside a purling brook. Soon we arrived at the still, a Rube Goldberg arrangement of copper cylinders, pipes, and coils atop a circular stone fireplace. Nearby stood seven barrels of quietly bubbling mash—fermenting corn and water—which the still would convert into clear, colorless, and highly potent white lightning.

"This isn't the real Blue Blazes still," Frank explained. "The original was one of dozens that operated in these hills. Prohibition agents destroyed it in 1929. People hereabouts still talk about the raid—a deputy sheriff was killed and several moonshiners were wounded. A few years ago we located the Blue Blazes site and decided to reproduce the operation, to show visitors to the park how moonshining, even though illegal, was once an important factor in the mountain economy. The still you see was brought from Cades Cove in Tennessee.

"We make whiskey only on summer weekends," Frank said. "Sorry I can't offer you a sample. We add a bitter chemical to make sure its undrinkable."

From Catoctin I drove southward over a couple of ridges and emerged in the Monocacy River Valley. Here, as noted by John Greenleaf Whittier in "Barbara Frietchie":

The clustered spires of Frederick stand
Green-walled by the hills of Maryland.

The clustered spires were in view as I made a wrong turn onto a road that seemed to lead nowhere. But the farms were green and beautiful in the sunlight (pages 212–13). At one, judging by the number of broodmares with foals in the pastures, the breeding season had been exceptionally productive.

Then a sign at the entrance, Yankeeland, rang a bell in my mind. I remembered having read that Charlie Keller, formerly of the New York Yankees, was raising harness-racing horses in Frederick County, where he had grown up on a dairy farm.

Minutes later, parked beside a trim brick house, I waited for the owner of Yankeeland to appear. When he walked toward me from a barn, I recognized immediately the stocky figure, the powerful arms and shoulders, that won Charlie Keller the nickname "King Kong" as he guarded the Yankee outfield with Joe DiMaggio and Tommy Henrich.

Obviously, at 55, he was not pining away in nostalgia for sweaty locker rooms and cries of "Ya bum!" from the bleachers. Like other ballplayers I had met, Charlie was cordial but taciturn. He did admit, however, that Keller-bred trotters were winning purses all over the country. Then, in a rare burst of eloquence, he said, "Nice thing about horses—you don't have to milk 'em at 4 a.m."

In Frederick, you can stay at the Barbara Fritchie Motel, lunch at the Barbara Fritchie Candy Stick Restaurant, and munch on Barbara Fritchie chocolates. And in the old houses facing Court House Square, on the Hood College campus, or anywhere else in town, you can start an argument by mentioning Barbara's last name—or how to spell it.

Generations of Americans have learned from the New England poet Whittier that Mrs. Fritchie was a nonagenarian widow who defiantly flew a Union flag from her attic window as Confederate troops marched through Frederick on September 10, 1862, on their way to the carnage at Antietam Creek.

As Whittier described it in thirty couplets, Gen. Thomas Jonathan (Stonewall) Jackson halted his "famished rebel hordes" and barked "Fire!" Dame Barbara then seized the banner from its broken staff and waved it:

"Shoot, if you must, this old gray head,
But spare your country's flag," she said.

So much for Whittier. Nobody knows what really happened, but even scoffers agree that

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if the melodrama did not occur, it should have.

Doubts about the story began surfacing soon after the poem was published in 1863. Most scholars believe Whittier exercised literary license after learning of a flag-waving incident in a letter from Mrs. E. D. E. N. Southworth, a novelist friend. The letter and other memorabilia are displayed in the Barbara Fritchie Home and Museum, built in 1926 to replace the long-vanished original.

Curator Margaret Clary told me of two very special visitors who came to the small museum during World War II.

"A long black car pulled up in front," she said, "and out popped Winston Churchill. President Roosevelt remained in the back seat while Mr. Churchill, holding a large cigar, saluted the flag, then recited from memory all sixty lines of 'Barbara Fritchie' President and Prime Minister then resumed their trip from Washington to Shangri-La."

Long after Barbara Fritchie and the peace of Appomattox, Frederick found itself concerned with another echo of the Civil War. Shimmering on the horizon like a golden vision was the prospect of a princely deposit in the municipal treasury. Under a bill proposed by Senators Charles McC. Mathias, Jr., and J. Glenn Beall, Jr., the Federal Government would hand the city as much as $6,000,000 for its contribution to the Union cause.

In July 1864, the South's Lt. Gen. Jubal A. Early and 20,000 gray-clad troops quietly occupied Frederick, an important Union supply center. Early, threatening to burn the city, ordered Frederick to produce $200,000 in cash or surrender the supplies.

City officials took a full day to raise the cash from local banks and present it to Early in bushel baskets. The general packed the swag in his luggage and rode off to the southeast, bent on seizing the Capital.

At the Monocacy River, a few miles from Frederick, Early encountered Gen. Lew Wallace's small Union force, which fought a delaying action. When the Confederates reached the outskirts of Washington, one day behind schedule, they met unexpectedly strong resistance and withdrew.

Not until 1951 did Frederick complete retirement of the loan through a series of bond issues. Now, say Senators Mathias and Beall, it is time to recognize that the ransom saved Union supplies and the delay in raising it may have helped save Washington.

I asked Mayor E. Paul Magaha how his city of 24,000 would use the money.

"Frederick will have no trouble putting that money to the best possible use," he said. "Schools, streets, sewers, parks, playgrounds—name it and we need it."

On the other side of historic South Mountain, Hagerstown was coping with another familiar problem. This city of skilled craftsmen had an unemployment rate of about twice the national average. Still, I found no hint of despair, and businessmen saw signs of an economic upturn.

Hagerstown's largest employer, Mack Trucks, Inc., had rehired hundreds laid off earlier and was operating at almost full capacity. Another leading Hagerstown firm, Fairchild Industries, Inc., had been dealt a heavy blow in March 1971, when Congress killed the supersonic-transport program. Fairchild, largest subcontractor for airframe parts in the SST prototype, saw $34,500,000 worth of business go down the drain.

A broad diversification program, including advanced communications satellites, helped Fairchild cushion the shock. Its Hagerstown plant, where 200 had been laid off, was rebuilding its payroll back to the normal 1,200.

Browsing at a Hagerstown newsstand, I spotted a publication I had not seen in ages: J. Gruber's *Hagers-Town Town and Country Almanack*, a respected compendium and oracle in homes throughout the land for 175 years. I sought out the Gruber Almanack Company's office, expecting to find something resembling a Norman Rockwell illustration, with rolltop desks and employees wearing sleeve garters.

Instead, the *Almanack* command post was the uncluttered glass-topped desk of John R. Hershey, Jr., brisk young regional vice president for a Washington-based brokerage firm. Mr. Hershey said he published the annual, as a sort of hobby, for heirs of J. Gruber, who launched it in 1797.

"You are looking at one-fourth of the staff," Mr. Hershey said. "My partner, Frank Leiter, and I handle the business end. Weather forecasts, astronomical tables, phases of the moon, and the like are taken care of by William E. O'Toole III, a mathematics instructor at Mount St. Mary's College in Emmitsburg. The editor, Mrs. C. W. Fisher of Wynnewood, Pennsylvania, does the rest. In August she ships everything to the printer."

A month later, about 225,000 copies of the *Almanack*, complete with woodcut illustrations, advertisements for wallpaper remover and burial insurance, recipes for rhubarb crisp and sweet-potato soufflé, go out to newsstands in 35 states.

From Hagerstown I drove to Cumberland, starting point for the first federally funded highway in the United States. Begun in 1811, this National Road across the Alleghenies later became U.S. Route 40, stretching all the way from Atlantic City to San Francisco.

In this northwestern corner I felt that I had left Maryland behind. Signs everywhere proclaimed the businesses they advertised as the "Tri-State" this or the "Tri-State" that.

Residents of Cumberland, Oakland, and points in between look upon Pittsburgh as their metropolis. Cumberland gets its water from Pennsylvania, and its municipal airport is in West Virginia.

A friend of mine, a transplanted native of Cumberland, went back there recently for a weekend visit. "The place looks pretty much as it did forty years ago," he reported.

When I went there, Mayor Thomas F. Conlon told me that the city's population had declined from about 40,000 at the end of World War II to less than 30,000. "Many people," said the mayor, "have moved across the river to new developments in West Virginia, where they get a break on real-estate taxes. Still, because Cumberland depends on basic industries, employment is stable."

Railroading remains the foundation of industrial Cumberland, as it has been since the pioneering Baltimore and Ohio sent the first train into the city in 1842. Metallic clangs sound round the clock from vast B & O shops, and long freights rumble ceaselessly through this important division point. In a huge classification yard, trains are broken up and sorted out. Then they head for midwestern or eastern terminals of the B & O and its parent company, the Chesapeake and Ohio.

In my motel I found a folder proclaiming the 75th anniversary of the Kelly-Springfield Tire Company. I wondered how that could be, since, there were few automobiles to use tires until around the turn of the century.

The answer was simple: Kelly-Springfield began making tires for carriages. The firm was born when Arthur W. Grant, a Springfield, Ohio, blacksmith, invented an improved solid-rubber tire and went into partnership with financier Edwin S. Kelly. The company has been in Cumberland since the 1920's.

When you get to Oakland, in Garrett County, you have gone about as far west in Maryland as you can go. Enroute there, I visited Wisp, a handsome ski resort overlooking Deep Creek Lake, and walked trails in Swallow Falls and Savage River State Forests.

North of Oakland, I stopped to watch workmen quarrying limestone at Roman Nose Mountain. A foreman said, "A lot of it is hollow, you know. We've been digging stone out of it for years," and invited me to look.

Despite deafening jackhammers and clouds of limestone dust, I found it a strangely enchanting place of long, shadowy corridors and huge chambers, with tall pillars left standing to support the roof. When the quarrymen ended a day's work, I felt sure, trolls, gnomes, and perhaps a giant or two emerged from hiding places for nightly revels.

The foreman said civil-defense officials had estimated that the man-made cavern could shelter 60,000 persons, nearly three times the population of Garrett County.

In Oakland people were still talking about two strangers who turned up there recently. They identified themselves only as "Mr. Ed" and "Mr. Bob" and said they were scouting locations for an industrial plant, but refused to say whom they represented.

They were attracted to Oakland, said Mr. Ed and Bob, by the availability of labor in this part of Appalachia. Their company's product was very small and was shipped in large quantities, they revealed, and the factory site must be within four hours' trucking distance of major airports. Oakland qualified, being within four hours of Pittsburgh, Washington, and Baltimore.

There matters rested while Mr. Ed and Mr. Bob investigated highway, school, and sewer facilities and the quality of Garrett County life in general. Then the scouts suddenly left town. Some shrewd detective work revealed they had gone to Rochester, N.Y.

With this clue, suspicion immediately fastened upon Eastman Kodak. Wasn't Eastman a large Rochester firm, and didn't it make small products, like cameras and rolls of film? The mystery was not solved until weeks later, with the announcement of Garrett County's new industry. It wasn't Eastman Kodak. The small product turned out to be Bausch & Lomb eyeglass lenses.

For a final abrupt change in environment, I jumped to the state's oldest and perhaps most picturesque region, southern Maryland—five counties embraced by the bay on the east and the Potomac on the southwest, with the Patuxent River curving down the middle.

Almost immediately today's realities swept away my fanciful visions of tobacco-rich cavaliers and their ladies stepping through minutes in gilded 18th-century ballrooms.

First I discovered "Pax River." That is what servicemen call the U.S. Naval Air Test Center, which sprawls over 6,800 acres at the mouth of the Patuxent. With its 5,000 Navy and 2,400 civilian personnel, Pax River provides about a third of the employment in St. Marys County.

On a section of runway marked off to simulate a carrier deck, I watched planes rocket aloft from a steam catapult whose machinery extended three stories underground.

Nearby, a big twin-engine jet, with odd protuberances under its belly, landed and taxied to a hangar. Out of it climbed tall, 27-year-old Lt. John Michael Luecke, test pilot.

"That," said Lieutenant Luecke, pointing to the jet, "is a Grumman EA–6B Intruder, an aircraft built solely for tactical electronics warfare. It can carry about 15,000 pounds of gear designed to deceive or jam hostile radar or disrupt missile-guidance systems. We're about ready to give it the Pax River seal of approval."

Luecke said he returned from Viet Nam and entered the Naval Test Pilot School here, hoping to qualify as an astronaut. But NASA said no; six feet, four inches of Mike Luecke was too much to fit into a spacecraft.

Test pilots, he said, spend more time with slide rules and computers than in the air.

"While airborne, we tape-record personal observations. Beyond that, it's black boxes all the way. Sensors monitor the aircraft's equipment, and up to 200 telemetry channels transmit readings to a ground computer center. Doesn't sound like a movie test pilot with a white silk scarf, does it?"

With that, the lieutenant drove off to his wife and three children in Lexington Park, the lively community of 9,000 that has sprung into being on former farmland since the base was established during World War II.

A few miles north of Pax River, southern Maryland comes face-to-face with both future and past at Calvert Cliffs, long known for extensive fossil deposits. In these bluffs, whose bright layers of sediment can be seen for miles up, down, and across the bay, lie the remains of whales, sharks, and other creatures dating back to the Miocene Epoch of about 20 million years ago. There I found swarms of yellow-helmeted workmen well along with construction of Maryland's first nuclear power plant.

As I sat in a trailer with the Baltimore Gas and Electric Company's Ray Brokamp, a typical Chesapeake squall hit the area, cutting off power and halting all work. After a few minutes of fierce winds and driving rain, we heard a voice booming from a battery-powered loud-hailer: "Is there an electrician in the house?

Almost from the beginning the plant, expected to cost nearly $400,000,000, has been under attack by conservationists who fear damage to the environment through accident, disposal of radioactive waste, or thermal pollution. A recent court decision resulted in new, more stringent regulations affecting not only Calvert Cliffs and a proposed plant near Aberdeen but, in fact, every nuclear power plant in the Nation.

When Calvert Cliffs' two reactors are "on line" in 1974, fueled by millions of tiny uranium dioxide pellets, the plant will feed about 1,700 megawatts into the company's system.

Near Piney Point on the Potomac, not far from St. Marys City, where English colonists established Maryland's first capital in 1634, a small forest of masts symbolized the region's seafaring tradition. The masts rose above the Harry Lundeberg School, run by the Seafarers International Union and the shipping companies with which it has contracts. Administrator Ken Conklin explained the school's mission: 'To guide and encourage those seeking careers at sea, and to help those already in the profession to gain greater skills."

Each year, Mr. Conklin said, more than 1,000 young men graduate from Lundeberg. To train its students, the school has assembled an impressive fleet of vessels. Largest is the 258-foot steam yacht *Dauntless*, the former *Delphine*, commissioned by automobile maker Horace Dodge, who died without ever seeing it. At the Lundeberg piers I also saw the yawl *Manitou*, often sailed by President John F. Kennedy, and many other craft, some fitted out as floating schoolhouses.

With all its 1970's bustle, southern Maryland remains a placid and somewhat drowsy region. Elegance survives in many a lovingly tended manor house, some occupied by descendants of the builders, others by newcomers who have bought, remodeled, restored. It matters not that a newcomer arrived decades ago; he may be accepted socially, but his lack of cavalier ancestry never will be forgotten.

To the cavalier, tobacco was gold; at one time the leaf actually served as currency. It is still a hard-cash crop today (pages 218–19). Some decrease in acreage has been recorded recently, but planters told me this had been offset by new techniques producing higher yields per acre.

In a vast, aromatic warehouse at Lothian, I watched and listened for two hours as manager Bernie Doepkens and auctioneer Bob Cage sold about 100,000 pounds of Maryland's air-cured "Type 32," known for its low nicotine content.

Dry brown "hands" of tobacco were stacked in 150-pound "burdens." Followed by two tally clerks to record sales, Bernie and Bob moved between rows of burdens. Opposite them trooped seven or eight buyers, some of them representing Swiss and West German cigarette manufacturers.

Bernie drew a hand from each stack, appraised it quickly, and announced the opening price. At one he said, "Eighty," seeking bids beginning at $80 per hundredweight.

Taking the cue, the auctioneer went into his rapid singsong: "Eighty, eighty, eighty, seventy-eight . . . seventy-nine . . . now eighty-one, a one, a one, how about two, two it is, now three, three, three, how about four, four, a four, now five, five, five . . . all done? Sold!"

Bidding was silent, signaled by a nod, a lifted finger, a raised eyebrow.

I asked Bernie why, when setting an opening price, he pulled a sample hand from the middle of the burden rather than from the top.

"That's to protect the buyers," he said. "Ever buy a box of strawberries and find choice ones only on top? Same principle."

Annapolis, too, belongs to southern Maryland, and this venerable state capital ranks high among my favorite cities (pages 222–3). I liked it even before the dedicated preservationists of Historic Annapolis, Inc., inspired the "Incredible Change," when Annapolis was a rather shabby little city, notable chiefly as the seat of Maryland government and the site of the United States Naval Academy.

True, there was much of historic and architectural interest, such as the State House, built in 1772. It houses the Old Senate Chamber, where the Continental Congress, on December 23, 1783, received George Washington's resignation as commander in chief and less than a month later ratified the Treaty of Paris, bringing the Revolutionary War to an official end.

Best of all, there was the view from Church Circle down the gentle slope of Main Street to a harbor crowded with yachts, fishing vessels, and oyster-dredging skipjacks, last of our country's working sailboats.*

Beside the harbor, on Dock Street, I liked to inspect the displays of crab pots, tonging gear, bilge pumps, anchors, cordage, and other marine equipment, and perhaps buy a peppery crab cake from an elderly black lady who sold them from a basket.

All these attractions remain today—but with a difference, as I discovered on a stroll around the waterfront with Mrs. Barham R. Gary, president of Historic Annapolis, Inc.

"What you see in Annapolis," said Mrs. Gary as we left her office in Shiplap House, "is one of the few cities where the trend toward urban blight has been reversed. A good example of the many restorations here is our own headquarters. Shiplap House was built as a tavern about 1720. When Historic Annapolis bought it in 1955, it was a condemned slum tenement, falling apart, with 27 people living in its five apartments. We have restored the exterior to its original appearance, and we're gradually doing the interior."

We left the waterfront, walked up Prince George Street, and halted before a tall brick facade covered with scaffolding.

"This is our most ambitious restoration," Mrs. Gary said, "William Paca's house. When we are finished, it will be used as a reception and conference center."

Paca was one of Maryland's four signers of the Declaration of Independence and the state's third governor. He built his 35-room mansion in 1765. Two centuries later the house was threatened with demolition. Historic Annapolis led a campaign to save the house, and the State of Maryland is now restoring Paca's magnificent garden.

"One of these days," said Mrs. Gary as I left her at her own Ireland House (built about 1800), "you will see a completely restored downtown area, a community with compatible buildings representing 300 years of architecture all in appropriate present-day use."

Although Colonial charm draws thousands to Annapolis, the city's prime tourist attraction remains the United States Naval Academy. Joining a crowd in front of Bancroft Hall to watch the noon mess formation, I noticed that almost all these tourists were middle-aged or older.

I wondered how the antimilitary, anti-Establishment attitudes of today's youth affect a service school like the Naval Academy. I put the question to Vice Adm. James Calvert, a tall, distinguished submariner who has been the academy's superintendent since 1968.

"I might answer that," said the superintendent, "by telling you that the 7,300 candidates for the Annapolis class of 1975 were not only the most we've ever had, but the most for any service academy."

Under Admiral Calvert, striking curricula changes have created broad academic opportunities for the young men who come to Annapolis to be trained as officers.

"When I came aboard," the admiral said, "it was obvious that improvements had to continue and accelerate. Of particular concern was a rise in voluntary resignations.

"So what to do? Standards could not be relaxed. Our program had to remain tough—there is no easy path. Yet the curriculum had to be up-to-date and realistic to make sense to today's youth."

Ten years ago all midshipmen took the same 40 courses. That old "lockstep" curriculum was dropped, and midshipmen were given the choice of more than 24 majors. Annapolis now offers nearly 600 courses, including several in black studies.

"Sure," he continued, "we hear about youthful antipathy toward the military. However, a lot of young men are clearheaded enough to recognize the value in the kind of quality education and professional training offered at Annapolis.

"Expenses at a civilian college these days can run very high. At the Academy, of course, there's no tuition. And a midshipman has been paid nearly $10,000 in salary by the time he has graduated. And he has a job.

"Something that worries me," he said as I was leaving, "is that there are not enough black midshipmen. We now have about 85, out of a total of roughly 4,200. These 85 are a fine group, making good records. But there should be more. The Navy is a place where young black men can really move swiftly."

I left Annapolis with the feeling that both the colonial city and its Naval Academy were in good hands. Driving across the Bay Bridge, I watched a bright-blue helicopter delivering a load of concrete for a pier of the new parallel bridge's high central span.

A few miles farther on, at Kent Island Narrows, skipjacks were drying their sails after a hard October rain. Against the sky to the east I saw great ragged V's of Canada geese, back on the Eastern Shore after summering in the Far North.

It felt good to be a Marylander.

*See "The Sailing Oystermen of Chesapeake Bay," by Luis Marden, GEOGRAPHIC, December 1967.

[From Liberty magazine, March-April, 1972]

THE OLD MARYLAND IDEA

(By C. Mervyn Maxwell)

That's what one Catholic historian has called American religious liberty. Is he right? Just what did happen in Old Maryland?

Who should get the credit for religious freedom in America? Protestants? Or Catholics?

Many persons in both camps would like to prove their own religious tradition responsible for the great American principles of religious freedom and separation of church and state. Protestants generally claim the

honor through Roger Williams, who established religious liberty in Rhode Island. They conveniently forget that he did so only after the Puritans of Massachusetts had driven him out in the dead of winter—a flagrant case of Protestant persecution. Catholics, on the other hand, claim that the Lords of Baltimore, the founders of Maryland, typified the normal Catholic attitude toward religious freedom and dismiss evidence that interferes with this happy assumption.

Now, if Catholics are indeed to get credit for America's religious freedom, it will have to be based on what they did in Maryland, the one colony founded by Catholics.

Three questions need to be answered: When Catholics controlled colonial Maryland, did they practice religious freedom?

When Protestants gained the upper hand in Maryland, did they allow for liberty of conscience?

Last, what do the answers to these questions prove?

1. *So long as they were in control of Maryland, Catholics did give freedom of worship to Protestants.*

The colony of Maryland was founded by Cecilius Calvert, the second Lord Baltimore, in 1634, fourteen years after the Pilgrim Fathers had landed at Plymouth Rock.

Cecilius Calvert's father, the first Lord Baltimore, was converted to Catholicism in the midst of a brilliant career in English politics. His change of religion cost him his government post but did not deprive him of his friendship with the crown. King Charles I, a Protestant who leaned toward Catholic points of view, granted him the right to found a colony, giving him the "powers of the Bishop of Durham." Lord Baltimore died before he could get the colony started, but his son, Cecilius, the second Lord Baltimore, lost no time in getting it under way.

By November 13, 1633, two shiploads of settlers were ready to embark for the New World. Many of these adventurers were Catholic, but, according to a report by Jesuit Father Henry Moore, who was in the group, "by far the greater part were heretics." Catholics, of course, were in all positions of leadership under Cecilius Calvert's younger brother, Leonard Calvert, first governor of Maryland. The governor carried with him Lord Baltimore's famous "Instructions":

"His Lordship requires his said governor and commissioners that in their voyage to Maryland they be very careful . . . that they suffer no scandal nor offence to be given to any of the Protestants, . . . and that . . . all acts of Roman Catholic religion be done as privately as may be."

Catholics were to be discreetly silent on all religious discussions, and these rules were not to be observed merely during the voyage but also "at land as well as at sea."

Lord Baltimore's instructions were followed. From the first fifteen years, during most of which time Catholics dominated the colony, there is no record that any Protestant was persecuted. On the contrary, individual Catholics who dared to disturb Protestants were punished severely.

In July, 1638, William Lewis, a Catholic servant of Father Copley, a priest, entered the home of two other servants of the same priest, men who were Protestants. The two, who were reading a bitterly anti-Catholic book, constrained Lewis to listen. Lewis, quite naturally, soon became angry and berated the Protestants. They thereupon got up a petition against Lewis, who was brought to trial—in a Catholic court, of course—convicted, and heavily fined.

In 1643 Baltimore issued an invitation to Puritans to move into his colony. A number of Virginia Puritans, persecuted by the Anglican government of that colony, migrated to what is now Annapolis, Maryland. Unquestionably these Puritans found greater liberty in Catholic Maryland than they had in Protestant Virginia.

In 1648 Lord Baltimore ordered his new governor (Leonard Calvert having died) to take the following oath:

"I will not . . . trouble, molest, or discountenance any person professing to believe in Jesus Christ, for or in respect to religion: I will make no difference of persons in conferring offices, favors, or rewards, for or in respect of religion . . . : my aim shall be public unity."

In the following year, 1649, the colonial legislature passed the justly famous Act of Toleration:

"No person or persons whatsoever within this province . . . professing to believe in Jesus Christ, shall from henceforth be any ways troubled, molested or discountenanced for or in respect of his or her religion nor in the free exercise thereof."

In 1650 some sixty leading Protestants signed a document attesting that "we [Protestants] do here enjoy all fitting and convenient freedom and liberty in the exercise of religion under his lordship's government; and that none of us are in any ways troubled or molested" on account of religion.

When the Protestant-dominated colonial legislature routinely submitted its annual list of grievances to the Catholic governor in 1688 it made no mention of any religious oppression.

The answer to our first question is that Maryland did enjoy religious freedom while the colony was controlled by Catholics.

2. *But what was the situation when Protestants gained the upper hand?*

Sometime between 1644 and 1646, during the early period of Catholic supremacy, Capt. Richard Ingle staged a rebellion, during which the great seal was stolen and the rebels ruled the colony for a time and plundered everywhere. Nominally Protestant, Captain Ingle sent the Jesuit leader, Father White, to England in chains.

Protestants gained control for a second time between 1652 and 1658. This was during the period that Oliver Cromwell was Lord Protector of England after the success of the Puritan revolution there and the execution of King Charles I in 1649. Lord Baltimore was deprived of his political rights in his colony, and Parliament sent out a group of commissioners who replaced the resident governor and took over.

Confusion followed and a brief "civil war" ensued. The Protestant side finally won in 1654, sent the Jesuit priests packing, and called a meeting of the legislature that denied Catholics political rights.

Ironically, the Protestants who dominated this assembly were largely those Virginia Puritans who had come to Catholic Maryland for refuge.

Another example of Protestant toleration!

Early in 1689, after the English had forced their king, James II, to abdicate because he was a Catholic, Protestants in Maryland staged a revolt of their own.

Rumors were spread that Catholics were inciting Indians to massacre Protestants. It made no difference that Councilmen Darnall (a Catholic) and Digges (the leading Protestant) galloped about the province proving every rumor false. Even though sixteen leading Protestants said that they had examined all rumors and found them without foundation, the revolutionary party would have its way. Under the leadership of John Coode, an exminister turned soldier, the Catholic governor, William Joseph, was ousted. A printing press issued the very first Maryland publication, an incendiary catalog of charges against "Papists." Petitions were collected urging William and Mary, the new Protestant royalty in England, to relieve the colonials from the onus of living under a Catholic proprietary.

After two years the English crown found a legal way to deprive Lord Baltimore of his political rights over the province though not of his rents and revenues. In 1691 Maryland was made a royal province and a Protestant governor, Sir Lionel Copley, sworn in.

There were almost forty thousand people in Maryland, of whom only three thousand were Catholics.

Almost the first act of the new assembly was to establish the Church of England and to tax everyone forty pounds of tobacco to support the Anglican clergy, who at this time were only three in number. (Because of English interference, this law did not go into effect until 1702.)

In 1699 a Test Oath put all Catholics out of civic office.

In 1704 a fine of twenty shillings was imposed for every Irish servant a person might import. (Irish servants were usually Catholics.)

In 1715 a law stated that if a Protestant died leaving a Catholic widow, the children should be taken away from their Catholic mother and raised as Protestants.

In 1718 Catholics were forbidden to vote.

In 1746 Governor Bladin ordered that if any priest made a convert, both the priest and his convert should be imprisoned.

In 1756 a double tax was imposed on Catholics for support of the militia.

There is no doubt about the answer to our second question: Maryland Catholics treated Protestants with leniency; Protestants however, severely limited Catholics whenever they controlled colonial Maryland.

3. But now for the third question, *What do these facts mean?* Do they prove that Catholics are the real source of American religious freedom?

Theodore Maynard, a Catholic historian, is sure that they do. On page 154 of his famous *Story of American Catholicism* he sums up America's religious liberty in a single simple phrase—"the old Maryland idea."

There is something to this. Let Protestants not deny it. Let them take their hats off to the Catholics for it.

We have not, however, examined all the evidence on this controversial subject.

We have noted that Protestants twice banished Jesuits from the province, but we have not said anything about Lord Baltimore's own quarrel with members of the Society of Jesus, carried on during the early years of the colony.

The Jesuits bought up land from the Indians without asking Baltimore's permission, even though all the land was legally his own. Tension mounted until the Jesuits became seditious—in Baltimore's words, an independent "body politics."[1]

When it was proposed that non-Jesuit missionaries be sent to Maryland—Catholic missionaries, but not Jesuit missionaries—further tensions arose within the Catholic camp. The Jesuits complained that "the spark of faith will be quenched" among the Indians.[2]

Protestants, then, had no monopoly on mistrust of Jesuits. In fact, the order was suppressed and exiled by Catholic Portugal in 1759, Catholic France in 1764, and Catholic Spain in 1767. The pope himself abolished the order in 1773.

Fierce controversy has raged over the religious complexion of the assembly of 1649, the colonial legislature that passed the Act of Toleration. Which side should get the credit? The state of the records is such that we cannot be sure whether Catholics or Protestants were in the majority.[3] But perhaps it is just as well. The document leaves much to be desired.

The first few lines authorize the death penalty for anyone who speaks reproachfully of the Trinity! And this provision is followed by the threat of public whipping for anyone who talks unkindly about the virgin Mary! Similar penalties apply to Sabbathbreakers and anyone who addresses someone else in a reproachful manner as "Heretic, Presbyterian, Popish priest," et cetera.

The law does, of course, state that no one should be molested or in any way troubled in the free exercise of his religion, and this is its great feature. It has been suggested that this provision is Lord Baltimore's own contribution—perhaps the only surviving portion of his original draft of the act before Catholic and Protestant representatives rewrote the rest of it—and this may be true. At present no one can prove the matter either way. Cecilius Calvert, the second Lord Baltimore and the founder of Maryland, may indeed have believed in religious freedom on principle. Just before the first settlers sailed away in 1633 he wrote:

"Conversion in matters of religion, if it be forced, should give little satisfaction to a wise State of the fidelity of such convert, for those who for worldly respect will break their faith with God doubtless will do it, upon a fit occasion much sooner with men."[4]

Set the Act of Toleration against the provisions adopted by the General Assembly of Rhode Island in 1647, however, and it hardly comes through as the pacesetter for American religious liberty. The Rhode Island code culminates in the declaration that "all men may walk as their consciences persuade them, everyone in the name of his God . . . without molestation." It is not an Act of Toleration, as in Maryland, by which liberty of conscience was granted *only* to those professing the Christian religion, accepting orthodox views of the Trinity, et cetera, nor does it limit religious freedom to those who believed in God as Creator, as in Pennsylvania. It is a charter of liberty of conscience as of natural right, to believers and nonbelievers alike.

When all due credit is given to the Lords of Baltimore for their breadth of spirit, it must be admitted—as even Theodore Maynard admits—that they had no other choice. Catholics did not migrate freely from England during the seventeenth century, and if Maryland was to flourish, Protestants had to be encouraged to settle there. Even so, the population did not reach forty thousand for the first seventy-five years of its existence, and 92 per cent of this number were Protestants. (Some 20,000 Puritans migrated to Massachusetts in the first ten years of that colony.) If the colony had been reserved for Catholics only it would have floundered. Cecilius Calvert, who invested £40,000 in the enterprise during its early years, could not have afforded this.

It is sad but necessary to point to direct evidence that where Catholics were not in the minority, as they were in Maryland from the start, they persecuted Protestants even in North America.

In 1795 Louisiana, which was still in Spanish hands, enacted a law against Protestants migrating there from the newly founded United States. It specified that "if nine persons were found worshipping together, except according to the forms of the Roman Catholic Church, they should suffer imprisonment."[5]

Further, the celebrated oath that Baltimore required of his governor in 1648 was required of a Protestant, Governor William Stone, and not of a Catholic. That Baltimore felt it necessary to require a Protestant to swear never to discriminate does not say much for Protestants, but it does help to put the oath into perspective. For a Catholic lord to require a Protestant governor to be kind to Roman Catholics probably did not require unusual magnanimity.

The Catholic commitment to freedom was suspect for other reasons. Both the Puritan Revolution and the Glorious Revolution which chalked up impressive gains for human freedoms found Catholics on the side of defeated royalty. Temporary Governor Green showed his sympathies with the wrong side by means of an official proclamation in 1649. Other Catholic demonstrations in 1688 and 1716 included the discharge of cannon.

Then, too, Pope Pius V's bull, *Regnans in excelsis*, which released all English Catholics from their loyalty to Queen Elizabeth in 1570, was not the ancient history that it is now.

And Guy Fawkes's attempt to blow up King James I and his Parliament had occurred within the century.

It is highly significant that when Protestants took over in Maryland, they required Catholics to take a loyalty oath against inviting into the colony any hostile foreign power. Catholics would have enjoyed greater freedom under Protestant rule had they refrained from political activity.

But perhaps this was asking too much in that age. The idea of separating church and state was still in its infancy. Almost all churches attempted to further their ends by political activity.

It was a remarkable thing in the seventeenth century for the Lords Baltimore to attempt to separate church and state. They were men ahead of their time.

Whatever their motives, they gave the world a fine example of religious toleration, an example that deserves our gratitude and respect.

But our conclusion must be that they did it as individuals, rather than as Catholics, just as Roger Williams acted as an individual rather than as a typical Protestant of his era. Neither Protestants nor Catholics as a whole were ready to grant religious freedom. We should honor the memory of the few who were.

[1] Alfred Pierce Dennis, "Lord Baltimore's Struggle With the Jesuits," *American Historical Association Annual Report*, Vol. 1 (1900), pp. 105–125.

[2] Thomas Hues, S.J., *History of the Society of Jesus in North America* (London, 1907), Vol. 1, p. 333; cited in Russell, *Maryland, the Land of Sanctuary* (Baltimore: Furst Co., 1907), p. 153, footnote.

[3] H. S. Smith, R. T. Handy, L. A. Loetscher, *American Christianity* (New York: Charles Scribner's Sons, 1960), Vol. 1, p. 36; Dennis, *loc. cit.*

[4] Quoted in T. O. Hanley, "Church and State in the Maryland Ordinance of 1639," *Church History*, Vol. XXVI (March, 1957), p. 332.

[5] Cited in W. W. Sweet, *Religion on the American Frontier: The Baptists, 1783–1830* (N.Y.: Henry Holt and Company, 1931), p. 35.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION

Mr. ALLEN. Mr. President, the distinguished senior Senator from Arkansas (Mr. McCLELLAN) is unavoidably absent from the Senate today. I ask unanimous consent that remarks prepared by him in praise and support of the National Week of Concern for Prisoners of War and Missing in Action be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MCCLELLAN

One of the greatest tragedies of the Vietnam War has been the suffering of our men being held as prisoners of war in Southeast Asia and those reported as missing in action. They and their families are truly undergoing a long, dark night of the soul.

The Department of Defense reports that, as of March 11, there were 489 Americans being held captive and another 1,129 reported as missing in action. Some of these men have been prisoners since early 1964—almost eight years. Parents, wives and children have suffered long years of anguish and anxiety without knowing the fate of their loved ones.

Despite repeated requests to the Government of North Vietnam for compliance with the Geneva Convention regarding the treatment of prisoners of war made by the United States, the United Nations, the International Red Cross and many other groups, Hanoi has refused to accede to them.

The North Vietnamese remain steadfast in their refusal to permit the free flow of mail to and from the prisoners, to repatriate the sick and wounded, to permit impartial observers to inspect prison facilities and to allow the repatriation or internment in a neutral country of men who have endured an extended period of captivity.

It is the earnest and heartfelt hope of us all that the martyrdom of these unfortunate men will soon be over.

Mr. President, as Abraham Lincoln said during the midst of another tragic conflict, history will little note nor long remember what we say here. But it will not forget these men and their families.

Such observances as the National Day of Prayer for these brave Americans to be held on Sunday and the National Week of Concern that follows allow people of good will throughout the nation to assure them that they are uppermost in our thoughts—and will not be forgotten.

BYELORUSSIAN INDEPENDENCE DAY

Mr. PROXMIRE. Mr. President, the 25th of March is the 54th anniversary of Byelorussian independence, and it is my privilege to help to commemorate that day. The shortlived freedom of the Byelorussian Democratic Republic was a valiant struggle for democracy and human dignity.

For centuries these courageous people suffered under the oppression of conquering armies. Wars with the Teutonic knights, Napoleon's march on Moscow, and German occupation during World War II all left their scars. Now, despite their continuous resistance, the people of Byelorussia suffer a fate similar to their neighbors in the sister states on the Baltic. For decades these brave Slavic people have been ruled by the Soviet Union. As a part of the Soviet Republic they are granted token autonomy, while in reality they are controlled by the Kremlin.

The likelihood of a restoration of freedom for the Byelorussians seems slight, but their determination and commitment to the highest principles of liberty and justice persists undiminished by time. All citizens of the free world should recognize the efforts of Byelorussians who are living under Russian rule or in exile throughout the world. As they celebrate their day of independence, all Americans should rededicate themselves to the cause of peace and democracy throughout the world.

DAIRY SUPPORT PRICE REMAINS AT 1971 LEVEL

Mr. SYMINGTON. Mr. President, Missouri dairy producers are fighting to meet increased production costs for equipment, wages, interest, and taxes. At the same time, they are told the support price for manufactured milk will remain the same as last year.

Retail food prices have increased 43 percent in 20 years but prices received

on the farm have increased only 6 percent.

During this same period, the share of the consumers' food dollar going to the farmer declined from 49 cents to 38 cents.

As prices react to supply and demand, the competitive market for farm products creates frequent fluctuations with prices to farmers showing but a slight total increase.

As but one example, this time last year corn and other feed grain prices were high because of a shortage created by the corn blight in 1970. This year feed grain prices are low as a result of the record production in 1971 in response to Department of Agriculture policies.

Farm productivity per man-hour of labor has more than tripled in the last 20 years, yet farmers still receive an average of only three-fourths the yearly net income of their urban counterparts.

I have received many letters from Missouri dairy farmers emphasizing the need for a higher support price to assure a better opportunity for the milk producer to earn a fair return for his work and investment. Such a return would prevent a future shortage of milk which in turn would inflate consumer prices.

One dairy farmer reports that:

Every year more of my neighbors quit farming because they don't get enough for their milk.

Another writes:

We need an increase in the support level if we are to continue to produce milk.

A third says that:

With the increased cost of the necessary operating expenses there is not enough left to give the dairyman and his family a fair share for living.

In recent years low selling prices and ever higher production costs already have led to a significant reduction in the number of dairy producers. A further loss in the number of dairy farms could adversely affect the production of an adequate milk supply, can harm the consumers, and will speed out-migration from rural areas.

I recently wrote the Secretary of Agriculture urging that price supports for milk be set at 90 percent of parity beginning April 1, 1972. Because of increase in costs, the $4.93 per hundredweight set last year for manufactured milk has dropped from 85 percent to less than 80 percent of parity.

Nevertheless, the Secretary announced that price support levels would be maintained at $4.93 per hundredweight.

With the continued escalation of prices on almost everything the farmer buys, that unreasonably low price support could be down to 75 percent or less by this time next year.

I ask unanimous consent that 45 letters from Missouri dairy producers also urging this action be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BRAYMER, MO.,
MARCH 15, 1972.

DEAR SENATOR SYMINGTON: If farmers are going to keep on with their job they are going to have to get more for their products. We as dairy farmers feel milk should be raised to 85% of Parity as all other wages and products we have to buy has risen 5% in the last year. More farmers are being eliminated each year because they just can't keep going with farm prices the way they are.

As ever,

GLENN NULL.

MID-AMERICA DAIRYMEN, INC.,
Princeton, Mo., March 14, 1972.

Hon. STUART SYMINGTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SYMINGTON: With the action to leave dairy price supports at $4.93, it appears that Secretary of Agriculture Butz expects dairy farmers to live at the poverty level in 1972. We are now at only 79% of parity. By the end of this year, with continued inflation, dairymen will be at a price level far below their cost of production. All we asked for was 85% of parity, or far less than others in the economy are getting. Since feeding the people of this nation is so important, I feel asking for only 85% of what others are getting is a reasonable request.

To insure the stability of the dairy industry that will guarantee an adequate supply of wholesome milk to the consumers, please help us get legislation that would require the Secretary of Agriculture to support dairy prices at no less than 85% of parity.

Yours very truly,

WM. A. POWELL,
President.

PALMYRA, Mo.

Hon. STUART E. SYMINGTON,
Old Senate Office Building,
Washington, D.C.,

DEAR SIR: I am writing to tell you why I think dairy farmers need a higher price for milk.

It is true that feed costs are lower but most dairymen raise about 60% of their feed. The cost of seed, fertilizer, chemicals, repairs, medical supplies for stock, feed additives to produce our product have all gone up. Taxes and cost of living are as high as the workers who get a pay raise when living costs increase. Dairymen have a large investment, most of the workers do not. I milk fewer cows that produce more milk per cow. I try to buy supplies and feed at the lowest price I can and get quality products. All dairymen have become more efficient but our increasing costs cancel out our best efforts.

I hope you will understand what I am trying to say, efficiency is great but will not erase a low price for the product we sell.

Thank you,

EARL R. ENSMINGER.

WILLARD, MO.,
March 15, 1972.

Hon. STUART SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: Real incomes of dairy farmers are way below incomes of other groups. The support level of 85 percent that was announced last year has slid to about 80 percent because of increasing costs to dairy farmers. We would appreciate your support for an increase.

Yours sincerely,

GLEN HALL.

GERALD, MO.,
March 17, 1972.

DEAR SIR: The prices we dairy farmers receive for our milk are not buying as many goods and services as they did a year ago because of increases in prices we have to pay. We ask you to raise the price support level to 90 percent of parity. If this is impossible, please raise it to the same level as a year ago—namely 85 percent of parity.

Sincerely,

LE ROY VOGT.

WASHBURN, MO.,
March 12, 1972.

Hon. STUART SYMINGTON,
United States Senate,
Washington, D.C.

DEAR SIR: I was glad to receive a copy of letter that you and Thomas F. Eagleton sent to Secretary Earl Butz in regard to 90 percent of parity for milk in 1972. I think you are 100% correct in your statement about Production Cost going up.

The consumers are going to have to get used to milk and food items going up.

Labor adds a lot to the cost of food after it leaves the farm and reaches the consumer.

An elder man told me the other day back in the 1930's a farm laborer worked 10 hours a day on farm for $1.00 and a new pair of overalls then cost $98 cents.

Labor now can buy a lot of clothing and food for a day's work.

So we farmers need a little increase in our product. We sell the same as labor and everything else.

Thanks for your support.

Sincerely,

WILMER D. WESTON,
Director of Mid-America Dairy.

DEAR SENATOR: We dairy farmers are caught in a cost-price squeeze. Our real incomes are not keeping up with those in other industries. With the cost we pay for the goods and services we need, we are unable to pay, with the price we get for our milk now. We would appreciate your help in getting an increase in the milk price support level.

Please don't force us to leave the dairy industry.

Sincerely yours,

DONALD E. HOWELL.

DEAR SIR: Every year more of my neighbors quit farming because they don't get enough for their milk. Government surpluses are at a low level and the government has been buying less and less. We need an increase in the support level if we are to continue to produce milk.

Yours very truly,

HOWARD MADDUP.

DEAR SENATOR: The purchasing power of the farmer is steadily decreasing. Most of us are finding it impossible to keep our heads above water due to our ever increasing costs. Therefore, we ask your help in aiding the dairy industry by supporting an increase in the price support level.

ORAL BIGLU,
Dairyman.

PALMYRA, MO.,
March 13, 1972.

Senator STUART SYMINGTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am writing to you in regard to the support price of milk, which I think should be 90% of parity, which last year was set at 85% of parity. But with all of the rising costs is now down to 80% again.

I just noticed in today's paper where railroads were granted an 18 to 20% increase in freight rates on agricultural products such as feeds, soybean oil and meal, fertilizer and fertilizer ingredients, anhydrous ammonia, lime, etc. It seems industry is able to obtain big wage increases. Most everything that a farmer has to buy has went up. The dairy farmer has been and is trying to help themselves all they can. We advertise our products, so that we can help move them. It must be working as I understand Govern-

ment stocks of our product are very low. Which is the way we want it. But we can't have rising prices on one hand, and falling prices on the other and stay in business. That is why I say we need 90% of parity. Thanking you for your consideration of this matter.

Respectfully,

WILLIAM C. KADEN.

MORRISON, MO.,
March 14, 1972.

Hon. Senator SYMINGTON,
Washington, D.C.

DEAR SIR: We, as dairy farmers, would appreciate it if you would support the milk price.

Thank you for precious support.

Sincerely,

Mr. and Mrs. RAYMOND PAUCK.

PALMYRA, MO.,
March 15, 1972.

Hon. STUART SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR MR. SENATOR: I would like to ask your support to help raise the parity support price to 90 percent.

The finished products such as protein feeds and machinery have raised a lot in prices so therefore we need a raise in our milk to stay in line and still produce high quality milk.

Thank you in advance.

I remain,

EDGAR L. TULEY.

HANNIBAL, MO.,
March 17, 1972.

Senator STUART E. SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR SYMINGTON: We would appreciate your sincere and definite consideration on the matter of increasing the milk support price for the dairy farmers. We are caught in the price squeeze. Our income is out of proportion to the cost of maintenance overhead, and operating expenses: there is not enough left for the long continuous hours of time and labor spent.

It is required of us to keep our barn and equipment under a rigid health and sanitation inspection program. If this is essential to the nation's health and welfare, which we all agree it certainly should provide sufficient returns for the time and expense it requires.

Many dairymen are becoming discouraged and are quitting. Our equipment has become outdated, and needs replacement and modernizing in order to produce quality milk. In order to do this, we will need to borrow from a minimum of $20,000 to a maximum of $60,000. At the present price of milk one could not pay a debt of that kind off with interest. If something isn't done the dairy industry will diminish. There are not enough young men interested in what is involved at the present price of milk. It isn't comparable to other wages. We have a son who would carry on our dairy when we quit, if the price of milk is increased. He has experienced along with us, how the milk income goes for maintenance and operating expenses.

We need good young men who are willing to continue the dairy industry when the middle-aged dairymen quit. It requires a person who is not looking for an hour to start and stop. It requires much more than an eight hour day or forty hour week, and there is no overtime pay.

It should be appreciated that the farmers have been the quiet, contented citizens of our country. They haven't involved themselves in riots, strikes or other disturbances and have tried to cope with conditions. It seems deserving that the price of milk should rise as well as other commodities. In fact, it is very essential if the industry is to continue. It has been established that farming is the backbone of the nation. The dairy farmer is part of that backbone; please raise his price so it can be stronger. We thank you for your consideration.

Respectfully,

PEARL FORNEY
EDWIN G. FORNEY

WASHINGTON, MO.,
March 17, 1972.

Hon. STUART SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: This letter is being sent your way by a dairy farmer, earnestly asking that you support our request of having a dairy price set at not less than 85% of parity.

As any person can tell you who has been in dairy business, there is a lot of hard work involved, lasting long hours a day, seven days a week. When most other people are able to take time out to enjoy leisure moments doing things they please, the dairy farmer is still tied down to all the chores that require continuous attention. Most folks don't seem to realize the long hours of hard labor required to make available for them all the wonderful fresh dairy products they enjoy every day.

We *honestly* feel we are entitled to *at least* the 85% of parity.

Again, *please* support the request we are making.

Thank you.

Your truly,

Mr. and Mrs. RAY SCHROEDER.

HANNIBAL, MO.,
March 18, 1972.

Senator STUART E. SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR MR. SYMINGTON: In view of the rising cost of *labor, machinery, equipment, supplies* and other items required to operate and maintain a Grade A dairy business, it is imperative the price of milk be given top priority. We feel the price of milk should be according to expenses and on level with other big industries accordingly.

We feel this is necessary to maintain the *family size dairy farms* which are still the backbone of the dairy industry and of this great country of ours.

Your prompt action and dedicated concern for a raise in equal prices will be greatly appreciated.

Respectfully yours,

ERNEST C. BRINKMEIER.

WEATHERBY, MO.,
March 10, 1972.

SENATOR STUART SYMINGTON: We operate a small dairy farm in North West Mo. and are writing in regard to the parity price of milk. We think it should be kept up to 85% of parity in order for small farmers to stay in business. We would not be able to operate at a profit if parity goes any lower. Other people get 5.5% more. We should also.

Respectfully yours,

W. H. PETERS.

MARYVILLE, MO.,
March 11, 1972.

Senator STEWART SYMINGTON,

DEAR SIR: I think you should introduce legislation to increase dairy supports from 75% to 85% of parity. It is hard to keep up with the increase in expenses without an increase in income.

I also think they shouldn't let Sec. Butz increase beef import quotas. The imported meat should meet or beat the standards of what we produce.

I hope this helps you in your thinking and voting.

Sincerely,

RICHARD C. NEAL.

WEATHERBY, MO.,
March 11, 1972.

SENATOR STUART SYMINGTON: I'm writing in regard to the price support of milk which was set at 85% of parity last year and is below 80% parity now. I feel it should be at least 85% of parity due to rising prices of all other commodities and labor. I feel we need 85% of parity to stay in dairy business.

Yours truly,

JOHN PARKHURST.

CAMERON, MO.,
March 10, 1972.

SENATOR STUART SYMINGTON: With the increased cost of the necessary operating expenses there is not enough left to give the dairyman and his family a fair share for living.

I believe the parity price of milk should be raised to allow us a better return for our labor.

Sincerely,

GLEN E. CASTLE.

GALLATIN, MO.,
March 11, 1972.

SENATOR STUART SYMINGTON: It is imperative that the price of milk supports be raised again to 85% of parity. Dairy farmers and other farmers cannot continue in business while getting so much less of the national financial pot than other segments of the national economy. Some of our expenses have tripled, while some of our income is at World War One prices. There is one-third less farmers now than there was ten years ago. The average age of farmers is (52) fifty-two and the average age of dairy farmers is more than that. There will be hungry people in this country before too many years unless the picture changes. The big corporation farmers cannot supply all the food needs of the country as cheaply as it is being supplied now because people will not take the same interest in the care of other peoples' animals than they do of their own. The labor bill for food produced will be much higher and that will be reflected in higher food costs.

As a member of a Grade A dairy and general farming enterprise. I urge you to use your influence to see that the support price of milk is raised to at least 90% of parity.

Yours truly,

MRS. ROBERT L. MACY, JR.,
Member of Carpentar and Macy.

HAVENTON FARMS,
New Haven, Mo., March 18, 1972.

DEAR SIR: It is with deepest regret that Secretary of Agriculture Earl Butz has not seen fit to increase the support price of milk to at least 85% of parity.

I would like to take this opportunity to urge you to support and work for a bill to get legislation passed requiring the Secretary to set dairy price supports at not less than 85% of parity.

Thank you very much.

Yours truly,

WILLARD LUECKER,

CAMERON, MO.,
March 15, 1972.

DEAR SENATOR SYMINGTON: With sincere concern, please consider setting the milk support level at 85 percent of parity. Operating costs have increased to the point it is almost impossible to maintain a high dairy operation under present conditions.

Yours truly,

JOHN DONOVAN, JR.,

WILLARD, MO.,
March 15, 1972.

Hon. STUART SYMINGTON,
Senate Office Building,
Washington, D.C.

DEAR SIR: I understand that the Government has virtually no stocks of nonfat dry milk & several other dairy products, and that purchases have been lower in recent months. With the erosion of the price support level announced last year. We desperately need an increase in the price support level to 90 percent of parity. Certainly it should be no less than that set last year and the year before—85 percent of parity.

Yours Sincerely,

LILA HALL.

FORDLAND, Mo.

Hon. STUART SYMINGTON.

DEAR SENATOR: I am writing this letter to let you know my feelings on the support price of milk. I feel that due to the increased cost of production it is essential that the price support be raised. I know you have been a voice for the family farm and we appreciate it. Anything you can do to help will be appreciated.

Sincerely yours,

RAYMOND ATKINSON.

ROGERSVILLE, Mo.,
March 16, 1972.

Hon. STUART SYMINGTON.

DEAR SIR: The prices we dairy farmers receive for our milk are not buying as many goods and services as they did one year ago because of increases in prices we have to pay. Dairy farms need a support price of at least 85 per cent of parity. I urge that you vote favorably on any legislation to achieve this support price for dairymen.

Respectfully yours,

GILBERT CRIGER.

WEATHERBY, Mo.,
March 15, 1972.

SENATER STUART SYMINGTON: The wife and I would appreciate your support of an increase in milk support prices to at least 85% of parity.

We feel this consideration would be a great boost to agricultural well being of farmers.

Yours,

RAYMOND SWEIGER and FAMILY.

MARCH 6, 1972.

Senator STUART SYMINGTON,
Old Senate Office Building, Washington, D.C.

SENATOR SYMINGTON: Mid-America Dairymen, Inc., members in southern Missouri are concerned that the dairy price supports set by the U.S.D.A. last April at 85 percent of parity now represents only 80 percent, since our costs have increased and our returns for labor are low. We solicit your help in support of a new level of supports of at least 85 percent to Secretary Butz and President Nixon.

Thanks.

WM. H. JOHNSON,
Executive Vice President, Southern Division, Mid-America Dairymen, Inc.

CHAMOIS, Mo.,
March 15, 1972.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SIR: Last year dairy farmers were granted a price support level of 85% of parity. However almost a year later this represents less than 80% of parity. In order for us to maintain our production costs we have got to have an increase in our milk price support level. The consumer needs our milk and we would appreciate your help in achieving this goal. We have been in the dairy business for 38 years we realize we are small but it is a way of life for us.

Yours truly,

FRED and MAPLE HOWARD.

WASHINGTON, Mo.,
March 15, 1972.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMINGTON: As a dairy farmer trying to make a fair living, I'm asking you to kindly support and do all you can to maintain the 85% of parity level set in April 1971. As you know it has dropped by 6% this past year. Please do all you can to maintain the 85% of parity level. Rise in cost of machinery and crop failures make it important for us to ask you to do this.

Thank you very kindly.

Sincerely,

Mr. and Mrs. JULIUS WATERMANN.

HANNIBAL, Mo.,
March 13, 1972.

DEAR SENATOR SYMINGTON: We, the dairy farmers would like to ask your help to increase the milk price level. Our costs have been steadily increasing and our returns have never been lower. Machinery and feed costs are very expensive. The price support level that was set last April 9 was 85% of parity now represents 80% of parity. I hope you will consider our needs and ask your support to increase the milk price level.

Sincerely,

ROBERT C. FRANKENBACH.

URBANA, Mo.,
March 13, 1972.

DEAR SENATOR: I would like to ask you to raise the price of support level for our milk.

The price I am getting for my milk is about the same as a year ago. But my costs have risen considerably.

We dairy farmers need an increase in the support level if we are to continue producing the same quality.

I would appreciate your support for an increase in the milk price support level.

RALPH COOMS,
Dairyman.

BEAUFORT, Mo.,
March 16, 1972.

Hon. STUART SYMINGTON: We are dairy farmers producing Grade A milk in the St. Louis area.

I would like to sincerely ask you to raise the price support level for our milk. The price I am getting for my milk is about the same as a year ago, but my costs have risen considerably. We dairy farmers need an increase in the price support levels if we are to continue producing the same quality, if at all. I would appreciate your support for an increase in the milk price support level to 85% of parity.

Please excuse the extra marks on the letter. They are the places where I went to sleep trying to write this letter. We work such long hours, but we'll need sleep.

Thank you,

HENRY DIANKOLFER.

CAMERON, Mo.,
March 15, 1972.

Hon. STUART SYMINGTON,
U.S. Senator from Missouri.

We would like to ask for your support of a bill to raise milk support prices to 85 percent of parity. We are fairly new in the business of dairying, but would like to continue with this way of making a living, even though the hours are long—with plenty of hard work. We find that with the cost of labor, equipment and feed rising so rapidly each year, it is difficult, to say the least, for the dairymen to continue in his chosen work. Your help with this bill will be appreciated by all of us.

Sincerely,

Mr. and Mrs. FLOYD SPIDLE.

TRENTON, Mo.,
March 14, 1972.

To: Senator STUART SYMINGTON:

I am a dairy farmer and I am writing this letter to ask your support in getting the support price of milk set at 85% of parity. The 85% of parity we started last year with, has now slipped to about 79%. Why should the dairy farmer get 79% of parity for his work while almost everyone else gets 100% or more for theirs?

Dr. Campbell Moses, medical director of the American heart association last October recommended two (2) glasses of milk a day for good health, and they were the last holdouts on the milk (Diet and Heart Disease) kick. As soon as the American people start eating as they should there will be a shortage of milk—not a surplus.

It would be nice if Mr. Ralph Nader would spend his time trying to get dock strikes settled or telling people what a good buy food is in this country, the cheapest and best in the world, which would help everyone in the United States, rather than trying to save a cent or two for one group at the expense of another, in this case—the Dairy Farmer.

Sincerely,

CARL F. PARKER.

GERALD, Mo.,
March 16, 1972.

Sen. STUART SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SEN. SYMINGTON: I am a dairy farmer and I am asking you to support the price of milk at 85% of parity.

Due to increased cost of operation I feel the dairy farmer is deserving of at least the 85% parity price for milk.

Sincerely,

GEORGE J. KAMPSCHROEDER.

HANNIBAL, Mo.,
March 16, 1972.

Sen. STUART SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: On March 9th the Secretary of Agriculture announced the support level for milk to be continued at $4.93. I am writing to you personally to ask you to do whatever you can to help us dairy farmers. We will definitely be taking a setback if this continues. Unless this problem for us is not corrected, increased production costs incurred by dairy farmers, will reduce price to an even lower percent of parity. The increased costs have now reduced the $4.93 to 80% of parity. This is not good and I am hoping you will do whatever you can for us. We would like 90% of parity, but at least get it back up to 85% of parity.

Sincerely,

MARVIN C. FRANKENBACK.

WEATHERBY, Mo.,
March 15, 1972.

STUART SYMINGTON,
Senator from Mo.:

I would like to have your help in raising milk support prices to at least 85 percent of parity.

I feel the cost of supplies and Equipment merit this increase. Your influence in favor of this would be appreciated.

Sincerely,

CHARLES SEVEIGER.

MAYSVILLE, Mo.,
March 14, 1972.

SENATOR SYMINGTON: Please help us get our milk prices raised to 85% of parity.

Yours truly,

WENDELL F. BERRY.

PATTONSBURG, Mo.,
March 14, 1972.

SENATOR SYMINGTON: Due to increased cost of production, I think fluid milk prices should be raised to at least 85% of parity. The farmer should not be forced to take less for his product according to cost of production, than any other group in the economy.

Yours,

STANLEY E. BERRY.

BEAUFORT, Mo.,
March 17, 1972.

Sen. STUART SYMINGTON,

DEAR SIR: I bought a tractor in 1951 cost 1,100.00 today the same horse Power Tractor cost 6,000.00; we still do not get to much more for our milk 79% Parity try and Pay your Bills on that Price would you be kind enough to try to help us get 85% Parity. We will be thankful for your work.

Yours,

CHARLES C. RICHARDSON.

EUREKA, Mo.,
March 16, 1972.

Senator STUART SYMINGTON,
Old Senate Office Building
Washington, D.C.

HONORABLE SIR: We understand that no increase in milk price supports for the marketing year beginning April 1, 1972 is contemplated.

The support level of $4.93 per cwt as of March in 1971 when this was 85% of parity will remain the same. The $4.93 price is now less than 80% of parity. If the parity level is installed to 85% it would mean an increase of 37 cents to per cwt or approximately the same price as received for milk in the Truman Administration years.

That other segment of the economy is receiving today for their products or services what was received some 25 years ago. Certainly what we purchase as equipment and supplies hasn't remained static.

May we prevail upon your office to allow our industry the same consideration as is given other industries and organized unions in relation to prices and wages?

Yours truly,

PLEGGE BROS. DAIRY FARM.

HANNIBAL, Mo.,
March 16, 1972.

Hon. STUART E. SYMINGTON,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: I am writing to you in regard to the price we are receiving for Grade A milk.

Farmers appear to be the forgotten people, we like you after all are human. Last year the support price was 85% of parity, but slid to 80%, we would like the support price to be 90%.

Each year it becomes more difficult to meet expenses, as our costs have been steadily increasing and our returns for labor are very low.

Hoping that you will give this matter serious thought, I remain,

Yours Very Truly,

JAMES E. GOTTMAN.

ALBU DAIRY FARM,
Shelbina, Mo., March 18, 1972.

Hon. THOS A. EAGLETON,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: It seems every industry is able to obtain big wage increases—except Dairy Farmers. It has been like this for Dairy Farmers for many years. And, the proof of this is, the number of farmers that have left the industry.

If, the rest of us are to survive our costs and stay in the industry, we will need your help. We ask your support in increasing the milk price support level.

Respectfully,

BUCKMAN BROS.
RAYMOND BUCKMAN.

HUNZE FARM,
Cape Girardeau, Mo.,
March 16, 1972.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SIR: My brother and I have a moderate size dairy farm at Cape Girardeau, Missouri operated on a tenant share basis. We are very much disturbed with the reduction in milk parity from 85% to 79% when our costs have advanced about 6%. To us this will mean a total reduction of about 12% in effective income and result in greater farm losses. We, therefore, want to go on record for holding parity to at least the 85% level and hope you will give this your full support. I thank you in advance for supporting higher milk parity.

Sincerely,

RAYMOND B. HUNZE.

HILLSBORO, Mo.
March 15, 1972.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMINGTON: I am urging you to please raise the parity on milk to 85% of parity. With the rising cost of farm machinery, feed and other needed farm supplies needed in the farming operation; we certainly need more money for our milk.

From 1960 to 1971 prices paid by dairy farmers for production items increased 36.7 percent. While in the same years wage earners in the United States had an increase of 85.3 percent.

Keep these figures in mind, and see if you can possibly help the dairy farmers to a better parity price for their milk.

Sincerely yours,

CALVIN LINDWEDEL.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that an editorial published in the Kansas City Times of March 11, 1972, presenting the fact that farm prices, food production, and food costs are closely related, also be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FARM PRICES AND FOOD COSTS ARE TWIN POLITICAL PROBLEMS

Announcements on consecutive days indicate pressure is being applied on the brake pedal of U.S. agriculture. Perhaps it was inevitable in a year of national elections—a year in which there are fewer than 10.4 million farmers and their families in a nation of 208 million, mostly urban residents and voters.

The administration, which had been wooing the farm bloc, apparently now is more worried over the election impact of consumer complaints about food prices. So it increased the tonnage of meat that can be imported into the nation this year by 7 per cent. Next, Earl L. Butz, secretary of agriculture, announced that government milk support prices will remain at the 1971 level for the new marketing year beginning April 1.

A LOT OF CORN

Earlier, one of Butz' first moves, when he was named secretary, was to order—with fanfare—government buying of part of the corn surplus resulting from last year's record harvest of 5.5 billion bushels.

That project was dropped after the government purchased 13 million bushels, or twotenths of 1 per cent of the crop. Butz' explanation was that the psychological impact of the government's token move was enough to give the farmer a price with which he could live.

In the meat import move, processors now can import up to 1.24 billion pounds of meat this year to add to the U.S.-produced supplies of beef, pork and lamb. Most of that will be low-quality beef used in hamburger and canned products.

Many authorities, however, question whether the full new quota actually can be imported. They explain that rising living standards in the developed nations have created a demand for beef that is almost as strong as the U.S. market. Moreover, the beef appetite also has been whetted in emerging nations. But even if the foreign supply cannot be found, the Nixon administration now can go to the consumers and say, "We tried to help you."

The support setback to dairymen is a little different. A year ago, the USDA, on direct orders from the White House, boosted the basic support level to $4.93 a hundredweight on manufacturing grade milk. That was 85 per cent of parity—then. Officials of the Missouri-based Mid-America Dairymen, Inc., one of the nation's leading co-operatives, said that rising costs in the last 12 months will have caused the support figure to slip to 79 per cent of parity by April 1.

Mid-America wanted the 85 per cent figure restored, while other influential dairy groups sought a 90 per cent figure. Even so, the supply-demand factor has boosted the average price to operators to around $5 a hundredweight. So in that case, too, a realistic view that the Butz denial was a window-dressing move.

SLOWING DOWN TOO SOON?

In his first months in office, Butz has been a highly visible spokesman for agriculture. His efforts have helped, both in stimulating depressed farm prices and in the education of the consuming public.

However, Butz clearly is now slowing the modest acceleration in the cattle and dairy industries. Each fared better last year than their agricultural cousins, but neither was in a runaway race.

Because of the importance of agriculture, including the cattle and dairy industries, to the economic welfare of the farming regions, it is hoped the foot on the farm brake pedal doesn't become any heavier.

Mr. SYMINGTON. In summary, Mr. President, farmers are well aware that there is a growing protest among consumers about the cost of food in the supermarkets of America.

Farm owners also know that they have more than tripled productivity per manhour in the last 20 years, over twice the increase in manufacturing.

Those of us interested in a fair return for the farmer, as well as reasonable prices for the consumer, congratulate Secretary Butz, therefore, on his statements that "high productivity of farmers, and low farm prices, have kept consumers from paying higher food prices over the last 20 years."

I again urge, therefore, that the Secretary exercise the authority Congress has given him and increase the support to a more realistic level.

AMERICAN SUPPORT FOR PRISONERS OF WAR IN ASIA

Mr. PROXMIRE. Mr. President, each year citizens of the United States pause to pay tribute to the courageous and loyal Americans who have fought for their country. In 1971 the President signed a congressional resolution calling for a "Week of Concern" for the brave soldiers who are now either prisoners of war or missing in action somewhere in Southeast Asia.

Each year my distinguished colleagues in both the Senate and the House of Representatives have taken the floor to denounce the inhumane treatment of our soldiers held captive in North Vietnamese camps, and to urge the exchange of all prisoners. Each year all Americans hope that this will be the last "Week of Concern." I regret deeply that this has not yet come to pass.

Therefore I mark this week once again with anger and sadness. The welfare of more than 1,500 valiant American prisoners should be of paramount concern to all who value liberty. For these men have lost their own freedom in defense of others. It is tragic that, although the Peoples' Republic of North Vietnam endorsed the Geneva Accords regarding the treatment of prisoners of war in 1957, they refuse to abide by those simple humanitarian agreements.

The North Vietnamese and Vietcong refuse to identify all prisoners of war or soldiers missing in action. They have refused to exchange seriously ill prisoners or permit proper medical treatment for those in need. Red Cross intervention has been consistently refused and prisoners have been denied the right to correspond freely with their families. No international organization has been allowed to inspect these prisoner-of-war camps, as agreed to in the Geneva Convention, and no check can be exercised on the inhumane treatment received by our captured servicemen.

But this injustice has a particularly profound effect on the lives of the wives, children, and parents of every man held in the jungles of the North. The suffering and hardship of these brave families can never be underestimated. They have persevered with courage and dignity.

Yet these families neither want nor need our eloquent words of sympathy and compassion. What they and all Americans desperately desire is an end to the fighting and the return of all servicemen to their homes and loved ones. This National Week of Concern should not become an annual event, but rather a painful moment in history. The memorials and tributes have never been more deserved than by these missing or imprisoned American servicemen, but our pressing task is to bring them home.

In this, hopefully, last National Week of Concern, let us rededicate our efforts to bring international pressure on the North Vietnamese, either through the United Nations or a neutral power, for the release of prisoners. Let us move swiftly for a cessation of the war and the initiation of an acceptable and peaceful truce throughout Southeast Asia. And finally as national attention is focused on American withdrawal from the quagmire of Vietnam, let us never forget our obligation and debt to those whose days are wasted in captivity. They have done their duty with courage. Now let us do ours.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). Time for the transaction of routine morning business having expired, morning business is closed.

RADIO FREE EUROPE AND RADIO LIBERTY

Mr. FULBRIGHT. Mr. President, the conference report on Senate bill 18 represents a legislative effort of more than 1 year and it brings to a close the clandestine funding arrangements which have served to sustain the radios since their inception in the early 1950's. Throughout this period, some $481 million of the taxpayers' money has gone to support Radio Free Europe and Radio Liberty and their various and sundry programs, the details of which, in many cases, are still locked away, hidden from congressional scrutiny or public review.

But a beginning toward effective legislative oversight has begun, thanks in large part to the initiative taken early last year by our distinguished colleague from New Jersey, Senator CASE. The legislative approach which he offered in January of last year was approved, first, by the Committee on Foreign Relations, then by the Senate as a whole and now by a joint House-Senate conference committee.

Accordingly, the conference report now before the Senate establishes a cautious, moderate approach to continuing the Radio Free Europe and Radio Liberty programs. It amends the U.S. Information and Educational Exchange Act of 1948 to authorize for this fiscal year only an appropriation of $36 million to the State Department for grants to the two Radios on terms and conditions considered appropriate by the Secretary of State. As a general safeguard, the conference report stipulates that, following enactment of this legislation, no other appropriated funds may be used in support of either Radio Free Europe or Radio Liberty.

Mr. President, in making these brief comments, I do not mean to gloss over the controversy and disagreement that came to the forefront during the House-Senate conference on this legislation. But, in this regard, I believe, the conference report speaks for itself and justly treats the serious differences of opinion on this issue.

These differences are real and they promise to be lasting ones so long as Congress is confronted with this issue. Therefore, if and when the administration submits legislation to fund the Radios beyond the current fiscal year, I hope that it will give very serious consideration to the following points. First, that any future funding arrangements for the Radios require our European allies to bear much of the financial burden for them. Second, that because of the foreign policy significance of these programs, they be considered in conjunction with the authorizing legislation for the Department of State and the U.S. Information Agency. And third, that before consideration is given to fiscal 1973 funding, the administration turn over to the Congress whatever studies it has available on the effectiveness of the Radios' operations.

Finally, Mr. President, although I believe the House-Senate conference agreement is far superior to the legislation adopted by the House, I must repeat my own opposition to the Radios, and I shall vote against the conference report.

Mr. AIKEN. Mr. President, I urge the Senate to accept the report of the conferees on S. 18 which authorizes appropriation of funds to operate Radio Free Europe and Radio Liberty for the remainder of this fiscal year.

The amount authorized is $36 million, $1 million more than was authorized in the bill which the Senate passed. In all other respects, however, the conferees have accepted the version of the legislation which the Senate passed last August on a voice vote.

There has been a great deal of misunderstanding arising out of differences between the House and the Senate conferees. I do not propose to elaborate on these differences. The report of the managers speaks for itself.

I believe, however, the record should show that the Senate conferees have, from the beginning of our conferences, taken the position that the Radios should be continued for the balance of this fiscal year.

So far as next year is concerned, however, the Senate conferees felt that the Congress should take the subject up anew.

Some of the Senate conferees felt that the programs should be terminated as of the end of this fiscal year, providing funds only for the orderly liquidation of the Radios.

Others felt that the program should be continued only if they are supported by other partners in the North Atlantic Community.

My position has been that we should proceed one step at a time. That means that we should authorize the programs for this year.

It also means that if the administration, after careful consideration, believes that the programs should be continued next year and submits proposals to that effect, I will do my utmost to see that such proposals are the subject of public hearings.

As a matter of fact, I know of no significant administration proposal which has been referred to the Committee on Foreign Relations in recent years which has not been given consideration, including public hearings if those were requested.

As noted in the statement of managers, some Senate conferees believe that any proposals relating to continuation or termination of the activities of the Radios should be considered within the framework of periodic authorizations of funding for our principal foreign operations activities; namely, the Department of State or the U.S. Information Agency.

So far as I am concerned, whether future proposals relating to the Radios are part of State Department or USIA authorization bills, or are treated as separate legislative items, does not make a great deal of difference. If it is the will of the Congress that these Radios should be funded through the Department of State or the U.S. Information Agency, that can be accomplished as well in a separate piece of legislation as it can be done as part of the authorization bills relating to those agencies.

On the other hand, if it is the will of the Congress that these Radios should be funded through some other means, that can be accomplished as easily by a separate bill as by amendments to other legislation before the Congress.

In any event, I stress now that acceptance of this conference report will enable the Radios to continue operations for the next 4 months. They will still be in operation when the President visits Moscow next May. And during this period, the administration can explore fully and in depth the questions which have been raised during recent debates over the continuation of their activities.

EGG INDUSTRY ADJUSTMENT ACT

The PRESIDING OFFICER. The hour of 10:45 a.m. having arrived, the Chair, in accordance with the previous order, lays before the Senate S. 2895, the Egg Industry Adjustment Act, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER (Mr. ALLEN). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. JORDAN) would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Jersey (Mr. CASE) is detained on official business, and if present and voting, would vote "yea."

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Oregon would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from Texas would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 23, nays 48, as follows:

[No. 127 Leg.]

YEAS—23

Aiken	Ellender	Mondale
Allen	Ervin	Smith
Bible	Gambrell	Stafford
Cooper	Gravel	Stennis
Cotton	Long	Symington
Cranston	Magnuson	Talmadge
Dominick	Mansfield	Thurmond
Eastland	McGee	

NAYS—48

Bennett	Gurney	Pearson
Boggs	Hart	Pell
Brooke	Hartke	Percy
Burdick	Hruska	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Javits	Ribicoff
Cannon	Jordan, Idaho	Roth
Chiles	Kennedy	Saxbe
Church	Mathias	Schweiker
Curtis	Metcalf	Scott
Dole	Miller	Spong
Eagleton	Montoya	Stevens
Fannin	Moss	Stevenson
Fong	Nelson	Weicker
Fulbright	Packwood	Williams
Griffin	Pastore	Young

NOT VOTING—29

Allott	Cook	McClellan
Anderson	Goldwater	McGovern
Baker	Hansen	McIntyre
Bayh	Harris	Mundt
Beall	Hatfield	Muskie
Bellmon	Hollings	Sparkman
Bentsen	Humphrey	Taft
Brock	Inouye	Tower
Buckley	Jackson	Tunney
Case	Jordan, N.C.	

So the bill (S. 2895) was not passed.

Mr. MILLER. Mr. President, I move that the vote by which the bill was not passed be reconsidered.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, the Chair lays before the Senate a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 18) to amend the U.S. Information and Educational Exchange Act of 1948 to to provide assistance to Radio Free Europe and Radio Liberty.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of March 14, 1972, at pp. 8196–8197.)

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, at 11 a.m. today a yea-and-nay vote is to occur on this conference report, S. 18.

The question is on the adoption of the conference report.

On this questions, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Jersey (Mr. CASE) is detained on official business and, if present and voting, would vote "yea."

If present and voting, the Senator from

Maryland (Mr. BEALL), the Senator from Kentucky (Mr. COOK), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 65, nays 6, as follows:

[No. 128 Leg.]

YEAS—65

Aiken	Fong	Pastore
Allen	Gambrell	Pearson
Bennett	Gravel	Pell
Bible	Griffin	Percy
Boggs	Gurney	Randolph
Brooke	Hart	Ribicoff
Burdick	Hartke	Roth
Byrd, Va.	Hruska	Saxbe
Byrd, W. Va.	Javits	Schweiker
Cannon	Jordan, Idaho	Scott
Chiles	Kennedy	Smith
Church	Long	Spong
Cooper	Magnuson	Stafford
Cotton	Mathias	Stennis
Cranston	McGee	Stevens
Curtis	Metcalf	Stevenson
Dole	Miller	Talmadge
Dominick	Mondale	Thurmond
Eagleton	Montoya	Welcker
Eastland	Moss	Williams
Ervin	Nelson	Young
Fannin	Packwood	

NAYS—6

Ellender	Hughes	Proxmire
Fulbright	Mansfield	Symington

NOT VOTING—29

Allott	Cook	McClellan
Anderson	Goldwater	McGovern
Baker	Hansen	McIntyre
Bayh	Harris	Mundt
Beall	Hatfield	Muskie
Bellmon	Hollings	Sparkman
Bentsen	Humphrey	Taft
Brock	Inouye	Tower
Buckley	Jackson	Tunney
Case	Jordan, N.C.	

So the conference report was agreed to.

AUTHORIZATION FOR CERTAIN NAVAL VESSEL LOANS

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the Chair lays before the Senate H.R. 9526, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 611, H.R. 9526, a bill to authorize certain naval vessel loans, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment on page 2, line 12, after the word "exceeding", strike out "four" and insert "five".

WAIVER OF RULE OF GERMANENESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Pastore rule of germaneness be waived for the rest of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SCOTT. Mr. President, I would like to ask the distinguished majority leader if he would advise us of the program for next week.

Mr. MANSFIELD. I would be delighted to. The calendar is in excellent shape.

When we get through with the pending legislation, the Senate will proceed to consider Calendar No. 490, S. 1821, which will be the pending business when we come back on Tuesday. We will not meet on Monday. S. 1821 has to do with an amendment to the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

That measure will be followed by Senate Joint Resolution 218, a joint resolution to extend the authority conferred by the Export Administration Act of 1969.

That in turn will be followed, hopefully, by the legislative appropriations bill on Tuesday. And if that is disposed of, the next order of business will be Calendar No. 577, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress, the so-called War Powers Act.

That measure, in my opinion, will not be finished by the time the 2-day Easter recess arises.

We will, of course, take up from time to time any other unobjected-to items on the calendar.

All in all, may I say that the Senate is to be commended for doing an excellent job in keeping the calendar fairly clean.

Mr. SCOTT. It is my understanding that the last session before the Easter recess will be held on Thursday of next week.

Mr. MANSFIELD. The Senator is correct. We will go out at the conclusion of business and come back the following Tuesday.

Mr. SCOTT. There will be votes on Thursday under the projected schedule?

Mr. MANSFIELD. That is correct.

AUTHORIZATION FOR CERTAIN NAVAL VESSEL LOANS

The Senate continued with the consideration of the bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. STENNIS. Mr. President, will the Senator from Virginia yield to me for a brief statement?

Mr. BYRD of Virginia. I yield.

Mr. STENNIS. Mr. President, first I thank the Senator from Virginia for the special attention he has given to the bill. He conducted the hearings and he supervised preparation of the report and presented it to the full Committee on Armed Services. I want to thank him publicly for his interest and for the fine job he has done. I am certainly supporting the bill. I may be called from the Chamber from time to time and not be able to hear all of the discussion and the debate, but I hope the Senate approves the bill.

I thank the Senator very much.

Mr. BYRD of Virginia. Mr. President, I appreciate the remarks of the distinguished Senator from Mississippi. For the information of the Senate I have an opening statement of about 10 minutes. I understand that the distinguished senior Senator from Idaho has an amendment which he will present following my remarks and with whatever additional discussion there will be I assume the vote will come at an early time.

Mr. President, H.R. 9526 seeks authorization for the loan of certain naval vessels to five foreign nations. The legal authorization for this legislation is title 10, section 7307, United States Code.

The bill was passed by the House in early December and seeks authority to loan five destroyers and two submarines to Spain; one destroyer and two submarines to Turkey; two destroyers to Greece; two destroyers to Korea; and two submarines to Italy.

I think it important, Mr. President, that I address certain provisions in the bill as proposed by the administration and the House amendments which followed. The House amendments would change the existing law in the following respects:

First, the term of the loan is reduced from 5 to 4 years.

Second, the option to extend the loan for an additional 5 years is deleted.

Third, it would be mandatory that the ships be returned to the U.S. Navy at the end of the loan term.

Fourth, it would be mandatory that the loan be terminated if the President determines that the loans no longer contribute to the defense needs of the United States.

The proposed bill now under consideration contains one amendment which was also acted on by our committee. The Armed Services Committee recommends reinstatement of the 5-year term of these loans should be from a period of 5 years because it does provide a more realistic objective for a friendly state to base its national security plans.

The difference between the House figure and the Senate committee figure is that one change. The House recommends that the loan be for 4 years and the Senate committee recommends that the existing 5 years be retained.

The refurbishment of these ships involve large expenditures of funds by some of these friendly states which they might be reluctant to undertake for loans of less than 5 year. I might also add that the 5-year term has become customary in the loan of U.S. vessels to foreign countries.

With respect to the proposed loans to Spain, I might add that when the extension to the U.S. Base Rights Agreement was concluded in 1970, the ships in this bill earmarked for Spain represent a part of the consideration for our continued use of air and sea bases in Spain. It was the view of the Senate Armed Services Committee that there was no violation of congressional authorization processes in that the loan to Spain contained a specific provision that the loans would be made subject to obtaining authorizing legislation.

Mr. President, I might add at that point that I think it would have been much better had this agreement with Spain, for United States use of bases there in return for certain commitments on the part of the United States, been submitted to the Senate as a treaty rather than put into effect as an executive agreement. Nevertheless it was put into effect as an executive agreement

and the testimony submitted to the Committee on Armed Services indicated that negotiators relied on the present 5-year term for loans of these naval vessels. That was one point to which the committee gave consideration in recommending that the loans be for 5 years instead of the 4 years approved by the House.

The Senate Armed Services Committee strongly recommends that the other House-passed amendments be retained in the bill with a view to insuring that congressional control is properly maintained. First, the option to extend the loan for an additional 5 years is deleted from the administration proposal and thus making it mandatory that any loan extension must have specific authorization by the Congress; second, the bill now under consideration makes it mandatory that the ships be returned to the U.S. Navy at the end of the loan term; and finally, this bill makes it mandatory that the loan be terminated if the President determines that the loan no longer contributes to the defense needs of the United States.

I think these features are desirable ones. I commend the House for putting them into the bill. I think it is an improvement over existing legislation. It is a step in the direction of Congress reasserting its responsibilities in these matters.

I might also address the fiscal aspects of the bill under consideration. In the case of the proposed loans for Spain and Italy, there will be no military assistance funds involved. The funding for any overhauling or associate training programs will come from the national resources of those countries.

In the case of Greece, there may be a small sum for training of the crews that will operate these ships, but there are no funds planned or programed for the overhauling of the ships for Greece.

In the case of Turkey and Korea, it is anticipated that overhauling costs and training will be funded under the Military Assistance program. In the case of Korea, the amount could be approximately $7.5 million for the destroyers. In the case of Turkey, it could be as high as $12.5 million for two submarines and one destroyer.

I would like to emphasize these are estimates only, because until this legislation is enacted, the specific ships to be loaned will not be identified. Following enactment, the ships will be identified and inspected by the recipient countries. Then the determination will be made by them as to the extent of the overhauling and the modernization they may desire to undertake.

I think it most important, Mr. President, that I point out one vital fact. Of the 16 ships contained in this bill, 14 will be performing sea duty in the Mediterranean. I need not remind my colleagues of the increasing Soviet naval presence from the Black Sea to Gibraltar. In effect, these 14 vessels shall prove to be an important augmentation to the U.S. 6th Fleet.

Mr. President, at this point I want to read several paragraphs of the testimony by Admiral Zumwalt, Chief of Naval Operations. I, as chairman of the committee, was querying Admiral Zumwalt and asking him for comments. I will now read one of Admiral Zumwalt's replies:

Admiral ZUMWALT. Very respectfully, Mr. Chairman, I would just come back one final time to the fact that we lack the military strength to stand up to the Soviet Union in a crisis without the assistance of our allies. Mr. Laird has outlined the concept of a total force approach to the threat, consisting of our Active Forces, our Reserve Forces and our allies.

Senator BYRD. I am in thorough agreement with you and with the Secretary. That is not the basic problem. The basic problem is whether 4 years or 5 years from now, the administration will have the right to do something on its own or whether it will have to come and submit recommendations to the Congress.

There is no disagreement on my part as to your position on defense and Secretary Laird's position. I think we have to have a strong national defense and I am going to do what little I can along that line. But this is just a question of procedure, whether you proceed through the Chief Executive or whether you proceed through the Congress for that extension.

Mr. President, there are two aspects of that colloquy that I want to emphasize. One is the strong belief of our military leaders that, in the event of difficulties, the United States needs allies. As Admiral Zumwalt expressed it, we lack the military strength to stand up to the Soviet Union in a crisis without the assistance of our allies; and these ship loans are for the purpose of helping our allies.

The other aspect of the colloquy just quoted that I want to mention, and a point of controversy between the Navy and the Armed Services Committee, is whether the administration or the executive branch of Government shall have the authority to continue these loans for an additional 5 years without coming back to the Congress for approval. That is the existing law now, but the committee recommends that the existing law be changed and that the loans be made for 5 years. But if the executive branch deems it important that the loans be extended beyond that 5-year period, then the executive branch, under this legislation, would be required to come back to the Congress for authority for such extension.

So it is a fundamental change in the existing law. I want to emphasize that because I do not want to mislead any of my colleagues in that regard. It is a fundamental change in the existing law which the committee recommends.

I want to be frank to the Senate and state that this fundamental change was opposed by the representatives of the executive branch, specifically the Chief of Naval Operations. I think it is important that those facts be made available to the Senate before it concludes what should be done in this regard.

Mr. CHURCH. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment would not be in order until the Senate had acted on the committee amendment.

Mr. CHURCH. I withhold the amendment, then, for that purpose.

The PRESIDING OFFICER. The clerk will read the committee amendment.

The legislative clerk read the committee amendment, as follows:

On page 2, line 2, after the word "exceeding", strike out "four" and insert "five".

Mr. BYRD of Virginia. Mr. President, before acting on that amendment, I might say that is the only committee change which it recommends vis-a-vis the House-passed legislation. It changes one word, the word "four" to "five" years, making loans for a 5-year period rather than a 4-year period.

I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment. Without objection, the amendment is agreed to.

Mr. CHURCH. Mr. President, I ask that my amendment now be read.

The PRESIDING OFFICER. The amendment offered by the Senate from Idaho will be read.

The legislative clerk read the amendment, as follows:

At the end of the bill, add the following new section:

SEC. 5. Any loan made to a country under this Act shall not be construed as a commitment by the United States to the defense of that country.

Mr. CHURCH. Mr. President, I support this bill and commend the committee for the change that it is proposing to make in our ship loan program.

It is entirely proper that Congress should have an opportunity to pass upon all loans once the 5-year time period has expired.

There is one aspect of the loan program, however, that is worrisome. In connection with any kind of aid extended by the United States to a foreign country, there is often implied an obligation or a commitment of a much more serious nature stemming from the aid given.

I recall, early in the debate over the Vietnam war, Secretary Rusk stated that our aid to Vietnam was to be regarded as factoring a commitment by the United States to defend the Saigon government. In connection with the Spanish case, the administration has chosen not to come to Congress to confirm our military base arrangement with Spain, or the extension of that arrangement, but has chosen, instead, to go the executive agreement route, thus contravening the normal constitutional process. And even in the testimony given by Admiral Zumwalt on behalf of the pending bill, I note language creeping in that suggests an implied commitment on the part of the United States toward Spain. The admiral testified that:

From the political standpoint, the loan ships represent our commitment to mutual objectives.

At another point, he said:

These loans are visible reminders of friendly alignments.

Mr. President, Congress should make it absolutely clear that no ship loan, as such, implies a commitment on the part

of the United States to the government to which the ship is loaned; that no such loan is to be construed as a defense commitment, or anything beyond lending it a ship.

I believe that the distinguished Senator from Virginia so construes the bill, and would have no objection to making it clear that any ship loan to a country shall not be construed as a commitment by the United States to the defense of that country. That is what is introduced by this amendment, and I hope the distinguished Senator will find it acceptable.

Mr. BYRD of Virginia. Mr. President, if the distinguished Senator from Idaho will yield. I feel that the amendment which has just been presented is a good one. Certainly that is the clear intent of the legislation. It was certainly the intent of the majority of the members of the Committee on Armed Services. I think it is a desirable amendment, and I am very glad to associate myself with the Senator from Idaho in regard to that amendment and, so far as I am concerned, I am pleased to support it.

Mr. CHURCH. I thank the Senator very much. I hope the amendment will be agreed to.

Mr. BYRD of Virginia. Mr. President, I move the adoption of the amendment offered by the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. GAMBRELL). The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. BYRD of Virginia. I might say, Mr. President, that if this legislation or any other legislation, for that matter, in any way indirectly committed this country to the defense of another country, I would not be advocating such legislation, because I think if we are going to the defense of another country, it should be clearly specified by treaty, and every Member of the Senate should know just what the ramifications are.

Mr. President, before asking for a vote on this legislation, I ask unanimous consent that the following portions of the record of the committee hearings be printed in the RECORD.

Beginning on page 20, the next to the last paragraph beginning with the words "Senator BYRD," and ending on page 22 at the end of the statement by Assistant Secretary of Defense Nutter.

Beginning on page 23, at the beginning of the first full paragraph, beginning with the words "Senator BYRD," to the words "The committee will take it under advisement" on page 36.

There being no objection, the excerpts from the record of the committee hearings were ordered to be printed in the RECORD, as follows:

NAVAL VESSEL LOANS

(Excerpts from hearing before a subcommittee of the Senate Committee on Armed Services, Feb. 17, 1972)

Senator BYRD. There is a vote on the floor, but let me ask you this question, and then with Senator Saxbe's approval, I will recess the committee so that we can answer a roll-call and come back immediately thereafter. But what is really involved, is it not, is that the House proposal differs to a considerable extent from the executive agreement with Spain?

Admiral ZUMWALT. Well, sir, that is a significant factor with regard to the Spanish; the executive agreement did say that subject to congressional authorization, the United States would undertake to get a loan for the five destroyers and the two submarines, and clearly, the Spanish assumed that that would be under the normal terms that had been approved in previous ship loans, such terms would have closely paralleled those in the executive agreement for use of the Spanish bases. These called for a 5-year agreement and then a 5-year extension subject to agreement on both sides.

So it is clear that the Spanish feel that as part of the deal, they could have counted on a 5-and-5 arrangement and it's also clear that the executive agreement specified that this was subject to congressional approval. My personal hope is that we will get the congressional approval.

Senator BYRD. The agreement must specify the terms. Does not the agreement specify that?

Admiral ZUMWALT. No, sir; the agreement does not. The agreement merely says that the United States will, subject to congressional approval, undertake to arrange for a loan of five destroyers and two submarines. However, it is clear that at the time, both our side and the Spanish Government assumed that there was a strong probability of getting the same kind of authorization that has been achievable in the past 5 years with an automatic renewal of 5 more years.

Again, from a military standpoint, it is a cheaper thing for us to do than to decommission these ships and mothball them. They would not deteriorate as fast.

Senator BYRD. Speaking just as one member of the committee, I am inclined to favor the ship loans. But the real point at issue, as I see it, is whether what the House of Representatives did should prevail or whether the administration's proposal should prevail.

Admiral ZUMWALT. Yes, sir. It would be my strong recommendation on military grounds that the original proposal of the executive department be endorsed by the Senate.

Senator BYRD. Outline if you will just where they differ.

Admiral ZUMWALT. Yes, sir. The bill before you requires that the loans be only for a period of 4 years.

Senator BYRD. Where you want 5 years?

Admiral ZUMWALT. Yes, sir; and that there must be a mandatory return of the ships at the end of the 4 years. Whereas past loans and the original administration proposal have provided for an automatic 5-year extension if both sides agree to it.

Senator BYRD. That would be done by the President, by executive action?

Senator ZUMWALT. Yes, sir; the executive heads of both governments.

Senator BYRD. In other words, the Congress does not come into it, the extension?

Admiral ZUMWALT. That is correct, sir. And it gives the recipient navy and government, then, the rather strong possibility of being able to count on it for a 10-year period, if relations remain amicable, rather than the 4 years.

Senator BYRD. What is to prevent the executive branch coming back to the Congress at the end of 3½ or 3 years and saying, we would like to extend these loans for 4 more years?

Admiral ZUMWALT. This certainly is a feasible proposition. From the standpoint of both our Navy and the recipient navy, I believe that it is much less favorable an arrangement than would be the 5-and-5, sir.

With regard to the policy issue, Dr. Nutter can answer that.

Senator BYRD. I would certainly agree it is a lot more convenient if the Defense Department and the President can make the decision on their own. That is what it provides for when you say that the President can extend for another 5 years. But you are getting a good bit away from the legislative process. I cannot quite see what the objection is. You are coming to the Congress in the original instance. What is the objection to coming back to the Congress for the extension?

Mr. NUTTER. If I might speak to this, Mr. Chairman, in the context of our international security assistance program as a whole, I feel it is very important that these countries we are trying to help defend themselves be able to plan sufficiently far ahead so that they can build a meaningful military force that will fit in with our own force plans. Our force plans have to be designed for as far as 10 or 15 years ahead. To offer them something for such a short period of time, would therefore not be advantageous to the international security assistance program as a whole.

Senator BYRD. If the Congress approves this legislation, does it not add 16 ships to the 73 already on loan over which the Congress no longer has any control?

Admiral ZUMWALT. Sir, I believe that under the provisions of the bill as the administration would recommend it, Congress would have control at the end of the 5-year period and the optional 5-year extension. It would again take legislation in order for the ships legitimately to remain under the control of the recipient nations beyond that period of time.

Senator BYRD. Beyond the 5-year period?

Admiral ZUMWALT. Beyond the 5-year plus the 5-year extension if both sides agree to that, sir.

Senator BYRD. In other words, beyond the 10-year period?

Admiral ZUMWALT. Yes, sir.

Senator BYRD. Let's go back to what seems to me is the key point. The question at issue is between your proposal and the House proposal. Did the Defense Department and the State Department present these same views to the House Committee?

Admiral ZUMWALT. I was not called up before the House committee.

Admiral Dick, can you answer that question?

Admiral DICK. We did not discuss this in detail, no, sir. The amendment came at the conclusion of our statements and the follow-on testimony. An amendment was offered by one of the members of the committee and there was no discussion, as I recall, even among the committee before it was voted on.

Mr. PICKERING. That is right. Admiral Dick and I were both there and this occurred in the other body after the testimony of witnesses on our side. Obviously, our views were all expressed in terms of the administration's bill, in full support of the administration's bill.

Senator BYRD. To get back to the Spanish bases—and I want to say first I have been to each of those bases in Spain and I think they are of importance to the United States. But it seems to me that what you are really concerned about, in wanting to use the administration's version of the bill rather than the House version, is the conflict with the agreement with Spain.

Admiral ZUMWALT. Sir, if I may speak from a military point of view—I am concerned about a broader question that is relevant not only to this agreement, but also to the problems that the other prospective recipients face. From a military standpoint, I have been told by the President and the Secretary of Defense that as a planning precept, we must seek to maintain military superiority over the Soviet Union through increased allied contribution. Therefore, to me, it is absolutely vital that the allies have significant strength in their navies.

Senator BYRD. Let me interrupt you there.

Spain is not a member of NATO. Do you advocate Spain becoming a member of NATO?

Admiral ZUMWALT. From a military point of view, I would favor it, yes, sir. From a political point of view, I would defer to Mr. Nutter and Mr. Pickering.

Senator BYRD. Let me ask the political adviser. Do you favor it?

Mr. PICKERING. Yes, we favor the admission of Spain to NATO. Obviously, this involves questions of the other NATO partners and their views. I do not think it would be helpful for me to go into all of that here. I can simply say our position has been made clear on this.

Senator BYRD. But the State Department favors Spain becoming a member of NATO?

Mr. PICKERING. That is right.

Senator BYRD. And the Defense Department favors Spain becoming a member of NATO?

Mr. NUTTER. Yes, sir, we have made that position clear to our partners in NATO.

Senator BYRD. Have any steps been taken to implement that?

Mr. NUTTER. We have said to our allies in NATO, Mr. Chairman, that, for the good of the defense of the Atlantic community, we should work toward Spain's becoming a member of that alliance.

We have also had informal discussions with the Spanish on some of the concerns of NATO, but they have been purely informal discussions. They have not involved anything other than informing on the activities of NATO. We have hoped to bring Spain and NATO closer together in various ways over time. We have recognized that this is a problem of time and that there is a history involved, but our position has firmly been that, because of the strategic importance of Spain and because of its commitment to the West and to the Atlantic area, it should be a member of NATO.

Senator BYRD. And it could probably permit a reduction of U.S. troops if Spain were a member of NATO?

Mr. NUTTER. Yes, sir. There are serious problems connected with the entrance of Spain into NATO, as you must be aware, in terms of the attitudes of our allies. We think, though, that with time Spain and NATO will come closer and closer together.

Senator BYRD. One of the key questions, it seems to me, is this: When did the executive branch inform Congress that the Spanish agreement calls for loans for 5 years with a 5-year renewal option?

Admiral ZUMWALT. Sir, the agreement does not call for the 5-and-5.

Senator BYRD. The written agreement technically does not, but the 5 years must have been involved in the discussions.

Admiral ZUMWALT. I do not believe that has been the case.

Mr. PICKERING. No, I think to try to clarify this, it is my understanding of the negotiations that the negotiations were carried on against the backdrop of the fact that, first, all loans in the past had been made on the basis of 5 years with a 5-year renewal clause; secondly, as Admiral Zumwalt pointed out earlier, the agreement itself, I think, involved, on the basis of coincidence rather than anything else, a similar period of effect. I do not think from my knowledge of the negotiations that there was any explicit discussion of the 5——

Senator BYRD. You mean General Burchinal did not explicitly state a 5-year——

Mr. PICKERING. General Burchinal did not conduct the negotiations.

Senator BYRD. Who did conduct them?

Mr. PICKERING. They were conducted in the State Department here in Washington.

Senator BYRD. And there was no explicit offer of 5 years with a 5-year extension option?

Mr. PICKERING. That was my understanding, that the discussion of the ships subject to congressional legislation was in the context of the existing bills for ship loans, which provided for the initial 5-year period together with 5-year renewal option.

Senator BYRD. But the U.S. Government, then, did not explicitly offer in regard to this agreement to make loans for 5 years with a 5-year renewal.

Mr. PICKERING. The U.S. Government could not do that, Senator Byrd, because that was subject really to congressional action which had not taken place. So the whole tenor of the agreement, in fact, the explicit statement in the agreement, is that the Government of the United States intends to loan to the Government of Spain the following vessels subject, where necessary, to obtaining authorizing legislation. That is the statement that the agreement contains, the explicit statement on this subject.

Senator BYRD. I understood Admiral Zumwalt to say earlier—and I am not sure of the exact phraseology but the Admiral can correct me—but it was along the line that the Spanish negotiators had a right or had reason to feel that we would follow the same procedures as we followed in the past.

Admiral ZUMWALT. Mr. Chairman, my belief is that they assumed during the negotiations that a commitment to seek ship loan legislation would give them an arrangement similar to that which had been passed by the Congress in the past. But I do not believe that there was ever any specific discussion of the time length, because the Spanish always assumed it would be for 5-and-5.

Senator BYRD. Was anyone in the Congress informed that that is what the Spanish assumed, that it be 5-and-5? Was the chairman of either of the Armed Services Committees informed, or the chairman of the Foreign Relations Committee or the Foreign Affairs Committee?

Mr. PICKERING. The question never became one of any issue. The Congress was consulted on the agreements on at least six separate occasions before the agreements were reached.

Senator BYRD. Let's pursue that a moment. You say the Congress was consulted. How was the Congress consulted?

Mr. PICKERING. In the main, these consultations involved on the one hand discussions with members of and the Senate Foreign Relations Committee, and on the other hand, it involved letters which respond to congressional inquiries on the agreement. To my knowledge, neither the inquiries nor the discussions ever addressed this specific point. It had not become a point of issue since the House had not yet taken the action which it now has taken on the bill. I think the point at which this became a question at issue. If I may call it that, is the point at which the House took the action and amended the bill that the administration had submitted.

Senator BYRD. Then, is not the basic difference between the House action and your requested action that the House action gives Congress control at the end of 4 years to determine whether or not to renew, while what you want is an automatic renewal at the end of 5 years?

Admiral ZUMWALT. I believe your formulation of the issue is accurate, sir. From a military point of view, I strongly urge the 5-and-5, because I just do not think that we are making a reasonable offer to good friends and allies on a 4-year basis for ships which they then will only be really able to use for less than three.

Senator BYRD. Does the extension require congressional approval?

Admiral ZUMWALT. No, sir, the normal form of the extension has been subject to the agreement on an executive basis between two Governments.

Senator BYRD. Except for a 1-year differential, 4 years compared to 5, how does it give any greater degree of certainty to a particular government that they will get a 5-year renewal?

Admiral ZUMWALT. Well, sir, they know that it is subject only to a single veto instead of a double veto, and they have the precedent in the past of the fact that relations continuing friendly, the Executive has, on the part of the United States, gone along with a 5-year extension.

Senator BYRD. Some of us in the Congress, though, are concerned, and I am not speaking of any particular administration, that the Congress has given to the administration or the executive branch too much authority in the past and that the Congress should reassert its own responsibility in some of these fields. That is what I visualize what the House was trying to do; it was along that line, to reassert congressional authority in a field which it seems to me is clearly a field for congressional authority.

Mr. NUTTER. Yes, sir. May I speak to that a moment, Mr. Chairman?

I fully appreciate your concern and I think it is a legitimate one. No department of the Government would be quicker to affirm that the legislative and executive branches are coequal than the Department of Defense, since our Secretary served so long in Congress. He has emphasized the coequal status on many occasions.

Senator BYRD. An excellent Congressman and an excellent Secretary, both.

Mr. NUTTER. We appreciate this point and understand your concern. What we would ask you to consider is whether you would want to exercise control over the length of time for which we grant the use of a vessel in support of our own defense plans.

In other words, we are saying that this situation is the same as our international security assistance program, in which the Congress in its wisdom makes many decisions on the granting of equipment, and the extending of loans for the purchase of equipment, that resides in the hands of other countries for prolonged periods of time. We say that this is the same kind of case recognizing that Congress should very carefully scrutinize the transfer of any military resources from this country to any other country. We would plead as a necessity for sound military planning that the time period would have to be longer than 4 years.

Senator BYRD. Mr. Secretary, does not the Congress fund the military assistance annually?

Mr. NUTTER. Yes, sir.

Senator BYRD. It does not say we will appropriate x dollars for 5 years.

Mr. NUTTER. No, sir; and we fully agree with the principle that the appropriation should be annual. But the appropriation is then used in large part to transfer equipment that has a long life, that goes to another country in the form of tanks or ships or whatever it might be and remains in the possession of that country for as long as it is not misused. In the case of ship loans, we conceive of the same kind of decision on the part of Congress, a decision that is made at a point in time but that affects some period in the future.

We fully agree that such decisions reside here in Congress, but we would ask that the Congress think in terms of a longer timespan, just as it does in the annual appropriations for our own defense budget and for the international security assistance program.

Senator BYRD. As a matter of curiosity, how was the 5-year figure arrived at originally? Does anyone know?

Admiral ZUMWALT. I do not think we have anything in the files to prove this, Mr. Chairman; but my very strong belief would be that it was because the 5-year period is almost the bare minimum in which one can make any real intelligent plan with regard to a naval ship which has to be complete-

ly refurbished, into which personnel have to be phased, trained, and worked up, and then out of which they would have to be moved in time to return the ship at the end of the period.

Senator BYRD. I might say that I am basically sympathetic with the loan program. I can see that it has a great deal of merit to it. But the problem that has arisen now, as I see it, is how much authority the Congress wants to give away or give to the executive branch. The House feels that at the end of 4 years, the appropriate thing to do would be to come back to Congress and let the Congress extend the loan if that is the desire of the Defense Department and Congress concurs, or the other proposal would be just to give the President the right automatically to renew.

Admiral ZUMWALT. My plea, sir, would be that the subcommittee would give consideration to the fact that we have reduced our own naval strength by a third. We need strength in our allies and our friends if we are to handle the threat. And we need loan terms which permit our allies and friends to make plans and commit resources in an orderly manner. The 5-year interval is about the minimum for programing. It is the interval which has been adopted by our own Defense Department.

Senator BYRD. You have used the word "allies" several times. That applies to Spain?

Admiral ZUMWALT. Of course, sir; we have differing degrees of association with each of these nations. As you know we are linked by the very tight NATO alliance to all but two. We have a bilateral relationship with the Republic of Korea. With regard to Spain, our association is not that of an alliance but we have clearly mutual interests with regard to our position in the free world.

Senator BYRD. So in essence, leaving out maybe the very technical aspect, Spain would be an ally?

Admiral ZUMWALT. Well, sir, I suppose I really should ask the State representative or Mr. Nutter to answer this.

Mr. PICKERING. No, sir, I do not think we can distinguish between degrees here. We have traditionally used the word "ally" to describe those countries with which we have a particular type of treaty arrangement. We do not have that type of treaty arrangement with Spain. We have used the phrase "friends and allies" to describe the countries that are recipients, prospective recipients of this ship loan legislation. I think we would prefer to use that sort of relationship to make the distinction here. Spain, as we have said, is not a member of NATO, therefore does not qualify under the NATO agreement, which is that kind of treaty.

Senator BYRD. We have no treaty arrangements with Spain?

Mr. PICKERING. That is right, sir.

Senator BYRD. But you in effect have made a treaty with Spain but you have done it by executive agreement?

Mr. PICKERING. We have made an agreement which extended certain relationships in force which we call an Agreement of Friendship and Cooperation, which covers a broad range of fields in which we have mutual interests with Spain.

Senator BYRD. You are extending it—we have to begin it. You began it in 1954. And that was done by executive agreement.

Mr. PICKERING. That was after consultation with Congress at that particular time. It was decided between the two branches after consultation that the proper form to follow was an executive agreement at that particular time and that proper form was continued on. But there was extensive consultation with Congress in the period leading up to this latest agreement with Spain.

Senator BYRD. I am still not clear on what you mean by consultation with Congress. That is the point that I do not understand.

Mr. PICKERING. Maybe I could just outline what has gone on in general terms.

Senator BYRD. Let me ask you this question first: Why did you not submit it as a treaty instead of an executive agreement?

Mr. PICKERING. This is a question which I would like to take an initial effort at making an answer. I have brought one of the Assistant Legal Advisers from the State Department. If we get into that realm, I would want to disqualify myself as a witness.

But we have continued in effect executive arrangements because they did not involve a commitment on the part of the United States to Spain of the kind that normally is incorporated in advice and consent treaties. This in my understanding is the essential reason why we chose the executive agreement form to cover the agreement of friendship and cooperation with Spain.

If I might answer the first part of your question on consultation, if you would like me to go on to that—

Senator BYRD. Yes, please.

Mr. PICKERING. There were, as I said earlier, a number of consultations, particularly with the Foreign Relations Committee, before the agreement was signed. In accordance with the record that I have, there were at least six separate occasions when the negotiations with Spain were discussed or on which the administration addressed letters to Senators, including the chairman of the Senate Foreign Relations Committee, before the actual signature of the executive agreement took place.

There were, I think to my knowledge, at least five or six major points made by the Congress to us which were incorporated in the negotiating process or in the agreements themselves. One of these was the insistence of the Congress that there be congressional approval for the military assistance arrangements as part of the Agreement on Friendship and Cooperation.

Then following the signature, as you know, there were lengthy discussions as well concerning the agreement with the Department of State and the Congress, and the Department sent again a number of letters explaining the agreement and responding to questions of Members of the Congress.

Senator BYRD. Let me ask you this: Section E of article 40 of the United States-Spain agreement indicates that the Government of the United States is prepared to relinquish to Spain the Rota-Zaragoza pipeline. Can that be done without congressional approval?

Mr. PICKERING. Section E of article 40?

Senator BYRD. Yes. My point basically is can the executive branch relinquish to Spain the Rota-Zaragosa pipeline without congressional approval? That is part of the agreement, I would assume. So I assume that you could do that.

Mr. PICKERING. I think that is part of the letters of intent which follow the agreement. I would, prior to answering that question, like to ask the Assistant Legal Adviser of the State Department for Treaty Affairs whether this is within the competence of the executive branch. I think this goes beyond my competence to answer it. Perhaps Dr. Nutter has an answer.

Senator BYRD. You may just supply that for the record, if you will?

Mr. PICKERING. We will if that is agreeable to you.

(The information requested follows:)

FEBRUARY 23, 1972.

MEMORANDUM OF LAW

Subject: Authority for Relinquishment to the Government of Spain of the Rota-Zaragoza Pipeline.

The Senate Foreign Relations Committee has requested a memorandum setting forth the legal basis for the transfer to the Government of Spain of the operational control of the Rota-Zaragoza pipeline in connection with the Agreement of Friendship and Cooperation of August 6, 1970.

The Rota-Zaragoza POL Pipeline was constructed pursuant to the Defense Agreement between the United States and Spain of September 26, 1953 (TIAS 2850). That agreement provided (Article IV):

"*The Government of Spain* will acquire, free of all charge and servitude, the land which may be necessary for all military purposes and *shall retain the ownership of the ground and of the permanent structures which may be constructed thereon.* The United States Government reserves the right to remove all other constructions and facilities established at its own expense when it is deemed convenient by the Government of the United States or upon the termination of this Agreement; in both cases the Spanish Government may acquire them, after previous assessment, whenever they are not installations of a classified nature.

"The Spanish state will be responsible for all claims made against the United States Government by a third party, in all cases referring to the ownership and utilization of the above-mentioned land." (Emphasis added).

The Technical Agreement concluded the same day, implementing various provisions of the Defense Agreement, further provided that, upon termination of the Agreement, the two Governments would determine by agreement the residual value of the facilities installed by the United States, and that Spain would pay such residual value to the United States.

With respect to "permanent structures" (including the pipeline), the Technical Agreement was arguably inconsistent with Article IV of the Defense Agreement since the Defense Agreement clearly provided that such permanent structures become the property of the Government of Spain. The government of Spain consistently argued that the residual value provisions of the Technical Agreement applied only to non-permanent construction; the United States never acquiesced in this interpretation.

Accordingly, in the course of negotiation of the 1970 Agreement of Friendship and Cooperation, it was agreed to resolve this controversy by specifically providing in the Exchange of Notes relating to military assistance (TIAS 6924, page 38, item f) that the United States relinquished its claims for the residual value of permanent structures. While the Government of Spain did not thereby recognize the validity of the United States claim under the Technical Agreement, the United States, by waiving the claim, succeeded in resolving the issue and considered such waiver an important quid pro quo for the bases under the Agreement. Since the claim for residual value of permanent structures, to the extent it was a valid one under the Technical Agreement, was created by an executive agreement, it was legally proper for the executive to waive it by a similar agreement.

It should be noted in this connection that the United States never acquired title to the pipeline facility, since under Article IV of the 1953 Defense Agreement the facility was clearly the property of the Government of Spain. The special provision of the Exchange of Notes relating to military assistance (item 3) relinquishing the pipeline to Spain subject to the terms of a procedural annex relates solely to the operation and management of the pipeline (including the right to receive revenue from commercial use of the pipeline), which prior to 1970 had been operated by the United States Air Force. Under the terms of Procedural Annex XI to the Agreement in Implementation of Chapter VIII of the Agreement of Friendship and Cooperation (TIAS 6977, page 98) management of the pipeline was transferred in three phases to CAMPSA, the Spanish state petroleum monopoly. Agreements relating to the operation of defense-related facilities in foreign countries are made by the President pursuant to his power as Commander-in-Chief.

Senator BYRD. Now, let me ask you this: Do you think that matters of this type—I am speaking of the agreement with Spain—do you think that should be submitted to the Senate as a treaty, or do you think you should continue the executive agreement line?

Mr. PICKERING. I think that on the particular matter that is covered by the agreement of friendship and cooperation with Spain, the administration view is very clear, that it should continue to have the right to carry out negotiations and conclude executive agreements on that basis.

Senator BYRD. Carry out negotiations. You are the only one who can carry out negotiations. Congress can't do anything about negotiations.

Mr. PICKEAING. And conclude executive agreements of that sort.

Senator BYRD. I was speaking of when the final product should be submitted to the Congress.

Mr. PICKERING. I would be glad to submit for the record a legal memorandum of the Department of State which points up the process through which we go in order to establish whether a particular set of negotiations should lead to an executive agreement or to a treaty. It points out the criteria we use to judge whether a particular agreement ought to be an executive agreement or a treaty. I think the memorandum would set forth in more detail certainly than I could, with more competence than I can, the whole process and the nature of the material that is used in making the decision, what the criteria actually are, whether we continue a commitment or establish a new commitment, that sort of thing.

(Information requested follows:)

MEMORANDUM OF LAW REGARDING CONCLUSION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

This memorandum describes the general practice of the Department of State in determining whether an agreement should be a treaty or an executive agreement and the standards which we apply in making such determinations.

Both treaties and executive agreements have long been recognized as necessary and proper in the conduct of the foreign relations of the United States. The Department of State has a procedure, known as the Circular 175 procedure, which requires that the authorization of the Secretary of State be obtained before an international agreement may be negotiated or concluded. One of the purposes of the Circular 175 procedure is to make a determination as to the proper form of the agreement-treaty or executive agreement.

The regulations of the Department of State provide that an executive agreement may be entered into only if it falls within one or more of the following categories:

1. Agreements which are made pursuant to or in accordance with existing legislation or a treaty in force with respect to the United States;

2. Agreements which are made subject to Congressional approval or implementation;

3. Agreements which are made under and in accordance with the President's Constitutional powers.

The Legal Adviser's office is required to review all requests to the Secretary of State for authorization to negotiate or to sign any international agreement. The Legal Adviser's office examines the proposed agreement and the legal and constitutional authority for entering into it and specifically is required to show:

I—IN THE CASE OF A TREATY

(a) Whether or not the subject matter is within traditional limits;

(b) Whether or not the treaty will be self-executing, in whole or in part;

(c) If not self-executing, the part or parts which may require legislation and the plans contemplated with respect to formulation and presentation of proposed legislation.

(d) The extent, if any, to which the treaty is intended to prevail over existing Federal or State law and information as to groups in opposition to or in support of the contemplated change.

II—IN THE CASE OF AN EXECUTIVE AGREEMENT

(a) An extract copy of the pertinent legislative or treaty provisions, if any, constituting authority for the making of an Executive Agreement on the subject.

(b) If no antecedent legislative or treaty authority exists whether or not the agreement is to be made subject to legislation by the Congress.

(c) The Constitutional powers of the President relied upon.

The Department has other detailed standards which are followed in determining whether an international agreement should be concluded as a treaty. Under these standards, the treaty form is used:

a. When the subject matter and treatment thereof is traditionally handled by a treaty. This is not necessarily controlling in all instances but requires careful consideration before any departure therefrom.

b. When the subject matter and treatment thereof is not wholly within the delegated powers of the Congress and is not solely within the Constitutional authority of the President.

c. When the agreement itself is to have the force of law without legislative action by the Congress, and the action contemplated is not solely within the President's constitutional authority.

d. When the agreement involves important commitments affecting the nation as a whole.

e. When it is desired to give the utmost formality to the commitment with a view to requiring similar formality on the part of the other government concerned, in the interest of long continued respect for its terms.

Of course, it is not always possible to determine ahead of time the exact extent of the commitments that may be reached and it is sometimes necessary to await the outcome of the negotiations before making the final determination whether the new arrangement shall be a treaty to be submitted for the advice and consent of the Senate or an executive agreement for which there exists an adequate legal basis or for which legislative approval should be sought.

Senator BYRD. Let's get down to this. How much harm would be done if the Senate were to take the House bill?

Admiral ZUMWALT. From a military standpoint, sir, I believe it would be quite a setback both to our own and the recipient nations military preparedness. I believe that they would feel constrained to spend very modest amounts of money, if indeed they decided they could take the ships.

Senator BYRD. Well, let's put it this way. Suppose the House bill were changed to make it 5 years instead of 4 years?

Admiral ZUMWALT. Well, sir, any lengthening of the process would certainly be most helpful.

Senator BYRD. In other words, if we make it 5 years instead of the 4 years that the House added, then that gives them the certainty for 5 years, the same certainty that they have under your proposal.

Now, is it just a question of degree as to the certainty or lack of certainty between the two proposals for the second 5 years? Congress is just as likely to extend for 5 years, probably, as the executive branch would be to extend for 5 years. Maybe if certain candidates were elected President, Congress would be more likely to extend for 5 years.

Admiral ZUMWALT. Yes, sir. The fundamental difference, Mr. Chairman, would be the fact that the mandatory return provision means that they would have to start planning for that. It would be a constraint on their operations, they would have to start moving people off and that sort of thing, whereas under the administration's proposal, they can continue to hold on to the ship while the renewal negotiations proceed. It is the mandatory return as well as the 4-year limit that I think causes appreciably greater problems for the recipient nations.

Mr. NUTTER. If I might suggest, Mr. Chairman, it would be very difficult for us to provide substitute language at the table that on careful reflection would be satisfactory from the point of view of the bill. Perhaps we could supply this to you, a statement as to what we might consider to be a satisfactory alternative.

I would underline the fact that one of the concerns about a specific 4-year period—the 4 years in and of itself, as Admiral Zumwalt has suggested—is that it might simply bring an end to the ship loan program. We might find that no countries would wish to participate, so that we would be confronted with putting these ships into mothballs rather than into use elsewhere.

Senator BYRD. When they are getting something for virtually nothing, I doubt if they are going to refuse it.

Mr. NUTTER. Well, it is a very big expense on their part, Mr. Chairman, to refurbish these ships.

Senator BYRD. But some of these are not paying for it. The United States is paying for two of them.

Mr. NUTTER. Some of them are not. There are two cases in the present bill.

Senator BYRD. One is $7.5 million and the other is $12.5 million.

Mr. NUTTER. In the case of those that receive military assistance in the form of grant aid, ship loans would remain part of the military assistance program. I doubt that other countries would request ship loans.

Mr. PICKERING. I would like, if I may, just to second what Dr. Nutter said. I think it would be very helpful if we could provide you with administration language on what we thought would be acceptable on our side in terms of the military effectiveness for ship loans, maximizing if we can to the degree that we can, your specific concern, the one we share, about maintaining the congressional interest and control in legislation I am not sure but hope that there are things we could come back to you with that might provide that.

Senator BYRD. I think that is fine.

Mr. PICKERING. Maybe we are trying to square the circle. I do not know.

(The information requested follows:)

It is considered that an amendment providing that no extension of these loans could be made until after Congress has been notified and a period of time has elapsed without passage of an adverse resolution, would provide a proper degree of congressional control. Set forth below is a recommended amendment which would provide for such notification and restore the five year period for the original loan.

PROPOSED AMENDMENT TO H.R. 9526

On page 2, beginning on line 11, strike out the first sentence of Section 2 and insert in place thereof the following:

"Loans executed under this Act shall be for periods not exceeding five years, but the President may in his discretion extend such loans for an additional period of not more than five years; Provided, That, no extension may be made unless—

"(1) notice of the proposed extension is sent to Congress;

"(2) a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days); and

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"(3) during that 30-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed extension."

[H.R. 9526, 92d Cong., 1st sess.]

(An Act To authorize certain naval vessel loans, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 7307 of title 10, United States Code, or any other provision of law, the President may lend five destroyers and two submarines to the Government of Spain; one destroyer and two submarines to the Government of Turkey; two destroyers to the Government of Greece; two destroyers to the Republic of Korea; and two submarines to the Government of Italy in addition to any ships previously authorized to be loaned to these nations, with or without reimbursement and on such terms and under such conditions as the President may deem appropriate. All expenses involved in the activation, rehabilitation, and outfitting (including repairs, alterations, and logistic support) of ships transferred under this Act shall be charged to funds programed for the recipient government as grant military assistance under the provisions of the Foreign Assistance Act of 1961, as amended, or successor legislation, or to funds provided by the recipient government. The authority of the President to lend naval vessels under this section shall terminate on December 31, 1974.

SEC. 2. Loans executed under this Act shall be for periods not exceeding four years, at the end of which, each ship shall be returned to the United States Navy at a location to be designated by the Secretary of Defense. Loans executed under this Act shall be made subject to the condition that the loan may be terminated by the President if he finds that the armed forces of the borrowing country have engaged at any time after the date of such loan, in acts of warfare against any country which is a party to a mutual defense treaty ratified by the United States. Loans shall be made on the condition that they shall be terminated at an earlier date if the President determines they no longer contribute to the defense requirements of the United States.

SEC. 3. No loan may be made under this Act unless the Secretary of Defense, after consultation with the Joint Chiefs of Staff, determines that such loan is in the best interest of the United States. The Secretary of Defense shall keep the Congress currently advised of all loans made or extended under this Act.

SEC. 4. The President may promulgate such rules and regulations as he deems necessary to carry out the provisions of this Act.

Passed the House of Representatives December 6, 1971.

W. PAT JENNINGS,
Clerk.

Senator BYRD. When you say you share the desire for congressional control, I would say that you are probably in a minority among yor colleagues in that view. I do not know.

Admiral ZUMWALT. Well, from a military point of view, Mr. Chairman, as an example, if the 5-year period and the right for a 5-year extension could be subject to consultation with the chairmen of the cognizant committees, that would, I think, be a perfectly reasonable planning basis for the two navies to proceed on.

Senator BYRD. Why not just let the chairmen make all the decisions, and make this basic decision right here as to whether or not we can loan them in the first place. I do not think much of that. Maybe if I were chairman, I would think differently, but I do not think much of that.

Admiral ZUMWALT. I apologize for getting into the committee's business, Mr. Chairman.

Senator BYRD. I do not think I would be very much inclined toward that proposal. I think either the Congress should approve it or not approve it. If we want to give away our authority to the President, we have a right to do it, but I am not much inclined to give it away. I think we have given away too much, and I am not speaking of President Nixon, as all of you know; I am not speaking of any individual. I am speaking of the principle.

I am thoroughly sympathetic with the ship loan program, I think it has a lot of logic to it. But I am somewhat inclined toward the House position in having the Department come back to the Congress for renewal—I am not wedded to 4 years or 5 years, whatever it might be. But just to say that we are going to give you this program for 5 years and then, if you want to, you can just go ahead and continue it for another 5 years without getting congressional approval, I must say I am not too keen on that approach. But I am in favor of the program. We will try to work something out that will be helpful to everybody. But the Congress is a little bit more inclined now—I do not know how much more, not enough, to my way of thinking—but a little bit more inclined to assert what I regard as its own responsibilities. I gather that is what the House was doing in this particular case.

Are there any additional comments?

Admiral ZUMWALT. Very respectfully, Mr. Chairman, I would just come back one final time to the fact that we lack the military strength to stand up to the Soviet Union in a crisis without the assistance of our allies. Mr. Laird has outlined the concept of a total force approach to the threat, consisting of our Active Forces, our Reserve Forces and our allies.

Senator BYRD. I am in thorough agreement with you and with the Secretary. That is not the basic problem. The basic problem is whether 4 years or 5 years from now, the administration will have the right to do something on its own or whether it will have to come and submit recommendations to the Congress.

There is no disagreement on my part as to your position on defense and Secretary Laird's position. I think we have to have a strong national defense and I am going to do what little I can along that line. But this is just a question of procedure, whether you proceed through the Chief Executive or whether you proceed through the Congress for that extension.

Well, is there anything additional?

Mr. NUTTER. I hesitate to get into the realm of treaties and agreements and all that, Mr. Chairman, but I would like to comment on one concern shared by the Defense Department, the State Department, and the entire executive branch in connection with the Spanish agreement. We are all concerned that there be no indication that anything more is there than is really there. In particular, it must be clear that there is no defense commitment involved. Putting that particular agreement in the form of a treaty would carry the implication that it did involve such a commitment. While avoiding this implication, the executive agreement still reserves the authority of Congress. Throughout the agreement there is reserved the right—the necessity, in fact—for Congress to implement the agreement through the process that we are now addressing.

Senator BYRD. Yes; that makes that clear through the authorization process. Our discussion today does clear up one point which concerned me as to whether I could vote against the bill submitted by the administration. As I understand it, no commitments have been made through that agreement for 5 years, for a 5-year period.

Mr. NUTTER. That is entirely correct.

Senator BYRD. So if there are no commitments in that agreement, then we have no obligation to take a 5-year period, have we?

Admiral ZUMWALT. It is my belief, Mr. Chairman, that retroactively, we have learned that the Spanish assumed that the ship loan bill would be in the form that it had always been in the previous enactments.

Senator BYRD. Well, Admiral, it is just utterly inconceivable to me that whoever negotiated this, the negotiators, never mentioned the term 5 years. That just seems to me inconceivable.

Admiral ZUMWALT. Well, sir, I was not there.

Senator BYRD. I realize none of you negotiated it.

Mr. PICKERING. That is my understanding of the negotiation. But I would say here there is no obligation of a legal character. The only thing was that the negotiations went forward in a certain context. If there is anything, I suppose there is a moral commitment in terms of the context in which they went forward, but to my knowledge, there was no explicit understanding.

Senator BYRD. Was the Congress ever informed of the moral context?

Mr. PICKERING. I do not believe that it was, there was just an assumption, perhaps a mistaken assumption if you like, on the part of the executive branch that we would go forward with that kind of legislation. We have come forward with that legislation.

Admiral ZUMWALT. We had 20 years of precedent for the 5-and-5. I think the honest circumstance is that no one thought of the possibility that it would change. Also the terms of the base rights portion if the agreement provided for a 5-year lease with an option to renew.

Senator BYRD. Just assumed it; yes. I can see that.

But you do state that there is no legal obligation.

Admiral ZUMWALT. That is right.

Mr. PICKERING. That is right, sir.

Senator BYRD. And there is nothing in the agreement which commits the United States to 5 years?

Mr. NUTTER. No, sir.

I think we do run the risk, Mr. Chairman, that, whereas the basic agreement is in effect, our relations with the Spanish would be very difficult and continuation of any agreement in the future would be jeopardized if the customary term for ship loans were changed. But from the legal point of view, there is no requirement to maintain that term.

Senator BYRD. The agreement with Spain, as I see it, is beneficial to both parties. I think it is beneficial to the United States. I have been to each of those bases and I think they are important bases, but it is also beneficial to Spain. Spain is getting a great deal out of this.

As a matter of fact, I think the Spanish economy has been helped tremendously by this, as well as their military. So I think it is a two-way street and I think each of us is getting our money's worth, so to speak.

Mr. BYRD of Virginia. Mr. President, in that connection, I think the RECORD should show that the individuals mentioned who took part in the colloquies, who were identified only by their last names in the testimony, are G. Warren Nutter, Assistant Secretary of Defense for International Security Affairs, Thomas R. Pickering, Deputy Director, Bureau of Politico-Military Affairs, Department of State, and Admiral Elmo R. Zumwalt, Jr., U.S. Navy, Chief of Naval Operations.

Mr. President, I move the adoption of the pending legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 9526) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass? (Putting the question.)

The bill (H.R. 9526) was passed.

Mr. HUGHES. Mr. President, let the RECORD show that the Senator from Iowa voted "no."

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS

Mr. BYRD of West Virginia. Mr. President, for the purpose of making it the pending business, with the understanding that there will be no action thereon today, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 490, S. 1821.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be stated by title.

The legislative clerk read as follows:

The bill (S. 1821) to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Commerce with amendments on page 1, line 7, at the beginning of line 7, change the section number from "1112" to "1113"; on page 2, after line 13, insert:

"(2) Whenever any executive department, agency, or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or utilized by the United States, or shall furnish to or for the account of any foreign nation without provisions for reimbursement, any transportation of persons (and their baggage) by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided, to the fullest extent practicable, by air carriers holding certificates under section 401 of the Act to the extent allowed by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent such carriers are available at rates established under this Act."

On page 3, line 24, after the word "least", strike out "50" and insert "40"; on page 4, line 2, after the word "places", insert "(except property that must move in military aircraft because of special military considerations which by their nature preclude the use of civil aircraft, or because of security, or because of limiting physical characteristics such as size or dangerous properties)"; and after line 15, strike out:

"(d) Every department or agency having responsibility under this section shall administer its program with respect to this section under regulations issued by the Comptroller General of the United States. The Comptroller General of the United States shall review such administration and shall annually report to the Congress with respect thereto."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Aviation Act of 1958 as amended, is amended by adding at the end of title XI thereof the following new section:

"TRANSPORTATION OF GOVERNMENT TRAFFIC

"SEC. 1113. (a) (1) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provisions for reimbursement, any property, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such property, the appropriate agency or agencies shall take such steps as may be necessary to assure that such property, whenever tranported by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, shall to the fullest extent practicable be transported by air carriers holding certificates under section 401 of this Act to the extent allowed by such certificates or by regulation or exemption of the Civil Aeronautics Board and to the extent such carriers are available at rates established under this Act.

"(2) Whenever any executive department, agency, or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or utilized by the United States, or shall furnish to or for the account of any foreign nation without provisions for reimbursement, any transportation of persons (and their baggage) by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided, to the fullest extent practicable, by air carriers holding certificates under section 401 of the Act to the extent allowed by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent such carriers are available at rates established under this Act.

"(b) Whenever the Department of Defense moves persons or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States:

"(1) To the fullest extent practicable such persons and property (except persons and property that must move in military aircraft because of special military considerations which by their nature preclude the use of civil aircraft, or because of security, or in the case of property because of limiting physical characteristics such as size or dangerous properties) shall be transported by air carriers participating in the civil reserve air fleet program and holding certificates under section 401 of this Act to the extent allowed by such certificates or by regulation or exemption of the Civil Aeronautics Board and to the extent such carriers are available at rates established under this Act.

"(2) As a minimum, at least 40 per centum of the annual gross tonnage (measured in ton-miles) of all property moved by the Department of Defense by air between such places (except property that must move in military aircraft because of special military considerations which by their nature preclude the use of civil aircraft, or because of security, or because of limiting physical characteristics such as size or dangerous properties) shall be transported by air carriers participating in such program and holding such certificates to the extent such carriers are available at such rates.

"(c) The provisions of this section may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense, declares that an emergency exists justifying a temporary waiver of the provisions of this section and so notifies the appropriate agencies and certificated air carriers.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on this bill, under the agreement, not begin running until such time as the Senate proceeds to its consideration on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I thank the Chair.

The unanimous-consent agreement reads as follows:

Ordered, That, effective on Tuesday, March 28, 1972 at the conclusion of routine morning business, during the further consideration of the bill S. 1821, a bill to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States, debate on any amendment (except an amendment by the Senator from Louisiana (Mr. Ellender) which shall be limited to one hour) motion, or appeal, except a motion to lay on the table, shall be limited to ½ hour, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader: *Provided*, That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him:

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. STENNIS. Mr. President, S. 1821 has in it a proposed provision of permanent law which would require that a minimum of 40 percent of all property moved by the Department of Defense by air must be transported by commercial air carriers. I address myself to

the bill today as I am expecting to be away from the session on Tuesday next.

Mr. President, I oppose this provision because I am determined to protect the military dollar and the taxpayers' dollar too. I have always supported the set-aside process which has worked satisfactorily over the years. This bill, however, would impose a mandatory freeze at a high percentage as a matter of law on a matter which should be left to the discretion of the committee and departmental officials on an annual basis.

I plan to place in the RECORD at a later point in my remarks a letter sent to me last month by Secretary of the Air Force Seamans that has the full endorsement of the administration in expressing their opposition to this bill.

In fiscal year 1973, $42 million would have to be added to the Department of Defense budget because of this bill. This is an unnecessary additional cost to the taxpayer. At the same time, it would contribute to the already uneconomic underuse of our expensive military airlift aircraft.

In short, it proposes a gross misuse of defense dollars. Mr. President, in this time of large deficits and high defense outlays, I do not believe that it is a proper exercise of the responsilities of this Congress to load such unnecessary costs on the American taxpayer.

OPPOSITION OF PENTAGON

Former Deputy Secretary of Defense David Packard, before he left office, advised me of his strong opposition to this proposal. In a letter to Senator MAGNUSON, contained in the committee report on similar legislation last year, Mr. Packard pointed out the proposal's serious implications on cost and on effective utilization of our airlift aircraft. Mr. Packard also pointed out that the net profit to the airlines would be far less than the added cost because substantial additional operating cost would have to be incurred by the airlines to take care of this additional business.

In effect, Mr. President, this bill would further subsidize the air carriers. I might point out that the March 6, 1972 issue of U.S. News and World Report reports that total profits for U.S. airlines could reach as high as $230 million for the year just ended. This is a significant improvement over the immediate preceding period, when the airline business was at a low ebb, and surely no cause for more Federal subsidy.

Mr. President, I note in the report that Assistant Secretary of the Air Force Whittaker has voiced strong opposition to this bill. Secretary Whittaker's position is based on the increased cost to the taxpayer as well as on the need to continue the training program of the Military Airlift Command. The Secretary concludes that the Department of Defense believes enactment of S. 1821 "would not be consistent" with national defense airlift objectives.

The Comptroller General of the United States, in commenting on the merits of this bill, stated that:

An arbitrary, ongoing, allocation by statute to the commercial airlines of a fixed percentage of military cargo may not represent the best solution to the problem because it might generate too much revenue in some years and not enough in others.

This opposition to S. 1821 is solidly based on facts and on dollar and cents consideration for the American taxpayer. Let me review some of the facts about the past defense programs for allocating commercial airlift requirements and outline what is planned for the fiscal year 1973 budget without enactment of this bill.

Mr. President, let me make clear that in years past I have favored and shall continue to favor some cargo business be given the civilian airlines by the Department of Defense. The amount so allotted should be fixed by the Appropriations Committees of the House and Senate each as far as the circumstances and facts may warrant. The amount or percentage would not be fixed by firm laws.

SEVEN BILLION DOLLARS PAID IN PAST

Since 1960 the Government has paid over $7 billion to commercial aircraft carriers to finance the supplemental transportation requirements of the Defense Department. The annual enactment of a set-aside provision requiring the Department of Defense to earmark $100 million each year for procurement of commercial carriers transportation capabilities has met with no problems. The actual amount paid against this provision has been as high as $737 million per year depending on actual requirements. In recent years commercial allocations have been declining due primarily to the reduction in Vietnam requirements.

The 1973 Department of Defense budget that we have before us, however, still includes an estimated $560.8 million that is expected to be paid to commercial carriers for supplemental Defense Department transportation requirement. This is a formidable sum of money far in excess of the $100 million set-aside requirement which has been annually enacted. More important, I have been advised that it represents some 63 percent of the Pentagon's total air transportation budget which includes all transportation requirements for passenger, mail, and cargo.

Of this large sum, for commercial carriers, to pay for mail, passengers, and cargo, $92.9 million is to finance supplemental commercial procurement of cargo airfreight. This represents 26 percent of the total military channel cargo requirements. If this percentage allocation to commercial carriers is increased, as this bill proposes, to 40 percent of military channel cargo, the Defense Department estimates that an additional $41.9 million will be required. This amount is not included in the fiscal year 1973 defense budget.

As Mr. Packard pointed out, the net economic benefit to the airlines would be considerably less, however. This $42 million would be spread over many competing carriers, and simple arithmetic shows that only a small profit can be obtained by many carriers from a $42 million operating expenditure. It is estimated in the committee report that if the proposed legislation had been effective this fiscal year, the additional cost would have been approximately $100 million. Spreading this amount over 200 available civil air reserve fleet aircraft would have represented only about one-half million dollars in gross revenue per aircraft—with a net profit of about 12½ percent beyond operating costs. This does not appear to me to be an effective incentive to the airlines to continue with the procurement of additional cargo capable aircraft which I understand is one of the ostensible objectives of this bill.

USE OF AIRLIFT

Another objectionable feature of this bill, Mr. President—beyond the cost aspect—is its effect on the economic utilization of our very expensive military cargo aircraft. In recent years, the Defense Department has invested some $6.8 billion in C–5A and C–141 aircraft for military airlift capability. This represents a sizable investment in taxpayer's funds and in my judgment the lift must be used in an economical and practical manner. I do not think that we can afford to have this equipment sit on the ground or be underutilized while we are paying out additional funds to buy other cargo capabilities.

The C–5A alone represents a significant investment and will provide a greatly increased capability when all aircraft are delivered and properly used. The current rate of utilization of these aircraft is far below normal peacetime levels, mainly due in part to technical problems.

It is readily apparent, therefore, that, when the technical problems with the C–5A are finally resolved, there will be a further underutilization.

At the present time, the Defense Department has estimated that the military airlift is only utilizing about 60 percent of its available cargo capability. If this bill is enacted and further reduces the cargo available for transportation on military airlift aircraft, the utilization rate would be reduced to only 48 percent. If these military aircraft were to be used about 8 hours per day, similar to the commercial airlines, the practical economic utilization to the aircraft would be reduced to about 42 percent with the currently forecasted cargo requirement.

It is plain to see, Mr. President, that we are already faced with a marginal utilization of our expensive military airlift capability. To further reduce this utilization is folly and in my opinion not in the best interest of the Government or the taxpayer.

Further, the Defense Department must continue to train and orient its airlift crews and pilots to provide a readiness for mobilization. If S. 1821 is enacted, limiting the flexibility of the military to carry cargo, then it is obvious that the aircraft will be less active and that training will suffer. I do not believe that we can approve these programs on the one hand and take away the military prerogative to properly conduct them on the other.

NEW AIR FORCE VIEWS

Mr. President, I have here a February 22 letter to me from the Secretary of the Air Force, Dr. Seamans, expressing his "strong objections" to this bill. I have also a follow-on letter expressing the full endorsement of the administration in opposition to this bill. I request unanimous consent to place these letters in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STENNIS. Secretary Seamans states four main objections to the bill. He says the 40-percent provision would:

Increase annual cost to the taxpayer. In FY 1973 this could be as much as $42 million.

Force Military Airlift Command (MAC) to fly empty or with inefficient loads in order to give commercial carriers more cargo.

Force DOD to buy commercial airlift which would not otherwise be needed. This would increase the ton mile cost of airlift to the DOD user.

Inhibit adequate training of the MAC for its wartime mission.

It has been pointed out before, Mr. President, that the estimated cost of transport with the C–5A is about 2.3 cents per ton-mile as compared to an estimated 8.5 cents per ton-mile for commercial cargo service.

Mr. President, in my judgment, we must protect the defense dollar and the taxpayers' dollars, too. I strongly urge the Senate to reject S. 1821 as a waste of taxpayers' money.

EXHIBIT 1

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 22, 1972.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday I wrote you expressing the opposition of the Department of Defense and the Air Force to the enactment of S. 1821. The Office of Management and Budget has reviewed my letter and advises that the opposition views expressed therein are consistent with the views of the Administration on this bill.

Sincerely,

ROBERT C. SEAMANS, JR.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 22, 1972.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You will recall that I wrote to you on November 3, 1971, expressing my strong objections to the enactment of S. 1821, which had been favorably reported by the Senate Committee on Commerce, with certain amendments. As the Executive Agent of the Department of Defense for airlift I must reiterate the opposition of the Department of Defense and the Air Force to the enactment of this legislation.

As reported, the bill would establish a fixed rule that at least 40% of DOD's international air cargo which is physically suitable for civil aircraft be transported in civil aircraft without regard to other considerations. This would have the following effects:

Increase annual cost to the taxpayer. In FY 1973 this could be as much as $42 million.

Force Military Airlift Command (MAC) to fly empty or with inefficient loads in order to give commercial carriers more cargo.

Force DOD to buy commercial airlift which would not otherwise be needed. This would increase the ton mile cost of airlift to the DOD user.

Inhibit adequate training of the MAC for its wartime mission.

The Air Force has consistently recognized the importance of the commercial airline industry to national defense. This is attested by the fact that in the past ten years the DOD support of the industry has exceeded $7 billion.

In FY 1973 the total estimated DOD expenditure for military and commercial airlift will amount to approximately $900 million. Of this amount, $560 million, more than 62% of the total expenditure, will go to the civil air carrier industry.

In addition to the airlift of passengers, mail, and domestic cargo which is virtually all carried solely by the commercial air carriers, we are presently transporting between 25 and 30% of DOD's international air cargo on commercial aircraft. On the basis of present estimates, this will amount to about $120 million in FY 1972 and over $92 million in FY 1973. We feel that these amounts are reasonable and equitable when viewed in the context of the total airlift dollars.

If the bill is enacted in its present form, it will not only distort what we feel is a proper balance between the military and civil workload but would in effect force MAC to fly empty or with inefficient loads. It would seem inexcusable if MAC were required to fly empty or partially loaded aircraft to maintain a constant state of readiness while at the same time funds are expended to procure commercial airlift.

A collateral ramification of forcing DOD to buy unneeded commercial airlift is that it will raise the ton mile cost to the DOD user significantly. Commercial airlift procured by MAC is purchased at set rates. Since MAC airlift capability is a by-product of readiness training, the cost is considerably less than that procured from the commercial carriers. DOD is trying to encourage the military departments to make more use of airlift in order to reduce total logistics costs. However, an increase in airlift costs may work in opposition to both this goal and the intent of the bill if the departments make less cargo available for airlift.

In summary, there appears to be no basis for a judgment that substantial benefits would accrue to the taxpayer upon the enactment of S. 1821. Nor would national security interests be furthered because the airlines would not necessarily buy any new modern cargo airlift but could handle the additional cargo afforded by this bill with their present fleet. To the contrary, significant added costs to the taxpayer, clearly unnecessary, appear inevitable should the proposed legislation be adopted. Accordingly, I solicit your assistance to prevent enactment of S. 1821.

Sincerely,

RICHARD C. SEAMANS, JR.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 10 a.m. on Tuesday next, the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday next, at 10 a.m., the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY TOTS FALL OFF TRICYCLES

Mr. BYRD of Virigina. Mr. President, the Gazette Virginian, a fine weekly newspaper published in South Boston, Va., contained an interesting story the other day and an interesting comment thereto.

The Gazette Virginian called attention to an Associated Press news story saying that the U.S. Department of Health, Education, and Welfare is carrying on a $23,000 study to find out why tots fall off tricycles.

The Gazette Virginian editor adds:

No kidding. That's what it said.

The editor is a very able newspaperman, Lynn Shelton, a close friend of mine. Then he adds, "That should develop a lot of ire right here at income tax paying time"; $23,000 of the taxpayers' funds to find out why tots fall off tricycles.

Mr. President, income tax time is just around the corner. Two more weeks and the income tax deadline will be here. Such wasteful expenditure of tax funds as spending $23,000 on a survey to find out why tots fall off tricycles seems to me should raise the ire of the taxpayers of this country.

I want to say that I agree with Editor Shelton in his view of this matter, and I am glad that he called attention to this item in the budget.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLEN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY, MARCH 28, 1972, AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, after the two leaders have been recognized under the standing or-

der, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will reconvene on Tuesday, March 28, 1972, at 10 a.m.

After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair will lay before the Senate S. 1821, the bill dealing with civil air carriers. There is a time agreement on that bill. As I recall, the agreement calls for 4 hours of general debate on the bill and ½ hour on any amendment, debatable motion, or appeal, with the exception of an amendment to be offered by the distinguished Senator from Louisiana (Mr. ELLENDER), on which there is a 1-hour limitation.

Mr. President, also on Tuesday next, the Senate will consider the legislative appropriations bill. In accordance with past experience, one may quite appropriately, I think, expect a rollcall vote on passage of that appropriation bill.

The distinguished majority leader indicated earlier today that the Senate may also take up on Tuesday next Senate Joint Resolution 218, to extend the authority conferred by the Export Administration Act of 1969.

There will be, I should think, at least one rollcall vote on Tuesday next, and that would come on the appropriations bill. If there are to be rollcall votes on the pending legislation, S. 1821, on civil air carriers, I understand that those votes would quite likely, if unanimous consent is granted, be put over until the following day, Wednesday.

ADJOURNMENT UNTIL TUESDAY, MARCH 28, 1972, AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Tuesday, March 28, 1972.

The motion was agreed to and, at 12:05 p.m., the Senate adjourned until Tuesday, March 28, 1972, at 10 a.m.

EXTENSIONS OF REMARKS

DEDICATION OF DR. MORRIS L. PARKER PARK IN CHICAGO

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. YATES. Mr. Speaker, the Dr. Morris L. Parker Park was dedicated on September 26, 1971. The park, which is located on the southwest corner of 29th Street and Ellis Avenue, was donated by Dr. Morris L. Parker, a Michael Reese Hospital surgeon. Shortly after the dedication, an article about Dr. Parker appeared in the Alumni Newsletter of the Michael Reese Hospital and Medical Center. The article highlights the career of this remarkable human being who has selflessly devoted himself to the care of others.

Dr. Parker is well known, loved, and respected in Chicago, and I wish to share with you a little of his story:

DR. MORRIS LOUIS PARKER

Outstanding physicians acquire reputations in various ways—some as diligent, intrepid researchers; others as committed, lucid, eloquent teachers and speakers. This issue wishes to salute a senior physician whose special hallmark has always been an intense commitment to the well being of his patients and whose main focus has always been on that elusive quality called patient care.

Morris Louis Parker has always been a person to reckon with at Michael Reese since January 1924 when, after his internship at Cook County Hospital, he joined the staff as an associate of Dr. Alfred Strauss—a major plum for a bright young aspiring surgeon. His credentials were impressive—a scholarship student at Northwestern, number one in his class in medical school and number one in the prestigious competition for a County Hospital internship. It was a time when appointment to the Reese staff carried a certain social cachet—such appointments were generally the prerogative of affluent German-Jewish physicians (who took Sunday walks with their wives down Hyde Park Boulevard, dressed in frock coats) and not of poor boys who came to Reese by way of Kiev and Seattle. Dr. Parker and the late Dr. Leon Block—a most eminent internist—were the first to breach what seemed at that time an imposing social barrier.

Dr. Parker spent 10 years in association with Dr. Strauss—actually nine, because in 1931 Dr. Strauss and Professor Dr. Enderlin, the Hochsurgeon of the University of Heidelberg, exchanged associates for a year. Dr. Parker speaks often and fondly of that year in Germany. It is not unusual to hear him say, "I had to go to Heidelberg to learn that," as he incises peritoneum over the base of a diseased gall bladder preparing for its removal. Several other legends of the Parker mystique date back to that year.

The Strauss-Parker association ended in 1933 with Dr. Parker opening his own office on the 17th floor at 30 N. Michigan—the only office he's ever had. The "Chief" is fond of recollecting that a substantial blizzard had hit the city at the end of January 1933 and there wasn't much traffic downtown on February 1 as he crossed Monroe and Michigan. Just he and a lone traffic patrolman—and no patients at all. But the weather improved and the practice grew and flourished and flourished—tended by a physician who cared. The stories are legend—about doing every night ward emergency for many years—about prowling the halls at midnight one last time to see the sick ones—about no time for vacations—about a real commitment to his patients' well being.

For a long time Dr. Parker was Mr. Michael Reese to a large segment of the Chicago Jewish community—especially to the Hyde Park sector. "There was a time when every child on Ingleside Avenue between 53rd and 55th—on both sides of the street had had his appendix out by me."

The man not only had a major concern for his practice, but also for his hospital. To this day he still knows the names and identities of more maids, orderlies and elevator operators than any one else around. The hospital as a whole has been a major recipient of his benefactions—most recently the little park on 29th and Ellis was created as his gift to the community. Other philanthropies, some public, many private have centered on several local universities and medical schools (in the form of prizes for research and teaching excellence as well as scholarships for poor students) and on various Jewish projects both domestic and Israeli. His several years of service on the board of the Jewish Federation of Chicago have been a special source of pride.

A vast experience especially in surgery of the GI and biliary tracts, in thyroid, breast, hernia surgery—results in strong convictions about the management of various problems—convictions often at variance with current sugical establishment views. A major regret over the years has been the lack of time and facility to collate and publish much of the experience and to detail the convictions. A major pleasure occurs when the pendulum of surgical opinion swings toward agreement with views, which when espoused initially seemed to be heretical—a phenomenon mostly recently noted as the world surgical community ruminates about the management of breast cancer.

As he looks ahead to finishing his first 50 years as an active practitioner of the "Queen of the Arts," the "Chief" would probably agree that his main gift to this community has been the nurturing of a tradition of conservative concerned surgical care as exemplified not only in his own work but in that of the many physicians who have been associated with and trained by him and who remember fondly the fabled Parker maxims such as "Resolve the problem into its component parts—and solve them one by one" and "Cut well, sew well—get well."

BYELORUSSIAN INDEPENDENCE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. PEYSER. Mr. Speaker, March 25 is a significant date for all men who prize freedom. On this day 54 years ago, in 1918, the people of Byelorussia culminated a six century struggle by declaring their independence as a free nation. This struggle was originally against Czarist Russia, but once this foe had been repulsed the enemy became imperial Germany. When finally free, these people demonstrated their natural feelings of freedom by structuring their state on the basic precepts of liberty: Freedom of speech, freedom of assembly, and free elections. Unfortunately, these hard-won aspects of liberty were again snatched from them by the tyranny of Bolshevik Russia.

Even under the oppression of Russia, the people of Byelorussia have progressed to the 15th most industrialized country in the world.

Though the industrial progress of this country has been great it has not been permitted to reap the benefits of its progress because of Soviet domination. In the words of their great leader, Kastus Kalinowski, uttered on his way to a Russian gallows in 1863:

Then and only then will you gain freedom and happiness, when Moscovite rules you no more.

It is important that those of us who have taken the gifts of freedom for granted to remember and salute people who have and are continuing to struggle so valiantly for them. I ask that all Americans and free men everywhere join me in acknowledging this day of independence for the Byelorussian people, and express our hope that once again these people will be able to take their place among the great free nations of the world.

FLIGHT OF PIONEER 10

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RHODES. Mr. Speaker, in the day of marvels in which we live, none is greater than the flight of the planetary space craft Pioneer 10 which was launched on March 1 from Cape Kennedy on an approximately 2-year investigative trip of the planet Jupiter. The mission of Pioneer 10 will take it farther into space than has ever been attempted on any previous mission; the craft will fly by Jupiter, and at its closest approach will still be about 87,000 miles from the planet. As Pioneer 10 flies by, it will make its investigation of Jupiter through the use of many complex and highly sophisticated instruments aboard. One of these, and of particular interest to Arizonans, is the "imaging photopolarimeter" which will produce highly pictorial data and which will be directed by Prof. Tom Gehrels and six of his colleagues of the University of Arizona's Lunar and Planetary Laboratory. The imaging photopolarimeter is second to the heaviest of the instruments carried by Pioneer 10. It will, according to information compiled by NASA and sent me by Professor Gehrles:

Measure intensities and polarization of visible light. Its measurements of reflected light (zodiacal light) will be used to calculate the amount, distribution, and origin (from asteroids and comets) of interplanetary dust. At Jupiter, experimenters will use the data to attempt to find the structure and composition of the Jovian clouds and atmosphere, data on the planet's thermal balance, and to retrieve close-up pictures. The instrument also will attempt to collect data on Jupiter's little-known moons.

I congratulate the men who developed, are directing, and will translate the findings of the imaging photopolarimeter—and wish for them and Pioneer 10 the greatest success in this marvelous mission into space.

LOOK OUT—THE POSTAL SERVICE IS COMING

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. PICKLE. Mr. Speaker, recently Steve Young, reporter for the Columbia Broadcasting System, reported on the controversy over the abandoning of the local postmark by the Postal Service. Mr. Young's report is at once both humorous and to the point giving a good insight into the situation. I insert here excerpts from that report:

Texas Congressman J. J. Pickle has sounded a warning to Snook, Pflugerville, Dime Box and the rest of the country that the Postal Service is coming. Congressman Pickle says such picturesque places as Dime Box, Pflugerville and Snook, Texas soon will lose their postmarks. This, because the Postal Service has been instituting Area Mail Processing for the past two years.

There are about 32,000 post offices throughout the country. Hundreds already come under the Area Mail Processing Plan. The goal is speed up mail and keep costs down. This is done by putting expensive equipment to work for many communities—none of which alone could afford the gear. Instead of the regular postmark, letters from associate offices, processed by a sectional office, carry a two-letter abbreviation of the state, plus three digits pinpointing the place. But the postmaster in each community is supposed to have one box designated "Drop Mail Here for Local Postmark" for people so inclined.

That's a problem for the postmaster of Snook—Charles Sevesta, Sr. There's no room for another box. And a promised big new building may not be ready before Area Processing goes into effect.

The Postal Service says few people take advantage of the local postmark option anyway. And if true, it's a pity. A letter postmarked "U.S. Postal Service, TX 778" doesn't have quite the same snap as Snook. And under the Area System, a letter dropped in any but the specially designated Dime Box mailbox also will be postmarked TX 778.

TX 778 may be meaningful to computers. But it doesn't readily reveal that in 1910 a man used to ride horseback through the area, picking up letters left for delivery. People put them in a makeshift mailbox, along with the fee of one dime. (Hence the name "Dime Box," yes that name has identity, color, history and hometown pride in it.)

And sad to say, the people of Snook already seem to have forgotten how Snook got its name.

The Postal Service says a place name in a postmark is unnecessary and irrelevant. The point of a postmark, it says, is to cancel the stamp, not to identify the origin of the letter. (I do not agree, at least, why not have both?)

Recently, a reporter tried to obtain the phone number of someone in Snook. Long ago, the telephone company switched to area information operators. The voice known as 713-5551212 said of Snook: I never heard of it. What is it near? How are you spelling it? The efficient reply probably is TX 778.

THE MEDICAL CRISIS—FREE ENTERPRISE VERSUS SOCIALIZED MEDICINE—IS IN WASHINGTON

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RARICK. Mr. Speaker, pending before the Congress at the present time are several health care proposals which if enacted can only lead to disaster—the complete socialization of medicine. To condition the American people to accept such legislation, the propaganda mills continue to put out half-truths and distorted information:

One of the charges made is that health care expenditures have been the fastest rising item in the Consumer Price Index. This is misleading. Physicians' services have increased at a lower rate than other services. By lumping them with other health care expenditures, it helps create the climate of "government should control doctors." Who wants a government doctor?

Another false charge based on statistics of the World Health Organization is that the U.S. lags behind other Western nations in indices of health such as infant mortality. This should please abortionists and population control people, but the statistics are misleading. World Health Organization statistics are used without any comment of their validity or source. In many nations, Sweden for example, a neonatal death need not be recorded and may never be recorded.

Still another criticism of private medical care is that examinations reveal poor planning of hospitals and other health facilities. Government planning, as we know from experience, wastes colossal sums of dollars to save pennies that might be wasted through a private non-political system.

A national program of health care is said to be needed since emphasis can and should be put on preventing illness and disability.

Americans are being urged to destroy a free choice, private, individual responsibility system in order to improve the situation. Why? When in fact the statistics show foreign countries with government dictated and controlled medical systems have a much inferior prevention record than has the U.S. A comparison of the record of such preventable diseases as tuberculosis shows even socialist Sweden far behind the U.S.

Presently there are major plans for nationwide guarantees of medical care either awaiting Congressional action or early introduction. Next the socialists will seek to guarantee the right to live forever. And they will when the people will buy it and if it would produce votes.

Through an organized propaganda campaign of misleading and even false charges and information as to the nature and scope of the problem of the nation's health, the American people have been led to believe that a national health program is mandatory. We are told we must change even if for the worst—just to change from our present system.

The experience of other nations with socialized medicine should serve as a stark warning to the U.S. to beware on embarking on such a course for political promises to get the votes of the poor and disgruntled.

The enactment into law of a national health plan would necessitate payrolling a whole new layer of bureaucrats to administer the program—to draft guidelines and to spy on doctors. The administrative cost

of Medicare and Medicaid is estimated to be greater than the doctor cost, whereas the administrative cost of private insurance programs is only about 30% of the premium. So the current propaganda about the high cost of medicine as an argument for nationalizing health services simply doesn't hold water. Under socialized medicine the costs would go up and the quality of service would go down.

A minor factor never mentioned by the leadership of either of the two major political parties is that any national health care program is clearly unconstitutional. The sovereign states did not delegate the power of providing health care to the federal government. This power belongs therefore to the States and the people thereof in accordance with the 9th and 10th amendments—that is if the States and the people think they can improve medical treatment by hurting doctors and providing inferior treatment at higher cost.

In Louisiana health services are provided by doctors in a free enterprise system. The doctors themselves, as well as patients, families, relatives, friends, some churches, and other charitable groups, help the less fortunate. In addition, our state of Louisiana has for many years operated charity hospitals to provide medical aid to the indigent. Our system may not be perfect, but it's superior and far ahead of any example suggested.

If the Nixon Administration really wants to return power to the people, why not allow the States and local governments to retain a certain percentage of the income taxes their citizens pay to Washington, say about 20% or 30% or even more. The State and local governments could then provide more and better services, including health care if their people prefer it that way.

When you want a doctor, you want one. You want him to be your doctor and not working for the Washington crowd. You know the man who pays the bills is always the one who is sought to be satisfied. And when it comes to you and your family and your doctor, you don't want Uncle Sam, federal judges, H.E.W., the Justice Department the U.N., or even the President looking over his shoulder.

I insert in the RECORD at this point for the consideration of our colleagues pertinent quotes from Lester Karotkin, M.D., entitled "Where Does American Medicine Stand?—Socialized Medicine Versus Quality Medical Care":

[From the Houston Tribune, Jan. 13, 1972]

WHERE DOES AMERICAN MEDICINE STAND?—SOCIALIZED MEDICINE VERSUS QUALITY MEDICAL CARE

"Let me define the key term—medicine. When I say American medicine I do not refer to the medical profession, but rather to Medical Care—that is, to medical services as provided to you, the patients. Where does American medicine stand? In my opinion, it is on the brink of disaster."

"The brinkmen are your legislators in Washington and the disaster would be the adoption of any of the so-called health proposals now pending in Congress. So intense is the drive for a system of federally subsidized medical care by Congress that even President Nixon has seen the political wisdom of offering a proposal of his own."

"I have a little good news, too. I rather feel like the Russian commissar who gathered together his little colony of peasants, isolated in the far reaches of Siberia, to report to them that he had some bad news and some good news. The bad news, he said, is that we are completely out of food and there is nothing to eat but snow. The good news is that there is enough for everyone. A few days later he gathered them for another bad and good report. Tell us the good news first, they shouted. Very well, he said, the good news is that we have figured out how to convert textiles into food; and the bad news is that the only textiles we have are the ones you are now wearing."

"Because the government (i.e. The Taxpayer) must regulate that which it subsidizes. Allow me a loose metaphor; If uncle is going to pay the dinner check: then uncle will not only order the meal; he will write the menu. In order to assure the necessary regulation and conrtol, legislation has been introduced in Congress under the treacherously innocent-sounding designation of peer review. Designed to accompany or to supplement the various national health insurance bills, these machiavellian masterpieces provide for committees of physicians, under the direction of the department of H.E.W., empowered to veto your doctor's decision to hospitalize you, to impose limitations on the length of your hospital stay, and to pry into your medical records in order to police your personal physician. The planners feel that such policing mechanisms are essential to prevent overutilization of available resources. In other words, manuals of government rules and regulations, rather than your doctors judgment, will dictate how much and what kind of medical service you will receive."

"There appears to be a strong probability that you may even lose the services of your own doctor altogether. When the regimentation gets too oppressive, many practicing physicians will retire from practice much earlier than normally. Youngsters choosing a career will be less apt to enter a profession so demanding in personal sacrifice, now shorn of its freedom of action and reduced virtually to the status of a civil servant. But then, I guess there will always be doctors. The government is, indeed, already actively subsidizing medical schools and its students: not without certain stipulations, of course. Government demands that many students be selected from the deprived segments of society even though they displace applicants with much higher scholastic qualifications. And just in case the shortage of doctors really gets critical as the screws tighten, a new breed of sub-physicians is being spawned. Scattered around the country, a number of medical schools have established a new curriculum to train a corps of physicians' assistants. These programs aim to teach youngsters with a high school diploma how to diagnose and treat the sick and injured after two years or less of training. It is suggested that these mass-produced replicas of the real thing will screen patients coming to doctors offices and hospitals, handle the "routine problems" and only call upon the real doctor if there is something serious. There is already a training program for physicians assistants in full operation in Houston. Recently a group of my colleagues and I met with the professor in charge of this program accompanied by two graduate physician assistants. We learned that these young men were being allowed to do medical histories and physical examinations, liver biopsies, bone marrow biopsies, minor surgery and other procedures traditionally reserved for fully trained physicians. This is like delegating to an apprentice carpenter the task of drafting full architectural plans for a thirty story office building.

"So you see, it is you the patient—the celebrated consumer—for whose suppose benefit these programs are being proposed that is going to get the worst of it. If you think you have a right to privacy, for example, forget it. Under government subsidized medical care, your medical records can become public information. After all, the bureaucrat who has to validate your claim for medical services has to review the record. It is happening now, under the medicare program for the aged. Insurance intermediaries for medicare have been demanding complete hospital charts of claimant patients, whereas they actually need only a few items of information for claim settlement. Some doctors have told me of government agents appearing at their offices demanding to review the charts of their patients. Medical information on medical patients is being analyzed by computers and from the data obtained, the insuring agents of the government are portraying caricatured profiles of doctors' practices and sending the doctors letters of warning if the services they rendered exceed the government-defined norm.

"Now, about this alleged crisis in medical care. The crisis, my friends, is in government. Inflation spawned by government fiscal policies has caused medical costs to skyrocket. Minimum wage legislation has helped to raise hospital costs disproportionately since 70% of the patient's bill represents the services of labor. Government subsidization of research in medical schools with astronomical grants has diverted emphasis away from teaching and clinical practice, thus reducing the effective pool of practicing physicians. Increasing government employment of physicians to serve in planning, administrative and other non-clinical capacities has further reduced the ranks of those who treat the sick. Government for many years now has been announcing one crisis after another in order to establish the psychological climate in which further encroachment on free-enterprise can be engineered."—quotes from Lester Karotkin, M.D.

H.R. 13989 INTRODUCED

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. ROY. Mr. Speaker, I recently introduced a bill, H.R. 13989, which would seat two school board members on the Advisory Commission on Intergovernmental Relations. ACIR is the only Federal commission dealing with intergovernmental relations, yet it excludes any representation from the governing bodies of school districts, which account for expenditures and employ personnel substantially equal to those employed by all other agencies of local government combined.

School districts in Kansas are fiscally independent, as are most school districts in the United States, and the legal responsibility for education rests with school boards and not with the Governors or the mayors.

Since President Nixon has delegated to the ACIR the responsibility for developing the new Federal role in education, it is particularly important that school board members are involved now in ACIR. Including input directly from boards of education should help to focus greater attention upon public school problems, as they relate to other units of government.

President Nixon, in his state of the Union address, was loudly applauded for saying that education should remain in local control. If the Congress really believes this, then school boards should have representation on a national policy commission which is directly charged with the single most important question of school finance in our entire history.

"DEMOCRACY" IN SOUTH VIETNAM

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mrs. ABZUG. Mr. Speaker, this morning's New York Times carried a sad reminder of the kind of democracy that so many thousands of young Americans have died to protect in the Vietnam war.

Madame Ngo Ba Thanh, an articulate lawyer and critic of the Thieu government, is on trial for allegedly engaging in "activities harmful to national security," organizing an "illegal organization," and distributing printed materials that "undermine the anti-Communist potential of the people." In the United States, we have code words, but in South Vietnam, they have code charges. What this particular series means is that Madame Thanh has had the temerity to express opposition to the militaristic and antilibertarian policies of the puppet dictatorship which runs South Vietnam.

Despite a severe asthmatic condition, Madame Thanh has been imprisoned for 6 months awaiting trial and has not been admitted to bail. Yesterday morning, she was carried to the beginning of her trial on a stretcher; during the proceedings, she suffered an attack which included a brief loss of respiration and heartbeat. The court decided to postpone the trial indefinitely, but ordered that Madame Thanh be returned to prison in the meantime.

Some democracy.

The article follows:

[From the New York Times, Mar. 23, 1972]

TRIAL OF AILING CRITIC OF SAIGON REGIME IS POSTPONED

SAIGON, SOUTH VIETNAM, March 22.—Mrs. Ngo Ba Thanh, a leading critic of the Saigon Government and the war, who has been in prison and has been suffering asthmatic attacks for six months, was carried to military court in downtown Saigon on a stretcher today to face charges of having engaged in activities harmful to national security.

But the trial was postponed indefinitely after a doctor testified before the filled court that Mrs. Thanh was in critical condition and in need of immediate medical attention. Mrs. Thanh, a 40-year-old lawyer, suffered what appeared to be an asthmatic attack as she lay on the stretcher at the courthouse entrance waiting for the trial to begin.

LAWYER SEEKS RELEASE

Mrs. Thanh was arrested Sept. 18 after participating in an anti-Government demonstration led by a former lower house deputy, Ngo Cong Duc. Mr. Duc was not arrested then but was later convicted in absentia of having left the country illegally. The demonstration was called to protest the uncontested presidential election held on Oct. 3, in which President Nguyen Van Thieu was re-elected.

Nguyen Long, Mrs. Thanh's lawyer, has been calling on the authorities for Mrs. Thanh's release because of her poor health which, he asserts, is directly related to prison conditions.

Mrs. Thanh is a key figure in several peace groups here. The small, energetic woman, who holds a degree from Columbia University in New York, has met many visiting United States Congressmen in the last several years to tell them of the position of President Thieu's opponents.

According to her lawyers, Mrs. Thanh has been charged with three offenses—having engaged in "activities harmful to the national security," having organized an "illegal organization," and having distributed printed matters that "undermine the anti-Communist potential of the people."

Mrs. Thanh heads a group of Vietnamese women called the Vietnamese Women's Movement for the Right to Live. Her lawyers, however, vigorously deny that she is guilty of any crime.

"She came to a demonstration and was arrested while others were not," one of her three lawyers, said. Another added that all charges against her were ungrounded and that they were "only excuses for her arrest and detention."

Shortly after arriving on a stretcher before the regional area military field court, Mrs. Thanh appeared to suffer an asthmatic attack. With sweat dripping from her pallid face, she choked and coughed, and her breathing grew rapid.

A doctor arrived minutes later and injected Mrs. Thanh with tranquilizers and a heart stimulant after it appeared, briefly, that her respiration and heart had stopped.

The doctor pleaded with the five judges, military officers, for the woman's immediate release for treatment at a nearby civilian hospital. "Mrs. Thanh is in very serious condition," he said. "Her heartbeat is up and down. She can die at any moment."

The judges recessed for 30 minutes before announcing that the woman's trial would be postponed indefinitely to allow her appropriate medical treatment. However, they added that she must be returned to prison.

BYELORUSSIA'S INDEPENDENCE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. DERWINSKI. Mr. Speaker, although it is still 4 years off, plans are already underway for the proper celebration of the bicentennial of the independence of the United States. When compared to many Old World nations, our country may properly be described as young. On the other hand, when we compare it to the many countries that have appeared on the scene during the last quarter of a century, America is an old member of the family of nations.

Old or young, be their independence something that they have jealously maintained for centuries or something to which they have hardly become accustomed, they have one thing in common. All have good reason for celebration.

On Saturday next, an ancient nation of Europe will observe its independence day. It will not celebrate, for its freedom was of little more than ephemeral duration. It will not rejoice, for its people have for over half a century been part of the vast Soviet Empire.

On March 25, 1917, Byelorussia, which had been part of the Russian Empire, declared its independence. In 1919 it was conquered by the Communists who, in November 1917, had wrested power from the regime which had replaced that of the Romanoffs.

Mr. Speaker, let us hope and pray that some day in the not too far distant future the people of Byelorussia will be able to celebrate instead of merely observe their independence day.

AUTOMATIC FUND TRANSFER—A HEAVY BURDEN FOR OUR FINANCIAL INSTITUTIONS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HANNA. Mr. Speaker, as our financial institutions play a more and more important role in American life and as the burdens of playing such a role become apparent, the responsive members of that community begin seeking ways to more effectively meet their responsibilities. A major aspect of this burden—automatic fund transfers—has, as was expected, become a center of significant controversy.

In light of the recently exploding reliance of consumers on the personal check and the projected geometric increase in the use of such instruments as pointed out in the following article, it is clear that banks must find some answer to the paperwork pressures which threaten to place banks in an embarrassingly parallel position to the recent stock exchange paperwork crisis.

The article follows:

BACKGROUND INFORMATION ON THE PAPERLESS ENTRIES PROJECT IN CALIFORNIA

When not using cash, most people pay their bills with the ordinary paper check. And despite reports of an impending "cashless or checkless society," the check will continue to serve as a basic component of the payments system for a long time.

Californians each month write 150 million checks and the figure is growing eight per cent annually. Because of this growth rate and because of operational problems in other industries, there has been anxiety recently about the banking industry's ability to process more and more paper checks.

To obtain accurate information on projected check volume and on the facilities needed to handle it, the American Bankers Association commissioned the A. D. Little Company to study the check payment system and its probable growth during the 1970's.

The results of the study indicated that, assuming the continued use of present technology, and continuing effective bank management, the nation's check payments system can be maintained in an operationally sound condition through 1980. Consequently, there is sufficient time for the banking industry to proceed with orderly, well-planned improvements.

On the other hand, there is no time for complacency and some new payment method needs to be developed. The industry has now selected and developed a supplement to the check payments system. It is called preauthorized paperless entries. It is a voluntary system in which customers at banks can replace certain paper check transactions with automatic electronic transfers of funds. Preauthorized paperless entries represent the

logical first step in improving the current payments system.

The concept is not new. Many California banks have employed both pre-authorized credits and debits for several years. For example, bank employees have had their pay deposited directly to their bank accounts for many years, and many types of payments have been automatically deducted from bank customer's accounts: Life insurance premiums, United Fund pledges, Christmas Club transfers—just to name a few.

Federal civil service employees and military personnel can authorize their pay to be deposited directly into their bank accounts.

For several years, some banks in the state have offered services such as automatic payroll deposits and direct billing. These services are called "paperless" because the bank's accounting work is done on magnetic tape or punch cards.

But until now, each of these pre-authorized paperless entry services has been limited to transactions within a single bank.

Although these single bank services can be effectively used for certain types of payments, experience indicates that such services have extremely limited potential for two particularly important reasons:

1. Employers are unwilling to direct the banking business of their employees to any single bank, which is essential to the individual bank system of paperless payroll deposits.

2. And in the case of direct billing, no single bank in the state possesses a sufficient number of the same customers as the billing organization to make this service economically attractive.

It became clear that the principal missing element was an arrangement for the exchange of pre-authorized paperless entries—both deposits and billings—between banks.

To do this required an industry-wide effort. So, in April, 1968, the San Francisco and Los Angeles Clearing House Associations created a special committee to study and recommend arrangements for exchanging paperless credit and debits among banks.

Thus, the SCOPE Committee—the Special Committee on Paperless Entries—came into existence.

The SCOPE Committee includes representatives from ten commercial banks and observers from the Federal Reserve Bank of San Francisco, the California State Banking Department and the Regional Administrator of National Banks.

And although it is a project of the San Francisco and Los Angeles Clearing House Associations, it was agreed at the outset that the system must be designed to permit participation of all California Banks, regardless of size, or the type of processing system used internally.

Since all 144 California banks were to be included, it was soon realized that direct exchange arrangements between individual banks would simply not be practical.

Central clearing facilities for pre-authorized paperless entries were needed with automated clearing houses (ACH) in both San Francisco and Los Angeles.

In response to a request from the SCOPE Committee, the Federal Reserve Bank in San Francisco which already had the important computer installations, courier arrangements and settlement mechanisms—agreed to operate the automated clearing houses on a pilot basis.

By August 1970, the SCOPE Committee had defined the essential inter-bank exchange arrangements and procedures, and had drafted the legal agreements required to support the new services.

The development of the automated clearing house began shortly thereafter. The project is currently on schedule, and it should become operational in 1972. The ACH systems have been successfully tested in both cities.

In the system, there are five participants whose roles must be defined:

1. *The individual customer or employee.* This is the party that must pre-authorize the automatic deductions (in the bill-paying service) and the automatic payroll deposits. The services are optional for every customer and employee.

2. *The company or employer.* The company receives the payments made by customers of the direct billing service; and the employer generates the automatic payroll deposits.

3. *The originating bank.* The company's banks, because the paperless entries originate through his bank.

4. *The receiving bank.* The individual customer's or employee's bank so termed because the "paperless" entries are received by this bank.

Either to receive or originate paperless entries, a bank must join the automated clearing house, signing an indemnification agreement with the Federal Reserve Bank and agreeing to comply with the regulations of the ACH.

Companies wishing to offer paperless entries to either employees or customers must sign a separate indemnification agreement with their bank—the originating bank—permitting them to submit the entries through their banks.

And most importantly each individual customer or employee of the company that wants to participate must complete an authorization agreement permitting the company to initiate entries and authorizing his bank—the receiving bank—to accept them.

Here is an example of an automatic payroll deposit transaction:

After the employer has made arrangements with his originating bank to accept paperless entries, he distributes individual authorization forms to his employees. The employee who is interested authorizes the company to enter automatic deposits in his checking account—at the bank of his choice (which can be any bank in California)—at the same time, authorizing his receiving bank to accept the paperless deposits.

Every payday the employer will deliver a tape containing employee identification or account number information and net salary payments to the originating bank.

The originating bank enters deposits for employees who bank with the same bank as the company, and then forwards a tape containing information about deposits to all other banks to the Automated Clearing House.

The ACH then balances, sorts, and distributes paperless entries to the various receiving banks and handles the inter-bank settlements.

Finally, of course, the receiving banks then credit the employees' account in accordance with the authorization.

The typical pre-authorized billing transaction is similar. An example is a monthly payment to the electric company.

After the electric company has made arrangements with its originating bank, individual authorization forms are sent to its customers. The customer that prefers automatic debits to writing a monthly check authorizes the electric company to initiate billing entries to his checking account. And he authorizes his bank to pay the amount of the entry.

Since these billed amounts vary somewhat from month to month, the company will send a memo bill to customers who have preauthorized their payments. This memo will be mailed about a week preceding the initiation of the paperless entry. If the amount due is in error, the customer can then stop payment as he can on a paper check.

The company then generates a magnetic tape containing customer account numbers and billing amount information. This tape is delivered to the originating bank, which processes entries regarding its own accounts, and forwards interbank entries to the automated clearing house.

The ACH makes the interbank settlements and the receiving banks post the pre-authorized paperless debits to the depositors' accounts in accordance with the authorization.

The originating and receiving banks will have completed each transaction the same day as it was initiated.

There are four major benefits to the employee choosing to receive the direct deposits on payday:

First, this service guards against loss, theft and forgery of the employee's check.

Second, the service helps the employee avoid those time-consuming trips to the bank on payday, and waiting in line when he gets there.

Next, it enables him to receive his pay immediately, even if he is on vacation, out of town on business or at home ill.

And finally, automatic payroll deposits eliminate the postage costs involved in banking by mail. There is, of course, no charge to the customer for this service.

There are also a number of benefits to customers who pay some or all of their recurring bills by this automatic service:

The customer saves the time spent writing checks to creditors each month.

The service also saves the cost of postage used to mail in payments.

Automatic bill-paying will also prevent the customer from overlooking those recurring bills, and at the same time, it ends worries about penalties for late or delinquent payments.

Charge, if any, for this service will vary from bank to bank.

Nor do the automatic services cost the customer any of the financial independence he has now with his checking account. He retains his account to handle such varying items as department store purchases and other one-payment items. And he can stop payment on paperless entry payments as he can on his personal checks.

The target that the SCOPE Committee has set is modest. For payrolls, the committee would like to convert 35 per cent of all payroll checks in the state to the new system during the next five years.

And if 15 per cent of the reasonably predictable recurring payments are switched to the pre-authorized paperless billings system during the same period, that phase of the project would also be considered successful.

But even with such modest projections of 35 and 15 per cent, many thousands of checks will be eliminated each year in California.

Of the 150 million checks per month which are written in the state, more than 45 million are suitable for a paperless entries payments system. The majority of these are payroll checks, which make up the largest part of the SCOPE target.

And if the goals of 35 and 15 per cent are met, more than 12 million checks will be eliminated each month in California.

Similar pre-authorized payment systems are being examined in many other states. California will likely be the first to become operational, but if it proves effective and workable here, it will be installed elsewhere, and someday will become a nation-wide service.

We have in this country other types of financial institutions, and an equal need for flexibility in the adaptation to modern trends in the savings and loan industry exists. The discovery and developing of such new areas will inevitably come into some conflict. The area of automation is one example of an already emerging conflict—as is clearly illustrated in the attached documents.

Both the banks and savings and loans have a legitimate concern and are desirous of developing a constructive approach to that end. Both present factual materials which argue well for flexibility necessary for these institutions to meet adequately present and future circumstances. I firmly believe both should be carefully reviewed, and I commend them to the attention of my colleagues:

ANALYSIS OF THE ECONOMIC IMPACT OF SCOPE

There have been previous discussions and the furnishing of information with respect to the Transmatic Program and the resistance of the commercial banks, on an apparently coordinated basis, to the use of Transmatic.

Transmatic is essentially a system whereby a borrower from a savings and loan association preauthorizes the savings and loan association to instruct the commercial bank holding his checking account to pay out of the customer's checking account the monthly amount due on the customer's home loan from the association. The degree of commercial bank resistance is undoubtedly due in large part to the fact that the same preauthorized system would lend itself equally to the preauthorized transfer from bank checking accounts to savings deposits in savings and loans. The Program has been frustrated by the refusal of certain banks to honor the preauthorized demands and, in some instances, by such devices as the systematic mutilation of the customer authorizations before their return, not honored, to the savings institution.

At the same time, the entire financial system is moving toward electronic transfers ("checkless society") dominated by the same commercial banks. The banks have jointly created SCOPE. This impact of this development cannot be overestimated.

Up to this point, commercial banks have had a statutory monopoly of demand (checking) accounts. The same statutes prohibit the payment of any compensation by banks for the money which they receive in this form of account, although there is a substantial movement among commercial banks toward lobbying a modification of these statutes.

Since checking accounts are a necessity for any business organization and for most families, the checking account monopoly not only gives the commercial banks the huge advantage of massive amounts of free or cheap money with no inter-system competition, but also the competitive advantage that, whatever other services are offered by competing types of financial institutions on however desirable bases, every business and 80% of all of the families of the country must nevertheless go to commercial banks for this essential service and, in this respect at least, be customers of commercial banks.

The transition from checks to electronic impulses as the basic means of transfer of funds in the entire economy poses both imminent and long range opportunities and threats so far as the benefits of this monopoly to the commercial banks are concerned. The opportunities exist in that domination and control of the system of transfers by electronic impulse will be far more important and all-encompassing than even the checking account monopoly.

Accordingly, with such domination and control, commercial banks could make even more difficult the utilization by the public of the financial service offered by savings and loans. Threats flow from the fact that if savings and loan associations were permitted to participate in the system of transfer of funds by electronic impulse the demand account monopoly of the commercial banks might have less significance than the present, and competition against the dominant commercial banks could be seriously strengthened.

These factors are frankly discussed at commercial bank meetings to develop the plans for transfers by electronic impulse. An example is the automation conference in May 1971, of the American Banking Association. At this meeting, the desirability from the viewpoint of commercial banks of their total control of the funds transfer system by electronic impulses to reduce savings and loan competition both for deposits and for loans was freely discussed, as was the use of the vast information in these EDP networks by the banks for their business development purposes.

The reportedly imminent SCOPE program in California gives both specificity and perspective to what is about to happen in deposit institutional competition. SCOPE is an achronym for special committee on paperless entries. This committee has a representative from every major California bank. The same banks that are refusing to cooperate in the Transmatic Program have been conducting a concerted campaign to persuade savings and loans to use the SCOPE program. The difference, of course, is that SCOPE will be controlled by the major commercial banks in California; Transmatic would not be so controlled.

It is reported that in at least one city, a pilot program testing the most advanced stage of SCOPE is in effect. Under this program, for example, a consumer in a supermarket merely furnishes his SCOPE account number and his bank checking account is automatically debited without either cash or a check passing through his or the retailer's hands. The long term competitive implications of this are, of course, enormous. Retailers who for financial reasons cannot, or who are not permitted to, participate in such a program will be at a gross competitive disadvantage in competing for customers.

The barriers to entry to smaller banks will be substantially increased because of the enormous amount of technology and investment which may be required to join in such a setup. The inter-relationship between "competitive" banks will be all the more pervasive.

In its final projected phase, SCOPE will have an enormous effect upon the overall nature of competition in this country. It seems apparent that that effect will be anticompetitive and proconcentration. The stakes to the commercial banking establishment are enormous and it can only be assumed that no stone will be left unturned in order to accomplish the ultimate SCOPE goals.

SCOPE is the beginning in California of the checkless society. The nation is at the critical decision point of whether the commercial bank monopoly of the transfer of funds will be extended to the degree that effective deposit and lending competition by other deposit instrumentalities will be rendered even more difficult. The commercial banks in California are effectively planning on this premise to make the decision for the country.

Thus, every employer of size, even those now rated as moderately small employers, will, through its own EDP system or through that to which it is tied, deliver to a commercial bank in California for each payroll the drum with the electronic impulses which will make possible the electronic impulse transfer of the periodic payroll amount by that bank to the account of each employee in any branch of any bank. No other financial instrumentality under this plan would be permitted to receive the drum for the purpose of causing the initial transfers to be made. But the SCOPE program by the banks contemplates expanding their present monopoly one critical step further. The transfers by the first bank will be made only to commercial banking accounts, and not at all to deposit accounts in savings and loan associations. At the present time, of course, payroll checks can be and often are deposited directly into the savings and loan account.

To summarize, as of now only commercial banks are permitted to have demand deposits. This monopoly, combined with the legislative prescription that the banks receive the use of money in demand accounts free, gives to the banks an enormous competitive advantage. This advantage will be augmented by projected legislation permitting controlled interest payments on demand accounts, in effect creating a combination time-demand account to be a commercial bank monopoly by statute. Nevertheless, there is nothing to prevent any checks being deposited with a savings and loan association at this time.

Thus, as is often the case, particularly where there are two or more wage earners in a family, an entire payroll check may be deposited in a savings and loan deposit account, with or without coincidental withdrawals and transfers. This will become impossible under the SCOPE program. After SCOPE is in effect, the initial transfer of funds from the first bank will be made only to other banks. There is, of course, no functional reason why such transfers could not be made to savings and loan deposits as well as to commercial bank accounts. There is no reason that the transfer by electronic impulse from the original bank cannot be made to a savings deposit account in a savings and loan association, rather than only to a commercial bank account, except the banks' joint plan to extend their monopoly.

SCOPE is demonstrably designed to cement the banks' present monopoly and expand it further. If the program starts imminently as now projected by the banks acting in concert, the commercial banks' control of the economy, to an even greater extent than presently exists, may be substantially irreversible for a generation.

SAFETY OF U.S. AIR TRANSPORTATION SYSTEM

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GOLDWATER. Mr. Speaker, an unfortunate and misleading impression regarding the safety and reliability of the Nation's air transportation system could very well be created, if amplified and repeated, as a result of self-serving demagoguery in some quarters of the aviation community. I am therefore compelled to set the record straight and, in this way, restore public confidence in the airplane as a safe and efficient mover of people and goods.

Comments, among others, to the effect that there is a "decreasing margin of safety" at the Nation's airports are not only irresponsible and inflammatory but, more importantly they are false. Such statements are adequately denied certainly by the U.S. air carrier safety record during the year John Shaffer has been Administrator of the Federal Aviation Administration. In this time frame, 1969 through 1971, the average annual fatalities for all carrier operations, has been 169, as compared with the yearly average of 312 during the period 1960–68.

A great deal of credit for this outstanding safety record, of course, must rightfully go to the skilled and dedicated professionals who make up the airline flight crews. But I suggest the record also

indicates that those in the FAA are performing their tasks with equal dedication and skill as well—not to mention the very significant contributions of airline management or the magnificent machines they have purchased from American manufacturers.

Contrary to the impression which a few of the aviation community have been trying to create for purposes of personal aggrandizement, the FAA is not dragging its feet regarding the development and modernization of the national airports and airways system. The fact of the matter is that FAA has greatly accelerated its efforts in this area, thanks to passage of the Airport/Airway Development Act of 1970, which was sent to the Congress by President Nixon with the highest possible legislative priority.

As a result of this legislation, FAA's annual funding for facilities and equipment has increased more than three times while funds for airport development have quadrupled. FAA's fiscal year 1972 budget, for example, includes a total of $302 million for facilities and equipment as compared with an average of about $90 million per year in the decade preceding enactment of the Airport/Airway Development Act of 1970. And authorization for airport planning and development, on the other hand, is $295 million in fiscal year 1972 in comparison with an average of about $70 million annually before the legislation.

Many of the system improvements programed over the past 3 years already have been realized or are in the process of realization. Space does not permit a listing of all of these advances here, but they include the installation of new automation equipment, airport radars, control towers, instrument landing systems, and a variety of other navigation and communications equipment.

I would like to single out for special mention, however, the very great strides made in the automation program in 1971, especially in the terminal area. During the year, FAA took delivery of the first 25 automated radar terminal systems—ARTS III—which provides controllers with alphanumeric data and automatic tracking of beacon-equipped targets. Fifteen of these installations already have achieved an initial operational capability and two—Chicago O'Hare and Denver—are fully operational. In addition, FAA last May ordered 29 more ARTS III systems bringing the total number purchased to 64. All of these units are scheduled to be installed and operational by the middle of 1973 providing a safer and more efficient airport environment and considerably easing the workload on both controllers and pilots.

Some elaboration also appears in order with regard to the timetable of FAA's installation program for instrument landing systems—ILS—since this has been the subject of much negative criticism. Again, contrary to the impression which has been created, the FAA program for ILS installation is moving ahead at "flank speed." The FAA presently operates 322 ILS's at 271 airports. An additional 156 units are now coming off manufacturer production lines and delivery of this equipment is proceeding at a rate of 4 to 18 a month. Our schedule calls for all of these ILS's to be installed and operational in early 1973. Another 175 ILS's, including 87 Category II and IIIA systems, are programed through fiscal year 1978, making a total of 653 at some 520 airports. Of these, 428 will be on primary instrument runways of air carrier airports, 140 on secondary runways of air carrier airports, and 85 at general aviation airports.

On the subject of ILS's I should mention also that Mr. Shaffer has informed me the agency will let the first contracts early this year for the initial phase of the microwave ILS–MLS development program. This MLS should be ready for production by 1976, and he envisions a procurement of some 643 MLS systems in the 1976–82 time period.

There are those concerned in specialized areas of responsibility of aviation who feel that the FAA does not accord single needs sufficient attention and priority. This is a short-sighted attitude for, the FAA too, desires to move forward with all speed in the implementation not only of its ILS program but all its other hardware programs as well. In doing so, however, the FAA must squarely face the twin realities of time and resources. The aviation trust fund is a repository for moneys collected under the "user tax" schedule. It is not, as some conceive it, an open account on which the FAA can write unlimited checks, although the funds are being used as fast as they can be. Further, FAA's facilities and equipment program is continually subject to review and approval by both executive and legislative branches as a part of its overall budget request.

Moreover, as the Government agency responsible for all civil aviation, FAA horizons must of necessity be considerably broader than those of single segments of the aviation community. Where those in the private sector are free to press for special improvements, the FAA must equitably weigh the needs of all aviation interests. That agency must not only provide for the 2,600 aircraft operated by the scheduled air carriers but also for the 132,000-plus aircraft that make up the general aviation fleet. They, too, have a legitimate claim on FAA available resources.

Arbitrary and capricious statements and half-truths regarding the adequacies of the Nation's airport system may have achieved a doubtful publicity for the perpetrators. But failure to perceive, perhaps deliberately to ignore, the factors of implementation for the good of the whole, has resulted only in an unnecessary "black eye" for the entire U.S. air transportation system.

To those few dissidents, I would say only that we must never forget how very dependent aviation is upon the support of Congress and the public and the effect which needless controversy has on that support. Aviation community action, therefore, should be directed at reinforcing public confidence in the airplane as the safest and most efficient mode of transportation so that FAA Administrator John Shaffer might proceed as expeditiously as possible with the building of a national aviation system which the traveling public and U.S. commerce both deserve and must have.

As in all things, the overall picture should be carefully considered, and credit given where credit is due.

HON. ARTHUR J. GOLDBERG DECLARES CONGRESS HAS A "NEED TO KNOW"

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MOORHEAD. Mr. Speaker, the House Foreign Operations and Government Information Subcommittee was privileged to receive testimony at our hearings this morning from the Honorable Arthur J. Goldberg, former Associate Justice of the U.S. Supreme Court, former Secretary of Labor, and former U.S. Ambassador to the United Nations.

Mr. Goldberg's testimony was part of the subcommittee's continuing review of the administration and effectiveness of the Freedom of Information Act—5 U.S.C. 552—and related subjects, such as the functions of the Federal Government's security classification system, and the extent of Executive withholding of information from the Congress.

Mr. Speaker, seldom has any congressional committee received such an eloquent and well-reasoned statement of the right of the legislative branch to have full access to information from the Executive to enable us to fulfill our constitutional responsibilities.

Mr. Goldberg said:

I commence with the premise that there is no Constitutional justification for denying to Congress the information necessary to the performance of its duties. Under Article 2, Section 3 of the Constitution, the President is required to "give to the Congress information of the State of the Union" and both by practice and tradition this is not confined to the annual "State of the Union" message.

If the people have a right to know, their representatives have a need to know. Without adequate information from the Executive Branch of government, Congress cannot appropriately perform functions entrusted to it under the Constitution. Moreover, nothing can contribute more to the weakening of Congress and to an undue concentration of power in the Executive than the Executive's recalcitrance in appropriate sharing of information with Congress.

Mr. Speaker, I am increasingly concerned over the growing reluctance of the Executive to provide essential information to the Congress that is vital in carrying out our duties. Just last week, I reported to the House—RECORD 8694, March 16, 1972—the circumstances leading to the invocation of so-called executive privilege by the President against our subcommittee's request for the country field submissions for Cambodia for fiscal years 1972 and 1973—similar to documents which had routinely been made available to us for many years by the Agency for International Development and as recently as last fall. Other committees of the House and Senate are also being refused documents on a fairly regular basis by administration officials, despite the written agreement of April 7, 1969, between President Nixon and our subcommitee in which he pledged "the free flow of information to the Congress and the news media" and asserted that he would follow similar agreements made by the subcommittee with his predecessors—Presidents Kennedy and Johnson—that only he, personally, would invoke executive privilege if it became necessary.

As Mr. Goldberg told the subcommittee this morning:

It is an understatement to say that we are witnessing an increasing confrontation between the Executive and the Legislative Branches in this area. We must promptly take all necessary steps to prevent this confrontation from becoming a constitutional crisis.

Mr. Speaker, I commend Mr. Goldberg's statement to all members and include it at this point:

TESTIMONY OF ARTHUR J. GOLDBERG

My name is Arthur J. Goldberg. I consider it a privilege to respond to the invitation of Chairman Moorhead and the members of this subcommittee to testify on this matter of overriding national concern.

Having previously testified before this subcommittee on June 23, 1971, on the broad question of the problem of withholding information from the press and public generally, I would like today to confine my testimony to the question of the Executive withholding information from Congress.

I commence with the premise that there is no Constitutional justification for denying to Congress the information necessary to the performance of its duties. Under Article 2, Section 3 of the Constitution, the President is required to "give to the Congress information of the State of the Union" and both by practice and tradition this is not confined to the annual "State of the Union" message.

If the people have a *right* to know, their representatives have a *need* to know. Without adequate information from the Executive Branch of government, Congress cannot appropriately perform functions entrusted to it under the Constitution. Moreover, nothing can contribute more to the weakening of Congress and to an undue concentration of power in the Executive than the Executive's recalcitrance in appropriate sharing of information with Congress.

That vital information necessary to Congress in the performance of its duties has been and is being withheld by the Executive, no one can really challenge. Indeed, it can be argued that very often Congress receives the information it requires through "backgrounders" or "leaks" by the Executive Branch to the press rather than through an orderly and considered transmittal of information by the Executive to Congress.

This is a matter which rightly concerns this Committee which is primarily responsible for the enactment of the Freedom of Information Act. (5 U.S.C. 552.)

The Freedom of Information Act in Section 1 specifically provides that the authority of the Executive to withhold information regarding matters that are "specifically required by Executive Order to be kept secret in the interests of national defense or foreign policy . . . is not authority to withhold information from Congress."

This reservation was obviously inserted in the law to protect the right of Congress to be adequately advised, even in cases where the Executive was of the view that national defense or foreign policy necessitated secrecy insofar as the general public was concerned.

The Congressional sense of frustration in this area demonstrates the widely held view that Congress is being denied information by the Executive and, at the same time, is being asked to enact legislation and make appropriations relating to the national defense and foreign policy.

It is an understatement to say that we are witnessing an increasing confrontation between the Executive and the Legislative Branches in this area. We must promptly take all necessary steps to prevent this confrontation from becoming a constitutional crisis.

It is important, in this connection, to note that the recent Executive Order of the President, effective June 1, 1972, dealing with the classification and declassification of national security information and materials, formation to Congress and, consequently, nowhere specifically enhances the flow of information to Congress and, consequently, does not materially ameliorate the situation as it now exists.

The Executive Order itself, however, represents a step forward in protecting the public against overclassification and ensuring earlier de-classification of national security information and material, although, by my lights, it still is overly restrictive in both areas. Perhaps in this limited sense it does ensure more information to Congress as part of the public.

However, the Executive Order, which, by its terms, deals with the general right of the public to know, does not satisfy the need of Congress to have necessary information promptly available for legislative purposes. The restrictive and sweeping provisions for classification and the long time limits for declassification do not eliminate present obstacles to the furnishing of information for timely legislative consideration and action. Furthermore, vagueness of the words "grave danger to the national security" acts as an impediment rather than an inducement and authorization to the Executive to furnish appropriate information to the peoples' representatives in the Legislature as well as to the people at large.

It is my ultimate conclusion that the present system, whereby the Executive Branch itself determines the rules for disclosure of its own documents, is inherently inadequate to keep Congress informed.

It would be in order to serve this purpose for Congress to draw upon the various proposals of its members and others and lay down specific guidelines in carefully considered and well drafted legislation. I have no doubt that Congress is authorized to enact such legislation under the "Necessary and Proper" Clause of the Constitution.

It is true that Article 2, vesting the Executive power of the United States in the President, necessarily implies that certain activities he conducts, either directly or through his staff and the Executive Departments, are privileged. By the same reasoning, under Article 1, certain activities of Congress, either directly or through its staff, are also privileged.

I find it rather ironic that the Executive Branch, which strongly insists upon the President's privilege in his dealings with his own staff, should be challenging in the courts the privilege of Congress in relation to Congressional staffs. What's sauce for the goose must also be sauce for the gander.

The time is overdue for Congress to act in this area with due sensitivity for national security and for the protection of the legitimate privileges of the Executive as well as Congress' rights and responsibilities.

Our nation is a nation of laws and not men. In the public information area, except for Constitutional safeguards and the laws which this Committee, by and large, has sponsored, we have been very much a government of men and not laws. It is this reason which prompts me to urge that this Committee now address itself to the formulation of a comprehensive statute dealing with the duty and limitations of the Executive's responsibility to inform the Congress and the rights, limitations and safeguards of Congress to be informed.

I would hope that in drafting such a law, the Executive Branch and the Legislative Branch would cooperate in the interests of both and in the ultimate interest of the public both serve.

CONCERN FOR AMERICAN PRISONERS OF WAR AND MISSING IN ACTION

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GALIFIANAKIS. Mr. Speaker, this is the week—March 21 to 27—that Presidential proclamation has designated as "A Week of Concern for Americans Who Are Prisoners of War and Missing in Action."

It was in March of 1964 that the first American was taken prisoner, and today, 8 years later we as a people still share the anguish of not knowing the fate of many of our brave men; 8 years later we still share the frustration of being unable to directly affect the conditions in which our valiant servicemen must live as prisoners in an enemy land.

I cannot be coolly logical or political on this subject, for it wrenches at my heart, angers me, and tortures my conscience as it does all of us. But our sorrow, our anger, and our guilt are worthless emotions unless they are channelled into positive action. If we harness the power of our collective feelings about these men and pull together, I have faith, I must have faith, that that power will be felt around the world, all the way to Hanoi. We have seen that adverse world opinion does affect the actions and attitudes of governments, even North Vietnam. It is a power not to be underestimated.

And yet, a week of concern must appear an inadequate gesture to many in the face of so many years of mistreatment of our men and anxiety of their families. But it says clearly, officially, unequivocably, "We care." Not just political leaders or the families directly involved, but all of us as Americans who believe that all men are God's creation, human beings with souls. What right, then, to turn these creations into objects of ridicule, to treat their lives as meaningless chips in the game of war? No right.

There must be adherence to basic human laws. These prisoners must be treated in accordance with the provisions of the Geneva Convention. We must know the names and physical condition of our men held prisoner. Our sick and wounded must be released. There must be inspections of those prisoners. We demand this at the very least.

I can think of no other single issue of more overriding importance to the people in our Nation than the lives and well-being of their husbands, brothers, fathers, sons, and fellow Americans. These are our people and they must be returned to us.

I was a strong supporter of the POW/

MIA resolution which was passed unanimously recently in the House of Representatives. It calls for placing prisoner exchange in top priority position.

That is Government language. Let me put it in the words of a child:

Mr. Congressman, I miss my daddy. I love him more than they love him over there, so I hope you can tell them to send him home. My little brother doesn't know him yet, and I know he will like him a lot when he meets him. Can you help us?

We must never lose sight, regardless of what else we face today, of our obligation and our love for these men, and for their families.

CONGRESSIONAL INTERNS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. PEPPER. Mr. Speaker, now that the time for congressional interns is here again, I thought my colleagues and others who read the CONGRESSIONAL RECORD would be interested in the experiences an intern had in my office last summer. The article by Diana Seutter, a senior high school student at the Oak Knoll School for Girls, Summit, N.J., and a niece of a legislative aide in my office, Mrs. Amelia Lasser, appeared in the school newspaper, Undercurrents, for March 1, 1972. The article follows:

INTERN IN CONGRESS

(By Diane Suetter)

Last summer I spent several weeks as a Congressional intern in Washington, D.C. What does an intern do? I spent a lot of time typing, running errands, answering the phone, filing letters, and I loved every minute of it. I was there during the hectic days of the early wage and price controls so I know all the inside story on what was up. I saw my first news room and it really astounded me! It was a huge mass of people and papers and phones—and Noise! I even got a chance to help work on some crime legislation—even if it was only finding the sources of sixty footnotes.

Of course, it wasn't all exciting. Working hard from eight in the morning to six p.m. or later usually isn't; and of course I saw more of the typewriter and the xerox machine than anything else. What makes it exciting is that you really do feel you are contributing and plus you have the opportunity to really see how our government works.

One thing which really surprised me was the unbelievable amount of mail from the constituents. They write about things like their problems with money, or send the Congressman an article they thought would interest them, or express their views on some issue, or ask about job possibilities, even ask advice on some personal problems. It surprised me because I always thought that people never wrote to their congressman enough; but now I know they do!

Some of the interesting things interns can do are visiting embassies and attending receptions and even taking part in lectures and seminars given by eminent public figures. And, of course, you can sit in on house sessions.

Most of the interns are of college age, although some are in high school; and most of them work as interns for the entire summer. This is what I hope to do one summer during college.

As far as any money and lodging are concerned, I was a volunteer and I lived with relatives. However if you are interested in being an intern you can be put on the payroll (but it's not very much). Often the interns live together and there are parties and social activities. It's so easy to meet people because there are so many interesting people around, and yes girls, there are many college boys who will pick you up given the chance.

All in all I had a great time and I would recommend interning to anyone interested in seeing how our government works and really runs from day to day; and one who is not afraid of hard work as well as fun. You can write to your congressman and send him information about yourself, telling him why you want to become an intern and then ask for an interview. The best time to apply is now, so hurry!

LET'S GET TOUGH WITH ALLENDE

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GROSS. Mr. Speaker, the Communist government of Chile lost little time after it came into power in embarking on a course of massive grand larceny, literally stealing the assets of American interests in that country, notably copper companies.

An excellent editorial in the current issue of Barron's magazine points up the fact that Chile's marxist dictator, Salvador Allende, like Communists everywhere, best understands the hard line, the abrupt no-nonsense attitude—especially when it is displayed by those with whom he must deal.

Chile is today bankrupt for all intents and purposes and, as the editorial says, now is the time for those bankers and governments with whom Allende must do business to get tough with him.

I include the editorial for insertion in the RECORD at this point:

CHILE IN DEFAULT: CREDITORS ABROAD SHOULD TAKE A HARD LINE

(By David A. Loehwing)

For U.S. copper companies, it has been a long time since anything but bad news came out of Chile. Hence it was with a certain clenched-teeth satisfaction that officials of Kennecott Copper three weeks ago received tidings from Santiago of a decree, signed by President Salvador Allende, ordering payment of a $5.8 million installment on Chile's debt to the company. Kennecott had lent $92.9 million to help finance expansion of El Teniente, a big copper mine in which, until last year's seizure of all U.S. copper interests, it owned a 49% stake.

In signing the decree, President Allende also promised that all but $8.3 million of the balance eventually will be repaid; he plans to hold out that amount on the ground that it was "unprofitably invested," a state of affairs which means, under a new Chilean law, that it need not be repaid. The $5.8 million might have fallen into the same bottomless pit but for the timely intervention of a U.S. District Court, to which Kennecott prayed for relief after Chile defaulted on the payment December 20. The court slapped an attachment on Chilean assets in this country, including bank accounts of a half-dozen government-owned concerns, as well as that of the Chilean central bank.

Anything the copper firms manage to salvage from their once-huge investments in Chile should be considered gravy. For the Santiago regime, financially speaking at any rate, is up against the wall. It has asked foreign creditors for a stretch-out of repayments on $1.3 billion of its indebtedness, including $20 million which is overdue the Export-Import Bank. In December, a mission headed by the Chilean Ambassador to Washington held informal talks with representatives of 44 U.S. banks which hold over $200 million of the nation's debt.

At the bankers' behest, the Chileans then submitted their rescheduling plans to the Paris Club, a 16-nation group of central bankers, which, in turn, called in the International Monetary Fund; a group of IMF experts now is in Santiago for an on-the-scene study. Another meeting of the Paris Club is set for March 30 to hear the IMF report. Meanwhile, Dr. Allende won't admit publicly that Chile can't pay its debts. Although it has the highest per-capita debt of any country in the world, the President insists that his country remains credit-worthy.

Like the escudo, which has suffered debasement perhaps a hundred times in the past decade, Dr. Allende's statements can scarcely be taken at face value. An ardent Communist, he is fond of deriding the low estate to which the dollar has been brought by U.S. "imperialism," i.e., its penchant for giving away money to countries like Chile (which got $1.3 billion in the decade of the 'Sixties). Yet the economic and social deterioration of Chile in the 16 months since Dr. Allende's left-wing coalition took office has been even more rapid than that of Cuba under Fidel Castro. Inflation is rampant, industrial production is sagging along with farm output, and consumer goods—including food—are in critically short supply.

The country is being sustained by imports, but reserves of foreign exchange are nearly exhausted; unless new credits are extended, that flow must soon stop. Traditionally gentle and law-abiding, Chileans are starting to take up arms against each other, and the army soon may be compelled to step in and restore order. In the circumstances, to help out the Allende regime would be tantamount to throwing good money after bad. In their own interests as well as those of the hapless people of Chile and the whole non-Communist world, the bankers ought to take a hard line.

All the more so in view of the record. Over the past year, the Allende regime has expropriated nearly $850 million of Yankee assets, including the huge copper mining properties of Anaconda. Kennecott and Cerro Corp. At first a facade of legality was maintained, as when Bethlehem Steel was "persuaded" to sell its iron mines for $20 million. However, when Ralston Purina's plant and that of Nibco Inc., a small valve manufacturer, were seized (Barron's, April 19, 1971), there was scant pretense that compensation would be forthcoming. In quick succession, properties of ITT, First National City Bank, Bank of America, Ford Motor and duPont were swallowed up.

Last May, the Chilean Congress adopted a Constitutional Reform giving Sr. Allende the right to take over the copper mines. Cerro lost its 70% interest in the Andina mine, worth $18.3 million, but was promised compensation. However, nothing is to be paid Kennecott for its 49% equity in El Teniente, valued at $150 million, or to Anaconda for its various properties. Dr. Allende insists that their investments have been cancelled out of $774 million in "excess profits" earned by the companies in Chile over the years. The $92.9 million debt to Kennecott, on which it filed suits in Federal Court, was acknowledged, but Dr. Allende says Anaconda's claim for $171.4 million in loans to a previous administration has been denied under terms of the Reform Act. In its 1971 annual report, Anaconda took a $302.5 million write-off on its Chilean holdings.

Like its words, Chile's bonds—or other obligations—scarcely inspire confidence. On the contrary, as Kennecott's example suggests, the Allende regime respects nothing but legal force. The bankers should crack down, seize the Chilean government's assets abroad, and attach every pound of copper landed within their national jurisdiction. To be sure, after Anaconda got a court order freezing the bank accounts of two Chilean government-owned corporations, Santiago halted a shipment scheduled for Anaconda's refinery in Perth Amboy, N.J. Nevertheless, Chile has little choice other than to sell its copper on Free World markets. The Soviet Union has been buying Cuban sugar through barter deals; it isn't likely to pay cash for over half-billion dollars worth of unneeded copper each year in order to subsidize. Dr. Allende's experiment in democratic Communism.

In any case, the state of affairs in Chile is bound to go from bad to worse. In the classic Marxist pattern, Dr. Allende's government long since has ceased to publish economic data, as called for by its obligations to the IMF. What statistics are furnished are rigged, as when Santiago claims the rate of inflation has been cut to 18%; the figure is based on government-fixed prices for goods which can only be had on the black market.

However, before the curtain of censorship descended last August, the Central Bank's reserve assets had dropped to less than $280 million from nearly $500 million a year earlier. Authoritative sources say that recent losses have run at nearly twice last summer's pace, which would put current reserves in the neighborhood of $60 million—barely enough for two months. Foreign debts contrariwise, exceed $3 billion; the $1.3 billion which Chile seeks to reschedule are only the most pressing. Chile, in short, is bankrupt.

Not merely in dollars-and-cents, but also in political and social terms. On this score, the effects of Dr. Allende's policies have been graphically described by British reporters for The Financial Times and The Economist. Travelers arriving at the Santiago airport are besieged by black market operators seeking to buy dollars at 70 or 80 escudos each (vs the official rate of 28 to $1). The crowded night train from Santiago to Rancagua has only five or six light bulbs burning; most passengers sit in darkness. In industry, labor discipline has collapsed; many workers put in only a three-day week.

Yugoslav technicians are being imported to replace Chileans who have quit job and country. In the provinces of Cautin and Linaries, small landholders have formed vigilante bands, called the Guardia Blanca, to fight Mirista (revolutionary left) guerrillas who have been taking over farms at gunpoint. Recently about 60 Guardia Blanca men, wielding tommy guns, recaptured a farm in Cautin after a brief skirmish. The Economist calls it the opening battle in the Chilean civil war and predicts that, if it spreads, the army will be forced to take a hand. In any case, Chileans already have indicated at the polls their growing disenchantment with the Allende regime. In two recent Congressional by-elections, opposition candidates won handily. The vote was a major setback for the regime, although the Interior Ministry called it only "a strong tremor, Grade 4, but short of an earthquake."

As things are going in Chile, the tremor may soon turn into a full-scale political upheaval. Already, Dr. Allende is sweeping "democratic Communism" under the rug and resorting to more traditional and repressive methods; the leader of the opposition National Party has been indicted for "subversion and sedition." A year ago, Barron's said, "Chile is plunging hell-bent down the road to poverty and serfdom." The poverty is here and now.

SHIFTING ECONOMIC AND POLITICAL PATTERNS IN THE UNITED STATES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. LENT. Mr. Speaker, on March 15, 1972, Herbert P. Patterson, president of the Chase Manhattan Bank, addressed the International Financial Forum in Tokyo on the shifting economic and political patterns in the United States. So that my colleagues may have the benefit of Mr. Patterson's remarks, I am enclosing them in the RECORD at this point:

THE SHIFTING ECONOMIC AND POLITICAL PATTERNS IN THE UNITED STATES

(By Herbert P. Patterson)

Good morning and welcome to Chase Manhattan's International Financial Forum.

Although this is the first time we have presented our Forum in Tokyo, Chase Manhattan is certainly no stranger to Japan. Our Chase branch bank in Tokyo is celebrating its twenty-fifth anniversary this year, and we maintain another branch in Osaka. Additionally, we share with your Mitsubishi Bank the sponsorship of the first joint-venture leasing firm to be established in Japan, Diamond Lease Co.

One of your distinguished Japanese business leaders—Chujiro Fujino—serves on our International Advisory Committee. His predecessor on the Committee was the respected Taizo Ishizaka. In fact, two years ago, the full Committee met here in Japan and it was a memorable occasion—both from the standpoint of the stimulating business discussions and of the sightseeing attractions of your lively "Expo 70."

Understandably, our bank has been following with keen interest Japan's role in recent developments on the international monetary front. Revaluation of the yen represented a substantial sacrifice for your country in the interests of worldwide cooperation.

In the recently concluded bilateral negotiations, Japan made concessions that our Treasury Secretary, John Connally, indicates may help our trade situation to the extent of $600 million a year. Both actions by your country set an outstanding example of the kind of maturity and collaborative spirit which I think is essential to the future expansion of international trade and investment that all of us seek.

We shall be talking about some of these developments today under the Forum's broad theme of "The Emerging Shape of the Seventies." Our theme was chosen deliberately because the first two years of the decade have differed sharply in some respects from the advance forecasts, and a "second look" seems appropriate. In the course of today's discussion, we plan to cover such topics as the world financial structure, the new technology, the outlook for U.S. equity markets, and the prospects for the U.S. economy generally.

I must tell you that my colleagues and I have had some concern about our presentations since reading that one of your Japanese banks has compiled a "Happiness Index," based on several factors including income, crime, paved roads and parks. This Index purports to show that the United States is a 2.53 times happier place than Japan. If our Forum presentations are to be completely candid, I'm not altogether sure we can live up to our "Happiness Index" reputation.

Some of our observations may strike you as singularly unhappy commentaries on the past or doleful forecasts of the future. This is particularly true in my own case because my assignment is to try to set the stage for subsequent presentations by assessing the shifting economic and political patterns in the United States. A difficult assignment at any time, it is especially so at the start of a presidential election year. The political oratory often tends to obscure issues rather than clarify them, and this process is already underway. So let me try, at the outset, to suggest some factors that seem to me basic to any realistic assessment of the American scene.

1. Even allowing for the exaggerations of political oratory, the fact is that the public mood in the U.S. is undergoing profound changes.

2. One of these changes has been a turning inward in the U.S., as elsewhere, toward domestic problems that daily assume more and more awesome proportions.

3. Another change has been a growing recognition that even the United States, with its vast resources, cannot do everything it might like to do, all around the world, at the same time.

4. There is reason to believe that, in the 1970's, the Western industrial nations and Japan must develop a new community of interests, based on urgent domestic concerns, to replace the foreign policy concerns that bound them together in the 1950's and 1960's.

Now let me back up a bit and elaborate on each of these points.

I would suggest that there are several developments which have tended to make your country as well as my own more inward-looking. One of these is that, over the past twenty years, all our societies, in varying degree, have become more responsive to the popular will. The fact is that the man in the street is rarely interested in international affairs in the traditional sense.

Rather, he is interested in his own economic and social well-being—and he is all the more interested in these things as he gets a greater taste of them. Someone has perceptively remarked that the revolution of rising expectations might equally well be called the revolution of rising frustrations. In nearly all countries today, the decibel level of dissatisfaction with prevailing conditions is steadily mounting. The precise causes of this dissatisfaction vary, but to me the similarities of our domestic concerns are far more striking than the differences between them.

To cite the most obvious example, we in the United States have in recent years become increasingly concerned with the pollution of our air and water. More and more Americans, in fact, have come to hold that the preservation and restoration of the environment should be a primary national objective. Now the same theme is being sounded in Japan. And without extraordinarily farsighted management, I suspect that it is only a matter of time before pollution becomes a key topic in other swiftly industrializing areas of Asia.

Another complex of problems, which many of us already have in common, involves the unhappy by-products of rapid urbanization. The challenge of providing adequate housing for low-income families bedevils Singapore and Hong Kong as well as New York. The proliferation of automobiles puzzles the city fathers of Tokyo and Bangkok as well as those of Los Angeles.

Beyond all this there is the youth explosion. How do we physically accommodate these millions of youngsters who feel entitled to more education than their parents had? Having educated them, how do we find them a role in society which makes them feel like something more than interchangeable parts?

I will not prolong this list of common problems though I could easily do so. The

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point is that they all spur us to devote less attention to affairs outside our national boundaries.

This, as I see it, raises a crucial question. In the 1950's and 1960's, our various nations developed a strong community of interests founded on common international problems. Can we, in the 1970's, find the basis for a similar community of interests in our mutual preoccupation with domestic problems?

I don't suppose that anyone can answer that question with absolute assurance. But, clearly, the answer that ultimately emerges will do much to shape the nature of relations between your country and mine in the decade ahead. Equally clearly, it seems to me, those relations will be different from what they were in the decade behind us.

It is currently fashionable to debate whether America is lapsing into isolationism—or rather slipping into a strange new state of mind known as neo isolationism. The significant point is that almost everyone agrees that the public mood in the U.S. has altered radically—and in clearly definable ways—in recent years.

Perhaps the single most important thing to bear in mind about the U.S. is that it is a nation which over the past twenty years has suffered a series of unsettling experiences. To begin with, we have had the drive for equality for blacks—the civil rights revolution—which some say has gone too far and others not far enough. Along with this we have experienced our nation's entry into the post-industrial age, and for the first time, more Americans are now engaged in providing services than in producing goods. This fact, together with technologies that grow more complex by the day, has changed the conditions of employment in America to the point where unskilled labor may soon become obsolete. Partly because of the new demands of the labor market, more and more young Americans are staying in school longer than they used to—a factor that was one of the causes of the widespread unrest that until lately rocked American campuses.

By themselves, the developments I have outlined would be enough to shake any society. But on top of all these, we have had the Vietnam War. Whatever its merits or demerits in terms of foreign policy, the war has undeniably had a heavy impact on the domestic mood in America.

Our experience in Vietnam has raised—in the minds of many Americans—grave questions about whether the U.S. should provide manpower in the future to support those who may be unwilling or unable to support themselves. It has also raised questions about the way U.S. foreign policy has been conducted. Congress is beginning to assert its claim to a major voice in the making of foreign policy. In so doing, it is not acting simply out of pique or a lust for power. Rather, it is serving as a barometer of the national mood which is one of its proper functions.

The phrase "national mood," of course, is a vague one and the concept which it embodies is hard to describe with precision. What can be defined with some accuracy, however, are the major political forces now working upon the Congress. In the matter of foreign policy, there are several strong currents running in the U.S.—currents which although essentially different in nature, have combined in a curious and potent alliance.

On one side, we have open skepticism or outright hostility of an increasing number of intellectuals toward U.S. political and economic involvement abroad. This attitude is shared, primarily as a result of the Vietnam experience, by many of our politically active young people. This year no politician, who feels he must have a progressive image, can ignore the strong sentiments which the intellectuals and the young feel about U.S. involvement overseas. The burden of those sentiments has been summed up by Senator William Fulbright who says the U.S. must stop playing policeman to the world.

But the young and the intellectuals are not the only Americans who have become disillusioned with the U.S. role in world affairs. For considerably different reasons, many blue-collar workers and a significant segment of the business community have abandoned their onetime commitment to an activist foreign policy—or have felt encouraged to reassert their long-standing hostility to such a policy. Convinced that the rest of the world has been taking advantage of the U.S. economically, these groups have sparked both a resurgence of protectionism and a mounting outcry against the principle of foreign aid.

I do not want to overstate the case. A great many Americans are still persuaded that the U.S. should continue to play a very active role in world affairs. A great many more are capable of being so persuaded under proper conditions. But it is undeniable that the combined weight of the dissenters is already exerting a visable and powerful influence on my country's international posture.

This influence was very much in evidence during our recently concluded debate on the foreign aid appropriation. At one point, the Senate moved to kill the entire program. A Senator told me later that he might have voted in favor of the bill if he had known how badly it would be defeated. In the end, Congress agreed to an outlay of a little over $3 billion which is a billion less than President Nixon had requested.

In the matter of trade policy, the prospects seem somewhat less clear and a little more disturbing. Barring extraordinarily bad management by all our governments, I do not foresee any general return to protectionism in the U.S. But in an election year, even those Congressmen who have in the past fought staunchly for the liberalization of trade are under particular pressure from constituents who argue that their livelihoods are threatened by foreign competition. Inevitably, some of them will surrender to such pressures and support restrictive measures on products of particular interest to them. It would be less than realistic to think that the Administration itself will not be sensitive to the protectionist mood of certain segments of U.S. society. My hope is that the damage will be confined to a few very limited areas.

Given all this, what course can those who care about U.S.-Asian relations intelligently pursue during the year ahead? What longer-range course would seem to be indicated for the decade of the Seventies as a whole?

As far as political matters are concerned, much has been made in the world press of the reduction of the U.S. military presence in Asia. It is less often noted, unfortunately, that the main U.S. objective is to help defuse Asia's potential flash points, to ease tensions, and to bring about a stability that will make U.S. troops unnecessary in the Far East. Far from abdicating its international responsibilities, the United States is trying to exercise them in new and perhaps ultimately more fruitful ways that are consistent with the emerging political realities. The recent Nixon trip to Peking was an effort in this direction to build a new pattern of accommodation and coexistence.

Clearly, however, economic rather than political issues will most dramatically affect relations between the U.S. and Asia over the next year, and here some rather more specific prescriptions suggest themselves. Those of us in the U.S. who believe in a free world trading system must do all we can to preserve and strengthen the U.S. commitment to that system. But politically, as I have indicated, we will be to some extent on the defensive. For this reason, the more the nations of Asia open their markets to American products, the better off we will be in making the case for freer trade.

From the perspective of the entire decade, there is another vital factor to consider. Virtually every knowledgeable observer of American politics agrees that in the years ahead, the total amount of U.S. foreign aid—both military and economic—will diminish significantly.

For the developing countries, this will mean that if they hope to employ U.S. capital in the development of their economies, they will have to rely far more than they have in the past upon U.S. private investment. In my judgment, it would be wrong to regard this as an adverse development. My experience has been that, in many fields, private foreign investment is more beneficial to a developing country than government aid. That is why I have been especially distressed to see the self-defeating treatment accorded foreign investors in places such as Chile, Peru and Zambia which so urgently need outside investment.

Great possibilities for progress through private foreign investment exist in Asia. Singapore with its imaginative programs to attract foreign capital, has already demonstrated that. So has Hong Kong. And Indonesia, in my estimation, is now in the process of demonstrating it again. But as these experiences underscore, such progress cannot occur if foreign trade and investment are unduly restricted or if foreign investors have reason to be uneasy about the security of their investments.

Not long ago on the streets of New York, I was exposed to a thought-provoking sight—a Toyota Corona whose rear window bore an American flag decal. As you may know, decorating one's car with the American flag has a particular symbolism in the U.S., reflecting a belief that we should start paying more attention to our own interests and stop using our resources overseas. Yet, while he presumably held all these sentiments, the owner of that Toyota clearly felt that his personal interest was best served by buying a Japanese-made automobile.

As I watched the Toyota disappear down the street, it struck me that this was a fascinating vignette of the problem we face. Americans, by and large, subscribe to the principles of free trade—provided everybody plays by the same groundrules. But they dislike being taken advantage of. In the past, for example, they have been generally sympathetic to the argument that "infant industries" abroad need time and protection to develop their competitive strengths. However, fifteen or twenty years later, when they see the same infants still calling for a special formula, they tend to react with resentment and to feel that their self-interest is in jeopardy. Much as I would hate to see it happen, I'm afraid that unless a good many Americans sense that other nations are cooperating in the solution to economic problems, we may reach a point where the fellow I mentioned will remove his decal from the Toyota and attach it to an American compact instead.

None of us want this to happen, so we in the United States and you in Asia must search for a community of interest based on our domestic preoccupations. Virtually all of those preoccupations are in some sense economic. I am profoundly convinced that in many areas, private investment is the most effective instrument there is for meeting economic needs. Thus, in the development of a new matrix of mutual interests between the U.S. and Asia, I believe that decisions which are essentially economic and which relate directly to the nature of the international economy we hope to construct, will be of crucial importance. And those decisions rest as much in Asian hands as in American hands.

A TRIBUTE TO A DEDICATED MAN

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. KEITH. Mr. Speaker, it is with a great deal of reverence that I mention the name Bruce Kempton Jerauld. Bruce Jerauld has recently retired as the treasurer for Barnstable County—Cape Cod, after serving for over 40 years in a capacity that has seen the area go from a rural community to one of the most rapidly growing counties in the country.

I cannot begin to describe Bruce Jerauld's dedication to his job; how he began with his wife serving as a part-time clerk; how he worked weekends and holidays and of his undying interest in the progress of Barnstable County. His honesty—beyond question—is such that we should all strive for.

I am proud that I can call Bruce Jerauld a good friend. We have worked together both professionally and on a personal level, and I have learned a great deal from him. He has helped his constituency faithfully and those of us in the area owe him a debt of gratitude. An indication, perhaps, of how much this man is admired, was the attendance at a recent testimonial dinner for him. Hundreds of people from southern Massachusetts attended.

Mr. Speaker, I could talk about Bruce Jerauld at some length, however, an article about him written by an old and dear friend of mine, Francis I. Broadhurst—an interloper who has become a Cape Codder—is most descriptive and would be good reading for my colleagues.

The article follows:

BRUCE KEMPTON JERAULD

Had anyone told Cap'n Ensign Curtis Jerauld at the turn of the century that his children would devote more than 100 years to service in Barnstable County Government, the skipper of the Barnstable trap fishermen might have considered the thought amusing.

But it has happened on Cape Cod in which the year 1972 brings to a close a half century the name "Jerauld" figured prominently in county affairs.

Bruce K. Jerauld has submitted his resignation as treasurer of Barnstable County to the county commissioners, effective Feb. 29. Though he has offered to stay on longer, if necessary, to break in his replacement, his resignation marks the end of a 42-year career for Mr. Jerauld who will be 82 July 7.

His sister, Myra Jerauld, retired several years ago as assistant register of probate for Barnstable County after 51 years with the county; and she was succeeded by their youngest sister, Annabel Jerauld Trayser, who retired last year after serving the county for 26 years.

Together, the three Jeraulds—Bruce, Myra, and Annabel—piled up 119 years of dedicated service to the people of Cape Cod. It is quite a record.

A story on the whole family would make fascinating reading; but this one will be limited to Bruce, the county treasurer. I have known Mr. Jerauld since I first came here and was assigned to cover the courthouse for the Cape Cod daily. When the county commissioners asked me if I would write a story on his retirement, I felt honored because Mr. Jerauld, to me, epitomizes the ideal public servant.

Where does one begin writing a story about a man like Bruce Kempton Jerauld? With his schooling? Barnstable High School, 1908; Pratt Institute, Brooklyn, N.Y. 1910. He studied to be an engineer. He came back to Cape Cod in 1917 to work at the once prosperous (now defunct) Keith Car Works in Sagamore.

"Oh I had no particular title," is his modest recollection. "I worked for and with the manager of the works. I was his "handyman" just doing whatever he wanted me to do; just one of the assistants."

He admits reluctantly that all of the paperwork for the freight car manufacturing firm had to cross his desk first, but he shrugs that off reminding one that "It didn't mean that I had any authority. I didn't." And Mr. Jerauld is so much the courtly, quiet mannered gentleman that one does not dispute him.

We could also start the story of Bruce Jerauld by telling of his marriage on Oct. 28, 1914—a wonderful marriage that spanned 51 years—to Jennie Lucile Thayer, Milwaukee born, but with familialties to Cape Cod. Her grandfather was John Otis Thayer.

Bruce's beloved Lucile died in 1965, but she left him four sons: Bruce Kempton Jr., who works for the sheriff's department; Frederick Thayer, a Manomet businessman; Gordon Otis of North Palm Beach, Fla., an engineer; and Commander Philip Eldredge Jerauld, chaplain, U.S. Navy. Cmdr. Jerauld was the Episcopal minister whose prayer, offered on the deck of the aircraft carrier Iwo Jima welcoming our astronauts back to earth from their moon landing, went around the globe on television.

It was an occasion of quiet pride for his father. "You know," he said, "Philip has had requests for that prayer from all over the world."

Another approach to the kind of man Bruce Jerauld is, would be to tell about his civic involvement—treasurer of Barnstable Unitarian Church for 25 years; two terms as temporary treasurer of Barnstable Fire District; member of Barnstable Comedy Club since 1927, president four years, treasurer for ten, still an active member in the Cape's oldest amateur theatrical club.

But this is all part of the personal, the private side of Bruce Jerauld. His most outstanding contribution has been as a public man, quietly and effectively administering to the complex fiscal affairs of Barnstable County.

He was first appointed to the county treasurer's post on April 23, 1930, to fill the unexpired term of Alexander Stewart of Hyannis. He was appointed by County Commissioners Benjamin Bourne of Bourne, Milton Leonard of Osterville and Joshua Nickerson of Chatham.

Mr. Jerauld stood for election the following November after being nominated by the Republican Party the preceding July. He had no opposition for election. That phenomena was to occur for the rest of his career. No candidate ever opposed Bruce Jerauld in either a primary or a general election. He did his job too well.

When he began his public career in the Village of Barnstable, (where he lives to this day in a modest, cedar-shingled Cape half-house) Cape Cod was a rustic, albeit historic, outpost.

"I've lived and seen this town develop from horse-and-buggy days to the space-age. I can recall when Main Street was nothing but a sand road which turned into a sea of muck when the frost came out of the ground each spring. There was no water, no electric lights. The telephone was just coming in. There was no radio, no automobile, no snowplows, men shoveled out the street by hand in winter."

Mr. Jerauld saw the beginning of the tourist industry and the decline of farming, fishing, and manufacturing as the base of Cape Cod's economy.

His annual salary when he assumed the county treasurer's post was $936 and his staff consisted of his wife, Lucile, as a part-time clerk. Her salary was $95 for the first year she worked. ("She stayed on 'till 1933 when they gave me a full-time clerk.")

The total county budget was $366,748 in 1930. There were only a handful of county employees then and the county facilities were limited. In Barnstable Village there was the one granite courthouse building housing superior, probate and first district courts, the registry of deeds and most of the county offices.

There was a small jail and house of correction on the site which also housed the State Police contingent. Barnstable County Hospital in Pocasset, today a million dollar operation with a child guidance clinic and an alcoholism clinic in addition to the regular 82-bed hospital facility, was a small TB sanatorium in those days with an operating budget of $50,000.

Second District Court was only a part-time court when Mr. Jerauld took office, and it operated out of rented quarters.

Today, Mr. Jerauld has a staff of eight, including an assistant treasurer. The county, with 326 full and part-time employees, has become one of Cape Cod's major employers; and it had an operating budget in 1971 of just under four-and-a-half million dollars.

During his tenure of almost 42 years, Mr. Jerauld has seen the county's physical plant more than triple; its budget increase 12 times the size it was in 1930.

By virtue of being county treasurer, Mr. Jerauld is treasurer of the Barnstable County Retirement System which covers all municipal employees on Cape Cod and the Island of Nantucket. Only the town of Falmouth is not included. Mr. Jerauld regards this system with a great deal of professional pride.

"When I took office," he said, "the assets of the County Retirement System were only a few hundred dollars in a savings bank. Today they are approximately $6 million. And this is a very important part of my job."

In his handling of the county's finances, Mr. Jerauld has exhibited an uncanny ability for ferreting out the lowest possible interest rates when it comes time to borrow money; but when he has to invest county money, he invariably gets the best return.

When you ask him about it, he shrugs it off and comments that the law spells out that he must limit his investments to government bonds, certain banks and certain cooperative stocks. But those who have watched him work over the years will tell you that Bruce Jerauld has developed the art of finding the best investments without fail.

"I will do a little boasting," he told me. "Since we started our latest building program, we have taken in approximately $350,000 in investments. When we borrow money for building construction, we don't have to spend it all at once. We can take part of it that isn't committed and invest it. That's by statute."

And this is a refrain which you will often hear from Bruce Jerauld: "That's by statute". The law has been the Bible for this public servant for 42 years and he has made a practice of never bending it, twisting it or stretching it.

"When it comes to disbursing the public's money," he said, "you can have no friends. There is only the law, the statutes. A treasurer's duties are to collect the money due the county and to disburse it according to the statute. There is a multitude of work in that short sentence; but that's it, pure and simple."

Bruce Jerauld's successor, who will be appointed to fill out his term by vote to the county commissioners will come into office at the same salary Mr. Jerauld receives today—$14,782 annually.

To this successor Mr. Jerauld imparts this

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bit of advice: "He or she should never be afraid to work on holidays, Saturdays or Sundays. Whoever gets this job has a full-time job on his hands. It is going to require all the time a man can give."

This has been Bruce K. Jerauld's credo for 42 years and he has given his time unsparingly. It is the credo of a man for whom public service has not been a way to make a living, but a dedicated way of life.

URBAN REHABILITATION ACT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. WALDIE. Mr. Speaker, 6 million substandard housing units are currently in use—700,000 of these in California alone—and the rate of abandonment in New York City exceeds the rate of housing production.

When we consider the present housing shortages for low- and middle-income families across our Nation, and the realistic expectations for housing production—it appears very clear that unsafe, dilapidated inner-city dwellings will remain the only homes for millions of Americans for sometime to come.

To date national housing efforts have focused primarily on the production of new housing, while neglecting thousands of soundly constructed buildings which are abandoned annually because of bad plumbing, wiring, heating, or rats.

I am introducing a bill which is designed to improve the living conditions of people now occupying substandard deteriorated buildings.

Essentially, this bill permits landlords and owner-occupants of single and multifamily units to refinance their mortgages over longer term periods at lower rates for the purpose of securing additional funds for basic housing repairs and improvements.

This bill would provide the means to make needed repairs and improvements, without increasing the monthly debt service payments—which is the major economic factor in housing deterioration in the inner city—the residents cannot afford to spend money on their property because all elements of housing costs—financing, maintenance, operation, and property taxes—have been rising at an alarming rate over the past decade.

The key to this housing program is the provision of FHA guarantees to assure the availability of building improvement loans in low- and moderate-income areas. The guarantee will both assure availability of such loans and reduce the interest rate charge for such loans.

In addition, the combination of FHA guarantee and Federal administrative assistance to assure buildings are properly maintained, will enable lenders to charge lower interest rates.

It is essential to the future of our cities—in order to combat housing abandonment and neighborhood decay—that we provide means for stabilizing existing housing units at a modest cost while continuing present housing production efforts.

I believe this bill can enable us to accomplish our goal—providing and enhancing housing for many low- and middle-income Americans.

SUFFER, LITTLE CHILDREN

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BRAY. Mr. Speaker, the welfare demonstration scheduled for this coming Saturday in Washington has overtones of the Pied Piper of Hamelin legend. There are some variations, however. This time, the rats will be leading the children.

It was truly shocking to read the following, which appeared in the Wednesday, March 22, Washington, D.C. Post:

A cartoon of President Nixon appearing with hungry children and captioned 'Nixon Dosen't (sic) Care,' is being distributed by teachers this week in all Washington elementary schools as part of organizing efforts for a demonstration here Saturday against administration welfare policies.

Newspaper stories make it quite clear this is done with full knowledge and approval of the District of Columbia school board. The District of Columbia Superintendent of Schools has instructed principals and teachers to distribute literature prepared by the organizers of the event. I must add, however that one Board member has said the literature is propaganda, and said:

It is sinful to use children, especially in the elementary schools, for political exploitation.

Around 20,000 leaflets have been distributed through the Washington school mail service. One of them begins with the declaration:

Youth and children suffer. Voiceless, unorganized, and legally subhuman, they have suffered quietly.

There has been a tremendous amount of totally irresponsible demagoguery connected with the pending welfare measure. It has turned into a cynical bidding match. The measure as it now stands provides a guaranteed income of $2,400 for a family of four; but the marchers will be demanding an increase to $6,500.

The beginning to the leaflet that I quoted above, and the cynical and callous attempt to utilize District of Columbia schoolchildren—down to and including kindergarten level—for this demonstration may give some the impression that the District of Columbia is a special stepchild of the American Republic. The usual story and complaint is that the District and all its inhabitants are condemned to a poverty-stricken, hand-to-mouth existence, because a greedy and stingy Congress will not provide the money needed. Nothing could be further from the truth.

The truth is that the District of Columbia is at or near the top of all U.S. cities of comparable size—500,000 to 1 million—in almost every financial category a person could name. As pointed out last November in a report from the House Committee on the District of Columbia on the District of Columbia Revenue Act of 1971, Washington stands No. 1 in the following categories: Total city budget; general city expenditures; total expenditures for common functions; per capita common functions expenditures; police, sewage, parks, and recreation; number of police per 1,000 population; per capita costs for police; per capita tax spending; operating costs per pupil in public schools; percent of population employed by local government; total number of city government employees; personal income per capita, $5,519.

But on taxes, for estimated tax burden for major taxes, for a family of four, in the Nation's 25 largest cities in 1970—and this means income, real estate, and sales taxes—Washington's rank is: No. 19 on $5,000 income; No. 18 on $7,500 income; No. 15 on $10,000 income; No. 14 on $15,000 income; No. 13 on $20,000 income; No. 12 on $25,000 income.

The report also quotes testimony from one member who, it points out, has supported the District almost 100 percent in its revenue requests:

Officials may "poor mouth" at budget times but they have obtained Federal funds for many new programs and have vastly expanded parks and pools programs, three low-tuition institutes for higher education where there was recently only one, and the cooperation of the expanded Capitol police, and the newly created executive police. City residents also enjoy the federally supported Howard University, the Federal extension service, land grant status for the Federal City College, free programs and concerts and other entertainments and direct access to museums and other attractions that others travel many miles to see. I know of no major District program that has ever been cut back from one year to the next. Nor do I know of any time when District officials have seen fit to drop an old and marginally productive program in order to have the funds for something new that it is seeking.

No—Congress has not played Scrooge with the District, in spite of attempts by demagogs to make it look that way.

AMOUNT OF INCOME DISCLOSED

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HUNGATE. Mr. Speaker, in accord with my regular practice since coming to Congress, I again disclose my income as shown by my most recent income tax return for the year 1971, due and filed in the year 1972.

My joint personal income tax return, form 1040, line 12, shows my congressional salary of $42,500. Lines 14 and 15 list other income of $2,073 for a total income on line 16 of $44,573. Less line 17, adjustment for allowed congressional living expenses attending Congress in Washington, D.C., $3,000, adjust gross income, line 18, is $41,573.

Itemized deductions, form 1040, part IV, line 47, are $5,452, consisting primarily of State and local taxes, real estate and personal property taxes of $2,466.69, interest payments of $1,587.08, and charitable contributions of $781.50.

The total income tax and surtax, form 1040, line 21, is $9,450, plus a self-employment tax of $76 from line 22, form 1040. The total tax, form 1040, line 23, is $9,616. The total Federal income tax withheld, line 24, form 1040, is $8,885.71, plus 1971 estimated tax payments, line 25, $502.16.

Total payments are $9,388 as indicated on line 27, form 1040. This leaves a balance paid with the return of $228.

The principal sources of income, aside from congressional salary, were interest on savings and loan deposits, U.S. Treasury note, executor commission, and lecturer fees in excess of expenses incurred in connection therewith.

Neither my wife nor I own any stocks or bonds.

Campaign funds raised for me are handled by committees and held in trust so that I have no direct control over such funds.

INNOVATIVE EDUCATIONAL PROGRAMS IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BEGICH. Mr. Speaker, there is a great deal of talk about the quality of education being provided our young people today. Unfortunately, however, there are many more complaints than suggestions by those outside the educational system, and more promises than action by those responsible for the level of educational opportunity available in this country.

For the benefit of all to see, I would like to include in the RECORD at this time, information on two projects ongoing in Alaska that speak well for educational administrators and communities alike, who are seeking alternatives to improve the quality of education for the students of our State.

Stanley L. Bippus, superintendent of the Craig City School District feels that schools cannot be immune from their responsibility to both students and their parents. Mr. Bippus also believes that graduating high school students are often unprepared to meet even the simplest demands of adult life. The following article which appeared in the Department of Education Alaska Newsletter tells of this innovative program.

Dan Turner, superintendent of Alaska's Dillingham City Schools, made it possible for high school students to participate in a foreign studies project to encourage students to continue their education after graduation. Forty-seven high school students from various parts of Alaska are now in Japan on such a program. A recent article in the Anchorage Daily Times gives us a closer look at this project.

The articles follow:

INNOVATIVE EDUCATION

Of all the currently talked about innovations in secondary education, few have been seriously attempted in Alaska, although we have one of the least restrictive administrative manuals of any state.

Conversations with principals and visits to various schools have revealed a few Alaskan high school classes, teachers and programs which vary from the old monotonous six-period, two-semester, teacher lecture approach. Among the examples we might mention are: the Phase Elective English programs; the Dimond on-the-job intern plan, Seldovia's study packages; Dillingham's aviation and Japan study programs; and Juneau's Community College Project Career's individualized program. For this article I would like to explain more about the exciting happenings which are going on at the Prince of Wales High School in Craig, under the imaginative guidance of Superintendent Stan Bippus who is, incidently also the town mayor.

Let us look at the key programs which Craig is offering (and planning to offer). They include 3-week mini-courses for grades 9–12 and student travel and exchange programs with Texas, Colorado, California; independent study by contract; and school-wide, one-week projects. In the planning stages are graduation by approved programs and accountability contracting.

Most mini-courses meet for one hour per day for fifteen days. Some last all day, such as vocational and travel programs. One-hour mini-courses are worth 1/12 credit when completed. Additional credit is given for the more intensive courses.

Extensive use is made of community resource persons and interested staff members, as well as students, to teach these courses. Example of successful courses taught in this manner this year include water skiing and scuba diving, halibut hook carving, macrame, welding, archery, piano, sex education and a host of other subjects. A course will be offered on any topic which four or more students request. To facilitate using community teachers, courses may be offered at night or on Saturdays.

There are four 18-week courses: algebra, geometry, bookkeeping and aviation ground school; hopefully the math programs can eventually be broken down into smaller "bites."

Grades are not given, but pass, fail and honors are used. This is similar to the method at Marion High in Everett, Washington, to which Craig has sent a teacher-observer to study their system of continuous progress. Scheduling is still on a trial basis and some criteria are being developed for the future. For example, a social studies mini-course will be mandatory every other session, and for junior high students, one language arts course each session. The Craig plan borrows some of the NASSP Model Schools ideas, modifies them to be mini-courses and the local situation.

Teachers and staff are not overly concerned about students having free and independent study time, but there is some community feeling that the time should be fully controlled by the school. Students may not enroll in or drop courses without parental approval. Students who drop classes must sign an acknowledgment that their graduation may be delayed.

The travel programs can be related to work-experience and job study, or can encompass enrollment in another, more traditional, school district program. Travel can be planned with parental travel and vacation, with or without credit. By timing these with mini-sessions, no one has anything to "make up" when they return in 3 to 6 weeks.

The one-week schoolwide projects which have been carried out so far include an environmental study with course work, house painting, clean-up projects, etc., and a landscaping project for the school grounds. Extensive support from the U.S. Forest Service and the community was used.

One of the factors to be kept in mind concerning the Craig program, with its upgraded elementary basic programs approach, its mini-sessions, its community involvement and its other innovations, is that it is done within the normal school financial support program. Craig administrators are not saying, "If we just had the money to . . ." They have gone ahead, planned and implemented their program. The Craig City School District is to be highly congratulated for its progress, initiative and leadership.

ALASKAN STUDENTS PREPARE FOR DEPARTURE TO JAPAN

Forty-seven high school students from various parts of the state are in Anchorage today preparing to leave Friday for a semester of study in Japan.

The students, including 11 from the state boarding home program, 13 from state-operated schools and 23 from the Dillingham city schools, have spent the last two months in Dillingham taking basic University of Alaska subjects—and a Japanese language course—in preparation for the trip.

They arrived in Anchorage yesterday, and will depart for Tokyo Friday via Fairbanks.

While in Japan they will spend about a week in Tokyo and Nagoya in orientation sessions.

The group will then divide into three parts, with each group rotating between Nagoya, Kyoto and Hiroshima for two weeks at a time.

On May 1, the entire delegation will congregate in Tokyo for a week before returning to Fairbanks May 5.

The students participating in the trip were chosen by fellow students and teachers on the basis of scholarship and citizenship.

All of them were eligible for graduation at the end of the first semester. They will emerge from the foreign studies project with from nine to 12 hours of college credit from the University of Alaska.

Eight boarding home students who attended Anchorage schools last semester are among the travelers.

They are Ruthie Ramoth of Selawick and Lena Oksoktaruk of White Mountain, both East students; Joe Stats of Chevak and Edith Oktollik of Point Hope, both Dimond students; Percy Douglas of Shungnak and Bessie Philips of Kongiganak, Service Students, and Lou Williams of Mekoryuk and Anna Hanson of Alakanuk, West students.

The foreign studies project was begun last year by Dan Turner, superintendent of Dillingham city schools, as an experiment to encourage students to continue studying following high school graduation.

Last year 27 Dillingham students made the trip, and all of them are continuing their studies, two in foreign schools and 17 at the University of Alaska.

Robert Hall of Anchorage and Dillingham is directing the tour.

Hall said the Dillingham School District, the State Operated School System, the Boarding Home program, and the Bureau of Indian Affairs are all helping to pay for the venture.

The state already pays room, board and tuition for a number of the students, and gives grants to the school district to pay for others.

The cost is "not a great deal different than if we all stayed home," Hall said.

Six University of Alaska students, four of whom made the trip last year, are joining the tour as counselors and group leaders. Seven other adults will also make the trip, Hall said.

WHAT IS AN AMERICAN—AN EDITORIAL

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GOODLING. Mr. Speaker, just recently I had the privilege of attending a ceremony at the Pentagon at which Col. John E. Bex, USAFR, a constituent of mine from Mechanicsburg, Pa., was named a winner of a Valley Forge Patriots Award.

The award was presented on the basis of an editorial entitled "What Is an American," and Bex was selected for the award by the 1971 national awards jury of Freedom Foundation.

Colonel Bex currently is serving as Federal civil defense director for region II, operating out of the Office of Civil Defense in Olney, Md. Gov. John E. Davis, of North Dakota, National Director of Civil Defense, Department of the Army, made the award to Bex in his office at the Pentagon on behalf of the Freedom Foundation.

I am, indeed, proud that a constituent of mine was honored with such an award. Because Colonel Bex's editorial was extremely well written and pointed out that there are many unique qualities associated with an American, I insert his editorial into the CONGRESSIONAL RECORD and commend it to the attention of my colleagues:

WHAT IS AN AMERICAN

(By Col. John E. Bex, USAFR)

When America was just beginning, the people of the entire civilized world already began to ask, What is an American? The resounding answer soon came in the form of men like Benjamin Franklin and George Washington. An American was bold, inventive, pioneering, resolute, freedom-loving. It was he who raised the banner of freedom for the whole world to follow. His form of government, founded on a constitution combining the maximum amount of freedom with responsibility, justice with restraint, human dignity with human obligations, set the world standard for creative and enterprising democracy.

In the 19th century, the answer was further enriched when America began to produce artists and scientists of world stature; men like Whitman and Mark Twain, Edison and Wolcott Gibbs. An American was, at the same time, a true humanitarian, a man moved above all by a high moral purpose, who could give his life for a sacred cause. He was a man like Abraham Lincoln.

The answer has grown richer and more complex down through the years.

Yes, an American is materialistic, in the very best sense of the word, in wanting and being willing to work hard for the best and most beautiful things for himself and his family and to lend a helping hand to people in the rest of the world who are willing to help themselves to get these things too. Yet no one has been more steadily devoted to spiritual values, since he sees material goods as a sound foundation for things of the spirit.

He is the sort of man who built the greatest, most creative industrial power on earth, and, at the same time, has so loved the beauties of nature that he created the largest system of national and state parks in the world.

He has the pioneering spirit in his blood. He believes it is possible to combine the best of the old fashioned virtues of honesty, diligence, earnestness, and enthusiasm with the best modern ideas and skills.

He is a person who won for himself some of the finest and most beautiful land anywhere on the surface of the globe and then welcomed millions of newcomers to share this heritage with him.

No one is fundamentally more peace-loving than he and yet more willing to fight the good fight to defend his highest ideas. People everywhere know that, depending on whether they are for or against the cause of freedom, the American will be a loyal friend or a determined enemy.

But in the last analysis, "what is an American?" cannot be fully defined, since he hasn't yet found any inherent limitations. As Anne Morrow Lindbergh put it: "America, which has the most glorious present still existing in the world today, hardly stops to enjoy it, in her insatiable appetite for the future."

Americans are perhaps the first people in human history to have real faith in progress without limitation and to live and work in that faith. What's past is prologue.

DECREASE IN CRIME IN MOBILE, ALA.

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. EDWARDS of Alabama. Mr. Speaker, I have learned that the Mobile, Ala., Police Department has experienced a sharp decline in overall crime categories for the past 3 consecutive months, December, January, and February. The Mobile Police Department and Mayor-Police Commissioner Robert B. Doyle, Jr., deserve the commendation of this body for the fine work which has brought about this result.

Figures compiled by the planning division of the Mobile Police Department show that for the first 2 months of the year, as compared with figures for the first 2 months of 1971, major crime categories were down 20.8 percent, minor crime categories were down 23.1 percent and overall crime in the city was down 21.3 percent.

For January of this year compared to January of last year, major crime was down 26.9 percent, minor crime was down 18.5 percent and overall crime was down 25.1 percent.

For the entire 12-month period of 1971 compared to that same period for 1970, major crime was down 3.6 perecnt, minor crime was down 8.1 percent, and overall crime was down 4.6 percent.

The figures were compiled by the planning division of the Mobile Police Department.

I should also note the fine work of Mobile District Attorney Charles R. "Randy" Butler and his staff, whose aggressive prosecution of criminals is no doubt related to these figures. And I also recognize the innovative Turn In a Pusher—TIP—program, which I understand is producing good results in the area of drug abuse prevention.

I am proud of all this effort against crime in my hometown, Mobile, Ala.

FALSE SECURITY—PENSION REFORM

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HILLIS. Mr. Speaker, pension reform is an area of prime legislative concern to me and the residents of Indiana's Fifth Congressional District. Every week I learn of another constituent who will not be able to collect his pension for one reason or another, and this has prompted me to become active in this area.

Recently the Wall Street Journal ran a very informative article on pension funds, citing reasons for enacting protective legislation in this area. I am submitting this article for the study of my colleagues, in the hopes this Congress will be able to enact pension reform legislation before adjourning this year.

The article follows:

FALSE SECURITY: UNION MEN, WORKERS WORRY ABOUT SAFETY OF THEIR PENSION FUNDS—CRITICS ASSERT SOME FIRMS RISK EMPLOYEE'S BENEFITS FOR THEIR CORPORATE USE—PROPOSALS FROM SENATOR JAVITS

(By Michael K. Drafkin)

Item: A financially ailing company tries to borrow $1.25 million from a subsidiary's pension pool for use as operating capital.

Item: Another company has a policy of investing more than half its pension fund's assets in the company's own common stock and in the real estate of a company subsidiary.

Item: Yet another firm routinely dips into its pension funds for cash to make acquisitions.

Item: A retailer uses its profit-sharing fund as a "bank" to make mortgage loans to companies in which the retailer's top officers hold interests.

Does *your* company put its own interests ahead of the interests of its pension-fund beneficiaries, sometimes at considerable risk to these beneficiaries? Probably not. Observers say many, if not most, corporate pension funds are carefully managed and conservatively invested. Nevertheless, the question of pension safety is currently nagging numerous union officials, congressional investigators and government experts.

"It's not a question of illegal acts," says Gilbert Feldman, an attorney for the United Steelworkers in Chicago, Mr. Feldman, who has recently been involved in one tangled pension case, adds: "It's a question of the sly manipulation of trust money by those who have the investment authority."

Such alleged manipulations, critics contend, points up the lack of real controls over the investment of pension-fund money. Certainly, a sizable amount of money is involved: The nation's private pension plans currently control an estimated $130 billion of assets, and it's estimated that this total will swell to $214 billion by 1980.

MINIMUM STANDARDS

In order to institute further controls over the investment of pension-fund money, Sen. Jacob Javits (R., N.Y.) has introduced a bill to set certain minimum standards for the funding of pensions and the vesting of benefits. The Javits bill, which would require that a sufficient amount of money be set aside to cover promised benefits, would also set up a federal program to insure pensions; it would further establish machinery to provide workers with "portable" pensions that couldn't be negated in the case of a job switch.

The portability of pensions under the Javits bill would depend on whether enough

employers voluntarily agreed to such a program. On a nonvoluntary basis, however, the bill would set rules of conduct pertaining to "fiduciary responsibility" for those officials who administer the funds. Such rules would sharply restrict pension trustees' freedom to involve fund money in transactions related to the parent company.

Sen. Javits' proposed legislation is pending in the Senate Labor Subcommittee, and its fate is uncertain. The Senator, meanwhile, argues that the absence of pension controls permits money meant for retirement benefits to find its way into sometimes-risky situations or into uses that primarily further corporate aims.

PROBLEM OF UNDERFUNDING

Besides risky investments, a major problem of pension-fund administration is underfunding. Many companies have huge unfunded pension liabilities—millions of dollars worth of pension credits accrued by employes for which little or no money has been set aside.

Among such concerns is Western Union Telegraph Co. (principal subsidiary of Western Union Corp.), which has $365 million in unfunded liabilities covered by only $50 million in fund assets. The company however, says this disparity would present a problem only in the event of termination of the pension plan, such as might occur if Western Union went out of business.

According to Gerald P. Kent, Western Union Telegraph's vice president-employe relations, the gradual covering of the company's unfunded liabilities over a 40-year period (as has been suggested to Sen. Javits by the accounting profession) would cost Western Union $3.8 million a year. Mr. Kent adds that the company's current practice is to set aside a sufficient amount of money to cover annual pension costs and to pay into the fund an amount of interest equal to the amount the unfunded liabilities would have earned. Western Union management, Mr. Kent says, can better use $3.8 million annually to "strengthen the company"—and thereby to prevent its termination—rather than to lighten its liability load.

TEMPTING POOLS OF MONEY

Fully funded or not, pension funds can be strapped for cash. A recent case in point involved the $15-million pension fund of Kokomo, Ind.'s Continental Steel Corp., which came under the control of Penn-Dixie Cement Corp. in early 1969.

About a year after it acquired control of Continental Steel, Penn-Dixie came under severe financial pressure. Earnings in 1970 had plunged 89% from a year earlier, and a half-million-dollar loss loomed in the 1971 first quarter. Cash dividends had been suspended for nearly a year. More than $7 million in short-term bank debt was coming due in September.

In January 1971, Continental Steel asked Continental Illinois National Bank & Trust Co., the trustee of Continental Steel's pension fund, to consider a short-term working capital loan, amounting to $1.25 million, to Penn-Dixie from the fund. The request was denied. Less than a month later, the Continental Steel Investment Council, whose members were Jerome Castle, chairman and president of Penn-Dixie, and two associates, directed the bank to make the loan. The bank refused.

But Penn-Dixie was persistent. It then proposed to amend the trust agreement between the steel company and the bank to provide that three individuals could be named fund trustees—thereby abrogating the requirement that only a bank or trust-company employe could be appointed. The proposed amendment, which required Continental Bank approval, further stated that trustees "are authorized from time to time to invest and reinvest the fund in any property of any kind without regard for any law prescribing or limiting the investment powers of fiduciaries."

Continental Bank balked. And two months later, the bank was notified by Continental Steel of its removal as trustee. Meanwhile, the United Steelworkers union got wind of the steel company's proposals and filed suit in a Cook County's circuit court to block the switch and the loan.

Officials of both Penn-Dixie and Continental refuse to discuss their various negotiations. However, testimony last year at a court hearing on the union's suit showed that Penn-Dixie needed the fund's money. At the time of the loan request, Penn-Dixie was in technical default on some of its loans, and bank officials doubted that the company could internally generate sufficient cash to meet its debt-service requirements. John L. Finnerty, the bank's trust officer, said he sought a guarantee from Penn-Dixie's Mr. Castle (who is also chairman of Continental Steel) that Penn-Dixie would seek outside financing before the bank would consider a loan to the fund. According to Mr. Finnerty's testimony, Mr. Castle couldn't give such a guarantee.

"He (Mr. Castle) said that certainly, or words to that effect, that if he could not obtain the money from outside sources, that he could use various pension funds as a source for that money," Mr. Finnerty testified.

Matters still aren't completely settled. On Sept. 1, the Steelworkers union at Continental Steel began a strike that was largely the result of the pension dispute. The walkout, which lasted 44 days, ended with an agreement that the trustee of the pension had to be a bank or savings institution with assets of more than $300 million and that no investment transactions involving the fund could be made with any company in which Mr. Castle or Penn-Dixie held an interest. Amalgamated Savings & Trust Co. of Chicago currently holds the funds. (Penn-Dixie paid off its bank debts by extensively mortgaging much of its property and by selling one of its plants; the working capital loan that had been requested from the Continental Fund was obtained from Allis-Chalmers Corp., and Penn-Dixie said this loan has been repaid in full.)

AN SEC SUIT

In another suit involving the use of pension funds, the Securities and Exchange Commission has charged three related companies and certain of their officials with violations of the Securities Exchange Act of 1934. The defendants are Sharon Steel Corp.; NVF Corp., which took over Sharon in 1969; Victor Posner, chairman of both companies; Bernard Krakow, an associate of Mr. Posner; and Wilbur T. Blair, a former Sharon official.

According to th SEC suit, the exchange act was violated in that the defendants used money from two Sharon pension funds to buy securities in other ventures in which Mr. Posner had an interest and that the fund money was used to meet corporate obligations of companies in which Mr. Posner held an interest (specifically the takeover of Sharon Steel by NVF). The SEC further said that its regulations were violated in that the defendants failed to report in a proper manner their use of the funds.

The defendants deny any impropriety. Mr. Krakower, for example, says every move was aboveboard. Although the SEC has charged that Mr. Posner in April 1969 removed the Sharon Steel pension funds from the trusteeship of Union National Bank of Pittsburgh because that bank declined to take investment directions to buy NVF and DWG securities, Mr. Krakower says the bank was dropped because Sharon was dissatisfied with its performance as trustee. Furthermore, he adds, that investments from Sharon's funds in the "affiliated companies" amounted to "probably under 10% of all fund transactions" and earned about 9.6% on an annual basis.

The SEC suit involving the Sharon fund is still pending, but discussions are currently under way toward a settlement in which Mr. Posner and his associates would relinquish control of the Sharon pension money. No criminal charges are involved.

The vulnerability of fund money is, of course, a major concern of Sen. Javits and those backing his bill. Of particular concern is the fact that pension funds are often invested by a company in the company itself or in its subsidiaries—thereby directly tying the fund to the fortunes of the corporation.

A case in point involves Genesco Inc., the Nashville-based shoe and clothing concern. Of Genesco's $80 million in retirement-fund assets, $15 million is invested in Genesco common stock, and another $32 million is invested in the real estate of a Genesco subsidiary.

As far as retirement benefits are concerned, Sen. Javits says, pension-fund investments such as those of Genesco "put the employe at the hazard of the solvency or insolvency of the employer." Genesco, however, defends its investments—particularly a 1964 investment in the real estate of H. R. Kress & Co., then a Genesco subsidiary. The Kress investment was "as fine an asset as anyone could get his hands on," says J. G. De Lacey, vice president and secretary of Genesco. Genesco's pension fund, Mr. De Lacey adds, profited handsomely on the transaction.

SUBSTANTIAL PROFITS

Even critics of current pension systems don't argue that funds can't earn substantial profits from intracorporate investments. They do contend, however, that the principal efforts of fund trustees should be directed entirely toward protecting the future welfare of intended beneficiaries—rather than the current enrichment of a corporation or its officers.

Such critics are particularly concerned by a recent situation involving an employes' profit-sharing fund administered by Winn-Dixie Inc., a Jacksonville, Fla., retail food chain. Winn-Dixie operates the fund in lieu of a fixed-benefit retirement system; under its system, the amount of employer contributions is determined by company profits. But Senate investigators say the company was involved in a conflict of interests when it allowed the fund to provide mortgage financing to real estate companies that were owned wholly or in part by four of Winn-Dixie's top executives.

"All of it was quite legal and quite proper," says a staff lawyer for the Labor Subcommittee. "But the fund can be said to have benefited others than for whom it was primarily intended."

The Winn-Dixie situation began in the early 1960s and involved the leasing to the company of retail stores bearing the Winn-Dixie name but owned by separate real estate companies. At the time the mortgage loans were made, a half-dozen Winn-Dixie executives or directors were the sole owners or part owners of the real estate concerns. The real estate companies built stores; they then obtained mortgage financing from the profit-sharing fund, which earns interest on the money it lent.

The mortgages wil be paid off by rentals from Winn-Dixie to the real estate companies. However, the committee maintains that the major beneficiaries are the real estate companies, since, at the end of the mortgage period, these companies—rather than the profit-sharing funds—will own the stores and can sell them for a capital gain.

Winn-Dixie defends its actions. James Cameron, fund vice chairman, says such financing is a valid means of obtaining "a balanced portfolio" of its total investments. (About $960,000, or 1.4% of the fund's assets, are in the real estate mortgages.) "We can't

see any conflict of interest," Mr. Cameron says, adding that the mortgages were "commercially acceptable" and would have been taken on by any lending institution.

Senate staffers don't dispute the fact that the fund profited by the investments, but an attorney on the Labor Subcommittee staff argues that such use of fund money "violates the general concept of trust" and points up the "weakness of legislation" regulating fund investments. He adds: "Just because corporate people know about (the availability) of pension funds doesn't mean they should be able to use them to their advantage—even though the fund benefits—when a suitable investment opportunity arises."

HON. JAMES A. BURKE SPEAKS AT THE ANNUAL CHIEF MARSHAL'S BANQUET

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, Congressman JAMES A. BURKE, my Massachusetts colleague, was principal guest speaker at the annual Allied War Veterans banquet in South Boston, at which I had the honor to be present. As my colleagues know, Mr. BURKE is an inspiring speaker and this occasion was no exception. I would like to share his remarks with my colleagues:

REMARKS OF CONGRESSMAN JAMES A. BURKE

Members of the Allied War Veterans Council and friends: It is a great honor to participate in this hallowed tradition of your organization which each year sponsors a March 17th banquet.

We in Boston have always, it seems, had the best of at least two worlds, being able to celebrate two great occasions on March 17, Evacuation Day and St. Patrick's Day. The day, as a result, has always been for Boston children and Boston families a day rich in American and Irish history and I have never noticed any great conflict as a result. Quite the contrary, there is, it seems a great deal of pride which can be had from both observances. They are both joyous celebrations. This is something worth noting, insofar as what is being commemorated are two departures: Evacuation Day commemorating Washington's driving the British Fleet from Boston from a hill not too far from here, Dorchester Heights; and St. Patrick's Day commemorating as it does the death of St. Patrick. With one, of course, the departure of the British forces, we have one of the turning points in the American War of Independence. Ultimately the British were to flee the whole country and leave behind a nation dedicated to liberty, justice and equality for all men. St. Patrick was to leave behind a nation of saints and scholars which later on would send missionaries of its own to spread the same faith and message to other lands in every corner of the globe. Both events, in other words, are symbols of a new beginning and a source of tremendous national pride.

I could not speak tonight without mentioning to my fellow Bostonians that I am struck by the irony of the occasion this year. For tonight, nearly 200 years after an earlier generation of Bostonians gave the order to the British to depart from our shores, our friends and brothers, in spirit if not in blood, in Ireland are still struggling to get that same message to the British troops. I refer, of course, to the situation which continues to trouble the citizens of Northern Ireland. That land is still torn apart by the legacy of its history of uninterrupted domination and interference by British authority. Today, the fiction that is Northern Ireland, the cruel hoax that is the Stormont, the bitter reality that are the internment camps, the continuous reminder of subjugation that are the British troops are all combining to produce an intolerable situation. Problems that should have been solved years ago by Irishmen of different faiths living and working together, as they are to the south in Ireland, are still alive. It is not surprising, when you stop to think that they have been deliberately encouraged as a matter of Government policy for the past 50 years. The myth of Northern Ireland as a viable independent autonomous region of Ireland or the equally absurd myth of six Irish counties being a part of metropolitan England are just that and nothing more, myths. These myths deny reality, deny national feelings and the national identity which is Ireland.

The outrage over the intolerable situation affecting hundreds and thousands of human beings in civilized Europe, where even the most fundamental civil liberties and rights are being denied, is something which cannot be a matter of concern only to Irishmen or those living in Ireland. It must, of necessity, be a cause of concern to men of good will the world over. Just as the conscience of the world had to be revulsed by what was perpetrated in the name of power and brute force in Nazi Germany in the mid-thirties, in the middle east in the forties and fifties, in Bangla Desh as recently as a few months ago, that same troubled conscience must if need be, be given vent for its genuine concern with what is taking place in Ireland.

The trouble is, too many men who should know better, too many establishment publications, too many agencies of our own Government have grown so accustomed to the injustice in Ireland over the years that they have become resigned and calloused and indifferent to the suffering of that land and even now, when the situation threatens to explode, they refrain from using what moral influence and suasion this country has with the British Government to bring pressure to bear for reconciliation and the beginning of genuine negotiations. However, there are just too many in this cradle of liberty that is Boston who have the closest of ties with Ireland to accept this as a just or satisfactory state of affairs. I know I speak for hundreds and thousands of people in this State and in this country when I say that it is time the authorities in Westminster and Belfast listen to world opinion, abandon the pretense, that is, the present government in Ireland. Tonight, therefore, close-by Dorchester Heights let the word go forth that Bostonians once again demand the end of colonial rule and domination by outside powers in Ireland and that a serious beginning be made toward a truly democratic government which will respect the views of all its citizens. I am not so foolish as to think that it can be done overnight or tomorrow. Just as the American War of Independence was not won in one battle, at Dorchester Heights or even with the surrender at Yorktown. It took years before our Nation was truly born and we were a government of law and justice, not just men. But a beginning must be made and tonight is as good an historic occasion as any to face reality and to join forces in urging, not more violence and bloodshed in that troubled land, across the sea, but a genuine revolution in understanding and learning to live together. Otherwise, March 17 will become increasingly a day of sadness and unhappiness instead of the day of celebration and joy that it should be in Boston and Dublin and, yes, Belfast, too.

U.S. PARTICIPATION IN THE INTERNATIONAL LABOR ORGANIZATION

HON. WILLIAM E. MINSHALL

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MINSHALL. Mr. Speaker, an extremely important address was recently given to the New York Chapter of the Industrial Relations Research Association by my very distinguished friend Charles H. Smith, Jr., chairman of the board of SIFCO Industries, Cleveland, as well as chairman of the ILO Council and chairman of the Labor Relations Committee of the U.S. Chamber of Commerce.

In his remarks he traces the evolution of the International Labor Organization, its often stormy and controversial history, and concludes with 10 reasoned and reasonable recommendations regarding U.S. participation in the International Labor Organization.

This is a major statement by Charles Smith and one that I hope will receive the most serious reading and consideration by all Members of Congress.

The statement follows:

ADDRESS: UNITED STATES PARTICIPATION IN THE ILO, BY CHARLES H. SMITH, JR., CHAIRMAN OF THE BOARD, SIFCO INDUSTRIES, INC., CLEVELAND, OHIO; CHAIRMAN, ILO COUNCIL; CHAIRMAN, LABOR RELATIONS COMMITTEE, CHAMBER OF COMMERCE OF THE UNITED STATES, BEFORE NEW YORK CHAPTER, INDUSTRIAL RELATIONS RESEARCH ASSOCIATION, COLUMBIA UNIVERSITY CLUB, MARCH 16, 1972

The United States and, more particularly, the people of the United States, are involved today in great international economic policy debate—a substantial rethinking of long established and rather commonly accepted concepts that have been the foundation of our international trade and commerce for many decades.

The International Labor Organization, a specialized agency of the United Nations, may seem distant and remote from the controversy in the committee rooms of our Senate and House of Representatives; and yet participation in the ILO has been one element of our foreign policy since 1934, and the scope of ILO activities clearly makes it a factor, recognized or not, in many of the equations which govern our commerce with the rest of the world.

I would like to set the stage for our discussion of the International Labor Organization by briefly touching on the major elements of this international economic policy debate, because our long range future participation in the ILO should be closely related to the decisions we reach on overall international economic policy.

I think we have to begin this analysis by going back in our minds to the conditions that faced the world at the end of World War II. The industrial nations of the world with only two exceptions lay in virtual ruin. The two exceptions were of course the two North American countries of Canada and the United States, and the industrial strength of Canada was a tiny sliver of capacity compared to the United States. The farms and factories of North America were deluged with demands for their products from all over the world to meet the urgent requirements of a war-torn populace. It soon became evident that the then existing facilities of international commerce were inadequate to meet the requirements of such a tremendous

program. The vast array of exports flowing out of the United States could not be matched by anything like an equivalent amount of imports. The resulting imbalance of trade created huge trade surpluses for the United States with almost every country. Our foreign exchange reserves grew by leaps and bounds; and it did not seem possible to enlarge the vast vaults of Fort Knox fast enough to keep up with the flow of gold that was moving to the United States to offset the negative balance of trade that most countries had with the United States.

As a natural outcome of the conditions that prevailed in the late 1940's and most of the decade of the 1950's, our nation's policy was directed toward a determined effort to assist the rest of the world to regain a self-supporting economy. International monetary agreements were designed to protect non-dollar currencies. A vast system of credits and outright grants were offered by the United States. Productivity teams from Europe and Japan roamed back and forth across our country to study our industrial techniques and take home the most constructive ideas. Our great universities sent nuclei of professors abroad to assist in transmitting American teaching methods and to help start new universities and colleges in many parts of the world. We encouraged the establishment of regional marketing agreements in order to, among other things, make possible the same advantages of mass consumption and production that had long been a benefit to the United States.

All in all, we dreamed of a peaceful world where international cooperation would move all of the nations steadily toward a better standard of living for their people, and toward the elimination of war as a device to settle international controversies.

The result of these efforts bore fruit well beyond our wildest expectations. Today Western Europe is united economically, if not politically and the expanded Common Market represents a potential of production and consumption that is greater than that in the United States. Japan has built its economy to where it now ranks third in the world trailing only our own country and the USSR. The economies of many of the less industrialized nations have also shown marked improvements to the point that manufactured products from Brazil, Mexico, Portugal, Spain, Italy and a number of other countries are finding ready markets in significant proportions in the United States.

The economic world has changed dramatically in the last decade. Our staggering balance of trade surpluses of the late 40's and early 50's have disappeared, and 1971 brought us the first balance of trade deficit since 1893. Our balance of payments situation has steadily deteriorated capped by an almost catastrophic deficit of about 30 billion dollars in 1971. As it became apparent that many manufacturing costs were lower outside our borders, foreign manufactured goods of high quality have come pouring into the United States. Our gold supply has dropped from its peak in the late 1950's of $25 billion to less than $10 billion. Meanwhile, our short-term liabilities to foreigners have increased to well over 50 billion dollars. In the simplest terms, if the United States was a corporation or an individual, it would be bankrupt. As in the case of some financially embarrassed corporations, disaster is avoided because our creditors cannot afford to foreclose.

As the realities of our international economic situation gradually began to become apparent to responsible officials in our government and to many segments of our population, two different forms of reaction began to develop.

One form of reaction is to propose a new resurgence of isolationism. These proposals call for import quotas and high tariffs on goods manufactured abroad, restrictions on American investments overseas, double taxation on earnings of existing overseas subsidiaries of United States Corporations, restrictions on the use or licensing of American patents and know-how outside our borders. In short, the proponents of this position seek to cure our international economic problems by withdrawing behind our own borders and building a formidable wall around our country—a wall high enough to eliminate the competition in our markets from products manufactured in other countries. I guess you could say these proposals represent a return to the "Fortress America" concept of earlier years, even though the concept envisions an economic fortress rather than a military bastion. Perhaps the most comprehensive piece of legislation originating from this school of thought is the Hartke-Burke Bill which is receiving the enthusiastic support of organized labor.

The other form of reaction revolves around proposals aimed at restoring our economic health by taking the necessary steps to regain our competitive position in the world market place. These proposals include dampening of our high rate of inflation as a necessary first step, the realignment of currency exchange rates to reflect the realities of the current situation, the more equitable sharing of the burdens for free world defense and aid to the developing areas of the world, increased efforts to modernize our production facilities so as to be more efficient, and increased effort in the area of research and development to speed the entry of new U.S. products into the world market.

What has all of this to do with the International Labor Organization? Very simply, our nation has reached a fork in the road. If we go one way (let us say to the left since it is the course being widely advocated by many liberals) we will move toward isolationism, toward lesser reliance on international cooperation and international organizations, towards lesser willingness to share our knowledge and resources with the less fortunate. Such a path will lead us away from the basic objectives of the International Labor Organization, certainly reducing our influence in that organization and in all probability reducing our interest in the ILO as well.

The alternate path (let us call it the right path; not because it is conservative, but because I believe it to be the correct direction) leads to continued deep involvement in international trade and commerce, continued vigorous competition with the other industrial nations of the world for our rightful share of world markets, continued efforts to work together with other nations to find the right solutions to the economic problems that bedevil us, continued opportunities to focus our own particular expertise and ability on the vital effort of raising living standards in the developing countries. Should United States policy take us down this path our interest in and concern for the matters that fall within the responsibilities of the ILO will heighten.

So far, I've been talking about some very broad but significant policy questions that involve not just the ILO but our nation's entire international economic posture. I'd now like to turn my attention to specific ILO matters that occasionally have attracted public attention over the past two years and some that I predict will be of real concern to us all in the future.

First, the matter of the United States contribution to the ILO. As of now, our nation is $11.6 million in arrears for our 1970 and 1971 contributions to the ILO, and our 1972 dues come to $8.7 million. In short, we currently owe the ILO a total of $20.3 million.

Appropriations for U.S. contributions to support these activities have been virtually automatic—that is, until July 31, 1970.

At that time a Subcommittee of the House Appropriations Committee took action which resulted in withholding the U.S. contribution.

Both the National Chamber and the AFL-CIO participated in this action. Ed Neilan, the U.S. Employer Delegate to the ILO, and George Meany, President of the AFL-CIO, testified before the Appropriations Subcommittee headed by Congressman John Rooney of New York.

At that hearing, neither Mr. Neilan nor Mr. Meany made specific recommendations for the amount of funds that might be withheld. And they did not recommend a period of time during which contributions might be delayed. But, they agreed they "would ask our Congress to put some strings on the money that would go to ILO and get some attention (for) the principles of private enterprise and free trade unions . . ."

The circumstances which brought about this view—that the U.S. should register a protest—involved an accumulation of grievances. For example, Mr. Meany said that his office had counted 167 attacks on the U.S. over a period of eight years by Communist delegates.

Another example: A monthly ILO publication, which is given world-wide distribution, contained an article depicting Lenin as a great friend of the working man. However, the article failed to give information on the historic record of Lenin's oppression of the people of the Soviet Union and his actions to destroy the Russian trade union movement.

The chief concern was with the constant polemics of the Soviet bloc—references to the Vietnam War, a political subject in a forum intended to discuss social policy; references to the U.S. as an "aggressor nation;" U.S. business labeled as "evil capitalists," "exploiters of labor," "economic royalists," "promoters of dollar imperialism," and others.

Another concern was the double standard, favoring the Communist member states, which was practiced in the ILO. While ILO procedures for publicizing the violation of treaty obligations assumed by states under the ILO Constitution were vigorously applied to non-Communist state members of the ILO, the Communist states enjoyed an immunity from those procedures, and their known and documented violations were not even discussed.

A further major concern was the erosion, under Communist pressure in the ILO, of the autonomous authority of the two non-government groups (the employers and workers) to determine the representation of their interests on tripartite bodies of the ILO.

Finally, to this aggregation of grievances the newly elected Director-General added one more—the appointment of a Soviet national as one of the five assistant directors-general without prior consultation with the U.S.

Mr. Neilan and Mr. Meany pointed out that the U.S. was paying 25 percent (about $8 million) of the ILO budget, plus 34 percent of the United Nations Development Program funds of which $23.4 million was contracted to ILO; and then was being insulted in ILO forums by some of the nations which benefit from U.S. funds.

By comparison, the entire Soviet bloc pays about 13 percent of the ILO budget, and only three percent of the UNDP budget.

Messrs. Neilan and Meany expressed the view that the Director-General, as executive head of the ILO, could effect some improvements.

The action to withhold funds was both to protest and to provide an incentive to accomplish some favorable changes.

And we asked Mr. Jenks for some very sim-

ple commitments: that ILO publications not be used for Communist propaganda; that the ILO staff exercise maximum guidance in ILO forums to minimize the introduction of political statements.

About the appointment of Mr. Pavel Astapenko, the Soviet national named as one of the assistant directors-general, we made no request.

The action recommended by both the National Chamber and the AFL–CIO was a protest—intended as a short-term action to draw attention to inequitable treatment.

It was not intended to initiate U.S. withdrawal from the ILO.

It was not a refusal to pay.

We still owe the money; we are committed to pay this obligation no matter how long the contributions are withheld.

But, now our protest action has, in effect, become punitive action.

Moreover, after being in arrears two years, the U.S. will lose its voting rights in the ILO. This will occur in January, 1973, which would actually involve withholding contributions for two and a half years because of the time frame used by ILO to calculate the loss of voting rights.

But a more immediate test will be faced at the June, 1972 Conference. At that time, both the U.S. worker delegate and the U.S. employer delegate will stand for re-election, by their separate groups, to the Governing Body for another three-year term.

If the employers' group or the workers' group strongly feel that future U.S. participation is in doubt, one or both representatives may not be re-elected.

So, a protest, which now seems to have been carried far too long and which was originally intended to improve the climate for U.S. participation in the ILO, may result in the deterioration of the climate for U.S. participation and eventually complete elimination of further U.S. participation in the ILO.

The National Chamber testified in support of payment of the obligation—nearly a year ago.

Although the AFL–CIO did not submit testimony in the 1971 hearings, on May 11, 1971, Mr. Meany, in a press conference, said we owe the money and we ought to pay it.

But the man with the decisive power is House Appropriations Subcommittee Chairman John Rooney.

While he has stated that he doesn't want the U.S. to withdraw from the ILO, he appears to have provided all the circumstances needed to force the Administration to initiate withdrawal procedures.

Now, just one last thought about this matter: A valid cause for proposing withdrawal from ILO would be a determination by the majority of the tripartite participants, or by the Congress, that ILO was not a sufficiently effective mechanism for accomplishing its mission.

This issue—the net effectiveness of ILO—has not been debated in the Congress. We should not back into a decision by defaulting on our contractual obligations.

Now, let me swing over to an examination of the effectiveness of ILO as a mechanism to accomplish its original purpose: which was to promote improved conditions of life and work for workers.

First, although it is called the International Labor Organization, it is not an organization in the sense that it has a common purpose supported by the membership.

It has become a congress—a parliament, a general assembly, a legislature—in which representatives of various constituencies are divided along partisan lines and engaged in political skirmishes and ideological battles.

This is not an organization like the Chamber of Commerce of the United States, a local chamber of commerce, or a trade or professional association, in which there is benefit from establishing problem-solving programs and then pulling together to get things done. In such an organization, attacks by one segment of the membership on another segment would be considered as signs of immaturity or weak argument.

But, in a congress or parliament, although certain rules of restraint are followed, the partisan differences are clearly visible.

In terms of its mechanism for getting things done—its meetings—ILO has some of the characteristics of an organizational dinosaur.

One measure of organizational obsolescence is the length of some of the meetings. For example, the Conference is in session for three weeks. Most American participants agree that the subjects could be adequately discussed in half that time. But some of the procedures are derived from customs and practices of the 19th Century. They are highly formalized—like the tails and striped pants diplomacy of the old League of Nations which was contemporary with the origin of the ILO. And they apparently have changed very little in the succeeding period of more than 50 years.

The Conference practice provides for unrestricted debate. And the incentives to demonstrate active participation in the committees and plenary sessions prompt dozens and dozens of representatives to rehash the same ideas many times. The objective, which is very obvious in many instances, is to put statements in the record which make good copy for newspapers in about 120 home countries.

But it slows decisions and excessively consumes time.

The Director-General publishes and distributes, before each annual Conference convenes, a report which analyzes one or more of the problems of the world relating to social policy and outlines ILO-proposed solutions.

The Conference plenary sessions are used for about two weeks to discuss the D-G's Report. The delegates agree with it, disagree with it, and use the occasion to excessively report on conditions in their own countries. Again, the statements are designed more to serve as reports to home country superiors and news media than to enlighten the conferees. This makes for dull listening and dull reading and it contributes little, in proportion to the time used, to getting on with the main job of the ILO which is to do something constructive to improve the standard of living of workers. More important, however, this "debate" has been used as the platform for irrelevant political polemics by Communist speakers attacking the U.S. in particular, and free institutions in general.

Now, how about the ILO's programs—all those activities intended to implement the policies which have taken the form of "conventions" or the less formalized "recommendations" for legislative or other action by member nations.

The ILO's programs being with a sizable budget of about $28 million, plus the U.N.D.P. funds which are spent by ILO—over $23 million. Then they trickle down to specific projects around the world guided by about 1,100 field staff members.

The effectiveness of these programs is difficult to measure. There are reports on the field activities such as manpower training, vocational training, youth training, maritime training, and management development programs, but most of the measuring efforts are conducted with the participation of the ILO staff. So, of course, the persons who judge ILO programs may be expected to find satisfactory results.

This leaves us with no adequate present measure of impact . . . no good reading of the extent to which ILO field programs may help solve the worker-related problems of developing countries.

Up to this time, the ILO has passed at its Annual Conference a series of 136 Conventions and 144 Recommendations. These are frequently vague in content and limited to broad general principles. After all, they are meant to give guidance to nations with economies as vastly different as that of the U.S.A. at one extreme and Chad or Mauritius on the other—with countries occupying land masses as great as the U.S.S.R. or as small as Cypress or Singapore—with populations as large as India or as small as Southern Yeman or Nepal.

Not infrequently, however, ILO Conventions became enmeshed in a mass of details that make it impossible to really apply them in practice in the majority of member nations. This fact is often obscured by the vastly different meaning of the ratification process from country to country. As you know, the ratification of a treaty is a serious business in this country. A ratified treaty or Convention becomes law and can be enforced in our courts. It even takes precedent over all existing laws in our country.

In some other countries, however, the ratification of a Convention has no significance beyond expressing general accord with the concepts of the Convention and a hope that someday the country will be able to implement those concepts. For example, in the proceedings of the 1971 Committee on Application of Conventions (a Conference Committee which annually reviews the reports from Member States giving details as to the manner in which ratified Conventions have been implemented) there is reference to one South American nation that had not yet found it possible to implement even one of six Conventions that had been ratified by that nation in 1933, 38 years earlier. Examples such as this one make a mockery of the Convention process, and prompt the suggestion that a thorough study of the effectiveness of this cumbersome procedure is long overdue in order to devise a more effective manner to use the limited resources of the ILO to really raise living standards in practice rather than to be complacently satisfied by the adoption of scores of well intentioned but often impractical documents.

For years, American employers, and for that matter American labor and government, have complained about the actions and even the presence of Communist delegations to the ILO. The ILO Constitution calls for tripartite delegations; and when the U.S.S.R. and its satellites applied for membership in the ILO, they pledged to accept the provisions of the Constitution.

Of course, we believe they are not quite "tripartite."

We are reasonably sure that they do not have private enterprise employers in their delegations . . . the equivalents of U.S. employers. They have managers of government-owned businesses, of course, but not businesses operated independently from their government.

And the union leaders of most Western countries seem convinced that the Soviets don't have free trade unions. Soviet bloc countries have organizations of workers, but they are under the control of their government.

But if we are to be realists we must recognize that Communists are there, and they have given every indication that they intend to stay. Beyond that, they have demonstrated their persistent determination to change both the program and the structure of this organization to accommodate their form of government and their type of economic system. As long as the Communist countries continue their memberships in the United Nations, and so long as the ILO maintains its status as a specialized agency of the U.N., the Communist countries have a legal basis for retaining their membership in the ILO. This, however, is no reason why the ILO should change its structure or its program in order to accommodate the Communist system. It is no reason why the ILO should set up a dual set of standards for measuring the implementation of ILO Conventions and Recommendations—one standard to be applied where there are free market conditions, and a second set of standards for countries that establish their market conditions for both labor and products by government fiat. And yet that is exactly what the ILO has been doing for many years.

The Soviet bloc has long recognized the importance of using the ILO as a mechanism to encourage the so-called "third world," the developing nations of Asia, Africa, the Middle East, and to some extent Central and South America, to move toward the Communist political and economic system.

More recently, they have recognized the advantages that become possible by using the "third world" to move the ILO in directions that are favorable toward the Communist system. By assiduously courting many of these nations both in and out of the ILO, the U.S.S.R. has put together a voting bloc that far exceeds the dozen Communist countries in the ILO.

In the ILO, and even more important in the U.N., the developing countries can put together a voting bloc that is substantially larger than all the votes that can be marshalled by the so-called "Western Bloc." Since I attended my first ILO meeting in 1953 the meeting has just about doubled—from about 60 member states to over 120. Most of this increased membership comes from newly independent countries in Africa and, to a lesser degree, Asia. These new or relatively new members have completely changed the voting balance in both the ILO and U.N. far beyond the degree that is generally recognized by the American public.

As an example, the six countries making the largest contributions are assessed for 59 percent of the budget, and they have less than five percent of the voting strength. Over 51 percent of the voting strength is available to the 62 countries that provide just about five percent of the financial resources that keep the ILO programs in existence.

I know of no organization that has successfully coped with a concept of divorcing the responsibility for funding its programs from the authority to determine how the funds shall be applied; and the ILO is no exception. Fortunately it is not quite as irresponsible as it sounds, inasmuch as the Governing Body of the ILO has the initial authority for the organization's budget. The 10 states of chief industrial importance are automatically allotted 10 of the 24 government seats on the Governing Body by the Constitution, but the Communist bloc has been trying desperately to change this provision since only the U.S.S.R. ranks among the top 10 nations in industrial importance.

I began this discussion by referring to the international economic policy debate that is already underway in the United States the outcome of which will determine whether we as a nation move toward protectionism and gradual isolation from the rest of the world, or continue to espouse the cause of fair but free trade between nations. The ILO has entered the debate in a meaningful manner by appointing (as a result of a resolution passed at the 1971 Conference) a Committee of Experts to explore possible fields of action that the ILO might wish to take regarding the relationship between multinational corporations and social policy.

It is too early to form any opinion as to the eventual outcome of the ILO's scheduled study of Multinational Corporations, but when we examine the list of supporters and sponsors of this proposal and the resolution that brought it to life, it is easy to reach the conclusion that the intent of the sponsors is certainly not to be helpful to the so-called "multinational corporations." The principal advocates of this study are the American labor unions which have been vigorously attacking multinationals for the last several years. Joining with them are a collection of ultra-nationalists from some of the developing countries which have been attacking the concept of foreign investment in their own countries; and, of course, the Communists, who delight in supporting any attack on capitalism and free enterprise whether their support is desired or not. I personally can think of no way in which the ILO could more quickly sabotage its own efforts to improve the conditions of life and work for workers, particularly in the developing countries, than by supporting an attack on "multinational corporations."

I cannot conclude this discussion without trying to summarize some definite recommendations that have been referred to or hinted at earlier. They are as follows:

1. That each of us make every effort to alert our fellow Americans, and more particularly our representatives in the Congress, to the dangerous consequences of a return to protectionism and isolationism. "Fortress America" could quickly become a lonesome outpost under siege by the rest of the world.

2. That each of us vigorously support the vital effort to restore our nation's competitive ability and makes our position known to the Congress.

3. That the Congress promptly arrange to provide the funds that our nation owes under treaty obligations to the ILO.

4. That the United States Government initiate vigorous and determined efforts to bring about a substantial reduction in the percentage of the total ILO budget paid by the United States with the ultimate objective of reducing our commitment to no more than 15 percent within 10 years.

5. That the Congress of the United States institute a comprehensive investigation to determine the effectiveness of ILO in making a real contribution toward improved conditions of life and work.

6. That the Governing Body of the ILO initiate an intensive study of ways to modernize, streamline and make more effective the programs and procedures of the ILO.

7. That the Director-General of the ILO initiate an effort to find a more effective and less biased judgment of the effectiveness of ILO programs.

8. That the Governing Body of the ILO initiate a study to identify procedures to make the Convention and Recommendation machinery more meaningful, including perhaps some form of automatic de-ratification process after failure of a country to implement a ratified Convention within a given time span, say seven years.

9. That the United States delegation to the ILO continue to encourage the other "free world" delegations to seek ways of working with the Communist bloc within the framework of the existing ILO structure with vigorous opposition toward the modification of the structure and program to accommodate the monolithic system that is inherent in Communist countries.

10. That the United States increase its efforts to understand and work with the developing countries of the world.

Our nation has been a member of the ILO since 1934. Throughout the intervening years this organization has been treated in the United States with varying degrees of benign neglect, casual disregard, outright hostility, and on rather rare occasions, warm affection.

Never before has the need for fulfilling the Constitutional objectives of the ILO been more essential.

Never before has the attainment of these objectives seemed more difficult.

Never again are we apt to have such a good opportunity to bring about the real reforms that can give the ILO a valid chance to attain its Constitutional objectives.

NUTLEY, N.J., CITED AS ONE OF THE NATION'S SAFEST COMMUNITIES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RODINO. Mr. Speaker, it is with much pride that I am inserting the enclosed article into today's RECORD. As the representative of the citizens of the Nutley community, the findings of David and Holly Franke in their recently published book, "Safe Places," hold special meaning for me. Phil White of the Nutley Sun writes with warmth and enthusiasm on his community's newly recognized status:

NUTLEY IS NAMED ONE OF AMERICA'S 47 SAFEST PLACES IN WHICH TO LIVE

Tomorrow, Nutley will become famous all over again! This time, not because of Annie Oakley's sharp-shooting or a new "clever" advertising campaign to poke fun at our town's name.

Tomorrow, Nutley officially becomes "a peaceful paradise . . . where the living is easy . . . and safe!" And if you're somewhat skeptical about how Nutley's rating ended up among the nicest 47 communities (paradises if you will) in America, you're not alone. There have been those who were unbelievers to such an extent they had to come here themselves to be convinced—people like James G. Driscoll of Dow-Jones "National Observer" who flew into town about a month ago "stubbornly resisting the idea that any northeastern New Jersey area is liveable, let alone safe."

But by the time Jim Driscoll had ended his one-day visit to Nutley, he too was suggesting this community just might be an exception to his preconceived notion that New Jersey is "the most dismal living area in the nation. You might even want to consider moving to Nutley" was Jim Driscoll's departing thought in his February 5 National Observer article.

He had come to Nutley as a skeptic, seemingly out to overturn the cards on David and Holly Franke who four years ago began what ended up being a detailed project analysis of thousands of American communities. They finally narrowed down their list by applying FBI crime statistics, then armed with a road map, set out on a 20,000 cross-country jaunt to visit those "Safe Places where the American dream hasn't turned into a nightmare."

"Safe Places" is the name of the 932-page book in which Mr. and Mrs. Franke report their findings. "Safe Places" official publication date is tomorrow—the day presumably when all of America will learn to their great disbelief that there is, in fact, "a town only 15 minutes from Broadway with a lower crime rate than most rural areas. . . ."

Much of the advance publicity given "Safe Places" so far—and that which is to follow on national media during the coming few weeks—shares the same skepticism which Jim Driscoll brought with him a month ago and which was also evident this past Tuesday when WNEW-TV's Bob O'Brian stopped by to film a channel 5 report.

"Safe Places," however, documents its selection of the 47 communities by heavily relying upon crime statistics. But the book is more than a mathematical survey. "Safe Places" is interesting reading for anyone interested in Americana; moreover, the commentary reflects research which amazingly is able to capture the flavor and community personality of each of the 47 towns singled out as the cream on the top.

To be selected a "Safe Place," communities had to pass the Franke's first prerequisite

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of having an unusually low crime rate. From there on, the considerations were many and varied. Emphasis was given to the quality of cultural life, the school systems and the availability of jobs. To be one of the 47 "American paradises," towns also had to reflect good transportation, stable municipal government, and a low tax rate. (Nutley's tax rate, homeowners, is second lowest in Essex.)

The Frankes open the chapter on Nutley by admitting that "Considering the theme of this book, it is with some degree of fear and trepidation that we recommend community in the New York-New Jersey metropolitan area." But then they go on to say that after visiting our community several times, "we are actually very enthusiastic" about Nutley.

"Nutley is indeed unique, and in more than nomenclature," the Frankes say as they justify the community's selection for their more conservative readers by comparing crime statistics—"New York's rate of robberies is 80 times as great; Nutley's and Newark's is 109 times as great; New York has 60 times as much aggravated assault as Nutley, and Newark's rate is 93 times as high. And while the rest of the metropolitan area seems to be constantly on the move, Nutley's population is amazingly stable, so much so that nearly half of its high school graduates first entered the Nutley school system in kindergarten. Once you move to Nutley, you apparently don't want to leave."

The chapter on Nutley is illustrated with several maps and photographs, and there are scores of local personalities who not only are mentioned, but extensively quoted. Judge Edwin J. C. Joerg talks about his reputation as a "tough" judge, about his attitudes toward youth with long hair; NHS Principal David H. Broffman discusses "the drug problem"; and Assemblyman Carl Orechio, in his capacity as a real estate agent, talks about the town's willingness (or lack of it) in welcoming newcomers.

Here in Nutley—and keeping in mind that special pride that all Nutleyites have, according to the book—"Safe Places" undoubtedly will be a source of renewed community pride for many years to come. Scores of places, events and personalities associated with Nutley past and present are reported by the authors.

Particularly rewarding is the book's ability to capture in a relatively few pages the spirit of Nutley.

"What makes Nutley tick—what makes it so different from the rest of the metropolitan area?" the authors ask. The answer David and Holly Franke found was "pride" and their efforts are then channeled to illustrate how that pride is, in fact, the common denominator which holds this community together—whether it be manifested in the dozens of clubs and organizations, the support townspeople give the Maroon Raiders on the football field each fall, the competitive nature of the men's service clubs, or the "volunteer spirit" which characterizes so many groups like the First Aid Squad, the fire companies, and FISH, the group of dedicated citizens dedicated to helping others in times of emergency.

NATIONAL WEEK OF CONCERN

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GRIFFIN. Mr. Speaker, on March 26, 1972, a U.S. serviceman will begin his ninth year of captivity in Southeast Asia. And, during the week of March 26, we begin a week of concern for our prisoners of war and those missing in action in Southeast Asia.

As our troops return home, American involvement decreases, and public attention of the war fades, we must not allow ourselves to forget the dedicated Americans who remain, forced to waste away the productive years of their life in a prison camp.

Our prayers go out that our servicemen will soon have a speedy and safe return to us and that their families will soon be reunited with their loved ones. We would pray that a breakthrough will soon be realized on the diplomatic front that will seek relief and release of our prisoners and that as long as they are forced to remain, the government of North Vietnam will afford these men the proper care and rights due them under the Geneva Convention.

A program of events has been established by the National League of Families of Prisoners of War and Those Missing in Action in Southeast Asia, that calls on all Americans to observe this week, beginning with a National Day of Prayer on Sunday, March 26, 1972, and that everyone fly their flags and drive with their car headlights on as a symbolic vigil to these gallant servicemen. I join with them in this call to all Americans and especially to my fellow Mississippians and the people of my district in not forgetting these men who have given so much and suffered so long serving their country.

We must continue to use our every resource of this great country to see that these men are returned to our shores and their homes as quickly as possible.

HYDE PARK WINS BOSTON CITY BASKETBALL CHAMPIONSHIP

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I invite my colleagues to join me in congratulating Hyde Park High School's basketball team on the winning of the Boston City Championship of the 1971–72 season. As one of the top basketball teams in Boston in the past decade Hyde Park High School continued its tradition of good sportsmanship and enthusiasm, and these exemplary young people, the team, the cheerleaders, and the students, are indeed a credit to this Nation. I also want to give special recognition to the Boston School Department's director of physical education, George Ryan, and Associate Director Tom Moran for conducting such a successful tournament. My only regret is that in order to win in the finals, Hyde Park had to beat Dorchester High, which is another great team which just happens to be in my district. I know the whole 11th Congressional District can be very proud of these teams.

ROSTER—HYDE PARK HIGH SCHOOL BASKETBALL TEAM—CITY CHAMPIONS 1971–72

Team

Edward Creed, Michael Fernandes, Ernie Hartfield, John Hollis, Albert Jackson, Larry James, Quentin Miles, Mike Mitchell, Mitchell Morris, Donald Ward, Tom Weaver, Bradley Winbush, Mike Thompson, Manager.

Cheerleaders

Mary Lee Bosak, Nadine Range, Pat Sloane, Zandra Jackson, Sharon Butler, Terry Savory, Mary Denehy.

Coach: Charles Gallavin.
Assistant Coach: James Walsh.
Headmaster: John F. Best.

EXIT LEFT—GEORGE MEANY AND COMPANY

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. ROBISON of New York. Mr. Speaker, there is always the national interest—and there is the self-interest. One has to seriously wonder which one George Meany, of the AFL–CIO, I. W. Abel, of the Steelworkers, and Floyd Smith, of the Machinists, have served by their not totally unexpected action yesterday, in walking off the Pay Board.

Mr. Meany explained his action by saying the Pay Board offered labor "no hope for fairness, equity, or justice." In response to which, I think it deserves to be asked, what hope does this action by three of the Nation's top labor chieftains offer either their unions' members or other millions of U.S. citizens that the absolutely essential battle against inflation can be won.

The answer is probably an obvious one. The responsibilities assigned to the Pay Board will continue to be carried forward, though under what sort of rearrangement of membership or voting procedures is yet far from clear. However, the cooperation of organized labor in this connection has been an essential element of the Pay Board's eventual success—and the road ahead will, accordingly, be even more difficult than it has been in the past several months.

The Pay Board's record to date has, admittedly, been a spotty one, as well as one which has not pleased everyone concerned in its decisions. And, yet, there have been signs of late that the Pay Board was, finally, getting its feet under it, so to speak, and was showing promise of becoming a truly effective tool in the fight against inflation.

Insofar as labor's interests have been concerned, it is hard for any objective observer to see where the Pay Board, to date, has been unfair to the labor movement—if anything, in its decisions it has bent over backward to accommodate labor and Mr. Meany and his cohorts. Perhaps the straw that broke the facade of labor's cooperation was the Pay Board's recent decision in the west coast longshore settlement, as it is referred to I have studied that decision, complex as the issues involved were, and I cannot find real fault with the Board's rationale—though the labor members on the Board called the day of that decision—

A tragic day for collective bargaining, a tragic day for longshoremen and a tragic day for freedom in America.

Mr. Speaker, the action, now, on the part of three of the Pay Board's members may, likewise, turn out to be a tragic day

for all the rest of we Americans—as, unhappily, it appears that the national interest may have had to give way, in the minds of those three members, to self-interest.

In support of that possibility—which I nevertheless hope will still be averted—I now include three clippings from recent newspapers, the first today's lead editorial in the New York Times entitled "Pull Out on Controls," the second, a similar lead editorial in today's Washington Post entitled "Mr. Meany Walks Out," and the last, liberal columnist Milton Viorst's recent comment on the west coast dock strike and settlement problem entitled "Right To Strike Has Its Limits":

PULL-OUT ON CONTROLS

The decision of the A.F.L.-C.I.O. to withdraw its three members from the Pay Board is a destructive act—as harmful to labor as it is all other citizens. It cannot be allowed to wreck the joint effort of the Administration and Congress to check the ruinous wage-price spiral.

The specific ruling that sparked the walkout—the scaling down by the board's public and industry members last week of the fat West Coast dock strike settlement—was open to criticism only on possible ground of overgenerosity. Approval of the full increases, running to four times the basis anti-inflation guidepost, would have made a mockery of the entire stabilization effort.

The giant International Brotherhood of Teamsters, a union rarely distinguished for responsibility, has wisely refused to join the federation in its strike against controls. If the United Auto Workers, second only to the truck union in size, decides to line up alongside it inside the Pay Board, a way may yet be found to continue the tripartite structure on which labor was originally so insistent.

But if the obstructionism of George Meany and his associates in the A.F.L.-C.I.O. executive council makes it impossible for President Nixon to maintain balanced representation of labor, industry and the public in the Pay Board, he will have to reconstitute it as an all public panel on the same model as the Price Commission.

There can be no question that the vast majority of Americans, including most members of organized labor, are determined to see inflation stopped. Neither a boycott decreed by a handful of top unionists nor a coercive strike by longshoremen—even one paralyzing all coasts—will frustrate that effort.

Labor has every right to complain about shortcomings in holding the price line, but there have been welcome signs in recent weeks of heightened Administration resolve to crack down on violators of price ceilings and even to plug the gaping holes that now put much of the consumer's budget outside any protection.

Unions make no contribution to more effective controls by smashing the machinery for keeping a lid on either prices or wages. The present showdown could work out constructively if it results in tighter enforcement on both sides of the anti-inflation net.

MR. MEANY WALKS OUT

After months of threats and fulmination, George Meany and the AFL–CIO have now stamped out of the Pay Board. The immediate issue is the Board's insistence on cutting the West Coast longshoremen's new wage increase from 21 per cent to 15 per cent. But behind it lie a broad range of grievances over the administration's whole price stabilization program. The basic weakness in the AFL–CIO's position is that nobody, least of all the unions, has any real alternative to the stabilization program. Enforcement can doubtless be improved, and there are a lot of suggestions for improvements in its structure. But it is generally agreed that if inflation is unhealthy, that the government has a responsibility to control prices, and that controlling prices requires controlling wages as well. The only real question is whether the unions are going to take a direct part in the controls.

President Nixon has, of course, done his level best over the past six months to create an atmosphere of hostility and suspicion between the White House and labor. The AFL–CIO withdrawal now is essentially a defensive reaction, in preparation for an election campaign that the big unions think is going to be aimed heavily at them. But by walking out now, the unions are likely to help Mr. Nixon more than themselves. The price-stabilization effort has not been hugely successful so far. Prices are still on their way up, more steadily and rapidly than anyone had expected. Mr. Nixon needs an explanation. Now it becomes easier for him to blame the Unions.

The case of the longshoremen's wages shows exactly how the trouble is being generated. On the wharves, labor and management have had a general agreement for years that very high wage increases would be the price of modernization and increased productivity. There has been a great deal of tension in working out the precise scale of the increases, as the long strike demonstrated this fall and winter, but it has been traditionally an argument within a small group of labor leaders and company negotiators.

Now, suddenly, a third interest, the general public's, is being forcefully asserted by the Pay Board. Labor unions are very set in their ways, and they do not like having long standing traditions disrupted. But what is the standard of fairness in determining longshoremen's wage increases? Solely the effects of containerization on the demand for manpower on the docks? Or should the controllers also weigh the effects on the national economy in general, and the comparison with the raises allowed to other working people who are being held to the general rule of 5.5 per cent?

The big labor unions have, unfortunately, failed to give any real representation to most of the 85 million working Americans. The five labor seats on the Pay Board were created to protect all working people. But those five seats are held by the AFL-CIO, the United Auto Workers and the Teamsters. Those unions' leaders have devoted themselves almost entirely to the narrowest interests of their own immediate constituencies, the members of their unions, who constitute fewer than one-fourth of the national labor force.

Judge Bolt, the chairman of the Pay Board, said yesterday that he intends to continue to operate without the departed union men unless the White House orders otherwise. For the time being, that is precisely what he ought to do. If, in time, it becomes clear that the unions will not change their minds, then the Pay Board ought to drop the whole concept of labor and management representation. The Price Commission works well with only public members. The Pay Board was established on the tripartite pattern only because Mr. Meany insisted on it. If the labor and management seats were abolished, that would leave the five public members to do a job that, walkout or not, remains essential.

RIGHT TO STRIKE HAS ITS LIMITS

The prospect of resumption of the West Coast dock strike—the consequence of the Pay Board's compromise finding on a labor-management wage settlement—raises important questions about the future of union power in American society.

First, it poses the problem of whether the labor movement is to be allowed to destroy the effectiveness of the administration's program of wage-price restraints, which on the whole has been working rather well.

Harry Bridges, president of the West Coast International Longshoremen's and Warehouseman's Union, had threatened to strike if "as much as one cent" was lopped off the settlement which the union negotiated independently with the shippers. George Meany, president of the AFL–CIO, has said he would support Bridges right down the picket line.

In fact, the Pay Board reduced the original settlement from 21 percent to 15 percent, which is a far cry from the 5.5 percent target it had established for wage raises. Obviously, the Pay Board was not indifferent to the longshoremen's threats, even if it did not capitulate completely.

Yet it is clear that if the longshoremen, by going on strike, force a larger settlement, then none of the Pay Board's decisions will be worth the press releases they're written on—and President Nixon's wage-price program will be shattered.

Because of the impact on overall economic policy at a critical time, then, the prospect of a walkout raises a second, even more fundamental question: Whether unions have an inherent right to strike whenever it might suit their fancy.

There certainly was a time when I would have answered with an unequivocal "yes." Those were the days when unions were fighting for their existence—against the hostility not only of employers, but usually of government and the courts. The left never doubted that the union was always right.

But the great labor struggles of the past—the Homestead strike, the United Auto Workers against Ford, John L. Lewis and the coal miners—represent a purer day of the union movement. As often as not these days, labor disputes are waged not so much against employers, but against the public, and, often, against nonunion labor.

The current dock dispute is a good example. Both sides are going through a charade of who should benefit most from a reduction of some 30 percent—thanks to new technology—in the handling costs of cargo.

Obviously, it occurs to neither side to reduce prices.

Instead, the two sides make angry faces at each other and wind up with a sweetheart contract in which labor gets the wages it wants and management sets the prices it chooses. In such circumstances, it's hard to get emotional over labor's cause.

Yet Meany insists that labor has a constitutional right to go out on strike, notwithstanding economic policy and the Pay Board. It is curious how the Constitution becomes the last refuge the economic royalists, no less so because the barons today are from labor as much as from management.

For myself, I have looked in vain through the Constitution for the right to strike. It seems clear that workers have the right to seek to coerce employers by a common refusal to work.

But I find nothing which says unions have the right to create economic paralysis or to deprive others of their living. In short, my own freedom reaches its limit when I hurt someone else. I have the right to free speech, but not to cry "fire" in a crowded theater.

And so the third question: Should the administration and Congress enact legislation requiring compulsory arbitration, for instance, when the well-being of society is involved?

Meany says such legislation would mean the destruction of free enterprise and would be the "antithesis of freedom." That's what the drugmakers said when told they had to make safe drugs, and what the steelmakers said when told they couldn't fix prices.

I say the right to strike has limits, like the right to threaten panic in a theater. Labor and management can fight their battles out to their hearts' content, but only so long as much or all of society isn't made to suffer for them.

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THE QUEST TO REGULATE CHARTER FLIGHTS

HON. GEORGE P. MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MILLER of California. Mr. Speaker, the Washington Post of March 12, 1972, included a story by Staff Writer Robert Samuelson entitled "The Quest To Regulate Charter Flights."

This provocative article deals with the controversy that exists between the supplemental and regulated air carriers and I commend its reading to my colleagues:

THE QUEST TO REGULATE CHARTER FLIGHTS
(By Robert Samuelson)

The date is Aug. 10, 1970. The place is a House hearing room, where Secor D. Browne, chairman of the Civil Aeronautics Board, is delivering a public confessional about his agency's frustrations in regulating charter flights. His message is full of gloom.

"The existing regulations are unclear, cumbersome and restrictive," Browne tells the Congressmen. "The overall situation is chaotic."

But, he adds on a more hopeful note, the CAB is considering new regulations that will be both fairer and clearer. "We must act promptly because the 1971 charter seasons will be upon us."

More than 13 months later, there are no new regulations. The CAB's staff is still trying to enforce the rules that Browne decried as "unclear, cumbersome, and restrictive." And even if the agency issues new guidelines within the next few months, they may be only slight improvements on the old.

Seldom has the CAB spent so much time doing so much wrong as it has in its quest to regulate charter flights. And seldom has an issue it faced been more important: Charter flights represent the only clearly identifiable way to lower air fares in the foreseeable future.

There is no magic to charter economics. The planes fly full, and, therefore, they can afford to carry passengers at substantial discounts from the fares of regularly scheduled airlines, which last year had an average of 51 per cent of their seats empty. On a round-trip New York-to-London flight, the typical charter price remains below $200—a fare which scheduled airlines match only with special promotional rates available only during dull traveling periods.

CHARTER TRAFFIC TRIPLES

Blessed with this staggering price advantage, charter traffic between the United States and Europe has exploded. Between 1966 and 1970, it more than tripled, increasing from 600,000 passengers to 2 million. In Europe, the growth rate has been an equally spectacular 25 to 30 per cent.

Yet, there are disquieting and disturbing aspects to the charter boom.

More than most airline activities, charter flights have proved an increasingly fertile source of consumer suspicions and complaints. In fiscal 1970, 36 per cent of the complaints received by the CAB concerned charter flights. Thousands of students were stranded abroad last year by aborted charters; in 1972, Theodore Harris, a specialist in student travel, estimates that the number of stranded passengers could rise to 25,000.

Against this background, the government's role in charter regulation would seem clear. Encourage the availability of the low-cost flights, but eliminate the fraud.

It hasn't worked that way. Perversely, the government has done just about the opposite. It has tried to restrict charter flights by its inscrutable rules. And, in the process, it has shrouded charter travel in a cloud of legal uncertainty that has encouraged the deceit, evasion and fraud that everyone at the CAB condemns.

The breakdown of regulation demonstrates what happens when an agency allows itself to become immobilized by a bitterly divided industry.

For nearly a decade, the scheduled airlines and the charter carriers have been waging a financial, legal and lobbying war of growing ferocity. The scheduled airlines seem to regard the charter's low fares as a form of airborne sulphuric acid, that will slowly, but surely inevitably destroy the TWAs, Pan Ams, and BOAC's of the world. The charter airlines are nearly schizophrenic, thinking that they have been marked for extinction by the much bigger scheduled carriers.

Behind the viciousness lies a struggle to control the fastest-growing segment of air travel: vacation—as opposed to business—flying. On the trans-Atlantic, scheduled airlines already estimate that 70 to 80 per cent of their traffic are vacationers. Within the United States, pleasure travel is now reckoned to be more than 50 per cent of the total, though much of this is short-range and short-term travel that wouldn't be susceptible to charter flying.

AGE OF MASS TRAVEL

Like it or not, this is an age of mass travel, jammed airports, and carbon-copy vacation plans. It is axiomatic that most vacation travelers are "price sensitive"—they go where they can find the lowest fares, and the lower the fares, the more people are likely to fly.

Not that the arrival of charter airlines (which must meet the same safety standards as scheduled carriers) means the end of scheduled service entirely. More than three-quarters of the trans-Atlantic traffic still is on scheduled flights, and charter carriers could probably never make any serious inroads on shorter domestic routes, where regularity and frequency of service is the overpowering need. But when low-charter fares exist, scheduled airlines have been forced to lower their own prices and they don't like it.

Anyone who follows airline propaganda knows that the scheduled airlines like to boast that air fares have generally declined over the last 15 years, so that, even with recent price increases, average fares are really no higher today than they were in 1960.

True. But, unfortunately, the credit for this good fortune belongs less to the acumen of airline management than to the arrival of bigger, faster planes, whose much lower operating costs permitted—in fact, virtually demanded, lower fares.

That pleasant era now appears to have run its course. The jumbo jets offer some additional economies, but these are fast being consumed by rising labor costs. U.S. domestic fares may be about the same today as they were in 1960, but they are higher than they were in 1965. If there is any other possible way of achieving spectacular fare reductions besides filling planes to their full capacity, the scheduled airlines have yet to find it.

The CAB has chosen to see this issue primarily as a game to keep both charter and scheduled airlines happy. "Let us get to the heart of the problem before us—the dichotomy of interest that exists between the various classes of carriers, both foreign and domestic, and their competitive search for the business of air travelers," Browne told that House committee in August, 1970.

"That is, in my opinion, the real subject: How can the delicate balance between the scheduled services and the charter services be maintained to the benefit of both," and only then did he add, "While at the same time protecting the interest of the traveling public and providing the maximum benefit to the passengers?"

"AFFINITY" STIPULATION

Generally, the CAB's charter rules make charter flights available only to bona fide "affinity groups"—those with a legitimate purpose aside from gaining travel discounts, such as a union, fraternal organization, alumni group, or church.

Sadly for the CAB, experience here and abroad has proved that the "affinity" requirement is a cinch to circumvent; tour organizers simply invent fictitious groups—the names, such as "Friends for Instant Environmental Growth Action," attest to their ingenuity—and enroll prospective passengers.

The CAB (and most foreign government agencies) haven't been able to police these regulations. The expense is too high, and, even if it weren't, a massive crackdown would present the embarrasing spectacle of a federal agency preventing people from trying to beat inflation by flying more cheaply. And sometimes, no one wants to enforce the rules anyway, even when the flights are known to be technically illegal.

"Anything (a charter flight) coming from Europe we just wink at three times," says one government official, "because we're so anxious for the tourism." Presumably, many of the European enforcement officials often feel the same way.

The violations are likely to increase. "As people get more and more educated about getting cheaper charters to Europe, they're going to abuse the regulations," says Juan O'Callahan, an economic consultant for many charter carriers. "After all, is there anything immoral about someone wanting to fly cheaply?"

Most of the charter irregularities are basically harmless—passengers get the tickets and the flights that they otherwise would have been denied—but the massive violations has also screened truly dishonest travel organizers from detection. Confronted with dozens of technically illegal operators, the CAB has been unable to separate the fraudulent schemes—which may simply run away with prospective clients' money—from the rest of the field.

For proof that this state of anarchy is hardly preordained, one need take only a casual look at the European experience with charter flights between the Continent's chilly northern countries—primarily Britain, Scandinavia, and Germany—and its sunny Mediterranean resorts. In 1972, an estimated 8.5 million Europeans will fly on inexpensive charters to the Mediterranean, about four times as many as 1965.

This astonishing growth is built on a highly competitive travel industry, which, using charter flights, has been able to achieve large savings for vacationers. In Britain, major tour operators offer two weeks in Ibiza (the Spanish home of Clifford Irving) for less than $100, including air fares and hotel. Two weeks in Majorca come for less than $90 in the low season, again air fare and hotel.

These prices reflect more than Europe's lower cost-of-living, and there is no secret how the reductions are accomplished. The tour organizers often have their own planes, sometimes have helped build hotels in resort spots (making them comfortable, but skimping on the luxuries), and organize their tour schedules and pricing to minimize the single greatest problem of both airlines and hotel operators—empty seats or beds in a nominally "off" season.

It would be wrong to blame the Civil Aeronautics Board entirely for the absence of these inexpensive holiday "packages" in the United States. The scheduled domestic airlines here have more assiduously cultivated the vacation traveler than the scheduled European carriers; scheduled air fares are about half the level in Europe, and U.S. airlines offer more frequent service to more places than scheduled European airlines.

Even so, given freedom by the CAB, charter airlines could probably develop a flourishing traffic between the North and many existing resort spots—and possibly many, in Mexico or along the Gulf of Mexico, that haven't been developed yet. Fares might be cut by as much as 50 percent, a fact that even the scheduled airlines concede.

By government fiat, however, the European-type holiday packages simply can't be offered in the United States. In Europe, the charter operators can offer so-called "inclusive tour charters" (known as ITCs), including both air fare and hotel accomodations, between any two points.

In the United States, the Civil Aeronautics Board says that any ITC package must include at least three stops, 50-miles from each other. As a practical matter, this requirement squanders the potential savings of charters and makes it all but impossible to organize simple, short, ITC charters in the United States.

AN UNCHARITABLE IMAGE

Anyone who has survived the journey through this labyrinth of twisting charter rules has probably formed an uncharitable image of the five members of the Civil Aeronautics Board as a bunch of mean, unlikeable characters, who conspire day in and day out to prop up airline profits while depriving the public of low fares.

The reality is much less sinister. Time and time again, the CAB has stood up to the airlines—which, despite all the cant about "consumerism," are really the only consistently interested observers in what happens at the CAB—and forced changes that the industry has found distasteful, including occasional fare reductions. Moreover, the agency is slowing readjusting its thinking about charters. It now admits, for example, that the "affinity" rules make little sense by themselves.

The CAB has proposed new rules, but through the scheduled airlines see ruin in the tentative regulations, many charter experts don't think that they will work at all. Basically, the new rules would allow any group of 50 or more to charter a plane six months in advance, as long as their names are filed with the CAB, and the prospective passengers advance a 25 percent nonrefundable deposit.

In practice, groups do not form spontaneously; they have to be solicited by tour organizers, who, say the charter experts, will have to begin their selling campaigns seven or eight months before the planned departure date to meet the CAB's six month deadline. Who, they ask, will commit themselves for a vacation seven months ahead of time, with the possibility of losing the 25 per cent deposit?

The CAB's tortoise-like pace illustrates vividly how government agencies yield ground only grudgingly to anything that disrupts the well-conceived pattern of regulation they think they have constructed.

The scheduled airlines are outraged at any suggestion that charter rules might be liberalized. Only last month, Trans World Airlines predicted that any relaxation of the rules would spell financial ruin for the scheduled airlines, requiring $100 to $200 million in government subsidies on trans-Atlantic routes or the end of many flights. Aligned with the scheduled carriers are many foreign governments which own their airlines and frequently try to restrict inward bound charter flights.

SPECTER OF DISASTER

It is the specter of financial disaster that has consistently intimidated the CAE, for almost everything the CAB has done since its creation in 1938 has involved scheduled airline service.

At stake, say the scheduled carriers, is one of the CAB's guiding principles—the idea that the airlines can make enough profits on lucrative, long-distance routes to support an elaborate network of regularly scheduled service linking many secondary cities. Relatively high fares during peak travel seasons along popular routes are needed, by this theory, to support continued service during slack periods and along more lightly traveled routes.

Says TWA's chairman, Charles W. Tillinghast. "Skimming the cream by (charters)—that is, the ability to fly where and when it is convenient and to set prices without regulation—destroys this balance and will prevent economic survival of dependable, regular air services on a subsidy-free basis."

And that prospect must chill members of the CAB, who are thoroughly familiar with two immutable laws of regulatory politics—first, agencies whose regulated industries get into serious financial trouble are subjected to a public flogging (the Interstate Commerce Commission learned this lesson when the Penn Central Railroad went bankrupt); and second, Congressmen, Senators, mayors, and chambers of commerce never believe their own cities have enough scheduled air service—and they scream ceaselessly at any suggestion that service should be curtailed or eliminated.

Confronted with these conflicting pressures, almost every level of government has waffled about charter flights. From the Department of Transportation come ambiguous, contradictory policy statements; Congress carefully shies away from revising a Federal Aviation Act that does not have very much to say about charter flights. And the CAB is left to take the heat.

Just how real a prospect is Tillinghast's vision of the future? No one can really tell, but—even if events vindicate him—it is now clear that many government officials have tired of the scheduled airlines' forecasts of doom. Among the reasons:

Air travel, for both scheduled and charter airlines, has grown at a rapid rate. Although trans-Atlantic charter traffic more than trippled between 1966 and 1970, scheduled traffic nearly doubled—and the absolute growth was bigger (2.8 million passengers against 1.3 million), because scheduled traffic started from a larger base. In the United States, air travel grew at nearly a 15 per cent rate in the sixties.

Despite the airlines complaints, charter competition contributed only slightly to the airlines' financial problems of the last three years. For domestic U.S. carriers, charters couldn't be blamed at all—because charter competition was virtually non-existent. And for overseas carriers, many analysts believe the airlines simply ordered to many 747s too soon. Even so, TWA, for one, has consistently made a marginal operating profit on the Atlantic; for the 12 months ending in September, it was $29 million.

A growing number of officials think that the scheduled airlines are simply trying to protect themselves from their own excesses. For example, in January, there were 86 roundtrip flights between New York and London; it is a month when carriers typically fly with more than 60 per cent of their seats empty. Using 1968 as a base year, the Department of Transportation believes that Pan Am and TWA were flying nearly twice as many flights to Europe as could be legitimately defended in the "public interest."

While scheduled airlines harp on the idea that profits on long-distance routes are needed to maintain service on shorter routes, they neglect to state the converse—that the higher fares discourage people from flying on the longer routes. And if some fares need to be raised sharply on the shorter routes, why shouldn't they be? It is these routes, after all, that are most heavily used by business travelers, and just why they should be spared from paying full costs is unclear. Moreover, scheduled airlines aren't prohibited from competing for charter business, and, many airline experts believe that the large scheduled carriers will have no trouble at all winning a large and profitable part of charter business.

"In the United States," says one government official, "we normally start with the idea that if someone wants to buy something and someone wants to sell it, you've got to have a pretty good reason to stop them."

The CAB has yet to settle upon that simple notion, but it is learning one lesson slowly and painfully: The trend toward charter flights can be resisted, but it cannot be reversed.

A THREE-PRONGED ATTACK ON DRUG ABUSE IN THE UNITED STATES

HON. MARIO BIAGGI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BIAGGI. Mr. Speaker, by this time all of us recognize that drug abuse in the United States has reached epidemic proportions. Recently, Congress established the Special Action Office for Drug Abuse to act as a central coordinating body in our fight against illegal sale and use of narcotics and dangerous drugs. At the same time, the President announced an all-out effort to cut off the flow of illegal drugs and narcotics into this country and to educate people against the use of such products.

Our national efforts must take a three-pronged approach to drug abuse. The first is cutting off the supply. After heavy pressure from Congress, the President negotiated an arrangement with Turkey to stop all growth of the opium poppy after the current crop year. That country has been the chief source of opium that flows into this country. However, additional steps must be taken with other countries in the world, particularly those in Southeast Asia, which undoubtedly will soon become prime sources of heroin.

Just recently, I and several other Members of the House introduced a resolution calling for a cutoff of all aid to Thailand. This country already acts as a funnel to the United States for the opium grown in Burma, Laos, and Cambodia. While they allege that little opium is grown in their lands there is considerable trafficking in the product. This must be stopped.

Just after this congressional initiative was announced, the Thai Government denied it was doing nothing and said they had just confiscated and burned 26 tons of opium worth $47 million on U.S. streets. The fact is, if this is what they get in only one haul, the extent of the trafficking is far greater than anyone imagines.

Similarly, greater diplomatic as well as congressional pressure must be placed on countries such as France and Mexico that are staging areas for the shipment of heroin into the United States. It is no secret that Marseilles is the leading narcotics processing city in the world. Yet the French officials have taken little action against these influential and well-

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placed purveyors of the poison of our youth. Only the economic threat of a cut off of U.S. foreign economic and military aid will move the officialdom of these nations to action. I have proposed such a program for the last 2 years now and have introduced several floor amendments to do just that. Our efforts have caused the administration to move on the diplomatic front much more forcefully than before.

In the United States, a second aspect of the supply problem is the overproduction of amphetemines and barbituates. It has been shown that only about 25 percent of all such production is needed for legitimate medical purposes. Weak controls over transportation and sale of these drugs has diverted most of the output into illegal channels. The drug manufacturers know this, but are reluctant to cut off the return flow of dollars into the corporate treasuries. New Federal drug laws passed by Congress in 1970 provide for more stringent controls; and now, at last, the administration is moving to restrict production substantially and more closely regulate the supply and distribution of dangerous drugs.

A further step in eliminating the supply of illegal drugs in this country is to attack the distribution system. This must be accomplished on several levels. First the pusher must be put out of business. This can be done with strict punishment of the illegal seller of narcotics, particularly on the second and third offenses. Such authority was granted by Congress in a recently enacted law, but the courts have not moved to invoke the full range of penalties available.

Second, efforts must be made to lock up the directors of the big drug distribution operations. These are the men who may never handle the product themselves, but are responsible for the movement and sale of millions of dollars of illegal narcotics and dangerous drugs. The Justice Department and the Internal Revenue Service have been cooperating on this effort to obtain tax evasion convictions against these criminals. This is the same sort of successful tactic used against the gangsters of the thirties.

Third, those addicts who come into the criminal justice system must be treated for their abuse and rehabilitated before being returned to society. Rather than being treated as criminals, they should be treated as sick or diseased persons who must be cured before they can resume a normal life in a society.

The second prong of our national effort against drug abuse must be directed at educating those who are not presently using drugs and narcotics about the dangers involved and at providing alternatives to such use. Our drug education programs have been largely ineffective because they lack credibility. False scare tactics have led our children and youths to ignore the cry of "wolf."

School officials and parents must first educate themselves in the causes and prevention of drug abuse and then be prepared to educate young children in the dangers of using narcotics or dangerous drugs. Doctors, too, must gain the confidence of their young patients and show them the effects of illegal drug use on their physical well-being.

Another aspect of drug abuse prevention is the need to provide alternatives to the use of drugs. In many cases drug abuse arises as an escape from emotional or psychological problems. In the last 20 years we have seen a decline in the availability of various categories of adult professionals who would counsel the young on their psychological problems, the family doctor, or some other adult at one time would provide a stabilizing psychological influence in the life of a child or adolescent. However, today these institutions are fighting for their own survival and have little time to worry about the emotional and psychological problems of the young.

Churches and schools are faced with growing financial problems and a feeling by the young that these institutions are no longer relevant. Whatever the causes for the decline in influence over youths from these sources, the fact is the basis for trust and guidance is seriously eroded and our young have no place to turn to.

There is a growing need to place greater emphasis on the education and training of psychologists and psychiatrists to treat problems and illnesses of the mind. Twentieth-century man is vastly more dependent on his mind than his body. No longer is his body the primary source of his livelihood. We have entered the paper society and scientists predict that the future will see man earning his income by mentally manipulating a computer in his home. Our care and treatment of the individual, then, must be adapted to this new order and the resultant new series of problems it presents.

A third aspect of drug abuse prevention is the possible use of narcotics antagonists to inoculate a person against drug abuse. This family of drugs has been the subject of only minimal research by a handful of doctors in the country. Two years ago, I revealed the research of Drs. Friedman and Fink of New York's Medical College to an unbelieving congressional committee.

Following my comments the House Select Committee on Crime took up an extensive investigation of drug antagonists and the potential role they could play in preventing and treating drug abuse. The result of those investigations is a national research program to combat the heroin addiction crisis.

The committee report, published last fall, is the first comprehensive treatment of narcotics antagonists by the U.S. Congress. Legislation was introduced in January by myself and others to put this program into effect. It would provide $50 million to cover up to 90 percent of the research costs for the development and use of narcotics antagonists. This bill is now pending before the House Interstate and Foreign Commerce Committee.

The most promising aspect of the antagonists which include such futuristic drugs as M-5050, cyclazocine and naloxone, is that they are not narcotics. The problem with methadone treatment is that a synthetic narcotic is being used to fight narcotics abuse. The antagonists block the effects of narcotics in much the same way polio vaccine prevents polio. Thus with sufficient research, it may be possible to use these drugs to inoculate individuals or groups who have a high susceptibility to narcotics abuse.

The third prong in our fight against drug abuse is the treatment and rehabilitation of present addicts. Methadone is currently our No. 1 tool in the treatment of drug addicts. It permits an addict to live with his narcotics dependency and to maintain a more normalized existence. They can hold jobs and move in society as normal individuals. Gradually, over time, it is possible to reduce the use of methadone and permanently cure the addict.

Other treatment programs involve the Synanon-type method where an addict lives with other addicts and through group therapy methods, he learns to live without drugs. Narcotics antagonists, in addition to being a preventive tool, also offer the possibility of a methadone-like treatment with the added benefit that you are not treating narcotics dependency with a synthetic narcotic.

Nevertheless, methadone today is our primary treatment tool. It offers the hope of greatly reducing the number of addicts on our streets and involved in crime. Methadone has been administered largely through clinics, which are expensive to staff properly.

In most cases, sufficient staff is not available to provide the full range of testing and counseling services to aid the addict in adjusting to his new life style. Many clinics have only minimal testing and control programs and act as little more than methadone dispensing stations. Long waiting lists to get into our clinic programs demonstrate the need for a more extensive program to treat addicts and one that does not require expensive facilities.

Early last year, I proposed a comprehensive program for the treatment with methadone of drug addicts by doctors in private, office-based practices. There are 16,000 such doctors in New York City and if each doctor treated up to 10 patients, 160,000 addicts could be brought under the program—the total estimated addict population in the city.

Subsequently, after conversations with many doctors in the area, I have modified my program to remove the actual administering of methadone from the doctors' offices. Many of the doctors expressed a fear of having a large amount of methadone in their offices. The fear is based on the fact that a large supply of methadone could invite a possible robbery attempt by criminal elements or the addicts themselves.

Therefore, I am now proposing that doctors work in conjunction with a local clinic to provide the comprehensive treatment of addicts with methadone. The program can be coordinated through the county medical societies.

What would happen is this. An addict would be referred to a local doctor or his own doctor, who would have primary responsibility for the addict's treatment program. The doctor would conduct the testing, keep the records on the addict's progress, and determine the dosage of methadone.

The doctor would then write a prescription or fill in a coupon booklet that entitled the addict to receive so much methadone for so many days from the local clinic. It would be a simple matter for the addict to go to the clinic, receive his methadone, which would be dispensed orally, and leave. This would remove the distasteful aspect in many addicts' minds of the lengthy time spent to obtain clinical treatment. It would also provide a greater degree of control over the addict's program since the individual doctor would only be concerned with a maximum of 10 addicts. It would be a simple matter for the clinics to provide the dispensing services.

In terms of prevention of abuse of methadone the program lends itself to a series of safeguards. To obtain methadone, the addict must have a doctor's prescription redeemable only at a particular clinic. The prescription could be for a week's or 2 week's supply. He could turn the prescription in for a coupon book that would have safeguards similar to those used for travelers checks.

The costs of the program would be born partly by the State, partly by the doctors, and partly by the individual. The cost of the methadone and coupon booklets would be paid for out of State funds and provided free. The doctors' services would be provided to the patient on a cost or less-than-cost basis.

I am convinced that this program is a viable solution to the drug addiction problem. It provides the control and comprehensive treatment necessary to bring a large number of addicts under a rehabilitation program. Once operational, the next step would be to tie in psychiatrists and psychologists operating through clinics or through their private offices to treat the root causes of the individual's drug abuse problem and help return him to a normal way of life. It would emphasize the primarily medical nature of the drug abuse problem by putting primary responsibility for patient care in the hands of a medical doctor.

Eliminating drug abuse is not just a problem for the Government or for the doctors. It is everyone's problem. Whether an individual is touched by drug abuse himself or in his family or not at all, he should be concerned about ending this curse on our society. It drains millions every year in treatment programs. It is responsible for billions of dollars in theft and property damage and loss of life. But most devastatingly, it is infecting large segments of the youth of the country, those to whom we must turn to carry out the reins of government in later years.

All Americans have a stake in ridding this country of the problem of drug abuse. The sooner each of us recognizes that obligation and makes our own commitment to the battle, the sooner an end to addiction will be in sight.

WEST VIRGINIA UNIVERSITY SCHOOL OF MINES ATTRACTS STUDENTS TO CONTEMPORARY STUDIES

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, March 24, 1972

Mr. RANDOLPH. Mr. President, questions relating to the environment and to our Nation's fuel and energy requirements have concerned me greatly in recent years. The two are obviously interrelated. We are committed to protecting the environment from unwarranted abuse but at the same time, we must find clean and efficient ways to meet the increasing demands for energy.

Coal, which is a major industry in my State, now produces a substantial amount of the energy used in our country. Consequently, coal mining activities of all types has expanded greatly in recent years. With this expansion has come the need for more highly trained personnel to produce coal and to produce it in the manner compatible with our environmental aims.

Mr. President, I am gratified that the School of Mines at West Virginia University is securing important results with its new approach to the training of mining engineers. Under the leadership of Dean J. H. Kelley, there has been developed a vigorous recruiting program for students by relating the profession of mining engineering to contemporary issues. At the same time, the school has strengthened its instructional program to keep it responsive to these issues.

Five years ago, this school had between 50 and 60 students; this year the enrollment has grown to approximately 150, including graduate students. Dean Kelley anticipates that more than 200 students will be enrolled in the school of mines next year.

Typical of Dean Kelly's new approach to mining engineering, is an attractive, full-color brochure which is widely distributed. In straightforward language, this publication sets forth both the challenges and the opportunities offered to mining engineers. Entitled "What Are You Doing With the Rest of Your Life?" the brochure lays out this question and offers some possible answers. In part, the text reads:

What kind of engineering?—Mining and petroleum engineering. The men and women—yes, women, too—in these fields are responsible for the extraction of minerals from the earth. Things like coal, gas, copper, gold and diamonds.

They work almost anywhere in the United States and some pretty exotic places overseas, too. Mining and petroleum engineers are in great demand. Because of the demand, financial rewards rank among the highest for all industries.

Are you serious about ecology?—We're serious, too. All pollution comes from the earth in either the form of fuel or crops. Today's mining and petroleum engineers can feel highly relevant to the ecology revolution. Their challenge is with nature. They're highly concerned with the way the earth is used. And, in the future, their recommendations will be law. It's a great way to get involved and actually see your work do some good.

Why the West Virginia University School of Mines?—For one thing the West Virginia School of Mines is located in the center of one of the United States' great mineral producing areas. Nearby are some of the largest and most modern coal mines. Close, too, are natural gas and petroleum-producing areas. You'll get a first-hand look at a broad range of mineral industries.

The School of Mines houses the Coal Research Bureau where daily experiments probe new uses for coal and better ways to end pollution.

Our School is housed in the Mineral Industries Building which was especially built and designed to accommodate teaching and research in the mineral areas.

We've got modern equipment, too. Like our own computer to help students with their studies.

Our faculty is one of the most distinguished in the country. That's another advantage of being located in a great mineral area. They come here because they're able to participate in research, industrial consultation, and professional mineral engineering societies. That's a benefit for you. Because they're here, you'll receive instruction in the most modern techniques used in the mineral fields today.

BYELORUSSIAN INDEPENDENCE DAY

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. GALLAGHER. Mr. Speaker, on March 25, we commemorate that one brief moment in 1918 when the Byelorussian National Council declared independence. The Byelorussian people were at long last to determine their own and separate destiny. For the few remaining months of 1918 these brave people were able to live under the sovereignty of their own choice.

Then, as fate decreed for many of her sister nations, Byelorussia was ruthlessly crushed by the first of the Red army. Sporadic rebellion continued for years, showing an immense bravery in the face of overwhelming armed might. The Soviet Government met this opposition with increased force and the attempt to wipe the memory of freedom from the minds of the people of Byelorussia was intensified.

We may take justifiable pride in the fact that American Presidents have always vigorously advocated the cause of self-determination. I am particularly proud that President Wilson, a fellow New Jerseyite, is remembered as a leading expounder of the freedom of choice.

I think today we should reaffirm our basic commitment to the protection of any nation threatened with an abrogation of right to self-determination. Today in Byelorussia we can see the result of this denial. Self-determination is a right which all civilized nations should recognize. Yet, some still refuse.

I join my colleagues today in reminding the Soviet leaders of this fact, and in expressing the hope that the time when the Byelorussian people shall be able to express and exercise this right will and must be assured to them.

I, along with my colleagues, look forward to the day when Byelorussia and all nations once again become independent and able to exercise the sovereignty which all American Presidents have so ably defended.

REPRESENTATIVE VANDER JAGT OFFERS ANTIWATER POLLUTION AMENDMENTS TO H.R. 11896.

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. REUSS. Mr. Speaker, my colleague, Congressman GUY VANDER JAGT, of Michigan, the able and distinguished ranking minority member on the Subcommittee on Conservation and Natural Resources of the House Committee on Government Operations will next week offer amendments to title II of H.R. 11896, as reported—the Federal Water Pollution Control Act Amendments of 1972. His amendments are intended to strengthen that bill.

At this point in the RECORD I insert Mr. VANDER JAGT's comments on the proposed amendments, and the amendments he will offer:

THE RESOURCE MANAGEMENT AMENDMENTS TO BE OFFERED BY HON. GUY VANDER JAGT

Mr. Speaker, on November 30, 1971, I placed in the *Record* a comprehensive statement discussing the water pollution legislation passed by the Senate, S2770. Today I would like to add to that statement the benefits of accumulated knowledge and events which have taken place since that date, relating directly to H.R. 11896, the legislation which will be taken up by the House next week.

Members of the House Public Works Committee under the chairmanship of Con. John Blatnik and significant leadership of Con. Robert Jones and Cong. William Harsha have created a truly creditable piece of legislation for House consideration. Time and efforts have been spent in prodigious amounts to produce this excellent vehicle for returning America's lakes and streams to conditions of purity. The Committee deserves great thanks from the Nation for its work

Inasmuch as I have had an opportunity to assist in the evolution of this legislation, particularly in the area related to the spray-irrigation land treatment method of sewage management, I would like to provide at this time certain new research information potentially valuable to the House in its final deliberations on the bill.

As discussed in my statement last year, the U.S. Army Corps of Engineers under the guidance of Dr. John R. Sheaffer had last summer completed the initial phase of alternative sewage treatment studies for the Merrimac River Basin in New England, Cleveland-Akron, Detroit-Southeast Michigan, Chicago-south end of Lake Michigan and San Francisco. Because these initial studies indicated higher costs for land treatment systems compared with "advanced" waste treatment (AWT) or "physical-chemical" systems, Environmental Protection Agency Administrator William Ruckelshaus last fall called for the termination of these studies.

My own experience with initial cost estimates in the development of the Muskegon land treatment system in my District led me to carefully consider these estimates. I became deeply disturbed that the figures easily could be misinterpreted, creating an erroneous impression of the economics and benefits of land treatment systems. For example, the land treatment costs for Chicago included both municipal and industrial wastes, while the estimates for AWT included only municipal wastes. In addition, the alternatives' results were not comparable; AWT at Detroit would not improve Lake Erie, but only slow its eutrophication, while land treatment would return Lake Erie to a desirable character. Recognition of these factors led me and other Members of Congress to call for a continuation of these studies. An Administration decision then allowed them to continue.

During January of this year it became apparent, however, that unless greatly accelerated efforts were put forth to bring about intensive review of the initial Corps studies, any basic direction suggested by the studies would be lost in terms of affecting Congressional deliberations on water pollution legislation this year. The Administration could not change its position in this regard without further evidence and the House could not be expected to give greater emphasis to the land treatment approach than already described in good but perhaps inadequate language in the Senate legislation. Substantial language was added to the R&D section of H.R. 11896 providing for the possible development of a major land treatment system to demonstrate the potential for such a system in the clean-up of Lake Erie, but otherwise the House bill was somewhat weaker than S. 2770 in this regard.

During this same period additional information came to my attention, further supporting an already substantial but growing conviction that land treatment was the basic direction the Nation must take in the management of its sewage.

Progress continued in the construction of the Muskegon System. Considerations of a nuclear power plant sited to utilize water in the storage lagoons of the system for cooling purposes progressed to intensive review by Consumers Power Company. Other power companies both private and public expressed interest in the possibilities. A system of charges at quite substantial levels for such use of the water began to appear feasible in view of much higher cost construction and operating costs for alternative evaporation tower cooling systems. Private interest appeared for the development of a regional industrial waste treatment center discharging its treated wastes into the system. Plans evolved further for the establishment of a solid waste disposal facility which would have the capacity to manage such wastes for all of Western Michigan for a period of 100 years through sanitary land fill and recycling of recoverable materials using acreage available between spray-irrigation circles on the agriculture land. All of the aforementioned are potential revenue producing activities in addition to agricultural output of the basic system.

Detailed reports of the Melbourne, Australia, sewage management system in operation since 1893 became available. The irrigation farm at that location currently manages 114 million gallons per day of sewage. Beef cattle and sheep are raised on the farm with 3,500 head of cattle and 35,000 sheep sold from agriculture operations in 1971 alone. Twenty-seven thousand acres of land with more than 10,000 acres irrigated for pasture are included in the system.

The efficacy of the land treatment concept was further confirmed by a University of Washington study just completed indicating basic components of sewage are reduced by the following amounts in the lagoon—spray irrigation approach: BOD—99%, suspended solids—99+%, nitrogen—80–90%, phosphorous—99%, heavy metals—99%, organic compounds—99%, viruses—99+%, bacteria—99%. All of these reductions are substantially greater than produced by "advanced" waste treatment techniques and "physical-chemical" systems currently advocated by EPA and state water pollution control agencies.

The question of costs of lagoon-spray irrigation systems is being answered by experience beyond Muskegon contract evidence where capital costs including land amount to about 80¢ per gallon of treatment capacity. No AWT or "physical-chemical" system recently bid or constructed to my knowledge can approach this low cost, and operating costs for land treatment are estimated at half the costs of alternatives.

A question of availability of land continues for the very substantial acreage required in land treatment. But the Corps' studies found sufficient land within reasonable distance of five major urban areas presently under consideration. There will be substantial dislocations of firm families if we do not develop lease arrangements or other means to insure the use of land for spray-irrigation by other than outright government ownership. However, there is also evidence that substantial dislocations will occur with the siting of alternative systems since such systems tend to be located at urban shorelines which are generally occupied and prime lands.

Evidence of the intense interest in the Congress in Corps review of waste management alternatives appears in the Administration's 1973 budget, where additional studies have been requested including Duluth, Seattle, Spokane, Boise, the Colorado River and tributaries in Texas, Omaha, St. Louis, Kansas City and Denver. In addition, resolutions have just been filed for New Orleans, Atlanta and the Washington, D.C., metropolitan area.

A substantial discussion of the entire subject is included in an article prepared for the National Association of Counties by Dr. John R. Sheaffer, currently Scientific Advisor to the Secretary of the Army, on leave from the Center For Urban Studies at the University of Chicago. Dr. Sheaffer's article dated February, 1972, is titled "The Ecological Revolution Is There a Role For County Government?" and is quoted as follows:

The desire to improve the environmental quality has emerged as a common cause which has helped to unify our pluralistic society. Historic differences between rural and urban areas and city and county governments are melded into a unified environmental effort. In part, this effort has addressed the question of water quality deterioration and actions necessary to restore and enhance the quality of our lakes and streams. In particular, there has been disenchantment with the in-stream water quality standards approach which dominates current Federal efforts. Since 1956, more than $7 billion has been spent for the construction of sewage treatment facilities, but very few water bodies have been rehabilitated and restored to a desired quality.

The apparent ineffectiveness of the current standards approach has stimulated environmentalists to search for other means to cope with the water quality problem. What is emerging from this effort is a new resource management approach that emphasizes the recycling and reclaiming of pollutants.

A RESOURCE MANAGEMENT APPROACH

The resource management approach which is emerging today may be referred to as an ecological revolution. The term "revolution" is particularly appropriate because of the basic changes encompassed in the new approach.

Foremost, there is a change from a "disposal strategy" involving partial treatment and discharge to a "management strategy" that focuses on the recycling and containment of pollutants and the reclamation of water. The disposal strategy is typified by a secondary treatment program. The management strategy is illustrated by the land treatment system contained in the Muskegon County, Michigan, Wastewater Management Plan.

Implicit in the shift from a disposal to a management strategy is a shift from single purpose wastewater planning that seeks to develop sewage treatment facilities to multi-purpose planning which formulates plans for total waste management centers. Such centers will provide tertiary treatment of effluents, disposal of removed solids or sludges and municipal and industrial solid wastes, dissipation and beneficial use of waste heat, production of agricultural crops, and provision of open space. These several purposes must, in turn, be integrated in a total waste management plan which is a subsystem of a larger and more complex urban system. Thus, the total waste management plan must be consistent with overall development goals and objectives of the region it serves.

Several of the purposes that will be incorporated into a management strategy are potential revenue producers, e.g., dumping fees for solid waste disposal, cooling charges, and the sale of crops. Thus, there is an opportunity to shift from a program of Federal subsidy to stimulate the construction of treatment facilities to a program of Federal investments which not only provide for the management of wastewater but also have the potential to stimulate a flow of revenue to the local units of government—a dynamic illustration of revenue sharing.

PLANNING FOR MANAGEMENT

The ability to implement the ecological revolution is related directly to the ability to formulate and analyze alternative plans for managing wastewater. The Corps of Engineers has launched such a planning effort for five major metropolitan areas—Merrimack Basin-Boston, Cleveland-Akron, Detroit-Southeast Michigan, Chicago-Northwest Indiana, and San Francisco Bay-Delta—which constitute 12 to 15 percent of the urbanized population in the United States. This planning effort is guided by the three basic environmental principles that undergird all ecologically sound planning. First, the environment is an interrelated system with air, land and water interacting and affecting and being affected by urban development. Second, the environmental system for planning purposes is closed, nothing can be thrown away. Third, pollutants are potential resources out of place and if relocated in the environmental system can take on renewal value. For example, the nutrients in wastewater which accelerate eutrophication when discharged to a waterbody would be beneficial fertilizer if applied to cropland.

The Muskegon County land treatment system involving spray irrigation is illustrative of one alternative that is being prepared in the Corps of Engineering planning effort. Because from a National perspective land treatment has not been fully developed as a viable alternative for metropolitan areas and urbanized counties, much interest has focused on this "new approach" to wastewater management.

In simple terms, the Muskegon County system involves the following steps:

(1) collection of the wastewater and its transport away from the urban area,

(2) "secondary" treatment of the wastes to avoid odors,

(3) storage and disinfection of the wastewater,

(4) irrigation of the treated wastewater on agricultural or silvicultural land,

(5) "tertiary" treatment through the aerobic soil zone (the "living filter"), and

(6) retrieval of the reclaimed water (now pure enough to meet Public Health Service drinking water standards) through a drainage system; this water is then available for reuse in a manner best suited to regional needs.

As the Muskegon plan is being implemented, it has become quite clear to its sponsors that other facilities might be usefully integrated into its 10,000-acre waste treatment center. To date, the planning involves the following:

(1) the tertiary treatment of the wastewater by recycling the nutrients and confining and containing those pollutants including industrial wastes which cannot be recycled or reclaimed;

(2) the ultimate disposal of sludge or solids removed in the treatment process through the application of the solids to the land as a soil conditioner and fertilizer;

(3) the disposal of municipal and industrial solid wastes through the creation of hills (sculptured landscape) and the recycling of paper, glass and metals;

(4) the exploration of the location of power generation facilities and the beneficial dissipation of the heat in the wastewater; and

(5) the creation of functional greenbelts which help control urban sprawl and which can also serve as a recreational open space during the winter non-irrigation season—small game hunting and snowmobiling areas.

The implementation of such a plan offers the potential to convert a waste management facility into a revenue producing enterprise. In Muskegon County, the following annual returns are expected:

$360,000 agricultural profits (1 acre inch of treated effluent has the fertilizer equivalent of 25 lbs. of 10–10–12 commercial fertilizer).

$300,000 solid waste disposal fees (based on a disposal charge of $2.00 per ton).

$2,500,000 cooling charges and location fees from industry.

This amounts to an annual revenue in excess of $3,000,000 from the related or synergistic effects of the system, more than enough to cover the local share of the debt retirement ($16,000,000 bond issue) and the total operation and maintenance costs which are estimated to be about $2,650,000 annually. In addition, the County achieves clean water with all of its attendant benefits and will realize the standard charges for providing that service.

A perusal of the Muskegon County system shows that it serves as an example of the ecological revolution. The system focuses on management rather than disposal and treats pollutants as resources out of place. The land involved in the system provides a number of services in an integrated and coordinated manner—a multipurpose total waste management approach. By expanding the system beyond sewage treatment and sludge disposal—traditionally viewed as costs which must be borne by the general public and users—to include revenue producing activities such as commercial agriculture, solid waste disposal, and heat dissipation, the system become a public investment analogous to a multiple-purpose water resources project. As a public investment, the system has the potential to yield average annual benefits. When one views this range of opportunities provided by investments in water quality management systems, it becomes quite evident that such systems are not ends in themselves but means to an end and that they offer great opportunities for stimulating economic growth and development.

REACTIONS TO WASTEWATER MANAGEMENT

The Muskegon County wastewater management plan has prompted a number of reactions. The environmentalists strongly supported the land treatment-spray irrigation approach. On 13 September, 1971, David R. Zwick, Project Director, Nader Task Force on Water Pollution, appeared before the House Public Works Committee and stated:

The most promising provision in the Senate draft (of the water pollution bill) is its strong endorsement of the concept of total waste recycling—purifying sewage by spraying it on the land as fertilizer as exemplified by the Muskegon County, Michigan sewage treatment project. This Committee has, I recognize, been interested for some time in diverting the Federal water pollution bureaucracy from its myopic preoccupation with secondary treatment, which is inadequate for many of our Nation's waters. This Committee has shown interest in the progress of the Muskegon Project and the planning activities of the Corps of Engineers over whom you exercise major responsibilities involving similar projects. You have a chance this year in the water pollution bill you write to turn this interest into a practical reality.

It would be well to note that the pollution control profession, including Government officials at every level, has a stake in perpetuating the old technology which the Muskegon Project is designed to replace. This is the only technology many of these officials and private engineering consultants know. For a builder of sewage treatment plants, the spectre of a massive spread of Muskegon type projects produces great discomfort because it promises a permanent solution. It could put an end to our spiralling need to build more and bigger sewage treatment plants. Whatever eventually happens in the Senate, I would urge this Committee to hold the line for truly clean water by stressing the natural waste recycling alternative as the first priority choice when municipal grant funds are handed out.

Obviously, there were opposite reactions. In essence, opponents of the land treatment-spray irrigation system have questioned the workability of the approach, its costs, and the land use implications. Before land treatment can be viewed as a viable alternative for metropolitan areas and urban counties these issues must be resolved.

The questioning of the effectiveness and the effects of land treatment methodologies has prompted a number of research efforts. Such efforts have been undertaken at Pennsylvania State University, Michigan State University, University of California, University of Washington (Seattle) and at several Federal facilities—Flushing Meadows, Arizona, Kerr Water Research Center, Ada, Oklahoma, and the Cold Regions Research and Engineering Laboratory, Hanover, New Hampshire.

EFFECTIVENESS OF LAND TREATMENT

Based on the systematic consideration of treatment mechanisms and their projected significance and following an evaluation of available experience, the estimated effectiveness of a properly designed land treatment system to reclaim secondary effluent is as follows:

ESTIMATED EFFECTIVENESS OF LAND TREATMENT TECHNIQUES

	Spray irrigation	Overland runoff	Rapid infiltration
BOD	99	80	99
SS	99+	80	99
N	80–90	80	80
P	99	80	90
Heavy metals	99	10–30	95
Organic composition	99	50	90
Viruses	99+	90	99+
Bacteria	99	90	99+
Total dissolved solids [1]			
Cations	0–75	0–50	0–75
Anions	0–50	0–10	0–50

[1] While most cations and anions will be retained/treated at the higher indicated values, a few (e.g. Na and Cl) will be relatively unresponsive to treatment.

Source: Summary assessment of University of Washington consultants, February 1972.

This strong endorsement of on-the-land waste treatment is consistent with views presented by the Environmental Protection Agency in Volume II of its 1971 report on

the Cost of Clean Water. The Agency observed:

The (land treatment procedures) have the great virtue of recycling the materials so disposed, both by replenishing water tables and by converting and utilizing organic and inorganic waste matter in natural life processes of decay and growth. Their secondary merit is more germane to this discussion. Water reaching watercourses after passage through the filtering and decomposition processes afforded by soil is far purer—provided that soil loading rates are not exceeded—than any waste treatment process short of distillation could make them.

This emerging consensus regarding the effectiveness of land treatment establishes confidence in the workability of such a system. The experience at the Board of Works Farm, Melbourne, Australia, which has been growing grasses with waste water and feeding cattle and sheep on the same site since the turn of the century attests to the relative permanence of land treatment systems. With respect to the steers marketed from the Farm, the Board reported in July, 1969:

There is a good demand for them and many of Melbourne's top butchers, who appreciate the succulence and quality of the Farm-raised beef, are regular buyers.

COSTS WILL BE EXCESSIVE

The controversy over the cost of constructing alternative systems can only be resolved through the bidding process. Further insight can be derived by comparing bids for alternative systems on a capital cost per gallon basis. The Muskegon system can treat a design flow of 43.4 million gallons a day and a peak flow of 90 million gallons a day at a direct construction cost of $34,000,000 (includes $3,000,000 for land). The capital investment amounts to $0.78 per gallon of installed capacity. This compares very favorably with more conventional advanced waste treatment systems. For example, the Salt Creek water reclamation plant in Cook County, Illinois, is designed to treat 30 million gallons a day and peak flows of 50 million gallons a day at a direct construction cost of $43,259,000 (land site not included) or a capital investment of $1.44 per gallon—nearly twice that of the Muskegon system. In addition, the Muskegon system has lower operating costs because it uses fewer chemicals and less power per million gallons of wastewater. The high-yield crop production from the irrigated and fertilized land as well as the other revenue producing features are further benefits.

A further comparison with a recently bid secondary treatment plan with provisions for 80 per cent phosphate removal produces interesting results. At Grand Haven, Michigan, a 5 million gallon a day plant received a low bid of $6,000,000 or $1.20 per gallon of installed capacity. This bid was rejected and the plant will be readvertised.

Based on the above comparisons, it appears that land treatment alternatives are competitive with other technologies, even in terms of capital costs. This does not imply that land treatment will always be less costly, but it does suggest that it is an alternative that should be formulated and analyzed for all metropolitan areas and urban counties to be certain that the cost effective alternative is implemented.

For projection of financing needs for the nation, the capital costs per gallon capacity bid at Muskegon can be used. The 1990 national wastewater flow is estimated to range from 30 to 70 billion gallons per day. At a cost of 80 cents per gallon, a capital investment of from $24 billion to $56 billion to treat 1990 waste flows would be required for the nation, cetrainly consistent with current estimates of Federal funding.

LAND USE IMPLICATIONS

The land use implications of land treatment systems have recently been called into question. In essence, this last remaining unresolved issue has two dimensions. The first dimension relates to the availability of suitable land for the waste flows from large metropolitan areas. The second dimension is concerned with the dislocation of rural residents from the land treatment centers.

With respect to the availability of land, the identification of suitable land ought not be a problem. (Sufficient land was identified for each of the metropolitan areas in the Corps of Engineers Pilot Wastewater Management Program). In Muskegon County, for example, the land requirements are 230 acres per million gallons per day of wastewater while at Penn State University only 130 acres per million gallons of wastewater per day were used. The difference reflects the length of the irrigation season and the amount of storage contained in the system. The Muskegon system is designed for a 7 month irrigation season and 5 months of storage. The Penn State system calls for year round irrigation with no storage. In the light of these two extremes, an average of the two systems can be used for planning purposes—180 acres per million gallons of wastewater per day. Applying this figure nationally, land requirements would range from 5,400,000 acres (30 billion gallons per day) up to 12,600,000 (70 billion gallons per day) with a figure of 7,700,000 commonly cited as the need. This estimate is of manageable proportions when it is compared to the estimated 7,000,000 acres of land needed for power transmission by 1990. Also, it is approximately one per cent of the cropland harvested in the United States.

With respect to relocation and disruption, land treatment in sparsely settled rural areas will affect fewer people than urban renewal and highway construction in the urban areas. In fact, an interesting comparison can be made between a land treatment and a secondary treatment system. The Muskegon land treatment system will dislocate 166 occupance units or 3.82 units per million gallons of capacity (166 units/43.4 mgd). The site selected for the Grand Haven, Michigan, secondary treatment plant with 80 per cent phosphate removal required that 23 occupance units be relocated for a 5 million gallon a day plant or 4.60 units per million gallon capacity. This finding is opposite of what is commonly believed and illustrates the complexity of the issue. But it is not unreasonable when one realizes that the shoreline or land-water interface is prime land and generally occupied in urban areas. Therefore, the traditional urban sewage treatment plant must compete with and dislocate other urban land uses. On the other hand, land treatment facilities, if located beyond the commuting zone, will compete with low cost agriculture, forest, or waste lands.

Another factor to be considered is that the other facilities that might be integrated into a waste treatment center would require significant amounts of land if they were undertaken singularly. For example, Illinois Power Company announced in the February 14, 1972, *Wall Street Journal* that the development of the Clinton, Illinois, nuclear power plant site (eventual capacity of 4,000 megawatts) will require a 17,000 acre site that includes a cooling lake with a 5,000 acre surface area. If this site area is to be considered typical and one is to accept the estimated need for 300 new nuclear power plants by 1990, 5,100,000 acres would be required for this single purpose activity or 66 per cent of the estimated 7,700,000 acres required for total waste management centers which could *incidentally* include the nuclear power plants and which would make beneficial use of the waste heat.

The Uniform Relocation Act provisions assure that persons moved are relocated into sound housing with the cost of upgrading and moving being borne by the public. This Act will assure that persons dislocated by any treatment system will be treated fairly and will be relocated in sound housing without incurring additional financial burdens.

PROSPECTS FOR A RESEARCH MANAGEMENT APPROACH

The resource management approach to wastewater treatment is analogous to the issue of non-returnable bottles. As ecologist Barry Commoner stated before the Illinois Pollution Control Board:

I'm just proposing a very simple thing: lend the nitrogen to the city folks—but get it back. I think that's clear.

Simply stated, the beneficial use and recycling of wastewater pollutants are the wave of the future. Many such as Commoner have advocated it but felt that "we would have to clear economic hurdles to do this." Muskegon County has shown that the economic hurdles can be cleared. The Corps of Engineers pilot wastewater management program is seeking to determine if there are any dramatic diseconomies of scale which would preclude the use of the resource management approach for major metropolitan areas. The completion of the Corps of Engineers' survey scope reports will answer that question.

THE ROLE FOR COUNTY GOVERNMENT

In Muskegon County, after efforts to use political consolidation (one city) and a special district government (a water and sewer authority) as the means to achieve regional resource management had failed, the general purpose County government became the vehicle to achieve functional consolidation. One reason for the County's success was its offer of a total waste management approach which was viewed by local governments and industries as a solution.

In essence, the County provided the vision around which the local governments and industrial interests organized. In so doing, the County injected new dimensions—regionalism and resource management—into the decision making process rather than competing with the local governments by attempting to do the same thing each of them could do by themselves—construct conventional sewage treatment plants. Urbanized counties have the opportunity to play such a leadership role and fill the planning vacuum that exists in many areas.

Rural counties must also play a role in a total waste management program. The farm products or nutrients shipped to the urban areas for consumption and use must be considered as returnable nutrients. Thus, it is necessary for rural counties to plan systematically for the recycling and reclamation of urban pollutants which are, in essence, resources out of place.

These roles of both urban and rural counties relate to providing opportunities for developing resource management approaches to waste-water problems. County governments can assure that our nation can follow the admonition of Daniel Burnham to "make no little plans, for they have no power to stir men's souls." Total waste management requires planning on a scale larger than generally undertaken. Through the involvement of urban and rural counties, it can be made to succeed.

Because of a recent article in the Washington Post reporting on virus perils discovered in drinking water at two Massachusetts cities, it is worthwhile to give special attention to the fact that these cities draw this water from the badly polluted Merrimack and Concord Rivers. Those viruses come from sewage plant discharges into the rivers. Muskegon will no longer be threatened with such a potential problem. Land treatment of sewage removes and destroys virtually 100% of viruses. Those viruses are held by soil particles and then attacked by bacteria which break them down to harmless protein in the land treatment process.

The first amendment encourages the development of revenue-producing waste management centers capable of handling sewage, solid wastes and managing thermal pollution problems. The second amendment provides additional Federal funds for such systems. The third amendment leads industry to encourage the development of such systems and in turn assists industry during this period of transition. I strongly urge Members to give careful consideration to these amendments.

Mr. Speaker, relative to H.R. 11896, I plan to offer three amendments to Title II of the legislation. These amendments are based on the preceding information only recently available in detail. The amendments follow:

AMENDMENTS TO H.R. 11896, AS REPORTED

(Proposed by Hon. GUY VANDER JAGT)

Page 241, between lines 23 and 24 insert the following:

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

Page 241, line 24, strike "(d)" and insert "(g)".

Page 243, line 17, after the word "increased" insert "(1)" and on line 20 change the period to a comma, and add the following:

(2) to 65 per centum of such costs, if the system of waste treatment management is developed in accordance with the provisions of section 201(d) of this Act, except that such 65 per centum grant shall be increased to 85 per centum of such costs, if the State agrees to pay 10 per centum of the cost of all such systems for which Federal grants are to be made from funds allocated to such State for such fiscal year.

Page 248, line 11, change the semi-colon to a comma and add the following:

except in any case of a waste treatment management system developed pursuant to section 201(d) of this title, for which a grant is made under this title within five years after the date of enactment of this title, such payment shall not be required;

GREEK INDEPENDENCE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. DERWINSKI. Mr. Speaker, next Saturday the people of Greece and their friends in other parts of the world will observe Independence Day. March 25, 1821, was the day the Greeks began their revolt against the Ottoman Empire. Eight years were to elapse before their connection to Turkey was finally ended and independence became a reality.

The Greeks were aided during their war of liberation by Great Britain, France, and Russia, while the Turks received substantial assistance from Egypt. The war was long and bitter, the climax being reached when the British, French, and Russian ships destroyed the Turkish-Egyptian fleet at the Battle of Navarino.

It has not always been easy for Greece to maintain its freedom. During World War II it was invaded by the Fascists and National Socialists. These enemies had hardly been driven out when Greece became involved in a civil war with the Communists. The Greeks eventually triumphed over their later foes.

Mr. Speaker, the friendship of the people of the United States and the people of Greece has endured through the years. Many Greeks have come to America and become valued citizens of their adopted country. Saturday will indeed be a happy occasion, when Americans, especially those of Hellenic descent, join the people of Greece in celebrating the independence of that great nation.

WHAT DID THE PRESIDENT SAY ON BUSING?

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. RARICK. Mr. Speaker, the President's public statement on forced busing, which is quite different from his message on busing to Congress, is exceeded in its political expediency only by the partisan analysis and interpretation of what he said and what he intended.

Almost everyone has seen the TV address or read the news accounts and the country seems to be fully informed as to the public face of the Nixon plan on busing.

Few have seen, let alone read or studied the President's 17-page report to Congress, yet everyone seems to have concluded that the President is going to stop busing, thus removing it as a political issue.

The President's busing statement is reminiscent of the politician who finds he has to move to keep from being run over by the people. Control politics must never be equated to leadership. When the people get out of hand and challenge the politicians, the political plan is never to meet the stampede head on, but to act like meeting the issue, diverting the thrust to take the steam out of the popular uprising. How can it be said we live in a democracy when the leaders refuse to listen to the majority?

President Nixon's main concern was in hiding his power to stop the whole busing mess, which is already against the law of the land. He did this by again refusing to accept his role of leadership and by throwing the public attention back on Congress, which has repeatedly outlawed busing and which has over 150 signatures on an antibusing amendment—which could have been adopted and ratified had the President done anything but played politics with it. The President's message to Congress—never read to the people—is so long, ambiguous, and without direction that few Members can decide what the President proposed, let alone enact his vacillation as legislation. Perhaps this is the President's goal—to confuse and delay until after the November elections, when he can forget busing, by blaming Congress for doing nothing.

Contrary to reports that President Nixon proposes stopping busing, his statement says, "further new busing orders," which does not change old busing orders. So the old dual systems of laws—one for the North and a separate one for the South—is to be retained. Nor is all new busing to be stopped, for the President said:

Specifically, I propose that the Congress enact two measures which together would shift the focus from more transportation to better education, and would curb busing while expanding educational opportunity.

While seeking to criticize some Federal judges—not his hand-picked strict constructionist Chief Justice who was the author of the Swann decision—the President said:

At the same time, these measures would not roll back the Constitution, or undo the great advances that have been made in ending school segregation, or undermine the continuing drive for equal rights.

Most importantly, however, these proposals undertake to address the problem that really lies at the heart of the issue at this time: the inherent inability of the courts, acting alone, to deal effectively and acceptably with the new magnitude of educational and social problems generated by the desegregation process.

Somehow overlooked was that portion of Swann where Chief Justice Burger admitted that the Court was on illegal grounds but acted nevertheless in equity—the Court's conscience. It is as if Thurgood Marshall, counsel in the Brown against Topeka, Kansas Board of Education case had gone into court with clean hands.

The President calls the first part of his proposed legislation the Equal Education Opportunities Act of 1972.

The EEOA provides for desegregation with busing to be required only as a last resort and then only under limitations.

The second presidential proposal is the Student Transportation Moratorium Act which would stop all new busing until July 1, 1973, or—8 months following the November presidential election—until Congress passes appropriate legislation—whatever that means—whichever occurs first. In the meantime, Congress is to come up with new methods to accomplish the same goals so that busing to achieve racial balance is unnecessary.

As to busing by court order, the President said:

Busing for the purpose of desegregation was begun—mostly on a modest scale—as one of a mix of remedies to meet the require-

ments laid down by various lower Federal courts for achieving the difficult transition from the old dual school system to a new, unitary system.

If some of the Federal courts have lately tended toward extreme remedies in school desegregation cases—and some have—this has been in considerable part because the work has largely gone forward in the courts, case-by-case, and because the courts have carried a heavy share of the burden while having to operate within a limited framework of reference and remedies. The efforts have therefore frequently been disconnected, and the result has been not only great progress but also, the creation of problems severe enough to threaten the immense achievement of these 18 difficult years.

The President, admitting the courts acted without law, would now ask Congress to give them a legal footing for achieving the same de facto goals.

As to discharge petition No. 9, now needing only 72 additional signatures to bring an antibusing constitutional amendment for a vote, the President said:

It would have no impact this year—a constitutional amendment fails to meet this immediate need.

Surely the President is aware that the 18-year-old vote amendment passed Congress on March 23, 1971, and was ratified 90 days later. The President must understand that public opinion is as strong for antibusing as it was for the 18-year-old vote. Had he given Presidential prestige and support to discharge petition No. 9, the people would have the Constitution amended before the November election and busing would be removed as a political issue once and for all.

The President examined some of the reasons various people want busing stopped. Some meet his test of morality; others do not. But at least this was more consideration than the people got from Earl Warren before his ruling on the Brown case which originated in Kansas.

What do the following statements from the President's report to Congress on busing have to do with busing or education?

This administration means what it says about dismantling racial barriers, about opening up jobs and housing and schools and opportunity to all Americans.

It is not merely rhetoric, but our record, that demonstrated our determination.

We have achieved more school desegregation in the last 3 years than was achieved in the previous 15.

We have taken the lead in opening up high-paying jobs to minority workers.

We have taken unprecedented measures to spur business ownership by members of minorities.

We have brought more members of minorities into the middle and upper levels of the Federal service than ever before.

We have provided more support to black colleges than ever before.

We have put more money and muscle into enforcement of the equal opportunity laws than ever before.

These efforts will all go forward—with vigor and with conviction. Making up for the years of past discrimination is not simply something that white Americans owe to black Americans—it is something the entire Nation owes to itself.

Most Americans may have thought freedom was what the Nation owed itself, but the President's reference to freedom only shows the political intent and direction which he has taken on the busing issue.

The voluminous barrage of words which can be used by either the busers or antibusers confirms that public education to preserve and perpetuate individual culture and institutions is dead.

The President's message to Congress calls for a course of deliberation, to avoid confrontation, for all but the assimilated majority.

It is evident that the President's message was based on fear—fear of busing, and he has only dealt with it fleetingly, as a subterfuge to calm the American people until after the election—while the majority of Americans continue to flee the inner cities, rebuilding in the suburbs.

It remains to be seen if the American people will be taken in by this political maneuver on the part of the President to divert the people's attention from the paramount domestic issue of the day—forced busing to achieve racial balance.

CLEAR EVIDENCE OF THE ACCELERATING BUSINESS RECOVERY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. CONABLE. Mr. Speaker, there is a strong tendency by the news media to concentrate on bad news whatever the issue. This is particularly difficult to understand in economic matters at this time in view of the vigorous economic expansion we are currently experiencing. The press seems to emphasize the few economic statistics that may appear weak at a given moment. Of course, only a broader view can tell us how well the economy is actually doing.

A recent issue of the U.S. News & World Report puts the economy in its proper perspective. In an article, "Business Recovery Speeds Up," the magazine reports that many business analysts both in and out of government believe the economy is picking up speed. Early 1972 statistics back them up. Data on new auto sales, business investment, steel production, home building, profits and stock prices all evidence a strong, healthy economic advance this year.

I am sure my colleagues will be interested in this survey of our economic prospects. Therefore, I ask unanimous consent to include the article from the March 20 edition of U.S. News & World Report at this point.

The article follows:

BUSINESS RECOVERY SPEEDS UP

Unemployment is down. Factories are humming. The housing boom continues. Profits are perking up. Good news on the economic front is coming thick and fast these days. Result: more confidence among analysts for the rest of '72.

The economic recovery is definitely picking up speed now, in the opinion of many leading business analysts.

Early 1972 statistics back them up. Nearly all figures show the economy making solid improvements—though it's still far short of being in a boom.

Some examples—

Factory orders grew 6.2 per cent in January to 63.1 billion dollars. It was the sharpest rise in a single month since August, 1956. This, like all other monthly reports that follow, has been adjusted for seasonal variations.

The jobless rate fell in February from January's 5.9 per cent to 5.7 per cent, the lowest rate in 17 months. New claims for unemployment insurance also have been declining.

Personal income rose 7 billion dollars in January to a record yearly rate of 891 billion dollars. A further rise to about 900 billion is estimated for February.

Consumers, with all-time-high holdings of liquid assets, are starting to spend a bit more freely.

Sales of new autos in February were the highest on record for that month. Truck sales also appear headed for another top year.

Construction continues to set new marks, month after month. Housing starts are exceeding last year's record pace and should lead to more spending for durable goods to go in the new homes.

Stock prices—with some fluctuations—keep going up. Many Wall Streeters are now predicting that before midyear the Dow Jones average will crack 1,000 for the first time in history.

Already, on March 6, Standard & Poor's 50-stock price index exceeded the previous all-time high set in late 1968.

Corporations have boosted their spending plans for plant modernization to 89.8 billion dollars this year, a Commerce Department survey shows. That would be an increase of 10.5 per cent, compared with a rise of only 1.9 per cent last year. It would be the largest increase since 1969.

Almost all major categories of industry are now expected to step up capital spending, which was among the weakest links in 1971's economy.

The demand for steel continues to grow amid rosy reports on plant and equipment spending.

Users have run off their inventories; foreign competition has been limited somewhat by trade agreements; auto markets are brisk.

Sales of merchant wholesalers were estimated at 24.2 billion dollars in January. This was up 5 per cent from December and 13 per cent above the figure for January, 1971.

Lumber and other construction-material sales rocketed 50 per cent over December.

Output per man-hour is up, with unit labor costs steadying. That shows more efficient use is being made of plants.

Unfilled durable-goods orders rose in January for the third consecutive month, even though shipments leaped 4 per cent above December's level.

Inventories relative to sales dipped in January to 1.64, the lowest ratio since June 1968. This suggests an even bigger pickup in manufacturing lies ahead.

The average workweek lengthened in February, possibly indicating that more jobs are about to open up. And workers' average earnings in February kept well ahead of the rise in living costs.

Corporate-profits outlook is good. A survey of the largest U.S. firms by the Federal Reserve Bank of Philadelphia shows them estimating, on average, a 16 per cent rise in profits after taxes this year. This would be the sharpest annual rise since 1965.

With so many factors looking better, it is not surprising that the Government's composite index of leading economic indicators continues to point upward.

The index jumped 2.3 per cent in January, the largest monthly improvement since October, 1968. It has climbed for five consecutive months and is now 13.6 per cent above a year ago.

Signs thus point to a smart increase in total output during the first three months of 1972. The Economic Unit of "U.S. News & World Report" projects that real growth—allowing for price increases—will be at an annual rate of 8.5 per cent in the first quarter. That's up from a 5.8 per cent rate in the fourth quarter of 1971.

Raymond J. Saulnier, who headed President Eisenhower's Council of Economic Advisers, recently spent two days in Washington with a group of 30 economists for large industrial and financial companies. Their optimism convinced Dr. Saulnier that he will have to raise his original estimate of 1,140 trillion dollars for national output this year.

SIGNS OF A SWIFTER RISE IN THE ECONOMY

Business investment in plant and equipment will increase 10.5 per cent this year, companies now indicate. Their plans late in 1971 called for a rise of only 9 per cent.

New-auto sales in February were highest on record for that month. Recent sales pace is close to the industry's goal of 9 million U.S. cars this year.

Factory backlogs—work waiting to be done—are growing. Latest report showed the biggest one-month jump in new orders since 1956.

Several underlying factors are buoying the confidence of analysts that the recovery will continue to quicken through the year. Big increases are proposed for federal spending in the coming fiscal year. State and local governments, encouraged by federal programs and easier credit, are increasing their outlays, too.

The year is expected to be relatively free of labor strikes. Only big danger is the possibility of renewed dock walkouts if the Pay Board balks at the gains won recently by the longshoremen.

Corporations are now in good financial position to expand, and banks have plenty of money to lend. There also is some evidence that people are once again becoming more inflation-minded. If so, this could stimulate businessmen still more to invest or add to inventories.

Greatest optimism—as in the past—comes from Administration officials.

"I'm becoming increasingly bullish on the domestic economy," beamed Treasury Under Secretary Charles E. Walker at a Washington luncheon.

Dr. Harold C. Passer, Assistant Commerce Secretary for Economic Affairs, was jubilant over his capital-spending survey.

Dr. Passer said it means the economy will speed up even more, with employment and productivity both gaining.

From Edgar R. Fiedler, Assistant Secretary of the Treasury for Economic Policy:

"On the whole, the evidence available to us now adds up to a healthy advance—not a rampant boom, but a rise in economic activity during 1972 sufficient to put a meaningful dent in the unemployment rate."

And according to a White House statement, recent economic developments give "cause to believe that the goals the Administration has made for the economy at the end of this year will be reached."

Many business economists outside of Government agree—with only slightly less enthusiasm.

"The economy is not about to take off," says Walter Hoadley, chief economist of the Bank of America in San Francisco. "What we're experiencing is more of a relentless, steady kind of progress."

Mr. Hoadley, who has just returned from a business trip to Europe, is convinced the American economy is still the world's strongest, but he feels that there must be a "restitution of confidence in the dollar."

This confidence, Mr. Hoadley says, can best be restored through some evidence that the Government's budget is not out of control and that the nation's monetary policy is stabilized.

Steel production is increasing. The mills forecast a big gain in March, have raised their estimate of steel shipments to a record 96 million tons this year.

Home building continues to break records. Contracts for all types of construction increased strongly in January, latest month reported.

Business profits are improving. A new survey finds large companies predicting a 16 per cent increase in 1972 over 1971.

Stocks have been moving into high ground, a sign that the investing public is also gaining confidence. Stock-market gains tend eventually to be reflected in retail sales.

Some tightening of monetary policy is expected by George R. Green, executive director of short-term forecasting for the Wharton School of Finance, University of Pennsylvania.

Dr. Green says this tightening will result partly from the continued rally of business and partly from fears of renewed inflation.

In Atlanta a leading economist attributes the quickening economic pace mainly to "pretty strong Government spending, strong housing." He sees only one serious "pocket of rigidity"—retail sales.

Since hitting a peak in November, retail sales have leveled off. In physical volume, January sales were 5 per cent above a year earlier with durables up 13 per cent, nondurables 2 per cent.

Statistical quirks, however, hide the true strength of retail sales, contends George W. Cloos, vice president and senior economist at the Federal Reserve Bank of Chicago.

"Shipments to furniture and appliance stores have been fantastic," he says. "There are big backlogs. I ordered a color TV and it took me a month to get it—just from Fort Wayne, Ind."

Mr. Cloos says the spirit of corporate analysts has improved greatly. He attributes much of the previous sluggishness in the recovery to a "shock effect" from the recession.

"There were many young people in decision-making positions who never had experienced anything but growth," Mr. Cloos explains. "The recession rattled their confidence. It made them afraid to move again."

In Texas, Douglas B. Lang, staff economist for El Paso Natural Gas Company, agrees that the economy is picking up. This is especially true, he adds, in the Southwest, where construction is booming. Mr. Lang credits much of the national improvement to the generous supply of money.

The velocity, or turnover, of money has been increasing steadily since January 19, except for one week.

Angelo J. Lombardo, economist for Roosevelt & Son, New York investment-banking firm, says inflationary expectations on Wall Street are declining and there is a "higher level of positive psychology" among consumers.

Albert H. Cox, Jr., executive vice president and chief economist for Lionel D. Edie & Co., Inc., states:

"Accomplishments have been real, and time is now strongly on the side of further advance and at a quickening pace.

"We expect the resultant reabsorption of some of the country's present idle facilities and manpower to escalate confidence and increase the orderly flow of business."

Latest business-outlook report of usually somber Townsend-Greenspan & Company, Inc., concludes:

"Over all, the quality of the economic statistics that have been coming out in recent weeks is finally beginning to have a shade better tone."

William C. Freund, vice president and chief economist of the New York Stock Exchange, Inc., even foresees a good chance that during the second half of this year, many people will be talking again about the dangers of a booming economy and a too-rapid expansion of business activity.

Mr. Freund adds:

"In the annals of our economic history, there have been few times when the ground seemed to be quite so ripe for a broad-based and vigorous cyclical expansion as now."

DECLARATION OF JUDICIAL INDEPENDENCE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. STOKES. Mr. Speaker, on January 17, 1972, the U.S. Supreme Court heard arguments for the abolishment of capital punishment on the grounds that it constitutes "cruel and unusual punishment."

In the meantime, on February 18, while the high court was still making up its collective mind, the California State Supreme Court, one of the best courts in the land, came down with a ruling that capital punishment is not in accord with the California constitution. The court's decision was based primarily on the section of that document prohibiting "cruel or unusual punishments."

The difference between an "or" and an "and" was more than verbal; it involved the lives of 104 persons who had been sitting on California's death row, some of them for as many as 8 years. Further, in the minds of the judges, the use of the word "or" carried with it the dignity of the entire society.

The use of the word "or" permitted the California court to consider the questions of cruelty and usualness separately, which had not been done before. In considering the cruelty of the death penalty, the court dismissed as irrelevant the idea that the fear of death row is enough to deter a would-be criminal.

Indeed, statistics reveal the irrelevancy of the argument. In 1970, the State with the highest incidence of murder and nonnegligent manslaughter was South Carolina. In that year, for every 100,000 persons, 14.6 murders were committed. South Carolina's maximum punishment is death by electrocution. In the same year, North Dakota was the State with the lowest incidence of these offenses. That State's maximum penalty is life imprisonment, and yet, for every 100,000 people, only 0.5 murders were committed.

The same pattern is reflected in the total number of total "Crime Index" offenses. The Crime Index is compiled by the FBI to measure the degree of lawlessness in a community. Crimes of violence and crimes against property are included.

In 1970, California had the greatest number of Crime Index offenses, 4,307 for every 100,000 persons. California, prior to the recent decision, punished maximum offenders with lethal gas. North Dakota, by comparison, had only 846.1 Crime Index offenses for every 100,000 persons. And, as noted above,

the death penalty is outlawed in that State.

The figures do not say that States which have life imprisonment as the maximum punishment have automatically fewer criminals. But they also do not bear up the contention that capital punishment is an effective deterrent against crime.

The California Supreme Court justices, in the case of People against Anderson, applied the traditional test of "whether the punishment affronts contemporary standards of decency" and found that it does. They noted that in 1935, 199 people were executed for crimes. In 1967, that number had dropped to two. They quoted these figures as a clear indication that the death penalty has become increasingly repugnant to those who must deal with it directly, the people who administer justice in this country,

Indeed, after the decision was handed down, the former warden of San Quentin said that, through his own experience, he knew that capital punishment is "very cruel, very unusual, and very gruesome."

In assessing the cruelty of capital punishment, the court noted that—

> Were the standards of another age the constitutional measure of "cruelty" today, whipping, branding, pilloryings, severing or nailing ears, and boring of the tongue, all of which were once practiced as forms of punishment in this country, might escape constitutional proscription, but none today would argue that they are not "cruel" punishments.

After assessing the matters of cruelty and usualness separately, the court concluded that capital punishment is, in fact, both cruel and unusual. Cruel by contemporary standards of decency and unusual in that it has been only rarely applied in recent years.

In the closing statement, the judges touched the heart of the question when they wrote:

> Our conclusion that the death penalty may no longer be exacted in California consistently with article I, section 6 of our Constitution is not grounded in sympathy for those who would commit crimes of violence, but in concern for the society that diminishes itself whenever it takes the life of one of its members.

We live in an age of violence. It reverberates throughout our daily lives. We see violence on our television screens, in our newspapers, on the streets, in certain public officials' words. No one likes it, but it seems to get worse. However, I believe that this situation is within our power to correct. The California State Supreme Court has just taken a giant step toward the elimination of violence.

So long as officialdom condones violence, we cannot expect the populace to go in the direction of nonviolence. But when the courts take the lead, as the one did in California, a promise is offered that the age of violence may be coming to a close. That is an important development.

Also, to the credit of the California Supreme Court, the inviolability of all courts was given new credence. The judges demonstrated to us that at least one court will resist incursions on the part of the legislative and executive branches of Government. As is well known, it has recently become popular to attempt to overturn Supreme Court decisions by use of constitutional amendments. This is a singularly dangerous development which the California court noted in its decision, when it delineated the different roles of the judiciary and the legislature. The justices wrote:

> The Legislature . . . is accorded the broadest discretion possible in enacting penal statutes and in specifying punishment for a crime, but the final judgment as to whether the punishment it decrees exceeds constitutional limits is a judicial function.

The California decision was important for its reaffirmation of the value of human life and for its declaration of judicial independence.

I am hopeful that the U.S. Supreme Court, which is still deliberating the question of capital punishment, will take note of these two segments of the California judgment.

It is incumbent upon the Supreme Court to show us that it is still alive and well and that human life is still worth something in this country, by declaring capital punishment a violation of the U.S. Constitution.

HISTORY OF A CHEESE FACTORY

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MILLER of California. Mr. Speaker, the city of Pleasanton in Alameda County, Calif., is extremely proud of a unique institution called the Cheese Factory. Now celebrating its 50th anniversary. I would like to insert in the CONGRESSIONAL RECORD a history of the Cheese Factory for the edification of my colleagues.

The Cheese Factory was founded in 1920 when a Greek immigrant, Deimitrios Voultsides settled in Pleasanton. Equipped only with his trade as a master cheesemaker, Jimmy, as he became affectionately known, was determined to show the New World the delectable cheese varieties held captive by the Old World for so many years.

Pleasanton was a center for quality milk production then and the milk used for cheesemaking came to the plant in 10 gallon cans twice a day as the herds were milked. The milk was tempered in the cheese vats by burning wood beneath them and pasteurization was accomplished by heating the milk to 145° Fehrenheit and holding it in a vat for 30 minutes.

Unbelievable as it may seem to us today, cheese of superior quality was produced at the Cheese Factory and Jimmy slowly established himself as a maker of fine cheese and his business began to prosper. The turning point was the creation of American Teleme which Jimmy produced by improvising on an old European recipe. The result was a cheese of delicate flavor with a smooth, creamy consistency ideally suited for use with any meal or occasion. The first store to sell American Teleme was Egidio Panelli's Delicatessen on Grand Avenue in San Francisco, and the man responsible for the introduction of this cheese to the trade was Nick K. Georgatos. Nick, himself a Greek immigrant, met Jimmy in 1920 and a friendship immediately developed between the two. Through this friendship grew a business association that continues today between the Cheese Factory and Demostic Cheese of San Francisco.

American Teleme was a difficult product to market because its soft, creamy consistency made it difficult to package. The cheese was so creamy that it had to be placed in wooden trays lined with paper to keep it from spreading. Realizing the unusual and distinct characteristics of this cheese, Nick embarked on an innovative marketing approach that featured "in-store" sampling by customers. Through this technique, Nick was able to create consumer acceptance and made American Teleme the success it is today.

Jimmy is gone now, having passed away in 1967, but his memory lingers on through the rich tradition and pride that he instilled in his nephew, George A. Spiliotopoulos. George runs the cheese factory now with the help of Jimmy's wife, Calliope. At the Cheese Factory they process 4,000 gallons of milk daily and in addition to American Teleme they manufacture Old Fashioned Monterey Jack, Romano Dolce, Ricotta, Dry Monterey Jack, Caraway, Greek Feta, and many other delicious varieties. The most recent addition was formulated by George who combined Old Fashioned Monterey Jack and Gallo Italian Salame to form a product appropriately named Salame-Cheese. This cheese is great for party snacks, sandwiches, and just plain eating.

THE LATE HONORABLE GEORGE W. ANDREWS

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, I join with the other Members of the House in mourning the passing of a great American, Congressman George Andrews.

As a freshman Member of the Congress, I shall always remember his courtesies and kindnesses to me. He was quiet and unassuming, but most effective. In his quiet way, he applied the experience of his many years of service to solving the problems of our country and representing the people of his State.

It was indeed a privilege to have known him. I shall always remember with deep affection when he told me I could sit with his delegation in the House because I came from South Boston.

My deepest sympathy to his wife and family whom he cherished and to the people of his district whom he served.

U.S. DEFENSE POSTURE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. HOGAN. Mr. Speaker, in a speech recently reprinted in Electronic Warfare, Gen. Mark Bradley outlines the present U.S. defense posture and compares it with the situation immediately prior to Pearl Harbor.

General Bradley's speech includes food for sober thought and I now insert it into the RECORD:

KIMMEL, SHORT WERE NOT BAD GUYS

(By Gen. Mark E. Bradley, USAF, retired)

There are two reasons for my acceptance of this assignment. First, due to a long time abroad, I know something about our preparedness prior to Pearl Harbor, and I know quite a bit about Pearl Harbor itself. Secondly, I think I know quite a bit about the trend this country's power is taking due to the attitude of a big part of our Congress and some of our people, and I don't like it.

In 1946 I was an instructor at the Armed Forces Staff College. One of my assignments was to study the records of the hearings after Pearl Harbor and deliver several talks on the subject. I don't pretend to be a Pearl Harbor expert but I did learn enough to know that it wasn't General Short and Admiral Kimmel who erred; it was the entire United States Government, including most of its people both in and out of uniform.

Now let's look back at the situation prior to World War II. 1930 would be a good time. When I became a second lieutenant there were less than 1400 pilots in the Army Air Corps. The entire Corps was less than 30,000 men. This small and inadequate force had come from nothing after the German collapse in 1918. After that war, the big deal was peace from here on. How familiar that sounds! They called it the War to End Wars. President Wilson was instrumental in the organization of the League of Nations, an organization whose worldwide job was to keep the peace. It proved to be a dismal failure as was its successor the United Nations.

In about 1932 I was a member of a fighter squadron which was sent to Milwaukee to put on a flying demonstration at an American Legion Convention. There were about twenty of us in our flight caps and leather jackets, the uniform of the period in the Air Corps. We were soundly "booed" while walking down the street of Milwaukee. The military image was at a low ebb in 1932. A few weeks ago I heard Governor Reagan on a TV interview tell of the present downgrading of our military people. He said that he knew of an Air Force Base where the officers and their wives fear for their safety if they appear in public places with the officers in uniform. To wear the uniform is considered a hazard!! Can you imagine that?! Obviously, we have a great propensity for repeating our mistakes, and the military image has again reached a low ebb.

In 1930 our Air Corps was spread over the United States on about 12 or 15 bases: Selfridge, Langley, March, Barksdale, Wright-Patterson, Mather, Kelly, Randolph, to name a few. The tactical bases had from one to six squadrons. About this time the entire Air Force collected on a maneuver and it amounted to only about 700 airplanes. The procurement program was about 100 airplanes a year or less—average cost $30,000 each. (I noticed the headlines the other day where in their 1973 procurement program the Air Force plans to buy less than 100 airplanes!) This is an example of the low level of preparedness our forces had fallen to after WW1. Perhaps it is slightly unfair since the Air Force was really still a stepchild of the Army. I have a little personal experience which shows how much of a stepchild. I was a fighter pilot and lieutenant in Hawaii in 1935 and a number of us were detailed with the Army at Schofield Barracks for a week or two to learn how the Army works. The commander of the Hawaiian Division called us to his office for a welcome and a few words. He welcomed us saying he hoped we would learn how the army really was and he then gave us his appraisal of air power. He said that he felt we would be of considerable use to him during the first few days of fighting, should war come, as observation flyers for the Army, but that after the first few days and the combat began in earnest we would be either down and gone, or in any event of little or no use! How ironical! That war came a few years later to Schofield and the Air Force was the sole defender—what little defense there was. The army troops and those 16-inch coastal guns just sat there and took it, destined never to fire a shot in anger.

We hear of the SALT Talks today, how we hope to stop the arms race by agreement with the USSR. I agree that such agreements would be most desirable if they could be depended upon. These SALT Talks were announced in 1968. They began in 1969. In the four years since the announcement the Soviet ICBM strength has been increased by 266 per cent, or by a number equivalent to our entire Minute Man force then and today. They have increased their submarine launch missile force from practically zero in 1968 to an estimated 25 today capable of launching 400 SLM's. Secretary Laird now estimates they will have a total of 41, the equal of our Polaris. Poseidon force by mid-1973. Unfortunately, it is my opinion that they will agree to nothing which will limit their capability, but will agree to anything that will contribute to our vulnerability.

This, too, is not new. In the 1920's we agreed to disarm. We sank a number of our battleships. I don't think anyone else did, and as far as I know, all that accomplished was to prove to the world that airplanes could sink battleships—a lesson the Japanese demonstrated rather conclusively about 12 years later at Pearl Harbor.

Our threadbare condition continued right on through the start of the war in Europe in 1939. It continued even in the face of some of the soundest advice a country ever received. Our first rated aviator of his time, Charles Lindbergh, was not asleep. Lindbergh went to Germany. He saw their Luftwaffe and their modern Air Force. He recognized the danger and made his fears known. But what happened? It was almost as though he had made his pleas to General Short and Admiral Kimmel. The Congress and Government were just as deaf and Charles Lindbergh was soundly condemned by our peaceniks of the late 30's who refused to believe our danger. I take my hat off to Charles Lindbergh; one of the finest and farsighted and intelligent aviators this country has ever produced. I have not heard or read what Lindbergh thinks of the present situation but I'll wager that he is greatly alarmed. 1939 and the start of fighting in Europe awakened us a little. The British and the French did most, however, by the large procurement programs they started for fighters, bombers, and transports in this country. Had they not done this, our readiness in 1941 would have been even more pitiful.

Now let's talk about the Pearl Harbor attack itself. The Pearl Harbor attack literally came out of the blue. It came out of the blue for you and me. It came out of the blue for President Roosevelt and the Government. It came out of the blue for the Army, Navy and Air Force, and it certainly came out of the blue both physically and literally for General Short, Admiral Kimmel and General Martin. Some of you may know Bob Martin. Well, his dad, General Martin, was in charge of the Air Force units in Hawaii. Not too many people know this today. The other two, however, shared the over-all responsibility. They were in charge.

When the Pearl Harbor attack came on Dec. 7, 1941, the United States was totally unprepared. It was unprepared in defensive power. It was unprepared in offensive power. It was unprepared psychologically. It was unprepared in intelligence. We had little to fight with, suspected nothing like what happened, and had little capability to find out about it. A personal experience proves this point. I was a junior member on the board in 1939 with Eaker, Spaatz, Kenny and several others. I was sent to the Army Intelligence Office to see what I could find about Japanese fighter aircraft and their capabilities. All I could find was some pictures of some biplanes which resembled the 1927 Curtiss Hawk, and a small news item which stated that the Japanese were reputed to have a plane called a Zero, which was reported to be able to climb vertically—that's all! In 1941 we learned a lot more.

General Short and Admiral Kimmel were no more guilty of dereliction of duty than every other general, admiral or member of the Government in Washington. Sure there were a few around the President who knew of some intercepted messages that sounded as though the Japs were up to something, even to the time and day, but one and all, they were so sure no attack by air would come against any U.S. land or possession that they sent the following warning to the Hawaiian commanders on Dec. 6. It has been thirty years since I saw the exact words but it was something like "Relations with Japanese have become very critical. You should alert your command at once and be especially watchful against sabotage." This message meant a great deal. When added to the fact that General Marshall was out riding in Virginia and could not be located until noon, indicating his degree of alert, and the Government in Washington, except for a few intelligence centers, was flat on its Sunday morning ass; it meant that no one expected an air attack any place. It meant they did think the Japs might break relations or even declare war, and that with the Declaration of War the native Japanese of Hawaii might sabotage our installations and destroy our aircraft on the ground. They were all wrong. They did attack by air and knocked the living hell out of our fleet and installations in Hawaii. The native Japanese of Hawaii were not disloyal, and later proved to be some of our most loyal citizens and soldiers.

General Martin received this word secondhand, "be on guard against sabotage." General Martin did what he should have done in view of it—gathered his few aircraft (P–40's and P–26's) into tight groups so his weak ground guard could protect them. Most were there ready for the Japs to destroy with one or two strafing passes the next day. This they did with great efficiency.

There are a lot of other interesting things that happened that day to show that General Short and Admiral Kimmel were not so stupid. The Air Corps had a radar station, one of our first, and the operators saw a great swarm of targets coming out of the sea from the north. It was Sunday morning, Dec. 7 about 7:00 am. They reported the fact to the duty officer at Headquarters, and what he did with the information is not known today. For my part, I can see a few people scurrying around, following the old policy—"When in trouble or in doubt, run in circles, scream and shout"—but thinking it could be anything from geese or ducks to B–17's arriving from the United States, and not knowing whom to call anyway. About this time all

hell broke loose! Incidentally, a flight of B–17's headed for the Philippines was landing during the attack. So I can conclude that the admiral and general were not so dumb. In fact, they were just as smart as everyone above them and around them. America was weak. America was over confident. America was naive. America was asleep.

Fortunately, we did have time to build up our power after the surprise attack. We built it up and our country got behind it and we licked hell out of the enemy; all of the enemy. We beat 'em so bad we later felt we had to pour billions of our dollars into their economies to save them—both friends and former enemies. This we did, again for peace and the world's future. Now, after rebuilding friends and enemies alike, and fighting two anti-communist wars—wars which we not only have not won but rather have chosen to call a stalemate, we are, I fear, headed down the 1930 road again.

We backed the United Nations. It seems to be just as effective this time as the League of Nations was in the 20's. Our military have fallen into national disrepute. Whereas the rare draft dodger of World War II used devious ways to dodge but never admitted to even being a dodger, the present draft dodger is proud of it. I saw the other day that a former U.S. Cabinet Officer announced that he has supported his son's defection to Canada to dodge the draft for years and is proud of it! We went through the McNamara Era when we spent millions on studies and plans but produced damn little hardware. The hardware we did produce, being so costly and so over supervised by the criticism of Congress, and inflation that nothing has been very successful. Today the popular cries are ecology, social uplift, civil rights—to hell with defense. Yet today we face a Soviet threat unparalleled in our history.

As you know, present day military capability is usually measured by two types of forces: strategic and general purpose. The strategic are generally the nuclear armed ones, while general forces are geared to fight conventional, or should we say old-fashioned wars. According to recent intelligence figures, the USSR now has about twice the nuclear megatonnage that the U.S. has. The estimates credit the USSR with 6,000 to 8,000 nuclear weapons, deliverable by 1500 ICBM's, 900 bombers and 1000 seaborne missiles on subs and surface ships. The U.S. has 4,200 nuclear weapons deliverable by 1050 ICBM's, 550 bombers and 656 seaborne-nuclear missiles on subs.

The only place they trail is in submarine seaborne missiles, and as I have told you, they are rapidly closing that gap. In addition, they have an operational net of ABM's around Moscow and Leningrad, and other vital points. They have been installing and perfecting this system to my firsthand knowledge since 1961—and yet today they are exerting all kinds of pressure and possibly even offering some sort of vague promises in an effort to get us to agree to stop the building of the two ABM sites now under construction to protect some of our Minutemen. Why would they want us to stop building our defensive system? There can be only one answer, "the better to eat you, my dear!"

In general purpose forces, the USSR is even further out front with 90 well-equipped first line divisions to our 13. Their divisions are smaller than ours but not enough to make up the difference by far. Their army strength is over 2,000,000; ours will be under 1,000,000 this year.

In Europe it is even worse—NATO 40 divisions; eastern satellites—170. The eastern bloc has about 10,000 general purpose aircraft—NATO 7000. Their airplanes are modern and of excellent performance. Ours grow more obsolete by the hour. Last year on May Day they flew more new fighter prototypes on the one day than we have flown in 10 years. They have four modern, new, high performance supersonic fighters flying. We have the F–14 flying—the F–15 a year away. They have been testing a new modern, variable sweep-wing supersonic bomber for over a year. Our only new bomber, the B-1, is a long, long five years away from production.

In space for military purposes, they are also out front. Their FOBS (Fractional Orbital Bombing System) has been tested in 10 flights—watched from afar by us. They have tested and proven their satellite destroyer. They have completed a sizeable space station program. Our MOL was cancelled. In a couple of years, NASA will be ready for our first space station tests.

On the seas our plight is even worse. They have 350 submarines to our 10. If their launching rate continues, they will have 425 to our 170 in five years. On the surface they are rapidly moving up. They now have 270 surface ships to our 380. At the present launch rate by 1975 they will have 350 to our 380. Worse still, more than 50 per cent of their fleet is less than ten years old; 80 per cent of ours is over 20 years old. I am not going to need to remind you of the serious threat to our aerospace industry—a threat of loss of our greatest war making and defense weapons arsenal.

On top of all these disturbing figures sits the disarmament talks. While little has been agreed to as yet, it is obvious that the USSR's chief aims will be to limit or reduce our offensive strength and defenses with little or no degradation of their own. In my opinion, we will be very foolhardy to agree to any arms limits in SALT. In fact, I would love to see the talks called off prior to any agreement because an agreement can only be to our hurt and their advantage.

If we keep our present course and allow the USSR's superiority to become as bad as it could at the present rate, we'll be setting the stage for another Pearl Harbor. This time who will be the General Short and Admiral Kimmel? This time the big difference will be the degree of injury. This time there won't be two years to build up our forces. This time it could be final on the first go.

No, truthfully, General Short and Admiral Kimmel were not negligent. They were simply unprepared and asleep as was the rest of our country. Let us hope and pray that the signs we see of our rapidly decreasing military capability and national resolve do not mean we are setting the stage for some new Admiral Kimmels and General Shorts in the Seventies or Eighties!

FORCED BUSING

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. MIZELL. Mr. Speaker, at this time I would like to insert in the RECORD the testimony of two of my constituents which they recently submitted to the House Committee on the Judiciary as part of that committee's hearings on busing legislation.

I believe the testimony of these gentlemen. Mr. D. W. Routh, president of the Forsyth Citizens Against Forced Busing, and Mr. John A. Redding, president of the Lewisvill-Clemmons branch of that same organization, will prove to be very informative and very interesting to my colleagues, and I invite their careful consideration of the facts presented here:

STATEMENT BY MR. D. W. ROUTH

I am the president of the Forsyth Citizens Against Busing. My group was formed in Winston-Salem, Forsyth County, North Carolina in 1971 to peacefully protest forced busing of school students. This forced busing was brought about by a minority suit, judiciary interpretation of the constitution, and board of education implementation.

The Forsyth Citizens Against Busing has 400 active members and 16,000 participants. It is the fourth group of its kind to emerge in our city-county school system. The first group was the Silent Majority which sought legal means of halting forced teacher assignment in 1969. The No Busing Our Children group followed in 1970 with more public exhibitions protesting the cluster system of crossbusing six schools in Winston-Salem. The Committee Against Busing and the Forsyth Citizens Against Busing came into being when sixty-five schools were crossbused in 1971. Both of these groups took the stance of peaceful but not necessarily legal protest. For example, we held a one day countywide boycott of students with approximately eight thousand students participating. Each group has become progressively more hostile and we cannot guarantee that the next group that forms will be peaceful.

The main feeling of the people that I represent is not one of separated racism. Most have seen that there have been injustices and accepted the local mixing of opposite races. We resent, however the usurpation of majority rule and protest its application to our children. Everyone seems to be able to give advice. As long as you personally are not affected you can be very objective about what is fair and equal for the other fellow. It disturbs us that a man such as Judge Merhige of Richmond can make a decision for the masses that by nature of his own position and election will not affect his own child. Therefore, we feel that it is not democratic for members of the congress or judiciary to act upon a matter such as a constitutional amendment concerning public education unless they have children or grandchildren in public school. Only those that qualify in this way should be allowed to vote.

One of the necessities in our county to reach a 70 white–30 brown ratio of students in each school was a change from the 6–3–3 to the 4–2–2–2–2 grade structure. This eliminated two previously senior high schools altogether. One former student, T.M. feels that a grave injustice was done the alumni of the schools by destroying the institution, pride and heritage they had worked to build.

A mother of African descent, I.H. feels the frustration of wanting to do more for her children through PTA and visitation to the schools, but has children in five different schools and is thus unable to go after the ones at distant schools even if they are sick.

Even with 365 buses for 21,000 of a total of 48,000 students, we have to use multiple loading and staging which requires 2½ hours. Because of this we have had school canceled one day this year on a weather forecast. It did snow. Again students reached home 3½ hours after the snow began to fall and the order went out to close schools because of the snow storm February 18th.

The quality of education is suffering by a reduction in the school day to allow for transportation time. Some primary schools have students changing classes in order to group learning levels for more efficient use of time. This brings about an early awareness of an intellectual class system which I don't think is healthy for the child emotionally.

Uprooted teachers and students feel the tensions of a forced situation that detracts from learning and provides fertile ground for riots. North Forsyth Senior High School had a winter season of violence last year. Drug traffic is encouraged by cross travel and distribution is more convenient. B. H. of the Winston-Salem Police Department reports an overwhelming increase in drug traffic this year in the schools

One of our protest marches pointed dramatically to the safety problem of busing children on high-speed highways. It was a mother's march behind an old school bus followed by a hearse. The wording on the bus read "Don't take my child to school in this" and on the hearse "And bring him home in this". You see we bus regularly on Interstate 40 which is the busiest highway in the state.

M. B., a senior high school teacher states that busing is more physical than actual for its desired intent of a thoroughly mixed social education. She reports that with housing patterns as they are buses are usually loaded with one race. Students in class tend to segregate themselves to one part of the room.

How can we justify the safety hazard, the air pollution with carbon monoxide, and the irreplaceable depletion of our natural resources that 73,744,646,900 passenger miles of school bus travel requires in one nine month period in one county in America? The simple fact is that it cannot be justified nor can it be financed without serious detriment to the education of our young people and the economy of the nation.

ADDENDUM STATEMENT BY MR. D. W. ROUTH

The March first report by Theodore Hesburgh, Chairman of the U.S. Commission on Civil Rights and President of Notre Dame University, is not factual, is incomplete, and is biased.

The report by Charles Oslin which appeared in the Winston-Salem Journal March 2, quotes Hesburgh as saying, "Desegregation in the Winston-Salem-Forsyth County school system has improved the quality of formerly all black schools and the education of black students without causing any major problems." This statement is unfounded from three standpoints. First, if he is speaking of teachers, teachers have been assigned on a 70–30 ratio, racially, for the past two years. Secondly, last year we saw one of the biggest disruptions our system has ever seen at North Forsyth High School where there was open rioting and the school had to be put under police control. Third, if quality education is gauged by money spent and equipment in use in schools, the previously all black schools have enjoyed a material advantage because of such Federal programs as Titles and Model Cities. Teachers who were assgned to predominately black schools from predominately white schools were amazed at:

(1) The relative newness of the schools, and

(2) The amount of money being spent to equip these schools.

Rev. Hesburgh's report states that classroom facilities are being better used this year and that mobile units have been reduced from 113 to 34. Our information shows that 78 mobile units are still being used this year.

Rev. Hesburgh states that while parents oppose the plan, students seem to be accepting desegregation without significant difficulties. This point is moot, because young people normally accept most changes more readily than older people do. Young people accept the use of drugs more readily than older people do.

Of the five cities on which this commission reported Winston-Salem, Charlotte, Tampa, Pasadena, and Pontiac, they state they had personal interviews in four cities but based their Winston-Salem report on statistical data and documents provided by the school board, and telephone interviews. I would like to ask your indulgence to subpena this statistical data and documents by the school board so the public may know the source of this information or if Rev. Hesburgh's report is actually based on any statistics or documents.

I think Rev. Hesburgh's figure of 500–600 students leaving public school to go to private school is a very conservative one. School enrollment is 48,000 as compared to a projected 52,000 for the 1971–72 school year.

In short, Mr. Celler, Rev. Hesburgh's statement is indicative of the basis of this entire problem. That is, we have someone in South Bend, Indiana, telling the Congress of the United States what is good for Winston-Salem, North Carolina.

First cross-busing is a dangerous and time consuming operation that is being used in the name of education. It is a costly operation, which if curtailed, could finance a lot of curriculum improvements. I cannot see where there is anything educational about children having to get on a cold school bus at 6:50 A.M., which is before daylight, and riding around for approximately one hour and sometimes an hour and ten minutes to get to school to start the days educational process.

I will try to enumerate some things I feel I can substantiate in regards to cross-busing.

(1) Children have ridden buses in 10 degree weather recently without a heater on the bus.

(2) One child's hair was set on fire by another child, which could be from a lack of discipline or from boredom due to the long bus rides.

(3) Another child was burned on the hand with a cigar due to the same cause.

(4) Busing has been very demoralizing to all students that I have had contact with.

(5) There has been a lot of minor accidents and eventually it could lead to fatalities in a major accident.

It is my feeling that a lot of your fellow Congressmen are unaware of our predominately rural structure here in Forsyth County and are therefore unaware of the long distances required to achieve a superficial numerical ratio of blacks and whites in our schools.

I am enclosing two recent articles from our local paper which may be of interest and value to you.

One article is about two little girls that were struck by an auto while going to catch a school bus, true the accident was unavoidable but yet so unnecessary.

The other is an enlightening article about one of North Carolina's largest transportation systems. You will note that we are transporting 32,000 of our approximately 48,000 students and a greater portion are being cross-bused, not just being transported to school.

It is my hope that this will help you and other good men like you to come to the right decision regarding cross-busing of our greatest natural resource and that is our children.

I want to thank you for all your help in regards to this and other problems of our area and if it can be arranged I would consider it a privilege to come to Washington to testify as outlined in your letter.

With kindest personal regards, I am

Sincerely,

JOHN A. REDDING.

CAR HITS TWO GIRLS ON WAY TO BUS

Two girls who attend Bolton Elementary School were injured yesterday morning when they were struck by a car in Atwood Acres.

Robin Leipert, 9, of 2875 Mann Court was admitted to Forsyth Memorial Hospital. Her condition was listed as fair last night by a hospital spokesman.

Debra Horlick, whose age and address were not immediately available, was treated at the hospital and released.

The accident happened shortly after 7:30 a.m. on private property on Mann Court.

School officials said they were told the girls were hit by a car driven by a woman who was blinded by sunlight. The girls were going to meet a school bus, an official said.

The accident was investigated by State Highway Patrolman R. D. Woods, but his report was not available late last night.

TRANSPORTATION FOR 32,000 PASSENGERS A DAY

(By Stephen Hoar)

What is Forsyth County's largest mass transit operation?

Safe Bus Co., Inc.? Greyhound? Or perhaps Piedmont Airlines?

The answer is none of these. It is the city-county school system, which gives about 32,000 youngsters a ride to school five mornings a week and gets them home in the afternoon.

During the last two years, students living inside city limits became eligible for bus rides and federal courts required extensive cross-county busing for racial balance in public schools. As a result, the busing operation has mushroomed—from 216 buses traveling about 7,000 miles a day in 1969–70 to 365 buses traveling 18,000 miles a day this year.

The man in charge is lanky, soft-spoken P. Morris Hastings, who has been the director of transportation ever since city and county schools consolidated in 1963. His mission control center is the school bus garage on Carver Road. There by telephone and two-way radio, he directs what is really two sets of county wide busing operations.

One of these is basically the old neighborhood system that was used until two years ago. About 150 student drivers pick up students along routes that average about 20 miles in length (one way) and take them to schools in the neighborhood. They start about 7 a.m. and are scheduled to reach their schools by 8.

The other operation is the cross-county system, which takes busloads of students from outlying areas to schools in town and brings city students back to outlying areas. These routes start at six "staging areas" around the county, where the buses are parked at night.

The route of John Withers is typical. He picks up his bus about 6:15 a.m. at a staging area on Lansing Drive northeast of town and drives to Clemmons in the southwest corner of the county. There, around 7 a.m., he begins picking up students in fifth and sixth and ninth and tenth grades.

By 8 he delivers the busload—about 55 youngsters—to Brown Intermediate and Kennedy Junior High in central Winston-Salem. He then picks up elementary students from that neighborhood and takes them to school in Clemmons, arriving by 9 o'clock. He returns his bus to the staging area, and that afternoon he makes his rounds in reverse order.

Withers, like about 150 drivers of cross-county routes, is an adult. Because these routes run as long as 130 miles (round trip) and include at least two busloads of youngsters, student drivers cannot handle them without missing part of the school day. However, about 50 student drivers are doing that this year.

It is these cross-county routes that take buses onto Interstate 40 and other four-lane highways, where speed limits range from 45 to 65 miles per hour. Under state law, school buses can go only 35.

Hastings says it is debatable whether the four-lane highways are more dangerous for the buses than two-lane roads, since divided highways have fewer intersections. So far this year there have been no major accidents, and the safety record is significantly better than last year's.

At any rate, says the transportation director, "We had no choice about using the interstates. On some routes it would have taken an additional hour to use back streets."

With present routes, the average length of a bus trip is about 40 minutes, one way. The longest trips sometimes take more than an hour.

At the school bus garage, Hastings and his assistant, Jim Wheeler, coordinate all of the following:

Substitute drivers;

Four radio-equipped buses to pick up students stranded by bus breakdowns;

Four mechanics to make on-the-spot repairs;

A wrecker; and

Service and maintenance operations.

Two-way radio links the garage on Carver Road with the six staging areas, and drivers report absences and breakdowns by telephone.

On a typical day six to eight drivers will need substitutes (although during the recent wave of flu as many as 16 were out at once). To fill their slots, Hastings and Wheeler consult a huge roster on the wall.

Every day there are several breakdowns, five or so, to which they must dispatch mechanics, spare buses and, sometimes, the wrecker. One recent afternoon, for example, Bus 134 called the garage at 1:31 from Northwest Junior High School. Its gears were locked.

A mechanic was there within 10 minutes, but he couldn't get the bus going. The students shifted to a spare bus parked at Northwest.

At 3:31, Bus 316 reported from Philo Junior High that its battery was dead. Ten minutes later a service truck arrived and got it started.

About the same time, Bus 363 phoned from Jefferson Junior High . . . transmission trouble. Another bus picked up those students 12 minutes later.

Minor bus repairs can often be made at the scene of a breakdown or in one of the staging areas. Big jobs, like replacing a clutch or even overhauling an engine, are done at the school garage, where as many as six buses are under repair at once. Last night the city-county school board approved construction contracts for five more repair stalls that should be finished by June 1.

Hastings has 13 full-time mechanics, nine other maintenance employes (every bus needs gas and an inspection every school day), three safety supervisors, three bookkeepers and a dispatcher. The garage on Carver Road operates from 6 a.m. to 6 p.m.

But on days when bad weather threatens Hastings and other transportation personnel all over the county are on the roads by 4 a.m. testing the driving conditions. They may travel a total of 300 miles before deciding whether to close the schools. If bad driving weather starts developing during a school day, they use Civil Defense radio to alert all schools and get bus students home early.

On rainy days several buses usually get stuck, often in the driveways of their schools. And when early morning temperatures drop as low as five degrees, the older buses are balky about starting.

Although the school system ordered 47 new buses this year (for about $7,000 apiece), it still uses more than 80 "retired" buses borrowed from the State of North Carolina. They are 12 to 15 years old, having been taken out of service in other school systems about age 11.

"Most of the kids who ride these buses weren't even born when the buses started hauling," says Jim Wheeler.

But aged equipment is not as big a problem as the high turnover among adult drivers. Since the beginning of the school year, about 60 per cent have been replaced.

Adult drivers are paid $1.88 per hour for 20 to 30 hours per week, plus $4 a day for auto transportation to the areas where their buses are parked. Ideally, says Hastings, the school system should set up full-time jobs in which bus-driving was combined with school maintenance and other duties.

The Charlotte schools hire such full-time personnel. But here, because the long-term need for cross-county busing is uncertain, bus driving must remain a part-time job, at least for the present.

Another problem is finding substitutes for the adult drivers, who are more likely to miss work than student drivers. Hastings has only 10 adult substitutes.

He adds, though, that some of the adults have good reasons for being absent. More than half the adult drivers are women, many with families.

Adult drivers seem to have more discipline problems on their buses than student drivers. Perhaps they are just quicker to complain to the transportation director, less likely to work such problems out through school principals.

Hastings admits that, but he has another theory, too. "A student driver has lived in a loud world," he says, "and noises don't bother him the way they would an adult."

Then why can't student drivers replace them? Hastings explains that adult drivers, unlike students, can pick up two busloads each morning. Without adult drivers (or student drivers with shortened class schedules), 20 more buses would be needed.

What about behavior in general on school buses this year? "I think discipline problems have been greater," says Wheeler, "but it's just because we're busing more students, and busing them farther."

Hastings agrees. "I'm not aware of any racial problems," he says.

Could cross-county busing be gradually curtailed by redesigning bus routes? Hastings and Wheeler doubt it.

True, the present routes were planned in just five weeks, after the new pupil assignment plan was ordered into effect in midsummer. The two men worked 16 to 20 hours a day, seven days a week, to plot more than 700 routes with about 10,000 stops.

Throughout the school year, though, they have kept refining the routes. They think little further reduction in the time or distance of bus rides will be possible without a new pupil assignment plan.

The bill for busing came to $26.32 per child last year in the city-county system. This year it will go higher. The state of North Carolina will pay about $850,000 to operate and maintain the system's buses, and the school system will replace some of the 81 buses it owes the state.

The scope of school busing operations has more than doubled since Hastings became transportation director eight years ago. During 1963–64 about 150 buses carried some 14,000 students a total of 5,000 miles away.

But these days the sprawling transportation system still delivers its 32,000 passengers on time—or almost on time. On the average, about five buses are late to school for mechanical reasons and about 10 buses because of driver's problems.

Hastings, reflecting on a hectic year, sums it up with a wry grin. "A lot of things have to go right," he says, "for everybody to get to school on time."

THE FEDERAL BUDGET AND THE CITIES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. CONYERS. Mr. Speaker, our Federal Government has a compelling responsibility in the area of urban finances which it has not yet met. Our municipal governments face fiscal crises; our innercities are overrun with rats and filth; our people live in deteriorating housing; waste removal and disposal systems are inefficient and ineffective; there is not enough cheap, rapid transit to meet the needs of city dwellers. The list is endless.

While most of our cities do have a capability for management and planning, they still need the resources to respond to their particular needs. A careful look at the Federal budget for 1973, such as the one prepared by the National League of Cities/U.S. Conference of Mayors, reveals how far the Federal Government has yet to go to give urban development top priority.

The budget follows:

THE FEDERAL BUDGET AND THE CITIES: A REVIEW OF THE PRESIDENT'S 1973 BUDGET IN LIGHT OF URBAN NEEDS AND NATIONAL PRIORITIES

(By National League of Cities, U.S. Conference of Mayors, Washington, D.C., February 1972)

AN OVERVIEW OF THE PRESIDENT'S BUDGET

National priorities

The federal budget is the President's annual statement of national priorities. As such, it gives the nation's cities an opportunity to assess how the federal government responds to their needs compared to the other claims on federal revenues and program thrusts.

The dominant elements of the Fiscal Year 1973 budget include:

A projected cash outlay of $246.3 billion.

A projected cash deficit of $25.5 billion.

An up-dated estimate of the actual FY '72 deficit at $38.8 billion, more than three times the amount the Administration initially projected a year ago.

A continuing commitment to a full employment budget, which predicates revenue sufficient to balance the budget on a lowered unemployment rate.

A renewed commitment to General Revenue Sharing with state and local governments.

A renewed commitment to welfare reform, with $350 million set aside in FY '73 for administrative planning, but actual payments to beneficiaries under a new plan not to start until FY '74.

As for urban categorical aid programs, the key features of the budget are:

A $1.3 billion *cut* below FY '72 Congressional appropriations for critical programs managed by the Department of Housing and Urban Development (HUD).

Increases in proposed categorical funding for urban transportation, law enforcement assistance, manpower, and public schools—but not enough of an increase to offset the loss in funding for HUD, social services, and some other social programs.

A hold-the-line attitude toward outlays for environmental protection, health facilities, and some other urban impact aid programs.

The President's renewed initiative for $5.3 billion in General Revenue Sharing is the most significant recognition of city needs in this year's budget. Its approval by Congress will be critical to maintaining the current level of federal commitment to urban needs.

A second initiative, welfare reform, if approved by the Congress, would also have great and beneficial impact on urban families' income. Congressional approval of a sound social welfare system is urgently needed if levels of living are to be raised and improved in our cities.

The cities' needs

From the perspective of the cities, the setting for evaluating this year's federal priorities list is one of continuing fiscal crisis for municipal governments. City costs have been rising in recent years at a rate in excess of $3 billion a year. Necessarily, tax increases have mounted accordingly to keep pace with the employee pay increases, expanded sanitation and public safety services, increased prices for supplies and equipment, and the other items that are the necessities of urban life. The bonded indebtedness of municipal governments has tripled since 1955 with almost a third of it representing obligations of our 25 largest cities.

The revenue gap has currently reached the point where an increasing number of cities have exhausted their capacity to tax real property and therefore have no choice other than to cut back services, lay off employees, increase user charges, and announce other gloomy news. Meanwhile the President's budget documents inform taxpayers that Federal taxes have been cut by $22 billion since 1969. It does not mention the three other major tax cuts made since 1962.

Because of its size and scope, the federal budget has become an increasingly important force in shaping the quality of urban life. Though state and federal aid is not allocated evenly from city to city, or even according to actual local need, it is now almost a quarter of municipal revenues.

Having noted this and the two renewed initiatives in this year's budget, we must point out that careful scrutiny of the overall figures reveals that the federal contribution to the needs of city government and the solution of urban problems remains a lesser national priority. Indeed, as already noted, funds being requested this year for HUD's housing and community development programs are $1.3 billion less than the Congress appropriated for FY '72. Several other major urban impact aid programs are being continued at FY '72 levels.

The gap between real dollars and future promises

Moreover, this year's budget continues a trend and a situation that has been of grave concern to municipal officials: Namely, the negative, drag-down effect of the disparity between appropriations and authorizations. Most urban and urban impact programs have consistently received either lower budget requests or lower appropriations (or both) than the amounts authorized by Congress. This has not been true to the same extent for the military, space, foreign aid, farm and inter-state highway programs, for example. Indeed, the interstate highway program has regularly been funded at 100 percent of Congressional authorizations, while appropriations for NASA and the Department of Defense have dropped below 91 percent of authorizations only once in the past decade. In contrast, appropriations for urban renewal have been running around 71 to 83 percent in the past few years, the Elementary and Secondary Education Act aid to schools with impoverished children (Title I) has averaged 62 percent since the program was enacted in 1964, and most other urban impact programs have fared little better in recent years.

Priorities from another perspective

Another way of looking at the priorities picture is to compare what the Administration is seeking in new authorizations for urban impact programs with new authorizations for other kinds of activities. This analysis takes account of the fact that 71 percent of the budget is a function of prior mandates and commitments not readily subject to change—the so-called "uncontrollable" aspect of the budget.

As Chairman Allen J. Ellender of the Senate Appropriations Committee noted in the January 27, 1972 *Congressional Record*, additional Congressional authorization is required for $45.5 billion of the FY '73 budget. Of that sum, the Administration seeks $13.7 billion—almost a third—for military procurement and Navy shipbuilding, and another $8.5 billion for military research, development, testing and evaluation.

By comparison, new authorizations sought for all agencies and programs that have any degree of urban impact come to no more than $7.5 billion, less than a sixth of the $45.5 billion figure. Even if we add in the $3.5 billion of General Revenue Sharing which the President would allocate to general purpose local governments, we find that total new authorizations that could possibly benefit our hard-pressed cities are well below the budget for new military procurement alone.

We now find the cities with an improved capability for management and planning, thanks in part to federal aid for urban renewal, Model Cities, manpower, and related programs. Given the capacity, the cities now need the *resources* to meet the urgent needs of their citizens.

BUDGET HIGHLIGHTS

Revenue sharing: The President asks Congress for General Revenue Sharing in the amount of $5.3 billion for FY '73 plus $2.5 billion for FY '72 retroactive to January 1, 1972. The President's request for Special Revenue Sharing boils down to consolidating $4.668 billion in *existing* grants for certain on-going programs and adding $714 million in *new* funds for FY '73.

Housing and community development: HUD seeks $1.3 billion less for its critical programs next year than Congress appropriated for this year. Major shortfalls are in Urban Renewal ($465 million), Water and Sewer ($700 million), Section 236 housing outlays ($50 million), Rent Supplements ($7 million), and Rehabilitation Loans ($90 million). Model Cities, for which the President voiced explicit support, would remain at the same level as FY '72, $620 million.

Law enforcement assistance: Law Enforcement Assistance Administration asks for $850 million, up $151 million from FY '72.

Transportation: For urban mass transit, DOT wants $1 billion in reservations (up almost $400 million from FY '72) and $651 million in obligations (more than double the FY '72 sum). The budget calls for the same amount for airport grants as in FY '72 and a $20 million increase in urban highway programs.

Environmental quality: Environmental Protection Agency seeks $171.5 million in obligational authority for clean air programs in FY '73, up $28 million, although it once told Congress it would need $320 million next year. The President asks $2 billion in obligational authority for water treatment plant construction, the same as last year. Requested obligational authority for solid waste activities has been cut by $11.3 million—almost a third below FY '72, leaving the private sector to carry much of the initiative in developing recycling and other waste management hardware. For coping with noise, the Administration hopes Congress will listen to a request for $1.2 million, up $34,000 from FY '72.

Manpower: The Administration asks that overall manpower obligations rise almost $400 million from the FY '72 estimated level of $5 billion. Most of the increase is reflected in the $247 million mandated by Congress for Emergency Employment Assistance in response to high unemployment rates.

OEO: Though the Administration is narrowing its scope, the Office of Economic Opportunity would gain about $55 million over FY '72, for a net of $758 million in FY '73. Bulk of the increase would go to community action agencies and research, development and evaluation.

Health: Reflecting a new federal health strategy, the budget cuts $72 million from the Hill-Burton hospital construction program, which will be phased out, and allots $79 million more to delivery of health services than in FY '72.

Education: Overall, the education budget seeks $276.5 million more next fiscal year than this year, with elementary and secondary education showing a $500 million gain, and higher education a $384 million loss.

Social services: Through "active management controls" the Administration intends to curtail expenditures for social services, after failing for two years to get Congressional approval for a ceiling on these costs. HEW estimates a cutback of more than $120 million.

REVENUE SHARING

The Administration's FY '73 budget includes a $5.3 billion authorization request for General Revenue Sharing based on legislation the President sent to Congress last year.

The budget also sets aside $2.5 billion in the current FY '72 budget for General Revenue Sharing, retroactive to January 1, 1972.

The Administration proposes to share 1.3 percent of the federal personal income tax base with states and general purpose local governments. The budget projects that the natural growth in the tax base will yield $10 billion in shared revenue by 1980.

State and local governments would be able to spend these funds for their own priorities, rather than for those mandated by the federal government. Local governments would be guaranteed a portion of the sums allocated to each state.

Under the heading "Improving Government", the President's Budget Message describes Revenue Sharing as "an important element of the strategy—to provide fiscal relief and to strengthen State and local governments. . . . In total, these revenue sharing proposals would provide $17½ billion to State and local government in their first full year of operation."

TABLE REVENUE SHARING I.—PROPOSAL FOR FIRST FULL YEAR

Description:	*Billions*
General revenue sharing	$5.3
Special revenue sharing:	
Urban community development	2.3
Rural community development	1.1
Education	3.2
Manpower training	2.0
Law enforcement	.9
Transportation	2.8
Total	17.6

It is important to keep in mind that only a portion of the $17½ billion could constitute fiscal relief: as noted above, $5.3 billion is proposed for General Revenue Sharing for FY '73, Congress willing. But the remaining $12.3 billion is for categorical programs that are already in progress. This funding plan, called "Special Revenue Sharing," is better understood as "grant consolidation".

What the Administration proposes is to combine groups of existing categorical programs under six headings and to allow state and local government greater discretion in the use of these consolidated grant funds. The cities long have supported this objective. But it must also be borne in mind that very little new money would be added to the existing levels of funding. By some interpretations, the existing levels are being held down to a point where the so-called new money can be considered—as with urban renewal (down approximately $500 million)—inadequate even to maintain the level of program operations currently in progress.

It is also important to keep in mind that the President plans to phase in his grant consolidation program over *two* fiscal years (FY '73, '74). Thus the total new federal funds to be available in FY '73—provided Congress passes the pending legislation *and* appropriates the funds that would then be requested by the Administration—would be $714 million ($490 million urban and $224 million education). The ongoing programs

that would be put into grant consolidation at their current operating level would convert $1.655 billion in existing programs for urban community development programs (urban renewal, open space, neighborhood facilities, rehabilitation loans and Model Cities) and $3.013 for child development, aid to school districts, etc. This makes a total of $4.668 billion in *existing* program funds compared to $714 million in *new* funds for FY '73.

In other words, the Administration's proposed *Special* Revenue Sharing is mostly a continuation of the current level of funding for categorical programs under a new name. Their emphasis in "Special Revenue Sharing" is on grant consolidation—not fiscal relief.

TABLE REVENUE SHARING II.—HOW THE ADMINISTRATION PROPOSES TO PHASE IN SPECIAL REVENUE SHARING

[In millions of dollars]

Special revenue sharing and the categorical programs converted	Estimated budget authority	
	Fiscal year 1973	Fiscal year 1974
Urban community development:		
Converted programs	2,145	2,300
New authority	−1,655	−1,800
Total	490	500
Rural community development:		
Converted programs	(1)	1,072
New authority	(1)	−919
Total	(1)	153
Education:		
Converted programs	3,237	3,237
New authority	−3,013	−3,013
Total	224	224
Manpower:		
Converted programs	(1)	2,000
New authority	(1)	−1,633
Total	(1)	367
Law enforcement:		
Converted programs	(1)	876
New authority	(1)	−850
Total	(1)	26
Transportation:		
Converted programs	(1)	2,800
New authority	(1)	−1,220
Total	(1)	1,580

[1] Conversion projected for 1974.

Source: The Budget of The U.S. Government, 1973, table 16, p. 540.

HOUSING AND COMMUNITY DEVELOPMENT

The proposed 1973 fiscal year budget for the major programs administered by the Department of Housing and Urban Development shows that, like a year ago, the Administration again is calling for funding levels that are not only far below those authorized for the various programs but that are even below the *actual* funding levels approved by Congress for the current fiscal year. Major, short-falls come in the Urban Renewal, Water and Sewer, Open Space, Public Housing, and Section 236 Rental Assistance Programs. In addition, the much criticized practice of impoundment of previously appropriated funds will apparently be continued in FY '73.

The clearest way in which to view HUD's FY '73 budget is to divide the primary programs into three sections: (1) those programs proposed for consolidation into a community development bloc grant program; (2) the remaining community development, planning, and research programs; and (3) the housing programs.

Programs to be consolidated into a community development bloc grant (Table HUD–I): The Administration now proposes five HUD programs for consolidation into a single bloc grant. Three of these—Urban Renewal, Model Cities, and Rehabilitation Loans—were proposed for consolidation one year ago when the original legislation was put forth by the President. The remaining two programs—Open Space Land and Neighborhood Facilities—have been added since the preparation of the FY '72 budget. One program—Basic Water and Sewer Facilities—has been withdrawn by the Administration from its original consolidation proposal.

In its FY '73 budget, the Administration has recommended that each of these five programs be funded separately in the normal fashion for a full twelve months. Then, when the pending bloc grant legislation has been approved by Congress, each of these five programs would automatically be combined into the single new program. The budget makers, while envisioning the new program to begin July 1, 1972, seem to recognize that such rapid approval may not actually occur. As soon as the bloc grant legislation is approved, therefore, the Administration would then request an additional amount of money for the new program by way of a supplemental appropriation. Apparently these additional funds will not be sought if the legislation falls.

While the Administration sets forth full, twelve-month budgets for each of these vital programs, the funding levels proposed constitute a marked drop from the levels approved by Congress for the current fiscal year. The actual appropriation available for these five programs for FY '72 is $2.42 billion while the Administration's proposed level for FY '73 is only $1.655 billion. After subtracting $105 million in model cities carry-over, this results in a *$660 million reduction* in effort. Even the Administration's additional proposal for a supplementary appropriation of $490 million (*if* the new bloc grant legislation is adopted-would) not be enough to offset this drop in funding.

Urban Renewal: The current FY '72 program level for Urban Renewal is $1.465 billion. This figure consists of $1.25 billion in newly appropriated dollars plus $215 million in impounded funds from FY '71. For FY '73, the Budget calls for a $465 million decrease in the Urban Renewal program level to $1 billion. This proposed reduction comes in the midst of a continually rising demand for renewal funds from cities across the country.

The Budget argues that $500 million of the FY '72 program level will be used entirely to cover the increased relocation costs that have resulted from the passage last year of the Uniform Relocation Assistance and Real Property Acquisition Act. The Budget describes these extra costs as "non-recurring" and therefore suggests that the $500 million be dropped from the FY '73 funding level.

This analysis by the Administration does not hold up to closer scrutiny, however. First, the $1.465 billion in Urban Renewal funds were approved by Congress without any legislative mention than a certain portion of the funds should be utilized for relocation costs. Urban Renewal has been paying relocation costs since Congress authorized them in 1956. The fact that a larger than usual proportion of the annual appropriation for renewal will go to relocation costs this year is no reason to call for a reduction in the program for the following year. Second, it is not correct to refer to the relocation costs that are being paid out of this $500 million amount as being "non-recurring". Under the law, HUD must reimburse cities for 100 percent of all relocation costs arising out of conventional renewal projects begun prior to January 2, 1971. While use of much of the $500 million may bring the Department up to date on its obligations to these conventional projects, additional relocation costs are expected to rise under some of these continuing projects in the future. In addition, the present law requires that HUD must pay for relocation costs generated by NDP projects on the same federal-local cost sharing basis as for non-relocation costs.

TABLE HUD–I.—COMMUNITY DEVELOPMENT

[In millions of dollars]

	Fiscal year 1972 appropriations (actual)	Fiscal year 1972 estimated obligations	Fiscal year 1972 carryover appropriations	Fiscal year 1973 appropriations request	Fiscal year 1973 estimated obligations	Fiscal year 1973 carryover appropriations
Model Cities	[1] 725	620	105	515	620	
Open space [2]	[3] 100	100		100	100	
Neighborhood facilities [3]	[4] 40	40		40	40	
Rehabilitation loans	90	50	40		[6] 50	
Urban renewal	[5] 1,465	[5] 1,465		1,000	1,000	
Subtotals	2,420	2,275	NA	1,655	1,810	NA
Urban community development special revenue sharing				[7] 490	490	

[1] $575,000,000 in unutilized fiscal year 1971 funds plus $150,000,000 in new fiscal year 1972 appropriations.

[2] Original fiscal year 1972 administration proposal for urban community development special revenue sharing did not include the open space land program or the neighborhood facilities program.

[3] Original fiscal year 1972 appropriation request was for $200,000,000; $100,000,000 of that request has now been withdrawn.

[4] $40,000,000 in carryover appropriations plus $10,000,000 in loan repayments.

[5] $215,000,000 in carryover plus $1,250,000,000 in new appropriations.

[6] Administration chose to take $500,000,000 from urban renewal funds to pay increased relocation benefits required by Uniform Relocation Act of 1971.

[7] Administration would request these additional funds in a supplemental appropriation request after pending block grant legislation is enacted.

TABLE HUD–II.—COMMUNITY DEVELOPMENT

[In millions of dollars]

	Fiscal year 1972			Fiscal year 1973		
	Appropriation (actual)	Estimated obligations	Carryover appropriations	Appropriation requested	Estimated obligations	Carryover appropriation
Water and sewer [1]	700	200	500		200	300
New community assistance grants	10	5	5	5	10	--
Research and technology	45	45		60	60	
701 planning	[2] 100	100		100	100	
Community development training and urban fellowships	3.5	3.5		3.5	3.5	

[1] Original administration proposal for fiscal year 1972 was for inclusion of basic water and sewer facilities program within urban community development special revenue sharing program. That proposal has been amended to exclude water and sewer.

[2] $60,000,000 has already been appropriated. Remaining $40,000,000 has been requested in a pending supplemental appropriation bill.

TABLE HUD–III.—HOUSING ASSISTANCE

[In millions of dollars]

	Fiscal year 1972			Fiscal year 1973		
	Contract authority available	Estimated obligations	Carryover authorization	Contract authority requested	Estimated obligations	Carryover authorization
Rent supplement	55	55		48	48	
235 housing	170	170		170	170	
236 housing	200	200		150	150	
Public housing	390	[1] 260	130	150	[2] 183	97

[1] $163,000,000 being utilized for new production, which will put 103,000 units under contract. $77,000,000 used to amend annual contribution contracts to cover deficits in operating subsidies arising from the Brooke amendment.

[2] $178,000,000 to be utilized for new production, which will put 110,000 units under contract.

Finally, the evidence available at the moment suggests strongly that HUD will not be able to actually obligate the entire $500 million during the current fiscal year 1972. Instead, it appears that a substantial amount—at least $100 million and probably more—will be carried over into FY '73. While this action is technically not an impoundment, it has the same effect upon the actual level of obligations during FY '72. If HUD were to make immediate use of these probable carry-over funds for normal renewal purposes and thereby put forward to the FY '73 budget the completion of these increased relocation costs, the Department (to use its own reasoning) would then be able to request an increased appropriation over the presently proposed level of $1 billion.

Model cities: The Budget sets forth an FY '73 program level of $620 million—which is the absolute minimum necessary to enable the Department to fully fund the contracts with all participating cities and, in addition, to support the new Planned Variation activity.

Rehabilitation loans: Last year, in response to the extensive local interest in the program. Congress more than doubled the size of the Rehabilitation Loan Program Program (Section 312) from $35 million to $90 million. The Administration has chosen to impound all but $40 million for FY '72. The balance of $50 million would be carried over and utilized in FY '73.

Open space land program: In its FY '72 Budget, the Administration called for an expansion of the Open Space Land Program from its FY '71 level of $75 million to a new level of $200 million. In conjunction with this increase, HUD requested letters of intent from all interested cities stating the need for Open Space grants during FY '72. Also, during FY '72, the Department was able to raise the federal-local match from 50–50 to 75–75 under certain conditions.

As a result of this vastly expanded new commitment by the Administration to the Open Space Land Program, letters of intent totaling over $500 million have been collected at HUD. Congress appropriated $100 million in August of 1971 and was expected to provide the remaining $100 million in a supplemental appropriation bill this spring However, HUD has yet to obligate the first $100 million Moreover, the FY '73 Budget indicates that the Administration has withdrawn its request for the additional $100 million.

The Budget now shows that Open Space is included in the President's version of community development bloc grants.

Remaining community development, planning and research program (Table II.) Two items of significance can be seen from Table HUD.

Basic Water and Sewer Facilities Program: If the size of the backlog in unfunded applications is any indication of the support for a program, then HUD's Water and Sewer grants are by far the most popular among the Department's various categoricals. At last count, the backlog in requests had passed the $4 billion level. Congress, in direct response to this mounting demand, appropriated $500 million for FY '72 which, together with a carried forward impoundment of $200 million, out the total available funds for the curent year at $700 million.

The Administration, however, continues to hold down the level of this program to $200 million annually. Thus, there will be a $500 million impoundment carried over to FY '73 and a planned $300 million withholding taken forward to FY '74. No new funds will be sought from Congress.

Research and technology: The proposed one-third increase in the size of HUD's broad-based Research and Technology will hopefully have important long range impact on future HUD program efforts. The Department is continuing and modestly expanding funding of the Municipal Information System Program and the Urban Observatory Program. The Budget shows Operation Breakthrough as phasing out during FY '73.

Housing programs (Table HUD–III). The FY '73 Budget for the four primary federally assisted housing programs shows more cuts than increases.

Rent supplements: The Rent Supplement program would be cut back by the Administration from the current level of $55 million to $48 million.

Section 235 homeownership assistance: The Administration would maintain the Section 235 Homeownership program at its current level of $170 million.

Section 236 rental assistance: The FY '73 budget calls for a $50 million (25%) reduction in the 236 program.

Public housing: Of the $293 million in new production funds available for FY '72 for Public Housing, the Administration has chosen to impound and carry forward $130 million. thereby holding the level of new construction starts below 100,000 units. During FY '73, while the number of units placed under annual contributions contract will increase slightly, the number of construction starts will actually decrease by 5,000 to a total of 90,000 units.

With the rapidly increasing use of the "turnkey" method of producing public housing units and the strong emphasis upon scattered site construction, the public housing program continues to fit less and less into the stigmatized conception which the program earned some years ago. While the program is always undergoing change, it continues to be the only existing federally assisted mechanism for providing housing to the lowest of the eligible low-income families of this nation. At the level proposed by the Administration, the Public Housing program will once again fall 50% short of the annual housing goal set by the Congress in the Housing Act of 1968.

Impoundment: As has been already mentioned and as can be seen from the three tables in this section, the Administration has expanded its policy of impounding Congressionally approved funds that exceed original budgetary requests. Table HUD–IV compares the list of withheld funds for FY '71 and FY '72 along with the impoundments announced so far for FY '73.

TABLE HUD–IV.—IMPOUNDMENTS

	Fiscal year 1971	Fiscal year 1972	Fiscal year 1973
Public housing	$165	$130	$97
Urban renewal	215		
Water and sewer	200	500	300
Rehabilitation loans		50	
Total	580	680	[1] 397

[1] May increase following completion of congressional appropriation process.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The Fiscal 1973 Budget proposal for LEAA Programs to aid state and local governments in reducing crime and improving their criminal justice system is $850 million. This represents an increase of $151.3 million over FY '72. The components of this increase are shown in the table below (Table LEAA I).

TABLE I.—LEAA BUDGET

[In thousands of dollars]

LEAA	Appropriation, fiscal year 1972	Authority requested, fiscal year 1973	Increase
Planning grants to State and local governments	35,000	50,000	15,000
Block action grants to State and local governments	413,695	480,250	66,555
Discretionary grants	73,005	84,750	11,745
Special correctional improvements programs	97,500	113,000	15,500
Technical assistance	6,000	10,000	4,000
Institute activities, research, technology transfer	21,000	31,000	10,000
Manpower development (includes LEEP)	31,000	45,000	14,000
Data and statistics	9,700	21,200	11,500
LEAA administration	11,823	14,800	2,977
Total	698,723	850,000	151,277

The increase of $151 million will keep the relatively new LEAA program moving, but its growth is smaller than in previous years. Table LEAA 2 below shows that both the percentage and the absolute dollar increases have dropped when compared to FY '71 and '72.

TABLE II.—LEAA APPROPRIATIONS GROWTH RATE DECLINES

[In millions of dollars]

Fiscal year	Appropriation	Dollar increase	Percentage increase (approximate)
1969	63		
1970	268	205	325
1971	532	264	100
1972	693	165	31
1973	850	152	22

While holding down increases in LEAA Administrative costs, the Budget requests a much needed increase of $15 million in planning grants for cities and states.

The overall appropriation level of $850 million is considerably below the Congressional authorization of $1,750 million. Evidence that cities are ready to make use of a higher level of appropriation can be seen in LEAA's recently initiated "high impact" program. Eight cities have been selected to receive $20 million each over 2½ years for concentrated crime control programs. With higher levels of appropriation, more cities could make use of the high impact approach.

TRANSPORTATION

Substantial increases in obligations for urban mass transit, slight increases in the urban highway programs, and no change in airport aid highlight the President's 1973 Transportation Budget as it affects cities.

Urban Mass Transportation: A 65 per cent increase in administration reservations available for capital grants for 1973 is significant. While the proposed $841 million in capital projects approvals is substantial, the picture dims when compared with the $4 billion in pending projects and $1.1 billion in remaining contract authority.

Capital grants for FY 1973 are expected to assist in the purchase of 5,000 new buses, 65 commuter cars and about 300 rail rapid transit cars. Although this constitutes a sizable new commitment, it represents a small fraction of the equipment requirements. Currently, some 50,000 buses and 9,000 subway and elevated railway cars, many of them outdated, are in use in the U. S.

A substantial increase was made in the request for the Research, Development, and Demonstration Program from $62 million in 1972 to $115 million in 1973. An important part of these 1973 funds will be aimed at demonstrating new technology for access and circulation in downtown areas and other major activity centers. These funds could support several demonstrations of high-capacity-small-vehicle transit systems in urban areas.

A one-third increase in transit planning funds also is proposed.

TABLE DOT-I.—URBAN MASS TRANSPORTATION, FISCAL YEARS 1971–73

[In millions of dollars]

	Fiscal year 1971 (actual)		Fiscal year 1972 (estimate)		Fiscal year 1973 (estimate)	
	Reservations[1]	Obligations[2]	Reservations	Obligations	Reservations	Obligations
Capital facilities	284	85	510	264	841	529
Technical studies	14	5	25	13	33	23
R.D. & D.	39	24	62	33	115	93
University research and training	3	2	3	2	3	2
Other	1	.....	6	3	8	4
Total	341	116	606	315	1,000	651

[1] Administrative reservations.
[2] Costs and obligations.

Source: Appendix to the Budget for Fiscal Year 1973, p. 735

Highway programs: An increase in obligations for Urban Systems from $50 million in 1972 to $140 million in 1973, when measured against the decrease in obligations in urban extensions of the primary system from $325 million in 1972 to $240 million fn 1973, means that funds for urban highways will remain about the same. The use of funds for urban systems, however, is more flexible than that of funds for urban extension of primary roads.

TABLE DOT-II.—FEDERAL-AID HIGHWAYS TRUST FUND FISCAL YEARS 1971–73

[Program costs in millions of dollars]

	Fiscal year 1971 (actual)	Fiscal year 1972 (estimate)	Fiscal year 1973 (estimate)
Interstate system	3,308	3,200	2,800
Urban extensions	254	325	240
Urban systems	.....	50	140
TOPICS	11	250	265

Source. Appendix to the Budget for fiscal year 1973, p. 720

TOPICS funds will be increased slightly from $250 million in 1972 to $265 million in 1973. The total FY '73 funds available for urban systems, however, are small when compared with the $2.8 billion commitment to the Interstate System. The revised total cost estimate for the Interstate System upon its completion is $68.3 billion, up $5.8 billion from the previous estimate. The 1970 Highway Act extended the termination date of the Highway Trust Fund to September 1977.

Airports: Estimated obligations for FY 1972 and 1973 airport grants match the annual total of $295 million provided by the Airport and Airway Development Act of 1970. The grants to public agencies are for planning, not to exceed more than $15 million annually, and for development and improvement of public airports of which $280 million in obligational authority is available annually. From FY 1971 through FY 1975, expenditures for the program will be financed partially by user charge revenues, with the deficit being made up by annual appropriations from general revenues. After FY 1975, user charge revenues are expected to meet or exceed expenditures.

TABLE III.—DEPARTMENT OF TRANSPORTATION, AIRPORT GRANTS

[In millions of dollars]

	Fiscal year—		
	1971 actual	1972 estimate	1973 estimate
Grants for planning	$3	$15	$15
Grants for construction	170	280	280
Total obligations	173	295	295

Source: Appendix to the budget for fiscal year 1973, p. 710

ENVIRONMENTAL QUALITY

The proposed 1973 budget for the Environmental Protection Agency totals $439.3 million, an increase of $44.3 million over the current fiscal year. Here is a breakdown by functional area:

Air: The Administration is requesting new obligational authority of $171.5 million for the EPA clean air programs, a $28 million increase. EPA had previously told the Congress that $320 million was needed in FY '73 to implement the Clean Air Act, as amended. Congress responded by approving a $300 million authorization. The President's Budget request is only half of that original evaluation of need.

EPA will also institute a parctice of charging for the training programs authorized under the Clean Air Act, as amended, for increasing and upgrading the manpower essential to air pollution control programs. Such user charges are not authorized by the Act.

Water pollution: The President is requesting the same amount of obligational authority ($2 billion) to finance the construction of water treatment plants for FY '73 as that requested and appropriated in FY '72. This is consistent with the Administration's legislative program. However, the Senate has passed a sweeping new proposal to change the nation's clean water efforts. This bill would authorize $3 billion for FY '73, and ultimately call for a four-year, $14 billion program for full secondary treatment of effluent and would also make stormwater overflow facilities eligible for federal grant money. The House Public Works Committee has approved a $20 billion bill, with $5 billion authorized for FY '73, also making stormwater overflows eligible, as well as collector systems.

Solid Waste: The new budget announces that EPA "is reorienting its solid waste activities to focus upon economic and institutional constraints, with less attention to areas where the private sector is focusing its efforts—the development of hardware for recycling and other waste management activities." The obligational authority for FY '73 therefore has been decreased by $11.3 million to $23.3 million.

Only four demonstration grants under Section 208 of the Resource Recovery Act of 1970 will be funded in FY '72 and FY '73. Only $15 million was obligated in FY '72; no new obligational authority is requested for FY '73. The authorization for Section 208 demonstration grants for FY '72 is $80 million; the authorization for FY '73 is $140 million.

Noise: The Administration wants to pursue noise abatement efforts. EPA estimates it will obligate $1,181,000, an increase of $34,000 over FY '72. Noise control is also dealt with by NASA and DOT on a cooperative basis. Obligations for general transportation research and development will increase from $456 million to $666 million. Noise research will have to compete for funds with studies of other vehicle problems, such as speed, safety, and economy.

Parks and recreation: The President's Legacy of Parks Program was designed to bring parks to the people by developing new parks in and near cities. The Administration has proposed to fund the Land and Water Conservation Fund at $300 million, which falls below FY '72 by $61.5 million. Grants from this Fund to state and local governments for park acquisition and development will be at $197 million, below the $255 million appropriated for FY '72. There remains some $38 million carried over from FY '72 to FY '73 which the Administration does not plan to obligate.

In addition, budget authority for financial aid to state and local governments for city recreation (all Federally assisted or direct Federal projects or activities—including historic preservation—which are located within incorporated places of 250,000 or more population) will decrease from $151 million in FY '72 to $133 million in FY '73. However, direct federal activities for city recreation will increase from $35 million in FY '72 to $40 million in FY '73.

New programs: The budget also seeks $35 million in obligational authority for new environmental programs dealing with noise pollution, ocean dumping, toxic substances, pesticides, water quality, power plant siting and protection of mining areas. The budget also includes $20 million for the Administration's proposed National Land Use Policy Act.

MAJOR URBAN ENVIRONMENT QUALITY PROGRAMS, BY MEDIA

[In thousands of dollars]

Operation, research and facilities	Fiscal year 1971			Fiscal year 1972 estimate			Fiscal year 1973 estimate		
	Appropriation	Obligations	Outlays	Appropriation	Obligations	Outlays	Budget authority	Obligations	Outlays
Air	109,287	101,666	88,055	148,828	158,320	133,138	171,541	173,661	145,058
Water	119,439	125,237	94,198	153,482	149,772	152,921	156,158	159,855	164,874
Solid waste	16,250	14,564	4,565	35,798	32,704	23,897	23,321	31,411	26,036
Noise[1]	265	[2] 316	267	1,225	1,341	700	1,181	1,216	1,300

[1] Additional noise-control resource available through NASA-DOT cooperative program.
[2] Transfer between media allowed at administration discretion in 1971. In 1972, transfers were limited to 10 percent. Carryover mainly in water and air.

Note: Operation, research, and facilities: Abatement and control; manpower development; research, development, and demonstration facilities.

SEWAGE PLANT CONSTRUCTION GRANTS (EPA)

[In millions of dollars]

	1971				1972 (Estimated)				1973 (Estimated)			
	Appropriation	Obligations	Outlays	Carryover	Appropriation	Obligations	Outlays	Carryover	Budget request	Obligations	Outlays	Carryover
Sewage plant construction grants (EPA)	1,000	1,228	478	440	2,000	2,080	908	132	2,000	2,000	1,100	132

MANPOWER

The overall Manpower budget for FY '73 provides an increase in obligations of $396 million. Most of the increased monies will be distributed this way: $247 million for Emergency Employment Assistance; $62 million more for Vocational rehabilitation and $58 million more for Work Incentive Program and social services day care in the Department of Health, Education, & Welfare; an additional $48 million for on-the-job training for veterans for the Veterans Administration and a $31 million increase for the Employment Service through the Department of Labor. Programs of skill training and support projected to be incorporated into Manpower revenue sharing are being reduced in obligation by $60 million.

Overall, the Department of Labor will increase its obligations by $161 million, Health, Education, and Welfare will increase its by $137 million, the Veterans Administration by $66 million, the Defense Department by $9 million, the Office of Economic Opportunity by $6 million, and the Department of Housing and Urban Development will remain the same.

The Administration's "full employment" budget reflects a commitment to expanding job opportunities. The largest job creation component of the budget is the Emergency Employment Act. Its level of funding is mandated by Congress and is related to the unemployment rate. Nevertheless, the budget raises the question whether Manpower funds—even though they are on the rise—are equal to the Administration's "full employment" commitment. Further, the Administration has assured the cities that they would have the major role in management of employment programs. Yet, the programmatic increases for the Department of Labor and other agencies (such as WIN, Vocational rehabilitation, and on-the-job training for veterans) will administratively be handled through federal and state agencies, thus bypassing local planning, priority determination, and control. The Administration has asked for a local manpower leadership role on the part of the Mayors, but continues to channel and increase vast sums of money to agencies with little accountability to local elected officials. With the $60 million reduction contemplated in the Manpower special revenue sharing program, local officials can look forward to a diminished input in overall manpower planning and direct services into their communities. As such, the impact of the services provided to city residents as well as the best program mix, linkages, and coordination for maximum resource utilization must remain questionable.

From a city perspective, provisions and funding for youth programming in the proposed 1973 budget are static. The single most necessary source of youth employment during the summer months, the Neighborhood Youth Corps (NYC), remains at $270.7 million; the same budget level as 1971 and 1972. Past years have proven this insufficient and cities have been forced to rely upon uncertain emergency supplemental funding from the Congress in June or July for programs terminating in August, just to meet basic employment requirements.

MANPOWER FUNDS BY AGENCY

The following table shows manpower obligations and outlays by administering agency and program. Two agencies—the Departments of Labor, and Health, Education, and Welfare will account for 87% of all manpower outlays in 1973, about the same as in past years.

TABLE J-12.—FEDERAL FUNDS FOR MANPOWER PROGRAMS BY ADMINISTERING AGENCY

[In millions of dollars]

Agency and program	Obligations				Outlays			
	1970 actual	1971 actual	1972 estimate	1973 estimate	1970 actual	1971 actual	1972 estimate	1973 estimate
Office of Economic Opportunity: OEO manpower	32	35	33	39	30	33	35	37
Department of Defense: Project transition	14	15	16	27	14	15	16	27
Department of Health, Education, and Welfare:								
Social services training	51	45	57	60	50	42	55	57
WIN and social services day care	112	185	338	396	112	185	311	393
Vocational rehabilitation	482	558	649	711	441	523	551	620
Upward mobility	.....	.....	6	20	.....	.....	6	20
Foster grandparents	8	10	.....	.....	8	9	.....	.....
Vocational work study	4	6	6	6	2	4	5	5
Subtotal, HEW	657	803	1,056	1,193	613	763	928	1,095
Department of Housing and Urban Development:								
Model cities manpower	24	39	45	45	6	24	33	41
Model cities child care	9	15	19	19	2	9	14	17
Community development training	.....	1	2	2	.....	1	2	2
Subtotal, HUD	33	55	65	65	8	34	49	60
Department of the Interior:								
On-the-job training for Indians	3	3	3	3	2	1	3	3
Institutional training for Indians	29	29	31	32	26	26	31	32
Indian placement assistance	5	6	6	6	5	5	6	6
Subtotal, the Interior	38	37	40	41	33	33	40	41

TABLE J-12.—FEDERAL FUNDS FOR MANPOWER PROGRAMS BY ADMINISTERING AGENCY—Continued

[In millions of dollars]

Agency and program	Obligations				Outlays			
	1970 actual	1971 actual	1972 estimate	1973 estimate	1970 actual	1971 actual	1972 estimate	1973 estimate
Department of Justice:								
Training of offenders	3	4	5	5	3	4	5	5
Department of Labor:								
Manpower revenue sharing	1,344	1,535	1,598	1,538	1,056	1,342	1,454	1,477
Emergency employment assistance			991	1,238			653	1,088
Work incentive training	80	64	177	112	67	97	140	180
Employment service	325	349	374	405	325	347	374	405
Computerized job placement	12	23	36	40	6	23	27	31
ES labor market information	27	24	28	27	23	20	22	24
BLS labor market information	9	10	11	14	9	10	11	14
OFCC and age discrimination	1	3	4	4	1	3	4	4
Program administration and other	113	132	178	180	105	122	163	172
Subtotal, Labor	1,911	2,140	3,397	3,558	1,592	1,963	2,848	3,394
Veterans Administration:								
On-the-job training for veterans	87	171	161	209	87	117	161	209
Veterans vocational rehabilitation	53	77	91	108	53	77	91	108
Veterans assistance centers	1	1	2	2	1	1	2	2
Subtotal, VA	141	196	254	320	141	196	254	320
Action: Foster grandparents			22	20			12	23
Equal Employment Opportunity Commission: Equal employment opportunity	13	16	23	31	12	16	22	30
All Federal agencies: Disadvantaged youth programs	67	74	78	78	67	74	78	78
Federal contract compliance	7	15	24	32	6	15	23	31
Total	2,916	3,390	5,013	5,409	2,519	3,145	4,310	5,141

OFFICE OF ECONOMIC OPPORTUNITY

The $758.2 million Budget Request for OEO reflects a continuation of the Administration's policy of limiting OEO's operational responsibilities, restricting it to poverty research without substantially increasing research funds, and emphasizing its role as advocate of the poor within the Executive Branch. This represents a $55 million increase over FY '72 appropriations and is $84 million less than FY '71 appropriations for programs that will remain under OEO in 1971.

During this fiscal year OEO has been spinning off several programs to other agencies. These include Head Start, Follow Through, Alcoholic Counseling and several other health programs transferred to HEW and appearing in HEW's FY '72 and '73 budget. In addition, VISTA was transferred on July 1, 1971, to ACTION, the new volunteer agency. In FY '73, additional OEO programs for comprehensive health, family planning, and drug rehabilitation (totaling about $34 million) are to be spun off to HEW and appear in HEW's FY '73 budget request.

Although OEO's two-year authorization, which established a Legal Service Corporation, was vetoed by the President, it is still expected that Legal Services will become an independent corporation this year. All Research, Development, and Evaluation (RD&E) and Technical Assistance funds for Legal Services have been put into the Legal Services budget request in FY '73 in anticipation of its becoming independent.

It is also anticipated that the Community Action Program will be incorporated into urban and rural special revenue sharing. In preparation for this transfer, OEO says it is undertaking a new community action strategy designed "to accelerate the movement of CAA's toward becoming independent, local institutions . . . able to continue and expand their antipoverty leadership, drawing on a variety of local, state, federal, and private resources."

Plans announced last year to phase out the Emergency Food and Medical Program during FY '72 and FY '73 are being carried out, despite an apparent desire by Congress to retain it. OEO's two-year authorization bill, vetoed by the President in December 1971, authorized $62.5 million in FY '72 for the Emergency Food and Medical Program. When the President vetoed the bill, Congress hurriedly passed a lump sum appropriation, which is now serving as OEO's authorization and does not earmark funds for specific programs. As a result, OEO intends to obligate only $3.5 million of the FY '72 appropriation for a small Emergency Food Program for Indians and is requesting the same amount in FY '73. The Administration's rationale for phasing out most of OEO's food program is that the Food Stamp and Commodities Program in the Department of Agriculture will adequately meet the need.

The programs for which OEO is still responsible include RD&E, Community Action, Health and Nutrition, Special Impact, Migrants and Seasonable Farmworkers, and, at least temporarily, Legal Services.

The FY '72 appropriation for OEO is $741.4 million (or $703.9 million if VISTA is excluded). This amount is $40 million less than OEO requested and about $140 million less than the FY '71 appropriation. As a result, estimated FY '72 obligations for several programs for which OEO is still responsible are below the FY '71 obligation. The most substantial reductions occur in RD&E, which is about $30 million below the FY '71 obligation and about $20 million below that which OEO had planned to spend, and in Community Action, which is about $56.9 million less than the FY '71 obligations. Most of the cut in Community Action occurs in Local Initiative Programs, which drops from $356 million in FY '71 to $300 million in FY '72. Obligations for Health and Nutrition also drop, but because OEO's spending for the Alcoholic Counseling and Emergency Food and Medical Programs is cut substantially, OEO is able to spend more for Comprehensive Health, Family Planning, and Drug Rehabilitation than in FY '71. FY '72 obligations for the Special Impact Program dropped slightly, while Migrants and Legal Services remained at about the same level.

The FY '73 budget request of $758.2 million represents an increase of about $55 million over the FY '72 appropriation but is about $84 million less than FY '71 obligations. The major increases over FY '72 obligations occur in RD&E and Community Action. However, the budget request for RD&E is about equal to the FY '71 obligation, and Community Action is about $27 million less than the FY '71 obligation. About $23 million less than the FY '71 obligation is being asked for Local Initiative Program. The remaining programs increase slightly over FY '71 and FY '72 or remain at about the same level.

OFFICE OF ECONOMIC OPPORTUNITY

[In millions of dollars]

	Fiscal year—						
	1971			1972		1973	
	Authorization	Appropriation	Actual obligations	Authorization	Appropriation	Estimated obligations	Budget request
Title II:							
Research, development, and evaluation	(1)	114.6	84.1			50.3	[2] 77.8
Community action		388.6	410.2			353.3	383.6
Local initiative (including indicated)	[3] 328.9		355.9			300.0	333.0
Training and technical assistance	(1)		17.3			12.6	[4] 12.0
SEOO's	(1)		8.0			13.0	12.0
Senior opportunities	12.0		12.3			8.0	8.0
Program administration	(1)		16.7			19.7	18.6
Health and nutrition		195.3	194.8			159.0	140.0
Comprehensive health	160.0		98.7			108.3	[5] 95.0
Drug rehabilitation	15.0		13.3			18.0	[6] 23.0
Family planning	30.0		18.8			24.0	[7] 15.0
Alcohol counseling	15.0		12.0			[8] 2.0	
Emergency food and medical	175.0		48.6			3.5	[9] 3.5
Program administration			3.4			3.2	3.5

See footnotes at end of table.

	Fiscal year—						
	1971			1972		1973	
	Authorization	Appropriation	Actual obligations	Authorization	Appropriation	Estimated obligations	Budget request
Title 10: Special impact	60.0	37.1	37.1			25.8	30.7
Title III: Migrants and seasonal farmworkers	49.0	35.5	36.1			36.0	36.0
Title II: Legal services	90.0	61.4	61.2			61.1	71.5
Title VI: General support	16.0	16.0	18.4			18.4	18.3
Title II: Funds, unearmarked	69.0						
Day care	50.0						
Subtotal	1,069.9	848.5	841.9			703.9	757.9
Programs transferred to other agencies or phased out:							
Title VIII: VISTA	37.0	36.5	37.8				
Title III: Rural loans	12.0	9.4	6.0				
Other			3.0				
Subtotal	1,118.9	894.4	888.7	741.4	741.4		
Title II:							
Child development	668.0	429.0	428.4	436.9	436.9		
Headstart	578.0	360.0	360.0	376.3	276.3		
Followthrough	90.0	69.0	68.4	60.6	60.6		
Subtotal	178.69	1,323.4	1,317.1	1,178.3	1,178.3		
Title I: Work and training: [10] private sector VJI, public sector OJT, in-school work support, postschool work support, Job Corps, program support	945.0						
Subtotal	2,731.9						
Unearmarked funds	100.0						
Unobligated balance lapsing			2.6				
Transferred to other accounts			3.7			[11] 37.5	.3
Total	2,831.9	1,323.4	1,323.4	1,178.3	1,178.3	741.4	758.2

[1] No funds earmarked.
[2] This figure excludes research and development for legal services which appears in the request for legal services. Comparable figures for fiscal year 1971 and 1972 are $78,600,000 and $42,800,000 respectively.
[3] Not less than.
[4] This figure excludes technical assistance for legal services which appears in request for legal services. Comparable figure for fiscal year 1972 is $11,100,000.
[5] Assumes $21,000,000 is transferred to HEW's budget.
[6] Assumes $3,000 000 is transferred to HEW's budget.
[7] Assumes $10,000,000 is transferred to HEW's budget.
[8] Assumes transfer of $10,000,000 to HEW.
[9] This figure is for Indians only.
[10] Transferred to the Department of Labor.
[11] This figure reflects the transfer of VISTA to ACTION.

Note: OEO's appropriation was a lump sum, but the authorization required earmarking funds as indicated by the fiscal year 1971 authorization. Since the appropriation is less than the authorization, the appropriation is prorated to determine the allocation for each category. In addition OEO has some flexibility to shift funds from one category to another. OEO's authorization expired June 30, 1971. The new authorization bill was vetoed by the President in December 1971. Congress then passed an appropriation for fiscal year 1972 which is also its authorization.

HEW BUDGET BY OPERATING AGENCY

[In millions of dollars]

	1972		1973	
	Budget authority	Outlays	Budget authority	Outlays
Food and Drug Administration	111	110	188	179
Health Services and Mental Health Administration	2,292	1,840	2,220	2,098
National Institutes of Health	2,176	1,757	2,183	2,054
Subtotal	4,579	3,707	4,591	4,331
Education	5,868	4,869	6,144	5,265
Social and Rehabilitation Service	13,500	14,157	13,882	12,835
Welfare Reform			450	350
Social Security Administration	52,093	48,878	61,354	55,714
Special Institutions	100	81	77	100
Office of Child Development	391	216	409	379
Office of the Secretary	60	59	76	65
Adjustment for proprietary receipts	−55	−55	−87	−87
Total, DHEW	76,536	71,911	86,887	78,953

HEALTH

The 1973 health budget as it relates to cities is affected by major revisions in accounts to conform to the reorganization of the Health Services and Mental Health Administration and significant carry over of 1972 obligation authority to 1973. For HSMHA, the primary source of support for state and local activities, outlays for 1973 are projected slightly higher than 1972 but appropriations will be slightly lower. The two major program areas affected are a major shift in the Hill-Burton program heading toward a phasing out and a $79 million increase in overall funds for health services delivery.

Continuing the effort to shift health facility construction support from grants to loans and interest subsidies and continuing the emphasis on ambulatory care, grant authority requested for the Hill-Burton program has been reduced to $85 million, the amount authorized for ambulatory care facilities. Carry overs increase the obligation authority available in 1973 and interest subsidies appropriated in 1972 will also be available. A 1972 supplemental request of $50 million to capitalize a loan guarantee fund is being carried forward to overcome the apparent reluctance of financing institutions to make loans.

The Mental Health request is virtually the same as last year's. No funds are requested for community mental health center construction, but $10 million of past years' authority remains available. Support for state and community programs in narcotic addiction and drug abuse will increase $15 million from $92 to $107 million. State formula grants for alcoholism remain at $30 million and while project grants will increase from $38 million to $48 million, the increase represents transfer of projects previously funded by OEO.

Comprehensive health planning funds will increase from $27 million to $43 million. The bulk of the increase will support the expansion of existing areawide health planning programs and the funding of more than 100 new areawide health planning agencies.

For the delivery of health services the budget requests $90 million, the same as 1972 for formula grants to states for public health and mental health services under the comprehensive health planning and public health services program. Project grant totals are changed significantly by a shift of approximately $50 million to disease prevention activities. Funds appropriated for comprehensive health services projects as such will increase from $104 million to $117 million, but the increase will support at least 10 projects to be transferred from OEO.

Maternal and child health services will receive slight increases, $4 million in formula grants to states for maternal and child health and crippled children's services and $9 million for maternal and infant care and children and youth projects. Family planning services will receive a major increase of $49 million over its 1972 appropriation of $90 million.

Preventive health services budget accounts are increased primarily through shifts in funding authorities. Nevertheless, a $10 million increase in appropriations is requested for preventive activities. Rodent control programs are continued at $15 million. A $2 million increase is committed to laboratory improvement, $2.5 million for venereal disease and approximately $2 million for screening children for lead-based paint poisoning.

The National Health Service Corps carries over obligations from 1972 with a new obligation authority request significantly reduced to $8 million in anticipation of local and patient reimbursements to the Federal government for its physicians' services.

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

[Budget authority in millions of dollars]

	1972	1973	Change
Mental health:			
Community mental health centers:			
Construction	15		−15
(Obligations)	(5)	(10)	(+5)
Staffing	135	135	
Narcotic addiction and drug abuse	92	107	+15
Alcoholism	68	78	+10
Mental health of children	10	10	
Subtotal	315	330	+15

XUM

XUM

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION—Continued

[Budget authority in millions of dollars]

	1972	1973	Change
Health services planning and development:			
Comprehensive health planning	27	43	+16
Medical facilities construction:			
Grants, loans, and subsidies	308	91	−217
Loan guarantee fund	50		−50
Subtotal	385	134	−251
Health services delivery:			
Comprehensive health services:			
Formula grants	90	90	
Project grants	104	117	+13
Migrant health	18	24	+6
Direct operations	12	14	+2
Maternal and child health	239	252	+13
Family planning services	90	139	+49
National Health Service Corps	13	8	−5
(Obligations)	(14)	(15)	(+1)
Program direction	11	12	+1
Subtotal	677	656	+79
Preventive health services:			
Disease control	83	93	+5
Community environmental management	26	29	+3
Occupational health	25	28	+3
Program direction	4	4	
Subtotal	143	154	+11
Other programs	60	86	+26
Total, HSMHA	2,021	1,925	−96

EDUCATION

The $6.1 billion FY '73 education budget proposes an overall increase of $276.5 million from FY '72.

Within this budget, funds from Elementary and Secondary Education will increase $499.3 million from $3,712.8 million in FY '72.

Higher Education will drop $384.3 million to $1,227.9 million in FY '73.

Most of the FY '73 increase in Elementary and Secondary Education is accounted for by the Administration's request of about $500 million in additional funds for the Emergency School Assistance program, which is intended to help school systems establish and maintain quality integrated schools. Although the President's request for $1.5 billion in emergency assistance was not enacted in the 1971 session of Congress, the Administration plans to obligate $500 million in FY '72 and $1 billion in FY '73, Congress willing at its 1972 session.

New obligational authority for most of the major education programs, including Title I (Educationally Deprived Children), II (Library Resources), III (Supplementary Services), and VIII (School Dropout Program) of the Elementary and Secondary Education Act (ESEA), state grants for Vocational Education, and the School Lunch Program (Department of Agriculture) is held at approximately the same level as FY '72 obligations. The Equipment and Remodeling program of the National Defense Education Act (NDEA) will be terminated. Cuts of $177 million in the Federal Impact Aid program, $22 million in the Vocational Research, and $700,000 in Adult Education are proposed. Slight increases are requested for ESEA Titles V (Strengthening State Education Agencies) and VII (Bilingual Education) and Education for Handicapped Children.

Most of the increases in educational funding are for major national initiatives in the Office of Education. These include:

1. *Educational Renewal:* This effort will concentrate discretionary grants for elementary and secondary education on a limited number of the most needy school districts to help meet locally determined educational needs and disseminate educational innovations. An increase of $49 million is proposed to carry out this strategy.

2. *Career Education:* This initiative is meant to make all levels of the educational system relevant to the world of work and to open up additional post-secondary education training opportunities. An additional $55 million is requested for this program.

3. *Developing Institutions and Minority Education:* An increase of $48 million is proposed to aid blacks and other minorities at the post-secondary level.

4. *National Institute of Education:* Congress will consider an Administration plan to establish an Institute to engage in educational research and experimentation, focusing on schooling of the disadvantaged, quality of education, and use of educational resources. The Administration seeks $125 million for the Institute in FY '73.

5. *National Foundation for Higher Education:* $100 million is requested to create this Foundation to promote change and innovative programs in post-secondary institutions.

The Administration also is again proposing its Educational Revenue Sharing program, which Congress did not act on last year. This special revenue sharing program would consolidate categorical programs totaling $3 billion in FY '73. Some of the included programs (notably Equipment and Minor Remodeling under NDEA and about $177 million in impact aid) are to be phased out as such or cut in FY '73. Therefore, the Administration seeks an additional $224 million in FY '73 to insure that no state will receive less than its FY '72 allocation.

EDUCATION

[Budget authority in millions of dollars]

	1972	1973	Change
Elementary and secondary education	3,713	4,212	+499
Higher education	1,612	1,227	−385
Library services	71	47	−24
Educational renewal	314	363	+49
National institute of education	90	125	+35
National foundation for higher education	3	100	+97
Other education	66	71	+5
Total	5,868	6,144	+276

ELEMENTARY AND SECONDARY EDUCATION

[Budget authority in millions of dollars]

	1972	1973	Change
Emergency school assistance	520	1,000	+480
Education revenue sharing	3,237	3,237	
Less: school lunch (Department of Agriculture)	−224	−224	
Education of handicapped children	73	94	+21
Other elementary and secondary programs	108	106	−2
Total	3,713	4,212	+499

EDUCATION REVENUE SHARING

[Budget authority in millions of dollars]

	1972	1973	Change
Existing education grant programs:			
Educationally deprived children	1,598	1,598	
Supplementary services	126	126	
Equipment and minor remodeling	50		−50
Strengthening State departments of education	31	41	+10
School assistance in federally affected areas	547	370	−177
Education for the handicapped	38	38	
Vocational and adult education	526	526	
Existing education grant programs—Cont.			
School library resources	90	90	
Education professions development	7		−7
School lunch program (Department of Agriculture)	224	224	
Hold harmless provision		224	+224
Total	3,237	3,237	

EDUCATIONAL RENEWAL

[Budget authority in millions of dollars]

	1972	1973	Change
Site personnel development:			
Renewal sites	2	30	+28
Career opportunities and urban-rural programs	37	40	+3
Categorical projects	39	7	−32
Bilingual education	35	41	+6
Dropout prevention	10	10	
Personnel development:			
Teacher Corps	37	37	
Career education personnel	7	10	+3
Other personnel development	8	4	−4
National priority programs	109	143	+34
Data systems and services	10	15	+5
Product identification and dissemination	8	16	+8
Planning and evaluation	11	10	−1
Total	314	363	+49

SOCIAL SERVICES

Social services expenditures have increased rapidly in recent years largely in response to the need for child care services and services for the elderly. For the past two years the Administration has asked Congress to place a ceiling on these costs. Congress has refused to do so. The budget shows that in FY '73 the Administration through "active management controls" intends to curtail expenditure for social services. HEW estimates a cutback of more than $120 million.

Our analysis suggests that the real impact of the Administration's proposed actions may be in excess of a half billion dollar cut in social services which would otherwise be made available to predominantly urban, low-income groups.

Under present law, Congress is authorized to appropriate as much money as needed to match state expenditures for a variety of social services provided under the public assistance titles of the Social Security Act. Many urban child care programs and services for the needy aged, especially under CDA and CAA auspices are funded through this source. (Title IV–A and Titles I and XVI of the Social Security Act).

In 1971 the Federal share of the social services costs came to $692 million. The 1972 estimate is nearly double that of the preceding year, $1,296 million. This substantial increase stemmed from a combination of factors including, (1) expansion in the variety and quantity of services being offered, (2) increase in number of public assistance recipients and in other non-welfare low-income groups eligible to receive social services, and (3) inflation.

For the past two years the Administration has tried without success to have Congress impose a ceiling on expenditures for social service. Last year the Administration sought to impose a 10 per cent growth limit on outlays for such services. This attempt was rejected by both the House and Senate. This year through "intensified fiscal management efforts" and by a "regulation mandating separation of services from payments . . . to provide methods and controls that will insure a more efficient and effective program"[1] expenditures will be pared to an estimated $1,266 million—a decrease of $30 million from the 1972 amount. *Note:* HEW's budget analysis reflects an even larger cutback. HEW's *Budget in Brief* lists FY '72 social services estimate at $1.363 billion; FY '73 at $1.241 billion, a decrease of $122 million.)

The significance of the proposed effort to accomplish administratively what could not be achieved legislatively, cannot be too strongly emphasized. Although the Administration's own figures indicate reductions ranging from $30 million to $122 million dollars, it is likely that the real impact will be at least three times as great. As the accompanying chart shows, the increased rate of spending for social services, in the absence of administrative restraint, is likely to be much higher than HEW's target of $1.241 billion. These increases (which, as we have indicated, Congress has refused to curtail) reflect in large measure expenditures for day care services in urban areas. In the face of the President's recent veto of child care legislation, we anticipate that more vigorous use would be made of the only remaining avenue (Title IV–A of the Social Security Act) open for substantial funding of such services. The full impact of HEW's budget projection is therefore better appreciated by a comparison *not with the estimated 1972 expenditures but with the anticipated 1973 demand.* Viewed in this light, the cutback is closer to the $500 million to $800 million dollar range than to the $30 million to $122 million dollar reduction suggested in the budget.

WELFARE REFORM

The Administration has requested $450 million budget authority for FY '73 to launch the administrative transition required under its pending welfare reform proposed. They propose to spend $350 million for this purpose in FY '73. Full actual costs of assistance payments under the new welfare program would not begin until FY '74.

WELFARE PROGRAMS

[Budget authority in millions of dollars]

	1972	1973	Change
Welfare reform		450	+450
Social and Rehabilitation Service:			
Public assistance	12,215	13,370	+296
H.R. 1		−859	
Social and rehabilitation services	831	939	+108
WIN	259	205	−54
Assistance to refugees	144	160	+16
Research activities overseas	8	10	+2
Salaries and expenses	44	58	+14
Total, SRS	13,500	13,882	+382
Office of Child Development	391	409	+18
Headstart	(369)	(386)	(+17)

PUBLIC ASSISTANCE

[Budget authority in millions of dollars]

	1972	1973	Change
Maintenance assistance:			
November State estimates	6,708	7,606	+687
Administrative actions		−52	
H.R. 1		−159	
Medical assistance:			
November State estimates	4,052	4,617	−274
Administrative actions		−139	
H.R. 1		−700	
Social services:			
November State estimates	1,363	1,450	−122
Administrative actions		−209	
State and local training:			
November State estimates	46	51	+5
Child welfare services	46	46	
Total, public assistance	12,215	12,511	+296

SOCIAL AND REHABILITATION SERVICES

[Budget authority in millions of dollars]

	1972	1973	Change
Rehabilitation services	618	676	+58
State grants	(560)	(610)	(+50)
Developmental disabilities	50	44	−6
Administration on aging	45	100	+55
Youth development and delinquency prevention	10	10	
Research and training	109	109	
Total	831	939	+108

OFFICE OF CHILD DEVELOPMENT (HEADSTART)

The 1973 budget request for the Office of Child Development (OCD) is almost $409 million. This represents an increase of nearly $18 million over the $391 million appropriated for 1972, or slightly under 5 per cent above last year's figure.

Most of OCD's money is used for the Head Start program. In FY '72 $369 million of the $391 million appropriated was for Head Start; in FY '73, $386 million of the requested $409 million is slated for Head Start. The increase in requested Head Start money is also just under 5 per cent.

The negligible increase requested in OCD-Head Start funds takes on added significance when viewed in conjunction with the President's veto of child care legislation and HEW's proposed administrative lid on social services expenditures (see discussion supra).

YOUTH DEVELOPMENT AND DELINQUENCY PREVENTION

The Juvenile Delinquency Act, which was slated to expire on June 30, 1971, was extended by Congress for one year. In FY 1971 HEW spent nearly $15 million on the program; FY 1972 estimate is $10 million. With the Act slated to expire at the end of 1972, legislation "fundamentally recasting" the program will be proposed. Recommended budget authority under the new legislation is $10 million; estimated outlays for FY '73 (present programs and proposed legislation) total $6 million.

MAINTENANCE ASSISTANCE

The cash assistance component of "welfare" is slated for complete overhaul under H.R. 1, the pending "Workfare" proposal. This legislation would not, however, take effect until 1974. Current estimated Federal expenditures for FY '72 total $6.26 billion compared to the actual 1971 total of $5.19 billion. In addition, the budget calls for $450 million to finance start-up costs for implementation of welfare reform.

SPECIAL PROGRAMS FOR THE AGING

Following commitments made by the President at the 1971 White House Conference on the Aging, the 1973 budget calls for $100 million for the Administration's programs on accounting system that will support program and financial audits as a basis for Federal financial participation.

million in budget authority from the 1972 level of $45 million. The increase in funding is designed to provide additional home health aides, homemaker and nutrition services, home delivered meals, and transportation assistance to enable elderly persons to continue to live in their own homes.

SOCIAL SECURITY ADMINISTRATION

The budget calls for legislative action to increase social security benefits by 5 percent effective July 1, 1972; to provide automatic adjustments for increases in the cost of living; to allow recipients to retain a larger portion of their earnings without loss of benefits; and to increase widows' benefits to the level their deceased husbands would have received. Assuming enactment of the proposed legislation, outlays for cash benefit payments are expected to increase from $38.5 billion in 1972 to $43.8 billion in 1973. Of this $5.3 billion increase, $3.4 billion would result from the proposed legislation. Costs are financed out of trust funds rather than from general revenues. The employee contribution (tax base) was increased from the first $7800 of income to a maximum of $9000 on January 1, 1972.

ALLIED SERVICES ACT OF 1972

Although the Budget contains few details, a proposed major legislative initiative is the Allied Services Act of 1972. The legislation is designed to facilitate and reward integrated delivery of human services. States and localities would be encouraged to set up common intake and eligibility determination procedures, create comprehensive human service information systems, and engage in joint planning and budgeting. Certain waivers of present cumbersome Federal requirements would be allowed and fund transfers between various federally aided programs would be permitted. Strengthened administrative involvement of local elected officials in determining budget priorities and administrative arrangements where cities are affected is also envisioned.

SOCIAL SECURITY ADMINISTRATION

[In millions of dollars]

	1972	1973	Change
Trust fund outlays:			
Old-age survivors and disability insurance	40,040	42,014	−1,974
H.R. 1	13	3,500	+3,487
Medicare	8,972	9,916	−944
H.R. 1	2	520	−518
Administration	(1,164)	(1,279)	(−115)
Federal fund budget authority: Special benefits for disabled coalminers	592	557	−35

OUTLAYS VERSUS NEW OBLIGATIONAL AUTHORITY

An underlying cause of political and semantic tension between the federal and the local governments is the different point of view on what dimension of the budget is most important.

From the Administration's point of view, *outlays* are the thing. The budget is outlay-oriented because the Administration is concerned, above all, with spending and deficits in any given fiscal year.

From the point of view of Mayors and other local officials, *new obligational authority* is the thing, because it sets the limits on new projects that can be started in any given time period.

The glossary on the next page defines these and other terms used in the federal budget.

GLOSSARY

Fiscal Year—Year running from July 1 to June 30 and designated by the calendar year in which it *ends.*

Authorization—Basic substantive legislation which sets up a Federal program or

[1] A further clue to the administrative devices contemplated is found at page 451 of the Appendix: (5) Active management controls over the social services programs by establishing precise definitions of services and recipient populations for which Federal financial participation will be available . . . requiring a program budget backed by an

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agency. Such legislation sometimes sets limits on the amount that can subsequently be appropriated, but does not usually provide budget authority.

Budget Authority (BA)—Authority provided by the Congress—mainly in the form of appropriations—which allows Federal agencies to incur obligations to spend or lend money. While most authority is voted each year, some becomes available automatically under permanent laws—for example, interest on the public debt. Budget authority is composed of:

New Obligational Authority (NOA), which is authority to incur obligations for programs in the expenditure account; plus

Loan Authority (LA), which is authority to incur obligations for loans made under programs classified in the loan account.

Obligations—Commitments made by Federal agencies to pay out money for products, services, loans, or other purposes—as distinct from the actual payments. Obligations incurred may not be larger than the budget authority.

Outlays—Checks issued, interest accrued on the public debt, or other payments made, net of refunds and reimbursements.

Budget Surplus or Deficit—The difference between budget receipts and outlays, representing the expenditure account surplus or deficit plus net lending.

Federal Funds—Funds collected and used by the Federal Government, as owner. The major federally owned fund is the general fund, which is derived from general taxes and borrowing and is used for the general purposes of the Government. Federal funds also include certain earmarked receipts, such as those generated by and used for the operations of Government-owned enterprises.

Trust Funds—Funds collected and used by the Federal Government, as trustee, for specified purposes, such as social security and highway construction. Receipts held in trust are not available for the general purposes of the Government. Surplus trust fund receipts are invested in Government securities and earn interest.

THE "NEW" ECONOMIC PROGRAM REVISITED

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mrs. ABZUG. Mr. Speaker, President Nixon is trying to suggest that the resignation of four of the labor members of the Pay Board is going to hamper the fight against inflation. As usual, Mr. Nixon is putting the cart before the horse, for the fact is that he has already failed, and failed miserably, in what he claimed was an attempt to ease the inflationary spiral.

Since the wage-price freeze was instituted last August, we have seen much evidence of the fact that working people are being asked to bear the lion's share of the program; prices and profits go up and up without any real regulation, while wages are pretty much held to 5 percent or less.

This morning's New York Times carried stories on several areas in which the President's program has been a total failure: during the month of February, the Consumer Price Index rose by five-tenths of 1 percent, an annual rate of 6 percent; consumer prices in the New York area rose almost a full 1 percent during the month, for an annual rate of nearly 11 percent; over the past 3 months wholesale prices have been rising at an annual rate of over 10 percent; finally, the unemployment rate in the State of New York has just reached its highest point in 9 years, with 545,000 workers, or 6.7 percent of the State's labor force, out of work. These are the hard, cold facts that prove the bankruptcy of a program which is supposed to reduce inflation to between 2 and 3 percent by the end of 1972 and bring the unemployment rate down to the neighborhood of 4 percent.

Let us face it. The Nixon administration and its big business friends have been taking the working people of this Nation for a ride. In point of fact, I suspect that the resignees realized this some time ago, but stuck it out until now in the hope that conditions would improved. Instead, the situation has worsened and shows every indication of deteriorating still further in the future.

All of Mr. Nixon's public relations razzle-dazzle and pious rhetoric pales beside the facts. I predicted back in September that the "NEP" would fail, because it is an attack on symptoms rather than upon the disease. As I said in my testimony before the Committee on Ways and Means on September 16:

> The most positive steps the President could take to strengthen our economy would be to end immediately and completely American involvement in the war in Indochina, cut back military spending on dollar-draining military bases in Europe and elsewhere, and instead of letting the so-called peace dividend be consumed by the Pentagon, use the funds for such purposes as to provide jobs, repair our decaying cities, build low and middle income housing, make mass transit facilities available, deal effectively with drug and pollution problems, and assure our 25.5 million poor people of a guaranteed annual income.

But instead of ending the war once and for all and reducing military expenditures, the President and some of his advisers are busily developing the myth that our economic problems are the result of the winding down of the war, rather than the war itself. George Romney, for example, said recently that if we have peace, we're going to have unemployment. Another Presidential myth is that of the lazy or greedy worker. I find it unseemly for the President to lecture the American people on the "hard work" ethic when millions have had to "moonlight" to make ends meet, when more than five million are looking for jobs and cannot find them, when more millions of women would work if there were jobs available for them and day care centers provided for their chidiren, and when working people who empty bed pans in hospitals or wash dishes in high-priced restaurants or run elevators in luxury hotels frequently require supplementary welfare benefits to maintain their families because they earn such low wages.

The implication in the 90-day wage-price freeze is that rising wages and prices are responsible for inflation. I agree that prices have been rising at an unacceptable rate, but wage increases have certainly not kept pace with them. In a speech last spring (March 7), economist Leon Keyserling commented: "The wage earner continues to be pilloried as a main factor in the raging inflation, when in fact the real take-home pay of workers in manufacturing has declined during the past two years."

Mr. Keyserling suggested that a more likely factor in inflation was the Nixon administration's pre-NEP policy of raising interest rates. He pointed out that the Nixon budget projects about $20 billion to pay interest on the national debt. "This is more than $8 billion above what the interest payments would have been on a debt of the same size," he said, "if interest rates had stayed where they ought to be."

The President's unprecedented wage-price freeze, unencumbered by restraints on interest rates, profits or dividends, amounts, in effect, to a wage rollback since the cost of living as well as productivity is continuing to rise. Pay increases affected by the freeze are lost forever. They are not placed in escrow or deferred like corporate dividends or profits. The freeze is grossly discriminatory against teachers, against government workers, who have been singled out for a six-month penalty, and against women workers who, my office has been informed, will be barred from claiming back pay for unequal pay received during this period. Since it has been estimated that American business saves $22 billion a year by paying women lower wages than men for doing essentially the same work, this 90-day freeze represents a tremendous loss for women who file back pay suits and, of course, another windfall for business.

Mr. Speaker, it is high time that we in the Congress stepped in, took charge, and began to straighten out this mess. If we are to have any sort of controls—and I suspect that we would be better off without any—then we must see to it that prices and profits are controlled, too.

I include at the conclusion of my remarks the statement of the AFL–CIO executive council on the resignation of the three AFL–CIO members, a news article on the resignation of Leonard Woodcock of the UAW, several other relevant articles and editorials, and my September 16, 1971, testimony before the Ways and Means Committee:

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL

Seven months of the Administration's so-called new economic policy—including four months of Phase II controls—have demonstrated that it is nothing more than a device to make the average worker and consumer both the victim and the goat, while the banks and big business pile up increasing profits.

In the guise of an anti-inflation policy, the American people are being gouged at the supermarket and squeezed in the paycheck. The heaviest burden of this lopsided program is placed on the backs of those at the bottom of the economic ladder, who are least able to protect themselves. Meanwhile, millions of American workers remain unemployed, their wages frozen at zero, with no real prospect of relief.

The continuing, rapid rise of prices—such as February's 8.4% yearly rate of increase in wholesale prices—reveals the emptiness of the price control program.

Retail food prices have gone through the roof and are continuing up—eroding the buying power of American families.

While the Administration permits this rising tide of price increases, its Pay Board persists in holding down workers' wages. Yet profits are free to rise, without even the pretense of controls. Instead of a tax on excess profits, in a period of wage controls, the Administration has provided business with additional billions of dollars of tax bonanzas reducing Federal revenues and further inflating the deficit at the expense of the nation's most pressing needs.

Even the President's Council of Economic Advisers reports that 21% of the Consumer Price Index is not subject to any controls at all. Further exceptions are announced almost weekly and the Price Commission approves price boosts on a wholesale basis.

Interest rates were never controlled. Neither were fresh foods, which are part of the essential expenses of every family.

There are no controls on life insurance premiums, mortgage interest payments and the prices of land and homes. Neither are there controls on used cars, used furniture and other used goods which are bought primarily by the poor. Controls have been lifted from three-quarters of all retail stores and nearly half of all rental units.

Moreover, there is no effective machinery to enforce whatever price and rent controls remain on the books.

In the face of this record on the price-front, the Administration has flouted the intent of the Congress to exempt the working poor and low-wage workers from wage controls. The Administration's Cost of Living Council exempted only wages below $1.90 an hour—less than the amount needed to meet the government-defined poverty-line for an urban family of four.

Wage increases for workers in even the smallest establishments require approval if they exceed the Pay Board's 5.5% guideline, although their employers are not required to file any notification about price or rent increases and may be completely exempt from such controls.

So the worker's wages are regulated and controlled, even when his employer is exempt from controls, while prices continue to "bulge."

As a result, profits have begun to skyrocket, despite the disappointing levels of sales and production, and continued heavy unemployment. In the second half of 1971, the after-tax profits of all corporations were up 19% from the same period of 1970—nearly three times faster than the 6.6% increase of total wage and salary payments to all of the nation's employees.

The lion's share of the gain in profits is going to the big corporations and conglomerate giants. Reports indicate that the nation's 100 largest corporations scored a sensational 76% rise in profits last year.

The Bureau of Labor Statistics reported on March 3 that the average hourly earnings of some 47 million production and non-supervisory workers in the private economy remained unchanged between January and February, at $3.54, and were merely 3 cents above December. While prices are going up and profits are soaring, workers' wages have been held down.

The record of flagrant favoritism speaks for itself. The Administration's so-called new economic policy is heavily loaded against the worker and consumer, in favor of the profits of big business and the banks, and is dominated by the view that economic progress begins and ends in the stock market and the corporate financial report.

Slick rhetoric and double-talk cannot hide these self-evident facts from the American people. There is no fairness, no equity, no justice in the Administration's economic program.

THE PAY BOARD

The trade union movement's direct relationship with the Administration's control program has been with the Pay Board.

It is our duty to report, after four months' experience with this Board, that it is merely a direct instrument of the Administration's economic policies, motivated by the Administration's political considerations and the interests of big business.

We joined the Pay Board in good faith, desiring—despite our misgivings—to give it a fair chance, and with the hope that we could bring the voice of workers into the decision-making process of an autonomous and genuinely tripartite wage stabilization effort.

A few weeks after the Pay Board was created, we reported to the Ninth Constitutional Convention of the AFL-CIO on November 18: "The trade union movement joined the Pay Board on the basis of a commitment from the President that it would be tripartite and independent and that the public members would be citizens of high repute, knowledgeability and neutrality. That commitment has not been kept."

The so-called public members are neither neutral nor independent. They are tools of the Administration, and imbued with its viewpoint that all of the nation's economic ills are caused by high wages.

As a result, the Pay Board has been completely dominated and run, from the very start, by a coalition of the business and so-called public members. All major Board decisions have been concocted by this coalition, with its mechanical majority of the votes. The trade union movement's representatives on the Board have been treated as outsiders—merely as a facade to maintian the pretense of tripartite body.

The Board's business and so-called public member majority has continuously revealed a contempt for free collective bargaining and freely negotiated labor-management agreements. They have shown an utter lack of understanding or sympathy for workers and the realities of industrial life.

In a supposedly free country, in time of peace, with no national emergency defined or like sacrifices required of the affluent elements of society, it is not tolerable to subject free American workers to control at such hands.

The system of wage controls, under the Administration and business-dominated Pay Board, has extended a web of confusion and chaos, in labor-management relations across the country. It has been a device to undermine and wreck free collective bargaining.

It is building up inequities, distortions and pressures that can only be suppressed by more and more controls and acts of repression.

Complex and sometimes contradictory regulations and reporting requirements have added confusion. Smaller unions and newly organized groups of workers, in particular, have been vulnerable to the stalling, the mix-ups and confusions.

Responsible collective bargaining agreements have been rejected and the Pay Board majority has been imposing the terms of settlements on the parties.

Equities have been ignored and workers have been denied basic rights.

Whatever small degree of justice has been achieved in the stabilization control program—such as the granting of deferred increases that were due, during the 90-day freeze, under previously negotiated agreements—has been the work of Congressional legislation, imposed on the Pay Board.

Although Administration spokesmen engage in public lectures on the urgent importance of increasing productivity, and provision for the recognition and reward of greater productivity is expressly incorporated in the enabling law, the Pay Board has given this issue short shrift so as to leave the major benefits of productivity gains in the pockets of employers. The rejection of the West Coast longshore agreement, for example, will mean an average loss of about $1,150 for each of the 15,000 workers on the docks in the 18 months of the contract and a $17 million windfall profit for the employers.

The Pay Board is an integral part of the Administrations' effort to place the burden of its failures on the backs of workers, while providing favors and financial gains to those who already have too much.

On November 18, we reported to the AFL–CIO Convention: "There is little hope that economic justice can be achieved by this Board, the majority of whom are guided by the dictates of the Administration or the interests of big business."

We have reviewed the events of the past four months. We have carefully examined the record.

It is our duty to report, now, to the membership of the trade union movement and the American public that we have no hope for fairness, equity or justice in the Pay Board.

The Board is not tripartite. It is not independent and autonomous.

The Pay Board represents government control. It represents political and business interests.

If the wage stabilization program is to be government-controlled, let it be so, openly and clearly. Let the people who are exercising the power take the full responsibility for their decisions—without the facade of labor representation and the pretense of tripartitism.

The AFL–CIO members, therefore, are immediately resigning from the Pay Board.

We will not be a part of the window-dressing for this system of unfair and inequitable government control of wages, for the benefit of business profits.

It is now very clear that the Administration's "new" economic policy is nothing more nor less than a means of shifting to the average working man and his family the burden and the blame for the dismal failure of its former economic policy. It is an effort, at the expense of personal and institutional freedom in this country, to avoid the measures, resisted by big business and other selfish interests—such as constructive tax reform—most needed to correct the consequences of that failure. Having as we do a deep disbelief in and distrust of the aims and purposes of this Administration's economic and social policies, we intend at the least to free representatives of the AFL–CIO from any grounds for the inference of complicity in the formulation or execution of those policies.

[From the New York Times, Mar. 24, 1972]

WOODCOCK ASSAILS CURBS AS UNFAIR

(By Jerry M. Flint)

DETROIT, March 23.—The president of the United Auto Workers, Leonard Woodcock, quit the Pay Board today, joining three leaders in the American Federation of Labor and Congress of International Organizations yesterday.

This leaves only one union man, Frank Fitzsimmons, president of the International Brotherhood of Teamsters, on the panel, and he is staying.

"As long as I thought there was any chance that controls might become even-handed or that inflation might really be held in check, we were willing to go along," Mr. Woodcock said. "If the Administration had stepped up to its responsibility to check food price rises, to control interest, profits and dividends—to keep down the cost of living—I would have been willing to serve."

The auto workers president, following the lead of George Meany, president of the A.F.L.–C.I.O., presented a long list of complaints at a news conference here. But he emphasized that he was not quitting the Pay Board just because some decisions had gone against labor.

CRITICIZES PRICE RISES

Instead he complained about the continued price increases and said, "The Nixon game plan is to take worker money and place it in the pockets of employers through both action and inaction."

And he called the administration of Pay Board a "shambles." Thousands of cases have piled up and "literally dozens of cases have been lost or mislaid," he said. "Collective bargaining is paralyzed," and the Internal Revenue Service, which is to operate the

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wage control system, is inept, he charged, and "offers contradictory and confusing advice to workers and employers."

"The administration of the Economic Stabilization Act, as amended, has been so scandalous and unfair that the U.A.W. called upon Congress for a prompt and full investigation," he said.

The A.F.L.-C.I.O. had told Mr. Woodcock that it was likely to pull out. "It had been coming for a long time," Mr. Woodcock said. "I share their feeling of being fed up with it."

As did the A.F.L.-C.I.O., Mr. Woodcock complained that the board was not independent, as President Nixon had pledged, but that "the Administration has leaned on the Pay Board with a heavy hand." The industry and "so-called public members have prejudged cases before the board began consideration of them," and the "so-called public members of the Pay Board are in fact almost entirely representatives of big business and the Nixon Administration," he said.

He called Judge George H. Boldt, the Pay Board chairman, "a sweet lovable man who knows nothing about collective bargaining" and said that the judge had learned little in his "on-the-job training."

"We leave because the whole Nixon control system is an abomination, and the U.A.W. cannot in good conscience maintain any connection whatsoever with the system," Mr. Woodcock declared.

The U.A.W. and the teamsters are not members of the A.F.L.-C.I.O.; the auto workers quit and the teamsters were expelled from the federation. The auto workers and the federation have moved closer together the last two years, but the antagonism between the federation and the teamsters, the nation's largest union, still exists, and the teamsters are less likely to follow the lead of Mr. Meany and the federation.

The teamsters' major contracts also call for regular pay rises that push to the limits of the Pay Board's guidelines and so far the board has approved these raises.

[From The New York Times, Mar. 24, 1972]

STATE JOBLESS RATE HIGHEST IN 9 YEARS

ALBANY, March 23.—The state's unemployment rate reached a nine-year high in February, with 545,000 workers, or 6.7 per cent of the work force, without jobs, the State Labor Department reported today.

The Industrial Commission, Louis L. Levine, head of the Labor Department, said total employment statewide in February was 7,590,000, compared with 7,705,000 in February, 1971.

The unemployment figure for New York City was 240,500 for February, compared with 208,200 a year ago. The city figures meant 5.9 per cent of its work force was unemployed, compared with 5 per cent in February, 1971.

The statewide unemployment figure of 545,000 jobless was 55,000 more than in the same period last year.

As grave as the situation was, the state continued to fare better than its neighbors, Connecticut, and New Jersey.

In New Jersey, 7.3 per cent of the work force was jobless in February, with the highest percentage, 17.6 per cent, in Cape May County, primarily a resort area.

49,000 JOBS UNFILLED

In Connecticut, 9.4 per cent of the work force was idle in February, with the highest percentage, 20.6 per cent, found in the Bristol manufacturing area.

None of the figures released by the Labor Department were adjusted for normal seasonal fluctuation.

In New York State, the Utica area had the highest unemployment rate for the second successive month. A total of 13,600 persons, or 10.3 per cent of the work force, were jobless last month, compared with a January figure of 12,800 or 9.8 per cent.

Commissioner Levine said that the Labor Department was making "every effort to help unemployed persons find jobs or train for new occupations." He said that at the end of February the department's employment service had listed 49,000 unfilled job openings.

These included, he said, 4,100 professional, technical and managerial occupations, some 9,000 clerical jobs, 3,000 sales posts, 10,000 domsetics jobs and 2,200 machine-trades openings.

Following are unemployment totals and rates for the state's major industrial areas:

Albany—17,600 jobless or 5.8 per cent of the area's work force, compared with 14,800 or 4.8 per cent a year ago.

Buffalo—51,100 out of work or 9.1 per cent, compared with 41,400 or 7.3 per cent a year ago.

Binghamton—7,600 or 6.4 per cent compared with 8,900 or 7.3 per cent a year ago.

Rochester—13,200 or 4.0 per cent, compared with 15,800 or 4.7 per cent a year ago.

Syracuse—15,600 or 5.9 per cent, compared with 16,200 or 6.2 per cent a year ago.

NEW YORK AREA BREAKDOWN

The statistics for the New York metropolitan area are as follows:

New York City—240,500 jobless or 5.9 per cent, compared with 208,200 or 5.0 per cent a year ago.

Nassau County—35,000 jobless or 6.5 per cent, compared with 31,900 or 5.9 per cent a year ago.

Suffolk County—34,000 out of work or 9.1 per cent, compared with 28,200 or 7.8 per cent a year ago.

Westchester County—22,200 or 5.9 per cent, compared with 19,700 or 5.3 per cent a year ago.

Rockland County, 4,600 or 6.0 per cent, compared with 3,500 or 4.7 per cent a year ago.

LOCAL LABOR LEADERS GENERALLY SUPPORT DECISION TO LEAVE THE PAY BOARD

(By Damon Stetson)

Labor officials at the local level here and in other parts of the country generally supported yesterday the decision of four labor members of the Pay Board to resign.

Some of these local leaders, complaining of continuing price rises while wage increases were being held down, also warned of possible strikes in the months ahead if the reconstituted Pay Board sought to enforce what they considered to be inequitable controls.

"The board was not a board of equity," Leon Davis, president of Local 1199 of the Drug and Hospital Union here, said "It was designed to keep wages down and boost up profits. The resignations of the labor people takes the facade off the board. Hopefully, their action will put labor in a position to fight it out in collective bargaining—with strikes if it becomes necessary."

The disillusionment of working men and women with an anti-inflation program that they contend is not working was a frequent refrain in comments of labor leaders in many cities.

COMPLAINTS IN LAUNDRY

In San Francisco, Henry Romiguere of the Laundry Workers Union said that members of his group were at first optimistic about the potential effect of government controls in curbing inflation.

"But they found since it started that they are losing more hours work, there is more unemployment, small cleaners are going out of business," he said. "They have been held back in their wages, but everything else keeps going up."

A member of the International Brotherhood of Electrical Workers in Cleveland said that it seemed to be only labor that was suffering while prices went up and business was still making good profits.

Referring to the resignations of the labor members, he said, "Maybe these guys can do more on the outside. Everything I read showed they were outvoted anyhow. Nobody seemed to listen to their arguments."

Not all of the labor union people interviewed agreed, however, that the withdrawal of four of the five labor members from the Pay Board was wise or likely to be effective.

George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, quit the board Wednesday along with I. W. Abel, president of the United Steelworkers of America, and Floyd Smith, president of the International Association of Machinists. Leonard Woodcock, president of the independent United Automobile Workers, quit yesterday.

LOST CONTACT SEEN

William F. Martin, president and business manager of Local 150 of the Operating Engineers Union, with 12,500 members operating heavy construction equipment in northern Illinois and Indiana, expressed the view in Chicago that labor needed representation on the Pay Board.

He said that he thought the leaders of the A.F.L.-C.I.O. had lost contact not only with the rank-and-file members but also with the leadership of local unions throughout the country. He favored younger people on the Pay Board, he said—people directly involved in contract negotiations.

"The effect of the walkout," he continued, "is to reduce the voice of labor in the control programs. But otherwise it will mean nothing because President Nixon is going to continue with the economic programs whether labor participates or not."

In Detroit, Edward Osinski, financial secretary of U.A.W. Local 205, was critical of the walkout of Mr. Meany and the others.

"How's he going to straighten it out by walking out?" he asked. "I had the feeling it [the Pay Board] wasn't perfect, there was no adequate control, you have a freeze on wages but none on prices. But, then, inflation has to be stopped."

Luke Pinyan of Carpenters Local 225 in Atlanta was another who was concerned about labor being hurt as a result of its reduced representation on the Pay Board.

"I think maybe Mr. Meany thought he had probably done all he could for labor and that's why he left," Mr. Pinyan said. "But from here on in, it doesnt' look like we'll have much of a voice on the board."

EARLY ERROR SUGGESTED

In Boston Edward T. Sullivan, business agent for Local 254 of the Service Employes International Union, suggested that the labor members never should have taken seats on the Pay Board.

Moreover, he said, labor should have walked off when its representatives learned that wage increases were going to be limited to a percentage figure without any thought being given to higher percentage increases for low wage workers.

Frank Brown, director of organization for District 65 of the National Council of Distributive Workers, expressed concern also about the impact of Pay Board rulings on lower-paid workers.

He said that the board had lost any semblance of being independent after the Cost of Living Council, overruling the board, specified that only hourly earnings below $1.90 an hour were exempt from controls although a majority of the Pay Board had decided the $1.90 limitation was too low.

Morris Iushewitz, secretary-treasurer of the New York City Central Labor Council, said that labor had sought to cooperate in the anti-inflation effort but that its cooperation had brought nothing.

"Wages were strictly controlled but prices were not," he said. "Workers have been asking their wives as Nixon told them to do at the A.F.L.-C.I.O. convention. But there's no indication inflation has been stopped."

Albert J. Fitzgerald, president of the United Electrical, Radio and Machine Workers of America, an independent union, said that he fully supported the labor member withdrawals. He had said earlier that Phase Two of President Nixon's stabilization program did nothing but "continue the Nixon policy of putting the blame and burden of inflation on the working people of America."

FOOD COSTS RAISE PRICES 0.5 PERCENT IN UNITED STATES, 0.9 PERCENT HERE

(By Edwin L. Dale, Jr.)

WASHINGTON, March 23.—The Government confirmed today what housewives already knew—that soaring food costs, led by meat, raised over-all consumer prices sharply in February.

However, nonfood prices, both goods and services, rose only slightly on the average. These are the prices subject to the Government's program of controls.

The Consumer Price Index for February rose by five-tenths of 1 per cent, the largest increase since last June, before the wage-price freeze and the subsequent controls program. The increase was the same both before and after adjustment of the data to reflect normal seasonal changes in some prices.

Three-quarters of the rise was accounted for by food prices, which are essentially free to rise because there are no controls on the prices farmers charge.

As usual, there was a flood of commentary on the figures.

C. Jackson Grayson Jr., chairman of the Price Commission, announced that public hearings would be held on the cost of food "because of the level of concern across the nation." According to the announcement, however, "Mr. Grayson emphasized that the action should not be construed as an indication of expanded restraints in that area of the economy." He called the hearings a "fact-finding mission."

Herbert Stein, chairman of President Nixon's Council of Economic Advisers, said that the February statistics "provide encouragement about the success of the stabilization program." He stressed that farmers' cattle and hog prices are now dropping from their peaks and that "the average retail price of nonfood commodities declined one-tenth of 1 per cent on a seasonally adjusted basis."

Noting that farm and food prices have always been volatile, Mr. Stein told a news conference that "I am more optimistic than before" about achieving the Government's target, which is a reduction in the rate of inflation to from 2 to 3 per cent by the end of the year. Taken by itself, the February rate of increase on an annual basis was 6 per cent.

O'BRIEN SEES FAILURE

Lawrence F. O'Brien, the Democratic National Chairman, called the over-all price increase "a national tragedy that reaches into every household in America." He said that the February index "exposes Mr. Nixon's economic program, with its unfair and arbitrary features, as an utter failure."

George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, repeated the view he expressed yesterday when he and two other labor members resigned from the pay board.

"The price control program is a sham," he said. "While prices are going up, workers' wages are being held down."

The consumer Price Index for February was 123.8, with prices in 1967 taken as 100. The increase in the month for food prices, seasonally adjusted, was 1.7 per cent, the largest for any month since 1958. Seasonal adjustment is a statistical device to eliminate the effects of purely seasonal factors from the figures and make the underlying trend clearer.

SERVICE RISE EASES

However, the price of services, long the most steeply rising sector of consumer prices on a month-after-month basis, rose only two-tenths of 1 per cent. Mr. Stein noted that service prices in February were 4.1 per cent above a year earlier, "the lowest annual rate of increase since 1965."

This category includes a wide variety of consumer expenses, such as medical care and mortgage interest rates, automobile repairs and insurance, haircuts, and local transit fares.

One service category that continued to go up sharply in February, the report said, was residential telephone and electric service.

Apart from services and food, there were a number of offsetting increases and decreases in prices. Reported as lower were gasoline, new cars and used cars. Higher were women's apparel, cigarettes, textile home-furnishings, toilet goods and reading materials.

Of about 100,000 month-to-month prices checked by the Bureau of Labor Statistics to help assess the controls program, 70 per cent were unchanged in February, 22 per cent increased and 8 per cent declined. The report said that "the widespread increase in food prices" accounted for the larger proportion of price increases than in previous months since the controls program began.

CLOTHING, RENT, AND TAXES ADD TO LOCAL INCREASE

(By Grace Lichtenstein)

Consumer prices in the metropolitan area spurted sharply last month, the Bureau of Labor Statistics reported.

The Consumer Price Index was up nine-tenths of 1 per cent or seven-tenths of 1 per cent after seasonal influences were taken into account. This was the largest advance since last May and was considerably greater than the five-tenths of 1 per cent increase—both in the index and after seasonal adjustment—recorded for the nation as a whole in February.

Herbert L. Bienstock, regional director of the bureau, attributed the increase here in large part to unusually high prices for women's and girls' clothing, higher meat prices, increased state sales taxes for gasoline, liquor and cigarettes, and higher rents.

A 4 per cent jump in meat prices in February accounted for one-third of the over-all increase in the Consumer Price Index, as did the 6 per cent increase in women's and girls' clothing.

Mr. Bienstock said the meat price increases (a pound of pork chops that cost $1.29 in January jumped to $1.43 in February) reflected cutbacks at the start of the year in pork production, as well as a demand for beef and pork that outpaced the supply.

He said the rise in clothing prices was more difficult to explain. "Frankly, I can only conjecture," he said, "but maybe this being New York, the spring lines are coming in earlier than in the rest of the country."

The rising cost of liquor, cigarettes and gasoline, brought on by the higher state taxes, accounted for one-fifth of the over-all index increase. Also pushing the index upward were higher rents, reflecting in part rent control increases effective in January but not measured by bureau price checkers until February.

Mr. Bienstock warned that the increase in the rent index, which was 1 and one-tenth per cent in February, might turn out to be even higher when increases on additional rent-controlled apartments are instituted retroactive to the first of the year. If that is the case, the February index would be revised.

SMALL RISE IN EXEMPT ITEMS

Mr. Bienstock noted that the February jump was "the first really sharp increase in the index since the end of the price freeze" last November. In January, the increase was five-tenths of 1 per cent, on an adjusted basis.

Within the nine-tenths of 1 per cent overall increase, only two-tenths of 1 per cent could be attributed to items exempt from price controls, such as raw agricultural products and state taxes. The other seven-tenths of 1 per cent of the rise occurred even though the items in question were covered by the stabilization program.

For the first three full months of Phase Two—December, January and February—the total increase in the index here was 1 and four-tenths per cent. That was twice the increase recorded for the September-through-November period during the freeze.

Since February, 1971, consumer prices in the area have risen 4 and nine-tenths per cent, compared with the 6 and four-tenths per cent 12-month increase reported for the previous year.

INDEX OF CONSUMER PRICES

UNITED STATES

	Index for Feb., 1972	Percentage change from Jan., 1972	Percentage change from Feb., 1972	Point change from Jan., 1972
All items	123.8	+0.5	+3.7	+0.6
Food[1]	122.2	+1.6	+5.4	+1.9
Housing[2]	127.6	+.2	+4.1	+6.3
Apparel and upkeep[3]	120.7	+.4	+2.2	+.5
Transportation	118.3	+.6	+.7	+.7
Health and recreation	124.7	+.3	+3.7	+.4
Medical care	131.0	+.4	+4.1	+.5
Personal care	118.4	+.3	+2.6	+.3
Reading and recreation	121.5	+.1	+3.4	+.1
Other goods, services	124.3	+.6	+4.4	+.8

NEW YORK AREA

All items	129.5	+.9	+4.9	+1.1
Food[1]	126.9	+1.4	+5.7	+1.7
Housing[2]	133.7	+.5	+6.4	+.6
Apparel and upkeep[3]	122.1	+2.3	+2.3	+2.8
Transportation	132.1	−.2	+2.9	−.2
Health and recreation	128.9	−.5	+4.1	+.7
Medical care	138.6	0	+4.1	0
Personal care	116.9	(4)	+3.5	(4)
Reading and recreation	124.9	−.5	+2.6	−.6
Other goods, services	128.7	+2.3	+5.9	+2.9

[1] Includes restaurant meals.
[2] Includes hotel and motel rates, home purchases and other home-owner costs not shown separately.
[3] Includes infants' wear, sewing materials, jewelry and apparel upkeep not shown separately.
[4] Not available.

Source: U.S. Department of Labor, Bureau of Labor Statistics 1967=100.

PRICE SKYROCKET . . .

Misguided as is the walkout of four top unionists from the Pay Board, their action does sharply raise the question of whether the Administration's anti-inflation program is fairly balanced with respect to both wages and prices. That question is made sharper still by the official report yesterday that the consumer price index climbed one-half of 1 per cent last month—the largest increase since before President Nixon's New Economic Policy was launched last summer.

Even this sizable jump in living costs—6 percent at an annual rate and 8.4 percent in New York—will seem like an understatement to many housewives. Grocery prices, perhaps the most sensitive element in families' budgets, jumped 1.9 percent last month—more than 20 percent at an annual rate—the biggest single monthly rise in fourteen years.

Although Government economists keep saying they fully expected this price bulge after the freeze ended last November, there are reasons to worry that the bulge may widen rather than diminish in the months ahead. Wholesale prices have been climbing at an annual rate of more than 10 percent for the past three months.

XUM

Farm prices, which are largely exempt from controls, accounted for much of this increase. But industrial commodities, the focus of the control effort, climbed at a 5 percent annual rate in both January and February. The pass-through of cost increases by manufacturers threatens to keep the heat on the consumer.

The Administration's basic mistake has been to combine its program to stimulate recovery by boosting spending, cutting taxes, and running big deficits with a soft price-control program. This poor combination now threatens to let inflation get out of hand; it may also slow the recovery and prolong unemployment.

Mr. Nixon is now faced with the choice of watching his anti-inflation program disintegrate or taking the necessary steps to strengthen it and save his over-all economic program, both domestically and internationally. This necessitates a tough decision to check climbing food prices, in the face of political opposition from the farm bloc. The public hearings on rising food costs to be held by the Price Commission early next month ought to be a starting point for decisive action, not more fumbling evasion.

There is also need for tougher enforcement standards against companies that have ignored the Price Commission's general rules intended to keep profit margins from going up as a result of higher prices or controlled wages. A hint that the commission does intend to crack down on profiteers came with its decision this week to freeze all prices for companies whose quarterly reports indicated that their profit margins had climbed.

It is time also for the commission to begin applying the President's mandate early in the control program to require companies enjoying large productivity gains to share windfall profits with the public in the form of lower prices. An essential element in the effort to hold the economywide rate of price increase this year to 2.5 per cent is that some prices come down and not all go up.

TESTIMONY OF CONGRESSWOMAN BELLA S. ABZUG BEFORE THE HOUSE WAYS AND MEANS COMMITTEE, SEPTEMBER 16, 1971

Chairman Mills, members of the Committee, I welcome this opportunity to appear before you today to testify on President Nixon's New Economic Program, even though I am not an economist. That may not necessarily be a handicap when one considers that most economists are only wise after the fact and rarely agree with each other, or even with their own past analyzes.

I speak rather as a member of Congress who is concerned with the social orientation and effect of our economic policies and as a representative of a district whose festering needs have been largely ignored by this Administration. These needs, I might add, will continue to be slighted by the new White House policies.

The President's proposals, which I shall discuss in more detail shortly, reinforce his position as the superchief of corporate America. Although many Americans have been stunned by the reversal of the President's economic policies, from hands off to sweeping interventionism, there is a consistency that ties these policies together, in that big business remains the favorite and working people and small business are still the victims.

When the President set out originally to "cool" the economy and succeeded in presenting us with inflation and recession at the same time, it was working people and small businessmen who were most severely affected by government-manipulated unemployment. Now, too, it is working people and small business who bear the burden of the wage-price freeze while big business is pampered with tax incentives and accelerated depreciation.

One of the most remarkable aspects of the national discussion about NEP is the extent to which it has managed to ignore the central fact of American life and a major cause of our economic problems. I refer, of course, to the inflationary pressures created by our military spending which now amounts to $76 billion a year and which Defense Secretary Laird proposes to increase by another $3 billion next year.

The most positive steps the President could take to strengthen our economy would be to end immediately and completely American involvement in the war in Indochina, cut back military spending on dollar-draining military bases in Europe and elsewhere, and instead of letting the so-called peace dividend be consumed by the Pentagon, use the funds for such purposes as to provide jobs, repair our decaying cities, build low and middle income housing, make mass transit facilities available, deal effectively with drug and pollution problems, and assure our 25.5 million poor people of a guaranteed annual income.

But instead of ending the war once and for all and reducing military expenditures, the President and some of his advisers are busily developing the myth that our economic problems are the result of the winding down of the war, rather than the war itself. George Romney, for example, said recently that if we have peace, we're going to have unemployment. Another Presidential myth is that of the lazy or greedy worker. I find it unseemly for the President to lecture the American people on the "hard work" ethic when millions have had to "moonlight" to make ends meet, when more than five million are looking for jobs and cannot find them, when more millions of women would work if there were jobs available for them and day care centers provided for their children, and when working people who empty bed pans in hospitals or wash dishes in high-priced restaurants or run elevators in luxury hotels frequently require supplementary welfare benefits to maintain their families because they earn such low wages.

The implication in the 90-day wage-price freeze is that rising wages and prices are responsible for inflation. I agree that prices have been rising at an unacceptable rate, but wage increases have certainly not kept pace with them. In a speech, last spring, (March 7), economist Leon Keyserling commented: "The wage earner continues to be pilloried as a main factor in the raging inflation, when in fact, the real take-home pay of workers in manufacturing has declined during the past two years."

Mr. Keyserling suggested that a more likely factor in inflation was the Nixon administration's pre-NEP policy of raising interest rates. He pointed out that the Nixon budget projects about $20 billion to pay interest on the national debt. "This is more than $8 billion above what the interest payments would have been on a debt of the same size," he said, "if interest rate had stayed where they ought to be."

The President's unprecedented wage-price freeze, unencumbered by restraints on interest rates, profits or dividends, amounts, in effect, to a wage rollback since the cost of living as well as productivity is continuing to rise. Pay increases affected by the freeze are lost forever. They are not placed in escrow or deferred like corporate dividends or profits. The freeze is grossly discriminatory against teachers, against government workers, who have been singled out for a six-month penalty, and against women workers who, my office has been informed, will be barred from claiming back pay for unequal pay received during this period. Since it has been estimated that American business saves $22 billion a year by paying women lower wages than men for doing essentially the same work, this 90-day freeze represents a tremendous loss for women who file back pay suits and, of course, another windfall for business.

For the worker, the freeze is grossly inequitable but for management it means, at least, a ceiling on an important part of total operating costs. Where price increases have been made in anticipation of wage increases (as on important steel products), the wage freeze provides a widening of profit margins. Roughly half of these unexpected profits will go to the U.S. as taxes; the other half will stay in corporate coffers. Thus, unions in some cases find themselves in the strange position of having negotiated higher earnings for the owners rather than higher wages for their members.

It should also be noted that the freeze on salaries affects only part of executive compensation or income. Many executives have been granted options to purchase the stock of their employing companies; many already own such stock or stock in other companies. There is no freeze on the gains they may make in trading these securities, and no doubt they profited greatly from the $40 billion stock market boom which greeted the President's August 15th announcement.

While the freeze on wages is painfully real, no enforcement machinery exists to supervise the price freeze. In any case, the Bureau of Labor Statistics has said that the cost of living is not frozen because some 10% of the items included in the cost of living index are exempted from the freeze. Thus, those on fixed incomes—which now include all wage earners, pensioners, and welfare recipients—will continue to suffer erosion of real income.

With his single-minded concern for the interests of big business, President Nixon has enunciated a policy under which corporations can continue to increase their profits and the rich can continue to use methods of enhancing wealth not available to the large majority of America. The Administration has rejected the concept of an excess profits tax. With rare candor, Secretary Connally said recently, "There are no excess profits." According to the Secretary, in an interview August 16, "the profits of American business have not been that big."

On the contrary, the August newsletter of the First National City Bank of New York reported that corporate earnings in the second quarter of this year were up 11% over the year before, and that the index of after-tax earnings in manufacturing in the second quarter of this year was 18% higher than in 1967, or almost at the all-time high reached in the fourth quarter of 1968. And these increases were accomplished during a period when output was about 73% of capacity.

Increases in bank profits have also continued high, as a result of favored treatment by the Nixon administration. The Bank of America, with the largest deposits of any U.S. Bank, showed a 17.7% boost in net income per share.

A sample of other bank gains during the past year reveals the following: J. P. Morgan & Co., 21.9%; Chase Manhattan, 25.6%; First Chicago Corp., 14.3%; First National Bank in Dallas, 19.2%; Bankers Trust, 36.1% (Source, UAW Washington Report, September 6, 1971).

I would like the members of this committee to contrast the advnatageous position of the corporations and banks with that of a wage earner in the New York area. In 1970, the real spendable earnings of a worker with three dependents was $117 a week. I challenge any of you to try to live on that income and at the same time find yourself assailed by the President as an inciter of inflation. In fact, the BLS maintains that a moderate standard of living in the New York area requires $205 a week. As we have seen, the average wage earner is nowhere within sight of that income and by Presidential decree he has now been frozen into his substandard style of living

What will happen when the 90-day freeze ends, or ends for all but government employees who have been singled out for an unfair six-month freeze? As must be evident by now, I do not favor a continuation of the freeze, nor do I favor compulsory, although more flexible wage-price controls. Representatives of organized labor have indicated they would accept a voluntary program of controls on wages, prices and profits, supervised by a tripartite labor-management-public board. It has been suggested that under such a policy pay increases would be tied to increase in productivity and the cost of living. This would mean that the wage earner would relinquish his claim to any real improvement in his standard of living, which I was raised to believe was as much a part of the American ethic as hard work.

During World War II, American workers voluntarily accepted a no-strike pledge and wage controls, even though prices continued to go up. They did so as part of a national commitment to win the war and to defeat Nazi Germany, Fascist Italy and Imperial Japan. No such common purpose unites our nation now as to require unilateral sacrifices by working people and small businessmen. On the contrary, the American people have overwhelmingly rejected the war in Indochina, which they would like to see ended now and which the Nixon Administration still refuses to do.

If voluntary controls on wages, prices, profits, interest rates and dividends were instituted as part of a great national effort to redirect our priorities away from military spending and toward the real needs of our people; if this Congress addressed itself to the question of curbing monopoly or so-called managed pricing, which Senator Philip Hart has indicated costs American consumers over $45 billion a year; if an effort were made to correct the maldistribution of income in our economy, which now sees the top 20% of all U.S. families cornering 41% of the income while rising numbers of Americans are forced on to the jobless or welfare rolls, then, of course, I would support controls. I will, however, oppose any effort to perpetuate gross inequities.

I believe that the Administration's tax proposal reflects its misplaced priorities and must be rejected in favor of individual tax relief for low and moderate income individuals and federal subsidies in job creative, socially useful endeavors.

The 10 percent investment tax credit has as its underlying assumption the belief that our economic problems are caused by an inability to produce sufficient goods. In actuality, there is presently some $70 billion in unused productivity in our economy. Some 27 percent of our industrial capacity stands idle. There is a sluggishness in the consumer end of the economic equation: inflation, high interest, unemployment and lack of consumer confidence have combined to retard consumer demand.

In his new program, the President pledges to reduce taxes, proposes an equivalent, and highly selective, cut in federal expenditures. The decline in government spending and the reduction in the government work force will more than offset the projected expansionary effect of the tax cut.

But in any case, under the Administration plan, the individual taxpayer is given virtually no relief. While the President would advance tax cuts from 1973 to 1972, providing a family of four with a $10,000 annual income with what is estimated at a $57–$95 savings, this would be more than absorbed by the social security tax rise set to go into effect on Jan. 1, 1972. As a minimum, this increase must be postponed to permit the individual taxpayer any relief at all under the Nixon plan.

The Administration calls the investment tax credit a "job development" credit, but aside from pious recitation of an arbitrary figure by Administration officials, there is no evidence that any significant number of jobs would be created by instituting the 10 percent investment tax giveaway. There are other reasons for rejecting the investment tax credit: it provides tax incentives for things a prudent businessman would do in any event, such as modernizing equipment; and it encourages economically marginal ventures which would not have otherwise been undertaken. There is no assurance that subsidized economically marginal activities would be otherwise socially redeeming.

Rather than seeking to achieve laudable social aims through the backhanded device of investment credits, which provide no opportunity for appropriate controls or accounting, I propose that the 10 percent investment tax credit and the accelerated depreciation range (ADR) approved illegally by the Treasury Department earlier this year without Congressional sanction be rejected in favor of federal subsidies for housing, child care centers, mass transit, manpower training and other job creating activities and individual tax relief.

In place of the $9 billion business boondoggle, I propose also that the low income tax allowance which is presently set to rise to $1,000 be raised to $2,000, thus directly benefiting the working poor and moderate income taxpayer. The total cost of such a program would be $4.5 billion.

In an immediate economic sense, the increase in the low income allowance would have maximum consumer impact since low income people ordinarily spend their money for consumer goods rather than invest it, as do higher income individuals. Even more important, we would be taking a small step toward a more equitable distribution of the tax burden, which is long overdue.

In addition to individual tax relief for low and moderate income taxpayers, immediate attention must be given to the development of a comprehensive federal construction program for urban areas concentrating initially in depressed economic areas. Such a program could combine effective manpower training and improvement of the urban environment, which would consequently create more jobs and help retard the present rate of urban decay.

This is one way that Congress and the Administration can begin to fulfill the promise of the National Full Employment Act of 1946, which committed the government to providing "useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power.

With unemployment exceeding five million, and most statisticians consider that grossly underestimated, it is urgent for the government to provide constructive employment, particularly for women, for young people, for Blacks and Puerto Ricans, for returning Vietnam Vets, all groups that have been most seriously affected by the recession.

As for the proposed abolition of the seven percent automobile excise tax, the Administration says this will save taxpayers $2.1 billion a year. This may be true if they actually buy the X number of cars projected in the estimate. But are people who can afford a new car the ones who most need $2.1 billion of federal help?

The tax rebate is primarily a profit-generator for the auto industry, which will be able, in effect, to reduce car prices by that $2.1 billion and reap the benefits of the broadened market. More cars will be produced. But does traffic-choked, polluted America need more cars, rather than a stimulant for mass transit or the construction of low cost housing? Here again we see the absurdity of the Administration's priorities.

We see, too, the need for adoption of an economic reconversion bill, such as that introduced by Senator McGovern which would not only reorient the industries involved but liberate aerospace workers, missile workers and others from the indignity of depending on anti-social products for their livelihood.

The Administration's international trade decisions—the "floating" of the dollar and the imposition of a 10 percent surcharge on imports—should be discussed in the context of American foreign policy and the extraordinary flight of American capital abroad over recent years.

As economists Peter Passell and Leonard Ross pointed out in the current New York Review of Books (Sept. 23 issue), the dollar's pre-devaluation privileged position in world finance made it easier to fuel the war in Vietnam. But, they continued, "stringent adherence to the orthodox rules would have limited our power to achieve all of our objectives, including the most deplorable ones. But it is not military adventures that the Nixon administration intends to jettison. What Nixon has mainly accomplished by his devaluation of the dollar is a transfer of wealth from American consumers to citizens in foreign countries and to high-priced American manufacturers."

As we have seen, the Administration has opposed vigorously Senator Mansfield's proposal for a reduction of our troops in Europe under NATO, which would certainly have reduced the out-flow of dollars.

Furthermore, in many cases, we are today competing not with foreign companies, but with foreign-based divisions of American corporation, particularly in Germany, France, Great Britain and Canada.

At the end of World War I there were about 250 foreign subsidiaries of U.S. corporations. In 1970 alone, more than 8,000 American investments in overseas companies came to some $70 billion. It has been suggested that if the amount of foreign capital controlled by these American enterprises is added, the total for 1970 is more like $100 billion in overseas investments.

The adverse results of this development have been felt most severely by small business and by working people who see their jobs disappear under the floodtide of cheap imports.

Before we take steps to impose quotas or tariffs on foreign imports, we should revise our laws that are structured to encourage the development of these multinational, American corporations. We should try doing away with some of the incentives that lead domestic companies to go overseas to use cheap labor to produce the goods which are then sold here.

Special low tariff rates are given to foreign-assembled goods which use parts or raw goods shipped to assembly points from the United States. Taxes are deferred—often forever—for foreign subsidiaries of American corporations. Foreign production uses technology developed at the expense of American taxpayers.

As I have said in a speech on the floor of the House (August 5), clear legislative direction is necessary to give the Administration authority—and the will—to regulate, supervise and curb the outflows of American capital.

Criteria to guide the President in his exercise of such authority should include considerations of the kinds of investment proposed to be made abroad, the products in-

volved, the countries in which the investments would be made, the linkage of the investments to the flow of trade and the effect of the investments upon our domestic economy and employment.

I realize, of course, that these proposals and some of the others I have made here today are outside the immediate purview of this committee, but they are essential to the larger view of our economic problems which will undoubtedly guide your actions.

The 10 percent import surtax, which is one of the few features of the Nixon plan that has the approval of unions, which are understandably concerned with foreign competition, was evidently designed to give relief to three big, and highly concentrated, U.S. industries: Steel, auto and chemical. Insofar as it is successful in cutting down imports of cheaper Japanese and German steel and autos and cheaper synthetic fibers, cameras, and TV sets, it will be a relief to Americans working in those industries, but it will also increase the costs to American consumers and drive up the cost of living for pay-frozen Americans.

The President's economic proposals, regrettably, invite the charge of favoritism on several fronts. The investment tax credit, for example, rewards midwestern industrial centers that are "capital intensive" with high factory equipment costs, while the import surcharge penalizes port enterprises in cities on the eastern and western seaboards.

New York is such a city, and 40 percent of the men and women who work there hold jobs either directly or indirectly related to maritime commerce. The protectionist surtax may prove to injure this vital component of New York's economy.

Even the apparel industry, in theory our local beneficiary of this policy, is concerned about reprisals in the international marketplace. I object to New York's having to bear the burden of momentary adjustment while Detroit, Cincinnati and other cities in the midwestern region reap a whirlwind of profits during this period.

For all too long, the federal government has paid lip service to the small businessman while pacifying him with fragmentary financial assistance. In light of the present incursions on New York's retail and import communities, if the surtax is continued, and I am still not convinced that this is the wisest course, then the monies collected from the 10 percent import charge at New York harbor should be placed in a fund to promote export development and international travel. Both these industries are deeply entwined in the fabric of New York's economy and in need of rejuvenation. This is a proposal to which I hope further attention will be given.

Another possible avenue of relief for New York would be to multiply the amount of financial aid available from the federal Small Business Administration by a factor corresponding to the impact visited on New York's retail and manufacturing activity by the import surcharge. Depressing port business must eventually injure other facets of our economy. From the street level, that could mean fewer people working or smaller paychecks.

In conclusion, I urge the rejection of President Nixon's New Economic Program, which is outrageously designed to aid big business at the continued expense of the middle-class, small businessmen, working people and the poor.

Congress must assume the responsibility of fashioning an economic program aimed at human, not corporate, values. I have outlined steps which I think Congress can take to provide genuine well-being for all our people, but I would remind you again that the essential first step is to withdraw totally from Vietnam and to curb the military budget.

RESTORATION OF THE CAPITOL IS BEST PLAN

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. FAUNTROY. Mr. Speaker, I am distressed to learn that the Architect of the Capitol has concurred in recommending extension of the west front of the building that has symbolized the strength and the greatness of our Nation through democratic representation of the whole people. Our Capitol is more than the meeting place of the Legislature; it is the embodiment of the hopes and aspirations of people throughout this land and the world. As such, it is a functional historical monument whose only alterations should be those which are necessary to and consistent with the architectural and historical integrity that surrounds it.

The editorial in the Washington Post of March 13, 1972, very cogently articulates the rationale and need for restoration. For those members who may have missed it, I am attaching it:

OBSTINATE VANDALISM ON CAPITOL HILL

Obstinate vandalism has once again triumphed on Capitol Hill. We cannot conceive that it will ultimately prevail.

In an arrogant maneuver of dubious legality and in the face of clear opposition on the part of the nation's architects and architectural historians, not to speak of a contrary recommendation by its own expert consultants, the ruling congressional establishment has decided to proceed with its old plan to extend the west front of the United States Capitol. Seven men—House Speaker Carl Albert, Vice President Spiro T. Agnew, House majority and minority leaders Hale Boggs and Gerald R. Ford, Senate majority and minority leaders. Mike Mansfield and Hugh Scott and the Architect of the Capitol, George M. White, who are ex officio members of a commission created for the purpose in 1955—would rebuild the most prominent part of the Nation's First Building in the image of (declining) Roman imperialism so that it would be physically and spiritually akin to that pompous disaster, the Sam Rayburn House Office Building. It makes not a shred of sense in terms of history, function, finance or aesthetics.

Historically, or rather anti-historically, what the extenders would do, is to bury the last remaining external vestiges of the Capitol as it was originally designed and built. William Thornton's softly elegant sandstone facade is the only visible link to the Capitol's beginnings in the early years of the Republic. It is the last remnant of an architecture that was at once inspired by and expressive of the Jeffersonian concept civilization, a concept that believed in gentle manners, the virtues of classical beauty and the pursuit of happiness. This part of our history would be irretrievably obscured behind a glossy, new marble facade, some 70 feet further out, which, far from expressing our own time, fakes classic architecture in a clumsy way. To make matters worse, the extension of the building into a massive box will ruin the commodious terraces designed by Frederick Law Olmsted, America's greatest landscape architect, reducing them to a narrow strip. It would puncture Olmsted's blank terrace walls with windows, destroy his landscaping with a service road and spoil the present sight of the dome by setting it much too far back on the building, much as a brazen drunk pushes back his hat.

All this, ironically, could well turn the Capitol into a messy construction site during the summer of 1976, just when millions of Americans will flock to Washington to celebrate the 200th anniversary of the nation and pay their respects to our historic traditions.

Functionally, the extension folly was to be justified by the need to rebuild the "crumbling" west front walls. The alleged crumbling, which so frightened the last Architect of the Capitol, George Stewart, has been proven a myth in an extensive study by Praeger-Kavanagh-Waterbury, a reputable architectural engineering firm, selected under Mr. Stewart's regime and retained by Congress under Public Law 91-145 of 1971. The present Capitol Architect, George M. White, called it "a careful and diligent open-minded study." It concluded, in sum, that there was nothing wrong with the west front that careful restoration could not fix under all five conditions set down by Congress two years ago. The conditions were, in sum, that restoration could, without undue hazard, make the building safe, sound, durable and beautiful for the foreseeable future and that restoration would be no more disrupting than extension and wouldn't take any more time.

Now the argument is made, that Congress needs more space *within the Capitol* and that is only a little less spurious. Under the Stewart plan most of the 4½ acres of expanded space was to be used for tourist cafeterias, "a giant Howard Johnson," as one Congressman put it. The new architect has thought better of duplicating the tourist services which the proposed Visitors' Center in the remodeled Union Station will provide a few hundred yards away. Mr. White talks of 285 offices and conference rooms. But he does not give any reason why these offices must be built *inside* the Capitol.

Nor does Mr. White say anything about a recent report by a task force of the American Institute of Architects which found the present space within the Capitol "crowded, misused and underused" all at the same time. It noted that many functions now located within the building have no reason for being there. And it urged a rational space utilization and development plan outside the old building since the proposed extension "will not begin to meet present, least of all projected, space needs."

Financially, the extension plan is as illogical as it is shocking. The extenders imply that they are not bound by Public Law 91-145 because restoration would cost more than $15 million. What with the rise in building costs and the contingencies of all careful restoration work, it probably will. But is that any reason to spend an estimated $60 million on the extension? A few years ago the extension was to cost only $45 million—no less than $166.95 a square foot which was five times more than the Rayburn Building, at the time the most expensive office building in the world (since eclipsed by the Federal Bureau of Investigation building). Why should we believe that the cost will not go up by another $15 million or more in another few years?

But apparently nothing can be done to stop this flat until Mr. White has drawn up the $2 million worth of extension plans for which Congress appropriated the funds in 1969. This will assure him a place in history as the Architect of the Great Capitol Boondoggle. But when he comes back to Congress with this folly and an appropriation request for $60 or $75 or $100 million to carry it out, Congress will, we are sure, refuse him. For Congress is responsive to the people. And the American people, after far too many years of destructive "progress" which bulldozed away some of our more cherished landmarks, are gaining a new and wholesome respect for our historic heritage. They like the Capitol as it stands.

IN SUPPORT OF ISRAEL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. STOKES. Mr. Speaker, on March 21, 1972, the Congressional Black Caucus, which I chair, issued a resolution in strong support of the nation of Israel.

We pledged our continuing support to the concept that Israel has the right to exist in peace as a nation. We cited the friendship that exists between the land of Israel and her young African neighbors, which is mirrored in the long-term friendship between American Jews and black Americans.

On May 18, 1970, I had the opportunity to visit Israel. During my weeklong visit, I met with Israeli officials and discussed with them, in depth, the subjects of education, housing, and the military. I learned that Israel has been able to solve many of the problems with which our country is still grappling; they have, for example, made significant inroads upon the overwhelming problem of poverty. I witnessed for myself the close relationship that exists between Israel and her African neighbors.

I urge my colleagues and my fellow citizens to join me during the Passover week in remembering Israel and wishing her eternal success and strength as an independent nation.

The Congressional Black Caucus statement follows:

CONGRESSIONAL BLACK CAUCUS REAFFIRMS ITS POSITION ON THE STATE OF ISRAEL

WASHINGTON, D.C., March 21, 1972.—The Congressional Black Caucus today reaffirms its friendship with the State of Israel with the following statement:

STATEMENT

As the Black elected representatives to the U.S. Congress, we reaffirm our position that we fully respect the right of the Jewish people to have their own state in their historic National Homeland. We vigorously oppose the efforts of any group that would seek to weaken or undermine Israel's right to existence.

The American people, including Black Americans, have cherished the friendship of both the peoples of Israel and the Arab states. Our Government, reflecting that friendship, has sought to promote an Arab-Israel peace and has provided both Israel and the Arab states with economic assistance to raise the living standards of their people. Our Government has also contributed more than one-half billion dollars for the relief and rehabilitation of the Palestinian Arab refugees.

Moreover, we think it appropriate to call special attention to the cordial relationships Israel has maintained with the developing Black nations in Africa and the third world nations in Asia.

Indeed, it was the establishment of the State of Israel in 1948—a revolutionary development in the Middle East—which helped stimulate the national aspirations of many Black people who were then under colonial rule in Africa.

As these new states were established, many were impressed and helped by Israel's example. Israel sent her teachers, technicians, and experts to many countries. Thirty Black African nations, from Burundi to Zambia, have benefitted from Israel's financial and technical assistance. Hundreds of Africans come to Israel each year for specialized instructions within her universities and training centers for short-term, intensive courses in social work, vocational education, scientific farming and urban development.

In the last decade more than 7,000 Black Africans have received training in every phase of nation-building: road building, publishing, child care, higher education, and citriculture aid.

In times of crises—epidemic, wars, famines—Israel has sent tons of relief supplies and medical aid to her African neighbors.

Indeed, the example set by the Jewish people in their long struggle to overcome oppression and to win freedom, from the time of Moses to the establishment of the State of Israel, has helped inspire Black people in this country to strive for self-respect and dignity and to revive their own cultural heritage.

We pledge our continued support to the concept that Israel has the right to exist in peace as a nation.

NATIONAL WILDLIFE WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. BIAGGI. Mr. Speaker, wildlife constitutes a vital factor in the world's ecological system, as well as an integral part of its environment. Our various species of animals are a natural resource as precious as any other, and, perhaps, more precious than most. Thus, the problems of species survival and preservation deserves that same attention, recognition and, most importantly, that same concern which we have given in recent years to other environmental problems such as air and water pollution. It is with this in mind that I join in this week's celebration of National Wildlife Week.

Since entering Congress, I have recognized conservation as a major natural concern, particularly in the sphere of protecting our wildlife. There were two areas which I deemed to be of the greatest significance: The protection of species of animals which were in danger of extinction, and the prevention of cruel and barbaric treatment of wildlife.

In the first area, I am an original sponsor of the Endangered Species Conservation Act amendments which will broaden the number of species designated as endangered. This will protect certain subgroups of animals which without such legislation would be hunted into extinction. I also am a cosponsor of another amendment to the same act which will double the monetary authorization for implementing the law. This will put more muscle in the enforcement of the Endangered Species Act. The effects of this enforcement are already apparent. Several notable actions have taken place recently. Whales and the eight species of spotted cats are placed on the endangered species list. At the same time poachers of alligators and killers of polar bears are being prosecuted in separate cases.

Additionally, the Committee on Merchant Marine and Fisheries, of which I am a member, has completed or is completing work on numerous bills to protect our wildlife resources. We have just begun hearings on the protection of predator birds such as the hawks and owls which are threatened by unscrupulous hunters.

I am a cosponsor as well of legislation in the committee that would permit the transfer of surplus Liberty ships to the States for use as offshore reefs to serve as fish habitats. These habitats in turn provide not only good fishing, but multiply the food sources available for ocean mammals and sea-oriented birds.

The committee has completed action, and the House has passed bills, to establish the San Francisco Bay National Wildlife Refuge and to protect the Atlantic salmon. The latter bill was signed into law by the President recently.

With respect to the second area, that of the prevention of cruel treatment of our wildlife, I was an early sponsor of the Harris-Pryor ocean mammals protection bill. This bill would have prevented the senseless killing of ocean mammals which in many cases may soon face extinction. The bill that emerged from committee was not as strong as the original legislation so I and others introduced several floor amendments to strengthen the bill. Unfortunately we were not completely successful.

However, in other legislative efforts, I and others were successful in obtaining passage and final signature into law of legislation to prohibit the shooting of wildlife from aircraft. Also, the House has approved the bald eagle protection bill which was developed in my committee.

These legislative efforts are but a few of the steps being taken today to protect our Nation's wildlife resources. In recent years Congress and the American people have recognized the need to make a stronger commitment to preserving our wildlife resources. Not since Teddy Roosevelt saw fit to set aside Rock Creek Park in the city of Washington so that the people could enjoy nature has the Government responded adequately to the need of our Nation's animal resources.

Mr. Speaker, as we celebrate National Wildlife Week, let us be cognizant of the important role wildlife plays both in our ecosystem and our environment; and let us treat these creatures with whom we share this thin crust of the earth with the same care and concern as we do our other precious natural resources.

BYELORUSSIAN INDEPENDENCE DAY

HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 23, 1972

Mr. KING. Mr. Speaker, on March 25, our fellow citizens of Byelorussian origin will celebrate the anniversary of the independence of the land of their fathers.

The free Republic established in Byelorussia in 1918 was based on respect for the dignity of the individual and equality opportunity for all.

Unfortunately, this Republic did not last long and became one of the captive nations suffering under the yoke of communism. We are glad that many from that rich and fertile country came to the United States where they and their descendants are enjoying dignity and freedom.

It is fitting for all Americans to show our sympathy to their hopes for the restoration of liberty in Byelorussia.

HOUSE OF REPRESENTATIVES—*Monday, March 27, 1972*

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my song, He is my God, my father's God, and I will exalt Him.—Exodus 15: 2.

Gratefully, O God, do we lift our spirits unto Thee giving Thee the thanksgiving of our hearts for Thy never-ending goodness to us and to Thy children. We remember that Thou didst lead the children of Israel from bondage to freedom, from darkness to light and from despair to hope. In grateful memory of this wonderful deliverance is celebrated this week the joyful festival of the Passover.

We thank Thee for Thy providence which keeps the spirit of truth and justice and peace alive in the hearts of men. May all persecution cease, all bondage disappear, and all oppression be erased from human life everywhere. Let Thy blessing rest upon the house of Israel and upon every one of us. Together may we unite in singing the songs of freedom as we journey to the promised land of liberty and justice for all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 18) entitled "An act to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 141. An act to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes;

S. 3153. An act to amend the act of January 8, 1971 (Public Law 91-660; 84 Stat. 1967), an act to provide for the establishment of the Gulf Islands National Seashore, in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes;

S. 3159. An act to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes;

S. 3178. An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President;

S. Con. Res. 59. Concurrent resolution to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877," to the National Portrait Gallery of the Smithsonian Institution;

S. Con. Res. 63. Concurrent resolution to establish a Joint Committee on Inaugural Ceremonies of 1973; and

S. Con. Res. 70. Concurrent resolution authorizing the printing of additional copies of Senate hearings on the Consumer Product Safety Act of 1971.

The message also announced that the Vice President, pursuant to Public Law 207, 81st Congress, appointed Mr. GAMBRELL as a member of the Board of Visitors to the U.S. Coast Guard Academy.

The message also announced that the Vice President, pursuant to Public Law 301, 78th Congress, appointed Mr. CHILES as a member of the Board of Visitors to the U.S. Merchant Marine Academy.

CALL OF THE HOUSE

Mr. MYERS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 90]

Abbitt	Bow	du Pont
Abernethy	Celler	Dwyer
Abourezk	Chappell	Edmondson
Alexander	Chisholm	Edwards, La.
Anderson, Calif.	Clark	Esch
	Clawson, Del	Eshleman
Anderson, Tenn.	Clay	Fish
	Collins, Ill.	Flowers
Badillo	Conyers	Ford, William D.
Baring	Culver	
Bell	Davis, S.C.	Fraser
Bevill	de la Garza	Frelinghuysen
Biaggi	Delaney	Galifianakis
Bingham	Dickinson	Gallagher
Blackburn	Dowdy	Gaydos
Blanton	Dulski	Gettys
Blatnik	Duncan	Giaimo
Boggs	Eckhardt	Goldwater
Boland	Edwards, Calif.	Hagan
Brademas	Evins, Tenn.	Halpern
Brasco	Fascell	Harrington
Brooks	Flood	Helstoski
Broomfield	Foley	Hillis
Brown, Mich.	Ford, Gerald R.	Hull
Brown, Ohio	Fulton, Pa.	Jones, Tenn.
Broyhill, N.C.	Fuqua	Kemp
Burke, Fla.	Gallagher	Landgrebe
Burke, Mass.	Garmatz	Leggett
Burton	Gaydos	Lent
Byrne, Pa.	Gettys	McCloskey
Byrnes, Wis.	Gibbons	McKinney
Carey, N.Y.	Gonzalez	Mann
Carney	Grasso	Moorhead
Carter	Green, Oreg.	Murphy, N.Y.
Cederberg	Green, Pa.	Nix
Chamberlain	Gross	Patman
Chisholm	Gubser	Pepper
Clancy	Gude	Pike
Clausen, Don H.	Hamilton	Podell
	Hanna	Preyer, N.C.
Cleveland	Hansen, Idaho	Pryor, Ark.
Cohelan	Hansen, Wash.	Rarick
Conable	Harsha	Reid
Conte	Hastings	Reuss
Corbett	Hathaway	Rostenkowski
Coughlin	Hawkins	Rousselot
Crane	Hays	Roy
Daniel, Va.	Hechler, W. Va.	St Germain
Daniels, N.J.	Heckler, Mass.	Sarbanes
Davis, Ga.	Hicks	Satterfield
Davis, Wis.	Holifield	Scheuer
de la Garza	Horton	Sikes
Delaney	Howard	Smith, N.Y.
Dellenback	Hungate	Springer
Dellums	Jarman	Steiger, Ariz.
Denholm	Johnson, Pa.	Stokes
Dent	Jones, Ala.	Stuckey
Derwinski	Jones, N.C.	Teague, Calif.
Devine	Karth	Terry
Dingell	Kastenmeier	Thompson, Ga.
Donohue	Kazen	Tiernan
Dorn	Kee	Van Deerlin
Downing	Kluczynski	Vander Jagt
Drinan	Koch	Whalley
Eilberg	Kuykendall	Yates
Erlenborn	Kyl	Zwach
Fisher	Kyros	
Flowers	Lujan	
Foley	Lukens	
Ford, Gerald R.	McCulloch	
Fulton, Pa.	McDade	
Fuqua	McEwen	
Gallagher	McFall	
Garmatz	McMillan	
Gibbons	Macdonald, Mass.	
Gonzalez	Madden	
Grasso	Mahon	
Green, Oreg.	Mailliard	
Green, Pa.	Martin	
Gross	Matsunaga	
Gubser	Mayne	
Gude	Meeds	
Hamilton	Melcher	
Hanna	Metcalfe	
Hansen, Idaho	Mikva	
Hansen, Wash.	Mills, Ark.	
Harsha	Minish	
Hastings	Mitchell	
Hathaway	Mizell	
Hawkins	Moakley	
Hays	Mollohan	
Hechler, W. Va.	Monagan	
Heckler, Mass.	Montgomery	
Hicks	Moorhead	
Holifield	Morgan	
Horton	Mosher	
Howard	Moss	
Hungate	Natcher	
Jarman	Nedzi	
Johnson, Pa.	Nichols	
Jones, Ala.	Obey	
Jones, N.C.	O'Hara	
Karth	O'Konski	
Kastenmeier	Olsen	
Kazen	Passman	
Kee	Patten	
Kluczynski	Pelly	
Koch	Perkins	
Kuykendall	Pettis	
Kyl	Peyser	
Kyros	Pickle	
Lujan	Poage	
Lukens	Powell	
McCulloch	Price, Ill.	
McDade	Price, Tex.	
McEwen	Pucinski	
McFall	Quie	
McMillan	Quillen	
Macdonald, Mass.	Railsback	
Madden	Randall	
Mahon	Rangel	
Mailliard	Rees	
Martin	Regula	
Matsunaga	Rhodes	
Mayne	Riegle	
Meeds	Rodino	
Melcher	Roe	
Metcalfe	Rogers	
Mikva	Roncalio	
Mills, Ark.	Rooney, N.Y.	
Minish	Rooney, Pa.	
Mitchell	Rosenthal	
Mizell	Rostenkowski	
Moakley	Roush	
Mollohan	Roybal	
Monagan	Ruppe	
Montgomery	Ryan	
Moorhead	St Germain	
Morgan	Sandman	
Mosher	Sarbanes	
Moss	Scherle	
Natcher	Scheuer	
Nedzi	Schneebeli	
Nichols	Sebelius	
Obey	Shipley	
O'Hara	Shoup	
O'Konski	Shriver	
Olsen	Sikes	
Passman	Sisk	
Patten	Slack	
Pelly	Smith, Calif.	
Perkins	Smith, Iowa	
Pettis	Smith, N.Y.	
Peyser	Snyder	
Pickle	Springer	
Poage	Staggers	
Powell	Stanton, J. William	
Price, Ill.	Steed	
Price, Tex.	Steelman	
Pucinski	Steiger, Ariz.	
Quie	Steiger, Wis.	
Quillen	Stephens	
Railsback	Stokes	
Randall	Stratton	
Rangel	Stubblefield	
Rees	Stuckey	
Regula	Sullivan	
Rhodes	Symington	
Riegle	Talcott	
Rodino	Taylor	
Roe	Teague, Calif.	
Rogers	Terry	
Roncalio	Thompson, Ga.	
Rooney, N.Y.	Thompson, N.J.	
Rooney, Pa.	Thomson, Wis.	
Rosenthal	Tiernan	
Rostenkowski	Udall	
Roush	Ullman	
Roybal	Van Deerlin	
Ruppe	Vander Jagt	
Ryan	Vanik	
St Germain	Vigorito	
Sandman	Waggonner	
Sarbanes	Waldie	
Scherle	Wampler	
Scheuer	Ware	
Schneebeli	Whalen	
Sebelius	Whalley	
Shipley	White	
Shoup	Whitehurst	
Shriver	Whitten	
Sikes	Widnall	
Sisk	Wiggins	
Slack	Williams	
Smith, Calif.	Wilson, Bob	
Smith, Iowa	Wilson, Charles H.	
Smith, N.Y.	Winn	
Snyder	Wold	
Springer	Wolff	
Staggers	Wright	
Stanton, J. William	Wyatt	
Steed	Wydler	
Steelman	Wylie	
Steiger, Ariz.	Wyman	
Steiger, Wis.	Yates	
Stephens	Yatron	
Stokes	Young, Alaska	
Stratton	Young, Fla.	
Stubblefield	Young, Ga.	
Stuckey	Young, Ill.	
Sullivan	Young, S.C.	
Symington	Young, Tex.	
Talcott	Zablocki	
Taylor	Zwach	

The SPEAKER. On this rollcall 336 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

RESIGNATION FROM COMMITTEES

The SPEAKER laid before the House the following resignation from committees:

WASHINGTON, D.C.,
March 23, 1972.

Hon. CARL ALBERT,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Having changed my registration yesterday from Republican to Democrat, I hereby resign from the Committee on Education and Labor and the Committee on Government Operations, as a Republican member.

With warm regard,
Sincerely yours,

OGDEN R. REID.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

AUTHORIZING CERTAIN NAVAL VESSEL LOANS

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, line 12, strike out "four" and insert "five".

Page 3, after line 7, insert:

"SEC. 5. Any loan made to a country under this Act shall not be construed as a commitment by the United States to the defense of that country."

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. GROSS. Mr. Speaker, reserving the right to object, I do think the House ought to have a few words of explanation as to what the Senate amendments contain.

Mr. HÉBERT. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. HÉBERT. I agree with the gentleman from Iowa that the House should have an explanation of the Senate amendments.

The bill which we sent to the Senate side provided for a 4-year limitation. Prior to the passage of this legislation it was a 5-year period on the loan and an option to extend for another 5 years. The Senate merely changed it to make it 5 years with no option to extend.

Also, at the time the bill was passed, as the gentleman recalls, I made the commitment to the effect that the Armed Services Committee would have a special subcommittee go into this entire matter of ship loans, particularly with reference to South American countries and their activities with reference to our fishing fleets.

Mr. GROSS. Is this to be a joint subcommittee or a House subcommittee?

Mr. HÉBERT. No; this will be a subcommittee of the House Committee on Armed Services. We feel we can do our own job and obtain results more expeditiously.

Mr. GROSS. I can understand that in view of the presidential candidates and campaign situation in the Senate.

I thank the gentleman from Louisiana for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ADDITIONAL LEGISLATIVE PROGRAM AND SPECIAL BRIEFINGS

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I take this time to announce that on tomorrow the chairman of the Committee on Ways and Means will seek to call up by unanimous consent the bill (H.R. 13334), the establishment of positions in the Treasury Department.

Also, on Wednesday the six money resolutions will be called up from the Committee on House Administration.

NEW CAMPAIGN REPORTING LAW

Further, Mr. Speaker, I would like to announce for the benefit of all the Members of the House that briefing sessions by the Comptroller General and the Clerk's office for all Members and administrative assistants are being held in the Ways and Means Committee room today, tomorrow and Wednesday on the new campaign expenditures bill.

The morning sessions start at 9:30 a.m. and the afternoon sessions start at 2:30 p.m.

ARRANGEMENTS FOR INAUGURATION OF THE PRESIDENT-ELECT AND VICE-PRESIDENT-ELECT OF THE UNITED STATES ON JANUARY 20, 1973

Mr. BOGGS. Mr. Speaker, I call up the Senate concurrent resolution (S. Con. Res. 63) and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That a joint committee consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice-President-elect of the United States on the 20th day of January 1973.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF JOINT COMMITTEE TO MAKE ARRANGEMENTS FOR INAUGURATION OF THE PRESIDENT-ELECT AND THE VICE-PRESIDENT-ELECT

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 63, 92d Congress, the Chair appoints as members of the joint committee to make the necessary arrangements for the inauguration of the President-elect and the Vice-President-elect of the United States on the 20th day of January 1973 the following members on the part of the House: Mr. ALBERT, Mr. BOGGS, and Mr. GERALD R. FORD.

PROPOSED AMENDMENT TO WATER POLLUTION CONTROL BILL

(Mr. MAHON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, H.R. 11896, the water pollution control bill reported out of the House Committee on Public Works is in my judgment a vast improvement over the bill passed by the other body, and I propose to support it.

I will have a procedural amendment which would substitute advance appropriation funding for the contract authority procedure now in the bill. Otherwise, for all practical purposes the Congress would be out of the picture for the 3 fiscal years covered by the provision, as I see it.

As I say, my amendment is procedural. I hope the proposal will not be too controversial a matter. The purpose is a matter of keeping Congress in the picture year by year, rather than surrendering and abdicating to the executive department for a 3-year period.

This proposed legislation is the beginning of a very accelerated, long-range and expensive program, and it seems to me that the Congress should not to any degree write itself out of the picture on a question as momentous as this one is.

I trust that as the consideration of this measure progresses it will be possible for Members to give consideration to the amendment which I shall offer. It will be printed in the RECORD of the proceedings of today.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORTS ON SEVERAL PRIVILEGED RESOLUTIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file reports on several privileged resolutions.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

VOTER REGISTRATION ASSISTANCE ACT OF 1972

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, I am today introducing legislation to establish a comprehensive program of Federal financial assistance to aid States and local governments in carrying out, modernizing, and expanding voter registration programs.

This legislation, introduced in the other body as S. 3420 by Senator KENNEDY, would establish a bipartisan Voter Registration Assistance Administration within the Bureau of Census. This agency would be authorized to conduct far-reaching programs of financial assistance.

First, the administration is authorized to provide direct and immediate financial assistance to States and local governments by making grants in amounts up to 30 percent of the costs of carrying out existing voter registration programs.

Second, it is authorized to pay the full cost of a postal card registration program adopted by any State or local government.

Third, it provides financal incentives to States and local governments to increase the percentage of eligible voters who are registered.

Fourth, it is authorized to provide planning grants to enable States and local governments to modernize their voter registration procedures.

And fifth, the administration is authorized to provide technical assistance to States and local governments to improve their registration procedures, including assistance in developing programs for the prevention and control of fraud.

If our Government is to be responsive to the true needs of its people, it is essential that every step be taken to bring the average citizen into the political process. Voter registration is a key to that involvement. I believe the Voter Registration Assistance Act of 1972, which I am today introducing, will be a

significant step in expanding voter registration programs.

PERSONAL EXPLANATION

(Mr. WHITE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WHITE. Mr. Speaker, due to a death in my family, I did not attend the session on Monday, March 6, Tuesday, March 7, Wednesday, March 8, and Thursday, March 9, thereby missing several votes. Had I been present, I would have voted as follows:

"Yea" on rollcall vote 62, the juror qualification forms; "yea" on rollcall vote 63, the veterans' education and training amendments; "nay" on rollcall vote 65, on a motion to table the motion to instruct the conferees to insist on the House amendments to the Higher Education Act; "yea" on rollcall vote 66, on a motion to instruct the conferees to insist on the House antibusing amendments to S. 659, the Higher Education Act; "yea" on rollcall vote 67, the conference report on H.R. 1746 the Equal Employment Opportunities Act of 1972; "yea" on rollcall vote 68, the appropriation authorization for Transpo '72; and "yea" on rollcall vote 70, the Marine Mammal Protection Act.

TRAGEDY IN ROCKLAND COUNTY

(Mr. PEYSER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker and Members of the House, this past Friday in my district in Rockland County, N.Y., there was a schoolbus tragedy that in my opinion never should have happened. A train of the Penn Central struck a schoolbus with 49 children in it. Three of the children were killed immediately, seven are in critical condition. All are in the hospital.

I was present at the scene of this accident within 1 hour after it had occurred, and then visited the hospital.

This week I am going to introduce legislation that makes it impossible for schoolbuses to use railroad crossings where there are no warning signals, no lights, and no gates.

To me, this an inexcusable thing, that in this day and age we still have schoolbuses using unguarded crossings of this nature. I think we have to make the change. It is too late to help in this tragedy, but we certainly can avoid others from happening.

EDUCATIONAL FILMS ON "CAPTAIN KANGAROO" PROGRAM

(Mr. HANSEN of Idaho asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, on April 3, the "Captain Kangaroo" television program on CBS will begin showing a 10-week series of films on health, nutrition and growing up. These 50 films, each 3½ minutes long, were prepared for the U.S. Office of Child Development, HEW by Sutherland Learning Associates, on a nonprofit basis.

According to Dr. Edward Ziegler, Director of Office of Child Development, this is the first time that a Federal agency, a national commercial network and a producer of multimedia learning systems have cooperated on a joint venture. "Sesame Street," which was also substantially funded by the Federal Government, has been aired primarily through public broadcasting. Since "Captain Kangaroo" is viewed by some 5 to 6 million children each day, it will offer an excellent means of making these materials available to young children.

Subjects of the films include "The Five Senses," "Taste," "Rhythm," "Snacks," "Waking Up," "How To Get Information," "Experiment, Try New Things," "What Is a Friend?" and "If You Do Something Nice." The overall aim of the films is to develop in the child viewer a feeling of self-assurance and appreciation of his physical well-being, so that in later years he will be less likely to be attracted to drugs and other activities harmful to good health.

The films will be repeated again next fall. It is also expected that they will be shown in Headstart programs, day-care centers and school systems throughout the country.

The House Republican Task Force on Education and Training, on which I serve as Chairman, has devoted considerable attention to educational television. Through CBS, we have arranged for a showing of a few of these films segments next Tuesday, March 28 at 4:30 p.m. in room 2261, Rayburn House Office Building. This session will be open to anyone who would like to see these unique children's programs.

THE PRESIDENT AND THE CONGRESS ARE NOT INDIFFERENT TO NEEDS OF THE POOR

(Mr. COLLIER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. COLLIER. Mr. Speaker, in light of the demonstrations here in Washington on Saturday, I think it is in order to correct the misimpressions which frequently are created by ill-conceived slogans and certain other actions of uninformed people. To suggest that the President and the Congress are indifferent to the needs of the poor is either a result of a lack of knowledge or an abandonment of any pretense of responsibility.

A perusal of the budget submitted to the Congress by President Nixon early this year reveals that a total of $3,020,135,000 will be provided during fiscal 1973 for the food programs administered by the Department of Agriculture. This amount will be somewhat more than the $2,805,551,000 provided for the current fiscal year and a substantial increase over the $2,218,369,000 for fiscal 1971.

Data that I will insert in the appendix of the RECORD today indicate that well over 30,000,000 children and adults will receive food paid for by the Federal taxpayers during the coming fiscal year, which will begin 3 months hence. A total of 27,500,000 pupils will participate in the school lunch program, while 10,539,159 adults and children will benefit from the food stamp program.

Mr. Speaker, let us have a moratorium on demagoguery when we talk about hunger. The American people are compassionate and generous and will never let anyone go hungry if they are aware of their plight. They will see to it that the hungry are fed by one means or another through individual attention, through religious and charitable organizations, and through governmental programs at all levels.

THE CATTLEMEN HAVE A BEEF COMING

(Mr. TALCOTT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, there has been much breast beating over the cost of beef. This has been particularly true in the Washington area where two supermarket chains have been trying to translate beef prices into a self-serving advertising campaign.

I believe a recitation of facts is in order so that the consumers will be able to judge for themselves who is the real culprit responsible for the high retail price of beef.

In 1960 live beef sold for $25.92 per 100 pounds. Leaving the packing plant it sold for $44.50 per 100 pounds. At the supermarket counters it was $69.70 per 100 pounds.

In 1971 the price of live beef was $32.35 per 100 pounds and at the packing plant it was $63.64 per 100 pounds, but it rose to $104.32 at the supermarket level. Thus, the increase in 100 pounds of live beef was only $6.43. At the supermarket level, the increase over the same period was $34.62 per 100 pounds. More recent figures more accurately pinpoint where the price increase is taking place. Three weeks ago live beef retailed at $38.00 per 100 pounds. Today live beef is $34.50 per 100 pounds. This is a drop of $3.50 without any corresponding drop at the retail level.

The consumer should also consider what part of his total food budget is used for beef.

In 1960 the homemaker spent 20 percent of the family income on food.

In 1971 the homemaker is spending only 16.2 percent on food. During the same period, 1960–1971, the per capita consumption of beef rose from 85 pounds to 113.3 pounds per capita per year.

We can look at the price of beef in still another light.

In 1951 an hour of labor bought 1.7 pounds of beef.

In 1971, 1 hour of labor bought 3.3 pounds of beef. In other words, the same hour of labor now purchases twice as much beef.

Viewed in terms of investment, today producers of beef earn about 3 percent return on their investment. Compare this with the average return on investments for industry which is 12 percent. No one can accuse the cattlemen of being in the most lucrative business.

A careful analysis of these statistics prompts one to ask, "What is the underlying motive of the supermarket advertising campaign?" Could it be that they want to force the cattlemen out of business and assimilate their operations into their corporate structure and thus give birth to a new form of conglomerate? Only time will tell. I suggest we have enough conglomerates.

INFLATION BEING PUSHED IN THE RIGHT DIRECTION—DOWNWARD

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, serious inaccuracies are being directed to the public by persons seeking to discredit the administration's economic stabilization program. I believe these tactics are a disservice to everyone genuinely desirous of having our economy advance amid conditions of stability. A prominent labor leader rejects the stabilization program as unfair and not working; a leading presidential candidate tells his audience the cost of living has risen 5 percent since the program was initiated; another critic writes that the inflation rate has jumped even more than that.

If this kind of criticism results from misinformation, let me hasten to place on the record here what the official statistics of the U.S. Department of Labor reveal about the cost of living since August 15. Since last August the consumer price index has gone from 122.1 to 123.8, a rise of 1.7 on the index, and a percentage rise of 1.4 percent in 6 months. That is not 5 percent or more, but 1.4 percent.

As a result of the restraint on prices which has occurred during this period, the increase in the consumer price index was held to 3.4 percent for all of 1971. That compares with a 5.5-percent rise in 1970 and 6.1 percent in 1969. On the basis of these facts, I would say the rate of inflation is being pushed in the right direction—downward.

Mr. Speaker, everyone concerned with the economy, whether in business, labor, or government, has important decisions to make affecting the economy. I believe it is important that these decisions be made on the basis of the best information available and not on misrepresentations issued for whatever purpose.

HIGHER PRICES ONLY A BAD DREAM

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, I was interested to hear the remarks of the minority leader a few moments ago which, I think, should be encouraging to the entire country. He has put the housewives of this Nation on notice now that the high prices, and the constant increases in food prices that they thought they were paying are all just a bad dream.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 913 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 913

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against sections 2, 8, and 12 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11896, the Committee on Public Works shall be discharged from the further consideration of the bill S. 2770, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 11896 as passed by the House.

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. SMITH), pending which I yield myself such time as I may require.

Mr. Speaker, House Resolution 913 provides an open rule with 4 hours of general debate for consideration of H.R. 1896, Federal Water Pollution Control Act Amendments of 1972. It shall be in order to consider the committee substitute as an original bill for the purpose of amendment and all points of order against sections 2, 8, and 12 of the substitute are waived for failure to comply with the provisions of clause 4, rule XXI—appropriations in a legislative bill. After passage of H.R. 11896, the Committee on Public Works shall be discharged from further consideration of S. 2770 and it shall be in order to move to strike all after the enacting clause of the Senate bill and amend it with the House-passed language.

H.R. 11896 is a very comprehensive and complex bill, the purpose of which is to provide clean waters.

Its goals are to eliminate the discharge of pollutants into waters by 1985 and to achieve water quality by 1981 which would provide for protection and propagation of fish and wildlife and for recreation.

Discharge of toxic pollutants would be prohibited; financial assistance would be provided to communities to construct publicly owned waste treatment facilities; research and development would be increased; regional and basin planning and management programs would be expanded; redtape would be eliminated in the administration of the programs.

The total authorization in the bill is $24.623 billion—$356 million for fiscal year 1972, $9.872 billion for fiscal year 1973, $7.045 billion for fiscal year 1974, and $7.350 billion for fiscal year 1975.

The Committee on Public Works considered the legislation over a 7-month period. They held 38 days of hearings, heard 294 witnesses, and received 135 additional statements for the record before reporting the legislation.

Mr. Speaker, I urge the adoption of the rule in order that H.R. 11896 may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I concur in the statements made by the distinguished gentleman from Texas in explanation of House Resolution 913.

The points of order have to be waived in relation to the three sections because of appropriations or a transfer of funds, which this committee cannot do. It is in violation of clause 4 of rule XXI.

This is a far-reaching, complex, comprehensive program. It may be one of the largest undertakings we will be starting on or have been starting on for some period of time. All of us what to do everything we can to clean up the water situation.

The purpose of H.R. 11896 is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

The bill sets as national goals; first, the elimination of the discharge of pollutants into the waters of the U.S. by 1985; second, the achievement by 1981 of the interim goal of water quality safe for marine life and recreation.

It is the stated policy of the bill to prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct publicly owned waste treatment facilities, to increase research and development, to expand regional planning programs, and to have the President act to insure to the fullest extent possible that all foreign countries act to control water pollution.

In order to carry out these objectives, the bill authorizes $24,623,000,000 for the period between the enactment of the legislation and the end of the fiscal year 1975. Of this amount $18,350,000,000 is for the construction of waste treatment facilities. We all know it will probably cost more money than this. I do not think anybody can guess the amount of money or anticipate precisely when this big program will be finished, but the legislation does call for a study.

Mr. Speaker, the bill establishes the maximum Federal share of construction grants to 75 percent.

To attain the 1981 and 1985 goals, the bill requires that the National Academy of Sciences complete within 2 years of the enactment of the bill, a study of the costs and benefits. The 1981 and 1985 goals would not be implemented until Congress has an opportunity to evaluate the report and take further action.

The bill declares to be unlawful the discharge of any pollutant by any person, except as specifically authorized in the bill. Permits would be issued by a Federal-State permit program. The administrator of EPA shall promulgate guidelines which spell out the details of a State program, which would be capable of managing the permit programs. Those States which in the administration's judgment have programs which meet these guidelines would assume the responsibility of managing the permit program in those States. In States which fail to meet the guidelines, the administrator will carry the program.

Mr. Speaker, the report of the Public Works Committee includes a letter from EPA which supports the goals of this bill, but notes that costs must be considered in relation to benefits. Among the numerous changes proposed by EPA, the following are two of the most notable:

EPA opposes increasing the Federal share to a maximum of 75 percent of the cost of construction.

EPA proposes a $6 billion construction grant program, whereas this bill would authorize more than three times that amount. The committee report also contains a letter from the Office of the Management and Budget, which concurs in the EPA position.

When this bill was originally reported out by the Committee on Public Works, the Governor of the State of California, Mr. Ronald Reagan, sent a telegram, dated March 11, 1972, to me, and I presume to other Republican Members, and I quote:

SACRAMENTO, CALIF.,
March 11, 1972.

The Honorable H. ALLEN SMITH,
Member of Congress,
Rayburn House Office Building,
Washington, D.C.:

Understand bill being reported from House Public Works Committee today as major revision of Federal Water Pollution Control Act.

This is such a major piece of legislation that it is vital that time be given for the States to study the bill before it goes to the House floor for action. I strongly urge that the House Rules Committee defer scheduling this bill for floor action until the States have had at least 30 days to analyse it.

RONALD REAGAN,
Governor, State of California.

I contacted an official of the Water Resources Control Board, and told him it would not be possible to delay for 30 days. This is an important bill. I suggested they should study it over the weekend, as I was prepared to do, and report back. They cooperated and did that. Under date of March 22, they submitted a letter to me setting forth some of the objections they had to the bill.

Subsequent to that time, Mr. Speaker, during the hearings before the Rules Committee, one of the problems was brought up. That problem has to do with the difference between the bill as passed by the other body, which bases its formula, I believe, on population and the House bill, which is based on a needs test. The question which arose was that the needs test was taken on the 1970 figures, and some of the States thought that those figures were not fair to them from the standpoint of the share they would receive.

As I further understand it, there are additional figures based on the 1972 needs test which is available some place, or will be available by the time this bill reaches the conference between the House and the Senate. I made this suggestion to the distinguished gentleman from Alabama (Mr. JONES) the chairman of the subcommittee and to the distinguished ranking minority member of the subcommittee, the gentleman from Ohio (Mr. HARSHA) and they stated those figures would be considered by the conferees at the time of the conference, that the figures were not available when this bill was reported. Accordingly I am relying upon their judgment, and so reported to California.

Accordingly, the following telegram was received by all Members of the California delegation from the Governor of California, Ronald Reagan, dated March 23, 1972:

STATE OF CALIFORNIA,
Sacramento, Calif., March 23, 1972.

To all Members of the California Congressional Delegation via California State Office, Washington, D.C.

"H.R. 11896, the Water Pollution Control Act amendments of 1972, which will come to the floor of the House on Monday, is significantly superior to the Senate bill S. 2770 because it would allow California to continue an effective water pollution control program. I urge you to support the bill together with three amendments to be introduced by the House Public Works Committee—one covering reimbursement, one covering irrigation flow and one on wildlife—and to cooperate with the managers of the bill in their effort to pass the bill without any other floor amendments. The leadership of the House Public Works Committee has given assurance that a major problem area to California in the bill, i.e. the use of the outdated 1970 needs study as the basis for allocation of funds, will be given careful study by the conference committee with an eye to substituting the most recent needs study, 1972, in the final product."

RONALD REAGAN, *Governor.*

Before concluding, if either the distinguished gentleman from Alabama (Mr. JONES) or the distinguished gentleman from Ohio (Mr. HARSHA) wishes me to yield, in case I have made any statement that is not correct, I shall be glad to do so. I want to be certain that I have stated the situation correctly so far as the conference is concerned.

Otherwise, Mr. Speaker, I urge the adoption of the rule and reserve the remainder of my time.

Mr. YOUNG of Texas. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana, the ranking majority member of the Rules Committee.

Mr. MADDEN. Mr. Speaker, last Thursday the Rules Committee heard testimony from the Public Works Committee on H.R. 11896, the Water Pollution Control Act now being considered by the House under an open rule for debate. This legislation, along with its kindred companion, air pollution control, are two of the most important problems concerning the future of Americans, especially pertaining to the Nation's health and the environment generally, that Congress will have to solve in the next 10 years. Our Government has been criminally negligent during the last 20-odd years in not making an all-out effort to curb water pollution and preserve the lakes, rivers, and all water resources of our country.

We admit that one must consider today that almost 75 percent of our population live in urban areas where drinking water during the last 12 years has become stagnated and infested with germs and pollutants caused by municipalities, industries, and all segments of our economy dumping refuse, waste, and pollutants into our lakes and streams. Beaches are being closed, rivers, both large and small, are becoming stenchholes, and over 30 percent of the Nation's drinking water contains hazardous amounts of chemicals and pollutants.

This bill calls for an all-out drive by the Federal Government to eliminate the discharge of pollutants into our lakes, rivers, and navigable waters by 1985. In the meantime the legislation strives to purify our lakes and streams so that they would all be suitable for swimming and fishing by 1981.

The bill would authorize $60 million toward research, organization, and preparation for 1973; and $75 million for 1974 for grants to States and intrastate planning agencies to develop and carry out water quality control and abatement programs.

My congressional district, known as the Callumet region of Indiana, is a center for three major steel mills, oil, and gas refineries, and several hundred other industries and corporations, both large and small. We are adjacent to 5 to 6 million people living in the Chicago land area and both localities are on the border of Lake Michigan. Water pollution is rampant in adjoining Lake Michigan. This legislation authorized the pollution administration to cooperate with State and local agencies to demonstrate new techniques and control pollution of the Great Lakes. This bill authorizes $20 million for this purpose, but requires that State and local agencies pay 25 percent of the project cost. This bill also directs the Corps of Army Engineers to develop a demonstration waste water program for the rehabilitation of Lake Michigan and Lake Erie, the most polluted of the Great Lakes.

This legislation also provides financial assistance for the development and construction of waste treatment facilities. It awards grants to State and local agencies to discover and expand the best practicable waste treatment techniques. The bill also provides grants for the rehabilitation and improvement of existing municipal sewer systems and all the necessary provisions on an approximately 10-year program to preserve American's drinking water, lakes, rivers, and all navigable streams from complete deterioration and annihilation from sewage disposal plants and industrial waste, etc.

The emphatic provision of this legislation is that the Federal enforcement power will be enacted to prosecute violators of this legislation and compel complete compliance, without exception, to any polluters, whether large or small.

Any person, corporation or municipality who violates any provisions of the act will be subject to a maximum civil penalty of $10,000 per day. Of course in minor violations the fine can be reduced according to the opinion of the courts and enforcing authorities. In the case of willful or negligent violation the offender can be subject to a criminal penalty consisting of larger fine with the possibility of imprisonment, not to exceed 1 year. This legislation allows citizens to bring civil suits against polluters alleged to be violating required standards and in failing to carry out the requirements of this act. The bill also retains the authority of the States to enact water quality standards and effluent limitations more stringent than Federal standards.

The House bill sets up an Environmental Financing Authority in the Treasury Department to help those local communities unable to borrow funds to pay their share of waste treatment construction grants. This Financing Authority, with an initial authorization of $100 million, would lend funds to those communities at reasonable interest rates.

We have 225 miles of Lake Michigan shoreline, hundreds of miles of trout streams and hundreds of inland lakes and exploding recreational facilities demands that stimulates my constituents to want action to provide clean water. We are all faced with similar expectations. This is the environmental decade and we are expected to produce solid progress in the matter of clearing up the mess we have made for ourselves over the years. I want to commend this committee for its leadership in establishing Federal programs to help provide clean water.

Last Thursday the Rules Committee included an open rule where amendments can be offered. I understand several Members of Congress in the coming 2-day debate will be offering amendments to expand or curtail some of the provisions of this bill and I do hope all Members of the House can see fit to be present on the floor today and tomorrow and learn all the provisions set out in the various amendments so we can vote the same "up or down" with the thought in mind that America's great problem of water pollution must get under through the help of Federal legislation which will give all our citizens and environmental organizations an opportunity to succeed in eliminating pollution of our lakes, rivers, and navigable waters for all time to come.

In considering this water pollution bill we have reached a milestone in our environment which has been too long delayed.

Mr. YOUNG of Texas. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, it is not my policy or intent ever to unduly intrude into the activities of legislative committees. The clean water bill, H.R. 11896, which will be before us today is so vital to every Member of Congress and the Congress itself that I feel a few remarks are in order.

I am today writing each Member of the House a letter in regard to the amendment which I propose to offer to the clean water bill to which this rule relates. I shall include it with these remarks.

Congress and the Nation are on the threshold of an all-out effort to do something in a big way about water pollution. We have been working with the problems for some years but an accelerated approach is required. It seems obvious that the proposed 3-year period in the legislation which is to be discussed today, relating to grants for waste treatment construction, is only the beginning of a much longer and much more extensive program to follow.

It has been suggested that Congress has in the past been woefully remiss in not doing more about water pollution. Whose fault is it? It is, of course—if it is anybody's fault—the fault of the Congress itself. What I am saying is that if we want the Federal Government to do more about water pollution, we can work our will and, in my opinion, we must do something about pollution.

I am pleased to see this bill before the House today. But my immediate concern is with the 3-year contract authority provision. I covered the matter in my letter of today, as follows:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 27, 1972.

DEAR COLLEAGUE: Let me make two points very clear about the pending Water Pollution Control Bill, H.R. 11896:

1. I have not had the remotest thought of offering any amendment to alter the dollar figures for waste treatment construction grants or any other program involved in the bill. It is within the province of the Committee on Public Works to recommend whatever levels of authorization it deems appropriate.

2. My concern arises over the *multi-year contract authority* provision. I have now decided to offer an amendment to substitute *one-year advance appropriation* funding for the three year contract provision. With multi-year contract authority we downgrade Congress—abrogate our annual authority—more or less write the next two congressional sessions out of the act. To me it makes no sense for us to abdicate our power.

One-year advance funding of the waste treatment grant program with direct appropriations would assure that State and local interests would have adequate notice for their planning purposes. Congress would act every year and be solidly in the picture from the standpoint of our people. Why detract from the power and prestige of the Legislative Branch by vesting authority for a 3-year period in the Executive Branch? Why surrender the right and—as I see it—the duty of annual action on this momentous issue?

Just prior to World War II, 18% of the spending budget was classified as relatively uncontrollable. The current budget classifies 71% of spending as relatively uncontrollable under present law! Contract authorizations for waste treatment would continue to move us toward almost complete abdication to the Executive Branch. This is unnecessary. Let's not do it!

Please give this problem your best attention and let's work out an approach which will be acceptable to the House and retain the power and dignity of Congress.

Sincerely,

/s/ GEORGE MAHON.

Mr. Speaker, the amendment which I propose to offer is as follows:

AMENDMENT OFFERED BY MR. MAHON

On page 245, in line 13, strike out all after the word "submitted"; strike out all of lines 14 and 15, and all of line 16 down to the period, and,

On page 250, strike out all of line 18 after the word "shall"; strike out all of line 19; and strike out the words "for obligation" in line 20, and,

On page 251, strike out the words "for obligation" in line 12, and,

On page 254, add the following at the end of line 18:

To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

Mr. Speaker, my proposed amendment is procedural in nature. It is not at all substantive. It would merely retain in the hands of the Congress an annual participation in what we do.

After that, Congress would have a piece of the action every year.

I trust that in the circumstances we can all agree on this procedural matter.

The SPEAKER. The time of the gentleman has expired.

Mr. GROSS. Mr. Speaker, will the gentleman yield the gentleman 1 additional minute so I can ask him a question?

Mr. SMITH of California. I will be glad to yield the gentleman from Iowa 1 minute.

Mr. GROSS. I must disagree with the first premise of the gentleman's statement, that Congress is responsible with respect to the water pollution situation. Through the years the States and the local subdivisions of government, including the municipalities, failed to enforce laws and ordinances in the matter of pollution and especially the polluting of streams. This is where the breakdown really came about. Now they come to the Congress for billions upon billions of dollars. I do not agree with the gentleman that Congress is the culprit in this first instance. We are called upon now to pick up the pieces.

I do agree with the gentleman that his amendment ought to be adopted and that Congress ought to have real authority

over the appropriation of this huge amount of money and some oversight as to how it is spent.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BLATNIK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11896, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Minnesota (Mr. BLATNIK) will be recognized for 2 hours, and the gentleman from Ohio (Mr. HARSHA) will be recognized for 2 hours.

The Chair recognizes the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today, the House has before it a long-overdue legislative enactment that embodies the environmental principles to which I and many others have devoted much of our careers in Congress—a far-reaching bill to restore and preserve for future generations the integrity of America's waters.

Those of us on the Public Works Committee who have worked long and hard to bring this comprehensive and enormously complex bill into being are proud of our handiwork. We consider it a landmark in the field of environmental legislation, a nonpartisan act to which the entire committee has given many, many months of thoughtful consideration, bearing always in mind the consequences of our actions on the whole economic and social structure of the Nation.

In this measure, we are totally restructuring the water pollution control program and making a far-reaching national commitment to clean water, much as our space program was restructured a decade ago when the late President Kennedy committed America to a landing on the moon before the end of the 1960's.

The legislation we are considering is of immeasurable significance to the Nation. In many ways, it is far more difficult undertaking than the 42,500-mile highway program which the Public Works Committee initiated in 1956 and which, when completed, will have cost $75 billion or more. That program has been hailed as the greatest public works undertaking in all history. The water pollution control program we are initiating in this body will, in my judgment, be an even more monumental task.

But whatever the difficulties, we must commit ourselves to the task; our waters can be cleaned, they must be cleaned, and they will be cleaned.

At this moment in time, no one can make more than a half-educated guess as to the ultimate cost of restoring and preserving our water resources. That is why the committee bill calls for a 2-year, $15 million study by the National Academies of Sciences and Engineering to give us some actual information on the economic, social, environmental, and technological consequences that will result if we go all the way to our goal of "no discharge" by 1985.

I would remind the Members that this study does not mean an interruption of the water pollution control program, it will not interfere without progress toward the interim 1976 goal of this legislation, at which time all municipalities obtaining Federal aid for municipal waste treatment plants must go to secondary treatment and industries discharging into our navigable waters must use the best practicable technology.

In the course of our hearings on this legislation, which began almost a year ago and were completed only last December, the committee listened carefully to some 300 witnesses of all shades of opinion—Members of Congress, Federal, State, and local government officials, environmentalists, industry, and labor spokesmen, economists, and concerned private citizens who wanted to contribute their views to this legislation.

During those hearings, we recorded more than 4,000 pages of testimony, more than all the previous testimony taken by our committee in the entire history of the pollution control program. And in quality as well as quantity, the testimony we heard, particularly from the scores of youthful witnesses who appeared, far surpassed anything presented to us in the past.

The committee made a searching review and appraisal of all that had been done in the past to clean up our waters so that we might apply the lessons of that experience to this new legislation.

The Committee on Public Works first confronted the problem of environmental degradation away back in 1948, when the first Water Pollution Control Act was enacted into law. That was a modest permissive beginning that scarcely scratched the surface of the problem, because water pollution in those days was regarded by most people as a local health matter.

In successive Congresses, the committee continually updated, existing legislation and developed new programs, always laboring under the handicaps of inadequate funding and widespread indifference to the spoiling and soiling of our waters.

It was not until 1956 that we won our first major breakthrough with the passage of the Water Quality Act which, for the first time, committed the resources of the Nation to the task of restoring our waters and protecting them for the future.

It has long been evident to those of us who have been close to this problem that a new and comprehensive approach was urgently needed, but it was not until the opening of this 92d Congress that the public support that such a program requires finally made it possible for us to move forward.

I believe sincerely that the legislation we have brought to the floor of the House today is the most effective, workable pollution control bill that has ever been devised.

In saying that, I offer no criticism of the pollution control legislation passed last November by the other body. Certainly there are differences between our bills, but they are differences in approach, not in objectives. The proponents of the other body's bill, including many sincere, dedicated environmentalists, have as their goal the restoration of our waters. That is our goal, too; we believe that the financing, planning, programing, and enforcement provisions of the committee bill will move us effectively toward that goal.

This bill truly serves the national interest, truly responds to the national outcry for the restoration and preservation of our water resources. Every provision of this bill has been most carefully shaped to enable us to achieve clean water without shattering the economic and social structure of our society. This legislation will make it possible for us to restore the integrity of America's waters without emptying the public treasury, without widespread unemployment, and industrial shutdowns. This bill safeguards our waters and our socio-economic structure. I am confident that my colleagues in the House will give it the full benefit of their wisdom and experience.

I have said, Mr. Chairman, that this is a nonpartisan bill, and I must pay tribute to all the members of the Public Works Committee, on both sides of the aisle, who have given so ungrudgingly of their talents and energies to make this legislation possible. I would be remiss if I did not offer a special word of commendation to the distinguished gentleman from Ohio (Mr. HARSHA) and the distinguished gentleman from Alabama (Mr. JONES) for their invaluable contributions to this bill. And it would be equally remiss to overlook the dedicated efforts of the professional committee staff, on both the majority and the minority sides, who gave so much to the making of this legislation, most notably Chief Committee Counsel Richard J. Sullivan. Lester Edelman, Clifton M. Enfield, Carl H. Schwartz, Gordon Wood, James L. Oberstar, and Joseph Brennan, all of whom proved themselves unmatched in the difficult art of legislative writing. In particular, may I commend and compliment the finest legislative draftsman I have ever worked with—Robert L. Mowson.

With the permission of the Chair, I will ask the distinguished gentleman from Alabama (Mr. JONES) to speak for the bill.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while the full Committee on Public Works has been writing this most important piece of legislation during the last several months and last year, our beloved chairman was inconvenienced with some health problems. But throughout all of those executive sessions we were under his continual

stewardship, and he continued to give us the benefit of his good, sound advice and leadership in this all-important field of water pollution and control, an area in which he has pioneered for years and years.

In Mr. BLATNIK's absence we had the benefit of the leadership of the distinguished gentleman from Alabama. Mr. JONES was a most effective, impartial, and dedicated leader in this respect. He worked tirelessly on this legislation, and his workmanship as a knowledgeable forceful leader in the field of water pollution control is evidenced by this outstanding legislation.

Mr. Chairman, we have before the House today a major bill which will affect every citizen of our country in numerous ways. H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, is a bill which recognizes the fact that we must have a more effective approach to water quality control and that our water quality control program must be consistent without competing national priorities. Throughout the development of this most important legislation, the committee could not forget the broad potential effects and these competing priorities. We, as Members of Congress, in considering this environmental control bill on the floor of the House must remember that environmental control is one of a number of competing national priorities. These other national priorities include full employment, price stabilization, rural development, social development, economic development, energy supply, a wider sharing of an improved standard of living, retention of our foreign trade capabilities, and protection of our natural resources. I believe the Committee on Public Works has properly considered each of these priorities while developing H.R. 11896.

The committee, while obviously stressing the environmental control aspects of this legislation, because this is what this bill is, an environmental control bill, had to balance the economic, social, and environmental needs. I believe we have done this and done it effectively.

The Committee on Public Works has been working on this bill for a year. The committee members and staff have met with representatives of environmental groups, our schools and colleges, State and local governments, the Federal Government, labor, agricultural organizations, heavy and light industries, the transportation industry, and public utilities. It has been estimated that our staff has spent almost 10,000 man-hours, that is 250 man-weeks, developing and drafting this legislation. We sought and obtained expert help on all facets of our water quality needs and on this legislation, Mr. Chairman. The expertise that was available was utilized to the fullest extent. I believe that this bill reflects this expertise. It will result in the water quality that we all seek.

We have heard from those who sincerely believe that the most stringent control must be imposed now if we are to save our waters and the associated aquatic life for future generations. On the other hand, we have heard from those who have pointed out to the committee that the precipitate imposition of water quality control schemes would cause a parade of horribles, that it would destroy American industry, create unemployment, stop our progress toward a higher standard of living to be shared by all of our citizens, cause inflation, disrupt our deteriorating position and competitiveness in foreign trade, and worst of all, possibly create other environmental problems. We weighed the pros and cons of both sides and tried to balance this legislation to obtain the goals of both sides while minimizing the possible undesirable side effects.

There still has been criticism of H.R. 11896 from both sides of the environmental fence. Sincere and competent individuals who advocate both more stringent and less stringent controls are dissatisfied with parts of the bill. To the Members, who have worked so hard on this legislation, this could be distressing. However, rather than being distressed, I find it encouraging because I believe that this is an indication that we have achieved the balance we sought for this legislation.

I have an admonition for my colleagues who will be debating the many provisions of this bill. I urge you to heed the fact that our professional staff has spent hundreds of man weeks on this bill. I urge you to heed the fact that we have sought and obtained the advice of experts in all aspects of this legislation. I emphasize to you that there are those who feel that we have gone too far, and there are those who feel that we have not gone far enough. However, in recognizing that certain aspects of this bill have created high levels of emotion, we, as Members of Congress, must recognize that the committee has worked hard, and, I believe, has done its work well. We must not allow pleas from either side of the environmental argument to disrupt the balanced approach which the committee has achieved.

Amendments which might be offered today could disrupt this balance and lead to significant undesirable side effects, or could disrupt the standards and enforcement procedures and lead to a further deterioration of water quality. I urge you, recognize the complexity of the legislation and reject amendments which, on the surface, and here on the floor of the House, might sound attractive, but which could, in the long run, be most undesirable.

I also have an answer for those who, because they feel that S. 2770 imposes more stringent controls, would advocate that we adopt S. 2770, as passed by the other body. Read section 303. Read section 301(b)(1)(C). These sections require point sources of the discharge of pollutants to install the "best practicable control technology currently available" by January 1, 1976. This is consistent with the other body. However, what if such control technology is inadequate to meet water quality standards as required by the Water Quality Act of 1965?

H.R. 11896 requires that if the application of "best practicable control technology currently available" is not sufficient to meet water quality standards, further and more stringent controls must be imposed. This is more restrictive than the requirement of the other body, and it should be recognized as such. The requirements of H.R. 11896, will assure that water quality standards are met, and that even if such "best practicable control technology currently available" is not sufficient to meet water quality standards, each point source will still be required to be so equipped to further enhance the quality of our waters. In other words we require the upgrading of our waters to a much greater degree than does S. 2770.

Mr. Disraeli, a Prime Minister of Great Britain, once said.

> Never leave anything to chance which can be achieved by calculation.

We have tried to follow Mr. Disraeli's warning. Unfortunately, we found that there were certain aspects of S. 2770 from the other body that were leaving too many things to chance. While the committee recognizes that the elimination of industrial and municipal discharges into our Nation's waterways would ultimately solve part of our water quality problems, we could not impose such a requirement for 1981 or a national policy for 1985, because this simply would leave too much to chance, and there was too much which could not be determined by calculation at this time. Even if all municipal and industrial discharges were eliminated we would still have the exceedingly heavy pollution from agriculture and nonpoint sources of discharge. What would a no-discharge requirement in 1981 or 1985 cost?

Even more important, what would be the impact of such requirements on other environmental problems? Would we create solid waste disposal problems? Would we create air pollution problems? Are there deleterious effects of large scale land disposal? Ask yourself: Do you know the economic costs? The other environmental impacts?

I must admit I do not; the committee does not. I would like to read from the CONGRESSIONAL RECORD of November 2, 1971, which reports the debate on S. 2770, the companion bill in the other body. A Senator from Kansas asked the following question of the chairman of the Air and Water Pollution Subcommittee in the other body and I read from the RECORD:

> The other question I wish to ask the Senator is whether some estimate or judgment has been made as to the cost of achieving zero discharge by 1985, both as to capital cost and operative cost.

The answer from the chairman of the Air and Water Pollution Subcommittee was:

> There are no estimates of that kind that, in my judgment, have any validity.

Well, I say to my colleagues that I would not want today to have to stand before you and state that we have recommended a no-discharge requirement without knowing the cost to this nation and its taxpayers of such legislation. Therefore, your committee has recommended that the requirements for 1981, to eliminate the discharge of pollutants, be imposed if your committee and the

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Congress, in 1974, after receiving and studying a report on the economic, social, and environmental costs, and the economic, social, and environmental benefits, decide at that time that this is the approach to take. Thus, we have the provision in section 315 for a study which will provide the required answers. They will be prepared by a respected, competent, multidisciplined and unbiased team from the National Academy of Sciences and the National Academy of Engineering. I believe that this report will enable the Congress to make a decision on implementation of the 1981 requirements with the facts at hand rather than with guess and conjecture as a basis. An imformed judgment rather than a speculative one.

The committee considered, but did not adopt, an alternative approach, to wit, that the January 1, 1981, requirements stand unless the Congress takes action at a future date to delay or revise the requirements. This was not adopted because the magnitude of effects of this requirement could require an immediate major national program with immediate and major effects on all aspects of the life of the Nation without the assurances that this potential major disruption to the life of our Nation will ultimately be required and can be afforded.

If the National Academy report demonstrates that the January 1, 1981, goal is environmentally, technically, and economically feasible for either 1981 or some other early date, and the total cost of environmental control bears a reasonable relationship to the benefits to be received, I believe the committee would immediately recommend that the House pass the required legislation. It just is not responsible for us to impose such a requirement at this time without the required knowledge, information, and facts.

I again ask the question of my colleagues: Do you know the effect of this legislation on our competing national priorities?

The requirement for 1976 will tax our capabilities over the next few years. Let us be cautious and prudent. Let us not require the 1981 standards until we can act in an informed manner. H.R. 11896 will not delay the water quality improvement program, instead, it will provide the time necessary to determine what we should do. We are talking of 2 of 9 years.

I remind you that the technology for "no discharge," at least that which is economically, technically, and environmentally feasible does not now exist. Therefore, the next few days will not be lost toward the goal of no discharge. Rather the time utilized by the National Academy Study will be utilized for research, development and demonstration. The 1981 and 1985 goals will serve as a focal point for the research and development. Again, I say, read our bill. Look at section 101(a)(6). Look at sections 104(a)(1), 104(b)(7), 104(d)(1), 104(9)(2), 105(b), 105(c), 105(d)(1) and (2). The direction from the Congress is there. Increase the level of research. Initiate demonstration programs. Eliminate chance. Provide the basis for calculation. Proceed in an informed and responsible manner.

An effective water pollution control program must have significant participation at the regional and local level. Your committee believes that the majority of the program must be handled at that level of government which is sufficiently close to the problems to recognize them and to determine what is best for the waterway and area concerned. Obviously, these local and regional efforts must be within the framework and goals set out by Congress. However, let us not kid ourselves that the Federal establishment operating by itself can implement an effective water quality program. Unless we have meaningful local and State participation and not a Federal dictatorship, the program will founder on the rocks of the generally inflexible, Washington dictated approach. Local and State initiative will disappear. Those with the most incentive to work for local, State, and regional water quality will be stifled by Federal rigidity. We must not let this happen. We must preserve this local and State initiative.

H.R. 11896 sets a framework and the guidelines for State water quality programs. It then provides for State implementation, or, if the States do not do the job, Federal takeover. Also, and I emphasize this, let there be no question in your minds, this bill requires that State and regional programs follow stringent Federal guidelines. It will not allow the industrial equivalent of forum shopping. Each State's program will preclude this because they must be consistent with the guidelines.

H.R. 11896 provides for State and local participation, let us give them the chance to do the job. This bill will provide the resources and direction they have not had in the past. Let us not waste our money and talents on a ridiculous duplication of the State and regional tasks by the Environmental Protection Agency. The job to be done is huge. We can little afford to have EPA duplicate and doublecheck each State action. The overall gains by having local and State initiative are too valuable to discourage such initiative from the very start by providing for duplication by EPA. I urge you to support State and local initiative and participation as is set out in H.R. 11896.

Mr. Chairman, I would like to address one more point before I complete my remarks. I ask you to recognize that this bill is complex and that each section of the bill interrelates with a number of other sections. This is particularly the case with section 502, which sets out the definitions. The total utility of the bill is reflected in the definitions of the terms pollutant, pollution, point source, discharge, and toxic pollutant. To revise any of these definitions is to upset the common threat of the bill. If there is a part of this bill that can be labeled "most important," it is these definitions. To revise them in a way to limit their coverage is to severely detract from the effectiveness of the bill. So I ask you to reject any such amendments, if offered.

Accept the work product of the Committee on Public Works. Reject amendments not supported by the committee and support H.R. 11896. It is a very progressive, forward-looking effective water pollution bill that will get the job done. It reflects the balanced approach to water quality that our Nation needs. It, with full appropriation of the authorized expenditures, will improve our Nation's waters. It will allow us to meet the objective of the bill—to restore and maintain the chemical, physical and biological integrity of the Nation's waters.

Mr. JONES of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the Public Works Committee, the gentleman from Minnesota (Mr. BLATNIK), has said that the water pollution control bill which comes to you in the House today is a landmark in the field of environmental legislation. I concur in that judgment and I honor him for the sacrifice he has made and the unselfish service that he has rendered in this field throughout his career and since he has been a Member of Congress. I share the great expectation for the future of America's waters. I share, too, his concern that our expectations be tempered with the realities of America's vast and yet limited resources. It is in that spirit of high hopes, tempered with stern realism, that the members of the Public Works Committee have joined in bringing this nonpartisan bill to the floor of the House today.

I think it is good to note that every member of the Public Works Committee is the author of the bill that you have under consideration.

Mr. Chairman, this is an enormously complex bill, and necessarily so, because our water environment has become enormously complicated because of the urbanization and industrialization of our society. Our legislation must take into account the myriad of the water needs issue. Then, Mr. Chairman, we must note that the demographic studies are very compelling to understand the future needs and requirements and capabilities of this legislation. It depends upon our earnest efforts to see that they are possessed of good direction.

The overall objective of this legislation is to restore and maintain the chemical, physical and biological integrity of our Nation's waters. To achieve that end the bill sets as a national goal the elimination of all pollutant discharges into our navigable streams and it sets as an interim goal to be reached by 1981 water quality that will permit recreation in and on the water and provide for protection and propagation of fish, shellfish, and wildlife.

This bill further sets as national policies a total ban on the discharge of toxic pollutants in toxic amounts, and provides Federal assistance to help municipalities cleanup their water, because this legislation, most certainly, will affect the lives and fortunes of all Americans for many years ahead.

I believe a full and frank exposition of its provisions is in order. In my opinion my colleagues and I will do our utmost to provide you with the best understanding that we are capable of making.

In my judgment there are three or four major provisions of this legislation which are most likely to stimulate considerable thought; I hope, not controversy, and I should like to address myself principally to those points. I would remind you that my committee colleagues will elaborate upon all of them during the course of this debate.

The first deals with the amount of Federal funding we consider necessary to carry out the plans for the programing of this bill. The total Federal spending and contract obligation authority requested is $24.6 billion—possibly the largest nondefense authorization in the history of the Congress. These calculations are made for a program extending to 1975, and were arrived at after a long and very careful and conservative study of all the data, all the cost estimates submitted to the committee by the Federal, State and local governmental authorities, by individual experts, and highest opinions by environmentalists of long experience, and other persons who have proven their economic expertise.

Admittedly, that is an enormous sum of money, particularly to those of us who recall that a few short years ago there were highly placed members of the executive branch who regarded water pollution as a local problem worthy of no more than token Government spending.

But the size of the authorization we seek must be measured against the enormity of the problem that confronts us, against the desperate conditions into which our waters have fallen after years of neglect, and sometimes seemingly to the public indifference.

There are sound reasons for asking the Congress to approve this authorization. For one thing, this bill would raise the maximum Federal share of municipal water treatment plant construction costs from 55 percent to 75 percent. We believe that this increase is necessary because all too many of our towns and cities are in sore financial straits, and must be encouraged and helped if they are going to construct these necessary plants.

This legislation also contemplates a sharp increase in spending for research into new technologies in the field of waste disposal, for area-wide treatment management, and for comprehensive river basin planning. All of these are essential tools in our pollution control program, and they must have adequate funding if this program is to succeed and flourish.

Furthermore, the Federal Government owes a great debt of honor to those municipalities throughout the country which are among the first to recognize the gravity of our environmental crisis, and who went forward with water pollution control projects without waiting for the enactment of this legislation. Those communities acted on legal commitments of aid from the Federal Government and now are entitled to reimbursement in the amounts that they would have received if funds had been available at the time.

This bill would authorize the appropriation of $2.75 billion for such reimbursements.

The legislation before the House today would also add $800 million to the disaster fund of the Small Business Administration to provide loans and loan guarantees to small business firms which need help to finance equipment or extra facilities required by the new pollution control regulations.

The largest share of the proposed authorization, of course, would be earmarked for Federal grants for construction of municipal waste treatment plants, including, for the first time, direct assistance for the building of sewer collection systems in existing communities. For this, the bill proposes an authorization of $18.35 billion—$350 million for the balance of the 1972 fiscal year, $5 billion for fiscal year 1973, $6 billion for fiscal 1974, and $7 billion for fiscal year 1975.

I call your attention to the fact that we do not propose to burden the overstrained Federal budget with immediate appropriations of this magnitude. The only direct appropriation entailed would be the $350 million for the present fiscal year. The remaining $18 million would be in the form of contract obligation authority—contract obligation authority and would not have a substantial impact on the budget until fiscal 1975 and 1976.

This obligational authority is of the utmost importance if we are to have the degree of continuity, and the assurance of continued Federal funding, that this long-term program requires.

Another area of critical importance in this legislation concerns the roles of the Federal and State governments and the administration of the water pollution control program.

All the weight of the evidence submitted to the committee during our extensive hearings confirmed our belief that an effective Federal-State partnership is absolutely indispensible to the success of this program.

I would like to point out that the Committee on Public Works has had a vast experience in dealing with the State governments.

We started out principally in 1960 in the Federal Highway Act which was a noteworthy Federal public works program. That established a principle the Federal Government and the States would work in concert. But the reliability and the dependability of that program and the administration of that program was vested with the State government.

So from that experience that we had when we wrote the Flood Control and Rivers and Harbors Act, we have written this act. The commissions we have established subsequent to that, even Appalachia, we have employed that in utilizing all of the genius and the requirements of the local people to participate with their imagination and their arts and their skill and their capabilities in local and government control.

So there is an enthusiasm at the local level that we continue this program and that we do not disrupt it. They think it is not necessary to have all of the judgments and all of the decrees and all of the commitments and thoughts here in Washington.

So I am saying that this program that has been thoroughly organized by personnel with long experience in the complex problems of State governments in dealing with our environmental problems.

In our judgment, it would be a disastrous mistake to dismantle these organizations and consign their experience and expertise to the scrap heap. That is precisely what would happen if the program were turned over in its entirety to the total Federal Washington bureaucracy.

Accordingly, this legislation places the primary responsibility for administering the water pollution control program within the separate States, with the firm stipulation that each State must comply with the overriding Federal guidelines set by the Environmental Protection Agency. If any State fails to live up to its responsibility, EPA is empowered to take over the program.

In other words, we are working as hard and as earnestly as we know how to employ all the tools of Government and with the support of the people who have raised the national priorities of water quality that it excites the Congress of the United States to make a disposition of the funds coming into their hands to eradicate and to arrest as well the stains and pains that we are placing in our water resources.

To argue that State administration of State programs somehow weakens the legislation is to argue that the people in our State capitals, in our towns and cities across the country are not entitled to a voice in the conduct of their own affairs.

I for one cannot accept the argument, particularly in the light of safeguard built into this measure, to protect against any letdown in the administration or enforcement of State authorities.

We now come to what on our part is a key provision of the committee bill: the requirement for a 2-year study by the National Academies of Scientists and Engineering into the consequences that might result if we go full tilt for clean, safe, swimmable water by 1981 and no discharge of any pollutants into our waters by 1985.

Following completion of that study, in 1974, the Congress will have a far clearer understanding of the commitment involved than anyone in America has today. And all of us will be in far better position at that time to determine, to evaluate, and to make the reassessment of the cost of "no discharge" which is within the ability of the American people to accomplish.

That, I submit, is the course of responsible legislation. It is the course this bill proposes and has followed since its inception.

This measure constitutes a complete rewriting of all our water environment legislation; it contains many, many more provisions which my committee colleagues have been ready and willing to discuss with Members. I will summarize them in the attached statement, Mr. Chairman, which I will insert in the RECORD.

Mr. Chairman, I wish to compliment every member of the Public Works Committee who, during the course of con-

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sideration of the measure, the hearings and executive sessions, concentrated their attention on the bill. I have never been on a committee whose members devoted their time, their energies, and their effort more closely to a bill and as evidence of the fact, this very complex bill bears the name of every member of our committee. As I stated earlier, this will be a landmark to every member of our committee, and it will be a very rewarding bill for every Member of this House to support. I would add at this point the highlights of the bill:

HIGHLIGHTS OF THE BILL

The objective of the bill is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

It is declared to be national goals to eliminate the discharge of pollutants into the waters of the United States by 1985 and to achieve water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water to be achieved by 1981.

It is stated policy of the bill to prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct waste treatment facilities, to increase research and development, to expand the regional and basin planning and management programs, and eliminate red tape in the administration of water pollution control programs. It is stated to be the policy of the Congress to encourage Federal-state efforts in the water pollution control policy.

It is also declared to be the policy that the President shall take action to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of water pollution in their waters and international waters and to achieve and for the achievement of goals to at least the same extent as the United States does.

In order to achieve these policies and goals, the following provisions are included in the program:

(1) Authorizes appropriations of over $800,000,000 for basic and advanced research, development, and training.

(2) This program recognizes the need for an expanded and improved State participation in the water pollution control program. The grants for the funding for State programs has been increased from $30 million for the previous three years to $165 million for the next three years.

(3) The program would encourage alternative systems including advanced technologies and land disposal systems including the Muskegon system.

(4) It is required in the implementation of this bill that the agencies consider all potential impacts relating to water, land, and air to insure that in enhancing the water quality, other significant environmental problems are not created.

(5) Authorizes $20 billion for construction of waste treatment works for fiscal years 1972–1975. This includes construction of treatment facilities and collector sewer systems, including systems for treatment of storm sewer run-off.

(6) Establishes the basic Federal share of construction grants at 60 percent. If a State pays 15 percent of the cost, the Federal grant is increased to 75 percent.

(7) Provides for contract authority for construction grants.

(8) Establishes allocation of grant funds to the States on the basis of need for waste treatment works.

(9) Provides that projects initiated after 1956 which meet the requirements of the previous Acts would be eligible for retroactive grants. $2,750,000,000 is authorized for this purpose.

(10) Provides for user charges to assure that recipients of waste treatment services will pay their share of the cost of constructing, operating, and maintaining waste treatment facilities. The portion of the Federal grants for construction which is applicable to industrial user wastes will be retained by the local waste treatment works management agency to provide for its needs.

(11) Emphasizes the necessity for areawide waste treatment management and makes provisions for areawide management agencies. $450,000,000 is authorized to the Environmental Protection Agency and the Corps of Engineers to assist in carrying out this areawide waste treatment management. The Water Resources Council is directed to complete comprehensive river basin plans by January 31, 1980, and $200,000,000 is authorized to be appropriated to carry out these plans.

(12) Retains the process in existing law for establishing water quality standards for interstate waters. The bill further requires that water quality standards be established for all navigable waters.

(13) Requires point sources other than publicly owned treatment works to utilize the best practicable control technology currently available or a higher level of treatment if required to meet water quality standards.

(14) Requires those publicly owned treatment works for which grants are approved as of June 30, 1974, or which are in existence on January 1, 1976, to have effluent limitations based on secondary treatment.

(15) Because of concern about the economic and social impacts of the desirable objective of attaining the 1981 and 1985 goals, the bill requires that the National Academy of Sciences complete within two years of the enactment of this bill, a comprehensive study of the economic, social and environmental costs, impacts, and benefits. The 1981 and 1985 goals would not be implemented until the Congress has an opportunity to evaluate the report and take further action.

(16) Requires that new sources of water pollution be constructed to meet a standard that reflects the greatest degree of effluent reductions that can be achieved by the use of the best available, demonstrated control technology. If practicable, the standard would permit no discharge of pollutants. Each new plant or modification of an existing plant will be required to follow such standards unless it can be demonstrated that the economic and social and environmental costs of achieving this standard exceed the economic and social and environmental benefits.

(17) Requires the Administrator to publish a list of toxic pollutants. Six months thereafter the Administrator must publish proposed effluent limitations for the listed pollutants. This limitation when justified could prohibit any discharge of toxic material.

(18) Requires pretreatment of those effluents from industrial facilities which are discharged into publicly owned treatment works and which would interfere with the operation of the treatment process or which would not be susceptible to treatment by such works.

(19) Repeals existing enforcement procedures, including conferences and 180-day actions for violation of the water quality standards. The bill substitutes a system of enforcement based upon discharge permits and effluent limitations. Violations under the provisions of this bill could result in penalties of up to $50,000 and two years in jail.

(20) Modifies existing provisions of law dealing with oil pollution to add liability for the cleaning up of any hazardous material discharged into navigable waters. Under the bill, EPA is required to designate materials and quantities of such materials that are hazardous. To be judged hazardous, a substance must present an element of substantial danger to the public health and welfare, including danger to fish, shellfish, and beaches. The negligent discharge of any hazardous substance which cannot be cleaned up is liable to a penalty not to exceed $50,000. There is no limitation of liability for willful discharges.

(21) Requires Federal facilities to meet the same effluent limitations and water quality standards as private sources of pollution unless the facility is specifically exempted by the President. The President cannot exempt any source from new source performance standards or toxic and pretreatment standards.

(22) Requires all States to identify and classify their lakes according to eutrophic conditions and to establish procedures and to carry out methods to control and restore polluted lakes. $300,000,000 is authorized for this program.

(23) Adds new provisions for thermal discharges. The bill provides for continuing comprehensive studies of the effects and methods of control of thermal discharges which shall consider costs, benefits, environmental impacts, and methods to minimize adverse effects and maximize the beneficial effects of thermal discharges. The results of these studies shall be reported within one year. The Administrator is required to issue proposed regulations for control of thermal discharges within one year after enactment of the Act. Permits for thermal discharges are required as a part of the national discharge permit program.

(24) Declares to be unlawful the discharge of any pollutant by any person except as specifically authorized in the bill. The bill establishes a Federal-State discharge permit program. All permits issued under this program shall be consistent with the specific requirements of the bill, including effluent limitations, national standards of performance, toxic and pretreatment standards, and ocean discharge.

(25) Provides that upon enactment of this bill, no new permits will be issued under the 1899 Refuse Act. Permits previously issued under that Act will be considered to be permits under this new program. Pending applications under the Refuse Act program would be transferred from the Corps of Engineers who are administering the 1899 Refuse Act to the Environmental Protection Agency who would be initially responsible for the administration of the new program.

(26) The Administrator shall promulgate guidelines which spell out the details of a state program which would be capable of managing the permit program. Those States which in the Administrator's judgment have programs which meet these guidelines would assume the responsibility of managing the permit program in those States. In States which fail to meet the guidelines, the Administrator will carry on the program. In the interim, while the guidelines are being promulgated, the Administrator may grant authority to those States that have an adequate program to issue permits, except that in these cases all permits proposed to be issued would be subject to the review and approval of the Administrator.

(27) The permit program includes the regulation of discharge into the navigable waters, territorial sea, the waters of the contiguous zones, and the oceans.

(28) Establishes provisions for citizen participation in enforcement of control requirements and regulations created by this bill. Anyone who has standing may initiate a civil suit against any person who is alleged to be in violation of a Federal or State effluent standard or limitation or an order with respect to such a standard or limitation and may initiate a civil suit against the Administrator for failure to perform a nondiscretionary act. The bill grants standing to citizens of the area where the direct interests are affected and to groups who have been actively engaged in the administrative process and have thereby shown an interest in the area in controversy.

(29) The bill precludes the Federal government from patronizing or subsidizing polluters through its procurement practices and policies.

(30) Directs the Secretary of Commerce to make an investigation and study of the effect that the costs of undertaking abatement control programs would have on the competitive position of the United States manufacturers as compared with foreign industrial nations not having the same degree of pollution control. This study would include alternative means of equalizing any competitive cost advantage that foreign nations may have and encouraging them to implement pollution and abatement programs. $1,000,000 is authorized for the study and an initial report is due within six months from the date of the enactment of this section.

(31) Amends the Small Business Act and makes available $800 million to make loans to assist small concerns likely to suffer substantial economic injury in meeting the water pollution requirements established under the Federal Water Pollution Control Act. These loans would be for the purpose of making additions or alterations in the equipment, facilities, including the construction of treatment facilities and interceptor sewers, or methods of operation.

(32) Requires the President to investigate and report to the Congress within six months the feasibility of establishing a separate court or court system to deal with environmental matters.

(33) Requires the President to make an investigation and to report the results to the Congress within two years of all national policies and goals heretofore established by law with the purpose of determining the relationship between these possibly competing policies and goals. This evaluation should take into account the available resources of the Nation. $5,000,000 is authorized for this study.

(34) Authorizes the establishment of an Environmental Financing Authority (EFA) under the supervision of the Secretary of the Treasury for the purpose of facilitating the efforts of State and local governments to obtain funds to finance their share of the construction costs of waste treatment facilities that receive grants from the Federal government.

The bill, as reported, authorizes $24.6 billion for water pollution control.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from New York for a question.

Mr. WOLFF. May I ask the distinguished gentleman if I am correct in interpreting section 312(f)(3) to mean that the "no discharge" rule is limited to "specified waters" and that the State may thus apply to the Administrator for such a rule only for a certain designated water area?

Mr. JONES of Alabama. Yes.

Mr. WOLFF. I take it, then, that this section does not intend that all of the waters of a State be subject to the "no discharge" rule but only "specified waters".

Mr. JONES of Alabama. Yes.

Mr. WOLFF. I thank the gentleman.

Mr. KLUCZYNSKI. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Illinois, a distinguished member of the committee.

Mr. KLUCZYNSKI. I want to thank the gentleman from Alabama for yielding to me.

Mr. Chairman, I wholeheartedly support this bill, H.R. 11896.

I support this bill because it is absolutely sound in concept. It assigns the responsibilities where they can best be handled and abandons the outmoded idea that all wisdom and resolution in confronting national problems is found within a 25-mile radius of the Capitol dome.

The States must play a prominent part in making the water pollution law work. Why should we believe their conviction is any less than ours? It is at the State and local levels where all the elements included in this bill come together, and where the job of cleaning up the water must be merged with economic and social realities.

The bill calls for the orderly transfer of permit authority from the Environmental Protection Agency to the States, but only after the State program has met Federal guidelines. Even then, the EPA retains control of the permit function as it relates to effluent discharges that may affect a downstream State. It also retains the power to reclaim the entire permit authority from a State if that State wantonly fails to enforce other provisions of this law.

The bill provides construction grants that recognize the hard-pressed condition of local taxing authorities by upping the minimum Federal share from 30 to 60 percent.

It retains in the law goals for no discharge of pollutants, for the achievement of water purity sufficient to sustain fish and wildlife and permit recreation, and the application of best demonstrated technology for industry. But at the same time, it provides for the Congress to take another look and reassert or modify those goals sometime after 1974.

The bill has some innovative new features that show the tremendous depth to which the Committee on Public Works has explored this subject.

What good is a public sewage treatment facility if there is not available money to provide the collector network that carries untreated sewage to the plant? This bill provides money for collector sewers.

What relationship should a plant or factory have to a public treatment facility? The obvious answer is a compatible, efficient one that distributes costs fairly and equitably. This bill does that, by requiring industry to pay user charges when it dumps into a public facility, and by requiring pretreatment of all refuse where necessary.

There is heavy emphasis in this bill on improving the overall body of knowledge about sewage treatment, disposal of sludge, and systematically attacking some of our major, most obvious problems. The States are required to explore alternative systems and to put their dollars where the end objective of no pollution is best served.

This is a fine bill, a credit to the committee that created it, to the House of Representatives, and to the great goal of cleaning up our rivers and lakes and keeping them that way.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from New Jersey, a member of the Public Works Committee.

Mr. HOWARD. I thank the gentleman for yielding. I wish to commend him for his remarks and commend him for the leadership which he has shown in the creation of this legislation.

Mr. Chairman, the Committee on Public Works is to be commended for the leadership it has demonstrated in bringing this bill before the House of Representatives. It is a truly monumental piece of legislation, providing an orderly and systematic way of dealing with the insidious problem of water pollution.

There is a great deal of concern about the quality of our natural environment. Newspapers and periodicals are full of details about serious health problems related to air and water pollution. Books examining the fragile makeup of our ecosystem make the best seller list.

Hitherto obscure organizations such as the Club of Rome leap into front-page prominence as they question the ability of man to survive in the world he has created.

The United States plans a conference on the human environment for Stockholm this summer, and the Soviet Union announced a billion-dollar program to clean up the waters of that vast nation.

The net result of all this publicity is often dismay and disillusionment. The citizen is bewildered and confused, for the task seems so momentous, the many variables so uncontrollable. What can we do? How do we start?

The basic need is for leadership—aggressive, enlightened leadership—that focuses public opinion on the problem and directs the way our resources are to be applied to effect orderly progress and, ultimately, solutions.

We have here a bill that represents that kind of leadership. It charts a course and calls upon us all—the States, the Federal Government, industry—to do our share. It commits Federal funds at a level that is consistent with the cleanup problem as best we now see it. It represents a bold stroke of leadership and commitment and wisdom at a time when these qualities are vitally needed.

This is not a time for Cassandra-like debate and delay; it is a time for action This bill is vehicle for action.

Mr. Chairman, as we begin today to consider H.R. 11896, the omnibus Water Pollution Control Act Amendments of 1972, I would like to make a few observations on how much this legislation will mean to the people of my home State of New Jersey.

We on the Public Works Committee have held hundreds of hours of meetings over many months in a sincere effort to report out the best possible legislation to meet the needs of our Nation for clean waters in the coming years. I believe the

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result of our efforts shows the value of these many hours of meetings.

The most important difference, I believe, between this bill and the Senate version of the water pollution bill, is that this one provides grant authority based on actual need, rather than on a simple matter of population. As a result of this survey on actual needs, my home State of New Jersey will be eligible for more than $1 billion in new Federal grants, as well as additional money to reimburse communities which have moved ahead with water quality projects, despite the fact that they had to pay for all of it themselves. The House bill recognizes that the Federal Government has a responsibility to those cities and towns across the country which went ahead with costly pollution projects without waiting for the enactment of this legislation.

All this is in sharp contrast to the water pollution control bill which has already passed the Senate and allows but $243 million for New Jersey in the area of new Federal grants.

Water pollution is a critical problem throughout the United States, but we at the New Jersey shore area are more acutely aware of the problem because we are such a natural vacation and recreation area.

Because of recent shifts in population, cities and towns in New Jersey are literally desperate for assistance in their efforts to preserve the quality of their water, and to repair the damage which has already been done.

I am confident that the House will recognize the value of this bill and will pass this legislation.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Chairman, I want to extend my congratulations and good wishes to the great chairman, Mr. BLATNIK, and to our ranking member, Mr. HARSHA, for the leadership they provided this committee in probaby one of the toughest legislative jobs I have seen in the 10 years I have been in the Congress. And the reference to the work of our outstanding staff's 10,000 man-hours should be "superman" hours.

I would like to address my remarks specifically to title II of this bill. Title II has seven or eight major points and very constructive changes from existing law.

First. Members will note we increase the Federal portion of the cost of waste treatment municipal facilities.

Second. We have authorized what may result in a controversy from a reading of the bill, a new concept in funding with contract authority.

Third. We have set certain conditions for grants which I think Members will find quite reasonable.

Fourth. Then we have substituted for a population or per capita grant test a needs test for the municipal grants.

Fifth. We have incorporated into this legislation, at the urging of many Members and the urging of the New York delegation, reimbursement provisions for the first time.

Sixth. We find also a large rise in the needed funding levels for the construction of these waste treatment plants.

Seventh. We have provided for the establishment of areawide waste treatment agencies.

Eighth. We are continuing the regional and river basin water quality plans through the Water Resources Council.

Section 207 of the bill before us authorizes approximately $18 billion for fiscal years 1973 through 1975. This level of funding was deemed appropriate in view of the magnitude of the problem we are tackling.

It is true that the administration originally proposed a $6 million construction grant program. After careful scrutiny, the Committee on Public Works determined that this amount was inadequate. We found this to be the case for the following reasons:

First. By our reckoning, the administration and Senate estimates of the job which had to be done were pegged at an unduly low figure, one which did not take into account inflation which had already taken place and which was likely to take place over the period covered by the program.

Second. The administration recommendations were based upon the present cost-sharing arrangements for waste treatment works under which the Federal Government would contribute a maximum of 55 percent to the cost of completing a project, rather than 75 percent as is provided in the House bill. In other words, H.R. 11896 raises the cost-sharing percentage to a base figure of 60 percent, and, if the States participate fully, adds an additional 15-percent bonus.

Third. Neither the administration nor the Senate bill addressed itself to the problem of lateral sewer systems, which, I am informed, could amount to a substantial part of the total program up to 55 percent of the cost. In other words, the water pollution program that we are considering was originally conceived to upgrade treatment facilities only. There was no provision for putting pipes in the ground—a very expensive undertaking.

What the foregoing means is this: If the approach of this bill is enacted into law, we will be committing ourselves to a vast increase in funding over what was contemplated by either the administration or the other body in its deliberations. Consequently, a substantial increase in funding is clearly justified. The authorization provided in H.R. 11896 is one carefully calculated to meet the needs of the problems we seek to address. Personally, I deplore the fact that the bill before us speaks in terms of abating pollution and the technicalities involved in achieving it. We do not talk about the burden—the very substantial burden—we are imposing on American taxpayers. If we force a program on the people which is inadequately funded, we will not be doing right by those who will be forced to shoulder the burden of this program.

I know in my own district there are retired homeowners on retirement income who are looking forward to a $500 plumbing bill to hook up and perhaps a $200 to a $300 bill in annual user fees, perhaps $5 a week to replace a system costing $20 in 10 years. That amount will be taken out of the income which is to provide bread on the table. If we were to use the Senate bill without the laterals in the State, the burden on the homeowners would be intolerable. I think it is in their interest if we will look forward, and if we are looking forward, we had better be prepared to fund the bill.

To be sure, there will be an inflationary impact on the construction industry if we authorize the program under consideration. It will no doubt have to expand rapidly to do the job demanded of it. In the process, construction costs will likely rise. But the choice is between extending out the program so that the industry can expand at a more modest rate, or increasing funding so that new contractors, capable of performing the tasks required of them, can be attracted to the pollution abatement business.

The $18 billion provided in this bill is a realistic figure of the funding that will be needed to get the job done. If the Congress provides less, we will be deluding ourselves and the American people.

CONTRACT AUTHORITY, SECTION 203

One of the problems which is frequently encountered in administering any large Federal program of long duration, such as the one we are discussing here today, is the problem of generating and maintaining momentum. Where each project takes years to complete, and especially where, as in the water pollution program, each element in the construction process is considered as a separate project the normal appropriations process can be a hindrance, rather than a help. Funding interruptions and delays can unduly stretch out projects, causing vast increases in costs.

I am thoroughly sympathetic with the safeguards provided by the budgetary appropriations process. But I do not see how we can possibly carry out the mandate of this act in a timely manner unless we authorize States and municipalities to formulate their treatment works programs with the understanding that once plans, specifications, and estimates have been approved by the Administrator of the Environmental Protection Agency, that construction will then proceed from start to finish in an orderly and continuing fashion.

I am talking about a real and present danger. In 1972, for example, we had what I would describe as a hyphenated period between the authorization and appropriations for continuing the water quality control program. The net result was that jurisdictions held back. In New York, for example, moratoriums were placed on most major projects. If we are serious about this program, we cannot afford repetitions of such starts and stops.

We, on the Committee on Public Works, are familiar with what can happen when the appropriation process does not keep pace with authorizations. We have recently considered and approved a bill, H.R. 10488, which would authorize the lease-purchase construction of 63 much needed Government buildings. All of these projects were previously authorized by the committee, but, because funds were not available, they were not built. The result has been twofold. On the one hand, there has been a pressing lack of space to house governmental employees and functions, and, on the other, due to delays in construction, inflation has taken a heavy toll, vastly increasing construction costs on these much needed projects.

Consider the Interstate Highway System. The contract authority approach is an integral part of that program. Through its use, we have been able, in less than a quarter of a century, to build the finest system of superroads in the history of the world. It may well be that contract authority is the only way that vast governmental programs can be expeditiously carried through to completion.

In the field of water pollution, contract authority will enable the Administrator of EPA to commit the Government to a continuing pollution abatement program. It will enable us to maintain the momentum of this high priority program through completion.

If we are really serious about cleaning up the Nation's waters in a timely fashion at the least possible cost, contract authority is an absolute "must," in my estimation.

I should like to say something about user charges, section 204(b).

User charges are an integral part of a self-sustaining water pollution program. Accordingly, H.R. 11896 provides for a system of user charges under which each recipient of waste treatment services will be required to pay a reasonable share of the cost of operation, maintenance, and expansion of the treatment facility which processes their wastes. Section 204 (b)(1) makes clear that user charges includes replacement costs for the facility.

Naturally, it is essential that any charges assessed on any category of user be fair and equitable. Setting them will be no easy task. Although the Administrator will promulgate general criteria, local conditions may justify variations of approach and charge. Again, I would like to stress the aim in making user charges is to enable each local system to achieve self-sufficiency. If we can do that, this will be a one-shot program with future needs being taken care of by revenues generated by user charge revenues received.

One last comment on reimbursement.

Reimbursement in section 206 is a key feature of title II. Under its terms, those jurisdictions and agencies, which undertook construction of publicly owned treatment works, where the full Federal contribution under prior laws was available, are entitled to receive such funds. In other words, the eligibility for reimbursement will be available only for those States and localities which committed their own funds to prefinance portions of the Federal share of eligible costs for the construction of waste treatment facilities. My own State of New York is probably the leading jurisdiction where the reimbursement provisions apply. But no jurisdiction should be penalized for its efforts to do what Federal law requires even though adequate funds to pay the Federal share are not available.

Under section 206, projects initiated between 1956 and 1966 will be eligible for reimbursement where construction was initiated on an eligible project approved by a State Water Pollution Control Agency meeting the requirements of the Federal Water Pollution Control Act then in effect. Payments for such projects shall amount to 30 percent of the cost, less any amounts in Federal assistance already received under section 8 of the old law. Seven hundred and fifty million dollars is provided for this purpose—a sum which is adequate to meet the demands.

Projects initiated after June 30, 1966, but before June 30, 1971, are eligible for retroactive assistance if they were projects approved by the State Water Pollution Control Agency, and the application for Federal assistance was made prior to initiation of construction. Two billion dollars is provided for payment of reimbursements of this category.

Again, I stress that equity demands and common sense requires that the Federal Government meet its obligations under the prior law. Inclusion of section 206 in this bill will assure that the Federal Government does.

That concludes my comments, Mr. Chairman.

Mr. MIZELL. Will the gentleman yield?

Mr. GROVER. I am glad to yield to the gentleman.

Mr. MIZELL. I thank the gentleman for yielding and compliment him on his very excellent statement.

Mr. Chairman, I rise at this time to offer my enthusiastic endorsement of the water pollution control bill now under consideration.

I am pleased to serve as a sponsor of this legislation, the most comprehensive and far-reaching water pollution bill we have ever drafted, and yet the most responsible and the fairest we could devise.

The Committee on Public Works, of which I am a member, held exhaustive hearings over a period of several months to determine the most intelligent and most urgently needed goals for water pollution abatement in this country, and also to determine the best methods of reaching those goals.

One of the major provisions of this bill is the declaration of a national goal that the discharge of pollutants into the waters of the United States shall be eliminated by 1985.

The bill also calls for the achievement by 1951 of water quality at a standard which provides for the protection of fish and wildlife and provides for safe human recreation on the water.

In addition, the bill:

Establishes a national policy of prohibiting the discharge of toxic pollutants in dangerous amounts, with enforcement provided through strong effluent limitation standards and permit programs;

Provides an $18 billion, 3-year authorization for construction of municipal waste treatment facilities, and provides for certain retroactive payments to communities which undertook similar projects in the past with little or no Federal assistance;

Increases research and development efforts, providing $135 million for such programs, to be conducted with the participation of the Environmental Protection Agency;

Authorizes $800 million for assistance to small businesses to help them meet pollution abatement requirements of this act;

Establishes strict and severe penalties for violators, including a maximum civil penalty of $10,000 per day, and, in the case of willful or negligent violations, a criminal penalty of $2,500 to $25,000 per day and/or 1 year imprisonment;

Eliminates a great deal of redtape in the administration of water pollution control programs, a major improvement.

Two other provisions merit special attention. One is the prominent role to be played in water pollution control efforts by the States, and the other is a section of the bill related to regulation and limitation of "low-flow augmentation" or "pollution dilution," a matter of great concern to the people of my district.

Under this act, individual States have the responsibility of developing their own comprehensive water pollution control plans and then implementing those plans.

The bill also specifies that States may establish more stringent emission standards than those required by Federal law, and provides that interstate water quality standards established by a State and not inconsistent with pre-existing Federal standards shall remain in effect.

These provisions for extensive participation by State governments in water pollution control programs are good ones, and it is important that we have them. For obvious reasons, State governments are much more familiar with their own waterways than the Federal Government can be, and the States can thus be expected to formulate the most sensible and effective guidelines for their own jurisdictions.

Beyond this, Washington cannot provide all the manpower, or all the answers, or all the funds required to see our ambitious goals achieved, and the Federal Government should not be called upon to do so.

Fighting pollution is everyone's concern and everyone's business. The great financial burdens this effort entails reflect only one reason why this is so, but beyond mere funding capability, this effort must have a true national commitment to success before it can even get off the ground.

Ths commitment involves not just the Federal Government, but the States, local governments, private industry, and millions of individual citizens. Planning in advance to share that commitment on a broad base is a necessary measure and a valuable asset to this legislation.

The second provision of special note is an amendment I introduced to set limitations on the amount of water storage to be used in "flushing" pollution, rather than treating it at the source.

This theory of "pollution dilution" is of particular concern to the people of North Carolina's Fifth Congressional District, which I represent, since many thousands of acres in that district now stand in danger of flooding for just this purpose.

As most of my colleagues know, this

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is one of the major points of controversy in the Blue Ridge power project case, which I have been working on for some months.

It was with this case in mind that I first introduced this amendment, and the Public Works Committee included it in this comprehensive bill some time ago.

My amendment also provides that the Administrator of the Environmental Protection Agency must specifically call for such water storage for pollution abatement before such a plan can be implemented. Under existing law, that responsibility rests with the Federal Power Commission, with the EPA in only an advisory role.

I believe the amendment I introduced may well change the complexion of the Blue Ridge project as it is currently proposed.

In much the same way, the entire bill we are considering today can change the complexion of this Nation's waterways, making them safer, more attractive, and thus contributing greatly to an improvement in the overall quality of life we all shall enjoy.

I look forward to the final passage of this legislation, and I urge my colleagues to join me in seeking that passage today.

Mr. JONES of Alabama. Mr. Chairman, I now yield such time as she may consume to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Thank you, Mr. JONES.

Mr. Chairman, I am pleased to have the opportunity to speak on behalf of the Committee on Public Works on two of the most important provisions of H.R. 11896, the Water Pollution Control Act Amendments of 1972. These provisions, which were referred to by Mr. GROVER, my colleague on the committee from the State of New York, relate to user charges and to reimbursement to States and localities for projects instituted prior to July 1, 1971.

I want to compliment the chairman of my committee (Mr. BLATNIK) and the acting chairman (Mr. JONES) for their great efforts made in creating the bill which is now before us.

I have some divergent views on the bill which I will be discussing later on, and I hope that out of this will come a major effort to clean up the waters of this Nation to which we can all subscribe.

Section 204 of the bill sets forth the limitations and conditions which must be observed by State and municipal authorities receiving construction grants. Some of these are continued from existing law; one major new condition that the committee has recommended relates to the establishment of user charges.

Subsection (b) of section 204 provides that the Administrator shall not after June 30, 1973, approve any grant for publicly owned treatment works unless the applicant adopted or will adopt a system of user charges to assure that each recipient of waste treatment services within the applicant's jurisdiction will pay its proportionate share of the cost of operation, maintenance—including replacement—and expansion costs.

Your committee believes that successful operation of treatment works which are publicly owned requires that a system of user charges be established. Differing circumstances in specific local areas may, in a few cases, call for especially designed systems; accordingly, the committee has proposed that the Environmental Protection Agency promulgate general criteria allowing for variations to meet special local conditions. The bill makes clear that foremost among the standards which are to guide EPA in establishing these criteria is the objective that each local system be financially self-sufficient.

The bill also provides that industrial users of facilities constructed with Federal grants pay charges sufficient to cover their proportionate share of capital construction costs provided from Federal sources. The committee feels that it is inappropriate to subsidize industrial users from funds provided by the taxpayers at large.

Under the bill, industrial dischargers will be encouraged to discharge into publicly owned facilities, rather than constructing their own treatment plants. In the calculation of user charges covering capital construction costs, the cost of interest on the construction money is not included. This has the effect of reducing substantially the total cost to be recovered. Each municipality will have a discharge permit for its own plant; industrial dischargers using such plants will thus be spared the necessity of seeking their own permits, as all that they will have to do is to comply with pretreatment requirements. Finally, the economies of scale will tend to make it far more economical for industries to use publicly owned plants wherever possible.

There is also a substantial advantage to municipalities in the use of their plants by industries. Under the bill, revenues resulting from industrial user charges would remain with the local system, where they would be used "solely for the operation, maintenance, expansion, and construction" of treatment works.

The committee believes most strongly that there should be no rebates or other special treatment for industries paying user charges. The user charge revenues should be used for: First, construction, maintenance, operation, repair, and replacement of sewage systems and payment of interest on indebtedness; second, monitoring programs relating to effluents coming into and going out of the treatment facility; third, water pollution control and abatement planning, including development of the interrelated control programs relating to water, gaseous and solid wastes; fourth, establishment, operation and maintenance of central storage facilities; fifth, provision of multi-use community facilities within waste treatment facilities; and sixth, agency personnel training programs. Two examples of items which the committee feels should not be financed by such revenues are: First, facilities for the pretreatment and monitoring of industrial waste in order to meet the agency's reserve system requirements; and second, reductions in user charges for specific categories of users.

The system of user charges provided for in this bill is a fair and equitable one to both industry and the public, and it should be a strong backbone of the local financing process with regard to treatment facilities.

Mr. GROVER mentioned the reimbursement provisions in his discussion of title II. There are 28 States, including my own State of New York, that have in recent years proceeded vigorously on water pollution abatement programs for which Federal assistance was authorized by law, but for which adequate funds were never appropriated. In part, these progressive jurisdictions have acted in this commendable manner because they had a reasonable expectation that the Federal Government would eventually come up with its proper share of the funding.

Section 206 of the bill before you provides the authority and establishes the conditions for reimbursing States and localities for funds used or committed for construction of any publicly owned treatment works for which the full Federal contribution has not been received.

By virtue of the commitments made by these States and localities, the cleanup of our Nation's precious waters has been expedited, and it is a matter of equity that the Federal Government provide sufficient and timely reimbursement to them.

Projects initiated between 1956 and 1966 which were eligible for Federal aid when constructed, approved in advance by State antipollution authorities, and in compliance with existing Federal law will be eligible to receive reimbursement for up to 30 percent of their cost. An authorization of $750 million is provided to meet these costs. Projects initiated between June 30, 1966 and June 30, 1971, will be eligible for Federal assistance covering funds used or committed for them prior to July 1, 1974, if they meet the conditions noted above and their sponsors make timely application to EPA for Federal aid. The authorization for this portion of the reimbursement provision is $2 billion.

The committee wishes to note that the word "construction," as it appears in section 206, is defined in subsection 1 of section 212, as—

> • • • any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

Under this rather broad definition, projects on which prefinancing commitments were made prior to June 30, 1971—and such projects exist in over 30 States—will be eligible for reimbursement under section 206, notwithstanding the fact that the letting of contracts for construction may have occurred after the June 30, 1971, date.

The committee wishes to point this out because there appears to have been some confusion on the part of EPA as to the meaning of the word "construction" as it was defined under the Clean Water Restoration Act of 1966.

Subsection (d) of section 206 provides that public agencies may proceed with projects during a fiscal year after a State's allotment has been fully obligated, if the cost of such projects is expected to be covered by the State's allotment for subsequent fiscal years.

Section 206, which relates to reimbursement and prefinancing, must be read in tandem with section 202, which contains the basic provisions relating to construction grants. These sections are somewhat complex, and I wish to take a moment to illustrate by example just how they work:

Treatment works "A" was put into construction prior to July 1, 1971. It meets the requirements of the Act as it then existed. Prior to construction, an application for Federal assistance was made. Under section 206(a), State and local funds used or committed prior to July 1, 1973 qualify for Federal reimbursement solely out of the 206(c) authorization up to the maximum extent allowable for such project under the Act as it then existed.

Treatment works "B" was put into construction prior to July 1, 1971. It meets the requirements of the Act as they will be after the enactment of this legislation. No Federal approval had been sought prior to the enactment of this legislation. Under section 202, this project is eligible for Federal grants of up to 75% of the costs of completing the project incurred after July 1, 1971. Had approval been sought, the project would also be eligible for reimbursement under 206(a).

Treatment works "C" was put into construction prior to July 1, 1971. It meets the requirements of the Act as it then existed. Prior to construction, the Administrator approved the project in the same manner as other treatment works projects. Under section 206(d), a State allotment may be used to recover up to 75% of the project cost.

Treatment works "D" was put into construction prior to July 1, 1971. Prior to the enactment of this legislation, a 5 percent Federal grant was approved. The project meets the requirements of the Act as it then existed. Fiscal year 1972 funds allotted to the state other than for reimbursement were used or committed to the project. Under section 202, the federal grant will, on request of the applicant, automatically be increased to either the 60 percent or 75 percent federal share, whichever is applicable.

Treatment works "E" was put into construction prior to July 1, 1971. The project was approved by the Administrator prior to the enactment of this legislation, and it meets the requirements of the Act as it then read. The project is entitled to grants of either 60 percent or 75 percent for contracts awarded on or after July 1, 1971, out of funds authorized for fiscal year 1972 and later, and it need not requalify under the new standards.

Treatment works "F" was put into construction after July 1, 1971, but before the effective date of this act. It meets the requirements of the Act as it then read. It does not qualify for reimbursement under section 206(a). Had the project been approved by the Administrator in the same manner as other treatment works projects, it would be eligible for up to 75 percent reimbursement under section 206(d). If, pursuant to a Federal grant, fiscal year 1972 funds are used for or committed to the project other than for reimbursement, the federal grant will be brought up to the applicable 60 percent or 75 percent Federal share on the request of the applicant. The project is entitled to the applicable 60 percent or 75 percent grant out of funds for fiscal years 1972 and later without the need to requalify under the new standards.

Treatment works "G" was approved prior to the effective date of this legislation but will not be put into construction until after the effective date. It is eligible for up to 75 percent reimbursement under section 206(d). It is entitled to the applicable 60 percent or 75 percent grant out of funds for fiscal years 1972 and later without the need to requalify under the new standards.

The provisions of section 206 are a matter of simple justice and will constitute, when the funds for them are appropriated, the fulfillment of a strong commitment by the Federal Government. In addition, they will serve notice that progressive administration on the part of State and local governments will not go unrewarded.

Mr. HARSHA. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman and members of the committee, at the outset I would like to join others in paying my compliments to the members of the committee for the extraordinary effort that they have made over the last 7 to 8 months of deliberations in order to bring this bill before the committee in, what I think is the most comprehensive and undoubtedly the most complex legislative proposal in the field of water quality control that I have observed in the 10 years that I have seved in the Congress.

In particular I want to single out the gentleman from Alabama (Mr. JONES) and the gentleman from Ohio (Mr. HARSHA) who have carried the brunt of the effort on behalf of the committee.

I also point out the fact that there was a bipartisan effort to bring some sort of sanity out of the legislative proposals that were advanced through the other body I believe without the required amount of hearings to determine exactly what the cost would be if that particular piece of legislation was enacted into law. Because of this it became the duty of the committee to develop a record of the costs to implement that particular version, and then to come forth with program recommendations that the committee believed were more realistic and obtainable.

Mr. Chairman, I want to take this opportunity to detail again my longstanding support for strong, comprehensive, and realistic programs to enhance the quality of the Nation's rivers, lakes, and coastal waters.

Further, I yield to no one in my deep-seated commitment to a restoration and maintenance of the highest water quality in order to improve recreational, esthetic, fish and wildlife, and other water-related values.

I have served in the Congress and on the Public Works Committee since 1963. We are not "Johnny-come-latelys" to the question of water pollution control. During the past 10 years we have gained the experience and the expertise in this field to develop the kind of legislation that will deal effectively and efficiently with water quality problems.

The stated goal of H.R. 11896 is to establish a national goal of no discharge of pollutants into the Nation's waters by 1985. By approving the measure reported by the House Public Works Committee we will be making a congressional commitment to all Americans that we will back up the fight for clean water by providing the necessary financial, enforcement, and technological assistance that will be required to achieve our goal.

The complexity of water pollution problems is such that any attempt to solve it is bound to have substantial and far-reaching repercussions.

To avoid harmful effects in other areas, it is vital that the water pollution control effort be a comprehensive program based upon a clear understanding of all ramifications.

Our committee, recognizing this, attempted to answer some of the many questions that have been raised but there is very little data available. The bill we approved, then, is based on the twin goals of cleaning up our Nation's water resources and gaining the requisite knowledge to improve water quality in a way that will be most beneficial to our society.

Let me raise some of the issues that we must face before giving our approval to any program for water quality enhancement.

I would like to point out as succinctly and as directly as I can that no one now knows whether or not we can meet the 1985 goal of no discharge. No one knows whether or not we can obtain the tremendous financial resources that will be required. No one knows if our scientists will be able to develop the very advanced technology that will be required.

The second point that must be made is that no one yet knows whether or not we should establish the 1985 goal of no discharge. There is a social dimension to this point in that we must be concerned with issues such as loss of jobs or too rapid redistribution of jobs, and we have no information on this issue.

Some Members of this body heard the testimony of some of the members of a local union from Holyoke, Mass. This gentleman, speaking extemporaneously and from the heart, expressed genuine concern over the impact of the Senate version and what would happen to their jobs. What would they do? And, what would it do to the unemployment compensation requirements in that area?

There is an economic dimension to this point as well in that, as Dr. Paul McCracken expressed it during our hearings,

> If you spend your money for this, you will not have it for that.

This was stated by the gentleman from Ohio (Mr. HARSHA) when he noted the comparison between what we establish in the way of new priorities, and where do we take it from in some other program?

Let us examine some of the questions that arise with regard to the establishment of a national goal of zero discharge.

First, the inescapable question is cost. During our hearings, Governor Rockefeller of New York testified that—

> For New York State the cost of eliminating all discharges into any navigable waters would be $230 billion.

I repeat, $239 billion for one State alone.

I might state, parenthetically, that Governor Rockefeller, I believe, is rec-

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ognized by most of the people in the country as having been among the leading Governors to advance water quality control legislation in his State.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I am happy to yield to the gentleman.

Mr. GROVER. He did try to fix a dollar figure, as the gentleman stated, but he also stated that the solid waste disposal area required for what would be left, the dry waste, would be an area, if the gentleman from New Jersey will excuse my repeating it, about the size of the three northern counties of New Jersey.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from New Jersey.

Mr. ROE. In the spirit of the greatest cooperation on this side of the aisle, the great sovereign State of New Jersey will assure Mr. Rockefeller that its solid waste will not be deposited in the State of New Jersey.

Mr. GROVER. In addition to that, the gentleman will recall it was also stated that if the Muskie bill, the Senate version of this bill, were adopted, it would require a retaining area of liquid waste about the size of Long Island Sound, which is 15 miles across and roughly 100 miles long.

Mr. DON H. CLAUSEN. This, of course, is what we made reference to with regard to the total impact of the Senate version.

Governor Rockefeller projected his figures out to the national scene where he said the cost of a strict interpretation of this bill—and he was then referring to Senate bill, S. 2770—would be between $2 and $3 trillion.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Ohio.

Mr. HARSHA. Does that cost include only the cost for the construction of publicly owned facilities or does it also include industrial treatment facilities?

Mr. DON H. CLAUSEN. It is my understanding that it is only the municipal facilities, and I am not sure that it would actually include, for instance, some of the storm sewers, as well as the lateral and collector requirements in a system.

Governor Rockefeller gave his testimony last December and to date no one has come up with any fact that would dispute his conclusion.

The second question, obviously, is who is going to pay for achieving the zero discharge goal. The solution I hear frequently is, "Let the polluters pay." Well, one of the worst polluters happens to be municipal sewer systems. Our cities are in difficult financial situations right now. Either they will have to substantially raise their tax rates or the Federal Government will have to raise its rates in order to return a portion to the cities. In any event, it is the taxpayers who must pay—and this is middle-income taxpayer—if I know the history of the past.

There are others who say that industry creates most of our pollution problems and should be required to pay the cleanup costs. Industry, of course, will have to pay a substantial portion of the costs but, in order to stay in business, any firm is going to have to pass its costs on to the consumer—and again that will be Mr. and Mrs. Middle America who will be paying the price.

Since we know that the taxpayer and the consumer is the same person, we know who will have to pay the costs of water pollution cleanup, although there are many who forget this key point.

The third question that arises is the question of appropriate enforcement and administrative practices. In establishing a sliding scale of increasingly stringent goals that are only defined in the most abstract sense, what effect will we have on those trying to comply with the law?

Mrs. Donald E. Clusen, the knowledgeable and articulate chairman of environmental program for the League of Women Voters has said:

> While we support effluent limitations and the "goal of no discharge," the interpretation of "best practicable" and "best available" control technology raises some difficult questions.

For example, suppose that in 1981 a company installs the best available pollution control technology on its plant. Suppose further that in 1982 a new system is developed. Does the plant have to scrap its brandnew control system for the even newer one? What about the question of the amortization of these installations, if there is no predictability as to the length of time they may be utilized?

A further important question that arises in the consideration of water pollution control legislation is the matter of shared jurisdiction in the effort to clean up our water.

It is interesting to note that the comments of both the gentleman from Alabama (Mr. JONES) and the gentleman from Ohio (Mr. HARSHA) tend to coincide with that taken by the League of Women Voters as expressed by Mrs. Clusen in her continuing and helpful testimony before the Public Works Committee in past years.

I refer specifically to our expansion of the involvement of State and local governmental officials in the field of water quality improvement. It is a role that must be retained and upgraded if we are to expect to implement a successful water quality program throughout the entire federal system.

Mrs. Clusen made the following statement to our committee:

> The League believes that both the federal and state governments should be given strong powers to set and enforce water pollution control requirements. To have a successful program, each must be able to bridge the gap when the other falls down on the job. As a general principle, we think that state governments are in the best position to establish requirements for meeting pollution abatement goals since they know the local conditions. However, we know from past experience that states do not always live up to their responsibility for firm control. When states are confronted by competition for industrial locations, water quality so often is the real loser. Many Leagues have been involved in establishing state discharge permit systems. Some are good while others lack for forcefulness necessary to abate pollution. In these latter cases, the federal government must have authority to impose stricter requirements.
>
> On the other hand, there are occasions when federal standards do not meet local desires for water quality. League members oppose federal pre-emption of responsibilities. Our members are agreed that local and state governments should be able to set and force higher environmental standards where they so desire. We ask this Committee to make sure that your final bill in no way diminishes the right of states and localities to adopt stricter requirements than called for by federal legislation.

We believe that sec. 510 is directed toward this objective.

A final, and vitally important question, is the matter of whether an inordinate amount of attention to the problem of water quality might not result in severe pollution of air or land resources.

During our hearings on this measure, Russell Train, Chairman of the Council on Environmental Quality, pointed out that:

> Since wastes will not simply disappear and must be disposed of or recycled in some way, a no-discharge requirement presupposes that it is uniformly preferable to dispose of all waterborne wastes on the soil or in the air rather than in the water except where some type of reuse is possible.

He continued:

> I am aware of no evidence that land can be regarded as the best or even a viable solution for all or most waste disposal requirements. There are practical limits on land availability; there is the potential for contamination of soil and ground waters by heavy metals and other materials.

Mr. Chairman, Mr. HARSHA, the ranking minority member of the Committee on Public Works has given an excellent statement where he reviewed the achievements of the committee in obtaining the desired balance on this legislation. It would be difficult for me or anyone to improve upon his most excellent statement. Therefore, I shall take but a few minutes discussing some of the policies and standards aspects of H.R. 11896.

This bill would create national goals for 1981 and 1985. The interim goal in 1981, wherever attainable, is to provide for the protection and propagation of fish, shellfish, and wildlife, as well as recreation, including swimming. It is a national goal that the discharge of pollutants into the navigable waters be eliminated by 1985. Mr. HARSHA most ably expressed the fact that these were national goals and not policies.

The committee attempted to clearly define not only our intent but the intent of the other body as expressed by the legislative history. As the chairman of the Air and Water Pollution Subcommittee of the other body said in the floor debate, it would be for Congress to decide whether achieving no discharges by 1985 is within the ability of the American people to absorb the cost. This is also the intent of our bill.

H.R. 11896 makes it a national policy that the discharge of toxic pollutants in toxic amounts be prohibited, that Federal financial assistance be provided to construct publicly owned treatment works, that areawide waste treatment management be developed and implemented and that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants.

In carrying out these goals and policies, H.R. 11896 would recognize the necessity for establishing a primary responsibility and right of the States to prevent and abate pollution.

Title III which contains the provisions for effluent limitations and standards start off with the clear statement that any discharge of a pollutant not in compliance with effluent limitations, water quality standards, new source performance standards, toxic effluent standards, or a discharge permit shall be unlawful. Thus, we start off with the basic premise that a discharge of pollutants without a permit is unlawful and that discharges not in compliance with the limitations and conditions for a permit are unlawful.

Section 301(b) requires that no later than January 1, 1976, all point sources other than publicly owned treatment works must achieve effluent limitations which require the application of the "best practicable control technology currently available." In the case of a discharge into a publicly owned treatment works, pretreatment and other requirements under section 307 must be met.

Publicly owned treatment works in existence on January 1, 1976, or those approved for grants before June 30, 1974, must have effluent limitations based upon secondary treatment. This provides a technological basis for the setting of effluent limitations. By this I mean that the effluent limitations will be based upon technological capabilities and the plant and other local factors.

The term "best practicable" means that all those factors set forth in sections 304(b)(1)(B) which include age of equipment and facilities involved, the process employed—including whether batch or continuous—the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reductions, foreign competition, and such other factors as the Administrator deems appropriate must be considered in setting effluent limitations.

Now, and I emphasize this, such "best practicable control technology" will be required even if the quality of the receiving waters do not require the imposition of effluent limitations consistent with best practicable control technology. This is a technological standard. This is a standard that would be applied to all plants of a similar nature, regardless of location, if the applicable factors that I just enumerated were the same in each plant.

Now, I again call to your attention the fact that, as Mr. HARSHA so ably pointed out, any point source will be required to have effluent limitations which are consistent with the water quality standards and concomitant load limits for the receiving waters. Thus, if the best practicable control technology is inadequate to meet the water quality standards and load limits, a more stringent requirement would be imposed upon the given point source. The provision would be applicable to both intrastate and interstate waters. I emphasize that this is more stringent than the requirements of S. 2770 as passed by the other body.

We should note that the discharge of toxic pollutants in toxic amounts, as determined by the Administrator, would be prohibited. Thus, no permit whether issued by the State or the Administrator would be valid if it were not consistent with the requirements for toxic pollutants.

Mr. Chairman, the next section I would like to call to the attention of my colleagues is section 306. Section 306 requires that new point sources of the discharged pollutants must have effluent limitations consistent with new source performance standards. Thus, any new source or any modification of an existing source that would alter the nature or increase the amount of the discharge of pollutants, other than modifications to the water pollution control facilities themselves, would be required to have the best available demonstrated control technology, processes, operating methods, or other alternatives, which are consistent with the new source standards. This essentially is the "best available standard," and it would be a national standard applicable to all the States.

I have heard it said that H.R. 11896 would allow the industrial equivalent of legal forum shopping. This is ridiculous. If, for example, a factory in the State of Washington decided because of stringent water quality requirements in the State of Washington to move their factory to some other State, this would place the new factory under the requirements of section 306 for new sources. Thus, not only would the plant in the new location be required to meet local water quality standards but it would also have to meet new source performance standards which would be consistent with "best available demonstrated technology." You might say this would be like moving from the frying pan into the fire.

Mr. Chairman, the requirements for 1981 and 1985 and the National Academy of Sciences' study have been explained in considerable detail and I will not repeat what has been said except to urge my colleagues in the House to not forget that the requirements for the National Academy's study and the interrelationships between the policies, standards, enforcements and definitions sections of H.R. 11896, are the work product of the considerable expenditures of time by committee members, a competent and dedicated staff, and many, many experts and witnesses that have provided information to the committee.

At this time I would like to address myself to some of the comments that were made by my colleague, the gentleman from California (Mr. SMITH) who is the ranking minority member of the Committee on Rules, as it relates to the formula for the allocation of treatment works construction grant funds on the basis of actual need. I believe we should develop the legislative history on this point.

It is common knowledge that S. 2770 from the other body utilized a population formula for allotment of funds. H.R. 11896 on the other hand includes a needs formula that would severely and unfairly penalize California. It is based upon obsolete data. Because of this, there is a great deal of concern on the part of the Members from California and some of the other States as to the effect of the obsolete needs formula in H.R. 11896.

I do want to state that based upon the information I have, the reason the committee did not include an up-to-date needs formula, based upon 1972 estimates, is simply the fact that the information was not available at the time of the mark up.

However, I understand during the Rules Committee hearings a question by Mr. SMITH was directed to Mr. JONES who was presenting the bill to the Rules Committee, and he (Mr. JONES) indicated that his position and the position of the chairman of the House Public Works Committee (Mr. BLATNIK) would be to support the 1972 needs formula when we go into conference. Therefore, the Members of the California delegation should be made aware of this information.

It is my understanding that the report of a new needs study will be available to the Congress in a matter of a few days. When the study is available, it is my intent to place the new data in the RECORD. Then I intend to bring these new tables to the attention of the conferees. When this information is published it will be obvious why we had this concern.

To the best of my knowledge, the Governors' Conference has taken a position in support of the House version.

I urge your support of H.R. 11896 as reported and urge that noncommittee amendments be rejected. Because of the complexity of this bill, a well-meaning amendments can have unexpected and undesirable effects on other sections of the bill.

Mr. Chairman, I would like to conclude, by stating I am hopeful the House will stay, essentially with the House version, with a minimum amount of amendments other than those accepted by the committee.

A key element is the 2-year study and further congressional action based upon the best available information that science and scientists and technology can provide at that time. The emphasis of the future is on research and development, directed toward cleaning up the waters of America at the earliest practicable date.

Mr. Chairman, I hope Members will support the House committee.

Mr. Chairman, I yield 10 minutes or such time as he may consume to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I rise in support of this comprehensive piece of legislation.

This is a tough piece of legislation which assigns the duty of cleaning up our waters to the Administrator of EPA, and gives him authority to do so.

He establishes guidelines to be enforced by the States and requires them

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to enforce those guidelines or he can assume complete control.

Mr. Chairman, I wish to compliment every member of the committee, particularly the chairman, acting chairman, and ranking member.

Mr. Chairman, title I is generally a restatement of existing law, beginning with section 102:

SEC. 102. (a) The Administrator shall, after consultation, prepare or develop comprehensive programs for cleaning up polluted water and ground water. To carry out this function, the Administrator may make joint studies on any aspect.

(b) (1) Control of flow cannot be used as a substitute for controlling waste.

(2) Need and value of storage must be determined and must be reported.

(3) Value of storage is a part of overall economic value. All project purposes must share equitably in the benefits of a multipurpose project.

(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

(5) FPC licensed projects shall not include storage for regulation of quality unless specifically recommended and such capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

(c) (1) Grant of 50 percent of administrative expenses of planning agency—not to exceed three years—if the agency provides for representation by all effected parties.

(2) Each agency receiving a grant shall develop a comprehensive plan which—

(A) is consistent with water quality standards;

(B) recommends such treatment works as will provide most effective and economical means of collection, storage, treatment, and elimination—use of such works should be encouraged;

(C) recommends maintenance and improvement of quality standards and adequate methods of financing;

(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the WPC any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

(3) The term "basin" includes at minimum rivers and their tributaries, streams, coastal waters, sounds, estuaries, etc.

SEC. 103. (a) Administrator shall encourage cooperative activities between States and uniform State laws.

(b) Congress gives States authority to enter into compacts (that don't violate U.S. laws or treaties)—compacts must be approved by Congress.

SEC. 104. (a) Administrator shall establish national programs for the prevention and abatement of pollution and as part of such program shall—

(1) in cooperation with Federal, State and local agencies conduct research, surveys, et cetera, about cause and extent

(2) render technical aid to interested parties

(3) conduct public investigations and make reports

(4) establish advisory committees

(5) run water quality surveillance systems

(6) conduct research to develop tools and techniques for measuring social and economic costs and benefits

(b) To carry out the provisions of the above—(a)—Administrator can—

(1) publish results of studies and recommendations

(2) cooperate with other interested parties in the conduct of research

(3) make grants to interested parties

(4) contract with public or private agencies, institutions, organizations, and individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)

(5) establish research fellowships

(6) make available basic data on chemical, physical, and biological effects of varying water quality and other information about pollution

(7) develop devices for prevention

(c) According to subsection (a) Administrator shall research harmful effects on people caused by pollution

(d) Administrator shall develop and demonstrate

(1) Means of treating municipal sewage and waterborne wastes to remove maximum pollutants

(2) Methods to identify and measure effects of pollutants, including new ones

(3) Evaluations of augmented streamflows where other means are not available

(e) Field laboratory and research facilities are to be set up in various specified areas

(f) Administrator shall conduct research on the Great Lakes, with respect to present and future quality under various types of treatment

(g) (1) For purposes of trained personnel and increased efficiency, Administrator shall finance pilot programs.

(2) Administrator can make agreements with proper parties for forecasting the supply of, and demand for, various professional specialties.

(3) In furtherance of the purposes of this Act, Administrator is authorized to—

(A) *make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;*

(B) establish fellowships in EPA

(C) provide, in addition to (g) (1), training in technical matters relating to the causes, prevention and control of pollution for personnel of public agencies and others

(4) The Administrator shall submit a report to Congress by December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth records of past action and recommendations for the future—

(h) Administrator shall make contracts with, or grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and abatement of pollution in lakes including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(i) Administrator, in cooperation with Secretary of the Department in which the Coast Guard is operating, shall—

(1) engage in research on oil removal

(2) publish results

(3) publish in Federal Register specification and technical information on chemical compounds used in controlling oil spills.

To carry out these provisions Administrator may make contracts and grants.

(j) Secretary of Department—for Coast Guard—shall engage in research concerning the equipment relative to sewage disposal on vessels, especially small recreational vessels. The results shall be reported. Contracts and grants may be made for this purpose.

(k) Administrator may acquire land for experiments and field laboratories.

(l) (1) Administrator shall—by October 3, 1972—develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available about the effect of pesticides in water on human health and welfare.

(2) President shall conduct studies of methods to control the release of pesticides into the environment—how long do pesticides stay in the environment?

(m) *(1) Administrator shall—to keep waste oil out of the environment—conduct a study of—(A) the generation of used engine, machine, cooling, and similar waste oil including quantities generated, the nature and quantity of such oil, present collecting methods and disposal practices, and alternative uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products of such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.*

(2) Results shall be reported within 18 months of the date of enactment of the FWPCA Amendments of 1972.

(n) (1) Administrator shall carry on—with cooperation—continuing comprehensive studies on the effects of pollution—including sedimentation—on fish and wildlife, water supply and water power, and on other beneficial purposes. Studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

(2) In conducting such studies shall do what is necessary to complete a full study of estuaries and estuarine zones.

(3) Administrator shall submit reports to Congress at least every three years—

(4) *"estuarine zones" means—as used here—on environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term "estuary" means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.*

(o) (1) Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage.

(2) Administrator shall report preliminary results within one year after the date of enactment.

(p) Per subsection (a) of this section Administrator shall research the prevention of agricultural pollution, including the legal, economic, and other implications of the use of such methods.

(q) (1) Administrator shall conduct research and pilot project implementation into new and improved methods of eliminating pollution from sewage in rural and other areas where collection of sewage in conventional community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

(2) Administrator shall research and run a pilot project to implement new and improved methods for collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

(r) Administrator can make grants to colleges to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of fresh water aquatic ecosystems.

(s) Administrator is authorized to make grants to one or more institutions of higher education for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water development activities. No such grant in any fiscal year shall exceed $1,000,000.

(t) Administrator shall conduct continuing comprehensive studies of the effects and methods of control of thermal discharges—in determining alternative methods of control, Administrator shall consider: (1) relative engineering and technical feasibility, (2) relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use and effective utilization and conservation of natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator within one year and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

(u) *Authorizations for appropriations:*

(1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (q), (p) and (r);

(2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (q) (1);

(3) not to exceed $2,500,000 for fiscal year 1973 for carrying out the provisions of subsection (q) (2);

(4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973 and June 30, 1974, for carrying out the provisions of subsection (p), and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out subsection (r).

SEC. 105. (a) Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

(1) Any project which will demonstrate a new or improved method of preventing and abating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

(2) Any project which will demonstrate advanced waste treatment and water purification—and to include in such grants such amounts as are necessary for the purpose of reports, plans, et cetera.

(b) The Administrator is authorized to make grants in river basins to demonstrate advanced pollution treatment and environmental enhancement techniques—*includes nonpoint sources*

(c) Administrator is authorized to conduct in the EPA, to make grants to, and to enter into contracts with, persons for research and demonstration projects for prevention of pollution by industry—only for new or improved methods.

(d) Per provisions of this section, Administrator shall conduct an accelerated effort to develop, refine, or achieve practical application of—

(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining and containing pollutants so they will not migrate to cause water or other environmental pollution, and

(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

(e) (1) Administrator is authorized to (A) make grants to persons for research and demonstration projects with respect to new and improved methods of preventing and abating pollution from agriculture, and (B) disseminate such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

(2) No grant shall be made for any project in an amount exceeding 75 per centum of the cost thereof as determined by the Administrator;

(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

(h) Authorized for appropriation—$70,000,000 per fiscal year ending June 30, 1973 and June 30, 1974, and from such appropriations at least 10 per centum of funds actually appropriated in each fiscal year shall be available only for subsection (e).

SEC. 106. (a) Authorization for appropriation to remain available until expended—

(1) $60,000,000 for fiscal year ending June 30, 1973, and

(2) $75,000,000 for fiscal year ending June 30, 1974.

for grants to States and interstate agencies.

(b) From sums appropriated in any fiscal year Administrator shall make allotments to the several States and interstate agencies per regulations promulgated by him on need.

(c) Administrator is authorized to pay each fiscal year either—

(1) the allotment of such State or agency for such fiscal year under subsection (b), or

(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program during such fiscal year, whichever amount is lesser.

(d) No grant shall be given to a State or agency which cuts back on spending its own funds below the level it was spending on June 30, 1971.

(e) Conditions for grants in this section:

(1) Must file within one hundred twenty days—

(A) summary report of current status and priority criteria, and

(B) other information as Administrator shall require.

(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or agency.

(3) Such State or agency submits within one hundred twenty days after the date of enactment and before July 1, of each year thereafter for Administrator's approval its programs for the prevention and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

(f) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulation promulgated by him.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York (Mr. KING).

Mr. KING. Mr. Chairman, the primary objective of the bill we are considering today is to restore and maintain the chemical, physical, and biological integrity of the Nation's water. Consistent with the provisions of this act, and in order to achieve the national goal of pollution control and clean water, the act provides that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants in the navigable waters and to restore the quality of water in the fresh water lakes throughout the United States.

The state of our environment is of major concern to people everywhere in contrast to even a decade ago. Critical situations in the availability of fresh water for its many widespread uses have appeared in certain locations throughout the Nation. Unlike the marine environment, clean, fresh waters are economical sources sustaining vast national needs. Numerous lakes and streams have become so fouled with domestic and industrial wastes that they are virtually useless as sources of pure or recreational water. As the population of this country continues to rise, the need for water supplies is becoming increasingly evident. There has been no major change in the availability of this resource, nor is there expected to be. In fact, the amount of clean fresh water continues to decline. It has become ever more obvious that the pollution of our waterways has reached an increasingly acute stage.

It is to this end that I wish to call my colleagues' attention to the activities of the Rensselaer Fresh Water Institute at Lake George, N.Y. An extensive study of the numerous factors involved with environmental systems in and around fresh water lakes has been initiated at this institute in Washington County, N.Y. This program was instituted in 1967 as a means to investigate and control the increased biological, chemical, and social problems associated with overfertilization of water routes via man's waste discharges. A coordinated interdisciplinary effort by a group of research engineers and scientists from the Rensselaer Polytechnic Institute, under the direction and management of Dr. Nicholas L. Clesceri, Mr. John S. Heywood and Dr. James J. Ferris, has been inaugurated at the center to examine comprehensively the complex interactions occurring in an aquatic environment. The facility is in existence now and is functioning with

the help of approximately 45 research scientists and engineers. The new president of Rensselaer Polytechnic Institute, Dr. Richard J. Grosh and the scientists who are undertaking the activities of the fresh water institute, are to be commended for their foresight and tireless efforts in preserving man's fresh water resources.

Because of the widespread interest expressed by many national environmental, labor, and consumer organizations concerning the legislation we are considering today, I would like to call my colleagues' attention to the following statement outlining the programs and objectives of the Rensselaer Fresh Water Institute at Lake George.

In my opinion, H.R. 11896 represents a substantial commitment to the protection and enhancement of our surroundings; its new and far-reaching programs will make possible giant strides in the campaign to strengthen, expand and accelerate the Nation's water pollution efforts.

The statement follows:

THE RENSSELAER FRESH WATER INSTITUTE AT LAKE GEORGE—PROGRAMS/OBJECTIVES

The availability of potable fresh water in the United States has progressed from a stage of abundance to one of critical insufficiency. Man has caused this situation through the introduction of excessive quantities of wastes into water sources, resulting in a national water supply which is increasingly over-fertilized and polluted. This process is illustrated by the many water sources currently useless for economical, industrial or recreational purposes.

Water despollation is not a unique ecological malady; this pattern is evident today in connection with virtually all resources. The contrast of a growing population with a fixed amount of these natural resources dictates that a thorough underatanding of pollution processes is needed in order to preserve these assets for future economic, industrial or recreational use. Such knowledge can maintain and subsequently improve man's response to this critical situation and thereby the overall quality of life.

Early in this century, environmentalists, conservationists and some dedicated citizens were primarily concerned with preserving wildlife and selected natural areas. By the 1950's Federal air and water pollution laws were passed which prompted the rate of environmental legislation to increase during the 1960's. This legislation has currently broadened itself to include the total environment, and emphasizes ecology, population, pollution and urban environments.

In addition to many scientists and technologists, the public now senses the magnitude of environmental complexities and the interrelationships of nature. The Santa Barbara oil spill, phosphates in detergents, DDT persistence in terrestrial and aquatic environments, recreational restrictions from polluted beaches, severe deterioration of the Great Lakes, and the inadequacy of wastewater treatment plants, have all alerted and accelerated the response of many Americans to the need for corrective activity. Citizens are ready to learn about the alternative or available measures to rectify the conditions existing in the environment. There is increasing awareness that the abatement of pollution will decrease the danger of disease, produce better potable water; attract new and environmentally responsible industries to communities; increase property values; provide more recreation in the form of fishing, boating, hunting and swimming, and enhance supplies of known and potential food products. The interdependencies occurring within the environment affect everything—including man.

Rensselaer Polytechnic Institute has kept pace with the rapid rates of change that occur within the complex world of society. Due to these changes, a newly defined role has evolved for technology and its application in solving environmental problems. For example, the Rensselaer School of Engineering was reorganized in 1963, establishing the Professional School of Engineering. The primary features of this reorganization are a five year educational program and a divisional administrative structure responsible for long range planning and research.

Another example was the establishment of the Rensselaer Fresh Water Institute at Lake George (FWI) in 1967 on the northeastern shore of this lake. It is located in the Adirondack Mountains of New York State. Rensselaer has been directly involved in finding solutions for environmental problems since 1957. The FWI research program has expanded from an activity supported by the School of Engineering to a program-budgeted independent university activity.

As an independent activity, the FWI is a research endeavor which is totally responsible for its financial viability and its Director reports to the Provost of the university, enhancing efficiency and flexibility. This administrative arrangement provides a strong basis for action-orientation in order that the basic research vitally necessary for the solution of today's pollution problems can be compressed into the shortest possible timeframe.

This action-orientation will facilitate attainment of the following objectives. It will further catalyze the development of a research team with expertise to analyze fresh water problems. It will provide for the training of new personnel who will have the advantage of multidisciplinary exposure. It will foster the development of new ecological theory to aid in abating the degradation of the quality of fresh water resources. Lastly, FWI facilities will afford a site attractive to the scientific community as a place where researchers can work together with their peers in an atmosphere conducive to the exchange of ideas. The studies already completed at Lake George provide a firm foundation upon which to build. Additional manpower and major resources will be committed to insure the FWI's continued and accelerated contribution to solving the problems of fresh water pollution.

The basic purpose of FWI is the in-depth study of biological, chemical, physical and social interactions in and around fresh waters via a multidisciplinary program. The data generated by these field and laboratory studies are stored, analyzed and mathematically modeled. Computer technology is used to assist the researchers in the analysis and assessment of their data and also affords them the opportunity to evaluate future environmental conditions which would result from increased human activities in the environment. This approach provides methods for preventing subsequent environmental degradation and allows for its maintenance at a pre-determined level of quality. FWI has as its objective the realization of research endeavors adequately describing environmental systems in order that they can be more intelligently managed for the benefit of mankind.

Since its inception FWI has experienced growth in several areas of research and physical development. The research program now encompasses many avenues of environmental investigation. Comprehensive descriptions of completed, ongoing and projected studies are available upon request from the Institute.

The number of active participants associated with FWI has increased from ten to more than forty faculty and staff representing nine curricular areas. These include Environmental Engineering, Biology, Chemistry, Economics, Geology, Mechanical Engineering, Operations Research and Statistics and Systems Engineering. The participants have both living and laboratory facilities available to them at the research site including more than 2,500 sq. ft. of laboratory space. Specialized instrumentation at the site provides analytical capability in atomic absorption spectrophotometry, infrared spectrophotometry, liquid scintillation counting, gas chromatography, carbon analyses and UV-visible spectrophotometry in addition to other specialized apparatus for conducting analyses of this nature.

The potential impact which the studies at FWI will have toward preserving man's freshwater resources parallels those investigations regarding marine research. Because of the equipment, experience and expertise gathered over five years and the substantial personnel commitment involved, it is believed that FWI is in a unique position to function in a regional capacity. If such a status is realized, even more can be done to implement the research endeavors described previously to solve the pollution problems of our nation's fresh waters.

As has been suggested throughout this report, the need for scientific and technical data and their analyses has arisen in environmental disciplines in order that the technological objectives of this research endeavor continue to be met. The employment of additional expert personnel and the construction of more refined and even better equipped on-site laboratory and field facilities will further catalyze the development of FWI and allow a more rapid expression of new ecological theories to aid in preserving water resources as well as other natural resources. The consequences of anything less than a total solution to the scientific, technical, social and political problems are self-evident. In the final analysis the treatment of these problems with their many facets may determine whether this land will be habitable for future generations.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New York (Mr. TERRY), a member of the committee.

Mr. TERRY. Mr. Chairman, I am going to direct my initial remarks today to the permit and enforcement aspects of the bill now before the House—H.R. 11896.

Before I do that I would like to extend, along with other members of the committee, our compliments to our acting chairman (Mr. JONES) and to the ranking minority member (Mr. HARSHA) for their enormous input and industry.

In the brief time that I have been a Member of this House, testimony on water pollution consumed approximately the same number of pages as in the 15 years preceding as attested to by the documents presented by the chairman of the committee, Mr. BLATNIK. This bill is brought forth after diligent study. Moreover, the staff effort was extraordinary.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. TERRY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I am not sure that there has been enough attention given to the extraordinary amount of time and effort and energy expended by the staff on both sides and the hundreds of man-hours that they have spent on this subject in cooperating with the Members and in following the policy guidelines established by the membership. It is my opinion that this vast amount of work and effort should be a matter of record during the discussion of this historic antipollution and water quality control measure.

Mr. TERRY. I certainly second those remarks. The ranking member of the committee indicated that 250 man-weeks have been expended on this measure, and we all join in congratulating the staff.

As you indicated in your remarks, Mr. CLAUSEN, discharge from point sources would be unlawful unless they were in accord with permits issued by the State or the Environmental Protection Agency.

The committee, in H.R. 11896 has recognized the necessity of coordinating the Federal and State activities in the granting of permits, first, in order to have the uniformity that the Federal permit system would provide and second, in order to have the local input and initiative that a State permit would provide.

The committee has recognized that some States have the capability at this time of handling all of the needs in the development of their own capabilities. Having recognized this, the committee has designed a permit program which will allow those States with the demonstrated abilities to assume control of the permit program at the earliest possible dates, essentially immediately upon enactment via an interim program, while those States that have been dilatory will be required to demonstrate capabilities before the EPA Administrator could approve a State permit program. During this interim period, the Administrator would maintain the right to veto, which is essential to have a coordinated program.

The Administrator within 90 days of enactment must prepare and promulgate guidelines for a State-operated permit program. When these guidelines are promulgated, any State may present to the Administrator the plans for a State permit program. Within 90 days of the presentation by the State, the Administrator must decide whether or not the State program meets his guidelines. If so, and I emphasize that the guidelines will be comprehensive, the Administrator would approve the program and the States would be authorized to issue and enforce discharge permits. This is the basis for the program.

The committee expects prompt action by the Administrator and any State program submitted to the Administrator must, under section 402(c), be approved or rejected with notice of needed revisions or modifications within 90 days of submittal.

In addition to the basic permit authorization I just described, there is in H.R. 11896 an authorization for an interim permit program.

Immediately upon enactment of the 1972 amendments, the Administrator may for a period which may start on the day of enactment and which would end either on the 90th day after the Administrator promulgates his guidelines for State permit programs or upon the date of approval of a State program pursuant to the guidelines, whichever is the earlier. Thus, those States with adequate programs at this time would, under this interim provision be immediately authorized to issue section 402 permits. It is expected that the Administrator will encourage such interim programs. This has been discussed with the administration and they concurred that an interim program should be placed in effect. During this interim period, the Administrator would maintain the right to veto any State permit.

If the State has a fully approved program, which meets his guidelines, the Administrator would still have a veto capability in those cases where a downstream State objected to the issuance of a permit by another State where there is a navigable body flowing through several States. In the case of such an objection, the downstream State would have the right of receiving from the permitting State a notice in writing of the permitting State's failure to recognize the objections and accept any recommendations from the downstream State and thus they would have the right to appear before the Administrator to present their objection to the issuers of the permit.

And the Administrator, if he found their objections to be warranted, may veto the issuance of the permit in question. Thus, for a large number of our waters, the Administrator, upon objection by the downstream State, would have the veto power.

This is important in those States involved in river basins, and other areas where several States are involved.

In addition to the veto power for the interim period, and the veto power in the event of the downstream State objections, the Administrator, upon a showing that the permit program is not being carried out—and I emphasize is not being carried out—then in accordance with section 402 the Administrator can at that point withdraw the approval of the State permit program.

Without reviewing the details of the Federal-State enforcement procedures as required by the bill now before us, I do emphasize the fact that the Administrator in his discretion or the State involved may take enforcement action in the event of any violation of any condition or limitation of a State-issued discharge permit.

Thus even though the committee intends that the Administrator use this power sparingly, and that he rely to the maximum extent possible on the State enforcement actions, and the actions by the States, the Administrator may step in on an individual basis to enforce the individual permits.

With these provisions for interim veto power, downstream State objections, and the associated veto power, the capability of the Administrator of EPA to withdraw approval of a State permit program, and the Federal enforcement provisions, the committee feels it is totally unnecessary to have a permit-by-permit veto. The duplication of effort that would result from this and the magnitude of the paperwork that would be forthcoming is just too costly, and wasteful of experienced manpower and, quite frankly, simply unnecessary.

Mr. Chairman, we have before us a fair, effective and enforceable control program. State and local initiative, as well as the national uniformity, will be maintained. I urge my colleagues to support H.R. 11896, and particularly those provisions that I have just talked about of the permit program, and the standards of enforcement.

It is my further desire to call attention to section 206(a) which authorizes $2 billion for reimbursements for fiscal years 1967 through 1971.

This authorization includes payment of retroactive grants to States that did not prefinance up to 50 percent or 55 percent of the Federal share during this period. EPA has estimated that $456 million will be required to pay for retroactive grants, and we have recently learned that "conventional" reimbursables and retroactive grants total $2.246 billion. The authorization of $2 billion obviously is inadequate to meet the need. All but two or three of the 54 States and territories will be eligible for their proportionate share of whatever Federal funds are appropriated. The amount appropriated will be the responsibility of the appropriations committees in Congress.

But, whatever is appropriated, no State would receive more than its appropriate ratio, regardless of how small its claim, or how large.

It has recently come to my attention that there are unknown eligible reimbursables, and I am sure that the eligibility for retroactive grants is an equally unknown factor.

The reason such information is not yet available is that the cost of a project cannot be realistically determined until after the bids on a project are opened. Because bids have been higher than the engineers' estimates, and because Federal funds have not been available to finance the Federal share of these increased costs, many States such as New York have found it necessary to commit themselves to further prefinancing commitments in order to keep their projects moving along.

Without such additional prefinancing commitments and without adequate Federal funds, the projects could not have progressed beyond the bid-opening stage.

Mr. Chairman, this is not a problem that is peculiar to New York alone; indeed, all 50 States are involved in one way or another in the dilemma of how to finance increased costs. Soon, hopefully, by the end of this year, the bids will be in on the majority of the projects approved by EPA in the closing days of fiscal year 1971. Not until then will a figure be available that will more realistically reflect the amount of outstanding reimbursables and retroactive grants the States will be eligible to receive.

New York State has attempted to estimate the amount that will be required nationwide to meet the Federal commitments; we have estimated that nearly $2.5 billion will be required for conventional reimbursables, and over $500 million for retroactive grants, for a total of $3 billion.

In this connection, Commissioner Henry L. Diamond of New York's Department of Environmental Conservation, recently wrote to Mr. Ruckelshaus, the Administrator of the Environmental Protection Agency, to point out that the totals the EPA has been providing to

Congress are seriously underestimated, and that New York and its municipalities have committed over $1.3 billion to prefinance the Federal share. Without such commitments by New York, EPA could not, under the law, approve the projects involved.

Mr. Chairman, I will request permission to insert Mr. Diamond's letter in the RECORD, along with a detailed statement, project by project, of State and municipal prefinancing committed on behalf of the Federal Government when the committee rises.

Although the amount authorized in section 206(a) of H.R. 11896 is too small to meet the ultimate need, there will be an opportunity in future legislation to correct this inequity.

I pledge to do all I can toward this end, so that all projects in the Nation will be funded to the maximum of their Federal entitlement.

Mr. Chairman, I include at this point the following material which I believe will be helpful to the Members:

DIVISION OF MUNICIPAL WASTE WATER PROGRAMS EVALUATION AND RESOURCE CONTROL BRANCH

Additional WQO grant funds required to raise the grant amount to the 50% level should legislation be enacted permitting all projects proceeding with construction after June 30, 1966 to be eligible for the higher level grant.*

As of June 30, 1971

Alabama	$22.0
Alaska	0
Arizona	5.0
Arkansas	6.0
California	35.3
Colorado	7.2
Connecticut	1.3
Delaware	1.8
District of Columbia	0
Florida	6.1
Georgia	29.3
Hawaii	1.9
Idaho	1.3
Illinois	29.0
Indiana	2.6
Iowa	6.0
Kansas	10.7
Kentucky	21.1
Louisiana	5.6
Maine	.9
Maryland	4.1
Massachusetts	.7
Michigan	12.9
Minnesota	10.7
Mississippi	4.6
Missouri	26.6
Montana	1.5
Nebraska	2.9
Nevada	3.0
New Hampshire	.6
New Jersey	11.3
New Mexico	2.4
New York	4.1
North Carolina	28.2
North Dakota	1.4
Ohio	6.3
Oklahoma	16.7
Oregon	9.0
Pennsylvania	26.9
Rhode Island	.2
South Carolina	16.5
South Dakota	1.6
Tennessee	3.3
Texas	24.2
Utah	2.4
Vermont	.5
Virginia	11.7
Washington	19.7
West Virginia	7.2
Wisconsin	.5
Wyoming	.5
Guam	0
Puerto Rico	.5
Virgin Islands	0
Totals	455.8

*Excludes amount already accounted for in reimbursable reports.

STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
Albany, February 28, 1972.

Hon. WILLIAM D. RUCKELHAUS,
Administrator, U.S. Environmental Protection Agency, Washington, D.C.

DEAR BILL: I am greatly concerned that the costs of the sewage treatment projects for New York State on your books are substantially underestimated.

The Congress is relying on these figures in authorizing reimbursement for the federal share which New York State and its municipalities have pre-financed. The underestimated totals could be a serious burden to taxpayers of our State if not corrected.

Enclosed is a list of all projects which have received Federal construction grant offers since the inception of New York State's Pure Waters Program on May 12, 1965. All are expected to qualify for a construction grant under the State Program which will expire on March 31, 1972.

The State Program provides for a 30% basic grant and pre-financing up to 30% of the Federal share. The municipality's share is usually 40% of which 20% or 25% is also pre-financing of the Federal share. In this connection, New York State officials on several occasions have indicated that the State and its municipalities have committed about $1.3 billion to pre-finance the Federal share of already approved projects. The purpose of this report is to identify the specific projects to which such pre-financing has been committed.

Estimated project costs shown are the Department of Environmental Conservation's estimates of costs based upon *bid experience*. Our records, particularly over the past year, prove that the Department's estimates more realistically reflect the actual bid prices for construction work than those originally furnished by the municipalities in their applications for aid.

As of December 31, 1971 there are 67 projects for which $611,564,201 in State prefinancing has been committed and 255 projects for which $678,566,789 in local prefinancing has been committed. These commitments were made under the Clean Water Restoration Act of 1966 and include only pre-financing that is eligible for reimbursement under that Act. They do not include any increases in Federal grants that are proposed in pending Federal legislation for projects approved prior to the 1966 Act. These amounts will change as bids are received on construction work not yet awarded. The final totals will be known after all construction contracts have been awarded.

The amounts of reimbursable owned by the Federal government is substantially more than those represented in the municipality's original grant applications or modifications thereof. These total only 877,437,221. The latter amount is that currently recognized by the United States Environmental Protection Agency and unfortunately, the amount being acknowledged by the Congress in pending legislation.

I urge you to take the necessary action to furnish this data to the Congress so that proper recognition of the funds owed taxpayers of New York State is reflected accurately in pending legislation.

Sincerely,

HENRY L. DIAMOND,
Commissioner.

REIMBURSABLES OWED NEW YORK STATE AND ITS MUNICIPALITIES FOR PREFINANCING THE FEDERAL SHARE OF CONSTRUCTION OF SEWAGE TREATMENT WORKS AS OF DEC. 31, 1971

Cong. Dist.	Project number C-35-	Applicant	Eligible project cost	State prefinancing	Local prefinancing
CENTRAL SECTION					
33	228	Endicott (V), Broome	$1,693,667	1 $109,085	
33	223	Johnson City (V), Broome	2,280,469		
33	226	Kirkwood S.D. No. 1, Broome	10,675		
33	242	Vestal (T) S.D. No. 1, Broome	62,432		
33	295	Vestal (T), Broome	113,043		$13,317
34	271	Auburn (C), Cayuga	274,154		
34	263	Port Byron (V), Cayuga	349,643		
34	285	Weedsport (V), Cayuga	600,695		
35	113	Norwich (C), Chenango	3,820		
31	181	Watertown (C), Jefferson	1,790,140		
35	254	Canastota (V), Madison	1,015,280		
35	259	Chittenango (V), Madison	477,937		
35	360	Hamilton (V), Madison	553,824		61,133
32	303	Camden (V), Oneida	58,585		6,894
35	308	Onondaga (Co.) DPW, Manlius S.D., Onondaga	87,625		2,504
35	296	Onondaga (Co.) Jail, Onondaga	95,300		21,817
35	251	Salina (T), Onondaga	467,000		
31	225	Centra. Square (V), Oswego	280,526		
31	132	Fulton (C), Oswego	1,423,201	1 154,660	
31	283	Canton (V), St. Lawrence	77,500		
31	196	Ogdensburg (C), St. Lawrence	23,767		
33	239	Owego (V), Tioga (S)	605,127		
33	278	Dryden (V), Tompkins	744,405		
33	224	Ithaca (C), Tompkins	13,867	1 138	
33	267	Ithaca (C), Tompkins	302,537		
EASTERN SECTION					
29	298	Altamont (V), Albany	$162,500		
28	258	Hudson (C), Columbia	1,033,870		
30	180	Port Henry (V), Essex	69,398		
28	108	Canajoharie (V), Montgomery	58,490	1 $140	
28	338	Cooperstown (V), Otsego	941,689		
34	234	Onondaga (Co.), Camillus (T), Onondaga	684,925	1 40,168	1 $20,548
34	482	Onondaga (Co.), Geddes (T), Onondaga	1,492,663		196,695
35	358	Onondaga (Co.), Ley Creek modification to S.T.P., Onondaga	3,361,400		384,429
35	313	Onondaga (Co.), Morgan Rd., Onondaga	3,187,829		389,937
35	266	Onondaga (Co.), Onondaga	3,873,000	1 32,146	1 154,954
35	454	Tully (V), Onondaga	938,000		98,200
35	474	Central Square (V), Oswego	129,547		16,820
35	462	Fulton (C), Oswego	1,163,294		164,121
35	386	Oswego (C), Oswego	6,100,000		890,600
35	336	Environmental Facilities Corp., Pulaski (V), Oswego	1,074,500		183,395
31	369	Canton (V), St. Lawrence	2,635,600		293,120
31	520	Colton (T), St. Lawrence	363,416		36,056
31	486	DeKalb (T), St. Lawrence	198,200		33,440
31	316	Edwards (V), St. Lawrence	181,000		16,100
31	444	Fine (T), St. Lawrence	103,400		10,940
31	468	Heuvelton (V), St. Lawrence	629,000		56,000
31	464	Norwood (V), St. Lawrence	892,500		99,200

Cong. Dist.	Project number C-35-	Applicant	Eligible project cost	State prefinancing	Local prefinancing
31	320	Potsdam (V), St. Lawrence	$3,110,500		$488,650
31	501	Stockholm (T), St. Lawrence	190,624		21,231
31	435	Waddington (V), St. Lawrence	397,250		79,445
33	552	Owego (T), Tioga	3,570,000		574,000
33	412	Dryden (T), Varna S.D., Tompkins	152,600		18,670
29	562	Altamont (V), Albany	$40,623		$4,374
29	387	Coeymans (T), Albany	1,738,700		245,315
29	317	Colonie (T), Albany	1,093,700		133,315
29	377	Colonie (T), Dry River Area, Albany	556,000		121,500
29	571	Colonie (V), Albany	560,400		140,100
29	591	Colonie (T), Newtonville S.D., Albany	770,000		101,000
29	523	Guilderland (T), Albany	588,574		109,185
29	524	Menands (V), Albany	215,835		43,167
31	353	Keeseville (V), Clinton	1,231,500		169,002
31	521	Plattsburgh (C), Clinton	11,570,515		2,374,324
28	256	Sidney (V), Delaware	1,950,000		419,400
30	522	Env Facilities Corp., Westport (V), Essex	525,053		60,297
32	471	Gloversville (C), Johnstown (C), Fulton	8,780,900		1,244,180
28	503	Athens (V), Greene	926,280		114,650
28	514	Catskill (V), Greene	2,934,600		414,020
32	473	Indian Lake (T), Hamilton	379,000		77,780
29	516	Env Facilities Corp., Amsterdam (C), Montgomery	11,466,600	$671,280	2,866,650
28	607	Oneonta (C), Otsego	4,945,600	989,120	989,120
30	255	Hoosick Falls (V), Rensselaer	1,592,200		201,090
30	569	Saratoga County Homestead Infirmary at Providence, Saratoga	112,600		18,440
29	441	Niskayuna (T), Schenectady	979,000		244,750
29	625	Niskayuna (T), SD No. 6 Ext., Schenectady	135,000		590
28	580	Schoharie (V), Schoharie	341,102		59,946
28	543	Richmondville (V), Schoharie	253,000		35,660
30	466	Granville (V), Washington	916,000		138,000
33	306	Dickinson (T) S.D. No. 3, Broome	112,000		13,740
33	533	Port Dickinson (V) Broome	443,815		49,368
33	304	Union (T) Broome	1,506,000		157,700
33	528	Vestal (T) S.D. No. 4 Broome	829,000		108,780
34	535	Aurora (V) Cayuga	1,210,700		194,655
34	601	Fleming (T) Cayuga	388,000		79,660
34	349	Moravia (V) (EFC) Cayuga	914,505		137,998
34	477	Env Facilities Corp. Port Byron (V) Cayuga	223,400		33,750
34	647	Sennett (T) Cayuga	97,000		12,100
35	277	Bainbridge (V) Chenango	660,700		64,815
35	300	Greene (V) Chenango	667,900		42,541
35	549	Sherburne (V) (EFC) Chenango	1,178,494		230,471
32	572	Dolgeville (V) Herkimer	1,376,900		268,925
32	461	Herkimer (V) Herkimer	1,741,800		219,900
32	479	Little Falls (C) Herkimer	5,340,850		1,122,278
31	556	Brownville (V), Jefferson	818,615		180,098
31	478	Cape Vincent (V), Jefferson	422,200		37,540
31	547	Evans Mills (V), Jefferson	238,000		45,460
31	465	Philadelphia (V), Jefferson	270,600		29,540
31	292	Watertown (C), Jefferson	1,338,552		
32	301	Castorland (V) (EFC), Lewis	210,900		42,180
32	491	Env Facilities Corp., Martinsburg (T), Glenfield S.D., Lewis	153,400		22,380
32	606	Lowville (V), Lewis	441,200		35,540
32	302	Kirkland (T), Oneida	293,000		35,860
32	371	Oneida Co. S.D., Oneida	28,060,200	783,810	7,015,050
32	470	Waterville (V), Oneida	880,880		107,694
34	319	Camillus (V), Onondaga	64,700		6,334
35	452	Manlius (T), Fremont S.D., Onondaga	253,928		12,660
35	467	Marcellus (V), Onondaga	381,000		46,620
35	633	Minoa (V), Onondaga	661,500		165,375
35	450	Onondaga (Co.), Cicero S.D., Onondaga	1,725,556		211,016
26	67	Port Chester (V), Westchester	77,879	1 9,057	
WESTERN SECTION					
38	182	Cuba (V), Allegany	42,221		
38	215	Jamestown (C), Chautauqua	44,407		
38	193	Erie County S.D. No. 2, Erie	3,802		
39	238	Erie County S.D. No. 3, Erie	1,894,569		
37	370	Erie County, Erie County Home and Penitentiary, Erie	322,232		39,411
40	324	Tonawanda (T), Erie	1,284,489		141,105
37	199	Batavia (C), Genesee	367,989		
34	260	Lima (V), Livingston	401,991		
36	281	Brighton (T), Monroe	750,328		
37	240	Brockport (V), Monroe	882,321		
36	147	East Rochester (V), Monroe	8,023	1 38	
37	315	Gates-Chili-Ogden S.D., Monroe	638,059		
36	202	Henrietta (T) S.D. No. 1, Monroe	16,185		
36	231	Henrietta (T) S.D. No. 1, Monroe	491,839		
37	246	Hilton (V), Monroe	235,021		
36	264	Irondequoit (T), Monroe	623,400		
36	288	Irondequoit (T), Monroe	$233,686		
36	233	Penfield S.D. No. 3, Monroe	197,644	1 $691	
36	287	Penfield (T), Monroe	86,377		
36	270	Perinton (T), Monroe	229,627		
36	243	Pittsford (T), Monroe	185,200		
36	192	Rochester (C), Monroe	42,018		
36	249	Webster (V), Monroe	701,619		
40	350	Youngstown (V), Niagara	42,964		$4,658
34	157	Phelps (V), Ontario	19,769		
34	273	Victor (V), Ontario	582,065		
37	217	Medina (V), Orleans	77,333		
35	252	Newark (V), Wayne	152,260		
34	145	Penn Yan (V), Yates	18,623	1 49	
CENTRAL SECTION					
33	544	Binghamton (C), Broome	9,906,100		1,837,245
29	203	Niskayuna (T), Schenectady	885,718		
29	291	Schenectady (C) Schenectady	133,000		14,799
28	195	Sharon Springs (V) Schoharie	6,189		
30	194	Lake George (V) Warren	62,855		
30	284	Lake George (T) Warren	590,300		
SOUTHEASTERN SECTION					
4	318	Cedarhurst (V) Nassau	907,932		
3	236	Glen Cove (C) Nassau	47,748	1 4,632	
4	250	Lawrence (V) Nassau	1,650,516		
3	190	North Hempstead (T) Nassau	86,812	1 310	
7	109	Jamaica New York City	148,936	1 42,641	
26	229	Hillcrest Center Westchester	211,172		
27	265	Cornwall (T) Orange	153,208		
27	208	Montgomery (V) Orange	5,695		
25	176	Orangetown (T) Rockland	27,307	1 251	
25	275	Orangetown (T) Rockland	242,200		
28	232	Ellenville (V) Ulster	145,427		
27	619	Beacon (C), Dutchess	5,693,765		1,224,520
27	378	Poughkeepsie (T), Arlington SD Dutchess	3,871,400		473,510
27	511	Poughkeepsie (T), Ireland Estates Dutchess	79,844		9,785
28	519	Milbrook (V), Dutchess	353,400		59,730
28	469	LaGrange (T), Titusville SO Dutchess	179,010		21,335
27	340	Wappinger (T), Dutchess	159,800		34,180
3	341	Great Neck (V), Nassau	433,503		64,897
3	289	Great Neck SD, Nassau	1,174,759		
5	305	Long Beach (C), Nassau	260,000		57,200
5	361	Nassau Co SD #3, Nassau	151,416,000	13,122,630	48,877,076
3	351	Port Washington SD, Nassau	637,030		70,815
3	342	Roslyn (V), Nassau	131,200		17,113
14	86	Newtown Creek, New York City	64,488,733	1 19,249,888	
15	357	Owls Head, New York City	106,900		10,102
16	346	Port Richmond, New York City	3,030,492		370,710
21	406	Bowery Bay, New York City	975,340		119,287
23	214	Wards Island, New York City	1,405,147		
18	363	Wards Island, New York City	1,083,775		132,527
11	345	Coney Island, New York City	4,559,005		665,583
8	166	Tallmans Island, New York City	237,636	1 58,274	
7	321	Jamaica, New York City	718,951		21,569
27	368	Cornwall (T), Orange	1,135,923		143,419
27	475	County of Orange, Orange Farm, Orange	171,665		20,956
27	352	Goshen (V), Orange	691,000		95,960
27	508	Maybrook (V), Orange	348,000		43,960
27	480	Middletown (C), Orange	66,300		7,287
27	53	Newburgh (C), Orange	8,013,170		1,090,793
27	364	New Windsor (T), Orange	2,348,202		289,060
27	456	New Windsor (T), S.D. No. 9, Orange	1,110,126		178,540
27	362	Walden (V), Orange	323,900		41,965
27	507	Wallkill (T), Orange	1,287,118		305,014
27	492	Joint Regional Sewerage Board, Haverstraw (T) and W. Haverstraw (V), Rockland	4,344,663		634,362
25	290	Orangetown (T), Rockland	3,533,000		
25	712	Orangetown (T), Rockland	663,400		145,950
25	9	Peirmont (V), Rockland	357,900		
25, 27	274	Rockland Co S.D. No. 1, Rockland	28,538,800		
25	268	Stony Point (T), Rockland	1,720,100		
2	343	Huntington (T), Huntington S.D., Suffolk	195,000		23,900
2	237	Northport (V), Suffolk	55,800		
1	536	Riverhead S.D., Suffolk	225,000		97,200
28	253	Liberty (V), Sullivan	321,735		
28	322	Rockland (T), Livingston Manor S.D., Sullivan	344,650		52,955
28	365	Fallsburgh (T), South Fallsburgh S.D., Sullivan	1,781,439		260,131
28	498	New Paltz (V), Ulster	1,390,810		196,185
25	247	Buchanan (V), Westchester	146,514		
25	88	Peekskill (C), Westchester	185,811		

Projects prefinanced not eligible for reimbursement. Not included in totals.

REIMBURSABLES OWED NEW YORK STATE AND ITS MUNICIPALITIES FOR PREFINANCING THE FEDERAL SHARE OF CONSTRUCTION OF SEWAGE TREATMENT WORKS AS OF DEC. 31, 1971—Continued

Cong. Dist.	Project number C-35-	Applicant	Estimated project cost	State prefinancing	Local prefinancing
WESTERN SECTION					
38	420	Alfred (C), Allegany	$900,752		$189,253
38	311	Belmont (V), Allegany	537,500		
38	356	Canaadea (T), Allegany	869,200		91,130
38	354	Friendship (V), Allegany	533,310		11,215
38	279	Salamanca (C), Cattaraugus	2,814,100		421,648
38	245	Silver Creek (V), Chautauqua	1,408,385		42,252
33	325	Chemung Co SD #1, Chemung	1,748,700		213,915
33	632	Chemung Co SD #1, Ext D Chemung	193,310		42,630
33	297	Elmira (C), Chemung	433,600		51,159
39	197	Cheektowaga (T), Erie	158,304		
39	385	Erie Co, Erie County SD #3, Erie	229,130		30,411
41	257	Lackawanna (C), Erie	1,440,600		15,567
37	407	Elba (V), Genesee	448,237		56,630
34	314	Avon (V), Livingston	1,313,420		160,661
34	561	Geneseo (V), Livingston	1,026,040		225,742
36	327	Brighton (T), SD #2, Monroe	4,905,000		618,975
36, 37	414	Gates-Chili-Ogden SD, Monroe	2,772,600		338,890
37	329	Greece (T), Monroe	227,800		38,372
37	310	Greece (T), Monroe	277,701		35,285
36	423	Henrietta (T), Monroe	368,400		31,500
35	476	Henrietta (T), Monroe	1,698,780		299,649
35	425	Honeoye Falls (V), Monroe	1,195,000		150,900
36	424	Irondequoit (T), Monroe	127,000		10,512
36	261	Pittsford (V), Monroe	144,500		
36	489	Pittsford (T), Monroe	143,000		21,560
CENTRAL SECTION					
33	693	Dickinson (T) S.D., No. 5, Broome	$199,800		$41,330
33	545	Endicott (V), Broome	3,807,900	$238,170	951,975
34	483	Auburn (C), Cayuga	7,326,600	2,146,170	1,831,650
32	602	Thruway Authority, Schuyler Service Area, Herkimer			
31	502	Env Facilities Corp., Carthage (V); W. Carthage (V), Jefferson	5,680,000	954,000	1,420,000
32	515	Boonville (V) (EFC), Oneida	1,016,856		203,388
35	447	Onondaga (Co.), Meadow-brook-Limestone S.D., Onondaga	9,025,000		2,088,790
33	605	Cayuga Heights (V), Tompkins	2,910,000	133,770	727,500
EASTERN SECTION					
29, 30	388	Albany County S.D., Albany	72,000,000	14,100,000	8,000,000
29, 30	570	Albany (C), Albany	6,133,369	832,710	791,592
31	697	Plattsburgh (T), Route 3 S.D. Clinton	396,000		99,000
31	442	Lake Placid (V), Essex	2,547,575		574,016
29	590	Bethlehem (T), Albany	8,549,660	2,953,738	2,137,415
31	443	Saranac Lake (V), Franklin-Essex	2,190,000		510,150
32	620	Speculator (V), Hamilton	870,000		192,260
29	598	Thruway Authority, Patter-sonville Service Area, Montgomery			
29	599	Thruway Authority, Mohawk Service Area, Montgomery			
30	555	Department of Correction, Great Meadows Correc-tional Institution, Washing-ton			
SOUTHEASTERN SECTION					
28	493	Tivoli (V), Dutchess	239,000		47,800
3	432	Glen Cove (C), Nassau	1,035,000	136,680	258,750
2, 3, 4, 5	628	Nassau Co. S.D. No. 3, Phase II, Nassau	93,945,000	27,722,970	789,000
3	130	Oyster Bay (T), S.D. No. 1, Nassau	136,000		
20	178	North River, New York City	770,285,000	224,061,600	192,571,170
16	593	Port Richmond, New York City	189,140,000	38,866,150	47,285,000
21	398	Bowery Bay, New York City	86,502,000	24,018,050	21,625,500
18	395	Wards Island, New York City	68,000,000	19,266,720	17,000,000
11	405	26th Ward, New York City	47,805,000	13,927,760	11,951,250
7	400	Jamaica, New York City	37,322,000	3,420,650	9,330,500
22	397	Hunts Point, New York City	65,936,000	18,785,226	16,484,000
11	347	Spring Creek, New York City	18,590,978	734,000	4,647,745

Cong. Dist.	Project number C-35-	Applicant	Estimated project cost	State prefinancing	Local prefinancing
37	293	Scottsville (V), Monroe	$1,079,389		$136,264
37	383	Spencerport (V), Monroe	634,300		77,545
36	299	Webster (T), Monroe	4,019,200		861,288
36	419	Webster (V), Monroe	496,000		62,620
40	359	Lockport (C) (EFC), Niagara	8,468,680	$1,967,314	2,117,170
40	487	Lockport (T) SD #3 Niagara	255,100		42,830
40	382	Middleport (V) Niagara	1,046,400		128,010
34	272	Farmington (T), Ontario	813,500		177,100
34	560	Geneva (C), Ontario	6,213,500	1,298,110	1,553,375
34	330	Ontario County Ontario	171,334		14,877
37	539	Holley (V), Orleans	1,316,300		289,585
34	372	Seneca Falls (V), Seneca	2,700,720		330,366
34	416	Waterloo (V), Seneca	1,109,300		140,055
38	530	Env Facilities Corp., Addison (V), Steuben	1,004,200		220,930
38	421	Bath (V), Steuben	2,208,500		344,275
38	579	Canisteo (V), Steuben	1,093,700		240,615
38	331	Corning (C), Steuben	1,759,000		
38	373	Erwin (T), Steuben	1,188,000		145,360
38	280	Hornell (C), Steuben	2,991,200		
38	576	North Hornell (V), Steuben	290,000		22,970
36	415	Clyde (V), Wayne	1,552,400		220,918
36	422	Lyons (V), Wayne	1,082,475		184,741
36	494	Macedon (V), Wayne	1,185,695		149,753
36	367	Newark (V), Wayne	1,550,000		189,600
36	380	Sodus (V) (EFC), Wayne	811,915		130,533
36	490	Env Facilities Corp., Wolcott (V), Wayne	672,353		84,935
37	417	Perry (V), Wyoming	1,568,598		392,150
34	312	Dundee (V), Yates	486,680		101,502
34	332	Jerusalem (T), Keuka Park S.D., Yates	558,270		68,320
CENTRAL SECTION					
27	294	Washingtonville (V), Orange	$733,000		$161,260
27	282	Carmel (T), Putnam	1,068,000		
27	244	Env Facilities Corp., Cold Spring (V), Putnam	1,879,000		404,220
2	577	Northpor (V), Suffolk	820,000		180,400
1	355	Suffolk County, Suffolk Co. Community College, Suffolk			
28	608	Ulster (T), Ulster	2,177,000		478,940
24	568	Westchester (Co), Yonkers (C), Westchester	58,000,000	$9,154,600	14,500,000
26	634	Yorktown (T), Yorktown Heights S.D., Westchester	3,000,000		750,000
WESTERN SECTION					
38	409	Olean (C) (EFC), Cattaraugus	6,350,000	1,813,440	1,587,500
38	379	Dunkirk (C), Chautauqua	15,100,000	3,844,220	3,775,000
38	410	Jamestown (C), Chautauqua	333,300	16,470	83,325
38	583	Springville (V), Erie	631,800		138,996
34	623	Conesus Lake County S.D., Livingston	5,575,200	836,280	1,393,800
34	426	Mount Morris (V), Livingston		1,298,650	285,703
37	626	Churchville (V), Monroe	1,189,500	30,750	297,375
36, 37	581	Gates-Chili-Ogden S.D., Monroe	1,338,400		208,650
36	500	Irondequoit Bay PWD, Monroe	120,338,040	30,722,962	30,084,510
37	496	Northwest Quadrant, PWD No. 1, Monroe	40,193,000	4,362,800	10,048,250
36	375	Rochester (C), Monroe	79,040,000	18,792,500	19,760,000
37	603	Thruway Authority, Scotts-ville Service Area, Monroe			
34	459	Env. Facilities Corp., Clifton Springs (V), Ontario	1,069,000		235,180
34	617	Holcomb (V), Ontario	606,000		133,320
36	582	Palmyra (V), Wayne	696,000		173,470
37	537	Arcade (V), Wyoming	1,092,000	90,330	273,000
CENTRAL SECTION					
31	701	Norfolk (T) S.D. No. 1, St. Lawrence Co	585,000	40,530	117,000
35	551	Homer (V), Cortland	1,680,000	27,300	420,000
31	653	Alexandria Bay (V) (EFC) Jefferson	2,200,000	69,960	550,000
31	513	Dexter (V), Jefferson	196,000	12,300	49,000
31	595	Orleans (T), Thousand Island Park S.D., Jefferson	830,000	47,310	207,500
32	636	Camden (V), Oneida	1,420,000		355,000
32	449	Env Facilities Corp., Vernon (V), Oneida	1,300	44,260	325,000
35	448	Onondaga (Co.), Lakeshore S.D., Onondaga	18,700,000	5,520,130	
31	584	Potsdam (T) S.D. No. 1, St. Lawrence	192,000	13,140	38,400

Cong. Dist.	Project number C-36-	Applicant	Estimated project cost	State prefinancing	Local prefinancing
EASTERN SECTION					
29	604	Cohoes (C), Albany	$4,741,000	$538,560	$1,185,250
31	630	Plattsburgh (T), Cumberland Corners S.D., Clinton	381,000	17,480	95,250
28	366	Stamford (V) (EFC), Dela-ware	2,108,000	302,080	421,600
28	614	Env Facilities Corp., Delhi (V), Delaware	1,650,000		270,884
28	612	Coxsackie (V), Greene	1,997,000	105,720	499,250
29	721	Fonda (V), Fultonville (V), Montgomery	2,560,000	116,910	640,000
28	589	St. Johnsville (V), Mont-gomery	2,180,000		545,000
29	613	Hagaman (V), Montgomery	410,000	28,030	102,500
28	463	Richfield Springs (V), Otsego	648,000	51,540	129,600
30	594	Corinth (V), Saratoga	772,000		154,400
29	645	Schenectady (C), Schenec-tady	22,000,000	5,362,894	5,500,000
30	686	Lake George (V), Warren	58,000	2,620	14,500
SOUTHEASTERN SECTION					
3	629	Great Neck S.D., Nassau	6,500,000	440,000	1,625,000
3	609	N Hempstead (T), Belgrave S.D., Nassau	730,500	85,860	182,625
4	559	West Long Beach S.D., Nassau	110,000		21,500
7	403	Rockaway, New York City	56,910,000	16,654,150	14,227,500
8	404	Tallmans Island, New York City	43,863,000	12,798,210	10,965,750

Cong. Dist.	Project number C-36-	Applicant	Estimated project cost	State prefinancing	Local prefinancing
27	600	Env Facilities Corp., Florida (V), Orange	$1,000,000	$74,150	$250,000
27	668	Warwick (V), Orange	972,380	61,704	243,095
27	527	Suffern (V), Rockland	325,000	15,000	81,750
2	669	Huntington (T), Centerport S.D., Suffolk	6,460	150,000	37,500
1, 2	624	Suffolk (Co.), Southwest S.D., Suffolk	280,000,000	74,000,000	56,000,000
27	563	Monticello (V), Sullivan	250,000		50,000
28	497	Kingston (C), Ulster	2,900,000	53,750	725,000
25	671	Westchester (Co.), Tarrytown Ext., Westchester	5,600,000	1,462,020	1,250,000
WESTERN SECTION					
38	610	Ellicottville (V), Cattaraugus	795,700	28,970	198,925
38	635	Randolph (V), Cattaraugus	793,000		158,600
39	616	Buffalo Sewer Authority, Buffalo (C), Erie	99,775,000	4,605,000	24,943,750
37	622	Batavia (T) S.D. No. 1, Genesee	256,100		
37	627	Cortu (V) Genesee	701,740	65,592	175,435
57	578	Gates-Chili-Ogden S.D., Monroe	26,637,000	7,871,480	6,659,250
34	538	Montour Falls (V), Schuyler	287,925		57,585
30	437	Env Facilities Corp., Schroon (T), Schroon Lake S.D. No. 1 Ext., Essex	1,239,570	45,411	247,914
		Total	2,997,983,282	611,564,201	678,566,789

Mr. WRIGHT. Mr. Chairman, I yield 10 minutes, or such portion of that as the gentleman may consume, to the gentleman from West Virginia (Mr. KEE).

Mr. KEE. Mr. Chairman and members of the Committee of the Whole, I would like to start out by saying that the House Committee on Public Works is known throughout our land as "the builder of America." There is not a single, solitary congressional district in the United States over which the Committee on Public Works does not have direct jurisdiction in one form or another.

Mr. Chairman, I am going to be as brief as I can, but at this point I would like to ask unanimous consent that I may be permitted to file my statement in the RECORD following my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. KEE. The members of the Committee on Public Works have put in in excess of 4½ months in very diligently conducted hearings. Why did we do that? We did that for the future benefit of Americans, actually of generations yet to come. I cannot too strongly urge the adoption, without one single solitary amendment, to the Water Pollution Control Act amendments, as reported, by the House Committee on Public Works in the bill H.R. 11896.

Mr. Chairman, I have been assigned sections 107, 108, 109, 110, 111, 112, 113, and 114. I have all of these, with the exception of two—these proposals which have been written so diligently are basically existing law where we want to improve and feel that we have an obligation to improve.

I have the page numbers in the House Report 92–911 and I want this to appear in the RECORD for each section and I am hopeful before we come in tomorrow, as I understand it, to the amendment—that Members of the House will make it a point to read this because these are all absolutely and positively definite facts.

Now on section 108 I certainly commend the leadership of the Committee on Public Works and I think it is only proper and fair for me to point out that under section 108(A) which appears on pages 11 and 12 in the House report that we all owe a debt of gratitude to the ranking minority member of our committee, the gentleman from Ohio (Mr. HARSHA), for what he has done. He was right and he convinced us and this is with reference to Lake Erie. He is certainly to be highly commended for his dedication.

As I have said, all of these proposals are a part of the water pollution control bill that we already have.

I am going to take some time with reference to section 113(A).

Basically, this comes under the economic development administration which was initiated and reported out by the House committee and passed the House overwhelmingly, and it is that we add $1 million, which makes it $2 million, to the $1 million. That has been added for our great State of Alaska.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. KEE. I am delighted to yield to my colleague.

Mr. WALDIE. Mr. Chairman, I gather the gentleman was congratulating the efforts made in the bill and commending the protection given to Lake Erie.

Mr. KEE. Absolutely.

Mr. WALDIE. May I ask the gentleman what happened to the protections that were given to Lake Tahoe which were in the Senate bill and which no longer seem to be in this bill?

Mr. KEE. I yield to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. I thank the gentleman for yielding. If my colleague from California will yield, I will try to state an explanation.

Mr. WALDIE. Yes, I yield.

Mr. JOHNSON of California. As the committee considered the overall bill, we went into every detail that was included in the national needs for a water pollution bill, and in looking over all the testimony that we received from our State and from those of us who represent California on the committee, it was thought that the final draft of the bill that is before us today covers pretty nearly everything we could think of as far as taking care of the needs of California.

Lake Tahoe lies partly in California and partly in the State of Nevada. Under the construction moneys that are made available in the bill, we feel there is ample money that can be made available under the allotment formula to take care of our needs in cleaning up water pollution at Lake Tahoe. I have worked very hard for the past 24 years in dealing with problems at Lake Tahoe, both in the State Senate and here in the Congress of the United States. We have had the Public Works Committee out with us twice dealing with pollution problems at Lake Tahoe, and in every instance they came through with additional consideration and moneys that helped us to take care of the immediate needs under the existing legislation at that time.

I would say as a Representative from California that I am satisfied that the bill as it is now written and the positions that are in it give us needed funds for construction, planning, and studies. I know of no immediate problems there dealing with water pollution that is not covered by the bill at the present time.

Mr. WALDIE. I thank the gentleman. Just in response, I want to suggest that the amendments to which I have referred were specifically directed at Lake Tahoe as indicative of the belief on the part of the Senate that Lake Tahoe was, in fact, a unique problem that would not be served adequately by the general provisions of the bill. The amendment was supported by both U.S. Senators from Nevada, as well as California, and it was adopted unanimously by the Senate. I

will offer that amendment during the amending process tomorrow. I thank the gentleman.

Mr. KEE. I thank the gentleman for his remarks.

In concluding my remarks, Mr. Chairman, I should like to say that it gives us a feeling of satisfaction when the measure is not a political issue. Members on both sides of the political aisle have worked hard. Our staffing on both sides has endeavored to bring forth the best possible legislation which will—and I will repeat again—make a better America for tomorrow. Thank you very much.

Mr. Chairman, the material I previously referred to follows:

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SEC. 107 (a) Administrator and Federal interests can enter into agreements to carry out demonstration projects for control of mine water pollution. Engineering, economic feasibility and practicality shall be taken into account.

(b) Administrator, in making selections, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas suitable for public use, (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

(c) Federal participation in such projects shall be subject to the conditions—

(1) that the State or agency shall pay not less than 25% of the actual project costs.

(2) that the State or agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

(d) Authorization of appropriation of $15,000,000, which sum shall be available until expended. No more than 25% of the total funds available in any one year shall be granted to one State.

Sec. 108(a) Administrator can—with other agencies—enter into demonstration projects to clean up the Great Lakes. Engineering, economic feasibility, and practicality shall be considered.

(b) Federal participation is limited by agreement of State or agency to pay at least 25%.

(c) $20,000,000 shall be available until expended.

(d) (1) Lake Erie is set aside for special consideration. A study of needs shall be made which shall be submitted to Congress for approval.

(2) Program to be developed in cooperation with EPA, and others. Alternatives for regional waste management shall be set forth—Program should include measures to control point sources of pollution, area sources of pollution and sources of in place pollutants.

(e) $5,000,000 shall be appropriated for subsection (d) which shall be available until expended.

Sec. 109. Administrator can make grants or contracts with educational institutions to assist in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as

(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works

(B) training and retraining of faculty members

(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works

(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works

(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

Sec. 110(1). A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it

(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(2) Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

(3) (A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

(B) Departments and agencies of the U.S. are encouraged, to the extent consistent with efficient administration to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

Sec. 111(1) Administrator can award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

(2) Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable

(A) provide an equitable distribution of such scholarships throughout the United States; and

(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

(3) Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his findings

(A) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works

(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality

(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 110 of this Act; and

(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

(4) (A) Administrator shall pay to persons awarded scholarships under this section such stipends as he may determine to be consistent with prevailing practices under comparable federally supported programs.

Sec. 111(4) (B) Administrator shall—in addition to subsection (a)—pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

(6) Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

Sec. 112(a) As used in sections 109 through 112 of this Act—

(1) The term "institution of higher education" means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(2) The term "academic year" means an academic year or its equivalent, as determined by the Administrator.

(b) Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out sections 109 through 112 of this Act.

Sec. 113(a) Administrator can agree to Alaskan demonstration projects for safe water and elimination and control of pollution for central communities—Projects must include water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, etc.—Also programs to encourage use and health and hygiene programs are also to be set up.

(b) Administrator should be cooperate with HEW personnel.

(c) Results shall be reported by January 31, 1974, along with recommendations.

(d) Appropriation Max.: $2,000,000.

Sec. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

Mr. HARSHA. Mr. Chairman, I yield to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT), a member of the committee.

Mr. HAMMERSCHMIDT. Mr. Chairman, the bill we have before us today, H.R. 11896, is one of the most far-reaching and most complex, as well as most costly, ever considered in Congress. Certainly, it is the most extensive environmental legislation ever undertaken.

It is far-reaching because it can affect every citizen in this land—his pocketbook, standard of living, his job, his very way of life.

It is complex because it involves the entire gamut of organized social life, from huge metropolitan areas to the small hamlets and towns of the countryside, and to the individual farms and isolated homes all around the Nation.

Moreover, it seeks a legislative remedy to a multifaceted problem—environmental improvements of new technical dimensions, posing extreme economic demands. The costs are enormous.

Federal Government expenditures foreseen under this measure are approximately $25½ billion during the first 4 years of operation. This does not include many billions to be invested by industry and others in the private sector. However, I have no doubt in my mind that the Nation and the people are ready to pay the price to clean up the air and water, to overcome the accumulated results of too little action over the past years.

I come from a State that is relatively unspoiled, and yet a State on the edge of great industrial expansion. We recognize what problems can arise from industrialization. We have a fine conscientious pollution control commission which is very painstaking in its administration of environmental law.

Very few towns and cities in Arkansas are free from water supply and/or sewer problems. Most sorely need help. This legislation would help them overcome these deficiencies and it could prove among the most important laws enacted in the history of our Nation.

I know that my colleagues are aware of what is in the bill, but may I take the liberty of providing this additional reference background material:

WATER POLLUTION CONTROL LEGISLATION

I. LEGISLATIVE BACKGROUND

The first major piece of water pollution control legislation, other than the Refuse Act of 1899 which was fully activated only recently, was approved by Congress in 1948. It provided for low interest federal loans for the construction of municipal treatment facilities, Federal support for pollution research, assistance to the states to undertake abatement studies and plans, and authorized the Justice Department to bring suits against polluters provided state permission was granted.

In 1956, the program was significantly expanded to include $500 million in *grants* for the construction of treatment facilities over a 10 year period, increased Federal support for research, and provided $3 million per year in grants to assist states in planning comprehensive water pollution control programs. These construction grant authorizations were increased to about $100 million per year in 1961, and the ceiling on individual project grants was raised from $250,000 to $600,000. In addition, the amendment of that year allowed the Justice Department to bring suit without state permission, expanded coverage of the Act to navigable *intra-state* and coastal waters, and authorized seven regional laboratories for research and demonstration of improved sewage control methods.

The Water Quality Act of 1965 added major amendment to the law providing for Federal water quality standards, based on the multiple beneficial use concept, to be developed within a two year period by each state for its interstate waters. The states were also required to develop implementation plans and enforcement standards, and if they failed to develop such plans and standards by 1967, the Federal government was authorized to do so.

During the following year, Congress greatly enlarged the sewage treatment grant program, authorizing $3.5 billion for FY 1967–71, and increasing the Federal share of projects costs from 30% to 55% if the state agreed to cover 25%. However, actual appropriations have averaged only about 50% of the authorized amounts during this period. Finally, the Water Quality Act of 1970 added further provisions to the law regarding oil pollution from vessels and on-shore and off-shore facilities, federal permits and licenses, and the discharge of hazardous substances into the nation's waters.

II. SUMMARY OF MAJOR PROVISIONS

Goals and Policy—establishes a 1985 goal of no discharge of pollutants into the Nation's waters, and an interim goal for 1981 to achieve water quality suitable for recreation purposes and the propagation of marine life in all waters. In addition, the bill provides for a sharp increase in Federal grants for the construction of municipal waste treatment facilities in the amount of $18 billion over the next three fiscal years, and aims to preserve the primary right and responsibility of states to prevent and abate pollution by assigning them a large role in the national discharge permit system established by the Act.

Research, Training and Related Programs—grants EPA broad authority to participate in and encourage research relating to the causes and prevention pollution, training programs designed to provide the increased manpower and expertise that will be required to achieve the goals of the Act, and demonstration projects aimed at developing new pollution control technologies, municipal waste treatment techniques, and improved waste management methods. $135 million for FY 1974 is authorized for these programs.

Grant Assistance For Construction of Public Waste Treatment Facilities—provides an appropriations authorization of $5 billion for FY 1973, $6 billion for FY 1974, and $7 billion for FY 1975 for construction of municipal waste treatment works. The bill raises the Federal share of project costs from the current maximum level of 55% to 75% if the state assumes an additional 15% of the non-Federal costs, and permits the EPA to make these funds available by means of contractual obligation rather than on the basis of annual grant appropriations. It also provides for retroactive payments to projects eligible for Federal assistance of up to 30% of the total cost for the period 1956 through 1966, up to 55% for the period after 1966, changes the allotment formula from a population to needs basis, and requires that applicants establish users charges, including fees to cover capital costs attributable to industrial users.

Effluent Limits and Permit Program—establishes a national discharge permit system requiring all point sources emitting effluents into navigable waters to obtain permits specifying allowable discharge levels. The bill provides that by 1976 these discharge limits shall be based on the "best practical control technology" for private industry, and "secondary treatment", as defined by EPA regulation, for publicly owned plants. By 1981 industry must achieve zero discharge of pollutants unless compliance is not attainable at reasonable costs, in which case limits are to be based on the "best available demonstrated technology". For publicly owned facilities, the 1981 standard is the "best practical waste treatment technology". In addition, after appropriate regulations have been published pursuant to this Act by the EPA, all newly constructed or modified private plants must meet national discharge standards based on the "best available demonstrated control technology, process and methods", and this requirement applies to product processes as well as end-of-the-pipe emissions.

Evaluation of Zero Discharge Goal—the bill conditions the effectiveness of the 1981 and 1985 water quality goals on a study by the National Academy of Sciences and environmental effects of these goals, and upon subsequent affirmative legislative action by Congress.

State Role—permits the EPA to delegate administration of the permit program to states which submit acceptable plans and demonstrate a capacity to administer the program effectively, but this delegation is subject to termination if EPA determines, after public hearings, that the state program is not being run in accordance with its regulations. Also, the bill specifies that states may establish more stringent emission standards than those required by Federal law, and provides that interstate water quality standards established by a state, either pursuant to Federal law or to its own laws, determined by EPA not to be inconsistent with the Federal Water Pollution Control Act prior to the 1972 amendments shall remain in effect.

Enforcement—provides that any person who violates any provision of the Act would be subject to a maximum civil penalty of $10,000 per day. In the case of willful or negligent violations, the offender would be subject to a criminal penalty of $2500–$25,000 per day and/or one year imprisonment.

Other Provisions—authorizes citizens to bring a civil action against any violator of the Act, including government agencies, if they reside in the geographic area of the violation and if they have an interest which is, or may be, directly affected. The bill also provides that a state certification that appropriate water quality standards and limitations will not be violated, will be deemed

sufficient to meet the impact statement requirements of the National Environmental Policy Act regarding the issuance of Federal permits. Finally, the bill establishes an Environmental Financing Agency to purchase municipal bonds issued to finance the local share of waste treatment plant construction projects, and authorizes $800 million for assistance to small businesses to help them meet the pollution abatement requirements of the Act.

III. COMMITTEE ACTION

Our Committee on Public Works held oversight hearings on existing Federal water pollution control legislation over a period of six weeks beginning in May. During the period July through November it held a second series of hearings on over 200 separate bills introduced to amend the Federal Water Pollution Control Act.

Major findings of these hearings incorporated into H.R. 11896 include the following: 1) The Federal Water Pollution Control Act and the permit program initiated by the Administration in December of 1970 under the Refuse Act need to be consolidated in order to reduce overlap and coordination problems and prevent the total usurpation of water quality standards enforcement by the Federal government implicit in the Refuse Act permit program; 2) conditions accompanying Federal sewage treatment construction grants need to be tightened up to prevent wasteful expenditures due to excessive clear water infiltration and inadequate collection system, and to insure that applicants examine a much broader range of treatment alternatives; 3) contract authority rather than annual appropriations are necessary if states and localities are to plan and carry out construction projects in an orderly and efficient manner; 4) fair and equitable use charges should be a condition of grants for public treatment facilities, and specifically that industrial users should not be subsidized by the taxpayers at large; 5) there is no necessary correlation between financial assistance needed for waste treatment and the population of a state, so the allotment formula should be changed from the current population basis to a needs basis; 6) area-wide and regional waste treatment planning processes and requirements need to be strengthened in order to overcome current fragmentation of abatement efforts; 7) enforcement procedures must be stream-lined in order to prevent the excessive delays and complications of the enforcement conference and 180 day notices in the Water Quality Act of 1965; and 8) a substantial increase for funding for the construction of municipal treatment works will be required if water quality standards are to be attained.

Our committee authorized the following appropriations for construction, research, planning and other purposes for FY 72-75:

	Billions
Fiscal year 1972	$356
Fiscal year 1973	9,872
Fiscal year 1974	7,045
Fiscal year 1975	7,350
Total	24,623

Mr. Chairman, it is my hope as a cosponsor of the bill that this measure will be enacted into law for it represents a realistic legislative vehicle and a balanced approach toward reaching the 1985 national goal of clean waters in the United States, free from the discharge of pollutants by that time, enriching the quality of living for all.

Mr. HARSHA. Mr. Chairman, I yield to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, all of us in this body, I believe, are unequivocally for the preservation of the environment, to clean it up and leave to our posterity as much of the natural beauty and wonder of this great land as is posssible.

Unfortunately, during the past century, in making this the most productive Nation on earth, in building a great industrial empire, in extracting riches from the earth and cutting forests to build homes and factories, in giving our people the highest standard of living yet achieved on earth; in doing these things we have despoiled our land and our water and our air.

There has been a great deal of breast beating about all this, and I, for one, am pleased that the conscience and energy of our people has been awakened to the potential dangers that face succeeding generations.

I am proud to be numbered among the conservationists. I, too, would like to see the land and the water and the air restored to its primeval state, or at least to what it was a century ago. But rational men and women know that part of the price we paid for where we are today economically was that very despoiling of the natural elements in which we live.

Therefore, I welcome this opportunity to vote upon the Water Pollution Control Act Amendments of 1972. I suppose, like so many of my colleagues, if I had my own way and thought I could secure its enactment, there would be changes and modifications and additions that I would place in the measure.

But the facts are that the bill brought before us by the committee is, like most legislation that comes to us, a compromise. To undertake what some of the more emotional desire is not only costly beyond the wildest dreams of even this rich Nation, but is simply impractical, given the circumstances as they now exist.

I am satisfied that if the committee bill becomes law, we will have taken a giant step toward purifying our lakes and rivers. Moreover, we will have set a course and pattern that our successors in Congress will have little choice but to follow to the final fruition of the objective—an end to overt industrial pollution and a cessation of municipal pollution. Moreover, substantial dimunition of all other types of water pollution will also take place.

I am pleased that the committee bill gives direction and purpose to this important program—a federally authorized direction and direct administration by the States. The stated 1976 cleanup goals will be met. I congratulate the Committee on Public Works for a job well done, and I shall vote for its handiwork.

Mr. HARSHA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. MCDONALD)

Mr. MCDONALD of Michigan. Mr. Chairman, studying the problems of water pollution and finding solutions to those problems is a long and arduous task. The Public Works Committee has done a most commendable job on the Water Control Act, and I am proud as a member of this committee to have taken part in the deliberations which went into this bill.

I would, however, like to draw your attention to title II, sec. 204(b)(1)(B) of the committee's Water Control Act which requires industrial users of treatment works to pay, in addition to user charges, a portion of the investment capital cost. While I am a firm believer in the concept of user charges for the purpose of maintenance and operation, I feel it is a grave inequity for the bill to single out industry as the one user also responsible for capital costs.

Now the general intent of this legislation is to foster joint and regional approaches to water pollution control projects, and to provide Federal tax dollars to help achieve this objective. Unless we amend this bill so as to delete that punitive charge to industry, we may fail in our overall objective.

Consider this ramification of the bill as it is written: Industry may find that the capital outlay costs of joining a municipal project are higher than the cost of operating its own plant, and therefore, decide not to participate with private taxpayers in financing a project. This means a higher construction cost to the taxpayer, in addition to higher user charges due to the fact that industry is operating its own water treatment project.

What we have then, in effect, is a piecemeal approach to water pollution problems. Municipalities will pay more for their clean water; industry will pass its capital investment in clean water projects onto the taxpayer. I do not think I oversimplify when I say that the increased cost of a fragmented water pollution control plan is going to end up coming out of the taxpayer's pocket.

I think we must do all we can to encourage, not discourage, a unified approach to water pollution programs. On Tuesday, I will be offering an amendment which will delete title II, section 204(b)(1)(B). I am hopeful that each Member of the House will be on the floor to consider the merits of my amendment at that time.

Its effects are significant in that it would prevent double taxation, would foster a unified attack on the problem of water pollution, and would keep user taxes down. Industry can be a valuable ally in our quest for a cleaner environment, and I feel this amendment will do much toward obtaining that objective.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield.

Mr. MCDONALD of Michigan. I yield to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman, if this amendment is not adopted, what effect would it have on our desire to establish regional systems in coping with our waste?

Mr. MCDONALD of Michigan. If this amendment is not adopted, I think industry will take a go-it-alone approach which means they will not be joining in our regional concepts. As we know, if there is more volume going through the plant and a greater size of plant, as a whole it makes the cost to the individual less. We will find without the cooperation of industry and participation by industry that the end cost to the user will be much higher.

Mr. VANDER JAGT. Will industry pay the full user charge that everybody else pays, in addition to their participation in the portion of the investment capital cost?

Mr. MCDONALD of Michigan. Yes. The user charge will be assessed every user, and that includes industry.

What we are talking about in my amendment is an additional user charge really, because industry will be compelled to pay their proportionate share of the capital investment. I think the estimates are that it will be somewhat in excess of $7 billion in the next 4 years.

Mr. VANGER JAGT. I thank the gentleman. I believe his amendment is a good one. I intend to support it.

Mr. MCDONALD of Michigan. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. MCDONALD of Michigan. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I want to call to the attention of my colleagues the fact that this is an example of what I was talking about earlier. The gentleman is going to offer an amendment to strike out the user charge in the bill. Another amendment will be offered to charge an effluent tax in the bill. This is what the committee was contending with, one extreme on one side and another extreme on the other side. We tried to come up with a balanced approach, somewhere in the middle.

Mr. MCDONALD of Michigan. I would say to the gentleman the amendment I offer is not an extreme amendment at all. It is but a very reasonable amendment, and I urge the committee tomorrow to adopt it.

Mr. WRIGHT. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, it is with great pleasure that I rise to associate myself with my colleagues on the Public Works Committee in support of the Water Pollution Control Act Amendments of 1972, which I firmly believe will achieve the basic goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters.

Under the leadership of Chairman JOHN BLATNIK, the distinguished gentleman from Minnesota who long has been known as the Nation's outstanding exponent of cleaning up our rivers, lakes, and other waterways, we have presented a fine bill. Chairman BLATNIK has done an outstanding job.

While every member of the committee and the staff worked long and hard to shape this legislation special commendations also should go to two other dedicated leaders who contributed so much in drafting a tough, decisive piece of legislation, our colleague, BOB JONES, the gentleman from Alabama who heads up the Subcommittee on Flood Control and Internal Development, and the gentleman from Ohio, BILL HARSHA, the ranking minority member of the Committee on Public Works.

As a member of the committee who also burned the midnight oil in hearings and drafting sessions to prepare this, one of the most important environmental conservation bills to be considered by this Congress, I could well be prejudiced in support of it and in urging its approval as reported from the Public Works Committee, without amendment.

But this view is shared by many, including the Governor of our Golden State who is responsible for a major effort to clean up our California rivers and streams, lakes and waterways. I quote from a message received from him in which he declares H.R. 11896 "is significantly superior to the Senate bill S. 2770 because it would allow California to continue an effective water pollution control program."

Mr. Chairman, this is a good bill.

The Committee on Public Works in this bill has rewritten our water pollution control law from beginning to end in order to provide new and effective machinery with which to cope with the critical conditions that exist in our waterways today.

We hear much about dates. The Federal Water Pollution Control Act Amendments of 1972 as now submitted to you declares it to be the national goal to eliminate completely the discharge of pollutants into waters of the United States by 1985 and to achieve water quality which provides for the protection and propagation of fish and wildlife and for recreation use, including swimming, of all the Nation's waters by 1981.

That is a goal of clean water within a decade, a goal which we all must recognize will necessitate major expenditures by government at all levels, local, State, and Federal and by private industry.

The legislation recognizes this and authorizes the expenditure of $18 billion during the next 3 fiscal years in grants to State and local government agencies for the construction of waste treatment plants and sewer collection systems.

Two points should be emphasized right here:

First. The committee bill proposed a Federal-State partnership program which will mean funding of 90 percent of the total construction costs by these two levels of government with local government, which today is placing a prohibitive burden on its local property tax base that many much-needed pollution abatement programs are held in abeyance because of lack of local funds. It should be pointed out that S. 2770 proposed only 80 percent State-Federal participation. It is my experience that this difference of 10 percent is sufficient in many instances to make desperately needed projects unattainable by local government.

Second. For the first time in the history of our efforts to fight water pollution, grants will be made available for sewer collection systems that are an integral part of the treatment process in existing communities. Here again we have had many projects "go down the drain" so to speak, because the Federal Government would participate in a treatment plant project, but the local community could not afford the collection system required to get the effluent to the plant.

This authority for collection system grants, Mr. Chairman, also includes assistance to a community in financing major rehabilitation of its system. Very often, such rehabilitation can be accomplished at a fraction of the cost of building a treatment plant or enlarging an existing plant.

Furthermore, authority is provided to finance sewer evaluation studies, and this bill requires that no Federal grants shall be made after June 30, 1973, until the Administrator of the Environmental Protection Agency is satisfied that the applicant's sewer collection system is satisfactory and that there is no excessive infiltration.

Without such studies, and without the communities themselves taking steps to assure the effectiveness of their collection systems, an enormous waste of public funds could occur in the construction of unnecessarily large waste treatment plant capacity.

In addition to the grant authority, this legislation provides the financial aids that our cities and States need to construct waste treatment plants, to develop new technologies, to establish sound management and planning in the use and control of our water resources.

The committee bill establishes a close Federal-State partnership in the administration and enforcement of regulations governing industrial discharges into our waters. It provides for a thoroughgoing study into the economic, social, environmental, and technological effects that will result if we do, or do not achieve our ultimate goal of clean, swimmable water by 1981. That information is essential to any rational program of environmental control, because we cannot blindly commit the resources of the American people to a venture unknown.

I urge my colleagues in the House of Representatives to support the legislation without amendment. I am confident that anyone concerned with the preservation of our environment, the conservation of our natural resources, and the restoration of the purity of one of our most important resources, the water we need for homes and farms, our businesses and industries, and for our fish and wildlife and recreation purposes can support this legislation, without amendment, and know in their hearts that they have participated in a major effort for not only the preservation of our environment but has also taken a major step toward the restoration of our water resources to the purity which our forefathers enjoyed. I would like to highlight title II at this point.

The purpose of title II is to establish the requirements and to provide the financial assistance needed for the expeditious development of the Nation's waste treatment plans and practices.

To accomplish the committee's purpose, major changes are proposed in the existing Water Pollution Control Act which I shall highlight.

The bill requires that the applicants for waste treatment grants consider all

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potential impacts relating to water, land, and air in determining the best practicable water treatment technology to be used.

There might be no net gain to the Nation in our efforts to solve our pollution problems if we were to adopt a technology for improving water quality without assessing its possible adverse effect on our land and air resources.

The Federal shares for a waste treatment project will increase from the existing maximum of 55 percent of the project cost to 75 percent.

However, localities will receive this amount only if the State agrees to provide 15 percent of the cost; otherwise the Federal share would be 60 percent which compares with 30 percent under existing law.

The increased Federal share applies to all grants made from funds authorized after June 30, 1971.

The increased Federal participation will ease the financial pressure on the State and local governments but still maintain the joint financial responsibility which is basic to preserving the underlying philosophy of the Federal Water Pollution Control Act.

The State may pay its share by any means including loans.

The Administrator is authorized at the time he approves the plans, specifications, and estimates for a proposed project to enter into a firm contractual obligation on behalf of the United States for the payment of the Federal share.

He is also authorized to make progress payments as construction proceeds on the project.

These changes in the existing law will remove an element of uncertainty associated in the past with annual appropriations, and also relieve the pressure on the State and municipalities as to time when their funds must be available.

Before making a construction grant the Administrator must assure himself that a proposed project conforms to any applicable areawide basin plan, or State plan, is in accordance with the construction priorities established by the State water pollution control agency, and meets other conditions specified in the bill.

Another major change in existing law is a requirement for the establishment of user charges.

After June 30, 1973, no grant for a publicly owned treatment works may be approved by the Administrator unless the applicant has adopted, or will adopt, a system of user charges to assure that each recipient will pay its proportionate share of the cost of operation, maintenance, replacement, and expansion.

In the case of such user charges, industrial users of publicly owned systems will be required to pay an amount sufficient to pay their fair portion of all costs including the repayment of that part of a Federal construction grant to the community which is attributable to their anticipated use of the facilities.

Since one of the objectives of this bill is the development of self-sufficiency among local systems, the committee has recommended that the revenues received from industrial users be retained by the local system.

These revenues could then be used by the community for the maintenance, operation, and development of the system.

The committee believes that it is inappropriate to subsidize industrial users from funds provided by the taxpayers at large.

Experience under existing legislation has clearly demonstrated that there is no necessary correlation between population and the waste treatment needs of a community.

For that reason, H.R. 11896 provides that beginning in 1973 the annual allotments, as well as reallotments, will be distributed among the States on the basis of their respective proportions of the Nation's total actual waste treatment needs as determined by studies made by the Environmental Protection Agency.

In 1972 and 1974 the needs study made in 1970 will be used.

For 1975 and future years, the bill requires the submission to the Congress of biennially revised needs studies.

Since funds will be allotted in January preceding the fiscal year for which they are authorized the States will have 2½ years to obligate its allotment.

The proposed changes with respect to contract authority, allotments, reallotments, and obligations incorporates into the Water Pollution Act the procedures so successfully used in the Federal aid highway program.

The bill also provides authority and establishes the conditions for reimbursing States, municipalities, and intermunicipal agencies or interstate agencies for any federally owned treatment works constructed by them between 1956 and 1971 for which a full Federal contribution was not received.

A $2 billion appropriation authorization is provided for grants made during the period of 1966 through 1971 and $750 million for grants made between June 30, 1956, and June 30, 1966.

The committee believes that as a matter of equity the Federal Government should provide such reimbursements to States and localities which committed their own funds to prefinance a portion of the Federal share of the eligible cost of constructing waste treatment facilities.

Another significant provision included in the bill is to authorize agencies to procede with the construction of projects during a fiscal year after a State allotment for that year has been obligated.

Such prefinancing would be limited, however, to those fiscal years for which grant authorizations had already been approved by the Congress and could not exceed a State's expected allotment from such authorizations as determined by the Administrator.

Provision is made to continue grants for the construction of publicly owned waste treatment programs through June 30, 1975.

An authorization of $5 billion is provided for 1973, $6 billion for 1974, and $7 billion for 1975, making a total of $18 billion.

In addition, a $350 million authorization is provided for 1972 increasing the authorization to $2 billion for that year which, except for the Federal share, will be administered on the basis of the same requirements and conditions that prevailed prior to the enactment of the bill.

The increase in the percentage of Federal participation is effective for any grant made from funds authorized after June 30, 1972, except for funds used for reimbursements.

This bill also includes a provision emphasizing the importance which the committee attaches to strengthening the planning process.

Specific provision is made for the Administrator to issue guidelines for the purpose of assisting the Governors in designating urban, industrial, or other areas confronted with serious water quality programs.

Such areas would be designated by the Governor after consulting with the officials of local governments, and a single planning agency would be appointed for the area to draw up effective waste treatment plans.

The Federal Government would pay 100 percent of the cost of developing the plans for 1973 and 1974 and 75 percent of the cost thereafter.

The bill includes an appropriation authorization to the Environmental Protection Agency of $100 million for 1973 and $150 million for 1974 solely for the use of the local planning agencies.

In addition, an authorization of $50 million for each of the fiscal years 1973 and 1974 is provided to the Secretary of the Army to be used on the request of the Governor or the designated planning agencies, for assistance by the Corps of Engineers in developing and operating continuing management planning processes.

The committee expects that plans will, wherever possible, be developed by existing regional organizations to minimize the creation of new agencies and will be revised annually.

At the time a plan is approved, the Governor will designate one or more waste treatment management agencies to receive and spend Federal grants for the construction of publicly owned waste treatment facilities.

The plans developed are to be utilized by the States and by the Environmental Protection Agency in managing their water pollution control programs.

If these plans are used effectively we can bring some order to our fragmented approach to planning thereby giving greater assurance to the Congress that construction funds are used to meet our most urgent water pollution problems.

The consideration of water quality must be an integral part in the planning and development of our river basin plans.

Quality as well as quantity must be considered.

This bill includes an authorization of $200 million to be spent under the supervision of the Water Resources Council for the development by 1980 of comprehensive river basin plans for all areas of the Nation.

The committee believes that notwithstanding the importance of such studies to the development of our Nation's water resources practically no comprehensive river basin plans have been completed since the establishment of the Water Resources Council in 1965 due to inadequate funding and the unwillingness of anyone to assume the responsibility for their timely initiation and completion.

Finally, authority has also been provided for the Administrator to make grants for sewage collection systems in communities existing on the date of enactment of this bill when necessary to the effective and economical operation of a waste treatment system.

Such systems are now included in the definition of treatment works.

The committee discovered that one of the reasons for the delay in initiating construction of some waste treatment facilities is the inability of public agencies to arrange for the financing of collection systems.

Until the Environmental Protection Agency is satisfied that an effective collection system will be available when a waste treatment plant is completed, no grant can be finalized.

The committee believes that by giving the Environmental Protection Agency full responsibility for making a decision involving a community, requiring both financial assistance for the construction of a waste treatment plant and a collection system, the national water pollution control program will be expedited.

The authority for collection system grants also includes assistance to a community in the financing of major rehabilitation of its system which can often be accomplished at a fraction of the cost of building a treatment plant or adding to its capacity.

Authority is also provided to finance sewer evaluation studies and the bill requires that after June 30, 1973, no grant shall be made unless the Administrator is satisfied that the sewer collection system is satisfactory and there is no excessive infiltration.

Without such studies and the community, then taking corrective steps to assure an effective collection system, an enormous waste of public funds—both Federal and non-Federal—may occur by constructing unneeded waste treatment plant capacity.

We must achieve the goal of clean water by 1981. The time is short. H.R. 11896, I am confident, is the best way to achieve this necessary goal.

Mr. HARSHA. Mr. Chairman, I yield such time as he may use to the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Chairman, I rise in support of this legislation.

I intend carefully to study the various amendments, and maybe I will feel the bill can be improved, but in general I think it is a good bill.

Mr. HARSHA. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, when a bill as bold in concept and complex in design as H.R. 11896 is proposed, there are bound to be many questions and a great amount of confusion regarding its overall effect. Truly, H.R. 11896 is one of the most monumental pieces of environmental legislation ever to be considered by the Congress, changing our national water pollution control policy from one of water quality standards to effluent limitations. No one can accurately predict what kind of economic and environmental impact it will have in the next decade. Deterioration of our natural environment is one of our most pressing domestic problems. But years of neglect cannot be righted overnight. What took man centuries to undo will take time and a tremendous expenditure of resources and new technologies to put back together.

By the vote that was recorded on the Senate version of the water pollution bill, one could be easily led to believe that there was unanimous agreement with the no-discharge approach. However, having been written behind closed doors in the Senate without public hearings and available in print only 1 day before the vote, the bill had to be accepted almost at face value—kind of a take-it-or-leave-it proposition. The momentum behind this bill since Senate passage has been tremendous, but much to the credit of the House Public Works Committee and its very able chairman, our distinguished colleague from Minnesota (Mr. BLATNIK) 4 days of intensive public hearings were conducted in December on the bill. This forum brought forth some very challenging issues and turned over valuable data that enabled the committee to make a better judgment with respect to the Senate bill and exactly what changes this body should make.

Mr. Chairman, I support the objectives of H.R. 11896 and believe it an improvement over S. 2770 and the present Federal Water Pollution Control Act, but I wish to emphasize it is crucial that the American public know what we are embarking upon and some idea of its possible ramifications. There are two initial points I want to cover which are important to the debate today. First, the recent Government-sponsored study "The Economic Impact of Pollution Control" has been construed by many to mean that the requirements contained in this bill are economically feasible and will not have the effects some have predicted and thereby negating the need for section 315, the National Academies study. Let the record show that the considerations contained in this report with respect to water pollution abatement costs are something altogether different than what we have before us in this bill. The report states:

> The water cost data were estimated under the assumption that the relevant standard is the best practicable treatment—roughly the industrial equivalent of secondary treatment. If the pending water quality bill sets more stringent standards to be met at any time in the next decade, investment and engineering decisions would undoubtedly be affected and higher costs would result.

Mr. Chairman, H.R. 11896 goes considerably beyond the 1976 "best practicable treatment" requirement by providing that all point sources have at least the best available demonstrated technology by 1981 and that our goal by 1985 is zero discharge of pollutants, and I support that goal. This important, although limited, report does give us a good idea of the impact of the 1976 goal but it makes no pretext as to forecasting any dislocations or closures which may be attributable to the 1981 goal and it therefore should not be used to disregard the genuine questions which have arisen over the economic impact of this bill after 1976.

One question I raised throughout our December hearings and the issue with which I am most concerned in this bill involves the total environmental impact of the "zero discharge" concept. Higher degrees of treatment will require additional energy expenditures at a time when we are in a very serious fossil-fuel shortage. Removal of all pollutants will intensify demands for tremendous amounts of deep-mined and strip-mined coal and offshore and arctic oil. By purifying our waters to the extent called for in the bill are we running the risk of causing an accelerated uprooting of our landscape? Will the benefits of clean water be negated by dirtier air? Are we going to solve one environmental problem only to have created or compounded another? In discussing the total environmental impact of the bill's goals, Mr. Ruckelshaus told the committee;

> What does this do to energy; what effect does it have on the environment; what does it do to the ground water supply; land use; air pollution. All of these things ought to be considered before we set such a goal.

Coal that is burned to operate the pollutant removal facilities will produce large amounts of fly ash, sulfur dioxide, nitrogen oxides, and B.t.u.'s of waste heat to be disposed of through the air. If land disposal is used serious problems exist, especially with heavy metals and chemicals, in terms of land availability and costs, transportation, land treatment techniques, and soil and underground water contamination.

One very enlightening example of this transferral problem was posed to the committee. To achieve the zero discharge level, one chemical plant has estimated it would annually take 9,000 tons of chemicals, 1,500 kilowatts continuous over a year of electric power, and a quantity of steam that would require 19,000 tons of coal to generate; 15,000 tons of natural resources would be required to produce the 9,000 tons of chemicals and 6,000 tons of coal would be required to produce the 1,500 kilowatts of electric power continuous over a year. The 1,500 continuous kilowatts of electric power would produce 300 tons of fly ash, 350 tons of sulfur oxides, 60 tons of nitrogen oxides, and billions of B.t.u.'s per year waste heat.

Each year 9,000 tons of chemical sludge would be generated creating a separate solid waste disposal problem. The plant would generate in producing the steam 1,200 tons of fly ash, 1,000 tons of sulfur and 200 tons of nitrogen oxides. Suppliers of the 9,000 tons of chemicals would generate 6,400 tons of chemical wastes, including 1,700 tons of chloride wastes and 800 tons of iron sludge For this one plant, 40,000 tons of natural resources would be consumed to remove 4,000 tons of pollutants from the water and 20,000 tons of additional wastes—solid wastes and air pollution—would be produced to achieve a zero discharge. In other words, five times more pollutants would be produced than would be removed from the plant.

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Another major manufacturing concern has calculated that at one of its facilities it is technologically feasible to reduce copper residual to 0.04 p.p.m. and zinc to 0.05 p.p.m. However, such a reduction is theoretically obtainable only at pH values greater than pH 9. This would create a high demand for lime, 60 percent of which would persist as sludge, with the excess lime required beyond pH 8 passing into receiving waters as dissolved solids. Thus, as a result of installing the best available technology two new pollution problems which had not existed before would be created having an adverse overall net environmental effect.

In still another example offered the committee, increased energy requirements for the paper industry to achieve a zero discharge level have been placed at 15 to 40 kilowatt-hours per 1,000 gallons treated in a typical primary and secondary treatment facility. This increase in power consumption approximates the total power requirements of the present pulp and papermaking process. If we have to double our energy consumption to achieve this level, where are we going to get the additional fuels and what additional environmental problems is this consumption going to create?

Dr. Edward E. David, science adviser to the President, has stated that:

> If in fact we stop all our wastes from going into the water, then the cost in both money and energy as well as in land and air pollution will be considerable . . . our water quality goals should not be set arbitrarily but so that we always make a net gain in environmental quality.

Mr. Chairman, there are simply too many unknowns and not enough information on the environmental, social, and economic impact of the zero discharge goal to warrant setting the 1981 and 1985 dates in concrete at this time. Until we have a more definitive appraisal of the impact of the bill's 1981 goals and a better understanding of its implementation, we cannot make an intelligent and rational decision. That is why section 315, providing for an NAS-NAE[1] study, is essential and crucial. I support this provision and urge its retention.

Mr. Chairman, yesterday's Washington Star contained an editorial describing the necessity for this body to take into account the many unknowns associated with this legislation and then act responsibly and rationally. Of the Senate bill's stringent goals the article states:

> "Strong" laws have been passed before that produced results far from the original goals. . . . It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible.

Mr. Chairman, I include the full text of the editorial in the RECORD at this point:

THE MURKY BUSINESS OF CLEANING THE WATERS

To get a good argument going among those who care about the world around us, try the following question: Which of the two major pollutions, air or water, is the more insidious and resistant to effective control?

Our own choice is water pollution. Polluted air, it is true, is impossible to contain and thus, for most people, impossible to escape. But the reverse of that proposition is that water, because it is more contained, can get incredibly dirty. No given amount of air is contaminated to the same degree as many of our major rivers and lakes.

Beyond that, the sources of water pollution are so numerous and disparate as to defy coordinated attack. Sewage from thousands of communities—treated, partially treated, untreated—is just one source. Industry pollutes the water in endless ways. And even if an industrial plant protects its own adjacent waterways, it may turn out a product such as detergent soap that winds up in rivers and streams thousands of miles away. Then there is thermal pollution, and mine acid drainage, and agricultural run-off, and off-shore dumping, and oil spills in coastal waters. Considered all together, it stuns the mind.

So does the cost of coping with it. As two examples: To halt mine acid drainage, which is limited to a few Appalachian states, might cost $7 billion; to separate sewer lines from storm drains in the cities where they are combined might cost $25 billion, or $50 billion. No one knows for sure. And no one can tell the cost of total water pollution control, except to say that it would dwarf all other environmental programs combined.

We bring all this up as a way of pointing up the immense significance of the debate scheduled to begin tomorrow in the House. Coming up is H.R. 11896, the House Water Pollution Control Bill. It is bewilderingly complex. With its four-year price tag of $24.6 billion, it could become the most expensive piece of environmental legislation ever passed. But even though the President's budgetmakers are dismayed at these dollar figures, much more is at stake.

As it now stands, the House bill must be seen as counterposed to an extremely ambitious and highly controversial water-pollution bill the Senate passed in November. The major differences between the two bills run far beyond questions of detail and degree to a conflict over whether this nation should change, and how far it should change, its basic approach to fighting water pollution through this decade and well into the next. This is not just any old water pollution fight. It is truly a fight over crossroads decisions. Enormous consequences will flow from what the House decides to do about the bill that has come from its Public Works Committee, and about a series of "clean water" amendments, backed by 25 environment, civic and labor groups, that would bring the bill in line with the Senate version.

Very briefly, the Senate bill would sweep away the current practice of setting, and trying to enforce, water quality standards for various waterways. With the Environmental Protection Agency, not the states, running the show, the new approach would be strictly regulatory. Through the creation of any number of national affluent limitations and a system of discharge permits, it would be directed at specific sources of pollution. The timetable is significant: For industry, by 1976, a requirement to use the "best practicable" technology; by 1981, the "best available" technology; by 1985, no discharges at all.

A breath-taking pill, indeed, and one that, especially in this politically charged election year, puts any critic of it in the position of seemingly advocating dirty water. This is precisely the tricky position in which the House committee found itself in trying to put together a separate version.

And yet the committee turned out a remarkably balanced product. It has some faults—notably in giving the federal government too little clout in making sure the states enforce the law. But in the main, we believe, it represents the right approach at this time to an extraordinarily difficult problem.

The House bill, though a large improvement over current law, is known as the "weaker" of the two bills. This kind of comparison, with all its implications of good versus bad, can be highly misleading. "Strong" laws have been passed before that produced results far from the original goals. In setting the no-discharge 1985 goal, and declaring that as national policy, the Senate took the position that the country will never solve its pollution problem until Congress legislates fixed goals and sets a timetable for realizing them. It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible. Supporters of the Senate bill hope it is workable. They cannot be sure. Some administration spokesmen have called it unworkable. Theirs, too, is educated and somewhat biased guesswork.

The House bill offers what appears a reasonable answer. It retains the 1976 requirement for "most practicable" technology. But the far more sweeping 1981 and 1985 goals are made subject to further congressional action after a two-year study by the National Academy of Sciences and the National Academy of Engineers. This is already being assailed as something of a cop-out. The arguments for it are more persuasive. Subjecting all the unknowns in the water-pollution issue to an exhaustive academic study only makes sense. In the short term, with the bill's fixed 1976 requirements, this would not represent a reprieve to polluters. By 1974 or 1975, with the study reports in hand, Congress will be in a far better position to legislate between basic, regulatory approaches. That it would fall then to act on water pollution seems highly improbable. And the tentative timetable is such that before 1981 industry would have enough time to adjust to higher standards.

The essence of the two-year study should be to make vital distinctions between the merits of water quality standards and the case-by-case regulations of pollution treatment at the source. Probably there is a case for a mix of both, and the House legislation wisely provides for such a mix at least until 1976. The trouble with relying solely on the present standards is the difficulty of establishing who is responsible for polluting a particular river system. But to switch entirely to a system calling for countless different treatment standards could prove just as cumbersome. For the government to direct an industry to eliminate all discharges, or even to install the "best available" technology, ought to be judged in light of identifiable benefit. There may be little point to ordering an industry on, say, the Mississippi River to go beyond 80 percent or 90 percent treatment control. For another industry located on a fragile waterway, 95 percent control might not be good enough.

Beyond the technical lie the economic considerations. They are far from idle ones. To hold new industries to the highest possible standards is one thing. It is quite another to mandate that every industry, including older, economically vulnerable plants, install the most expensive equipment and move to a 1985 no-discharge status. Beyond that, although the total costs remain elusive, it is beyond question that the costs of improving our waters will move upwards not on a straight line but on a sharp curve, so that the price tag for removing the last 3 percent of pollution could well prove higher, by multi-billions of dollars, than the cost of eliminating the first 97 percent. All this needs thorough delineation, and then the question must be faced of whether, in light of so many competing priorities, the nation wants to commit such a large part of its resources to go beyond basically adequate improvements in water quality.

The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

[1] National Academy of Sciences and National Academy of Engineering.

Mr. WRIGHT. Mr. Chairman, I yield to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD with an outline of title V of H.R. 11896.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

OUTLINE OF TITLE V

SEC. 501(a) Administrator may prescribe necessary regulations.

(b) Administrator may borrow personnel with consent.

(c) Administrator may demand that complete records be kept.

(d) Administrator and Comptroller shall have access to all records and papers.

(1)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the U.S. Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs—the Administrator shall set standards, after consultation, within certain guidelines.

(2) Awarding of certificates.

(3) Federal Register will publish awards.

(f) State water pollution control agencies can borrow personnel from E.P.A.

SEC. 502. Definitions:

(1) "State water pollution control agency."
(2) "Interstate agency."
(3) "State"—including U.S. territories.
(4) "Municipality."
(5) "Person."
(6) "Pollutant."

Pollutant means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar and industrial, municipal, agricultural, and other waste discharged into water.

This term does not mean:

A. "Sewage from vessels" within the meaning of section 312 of this Act.

B. Water, gas, or other material injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources.

C. Thermal discharges in accordance with regulations in section 316.

D. Organic fish wastes.

(7) "Pollution."
(8) "Navigable waters."
(9) "Territorial seas."
(10) "Contiguous zone."
(11) "Ocean."
(12) "Effluent limitation."
(13) "Discharge of a pollutant." "Discharge of pollutants."
(14) "Toxic pollutant."
(15) "Point source."
(16) "Biological monitoring."
(17) "Thermal discharge."
(18) "Discharge."

SEC. 503. (a)(1) Establishes in Environmental Protection Agency a Water Pollution Control Advisory Board:

(2)(A) Term of office.

(B) Compensation.

(b) Board functions—advise, recommend.

(c) Clerical and technical assistance.

SEC. 504. Notwithstanding any other provision of this Act, Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons, may bring suit on behalf of the U.S. to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take other action as may be necessary.

SEC. 506. Attorney General shall represent Administrator in litigation. If he does not promptly respond, EPA attorneys shall represent the United States.

SEC. 507(a). No person shall be fired or discriminated against because he has caused action to be taken under this act or testified in proceedings.

(b) Rules for firings alleged to be discriminatory.

(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation of other limitation under section 301 or section 302 of this Act, standards of performance under section 306 of this Act effluent standards, prohibition or pretreatment standard under section 307 of this Act, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established under this Act.

SEC. 508. (a) No Federal agency may enter into contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. This prohibition shall continue until the Administrator certifies that the offending condition has been corrected.

(b) Notification of such offense, by Administrator, shall follow.

(c) The President, within one hundred eighty days of this Act, shall issue an order—

(1) Telling all agencies which are concerned with quality standards to start issuing their contracts.

(2) Setting forth procedures, sanctions, penalties, and provisions.

(d) President may exempt aid granted from provisions of this section—shall notify Congress.

(e) President shall make an annual report to Congress.

SEC. 509 (a) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 of this Act, Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, etcetera, if made public, would devulge trade secrets or secret processes. The Administrator shall consider such record confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such report may be disclosed to other personnel of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(b) Review of Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306(b)(1)(C), (3) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested person in the district court (where he resides/works) upon application by such person. Any such application shall be made within 30 days from the date of such determination, approval, promulgation, issuance, or denial, or after such date only if such application is based solely on grounds which arose after such thirtieth day.

(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or agency to adopt and enforce (A) any standard or limitation respecting discharge of pollutants, or (B) any requirement respecting control or abatement of pollution; except if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation is in effect under this Act, such State or agency may not adopt or enforce any effluent limitation, et cetera, which is less stringent than the regulations set forth by this Act, or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters of such States.

SEC. 511 (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the U.S. under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Sec. of the Army (A) to maintain navigation or (B) under the Act of Mar. 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the U.S.

(b) The consultation and coordination requirements of the Act of Mar. 10, 1934, as amended (16 U.S. Code 661, *et. seq.*), shall apply under this Act only to the provisions of (1) section 306 of the Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

(c) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S. Code

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421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S. Code 441–4516) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance is held invalid the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics are paid according to local standards in accordance with the Act of March 3, 1931, as amended; that is, the Davis-Bacon Act.

SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plant for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

SEC. 515. (a)(1) Effluent Standards and Water Quality Information Advisory Committee.

(2) Members shall be selected from the scientific community.

(3) Four year terms.

(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304(b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee to be held within thirty days.

(2) Hearing records shall be transmitted to the Administrator within one hundred and twenty days of notice.

(3) These records shall be a part of the administrative record.

(4) In preparing these records, the services of any Federal agency may be used.

(c) (1) Committee shall appoint and define the job of a Secretary. Legal counsel and staff shall also be provided.

(2) Members of the Committee shall receive compensation as the President designates, but not to exceed GS 18 pay—

(d) Five members constitute a quorum. Official action can be taken only with the affirmative vote of 5 members.

(e) Committee is authorized to make its own rules.

SEC. 516 (a) Within 90 days following the convening of each session of *Congress*, a report on progress is to be submitted including:

(1) The progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act.

(2) A summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, et cetera.

(3) The progress and problems associated with the development of effluent limitations and recommended control techniques.

(4) The status of State programs.

(5) The identification and status of enforcement actions.

(6) The status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act.

(7) A summary of the results of the survey required to be taken under section 210 of this Act.

(8) The Administrator's activities including recommendations under sections 109 through 111 of this Act.

(9) All reports and recommendations made by the Water Pollution Control Advisory Board.

(b) The Administrator, with State help, shall make—

(1) Estimate of the cost of the Act.

(2) Estimate, biennially revised, of cost of construction of publicly owned treatment works—in each State.

(3) Study of the economic impact on affected units of government of the cost of installation of treatment facilities.

(4) Analysis of national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives. These studies shall be submitted no later than Feb. 10 of each odd-numbered year. State estimates submitted to the Administrator shall be passed on to Congress.

SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 208, 207, 208(f) and (h), 209, 304, 311(c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

Mr. Chairman, I urge my colleagues to support this measure without amendment.

Mr. WRIGHT. Mr. Chairman, I yield 10 minutes or such part thereof as the gentleman may consume to the gentleman from New Jersey (Mr. ROE).

Mr. VANIK. Mr. Chairman, will the gentleman yield for a question?

Mr. ROE. I yield to the gentleman.

Mr. VANIK. Mr. Chairman, with respect to section 404 on page 367 of the bill, I have a specific question concerning subsection (c), and I would appreciate it if I could have a response by the chairman of the committee, if possible.

Will this subsection relating to the disposal of dredgings on Federal projects terminate the program of the Corps of Engineers on the Great Lakes to place polluted dredgings in dike or land sites?

Mr. JONES of Alabama. Mr. Chairman, will the gentleman from New Jersey (Mr. ROE) yield?

Mr. ROE. I yield to the gentleman.

Mr. JONES of Alabama. No; it does not terminate those contracts.

I will further inform the gentleman from Ohio that there is $35 million for that purpose for the fiscal year 1973.

Mr. VANIK. That is set forth in the budget.

Mr. JONES of Alabama. Yes.

Mr. VANIK. Thank you, Mr. Chairman, for your answer. Your support of this important program is deeply appreciated. I would like to point out for the record how important this program is. In April of 1970, President Nixon announced his support of a program many of us fought long and hard for—the prohibition of further dumping of polluted dredgings in the open waters of the Great Lakes. He asked for $70 million to accomplish this goal in the 35 most polluted harbors of the Great Lakes for a 10-year period. This proposal was passed into law by Public Law 91–611, section 123. Under the provisions of this bill, after 10 years, enough source pollution will be eliminated that this program will not be needed. In the meantime, it is very much needed.

As long ago as May 1969, the Department of the Interior supported this goal saying:

The costs of a program to prevent pollution from dredging disposal cannot be justified on a cost-benefit basis in this study without attempting to engage in the debate of cost-benefit numbers of questionable meaning. We should point out that the values to be protected by this program and other programs intended to reduce pollution in the Great Lakes are the total worth of these lakes. The real worth of these lakes to present and future generations is almost incalculable.

It is generally conceded that the present level of pollutants discharged to the lakes is seriously degrading these waters and if not abated will hasten the essential destruction of the lakes. The elimination of any source of pollution in the Great Lakes will help enhance the water quality in those lakes which, in turn, will increase the long-range financial worth of the lakes and communities adjoining the lakes.

This Department has taken and is maintaining a strong position opposing the continued dumping of polluted materials in the open waters of the Great Lakes. To this end, we have consistently recommended that permits not be issued by the U.S. Corps of Engineers when such permits would allow the open-lake disposal of polluted materials.

The Corps of Engineers itself has said that:

The disposal of heavily polluted dredgings must be considered "presumptively undesirable" because of its long-term adverse effects on the ecology of the Great Lakes.

This program is particularly important on Lake Erie. Of the 10.8 million cubic yards of material dredged from Great Lakes harbors each year, 63 percent comes from Lake Erie harbors and the disposal of these dredgings in the open waters of the Lake would account for 8 percent of the total sediments and dissolved solids reaching the lake. In 1967, 660,000 tons of dry solids were dredged from Cleveland Harbor. It is estimated that this material contained 17,600 tons of oil and grease. If this material is stirred up and dumped in the open waters of the lake, it obviously is a serious source of additional pollution.

I am concerned about the adequacy of designating only 35 harbors for this program. In a letter from the Office of the Chief of Engineers of June 21, 1971, I was given a list of the harbors where dredgings were being placed in land or diked disposal sites. That list did not include all the harbors which are considered polluted. In fact, on Lake Erie, material from nine polluted harbors is being dumped in open water, on Lake Ontario, the dredgings from two polluted harbors are being dumped in the open lake. On Lake Superior there are three such cases and on Lake Huron, one such case. In a letter which I received from the corps on March 21, 1972, I was informed that about half of the material being dredged in the Cleveland area will be dumped in the open lake because of a lack of space in the confined disposal site. Mr. Chairman, I insert this data in the RECORD at this point:

DEPARTMENT OF THE ARMY,
BUFFALO DISTRICT, CORPS OF ENGINEERS,
Buffalo, N.Y., March 21, 1972.

Hon. CHARLES A. VANIK,
House of Representatives,
Washington, D.C.

DEAR MR. VANIK: I am replying to your letter dated 15 March, in which you asked about the disposition of material to be dredged in Cleveland in 1972..

The existing inclosed disposal areas at Cleveland are nearly filled, with only enough space remaining to hold the material to be dredged from Cuyahoga River under an existing contract in the spring of 1972. There is no room for material to be dredged from the outer harbor and entrance channel. In order to provide for the needs of navigation, this material, which is less polluted than that in the river, will be dredged and dumped in Lake Erie. A smaller quantity will be dredged in the latter area than was dredged in 1971.

We are nearing agreement with the Port Authority on a new disposal site, but because of the time required for design and construction, the site will not be ready to use for over a year. After completion of dredging this spring, there will be only two options open to us: to dredge and dump the material in Lake Erie, or not to dredge and allow the channels to shoal. Either procedure must be coordinated with other Federal and local agencies before a decision can be announced.

I will keep you informed.

Sincerely yours,

RAY S. HANSEN,
Colonel, Corps of Engineers,
District Engineer.

NORTH CENTRAL DIVISION, DREDGING PROGRAM—GREAT LAKES, CALENDAR YEAR 1971

[All work is maintenance unless otherwise indicated]

Project	Estimated quantity (cubic yards)	Classification FWQA: Polluted	Classification FWQA: Unpolluted	Method disposal
Lake Michigan:[1]				
Calumet Harbor and River, Ill. and Ind.	120,000	X		Confined.
Calumet Harbor and River, Ill. and Ind. (new work)	45,000	X		Do.
Charlevoix Harbor, Mich.	12,000		X	Open water.
Frankfort Harbor, Mich. (outer harbor)	37,000		X	Do.
Grand Haven Harbor, Mich. (outer harbor)	90,000		X	Do.
Grand River, Mich.	32,000		X	Confined.
Green Bay Harbor, Wis.	75,000	X		Do.
Green Bay Harbor, Wis. (new work)	1,000,000	X		Do.
Holland Harbor, Mich.:				
Inner	40,000	X		Do.
Outer	40,000		X	Open water.
Indiana Harbor, Ind.	220,000	X		Confined.
Ludington Harbor, Mich.	40,000		X	Open water.
Manistee Harbor, Mich.	65,000		X	Do.
Muskegon Harbor, Mich.	50,000		X	Do.
Pentwater Harbor, Mich.	36,000		X	Do.
Portage Lake Harbor, Mich.	18,000		X	Do.
Port Washington Harbor, Wis.	10,000		X	Do.
Saugatuck Harbor, Mich.	40,000		X	Do.
South Haven Harbor, Mich. (outer)	50,000		X	Do.
St. Joseph Harbor, Mich. (outer)	60,000		X	Do.
Two Rivers Harbor, Wis. (outer)	30,000		X	Do.
White Lake Harbor, Mich.	150,000	X		Do.
Lake Erie and Detroit River:[2]				
Ashtabula Harbor, Ohio	60,000	X[3]		Confined.
Black Rock Channel and Tonawanda Harbor, N.Y.:				
Canal	40,000	X		Open water.
River	20,000	X		Confined.
Bolles Harbor, Mich.	150,000	X		Do.
Buffalo Harbor, N.Y.:				
River	400,000	X		Open water.
Harbor	925,000	X		Confined.
Cleveland Harbor, Ohio	100,000	X		Open water.
Conneaut Harbor, Ohio	25,000		X	Do.
Dunkirk Harbor, N.Y.	200,000	X		Do.
Erie Harbor, Pa.	400,000	X		Do.
Fairport Harbor, Ohio	200,000	X		Do.
Huron Harbor, Ohio	300,000	X		Do.
Lorain Harbor, Ohio	150,000	X		Do.
Monroe Harbor, Mich.	150,000	X		Confined.
Rock River Harbor, Ohio	20,000	X		Do.
Sandusky Harbor, Ohio	400,000	X		Open water
Toledo Harbor, Ohio:				
Inner	980,000	X		Confined.
Outer	220,000		X	Open water.
Detroit River, Mich.	100,000	X		Confined.
Rouge River, Mich.	275,000	X		Do.
Lake Ontario:[4]				
Little Sodus Bay Harbor, N.Y.	25,000		X	Open water.
Ogdensburg Harbor, N.Y.	30,000		X	Do.
Oswego Harbor, N.Y.	30,000	X		Do.
Rochester Harbor, N.Y.	360,000	X		Do.
Lake Superior:[5]				
Big Bay Harbor, Mich.	12,000		X	Do.
Cornucopia Harbor, Wis.	10,000		X	Do.
Duluth-Superior Harbor, Wis. and Minn.	110,000		X	Do.
Grand Marais Harbor, Minn.	8,000		X	Do.
Grand Traverse Bay Harbor, Mich.	7,000	X		Do.
Keweenaw Waterway, Mich.	130,000		X	Do.
Little Lake Harbor, Mich.	40,000		X	Do.
Ontonagon Harbor, Mich.:				
Inner	12,000	X		Confined.
Entrance	60,000		X	Open water.
Saxon Harbor, Wis.	9,000	X		Do.
Marquette Harbor, Mich.	125,000	X		Do.
Presque Isle Harbor, Mich.	55,000		X	Do.
Lake Huron and connecting channels (except Detroit River):[6]				
Alpena Harbor, Mich.	18,000		X	Do.
Au Sable Harbor, Mich.	20,000		X	Do.
Channels—Straits of Mackinac, Mich.	7,000		X	Do.
Clinton River, Mich.	35,000	X		Confined.
Harrisville Harbor, Mich.	17,000		X	Open water.
Inland Route, Mich.	4,000	X		Confined.
Port Sanilac Harbor, Mich.	21,000	X		Open water.
Saginaw River, Mich.:				
Inner	170,000	X		Confined.
Outer	60,000		X	Open water.
St. Clair River, Mich.	100,000		X	Do.

[1] 6 of 22 polluted.
[2] 17 of 19 polluted.
[3] Mercury.
[4] 2 of 4 polluted.
[5] 4 of 12 polluted.
[6] 4 of 10 polluted.

BREAKDOWN OF FISCAL YEAR 1972 DIKED DISPOSAL AREA PROGRAM

Project:	Amount
Ashland Harbor, Wis.	$640,000
Black Rock Harbor and Tonawanda Harbor, N.Y. and Buffalo Harbor	5,000,000
Bolles Harbor, Mich.	150,000
Calumet Harbor and River, Illinois and Indiana	250,000
Chicago Harbor, Ill.	100,000
Chicago River, Ill.	100,000
Cleveland Harbor, Ohio	7,000,000
Duluth-Superior Harbor, Minnesota and Wisconsin	1,250,000
Detroit River, Mich.	6,000,000
Erie Harbor, Pa.	1,000,000
Fairport Harbor, Ohio	500,000
Frankfort Harbor, Mich.	450,000
Grand Haven Harbor and Grand River, Mich.	275,000
Green Bay Harbor, Wis.	370,000
Harbor Beach Harbor, Mich.	60,000
Holland Harbor, Mich.	300,000
Kenosha Harbor, Wis.	65,000
Kewaunee Harbor, Wis.	200,000
Lake St. Clair, Mich.	6,000,000
Lorain Harbor, Ohio	1,000,000
Manitowoc Harbor, Wis.	170,000
Menominee Harbor and River, Michigan and Wisconsin	75,000
Michigan City Harbor, Ind.	70,000
Monroe Harbor, Mich.	10,000
Ontonagon Harbor, Mich.	110,000
Milwaukee Harbor, Wis.	200,000
Rochester Harbor, N.Y.	165,000
Rouge River, Mich.	1,050,000
Saginaw River, Mich.	2,500,000
Sandusky Harbor, Ohio	4,000,000
Sheboygan Harbor, Wis.	30,000
South Haven Harbor, Mich.	200,000
St. Joseph Harbor, Mich.	340,000
Sturgeon Bay and Lake, Michigan Ship Canal, Wis.	100,000
Toledo Harbor, Ohio	$1,000,000
Two Rivers Harbor, Wis.	170,000
Waukegan Harbor, Ill.	100,000
Total	41,000,000

Schedule is subject to change.

Mr. Chairman, will the gentleman yield for another question?

Mr. ROE. I yield to the gentleman.

Mr. VANIK. I have an amendment that relates to the dredging of sand as a mineral from the bottom of the Great Lakes. I will submit an amendment to the committee for review. I appreciate the committee reviewing this amendment at the time amendments are considered.

(Mr. VANIK asked and was given permission to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman.

Mr. HECHLER of West Virginia. Mr. Chairman, growing out of the Buffalo Creek flood disaster in February 1972, when a dam burst on Buffalo Creek and released many mine wastes, as a result of this tragedy attention has been focused on the problem of the disposal of mine wastes.

I have an amendment which at the appropriate time I will offer tomorrow.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

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Mr. ROE. Mr. Chairman, at the outset I too would like to join with my colleagues here in the House, particularly both on the majority and the minority side of this issue and congratulate both Mr. JONES and Mr. BLATNIK, our chairman, and the minority chairman, Mr. HARSHA, and all the members of the committee for the fine job they have done on what I believe to be a terribly important bill not only to this House but to this country.

Mr. Chairman, I would like to begin, if I may, and I think it has to be said, by exploding a myth.

I have heard and read a great deal about this issue in the press and from colleagues. I have heard and discussed and exchanged issues with different people on this bill, in this House, on both sides of the aisle, and I am sure all of them are well meaning. On the other hand, it ought to be said and it ought to be loud and clear in the record of this proceeding that the bill before the committee, H.R. 11896, is a very comprehensive, far-reaching measure. It is not a weaker bill by any stretch than that of the other body, which has already been voted on by that body. I would like to clarify a point which I think also has to be said. The House bill provides a host of measures that far exceed those measures provided in the Senate bill, the bill passed by the other body, and if they were not included in the House bill, the overall water quality program would not be workable at all in the manner in which we envision it. So I think this point should be made clear to the Members in this Chamber; I think it ought to be made very clear to the Members of the House; I think it ought to be made clear to the environmentalists. Sometimes one says that one reaps what one sows. But be very careful that this bill is not aborted or emasculated to produce what others may think would be a stronger bill.

It was said this morning and the second point I would like to make that we have to consider the priorities of America. We have to consider our fiscal priorities. Everybody, of course, agrees to that. By the same token, out of the other side of the mouth it has been said that we have had four or five major pieces of legislation since the early 1940's on water quality control and pollution and none of them have really been effective. But the fact remains that, as far as the people are concerned, as far as this body is concerned, the Congress of the United States has never appropriated adequate money to carry out any single piece of legislation in the field of water quality to make it effective and make it work. So to go back and say that the laws we have passed as we were evolving in knowledge of our environment were not effective is not totally true, as it will not be true in relation to this bill, and it ought to be said here loud and clear that if this body and the other body passes a water quality bill and the amount of authorization is cut in half, or the Appropriations Committee works some fiscal magic and reduces the funding that is made available, this bill, too, will be a farce, as it has been true of other bills passed before, in my judgment, in this House, and it will not carry out the jobs that ought to be done.

So it seems to me the issue of adequate funding, the issue of adequate authority on funding has to be met because the House bill includes a much broader spectrum of sewage collector systems, combined sewer systems, additional studies and work that has to be done, and if that is not included in the bill, and the fact of funding is not provided, the bill will not be effective and it will be again another disappointment to the American people, as I see it.

There are two issues that have to come to the forefront in the overall discussion as to whether or not, first, we should carry on a study by the National Academy of Science and Engineering, and to report back to this House in 2 years' time their observation on the whole spectrum of technical problems and fiscal problems relating to this legislation. And some people will say, "Do we need another study? We are studied to death. By the time we finish one study, we are making another one." That is not the intent of this particular part of the bill.

I think there is an issue that has not been brought forth yet in the discussion today. It turns out that by 1985, where all municipal sewers are being built in a particular way today, by 1985 they will have to go to a no discharge position. In both of these pieces of legislation there is no substantive provision, either in this legislation or in the Senate version, that provides adequate moneys for what is referred to, without getting too technical, as combined sewers, meaning sanitary sewers and with existing storm sewers.

In the urban centers of America, in my State of New Jersey and in the State of New York, tens if not hundreds of millions of gallons of sewage a day are involved in these combined sewers we are talking about, and I do not want the American people, particularly the people in my great State, to believe that this bill, the Senate bill, or particularly the amendments that are proposed, are going to insure pure water forever thereafter in America. That simply is not true. Unless the study is made that has been projected into this bill, neither this committee nor the House nor the Senate will thoroughly understand the order of magnitude of the technical program nor certainly will they understand the magnitude of its cost.

It is essential that the study be made, and it is essential that the study be locked into the trigger date as it is established presently by the committee in H.R. 11896.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I associate myself with the remarks of the gentleman from New Jersey, because in many ways this House version is tougher than the Senate version. One of the areas, of course, that we do address ourselves to is by getting involved in intrastate basin requirements, whereas heretofore it has been strictly an interstate river basin approach, but we do ask for an extension of involvement of State and local initiatives to bring this about. Would the gentleman care to respond further on that?

Mr. ROE. Yes. I think this is the point I am developing, I will say to the gentleman from California (Mr. CLAUSEN) that I think the study triggers an intrastate river basin approach.

I think the second point which is highly germane in the misunderstanding that perhaps exists in this House is the Federal-State partnership. It is ludicrous for this body to review the legislative history, both the bills that were born and the carrying out of that legislation by the Federal Government, which has been a dismal failure, and then to come back and say the States have not done their job. The truth of the matter is that the Federal Government never provided the funds, nor were the laws effective, nor could they be litigated to the point where they could solve the problem they were supposed to in the first place.

I say this is a warning that to move this program back and put it solely in the hands of the EPA Administrator would be like taking a camel and trying to put it through the eye of a needle. And taking the State governments completely out of the whole issue would be a terrible mistake. Every time a piece of legislation passes that has to do with environment, or where there ought to be a true Federal-State partnership, everybody comes back and says the State is not doing its job, when, in fact, it is the Federal Government where the interminable delay is involved.

Regrettably my time is short. I do believe, however, the two key areas we are talking about, the study by the National Academy of Science and the Federal-State partnership, are vital if this legislation is to be truly effective and a true Federal-State partnership evolve.

I firmly support H.R. 11896 and I urge my colleagues to do likewise.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I compliment the gentleman for the statement he has just made, and I commend the chairman and the members of the committee and the staff for the very good legislative product in this very difficult area.

I have furnished the gentleman from New Jersey with a detailed background of the questions that concern me.

As you know, Executive Order 11574, issued December 23, 1970, expanded the Refuse Act of 1899 to include tributaries of navigable streams and established the Refuse Act permit program. In a number of places in my district, especially in the Ozarks area, farmers own and operate small fish hatcheries—in most cases to supplement their farm incomes and in a few cases as their primary source of income. Therefore, this Refuse Act permit program which is assigned to the U.S. Army Corps of Engineers is a matter of great concern to these small fish hatchery owners. As a matter of fact, if the Refuse Act permit program is strictly enforced, many of them, if not most of them, will be forced to go out of business.

I would point out to the gentleman from New Jersey that these fish hatchery owners are in no way opposed to a pollution control program. Such a program has been in effect in Missouri for some time and the Missouri voters recently passed a $150 million bond issue for pollution control. As one of the fish hatchery owners wrote to me in a letter:

> Fish biologists have been concerned with water quality long before the EPA came into existence. I know of no reason for discharging water that is not supporting a fish population of considerable higher density than the stream it might reach. A pond may be drained to harvest the fish. A toxicant would be used to kill the fish in the pond so the water could be kept in the pond. You don't spend money on chemicals to discharge them. If you drain the pond you do not need chemicals in the water. What this program has done is alienate fish hatchery owners from their traditional role of water quality advocates. My business depends on good fishing as I sell bait fishes.

It is certainly not pollution control but the expense and paperwork involved in the permit program set up by the Corps of Army Engineers that threatens the fish pond owners.

Let me offer an example: One farmer in my district has small fish ponds scattered over a wide area on his farm with 18 outlets. Now, according to the regulations of the Corps of Engineers, he must pay $100 for a permit for the first discharge point and $50 for each additional outlet. This would amount to $950. In addition he must provide a chemical analysis for each outlet. The biochemistry firm in his area charges $100 per outlet for such tests. This brings the cost to $2,750 just to file the application. Additional tests might be required. He must also provide scale drawings of all the small ponds. This is an unreasonable cost, and as this fish farmer points out, he is assumed to be guilty until proven innocent. With no evidence that he is or has been polluting any tributary which flows into a navigable stream he must bear such an outrageous cost to prove that he is not polluting. This cost and redtape certainly is not the answer. Is it the opinion of the gentleman from New Jersey that the provisions of H.R. 11896 will rectify such unreasonable requirements especially by allowing the States to administer the permit programs under the supervision of EPA?

Mr. ROE. I agree with the gentleman that the requirement he called to our attention was a bad one and not very well thought out.

During our oversight hearings we asked the Corps of Engineers as to the basis of the charges imposed and received the startling answer that there was no particular rationale for the amounts chosen. In other words, they literally picked it out of the air.

We would certainly recommend that the permit program in the future, whether operated by the Federal Government or the States, be operated in a reasonable manner. Certainly, if there is a true Federal-State partnership, these kinds of things affecting people of the States would be given proper consideration.

Mr. ICHORD. Section 402 of title IV of H.R. 11896 is a very important improvement over the bill passed by the Senate last November, in my opinion. I believe that the Federal-State relationship in the granting of permits is a reasonable and efficient way to avoid duplication and get the job done at the lowest cost to the taxpayers. In addition, those on the State level are best acquainted with the particular circumstances in their State. Under section 402, the Administrator of EPA must approve the State program for granting permits and retains the right to step in at any point when a State fails to live up to its assigned responsibility. The question that I would like to have answered relates to the time frame that it will take to set up the mechanics of allowing the State to administer the program under EPA supervision. Do you feel that EPA will be able to move in an expeditious manner to approve State programs that meet the requirements or do you see a period of delay in which EPA attempts to administer its own permit program?

Mr. ROE. I believe this is basic. The procedure does not permit delay on the part of EPA. It must act within a prescribed time period and, basically, as previously noted, the Administrator has 90 days under the legislation to establish guidelines as to what constitutes an acceptable State program.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. WRIGHT. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. ROE. The Governor of the State would then submit an application for the State to the Administrator, for the program in the State. Not later than 90 days after receiving the submittal the State would take over the program unless the Administrator found it did not satisfy the requirement. The procedures established in the bill specifically do not permit the Administrator of EPA to delay.

Mr. ICHORD. I raise the above question in view of the fact that the State of Missouri has had a concern to avoid unnecessary pollution of its waters for some time. The Missouri Water Pollution Board under the able direction of Jack K. Smith, executive secretary, has a permit granting program already in effect in the State. I feel quite certain that a program designed to comply with the standards set forth in this bill could be submitted to EPA in a very short period of time. Do you feel that such a program would receive priority attention with appropriate action by EPA?

Mr. ROE. I sincerely trust it would. I would rather see a combined program with the State and the Federal Government. I do not know what the Administrator will do, but I am sure he will give it attention.

Mr. ICHORD. I thank the gentleman for yielding. I commend him for the statement he has just made and I would also commend the committee, its staff, its chairman and all the members of the committee for bringing to the floor of the House a good legislative product in a very difficult area.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to my colleague from New Jersey.

Mr. HOWARD. I wish to commend the gentleman for his fine statement and for the work he has done on this legislation. We in New Jersey are proud of our colleague, who is on the Public Works Committee, and especially in respect to this area of Federal and State relationships. I believe the experience the gentleman has had in his previous post for 8 years as the commissioner of economic development and conservation for the State of New Jersey, which he has brought to the Public Works Committee, is a good background for trying to get the knowledge we need to coordinate the State-Federal legislation and to know what Federal legislation does for and to the States.

I believe the gentleman's imprint on this legislation has made this a much better bill than it would have been had he not been a member of the committee, so I wish to commend him. We in New Jersey certainly are proud of him.

Mr. ROE. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire, a member of the committee (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, one of the major issues involved in the water pollution control bill (H.R. 11896) being considered today is the desirability of requiring a "zero-discharge" of pollutants by municipalities and industry by a date certain—1985.

Many environmental and citizen action groups like the Sierra Club and Common Cause have mounted a campaign in support of an amendment to require "zero-discharge" of pollutants by industry and municipalities by 1985. The House bill contains "zero-discharge" by 1985 as a goal, but one which will not go into effect until the Congress acts following completion in 2 years of a $15 million study by the National Academy of Sciences.

The whole debate, as urged by these groups, centers on whether to legislate this goal now, rather than waiting 2 years for the study. But there is almost no comment on the real issue, which is whether the goal of "zero-discharge" is desirable, even if it is attainable.

Reliable cost estimates on the subject are almost nonexistent, but range from several hundred billion to several trillion dollars. There seems to be general agreement that the cost of eliminating the last 3 percent of discharges is at least as great as the cost of eliminating the other 97 percent. Is this a wise use of our money?

Of course our emotions respond to the call for an absolute end to pollution. But maybe the hundreds of billions of dollars necessary to clean up the last 3 percent of municipal and industrial pollutants could be—indeed, should be—used for other of our needs. How about air pollution—is absolutely purity of waters more desirable than getting on with the task of abating air pollution? And solid waste disposal? And development of recycling technology? And economic development for those so unfortunate as to be poor in this affluent society? Have we forgotten so soon the War on Pov-

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erty? Should we continue to have mediocre education in some places in order to spend so much of our money on trying to achieve "zero-discharge?"

Mr. Chairman, these questions must be faced. We cannot have utopia in all fields—so should we set such an absolute goal in one field to the detriment of others?

Furthermore—as if the question has not already answered itself—there is the very problem that even if we achieve "zero-discharge" by all industry and all municipalities, our streams will still not be clean if indeed there will be any water left in them. Continued use of fertilizers by our farmers will result in pollution and eutrophication of our streams, due to runoff from fields and pastures. "Zero-discharge" will do nothing to stop this source of pollution, and some rivers will continue to run green from algae bloom.

In many of our rivers, sedimentation is the major cause of visible pollution. Zero-discharge will not stop that. Indeed, only billions and billions of dollars of expenditures for soil conservation will stop that. So, will we spend hundreds of billions of dollars—maybe even trillions of dollars—to eliminate the last few percent of the pollutants by industry and municipalities, only to see many of our rivers still murky from sedimentation or eutrophication.

Mr. Chairman, I am not offering a definitive answer to these questions. But I am suggesting that they make the study of these issues by the National Academy of Sciences both a good investment and a wise one. Let us be governed by reason and not by our emotions. It is time for well-intended people to make a common cause of commonsense.

Mr. HARSHA. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Maryland (Mr. GUDE).

Mr. GUDE. I thank the gentleman for yielding.

Mr. Chairman, I should like to direct a question to the gentleman in reference to this legislation. The formula in this legislation, with adequate funding, has been considered by the State of Maryland and others who have studied it as sufficient to meet the needs of clean-up at Blue Plains and in the State of Maryland. However, when I use the word adequate I want to emphasize that the Congress and the American people must keep their commitment to clean up the waters of this Nation and not just half-way fund this bill. A half-a-loaf means a half clean river. Fortunately, a number of organizations such as the League of Women Voters have worked arduously and pretty successfully to get citizen support for adequate funding of these water pollution bills in the past. They have told me they will continue to work with us in Congress for adequate funding. When the committee rises I will ask permission to insert the testimony of the league before the Public Works Committee in the RECORD at this point in order to establish the continuity of the league's position on this issue and confirm its consistency in support of those provisions now embodied in the clean water package.

The statement follows:

STATEMENT TO THE HOUSE PUBLIC WORKS COMMITTEE BY MRS. DONALD E. CLUSEN

The League of Women Voters of the United States is pleased to have the opportunity to appear before the Public Works Committee to present our views on HR 11896. We believe that significant progress can be made to improve the federal water pollution control program this year and we commend this Committee for its commitment to that goal and for taking the time needed for a thorough perusal of the program. I can assure the members of this Committee that League members who have worked for fifteen years for water pollution abatement appreciate your efforts to move quickly now on this important legislation.

The League of Women Voters supports the establishment of a water pollution control program based on effluent limitations with the national goal of eliminating discharge of all pollutants by 1981. In order to control pollution effectively, we believe that guidelines applicable to individual dischargers must be clear and enforceable. Specific effluent limitations for industries and municipalities are necessary to accomplish this. We also see value in announcing long range pollution control goals. The League has been concerned about constantly changing water quality standards and guidelines.

While we certainly work to improve water quality, we think industries have a basis for further delays when standards are continually being revised and they are unsure of exactly what they are expected to do over a period of time. Setting a national policy of no discharge by 1981 will give industry a firm goal which they know they must meet and to which they should be held.

We have long been concerned by the emphasis on pollution control through sewage treatment. We think more emphasis should be placed on reduction of industrial wastes through better process control and water recycling. Effluent limitations and a goal of no discharges by 1981 are in line with such control.

While we support effluent limitations and the "goal of no discharge," the interpretation of "best practicable" and "best available" control technology raises some difficult questions. Since manufacturers of control equipment do not generally produce new equipment until there is a market demand for it, and industrial polluters do not install improved equipment until forced to do so, it is entirely possible that the "best known technology" will not become available and therefore not required. In the bill under consideration the Committee members have tried to arrange for assessment of "best practicable control technology," taking into account the various factors that bear upon the problem [Sec. 304 (b) (1-2)] and has provided for the publication of information on alternative waste treatment systems [Sec. 304 (d) (2)]. The legislation proposed in this Congress pins water quality to "best technology" rather than to "standards." Therefore the success of the new strategy depends on success in developing and *marketing* the necessary technology. Without a market, the upsurge in new devices and processes, with the concommitant economic stimulus, will not take place. With experience under the air act too limited to date to be of help, we urge the Committee to give extensive consideration to the problems of getting "best practicable" or "best existing" technology into use.

RESEARCH AND DEMONSTRATION PROJECTS

The League is pleased to see that H.R. 11896 increases the scope of and funding for water pollution control research programs, with pricing policies and other methods for reducing the total flow of sewage and unnecessary water consumption included for study. We are in total agreement with the emphasis throughout the bill on developing methods to control pollution from non-point sources. Leagues in the midwest are planning a special seminar on agricultural pollution in Cedar Rapids, Iowa next April.

Our local and state Leagues in the Great Lakes area and the Lake Tahoe area have been working vigorously to combat the pollution of these great natural resources, and the League of Women Voters of the United States strongly endorses proposals in H.R. 11896 and in the Senate-passed bill, S. 2770, to meet their particular needs. We are greatly interested in the plan for Lake Erie. Since to many people Lake Erie epitomizes the water pollution problem, we think it is an excellent place for the Corps of Engineers to undertake a demonstration project. Having said for years that alternative choices should be presented to officials and the public, the League of Women Voters of the United States is pleased that the Corps is to give the state and local governments involved alternative plans for comprehensive cleanup. Obviously the project must have the support of the people in the area if it is to be successful, and the best way to insure that support is to give local officials and the public responsibility for making the final choice. Not only do we support this proposal for its importance in cleaning up Lake Erie, but also because it is an opportunity to test the use of Corps resources to solve environmental problems.

The League strongly supports projects designed to demonstrate the effectiveness of using sewage sludge to reclaim mined land and prevent acid mine drainage. Leagues in coastal areas and around the Great Lakes have long been seriously concerned about dumping sludge into the oceans and lakes and have sought a non-polluting means of disposal. We hope that utilizing sludge to combat another type of environmental damage, returning otherwise useless land to productivity instead of adding to air and water pollution, will prove practical.

FUNDING

While the League has not advocated a specific amount for the federal waste treatment facility construction grant program, we are quite pleased with the $20 billion authorized in HR 11896 for a four year program. Money has always been at the heart of water pollution control problems, and members of this Committee know how hard members of the League have worked for appropriation and obligation of authorized sums.

We support the proposal that grant monies be allocated among the states according to need, believing the money should be put where the problems are.

We strongly support the provision in HR 11896 which makes approval of plans for a proposed construction project by the Administrator of the Environmental Protection Agency a contractual obligation of the United States to pay its proportional share of the costs. We want to see needed facilities constructed without delays caused by localities' not knowing whether, when, or how much federal aid they will receive. We believe some mechanism that will make it possible for hard-pressed states and localities to borrow the funds they need to finance their share of waste water treatment facility construction is essential to alleviating a situation which is so frustrating to local governments.

The League has been concerned throughout the discussion of the new federal sewage treatment grant program about increasing the federal share of construction costs. Will the change to 75 percent federal aid mean that fewer plants can be built with the money authorized? Would the nation actually accomplish more toward our goal of clean water with a lower percent of federal help per community and more communities aided to build plants? We understand the financial plight of the cities; however, we believe in some self-sufficiency at the local level. The federal government will never be able to build all the waste treatment plants needed in this country!

We are also concerned about the effect a higher federal share has on the choices made by municipalities. Will localities actually delay construction of badly needed facilities in hope that the next authorization bill will raise the federal contribution even more? Will the high percent of federal aid for construction cause a community to choose a treatment system which has a high capital cost but low operative cost rather than a more efficient system which costs less to build but more to operate?

The League's ultimate goal has been to put sewage treatment on a more businesslike basis. This is the reason we have always favored user charges. We firmly believe all users should pay their share of the costs of operation, maintenance, and expansion of plants. We also believe that industries should be required to pay their portion of the federal share of municipal plant construction costs, and we highly approve of the emphasis in H.R. 11896 on these objectives. We understand, however, the possible effect on small and marginal businesses of costs of control equipment necessary to comply with new effluent limitations. To moderate this effect, we support the provision in H.R. 11896 for loans to companies severely affected by complying with water pollution control requirements. We also support putting the amounts of the federal share of construction costs repaid by industry into the Small Business Administration to be available to help small and marginal businesses.

CITIZEN PARTICIPATION

The League of Women Voters is especially pleased to see that public participation in the development, revision, and enforcement of regulations, and effluent limitations, is encouraged in H.R. 11896. Since the purpose of the League is "to promote political responsibility through informed and active participation of citizens in government," we applaud the inclusion of this provision in the policy section of the bill and its reiteration in many of the other sections. We are, however, skeptical of the practical possibility of valuable citizen input when there are no funds authorized for citizen education or for research by public interest groups. For example, section 302(b) calls for public hearings on water quality related effluent limitations. These hearings are to determine the relationship of the economic and social costs of achieving the limitations, including any economic or social dislocations, and economic benefits to be obtained, and to determine whether or not the limitations can be implemented with available technology. In order to comment intelligently on these complex points, citizen organizations must carry on extensive study and research. Money is the problem! Most public interest organizations do not have the funds to carry out such activities without help.

We believe the successful involvement of citizens in the air pollution program was due in large part to the provision of funds for citizen education through the National Air Pollution Control Administration's Community Support Program. Unless similar help is authorized in this legislation we believe it will become impossible for citizens' organizations to make the kind of knowledgeable response this Committee wants and expects.

We endorse the section of the citizen suit provision of HR 11896 for awarding reasonable attorney and expert witness fees. We think this is a step in the right direction and we ask the Committee to include funds to assure meaningful citizen participation in other areas of the program.

FEDERAL-STATE RELATIONSHIP

The League believes that both the federal and state governments should be given strong powers to set and enforce water pollution control requirements. To have a successful program, each must be able to bridge the gap when the other falls down on the job. As a general principle, we think that state goevrnments are in the best position to establish requirements for meeting pollution abatement goals since they know the local conditions. However, we know from past experience that states do not always live up to their responsibility for firm control. When states are confronted by competition for industrial locations, water quality so often is the real loser. Many Leagues have been involved in establishing state discharge permit systems. Some are good while others lack the forcefulness necessary to abate pollution. In these latter cases, the federal government must have authority to impose stricter requirements.

On the other hand, there are occasions when federal standards do not meet local desires for water quality. League members oppose federal pre-emption of responsibilities. Our members are agreed that local and state governments should be able to set and enforce higher environmental standards where they so desire. We ask this Committee to make sure that your final bill in no way diminishes the right of states and localities to adopt stricter requirements than called for by federal legislation.

I would like to make note that a new needs study which is being concluded at EPA indicates that this formula in the reported bill though once adequate could now be inadequate for several jurisdictions around the country. Do I understand this new needs formula will be considered and resolved in conference?

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Ohio.

Mr. HARSHA. Let me say that the needs formula we have in the legislation is based upon the only cost estimate that was available at the time the bill was written. We do anticipate receiving some revised cost estimates. After the committee has had an opportunity to examine and review them we will in conference with the other body, we hope, be able to incorporate the appropriate part of that in the conference report. That would be, in all probability, a higher cost estimate, and would in that event take care of some of the problems to which the gentleman has reference.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. Mr. Chairman, I yield the gentleman an additional 30 seconds.

Mr. GUDE. In other words, your intention and the intention of the leadership in the committee is that in conference you would upgrade the formula so that the needs of California, Blue Plains, and any other jurisdiction across the country would be adequately taken care of?

Mr. HARSHA. Well, we will upgrade the formula so that the needs of the entire country can be taken care of. I do not want to say that we want to just take care of California, much as I love California, because we have 49 other States in the Nation. However, the needs of the country will be taken into consideration, and certainly Blue Plains is one of those which are uppermost in our thoughts.

Mr. GUDE. I addressed myself to California, because I understand they feel the present formula is inadequate to their needs, and I was merely using them as an example.

Mr. HARSHA. I understand.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman and members of the committee, I thank the gentleman for yielding and giving me this opportunity to talk and turn the attention of the committee to three amendments that I intend to offer tomorrow when this bill is up for consideration.

I believe these amendments encourage a system that will provide us with substantially cleaner water than any alternative at significantly less cost than any alternative. I would like to point out with regard to this system I am talking about, that we are only able to talk about it and to have the data and projections for it because of the imaginative encouragement of the chairman of the committee as well as the ranking member of the committee, and the acting chairman of the committee and the members on both sides of the aisle on the committee. I feel that the Nation should be indebted to them for making this kind of technological breakthrough possible.

The amendments that I will offer are very modest and limited in scope, but they are almost unlimited in the possibilities they hold for providing this Nation with cleaner water at lower cost.

It seems to me that by encouraging this in the bill we can help the Nation out of the dilemma that we face today, which is that in the opening passages of the bill we tell the American people we are setting a goal of zero discharge of pollutants by 1985. Having proclaimed this goal, then we make the main thrust of our efforts in 1976, relying on conventional treatment and technology that have not changed for about 50 years.

I think many people are right in what they say. If we rely on the conventional technology in this field, we will probably have to spend hundreds of billions of dollars, probably several trillion dollars, to achieve the goal that we have proclaimed here of zero discharge of pollutants. In other words, we will be investing in the next 2 years alone $13 billion to build systems that we are going to have to abandon in a few years if we have any seriousness whatsoever about the 1985 goal. This is the problem that we face. It is as though we said we were going to Montreal and then put the country on board a train heading for Miami.

It is as though 10 years ago somebody said we will put a man on the moon by the end of the decade, and we raced off spending $13 billion in attempting to do that through the procedure of buying railroad tracks and railroad cars. It seems to me that we need something in the Nation that will begin to encourage a system that will help us to reach our goal.

This is what I am proposing, namely, a resource management system which, through using the land, recycles pollutants into natural resources. It is based on simple principles.

First of all, the environment is an interrelated system of land, air, and water. It is a closed system, and we can never throw anything away. The second principle is that a pollutant is simply a resource which is out of place. When you recycle a pollutant into the

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right place it becomes a resource. For example, nitrogen and phosphorus remaining in sewage effluent after treatment when dumped into water pollute the water. However, nitrogen and phosphorus, if used on the land, will enrich the land and our environment.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. HARSHA. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. VANDER JAGT. I thank the gentleman for these 2 additional minutes.

Mr. Chairman, my first amendment would encourage revenue-producing resource management that recycles wastes into resources where a region can make money by so doing.

I submit to everyone that it would be difficult to be against that. It is sort of a motherhood thing. Why should we not encourage that kind of system that could produce that kind of environmental and economic merit?

That particular encouragement is contained in the committee bill itself. What I am proposing to do is to take it out of the committee bill where it is buried in the R. & D. section and say in the operative language of the bill that we want to encourage this kind of thing. In other words, if we can produce zero discharge of pollutants at less cost and make money by recycling resources, why not do it? That is worth 10 percent extra from the Federal Government which is what my second amendment provides for. We need to put our money where our mouth is. In other words, it is like telling your son that if he gets all A's, you will give him $10. That is a good investment.

The final amendment would release industry from the payback requirement which we have for the first time in this bill in those areas where they are able to put this system into effect. It will transform the footdragging of industry into enthusiastic leadership, and rolling up its sleeves and saying, "Let us get with the job of cleaning up our water."

Then, we have the environmentalists and the industrialists working together. We are encouraging them to bring together their coordinated efforts.

This package says instead of worrying about the 1976 deadline, or the 1981 deadline, or the 1985 deadline, if it is determined that it is economically feasible and technically feasible to install a system that will provide zero discharge of pollutants today and money can be saved while doing it, then we say we encourage it in specific language. This would provide the incentive and that is what this package intends to do.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HARSHA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, while the gentleman is in the well, I would like to call his attention to the fact that the Corps of Engineers has just released a study that they concluded on the Chicago area employing the method which the gentleman is so convinced will lead to zero discharge.

I would like to read from the comments of the Chief of Engineers:

The Chief of Engineers also noted that the effluent from all alternatives would contain some residue of pollutants in the water discharged to lakes and rivers. Thus none is a "zero discharge" system.

Mr. VANDER JAGT. I will say in response to the gentleman that of the nine elements we considered pollutants in that particular study just released—and what a tragedy it was not released until 2 hours ago—six of the nine elements are zero discharges and two of them are 99 percent, plus. I say that is a weak argument because it only achieves 99 percent, plus, elimination of pollutants.

Mr. HARSHA. I would further call the gentleman's attention—although he has not had an opportunity to read this—to the fact that the EPA has sent me a letter in response to my request for information on this study.

Mr. VANDER JAGT. I commend the gentleman for requesting that information.

Mr. HARSHA. The gentleman has alluded to the EPA Administrator and makes three points as follows:

Land disposal is not equivalent to "zero discharge." Rather, it approximates the removal efficiency of tertiary treatment.

Second, the cost of applying land disposal techniques nationwide would be about $161 billion. Proper corrections to the Friends of the Earth calculation would raise their $55 billion to this level. By contrast, application of tertiary treatment nationwide would cost $118 billion.

The social cost of land disposal, as exemplified by the corps' Chicago study are substantial and perhaps prohibitive.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. VANDER JAGT. Will the gentleman yield himself 30 seconds in order that I may respond to that?

Mr. HARSHA. I yield myself 30 additional seconds.

Mr. VANDER JAGT. The study on which that letter is based is concerned with the land treatment system for Chicago, and the South Shore of Lake Michigan, 9 million people, and costing $2 billion; for physical chemical treatment, $2.9 billion; for advanced biological treatment, $3.6 billion, and under the land treatment system the operating cost savings are $150 million a year.

And, again, I am so grateful that this report has finally been made public.

Mr. HARSHA. With respect to the other point here, and at the proper time I shall put the entire letter into the record, it states that—

The social costs of land disposal, as exemplified by the Corps' Chicago study, are substantial and perhaps prohibitive.

Then they go on to allude to the zero discharge possibility that you referred to, and to the economic costs, analyzing that with the cost of the final treatment system, so I will put it all in the RECORD.

Mr. VANDER JAGT. I urge a study of the full report.

Mr. HARSHA. The material referred to is as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C. March 27, 1972.

Hon. WILLIAM H. HARSHA,
House of Representatives,
Washington, D.C.

DEAR MR. HARSHA: In response to your inquiry concerning land disposal as a treatment alternative, I have prepared this letter to clarify the issues involved. These issues were raised in two recent reports. The Friends of the Earth have prepared an analysis which states that zero discharge is attainable using land disposal at a cost of $50–$55 billion. This cost range is compared with the Administration's estimate of $316.5 billion using distillation of wastes to achieve zero discharge. Also, the Corps of Engineers has updated the original Chicago land disposal feasibility study reducing the estimated costs from $14 billion to $2 billion, projecting that land disposal would be less costly than treatment alternatives, and claiming that the removal efficiency of land disposal would be significantly improved.

We have reviewed both these documents, and have concluded that:

1. Land disposal is not equivalent to "zero discharge." Rather, it approximates the removal efficiency of "tertiary treatment."

2. The costs of applying land disposal techniques nationwide would be about $161 billion. Proper corrections to the Friends of the Earth calculation would raise their $55 billion to this level. By contrast, application of tertiary treatment nationwide would cost $118 billion.

3. The social costs of land disposal, as exemplified by the Corps' Chicago study, are substantial and perhaps prohibitive.

ZERO DISCHARGE

The design manual for EPA's demonstration project in Muskegon indicates removal rates of 98–99% BOD, Phosphorous, and 85% Nitrates. These removal rates cannot be considered as a "zero discharge." Rather, they are equivalent to the removal rates of "tertiary treatment." Furthermore, there are many unknowns concerning the removal efficiency of large scale land disposal projects, e.g., possible salinity increases caused by evapo-transpiration, possible nitrate saturation and contamination, and unknown health effects. Until EPA's demonstration project in Muskegon and other projects are operating and evaluated, the applicability and removal efficiency of land disposal in a great variety of cases cannot be definitively stated.

ECONOMIC COSTS

Both the Corps' Chicago cost study and the Friends' estimate of national costs require further analysis.

For example, we have estimated that by using the most cost effective design that the biological and chemical treatment costs for the Corps studies would be $1.9 to $2.0 billion as opposed to $3.2 billion estimated by the Corps.

In contrast, the cost estimate for the land disposal project appears to be optimistic. Many of the components of this project have never before been built, thus, there is uncertainty about these figures. It should be noted that the preliminary estimate for the Muskegon project was $18 million and the final bid price $40 million.

The national cost for land disposal, based upon the Muskegon experience would be $55 billion for capital expenditures and $161 billion total cost including operation and maintenance, replacement and interest costs. The Friends of the Earth estimated that the total cost would be $50–$55 billion. A close examination of these calculations demonstrates that the Friends used the Muskegon cost figures for construction but not land acquisition. The study also did not include interest charges which alone amount to $41 billion. Finally, the Friends' cost was based on an average daily industrial and municipal waste discharge flow that is significantly lower than the actual flow today. Thus, the appropriate cost comparison is $161 billion for land treatment versus high level physical chemical treatment (tertiary) cost of $118 billion.

SOCIAL COSTS

The social costs of land disposal are substantial. Implementation of the Chicago proposal would require acquiring—and removing from productive use—455,000 acres of prime agricultural land in northern Indiana and Illinois. As the attached map shows, much of the land area of two counties would be affected. Moreover, 20,000 people, their schools and other public facilities would be displaced. The problems associated with this displacement would be difficult, time-consuming, and potentially socially disruptive.

CONCLUSION

While I believe land disposal is a viable alternative to conventional wastewater treatment, the foregoing analysis suggests it is by no means universally applicable. The economic and social costs incident to land disposal are substantial, and its treatment efficiency is not fully understood. Conventional treatment, land disposal, and other alternatives should be considered on a case by case basis to select the most cost effective solution to individual problem. The Muskegon project will provide the specific data we need to evaluate the land disposal alternative fully in each case.

Nationally, the land disposal alternative appears to be more costly than tertiary treatment. Neither system, however, is equivalent to "zero discharge", and zero discharge systems would be more costly still. Given these facts, we continue to believe that careful study and further Congressional consideration at a future date is required before a national commitment to a zero discharge goal can prudently be made.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. HARRINGTON).

Mr. HARRINGTON. Mr. Chairman, I rise in support of the Federal Water Pollution Control Act amendments. The bill before us today is the biggest, strongest, and toughest water pollution bill ever to come to the House floor for a vote. I congratulate the committee for its efforts.

There are some weaknesses in the bill and, as a sponsor of the "clean water package," I feel that the passage of these amendments will serve to remedy those deficiencies. It is not my purpose today, however, to criticize specific portions of the legislation. I will save those comments for tomorrow and the amendments. What I would prefer to talk about are the contents of the bill and how the legislation will affect our States and cities and our industries.

As we all know, many cities have been unable to build adequate waste treatment facilities because they cannot raise the amount of money needed as their share of the cost. States, too, have had terrible problems raising their share. Previous legislation provided a minimum of 30-percent Federal funding—if the State refused to provide any money—and a maximum of 55 percent if the State paid 25 percent of the cost. The remaining 20 to 70 percent was owed by the cities. This has been an onerous and unfair burden. Many cities have been able to raise their share of the revenue only by increased property taxation, and I do not need to remind this body of the problems of spiraling property taxes. They are too high; they are punitive; and they have caused great and unjustifiable human misery.

The bill before today will correct many of these deficiencies. Under both the House and Senate bill the new minimum Federal share will be 60 percent, with additional Federal funds provided if the States contribute a portion of the cost. The Senate bill would raise the Federal share to a maximum of 70 percent if the States pay 10 percent of the cost, and the House bill will provide a maximum Federal share of 75 percent if the States pay 15 percent of the cost. I support the House figures.

We need as much Federal aid as we can get to combat pollution—and as little municipal contribution as possible. The House bill—using the maximum figures—would require only a 10-percent municipal share whereas the Senate bill would call for 20 percent. It is my hope that the conferees will accept the House figures.

One of the greatest problems we have encountered in the past is in allocating sufficient funds for the cleanup of our waters. The Senate bill provides a total of $15 billion for municipal waste treatment construction. The House authorization is $20 billion. The National League of Cities has estimated that it will cost between $30 and $50 billion to clean up our waters. Other estimates also fall within that range. The House bill's authorization figure of $20 billion is therefore more realistic and better fits the needs of the Nation. I am hopeful that the conferees will also approve this higher figure.

I do not need to remind my colleagues that one of the chronic problems facing our cities has been the lack of funding necessary to build treatment plants. Time and time again previous legislation has offered millions of dollars only to have the appropriation figure cut substantially. We fall in grave danger of such action again, but the situation has deteriorated to the point where it is clear that we cannot renege on our commitment to full funding of the program. In addition, the legislation before us recognizes the insufficiency of previous funding mechanisms by including a new section requiring contractual obligations between the Federal Government and municipalities for the money needed.

The problems we have always run into before is that cities, basing their plans on the money authorized, have committed themselves to building treatment facilities, only to find later on that the money simply had not been appropriated. With no contract between the city and the Government, the city has been left holding the bag—in some cases defaulting on their own obligations. Both the Senate and House committees have recognized this as a major problem and have included two provisions to rectify the situation.

The first is the contractual authority which I have just mentioned. Under the new bill, States and municipalities may plan construction programs with the assurance that once their plans, specifications, and estimates are approved, construction can proceed in an orderly fashion. The administration of EPA is authorized under this bill to commit the Federal Government to the payment of its proportional contribution to the construction of treatment works at the time he approves the plans, specifications, and estimates submitted to him by each applicant. Thus the cities and States will have a guarantee from the Government that they will receive the money they are counting on to build treatment facilities.

The second provision would provide an authorization of $2,750 million for retroactive grants for projects initiated after 1956 which meet the requirements of previous acts. The reimbursement will be for any publicly owned treatment works constructed by States, municipalities, intermunicipal agencies, or interstate agencies for any publicly owned treatment works constructed by them for which the full Federal contribution to which they were entitled was not received. These funds rectify previous inequities and demonstrate a fair and enlightened attitude toward States and cities fiscal problems in this area.

The legislation we are considering today marks a turning point in our antipollution efforts. It is the first time I can remember that we have attempted to attack the pollution problem by specifying concrete goals coupled with deadlines for reaching those goals. I applaud the intent of both the House and Senate in attempting to define the pollution problem and mandate its end. The House bill declares it to be the national goal to eliminate the discharge of pollutants into the waters of the United States by 1985 and to achieve water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water to be achieved by 1981.

These deadlines are essential to a serious and dedicated effort to stop pollution. We have long needed such a focus and I fully support the committee's intent in this area. Often our problems—be they pollution, poverty, education, housing, or health—seem so complicated, immense and overwhelming that apathy and malaise sets in. One does not see the way out. One cannot believe they are soluble. I think that the committee has done a tremendous service to all of us by pinpointing a deadline which can and must be met. It is outrageous that we cannot swim in most of our rivers, and that we cannot eat the fish from our waters. It is even more outrageous that we have accepted this situation and have not fought to reclaim our right to enjoy what nature has provided for us. The deadlines in this bill give us a focus we have been missing and hopefully will activate all of us toward reclaiming our rights.

There is one major flaw in this House bill in this area and I will speak in more detail about it tomorrow. Suffice it to say today, however, that the bill contains a section requiring a study be done of the economic, social, and environmental costs of achieving these deadlines. The problem is that the 1981 and 1985 goals would

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not be implemented until the Congress evaluates this report and takes further action by voting 2 years hence to meet the deadline. In this respect, therefore, the bill before us is misleading because we will vote not to keep these deadlines but to delay the decision until the study has been completed. It is time to act. An amendment will be offered tomorrow as part of the clean water package to eliminate the need for Congress to vote again in 2 years on meeting these deadlines and requiring Congress to vote now on a real commitment to clean water. I support that amendment and will vote for it.

The Federal Water Pollution Control Act amendments comprise many worthy sections. The scope and complexity of the legislation is such that I could spend the rest of the afternoon analyzing each in detail. There are many Members who are far more expert than I, and I wish only to discuss just one last item in the bill which is of intense concern to most Americans—the fate of industry, particularly small businesses—in attempting to achieve the strict, but necessary, water pollution standards set forth in the legislation.

Section 8 of the bill contains a provision originally introduced by Congressman MORSE and myself to provide $800 million in low-cost loans to industries "likely to suffer substantial economic injury without assistance." The loan money may be used to assist any small business concern "in effecting additions to or alterations in the equipment, facilities—including the construction of pretreatment facilities and interceptor sewers—or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act."

The loans would be authorized for small businesses as defined under the Small Business Act, which means a firm independently owned and operated and not dominant in its field.

As consistent with SBA section 7 authority and regulations, the loans could be for up to $500,000 or 100 percent of the project's cost, whichever is less, with a maximum duration of 30 years. The interest would be the average cost to the U.S. Treasury of making the loans, minus 2 percentage points—currently. This would translate into a rate of about 4 percent.

Simply put, these loans may be used in one way by firms to obey the new pollution requirements. If the firm itself needs to build a treatment facility, the loan may be made for the construction of such facility.

We all know that the economy is in terrible condition. We know that there is a high rate of unemployment and that there are many depressed areas throughout the Nation. It is precisely these areas which contain the most small businesses whose existence would be jeopardized by inability to pay the cost of controlling their pollution, and it is to these industries that this section is directed. No one in Congress wishes to legislate so irresponsibly that we drive out of business those who sincerely wish to abide by the new pollution laws but who, because of a bad state of the economy, will be forced to close.

The $800 million authorized by this section may not be completely adequate. But it is a start. No adequate studies have ever been made about the financial problems of industries in pollution abatement. I am hopeful that EPA will keep close track of the demand for loans and that they will report to the Congress on the extent of the demand. If the demand exceeds the supply, I am sure that the Congress will vote to increase the funding.

Solving the pollution problem will take sacrifice on everyone's part. It will not be easy. But it is something that has to be done, and the legislation we will vote on tomorrow puts us squarely on record as willing to make those sacrifices. Specific goals, adequate funding, and touch enforcement will solve the water pollution problem and I am pleased to be able to vote for this bill.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I thank the gentleman for yielding me this time, and I wish to congratulate the gentleman and the members of the staff of the great Committee on Public Works for the indefatigable energy they have put into this bill, and to commend many of the principal sections of the bill, and hope that the five or six perfecting amendments which will be offered tomorrow will have favorable consideration.

Mr. Chairman, today we begin consideration of very comprehensive amendments to the Federal Water Pollution Control Act.

H.R. 11896, among other things, authorizes $4.6 billion in total spending for water pollution control; increases the grant percentage for the construction of waste treatment works; establishes that by 1976 polluters must use the best practicable technology in controlling wastes; abolishes the slow and ineffective enforcement conference procedures; and expands the coverage of the law to intrastate, as well as interstate navigable waterways.

Chairman BLATNIK and the committee deserve great praise for these very fine improvements in the present law.

There are, however, several provisions of the reported bill that should be amended to make the bill conform more closely to the stronger Senate bill (S. 2770) that passed the other body last November, 86 to 0.

The clean water package of amendments cosponsored by myself and over 40 of my colleagues is designed to strengthen these provisions.

One of these relates to the permit program established by section 402 of the reported bill.

H.R. 11896, as reported, provides for the complete transfer of the permit program to each of the 54 States and other jurisdictions. This could be accomplished under the bill before standards for toxic pollutants and for the pretreatment of effluent standards are adopted. Even more importantly, effluent limitations will not be established before EPA is required to turn the permit program over to the States.

We believe that, before EPA turns the permit program over to the States, the basic requirements for controlling pollutants should be established. Our amendments would accomplish this.

The House bill, like the Senate bill, tells each State that it must transmit to EPA a copy of each permit application and provide notice to EPA of every action related to the processing of that application. But, once EPA receives the permit applications, it can do no more than merely file them. No provision is made for EPA to comment on the applications. EPA cannot object to the issuance of a permit. EPA must merely receive for its information thousands upon thousands of applications which will then gather dust in some records center.

In the Senate bill, this is a meaningful requirement. For in that bill, EPA has an opportunity to object in writing to the issuance of the permit by a State.

We think the Senate approach is sound. But we have improved upon it further by requiring that EPA act within 60 days after receiving notice from a State which proposes to issue the permit.

Furthermore, our amendments would continue the provision in the House-reported bill that EPA may waive this notice and veto requirement as to certain types or classes of point sources when EPA approves a State permit program. Thus, EPA would not be reviewing and commenting on every little permit, but on only those which are of consequential importance in each State.

To his great credit, Gov. Wendell R. Anderson of Minnesota testified before the House Public Works Committee on December 9, 1971 and indicated his strong support for turning over the permit program to the States. But in so doing, he emphasized that EPA must have a veto over individual permits. Governor Anderson said in his prepared statement:

If the States are to run the permit program, however, the EPA must have a veto over individual permits issued by the States. It is true that the House bill allows the Federal Government to review the State's total permit program, but once that program is approved by the administrator it is extremely unlikely that such approval would be rescinded.

The EPA Administrator should not have to veto a State's total program just to get at permits granted improperly to a couple of polluters. So we still need a veto on individual permits to check those that are improperly granted, and this concept is already embodied for interstate waters in section 402 (d) (2) of the House bill. The administrator, if he exercises a permit application veto, should be required to do so within 60 days or the veto will be waived. This will have the effect of requiring him to focus on only those permits that involve significant problems and would provide a reasonable double check on this crucial part of the States' program. (*Italic supplied.*)

Governor Anderson's comment that EPA "should not have to veto a State's total program just to get at permits granted improperly to a couple of polluters" is certainly well taken.

It is true that the House committee's bill provides that the EPA Administrator, after public hearings and a 90-day waiting period, can reach down and withdraw his approval of the permit program being run by a State. But the effect of this action would be a Federal takeover of the entire permit program.

This type of total Federal takeover should not be necessary when EPA finds that only a few of the permit applications are being "improperly" issued. Such total takeover would result in chaos both at the State and Federal level. It should be exercised with great care and only when there is clear evidence that the entire State program has fallen into disrepair.

Governor Anderson discussed in more detail the reasons why this Federal check on State-issued permits is important. He said:

I suggest that there is one insight which should be shared with you. I suggest that every Governor in the country knows what is the greatest political barrier to effective pollution control. It is the threat of our worst polluters to move their factories out of any State that seriously tries to protect its environment. It is the practice of playing off one State against the other. It is the false but strident cry of the polluter that clean air and water mean fewer jobs.

Every Governor in this country knows that when he tries to put some teeth into his State's anti-pollution laws, his efforts will be met by precisely these sort of threats.

My message to you today is this: the answer to threats is uniformity. The only way to stop polluters from political intimidation is to prevent them from raising the alternative of moving to a place where pollution is allowed. There should be no such place in this country. We can no longer tolerate the fact that the price of diligence is intimidation. We should have uniform standards of pollution control in all fifty States—tough standards, fair standards, a set of meaningful and comprehensive rules that permit neither exception nor evasion. Pollution does not stop at State boundaries and neither must its regulation.

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Suppose a State adopted a policy of approving more lenient permits as a device to lure industry away from more conscientious States. This would circumvent and destroy the uniformity created by national effluent standards. Or, what if the person in charge of issuing State permits owned stock in the company whose permit he issued? EPA's veto power should further apply to help overcome political and other pressures sometimes exerted by local industry on State agencies. The further away one is from such pressures, the easier it is to be objective in making important decisions. Each branch of government, therefore, must help the other resist untoward pressure and act as a check on the other to produce the strongest pollution control possible—that is cooperative federalism.

Minnesota's position on the Federal veto is a middle ground, therefore, between the Senate and House bills. We believe this approach will avoid the administrative problems which could bog down the program if an unlimited time period were allowed for Federal review of permit applications. Although a small increase in EPA staffing may be required, we believed this approach will provide a margin of additional safety on the side of the environment when the Administrator determines stronger protection is needed by strengthening an individual permit.

I appreciate the fact that several Governors, well informed on this issue and conscientious in their efforts to protect their citizens, have taken a somewhat contrary position. These gentlemen have opposed the right of the Federal Government to exercise a veto over individual permits. I appreciate their concern but respectfully submit that that concern is inappropriately applied in this instance. I appreciate the fact that several Governors are reluctant to give any veto power to the Federal Government which has in the past supported standards less stringent than those of the States. I referred to this problem earlier. But in this particular instance, I feel the cause of stricter standards is best served by permitting the individual permit vetoes.

If this safeguard is not permitted, those States which do not pursue a vigorous anti-pollution program will continue to be cited by polluters as havens from which to escape proper environmental regulations. The uniformity which I cited at the outset of these remarks as the major necessity for an effective pollution control program cannot, therefore, be achieved without permitting this type of Federal check on permits which simply do not accomplish the job of pollution control."

My colleagues and I share Governor Anderson's views. We feel certain that unless there is a Federal review of the individual permits, workers of the Nation and many industries would be harmed significantly because of the great pressures that exist in many States to encourage businesses to locate there.

I strongly urge my colleagues to support us in this effort to strengthen the committee's bill and to bring it more in line with the stronger Senate version.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. GRAY).

Mr. GRAY. Mr. Chairman and colleagues, if anyone doubts the importance and the wide range benefits of this legislation they can take notice that in title I it starts with research, and ends up with sex discrimination in title XIII with over 200 pages in between. I do not think you can beat that with any legislation.

Seriously, Mr. Chairman and colleagues, we have labored long and hard in the Committee on Public Works to bring this legislation to you today.

I would be remiss if I did not take a moment to commend our distinguished chairman, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Alabama (Mr. JONES), the gentleman from Ohio (Mr. HARSHA), and all of the Members on both sides of the aisle for their diligence, because I can assure you that this is the culmination of many months of hard and uninterrupted work.

I would also like to commend Mr. Sullivan, our chief counsel, Mr. Enfield, and other members of the staff who have worked so hard.

This legislation certainly represents one of the most important, if not the most important, pieces of domestic legislation to come out of this session of the Congress. There are a number of issues that cry out for attention in America, and the attention of this Congress, on what we consider to be deep national concerns, but certainly there is none that has been neglected more than our national environment.

In one very real sense we are all passengers on the planet Earth, and unless we feel secure and comfortable about our natural environment there is very little prospect of dealing on a meaningful basis with the pressing social issues of our times.

The action taken by this Congress on water pollution will be watched around the world for, just as we have been the great embodiment of industrial and technological progress, we are also, Mr. Chairman, the embodiment of the environmental damage and clutter and trash that has been part and parcel of our great progress. This is an opportunity for this Congress to show the way, and the vehicle through which we can show our enlightened concern is this bill before us today.

It contains an approach that pinpoints responsibility at the various levels where the abatement problem must be tackled. I would like to make this one important point in my brief remarks, and that is, Mr. Chairman, that this is not a Federal bill alone, nor is it a State bill. Read it carefully, and you will find that the duties and responsibilities are distributed fairly among industry, the States, and the Federal Government.

The Federal responsibility is particularly great because the EPA is called upon to provide the scientific and technological leadership that will be necessary to advance the state of the art of waste treatment.

There is no single way that abatement can be approached. The concept of alternatives is an important one in this legislation. We emphasize such concepts as the recycling of wastes, reuse of water, and the development of programs that are ecologically sound.

Likewise this legislation does not permit the mere transfer of the pollution problem—yes—we do not allow any State or local community to just transfer the problem. We do not accomplish anything if we clean up the rivers and lakes and in the process create an air pollution problem or do damage to the esthetic quality of the countryside, whether it be in southern Illinois or someplace else.

This is a good bill and a fitting subject for the House of Representatives at this crucial moment of needed environmental leadership.

I would like to close by putting in proper perspective the reasons for our bringing out this bill today. I would like to do it with a poem.

"I once knew a man who built a wall.
A wall unfriendly, grim and tall.
I knew this man could not be bad.
Maybe timid or even sad.
So I built a tower by this wall so grim.
And I looked down and smiled at him.
This noble man's heart was about to break.
So he tore down the wall and built a gate."

Is not that what we are doing here? Many local communities and industries have built a wall around cleaning up our pollution. People have been indifferent to the needs of our society. They have built a wall saying that it cannot be done—a wall too high to get over.

So we provide the funds with which to tear down the wall of neglect and allow them to open a gate of partnership between the local communities, the States, and the Federal Government.

That is all we do here—is to allow a gate with good hinges to swing open wide so that we can be able to clean up our environment.

I strongly encourage a good attendance tomorrow. Amendments will be of-

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fered to try to weaken this bill. I hope it can be passed in its present form so we can get on with the job of cleaning up America's waters. Thank you.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER resumed the Chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on March 24, 1972 the President approved and signed bills of the House of the following titles:

H.R. 1746. An act to further promote equal employment opportunities for American workers; and

H.R. 8293. An act to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968.

The SPEAKER. The Committee will resume its sitting.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

The Committee resumed its sitting.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Chairman, I would like to ask the distinguished gentleman from Ohio some questions with regard to this bill.

This bill authorizes the expenditure of $18 billion over the next 3 years for the construction of waste treatment works. With this huge expenditure of public funds, every effort must be made to assure that the best available technology is utilized and that designs are cost effective.

Since the design of new facilities to meet water quality standards will be completed in the next 3 to 4 years, new technology must be adopted now in order to have an impact on the design of new facilities. We cannot afford to invest in facilities which might soon become obsolete and cannot be readily modified to meet more stringent quality criteria in the future.

In this regard, I am especially concerned that there has not been sufficient emphasis given to developing new recycling and reclaiming techniques to replace or augment secondary and tertiary treatment processes. Moreover, research into this matter leads me to believe that the coordination of programs to develop this technology has been poor if not nonexistent. For instance, NASA has developed for long-term space missions and space stations a subsystem to recover and reuse water from urine, wash water, and atmospheric condensate and to recover water and gases from solid biological wastes, and decompose and incinerate the solid waste. Of particular importance is the fact that the system does not require a power supply from some other source.

Yet, although NASA feels the system has tremendous land-based potential if developed properly, the only other agency which is making an effort to utilize it is HUD, and they are only studying the methodology. The Environmental Protection Agency has made no effort to utilize this technology although they stated to me that "the basic concepts appears to be quite feasible for use in individual homes" and the "concept would accomplish much in regard to reducing waste-water flows and the resulting pollution that reaches our watercourses." Moreover, less than $1 million is now being expended on developing this technology.

My real concern is not with the particular technology used for recycling or reclaiming, but with utilizing what we have already developed so that we can develop in the shortest time possible technology which may be more economical and more pollution free. Is it your opinion, Mr. HARSHA, that section 105(d)(2) puts sufficient emphasis on developing this technology? And, second, does section 105(e)(2) make it mandatory that the Administrator shall utilize technology developed by other agencies such as NASA and HUD and coordinate development efforts with these and other agencies?

Mr. HARSHA. Mr. Chairman, if the gentleman will yield, my answer to the first question from the gentleman from Florida, who is to be commended as an effective advocate of commercially useful technological spinoff from the space effort, is "Yes."

The committee expects that the Administrator will pursue all avenues which might lead to effective solutions. The space effort has effectively demonstrated a number of potential techniques for recycling of pollutants. These may have potential for commercial development and for homes, boats, and vehicles. I definitely believe and intend that section 105(d)(2) require the Administrator to investigate NASA-developed technology.

In answer to the gentleman's second question, let me say that section 105(e)(2) specifically refers to areas where conventional systems are impractical, uneconomical, or otherwise unfeasible. Again, it is ridiculous not to use technology wherever it is developed. It is expected, and I am sure I speak for the committee on this, that the Administrator will use technology developed by other agencies. The legislative language in question authorizes research grants and it is expected that before such grants are made, the Administrator will consult with all relevant agencies to assess the utility of all available technology.

Mr. FREY. I thank the gentleman for his answer. I am delighted to have his opinion on this question, and certainly hope that we do get our money's worth. We have put a great deal of money into research in the space program in developing techniques, and I think this could be a tremendous payoff from the space program.

I commend the gentleman also for his work on this bill.

Mr. HARSHA. I thank the gentleman. We are proceeding on a crash basis on the water pollution control program. Certainly we ought to take advantage of all research and development programs throughout the Federal Government, and I would hope that the Environmental Protection Agency would heed that suggestion.

Mr. JAMES V. STANTON. Mr. Chairman, I yield 5 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I would like to express my strong support for section 12 of H.R. 11896. This section of the bill is cited as "The Environmental Financing Act of 1972" and would establish an Environmental Financing Authority—EFA.

The purpose of EFA is to assure that there will be a market for the bonds issued by local communities to finance their share of the costs of waste treatment facilities eligible for a Federal grant under the Water Pollution Control Act.

EFA would be simply a financial intermediary. It would purchase obligations issued by local public bodies to finance the construction of waste treatment facilities, and it would obtain funds for this purpose by issuing its own debt obligations in the market.

Yet, while EFA is expected to be a relatively simple and self-supporting operation, it would perform a vital function. By standing ready to purchase municipal waste treatment bonds, EFA would assure that every municipality would have an opportunity to market its bonds at reasonable rates of interest.

Thus EFA would remove a serious obstacle to the waste treatment facility construction program and would make an essential contribution to the overall national effort to clean up the environment.

There has been no disagreement on EFA between the administration and the Congress. Both the House and Senate Public Works Committees reported this bill favorably without amendment. Yet a number of questions were raised in the hearings on this bill, and I would like to respond to these questions for the record.

EFA is not an assault on the tax-exempt market. EFA would lend only to those public bodies who are unable to borrow in the private market on reasonable terms. It is expected that the bulk of municipal borrowings for federally assisted waste treatment facilities would continue to be financed in the tax-exempt market. It is estimated that EFA would normally lend for perhaps only one out of five projects assisted by a Federal construction grant.

Under the proposed legislation, EFA could not purchase any municipal obligation unless the Administrator of the Environmental Protection Agency first, has certified that the borrower is unable to obtain on reasonable terms sufficient credit to finance its actual needs; second, has approved the project as eligible for a waste treatment construction grant under the Federal Water Pollution Control Act; and third, has agreed to guarantee timely payments of principal and interest on the obligations.

Most public bodies would have no desire to borrow from EFA, simply because the rate at which EFA would lend would be established by the Secretary of the Treasury at a level higher than the interest rate at which most municipalities could borrow on their own in the private market.

EFA would raise its funds by issuing its own taxable obligations. Under present market conditions EFA might be paying about 7 percent on its own long-term taxable borrowings and purchasing tax-exempt municipal waste treatment obligations at about 6 percent. Under the bill, the 1 percentage point difference between EFA's borrowing and lending rates would be made up by an annual payment from the Secretary of the Treasury to EFA. This payment would not involve a net cost to the Federal Government, however, since it would be offset by the additional revenues which the Treasury would receive because of the substitution of taxable for nontaxable obligations.

EFA would not require a large new bureaucracy. It would rely heavily on the existing resources of the Treasury Department. EFA would be simply a financial intermediary operating under the direction of the Secretary of the Treasury and having as its sole function the borrowing of funds in the private market for the purpose of purchasing municipal obligations guaranteed by the Environmental Protection Agency.

EFA would have the advantages of consolidated financing and the flexibility necessary to obtain funds efficiently from the capital markets.

EFA would not undermine the autonomy of local governments. EFA would not result in Federal involvement in a single project which the Federal Government is not already involved in, since EFA would lend only for projects eligible for a Federal grant. No municipality would be required to borrow from EFA.

It has been argued that the need for EFA assistance to municipal borrowers has diminished because of the general improvement in bond market conditions since EFA was first proposed in February 1970. I would certainly agree that communities are having much less difficulty in selling their bonds today, as compared to the crisis situation municipal borrowers faced 2 years ago. Yet even in times of relatively favorable market conditions there are some communities that lack the size or credit standing necessary to support their bond issues at reasonable rates of interest. EFA would help these communities.

Also, as we learned in 1966 and in 1969, conditions in the municipal bond market can deteriorate rapidly. The construction of waste treatment facilities requires a great deal of planning, and the approval of interested groups at the Federal, State, and local levels is a time-consuming process that may extend for several years. This process can be facilitated greatly if we can assure in advance that when the project reaches the financing stage it will not be unduly delayed or canceled because of changing bond market conditions. EFA would provide that assurance.

I urge you to join me in support of the Environmental Financing Act of 1972.

Mr. Chairman, I include with my remarks an editorial published in yesterday's issue of the Washington Star entitled "The Murky Business of Cleaning the Water." The editorial, which points out the distinction between the bill now before the House and that passed by the other body, is as follows:

THE MURKY BUSINESS OF CLEANING THE WATER

To get a good argument going among those who care about the world around us, try the following question: Which of the two major pollutions, air or water, is the more insidious and resistant to effective control?

Our own choice is water pollution. Polluted air, it is true, is impossible to contain and thus, for most people, impossible to escape. But the reverse of that proposition is that water, because it is more contained, can get incredibly dirty. No given amount of air is contaminated to the same degree as many of our major rivers and lakes.

Beyond that, the sources of water pollution are so numerous and disparate as to defy coordinated attack. Sewage from thousands of communities—treated, partially treated, untreated—is just one source. Industry pollutes the water in endless ways. And even if an industrial plant protects its own adjacent waterways, it may turn out a product such as detergent soap that winds up in rivers and streams thousands of miles away. Then there is thermal pollution, and mine acid drainage, and agricultural run-off, and off-shore dumping, and oil spills in coastal waters. Considered all together, it stuns the mind.

So does the cost of coping with it. As two examples: To halt mine acid drainage, which is limited to a few Appalachian states, might cost $7 billion; to separate sewer lines from storm drains in the cities where they are combined might cost $25 billion, or $50 billion. No one knows for sure. And no one can tell the cost of total water pollution control, except to say that it would dwarf all other environmental programs combined.

We bring all this up as a way of pointing up the immense significance of the debate scheduled to begin tomorrow in the House. Coming up is H.R. 11896, the House Water Pollution Control Bill. It is bewilderingly complex. With its four-year price tag of $24.6 billion, it could become the most expensive piece of environmental legislation ever passed. But even though the President's budget-makers are dismayed at these dollar figures, much more is at stake.

As it now stands, the House bill must be seen as counterposed to an extremely ambitious and highly controversial water-pollution bill the Senate passed in November. The major differences between the two bills run far beyond questions of detail and degree to a conflict over whether this nation should change, and how far it should change, its basic approach to fighting water pollution through this decade and well into the next. This is not just any old water pollution fight. It is truly a fight over crossroads decisions. Enormous consequences will flow from what the House decides to do about the bill that has come from its Public Works Committee, and about a series of "clean water" amendments, backed by 25 environment, civic and labor groups, that would bring the bill in line with the Senate version.

Very briefly, the Senate bill would sweep away the current practice of setting, and trying to enforce, water quality standards for various waterways. With the Environmental Protection Agency, not the states, running the show, the new approach would be strictly regulatory. Through the creation of any number of national effluent limitations and a system of discharge permits, it would be directed at specific sources of pollution. The timetable is significant: For industry, by 1976, a requirement to use the "best practicable" technology; by 1981, the "best available" technology; by 1985, no discharges at all.

A breath-taking bill, indeed, and one that, especially in this politically charged election year, puts any critic of it in the position of seemingly advocating dirty water. This is precisely the tricky position in which the House committee found itself in trying to put together a separate version.

And yet the committee turned out a remarkably balanced product. It has some faults—notably in giving the federal government too little clout in making sure the states enforce the law. But in the main, we believe, it represents the right approach at this time to an extraordinary difficult problem.

The House bill, though a large improvement over current law, is known as the "weaker" of the two bills. This kind of comparison, with all its implications of good versus bad, can be highly misleading. "Strong" laws have been passed before that produced results far from the original goals. In setting the no-discharge 1985 goal, and declaring that as national policy, the Senate took the position that the country will never solve its pollution problem until Congress legislates fixed goals and sets a timetable for realizing them. It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible. Supporters of the Senate bill hope it is workable. They cannot be sure. Some administration spokesmen have called it unworkable. Theirs, too, is educated and somewhat biased guesswork.

The House bill offers what appears a reasonable answer. It retains the 1976 requirement for "most practicable" technology. But the far more sweeping 1981 and 1985 goals are made subject to further congressional action after a two-year study by the National Academy of Sciences and the National Academy of Engineers. This is already being assailed as something of a cop-out. The arguments for it are more persuasive. Subjecting all the unknowns in the water-pollution issue to an exhaustive academic study only makes sense. In the short term, with the bill's fixed 1976 requirements, this would not represent a reprieve to polluters. By 1974 or 1975, with the study reports in hand, Congress will be in a far better position to legislate between basic, regulatory approaches. That it would fall then to act on water pollution seems highly improbable. And the tentative timetable is such that before 1981 industry would have enough time to adjust to higher standards.

The essence of the two-year study should be to make vital distinctions between the merits of water quality standards and the case-by-case regulation of pollution treatment at the source. Probably there is a case for a mix of both, and the House legislation wisely provides for such a mix at least until 1976. The trouble with relying solely on the present standards is the difficulty of establishing who is responsible for polluting a particular river system. But to switch entirely to a system calling for countless different treatment standards could prove just as cumbersome. For the government to direct an industry to eliminate all discharges, or even to install the "best available" technology, ought to be judged in light of identifiable benefit. There may be little point to ordering an industry on, say, the Mississippi River to go beyond 80 percent or 90 percent treatment control. For another industry, located on a fragile waterway, 95 percent control might not be good enough.

Beyond the technical lie the economic considerations. They are far from idle ones. To hold new industries to the highest possible standards is one thing. It is quite another to mandate that every industry, including older,

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economically vulnerable plants, install the most expensive equipment and move to a 1985 no-discharge status. Beyond that, although the total costs remain elusive, it is beyond question that the costs of improving our waters will move upwards not on a straight line but on a sharp curve, so that the price tag for removing the last 3 percent of pollution could well prove higher, by multi-billions of dollars, than the cost of eliminating the first 97 percent. All this needs thorough delineation, and then the question must be faced of whether, in light of so many competing priorities, the nation wants to commit such a large part of its resources to go beyond basically adequate improvement in water quality.

The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

Mr. JAMES V. STANTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I rise in support of the bill as reported by the Public Works Committee. Drafted after a searching and painstaking analysis of the water pollution problems now confronting the United States—an analysis that spanned the better part of 3 years—the bill would set a goal of eliminating water pollution altogether by 1985. A less ambitious interim goal sought in the legislation is making the country's waterways fit for fish and wildlife, for swimming and boating, by 1981. Both these goals, although the principal objectives of the committee bill, are not presented to us as if graven on stone tablets—the holy writ that must be honored no matter what the consequences to American industry and its workers. Wisely, the committee bill makes the goals subject to further congressional action after a 2-year study by the National Academy of Sciences and the National Academy of Engineers.

The bill, still further, would shift the principal means of water pollution control from water quality standards to effluent limitations—and the principal responsibility from the Federal Government to the States. It calls for appropriations of $24.62 billion, $18.35 billion of this for building new waste treatment plants.

No rational man, Mr. Chairman, can dispute the need for a program of this magnitude. The need is so unmistakably plain that it hardly warrants mention here. The exploitation of our waterways—our rivers, our streams, our lakes—has left many of them so fouled they can barely support life. Lake Erie, for example, once the world's most prodigious source of fresh water fish, is now virtually dead. One river—the Cuyahoga, near Cleveland—actually burst into flames a few years ago. A growing menace to public health, beaches are being closed and rivers posted throughout the United States. In 1970, a public Health Service report showed that fully 30 percent of the country's drinking water contains substances hazardous to human health. And, a scant year later, the Geological Survey pointed out that drinking water in 12 cities falls short of scrupulous health standards.

The question before us, Mr. Chairman, is not whether we should clean up our waterways—but what means we should use to achieve that goal. The Senate Water Pollution Control Act, like the amendments that will be offered to the House act, envisions an almost millenarian era wholly free of water pollution—an era that can be reached, step by step, as if climbing a ladder to the heavens. The timetable calls on industry to use the best "practicable technology" by 1976, the "best available technology" by 1981, no discharges at all by 1985. Even further, the Senate bill and the House "Clean Water Package" amendments would abruptly dismiss water quality standards for the Nation's waterways. The Environmental Protection Agency, endowed with most of the authority for administering water pollution control, would take an entirely regulatory approach—establishing effluent limitations, awarding discharge permits, attacking specific sources of pollution.

The scenario, Mr. Chairman, is almost idyllic. But can it be realized? Perhaps, perhaps not. One thing is certain, at least in my mind: the committee legislation now before us is more closely reasoned, recognizing the threat posed by a timetable so rigid and so fixed that it would yield to virtually nothing.

I quote from a Washington Star editorial published yesterday:

> The House bill, though a large improvement over current law, is known as the "weaker" of the two bills. This kind of comparison, with all its implications of good versus bad, can be highly misleading. "Strong" laws have been passed before that produced results far from the original goals. In setting the no-discharge 1985 goal, and declaring that as national policy, the Senate took the position that the country will never solve its pollution problem until Congress legislates fixed goals and sets a timetable for realizing them. It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible. Supporters of the Senate bill hope it is workable. They cannot be sure.

I think we can be sure, Mr. Chairman, that the Public Works Committee bill is workable. It maintains intact the 1976 requirement for the "most practicable technology," but makes the almost icarian 1981 and 1985 goals subject to the 2-year study I have already cited here. Such a study is necessary to shed light on the scores of unknowns in water pollution control: the efficacy of water quality standards versus case-by-case regulation, for example, or the impact of new pollution standards on industry and jobs.

The timetables sought in the Senate bill might jeopardize hundreds of industries and hundreds of thousands of jobs—even millions of jobs. Already operating on slender profit margins, many vulnerable industries may go bankrupt if the Government demands that they install the "best available technology" often the most expensive technology, as well—by 1981. The unemployment rate nationwide, despite a few heartening signs of stabilization, is still disquieting. In my own congressional district—largely within the Springfield-Chicopee-Holyoke Metropolitan Statistical Area—more than 8 percent of the work force is now idle. Can we afford to hastily adopt the Senate's timetable for pollution control, unaware of just how it may threaten employment? I do not think so, Mr. Chairman. I think it would be far more prudent, far more enlightened to carry out the study proposed for the National Academy of Sciences and the National Academy of Engineers.

The following letter from the Monsanto Co., in Springfield, Mass., makes clear the need for this study:

> MONSANTO CO.,
> *Springfield, Mass., March 20, 1972.*
>
> HON. EDWARD P. BOLAND,
> *Rayburn House Office Building,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN BOLAND: It is my understanding that the Water Quality Bill (HR 11896) which has recently been reported out of the House Public Works Committee is a vast improvement over the Muskie Bill passed by the U.S. Senate last Fall. By vast improvement I mean that it appears to take a much more rational approach to cleaning up the waterways of America than does the Muskie Bill.
>
> While we all believe that we should clean up our rivers and streams, we note the monumental expenditures required by the Muskie Bill. In marginal operations an added cost, as proposed by Senator Muskie, could mean the closing of a manufacturing facility and loss of employment.
>
> Although I very much regret that the states' participation in the solution to this very complex problem is not strengthened by this proposed legislation, I urge you to support the House Water Quality Bill as reported and to ask the support of your colleagues to do the same. I am certain that there will be those who will offer amendments to the bill which, if adopted, would markedly change the intent of the House bill and the resolve of the House Public Works Committee. Please vote against any such amendments.
>
> In particular, please support the section of the House Bill which provides for a study of the legislation by the National Academy of Sciences with the obligation on the Academy to report its findings back to the Congress within two years of the enactment of the bill. The requirement of Congressional implementation of the findings of the Academy as a part of that section is extremely important.
>
> Your help in this vital matter will truly be appreciated.
>
> Sincerely,
>
> G. M. ELLSWORTH,
> *Plant Manager.*

Mr. Chairman, I am persuaded that we must first identify the ultimate implications of the Water Pollution Control Act—especially its technical and economic impact—before committing ourselves to a rigid timetable. H.R. 11896 seeks to do just this. I commend the distinguished gentleman from Minnesota, the chairman of the Public Works Committee (Mr. BLATNIK) for bringing this bill to the floor. It is just another instance in a long line of his great endeavors to rid the Nation of pollutants that threaten its very existence. I applaud his committee for the very careful consideration it gave to this complex problem.

Mr. Chairman, the bill now under discussion deserves the support of the Congress.

Mr. JAMES V. STANTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I urge passage of the bill presented by the Committee on Public Works because it establishes the soundest, most workable program that has ever been devised to clean up the pollution that threatens to destroy our Nation's waters.

This legislation calls for perhaps the largest nondefense authoriation in all our history. But this is the measure of the stupendous task we confont in restoring and preserving our waters. I have heard it said that we cannot afford a program of such scope, to which I must reply: We cannot afford not to undertake this program, because our survival as a people hangs upon the survival of our waters. And no one can deny today that our waters are in mortal peril.

Mr. Chairman, this legislation recognizes that America's resources are not limitless, that there are many priorities with heavy claims on the public welfare. The committee has prudently provided for an intensive study into the possible consequences that might result from going full-blast to our States goals of swimmable water by 1981 and no discharge into our waters by 1985.

With the findings of that study in hand, in 1974, the Congress can then decide whether or not a midcourse correction of our program is required.

This bill contains specific and direct help for the Great Lakes region by initiating the pilot program for Lake Erie at a cost of $5 million. The authorization for the Great Lakes program is set at $20 million, which will be a direct and forceful step towards cleaning the waterways of America.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I have asked for this time so that after we go into session of the House I can ask permission to include at this point in the RECORD a letter from the Water Supply and Pollution Control Commission of New Hampshire, and also a very interesting article by Terry P. Frost, one of the officials of that organization that discusses tertiary treatment in a very constructive and knowledgeable way.

I offer the letter as it suggests needed improvements in the bill now before us.

I offer the article as it is a hopeful one and reminds us that we making progress. Because so many others have spoken on the details of H.R. 11896, and at length, I shall not do so.

The letter and the article follow:

> WATER SUPPLY AND POLLUTION
> CONTROL COMMISSION,
> *Concord, N.H., March 24, 1972.*
>
> HON. JAMES C. CLEVELAND,
> *Longworth House Office Building, Washington, D.C.*
>
> DEAR JIM: Your office called yesterday and indicated you would welcome any last minute comments regarding HR 11896 in final draft. Incidentally, thank you for furnishing us with a copy of this legislation.
>
> Clarence Metcalf and I have hurriedly reviewed the new draft and find it does not substantially deviate from the December 1971 version. Thus, our earlier comments would still have meaning.
>
> We recognize the importance of focusing attention on major considerations rather than to offer a long enumeration of modifications which would be desirable. Accordingly, the features we wish to stress are outlined briefly as follows:
>
> The arrangement with regard to industry bearing not only its share of operating costs, but also capital construction costs, will certainly serve to discourage joint projects. Industry will soon decide to go it alone because it will be easier, and, in many instances, more economical to do so. As a result, the main underlying objective which the Bill seeks to promote, namely, regional solutions, areawide treatment concepts, etc., will be frustrated. On this question of charges, we have always been impressed (and state law permits) that local governments should retain the authority to distribute the costs within a framework which will be equitable for all concerned. If the Federal Government assumes this responsibility, it is our opinion it will introduce more complications than solutions. Overall, by insisting upon charging industry its "fair share" there will be more loss than gain in terms of effective pollution control programs.
>
> The permit system provides that ultimate authority will reside with EPA. As we have said previously, states should be allowed to develop strong permit programs in accordance with Federal guidelines rather than to have both governmental levels involved. It seems ridiculous to require that the state agency furnish a copy of every permit application and each permit issued to the Administrator. Moreover, he then has a period of 60 days to decide if he is in agreement that the judgment is sound. To qualify for operation of a state permit program the state must also be empowered to control ground water. New Hampshire statutes do not allow complete authority for us to function in this capacity. Insofar as ground water used for drinking supplies is concerned, we could qualify but the law does not afford complete coverage. In developing legislation of national scope where there is a need to be concerned with control of ground water pollution, there should be a period of grace allowed for states such as ours where it has not been significant to enact suitable statutes. Otherwise, we may not qualify for operation of the permit system.
>
> Areawide and other forms of regional planning are encouraged but there is no clear indication that the stage pollution control agency will be designated to carry out this responsibility. We believe to preserve continuity of responsibility this should be the arrangement.
>
> In order to qualify for construction grants under 201(3) collection systems must be free from "excessive" infiltration. This requirement becomes operative for all projects after July 1, 1973. Certainly infiltration should be corrected wherever it is a problem but there should be time allowed to achieve this objective. Likewise, it should be eligible for grant funding. Unless such improvements are phased, it means otherwise eligible treatment plant projects will be stymied pending corrective action which may, in most cases, require a considerable period of time.
>
> The state of Minnesota is canvassing the states to protest the provisions of Section 312(f) which conveys all authority for boat pollution control to the Federal level. The Federal marine sanitation standards provide for discharge of treated sewage. This, of course, is inappropriate particularly in inland waters and many states, including New Hampshire, have statute which require "no-discharge" toilet systems for water craft. We would, therefore, endorse the so-called Ford Fraser amendment which would permit states to prohibit discharges from vessels of any sewage, treated or not, into waters on which they operate. We still believe that projects started after July 1, 1971 will not be eligible for reimbursement (see Section 206(a), pages 251–252).
>
> Thanks for any help you can give us.
>
> Sincerely,
>
> WILLIAM A. HEALY, P.E.,
> *Executive Director.*

SIP

(By Terry Frost)

This story is about SIP. SIP is a shiny new acronym for an ancient water pollution control—land enrichment system that probably dates back into antiquity farther than you and I, and perhaps even a competent historian or archaeologist, can pursue it. SIP is short-hand for "Spray Irrigation Projects" or "Spray Irrigation Programs."

Spray irrigation projects, *properly designed and operated*, are literally eat-your-"cake"-and-keep-it schemes. SIP can make large quantities of essential plant nutrients quickly available to land plants and keep them more or less permanently out of our surface waters—lakes, ponds, impoundments, rivers and streams—and even out of the ground waters that replenish our wells and feed our subsurface water supplies. Unwanted feed for nuisance algae and other noxious aquatic vegetation becomes much wanted feed for highly desirable land plants—field corn and other forage crops; white pine forests; hardwood timber crops; pulpwood forests and Christmas tree plantations—you name it. If it grows SIP can help it grow better—and bigger! So, being slightly repetitious, we wish to emphasize that good, healthy SIP's can considerably check the appalling "cultural eutrophication"—a plainer term, the "unnecessary manuring"—that threatens all of our surface waters including the most important reaches of the world's oceans.

SIP can forestall dangerous health hazards attributable to faulty water supplies infested with bacteria and viruses and overburdened with chemicals that can make you sick and, at worst, kill you. A proven example is the ability of SIP to strip nitrogen from liquid wastes. Nitrogen in solution, as you know, travels as a nutrient to ground crops and the ground crops literally drink in this solution for their sustenance. Thus the nitrogen is put to good use for man in crop-building and is kept out of drinking water in concentrations that might lead to methemoglobimenia in infants, the dreaded "blue-baby" disease. Nitrates and other salts in excess in drinking water supplies are dangerous to imbibe for anyone with certain forms of heart disease.

The first crude "spray irrigation" perhaps inadvertently occurred when the first mammal urinated in the primeval forest. In your time and mine when granny cast the nightly slips about her rose garden or lilac patch she was "treating" domestic wastes, lacking only the sophistication of even distribution, in about the same way modern spray irrigation facilities do the job. Grandma's approach satisfied the population she served. SIP serves a greater population than Grandma. And modern SIP units are a bit more complex and expensive and scientifically programmed to spread the stuff more uniformly.

Recent resurgence, considerable study, and effective refinement of SIP, a prehistoric waste disposal method, can be attributed, in large measure, to Dr. Louis Kardos, Dr. William Sopper, and their cooperating teams of scientists and associates at the Pennsylvania State University, Drs. Parizek, Myers, Davis, Farrell, Nesbitt, and others, Dr. Kardos, as a matter of interest to New Hampshire Audubon Quarterly readers, earlier in his highly productive career was a professor and researcher in the soil sciences at the University of New Hampshire, Dr. Kordos knows and loves New Hampshire and returns almost an-

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nually to his family camp in our north country wilderness in the Pittsburg spruce country.

Engineer Dick Grossman of Concord, in charge of research, operation, and maintenance at all of the granite state's domestic waste treatment systems, and your author spent a number of days at Pennsylvania State University with Dr. Kardos, Dr. Sopper and their research associates back in April of 1970. We did this as part of our jobs with New Hampshire Water Supply and Pollution Control Commission. Most of our New Hampshire interest and enthusiasm for SIP stems from the meticulous work and research over many years by Dr. Kardos and his colleagues as does much of what we write about now.

Our visit to the actual, operating Pennsylvania project, then about seven years along, and with a vast backlog of scientific data, enthused us enough to report back to New Hampshire and push for and promote the concept and similar projects here. One, and for the moment, the only such project operates during the summer months at the Sunapee State Park in Newbury, preserving and protecting the Class A water quality of Chandler Brook and Lake Sunapee.

Based on this single SIP, we are now enthused enough to seek such trials and permanent installations elsewhere. Some of these "elsewheres" include Meredith, Center Harbor, Moultonborough, Wolfeboro, and Alton to maintain the already high water quality of Lake Winnipesaukee; Waterville to protect the high recreational quality of the Mad River system; New London to reclaim Kezar Lake and protect Cascade Brook and the Blackwater River downstream. The Eastman Pond development in Grantham, meant to be the ultimate model for sophisticated land management within a major subdivision, will in large measure rely upon spray irrigation to treat both its sewage wastes and its golf course. A recreational area in Francestown whose major attraction is skiing has already constructed a spray irrigation system which will be in use in the spring or summer of 1972. The entire system is "go" now, so I am told, but a major component is a storage pond to hold waste water during the cold weather months for spraying when the snow cover is gone, the ground thawed, and the vegetative cover ready to assimilate the irrigant.

At this point in time in New Hampshire everyone who thinks about SIP should realize that the irrigant to be sprayed is a "treated" sewage plant effluent. That is, it has usually had what sanitary engineers refer to as "primary sewage treatment" or its equivalent. At Sunapee, we're spraying effluent pumped up the mountain in three lines from a sewage stabilization pond—oxidation pond or lagoon—and this stuff is a little bit better treated than the normal primary effluent but not as well treated as secondary effluent. Summer operation is for the moment a keynote—storage for six to eight months must be provided until we've got enough winter operation experience under our belt.

Our old Juggernaut friends, the United States Army Corps of Engineers, if their current "Scheme IV" for the Merrimack Valley is ever implemented in its entirety, plan to serve a 1990 part-of-the-valley population of an estimated 352,000 people. SIP will then utilize a planned 80,000 acres in the Merrimack Valley and will service the major near-the-river towns and cities of Laconia, Belmont, Tilton, Franklin, Concord, Manchester, Nashua, and others near the river.

At least one county farm and home has eyed the SIP. Land developers are examining it carefully and will undoubtedly install SIPs or modifications thereof. Small municipalities, more or less isolated from their neighboring municipalities insofar as domestic waste treatment facilities are concerned, will turn to the spray irrigation concept as a treatment device. Numerous small, middle, and large-sized recreational complexes will adapt a SIP to their waste disposal needs.

Environmental Scientists, Dr. Louis Kardos and his co-researchers, refer to SIP realistically, and I am sure with some affection, as the "living-filter" system both in their popular and professional articles and papers.

Yes. You are right! The "living-filter" is the soil mantle and all the associated life that dwells therein and thereon, be it in forest, field, or cropland—or even wasteland, if there exists such land anymore. SIPs and "living-filters' are also less picturesquely known to engineers and scientists as "waste water renovation systems. Let's explore a little bit, the thinking behind the terms "living-filter" and "waste water renovation systems."

The "living-filter" or the soil and its accompanying vegetation can strip highly valuable nutrients and undesirable disease bacteria and, in some soils, viruses from the waste water. In fact the "stripping" takes place physically and chemically in the upper few inches of soil generally well above the average ground water level or water table. With your continuing interest in and study of eutrophication problems, the cultural manuring of our lakes, ponds, and some rivers and embayments, you can quickly see one major benefit that SIP provides—some salvation, and I believe major salvation, for our notorious algae-plagued lakes in New Hampshire—Winnisquam, parts of Winnipesaukee which we hope to save before it gets as green-mucked with vegetation as Skatuakee, Massoma, Glen Lake, and others you know about as well as I do. The "cake" we're going to have and eat, too, is the nutrient we keep out of the lakes and the greatly increased crop production on the land.

Just to give you concrete figures illustrating what we mean by increased crop growth, during the Pennsylvania SIP the researchers used control plots of oats, corn, alfalfa hay, and corn ensilage all normally fertilized with recommended quantities of commercial fertilizers. With the same crops in equivalent soils but without the commercial fertilizer, two different spray levels were used—two inches per week and one inch per week. Considering only the two-inch rate with respect to the control plots, here's what happened to crop growth! The oats shot from 45.20 bushels per acre to 72.60 bushels. Corn from 63.30 to 110.80 bushels, alfalfa from 2.27 tons per acre to 5.42 tons. And silage corn from 3.11 tons per acre to 4.32 tons to the acre. Worthwhile increases? I'd say so—if they can be maintained without damage to the soils.

For you farm-minded Audubonors at the two-inch-per-week rate of application the commercial fertilizer equivalent was in Dr. Kardos' 1963 experiments 2,000 pounds per acre—2,000 pounds worth of commercial nutrients in two inches of sewage as it was applied! Paraphrasing in part some of Dr. Kardos' phraseology in one of his popular articles: "Since the mineral constituents of the sewage effluent varied somewhat from year to year, the fertilized equivalent in 1963 would have been 2,000 pounds of a 7-12-11 mixture (70 pounds of nitrogen, 120 pounds of super phosphote—P_2O_5—and 110 pounds of potassium—K_2O), in 1964 of a 14-15-14 mixture, and in 1965 of a 5-10-15 mixture."

Those of you who are forestry-minded out of bird-habitat or other considerations will be interested in the words of Dr. Kardos when he refers to the Pennsylvania research on spray effects on a white spruce plantation. "In the irrigated plots, total height of the trees over a five-year period was almost double what it was in the control plots. The ground vegetation was sparse in the control plots and abundant in the irrigated plots. In terms of dry-matter production in pounds per acre, the ground vegetation in the irrigated plots was always more than twice what it was in the control plots, and in one season was more than four times as much." Could this also mean there could be two to four times as much bird food and bird cover in a SIP forest? It could!

A little bit on the concept of "waste water renovation." Put as simply as I think anyone could, the March, 1970 issue of Environment magazine states, "The primary purpose of the Penn State experiment was to show whether the soil and plants could transform the sewage waste water to drinkable water." The results, at least for the Penn State soil system, were positive. The oil and plants can transform sewage waste water to drinkable water under favorable soil and plantlife conditions.

The upper few inches of soil further renovate the sewage water for re-use by milking out the waste detergents.

As with all other "systems" we can contemplate, all is not milk and honey with SIP. There can occur from poorly planned and operated SIPs serious salt imbalances in the soil system. This may be the major criticism you'll be hearing and reading in relation to proposed spray irrigation projects in New Hampshire. Although the danger of mineral upset in the soil exists it can, in my opinion, be simply overcome by proper application rates dependent on soil types that exist in the proposed spray areas. Here's where our United States Soil Conservation Service professionals can greatly assist us. Now the good news—and a quote from Dr. Kardos to sustain it. "In Pennsylvania, however, the climate is not dry, but humid, with the irrigation turning the soil climate to superhumid. Evaporation does occur, but is not sufficient to create a soil-salinity problem." To keep things in the proper prospective we must add another and sobering quote from Dr. Kardos: "However, the long-term effects of maintaining a superhumid soil climate on the physical and chemical attributes of the soil, including the salt balance cannot be fully evaluated as yet."

Despite the latter quote, we in New Hampshire are confident that SIP has a large future in solving many of our water pollution control problems. Bolstering such confidence is our limited experience at Newbury where it is only necessary to spray a few hours each week during two or three of the summer months to accomplish disposal on the land from the holding ponds, two sewage stabilization "lagoons," at the Sunapee State Park ski complex.

At Sunapee State Park we are spray irrigating three different slopes. Three pipelines lead from the pumphouse at the storage ponds into the forest on the mountainside. Each line when it reaches its spray area has an average of fourteen "Birdwing" nozzles atop two-foot-high aluminium pipe "risers" spaced about one hundred feet apart along the main feeder lines throughout the forest spray areas. Each spray area covers about one and a third acres of woodland, generally mixed hardwoods with a white pine and a hemlock here and there. Test wells are sampled periodically. Duff pan lysimeter samples are collected and analyzed. The duff pans intercept the rainwater and spray irrigant before they reach the true soil and groundwater to determine the effectiveness of the forest duff layer alone in treating the intercepted waste water. Drinking water wells nearest the spray areas are routinely sampled. Chandler Brook in the vicinity is sampled. We're building a record of the effectiveness of the living-filter at Newbury from the Sunapee ski area.

What about the birds in the spray areas? We don't know at Sunapee because nobody has studied this aspect. We do know a bit from the Penn State study. There bird populations were sampled during the first three years of the program with the result that no significant change in the numbers of the various species was indicated.

Mosquitoes, though the relative abundance was not assessed, did increase in terms of the number of species. In 1963 five species were trapped and in 1964 nine species were collected. Baits used were humans, lights and birds. It would appear that there may have been more mosquitoes in total numbers based on the increase in the number of species.

There are some important things to remember when you think about or are called upon to decide in favor of or against a SIP for your area. Quoting directly from Dr. Louis T. Kardos' superb story about the "living-filter" system. "A New Prospect," published in *Environment* magazine for March, 1970, "The soil has a very complex, active biological system. The success of the living filter depends upon maintaining many aspects of a healthy soil so that this system can continue to function. For example, soil needs to remain aerobic—to have enough oxygen in the spaces between the soil particles for the soil bacteria and other organisms, and so that the roots of the plants can 'breathe.' It must be kept moist, but must not become waterlogged. The exchange capacity of the soil—the ability of certain tiny particles (colloids) to absorb and then to release electrically charged particles of minerals—is another important aspect of coil condition. Observations over the five-year period showed that with two inches of waste water added at weekly intervals, these various needs of the soil system were being adequately met. . . .

This study has demonstrated that in regions where the water supply is primarily derived from the groundwater reservoir, the waste water can be recharged through the living filter, falling water tables can be halted or slowed in their fall and the water resource recaptured.

Although there will be variations in the adaptability of the system to different soil types, climates, and crops, it should be usable wherever the following conditions exist:

Infiltration capacity of the soil can accommodate irrigation water at all seasons of the year to minimize ponding and runoff and at the same time retain water long enough to allow interaction with plants and microbes.

The soil has a high exchange capacity to temporarily fix and store effluent constituents for use by plants and microbes and to prevent the migration of contaminants to the groundwater reservoir, especially in the winter months when root systems are inactive.

The top layers of soil are permeable enough to permit vertical drainage of the renovated effluent and thus maintain aerobic conditions.

The soil mantle—the layer between surface and bedrock—is thick enough to insure renovation of the effluent before recharge to the groundwater reservoir.

Since any disposal system must operate on a year-round basis, in northern climates, when higher plant forms become dormant in the winter period, the living filter system must rely more on the adsorptive capacity of the soil and less on the reduced activity of the microbes and the roots of perennial plants. Forested areas fit into the system as winter disposal areas by providing better winter infiltration and larger phosphorus adsorptive capacities under the acid conditions associated with forest soils. In forested areas, on the other hand, much of the nutrients absorbed during the growing season are recycled annually in the leaf and litter fall. Combinations of agricultural and forested areas will provide the greatest flexibility in utilizing the living filter concept. Under certain conditions either agricultural or forested areas alone can do the job.

"In the absence of a growing crop, the weakest link in a land-renovation system would probably be the breakthrough of excessively large amounts of nitrate nitrogen from additive effects of nitrate already in the waste water and nitrification of soil organic matter and organic nitrogen accumulating from the waste water. A report on the spreading basin at Whittier Narrows, in California, shows that nitrates in water percolating from undiluted effluent were two to three times as high as the recommended limit of the U.S. Public Health Service drinking water standards. This spreading basin is kept free of vegetation.

"The irrigation level of two inches a week, which looks very promising in the Penn State project, shows that disposal of one million gallons of waste water per day would require only 129 acres of land. To dispose of similar waste waters from a city of 100,000 people would require only 1,290 acres (or about two square miles), and, moreover, the productivity of the farm and forest land involved in these acres would be improved at the same time.

"Managing a living-filter system will require care and attention to different environments and to changing environmental conditions. Overloading the land and the vegetation with too much waste water could destroy its valuable renovation capability. It is better adapted to small cities and suburbs than to large metropolitan centers with little available open land. The living-filter concept suggests that it might be well in many cases to reevaluate the present trend to even larger and more centralized sewage treatment facilities, built on the handiest waterway, and consider decentralized facilities convenient to the most effective living filter."

Now with all the cautions and good things in mind about SIP, we hope you'll go for a SIP! We do!—Wherever it's approved by the New Hampshire Water Supply and Pollution Control Commission.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we conclude debate, I certainly would be remiss in my responsibilities if I did not call to the attention of the House the very effective and fair and yet forceful leadership of the gentleman from Alabama during the hearings and the executive sessions and the writing of this bill. He is a very tireless worker and a very dedicated and knowledgeable person in the field of water pollution control. I think the results of his leadership and his distinguished service on this legislation certainly are paramount. They are evidenced in this fine piece of legislation. I commend him and thank him for the way he gave us guidance and leadership during our long hours of deliberation.

Mr. Chairman, I certainly want to extend my appreciation to the gentleman from Alabama for the deep consideration he gave the minority. At all times all members of the committee were afforded the opportunity to express their views and to offer amendments and suggestions. This was the case throughout the entire proceedings.

This is not a partisan piece of legislation, Mr. Chairman; this is a bipartisan piece of legislation. It was developed under the leadership of the distinguished gentleman from Alabama, in the absence of our beloved chairman, who, as we all know, was unable to be present at all times. However, we still had his stewardship in many trying times.

I also want to commend the other members of the committee: the distinguished gentleman from Texas (Mr. WRIGHT), the gentleman from South Carolina (Mr. DORN), certainly the gentleman from California (Mr. JOHNSON), and our good friend the gentleman from Texas (Mr. ROBERTS), the gentleman from New Jersey (Mr. ROE), and the gentleman from West Virginia (Mr. KEE); all of whom spent hours upon hours giving of their time and dedicated effort to working out a very fine bill.

I also want to commend all my colleagues on my side of the aisle: the gentleman from California (Mr. DON H. CLAUSEN), the gentleman from New York (Mr. TERRY), the gentleman from New York (Mr. GROVER), the gentleman from Ohio (Mr. MILLER), the gentleman from New Hampshire (Mr. CLEVELAND), the gentleman from Iowa (Mr. SCHWENGEL), the gentleman from Kentucky (Mr. SNYDER), the gentleman from Indiana (Mr. ZION), the gentleman from Michigan (Mr. MCDONALD), the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the gentleman from North Carolina (Mr. MIZELL), the gentleman from Nebraska (Mr. THONE), and the gentleman from Tennessee (Mr. BAKER). They all extended themselves and gave unstintingly of their time and service in order that we might come here with an unbiased, nonpartisan piece of legislation which will do the job and get the waters of this country cleaned up in the most effective, responsible, and workable way.

Mr. Chairman, I want to emphasize this. I want our colleagues to know how much we of the minority appreciated that cooperation and leadership from the Democratic side of the aisle.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am glad to yield to the gentleman from Texas.

Mr. WRIGHT. I want to join my colleague, the distinguished gentleman from Ohio, in commending the leadership for a singular quality of understanding, patience, foresight, and ability, which the gentleman from Alabama (Mr. JONES) brought to the structure of this legislation.

The gentleman from Alabama (Mr. JONES) had this thrown upon his shoulders late in the last session of the Congress, to provide the leadership to bring together into one harmonious working relationship all the members of the minority and the majority, and I believe he achieved that objective. It was a difficult, painstaking job which required patience and skill.

I should like to express on behalf of the majority our appreciation for the cooperative spirit in which the gentleman from Ohio, the gentleman from California, and all other members of the minority worked to bring about a responsible piece of legislation. As the gentleman from Ohio has pointed out correctly, this is not a partisan piece of legislation. The goal of cleaning up the Nation's streams is truly nonpartisan and truly all-American in character.

Mr. HARSHA. I thank the distinguished gentleman for his remarks. I am sure he would want to join me again in commending the very excellent staff on both sides of the committee, who, as I mentioned earlier in my remarks, spent untold hours of work developing this bill, and who sought and obtained the advice

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of many experts in the area. Without their dedicated and consolidated effort we would not have the fine legislation we have today.

Mr. Chairman, that concludes the requests for time on our side.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from South Carolina (Mr. DORN), a member of the committee.

Mr. DORN. Mr. Chairman, I rise in support of this bill. It is a good bill. The committee has worked long and hard on both sides of the aisle. I believe it is the very finest piece of legislation that could be written. I support it.

Mr. Chairman, the Federal Water Pollution Control Act now before the House is a tremendous step forward toward the goal of restoring our Nation's clean waters. This bill is the product of years of exhaustive hearings and investigations by the House Public Works Committee. Since its inception in 1946, our committee has been promoting the cause of clean water. No man better deserves the title of "Mr. Clean Water" than our great and beloved Chairman JOHN BLATNIK of Minnesota. Long before environmental improvement was a national concern JOHN BLATNIK was doing something about protecting our Nation's waters. Chairman BLATNIK and the gentleman from Alabama (Mr. JONES) have a thorough knowledge of the complexities and the technology of clean water, a knowledge gained by years of diligent work and study of this problem. Yes, Mr. Chairman, every major piece of water has been developed in our committee, pollution legislation since World War II and the bill before us is the product of years of hearings and study. Mr. Chairman, I personally can attest to the months of work we put in on this bill.

During 1971 our committee held three stages of hearings on the overall clean water program. First we held oversight hearings on the existing program and then we had hearings on bills designed to amend the existing program. Third, we held special hearings on legislation passed by the other body. Over a 7-month period in 1971 our committee held 38 days of hearings and listened to 294 witnesses. We have carefully considered every aspect of this program and have reported a bill that is comprehensive, effective, and fair to local government and industry. This bill will do the job of improving our environment without destroying the authority of the States or bankrupting the Nation.

Mr. Chairman, this Nation is making fantastic progress in improving the environment. And we will continue to do so if we maintain the proper relationship among the State and local governments, the Federal Government, and industry. We must avoid the negative hysteria of extremists and stay on the positive approach.

We must keep in mind the fact that industry is working to get the job done of cleaning up our waters. And we must keep in mind that we have made great progress toward clean air and clean water. For example, until 1925, man had planted a total of 1.6 million acres of trees. But now we plant that many every year. And a well-managed forest, by consuming tons of carbon dioxide and giving off tons of fresh oxygen while it cools the atmosphere, is a splendid natural antipollution device.

Every Government action must be considered in relation to other crucial national priorities such as education, health care, housing, and national defense. Our committee has considered this bill in light of other major national priorities.

Mr. Chairman, those of us on the committee greatly appreciate the hundreds of witnesses without whose expert knowledge we could not have written this bill. We especially appreciate the splendid help we have received from dedicated members of environmental groups. These groups have made tremendous contributions to our deliberations and have helped greatly in writing the bill. And we appreciate too, Mr. Chairman, the very helpful testimony from representatives of local, State, and National government as well as representatives of industry. What we have done is write a bill that is tough, effective, realistic, and fair to all concerned.

The heart of the bill is the new focus on point source limitations. All point sources must meet the 1976 standard of best practicable technology, and we have retained the 1981 and 1985 goals. Since there were so many grave uncertainties regarding the social and economic cost and the feasibility of the "zero discharge" requirement, we postponed its implementation until the Congress has the opportunity to take further action based on a completely unbiased and professional 2-year study by the National Academy of Sciences. Our bill adds language to make sure that when EPA makes new control technology mandatory under the 1976 deadline, the new requirements will take into account the social and economic impact such as unemployment. Also our bill provides that only demonstrated technology, and not drawing board plans, can be made mandatory.

Another vital aspect of this bill is the discharge permit program. Our committee has developed an effective national strategy that does not destroy the role of the States. Instead of allowing EPA an item veto over every single discharge permit granted by State authorities, our bill provides that the States will administer the program under national guidelines. Our bill will not allow any "shopping around" for States with weak permit programs, because any lax and ineffective State permit program will be taken over completely by EPA. We fully expect, however, that the States will vigorously and effectively administer the permit program if it remains free from a Federal item veto.

Our bill provides for greatly increased levels of Federal financial assistance for construction of waste treatment plants. A total of $24.6 billion is authorized. The Federal share is increased to 75 percent where the State pays 15 percent. And of special importance to my own State, Mr. Chairman, we intend that the State may pay its 15 percent either by loan or by grant, not necessarily by grant alone.

A common element throughout the hearings, Mr. Chairman, was the critical problem posed to U.S. job holders who must compete against cheap foreign imports from countries where pollution standards are primitive at best. Our bill requires the Secretary of Commerce to conduct a study of the extent to which our clean water program puts U.S. industry at disadvantage in foreign competition and directs the Secretary to recommend ways for equalizing this disadvantage.

We were concerned too, Mr. Chairman, with protecting local government, industry, and individuals from harassing law suits while still keeping the courts open to responsible parties concerned with environmental protection. Our bill encourages environmental groups to participate in the administrative stages of planning for projects and protects the rights of those directly affected to go to the courts.

Our bill provides that the user charges collected from industry will be retained for use in the local treatment district rather than being transmitted to Washington.

We added a new section on thermal discharges which requires the EPA to develop separate regulations which take into account regional variations and consider the alternative means of controlling this discharge.

Our bill authorizes $800,000,000 for loans to assist small businesses likely to suffer economic injury in meeting the new standards.

Mr. Chairman, this is one of the most complex and far-reaching bills to come before the Congress during my years of service here. Our bill is a tribute to the dedicated and devoted service of our outstanding Chairman JOHN BLATNIK. And it is a tribute to the gentleman from Alabama (Mr. JONES) who also worked so diligently to bring this before the House. Our bill is a splendid improvement over the legislation passed by the other body. We have carefully considered all aspects of the problem of restoring our Nation's waters, Mr. Chairman, and I enthusiastically support this legislation. It deserves the support of the Congress and of the American people.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, today we begin consideration of another water pollution bill. Since 1965, we have enacted three major water pollution control statutes—the Water Quality Act of 1965; the Clean Waters Restoration Act of 1966; and the Water Quality Improvement Act of 1970.

The legislation we are considering today—H.R. 11896—is by far the most far-reaching and comprehensive bill of them all.

It is a complete revision of the Federal Water Pollution Control Act which was first enacted under the leadership of our distinguished colleague from Minnesota—Congressman JOHN A. BLATNIK.

It significantly changes many of the policies and directions of the 1956 law and the 1965 and 1966 amendments to that law.

In short, this 414-page bill can be a significant new beginning in water pollution prevention and control. It deserves careful scrutiny by the House.

The committee bill vastly improves our ability to provide better and more efficient control of pollution at the municipal level. Its provisions encouraging areawide treatment of all point and nonpoint sources of pollution and the use of systems that reclaim and recycle water show great imagination and farsightedness on the committee's part.

I am pleased to see that the committee has adopted and, in some cases, exceeded my recommendations for raising the Federal share and appropriation authorization for the construction of waste treatment works. I feel certain that if the administration and the Congress follows through on these commitments to States and municipalities by requests for and the appropriating of, funds at the levels authorized, we will see a marked improvement in the quality of our waterways in this decade.

I recall all too vividly that the commitments we made in 1966 were never met because the executive branch refused to live up to them and request the needed funds from Congress. But 2 years ago, a determined Congress appropriated the authorized funds for fiscal years 1971 and 1972. Having begun that effort, I feel certain that the 92d and future Congresses will also want to continue to appropriate the sums authorized. I urge the President to request those sums.

I am concerned, however, about the provisions of title II of the bill allotting the sums appropriated to the States. The bill authorizes appropriations for fiscal years 1973, 1974, and 1975. Provision is then made for allotments in fiscal years 1973 and 1974. But, in the case of fiscal year 1975, the committee bill prevents the Environmental Protection Agency from making any allotments to the States until new cost estimates are made and submitted to Congress by February 1973 and until Congress approves those cost estimates by enacting a new statute during the 93d Congress.

It is my hope that, in conference with the other body, this restriction for fiscal year 1975 will be dropped so that we can encourage better and more efficient planning by the States.

The committee bill also contains a number of very excellent provisions in title I concerning research and appropriations to the States for water pollution control.

Many of the provisions in the other titles of this committee bill are also a vast improvement over current law. But there are a number of provisions that weaken the bill substantially from that—S. 2770—passed by the other body last November by a vote of 86 to 0.

Representatives REUSS, SAYLOR, ABZUG, RANGEL, and myself have joined with over 40 Members in offering the clean water package of amendments to—

Establish that, by 1981, without further action by Congress, polluters must use the best available technology, taking into account the costs, to clean up the wastes they pour into our waterways;

Provide more national control over State programs of discharge permits, in order to prevent economic hardship and interstate competition for industries, communities, and workers and to insure that the water quality objectives of the bill are achieved;

Strike from the bill provisions that give polluters who violate this bill or the Refuse Act a total immunity until 1976 from enforcement actions, merely because they file an application for a permit;

Provide that the rights of citizens to sue polluters and the Environmental Protection Agency, which this bill would gravely restrict, should be no less than the rights which Congress established in the Clean Air Act and which the House adopted on February 29, 1972, in the noise control bill—H.R. 11021;

Prevent the weakening of the National Environmental Policy Act of 1969 and the Fish and Wildlife Coordination Act;

Provide criminal sanctions against polluters who willfully violate an EPA order to abate their pollution; and

Provide adequate worker job protection.

Earlier this month, the House Committee on Government Operations, under the chairmanship of our distinguished colleague CHET HOLIFIELD, issued a report—House Report No. 92-918—in which the committee said:

Studies conducted by the committee's Conservation and Natural Resources Subcommittee [under the chairmanship of Rep. Henry S. Reuss] have shown that the national effort to abate water pollution has been inadequate. Many of our Nation's waters are severely polluted. Almost all of them are being used by municipalities and industry to dispose of untreated or inadequately treated wastes on the theory that swift streams and large lake areas have enormous capacity to assimilate these wastes without any measurable impairment of water quality. Quite clearly this is not the case. *The use of a river, lake, stream, bay, estuary, or coastal waters as a waste treatment system degrades the quality of those waters. This use must be halted.* (Italics supplied)

When I first opened the committee bill—H.R. 11896—to section 101(a) on page 198, I was pleased to learn that the committee bill seemingly adopted a best available technology goal for 1981. Moreover, when I turned to section 301(b) of the committee bill on page 267, learned that the committee had transformed this goal into a requirement for 1981.

That section states that, by 1981, effluent limitations for industrial and other private point source discharges shall be required to install and use the best available demonstrated technology, taking into account the costs thereof. Of course, the bill provides an opportunity, after public hearings, for EPA to grant extensions of this requirement for up to 2 years. But, basically I was pleased to see that the committee had taken this very important step.

But upon more careful study of section 301 of this bill, I soon found a lopohole in this provision. It is proceeded by the clause "except as provided in section 315". When I turned to section 315 of the bill on pages 346 and 347, I soon learned that my earlier pleasure was short lived.

For what the committee bill is it to delay, at least until the 94th Congress or later, the effectiveness of this 1981 requirement. In short, the requirement reverts back to a mere goal for 1981 and has no force or effect.

Section 315 of the bill calls for a 2-year study by the National Academy of Sciences and the National Academy of Engineering.

The study is not aimed at learning whether or not the no-discharge goals for 1985 are sound. No; it is aimed at learning first whether the requirement that industrial polluters install the best available technology to treat their wastes before they pour them into our waterways is a sound requirement for 1981.

The study will be completed sometime in late 1974. It will then be sent to Congress. At that juncture, the 94th Congress must once again review this whole subject and pass a new law confirming that the 92d Congress was right all along; that is, the 1981 requirement is sound.

Mr. Chairman, I, for one, do not believe it necessary for the 92d Congress to defer to the 94th Congress on this requirement. It is hardly earthshaking that we, today, are asking polluters to install and use nearly, a decade from now, the best available technology to treat their wastes.

If anything, I am uneasy that we are even delaying this requirement until 1981. I would hope that many industries would plan now to install such technology for 1976, rather than install the best practicable technology only.

I am delighted to note that Gov. Wendell R. Anderson, of Minnesota, in his prepared statement of December 9, 1971, for testimony before the House Public Works Committee on the introduced bill—H.R. 11896—which unfortunately was not printed in the public hearing record—shares my view. He testified—pages 2 and 3:

I am especially pleased that the House and Senate agree that our nation should eliminate pollution through the "best available treatment" by 1981 and a "no-discharge" rule by 1985. We can no longer afford to base our anti-pollution efforts on the assimilative capacity of our waters. Thus, strong national effluent standards are absolutely essential.

By achieving the no-discharge rule, we will save not just our lakes and streams, but also the wasted resources that are dumped in them. As an example of this resource waste, I would point out that five billion dollars of copper alone are lost each year by discharge into our waters. This type of senseless resource loss must be considered in the cost analyses required by this legislation.

It is said that some polluters will move to other countries if the United States enacts strong National pollution control standards. This is still another form of environmental blackmail, and one which must be thwarted, too. The ransom is too high. I recently met with Governors from Japan who are working hard to abate that country's pollution. The industrialized nations, who are this country's chief competitors, are also striving to control the spread of pollution within their own borders. The United States should move forward, too. If the efforts of other lands are not equal to our own, then we need not fear that our industry will as a consequence be placed at a competitive disadvantage in terms of production costs. This country is

perfectly capable, should it be necessary, of insuring that our industry is protected against foreign pricing that is possible only through pollution. (Italic supplied.)

The full text of the Governor's testimony of December 9 follows my statement.

I will not, at this time, discuss all the other amendments to the clean water package, as they will be fully discussed by other Members.

Let me at this juncture note, however, that the committee bill also contains other provisions which weaken the Senate-passed bill. For example, section 301(f) provides that any construction or modification of any point source, including municipal treatment works, commenced within 3 years after enactment of the bill, which meets "effluent limitations based upon the best available technology" at that time "shall not be subject to any more stringent effluent limitations" for up to 12 years after such construction or modification is completed.

The committee report—House Report No. 92-911—explains this amendment as follows—pages 103-104:

Subsection (f) of section 301 provides a statutory minimum useful life for any point source which is constructed or modified to meet effluent limitations based upon the best available technology at such time of such construction or modification. In so providing, the Committee recognizes the fact that industrial managers must be able to plan for some useful life before they can approve the modification or construction of any point source. The Committee recognizes that decisions on construction or modification of point sources must be made on the knowledge that such facilities will have a reasonably predictable useful life. Thus, subsection (f) provides that there shall be a restriction against the imposition of any more stringent effluent limitation for such modified new point source during a twelve-year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility. This restriction applies, however, only to a point source the construction or modification of which is begun after the date of enactment of this legislation and before the end of one year after the date of submission of the National Academy of Sciences report. If the decision is made to write off the entire cost of such modification or construction in the minimum five-year period, a more stringent effluent limitation could be imposed, at that time, under this Act. If, however, the fast writeoff provision is not fully utilized, no more stringent limitation could be imposed until the end of a 12 year period. If the writeoff schedule is changed during the first four years of the 5 year writeoff period, the facility would still be exempt from more stringent effluent limitations for the statutory 12-year period.

At present no "effluent limitations" exist today. They will not exist, under section 306, for new sources for nearly 2 years after enactment of this bill. Thus, under this provision new sources can be installed with only minimal treatment and then be "grandfather" for up to 12 more years.

This is a mistake. A "grandfather" provision like this cannot be justified on environmental grounds, let alone tax grounds. Depreciation writeoff provisions in the tax laws apply independently of anything in the water pollution bill. The only effect of this mandatory standstill period is to guarantee that industries and municipalities are protected from having to keep up with improvements in control technology.

It completely ignores the possibility that low-cost modifications to what may have once been the "best available technology" may be developed which would dramatically reduce pollution. We should not bar ourselves from being able to take advantage of opportunities for achieving low-cost waste reductions at more reasonable intervals.

This 12-year timeout provision also conflicts with section 301 and 302 requirements that effluent limitations be made more stringent whenever it is discovered that they are not adequate to meet applicable water quality requirements.

Finally, giving new point sources a breather like this discriminates unfairly against existing industrial point sources, which under subsection 301(c) face having their effluent limitations reviewed and upgraded at least every 5 years. This upgrading at 5-year intervals or less applies to existing sources notwithstanding the fact that they also may have, under section 301(b)(2), applied the "best available technology."

There is ample provision already in the bill, without this section, for dealing reasonably with companies that have made considerable investments in pollution control.

Another example relates to section 509 of the bill.

The Senate-passed bill authorized EPA to issue subpenas in connection with enforcement activities under section 309 of the bill. As introduced, H.R. 11896 conformed to the Senate bill in this regard. But the reported committee bill does not authorize the use of subpoenas in enforcement. Subpoenas are authorized only for extension of the 1976 date for point source effluent limitations (sec. 301) to obtain information for the water quality inventory (sec. 305).

No explanation is given in the committee report for this change.

Clearly subpena power is essential to any enforcement action.

If no amendments are offered concerning these items, I hope that, in conference, the committee will follow the Senate lead as to these weakening provisions.

Finally, I note that there are several technical errors in H.R. 11896, as reported, particularly in titles I and II of the bill which should be corrected. For example, on page 235, lines 9 and 22 and on page 238, line 2, there is a reference to "subsection (a)". A review of the sections where the reference occurs shows that there is no "subsection (a)." Similarly, on page 251, lines 22 and 24 and on page 252, lines 1, 3, 18, and 21 there is a reference to a "section 8" of the Federal Water Pollution Control Act. A careful review of the bill shows that the act will be renumbered and, as a result, the reference to "section 8" is meaningless.

We assume that the committee will offer amendments tomorrow to correct these and other technical deficiencies in the reported bill.

I strongly urge all my colleagues to join us in support of the clean water package of amendments.

At this point in the RECORD I insert Governor Anderson's testimony of December 9, an editorial in the Washington Post of March 27, 1972, and a copy of a letter of March 25, 1972, to the Director of the Office of Management and Budget from Mr. Ralph Nader concerning a suppressed report:

TESTIMONY OF GOV. WENDELL R. ANDERSON, MINNESOTA

This is a committee of experts. Your attention to the detail of pollution abatement is well known. On the single issue of an amendment to the Federal Water Pollution Control Act, this committee and the Senate have conducted seventy days of public hearings.

To the enormous body of material before you, and in light of your own commitment and expertise, what can be added by one Governor who has held executive office less than a year?

I suggest that there is one insight which should be shared with you. I suggest that every Governor in the country knows what is the greatest political barrier to effective pollution control. It is the threat of our worst polluters to move their factories out of any State that seriously tries to protect its environment. It is the practice of playing off one State against the other. It is the false but strident cry of the polluter that clean air and water mean fewer jobs.

Every Governor in this country knows that when he tries to put some teeth into his State's anti-pollution laws, his efforts will be met by precisely these sort of threats.

My message to you today is this: the answer to threats is uniformity. The only way to stop polluters from political intimidation is to prevent them from raising the alternative of moving to a place where pollution is allowed. There should be no such place in this country. We can no longer tolerate the fact that the price of diligence is intimidation. We should have uniform standards of pollution control in all fifty States—tough standards, fair standards, a set of meaningful and comprehensible rules that permit neither exception nor evasion. Pollution does not stop at State boundaries, and neither must its regulation.

My testimony to you today is directed toward this end. I am grateful for the opportunity to suggest a number of particulars in which this committee might strengthen its legislation aimed at achieving rigorous and uniform regulation for all the fifty States.

At the outset, let me state that all of us in Minnesota appreciate your dedicated and continuing effort to report before Congress recesses, a strong, enforceable, and carefully considered amendment to the Federal Water Pollution Control Act.

I am especially pleased that the House and Senate agree that our Nation should eliminate pollution through the "best available treatment" by 1981 and a "no-discharge" rule by 1985. We can no longer afford to base our anti-pollution efforts on the assimilative capacity of our waters. Thus, strong national effluent standards are absolutely essential.

By achieving the no-discharge rule, we will save not just our lakes and streams, but also the wasted resources that are dumped in them. As an example of this resource waste, I would point out that five billion dollars of copper alone are lost each year by discharge into our waters. This type of senseless resource loss must be considered in the cost analyses required by this legislation.

It is said that some polluters will move to other countries if the United States enacts strong national pollution control standards. This is still another form of environmental blackmail, and one which must be thwarted, too. The ransom is too high. I recently met with Governors from Japan who are working hard to abate that country's pollution. The industrialized nations, who are this country's chief competitors, are also striving to control the spread of pollution within their own borders. The United States should move forward, too. If the efforts of other lands are not equal to our own, then we need not fear that our industry will as a consequence be placed at a competitive disadvantage in terms of production costs. This country is perfectly capable, should it be necessary, of insuring that our industry is protected against foreign pricing that is possible only through pollution.

I have been discussing the necessity for uniform standards, both within this country and on the international level as well. Until such uniformity is achieved, however, I think it is appropriate to mention one area in which there has been a rather dramatic conflict between two different sets of standards. I refer to the clash between State regulatory standards and those of the Atomic Energy Commission. I submit to you that when the regulatory standards of States and other non-Federal units of government are stronger and more protective of the public interest than those of the Federal Government that the State, and not the Federal, standards should be permitted to prevail.

This concept was incorporated in the original Muskie proposal last August, which affirms the States' authority to regulate atomic power plants if the appropriate State standards were stronger than those of the AEC. We believe that the States have this inherent right.

I think that my own State of Minnesota provides a good example of State standards far better equipped to protect our citizens than any standards yet proposed by the Federal Government. Minnesota's isotopic limits on radioactive material released to water are some 300 times to more than 100 million times more restrictive than the limits set by the AEC. This means that the people of Minnesota are showing a willingness to pay a few more pennies for their electricity, if this should be necessary, in order to eliminate potential risks to the health of their children. Surely citizens in other States must also be so inclined. The language in the original Muskie proposal would have affirmed States' right to maintain stronger standards than those of the AEC. I would urge that that language be restored.

The need for such restoration has been dramatically illustrated in Minnesota. Since this July, Minnesotans have encountered several low-level radioactive discharges from a nuclear generating plant owned by Northern States Power Company located on the Mississippi River at Monticello, Minnesota, 35 miles northwest of the Twin Cities. Some of these releases have resulted from malfunctions and others have been deliberate. The deliberate releases could have been reduced by the use of different operating procedures, or avoided completely by the utilization of holding tank facilities.

On November 19th of this year a deliberate discharge of radioactive material was released from the NSP plant in question. Three days were permitted to pass before an Atomic Energy Commission compliance inspection team arrived on the site. Three days. During this period, intolerably long considering the risk, there was some action taken to minimize the dangers of the radioactive discharge. But that action was taken by the State. The AEC inspection unit had not yet arrived at the plant.

I can cite another example of State preparedness being superior to that now offered by the Federal Government. States should also be allowed to enforce stronger marine boathead standards than those prescribed by the Federal Government. Minnesota recently passed a holding tank law. We fear, however, that our standards will be pre-empted by more lenient Federal standards set pursuant to section 312(b)1 and 312(f)1. This can be remedied by deleting section 312(f) from the act. Or, the following can be inserted in lieu of section 312(f)3:

"(3) If the Administrator is requested by the Governor of a State to adopt holding tank requirements to further protect and enhance the quality of specified waters within or bordering on the State, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into those waters."

Also, this act should provide funds for onshore disposal and pump-out facilities where needed.

Also, I would hope that you would clarify for the record whether it is the intent of Congress to have the marine sanitation devices governed by effluent standards and the no discharge rule provided for in title III. I believe title III should govern.

Just as the State and Federal Governments should provide for a check on each other, citizens should be allowed to check the government. It is good, therefore, that both the House and Senate bills include a citizen's right to sue provision. This section (505) can be strengthened by allowing persons (the definition of which includes states) to sue the EPA administrator for all acts and not just for non-discretionary acts, as is now provided. Such a provision would protect the States and the public from arbitrary action by the EPA administrator and still allow the administrator to take any action that could be supported by reasonable and factual evidence. In addition, this would provide for judicial review of disputes arising between the States and the Environmental Protection Agency.

Persons bringing a citizen's lawsuit may be required to post a bond when seeking a temporary injunction or restraining order. This requirement is in conflict with Minnesota law which waives the bond when the State is seeking a temporary injunction. A bond, if required at all, should be limited by law so that citizens with legitimate grievances can afford to air them. In addition, if a bond protects the polluter from the improper granting of an injunction, a bond must also protect the citizen from an improper denial. If citizens are required to post bond in the one instance, the polluter should have to do so in the other.

I support the mandatory language in both the House and Senate bills that directs the EPA to turn the permit programs over to the States if they meet acceptable criteria. The States should be required to provide enough manpower to run a credible permit program, however, and that manpower should be free from any conflicts of interest.

If the States are to run the permit program, however, the EPA must have a veto over individual permits issued by the States. It is true that the House bill allows the Federal Government to review the State's total permit program, but once that program is approved by the administrator it is extremely unlikely that such approval would be rescinded.

The EPA Administrator should not have to veto a State's total program just to get at permits granted improperly to a couple of polluters. So we still need a veto on individual permits to check those that are improperly granted, and this concept is already embodied for interstate waters in section 402 (d)(2) of the House bill. The administrator, if he exercises a permit application veto, should be required to do so within 60 days or the veto will be waived. This will have the effect of requiring him to focus on only those permits that involve significant problems and would provide a reasonable double check on this crucial part of the States' program.

The following reasons for such a check are apparent.

Suppose a State adopted a policy of approving more lenient permits as a device to lure industry away from more conscientious States. This would circumvent and destroy the uniformity created by national effluent standards. Or, what if the person in charge of issuing State permits owned stock in the company whose permit he issued? EPA's veto power should further apply to help overcome political and other pressures sometimes exerted by local industry on State agencies. The further away one is from such pressures, the easier it is to be objective in making such important decisions. Each branch of government, therefore, must help the other resist untoward pressure and act as a check on the other to produce the strongest pollution control possible—that is cooperative federalism.

Minnesota's position on the Federal veto is a middle ground, therefore, between the Senate and House bills. We believe this approach will avoid the administrative problems which could bog down the program if an unlimited time period were allowed for Federal review of permit applications. Although a small increase in EPA staffing may be required, we believe this approach will provide a margin of additional safety on the side of the environment when the Administrator determines stronger protection is needed by strengthening an individual permit.

I appreciate the fact that several Governors, well informed on this issue and conscientious in their efforts to protect their citizens, have taken a somewhat contrary position. These gentlemen have opposed the right of the Federal Government to exercise a veto over individual permits. I appreciate their concern but respectfully submit that that concern is inappropriately applied in this instance. I appreciate the fact that several Governors are reluctant to give any veto power to a Federal Government which has in the past supported standards less stringent than those of the States. I referred to this problem earlier. But in this particular instance, I feel the cause of stricter standards is best served by permitting the individual permit vetoes.

If this safeguard is not permitted, those states which do not pursue a vigorous anti-pollution program will continue to be cited by polluters as havens from which to escape proper environmental regulations. The uniformity which I cited at the outset of these remarks as the major necessity for an effective pollution control program cannot, therefore, be achieved without permitting this type of federal check on permits which simply do not accomplish the job of pollution control.

It is good to see the provision in the Blatnik bill which increases funding authorization to $20 billion. The House should also be commended for raising the federal share of funding sewage treatment works to 75 percent. Minnesota still has 346 municipalities with no collection systems or combined treatment facilities. Seventy-eight percent of these towns have less than 500 people. They must, therefore, depend on larger governmental units to finance the cost of such facilities. And we would appreciate your assurance that section 211 of this bill will allow grants to these existing municipalities for collection systems.

We are unimpressed by the argument that the success of this program should require local units of government to finance a substantial share of treating sewage. There is ample precedent in the federal highway program indicating that generous federal sharing does not impair the commitment of the participating local units of government. Indeed, the administration's com-

mitment to federal revenue sharing should not be allowed to wane in this area. Increased federal support of local construction projects is clearly needed to assist the many municipalities attempting to restore and preserve water quality. The economc position of many of these communities inhibits their present efforts.

We approve of the Blatnik bill's authorization of funds for collection systems. It is said that federal grant money for these collection systems and treatment works is available in contract authority in section 203. If this is your intention, we would appreciate a clarification for the record. Does the House bill negate contract authority by its deletion of Senate bill wording that keeps authorized funds "available until expended?" Also, if the authorization is available for contract obligation, the EPA administrator should be required to approve title II grant applications within 90 days or state his written reasons for rejection. Once those objections have been resolved by the states, EPA approval should automatically result.

Apparently there has been an oversight in section 301(2)(b) allowing public discharge sources to escape the effluent standards applied to private sources. I mention this to emphasize the importance of equal application.

I again express my admiration for the work you are doing here and thank you for the opportunity to participate. We must act now to reshape priorities so that both clean water and productive capacity are achieved. If we do not act, rivers like the Buffalo, Rouge and Cuyahoga will continue to catch fire because of the pollution in them. And nobody sets his own house on fire just to keep temporarily warm. When that glow is gone, all we are left with is ashes. Our people deserve a better legacy.

[From the Washington Post, Mar. 27, 1972]

THE HOUSE VOTE ON CLEAN WATER

The House Public Works Committee has reported out a water quality bill that is expected to come to the floor today for possible amendments and debate. There is no question that the committee's work has been thorough; by one count, the proposed legislation—201 pages long—is the result of 44 days of hearings, 265 witnesses and 150 statements. No one has denied or doubted that decades of pouring industrial and human wastes into our waters is finally catching up with us. Some waterways, so slicked with oil, actually burn; others smell, and still more—like the Potomac—can be touched or splashed only at a risk to one's health.

In the familiar pattern where politics, ecology, profits and the public interest are mixed, strong feelings exist as to which cure is best. The Senate, led by Sen. Edmund S. Muskie, passed unanimously (86 to 0) a broad and worthwhile bill that would set as a national goal elimination of all pollution discharges by 1985. The House bill, as reported, has several useful provisions; these include an authorization of $24.6 billion, an increase of $4.6 billion over the Senate bill. In addition, the House legislation is strong in the provisions for research and planning, and in reimbursing states and towns that have been progressive about cleaning up. At this point, however, parts of the House bill sink into the wide river of delay, confusion and weakness. It goes along with the Senate requirements for cleanup by 1976, for example, but does not provide adequately for the 1981 and 1985 zero discharge goals. Instead, the House calls for a two-year study by the National Academy of Sciences on the economic, social and environmental costs, impacts and benefits of such goals. Congress would then evaluate the report and "take further action." Studies are fine, but less so when the public's water gets dirtier while awaiting final word. On the matter of zero discharge, it is hard to understand why the committee shied away from it; the Senate bill is hardly rigid, because its standards apply only when they can be achieved at "reasonable cost." Moreover, the 1985 date is a goal, not an enforceable deadline.

A second weakness of the House bill is the serious restriction of citizen suits against polluters or a lax Environmental Protection Agency. Only the person or group whose property, say, is being damaged by a polluter may sue to stop it. The Senate bill—using the Clean Air Act amendments of 1970 as precedent—gives any citizen the right to sue to enforce the law. This is the way it should be, leaving aside the question of why so many environmental laws are not enforced in the first place. A third deficiency is on the matter of who should have primary responsibility for issuing effluent permits. The Senate empowers the EPA to do this, while the House gives the job to the States. It is fine to express this confidence in local authority, except that state agencies often lack not only personnel for these decisions but also lack the energy or will to resist the pressures that polluting industries and their lobbies often exert.

As an effort to strengthen the House bill, some 40 representatives are sponsoring a series of amendments offered by Reps. Reuss and Dingell and known as the clean water package. The amendments are sensible and fair, and are essential if our befouled waters are ever to be clean again. The package has wide endorsement, from conservation, consumer, public interest and labor groups. The logic of the amendments (which would help bring the House bill in line with the more desirable Senate version) is sound: as Rep. Dingell of Michigan has noted, if the Congress is going to go to the trouble of producing a clean water bill, it ought to be a strong one.

MARCH 25, 1972.

Mr. GEORGE SHULTZ,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. SHULTZ: I would like to call your attention to a most serious example of the invisible and illegitimate controls the Office of Management and Budget and the White House have begun to extend over information developed by Federal agencies. Officials of OMB, in coordination with the White House, are holding up release of a report that is of critical significance to the debate now going on in the House of Representatives concerning water pollution legislation. The report contains convincing evidence that the cost of eliminating water pollution is but a small fraction of earlier Administration estimates and even less than the cost of using present-day inadequate control systems. The information in this report, prepared by the U.S. Army Corps of Engineers, could give a major boost to House proponents of tougher controls on industrial pollution. By withholding this information from the public at the very time the Congress and the American people most need it to make rational legislative decisions for the future, the Administration demonstrates again its willingness to place the interests of corporate polluters ahead of the public's interest in a clean and healthy environment.

The first details concerning this report came out at a meeting on March 22 between representatives of several environmental groups and EPA Administrator William Ruckelshaus. Mr. Ruckelshaus told the group of a study which the Corps of Engineers had recently completed which placed the capital cost of recycling the entire domestic and industrial wasteload of the Chicago metropolitan area—eliminating all discharges of pollutants into the waterways—at $2 billion. Under this recycling plan, already in use on a smaller scale in more than twenty locations in the U.S. alone, the city's wastewater would be piped to outlying areas and sprayed on the soil, which filters it to drinking water quality before it rejoins groundwater stores.

Proponents of recycling have pointed to the experience of Muskegon County, Michigan, where such a system is now under construction, as one piece of evidence that the goals of the Senate version of the water pollution bill, passed last November by an 86–0 vote, are not only reasonable but necessary. The Senate bill set a 1985 target to eliminate all discharges of pollutants into the navigable waterways. While not a legistively enforceable requirement, the 1985 goal was intended to challenge America to apply its technological ingenuity to developing low-cost waste recycling techniques and to use those that are already available. The aim of the zero-discharge goal is to prod polluters to find ways to turn their wastes into beneficial resources rather than dumping them in the lakes and streams, as we have done up to now with the obvious disastrous consequences.

The Muskegon experience illustrates the advantages of this approach. Available evidence indicates that land purification provides better removal of viruses—capable of causing respiratory, heart, and other diseases—than any other system. Recent Senate hearings on drinking water are revealing that viruses not only stand up to conventional sewage treatment but that they infiltrate their way through modern drinking water purification systems and make their way to the consumers' tap. For health reasons alone, we should be aiming to cease our present practice of dumping wastes into the public waterways and head towards recycling systems.

But in addition, the 170,000 residents of Muskegon County will get clean water at a lower cost—$3 less per capita per year—than they would have to pay merely to achieve existing dirty-water standards if they used conventional treatment technology (secondary treatment plus 80% phosphate removal). Furthermore, the system is geared to produce benefits that will offset even these costs. The nutrients in the wastewater—including phosphates from detergents—will fertilize the soil, permitting new crops and jobs. A power plant plans to locate on the system's waste water lagoon, improving the biological treatment process with its thermal discharges and sparing local waterways the damaging shock of its heated effluent. Because the County will charge the power plant s small fee for the cooling services, it actually plans to net a *profit* from pollution control. This result parallels the experience of many companies—Dow Chemical, for example—that have been forced to install closed-loop recycling control systems and discovered they are reaping cost savings and sometimes actually making a profit by reclaiming valuable products from the waste stream.

Opponents of higher pollution control aspirations, including the Administration, have conceded that Muskegon County has a good scheme but questioned the feasibility of applying recycling to our large metropolitan areas. The Corps report on Chicago shows that eliminating pollution from the big cities by recycling is not only feasible but relatively cheap. Officials at the Corps, in response to environmentalists' inquiries concerning the report, have refused to provide other figures from the report on the cost of alternative systems for comparison. But EPA personnel have conceded that the capital price tag for the land recycling system projected by the Corps report is considerably less than the cost of any alternative treatment system studied, including conventional models.

While making it clear that they had been muzzled at the instructions of the White House and OMB, Corps officials nevertheless defended the accuracy of the cost figures in the report. For example, General Roper of the Corps' Board of Engineers for Rivers and Harbors, who said he was intimately familiar with the procedures followed in making cost estimates, said that he was "very confident" about cost data, much of which he characterized as having been developed and hardened over a long period of time. It was developed from actual bids or quotations, he indicated. He stated that "as far as we know, the Corps has finished working on it." Other officials corroborated General Roper's remarks.

According to Corps and EPA officials, the report has been undergoing "review" by Don Crabil of OMB and White House officials, including John Whitaker, for one week. One Corps official said that he didn't "know what the outcome will be, but I presume I'll be told in due time," EPA denied having a copy of the report, stating that they had received only an oral briefing at a meeting of Administration officials about a week ago.

Placing this report under wraps constitutes a continuation of Administration efforts to defeat those strong elements of the Senate version of the water pollution bill by throwing up a smokescreen of confusion concerning control costs. When the bill was first passed last November, the Administration attacked the zero-discharge goal as prohibitively expensive, projecting a national price tag of $316 billion for its attainment. Administration officials arrived at that incredible estimate, intended to frighten the House Public Works Committee into backing off from strong controls, by computing the cost of distillation of the nation's entire wasterwater volume, and in so doing, completely disregarded the Senate bill's intent and available low-cost recycling methodology like land disposal and closed loop systems for industry. The attack was successful nevertheless. Under extreme pressure from the Administration and industry, the House Committee inserted a proviso that not only renders the 1985 goal null and void but also scraps 1981 requirements that industries use the best available technology.

In its present form, the House bill is designed to protect industrial polluters. It has been rendered so full of loopholes that the corporate lobbyists, far from opposing it, are working hard to preserve its swiss cheese characteristics fully intact. Representatives Dingell, (D.-Mich.), Saylor (R.-Pa.), Reuss (D.-Wisc.), Abzug (D.-N.Y.), and more than thirty other Congressmen, both Republicans and Democrats, are working to restore vital elements of the bill by sponsoring a "Clean Water Package" of amendments on the floor. Their efforts are supported by a broad-based coalition of 25 civic, labor, environmental, and farm groups. Debate on the bill begins this coming Monday (March 27) and votes on the bill and on the "Clean Water Package" amendments are expected to be taken by the next day.

It should be emphasized that even without the information in this report, the control requirements that the House Committee removed from the Senate bill should be restored and the rest of the "Clean Water Package" amendments should also succeed, if the House bill is not to frustrate the public's demand that destruction of our water resources be prevented. Requirements that industries make cleanup progress should not stop after 1976, as they would if the current House version is not strengthened. The bill should set long-range cleanup requirements and demand that the polluters—who have all the cost information—bear the burden of attempting to prove that the targets are too tough. When an epidemic is underway, the burden of proof must be on the perpetrators to stay the application of health and safety measures. But the House should nevertheless not be forced to act without all the information that is available. This latest withholding of crucial information is part of the overall pattern, followed by the Executive Branch, in manipulating the news so as to further partisan objectives.

It is most important, and time critical given the House vote on Tuesday, for you, or the appropriate White House authority, to immediately Monday morning release the complete U.S. Army Corps of Engineers study to the Congress, to the media, and to the public. I am enclosing a copy of this letter to Speaker of the House Carl Albert urging him to use his good offices to secure this information and any additional information on behalf of the House of Representatives from the White House and the Office of Management and Budget.

Sincerely,

RALPH NADER.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. JAMES V. STANTON. In respect to the bill with reference to that section which affects the Great Lakes area, does not the gentleman think the House bill is much superior to the version of the Senate?

Mr. DINGELL. I did not hear the gentleman's question.

Mr. JAMES V. STANTON. The section dealing with the Great Lakes as contained in the House version appears to me to be much superior to the Senate version of the bill. Would the gentleman concur in that statement?

Mr. DINGELL. I think the section dealing with the Great Lakes is very good, but I still maintain and hold to the contention that there is significant need for improving other sections of the bill.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KEATING).

Mr. KEATING. Mr. Chairman, I rise in support of the Federal Water Pollution Control Act Amendments of 1972, as favorably reported by the Committee on Public Works.

There is no question that pollution of our Nation's waterways is becoming more of a problem each year. In 1960, it was estimated that 6 million fish were killed by water pollution in the United States. In 1968, this figure had more than doubled to 15 million. And in 1969, the latest year for which reliable estimates are available, there were more than 41 million fish killed as a result of pollution in our country's rivers, lakes, and streams.

Although there is a great deal of evidence to suggest that the increase in water pollution has been arrested temporarily, there is also substantial evidence to suggest that we must redouble our efforts in this area, not relax them. The Environmental Protection Agency has estimated that almost one-third of the Nation's stream-miles are in violation of Federal water quality criteria, and that less than 10 percent of American watersheds are unpolluted or even moderately polluted.

We must concentrate our efforts at the source of this pollution, and although the data on water pollution often conflict and present inconclusive evidence, it appears that industrial wastes are the largest source of organic water pollution nationwide. Municipal and agricultural wastes are the next two largest sources, and virtually hundreds of other sources also exist.

In all fairness to American industry, however, it should be recognized that tremendous resources already have been brought to bear on this problem. American business spent more than $3 billion for air and water pollution controls in 1971, a huge 46-percent increase above 1970. Total pollution control spending in 1971 was well above the 1970 level, and research and development spending on industry's pollution problem was almost a billion dollars last year, an increase of 25 percent over the previous year. From these facts, it is clear that although industry is the major polluter in America today, industry certainly is not dragging its feet in the effort to resolve this national problem.

What of the costs in the water pollution control program? As in many other areas of pollution control, it is difficult to find a consensus on what the costs of water pollution control will be over the next 10 to 15 years. The President's Council on Environmental Quality has estimated that a program aimed at "zero discharge" would eventually cost about $316 billion, while a program aimed at cutting pollution by approximately 85 percent would cost about $61 billion.

Many responsible persons, both within and outside of the environmental movement, dispute this claim. Many insist that the actual costs of an effective water pollution control program will amount to only one-sixth of these estimates. In any case, it seems evident that the costs are an unknown variable which, in the long view, must be weighed against the benefits we seek to derive.

The President's Council on Environmental Quality also suggests, however, that pollution control costs cannot be measured in dollars only. The Council tells us, for example, that although most industrial plants will continue to produce and be profitable, others are expected to close. We are told that profits will decline for firms that cannot pass on the full cost of pollution control to the consumer. We are told that prices will increase from 1 to 10 percent in the 1972 to 1976 period, depending on the industry. We are told that direct job losses for the entire 1972 to 1976 period are projected to be 50,000 to 125,000 jobs.

In addition to this, the President's Council on Environmental Quality states that the cost for control of all pollution will have adverse effects on our international trade position, retard the growth of the real gross national product, and decrease aggregate demand for goods and services.

It would of course be unfair to suggest that these views of the President's Council on Environmetnal Quality are shared by everyone. They certainly are not. In fact, some persons argue with equal persuasiveness that in the final analysis pollution control will save billions of dollars each year. A recent study by the National Wildlife Federation, for example, shows that pollution control will save the United States $12 billion each year between 1972 and 1980. The savings resulting from water pollution control

comprise slightly less than half this total.

Taken together, what does all this information really mean? Perhaps if there is one thing which may be learned from all this conflicting data, it is that there probably exists as much misinformation as accurate information in this area of pollution control. Basically, we all have the same objectives in wanting to improve the environment and hence the quality of life in the United States. However, there is obviously tremendous difference of opinion as to how we accomplish this objective, and similar difference of opinion as to the impact pursuit of this objective will have on our country. Much of this difference of opinion is honest disagreement, and much is a result of varying groups pursuing their own best interests.

Confronted with this kind of situation, the Committee on Public Works was charged with drawing up a program that would be effective, a program that would not necessitate prohibitive costs, and a program that would be acceptable to the American people as well as allow for a degree of flexibility needed in this kind of endeavor.

In my judgment, the committee succeeded in achieving this goal. The Federal Water Pollution Control Act Amendments of 1972, the product of extensive hearings and lengthy deliberations, will strengthen the existing water pollution control program. It will strengthen this program at a cost this country can afford. It will strengthen this program in a manner that the American people can accept. And it will strengthen this program in such a way as to allow for reasonable adjustments at some future date, as we continue to accumulate new information and seek better ways to clean up the Nation's waters.

I cannot accept the judgment of those Members who would have us believe that the Committee on Public Works has weakened America's pollution control program. The bill before us today presents a program that will be meaningful, a program that will be effective, and a program that will strengthen, rather "gut" existing law. And this program sets the very highest goals: the elimination of effluent discharges into the Nation's waters.

The Committee on Public Works has done a truly commendable job in drawing up this program, and I am privileged to give it my full support, as well as urge my colleagues to do the same. This bill offers the American people the very best program possible to produce clean waters in the United States, and we should be unwilling to accept less.

Mr. WRIGHT. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. CAFFERY).

Mr. CAFFERY. Mr. Chairman, I am certain that the people of America with few exceptions look with satisfaction at the work we are concluding this week in the House of Representatives on the most important water quality legislation to come before the Congress.

I share that satisfaction, together with a great sense of pride as a member of the Public Works Committee of the House in being party to the creation of this monumental bill from its genesis. The work has been long and arduous for our committee over the past year, but the legislation before us today is in itself the best commentary on the fact that the committee's labors were indeed fruitful.

Certainly not everyone will be fully satisfied with our product. Dealing in such a complex area, such an accord would not be possible. We are, after all trying to legislate comprehensively on a problem which has only recently moved to the fore of our national consciousness. And pollution control, because of its expense and inherent administrative difficulties, is an issue on which reasonable men can and do disagree.

But there are about this measure some central and undeniable facts on which there can be no disagreement. It is a thorough bill. Those of us on the committee held almost 50 days of public hearings during which we received testimony from some 300 witnesses from every sector and section of America. In addition, there were countless sessions during which we sought to ameliorate differences and to incorporate them into a law which would do the job but which the great majority of our people would find workable.

And, Mr. Chairman, it will do the job. It is the most sweeping environmental package this body has seen and I believe it gives us the tools to rid the streams of America of pollution. It is not perfect, I am sure, but it constitutes nonetheless the cornerstone of a bipartisan national effort to clean up our water. It signals as well the intention of responsible leaders in government, in business, indeed, in all facets of American life not to stop until this work is finished.

I especially commend our chairman (Mr. BLATNIK) for his leadership in this effort, and the ranking minority member of the committee (Mr. HARSHA) for his exemplary bipartisan spirit throughout these deliberations. This landmark legislation bears also the unmistakable imprimatur of the gentleman from Alabama (Mr. JONES), who served as acting chairman and unfailingly held our feet to the fire in finishing this work. The product of that work has my wholehearted support and I know that it deserves the support of every Member of this body.

Mr. WRIGHT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the city of Los Angeles and Los Angeles County Sanitation District have indicated their strong concern over the passage of either H.R. 11896 or S. 2770, in their present form.

The Los Angeles, Ventura, Orange, and San Diego County Sanitation Districts have raised $3 million from among their own members on a per capita basis to fund the California research project. It is a 3-year plan to discover, through scientific research, exactly what is occurring environmentally from the discharge which these sanitation districts are sending into our coastal waters.

The planned target date for completion of this study is October of this year—1972.

They feel strongly that they should have an opportunity to receive and study the results of their research project before we impose an additional cost of $600 million on the taxpayers of Los Angeles County, and an increased cost to the State of California of approximately $2 billion.

We in California, Mr. Chairman, are as interested in correcting pollution as anyone else. We live in a desert which has been made habitable by imported water. We have tried to dispose of our wastes in the most careful manner possible, but we submit respectfully, Mr. Chairman, that a community such as Los Angeles, which discharges its wastes into the ocean, 2 miles offshore, after both a primary and secondary treatment, should be treated differently from a city which simply disposes of its waste in a nearby lake or stream.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

Mr. DANIELSON. I am inserting at this point in the RECORD a copy of a resolution passed by Los Angeles County Sanitation District No. 2 in this regard, and a resulting communication sent to southern California congressmen:

MARCH 24, 1972.

Re S. 2770 and H.R. 11896.
U.S. House of Representatives,
Washington, D.C.

GENTLEMEN: The County Sanitation Districts of Los Angeles County have on their various boards of directors representatives of 71 of the 77 cities in the County of Los Angeles, these cities encompassing a population in excess of 4 million. We have over the years, taken the justifiable pride in the national leadership of these districts in the fields of water reclamation and the science of waste water collection, treatment and disposal.

As evidence of our concern with the effect of our treatment processes on the offshore ocean waters, we have joined with other local discharging agencies in creating and funding the Southern California Coastal Water Research Project Authority as an independent public agency. It is the function of this agency to conduct a comprehenaive study of the effect of treated waste water on the offcoast marine environment. To date, the sum of $951,180 has been paid to fund the activities of this project.

This study is in addition to, and independent of, the significant research and development programs carried on by the contributing agencies and is justified by the belief that the results of the study will enable these agencies to plan future operations in the most responsible manner; that is, with sound scientific data on which to base decisions concerning what treatment processes are appropriate in order to protect the offshore ocean water.

The promise of a meaningful program to protect and enhance water quality based on scientific data will in large measure be lost if either S. 2770 or H.R. 11896 is passed in its present form.

We are advised that in the event of this occurrence the County Sanitation Districts of Los Angeles County during the first two years of implementation anticipate a doubling or tripling of current tax rates. This alarming increase will be imposed upon our residents without any indication that the results of this massive expenditure will be a benefit to our environment.

It seems patently absurd to impose, on an agency that discharges two miles offshore into the Pacific Ocean at a substantial depth, discharge requirements that are identical to those imposed on one discharging directly into a small stream or lake. What is most disturbing, however, is that this vast undertaking, at a cost estimated between $50 billion and $350 billion is being required with an admitted lack of supporting scientific data.

We, and the Southern California basin, need but a short period of time within which to complete our research project, the results of which should be given careful consideration in setting discharge requirements for those agencies that discharge into the coastal waters of Southern California.

For these reasons we respectively and earnestly request that the members of the House oppose the passage of either S. 2770 or H.R. 11896.

A copy of the Resolution forming the Committee which I chair is attached.

Yours very truly,

T. D'ARCY QUINN,
Mayor of the City of Alhambra.

LOS ANGELES COUNTY SANITATION DISTRICT—RESOLUTION

Whereas, 71 of the 77 Cities of Los Angeles County are represented on the Board of Directors of the several County Sanitation Districts of Los Angeles County; and

Whereas, these Districts have from time to time been extensively advised concerning the financial impact of S. 2770 and H.R. 11896 upon the residents of Southern California; and

Whereas, these Districts have expressed their deep concern over the irreversible consequences attendant upon the passage of such legislation in its present form; and

Whereas, this Board acting as the Administrative Representative of all Los Angeles County Sanitation Districts has been requested to take all appropriate action to convey to the Members of the House of Representatives and of the Senate of the United States the disfavor with which each of the foregoing bills is looked upon by the County Sanitation District, Los Angeles County.

Now, therefore, be it resolved that a Committee is hereby formed for the purpose of corresponding, meeting and otherwise communicating with Members of the House and Senate of the United States with the view of informing these representatives of the reasons for the deep concern of the various County Sanitation Districts of Los Angeles County over the prospect of the passage of either S. 2770 or H.R. 11896 in its present form.

Resolved further, that they are appointed as Members of this Committee the following:

The Honorable T. D'Arcy Quinn, Mayor of the City of Alhambra, Chairman.

The Honorable Keith W. Miller, Mayor of the City of Whittier.

The Honorable Richard C. Brownell, Mayor of the City of Pomona.

State of California, County of Los Angeles.

The foregoing Resolution was duly adopted by the Board of Directors of County Sanitation District No. 2 of Los Angeles County at its regular meeting held Wednesday, March 22, 1972. This has the Seal of the District and attested to by R. M. Clarke Assistant Secretary of the District.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SMITH) for the purpose of a question.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding to me.

Among the provisions in the bill are retroactive payment provisions that are rather complex, and I would like to ask a question relative to them.

The city of Altoona, Iowa, in August of 1966 had their sewage plant condemned by the State health department, and were ordered to put in a new sewage plant or do some revisionary work.

Design and engineering was commenced in December of 1966 and completed in October of 1967.

On November 13, 1967, an application was made for a Federal grant with the Federal Water Pollution Control Administration.

On Januuary 22, 1968, the Federal grant was approved.

Contracts were signed on February 18, 1969, after the city had first tried to turn down the bid but had been sued by the Iowa Water Pollution Control Commission for not going ahead.

Construction was started in April of 1969, and the project was completed in March of 1970.

They were paid the smaller percentage under the previous law. They have been trying to get a retroactive grant.

My question is: Would they, under the provisions of section 206 and other provisions of the bill, be eligible for retroactive payments for the additional $71,177 which they would have been eligible for had they delayed until a higher aid formula went into effect?

Mr. WRIGHT. In answer to the question propounded by the gentleman from Iowa (Mr. SMITH) let me say that the answer is "yes." The circumstances and the dates cited by the gentleman would seem to make it very clear to me that they would be eligible for reimbursement.

The provisions of section 206 very clearly state that any publicly owned treatment works on which construction was initiated after June 30, 1966, or before July 1, 1971, would be eligible if such construction had been undertaken without the financial assistance authorized by section 8, or by lack of Federal funds, or with financial assistance authorized by such section, but in a lesser percentage of the total cost of construction thereof. And the circumstances as reported by the gentleman from Iowa would certainly seem to fall clearly within that provision.

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for his statement.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Chairman, I appreciate the 3 minutes that the gentleman has yielded to me. I hope the minority, if the time is not sufficient, will not permit the time they are not utilizing to go unused and will permit those of us in the House who desire to go into this bill in some detail additional time.

In that regard I would like to ask a series of questions involving section 208 of the bill.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman.

Mr. HARSHA. I am sorry I did not understand what the gentleman said. Did the gentleman refer to me in his remarks?

Mr. WALDIE. Just contemplatively. I referred to you on the supposition that if my time expires—I was granted 3 minutes to discuss a bill which it seems to me to be extremely important—I would hope if I am not able to conclude the questions I want to ask which affect my State—that the minority who has time unexpended will permit that time to be utilized.

Mr. HARSHA. You have had this bill for several weeks now to go over and you have had ample time to find out what is in it. I will yield what time I consider proper at the proper time.

Mr. WALDIE. I appreciate that. That is another problem. As a Member of the House of Representatives, you do not have time to go into these bills in the detail which they require. It does not seem to me—and I dislike taking up time that ought to be utilized on the bill—but these are the restrictions of debating under a mechanical process which does not work correctly.

If you do have time that is not going to be utilized and a Member of the House of Representatives sitting in committee wants to express opinions on the bill and ask questions—that time ought to be given to the Members who want it rather than to be relinquished.

The question I want to ask the gentleman from California on the committee, my colleague and my friend, Congressman JOHNSON, affects section 208 which is the areawide waste treatment program.

In the bill that the committee first considered, there are very, very strong provisions on page 53 involving the problem of saline intrusion, and those provisions say:

The plan shall include procedures to control salt water intrusion.

There is no qualification. Yet, I see when the bill was finally adopted that was weakened immeasurably to the point where it now says:

The plan shall include a process to identify, if appropriate, salt water intrusion • • •

And then:

They shall set forth procedures and methods to control • • •

Then it qualifies it even further by saying:

To the extent feasible and where such procedures and methods are otherwise a part of the waste treatment management plant.

You made no amendments in any of the other nonpoint pollution techniques except salt water intrusion.

I have to conclude that this was a major weakening of this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. WALDIE. Mr. Chairman, I appreciate the additional time.

Mr. Chairman, I have to conclude that this was a major weakening of this bill and that it was done at the request of someone who does not desire to have salt water intrusion, which is nonpoint pollution, controlled in the bill.

Particularly I have reference to estuaries in which salt water intrusion and reduced outflows are particularly destructive. I particularly have reference to the delta in California. Someone did not want those sources on pollution to be controlled. Can the gentleman tell me for what reason this amendment was placed in the bill to weaken this bill as drastically as it did—and who proposed that amendment?

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman.

Mr. JOHNSON of California. I believe you referred to the introduced bill in your first reference.

During the hearings we heard from representatives of California including the State water resources department and the State water pollution control board. We also were given the Governor's position. The language in the bill reflects their views. The committee report on page 96 states the following:

> The Committee notes that in some States water resource development agencies are responsible for allocation of stream flow . . .

Mr. WALDIE. Mr. Chairman, will the gentleman stop there?

Mr. JOHNSON of California. Would you let me answer the question?

You have asked a question and I would like to answer it, if I possibly can.

Mr. WALDIE. I have the reference that the gentleman is referring to. I do not want to use up precious time.

Can the gentleman tell me from that reference without reading it all—where it states:

> The Committee believes that where a state has an "approved" program for the handling of permits and which has a program for water resources allocation • • •

What is the difference between an "approved program" for handling permits and "a program for water resource allocation"?

Mr. JOHNSON of California. The gentleman well knows that in our State in the headwaters of the Sacramento and the San Joaquin Rivers we have developed dams and storage reservoirs up and down the Sierra Nevada Mountains and also minor diversion facilities in the coastal country. All this water flows through the delta, and this water has been controlled under a program in which the State and Federal agencies, including the Corps of Engineers and the Bureau of Reclamation, have participated. The fear was brought to the committee's attention when our State people testified that the State was losing control of its water resources programs under the introduced bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. I yield gentleman from California 2 additional minutes.

Mr. WALDIE. I thank the gentleman.

Mr. JOHNSON of California. The State wanted assurance this would not happen, and this particular provision on page 96 of the report points this up.

Mr. WALDIE. I have read this act.

Mr. JOHNSON of California. You stated further in your remarks about the permit system—certainly the bill has a very strong permit system in it——

Mr. WALDIE. I know the permit system.

Mr. JOHNSON of California. They have not yielded in that respect.

Mr. WALDIE. I understand that.

I do not yield any further to the gentleman.

I understand that. The permit system has nothing to do with salt water intrusion. Salt water intrusion is non-point intrusion. The permit system deals with point intrusion.

The difficulty with this provision—and I gather that it is a California provision—the act was amended and weakened from its initial strong provisions controlling saline intrusion and water diversions to take care of a problem that the water resources people wanted to take care of to enable them to exert control, the control over the delta they had been exerting.

I suggest to the gentleman that the weakening amendment is not in the best interest of the delta in California, the estuary in the San Francisco Bay, in any way, regard, or respect. The problem of protecting the waters that are gathered in that delta from saline intrusion and protecting that estuary from the consequences of saline intrusion, has been made much greater by the adoption of that weakening amendment.

I suggest to the gentleman that I will be offering an amendment tomorrow seeking to return this provision of the bill to where it was prior to the time the California water people started putting their hands into this national act to have it adopted and worked around to adversely affect California only and the part of California that the gentleman I represent in this particular issue.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield further?

Mr. WALDIE. I yield to the gentleman from California.

Mr. JOHNSON of California. The gentleman asked me a question. I think it is well established in the record that California does have a very workable program under way at the present time. Our State water resources people, the Governor of the State, the Water Pollution Control Board, the Bureau of Reclamation, and the Corps of Engineers are working very carefully with the flow of the waters into the delta, and certainly under this measure the State will be given the opportunity to carry on that type of activity. The State will have a right to issue permits under that particular section. I see no harm in it whatsoever.

I point out to the gentleman that nonpoint sources are controlled under this bill.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. WRIGHT. I yield the gentleman 1 additional minute.

Mr. WALDIE. I thank the gentleman.

In response I would point out that the permits involved in this bill have nothing to do with nonpoint salt water intrusion, and there is no control within this bill for nonpoint pollution, and that control will only come about by the development and adoption of an areawide management program that controls. The fact of the matter is that the State of California has done a miserable job in terms of protecting the estuaries of California from salt water intrusion, and this amendment which was adopted to the national act at the request of California authorities, enables them to continue doing the miserable job they have been doing without any guidance and without any control from the Federal Government. I think it is a very, very unhappy situation for our State but also for other States which now find a major weakening of the control section which protects estuaries. That is what is at stake here—the estuaries of the Nation. That provision has been weakened to the point where estuaries will be jeopardized.

I appreciate the gentleman's courtesy.

Mr. WRIGHT. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, there are about 20 States which now, by State law, prohibit the discharge of sewerage from boats into the waters of the State. My own State is one of those States.

Others include, Arizona, California, Colorado, Illinois, Indiana, Maine, Michigan, Missouri, New Hampshire, New Jersey, New York, Oregon, Texas, Utah, Vermont, and Wisconsin—and Ontario in Canada. If this bill passes in its present form, those laws which now require holding tanks in small vessels that ply the waters will be invalidated. If this bill goes through, there will be a retreat from the strict standards which have been imposed by these 15 or 20 States which require that all sewage be held in holding tanks and pumped out or discharged at a pier or marina.

I would hope that the committee would consider favorably an amendment which will be offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) tomorrow, which will enable the States to retain the holding tank requirement where they feel it is appropriate to protect the quality of their waters in their States. I see no reason why there should be a backward movement in the name of trying to improve the quality of water in the United States. In Minnesota we are very proud of our waters and their use for recreation as well as for drinking. I would hate to see our strict standards pulled down and taken out of operation by this bill in its present form.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Ohio.

Mr. HARSHA. The gentleman's commentary is in reference to section 312 of the bill. That section provides, among other things, that upon application of the State to administrator, the State can prohibit the discharge of any effluent into waters at all. So that if the gentleman's State now has a holding tank requirement, and if the rules and regulations adopted by the Coast Guard are such that the Federal requirement does not meet the holding tank requirement and would permit discharge of some kind, upon application of the gentleman's State to the administrator, the State could preclude, even though there is a less stringent Federal regulation, the discharge of any waste into its waters.

Mr. FRASER. The gentleman is right in a technical sense, but as a practical matter, as the executive director of Minnesota Pollution Control Agency points out:

> It would be impossible to prove the damage done to each of Minnesota's 13,000 lakes by polluting by boat toilets. The time required would delay pollution control efforts for years.

There is another problem. I have a cabin on the St. Croix River. Barges go up and down that river and through the waterways of the country. That exception would require that the administrator permit us to declare the whole of the St. Croix or of the Mississippi the subject of a holding tank requirement. In other words, they could not differentiate between the types of vessels involved.

In addition to commercial boats, we have hundreds and, I think, thousands of pleasure boats. We would not under Section 312(f3) of the bill be able to require them to have a holding tank without also requiring the commercial barges to have a holding tank, because the administrator is likely to be reluctant to do that. He is unlikely to give our State authority to proceed under that section. This is the reason why I think it would be wise to allow the States to have their own high standards.

Mr. HARSHA. Let me point out to the gentleman from Minnesota this is in the law now, in existing law. The only thing we have done in this bill is to expedite the effectiveness of the preemption we had in existing law.

Mr. FRASER. That is right. That is why we ought to have the amendment adopted tomorrow. It seems to me to be a good thing to allow the States to set higher standards in certain circumstance. We would certainly welcome the support of the committee on that amendment.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of our committee (Mr. BLATNIK).

Mr. BLATNIK. Mr. Chairman, I should like to acknowledge the fact that my very good friend and colleague from Minnesota raises a very important point. We discussed this several times last week.

It is not our intent to hinder the States in doing what they hope to do as to improving the situation in these areas, for we understand they have many problems.

We have many lakes in Minnesota, many recreational lakes, and this area is the beginning of one of the largest inland waterways for commercial as well as recreational shipping.

We have Duluth at the head of the lake, and the St. Lawrence Seaway. We have three waterways. We have the Mississippi, the St. Lawrence Seaway, and the waters north of Duluth.

We are very mindful of the problem the gentleman has raised, and will work where we can to see that a satisfactory resolution can be worked out.

Mr. FRASER. I thank the chairman very much.

Mr. WRIGHT. Mr. Chairman, I yield myself whatever time remains.

The CHAIRMAN. The gentleman has 5 minutes remaining.

Mr. WRIGHT. Mr. Chairman, we come to the end of the general debate on this historic bill. Simply because there has been some invidious rhetoric and a certain amount of oversimplification in some news journals which have sought to report on the bill, I should like to use this time merely to stress the gains this bill would achieve in the present water pollution control efforts, and to state a few of the ways in which this bill, as your Committee on Public Works brings it to you, is indeed a stronger, more effective and more workable bill than a companion measure which was passed by the other body.

In the first place, this bill from the Public Works Committee of the House adds $4.6 billion to the amount authorized in the Senate bill. Practically all of this additional money is committed for actual Federal grants for construction.

In the second place, your House bill increases the maximum Federal grant from the present level of 60 percent in existing law to a new proposed level of 75 percent, and this is higher than the Senate version, which recommended a maximum of 70 percent.

In the third place, for the first time your House bill would make collection systems eligible for Federal participation. They have never been eligible before. The Senate bill does not make them eligible. This is, I believe, a significant advance.

In the fourth place, the House bill creates a financing mechanism which would assist localities, hard hit by difficult bond markets and, therefore, heretofore unable to come up with their portion of the money, and creates a fund of $100 million for that purpose. There is no such provision in the Senate bill.

So in these four ways, each of which clearly affects the amount of help that is provided to the States and municipalities under this legislation, the House bill is manifestly superior to the bill as reported by the other body.

In the amount of actual cash help it authorizes, the House bill is clearly the stronger bill.

Now, let us consider the strength of its strictures, its requirements, and its control.

Here is a fifth major comparison: The House bill not only retains the water quality standards that heretofore have been the basis upon which we have cleaned up our streams, but also provides a new system of cleaning up streams by a limitation upon point discharges, a dual approach, and provides that whichever is the stronger shall apply. The Senate bill abandons the water quality standards and goes solely to point discharge limitations. Herein the House bill is manifestly a stronger bill.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to my colleague.

Mr. HARSHA. The gentleman will agree that water quality standards of heretofore existing legislation apply only to interstate waters.

In this legislation we require the States to continue those water quality standards insofar as they apply to interstate waters and then adopt water quality standards for intrastate waters as well, together with lower limits for all of those streams within a State, which makes it imminently stronger than the bill before the other body.

Mr. WRIGHT. The gentleman is exactly correct. That was, interestingly enough, the very next point I was going to raise. This is a sixth major distinction, and again our bill is the stronger of the two. For the first time States are required in the House bill to adopt standards for intrastate waters, and there is no such provision in the Senate language.

Mr. HARSHA. Will the gentleman yield further?

Mr. WRIGHT. Of course I yield.

Mr. HARSHA. We require an upgrading of the water quality standards on the intrastate waters every 3 years, so we have a continued upgrading of them throughout the entire State.

Mr. WRIGHT. The gentleman is precisely correct. And this is a seventh point of comparison.

One other thing should be mentioned in connection with controls and requirements placed upon those who discharge pollutants into the streams. For the first time we would require in the House bill that industrial dischargers whose waste is cleaned up by newly created municipal systems would pay a portion of the cost of construction of those systems and that their portion of that cost would bear some direct relationship to the amount of pollution they are discharging into the municipal system for treatment. We would require that this money go to the local municipality to help defray the cost of construction. In that regard I think the House bill is clearly preferable.

There are some differences, perhaps in detail and perhaps in words only, concerning the statement of goals and policies.

The Senate bill in this regard is admittedly more ambitious. The Senate bill sets the no-discharge goal by 1985 as a policy. The House bill states it as a goal. Although all of us most earnestly hope it will come true, realistically we must recognize that it is a very difficult thing and probably an illusory thing to expect that by 1985 we would reach the point of having absolutely no discharge of any kind into any stream.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. WRIGHT. I thank the gentleman for yielding me the additional time. I was suggesting that we should not hold out illusory promises to the public.

We might, if we were so rash, adopt a law in Congress to require that henceforward water shall run uphill rather

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than downhill. We might get some kudos from the press and from some of our delighted constituents, but I daresay that by 1985 or by 1995 or 2005 water would not run uphill.

Larry O'Brien, who has been involved in political activity for many years, said the other day something with which I think a spokesman for either party would probably reluctantly agree. He said that public officials have gained the reputation, tragically, among much of the electorate of being big promisers and cruel deceivers. That lamentable fact is far too true.

So I think the choice confronts us here as to whether we shall promise big and perform relatively less, perform more and promise no more than we know we can perform.

I think the difference was pretty well summed up by an editorial that appeared yesterday in the Washington Star to which reference has already been made. I should like to quote in closing the last paragraph of that editorial. The Washington Star editorial concluded with these words:

The Senate, with its bill, has raised the Nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

Mr. PELLY. Mr. Chairman, recently I joined with a number of my colleagues for whom I have great respect in sponsoring the so-called clean water package of amendments to H.R. 11896, the Federal Water Pollution Control Act. At the time I agreed to cosign a letter to the House membership endorsing the clean water package, I had not had an opportunity to review each of the proposed amendments in detail. Now that I have studied these amendments closely, I am frank to admit that I do not favor all of them and will not be able to support the entire package.

Gov. Dan Evans has provided me with his views as to the interests of Washington State. Meanwhile I have advised the gentleman from Michigan (Mr. DINGELL) that I will have to revise my position and vote for or against each amendment on its merits.

Principally, Mr. Chairman, I must oppose those provisions of the clean water package which would amend title V of H.R. 11896 eliminating States from an effective role in the permit program.

Aside from the clean water package, I also will vote in favor of the so-called Mahon amendment to limit the contract authority of the Environmental Protection Agency, and to require that the financing of sewage treatment plants be accomplished in accordance with the normal appropriation process and not by the back-door spending provision set forth in the reported bill.

Mr. Chairman, while I have determined that I cannot support the entire clean water package, I want to take this opportunity to commend my colleagues for the work they have done in developing a number of very meaningful amendments to the bill. My disagreement with them relates solely to the proper role of the States in our national effort to eliminate pollution. I am convinced that the States do have a proper role and should be encouraged to participate and to assume responsibility. The existing Federal Water Pollution Control Act has prompted many States to move effectively and to establish the machinery for policing their own industries. We should do everything we can to encourage the States to continue and to expand their own efforts rather than shift even more to a totally Federal approach.

Mr. ROONEY of Pennsylvania. Mr. Chairman, in light of this week's floor consideration of H.R. 11896, the Water Pollution Control Act Amendments of 1972, I think it is appropriate to focus on several very significant actions of a major industry in my congressional district to protect the environment.

Most significant of these, Mr. Chairman, was the recent signing of a Pennsylvania consent order by Bethlehem Steel Corp., in which Bethlehem committed itself to the investment of an estimated $22.5 million or more to eliminate air pollution from its byproduct coke oven operations in Bethlehem and Johnstown.

Gov. Milton Shapp described the consent order as an "amicable agreement between the Commonwealth and industry" and one which should serve as a "prime example for other industries to follow in view of our stepped-up efforts to improve the environment."

This is but one of many steps Bethlehem Steel has taken to resolve pollution problems associated with the steel-producing industry—an industry which ranks as the largest single employer in my congressional district.

Bethlehem is engaged now in the installation of a huge dust collection system at its Bethlehem plant—a system which will be able to remove 8½ tons of dust from its plant emissions daily. This pollution control project will cost $5.5 million.

The firm also has been cooperating with concerned citizens in a massive program to recycle cans and bottle caps. Can-collection centers were set up at its steelmaking plants in mid-1971 and by the end of the year 383 tons of cans and bottle caps had been recycled in Bethlehem furnaces.

I am pleased to call these matters to the attention of my colleagues and to include in the RECORD Governor Shapp's announcement of the consent order as well as the statement of Mr. John J. O'Connell, Bethlehem's vice president for industrial relations.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., February 25, 1972.

Governor Milton J. Shapp today signed a consent order with the Bethlehem Steel Corporation which, in effect, represents a major step forward in implementing Pennsylvania's environmental improvement program.

"This order provides for the elimination of air pollution from the company's by-product coke oven operations at its Bethlehem and Johnstown plants," Shapp said.

"Complying with this order will require the application of new and innovative air pollution control techniques through the establishment of a control program which will cost the Bethlehem Steel Corporation an estimated $22.5 million or more.

"I realize," the Governor added, "that the control of air pollutants from by-product coke ovens, with respect to available control technology, is one of the most challenging issues for the steel industry.

"However, what we have signed here today, which represents an amicable agreement between the Commonwealth and industry, should serve as a prime example for other industries to follow in view of our stepped up efforts to improve the environment."

Shapp said the consent order contains a number of unique provisions.

"It provides for immediate steps to be taken to reduce emissions and for a long-range, comprehensive control program, and also contains specifications and performance standards. The latter includes an outline of specific procedures and equipment, and establishes standards to measure emissions for various phases of the control program."

Signing the consent order, along with Governor Shapp, were Secretary Maurice K. Goddard, Department of Environmental Resources and John J. O'Connell, Vice President, Industrial Relations, Bethlehem Steel Corporation.

STATEMENT BY J. J. O'CONNELL AT SIGNING OF THE AIR POLLUTION ABATEMENT ORDER FOR BETHLEHEM STEEL CORP., COVERING ITS PENNSYLVANIA COKE OVEN OPERATIONS

In signing this order I am committing Bethlehem to spend up to $22.5 million, or possibly more, over the time period specified in the order, to bring the operation of our coke oven batteries into compliance with Pennsylvania air pollution control requirements. We have worked hard with the Department of Environmental Resources to develop a compliance program which has a good possibility of success. I must emphasize, however, that in signing this order, Bethlehem is committing itself to the installation of control systems, the exact forms of which are unknown as of today. Development of coke oven air pollution control equipment and methods is still largely in the experimental stage. We sincerely hope that the abatement methods adopted under the various provisions of this order will be successful. However, when one is dealing with unknowns as we are in this case, complete success cannot be guaranteed.

Mr. ROSTENKOWSKI. Mr. Chairman, there is little need for any Member of this body to be reminded of the gravity of the problem of pollution that exists in our Nation's rivers and streams. It is a problem that each of us has witnessed in our own congressional districts. It is a problem whose murky presence can be seen less than a mile from this Chamber, where the once majestic Potomac, now tainted by years of misuse, stands as a symbol of how wasteful we, the American people, can be if we really try.

The legislation before us today is, in my opinion, significant in several respects. As a Representative of an area which borders the Great Lakes, I am especially interested in section 108 of title I of the bill. This section would establish channels by which the Environmental Protection Agency could, along with State and local agencies, develop plans and techniques to reduce pollution of the Great Lakes. I strongly support this section which authorizes $20 million to be appropriated for this endeavor with an additional $5 million to be set aside specifically for Lake Erie. I am hopeful that this money will be utilized effectively to restore the Great Lakes to their rightful position as the largest body of fresh water in the world.

This legislation is also significant because it represents the first attempt to change the emphasis in water pollution

legislation from water quality "standards" to actual prohibitions against the dumping of all types of untreated wastes into our rivers and streams.

For, it is only through positive steps such as these, will this legislation have significant impact on the future of our once beautiful waterways.

Recently, in sifting through my mail, I have noticed an increased awareness among the American people, not only in extent of the problems of pollution, but in the complexity of the solutions as well. The American people are well aware that there is no sweeping reform that is going to end the polluting of our streams overnight. They are aware that factories and shops cannot be shut down arbitrarily for polluting without consideration to the employer, the employees, and the economy of the region involved as well. They are aware that the practices of generations cannot be completely altered without due consideration to those whose life styles have been affected the most. They are also aware that the Federal Government cannot alone, without the cooperation of local authorities, settle all the difficulties involved. While they are aware of all these problems, they insist that we must soon take meaningful corrective action, action that will set deadlines—action that will establish meaningful penalties that cannot be easily circumvented—action that will put the burden of proof on the polluter and not on the Government—action that will make all polluters, including the Federal and State governments more responsible in their actions.

It is for this reason, Mr. Chairman, that I urge my colleagues to support the clean water package of amendments which will be offered by the gentleman from Wisconsin (Mr. REUSS) and the gentleman from Michigan (Mr. DINGELL). These amendments will strengthen the antidumping segments of the legislation in order that we may eventually realize the goal of lakes and rivers that live again. These amendments will stimulate the long-range planning, the national coordination and the active involvement of all our citizens which is needed if this legislation is to be effectively implemented.

Mr. VANIK. Mr. Chairman, the bill before the House of Representatives today, the Water Pollution Control Act—and the amendments to be offered to it—is one of the most important pieces of legislation which this Congress will consider. It is certainly the most important pollution control bill ever considered by the Congress.

Every Member of this Chamber is well aware of the disastrous conditions of our Nation's waterways. I am particularly concerned about water pollution, since the congressional district which I represent lies along the southern shore of Lake Erie. In analyzing the mail which my office receives, it is obvious that, week in and week out, the single largest concern of my constituents is the continuing deterioration of water quality throughout northeast Ohio.

DETERIORATION OF THE GREAT LAKES

Lake Erie is often cited as one of the most seriously polluted bodies of water in the Nation. Just this February, the Environmental Protection Agency reported:

A mat of algae two feet thick and few hundred square miles in extent floats in the middle of the lake in mid-summer, oxygen levels in areas of the lake bottom are reduced to zero, displacement of indigenous fish populations by scavenger and trash fish is widespread . . . The zone of zero oxygen is spreading, bringing the threat that eutrophication will soon become self-sustaining.

Our lake is polluted not only by rivers such as the Cuyahoga and Grand, but it also becomes a settling basin for the pollution that flows in from Lakes Michigan, Superior, and Huron. For example, Detroit discharges some 1.4 million pounds of suspended solids into western Lake Erie every day. Scientific studies have shown that up to 80 percent of the phosphorous and other nutrients which enter Lake Erie are retained in the lake. It is no wonder that the few remaining fish and other organic life of the lake are in immediate danger of destruction.

However, I would like to point out, Mr. Chairman, that I am not one of those who believe that Lake Erie's condition is so bad that it is hopeless—that it is now, and forever will be, a "dead sea." Scientists have pointed out that the chances for improving Lake Erie are fairly good. If the upper lakes are cleaned up and Lake Erie's tributaries are purified, conditions will improve since it is theoretically possible to exchange all the water in the lake in a 3-year period, because of the magnitude of the flow through the lake and because of its shallowness.

This same EPA report noted that the pollution on all five of the Great Lakes is worsening and that they are now all seriously threatened with contamination. The quality of drinking water obtainable from these lakes is in jeopardy. Already, 30 percent of the Nation's tap water has quantities of chemicals exceeding the limits recommended by the Public Health Service. A report issued just this last December found high concentrations of copper and lead, as well as traces of chromium and cadmium, in fish caught near the headwaters of the Cuyahoga River.

INADEQUACY OF PRESENT LAWS

Amendments and improvements in our water pollution control laws are desperately needed now, because, as I have just stated, conditions are getting worse, and, second, the present control efforts are administratively unworkable and philosophically faulty.

Under the 1966 water pollution control law, the various States were to establish, within about a year, water quality standards. Now, 4 years after the deadline for submission of standards, only 27 States have fully approved standards.

Even where water quality standards are set, they are based on an unrealistic estimate of the ability of water to "assimilate" wastes. In addition, due to the pressures of powerful economic interests, the States often do not establish meaningful quality levels and create water "zones"—some good, but mostly bad. For example, most Lake Erie harbors were originally zoned for "Industrial water supply, aquatic life B." Such a classification is a hoax; aquatic life B cannot support any form of aquatic life—unless you consider sludge worms aquatic life.

The new Refuse Act permit program is a very powerful pollution control tool—but it applies only to industrial polluters and the number of permit applications being submitted will require years to process.

In 1968, I pointed out that Ohio, under the permit system, had issued 1,254 renewal permits and 117 new permits for a total of 1,371 permits to pollute the waters of the State. Between 1965 and 1969, the number of permits to pollute were reduced from 1,380 to 1,371—or nine permits in 4 years. At that rate of reduction, it would take 600 years to terminate this program.

In addition, this permit system is, in essence, a "permit to pollute" system. The fallacy in this system was brilliantly challenged by two Cleveland area lawyers, Mr. Jerome S. Kalur and Mr. Donald Large, who have been active in northeast Ohio Sierra Club activities. As a result of their law suit against a Federal agency, no more permits may be issued unless accompanied by a detailed statement of the environmental damage caused by the "permit to pollute." In addition, the court held that all discharges into nonnavigable waterways were illegal.

Unfortunately, as a result of the successful Kalur-Large suit, the administration is trying to gut the citizen's rights under the Refuge Act permit system. In addition, the decision of the lower Federal court in this case may be overturned by higher courts.

SENATE-PASSED POLLUTION CONTROL BILL

In an effort to stop the deterioration of the Nation's water quality and institute a workable pollution control system, the Senate passed a strong and comprehensive water pollution control bill on November 2, 1971, by a vote of 86 to 0.

This excellent Senate bill is so important, that I would like to take the time here to describe its major features.

The basic concept underlying the Senate bill is that:

The use of any river, lake, stream, or ocean as a waste treatment system is unacceptable.

In other words, no one has the right to pollute.

To implement this concept, the nebulous water quality standard system is to be scrapped and, instead, the discharge of toxic materials is prohibited and controls are to be placed on all waste discharges.

Specifically, the bill does the following:

First. By June 30, 1974, all communities must be providing "secondary" treatment of waste discharges. This means the removal of 80 to 90 percent of all harmful wastes, and is important when one considers that 38 percent of the Nation's waste discharges now receive no treatment whatsoever and 30 percent receives only "primary" treatment which removes just 50 percent of the harmful materials.

Second. After June 30, 1974, Federal construction aid will only go to help build sophisticated and effective area-

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wide or river basinwide treatment facilities. This section has particular reference to the Greater Cleveland area where there has been considerable controversy over the concept of regional treatment.

In addition, beginning in mid-1974, Federal aid for the construction of city treatment works will only be given when the best practicable technology is to be used, or—and this is most important—a method is found to prevent all discharges into waterways. An example of a method which provides for complete purification of wastes is the "Muskegon experiment." In this experiment, waste is given some treatment and then sprayed on agricultural land. The increase in agricultural productivity has been fantastic and the waste water, as it seeps through the ground back into the water table, becomes totally purified through the action of natural bacteria and filtration.

Third. Industrial waste discharges which account for 34 percent of estimated stream pollution, would be required to be treated with the best practical technology by January 1, 1976.

Fourth. By January 1, 1981, industrial waste discharges would be prohibited. There are a number of ways this can be achieved. For example, industry could develop closed systems in which the water used by a plant would be used, cleaned, reused in the industrial process, and then cleaned again. In other words, water is considered a scarce natural resource and is recycled. If there simply appears to be no way in which this "no-discharge" goal can be technically accomplished, within reasonable cost, then the industry would have to have in operation the best form of waste treatment equipment available at the time.

Fifth. As a result of the requirements on cities and industries, 1981 is set as a goal by which water quality will be able to provide for the protection and propagation of fish, shellfish, and wildlife, and for human recreation in and on the water.

Sixth. Further Federal activity, in research and in regulations, will continue to establish the policy of ending all discharges by 1985. Frankly, there may be some very few cases where "no-discharge" cannot be obtained—and further study will have to be made of these cases in 1985. But a goal has been set. It is a great goal, worthy of the support and commitment of every American.

FEASIBILITY OF SENATE BILL

It should be pointed out here that the goal of "no-discharge" by 1985 has been opposed by the administration on grounds of cost and impracticality. The arguments against the concepts in the Senate bill have been conducted on a "scare tactic" basis—and they are arguments without merit. The effort to clean up our Nation's waterways will be expensive—but independent researchers and consultants have shown that the Government's cost figures are exaggerated by up to 600 percent. Further, a Government study released March 12, 1972, states that the cost of abating pollution will not threaten "the long-run viability" of any industry, particularly when the same rules will apply to all. Others argue that "no-discharge" technology is not available. Yet many new plants are already constructing such systems. The Senate bill provides 13 years to employ and develop no-discharge technology and specifically makes exemptions in case of totally unreasonable costs requirements. If we do not set these guidelines and goals, we may be sure that there will be no impetus to develop such technology—and our environment will continue to deteriorate at a disastrous rate.

Further, the final definite goal of "no-discharge" will save our cities and businessmen from the confusion, uncertainty, and waste which have accompanied their efforts to meet the constantly changing water quality standards of the last decade. No more will a company build a treatment facility only to find that by the time it is constructed, it fails to meet some new law's requirements.

WEAKNESSES IN HOUSE BILL

Unfortunately while the water pollution control bill which has been approved by the House Public Works Committee and which we are considering today has most of the same provisions as the strong Senate-passed bill, it contains a number of clauses which would weaken the antipollution effort and actually set back the struggle to save our environment. As the chairman of the League of Women Voters' Environmental Quality Program stated:

> The House version is considerably weaker and lacks some essential elements we consider necessary in a good clean water bill.

The House bill is the strongest antiwater pollution bill we have ever considered. But the fact remains that in comparison to the Senate bill, it is disappointing.

CLEAN WATER AMENDMENTS TO HOUSE BILL

For this reason, I have joined with a leadership coalition of 40 of my colleagues to offer a "package" of clean water amendments to the House bill. Briefly, these amendments will do the following:

First. Maintain the Senate bill's automatic deadline of 1981 for the installation of "best available technology" for the treatment of industrial wastes, if it can be done at reasonable cost.

The House bill requires no action after 1976. It simply establishes another study of pollution and eliminates the incentive for cities and industry to move toward zero discharge technology. This will increase costs as interim facilities are constructed and delay the day when we finally have clean water.

Second. Provides that permits for the discharge of wastes which will be required between now and the achievement of "no-discharge" in 1981 or 1985 will be under the final control of the Environmental Protection Agency.

The House bill gives final permit authority to the various States. In the past, some States have set very weak permit standards in an effort to "pirate" industries from States which are sincerely attempting to stop water pollution. This amendment we are offering attempts to prevent job loss by unnecessary industry relocation.

Third. Strike from the House bill a provision which would give polluters who violate the Refuse Act immunity until 1976 from Federal or citizen suits.

Fourth. Additional amendments would protect the rights of citizens to sue the Government or others for illegal pollution activties, and would maintain the strength of the important environmental impact statement program.

In addition, I am joining with a coalition of seven other Great Lakes State Congressmen to offer an amendment to allow our States to continue to set the standards for the dumping of wastes from ships and boats. The House bill gives regulatory authority in this area to the Federal Government, and—from all indications—the Federal standards will be weaker than those which the Great Lakes states and Canada have set.

I do not mean to imply that the House bill is all bad or that the Senate bill is all good. For example, both bills exempt the discharge of harmful chemicals into oil wells—a common practice which the industry uses for various reasons—such as to flush out extra oil. These chemicals and salty solutions can, of course, work their way into the underground water tables from which drinking water is drawn. This type of loophole certainly should be closed.

FINANCIAL AID TO LOCAL GOVERNMENTS

There is, in addition, one principal area where the House bill is better than the Senate bill—the area of financial assistance to local governments for the construction of waste treatment procedures.

The U.S. League of Cities Conference of Mayors, after careful study, have found that the Nation's cities will need to spend between $33 to $37 billion over the next 6 years on water pollution control programs. One of the most important forms of "revenue sharing" which the Federal Government can provide is assistance in meeting this cost.

The Administration proposed $6 billion for 3 years.

The Senate-passed bill proposes $14 billion for 4 years.

The House bill before us today proposes $18.3 billion for 3 years.

Obviously, the House bill, if followed through by full appropriations, is the only one which begins to meet the needs of the cities.

Both the House and Senate bills make an additional change in existing law which is of vital concern to local governments. I testified before both the House and Senate Public Works Committees in support of my bill to increase the percentage of Federal construction assistance to local governments from 50 percent of cost permitted in present law to 70 percent. That proposal was adopted in both bills:

	Percent U.S. aid in new bill if no State assistance to local government	If State pays (percent)	Then United States becomes (Percent)
Senate bill	60	10	70
House bill	60	15	75

Thus, the cost to local communities for the construction of waste treatment facilities will drop from between 60 to 80 percent. In addition, public maintenance of treatment plants will be made easier by a requirement in both the House and Senate bill that "user charges" be assessed for industrial wastes poured into a public facility.

These changes are of major importance to Cleveland and Ohio. For example, the Association of Metropolitan Sewage Agencies estimates that the required investment for pollution control in Cleveland between 1970 and 1985 will be $1.6 billion. Under the old Federal grant program, Cleveland and Ohio would have to pay $800 million of that amount. Under the new law, the State and local cost will drop to between $480 to $400 million. In addition, under either the House or Senate bill, Ohio and its local governments will receive millions of dollars as reimbursement for waste treatment construction projects which were undertaken in previous years and which did not receive the proper level of Federal matching assistance.

LAKE ERIE AID

There are several provisions in these two bills of special interest to northern Ohio. First, both bills continue at a $20 million level the amendment which I made to the 1970 Clean Water Act. This amendment provides for projects designed to "demonstrate new methods and techniques and plans for the elimination or control of pollution" in the Great Lakes. The House bill—but not the Senate bill—provides for a new $5 million program on Lake Erie alone. This provision directs the Corps of Engineers to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. It is my hope that the entire Lake Erie community will support this project and that the corps, through consultation with the people of the Lake Basin, will successfully develop a project that can help us all save our Lake.

MAJOR LAKE ERIE PROGRAM CUT

While these two provisions relating to the Great Lakes are important and are helpful, they hardly compensate for the administration's decision to oppose a massive Great Lakes cleanup now. The Environmental Protection Agency hoped to include in the President's February 8 environmental message to the Congress a proposal for a crash cleanup program at 12 of the most polluted places on the lakes. The level of first-year support for this program was to have been $141 million. As EPA officials reported to the President:

> Most of the actions called for under this proposal will be required in any event, to implement pending water pollution legislation. The difference lies in focusing priority, manpower, and management attention on the Great Lakes to assure better and quicker results. In doing so, we will be demonstrating a positive Administrative initiative, rather than allowing our actions to be dictated by events. We will also be demonstrating a positive and sensible strategy for implementing the pending water pollution legislation.

Officials of the Executive Office of the President—who have apparently never seen the Cuyahoga River—struck the program from the President's agenda and budget. This is particularly distressing in view of Canada's decision to commit $250 million to Great Lakes cleanup—even though Canada causes only a small fraction of the pollution that we do.

The House and Senate water pollution bills which I have been discussing will, of course, provide a long-range solution to the Lake Erie disaster. But the entire Great Lakes congressional delegation must continue to work for the special remedial assistance needed by our lakes.

A NEW PHILOSOPHY IN POLLUTION CONTROL

In closing, Mr. Chairman, I would like to comment again on the importance—the basic philosophical importance—which the Senate bill has on America's—and the world's—approach to the ecology problem.

The Senate bill stresses recycling and the termination of all harmful discharges.

If we do not accept that concept, if we continue to allow harmful discharges and the waste of resources—even small amounts—we will continue to rapidly disrupt, in ways which we do not now understand, the natural balance of the world—a balance that evolved over billions of years and which supports all living things, including ourselves.

If we allow only 5 percent of our present waste discharges to reach the waterways, and through them, the sea, we may slow down the rate of natural disruption—but the disruption continues to accumulate, perhaps irreparably.

Dr. Barry Commoner, perhaps the most thoughtful of all the experts dealing with the problems of the world environment, states that the first law of ecology is that "everything is connected to everything else." If we continue to discharge wastes from the Cuyahoga River, for example, the effect is eventually felt in the oceans—the ancient source of life and the hope of so much of our future.

Waste discharges have destroyed large parts of Lake Erie and are threatening the other Great Lakes. The Baltic is now considered a dead sea. The Mediterranean is dying; Jacques Cousteau, the famous French underseas explorer, reports that sea life and vitality in the Mediterranean has declined 30 to 50 percent in the last 20 years.

If the United States—and the other nations of the world—continue to discharge harmful wastes into the waterways, the sea itself can die. One of the most frightening reports I have read on the health of the world's environment was a report by Dr. Thor Heyerdahl, the explorer who crossed the Pacific on the raft *Kon-Tiki* and who recently crossed the Atlantic twice on a primitive boat such as used in ancient Egypt. Dr. Heyerdahl said that on his trip across the Pacific two decades ago, he saw no evidence of pollution. Last year, in crossing the Atlantic, the pollution was everywhere, massive and serious.

It may thus be safely assumed that the 2,407 nautical miles covered by *Ra II* during the initial 43 days of its voyage represented an uninterrupted stretch of polluted surface water, the degree of visible pollution varying from slight to very grave.

Dr. Heyerdahl noted that:

> Lake Erie is only one of a long series of lakes destroyed by man in the most different parts of the world. Place ten Lake Eries end to end and they span the ocean from Africa to America.

If we can destroy Lake Erie, we can destroy the sea. Similarly, we can destroy the delicate balance of the world's atmosphere. That destruction is happening each hour of every day.

Neither the House or the Senate bill is the final answer in our effort to preserve our environment, but certainly the no-discharge goal and emphasis on recycling is a major step forward.

The principles, the philosophy of environmental management stated in the Senate bill should be a working tool which the American delegation to the coming Stockholm convention of the United Nations Conference on the Environment can present as a model for the rest of the world.

Perhaps the greatest contribution our Nation can make to the rest of the world in the coming decades is assistance in providing the controlled, environmentally sound technology which will end human misery around the earth without destroying this, our only world.

Mr. HEINZ. Mr. Chairman, I indicated in a "dear colleague" letter last week that I intended to offer an amendment to H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, to provide for the imposition of effluent charges against owners and operators of point sources of pollution other than publicly owned treatment plants. Tomorrow I will offer an amendment which provides an incentive to cut pollution through a rebate of 50 percent of the aggregate sum of effluent charges paid by an industry that installs equipment or revises production methods to meet the standards set by the Administrator of the Environmental Protection Agency. The balance of the money collected from the effluent charges will be used to finance State grants and municipal waste treatment construction. With respect to this amendment, there are several points which I believe need clarification.

First. Effluent charges are compatible with the concept of user charges. Furthermore, since user charges are based on the construction of waste treatment plants, effluent charges, which induce industry to reduce pollution at the source, will reduce the cost of construction of waste treatment facilities to local communities.

Second. Effluent charges, when combined with the 50-percent rebate, provide an economic incentive to industry not only to meet the standards, but to surpass them and thereby aid us in attaining the goals contained in this legislation.

Third. Effluent charges will provide an incentive to marginal corporations who were not affected by the amortization of pollution control facilities provided by the Tax Reform Act of 1969. This is very important since it is often these companies which are the worst polluters.

The text of the amendment follows:

SECTION 319—EFFLUENT CHARGES

SEC. 319. (a) It is the purpose of this section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to con-

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serve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

(b)(1) In furtherance of the purpose of this section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges other than municipal, agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), auspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public information all amounts collected pursuant to such charges.

(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year, or both, together with costs of prosecution.

(3) The United States district courts shall, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States, have jurisdiction to restrain violations of regulations established pursuant to this Section.

(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the "fund") in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies), except that any owner or operator of a point source of pollution other than publicly owned treatment plants, who installs pollution abatement equipment or revises production methods to comply with standards shall receive a rebate of 50 percent of the aggregate amount of effluent charges paid prior to the installation or revision, such rebate not to exceed 100 percent of the cost of the pollution control facility. Money in the fund in excess of the amounts required to fund Section 106 shall be available for the general purposes of Title II of this Act (grants for construction of treatment works).

(e) Organizations established pursuant to Section 208(a) of the Act shall, not later than two years after the enactment of this act, or, in the case of organizations designated two years or later after the enactment of this act, not later than 180 days after they are designated, provide for a schedule of effluent charges covering all navigable waterways within the boundaries of the area designated pursuant to Section 208(a)(2). Charges may be set at or above the level and on substances in addition to those designated by the Administrator pursuant to subsection (b)(1) of this Section. After approval by the Administrator, the charges may be imposed by the State or interstate agency, and all revenues therefrom shall henceforth accrue to the State or interstate agency to be used for the purpose of attaining the standards and goals of this Act.

Mr. VANIK. Mr. Chairman, tomorrow, Tuesday, March 28, when amendments are offered to H.R. 11896, the Federal Water Pollution Control Act, I hope to offer an amendment to section 7 which is found on page 402 of the bill and which deals with "International Agreements."

Section 7 as presently worded requires the President to work with other nations to:

Apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean.

In addition, the section refers to the presentation of proposals by the United States at the U.N. Conference on the Human Environment to be held this summer in Stockholm.

Section 7 is a good idea. Even if we effectively control the pollution we cause, but the rest of the industrial world—and those nations which are rapidly industrializing—do not take similar steps, then in time the air over the United States and the waters which wash against our shores will be degraded by the action of foreign nations. Even if we lead the way in solving our own environmental problems, the balance of life in the world can be destroyed by other nations who fail to act.

I believe the wording in section 7 can be improved, however, and it can be made to give special reference to America's most serious water pollution problem—the condition of the Great Lakes.

Therefore, I intend to offer the following amendment as a substitute for the present language in section 7:

The President shall undertake to enter into international agreements for the control of the discharge and emission of pollutants into the oceans and the Great Lakes. Such agreement should endeavor to control not only existing pollutants but activities including, but not limited to, oil, gas, sand, and mineral exploration, drilling, development, extraction, and transportation which have the potential for producing or allowing a discharge of pollutants. For this purpose, the President should encourage the use of existing international organizations including the International Joint Commission and shall negotiate treaties, conventions, resolutions or other agreements and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

There are two changes in the language of the section which have important general applications. By dropping the words "new sources" of pollutants, it frees the hands of our negotiators to work for international cooperation on the control of existing pollution discharges—and in most countries of the world there are no adequate controls on existing discharges. Our Nation should be able to help lead the way toward international cooperation on the control of all pollutants—not just "new sources" of pollutants.

The other change is the specific mention of oil drilling on underwater lands. Throughout the world, there is increasing reliance on offshore drilling for oil and gas. We are trying to insure that our offshore drilling activities are conducted as safely as possible. Oil pollution is the most serious form of pollution in the world's oceans. We should seek to work for international cooperation in this area.

But the major thrust of the new language is to encourage greater cooperation between the United States and Canada for the improvement of the Great Lakes.

The land under the waters of the Great Lakes not under the control of the Government of Canada are under the control of the various Great Lakes States.

These States—and Canada—have a variety of regulations governing the lakes. For example, while at the current time there is a voluntary but temporary moratorium among the States on the exploration and drilling for oil and gas from land under the waters of the lakes, the various States have almost no permanent controls on these operations. Further, the Province of Ontario has permitted some 32 drillings and brought in 14 gas wells on Lake Erie. Though restrictions have now been placed on these, Canada has leased 3.1 million acres of bottom land for drilling purposes.

The International Joint Commission on the Great Lakes has repeatedly warned about the grave dangers of large oil spills or oil well blowouts within the confined waters of the Great Lakes.

We have already suffered a number of major oil accidents on the Great Lakes. In a letter to my office of September 14, 1970, from the Corps of Engineers, the following record of accidents were reported:

SEPTEMBER 14, 1970.

HON. CHARLES A. VANIK
House of Representatives,
Washington, D.C.

DEAR MR. VANIK: This is in response to your letter of 13 August 1970 requesting information on the history of major oil spills on the Great Lakes.

A major oil spill as defined by the U.S. Coast Guard involves a quantity of 10,000 or more gallons of oil. Our records indicate such spills, as follows:

1. 2 December 1942—Barge *Clereco* sank in Lake Erie about nine miles out of Cleveland Harbor, carrying one million gallons of oil. A considerable amount of this oil was lost at the time of the sinking. Several years later when the barge was salvaged, there was no oil aboard the vessel.

2. 13 November 1966—Tanker *Mercury*. A submerged hose was accidentally disrupted at unloading site, immediately Northerly of Harrisville Harbor, Lake Huron, Michigan. This unloading site accommodates U.S. Air Force Station, Wurtsmith, Michigan. Check valve difficulties allowed 160,000 gallons of JP 4 jet fuel to flow from a storage tank into Lake Huron. Detroit District Engineer reported the incident to the Federal Water Quality Administration and the U.S. Coast Guard.

3. 18 April 1967, Mackinaw Island College, Mackinaw Island, Michigan. No. 2 fuel oil escaped from storage tanks and entered Lake Huron. USCGC SUNDEW reported oil slick to be 4,000 yds. by 700 yds. At 1/1000 of one inch thickness spread over 70% of water surface, this would be approximately 12,000 gallons. After investigation by U.S. Coast Guard, ruptured pipe was found on the College fuel receiving dock.

4. 19 September 1967—General American Milwaukee Terminal. A leak from a storage tank through an abandoned drain allowed 800 barrels or 33,600 gallons of No. 2 fuel oil to spread into Lake Michigan.

5. 19 September 1967—Indiana Harbor, Indiana. Oil slick of unknown amount that stretched along a 75-mile area.

6. 27 May 1968—American Oil Company, Whiting, Indiana. Visible amounts of oil originating from cooling water outfall, quantity unknown but enough to cover a 1 x 4 mile area.

7. 22 April 1969. Chrysler Corporation, Trenton, Michigan wasted 117,000 gallons of Resin Soap and Oil in Monguagon Creek No. 2 which empties into Detroit River (Trenton Channel). Investigated by Michigan Water Resources and U.S. Coast Guard and Federal Water Quality Administration. Samples from Detroit River (FWQA) Monguagon Creek No. 2 (MWRC) and waste pond (MWRC) had very close resemblance to "Dresinate—95." One sample contained 37% oil. Thus, about 43,000 gallons of oil wasted into Detroit River. Detroit District referred to Department of Justice. Action by Department of Justice in progress.

Sincerely yours,

WILLIAM G. STEWART,
Colonel, Corps of Engineers.

Since this report was written an abandoned well in Lake Erie 30 miles north of Port Clinton, Ohio, sprung a leak and spewed out an unknown quantity of oil creating three slicks up to 3,000 feet long.

In its report of April 1970, the Commission noted that some 1,000 barrels of oil per day were being discharged into the Detroit River, with the Buffalo River also contributing substantial amounts of oil and grease to the waters of Lake Ontario.

The Commission further noted that on any one navigation day on Lake Erie alone, there were an average of 22 lake freighters, four large tankers, and seven deep sea freighters carrying an estimated 120,000 barrels of oil as either fuel or cargo.

These facts illustrate the gravity of the total oil pollution threat on Lake Erie and the need for adequate controls over the several aspects which comprise the total threat.

As a result of its study, the Commission recommended that oil production and the production of "wet gas," containing appreciable amounts of liquid hydrocarbons from wells in Lake Erie, be prohibited and that all wells in Lake Erie capable of oil production be adequately plugged and that all drilling in the western basin of Lake Erie be totally prohibited. These recommendations are particularly important when one considers that though the Great Lakes Basin is not an active earthquake zone, we have experienced several major earthquakes during the last 100 years.

The danger to the drinking water supply, health, and environment of the tens of millions of people living in the Great Lakes Basin are in serious danger because of the failure to fully develop and enforce—between the States and between the United States and Canada—adequate, uniform, and long-range regulations. A serious oil spill on the confined slow-moving waters of the Great Lakes would make the damage of the Santa Barbara spill seem insignificant.

The amendment which I propose would also attempt to provide for international agreements on mineral development on underwater resources. My particular concern here deals with the methods of dredging carried out on the Great Lakes, with special reference to the dredging of sand and gravel.

First, the very act of dredging can often be harmful to the ecology of an area, particularly closed and slow-moving bodies of water such as the Great Lakes. It is time that the several States and the United States and Canada begin to work together to set minimum standards for such dredging activities. The damage which improper dredging can do is well described in the following extracts of two letters which I have received on this subject:

[Letter to Congressman CHARLES A. VANIK from Great Lakes Basin Commission, July 17, 1970]

Potential detrimental effects which might result from sand and gravel dredging in Lake Erie might be classified in the three broad categories of physical, chemical and biological effects. Negative physical effects might comprise increased erosion or deposition in specific shore areas. In the chemical category the disturbing of recently deposited, polluted bottom sediments by the dredging and washing operations might return to suspension, and to some extent, solution, some undesirable compounds. In the biological area there is a potential for destruction of fish spawning beds and habitat for other aquatic wildlife through the dredging operation itself and through the deposition of sediment from the wash operation. Whether, in fact, any of the above detrimental effects will be felt from sand and gravel dredging in Lake Erie should be examined on an individual case basis.

[Letter to Congressman CHARLES A. VANIK from Lt Col. James M. Miller, District Engineer, Detroit, U.S. Army Corps of Engineers, July 15, 1970]

1. The removal of the material should not expose the underlying black organic shale or clay. Such exposure would allow the break-up of the shale or clay, lift it into suspension and combine it with the oxygen available in the water.

2. The process for removal of the sand and gravel should not agitate the silt overlaying or deposited in the material to be dredged.

Second, I am concerned about the removal of enormous amounts of sand and gravel from the lake bottoms. At the present time, sand is being taken for commercial purposes from some 23 different locations in Lakes Michigan, Huron, and Erie. Nearly 800,000 cubic yards of sand and gravel are taken from Lake Erie each year. Some 350 million cubic yards of sand deposits have just been discovered in Lake Ontario and we may expect dredging to begin there in the future.

There are three questions at issue here.

First. Does the removal of this sand and gravel, a natural filtration system, hurt the ecology of the lakes. It seems to me that as the waters of our polluted lakes wash up on sand beaches they are to some extent filtered and purified. Sand deposits on the bottoms of the lakes may serve the same purpose as currents pass over them and as some of the water filters downward.

Second. The removal of this sand by commercial dredgers creates new gradients in the lake that may speed up the rate of erosion along the shore. Three months ago I received a letter from a homeowner in Geneva, Ohio, who said:

For years, I have watched the beach on my lake front property receeding, knowing full well that the sand dredge that works between Painesville and Ashtabula is adding to the problem. I, personally, have spent thousands of dollars erecting jetties into the lake to prevent this erosion, but it is a losing battle.

Third. Finally, the sand and gravel in the lake is a valuable natural resource which could be used by local governments or by the Corps of Engineers to help stop the massive erosion which is destroying hundreds of homes and threatening public property and roads along the lakeshores. The U.S. Army Corps of Engineers recently completed their national shoreline study. The study found that on the Great Lakes there were 214.3 miles of shoreline eroding at a critical rate. The cost of protecting these shorelines, which are usually heavily developed, is estimated at $127 million. In many of these areas, sand and gravel placed along the shore can help stop this erosion. Yet as the corps report further notes:

Sand is a rapidly diminishing natural resource.

I believe that agreements should be reached between the States and between the United States and Canada to regulate these dredging and excavation practices so that the public interest and the environmental quality of the lakes is protected.

Finally, my amendment makes specific reference to the International Joint Commission. It is time that the United States began to give more consideration and support to the Commission. The Canadians have been good neighbors on this subject. They have followed the recommendations of the Commission—for example, after one recent IJC report the Canadians immediately banned the use of high phosphate detergents, a step we have yet to take. Canada recently announced the commitment of $250 million to the cleanup of the Great Lakes, even though they cause only a fraction of the pollution that we do. Yet just this February the Office of Management and Budget scrapped a $141 million Environmental Protection Agency proposal for a crash cleanup of the lakes' most critically polluted areas. Even our support of the International Joint Commission had been inadequate. For example, our level of staff and financial commitment to the IJC has never equaled Canada's commitment. At the present time, we have two professional staff members—the Canadians, four. In the present fiscal year, the Canadians are spending about 50 percent more on IJC activities than we are. It is time that we supported Canada in the effort on the Great Lakes.

Mr. Chairman, my amendment is aimed at maintaining the present thrust of the proposed section 7 while calling special attention to our special needs for cooperation with Canada. I hope that my colleagues can support this new wording to the proposal.

I would like to add that I have just had a telephone conversation with legal counsels at the State Department, and they believe that the wording of my amendment makes a great improvement in this section. They point out that the term "uniform" in the House and Senate bill is too binding—it would be too diffi-

cult for many underdeveloped nations to meet immediately and could impose some standards or weaker regulations on us which we do not want. They support the idea of controlling all pollutants not just "new sources."

Mr. HECHLER of West Virginia. Mr. Chairman, when the appropriate point is reached during the amending stage, I shall offer the following amendment which is a direct outgrowth of the Buffalo Creek disaster of February 26 in West Virginia:

AMENDMENT TO TITLE III OF H.R. 11896, AS REPORTED, PROPOSED BY MR. HECHLER OF WEST VIRGINIA

Page 291, between lines 11 and 12, insert the following:

"(b) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within six months after the date of enactment of this title (and from time to time thereafter) regulations for the effective treatment, including, where appropriate, the safe storage for treatment purposes of mine water wastes resulting from new or currently operating surface and underground coal mines. Effluent limitations for point sources established by this title shall, where applicable, be in accord with such regulations. Upon promulgation such regulations would be subject to the enforcement provisions of section 309(a) of this title."

Mr. Chairman, the February 26 disaster at Buffalo Creek was caused by a poorly engineered coal refuse "dam" which ruptured after heavy rains and poured millions of gallons of sludge, waste and acid water down on the helpless residents of the Buffalo Creek valley. Coal preparation plants produce both solid and liquid wastes. It is ridiculous to blame "trout-lovers" for retaining these wastes behind unsafe dams. To dump highly polluted wastes into our streams is no solution to the problem of protecting people. The only answer is to enforce the treatment of these mine wastes, a process which is already being carried out at many mines in West Virginia and Kentucky through closed-circuit coal preparation facilities. These systems recycle and reuse the mine waste water, so it is not discharged in polluted form into our waterways.

My amendment would authorize the publication of regulations to require the treatment of mine water wastes, in keeping with the purpose of the pending legislation.

Mr. VANDER JAGT. Mr. Chairman, in further response to Mr. HARSHA and the administration letter which he read concerning land treatment costs, let me reiterate that Corps of Engineers Chicago figures, with all respect to Mr. HARSHA and I have the greatest respect for Mr. HARSHA, do not bear out what he has read. Land treatment is substantially less expensive in the Chicago report both in capital costs and in operating costs. I see no possible way that these figures can be interpreted otherwise.

For the administration to state that land treatment costs are equal to "tertiary" treatment costs is equally incongruous. The figures simply do not bear out the contentiton. The $161 billion cost figure mentioned apparently is capital cost through 1981 plus operating expenses over a 20-year period. Such figures were used to arrive at the administration's $316.5 billion total cost over the next 20–25 years for distillation. Using Chicago figures on land treatment and national waste flows of 40 billion gallons per day, capital costs would be $33.6 billion—84 cents times 40 billion gallons—while operating costs come to $1.314 billion per year—9 cents per 1,000 gallons times 40 billion times 365 days—or $26.28 billion in 20 years, or a combined total of $59.88 billion for that period. These figures, rather than undermining Friends of the Earth contentions, tend to undergird them.

The letter stated that land requirements might be prohibitive. But the figures must be placed in proper perspective. Chicago would use 448,000 acres of land. But most of this land is in agriculture today and would continue in agriculture. Changes would have to be made when bringing nutrient rich irrigation water to the land.

But how many farmers are going to argue when crop yields may well be doubled over normal cultivation practices? Yes, there will be changes in some land use. However, there are many positive aspects to this change.

Then there is the question of "zero discharge," unfortunately set up as a strawman in this letter. The requirement in the bill is not "zero discharge," but zero discharge of pollutants. And the land treatment system, while it will produce water of better than U.S. Public Health drinking water quality standards, does discharge water with some chlorides and sulphates in it. However, the level of those substances in that discharge will not effect the integrity of the receiving water. But what bothers me most in this letter is the fact that by downgrading land treatment, in effect, it attempts to upgrade alternative treatment systems. And there is no way those systems can approach land treatment in providing clean water, unless, as the administration has calculated, one wants to spend $316.5 billion for distilled water.

Mr. Chairman, the Chicago report can help this Nation to have clean water at less cost. It provides strong encouragement for the amendments I will offer tomorrow. I hope that every Member will find it possible to support those amendments.

Mr. SAYLOR. Mr. Chairman, I am pleased to be able to make a part of the debate record on the Water Pollution Control Act Amendments bill, H.R. 11896, the just-released report of the U.S. Corps of Engineers on its Special Wastewater Management Study. Made public today, the summary report is not "final" nor exhaustive, but it is indicative of the direction and scope of the activities undertaken by the corps to evaluate various wastewater management alternatives in selected metropolitan areas.

The supporters of one side or the other in the great "Clean Water Debate of 1972" will not be able to use this particular summary report to buttress their arguments in spite of the advance, and unfortunate, publicity attending its publication. The document, "Regional Wastewater Management Systems for the Chicago Metropolitan Area: Summary Report (March 1972)," is nevertheless a valuable contribution to our consideration of H.R. 11896, and the numerous amendments designed to bring about a stronger national commitment to "clean water" throughout the Nation in the foreseeable future.

The Corps of Engineers press release dated March 27, 1978, on the study and the report itself follows:

CORPS OF ENGINEERS STATEMENT ON SPECIAL WASTEWATER MANAGEMENT STUDY

The Chief of Engineers released today a special report on controlling water pollution in the Chicago metropolitan area. This study was occasioned by concerns expressed about both the costs and effectiveness of alternative wastewater management systems to meet high levels of wastewater treatment. In the initial feasibility studies for the pilot wastewater study program, covering five metropolitan areas, the Chief of Engineers recognized that for the alternative systems developed, including land treatment systems, the evaluation of costs and performance were of only a preliminary nature and therefore could not be used as a basis for comparison among systems.

Primarily to place the costs of alternative systems in perspective and to evaluate the performance of advanced biological, physical/chemical, and land treatment alternatives on a comparable basis, a special study for the Chicago metropolitan area was undertaken for the express purposes of:

(1) Formulating least cost waste treatment management system alternatives that achieve comparable performance;

(2) Detailing capital costs and operation, maintenance, and replacement costs of the alternative systems; and

(3) Analyzing the relative merits of alternative systems

The results of this special study indicate the following for the Chicago metropolitan area:

(1) Significant strides can be made toward achieving comparably high levels of treatment by all three alternatives studied.

(2) Costs of any one of the systems involves several billions of dollars.

(3) Costs for land treatment may be lower both for capital and for operation and maintenance than either of the other alternatives.

In releasing the report, the Chief of Engineers pointed out that Corps' study of the Chicago area is continuing and that the special report should not be construed as a final recommendation of the Corps of Engineers. He stressed the importance of considering a wide range of alternatives for achieving a high level of treatment and cautioned against using the special Chicago study as the sole basis for selecting a specific treatment system for any individual area or for the country as a whole. Systematic comparison of alternative systems designed to meet the specific characteristics of each area will be needed to determine the most cost-effective approaches nationwide.

The Chief of Engineers also noted that the effluent from all alternatives would contain some residue of pollutants in the water discharged to lakes and rivers. Thus none is a "zero discharge" system.

The Corps of Engineers will continue to examine the land treatment and other alternative systems and to work with the Environmental Protection Agency in seeking greater understanding of the costs and effectiveness of alternative wastewater management systems.

REGIONAL WASTEWATER MANAGEMENT SYSTEMS FOR THE CHICAGO METROPOLITAN AREA

SUMMARY REPORT

OFFICE OF THE CHIEF OF ENGINEERS,
DEPARTMENT OF THE ARMY,
March 1972.

THE SECRETARY OF THE ARMY

I submit herewith my special report on alternative wastewater management systems for the Chicago Metropolitan Area.

Background and purpose

Of critical concern to the Nation is the problem of selecting from amongst alternatives that program which would permit the Nation to move toward the goal of high levels of wastewater treatment. Central to this concern is the cost and performance of alternative wastewater management systems.

The Pilot Wastewater Management Program feasibility reports which the Corps prepared contained preliminary cost estimates for alternative waste treatment management systems to achieve high levels of wastewater treatment. In my report to you on the Pilot Wastewater Management Program, I concluded, "That the capital and annual costs presented in the feasibility studies be considered as only very preliminary and not as yet fully indicative of the financial or economic costs for any one alternative wastewater management system. As a result, valid direct cost comparisons among alternative systems cannot be made."

Despite the warning, these very preliminary costs have been used out of context to justify a position that some waste treatment management systems were too costly to warrant serious consideration. To place the cost of alternative systems in perspective, I have undertaken a special study of the Chicago Metropolitan Area with the express purpose of:

(1) formulating least cost waste treatment management system alternatives;

(2) detailing capital costs and operation, maintenance, and replacement costs of the alternative systems; and

(3) analyzing the relative merits of alternative systems.

SUMMARY OF RESULTS

A fold out map inside the back cover (not reproduced) shows the layout of the alternative systems developed; the cost of each is summarized in Tables I and II.

TABLE I.—COSTS OF ALTERNATIVE BASIC WASTEWATER TREATMENT SYSTEMS

Cost component	Alternative system costs: Advanced biological treatment	Physical-chemical treatment	Land treatment
Capital costs ($ millions)	3,642	2,987	2,000
Annual costs ($ millions):			
Debt service	215	176	118
Operation and maintenance	181	166	74
Major replacement	46	49	4
Total annual costs	442	391	196
Unit costs:			
Capital cost per gallon of installed capacity	$1.53	$1.26	$0.84
Annual operation, maintenance and replacement cost to treat one thousand gallons of wastewater	$0.26	$0.25	$0.09
Total annual cost per capita (9,000,000 population in 1990)	$49.20	$43.50	$21.80

Note: Each of the basic systems is designed to treat:
(A) 100% of the projected 1990 municipal flows } (2076 mgd).
(B) 100% of the projected 1990 industrial flows }
(C) 50% of the urban runoff (stormwater) (300 mgd).

TABLE II.—COSTS OF ALTERNATIVE COMPREHENSIVE WASTEWATER TREATMENT SYSTEMS

Cost component	Alternative system costs: Advanced biological treatment	Physical-chemical treatment	Land treatment
Capital costs ($ Millions)	7,480	6,745	5,357
Annual costs ($ Millions):			
Debt service	442	399	316
Operation and maintenance	228	211	101
Major replacement	59	63	7
Total annual costs	729	673	424
Unit costs:			
Capital cost per gallon of installed capacity	$2.28	$2.06	$1.63
Annual operation, maintenance and replacement cost to treat one thousand gallons of wastewater	$0.24	$0.23	$0.09
Total annual cost per capita (9,000,000 population in 1990)	$81.00	$74.80	$47.10

Note: Each of the Comprehensive Systems is designed to treat:
(A) 100% of the projected 1990 municipal flows } (2076 mgd).
(B) 100% of the projected 1990 industrial flows }
(C) 100% of the urban runoff (stormwater) (600 mgd).
(D) 100% of the rural (agricultural) runoff (600 mgd).

As illustrated in Table II, expanding the basic systems to treat all urban and rural runoff generated in the Chicago area will increase the capital cost from 200 to 280 percent, depending on the basic system selected; or on an average annual basis, the cost increase ranges from 160 to 220 percent.

The information summarized in Tables I and II represent the results of this special study. A summary of the criteria and assumptions used to develop these alternative systems, a description of each including performance and evaluation, and a comparison with feasibility study findings is presented in the following paragraphs. More detailed, supporting information is contained in the attached technical appendix and cost data annex.

Criteria and assumptions

Technical Goal.—The technical goal established for the alternatives developed in this report is to achieve high levels of wastewater treatment. To achieve this goal, the design of the alternatives reflects an application of the best available technology for the collection, treatment, and management of wastewater. The quality of the reclaimed water produced by each of the alternatives studied is discussed in a subsequent section of this report.

System Concepts.—A basic wastewater treatment system and a comprehensive wastewater treatment system were developed. These differ in concept and design with respect to the handling of non-point sources of water pollution particularly urban and rural runoff. The basic system provides for handling approximately 50 percent of the urban stormwater and none of the agricultural runoff while the comprehensive system provides for handling all of the urban and rural-agricultural runoff.

Alternative Technologies.—The alternative treatment technologies developed in this special report are designated as either treatment plant alternatives or land treatment alternatives. For the treatment plant alternatives, a separate system is developed for advanced biological treatment and a separate system for physical-chemical treatment. A brief description of both treatment plant alternatives and the land treatment alternative are presented in a subsequent section. Details are contained in the Technical Appendix.

Cost Bases.—In deriving the costs of the alternative systems, two considerations were of paramount interest: First, the relaxation of institutional constraints which might otherwise preclude the development of technically sound alternatives; and the use of actual bid prices, when possible, in lieu of laboratory data as a basis for deriving cost estimates.

With respect to the first consideration, the relaxation of institutional constraints made it possible to formulate optimal waste treatment management systems. In the feasibility studies, this was not done and the systems formulated were suboptimized with resulting substantial increases in costs. In this special report, the systems developed represent the

least-cost alternatives for each technology studied.

The second consideration which had a significant impact on system costs was the use of bid prices in lieu of cost data derived from an extrapolation of laboratory tests or earlier developed cost curves. Much of the cost data presented in the current literature is derived from information generated from small pilot systems which is then applied to large scale systems. Actual bid prices were used, to the maximum extent possible, and when necessary were supplemented with experimental cost data.

Additional criteria for estimating costs are listed below:

(1) Price levels established as of January 1, 1972.

(2) 5.5 percent interest rate used for computation of annual costs.

(3) Systems assumed operative for 50-year period.

Wastewater Flows.—Average wastewater flows reaching treatment plants in the Chicago Metropolitan Area are currently estimated at 1,586 million gallons per day (mgd). Much of the area is served by combined sewers, and some stormwater and infiltration flows are carried in these sewers. However, when combined storm and ordinary flows exceed the capacity of the sewer system, spills occur and a substantial sewage volume may be bypassed directly to streams without treatment. An additional 3,200 mgd is discharged directly to water courses by industry.

It is anticipated that it will be to industry's advantage to reduce its water intake and wastewater discharge through extensive in-house recycling. This would be an extension of current trends. Eventually, the residual industrial wastes will be discharged to the regional management system because the economies of scale in the larger systems cannot be achieved by individual industries. By 1990, it is assumed that all industry, new and old, will be discharging these residual flows to the larger regional management systems. Thus, industrial water requirements and wastewater discharges will be reduced drastically over the next 20 years, and the practice of discharging directly to water courses will be eliminated.

Recent population projections and more detailed studies of per capita water usage have been made in conjunction with the current study of the Chicago Metropolitan Area. Based on these studies, projected residual industrial flows, and refined estimates of urban runoff, the projected 1990 wastewater flows are estimated as follows:

TABLE III.—CHICAGO METROPOLITAN AREA WASTE-WATER FLOWS

Wastewater flow components	Average daily flows in millions of gallons		
	1970	1990 base plan	1990 comprehensive plan
Dry weather municipal and industrial flows	1,286	2,076	2,076
Stormwater flows from existing combined urban sewer network	300	300	300
Remainder of stormwater flows from improved urban stormwater system	0	0	300
Total wastewater flows in treatment systems	1,586	2,376	2,676

Employing the 1990 comprehensive plan, an additional 600 mgd of rural-agricultural runoff would be captured and treated in a separate management system. The treatment plant peak design flow for either the 1990 base plan or the 1990 comprehensive plan was established as 4152 mgd. The peak design flow is twice as large as the dry weather municipal and industrial flow.

Study Area.—The Chicago Metropolitan Area, as illustratead in the fold-out man just inside back cover of this report, covers 2500 square miles and is populated at present with 7.2 million. The 1990 population is expected to be 9.0 million. The area includes northwestern Illinois and extreme northern Indiana, together with all or parts of Lake, Cook, DuPage and Will Counties in Illinois, and Lake and Porter Counties in Indiana.

Alternative systems

Treatment Plant Alternative.—In this alternative, wastewater is collected from municipal and industrial sources and treated in plants; reclaimed water is then discharged to nearby waterways; and separated solids are utilized for disposal on agricultural lands. The reclaimed water is available for reuse including aquifer recharge.

Two distinct treatment plant alternatives have been formulated to attain the desired effluent; one using advanced biological treatment plants and one using physical-chemical treatment plants. Biological advanced treatment involves the addition of a variety of advanced waste treatment process to existing secondary treatment plants. This alternative would preserve the three largest existing secondary treatment plants in the Chicago Metropolitan Area. The other existing plants in the study area were elimnated from this alternative because they would not be efficient on the basis of cost effectiveness. criteria.

Physical-chemical treatment utilizes unit process that have generally been used by various industries for specific purposes and subsequent adapted to wastewater treatment plant design as the need for higher effluent quality has developed. This alternative would require total replacement of existing treatment facilities in the study area.

Both of the treatment plant alternatives consist of eight plants which are designed to handle a 1990 average daily flow of 2376 million gallons and a peak flow of 4152 mgd. Interceptor sewers, force mains, and tunnels would be used to transport the wastewater flows to the plants sites. The reclaimed water would be discharged to the streams of the study region to provide for low flow agumentation. Resulting sludge would be collected and transported by pipeline to a land area where it would be plowed into the soil conditioner and fertilizer.

The plants utilizing biological advanced treatment processes are expected to produce 1.0 tons of sludge per million gallons treated, while the physical-chemical treatment plans would produce sludge at the rate of 0.5 tons per million gallons treated. The sludges from the advanced biological alternative would require 34,750 acres using a spreading rate of 25 tons dry solids/acre/year. Sludges from the physical-chemical alternative would require 144,859 acres employing a spreading rate of 3 tons dry solids/acre/year. This sizeable difference in rates of application is necessary because of the highly concentrated nature of the sludges from the physical-chemical process.

Land Treatment Alternative.—In this alternative, wastewater is collected from municipal and industrial sources, transported to a 448,000 acre site; treated and stored; sprayed on agricultural land, collected, and returned to the waters of the study area. The sludges are applied to the land as a soil conditioner and fertilizer. The land treatment includes biological pretreatment. Although this treatment could be provided by existing biological secondary treatment plants, it was determined to be more efficient to locate this process at the treatment site. This would also provide greater flexibility to handle flow surges.

This system is designed to handle the 1990 average daily flow of 2376 mgd, and can accommodate peak flows of 4152 mgd. Nine access points would feed the wastewater to deep tunnels using gravity to transport the flows to the treatment area, where it would be pumped into aerated lagoons to provide biological pretreatment. The effluent from the biological treatment cells would be discharged to storage basins. Sedimentation of solids would occur and the liquid portion would be stored for irrigation purposes.

During the growing season the pretreated water would be applied to approximately 371,000 acres of crop land using spray irrigation methods. Agricultural crops and the dynamic characteristics of the soil would act as a living filter to reclaim the wastewater effluent. An extensive system of underdrains would collect high quality waters percolating through the living filter and discharge them in a manner which would enhance the surface or groundwater resources of the Chicago Metropolitan Area. The sludge would be dredged from the bottom of the storage lagoons at the treatment site and distributed at an application rate of 25 dry tons/acre/year on 27,520 acres of land.

Stormwater Treatment.—Stormwater runoff from the Chicago Metropolitan Area is dealt with in a similar manner for both of the treatment plant alternatives and the land treatment alternative. The stormwater originating in the urban portion of the area (800,000 acres) currently served by combined sewers would be collected in any of the three alternatives previously described and treated as part of the basic system design. For the comprehensive plan, an additional 300 mgd storm flow would be designed into each of the alternatives.

Beyond this, the runoff (600 mgd) from the rural portion of the area (800,000 acres) would be collected and given local land treatment in the comprehensive plan. The basic approach would be to utilize in-stream impoundments to capture and regulate the storm runoff so that it could be irrigated on adjacent agricultural lands when the opportunity arises.

System performance and reliability

A critical element in evaluating the performance of the alternative systems is the quality of the treated water discharged back to the environment. This evaluation was made on the basis of how each alternative satisfies national concerns through achieving high levels of wastewater treatment. Table IV presents the data on systems performance as related to key water quality constitutents and parameters.

Another aspect of system performance is the ability of the systems to perform as intended, that is, their reliability. Clearly if either the treatment plant alternative or the land treatment alternative perform as designed every day of the year, the National would take a significant step toward cleaning its water.

TABLE IV.—ALTERNATIVE PROCESS SYSTEM PERFORMANCE DATA[1]

Constituents	Effluent quality		
	Biological advanced	Chemical-physical	Land treatment
COD mg/l	10	10	6
BOD mg/l[4]	3	3	2
Suspended Solids mg/l	1	1	0
Dissolved Solids mg/l	350	350	400
Soluble Phosphorus mg/l	0.1–0.2	0.1–0.2	0.01
NH_3–N mg/l	0.3	0.5	~0
NO_3–N NO_3 mg/l	2–5	2	2
Organic N mg/l	~0	~0	~0
Heat Temp. ° F	53–78	53–78	55–70
Oils, Greases mg/l	1	1	~0
Phenols mg/l	0.01	0.01	~0
Pathogens, viruses	** Present	** Present	~0
Trace metals*	0.1	0.1	~0
Boron	1.0	1.0	~0
Arsenic	0.03	0.03	~0
Cyanide	~0	~0	~0

[1] Performance data for advanced/biological is based primarily on small scale operating systems, and for physical/chemical and land treatment performance data is based on limited small scale operating experience and on pilot plants and engineering and laboratory studies. Specific information on performance data contained in studies and reports is referenced in COST DATA ANNEX to the TECHNICAL APPENDIX to this report and in the report "Wastewater Management by Disposal on the Land", February 1972, by the Cold Regions Research and Engineering Laboratory, Corps of Engineers, U.S. Army. The performance data above are for the systems designed and costed in this study. In the context of the high level treatment established as the objective of the study, all systems meet the objective. Higher performance may be technically attainable by each process.

*Trace Metals: Aluminum, Cadmium, Chromium, Copper, Lead, Nickel, Zinc, Iron, Manganese Mercury.

**Present with Current Disinfection Practice.

However, experience has shown that wastewater management systems often fail to produce effluent of the quality intended. For example, it is a well known fact that biological treatment systems can be upset to the point of failure by shock loads, toxic constituents or the like.

In a like manner, treatment plants, be they advanced-biological, physical-chemical or land treatment, could be by-passed during heavy storm periods. However, due to the relatively immense storage capacity inherent in the design of the land treatment alternative, this alternative would have a much higher reliability than either the advanced-biological or the physical-chemical system.

Assessment and evaluation

A general assessment and evaluation has been performed in order to identify the effects and opportunities associated with the treatment plant and land treatment alternatives. In terms of the degree of detail employed in this evaluation, the effects associated with both treatment plant alternatives are essentially the same.

The assessment and evaluation was based on the following assumptions. First, the net contributions of each system were identified by projecting the conditions that would exist in the study region without the alternatives and comparing this situation with the conditions expected if either system were implemented. Employing this "with vs without" method of analysis, a number of key parameters were identified and provided a basis for this assessment. Second, the specific regional needs identified below were considered:

(1) increasing recreation opportunity.

(2) restoring depleted ground water supplies.

(3) enhancing the visual quality of the region.

(4) increasing agricultural production.

Finally, the assessment and evaluation was conducted in two steps. Assessment included identifying the key parameters which were impacted by each of the systems whereas evaluation established the beneficial and detrimental effects of each system, the opportunities associated with each, and the potential net contributions that the two systems could make meeting the regional needs.

Assessment.—The key parameters impacted by the systems were classified as being ecological, hygienic, social, aesthetic, or economic as follows:

Ecological Parameters: Aquatic life; Sustaining stream flows; Terrestrial life; and Atmospheric conditions.

Hygienic Parameters: Absence of pathogens and System reliability.

Social Parameters: Community displacement and Recreation opportunity.

Aesthetic Parameters: Water clarity and Land reclamation.

Economic Parameters: Tax base; Economic productivity; and Water supply.

Evaluation.—Given the above parameters as a basis for evaluation, Table V presents the expected direction of impacts in terms of the beneficial and detrimental effects.

Opportunities.—Waste treatment management systems can be expanded into multi-purpose facilities. For example, the treatment plant alternatives provide opportunities to develop new urban industrial parks that would rely on the reclaimed water for a water supply. Also, the treatment plant sites can be landscaped and designed to provide recreational and open space benefits to the urban area.

TABLE V.—EVALUATION OF SYSTEM EFFECTS

	Land treatment	Treatment plant
Ecological parameters:		
Aquatic life	HB	HB
Sustaining stream flows	HB	HB
Terrestrial life	D	D
Atmospheric conditions	NE	D
Hygienic parameters:		
Absence of pathogens	HB	B
System reliability	HB	B
Social parameters:		
Community displacement	DC	DC
Recreation opportunity	HB	B
Esthetic parameters:		
Water clarity	HB	B
Land reclamation	B	B
Economic parameters:		
Tax base	DC	DC
Economic productivity	HB	B
Water supply	HB	B
Contributions of systems to regional needs:		
Increasing recreation opportunity	HB	B
Restoring ground water supplies	HB	HB
Enhancing the visual quality of the region	HB	B
Increasing agricultural productivity	HB	B

Note: HB—Highly beneficial; B—Beneficial; D—Detrimental; DC—Detrimental but correctable; NE—No effect.

The land treatment alternative, through the elimination of treatment plants in the urban area, provides an opportunity for the urban redevelopment of these sites. This alternative also provides for locating power generation facilities adjacent to the storage lagoons using the water to dissipate the heat created. The concept of land treatment also could be used in creating functional greenbelts to help control urban sprawl.

Comparison with feasibility study

There are several differences between the treatment plant and the land treatment systems presented here and similar systems that were selected for evaluation in the previously completed feasibility study for the Chicago Metropolitan Area. These differences relate to projections of the future conditions, completeness of the systems and finally to the costs. These major differences are summarized in Table VI.

TABLE VI.—A COMPARISON OF THE DESIGN DATA USED IN THE FEASIBILITY AND SPECIAL STUDIES

Basic projection and assumptions	Feasibility study	Special study
1. Population in 1990	9.2 million	9 million.
2. Wastewater flows in year	2020	1990.
Municipal	2,375 m.g.d.	1,018 m.g.d.
Industrial	3,103 m.g.d.	1,058 m.g.d.
Stormwater	1,822 m.g.d.	600 m.g.d.
Total flow	7,300 m.g.d.	2,676 m.g.d.
3. Time base for systems design	2020 needs	1990 needs.
4. System effluent goal	Meet or exceed standards.	High levels of wastewater treatment.
Treatment plant alternative:		
1. Wastewater flows handled:		
Municipal	2,375 m.g.d.	1,018 m.g.d.
Industrial	400 m.g.d.	1,058 m.g.d.
Stormwater	1,125 m.g.d.	300 m.g.d.
System total	3,900 m.g.d.	2,376 m.g.d.
2. System features:		
Number and type of treatment plants.	20 advanced biological.	8 physical-chemical.
Collection system length	263 miles	254 miles.
Land treatment alternative:		
1. Wastewater flows handled:		
Municipal	2,375 m.g.d.	1,018 m.g.d.
Industrial	3,103 m.g.d.	1,058 m.g.d.
Stormwater	1,822 m.g.d.	300 m.g.d.
System total	7,300 m.g.d.	2,376 m.g.d.
2. System features:		
Sq. mi. for land treatment using:		
(a) cropping	1,243	700.
(b) rapid infiltration ponds	93	0.
Number of sites	6	1.
Collection system—miles	±1,100	402.
Costs:		
1. Treatment plant alternative:		
A. Construction costs	$4.3 billion	$2.987 billion.
B. Annual charges:		
(1) Debt service	Not calculated	$176 million.
(2) Operation and maintenance	Not calculated	$166 million.
(3) Replacement	Not calculated	$49 million.
Total annual charges	Not calculated	$391 million.
2. Land treatment alternatives:		
A. Construction costs	$14.7 billion	$2.000 billion.
B. Annual charges:		
(1) Debt service	Not calculated	$118 million.
(2) Operation and maintenance.	Not calculated	$74 million.
(3) Replacement	Not calculated	$4 million.
Total annual charges	Not calculated	$196 million.

Future wastewater volumes in the study area have been reduced to about one-third of those originally estimated because (a) per capita use is now based on actual experience in the area as opposed to a previously assumed value of 200 gpcd (gallons per capita per day) (b) industrial recycling, reuse and conservation of water has now been taken into account, and (c) more refined studies of anticipated stormwater flows have been conducted.

An analysis of the treatment plant alternatives shows that the systems in the feasibility study handled little more than half the expected volume through twenty treatment plants. In the special study the basic alternative systems handle all expected municipal and industrially generated wastewater and half the stormwater in eight waste treatment plants. The reduction in number and type of treatment facilities permits a substantial cost reduction.

The land treatment alternative developed in this study differs from the earlier plan by utilizing only one site for treatment of all wastewaters thereby significantly reducing the collection system required and avoids the use of rapid infiltration ponds.

The cost estimates set forth in the feasibility study did not include estimates for replacements, operations and maintenance. Furthermore, these cost estimates were based on handling 7300 mgd in the land treatment system and only 3900 mgd for the treatment plant alternative. Current study estimates are for the revised average volume of 2376 mgd for both alternatives and include all costs for installation, replacement and operation.

Finally, the costs used in the feasibility study relied heavily on data generated from small scale and experimental pilot systems. However, this was not the case in the special study since, as previously stated, actual bid prices were used to the maximum extent possible.

F. J. CLARKE,
Lieutenant General, USA,
Chief of Engineers.

The CHAIRMAN. If there are no further requests for time, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

Mr. BLATNIK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

GENERAL LEAVE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill H.R. 11896 and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE AMERICAN WELFARE SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-270)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

The American welfare system is a national disgrace.

Thirty-one months ago, I first proposed to the Congress my plan for total reform of that system.

Since that time, the welfare situation has continued to worsen, and sweeping changes have become even more imperative.

There can be absolutely no excuse for delaying those changes any further. The present system must be reformed.

Its shocking inequities continue to drain incentive from the many poor who work but who see some families making as much or more on welfare.

Its widely varying, discriminatory benefits continue to force needy families, millions of children, and the needy aged, blind and disabled into a web of inefficient rules and economic contradictions.

Its vast costs have continued to escalate, undermining State and local governments and threatening to erode taxpayer support for a welfare system of any kind.

The present system continues to contribute to the breakup of poor families, rather than reenforcing the role of the family in our national life. The welfare life-style continues to dehumanize those who are caught in it, and threatens now to create yet another "welfare generation."

NOW IS THE TIME FOR ACTION

This year must be the year in which we raze the ramshackle welfare system, patched up so many times in the past but still basically unchanged since it was first enacted as emergency legislation in the mid-1930s. In its place, we must build a new system, taking a new direction. We must create an environment that will draw forth and support—rather than smother—the innate ambitions and personal obligations of all needy Americans.

Last December, the Congress did pass transitional legislation which took parts of my welfare reform package—certain of the workfare provisions for job training and work requirements for all employable welfare recipients—and applied them to the present system of welfare. These actions will become effective later this year.

Acceptance of those workfare provisions by the Congress was a step in the right direction, as I said when I signed the measure. But it is still part of the patchwork approach. Now something far better than a patchwork approach is required if the needy are to receive rational assistance, if waste and inefficiency are to be abolished, and if America's work incentive-job reward system is to be placed within reach of every citizen.

We should never forget that it is precisely this system that has enabled us to develop the highest standard of living—with the most widely shared advantages—in the history of the world. We should continue to rely on it as we drive to close the final gaps between economic promise and economic reality.

On June 22 of last year the House of Representatives, for the second time, passed by a wide majority omnibus legislation which would implement my overall welfare reform. This legislation is now being closely scrutinized by the Senate Finance Committee, whose able Chairman, Senator Long, has assured me that the committee will report H.R. 1 to the Senate floor as soon as possible. H.R. 1 continues to have my full support, and I hope that it will be enacted into law this year in the basic form approved by the House of Representatives.

We need reform this year so that, instead of pouring billions more into a system universally recognized as a failure, we can make a new start.

We must not forget that H.R. 1 contains basic reforms in social security and medical benefits, as well as welfare reform.

These benefits, by themselves, are pathbreaking in scope and impact—including a further 5 percent benefit increase in social security, the automatic adjustment of social security benefits in the future to make them inflation proof, and a host of additional reforms discussed in my recent message to the Congress on older Americans. As I said in that message, even one more year of delay in the passage of H.R. 1 would cost older Americans some $5½ billion in annual benefits.

H.R. 1 clearly lies at the heart of economic progress of millions of Americans in 1972—and into the future. It is the most important single piece of social legislation to come before the Congress in several decades. I strongly urge the Congress to pass it as soon as possible this year. No legislation should have a higher priority.

THE WELFARE MESS WORSENS

When I first presented my welfare reform proposal to the Congress on August 11, 1969, I declared that "America's welfare system is a failure that grows worse every day."

Nine hundred and fifty eight days have passed since that message and that comment. The welfare landscape today is a greater fiscal and ethical wasteland than ever:

—*Injustice and inequities are widespread:* There are glaring differences between welfare benefits paid in various parts of the country—they can range from $60 a month to $326 a month for a woman with three children, depending on in which State she happens to live. Moreover, too many Americans can get more money by going on welfare than by going to work. There is no real requirement that a recipient seek, much less accept, a job.

—*The basic immorality of the system still prevails:* In most States welfare still offers a man a bounty to desert his family.

—*Incentive continues to be penalized:* A man working hard for low wages can see neighboring families on welfare that are better off than his own family.

—*Millions of children suffer:* They are forced to live in degrading and deplorable conditions because the present system precludes their families from any benefits.

—*Waste continues unabated:* State quality control surveys indicate that as many as one in 20 welfare recipients may actually be ineligible for benefits, and that inaccurate payments are being given to as many as one case in every four—a potential total annual waste of more than $500 million.

—*Administration remains a quagmire of red tape:* There are 1,152 separate State and local welfare jurisdictions, with separate eligibility determinations and administrative procedures—making program integrity a virtual impossibility.

What we have in short, is a crazy quilt of injustice and contradiction that has developed in bits and pieces over the years with little serious thought of basic reform. I believe that H.R. 1 is the best and most comprehensive answer yet devised to meet this challenge.

FISCAL CRISIS: WASHINGTON AND THE STATES

The present welfare system is not only morally bankrupt—but is a significant factor in driving the States toward fiscal bankruptcy.

Since I first proposed reform in 1969, the costs of maintaining the present system have mounted at an alarming rate. Each day of delay means further costs—without any offsetting benefits. For example:

—Welfare costs have skyrocketed from $6.2 billion in 1969 to an estimated $9.4 billion in 1971, *a 51 percent increase in just two years.*

—The overall welfare caseload has risen from 9.6 million people in 1969 to 13.5 million today. It has been estimated that, if no changes are made, 17.3 million people will be on welfare in 1974, *an 80 percent rise in just five years.*

What we have on our hands is nothing less than a social and political time bomb. And, in a development of concern to all of us, the patience and support of the American public for welfare programs has been slipping dangerously. Those who are truly needy are becoming scapegoats in the eyes of taxpayers understandably angered about waste and inconsistency.

What we are seeking is an end to the need for public support for people who are essentially employable, but have not been able to work for reasons beyond their control, just will not work, or will not even make themselves available for work-related training—and this is what H.R. 1 would cure.

We also need to establish a nationally uniform system of efficient aid for totally needy families and the old and infirm—and H.R. 1 would achieve that goal, too.

OUTLINE OF REFORM

My program, as embodied in H.R. 1, would place a floor beneath the income of all American families not able to adequately support themselves. Its payment would vary, according to family size and resources, from a minimum of $1,600 to a maximum of $3,600. The basic benefit for a family of four with no other income would be $2,400.

Employable adult members of such families would have to register with the Department of Labor in its Opportunities for Families program for manpower services, work training and employment availability before any benefits were paid to such persons. Exceptions would include mothers of children younger than 6, and mothers whose husbands were either working or registered for work.

Families without employable adult members would not be subject to registration requirements but would receive the same basic benefits under the Department of Health, Education, and Welfare's Family Assistance Program.

For the first time in our history, national wage supplements would be paid to the working poor on a proportionate sliding scale designed to spur, rather than kill, the incentive to start working and keep on earning.

Eligible persons would be able to keep the first $720 earned during the year without reduction in their supplements. As job income rose beyond that, supplements would be reduced by two-thirds of job income until a cut-off point were reached and the recipient had attained a degree of self-sufficiency.

A family of four thus could earn $720 and receive a benefit of $2,400—for a total income of $3,120. When such a family's earnings reached $3,600, it still would be eligible for a supplement of $480 for a total income of $4,080.

When such a family reached earnings of $4,320 it would move completely out of the Federal assistance program.

Under the terms of H.R. 1, the Opportunities for Families program, the Family Assistance Plan and programs for the needy, aged, blind and disabled would be totally financed by the Federal Government—thereby providing much-needed financial relief for the States, which now share welfare costs.

In several respects, the proposed payments to the working poor constitute the basic conceptual foundation of my new approach.

These payments would encourage those who are working to keep on working, rather than sliding into welfare dependency. And they would motivate welfare recipients to start work.

We must hit head-on the cruel fallacy that any income, no matter how low, is sufficient for an American family merely because that money comes from full-time work.

We must establish the more humane and relevant principle that the total income of each American family must reach a certain minimum standard.

Another foundation of my approach is the strong work requirement and the provisions which would help implement that requirement, including child care benefits, manpower services, job training and job locating, and a program of 200,000 transitional public service jobs.

Recipients, with very few exceptions, would have to register for training and accept jobs which were offered, or benefits would be terminated for that recipient.

An entirely separate new Federal program would be established for needy aged, blind and disabled individuals and

couples. While no work requirements would be included, of course, those who could work would be provided with strong incentives for doing so.

The current State payments to such individuals and couples, varying widely across the Nation, would be replaced by a Federal benefit of $130 a month for an aged, blind, or disabled individual, rising to $150 in two steps. For a couple in these categories, $195 a month would be provided, rising to $200. Such benefits now can be as low as $70 a month for an individual and $97 a month for a couple.

In all, some $2 billion in new money would go directly into the hands of the aged, blind and disabled in the first full year.

TIGHT ADMINISTRATION AND PROGRAM INTEGRITY

Those who receive welfare, while they are the most visible victims, are not the only ones who suffer because of the myriad confusions and contradictions of the present welfare mess. The taxpayers are victims as well, for they are paying for a program that not only fails to accomplish its objectives, but is virtually impossible to administer.

Welfare administration is woefully outmoded in this country, with its 1,152 separate State and local welfare jurisdictions. Although virtually all have the same basic programs—Aid to the Blind, Aid to the Disabled, Aid to the Aged, and Aid to Families with Dependent Children—each operates with its own eligibility determination and administrative methods.

In the administrative area, especially, there is nearly an incomprehensible variety of management philosophies, operating policies and methods, and personnel arrangements. Only 20 percent of these jurisdictions have automated management techniques.

Under such conditions, it is not surprising that there are major management problems which exacerbate the skyrocketing costs and add to the growing public concern about welfare. Moreover, because of current open end financing arrangements, States and localities have what amounts to a blank check on the Federal treasury for this activity.

Thousands of dedicated people are doing their best to operate this ponderous machinery. But this system has been patched and repaired too many times. The frustration of current State program managers has resulted in very substantial support among Governors and State welfare administrators for Federal administration of the benefit payments function.

In recent months we have documented the failings of the current system, including the absence of cross-checks of records in adjacent areas, inadequate verification of income and benefits from a variety of benefit programs, and rapid turnover of personnel.

While decentralized management is highly desirable in many fields and is indeed central to my philosophy of government, I believe that many of these problems in welfare administration can best be solved by using a national automated payments system, which would produce economies and considerably increase both equity of treatment and tightened administration.

Such a unified system—partially modeled on the Social Security system—would reduce errors and provide greater controls for fraud and duplicate payments.

H.R. 1 would require each recipient to have a social security number for identification to prevent duplicate benefits and to facilitate the receiving of recipient income information from such sources as the Social Security Administration, the Internal Revenue Service, the Veterans' Administration, and other units.

National administration and standards would also ensure equitable treatment for individuals: they would no longer be subject to conflicting rules in different areas, to delays caused by back-ups, and to the confusing tangle of red tape.

Under such a system, States and counties would be freed to concentrate on social services to recipients, making use of their closer understanding of the needs of local residents.

AN INVESTMENT IN THE FUTURE

Because we want a *better* system—not just a new one—welfare reform will cost more in the early years and cover more needy people.

Against the increased initial costs of my proposals in H.R. 1, however, we must weigh the unknown future costs—both human and fiscal—if the present chaotic system, with its present soaring growth rates, is continued. The new system contained in H.R. 1 would be far less costly in the long run—both in terms of dollars and in terms of people.

Historians of the future no doubt will focus on America's 200th birthday—and the years leading up to that significant anniversary—as one important point for measuring the progress of our Republic.

They will find, of course, that over 200 years America's mastery of the industrial revolution, its bountiful economic system, its military might and its technological triumphs helped to make it preeminent in the family of nations.

They will rightfully highlight our moon landings, our deep space probes, our satellite communications, our electronic innovations, and our extraordinary gross national product.

Penetrating observers, however, will also ask other questions:

What did all of this mean to the average American?

What was the quality of the daily life and the basic spirit of all the American people in the 1970's?

How, in particular, did our great Nation provide for those citizens who—through no fault of their own—were unable from time to time to provide for themselves and their families?

I believe that the program contained in H.R. 1 will stand us in good stead when such historical evaluations are considered, for this is a program which has grown out of a fundamental concern for our least fortunate citizens.

The enactment of H.R. 1 would demonstrate both our concern for what is responsible and our concern for what is compassionate.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1972.*

VOTER REGISTRATION BILL

Mr. RONCALIO asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, today I rise to introduce a measure enabling all Americans to register for Federal elections by mail. Such elections include those for a President, a Vice President, a Senator, a Representative or a Delegate to Congress. As this measure is identical to the one which was introduced by Senator MCGEE and tabled recently in an exceedingly close vote in the other body, it might be in order to quote Senator MCGEE's own words on what the measure promises to accomplish:

The Voter Registration Bill would establish under the Bureau of the Census a system whereby voters can register to vote on Federal elections without having to go to the courthouse. The United States Postal Service will distribute postcard voter registration forms which are to be filled out and mailed to the local registration office. This registration by-mail system should go a long way toward moving barriers which keep our American citizens from the polls. It has would open the door to 11 million non-voting Americans.

Many fear that taking voter registration away from the localities would produce a high incidence of voter fraud. Nothing could be less likely. Every other major Western democracy sponsors voter registration of its citizen by the central government, and ours is the only democracy in which voter fraud is even an issue. Those who want to find the true proximate cause of such fraud would do well to shift their focus toward the local nonuniform procedures which we practice at present.

The bill I am introducing today bears most directly on the people's rights.

In democracy, citizens are only as loyal as they are free. A wide measure of freedom or of citizen participation in their own Government is voting. Thus, an orderly democracy is a meaningful one—or one which insures the widest voter participation that is possible; and that is what this bill sets out to effect.

Under present means, we are failing in that quest. In Canada, 75 percent of those eligible vote. In Great Britain, it is 80 percent; in West Germany, 85 percent; and in Australia, 95 percent. By contrast, what is our score? In 1968, only 61 percent voted in the Presidential election. Forty-seven million, who were eligible to cast their ballots, stayed away from the polls. This is distressing when one realizes only 31 million voted for the man who won.

Our democracy is not functioning. It has not always been this way. In 1876, more than 80 percent voted for President. At that time, the States had not taken over registration. As has been shown by two competent scholars, Prof. Richard Ayers of Yale Law School and Prof. William Bowen of Princeton University:

In the period from 1896 to 1924, the time when voter turnout declined almost steadily, state after state enacted registration laws which typically required registration annually and in person of all voters in the nation's large cities.

Sixty-one percent of eligible voter participation is not effective democracy. It indicates, rather, a very direct disenfranchisement of the people of this country by their local governments. The people have become alienated of rightful participation by wrongful acts of what might be loosely termed "their" local governments. As a Gallup Poll concluded in 1969:

It was not a lack of interest but rather the residency and other registration qualifications that proved to be the greatest barrier to wider voter participation in our nation.

This should no longer be the partisan issue that it recently became in the Senate. It is my hope, by introducing the same measure into the House today, to keep alive the very right of the people to guide the course of their own government.

The Casper Star-Tribune of Wyoming agrees on this, and its editorial approval follows:

POSTCARD REGISTRATION

Senator Gale McGee's postcard voter registration bill was a casualty of the Florida primary. It was defeated in the Senate 46–42, while some of its supporters were campaigning in Florida. These included Democratic presidential candidates Muskie, Humphrey and Jackson.

The Wyoming senator hopes to revive the measure by taking it to another bill, as an amendment, when the opportunity affords. Meanwhile, it may be dead for this session.

The proposal, attacked by Republicans and some influential southern Democrats, sought to provide a simple system for expanding voter registration—keeping in mind that only about half of the electorate votes at the polls in the U.S. This is a disgracefully low percentage.

A leading opponent, Democrat Senator Sam Ervin Jr. of South Carolina, declared the measure should have gone to his judiciary committee, instead of to McGee's Post Office and Civil Service Committee.

From the tenor of Senator Ervin's scathing remarks on the measure, its fate in the judiciary committee was sealed.

The southern senator asserted that if citizens do not have enough gumption to walk or drive to the nearest voter registration place and register, they would be too indifferent to vote anyway.

This does not take into account the large numbers of people in the "mobile population," moving from state to state, who are deprived of the opportunity to vote in federal elections, due to state residency requirements.

Nor does it seem fair to the poor and elderly and others who have no way to walk or drive to a county clerk's office to register.

The National Voter Registration system proposed by McGee would provide for mailing of registration postcards to all eligible citizens. The cards would be signed by individual citizens and returned to local authorities. Stiff penalties were provided for fraudulent registration.

Some opponents professed to see a sinister plot to set up a new federal bureaucracy which could control future elections.

More realistically, they may have feared a huge roundup of the "great unwashed" at election time resulting in the passage of more liberal legislation, or they may have felt massive voter registration by this simple means would favor Democrats over Republicans, numerically.

Whatever the reasons for the defeat of the McGee measure, it resulted in a fairly close vote in the senate. This suggests that it should be revived for future discussion. If the proposal has as much merit as Senator McGee proclaims, it should attract stronger support, more on the order of a 2–1 majority.

H.R. 14123

A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Voter Registration Act".

SEC. 2. (a) Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 11—NATIONAL VOTER REGISTRATION ADMINISTRATION

"Sec.
"401. Definitions.
"402. Establishment.
"403. Duties and powers.
"404. Qualifications and procedure.
"405. Registration forms.
"406. Distribution of registration forms.
"407. Prevention of fraudulent registration.
"408. Penalties.
"409. Financial assistance.
"410. Regulations.

"§ 401. Definitions

"As used in this chapter—

"(1) 'Administration' means the National Voter Registration Administration;

"(2) 'State' means each State of the United States, the political subdivisions of each State, and the District of Columbia;

"(3) 'Federal office' means the office of the President, the Vice President, a Senator, a Representative, or the Delegate to the Congress;

"(4) 'Federal election' means any primary, special, general, or other election held for the purpose of nominating or electing candidates for any Federal office, including any election held for the purpose of expressing voter preference for the nomination of individuals for election to the Office of President and Vice President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates to such a convention;

"(5) 'Stae and local election' means any election other than a Federal election; and

"(6) 'State or local official' means any individual who acts as an official or agent of a government of a State to register qualified electors, or to conduct or supervise any Federal election in a State.

"§ 402. Establishment

"(a) There is established within the Bureau of the Census, Department of Commerce, the National Voter Registration Administration.

"(b) The President shall appoint, by and with the advice and consent of the Senate, an Administrator and two Associate Administrators for terms of four years each, who may continue in office until a successor is qualified. An individual appointed to fill a vacancy shall serve the remainder of the term to which his predecessor was appointed. The Associate Administrators shall not be adherents of the same political party. The Administrator shall be the chief executive officer of the Administration.

"§ 403. Duties and powers

"The Administration shall—

"(1) establish and administer a national voter registration program for Federal elections in accordance with this chapter;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning elections in the United States;

"(3) provide assistance to State and local officials concerning the national voter registration program and election problems generally;

"(4) obtain facilities and supplies, and appoint and fix the pay of officers and employees, as may be necessary to permit the Administration to carry out its duties and powers under this chapter, and such officers and employees shall be in the competitive service under title 5, United States Code;

"(5) appoint and fix the pay of officers and employees for temporary services as authorized under subchapter II of chapter 1 of this title for temporary employees of the Bureau of the Census;

"(6) prepare and submit to the President and the Congress a report on its activities, and on voter registration and elections generally in the United States, immediately following each biennial general Federal election; and

"(7) take such other action as it deems necessary and proper to carry out its duties and powers under this chapter.

"§ 404. Qualifications and procedure

"(a) An individual who is a qualified elector under State law except as to duration of residency but who is a resident of a State on and after the thirtieth day before a Federal election, shall be entitled to register and vote in a Federal election in that State.

"(b) An individual registered to vote under the provisions of this chapter shall be entitled to vote in a Federal election.

"(c) Whenever a Federal election is held in any State, the Administration may, upon the request of any State or local official, furnish officers and employees and such other assistance as the Administration and the State or local official may agree upon to assist in the registration of individuals applying to register in that State under the provisions of this chapter.

"§ 405. Registration forms

"(a) The Administration shall prepare voter registration forms in accordance with the provisions of this section.

"(b) Printed registration forms shall be designed to provide a simple method of registering by mail to vote in Federal elections. Registration forms may be a perforated double postal card and may include the following on the first part of the postal card—

"(1) printed instructions for completing the registration form;

"(2) a printed statement of the requirements of State law for voting in Federal and State and local elections, other than the requirements of duration of residency;

"(3) space for the individual to write his name, address, and political party preference if appropriate;

"(4) a printed statement that the individual is a qualified elector under the laws of the State except as to duration of residency, and that the individual—

"(A) has been a duly qualified resident of the State for the period required by State law to be a qualified elector voting in any State or local election, or

"(B) will be a resident of the State on and after the thirtieth day before the next Federal election and an appropriate space for the individual to indicate which statement is applicable to him;

"(5) a printed statement of the penalties of law of the United States and the State for fraudulent registration to vote, and a place for the individual to sign a certification that he is a qualified elector of that State;

and may include the following on the second part of the postal card—

"(6) a printed statement that the individual is a qualified elector in the State and that his name has been placed on the list of registered electors;

"(7) a printed statement that the individual is a qualified elector in the State only

for Federal elections, and that his name has been placed on the list of registered electors for Federal elections;

"(8) a printed statement that the individual is not a qualified elector in the State and that his name has not been placed on the list of registered electors;

"(9) a space for a written explanation of the reasons why paragraph (8) of this section is applicable to the individual; and

"(10) an appropriate space for the State or local official to indicate whether paragraph (6), (7), or (8) of this part of the postal card is applicable to the individual.

"(c) Registration forms shall provide adequate space on the reverse side of the form for the writing of the name and address of the individual submitting the form for registration to vote, and the second part of the form shall be completed and promptly returned by the State or local official to the applicant at the address on the form. A returned form shall not be forwarded to another address but shall be returned to the State or local official mailing the form. The possession of such a form indicating that the individual is entitled to vote in any Federal election for which he qualifies shall be prima facie evidence that the individual is a qualified and registered elector entitled to vote in any such election but shall not be required for presentation to cast his ballot.

"(d) Registration forms may be prepared in a language other than English when the Administration deems that such a language is appropriate.

"§ 406. Distribution of registration forms

"(a) The Administration is authorized to enter into agreements with the Postal Service, with departments and agencies of the Federal Government, and with State and local officials for the distribution of registration forms in accordance with the provisions of this section.

"(b) Any agreement made between the Administration and the Postal Service shall provide for the preparation by the Administration of sufficient quantities of registration forms so that the Postal Service can deliver registration forms to each postal address in the United States and to each Armed Forces installation in the United States for the number of individuals at that address or installation who may be qualified electors and for the preparation of a reasonable quantity of such forms for public distribution at any post office, postal substation, postal contract station, or on any rural or star route.

"(c) The Postal Service shall distribute the registration forms to postal addresses and Armed Forces installations not earlier than forty-five days or later than thirty days prior to the close of registration for the next Federal election in each political jurisdiction in any State.

"(d) Whenever the Administration determines that the circumstances of a Federal election, other than a biennial general Federal election, present such difficulties of compliance with the provisions of this section as to justify an exception, it may issue such rules and regulations for the preparation and distribution of registration forms as it deems suitable, or for cooperative assistance with State and local officials.

"(e) This section shall not be construed to place any time limit up on the general availability of registration forms in post offices and appropriate Federal, State, and local government offices pursuant to agreements made under this section.

"§ 407. Prevention of fraudulent registration

"(a) Whenever a State or local official has reason to believe that individuals who are not qualified electors are attempting to register to vote under the provisions of this chapter, he may notify the Administration and request its assistance to prevent fraudulent registration. The Administration shall give such reasonable and expeditious assistance as it deems appropriate in such cases, and shall issue a report on its findings.

"(b) Whenever the Administration or a State or local official determines that there is a pattern of fraudulent registration, attempted fraudulent registration, any activity on the part of any individuals or groups of individuals to register individuals to vote who are not qualified electors, the Administration or the State or local official may notify the Attorney General, and the Attorney General may bring a civil action suit in an appropriate United States district court or the United States District Court for the District of Columbia for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate to prevent such registration.

"§ 408. Penalties

"(a) Whoever knowingly or willfully gives false information as to his name, address, residence, age, or other information for the purposes of establishing his eligibility to register or vote under this chapter, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts or offers to accept payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(b) Any person who deprives, or attempts to deprive, any other person of any right under this chapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(c) The provisions of section 1001 of title 18, United States Code, are applicable to the registration form prepared under section 405 of this chapter.

"§ 409. Financial assistance

"(a) The Administration shall determine the fair and reasonable cost of processing registration forms prescribed under this chapter, and shall pay to each appropriate State an amount equal to such cost per card multiplied by the number of registration cards processed under this chapter in that State.

"(b) The Administration is authorized to pay any State which adopts the registration form and system prescribed by this chapter as a form and system of registration to be a qualified and registered elector for State and local elections in that State. Payments made under this subsection may be made without regard to whether the State changes its requirements for duration of residency to be a qualified elector. Payments made to a State under this subsection may not exceed 15 per centum of the amount paid that State under subsection (a) of this section for the most recent general Federal election in that State.

"(c) The Administration is authorized to pay any State which adopts the registration form and system prescribed by this chapter as the form and system of registration to be a qualified and registered elector for State and local elections in that State and reduces any duration of residency requirement otherwise in effect to a period not exceeding thirty days prior to any Federal or State and local election. Payment made to a State under this subsection may not exceed 30 per centum of the amount paid to that State under subsection (a) of this section for the most recent general Federal election held in that State.

"(d) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"§ 410. Regulations

"The Administration is authorized to issue rules and regulations for the administration of this chapter."

(b) The table of chapters of title 13, United States Code, is amended by adding at the end thereof the following:

"11. National Voting Registration Administration ---------- 401"

SEC. 3. (a) Section 3202(a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof:

"(6) mail relating to voter registration pursuant to sections 405 and 406 of title 13."

(b) Section 3206 of title 39, United States Code, is amended by adding the following new subsection:

"(d) The National Voter Registration Administration shall transfer to the postal Service as postal revenues out of any appropriations made to the Administration for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (6) of section 3202(a) of this title."

(c) Section 404 of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(10) to enter into arrangements with the National Voter Registration Administration, Bureau of the Census, for the collection, delivery, and return delivery of voter registration forms."

SEC. 4. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Administrator and Associate Administrators (2), National Voter Registration Administration, Bureau of the Census."

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Amend the title so as to read: "A bill to amend title 13, United States Code, to establish a National Voter Registration Administration, and for other purposes."

COMMON MARKET BREAKS FAITH

(Mr. THOMSON of Wisconsin asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMSON of Wisconsin. Mr. Speaker, over the past few months the United States has been engaged in negotiations with the Common Market and other industrialized nations in regard to a number of outstanding trade and financial issues. One of the most serious of these has been the artificial EEC Common Agricultural Policy which discriminates against the United States and limits our legitimate agricultural exports.

In early February it appeared progress was being made on the agricultural issue. The EEC agreed to make certain modifications in CAP and discuss others at a later GATT conference. These agreements were not as extensive as I had hoped, but they appeared to be a solid foundation.

Now, however, I read with bitter disappointment a March 25 article in the Washington Post where the EEC has virtually reversed itself and again raised the import levy to American agricultural products. Not only did the EEC in effect renege on its commitment to modify CAP with an eye toward reduction of import duties, but actually increased the levy by an average of 6½ percent.

To say this EEC action is an outrage would be to understate the case. In addition to expanding their unfair and foolish agricultural policy, the Common Market has broken faith. Either should be justification for retaliatory action, but in combination the situation demands it.

If the United States cannot trust the good will and common sense of our closest allies, then who can we trust?

Mr. Speaker, at this point I would like to insert into the RECORD the Washington Post article.

[From the Washington Post, Mar. 25, 1972]

EUROPE UPS FOOD PRICES; BLOW TO U.S.

(By Richard Norton-Taylor)

BRUSSELS, March 24.—After 100 hours of tough and sometimes bitter debate, the six Common Market countries agreed early this morning on a package of increased farm prices and plans to modernize European agriculture.

The price increases will average 6½ per cent for the coming year. The agreement is a blow to American agricultural exporters, because Common Market levies on imports from the United States will rise by the same percentage.

As a group, the Common Market countries—France, Italy, Belgium, Luxembourg, the Netherlands and West Germany—are the biggest customer for U.S. farm exports. They purchased about $1.8 billion of the $7.8 billion in U.S. farm exports for the 1971 fiscal year.

American officials have argued that any increase in the import levy, along with existing tariffs and subsidies in the six countries, would keep out American products, exacerbating U.S. balance-of-trade problems.

France, with background support from Britain, persuaded her Common Market partners to hold price increases for grains to 4 per cent, except for corn, which will go up 5 per cent.

Prices for beef are likely to be increased by 8 per cent this year, as France wanted, but largely because of the impending general elections in Italy the price will not officially be announced until September. Beef prices in Italy are among the highest in the Common Market already, and Rome is more concerned with the rising costs of living than with higher prices for its farmers.

Other increases are milk, 8 per cent; sugar, 4 per cent; tobacco 2 to 8 per cent depending on type; pork, 3.1 per cent; and olive oil, 5 per cent.

The weary agriculture ministers of the six countries also reached half-hearted agreement on a series of measures designed to modernize agricultural holdings.

Over the next five years, $800 million from the common farm fund will be spent on special pensions to encourage elderly farmers to leave the land and to stimulate farm development through cheap investment loans.

Much of this money will go to Italy, some to France. But there is a long way to go. For example, more than half of all French farmers are over 55 years old, and over 75 per cent of all the dairy farmers in the six countries own fewer than five cows each.

The reform plan is the brainchild of Sicco Mansholt, president of the Common Market Commission, who told a press conference that 2.5 million farmers could benefit from it.

The extreme political sensitivity of the farm issue in the Common Market has never been more clearly demonstrated than it was this week.

French insistence that Germany agree to a fixed deadline for the abolition of border taxes on farm products, for example, led Josef Ertl, the West German representative to the talks, to make a quick trip home to Bonn to seek personal support of Chancellor Willy Brandt.

The taxes were introduced last year to protect German farmers from a loss of income from the upward revaluation of the mark.

The Common Market's guaranteed prices for farmers are fixed in gold-based "units of account," rather than in any one national currency. With reevaluation of the mark, there are fewer marks for each "unit of account." The border tax system insures that foreign products do not have an unfair advantage in Germany.

France is anxious to patch up the cracks in the integrated farm market caused by international monetary upheavals. Paris has always laid great store by the protectionist common agricultural policy and remains suspicious of Britain's intentions toward that policy when the community is enlarged next year.

At the same time, France was pressing here for the eight per cent increase in beef prices, over the objections of some of the other countries.

After a cabinet meeting Wednesday morning, French agricultural minister Michael Cointat agreed to shelve the border tax issue. The price increases were agreed on two days later.

PAUL DOUGLAS—REFORMER AT 80

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, a deserving tribute has been paid to the Honorable Paul Douglas, former Senator from the State of Illinois, in an article which appeared in the Washington Post and the Chicago Sun-Times on Sunday, March 26, 1972. As one who has known Paul Douglas since he first entered upon the national scene and who was acquainted with his work prior to his becoming a United States Senator, I was more than pleased to see this recognition of his great career.

I had the honor and pleasure to serve in the U.S. House of Representatives with Emily Taft Douglas and I was happy to find in the article recognition of her contribution in support of Paul Douglas' many accomplishments throughout his political service. The article, itself, recounts the many achievements of the former Illinois Senator beginning with his interest in social legislation in the early years of the Roosevelt administration and prior to his own service in the Senate. He was an architect of the original social security legislation.

I hope every Member will have an opportunity to read this brief summary of Paul Douglas' public life and of his work in the legislative field—always in the interest of the people of his country. As the article states, he was a leader in the development stages of legislation touching the lives of every American—social security, tax reform, truth in lending, aid to education, area redevelopment, housing, minimum wage, and civil rights and liberties.

The article follows:

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes that fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that came to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University, and then perhaps a sentimental journey back to the Indiana Dunes county, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of everyday politics as a city alderman from Chicago's South Side and specialized in problems of garbage collection.

It is the story of the 50-year-old patriot who, defeated in his first run for the Senate, enlisted the next day as a Marine private, won the bronze star and two purple hearts in landings in Okinawa and Peleliu and was left with a withered left arm from his war wounds. It is the story of the Democratic senator from Illinois, elected on his second try in 1948, who became the liberal goad of the Senate, always in the forefront

of the fight for social advances in the crucial years of the 1950s and 1960s.

And it also will be the story of Paul and Emily Douglas, two people who share deep affection for each other and politics.

"I was the only man who ever succeeded my wife in Congress," Sen. Douglas likes to point out.

"Paul, why don't you say I was the only woman who ever preceded her husband in Congress. It's women's lib these days," Mrs. Douglas corrected her husband the other day.

Emily Taft Douglas, a former actress, served as congresswoman-at-large from Illinois with the same constituency her husband was to represent when he was elected senator in 1948.

Rugged, slouch-shouldered and bespectacled, the economics professor came to Washington and soon plunged into the midst of the early battles for social and reform legislation that came out of Congress in the following two decades. But he was too much of a marverick ever to become part of the Senate's inner circle. Douglas has a dramatic flair, which he employed effectively to focus attention on the causes he was championing.

There was a time that he wanted to take a hatchet and scalpel on the Senate floor to demonstrate the difference between hacking and surgically pruning a budget.

"His staff talked him out of that one," recalls Howard Shuman, who was the senator's administrative aide for 14 years and now holds the same post with Sen. William Proxmire (D-Wis.).

"But he did go on the floor with a huge magnifying glass once. The public works bill was up for vote, and projects are sacrosanct to senators. Anyways, the senator came into the chamber carrying a magnifying glass and a large map. It seems there was a river—in New England, I think—mentioned for an appropriation and the senator couldn't find it on the map."

Shuman remembers Douglas as "an absolutely honest man," even to avoiding the phone calls that can swamp a senator's time.

"When he couldn't take a phone call, before he would have his secretary say he was out of the office, he would open the door and step out into the hall. I've seen him do it numerous times."

Once William McChesney Martin, disturbed over remarks attributed to Douglas in criticism of Martin's fiscal policies, came up to the Hill to check with the senator personally.

The senator told him: "I honestly don't remember saying that. But I've thought it a number of times so I suppose I could have said it."

But the senatorial career of Paul Douglas has more substance than a collection of lively anecdotes. It is a career threaded with landmark legislation on the big issues that the nation faced in the 1950s and 1960s. Perhaps the most dramatic was the long fight for civil rights, crowned by the sweeping Civil Rights Act of 1964.

"As for 1964, that was done years earlier—that was done in the hard years when we could get only 20 votes or so," Douglas points out. "What was heresy then, the nation has accepted intellectually at least. Now remains the pain of working it out."

Despite the acrimonious legislative fights and his lonely crusades, Paul Douglas does not look back in anger or bitterness today.

"If he was righteous in causes, he was never self-righteous about people," Shuman says.

And the senator still has the buoying hope that sustains reformers.

"Well, I'm not a pessimist," he said the other day. "It's a great source of relief in bowing out of politics to see new men and good people coming up."

In the Senate, he points to such men as Proxmire, Alan Cranston of California, Adlai Stevenson III (whose father ran for governor of Illinois on the same ticket with Douglas), Walter Mondale of Minnesota. And Douglas always remembers Sen. Hubert H. Humphrey, who fought by his side in many of the old battles.

Among the governors, Douglas singles out Florida's Reubin Askew and Ohio's John J. Gilligan as "absolutely fine men."

Douglas also sees promise in the young people. "We had a bad convention in 1968. But I see healthy signs with the younger people working in politics, social causes, environment."

If some of the Douglas causes have come in the fullness of time, there are those still being fought: cloture in the Senate, the family allowance (Douglas proposed this idea as a young economist in 1925), pollution, consumer protection, the vanishing wilderness of areas like the Indiana Dunes, disclosure of campaign financing, tax reforms.

When he talks of tax loopholes today, there are flashes of the old Douglas indignation.

"I think they say we—Lister Hill of Alabama was with me—have saved the nation $4 billion up to now in blocking a clause that would have allowed offshore drilling in the open ocean to take oil," the senator points out.

In 1967, at 75, when he was no longer a senator but a private citizen, Douglas journeyed to Colorado to inspect the oil shale deposits there.

The year before, defeated in his try for a fourth term in the Senate, Douglas had made a graceful exit, giving a final accounting of his assets and income and thanking the voters who had kept him in office 18 years. It took two farewell parties for all his friends and admirers to pay tribute.

In that race, Douglas campaigned with his usual vigor. But there was his age—he was 74 and his challenger, Charles H. Percy, was 47, with the attractive face of new Republican liberalism. There was the race backlash. And there was the deteriorating war in Vietnam, in which Douglas had been a firm supporter of the Johnson administration.

A pacifist in World War I from his Quaker upbringing, Douglas had gone to Europe in the 1930s and was in Italy when Mussolini sent his legions into Ethiopia. He warned of appeasement of Hitler. During World War II, he was an enlistee in the Marine Corps, accepting a commission only to get into battle when he saw they were not going to send 50-year-old riflemen overseas for combat.

He still believes in collective security, of "keeping our guard up while exploring the possibilities for peace."

After his 1964 defeat, Douglas went back to work in a double harness. He returned to teaching and served as head of the National Commission on Urban Problems, making a study at the time the incendiary cities were flaring up in riots and racial turmoil.

Soon after the Commission on Urban Problems made its report, the stroke hit the senator's right side. His recovery was complicated by his war-disabled left arm and a fall abetted by a football knee (Douglas played center on the Bowdoin College team while winning a Phi Beta Kappa key).

In 1969, he returned a $5,000 check that went with an AFL–CIO award. While in the Senate, Douglas had set a $2,50 limit on the value of any gifts he would accept, and he is a man who holds firm to a principle.

If the "18 most stimulating years of my life" were spent in the Senate, Douglas also had several decades of achievement before he entered the Senate at 56.

As a distinguished economist, his applied work on the theory of wages and production is one of the bedrocks of contemporary economic analysis. The Cobb-Douglas Function—a mathematical formula set forth in the 1920s—is discussed at length in the recent Nobel Prize-winning work of Prof. Paul A. Samuelson.

"I once was an economist," the senator says now with a rueful smile. "They are now feeding information into the computers at Brookings Institution and coming out with figures to support the formula."

Born in Salem, Maine, March 26, 1892—the New England twang has been leveled a bit by the Midwest plains—Douglas remembers when mill workers in Newport, Maine, were told not to vote for Bryant and the factory whistles sounded for 24 hours when McKinley was elected.

"And I grew up feeling it was . . . well, improper," he once told an interviewer.

He was a friend of Jane Addams and Clarence Darrow. He helped organize the steel workers. Even before entering politics as a Chicago city alderman in 1939, he was one of the earliest advocates of old-age pensions and unemployment insurance in the 1920s and 1930s, working with then New York Gov. Franklin D. Roosevelt and Pennsylvania Gov. Gifford Pinchot.

Now, the autobiography finished, there will be two labors of love for the 80-year-old economist and former senator.

First, another look at the theory of wages and productivity as a statistical study. Then a study of the last days, the winter years of genius, in the lives of Beethoven, Shakespeare, Michelangelo, and Titian.

"A fine subject for a crippled politician," Douglas observes.

It will be a fine subject for the senator who brought a graceful touch of erudition and scholarship to the Senate. In Douglas' former office, Suite 109 in the Old Senate Office Building, photographs of five politicians never were hung. Instead, there were studies of Michelangelo's majestic, brooding figures for the tombs of the Medici and Titian reproductions.

As a campaigner, Douglas was known to quote John Stuart Mill or "Spoon River Anthology" poetry to voters at the factory gate.

The other day, on the eve of her husband's 80th birthday, Emily Taft Douglas looked fondly, but objectively, at her husband and said:

"He's a much handsomer man than the man I married. He doesn't wear glasses any more. They say we make our own faces. It is a good man that makes a good face."

WATER POLLUTION CONTROL BILL

(Mr. KEMP asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KEMP. Mr. Speaker, first I would like to commend the distinguished chairman of the Committee on Public Works, and the committee members and staff for the amount of time and effort which they have expended in order to bring this bill before us today.

I believe that H.R. 11896 contains a number of excellent provisions. I especially refer to provisions concerning the conduct of antipollution research and related programs and provisions concerning the construction of municipal waste treatment systems.

The House bill, like the Senate bill, changes the Federal antipollution effort from the water quality standards approach to a program of effluent limitations to control water pollution at the source. I heartily agree with this landmark change in philosophy and I believe that the water pollution control legislation which will emerge from this Congress will mark the turning point in our battle for clean waters.

I feel we can point with pride to the efforts of the House Public Works Committee and look forward to additional legislation which will continue the progress. In fact, rather than try to amend the bill at this time, I feel the three amendments that I had considered are deserving of special attention as separate bills at a later date.

I will outline those three areas today in an extension of remarks.

Mr. Speaker, soon I will introduce legislation which would add $100 million to the already proposed $20 million sighted for Great Lakes projects. I will propose the bill to bring the appropriations for the Great Lakes up to the estimated cost for their proposed program.

The Environmental Protection Agency has been pursuing a vigorous environmental program for the Great Lakes. They feel that a proposed special program will further accelerate their present effort. At this point I would like to enter in the RECORD a letter from the Administrator Bill Ruckelshaus describing their present activity on the Great Lakes:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 15, 1972.

Hon. JACK KEMP,
House of Representatives,
Washington, D.C.

DEAR JACK: Thank you very much for your letter about the Great Lakes. You are absolutely right that attendance to the problems of water quality evident in the area, and especially those in Lake Erie, is a mater of very great urgency.

We believe that it is also one of high priority in EPA's programs. EPA is already pursuing a vigorous action program for the Great Lakes, within the context of its normal program authorities. The special program proposed by EPA would further accelerate this already active effort, by providing a program that required approaches beyond those included under existing water pollution legislation. However, the Congress right now is considering extension of the existing Federal water pollution control legislation. There are a number of unresolved issues as to the form of that legislation, and the future nature of the national water pollution program. The decision has been made that until the legislation is resolved, it would be premature to launch a separate Great Lakes program which might require approaches different from those which will be provided under general legislation.

Present efforts include:

1. Regulatory activity

(a) Regional personnel are aggressively pursing compliance with existing municipal and industrial implementation schedules.

A number of 180-day notices have been issued (e.g., Hammond, Whiting, Cleveland) and others are under consideration.

Region V recently made public reports on the status of compliance with implementation schedules on Lake Michigan. These reports showed increased lags and we are now discussing with the States plans for taking action against delinquent polluters.

(b) At EPA's request, the Justice Department has filed suit against Reserve Mining.

(c) Field investigations and inspections necessary for establishment of permits are proceeding for major industrial polluters. We are moving ahead with the development of permit conditions and are not allowing recent court decisions to delay our work up to the point of actually granting permits.

2. Research

(a) We began our Great Lakes research activity at Grosse Ile in the summer of 1971. This year we will be expanding the effort—OMB added $4 million in FY 73 budget.

(b) We will be participating in the International Field Year on Lake Ontario—a joint study with the Canadians.

3. U.S.-Canada agreement

(a) Negotiations are progressing and we expect to complete the agreement within the next several months. We expect to be able to meet the far-reaching commitments in this Agreement—for example, a joint program to achieve major reduction over the next few years.

(b) We are providing funding in FY 73 to support the International Joint Commission in studies to develop joint U.S.-Canada action programs for the Upper Lakes and for abating agricultural pollution.

4. Funding

(a) We provided special construction grant funds to Detroit ($39 million) to help it accelerate its sewage treatment programs.

5. Other

(a) Work with the Corps of Engineers in development of programs to terminate disposal of polluted dredge spoil is proceeding.

(b) Our Oil and Hazardous Spills Program is geared up, and we are capable of working with the Coast Guard and Canada on any emergency spills.

These are examples of some of the kinds of activity that we are pursuing in the Great Lakes. We will be continuing to give this area high priority. I welcome your interest. Please let me know if you have additional questions.

Best personal wishes,

Sincerely,
WILLIAM D. RUCKELSHAUS,
Administrator.

Mr. Speaker, the EPA had originally asked the Office of Management and Budget for $141 million for the program but was rejected. They have since reevaluated their program and it is my understanding the new figure will be $118 million to $120 million. If we are going to authorize any money for this let us provide adequate funding or nothing at all. It is my feeling that I will have the details soon, which will provide a comprehensive plan for cleaning up the Great Lakes. EPA will need the full authorization—$120 million—so they can attack the problem before it is too late.

Different chemicals from sewage and industrial and agricultural sources are causing major difficulties. Phosphates, coming from all three sources, are causing rapid growth of algae causing huge algae blooms as is the case of Lake Erie. These algae blooms use up much of the dissolved oxygen leaving little for other aquatic life. This has affected greatly the sport and commercial fishing of the lakes.

Pesticide runoff has added numerous other compounds similar to DDT in chemical structure which are as poisonous and have the same residual properties as DDT to the lake waters. These chemicals, including DDT, have caused buildups in fish, making them unfit for human consumption.

Thermal pollution is a growing concern on the Great Lakes as can be seen on Lake Michigan.

To dramatize this problem, I include a recent decision of the New York Supreme Court:

STATE OF NEW YORK SUPREME COURT,
ALBANY COUNTY

In the matter of the application of Richard D. deRham, as Treasurer of Scenic Hudson Preservation Conference, the Sierra Club and its Atlantic Chapter, the Hudson River Fishermen's Association, Inc., the city of New York, Town of Poughkeepsie, and Robert H. Boyle, Theresa M. Rotola, Eliot D. Hawkins, Helen Lee Sherwood, Raymond E. Bell and David Sive, individually and as members of Scenic Hudson Preservation Conference, petitioners, for a judgment pursuant to article 78 of the civil practice law and rules against Henry L. Diamond, as State Commissioner of Environmental Conservation, Respondent, and Consolidated Edison Company of New York, Inc., and town of Cornwall, Intervenors.

(Supreme Court, Albany County Special Term, February 11, 1972.)

(Justice De Forest C. Pitt, Presiding)

Appearances: Louis J. Lefkowitz, Attorney General, State of New York, Attorney for Respondent, Henry L. Diamond, State Commissioner of Environmental Conservation.

Berle & Butzel, Esqs., Attorneys for Petitioners, Richard D. deRham as Treasurer of Scenic Hudson Preservation Conference, Theresa M. Rotola, Eliot D. Hawkins, Robert H. Boyle, Helen Lee Sherwood, Raymond E. Bell and David Sive, and the town of Poughkeepsie.

Winer, Neuburger & Sive, Esqs., Attorneys for Petitioner, the Sierra Club and its Atlantic Chapter

J. Lee Rankin, Esq., corporation counsel of the City of New York, Attorney for Petitioner, the City of New York.

LeBoeuf, Lamb, Leiby & MacRae, Esqs., attorneys for inventenors, Consolidated Edison Company of New York, Inc.

Spear & Hill, Esqs., attorneys for petitioner, the Hudson River Fishermen's Association, Inc.

Rider, Weiner & Loeb, Esqs., attorneys for intervenor, Town of Cornwall.

MEMORANDUM

Pitt, J.

Consolidated Edison Company of New York Inc., sought a Federal license for the construction and operation of facilities known as the Cornwall Project to be constructed on the west bank of the Hudson River in the Village and Towns of Cornwall and Highlands in Orange County, New York. The project is described as a pumped storage hydroelectric generating facility. The purpose of the project is stated to be to supply electricity to the Metropolitan New York Region and the New York Power Pool during periods of peaked demand and during periods of emergency. In its operation the facility, to be the largest in the world, would pump water from the Hudson River at night and on weekends to a storage reservoir and then discharge the water back into the River when generating electricity.

Section 21(b) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1171(b)) provides that an applicant for a federal license to construct or operate facilities which will result in discharge into navigable waters shall provide the licensing agency (The Federal Power Commission in this instance) with a certification from the State that there is "reasonable assurance • • • that such activity will be conducted in a manner which will not violate applicable water qualities standards." The noted section continues, "Such State • • • shall establish procedures for public notice in the case of all applications for certification by it and to the extent it deems appropriate procedures for public hearings in connection with the specific applications. • • • No license • • • shall be granted until the certification required by this section has been obtained or has been waived • • •. No license • • • shall be granted if certification has been denied by the State • • •."

Thus, reserved to the State by this Federal legislation is the opportunity to consider water qualities standards of the navigable water within its boundaries. This opportunity became an obligation of the Respondent, Commissioner, under Section 15 (10) (13) of the Environmental Conservation Law and Section 1210 of the Public Health Law. Pursuant to these sections the Commissioner gave notice of the application pending before him as well as an opportunity for objections to the same to be filed. Apparently, finding that a public hearing was necessary to assist him in his determination the Commissioner, pursuant to discretionary authority contained in Rules and Regulations promulgated by him, ordered that a public hearing be held. (6 NYCRR 611.16 [b] [1] [i] [ii] and [2].)

The issues before this Court narrow to a consideration of what questions were to be properly considered by the Respondent, Commissioner, in determining the application before him, and whether or not he erred in granting the noted certificate.

Casting aside certain aesthetic considerations urged by the petitioners the Court finds that properly before the Commissioner were questions of salt water contamination, potential damage to the Catskill Aqueduct, thermal pollution of the waters of the Hudson, as well as the effect of the project upon the fish population of the Hudson and of certain salt water species which spawn in its waters. It is to this Court's mind of no moment that some of these questions may well have been considered at the federal licensing level. These questions clearly concern water quality standards. The Commissioner was then obligated to examine into these questions to determine whether or not the proposed project would in any manner violate existing water quality control standards. He is called upon by statute to certify that there is reasonable assurance that the project would not violate such standards.

It is urged that the Commissioner acted in excess of his jurisdiction and in violation of law. This argument is sound. The report of the Commissioner's Hearing Officer noted that there exists a complete absence of studies concerning salt water contamination. It admitted, also, a lack of assurance that the waters would not be thermally polluted. It recognized that the fish would be killed. The aqueduct problem received no consideration. In short the report to the Commissioner and the Commissioner's determination itself reflected a lack of the "reasonable assurance" that he was thereafter to certify existed. Indeed, and notwithstanding the fact that the noted § 21(b) called for the present existence of reasonable assurance, the Respondent, Commissioner, attempted to provide for the future assurance of the same. This was done by attaching to his certification conditions. In effect these conditions would require Consolidated Edison immediately to terminate the operation of its project upon evidence of "violations or contravention of the water qualities standards assigned to the Hudson River," and specifically noted as areas of concern thermal pollution and salt water intrusion. The monitoring of the project to assure that these conditions were fulfilled was delegated to Consolidated Edison.

It is argued that this delegation of authority by a public agency to a private entity is unlawful. It is also urged that in operation the conditions are impractical to the point of being ridiculous in the light of human experience. Consolidated Edison is by these conditions called upon to police itself and if it finds itself violative of the Commissioner's conditions to abandon immediately its multi-million dollar project. This Court hearing no sound contrary argument and failing to imagine any concludes the conditions to be meaningless in law and in fact.

Certainly, the conditions reflect the lack of the existence of present reasonable assurance. What factual presentation would constitute reasonable assurance may and must be left to the sound determination of the Commissioner. But, this state of assurance must be founded upon something factual. The Commissioner has effectively demonstrated that he did not possess this assurance at the time he issued his certificate. His act, therefore, was in excess of his authority and in violation of law.

The above renders unnecessary specific treatment of other issues and of the Objections in Point of Law seeking dismissal.

Submit accordingly.

Mr. Speaker, the second bill which I will reintroduce and will ask for cosponsors, is H.R. 10800, legislation which deals specifically with subsurface waste disposal. This includes the injection into subsurface strata of sewage or any material used in, or resulting from, any process of industry, manufacture, trade, business, or agriculture.

Although we are all familiar with the urgent need to preserve and restore our surface waters, the environmental protection of ground water and the subsurface environment has almost entirely been overlooked.

Mr. Speaker, my bill is so comprehensive that it would have involved about 50 amendments to the bill we have up today. Therefore, I feel it should be considered as a separate act. The bill I will reintroduce follows:

H.R. 10800

A bill to regulate the disposition of wastes by surface injection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Subsurface Waste Disposal Control Act".

SEC. 2. For the purposes of this Act—

(1) the term "subsurface waste disposal" means the injection into subsurface strata of sewage or any material used in, or resulting from, any process of industry, manufacture, trade, business, or agriculture;

(2) the term "Administrator" means the Administrator of the Environmental Protection Agency; and

(3) the term "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, and all lands within the jurisdiction of the United States for any purpose.

SEC. 3. The Congress hereby declares it is the policy of the United States that there shall be no subsurface injection of wastes in the United States except in accordance with the provisions of this Act.

SEC. 4. The Administrator shall have exclusive authority for determining (1) those subsurface areas and stratigraphic zones which are suitable for subsurface disposal or storage of wastes, (2) those wastes (including sewage) which are suitable for subsurface disposal, and (3) criteria for the construction and operation of wells for the disposal or storage of such wastes.

SEC. 5. In carrying out his authority under this Act, the Administrator is authorized—

(1) to regulate the construction and casing of injection wells so that wastes are excluded, completely and permanently, from the zone between the land surface and the zone into which they are released;

(2) to promulgate and enforce safe injection pressures and rates of injection, which shall vary as hydrodynamic conditions may require;

(3) to prescribe an aggregate volume of waste permitted to be injected into a particular area or zone;

(4) to require any waste to be treated before injection, as may be necessary to render it chemically compatible or stable;

(5) to prohibit injection of chemically incompatible or excessively noxious wastes;

(6) to declare any area or zone to be unsuitable for injection, permanently or temporarily, as may be necessary to achieve or maintain suitable hydrodynamic and geochemical balances;

(7) to reserve, as warranted, any particular area or zone for a declared resource-management purpose;

(8) to preserve the integrity of the confining layer above any designated area or zone, by requiring that all wells or other openings penetrating that layer for any purpose be adequately cased, and plugged when abandoned;

(9) to conduct a continuing search for alternative and economically competitive methods of waste handling, to the end of minimizing encroachment on the land surface environment while prolonging capacity for injection underground; and

(10) to provide specific exemptions for the injection of materials into an oil production zone for the purpose of stimulating oil production, or for the injection of oilfield brines into the porous zone from which they were produced or a deeper zone containing brine with a similar or higher concentration of dissolved solids.

SEC. 6. (a) The Administrator shall develop, promulgate, and revise, as may be appropriate, such standards and regulations as may be necessary to carry out this Act.

(b) Notwithstanding any other provision of law, this Act, and the standards and regulations issued under this Act, shall be applicable to all departments, agencies, and instrumentalities of the United States.

(c) Sections 551 through 559, inclusive, and 701 through 706, inclusive, of title 5, United States Code, shall apply to standards and regulations issued under this section.

(d) The district courts of the United States shall have jurisdiction to restrain violations of standards and regulations issued under this Act. Actions to restrain such violations shall be brought by, and in the name of, the United States. In the case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Any person who violates a standard or regulation issued under this section shall be liable to a civil penalty in an amount not to exceed $10,000. The Administrator may assess and compromise any such penalty but no such penalty shall be assessed until the person charged shall have been given notice and opportunity for hearing on the charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notice, shall be considered by the Administrator.

SEC. 7. (a) Except as provided in subsection (b), no State or political subdivision thereof may adopt or attempt to enforce any law, ordinance, rule, regulation, or standard respecting the subsurface disposal or storage of wastes, on or after the date of the enactment of this Act, unless such law, ordinance, rule, regulation, or standard is specifically approved by the Administrator as meeting the requirements of (and as being consistent with) this Act and the regulations and standards issued under this Act.

(b) If the Administration determines that any State or political subdivision has and is enforcing a program which regulates the disposition of wastes by subsurface injection and which substantially meets all of the requirements of this Act and the regulations and standards issued under this Act, he may publish such determination in the Federal Register; and the provisions of this Act shall not apply with respect to the subsurface disposition of wastes within such State or political subdivision, from and after a date specified in the determination as published, so long as such determination is in effect and has not been revoked by a subsequent finding that the program of such State or political subdivision no longer meets such requirements, regulations, and standards. Any such subsequent finding, which shall be made only after reasonable notice and opportunity for hearing to the State or political subdivision involved, shall be published in the Federal Register and shall be effective from and after a date (no earlier than thirty days after the date of publication) which shall be specified in the finding as published.

(c) On and after the date of enactment of this Act, any license, permit, or authorization issued by any officer or employee of the United States under authority of any other provision of law shall be terminated and be of no effect whatsoever to the extent that such license, permit, or authorization authorizes any activity to which this Act applies.

SEC. 8. (a) As soon as practicable, the Administrator shall determine the number and extent of injection wells in operation on the date of the enactment of this Act. The Administrator shall determine with respect to each such well whether the disposal or storage of wastes from such well is in accordance with this Act and, in each case which is not so in accordance with this Act, shall terminate such disposal or storage.

(b) In the case of any injection well the disposal or storage of wastes from which is terminated under subsection (a) of this section, the United States shall pay just compensation to the owner of the property involved.

Mr. Speaker, I had also planned to introduce a third amendment today—providing for an additional $1 billion authorization for reimbursement. The original estimated reimbursement owed to the State of New York for prefinanced projects was $877 million. But now we find due to inflated costs, the amount owed New York is $1.3 billion.

This situation I am sure exists in all 50 States. The integrity of the Federal Government is at stake—and equity demands that we honor our previous agreements with the States.

The 1972 Costs of Clean Water Report from the EPA, I am told, takes into consideration the inflated costs of reimbursement for all of the States, but the report is being held up in the Office of Management and Budget. This report might very well show that the additional authorization should be more than $1 billion and therefore, in order to be accurate and responsible, I will hold my amendment until I know the exact costs involved.

I know that Senator BUCKLEY, a member of the Senate Public Works Committee, will support an increase in this area. I hope the report is released prior to the conference and I hope the very able and distinguished junior Senator from New York (Mr. BUCKLEY) will be a conferee.

Mr. Speaker, I will urge the OMB to release this report promptly, but if the details are made public subsequent to enactment of the legislation before, I will certainly introduce a separate and third bill to provide for adequate funds in order that the Federal Government might fulfill its commitments.

A TRIBUTE TO SENATOR PAUL H. DOUGLAS ON HIS 80TH BIRTHDAY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I rise to pay tribute to one of the noblest figures ever to serve in American public life—the Honorable Paul H. Douglas, U.S. Senator from Illinois from 1948 to 1964.

Yesterday, March 26, 1972, marked the 80th birthday of Senator Douglas and it is therefore fitting that we extend recognition to this extraordinary man.

A distinguished economist for years before he entered the Senate, in 1929, while a professor of economics at the University of Chicago, Mr. Douglas began an investigation of the dealings of Samuel Insull and the inquiry showed how Insull was trying to cheat the people of Chicago.

Paul Douglas championed old-age insurance and unemployment compensation long before the Federal Government adopted these measures, now widely accepted as fundamental in a civilized society.

Early in his public life, Paul Douglas demonstrated the political independence that came to characterize him in the Senate, for on his election as an alderman to the Chicago City Council, he fought to expose graft and waste in municipal government.

In World War II, Paul Douglas entered the Marines at the age of 50, fought at Peleliu and Okinawa, was wounded in both actions, and received the Bronze Star.

Mr. Speaker, once in the Senate, Paul Douglas became a vigorous and articulate advocate of measures to cope with high and persistent unemployment, to establish the Indiana Dunes Lakeshore, to reform the tax structure, to protect welfare and pension funds, expand trade, reduce unnecessary public works expenditures, insure civil rights for all Americans—to cite only a few of the major areas of his concern and activity.

Senator Douglas' wife, Emily Taft Douglas, a lovely and highly talented person, is herself a former Member of the House of Representatives.

If, Mr. Speaker, I may be permitted a personal recollection, after I first ran for Congress in 1954, and lost, I came to Washington to work for a time on the staff of the late Senator Pat McNamara, of Michigan and, later, on the staff of my friend and colleague, Congressman THOMAS L. ASHLEY, of Ohio. It was during that period of time that I became acquainted with Senator Douglas

The Senator was extremely kind to me and you can imagine, Mr. Speaker, how touched I was when Senator Douglas telephoned me after I had decided to run for Congress a second time, in 1956, to ask if he could come to my district in Indiana to campaign on my behalf.

The Senator did so, tirelessly, for an entire day, on farms, in small towns, in cities, and in my 18 years of campaigning for Congress, that day remains one of my most memorable experiences. Moreover, Senator Douglas came back a second time to Indiana to campaign for me in a subsequent election.

That so distinguished and senior and busy a U.S. Senator should have taken the time—and the initiative—to help a young man starting out in politics is something for which I shall always be deeply grateful to this remarkable man.

Paul Douglas, Mr. Speaker, has come to represent to all those who know him an extraordiary combination of keen intelligence, total integrity, and the deepest dedication to our country and to his fellow human beings.

At a time, Mr. Speaker, when many demean the profession of politics, the name of Paul Douglas continues to inspire those who have chosen a career in public service.

So, Mr. Speaker, as Senator Douglas observes his 80th birthday, he will, I hope, know that he has the warmest regards and best wishes of his friends in the House of Representatives.

Mr. Speaker, at this point in the RECORD, I include an article by Jean M. White from the Washington Post of March 26, 1972, entitled "Paul Douglas: Reformer at 80":

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes that fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that came to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University, and then perhaps a sentimental journey back to the Indiana Dunes country, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in a longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of everyday politics as a city alderman from Chicago's South Side and specialized in problems of garbage collection.

It is the story of the 50-year-old patriot who, defeated in his first run for the Senate, enlisted the next day as a Marine private, won the bronze star and two purple hearts in landings in Okinawa and Peleliu and was left with a withered left arm from his war wounds. It is the story of the Democratic senator from Illinois, elected on his second try in 1948, who became the liberal goad of the Senate, always in the forefront of the fight for social advances in the crucial years of the 1950s and 1960s.

And it also will be the story of Paul and Emily Douglas, two people who share deep affection for each other and politics.

"I was the only man who ever succeeded my wife in Congress, Sen. Douglas likes to point out.

"Paul, why don't you say I was the only woman who ever preceded her husband in Congress. It's women's lib these days," Mrs. Douglas corrected her husband the other day.

Emily Taft Douglas, a former actress, served as congresswoman-at-large from Illinois with the same constituency her husband was to represent when he was elected senator in 1948.

Rugged, slouch-shouldered and bespectacled, the economics professor came to Washington and soon plunged into the midst of the early battles for social and reform legislation that came out of Congress in the following two decades. But he was too much of a maverick ever to become part of the Senate's inner circle. Douglas has a dramatic flair, which he employed effectively to focus attention on the causes he was championing.

There was a time that he wanted to take a hatchet and scalpel on the Senate floor to demonstrate the difference between hacking and surgically pruning a budget.

"His staff talked him out of that one," recalls Howard Shuman, who was the senator's administrative aide for 14 years and now holds the same post with Sen. William Proxmire (D-Wis.).

"But he did go on the floor with a huge magnifying glass once. The public works bill was up for vote, and projects are sacrosanct to senators. Anyways, the senator came into the chamber carrying a magnifying glass and a large map. It seems there was a river—in New England, I think—mentioned for an appropriation and the senator couldn't find it on the map."

Shuman remembers Douglas as "an absolutely honest man," even to avoiding the phone calls that can swamp a senator's time.

"When he couldn't take a phone call, before he would have his secretary say he was out of the office, he would open the door and step out into the hall. I've seen him do it numerous times."

Once William McChesney Martin, disturbed over remarks attributed to Douglas in criticism of Martin's fiscal policies, came up to the Hill to check with the senator personally.

The senator told him: "I honestly don't remember saying that. But I've thought it a number of times so I suppose I could have said it."

But the senatorial career of Paul Douglas has more substance than a collection of lively anecdotes. It is a career threaded with landmark legislation on the big issues that the nation faced in the 1950s and 1960s. Perhaps the most dramatic was the long fight for civil rights, crowned by the sweeping Civil Rights Act of 1964.

"As for 1964, that was done years earlier—that was done in the hard years when we could get only 20 votes or so," Douglas points out. "What was heresy then, the nation has accepted, intellectually at least. Now remains the pain of working it out."

Despite the acrimonious legislative fights and his lonely crusades, Paul Douglas does not look back in anger or bitterness today.

"If he was righteous in causes, he was never self-righteous about people," Shuman says.

And the senator still has the buoying hope that sustains reformers.

"Well, I'm not a pessimist," he said the other day. "It's a great source of relief in bowing out of politics to see new men and good people coming up."

In the Senate, he points to such men as Proxmire, Alan Cranston of California, Adlai Stevenson III (whose father ran for governor of Illinois on the same ticket with Douglas), Walter Mondale of Minnesota. And Douglas always remembers Sen. Hubert H. Humphrey, who fought by his side in many of the old battles.

Among the governors, Douglas singles out Florida's Reubin Askew and Ohio's John J. Gilligan as "absolutely fine men."

Douglas also sees promise in the young people. "We had a bad convention in 1968. But I see healthy signs with the younger people working in politics, social causes, environment."

If some of the Douglas causes have come in the fullness of time, there are those still being fought: cloture in the Senate, the family allowance (Douglas proposed this idea as a young economist in 1925), pollution, consumer protection, the vanishing wilderness of areas like the Indiana Dunes, disclosure of campaign financing, tax reforms.

When he talks of tax loopholes today, there are flashes of the old Douglas indignation.

"I think they say we—Lister Hill of Alabama was with me—have saved the nation $4 billion up to now in blocking a clause that would have allowed offshore drilling in the open ocean to take oil," the senator points out.

In 1967, at 75, when he was no longer a senator but a private citizen, Douglas journeyed to Colorado to inspect the oil shale deposits there.

The year before, defeated in his try for a fourth term in the Senate, Douglas had made a graceful exit, giving a final accounting of his assets and income and thanking the voters who had kept him in office 18 years. It took two farewell parties for all his friends and admirers to pay tribute.

In that race, Douglas campaigned with his usual vigor. But there was his age—he was 74 and his challenger, Charles H. Percy, was 47, with the attractive face of new Republican liberalism. There was the race backlash. And there was the deteriorating war in Vietnam, in which Douglas had been a firm supporter of the Johnson administration.

A pacifist in World War I from his Quaker upbringing, Douglas had gone to Europe in the 1930s and was in Italy when Mussolini sent his legions into Ethiopia. He warned of appeasement of Hitler. During World War II, he was an enlistee in the Marine Corps, accepting a commission only to get into battle when he saw they were not going to send 50-year-old rifleman overseas for combat.

He still believes in collective security, of "keeping our guard up while exploring the possibilities for peace."

After his 1964 defeat, Douglas went back to work in a double harness. He returned to teaching and served as head of the National Commission on Urban Problems, making a study at the time the incendiary cities were flaring up in riots and racial turmoil.

Soon after the Commission on Urban Problems made its report, the stroke hit the senator's right side. His recovery was complicated by his war-disabled left arm and a fall abetted by a football knee (Dougles played center on the Bowdoin College team while winning a Phi Beta Kappa key.).

In 1969, he returned a $5,000 check that went with an AFL-CIO award. While in the Senate, Douglas had set a $2.50 limit on the value of any gifts he would accept, and he is a man who holds firm to a principle.

If the "18 most stimulating years of my life" were spent in the Senate, Douglas also had several decades of achievement before he entered the Senate at 56.

As a distinguished economist, he applied work an the theory of wages and production is one of the bedrocks of contemporary economic analysis. The Cobb-Douglas Function—a mathematical formula set forth in the 1920s—is discussed at length in the recent Nobel Prize-winning work of Prof. Paul A. Samuelson.

"I once was an economist," the senator says now with a rueful smile. "They are now feeding information into the computers at Brookings Institution and coming out with figures to support the formula."

Born in Salem, Maine, March 26, 1892—the New England twang has been leveled a bit by the Midwest plains—Douglas remembers when mill workers in Newport, Maine, were told not to vote for Bryant and the factory whistles sounded for 24 hours when McKinley was elected.

"And I grew up feeling it was . . . well, improper," he once told an interviewer.

He was a friend of Jane Addams and Clarence Darrow. He helped organize the steel workers. Even before entering politics as a Chicago city alderman in 1939, he was one of the earliest advocates of old-age pensions and unemployment insurance in the 1920s and 1930s, working with then New York Gov. Franklin D. Roosevelt and Pennsylvania Gov. Gifford Pinchot.

Now, the autobiography finished, there will be two labors of love for the 80-year-old economist and former senator.

First, another look at the theory of wages and productivity as a statistical study. Then a study of the last days, the winter years of genius, in the lives of Beethoven, Shakespeare, Michelangelo, and Titian.

"A fine subject for a crippled politician," Douglas observes.

It will be a fine subject for the senator who brought a graceful touch of erudition and scholarship to the Senate. In Douglas' former office, Suite 109 in the Old Senate Office Building, photographs of live politicians never were hung. Instead, there were studies of Michelangelo's majestic brooding figures for the tombs of the Medici and Titian reproductions.

As a campaigner, Douglas was known to quote John Stuart Mill or "Spoon River Anthology" poetry to voters at the factory gate.

The other day, on the eve of her husband's 80th birthday, Emily Taft Douglas looked fondly, but objectively, at her husband and said:

"He's a much handsomer man than the man I married. He doesn't wear glasses any more. They say we make our own faces. It is a good man that makes a good face."

THE MINIMUM WAGE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ERLENBORN) is recognized for 30 minutes.

Mr. ERLENBORN. Mr. Speaker, Mr. FUQUA, Mr. QUIE, and I are introducing today a new minimum wage bill which will be offered as a substitute for the minimum wage bill, H.R. 7130, reported by the Education and Labor Committee.

Emphasizing a simplified approach, our substitute has two major objectives: One objective is to rectify the inequity of existing minimum wage scales by adopting reasonable increases. The second objective is to expand and encourage the employment of youths by the establishment of a special youth differential wage, in recognition of the high unemployment rate among the Nation's young people.

Before detailing our specific legislative solutions to these two problem areas, it should be noted that our action in introducing this bill is prompted primarily by the action of the Education and Labor Committee in favorably reporting out H.R. 7130. The committee bill can best be characterized as the "hyperthyroid minimum wage bill of 1972," because it does too much, to the wrong people, at the wrong time. A few of the foibles and errors in judgment encompassed within the committee bill will be discussed, but it is important first to emphasize the major facets of our proposal.

WAGE INCREASES

With the inflationary spiral of the past few years, I am sure most will agree that a reasonable increase in the minimum wage is desirable and equitable. The increases proposed in our substitute are reasonable and will not contribute measurably to inflation.

Briefly, wages of nonagricultural employees go either to $1.80 or $2 an hour 30 to 60 days after passage of the bill. If they were covered by the Fair Labor Standards Act prior to 1966, they will go to $2 at that time. If newly covered by the 1966 amendments, they will go to $1.80 first and then to $2 an hour 1 year later.

Agricultural employees will go from the present $1.30 to $1.50 an hour 30 to 60 days after passage and to $1.70 an hour 1 year later.

The effective date of the substitute bill is the first day after the second full month after enactment. Therefore, depending upon the date the bill actually becomes law, the effective date will be not less than 30 days nor more than 60 days after enactment. The committee bill sets January 1, 1972, as the effective date of the first raise and January 2, 1973, as the date of the second raise. Obviously, these effective dates would need modification.

EXPANDING OPPORTUNITIES FOR YOUTH EMPLOYMENT

As set forth in more detail in the minority views of House report No. 92-672 accompanying H.R. 7130, the committee bill contains no provision for expanding the hiring of youths and, in fact, the committee provision is limited to full-time students only.

As to the amount of the youth differential wage: The committee bill would permit full-time students to be employed at a wage rate of not less than 85 percent of the applicable minimum wage of $1.60 an hour—$1.30 an hour in the case of employment in agriculture—but prohibits payment of this youth wage in employment in an extensive list of industries. The substitute bill would permit employment in any field of youths under age 18 and students under age 21 to be paid at a rate of 80 percent of the applicable minimum wage or $1.60, whichever is higher—$1.30 in agricultural employment.

Not only does the committee bill exclude a long list of industries in which students can be employed at the youth rate, it continues prior certification by the Secretary of Labor, a factor which drastically discourages the hiring of students. In essence, the committee bill favors the affluent, by providing an opportunity for students to get employment at less than the minimum wage while ignoring school dropouts or poor youths, youths of various minorities living in ghettos, youths who are financially unable to go on to college. Our bill will remedy this major defect.

The substitute bill will reach those under age 18, regardless of whether they are currently students, and thus will expand the opportunities for employment of these young people. It will reach the high school dropout who is not planning on continuing his education, and will provide a similar opportunity for full-time students under age 21, without imposing ridiculous conditions such as prior certification, the inhibiting redtape which practically forecloses the hiring of youths.

Thus, our bill reaches and helps resolve the two significant problem areas: It proposes a reasonable increase in minimum wages, and it provides a real opportunity for the employment of youths and students.

Additionally, our bill includes three generally agreed-upon amendments to clarify existing law with regard to:

Husband and wife teams employed by certain institutions when they are provided board, lodging, and a combined cash salary of more than $10,000 a year;

Treating retail employees who are paid a guaranteed weekly salary, or a guaranteed weekly salary plus a small commission, in manner similar to the way the law treats retail employees who are paid largely on a commission basis, and

The inclusion of employees who deliver advertising materials in the exemption of employees engaged in the delivery of newspapers.

The simplicity and effectiveness of this approach becomes clearer if contrasted with the committee bill.

Illustrative of the controversial and detrimental provisions in the committee bill are the following:

1. EXTENSION OF THE FAIR LABOR STANDARDS ACT TO FEDERAL, STATE, AND LOCAL EMPLOYEES

The committee bill extends the minimum wage and overtime requirements to all Federal, State, and local employees. Thus the Federal Government would be intervening in the fiscal operations of State, county, and other local units of government not only by setting minimum wage rates but by additionally requiring overtime pay—and leaving to them, of course, the question of where they are to get the funds to pay any extra costs. Proponents may argue that it affects only a few thousand employees; but that in itself is a forceful argument for nonintervention.

In any event, the overtime provisions would be onerous. When emergencies arise where State and local employees may be required to work long hours of overtime—to clear major roads or arteries during a snowstorm, for example—the cost of paying overtime in such instances may prove a significant burden to precariously balanced local budgets throughout the country. This provision in the committee bill is not only a striking illustration of unwarranted intervention into State and local affairs, but its effect is to legislate a tax increase at those levels.

2. PHASING OUT OF EXISTING EXEMPTIONS

At a time when unemployment is a nagging national problem, the committee bill tinkers and tampers with and takes away many existing exemptions under current law. The administration has proposed, and in many cases implemented, a variety of approaches to help reduce unemployment and to encourage industry to expand production. In my view, to tinker with the many exemptions under the existing minimum wage law would be counterproductive.

For instance, the committee bill seeks to reduce, and ultimately eliminate, the exemption from overtime for transit employees. Throughout the Nation, the transit industry—whether privately or municipally owned—is in desperate financial condition. Moreover, the nature of the business—requiring as it does split shifts and continuous operation— necessitates the use of overtime more than many other industries do.

A second example of counterproductivity is the committee bill's reduction, and ultimate elimination, of the number of weeks in which seasonal and agricultural processing employees are now exempt from overtime. These exemptions were put into law in recognition of the seasonal nature of the industries and the necessity for longer hours of employment for short periods of time.

Whatever merits there may be for some change in these exemptions at a later date, now is not the time.

3. RESTRICTIONS ON EMPLOYMENT REFERRALS

Despite current unemployment levels, the committee bill seeks to restrict the use of public employment agencies by prohibiting their referral of job seekers

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to employers not paying the minimum wage. This means the small employer or one not covered by the act is unable to get employees referred, even though he or she is not legally required to pay the minimum wage. If anything, there should be increased utilization of public employment agencies, not a restriction on their referral activities.

4. RESTRICTIONS ON FOREIGN IMPORTS

Title III of H.R. 7130 imposes drastic restrictions on foreign imports and, as a practical matter, would require Federal procurement contracts to buy America. We think this bill is an inappropriate vehicle for such legislation.

Under existing legislation, the President already has broad powers to curtail imports harmful to American workers, and these provisions of H.R. 7130 would be in direct conflict with present international efforts on the part of the United States to seek mutually satisfactory solutions to international trade problems. This is an area requiring negotiations and mutual agreement—an area best left to the State Department and the President. It has no place in a minimum wage bill.

The above are but a few examples of the controversial, and in many cases detrimental, provisions proposed by the committee bill. They by no means constitute a detailed critique of H.R. 7130.

I am attaching a copy of our proposed substitute bill and a comparison of it and H.R. 7130. If you will contrast the two, I feel certain you will appreciate and support our simplified approach.

H.R. 14104

A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, and to establish a youth differential wage to encourage the hiring of youths, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1972".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219).

TITLE I—INCREASE IN MINIMUM WAGE

NONAGRICULTURAL EMPLOYEES

SEC. 101 (a) Section 6(a) (29 U.S.C. 206(a)) is amended by striking out "(a) Every employer" and all that follows through paragraph (1) and inserting in lieu thereof the following: (a) Except as provided in this section, every employer shall pay each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, at a wage rate of not less than $2 an hour."

(b) Such section is amended by adding after paragraph (5) the following new paragraph:

"(6) If this section was made applicable to such employee by the amendments made to this Act (other than section 18 thereof) by the Fair Labor Standards Amendments of 1966, not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and not less than $2 an hour thereafter."

AGRICULTURAL EMPLOYEES

SEC. 102. Paragraph (5) of section 6(a) is amended to read as follows:

"(5) If such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972 and not less than $1.70 an hour thereafter."

GOVERNMENT, HOTEL, MOTEL, RESTAURANT, AND FOOD SERVICE EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. Section 5 (29 U.S.C. 205) is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined in accordance with sections 6(a), 6(b)(5), 7, 13, and 14 of this Act."

OTHER EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 104. (a) Section 6(c) is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2)(A) In the case of any such employee who is covered by such a wage order and to whom the rate prescribed by subsection (a) would otherwise apply, the following rates shall apply: The rate or rates applicable under the most recent wage order covering such employee issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 25 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this subparagraph (or if such rate or rates are superseded as authorized by this subparagraph, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by subparagraph (A). Any such application shall be filed before the effective date of the Fair Labor Standards Amendments of 1972. The Secretary shall promptly appoint such a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by subparagraph (A). Any such application shall be filed before the effective date of the Fair Labor Standards Amendments of 1972.

"(3)(A) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (b)(4) for employees in agriculture would otherwise apply, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 16 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(ii) Beginning one year after the applicable effective date of the increase under clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 covering such employee, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or clause (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the rate or rates under such clause.

"(C) Notwithstanding subparagraph (A) or (B) of this paragraph, in the case of any employee described in subparagraph (A) whose hourly wages are subsidized, in whole or in part, by the Government of Puerto Rico, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 increased by (I) the amount of the subsidy in effect on the effective date of such Amendments, and (II) 16 per centum. The increased rate or rates prescribed by this clause shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Effective one year after the effective date of the increase under clause (i) not less than the highest rate or rates (including the increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by (I) an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, covering such employee, and (II) the amount of the subsidy in effect on the effective date of such Amendments.

"(4)(A) In the case of any such employee who is covered by such a wage order and to whom this section was made applicable by the amendments made to this Act by

the Fair Labor Standards Amendments of 1966, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 increased by 12.5 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(ii) Beginning one year after the applicable effective date of the increase under clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 12.5 per centum of the rate or rates applicable to the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, covering such employee, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or clause (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the rate or rates under such clause.

"(C) Notwithstanding any other provision of this subsection, on the effective date of the Fair Labor Standards Amendments of 1972, no wage rate in effect under a wage order for any employee in Puerto Rico or the Virgin Islands may be less than 60 per centum of the wage rate that (but for this subsection) would be applicable to such employee under subsection (a), (b)(4), or (b)(5)."

(b) The third sentence of section 10(a) (29 U.S.C. 210(a)) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

TITLE II—REVISION OF EXEMPTIONS

SALES AND MANAGERIAL PERSONNEL

SEC. 201. Section 7 (29 U.S.C. 207) is amended by adding after subsection (j) the following new subsection:

"(k) For a period or periods of not more than seven workweeks in the aggregate in any calendar year, the requirements of subsection (a) of this section shall not apply with respect to the employment of any employee (not otherwise exempted from such subsection by subsection (i) or section 13(a)(1)) in a retail or service establishment if—

"(1) such employee is employed in a bona fide sales capacity in, or as manager of, such establishment;

"(2) such employee's regular rate of pay is not less than twice the wage rate in effect under section 6(a); and

"(3) for employment in such establishment in excess of forty-eight hours in any workweek during such period or periods, such employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed in such establishment."

NEWSPAPER DELIVERY EMPLOYEES

SEC. 202. Section 13(d) (29 U.S.C. 213(d)) is amended by inserting after "newspapers" the following: "or shopping news (including shopping guides, handbills, or other types of advertising material)".

HOUSE-PARENT FOR ORPHANS

SEC. 203. Section 13(a) (29 U.S.C. 213(a)) is amended by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or" and by adding after that paragraph the following:

"(15) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

TITLE III—EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER 18 AND STUDENTS

SEC. 301. Section 14(b) (29 U.S.C. 214(b)) is amended to read as follows:

"(b)(1) Notwithstanding the minimum wage rates required by section 6(a) or 6(b)(5), any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) a full-time student under the age of 21,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.60 per hour, whichever is the higher.

"(2) Notwithstanding the minimum wage rates required by section 6(b)(4), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) a full-time student under the age of 21,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is the higher.

"(3) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable."

TITLE IV—CONFORMING AMENDMENTS

CONFORMING AMENDMENTS

SEC. 401. (a) Section 6(a) is amended—

(1) by inserting before paragraph (2) the following:

"(b) In lieu of the wage rate prescribed by subsection (a), every employer shall pay each of his employees (described in a paragraph of this subsection) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages, at the following rates:";

(2) in paragraph (2), by striking out "(2) If" and inserting in lieu thereof "(1) If" and by striking out the semicolon at the end and inserting in lieu thereof a period;

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(3) in paragraph (3)—

(A) by striking out "(3) if" and inserting in lieu thereof "(2) If",

(B) by striking out "in lieu of the rate or rates provided by this subsection or subsection (b),", and

(C) by striking out "paragraph (1) of this subsection;" and inserting in lieu thereof "subsection (a).";

(4) in paragraph (4)—

(A) by striking out "(4) if" and inserting in lieu thereof "(3) If",

(B) by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (a)", and

(C) by striking out "; or" and inserting in lieu thereof a period; and

(5) by redesignating paragraphs (5) and (6) (as amended and added by sections 101 (b) and 102 of this Act) as paragraphs (4) and (5), respectively.

(b) Subsection (b) of section 6 (as in effect on the date of enactment of this Act) is repealed.

(c) Section 6(e) is amended to read as follows:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsection (a) of this section is not applicable, wages at a rate not less than the rate provided for in section 6(b)(5)."

(d) Section 8 is amended by striking out "paragraph (1) of" in subsections (a) and (c).

(e) Section 13(b) is amended by striking out "(1)" in paragraph (13).

(f) Section 13(e) is amended by striking out "6(a)(3)" each place it occurs and inserting in lieu thereof "6(b)(2)".

(g) Section 16(d) is amended by striking out "6(a)(3)" and inserting in lieu thereof "6(b)(2)".

(h) Subsection (c) of section 14 is repealed and subsection (d) of such section is redesignated as subsection (c).

TITLE V—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 501. (a) The effective date of this Act and the amendments made by this Act is the first day of the second full month after the date of its enactment.

(b) Notwithstanding subsection (a), on and after the date of the enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to the amendments made by this Act.

FAIR LABOR STANDARDS ACT AMENDMENTS—COMPARISON OF MAJOR PROVISIONS OF H.R. 7130 AND SUBSTITUTE, BY REPRESENTATIVES ERLENBORN, QUIE, AND FUQUA

Category	Current law	H.R. 7130 Hourly rate	H.R. 7130 Effective date[1]	Substitute Hourly rate	Substitute Effective date
Coverage:					
Nonagricultural employees covered prior to 1966 amendments	$1.60	[2] $2.00	Jan. 1, 1972	$2.00	30 to 60 days after passage.[3]
Nonagricultural employees covered by 1966 amendments	1.60	[4] 1.80	....do.....	1.80	30 to 60 days after passage.[3]
		[4] 2.00	Jan. 1, 1973	2.00	1 year after effective date.
Agricultural employees	1.30	1.50	Jan. 1, 1972	1.50	30 to 60 days after passage.[3]
		1.70	Jan. 1, 1973	1.70	1 year after effective date.

[1] Presumably these dates would be modified.
[2] Also Federal employees covered by 1966 amendments.
[3] Exact language: "Effective 1st day of the 2d full month after enactment."
[4] Also nonagricultural employees newly covered under H.R. 7130.

FAIR LABOR STANDARDS ACT AMENDMENTS—COMPARISON OF MAJOR PROVISIONS OF H.R. 7130 AND SUBSTITUTE

EMPLOYEES IN PUERTO RICO AND VIRGIN ISLANDS

H.R. 7130 and the substitute are essentially similar. An exception is the effective dates. The Committee bill has January 1, 1972 and January 1, 1973 as effective dates for two step raises. The substitute provides that the first step is effective 30 to 60 days after passage, with the exact language reading: "effective the first day of the second full month after enactment." The second step is one year after the effective date.

Secondly, H.R. 7130 extends coverage to employees of conglomerates in Puerto Rico and the Virgin Islands, and the substitute does not.

In brief, employees of hotels, motels, restaurants (and conglomerates in H.R. 7130) and employees of the United States Government and of the Virgin Islands would receive the same rate as that applicable in the U.S.

Other employees in Puerto Rico and the Virgin Islands would receive a 25% increase on the effective date if they were covered by the Act prior to the 1966 amendments. Both bills provide a two step increase of 12.5% each in the most recent wage board order for employees covered by the 1966 amendments, with the second step effective one year after the first increase. With respect to agricultural employees in Puerto Rico and the Virgin Islands, two 16% increases in the most recent wage board order applicable to such employees are provided, with the same effective dates as for nonagricultural employees.

Both bills retain the review procedure first established by the 1961 amendments. They also provide that, notwithstanding any other provision, no wage rate for covered employees may be less than 60% of the minimum applicable to counterpart employees in the U.S.

EXTENSION OF COVERAGE; REVISION OF EXEMPTIONS

H.R. 7130 extends coverage of the Act to Federal, State, and local public employees for both payment of the minimum wage and payment for overtime.

H.R. 7130 also extends minimum wage and overtime protections of the Act to: domestic service employees, employees of preschool centers, and employees of conglomerates with an annual gross volume of sales made or business done in excess of $5 million.

H.R. 7130 extends overtime coverage to maids and custodial employees of hotels and motels.

H.R. 7130 reduces, and ultimately repeals, the overtime exemptions for: transit employees, nursing home employees, sugar employees, seasonal industry employees, and requires that laundry and cleaning establishments be considered service establishments for certain purposes.

The substitute does not extend coverage to employees not presently covered by the Act, nor does it phase out any of the existing exemptions.

YOUTH WAGE DIFFERENTIAL

Category

Age.

H.R. 7130

Full-time students, regardless of age.

Substitute

Youths under age 18, and full-time students under age 21.

Hourly rate.

H.R. 7130

85% of applicable minimum wage or $1.60 ($1.30 in agricultural employment), whichever is higher.

Substitute

80% of applicable minimum wage or $1.60 whichever is higher ($1.30 in agricultural employment).

Category

Limitations.

H.R. 7130

Youth rate not to be paid for work in hazardous employment, as determined by Labor Secretary (including, among others, work in mines, factories, warehouses, storage, construction, explosives, motor vehicle driving, logging, and certain power driven machines).

Students paid youth wage rate may not work more than 20 hours a week.

Secretary of Labor must certify that certain requirements have been met and find that employment of any such student will not create a substantial probability of reducing the full-time employment opportunities of other workers.

An employer who intends to employ 5 or more students must obtain a similar certificate from the Secretary.

Substitute

No restrictions except that employment must be in accordance with the applicable child labor laws.

No similar provision.

Eliminates certification by Secretary, but the Secretary shall by regulation prescribe standards to insure that such employment will not create a substantial probability of reducing the full-time employment opportunities of other workers.

The substitute contains three generally agreed upon provisions to clarify existing law with regard to: husband and wife teams employed by certain institutions, retail employees, and newspaper deliverers.

There are no similar provisions in H.R. 7130.

IMPORTS

Title III of H.R. 7130 creates machinery and procedures designed to restrict foreign imports in certain circumstances, which constitute a drastic modification in the long-established international trade policies in the United States.

There is no similar provision in the substitute.

EMPLOYMENT REFERRALS BY PUBLIC EMPLOYMENT SERVICE AGENCIES

Section 213 of H.R. 7130 prohibits public employment service agencies from assisting in the placement of any individual with an employer who will pay such individual at a wage rate less than the applicable minimum wage rate.

There is no similar provision in the substitute.

EMPLOYMENT OF ILLEGAL ALIENS

Sec. 214 of H.R. 7130 provides that any employer subject to the Act who knowingly employs and alien who is in the U.S. in violation of law or in an immigration status in which the employment is not authorized, shall be guilty of a misdemeanor and subject to a fine of not more than $1,000, or imprisonment of not more than a year, or both.

It also provides that any contract subject to the Davis-Bacon Act, the Walsh-Healey Act, or the Service Contract Act of 1965 shall contain an additional provision by which the contractor agrees not to employ any such alien in the performance of the contract.

There are no such provisions in the substitute.

NATIONAL FARM LABOR LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 15 minutes.

Mr. TALCOTT. Mr. Speaker, there is no Federal farm labor legislation. National legislation is desperately needed. For years I have urged the appropriate committees of the Congress to hold hearings and to enact legislation to protect the farmworker.

The Subcommittee on Agricultural Labor of the House Committee on Education and Labor held hearings last week. I am hopeful that the hearings will continue, that hearings will be held in the farm areas so that the persons directly affected by the proposed legislation can be heard, and that the committee will pursue the evidence until legislation can be enacted.

Every Member of this Congress should be interested in this legislation to protect and help the most neglected worker in America today. If we can help the farmworker, particularly the unadvantaged and unskilled farmworker, we will be helping the farmer and the consumer. In other words, every American should urge the enactment of national farm labor legislation, now.

Mr. Speaker, first, I commend this subcommittee for holding these hearings. I also commend the gentlemen from California (Mr. SISK, Mr. MCFALL, and Mr. VEYSEY) for their sizable contributions to the resolution of the agricultural problems of our State. They have considerable knowledge and their proposals are worthy of serious considerations. My proposals differ. My proposals are not so simple; my proposals do break new ground. I want to develop plans for the future as well as resolve a few knotty problems which irritate the agricultural industry and community today.

I come here with some credentials, also. I have belonged to a union, I have been on strike, I believe in organized labor and collective bargaining and responsible democratic unions.

My district may not be the richest but I live in, and represent, one of the most productive and progressive farm areas on this planet. We produce close to 30 percent of our Nation's strawberries, head lettuce, and celery. The largest beet sugar manufacturing plant in the world is in our district. We lead in the production of many other vegetables.

NATIONAL FARM LABOR LEGISLATION NEEDED

I believe I have introduced more legislation to improve the condition and welfare of farmworkers than any other Member of the Congress.

For a number of reasons, agriculture was expressly excepted from the National Labor Relations Act in 1935. It has been in limbo ever since. Mavericks—among farmers, farmworkers, and union organizers—have marauded in the fields, processing plants, and grocery stores. There are practically no rules or laws. Only the law of the jungle prevails. The chaos frustrates and damages the worker and farmer; it increases the cost and reduces the quality and wholesomeness of our food products for the consumer.

We desperately need Federal legislation, now.

Agricultural workers, farmers, processors, suppliers, merchandizers, and unions all operate in interstate commerce.

Piecemeal, conflicting or varying State legislation would be confusing and ineffective.

HARVESTTIME STRIKES

Mr. Speaker, in the summer of 1970 while the farms in a small portion of my congressional district were producing approximately 70 percent of the head lettuce consumed in the United States, most of the farming operations were struck. The harvest, shipment, and distribution of head lettuce was choked to a stop. Thousands of agricultural workers—including harvesters, truckdrivers, packinghouse workers, processors, railroad employees, carton manufacturers, and so on and on—were affected, adversely and tragically.

Additionally, tons of lettuce spoiled in the fields. Growers and farm suppliers lost thousands of dollars—some faced bankruptcy. The price of lettuce to the housewife and restauranteur skyrocketed.

In fact, hundreds of thousands of innocent persons were deprived of an important nutritional food.

Farmworkers, farmers, employees in allied industries, and the consumers were deprived and harmed. The losses were permanent, unrecoverable. Lost wages cannot be recouped. Spoiled crops cannot be revived.

Such injuries, losses, and waste should not be tolerated by our society. Events which transpired during the summer of 1970 in the Salinas Valley made it incumbent upon me, as the elected Representative of over 500,000 residents of the 12th Congressional District and as the Representative of an agriculture region upon which the 200 million consumers in the United States depend for approximately 30 percent of their principal row crop vegetables, to advocate enactment of agricultural labor-management legislation which will protect these consumers from loss or interruption of their nutritional food supply.

Our brains should be applied to develop machinery to resolve farm labor disputes without such permanent injury and unrecoverable losses.

Some ground rules must be adopted at the earliest possible date in order to assure the orderly process of planting, growing, harvesting, and distributing agricultural products which are so vital to our Nation's health.

FARM STRIKES ARE DIFFERENT FROM INDUSTRIAL STRIKES

Disruptions of the agriculture process, especially of harvests, are quite different from disruptions of a manufacturing process. Assembly lines can often stop and steel ingots and automobiles can be stored or inventoried for weeks without deterioration—sometimes, as a matter of fact, with an increase in value. No man, group, or government can stem the inexorable process of fruit and vegetable growth and maturation. A strawberry, for instance, must be picked, processed, and packaged within hours of maturity or spoilage begins and losses accelerate.

Agricultural losses are compounded when the growth and harvesting processes are interrupted. Even spoiled crops must be picked or disced under—at additional cost—even though they are useless. Vegetables that spoil while stalled enroute to market, for instance, must be disposed of, as garbage, usually at great cost and without any recoupment.

THE WORKER IS HURT MOST BY A FARM STRIKE

Farmworkers can least afford a harvesttime strike, with the attendant loss of work, because after the crops mature, there is no work until the next harvest—which may be months away. Also, harvesttime provides special opportunities for extra work—overtime, additional jobs, longer shifts; when extra work is available, the work stoppages are extraordinarily disastrous.

The flow of farm produce to the consumer is always subject to the exigencies of weather, availability of transportation, refrigeration markets—over which the individual farmer and farmworker have no control.

THE CONSUMER IS THE ULTIMATE LOSER

The consumer, when all is said and done, is the ultimate loser in the war of one-upmanship in the current drive to organize agriculture fieldworkers.

Everyone, whether farmer or worker, is a consumer. No self-anointed pressure group, however vocal, should be permitted to force its will on the overwhelming majority of the American people for its own selfish ends.

Obviously an entirely different legal and administrative mechanism—other than the one presently used in settlement of industrial disputes—is necessary for the settlement of disputes in agriculture and the food processing industry.

There are historical, economic and humanitarian reasons why a Federal Farm Labor Relations Board is necessary. The basic structure of the extant National Labor Relations Board can be useful, but such a Board and its functions and operations must be modified to fit the unique conditions and problems of agriculture, farm labor, and food products.

STRIKES AND LOCKOUTS SHOULD BE OUTLAWED

A unique need is certain—there can be no strike, slowdown, or lockout at harvesttime.

I believe strikes and lockouts can be eliminated without jeopardizing the rights or the power of the farmer or the farmworker. I believe a legal mechanism can be established to protect the farmer, the farmworker, and, most importantly, the consumer.

Congress should devote its attention toward developing a mechanism to achieve an equity between the demands of agriculture workers and the policies of the farmers in order to protect both of them and the consumer from being exploited or injured.

NATIONAL FARM LABOR BOARD IS NEEDED

I have introduced some comprehensive legislation, H.R. 1689, to establish a National Farm Labor Relations Board.

My bill has been drafted with the rights of the individual citizens, the individual consumer in mind. No individual citizen or group is entitled to abridge these rights or to claim favored treatment. A unique feature of this bill prohibits strikes and lockouts. In lieu of strikes and lockouts, I have proposed a Board of Mediation and Arbitration to expedite the fair settlement of all farm labor disputes. It would be instituted whenever a work stoppage occurs or a labor dispute arises.

SETTLEMENT OF DISPUTES BY NEGOTIATION, MEDIATION AND ARBITRATION

The five-man Board of Negotiation, Mediation and Arbitration would include one representative designated by labor and one representative by management; these two would then jointly select three neutral other members. The Board would assist the parties in reaching a fair voluntary settlement of the dispute. If the dispute is not settled within 30 days, the Board would publicly announce the offer of each party which is most favorable to the other party. If the dispute is not settled within 5 days thereafter, the Board will designate the proposal which it considers the more reasonable—not a compromise of the two. The designated proposal will immediately become the agreement of the parties and subject to enforcement by law.

This new legal mechanism will permit the parties to bargain freely; it will provide two strong incentives for the parties to bargain promptly and reasonably.

Union representation, collective bargaining, and all other benefits and privileges of conventional labor-management relations are available and encouraged—excepting the strike and lockout.

Most labor-management experts recognize that the strike and lockout are outmoded and barbaric techniques for solving problems in a civilized society. Violence and interference with the rights of third parties must be avoided in labor-management relations just as in other aspects of societal living. Harvesttime work stoppages and interruptions of our food supply must be minimized.

A fair, reasonable, and workable mechanism to replace the strike and the lockout is the key feature of my bill.

Time is of the essence. The disruption of the harvest and orderly flow of agricultural products from the farm to the consumer is wasteful, costly, and injurious to the farmer, the farmworker, and the consumer.

It is past time for platitudinous rhetoric, but time for sincere, practical solutions to the problems arising in farm employer-employee relations.

I solicit any objective appraisal of the proposal which I have submitted. I am convinced that the individual agricultural worker will quickly realize that my proposal can settle the emotional as well as the practical disputes.

My bill, H.R. 1689, has been referred to the Committee on Education and Labor in both the 91st and 92d Congresses.

RIGHT TO SECRET STRIKE BALLOT IS NEEDED

Mr. Speaker, I have introduced another bill, H.R. 9458, to guarantee employees the right to decide by secret ballot whether or not to strike—or, if they are already on strike, to decide whether or not they want to continue on strike.

This bill, of course, is intended to benefit all union members—and thus does not come under the direct jurisdiction of this subcommittee which recently held hearings; however, its provisions should be incorporated in any legislative proposal reported out of committee.

Working men and women should have an effective voice in their union's decision to call a strike. I am pleased to report that many workers do have such a limited voice now. My amendment will assure this voice for all—not just before a strike is called, but also at intervals while the strike is continuing. As a practical matter, today's prestrike vote means very little because in too many cases it is a mere show of hands by those who attend a prestrike union meeting. It is seldom democratic; it is not now a legal requirement.

The nearest provision we have in present law for a strike vote is the provision of section 203 of the Taft-Hartley law. That provides that the Federal Mediation and Conciliation Service will try to persuade the parties to settle their dispute by some other means other than work stoppages. The statute states that this will include "submission to the employees in the bargaining unit of the employer's last offer of settlement approval or rejection in a secret ballot." This, of course, is a purely voluntarily undertaking and there is no requirement in the statute that a vote be conducted. Also, the statutory language indicates that any vote is to be conducted prior to a strike.

Under these circumstances there is no true opportunity to assess the last offer proposed by the employer. It generally amounts only to a broad vote of confidence in the union leadership which may be useful as far as it goes, but it does not go far enough. The statute does not give employees the chance to vote on a particular and identifiable offer. My amendment will provide this additional opportunity, without impairing in any way the opportunities which these employees now have to vote and express themselves on any and all other aspects of their relationship with their employer.

STRIKE VOTING HELPS TO INSURE UNION DEMOCRACY

The amendment I offer, Mr. Speaker, improves upon all procedures now available. It permits a meaningful vote 30 days after a strike has started, with authority to repeat that vote at succeeding 30-day intervals. Obviously, it would be necessary that a majority of those voting have control over whatever action would be taken pursuant to my amendment. However, the balloting itself—either prior to the strike or while the strike is in process—could be called on the petition of the union, the employer, or 10 percent of the employees in the bargaining unit.

The balloting would be conducted by the National Labor Relations Board, following its regular secret balloting procedures. It would be an unfair labor practice for a union to call a strike or continue a strike after a majority of the employees had voted against such strike in such a secret election. Additionally, an employee would lose his status as an employee under the law if he took part in a strike after the majority of his fellow union members voted in such an election against such a strike.

My bill would also authorize injunctive relief in the Federal courts upon a showing of reasonable cause to believe that a strike is being carried on in violation of this secret ballot decision of the employees.

Mr. Speaker, all of us know that strikes have become an uncivilized and unnecessary means of settling disputes between employees and employers who should be working cooperatively toward the same objective of supplying better products or services for the consumer.

Until a better legal mechanism can be designed to replace the strike, I believe the worker should have a real voice and a democratic procedure for participating in labor negotiations affecting him and his family. I believe the union negotiator also wants, and urgently needs, a legal procedure to which he can refer to enable the rank-and-file union members to share the responsibility of labor negotiations.

Mr. Speaker, my bill seeks to amend the National Labor Relations Act to give the rank-and-file union members this democratic voice in their vital union affairs.

My bill would guarantee the right of a secret ballot to farmworkers when they become covered by national legislation.

Mr. Speaker, in addition to the abovementioned legislative proposals which address themselves to labor-management relations, there are several broad areas of legislation which should receive concurrent consideration. I have introduced in three successive Congresses a bill which will prohibit the Secretary of Agriculture from paying any Federal benefits to farm producers under any of the various subsidy, diversion payments, or crop loan programs unless he has duly determined that the State in which a claimant or other eligible producer is located has approved and is operating satisfactory programs in each of the following areas:

First. Regulation of farm labor housing centers and employer-furnished housing accommodations, including standards of sanitation, location, construction, density, and maintenance of housing.

Second. Regulation of farm labor contractors and crew leaders, requiring annual licensing or registration and prompt payment of wages to laborers, and prohibiting such undersirable employment practices as giving false information on terms, conditions, or the existence of employment.

Third. Regulation of transportation of migratory farmworkers, including standards for safety and operation of equipment, qualifications of drivers, and safety and comfort of riders.

Fourth. Regulation of uniform minimum ages for agricultural employees.

Fifth. Regulation of uniform minimum wages for agricultural employees.

Sixth. Regulation of wage payments requiring regular paydays, payment in cash or readily negotiable form, and prompt payment on termination of work.

Seventh. Workmen's compensation providing monetary and medical benefits to agricultural employees injured on the job.

Eighth. Temporary disability insurance providing benefits for agricultural workers for non-work-connected illnesses or injuries.

Ninth. Unemployment insurance providing benefits for agricultural employees during periods of involuntary unemployment.

Tenth. Regulation of field sanitation facilities.

It was only in 1970 that a few other Members of the Congress displayed any interest in unemployment compensation for farmworkers—and this was a superficial, "grandstand," last-minute amendment to an industrial compensation bill without any prior committee study or deliberation.

Mr. Speaker, now that I have enumerated my legislative proposals with respect to agricultural labor, I request your indulgence so that I may underscore what I believe to be the most important and basic aspect of the migrant problem; that is, the problem of the migrant child and his future.

Next to imprisonment, the nomadic life of a migrant farmworker is the most cruel existence in our society—especially for the children. The innocent school-aged children suffer most.

The children's deprivations are, among others, lack of security and a normal home. They lead a disruptive life, without roots, which often results in permanent emotional, social, and educational scars and malformities. They do not "drop out," because they are never "included in." They cause problems for themselves and for society.

Until you have lived with a migrant family, or have lived in a community through which the migrant families must swarm, you cannot appreciate the cruelties imposed upon them by this nomadic way of life.

A family needs a permanent home; a migrant never has one. A child needs an education; a migrant child seldom obtains one.

The migrant life is cruel in many respects; it is a scourge of education; it damages the individual and society; it disrupts every phase of community life.

We, in Congress, should not encourage or perpetuate this nomadic way of life. However, present Federal policies strongly encourage and promote family migrancy for farmworkers. Congress itself terminated the bracero program—thereby purposefully forcing upon our domestic farmworkers, and their innocent children, a nomadic, decivilizing way of life.

THE FORGOTTEN MIGRANT

While many programs have been enacted for the poor, the uneducated, the disadvantaged, and the underemployed, little has been enacted to alleviate the misery of the migrant families, the misfortune of the migrant children, or the burdens of the communities through which the migrant farmworkers must wander.

Housing for migrant families is the most difficult to finance and maintain. College dormitory housing for students who can afford higher education is not lacking, but basic housing for impoverished migrant children is practically nonexistent.

Federal aid for education to almost every educational segment of our society has been proposed—preschool to university, public schools and private schools, day schools and night schools, for bright students and dull students, for mentally retarded and emotionally disturbed students, for blind and deaf students—but practically nothing for migrant farmchildren.

The educational needs of the migrant children are the greatest, yet they have been most neglected. They receive the least Federal attention or assistance.

NEED TO IMPROVE MIGRANT EDUCATION

If child migrancy cannot be terminated, it should be improved. The helpless children should be our first concern. Next to their protection, the education of our children should be our foremost mission.

An even sadder fact is that migrant children are often undereducated, far behind their age level and unable to compete with the permanent students. The migrant child becomes frustrated, then troublesome. He disturbs the regular education program or "drops out." He does not learn and prevents other students from learning.

Another tragic fact is that many of the migrant children often speak little English—certainly not enough to enable them to progress satisfactorily in a regular school. These students need extra help in language.

Many migrant students are culturally deprived, asocial, or semiliterate. These pathetic children require a very special extracurricular program under school supervision and direction.

The migrant children invariably need special compensatory education—which is the most difficult to provide. An educational program for the migrant—even with ample facilities—is a most expensive and ambitious undertaking.

Local governments do not have the funds or tax resources. The property tax is not an appropriate tax for any educational purpose. It is especially not appropriate for nomadic students from other school districts. Financial assistance should come from the Federal Government.

Migrant education is interstate in character. Students often attend school in five or six different States—and often several schools within one State. Inadequate education for migrant children is a national problem.

A poorly taught or uneducated child from any State will be a poor citizen and often a public charge in every State in which he resides. Every State has a stake in making certain that the migrant student becomes an adequately trained and educated adult citizen of the State where he finally resides. Our Nation should not expect one area of our country to undertake the entire burden of educating and training the migrant simply because he stops in one school district.

MIGRANT IMPACTION

There is considerable similarity between the educational problems of a rural agricultural community "impacted" by children of migrant farmworkers and the problems of a city or school district which is impacted by children of Federal employees stationed at nearby military bases. The agricultural community suffers much more because the influx of students varies much more, the student turnover is much greater.

I first introduced a bill, H.R. 14947, in 1966 which would amend title I of Public Law 874, 81st Congress, to provide financial assistance to local educational agencies for the education of children of migrant agricultural workers. I have reintroduced this bill in each succeeding Congress. The present bill is H.R. 1691.

Congress has long neglected the poorest of our poor, the most illiterate of our educationally deprived, the most frustrated of our culturally disadvantaged—the migrant family.

With all our professed concern for education and schools, the administration and the Congress have neglected the schools with the most difficult and expensive problems and the least resources—the rural schools in the migrant farm labor stream.

The most essential need of a migrant child—his education—is being sorely neglected. He is being crippled and scarred. He is being left defenseless to cope with both society and his employment needs.

Many mothers in the farmworker families want and need to work in the fields, especially during harvesttime when high earnings are possible. Small children should not be in the fields but need daytime care and supervision. Even some training in language, nutrition, and personal hygiene could be useful means of utilizing the children's time. Working farm mothers have the most urgent need for child day-care centers for young children. We should provide day-care centers for farmchildren long before we attempt to provide permanent year-round, child-improvement programs for all children in all communities.

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Mr. Speaker, in summary, I would like to emphasize the six points of concern to which my remarks have been directed:

First. The cruel circumstances of the migrant farmworker and his family.

Second. The need for farmworker protective legislation to improve—

a. Wages and working conditions of the farmworker,

b. Living conditions of farmworker families,

c. Educational and training opportunities for farmworkers' children.

Third. The need to treat agriculture differently from conventional manufacturing, transportation, or building and construction industries.

Fourth. The need to outlaw the strike, lockout, and secondary boycott—and to replace these barbaric, outmoded weapons of economic warfare and destruction with legal mechanisms for settling disputes fairly and promptly without injury to the parties or the consumer.

Fifth. The need for secret elections in unions—for organizational and representative purposes and whether or not to strike or to continue a strike in process.

Sixth. The need to hold these hearings in the field—where the problems are and where the people are. Poor farmworkers cannot come to meetings here. They are not represented. Their voices are not heard. They want to be heard. They should be heard. The Education and Labor Committee would be doing a great service to hold hearings in a farm community. The committee, itself, needs to know much more intimately the conditions and problems of the farmworker as they exist in the fields. You would help yourselves to understand if you would "see it as it is." I would be pleased to assist the committee in making arrangements for field hearings in Salinas, Calif., at any time.

STATEMENT OPPOSING THE DOWNGRADING OF NATIONAL GUARD TECHNICIANS' POSITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I would like to express my strong opposition to the recent initiatives of the National Guard Bureau in downgrading the civil service status of their National Guard technicians. Supposedly this was done to comply with civil service standards, but in my opinion, the Civil Service Commission has committed a gross violation of the rights of these dedicated workers.

Besides being wholly inequitable to the National Guard technicians I have great reservations regarding the wisdom of this decision when we consider the long range effects of this action. A reduction in pay will result in a reduction in force and we cannot begin to envisage the development of an all-volunteer armed force with a reduction rather than increase in the pay of skilled manpower such as the National Guard technicians. In sum, I find this act somewhat arbitrary and dangerous to the overall success of the all-volunteer concept.

Let me take just a few minutes to outline the origin of the problem. In January of 1969 all National Guard technicians were granted Federal service employee "excepted"—not "competitive"—status under a special act of the Congress. The reason behind granting National Guard technicians "excepted" civil service status is clear. The Guard was given better leverage to procure able personnel for these skilled manpower positions and they would be able to set their own standards and qualifications for applicants who seek National Guard technicians positions.

In competitive civil service positions, however, the Civil Service Commission controls the standards of competition. Although the National Guard technicians are in the excepted civil service status, the National Guard Bureau now states that it must conform to the rigid standards set by the Civil Service Commission. The rationale for this move is also based on the premise that the technicians must meet the rigid standards set by the Civil Service Commission for other Federal agencies. The position of the National Guard Bureau is that they too must reclassify a great percentage of their technicians downward in pay grades to comply with civil service standards. I must emphasize again, Mr. Speaker, that this is not a just and reasonable explanation for downgrading the National Guard technicians' position.

A number of problems in downgrading National Guard technicians became apparent in late 1970. In December of that year, the Civil Service Commission, becoming aware of these problems, ordered that all actions to downgrade the technicians be suspended pending review by the Commission. This freeze, however, was removed January 31, 1972, and since that time, the Civil Service has now issued a set of arbitrary standards to permit the National Guard Bureau to proceed in the downgrading of the National Guard technicans' positions. The Commission ordered, moreover, that all new positions for National Guard technicians be filled at lower pay grades. Again there is no explanation as to why the Commission took this action. In another related and still confusing action incumbent National Guard technicians will be reduced in grade sometime late next year. If the National Guard technicians are in an excepted civil service status because of the difficulty of recruiting qualified personnel, it seems ridiculous that the Civil Service Commission should be acting to demote future and incumbent National Guard technicians and thus further add to the recruiting problem.

The problem is all the more apparent when we stop to think that the Civil Service Commission and National Guard Bureau should be upgrading and not downgrading the technicians if we are ever to see the development of an all-volunteer armed force. It is for this reason that I find these actions of the Civil Service Commission and National Guard to reveal some glaring contradictions. Indeed, I am mystified as to why the National Guard Bureau has not chosen to upgrade their personnel position in their excepted civil service status. I do know that the Congress and the President in passing the 1971 Military Selective Service Act last year went on record to enhance the status and pay of the National Guard and Reserves. Yet we note that the National Guard Bureau has now chosen to act in complete opposition to the expressed desire and interest of the President and Congress.

The ramifications of this action by the National Guard Bureau and Civil Service Commission are dubious at best. Whether the Guard recognizes it or not, it has seriously lowered the status of National Guard technicians, both in moral and monetary standards. Ultimately the National Guard technicians may experience an overall reduction in force strength and quality of their personnel. This one simple action to downgrade existing skilled positions may do more than any other single act to jeopardize not only the National Guard, but our overall national defense interests. I would hope that we would upgrade positions for these dedicated men and insure the growth of a competent technical force. I submit that we have so very far to go to build up our National Guard and Reserve Forces. Our Nation deserves no less.

THE RESOURCE MANAGEMENT AMENDMENTS TO BE OFFERED BY HON. GUY VANDER JAGT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. VANDER JAGT) is recognized for 30 minutes.

Mr. VANDER JAGT. Mr. Speaker, on November 30, 1971, I placed in the RECORD a comprehensive statement discussing the water pollution legislation passed by the Senate, S. 2770. Today I would like to add to that statement the benefits of accumulated knowledge and events which have taken place since that date, relating directly to H.R. 11896, the legislation which is being taken up by the House this week.

Members of the House Public Works Committee under the chairmanship of Congressman JOHN BLATNIK and significant leadership of Congressman ROBERT JONES and Congressman WILLIAM HARSHA have created a truly creditable piece of legislation for House consideration. Time and effort have been spent in prodigious amounts to produce this excellent vehicle for returning America's lakes and streams to conditions of purity. The committee deserves great thanks from the Nation for its work.

Inasmuch as I have had an opportunity to assist in the evolution of this legislation, particularly in the area related to the spray-irrigation land treatment method of sewage management, I would like to provide at this time certain new research information potentially valuable to the House in its final deliberations on the bill.

As discussed in my statement last year, the U.S. Army Corps of Engineers under the guidance of Dr. John R. Sheaffer had last summer completed the initial phase of alternative sewage treatment studies for the Merrimac River Basin in New England, Cleveland-Akron, Detroit-southeast Michigan, Chicago-south end of Lake Michigan, and San Francisco. Because these initial studies indicated higher costs for land treatment systems compared with advanced waste treatment—AWT—or physical-chemical systems, Environmental Protection Agency Administrator William Ruckelshaus last fall called for termination of these studies.

My own experience with initial cost estimates in the development of the Muskegon land treatment system in my district led me to carefully consider these estimates. I became deeply disturbed that the figures easily could be misinterpreted, creating an erroneous impression of the economics and benefits of land treatment systems. For example, the land treatment costs for Chicago included both municipal and industrial wastes, while the estimates for AWT included only municipal wastes. In addition, the alternatives' results were not comparable; AWT at Detroit would not improve Lake Erie, but only slow its eutrophication, while land treatment would return Lake Erie to a desirable character. Recognition of these factors led me and other Members of Congress to call for a continuation of these studies. An administration decision then allowed them to continue.

During January of this year it became apparent, however, that unless greatly accelerated efforts were put forth to bring about intensive review of the initial corps studies, any basic direction suggested by the studies would be lost in terms of affecting congressional deliberations on water pollution legislation this year. The administration could not change its position in this regard without further evidence and the House could not be expected to give greater emphasis to the land treatment approach than already described in good, but perhaps inadequate, language in the Senate legislation. Substantial language was added to the R. & D. section of H.R. 11896, providing for the possible development of a major land treatment system to demonstrate the potential for such a system in the cleanup of Lake Erie, but otherwise the House bill was somewhat weaker than S. 2770 in this regard.

During this same period additional information came to my attention, further supporting an already substantial but growing conviction that land treatment was the basic direction the Nation must take in the management of its sewage.

Progress continued in the construction of the Muskegon system. Considerations of a nuclear powerplant sited to utilize water in the storage lagoons of the system for cooling purposes progressed to intensive review by Consumers Power Co. Other power companies, both private and public, expressed interest in the possibilities. A system of charges at quite substantial levels for such use of the water began to appear feasible in view of much higher cost construction and operating costs for alternative evaporation tower cooling systems. Private interest appeared for the development of a regional industrial waste treatment center discharging its treated wastes into the system. Plans evolved further for the establishment of a solid waste disposal facility which would have the capacity to manage such wastes for all of western Michigan for a period of 100 years through sanitary land fill and recycling of recoverable materials using acreage available between spray irrigation circles on the agriculture land. All of the aforementioned are potential revenue-producing activities in addition to agricultural output of the basic system.

Detailed reports of the Melbourne, Australia, sewage management system in operation since 1893 became available. The irrigation farm at that location currently manages 114 million gallons per day of sewage. Beef cattle and sheep are raised on the farm with 3,500 head of cattle and 35,000 sheep sold from agriculture operations in 1971 alone. Twenty-seven thousand acres of land with more than 10,000 acres irrigated for pasture are included in the system.

The efficacy of the land treatment concept was further confirmed by a University of Washington study just completed indicating basic components of sewage are reduced by the following amounts in the lagoon-spray irrigation approach: BOD—99 percent suspended solids—99-plus percent, nitrogen—80 to 90 percent, phosphorus—99 percent; heavy metals—99 percent, organic compounds—99 percent, viruses—99 plus percent, bacteria—99 percent. All of these reductions are substantially greater than produced by "advanced" waste treatment techniques and "physical-chemical" systems currently advocated by EPA and State water pollution control agencies.

The question of costs of lagoon-spray irrigation systems is being answered by experience beyond Muskegon contract evidence where capital costs including land amount to about 80 cents per gallon of treatment capacity. No AWT or physical-chemical system recently bid or constructed to my knowledge can approach this low cost, and operating costs for land treatment are estimated at half the costs of alternatives.

A question of availability of land continues for the very substantial acreage required in land treatment. But the corps' studies found sufficient land within reasonable distance of five major urban areas presently under consideration. There will be substantial dislocations of farm families if we do not develop lease arrangements or other means to insure the use of land for spray irrigation by other than outright government ownership. However, there is also evidence that substantial dislocations will occur with the siting of alternative systems since such systems tend to be located at urban shorelines which are generally occupied and prime lands.

Evidence of the intense interest in the Congress in corps review of waste management alternatives appears in the administration's 1973 budget, where additional studies have been requested including Duluth, Seattle, Spokane, Boise, the Colorado River and tributaries in Texas, Omaha, St. Louis, Kansas City, and Denver. In addition, resolutions have just been filed for New Orleans, Atlanta, and the Washington, D.C., metropolitan area.

A substantial discussion of the entire subject is included in an article prepared for the National Association of Counties by Dr. John R. Sheaffer, currently scientific adviser to the Secretary of the Army, on leave rfom the cenrte for urban studies at the University of Chicago. Dr. Sheaffer's article, dated February 1972, is titled "The Ecological Revolution: Is There a Role for County Government?" and is quoted as follows:

"The desire to improve the environmental quality has emerged as a common cause which has helped to unify our pluralistic society. Historic differences between rural and urban areas and city and county governments are melded into a unified environmental effort. In part, this effort has addressed the question of water quality deterioration and actions necessary to restore and enhance the quality of our lakes and streams. In particular, there has been disenchantment with the in-stream water quality standards approach which dominates current Federal efforts. Since 1956, more than $7 billion has been spent for the construction of sewage treatment facilities, but very few water bodies have been rehabilitated and restored to a desired quality.

"The apparent ineffectiveness of the current standards approach has stimulated environmentalists to search for other means to cope with the water quality problem. What is emerging from this effort is a new resource management approach that emphasizes the recycling and reclaiming of pollutants."

A RESOURCE MANAGEMENT APPROACH

The resource management approach which is emerging today may be referred to as an ecological revolution. The term "revolution" is particularly appropriate because of the basic changes encompassed in the new approach.

Foremost, there is a change from a "disposal strategy" involving partial treatment and discharge to a "management strategy" that focuses on the recycling and containment of pollutants and the reclamation of water. The disposal strategy is typified by a secondary treatment program. The management strategy is illustrated by the land treatment system contained in the Muskegon County, Mich., waste-water management plan.

Implicit in the shift from a disposal to a management strategy is a shift from single purpose waste-water planning that seeks to develop sewage treatment facilities to multipurpose planning which formulates plans for total waste management centers. Such centers will provide tertiary treatment of effluents, disposal of removed solids or sludges and municipal and industrial solid wastes, dissipation and beneficial use of waste heat, production of agricultural crops, and provision of open space. These several purposes must, in turn, be integrated in a total waste management plan which is a subsystem of a larger and more complex

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urban system. Thus, the total waste management plan must be consistent with overall development goals and objectives of the region it serves.

Several of the purposes that will be incorporated into a management strategy are potential revenue producers; for example, dumping fees for solid waste disposal, cooling charges, and the sale of crops. Thus, there is an opportunity to shift from a program of Federal subsidy to stimulate the construction of treatment facilities to a program of Federal investments which not only provide for the management of waste water but also have the potential to stimulate a flow of revenue to the local units of government—a dynamic illustration of revenue sharing.

PLANNING FOR MANAGEMENT

The ability to implement the ecological revolution is related directly to the ability to formulate and analyze alternative plans for managing waste water. The Corps of Engineers has launched such a planning effort for five major metropolitan areas—Merrimack Basin-Boston, Cleveland-Akron, Detroit-Southeast Michigan, Chicago-Northwest Indiana, and San Francisco Bay-Delta—which constitute 12 to 15 percent of the urbanized population in the United States. This planning effort is guided by the three basic environmental principles that undergird all ecologically sound planning. First, the environment is an interrelated system with air, land and water interacting and affecting and being affected by urban development. Second, the environmental system for planning purposes is closed; nothing can be thrown away. Third, pollutants are potential resources out of place and if relocated in the environmental system can take on renewal value. For example, the nutrients in waste water which accelerate eutrophication when discharged to a water body would be beneficial fertilizer if applied to cropland.

The Muskegon County land treatment system involving spray irrigation is illustrative of one alternative that is being prepared in the Corps of Engineers' planning effort. Because, from a national perspective, land treatment has not been fully developed as a viable alternative for metropolitan areas and urbanized counties, much interest has focused on this new approach to waste-water management.

In simple terms, the Muskegon County system involves the following steps:

First, collection of the waste water and its transport away from the urban area;

Second, secondary treatment of the wastes to avoid odors;

Third, storage and disinfection of the waste water;

Fourth, irrigation of the treated waste water on agricultural or silvicultural land;

Fifth, "tertiary" treatment through the aerobic soil zone (the "living filter"); and

Sixth, retrieval of the reclaimed water (now pure enough to meet Public Health Service drinking water standards) through a drainage system; this water is then available for reuse in a manner best suited to regional needs.

As the Muskegon plan is being implemented, it has become quite clear to its sponsors that other facilities might be usefully integrated into its 10,000-acre waste treatment center. To date, the planning involves the following:

First, the tertiary treatment of the wastewater by recycling the nutrients and confining and containing those pollutants including industrial wastes which cannot be recycled or reclaimed;

Second, the ultimate disposal of sludge or solids removed in the treatment process through the application of the solids to the land as a soil conditioner and fertilizer;

Third, the disposal of municipal and industrial solid wastes through the creation of hills—sculptured landscape—and the recycling of paper, glass, and metals;

Fourth, the exploration of the location of power generation facilities and the beneficial dissipation of the heat in the wastewater; and

Fifth, the creation of functional greenbelts which help control urban sprawl and which can also serve as a recreational open space during the winter nonirrigation season—small game hunting and snowmobiling areas.

The implementation of such a plan offers the potential to convert a waste management facility into a revenue producing enterprise. In Muskegon County, the following annual returns are expected:

Some $360,000 agricultural profits—1-acre inch of treated effluent has the fertilizer equivalent of 25 pounds of 10–10–10 commercial fertilizer.

Some $300,000 solid waste disposal fees (based on a disposal charge of $2 per ton).

Some $2,500,000 cooling charges and location fees from industry.

This amounts to an annual revenue in excess of $3 million from the related or synergistic effects of the system, more than enough to cover the local share of the debt retirement—$16 million bond issue—and the total operation and maintenance costs which are estimated to be about $2,650,000 annually. In addition, the county achieves clean water with all of its attendant benefits and will realize the standard charges for providing that service.

A perusal of the Muskegon County system shows that it serves as an example of the ecological revolution. The system focuses on management rather than disposal and treats pollutants as resources out of place. The land involved in the system provides a number of services in an integrated and coordinated manner—a multipurpose total waste management approach. By expanding the system beyond sewage treatment and sludge disposal—traditionally viewed as costs which must be borne by the general public and users—to include revenue producing activities such as commercial agriculture, solid waste disposal, and heat dissipation, the system becomes a public investment analogous to a multiple-purpose water resources project. As a public investment, the system has the potential to yield average annual benefits. When one views this range of opportunities provided by investments in water quality management systems, it becomes quite evident that such systems are not ends in themselves but means to an end and that they offer great opportunities for stimulating economic growth and development.

REACTIONS TO WASTEWATER MANAGEMENT

The Muskegon County wastewater management plan has prompted a number of reactions. The environmentalists strongly supported the land treatment-spray irrigation approach. On September 13, 1971, David R. Zwick, project director, Nader Task Force on Water Pollution, appeared before the House Public Works Committee and stated:

> The most promising provision in the Senate draft (of the water pollution bill) is its strong endorsement of the concept of total waste recycling—purifying sewage by spraying it on the land as fertilizer as exemplified by the Muskegon County, Michigan sewage treatment project. This Committee has, I recognize, been interested for some time in diverting the Federal water pollution bureaucracy from its myopic preoccupation with secondary treatment, which is inadequate for many of our Nation's waters. This Committee has shown interest in the progress of the Muskegon Project and the planning activities of the Corps of Engineers over whom you exercise major responsibilities involving similar projects. You have a chance this year in the water pollution bill you write to turn this interest into a practical reality.

It would be well to note that the pollution control profession, including Government officials at every level, has a stake in perpetuating the old technology which the Muskegon project is designed to replace. This is the only technology many of these officials and private engineering consultants know. For a builder of sewage treatment plants, the spectre of a massive spread of Muskegon type projects produces great discomfort because it promises a permanent solution. It could put an end to our spiraling need to build more and bigger sewage treatment plants. Whatever eventually happens in the Senate, I would urge this committee to hold the line for truly clean water by stressing the natural waste recycling alternative as the first priority choice when municipal grant funds are handed out.

Obviously, there were opposite reactions. In essence, opponents of the land treatment-spray irrigation system have questioned the workability of the approach, its costs, and the land use implications. Before land treatment can be viewed as a viable alternative for metropolitan areas and urban counties these issues must be resolved.

The questioning of the effectiveness and the effects of land treatment methodologies has prompted a number of research efforts. Such efforts have been undertaken at Pennsylvania State University, Michigan State University, University of California, University of Washington (Seattle) and at several Federal facilities—Flushing Meadows, Arizona, Kerr Water Research Center, Ada, Okla., and the Cold Regions Research and Engineering Laboratory, Hanover, N.H.

EFFECTIVENESS OF LAND TREATMENT

Based on the systematic consideration of treatment mechanisms and their projected significance and following an evaluation of available experience, the estimated effectiveness of a properly designed land treatment system to reclaim secondary effluent is as follows:

ESTIMATED EFFECTIVENESS OF LAND TREATMENT TECHNIQUES

	Spray irrigation	Overland runoff	Rapid infiltration
BOD	99	80	99
SS	99+	80	99
N	80–90	80	80
P	99	80	90
Heavy metals	99	10–30	95
Organic composition	99	50	90
Viruses	99+	90	99+
Bacteria	99	90	99+
Total dissolved solids[1]			
Cations	0–75	0–50	0–75
Anions	0–50	0–10	0–50

[1] While most cations and anions will be retained/treated at the higher indicated values, a few (e.g. Na and Cl) will be relatively unresponsive to treatment.

Source: Summary assessment of University of Washington consultants, February 1972.

This strong endorsement of on-the-land waste treatment is consistent with views presented by the Environmental Protection Agency in Volume II of its 1971 report on the Cost of Clean Water. The Agency observed:

> The (land treatment procedures) have the great virtue of recycling the materials so disposed, both by replenishing water tables and by converting and utilizing organic and inorganic waste matter in natural life processes of decay and growth. Their secondary merit is more germane to this discussion. Water reaching watercourses after passage through the filtering and decomposition processes afforded by soil is far purer—provided that soil loading rates are not exceeded—than any waste treatment process short of distillation could make them.

This emerging consensus regarding the effectiveness of land treatment establishes confidence in the workability of such a system. The experience at the Board of Works Farm, Melbourne, Australia, which has been growing grasses with waste water and feeding cattle and sheep on the same site since the turn of the century attests to the relative permanence of land treatment systems. With respect to the steers marketed from the Farm, the Board reported in July, 1969:

> There is a good demand for them and many of Melbourne's top butchers, who appreciate the succulence and quality of the Farm-raised beef, are regular buyers.

COSTS WILL BE EXCESSIVE

The controversy over the cost of constructing alternative systems can only be resolved through the bidding process. Further insight can be derived by comparing bids for alternative systems on a capital cost per gallon basis. The Muskegon system can treat a design flow of 43.4 million gallons a day and a peak flow of 90 million gallons a day at a direct construction cost of $34,000,000 (includes $3,000,000 for land). The capital investment amounts to $0.78 per gallon of installed capacity. This compares very favorably with more conventional advanced waste treatment systems. For example, the Salt Creek water reclamation plant in Cook County, Illinois, is designed to treat 30 million gallons a day and peak flows of 50 million gallons a day at a direct construction cost of $43,259,000 (land site not included) or a capital investment of $1.44 per gallon—nearly twice that of the Muskegon system. In addition, the Muskegon system has lower operating costs because it uses fewer chemicals and less power per million gallons of wastewater. The high-yield crop production from the irrigated and fertilized land as well as the other revenue producing features are further benefits.

A further comparison with a recently bid secondary treatment plan with provisions for 80 per cent phosphate removal produces interesting results. At Grand Haven, Michigan, a 5 million gallon a day plant received a low bid of $6,000,000 or $1.20 per gallon of installed capacity. This bid was rejected and the plant will be readvertised.

Based on the above comparisons, it appears that land treatment alternatives are competitive with other technologies, even in terms of capital costs. This does not imply that land treatment will always be less costly, but it does suggest that it is an alternative that should be formulated and analyzed for all metropolitan areas and urban counties to be certain that the cost effective alternative is implemented.

For projection of financing needs for the nation, the capital costs per gallon capacity bid at Muskegon can be used. The 1990 national wastewater flow is estimated to range from 30 to 70 billion gallons per day. At a cost of 80 cents per gallon, a capital investment of from $24 billion to $56 billion to treat 1990 waste flows would be required for the nation, certainly consistent with current estimates of Federal funding.

LAND USE IMPLICATIONS

The land use implications of land treatment systems have recently been called into question. In essence, this last remaining unsolved issue has two dimensions. The first dimension relates to the availability of suitable land for the waste flows from large metropolitan areas. The second dimension is concerned with the dislocation of rural residents from the land treatment centers.

With respect to the availability of land, the identification of suitable land ought not be a problem. (Sufficient land was identified for each of the metropolitan areas in the Corps of Engineers Pilot Wastewater Management Program). In Muskegon County, for example, the land requirements are 230 acres per million gallons per day of wastewater while at Penn State University only 130 acres per million gallons of wastewater per day were used. The difference reflects the length of the irrigation season and the amount of storage contained in the system. The Muskegon system is designed for a 7 month irrigation season and 5 months of storage. The Penn State system calls for year round irrigation with no storage. In the light of these two extremes, an average of the two systems can be used for planning purposes—180 acres per million gallons of wastewater per day. Applying this figure nationally, land requirements would range from 5,400,000 acres (30 billion gallons per day) up to 12,600,000 (70 billion gallons per day) with a figure of 7,700,000 commonly cited as the need. This estimate is of manageable proportions when it is compared to the estimated 7,000,000 acres of land needed for power transmission by 1990. Also, it is approximately one per cent of the cropland harvested in the United States.

With respect to relocation and disruption, land treatment in sparsely settled rural areas will affect fewer people than urban renewal and highway construction in the urban areas. In fact, an interesting comparison can be made between a land treatment and a secondary treatment system. The Muskegon land treatment system will dislocate 166 occupance units of 3.82 units per million gallons of capacity (166 units/43.4 mgd). The site selected for the Grand Haven, Michigan, secondary treatment plant with 80 per cent phosphate removal required that 23 occupance units be relocated for a 5 million gallon a day plant or 4.60 units per million gallon capacity. This finding is opposite of what is commonly believed and illustrates the complexity of the issue. But it is not unreasonable when one realizes that the shoreline or land-water interface is prime land and generally occupied in urban areas. Therefore, the traditional urban sewage treatment plant must compete with and dislocate other urban land uses. On the other hand, land treatment facilities, if located beyond the commuting zone, will compete with low cost agriculture, forest, or waste lands.

Another factor to be considered is that the other facilities that might be integrated into a waste treatment center would require significant amounts of land if they were undertaken singularly. For example, Illinois Power Company announced in the February 14, 1972, *Wall Street Journal* that the development of the Clinton, Illinois, nuclear power plant site (eventual capacity of 4,000 megawatts) will require a 17,000 acre site that includes a cooling lake with a 5,000 acre surface area. If this site area is to be considered typical and one is to accept the estimated need for 300 new nuclear power plants by 1990, 5,100,000 acres would be required for this single purpose activity or 66 per cent of the estimated 7,700,000 acres required for total waste management centers which could *incidentally* include the nuclear power plants and which would make beneficial use of the waste heat.

The Uniform Relocation Act provisions assure that persons moved are relocated into sound housing with the cost of upgrading and moving being borne by the public. This Act will assure that persons dislocated by any treatment system will be treated fairly and will be relocated in sound housing without incurring additional financial burdens.

PROSPECTS FOR A RESOURCE MANAGEMENT APPROACH

The resource management approach to wastewater treatment is analogous to the issue of non-returnable bottles. As ecologist Barry Commoner stated before the Illinois Pollution Control Board:

> I'm just proposing a very simple thing: lend the nitrogen to the city folks—but get it back. I think that's clear.

Simply stated, the beneficial use and recycling of wastewater pollutants are the wave of the future. Many such as Commoner have advocated it but felt that "we would have to clear economic hurdles to do this." Muskegon County has shown that the economic hurdles can be cleared. The Corps of Engineers pilot wastewater management program is seeking to determine if there are any dramatic diseconomies of scale which would preclude the use of the resources management approach for major metropolitan areas. The completion of the Corps of Engineers' survey scope reports will answer that question.

THE ROLE FOR COUNTY GOVERNMENT

In Muskegon County, after efforts to use political consolidation (one city) and a special district government (a water and sewer authority) as the means to achieve regional resource management had failed, the general purpose County government became the vehicle to achieve functional consolidation. One reason for the County's success was its offer of a total waste management approach which was viewed by local governments and industries as a solution.

In essence, the County provided the vision around which the local governments and industrial interests organized. In so doing, the County injected new dimensions—regionalism and resource management—into the decision making process rather than competing with the local governments by attempting to do the same thing each of them could do by themselves—construct conventional sewage treatment plants. Urbanized counties have the opportunity to play such a leadership role and fill the planning vacuum that exists in many areas.

Rural counties must also play a role in

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a total waste management program. The farm products or nutrients shipped to the urban areas for consumption and use must be considered as returnable nutrients. Thus, it is necessary for rural counties to plan systematically for the recycling and reclamation of urban pollutants which are, in essence, resources out of place.

These roles of both urban and rural counties relate to providing opportunities for developing resource management approaches to waste-water problems. County governments can assure that our nation can follow the admonition of Daniel Burnham to "make no little plans, for they have no power to stir men's souls." Total waste management requires planning on a scale larger than generally undertaken. Through the involvement of urban and rural counties, it can be made to succeed.

Because of a recent article in the Washington Post reporting on virus perils discovered in drinking water at two Massachusetts cities, it is worthwhile to give special attention to the fact that these cities draw this water from the badly polluted Merrimack and Concord Rivers. Those viruses come from sewage plant discharges into the rivers. Muskegon will no longer be threatened with such a potential problem. Land treatment of sewage removes and destroys virtually 100% of viruses. Those virsuses are held by soil particles and then attacked by bacteria which break them down to harmless protein in the land treatment process.

The first amendment encourages the development of revenue-producing waste management centers capable of handling sewage, solid wastes and managing thermal pollution problems. The second amendment provides additional Federal funds for such systems. The third amendment leads industry to encourage the development of such systems and in turn assists industry during this period of transition. I strongly urge Members to give careful consideration to these amendments.

Mr. Speaker, relative to H.R. 11896, I plan to offer three amendments to Title II of the legislation. These amendments are based on the preceding information only recently available in detail. The amendments follow:

AMENDMENT TO H.R. 11896, AS REPORTED

(Proposed by Hon. GUY VANDER JAGT)

Page 241, between lines 23 and 24 insert the following:

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management."

Page 241, line 24, strike "(d)" and insert "(g)".

Page 243, line 17, after the word "increased" insert "(1)" and on line 20 change the period to a comma, and add the following:

"(2) to 65 per centum of such costs, if the system of waste treatment management is developed in accordance with the provisions of section 201(d) of this Act, except that such 65 per centum grant shall be increased to 85 per centum of such costs, if the State agrees to pay 10 per centum of the cost of all such systems for which Federal grants are to be made from funds allocated to such State for such fiscal year."

Page 248, line 11, change the semi-colon to a comma and add the following:

"except in any case of a waste treatment management system developed pursuant to section 201(d) of this title, for which a grant is made under this title within five years after the date of enactment of this title, such payment shall not be required;".

PANAMA TREATY SITUATION: DEBAUCHERY OF CANAL ZONE MUST BE PREVENTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, I read with a sense of indignation two United Press International news dispatches from Panama, Republic of Panama, on March 15, 1972, about the abrupt and high handed action of the revolutionary government of that country in expelling three attachés of the U.S. Embassy there for alleged "intervention in Panamanian internal affairs": Charles W. Cecil, Ruben Monzo, and Wilbur V. Plase. The sole function of these attachés was to do their best to inhibit the smuggling of narcotics and dangerous drugs through Panama to the United States.

What interests me most about the action was its violence. As stated on other occasions, the collaboration of Panama with Cuba and U.S.S.R. has long been evident and invites these questions. Does the expulsion mean that our agents have uncovered the source of revenue for financing Soviet espionage? Does it mean that Foreign Minister Juan Antonio Tack is a Soviet Agent? It is well known that in the past the U.S.S.R. has used narcotics and other dangerous drugs to covertly finance subversion and espionage.

The Panamanian action was triggered by the publication in the United States on March 14 of a newsstory by Jack Anderson that involved persons high in the Panama revolutionary regime, including Foreign Minister Tack and the Panamanian Ambassador to Spain, Moises Torrijos, brother of Panamanian dictator, Gen. Omar Torrijos.

Though a State Department spokesman denounced the expulsion as unwarranted, the only action that it took, as could be expected, was to insipidly express the hope for continued cooperation in "suppressing narcotics traffic through Panama."

In addition to being contrary to normal diplomatic courtesies, the Panamanian action is destructive of what should be the mutual goal of both countries—the abolition of smuggling of narcotics and dangerous drugs through Panama into the United States. I trust that the Department of State will strongly protest the brazen action of Panama and respond by expelling some of Panama's attachés in Washington.

It is pertinent to add that Panama is a small, weak country, which I know well and have always sought to serve its best interests. As shown by its history it is a land of endemic revolution, endless intrigue, and political instability.

Panama has had these major sources of income: Panama Canal, tourism, and sale of liquor. Now it has apparently developed a fourth: Narcotics and dangerous drugs.

Under the terms of the proposed treaties that would surrender sovereignty over the Canal Zone to Panama that country would have the right to move all of these and other activities, however pernicious, into the Canal Zone, which now has clean and orderly towns resembling the small settlements of New England and the middle west.

Mr. Speaker, the expulsion by Panama of our narcotic agents attached to the U.S. Embassy there emphasizes in dramatic manner that our loyal officials and employees in the Canal Zone are right in opposing the debauchery of the Canal Zone that State Department functionaries are attempting to perpetrate through cession of the zone sovereignty to Panama and the imperative necessity for protecting the welfare of our citizens and the morale of our fighting men in the Armed Forces stationed on the isthmus from the destructive influences that would inevitably follow such surrender of sovereignty.

It is well known that our State Department takes the position that what Panama does is of no concern to the United States even if it openly embraces the U.S.S.R. as to Panamanian and Canal Zone affairs.

In order that the Congress and the Nation may be informed as to this further evidence of instability on the isthmus and the indispensable need for continued and undiluted sovereign control by the United States of the Canal Zone and Panama Canal, I quote the indicated UPI dispatches, news stories from the Washington Daily News and New York Times, and the Anderson column as parts of my remarks.

UPI TELEGRAMS

Panama City.—Panama's foreign minister last night expelled two U.S. narcotics agents "for intervention in Panamanian Internal Affairs."

The order stemmed from a syndicated column written by Jack Anderson accusing high Panamanian officials—including foreign minister Juan Antonio Tack—of being implicated in heroin smuggling. Anderson's column also implicated Moises Torrijos, brother of Panamanian strongman Gen. Omar Torrijos.

Narcotics agents Ruben Monzon and Wilbur Plase, both assigned to the U.S. Embassy, were given 24 hours to leave Panama in a brief announcement read over Panamanian television.

A U.S. Embassy spokesman said Monzon and Plase were classified as "attaches" but were in Panama on assignment from the U.S. Bureau of Narcotics and Dangerous Drugs. He said both men would probably leave the country today.

WASHINGTON.—The United States today called "unwarranted" the expulsion from Panama of three agents of the U.S. Bureau of Narcotics and Dangerous Drugs (BNDD).

The three were ordered to leave the country within 24 hours in the wake of a report which linked Panama's Foreign Minister Juan Antonio Tack with a recent heroin smuggling case.

State Department spokesman Charles W. Bray said the United States regretted the Panamanian action "and we consider it unwarranted." The three agents were identified as Wilbur Plase, Ruben Monzon and Charles W. Cecil.

Bray said, however, that "despite this unfortunate incident, we are hopeful that Panama and the United States can continue their cooperation, which we believe to be useful to both countries in suppressing narcotics traffic through Panama."

The spokesman said U.S. Ambassador Robert M. Sayre was informed by Panama last night that Plase and Monzon were to be expelled. The name of Cecil was received early today.

[From the Washington Daily News, Mar. 15, 1972]

PANAMA EXPELS U.S. ATTACHÉS

PANAMA CITY.—Panama's foreign minister last night expelled two U.S. narcotics agents "for intervention in Panamanian internal affairs."

The order stemmed from a syndicated column written by Jack Anderson accusing high Panamanian officials—including Foreign Minister Juan Antonio Tack—of being implicated in heroin smuggling. Mr. Anderson's column also implicated Moises Torrijos, brother of Panamanian strongman Gen. Omar Torrijos.

SHORT NOTICE

Narcotics agents Ruben Monzon and Wilbur Plase, both assigned to the U.S. Embassy as attaches, were given 24 hours to leave Panama in a brief announcement read over Panamanian TV.

A U.S. embassy spokesman said both agents would probably leave the country today.

The foreign minister called Mr. Anderson's column a smear campaign to break "the capacity for struggle of the Panamanian people."

He linked Mr. Anderson's charges against himself to his position on negotiations for a new treaty concerning the Panama Canal and jurisdiction and defense of the canal zone.

LINKED TO CANAL FLAP

Mr. Tack said, "first we are accused of being communists, but it seems that this accusation had no results. No, they are looking for dirtier weapons to try to break the capacity for struggle of the Panamanian people."

In Washington, Rep. John M. Murphy, D-N.Y., insisted Mr. Anderson's drug charge was well-founded.

Mr. Murphy reiterated U.S. narcotics agents had implicated Mr. Tack and Mr. Torrijos in a heroin case during recent briefings held for him in Washington and in Panama.

A spokesman for the Bureau of Narcotics and Dangerous Drugs confirmed several agents met with Mr. Murphy during his recent trip to Panama, but denied they supplied him with information concerning Mr. Tack and Mr. Torrijos.

[From the New York Times, Mar. 16, 1972]

HOUSE MEMBER CHARGES NARCOTICS SMUGGLING INQUIRY TOUCHES "HIGHEST LEVELS" OF PANAMA GOVERNMENT

(By Benjamin Welles)

WASHINGTON, March 15.—Representative John M. Murphy charged today that an investigation into heroin smuggling into the United States had touched the "highest levels" of the Government of Panama.

Mr. Murphy, Democrat of Staten Island, who is chairman of a house subcommittee on the Panama Canal, named Juan Tack, Panamanian Foreign Minister, and Moises Torrijos, Panamanian Ambassador to Spain as the officials allegedly involved in narcotics: Mr. Torrijos is a brother of Brig. Gen. Omar Torrijos, ruler of Panama.

José Antonio de la Ossa, the Panamanian ambassador here, issued a statement vigorously denying the charges. He suggested that Mr. Murphy was reviving old charges because he had been "cold-shouldering" by Panamanian officials during his recent inspection visit to the Panama Canal.

He suggested too that Mr. Murphy was using the drug charges to impede progress toward a new Panama Canal treaty which, if negotiated, would restore "sovereignty" over the Canal Zone to the Panamanian Republic.

Late yesterday Mr. Tack ordered the expulsion of three American narcotics agents from Panama within 24 hours. He asserted that the men, agents of the United States Bureau of Narcotics and Dangerous Drugs, had "intervened in the internal affairs of Panama."

The expulsion followed initial reports two days ago in the syndicated column of Jack Anderson linking Mr. Tack and Mr. Torrijos with narcotics smuggling. The first hint of the development came a week ago in a brief allusion by the Panama Canal subcommittee to "confidential" information passed to the subcommittee by the Bureau of Narcotics.

United States officials involved in the treaty negotiations, which have been under way here since June, declined to speculate whether the flareup would jeopardize the talks. Panamanian diplomats, who denied recent reports of an "impasse," said that they thought the talks would not be fundamentally affected.

Mr. Murphy said today that he and other subcommittee members had been briefed here on Jan. 24 by Customs Bureau agents placed at their disposal by Myles Ambrose, then Director of the Treasury's Bureau of Customs and now President Nixon's special consultant for drug abuse enforcement. The subcommittee was then preparing to visit Panama and the Canal Zone.

REPORT NOT PUBLISHED

A passage from the unpublished report of the subcommittee dated March 8 and entitled "Overview of the Narcotics Problem in Panama" cited a recent drug-smuggling case involving Panamanians and stated in part:

"The [customs] briefing team concluded that based on the customs investigation this case reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of Gen. Omar Torrijos and the Panamanian Foreign Minister, Juan Tack.

"The subcommittee report also asserted that this involvement was confirmed by B.N.D.D. officers in the Republic of Panama on Feb. 23 during the subcommittee briefing in that country."

The State Department said that the bureau had denied "in writing" that its agents had implicated Mr. Tack or Mr. Torrijos in its briefings of the House subcommittee. A bureau spokesman, who confirmed this, was unable to explain the conflict with the subcommittee's report, which said that bureau agents had "confirmed" information about the "involvement" of the Panamanian officials.

A spokesman for the Customs Bureau said that it had nothing to add to what it had told Mr. Murphy and his subcommittee colleagues.

"UNWARRANTED," AIDE SAYS

Charles W. Bray 3d, the State Department spokesman, said that the department considered the expulsion of the three agents, Wilbur Plase, Ruben Monzon and Charles W. Cecil Jr., as unwarranted.

"Despite this unfortunate incident," Mr. Bray said, "we are hopeful that Panama and the U.S. can continue their cooperation, which we believe to be useful to both countries in suppressing narcotics traffic through Panama."

Mr. Murphy, a graduate of West Point and a decorated infantry commander in World War II and the Korean war, cited growing drug abuse among American servicemen and dependents in Taiwan, Okinawa, the Philippines, Vietnam and, especially, Panama.

"The subcommittee in no way wishes to cast all of the blame on Panama or its officials," his report emphasized. It criticized "mercenary American nations, soldier-of-fortune pilots and others" who were "making small fortunes" by drug-running. It also criticized "high level apathy, ignorance and or collusion" in Panama.

[From the Washington Post Mar. 14, 1972]

DRUG REPORT NAMES PANAMANIANS

(By Jack Anderson)

American narcotics agents have implicated the foreign minister of Panama and the brother of Panamanian dictator Omar Torrijos in a scheme to smuggle hundreds of pounds of heroin into the United States.

The foreign minister is handsome Juan Tack, who looks like a Latin American movie idol but talks as tough as a Mafia overlord, particularly on the subject of narcotics.

In fact, a few weeks ago when we disclosed that American officials were worried about the Panamanian drug traffic, Tack vehemently rejected the report as injurious, offensive and false.

"Panamanian authorities are dedicated," he said, to wiping out "hard drugs." Tack was firmly backed by dictator Torrijos, whose brother Moises is Panamanian ambassador to Spain.

Now, however, federal agents have confiedled to the chairman of the House Panama Canal Subcommittee, Rep. John Murphy (D-N.Y.) that they believe Tack and Moises Torrijos are at least sanctioning and perhaps assisting in the lucrative heroin traffic between Panama and the United States.

Murphy is passing on the information to the House Merchant Marine Committee in a formal, but hitherto secret report. It tells how Murphy met privately in Panama with two agents from the Bureau of Narcotics and Dangerous Drugs (BNDD).

'They were not complimentary over the degree of cooperation being afforded by the Panamanian National Guard," Murphy reports. "While there seems to be ample narcotics traffic in the area, all cases that have been initiated thus far were the result of BNDD-supplied or developed information . . .

"Information supplied by BNDD on the involvement of high ranking Panamanian officials in the international drug traffic is of such a sensitive nature that (it) will be contained in a separate subcommittee report which will necessitate strict confidentiality."

If released, Murphy writes, the information could cause "a possible rupture in relations with the present leadership in the Panamanian government."

We have now learned that the "high ranking Panamanian officials" mentioned by Murphy are none other than foreign minister Tack and Moises Torrijos.

It was Tack, Murphy has been told, who signed a dubious diplomatic passport for Rafael Richard Jr., son of the Panamanian ambassador to Taiwan.

Arrest at Kennedy

Young Richard was arrested last July at New York's Kennedy Airport as he tried to

use the diplomatic credentials to avoid inspection of his luggage. It contained 75 pounds of nearly pure heroin.

Later, customs agents seized Guillermo Gonzalez, who is a long-time friend and ex-bodyguard for Moises Torrijos, and a third Panamanian. Since then, Murphy has been in contact with both customs and BNDD to find out who is at the top of the smuggling.

The federal agents told the congressman their investigations showed it was "impossible" for the dictator's brother to be unaware of the dope-running.

After all, they said, the three arrested men had already moved into the United States almost 1,000 pounds of heroin which had a street value of more than $100 million.

When my associate Les Whitten asked at the Panamanian embassy whether Tack or Moises Torrijos were doing any trafficking, a surprised spokesman sputtered "No! Definately not!"

FORTY-EIGHT DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, it has now been 48 days since House Ways and Means Committee Chairman WILBUR MILLS wrote President Nixon asking for the tax reform proposals the President promised last September. In his February 7 letter, Chairman MILLS pointed out that such proposals should be submitted by March 15 in order for Congress to have time to act on them in this session. The White House has managed to acknowledge receipt of Chairman MILLS' letter, but no substantive response has been forthcoming.

The ranking minority member of the Ways and Means Committee, the gentleman from Wisconsin (Mr. BYRNES), told the House on March 13 that it was his understanding that "the administration does intend to respond in more detail," but he did not know when. Chairman MILLS said on March 15 that he thought the President "probably has in mind some further response to the letter," and he speculated that it would come "before we take up the next debt ceiling increase."

It is becoming clear what the administration's game is. It is going to stall, and stall, and stall some more, until so much of the session has passed that there will be no time to enact a meaningful tax reform package. The administration should keep in mind, however, that there will be another vote on raising the debt ceiling in June. The House Democratic Caucus resolved on March 15 that any further increase in the debt ceiling "will be jeopardized" unless the President makes known his views on tax reform. The administration is free to consider this idle if it wishes, but it cannot say it has not been put on notice.

The Secretary of the Treasury has taken the position that there has already been more than enough tax reform in the last few years, citing the Tax Reform Act of 1969. However, Secretary Connally is a man whose appetite for tax reform is easily sated, so it may be instructive to look at one of the highly touted 1969 reforms to see how it has actually worked out.

The so-called minimum tax provision of the 1969 act was intended to assure that all persons with very high incomes paid at least some Federal income tax. It went into effect for the first time in 1970, and preliminary Treasury statistics for that year have now become available.

I put a table in the CONGRESSIONAL RECORD last Monday—March 20, 1972, page 9004—which showed that there are still thousands of individuals with very high incomes still escaping all Federal income taxes. There were, for example, 394 persons with 1970 adjusted gross incomes in excess of $100,000 who paid no tax. The minimum tax failed to catch them.

But even those tax avoiders who were apprehended by the minimum tax escaped relatively minor payments. The Treasury figures show that 18,646 individuals were subject to the minimum tax for 1970, and they paid a total of $116,875,000 in minimum tax payments. The average payment thus came to $6,268. This may sound like a lot to pay in taxes, until you realize that the average income this tax is being paid on is somewhere between $100,000 and $150,000. The average tax rate is, therefore, between 4 percent and 7 percent. The average wage earner making $10,000 a year pays around 9 percent of it in Federal income taxes, a higher percentage than your average tax avoider who has at least 10 times as much income.

Back in 1969 when the Tax Reform Act was passed, the Treasury estimated that the minimum tax would bring in more than $500 million a year in new revenue. The take for the first year—$117 million—falls considerably short of that. Perhaps it will get better as time goes on, but I would not count on it.

Another striking revelation in the Treasury's minimum tax data is that there were 1,302 people who reported no adjusted gross income at all for 1970, yet they were all subject to the minimum tax. These are all very wealthy people, or they would not have had to pay a minimum tax in the first place, yet here they are reporting to IRS that they had no adjusted gross income. Their average minimum tax was $5,660 apiece, so it is easy to calculate—working backward—that they had an average of $86,600 apiece in income from various tax loopholes. But they had no adjusted gross income.

There is nothing illegal about this, but it does show that the figures I put in the RECORD last week showing the number of people who escape all Federal income taxes greatly understate the problem of tax avoidance. These figures are all based on adjusted gross income, that is, income after the deduction of various business expenses, one-half of long-term capital gains, and various other items. But what the minimum tax figures show is that it is possible to have very large amounts of income from various tax loopholes, while at the same time having little or no adjusted gross income. These people are not only escaping the tax collectors—they are escaping the statisticians as well.

I have been joined by 58 other House Democrats in introducing legislation (H.R. 13877) that would tighten up the minimum tax, and similar legislation has been introduced by 12 Senate Democrats (S. 3378).

As it stands now, the minimum tax administers just a small "love tap" to wealthy tax avoiders. They can continue to use tax loopholes if they will just pay a small admission fee for the privilege. At the very least we should increase the admission fee, and the legislation I have proposed would do this. Better still, however, we should simply do away with all these tax loopholes once and for all. Income is income, and there is no reason why wealthy investors, executives, and oilmen should get more favorable treatment than the average wage earner.

The following table shows the number of returns subject to the minimum tax in each adjusted gross income bracket, and the average minimum tax paid in each bracket:

Adjusted gross income bracket	Number of returns subject to minimum tax	Average minimum tax
No adjusted gross income	1,302	$5,656
$1 to $3,999	351	2,316
$4,000 to $7,999	267	2,333
$8,000 to $11,999	181	3,443
$12,000 to $19,999	439	3,708
$20,000 to $49,999	2,709	2,845
$50,000 to $99,999	4,703	3,129
$100,000 to $199,999	4,646	4,265
$200,000 to $499,999	2,983	8,163
$500,000 to $999,999	747	21,063
$1,000,000	318	73,890

INACCURATE INFORMATION ABOUT CHILDREN OF MISSISSIPPI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 10 minutes.

Mr. MONTGOMERY. Mr. Speaker, this past Friday on Metro Media's channel 5, a Mrs. Barbara Bode with the Children's March for Survival made some highly inaccurate statements which I would like to correct at this time. Without even having been near the State of Mississippi, she said that children are forced to work on chain gangs in my home State. Mr. Speaker, I can assure you that this is not true and has never been true. When questioned about her statement later and off-camera, Mrs. Bode admitted that she did not have any proof and had only heard someone say something to that effect one time.

Mr. Speaker, if there was ever a case of children been on a so-called chain gang, it was probably this past Saturday during the Children's March for Survival.

I would like to share with some of my colleagues the answers given by some of the children dragged to the Saturday afternoon charade by their parents. The children were asked by B. D. Cohen with the Washington Post the following question, "Why are you taking part in the march this afternoon." Their answers are as follows: first, "I don't know, I'm just going. I just want to march"; second, "I want to march to get the free balloons"; and third, "We are going to get Congress to give us some money."

Mr. Speaker, I regret that the leaders of the Children's March for Survival saw fit to take advantage of the children in Washington. They should hang their heads in shame for their gross actions, as well as the inaccurate information that spewed forth from the rostrum Saturday afternoon.

WEEKEND AT FRIENDLY SUPERMARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. GRASSO) is recognized for 5 minutes.

Mrs. GRASSO. Mr. Speaker, I have just returned from a weekend at my friendly supermarket, and I want to report that Mr. Butz should be completely happy at last. All those good cuts of beef are sitting on the counter—all for him—because most people just can't afford the price. Veal is off the market and he can have that New Zealand lamb for himself. Chicken was up to 53 cents a pound and Mr. Butz should be laughing himself sick.

The sayings of Secretary Butz may be this administration's consumer guide book but this living example of foot-in-mouth disease is an insult to people who must eat to survive. Beans and fatty hamburger are a poor substitute for Mr. Hoover's promise of a chicken in every pot, and a poor slogan for the American dream in 1972.

TELEPHONE PRIVACY BILL GAINS SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, today I have reintroduced along with 28 other House Members the Telephone Privacy Act. This bill would give to an individual the right to indicate to the telephone company if he does not want commercial firms to solicit business over his phone. Commercial firms wanting to solicit business over the telephone would then be required to obtain from the phone company a list of its customers who do not want to be called.

I originally introduced this legislation last month and have received more letters on this than I have on any other issue. Almost all of it has been fervently in support. One of those letters, for example, was from an elderly person, an invalid, who had been commercially solicited over the phone by undertakers. Many people complained of getting an average of four or more commercial calls a day. Others complained that they had been solicited over the phone numerous times within several months by one magazine or newspaper company, even though they were already subscribers in some cases.

If there is any place where the right to privacy is absolute, it is within one's own home. Commercial firms such as magazines, newspapers, laundries, undertakers, and many other types of business have recently turned to the telephone as an inexpensive and personal media through which to do business. This legislation is simply designed to stem this growing telephonic invasion of our privacy.

Under this legislation the telephone company would be required to either make lists of customers who do not want to be commercially solicited available to firms, or put an asterisk directly in the phone book by the names of those invoking the commercial solicitation ban. If more than 10 complaints are received against a firm, its officers could be criminally prosecuted.

Those not covered by the legislation would be charities and other nonprofit groups, political organizations, and poll-takers, and debt collection agencies, or any other individual or company with whom the individual has an existing contract or debt.

ON THE PRICE OF MEAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, I have sent the following letter to several thousands of my constituents urging a 2-day-a-week boycott of meat. I believe that this is an effective, but voluntary, means to bring down the price of meat. I am also hopeful that this action will force the President and his Cost-of-Living Council to move to lower food prices.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR FRIENDS: As many of you know I have been attempting to get the President and his Cost of Living Council to take action to halt the continuing escalation of food prices. So far they have turned a deaf ear to the plight of the consumer who has watched in despair while each week the groceries eat up more and more of his frozen wages.

I think it is time for direct consumer action. The Nixon Administration has exempted food prices from price controls because agricultural prices supposedly respond to the forces of supply and demand. I suggest we put that theory to the test by cutting down on meat consumption.

What I am asking is that you join me in forming the nucleus of a nation-wide meat boycott. If each family that receives this letter sets aside at least two meatless days each week and encourages neighbors to do the same the effect could be quite dramatic. Supermarkets will buy less meat from wholesalers. Wholesalers will buy less meat from packers and packers will buy less cattle. Sooner or later those cows will have to come to market and at a lesser price. I single out meat because it represents over 20 percent of most family food budgets. Also there are many protein alternatives to meat such as fish, chicken, turkey, eggs and cheese.

I am not singling out grocery stores, though they will be the first to experience the impact of such a boycott. As a matter of fact I think the relatively poor profit figures for groceries and supermarkets indicate they are caught in the price squeeze too.

Hopefully if enough consumers respond to this boycott the President and his Cost of Living Council will be forced to face this issue squarely. By squarely I mean that they will recommend steps that would not only halt the escalation in food prices but also roll back prices which have risen disproportionately high.

Sincerely,

WILLIAM R. COTTER,
Member of Congress.

FLORIDIANS PROUD OF FLORIDA STATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, the fans of UCLA have a right to be proud of their national champion basketball team, but I can assure you that they are not any prouder than Floridians are of their Florida State University Seminoles.

Florida State lost to UCLA in the national championship game, 81 to 76, last weekend, but not the tremendous enthusiasm which FSU fans and I share for our team.

We offer no apologies for this defeat. UCLA is fantastic and their record of six consecutive NCAA titles, eight in 9 years, speaks for itself. Florida State and all of us who were pulling for them knew that we were meeting a team with poise, ability, pride, tradition, and that same cry "Why, this team is better than the one the year before, and they were the best basketball team in history."

I think that national basketball fans admired Hugh Durham's Seminole team. They started off the game with poise and were ahead for a time.

When they got behind, they continued to play to win.

Coach John Wooden is like Adolph Rupp, he is already a legend. He deserves congratulations as does his team.

Yet there are those of us from the Sunshine State who today would pay tribute to a gallant squad from Florida State. They were unheralded and came from nowhere to take a great Kentucky team and one of the very finest clubs in the land, North Carolina.

We are still on cloud 9. Maybe we lost the game by five points. It would be hard to convince the community of Tallahassee, Fla., of that fact.

To Coach Durham and his great team, might I add this tribute to that which has been paid them throughout the Nation.

They richly deserve it.

FORTHCOMING APPROPRIATIONS TO MAINTAIN THE VALUE IN TERMS OF GOLD OF U.S. CONTRIBUTIONS TO INTERNATIONAL MONETARY AND LENDING INSTITUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 10 minutes.

Mr. GIBBONS. Mr. Speaker, last week I voted for the Par Value Modification Act, as did a majority of my colleagues in the House. In supporting this bill I did not think that it would provide all the answers to the international monetary crisis, and even less that it would solve our domestic economic difficulties, but it did seem to me to reflect a sensible appraisal of the structural disequilibrium underlying our worsening balance of payments situation.

We were told that this bill was simply a ratification of the decision which our negotiators had already made. Although

we have debated in committee and on the floor the effects on our economy this devaluation is likely to have, the action of devaluing itself has always been considered a bookkeeping detail. I think that we have skipped too quickly over the mechanics of devaluation. The Treasury has passed pages of figures and prose before our glazed eyes, showing automatic increases of assets here and of liabilities there. I believe that we ought to focus in a little closer on these figures.

Let us look in particular at the cost of maintaining the value in terms of gold of our contributions to international monetary and lending institutions, which we agreed to do in joining these organizations and as devaluing countries have done in approximately 200 instances so far. The administration has estimated that appropriations in the neighborhood of $1.5 to $1.6 billion will be necessary to maintain our contribution level. This figure covers several different expenditures.

First, Congress will be asked to appropriate $525 million to cover both the increase in dollar cost of our IMF subscription and the increase in dollar cost of the money which we have already drawn from the Fund, which now constitutes an outstanding obligation. Following appropriation of these funds, the U.S. Treasury would issue letters of credit to the Fund to cover this sum.

Second, we will be asked to come up with $1.69 billion to cover the increased cost of our contributions to the international lending institutions—the International Development Association, the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank. This again breaks down into two categories: $663 million for callable capital, money which we have to be willing to come through with if requested but which is not likely to be drawn down, and $406 million for paid-in subscriptions.

The total of these obligations is between $1.5 and $1.6 billion. I do not question the accuracy of the figures for a minute, or the necessity of fulfilling our international commitments. It is in our national interest to support a stable international monetary system, just as it is in our interest to retain the control over multinational lending to the less developed countries to which our preeminent position as contributor in these institutions entitles us.

We cannot afford to delay formal devaluation. I would like to call your attention here to an article in the Wall Street Journal on March 23, 1972, in which Michael Bradfield, the Assistant General Counsel specializing in international finance at the Treasury, is described as "hinting" that the administration may put off notifying the IMF formally of the dollar's devaluation until Congress has been persuaded to pass the related appropriations. If true, this would be a very unwise move. We have all seen the dollar fluctuate wildly in international markets; we have heard the complaints of foreign central banks as they are forced to absorb increasing quantities of unwanted dollars; worse, we have seen quiet little exchange controls imposed upon the inflow of American currency in these countries. We cannot encourage speculation and irritate our trading partners by allowing any question of our "seriousness" in this matter to exist. We must complete the process of devaluation which we voted on favorably last week.

Mr. Speaker, I am sure that very shortly we are going to be asked to appropriate this money, this $1.5 billion. Let us turn our attention now to the form which this appropriation should take. We have heard a lot about increased assets offsetting increased liabilities as a result of devaluation. But still we in Congress will be asked to come up with the money to cover the $1.5 billion liability while the "roughly equal" assets remain buried in the heart of the Treasury's accounting labyrinth.

We must not forget the source of this expense we are asked to meet: The decrease in the value of the dollar, which has raised the number of dollars required to meet our commitments abroad. But just as the dollar has depreciated by 8.57 percent, our gold reserves have appreciated by the same percentage. Our liquid assets have appreciated by $828 million. Section 4 of the Par Value Modification Act provides for this "paper profit" to be "covered into the Treasury as a miscellaneous receipt." At this point, our $828-million asset will be used to reduce the borrowing costs incurred in servicing our fantastic national debt and eventually will drift into limbo, unless Congress does something to prevent it.

I maintain that we should not lose sight of this money; $828 million is not peanuts. It is over 150 percent, for instance, of the 1972 budget allocation for the entire legislative branch of this Government. This sum is the result of the same devaluation process which requires us now to find $1.5 billion in appropriations; let us take that $828 million of "windfall gain" and earmark it for partial payment of our "windfall" liabilities.

I plan to introduce legislation directing Congress to establish a trust fund and at the same time to appropriate the $828-million profit resulting from the increased dollar value of our liquid reserves, these funds to remain in trust, to be administered by the Secretary of the Treasury, and to be used in future for the purpose of offsetting U.S. obligations to international monetary and credit institutions which have been increased through devaluation of the dollar this year.

There is plenty of precedent for Congress to instruct the Treasury to disburse the profit from currency realinement in a specific way. After the 1934 devaluation, Congress directed the Treasury to use the profit for a number of purposes: To set up an exchange stabilization fund which is still with us today, to provide capital for direct loans to industry, and for other uses.

Today, because of increased international economic interdependence, we are no longer free to spend this much smaller profit in creating domestic programs to stimulate the economy, sorely needed though these are. If our assets, increased through devaluation or otherwise, outweighed our international liabilities, we would not be in our present balance-of-payments predicament. But we can still make positive and precise use of our devaluation profit.

It could, perhaps, be argued that special action is unnecessary, that with or without a special trust fund the Treasury will spend the money, and I have no doubt that eventually our international obligations would be fulfilled. But setting up a trust fund to apply the increase in our assets against the increase in our liabilities is no idle bookkeeping technicality. It will serve two important functions. First, it will underline the close connection between revenue and appropriation, income and outlay. It will insure that profits from devaluation are used specifically to reduce losses from devaluation, instead of being dispersed anonymously to improve the appearance of the Federal deficit. Second, it will serve as a reminder that it is the Congress of the United States and no other body which has ultimate authority in deciding the allocation of revenue in this country.

The question of supplemental appropriations will soon be upon us. No one can seriously dispute that we must meet our international obligations; but let us stop being a rubberstamp for a monetary policy which has not, up until now, proven outstandingly successful. Let us take the initiative, demand that devaluation profits be used to pay part of devaluation losses, and appropriate the necessary balance expeditiously. These are most important issues which demand our urgent attention.

NLRB AND THE UNITED FARMWORKERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on March 16 I placed a statement in the RECORD reporting on an action taken by the NLRB against farmworkers. The NLRB filed a petition in the Federal district court in Fresno, Calif., requesting a nationwide injunction which, if granted, would prohibit the boycott activities of the United Farmworkers. I have had correspondence on this matter with Senator ROBERT DOLE which I am setting forth with the thought it would be of interest to our colleagues:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 16, 1972.

Senator ROBERT H. DOLE,
Chairman, Republican National Committee, Washington, D.C.

DEAR SENATOR DOLE: I know that you are undoubtedly receiving communications urging you to take a position in opposition to the recent action of the NLRB which, I am informed, filed a petition on March 9th in Fresno, California requesting a nationwide injunction against the United Farm Workers. A letter from a Democratic Congressman, I know, will not have as much impact upon you as one that might be received from a Republican colleague, but I believe that the gross inequity that would be perpetrated if the NLRB is successful is such as to require every public office holder without regard to partisanship to make his or her view known.

I urge you, in your individual capacity and as Chairman of the Republican National Committee to speak out in opposition to the NLRB's action and to take whatever measures you can to rescind that action.

Sincerely,

EDWARD I. KOCH.

REPUBLICAN NATIONAL COMMITTEE,
Washington, D.C., March 21, 1972.

Hon. EDWARD I. KOCH,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN KOCH: This will acknowledge your letter of March 16, with reference to the action taken by the National Labor Relations Board in connection with the United Farm Workers.

At the outset, let me assure you that the Republican National Committee played no role whatsoever with reference to the NLRB's action in the case. As you know, the NLRB is an independent entity of the Federal government, and all appointments to that Board have been made on a bipartisan basis.

In any event, I have been in touch with the NLRB, and enclosed is a copy of their response, which is self-explanatory. You will note, of course, that a hearing has been set for April 6, and I am confident that all those wishing to make their views known will have the opportunity to be heard at that time.

I appreciate your concern, and regret the unfortunate misunderstanding that the Republican National Committee was in any way responsible for the NLRB's action.

Sincerely yours,

BOB DOLE.

NATIONAL LABOR RELATIONS BOARD,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., March 17, 1972.

Hon. ROBERT J. DOLE,
U.S. Senate, Washington, D.C.

Re: Free Marketing Council, Case Nos. 21–CC–1365, et al.

DEAR SENATOR DOLE: On March 14, 1972, Mr. Taggert of your office telephoned to inquire about proceedings instituted by this Agency against United Farm Workers Organizing Committee, now United Farm Workers National Union. After I explained to him what we are doing and why he asked that I put it in writing to facilitate your response to inquiries you have received, and I do so now.

A number of unfair labor practice charges have been filed in various of our Regional Offices around the country alleging, in essence, that UFWOC has engaged in, and is engaging in, conduct violative of the secondary boycott provisions of the National Labor Relations Act. It appears that UFWOC is engaged in an effort to organize and secure collective bargaining contracts covering employees of wineries who convert wine into champagne. In aid of this effort, it has been picketing various retail outlets which sell the products of the winery or wineries with which it has this dispute, an object of the picketing being to induce customers not to patronize these retail outlets, in short, to boycott the retail outlets.

Such conduct, if engaged in by a labor organization subject to the provisions of our Act, is violative of the Act. However, the question presented is whether UFWOC is a labor organization within the meaning of our Act. Agricultural employees are not covered by our Act and any labor organization which represents only agricultural employees is not a labor organization subject to the provisions of our Act. UFWOC does, of course, represent agricultural employees but our investigation revealed that UFWOC also represents employees of commercial packing sheds, who are employees within the meaning of our Act, and indeed, in connection with the instant dispute seeks to bargain for employees who also are considered statutory employees. As noted above, the employees here involved are engaged in converting wine into champagne, which is not agricultural work.

Thus, on the basis of our investigation we concluded that UFWOC is a labor organization within the meaning of our Act inasmuch as it admits to membership and represents statutory employees as well as agricultural employees.

It has further been alleged by the party filing the unfair labor practice charges that in its boycott activities UFWOC has also been acting as an agent of a statutory labor organization, the claim having been made that, in sum, the AFL–CIO is involved in the boycott and UFWOC is engaging in such activities not only on its own behalf but also as an agent of the AFL–CIO. Our investigation in this connection has not yet been completed. However, on the basis of our conclusion that UFWOC itself is a labor organization the General Counsel authorized issuance of a complaint against UFWOC alleging that UFWOC is a labor organization and that it is engaging in conduct violative of Section 8(b)(4)(B) of our Act, the Section which proscribes certain types of secondary boycott activity. Under Section 10(1) of the statute, whenever it is determined that a complaint should issue alleging such a violation, the Agency is mandated to apply to a federal district court for an injunction enjoining the continuation of such conduct pending a hearing by the Board upon the charges and the Board's determination of the case on the merits. Accordingly, a petition was filed in the Federal District Court in Fresno, California, praying for such injunction. A hearing on the petition is now set for April 6, 1972.

I trust that the foregoing will give you sufficient information for your purposes. If there is any other question you have, please do not hesitate to call upon me.

Sincerely yours,

JULIUS G. SEROT,
Assistant General Counsel.

HAIL AND FAREWELL TO CHIEF CLIFF

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, Forest Service Chief Edward P. Cliff, whose 40-year career spans two-thirds the formal history of that agency, will retire on April 29.

The ninth Chief in the agency's history, Mr. Cliff held the top job longer than any predecessor and guided the Service through the decade of its greatest change and growth.

Succeeding Dr. Richard E. McArdle as Chief on March 18, 1962, Mr. Cliff has directed the initial development of the national wilderness preservation system, dramatically expanded forest and land-management research and taken great strides toward balancing management among the many uses of the national forests.

Chief Cliff, whose friendship I have valued since my introduction to his ability during my previous service in the 89th Congress, has said his major goal in office was to establish a multiple use program that worked.

He outlined his objectives in the document, "Framework for the Future," in which he ordered a new emphasis on the noncommodity values of the forests, without diminishing commodities vital to the Nation's needs.

Chief Cliff has ably served those goals. Though he has not escaped the criticism which every public servant who would make lasting change must become resigned to, the chief has won the respect of every knowledgeable person whatever the perspective.

In the histories of the Forest Service yet to be written, Chief Cliff's tenure will dominate, ooth for its innovations and its continuity of dedication.

A native of Utah, Ed graduated from Utah State University in 1931 and began as an assistant ranger on the Wenatchee National Forest in Washington State that year.

He rapidly worked his way up, exhibiting exceptional administrative skills and particular talents in range management work and national forest administration. He became one of 10 regional foresters in 1950 and in 1952 was named assistant chief.

He holds the Department of Agriculture's highest honor, the Distinguished Service Award "for consistently outstanding vision, courage and dedicated leadership in developing, administering and managing the resources of the National Forest System in an age of conflicting interests and dynamic change."

He will, in the phrase of the entertainment world "be a tough act to follow." I have the highest expectations, however, that his successor, John McGuire can meet the test. John also began his service with the agency while still in college, serving as a junior field assistant in Ohio in 1939.

In subsequent years, he received increasingly responsible positions at research stations and in 1962 came to Washington as assistant to the Deputy Chief for Research. After 4 years as director of the Pacific Southwest Station, he returned to take the post of Deputy Chief for programs and legislation in the Washington office. He was promoted to his present position as Associate Chief last year.

Through my service on the Interior Committee, I have also enjoyed the friendshlip of John McGuire, whose capabilities are well known to the members who rely on his expert testimony as a valued guide in a whole spectrum of land management problems.

With mixed emotion, we all pay tribute to Ed Cliff's superb record of service, regretting his departure, but wishing for him the best that life can hold in these coming years. To his successor we can confidently predict continuing responsible and professional service along with the best wishes for an equally commendable tenure as the Nation's premier forester.

NATIONAL BLOOD BANK PROGRAM

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, subsequent to my introduction of H.R. 12715, National Blood Bank Act, on January 27, 1972, interest in the establishment of a

national blood bank program has escalated. The recent efforts of the President and the American Red Cross have followed the intent of my proposed legislation which would establish a Federal program to encourage the voluntary donation of pure and safe blood, require licensing and inspection of all blood banks, and establish a national registry of blood donors.

Essential to any national blood bank program is the recruitment of voluntary donors. Their blood has been found to be highly reliable and free of the infectious diseases which have been found in the blood of many paid donors. My bill would provide $9 million for the establishment of such a national recruitment program.

The State of Connecticut has the only statewide voluntary blood donation program which adequately meets the blood needs of an effective medical program. Rather than being the exception, this should be the rule. Only through the establishment of national standards and the encouragement of the establishment of effective voluntary programs of donation will we bring an end to the instances of diseased and tainted blood being utilized in transfusions. I urge my colleagues to support the National Blood Bank Act.

I attach the following article from the March 6, 1972, edition of the Hartford Courant entitled "Blood Bank Held Model for Nation."

BLOOD BANK HELD MODEL FOR NATION

(By David H. Rhinelander)

Leaders of the Connecticut Red Cross blood program have been anticipating federal involvement in blood bank programs and think this state's system could be a model for a national plan.

President Nixon Thursday called on the Department of Health, Education and Welfare (HEW) to develop a scheme for a national blood collection and distribution system.

HEW has hired the consulting firm of Booz, Allen and Hamilton to look at present programs. One of its experts spent two days last week touring the Connecticut Blood Program with Donald Cornish, director of the Connecticut Red Cross.

Cornish said Friday that the state Red Cross' building program will put the Connecticut Blood Bank ahead of most others. The Red Cross will build a new state headquarters, and blood banking facilities on state land next to the University of Connecticut Health Center in Farmington.

"I feel we will be able to meet any and all federal licensing and inspection criteria and will be able to satisfy future blood requirements for Connecticut from our new building," said Cornish.

Only Connecticut has a statewide voluntary program that guarantees to meet all the blood needs of hospitals in the state. There are no commercial blood banks in the state and no blood is sold to any hospital.

Elsewhere in the nation, commercial blood banks have grown because the Red Cross covers only 40 per cent of the national need. The price of a pint of blood has risen and the incidence of hepatitis and other blood diseases in commercially distributed blood has increased.

HEW Secretary Elliot L. Richardson said Thursday in Washington that there was no national system but that there was a great need for nationwide blood programs to match supplies with needs.

About 8 million pints of blood are collected in the United States each year. There are about 100,000 persons who sell their blood.

REPORTS ON NURSING HOMES

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, when the Social Security Act was enacted in the late 1930's, section 1106 was included "to protect the earnings records of those enrolled—a perfectly laudable objective." Regretfully, this section, 42 United States Code 1306, has been used by the Department of Health, Education, and Welfare and Social Security Administration to prevent the public from having access to the reports which the agency receives as to the quality of care and the conditions which prevail in the thousands of nursing homes which exist in this country and the operations of which are paid for in large measure by the Federal Government.

I introduced, on February 2, 1972, H.R. 12864, which would remove the present bar to the availability of this important nursing home information, and this measure is pending before the Committee on Ways and Means. The text of this bill and section 1106 of the Social Security Act follows:

H.R. 12864

A bill to amend the Social Security Act by providing for the release of information concerning certain aspects of the medical programs authorized by the Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1108(a) of the Social Security Act is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following new paragraph:

"(2) Nothing in subsection (a) or in the regulations prescribed thereunder shall prohibit, prevent, interfere with, or delay the timely disclosure or dissemination of any file, record, report, or other paper, or any information, which (A) primarily relates to or concerns (i) the performance, fiscal data, or activities of one or more providers of services (as defined in section 1861(u)) or any other institutional entity or entities providing medical or related services covered by the health insurance programs under title XVIII or by a medical assistance program under a State plan approved under title XIX, or (ii) the activities or findings of any Federal, State, or local agency in connection with any such provider or entity or with any such services, and (B) does not specifically identify any particular beneficiary of the medical or related services involved or include personal information about any particular beneficiary or his entitlement or earnings.".

DISCLOSURE OF INFORMATION IN POSSESSION OF DEPARTMENT

Sec. 1106. (a) No disclosure of any return or portion of a return (including information and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, or under chapter 2 or 21 or, pursuant thereto, under subtitle F of the Internal Revenue Code of 1954, or under regulations made under authority thereof, which has been transmitted to the Secretary of Health, Education, and Welfare by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Secretary or by any officer or employee of the Department of Health, Education, and Welfare in the course of discharging the duties of the Secretary under this Act, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Secretary or from any officer or employee of the Department of Health, Education, and Welfare, shall be made except as the Secretary may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.[1]

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary to avoid undue interference with his functions under this Act, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which furnished the information or services.[2]

(c)(1)(A) Upon request (filed in accordance with paragraph (2) of this subsection) of any State or local agency participating in administration of the State plan approved under title I, X, XIV, XVI, or XIX or part A of title IV, or participating in the administration of any other State or local public assistance program, for the most recent address of any individual included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205, the Secretary shall furnish such address, or the address of the most recent employer, or both, if such agency certifies that—

(i) an order has been issued by a court of competent jurisdiction against such individual for the support and maintenance of his child or children who are under the age of 16 in destitute or necessitous circumstances,

(ii) such child or children are applicants for or recipients of assistance available under such a plan or program,

(iii) such agency has attempted without success to secure such information from all other sources reasonably available to it, and

(iv) such information is requested (for its own use, or on the request and for the use of the court which issued the order) for the purpose of obtaining such support and maintenance.

(B) If a request for the most recent address of any individual so included is filed (in accordance with paragraph (2) of this subsection) by a court having jurisdiction to issue orders or entertain petitions against individuals for the support and maintenance of their children, the Secretary shall furnish such address, or the address of the individual's most recent employer, or both, for the use of the court (and for no other purpose) in issuing or determining whether to issue such an order against such individual or in determining (in the event such individual is not within the jurisdiction of the court) the court to which a petition for support and maintenance against such individual should be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support, if the court certifies that the information is requested for such use.[3]

(2) A request under paragraph (1) shall be filed in such manner and form as the Secretary may prescribe (and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof).

(3) The penalties provided in the second sentence of subsection (a) shall apply with respect to use of information provided under paragraph (1) of this subsection except for the purpose authorized by subparagraph (A)(iv) or (B) thereof.

(4) The Secretary, in such cases and to such extent as he may prescribe in accordance with regulations, may require payment for the cost of information provided under paragraph (1); and the provisions of the second sentence of subsection (b) shall apply also with respect to payment under this paragraph.

FOOTNOTES

[1] Reorganization Plan No. 2 of 1949 (see p 899, vol. II) transferred to the Secretary of Labor certain duties and functions of the Federal Security Administrator (now Secretary of Health, Education, and Welfare), with respect to employment services, unemployment compensation, and the Bureau of Employment Security (which was also transferred to the Department of Labor from the Federal Security Administration). Reorganization Plan No. 19 of 1950 (see p. 901, vol. II) transferred the Bureau of Employees' Compensation from the Federal Security Administration (now the Department of Health, Education, and Welfare) to the Department of Labor and provided for the transfer from the Federal Security Administrator to the Secretary of Labor of certain functions and duties with respect to the Bureau of Employees' Compensation and with respect to employees' compensation, including workmen's compensation. In effect with respect to these functions and duties, the provisions of this section of the Social Security Act also apply to the Secretary of Labor.

[2] See footnote 1, above.

[3] P.L. 90-248, sec. 241(c)(1), deleted "IV," which appeared before the numeral "X", and inserted "or part A of title IV,".

The Congressional Research Service of the Library of Congress, at my request, has prepared a legislative history of section 1106, and this, too, I have included as a part of these remarks:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 8, 1972.

To: Honorable JOHN SAYLOR,
From: American Law Division,
Subject: Legislative history of section 1106 of the Social Security Act, 42 USC 1306—Disclosure of information in possession of Department of Health, Education, and Welfare or Department of Labor; compliance with requests for information and services.

H.R. 6635, of the 76th Congress, a bill to amend the Social Security Act, contained in Title VIII, § 802, a provision prohibiting the disclosure, except pursuant to board regulations, of any returns or statements filed with the Commissioner of Internal Revenue under Title VIII of the Social Security Act or the Federal Insurance Contributions Act, or regulations thereunder, which have been transmitted by the Commissioner to the Board. The prohibition against disclosure, except pursuant to Board regulations, also extends to any file, record, report, paper or information obtained by the Board or any of its officers or employees in the course of official duties, any such material obtained by any person from the Board or any of its officers or employees. Violation of the prohibition is punishable as a misdemeanor. The House Ways and Means Committee reported HR 6635 as House Report No. 728, 76th Congress on June 2, 1939. Section 802 of Title VIII remained unchanged as HR 6635 passed the House on June 10, 1939. The Senate Finance Committee reported HR 6635 as Senate Report No. 734, 76th Congress on July 7, 1939. HR 6635 was passed by the Senate on July 14, 1939. A conference report No. 1461 was issued on August 4, 1939 and the bill became public law No. 379, 76th Congress on August 10, 1939. We have enclosed a copy of the public law. HR 6000, of the 81st Congress, a bill to amend the Social Security Act, was reported from the House and Means Committee as House Report No. 1300, 81st Congress on August 22, 1949. The bill passed the House on October 5, 1949, and was reported from the Senate Finance Committee as Senate Report No. 1669 on May 17, 1950. On June 20, 1950, HR 6000 passed the Senate amended. A conference was requested by the House and a report was issued on August 1, 1950 as House Report No. 2771, 81st Congress. On August 28, 1950 HR 6000 became Public Law 734, of the 81st Congress. The House version of section 1106 retained existing law with respect to disclosure of information and in addition specifically authorized the Federal Security Administrator to release, upon request, and to charge fees for: (1) wage-record information for State unemployment-compensation agencies, (2) special reports on individual wage records, and (3) special statistical studies and compilations of data relating to social-security programs. The Senate amendment authorized the Administrator to release, upon request, and to charge fees for: (1) wage-record information to state agencies administering unemployment-compensation laws and (2) special statistical studies and compilations of data relating to social-security programs. The Senate amendment required the Administrator to furnish wage-record information to a wage earner or his agent designated in writing (or, after death, his wife, child, or parent).

The Senate amendment did not authorize any other disclosures. The conference agreement retains existing law respecting authority for disclosure of information and authorizes the Administrator to charge fees for the information furnished. In addition, it requires the Administrator to furnish wage-record information to the legal representative of an individual or to the legal representative of the estate of a deceased individual. We have enclosed a copy of the Public law.

In the 85th Congress, HR 13549, Social Security Amendments of 1958, was enacted as Public Law 85-840. Section 701 of this act amended section 1106 (b) to provide for furnishing services and for collecting, and depositing in the old-age and survivors insurance and disability insurance trust funds, of appropriate charges for such service by the Secretary of Health, Education, and Welfare. Services would not be provided, however, where they would unduly interfere with the administration of the old-age and survivors insurance program. This section originally authorized the furnishing, and charging, of information permitted under applicable regulations to persons requesting the information; it did not provide for furnishing of services and the imposition of charges where the Secretary of Health, Education, and Welfare deemed such charging appropriate. We have enclosed a copy of Public Law 85-840.

In the 89th Congress, section 108c of HR 6675, social security amendments of 1965, amended section 1106 (b) of the Act so that the two new insurance trust funds established by the bill, like the old-age, survivors, and disability insurance trust funds may be reimbursed for costs of furnishing information (disclosure of which is authorized by regulations) or services to individuals or organizations. HR 6675 also added subsection c to section 1106. The Senate amendment added to the House bill a new section 343, amending section 1106 of the Social Security Act, to require the Secretary to furnish promptly, at the request of a welfare agency or a court, the most recent address in the social security records for a person who has failed without lawful excuse to provide support for his or her destitute child or children under age 16, or his destitute wife. The House receded with an amendment requiring the Secretary to furnish, at the request of a State or local agency participating in any State or local public assistance program, the most recent address in the social security records for a parent (or his most recent employer, or both) who has failed to provide support for his or her destitute child or children under age 16 who are recipients of or applicants for assistance under such public assistance program, where there is a court order for the support of the children and the information requested is to be used by the welfare agency or the court on behalf of the children. The report numbers for HR 6675 are House Report No. 213 (Ways and Means), Senate Report No. 404 (Finance), and Conference report No. 682, all of 89th Congress.

In the 90th Congress, H.R. 12080, the Social Security Amendments of 1967, was enacted as Public law 90-248 on January 2, 1968. The report numbers are House Report No. 554 (Ways and Means), Senate Report No. 744 (Finance), and conference report number 1030. Section 241(c)(1) of H.R. 12080 amended section 1106(c)(1) by striking out "IV," following "I," and inserted "or part A of subchapter IV of this chapter," after "XIX of this chapter". Section 168 of H.R. 12080 amended section 1106(c)(1) by adding a new subparagraph (B) requiring the Secretary of Health, Education, and Welfare to furnish the most recent address of an individual (or his most recent employer, or both) to a court having jurisdiction to issue orders or entertain petitions against the individual for the support and maintenance of his children if the court certifies that the information is requested for its own use in issuing or determining whether to issue such an order against such individual in the event the individual is not within the jurisdiction of the court to which a petition for support or maintenance is filed; the information might be used to determine the court to which a petition would be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support. Sections 168 (b) and (c) make conforming changes in the present provisions of section 1106(c) relating to the manner of making a request for information and to the applicability of penalties with respect to misuse of information furnished to a court.

JANICE G. GLASER,
American Law Division.

H.R. 6635—76TH CONGRESS,
PUBLIC LAW 76-379

"DISCLOSURE OF INFORMATION IN POSSESSION OF BOARD

"SEC. 1106. No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or the Federal Insurance Contributions Act or under regulations made under authority thereof, which has been transmitted to the Board by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Board or by any officer or employee of the Board in the course of discharging the duties of the Board, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Board or from any officer or employee of the Board, shall be made except as the Board may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon convic-

tion thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both."

H.R. 6000—81ST CONGRESS,
PUBLIC LAW 81-734

"DISCLOSURE OF INFORMATION IN POSSESSION OF AGENCY

"SEC. 1106. (a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code, or under regulations made under authority thereof, which has been transmitted to the Administrator by the Commissioner of Internal Revenue, or of any file, record, report, or other paper or any information, obtained at any time by the Administration or by any officer or employee of the Federal Security Agency in the course or discharging the duties of the Administrator under this Act, and no disclosure of any such file, record, or other paper, or information, obtained at any time by any person from the Administrator or from any officer or employee of the Federal Security Agency, shall be made except as the Administrator may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

"(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, may be complied with if the agency, person, or organization making the request agrees to pay for the information requested in such amount, if any (not exceeding the cost of furnishing the information), as may be determined by the Administrator. Payments for information furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Administrator, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old Age and Survivors Insurance Trust Fund) for the unit or units of the Federal Security Agency which prepared or furnished the information."

(e) Section 1107 (a) of the Social Security Act is amended by striking out "the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act," and inserting in lieu thereof the following: "subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code,".

(f) Section 1107 (b) of the Social Security Act is amended by striking out "Board" and inserting in lieu thereof "Administrator", and by striking out "wife, parent, or child", wherever appearing therein, and inserting in lieu thereof "wife, husband, widow, widower, former wife divorced, child, or parent".

H.R. 13549—85TH CONGRESS, PUBLIC LAW 85-840

TITLE VII—MISCELLANEOUS PROVISIONS

Furnishing of services by Department of Health, Education, and Welfare

SEC. 701. Section 1106(b) of the Social Security Act is amended to read as follows:

"(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary to avoid undue interference with his functions under this Act, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary. Payments for information or services furnished pursuant to this section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which furnished the information or services."

H.R. 6675—PUBLIC LAW 89-97

DISCLOSURE, UNDER CERTAIN CIRCUMSTANCES, TO COURTS AND INTERESTED WELFARE AGENCIES OF WHEREABOUTS OF INDIVIDUALS

SEC. 340. Section 1106 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Upon request (filed in accordance with paragraph (2) of this subsection) of any State or local agency participating in administration of the State plan approved under title I, IV, X, XIV, XVI, or XIX, or participating in the administration of any other State or local public assistance program, for the most recent address of any individual included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205, the Secretary shall furnish such address, or the address of the most recent employer, or both, if such agency certifies that—

"(A) an order has been issued by a court of competent jurisdiction against such individual for the support and maintenance of his child or children who are under the age of 16 in destitute or necessitous circumstances,

"(B) such child or children are applicants for or recipients of assistance available under such a plan or program,

"(C) such agency has attempted without success to secure such information from all other sources reasonably available to it, and

"(D) such information is requested (for its own use, or on the request and for the use of the court which issued the order) for the purpose of obtaining such support and maintenance.

"(2) A request under paragraph (1) shall be filed in such manner and form as the Secretary may prescribe, and shall be accompanied by a certified copy of the order referred to in paragraph (1)(A).

"(3) The penalties provided in the second sentence of subsection (a) shall apply with respect to use of information provided under paragraph (1) of this subsection except for the purpose authorized by subparagraph (D) thereof.

"(4) The Secretary, in such cases and to such extent as he may prescribe in accordance with regulations, may require payment for the cost of information provided under paragraph (1); and the provisions of the second sentence of subsection (b) shall apply also with respect to payment under this paragraph."

(c) Section 1106(b) of such Act is amended by striking out "and the Federal Disability Insurance Trust Fund" and inserting in lieu thereof ", the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund."

H.R. 12080—90TH CONGRESS, PUBLIC LAW 90-248

DISCLOSURE TO COURTS OF WHEREABOUTS OF CERTAIN INDIVIDUALS

SEC. 168. (a) Section 1106(c)(1) of the Social Security Act is amended by inserting "(A)" after "c(1)", by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and by adding at the end thereof the following new subparagraph:

"(B) If a request for the most recent address of any individual so included is filed (in accordance with paragraph (2) of this subsection) by a court having jurisdiction to issue orders or entertain petitions against individuals for the support and maintenance of their children, the Secretary shall furnish such address, or the address of the individual's most recent employer, or both, for the use of the court (and for no other purpose) in issuing or determining whether to issue such an order against such individual or in determining (in the event such individual is not within the jurisdiction of the court) the court to which a petition for support and maintenance against such individual should be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support, if the court certifies that the information is requested for such use."

(b)(1) Section 1106(c)(2) of such Act is amended by striking out ", and shall be accompanied" and all that follows and inserting in lieu thereof "(and, in the case of a request under paragraph (1)(A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof),"

(2) Section 1106(c)(3) of such Act is amended by striking out "authorized by subparagraph (D) thereof" and inserting in lieu thereof "authorized by subparagraph (A)(iv) or (B) thereof".

• • • • •

(c)(1) Section 1106(c)(1) of such Act is amended by striking out "IV,", and by inserting after "XIX," the following: "or part A of title IV,".

It is very clear from the legislative history, Mr. Speaker, that the original section did not contemplate the result which has been achieved by the interpreters in Social Security Administration. No nursing care was provided or authorized in the original Social Security Act. No reference was made to this subject in the amendments which have been made to section 1106 as indicated by the history reproduced above.

I am advised that the Committee on Finance in the other body, has adopted an amendment to H.R. 1 which would be of a liberalizing nature, but which does not provide the full information permitted under my bill, H.R. 12864. It is also my information that the senior Senator from Connecticut, Senator RIBICOFF, has pending an amendment which goes farther than the one adopted by the committee. Also, I am told the senior Senator from California, Senator CRANSTON, has requested information on this subject, but has not been able to obtain it. The gentleman from Maryland, Mr. LONG, has a request pending which has not been met. I am sure there are many other congressional requests which have been ignored or denied.

Under dates of February 3, 1972 and March 2, 1972, I wrote the Secretary of Health, Education, and Welfare information on this subject as it related to the Commonwealth of Pennsylvania. The text of the two letters follows:

FEBRUARY 3, 1972.

Hon. ELLIOT L. RICHARDSON,
Secretary, Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I would like to be furnished with certain information your Department is required to obtain from various sources under certain sections of the Social Security Act.

Specifically, I would like to have the most recent Medicare survey report on each extended care facility, home health agency, and each hospital not accredited by the Joint Commission on Hospitals in the Commonwealth of Pennsylvania.

In addition, I would like to have copies of the inspection reports, obtained by the Department, performed by the State for the purpose of certifying or recertifying nursing homes to receive Medicaid vendor payments or to receive payments as an intermediate care facility.

Lastly, I would like to have the same information on hospitals and home health agencies in the Medicaid program in the State.

Naturally, I am requesting this information in my official capacity as a Member of the United States House of Representatives.

I need this information at an early date and would appreciate it if it could reach my office no later than the close of business on Tuesday, February 22.

JOHN P. SAYLOR,
Member of Congress.

MARCH 2, 1972.

Hon. ELLIOT L. RICHARDSON,
Secretary, Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: Enclosed is a copy of my letter of February 3, which I believe you will find self-explanatory and to which I have no response, formal or informal, as of this date.

I can understand that the information requested might take some reasonable time to compile, but I think an acknowledgement would be in order, to say the least.

I would appreciate receiving this information at the earliest possible convenience.

Sincerely yours,

JOHN P. SAYLOR,
Member of Congress.

As of the date of these remarks, I have had no official reply from Secretary Richardson. No acknowledgement has come from the Assistant Secretary for Legislation. My office did receive one call from a James Byers, who indicated on March 14 that a publication would be supplied which would give a summary of the information requested in my letter of February 3. He had indicated earlier that to comply with my request would entail the compilation of numerous reports and that it would be time consuming and expensive. On March 17, Mr. Byers called my office the second time and reported that he had been advised by "counsel" that he could not furnish the publication to which he had referred on March 14. He was advised in language which was not susceptible to misunderstanding what was expected of him and of the Department. I do not know this individual's capacity or his authority, though I gather from his conversation with my office that the latter is somewhat limited. I do know, Mr. Speaker, that a Member of the Congress is entitled to a written reply, and promptly, to any inquiry made of an executive agency. This I have not had.

It is a matter of considerable regret to me to see Secretary Richardson take the attitude he has in this case. Disregarding my letter would do justice to one of his predecessors, Wilbur Cohen, who earned quite a reputation for ignoring or adopting dilatory tactics in responding to the Congress. He is, unfortunately, following in the footsteps of his predecessors who have without exception refused to release this pertinent information. There is no real legal basis for the denial of this material, only an imagined one dreamed up by bureaucrats who are either blind to their responsibilities, lazy, incompetent, or perhaps a combination of all three.

Mr. Speaker, this information on the quality of care given in nursing homes across the Nation should be available to the public without any question. It is in the public interest. Homes which are operating on a quality basis have nothing to fear. Many of these homes, in fact the vast majority, could not operate without public funds. The public foots the bill, thus the public is entitled to know the facts. The information sought and needed should be, and can be, released without the enactment of any legislation. If, however, the Department is to continue its stubborn refusal to divulge this information, then legislation will be enacted—of that I am quite sure.

TO PROVIDE TEMPORARY PARTIAL EXEMPTION ON ENVIRONMENTAL IMPACT STATEMENTS

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, on December 16, 1971, Judge Aubrey E. Robinson, Jr., of the District Court for the District of Columbia, in the case of *Kalur v. Resor, et al.* (Civ. No. 1331-71), issued an order permanently enjoining the Corps of Engineers "from issuing permits—under the 1899 Refuse Act—to discharge refuse matter into" the Nation's waterways until the corps' permit regulations are amended "to require environmental impact statements as specified by section 102(2)(C) of the National Environmental Policy Act of 1969."

The court, in that case, carefully analyzed NEPA, its legislative history, and recent court decisions interpreting NEPA. It concluded that the corps' regulations, which now generally provide that environmental impact statements are not required in the case of the permit program, "clearly fly in the face of NEPA's mandate that all agencies of the Federal Government shall make such reports and include detailed statements."

On February 3, 1972, the Department of Justice filed notice of appeal of this decision. Several months will pass before a decision is reached on this appeal.

The corps, the Environmental Protection Agency, and the Council on Environmental Quality find that immediate compliance with the court's order would create an untenable "administrative burden" over the short run.

Mr. John R. Quarles, Jr., EPA's General Counsel, testified on March 24, 1972, that:

> If we [EPA and the Corps] are required to prepare impact statements in connection with this great mass of pending [Refuse Act permit] applications, we anticipate that the program would operate under a great handicap. Our continuing judgment is that application of the impact statement requirement would frustrate the very purposes for which NEPA was enacted.

I do not agree that the application of section 102(2)(C) to Refuse Act permits "would frustrate the very purposes for which NEPA was enacted." It is inconceivable to me that EPA and the corps could issue any permit without first considering the very factors set forth in that section of NEPA.

Environmental impact statements are intended as the mechanism to implement Government coordination and to help agencies make a comprehensive approach to environmental management. Making these impact statements require Federal agencies to face the problems of pollution while they are still of manageable proportions and while alternative solutions are still available, rather than to persist in environmental decisionmaking wherein policy is established by default and inaction, the environment continues to be degraded in small but steady increments, and the mistakes of the past are perpetuated and not dealt with until they reach crisis proportions.

Furthermore, the environmental impact statement provides at least some evidence that the agency has given consideration to environmental factors, and enables the public to evaluate and weigh them also. NEPA and the environmental impact statements thus make the decisionmaking more responsive and more responsible.

One court decision—*Environmental Defense Fund v. TVA* (3 ERC 1553) recently summarized the importance of these statements as follows:

> The purpose of a section 102(2)(C) detailed environmental impact statement is (1) to aid the agency's decision-making process and (2) to advise the public of the environmental consequences of the proposed action. The requirement seeks to insure that each agency decisionmaker has before him, and takes into proper account, all environmental impacts of a particular project. Only if this is done will the most intelligent, optionally beneficial decision be likely to result. Moreover, the detailed statement provides evidence that these factors have been taken into account. More importantly, it allows those removed from the decision-making process to evaluate and balance the factors on their own. In fact, "if the decision was reached procedurally without individualized consideration and balancing of environmental factors—*conducted fully* and in good faith—it is the responsibility of the courts to reverse." (Emphasis added.) *Calvert Cliffs v. AEC.*, ——— F. 2d ——— (D.C. Cir., 1971). 2 ERC 1779, 1782.

At the very least, NEPA is an environmental full disclosure law. The Congress, by enacting it, may not have intended to alter the then existing decisionmaking responsibilities or to take away any then existing freedom of decisionmaking, but it certainly intended to make such decisionmaking more responsive and more responsible.

Even so, a number of administration spokesmen have expressed great concern over the prospects of such statements being required in the case of the Refuse Act permit program or in the case of the permit program proposed in section 402 of the Senate-passed bill, S. 2770, or H.R. 11896, as reported. They feel that such a requirement for approximately 20,000 permit applications would interminably bog down the program.

I note, however, that if H.R. 11896, as reported by the House committee, is enacted without the clean water package of amendments, it is possible that NEPA will not apply to the permit program once it is transferred to the States.

The House committee has sought to devise a method by which Federal laws, like NEPA will not apply to a State operated program. The committee bill does not provide for a delegation of the Federal program to the States, but merely a suspension of the Federal program and approval of the State program, with provision for withdrawal of such approval if a State does not administer the program in accordance with the approval.

The clean water package of amendments, however, will cure this grave defect.

Suggestions that the permit program be permanently exempted from the environmental impact statement requirements of NEPA are not acceptable to me. It has been suggested, however, that a temporary suspension of this requirement might be possible in order to prevent any adverse effect on the permit program in its early stages.

This approach is more reasonable. It deserves consideration. For this reason, Congressman PELLY—the able and distinguished ranking minority member of the Subcommittee on Fisheries and Wildlife—and I are today introducing a bill for this limited purpose.

The bill would suspend the requirements of section 102(2)(C) of NEPA concerning environmental impact statements in the case of the present and proposed permit program for the discharge of wastes into our navigable waterways. The suspension would only apply to permits issued prior to January 1, 1976. Moreover, even as to those permits, impact statements will be required by December 31, 1977, unless EPA determines that such permit does not "constitute a major Federal action significantly affecting the quality of the human environment." This determination will have to be published and, of course, will include a full discussion of the basis for that determination. The suspension would not apply to permits issued for facilities for which construction begins on or after April 1, 1972.

The bill is intended to be very narrow in scope. Other Federal permit, licensing, or construction activities of Federal agencies are not affected by the bill. Moreover, the bill specifically provides that it does not affect in any way the other provisions of NEPA, such as the policy and other provisions of section 101 of NEPA. Those provisions will continue to apply, where applicable, to the permit program.

Our Subcommittee on Fisheries and Wildlife is currently holding hearings on NEPA. It is our intention to include consideration of this bill at those hearings. We will be particularly interested in learning the views and comments of public witnesses on the bill. Administration spokesmen reviewed this bill in draft form and assures us that the administration believes it is adequate for its limited purposes.

At this point I insert in the CONGRESSIONAL RECORD the text of the bill, H.R. No. 14103:

H.R. 14103

A bill to amend the National Environmental Policy Act of 1969 to provide a temporary partial exemption from the requirements for the issuance of environmental impact statements

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the National Environmental Policy Act of 1969 (83 Stat. 852) is amended by adding a new section to read as follows:

"Sec. 106. The provision of section 102(2)(C) of this Act providing for the preparation and filing of environmental impact statements shall not apply to the issuance on or before December 31, 1975, of permits under section 13 of the Act of March 3, 1899, or under section 402 of the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, or to any action taken by any Federal agency in connection with such issuance: *Provided,* That unless the Administrator of the Environmental Protection Agency determines, and publishes his determination, that the issue of any such permit does not constitute a major Federal action significantly affecting the quality of the human environment, such permit shall not remain in effect beyond December 31, 1977, unless there has been compliance with section 102 of this Act; and *Provided further,* That this section shall not apply to any permit for a discharge from a facility on which construction commenced after April 1, 1972. Nothing in this section shall be construed as affecting any other requirements or procedures established by, or pursuant to, this Act."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOW (at the request of Mr. GERALD R. FORD), for March 27 through March 29, on account of official business.

Mr. GOLDWATER (at the request of Mr. GERALD R. FORD), for week of March 27, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HILLIS) to revise and extend their remarks and include extraneous material:)

Mr. ERLENBORN, for 30 minutes, today.
Mr. TALCOTT, for 15 minutes, today.
Mr. HALPERN, for 5 minutes, today.
Mr. VANDER JAGT, for 30 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 10 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. REUSS, for 20 minutes, today.
Mr. MONTGOMERY, for 10 minutes, today.
Mrs. GRASSO, for 5 minutes, today.
Mr. ASPIN, for 5 minutes, today.
Mr. COTTER, for 5 minutes, today.
Mr. FUQUA, for 5 minutes, today.
Mr. GIBBONS, for 10 minutes, today.
Mr. O'HARA, for 15 minutes, on March 28.
Mrs. ABZUG, for 30 minutes, on March 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MAHON, and to include extraneous material.
Mr. MAHON, to revise and extend his remarks made in the House today.
Mr. BLATNIK to revise and extend the remarks he made in Committee today.
Mr. SCHWENGEL (at the request of Mr. HARSHA) to extend his remarks in Committee of the Whole.
Mr. HARSHA during general debate on H.R. 11896 and to include extraneous matter.
Mr. DON H. CLAUSEN during general debate on H.R. 11896 and to include extraneous matter.
Mr. TERRY during general debate on H.R. 11896 and to include extraneous matter.
Mr. CLEVELAND during general debate on H.R. 11896 and to include extraneous matter.
Mr. RONCALIO during general debate on H.R. 11896 and to include extraneous matter.
Mr. KING during general debate on H.R. 11896 and to include extraneous matter.
Mr. GUDE following his remarks during general debate on H.R. 11896 and to include extraneous matter.

(The following Members (at the request of Mr. HILLIS) and to include extraneous material:)

Mr. DUNCAN.
Mr. SCHERLE in 10 instances.
Mr. DERWINSKI in three instances.
Mr. BURKE of Florida.
Mr. WYMAN in two instances.
Mr. SHRIVER.
Mr. BROOMFIELD.
Mr. ZWACH in two instances.
Mr. SCHWENGEL.
Mr. MINSHALL in two instances.
Mr. ANDERSON of Illinois in two instances.
Mr. HALPERN in three instances.
Mr. CARTER in four instances.
Mr. GROSS.
Mr. GROVER.
Mr. MCCLORY.
Mr. BLACKBURN.
Mr. WHITEHURST.
Mr. SCHMITZ.
Mr. BROYHILL of Virginia in three instances.
Mr. TALCOTT.
Mr. STEIGER of Wisconsin.
Mr. KEMP.
Mr. GUBSER.
Mr. MCEWEN in six instances.
Mr. HEINZ.
Mr. BOB WILSON in five instances.
Mr. HAMMERSCHMIDT in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. FLOOD.
Mr. MOSS in two instances.
Mr. PRYOR of Arkansas.
Mr. EVINS of Tennessee in three instances.
Mr. STOKES in two instances.
Mr. CORMAN in three instances.
Mr. HAMILTON.
Mr. YATRON.
Mr. HAGAN in three instances.
Mr. ROGERS in five instances.

Mr. MILLER of California in five instances.
Mr. KLUCZYNSKI in two instances.
Mr. RARICK in three instances.
Mr. DRINAN in two instances.
Mr. ANDERSON of California in three instances.
Mr. ROYBAL in 10 instances.
Mr. LONG of Louisiana.
Mr. ROSTENKOWSKI.
Mrs. ABZUG.
Mr. RANGEL in three instances.
Mr. REES in two instances.
Mr. REID.
Mr. SYMINGTON in four instances.
Mr. DANIELS of New Jersey in three instances.
Mr. FRASER.
Mr. BEGICH.
Mr. BOGGS.
Mr. BRADEMAS in six instances.
Mr. EILBERG in three instances.
Mr. BADILLO in three instances.
Mr. MOORHEAD in five instances.
Mr. RODINO in three instances.
Mr. PEPPER.
Mr. SATTERFIELD.
Mr. EDWARDS of California in three instances.
Mr. WALDIE in two instances.
Mr. HARRINGTON.
Mr. ROONEY of New York.
Mr. OBEY in six instances.
Mr. WILLIAM D. FORD.
Mr. GALLAGHER.
Mr. O'HARA in two instances.
Mr. BRASCO.
Mr. ROONEY of Pennsylvania in five instances.

SENATE BILLS AND CONCURRENT RESOLUTIONS REFERRED

Bills and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 141. An act to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3153. An act to amend the act of January 8, 1971 (Public Law 91-660; 84 Stat. 1967), an act to provide for the establishment of the Gulf Islands National Seashore, in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3159. An act to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3178. An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President; to the Committee on Interstate and Foreign Commerce.

S. Con. Res. 59. Concurrent resolution to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877," to the National Portrait Gallery of the Smithsonian Institution; to the Committee on House Administration.

S. Con. Res. 70. Concurrent resolution authorizing the printing of additional copies of Senate hearings on the Consumer Product Safety Act of 1971; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 18. An act to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty; and

S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p.m.) the House adjourned until tomorrow, Tuesday, March 28, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1772. A communication from the President of the United States, asking cancellation of fiscal year 1972 supplemental requests for budget authority which were transmitted in the budget for fiscal year 1973, and consideration of amendments to the request for appropriations transmitted therein for the Atomic Energy Commission (H. Doc. No. 92-269); to the Committee on Appropriations and ordered to be printed.

1773. A letter from the Secretary of Defense, transmitting his 1971 Annual Report on Reserve Forces, pursuant to 10 U.S.C. 279; to the Committee on Armed Services.

1774. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations and for other purposes; to the Committee on Armed Services.

1775. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes; to the Committee on Armed Services.

1776. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, and the Military Selective Service Act to permit the oversea assignment of members of the armed forces who have completed basic training and who have been awarded a military specialty; to the Committee on Armed Services.

1777. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit the Secretary of the Navy to establish annually the total number of limited duty officers permitted on the active list of the Navy and Marine Corps, and for other purposes; to the Committee on Armed Services.

1778. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting notice of the proposed transfer of the submarine U.S.S. *Torsk* to the Maryland Militia on behalf of the State of Maryland, pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

1779. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report of Department of Defense procurement from small and other business firms for July-December 1971, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

1780. A letter from the Director of Action, transmitting a draft of proposed legislation authorizing continuation of programs of Action, creating a National Advisory Council for that Agency, and for other purposes; to the Committee on Education and Labor.

1781. A letter from the Director of Action, transmitting a draft of proposed legislation authorizing continuing appropriations for Peace Corps and for other purposes; to the Committee on Foreign Affairs.

1782. A letter from the Assistant Secretary of the Interior, transmitting notice of the receipt of an application for a loan from the Semitropic Water Storage District on behalf of the Pond-Poso Improvement District of Wasco, Calif., pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

1783. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of a proposed amendment to concession contracts for the continued operation for an additional period of 1 year of facilities and services for the public in Zion, Bryce Canyon, and Grand Canyon (North Rim) National Parks, and Cedar Breaks National Monument, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

1784. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1785. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of February 29, 1972, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1786. A letter from the Chairman, National Commission on Marihuana and Drug Abuse, transmitting the first year's report of the Commission, entitled "Marihuana, A Signal of Misunderstanding," pursuant to section 601 of Public Law 91-513; to the Committee on Interstate and Foreign Commerce.

1787. A letter from the Acting Attorney General, transmitting a draft of proposed legislation to amend section 3401 of title 18, United States Code, to authorize U.S. Magistrates to use the probation provision of the Youth Corrections Act, and for other purposes; to the Committee on the Judiciary.

1788. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a draft of proposed legislation to amend the Disaster Relief Act of 1970; to the Committee on Public Works.

1789. A letter from the Director, National Science Foundation, transmitting a report on Federal support to universities, colleges, and selected nonprofit institutions during fiscal year 1970, pursuant to the National Science Foundation Act, as amended; to the Committee on Science and Astronautics.

1790. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code in order to authorize an agreement with the Republic of the Philippines providing for hospital care and medical services to be furnished Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities, and for other purposes; to the Committee on Veterans' Affairs.

1791. A letter from the Secretary of Health, Education, and Welfare, transmitting the Annual Report of the Social Security Administration for fiscal year 1971, pursuant to 42 U.S.C. 904; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1791. A letter from the Comptroller General of the United States, transmitting a report that most veterans are not completing correspondence courses and that more guidance is needed from the Veterans' Administration; to the Committee on Government Operations.

1792. A letter from the Comptroller General of the United States, transmitting an assessment of Federal and State enforcement efforts to abate water pollution; to the Committee on Government Operations.

1793. A letter from the Comptroller General of the United States, transmitting a report on the collection of child support under the program of aid to families with dependent children administered by the Social and Rehabilitation Service of the Department of Health, Education, and Welfare; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. H.R. 12652. A bill to extend the Commission on Civil Rights for 5 years, to expand the jurisdiction of the Commission to include discriminaton because of sex, to authorize appropriations for the Commission, and for other purposes; with amendments (Rept. No. 92-946). Referred to the Committee of the White House on the State of the Union.

Mr. DONOHUE: Committee on the Judiciary. H.R. 12979. A bill to amend title 28, United States Code, to authorize the recall of retired commissioners of the U.S. Court of Claims for temporary assignments (Rept. No. 92-947). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Post Office and Civil Service. S. 1989. An act to amend title 39, United States Code, to provide for the renewal of certain star route contracts; with amendment (Rept. No. 92-948). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. H.R. 440. A bill to amend the Civil Service Retirement Act, as amended, to provide annuities for additional personnel engaged in hazardous occupations; with amendments (Rept. No. 92-956). Referred to the Committee of the Whole House on the State of the Union.

Mr THOMPSON of New Jersey: Committee on House Administration. House Resolution 862. Resolution authorizing the Committee on House Administration to incur expenses in making certain improvements in the House Restaurant and related facilities in the Longworth House Office Building (Rept. No. 92-949). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 907. Resolution providing funds for the expenses of the investigations and studies authorized by House Resolution 819 (Rept. No. 92-950). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 908. Resolution providing expenses for the Committee on Interstate and Foreign Commerce (Rept. No. 92-951). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 909. Resolution to provide funds for the further expenses of the investigation and study authorized by House Resolution 20 (Rept. No. 92-952). Referred to the House Calender.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 910. Resolution providing for the expenses of the House Select Committee on Crime (Rept. No. 92-953). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 911. Resolution to provide funds for the expenses of the investigations and studies authorized by rule XI(8) and House Resolution 304; with amendment (Rept. No. 92-954). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 912. Resolution to provide for the further expenses of the investigation and study authorized by House Resolution 201 for the Committee on Armed Services (Report No. 92-955). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 14095. A bill to amend title VII of the Housing and Urban Development Act of 1965; to the Committee on Banking and Currency.

H.R. 14096. A bill to create the position of ombudsman, and for other purposes; to the Committee on House Administration.

By Mr. ASPIN (for himself, Mrs. ABZUG, Mr. BLACKBURN, Mr. BUCHANAN, Mrs. CHISHOLM, Mr. DANIELS of New Jersey, Mr. DELLUMS, Mr. DENT, Mr. GIBBONS, Mrs. GRASSO, Mr. HALPERN, Mr. HARRINGTON, Mr. HASTINGS, Mr. HECHLER of West Virginia, Mr. LENT, Mr. MOSS, Mr. MURPHY of New York, Mr. O'HARA, Mr. PIKE, Mr. RANGEL, Mr. SCHEUER, Mr. SEIBERLING, Mr. SYMINGTON, Mr. VEYSEY, and Mr. CHARLES H. WILSON):

H.R. 14097. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN (for himself, Mr. DRINAN, Mr. HELSTOSKI, Mr. STOKES, and Mr. WINN):

H.R. 14098. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BERGLAND:

H.R. 14099. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits (with a $100-minimum primary benefit), to increase the earnings base to $15,000 for both benefit and tax purposes, and to provide that one-third of the revenues required for the social security program be contributed by the Federal Government (with corresponding reductions in tax rates); to the Committee on Ways and Means.

By Mr. BLANTON (for himself, Mr. BELL, Mr. BRASCO, Mr. BROWN of Michigan, Mr. DAVIS of South Carolina, Mr. DONOHUE, Mr. DOWDY, Mr. DRINAN, Mr. FASCELL, Mr. FISHER, Mr. GUDE, Mrs. HICKS of Massachusetts, Mr. HORTON, Mr. JONES of Tennessee, Mr. MATSUNAGA, Mr. MAZZOLI, Mr. MITCHELL, Mr. MORSE, Mr. PEPPER, Mr. PODELL, Mr. RANGEL, Mr. ROY, and Mr. YATRON):

H.R. 14100. A bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns shall be taxed at the same income tax rates as unmarried individuals and to provide a special rule in the case of earned income which is community income; to the Committee on Ways and Means.

By Mr. BURLISON of Missouri:

H.R. 14101. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.R. 14102. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. DINGELL (for himself and Mr. PELLY):

H.R. 14103. A bill to amend the National Environmental Policy Act of 1969 to provide a temporary partial exemption from the requirements for the issuance of environmental impact statements; to the Committee on Merchant Marine and Fisheries.

By Mr. ERLENBORN (for himself, Mr. FUQUA, and Mr. QUIE):

H.R. 14104. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, and to establish a youth differential wage to encourage the hiring of youths, and for other purposes; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 14105. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. JOHNSON of California (for himself, Mr. DON H. CLAUSEN, Mr. HOSMER, Mr. CAMP, Mr. DELLENBACK, and Mr. MCKEVITT):

H.R. 14106. A bill to amend the Water Resources Planning Act to authorize increased appropriations; to the Committee on Interior and Insular Affairs.

By Mr. KEMP (for himself, Mr. MIZELL, and Mr. VANDER JAGT):

H.R. 14107. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies; to the Committee on Armed Services.

By Mr. MILLER of California:

H.R. 14108. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Science and Astronautics.

By Mr. MONAGAN:

H.R. 14109. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE (for himself, Mr. HUNT, Mr. DANIELS of New Jersey, Mrs. DWYER, Mr. FORSYTHE, Mr. FRELINGHUYSEN, Mr. GALLAGHER, Mr. HELSTOSKI, Mr. HOWARD, Mr. MINISH, Mr. PATTEN, Mr. RODINO, Mr. SANDMAN, Mr. THOMPSON of New Jersey, and Mr. WIDNALL):

H.R. 14110. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J.; to the Committee on Veterans' Affairs.

By Mr. TEAGUE of Texas (for himself, Mr. TEAGUE of California, Mr. DANIELSON, Mrs. HICKS of Massachusetts, Mr. MONTGOMERY, Mr. SATTERFIELD, Mr. SAYLOR, and Mr. WINN):

H.R. 14111. A bill to amend title 38 of the United States Code in order to authorize an agreement with the Republic of the Philippines providing for hospital care and medical services to be furnished Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ARCHER (for himself, Mr. CLEVELAND, and Mr. KUYKENDALL):

H.R. 14112. A bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law; to the Committee on Education and Labor.

By Mr. BRASCO:

H.R. 14113. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER:

H.R. 14114. A bill to amend title II of the Social Security Act to increase to $3,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. HALPERN (for himself and Mr. HATHAWAY):

H.R. 14115. A bill to promote international cooperation in United Nations efforts to protect the world's oceans and atmosphere; to the Committee on Foreign Affairs.

By Mr. HALPERN (for himself and Mrs. GRASSO):

H.R. 14116. A bill to promote the peaceful resolution of international conflict, and for other purposes; to the Committee on Government Operations.

By Mr. HALPERN:

H.R. 14117. A bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs; to the Committee on the Judiciary.

By Mr. KOCH (for himself, Mr. BEGICH, Mr. BRASCO, Mr. BURTON, Mrs. CHISHOLM, Mr. DELLUMS, Mr. DONOHUE, Mr. DOW, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. GALLAGHER, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. KEMP, Mr. LENT, Mr. MATSUNAGA, Mr. MOLLOHAN, Mr. NIX, Mr. ROSENTHAL, and Mr. ROYBAL):

H.R. 14118. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mr. PEPPER, Mr. SARBANES, Mr. SCHEUER, Mr. STOKES, Mr. SYMINGTON, Mr. TIERNAN, Mr. BOB WILSON, Mr. WINN, and Mr. YATRON):

H.R. 14119. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mrs. ABZUG, Mr. BELL, Mr. BOLAND, Mr. BURTON, Mr. O'HARA, and Mr. RYAN):

H.R. 14120. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. MINSHALL:

H.R. 14121. A bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns shall be taxed at the same income tax rates as unmarried individuals and to provide a special rule in the case of earned income which is community income; to the Committee on Ways and Means.

By Mr. MIZELL:

H.R. 14122. A bill to amend the Public Works and Economic Development Act of 1965 to extend its coverage with respect to the economic development of rural America; to the Committee on Public Works.

By Mr. RONCALIO:

H.R. 14123. A bill to amend title 13, United States Code, to establish a National Voter Registration Administration, and for other purposes; to the Committee on House Administration.

By Mr. RYAN:

H.R. 14124. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Assistance Administration to carry out a program of financial assistance to encourage and assist the States in registering voters; to the Committee on House Administration.

By Mr. STUBBLEFIELD:

H.R. 14125. A bill to amend the Federal Meat Inspection Act, as amended, by exempting salt-cured smoked meat; to the Committee on Agriculture.

H.R. 14126. A bill to provide for the establishment of a veterans' hospital in western Kentucky; to the Committee on Veterans' Affairs.

By Mr. GERALD R. FORD:

H.J. Res. 1130. Joint resolution authorizing the President to proclaim the first Monday in May as Industry Day; to the Committee on the Judiciary.

By Mrs. GRASSO:

H.J. Res. 1131. Joint resolution relating to sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

By Mr. MATSUNAGA:

H.J. Res. 1132. Joint resolution to establish a national policy relating to conversion to the metric system in the United States; to the Committee on Science and Astronautics.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

344. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the creation of a Commission on Indian Treaties; to the Committee on Interior and Insular Affairs.

345. Also, a memorial of the Legislature of the State of Hawaii, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

346. Also, a memorial of the Legislature of the State of Nebraska, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

347. Also, a memorial of the House of Representatives of the State of Arizona, relative to appointing a committee to investigate and recommend changes in the tenure provisions of the civil service laws; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 14127. A bill for the relief of Mrs. John Poon; to the Committee on the Judiciary.

By Mr. BROOKS:

H.R. 14128. A bill for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar; to the Committee on the Judiciary.

By Mr. ECKHARDT:

H.R. 14129. A bill for the relief of Mary Moore Aalund; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 14130. A bill for the relief of Jean Claire Casey; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 14131. A bill for the relief of Miss Albertina C. Dias; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

204. The SPEAKER presented a petition of Gordon L. Dollar, et al., Represa, Calif., relative to redress of grievances; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE PLIGHT OF THE INDIANS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. WALDIE. Mr. Speaker, when America was discovered the Indian population is estimated to have been about 1.5 million in the continental United States.

After contact with Europeans, the numbers fell rapidly as a result of many wars and the introduction of Western European diseases such as smallpox and measles which were fatal to many Indians. This was just the beginning of lives of misery and oppression for many Indians—a tragic period in their history and in our history—which is still not ended.

Some of the Indian tribes were totally decimated. Others merged and lost their special identity. Their land—which they treasured and respected—was taken away in ever-increasing chunks.

Now they are herded onto reservations. These reservations consist mainly of land which is not fit for farming or much else, for that matter. Their natural resources are slowly being eroded and their water resources are drying up. Altogether, a shameful episode in our Nation's past history that continues in its shameful neglect into our present.

A constitutent of mine who is concerned about the native Indian populations—Mrs. Dorothy T. Metzger, of Moraga, Calif., has sent me an article by Homer Bigart which appeared in the San Francisco Chronicle of March 12, 1972. I would like to share the article with my colleagues:

INDIANS FIGHT TO KEEP THE LAND

(By Homer Bigart)

RENO.—A grim determination to defend and preserve their shrinking land and water resources is developing among 477,000 Indians who live on 263 reservations in the West.

These resources are still being whittled away. "Manifest destiny," which justified the seizure of Indian lands on the presumption that the whites were destined to rule the continent, has been replaced by more subtle forms of expropriation, the Indians say.

"FIRST LANDLORDS"

Indians occasionally reflect with bitterness that, as the "first landlords of this continent," they might have started collecting rent from the pilgrims. Now they are down to some 50 million acres held in trust for

them on reservations and 40 million acres to share with Eskimos and Aleuts in Alaska.

The reservations range in size from tiny California settlements of only a few acres to the Navajo reservation of 14 million acres in Arizona, New Mexico and Utah.

Since these trust lands may be sold only with the approval of the Secretary of the Interior, it would appear that they are reasonably safe from further erosion. However, the long-term leasing of tribal property to public utilities, timber interests, strip-mine operators and resort developers is an increasing menace, the Indians say.

Usually it is the extreme poverty of a reservation that forces tribal chiefs into deals for the exploitation of Indian land and water resources. Then the chiefs are often reviled by their tribesmen as "apples" and "radishes," meaning phony Indians who are red on the outside but white under the skin.

A common feature of Indian reservations is their relative aridity. Consequently, water rights have become the most crucial problem for the Indians. When delegates to the National Congress of American Indians met here in November, they saw a gaunt symbol of their vanishing water assets—a dying lake.

PYRAMID LAKE

They were taken to the Pyramid Lake Indian Reservation, 30 miles northeast of Reno, to inspect what is generally considered to be one of the world's most beautiful natural desert lakes.

For centuries, the water level of Pyramid Lake was maintained by a natural balance of inflow from the Truckee River and a high evaporation rate in the desert climate. But the increased upstream use of Truckee water by cities and towns, irrigated farms and recreational and wildlife areas has upset that balance.

Now the lake has dropped more than 80 feet.

A study group from the federal government and the states of Nevada and California has estimated that the lake is steadily receding at the rate of one foot a year and that its demise is certain unless the Truckee inflow is fully restored.

The lake, once one of the finest fresh-water fisheries in the nation and renowned for its cutthroat trout, is becoming increasingly saline.

The northern Paiutes, who had hoped to develop the lake as a major recreational attraction, are embittered over the impending loss of their principal livelihood.

The Paiutes charge that the Truckee water is being "stolen" by upstream whites. But California and Nevada contend that, under a 1944 "final decree" by the federal courts, the Indians are entitled to no more than 30,000 acre-feet of Truckee water annually, or less than one-tenth the amount needed to offset evaporation and sustain the present level of the lake.

To the Indians, loss of the tribal land base usually leads to loss of tribal identity, and they cite the downward cultural and economic spiral of tribes that have cut themselves loose from federal trusteeship.

Members of these "terminated" tribes, oppressed by unemployment, have often had to sell the lands and go to the cities in search of work. Idleness among urban Indians now runs as high as 70 per cent and they live in abject loneliness in the foulest of slums.

RESTORING THE RIGHT TO OWN AND TRADE IN MONETARY GOLD

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SCHMITZ. Mr. Speaker, on March 6 I appeared before the House Banking and Currency Committee to testify in favor of my bill, H.R. 6790, which would remove all present restrictions on the ownership, buying and selling of gold by American citizens, and would allow payment of contractual obligations in gold if both parties to a contract agree to it. The subject of the committee hearing was the pending bill to devalue the dollar in terms of gold, and my bill was offered as an amendment to that measure.

The prohibition on owning and trading in monetary gold by American citizens dates back to the depths of the Great Depression, to an Executive order by President Franklin Roosevelt in 1933, followed up by implementing legislation and upheld by a 5 to 4 Supreme Court decision in 1935 invalidating the "gold clauses" in private contracts, whose legality my bill would restore. The time has come to remove this extraordinary restriction on private ownership by citizens of what is supposed to be, and ought to be a free country.

Excerpts from my testimony follow:

I come before you today to urge you most solemnly to lift one of the most arbitrary, tyrannical and indefensible restrictions of individual liberty ever imposed on the American people: the denial of their right to own and trade in monetary gold—a right respected by nearly every other free country in the world. Whatever reason or excuse might once have been given for denying this right at the height of a world-wide financial panic nearly forty years ago, there can be no possible justification for maintaining the prohibition, now that our Federal Government itself will no longer trade in gold. The bill before you presents a natural vehicle for removing this prohibition. Proposals to remove it have gained widesperad support.

Throughout history, the most dependable *intrinsic* economic value has been found in precious metal—gold and silver. Nearly all advanced civilizations have used gold as their basic monetary standard. Its attributes of durability and beauty have given it a character apart from that of any other metal, a character that has remained untarnished throughout the ages. Gold commands respect in all quarters for its beauty and imperishability. You may throw it into the ocean, you may hide it in the earth, or you may subject it to the heat of the furnace, but it remains essentially unchanged and unmistakable in its appearance.

And, so long as gold may be freely owned and traded, the very qualities which give it so much intrinsic value also act as a check on the inflation of other media of exchange, whose value will inevitably be measured in terms of gold. When gold is in circulation, the people cannot long be fooled about what is happening as the value of their paper money is diluted. . . .

Writing in *The Freeman* in August 1971 just as the international money crisis which led to the devaluation of the dollar was breaking out into the open, distinguished economist Henry Hazlitt said: "There appears to be no alternative now to our government doing frankly and de jure what for the last three years it has been doing without acknowledgment but de facto: it should openly announce that it can no longer announce that until further notice it will neither buy nor sell gold."

These things have already been done. But Mr. Hazlitt went on to say: "Simultaneously, however, the United States should repeal all prohibitions against its citizens owning, buying, selling, or making contracts in gold. This would mean the restoration of a really free gold market here."

PROPOSES A NEW DEPARTMENT OF HEALTH

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SYMINGTON. Mr. Speaker, two of the most serious problems facing our country today are the lack of adequate funding for health programs and the lack of coordination of the many existing health programs.

A new, separate Department of Health could alleviate both of these problems. A Secretary of Health could devote full-time to coordinating the disparate health effort by the Federal Government while assessing the value and the need for more dollars for effective health programs.

In this regard, I would call to the attention of my colleagues an article detailing a proposal for a separate Department of Health and the key role Representative PAUL ROGERS of Florida is playing in the development of this new Department.

The article appeared in the American Medical News on February 28, 1972.

WASHINGTON'S WEEK

A Cabinet level Dept. of Health is slated to receive a serious push in Congress this year, though time won't permit enactment. Rep. Paul Rogers (D., Fla.), influential chairman of the House Health Subcommittee, plans to introduce legislation and hold hearings. Impetus to the drive could come from the Democratic Party's national convention where a party plank provision may endorse the Health Dept. idea.

Administration opposes plan. President Nixon's moribund Cabinet reorganization plan moves in opposite direction, calls for changing Health, Education, and Welfare Dept. to Dept. of Human Resources with added welfare programs from Labor and Agriculture Departments.

No question from size and importance that health ranks a Cabinet spot. Federal outlays for health next fiscal year put at $25.5 billion, 10.3% of all federal expenditures. However, broad issue pits two schools of thought on administering federal programs. Administration supporters believe it makes sense to contain within one umbrella most programs involving health and welfare as intimately connected and needing single supervision. Education isn't quite so related, but there hasn't been much pressure to separate this function which ranks third in spending at HEW (about $6 billion) and fits in as well at HEW as anywhere.

Backers of a Health Dept. contend that health gets short-changed because it doesn't have Cabinet clout, argue that size and importance dictate elevation. Rep. Rogers is charging that health is an administrative mishmash and that as a result White House Office of Management and Budget is real maker of health policy. "The federal health establishment is entitled to have a full-time secretary of health who can be heard in the White House over the guillotine of the Office of Management and Budget," lawmaker declared in a speech last fall.

A troublesome problem in any consolidation of health functions is the administrative location of Medicare and Medicaid, the government's two big health programs. Medicare is run by Social Security, which could hardly be brought under a health department, and Medicaid rests in HEW's Social and Rehabilitation Service.

A meaningful Health Dept. would have to exert control over both of these programs, but how the lines of authority could be rejiggered to accomplish this is a tough problem.

Another difficulty lies in the organization of Congress, where jurisdiction over health is splintered. Medicare and Medicaid are supervised by the House Ways and Means and Senate Finance Committees as part of their jurisdiction over tax matters. Most of the remainder of health is in the province of the Senate Labor and Public Welfare and the House Commerce Committees, which have many other responsibilities. Both have special health subcommittees. Furthermore, due to this division, the Congressional appropriations committees have exerted great influence on health policy through control of the purse strings.

Rep. Rogers and his Senate counterpart, Sen. Edward Kennedy (D., Mass.), realize that establishment of a separate Health Dept. would make formation of Congressional full committees dealing solely with health a logical next step. And their subcommittees would be the logical basis for such committees.

The chairmen of the present committees—Sen. Harrison Williams (D., N.J.) and Rep. Harley Staggers (D., W. Va.)—are in somewhat the same position as HEW Secretary Elliot Richardson. They would not like to see such an important chunk of their business taken away.

Most health groups, including AMA, back a Health Dept. One reason for formation of the 21-member Coalition for Health Funding was the belief that health needs more clout in Congress.

INFANT MORTALITY DECLINE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. CARTER. Mr. Speaker, I am pleased to submit the following article on the decline of the infant mortality rate in the United States.

[From American Medical News, Feb. 21, 1972]

INFANT MORTALITY RATE CONTINUED DECLINE IN 1971

The infant mortality rate in the United States continued to drop in 1971.

The National Center for Health Statistics, on the basis of preliminary data for the first 11 months of 1971, places the infant mortality rate at 19.0 per 1,000 live births—compared to the annual rate of 19.8 in 1970.

In the past 20 years, the rate has been cut by more than one-third—from 29.2 in 1950 to the current low. It was 47.0 in 1940.

The National Center also reported in its Monthly Vital Statistics Report that the 17.5 infant deaths per 1,000 live birth last August was the lowest rate ever recorded for a single month in the U.S. The previous monthly low was 18.5 in August, 1970.

Provisional data for infant mortality by state have not been compiled for 1971.

However, on the basis of data for the first 10 months of 1971 Connecticut recently cited a new state low of 15.4 infant deaths per 1,000 live births, continuing a steady decline from 22.2 in 1965. Connecticut ranked among states with low infant mortality last year with a rate of 17.2.

In its *Weekly Health Bulletin*, the Connecticut State Dept. of Health cited two factors in the declining infant mortality rate:

Better and more effective medical care for mothers and newborns.

Changes in the basic character of the state's maternity and newborn population.

According to the report, there has been a substantial reduction in the number of infant deaths caused by birth injury since 1965. There also has been a significant drop in the number of infant deaths related to hemolytic disease, due chiefly to a new medical procedure designed to prevent the disease.

Along with improvements in direct medical care, there has been a marked decrease in the number of very low-weight babies, the health department said. In 1965, 8.6% of Connecticut's babies weighed 5½ pounds or less at birth. In 1970, this figure had fallen to 7.8%.

"This change might appear to be slight, but it is important since well over 50% of all infant deaths occur among this relatively small group of low-weight babies," the report pointed out. It added that the reason for the change in birth weight distribution is not clear.

Another important change cited in the Connecticut report is the trend toward smaller families.

THE COMMITTEE FOR FULL FUNDING OF EDUCATIONAL PROGRAMS

HON. DAVID PRYOR

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. PRYOR of Arkansas. Mr. Speaker, I would like to take this opportunity to comment on the diligent and sincere work of a group whose prominence is steadily increasing with regard to educational matters in this Nation.

The Committee for Full Funding of Education Programs was established in 1969. It is a nonpartisan organization, by that I mean that their efforts are aimed at the increased funding of many diversified education programs. The committee's components include the concerns of elementary and secondary education, vocational and higher education, impact aid, and libraries.

At a breakfast given for members of the House Appropriations Committee, the current president of the group, Mr. Frank Mensel of the American Association of Junior Colleges, presented a concise but complete critique of the serious financial problems faced by Federal education programs.

I urge my colleagues on the Appropriations Committee and all the distinguished Members in both Chambers of the Congress to earnestly listen to and completely digest in their minds and consciences the facts and figures and thoughts exposed by members of this committee.

People all over this country are beginning to think that their Government is allowing the urgent priority of education for all of our citizens to become lost among less important issues that face us today. It seems strange and odd to me, as well as to millions of others in this land, that education, or the lack of it, is credited with being the roots of so many of our National, State, and local problems. The past and current scapegoat employed when answers or solutions cannot be quickly found for economic, social, and political upheavals is the inadequate education of our citizens. And in a great number of cases, this is the inevitable truth.

But what are we doing to better and more efficiently service the educational needs of our schoolchildren, our handicapped, our aged, and all other Americans whose thirst and need for education can and should never be quenched? We are not doing enough. The future of our society cannot tolerate a lowering of the top priority ranking due educational programs; the present cannot stand devastating cuts in the funding of education programs.

The Committee for Full Funding is trying to warn the Congress of the impact on this Nation of neglecting our educational responsibilities.

Its membership is doing us a great service.

I urge that my distinguished colleagues give them and their information a little time and a lot of consideration.

MEANY FAILED TO WORK FOR PAY BOARD GOALS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, the Washington Post on Sunday, March 26, 1972, contained a column by a distinguished economist and commentator on economic affairs by Mr. Hobart Rowen. I believe that it correctly points out the real background which surrounds the resignation of Mr. George Meany from the Pay Board. I agree completely with Mr. Rowen's assessment of Mr. Meany's action as both precipitate and unwise.

Mr. Speaker, I think that an effective wage-price control program needs and deserves the cooperation of organized labor. I hope that Mr. Meany and his colleagues will reconsider their decision to quit the Board.

The column follows:

MEANY FAILED TO WORK FOR PAY BOARD GOALS

(By Hobart Rowen)

AFL–CIO President George Meany has been itching to get off the Pay Board ever since he joined up, with great reluctance, five months ago. At his insistence, the board was established on a tripartite basis. But as Judge Boldt, chairman of the board, reported accurately, the AFL–CIO group has been sniping at the system, especially at the public members, from the first day.

Meany has displayed his contempt for the stabilization effort in many ways. He rarely showed up himself for the meetings of the Pay Board, sending research director Nat Goldfinger to most sessions as his alternate. Boldt noted that, when the dock-workers' case was considered, not one of the five labor men named by the President was present, all being represented by subordinates.

But for all of the heavy and denunciatory rhetoric in the AFL–CIO statement celebrating its walk off the board, it would be naive to believe that the reduced but generous 14.9 per cent settlement for the dockworkers is the real cause of the Meany blast.

Meany is less concerned with the amount of pay increase authorized by the Pay Board for the dockworkers than with Nixon's "af-

front" to all of labor when he signed, in Peking, the legislation that would have forced the dockstrike to arbitration, had it continued. Meany considered that a gratuitous slap in the face.

The barrage of invective privately leveled against public members Arnold Weber and Kermit Gordon was Meany's way of saying that Judge Boldt is incompetent, and that in the absence of real labor-management expertise on the board, Weber and Gordon had taken over. Weber is regarded as "an administration flunky." Gordon, a distinguished economist and president of the Brookings Institution, is labeled by one of Meany's key aides as "a no good, incompetent ———."

If there is anything wrong with the dock pay award, it is its excessive generosity in the face of a 5.5 per cent general standard, or the 7 per cent catchup standard. But it was swallowed by the public and business members on the basis that greater productivity and mechanization on the docks justified that much—even if they couldn't buy the 21 per cent package won by Harry Bridges.

The American public could probably accept the Pay Board's logic—even though it weakened the fight against inflation. What won't go down is the meaningless arithmetic offered by Meany, claiming that a dockworker getting a 15 per cent pay raise will "lose" $1,150 in the next 18 months. That is pure bull.

Where Mr. Meany has a case is on prices. There have been so many leakages on the price stabilization side, notably on food, that it begins to look extremely doubtful that the goal of limiting inflation to a 2-to-3-per cent increase by the end of this year can be achieved.

The spectacle of Agriculture Secretary Earl L. Butz running around the country cheering every increase in meat prices is hardly one designed to create confidence in Phase II. The administration as a whole gives the impression that the price side of the job is a very distasteful thing.

To be sure, Price Commission chairman C. Jackson Grayson Jr. appears to be dedicated to his responsibilities. But there is lots of window dressing and little substance in much of the effort. The public has been led to believe that a fairly tight control exists on almost everything. But, as the soaring price indexes show, this is not the case.

What is needed is a realistic wage-price program, and Meany's politically unwise and precipitate action contributes nothing to that cause. The AFL–CIO suggests that it believes in controlling prices. In that case, it must suffer the control of wages as well. All that Meany has accomplished is the creation of a public board instead of a tripartite board, which leaves him on the outside looking in.

What labor risks, it seems to me, is a growing public distaste for the arrogance of its leaders. The AFL–CIO, after all, has by its own count, only 14,749,000 members out of a total labor force in ths country of 85,500,000 workers. All organized labor—other unions added to the AFL–CIO—represent only about 20 per cent of the labor force.

There already is some sentiment in Congress and elsewhere for clipping labor's power, by resorting to compulsory arbitration and other methods. If Mr. Meany is held responsible by the public for pulling Phase II onto the garbage heap, he's inviting an era of repression.

MDTA: A DECADE OF ACHIEVEMENT

HON. WILLIAM A. STEIGER
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, at the 10th anniversary of the start of the landmark Manpower Development and Training Act, Dr. Garth Mangum delivered a most thoughtful and important speech.

Since the conferees meet tomorrow on the extention of MDTA, my hope is that Dr. Mangum's references to a wake will prove to be wrong but his analysis of this act during its 10 years of existence deserves the careful attention of all Members of Congress. Since Dr. Mangum is one of the "fathers" of MDTA, his remarks are particularly important.

The speech follows:

MDTA: A DECADE OF ACHIEVEMENT

(By Garth L. Mangum)

Invited to review the accomplishments of MDTA, I am uncertain whether to speak encouragement to a healthy 10 year old temporarily indisposed or to offer a eulogy in a macabre funeral sermon for a corpse not yet dead but dying. All indications would support the terminal diagnosis but survival from a last minute blood transfusion is not impossible. But in either case the review is appropriate.

Conceivable achievements are (1) reduction in overall unemployment, (2) reduction in the unemployment-price level trade off, (3) improvement in the employment and earnings experience of enrollees, and (4) favorable institutional change. The first is conceivable only if (a) there are jobs remaining vacant and demands for goods and services remaining unfulfilled for lack of workers with skills within reach of MDTA training, or (b) if the training can increase overall marginal productivity sufficiently to spark expansion. The second is a reasonable possibility but not measurable at enrollment levels which have prevailed to date. The impact on enrollees and upon labor market institutions are the residual possibilities explored in this paper. The institutional impact was earlier explored by my favorite author in his *MDTA, Foundation of Manpower Policy* but can be updated. It is an interesting coincidence that a measure of the enrollee impact became available only after 10 years in what is apparently to be MDTA's terminal year.

MDTA has been recently intensively evaluated for its administrative system, its relevance to the labor market, its basic education component, the effectiveness of its skills centers and individual referral practice, its employment and incomes outcome and its contribution to the alleviation of skill shortages. Most are concerned with process rather than achievement. I summarize briefly only the findings of the latter four studies in which I have had some involvement.

THE EMPLOYMENT AND EARNINGS IMPACT

A total of 1.7 million persons enrolled in MDTA programs between March 15, 1962 and June 30, 1971 pursuing training financed under total federal obligations of $2.4 billion. Program data list 1.1 million persons as having completed training over those years with 879,000 obtaining posttraining employment.

Throughout the decade a variety of follow-up surveys have attempted to gain greater detail on the postenrollment employment and earnings experience of those enrollees. There have been small scale follow-ups of enrollees in limited localities and national studies with relatively small samples. Some have attempted to relate benefits to costs but most have been satisfied to report benefits alone. A few have attempted control groups in an attempt to measure those observed changes which would not have occurred in the program's absence. The results have been consistently positive, yet never sufficiently beyond challenge to appease the program's more persistent critics.

This paper reports only upon the tentative findings of a recent follow-up survey of 5,169 of the total 220,000 individuals who were enrolled in MDTA projects during 1969. Though the largest study to date with the most representative sample, it will not still controversy, primarily because it had no control group. Posttraining employment and earnings are comparable only with pretraining experience and tempered by prevailing trends as an estimate of what would have happened to the individuals had they not had the MDTA opportunity.

The tentative findings have already generated some controversy among the restricted number who have reviewed them. None have faulted the basic methodology. Finding and interviewing over 80 percent of the selected sample more than a year after enrollment is reasonable assurance against bias. Income reported by individual respondents was checked against Social Security records, recording general agreement. Given the nature of the social security data, there is no reason to prefer one source over the other in the limited situations where the data disagree. The reason for the controversy seems to be primarily some reluctance to believe the actual outcome of MDTA training was as positive as the data reflect. Perhaps because of its "establishment" base, relying upon the joint efforts of the public employment service, the vocational education system and (for OJT) the employers, it seems difficult to believe that it could serve well the disadvantaged who are the prime targets of current manpower programs.

The following are the key findings of that study:

1. Annual income gains of participants averaged over $1800 for institutional trainees and over $1600 for those enrolled in OJT.

2. Income *gains* of disadvantaged enrollees were, on the average, more than double those of the non-disadvantaged, even though the latter had higher pre- and post-training incomes.

3. After these substantial income improvements, the average Institutional enrollee was earning $3,400 per year, and the OJT enrollee was earning $3,800 per year following training. Both incomes hovered near the top range of poverty incomes depending upon family size and location. Therefore, the income climb for the typical enrollee was from deep poverty level to its upper margins. Since the study had no control group, it was impossible to determine how much income gain occurred as a result of the MDTA participation rather than other forces. However, it was possible to estimate the extent to which the income gains were derived from a combination of increased labor force participation, improved employment stability and higher wages, that being the order of their importance. A substantial portion of the wage gains may be attributable to general wage trends. Since the post-training period was one of climbing unemployment, it is likely that the increase in labor force participation and employment stability are attributable to program participation.

4. Institutional MDTA training served as a successful port of entry or reentry into the labor market for youth, women and others who had been out of the labor force.

5. Annual income gains varied by personal and household characteristics, but all groups gained substantially.

6. Completers experienced approximately three times the annual income increases of those who dropped out of training, but even the latter profited substantially from the experience.

7. Typically, the greater the length of training the higher the expected annual income gain. This relationship was strongest for institutional enrollees.

8. The more skilled occupations tended to have the highest payoffs. Construction trades and health services led the field. The extent to which MDTA programs provided a "port of entry" into the labor marget gave female occupations an edge on income gains from increased labor force participation, while male occupations experienced the greatest wage gains.

9. Skill center training produced greater improvements in employment stability and wage rates than individual referral or class size projects. On the other hand, individual referrals produced the greatest increase in labor force participation.

MDTA's Impact on Annual Income—A few words of explanation are necessary to understand the origin of the estimate that an enrollee gained on the average $1876 and $1614 per year as a result of enrollment in Institutional and OJT programs respectively.

One-third of the Institutional enrollees and ten percent of those in OJT held no jobs at all in the pre-training period. Among these were the more than one out of five who neither worked nor looked for work at any time during that period. Another seven percent looked for work only sporadically, while only one out of twenty of this group were looking for work all or most of the time during the pre-training period. Therefore, the "no job" group as a whole reasonably approximates a condition of being out of the labor force. Among this group, two-thirds were female but there were no significant concentrations by age, race or education.

Annual incomes were estimated by combining average hourly wage rates when working with the proportion of available time worked during the year. For instance, a $2.00 an hour wage rate when employed only seventy-five percent of the time is the exact income equivalent of a full-time job at $1.50. If either condition prevailed for a full working year of approximately 2,000 hours, the resulting annual income would be $3,000. Differences between those annual incomes for the pre- and post-training periods represent the best measure of program outcomes.

It is instructive to know the extent to which the estimated gains occurred from increased labor force participation, improved employment stability and higher wages.

TABLE 1.—SOURCE OF ANNUAL INCOME GAINS

	Institutional	OJT
Total annual income gain	$1,876	$1,614
Increased labor force participation	1,035	693
Improved employment stability	491	505
Higher hourly wages	350	416

Comparing the pre- and post-training incomes of only those who held at least one job in each of the two periods results in an annual income gain of $841 for Institutional training and $921 for OJT. The latter figures represent a composite of improved employment stability and higher wages. Subtracting these gains from the total improvement in annual income leaves the remainder—$1,035 for Institutional training and $693 for OJT—as the portion of the gains in annual income occurring from the employment in the post-training period of those not employed in the pre-training period; that is, the impact of increased labor force participation. Whereas only sixty-six percent of the Institutional enrollees had at least one job in the pre-training period, ninety percent did so after training, despite generally rising unemployment. Comparable figures for OJT were ninety percent before training and ninety-six percent after.

The wage impact can be calculated by multiplying the proportion of available time worked during the pre-training period by the hourly wage gain—$0.37 for Institutional and $0.28 for OJT—and multiplying by 2,000 hours. The product estimates what annual income would have increased after deducting the labor force participation and hourly wage contributions, had the same average number of hours per year been worked but had been paid for at the higher rate. The result is $350 for Institutional and $416 for OJT. The remainder, $491 for Institutional and $505 for OJT, can be attributed to improved employment stability—that is, reduced unemployment for those already in the labor force.

Since the post-training period was one of rising unemployment, it is reasonable to assume that nearly all of the labor force participation and employment stability gains were contributions of the MDTA participation. In fact, just maintaining the same employment levels would have been an achievement and the actual gain over what would otherwise have happened may be even greater than shown. However, despite the rising unemployment, 1969, 1970, and 1971 were periods of upward wage trends. It is problematical what the impact of inflation was on the lower levels of the wage structure represented by the post-training jobs. The average percentage wage increase for the Institutional enrollees was twenty-one percent compared to twenty percent for OJT. An average of 20 months elapsed between the midpoints of the pre- and post-training periods. Overall national wage levels having increased an average of seven percent per year, twelve percent is not an unlikely figure to attribute to general wage increases for the 20-month period.

That being the case, fifty-two percent of the wage increases for Institutional trainees and fifty-five percent of the wage increases for OJT enrollees may be attributable to general wage trends which might have occurred in the absence of the program. However, most of the annual income increase resulted from labor force participation and employment stability impacts. Deducting the estimated contribution for general wage trends would still leave the annual income increase attributable to Institutional training at $1,621 and that from OJT at $1,336.

The increased labor force participation which is the most important source of income gain is also the source of a possible upward bias, given the age distribution among enrollees produced by high levels of youth unemployment. Many of those not working or seeking work or working sporadically before enrolling in MDTA may have been youth just entering the labor force. The mere process of aging would be expected to add stability to their employment. For them, the added contribution of MDTA participation is not ascertainable. Breaking out the income gains and the source of the gains by age provides some insight into the influence of the aging process. All age groups gained from each influence but the 19–21 age group gained most from increased labor force participation (with the exception of the 45 and older group). (Table 2)

Interesting aberations are the gains of the older group from labor force participation after Institutional training and wage improvements after OJT. The aging process is a contributor but apparently not the most important explanatory variable in the total income gain.

Costs of the Income Gains—No data was gathered on the costs incurred in training the enrollees in the sample, precluding a valid cost benefit analysis. However, an approximation can be reached by comparing the income gains of the enrollees to the average per trainee expenditures of the total MDTA program (Table 3).

TABLE 2.—SOURCE OF INCOME GAINS BY AGE

Age at interview	Total annual income gain	Increased labor force participation	Improved employment stability	Higher hourly wages
Institutional:				
19 to 21	$1,990	$1,176	$648	$166
22 to 34	1,716	815	482	419
35 to 44	1,924	940	579	405
45 and over	1,822	1,295	290	237
OJT:				
19 to 21	1,952	989	815	278
22 to 34	1,656	551	661	444
35 to 44	1,282	593	306	383
45 and over	720	121	19	580

These are only the federal budgetary costs. Excluded are costs to state and local government not subsidized from MDTA budgets. Also excluded are personal costs to the enrollees such as foregone earnings and out-of-pocket costs incident to training. However, with the average annual pre-training income of Institutional enrollees at $2570 and the average training period of about four months, foregone earnings would have amounted to only $823. Institutional training stipends of between $45 and $50 a week, approximately those that prevail, should have compensated for any income loss. OJT enrollees, of course, received pay while training.

TABLE 3.—MDTA OBLIGATIONS, ENROLLMENTS AND PER CAPITA COSTS, FISCAL YEAR 1963–70

	Total	Institutional	OJT
Total MDTA obligations	[1] $2,067,000	$1,609,423,000	$378,734,000
Total MDTA enrollments	1,451,400	978,400	473,000
Total MDTA placements	987,200	651,700	335,500
Estimated costs per enrollee		[2] 1,383	801
Per completer		[2] 2,470	1,129
Per placement		[2] 3,323	1,310

[1] Includes part-time and other training in addition to institutional and OJT.

[2] Includes stipends constituting over ½ of total costs.

TABLE 4.—ALTERNATIVE CURRENT VALUES OF ANNUAL INCOME GAINS

	Duration of income increment					
	5 years		10 years		20 years	
	Inst.	OJT	Inst.	OJT	Inst.	OJT
5 percent	$7,019	$5,784	$12,514	$10,314	$20,198	$16,647
8 percent	6,468	5,331	10,877	8,964	15,918	13,120
10 percent	6,144	5,063	9,953	8,203	13,795	11,369

Because of the possible lack of congruence between the benefits to a sample enrolled during one year and the costs occurring to the entire program over its whole life, it would not be wise to attribute an undue validity to this benefit-cost relationship. At the same time the general magnitudes of the relationships are not without significance. Costs for any particular enrollee are a one-time phenomenon, whereas income gains are a flow reoccurring persistently for some undetermined period of time. To achieve a valid comparison, it is necessary to derive a current value for the expected future income stream by discounting the annual income gain by the opportunity cost of the rate of return to be expected from alternative uses of the same funds and estimating the number of years one expects the incremental income to persist. Since neither are known in this case, table 3 illustrates the situation with three alternative discount rates and durations of benefits. I leave it to the reader to choose the ratio between the costs and the benefits he prefers among these alternative illustrations.

Annual Income by Enrollee Characteristics—Manpower program evaluators have always been plagued with the nagging probability that in less than full employment, any observed gains for enrollees were won at the expense of others who would have obtained those jobs and earnings in the absence of the program. Public expenditures on behalf of specific individuals or groups are generally accepted when one of three conditions prevail: 1) When the expenditure results in an increase in the gross national product sufficient that the entire society can have a higher disposable income despite the expenditure; 2) When the expenditure results in a sufficient decrease in social costs that the same is true; and, 3) when the public has decided, through its representatives, to redistribute income in favor of that group.

The GNP impact cannot be measured for MDTA, since it would be necessary to assume that the jobs obtained by the MDTA enrollees would have otherwise remained idle and that the production they were responsible for would not have occurred. There is also no data available to support the second justification. However, it is declared public policy to use manpower and other programs to redistribute income in favor of those defined as disadvantaged; that is, those who are:

1. Both poor and without satisfactory employment; and
2. Either:
(a) Under 22 years of age,
(b) Over 44 years of age,
(c) With less than high school education,
(d) A member of a minority group, or
(e) Handicapped.

Eligibility for MDTA requires only unemployment or underemployment. The disadvantaged are to receive priority to the extent that sixty-five percent of the overall enrollment should meet the designated criteria. However, the target need not be applied to any particular individual or project. The remaining thirty-five percent is expected to reduce labor shortages, an effect which could be expected to increase the GNP if it could be shown (a) that labor shortages existed and (b) that MDTA was training for them. The two objectives need not be mutually exclusive since disadvantaged persons can be trained to fill labor shortages. A vital test of MDTA's validity, therefore, is the proportion of disadvantaged among its enrollees, even if there is no assurance that others equally disadvantaged would not have obtained the jobs.

The follow-up study produced only personal income data for the pre-training period, while the poverty criteria are derived for families. The personal income of nonfamily heads cannot be assumed to represent those of the family but the personal incomes of heads of households should be a reasonable approximation. Considering family size, assuming all household heads to be non-rural and under 65 (true of almost all), and assuming household heads to have been typical of the whole sample, sixty-nine percent of the institutional enrollees and fifty-six percent of those in OJT met the definition of disadvantaged.

Table 5 compares the income gains of the disadvantaged and non-disadvantaged. The advantaged, of course, began and ended with higher incomes but their gains were less. Using the Social Security Aministration's poverty criteria for an urban family of four as an illustration, the non-disadvantaged were well above the poverty line before as well as after training. Disadvantaged trainees both Institutonal and OJT were well down in the poverty ranks before training. The average disadvantaged OJT enrollee was raised to the poverty line while his Institutional counterpart was now considerably better off than before, but still poor.

TABLE 5.—RELATIVE INCOME GAINS OF DISADVANTAGED AND NON-DISADVANTAGED ENROLLEES

	Institutional		OJT	
	Disadvantaged	Nondisadvantaged	Disadvantaged	Nondisadvantaged
Pretraining annual income..	2,036	4,032	2,212	4,209
Post-training annual income..	3,363	4,732	3,862	5,078
Income gain [1]....	1,210	596	1,413	628

[1] These income gains do not equal the differences between pre- and post-training incomes because they are calculated for only those with at least one job in each of the two periods.

By various characteristics, women gained slightly more than men from institutional enrollment with men gaining slightly more in OJT. Whites generally made greater gains than blacks with Spanish-Americans consistently making the greatest gains of any ethnic groups.

The Impact of Program Mix—having looked at "who gains most", what can be learned of the relative contributions of alternative mixes of services? Originally, MDTA projects were organized in class size groups and were held in public schools during off-hours or in rental facilities. Subsequently, skills centers were established to provide a range of training offerings accompanied by on-site orientation, counseling, placement and supportive services. More recently, individual enrollees have been referred to on-going school courses with their tuition paid by MDTA. All three types now coexist and their relative effectiveness is of interest.

There are significant differences among the income impacts of the three program types according to the measure used. The median income gain for individual referral enrollees was $2,380, compared to $1,980 for skills center enrollees and $1,860 for class size projects (table 6). Of those amounts, $961 for the skill center enrollees, $1,902 for the individual referrals and $1,054 for group-sized projects were accounted for by the employment of those who held no jobs in the pretraining period Of the remaining portion of the income gains, $621 for the skills centers, $328 for individual referrals and $524 for class-sized projects were attributable to improved employment stability for those already in the labor force. The remainder, $398 for skill centers, $150 for individual referrals and $242 for class-sized training were the consequences of wage increases. Apparently individual referral found heavy use and was effective for bringing into the labor force those who were previously outside it. Skill centers were most effective for adding to the employment stability of those already in the labor force and for increasing wage rates. This squares with the preliminary findings of a study of individual referrals in MDTA which show these enrollees to be younger, whiter and more likely to be female and less likely to be disadvantaged, than enrollees in either skills centers or class-size groups.

TABLE 6.—COMPARATIVE INCOME GAINS OF SKILLS CENTER, CLASS SIZE PROJECTS AND INDIVIDUAL REFERRAL BY SOURCE

	Median annual income gain	Increased labor force participation	Improved employment stability	Higher hourly wages
Skills center.....	$1,980	$961	621	398
Class size project.	1,860	1,059	524	242
Individual referral.....	2,380	1,902	328	150

Institutional training completers had about three times the income improvement of Institutional dropouts, but the latter gains were still substantial. There was a consistent growth in income gains with longer length of training.

Among Institutional training occupations, health services "paid off" most handsomely, followed by machine trades, construction trades, food services/homemaking, clerical/sales and service trades, in that order. However, this ranking was heavily affected by those entering the labor force through the training route, therefore favoring occupations popular with females. Abstracting from the increases in labor force participation would bring construction trades to top ranking, followed by health services and machine trades. Only a scattering of miscellaneous skills seemed to lack substantial impact. Basic education and other components unaccompanied by skills training was reasonably effective for those previously out of the labor force, but had little wage and employment stability impact.

Shifting to OJT, the margin of income gains between completers and dropouts was not as great, but the former was still nearly double the latter. "Dropout" for an OJT enrollee, of course, has a different meaning than for Institutional programs, requiring the enrollee to quit or lose his job. The relationship between length of training and income gain was less consistent for OJT, peaking at about six to nine months after some fluctuation. However, the nature of OJT must be kept in mind. Ninety percent of the OJT enrollees, as contrasted with sixty-six percent of the Institutional, had held at least one job in the pretraining period and many were probably being upgraded without changing employers. Frequently, as OJT enrollees were contacted for interview, they would respond, "But I have never been enrolled in a training program!" As a generality, the job rather than the training content was probably the goal and length of training was of uncertain relevance.

Among OJT occupations, various miscellaneous skills brought the greatest income gains followed by mechanics/repairs, food services/homemaking, clerical/sales and construction trades, with service trades and machine skills bringing up the rear; a quite different ranking than for Institutional with food services/homemaking having surprisingly favorable results in both areas.

MDTA AND INSTITUTIONAL CHANGE

A troublesome aspect of MDTA administration has been the necessity of coordinating the efforts of employment services and vocational educators at the state and local levels and, consequently, the efforts of the Departments of Labor and Health, Education, and Welfare. Yet, in retrospect, it has been worth it and the program and the labor market institutions would be worse off without that dual involvement.

The not always felicitous marriage performed ten years ago with the Nations' education associations holding the shotgun while the Congress performed the ceremony bound together two federal agencies with very different philosophies. To the Labor Department, the job has been the thing, the more immediate the better with training to be minimized and dispensed with where possible. To the U.S. Office of Education, the more training the better, with almost an implication with some officials that the jobs will take care of themselves. With HEW generally ignoring its MDTA responsibilities and the Labor Department preferring divorce as long as it could maintain custody, a small group within USOE's Division of Manpower Development and Training can be credited with protecting the union and keeping both partners reasonably honest. They have been primarily responsible for the institutional changes MDTA has wrought in the schools while the Labor Department has brought about major reorientation within the public employment service.

The major institutional achievement from the education side has been the development of the skills center, an institution dedicated to the training of the disadvantaged and to providing on site as many as possible of the supportive services necessary to make that training effective. At the same time, however, MDTA has contributed to modular training, open entry/open exit practices, the development of training clusters, and the integration of remedial basic education and skill training—practices which are spreading throughout all of education.

At the same time, the Labor Department has been largely successful in redirecting the federal-state employment service from an administrator of unemployment insurance and a labor exchange seeking to meet employer needs to an overall manpower agency emphasizing service to those who need it most. Federal manpower resources have enabled it to go far beyond a simple labor exchange function into the development of human resources. Using MDTA funding and authority as leverage, the Labor Department has developed new labor market techniques through research and experiment and has introduced and made substantial progress in the practices of manpower planning at the state and local level.

WEAKNESSES OF MDTA

Since repentance is no longer possible, criticism has no place in a funeral sermon. Faith in the continuance of the substance, if not the name, of MDTA justifies and demands tempering praise for past achievement with identification of areas where improvement is needed.

First, an inherent weakness about which little can be done within the limits of a training program. Improvement of the earnings of those plagued by low incomes and employment requires a combination of employability, employment opportunities and access to jobs. MDTA's role is primarily the former, though enrollment may place the individual into a system leading to the latter. It contains no tools for job creation. Much of the disillusion with the program which exists among the disadvantaged arises from its use in locations in which employment opportunities are scarce or out of reach because of obstacles other than the individual's lack of skills. To enroll them was to set them up for disappointment. Solution lies only in better integration of MDTA's services with subsidized private and public job creation, equal employment opportunity efforts and labor market services and more training for jobs increasing in demand as contrasted with those available primarily because of high turnover.

Other limitations are more actionable.

1. Because of an understandable desire to serve as many people as possible within available budgets, there has been a tendency to concentrate on occupations requiring only limited training and some tendency to avoid people needing a great deal of remediation. The ease of identifying occupations with "reasonable expectation of employment" within this predominately high turnover range of jobs has reinforced this tendency. But the MDTA placements, to no one's surprise, have experienced similar turnover. The "lean program for many or rich program for a few" choice is always a difficult one but the data seems to support a higher pay off for the greater per capita investment.

2. In compensating for those traditional institutions unwilling or incapable of serving the disadvantaged, MDTA, particularly the skills center has, to some degree, created a set of segregated institutions, often in second class facilities, reinforcing the separation of the disadvantaged for the mainstream and catering to the secondary labor market. The few instances where MDTA projects are integrated into community colleges and other "mainstream" institutions suggest that it can be done, is worth doing but isn't easy.

3. The 35 percent skill shortage rounding out the 65 percent disadvantaged has become a source of leeway rather than an economic service. No real attempt is made to identify skill shortages of which there are few within the reach of MDTA as presently administered. There are undoubtedly useful roles for MDTA outside of service to the disadvantaged. Some of the current activities on behalf of displaced aerospace employees is an example. But by and large, the 35 percent provision is just a loophole for specifying the use made of no more than 65 percent of the slots.

4. MDTA had the advantage of being placed at the beginning into well organized institutions but the disadvantage that, with the passage of time, the program in too many localities has settled into bureaucratic rigidity repeating the same courses and practices without the necessity of constant reassessment.

5. Fluctuation of budgets and enrollments have interfered with orderly functioning and maintenance of competent staff. Yet efforts to smooth out fluctuations do tend toward stagnation rather than reassessment.

6. Outside the laudable contributions of the AMIDS, there has been too little staff development, too little development and dissemination of curriculum and technique and too little communication and sharing of experience among MDTA practitioners.

7. Though there has been sufficient evaluation of the program's overall worth, there has been too little evaluation of what works best for whom at a micro level, too little feedback and analysis of management information data and too little measurement and reward based on performance.

But these and other shortcomings are typical of manpower, education and labor market institutions, not justifiable but understandable. The verdict still stands. MDTA has been a laudable program, not adapted to the needs of all of the disadvantaged in all places, not as good as it might be but more capable of demonstrating achievement than any other manpower program and more carefully evaluated than most public programs with defensible results.

CONCLUSIONS AND RECOMMENDATIONS

Based on these predominantly favorable findings, the following conclusions and recommendations may be stated:

1. MDTA training, both Institutional and OJT, is a high payoff public investment which should be continued and expanded. If current legislative proposals for the decategorization of separate manpower programs prevail, Institutional and OJT skill training should play a major role in the program mix which emerges from decentralized state and local manpower planning.

2. The higher average income gains for disadvantaged than nondisadvantaged enrollees support continuance of the present emphasis on service to this target population.

3. Since the tendency is to leave participants better off but still poor following training, since income gains correlate with length of training and since those occupations generally recognized as being more highly skilled and requiring the longest training time tend to result in both greater income gains and higher post-training incomes, it would be a wise public investment to emphasize those occupations, even at the resulting higher per capita costs.

4. Since skills centers appear to offer the most successful route to income gains for those already in the labor market and individual referral seems to favor those entering or reentering the labor force, the factors leading to these phenomena should be identified to maximize the relative advantages of each.

5. As federal legislators and administrators continue to "play chicken" with the immient MDTA expiration, they should count carefully the costs of risking the best proven manpower program in pursuit of decategorization and decentralization which may or may not prove to be an administrative improvement. They should be aware of the vulnerability to "stop and go" pressures of a program with long lead time, substantial training time, dependence upon skilled instructors and based upon a half billion dollar accumulated public investment in equipment and teaching aids. They should also be aware of the gains achieved for both sets of institutions and for enrollees through the linkage of labor market and education institutions.

If nothing succeeds like success, it is surprising that we still do not know whether we are here celebrating MDTA's birthday or attending its funeral.

KEN HECHLER—A CHAMPION OF WEST VIRGINIA

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SEIBERLING. Mr. Speaker, strip-mining of coal has become one of the most pressing environmental issues before this Congress—thanks in great measure to the untiring efforts of the Congressman from West Virginia, KEN HECHLER.

After years of effort to get congressional action on the stripmining problem, this year the House and Senate Interior Committees have both held public hearings on stripmining, and it is hoped that a bill can be enacted before the end of this session.

KEN HECHLER has been crusading against the evils of coal stripmining for a long time. He has presented his case so thoroughly and forcefully that almost 100 Members of Congress have joined him in calling for a ban on all coal stripmining in the United States within 6 months.

KEN HECHLER has approached this issue with the same determination and commitment of time and energy he brought to the problem of coal mine safety in 1968. For months after the Farmington disaster which took the lives of 78 miners, HECHLER's was a lone voice in Congress demanding strict Federal

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regulation in the mines. Later, he brought the tragic health problem of "black lung" disease to the attention of the Congress for the first time, and is largely responsible for that provision in the Coal Mine Health and Safety Act of 1969.

KEN HECHLER is a true representative of the people. Every weekend he travels back to his district in West Virginia to be with his constituents, to listen to their problems. Every Monday morning he is back at his desk in Washington, doing something about their problems. He takes his responsibilities as the people's representative with such seriousness that he has never missed a roll call vote.

More important, however, is the fact that KEN HECHLER is his own man. Much of what he has done in Congress—particularly since Farmington—has been unpopular with some of the huge vested interests holding power in West Virginia.

But KEN HECHLER is a man of character and will not be intimidated by powerful interest groups. He said recently:

If serving in the Congress means giving up to powerful interests and just lying down and doing nothing, I would prefer not to be here.

KEN HECHLER is a public servant in the true sense of the word. I am proud to be able to serve with him in this body, and I know his constituents in the Fourth District of West Virginia are proud to have him as their representative.

An interesting biography of Congressman HECHLER appeared in the March issue of the Swarthmore College Bulletin, and I insert it in the RECORD at this point.

The biography follows:

COMMITMENT TO GROSS NATIONAL QUALITY

(By R. Breckinridge Galloway)

Because Ken Hechler '35 has battled so ably for mine safety, union accountability, and prohibition of strip mining, his future in Congress is speculative.

A United States Congressman now in his seventh term of office is waging a campaign that could jeopardize his political career. Ken Hechler '35 (D-W.Va.) is sponsoring a bill that would completely eliminate all strip mining for coal in the United States. Although environmentalists and other concerned citizens are supporting his stand, powerful coal interests see him as a damaging influence on the economic position of the coal industry. This could be particularly dangerous for him because West Virginia is the largest coal mining state in the nation.

Hechler moved to West Virginia in 1957 to teach at Marshall College, now Marshall University. His credentials were impressive: degrees from Swarthmore and Columbia, teaching experience at Columbia and Princeton, and practical experience as White House research chief for Truman and head of Adlai Stevenson's research team during the 1956 presidential election. He had also served for three years as associate director of the American Political Science Association. But he was an outsider. Regardless of his qualifications, he had to prove himself to the people.

During the year he lived in Huntington, West Virginia, Hechler befriended many people, influential and unimportant alike. He taught at Marshall, then moved on to a local television station where he got exposure as a news commentator. By the time he announced his candidacy for a seat in the United States House of Representatives, he already had the confidence of many of the Fourth District's voters. A major issue of his campaign was whether he was dominated by outside interests such as the Americans for Democratic Action. He proved that he had never been connected with such organizations and gracefully defeated by a margin of almost 4,000 votes a well-known physician who had previously served in Congress.

After taking office, Hechler represented West Virginia with pride and a great deal of energy. Some thought he was a spartan. He gained a reputation for putting in long hours and avoiding Capitol social events. Each weekend back home, he could be seen driving his Jeep on the circuitous mountain roads, reaching and getting to know his constituents. This pattern has not changed. Today, Hechler reports to his office between 7 and 8 a.m., attends to legislative matters (since 1959, he has not missed a House roll call on a vote), goes out for dinner around 6 p.m., and returns for a few more hours before calling it a day. He flies home to the Mountain State each weekend as soon as Congress adjourns but is back at his desk early the following Monday.

From the outset, Hechler has given all indications of enjoying his job and of getting pleasure out of doing things for his constituents. During his first term of office, he introduced a "Week in Washington" program that has since been adopted by several other lawmakers. This program gives high school juniors from Hechler's district the opportunity to visit Washington for a week during the summer. They see the sights, observe Congress in session, and work for a brief period in his office each day. Some 60 to 70 students each summer continue to meet Washington in this way. At the end of the summer Hechler invites another 100 or so who applied to the program to come and enjoy Washington for a day.* The first year Hechler financed this program himself. Since then, however, about 20 industries in the state have supported the program with financial contributions.

Hechler appreciates this particularly, he says, because some of the sponsoring companies have borne the brunt of his recent attacks.

Hechler obviously enjoys the high school students. While helping out, they add to the confusion that abounds in any congressional office. (Recently, Hechler removed his cluttered desk from public view by barricading it with high bookcases. Half of his private office is a conversational area—behind the wall of books sits his desk). But he says with enthusiasm, "every year it gets better and better." Week-in-Washington alumni hold a special regard for Hechler. Evidence of their loyalty and his continuing interest in them is apparent in his current staff. Three of them participated in the Week-in-Washington program in the early and mid-sixties.

Because of his personal interest in his adopted state and the fact that he remained very honest in his political maneuverings, people there were happy to be represented by Hechler. With each election, there was more and more certainty that he would win. That is, until Farmington.

On November 20, 1968, a mining disaster in Farmington, West Virginia (north of Hechler's district), took the lives of 78 men. Hechler visited the site and was appalled at what he saw. The conditions in the mines were unsafe, although reports were that Farmington had a good mine, producing 9,600 tons of coal per day. After talking with widows and other miners who had become inured to the inevitabilities of pneumoconiosis (black lung disease), injuries, and even death in the mines, Hechler determined to follow his conscience.

Although Hechler did not sponsor the Federal Coal Mine and Safety Act of 1969, it has been suggested that he, more than any other person, is responsible for it. He gained national publicity exposing the prevalence of black lung disease resulting from inhalation of coal dust, a disease that many coal company doctors had refused to admit existed. He investigated and criticized, and even hired an attorney to analyze the bill and find loopholes in it. He finally put the pressure on President Nixon to sign the bill at the end of 1969 by bringing, at his own expense, seven Farmington mine widows to the White House.

During his investigations of the Coal Mine and Safety Act of 1969, Hechler also looked into the United Mine Workers of America. He blames the Union in part for the Farmington disaster, saying, "Older labor leaders always emphasized high pay, short working hours, and long vacations without too much emphasis on health and safety."

He felt it was time the Union addressed itself more to the matter of safety. Investigating the Union, Hechler found inequities that cheated the miners. He criticized the UMW for setting up private pension funds for the president, vice-president, and secretary-treasurer that guaranteed them annual pension incomes of $40 to $50 thousand per year for life. He also called the UMW dishonest for depositing $50 million in an interest-free account in a Washington bank that was owned by the Union. According to Hechler, "This amounts to a milking of the fund and diverting millions of dollars into the Union coffers." Hechler currently is endeavoring to require the Union to establish under federal supervision a coal miners' disability and retirement fund which will support miners more equitably than previously. As a result of his criticisms, Hechler has been lambasted from time to time by the UMW. On one occasion the Union libeled him. When Hechler threatened to sue, it quickly retracted its statements. Such is Hechler's relationship with the UMW, a union with a large number of members in West Virginia.

The Bureau of Mines has also heard from Hechler. When speaking of the Bureau, Hechler says: "I believe that the philosophy of the Nixon administration which permeates all the way down is the emphasis on production. The emphasis on production and the measure of the Gross National Product are the measure of progress. Basically, I think that we ought to have a new measure of progress that ought to be something like Gross National Quality—the quality of life that we can really enjoy rather than the emphasis on production. The Bureau of Mines has not administered the 1969 Coal Mine and Safety Act as well as it should have. Because of emphasis on production it does not protect the men as well as it should." These statements of Hechler's are borne out. Since the Coal Mine and Safety Act was enacted in 1969, injuries and deaths have increased in the mines. In 1970, 260 miners were killed (compared with 203 in 1969) and 158 died in the first nine month of 1971, almost identical to 1970's rate, before the coal strike interrupted production.

Hechler has not lost sight of safety in the mines as a crucial issue, but he is channeling his most vigorous efforts toward the abolition of strip mining. He has delivered scathing attacks on the Tennessee Valley Authority for its practice of buying the cheaper strip mined coal to fuel its electrical energy output. He has also criticized strip miners who make meager reclamation efforts in restoring the soil. So committed is he to abolishing stripping, that on February 18, 1971, Hechler introduced H.R 4556 to ban all strip mining in all of the United States within six months. So far, almost 100 other Congressmen, House members and Senators, have pledged their support by becoming co-sponsors.

Because Hechler is trying to stop business operations of powerful coal operators, he has more opposition than ever before. Strip mining advocates defend strip mining on the premise that it is more efficient, cheaper, and safer than underground mining, and that it also provides needed jobs. Hechler feels these excuses have no validity whatsoever.

Taking these one at a time, he says: "In the first place these are temporary jobs that last only while the coal lasts. In terms of a small vein of coal, it would mean only a matter of months. When the coal is gone, jobs are gone, and the land is gone too. This makes it completely impossible to have a thriving tourist industry in the future of our state."

As for the cheapness and efficiency of strip mining, he replies: "It's true that you can get a larger percentage of coal out by strip mining. On the other hand, eight times more coal is available by underground mining than by strip mining. There are presently about 45 billion tons of coal available to be stripped by present technology. There are close to 400 billion tons of coal that can be claimed by underground methods. Damage done to the environment getting the additional amount of coal stripping outweights the argument that it is more effective."

As to safety, he says, "There are more accidents now in underground mines, but there aren't as many more as the general public assumes. You hear about accidents like Farmington which resulted in the loss of 78 men. But you don't hear about the one, two, or three that are killed by the giant, gouging machinery used in strip mining."

Hechler is concerned about strip mining because he is concerned about the people whose land is being stripped and about future generations. He can recall story after garish story told to him of landslides, rocks being hurled into people's homes, and people dying in mudslides created by strip mining. Also, he has substantiated facts to show that the best reclamation efforts do not work.

Reclamation efforts, he says, are useles, even in the best of circumstances. "A lot of so-called reclamation is for showcase purposes that say such and such an area has been reclaimed. They plant a grass called crown vetch. Its low-growing roots spread out very shallowly. It's very aesthetic. I've described this process as putting liptick on a corpse. It's paper reclamation."

Hechler says, "I hope that more and more people will become alerted to the danger to the earth. There are so many people who don't think about this unless the bulldozer comes right up to the door and starts pushing boulders through their kitchen, and causing landslides or floods, silt and sediment in their streams, and acid in their water supply."

There is much speculation about Hechler's future. In sponsoring a bill to abolish strip mining, he has alienated coal operators. In his criticisms of the UMW, he has alienated Union leaders. Because of West Virginia's loss in population, its congressional districts were reapportioned so that there will be four representatives rather than five. In reapportioning the state, the Legislature cannibalized Hechler's district, giving it to other districts that remain virtually intact. Hechler refers to this act by the Legislature as his "punishment." Jay Rockefeller, who has become a prominent political figure in the state and who has announced his candidacy for governor, has come out against strip mining in West Virginia but has not backed Hechler's federal bill.

On February 4 before an assembly of high school students in Huntington, Hechler announced his candidacy for the United States Senate. He also said he intended to campaign again for his House seat and that he would withdraw from one race "in the unlikely event I should receive both nominations."

Regardless of his underlying motives or his plans for the future, Hechler comes across as a forthright and honest man. In the December 1, 1971, issue of the *Wall Street Journal*, an editorial commented approvingly on Hechler's candor in admitting that a piece on black lung legislation that he was inserting in the *Congressional Record* was not delivered as a "stirring oration" but rather typed in his office, by him, and then included in the *Record*. And Hechler is being forthright when he says: "If serving in the Congress means giving up to powerful interests and just lying down and doing nothing, I would prefer not to be here." Perhaps his attitude toward himself and his job, and his cause, can be understood more clearly by his remarks about Swarthmore. "Everybody looks back on his college days with some memory of what kind of inspiration he got in college. Swarthmore gave me something which I'll never forget—a spirit of independence. It taught me to look at problems directly and think them through without regard to economic and political pressures. It's not very difficult to pick up issues with this kind of background."

*The program as experienced by the author in the early sixties included attending one of President Kennedy's televised press conferences, chatting informally with Hale Boggs, and talking to someone at a military base halfway around the world via satellite from Goddard Space Center.

NOTE.—Unless the bulldozer comes right up to their front door, Hechler says, people are not alert to the danger to the earth. His bill would stop all strip mining.

THE TERRORIZED JEWS OF ARAB LANDS

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BRASCO. Mr. Speaker, periodically loud wailings are raised on behalf of the Arab refugees in the Middle East. Various well-meaning people speak with indignation and rend their garments over the situation these people find themselves in. Although I certainly sympathize with the plight of any deprived people, it is well to point out that this situation was brought about by the policies of the Arab governments themselves.

The Egyptian Government forbade any refugees in its jurisdiction to work or put down roots in Egypt. Other Arab nations followed similar policies, preferring to let the sore fester and grow.

Yet, for every refugee from the land that we know as Israel that fled to the camps in Arab lands, a Jewish refugee from Arab countries was created and fled to Israel. It is an irrefutable fact that ancient Jewish communities in various Arab lands were uprooted and dissolved, because Arab nations took out their frustrations and hatreds upon the Jews of their countries.

Today, where once there were approximately 1 million Jews resident in these countries, there are only 60,000. They all live under the constant shadow of possible violent persecution and death.

Jews have lived in the Arab lands for 2,000 years, often developing large and prosperous communities. While they were often accepted, it was usually on a second-class citizen basis, subject to discrimination, humiliation, and eruptions of overt hatred and killing.

It should be recorded again and again that the rise and actions of Hitler commanded the admiration and cooperation of many in the Arab world, especially the Mufti of Jerusalem, spiritual leader of the Arabs of Palestine at the time. This man, sought as a war criminal, lived for years with a picture of Hitler behind and above his desk. Arab anti-Semitism and Nazi persecution of the Jews were handmaidens walking the same ground.

Three waves of Jewish emigration from Arab countries took place. First was the move after the war of independence in 1948. A second wave came after the 1956 Sinai campaign. A third came after the 1967 war.

These Jewish people were allowed to leave the Arab countries in the area only after renouncing their citizenship and all claims to property and wealth. Of those who fled, approximately 550,000 went to Israel.

What is it really like to be a Jew living today in an Arab country? Forty thousand remain in Morocco, and are relatively unpersecuted, for the present. The same is true for the 9,000 in Tunisia. The same is also true for the 4,000 in Lebanon. While the authorities do not assail them, the general populations of these nations view the small Jewish minorities within their midst with hostility which at times boils over into action. In case of any internal upheaval within these nations, it is virtually a certainty that the age-old scapegoat, the Jew, will be hauled out into the spotlight and be made to pay with his innocent blood for the angers, frustrations, and defeats the country in question encounters.

Yet their existence is a safe one compared to the horror of day-to-day existence that marks the lives of the Jewish communities in Syria, Iraq, and Egypt. Persecution, humiliation, confiscation, official discrimination of the rankest sort, arrest, and interrogation mark their daily lives.

In these countries they exist in poverty, for all property has been taken arbitrarily by the government. There are official bans on employing Jews or doing any kind of business with them. Religious and educational activities are even more restricted than in Russia. Worst of all, their right of emigration is denied. It is like leaning into the cell of a poor wretch who is chained to the wall of his cubicle and shouting at him for daring to be there.

In these countries, the hated ghetto has been resurrected, because the Jews are restricted as far as residence is concerned, to specific neighborhoods. There are approximately 4,000 Jews in Syria, mainly in Damascus, Aleppo, and Kamishli. A long history of suffering for these people in that country intensified after the 6-day war.

Syria has a special committee for Jewish affairs, composed of representatives of various government agencies. It is responsible for these arbitrary rules which bind the Jewish community, circumscribes its culture and commerce and endangers its lives. Here are a few of the anti-Semitic measures they have put into effect.

They are forbidden to leave Syria. They are forbidden to travel more than 2.4 miles from home. They must carry identity cards marking them as Jews. Does anyone remember the Nazis and their yellow stars in the Warsaw ghetto? Jews may not enter government service or work for banks. Most Jews working

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for Arabs have already been fired. Jewish schools have been closed. They are not permitted to sell property. They may not bequeath it to their heirs. When a Jew dies, his effects revert to the state. The Jewish cemetery in Damascus has been destroyed and a road constructed through it. This is similar to the Jordanian desecration of Jewish shrines in the old city of Jerusalem before the 6-day war. Jews are not permitted driving licenses. No new telephones can be installed in Jewish homes or businesses.

There are constant reports of the jailing and torture of innocent members of the Jewish community.

In Iraq, there are about 2,000 Jews, remnants of a once flourishing community. Even before the 1967 war, schools and temples were sequestered and there was desecration of cemeteries. Yellow identity cards were issued them and sale of their property was forbidden.

After the war, things grew worse swiftly. All Jews were dismissed from jobs with public institutions. Their property was taken and all bank accounts were frozen. Their businesses were shut down and trading permits were canceled. Phones is their homes were taken out or disconnected. Numbers of them were placed under house arrest for long periods. Departures were forbidden and passports became a thing of the past for them.

Nineteen of these people were hanged in barbarous public executions in the major square of Baghdad, proving that Neanderthal man thrived yet on earth. Others are reported to have died under torture in prison.

World opinion was so roused by these primitive rites that the Iraqi Government backed down. Authorities promised an easing of restrictions. Such promises have not been kept. In April of 1971, more arrests were made, and in spite of protests, these people remain in prison.

In Egypt, there are about 600 Jews left, mainly in Cairo. Two thousand were living there when the June war commenced. At the start of the war, Egyptian police immediately arrested all Jewish males over age 17. The fear pervading that tiny community today is all pervasive.

One simple solution exists to all this agony; emigration. All told, there are less than 7,000 Jews left in these three countries. I am certain that, given the opportunity, all these people would immediately opt for leaving, eagerly signing away everything, including the clothes on their backs, if necessary, for the privilege of shaking the dust of these lands from their feet. If the authorities see fit to continue to desecrate the burial grounds of the dead they leave behind, it is an atrocity they would willingly to bear. Anyone with sense would agree that this is an equitable solution.

In fact, the countries in question would save considerable money by not having to spy upon or further repress these innocent people. Think of the phone tappers, policemen, military personnel, and border guards who would be freed for other tasks in Syria, Iraq, and Egypt. That alone might be enough of an enticement.

As for our own country, we show a lot of sympathy unofficially, but do little officially, The State Department, gripped in its usual malaise of pro-Arab feeling, prefers to look the other way, pretend it is not happening, and hoping that those in Baghdad would not lynch some more Jews. No hope will be forthcoming from Foggy Bottom except the usual perfunctory mutterings of sympathy and disclaimers of ability to do anything about it. "It is an internal affair," is the usual phrase used, I believe.

Sometimes, a little nudging can go a long way toward removing a source of aggravation and tension. By exerting even a little extra effort, our Government can perhaps get these poor people out. Heaven knows it is a long overdue act on our part.

WASHINGTON, D.C., WELCOMES HAMBURGER HAMLETS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. REES. Mr. Speaker, the Hamburger Hamlets, a southern California institution for 22 years, have just opened a restaurant in Chevy Chase, Washington, D.C. It is the first Hamlet outside State and the 18th since a modest beginning in Los Angeles in 1950. Your hosts then, and still today, Harry and Marilyn Lewis, had done some acting and so the name of the Hamlets was easily decided upon. The motif is carried out to perfection with old handbills of Shakespearean plays on the walls and photographs of actors, such as John Barrymore, who played the roles.

It all began back in 1950 when Harry and Marilyn Lewis opened the original Hamlet on famous Sunset Strip in Los Angeles. It was a place where creative young actors, agents, directors, writers, and producers, as well as successful business executives and their families, could enjoy delicious food in an informal atmosphere. Harry greeted patrons, cooked, and kept the books, while Marilyn created the menu and in the process developed many unique recipes.

The venture proved successful and the Lewises saw their dream of offering the public an imaginative menu at reasonable prices become an astounding reality. As the Hamlet's overall reputation grew, Mr. and Mrs. Lewis felt great pressure from overflow crowds to open additional units. Wisely, they thought the matter out and decided to proceed cautiously. The second restaurant in Westwood was opened in 1955, but in the interim a formalized training program was established by Marilyn, and strict standards of quality control were instituted.

All possible research was done to provide efficient and effective operating procedures, while at the same time maintaining the epitome in customer comfort and service. After doing their "homework," Mr. and Mrs. Lewis formally launched the Hamburger Hamlet chain.

One interesting feature of the company is its flexibility when it comes to facilities. It is not restricted to a particular type of building or class of trade.

The exterior of each hamlet varies, but each is readily recognizable and care is taken to combine adaptability with a great degree of identification. Distinctive "Hamburger Hamlet" signs, together with the motto "Known for Simply Marvelous Food," are standard in each unit. The interior deck reflects Marilyn Lewis' creativity—lighting fixtures, carpets, and wall decorating depicting adaptations from Shakespeare's "Hamlet" are standard, as are uniforms, dishes, menus, and silverware. While operating procedures, too are carefully spelled out in manual form, all employees are encouraged to use individual initiative at every opportunity.

Today there are 18 hamlets; all but the one in Chevy Chase are located in southern California. The reception received in Washington, D.C., is indicative of the fact that the hamlet concept is welcome wherever it goes and further expansion is anticipated.

This is a story of effort and enterprise; starting from the most modest of beginnings the Lewis' have made a huge success of their idea. Today Hamburger Hamlets is a public company that bids fair to soon become a national tradition as it now is a southern California tradition.

A $616 MILLION LOAN SOUGHT BY PRO-RED REVOLUTIONARY GOVERNMENT OF PANAMA

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. FLOOD. Mr. Speaker, information believed to be reliable has been received to the effect that the anti-United States revolutionary Government of Panama is seeking a loan of some $616 million through the United Nations. Because the United States bears a large part of the cost of that international agency our taxpayers would probably have to bear most of the ultimate burden. Not only that, when the present usurping Government of Panama is replaced by a constitutional government, the latter may disavow the entire loan with serious loss to the investing agencies and the United States.

In order that the Congress and other cognizant agencies may be advised in the premises, I quote a recent newsstory in the Star and Herald, Panama, Republic of Panama, that supplies detailed information concerning the various projects contemplated in the program which the proposed loan is supposed to cover:

A $616 MILLION LOAN SOUGHT BY PANAMA

A $616 million development program for the 1972–1976 period has been outlined by Panama's Revolutionary Government in a document seeking United Nations financial assistance.

The major portion of the program is for transport, with $140 million earmarked for expansion of air services, including the new Tocumen International Airport and a national network of provincial airports.

The highway portion of the program involves construction of approximately 800 miles of roads, at a cost of $95 million; the completion of the Panama section of the Darien highway, a $107 million project; the Panama City-Colon freeway, $16.7 million, and construction of 300 miles of rural roads.

Electrification is another major part of the 5-year program, estimated at $83.1 million. Main projects in this field are the Bayano River hydroelectric plant, a $41 million installation on which work has begun; new thermoelectrical plants in Las Minas Bay and the Fortuna hydroelectric project in Chiriqui Province.

In this connection, the Panama document requested technical assistance from the United Nations for developing a "master electrical plan" covering the period 1970–1985.

Other important projects listed in the document submitted to the United Nations:

A marketing system to handle the country's farm produce.

A $7.5 million irrigation program.

Improvement of animal feed.

Housing, $88 million.

Education, $40.9 million.

Public Health, $76.4 million.

A NEW CHARTER FOR THE DEMOCRATIC PARTY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. FRASER. Mr. Speaker, the reforms which the Democratic Party has adopted relating to the national convention and to the delegate selection process have attracted great interest throughout the country. But the reform process includes more than just the delegate selection process and the convention. The Democratic Party is also seeking to create a more modern political party, one more responsive to the will of the people of this country.

On Friday, March 24, the gentleman from Michigan, Representative JAMES G. O'HARA, chairman of the Commission on Rules of the Democratic Party, and I as Chairman of the Commission on Party Structure and Delegate Selection presented a proposal for a new charter for the Democratic Party of the United States. The proposal results from wide-ranging discussions with Democratic Party leaders, political scientists, and historians, as well as from months of study and research. We have presented it in the hope that Democrats and others interested in the Democratic Party throughout the United States will read it, react to it, and contribute to the shaping of a final proposal for presentation to the 1972 Democratic National Convention.

We are confident that this proposal will be of interest to our colleagues, as well as to others interested in the future of the Democratic Party, and indeed in the future of party politics in this country. In order that this proposal may be readily available to the Congress and to others, I include "A New Charter for the Democratic Party of the United States" in the RECORD at this point:

A NEW CHARTER FOR THE DEMOCRATIC PARTY OF THE UNITED STATES

(NOTE.—Written comments on this document are solicited from all Democrats and others interested in the Democratic Party. So that these comments may be considered by the two Commissions in shaping a final draft for submission to the National Convention, comments should be received by May 1, 1972. Send comments to: Reform Commissions, Democratic National Committee, 2600 Virginia Avenue, N.W., Washington, D.C. 20037.)

INTRODUCTION

This is a working draft of a proposal for a new Charter for the Democratic Party of the United States.

It represents the third and final phase of the Democratic Party's reform efforts leading up to the 1972 National Convention.

Since early 1969, the Party's *Commission on Rules* and *Commission on Party Structure and Delegate Selection* have concentrated on reforming the National Convention processes and opening the procedures of state Democratic parties to fuller citizen participation.

Last November 19, the Party's two reform commissions convened a joint session with a broadly representative group of Democratic leaders to explore the question of how a national party organization should be structured.

The draft stems in large part from the discussions that took place and the papers that were presented at that meeting.

It is also based on months of study and research, broad consultation with Democratic party leaders at all levels—as well as party leaders from other western democracies—and wide-ranging discussions with outstanding political scientists and historians.

Three important features of the proposed new Charter supply strong underpinnings for the National Party. They are:

(a) Establishment of a national membership system;

(b) Provision for yearly participation by party members in regional or national party conferences; and

(c) Creation of a strong regional party organization.

The new Charter is framed to permit more direct participation by members in national party policy-making. This direct participation on an annual basis is seen as adding a new dimension of grass-roots interest to complement that of state organizations and elected officials, thus bringing new vitality to the party as a whole. The following is a brief outline of the new structure.

Regional Conferences

In odd-numbered years regional conferences are held in each of seven regions of the United States. Delegates to these conferences, averaging 440 per region, represent a wide spectrum. Included from each state are the party chairman and highest ranking party officer of the opposite sex, at-large delegates apportioned to and selected by each state, two youth delegates, Democratic members of Congress, governors, nominees for these offices, state legislative leaders, and delegates elected from each congressional district by enrolled members of the Democratic Party of the United States. The congressional district delegates, divided equally between the sexes, constitute about 60% of the total delegate strength. Regional conferences promote party organization, education, and training in the region, and recommend policy to national meetings of the Democratic Party.

Regional Committees

The regional committee consists of the party chairman and the highest party officer of the opposite sex from each state in the region, each state's member of the National Membership and Finance Council, additional members apportioned to and elected by the states, and the region's members of the National Executive Committee. The region elects two members of the National Executive Committee, one of whom is the regional chairman. The average size of a regional committee is 43. Between regional conferences these committees manage regional party activities, including education and training.

National Policy Conference

In the even-numbered year between National Conventions, the membership of the seven regional conferences, about 3,080 in number, meets in a National Policy Conference. This Conference considers recommendations of regional conferences, acts on pertinent policies and programs for the Democratic Party, and elects the National Chairman.

Democratic National Committee

The seven regional committees meeting together constitute the Democratic National Committee, which is a continuing body of about 310. The Democratic National Committee acts on major questions between the Convention and the National Policy Conference. It also establishes the budget, fills vacancies in the National Chairmanship, apportions the states and territories among the seven regions, and establishes judicial procedures within the Party.

National Executive Committee

Conduct of national party affairs is the responsibility of the National Executive Committee, which consists of up to 22 members: the National Chairman, the Democratic leader of the U.S. Senate and of the House, the seven regional chairmen and one additional representative from each region, and up to five additional at-large members selected to provide broader representation. Reasonable balance between the sexes is assured by providing that the position of regional chairman cannot be held for more than three consecutive terms by persons of the same sex.

National Membership and Finance Council

For a national political party to function effectively, adequate financing must be assured. A National Membership and Finance Council is created for this purpose. A member from each state and 20 at-large members are appointed by the National Chairman. State representatives work within their own states to meet the financial quotas assigned by the National Committee. Membership fees will serve to meet a large part of the quota. But to insure that participation in party matters is truly open, membership fees—while strongly urged—are not required. Anyone may become a member simply through annual enrollment with the National Party.

Training and Education

To insure development of the education and training function of the party, a special Training and Education Unit is created under the supervision of a Board of Directors chosen by the National Executive Committee. One dollar of each membership fee is set aside to finance the training and education programs.

National Chairman

The National Chairman remains a key figure in the party. In fact, the position is strengthened with the Chairman elected by the National Policy Conference to a full-time, salaried, four-year term.

The National Convention remains the supreme governing authority of the Democratic Party. But between conventions the newly-structured Party will be an active and creative force in American politics, bringing together all elements of the Party—state organizations, elected officials, new Democrats with strong convictions and fresh perspectives—in a national political structure which can respond intelligently to the problems and needs of modern America.

PREAMBLE

The delegates to the 1972 National Democratic Convention, in convention assembled, do hereby adopt the following Charter for the Democratic Party of the United States.

ARTICLE I—NATIONAL CONVENTION

1. A National Convention of the Democratic Party shall be held each year in which a President of the United States is to be elected.

2. The National Convention shall nominate candidates for the offices of President and Vice-President of the United States, adopt a platform, and conduct such other business as may be in the interests of the Democratic Party.

3. The National Convention shall be the highest authority of the Democratic Party, shall provide for its governance, and shall have the power to determine the state parties entitled to recognition in the conduct of the affairs of the Democratic Party of the United States.

4. Delegates to the National Convention shall be selected in a manner which gives all Democratic voters of each state and territory full and timely opportunity to participate in the processes leading to the selection of such delegates.

5. There shall be submitted to each National Convention prior to the opening thereof a written report by the National Executive Committee covering the activities of the Democratic Party of the United States since the previous National Convention.

ARTICLE II—NATIONAL POLICY CONFERENCE

1. A National Policy Conference shall be held in each even numbered year between National Conventions.

2. The National Policy Conference shall consider and determine party policy and program, shall establish procedures to receive nominations for and shall elect a national party chairman, and shall act upon such other Democratic Party matters as may be deemed appropriate.

3. Delegates to the National Policy Conference shall consist of the following:

(a) The elected state chairman and the highest elected officer of the opposite sex from each recognized state Democratic party.

(b) 435 delegates elected not more than 90 days nor less than 30 days before each Conference by each recognized state Democratic party, as apportioned to each state on the basis of a formula giving equal weight to population and to the vote for the Democratic nominee for President in the preceding election. Each state shall be entitled to a minimum of two delegates. The body of the state party which chooses such delegates shall have been elected within the past 24 months through a process permitting all Democratic voters opportunity to participate and shall include representation elected directly from congressional districts or smaller units of the state by Democratic voters or by party conventions or caucuses of such district or unit.

(c) 1740 delegates elected not more than 90 days nor less than 30 days before each Conference by members of the Democratic Party of the United States residing in each congressional district as apportioned to each congressional district on the basis of a formula giving equal weight to population and to Democratic strength based on the vote for the Democratic nominee for President of the United States in the preceding election. In districts electing an even number of delegates, no more than one-half of the delegates shall be of the same sex. In districts electing an odd number of delegates, no more than one-half plus one of the delegates shall be of the same sex. Such delegates may be elected through any process which provides all members of the National Democratic Party in that congressional district opportunity to participate. Adequate notice shall be given of all procedures leading to the election of such delegates. Each region may by rule make further provision for election procedures consistent herewith.

(d) The following elected Democratic public officials: governors; members of the U.S. Senate and House of Representatives; the highest legislative leader in each body of each state legislature, provided that in a unicameral legislature the two highest shall be eligible. Public officials, other than those elected through an open Democratic primary may not be seated unless certified by the recognized Democratic party of that state as affiliated with such party.

(e) The most recent Democratic nominees for the office of governor, U.S. Senate or House of Representatives.

(f) One youth representative of each sex between the ages of 18 and 25, from each state, each of whom shall be an officer of the state party, its subunits or an affiliated party organization. They shall be elected in the same manner as prescribed for delegates selected under the provisions of Article II, Sect. 3(b).

(g) All members of the Democratic National Committee and the National Executive Committee not otherwise entitled to be delegates.

(h) Delegates from the territories as hereafter prescribed.

4. The Conference shall be convened upon the call of the National Executive Committee adopted and promulgated at least 120 days prior thereto. The Committee may make such provision as shall be necessary or useful for the conduct thereof, including provision for committees, temporary rules, and the examination and preliminary determination of challenges to any members thereof.

ARTICLE III—REGIONAL CONFERENCES

1. Regional conferences shall be held in each region of the United States in each odd-numbered year.

2. Delegates to each regional conference shall be selected in the same manner as is provided for the selection of delegates from that region to the National Policy Conference.

3. Each regional conference shall elect a regional chairman who shall also serve on the National Executive Committee. The conference shall also elect a regional at-large member of the National Executive Committee, who shall not be from the same state as the chairman. Both shall be elected for two-year terms. No region may elect chairmen of the same sex for more than three consecutive terms.

4. Each region shall have a regional committee consisting of members of the National Executive Committee from that region; the elected state party chairman and the highest elected party officer of the opposite sex from each participating state; the National Membership and Finance Council member from each state as provided in Article VIII; and members selected by a caucus of the regional conference delegates from each state entitled to additional representation, as determined by apportioning the number 150 among the states on the basis of a formula giving equal weight to population and to the vote for the Democratic nominee for President of the United States in the preceding election. The region may select other officers from among the regional committee. A regional committee may fill vacancies in the position of regional chairman or regional at-large member of the National Executive Committee.

5. In conjunction with the National Party, the regional conference shall promote party organization, education, and training within the region. It may also consider and recommend policy for consideration by the National Convention or National Policy Conference.

6. Calls to regional conferences shall be issued by the incumbent chairman of the region subject to such provision as may be made by the regional committee and the National Executive Committee, but shall be issued at least 120 days before the convening thereof.

7. Expenses of the regional conferences shall be defrayed by earmarking a portion of the state quotas collected in the respective regions as determined by the National Executive Committee.

8. There shall be seven regions encompassing the states and territories. The Democratic National Committee may apportion the states and territories among the regions from time to time by a two-thirds vote of the members present and voting. The regions shall be of approximately equal size in terms of an equal weighting of population and the vote for the Democratic nominee for President in the preceding election.

ARTICLE IV—DEMOCRATIC NATIONAL COMMITTEE

1. The Democratic National Committee shall consist of the members of the National Executive Committee and of the regional committees, and shall have general authority in the conduct of the affairs of the Democratic Party subject to the National Convention and the National Policy Conference.

2. The Committee shall have a vice-chairman who shall not be of the same sex as the National Chairman, a secretary, and a treasurer. These officers shall be appointed by the National Chairman with the approval of the National Executive Committee.

3. The Committee shall meet at the call of the National Chairman, or the National Executive Committee, or by written request of not less than 20% of the membership thereof. Written notice shall be given of all meetings. One-half of the eligible membership shall constitute a quorum for the conduct of business.

4. The Committee shall fill vacancies in the office of National Chairman and shall issue or authorize the issuance of the call to the National Convention.

5. The Committee shall institute a merit system for non-elected employees of the National Party providing for continuity of employment, a schedule of job descriptions and salary classifications, and dismissal only for just cause subject to the right of appeal and subsequent arbitration.

6. The Committee shall establish procedures for the hearing and adjudication of claims asserted by any person alleging violation of a provision of this Charter, a rule adopted under its authority, or of a right derived therefrom. These procedures shall provide appropriate remedies in cases of proven violations. Disputes with respect to the credentials of delegates to any national convention or conference shall be adjudicated by such convention or conference.

7. The Committee, in consultation with the Membership and Finance Council, shall periodically establish the budget for the National Democratic Party.

ARTICLE V—NATIONAL EXECUTIVE COMMITTEE

1. The National Executive Committee of the Democratic Party shall consist of the National Chairman, the Democratic leader in the U.S. Senate and in the U.S. House of Representatives, and the chairman and at-large member from each of the regions. Additional members, not to exceed five, may be added for two-year terms by the foregoing members to provide broader representation on the National Executive Committee of all Democratic voters; provided, however, that the Democratic National Committee may establish a different procedure for the selection of the five additional members.

2. The National Executive Committee shall meet at least eight times a year. It shall meet as provided in its rules, and at other times upon the call of the National Chairman, or upon written request of at least 5 of its members. One-half the members shall constitute a quorum for the conduct of business.

3. The National Executive Committee shall be responsible for the conduct of the affairs of the Democratic Party subject to such provision as shall be made from time to time by the National Convention, the National Policy Conference or the Democratic National Committee.

4. The National Executive Committee shall make all apportionments required by this Charter unless otherwise provided herein.

5. The National Executive Committee may create task forces, commissions and advisory committees on party organization, policy or program whose reports may be considered by appropriate party bodies or meetings.

ARTICLE VI—NATIONAL CHAIRMAN

1. The National Chairman of the Democratic Party of the United States shall be responsible for the execution of policies and programs of the Democratic Party and the operation of the National Headquarters, including the employment of all personnel of the Democratic Party, subject to such provisions as may be made from time to time by the National Executive Committee, the Democratic National Committee, the National Policy Conference, or the National Convention.

2. The National Chairman shall be elected by the National Policy Conference for a term of four years which shall commence upon the close of such conference. The National Chairman need not be a member of any of the governing bodies of the Democratic Party at the time of his election.

3. The National Chairman shall preside over meetings of the National Executive Committee and the Democratic National Committee, and shall be entitled to cast one vote in each body. Each body shall provide by rule for the chairman's absence or disability.

4. The National Chairman shall serve full time and be paid a salary equal to that of members of Congress, and shall be reimbursed for expenses as authorized by the National Executive Committee.

ARTICLE VII—MEMBERSHIP

1. Membership in the Democratic Party of the United States shall be by annual enrollment in a manner specified by the National Executive Committee and state finance representatives as provided in Article VIII, Sec. 2. Membership shall be open to all citizens who have the interest, welfare, and success of the Democratic Party at heart. Classes of membership and the annual fee for each shall be as follows:

Enrolled member, $0.00 to $4.99.
Participating member, $5.00 to $24.99.
Sustaining member, $25.00 or more.

These classes of membership may be amended or enlarged from time to time by the Democratic National Committee but in no case shall a fee be required to become an enrolled member. All classes of membership shall carry identical voting privileges.

2. Members of the Democratic Party of the United States shall be eligible to vote for congressional district delegates to regional and national conferences only if they have been members continuously for at least 30 days prior to such vote and are at least 18 years of age, or will attain the age of 18 in the calendar year of the vote.

ARTICLE VIII—NATIONAL MEMBERSHIP AND FINANCE COUNCIL

1. The National Membership and Finance Council shall consist of one member from each state appointed by the National Chairman with the concurrence of the state chairman. The National Chairman shall also appoint not more than 20 members-at-large to the Council. All appointments shall be for a term of two years, subject to removal by the National Chairman for non-feasance.

2. State members of the Council shall be responsible for directing campaigns for memberships and fund-raising on behalf of the national party within their state. Subject to any provisions made by the National Executive Committee, state members may enter into arrangements for joint membership in the national party and in state or local parties and for joint fund-raising. State members shall be members of the regional committee of that state's region and of the Democratic National Committee, but shall have a vote only when that state is currently meeting its quota.

3. The Democratic National Committee, in consultation with the National Membership and Finance Council, may establish quotas for each state for support of the national party. Each recognized state party shall pay to the national party that portion of its quota which is not paid through the collection of membership fees and other contributions from that state.

4. The National Executive Committee shall make provision for the handling of the accounts of the national party and shall provide for an independent audit thereof not less often than every two years.

ARTICLE IX—PARTY EDUCATION AND TRAINING

1. The National Executive Committee shall establish a training and education unit of the Democratic Party under the control and direction of a Board of Directors of not less than five nor more than eleven members appointed by the National Executive Committee whose terms of office shall be four years, with not more than one-third of the members being appointed in any calendar year. This Board shall have broad authority and autonomy to carry on training and education at all levels of the Democratic Party.

2. One dollar from the payment of each annual membership fee in the Democratic Party of the United States shall be set aside for the budget of the training and education unit, provided that additional sums may be added to such budget as the Democratic National Committee may from time to time provide.

ARTICLE X—NONDISCRIMINATION

No person shall be discriminated against in any manner with respect to membership in or the processes of the Democratic Party of the United States or any of its subordinate, affiliated, or recognized units, because of race, religion, color, national origin, or sex. The Democratic National Committee shall have plenary powers to implement the foregoing.

ARTICLE XI—RULES AND GENERAL POWERS

1. Consistent herewith, each body of the Democratic Party of the United States shall adopt written rules as required in the discharge of its responsibilities, including provision for such additional officers, bodies, boards, commissions, and committees as may be appropriate.

2. The National Executive Committee shall maintain and publish a compilation of all such rules as shall be in force from time to time, which shall be available to the public upon request.

3. All recognized state Democratic parties shall file their written rules with the National Executive Committee. Any changes or amendments thereto shall be filed within 30 days of adoption by the state Democratic party.

ARTICLE XII—AMENDMENT

1. The National Policy Conference may adopt amendments to any provision of this Charter except this Article and Sections 1, 2 and 3 of Article I, by a two-thirds vote of the members present and voting, provided that an amendment shall first have been received by the National Executive Committee at least 10 days prior to the Conference and its written recommendation with respect thereto shall have been received by the delegates to the conference at least 24 hours before the vote on such amendment.

2. The National Convention may amend this Charter by a majority vote.

ARTICLE XIII—GENERAL PROVISIONS

1. For purposes of this Charter the District of Columbia shall be considered both a state and a congressional district. The National Executive Committee shall determine which persons or positions in the District of Columbia qualify as delegates under Sections 3 (d) and (e) of Article II.

2. The territories shall be entitled to representation as follows:

(a) National Convention: as provided in the Call to the National Convention.

(b) National Policy Conference: the elected chairman and the highest elected officer of the opposite sex from each recognized territorial Democratic party shall be delegates. The recognized Democratic parties of Guam, Canal Zone, and Virgin Islands may each select 2, and of Puerto Rico 4, additional delegates not more than 90 nor less than 30 days before each Conference.

(c) Democratic National Committee: the elected chairman and the highest elected officer of the opposite sex from each recognized territorial Democratic party shall be members of the Democratic National Committee and of their regional committee.

3. All delegates to conventions and conferences of the Democratic Party of the United States shall seek to effectuate party policies and programs in their capacity as party or public officials.

SCHEDULE OF IMPLEMENTATION

1. In order to implement this Democratic Party Charter, an Interim Democratic National Committee is hereby created. This Interim Committee shall consist of the chairman and the highest officer of the opposite sex of each recognized state or territorial Democratic party, and those persons previously selected to serve as national committeeman or national committeewoman as of the close of the 1972 Democratic National Convention. Each member of such Interim Committee may cast the equivalent of one-quarter of the weighted vote of his or her state or territorial delegation to the 1972 Democratic National Convention. Fifty percent of the total membership will constitute a quorum.

2. The Interim Committee shall elect a national chairman who shall serve to the close of the first National Policy Conference.

3. The Interim Democratic National Committee shall be chaired by the National Chairman and shall exercise the powers of the National Executive Committee and the Democratic National Committee and shall be the convening authority for all meetings, conferences or conventions required to implement this Charter, and may make such provisions and exercise such powers as shall appear necessary or useful from time to time to assure the full implementation of the Charter, including recommendations in relation to the organization and meeting of the bodies authorized herein, until organization of the National Executive Committee.

4. Prior to June 30, 1973, the Interim Democratic National Committee shall issue a call for a Regional Conference within each region as provided herein. Each region shall organize itself, including the adoption of rules and the election of a regional chairman, a regional at-large member of the National Executive Committee, and other officers. At such conference each state shall caucus and select its members of the regional committee.

For purposes of this first regional conference, the national committeeman and national committeewoman selected in 1972 for the Democratic National Committee as previously organized shall be considered named as the first two delegates from each state or territory authorized in Article II Section 3(b) and Article XIII.

The provisions of Article II, Section 3(b) relating to the requirements for state bodies which select delegates shall take effect from and after January 1, 1974. Until then such

delegates shall be selected in a manner determined by each state party.

5. The National Executive Committee shall meet and organize by September 30, 1973. Upon completion of its organization, all authority and responsibility theretofore exercised by the Interim Democratic National Committee shall vest in the National Chairman, the National Executive Committee, and the Democratic National Committee.

6. The Interim Democratic National Committee shall, prior to issuing the call for regional conferences, apportion the states and territories among the regions pursuant to Article III, Section 8. In the event that the Committee does not apportion prior to June 30, 1973, the following regions shall be considered as established pursuant to Article III, Section 8, and shall serve as the basis for convening the regional conferences:

Region 1: California, Oregon, Washington, Nevada, Idaho, Alaska, Hawaii, Guam.

Region 2: Arizona, New Mexico, Colorado, Utah, Texas, Kansas, Oklahoma, Missouri, Arkansas, Louisiana, Canal Zone.

Region 3: Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Wisconsin, Illinois.

Region 4: Michigan, Indiana, Ohio, Kentucky.

Region 5: Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, Tennessee, Virgin Islands.

Region 6: West Virginia, Maryland, District of Columbia, Delaware, Pennsylvania, New Jersey.

Region 7: New York, New Hampshire, Vermont, Maine, Massachusetts, Rhode Island, Connecticut, Puerto Rico.

PROPOSED REGIONAL AND NATIONAL STRUCTURE OF THE DEMOCRATIC PARTY OF THE UNITED STATES

PARTICIPANTS IN THE NATIONAL POLICY CONFERENCE

Members of National Democratic Party—Elect 1740 delegates apportioned [1] to 436 [2] congressional districts.

Elections held 30–90 days before each conference in each congressional district.

No fee is required for national party membership, but member must be enrolled at least 30 days before election.

State Democratic Parties—

Represented by all state chairmen and chairwomen.

Two youth party officers from each state.

435 delegates apportioned [1] to 51 [2] states, elected by each state party 30–90 days before each conference.

Democratic public officials—

Represented by all governors, senators, U.S. representatives plus nominees for these offices.

Top two state legislative leaders from each state.

REGIONAL COMMITTEE

Regional Chairman, State Chairmen and Chairwomen, Delegates Elected by State Caucus, State Members of the National Membership and Finance Council, and Regional Members of N.E.C. Average Total 43.

REGIONAL CONFERENCE

Delegates Elected by National Party Members within Region, Delegates from State Democratic Parties within Region, and Democratic Public Officials and Nominees within Region. Average Total 440.

NATIONAL EXECUTIVE COMMITTEE

National Chairman, Congressional Leaders, Regional Chairmen, Regional At-Large Members, and National At-Large Members. Total 22.

DEMOCRATIC NATIONAL COMMITTEE

Composed of All Members of Regional Committees. Total 310.

NATIONAL POLICY CONFERENCE

Delegates elected by National Party Members, Delegates from State Democratic Parties, and Democratic Public Officials and Nominees. Total 3080.

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[1] All apportionments based on 50% population, 50% Democratic strength.

[2] District of Columbia counted as state and a congressional district for this purpose.

ON WORLDWIDE CONTROLS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HALPERN. Mr. Speaker, this June in Stockholm, Sweden, there will take place the first international conference devoted to answering the question: How can man, divided as he is by political and geographical boundaries, devise a way to preserve his common inheritance of oceans and air? The United Nations Conference on the Human Environment will be less concerned with methods of controlling pollution in any one country than with such difficult issues as: What is to be done when pollution created in one member nation affects the environment of another? What are the trade and investment implications of one nation's anti-pollution policies as opposed to another's? Will a nation, for example, that requires its industries to bear the costs of abating industrial pollution—which must translate into higher product prices—be put at a serious trade disadvantage if competing industries in other countries are free of such costs?

The aim, in short, is to encourage an international accord on pollution abatement standards and enforcement mechanisms which will succeed in safeguarding our seas and atmosphere without placing any one nation at an unjust economic disadvantage. Before the condition of the world environment was recognized as critical, there was no need to address these thorny problems. Now that we are all threatened by a common menace, it becomes clear that the most bothersome obstacle to effective world consensus on environmental protection has been each individual nation's fear that strict pollution measures at home will ultimately result in undeserved trade and balance of payments disadvantages abroad.

It was to help formulate United States policy in this area that I introduced, along with 58 cosponsors, H.R. 13116—a bill to promote international cooperation in United Nations efforts to protect the world's oceans and atmosphere.

Mr. Speaker, I have been corresponding with over 100 industries labor unions and environmental groups on the various provisions of this legislation and have received letters of support from an overwhelming number of groups.

I would like, at this time, to submit to the RECORD an excellent article forwarded to me by William J. Kendrich, vice president of the National Association of Manufacturers, entitled "International Trade Implications of Environmental Protection Programs." As that article points out, worldwide cooperation in environmental protection efforts is vital not only if we are to preserve our oceans and air, but if we are to maintain a reasonable level of world trade stability at the same time.

I trust my colleagues will take special notice of this article in light of the significant environmental policy decisions which will be made by the world community in Stockholm this June.

"INTERNATIONAL TRADE IMPLICATIONS OF ENVIRONMENTAL PROTECTION PROGRAMS" PRESENTED BY NATIONAL ASSOCIATION OF MANUFACTURERS FOR CONSIDERATION BY THE UNITED STATES OF AMERICA BUSINESS AND INDUSTRY ADVISORY COMMITTEE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, FALL, 1971

INTRODUCTION

It is becoming more and more clear that varying approaches to national environmental protection programs will have profound implications for international trade. Such programs can entail cost burdens of monumental proportions for domestic industries. A McGraw-Hill Publications Company survey, released in May, indicated that United States industry will spend $3.6 billion in 1971 for new air and water pollution control facilities. This does not include the hundreds of millions of dollars which American industry spends each year in operation and maintenance of billions of dollars worth of pollution control facilities already in place.

In addition to huge cost factors which can affect competitive relationships among nations, restrictions enacted in the name of environmental protection may function as nontariff barriers and thus create further complications for international trade.

This paper will review in broad general terms the implications for international trade inherent in national environmental protection programs.

GENERAL OBSERVATIONS

The growing pressures from citizens, legislatures, and scientists for tighter control of effluents and emissions, of product composition, of product use, and of resource exploitation will inevitably result in a rapidly increasing number of new laws, administrative regulations and procedures, and possibly new economic devices designed to bring about fundamental change. Different methods of controlling environmental factors will have different domestic and international economic effects. The particular mix of policies and measures chosen by a national government can have a major impact on the interests of industries of other countries, as well as on its own industries. Differences between one country's program and another country's program can create international economic distortions, and these differences can be expected to multiply with the emergence of new policies and measures. Thus, there is an urgent need for industries as well as governments to find means to reconcile the differing national approaches to environmental control.

Because so little is known about environmental control, and about methods for achieving the objectives of nations in this area, it is likely that governments will continue for some time to intervene selectively, using different methods for different kinds of problems; and it is likely that industries themselves will follow an experimental approach, exploring different avenues in the search for a balance between economics and social objectives.

The consequence of selectivity in national policies, and of differing policies from one country to another, can be significant shifts in production, investment, and trade incentives and opportunities. Economic distortions and conflicts can arise from different technical standards, safety regulations, economic incentives and penalties, and other national policies and programs.

Consider the use of national standards and regulations. Where one country's standards differ from another's, imports may be substantially reduced by technical restrictions, or the prices of such imports may have to be raised to cover the costs of adapting these products to the different national standard. This kind of problem can arise where the product itself is a potential pollutant (e.g., insecticides) or where use of the product may yield pollutants or create safety hazards (e.g., automobiles.)

Another type of problem, of potentially major international importance, is the cost of impact on industry arising from new environmental controls and pollution limits. If the steel industry in the United States is forced to spend large sums on cleaning and eliminating effluents and emissions, its cost position will obviously alter vis-a-vis competitive imports from countries where no such expenditures are required. Perhaps all of what would have been capital effluents and emissions. In this case, the water and air are cleaner, but the companies can fall behind in international competition. In general, the relative competitive positions of industries and of countries can be markedly altered by differences in requirements from country to country whenever heavy investment or altered operating costs are involved in the effort to control pollution. The amounts of money inolved in controlling pollution are large, so that these relative shifts can alter the incentives to invest in one country as compared with another, in addition to altering trade possibilities.

ALTERNATIVE METHODS OF ENVIRONMENTAL PROTECTION

There is a wide range of options available to governments when choosing measures for protecting the environment. First of all, governments may use measures which affect the processes of production, or they may use measures which regulate the end-products in terms of their composition or their uses. The distinction between measures which affect processes and those affecting products can be important. Sometimes, the choice between them will depend on whether the objective is short-term relief from specific difficulties or long-term adjustment to new modes of production. Thus, the stipulation of standards for treatment of effluents and emissions can bring about immediate relief, but the incentive to devise entirely new methods of production may be minimal. Indeed, the result may sometimes be to shift capital investment funds away from basic technological change to short-run adaptations.

Bearing in mind this conceptual distinction between product and process control measures, there are a variety of more specific options open to governments. United States automotive design requirements are having a significant impact on the outlook for automobile producers in other countries, most of whom have substantial experts to the United States. These same design requirements also raise the relative cost of United States production, weakening the United States competitive position on exports to other countries. This type of problem has so far been rather exceptional. Looking to the future, it is likely to become a fairly widespread type of problem. Hand in hand, with design and quality standards go specific, detailed marking or labeling requirements. Such requirements are among the Nontariff Trade Barriers (NTB's) most complained about internationally, particularly by other governments concerning the problems their nations face in exporting to the United States.

A standard applied to the process of production will normally raise the cost of production to a manufacturer. Normally, this change in cost will be passed on to consumers in the form of higher prices, thereby raising domestic and export prices for that product. Imports will become relatively cheaper, and exports less competitive. Thus, an industry in another country facing more lenient standards may be put into a better competitive position, improving its export prospects to other countries as well as to the country introducing tougher process standards.

Another approach to environmental protection is through the use of tax incentives and government subsidies to industry. This can ease the cost of transition from one product line to another, the coast of transition from one mode of production to another, or the cost of installing pollution control facilities. For example, in Canada, new pollution control facilities are allowed a two-year write-off and exemption from the 12 percent national sales tax. In the United States, new pollution control facilities installed in existing plants are allowed a five-year write-off. However, this latter provision contains so many restrictions that it is generally regarded as ineffective. There is considerable support for accelerated amortization up to and including immediate write-off at the option of the taxpayer plus a 20 percent tax credit for capital expenditures for pollution control facilities. The rationale for this approach is that such expenditures are non-productive but do confer a wide public benefit. Such provisions are not likely to be very effective unless used in conjunction with specific standards or regulations. In that case, the aids to industry become a form of adjustment assistance to moderate the effects of governmental decisions made on behalf of national welfare. Various international problems can arise as a consequence of aids, however. If an industry is assisted in one country by government aids, while the same industry in another country carries its burden of adjustment alone, their relative competitive positions will be altered. Assistance may tend to discriminate in unusual ways. Thus, European governments would probably have considerable difficulty in granting the same form of assistance to American-owned corporations operating in Europe as they might provide for European-owned entities.

The opposite approach to tax relief is represented by the imposition of "pollution taxes" on effluents and emissions. Since the principal obstacle to increased pollution control efforts by industry is the generation of enough cash to pay for nonproductive facilities, this approach appears to be fallacious. It is impossible to understand how companies could spend even more on pollution control by having revenues siphoned off by an additional tax on their operations. Administrative problems also appear to be insurmountable. Nevertheless, the concept is being considered seriously and was favorably referred to in the Second Annual Report of the Council on Environmental Quality issued this past summer. Obviously, such an approach would hurt the relative position in the world market of companies subjected to such taxes, in cases where they would face foreign competitors not subjected to such taxes.

The method of enforcement may assume international importance. For example, standards may be policed in some countries by inspection during process of production, although the standard may apply only to the composition of the end-product. In pharmaceuticals, product standards are regulated in some countries by inspection of the process. This method of providing consumer protection in France has meant a virtual embargo on the importation into France of pharmaceuticals, and thus has provided a strong incentive for overseas producers to establish their own production facilities in France. Here there is both a trade impediment and an incentive to move investments to provide production facilities in new locations.

The use of severe penalties for breach of regulations may be another device, particularly where surveillance of process or product is minimal. A severe penalty can take the form of heavy fines on the producer, or of confiscation of product, or of closing down the offending plant. Obviously, this method of control cannot be used to control foreign producers, who are located abroad beyond the reach of such penalties. The incentive for evasion is great where the penalty cannot actually be applied. Consequently, it may sometimes be necessary to apply stricter standards on imports, with maximum surveillance or analysis at customs. This, however, creates a trade impediment. When a government provides for or encourages its citizens to bring actions against offending producers, the problem is even more complex. Thus, if producers' liability under the law is extensive, foreign producers can nonetheless escape the net of the domestic judicial system. In the case of imports, the importer may have to be made liable, even though he is not a producer and does not have the producers' financial resources. This would sometimes create a disincentive to import.

There can be positive gains for those countries which are at the forefront of research and development of new products and methods of production. Such countries have the opportunity of expanding their sales and licenses of new products and techniques. The United States, in particular, may be able to take some advantage from its lead in research and development, especially if this is combined with tougher product standards which the products of other countries may not be able to meet.

The general balance of payments effects would depend in part on what economists call the international adjustment process. A significant general cost and price shift for one country can, for example, easily be counterbalanced by inflationary changes in another, or by capital flows, or eventually by exchange rate changes.

Thus, the key questions lie in specific product and production problems, and it is at this level where serious economic problems can easily become a source of conflict between the interests of various nations. Regardless of the overall macroeconomic cost adjustments, specific standards, procedures, and enforcement devices can constitute nontariff barriers of considerable importance.

In choosing among the different types of control measures, governments must weigh a combination of local political, economic, and environmental circumstances. Taking the wide range of possible variations into account, it should be clear that the choice of control measures and their form will vary from one local situation to another. Measures will often be tailored to local experience, local methods of production, and traditional products, thus in effect discriminating against imports even in those cases where the standards applied to them and foreign products are identical. The international trade and investment implications will often be incidental to the decisions reached, yet these global market implications may be extremely important to the prospects for individual business in various countries.

In the United States, certain trends are already quite apparent. As previously indicated, industry will spend in 1971 $3.6 billion for new air and water pollution control facilities; but this may only be one point on a sharply rising curve. Similar expenditures in 1969 were $1.6 billion and in 1970 were $2.3 billion.

There have been several developments on the national scene in the United States which have focused the spot-light of atten-

tion on environmental protection with concomitant direct and indirect cost implications for this country's economy. The first of these was the creation of the Council on Environmental Quality by the National Environment Policy Act of 1969. The Council reports directly to the President and prepares for him an Annual Report on Environmental Quality which the President transmits to the Congress. Naturally, the pronouncements of such a high level Council receive considerable attention from the news media. The Council's second Annual Report released this past summer, stated that "Total spending required for the major sources of environmental pollution between 1970 and 1975 is estimated at about $105 billion."

Another major development was the creation of the Environmental Protection Agency pursuant to a Reorganization Plan submitted by the President to the Congress. Because this agency centralizes federal pollution control efforts under a single Administrator, it will be able to exert much stronger influence than its predecessor agencies. In addition to its existing enforcement powers, the EPA will serve as a generator of requests for additional enforcement power. This has already occurred in the air pollution control field. The Clean Air Amendments of 1970 granted the EPA Administrator the power to establish national ambient air quality standards; to establish emission limitations for new sources within certain categories, and to issue Administrative Orders enforceable by heavy criminal penalties. Enforcement by citizen suits against both industrial companies and the EPA Administrator himself was also authorized. In addition, the EPA Administrator was also authorized to require the sampling of emissions, the installation and maintenance of monitoring equipment, and the maintenance of records. This is coupled with a right of entry upon a premises and a right of access to copy records, inspect monitoring equipment, and sample emissions. Pursuant to this law, the EPA Administrator has already established national ambient air quality standards for six major pollutants and has proposed standards of performance (emission limitation) for new sources within five major categories including cement plants and power plants.

Another feature of the Clean Air Amendments of 1970 is a provision requiring a virtually air pollution-free automobile within the next five years. This requirement applies to both domestically produced automobiles and to automobiles produced for importation into the United States. The United States automobile manufacturing industry has already said that it cannot achieve this goal. But if it does, at some year in the future, and the automobile manufacturing industries of other nations do not; this might result in shutting off imports into the United States of automobiles manufactured in other nations. A fascinating converse situation might result if the automobile manufacturing industry of some foreign nation became able to meet the emission standards, and the United States automobile manufacturing industry did not.

Current proposals for new water pollution control legislation parallel provisions already enacted in the air pollution control field. The Senate Public Works Committee is considering a proposal to authorize the EPA Administrator to set national effluent standards for new sources without considering the uses, needs, or assimilative capacities of particular river basins. This Committee is also considering a so-called "minimum" national water quality standard which would state that "There shall be implemented for all waters of the Nation not later than January 1, 1980, unless otherwise provided pursuant to this Act, a standard of water quality which shall provide for the protection of a balanced population of shellfish, fish, and wildlife, and which shall allow recreational activities in and on the water." This provision has been proposed without any attempt whatsoever to evaluate the economic cost of achieving such a standard. It would impose an extremely heavy burden on the United States' economy vis-a-vis economies of the rest of the world.

Another factor in the water pollution control field is the establishment of a formal federal permit system for industrial wastewater discharges under the Refuse Act of 1899. The legislative history of this Act conclusively demonstrates that it was never intended to authorize a federal permit system to control water pollution. The Act was never administered in such a fashion for 70 years. However, in comparatively recent decisions, the Supreme Court of the United States held that the Act did cover water borne industrial pollutants. The new regulations require extremely extensive sampling, monitoring, and analysis of the water quality characteristics of discharges, and estimates for industry compliance with just this aspect of the permit system have ranged from $100 million to $200 million. Depending upon the conditions written into permits, the additional costs for industrial compliance cannot be estimated but undoubtedly will be vast.

The long-term prognosis within the United States must be one of environmental protection standards becoming ever more stringent, with requirements being imposed which would have previously been considered unreasonable. The cost burden will become increasingly heavy on industrial companies. A study of the copper industry indicated costs ranging up to $600 million to comply with national ambient air quality standards of performance for new plants within industries such as the cement industry could be extremely costly. Barry Commoner, Director, Center for the Biology of Natural Systems, Washington University of St. Louis, stated in the 1971 World Almanac "It has been calculated that if the U.S. paper pulp industry were required to meet present Federal water pollution standards it would cost the industry about one-third of its profits for each of ten years. If farmers were required to reduce their present reliance on heavy usage of fertilizer and pesticides, their economic returns would be sharply reduced."

Thus, both direct cost of pollution control and indirect costs to the economy through handicaps of economic efficiency are involved. Economic inefficiencies have become a great possibility under the National Environmental Policy Act of 1969 which requires federal agencies to consider environment factors in all of their decisions and to formulate environment impact statements for comment by other government agencies and reviewed by the Council on Environmental Quality. No one can quarrel with the principle. However, if this procedure is allowed to bog down federal projects and private projects requiring federal licenses and permits in a morass of redtape, paper work, and litigation, tremendous costs could be imposed needlessly upon the American economy. Interminable delays in these projects would cause greatly escalated construction costs and unmeasurable costs to the economy in terms of deprivation of the economic benefits of these projects.

The direct cost burden of pollution control will become increasingly heavy on industrial companies. Many estimates have been made of the expenditures required to clean up pollution. They have one thing in common—they all involve billions of dollars. Despite the cost involved, there are public and political pressures at work which appear destined to impose extremely severe burdens on industry in the United States. All related considerations lead to the conclusion that American industry will have a tremendous cost imposed on its proposed processes over forthcoming years in the name of environmental protection. Over forthcoming years, developments in the environmental protection field both in the United States and in other nations will have unforeseen international trade and investment implications of extreme importance to the prospects for individual enterprises and industries in various countries.

WHO SHOULD DECIDE FOR WHOM WHAT THE STANDARDS AND CONTROL MEASURES SHOULD BE

A decision by a government of one nation may have a direct bearing on the fortunes of private business in other nations. In turn, if those businesses adapt their product in a particular direction, to suit the market requirements of the first nation, then the consumers in these other nations also find themselves subjugated to the decisions made unilaterally by the first nation.

This problem of who decides for whom can come up in many forms. Countries may feel unable to act unless several countries simultaneously coordinate their actions. For example, the Finns have said that major capital expenditures for pollution control in the Finnish paper and pulp industry would only be possible if paper and pulp industries in other countries undertook the same capital expenditures for pollution control at the same time. Since paper and pulp is such a significant portion of Finland's total economic position, the problem for that country is readily understandable.

More broadly, countries may be restrained from taking socially desirable actions by the fear of the economic effects on their international competitive position. Conversely, where a country cleans up its steel industry while another country does not, it can be reasonably assumed that the imports of steel products into the first country will be subjected to increased protectionist pressure, and therefore new nontariff restrictions to trade.

INTERNATIONAL COORDINATION OF POLICIES

The international problems have not reached major proportions, primarily because many governments are only now beginning to move on broad new approaches to environmental control. This makes it all the more urgent to develop a framework for dealing with actual and potential problems—before the various national methods become set in concrete, before heavy investments are undertaken, and before vested interests have settled in to defend any protectionist effects which may raise. Moreover, to the extent that differences in national policies create adverse economic effects, this will tend to put political or economic brakes on socially desirable programs. Real progress within countries may therefore often require some means of coordinating government decisions internationally.

Reducing the conflicts and mitigating the effects of differences in national policies would require improved international consultative procedures, and new international guidelines under which national actions might be taken.

The most promising recent development is the establishment of the new Environment Committee in the OECD. In this organization, all the major non-Communist industrial powers are members, and there has been a long history of consultation and policy coordination in various economic policy matters. The Environment Committee can look directly at the international economic questions, with a view to finding means for close cooperation among the developed countries, while mitigating the potential conflicts of interest which will likely arise among them. Ideally, the Environment Committee could treat specific issues, such as differing standards for pesticides, or automobile design, in terms of their precedent-setting aspects for the handling of other problems. In this way, a record of effective consultation and adjustment of national programs could be built up. The OECD is ideally suited to such exploratory work aimed at general principles, and the harmonization of national policy measures, particularly in the light of its excellent work in the economic policy field.

Since, as already noted, pragmatic selectivity and experimentation will be necessary in each country, and since conditions vary so much between different countries, the pursuit of common scientific standards would be a most difficult pursuit. Alternatively, international cooperation might increasingly focus on methods for harmonizing national practices, and for moderating the effects of unilateral national decisions on the interests of other countries.

As a beginning, there could be development of international consultative procedures on new forms of regulation which may affect international trade and investment. For example, provision could be made for advance notice to other countries, and for reasonable delay in implementation of new national standards so as to allow time for businesses in other countries to adjust their production. More important than procedures would be the development of general principles or guidelines which governments might follow in implementing their national control measures.

Such principles could cover administrative procedures, such as public hearings, advance public notice, and methods of enforcement. Enforcement is particularly important. Regulations may set recommended standards, or they may be mandatory. Where mandatory, they may be enforceable by taxes, fines, or confiscation of product or of property in general. In the cases where recommended standards are utilized, governments may prefer to use tax incentives and other special incentive devices to encourage industry to seek remedies in its own way. Providing some basis for comparable treatment of domestic and foreign products in relation to enforcement procedures in each country would be desirable. Acceptance of a general comparability-of-treatment principle by governments would provide a useful point of departure. Where national standards and testing or control methods differ from one country to another, a significant effort should be made to accept *similar* standards and control methods as a valid basis for accepting an import, rather than insisting on precisely the same standards and control methods for foreign goods. It is also desirable to develop an international agreement which would bar discriminatory treatment among producers, whether foreign or domestic, whether private or state enterprises. Discriminatory taxes or tax incentives should be specifically ruled out.

More generally, what is needed is an intensive search for general principles, codes of conduct, and consultative procedures which aim at reducing the international economic distortions which can easily arise out of differences in national measures for such matters as environmental protection, consumer safety, and public health. Discussions and negotiations leading in this direction would necessarily be an evolutionary process, because many of the problems are only beginning to make themselves felt, and simple solutions are probably not to be found. Given the complexity of the problems and of the various social objectives, a framework of rules, if negotiable at all, could only work in the context of on-going consultative procedures. Thus, when a country was affected by another country's decision, it could call for consultations in a context where some internationally agreed principles supplied.

It is clear that this kind of system, based on an interaction between principles and consultative procedures, can work in the economic area. A similar effort in the area of environmental protection to comprehend and channel national decisions multilaterally could be a wise and practicable course for governments to follow in the next few years. This need exists quite apart from whatever work is carried out in the pursuit of international technical standards, and in the various multilateral efforts to assist in the transfer of technology internationally.

CONCLUSION

Close coordination of national efforts to protect the environment appears necessary in order that nations might avoid damaging each other's interests. This coordination could initially take the form of consultations on certain types of problems, with a view to generalizing the results of consultations into a basis for new international guidelines and consultative procedures. This could best be carried out in the OECD Environment Committee, at least initially.

Coordination should also include industry cooperation internationally. It would often be possible to work out reasonable and nonconflicting international solutions to industrial environmental protection problems if industries were allowed to coordinate their efforts internationally within the framework of guidelines set by governments. At the present time, the United States government and United States law frustrates any sensible effort along these lines, and our anti-trust policies should be modernized in this direction. In the future, there will have to be much more government-industry collaboration in the United States to meet that type of cooperation in international competition which exists in other countries. Finally, there is a special need to provide more room for industry-to-industry, and industry-government cooperation internationally if real progress is to be made in this area without continuous resistance of industries in some countries. A new industry advisory committee might be formed as an adjunct to the OECD Environment Committee, or the Business and Industry Advisory Committee (BIAC) to the OECD might perform this function as its major order of business. These issues, involving the social welfare of nations and the fortunes of large firms and their workers, appears to be far too important to leave in the present state of disarray as regards national decision-making procedures.

Looking to the future, we should recognize that national decisions do affect the interests of other nations and the private businesses of other nations. The question of who decides for whom what the standards and methods of control shall be, and how international economic adjustments shall take place, should be a major policy question continuously addressed by governments. Where the decisions of one government result in the passing of costs onto other nations, procedures must be established to moderate the impact of these costs, in order to avoid continuous conflict and competitive protectionist measures.

We must also figure into the social calculus of environmental protection the fact that exporting pollution by pushing investment into other countries also costs jobs.

In the past, consideration of the international aspects of environmental protection tended to be limited to concerns about transnational pollution, such as oil spills or pollution of rivers crossing national boundaries. However, as has been pointed out, this is only one aspect of the international problem.

In conclusion, the appropriate mix of standards, administrative procedures, incentives, and penalties will vary from country to country by necessity. National differences in policies and in measures may often be desirable socially, technically, or economically. As a matter of basic philosophy about the problems in this area, we must recognize that the problem is not one of getting all nations to behave in the same way scientifically, but rather of providing a framework of guidelines and obligations which help to harmonize the various national approaches and moderate the economic disturbances which will be the consequence of the national differences. This is work for diplomats, negotiators, economists, and businessmen more than it is work for scientists.

It is widely recognized that many more private and public actions are needed to move nations more rapidly along the road to better environmental protection. The pursuit of a higher quality of life, however, if it is to be effective and widely supported, must pay adequate attention to the problem of harmonizing or reconciling differences in national approaches, in order to minimize overall economic costs of change with less resistance to change from special interests. This broad set of international considerations is thus a critical dimension of an environmental protection program. Governments and businesses cannot ignore these international considerations without thwarting their own purposes.

A FEDERAL GUARANTEE OF A RIGHT TO WORK FOR EVERY EMPLOYABLE AMERICAN

HON. HERMAN BADILLO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BADILLO. Mr. Speaker, more than a quarter of a century ago the Congress, in enacting the Employment Act of 1946, established as a national goal the assurance of the opportunity for a gainful and productive job to every American who seeks work. Unfortunately, this goal has not even been approached, much less achieved, and we are in the midst of a critical unemployment situation. In just the past 2 years alone the level of unemployment has more than doubled and at the present time more than five and a half million Americans are out of work.

In addition it is imperative that we take into consideration those thousands of persons who are not actively seeking employment, because they have despaired of finding work, and those who are underemployed or only performing part-time tasks. Because this country has failed to adopt the goal of full employment as a national policy we are now confronted with an actual unemployment rate of almost 10 percent.

It is clear that the private sector is unable to provide the jobs needed to guarantee adequate employment opportunities, particularly for the unskilled and disadvantaged. It was unable to do so during the period of low unemployment, such as we experienced in 1968–69, and it has proven it cannot generate the positions now. Positive steps must be taken if we are to come to grips with this crisis and it is incumbent upon the Congress to take the initiative in providing viable solutions to cope with this staggering unemployment crisis.

The Congress has begun to recognize its responsibility in this area and last year we passed the Emergency Employment Act. Although this program has encountered some problems and delays in certain other areas, the city of New York had achieved its goal in filling 100 percent of the 1,575 jobs allocated under section 5 in less than 4 months after the

Labor Department issued the EEA guidelines. However, the official unemployment rate for New York City is well above 200,000 persons and many, many more positions remain to be filled.

Nevertheless, the generally successful experience we have had with the EEA program proves the efficacy of public service employment. As the New York City Housing and Development Administrator recently advised me:

> Jobs provided by this program have permitted us to apply additional and necessary manpower to many of the tasks and service operations that are so vital in providing essential services to the tenants of our communities.

Although the EEA program and pending legislation to expand it to 500,000 positions, the comprehensive manpower program and measures to expand public service employment opportunities under public works legislation go a long way toward meeting the needs of the unemployed and underemployed, and in providing essential training and employment assistance, these are only stopgap measures. Additional, more permanent and positive steps must be taken if we hope to achieve the elusive goal of full employment. It is for this reason that I have introduced the Guaranteed Employment Act of 1972.

Last week I was joined by 18 of our colleagues in offering this legislation which establishes a program to assist States and local communities in furnishing needed public services and in providing for employment to all unemployed and underemployed persons. This guaranteed employment measure commits the Federal Government to the policy of providing every man and woman who wants to work with a job.

Yesterday, a very well-written and perceptive article on this issue appeared in the New York Times magazine. Written by Michael Harrington, this very timely and incisive piece probes the various aspects of the unemployment crisis and describes some of the half steps which have been attempted to resolve it. However, the basic solution, as Mr. Harrington sees it—and I heartily agree—is that—

> There should be a formal Federal guarantee of a right to work for every employable citizen.

Mr. Harrington's article clearly supports the principle underlying the Guaranteed Employment Act and presents a very convincing and reasonable argument for a program to guarantee every American who seeks work with meaningful employment. As he so aptly notes:

> We need the constructive use of the energies of the unemployed, the underemployed and the misemployed.

I believe we should all give give full and careful consideration to what Mr. Harrington states and proposes and I am pleased to present his article for the RECORD.

The article follows:

GOVERNMENT SHOULD BE THE EMPLOYER OF FIRST RESORT

(By Michael Harrington)

On July 12, 1971, Richard Nixon became the first President since Franklin D. Roosevelt to sign a general public-employment law: the Emergency Employment Act, which calls for an investment of $2.25-billion in the creation of 150,000 public-service jobs. Nixon had vetoed a similar measure only eight months earlier, with appropriate conservative scorn for Rooseveltian "W.P.A.-type" jobs; in retrospect, his sudden fondness for his own W.P.A. program can be interpreted as having been a portent of his dramatic conversion—or opportunistic accommodation—to Democratic party Keynesianism. That came a month later, in August, with the wage-price freeze. And then in the last few months there have even been unconfirmed reports, usually described as coming from the President's chief economic adviser, Treasury Secretary John Connally, that the Administration is going to come up with an even more sweeping, New Deal-type, program.

Though Mr. Nixon has made punditry a high-risk occupation during his three years in office, there is nothing mysterious about why. In his New Economic Policy, he has become consistently inconsistent with what once was his traditional Republicanism. In fact, his endorsement of the concept of public-service jobs is part of the basic strategy of Nixon's approach to the economy, and symptomatic of an emerging fact of current political life: Proposals of impeccably leftist origins—radical or liberal—are now being systematically redesigned to serve the cause of sophisticated conservatism. Such adaptations date at least as far back as Bismarck, a conservative Junker who co-opted socialist ideas. But rarely has the reversal been so thoroughgoing: the dollar devalued, pervasive controls over wages and prices imposed, and a huge outlay for Government jobs approved—all at the hands of an orthodox Republican, all in a single year.

In his spectacular volte-face on the job bill, Nixon was embracing an idea, belatedly and without much ardor, that has been loitering in the corridors of Socialist thought for at least 145 years. Louis Blanc, a French historian and, briefly, a Government official, first formulated the concept of governmentally guaranteed work in 1836. It was tried in Paris during the Revolution of 1848 and, until the philosophical ascendance of Marxism in the last quarter of the 19th century, it was what most Europeans understood to be Socialism. The concept was imported to the United States when the Great Depression forced Roosevelt to put about 10 per cent of the labor force on Federal payrolls. In 1944, he and organized labor fought for a legally binding right to work (a proposal that would mean what it said and has nothing to do with the antilabor, state legislation packaged dishonestly under the same name), but conservatives expunged that commitment from the Employment Act of 1946. In its place they put the pious wish that every American should have a job, an incantation which did nothing to prevent five major unemployment crises in 25 years.

The President had good reason to change his mind about the wisdom of the Federal Government's creating jobs. It is clear—much clearer than Mr. Nixon can bring himself to admit publicly—that the private sector of the economy has failed to generate the jobs that are needed. Worse still, the data all suggest that the inadequacies are structural and that their negative effects will intensify.

The evidence has been accumulating rapidly since the halcyon days of the Johnson Administration, when the National Commission on Technology, Automation and Economic Progress reported that the expanding economy harbored no inherent trend toward technological unemployment; America, the commission said, could cope with any rate of technological innovation as long as the economy was intelligently managed. But even while it kept the faith with the Keynesian denomination of free marketry, the commission noted that, from a social point of view, there were more than five million jobs, largely in the public or nonprofit sectors, which could be funded out of tax revenues. A few years later, with whole neighborhoods of Detroit and Newark in ruins, the National Advisory Commission on Civil Disorders took up that suggestion with a much greater sense of urgency. The private sector, it said, should generate a million new jobs, and the Government should commit itself to financing another million jobs in public service, over a three-year period; in the first year alone, the report urged, the Government should aim at providing 250,000 openings.

The Johnson Administration responded to the proposal for an effort by the private sector but backed off from direct Federal job funding in the public sector. At the urging of the White House, the National Alliance of Businessmen joined in a program called JOBS (Job Opportunites in the Business Sector). It was supposed to yield 338,000 jobs by June, 1970, and 614,000 by June, 1971. According to an audit by the General Accounting Office, the cumulative total of trainees on June 30, 1970, was actually 48,351. The current number of trainees, according to the Department of Labor, is 69,000—slightly more than 10 per cent of the 1971 goal.

A similar record of failure was established by the WIN (Work Incentive) program set up by a 1967 amendment to the Social Security Act, a fact of some significance since it involves an approach not unlike the "workfare" scheme in Mr. Nixon's welfare reform plan. WIN has provided educational and job training for welfare recipients with the aim of preparing them to compete in the private sector. But there are only 100,000 participants in the plan instead of the 280,000 estimated at the outset. Only 20 per cent of its trainees have found jobs. And, as a survey by the Ohio Bureau of Employment showed in April of this year, the WIN graduates could mainly hope for employment as cooks, salad girls, waitresses, nursemaids—jobs which paid only a little more than welfare.

It is certainly true that the dismal showing of these experiments was facilitated by the recession brought about by Mr. Nixon's Old Economic Policy. When corporations are laying off organized workers with previously marketable skills there is practically no hope for welfare recipients who had been unable to get jobs during a period of relatively full employment. But that does not mean that the problem will cease to exist as soon as the economy gets moving again.

The deep-going structural transformations in the economy to which Mr. Nixon is responding demand something more than reliance upon the mechanism of a free market. In 1980, according to Department of Labor projections, there will be more professional, technical and kindred workers, most of them with college or postgraduate degrees, than assembly-line workers, truck drivers and bus drivers (15.5 million as against 15.4 million). The number of people in the professional category is expected to increase by 50 per cent during this decade while the semiskilled operatives will go up by only 10 per cent; the nonfarm laborers will decline by 2 per cent and the farm workers by 33 per cent. In other—and more portentous—words: the semiskilled and unskilled jobs which have been the traditional exit from poverty and point of entry into the industrial system will be the jobs in short supply. And, at the same time, a dramatically increased number of poor young people, particularly young blacks, will be gathering at the exit door, ready to compete for the dwindling number of job openings.

The problem is not confined to the bottom of the economic and class structure. In the sixties, there were extraordinary outlays for space, education and Vietnam, all of which improved the relative position of organized workers (who are neither poor nor affluent), scientists and technicians at all levels, and the educated in general; society's investment per student in higher education accelerated faster than the growth in the Gross National Product, and resulted in an enormous increase in the college population. Then the Federal programs which animated these trends were cut back; suddenly unemployment rose, not simply among the unskilled, but among engineers and scientists as well.

Despite the disintegration at each end of the economic ladder, Mr. Nixon did not abandon the traditional wisdom hastily. Though he spoke of "workfare," he did not make a move to generate a single job. Therefore, he was simply proposing to force the most marginal members of the labor force—unskilled women for the most part—into a market where the very best they could hope for would be competition with one another for menial, low-paying jobs. "Workfare" was, and is, so contradictory a proposal that one Presidential adviser has been known to suggest that it is simply rhetoric designed to calm down reactionary Congressmen who would not otherwise vote in favor of Nixon's income floor for welfare recipients. I suspect that this assessment is unfair to the President. He is, I think, sincerely deluded on this point.

Mr. Nixon stressed the same theme in his Labor Day address to the nation and his speech on the New Economic Policy to the Congress: "Labor is good in itself"; "no job is menial if it leads to self-reliance, self-respect and individual dignity." But forced labor in a Soviet camp, or even the abrasive routine of an automobile assembly line, is not "good in itself." And I am quite sure that the President is not sanguine about the prospect of careers in migrant labor camps for Julie and David and Tricia and Ed. The best that can be said for his windy, old-fashioned nonsense is that a good many of the jobs in the economy, given the limitations of scarcity and technical ingenuity, may be a miserable necessity.

Even if he cannot fairly be accused of honorary Socialism, Mr. Nixon has at least allowed himself to face up to some of the facts. In December, 1970, when he vetoed the Employment and Manpower Act, he was still sticking by the letter of the old faith: He was, he said, against any program that "would relegate a large number of workers to permanent, subsidized employment." In July, when he reversed himself, he explained that he did so because the jobs to be funded by the legislation are only temporary.

That qualification allows the President to pretend that there will soon be jobs aplenty in the business sector for all who need them, an optimistic assumption contrary to all the trends. And how, precisely, is a state or city supposed to structure a "temporary" position? As Edward Hamilton, the former budget director of New York City and now its Deputy Mayor, put the problem: "What if we moved those people into permanent city jobs and then Washington ended the program because national unemployment was down again? We'd be left holding the bag with X number of people built into our financial structure and no more Federal money."

Clearly, Mr. Nixon based his reversal on a distinction without a difference, and the conventional interpretation of this and all his other shifts in economic policy is that he has made a 180-degree turn in order to look the problems of a re-election in the eye. And yet, even though the political rationalization is only thinly disguised in the President's rhetoric, it is important to say a word in defense of his sincerity and consistency. I would argue that he has simply moved from an utterly obsolete conservatism to a much more sophisticated, though still completely inadequate conservatism. He is not Saul on the road to Damascus in the throes of an overpowering conversion experience but a wily helmsman who has changed a disastrous course by about 15 or 20 degrees. He is still sailing the same ship.

In the New Economic Policy as a whole, Mr. Nixon has been won, not to Keynesianism, but, in John Kenneth Galbraith's phrase, to reactionary Keynesianism. In the fundamentalist free-market model in which Mr. Nixon believed until almost yesterday, the corporation is central because the maximization of its self-interest mysteriously leads to the common good. In his three years in the White House, Mr. Nixon has learned that economic providence is not quite so benign in the rewards it bestows upon a passive President. So he has shifted slightly. The corporation remains central; now, in accepting the carrots which a hopeful nation thrusts upon it, it is stimulated to accomplish the common good. So it is that Mr. Nixon proposed in August to give business $9-billion worth of encouragement, the consumer $2.5-billion, and the poor an I.O.U. on welfare reform.

This same pattern of reactionary Keynesianism is apparent in the details of all his employment proposals. First of all, there is the question of numbers. The bill Mr. Nixon vetoed in December, 1970, would have created more than 400,000 jobs through both accelerated public works and public-service employment. The bill he signed last July is supposed to yield 150,000 jobs and, at the current rate of expenditure, will apparently fund only 130,000 of them. This does not simply mean that Mr. Nixon embraced the principle of Federal responsibility in this area and then reduced a very modest application of it by about two-thirds. That is true enough, but there are qualitative consequences of that quantitative change that are also extremely important.

With the very limited number of jobs authorized by the President in a time of high unemployment, the new openings will have to be spread paper-thin over the entire country. The Administration anticipated that almost all 130,000 jobs would have been filled by Christmas; in November, Mr. Nixon himself rather plaintively wrote to 14,000 state and local officials asking them to hurry up—only 31,000 unemployed had actually been put to work. And some reports from the field indicate that many of those being hired are neither the very poor nor the professionally dislocated, but those from an in-between category whose new jobs pay up to $8,000 a year. That group obviously has its problems too, and deserves help. But the very fact that such a choice has to be made with limited funds shows that the program, far from being an exercise in manpower planning and careful social investment, is the merest of stopgaps. Indeed, Nixon's own reduction of Federal employees might cancel out the entire employment efforts of the bill he signed. And in his letter, the President himself referred to a special group of unemployed who could not be handled even with a bill providing twice the number of jobs: 350,000 jobless veterans of the war in Vietnam.

Second, the President clearly regards these public-service jobs as second-class in character. The crucial instrument for the generation of employment, as befits Nixon's reactionary Keynesianism, is the tax incentive for the big corporation. The Employment Act of 1971 is a temporary, and reluctant, expedient. But the President, unfortunately, is not alone in this attitude. There are dedicated liberals who also talk of the Government as the "employer of last resort." The implication of that phrase, and of the Administration's present policy, is that the best possible use for labor is always to be found in the private sector; when Washington's help is sought, it is to mount an occasional rescue operation, but that is all.

To pose the issue in that fashion is to place public-service employment in a perpetually negative light, an unwelcome deviation from normality. But then, given the minimal, unplanned program which he approved, the President could not possibly have been thinking in any positive way about the issue. For he has not changed his basic faith that the private corporation provides the way to social happiness.

WHY MUST GRINDING, DEMEANING OCCUPATIONS EXIST AT ALL?

Finally, there is the issue of menial labor as it relates to welfare reform. It is, I take it, obvious that the President's Labor Day homily on the Protestant ethic was not an exercise in philosophical speculation but an endorsement of the "get tough" measures of Governors Reagan and Rockefeller, which force able-bodied welfare recipients to work as ordered by the authorities. It is hard to imagine an approach more contrary to the rhetoric which rationalizes it. "No work is demeaning or beneath a person's dignity," the President told the Congress in September, "if it provides food for his table and clothes and shelter for his children. The thing that is demeaning is for a man to refuse to work and then to ask someone else who works to pay taxes to keep him on welfare."

Lurking just behind all that talk about the nobility of menial labor is another, and more basic, attitude: Work is the punishment which is going to be meted out to the welfare malingerers. It is an axiom of basic pedagogy that one does not make a child atone for misbehaving by forcing him to read or write or do other things the school system has all along claimed are good and valuable activities. Yet that is just what the President and Reagan and Rockefeller are doing: They want to instruct some of our most abused, and sometimes marginal, citizens in the glories of work by using legal compulsion to rub their noses in menial labor. In saying this I am not trying to psychoanalyze these leaders, to deal with their interior motives. The plain fact is that they do not propose to provide welfare recipients any well-planned, useful work at decent pay but to force them to work in order to get a welfare check.

That official attitude, I would suggest to Mr. Nixon, is really demeaning and destructive to a person's dignity. Society has failed to give him a chance to work like everyone else; it has stigmatized him as lazy for not having found employment in the middle of a recession; and now Government forces him into a new category of second-class citizenship where Americans labor, not for a wage, but for a welfare check. (The male chauvinism of English grammar somewhat obscures my point, for the real object of this chastisement is not the generalized "him" which stands for both men and women, but a "her," most likely a welfare mother.) In reality, the imposition of reactionary Keynesian values on welfare reform is the opposite of what it claims to be: It does not ennoble what is unalterably base, but it creates a kind of peonage where people must work simply for their keep. That violates even the Protestant ethic.

There is thus no need for quaking in the boardrooms; Mr. Nixon has kept the conservative faith that private economic power is the best instrument for promoting the public good, and what has seemed like a dramatic conversion is merely melodrama for tactical advantage. The forms have changed—he has moved from Herbert Hoover to Arthur Burns—yet the basic values are very much intact.

But times change, and Presidents certainly do. If, as this analysis has suggested, the private sector of the American economy becomes less and less able to absorb available manpower and, perhaps more importantly, less and less able to make a socially desirable allocation of that manpower, what then? What

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programs and what politics provide Mr. Nixon and his successors with alternatives?

The central proposal for dealing with these problems is, I think, quite obvious. There should be a formal Federal guarantee of a right to work for every employable citizen. (The corollary is a right to a livable income for all those who cannot work, which I support enthusiastically, but will not argue for here.) The right to work would operate in two ways: negatively in that the Government would be obliged to offer meaningful employment to all those who cannot find it in the private sector; positively in that the Government should undertake comprehensive manpower planning and, wherever indicated, establish itself as an employer of first resort.

Even without a Government commitment, organized labor has already begun to confront the question that Presidential rhetoric cannot banish: Why, in a nation more and more dependent on the application of science to the manufacturing process, must grinding, demeaning occupations exist at all? Or, where they do, why are they not recognized for what they are and their effects minimized? Automobile assembly-line workers spend their laboring lives in an environment so dehumanized it could be its own caricature. And the last time the United Automobile Workers Union negotiated a contract, its leadership adopted a demand that has arisen spontaneously from the membership—"30 and out," retirement at the end of 30 years no matter what the worker's age. In their last contract, the United Steelworkers won a 13-week sabbatical once every five years for men with 15 or more years on the job.

Even Senator George McGovern, who stands to the left in the line-up of Democrats seeking the Presidential nomination but is nevertheless clearly in the traditional mold of American political figures, has come close to the concept of planned, Government employment. McGovern has proposed that the Government contract with private industry to guarantee jobs in socially desirable fields for any adult who wants to work. And, in general, there is more movement toward the four-day work week.

All of these reactions are profoundly commonsensical attempts to minimize the indignities associated with so many jobs in the United States. This mood has spread among the poor as well. In New York City, as Nathan Glazer reported in The Public Interest, women on welfare are reluctant to take menial jobs which pay only a little bit more than their benefits. I am sympathetic with the hard-working Americans, particularly those directly engaged in production, who are outraged at this attitude, even though I do not share their anger. I am not at all sympathetic toward the executives, including the President, who, from the vantage point of their creative and well-paid jobs, lecture the poor about the joys of menial labor. And I think that the welfare mothers who balk at such employment are right, morally as well as economically.

In a society with the technological capacity of the United States, it is somewhat obscene to celebrate low-paying, menial employment. It should be a national goal to abolish such jobs by creating machines that will progressively eliminate all the routine tasks that are now dulling the lives of men and women. But, to pose the hoary, generic question: who will then collect the garbage? There are obviously some onerous jobs which can't be done away with in the near future, and a smaller number which perhaps can never become the work of a machine. For those jobs that must be done by humans, the pay, instead of being miserly, should be handsome. That, conservatives will say, would price them out of competition and provide industry with the incentive to find a way to mechanize them. Fine. For there are many more important jobs that need to be done, from the building of new cities to the improvement of medical care. And if some drudgery persists even in these new jobs, it will at least be in the satisfaction of real social needs—especially the needs of the human drones who now work in the harness of an inattentive technology.

If we adopted such a positive and creative approach we would also discover that a good many of the people who seem capable only of lowly work have hidden talents. Paraprofessionals in the school and health systems have already demonstrated that the rejects of a free labor market can make a positive contribution to society when jobs are consciously designed to make use of their natural aptitudes. These paraprofessionals provide valuable services, for which people are more than willing to pay. And since an upgrading of skills is involved, their higher wages would even satisfy the current crucial measurement: They would not be inflationary. The initial Federal outlay would be a social investment, not a handout, and in the not-so-long run such investments would pay for themselves.

The work thus generated would be primarily in the public and nonprofit sectors. That does not mean that Washington would put millions on the payroll, since most of the jobs would be at the state and municipal levels and in nonprofit institutions like hospitals. But the funding of a good many of them will have to come from the nearest thing to a progressive tax we have, the Federal income tax. And even though all this could be done without disturbing the capitalist structure of the economy—the corporations would, alas, remain in control of their billions even after such sweeping reforms—it is clear that there would be a significant shift from private, profit-oriented work to public and not-for-profit occupations.

In the long run, the implementation of a legal right to work would require careful planning. As our current experience demonstrates, it is no simple thing even to phase engineers out of aircraft production and into environmental protection—and they are educated, mobile people, less in need of government's benign attention than the economically depressed, but numerically superior, unskilled working force. Investments and decisions will have to be made well in advance of times of crisis.

Strangely enough, the short run would be easier to deal with. There is already a backlog of requests from communities for Federal funds to help build more than 6,000 waste-treatment plants, water and sewerage systems, hospitals, nursing homes, public health centers and the like; they would cost $13-billion, including $6-billion in Federal money.

Organized labor would logically be the vanguard of any political movement for a guaranteed right to work. Unions fought for that very demand almost 30 years ago, and since then have battled for a whole range of manpower programs which would stimulate the economy, not by passing out windfalls to the corporations, but by putting men and women to work satisfying the urgent needs of society. Labor cannot, of course, prevail alone, but it has natural allies in the middle class; and the issue also is one on which the interests of black and white workers most obviously converge. The formation of such a coalition around the demand for a guaranteed right to work would have ramifications for the entire society.

Such a realignment is no longer the impossibility it may once have seemed. American politics has been in the process of redefining the meaning of right and left for some time. The fundamental confrontation of the thirties between the liberal advocates of state intervention in the economy and its conservative opponents, which for so long has conditioned political debate, is now played out. That really is what Richard Nixon was telling us this summer when he proclaimed his own W.P.A. and initiated Government controls over wages and prices, and he is quite right.

By now, as Milton Friedman himself once said, we are all Keynesians. The crucial question remaining is: What kind of Keynesian? The arguments over what used to seem like only the details of economic policy—how should a tax reduction be apportioned between corporations and the poor? How much should the shipping industry be subsidized?—are becoming central. Mr. Nixon's reactionary Keynesianism is clear; he clings to the faith that private greeds somehow vector into a public good, and he therefore still looks to corporations as the real leaders of the American economy—even when, as President, he is leader. His honor as a consistent conservative is quite intact; it is only his policies which are intolerable.

But even he has had to do something, in his own constricted terms, in the face of our geometrically increasing social needs: the great cities coming unstuck, the environment deteriorating, the large numbers of marginal workers accumulating ouside the margins of the private sector. It is apparent that Louis Blanc's 1836 idea—that society must guarantee each citizen a right to work, and make good the guarantee—has more than reached the fullness of its time. We need the constructive use of the energies of the unemployed, the underemployed, and the misemployed. All that is required is a militant mass movement to prod the dawdling spirit of history into action.

SENATOR MUSKIE SPEAKS ON ENVIRONMENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. OBEY. Mr. Speaker, the most thoughtful and telling indictment of the Nixon administration's lack of leadership to preserve our environment that I have heard was given by Maine's Senator ED MUSKIE at a meeting of the Wisconsin Resources Conservation Council last Saturday in Madison, Wis.

I am inserting this in the RECORD because it is a litany of the shortcomings of this administration and it ought to be required reading for anyone concerned with the future of the environment.

The remarks follow:

REMARKS BY SENATOR EDMUND S. MUSKIE, WISCONSIN RESOURCES CONSERVATION COUNCIL, MADISON, WIS., SATURDAY, MARCH 25, 1972

The fact that we are in Madison today to talk about the environment testifies to our determination to do something about it. The fact hat we are meeting in Wisconsin also reminds us of how huch we have lost and how much we still have to save. For your state shows both the best of the earth God made and the worst of the earth man has remade.

Robert Frost could have been thinking of Wisconsin's winter splendor when he wrote of woods as "lovely, dark, and deep"—yet the word "smog" could have been invented to describe the summertime sky over Milwaukee.

This is a state with nine hundred lakes—yet your natural surroundings are threatened by the Navy's insistence on an unproven gimmick like Project Sanguine . . . and by a power company's decision to seek a license renewal on the Chippewa flowage.

I am delighted that Governor Lucey and other Wisconsin leaders will testify against Project Sanguine here next month in hearing arranged by Congressman Obey. The crisis in the environment is close to each of you—and it reaches across the country. Yet it is a different crisis from most that we have known. No breadlines signaled its coming and no bugles sounded the alarm. There was only a slow, almost unnoticed scarring of our land and fouling of our air and water, until we could no longer escape the danger around us . . . here or anywhere in America.

Some Americans were early to the environmental struggle . . . and in the early days the struggle was a lonely one. I can remember how difficult it was to enlist public support for the first anti-pollution laws of the last decade. You can remember when this Council was founded under Governor Gaylord Nelson . . . when the stirrings of public concern were still far from equal to the task of conservation in Wisconsin. But as we entered the 1970's—and almost without realizing it—most Americans started to see the crisis in the environment for what it truly is—more than a part of the normal public debate about how we should live—and nothing less than a decision about whether we can ultimately live at all.

Two years ago, when Senator Nelson led the first Earth Day, millions of people answered the call to the environmental cause. Their commitment has been an indispensable force in the passage of reforms like the Clean Air Act. I know . . . because I have written and sponsored most of our national air and water pollution legislation since 1960. Each time Americans have understood more about the environment, I have been able to secure stronger measures to protect it. Yet I also know that these advances have not been shaped by any single individual or any single political party. Together, Senators and Representatives on both sides have worked and voted for sweeping changes, often without a dissenting vote. The decisions of the Congress have reflected the will of the country.

So the environment should not be a political question. It is a question of survival—and when survival is at stake, we are all Republicans and we are all Democrats. Only last August, President Nixon said: "The work of environmental improvement . . . should unite every element of our society—of every political persuasion and every economic level—in a great common commitment to a great common goal."

But there is a disturbing distance between the rhetoric of the President's speeches and the reality of the President's policy. It is not a distance seen from a partisan perspective alone, but from the perspective of anyone committed to conservation.

The White House has given us environmental budgets which are a blueprint for environmental neglect. Last year, the Nixon Administration asked for less than a third of the authorized sum for air pollution control and less than a seventh of the authorized sum for recycling discarded products. This year, the Administration has again asked for less than Congress has authorized . . . $1 billion less to fight water pollution, $300 million less to fight air pollution, and $200 million less to finance recycling.

The lives of human beings are often determined by the dry and precise figures of a government budget. The Nixon budget slights millions of inner city children who breathe automobile fumes instead of fresh air and suffer from excessive levels of lead in their bloodstream—and yet the same budget calls for a space shuttle of dubious value which will ultimately cost $14 billion. The Nixon budget slights two hundred million Americans who depend on fresh water and the conservation of our land—and yet the same budget calls for a $6 billion increase in weapons spending, even as the Pentagon admits that the Russian threat to our missile forces has not developed according to Administration predictions.

It is easy to speak of priorities—the word has been so overused by almost everyone that it now has a meaning for almost no one. Yet the idea behind the word is still vital. We must choose—each of us—whether we are in the White House, on the campaign trail, or at home in Wisconsin. We must choose—a space shuttle or a clean Lake Michigan—an ABM or clear skies—a loan to an incompetent corporation like Lockheed or grants for sewage treatment and reforestation.

This is not just a choice in the 1972 election, though all the candidates should be judged as they choose. It is also a constant, daily choice in the highest councils of the government and for every citizen. And the Nixon Administration has chosen the wrong course almost from the day it took office.

The people want to conserve the environment. Yet this Administration has not even lived up to Disraeli's definition of leadership: "There go the people; I must follow them."

What we face is not just a failure to fund the fight against pollution. The President has also failed to enforce the conservation bills he himself signed into law—and he is trying to prevent the passage of even tougher legislation. Again and again, President Nixon has sacrificed environmental protection in the wake of pressure from corporate lobbyists. Again and again, he has allowed those two make a profit from pollution to dictate his policy on pollution control. In short, the Nixon Administration has amended Disraeli's maxim to read: "There go the special interests; I must follow them."

The special interests have opposed the Clean Air Act of 1970, which requires pollution-free cars by 1975. And just last week, the White House issued a study of the deadline which sounds like it was written by the executive of the automotive big three—who also happened to be among the biggest contributors to the last Republican campaign.

The White House study argues that there should be two standards for auto emissions—one for urban areas that are already polluted and one for rural areas where conditions are still tolerable. What would be the result? In much of the country, cars would continue to spew exhaust into the air until all of the country had experienced serious pollution at some point. And anyone who decided to move from a rural area to an urban area would have to buy a new car or modify an old car. It would be a boon for auto profits—and a burden for every rural worker looking for a new job and every rural family seeking a new life in our cities and our suburbs.

The White House study cites exaggerated cost estimates to justify its conclusions—and if the study ever becomes policy, the cost to average income Americans will be high . . . the damage to the environment may be severe . . . and the windfall for the auto industry may exceed any other government giveaway in American history.

Yet we should have expected this from an administration which in 1971 gutted the other guidelines mandated by the Clean Air Act. The guidelines were drawn up according to the law. Then, in violation of the spirit and intent of the law and in response to open industrial pressure, the White House changed them, weakened them, and published them a month-and-a-half late. And again, the loser was the environment which sustains our lives.

The special interests have also opposed the effort to limit clear-cutting . . . the practice of cutting down every tree in a forest instead of cutting only the trees that have matured. The Council on Environmental Quality drafted restrictions on clear-cutting and asked the President to approve them this year. But in January the restrictions were suddenly shelved after lumber industry lobbyists met with representatives of the Nixon Administration. So unchecked clear-cutting will go on . . . and more of our scarce open land will come to look like the barren and eroding hills of Montana's Bitteroot National Forest. It is a break for the special interests . . . and it is a tragedy for us and for our children.

And, with all the power they possess, the special interests have opposed the current water pollution control bill. The bill calls for the elimination of all pollution discharges into America's lakes and rivers by 1985. The bill passed the Senate unanimously. The bill was supported by the President. Then the pressures from big business mounted—led by the members of the National Industrial Pollution Control Council—a group with private access to the highest public officials in the executive branch. Twenty-four of the Council's members direct firms which were sued in 1971 for their failure to comply with federal conservation laws. The Council includes all the major corporate polluters in America. Yet former Commerce Secretary Maurice Stans promised them: ". . . virtually no major move has been made in environmental policy without our advice and criticism."

The promise has been kept: the Nixon Administration has joined the Council's members in denouncing the water pollution control bill the President once supported. The White House has circulated bogus cost figures to frighten and intimidate the Congress. The White House has pushed for a series of crippling amendments. What the White House and industry really want is little more than a license for continued and wholesale water pollution. Once again, the Nixon Administration has done the wrong thing. Once again, the President has caved in to big business and jeopardized our natural resources.

And it happens almost every day. Industrial pressure against environmental protection is not a sometime thing, felt only when we face major policy decisions. The pressure is unremitting—and the Administration's response is a constant surrender of the public interest to the polluter's interest. Indeed, the White House even seems ready to provide a Presidential assistant as the defense counsel for any corporation that is despoiling the environment, but supporting the Republican Party.

Last September, the Environmental Protection Agency won a court order prohibiting Armco Steel from dumping toxic chemicals into the Houston Ship Channel. The President of Armco protested directly to the President of the United States.

A White House assistant then intervened—and the federal government agreed that Armco could continue its dumping until the summer of 1972. This agreement was wrong. It was negotiated in secret and in an atmosphere of political pressure. And it is made even more suspect by the fact that the executives of Armco donated at least $14,000 to the 1968 Nixon campaign.

A national news magazine recently described the Presidential Assistant who intervened in the Armco case as "Mr. Fixit." He is the same official who interceded for Anaconda Copper to prevent strict air pollution control in Montana. He is the same official who apparently intervened in the ITT Antitrust case, when ITT pledged $400,000 to the Republican Convention. He is also involved in the Reserve Mining Problem on Lake Superior.

It is all part of a pattern—a pattern of influence peddling and closed door deals that had led millions of Americans to believe that this Administration is willing to trade their future for a campaign contribution.

And who pays the price? All of us—as we endure further erosion in the life support systems we call the environment—as we

watch a government that is supposed to serve all the people take on the appearance of a special interest lobby, literally at the beck and call of big business.

No wonder some Americans now ask whether Richard Nixon has forgotten that he is the President of a country, not the president of a corporation.

Because I am a candidate in the Wisconsin primary, what I have said here today will inevitably be placed in a political context. Yet it is not my intention to bring the 1972 campaign into this conservation Council. I have always believed that conservation is more important than any election issue. I have worked in the Senate with Republican as well as Democrats to shape the laws which can save the environment. I have sought the support of the White House. And I still wish the Administration would resume its effort to prove that the President is the leading environmentalist in Washington.

But I cannot blindly support policies to perpetuate pollution in the name of nonpartisanship. I cannot accept the claim that it is political to talk about a betrayal of the environment which seems rooted in politics. I cannot agree to say nothing while this administration does the wrong thing about our air, our water, and our land.

So I am not here to ask for your support in this election, though I will ask for that at another time and another place in the week ahead.

I am here instead to stand with you in fighting for the purposes which gave this Council life.

I stand with you in opposition to Project Sanguine.

I stand with you in opposition to licence renewal on the Chippewa flowage.

I stand with you in demanding a federal suit to stop the Reserve Mining company from pouring 67,000 tons of taconite waste a day into Lake Superior.

And we must stand together for a tough water pollution bill.

Together, we can win $300 million in sewage treatment grants for Wisconsin during the next four years—which is exactly what Washington would send here under the bill passed by the Senate.

Together, we can protect jobs and the environment through the Senate's National Water Standards—so no industry can leave Wisconsin and abandon workers in the hope of finding a haven for pollution in another state.

Together, we can defeat the attempt to evade our conservation laws—and renew the effort to enforce and strengthen them.

You have served on this Council and know what is at stake. You have known for a long time what we must do: we must save our planet's environment or perish amid the pollution of life itself.

You have led the fight for conservation in Wisconsin.

You were speaking up when others were still blind to the danger.

Now we must speak up again—in Wisconsin and across the country.

It is the only choice we have—because this is the only environment we have.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

THE USES AND MISUSES OF THE VICE-PRESIDENCY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. WALDIE. Mr. Speaker, as another presidential election approaches, all citizens should hope that the rancor and divisiveness which characterized the 1970 campaign will be avoided.

The behavior of the Vice President of the United States will undoubtedly be a crucial factor in whether this country will conduct its political process responsibly, or whether the election will deteriorate into a wasteful and damaging slugfest of name-calling and slander.

The Vice President has already made tasteless remarks he apparently thought were clever, about Congressman PAUL MCCLOSKEY—and "his favorite painting of Benedict Arnold crossing the Delaware." We can only hope that this comment does not foreshadow the level of debate the administration will advance in the coming months.

The following correspondence between Rick Tepker, a sensitive and concerned student at Claremont Men's College in California, the White House, and Mr. Robert Finch, counselor to the President may tell us something about the issues the Vice President's behavior has raised.

Most importantly, the well-reasoned reply of Mr. Finch may offer us some hope that the administration will be more sensitive to its responsibilities, and to Mr. Finch's views.

The reply follows:

JUNE, 1970.

The PRESIDENT of the United States,
The White House,

MR. PRESIDENT: In his classic treatise on effective government, Niccolo Machiavelli expresses his admiration for the prince who delegates the less savory tasks of leadership to a lieutenant so that any hatred caused by those tasks will not be directed against the prince himself. I fear that you, Mr. President, are heeding the advice of Machiavelli by giving free reign to Vice President Agnew and by refraining from editing his more vituperative addresses. I write this letter to echo the admonitions of your assistants who toured through the nation's campuses: the speeches of Spiro Agnew have not drawn fire away from the White House; in fact, his comments are a major ingredient in the growing national dissatisfaction and opposition to your administration.

I write this letter after hearing of another Agnew speech; this one contains vehement criticism of past and present government officials who oppose current policy in Indochina. The comments attributed to the Vice President regarding these men were shocking and reprehensible. If the reports I heard were correct, Mr. Agnew was indulging himself in arguments *ad hominem* that might bring applause and laughter from Republican partisans, but will only bring deep frustration, anger and hatred from those who differ from administration policies.

In many of Mr. Agnew's other speeches, similar tactics have been utilized. Such tactics, however, are highly inappropriate for the office of the Vice Presidency. Mr. Agnew, by persisting in this kind of behavior, is guilty of the same crimes as the long-haired student who cries fascist pig at every policeman or who shouts obscenities when defenders of government policy attempt to speak. Mr. Agnew's voice is just as loud as the collective voices of these young people; and when he uses his voice to hurl accusations and invective at critics of administration decisions, he can be just as damaging to the quality of dialogue and debate in this country as the protestor with a brick in his hand.

By pursuing his course, Mr. Agnew has proven that he is too biased, too irresponsible, too immature, too unreasonable and unreasoning to be Vice President of the United States. You, Mr. President, should ask for his resignation. And if that is not possible, you should at least think twice about the promise you made at a recent press conference—a promise not to muzzle the Vice President.

After all, Mr. President, Mr. Agnew is not performing the tasks of government; he is performing a political ritual that can only erode your own authority and capacity to govern, and can only further tear the fabric that may still precariously unite the nation.

Sincerely,

RICK TEPKER.

THE WHITE HOUSE,
Washington, D.C., July 17, 1970.

DEAR MR. TEPKER: Thank you for sending me a copy of your eloquent letter to the President regarding the uses and misuses of political rhetoric. I can assure you that views such as your are being listened to, and they always will be.

The whole thrust of your message, in effect, is an appeal for reason and sanity in open debate and these are indeed essential qualities—for students and high public officials not least. I am not nearly so worried about finding solutions to the problems that sometimes seem insuperable as I am about the disappearance of civility and mutual tolerance from our social discourse. That, as I think you would agree, would be a disaster of really incalculable dimensions.

In my new role as Counsellor to the President, as before at HEW, I intend to do everything in my power to uphold the standards you commend to all of us.

With every good wish,

Sincerely,

ROBERT H. FINCH,
Counsellor to the President.

THE WHITE HOUSE,
Washington, D.C. September 11, 1970.

DEAR MR. TEPKER: In acknowledging your letter to President Nixon, may I assure you that your comments have been fully noted.

Sincerely,

NOBLE M. MELENCAMP,
Staff Assistant to the President.

PRESIDENT NIXON IS KEEPING HIS WORD

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. McCLORY. Mr. Speaker, last week the President of the United States withdrew an additional 6,900 soldiers from Vietnam.

On January 20, 1969, there were 532,500 Americans enduring the perils of an Asian war. Today, there are 101,700 Americans in Vietnam who are planning to come home.

Mr. Speaker, President Nixon is keeping his word.

ENVIRONMENT VERSUS UNION ELECTRIC RUSH ISLAND PLANT

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SYMINGTON. Mr. Speaker, the House Commerce Committee on which I am privileged to serve is now considering a number of proposals to regulate the construction and siting of powerplants. The administration, Congressman MACDONALD of Massachusetts and Congressman ECKHARDT have all put forth legislation which would protect the environment while allowing construction of plants necessary to meet the energy shortage. I am deeply concerned with the environmental consequences of additional construction of such power facilities. I am, therefore, pleased with the thought and work that has gone into the proposals now before the Commerce Committee.

In evaluating the various bills, I have found it useful to receive information from companies and environmentalists at home in the second district of Missouri. In that vein, I would call to the attention of my colleagues an article that appeared in the St. Louis Globe-Democrat written by Ted Schafers; the item appeared in the March 9, 1972, issue of the paper. The situation described in the article, I feel, is typical of that in many other congressional districts. Environmental legislation now before Congress as well as court decision like the Calvert Cliffs case may affect development of energy resources in years to come. For this reason, we must gain as much information about the problems and the potential of power development.

At this point, I insert the article in the RECORD:

ENVIRONMENT VERSUS UNION ELECTRIC RUSH ISLAND PLANT—UTILITY BATTLES TO PROVE FACILITY WILL MEET WATER QUALITY RULES

(By Ted Schafers)

Construction of Union Electric Company's Rush Island plant—needed to meet expected power demands within the next three to five years—is being jeopardized by an environmental fight, the company said.

The explanation was given by the St. Louis utility in a detailed report on the reasons for excessive construction costs and completion delays of St. Louis area power plants, particularly its Labadie, Mo., operation.

The company began excavating and filling operations last spring on a 500-acre tract of Mississippi River Bottom land, called Rush Island, 8½ miles southeast of Festus. Cost of the plant, consisting of two generating units each producing 600,000 kilowatts of power, is estimated to cost $328 million.

The proposed new plant will be the first big unit to use low-sulfur coal; designed to meet Missouri's air pollution laws.

Union Electric also has announced it will have all actual construction work performed by local contractors, who also will have the responsibility of avoiding jurisdictional disputes and of improving labor productivity.

Union Electric blamed workers' poor productivity for 70 per cent of its $42.2 million cost overrun in construction of the first two units of its Labadie, Mo., power plant. The same thing is happening on the last two units, currently under construction, the company said.

However, the utility now has run into an even more time-consuming and costly problem. For the last 16 months company officials have been making reports and holding meetings to prove that the plant will not violate provisions of the Federal Water Quality Improvement Act, passed by Congress in 1970.

Details of its efforts to meet the requirements cover six pages in Union Electric's report.

The company has won the approval of the Missouri Water Pollution Board, but is still trying to meet all conditions set down by the Corps of Engineers—including the holding of a public hearing in Festus on environmental impact March 29.

"We are not blaming the Corps of Engineers, who have been forced to interpret regulations before they were even drafted and have taken on a major new work load without adequate staff," said Walter Weber, manager of the Rush Island project.

A permit from the Corps of Engineers is needed to complete the work.

"So far we've been able to excavate and fill an eight-acre area where the new plant will be located and now are raising the level of a 50-acre site for flood protection. The corps has cooperated in helping us carry on this preliminary work, but the 16-month delay is reaching the critical stage now," he said.

Certain concrete work must get under way, and steel is scheduled for spring delivery.

Construction of the new power plant will be a major economic plus for the building trades unions, employing about 1,000 workers over four years, with the total labor bill around $80 million.

THE RIGHT OF HANDICAPPED CITIZENS TO PARTICIPATE IN FEDERAL PROGRAMS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HALPERN. Mr. Speaker, the treatment of the 42 million handicapped persons in the United States of America is one of the most shameful chapters in our history. They are a truly neglected minority. They are seldom treated with the equality guaranteed under our Constitution. For this reason, I today am announcing my support for legislation to provide equal treatment of the handicapped in all programs which receive Federal assistance.

These Americans, disabled in our wars, on our highways, by birth, and by illness, simply do not have the same rights as those fortunate enough to be nonhandicapped. The handicapped live among us and struggle, usually vainly, for acceptance into the mainstream of our society. We hide them and ignore them whenever we can. We too often treat them as less than the fellow citizens they are.

In this, the greatest nation in the world, we still have the snakepit mental institutions that were condemned decades ago as harsh and brutal. Institutions for the mentally retarded are overcrowded and understaffed and provide custodial care only, when in many cases rehabilitation services would be helpful. We have millions of handicapped children who are excluded from attending school because adequate provision is not made for their education and training. We have employers who are afraid to hire the handicapped because they mistakenly believe that the handicapped are more likely to have accidents, thus raising workmen's compensation rates and insurance costs. Our governments, Federal, State, and local, tax these people, their parents and relatives, but in return fail to provide services for them. The parents of handicapped children pay school taxes—and then find it impossible to send their children to public school. Although they pay Federal taxes, they find often that not enough effort is made to help educate their homebound handicapped child through ESEA, impacted aid, and other programs. The armed services every year train thousands of persons for various jobs—but have abandoned efforts to use slow learners and retarded persons in low skilled jobs. There is no Job Corps for the handicapped.

The handicapped are a hidden population. It takes a superhuman effort in most cases for a handicapped person to succeed. This should not be so. The time has come when we must no longer tolerate the forced invisibility of the handicapped in this country. We must no longer ignore the millions of handicapped children who are not able to attend school and receive the special educational services that would be so helpful to them.

Education and vocational rehabilitation training can be the greatest thing to handicapped people in assuring their chance for employment and a full and productive life. Education of the handicapped is one of the most cost-effective endeavors the American educational system can undertake. It costs the State $150,000 for the lifetime care of a mentally handicapped person in an institution, but the provision of appropriate educational services for the handicapped can turn dependence upon society into positive participation in and contribution to society.

Vocational rehabilitation of the handicapped is equally cost effective. The Social and Rehabilitation Service estimated that annual earnings of the 291,272 persons rehabilitated in fiscal year 1971 increased by an estimated $770 million over what they earned the year before entering the vocational rehabilitation program. Average earnings of the rehabilitants were $15.95 per week when they were first accepted into the program. Upon completion, average earnings rose to $68.86 per week. Of the more than 291,000 Americans rehabilitated in 1971, 40,321 were public assistance recipients.

This is a valuable and successful program, but there are still many millions of handicapped Americans who could benefit from the program, but have not been

able to. This should not be so, the program should be expanded so that every handicapped American who can benefit from vocational rehabilitation services has the opportunity to do so.

Handicapped veterans experience problems in taking advantage of services that are supposed to be available to them. Of all the handicapped veterans registered with the Veterans Employment Services, only 1.6 percent were placed as a result of job contacts made in 1971, while 87.7 percent were unable to be placed in regular nonagricultural jobs. While the handicapped veteran represents nearly 10 percent of all veterans registered with the Employment Services Center, he received inadequate attention in both the areas of job placement and job development.

The handicapped veteran encounters obstacles at every turn. He tries to get insurance and is turned down by private agencies' exemption clauses concerning VA hospitals. He seeks medical care at VA hospitals and receives inadequate care and hospital stays that are too long. He asks for counseling and is put on a waiting list. He looks for employment and is turned down by the private employer as incompetent, or by his Government as being unplaceable.

These veterans were disabled in the service of their country and, in return, their country too often treats them as outcasts. This is inexcusable.

There are an estimated 4½ million handicapped children of school age who are excluded from public schools in the United States. This means that about 60 percent of all school-aged handicapped children in the country are ignored, unidentified and untreated. This exclusion occurs because the States are unable to define and deal with the problem. State and school districts plead lack of funds. The sad fact is that in many cases public motivation to develop adequate programs for the handicapped is simply nonexistent. In my own State of New York, a total of 221,219 handicapped children receive some kind of special services, while 151,592 receive no services at all.

I have dealt specifically with the exclusion of handicapped veterans and handicapped children from adequate programs to meet their needs. There are other instances across the broad spectrum of our society that systematically exclude the handicapped from living a normal life. Only recently have we made any kind of an effort to construct ramps allowing handicapped persons to enter public buildings. Time and again, however, the handicapped person finds that he cannot enter a building because there are too many stairs, or the door is too heavy to open by himself. He finds that public telephones and drinking fountains are too high for him to use from his wheelchair, or that the doors to public restrooms are not wide enough for his wheelchair to pass through. He finds that he is unable to ride in so-called public transportation because he can not get on a bus or a train or into a taxi. I could go on and on.

It is because this long rollcall of discrimination against the handicapped has existed for too long that I am sponsoring an amendment to the Civil Rights Act of 1964 to specifically include the handicapped.

This bill, which should be passed immediately, makes it illegal to discriminate aganst any handicapped individual or to deny him access to federally assisted programs.

Mr. Speaker, I have received many constituent appeals for programs benefiting the handicapped. I wish to read into the RECORD at this time a letter I received from a disabled college student urging action on H.R. 13009. The letter points out the urgent need for civil rights for the handicapped across the Nation.

We must insure once and for all equal educational and employment opportunities for handicapped by making discrimination against them illegal.

The letter referred to follows:

LONG ISLAND UNIVERSITY,
STUDENT GOVERNMENT ASSOCIATION,
February 21, 1972.

Re civil rights amendment for the handicapped.

Hon. SEYMOUR HALPERN,
Washington, D.C.

DEAR MR. HALPERN: As Co-Chairman of the Student Council Committee for the Disabled at the Brooklyn Center of Long Island University we would like to express our full support for the resolution you sponsored to amend the Civil Rights Act to include the handicapped.

The Council Committee was set up to do what we can for the over 300 disabled students on our campus. Many of the problems that come before us are of the nature of discrimination, because of a disability. Recently it came to my attention that the disabled student is charged more for his books because he receives tuition money from the State.

As far as jobs for the disabled; it was my job as assistant in public relations to handle the famous case of Judy Heumann. As you might remember she was denied the right to teach because of her disability.

Transportation is a very big problem because there are so many sides to it. The city makes no provision for curb cuts so that the disabled can cross the street. Public transportation is off limits to the disabled. If you can get down the steps to the subway; the MTA requires that you have a wheelchair inspection sticker. If you have the $20.–$30. to pay for transportation you cannot take any of this expense of any of the tax returns, be they Federal, State or City.

One can never turn on a TV set and see a disabled person treated equally, or for that seen at all except for ads which depict the disabled as totally useless for anything except as an object of pity to garner funds for the treatment of said disease. The only problem is very little of said aid goes towards rehabilitation, which could help the disabled become usefully employed.

Education is another problem—the disabled does not have to worry about being bused to school he is lucky if there is a school for him. The New York City Board of Education is by far the best in the country but that says nothing because there are just a few schools in the New York area which will even accept the disabled and recently the Board of Education tried to close down some existing classes. For the Homebound student the required time for home teaching is not met. Note: State Education department has a set number of hours that a homebound student must receive. A few years ago the Board of Ed. sought to cut out a telephone program for the homebound called Teleclass. As a student in it I fought for the retentiton of it and after five months it was restored. If you don't remember the case Congressman Celler should because he was involved in restoring the program.

Another aspect of education is the entrance to Universities. No University is required to offer equal treatment or facilities and so he or she is forced out or is not accepted in the beginning. The City and State University is the worst offender. In New York, Long Island University has the most extensive in school and homebound program. Hofstra is another university which has made an attempt to allow disabled students to its campus. It is a national shame that only two University's allow the disabled and they are private ones which set admission requirements unlike the open admissions policy of CUNY.

The disabled cannot petition the government except by letter since most public buildings have no access ways for them. A wheelchair or a person on crutches cannot go up those steps. The City Council and City Hall are off limits to the disabled. I know because I tried, to see Mayor Lindsey on the few times that he stayed in New York. I was later told that there is a back entrance that nobody knows about and by the way the same is true of the building in which Congress meets. If the nation shouts about a bus station having a back entrance so much more should we protest being at arms length from our representatives.

Which reminds me that a disabled person cannot register to vote, someone must go for him. As for voting a disabled person cannot vote by absentee ballot in the primary. I know because I was told that I could not get the ballot.

In ending I would like to think out loud about future employment since I want to enter Public Relations. As of now I represent LIU in radio and TV P.R., but if I had to pay for transportation no wage would be high enough to assure me an equal opportunity with others in the same profession. I cannot appear on TV; I know because I was refused an invation when they found out. I may not be able to find a office building I can enter or needed facilities once entered. I may even be refused employment because I carry a higher insurance risk or it is just against company policy.

Once again as the Student Council Committee on the Disabled we urge passage of H.R. 13009 and as a disabled person I need it!

Thank you.
Sincerely,

SAM EDELMAN,
Sophomore Councilman.

NO JUSTIFICATION FOR WITHHOLDING INFORMATION FROM CONGRESS

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. REID. Mr. Speaker, last week the Subcommittee on Foreign Operations and Government Information was privileged to hear the testimony of former Supreme Court Justice Arthur J. Goldberg on the question of the executive withholding information from Congress.

Justice Goldberg's statement to the subcommittee was in my opinion perhaps the most important statement I have heard in my 10 years in the House of Representatives. Concisely and articulately it challenges the often asserted right of the executive branch to deny to Congress the information necessary to the performance of its duties.

This fundamental question should be of deep concern to every Member of Congress, for it touches upon the very viability of Congress as an effective participant in our constitutional system of government.

Congress must take affirmative steps to reassert its constitutional prerogatives, which it has over the years tended to abandon in the face of ever-increasing dominance by the executive branch. In the sincere hope that Justice Goldberg's statement will be helpful to my colleagues in pondering this problem, I am pleased to include it at this point in the RECORD:

TESTIMONY OF ARTHUR J. GOLDBERG

My name is Arthur J. Goldberg. I consider it a privilege to respond to the invitation of Chairman Moorhead and the members of this subcommittee to testify on this matter of overriding national concern.

Having previously testified before this subcommittee on June 23, 1971, on the broad question of the problem of withholding information from the press and public generally, I would like today to confine my testimony to the question of the Executive withholding information from Congress.

I commence with the premise that there is no Constitutional justification for denying to Congress the information necessary to the performance of its duties. Under Article 2, Section 3 of the Constitution, the President is required to "give to the Congress information of the State of the Union" and both by practice and tradition this is not confined to the annual "State of the Union" message.

If the people have a *right* to know, their representatives have a *need* to know. Without adequate information from the Executive Branch of government, Congress cannot appropriately perform functions entrusted to it under the Constitution. Moreover, nothing can contribute more to the weakening of Congress and to an undue concentration of power in the Executive than the Executive's recalcitrance in appropriate sharing of information with Congress.

That vital information necessary to Congress in the performance of its duties has been and is being withheld by the Executive, no one can really challenge. Indeed, it can be argued that very often Congress receives the information it requires through "backgrounders" or "leaks" by the Executive Branch to the press rather than through an orderly and considered transmittal of information by the Executive to Congress.

This is a matter which rightly concerns this Committee which is primarily responsible for the enactment of the Freedom of Information Act, (5 U.S.C. 552).

The Freedom of Information Act in Section 1 specifically provides that the authority of the Executive to withhold information regarding matters that are "specifically required by Executive Order to be kept secret in the interests of national defense or foreign policy . . . is no authority to withhold information from Congress."

This reservation was obviously inserted in the law to protect the right of Congress to be adequately advised, even in cases where the Executive was of the view that national defense or foreign policy necessitated secrecy insofar as the general public was concerned

The Congressional sense of frustration in this area demonstrates the widely held view that Congress is being denied information by the Executive and, at the same time is being asked to enact legislation and make appropriations relating to the national defense and foreign policy.

It is an understatement to say that we are witnessing an increasing confrontation between the Executive and the Legislative Branches in this area. We must promptly take all necessary steps to prevent this confrontation from becoming a constitutional crisis.

It is important, in this connection, to note that the recent Executive Order of the President, effective June 1, 1972, dealing with the classification and declassification of national security information and materials, nowhere specifically enhances the flow of information to Congress and, consequently, does not materially ameliorate the situation as it now exists.

The Executive Order itself, however, represents a step forward in protecting the public against overclassification and ensuring earlier de-classification of national security information and material, although, by my lights, it still is overly restrictive in both areas. Perhaps in this limited sense it does ensure more information to Congress as part of the public.

However, the Executive Order, which, by its terms, deals with the general right of the public to know, does not satisfy the need of Congress to have necessary information promptly available for legislative purposes. The restrictive and sweeping provisions for classification and the long time limits for declassification do not eliminate present obstacles to the furnishing of information for timely legislative consideration and action. Furthermore, vagueness of the words "grave danger to the national security" acts as an impediment rather than an inducement and authorization to the Executive to furnish appropriate information to the peoples' representatives in the Legislature as well as to the people at large.

It is my ultimate conclusion that the present system, whereby the Executive Branch itself determines the rules for disclosure of its own documents, is inherently inadequate to keep Congress informed.

It would be in order to serve this purpose for Congress to draw upon the various proposals of its members and others and lay down specific guidelines in carefully considered and well drafted legislation. I have no doubt that Congress is authorized to enact such legislation under the "Necessary and Proper" Clause of the Constitution.

It is true that Article 2, vesting an Executive power of the United States in the President, necessarily implies that certain activities he conducts, either directly or through his staff and the Executive Departments, are privileged. By the same reasoning, under Article 1, certain activities of Congress, either directly or through its staff are also privileged.

I find it rather ironic that the Executive Branch, which strongly insists upon the President's privilege in his dealings with his own staff, should be challenging in the courts the privilege of Congress in relation to Congressional staffs. What's sauce for the goose must also be sauce for the gander.

The time is overdue for Congress to act in this area with due sensitivity for national security and for the protection of the legitimate privileges of the Executive as well as Congress' rights and responsibilities.

Our nation is a nation of laws and not men. In the public information area, except for Constitutional safeguards and the laws which this Committee, by and large, has sponsored, we have been very much a government of men and not laws. It is this reason which prompts me to urge that this Committee now address itself to the formulation of a comprehensive statute dealing with the duty and limitations of the Executive's responsibility to inform the Congress and the rights, limitations and safeguards of Congress to be informed.

I would hope that in drafting such a law, the Executive Branch and the Legislative Branch would cooperate in the interests of both and in the ultimate interest of the public both serve.

RICKOVER THE UNCOMMON MAN

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HOSMER. Mr. Speaker, about every 50 years an American naval officer appears who has an enormous influence upon the history of his times. It was just about on schedule that Vice Adm. Hyman G. Rickover came along during our times in the role of one of today's very, very, few uncommon men.

Many people are familiar with his responsibility for the nuclear powered naval ships and the development and training of the remarkable men who man them. Some people know of the admiral's influence in matters educational, in the military and elsewhere. But most people, however, as yet fail to appreciate his remarkable grasp of history and the characteristics of the modern day world and the people in it.

An insight to this brilliant facet of that shining mind is found in Rickover's essay on "The Decline of the Individual" which appeared in the March 30, 1963, issue of the old Saturday Evening Post. The admiral listed four major threats to individual freedom in the United States as: replacement of the Protestant ethic by the Freudian ethic; a tendency to permit technology to control man rather than to command it to his service; unrestrained population growth, and, the interposition of giant private and public bureaucracies between man and his government.

The perceptive, nearly 10-year-old article is well worth recalling and rereading. It is reproduced below:

THE DECLINE OF THE INDIVIDUAL
(By Vice Adm. H. G. Rickover)

In recent years a sense of uneasiness has crept upon the American people. We have lost some of our exuberance, some of our faith in ourselves. Many of us are disturbed by the loss of good things we cherish as peculiarly American and by the intrusion of distasteful things we never expected would invade our way of life. These changes have been many and various, but they all have a common root: They stem from factors which have conspired to diminish the freedom and dignity of the individual.

These human values are essential in a democracy; anything that threatens them makes our whole society a little less free, our nation a little less strong. The basic tenet of democracy is respect for the equal moral worth of all human beings and the equal freedom of all men to shape their lives as they see fit, provided only that they harm no one and violate no law. Only the self-determining, independent citizen can make a success of self-government.

Yet these same values can be neither created nor preserved without continuous effort, and that effort must come from the people—or rather from the individual citizen. Self-government will not produce a good society unless enough citizens feel an identification with the fate of the nation. Repeating patriotic clichés is not enough.

Even were it conceivable that we might

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prefer things to freedom—perhaps self-indulgence or social irresponsibility or political apathy—the peril in which our country finds itself today forbids such folly. In its struggle with Communism, democracy cannot afford to forgo a single one of the advantages inherent in a free society: the mutual trust that flourishes in freedom, the release of human initiative and energy, the pragmatism and tolerance that prevent enslavement to dogmatic ideology—these are what give democracy flexibility and strength.

Our nation was launched with a system of government containing numerous safeguards to protect individual liberties. Careful reading of the Declaration of Independence shows that our society pivots on the free citizen. Observe the order of precedence: *First* there is the statement that all men are born equally endowed with "unalienable rights," and some of these are listed; *then* the Declaration notes that governments "are instituted among men" to "secure" these rights, and *finally* it is stated that government derives its "just powers" from the governed. Clearly the founding fathers wanted to make certain that Americans never would be ruled by anyone who had not received their express mandate.

Over the years, however, and especially since the coming of the industrial and later the scientific revolution, radical changes have occurred in our way of life, some of them inimical to the free individual in whom our society is grounded.

The first major threat to individual freedom lies in the replacement of what sociologists call the Protestant ethic, which prevailed in this country until the turn of the century, by a new so-called Freudian ethic. Put in simple terms, the Protestant and Freudian ethics stand for two opposite concepts of man. The first sees him shaping his own destiny, being governed by standards he sets himself and by his own conscience, therefore responsible for his own acts. It is the spiritual foundation of democracy. The second sees man ruled by unconscious drives and external pressures, hence not really responsible for his acts. His life is shaped not by himself but by his socioeconomic environment; if he becomes a failure or a criminal, not he but society is to blame.

American egalitarianism reinforces this caricature of Freud's concepts. Mediocrity excuses itself as the normal and healthy state of mankind. The uncommon man who excels thus becomes a sort of unnatural freak. Conformity to the environment in which one happens to find oneself becomes the safe and approved aim. That this shrivels individual autonomy is a fact not always immediately perceived.

The process starts with the "progressive" school and the permissive home. Emphasis is placed on self-expression rather than on self-discipline; on group adjustment rather than on development of the individual's innate capacities; on gaining popularity with the "peer" group rather than on becoming an independent, self-determining adult human being. The educationists' avowed intent to use the school for leveling out human differences strikes me as an assault on the child's basic humanity. Unlike animals who are equipped only for the one kind of life proper to their species—peer group, if you like!—man is infinitely diverse in talents and interests. The higher the cultural level, the greater this diversity; passive adjustment to a group belongs to a more primitive age of man.

Group conditioning in the school makes itself felt in adult life. Increasingly, Americans seek comfort and security through belonging to a particular segment of society. People huddle together in communities populated exclusively by members of some one segment and pattern their personal behavior on group standards. What is particularly disturbing is the resentment that tends to be generated in these closed groups against anyone who thinks independently and who must therefore at times differ from approved "group thought."

All new ideas begin in a nonconforming mind that questions some tenet of the "conventional wisdom." All improvements originate in a critical mind that mistrusts the "image" projected by some powerful organism. The innovator of ideas and the social critic are essential to a free society; they are what makes the society free.

In a democracy there is need for "critics by profession"—commentators, columnists, etc., whose "beat" is the whole of the social scene—but there is also need of "lay critics" who look upon discovery and publication of truth as part of their civic responsibility. The critic who makes himself an expert on some particular subject, so that he may offer the people information not otherwise available, ought surely to be able to count the people on his side. But, all too often, habits of conformity and mistrust of iconoclasts lead the public to take a neutral position, as if they were judging a proceeding in a court of law.

It is a sad comment on the decline of individualism in America that the critic has no friend at court. He is tagged "controversial," the worst that can happen to anyone in a conformist society.

The "controversial" tag makes him by definition a "flawed" personality, not group-adjusted, one-sided, ill-informed, frustrated and motivated by ill will. Epithets may therefore be thrown at him with impunity; he may be misquoted and misrepresented, and what he says may be contemptuously dismissed as requiring no refutation whatever.

A second major threat to individual freedom comes from the impact of technology. The utilization of science for practical purposes has such enormous potential for the good or evil of man and society that our attitude toward it requires careful rethinking. We have here a complex problem that calls for a higher order of intelligence than has so far been applied. Up to now we have left technological matters almost entirely to the management of practical men. I submit, however, that the practical approach to a new scientific discovery is short-range and private; it is concerned with ways to put a discovery to use in the most economical and efficient manner. The scholarly approach is long-range and public; it looks to the effects which the use of a new discovery may have on people in general, on the nation, perhaps on the world, and it considers the future as well as the present.

As an engineer I have a healthy respect for the categorical imperatives of nature, imperatives constantly being disregarded for the sake of short-range benefits. I feel strongly that technology must not be raised to the status of an end in itself, but must always remain a means to an end, the end being the welfare of human beings and of the nation as a whole. In determining whether a given technology conforms to this objective, we need the help of both practical and scholarly experts. But the final decision must rest with the American people.

It disturbs me that we allow ourselves to be pressured by purveyors of technology into permitting so-called technical progress to alter our lives without attempting to control this development—almost as if technology were an irrepressible force of nature to which we must meekly submit. If we but paused to reflect before acting, we should note that much which is hailed as progress contributes little or nothing to human happiness. Everything new is not *eo ipso* good and everything old inferior.

Technology does not automatically render obsolete the principles we found good in the past; they belong to a different order of things. Technology is not concerned with them. Principles have to do with the way we marshal our inner resources, discipline our actions and respond to the promptings of our conscience; with the ordering of our personal lives and of our relations with fellow citizens, both in private and in public life. They apply to human beings.

Technology, on the other hand, deals with material things. Technology can enlarge our powers of mind and body. With it we can improve health, produce material abundance, leisure and comfort, circle the earth with instant communications, etc. But technology does not dictate either the manner in which we put it to use or the specific benefits which we want to derive from using it.

I suggest we reject the notion that man is no longer master of his own and of his society's destiny. Let us put man back in the center of the stage and do some hard thinking about the kind of life that technology is currently creating for us. Only now, for example, are we beginning to realize that careless use of dangerous pesticides and weed killers may poison soil, vegetation, animals and humans. And it took the tragic case of the European thalidomide babies to dramatize the fatal consequences that may result from the hasty use of inadequately tested drugs.

A third threat to individual freedom has been the tremendous increase in the country's population, with all the attendant changes that this has brought. From 1800 to 1850 our population almost quintupled; from 1850 to 1900 it tripled; from 1900 to 1950 it doubled. Natural increase had as much to do with this growth as immigration. Since World War II the growth rate has accelerated so much that when the time comes to celebrate our bicentenary each citizen will have only about one percent of the voting power which individual Americans had in our first national election. A healthy infant born on that day can expect within his lifetime to see our population soar close to the billion mark—unless, of course, we ponder the consequences to the quality of American life and reverse the trend.

Space of itself bestows freedom and dignity; it gives man elbowroom and a chance to find peace and quiet and privacy. When men are scarce each individual becomes important. Today seven out of 10 Americans live in crowded cities, suburbs, and other urban areas, and the country as a whole is more populous per square mile than was Europe at the time of our revolution. It is hard to find quiet and privacy and a spot of unspoiled nature within reach of home. Man-made ugliness presses on the human spirit, and there is no place for our children to play in safety.

As long as a wilderness had to be subdued there was work in abundance, work of a kind that ordinary men with willing hearts and hands could do, vitally needed work that bestowed dignity on the workman. We were a country of independent farmers, artisans and merchants in those days. Now nine out of ten Americans work for others, many for giant organizations where they have little opportunity to feel individually important. Today, moreover, our society is plagued with endemic unemployment, a condition under which it is difficult to hold fast to a sense of human worth. The loss falls most heavily on those—and, alas, there are all too many—who lack the skill and education for which there is demand in a complex modern society. In the past, America offered unique opportunities for social advancement to average men with average competence; today this is less and less true. America once offered steady employment even to men of below-average ability, but job opportunities for them have contracted drastically. Ours is still a land of opportunity, but increasingly so only for the highly skilled and educated.

With the disappearance of preindustrial, rural America we lost a way of life that was congenial to individual freedom and democracy. Life was simple. Ordinary men could understand the world they lived in; they could manage their affairs without much trouble; they could reach independent decisions on public issues that concerned them as citizens of a democracy. The individual is diminished when he cannot comprehend the problems besetting his nation. I myself think that if we had a first-rate school system, stressing basic education in the liberal arts, many more Americans than now would understand and express their views on public issues.

Serious as is the loss of these natural advantages, however, it need not be fatal to individual freedom or to preservation of a free society. Many of the most civilized modern European countries never had these advantages, yet they were able to evolve out of feudalism and capitalist monarchy into democratic nations where individual freedom is at least as well protected as here—and in some cases better protected. What we need is a new perspective: a recognition that we must now take positive action to create "artificially" the climate in which the autonomous individual and the free society can prosper.

A fourth major threat to individual freedom is the rise of giant organizations which interpose themselves between the citizen and his government. When the nation was founded we did not even have political parties, and there were only seven commercial corporations in all the colonies. We had no labor unions, no vocational or professional associations, no special-interest groups or huge government bureaucracies. The citizen faced his government directly—whether local, state or Federal. With his fellow citizens he shared control over his government on a basis of complete equality.

Today the citizen's wishes may be thwarted if they conflict with the interests of powerful organizations able to bring their immense resources to bear on government. Many organizations, such as labor unions and even women's clubs, have been successful in preventing governmental action they consider harmful to their interests, or in obtaining special government benefits and privileges not vouchsafed ordinary citizens. When society is dominated by powerful organizations the autonomy of the individual is diminished.

Of course, the right to associate with others for the purpose of engaging in joint enterprises is itself an important part of individual freedom. In a huge, populous, technically advanced country such as ours both private and public organizations are indispensable. Enormous good flows from them. Many organizations, furthermore, are exclusively concerned with serving their members and do not seek to influence anyone; others are small and therefore a threat to no one; not a few are big and powerful but exemplary in behavior and performance. These do not concern us here. What does concern us is the threat to individual freedom posed by huge power complexes which dominate our lives but over which we are not able to exercise control. Among these are both public and private organizations.

Large government bureaucracies are as indispensable to modern society as are large private organizations. Many government tasks have to be entrusted to special agencies set up for this purpose. Yet, although they are a part of government, the citizen's influence on them is not as effective as it is on the elected branches of government; nor are the men who run these bureaucracies as accessible to citizens who have legitimate business with them as are elected government officials.

Many large nongovernmental organizations also tend to misuse their power in relations with the public and the government, as when they seek to hold up necessary legislation favored by the electorate or win special favors as a result of past political support—or through the threat of future retaliation at the polls. In some cases, moreover, these organizations develop an autocratic structure which diminishes the freedom and dignity of employees or members, either by needlessly circumscribing their working—and occasionally even their private—lives, or by failure to be responsive to their best interests. Often those "faults of bigness," as one might call them, are not essential to the purposes of the organization or even relevant to their specific tasks. Once we recognize what makes large organization a danger to freedom, we can deal with the problem without interfering with their lawful pursuits. In fact, protection of individual freedoms will benefit any honest organization, since it releases private initiative, one of the great powers for good inherent in a free society.

Organizations act through men. In our country they act through a special category of career men, called managers or administrators. The 18th-century French statesman Mirabeau once remarked that "to administer . . . is to rule." One might expand this to say that administration is a type of authoritarian rule with no constituency and no direct popular mandate. As such it is an anomaly in a democratic society.

In nearly all our large organizations administration stands apart and above production. The men who do the real work of the organization are placed below the administrators who rule them. Administrators may or may not have competence in the organization's special field of work; often they do. Unhappily they often do not. Take education: Clearly the teachers do all the productive work, but it is not they who manage the vast educational enterprise in this country. Teachers are bossed by administrators who quite frequently have not been trained in teaching but only in management of housekeeping, personnel and public-relations chores.

The larger an organization, the more powerful are the managers or administrators. Their source of power comes from being in charge of house-keeping matters, hence of the purse and so in turn of personnel assignment and promotion. As with all rulers, the larger the realm, the more important and better paid are its administrators. This makes them empire builders. It also accounts for a tendency to authoritarianism. Orders flow downward freely, but suggestions rarely rise upward in the hierarchy. This is probably more true of public than of private organizations.

Nevertheless the individual who must work in a large organization, whether private or public, meets conditions of inequality not found elsewhere in our democratic society. Nor is this inequality necessarily a result of unequal human qualities; it comes because one party has behind him the power of the organization and uses it to prevail over the other. This reminds one uncomfortably of the special rights and privileges which once were enjoyed by men for no other reason than membership in a higher estate—as when society was divided into the nobility, the clergy and the third estate.

There is yet another way in which large organizations tend to diminish the freedom of the individual. The founding fathers sought to secure the "unalienable rights" of man by associating the citizen with the business of governing; that is, by making the consent of the people indispensable to the functioning of government. In order to exercise his public functions a citizen must be free to make up his own mind on any public issue, to speak out and to solicit the approval of his fellow citizens; in other words, to be active politically.

Freedom in private life is important, for the citizen needs what Socrates called "a private station" when he engages in public activities. More than invasions of privacy, intolerable in a free society, are therefore involved when organizations presume to meddle in their employee's personal lives. Can a man who must submit to organizational regimentation be a fully effective democratic citizen? Will he feel free to engage in active politics if there is doubt in his mind whether the organization he works for, or the union or association to which he belongs, approves?

Many people have been concerned over the danger of our becoming a state dominated by pressure groups. It has been proposed that the people be given a special department to look after their interests. This misreads the problem. The Government in all its branches is already set up specifically to look after the people's interests and for no other reason. What we must do, I submit, is find ways to curb the illegitimate powers of large organizations, both public and private. Government bureaucracies should be made more responsive to the wishes of the voters; this means bringing them under closer control of our elective bodies. Nongovernmental organizations—labor unions, professional associations, special-interest groups, even business corporations—ought to be held more strictly to the specific mandate of their charters, as well as to "public policy."

We have allowed the freedom of the individual to shrink while permitting the freedom of the organization to expend to a point where it overshadows human liberties. But this nation was founded for people, not for organizations. We need to remind ourselves that organizations—like technology—are not ends in themselves but means to an end. This end is a good society—a strong nation—human beings who in equal measure are assured the right to "life, liberty and the pursuit of happiness."

I have no simple solutions to offer. There are no simple solutions for any of the problems which urgently require our attention today. We can approach these problems from many different angles. I approach them from the point of view that individual freedom must be preserved.

Fortunately, there are now signs that give one hope we have passed the nadir and are slowly ascending toward the more rugged individualism that was so marked a characteristic of earlier Americans. The shock that Sputnik administered to our self-esteem has led us to throw ourselves into an earnest search for flaws in our way of life. I am convinced that once the American people have been shown at what points individual freedom has been weakened they will speedily reinforce these points.

We will be able to do this all the better if we can overcome a general tendency to think of ourselves as unique. A good deal of not-wholly-disinterested propaganda comes our way seeking to convince us that all the good things of the life we associate with American democracy are uniquely ours. There was a time when life in this country differed greatly from life in other Western nations. For more than 100 years we were the model of the free society. But ideas have been moving back and forth across the Atlantic, leaving deposits on both shores. Democracy as a form of government has long since become the Western—not solely the American—way of life. It is well also to remember that its roots go back 2,500 years to Greece and that in evolving the concept of the equal worth of all men every Western nation has played a part.

The greatest glory of Western civilization is that it alone, on its own, came to accept the idea that man as man, individual man, regardless of his particular attributes or possessions, is "the measure of all things" (Protagoras). Since the political corollary of this idea is democratic government, it is not surprising that democracy, too, is a uniquely Western invention.

There is, to be sure, a so-called "Eastern" concept of democracy: pure Marxist double-talk, of course. It defines democracy as gov-

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ernment of the people, on behalf of the people, and in the interest of the people.

In areas of the world where the individual has never been held in high esteem, where he derives his status and rights from membership in some group—family, tribe, church, etc.—this parody of Lincoln's famous words is sometimes actually taken as a species of democracy. In a negative way, this illustrates the point I wish to make crystal-clear: Respect for individual freedom, for the autonomous individual, is the foundation of a free society. As soon as you think in terms of "groups," the foundation begins to erode.

Today the true democracies all face similar problems. All are seeking to solve them through the democratic process, and each can learn something from the others without being untrue to itself. There is, I believe, an irresistible trend toward changing government from the "night watchman" to the "service agency" type. Americans could learn something from the way this transition is being made in the most successful of European democracies. Their reasons have been practical, not ideological. What they have recognized and accepted is that modern life is now so complex, so dependent on careful dovetailing of innumerable human activities, that the individual is in greater need than ever of protection by the law against being harmed by his fellow citizens. There can be no valid objection in principle against making necessary changes. The Declaration of Independence states that "it is the right of the people" to alter the powers of government in such a way "as to them shall seem most likely to effect their safety and happiness."

A friendly though critical visitor to our country once remarked that "there is nothing wrong with America that Americans cannot set right." We can, if we will, strengthen the autonomous individual in our free society. In so doing we will make our nation not only stronger but also a better place to live.

DRUGS AND DRUG ABUSE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. PEPPER. Mr. Speaker, the American Legion has adopted a statement listing 38 major recommendations of policy on drugs and drug abuse. As the chairman of the Select Committee on Crime, I am placing this statement into the RECORD:

MAJOR RECOMMENDATIONS OF THE AMERICAN LEGION STATEMENT OF POLICY ON DRUGS AND DRUG ABUSE

Resolution No. 610 (Convention Committee on Children & Youth) "The American Legion Statement of Policy on Drugs and Drug Abuse" with which is consolidated Resolution No. 52 (Tennessee) "Drug Abuse," Resolution No. 56 (Kentucky) "Drug Abuse," Resolution No. 57 (Kentucky) "Drug Abuse," Resolution No. 102 (Pennsylvania) "Drug Abuse," Resolution No. 153 (Minnesota) "Drug Abuse," Resolution No. 154 (Minnesota) "Drug Abuse," Resolution No. 284 (California) "Drug Abuse" Resolution No. 314 (Vermont) "Drug Abuse," Resolution No. 409 (Illinois) "Drug Abuse," Resolution No. 459 (Idaho) "Drug Abuse," Resolution No. 563 (Delaware) "Drug Abuse."

Whereas, The problems of drugs and drug abuse have reached epidemic proportions and have become increasingly complex and affect all facets of life within America and our servicemen in overseas installations; and

Whereas, The problems of drugs and drug abuse directly affect four major programs of The American Legion; and

Whereas, A comprehensive statement of policy on drugs and drug abuse has been developed jointly and approved by the National Commission on Children & Youth, the National Foreign Relations Commission, the National Security Commission, and the Veterans Affairs and Rehabilitation Commission and the Special Joint Committee on Drugs and Drug Abuse; and

Whereas, The American Legion is the first private national organization to develop such a comprehensive Statement of Policy on Drugs and Drug Abuse; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31-September 1, 2, 1971, that it endorses The American Legion Policy Statement on Drugs and Drug Abuse which is a part of this committee report and contains the following major recommendations:

1. The American Legion believes drug abuse per se is only the symptom or physical manifestation of a much deeper psycho/social problem and urges all citizens to look at drug abuse in the larger context.

2. To the extent possible, we will work with the Congress, state legislatures, and state and federal agencies, when, as an organization The American Legion believes changes or additions to our laws or government policies are desirable.

3. We believe we must deal with the realities of the drug environment and avoid scare tactics, emotionalism and over-simplification of a most complex national problem.

4. We believe any programs or efforts to offset abuse must be so designed and so programed as to be easily assessible to all who need help.

5. We favor attacking the drug problem as a whole which includes international relations, law enforcement, education, judicial reform, research, treatment and rehabilitation.

6. We are convinced that one of the most effective ways to eliminate the illicit narcotic traffic in the United States is to eliminate the source of the production of raw opium and the localities of its refinement and smuggling into our country.

7. We urge the World Health Organization to further substitution of synthetics for natural opiates and analgesics.

8. The American Legion does not believe in elimination of economic aid to opium-producing nations and would hope to stress that unity and cooperation offer more prospects of success than blackmail and distrust.

9. The American Legion believes the moment has arrived when each State should examine the wide range of choices available to it in dealing with the narcotics drug traffic and to this end, we favor the adoption by state legislatures of the Uniform Controlled Substances Act which dove-tails with the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

10. The moment is here when the matter of judicial reform must be given high priority to speed the administration of justice in drug related crimes.

11. We support the efforts of the Department of Justice and the Bureau of Narcotics and Dangerous Drugs to ferret out the higher echelon violator.

12. The American Legion also favors the expansion of trained personnel, to a point commensurate with the need, in those law enforcement agencies or sections of agencies which deal with the traffic in narcotics and dangerous drugs.

13. We favor a broad education program aimed at informing the public of the dangers inherent in the use of drugs without proper medical supervision, however, drug abuse education cannot be considered a panacea for the prevention of illegal use of drugs but is rather an integral part of a multiple approach which includes eliminating sources of illegal drugs, law enforcement, patient treatment and rehabilitation, and research in all aspects of drug abuse.

14. We believe the prime responsibility for providing drug abuse education should rest with the schools and should commence when a child begins his formal education, however, we recognize that parents and the total community have an important role.

15. Inservice training programs or preservice education classes are essential for all those involved in drug abuse instruction programs.

16. The American Legion urges the federal government to take leadership in the development of effective drug abuse education techniques and federal funding should be provided for the conduct of demonstration projects.

17. We endorse the policy of the Military Services to prevent and eliminate drug abuse and to attempt to restore and rehabilitate members who evidence a desire and willingness to undergo such restoration.

18. An extensive education program must be instituted and extended to all members of the Armed Forces, their dependents, and to civilian employees of the military.

19. Every effort must be made to prevent sociopathic individuals evidenced by past and potential drug addicts, users, and suppliers from entering the Armed Services.

20. The American Legion supports the amnesty and exemption programs that have been established by the Military Services and favors a uniform application of this principle for all components of the Armed Forces.

21. We also favor a review of discharges made prior to the amnesty program to make sure each individual is treated with equity when drug abuse has been involved.

22. We do not approve an involuntary extension of term of service for the sole purpose of treatment and rehabilitation of drug misuse or addiction.

23. We suggest that any military or civilian institutions in which servicemen or other persons are incarcerated should have an adequate program of treatment when addiction is one of the problems of the convicted.

24. The American Legion believes drug and alcohol afflicted individuals must be provided the opportunity for treatment and rehabilitation and commends the Veterans' Administration for its accelerated efforts to provide treatment facilities and personnel. Such comprehensive treatment should be extended to families of those afflicted if necessary for patient benefit and appropriate additions to legal authority of the Veterans' Administration should be provided.

25. As important as it is in our opinion for the Government and the American people to provide treatment for veterans addicted to narcotics and psychotropic drugs, we would not favor any lessening of the on-going program in the treatment of alcoholics.

26. The American Legion is most anxious that both the expansion of facilities and the assignment of staff for alcohol and drug treatment and rehabilitation not be done at the expense of Veterans Administration programs for care of sick and disabled veterans in all other categories.

27. The American Legion believes that no serviceman should be discharged from the military services for drug abuse alone under conditions that would prevent his attaining needed treatment and rehabilitation for his dependence.

28. The American Legion adheres to its studied policy that the serviceman merits the type discharge his service has earned.

29. To assure justice and equity each case should be evaluated individually in determining the type of discharge to be issued.

30. The American Legion would oppose any Veterans Administration program for drug treatment based on civil commitment.

31. The American Legion would look with favor on a contract arrangement between the Veterans' Administration and community health centers, with fee-basis physicians, and with other agencies both governmental and private that are proven by the Veterans' Administration to be equipped to treat and rehabilitate drug victims.

32. While we recognize that it will require the training of additional personnel, The American Legion believes that effective counseling is directly related to the creation of motivation for treatment in drug dependent persons.

33. The American Legion supports the concept of confidentiality of records for drug afflicted veterans, except where sensitive positions of responsibility to the Nation may be involved, or where the agency comes into possession of information concerning the commission of a felony by the individual.

34. The American Legion would suggest that all states examine their laws on marijuana and make sure the penalties for possession or personal use are in proper perspective with scientific knowledge.

35. The American Legion opposes any legalization of marijuana.

36. We favor the investigations of the Commission on Marijuana and Drug Abuse.

37. The American Legion supports additional research in the areas of education, treatment and rehabilitation, as well as research on marijuana and chemical or other causes which lead to addiction and favors federal funding of such research.

38. The American Legion is strongly in favor of a central federal agency to coordinate the many existing programs related to drugs and drug abuse and, hopefully, help us as a Nation not only to better understand the seriousness of the problem, but likewise to help us work in a united effort to the end that a more rapid control of a National emergency of epidemic proportions be accomplished.

A HARD LOOK AT OUR HEALTH CARE SYSTEM

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. CORMAN. Mr. Speaker, only a short time ago I placed into the CONGRESSIONAL RECORD a news story by William Hines of the Chicago Sun Times which told of a father who was so burdened by the cost of his son's open heart surgery that he committed an insane crime involving the hijacking of an airplane. He paid for this with his life.

Now, only a short time later, newspapers report another, similar tragic incident. In this case, it is a sick, 70-year-old man who having been told he could not be admitted to a hospital unless his was an emergency case, made a feeble attempt to rob a bank. Mr. Speaker, I suggest we all need to take a long, hard look at a health care "system" such as ours that drives an old man to such a desperate act.

The article follows:

REFUSED HOSPITAL BED, MAN HELD IN ROBBERY

(By William L. Claiborne and Alfred E. Lewis)

A 70-year-old man who told police he was refused admission to George Washington University Hospital yesterday for a lack of money, was arrested 45 minutes later during a holdup of a nearby bank.

Clarence Christian Hayes, a retired house painter from Mechanicsburg, Pa., was charged with bank robbery in what police said was an attempt to get money needed for treatment of a blood disease.

Detectives said that when Hayes was told he could not be admitted unless his was an emergency case, he told a receptionist at the hospital, "I've got the money, I'll go get it."

Shortly afterward, police said, a thin, aged man walked up to a teller at the National Savings and Trust Co., 20th and K Streets NW., and handed her a note demanding $2,500 in cash.

The man, identified as Hayes, did not get out of the bank before being captured.

An FBI check on Hayes revealed that he had been arrested in a Harrisburg, Pa., hospital on Feb. 5 and charged with a $5,000 bank robbery three days earlier.

Hayes, who was freed on personal bond in that case, had used part of the $5,000 to pay hospital bills in Harrisburg, police said. About $3,500 was recovered.

Detective Sgt. Harry Noone, of the metropolitan police department's bank squad, said Hayes told him yesterday he had been hospitalized off and on over the last four years for a blood clotting condition. He came here by bus early yesterday from Harrisburg to see a physician he knew at GW.

When told the physician was not on duty, Hayes asked to be admitted to the hospital. Police said Hayes was unable to produce evidence of ability to pay hospital costs and said he was not covered by a private health insurance or enrolled in a public Medicare program.

A receptionist, police said, told Hayes that since his admission would be on a nonemergency basis, he would have to prove his ability to pay.

A hospital spokesman confirmed last night that those conditions apply to non-emergency cases. But he said he was unable to explain how Hayes could not be covered by Medicare.

After telling the receptionist he would obtain the money, Hayes walked out of the hospital and was not seen there again. (The physician named by Hayes would not comment on whether he knew Hayes, saying that would violate the doctor-patient relationship.)

Laura Ghaffari, 20, a teller at National Savings and Trust, said that at 10:25 a.m., an elderly, gray-haired and neatly dressed man handed her a paper bag and a note which said:

"Put $2,500 in this paper bag. Do not sound the alarm for five minutes after I leave. If you do, I have a bottle of TNT that I will throw back at the counter, hurting a lot of people . . ."

After handing the man $1,035, Mrs. Ghaffari screamed and two bank employes, William Moffett and Richard Will, chased the robber into an adjacent lobby, where they detained him.

Police arrived and arrested Hayes. Investigators said the bag of money was recovered at the scene.

The FBI said Hayes was arraigned in the Harrisburg hospital on a charge of bank robbery, but was released on $10,000 personal bond. He was discharged from the hospital shortly afterward.

Hayes was arraigned yesterday before U.S. Magistrate Lawrence S. Margolis and held under $10,000 bond for a March 29 hearing. Margolis ordered that Hayes be committed to D.C. General Hospital for medical attention.

Police said that, aside from the Harrisburg charge, Hayes' only other known offense had been an arrest for disorderly conduct in the 1940s.

FREEDOM OF SPEECH IN THE ARMY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HARRINGTON. Mr. Speaker, the documents I am inserting in the RECORD at this point illustrate a serious disregard by the U.S. Army for the first amendment rights of servicemen. The case involves a young man who went AWOL from an assignment to Vietnam, and who subsequently turned himself in. While awaiting disposition of the charges against him, this young man, Pfc. Michael Daley, engaged in a series of demonstrations. The target of these demonstrations were unsuitable living conditions at the personnel control facility at Fort Devens and the action of the Army in proceeding against Pvt. Roosevelt Clady, a man who had been inducted despite a bullet wound suffered in his early teens which rendered him physically incapable of Army duty.

The evidence is inescapable, Mr. Speaker, that Private Daley's participation in these lawful and proper protest activities was the reason for his being referred to court-martial. From October until mid-January, no action was taken against him. But on January 17, the first working day after he had participated in the second of two public demonstrations at Fort Devens, he was referred for court-martial. And to make positive a conclusion which this coincidence of timing suggests, the recommendation to deny his subsequent request to be allowed an administrative discharge included explicit reference to his protest activities. The inference is irrefutable that Private Daley is to be punished, not for being AWOL, but for speaking out, as he had every right to do, against unsuitable conditions.

It is important to note that at no time has any official ever suggested that the activities in which Private Daley engaged at Fort Devens were in any way illegal or improper. No charges have been preferred against him for them. Rather, they have been cited in an official document as a reason to proceed criminally against Private Delay in an entirely unrelated matter.

I stress, Mr. Speaker, that the issue in this case is not the propriety of Private Daley's having gone AWOL. His actions in this regard should be dealt with, but on their own merits, and not in an unusually harsh manner to punish him for speaking out as every American citizen has a right to do. Indeed, one of the disturbing aspects of this case is the fact that Private Daley is being given far harsher treatment than most others who have committed the same offense.

As a strong supporter of a Volunteer Army, I believe it is imperative that we make every effort to treat members of the Armed Forces fairly and reasonably, since we will never succeed in attracting sufficient volunteers if we require for-

feiture of basic human rights as the price of enlistment. In combat conditions, obvious restrictions on such rights are necessary; but in peacetime conditions at domestic bases, action such as Private Daley engaged in is entirely legitimate.

I hope that the Army will reconsider its denial of Private Daley's request for administrative discharge.

The documents follow:

MARCH 22, 1972.

Brig. Gen. DEWITT ARMSTRONG,
Fort Devens, Mass.

DEAR BRIGADIER GENERAL ARMSTRONG: I am writing because I believe the Army is about to commence on action that involved infringement on fundamental First Amendment rights. I am referring to the impending court-martial of Pfc. Michael Daley. I realize that Pfc. Daley was AWOL for a considerable period of time, prior to turning himself in voluntarily. But I am seriously disturbed by concrete documentary evidence which shows that Pfc. Daley is being singled out for particularly harsh treatment by the Army because of his participation in a series of entirely lawful and proper activities which focused attention on unsatisfactory living conditions at the Personnel Control Facility at Fort Devens and on the irregularities in the case of Pvt. Roosevelt Clady.

I refer specifically to the recommendation of Lt. Col. Bernard Theriault that Pfc. Daley "should be considered for a punitive discharge." What most disturbs me is the language in Col. Theriault's recommendation disapproving Pfc. Daley's request for an administrative discharge which notes that "Daley has been active in Fort Devens United Front Activities as well as the functions of the Common Sense Bookstore and various agencies in Boston." In the context in which it appears, this statement can only mean that Pfc. Daley is being denied an undesirable discharge as punishment for his participation in the activities to which Lt. Col. Theriault alludes. Yet it is clear from the record that these activities were entirely lawful, since no disciplinary action was ever instituted against Pfc. Daley for his participation in them.

Thus, it appears that the Army has decided to proceed with a court-martial for the offense of being AWOL based not on the merits of the case itself, but on someone's embarrassment over lawful and unrelated activities engaged in by the individual in question.

If this interpretation of the fact of the case is correct—and I am strongly persuaded that it is on the strength of the evidence presented to me so far—then Pfc. Daley's First Amendment rights are being infringed. There can be no justification for treating him more harshly than others who have committed the same offense as he has, simply because he exercised the rights of free expression which the Constitution guarantees him.

It also seems worth noting that the cause of the activities in which he engaged were unsuitable physical conditions in the PCF quarters at Fort Devens. At a time when the army should be making every effort to enhance its attractiveness to recruits so as to be able to secure the rate of volunteers necessary to meet the President's goal of abolishing the draft, it is regrettable that demonstrations should be necessary to prod the Army into making living conditions tolerable.

I would appreciate your immediate attention to the point I have raised, and I would also like to request permission to be represented by an observer at the court-martial, if it is in fact going to be held.

Yours sincerely,

MICHAEL J. HARRINGTON.

DEPARTMENT OF THE ARMY,
Fort Devens, Mass., March 24, 1972.

Hon. MICHAEL J. HARRINGTON,
House of Representatives,
Washington, D.C.

DEAR MR. HARRINGTON: This is in response to your inquiry in behalf of PFC Michael Daley, a member of the Personnel Control Facility, Fort Devens.

The General Court-Martial convening authority decided to refer Private Daley's case to trial by court-martial on charges of absence without leave for a total of 438 days. The charged offense is punishable by a dishonorable discharge, forfeiture of all pay and allowances, reduction to the lowest enlisted grade, and confinement at hard labor not to exceed one year. The decision to refer cases of service members to court-martial at any given level for offenses cognizable under the Uniform Code of Military Justice is wholly discretionary.

Private Daley's protest activities on or away from this installation in no way influenced the denial of his request for discharge in lieu of court-martial. At the time the decision was made to refer his case to trial, the convening authority was unaware of his participation in protest activities, which in any case would not have been an element bearing upon the decision.

While the part of Lieutenant Colonel Theriault's recommendation that Private Daley be retained and tried by court-martial included comments pertaining to Private Daley's protest activities, these comments, although noted, were not a factor in the decision by the Acting Commander in my absence on February 3, 1972 to disapprove Private Daley's request for discharge in lieu of court-martial. None of the comments by the other recommending officials, including that of the Staff Judge Advocate, alluded to Private Daley's protest activities. Nor was any of this material brought to my attention before or at the time of my decision to refer the case to General Court-Martial.

Concerning your request for permission to be represented by an observer at the court-martial, please be advised that pursuant to the Manual for Courts-Martial, military trials are open to the public. Therefore, no permission to observe a court-martial is necessary.

In reference to Private Daley's allegations concerning the physical conditions at the Personnel Control Facility, the custodial personnel share the same Mess facilities and the building is of the same type which houses regular troop units at this and other installations. Due to the age of many of these buildings, frequent repair and maintenance are required to keep them in acceptable condition. These buildings do receive such maintenance, and there is simply no factual basis for the allegation you make that physical conditions at PCF are unsuitable. Nor is there any basis in fact for your allegation about demonstrations prodding the Army.

I trust this answers your inquiry satisfactorily. Thank you for your interest in this serviceman.

Sincerely,

DEWITT C. ARMSTRONG, III,
Brigadier General, USA Commanding.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
March 26, 1972.

Brig. Gen. DEWITT ARMSTRONG III,
Fort Devens, Mass.

DEAR GENERAL ARMSTRONG: Thank you for your prompt reply to my letter on Private Michael Daley. I must note, however, that your letter does not answer my inquiry to my satisfaction, and in fact raises some new questions.

The first question is how you can say with apparent certainty that "the part of Lt. Col. Theriault's recommendation . . . [which] included comments pertaining to Private Daley's protest activities, although noted, were not a factor in the decision by the Acting Commander . . . to disapprove Private Daley's request for discharge in lieu of court-martial."? For what purpose were they "noted," if they were in fact deemed irrelevant to the decision taken? And how, in any case, can anyone be certain that the Acting Commander was able to disregard totally the information presented to him? Why, on receiving a recommendation containing information which you appear to agree was prejudicial to Private Daley, did the Acting Commander not disqualify himself and turn the decision over to another officer who would not have been informed of Lt. Col. Theriault's improper remarks?

Further questions arise in relation to the original decision to refer Private Daley to court-martial in the first instance. According to information presented to me, Private Daley turned himself in October, 1971, yet the decision to refer him to court-martial was not taken until January 17, 1972—the first working day after the second of the public demonstrations in which Private Daley participated. Does not the coincidence of the timing of his participation in public demonstrations and the delayed decision to refer him to court-martial support the inference that the decisions were related? It is my assumption that the protest activities in question attracted a certain amount of attention by yourself and your subordinates, since I assume that this sort of activity is not an everyday occurrence at Fort Devens. I am puzzled, therefore, by your assertion that those who recommended referring Private Daley to court-martial knew nothing about his protest activities. I respectfully request a list of those who participated in the original recommendation that the court-martial occur, along with a list of their duties during the period of the demonstrations. I believe that this would be very relevant to determining whether or not the two decisions could have been made in isolation from each other.

My final set of questions deal with the percentage of men who have committed offenses similar to Private Daley who are referred to court-martial versus those who are allowed administrative discharges. The argument that Private Daley's protest activities played no part in the decision to deny him such a discharge—despite Lt. Col. Theriault's uncontestably improper remarks on the subject in his recommendation—would certainly be strengthened by a showing that he was treated in the same manner as most other men who have been AWOL.

Finally, I am pleased to receive your comments on the physical conditions at Fort Devens. As a strong supporter of a volunteer army, I have consistently worked in Congress for higher pay for enlisted men, and for funds for improving facilities. Your comments on the age and conditions of the buildings at Fort Devens strengthen my view that we must take positive action to improve living conditions if we are to succeed in our common goal of eliminating the draft.

Yours sincerely,

MICHAEL J. HARRINGTON.

AHBPHC–PFC DALEY, Michael R., 1st Ind
078–40–5889 (24 Jan 72)
Subject: Request for Discharge for the Good of the Service.
DA, USA Personnel Control Facility, Fort Devens, Massachusetts 01433.
Thru Commanding Officer, Headquarters Command (Prov) Fort Devens, Massachusetts 01433.
To Commanding General, Fort Devens, Attn: SJA Fort Devens, Massachusetts 01433.

1. PFC Daley surrendered to the military police on 28 Oct 1971 after having been absent without leave from the overseas replacement station at Ft Lewis Washington since 7 Aug 1970.

2. The processing of PFC Daley's case has been delayed by the fact that the overseas replacement station was initially unable to confirm that Daley had ever been AWOL from that station. This fact was confirmed by message from the AG of the replacement station. Subsequently, on 19 Jan 72 the individual's Morning Report entry was discovered at Ft Lewis on the appropriate documentary evidence; and it was provided.

3. PFC Daley states that he has received one prior Article 15 but will not reveal why he was given non-judicial punishment. He also will not state where he attended AIT. This information cannot be gleaned from PFC Daley's reconstructed records.

4. PFC Daley claims that at the time of his induction he submitted a written statement expressing his opinion concerning his personal participation in the Vietnam conflict. He states that at this time he considered his viewpoints to fall under the concept of selective conscientious objection.

5. PFC Daley has been active in the Fort Devens United Front action as well as the functions of the Common Sense Book Store and various agencies in Boston. It would be in the best interests of the U.S. Army to have this man stand trial by court martial. It is the opinion of this command that PFC Daley should be considered for a punitive discharge by the proper judicial authority.

6. Recommend disapproval. EM's offense warrants trial by court martial.

BERNARD R. THERIAULT,
LTC, CE, Commanding.

THE NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD ACT OF 1972

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SYMINGTON. Mr. Speaker, earlier this month, it was my privilege to join Representative PAUL ROGERS of Florida and most of the members of our Public Health and Environment Subcommittee in sponsoring H.R. 13715, the National Heart, Blood Vessel, Lung, and Blood Act of 1972. The bill would authorize a total of $1.3 billion for research and preventive care. An article that appeared in the St. Louis Globe Democrat on March 10, 1972 provides details of this legislation.

A second article tells of the first heart transplant operation performed in the St. Louis area and of the heart disease research being conducted at St. Louis University.

At this point I insert the articles in the RECORD:

[From the St. Louis Globe-Democrat, Mar. 10, 1972]

A $1.3 BILLION BLOW AIMED AT HEART DISEASE

WASHINGTON.—Congressional authors of the new cancer-attack law introduced a $1.3-billion bill Thursday to intensify the battle against heart, lung and blood-vessel diseases—America's leading killers.

Sen. Edward M. Kennedy, (Dem.), Massachusetts, and Rep. Paul G. Rogers, (Dem.), Florida, said the new legislation is aimed at arresting diseases which annually cause more than half of the deaths in the United States.

Kennedy and Rogers are the public health subcommittee chairmen in each branch who guided the $1.6-billion anti-cancer program through Congress last year.

From both sides of the political aisle, other senators and congressmen promptly joined in signing as co-sponsors of the new legislation to provide a three-year upgrading of federal programs of disease control and research.

"Unlike cancer," Rogers said at a news conference, "we can predict and prevent heart attacks and strokes in many cases."

With full implementation of this legislation, he added, "I feel confident that we can substantially reduce heart disease as the nation's No. 1 killer within the decade," with progress within five to seven years.

Current programs against the diseases receive $232 million this year, Rogers said.

Under the legislation, there would be community-based centers for screening and education as part of a disease-control program; there would be 15 new clinical research and demonstration centers for cardiovascular diseases and 15 new clinical research facilities for pulmonary diseases.

There would be a speedup in the federal grant process, creation of a national heart and lung advisory council to replace the current advisory heart council, and a national plan would be required with annual recommendations to Congress on money and staff levels.

[From the St. Louis Post-Dispatch, Mar. 12, 1972]

HEART EXPERT SEEKING STEP PAST TRANSPLANTS

(By Jerome P. Curry)

Dr. Valee L. Willman, who co-ordinated the St. Louis University team that on Feb. 8 performed the first heart transplant in St. Louis, is a pragmatist who does not like the hoopla that surrounds so-called medical breakthroughs.

"There really is no such thing as one scientific advance," he said. "Each advance (even though one group or one individual might receive credit for it) is predicated on a previous advance."

Willman, professor, and chairman of the Department of Surgery at the St. Louis University School of Medicine, is a pure scientist.

In an interview he said, "I feel that one of the basic services is informing the public of the possibility of health care through research. Perhaps in the past, excessive emphasis was on research. But at present, there is less of a gap between research and delivery of health care."

Willman is an aggressive realist.

"One incident of heart transplant should not be a hallmark," he said.

On the day Vincent H. Dobelman became the St. Louis Area's first human heart transplant patient, Willman told reporters at a press conference: "We don't look at this as any great thing, you know . . . heart transplantation is not a very valuable procedure. But in any large center that is doing a large amount of cardiac procedures, there are a few circumstances where you come to an end point in heart disease. And this, as an experimental procedure, would seem to be justified. And I think it (heart transplant) will continue to be done under very limited circumstances. It does not offer the patient a cure of his heart disease. It is a temporizing measure. The expectancy is limited and it's entered into with that full knowledge."

And Willman is a teacher.

Two years ago, the medical school graduating class voted to give him its Golden Apple Award for excellence in teaching. The award is based on the traditional red apple brought to school for a teacher by an admiring pupil.

As he sat in his office at the St. Louis University Hospitals, Willman talked about science, research and heart disease. He believes the artificial heart eventually will be more useful than transplantation "because transplantation is limited."

It is limited because of supply and because no solid advances have been reported in the search for a way to repress the body's rejection mechanism against the donor heart and still retain the rest of the body's disease-fighting abilities.

Scientists at the National Institutes of Health in Bethesda, Md., are conducting extensive research with artificial hearts in calves. It was reported last week that tests had started with nuclear-powered artificial hearts.

Willman got his medical degree at St. Louis University. He began medical school there in 1947. After interning at Philadelphia General Hospital, he returned to St. Louis University Hospitals for his surgical residency.

He worked under Dr. C. Rollins Hanlon, whom he replaced in 1969 as chairman of the department of surgery. Hanlon became director of the American College of Surgeons that year.

Willman, who joined the faculty in 1957, was named a full professor in 1963 and was appointed Hanlon's vice chairman in 1967.

When still a resident, he began research in open heart surgery on animals. He was a member of the team that did the first open heart operation in the St. Louis area in 1956. Willman's research has centered on the use of the heart-lung machine, circulation in the body's organs, heart transplantation and mechanical assistance to diseased hearts.

Discussing the Dobelman heart transplant, Willman said there was no way to identify all of the doctors, nurses and other hospital personnel who made the operation here possible. At one time, as many as 15 persons were involved. Dr. George C. Kaiser, professor of surgery, probably did more of the surgery, both on the donor and the recipient, than any other, Willman said at the press conference.

The research scientists such as Willman and the cardiac surgery team he leads continue their work. More than 160 heart transplants have been done since the first in 1967. Study continues on the artificial heart. Other scientists search for a cause, a better way, and they run into blind alleys, turn around and start all over again.

Willman was in his laboratory Thursday when the area's first human heart transplant recipient was holding a press conference before going home. Willman was in the laboratory because he believes in science.

"A great effort toward understanding the basic problem in heart disease would be rewarding in the future," he said.

SOVIETS INCLUDE DEFENSE IN PRIORITIES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following article by Vice Adm. Ruthven E. Libby, U.S. Navy, retired, which appeared in the San Diego Union:

SOVIETS INCLUDE DEFENSE IN PRIORITIES

(By Ruthven E. Libby)

The Soviet government conducts a continuing and completely integrated evolution embracing the entire spectrum of human

endeavor—political, economic, psychological and military.

Obviously the members of the Politburo recognize what many Americans, caught up in debates about "reordering our national priorities," have forgotten: national defense is not on a par with other so-called priorities, but without it all other priorities are meaningless. A society is an organism developed for its own survival.

It follows that the first duty of any government is to assure the security and the survival of its citizens. These can be assured only by reacting to the world as it is rather than as we would like it to be. The requirements of national defense are determined largely by external factors—international power relations, geopolitical considerations, the known capabilities of our adversaries and the like.

Determining purely domestic priorities for federal funds may be the legitimate province of the politicians; but this should not be true of the requirements for national defense. Nor can it be safely overlooked that while an adequate military posture is an essential element of national strength and national security, so also are the economic, political, technological and sociological aspects of our national nature.

Without political, economic, and psychological national strength—without high national morale—there can be no national security, no matter what our military posture might be.

A report by an organ of the United States Chamber of Commerce entitled "National Defense and National Priorities" notes that "a common set of rules . . . is essential for the peaceful and successful functioning of the world's pluralistic societies."

People with different cultural values and conflicting interests cannot live together peaceably without such a set of rules—more binding than the will of any one nation. But to arrive at such a universal consensus will require either a measure of voluntary agreement (the method sought by the West) or world domination by force (the goal of the Communists.)

What we call the Cold War is the clash between the Communist system, built on force, coercion, and power, and Western civilization built on cooperation and voluntary consent.

Securing Communist cooperation in developing a workable concept of international relations acceptable to the free world may well be an attempt to reconcile the irreconcilable. It is, above all, Western civilization's political freedom that is at stake in Sino-Soviet-American competition. And it is the fear of freedom's contagion that makes Communist states shrink from genuine and permanent cooperation with the West.

Nevertheless, increased international cooperation is a must.

Almost 200 years ago Thomas R. Malthus promulgated his famous law which says that population tends to increase faster, at a geometrical ratio, than the means of subsistence, which increases at an arithmetical ratio, and this will result in an inadequate supply of goods supporting life, unless war, famine, or disease reduces the population or the increase of population is checked by sexual restraint.

Today the very survival of civilization is threatened by overpopulation and pollution. At the present rate of population increase, there will be 7 billion people in the world by the year 2000; yet the world cannot support the people already in it.

Pollution results from the increased production activity that results from population growth, and constitutes a menace to the world at large of potentially as great devastation as widespread war.

These two problems are international in scope, unmanageable by any single nation.

It follows that world survival—and world peace—in the last analysis will depend on values and convictions that transcend power relations among the Soviet Union, Red China and the United States. The challenge facing us is to help formulate, and to get adopted, a common set of rules for governing relations within the community of nations, without losing our political freedoms in the process.

It is an inescapable fact that Soviet strength on land, at sea, in the air and in space far exceeds that required for the security of the Soviet bloc. It is the surest evidence that the U.S.S.R. has adopted, as a policy, an offensive global strategy.

Yet, far from rising to this challenge, our own defense expenditures have been drastically reduced in recent years.

Cuts in fiscal years 1969 and 1970 were the heaviest since demobilization following World War II. The actual dollar reduction between fiscal year 1969 and fiscal year 1971 was about $8 billion, but due to inflation, the cut in real terms—dollar purchasing power—was almost $13 billion, or about 16 per cent. Defense spending that year represented the smallest percentage of the federal budget than in any year since World War II, about 37 per cent.

Ten years ago defense took 48 per cent of the federal budget, nondefense (health, welfare, education, etc.), 29 per cent. Last year non-defense rose to 41 per cent.

It is unarguable that by any measure, recent cuts in defense expenditures have been real and substantial. Further, recent pay increases mean that personnel costs have more than doubled since 1965, thus further reducing defense dollars available for research, development and military hardware.

In sum, we have reached the point where our continued viability as a nation demands a reappraisal and a reaffirmation of our foreign policies and of our defense polices and an appreciation that without adequate defense no viable foreign policy will be possible.

A HEROINE TO CHEER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. YATRON. Mr. Speaker, it is with a deep sense of pride and respect that I commend the actions of Miss Kathryn Kashmer, a courageous 19-year-old who lives in my district. Miss Kashmer, the daughter of Mr. and Mrs. John Kashmer of Tamaqua, was responsible for rousing 17 persons who lived in two buildings that were destroyed by fire. I feel that this courageous act deserves the recognition of all Members of Congress and the public. It is not often that one finds such total disregard for personal safety in the interests of the welfare of 17 neighbors and friends. I would like to ask that the text of two articles, which appeared in the Allentown, Pa., Morning Call, be reprinted in the RECORD at this point. I would also like to commend Miss Kashmer once again for her unselfish devotion to the safety and well-being of others.

The articles follow:

[From the Allentown (Pa.) Morning Call, Feb. 22, 1972]

A HERO TO CHEER

No one wants even to think about what might have happened in Tamaqua early yesterday morning if Kathryn Kashmer hadn't been up early or been concerned about others.

Flames were leaping from the apartment across the street from her home when she heard the fire alarm and looked out the window while dressing to go to work. It took her less than a moment to run out in the near-zero weather, dash from one smoke-filled hall to the other and arouse a dozen adults and four children.

Because she did it, all of them made their way to safety and are alive today.

Miss Kashmer is 19 years old, barely five feet tall, weighing 104 pounds. She is quite shy. All of which proves you don't have to be very old or very big to be a hero. All you need do is think enough about others to risk your own safety and your own life.

SHE'S A "GIANT" TO HER NEIGHBORS

Kathryn Kashmer stands 5 feet 1 and weighs 104 pounds. But she stands very tall in the eyes of her neighbors.

The 19-year-old daughter of Mr. and Mrs. John Kashmer was responsible yesterday morning for rousing 17 persons living in two buildings that were destroyed in a spectacular Tamaqua fire.

She was ready to leave her home at 26 Mauch Chunk St. when the fire alarm sounded from Box 32. She knew immediately the fire was in her neighborhood. She said she looked out her front window and could see flames and smoke coming from the Gus Wood candy store and factory across the street at 23 Mauch Chunk St.

"Oh My God, I must get over there to warn the people in the apartments," she through to herself. She grabbed her coat, ran across the street and first into the Knights of Columbus building and up a flight of stairs.

She said she first knocked on the door of Mr. and Mrs. William Ryan and yelled, "Get out, there is a fire." She then went next door and called to Mrs. Minnie Whetstone, "a wonderful lady and my second mother." She said she knew Mrs. Whetstone did not have to be at work (across the street at Guy's Flower Shop) until 9 a.m. and usually slept late. "She was my main concern."

Miss Kashmer said when she was sure Mrs. Whetstone was aware of the danger, she started up the flight of stairs to the apartments of those on the third floor. "I saw Mr. (John) Clewell and I told him there was a fire and to get Mrs. Caputa and the others (Mr. and Mrs. William Ryan and family) out because of the fire."

She said there was some smoke in the hallway of the Knights of Columbia building when she first got there and it got heavier. She then ran down the stairs and next door to the James building. "I saw Debbie (Mrs. Michael Massar) coming down the steps, and I told her to get the children (Michael and Angela) and get out of the building." Mrs. Massar, who was leaving for work, was unaware of the fire.

Miss Kashmer said the entire incident took about five or six minutes. "It was a terrible experience and I am still shaking," she said some four hours later. "I'm glad it's over. I was frightened."

She recalls that she "didn't see anyone" while dashing across the street. "I must get over there to wake those people up." She said she personally knew her neighbors across the street and she was "worried about the people since a number of them were elderly."

Miss Kashmer described herself as "quiet" and claims she did nothing outstanding at Tamaqua Area High School, from where she graduated in 1970. "I sang in the glee club," she added.

She has been employed at the John E. Morgan Knitting Mills, Inc., Hometown, since graduating and was preparing to leave her home to catch the company bus when the alarm sounded. If the alarm had sounded five minutes later, she would have caught the bus at the Pine Street School, half a block away.

She said it was the first fire in which she was involved and described it as "a terrible experience."

She has three sisters, Nancy, 14; Marion, 10, and Margaret, 8, and two brothers, John, 23, and Edward 6.

HIGHWAY SAFETY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SCHWENGEL. Mr. Speaker, I would like to take this opportunity to call to the attention of the Members of the House what I consider to be one of the major domestic problems of the day—the needless slaughter of human beings on our Nation's highways. Every 10 minutes that we sit here today, another person is killed in a highway crash. Every 15 seconds a disabling injury occurs. It has been estimated that 1 out of every 4 drivers will be either killed or injured during their driving lifetimes.

In the last 2 years, we have experienced a leveling off of the number of highway fatalities at approximately 55,000. At the same time, there are more cars on the roads being driven more miles by more drivers. However, we cannot take comfort from the fact that 55,000 people are still being killed on our highways. We have only begun to make headway. Much more needs to be done.

The recently introduced highway safety legislation will provide many necessary answers to the carnage taking place on our highways. Its goals, aims, and objectives seek a reduction in death, injury, and property damage. But while we work diligently in the House, we must also realize that our Federal highway agencies have been diligently pursuing the cause of highway safety. I would like to note some of their outstanding achievements.

Doug Toms, Administrator of the National Highway Traffic Safety Administration—NHTSA—of the Department of Transportation, and Frank Turner, Administrator of the Federal Highway Administration—FHWA—also of the Department of Transportation, are moving forward on several fronts to curb this tragic toll. In testimony before the Subcommittee on Roads of the Public Works Committee on February 17, Mr. Toms outlined the NHTSA's approach to many of the problems that we must face each and every time we get into a motor vehicle on our roads and highways.

The greatest hazard to safe driving is the drunk driver. Over 50 percent of the highway fatalities are alcohol related. The problem drinker, who represents only a small percentage of our population, is involved in two-thirds of these fatalities. The NHTSA's alcohol countermeasure program is aimed at initiating action toward finding effective solutions to this problem.

The primary thrust of the alcohol countermeasure program is provided by the alcohol safety action projects, or ASAP's as they are called. These are 3-year community-action programs focusing principally on law enforcement, traffic courts, special driver counseling and assistance, and public education. Congress has authorized and funded 35 ASAP's over the past 3 years. Although final reports are not yet available, preliminary results indicate that effective alcohol countermeasures programs can be maintained at the State and community level.

In the research area, some highly innovative equipment has been developed. The subcommittee was given the opportunity to examine a portable breath tester and several types of interlock devices intended to prevent an intoxicated person from starting his car.

The NHTSA is also looking closely at driver licensing as a means of controlling driver behavior. In fact, one of the department's driver examination demonstration projects is located in my home State of Iowa. Special driver testing equipment is used in this project. This is an automated, sophisticated device which allows one examiner to test up to 40 applicants at a time. Not only is this method more efficient than the conventional written examination, but it also incorporates a new self-learning technique.

Enforcement programs are also of utmost importance in correcting driving patterns. Mr. Toms told the subcommittee that in North Carolina where a number of patrol vehicles were equipped with speed measuring devices, not only did the number of speeding citations increase, but the number of deaths in the State dropped by 47 in a 1-year period, a 2.6-percentage reduction, which exceeded the national average reduction of 2 percent.

NHTSA has also initiated demonstration projects called selective traffic enforcement projects—STEP. Preliminary results are encouraging and these projects hold much promise as more future sites are selected.

Driver education and pedestrian safety are other areas of concern that the NHTSA is working on.

Mr. Speaker, an estimated 8,000 persons, alive today, probably owe their lives to the Federal-State traffic safety effort. This may be just a beginning but I think that the Members of this House will agree that we can look forward to saving more lives through more aggressive implementation of these crucial programs. I want to commend Mr. Toms, Mr. Turner, and Secretary John Volpe for their continuing efforts to improve the safety of our motoring public.

SOVIET POLICY TOWARD THE THIRD WORLD IN THE 1970'S

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HAMILTON. Mr. Speaker, we in the Congress know precious little about Soviet policies toward and activities in the countries of the third world. This issue receives scant attention aside from that given to headline items such as the presence of Soviet technicians in the United Arab Republic and the Soviet-Indian friendship treaty.

This being the case, I urge my colleagues to read the following article by Alvin Rubinstein from the spring 1971 issue of Orbis magazine. Mr. Rubinstein discusses Soviet policy toward the third world and notes that—

The record of Soviet diplomacy in the Third World is proof . . . that practice transcends and precedes ideology. Soviet behavior toward the developing countries is now determined predominantly by hard calculations of strategic and political advantage, actual and potential.

The article referred to follows:

SOVIET POLICY TOWARD THE THIRD WORLD IN THE 1970'S

(By Alvin Z. Rubinstein)

On June 7, 1969, Leonid I. Brezhnev, General Secretary of the Central Committee of the CPSU, enunciated what is likely to be in the decade ahead the underlying Soviet approach toward the Third World, particularly toward Asia and the Middle East. The occasion was the International Meeting of Communist and Workers' Parties held in Moscow, a meeting Soviet leaders had finally succeeded in convening after almost six frustrating years of cajoling and pressuring foreign communist parties. After ritualistically warning of the continued danger from the forces of "imperialism" (i.e., the West), Brezhnev dwelt on the increased importance of the nonaligned developing countries, noting that "the fighters for national liberation and social emancipation in the countries of Asia and Africa comprise one of the most important and active contingents of the worldwide anti-imperialist front."[1] He observed with satisfaction the "considerable changes" wrought in the 1960's in the "alignment of forces in that part of the world" and the "socialist orientation" of a number of new nations now following the noncapitalist path of development—changes made possible by "cooperation between the progressive young states and the socialist countries."

Turning to the dangers besetting the unity of the international communist movement, Brezhnev, contrary to the expectations of most of the delegates, bitterly attacked Communist China. Denouncing Peking's "splitting activities," its "feverish military preparations" and its "fanning of chauvinistic feelings" hostile to the Soviet Union, he condemned the Chinese communist leadership for pursuing an adventurist policy that threatened not only the unity of the international communist movement but all "peaceloving" nations as well. Brezhnev then made a proposal, yet to be elaborated, whose general susbtance indicated a new Soviet priority in the Third World:

"The burning problems of the current international situation do not conceal from our view longer-term tasks, namely, the creation of a system of collective security in areas of the globe where the dangers of another world war, of armed conflicts, is concentrated. Such a system is the best replacement for the existing military-political groupings. . . .

"We are of the opinion that the course of events is also putting on the agenda the task of creating a system of collective security in Asia."[2]

The timing and the thrust of Brezhnev's speech suggest a major Soviet diplomatic effort to isolate Communist China in Asia. The subsequent absence of any mention of China on the list of countries that might be

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included in the "system of collective security" must be assumed to be deliberate. Ties between Moscow and Peking have worn thin indeed. Moscow undoubtedly hopes for improved relations after Mao's death (they could scarcely get much worse). However, it does not appear nearly as interested in making concessions to China as it does in enticing Japan economically and in strengthening India economically and militarily while simultaneously improving relations with all the key countries of South Asia; and Soviet strategy in the Middle East and Africa is directed as much to countering the anticipated Chinese challenge in the coming decade as it is to consolidating the political gains of the past decade.

The reaction in Asia has been noncommittal, with each country gingerly interpreting the Brezhnev proposal in the light of its own national objectives.[3] Moscow possibly misread the immediacy of Asian fears of China out of its own obsessive preoccupations; it perhaps underestimated the importance of residual regional animosities. Certainly, Moscow does not intend to push for any formal military pacts—at least not in the near future. The Kremlin is unlikely, at a time when U.S. military alliances in Asia and the Middle East are weakening, to seek to substitute alliances with the Soviet Union for those with the United States, although the aim is an anti-Chinese coalition. Moscow has achieved too much from the loosening of formal alignments to urge ties that would repolarize alignments at this time.

There is yet another dimension to the Brezhnev proposal that is as important as the anti-Chinese one: namely, the USSR's implied readiness to assume additional leadership and burdens should the United States retreat from its massive involvement in the Third World, especially in Asia. What the United States is ready to relinquish, the Soviet Union is willing to assume. The Nixon Doctrine proclaims a diminution of direct American involvement in the world at large:

"Its central thesis is that the United States will participate in the defense and development of allies and friends, but that America cannot—and will not—conceive *all* the plans, design *all* the programs, execute *all* the decisions and undertake *all* the defense of the free nations of the world. We will help where it makes a real difference and is considered in our interest." [4]

In the Third World especially, the Nixon Doctrine and periodic restatements of it have been interpreted to mean that the United States intends to reduce her economic and military commitments and involvements. The Viet Nam war is grinding down, and America's direct involvement is being systematically reduced. Domestic turmoil and problems mean that a larger piece of the governmental pie must be set aside for domestic programs, and no President can now contemplate a major military involvement abroad except in defense of commitments that American public opinion may consider vital. This means lean years ahead for Asia and Africa: U.S. economic assistance will be harder to obtain; military equipment and aid will be distributed with greater parsimony; and pro-Western elites will have to think twice about relying too heavily on U.S. support in local upheavals.

Not unexpectedly, Soviet commentators profess not to see any change in United States foreign policy, dismissing President Nixon's pronouncements as "just a wordy camouflage to cover up the new methods of achieving the same goal of establishing military and economic control over the rich natural and manpower resources" of the Third World. They contend that if there is anything new in the Nixon Doctrine, it is the attempt to foster "more active utilization of other countries for the purposes of achieving the military and political goals of the U.S.A." [5] But behind *Pravda's* measured attacks, Soviet leaders are no doubt assessing the significance of a reduced American presence in Asia, and possibly in parts of the Middle East and Africa. If Moscow is groping for a diversified, low-cost strategy for expanding its presence into areas from which American commitments are being withdrawn, and for reinforcing it position as a major benefactor of key developing countries, the Brezhnev proposal could well be the articulation of its central outline.

A few essentials need reaffirming before we can speculate on Soviet policies in the Third World. Soviet leaders naturally accord primary attention to their core concerns: to national security, especially as it relates to the adversary relationship with the United States; to domestic problems; to preservation of their imperial system in Eastern Europe; to wary participation in moves to improve relations with Western Europe, whose economic progress is both a threat and an attraction; and to the challenge of Communist China. Beyond these broad considerations Soviet policy will be affected by unanticipated opportunities and dilemmas that arise from developments in the Third World, by the state of superpower relationships elsewhere, and by bureaucratic political infighting within the Soviet leadership.

THE CASE FOR A FORWARD STRATEGY

There is every reason to assume that the Soviet Union will pursue a "forward strategy" in the Third World in the 1970's. As with any strategy, it will be the resultant of pressures and projections. The developing countries contiguous or nearly contiguous to the underbelly of the USSR are militarily more salient to the calculations of planners in Moscow than they are to those in Washington. A belt of friendly states on its "southern tier" is not a marginal goal for the Soviet Union. What the West considers as evidence of Soviet globalist aims, Moscow perceives as the proper exercise of its superpower status. A "superpower" can no longer be defined solely in terms of technological and nuclear capability; also implied in the word is the will to maximize its presence in an expanding network of areas and relationships.

Whereas the United States is essentially a status-quo power, the Soviet Union is not, because it believes that it is entitled to a far greater measure of participation in the evolution and management of the nation-state system lying beyond its immediate borders. This belief is nourished by increments in power, by the nature of great power rivalries, and by the economic needs of an expanding industrial society. The Soviet political leaders, the advent of the nuclear and missile age has not made obsolete the time-honored principle of defense in depth. Contemporary international politics may regard classical imperial expansionism as unacceptable, but that in no way diminishes the imperial impetus of the superpowers to cultivate and guide an assemblage of smaller nations with the aim of strengthening their own military, political and economic viability.

The détentist argument makes too much of the absence in the Soviet-American relationship of any unsatiated territorial grievance, which is an important but not controlling consideration; it reduces the rivalry of the superpowers to that of two competing nation-states instead of two imperial systems with global interests and aims that seriously conflict, and it seeks support from the persuasive but dubious notion of "convergence." Historically, competing imperial systems have rarely quarrelled merely over real estate. The roots of their conflicts have been deeply set in irreconcilable ambitions and conceptions for organizing and preserving a stable imperium. In a sense, ours is the most fortunate of eras.

Although it is overshadowed by the specter of a nuclear holocaust, there is a greater readiness to attribute a basic rationality to the behavior of one's major rival—an attribution implying that the rival does not want an Armageddon and hence will not push too far into the core areas of the other. But because the parameters of the Soviet and American imperiums are not clearly marked in the Third World, as they are in Europe, and because the alignments and attitudes of key Third World countries are in flux at a time when the superpowers also are reappraising their ambitions and interests, the likelihood of Soviet expansion and American response increases. The Third World is a region in which superpower competition may be waged, with minimum risk of a major war and for marginal advantages that can have important consequences for matters nearer the heart of Soviet-American rivalry, such as the viability of NATO, the future of the SALT talks, and the type of relationship each develops with Japan, China and Germany.

If there is a serious flaw in the assumptions underlying the evaluations of the "détentists," there is also one in the position of the strategists of deterrence. Noting the existence of a condition of general nuclear and missile "sufficiency" between the Soviet Union and the United States, and assuming that neither party could manage a first-strike attack without risking at least equal and intolerable damage in return, the deterrent school places a premium on maintaining this mutual balance of terror. The result is a tendency to dismiss or depreciate the utility of political incrementalism; marginal gains become less salient to policymakers, especially if the outlay required, however modest, is begrudged by inward-oriented leaders, and if the dividends are at best uncertain.

More and more, American policy seems to minimize the value of the politics of incrementalism and to underestimate the danger of thereby contributing inadvertently to the disintegration of alliances and esablished relationships. It is especially difficult to sustain the case for incrementalism when the competition among the various bureaucracies for diminishing allocations is intensifying. However, there are few indications that the leaders in the Kremlin plan to curtail sharply expenditures to key Third World countries.

In the past few years, and particularly since the June 1967 Arab-Israeli war, American planners have been concerned over the Soviet Union's vast program of naval expansion, for which there are, of course, cogent military reasons. For example, a report on Soviet naval capability recently published in Great Britain identified five tasks the Soviet navy has been assigned "to defend the homeland":

"(1) to counter the Polaris submarines; (2) to neutralize the strike carriers prior to aircraft launch; (3) to contribute to the Soviet Union's strategic delivery capability; (4) to gain command of the four fleet areas, particularly the Baltic, Black and Barents Seas; (5) to provide maritime flank support for land operations along the coastal axes." [6]

From Moscow's point of view accomplishment of these tasks would justify the expenditures entailed.

Moreover, the Soviet navy has begun to play a political role in Soviet diplomacy, and it could be used to advantage in establishing a greater Soviet presence in the Persian Gulf, East Africa and the Indian Ocean. In the Mediterranean it has already limited, or at least raised the cost of, American options for intervention. It is also a valuable prop for shaky clients, serving to stiffen the resolve of anti-Western elites who may be emboldened to pursue radical courses they would have been deterred from had Western power predominated in the area. Syria, the Sudan, Libya, possibly even the United Arab Republic and Iraq, are illustrative examples.

Certainly, Soviet propaganda has made much of the benefits to the Arabs of the Soviet naval presence.[7] Moscow is also using its naval power as an instrument of foreign policy to buttress emerging propensities toward less engaged alignments and more obvious nonalignment on the part of previously pro-Western partisans. In a word, the Soviet Union is using sea power in the classic way, as an arm of diplomacy, to attain political goals. If and when the Suez Canal is reopened—and this must be reckoned a prime Soviet aim in the Middle East—it is reasonable to assume that the USSR will become more active in the Persian Gulf and the Indian Ocean. Although current Western assessments rest heavily on the assumption that "the main reason for an increasing Soviet naval presence in the Indian Ocean is primarily not to challenge Western interests but to support India against China and more generally to counter growing Chinese influence in both Asia and Africa," [8] the leverage can quickly be given an anti-Western twist.

THE DIPLOMACY OF BENEVOLENT SELF-INTEREST

Since 1955 Soviet courtship of the Third World, with few exceptions, has been a skillful blend of opportunism, largesse and salesmanship. Through a readiness to provide military equipment and economic assistance the USSR has established itself as an indispensable benefactor of such key countries as India and the United Arab Republic, and as a welcomed participant in the nation-building activities of such countries as Afghanistan, Syria, Iraq, Algeria and the Sudan (Cuba is perhaps unique and will not be discussed here because Latin America, as a region, is low on the Soviet list of priorities.) Soviet ideologues continually try to cluster recipients and targets of Moscow's attention into ideologically-contrived typologies for reasons appertaining to the dynamics of intra-communist-world politics and the methodological compulsions of Soviet Marxist-Leninist political analysis, but Soviet leaders approach opportunities and dilemmas in piecemeal, pragmatic fashion, ever alert to pitfalls and rewards, and with an incisive understanding of *Realpolitik*.

Shrewd opportunism, not ideology, has been the impelling force behind Soviet behavior. Perceiving openings for penetrating the Third World and for exploiting the flaws in the Western network of alliances, Soviet leaders embarked on an ambitious course. Stinting neither on economic aid nor military equipment, they took advantage of Western bungling and the systemic realignments in the Third World. Two purposes underlay Soviet policy: (1) to undermine the Western international system; (2) to intrude a permanent presence into areas which had previously been outside the realm of Soviet capabilities.

The more closely one examines Soviet diplomacy, the more one is impressed by the flexibility and opportuneness of its responses to the peculiarities of each situation. Thus, the inability of Nasser to acquire arms in the West and the unwillingness of the United States to finance the Aswan Dam provided the Soviets with rare opportunities, which they seized, in 1955 and again in 1956 for boldly moving into the Middle East.

The economic assistance extended to India from 1955 on, the welcomed diplomatic support for India's position on Kashmir (until 1966), the alignment with the Indians (after an initial uncertainty) against the Chinese in 1962, the extensive and impressive military assistance given since 1965—all these have served to make friendship with the Soviet Union a cornerstone of Indian foreign policy and to move the USSR, for the first time in its imperial history, into the forefront of developments on the Indian subcontinent. Less dramatic but no less important links have been forged with other key developing countries. Descriptions abound of Soviet economic and military assistance. But we know little about the actual leverage this has given Moscow, despite the abundance of informed speculation.

In general, Moscow has courted three categories of developing countries: first, those that adhere to nonalignment and maintain friendly, even dependent, relations with the USSR, often with a tinge of anti-Westernism congenial to Moscow; second, the swing states that are formally nonaligned but that have shifted, as a result of the vagaries of internal leadership changes, from an obviously pro-Soviet leaning to one more pleasing to the West, and which presumably can one day swing as quickly back to Moscow; and third, those countries that are formally aligned to the West but whose alignment has weakened in ways assiduously encouraged by Moscow. Clearly, any Soviet leadership will strive to improve relations with the countries in the latter two categories in the hope of nudging them into the first category. Congenial neutralization rather than communization is Moscow's aim in the 1970's. In this the Soviet Union is motivated more by traditional balance of power considerations than by ideologically engendered drives, more by its needs as the hub of an established but restive imperial system than by any compulsion to spread communism. Gradualism, not revolution, typifies the Soviet style.

India and the United Arab Republic are foremost among the nonaligned countries in which Moscow has invested heavily. Each is strategically and politically important in a region vital to the USSR. The details of the Soviet courtship have been amply catalogued by Western scholars; Moscow has demonstrated the premium it places on reinforcing its relationship with them. Though of lesser intrinsic significance, Afghanistan and Syria are also prime targets of Soviet attention. Moscow wants them nonaligned, friendly toward the USSR and outside the Western defense system.

Brezhnev's proposal for an Asian collective security system had its antecedents in the Soviet success at Tashkent in January 1966, when Moscow effectively interposed its presence into a situation of delicate balance. If it could improve Indo-Pakistani relations, Moscow could begin to realize its dream of a land route, linking Soviet Central Asia to India via Afghanistan and Pakistan, thereby eliminating the inconveniences and expenses incurred by the closing of the Suez Canal and enormously enhancing its prospects for penetrating the subcontinent.

The chameleon-like character of many nonaligned leaderships makes them politically suspect. They are weak reeds with which to build sustaining political relationships. Moscow has never been comfortable with nonalignment. Despite Khrushchev's official scrapping of the two-camp thesis, and his enunciation of the "zone of peace" concept, with its implicit acceptance of a transitional role for developing countries trying to build "socialism," and despite frequent laudatory statements about the value of nonalignment in opposing "imperialism," Soviet leaders have, in practice, treated nonalignment with reserve and suspicion. There are a number of reasons for this.[9] Moscow does not believe in the abolition of blocs or alliances; it sees nonaligned countries as a vast potential strategical reserve in the global struggle with the West rather than as intrinsically autonomous entities capable of playing an independent role in world affairs; and it has yet to accept the proposition that a country can be both "socialist" (in its parlance, pro-Soviet and with a communist vanguard) and nonaligned.

Nonetheless, Soviet leaders have learned to tailor their tactical relationships with those nonaligned countries whose internal political inconstancies require frequent adjustments. Moscow is apparently willing to sustain a modicum of assistance to insure that these countries remain committed to an essentially nonaligned course, even though they may on occasion veer more toward the West than it would like. But, then, there is always the possibility that such countries as Indonesia, Ghana, Burma and Guinea will again become more pro-Soviet. Moscow has adapted its diplomacy not merely to forestall a full swing to the West, but to safeguard as much of the Soviet stake as possible and to lessen the likelihood of a pro-Chinese orientation developing.

Soviet policy toward Indonesia is illustrative. When Sukarno moved closer to Peking during the 1961–1965 period, relations between Djakarta and Moscow cooled. After the abortive communist coup in September 1965 and Sukarno's subsequent deposal, Indonesia turned to the West, although retaining her nonaligned credentials. Attempts to improve relations with Moscow languished for a while in the wake of Indonesian criticisms of the Soviet occupation of Czechoslovakia. But by August 1970 Moscow and Djakarta agreed on an economic protocol which called for a rescheduling of Indonesia's indebtedness on terms as generous as those offered by the Western countries. There are even signs that Moscow may reinstitute a program of limited economic assistance in the hope of encouraging Indonesia to maintain her nonaligned status and of affording itself some political access and leverage.

Notwithstanding the considerable attention that has been devoted to Soviet policy toward nonaligned India and the United Arab Republic, from Moscow's point of view the Soviet Union has achieved its greatest strategic-political triumph in the Third World in the changed policies of Iran, Turkey and Pakistan—countries still formally aligned with the West but increasingly pursuing a *de facto* policy of nonalignment, including a conscious effort to improve relations with the USSR. In the mid-1950's Moscow vaulted over the alliance system organized by John Foster Dulles to penetrate the Arab world, in part to undermine the West's predominance there, but perhaps even more importantly, as seen in retrospect, to outflank and weaken the network of Western military bases along its "southern tier." Its successes here must be acknowledged as in themselves amply repaying Soviet efforts in the 1960's. Moscow will no doubt persist in its benevolent courtship even more diligently in the 1970's.

The detente with Iran, for example, began in 1962, when the Shah indicated that he would not permit the United States to establish military bases or missile installations on Iranian territory, even though Iran would remain formally a member of CENTO. In 1965, the Shah visited the Soviet Union. A long-term economic agreement with the USSR was concluded in April 1966, and modified upward in April 1967. Under its terms, Iran agreed to provide the USSR with deliveries of natural gas up to a total of twenty billion cubic meters annually, as well as Iranian oil, and to build the trans-Iranian Gas Trunkline (IGAT) from the Agha Jari field in south Iran to Astara on the Soviet border; in return Moscow undertook to build a $350 million steel complex at Isfahan, a $200 million machine tool plant, several grain storage elevators and 250 miles of the natural gas pipeline.[10]

Political suspicions remain, but the USSR has astutely promoted a degree of nonalignment in Iran's diplomatic stance and a level of economic cooperation which would have been deemed inconceivable ten, or even five, years ago. Though less pronounced, tangible measures of Soviet achievement can also be discerned in the cases of Turkey and Pakistan, where prospects must be judged most promising.[11] Certainly, Western planners must anticipate an improved Soviet relation-

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ship with these countries, with a consequent further deterioration in the utility of CENTO and SEATO.

THE NONSALIENCE OF IDEOLOGY TO BEHAVIOR

During the mid-1950's and early 1960's, as Moscow embarked on its ambitious courtship of the Third World and scored notable successes, there was an upsurge of Soviet optimism concerning prospects for revolutionary socialist transformations. Soviet ideologues had a field day. Through "creative" reinterpretations of Marxist-Leninist tenets, they attempted to set the changes within the Third World in an all-encompassing ideological framework that would both explain the evolving relationships and legitimize, in Marxist-Leninist terms, the course of Soviet diplomacy. Thus, the "zone of peace" concept in 1956 justified support for nonaligned developing countries; and the notions of the "national democratic state" (1960) and the "revolutionary democratic state" (1966–1967) explained the importance to the USSR of the "progressive," anti-Western nonaligned countries which were following a "noncapitalist path of development." These formulations sanctified ideologically the differentiated diplomacy pursued by the Soviet state.

For a time in the early 1960's Soviet ideologues were able to group all the "national democratic states" according to some rough and convenient concordance of internal and external orientation. Ghana, Guinea, Mali, Burma and Indonesia, for example, were regarded as militantly anti-imperialist, pro-Soviet in their foreign policy, congenial (sometimes) to local communists, and following a noncapitalist path of development in building socialism. They seemed promising candidates for the transition to "people's democracies." But internal convolutions and unpredictable nationalism have confounded the ideologists. The formulations remain, and perhaps some new wrinkles will be added as each new Soviet leadership seeks to lay claim to some ideological innovation.

The record of Soviet diplomacy in the Third World is proof, however, that practice transcends and precedes ideology. Soviet behavior toward the developing countries is now determined predominantly by hard calculations of strategic and political advantage, actual and potential. Having shed the confining isolationism of the Stalin era toward the Third World, and having pioneered at considerable cost a strategic presence for itself in the Middle East, Africa and South Asia, Moscow is unlikely to jeopardize its bilateral relationships with developing countries out of any misgivings of an ideological character. It is concerned, as always, with the extension of Soviet influence, to the detriment if need be of prospects for local communist parties. Whatever legitimizing function ideology plays within the Soviet communist hierarchy, and whatever its importance as a medium for communication and conflict within the communist international system, ideology is not central to Soviet policy formulation toward developing countries; it is more a fig leaf of Western imagination than a determinant of Soviet policy in the Third World.

CHINA AS A FACTOR IN SOVIET STRATEGY

Moscow is obsessed with China. Since their quarrel surfaced, the colossi of communism have waged in the Third World an intense competition, bitter and embittering, which has acquired an impetus of its own; it further complicates the dilemmas under which they operate and the difficulties of negotiating an ideological and political cease-fire. The USSR presses a "forward strategy" in the Third World not merely because of U.S. retrenchment or out of a superpower urge to maximize influence, but also because of genuine concern over the challenge from Communist China. The Soviets may well be exaggerating the threat to them of Chinese inroads in Africa and Asia, in much the same way that the United States did the Soviet diplomatic offensive in the late 1950's and early 1960's. But they do view the Chinese threat in the Third World in the 1970's more ominously than do American planners.

To Moscow, Maoism poses a pernicious challenge because it seeks to make inroads in areas where Soviet diplomacy has established strong beachheads. Whereas the Chinese stridently press a militant anti-Western and anti-bourgeois line, which appeals to radical "out" groups in developing countries, the Soviets must steer a course between anti-Westernism and revolutionary irresponsibility that is acceptable to the "in" groups, which not only are not communist but which, in many cases, are firmly anti-communist in their internal affairs; whereas the Chinese can with impunity call for an "anti-capitalist" line, the Soviets find themselves supporting regimes that maintain strong economic ties to Western countries and that, although professing "socialism," are far from adopting a sociopolitical system Soviet ideologues can grace with such a descriptive; whereas the Chinese encourage armed resistance splinter groups in the Middle East, Africa and South Asia, the Soviets are constrained by their superpower status from unequivocally supporting such activities; and whereas the Chinese, in general, seek to overthrow the status quo, the Soviets have a vested interest in its essential preservation.

THE LIMITS OF SOVIET INFLUENCEBUILDING

It would be difficult to devise a credible scenario improving on Moscow's current position in the Arab world, the "southern tier" and South Asia. Yet there are gnawing dilemmas. The Soviet Union no longer enjoys the advantages it had as a newcomer to the Third World in the late 1950's and 1960's: its hands are no longer without imperialist taint, having been sullied in quests for power in the Congo, Guinea, Ghana, Iraq, Kenya and Syria; its aid is still sought, but with mounting debt repayment schedules and innumerable "red elephants," the paeans to Soviet generosity and efficiency are heard less frequently; its feat of industriallization is widely admired, but there are few Third World leaders who retain any illusions about the applicability of the Soviet model to their own situation; its reserve toward nonalignment has occasioned heightened sensitivity to its brand of anti-Westernism; and its involvement in Third World politics has forced it to take sides in residual regional disputes, to the detriment of Moscow's capacity for expanding its influence. The period of the initial accumulation of influence having passed, Moscow now finds that future yields are costly, difficult and uncertain. The more it tries to exercise influence over the behavior of its beneficiaries and clients, the more it arouses nationalist resentment and resistance.

The Soviet Union faces serious problems in the coming decade in its relations with the key developing countries. But that it remains committed to a course of influence-building should not be doubted. Moscow has derived considerable benefits from its diplomacy in the Third World; it sees others within reach. The bars to further successes are many, and they inhere as much in the rigidity and authoritarianism of Soviet institutions and practices as in the resolve of Third World countries to remain independent. Nonetheless, ambition makes Moscow a formidable factor in the international affairs of the Afro-Asian world.

FOOTNOTES

[1] *International Affairs* (Moscow), July 1969, pp. 20–21.

[2] *Ibid.* In retrospect we can identify instances where other Soviet officials made remarks that presaged the Brezhnev speech: for example, on March 19, 1969, New Delhi Radio reported P. Reshetov, a visiting member of the Soviet Peace Committee, as suggesting, in response to a question, the formation of a common front "of the peaceloving peoples of the Soviet Union, India, and Burma against the adventurist policies of the Chinese government"; on May 30, 1969, Premier Alexei Kosygin said during a visit to Pakistan that he would like "to see Pakistan, Afghanistan, India and the other states of this region developing relations of friendship and constructive cooperation with each other. For its part, the Soviet Union will do everything in its power to encourage this."

[3] Peter Howard, "A System of Collective Security," *Mizan*, July-August 1969, pp. 199–204.

[4] *United States Foreign Policy for the 1970's: A New Strategy for Peace.* A Report by President Richard Nixon to the Congress, February 18, 1970, p. 5.

[5] *Pravda*, February 19, 1970.

[6] *The Times* (London), October 13, 1970.

[7] A not untypical commentary: "What is the reason for this clamor among the ranks of the imperialist naval sharks? The fact is that they know the presence of Soviet ships in the Mediterranean will paralyze the attempts of the United States Sixth Fleet to carry out its designs against the Arabs." Moscow Radio in Arabic, October 12, 1968.

[8] *The Times* (London), September 15, 1970.

[9] See Alvin Z. Rubinstein, *Yugoslavia and the Nonaligned World* (Princeton: Princeton University Press, 1970), pp. 307–309.

[10] See *Middle East Economic Survey*, April 21, 1967, p. 1, and September 12, 1969, pp. 1–2; and *The Financial Times*, October 30, 1970.

[11] Japan, which is outside the purview of this essay, is another key country whose links to the Western alliance system Moscow seeks to weaken in the years ahead. The Soviets hold out the allure of enormous economic opportunities for the exploitation of Siberian resources, but they are hampered by an unwillingness to return the islands of Kunashir, and Iturup, north of Hokkaido, which the Soviet Union seized in 1945.

HATS OFF TO TEENAGERS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DUNCAN. Mr. Speaker, sensational news stories too often brand all of our young people as a burden to our society. Those of us who take pride in our young citizens know that such articles unfairly indict the many outstanding teenagers who comprise a majority of our young generation.

I am particularly proud of our teenagers in Knoxville, Tenn., and rightly so. Recently over 6,000 Knoxville teenagers participated in a campaign to raise funds for St. Jude's Children's Research Hospital in Memphis.

The following Knoxville Journal article will bear witness to the fact that Knoxville teenagers are among the finest young people in the Nation.

The article follows:

HATS OFF TO LOCAL TEENAGERS

Knoxville can take great pride in its teenagers. Thousands of them—maybe six thousand or more—devoted last Saturday to a grueling 18-mile hike through the city to raise funds for St. Jude Children's Research Hospital in Memphis.

The vast majority of these young people will never need the services of St. Jude Hospital, which is one of the world's leading centers for research and treatment of catastrophic childhood diseases—leukemia, cancer, malnutrition and others. Almost two thirds of the hospital's operating funds come from public donations, and this was the first St. Jude campaign in Knoxville.

It will be a couple of weeks before all of the pledges are turned in and counted. But even before it is known how much money was raised the drive can be considered a sound success from the standpoint of enthusiastic participation by Knoxville teenagers.

True, Mayor Kyle Testerman and several other local officials hiked the full route and raised a substantial sum in the process. This was highly commendable on their part. But it was the army of young people, marching an exhausting circuit through the drizzle, cold and mud, that captured the admiration of bystanders.

Some of the young people will receive prizes. Some of their schools also will get material or honorary awards. Most of the teen-agers, however, will receive only the satisfaction of knowing they have contributed greatly to one of the nation's most worthy humanitarian causes.

Our hats are off to these Knoxville teenagers. They're tops.

CONGRESSMAN CRAIG HOSMER'S WASHINGTON NEWS NOTES

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HOSMER. Mr. Speaker, each month I publish a newsletter called "Washington News Notes," which highlights some of the recent activities in Congress and in Washington. The text of the April edition follows:

CONGRESSMAN CRAIG HOSMER'S WASHINGTON NEWS NOTES

A SEAT ON THE 50-METER LINE?

After years of study, the question of whether or not the U.S. will adopt the metric system now appears headed for consideration by Congress. If adopted, the change will be gradual, as this major innovation in our way of measuring things will require new equipment and devices.

Principally, the change would see us dealing in liters (about a quart), the kilogram (about two pounds), the meter (a bit over a yard and 60 kilometers-per-hour equals 36 mph), and a temperature scale where zero is freezing and 100° C. is the boiling point of water. The change would put the U.S. in line with the rest of the world's measurement practices.

HIT 'EM IN THE TAXES

The Nixon Administration is trying an old weapon in its war on drug traffic. Some 413 suspected heroin dealers in 31 states have been marked by IRS for special income tax audits. This "Capone" plan, first used against organized crime, is expected to put many pushers out of business even though narcotics agents do not have sufficient evidence to prosecute under drug laws. Some 273 tax agents are involved.

SEAL BEACH REFUGE MAY BE SET UP THIS YEAR

Following House subcommittee hearings last month, Congress Hosmer is hopeful that the Seal Beach National Wildlife Refuge can be in operation before the end of this year. Sens. Cranston and Tunney are co-sponsoring the legislation on the other side of Capitol Hill.

Interior Dept. testimony proposed a $300,000 visitor center, adjacent to the refuge on Pacific Coast Highway. It would have observation facilities and parking to permit the public to enjoy this valuable natural resource. But it must be done carefully, Hosmer warns, since the refuge is within the Naval Weapons Station.

CONSUMER INFORMATION

Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, says that a new publication called "Consumer News" is now available. It contains rules and regulations proposed by the Federal Government on consumer products, and news about action by the Office of Consumer Affairs. The publication can be obtained by sending $1 for a year's subscription to: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

IT'S THE SIGN OF THE TIMES

In 1968, thefts and vandalism forced the pastor of St. Peter's Catholic Church in Washington, D.C. to close and lock its doors during the day except during services. This story attracted national attention because St. Peter's is only two blocks from the U.S. Capitol.

The church has now reopened its doors again for daytime worship, a tribute to the Nixon Administration and its campaign to reduce crime in the Nation's Capital. All seven of the city's police districts reported declines in total crime during January 1972 compared with 12 months earlier. Washington's crime rate is now at its lowest in five years.

WHO GIVES MOST TO THE U.N.

What country makes the highest per capita contribution to the United Nations? If you said the United States, you're wrong.

While the total U.S. payment is the highest by far ($276 million compared to the $48 million from second-placed Great Britain), on a per capita basis, Denmark gives most. The Danes contribute $4.53 (in U.S. dollars) to the U.N., compared to $1.34 for U.S. citizens. Oh yes, the Soviet Union generously chips in 17¢ a head.

THE REAL WELFARE CHEATS

The Lancaster (Pa.) *New Era* reports on a set of contract "demands" from the state welfare workers union. They want a 30% pay raise for a work week reduced to four days, 24 paid holidays, a month's vacation and a month sick leave, 2½ hours "personal time off" each day and another 2½ hours to discuss "work situation problems." They also demand retirement at full pay after 20 years, fully paid life, disability—and automobile—insurance, six months maternity leave and 10 days paternity leave. And they would handle only two cases per day. Looks like we're in the wrong business.

OK, FOLKS, BREAK OUT THOSE TENNIS SHOES

According to the New York *Times* book reviewer a new issue called "The Almanac of American Politics," written by three Harvard grads, gives this description (in part) of California's 32nd Congressional District:

"The 32nd, as much as any district in California, is personified by the little old lady in tennis shoes. And the district's congressman, conservative Republican Craig Hosmer, is a man of kindred spirit."

That's ridiculous. Hosmer doesn't even own any tennis shoes.

BYELORUSSIAN INDEPENDENCE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DINGELL. Mr. Speaker, March 25, 1972, marked the 54th anniversary of the independence of the Byelorussian National Republic.

Unfortunately, the new Republic did not enjoy its freedom and independence for long, because the Soviet Communist army ruthlessly overran the country despite a gallant and courageous resistance. To this date the people and the country, now known as the Byelorussian Soviet Socialist Republic, remain a political and economic colony of the Moscow regime.

The Byelorussian people have continued to be restive under the Russian domination. Several armed insurgencies have taken place, including those of 1920, 1922, 1926, and 1944. During the latter year, the Second All-Byelorussian Congress was convened in Minsk and reaffirmed the desire of the Byelorussian people for complete political independence.

March 25 is a day which serves as the symbol of a dynamic spiritual force for Byelorussian independence which unites all Byelorussians wherever they may be. The fight for Byelorussian independence also is a fight for the emergence of all captive nations.

I join the Byelorussians throughout the world in their hope that freedom and liberty will be restored to their country.

GROUP LEGAL SERVICES—A NEW CONSUMER TOOL

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MOSS. Mr. Speaker, group legal services has become a common household word to many Americans. Because of the growing interest in this new consumer legal tool, I am inserting in the RECORD an article which appeared in the January 1972 issue of the AFL–CIO American Federationist, entitled "Legal Services as a New Union Benefit." The article follows:

LEGAL SERVICES AS A NEW UNION BENEFIT

(By John A. Grimes)

Until his mule wandered out on a Louisiana road one night, Clevon Cain had never thought much about lawyers.

The trouble was, a truck hit Cain's mule—and he was faced with the possibility of paying a $250 fine and going to jail for 30 days on charges of violating a law prohibiting livestock from roaming free.

But Cain, in addition to owning a mule, is a member of Laborers Local 229 in Shreveport, whose members are covered by a prepaid legal insurance plan. So he utilized the plan to seek legal advice about his problem.

The result: Shreveport lawyer Lewis Weinstein, a member of the city's bar association, which is cooperating with the union in the operation of the pilot plan, went to court and won dismissal of the charge on the grounds that the mule had appeared on the highway through "an act of God" rather than negligence on Cain's part, because lightning had knocked down the fence surrounding Cain's small farm. All fees were paid by the plan.

The local's legal program which came to the rescue of Cain is but one of many now fast cropping up, in different forms, among organizations the breadth of the country, including cooperatives, student groups, church

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groups, homeowner associations and the like. But the trade union movement has been in the vanguard of the development of the program, one of the most promising group plans since group medical programs were started to help solve the health crisis of soaring costs and inadequate care.

One of the most recent plans, scheduled to go into effect in January 1972, is by the Chicago Joint Board of the Clothing Workers. It is paid for by voluntary payroll deductions to a supplementary insurance program formed previously to fill in the gaps in the medical and health insurance programs negotiated in ACWA contracts.

The Teamsters union has put a legal aid plan in operation for its members in Toledo. Teachers groups in Los Angeles and in Florida now have or soon will have such plans in operation; others in New York and Michigan have them under consideration, as do the Auto Workers and the Steelworkers. Active interest is being expressed by various locals of the Retail Clerks, the Chemical Workers, the Sheet Metal Workers, the Communications Workers and a host of others. Other organizations are either expressing interest in the plans or already have them in operation.

While the plans may differ in some detail, the principle behind them is simple: Group legal services are programs through which organized groups, such as unions, provide legal assistance as a benefit of membership. By pooling prepayment amounts, members of the group are provided with legal assistance of a quality and at a price which would not be available to them as individuals. Regardless of details which vary from plan to plan, they are generally referred to as "group legal services."

The concept is not a new one. But the recent revival of interest in group legal services has stemmed from the growing awareness of a twofold problem: The bulk of middle-income Americans, a substantial portion of them in the wage-earning class, are increasingly beset by problems whose solutions require legal assistance in one form or another. These can, and often do, include such problems as disputes with landlords, conflicts over debts in an increasingly credit-card economy, battles with financing companies, troubles with auto or appliance warranties, the complexities of the sale or purchase of a home or even the drafting of a will.

Yet this segment of the population seldom, if ever, thinks of obtaining a lawyer to help handle these problems; many do not have much idea of where to get a lawyer or how he could and should help them if they did. And most often, the cost of retaining a lawyer is enough to stop them.

The other part of the problem is the lack of an effective system of delivery for legal assistance to these middle-income Americans—a problem more and more freely admitted by members of the legal profession.

Jules Bernstein, associate general counsel of the Laborers and one of the trade union movement's pioneers in group legal services, points out that "it has become apparent that for the majority of Americans—not only the perceptibly poor—the existing method of distributing legal services is woefully inadequate. Today's ordinary citizen is cast in a variety of roles, including that of consumer, taxpayer, voter, employe, parent, investor, lessee, as well as accident victim or cause. While each of these identities is beset with legal implications, too often they are undertaken without any legal advice." He also notes that "to a significant extent, the unmet need for legal services is tied to costs. Even under the 'minimum fee' schedule of many local bar associations, recommended hourly fee rates are usually no lower than $25 per hour" and specific, albeit simple, services can entail stiff flat rates.

He notes that "some evidence the public is deeply disturbed with the existing situation is indicated by the popularity of several recent books which provide 'do-it-yourself' legal advice."

The rich have always been able to afford proper legal care, and in recent years, the very poor have at least had some attention concentrated on their lack of proper legal service. This awareness has resulted in increasing availability of legal services to those in the poverty level, through neighborhood offices funded by the Office of Economic Opportunity, and through other legal aid and defender programs.

But there's a far larger group of "have nots" in between—the middle-income Americans. A study not long ago of California professions in the $10,000 to $15,000 income bracket showed that fewer than 15 percent of those who thought they had a legal problem had taken it to a lawyer—and that fewer than one in three had actually retained an attorney. Other studies by the legal profession have come to the conclusion that as much as 70 percent of the population could be lumped into the middle-income category—a group which has the largest number of legal problems in the nation, yet remains largely lawyerless.

The group legal service which rescued Cain from his troubles with the errant mule is the first of its kind and was established under unique circumstances.

The American Bar Association, concerned with the problem of making lawyers' services more readily available to middle-income groups, appointed a special committee which focused its study on the concept of prepaid legal cost insurance, according to a recent article by Henry A. Politz, chairman of the Shreveport Bar Association. A further study concluded the idea held enough promise to warrant a controlled experiment. A canvass of states showed the Louisiana insurance commissioner in favor of such an experiment; the Shreveport Bar Association was chosen to implement a prepaid legal plan and Laborers Local 229 undertook the pilot project.

The Laborers local, which consists of some 500 members—about 2,000 insureds when families are counted—agreed to contribute 2 cents an hour for all hours worked to the group legal fund. The national ABA appropriated a considerable sum and the Ford Foundation made a grant for the test-run period of two years, starting in January 1971.

Under the Shreveport plan, members of the local and their families get $100 worth of legal consultations, or about four or five sessions with a lawyer; $250 worth of conference, negotiations and research, for which the individual must pay the first $10; $515 worth of such expenses as preparations and filings of pleadings and briefs, attendance at hearings or trial, court costs, witness fees and out-of-pocket expenses, for which the individual must pay the first $25 if he is the plaintiff. After that first $515 of court expense, the participant also gets 80 percent of the next $1,000 if he is the defendant.

The individuals in the plan can retain any Shreveport lawyer of their choice. The plan does not purport to set attorneys' fees; that is up to the lawyer and the client. But the plan is geared to provide all or a substantial part of the usual fee. Also, the plan is monitored by the Shreveport Bar, whose governing board reviews the charges and can reject unreasonable claims.

As described by Politz, one of the hopes for the plan is to discover why middle-income Americans are reluctant to seek legal assistance—and to help overcome the "foe" image of the lawyer.

"Many students of the problem are convinced that the fear of the cost of legal services has acted as a very real deterrent for a large segment of the public" in engaging the services of a lawyer, Politz says. "The average wage earner has . . . little financial reserve. He usually has great difficulty handling unanticipated expenses. Too often this person is propelled into the attorney's office by overwhelming outside forces too late for an effective assistance. It is believed that this client, in many instances, did not secure timely, advance legal advice because of his fear of the cost. It is not suggested that persons believe that the cost will be more than they can afford. This belief . . . must be reckoned with."

As for one of the benefits hopefully to be derived from the plan, Politz says "it is believed that the potential client who possesses an 'insurance policy' to cover all or a substantial portion of his legal services. And he will seek such services before the crisis stage is reached . . . the law will therefore prove to be his 'friend' rather than his 'foe.' Inherent in this will be a 'humanizing' of the bar's image. . . ."

While experience from the Shreveport plan so far is limited, some conclusions are beginning to be drawn. The run on the bank that some feared has not developed; no epidemic of legal hypochondria has broken out.

The claims for legal work have run well below the most conservative estimates. Designers of the plan were prepared to pay legal fees for as many of three-fourths of the some 500 workers in the local union at a cost of perhaps $103,000 during the first year. The conservative estimate was that about 30 percent of the workers would use the plan, at a cost of $34,500. But claims have been running at about an annual rate of 100, involving some 15 percent of the covered families and about $20,000 in legal fees.

Most of the claims involve motorist cases, domestic relations and credit problems. The participating lawyers say it's a slow process to convince the group that the lawyers are there to be used even when there is no immediate problem before the union members. They concede that getting the workers to avail themselves of legal advice before trouble occurs is going to take some education; as a result, a series of lectures is being conducted to explain this feature of the plan.

But the plan also has some highly practical, though somewhat invisible, benefits just by its existence. An added feeling of security is undoubtedly enjoyed by the local's members just because the plan is there. And, according to one union official, one big asset of the plan is that "the word has gotten around that Local 229 men now have attorneys. It has caused a lot of the pressure to get off our men—especially from the small loan companies."

The Clothing Workers plan in Chicago, which is structured somewhat differently, grew out of the experience of a social service department founded in 1969 to meet the special needs of the workers in a time of a declining national economy.

According to Murray Finley, an ACWA vice president who was instrumental in putting the plan together, the new department quickly learned that about one-third of the problems reported were on legal matters, but were not job-related.

In planning the program, Finley said prior experiences dictated they start small and work up: it was thought that members would sign up for a deduction of 50 cents per month. With 12,000 active and 3,000 retired members, they projected participation of between 8,000 and 9,000 members and a budget of about $48,000 to $54,000 per year.

Initially, criminal and traffic cases will be excluded and benefits will be limited to civil matters. The social services department will screen requests, so that only those needing the skills of a lawyer will be forwarded and, conversely, cases involving protracted litigation or appeals will be avoided. Out-of-pocket costs and filing fees will be paid for by the members. If the first year proves successful, the contribution will probably be increased to $1 per month so that benefits can be expanded.

These and similar plans have stirred some enthusiasm among both members of the bar and union officials. The interest in group legal services has been great enough that the American Bar Association has been conducting conferences around the country at which attorneys, union officials, insurance industry representatives and other interested parties exchange information. One such conference has been scheduled for Washington, D.C., in late April 1972.

F. William McCalpin, head of the special ABA committee on prepaid legal insurance, voices the opinion that these plans "will be the forerunners of legal cost insurance that will be available to people on a wide-scale basis in the not-too-distant future." Indeed, where two years ago they didn't show a flicker of interest, some large insurance concerns—among them the Insurance Institute of America—are either closely studying or working up their own insurance plans.

Obviously, one of the avenues for the spread of group legal services is through the trade union movement, which has so far been the most active in its interest and efforts to establish new plans. A proliferation of programs can be expected as unions begin to bargain them into their contracts. A group legal service plan was on the bargaining agenda of the postal unions, which got the promise of a study of the proposal by management. Other unions, too, have made moves to include it in their bargaining agendas—the Longshoremen among them.

Officials who have worked on the plans foresee several major advantages from tying them to the collective bargaining process. The group purchasing power of union members can insure that high quality legal service is provided at the lowest possible cost. Secondly, legal service programs can be linked to labor's existing community service efforts, thereby expanding their scope.

They are also hopeful that the passage of national health insurance will ease the way for negotiating other fringe benefits, such as group legal services.

But some inhibitions—which many union attorneys are confident will prove only temporary—are still present.

One is the Taft-Hartley Act. The law specifically provides for some specified fringe benefits, such as hospital, vacation and child care, and group legal plans are not among those enumerated. And present Internal Revenue regulations don't appear to provide the necessary tax exemption for trust funds set up to finance the group legal plans.

Legislation has been introduced in Congress which would eliminate at least some of these obstacles. Support of the legislation is expected from both the trade union movement and the organized bar.

The road to the Shreveport plan and other group legal service programs was not a simple one, however. As did the medical societies in the face of prepaid group health plans, the bar associations—despite their more recent support of some experiments—fought the concept with all the force at their command, which was considerable.

Such plans, in the view of the bar associations and the courts which aided and abetted the bar in its opposition, were "unethical" and hence illegal. Mainly, the bar and the courts leaned on an interpretation of Canon 35 of the ABA's Canons of Professional Ethics. Canon 35 says that, while a "lawyer may accept employment from any organization, as an entity," this employment "should not include the rendering of legal services to the members of such an organization in respect to their individual affairs." In the bar's view, the use of an intermediary organization—such as a union—as a bridge between lawyer and potential client carried with it the possibility that the lawyer's allegiance might be directed more to the organization than to the client.

It was on the basis of this and similar interpretations that the bar vigorously fought early efforts to establish group legal services of a wide variety.

Starting in 1963, however, four U.S. Supreme Court decisions involving separate group legal service plans had a dramatic impact on bar thinking and attitudes—so much so that some elements of the bar still have not recovered from them. Indeed, the legal profession is badly split as a result of the court decisions which exploded Canon 35's seeming prohibition against group legal plans. So wide is the split that many prominent lawyers fully expect some segments of the bar to continue to engage in writing new interpretations designed to throw further barriers in front of prepaid group legal services.

The first case came on a slightly unexpected front. In 1956, the Virginia state legislature passed a law forbidding the solicitation of legal business. This was during Virginia's period of "massive resistance" in its attempt to halt the integration of schools and other public accommodations—in defiance of the Supreme Court decision that such efforts were illegal.

The NAACP, seeing the statute as a threat to its efforts to win integration, began in 1957 to solicit potential plaintiffs to designate NAACP staff attorneys to represent them in desegregation proceedings.

The NAACP bore the cost of the litigation and paid its staff attorneys on a per diem basis—setting up a direct challenge to the 1956 state law.

Virginia's highest court held that the NAACP was guilty of "fomenting and soliciting legal business in which they are not parties and have no pecuniary right or liability and which they channel to the enrichment of certain lawyers employed by them, at no cost to the litigants. . . ." This was held as a violation of the state law and the bar's canons.

The U.S. Supreme Court struck down the Virginia law, holding that the NAACP's activities were protected by the First Amendment.

The bar felt the repercussions of that decision; but the Supreme Court was not finished.

The next ruling involved one of the oldest of group legal plans, that of the Brotherhood of Railroad Trainmen, now part of the United Transportation Union. Indeed, much of the evolution of group legal aid has involved the BRT.

BRT members work in small groups, often away from home, and by and large they live in small towns along the railroad right of way. As a result, their community contacts are limited, as is their access to the railroad lawyers in the big cities.

The BRT legal plan, established in 1930, was designed to overcome these problems for a member in a work injury case. In basic operation is unchanged from the earliest days: The union selects attorneys to represent workers in cases under the Federal Employers Liability Act. Officers and members of the BRT are instructed to refer injured members or the survivors of deceased members to these regional counsels. Fees were agreed to in advance, although each lawyer-client relationship was individual.

The plan was not long in coming under attack. While the suits were generally brought in the name of the bar, they were usually initiated by the interested railroad or the American Association of Railroads, which in the large financed the prosecutions.

In California in 1950, the state supreme court ruled in a case initiated by the state bar that the regional counsel for the BRT had violated rules of professional conduct by participating in the plan. As a result of this ruling, the American Association of Railroads in the 1950s succeeded in having bar proceedings instituted against BRT regional counsels in seven other states.

One of them, a Virginia case, reached the Supreme Court, which overturned the Virginia ruling as a violation of the first Amendment. The Supreme Court specifically refuted the claim that the BRT's legal aid program was a scheme of solicitation. The court said:

"What the State of Virginia has sought to halt is not commercialization of the legal profession which might threaten the moral and ethical fabric of the administration of justice. It is not 'ambulance chasing.' The railroad workers, by recommending lawyers to each other, obviously are not themselves engaging in the practice of law, nor are they or the lawyers whom they select parties to any solicitation of business. . . . We hold that the First and Fourteenth Amendments protect the right of the members through their Brotherhood to maintain and carry out their plan for advising workers who are injured to obtain legal advice and for recommending specific lawyers . . . and of course, lawyers accepting employment under the constitutionally protected plan have a like protection. . . ."

Later, in a 1967 case between the Mine Workers and the Illinois State Bar Association, the Supreme Court reinforced and extended the rulings in the NAACP and BRT cases. The UMW had employed, since 1913, a lawyer on a salaried basis to represent members and their dependents with claims for persons injured or killed under Illinois' workmen's compensation law. In the BRT plan, the injured member was personally responsible for payment of the lawyer's contingent fee, but in the Mine Workers' plan, the lawyer was compensated directly and solely by the union on a salary basis.

It was this difference which the Supreme Court sanctioned and which was the major importance of the case. "We do not think our decisions (in the NAACP and BRT cases) can be so narrowly limited," the court said. "We hold that the freedom of speech, assembly and petition guaranteed by the First and Fourteenth Amendments gives petition the right to hire attorneys on a salary basis to assist its members in the assertion of their legal rights."

The fourth Supreme Court decision was handed down in April 1971 in a case involving the Michigan bar and, again, the United Transportation Union. It was also the third time the majority decision was written by Supreme Court Justice Hugo Black.

The language was quite strong: "The Michigan State Bar brought this action to enjoin the members of the Brotherhood of Railroad Trainmen from engaging in activities . . . to protect themselves from excessive fees at the hands of incompetent attorneys," the court said in the opening paragraph.

"The common thread running through our decisions is that collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment. However, that right would be a hollow promise if courts could deny associations of workers or others the means of enabling the members to meet the cost of legal representation," the decision concluded.

Robert Connerton, general counsel of the Laborers, sees the court decisions as a natural adjunct to other progressive breakthroughs of the 1960s. "In the past decade, we have come a long way," Connerton said. "We witnessed a veritable revolution brought about by decisions of the Supreme Court and acts of Congress which have resulted in widespread acceptance of the principle that citizens have a right of access to competent counsel, in fact. First, the court ruled that the Constitution requires that indigent defendants in criminal proceedings be provided with legal representation.

"During this same period, the Congress enacted legislation which included provisions for free legal services as an essential weapon in the war on poverty," he said. "Since that

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time hundreds of thousands of poor people, through neighborhood legal service, and other federally financed plans, have been provided with decent legal representation and given a stake in the system they never possessed before."

Connerton also sees a far-reaching cumulative effect of these and related decisions. "It has long been commonplace in our society that the rich received adequate legal representation—that corporations, merchants and the like obtained the best legal help—but that the middle class and the poor could not afford proper counseling and suffered much in consequence," he said.

"Surely, in our system it was not the tenants who drafted the model landlord-tenant laws, the insured who drafted the insurance contracts, the debtors who drafted the installment contracts. Nor could they afford proper representation when disputes arose concerning the application of such instruments."

Legal assistance for the impoverished and accessible legal services for the wage earner through group plans could be major steps in correcting this imbalance in the future, Connerton said.

Court rulings have all but eliminated the previous barriers to the formation of group legal services—as far as objections of the bar are concerned. But while they have been greeted with dismay by some within the ranks of the bar and some local and state bar associations may continue to oppose group legal plans, they also have created some hope that the bar will now take a more realistic attitude toward the formation of such plans and indeed assist in this formation.

To some extent, this is being done. In 1968, the bar began serious exploration of prepaid legal service systems, appointing a committee to explore the field thoroughly and launch appropriate pilot programs which would allow the client a free choice of a lawyer in his community. And, as previously noted, the bar association is one of the Shreveport sponsors.

Indeed, some of the legal profession's most prestigious spokesmen are bluntly telling their brethren that group legal services plans are the coming thing and that if the bar members don't get into the research, planning, sponsorship and participation, they are going to be left out—to the detriment of the entire profession.

Robert W. Meserve, president-elect of the ABA, had some advice for the legal profession in the November issue of the ABA Journal in an article titled, Our Forgotten Client: The Average American.

"Fundamental changes in the mode of practicing law will be determined to our disadvantage" if lawyers do not make intense efforts to help provide better legal services to the persons of moderate means, he said. "We know from old and new public opinion polls . . . that a lawyer is generally regarded by the public as a necessary evil rather than as a helping hand" and that they have "a far from winsome public image," Meserve said.

Group legal service plans, he warned, are becoming more and more widespread. "The figures from California, Florida and Missouri show that somewhat more than 200 group arrangements exist in those states. If one visualizes the familiar iceberg concept, he can guess that there may be about 4,000 of these plans in the country," Meserve said.

Noting that many of these came about through activities of the union and include the preselection of lawyers, he adds that "while we may properly complain about the preselection feature of these group arrangements, the simple truth is that the profession itself has not given the trade unions any viable alternative to their closed systems. Our lawyer referral systems, no matter how well staffed and equipped with competent and available lawyers in special areas, do not respond fully to the demand for prepaid service."

Simply, he is telling the legal profession it has not handled this challenge; it has ignored the potential client of moderate means.

Obviously, legal insurance for the consumer, not just in trade unions but in the community and perhaps the country at large, could potentially have a tremendous impact on society in general.

Such legal insurance would make it economically feasible for a greatly displeased group of consumers or stockholders to put considerable pressure on large institutions. The man who regards a corporate action as an outrage is more likely to bring suit if he can afford the lawyer's bill. Amassing thousands of premiums would increase in the consumers clout tremendously.

"Whatever form they take, group legal service programs clearly offer an enormous potential for providing needed legal service to millions of Americans who otherwise could not afford it," says Bernstein.

As yet, however, not enough experience with the group legal plans has been compiled to show what should be the range of benefits provided and what would be a reasonable cost and system of payment. Not many of the beginning plans are yet self sufficient; the Shreveport plan is, as mentioned, a subsidized one with 2 cents per member per hour worked coming from the union. It's figured roughly that 7 cents an hour would fully support the plan.

Other plans are running at a loss while a "track record" is being compiled and estimates are made on what the total cost would be if the deductibles, such as in the Shreveport plan, were removed. One estimate is that a plan to pay all legal expenses involved in such matters as civil proceedings, felony trials, wills or divorces would cost nearly $10 a month per member, with an additional $4 if the family is included.

"We are now at the same historical stage of development with prepaid legal plans as medical plans were 25 years ago," Connerton says. "Unless unions participate now at the formative stage to use their mass purchasing power to insist upon quality services at a reasonable cost, then the same mistakes and waste which occurred in the medical service field will come to pass here."

The early returns also are encouraging in their efforts to persuade more workers to seek out lawyers and use their services. Group legal service holds the promise of becoming an important future development in collective bargaining as well as in other, more widely-based plans designed to bring the benefits of legal services to the forgotten middle American—and at a price he can afford.

ARE MEAT PRICES OUT OF LINE?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ZWACH. Mr. Speaker, there has been a good deal of talk, statements in the press and advertisements urging people not to buy beef because the price is too high.

In the last 20 years, the farmers' cost of production has doubled, wages for farm help have doubled, farm real estate taxes are 3.6 times higher, and they are paying twice what they had to pay for farm machinery.

At the same time, farmers are receiving approximately what they received 20 years ago for their products while wage earner's salaries have increased 340 percent.

Twenty years ago the consumer spent 23 percent of total income for food, today it is 16 percent.

But now that the farmer is getting prices that he received 20 years ago, especially for beef, advertisements are taken out against the farmer but nothing is said about the processing and the packaging that is done from the time the product leaves the farm until it is sold over the counter.

The record must be set straight and the consumer must understand who is to blame for higher prices. It must be placed squarely on the processors and the same food stores which are now asking cussumers to buy substitutes for "high-priced" meat.

CHAIRMAN CATHERINE BEDELL SPEAKS ON ROLE OF TARIFF COMMISSION IN THE 1970'S AND BEYOND

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MINSHALL. Mr. Speaker, our esteemed former colleague, the Honorable Catherine Bedell, is doing a magnificent job as Chairman of the U.S. Tariff Commission. This comes as no surprise, certainly, to those of us who had the privilege of working with her during her service in the House of Representatives. This attractive, energetic lady has one of the keenest minds in the Nation's Capitol, combined with charm, wit and tact.

Mrs. Bedell was the keynote speaker at last week's Cleveland World Trade Conference, discussing the role of the Tariff Commission during this decade and later in an address that faces boldly and imaginatively the challenge of our present and future trade problems.

This is an important address which deserves the attention and consideration of all in the Congress:

THE ROLE OF THE TARIFF COMMISSION IN THE SEVENTIES AND BEYOND

It's a pleasure to be with you this morning to discuss the role of the Tariff Commission in the 1970's and beyond. As your keynote speaker, I find this a fitting subject within the context of your conference theme: "World Marketing—One Upmanship."

Under the sponsorship of the Cleveland World Trade Association you're devoting this day to concentration on some of the important aspects of international trade. As suggested by the Conference theme, your discussions will be dealing with how to cope with the new and complex problems resulting from rapid changes and shifts in trade patterns.

You are to be congratulated for focusing attention in this area. Every citizen of this nation has a big stake in this game, for if we come up with more wrong answers than right ones, we run the real risk of becoming a second class economic power.

At the U.S. Tariff Commission we bear a heavy responsibility to help both the Federal government and the private sector find the right answers, for economic intelligence can reduce the risk of one upmanship. Our statutory charter gives us the capability as a bipartisan fact-finding agency to assemble and provide this vital intelligence on which Congress and the President can make sound policy decisions affecting world trade.

Before telling you something about the Tariff Commission, there are a few things I hope you will keep in mind as you pursue your discussions today.

With the President's announcement on August 15, 1971 of major changes in his domestic and international economic program, we, as a nation finally faced up to the facts of life in terms of the economic situation at home and abroad.

In the best American tradition we had believed ourselves to be the world's foremost economic power. Somewhat simplistically we assumed we'd always remain so. This complacency over the past decade has lulled us into the feeling we need not change or review our policies and the implications of their impact on the world of international economics.

We were not alone. The rest of the world assumed that since we had been an economic superpower we would always remain one. In addition, everyone assumed the international monetary and trade system, created after World War II, which had worked well would continue to do so.

At home after years of seemingly unending success, we were lulled into neglecting productivity, quality, research and development and export marketing. We consistently ignored the warning signals only to hit an inflation rate of more than 6%, and a balance of payments deficit of more than $8 billion. A negative trade balance stared us in the face for the first time in almost 80 years. The handwriting was on the wall and strong measures were necessary to brake and reverse our declining trade position. President Nixon took them.

In the President's recent *Report to the Congress on Foreign Policy for the 1970's* he pointed out that world trade affects the standard of living and the welfare of citizens the world over. For this reason, the removal of barriers to the free exchange of goods in the international market has been a major cornerstone of U.S. policy since the 1930's.

The results have been impressive. Since World War II, tariffs of industrialized countries have been reduced one-third. Between 1950 and 1970, U.S. exports quadrupled from $11 billion to $43 billion. U.S. workers, farmers, and businesses have gained greater access for their products abroad while Americans at home have benefited from an increasingly wide variety of products from other nations. The postwar prosperity experienced by us and our trading partners has been enhanced by a growing trade between us which provides a solid underpinning for our strong political bonds.

In recent years however, international trading relationships have changed. The European Community and Japan are now centers of economic power and strong international competitors. The European Community today is the larger trading area in the world. Japan has made rapid advances in productivity and become a vigorous exporter.

These changes have focused greater attention on discriminatory trading arrangements which are assuming greater importance. Nontariff trade barriers have been erected, and past reductions in tariffs have exposed other barriers to trade which have not been dealt with adequately. Our problems at home have been complicated by the fact that these barriers in many cases, unwarranted and outmoded, are detrimental to our exports. They have been focal points of political friction and have held back growth in employment in specific U.S. industries.

As a nation, we are now taking strong measures to reverse our declining trade position.

The President's trade policy objectives in 1971 were:

To curb inflation and realign exchange rates, thereby increasing the competitiveness of American products;

To seek removal of specific barriers to U.S. exports;

To set the stage for further international negotiations leading to a more fundamental attack on trade barriers;

To strengthen the export competitiveness of American industry;

To facilitate adjustment of domestic industries to the pressures of excessively rapid import increases, and to assist in some cases with measures to cushion the impact of these pressures;

To broaden and increase opportunities for trade with Communistic countries.

The Administration has made progress in resolving a number of trade issues which will result in the removal of certain restrictions against American exports. It is working towards agreement with our trading partners to bring about multilateral negotiations in 1972 and 1973 with a view to a removal of barriers and an expansion of world trade.

Now with this background and the Administration's announced goals in mind, let me review with you what the Tariff Commission does and the implications of its work on trade policy and international economics.

If you've been wondering why you possibly don't know much about the Tariff Commission, let me assure you that you are not alone. You have lots of company, for the Commission seems to have been one of Washington's best kept secrets.

The Tariff Commission is a rather unique creature of government. It consists of six members, three Democrats and three Republicans appointed by the President, normally for six year terms. It reports directly to the President and Congress.

As you may recall from school days, the tariff has been a burning issue down through our nation's history. Through creation of an independent bi-partisan fact-finding agency Congress hoped to minimize politics in tariff matters.

The Commission was formally established on September 8, 1916. Its main objective as a fact finding body was to collect and analyze information on commodities entering in international trade—particularly competitive production costs and the effects of imports on domestic production.

In 1922, new legislation expanded the Tariff Commission's work four different ways.

1. The President could adjust, either up or down, individual tariff rates but only after completion of a Tariff Commission investigation.

2. It provided for investigations into unfair methods of competition as a means of safeguarding American industry.

3. The Commission was empowered to investigate any discrimination of any foreign country against U.S. commerce.

4. It was also empowered to investigate the cost of production and international competition.

These provisions, slightly modified by the Tariff Act of 1930, provide the legal basis for much of the Commission's work today.

The Commission is also directed or authorized to conduct investigations under provisions of the Trade Expansion Act of 1962, the antidumping Act of 1921 and the Agricultural Adjustment Act.

It also undertakes research and special studies relating to significant aspects of the commercial policy and international trade of the United States. These studies may be requested by the Congress, the President, or undertaken on the initiation of the Commission itself.

In recent years, as domestic industries, firms and workers have begun to feel the impact of foreign competition, and possible injury, the workload of the Commission has drastically increased. This past fiscal year, the Commission completed 86 of these investigations. Our case load increased four times over fiscal year 1970, and this year we've already started 53 investigations since July 1, 1971. The number continues to grow.

Section 301 of the Trade Expansion Act of 1962, authorizes the President to take measures to assist segments of the U.S. economy which are being injured or threatened with injury as a result of trade concessions. Under these provisions the President, subject to the findings of the Tariff Commission, may increase duties or impose other import restrictions. He may authorize assistance to industries, firms or workers. He may also take a combination of actions. However, the Tariff Commission must first determine that (as a result, in major part, of trade agreement concessions) an article is being imported in such increased quantities as to cause, or threaten to cause, serious injury to an industry or firm, or the unemployment or underemployment of a group of workers.

It is important to note that under the existing law the Tariff Commission must find injury within a narrow criteria. Here many industries and workers fail to understand that unless imports are due *in major part* to duty concessions, there is nothing the Commission can do even though imports may have increased substantially. There is no relief at present for the victim injured by imports which result from any other reason.

In addition to formal investigations, the Tariff Commission is also empowered by law to conduct in depth studies. At the request of two of our major "clients"—the President and the Congress—we have embarked on five significant studies that will require two years and thousands of man hours of work by Tariff Commission experts—studies that you will recognize as having tremendous implication for some of the most crucial trade decisions the United States must make in the seventies and beyond.

These studies include a multi-faceted approach to analyzing the competitiveness of American industry in the world of today.

Of prime importance is a study of the implications of multinational firms on world trade and investment. Also underway is a study on tariff and nontariff barriers among principal trading nations, a study of the nature and extent of tariff concessions granted in U.S. trade agreements, and a study of the customs valuation procedures of U.S. and foreign countries.

Now, these studies, coupled with our investigation load, have provided motivation to the Tariff Commissioners in another area. With the encouragement of the President and the Congress, we're spending a lot of time on a revaluation of the day-to-day administrative operations of the Commission itself. There are several things we are trying to do.

First, our initial preoccupation is the strengthening of the Commission staff which historically has been known for its excellence. In order to assume the role assigned to us by the Congress we must add experts from all fields—young people, and creative minds from the legal and economics professions. Quality must not be compromised.

Second, the Commission is broadening its scope of work. There's more to its role than an analysis of imports, and there's a wealth of information to be gathered abroad. We must find ways to pursue this problem more aggressively.

Third, the Commission must develop further sophistication in its work. It must find the most effective and accurate ways of utilizing automatic data processing techniques to greatest advantage. As an independent agency which must utilize statistical information from a wide variety of sources—public and private. I believe the Tariff Commission must provide leadership to improve the quality of foreign trade statistics and eliminate duplication of effort.

Our goal is still that set by the Commissions first Chairman, Dr. Frank Taussig who put it rather succinctly when he said, "We will proceed with care and method that we shall be accurate, painstaking, discriminating. We shall refrain from guess, rumor, exaggeration, vague and untested general statements. We will proceed in a scientific way if we gather all the information we can, sift it with care, present it clearly, and apply it intelligently".

In 56 years of Tariff Commission history there have been periods of controversy and even question for its need. Those questions are not being raised any more. With the advent of recent shifts in the world trade situation has come a wide spread appreciation of the need for sound fact finding based on one essential ingredient—objectivity. This is essential in the development of our nation's trade policy. There are other reasons.

First, a commission can develop a staff of high expertise. As an independent, bipartisan, fact-finding agency it is less susceptible to divergent forces in our domestic economy. It is less affected by the bias and prejudice of partisan controversy, and last but not least it provides continuity. Executive agencies change—so does the Congress!

Second, over the years the Tariff Commission has earned the trust of industry, as no other government body has, because it has respected and preserved the confidentiality of the information supplied it by business concerns and associations.

Perhaps the most important statutory role the Commission has is the authority to initiate research studies on its own motion. Through such an effort we can develop instructive and believable information that will be applicable and useful in the light of today's situation.

My fellow Commissioners and I are devoting more and more thought to this problem. We are concerned about what we should be preparing for, and how the Commission can be more responsive to the needs of Congress and the President. It can and should provide important insight into critical trade problems and issues as they develop rather than react to a crisis.

As Secretary of Commerce Peter Peterson pointed cut in a recent speech before the White House Conference on the Industrial World Ahead, we spend many millions and even billions on defense intelligence and research in support of our international political and security relation ships. It seemed to him we should devote more governmental effort to a kind of world-wide economic intelligence effort, and he went on to say. "Getting a better handle on where we stand, and stand relative to others, is but a first step in developing a strategy for the future". I agree!

In this area what are the specific kinds of improvement and positive action that the President or Congress may wish to consider? How does this affect the Tariff Commission?

For example, a number of trade bills are now before Congress and the Administration will undoubtedly introduce additional proposals in the near future. As in the past, the Commission will be called upon for supporting information and assistance. It must be ready to respond.

In another instance, the elimination of unfair and deceptive trade policies in connection with the importation of foreign products is an objective that could be achieved through strengthening the Tariff Commission. Section 337 of the Tariff Act of 1930 contains a little known, and seldom used, provision that says in effect:

"Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale—the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are—unlawful, and when found by the President to exist shall be dealt with, . . ."

The second paragraph of this section goes on to say:

"To assist the President in making any decisions under this section the Commission is hereby authorized to investigate any alleged violation hereof on complaint under oath or upon its initiative."

The basic authority to support the Commission's vital role is on the statute books. It must look ahead, and again I emphasize, it must provide the facts on which the President and Congress can act. As we serve these two highly important clients more effectively our role at the Tariff Commission can minimize injury from imports, facilitate reciprocal trade, and thereby strengthen the nation's economy.

What does all this mean to the Federal Government? What does it mean to business and labor? And how does it affect world marketing?

First, good solid economic facts are the basis for second trade policy decisions. A revitalized and strengthened Tariff Commission will mean the availability of objective information on a more timely basis so we as a nation will have the facts on which to act.

Second, the Commission will hopefully develop new and more sophisticated means at getting at this information that will benefit industry, labor and government.

Third, through new initiatives and studies the Tariff Commission can provide the supporting information on which Congress and the President can forge a trade policy for the 1970's. A policy where foreign importers must compete fairly according to the dictates of our laws, where American products are once more competitive here and abroad, and where we have expanded reciprocal trade.

If government in partnership with business and industry can succeed, we will have helped to reduce the risk of one upmanship in world marketing. The way will have been paved for meaningful and aggressive trade expansion. Through increased exports you as world marketeers can reverse the balance of payments problem, broaden our economy and strengthen our position as a leading exporter in the world.

I wish you well.

PRESIDENT'S ECONOMIC STABILIZATION PROGRAM

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BLACKBURN. Mr. Speaker, the President's Economic Stabilization Program has come under a great deal of criticism because of the departure of certain labor members from the Wage Board and the increase in prices. It has always amused me that the press tends to report only the adverse side of the President's program. Little coverage has been given to the success of the Committee on Interest and Dividends, which is headed by Federal Reserve Board Chairman Arthur Burns.

The Committee on Interest and Dividends—CID—was created by Executive Order 11627, dated October 15, 1971. The purpose of this Committee is to formulate and execute a program for obtaining voluntary restraints on interest rates and dividends as part of the President's post-freeze Economic Stabilization Program. The members of the Committee are the Chairman of the Federal Reserve Board—Chairman—Secretaries of Treasury, Commerce and Housing and Urban Development, and the Chairmen of the Federal Home Loan Bank Board and the Federal Deposit Insurance Corp.

With respect to dividends, the executive order of October 15, 1971, was promulgated pursuant to the President's earlier announcement of a comprehensive stabilization program in which he stated that "holding the line against inflation means holding all of that line." The Committee on Interest and Dividends regards the restraint of dividends as an important aspect of an effective stabilization policy, helping to assure that any increase in dividend income will be equitably related to increases in other types of compensation and contributing to healthy economic growth.

The CID was the first of the several organizations comprising the post-freeze economic stabilization program to issue a numerical guideline for 1972. Those Guidelines for Dividend Payments in 1972, issued on November 15, 1971, are the core of the dividend restraint program. As a general principle, the guidelines provide that payment of dividends in 1972 should be restricted to 4 percent above the base year. Other provisions defined the coverage of the guidelines and stipulated that the dividend freeze imposed in mid-August was extended through 1971. The Committee had since issued seven amendments that have modified the original dividend guidelines.

Since assuming responsibility for the dividend restraint program from the Cost of Living Council—COLC—the CID has reviewed thousands of dividend declarations by the approximately 7,000 U.S. companies now covered by the guidelines. As of early March 1972, dividend declarations by 17 companies were found by the CID to be inconsistent with the voluntary programs, and all 17 companies agreed to rollbacks or offsetting arrangements. The COLC had found an additional 12 companies to be inconsistent with the program and all 12 of these companies also had agreed to rollbacks or offsetting arrangements.

In the interest area, the Committee on Interest and Dividends is developing a program to obtain voluntary restraints on interest rates. At the outset, particular attention has been focused on interest rates that closely affect American families, including residential mortgage and consumer credit rates. Mindful that some other rates have been sluggish in adjusting to movements in overall market rates, the committee had under surveillance the rates charged by a variety of institutions.

The interest program of the CID consists of three parts: First, surveillance of interest rate developments; second, reports of developments to the Cost of Living Council and the public; and third, contracts with lending institutions and other organizations knowledgeable about interest rates.

NEW SECURITY CLASSIFICATION EXECUTIVE ORDER PERPETUATES CENSORSHIP AND SECRECY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MOORHEAD. Mr. Speaker, on March 21, 1972, I inserted in the CONGRESSIONAL RECORD (E2774) a section-by-section comparison and staff analysis of the old Executive Order 10501 and the new Executive Order 11652, scheduled to become effective on June 1, 1972, entitled "Classification and Declassification of National Security Information and Material."

In my introductory remarks, I summarized the major defects of the new order, its technical errors, and its shoddy handling of the administrative details involved in the important security classification area. I asserted that, despite the eloquent description of the shortcomings in our present system contained in the President's statement accompanying the new order, our careful analysis of its contents shows that it is a very restrictive document. In subsequent testimony before the Foreign Operations and Government Information Subcommittee, former Ambassador Arthur Goldberg called it "overly restrictive." Moreover, the analysis showed glaring loopholes, too many savings clauses, and procedures that would have the very opposite effect from that claimed by the President in his announcement statement. In my judgment, it is a document written by classifiers, for classifiers, that will only perpetuate the security classification management bureaucracy—without dealing with the real problems of the system as a whole.

Mr. Speaker, I was pleased to note an article about the new Executive order, written by Mr. William G. Florence, that appears in the current issue of the Federal Times. His article confirms, in large part, the serious shortcomings in the new order that are described in the subcommittee staff analysis. Mr. Florence is one of the outstanding experts on the security classification system in the United States. He served for some 43 years in military and civilian capacities in our Government and assisted in the policy preparation of Executive Order 10501 and its implementing directives. He retired from the Air Force last summer and was a witness before the Foreign Operations and Government Information Subcommittee at our hearings in June 1971, in which we most recently examined the deficiencies of our security classification system in connection with the publication of the so-called Pentagon papers.

Mr. Speaker, Mr. Florence's article clearly illustrates the major deficiencies of Executive Order 11652 and again points up the urgent need for Congress to consider a legislative alternative to remedy the important problems inherent in attempting to deal with security classification matters by Executive orders. The text of the aricle follows:

NEW SECURITY CLASSIFICATION EXECUTIVE ORDER PERPETUATES CENSORSHIP AND SECRECY

(By William G. Florence)

Executive Order 11652, subject: Classification and Declassification of National Security Information and Material, was signed by the President March 8, 1972. Effective June 1, 1972, it will replace Executive Order 10501, subject: Safeguarding Official Information in the Interests of the Defense of the United States, November 5, 1953.

In his statement announcing the new order, the President expressed awareness of the fact that "the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society." He condemned "the controls which have been imposed on classification authority" as having "proved unworkable," and stated that "the many abuses of the security system can no longer be tolerated."

The issuance of Executive Order 11652 was described by the President as an action "designed to lift the veil of secrecy which now enshrouds altogether too many papers written by employees of the Federal establishment." He acknowledged that "we cannot be assured of complete success," since "we must rely on the good judgment of individuals." However, the President stated: "I believe that our new approach does provide a basis for considerable optimism."

The Assistant Attorney General (Office of Legal Counsel) and the Department of Defense General Counsel testified in detail March 8–14, 1972 about Executive Order 11652 before two committees of Congress. They expressed the view that the new order would increase the flow of information to the public. It was their contention that (1) unnecessary classification would be reduced, and (2) declassification would be accelerated.

This writer has studied Executive Order 11652 in the light of his experience as a security policy officer in the Federal Government for 26 years and a security consultant to government contractors since retirement in May 1971. Comments regarding the new order follow.

TYPE OF SYSTEM

The system for classifying information as top secret, secret, and confidential is outdated. It is substantially the same as the Army and Navy used before World War II to classify a very small volume of military information as secret or confidential. The system cannot work in a gigantic bureaucracy of millions of employees with millions of classification stamps.

SCOPE

A major improvement in Executive Order 10501 was substitution of the narrow terms "national defense" and "defense information" for the broader terms "national security" and "security information" that were used in Executive Order 10290. Reinstatement of the vague term "national security" in Executive Order 11652 invites wider classification coverage. (Also, the order is at variance with laws using the term "national defense.")

PREAMBLE

The claim that information classified under the order is exempted from public disclosure by the Freedom of Information Act is false. Exemptions are *permissive*, not mandatory. Also, the order misrepresents any "wrongful disclosure" of classified information as being a crime and subject to prosecutive action under the Federal Criminal Code. The truth is that there is no basis in law for an Executive order to threaten the press, members of Congress or anyone else for wrongful disclosure of information.

NUMBER OF CLASSIFICATIONS

Multiple classifications invite confusion, promote uncontrollable overclassification, and reduce the effectiveness of the security system. But the new order keeps three classifications. According to the Department of Defense General Counsel, adoption of a single classification was rejected because (1) NATO has a multi-category system, and (2) a top secret clearance would be expected for everybody, which would be too expensive. He did not reflect the fact that (1) we eliminated the restricted classification in 1953 after NATO had adopted it, and (2) clearances for access to classification categories are virtually worthless. Anyway, an individual's duties determine whether to permit him access to a given item of classified information.

CLASSIFICATION CATEGORIES

The top secret category in the new order is at least as broad as it is now. The secret category could include more information than at present. Programs need not be of vital importance any longer. The new confidential criterion "expected to cause damage to the national security" includes as much information as the existing "prejudicial to defense interests of the nation."

AUTHORITY TO CLASSIFY

Under Executive Order 10501, classification authority may be exercised only by a department head and such other persons as he or his representative designates. The delegation "shall be limited as severely as is consistent with the orderly and expeditious transaction of Government business." The *new* order only requires that (1) the head of a top secret classification department designate other persons who may classify as top secret, and (2) that the head of a secret classification department designate other persons who may classify as secret. In the top secret classification departments, *whoever* is delegated top secret classification authority may in turn designate *any or all* of his subordinates to classify as secret. In both the top secret and secret classification departments, *whoever* is delegated secret classification authority may in turn designate *as many* "officials" as he wishes to classify as confidential. The new order will eliminate existing controls and proliferate classification authority far beyond that envisioned by Executive Order 10501.

DECLASSIFICATION

Executive Order 10501 states that when classified information or material *no longer* requires protection, *it shall be declassified*. Heads of departments were directed to establish effective declassification programs on a continuing basis. Executive Order 11652 only states *who* shall *exercise* declassification authority. It does not require or even suggest any declassification of *current* information. The people could be getting *less* information in the future to use in making their decisions.

SCHEDULE FOR AUTOMATIC DECLASSIFICATION

Administration spokesmen have represented the new 10–8–6-year *automatic* declassification schedule in the new Executive order for top secret-secret-confidential information as the answer to the public's right of access to *historical* material. But the various authorizations for exemptions from automatic declassification will permit at least as much information to be kept classified as at present. For example, the following exemption in the new order is as broad as its counterpart in the existing order: "Classified information or material disclosing a system, installation, project or foreign relations matter the continuing protection of which is essential to the national security."

DISSEMINATION CRITERIA

The existing order limits dissemination of classified information to persons for the performance of *official* duties in the interest of promoting the national defense. The new order *expands* the dissemination criteria to

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persons whose access "is necessary for the performance of his duties." The limitation to official purposes has been eliminated. This reflects the wider scope of the new order as compared with Executive Order 10501.

SPECIAL ACCESS PROGRAMS

The new order broadens the authority of departments to establish "special access" programs, with special stamps to keep the people from knowing about them. The additional restrictions exist only because the effectiveness of classification markings has been ruined by wide abuse. Evidently, improvement is not foreseen.

FORMER OFFICIALS

The new order will permit former Presidential appointees to have access to any classified material which they signed or approved, or which came into their respective offices. This unjustifiable special privilege policy could only have been adopted in anticipation of continued massive unnecessary classification and massive unnecessary exemption from declassification.

POSSIBLE SANCTIONS

The new order, for the first time, requires that a person who abuses the classification process be told that he has violated a Presidential instruction. "Repeated abuse" will be grounds for a possible administrative reprimand. This has been hailed as a step forward in controlling overclassification. But the requirement will have no effect on the blanket application of classification assigned by departmental regulations or classification guides for specified programs. And there really is no basis in language such as "repeated abuse" to assume that individuals will be reprimanded. However, anyone unfortunate enough to be accused of mishandling documents with a counterfeit classification will probably get punished severely.

SEPARATE INSTRUCTIONS

Additional instructions will be issued by the President on access, marking, safekeeping, accountability, transmission, disposition and destruction of classified information and material. The procedures will control the effectiveness of the new order. Unquestionably, the reason that they were not published with the other instructions was that the people who drafted and staffed the order could not agree on what was needed. When the procedures are issued they will reflect the different purposes and operations of the participating departments. The basic principle that security is the responsibility of command will surely be sacrificed for committee compromise.

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

A committee of representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council, plus a chairman, will be established. Its functions will be (1) to oversee department actions to ensure compliance with the new order, and (2) to review complaints and suggestions made by anyone and assure that affected departments take appropriate action. But, in truth, no committee of employees can require that a department head do anything that he does not choose to do.

If the people want unnecessary secrecy eliminated regarding Executive branch operations, they must look somewhere other than Executive Order 11652 for the answer. The President changed the number and some of the language in the existing order. But he re-established the same system for administrative classification and censorship that he condemned as having failed to meet the standard of our open and democratic society.

It is clearly the responsibility of Congress to correct the abuses of administrative power being exercised under Executive Order 10501. Along with other action now being considered, legislation could be enacted to define the national defense data that must be protected. Responsibility for administration of the law by the Executive branch would be determined by Congress, not the President.

A BRIEF LOOK AT ENVIRONMENTAL CAUSES OF ACTION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. WILLIAM D. FORD. Mr. Speaker, an excellent article on environmental law written by Mr. James W. Moorman, a member of the District of Columbia bar, recently came to my attention. This article, which appears in the Janary 1972 edition of the Practical Lawyer, provides a clear and concise summary of the theories of actions under which lawsuits may be brought to protect our environment.

It is based on a paper delivered at an ALA–ABA Course of Study on Environmental Law in Washington, D.C., cosponsored by the Smithsonian Institution, and it contains a wealth of information for all of us who are committed to protecting our environment. I was especially pleased to note Mr. Moorman's reference to Michigan's new environmental protection act which allows citizens to bring suits for the protection of the environment.

Mr. Speaker, at this point I would like to insert this article, entitled "A Brief Look at Environmental Causes of Action," into the RECORD for the perusal of my colleagues:

A BRIEF LOOK AT ENVIRONMENTAL CAUSES OF ACTION

(By James W. Moorman)

This article will provide a brief survey of the theories of actions under which lawsuits may be brought to protect the environment. These suits fall into three general categories. The first two will be mentioned in passing, with greater attention being devoted to the theories and pleadings concerning the third.

GOVERNMENT AS ENVIRONMENTAL PROTECTOR

The first category consists of lawsuits in which the Government, either as plaintiff or as defendant, is on the side of environmental protection. There are many such cases, and they were, up until 1970, probably the most important environmental lawsuits.

To some extent, actions in which the United States seeks to protect the environment involve claims or causes of action that are not available to the private party.

Government as plaintiff

Examples of this category where the Government is plaintiff are suits under:

The Refuse Act [Rivers & Harbors Act of 1899, § 13, 33 U.S.C. § 407. See, e.g., *United States v. Standard Oil Co.*, 384 U.S. 224 (1966); *United States v. Republic Steel Corp.*, 362 U.S. 482 (1960)];

The Federal Water Pollution Control Act [33 U.S.C. § § 1151–75; *United States v. City of St. Joseph*, 1 Environmental Law Reporter [cited, E.L.R.] 10124 (W.D. Mo. 1960)]; or

The Clean Air Act [42 U.S.C. § 1857–1858a; *United States v. Bishop Processing Co.*, 287 F. Supp. 624 (D. Md. 1968), *aff'd*, 423 F.2d 469 (4th Cir. 1970), *cert. denied*, 398 U.S. 904 (1970)].

Government as defendant

When the Government is protecting the environment as the defendant, it is usually because some private party is attempting to overturn an administrative decision. A recent prominent example is the case of *Zabel v. Tabb* [430 F.2d 199 (5th Cir. 1970)], in which the Corps of Army Engineers denied a permit to dredge and fill navigable waters.

Another case is the *Nor-Am* decision, in which the Court of Appeals for the Seventh Circuit *en banc* upheld the decision of the Department of Agriculture to suspend registrations of poisonous mercury fungicides. *Nor-Am Agricultural Prod., Inc. v. Hardin*, 435 F.2d 1151 (7th Cir. 1970).

An unusual case is one such as *Udall v. Federal Power Commission* [387 U.S. 428 (1967)], which involved a suit by a government officer against a government agency, in which the Court itself pointed out the environmental protection factors with little assistance from either party.

SUITS BETWEEN PRIVATE PARTIES

A second category of suits consists of those brought by private parties against private parties. This is an intriguing group, because it includes two distinct subcategories, one crumpled and perhaps ready for the junkyard, the other so new and shiny that it is virtually unassessable.

The old subcategory consists of the common law causes of action in nuisance, trespass, and negligence. These causes of action have some life in them yet, but they have not saved our environment. The author has found them uninteresting and hard to use effectively in practice.

Statutory causes of action

The second subcategory involves statutory causes of action, which are for the most part very new, but in one case involves a revival. It is far too early to tell whether any of them will be significant.

Of greatest interest is Michigan's new Environmental Protection Act, which allows citizens to bring suits "for the protection of the air, water and other natural resources and the public trust therein from pollution, impairment or destruction." MICH. COMP. LAWS ANN. §§ 691.1201–07 (1970). (Similar statutes have recently been enacted in Massachusetts and Minnesota.)

Another cause of action is provided in section 12 of the Clean Air Amendments of 1970, which amends section 304 of the Air Quality Act to allow citizens to enforce emission standards and orders related thereto and other duties under the Act. Pub. L. No. 91–604, 84 Stat. 1676, 1706.

In addition, some lawyers have seen a cause of action in section 101(c) of the National Environmental Policy Act, which states:

"The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment." 42 U.S.C. §4321(c).

Finally, there is an old idea that has recently been revived: The *qui tam* action under the Refuse Act of 1899 [33 U.S.C. §411], whereby the citizens sues to collect one-half the penalty provided by that statute. See HOUSE COMM. ON GOV'T OPERATIONS. QUI TAM ACTIONS AND THE 1899 REFUSE ACT: CITIZEN LAWSUITS AGAINST POLLUTERS OF THE NATION'S WATERWAYS, 91st Cong., 2d Sess. (1970).

So far *qui tam* actions have not been notably successful. Seen e.g. *Durning v. ITT Ray-onier, Inc.*, 1 E.L.R. 20040 (W.D. Wash. 1970); *Bass Anglers Sportsman Soc'y v. United States Steel corp.*, 324 F. Supp. 412 (S.D. Ala. 1971).

All these statutory causes of action, new or revived, are still unproven. Complaints have been filed, but it is not yet the time to assess the results.

PRIVATE SUITS AGAINST THE GOVERNMENT

The third category of suits are those by private citizens against federal officers or agencies to protect some environmental value. The last two years have produced a sensational crop of these cases.

To name some of the prominent cases:

The Sierra Club/Disney fight over Mineral King. *Sierra Club v. Hickel*, 433 F.2d 24 (9th Cir. 1970), *cert. granted*, sub nom. *Sierra Club v. Morton*, 91 S. Ct. 870(1971).

The Alaska Pipeline case. *Wilderness Society v. Hickel*, 1 E.L.R. 20042 (D.D.C. 1970).

The Cross-Florida Barge Canal case. *Environmental Defense Fund, Inc. v. Corps of Engineers*, 324 F. Supp. 878 (D.D.C. 1971).

The DDT cases. *Environmental Defense Fund, Inc. v. Hardin*, 428 F. 2d 1093, 1 E.L.R. 20050 (D.C. Cir. 1970); *Environmental Defense Fund, Inc. v. Ruckelshaus*, 439 F. 2d 584 (D.C. Cir. 1971).

The East Meadow Creek case. *Parker v. United States*, 309 F. Supp. 593 (D. Colo. 1970), *aff'd*, 448 F. 2d 793 (10th Cir. 1971).

The Hudson River Expressway case. *Citizens Committee for the Hudson v. Volpe*, 425 F. 2d 97 (2d Cir. 1970); 302 F. Supp. 283 (S.D.N.Y. 1969).

The Overton Park case. *Citizens to Preserve Overton Park v. Volpe*, 91 S. Ct. 814 (1971).

Importance of citizen suits

There are probably several reasons why this type of suit has been so prominent recently. In the first place, the common law causes of action have not been adequate. Second, suits under the new statutory causes of action have not yet ripened. Third, the Government has been slower lately than the citizen groups to attack environmental problems.

Activity by the Government is increasing, however, and the citizen suit against federal officers may lose its dominant position soon. For the time being, at least, citizen suits are the most important. It is, therefore, worthwhile to consider their elements.

Federal contact or action

The first prerequisite of such a lawsuit is that a federal contact or action must be involved. This can mean a federal project, such as the Cross-Florida Barge Canal. It may, on the other hand, simply involve a federal grant of money or a federal permit.

For example, a suit in Virginia involved the placement of a penitentiary in an historic district. *Ely v. Velde*, 1 E.L.R. 20082 (E.D. Va. 1971). There the federal contact was a grant by the Law Enforcement Assistance Agency, a branch of the Justice Department.

Violation of statutory duties

Second, the federal action in question must be in conflict with a statute designed to protect the environmental value in question. There are many such statutes: the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. §§ 135–135k], the Wilderness Act [16 U.S.C. §§ 1131–36], the Air Quality Act (above), and so forth. See Moorman, *Primer for the Practice of Federal Environmental Law*, 1 E.L.R. 50001 (1970).

Far and away the most important act now on the books is the National Environmental Policy Act [42 U.S.C. §§ 4321–47], which covers most federal actions.

To put it another way, a federal officer must take unlawful action or fail to do his lawful duty. In the pleadings, the statutory duties violated should always be alleged with specificity.

Standing to sue

Third, the plaintiff must have standing to sue. For this purpose, the latest rule is set forth in *Association of Data Processing Organizations v. Camp*, [397 U.S. 150 (1970)]. In view of the Ninth Circuit's recent decision in the *Mineral King* case (above), it is wise to plead the basis of standing in the complaint.

Jurisdiction

Fourth, the court must have jurisdiction to review the action of the government official. There are several jurisdictional bases. 28 U.S.C. § 1361 provides jurisdiction for relief in the nature of mandamus against the officer who fails in his duty.

Generally, review under the Administrative Procedure Act [5 U.S.C. §§ 701–06] is available, either in the District Court, or in a court of appeals under a special review statute. There is a dispute over whether or not the APA is a jurisdictional statute, but it appears that the weight of authority holds that it is. One must also consider whether the decision involved is a reviewable decision. In this regard, every lawyer here should be aware of Justice Harlan's opinion in the case of *Abbott Laboratories v. Gardner* [387 U.S. 136 (1967)] and its progeny, including *Citizens to Preserve Overton Park v. Volpe* (above).

Section 12 of the Clean Air Amendments of 1970 provides its own jurisdictional base for suits under section 304 of the Clean Air Act [42 U.S.C. § 1857h–2]. Also, in all these cases, one must consider the problem of the sovereign immunity of the United States to injunctive relief, which is still alive in certain circumstances.

Exhaustion of administrative remedy

Fifth, you must be sure you have exhausted your administrative remedy. This can present quite a serious problem and may require a bit of foresight and planning. You may have to begin with a petition to the administrator, or attempt to intervene in an administrative matter. The recent DDT cases are instructive in this regard. See *Environmental Defense Fund, Inc. v. Hardin*, above. An example of the problems that can occur are evident in the case of *Audubon Society v. Johnson* [1 E.L.R. 1709 (S.D. Tex. 1970)] and *Sierra Club v. Hardin* [Civil No. A–16–70 (D.C. Alaska, Mar. 25, 1971)].

Equitable relief

Sixth, the problem must be suitable for equitable relief. You will not be seeking relief. You will not be seeking damages, but injunctive or mandatory relief. Thus, you must be able to stop action or reverse a decision.

Once the action is taken you are usually without remedy, although there are exceptions. Generally you cannot get an order taking the bridge down, so to speak. Thus the art of the preliminary injunction is one that must be studied with some care.

Merits

Finally, you must have a pretty good case on the merits. There is a general presumption that administrators are doing the right thing. The judge will usually want a clear indication that you are right before he will rule for you.

A LOST BATTALION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DERWINSKI. Mr. Speaker, this week, as we commemorate National Week of Concern for Prisoners of War and Missing in Action in Southeast Asia, I am pleased that an outstanding publication serving the constituents in my district has produced a meaningful and timely editorial which puts the proper emphasis on this subject.

The editorial was carried in the Homewood-Flossmoor Star of Thursday, March 23.

The editorial follows:

A "LOST BATTALION"

The Viet Nam conflict, as everyone knows, is gradually "winding down," and it is expected that before long all combat operations in that part of the world involving United States troops will cease altogether. But even after this happens, the hardships now being endured by a large group of Americans may not end. They are the estimated 1,500 U.S. servicemen imprisoned or missing in action in Southeast Asia, some for as long as eight years.

By now most people know something of the reports of inhumane treatment that has been accorded U.S. POWs, but few can fully appreciate the depth of anguish and despair that these men experience daily. The North Viet Nam government and its allies in South Viet Nam and Laos have consistently refused to release sick and wounded prisoners, or even to identify all the men they hold.

Captives of the Viet Cong and the Pathet Lao are not allowed to write to their families, and no enemy POW camp has yet been opened to impartial inspection.

In order to focus attention on the plight of these POWs, the Congress and President Richard Nixon have proclaimed March 26–April 1 as National Week of Concern for Prisoners of War and Missing in Action in Southeast Asia.

As part of the observance, the National League of Families, which is composed of relatives of POWs and includes south suburban residents, is urging all Americans to join in efforts to induce the Hanoi government:

To treat prisoners-of-war humanely.

To release an official list of POWs.

To provide information about U.S. servicemen known to be dead.

To release the seriously sick and wounded.

To allow a free flow of mail to and from POWs.

There is evidence that Hanoi and its allies will respond to public opinion—but they cannot hear the silent majority. All of America should speak out. This can be accomplished by writing to the appropriate foreign governments, particularly the president of the Democratic Republic of Viet Nam, Hanoi, North Viet Nam, letting them know that on this crucial issue the American people are united. Air mail postage to Hanoi is 25 cents per one-half ounce.

Whatever the differences among Americans, there is no room for dissent on the subject of fair treatment of our prisoners.

AGAINST ARBITRARY FEDERAL DECISIONS

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HOGAN. Mr. Speaker, there is only one word to describe some Federal Government bureaucrats—unbelievable.

Somehow they get themselves all burrowed in on a top floor with a nice view and pretty soon they begin to forget that their decisions affect real people and not just statistics.

A prime example of this insensitivity and disdain for local prerogatives is what happened recently to the city of Greenbelt which is in my district.

The owner of Marshall Hall Amusement Park appeared before a Senate subcommittee and calmly announced that he

had made a deal with the National Park Service whereby he would exchange Marshall Hall's land for some 400 acres in Greenbelt adjacent to the city of Greenbelt.

After reading the letter of agreement with the National Park Service, the entrepreneur went on to promise that he would not use the land for an amusement park, as originally intended, but rather to develop a golf course, skating rink, and the like.

Luckily, because of my prior and continuing interest in the Marshall Hall property and its proposed acquisition for Piscataway National Park, one of my staff members was attending the subcommittee hearing.

We immediately called the mayor of Greenbelt and learned that the city had never even been contacted about the deal.

There had been no notification, no public hearings, no opportunities for Greenbelt or surrounding communities to give their views on the proposed swap—nothing. Just a closed door meeting between Park Service officials and the owner of Marshall Hall.

We and the city of Greenbelt's officials swung into action, strongly protesting the fact that no local officials had been consulted and demanding an opportunity to be heard.

The next day a representative of the Department of the Interior appeared before the subcommittee and said no such land swap would be allowed. And today it appears to be a dead issue.

But the whole experience demonstrates, I think, how vulnerable local communities can be to the arbitrary decisions of some Federal bureaucrats who have forgotten what Federal service is all about.

In this same context, I met recently with Winfield Kelly, chairman of the Prince Georges County Council, and Councilman Francis White to discuss the possibility of legislation to give local government a greater voice in Federal construction projects.

I am investigating the possibility of legislation which would require a Federal agency that wishes to construct a Federal building to submit a statement to Congress that:

One. The proposed construction conforms to locally established land use patterns, or

Two. A satisfactory resolution of possible conflicts in the proposed use has been ironed out following public hearings, or

Three. No satisfactory resolution of the conflict could be reached despite public hearings.

CONGRESSMAN DANIELS PAYS TRIBUTE ON BYELORUSSIAN ANNIVERSARY

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DANIELS of New Jersey. Mr. Speaker, March 25 marked the 54th year since the people of Byelorussia proclaimed their status as an independent democratic state. The first all-Byelorussian Congress proclaimed the independence of the Byelorussian Democratic Republic on March 25, 1918. Ten million citizens enthusiastically embraced this first assertion of independence after years of tyranny and oppression by an assortment of colonial powers.

However, this celebration of spirit was short lived. On January 1, 1919, the Soviet leaders annexed the territory of the Byelorussian state and initiated a dictatorship of its people. Hundreds of thousands of Byelorussians died as a result of this outrageous act of aggression by the Communist power.

Although Lenin proposed for all non-Russian nations previously conquered by the Russian empire the right for self-determination including separation from Russia, the Soviet Government has continually disregarded even the existence of these people. Like millions of other oppressed victims of Communist imperialism, the people of Byelorussia have been deprived of the right of self-determination and remain the unwilling captives of tyranny behind the Iron Curtain.

The issue continues to be one of freedom. Time and time again, Byelorussians have openly declared their desire to be free to live as they choose.

It is clear that continual efforts by Communist puppet leaders have failed to eradicate the national spirit of the Byelorussians who have not forsaken their desire for the restoration of democratic government as embodied by the Republic which the Soviets overthrew. This spirit of independence is maintained by these brave people despite the fact they are not allowed to speak their own language, practice their religion, or to have political representation. Byelorussia's acceptance as a charter member of the United Nations demonstrates the fact that its people are recognized as a separate and distinct nationality by the rest of the world.

It is only fitting that we join with free people everywhere who support the hope that the day will come when Byelorussians will be able to live free and independent lives.

IS A VIABLE NATIONAL TRANSPORTATION POLICY EMERGING?

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ROSTENKOWSKI. Mr. Speaker, the problems of financing urban transportation have received a considerable amount of attention in the past few months. Hearings have been held in both the House of Representatives and in the Senate on the issue of subsidies for urban mass transit; and most recently the question was again raised by the Department of Transportation's suggestion of a single transportation trust fund.

Because of the current interest in this topic in both Houses of Congress, I would like to insert in the RECORD, the remarks of Milton Pikarsky, commissioner of public works, of the city of Chicago which he recently made at the annual conference of the American Society for Public Administration in New York City.

Commissioner Pikarsky, a nationally known expert in the field of transportation planning and construction, stressed the need for a comprehensive approach to the problem if we are ever to realize the goal of a truly national transportation policy.

The remarks follow:

IS A VIABLE NATIONAL POLICY ON URBAN TRANSPORTATION EMERGING?

Good afternoon Mr. Chairman, fellow panelists, ladies and gentlemen:

The issue under discussion is whether there is a concerted effort toward developing a national policy that would not only cure the ills of urban transportation, but will also foster a better urban life.

I am sure all of us will readily agree that there is a need for a national policy on urban transportation as much as a policy on housing, employment, education, or welfare. Most of us will also agree that such a policy does not exist today, and what does exist is not a "viable" one, as evidenced in the multitude of urban transportation problems observed by experts and average citizens alike. But our task today is not to discuss the "status quo." What we hope to do is to look at the future, in relation to the present, to see whether there has been enough groundwork to indicate that such a policy will soon appear in the horizon.

Let us set the proper framework for the task: What is a policy, and what makes it viable?

First of all, the general goals and derived specific objectives must be identified;

Secondly, the present and future needs must be determined in both qualitative and quantitative terms, and an order of priorities must be set in relation to the objectives; and

Thirdly, strategies must be developed to fulfill the objectives.

This completes the cycle for policy development. But, the identification of strategic objectives as policies will not complete the ultimate task. It must be followed by a set of concrete programs which should include the proper allocation of physical and financial resources to ensure their implementation. Unless this final step is carried out, a policy statement will be no more than a series of platitudes which will exist on paper while the transportation systems of this nation will continue deteriorating.

Before we despair, let us test the urban transportation picture against our general framework. First of all, it must be recognized that we must have general urban goals and general transportation goals in order to define the urban transportation goals. We will contend that recent emphasis on these areas has produced a set of goals and objectives that are generally agreed upon and stated as follows:

As a service, transportation must provide maximum mobility to all; and

As a tool, it must enhance the urban environment by creating desirable land-use and social patterns.

Until recently, the identification of needs has followed a short-term and fragmented approach. The 1972 national transportation needs study is the first large-scale effort to document nationwide needs for all modes and for different time horizons. Local agencies have participated in this effort with hopes that it will not remain as a statement of needs but that it will form the basis for choosing strategic objectives and developing programs that would be responsive to the needs. With such hopes, we will assume that the second step of our policy development cycle is being carried out in a rational manner.

Even if we accept that objectives and needs have been identified, there has been little to indicate that a national policy is in the making. It is granted that certain concepts have received sufficient breadth of support to pave the way for meaningful development.

To name a few: The concept of balanced transportation, provision of mobility to the disadvantaged, the development of systems that are compatible with the environment. These are ideas that have caught the public's attention and have been endorsed by urban experts and government leaders at all levels.

I will single out the concept of balanced transportation for discussion. Everybody has been talking about it, at the federal level all of the modal administrators have endorsed it, even the state highway departments have subscribed to the principle that it is the only way to reduce highway costs. Yet, in all honesty, one will have to say that very little is being done about it. Programs are still administered in a piecemeal fashion, funds are still appropriated in gross inequities among the modes, and public transportation is still faced with deterioration. In fact, even the modest sums that have been appropriated under the Urban Mass Transportation Act of 1970 are being obligated at a pace that is far from being desirable. The current program is further crippled by the exclusion of operating subsidies.

There is no need to elaborate on the inequities in resource allocation. The highway trust fund has produced the interstate system, the largest single public work project in history since the great wall of China. The use of highway funds for complementary work in public transportation is just beginning to generate support from highway interests, although there is still a great deal of resistance from many, including those who subscribe to the theory of balanced transportation. A very encouraging sign is the recently announced program which has been submitted to Congress by Secretary Volpe. Under the bold proposal, monies from the highway trust fund will be made available to urban areas for use in *capital* improvement in any form of transportation. This will be a major breakthrough since it will enable local units to develop the most needed segments of their transportation systems. In his usual fair manner he has acknowledged that his proposal is by no means final and complete. There are serious questions as to funding adequacy and as to recipient agencies. Volpe's step is already finding resistance from certain highway interests. But even if an enhanced program is adopted, it will still fall short of existing needs since the Secretary's proposal fails to include essential assistance for operating expenses without which the much talked about "balanced transportation policy" will not be achieved.

Of course, there are other factors, outside the field of transportation, that make it difficult to achieve a balanced transportation system. The most critical factor is the pattern of land development. We all know that low densities resulting from urban sprawl are conducive to the automobile. The urban planner blames the highway engineer, while the highway engineer says that his roadway contributions merely serve the planned land development. And the story of "which came first, the chicken or the egg?" continues. We must realize, once and for all, that this is a process of cumulative interaction, and that if we are to have a sound urban transportation policy, it must be accompanied by a compatible urban land policy. At the present, neither one exists, and—ironically—this absence of public vis-a-vis public transportation has been a major contributor to the unbalanced transportation system existent in our Nation.

I would like to mention another transportation policy which has received theoretical support but not the proper action. The current UMTA program wants to help the disadvantaged in providing them mobility and job accessibility. Yet, what do we see in actual practice? The programs do not support operating expenses, and since public transportation operators are caught in the spiral of costs, the public transportation carriers keep increasing their fares. As a result, the poor and the disadvantaged are faced with the fact of having to support the fare box at ever increasing levels. They do this, out of their social security and welfare payments. Is this a viable policy?

It can be argued that it is our social programs that are failing, and not our urban transportation policies. But, it does not help to blame another element of government services. What is needed is a comprehensive set of policies that properly relate the transportation programs to social goals, as with the case of urban land development.

Another missing element of urban transportation policy is the absence of well-defined governmental responsibilities and institutional framework. The Federal role vis-a-vis the State or city roles is not very clear. While there is a stated policy for increased local decision-making, in practice this is contradicted by increased "strings" that are attached to the programs. Obviously, this is not in line with a sound policy in urban transportation.

In conclusion, we are beginning to recognize the deficiency of a national transportation policy. The urban transportation Assistance Acts of 1964 and 1970 were major achievements.

However, one would have to be very optimistic to say that a national transportation policy is rapidly emerging. What is needed is comprehensiveness in envisioning goals, setting priorities, and developing programs for implementation. This comprehensiveness is required at three levels: Firstly, it must be related to other national policies and other urban policies; secondly, it must be a total package embracing all modes; and thirdly, it must assure necessary and equitable financing of each mode through all phases of the system which includes planning, development, and, of critical importance, operation.

UNCLE SAM FEEDS OVER 30,000,000

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. COLLIER. Mr. Speaker, during the remarks I made on the floor earlier today, I referred to the fact that more than 30,000,000 Americans are receiving food from the Federal Government. This food, which is provided under programs that are administered by the Department of Agriculture will cost the taxpayers in excess of $3.020 billion during fiscal 1973, an increase from $2.806 billion for fiscal 1972.

A tabulation which I am inserting in the RECORD describes these programs in detail and should be of interest to those who would like to rebut the misinformation that is being disseminated on the subject of hunger. The tabulation follows:

FOOD AND NUTRITION SERVICE

[In thousands of dollars]

Child nutrition programs	1971 actual	1972 estimate	1973 estimate
Cash payments to States:			
School lunch program	225,761	225,018	225,000
Special assistance	203,686	237,047	237,047
School breakfast program	11,448	25,000	18,500
Nonfood assistance program	15,716	16,110	15,000
State administrative expense	1,590	1,500	1,500
Nonschool food program	20,338	37,775	20,775
Commodity procurement	64,010	64,325	64,325
Nutritional training and surveys	750	1,150	1,671
Operating expenses	5,060	6,318	6,394
Total program costs, funded	548,359	614,243	590,212
Change in selected resources	−222		
Total obligations	548,137	614,243	590,212

Expansion of these programs in fiscal 1973 is being funded by an increase in the special feeding program section 32 funds, which more than offsets decreases in the direct appropriation. The child nutrition programs have been greatly strengthened and expanded by Public Law 91–248, which became law on May 14, 1970. This law clearly established that priority shall be given to reaching needy children, and provided for the establishment of a national minimum eligibility standard for free and reduced-price meals, and a maximum price which may be charged for these meals. The law emphasizes that access to the school lunch program shall be available to children in all schools. Nutritional training as related to workers, cooperators, and participants is authorized by the act. Public Law 92–153, enacted November 5, 1971, increased Federal support for the national school lunch program by mandating a minimum 40-cent rate in special assistance—section 11—for free lunches, and a lesser minimum rate for reduced-price lunches. In addition, the law authorizes an average rate of reimbursement of 6 cents per meal within each State.

Cash payments to States. The programs are operated under an agreement entered into by the State educational agency and the Department. Funds are advanced under letters of credit to State agencies for use in reimbursing participating schools and child-care institutions. Sponsors make application to the State agency and, if accepted, are reimbursed in accordance with the terms of their agreement.

School lunch program. Assistance in the form of both funds and food is provided to the States, as defined in the National School Lunch Act, for serving lunches to schoolchildren. Each State's portion of the section 4 general assistance funds available is determined by a

statutory formula. The formula takes into account the participation rate in the State, and the relationship between the per capita income of the State and the average U.S. per capita income. States must match the Federal cash grant from sources within the State at a 3-to-1 ratio. For States with below-average per capita income, this ratio is decreased. In 1971, sources within the States contributed to this program $1.815 billion, most of which came from children's payments. In 1973, the States are required to provide at least 4 percent of the matching requirement from State revenues.

The program during the peak month in fiscal 1971 provided lunches daily to about 52 percent of the approximately 47,100,000 children in daily attendance. The number of lunches served increased approximately 8 percent over fiscal 1970. Participation in the program in May 1971 reached a daily average of about 24,700,000 children in 79,800 schools and a large increase is expected in 1972.

Special assistance. Under the legislation, special cash assistance may be provided to any school which has needy children in attendance. The statutory formula for apportionment of funds to States relates to children from families with incomes of less than $4,000 per year. Increased funding provided a Federal average cash reimbursement rate of 31 cents per free or reduced-price meal, in addition to the average of 6 cents per meal from section 4 funds in fiscal 1971. A daily average of approximately 6,200,000 children were served 1,004,800,000 free or reduced-price lunches. At the end of the 1970–71 school year 7,300,000 children were receiving free or reduced-price lunches. Based on the higher mandatory reimbursement rates in Public Law 92–153, the increases for fiscal 1972 should provide lunches for a daily average of 7,900,000 needy children this school year.

School breakfast program. The Child Nutrition Act of 1966 authorized a school breakfast program for 2 years on a pilot basis to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in schools. Public Law 92–32, approved June 30, 1971, extended the breakfast program through 1973.

Funds are apportioned to States by a statutory formula. While the basic payments are limited to food assistance, in circumstances of severe need, financial assistance may be authorized up to 100 percent of the need for additional assistance.

The program is operated in schools drawing attendance from areas in which poor economic conditions exist and where a substantial portion of the children enrolled travel long distances. In fiscal 1971, an average of 756,000 children were served 123,000,000 breakfasts in 6,562 schools. About 76 percent of the breakfasts were served free or at token charges to children. In fiscal 1972 it is estimated that a daily average of 1,275,000 children will participate.

Nonfood assistance program. The Child Nutrition Act of 1966 authorized a permanent program to assist the States through grants-in-aid and other means to supply schools in low-income areas with food service equipment, other than land or buildings. Under the Public Law 91–248 amendments, 50 percent of the funds for equipment assistance will be apportioned among the States on the same basis as the section 4 apportionment, with the remaining funds apportioned on the basis of children enrolled in schools without a food service. Priority is being given to the latter schools under recently issued regulations. These schools must agree to take part in the national school lunch program or the school breakfast program.

Applicant schools are required to justify their need for assistance on a project basis and submit a detailed description of the equipment to be acquired, including their proposals for its use in meeting the nutritional needs of children. In addition, State and local sources must bear 25 percent of the cost of equipment or facilities financed under this authority.

In fiscal 1971, a total of 15,156 schools with a total attendance of over 7,400,000 students received equipment assistance of over $37,000,000. This included special section 32 funds and provided assistance in all 50 States, the District of Columbia, Guam, Puerto Rico, and American Samoa.

State administrative expenses. The Child Nutrition Act of 1966 provides for advances to each State educational agency for administrative expenses. These funds are used for supervising and giving technical assistance to the local school districts and service institutions for additional activities undertaken by them to reach more children under the school lunch, special assistance, school breakfast, nonfood assistance, and nonschool food programs.

Nonschool food program. The National School Lunch Act was amended in 1968 to authorize a pilot program for 3 years to assist States to initiate, maintain, or expand nonprofit food service programs for children in service institutions where children are not maintained in residence. Public Law 92–32, approved June 30, 1971, extended the nonschool food program through 1973. Preschool children receive year-round assistance in child day-care centers. These programs also reach school-age children from areas of economic need and from areas with a high concentration of working mothers during the summer months in settlement houses, neighborhood houses, and recreation centers.

Each State may receive a basic grant of $50,000. The remaining funds are apportioned by a formula determined by the ratio of the number of children, aged 3 to 17 inclusive, from families with income under $3,000 per year in each State, to the total number of such children in all States. Up to 80 percent of the total cost of meals served may be paid in cases of severe need, and not more than 75 percent of the equipment costs may be paid to the institutions. All meals served must meet minimum nutritional standards as a condition for receiving assistance.

In fiscal 1971, 107,500,000 meals were served to a peak of 573,000 children in the 1970 summer program and to 224,000 children on a year-round basis. At an average cost of about 40 cents per child per day, it is estimated that this program will reach about 1,300,000 children in fiscal 1972. With each child receiving an average of approximately two meals per day, it is expected that about 197,500,000 meals will be consumed.

Commodity procurement. Commodity procurement under section 6 of the National School Lunch Act provides additional commodities to schools to supplement foods purchased locally or otherwise made available for the lunch program. As amended by Public Law 91–248, these commodities may also be used to supplement the school breakfast and nonschool food programs. Section 6 procurement helps to insure nutritionally adequate meals and appreciation for quality foods. It also broadens agricultural markets. Commodities are purchased by the Department on the basis of their nutritional value and acceptability to schools and service institutions.

Protein items of chicken and meat accounted for about two-thirds of the purchases in fiscal 1971. The remaining one-third consisted of fruits and vegetables. In fiscal 1972 frozen ground beef, chicken, and fruits and vegetables are being purchased.

Commodities acquired under price support and surplus removal programs are also available to schools and child-care institutions. The volume of surplus commodities distributed depends upon market conditions.

During 1971, over $1,400,000,000 worth of agricultural commodities and other foods were used. About 20 percent of this amount represented commodities contributed under section 6 and the Federal surplus removal and price support programs. Approximately 80 percent was purchased through local suppliers.

Nutritional training and surveys. Up to 1 percent of the total funds available may be used for nutritional training and for studies and surveys of food service requirements, as provided for in Public Law 91–248. In fiscal 1972, the principal area of concentration is on managerial workers at the supervisory, school system, and local levels to assure effective delivery of nutritionally adequate meals to children.

Operating expenses. Administrative and technical assistance is furnished to State agencies, participating schools, and child-care institutions. Policies, procedures, and standards are developed for administering the programs and determining eligibility. The programs are administered directly in private schools where the State educational agency is prohibited by law from disbursing funds, and in child-care institutions where no State agency has assumed the responsibility for administering the program.

Participation in the programs from 1970 through 1973 is as follows:

CASH PAYMENTS TO STATES

	1970 actual	1971 preliminary	1972 estimate	1973 estimate
Total, school lunch:				
Lunches served (million)	3,565.1	3,850.0	4,110.0	4,470.0
Children (average; million)	21.9	23.7	25.2	27.5
Average Federal reimbursement (cents)	8.4	13.9	19.3	19.3
School lunch, sec. 4: Lunches served (million)	3,565.1	3,850.0	4,110.0	4,470.0
Average Federal reimbursement (cents)	4.7	5.9	6.1	6.1
Free and reduced-price lunches:				
Lunches served (million)	738.5	1,004.8	1,275.0	1,375.0
Children (average; million)	4.6	6.2	7.9	8.4
Average Federal reimbursement (cents)	17.9	30.8	42.8	42.8
School breakfast:				
Breakfasts served (million)	71.8	123.0	207.0	254.0
Children (average; thousand)	442.0	756.0	1,275.0	1,562.0
Average Federal reimbursement (cents)	15.1	16.4	15.0	13.0
Nonfood assistance:				
Schools equipped	7,974	15,156	4,000	4,000
Average contribution per school	$2,091	$2,453	$4,025	$4,025
Nonschool food program—Meals served (million):				
Year-round	38.4	79.8	115.0	150.0
Summer	11.9	27.7	82.5	82.5
Total	50.3	107.5	197.5	232.5

SPECIAL MILK PROGRAM

[In thousands of dollars]

	1971 actual	1972 estimate	1973 estimate
Cash payments to States	92,640	103,284	93,284
Operating expenses	657	716	716
Total program costs, funded	93,297	104,000	94,000
Change in selected resources	−3		
Total obligations	93,294	104,000	94,000

Cash payments to States. This program is designed to increase the consumption of fluid milk by children in nonprofit schools of high school grade and under, child-care centers, summer camps, and similar nonprofit institutions.

Funds are provided under letters of credit to State agencies to reimburse eligible participants for a part of the cost of the fluid milk consumed. Beginning in fiscal 1968, available funds were apportioned among the States on the basis of payments made to schools and child-care institutions for program reimbursement during the preceding fiscal year. In especially needy schools, reimbursement payments may be made for the full cost of this milk for children who are unable to pay.

Program activities for 1970 and 1971 are as follows:

	1970 actual	1971 actual
Outlet participation	97,234	97,584
Half-pints of milk reimbursed (millions)	2,902	2,570
Average reimbursement rate per half-pint (cents)	3.49	3.55

Operating expenses. Administrative and technical assistance is furnished to State agencies, participating schools, and child-care institutions. Policies, procedures, and standards are developed for administering the program and determining eligibility. The program is administered directly in 6,661 outlets where no State agency has assumed the responsibility for its administration, or where such agencies are prohibited by law from disbursing funds to such participants.

FOOD STAMP PROGRAM

[In thousands of dollars]

	1971 actual	1972 estimate	1973 estimate
Program costs	1,556,387	2,066,314	2,314,505
Operating expenses	17,851	20,994	21,418
Total program costs, funded	1,574,238	2,087,308	2,335,923
Change in selected resources	2,700		
Total obligations	1,576,938	2,087,308	2,335,923

The food stamp program provides increased nutrition to households with limited resources. Programs are inaugurated in counties and other project areas at the request of State welfare agencies which are responsible for certification and coupon issuance. Food coupons are then issued to needy households that qualify.

Cash paid by participants for the coupons is periodically forwarded to a designated Federal depository. Authorized food stores accept the stamps from recipients and, in turn, forward them to a commercial bank for cash or credit for their face value. The coupons then flow through regular banking channels to the Federal Reserve banks where they are redeemed.

The Department determines the allotment of coupons for a household unit based on income, food needs, and other factors. Participants are charged for coupons, based on income and family size. The supplement or bonus coupons permit the family to afford a nutritionally adequate diet by expanding its food purchasing power.

On January 11, 1971, Public Law 91–671 was enacted, resulting in new regulations which: Establish uniform national income and resource eligibility standards, increase the allotment of food stamps for recipients, provide free food stamps for the very poor, provide for the variable purchase of the coupon allotment, provide for meals on wheels for the elderly who are unable to prepare their own meals, redefine income and resources, and set a new definition of households. These new regulations will become effective during 1972.

On October 29, 1971, the designation of 192 new areas in 26 States was announced. Two of these areas had no family food programs previously.

Outreach-education efforts were accelerated throughout the country. Presentations were made to volunteer family assistance organizations, local poverty groups, and business and professional meetings. Nutrition education efforts were coordinated with the Extension Service. During fiscal 1971, 276 new projects entered the program in 46 States; the national average participation increased by approximately 4,000,000 people; and an additional 34,500 retailers and wholesalers entered the program.

Efforts were directed toward improving the overall administration of the program. An experimental withholding project was begun in five States. This operation permits the recipient to voluntarily have the purchase price of his stamps withheld from his public assistance grant. The results of this pilot operation are being studied prior to the implementation of a nationwide public assistance withholding program. Simultaneously, increased emphasis was placed on the safety of cash and coupons at local issuance offices. Suggestions were made to State and local agencies as to methods they might adopt to improve their security practices. In an attempt to monitor the activities of authorized outlets, the control of retailer-wholesaler redemption certificates is now being automated. At the close of fiscal 1971, areas containing some 91,000 retailers have been included in the automated system. The overall impact of these and other improvements is to provide better benefits to program participants at a lower Federal cost.

The following table reflects increased coverage, participation, and costs for the past 3 fiscal years:

[Dollars in millions]

	1969 actual	1970 actual	1971 actual
Number of areas by yearend	1,489	1,747	2,026
Number of participants at yearend	3,222,212	6,469,946	[1] 10,539,159
Total value coupons issued	$603.2	$1,090.6	$2,711.6
Amount paid by participants	$374.5	$539.6	$1,188.6
Value of bonus coupons issued	$228.7	$551.0	$1,523.1
Federal costs:			
Program	$240.0	$564.7	$1,559.1
Administrative	$10.3	$13.3	$17.8

[1] Preliminary.

XUM

A POLICEMAN ADVOCATES FREE HEROIN CLINICS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. EDWARDS of California. Mr. Speaker, in a remarkable article which appeared in the New York Times on Saturday, March 25, 1972, Police Lt. Albert J. Carhart, of the Linden, N.J., police force, advanced the establishment of free heroin clinics as a response to the problem of narcotic-motivated crime. This proposal, from a veteran police officer, is not couched in the language of the physician, sociologist, or psychologist, but it mixes the sensitivity for the human problem of addiction found in these disciplines with the hardheaded reality of the police professional who daily observes the damage which drug-related crime is doing to our social fabric.

Mr. Carhart's proposal deserves attention, whether or not we agree that heroin should be given to addicts in Government-supervised clinics. The problem of addiction in our society is so grave that we cannot afford to shut our minds to this proposal on so-called moral grounds. It is certainly not moral to choose inaction and thereby perpetuate the status quo of ever-increasing addiction and drug-related street crime. Likewise, it is folly to believe that increased law enforcement efforts and international agreements to curtail opium supply will in themselves end narcotic addiction and drug-related street crime. We need to think of approaches that deal with the needs of the narcotic addict as a person and to develop programs that will assist the addict to move from his addiction toward a socially productive life.

Mr. Carhart's proposal embodies this approach. It should be read carefully by every Member of this body.

The article follows:

[From the New York Times, Mar. 25, 1972]

MAYBE THE ANSWER TO THE CRIME RATE IS THIS: FREE HEROIN CLINICS

(By Albert J. Carhart)

LINDEN, N.J.—Take the profit out of heroin. Give injections of heroin by a qualified physician in a government clinic, free of charge to any addict that walks in and asks for one. Have a federally funded, city-run neighborhood clinic staffed by a qualified physician, a registered nurse and a police officer. The heroin confiscated from the pushers and suppliers would be tested in a laboratory and marked, bagged in envelopes, and issued to clinics daily. A doctor's signature would be required.

Our problem is not junkies using heroin but the demand and supply of heroin. If there is no demand then it naturally follows that there will be no supply. The arrest of suppliers and pushers is not the answer. When this happens these people usually do not get a jail sentence or the trial is so far in the future that it borders on the ridiculous. If they do get a jail term, one of their underlings immediately takes over and the business usually increases. Most pushers are addicts themselves, but if a supplier sees that the thousands of per cent of profit is no longer there he will cease.

If you want to cut your crime rate by better than 50 per cent, decrease your jail overcrowding, stop 95 per cent of your bailed addicts from jumping bail and tieing up the court system, put a stop to plea bargaining or even a suspended sentence, create such a narcotic program. Put thousands of policemen on the street fighting crime instead of chasing junkies.

No overdoses, no deaths, no hepatitis, reduction in crime, suppliers out of business, millions of tax dollars saved, people even taking an evening walk.

Methadone is not the answer. It is a habit-forming morphine, only used as a brake until the addict can get his $100 a day habit back down to $15. It also has caused deaths of addicts and children. It is being black-marketed in New Jersey to a large extent by doctors who are either not aware of its potential (they give the prescriptions) or are money hungry.

If an addict needs a fix he can go into any neighborhood government clinic and get one, two, three shots a day if he needs them and the doctor confirms this by a test. If the addict after a short time wishes to participate in a rehabilitation program of employment or vocation instructions he need merely request the assistance. An addict has to get away from addicts if he wants to beat the needle.

In a work program the addict gets to meet his peers of yesteryear, pre-heroin. He talks about work problems, ball games, television. He knows he can get his shot whenever he needs it at the clinic. Much to his surprise, after a few weeks he even forgets that so many hours have passed and he did not feel the euphoric need for a pick-up. He solved his problems by engaging in problems and decisions that are made daily by all of us. The criminal acts of addicts are not caused by the addiction. The need for money to get the drug causes the addict to commit criminal acts. If he was given as many free fixes a day as he needs to cope with his problems, he would not need to commit criminal acts.

Heroin addiction is a peer-group, gregarious action. The first step in treatment is getting the addict away from his influences and solving some of his problems, such as the need to struggle for the procurement of the fix and what to do with his free time. Show him his capabilities. Teach him a vocation. Keep him under close supervision and away from his "friends." His "friends" will get him back on the needle quicker than it takes you to read this article.

Many addicts are not heroin addicts in the true sense—they are needle addicts satisfied with such a low percentage amount of heroin that it could not possibly give them a euphoric feeling. These addicts are more addicted to the challenge of the struggle or the hustling of the next fix than to the fix itself. In plain English, their joy is in the hunt, not in the result.

Who would be for clinics?

The addict, of course. He would be free of worry, about his next fix. He need not spend every waking minute conniving or taking chances that could land him in jail. He could lead an almost normal life and eventually he would become a normal average citizen.

All members of law enforcement organizations and the courts. They would no longer have to spend days and weeks at the impossible job of making useless arrests of persons we all feel are not criminals.

The doctors and hospitals. They would not fear robbery and theft of narcotics by addicts. The time spent on addicts because of overdoses to themselves and others could be spent on physically sick patients.

What should be started in the United States or in one of the more progressive of the fifty states is a Civilian Conservation Corps not unlike the C.C.C. in the nineteen-thirties. These hundreds of thousands of our American youths need our help now. Set up camps away from the cities. There is plenty of conservation work to be done in this country: erosion repair, tree planting, fire trails, etc. A year's service could lead to a trade for an addict. A year's wages when he leaves can help him to become a productive member of society. Better a supervised work camp, doing constructive work for the betterment of the country, than a guarded prison camp at the expense of taxpayers.

CONSULTATION ON SOVIET JEWRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DRINAN. Mr. Speaker, I attach herewith an extraordinary and most important statement issued by the National Interreligious Consultation on Soviet Jewry that met in Chicago on March 19–20, 1972.

This statement of conscience was issued from a very broadbased group made up of representatives of every religious denomination in the United States.

The statement follows:

STATEMENT OF CONSCIENCE OF THE NATIONAL INTERRELIGIOUS CONSULTATION ON SOVIET JEWRY, MARCH 20, 1972, CHICAGO, ILL.

"Thou shalt not stand idly by while the blood of thy brother cries out to thee from the earth."

"Let justice roll down as the waters, and righteousness as a mighty stream."

The National Interreligious Consultation on Soviet Jewry, meeting in unprecedented deliberation on March 19 and 20 in Chicago, Illinois, calls upon the conscience of mankind to make known its profound concern about the continued denial of the free exercise of religion, the violation of the right to emigrate, and other human rights of the 3 million Jewish people of the Soviet Union and of other deprived groups and nationalities.

For believing Christians and Jews, the denial of the spiritual nature of man and his right to nurture and to perpetuate the spiritual life is to deny the creative power of God in whose image He made man. The discrimination against the Jews by the Soviet Union gives us all reason to believe that, under the pretext of being anti-Zionist, it is the very contribution of the Jews to humanity which is under attack. It is precisely the Jewish testimony in the world that man's identity and freedom are not granted primarily by any state or constitution but are found in the nature of man himself. That is why each human being is threatened in his fundamental right to freedom of conscience when the Jews are persecuted.

Realizing our own failures in racism and in other areas of human rights, we nevertheless cannot remain silent as long as the Soviet Union continues to hamper or strangle the spiritual and cultural life of the Jewish people through extreme and special acts of discrimination. We appeal to the Soviet authorities to grant religious rights to Russian Jewry—the establishment of religious, educational, and cultural institutions for the perpetuation of Judaism and Jewish culture; the lifting of the prohibitions against publishing Hebrew Bibles and prayerbooks and the production of religious articles; the permission to train rabbis and Jewish teachers both in Russia and in seminaries abroad; the creation of a representative body of Soviet Jewry with freedom to communicate and associate with their co-religionists abroad.

We appeal to the Soviet authorities—let them live as Jews or let them leave to be Jews. This consultation is gratified to know that the Soviet government has heard the pleas of millions in many lands and has permitted several thousands of Jews to leave the country for Israel and elsewhere. We urge the Soviet authorities to relent, and to continue to allow the thousands of others who have sought exit visas to emigrate to the countries of their choice—which is their right under the United Nations Declaration.

This consultation is deeply disturbed by the reports of growing acts of harassment, intimidation, arbitrary arrests, and confinement of Jews and dissenters to mental institutions. We appeal to the Soviet government to end this policy of wanton oppression and fear.

Ths consultation protests against the continued imprisonment under ruthless conditions of prisoners of conscience—Jewish and non-Jewish—and we urge that they be released and be shown clemency.

This consultation protests against the government sponsored campaign of anti-Semitic and anti-Zionist propaganda which constituents an incitement to hatred and violence in contravention of the United Nations Declaration on Human Rights.

This consultation resolves to commit itself to a program of continuous watchfulness and unrelenting efforts in demanding and in championing freedom for all of Soviet Jewry, of Christians, and of intellectuals—of all who suffer for their courage and their struggle for human dignity.

This National Interreligious Consultation on Soviet Jewry consisting of Protestants, Roman Catholics, Eastern Orthodox, and Jews, authorizes a direct appeal to President Nixon, as the representative of the American people, to convey in clear and forthright terms to the Soviet authorities during their forthcoming conversations in Moscow the expectation of the American people—Christians and Jews, black and white, liberal and conservative—that these discriminations and denials of Soviet Jewry and others be stopped now, and that fundamental human rights be granted—now. We seek the relaxation of international tensions and conflicts between the United States and the Soviet Union, and the surest test of the genuineness of the commitment of Soviet authorities to the cause of universal peace and justice is the granting of justice and freedom to the Jews and other deprived religious groups and nationalities.

I was privileged to speak to the National Interreligious Consultation on Soviet Jewry in Chicago on March 20, 1972. I attach herewith the text of my address on that occasion:

EXCERPTS FROM ADDRESS OF CONGRESSMAN ROBERT F. DRINAN AT NATIONAL INTERRELIGIOUS CONSULTATION ON SOVIET JEWRY HELD AT THE CENTER FOR CONTINUING EDUCATION, UNIVERSITY OF CHICAGO, MONDAY, MARCH 20, 1972, AT NOON LUNCHEON

The year 1972 will bring unique and unprecedented challenges to the citizens of Israel and the Christians of America and every nation of the earth. The thousands of Soviet Jews who will emigrate to Israel will signalize an important turning point in the history of Soviet anti-Zionism. This same migration will challenge everyone who believes in the Judeo-Christian ethic to support Israel with the problems that have already resulted from this new wave of refugees.

THE ORIGINS OF SOVIET ANTI-SEMITISM

The relative absence of anti-Semitism under the regime of Lenin in Russia was ominously reversed shortly after the Hitler-Stalin pact. Soviet propaganda echoed the Nazi point of view.

After the war Stalin opened a frontal assault on every aspect of Jewish culture in the Soviet Union. Stalin supervised the systematic campaign to extinguish Jewish culture by the closing of schools, the suppression of publishing houses, the abolition of theater companies and the banning of newspapers.

What Stalin commenced Khrushchev finished. In short, the Soviet government during the years 1939 to 1967 carried out the destruction of Jewish cultural life.

As a consequence of the Six-Day War in 1967 and pursuant to Soviet commitments to Arab countries anti-Semitism in Russia became anti-Zionism. Under Brezhnev anti-Zionism and an official anti-Israel policy were unleashed. The bitter defeat of the Soviet-supported Arab armies in the Six-Day War prompted the Soviet Union to carry out a relentless campaign of anti-Israel and anti-Zionist propaganda.

The last few weeks and months have seen a remarkable and dramatic change in Russia's policy towards its almost 3 million Jewish citizens. The pressure of worldwide opinion which caused the Kremlin to retreat from its resolution to execute the persons involved in the Leningrad highjacking trial in December 1970 seems to have been so intense and continuous that now the U.S.S.R., for reasons which are not entirely clear, is granting exit visas to Jewish applicants on a relatively liberal basis.

During 1971 Jewish emigration from Russia reached a record level of about 15,000. About two-thirds of the 1971 emigrants came from Soviet Georgia and the Baltic states of Latvia, Lithuania and Estonia.

The jump from about 1,000 immigrants from Russia in 1970 to the figure of 15,000 in 1971 has led to speculation that, if the easing of visa restrictions continues, as many as 200,000 or even 300,000 Soviet Jews may migrate to Israel.

It seems clear that the future of Soviet Jews and the prospect for any large scale emigration depends upon the continuing pressure of world opinion on Moscow as well as the quality of the absorption and adjustment of Russian immigrants in Israel.

THE ROLE OF THE U.S. CONGRESS IN THE EMIGRATION OF SOVIET JEWS TO ISRAEL

The Soviet Jews Relief Act of 1971, co-sponsored by 124 Congressman and 34 Senators, was designed to create up to 30,000 non-quota visas for Soviet Jews to come to the United States. This bill, introduced on March 4, 1971, clearly brought a good deal of pressure upon Attorney General John Mitchell and the Department of State. Finally in early October the Attorney General indicated that the Nixon administration would be willing to extend to the Soviet Jews the privileges extended to more than 30,000 Hungarian refugees after the 1956 revolution and to over 10,000 Czechoslovakian refugees in 1968 as well as to the more than 565,000 Cubans who have migrated to the United States.

Clearly the pressure brought by the introduction of the Soviet Jews Relief Act of 1971 both on American officials and on the Soviet Union combined to bring about the easing of visa regulations in Russia so that in 1972 some 40,000 Jews from Russia will in all probability arrive in Israel.

It must be said that the Nixon administration during 1970 and 1971 appeared to default on the pre-election promises of Mr. Nixon. Prior to his election Nixon told the Conference of Presidents of major American Jewish organizations that it was "important to create world opinion, as well as document all the facts, in order that through diplomatic and other channels the concern of the American people for the cultural and religious freedom of Soviet Jews may be firmly communicated on many levels to the leaders of the Soviet government."

CONGRESSIONAL PROPOSALS TO HELP ISRAEL ABSORB NEW IMMIGRANTS

During the last few weeks the Congress has turned its attention to the furnishing of assistance to Israel to absorb the anticipated 40,000 new immigrants who in all probability will arrive from Russia during 1972. Legislation proposed to give $85 million to Israel for this purpose takes into consideration the staggering fact that 166,176 immigrants have arrived in Israel since the conclusion of the Six-Day War. This figure brings the total number of persons who have immigrated to Israel since 1948 to 1,436,771. Israel's Jewish population has qaudrupled since the state's establishment—from 650,000 to 2,560,000. Half of today's population came in one of the many waves of immigration which have broken upon the shores of Israel in the last 23 years.

The Soviet Jewish Refugee Assistance Act of 1972, co-sponsored by a bipartisan group of 62 Members of the House and some 40 Members of the Senate, would help Israel to cope with its new exodus. The figure of $85 million amounts to about $2,000 per refugee based upon the anticipated influx of slightly over 40,000 refugees this year.

Most Soviet refugees arrive in Israel with no funds. A visa out of the Soviet Union currently costs them about $1,000. The Israeli government this year allocated a record $650 million to provide for immigrants.

The enactment of the Soviet Jewish Refugee Assistance Act of 1972 (H.R. 13002) is absolutely essential if the United States is to help Israel with its most recent problems. The Migration and Refugee Assistance Act of of 1962 can no longer be utilized since the superseding Foreign Assistance Act of 1972 contains a provision requiring specific Congressional authorization for any appropriation for the Secretary of State for any fiscal year commencing on and after July 1, 1972.

The Congress, furthermore, must act since it is becoming clear that the Department of State will not act in any way commensurate with the tremendous need in Israel. In a letter from the Department of State dated February 7, 1972 to a Member of Congress it is stated that "No U.S. aid, direct or indirect, is granted to any of these refugees in Israel . . . nor has it been decided whether any programs will be initiated in Israel".

It seems likely that the new Soviet immigrants will constitute a unique and difficult problem for Israel. Each wave of immigration in the past presented a different set of problems for Israel. The North African Jews, for example, who composed the largest group of immigrants in the late 1950's and early 1960's were generally unaccustomed to living in a modern industrialized society. Jews from Yemen pose similar but even more complex problems.

The thousands of immigrants from the Soviet Republic of Georgia will pose new problems in that most of the Georgian Jews speak neither Hebrew nor Russian but only the language of Georgian which very few people in Israel understand.

It is to be hoped that the Congress will continue to realize that the State of Israel is absolutely unique in the entire world both because of the very large number of immigrants which it must absorb and also because of the very wide diversity among the different groups of immigrants who come to Israel.

THE NEW CHALLENGES TO CHRISTIANS IN ISRAEL'S EMERGING PROBLEMS

The relatively small amount of assistance extended to Israel over the past generation by the Christians of Europe and America is hardly an encouraging demonstration of the solidarity which should exist between all of those who worship the God of Abraham, of

Isaac and of Jacob. The new emigration from Russia, once a Christian nation, poses again the spectacle of an entire country and culture making life so impossible for people of the Jewish faith that they prefer or even feel compelled to depart.

What should be the response of Christians in America as President Nixon prepares for an unprecedented visit to Russia in mid-May of 1972? It seems to me that Christians and others in America should strongly recommend to the President that:

1. He insist in every way during his visit to Russia that the United Nations Declaration of Human Rights, subscribed to by the Soviet Union in December 1948, contains a very clear assertion of the right of every person in the world to emigrate to the country of his choice.

2. The oppression of Jewish cultural institutions by the Soviet government is clearly contrary to Articles 124 and 125 of the Constitution of the Soviet Union.

3. The people and the government of the United States will continue to arouse world opinion unless the Soviet Union guarantees categorically and openly the religious and cultural freedom of the Jewish people who reside in the U.S.S.R.

The new crises in Israel which will result because of immigration from Russia have induced me to accept the invitation of the National Interreligious Consultation on Soviet Jewry to go to Israel in the near future to evaluate these problems and to report on them to interested individuals throughout America. Tentative dates for my trip to Israel will coincide with a short recess of the Congress from May 25 to May 31. These dates will be shortly after President Nixon has returned from his conversations in Moscow.

After my return from Israel I hope to be able to alert all of the leaders who have participated in this historic conference on Soviet Jewry at the University of Chicago. I hope that the information which I will bring to them will be radiated by them to every concerned person in America. I have the hope that American Christians will be aroused at the injustices being inflicted on persons of the Jewish faith in Russia. I hope also that Christians in America will as never before recognize and act upon the acute and profound problems which confront Israel because by its very nature it is an ongoing ingathering of exiles and refugees.

I have the hope that I along with all of those of the Christian faith with whom I will communicate will recognize as never before that Christians must more fully understand the meaning of the profound statement made by Reinhold Niebuhr, the famous Protestant theologian, who told us that no one can be a good Christian until first he is a good Jew.

WATER QUALITY: WE CANNOT AFFORD ANY EXCUSES

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. RANGEL. Mr. Speaker, as a sponsor of the clean water package designed to strengthen the proposed Federal Water Pollution Control Act Amendments of 1972, I believe it is imperative that the House of Representatives pledge itself to total, uncompromising commitment to preserve and restore our water resources.

We must not let the ring of the corporate cash register deter us from a zero discharge goal. And we must not allow the fears of selfish commercial interests—too long free to despoil and exploit our environment—to persuade us to restrict citizen suits to protect our water.

We will be offering a series of amendments to the committee bill to plug some of the loopholes which would undermine this critically needed legislation. We cannot afford any excuses, Mr. Speaker, for enacting anything but the strongest bill possible.

Today, 8 million gallons of raw sewage are pouring into the Harlem River. Today, hundreds of millions of gallons of raw sewage are being dumped into the waterways of New York City. Today, Lake Erie and the Potomac River are considered so contaminated that we are warned not to even touch the water. And the record of the Public Works Committee hearings on this legislation—3,400 pages of testimony and statistics—describes in frightening detail the national extent of the water pollution crisis.

Mr. Speaker, America's water is irreplaceable. If we destroy it, the entire Nation will wither and die. This is not the time for halfway measures or indecision. This is not the place for wavering or hedging. This is the showdown and our survival is at stake.

ADMIRAL McCAIN'S CONTRIBUTION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOB WILSON. Mr. Speaker, within the next few months one of the Navy's great admirals will be leaving the service. Adm. John S. McCain will be retiring upon completion of a 4-year tour as commander of the U.S. forces in the Pacific.

Those of us who have followed his distinguished career are grateful to him for his years of outstanding service to the Navy and to our country. I know our colleagues will be interested in reading the following editorial that appeared in the San Diego Tribune for March 20, 1972.

The editorial follows:

ADMIRAL McCAIN'S CONTRIBUTION

The appointment of Vice Adm. Noel Gayler as new commander of U.S. forces in the Pacific represents, we trust, no diminished awareness of military dangers that continue to confront us in Asia.

As director of the National Security Agency, Adm. Gayler certainly knows the inherent strength of Soviet and Chinese power moves and the need to offset them as well as Adm. John S. McCain, the present commander.

McCain, who will retire this summer, clearly sees the Soviet naval buildup as part of an overall strategy for world influence. He has spoken repeatedly on the urgency for maintaining a corresponding U.S. presence in the Pacific.

But neither McCain's firsthand knowledge of Communist power in Asia nor his warnings on its potential danger were decisive. Congress, prompted by public disillusionment over our Vietnam involvement, has evidently given little weight to the admiral's pleas for strengthening our defenses.

Given the tenor of the times as shown in the persistent clamor for weakening our military posture, it's difficult to see how Adm. Gayler, or any successor, could prove more persuasive.

Adm. McCain at least approaches retirement knowing that he has done all in his power to apprise the Congress and the nation of the Asian dilemma and the hard choices that are mandatory to resolve it.

His distinguished career, capped by four years of Pacific command, leaves nothing wanting in duty or service to his country.

REVITALIZATION OF RURAL ROADS WILL HELP RELIEVE URBAN CONGESTION

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HAMMERSCHMIDT. Mr. Speaker, a major effort is underway at various levels of Government, from various interest groups—to open the Highway Trust Fund to uses not directly related to highway development.

Many words have been said pro and con. Words with which I agree wholeheartedly and unequivocally—to keep the trust fund for highway purposes only—were spoken plainly in a recent appearance before the Roads Subcommittee of the Public Works Committee by Mr. Clark McClinton, chairman of the board of the National Limestone Institute. Clark McClinton is from Fayetteville, Ark., in my congressional district. I know him to be a concerned citizen and sound thinker.

If the expenditure time frame of the highway trust fund is to be shifted in light of changing times and priorities then I totally agree with Mr. McClinton that the ABC program—primary roads—would be the logical area to receive additional funding.

I commend to my colleagues his statement which reflects the commonsense approach to meeting our transportation needs:

STATEMENT OF CLARK C. McCLINTON

Mr. Chairman and members of the committee, it is a real privilege to have been allotted this time to appear before you today.

I am Clark C. McClinton, President of McClinton Brothers Company, Fayetteville, Arkansas. I am also Chairman of the Board of the National Limestone Institute, a national trade association of more than 570 members in 33 states. For myself and for all of those whom I represent here, I thank you sincerely for permitting me to express our position on the subject of transportation systems for this Nation of ours.

Several of you distinguished gentlemen can recall, I'm sure, the occasion back in April 1956 when Mr. Fallon, then Chairman of this same subcommittee, reported out the Federal Highway Act of 1956. At that time he said:

"There are two basic facts which are recognized and agreed upon by all concerned. First, the whole economy of the United States is directly dependent upon motor vehicle transportation. Secondly, we are failing to keep our highway systems adequate to meet our needs and the backlog of deficiencies required to be overcome has been and is constantly piling up at an alarming degree."

Gentlemen, I suggest to you that those words apply just as aptly to circumstances prevailing today as they did when Mr. Fallon spoke them 16 years ago. Highways today are essential and fundamental elements of American economy. They alone provide almost limitless new freedom, speed and safety to the movement of people, goods and services. Production, assembly, and distribution lines of commerce and industry would be impossibly fragmented were it not for Interstate routes

New and improved highways are every bit the direct stimulus to the economy of an area that they were in 1956. There's a lot of talk these days about revitalizing rural America. I agree with those who say that this revitalization boils down to providing non-farm ways for people to earn a decent living without departing the country and moving to the city. Good roads and highways can let people get from home in the country to work in the city. And good roads will let city dwellers travel to the countryside to work at new manufacturing jobs in new plants outside the limits of the big cities. But gentlemen, there won't be job building away from big cities without fast, fully modern highways to serve production, assembly and distribution requirements.

Mr. Chairman, nearly everyone in this country knows of the fantastic job we have done in building our Interstate System. All of us who travel by car—and most of us do—marvel at how much faster we can get to places than we could before we started this outstanding program. But I can't understand why every person in this Nation isn't pounding on the doors of this committee room demanding that we bring the ABC and Urban Extensions up to similar standards. Out where I come from, we are driving on roads that were engineered and built forty and fifty years ago. We need good roads between Fayetteville and Harrison and other areas of Arkansas. In Minnesota, there are thousands of miles of roads that are not surfaced yet. In fact, there are hundreds of miles which aren't even graveled. And I am sure that there are similar areas in every state. There are 200,000 miles of obsolete primary routes alone which have been allowed to deteriorate too long. We are not keeping up with requirements right now, and unless we do something now, unmet needs will continue to pile up as Mr. Fallon warned in 1956. We recommend very strongly that a billion dollars a year be added to ABC authorizations so that we can commence now to attack this most serious deficiency with our primary systems. To get this one billion dollars more for primary roads, we suggest extension of time for completion of the Interstate and annual Interstate System funding of $3 billion until completion.

Let me digress here for a moment. It's too easy to talk in terms of billions as I just did. People really don't understand the meaning of the word, but it scares them. And I suspect that fright is part of the opposition to roadbuilding—too free talk about billions of dollars. So I want to talk about the Federal-aid Highway Programs from my position as an Arkansas businessman. In fiscal year 1973, about $7.25 million in Federal funds is to be spent on our primary system. This will be matched on a 50/50 basis by the state, making a total of $14.5 million available. Now we have 10 highway districts in Arkansas, so this $14.5 million boils down to an average of less than $1.5 million per district. Gentlemen, the most upgraded primary road you can get anywhere in Arkansas for $1.5 million is five or six miles, and in most cases that would be only a two-lane road. So what sounds outrageously large here is pitifully small out where it's to be used.

We in the Limestone industry firmly believe that all segments of the country's transportation systems should have strong viable programs. But we believe it is a serious mistake to take any action which will mitigate against reaching the kind of highway system our experts say we need by 1990, because the highway is the one vital link in the total system. If highways are inadequate, any total system will be inadequate. Instead of tapping the Highway Trust Fund for other programs—important as they are—this Trust Fund should be kept intact until the purpose for which it was established is fulfulled. Two separate studies—one by the Department of Transportation, the other by the Highway User's Federation for Safety and Mobility—show we will need about $600 billion between now and 1990 to meet the highway needs required by our citizens. Only about one half of that is going to be available, as it looks now. We can't afford to reduce that already inadequate amount by diverting Trust Fund monies.

We are aware of the knee-jerk reactions of some elements of our society to roadbuilding. For example, there is the myth of paving over the country. New Jersey is one of the most congested large areas on any continent if we consider it statistically. But more than half of that state is virtually undeveloped right now—several million acres of land in the southern part are essentially as unpopulated as when Columbus landed, I'm told. And among the barrage of untruths rampant today which you gentlemen have to put up with is the one about excess money in the Trust Fund. I have seen issues of the *Washington Post* and the *Washington Evening Star* with strong anti-highway articles and editorials. Certainly no one wishes to deny any person the right to their opinions, but when the Washington *Sunday Star* publishes a cartoon, as they did last Sunday, and prints statements like ". . . highways have more money than they need, and urban transit less", someone must set the record straight. No one who takes time to look at the complete picture can claim that the Highway Trust Fund has more money than we need for our highway needs.

People are more concerned today with pollution than ever before. The automobile and highways are looked on by some as the principle culprits causing polluted air around our cities. There are millions of citizens concerned, and rightly so, about highway death tolls. These folks don't seem to realize that we have the know-how to cut pollution by 80 percent and traffic deaths in half. All we need is authorization and financing to bring all roads up to the same relative condition we have attained on the Interstate System.

The Federal-aid Highway Act of 1956 insectors. Continuing major emphasis on highway program that may rank as one of the greatest peacetime construction programs of all times. In spite of the accomplishments to date, however, we still don't have a highway system adequate to meet our economic, defense, and general population needs. There is no question that we are faced with the challenge of providing more efficient transportation systems for the public and private sectors. Continuing major emphasis on highway construction is essential to meeting that challenge. To build those highways, we must have comprehensive, cooperative and continuing long-range planning and appropriate implementing machinery. To that end, I ask you distinguished gentlemen to enact legislation this year which will insure continuity of long-range planning, funding and execution of highway building programs. In this regard, the key to success in these areas has been the assured source and quantity of financing provided by the Highway Trust Fund. Other conditions necessary to meet these objectives are longer term authorizations, single apportionments of full authorizations without delays or cutbacks.

The interested and concerned businessmen whom I represent here urge you to make a commitment this year to start priority work toward upgrading our primary road system. Pay for this priority effort by decreasing Interstate System authorizations by $1 billion—to $3 billion—annually until finished, and add the $1 billion to authorizations for ABC Systems. Make provisions for four-year authorizations rather than the biennial authorization, and see to it that planning is not further hamstrung with quarterly apportionments. We encourage continued reliance on Trust Fund financing of transportation systems, but with each mode having its own Trust Fund. To that end, we urge you to enact a bill which will make sure that every cent paid by motorists will be used for better and safer highways without cutbacks or delays or executive impoundment.

HORTON CALLS FOR BYELORUSSIAN INDEPENDENCE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HORTON. Mr. Speaker, 54 years ago, a tormented and ravaged people declared that they alone would decide their own destiny without interference from any outside power. The Byelorussian Democratic Republic had been born out of six centuries of invasions by Mongols and Teutonic Knights as well as Polish, German, and Russian territorial oppression. Since the unification of Byelorussian lands in the 13th century, there had been no opportunity for self-government or peace in Byelorussia. The people experienced a continuous nightmare of subjugation and death. But as their enemies stumbled through World War I, the country immediately shed all indications of foreign rule and, on March 25, 1918, formed a government based on personal liberty and democracy.

Joy in the Byelorussian Democratic Republic was short-lived. Six months later, on December 10, 1918, the Russian Army invaded Byelorussia. After the Treaty of Riga was signed in 1921, ending the war between Russia and Poland, the two countries arbitrarily divided the nation. One third of the country, 3,500,000 people, were forced to become a part of Poland while the rest was incorporated into the new Soviet empire. Through this "settlement" the goals of self-determination and independence were brutally suppressed and the peoples turned into oppressed colonies.

Since that time there have been many courageous uprisings by the Byelorussian peoples against Russian rule. The Communists launched a bitter campaign against Byelorussian democratic forces. The first to be arrested were political figures, prominent scholars, writers, teachers, students, and other intellectual leaders. Hundreds of thousands of Byelorussians were deported to forced labor camps in Siberia and elsewhere, and thousands of persons were brutally executed.

Byelorussia today is a member of the Union of Soviet Socialist Republics. Although it holds membership in the United Nations, it is not in fact an independent nation. It is ruled exclusively by the Soviet government. Only Russians are permitted to occupy key positions in the

Byelorussian Soviet Socialist Republic. Industrial development is directed toward the successful Soviet colonization of Siberia and Central Asia. The written and oral use of the Byelorussian language has been eliminated from administrative use as well as the schools and has been replaced by the Russian language. In addition, the annihilation and deportation of nationalists as well as the neglect of incorporated non-Russian nations in order to facilitate the growth of military might and empirical expansion has taken its toll from the Byelorussian people.

The Soviet government has forced the denationalization of the country as well as the people. The old monuments of distinctive Byelorussian architecture have been destroyed. In their place the government has erected modern Soviet-designed buildings of uniform architecture totally unrelated to the fine Byelorussian heritage. The towns and streets of the country have been renamed after heroes of Soviet Russian history: Lenin, Puskin, Suvorov, Kutuzov, and so forth.

There indignities and oppressive tactics have failed to extract from the people the determination for personal liberty and self-determination. Fifty-four years after the founding of the Byelorussian Democratic Republic, the struggle continues.

I have watched with satisfaction the increased communication between the U.S.S.R. and the United States within the last several months. I would hope that America, as a freedom-loving nation who has fought against oppression since its establishment almost 200 years ago, will take every opportunity to encourage the Soviet Union to allow freedoms and self-determination for all its peoples.

TIME FOR REFORM

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ZWACH. Mr. Speaker, ever since I have been in Congress, I have been voting against increases in our national debt limit. Our country just cannot afford to keep piling up deficits.

The Edgerton Enterprise, edited by Carroll Fey, recently carried some very good suggestions in its editorial column on ways to combat this increasing debt.

With your permission, I would like to insert editor Fey's editorial in the CONGRESSIONAL RECORD. I think it contains some very good food for thought for every Member of this body:

TIME FOR REFORM

Analysis of the President's budget for fiscal 1973 shows that there will be an expected deficit of $38.8 billion this year and $25.5 billion next year. The government is engaged in alarming budgetary brinksmanship.

What is needed is a firm ceiling on expenditures (the President suggests his budget estimates of $246.3 billion), greater budgetary control of credit and lending activities, and establishment of spending priorities based on need and effectiveness.

Another long-over-due reform would consolidate all appropriations into two measures: one for defense and national security, and one for all other federal expenditures.

Also, the President now has the choice of accepting or rejecting an entire appropriation bill. He should have a limited power to veto particular items.

Five-year cost projections should be required and used to discourage Congress from approving programs costing modest amounts the first year, but committing future Congresses to spending billions.

Washington now budgets for a push-button economy with quill-pen techniques. As a result, the country is in a serious budgetary bind and Congress should move quickly to adopt needed reforms.

EQUAL TREATMENT FOR BAYONNE AND JERSEY CITY

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. GALLAGHER. Mr. Speaker, tomorrow, when this body gives further consideration to H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, I plan to offer an amendment which is essential to give proper equitable treatment to two cities in my district—Bayonne and Jersey City.

Both cities were in the forefront in responding to the needs of their citizens in the water pollution field. Each initiated a sewerage treatment facility well before June 30, 1956, which is the cutoff for eligibility to receive Federal reimbursement for expenditure of State and local funds under H.R. 11896.

Bayonne initiated its treatment facility in November 1952—and Jersey City did likewise in September 1954.

In both cases these cities responded to governmental pressures to start work on modern sewerage treatment facilities in advance of the rest of the country. The Interstate Sanitation Commission applied the pressure, and its rulings were made mandatory by court order.

It is, of course, a boon to the people of these two cities and the nearby waterways that these new sewerage treatment facilities were planned and constructed in the early 1950's. But by the same token Bayonne and Jersey City are being penalized for being early birds in the water pollution field. Because of their public spirit, which was reinforced by governmental mandates, Bayonne and Jersey City stand to lose the benefits of Federal reimbursements under section 206(b).

The object of my amendment is to put Bayonne and Jersey City on equal footing with other cities around the country which built sewerage treatment facilities between June 30, 1956, and June 30, 1966. It would do this by establishing a category for facilities initiated between June 30, 1952, and June 30, 1956, as the result of governmental pressures. To my knowledge only Bayonne and Jersey City are affected.

The financial impact of this amendment would be marginal. H.R. 11896 is budgeted at $24.6 billion; $750 million of that is available under section 206(b). My amendment would add the comparatively small amount of $17 million to the funds otherwise available under section 206(b), representing 30 percent reimbursement of project funds spent by Bayonne and Jersey City.

There is another factor that points toward relief for Bayonne and Jersey City. Both cities are the hosts for Federal installations, and their tax bases are diminished accordingly.

Bayonne and Jersey City had to finance their sewerage treatment facilities with bond issues which, with interest, costs more in the long run. Cities with artificially diminished tax bases are especially in need of Federal reimbursement for public works projects such as sewerage treatment plants.

Apart from this amendment, I shall offer legislative history tomorrow to establish that there should be reimbursement under section 206(b) for funds spent after June 30, 1956, on sewerage treatment facilities initiated before that date. I have in mind specifically $4.4 million spent after June 30, 1956, for the sewerage facility in Jersey City.

An examination of the language of 206 (b) is instructive. This section does not talk in terms of projects "initiated" after June 30, 1956, but rather in terms of projects "constructed or eligible for—assistance" between June 30, 1956, and June 30, 1966. This suggests strongly that the legislative intent was to finance both projects and segments of projects—financed after the June 35, 1956, cutoff.

The text of my amendment is as follows:

AMENDMENT TO H.R. 11896 AS REPORTED

Page 254, immediately after line 12 insert the following:

"(e) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1952, but before June 30, 1956, as a result of a court order, or a ruling by an interstate agency, or both, shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this subsection in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the total cost of such project. There is authorized to be appropriated to carry out this subsection not to exceed $17,000,000.

A LOUISIANA PUBLIC WORKS DIRECTOR ON PROPOSED CREATION OF DEPARTMENT FOR COMMUNITY DEVELOPMENT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. RARICK. Mr. Speaker, Mr. Ray Burgess, director of public works for the city of Baton Rouge, the capital city of Louisiana and the largest city in my district, recently testified before the Subcommittee on Legislation and Military Operations of the House Committee on Government Operations.

Mr. Burgess spoke in behalf of the American Road Builders Association in opposition to the inclusion of the Federal Highway Administration and the Urban Mass Transportation Administration in the proposed new Department for Community Development.

I include Mr. Burgess' testimony along with his cover letter of transmittal to me in the RECORD at this point:

BATON ROUGE, LA.,
March 20, 1972.

Subject: Proposed Creation of Department for Community Development.

Hon. JOHN R. RARICK,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE RARICK: Attached is one copy of my statement before the House Sub-Committee on Legislation and Military Operations, representing the American Road Builders Association in opposition to the inclusion of the Federal Highway Administration and the Urban Mass Transportation Administration in the proposed new Departments for Community Development. Even though I represented the American Road Builders Association at these hearings, the sentiments expressed in the attached statement also represent my personal feelings and the fear that is prevalent within me whenever there is mention of melding a successfully operating department into the mass of social and housing programs presently administered by the U.S. Department of Housing and Urban Development.

Please be aware of the movement by the Administration to relegate the Federal Highway Administration to a lesser role than it now enjoys. It is my fear that should the creation of this department be accomplished in the manner as proposed, not only will the functions of the Federal Highway Administration and the Urban Mass Transportation Administration be made secondary to the social and housing functions of H.U.D. but the trust fund monies which now support the highway program will also be mixed up in the same pot, thus making less monies available for highway purposes.

Your consideration of this request will be appreciated.

Your very truly,

RAY W. BURGESS,
Director.

STATEMENT OF THE AMERICAN ROAD BUILDERS' ASSOCIATION PRESENTED BY RAY W. BURGESS

Mr. Chairman and members of the committee, my name is Ray W. Burgess, and I am director of the Department of Public Works for the city of Baton Rouge, Louisiana. I am privileged to be here today as a spokesman for the American Road Builders' Association, accompanied by the Executive Vice President of ARBA, Burton F. Miller.

The American Road Builders' Association has its headquarters here in Washington, D.C. ARBA is composed of transportation construction contractors; public officials at the Federal, State and local levels of government; manufacturers and distributors of transportation construction equipment; consulting firms who plan and design engineering projects; materials producers and suppliers, and civil engineering educators. The primary objective of ARBA is to support, through responsible activity, sound and adequate development programs for highways, airports and urban public transportation.

Our diversified membership is bound together by its common interest in transportation construction programs. All of our members, in one way or another, are involved in one or more of the programs administered by the Federal Department of Transportation. We are concerned primarily with the programs of the Federal Highway Administration, the Federal Aviation Administration and the Federal Urban Mass Transportation. To a lesser degree, we are also involved in the activities administered by the National Highway Traffic Safety Administration.

ARBA's professional staff, headed by Mr. Burton F. Miller, is in contact with officials of the Department of Transportation, at all levels, on virtually a daily basis. This is due primarily to the fact that the interests of our members closely parallel the interests of DOT.

This does not mean, however, that ARBA is always in full accord with DOT policies and programs. We disagree quite frequently. In a matter of particular relevance to these hearings, we have frequently expressed our concern about the proliferation of "red tape" in the Department of Transportation. In our opinion, the progress of transportation construction programs has been seriously impeded by numerous bureaucratic requirements imposed by Federal agencies. We have spent much time and effort in attempting to bring about a reduction in this "red tape."

It is encouraging to note that the Executive Branch of the Federal Government is deeply concerned with its administrative deficiencies and is seeking various ways to alleviate this problem. The proposed departmental reorganization is by far the most sweeping of the many reforms which have been suggested.

It would be presumptuous of the American Road Builders' Association to come before this Committee with any views on the general restructuring of the Executive Branch. We certainly have no objection whatever to the general thesis that functions of government which are inter-related should be grouped together in one administrative agency.

This was, in fact, the intent of the Department of Transportation Act of 1966 (Public Law 89-670). This law established a Department of Transportation "to assure the coordinated, effective administration of the transportation programs of the Federal government; to facilitate the development and improvement of coordinated transportation service" and for other similar purposes.

We have examined the record of Congressional hearings leading to the establishment of the Department of Transportation. This record includes statements by representatives of the Executive Branch which have a familiar ring, in the context of the present hearings. President Johnson, in his transportation message of March 2, 1966, said:

"We must coordinate the executive functions of our transportation agencies in a single coherent instrument of government. Thus policy guidance and support for each means of transportation will strengthen the national economy as a whole."

In expanding this idea in Congressional testimony, Charles Schultze, then Director of the Bureau of the Budget, said:

"We must modernize and streamline executive branch organization. Today, transportation responsibilities are widely diffused throughout the Government. The lack of central leadership significantly handicaps the development of unified transportation policies and a fully effective execution of Federal transportation programs."

Alan S. Boyd, who was then Undersecretary of Commerce for Transportation, addressed the American Association of State Highway Officials on November 29, 1966. At that time, he explained to the highway officials that the new Department of Transportation would be "a logical framework for coping with complex technical, economic and social relationships, and a vital ingredient to our future prosperity."

The point need not be labored. It is quite clear that the Department of Transportation was conceived as very much the kind of "goal-oriented" department which is contemplated by the President's Departmental Reorganization Program.

As proposed in H.R. 6962, the Department of Community Development would be a "goal-oriented" department. This new department is intended to stimulate patterns of balanced growth linking together opportunities for housing, jobs, education, recreation, culture and basic social services. Without question, adequate transportation is important to the attainment of balanced growth.

Recognizing the enormous requirements of the transportation system, is the goal of obtaining adequate transportation facilities best approached by abolishing the Department of Transportation? The American Road Builders' Association thinks not. Although it is quite obvious that the organization of a Department of Transportation is, in itself, no magic touchstone for transportation progress, it seems equally clear that the fragmentation of transportation responsibility has many serious disadvantages.

The President's Departmental Reorganization Program, if adopted in its entirety, would result in the abolition of the Department of Transportation. Highways and urban mass transportation would be transferred to the new Department of Community Development. These functions would be divorced from the policy-planning function, which would become an entity of the proposed new Department of Economic Affairs.

The airport program would also be transferred to the Department of Economic Affairs. This, in our opinion, is a glaring deficiency in the proposed plan. The location and planning of airport facilities is one of the major factors in stimulating balanced community growth and should not be separated from other transportation functions such as highways and urban public transportation.

As proposed in H.R. 6962 and elaborated in supporting documentation provided by the Administration, the Department of Community Development would include an Administrator for Community Transportation. This Administrator would be responsible for highway and urban mass transportation development. H.R. 6962 also provides for an Associate Administrator for Highways, with the responsibility to administer the Federal-aid highway program.

In his testimony before this Committee on November 3, 1971, Secretary Romney described the proposed field organization of the Department of Community Development in considerable detail. At that time, he outlined a hypothetical structure that is not provided for in the legislation.

Insofar as the highway program is concerned, the field organization plan advanced by Mr. Romney has one great advantage. It would insure, on paper at least, a continuation of the present Federal-State highway partnership. We think that this relationship is extremely important.

Since the beginning of the Federal-aid highway program in 1916, Federal aid for highways has always been channeled through the State highway departments. These departments, fully organized and professionally staffed, are well qualified to plan, design, construct and maintain highways. The Federal Highway Administration deals, in effect, with 52 clients, representing the 50 States, the District of Columbia and Puerto Rico. A modification of the program structure to permit by-passing the State highway departments would be, in our opinion, disastrous to the highway program.

We emphasize this point because the field organization plan which Mr. Romney and his associates presented is without legislative force and is subject to revision at any time. A merging of the current highway program field force into the Department of Community Development area level field force would result in management chaos, with respect to administering the Federal-aid highway program.

The general philosophy is that like functions of government should be grouped together. However, there has been very little justification advanced for moving the high-

way and urban mass transportation programs out of the Department of Transportation. The clearest rationale is contained in Secretary Romney's testimony of November 3, 1971. At that time, the Secretary made these points:

1. "Highway and urban mass transportation programs are more intimately related to community planning and to housing and community facilities than they are to the bulk of the other programs now in the Department of Transportation. Few day-to-day relationships exist between highways and the marine and seaway functions of the Department of Transportation."

Comment: The Secretary's point is somewhat strained. There is a very close relationship between highways and airports, between highways and high speed ground transportation, between urban mass transportation and railroads, between highways and a national transportation policy. In each of these cases, one member of the pair would remain in DOT and the other would be split off.

2. "Unless a highway is planned and executed in coordination with a community's overall development plans, many things can go wrong. . . . We are all familiar with examples out of the past of the damage that highways can do, sometimes upsetting a city's master development plan and sometimes, as in New Orleans, threatening a unique and historic quarter."

Comment: From my own personal experience, the Secretary's example is not well chosen. The French Quarter Freeway in New Orleans, whatever its merits or demerits may be, was in fact a part of the master development plan fully approved by the local government in New Orleans. The proposed freeway was stopped by the Federal Department of Transportation which took, I assume, precisely the kind of action Secretary Romney would expect from the Department of Community Development.

Possibly a better example can be found to illustrate Mr. Romney's point. However, Federal highway law and regulations and administrative procedures have made it increasingly unlikely that a major highway or urban public transit project can be advanced when it is not inconformance with local planning decisions.

3. Mr. Romney said that "overcrowding" was one of the causes for a Detroit riot in 1967. He blamed the overcrowding on "the uncoordinated relocation of persons displaced from other parts of Detroit by highway construction and by urban renewal."

Comment: Whatever the porblems may have been in 1967, subsequent laws and regulations have provided very strong requirements that Federal-aid highway projects not be built, until and unless suitable replacement housing is made available able to displaced families and individuals. The 1970 Federal-aid Highway Act provides that the cost of acquiring, rehabilitating or constructing replacmeent housing can be charged to the cost of constructing the highway project.

In short, it seems to us that very tenuous reasoning has been advanced to justify the transfer of the highway and urban mass transportation programs. In our opinion, that reasoning breaks down altogether when it is moved from the theoretical level to the level of practical application. In summary, the position of the American Road Builders' Association is:

1. The transfer of the highway and urban mass transportation programs from the Department of Transportation to the proposed Department of Community Development would, at best, be of no advantage. At worst, it could lead to a serious disruption of the total transportation progress.

2. The severance of the highway and urban mass transportation programs from other related DOT programs, such as transportation policy planning and airport development, would not be in the public interest. Related transportation programs and activities should remain within the same department.

Mr. Chairman, we appreciate this opportunity to present our views on this subject to your Committee.

BUDGET PROVIDES START FOR MODERNIZING FORCES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following article by Lt. Gen. Ira C. Eaker, U.S. Air Force (retired), which appeared in the San Diego Union:

BUDGET PROVIDES START FOR MODERNIZING FORCES

(By Ira C. Eaker)

President Nixon outlined his defense policy in his State of the Union speech to the Congress on Jan. 10 in these terms:

"We will maintain a nuclear deterrent to meet any threat to the security of the United States or of our allies.

"We will help other nations develop the capability of defending themselves.

"We will faithfully honor all of our treaty commitments.

"We will act to defend our interests whenever and wherever they are threatened any place in the world.

"But where our interests or our treaty commitments are not involved, our role will be limited:

"We will not intervene militarily.

"But we will use our influence to prevent war.

"If war comes we will use our influence to try to stop it.

"Once war is over we will do our share in helping to bind up the wounds of those who have participated in it."

This is a clear and succinct preamble—statement of purpose—to govern defense and foreign policy, subject only to confirmation or change by a Democratic controlled Congress.

Defense budgets implement defense policy. An examination of the '73 defense budget recently submitted to Congress will disclose whether this new defense policy is political rhetoric or a realistic guide for our defense programs and plans for the future.

These are pertinent facts disclosed from a study of the '73 defense budget:

It totals $83.4 billion in new obligational authority, an increase of $6.3 billion over the current '72 budget. But it is planned to spend less than $1 billion more next year. The difference between requested funds and actual expenditures flows from the time lag between orders for new weapons and when they are delivered and have to be paid for.

About $4.1 billion of the increase, or 65 per cent, is for increased salaries for military manpower due to wage hikes voted by Congress last year in an effort to discontinue the draft and substitute a volunteer Army.

The most significant increases in military strength are $1.2 billion for strategic forces, $1 billion more for research and development, an additional $600 million for the National Guard and the reserves.

The Army's share of the new budget is $20.6 billion; the Navy gets $22.3 billion and the Air Force $22.5 billion. This represents a $2 billion decrease for the Army from last year, due largely to the wind down of the Vietnam War. There is a considerable increase for the Navy to accelerate the undersea long range missile system, while the Air Force budget is about the same as last year.

In military manpower, the '73 budget funds 841,000 for the Army, 602,000 for the Navy, 198,000 for the Marine Corps and 717,000 for the Air Force. This represents a 20,000 loss for the Army over the current year and a 13,000 decrease for the Air Force, while both the Navy and the Marine Corps will retain exactly their present manpower.

In civilian defense personnel the '73 budget provides for 1,036,000, a cut of 5,000.

The '73 defense budget clearly indicates that the unilateral disarmament of U.S. strategic forces, initiated by prior administrations (the McNamara era) and continued for the first three years of the Nixon Administration, is now halted and a modest beginning will be made on modernization of our deterrent strategic forces.

The research and development increase of more than $1 billion is a realistic response to the fact that the Soviet Union has for several years been spending about twice our outlays for new weapons with obvious and dangerous implications for our security.

BIG SPENDERS CACKLE AFTER CRACKING THE GOLDEN EGG

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BURKE of Florida. Mr. Speaker some of us who for years have been talking about the need to cut deficit Government spending, have been treated to some astounding statements from some of the big spenders in the U.S. Congress in recent weeks.

The plight of a possible $45 billion deficit in the fiscal year 1972 budget has raised the heckles of the bigtime spenders and others, including myself, but I wonder if it is not a little late for the liberal spenders to note this dilemma. It appears that "the chickens have finally come home to roost, but only after the golden egg has been cracked into little pieces."

Even before I became a Member of Congress, I felt it my responsibility to speak out against the irresponsibility of our Federal spending programs by both the administration, and the Congress. I never thought I would see the day when the big spenders, who over the years voted for programs which put us so deeply in debt, now start thinking about the dangers of these bloated Federal budgets.

It was interesting to note in one of my past speeches against the evil of deficit spending that liberal spending habits increased total Federal spending in the decade of the 1960's by 112 percent. This massive increase drove the Government to borrow at record rates as outgo far superseded income.

During that decade, our Nation went into the financial hole by $55 billion which was equivalent to a man chucking out the window a $1,000 bill every 6 seconds day and night for the entire decade.

This wild spending forced the Congress to repeatedly increase the national debt ceiling, and just recently, Congress again lifted the ceiling by $20 billion to a record high $450 billion.

Today, with the present $400 billion-plus debt staring our Nation in the face, it takes 12 cents out of every tax dollar to just pay the interest on this sum. This will increase as the debt reaches $450 billion, which it is expected to do by midsummer.

I voted against the debt ceiling increase and intend to continue doing so. I am proud to have been honored by various groups for my votes to bring economy and commonsense back to Government since my election to Congress.

I have introduced in this Congress the Economic Stabilization Act which calls for a full scale study of ways and means through which our national debt can be reduced and our dollar can once again be stabilized. If the big spenders are really intent on helping to save our economy and the Nation with it, maybe they will join me and other cosponsors in this effort, but alas, they cackle about the red ink and still vote to increase the national debt.

I suspect the rhetoric of the big spenders is a temporary illusion and shortly after November 1972, I suspect they will be pushing for a $500 billion debt ceiling. I hope I am wrong, but as you probably know, chickens, like most fowl, do not sit in one place for too long a period of time.

DEPENDENTS OF ALABAMA POW'S AND MIA'S GET FREE EDUCATION

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. DICKINSON. Mr. Speaker, I want to commend the Alabama Legislature for being the first State in the Nation to assure wives, children, and other dependents of captured and missing American servicemen a free education. During the recent special session the legislature passed and the Governor signed a bill providing tuition-free education at trade schools and institutions of higher learning to dependents of POW's and MIA's from Alabama. Although similar legislation is pending in other States, Alabama is the first to enact such a law.

There are approximately 60 families in Alabama that have servicemen either missing or held prisoner in Southeast Asia, and some 33 Alabama children have fathers captured or missing. The children will remain eligible for free tuition to Alabama institutions after the return of the servicemen.

Mr. Speaker, I would also like to commend State Representative James D. Harris, Jr., of Montgomery, my hometown, for sponsoring the bill and guiding it through the legislature. I would hope this will serve as an example for all States.

AMERICAN SOCIETY FOR PERFORMANCE IMPROVEMENT

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. GUBSER. Mr. Speaker, for a long time I have been most interested in a program participated in by defense contractors and the Department of Defense which has been labeled as "Zero Defects." The purpose of this program was to promote excellence in manufacturing and to improve quality.

Such improvement not only saves dollars but it could do much to restore the pride in workmanship which made American industries so successful over the years.

The name Zero Defects has been changed to the American Society for Performance Improvement. This society publishes Performance magazine, which is dedicated to better service, product quality, reliability, and cost awareness. The society has also just issued a Performance Improvement Handbook. Because I am so interested in quality improvement, I would like to insert background information along with excerpts from two press releases issued by the organization and commend them to the attention of my colleagues:

BACKGROUND INFORMATION—AMERICAN SOCIETY FOR PERFORMANCE IMPROVEMENT

A misplaced screwdriver ten years ago served to create the American Society for Performance Improvement. The society currently numbers 1176 business executives throughout the United States and nine foreign countries.

The screwdriver disappeared at a Cape Kennedy launch pad. It was found in Marietta, Georgia. When the tool was reported missing a launch countdown was in progress. The rocket shot was scrubbed and the missile returned to Lockheed Marietta for disassembly.

Philip B. Crosby, a Martin Company engineer at the time, decided to put together an organization to study causes of human error and do something effective toward elimination. He established society tenets and objectives.

Membership in the society was on an informal basis initially. Response to the society's basic precept, "regardless of the job, do it right the first time," was so enthusiastic, demand for information so great, the society was formally chartered under the laws of the State of New Jersey in June, 1966. The name at the time was the American Society for Zero Defects. This was recently changed to the American Society for Performance Improvement by the group's board of directors. The action was regarded as necessary to more clearly reflect the broadened scope of society activities.

Human error in industry costs lives, money and time. It is handmaiden to inflation and waste. Recognizing this, America'a major corporations have supported the aims of the society from its inception. There has always been a free-exchange of information on the subject nationally and internationally.

The society publishes a periodical, Performance magazine, and provides free advice to companies and organizations actively seeking to reduce costs and improve the quality of performance improvement.

In the formulative years much of the work of the society was channeled into the aerospace effort. Millions of parts, manufactured by thousands of suppliers, had to be fabricated and assembled. They had to work right the first time. The principles learned from the space effort have since been successfully applied to hospitals, insurance companies, even to toy making.

National ASPI officers for 1972 are:

President, Gene Peretti, motivational programs manager, Boeing Company, Seattle. 1st VP, Robert Vincent, director quality systems, ITT, New York. 2nd VP, Bill S. Bailey, manager special projects, HITCO, Defense Products Division, Los Angeles.

The formal mission of the society is: "To promote and further the advancement of the knowledge, application and motivational approach to the elimination of defects attributable to human error."

That's how a lost screwdriver became a worthy objective.

FOR IMMEDIATE RELEASE

The American Society for Zero Defects, a group that believes perfect is possible, has located a defect in its own organization. They found their title was confusing and has a "wide variety of interpretations."

So, ever on the lookout for improvement, the society's board of directors voted unanimously to change the name to the American Society for Performance Improvement.

The board also took time to caution business management that today's employees are demanding to know what's going on. The contemporary workforce does not labor for bread alone, they said.

Poor workmanship, high absenteeism, disinterest in the job and low productivity are direct results of management's old fashion concepts of how to get things done.

The board said "we are on the threshold of an era of greater understanding and more effective utilization of our productive capacities. We must broaden the scope of this effort to make it work in all industrial and service areas."

IMMEDIATE RELEASE

A complete system for improving performance of men and machines is now available. Based on the experience of executives and engineers over a 10-year span, the system is designed specifically to provide better products and services through management awareness and error-cause removal.

Heart of the system is the newly printed Performance Improvement Handbook published under the auspices of the American Society for Performance Improvement. Co-authored by 11 men who have instituted and directed performance improvement programs for their own companies, the handbook provides practical, realistic guidance to cost reduction and work attitude improvement.

Foreign competition, rising domestic costs and public criticism of its products has placed American industry in a perilous situation. In the overall view of the authors of Performance Improvement Handbook, the products of industry today simply "are not good enough."

"Those products that work trouble-free do so because of an investment in test, inspection, and service completely out of proportion. Many companies spend 10, 15 or even 20 percent of their sales dollar on scrap, rework, warranty, service and inspection."

The cause of this waste, the authors state bluntly, is directly attributable to personnel in the plant, both employees and management.

From there they go on to examine the cause and effect and creation of realistic measurement standards to improve job performance.

The theory is that the defect that is prevented doesn't need repair, examination or explanation.

How to go about putting theory into practice in a contemporary society that raises its children to consider 30 percent error acceptable, comprises the main thrust of the 80-page text.

The experience and opinions of the authors, executives with ITT, Boeing, RCA, General Dynamics, Pontiac, Vought, HITCO, Westinghouse and the Federal Government, represents the most informed approach to practical job performance improvement available in the United States.

The system the authors advocate is highly flexible. It can be effectively tailored to the operation of a two-man hot dog stand as well as to a large multi-product manufacturing company. They present the program, the shopping list, and the reader selects the items that will best take care of his requirements.

HOME RULE

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, on March 8, the Committee on the District of Columbia was privileged to have one of the District's most distinguished citizens, the Honorable F. Joseph Donohue, former President of the Board of Commissioners of the District, appear as a witness against certain so-called "home rule" bills currently before the Congress.

Mr. Donohue's testimony, based on years of experience with and in the District Government, so impressed me, that I asked his perimssion to make it a part of the CONGRESSIONAL RECORD before the full hearings have been concluded. He gave permission to do so, and I therefore insert the full text of his testimony at this point in the RECORD:

STATEMENT OF HON. F. JOSEPH DONOHUE, FORMER DISTRICT OF COLUMBIA COMMISSIONER

Mr. DONOHUE. Thank you, Mr. Chairman.

I want to make it perfectly clear that I am speaking only for myself, and as a property owner in the District of Columbia who, in spite of the Mayor's repeated escalation of the real estate tax, is still trying to hold on in the hope that I may continue to be a property owner.

I come here because I love the District of Columbia, and I owe it much. I have been here 53 years and I came here as a young boy, recently discharged from World War I military service to go to school, and I have been here ever since, and the District has been good to me. I have made an excellent living here.

As the Chairman suggests, I have been privileged to serve as the President of its Board of Commissioners and out of that sense of responsibility and duty I come here to make what I hope may be permanent comments about the matter pending before this Committee.

I knew when I came here, because I had been a student of political science and I'd been a student of the Constitution, so I did know when I came here that this was a company town. It was a one-company town, and that one company was my government, the government of the United States, and I accepted the fact when later in the process of my education here I determined to remain in the District of Columbia.

I knew that to do so would require the surrender on my part of some of the privileges of citizenship which I would have enjoyed, and I returned to my native Massachusetts, but I was quite willing to make that sacrifice because I felt that the only justification or excuse for the District of Columbia is the comfort, safety and convenience of the federal government, whose interest must be paramount and whose interest must be protected and served by somebody.

My distinguished predecessor, the General, talked about problems of riots more recently in the District of Columbia and I, as a young first lieutenant in the Marine Corps Reserve was on duty at the corner of John Marshall place and Pennsylvania Avenue to protect a platoon of Marines, a Marine Corps supply depot filled with ammunition when General MacArthur, on horseback, with his entire Chiefs of Staff, rode down Pennsylvania Avenue to meet my comrades of World War I who had come here seeking a bonus and had rioted, burned and destroyed.

So I understand the problem of the federal government, as I understood why they were chased out of Philadelphia, York, Pennsylvania; Annapolis, Maryland; New York City; and finally came to their haven here.

Now I do not believe that I should be required to surrender all of the privileges of a citizen because I live here in the nation's capital, and I would briefly like first to point out what I think we ought to have.

If I had my druthers, which I do not, I would have retained the Commission form of government. I was one of the few voices who came here to oppose the re-organization of the District government under the administration of, I believe, President Johnson.

I recognized that for nearly one hundred years the Board of Commissioners satisfactorily governed, under the guidance of the Congress, the affairs of the District of Columbia; never a scandal in the history of one hundred years, and I am glad to say that in the short time that I served as a member of the Board of Commissioners—I did not complete my term because I had the first appointment with President Eisenhower as President of the United States and submitted my resignation to him although I had thirteen months to serve because I felt I was a political appointment of a Democratic President and that President Eisenhower should appoint his own successor and subsequently of course he did—but during the two and a half years that I served as a member of the Board of Commissioners we never had an increase in the budget and we didn't borrow any money.

The budget, as I recall it, was about $150,000,000, and my friends in the Congress at that time frequently complained because I constantly referred to the fact that the Congress was cheating us because we were only getting eight or nine percent of that total budget from the Congress of the United States, $9,000,000, $10,000,000 and $11,000,000.

I was amazed when I heard Mr. Hubbard, no, Mr. Willard on the television Sunday, a member of the City Council, a distinguished Washingtonian, and he said that this year, the municipal administration will spend $1,400,000,000, obviously mostly in grants-in-aid which we didn't have in my time, and that of the total amount of $1,400,000,000 spent the District of Columbia would raise $450,000,000, so practically a billion dollars of that amount of money will come from the taxpayers of the United States, not the taxpayers alone of the District of Columbia.

Now, I'm sure that my distinguished friend, the Delegate from my community to this Congress, and I am proud to have him here, would say to me, why I remember you as a very active member of the home rule movement in the District of Columbia, and so I was but I've changed my mind.

I've changed my mind because Washington has changed. We are no longer a viable community. We cannot live and grow by ourselves.

Why? Well, I'll cite two reasons. When Herbert Hoover was Secretary of Commerce in the administration of Calvin Coolidge, he called to be built the Commerce Building at Fourteenth and Pennsylvania Avenue in the city. When completed it was the largest office building in the world. It runs from Fourteenth to Fifteenth, Pennsylvania to Constitution Avenue, and what did they call it? Hoover's folly, because they said the government of the United States would never grow big enough to fill it.

Now, I ask you to consider what has happened to the rest of the south side of Pennsylvania Avenue from Fourteenth Street to the Capitol, where businesses paying taxes to the District of Columbia and contributing to its support existed. They're all gone.

As I best can figure it, and I'm not in the position now to get the statistics that I used to be able to get, but as I figure it now, about one-half of one percent of the land area of the District of Columbia is annually removed from the tax rolls.

In my day, I think the percentage was about 44%. It is 54% or higher right now. How long can a community remain as a separate political entity with a superior authority gradually withdrawing from the tax rolls taxable property?

We have destroyed downtown. If you want to feel badly, drive an automobile north on Eighteenth Street from Massachusetts Avenue to Columbia Road. Now forget Fourteenth Street and Seventh Street and H Street, northeast.

This city is dying, and all you have to do is go around and see it.

Now, I remember during World War II when British pilots would take German fliers who had been shot down over London and who had not been killed on a tour. The German pilots had been told that London had been destroyed by the German Air Force, and the British were in a situation of chaos, but a British pilot would take a captured German flier and drive him around London and he would never see the site of a bomb. It took a little skill to do it.

I could take a visitor around this beautiful city and show them only the beauty, but I could also take them to where they would say, can this be my capital city? But it is.

So, we are not a viable community, number one, because we are shrinking in size and fifty years from now I can just envision what will happen.

This city will be occupied almost completely by federal institutions and by the various groups which must be located in the federal capital, with living accommodations perhaps only for those who necessarily must be here, and visitors.

Your community, sir, and your community, sir, in Maryland, will be the bedroom for the District of Columbia. There will be very few people, including you. There will be very few people living in the District of Columbia.

Now I point to another reason why we are not a viable community. We are losing population. In the last two censuses, 1970 and the one preceding, in 1960, we have lost a total of—well, you can quarrel with figures—but somewhere between 75,000 and 100,000 people.

Our total population is being diminished, and the nature of our population is being diminished. The medium and upper-income people, black or white, are exercising their prerogative to leave the city, this decaying city of ours, and go out into the suburbs.

So when we talk about home rule, home rule for what? The District of Columbia will lose its identity as a political unit and be as it was intended to be, a haven for the District government.

Now, what would I do if I could? I would re-establish the Commission form of government, if for only one reason, and that was pointed to by the Chairman: the loss of the Engineer Commissioner has been a tragic blow to the District of Columbia.

The contribution of a senior engineering officer from the Corps of Engineers of the United States Army, one of those who served just after my time, General Clark, was honored by being made the Chief of the Corps of Engineers. That's the kind of man we had, General Robinson, who served with me, the Deputy Chief, and three talented assistants.

Our streets aren't dirty, they are a great contributor to the success of the automobile repair industry because they are full of holes. Our whole city is dying, particularly in its physical plant, and the loss of the Engineer Commissioner was a loss we ought not have sustained.

But I know that you can't turn the calendar back. That's gone forever.

I think that as a citizen of the District of Columbia I am entitled to have representation in the Congress of the United States. I think the Constitution should clearly be amended so that I may have more than a vote, but a voice in both the Senate of the United States and in the House of Representatives.

I think it is tragic that our delegate is permitted to participate in the debates that affect us, as they affect all Americans, and yet is not permitted to vote. I think we should have representation in the House and the Senate. I might even be willing to compromise because of the shrinking character, geographically, of the District of Columbia, and because of the decrease in population.

I might be willing to concede that we are to have only one Congressman elected by our people with a full power vote, and only one United States Senator.

We're not like California that has to have a representative in the Senate from Northern California and one from Southern California. Why, it's only a whistle-stop across the entire District of Columbia.

I think, with respect to local self-government—and it's a fantasy; there's no such thing as local self-government for the District of Columbia—it ought not to be classified as a city.

We are a federal territory. Our chief executive officer ought to be associated with the governors, not with the mayors.

I think we should have a chief executive who ought to be called the governor of the District of Columbia and who ought to be appointed by the President to represent the federal interest in the District of Columbia with an absolute power of veto over an elected governors' council of eleven, twelve, fifteen—call the number as you will.

That should be the structure of our local government with, of course, a continuing constitutional restriction on the power of any governors' council or legislative assembly in the District of Columbia to pass any bill which doesn't meet the approval of the Congress.

Now that's my view. It's a strange thing, looking through some old records, I found an open letter to the President of the United States in the Washington Post, April 20, 1952, at which time I was President of the Board of Commissioners, and the Budget Bureau had presented President Truman with a reorganized form of government for the District of Columbia, the same except warmed over a little bit kind of government, which they sold the Congress in 1967 and under which we now operate.

This full page ad is signed by the presidents of every important organization in the District of Columbia, including the signature of my distinguished friend and successor on the Board of Commissioners, John B. Duncan, as president of the then Federation of Civic Associations, bankers, lawyers, businessmen, veterans' organizations, all joined in asking the President to preserve the Commission form of government.

What's happened since then I don't know. Why we didn't have the same unanimity of spirit in 1967 when the present Reorganization Act was passed by Congress, or approved by the Congress, I will never know.

I know that my friend, the Commissioner, or the Mayor of Washington, is doing everything that he can. The Council is busy so they must be trying to do something, but what disturbs me is that every time I get a monthly publication from the Board of Trade, when I read the number of D.C. government employees for the month of November 1971, the latest figure available, and the number is 48,200.

That's about one person for every thirteen and a half or fourteen people in the District of Columbia. Now that's the burden we have assumed.

I thank you for the opportunity to appear here today.

Mr. MCMILLAN. Thank you, Mr. Donohue. I think you made a wonderful statement.

TRIBUTE TO AMERICA'S FIGHTING MEN

HON. SPEEDY O. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. LONG of Louisiana. Mr. Speaker, I have just received a little booklet written by a retired Methodist minister, the Reverend J. H. Nichols of Lake Charles, La., which pays tribute to America's fighting men in a most sincere and modest fashion, one that might well be studied by Americans everywhere, and especially by Members of Congress.

In order to share the Reverend Nichols' thoughts with my colleagues, I insert his brief essay in the RECORD.

The essay follows:

WE, THE PEOPLE, OWE THE SOLDIER BOYS A DEBT OF DEEP LOVE AND GRATITUDE—FOR THEY HAVE SUFFERED, BLED AND DIED FOR OUR FREEDOMS.

(By J. H. Nichols)

WHEN IS THE WAR OVER WITH BOYS WHO STOOD IN MUDDY TRENCHES AND HEARD THE SCREAMS OF SHRAPNEL BURSTING OVER THEIR HEADS AND THE ROARING OF CANNONS AND THE SCREAMS OF DYING AND WOUNDED SOLDIERS? NEVER!!

I have never been on a battle field in action. Going to an army camp, I can still hear the bugle call "cannot get him up in the morning". The call "fall out," "attention," "forward march". These war songs have made an indelible impression on my heart that neither time nor eternity will erase. Reading about war is like looking at the shadow of bugs around an electric light. To see the little duck trying to eat shadows and the old mother duck standing off quacking, thinking how silly and ignorant her children are to think they can get fat on the shadows of bugs. I have had some experience and been on the drill field enough to give me some idea what it means to be drilled in a sham battle to know what a real battle on the front lines means to the soldiers on both sides. The cause that starts a war may be one-sided. It takes two sides to have a battle and fight, win or lose. Now, watch my story. At the close of World War I, many soldier boys came home and went back to college. Many of these red blooded Americans did not go to war to fight and die; they went to fight and run the risk of living. Some made it, some fell on Flanders Field and their bodies are buried where the poppies bloom row on row. What did we get out of this first World War? The soldier boy can answer your question: a military cemetery and a big debt that we had to pay in loss of life and destruction of property. I would be the last man on the face of the earth to throw one drop of cold water on a teacher. Good teachers who have given their lives as a sacrifice in the school room have always been underpaid. This is not even a debatable question. Teachers who are a misnomer in a school room are the most expensive people who ever were paid for holding a school with taxpayers' money. A degree from a college or university will not make a teacher; neither will it make a preacher. Teaching and preaching go hand in hand; they are both a calling and not a profession. See? You may disagree with me, but pragmatic tests will prove this statement right.

I'm ready to put the icing on the cake. All wisdom is not in schoolrooms; neither in the pulpit. In many cases there is very little practical experience in either. Hand me down information can mean anything or nothing. Experience is tailor made, and the man with experience knows whereof he speaks? See? This thought was impressed upon me in college when some of the teachers found everything they knew in the library. They handed down information and nothing gained from actual experience. There was a teacher who related a battle as depicted in a book she once read. One student stood it as long as he could and asked "where did you get that information?" She had to admit she was like a parrot, repeating what some ghost writer had said. He said, "I was in that battle and have twenty-two shrapnel shell scars on my body." He rolled up his sleeves as proof of what he had said. Up to that time, no one suspected this boy had even been in the army. A flow of beautiful language from fiction writers will not stand the acid test when someone has the scars on his body from the battle. He did not only have first hand knowledge of the harrows of war, but had scars on his body to prove he was there. Nothing will take the place of experience in this life. Neither flowery words nor handed down knowledge from books. We need fiction writers, they write of things which can happen; but many times their imagination is not based on what did happen. Will Rogers, that great humorist, God bless his memory, would say, "all I know is what I read in the papers." He was too wise to say, "I know everything I read in the paper is true." He knew everybody else knew all that goes in papers is not so. No comment from me. See?

Some of the greatest experiences of human behavior have never been written. The undertaker buried the manuscripts with them. Their life story was never written. Now you have the answer between fact and hear say. Courts will not accept hear say as evidence of truth. No drugstore cowboy can sit in the shade of the tree and read a western novel and be a bronc buster. No bronc rider can stay on all the broncs and some will leave their picture in the sand. No horse can throw all the riders. The man who has ridden the most broncs of life has the experience which will keep him on that many more, without being thrown. The historical record is the answer to what they have done. Buger Red was a world-wide champion in rodeo shows, riding outlaw horses. The horse knew he was a champion and so did the crowd. I am telling you these stories to show that a man who fights and wins needs no defense thereafter. The congressional record will show several of my writings. See?

Men who have done good and great things in life seldom have a big head, and never are arrogent, silly or high handed. They have all been humble and quiet. A boy who attended the same college with me was willing to be quiet and never tell the class what a wonderful soldier he was. He was modest and sat there with the horrors of war in his heart, wishing he could forget it. He had the scars

as evidence where he has been and what it cost him to be there. I am not writing a fictitious story, but writing out of heart of my own experiences with my friends to reinforce what I have said on the realities of life. I can tell fiction from experience. A rabbit will cross and recross his trail in the snow. If you know the nature of animals, you can tell where he has been. Truth is truth, if it never gets in print. A lie is a lie whether Drew Pearson or Ripley said it or not. Truth will stand when all other sayings fade out. The story of John Bunyan in that old dirty Bedford jail in London, England has been a blessing to the coming generations. He had time for God to speak to his heart and he wrote the "Pilgrim's Progress." Two of the greatest things he said was to bear the cross patiently and obey God rather than man. This thought was incorporated in the ten commandments. To my way of thinking, this saint made one of the most remarkable statements of any man in or out of jail. Great and good men have blessed this world have paid a dear price in suffering for their faith in God to bless humanity. Check the record. None of them slept on the flowery bed of ease. They have all been tested in the fire of God's love. The hotter you heat gold, the purer it will be. The test in life is the answer to a good life.

I have noticed in these automobile races, when no one is killed or hurt, the next day, the crowd will fall off eighty per cent. Then we can ask the question to the other eighty per cent. Do they think if they stay home they will miss seeing a wreck and someone hurt or killed. The value of sports is not to kill people but to show their skill. Probably the most brutish and inhuman show ever put on is a bull fight. I have never seen one, but have seen pictures in movies to show how brutal a bullfighter can be when he is spearing the helpless bull to entertain a crowd which would not be there were it not the most brutal and bloody show that can be put on in an arena to show which one will win, the bull or the bullfighter. Someone has said that when the bull kills the man, the crowd will cheer the bull like they do the man when he kills the bull. This goes to show that human flesh is on the same level in a fight with a bull, and the crowd is just as happy to see the bull win the fight as they are when he loses the fight. Now you have the answer to people on the sideline who go to see a bullfight. "They are looking for a thrill regardless of what the cost is to the fighter to show he has had a spill with the roaring of a bull that sent him to a premature grave. The other man can have it. I don't want to take his place to fight a bull.

This has been a strenuous message for me to write. I am for the right and against the wrong. Right is right if no one does right. Wrong is wrong if everybody does wrong. Wars are never fought to end wars. They are breeding grounds where the smoke of one war is scarcely cleared when another is fought over the same battlefield. Some soldiers have fought in two wars over the same battle ground. Sergeant York, who was the world's hero in bringing the first world war to a close thought he was fighting a war to end all wars. This was the promise to the soldier boys by our leaders. The fathers, when they saw their boys dying on the same battle fields they fought and died over, knew that their serving in a war just a quarter of a century ago did not end wars. This world-wide hero lived to see another war where he barely escaped with his own life and saw his son die on a battlefield. The story about a hungry, tired and sleepy soldier staggering to camp and sitting down on a bank, a captain tapped him on the shoulder and said, "this is reserved for officers." He replied, "where I came from was not reserved for officers." This would answer the question if the men who start wars had to fight them, they would never start.

As I bring this message to a close my heart is heavy, my eyes are moist with tears that trickle down my cheeks. As a loyal American, with my prayers for peace, the Lord has turned these tears to sparkling diamonds. When we see or hear the peace feelers being handed out, and we think the dove of peace is flying low, and the circles are getting smaller, our hearts rejoice to believe our boys will soon be home. We hope and pray this is not the political scheme for another campaign to end the war, and it will continue to drag on until we have our treasure drained and we will have our economy wrecked with promises that cannot and will not be fulfilled. If the whole world would join hands and hearts together and pray for a universal peace on earth and good will towards men, then the prophesy of Isaiah would come true and men and nations would beat their swords into plow-shares and their spears into pruning hooks. Then we could sing we will study war no more. Pray for peace and believe God will send the peace and we will be free from the scourge of war. Praise the Lord for a full salvation.

HOLDING TANKS ON BOATS STOP POLLUTION OF LAKES AND STREAMS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. FRASER. Mr. Speaker, the William Ford amendment permits States to completely prohibit the discharge of sanitary waste from boats.

It is sometimes claimed that standards which prohibit the discharge of sewage are impractical because no facilities are available to pump out boat holding tanks. While that contention may have been true at one time, the picture is changing rapidly.

For example, last year in Michigan, only 75 pumpout facilities served the boating industry. This year, 175 pumpout facilities are available—enough according to the Michigan Department of Natural Resources to service that State's recreational fleet quite adequately.

It is interesting to note that most of these facilities were built by private entrepreneurs and only about three dozen pumpout stations utilized some government funding.

In my own area, close to my summer place on the St. Croix River, 10 pumpout facilities currently, serve from Prescott, Wisc., to Stillwater, Minn. They include three pumpout stations at Prescott, Wisc., two each at Hastings, Afton, and Stillwater, Minn., and one at Hudson, Wis. With that kind of service available, I see no reason to permit use of flow through treatment devices that have proven inadequate and that have often degraded our water. I certainly do not want, and I am sure you do not want our kids to water ski or swim in waters where sewage has been allowed to flow through devices that frequently malfunction so badly that the suspended solids are not macerated, but are still recognizable as solids.

Pumpout stations for recreational boating cost between $600 and $3,000 depending upon whether or not storage or septic tanks are used in conjunction with the pumps. Many pumpout stations are run on the coin-operated serve-yourself principle and require no permanent attendant.

CHARGE FOR PUMPING OUT HOLDING TANKS

Individual boaters pay between 50 cents and $7 each time their holding tanks are pumped out. The average fee is about $3. The average boater will need a pumpout roughly once every 2 weeks. So during an average boating season of 12 to 14 weeks the total cost would range from $3 to $49.

Some holding tank systems do not need to be pumped out because they are portable and the boater may remove the tank from his boat and dump the waste in any on-land restroom.

COST OF HOLDING TANKS

The price of holding tanks is comparable and often cheaper than the cost of treatment devices. Holding tanks or recirculating toilets range in price from $35 to $300. Over 250,000 boats already have retention systems. In Minnesota, for example, there already are almost twice as many retention systems—1,191—as there are discharge units 680.

COMMERCIAL VESSELS

We must also stop pollution from commercial vessels. Commercial vessels require larger holding tanks and therefore, larger pumpout facilities. A commercial vessel may not want to curtail cargo space to install large holding tank systems. But that problem is solved easily because our technology has developed toilets that recycle water and enable three or more flushes on the water normally used for one flush. These water recycling systems and incineration devices can reduce the holding tank size on commercial vessels. In addition, these vessels can be pumped out in midcourse while they are taking on food and fuel from midstream services like those that operate on the Mississippi.

Some have solved the pumpout problem by hiring pumpout trucks to come to the port and service ships. The Port of Duluth has such a truck and will use it until more permanent facilities are installed. And Ford Motor Co. now hires a truck to pump out the tank on its fleet about once every 2 weeks.

In addition the number of on-shore pump-out stations for commercial vessels is growing continuously. Twin City Barge and Towing in St. Paul for example, has just completed a pump-out facility.

The prohibition of discharge from boats has already been studied by the National Academy of Sciences. They conclude:

. . . the environmental goal seems attainable without inordinately jeopardizing the viability of the maritime segment of the national economy.

Since this National Academy study says the goal is attainable and since it says that quality flow through treatment will be too expensive for 95 percent of the marinas, the only reasonable thing to do is to allow States to prohibit all discharge. We can do that by passing the William Ford amendment and allowing 20 States to continue implementing their strong programs.

TREATMENTS WITH METHADONE PROBED AT BUFFALO HEARING

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DULSKI. Mr. Speaker, the Subcommittee on Public Health and Environment of the House Committee on Interstate and Foreign Commerce held hearings and on-site investigations in my home city of Buffalo, N.Y., last week on the issue of methadone treatment for heroin addiction.

The treatment is well known and widely used, but there is considerable disagreement about many facets of the effort. There is agreement that methadone has worked as a treatment for heroin addiction although methadone itself is an addictive drug.

I compliment my neighboring colleague, the Honorable JAMES F. HASTINGS, of New York, for arranging the Buffalo sessions and I appreciate fully the helpful cooperation of another subcommittee member, the Honorable PETER KYROS of Maine, as well as the Honorable JACK KEMP of New York, a member of a task force on drug abuse.

Just 2 weeks earlier, in the same city, my own investigations subcommittee held 2 days of hearings on another aspect of the drug problem, the nagging question in many families as to whether the suspicious substance they find in their children's possession is in fact a dangerous drug.

There are many aspects to the massive drug problem and we must make every effort to deal effectively with each of them.

Mr. Speaker, as part of my remarks, I include three news stories on the Public Health Subcommittee's hearing, also the text of a statement which I submitted for the record because official business in Washington prevented my accepting the kind invitation to take part in the sessions:

[From the Buffalo Evening News, Mar. 22, 1972]

REPRESENTATIVE HASTINGS CHARGES COUNTY IS BALKING AT METHADONE PROBE

WASHINGTON.—The Erie County Laboratory reportedly has refused to give its complete cooperation to federal narcotics agents investigating the area's methadone-related deaths, Rep. James P. Hastings (R., Allegany) said today.

The congressman said he was informed in a telephone call from the Bureau of Narcotics & Dangerous Drugs (BNDD) that an unnamed representative of the laboratory, "acting on the advice of the Erie County attorney," refused to give BNDD investigators the names of the toxicology reports on the area individuals who reportedly died of methadone overdoses.

An aide to Mr. Hastings said the federal agents last week were given information on "the number of people who died, whether they were male or female, and that's all. That's something BNDD could have got from the press.

"BNDD has no idea why they refused," the aide explained. "But the level of refusal was very basic. They refused to provide information to help BNDD get their investigation started."

Mr. Hastings last month requested BNDD and the Food & Drug Administration to "take a good look" at the methadone dispensing operations in Erie County.

Methadone is used in the treatment of heroin addicts.

He said his request stemmed from an article in the Feb. 26 Buffalo Evening News which reported that methadone had caused nine deaths in the county within the preceding 11 months.

Mr. Hastings said he also was informed that the county officials "specifically indicated" to the federal agents that they would continue to refuse to provide additional data on the cases unless the U. S Attorney obtained a Federal Court order requiring them to comply.

"This is highly unusual," Mr. Hastings said.

The disclosure came on the eve of tomorrow's hearings by the House Commerce Subcommittee on Public Health & Environment in the Federal Office Bldg. in Buffalo on the possible need for new federal legislation to improve controls on methadone distribution.

Mr. Hastings, who is a member of the subcommittee and will preside at the hearings with Rep. Peter N. Kyros (D., Me), said:

"We are going to develop this tomorrow at the hearings. I don't understand it yet. It just seems inconceivable to me.

". . . This is no witchhunt. We are truly concerned about this problem of methadone diversion . . . The county officials may have their reasons for refusing to co-operate and we will develop those reasons at the hearings tomorrow."

[From the Buffalo Evening News, Mar. 23, 1972]

WITNESSES ARE AT ODDS ON METHADONE SECURITY AT HOUSE HEARING HERE

(By Mildred Spencer)

Spokesmen for Erie County agencies agreed today that methadone maintenance is an effective treatment for heroin addiction, although methadone itself is an addictive drug.

But they disagreed strongly as to the security provisions that should be observed in treating patients.

At a public hearing of the Congressional Subcommittee on Public Health & Environment in the new federal building, the differences were brought into the open.

Two of the three units funded to date for methadone maintenance programs strongly oppose letting addicts under treatment take methadone home for between-clinic visit use.

Dr. Arthur Goshin of the Lackawanna Health Center, where 17 addicts are now under treatment, and Fredrick Willis of the DART program, which has not yet admitted its first addict, believe clinics should operate 7 days a week.

Clinic hours, they indicated, should be arranged so that addicts whose heroin habit is under control can receive their daily dosage of methadone at an hour that will not interfere with attending school or holding a job.

Sister Mary Charles, Administrator of Sisters Hospital, testified that requiring a patient to report daily at a clinic once he has proven himself "responsible" would "destroy the rehabilitation aspect of the program."

FIRST BUFFALO CLINIC

Sisters Hospital, she said, which now treats 240 persons and was the first methadone clinic in Buffalo, lets patients take up to a 3-day supply of the drug home for use between clinic visits.

Dr. D. Seymour Joseph, deputy commissioner for special programs of the State Narcotics Addiction Control Commission, goes even further. He believes that addicts who have been wooed away from heroin and are conforming to all of the requirements of a methadone program should be able to visit a clinic once a week and take a 6-day supply of methadone home for between-visit use.

Rep. James F. Hastings (R., Allegany), who presided at the hearing, asked about controls that should be written into proposed federal legislation to minimize the diversion of methadone to illegal channels.

He pointed out that such diversion has been increasing and called attention to a recent report in The Buffalo Evening News of methadone deaths in Erie County.

Sister Mary Charles admitted that one such death was a patient enrolled in the Sisters Hospital program who apparently took "a massive dose of methadone in addition to that administered daily at the hospital."

"WORTH IT ALL"

"There are tensions, pressures, obstacles, disappointments and unanswered questions about methadone maintenance," she declared, "but of one thing I am sure—it is worth it all to watch a man become a man once again."

She cited letters which the hospital has received from grateful addicts and their families testifying to happier family lives, regular employment and fewer problems in general.

Mr. Willis of the DART program, in urging stricter methadone controls, warned that it is "as bad as heroin" when it gets into the illegal market. Methadone, he said, is already "on the streets" in Buffalo.

"If a guy leaves the center with a three-day or more supply of methadone," he said, "some of that methadone, in some instances, can get into illegal channels. Other supplies are coming in from New York."

Robert Stanley, DART's senior counselor of social service, warned that even methadone maintenance programs aren't foolproof.

Others sitting with the Rep. Hastings for the subcommittee hearings included Rep. Peter Kyros, (D., Maine), a member of the committee, and Rep. Jack Kemp, (R., Hamburg) a member of a Republican task force on drug abuse.

Subcommittee members will visit Buffalo methadone maintenance programs tomorrow before returning to Washington.

[From the Buffalo Evening News, Mar. 23, 1972]

PROBE INTO METHADONE: COMMUNICATIONS LAG?

A communications lag between federal and local officials is behind charges that Erie County officials are refusing to co-operate in a federal investigation of area methadone-related deaths, a spokesman for the county attorney's office said today.

First Asst. County Atty. William E. Staub told The Buffalo Evening News he advised Federal Bureau of Narcotics & Dangerous Drugs investigators Feb. 29 that toxicology reports they had sought from the county laboratory could not be released without a court order.

"I advised the investigators and the U.S. attorney's office in Buffalo on that date that we were bound under state law to receive a court order before the reports could be released," Mr. Staub said.

"Since that date we have heard nothing further on the matter from federal authorities until the charges came out of Washington," he added.

Rep. James P. Hasting (R., Allegany) said Wednesday that federal officials had informed him that the Erie County Laboratory had refused to give its complete co-operation to federal narcotics agents investigating area methadone-related deaths.

"Justice Department Personnel approached the director of the county lab on Feb. 28 and demanded written reports concerning nine

alleged methadone deaths in the county," Mr. Straub said.

When Mr. Straub was notified of the original request, he said he advised labor personnel to withhold the reports until he could speak with the investigators.

"I met with the investigators the next day in my office and told them the county was ready to aid in any way it could with the investigation, but that we were bound under state law on the release of written reports of county medical examiners."

Mr. Straub said the law stipulates that such reports, which are not public documents, may be released to "other parties" only after the State Supreme Court issues a written order.

"I advised the U.S. attorney's office in Buffalo that we would be willing to waive all formal motions to get them that order as quickly as possible, but we never heard from them again on the matter," Mr. Straub said.

STATEMENT BY CONGRESSMAN THADDEUS J. DULSKI BEFORE SUBCOMMITTEE ON PUBLIC HEALTH AND ENVIRONMENT, BUFFALO, N.Y., MARCH 23, 1972

Mr. Chairman, I appreciate your extending to me this opportunity to appear before the Subcommittee on the operating procedures for methadone maintenance programs in Erie County.

Just two weeks ago, I conducted hearings in our city regarding the possibility of persons using the mails to send suspected dangerous drugs to government agencies for analysis purposes only.

I don't presume that these hearings now make me an instant expert of the drug problem or of the ways in combatting this menace. I have barely scratched the surface.

Yet, I feel that our hearings have afforded us an invaluable first hand insight to the problem.

We were fortunate to have discovered some witnesses who were willing to come forward and tell their story—people who have lived with this dreaded curse, either as addicts or as parents with addicted children.

They appeared at great personal sacrifice and anguish. The fact that they wished to remain anonymous, for obvious reasons, in no way dilutes the value of their testimony.

Their stories bear directly on the subject matter of the hearing today. Therefore, I will be happy to make available for the subcommittee in its deliberations copies of the transcript of our hearings as soon as they are printed.

I would like to cite one example. We heard from a young girl, a former addict, who had turned to prostitution to support her habit. She has been on a methadone program for three months, during which time she has stayed clear of drugs. She said, "I hope with methadone, I may be able to get rid of the habit."

I do not wish to imply that our hearings have given us conclusive evidence that methadone is the complete answer to the drug problem. What I am saying is that we received some testimony that the methadone program has helped in a most meaningful way.

I also realize that while there have been successes with methadone treatments, there have also been problems. For example, the recent deaths of nine persons in Erie County were related to the use of methadone. There have been reports of methadone addiction of babies born of mothers who were under methadone treatment. Other reports of so-called "methadone addiction" as a result of its availability "on the streets" have also been made.

Yet, the benefits derived from this program should not be minimized because of these setbacks. Further, at least at the present, it appears that methadone is the most effective chemical remedy for relieving heroin addiction.

Therefore, the answer would seem to lie in effectively controlling the dispensing of methadone, not in its curtailment.

These controls, however, should not be so overbearing with the result that methadone treatment would become virtually non-existent. Yet they must be made sufficiently effective to eliminate the ancillary problems that have arisen.

In conclusion, I wish to commend the subcommittee, and especially my colleague from Western New York, the Honorable James F. Hastings, for arranging these hearings.

I am confident that your efforts will be of significant assistance in our fight against drug abuse.

VIEWPOINT—DRUG PROBLEM WORSENS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. RODINO. Mr. Speaker, as you know, I have long been deeply concerned about the perilous drug problem which has engulfed this country. We are beyond doubt confronting a crisis situation, for narcotics addiction has reached epidemic proportions.

I am delighted that President Nixon has acknowledged the urgency of this problem, for the lives and futures of America's young people are at stake. I think we must be absolutely sure that every penny of the funds approved for narcotic programs is properly and effectively expended and I intend to continue to follow closely all governmental activities. In this connection, I would like to bring to the attention of my colleagues another "Viewpoint" from a recent Newark Star-Ledger:

VIEWPOINT—DRUG PROBLEM WORSENS

In tragic human terms, the nation's hard core drug program has worsened despite public avowals by elected officials to fight an unrelenting war against addiction and heroin peddling.

But it should be apparent, even at this late date that political rhetoric is not going to be enough to turn the ominous swelling tide of narcotic addiction in this country.

The nation is moving at an agonizingly slow pace in dealing with the addiction problem in a full and responsible manner. President Nixon, in his latest declaration on the social scourge of addiction, called for "total war," characterizing the problem as the nation's domestic "public enemy No. 1."

It is a realistic priority, calling for a broad governmental commitment that will require a substantial allocation of resources if any appreciable headway is to be made in resolving the problem.

The states no longer can continue to underwrite the sizable effort required. New York State, for example, has expended several hundred million dollars, and Governor Rockefeller grimly conceded that the results have been highly discouraging.

Although Mr. Nixon has taken strong public stands on addiction, the fact is that the governmental effort has not yet approached the President's resolve and determination by either results or performance. Admittedly, the drug problem is awesome and difficult to resolve, or even abate, but it is going to require a lot more time, energy and resources than have been committed to date.

It is apparent that the war on narcotics is still way short of "total" and priorities set by the Administration have not until recently began to match the urgency required.

The Nixon Administration has now embarked on a three-pronged drive—moving to cut off foreign sources of supply, setting up an office for drug abuse prevention and, more recently, concentrating a tighter enforcement. These approaches would have considerable potential if they are carefully coordinated under one administrative umbrella. But this does not appear to be the case under the Administration's hydra-headed concept.

On balance, however, the new federal narcotics law is a decided improvement in comparison with the feeble efforts of the past. With $1 billion in funding, the attack on the drug problem should be much more effective than previous governmental efforts.

STATEMENT BY ASSEMBLYMAN PETER J. COSTIGAN

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. GROVER. Mr. Speaker, today I attended a conference of State legislative representatives from the northeast States. One of the legislators present was our outstanding assemblyman Peter J. Costigan from Suffolk County, N.Y., whose remarks reflect the opinion of the vast majority of my constituents.

The statement follows:

STATEMENT BY ASSEMBLYMAN PETER J. COSTIGAN AT A MEETING OF THE LEGISLATIVE DELEGATIONS OF THE NORTHEAST ATLANTIC STATES

Ladies and Gentlemen:

As an Assemblyman from the State of New York, and appearing in behalf of the Speaker of the New York Assembly—Perry Duryea—I am here today to voice the concern of millions of people who fear that offshore drilling along the Atlantic coastline ultimately will lead to severe economic and environmental consequences.

The other purpose of this statement is to call upon the United States Department of Interior:

To clearly delineate what the national policy is toward offshore drilling;

To enlighten us as to improvements—if any—in the technology of controlling and preventing oil spillage and seepage;

And finally, to fully disclose the nature of oil and gas drilling operations contemplated particularly in the vicinity of Long Island.

Certainly we in New York do not wish to stand in the way of progress. Yet change brought about by technology does not always mean progress. It seems to me that progress occurs only when governments at all levels—federal, as well as state and local—plan wisely and choose well in their efforts to better the living conditions of the people.

While we recognize the nation's future need for oil and gas reserves, we would question the wisdom of the Federal Government allowing marine exploration of the Atlantic Outer Continental Shelf, especially at this time when the petroleum industry obviously lacks sufficient technology to control, and more importantly, prevent the spillage and seepage of oil, not only from drilling rigs but also tankers.

We have had enough of biological wastelands—of beaches blackened with oil and strewn with bodies of dead or dying water fowl. After all, Long Island is a sizable chunk of territory. If you were to pull its coast into a straight line, it would stretch all the way to Savannah, Georgia. That's about 1,700 miles of coastline—and I'm sure no one here would want to see it become the Santa Barbara of the Atlantic.

Moreover, aside from environmental considerations, the economic value of our shorelines and coastal waters cannot be overestimated. In fact, our wetlands serve as a breeding ground for the nation's fish supply. Latest available statistics show that in 1970, the Long Island catch amounted to 16.4 million pounds of fish valued at $2.38 million and 15.8 million pounds of shellfish valued at $13.7 million. And, our recreational bays, harbors and beaches pour millions of tourist dollars into the State's economy.

It therefore should be understandable why reports that the U.S. Interior Department may issue permits for offshore drilling have caused considerable apprehension among my colleagues in the New York State Legislature, and a lot of vocal reaction from our constituents that may or may not be justified.

Surely no one will dispute the fact that the people of Long Island have the right to some straightforward answers. The people have the right to demand full disclosure as to the precise intentions of the Interior Department. The people have the right to know the findings of any geological studies that the Department may have conducted in compliance with the National Environmental Policy Act. And, the people have the right to hear all petroleum companies applying for an offshore lease publicly attest as to the safety of their drilling and production procedures.

Not only do New Yorkers have the right to know, but so do the people inhabiting all of the Atlantic Coastal States—for once oil spreads, it knows no boundaries. In the words of Assembly Speaker Perry Duryea—"Where our States share a portion of the Atlantic coastline, they likewise share the problems involving that coastline."

This is why Speaker Duryea recently joined with Assembly Speaker William Ratchford of Connecticut in creating a Bi-State Legislative Committee on Coastal Marine Resources—of which I am Co-Chairman.

Our Committee is charged with the responsibility of reviewing pollution, dumping and drilling problems relating to the Atlantic Coastline and Long Island Sound, and transmitting corrective programs, if necessary, into the respective State Legislatures for action. Such a mission makes it all the more imperative that we keep closely attuned to the plans of the Interior Department and other environmental agencies at the Federal level.

In New York State, we have a number of programs before us at the current session of the Legislature, which are designed to protect our marine resources from the devastating threat inherent in offshore oil and gas drilling. For example:

The Assembly already has passed a bill banning the drilling for oil or gas anywhere within the three-mile statutory limit of the Long Island shoreline.

A resolution has been introduced memorializing the Congress of the United States to set up firm offshore oil drilling prohibitions applying both to domestic and foreign interests.

The State's Attorney General has prepared legislation designating our coastal waters fronting the Atlantic Ocean and Long Island Sound as a marine sanctuary, and absolutely forbidding the extraction of oil or gas from the submerged lands under these waters. Violators would face stiff penalties, and also would be held liable for damages if they caused a discharge of oil or other pollutants originating from outside of the State's waters.

And, my colleagues in the New York Legislature also are studying a proposal to create a State Commission on Marine Resources—a sort of watchdog with subpoena power so that polluters and would-be polluters no longer could escape the law.

I cite these actions to demonstrate to you that we in New York mean business. We must move vigorously—for Long Island officials, conservationists and scientists all predict environmental disaster in the uncontrolled sinking of wells offshore.

They point to the instability of the ocean bottom, the inevitability of spillage induced by human error, and the inhospitality of the climate itself because of rough seas in winter and the constant danger of those notorious "nor 'easters." In addition, there's always the likelihood of blow-outs, and the prevailing wind currents are such that oil spills would be taken directly to shore.

But even if the ecology of the Atlantic Coast, including Long Island Sound, was not so fragile, the lesson of Santa Barbara and similar mishaps off the Gulf Coast teaches us that no drilling operation is absolutely safe. Indeed, the technology of offshore drilling is so undeveloped that no one can give assurance that there will not be a major accident such as spillage or seepage, nor is anyone clear as to the effect on the environment if there is an accident.

Estimates indicate that more than one million tons of oil are spilled each year in oceans and harbors throughout the world. This figure includes spills from drilling rigs, shipping losses, accidental spills in port, and illegal cleaning of tankers at sea.

And, we haven't seen anything yet! With world-wide offshore petroleum production expanding at a rate of 10 per cent a year, presumably so will the spills and seepages. Like poison in water, once oil enters, the damage is done.

As I observed at the beginning of this statement, change catalyzed by technology undeniably has resulted in a higher standard of living for the people of New York State and elsewhere in America, but at the same time it has posed new, serious threats to the very existence of our society. Now I say it's high time that technology was used to eliminate these threats. Only then will we have true progress.

This is the challenge I throw out to the oil companies. Until they achieve the technology required to effectively control and prevent spillage and seepage—until they show as much zeal for protecting the environment as they have for exploiting it—government must be ever vigilant.

Government must insist on full exercise of its enforcement powers to shield our precious environment from the toxics emitted by offshore drilling. And, government must not be led astray by huckstering that minimizes the extent of oil pollution.

For, if government isn't on its guard, man in the process of despoiling his environment will destroy himself.

THE 54TH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BROOMFIELD. Mr. Speaker, March 25 was a day of great significance for citizens of Byelorussian descent. It was on that day, 54 years ago, that the independence of the Byelorussian Democratic Republic was proclaimed.

Prior to World War I several European nations began establishing a firm foundation for democracy. Those nations hoped to protect themselves from outside aggression through an organizational congress.

The Byelorussian State withstanding military pressure from Russian forces, was secretly preparing for the opportune moment to break from their oppression. It was during the Bolshevik Revolution of 1917 that the moment of freedom arrived. The Byelorussian Congress gained control of their government on February 19, 1918. On March 25, 1918, the Congress declared itself a nation, independent and democratic.

It was in late 1918 when the Russian armies again invaded the Byelorussian territory. On December 10, 1918, a Soviet government was reestablished which destroyed the self-governing Byelorussian Congress.

Today, however, the 8 million Byelorussian people still hope that they will once again have the opportunity to regain their independence among the free nations of the world.

Mr. Speaker, let us pay homage to the people and once proud nation of Byelorussia on their 54th anniversary.

Let us hope and pray that one day soon, we can truly celebrate the independence and freedom of Byelorussia as we did briefly in 1918.

WHAT WAS PURPOSE OF SOVIET MANEUVERS?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOB WILSON. Mr. Speaker, I include in the RECORD, the following article by Irving Salomon which appeared in the March 5 San Diego Union:

WHAT WAS PURPOSE OF SOVIET MANEUVERS?

(By Irving Salomon)

Twice, the veil of secrecy that traditionally hangs over the training and maneuvers of the Soviet armed forces was temporarily lifted; and each time, the formidable colossus of Soviet publicity and the Soviet propaganda machine was brought to bear upon these ground forces maneuvers.

The exercises were not the first in the history of the Soviet ground forces. In 1936, the Red Army, in the course of maneuvers near Kiev, invited large numbers of representatives of the capitalist powers to watch a demonstration of a large-scale parachute drop. It was the first time in history that so great a number of troops had been dropped on one occasion.

Looking back at that occasion over an interval of 36 years, one is struck by the fact that it was all very important for the Soviet Union, at that particular moment, that the foreign visitors should be mightily impressed.

The USSR was militarily not very strong. The armaments programs set up by the five-year plans had not yet made their effect felt. When the Kiev maneuvers were held, many of the weapons planned for the use of the Army were still on the drawing-board and not yet available for use. So the Red Army tried to by make itself look more formidable than it was.

Actually, the parachute drop demonstrated at Kiev was incapable of application in a real war. To be capable in a major conflict, far larger numbers of men would have had to be transported; and, moreover, after they had been dropped, they would have to be supplied. The Soviet air force of the time did not

possess the planes or the equipment to do either.

Nevertheless, the Kiev maneuvers were strikingly successful; they persuaded the foreign visitors that the Red Army was ultra-modern, very highly mechanized and very formidable.

Coming to the current situation, it is interesting to note that the Soviet government did not invite any western representatives to the recent exercise.

They avoided any publicity on it in the West.

However, numerous groups came from the other Socialist countries to see the maneuvers. Also, the urban population of Kiev were present by the thousands. Soviet inhabitants in general were unable to attend, but were reached in an extensive way by the Soviet press, radio and television. Much publicity was accorded the exercise in the USSR so that the ordinary citizens could be acquainted with the current exploits of the Soviet armed forces.

What is the reason the West was excluded this time?

Was it because it was on such a large scale?

It is interesting to note that eleven divisions and ancillary units participated; also, more than 1,000 tanks. Also, the personnel engaged was not only the regular army. A large number of reservists were called up to take part. It is interesting to note that few came from several Soviet republics and the Warsaw Pact countries, though their media was bombarded with stories of the exercise.

What could have been the Soviet reason for exhibiting their military prowess to their own citizenry?

NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. WHITEHURST. Mr. Speaker, I am inserting into the RECORD the weekly news bulletin of the American Revolution Bicentennial Commission—ARBC. I take this action to help my colleagues keep informed of bicentennial activities and programs across the Nation. The bulletin is compiled and written by the ARBC Communications Committee staff. The bulletin follows:

BICENTENNIAL BULLETIN—MARCH 27, 1972

During its meeting on March 21, the ARBC Executive Committee received reports and placed under study positions on a national Bicentennial theme; a policy for recognition of non-profit and commercial projects; the Coins and Medals program; and the feasibility study of the Bicentennial Parks concept. In addition, a presentation by New York City officials was made in behalf of the New York South Street Seaport Project.

The Philadelphia Bicentennial Corporation presented on Tuesday, March 21, plans for hosting an International Expo for '76. Chairman John Bunting made the presentation to Secretary of Commerce Peter Peterson, ARBC Chairman David J. Mahoney and representatives of other federal departments and agencies. Mr. Bunting was joined by Pennsylvania Governor Milton Shapp, Philadelphia Mayor Frank Rizzo, U.S. Senator Richard Schweiker, Congressmen Byrne, Ellberg and Williams (ARBC member), and several other state and city officials from Pennsylvania and New Jersey. The Expo plan will be taken under advisement and study for a joint report to President Nixon by Commerce, the Office of Management and Budget and the ARBC.

At the ARBC Communications Committee meeting on March 22, action was taken to provide for Advisory Panels on Ethnic Media and to include ethnic representation on the Committee. The Committee also unanimously recommended a national Bicentennial theme and sent its recommendation to the ARBC Executive Committee. Also on the agenda was a presentation for recognizing non-profit and commercially sponsored communications projects and a review of current ARBC Communications and Audiovisual Programs.

The directors of Washington, D.C.'s Metro Authority, WMATA, recently pledged an all-out drive to meet the Administration's request that at least 24 miles of Metro rapid rail line be operational for the '76 Bicentennial. In a resolution approved by Metro directors top priority consideration will be given to extending service to Dupoint Circle, Silver Spring, National Airport and Stadium-Armory stations by May 1, 1976.

The Year and the Spirit of '76 by ARBC Commission member Ann Hawkes Hutton is to be published by Franklin Publishing Company, Philadelphia on April 3rd. All proceeds will go to the Washington Crossing Foundation. Additional information may be obtained by writing the Foundation, Washington Crossing, Pa. 18977.

Mr. Robert A. Hickman, member of the South Carolina Bicentennial Commission, said recently that the State Commission is planning to establish three interpretive centers for visitors for the Bicentennial. One is to be located at Charleston and others at the sites of the Battles of Cowpens and King's Mountain.

A recent article appearing in the Lansing (Mich.) Journal states that Michigan's participation will emphasize the historical development of transportation in the U.S., but will also feature several varying statewide observance with the assistance of several local historical societies. The State Historical Commission, the article says, is urging construction of a new Museum of Michigan History "as a lasting reminder of the Bicentennial celebration."

Following are some recent State Bicentennial developments reported to the ARBC:

Mr. Arnie Stenseth has been named Director of the South Dakota American Revolution Bicentennial Commission. Mr. Stenseth will have his office in the State Capitol Building in Pierre.

Mrs. William S. Curry of Casper, Wyoming has been named Chairman of the Wyoming Bicentennial Commission. Mr. Charles W. Margolf of Buffalo, Wyoming has been named Vice Chairman and Mrs. Jim Hendry of Lost Cabin, Secretary-Treasurer of the twenty-member Commission.

Dr. Robert E. Cecile has been named Chairman of the Ohio American Revolution Bicentennial Advisory Commission. Mr. Cecile is the Assistant to the Governor for Education.

Following are additional comments on Bicentennial Parks:

"Open land and the great frontier are the bases of American history. Indeed, they made the country. We cannot think of a more meaningful birthday celebration than a network of parks demonstrating, among other things, wholesome recreation and the best use of land. But why wait until 1974 to get the job going?"—Miami, Fla. *Herald* (3/4)

"Many states and cities already are well along in their Bicentennial planning. For those that are lagging behind—and that includes Wisconsin—the Bicentennial Park announcement should prove to be a spur for greater activity."—*Commonwealth Reporter* (Wisc.) (2/25)

"This could be the spark that could put the bicentennial on the road and unite this nation as never before."—Rapid City, S.D. *Journal* (3/2)

"Scattering a series of novel new parks across the country seems at first glance like a dramatic way of enhancing the 1976 observance of the nation's 200th birthday. . . . The commission concedes problems. Some states might not want one of these new parks if they are going to have to take over operating costs. (Presumably Wisconsin would not be that shortsighted, given our great need for more parks nearer urban centers.)"—Milwaukee, Wisc. *Journal* (3/1)

"The idea has merit if for no other reason than it allows flexibility. States would not be required to participate, and those who did could select their own architect to play variations on the central theme."—Lancaster, Pa. *Journal* (3/6)

"The network of 50 bicentennial parks proposed by the American Revolution Bicentennial Commission would be a creditable permanent reminder of the national pride Americans should feel in 1976."—Winchester, Va. *Star* (3/8)

TO HONOR A REVOLUTION—PARKS FOR THE PEOPLE

(By Wolf Von Eckhardt)

The American Revolution Bicentennial Commission has finally come up with an idea.

It is a good one, I think.

The Commission would have us celebrate the 200th anniversary of our independence in 1976 by opening a Bicentennial Park—a "peoples' park," as it were—in every state of the Union. They would be built on federal surplus land, such as obsolete military installations. And most of them would be built in or near big cities, where popular recreation and cultural attractions, indoor and out, are most sorely needed.

These parks would not be mere fairgrounds, such as Philadelphia is still thinking of building for the 1976 celebration.

Nor would they be city parks in the traditional sense, such as New York's Central Park or Washington's Rock Creek Park. The old parks were created in more leisurely times and thought of as great, bucolic open spaces within the city, a bit of rural landscape transplanted to a place where city people could easily get to them for outdoor play, strolling, sunning and seclusion. We need that, too.

But the new, Bicentennial Parks would also be places where things happen, that invite, to use the fashionable sociologese, "involvement and participation." There would be excitement, diversion and inspiration, a variety of activities and events by day and by night, summer and winter.

As a major attraction, the Bicentennial Commission suggests that each park have a Bicentennial Pavilion for historical exhibits and the display of arts, crafts and special films as well as an amphitheater for all kinds of theater, music and dance performances. In front of them would be a Bicentennial Plaza for public ceremonies.

The parks would furthermore feature a variety of restaurants, some offering hot dogs and beer, others fancy dishes and wine. There would be dance pavilions and puppet shows, market stalls, carousels and fun rides, a botanical garden and ecology center, children's playgrounds and picnic areas.

Some parks might still have room for games and sports and many would include water for swimming and ice skating and perhaps even fishing and boating.

Most importantly, perhaps, the parks would invite spontaneous events and "happenings," such as people themselves will generate, given half a chance. Thomas P. F. Hoving, now the director of the Metropolitan Museum of Art, successfully sparked such happenings in Central Park when he was New York City's Park Commissioner.

The Bicentennial Commission asked architects Davis, Brody and Associates to design a prototype for such parks. They came up with an interesting model, showing a world's fair-type, innovative cable structure and all sorts of neat architectural baubles.

But never mind the steel net, plastic-coated megastructures that scare us into future shock. What matters here are not structures but people. And to show what these parks could do for them, the Commission may be better advised to show pictures of some of the existing urban parks and how people enjoy them.

The most famous and attractive one, perhaps, is Copenhagen's Tivoli. Another delightful one is Moscow's Maxim Gorki Park. Each major East European city, in fact, has a "people's park" at the end of a street-car that keeps families entertained for a whole day without having seen and experienced all its attractions.

The most delightful cultural, recreation and amusement park in this country, I should think, is the Seattle center, a happy remnant of the 1962 Century 21 exposition in that city. Some years ago New York was about to build a similar park on the site of the 1939 and 1964 world's fairs out at Flushing Meadows.

Designed by landscape architect Lawrence Halprin with architects Marcel Breuer and Kenzo Tange, Flushing Meadows was to be a permanent bright spot in the city, a place full of action and vitality, a park that had just about everything—except the money to build it.

That was also the fate of the Anacostia Park here in Washington which Lawrence Halpern designed for Mrs. Lady Bird Johnson's beautification effort. Its most exciting feature was to be Kingman Lake, a stretch of the Anacostia River just below the Kennedy Stadium, that was to be de-polluted by filtering the water so that 30,000 people could swim in it at the same time. The cultural and amusement park was to be built on both sides of the lake and its sandy beaches.

Here, then, in New York and in Washington, are the makings of these Bicentennial Parks. There are surely similar potentials in all our big cities.

The Bicentennial Commission is now investigating these potentials and the feasibility and desirability of a string of such parks. It hopes that the next President will submit a well designed national program to Congress in January 1973, which will just barely be enough time to get them built by 1976.

Some people might call these parks a mere frill, a place for firecrackers, fun and games. But the President might well make them part of his program of dealing with the urban crisis because recreation, diversion and happenings that bring people together are just as important as housing and public transportation.

The Bicentennial parks, in short, could help a great deal to bring our stagnating cities to life again.

GROUNDWATER AMENDMENT TO WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ASPIN. Mr. Speaker, our distinguished colleague the Congressman from Massachusetts (Mr. CONTE) and I plan to introduce tomorrow an amendment to the Water Pollution Control Act Amendments of 1972 which would restore groundwater to its rightful place in this legislation and would eliminate a glaring loophole for the oil industry.

Below I include the text of the amendment which we will propose tomorrow. It follows:

AMENDMENT TO H.R. 11896, AS REPORTED

(Proposed by Mr. ASPIN and Mr. CONTE)

Page 227, line 3, after "navigable waters" insert "and the ground waters".

Page 277, line 4, after "such" insert "navigable and ground".

Page 278, line 3, after "navigable waters" insert "and ground waters".

Page 278, line 6, after "such" insert "navigable or ground".

Page 281, line 8, after "navigable waters" insert "and ground waters".

Page 372, line 14, strike out "water," and all that follows down through and including "(C)" on line 22.

Page 372, line 24, strike out "(D)" and insert "(C)".

Page 373, line 21, after "navigable waters," insert "ground waters,".

Page 374, line 4, strike out the period and insert in lieu thereof a comma and the following: "(C) any addition of any pollutant to ground waters from any point source."

FORCED BUSING

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SATTERFIELD. Mr. Speaker, some of the strongest advocates of forced busing have been saying that court ordered busing has nothing to do with seeking racial balances in public schools. Some allege that they do not read the court decisions as seeking racial balance. Obviously they have not read the recent "consolidation" decision rendered earlier this year by Judge Robert R. Merhige, Jr., judge of the U.S. District Court for the Eastern District of Virginia at Richmond.

An editorial in the March 21 issue of the Richmond News Leader demonstrates just how wrong these observations and opinions are. I invite the attention of my colleagues to that editorial with the hope that those who agree with these statements by busing advocates will take the time to read it.

[From Richmond News Leader, Mar. 21, 1972]

THIS ONE DOES

We all have our myths that protect us from reality, and the pro-busing people are no exception. Elliot Richardson, Secretary of the Department of Health, Education, and Welfare, is one of three Nixon Administration officials who advised the President on the matter of compulsory busing. Secretary Richardson never has been known for his opposition to compulsory busing. In perhaps the first public statement indicating the new myth in which the pro-busing people are wrapping themselves, Secretary Richardson said recently: "We do not read the court decisions (about busing) as seeking racial balance." And sure enough, it wasn't long before Roger Mudd of CBS and editorial writers for the New York Times were saying the same thing.

We have some news for these people: They ought to read the opinion and order delivered two months ago to the citizens of the Richmond area by Federal District Judge Robert R. Merhige, Jr. On pages 324–325 of his opinion, Judge Merhige disclaimed his desire to bring about racial balance in the public schools, to wit: "All parties are admonished that it is not the intention of (this) court to require a particular degree of racial balance or mixing." But it is an empty disclaimer. On probably half the other pages of Judge Merhige's opinion, he discusses various pupil-assignment plans in terms of the percentage of racial mix it did—or would—achieve.

Judge Merhige's opinion is filled with phrase after phrase suggesting that racial balance is indeed what he seeks. For example: "The marked racial disproportion between the city and each of the county systems has progressed rapidly in recent years." Schools with a racial composition that "departs significantly from the community parity . . . are perceived by parents, teachers, administrators, public officials, pupils, and the community at large as facilities designed and operated for one race or another." "Generally (according to educationist experts), schools attended under these circumstances by disproportionate numbers of black students are perceived as inferior." Etc.

Now, you can disclaim a desire for racial balance until you are blue in the face. You can avoid use of the word "balance." But if you write an opinion using such synoymous phrases as "racial disproportion," lack of "parity," and "disproportionate numbers of black students," there can be little doubt that you are talking about the need for racial balance—parity, more satisfactory proportions. And if you conclude your opinion with 12 pages of tables and charts showing pre-school racial breakdowns, in percentages, in every school in Richmond, Henrico, and Chesterfield, then, sir, you are talking about racial balance.

In his order requiring the consolidation of school districts in the Richmond area, Judge Merhige said: "The State Board of Education and the (State) Superintendent of Public Instruction shall, with the assistance of the acting superintendent . . . take all necessary steps to implement the desegregation plan presented to this Court by the School Board of the City of Richmond . . ." The city school board's plan drawn up primarily by assistant superintendent Thomas Little, is a 151-page stack of computer printouts based—essentially—on racial percentages. The print-outs presume to provide the precise racial breakdowns that would prevail under the city's plan at each of the public schools in the three jurisdictions.

Of 118 schools, only 10—most of them in Chesterfield—would have proportions of blacks below 25 per cent; none would have a black proportion below 17 per cent. Of the 118, only six would have black proportions above 40 per cent; none would have a black proportion above 41 per cent. So 102 of the 118 schools (86 per cent of the schools in the three jurisdictions) would have a black percentage in the 20 per cent to 40 per cent range that Judge Merhige concluded is most desirable; in no school would blacks be in the majority. Do not tell any Richmond area resident that such results under the city school board's plan approved by Judge Merhige would be pure coincidence. Rather, such results would be the intention of a judge seeking to bring black-white ratios into what he regards as satisfactory proportion—if you will, into satisfactory "balance."

Secretary Richardson, the people at CBS and the Times, and their equally mythologized myopics throughout the country owe it to themselves to read Judge Merhige's opinion and order. Thereafter, gentlemen, please: Do not tell us that the decisions of the Federal courts do not seek "racial balance." We defy anyone to deny that this one does.

WATER RESOURCE COUNCIL'S PROPOSALS REQUIRE REVIEW

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SHRIVER. Mr. Speaker, there is understandable concern in my State of Kansas, as well as other States across the Nation, regarding the Water Resource Council's proposed principles and standards for planning water and related land resources. I have joined in requesting the council to especially reconsider its proposals which would increase the discount rate for Federal water projects and which would require reevaluation of authorized projects which are not underway within 5 years.

Preliminary assessment of the impact of implementing the proposed principles and standards in Kansas indicates it will remove from consideration the planning and construction of approximately 50 percent of the watershed projects in planning or approved for planning and virtually all of the major reservoir projects not yet under construction, but now in the Kansas water plan.

Mr. Speaker, this means that approximately 4 million acres cannot be provided watershed protection and 10 major projects are unlikely to be built in Kansas. This could be a serious blow to land and water conservation efforts which are essential to Kansas agriculture and urban development.

Without adequate water supply or protection from floods the potential for industrial and agricultural development in Kansas will certainly be damaged.

The environment of Kansas has been substantially improved by flood control and land and water conservation projects of all types.

Citizens of my State do not want the return of the dust bowl days in Kansas, nor to the disastrous floods of 1935, 1951, or 1965.

The interest-discount rate must be kept low enough to assure the continuing development of the Nation's water resources.

Under the leave to extend my remarks in the RECORD, I include an editorial from the Wichita, Kans., Eagle which highlights the serious impact of the Water Resource Council's proposals. In addition, I include a resolution recently adopted by the Kansas State Senate urging that the Federal interest rate used in computing cost-benefit ratios be maintained or decreased. The editorial and resolution follow:

WATERSHED CHANGES NOT IN PUBLIC INTEREST

Watershed control projects worth half a billion dollars in Kansas are in danger because of proposals to change federal rules for building water resources structures.

Involved are feasibility specifications for federally funded water projects.

Of particular concern are proposals which would increase the discount rate for federal water structures and which would require reevaluation of authorized projects which aren't under way within five years.

The discount rate, in this case, refers to the ratio of pay-back per year that a water resource project will yield for federal dollars spent. Yield might be flood control, recreation, water supply or a combination of these.

The current discount rate is 5⅞ per cent, but the new proposals would raise this to 7 per cent right away and to 10 per cent in five years.

This would knock out a number of Kansas projects. Thirteen would fall at the 10 per cent discount level, and about 50 per cent of the state's water projects would be lost immediately at the 7 per cent level.

An example is the proposed Kendall Dam near Garden City. This facility is needed for recreation, irrigation and other uses as well as flood control on the Arkansas River. This dam has been under study since 1963, but would be killed immediately by the new discount rate.

Other projects affected would be Douglas Dam on the Walnut River; Towanda Dam on the Whitewater; Hillsdale Dam near Paola; Big Hill Dam, Labette County; Grove Dam near Topeka; Onaga Dam in Pottawatomie County; Tomahawk, Wolf Creek and Indian Creek Dams in Johnson County; Round Mound Dam at Hays; Cimarron Dam near Liberal, and the West Walnut Project encompassing more than a million acres west of Great Bend.

The restudy requirement is a waste of money because planning often takes three to four years. If construction isn't begun immediately, a re-evaluation would be required, costing more money.

A council comprised of six members of the President's Cabinet and the chairman of the Federal Power Commission recommended these changes.

They would not be in the best interests of Kansas and other states, and they should not be adopted.

SENATE RESOLUTION No. 34

A Resolution memorializing the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Whereas, The state of Kansas has been recognized as one of the leading states in watershed development since the inception of public law 566; and

Whereas, Water resource development under this program has proved to be highly beneficial in reducing flood damage, enhancing wildlife habitat, improving environmental quality, providing needed recreational facilities, abating stream and river pollution, and improving the economic stability of the state; and

Whereas, The state of Kansas is presently actively pursuing rural development through resource conservation and development projects; and

Whereas, Any substantial increase in the interest or discount rate as used in determining economic feasibility would make structural works of improvement difficult or impossible to justify: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we hereby petition the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Be it further resolved: That planning assistance be continued or accelerated on all water resource development projects currently authorized for planning, and that no restrictions or time limits be established for completion of such planning operations; and

Be it further resolved: That the secretary of the senate be directed to send enrolled copies of this resolution to the Federal Water Resources Council, 2120 L Street Northwest, Washington, D.C., and to each member of the Congressional delegation from the State of Kansas.

CYPRUS—THE PROBLEM IN PERSPECTIVE

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. PUCINSKI. Mr. Speaker, often we become so involved with today's events that we fail to pay attention to history—to place today's events into proper perspective.

Mr. Ernest J. Vardalas, vice president of the Chicago Council of Justice for Cyprus, has performed an outstanding public service by highlighting the history of Cyprus from B.C. to the present.

I would commend this most interesting work to my colleagues.

The excellent analysis by Mr. Vardalas follows:

CYPRUS—THE PROBLEM IN PERSPECTIVE

(By Ernest J. Vardalas)

HISTORICAL BACKGROUND

Cyprus is the third largest island in the Mediterranean Sea, with an area of 3572 square miles. It lies in the northeastern corner of the Eastern Mediterranean basin at the meeting point of three continents—Europe, Asia and Africa—and this fact added considerably to the island's importance and development through the ages.

The island has a population of 650,000 (1970), of which 530,000 (82 per cent) are Greeks and 120,000 (18 per cent) are of Turkish origin. It has a mild Mediterranean climate and a wide variety of landscape, from the pine and cedar-clad mountains of its two ranges to the bare and dry plains between them.

The island has had an adventurous history which was mostly the result of its geographical position. It appeared for the first time in the history of civilization in the 6th millennium B.C., during the Neolithic Period. This period, which occupies three millenniums, was followed by the Bronze Age which lasted until 1500 B.C. when for the first time, the Mycenaean Greeks came to Cyprus as merchants and emigrants. A little later on, in the 13th century B.C., the Achaean Greeks arrived and settled in Cyprus.

They introduced the Greek language and culture, both of which have been preserved to this day. At the end of the 4th century B.C. Cyprus became part of the empire of Alexander the Great. During the first century B.C., it became a province of the Great Roman Empire and remained as such until the 4th century A.D. when it was attributed to the Eastern part of the Roman Empire. This marks the beginning of the Byzantine Period which lasted until the 12th century A.D. when, during the Crusades, Richard the Lion Hearted conquered the island but soon handed it over to Guy de Lusignan who established a French dynasty lasting to the end of the 15th century. In 1480, Cyprus became part of the Republic of Venice until 1571 when it was conquered by the Ottomans. It remained part of the Ottoman Empire until 1878 when it was sold to Great Britain which ruled it until 1960 when, following a war of independence, the island was declared an Independent Republic.

A long list of conquerors passed over the island throughout its multi-faced history. However, in spite of the complexity of its history and the variety of its many foreign rulers, Cyprus and its people managed to maintain their Greek character until today, behaving through the ages as an integral part of the Greek world, even if at times the island was under foreign rule. The language of the population remains the Greek language, and the religion the Greek Orthodox (with the exception of the Turkish minority whose language is Turkish and religion Moslem).

Cyprus was under Ottoman rule together with the Greek mainland and other Greek island which, however, following the 1821 uprising and the liberation struggle that followed, managed at least partly to attain independence in 1821. Cyprus also participated in the Greek War of Independence and a great number of Cypriots had fought and fallen during this war, particularly in the battle of Athens in 1828. (A the beginning of Greece's Independence War in 1821, a number of Bishops in Cyprus were hanged by the Turkish occupation Authorities, having been accused of supporting the Revolution). The question of the incorporation of Cyprus in the Greek State was raised soon after 1830, but it had not become possible and Cyprus remained under Ottoman rule until 1878.

In that year the expansionist policy of Tsarist Russia led the Turks to cede Cyprus to Britain which promised to help Turkey in the event of an attack by Russia on certain bordering provinces. The Turco-British agreement was concluded in complete disregard of the wishes and interest of the Cypriot people, who, as mentioned above, had all along been demanding incorporation of their island to the rest of the Greek trunk.

On the outbreak of the First World War, Cyprus had been annexed to the British Empire, and in 1925 it had formally been declared a British Crown Colony. By that time, Turkey had, under the Treaty of Lausanne of 1923, Article 16, renounced any right or title over Cyprus and by Article 27 of the same Treaty divested itself of the exercise of any power or jurisdiction in political, legislative or administrative matters over the nationals of Cyprus. When Cyprus was declared a British Crown Colony, the Turkish population of the island—descendants of members of the Turkish occupation force and expatriates from Turkey—had been invited to choose between repatriation to Turkey or permanent settlement in Cyprus, and a number of them had elected to remain in Cyprus. At that time, it had never been intended or expected that the Turkish minority would become the arbiters of the country's destiny; from the date of British occupation to April, 1955, when the struggle for independence from the British rule was started by the Greeks, the Turks in Cyprus had intermingled with the Cypriot people and lived in peace and harmony with them.

In 1955, after a constant but unsuccessful struggle to attain their freedom by peaceful methods, the people of Cyprus had taken up arms against the colonial power, and the United Kindom Government, in its effort to thwart the Cyprus people's aspirations for self-determination, had exploited the presence of Cyprus of the Turkish minority and had sought assistance from Turkey itself in obstructing the natural trend of events in Cyprus. After some hesitation, the Turkish Government accepted the invitation to intervene in Cyprus, in defiance of its solemn undertakings under the Treaty of Lausanne, and a certain section of the Turkish minority in Cyprus became the instrument both of United Kingdom colonialism and of a new expansionist tendency in Turkey.

The United Kingdom Government which in 1954 had declared that Cyprus would "never" attain independence modified its position and had threatened that if self-determination were ever to be applied in Crypus, the result would be the partition of the island, since the Turkish minority would be offered the right of self-determination separately. That threat might have been intended to discourage the Cypriot people's struggle for freedom; but its consequences had been quite different. Instead, the partition of Cyprus had become an objective of Turkish foreign policy, and a number of Turkish Cypriots had taken up arms against the Cypriot freedom fighters, while the so-called Turkish leadership had advocated either partition or the continuation of United Kingdom colonial rule.

At the beginning of 1959 in Zurich and London, agreements were reached between Greece, Great Britain and Turkey. The solution so decided was practically imposed upon the people of Cyprus. As a result of this agreement, Great Britain, Greece and Turkey were granted rights of interference and intervention into the internal affairs of Cyprus. Moreover the Turkish Cypriot minority of the island (18 per cent) was given rights disproportionate to its size. It obtained 30 per cent in the civil service, 30 per cent of seats in the Parliament, and 40 per cent in the police and the army; the Vice-President of the Republic who had to be a Turkish Cypriot was granted a veto right on various vital matters.

On the basis of the Agreements, a Constitution was drafted and Cyprus was proclaimed an independent State on August 16, 1960. It was often asserted that the Zurich and London agreements had been freely signed by the representatives of the Cypriot people, but the truth was that the Cypriot people's representatives had signed them only because the sole alternative would have been the continued denial of independence and freedom, continued bloodshed and, possibly, the forced partition of Cyprus.

The Constitution provided for under the Agreements had divided the people into two communities on the basis of ethnic origin. The President had to be a Greek Cypriot elected by the Greek Cypriots and the Vice-President a Turkish Cypriot elected by the Turkish Cypriots. The Vice-President was granted the right of a final veto on any law of the House of Representatives and on any decision of the Council of Ministers concerning foreign affairs, defense and security. The Council of Ministers was composed of ten Ministers, three of whom had to be Turks and be nominated for appointment by the Vice-President.

In the House of Representatives, the Turks though only 18 per cent of the population, were granted 30 per cent of the seats and their Representatives were elected separately by their own community. The House could never modify the Constitution in any respect insofar as it concerned its Basic Articles, and any other modification required a majority of two-thirds of both the Greek and the Turkish members. Any modification of the Electoral Law and the adoption of any law relating to municipalities or any fiscal laws required separate simple majorities of the Greek and Turkish members of the House. Thus 8 Turkish members of the House could defeat a bill voted by 35 Greek members and 7 Turkish. In fact, in the year 1962 when the fiscal laws, according to Article 78 of the Constitution, expired, the 15 Turkish members defeated an Income Tax Bill voted by the 35 Greek members, thus depriving the State of one of its main sources of income.

The highest judicial organs, the Supreme Constitutional Court and the High Court of Justice, had to be presided over by neutral Presidents—neither Greeks nor Turks—who by virtue of their casting votes were supposed to maintain the balance between the Greek and Turkish members of the said Courts. Whereas under the colonial regime Greek and Turkish judges, without any complaint ever having been made, tried all cases irrespective of the origin of the litigants, it had been provided by the above Agreements that disputes among Turks were to be tried by Turkish judges only, disputes among Greeks by Greek judges only, and disputes between Greeks and Turks by mixed courts composed of both Greek and Turkish judges. Thus for a petty offense which involved a Greek and a Turkish citizen, two judges had to sit and try it. This procedure, apart from being unnecessarily expensive, was conducive to creating a biased judiciary.

In addition to the above provisions which proved to be both unreasonable and impracticable, there were created separate Greek and Turkish Communal Chambers with legislative and administrative powers in regard to educational, religious, cultural, sporting and charitable matters, cooperative and credit societies and questions of personal status.

One cannot avoid mentioning two Treaties which constituted an infringement on the independence of the Republic of Cyprus and which became part and parcel of the package deal agreed upon in Zurich:

1. The Treaty of Guarantee between Cyprus on the one hand and Greece, the United Kingdom and Turkey on the other, whereby the said three powers were given the right of joint or even unilateral intervention for the purpose of re-establishing the state of affairs created by the London and Zurich Agreements, and

2. The Treaty of Alliance between Cyprus, Greece and Turkey entitling Greece and Turkey to station contingents of their own forces on the Cyprus soil. It should be noted, however, that these treaties were never presented to the House of Representatives for ratification, as the House would not ratify them and thus an impasse would have been created as from the early days of the birth of the Republic.

As a result, the proper functioning of the State had become virtually impossible through a constitutional structure conceived at a time of tension and suspicion, and based on notions aiming at division rather than cooperation and unity.

The Zurich and London agreements had been in direct conflict with the basic principles of international law and morality, with the principles of the United Nations Charter and with the right of every State to full sovereignty and independence; they had authorized foreign powers to intervene to an unprecedented extent in the domestic affairs of an independent State, Member of the United Nations; and they had violated the internationally accepted principles of democratic government, majority rule and equality among citizens. The United Nations Mediator on Cyprus, Dr. Galo Plaza, in paragraph 163 of his report which he made to the Secretary-General in March 1965, had described the 1960 Constitution, created by the Zurich and London agreements as, "a constitutional oddity"; and in paragraph 129 he stated that difficulties in implementing the Treaties signed on the basis of those agreements had begun almost immediately after independence.

Nevertheless, the people of Cyprus had done their best to ensure the smooth functioning of the new State; but their efforts had been doomed to failure. In November 1963 the President of the Republic, Archbishop Makarios, in a sincere desire to improve the situation, suggested thirteen amendments to the Constitution, amendments not involving any of the radical changes which had been necessitated by subsequent events but designed rather to remove some of the more obvious causes of friction. Those amendments had been submitted to the leaders of the Turkish minority in Cyprus, but before the latter had a chance to consider them, the Turkish Government—to which they had been communicated simply for information—had dismissed them as unacceptable, thus compelling the Turkish Cypriot leader to follow suit. In December 1963, there had been a more ominous reaction from the Turkish Government—the rebellion against the State launched by the Turkish underground organization in Cyprus, and threats of invasion and acts of aggression by Turkey itself, which had seized the President's proposals for amending the constitution as an excuse for putting into effect

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its long-prepared plan for the partition of Cyprus.

The Vice-President, the three Turkish Ministers, the Turkish members of the House, as well as Turkish Public servants, withdrew from the Government to head the rebellion against the State, the Vice-President publicly declaring that the Republic of Cyprus had ceased to exist. On the false and outrageous pretext that the Government of Cyprus and its forces were about to annihilate the Turkish minority, the agents of Turkey in Cyprus, controlled by Turkish officers from Turkey, had resorted to the forcible movement of sections of the Turkish population—not for their protection, as had been hypocritically asserted at the time, but in order to create compact Turkish areas and bring about a geographical separation of the Turkish minority from the Cypriot people, in preparation for eventual partition. The Turkish contingent stationed in Cyprus under the Treaty of Alliance had assisted the rebels by moving out of its barracks and illegally deploying north of Nicosia in hostile occupation of Cyprus territory, and it is still so deployed.

LONDON CONFERENCE—RECOURSE TO THE U.N.—MEDIATION EFFORTS

In January 1964, in view of the serious situation resulting from the fighting in Cyprus, the threats and acts of intervention and aggression from outside and the forcible movements of population, the United Kingdom Government had called a conference in London to deal with the problem. But a few days after the conference had started, it had become clear that its purpose was to persuade the Cyprus Government to agree to the dispatch to Cyprus of troops from various countries friendly and allied to Britain and Turkey for the ostensible purpose of maintaining law and order, and to the establishment of an intergovernmental committee to issue directives to the troops.

Whatever might have been the motives and intentions of the various countries submitting that proposal, the representatives of Cyprus had realized that it would inevitably result in the occupation of Cyprus by foreign troops and in the replacement of the authority of the Cyprus Government by that of the so-called intergovernmental committee, which would have made it easier for the Turks to pursue their plans for the geographical separation of the Turkish minority. In fact, that was precisely what the Turkish representatives had demanded at the opening of the London conference, but the representatives of Cyprus had opposed that plan and all similar plans submitted to them, and the Cyprus Government had finally brought the matter before the United Nations.

To do so, it had had to resist pressure brought to bear from several quarters. At one point, it had even been told that an appeal to the Security Council would be sufficient reason for Turkey to invade Cyprus; and during the entire period the threat of Turkish invasion had been constant, with Turkish military aircraft flying over Cyprus, and Turkish war material and trained officers and men clandestinely landed on the island. All these culminated in the bombing by Turkish jets of Cypriot villages and towns in August 1964. The number of people killed or injured and the damage caused was considerable.

The Cyprus Government, under the pressure of Turkish threats about an imminent invasion of the Island brought the matter before the United Nations.

The United Nations repeatedly dealt with the Cyprus issue, both in the Security Council and in the General Assembly. In March 1964 under Security Council Resolution 186 (1964), a U.N. Peace Force was sent to the Island (originally for three months, but following repeated extensions, it is still in the Island), to help restore peace and normal conditions. A mediator, originally Mr. Tuomioya of Finland and later Dr. Galo Plaza of Ecuador were appointed by the Secretary General to study the question and make recommendations as to its solution. The latter's report was submitted to the Secretary General in March 1965.

In his report, the Mediator stated that the problem of Cyprus cannot be resolved by attempting to restore the situation which existed before December 1963 but that a new resolution must be found which must be consistent with the provisions of the United Nations Charter. In particular, he recommended that the solution must be capable of satisfying the wishes of the majority of the population and at the same time of providing for the adequate protection of the legitimate rights of all the people. This report, which could form a reasonable basis for the solution of the problem, was rejected by Turkey again; this had brought Dr. Plaza's mediation efforts to an end.

The Turkish Cypriots with encouragement and compulsion by Turkey have in the last years attempted to achieve a "solution" to the problem aiming ultimately at the island's division. This was sought by proposals for direct partition or for "federation" envisaging removal of populations and the setting up of two distinct administrations.

The drawbacks of partition of federation particularly for a small country like Cyprus with limited and intermingled population are so obvious as not to need any comments. "Federation" as a system of Government has never been applied in any country where it involved removal of population for the purpose of creating separate national and racial areas. Where federal systems have been introduced, there had already been in existence separate territorial entities which were brought under a federal system for the purpose of creating a single State.

The argument is sometimes used that the Turks of Cyprus must be treated differently from other minorities because their language, religion, customs and national aspirations are different from those of the Greeks of Cyprus. This, of course, is not a valid argument since those differences are the very characteristics of a minority in any country. Nor is the existence of a minority in close proximity with the country from which it derives its ethnic origin a peculiar phenomenon of Cyprus, creating rights to special political privileges.

The Turks say that they seek division in Cyprus in order to create conditions under which Greeks and Turks may live in peace in the Island. But far from bringing about peace, such a solution, by keeping the two elements of the population separated instead of bringing them together, would, for many reasons, including administrative difficulties, be a source of constant friction between them which might develop into antagonism and fanaticism and be a source of perennial trouble.

The impartial observer can reach no other conclusion than that any form of separation would not be practicable in the case of Cyprus and that, were it to be applied, it could only lead to incalculable distress for both Greeks and Turks and for their economic and social stagnation.

The idea of federation in Cyprus was examined as long ago as 1956 when the Island was still a British Colony by no less an eminent constitutional expert than Lord Radcliffe who, in his "Constitutional Proposals for Cyprus," came to the definite conclusion that federation for Cyprus was out of the question for the simple reason that there were not the prerequisites for such a form of government.

The United Nations mediator, Dr. Galo Plaza, was also categorical about it. In his report, he stressed:

"To my mind, the objections raised (against federation) also on economic, social and moral grounds, are in themselves serious obstacles to the proposition. It seems to require a compulsory movement of the people concerned—many thousands on both sides—contrary to all enlighted principles of the present time, including those set forth in the Universal Declaration of Human Rights."

Dr. Plaza further said:

"It is essential to be clear what this proposal implies. To refer to it simply as 'federation' is to oversimplify the matter. What is involved is not merely to establish a federal form of government, but also to secure the geographical separation of the two communities. The establishment of a federal regime requires a territorial basis, and this basis does not exist. In an earlier part of this report, I explained the island-wide intermingling in normal times of the Greek-Cypriot and Turkish-Cypriot populations. The events since December 1963 have not basically altered this characteristic; even the enclaves where numbers of Turkish Cypriots concentrated following the troubles are widely scattered over the Island, while thousands of other Turkish Cypriots have remained in mixed villages."

Taking cognizance of the fact that the Republic of Cyprus is a duly recognized member of the world organization, the United Nations Security Council and General Assembly have repeatedly called upon member States (which includes Turkey who has threatened Cyprus with aggression) to respect the sovereignty, unity, independence and territorial integrity of the Republic of Cyprus, and to refrain from any intervention directed against it, and further recommends the continuation of the work and efforts of the U.N. mediator in conformity with the U.N. resolutions on Cyprus.

CURRENT DEVELOPMENTS

Since June 1968, following recommendations by the U.N. Secretary-General, talks have been going on between the Greek Cypriots and the Turkish Cypriots to find a solution to the Cyprus problem.

The holding of the intercommunal talks had become possible due mainly to the unilateral normalization measures taken by the Cyprus Government in 1968. Despite security dangers involved, His Beatitude's Government lifted all restrictions and abolished all checkpoints. Thus the Turkish Cypriots are completely free to circulate all over the island but the Turkish Cypriot leadership has not responded to these measures and still prohibits Greek Cypriots from entering the areas under armed Turkish control.

This attitude on the part of the Turkish Cypriots does not contribute to the normalization of the situation but is still creating obstacles in the way of cooperation among the whole population of the island. The Turkish Cypriot leadership further caused division by setting up a so-called Turkish Cypriot Provisional Administration in the areas under its control, in defiance of the U.N. Secretary General and the Cyprus Government.

Despite this, however, the Cyprus Government proceeded with its normalization program and as a result of the calm climate that came about through these conciliatory gestures by the Government of Cyprus, the intercommunal talks came into being.

At the start of the talks, there had been signs justifying optimism for progress leading to a peaceful settlement. Written proposals were exchanged on such agenda items as pertaining to the Judiciary, the Police, the Legislature, Local Government, and the Executive.

As the talks progressed, with the Turkish Cypriot negotiator taking many months of leave to consult with the Turkish Government in Ankara, the attitude of the Turkish Cypriot side became such that impaired the climate of optimism created in the beginning of the talks. The Turks submitted views on the Local Government issue which were incompatible with the mutually accepted concept of a Unitary State and tended to create a State within a State, which is firmly opposed by the majority of the people of Cyprus and their Government.

The Greek Cypriots followed by certain conciliatory proposals, but after a five-month delay (during which time they consulted with Ankara), the Turks came back with their own counter-proposals which aimed at further division not only on the subject of Local Government but also in all the other subjects—Executive, Legislature, Judiciary and Police. These Turkish counter-proposals introduced new divisive elements and ideas which were entirely unacceptable to the Cyprus Government as they would have been unacceptable to any civilized government in the world.

The Cyprus Government has all along advocated close cooperation of the Greeks and Turks of Cyprus and unity in all aspects of the functioning of the State. To this end, its proposals aim at:

(a) a Unitary, Sovereign and Independent State with a Constitution adopted by the people of Cyprus and based on democratic principles and the principles of the United Nations Charter;

(b) ensuring that all citizens of the Republic should enjoy equal rights irrespective of race, community or religion, and that human rights for all citizens should be incorporated in the Constitution;

(c) ensuring autonomy to the Turkish Cypriots with regard to matters appertaining to education, culture, religion, and personal status.

After more than three and a half years of negotiations, the intercommunal talks recessed in a deadlock, where they stand today. During all this time, the Turkish Cypriots, taking their orders from the Turkish Government in Ankara, placed one obstacle after another in the way of reaching any agreement at all. The Turks have become more obstinate, intransigent and belicose in their attitude and behavior until no reasonable agreement can be reached except on their terms, which are aimed at the political division and physical partition of Cyprus, and eventual incorporation of part of Cyprus with Mainland Turkey.

Irrespective of difficulties to be encountered in the future resumption of the talks, the sincere desire and goodwill of President Makarios and his government to secure as early as possible a peaceful and just solution remains unchanged. At the same time, the Cyprus Government will not abandon its firm determination to protect, with all means at its disposal, the independence, sovereignty and territorial integrity of the Island Republic.

NATIONAL FUTURE HOMEMAKERS OF AMERICA WEEK

HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOGGS. Mr. Speaker, I wish to call to the attention of my colleagues the observance of National Future Homemakers of America Week.

The theme of Future Homemakers Week this year is "Profiles in Youth," and I cannot imagine a more fitting, or more appropriate description of this fine organization.

In towns and cities throughout our country, Future Homemakers of America are planning and carrying out programs to illustrate the activities of their organization and the vocational opportunities awaiting young people in the home economics field.

There are 426 members of the 12 Future Homemakers of America chapters in the Second District of Louisiana. To them, and to their sister chapters throughout the country, I extend my warmest congratulations on a job well done.

VIETNAM: IF THE COMMUNISTS WIN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. CRANE. Mr. Speaker, there are many who urge an immediate withdrawal of American men and material from Vietnam. In many instances, it appears that those who advocate such a policy have not carefully considered its results. When longtime observers of Vietnam argue that such a precipitous withdrawal would lead to an eventual bloodbath and the slaughter of those men and women who have relied upon the American commitment, this idea is rejected as "pessimistic" and "without foundation."

The fact is, however, that there is a great deal of evidence to support such a conclusion. Recently, the U.S. Senate Internal Security Subcommittee issued a document entitled "The Human Cost of Communism in Vietnam."

This document provides the reader with some indication of what would happen if the United States took the advice of those who advocate such an immediate withdrawal. It draws upon the leading sources in this area and provides a compendium of articles, statements, and studies.

Col. Tran Van Dac, a North Vietnamese officer who defected after 24 years in the Communist movement, informed the press that the Communists, if they win, will slaughter up to 3,000,000 South Vietnamese who have resisted them so bitterly for so many years.

Douglas Pike, author of the definitive work, "The Viet Cong," who made an in-depth study of the organized mass killings carried out by the Communists during the brief occupation of Hue, concludes his study with these words:

The meaning of the Hue Massacre seems clear. If the Communists win decisively in South Vietnam, what is the prospect? First, all foreigners would be cleared out of the South, especially the hundreds of foreign newsmen who are in and out of Saigon. A curtain of ignorance would descend. Then would begin a night of long knives. There would be a new order to build. The war was long and so are memories of old scores to be settled.

Mr. Pike continues:

All political opposition, actual or potential, would be systematically eliminated. Stalin versus kulak, Mao versus landlord, Hanoi Communist versus Southern Catholic, the pattern would be the same; eliminate not the individual, for who cares about the individual, but the latent danger to the dream, the representative of blocs, the symbol of the force, that might someday, even inside the regime, dilute the system. Beyond this would come Communist justice meted out to the "tyrants and lackeys." Personal revenge would be a small wheel turning within the larger wheel of Party retribution. But little of this would be known abroad. The Communists in Vietnam would create a silence. The world would call it peace.

One of the important articles included in the Senate study is by Prof. P. J. Honey, of London, who lived for a number of years in Vietnam and is the author of a major work on the North Vietnamese regime, "North Vietnam Today." He is a widely recognized scholar and is considered one of the free world's foremost authorities in the field of Vietnam studies.

In his article, entitled "Vietnam: If the Communists Win," Professor Honey notes that if we wish to understand how the Vietnamese Communists would act if they assume power in the south we only need to observe how they acted when they assumed power in the north.

He notes that—

Some idea of the scale on which the murders were carried out is apparent from the disclosure by Nguyen Manh Tuong, in his address to the National Congress of the Fatherland Front in October, 1956, that the slogan used by the Communists throughout the campaign was, "It is better to kill ten innocent people than to let one enemy escape." No official figure has even been divulged by the Communist authorities of the total number killed during this orgy of butchery."

If Americans want immediate withdrawal, such a policy should be pursued with full knowledge and understanding of its results. I wish to share with my colleagues Professor Honey's important article, and insert it into the RECORD at this time.

[Excerpted from Southeast Asia Perspectives]

VIETNAM: IF THE COMMUNISTS WON

(By P. J. Honey)

Professor P. J. Honey of London lived for a number of years in Vietnam, is the author of a major work on the North Vietnamese regime, "North Vietnam Today," and is widely recognized as one of the Free World's foremost scholars in the field of Vietnam studies, especially as they relate to North Vietnam.

1. VIETNAMESE COMMUNISM—THE FORMATIVE YEARS

Communism in Vietnam was the achievement of a single individual, Nguyen Tat Thanh, better known to the world by the alias he later adopted, Ho Chi Minh. He learned his trade of professional revolutionary at the University of the Toilers of the East in the Soviet Union during the early days of the Stalin era, and first applied his newly acquired skills in Canton, where he worked on the staff of the Russian Consul Mikhail Borodin. To understand Ho's political philosophy and methodology, one must begin by examining his thinking at that time and the techniques he employed, for he inculcated both into his disciples by word and example.

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At the time of Ho's arrival in Canton during 1925, a Vietnamese independence movement already existed in southern China, organized and led by the greatly respected

nationalist leader Phan Boi Chau. The organization would have proved a formidable rival to Ho's intended Vietnamese Revolutionary Youth Association, not least because Chau's fame and prestige far overshadowed that of Ho. The latter therefore resolved to liquidate the movement together with its illustrious leader, and did so in the following way.

Having arranged with the French Security Service to deliver Phan Boi Chau for a reward of one hundred thousand piastres—a very large sum indeed at that time—Ho invited Chau to a meeting in Shanghai. The unsuspecting nationalist leader, who had failed to remark that the meeting place was just inside the boundary of the French Concession,[1] went to the house and was immediately arrested by French police. Ho's ally in this plot was Phan Boi Chau's own representative in Hong Kong, Nguyen Cong Vien, who was at that time using the name Lam Duc Thu, and the two divided the reward equally. Chau was brought back to Vietnam, tried, and sentenced to death for his revolutionary activities.[2]

Some of Ho's followers subsequently reported that he had given them the following reasons for his act of treachery:

(1) Chau was too old to be of any further use to the revolution.

(2) The upsurge of patriotism that would inevitably follow Chau's trial and condemnation, would create a favorable revolutionary climate in Vietnam.

(3) The reward money would help to finance the training of new recruits.

The first of these reasons is an obvious attempt to minimize Ho's guilt, but the second and third reasons provide a revealing insight into the callous pragmatism that was to become the hallmark of Ho's later political activities. The ruthlessness, the total disregard for human life and suffering, were always present in Ho's actions, though he frequently disguised these characteristics behind gentle words and a benign exterior.

Ho again used Nguyen Cong Vien to subvert and destroy Phan Boi Chau's nationalist movement. It was the practice of the movement to bring young Vietnamese patriots to China for revolutionary training, and the young men selected were required to send two photographs of themselves to Nguyen Cong Vien before their departure. Those of them who, during their political and military training at Whampoa Academy,[3] had shown themselves receptive to Ho's communism and had joined the Revolutionary Youth Association were returned secretly to Vietnam.

The rest, who rejected communism and remained faithful to the nationalist cause, were arrested when they crossed the frontier into Vietnam by a French Security Service official, who invariably possessed a copy of the photograph they had sent to Hong Kong. Nguyen Cong Vien, when informed by Ho of the impending return of an "unsuitable" student, provided the French Consulate at Hong Kong with details of the route and a photograph, for which he received a monetary reward. The arrested nationalist students were imprisoned, so that contact between the nationalist movement in Vietnam and its organization in Canton was progressively weakened and ultimately broken altogether. Those nationalists whose suspicions were aroused by the unfailing arrest of "unsuitable" colleagues did not dare to return to Vietnam, but instead enlisted in the Kuomintang Army. . . .

These early examples of Ho Chi Minh's working methods illustrate the extent of his dedication to the accomplishment of his ultimate goal, and the extreme nature of the measures he was prepared to use. The goal he had set himself, even at that early date, was unquestionably the establishment of a Communist regime in Vietnam. Convinced that he must first bring about a bourgeois democratic revolution before proceeding to the Communist revolution, he took considerable pains to conceal his ultimate aim from all but his fellow Communists; for communism would certainly have failed to attract support from those bourgeois elements essential to the realization of the first stage.

Nevertheless, he remained ready at all times to destroy any non-Communist person or group, however much these might have supported him in the past, should he consider them a threat to the success of his future plans. The two classes of persons he was most concerned to eliminate were potential enemies of communism, and potential rivals who might at some future time attract to their own political movements supporters who would otherwise have accepted Ho's own leadership.

2. THE BOURGEOIS DEMOCRATIC REVOLUTION

At a later stage of his revolutionary progress, in August 1945, Ho Chi Minh was present inside North Vietnam as the leader of the Viet Minh movement he had himself created. At his disposal he had a small military force, weapons supplied by the World War II Allies, and a network of Communist Party cells throughout the country. • • •

The very great majority of Vietnamese knew little or nothing about communism or the Viet Minh. But all were perfectly well aware that the French were in prison, that colonial rule had, for the moment at least, ended, and that a Vietnamese government was once more in control of Vietnam. Popular rejoicing was nationwide. Ho and his Communist comrades, who were unquestionably masters of both the Viet Minh and the Provisional Government, were everywhere regarded as liberators and patriots. It is instructive, therefore, to observe Ho's actions on assuming power because, although the Communist Party was then smaller, less experienced, and less organized than it now is, little change has taken place in the top leadership and there is no reason to suppose that the Party's behavior pattern at that time was markedly different from what it would be today.

Firstly, the political groups which had collaborated with the Japanese in the hope that they might prevent the return of French imperial power to Indochina, the Dai Viet Party in particular, were outlawed and their leaders arrested. Simultaneously, the Viet Minh seized control of all information media, requisitioning the radio station at Bachmai, all printing and publishing houses, and all stocks of paper. Almost at once, it published its own newspapers and took direct control of all broadcasting, thus acquiring a monopoly of news dissemination. Then the revolution commenced in earnest. The following is a description of what took place, published in the book "Histoire du Viet-Nam de 1940 à 1952" by Philippe Devillers, a French writer well-known for his sympathetic attitude towards the Vietnamese Communists:

"In the villages and towns (Vietnamese) notabilities and officials in their hundreds were singled out, molested, arrested, and even massacred by unrestrained groups led by agitators who were frequently unknown (locally), without provoking any reaction from the populace, itself generally terrorized but, on occasion, consenting. All the prisons, all the jails, thrown open at the same time, poured out on the country political and common law prisoners drunk with the thought of freedom and revenue."

"People soon gave up counting the number of beatings, seizures, extortions of money, and "confiscations of goods belonging to bourgeois fascists and counterrevolutionaries," arbitrary arrests and assassinations after (or even without) a farcical trial by hastily assembled "peoples courts."

"Footnote.—The Communists gave the impression of coolly executing a systematic program of eliminating those who would eventually oppose them. That is the reason why they were to execute numbers of well-known people belonging to conservative classes or simply to political parties offering an alternative to the Indochinese Communist Party. One could name, among so many others, *Pham Quynh* and Ngo Dinh Khoi,[4] both arrested and executed by order of the Liberation Committee on August 23rd close to Hue . . . ; the Trotskyists leader Ta Thu Thau, executed in Quang-ngai while returning from Hue to Saigon; the elderly Bui Quang Chieu of the Constitutionalist Party; the leader of the Independence Party, Ho Van Nga. Others suspected of sympathy for the 'colonialists,' that is to say of 'treason' were to be imprisoned or interned and condemned, men such as Nguyen and Tien Lang, the protégé of Governor Robin, etc."

The above extracts, it should be pointed out again, were written by a man widely known over many years for his sympathetic attitude towards the Vietnamese Communists, and who still supports their cause with the spoken and written word today. The eyewitness accounts of these events given to the present author by Vietnamese who lived through them are even more detailed and horrifying. • • •

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A year later, in mid-1946, the communists had disposed of all the organized resistance to their regime in North Vietnam with the sole exception of the Viet Nam Quoc Dan Dang (VNQDD, the Vietnamese Nationalist Party). In July, General Giap moved his forces against these remaining opponents, and the following extract from the same book of Philippe Devillers describes the action:

"After bloody clashes, its (that is, the government's) forces retook control over the towns of Vinh-yen, Viet-tri, and Phu-tho, completely clearing the Phu-tho—Tuyen-quang—Ha-giang axis. In the Cao-bang—Lang-son region they consolidated their positions. Their successes were less clear-cut in the Red River Valley; Lao-kay, on the frontier, was nevertheless occupied.

"But it was in Hanoi that the great blow was struck. A succession of police raids on VNQDD centers during July 11th, 12th, and 13th led to the arrest of about 120 people, and to the seizure of arms, documents, and materials for forging money. The offices of the newspaper *Viet Nam*, principal organ of that party, at 80 Grand Bouddha Street, were taken; far from being suspended, the newspaper reappeared six days later, but under new management and under the control of the censors . . .

"At the end of July, therefore, the Viet Minh Government had consolidated its strength. It had practically eliminated its rivals. It no longer faced adversaries capable, without external help, of overthrowing it."

Thereafter, the ascendancy of the Communist-controlled United National Front was unchallenged, and Ho Chi Minh was able to lead the movement into a war against the now returned French on December 19, 1946, with the approval and support of the great majority of the Vietnamese people. From then until the end of 1950, the resistance movement conducted its "anti-imperialist" struggle relatively harmoniously and with only minimal internal dissension. At the beginning of 1951, however, the Communist leadership decided the moment was opportune to shift to the "antifeudal" phase of the struggle, that is to say, to change the objective of the revolution from simple overthrow of colonial rule to the twin objectives of defeating colonialism and establishing communism.

The Indochinese Communist Party, ostensibly dissolved in November 1945 lest non-Communists be dissuaded from supporting the resistance, reappeared under the changed name of Dang Lao Dong Viet Nam, or Vietnamese Workers Party. A new slogan was adopted, "The antiimperialist and antifeudal fights are of equal importance"; and communism became the overt controller of the revolutionary movement.

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During the years 1951 and 1952, Communist Party control over every area of activity in the resistance zone was strengthened and consolidated in preparation for a campaign that might strain the Party to the utmost but which would eliminate, once and for all, the possibility of further internal challenge to the Communist regime thereafter. That was the agrarian reform campaign, an operation of some complexity for which minute and careful preparations had to be made. In February 1953, when both peasants and traders had been reduced to a state of penury and debt by the impossibly high taxes imposed on them, a campaign of terror was unleashed by order of the Communist Party Central Committee.

It lasted for fifteen days, two terrible weeks in which no single person was safe from denunciation, torture, arrest, or assassination, when indiscriminate violence raged unchecked and the Party authorities made no move to intervene. After the campaign had ended, as abruptly as it had begun, by personal order of Ho Chi Minh, every citizen was aware of, and overawed by, the might of the Party. But the two weeks of terror proved to be no more than a demonstration of what the Party could do. It imbued all with the desired dread of the Party and ensured instant compliance with Party wishes, but much worse was to follow.

• • • If the objective of the Communist leaders had been simply to acquire ownership of the land in order to redistribute it more equitably, or to create agriculture cooperatives, nothing would have been easier than to promulgate a decree confiscating all land. By insisting on the creation of "people's courts," however, whose members were themselves too terrified to do anything other than agree to pass the frightful sentences demanded of them, the Communist authorities obliged the whole people to accept responsibility for these atrocities. Moreover, lest anyone should entertain any doubts about what was being done, all executions were carried out in public and everybody was obliged to be present to witness them.

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• • • Some idea of the scale on which the murders were carried out is apparent from the disclosure by Nguyen Manh Tuong, in his address to the National Congress of the Fatherland Front in October 1956, that the slogan used by the Communists throughout the campaign was, "It is better to kill ten innocent people than to let one enemy escape." No official figure has even been divulged by the Communist authorities of the total number killed during this orgy of butchery, and none is ever likely to be • • •.

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• • • The 1954 Geneva Accords legitimized such domination by the Communists in North Vietnam, which is why a million North Vietnamese availed themselves of the opportunity to flee to South Vietnam. Such evidence as is available suggests that the numbers of those leaving North Vietnam at that time would have been very much greater if the Communists had honored the terms they accepted at Geneva and permitted all who wished to do so to leave the country unimpeded. In the event, however, they prevented large numbers from going, which forced some of those whose intentions were frustrated to resort to such desperate measures as putting out to sea on flimsy, hastily constructed bamboo rafts. A few were picked up by passing ships, but the numbers of those who drowned or starved can never be known.

The mass exodus from North Vietnam following the Geneva Accords was a very important propaganda setback for the Vietnamese Communists, because it proved to the watching world the falsity of their claims to the support and approval of the Vietnamese people as a whole. The refugees undoubtedly caused grave offense to the Communists. If they already believed themselves in danger from the Communists in 1954, and believed if firmly enough to abandon their homes, lands, and ancestral graves, they are convinced that the danger is still greater today.

That is why the North Vietnamese who have settled in South Vietnam are inflexibly opposed to a Communist military victory, a coalition government in which some portfolios are held by Communists, or the establishment of any Communist bridgehead in South Vietnam. These people have learned from bitter personal experience how a numerically tiny Communist Party can, by dint of its disciplined, organized and total ruthlessness in pursuit of its objectives, impose itself on a whole people.

4. SOUTH VIETNAM

• • • The insurgents [Ed: Viet Cong in the early 1960's], for their part, were largely dependent on South Vietnamese assistance. Since this was not afforded voluntarily, they were obliged to take what they needed by means of armed force or terrorism. At first they employed selective terrorism, killing or abducting officials, educated persons such as teachers, and men of influence. When they wished to assassinate someone publicly, as an exemplary punishment designed to cow others into submission, they tried to select victims whom they knew to be unpopular or corrupt. As the fighting spread, however, and their needs became greater, the insurgents resorted more and more to indiscriminate violence.

Hanoi recognized that this would inevitably prove counterproductive, and large numbers of captured documents bear strictures along these lines from Hanoi to commanders in South Vietnam. These criticized their political indoctrination campaign for its ineffectiveness, and pointed out that armed terrorism would antagonize the South Vietnamese people at a time when their willing cooperation was desperately needed. Other documents, sent from South Vietnam, argue that the political cause was itself too weak to motivate people; and since cooperation was essential, there was no alternative to enforcing it by terrorism. In the course of time, the brutality and cruelty of Viet Cong methods progressively antagonized the South Vietnamese • • •

5. THE TET OFFENSIVE AND ITS CONSEQUENCES

By the end of 1967, it had become clear to the Communist leaders in Hanoi that their military strategy was disastrously wrong. If persisted in, it would lead to the early destruction of their forces fighting in South Vietnam. A change had to be made, and this took the form of massive surprise attacks on all the cities and towns of South Vietnam simultaneously. Not only would armed assaults be mounted, but every effort would be made to induce the South Vietnamese people to abandon their own government and proclaim support for the Viet Cong. Surprise would be achieved by commencing operations during a period of truce agreed to by both sides for the occasion of the lunar new year, or Tet. To assemble sufficient troop strength for the execution of such a grand offensive, known now in the West as the Tet Offensive, the Communists were obliged to denude the countryside of cadres.

In the event, total surprise was achieved, but the rest of the plan went hopelessly awry. The Communists had completely misunderstood the mood of the South Vietnamese people, failed to bring about any popular uprising against the government, and were eventually driven out of all the places they had entered, suffering huge losses in the process. Had it not been for the wildly inaccurate and alarmist reporting by the foreign press corps in South Vietnam, the Tet Offensive would have been an unrelieved failure for its authors.

As it was, the panic of the press correspondents was communicated to the American public, which brought irresistible pressure to bear on the President to change his policy in Vietnam. In response, President Johnson first restricted, and then ended, American bombing in North Vietnam in return for Communist agreement to participate in talks to be held in Paris. Thus, the only advantage to accrue to the Communist side from the Tet Offensive came, not from their own efforts, but from the hysteria their attacks induced in the American and other foreign correspondents. Rarely in the history of modern warfare has any nation been so ill-served by its own press.

Yet it was the Tet Offensive that finally destroyed Vietnamese Communist hopes of military victory in South Vietnam. In cities and towns throughout the nation, the brutal killing of defenseless civilians by the Communist soldiers dispelled any expectation, still nurtured by some individuals, that they might contrive to reach an acceptable accommodation with the Communist side. From that time onwards, it was clear to all that the Communists were not prepared to consider individual cases but would deal only with categories and classes, seeking to eliminate those they imagined to stand between them and their ultimate objectives. Generally speaking, the Communists failed to seize and hold for any appreciable time the targets of these attacks, but the behavior of their troops in the course of the fighting was such as to inspire abhorrence and dread in the civil population.

The one exception to the general military pattern was the Central Vietnamese city of Hue, which was occupied by the Communists for more than three weeks. • • •

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7. COMMUNIST VIEWS OF HUE

The prevalence of famine, disease, and flood in many parts of Asia has made premature, violent death all too common a phenomenon, and engendered in the people a stoical acceptance of what cannot be avoided. The fatalism of Asians in the face of frightful disasters never fails to amaze Westerners. But despite this inbred tolerance of adversity, the systematic and unfeeling massacre of so many ordinary residents of Hue struck horror and revulsion into the people of South Vietnam. Those Hue citizens questioned by this writer professed, in addition, incomprehension; they simply did not understand how Vietnamese people could behave in so brutal a fashion to their compatriots.

For them, the massacre provided incontrovertible proof that the Communist insurrection had abandoned all pretense of seeking to liberate the people of South Vietnam, and was undisguisedly attempting to establish an oppressive and intolerant Communist dictatorship. Defectors from the Communist side were not similarly puzzled, though they encountered considerable difficulty in explaining their reasons to a person who had not experienced years of regimented existence under a Communist regime, isolated from outside contacts and subjected daily to the psychological pressures of Party press and radio.

Two of the most lucid former Communists interviewed by this writer were senior army officers, Colonel Tran Van Dac, who defected to the government side in April 1968, and Colonel Nguyen Thanh, who defected in May 1970. Neither had participated in the events at Hue, but both had taken part in the attack on Saigon during the 1968 Tet Offensive. Being military men, they could tell only of their own state of mind conditioned by their experiences as Communist soldiers serving in South Vietnam.

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The colonels both accepted that their behavior during the years of military service appeared horrific in retrospect, that they had been living in an unreal, nightmare atmosphere created by the Party; but strongly affirmed that they had remained unaware that this was so. Both men also stated that if they had massacred civilians, even needlessly, they would not have been punished by their superiors. Should the bloodshed subsequently be judged unnecessary, or even damaging to the Communist cause, they would have had to confess that their judgment had been faulty, and promise to make efforts to improve their understanding; but they would have received no punishment. If, on the other hand, they had avoided a massacre of civilians for humanitarian reasons and thereby failed to accomplish their mission, they would equally certainly have been denounced for "sentimentality," for "lacking a solid political base," and for indiscipline, and they would have risked serious punishment.

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• • • All the defectors—they include men such as Dr. Pham Thanh Tai, a former Professor of Political Science at Hanoi University; Vo Thank Tong, a specialist in banking; Captain Le Phat Nguyen, who earlier worked in the General Staff Headquarters in Hanoi; Vo Ngoc Co, an intelligence agent; and so on—cited precedents and official Communist statements to support their unanimous conclusion that a massacre would be inevitable. Members of successive South Vietnamese governments, civil servants, military officers, policemen, religious figures, intellectuals, politicians, and professional men would be among the first to be killed.

All political parties would be destroyed, and the office holders in them executed. Nor was there any disagreement over the elimination of the refugees who had fled from North Vietnam or of defectors from the Communist forces including, of course, the speakers themselves. Disagreement did arise over the fate of the bourgeois classes—the businessmen, landowners, shopkeepers, and so on. While it was generally agreed that all would be arrested, tried, and sentenced to death, not everybody agreed that all would necessarily be killed immediately. Some the speakers pay continuous attention to consolidating the repressive apparatus of the people's democratic state, the people's army, the people's police, the people's control institute, the people's tribunal, and so forth."

The same radio station, broadcasting on March 21, 1968, said: "All citizens are bound to take an active part in denouncing counterrevolutionary elements, in providing dictatorial organs with evidence and documents, in supervising punishment . . . of counterrevolutionary elements." North Vietnamese press and radio have referred to all in South Vietnam who have opposed the Communist insurrection as "hooligans," "lackeys," "exploiters," "counterrevolutionaries," and the like, and have repeatedly mentioned the "blood debts" such persons have incurred. Solemn promises are constantly made that full payment of those debts will be exacted. Historical precedent and recent example make it impossible to doubt that the Communist leaders intend to keep their word.

8. CONCLUSION

Should the Vietnamese Communists win undisputed control of South Vietnam, either by military victory or through a "coalition government" in the fashion of some countries of eastern Europe, they will act exactly as they have done in the past. They will seize control of all South Vietnamese information media and use them for their own purposes. They will expel the foreign press corps and all other foreigners, and will then close the frontiers of the State. Once all non-Vietnamese witnesses have been removed, they will proceed to exact payment of the "blood debts." In a deliberately created atmosphere of terror, they will establish thousands of *ad hoc* "people's courts," before which will be arraigned all those individuals and groups the Party has decided to eliminate.

Those unfortunates will be accused of "crimes" which have no existence in civilized societies. They will face charges of being "counterrevolutionaries," "enemies of the people," "exploiters of the people," and a host of similar meaningless things, and they will be found guilty by jurors too terrified to do anything but obey the orders of Party cadres. All believed to pose a threat, real or potential, to the Communist regime will be killed at once, and some of the remainder may be permitted to postpone execution as long as they continue to work as unpaid slave laborers. Calculated on the basis of past Communist deeds, and given the size of South Vietnam's population, the minimum number of those to be butchered will exceed one million and could rise to several times that figure.

While the massacre is in progress, the outside world will know nothing of it, for foreigners will have been expelled and no mention will be made by the Communist information media. Because the battles will be over and the big guns will have ceased to fire, peace will be said to have returned once more to Vietnam.

FOOTNOTES

[1] An area within Shanghai formerly administered by the French authorities under the old "unequal treaty" system.

[2] EDITOR'S NOTE.—The threatened execution of Phan Boi Chau produced such ominous rumblings of nationalist dissent that the French authorities, fearful of the political consequences of his martyrdom, commuted his death sentence and placed him under continuing house arrest. He died while under house arrest.

[3] The military academy established by Chiang Kai-shek in 1924 to train politically-minded officers for the Kuomintang Army.

[4] The older brother of Ngo Dinh Diem, who later became President of the Republic of (South) Vietnam.

CAREER EDUCATION

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, a longtime friend and constituent of mine, who is also one of this Nation's finest educators, Mr. Earl C. Funderburk, director of the NEA Office of Supervisory Administrative Services, member of the National Advisory Committee on Career Education, and who was for many years superintendent of schools in Fairfax County, Va., recently addressed the Virginia Association of Realtors on the subject of career education.

Earl's speech so impressed those who heard him that they asked that I insert the text in full in the RECORD so that all who are interested in vocational and career education may benefit from it. I insert the speech at this point:

CAREER EDUCATION

(By Earl C. Funderburk)

The public school system of America is in trouble and in many ways the trouble stems from success. No nation in history has ever approached such a massive investment in the education of its people. We increased our investment from $6 billion in 1947 to $65 billion in 1972. As a result, the American labor force now possesses more than 12 years of education as compared to 10 years in 1940; ¾ of our youth complete high school, over 50% go on to college, but only ⅓ graduate from college. In other so-called advanced countries about 3% of youth enter higher education. At the turn of the century 80% of our high school graduates went to college because high schools were exclusively preparatory for college. Now that high school is mass education, the system has changed very little.

Most high schools still track students in college preparatory or general curriculum in far too many schools is preparation for nothing. Dr. Marland, U.S. Commissioner of Education, has said, "Almost all of the shocking high number of unemployed youth are products of the general curriculum, and we can expect small improvement until the general curriculum is completely done away with in favor of a system of high school education with but two exits—continuing education or employment—and nothing else."

"The first attitude that we should change is our own. We must purge ourselves of academic snobbery. Education's most serious failing is its self-induced, voluntary fragmentation, the strong tendency of education's several parts to separate from one another, to divide the entire enterprise against itself. The most grievous example of these intramural class distinctions is, of course, the false dichotomy between things academic and things vocational. Let's adopt the term 'career education'. Every young person in school belongs in that category at some point, whether engaged in preparing to be a surgeon, a bricklayer, a carpenter, a mother, or a secretary."

Nearly 2.5 million students leave our formal education system each year without adequate preparation for careers. In 1970–71, there were 850,000 elementary and secondary school dropouts; 750,000 graduated from high school with no skills and did not attend college while 850,000 high school students who entered college in 1967, and should have graduated in 1971, dropped out without a degree or a skill.

The era in which we live in is an era of change and of revolution (political, social, economic, physical). In another context, our position of leadership in the free world demands a strong econmic base which, in turn, requires new skills and increased levels of efficiency and productivity if we are to survive in world competition. In these competitive times of management by objectives, accountability, performance contracting, and the efficiency cult, it is easy to forget that in our free society the individual is paramount. The problem, then, becomes one of balancing the requirements of society with essential freedom for individuals.

Large numbers of high school and college graduates as well as recipients of doctoral and masters degrees are unemployed and everyone is asking why—students, parents, employers, and policy makers, each with their own personal and institutional interests. The implications for human resource development are staggering.

To the best of my knowledge, there are no ready-made panaceas or shortcuts to resolving the educational implications of these problems. But we do have an idea to present that shows promise as a "new way of orienting and deploying our educational resources"; a new vigorous sense of purpose and mission for the school enterprise. Technology has multiplied man's other meager powers but has disestablished, and even threatened, his life. Yet it has spread abundance, but has left so many behind unable to compete in such a complex society. The same technology which landed man on the moon can be directed at his own destruction.

In 100 years we have gone from an agrarian society where wealth and prosperity depended upon an abundance of natural resources, through an industrial stage depending on capital resources and with emphasis on production and distribution beyond even a service-oriented society to a post-industrial one stressing production, processing, dissemination of information and dependent upon human resources. Our recognition of our dependence on human resources expanded our education expenditures to $65 billion. But education still has little relevance to the world of work.

We have found some solutions and yet these solutions created more problems. But our investment created a breathtaking intellectual and scientific achievement in the wealthiest society the world has ever known. And there emerged a dichotomy—a gulf between the home, the school, and the world of work, between academic and vocational education and between preparation for work and preparation for life. And so the school faces criticism because it has not solved all the problems that society expects. The boredom of youth finding no useful role in life, the frustration, violence, crime, delinquency, drugs, riots, of which the schools are not the cause, but perhaps could have done more to cure. At least the parents and voters often think so and lash out in criticism or negative votes in school bond elections. We have to admit our failure to educate for meaningful careers.

But in frustration over the schools' inability to solve all of society's problems, people overlook its impressive achievements. Some would cut back the school's budget, and some would even totally scrap the present educational system. Others would pursue major reforms through performance contracts, voucher systems, or other administrative experiments. But we have overlooked a simple basic fact. The majority of people spend most of their adult lives and devote much of life's energies to careers whether as an employer, employee, or homemaker. The quality of our lives is heavily dependent upon the income we earn and our major social contributions are directed through the economy at the market place. Failure or dissatisfaction then can taint every aspect of life. Far be it from me to say that the American school system has failed. It has been highly successful, much more successful than in other lands. But education is supposed to prepare one for a particular society. We have already pointed out societal changes. In 1917 we came out with the seven cardinal principles of secondary education.

1. Health.
2. Command of the fundamental processes
3. Worthy home-membership.
4. Vocation.
5. Citizenship.
6. Worthy use of leisure.
7. Ethical character.

In the middle 40's the Education Policies Commission came out with three objectives of education—namely, self-realization, economic sufficiency, human relationships and civic responsibility. The new objectives of the Educational Policies Commission only reiterated the seven cardinal principles. In the early 60's President Kennedy came out with the New Frontier, and we all remember President Johnson's theme—The Great Society. President Nixon in his inaugural address in 1969 called for reform in public education. Are we prepared to reform and are we ready for that great society in which we now find ourselves?

What I am going to present to you now is not just one innovation but a major one that will cut across all education. It will reform education. Let me emphasize it is not a new idea. Many of us have had it for years but the time has come in our history for this idea to be recognized and implemented. In introducing this subject let me ask this question. Isn't our schools' major shortcoming the failure to educate for meaningful careers? The answer is yes and so we suggest that one of the major objectives of education be career education. Let me emphasize this is not the U.S. Commissioner's idea or any one person's idea or the federal government's idea. It has been aborning for a long time, but now is the time. All of the chief state school officers have endorsed it. President Nixon endorsed it in his State of the Union message. At the 1972 American Association of School Administrators' Convention Vice-President Agnew's speech, almost in its entirety, was devoted to career education. The U.S. Chamber of Commerce and all the major organizations in the United States have joined in the avalanche of approval.

What is this career education which promises so boldly a better social, personal, and economical return on the educational investment? It does not expect to swallow up all of education and become the only objective but it does premise to make preparation for a successful career the primary emphasis of the educational system. The broad concept is that all educational experiences, curricular instruction and counseling should involve preparation for economic independence, personal fulfillment, and an appreciation for the dignity of work. Dignity of work is something that seemingly has been lost, and let me quote here from John Gardiner: "An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water."

Quoting from Dr. Calvin Grieder of the University of Colorado in the March 1972 issue of *Nations Schools* "Career education is in dire need of massive and prolonged support, not merely financial support, hut also, and even more importantly, philosophical, moral and intellectual support. Industry, business and labor must also be prepared to end extensive aid and assistance in other ways than financial. American attitudes toward workmanship and craftmanship have taken a nose dive to unprecedented low levels. Pride in doing something well is rarely found today, and thus the mastery of skills necessary for good work is held in low esteem. Assembly line procedures for mass production may well be largely responsible but undoubtedly other causes also contribute. The attitude of doing only enough to 'get by' is widespread in all kinds of employment—white collar as well as blue collar, if such terms still have any meaning. The standard of workmanship in the United States is now at a low ebb. With some exceptions, the quality of goods is shoddy—from motor cars to plastic toys to clothes. They are not intended to last. Americans rarely repair—they replace".

Under the career education idea every student no matter what his capacity or ability, leaves school with a salable skill—a minimum of an entry into the market if he leaves at or before the end of high school, and a more advanced skill if he continues his education in a technologically or academically oriented post-secondary institution. There will be no such thing as "drop-outs" as we know them, we just call it "temporary leaving" so he can return if his skills become outdated, or if his skills need to be upgraded or changed. It is not only the youth but the adults who need to upgrade their skills, up date their knowledge and/or retrain for a new job.

Career education is not synonymous for "vocational" education, or for "general" education, or for "academic" education. It does not exclude college education; rather it is a blending and restructuring of all these to an entirely new curricular emphasis with preparation for a vocational or successful working career playing a key role. Let us face reality. A youth today is marching to a different drumbeat—a different rhythm—than you and I did at his age. All of them are simply not concerned about the economics but have a sincere devoted concern for service to others. Career education should become a part of the student's curriculum from the moment he enters school.

Career education introduces a new polarity and sense of purpose into education. Some view it as the new paradigm for education—that of career planning and preparation. Career education incorporates a view of the curriculum as a systemic, integrated, and cumulative series of experiences designed to help each student achieve (1) increasing power to make relevant decisions about his life and (2) increasing skill in the performance of his life roles.

Career education is designed to capacitate individuals for their life roles: economic, community, home, avocational, religious, and esthetic. It recognizes the centrality of careers in shaping our lives. Careers determine or limit where we work, where we live, our associates, and other dimensions that are significant in defining our life style. It should be viewed as lifelong. It is pervasive, permeating the entire school program and even extending beyond it. It is designed for all students.

Career education is a systematic attempt to increase the career options available to individuals and to facilitate more rational and valid career planning and preparation. Through a wide range of school and community-base resources, young people's career horizons are to be broadened. Their self-awareness is to be enhanced. The broad framework for accomplishing this consists of the phases of career awareness, career exploration, career preparation.

The program is to be sequenced and postured to optimize career development and will provide as broad a base of understanding of self and the world of work as possible. It is to be designed so youngsters will, in fact, have two options at several levels: continuing education or employment.

In the vernacular of the day, career education "puts it all together." It is designed to strengthen and achieve student self-actualization. It builds upon the strong motivating force of career interest, career development and preparation. It provides a means of making other elements of the school relevant to life purposes and stimulates student interest and participation in these "supporting areas." Subject matter is not an end, but rather a means of assisting individuals to optimize their career development. Knowledge is viewed as applicative not merely descriptive.

Career education relates to three R's to the many ways in which adults live and earn their living. As the student progresses through school, the skills, knowledges, and above all the attitudes necessary for work success are stressed. It is integrated into every subject, not just in one special class designed for those who are "going to work." Career education recognizes that man is more than a working machine, and so strengthens the student's sense of personal and individual work. It helps him lead a more fulfilling life by broadening the options available to him in school and after he leaves school. It leads to a new sense of cooperation among parents, teachers, counselors, the business community, and students. Again we emphasize that many young people are not necessarily impressed with the economic advantages implicit in work. Career education covers this because he will be better able to serve his fellow man whether

qualified as a skilled artisan, a mechanic, a brick mason, a beautician, a teacher, or an environmental technician.

Career education is not limited to the classroom but relates to all learning environments and learning experiences from early childhood into the production life of the individual. In early childhood (kindergarten) it provides an awareness of the nature of the world of work as well as the importance of work itself in our society. As the student moves through the school years, he must increasingly become familiar with the world of work and acquire the knowledge necessary to obtain meaningful employment upon leaving school no matter at what stage he leaves. The important thing is that he can resume his schooling at any time, not only for capacity to meet changing job requirements, but to enlarge his personal life. It demands no permanent bondage to a career goal but reveals to him all the great range of occupational options and, more important, enables him to develop positive attitudes towards work.

Career education will enable nearly all people who complete secondary school to qualify for immediate employment or to go on to some formal post-high school education. Placement services in the school system will assist every student, especially if he leaves before he completes 12th grade, to plan the next step in his career development. Entrance and exit requirements will be flexible enough to make education a preparation for work with work itself, and again I repeat the term "drop-out" will cease to have the ominous meaning it has today. Under the career education concept, every child gets the same educational bill of fare up to about the 6th grade. Besides learning how to read and write and compute, the career education student studies history, languages, and the physical and social sciences. In all of these subjects he is exploring simply a model of a great variety of occupational clusters such as:

1. Transportation and health occupation.
2. Agri-business and natural resources.
3. Business and office.
4. Communication and media.
5. Consumer and homemaking education.
6. Construction (house building project).
7. Environment.
8. Fine arts and humanities.
9. Hospitality and recreation.
10. Manufacturing.
11. Marine science.
12. Marketing.
13. Distribution.
14. Personal services.
15. Public services.
16. Health occupations.

In the middle grades, 7 through 9, the student examines those clusters in which he is most interested. By the end of the 10th grade, the student, who wishes to do so, is provided with an opportunity to develop entry job interest skills that can, if necessary, be used if he fails to complete the 12th grade. If he does complete the 12th grade, he is prepared both to enter the world of work and continue his education in an institution suitable to his needs. The important thing here is that the choice is not irrevocable, and he has had an opportunity to learn from all types of students because he has not been segregated as we do now in segregated vocational schools or classes for vocational education. In career education every student will have the opportunity to participate in some actual work during the high school years. This can only be accomplished through cooperative arrangements with business, industry, and public institutions.

It is esesntial that each student master the skills required to live with whether these schools are labeled academic or vocation. The point is that he will be prepared to live this life as a fulfilled human being. If he decides to live his life with machines, he must know how to use them. If he chooses to live with slide rules and computers, he must understand their magic. He must keep in mind that he must always continue in some phase of education. Now as we look back through history, we see that many fine promising ideas in education have fallen by the wayside because the idea was not correlated with substance or long-range planning. If career education is to work, everyone must be convinced of it and be ready to sell it—the parents, the custodian, the secretary, the lunchroom workers, the teacher, the principal, the superintendent, everyone. School board members and the general public will have to make some fundamental decisions because career education's initial installation costs could increase school budgets substantially in the beginning years, but as a school system has been retooled and converted to a career education program, the costs of maintenance and operations will decline. Some of the things necessary will be to employ more counselors, paraprofessionals, and others. There must be retraining of existing administrators, teachers, and paraprofessionals. The teacher training institutions must be retooled. Not only will different instructional materials be needed, but we must learn to use the resources now available in our own communities.

Teachers and guidance counselors will have to make substantial changes in their personal attitudes. They will have to broaden their own experiences with the world of work.

Remember that career education involves no one-and-for-all decision nor ceiling or locked doors, it offers a salable skill at any port of entry to the job market. It keeps the door open to return either for upgrading or for career direction. It is not an alternative to college education nor to vocational education. It encompasses and integrates both. It allows the individual to choose his occupation, and rechoose through a lifetime as another occupation becomes more appropriate. No community or school system should be told precisely how to do it. Each must decide. The mathematics teacher can use vocational arithmetic without watering down the mathematics course. The principles of physics can be taught for an occupational application. The teacher must show that a carpenter marking and cutting a rafter is applying trigonometry. If the salesgirl cannot operate the cash register without conventional arithmetic, where better can she learn it except through experience?

A truly career-oriented education would differ from the present in so many ways. It seeks to preserve all that is sound in our present practice of career preparation. It will require new structuring innovations and a new relation between what is now classified as academic, general, and vocational in education. But, above all, it will differ in results. The change in relationship between man and machine is changed by definition of work, and it will require more inner action between home, school, and community. Career education goal is to make use of all manpower and satisfaction to every individual for the nature of man decrees that unless he achieves and serves, he is nothing.

I would like to close by quoting from my 1967 publication entitled Education for the World of Work:

"1. Are the brilliant few creating, through technology, a gulf of skill requirements which the many are not being equipped to cross?

"2. Are too many of our school and college students, in this present generation, being merely trained in one or another skill—which can rapidly become obsolete—but not educated in how to learn, think, improvise, and adapt in a fast-changing economy?

"3. Will America, toward the end of this century when today's school generation will be in the prime of life, find itself saddled with a growing class of half-trained, embittered people on the edge of our society, *un*employed or *under*employed, warping the economy and weakening the very processes of self-government?"

In a democracy we can crown the winner and at the same time recognize the less able or the less talented. It is my humble opinion that during the last decade we have been too preoccupied with the college-bound school population, the preparation of scientists and the education of the gifted. We cannot build a great, viable, free society by educating the college-bound school population, the preparation of scientists and the education of the gifted. We cannot build a great, viable, free society by educating the college-bound alone and in the process accumulate a human scrapheap of drop-outs, social misfits, youth that feel unwanted, who not only hate themselves, but everyone else. Regardless of the affluence of the upper two-thirds and despite scientific breakthrough, no viable, free society can survive in this galloping age with one-third of its people in poverty, ignorance, unemployment and worst of all, aware of its own uselessness and absurdity.

If the child has suffered rejection, we must let him experience acceptance. If he has concluded that he cannot learn, in fact, does not want to learn and even finds it distasteful, we must show him he can learn—that learning is fun so that he will have a desire to learn. Today this child trusts no one and we must be the kind of teachers he will trust and through trusting we develop a trust for others. He will then no longer be separated from or be a threat or drudge to society. He will belong. Career education can do this.

To insure that our great nation remains competitive and a leader in the Family of Nations—to insure the future of freedom of enterprise, we must change our public education system. Career Education can change it. Please let's try it.

KEEP RADIO LIBERTY ALIVE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DERWINSKI. Mr. Speaker, I am inserting excerpts from an open letter by Sherman Smirnovsky, a Moscow intellectual, to Senator FULBRIGHT. My interest in this subject. Mr. Speaker, lies in the fact that, even though we have processed legislation extending the operations of Radio Free Europe and Radio Liberty to June 30, we must, before that date, move the legislation necessary to continue their operation. I believe it is important for all the Members to know thoughts behind the Iron Curtain on this subject.

The letter follows:

KEEP RADIO LIBERTY ALIVE

(By Sherman Smirnovsky)

Moscow.—The city sleeps. At least it seems so to militiamen who patrol the frosty capital. Their hobnailed knee boots clatter on the cobblestones above the noise of the snowstorm. . . .

The night has come, but what is this? In Moscow apartments, rural huts, in the steppes of Central Asia, in the Siberian taiga, a voice is heard, a human voice speaking in Russian, which differs so much from the official ravings in the Soviet language: . . .

"Radio Liberty speaking."

REACHES EVERY CORNER

It reaches every remote corner of the country and finds a response in the heart of every honest man in Russia. Superpowerful jamming, for which taxpayers pay one million rubles a year, will be no help. Pushy neighbors K. G. B. agents who expose listeners to the Western stations [God knows how much our people pay to feed this bunch of informers]—also will be no help, nor will slanderous articles in the official press.

Communism, with its antihuman face, is helpless against the free word. . . .

The West addressed the Russian people by radio for the first time on the day of the German invasion in 1941. Churchill's address was broadcast by the B.B.C. in Russian. In 1948, they began to beam regular programs of the Voice of America and the BBC to the U.S.S.R. . . .

Witnesses remember the horrible times of the Stalin era, and the impression made by Western radio programs was like the blast of an atomic bomb. It was a sensation. The people trusted and did not trust their ears. At last: Thru so many years of total Communist tyranny, the people heard a human word. The people learned what really was happening in the world and in their own country . . .

"Several days before the death of the dictator [Josef Stalin] on March 1, 1953, a new radio station, "Liberation," came on the air. It immediately gained wide popularity in our country altho the tone of the broadcasts did seem to some to be rather sharp in relation to the regime. . . .

QUIET JUSTIFIED

But it was quite justified by the most horrible model of Communism—the Soviet autocracy. Later, in the course of the thaw, this tone moderated. The tasks of the radio station were changed to some extent and it was renamed Radio Liberty . . .

Jamming started immediately after the station began its work . . . it continued until 1956, when it stopped in the summer for several months. But after suppression of the Hungarian revolution, jamming resumed until 1963. . . .

In that year, Khrushchev decided to leave Western government radio stations alone. But Khrushchev's "amnesty" did not extend to Radio Liberty.

Nevertheless it was a victory, tho not a complete one. Free, independent, objective information triumphed over the narrow ideological propaganda of Communism. . .

From 1963 until the resumption of jamming after the occupation of Czechoslovakia on Aug. 21, 1968, a close spiritual tie was established between the peoples of Russia and the free West. Western radio stations played an extraordinary role in that process.

The people learned all that had been hidden from them by the Kremlin ruler: The cruel court reprisals against Simyaysky and Daniel, and later against Ginzburg and Galanskoy.

THEY COULD NOT

No matter how party propagandists tried to blacken these people, they could not.

Truthful information about the lawlessness of the regime was broadcast over the radio . . . and influenced samizdat [dissident materials, circulated clandestinely], which was becoming stronger at the time.

The agitation to make things public, for civil rights, would have had much less chance of appearing if this publicity had existed only in the closed circle of political dissenters, but with the aid of Western broadcasts, the facts of violations of human rights in the U.S.S.R. were reported to the whole country and the whole world.

The biggest influence in this has been that of Radio Liberty.

But our country does not need only the naked facts. After the Bolshevik seizure of power, culture completely disappeared in the country. Russia has been cut off from the best literary works of its writers living in the U.S.S.R. and in the West.

The springs of samizdat are too narrow, under the permanent repressions of the regime, to satisfy the country's cultural needs completely.

Radio Liberty regularly broadcasts the novels of Solzhenitsyn, Pasternak, Grossman, Maximoy, and other writers.

GRAYNESS OF CULTURE

The grayness of mass Communist culture, the idiocy of official "Marxism-Leninism-Brezhnevism," the absence of any independent thought—and yet Russia is living in full blood. One can well understand this when listening to Radio Liberty.

But one learns with surprise that a prophet named Senator [J. William] Fulbright [D., Ark.] has appeared in America. His plans are like those of any totalitarian ruler. They usually exterminate people physically, while the senator is playing the role of a spiritual murdered. The reason for such fierce hatred of the peoples of Russia and Eastern Europe is difficult to understand . . .

Lengthy programs in Russian also are broadcast by the Soviet Communist Party's "Party Brothers"—Peking and Tirana. . . . They are simply not interesting.

However, when one succeeds in receiving Radio Liberty, absolutely everyone listens to it. Reference books say the station transmits programs in Russian and 16 other languages of the peoples of the Soviet Union. In addition to giving its listeners truthful information and preserving Russian cultural values, Radio Liberty tries to educate listeners as decent people, to correct moral cripples after 50 years of Communist tyranny, to combat the meanness formed in the minds of the people.

It is difficult to express the entire importance of Radio Liberty for Russia. In this station's broadcasts, one can learn things the party bosses concealed from the people in the course of their rule: The truth about the political trials of the 1930, the true face of Lenin and his supporters, and the great heritage in literature, philosophy, and social science which is hidden away in the closed-off rooms of libraries. For Russia to lose Radio Liberty means to lose the little freedom left to us . . . the freedom to get truthful information about our country.

No single radio station provides this as extensively, with such understanding of Russia's needs, as Radio Liberty does.

The freedom to conceive of themselves as people and to battle for their elementary human rights, the freedom of Russian traditions—every people wants to have all this, and taking away these liberties is veritable murder.

Fulbright and his supporters say Radio Liberty is a relic of the cold war. Read this phrase carefully—how absurd it sounds by itself. No, Radio Liberty is not a relic of the cold war but of the human necessity to end the moral murder of 250 million people. As for the cold war, it continues. . . .

If you want to fight against the cold war, Mr. Fulbright, you are welcome—fight! Together with Radio Liberty, together with all our people. . . .

NATION'S DEFENSE IS THREADBARE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BOB WILSON. Mr. Speaker, I insert the following editorial which appeared in the San Diego Union in the RECORD.

The editorial follows:

WILL NEW BUDGET BE AMPLE?—NATION'S DEFENSE IS THREADBARE

For years the submission of each new federal budget to Congress has triggered a debate over national "priorities"—typically centering on the question of whether the United States of America is spending too much on defense when there are so many domestic problems that need attention. President Nixon's proposed new budget may well turn that debate around. Are we investing enough in our national security?

In the new budget, defense accounts for only 32 per cent of total federal spending—the lowest percentage in 23 years—while spending for welfare, education, the environment and other "human resources" programs accounts for fully 45 per cent. The defense outlay also would represent a 22-year low in the portion of our gross national product devoted to national security—6.4 per cent.

The $76.5 billion defense budget represents an increase of only $700 million over defense spending for the current fiscal year, although the President is asking for authorization for another $6.3 billion to be spent in future years.

These statistics should blunt the thrust of the traditional liberal argument that we are spending too much on defense. Instead, they raise the compelling question of whether this investment in defense is large enough for a nation that is now forced to play catch-up in what may be a deadly game.

In allotting funds within the budget, President Nixon has recognized the crying need for the United States to beef up its strategic deterrent, to revitalize its Navy and to accelerate development of advanced weapons systems. These are areas in which we have fallen dangerously behind during a period when defense dollars were being diverted to the war in Vietnam and when there has been a reluctance to invest in new strategic weapons because of the Strategic Arms Limitation Talks.

We have now seen that the SALT negotiations have provided the Soviet Union an opportunity to carry out an awesome buildup of its nuclear arsenal and missile delivery systems creating a serious imbalance in the deterrent formula which is essential to peace. Meanwhile, during a period when our Navy has been literally starving for shipbuilding and weapons funds, a thoroughly modern Soviet fleet has emerged to challenge us on every ocean of the world.

There has been much discussion of a "peace dividend" of federal funds to arise from the winding down of the Vietnam War. The war indeed is demanding a smaller and smaller share of our defense budget. It is clear, however, that it will take much more than a reinvestment of that dividend to refurbish a threadbare defense establishment which at any hour may be called upon to assure our survival.

HOW LONG MUST DR. MARGOLES WAIT?

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. GROSS. Mr. Speaker, the Nixon administration apparently continues to ignore the appeal for clemency of Dr. Milton Margoles, of Zion, Ill., whose case I have discussed in this Chamber on a number of previous occasions.

I do not, in any way, wish to argue that two wrongs make a right, but it does strike me as fantastic that Jimmy Hoffa had easy access and a sympathetic audi-

ence at the White House while Dr. Margoles—who has paid his debt to society by any yardstick—is greeted only by silence.

Since I last called attention to the Margoles case, several reporters have written about it.

I include three of their articles, plus an index to the newspapers in which stories concerning the case have appeared, for insertion in the RECORD at this point:

[From the Chicago Tribune, Dec. 30, 1971]

WHY HOFFA AND NOT DR. MARGOLES?

(By Willard Edwards)

WASHINGTON.—President Nixon's commutation of James R. Hoffa's prison sentence has inspired a variety of reactions, ranging from hints at a political payoff to agreement that the former Teamsters Union president was entitled to executive clemency after serving nearly five years.

But the emotions of Rep. Robert McClory [R., Ill.] are unique. He is mystified and frustrated. He can't understand why the Justice Department moved so quickly in the Hoffa case when it has dragged its feet over the years in recommending a Presidential pardon in a case he considers far more meritorious.

As one of the Nixon administration's stoutest backers, as a high-ranking member of the House Judiciary Committee where the White House sorely needs supporters, McClory is entitled to wonder what Hoffa's supporters have that he hasn't got. He's been given a brushoff by Atty. Gen. John N. Mitchell and his subordinates in his battle for a constituent who has long been a target of political harassment initiated in Democratic administrations.

This petitioner for clemency is Dr. Milton Margoles, now practicing in Zion, Ill. It has been nine years since he discharged his debt to society by serving 22 months in prison and liquidating most of his assets to pay penalties and interest in an income tax case.

Thus far McClory has confined himself to an expression of bitter disappointment that Dr. Margoles was not included in a pre-Christmas list of 16 commutations and 235 pardons granted by the President. He said he hoped the omission was "simply an oversight" which would be rectified.

Later, he may express himself more strongly. Like all who have interested themselves in the Margoles case, including a number of newspapermen, he has become convinced that the strange circumstances of the physician's ordeal are linked to allegations of judicial misbehavior in the 7th Circuit Court of Appeals [Illinois, Wisconsin, and Indiana] and the Federal District Court in Milwaukee.

Dr. Margoles was a practicing physician in Milwaukee when, acting on legal advice, he fought an income tax assessment and wound up sentenced to prison. The sentencing judges were Senior Judge Robert E. Tehan of the District Court in Milwaukee and Chief Judge Luther M. Swygert of the 7th Circuit. Tehan, who failed to pay his own income taxes for eight years before being appointed as a judge, and Swygert are now under fire for the handling of a bankruptcy case in Hammond, Ind., where assets totaling $2.3 million were dissipated over a 28-year period.

After leaving prison, Dr. Margoles found powerful Democratic political forces organized in Wisconsin to oppose his resumption of practice. He sought a Presidential pardon, in order to regain his full professional standing, under the Johnson administration. Tehan and Wisconsin officials opposed this move, and their objections apparently continue to carry weight with the Justice Department under Nixon.

McClory was drawn into the case when Illinois, disregarding Wisconsin's objections, gave Margoles a license to practice a year ago after a tough examination confirmed his high qualifications. He made a detailed investigation and became convinced that the physician was a victim of political persecution for reasons which only a full-fledged investigation would disclose. He and newspapermen writing about the case, including this one, received warning calls from Wisconsin officials which seemed to betray a fear of potentially explosive developments.

Justice Department officials, in response to McClory's persistent requests for consideration of the pardon, told him there were hundreds of similar applications and Dr. Margoles would have to "wait his turn."

McClory has noted with astonishment that it required only a week for speedy approval of the Hoffa application after it was filed Dec. 16. Hoffa didn't have to wait his turn.

[From the Chicago Sun-Times, Dec. 27, 1970]

NEW DECADE HINTS AN END TO DR. MARGOLES' YEARS OF WOE

(By Morton Kondracke)

WASHINGTON.—It begins to look as if the 1970s will be a better decade for Dr. Milton Margoles than were the 1960s, a period during which he spent two years in jail, lost control of a hospital he had headed, was blocked from practicing medicine, hounded by tax men and threatened with murder by a Chicago mobster.

This year, things began to break right. Margoles passed medical exams that would allow him to be licensed in Illinois, and he has a job waiting for him in doctor-short Zion.

Rep. Robert McClory (R-Ill.), whose district includes Zion, has written President Nixon and appealed to the Justice Department to secure a pardon for Margoles.

All of this late good fortune would be merely a holiday-season tale of cheer, but for related questions of judicial conduct.

Margoles and his 26-year-old son Perry, a lawyer, contend that their family wants merely to be left alone after 10 years of misfortune, but they cannot help but find satisfaction in the increasing fire directed at the person they feel was responsible for much of it: U.S. District Court Judge Robert E. Tehan of Milwaukee.

The latest assault of Tehan has nothing to do with the Margoles case, but concerns Tehan's conduct as overseer of the financial reorganization of the Woodmar Realty Co. of Hammond, Ind.

Backed by Rep. H. R. Gross (R-Iowa), Woodmar attorney Owen W. Crumpacker requested a Justice Department investigation of Tehan's management. Hammond Mayor Joseph E. Klen has joined in the request.

TWENTY-EIGHT-YEAR PROCEEDINGS INVOLVED

According to Crumpacker, Woodmar property valued in 1941 at $2,341,000—and now worth much more—was completely lost in 28-year legal proceedings, over which Tehan presided for the last 11 years.

"Not a single creditor or stockholder received a dime," Crumpacker wrote Atty. Gen. John N. Mitchell. Instead, the money went to various lawyers, some of whom were disbarred in other court scandals.

Previously, in April of this year, Tehan was identified as one of the persons whose income tax records were being examined by then-White House counsel Clark Mollenhoff.

Amid the furor, Sen. John Williams (R-Del.) noted that for eight of the nine years prior to Judge Tehan's appointment to a judgeship during the Truman administration, Tehan had not filed or paid federal income taxes. Tehan is a former Democratic national committeeman.

Williams said, "I would not want a judge on the federal bench who might be judging me when he has not paid his income taxes for eight or nine years."

As it happens, it was Tehan who judged Dr. Margoles, leading to the doctor's long decline in the 1960s.

In 1957, Margoles was defendant in a $33,000 civil tax case. By 1960, with the case unsettled, the allegedly unpaid taxes amounted to $100,000. Margoles was indicted on a criminal charge.

On advice of his lawyers, Margoles changed his plea from "not guilty" to "no contest," believing he would merely be fined. Instead, Tehan sentenced him to a year in jail and fined him $15,000.

Tehan declared from the bench that Margoles had hidden away $713,000 in cashier's checks—a charge that has never been proved and which Margoles' son says the Internal Revenue Service has since declared to be untrue.

TELLS HOSPITAL SEIZURE

Before the tax case was resolved, Margoles was approached by an emissary from the law firm of Tehan's son, Robert E. Tehan Jr., who assured Margoles that hiring the son's law firm would result in a reduction of sentence.

On his lawyers' advice, Margoles hired Tehan Jr.'s firm. Margoles was immediately charged with attempted bribery. That charge was reduced to obstruction of justice and Margoles was convicted and sentenced to two years in jail.

During that period, control of the Milwaukee hospital of which Margoles had been medical director was seized by a politically connected union.

On the very day that Margoles was released from prison, the union put the hospital up for sale. When Margoles sued, the hospital was declared bankrupt and put into the hands of a bankruptcy referee who happened to have been Tehan's tax lawyer. Records revealing what happened to the hospital's assets disappeared.

While he was in prison, Margoles' tax bill rose to $300,000, but he left prison with his Wisconsin medical license—and means of earning a living—withdrawn.

Facing four years on parole, Margoles sought a communtation of sentence so he could begin practicing again. Commutation was denied, and Margoles' family contends Tehan was partly responsible.

In 1963, Chicago mobster Ross D. Francesco attempted to extort money from the family, threatening to kill them if it was not paid. When the mobster was arrested, Tehan promptly lowered his bail. Another judge later found him guilty.

From 1962 to 1966, while he was on parole, Margoles took postgraduate medical studies at several universities. He was denied readmission to Wisconsin practice, but sought it elsewhere.

SOUGHT IN IOWA TOWN

The little town of Battle Creek, Iowa, sought Margoles' services in 1966, but the Wisconsin Board of Medical Examiners intervened with the Iowa board, and licensure was denied. Wisconsin officials visited other states as well, attempting to block Margoles from practicing. The Margoleses filed a civil rights suit against the Wisconsin board.

In recent years, despite Wisconsin's efforts, Margoles obtained licenses in California, the District of Columbia and Michigan. He has been practicing in Michigan.

Margoles tried three times to get a license in Illinois, but it was blocked twice—again, reportedly as a result of Wisconsin intervention. When officials in Zion and Rep. McClory appealed, he was allowed to take the medical exam and, this month, passed it.

To clear his name, Margoles has sought pardons from President Lyndon B. Johnson and Richard Nixon. In recommending pardon, McClory wrote Mr. Nixon that Margoles "has more than paid his debt to society, and deserves compassion."

McClory said that two Wisconsin newspaper reporters, one close to Tehan and the other close to the medical board, called him in an attempt to dissuade him from helping Margoles.

The Illinois congressman wrote another letter to the President, this time imploring him to grant the pardon and adding he was "satisfied that charges . . . levelled at Margoles by hostile elements in Wisconsin . . . are false and irrelevant."

TRAGIC MISCARRIAGE OF JUSTICE

(By James J. Kilpatrick)

The President shall have power, says the Constitution, "to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." It is not the most important of a President's powers, but it is the one power that reaches directly to the individual condition of man.

Nixon exercised that power a few days before Christmas, when he ordered the gates of Lewisburg Prison opened for James Hoffa, long-time boss of the Teamsters Union. Hoffa had been convicted of jury tampering. It is perhaps the most serious of the several offenses against the United States" that are classified as obstruction of justice.

This is not a column about Jimmy Hoffa, whom everyone has heard of. It is rather a column about Dr. Milton Margoles and his 26-year-old son Perry; and unless you live somewhere between Des Moines and Milwaukee, and follow the news closely, you may never have heard of them at all. There is a thread that ties the two stories together.

Dr. Margoles, 59, is a physician specializing in cardiology. He entered into practice in Milwaukee more than 30 years ago. It proved to be a highly successful practice, and perhaps success went to his head. If so, he was not the first wealthy doctor to fall victim to hubris, and he will not be the last.

In any event, Dr. Margoles began to conceal a part of his income. By 1957, the government had filed a $33,000 civil suit against him. Compounding his blunders, he failed to agree to a settlement. Criminal prosecution followed in 1960. On the advice of counsel, Dr. Margoles pleaded "no contest," expecting a fine and probation. Instead, District Judge Robert E. Tehan fined him $15,000 and sentenced him to a year in prison.

It was a curiously harsh sentence, in view of the defendant's modest liability and his excellent record; it was especially curious in that Tehan himself, the Federal judge, had once known tax troubles of his own. Over a period of eight years, from 1936 to 1944, Tehan failed to file any tax returns whatever. The judge, in the short and ugly word, was a deadbeat. When the facts leaked out in 1949, at the time of his nomination to the bench by Harry Truman (as a reward for his services as Wisconsin's state Democratic chairman), Tehan's lame excuse was that he didn't have the money to pay his taxes.

Very well. Shocked by the prison sentence, Dr. Margoles panicked. His story is that he was sought out by an emissary who insinuated that the sentence might be reduced if a $5,000 retainer were paid to Judge Tehan's son. If this was a trap, it worked perfectly. Dr. Margoles found himself indicted for attempted bribery; on a reduced charge of obstructing justice, he was sentenced (by a different judge) to an additional two years.

Dr. Margoles served his time in full—22 months behind bars—and returned to Milwaukee to find his license revoked, his small hospital taken over (and bankrupted) by a union, and a mountainous tax bill still pending. Still worse, for a man who had "paid his debt to society," he found himself victim of an unrelenting effort to keep him from practicing elsewhere.

When he was invited to start over in Iowa, the Iowa board—without stating a reason—denied him a license. He ran into more trouble in Illinois before finally obtaining a license there. His son Perry, as a young law student, undertook a heartwarming and heartbreaking campaign for executive clemency.

At every step, unseen but powerful forces in Wisconsin have blocked his appeals. A number of top-ranking newspapermen, among them Clark Mollenhoff of the Des Moines Register-Tribune and Willard Edwards of the Chicago Tribune, have looked sympathetically at the Margoles case. Such respected congressmen as Gross of Iowa and McClory of Illinois have backed his appeal.

Just before Christmas, on the very afternoon that Hoffa's commutation was announced, young Perry Margoles was back at the White House, lugging his battered suitcases of documentation. All he asks is the full pardon that would restore his father's civil liberties and put an end to harassment. The word was "nothing new on the Margoles case," but Perry, you may be certain, will be back.

INDEX TO CROSS SECTION OF RECENT ARTICLES ON THE MARGOLES CASE AND RELATED MATTERS

(NOTE.—This cross section is not intended to represent a complete compilation of recent articles on the Margoles case and related subjects.

Halicized newspapers denote articles which provide distinction overviews and insight into the case.)

I. PRELIMINARY PARDON PETITION

Names of newspapers, articles, titles, and dates of publication

1. *Chicago Sun-Times*, Morton Kondracke, "New Decade Hints an End to Dr. Margoles' Years of Woe" (12–27–70).

2. *Chicago Tribune*, Willard Edwards, "Why Hoffa and Not Dr. Margoles?" (12–30–71).

3. (*syndicated column*) a. *Indianapolis News*, James J. Kilpatrick, "Margoles Case; Tragic Miscarriage of Justice" (1–3–72).

b. *Kansas City Times*, James J. Kilpatrick, "Case Deserving Clemency" (1–1–72).

c. *Chicago Daily News*, James J. Kilpatrick, "The Man Nixon Forgot the Day He Let Hoffa Out of Prison" (1–3–72).

d. *Washington Star*, James J. Kilpatrick, "The Pardon Power and the Case of Dr. Margoles" (1–2–72).

e. *Miami Herald*, James J. Kilpatrick, "Not All Mercy Is Dispensed" (1–1–72).

f. *Sunday Oregonian*, James J. Kilpatrick, "Presidential Pardons . . . and Sad Tale of a Repentant Father, a Loving Son" (1–2–72.)

g. *Daily Oklahoman*, James J. Kilpatrick, "Physician's Son Sees Chance for Father in Hoffa Release" (1–3–72).

h. *Baltimore Sun*, James J. Kilpatrick "Some Get Out, Some Don't" (1–2–72).

i. *Lincoln Evening Journal* and *Nebraska State Journal*, James J. Kilpatrick, "Margoles Appeal Blocked" (1–4–72).

j. *Des Moines Tribune*, James J. Kilpatrick, "Presidential Pardon Sought for M.D. Denied Iowa License" (1–4–72).

k. *Denver Post*, James J. Kilpatrick "A Repentant Dad, a Loving Son" (1–3–72).

l. *Atlanta Constitution*, James J. Kilpatrick "Dr. Margoles' Case" (1–1–72).

m. *Birmingham News*, James J. Kilpatrick, "A Father's Repentance" (1–4–72).

4. *Chicago Sun-Times*, Morton Kondracke, "Nixon Apparently Deaf to Pleas by McClory for Dr. Margoles" (12–24–71).

5. (syndicated column) a. Chicago Tribune, Nick Thimmesch, "Freeing of Hoffa Won't Pay Off for G.O.P." (1–2–72).

b. Des Moines Register, Nick Thimmesch, "Doubts Freeing Hoffa Will Benefit Nixon" (1–2–72).

6. *Chicago Tribune*, Willard Edwards, "Plight of Doctor Arouses Ire" (11–26–70).

7. *Congressional Record* (5–12–71), *Des Moines Register*, George Anthan, "Conduct of Senior Judge Questioned—Failed to File Tax Returns 1936–44" (4–18–71).

8. *Congressional Record*, H. R. Gross, (2–7–69).

a. *Madison Capital Times*, Dave Zweifel, "IRS Foreclosure Set For March: Margoles' Son Seeks Help From Nixon to Save Home" (1–28–69).

b. (*Chicago Sun-Times news service*) *Des Moines Tribune*, Morton Kondracke, "Margoles' 12-Year Tangle: Son Seeks Nixon's Help in Father's Tax Fight" (2–3–69).

c. *Chicago Tribune*, Willard Edwards, "Capitol Views" (2–1–69).

9. *Congressional Record*, H. R. Gross, "Investigate Judge Tehan" (Woodmar Realty Company case) (9–9–70).

10. Congressional Record, H. R. Gross, "The Tehan Case" (Woodmar Realty Company's impeachment petition on Judge Tehan, to the House Judiciary Committee) (5–17–71).

11. a. *Washington Post*, Editorial "Why the Blackout of Pardons?" (11–8–69).

b. New York Times, "Washington Notes" (11–5–69).

12. Chicago Tribune, William Edwards, "Nixon Cautious on Pardons" (1–10–70).

13. Des Moines Register, James Risser, "'Harassed' M.D. Seeks Nixon's Aid" (11–10–69).

14. a. *Des Moines Register*, "Negro Plea to Johnson on Pardon For Doctor" (6–13–68).

b. Hospital Management Magazine, Lucy Freeman, "Small Hospital—Saga of Integration" (9–57).

15. (New York Times wire service) Wisconsin State Journal, Fred Graham, "Son Asks President To Pardon His Dad" (3–21–68).

16. Cleveland Plain Dealer, Doris O'Donnell, "Son Begs Johnson To Lift Pardon Ban For His Father" (3–31–68).

II. ADDITIONAL ARTICLES ON JUDICIAL MISFEASANCE

Names of newspapers, authors, titles, and dates of publication

17. Washington Post, Merlo J. Pusey, "The Problem of Acting on the Conduct of Judges" (9–6–69).

18. Wall Street Journal, Jerry Landauer, "Judging a Judge's Pretrial Publicity" (2–20–67).

19. Wall Street Journal, Jerry Landauer, "Better Judges—Political Bipartisanship in Selection Process May Improve Judiciary" (10–4–66).

20a. Wall Street Journal, Jerry Landauer, "Judges and Politics: Wisconsin Case Points Up Influences on Appointments" (7–11–66).

20b. Congressional Record, H. R. Gross, "A Startling Case" (6–9–66).

21. Madison Capital Times, "On Possible Civil Rights Violation—Iowa Congressman Urges Probe of Margoles' Case" (2–11–69).

22a. Chicago Sun-Times, Morton Kondracke, "U.S. Probe Asked in a Tax Hassle" (2–9–69).

22b. Milwaukee Journal, Morton Kondracke, "Margoles Backer Raps Judge Tehan" (2–10–69).

23. Chicago Tribune, Willard Edwards, "Doctor Is Forced to Swallow a Bitter IRS Pill" (5–18–69).

24. Indianapolis Star, Ben Cole, "U.S. Asked to Probe Disappearance of Firm's $2.3 million in 30-Year Case" (9–12–70).

25. Hammond Times, Clark Mollenhoff, "Congressman Demands Probe of Woodmar Realty Case" (9–20–70).

26. (Syndicated column) a. Dallas Morning News, Clark Mollenhoff, "Time for Testing" (11–27–71).

b. Des Moines Register, Clark Mollenhoff, "Real Test for Judge Ethics" (11–28–71).

c. Indianapolis Star, Clark Mollenhoff, "Interests Conflict Seen With Judicial Execution" (11–28–71).

27. (Syndicated column) a. Rocky Mountain News, Clark Mollenhoff, "Federal Judges Mishandle Estate Case" (1–3–71).

b. Detroit News, Clark Mollenhoff, "U.S. Probe Asked in 29-Year-Old Estate Case" (12–31–70).

c. Salt Lake Tribune, Clark Mollenhoff, "Millions Coming, But Not a Dime—Lawyers on a Free Spree, Widow Waits, Wonders" (12–26–70).

28. a. Des Moines Register, George Anthan, "Integrity of the Judiciary—Judge Cites 'Abuses in Bankruptcies,' Asks Reforms in Legal Ethics" (7–25–71).

b. Des Moines Register, letter to editor, "Wants to Keep Faith in Law" (8–1–71).

29. a. Chicago Tribune, William Jones, "Didn't Pay Tax, U.S. Judge Says" (4–19–70).

b. Chicago Sun-Times, William Jones, "Federal Judge Admits not Paying Tax" (4–19–70).

c. St. Louis Post-Dispatch, U.P.I., "Judge Evaded Tax, Sen Williams Says" (4–17–70).

d. Philadelphia Inquirer, U.P.I., "Tax Fraud by Judge Disclosed" (4–17–70).

e. Los Angeles Times, U.P.I., "Judge's Tax Laxity Told by Senator" (4–17–70).

f. San Francisco Chronicle, U.P.I., "A Delinquent Judge—Income Taxes".

g. (Chicago Daily News news service), Washington Star, William J. Eaton, "Judge Who Paid Taxes Late Says He Won't Resign Now" (4–19–70).

h. Dallas Morning News, U.P.I., "Williams Says Judge Didn't File" (4–17–70).

i. Washington Post, U.P.I., "Judge Reportedly Failed to Pay Tax for 8 Years" (4–17–70).

j. Atlanta Constitution, U.P.I., "Senator Charges U.S. Judge Failed to Pay Income Taxes" (4–17–70).

30. Washington Star, Robert Walters, "Tax Filing of U.S. Judge Studied by Mollenhoff" (4–18–70).

31. (Syndicated column) Chicago Sun-Times, Clark Mollenhoff, "On Judicial Reform, Blemiller is a Big Man" (12–6–70).

32 a. *Des Moines Register*, Clark Mollenhoff, "Iowans Want Doctor Forgiven, So He Can Practice in Their Town" (6–5—66).

b. *Des Moines Register*, Clark Mollenhoff, "Gross: Probe Doctor's Case (6–11–66).

33. *Des Moines Register*, Clark Mollenhoff, "D.C. License for Doctor Iowa Barred; Margoles Victory in 4-Year Fight" (12–9–66).

34. *Madison Capital Times*, Dave Zweifel, "Tax Case Led to Loss of Profession; Barred Doctor Seeks New Chance" (10–24–68).

35. *Madison Capital Times*, Dave Zweifel, "No Indication of Action; Medical Board Hears Plea for Margoles Relicensing" (10–26–68).

36. *Madison Capital Times*, letter to editor, "Objects to Way Margoles Treated" (11–11–68).

37. *Madison Capital Times*, Dave Zweifel, "In Plea to Regain MD License, New Tactic is Tried Against Margoles" (1–17–69).

38. *Madison Capital Times*, Dave Zweifel, "Medical Board Chief Orders More Questioning; Margoles Hearing Continues Unexpectedly into Third Day" (1–18–69).

39. a. *Madison Capital Times*, letter to editor, "Questions for Medical Board" (5–12–69).

b. *Madison Capital Times*, letter to editor, "Thanks C–T for Margoles Stories" (11–30–68).

c. *Milwaukee Journal*, letter to editor, "The Margoles Case" (4–24–68).

40. *Madison Capital Times*, "Margoles Regains California MD License" (3–20–69).

41. *Madison Capital Times*, Dave Zweifel, "Medical Examiners List Reasons; Dr. Margoles Again Refused License" (5–6–69).

42. *Madison Capital Times*, Dave Zweifel, "Objects to Use of His Name, Reporter Says Medical Unit Lied in Margoles Decision" (5–10–69).

43. *Chicago Tribune*, Willard Edwards, "Political Hostility Bars Physician" (4–30–70).

44. *Chicago Tribune*, Willard Edwards, "Illinois Backs Doctor Barred by Wisconsin" (8–19–70).

MAIL ORDER ABUSES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ROSENTHAL. Mr. Speaker, I think we can all agree, as I testified this morning before the Federal Trade Commission, that mail order purchases represent the largest and, until now, the most neglected marketplace abuse confronting the American consumer. Not only does the consumer often not receive his money's worth from mail order establishments, but he frequently receives nothing at all.

The American mail order business is a $45 billion industry. Its practitioners number in the thousands. Through the use of mass media—radio, TV, magazines, newspaper, catalogs—the mail order industry manages to reach daily into the homes of millions of American consumers, offering every conceivable type of merchandise and service. Flashy ads and catalogs offer staple and novelty items for home or business. Sometimes they offer merchandise difficult to obtain in certain parts of the country—Alaskan blankets, rare coins, exotic physical fitness and beauty aids.

While most mail order firms are run by honest businessmen who serve their customers quickly and fairly, too often the consumer must become something of a gambler if he chooses to shop through the mail, risking his money on the chance that an unknown company will furnish his goods. The typical mail order transaction involves prepaying for unexamined merchandise from an unseen and often unnamed merchant at a distant location.

Frequently, the consumer relies on the good faith representation of a promise of satisfaction in an ad or on the reputation of the magazine or other media enterprise in which the ad is found. Most of the time, the consumer is not even in a good position to evaluate his or her risk—for he has no way of knowing before he sends his money whether the mail order firm is disreputable, inexperienced or even a known violator of the law.

Under existing laws—or their absence—the unscrupulous mail order house operates at a distinct advantage over the consumer. Hiding behind a post office box number and a fabricated business name, it can deliver inferior merchandise, or no merchandise at all, disregard customer complaints and, if things get too uncomfortable, file for bankruptcy or simply leave town. The consumer, with cancelled check in hand, is left remediless, often after months of frustrated letter-writing to consumer groups, better business bureaus, Congressmen, and the firm itself.

When a customer seeks solution to a complaint against a mail order firm, he is usually forced to rely on the mails, the same impersonal medium that led to the trouble in the first place. Moreover, the amount of money lost in each instance of mail order abuse is rarely large and does not warrant the expenditure of much effort in the quest for refunds. Legal suits are almost always out of the question.

Last summer, my office conducted an in-depth 3-month study of mail order abuses. A questionnaire sent to 40 dissatisfied consumers who had written my office showed that 40 percent never received satisfaction of any kind with respect to their registered mail order complaints. Of the remaining 60 percent, 20 percent reported that it took 1 to 3 months for action; 20 percent said it took 4 to 6 months; 15 percent received satisfaction after 7 to 9 months, and 5 percent received refunds only after a year of persistent writing and complaining.

Clearly, substantial segments of the mail order industry operate contrary to the basic concept of American business where profits are awarded to the entrepreneur for organizing, managing assuming the risks of an enterprise. In the mail order business, it is often the consumer who bears the risk of the enterprise—he will only receive his goods if enough orders are placed, if sufficient stock is on hand, and if the promoters are honest. If not, he forfeits his money, or perhaps worse, his sanity.

The realities of the situation are undeniable and appalling. Careless and unscrupulous mail order firms cheat the consumer and at the same time siphon off business from reputable firms. Yet until now, mail order business practices have been left virtually unchallenged and basically unregulated. It is ironic that a Small Business Administration pamphlet entitled "Selling by Mail Order" for prospective mail order businessmen states:

> The federal government has no restrictions with respect to operating a mail order business, and usually no state or local licenses are required.

The Postal Service, for example, will deliver consumers' checks and money orders to mail order firms at a post office box, simply for the rental cost of the box. In renting a post office box for mail order purposes, the Postal Service's requirements are no more rigorous than for regular users. The present postal system, then, permits mail order firms to operate in anonymity through the mails without any consideration for poor management and sloppy business practices; excessive delays in shipment of merchandise; misleading advertisements; shipment of wrong or faulty products; poor complaint handling services; or failure to honor guarantees and warranties.

Our responsibility here today, then, is to help spring the American consumer from the mail-order trap. Each of us can bear personal testimony to the economic loss and frustration caused by unsatisfactory mail order experiences.

My own office receives hundreds of letters each year from defrauded mail-order subscribers across the country. All but one of these consumers complained of failure to receive merchandise ordered and paid for through the mail. The amount of money lost ranged from $1 to $43. Most of the people expressed indignation over the injustice of the situation which had for them become a "matter of principle." One complainant wrote that:

> The money lost is relatively unimportant. It is the ease with which it was taken that is important.

Such complaints are not limited to my files, however. All evidence points to the factor that nondelivery or late delivery of prepaid merchandise is a national pattern which demands our highest priority. The cheated consumer is as likely to be a retired Army colonel as a low-income housewife; a professor of political science as a teenager.

While computer and human errors and mail delivery mix-ups can and do cause problems even for the honest, well-intentioned dealer, a reading of complaint letters reveals that the same firms seem to be named by victimized consumers time and time again.

The basic problem, it seems to me, is that the abused mail-order consumer now lacks any realistic and effective remedy when a firm fails to deliver prepaid merchandise.

Private remedies are impractical: even if the consumer's contract is breached, the offender is often in another State and may be known only by a Post Office Box number.

Public remedies by Government are also inadequate.

In a minority of situations, the promoters intensionally plan to perpetrate a fraud, never intending to deliver any merchandise. In the large bulk of cases, incompetent management, inexperience, sharp practices or a combination of other factors force a mail-order business into non-performance or bankruptcy.

In September of 1970, for example, a gentleman from Kansas sent a mail-order house $15 for a dog-training aid which he had seen advertised in a magazine. Within the course of a year, the consumer, not having received this item, wrote four letters to the magazine, three letters to his local post office, two letters to the mail-order house, and two letters to the local Better Business Bureau.

The BBB never responded at all, the Postal Inspector's office sent a form letter advising that there was not enough evidence to establish use of the mails in violation of the mail fraud statute and that the Post Office, in any event, has "no authority to effect refunds or adjustments" to consumers. A letter from the magazine concluded the story almost a year after the mail order had been placed when it wrote the consumer that mail to the company had been returned marked, "Moved—left no forwarding address." Here, and in the instance in which the mail-order firm is declared bankrupt, even the tenacious consumer almost always loses everything.

A second problem is that of excessive delays in the delivery of prepaid merchandise. When these delays are habitual with a particular mail order firm they usually indicate inadequate management or intentional failure by the promoter. Usually, he has an insufficient stock of the merchandise and does not obtain such stock unless and until his orders reach a certain volume.

Recently, for example, a west coast promoter ran several large ads for weight-reducing sauna shorts. The ad listed only a Post Office number and address and stated that COD orders would not be accepted. In fact, the promoter himself had no stock of Sauna shorts at all, and only after a large number of orders were placed with him and sufficient money accumulated did he then proceed to place an order with a manufacturing firm in the Orient.

Delivery to the customer took from 6 to 8 months, during which time the firm was using the customer's money. While the promoter's interest-free use of the customer's money would appear to be not only unethical but illegal, the local chief of police was powerless to act against the mail order promoter who had not violated any existing law.

In addition to complete failure to deliver prepaid merchandise and excessive delays in delivery, the "mail order problem" includes the consumer's inability to obtain refunds when merchandise is not delivered, when an incorrect, defective, or a dissimilar item is delivered, or when there is a failure to honor written guarantees and implied warranties.

There is no need to describe the details of each consumer problem—we are all aware of the various ways in which the American citizen can be gouged through mail order schemes. Our concern here is with the measures that can and must be taken to protect the consumer so that he can use the U.S. mails for business purposes with confidence.

POSTAL SERVICE—LEGAL MACHINERY—CRIMINAL PENALTIES

At present, the legal machinery for establishing this confidence is weak, indeed. Various States have passed consumer protection statutes which give authority to their attorneys-general to prosecute cases of fraud, within their jurisdiction, including mail order fraud.

The authority varies widely from State to State, and often the scope of power is narrow. Few relate directly to mail order problems. Though California and New York City have recently adopted legislation specifically dealing with mail order problems, the enforcement of such legislation suffers from jurisdictional limitations. As the Attorney General of Oregon properly observed, "Strict and clear Federal standards in this area would be most welcome."

Presently, Federal regulation is limited to the Postal Service's enforcement of criminal and civil mail fraud statutes and to the Federal Trade Commission's enforcement of the prohibition against "unfair and deceptive acts in commerce" as defined in section 5 of the FTC act. The enforcement of these provisions—when they have been enforced—has been totally ineffective in curbing mail order abuses.

The Postal Service's criminal mail fraud statute—18 U.S.C. 1341—authorizes a fine up to $1,000 or imprisonment up to 5 years, or both, for persons "having devised or intending to devise any scheme or artifice to defraud or for obtaining money or property" by false pretenses through use of the U.S. mails. Mail order fraud is only one of a number of mail fraud schemes covered by the statute.

For example, it was used to jail two men who ran an illegal vacation contest, and it has also been used to prosecute union officials for using the mails as part of a deceptive scheme. Obviously, neither of these situations involve mail order practices.

Most importantly, according to the Office of the Postmaster General, relatively few of the mail order cases develop into fact situations which U.S. attorneys regard as meeting court requirements for successful prosecution under the criminal statute. A large stumbling block for meeting court requirements is that proof beyond a reasonable doubt of an actual intent to deceive is a necessary element for conviction. Often the promoter's shipment of only a token number of orders or even excessively late deliveries, frustrate the "proof of intent" test, thereby defeating the Postal Service's use of the criminal fraud statute.

In 1971, the Postal Service received over 135,000 mail fraud complaints. The 10,924 cases were authorized for investigation. Of these investigated by postal inspectors in the 1971 fiscal year—the year in which mail order fraud ranked first among consumer complaints in an FTC survey—only 700, or 7 percent related to mail order concerns. Of those 700 only 44 presented to U.S. attorneys for consideration and actual prosecution was instituted in a total of only 24 cases. Even in these cases if prosecutions are successful, and the company fined or its owner jailed, the consumer who lost his money receives no restitution.

CIVIL PENALTIES

The Postal Service's civil administrative mail fraud statute—39 U.S.C. 4005—authorizes an administrative determination of charges against a person for obtaining money or property through the mails by means of false or fraudulent pretenses, representations, or promises. If the facts warrant, a "false representation or fraud order" is issued, prohibiting the delivery of mail or the payment of postal money orders to the individual or firm against which it is issued.

While this statute eliminates the criminal statute's requirement of proof of fraudulent intent, it does require proof of a false representation of a material fact. To use it in cases of failure to effect a reasonably prompt shipment, the Postal Service must demonstrate that the seller consistently failed to honor a specific promise regarding the time within which orders would be shipped.

The legislative history of the statute indicates that its purpose was to protect the consuming public from being victimized by fraudulent schemes. In fact, however, the civil statute is narrowly interpreted to apply primarily to cases of fraudulent advertising and is rarely used by the Postal Service for mail order abuses. In 1970, only 178 mail fraud cases were investigated under the civil statute.

Even more shocking is the fact that to date the Postal Service has not issued a single administrative fraud order against a mail order company for nondelivery of merchandise, despite the fact that thousands of consumer complaints of nondelivery have been received. A spokesman for the Postal Service recently

admitted that it is almost impossible to prosecute a case of failure to deliver.

Neither the criminal or civil statute authorizes postal inspectors to investigate a company simply to force a supplier to expedite delivery or otherwise act as an intermediary in settling unsatisfactory transactions. Neither statute obligates the mail order promoter to maintain shipment records for inspection by the Postal Service. Perhaps most importantly, neither the criminal sanctions nor the mail stop order gives direct relief to already injured consumers.

Postal officials estimate that local inspectors spend about 10 percent of their time on mail fraud investigations, and most of their time investigating mail theft. Of the 10,924 authorized mail fraud investigations, only about 7 percent involved mail order malpractices. In other words, postal inspectors spend seventenths of 1 percent of their time on mail order investigations. This means that during a normal 40-hour week, the average postal inspector spends about 15 minutes on mail order fraud, or 1 hour a month.

FEDERAL TRADE COMMISSION

Under the Federal Trade Commission Act the FTC is empowered to prevent unfair methods of competition and unfair or deceptive acts or practices in commerce. Even if a nondelivery of merchandise case meets the "unfair or deceptive acts" test, the Commission's only power against a mail order abuser is use of its weak and limited cease-and-desist order authority. Further, the procedures now required by the FTC to obtain actual sanctions against the abuser are no only lengthy but often ineffective until final review by courts of appeal.

Many firms can delay for long periods of time the final adjudication of a case brought against it for misuse of the mails. Like the Postal Service, the Commission can only prosecute ongoing enterprises. Like the Postal Service, it offers no relief or remedy to the defrauded consumer.

It is a small wonder, therefore, that failure to deliver merchandise ordered through the mail was the single largest consumer complaint in the Nation last year. The individual cases of mail abuse are seldom dramatic, but the volume of dissatisfaction with this industry demands dramatic action.

It is my belief that regulation of the mail order business property belongs not to the Postal Service, whose principal function is to accept, process, and deliver mail, but to the Federal Trade Commission which has been entrusted by Congress with protecting the public against unfair and deceptive business practices. The undelivered merchandise problem is not a mail problem but a business problem, and its solution can best be achieved by the FTC. In my judgment, however, the proposed trade regulation rule concerning undelivered mail-order merchandise doesn't go nearly far enough.

The danger of promulgating such a quarter measure is clear—other groups will be lulled into a state of inactivity in the relief that the consumer's and honest businessman's interests are being protected. Yet, the Commission's rule fails to take into account many of the major mail order abuses. As such, it provides far less than adequate protection for consumer and honest businessmen alike.

It is my hope that the Commission will expand and upgrade the protection and enforcement provisions of its proposed rule. Although I view legislation as a last resort toward solving the mail order problem, such legislation will have to be forthcoming if the Commission does not do so. The following, Mr. Speaker, are the provisions which I believe must be amended if the proposed FTC rule is to effectively regulate the huge mail order industry.

Before I discuss what I believe to be substantive weaknesses in the proposed trade regulation rule, there are at least two technical improvements needed:

First, under the rule as presently written, a seller must make a "prompt" refund to the buyer under certain specified circumstances. Nowhere, however, is the term "prompt" refund defined. Does "prompt" mean 1 week, 1 month, or longer?

Second, since violation of part two of the rule—failure to ship "within that time stated in the advertisement"—is dependent on the advertised statement of "estimated time required for shipment," should not there be some definition of "estimated time?" If the shipment is 1 week later than the estimated time of shipment, is that a violation of part two? What about 4 weeks or 6 weeks?

In my judgment, the central weakness of the Commission's proposed trade regulation rule is its failure to provide a mechanism for swift enforcement of its requirements. The rule in no way assures first, a speedy process for the restitution of money to defrauded or abused mail order customers, and second, a speedy method for putting out of business repeated violators of the rule's performance standards. It is my view that given the incredibly high number of consumer complaints in this area and the large number of firms operating mail order businesses, the only effective device for accomplishing these objectives is the regulation through licensing of all companies selling through the mails—cease-and-desist powers are simply not adequate.

To receive a license, a company should be required to register its legal name and address and the names of all owners and operating principals. It should also have on record a description of its product or services and an estimate of its anticipated volume of sales over a 3-year period.

A license fee could cover the cost of administration. In addition, all mail order companies requiring prepayment for merchandise should be required to post a performance bond with the administering Federal agency so as to guarantee refund or penalty payments if Federal guidelines are violated. The bond should be graduated according to the median volume of sales over the past 3 years, or, in the case of a new company, according to the first year's anticipated volume of sales.

To obtain a refund for non-delivery of merchandise or other violations, a customer would be required to present to the administering agency adequate proof of payment for the merchandise and a written and signed statement declaring that it had not been received. A mail order company would have a fixed number of days to prove shipment of the merchandise or that a refund was granted.

A company would be required to repay into the bond fund any moneys paid as refund to a consumer—or face revocation of its license. Revocation could also be ordered for repeated violations.

Moreover, the mail order company should be required to use its registration number in all materials soliciting orders. All mail to an unlicensed or delicensed mail order company would be returned by the Postal Service to the sender. Even with this requirement for advertising its registration or licensing number, it might be well for each mail order firm to properly identify itself in all ads by listing its legal name and actual business address. The present system, which allows firms to remain anonymous behind Post Office box numbers, serves no useful purpose for the honest businessman.

In addition, the rule should provide for the following:

First. Standards should be established governing the advertising truthfulness of mail order mechandise;

Second. Regulations should require mail order sellers to disclose the existence or absence of warranties and guarantees, including information on where a product can be repaired or returned under the terms of the warranty; and

Third. The rule should prohibit as contrary to public policy the practice of some mail order firms not to give refunds or offering only credit refunds unless notice of such a policy is clearly and conspicuously disclosed in all material soliciting orders. Almost 5 percent of consumer complaints to the Federal Trade Commission relate to nonrefund policies about which the consumer had no prior notice.

Again, Mr. Speaker, I view the proposed trade regulation rule as a "half start." It is virtually meaningless to require mail order firms to deliver merchandise within a set time period and to require refunds if those periods are violated without, at the same time, providing an easy and effective method of enforcing those requirements. I think you would probably agree that the cease and desist order route is a totally inadequate device for accomplishing these objectives.

U.N. UNDER SECRETARY BRAD MORSE

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, I wish to commend President Nixon on his brilliant appointment of our colleague BRAD MORSE to fill the shoes of the late Ralph Bunche as Under Secretary at the United Nations. Those are big shoes to fill, but if anyone is capable of doing so it is BRAD MORSE. As chairman of the House Republican conference I wish to extend the heartiest congratulations to BRAD on this great honor and at the same time express the deep sadness we feel at losing one of the most intelligent, able, and affable Members in this body. I say this not only in my official capacity as conference chairman, but as one who has enjoyed BRAD's close and warm friendship since we came to this body as freshmen in the 87th Congress. Unlike me, BRAD was not new to the Hill back in 1961, having previously served for 2 years as counsel to the Senate Armed Services Committee and 4 years as chief assistant to former Senator Saltonstall of his home State of Massachusetts. It was, therefore, not unusual that we freshmen tended to look to BRAD for guidance and advice on the ways of the Hill and he was always willing to go out of his way to help.

Anyone who is familiar with BRAD's work in the Congress knows just how eminently qualified he is for the U.N. post. As one of the most conscientious and hard-working members of the House Committee on Foreign Affairs, BRAD is widely recognized as being one of the most knowledgeable foreign policy experts in the Congress. His enthusiastic interest in this field has not been confined to his committee responsibilities but has extended to a wide variety of activities and responsibilities. First and foremost, BRAD has been a great friend of the U.N., and as such, I am confident he will be a real asset to that organization in his new position.

KEEP HIGH STATE STANDARDS FOR BOAT HOLDING TANKS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. FRASER. Mr. Speaker, this week the House votes on H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972. This legislation marks a new and much needed approach to water pollution abatement.

However, if we are to achieve the admirable goals it sets forth, a few changes in the bill are needed. One which I am supporting will allow those States that now ban the discharge of sewage from boats to continue to do so.

I call the attention of the House to an excerpt from an editorial which appeared in this morning's Minneapolis Tribune:

WATER POLLUTION IN THE HOUSE

Another problem of particular interest to lake states such as Minnesota has drawn little attention, although it is present in both bills. The bills provide for federal preemption of state authority over pollution from boat toilets. And both bills almost assure that federal requirements will be weaker than those already existing in the 20 states, including Minnesota, that ban all discharge from boat toilets.

The reasons for such prohibitions are that marine sanitation devices don't provide good waste treatment and often don't function well, adequate inspection is a big job, and discharges are almost impossible to police. An inexpensive and feasible alternative (as experience in Minnesota and other states has demonstrated) is use of tanks to hold waste until it can be pumped out.

The boat-pollution provision in the House and Senate bills is an unwarranted, unwelcome step that can only be interpreted as an attempt to weaken provisions of the 20 states now requiring holding tanks. Rep. Donald Fraser and 21 other congressmen will seek to eliminate the pre-emption. The House should approve their amendment.

PUBLIC BROADCAST DESERVES SUPPORT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MOSS. Mr. Speaker, the future of public broadcasting has become an issue of growing interest to an ever-increasing number of indivduals. In a recent editorial, the Sacramento Bee voiced its concern regarding the need to establish a more permanent, longrange Federal assistance program for public broadcasting. I commend the reading of this editorial to my colleagues:

PUBLIC BROADCAST DESERVES SUPPORT

A critical decision as to the future of public broadcasting, both television and radio, rests in the hands of the House Interstate and Foreign Commerce Committee, and eventually the entire Congress.

The question is whether the nation's network of these public service, nonprofit stations will gain semiautonomy. At the heart of the matter is whether they will be free to present public affairs programs which are truly informative and educational, independent of any special influence.

The Nixon administration seems to regard the growing public affairs programming of public broadcasting with apprehension. Consequently, the administration is pushing legislation which would limit federal financial help for public broadcasting to a mere extension of the present year-to-year basis, with an unwieldy and complex formula as to the disposing of such funds.

The right approach is the one embodied in HR 11807, a bill introduced by Rep. Torbert H. Macdonald, D-Mass., chairman of a subcommittee of the Interstate and Foreign Commerce Committee Macdonald's committee has held hearings on this complicated problem and hopes to present a bill which would establish a more permanent, longrange federal assistance program for public broadcasting.

The Macdonald bill would extend federal assistance to the many stations, as well as national program production which has resulted in such winners as "Sesame Street," for five years and provides that not less than 30 per cent of the annual allocation go directly to local public stations.

While this would not go all the way toward providing necessary permanent government support machinery outside the pressures of politics, it is a long step in the right direction. Public broadcasting, both television and radio, is a vital adjunct of the commercial system, and demonstrably in the public interest. And remember always the airways belong to the people.

LEGISLATION FOR SENIOR CITIZENS

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. SYMINGTON. Mr. Speaker, as a member of the Public Health and Environment Subcommittee, I am well aware of the difficulties faced by older Americans. Our subcommittee, under the energetic leadership of PAUL ROGERS of Florida, recently completed hearings on a bill to create a new and separate Institute of Aging within the National Institutes of Health. Representative ROGERS, myself, and most of the members of the subcommittee, have cosponsored H.R. 12308 amending the Public Health Service Act to create the new Institute.

I have cosponsored H.R. 5021 to strengthen the Older Americans Act of 1965 and sponsored H.R. 12503 with much the same purpose. I joined the effort to cosponsor the Senior Citizens Jobs Corps Act of 1972 which is H.R. 13839 introduced by Representative PRYOR. The Education and Labor Committee has H.R. 3671, my bill to establish a senior citizens skill and talent utilization program. In the first session of this Congress, I cosponsored H.R. 125 to create a Select Committee on Aging. Around that same time, I agreed to cosponsor H.R. 120 to provide social security benefits for teachers who are otherwise not eligible for such benefits. I sponsored H.R. 1176 to provide tax relief to those 65 years and older who rent or own their homes. I cosponsored H.R. 7919 and 7921 to amend the Internal Revenue Code to allow tax relief for retirement income and credit for all medical expenses. In addition, I fully support Representative MILLS' call for a 20-percent increase in social security benefits.

Tax relief, social security increases, and an Institute on Aging should be among the top priorities of this Congress. In this regard, two excellent articles concerning senior citizens have come to my attention.

The first article was written by Sandy Kay Baer on special assignment with Missouri's Office on Aging. The second explains the community grant program administered by the Missouri Office of Aging; it was written by Richard G. Kammerer. Both articles appeared in the March 1972 issue of the Missouri Municipal Review. These articles further illustrate the need for congressional action to assist older Americans.

Finally, I would add that my home State of Missouri ranks sixth in the Nation in number of citizens 65 or older. I am proud of these people and of the fact one in every eight Missourians is over 65. Our task in Congress is to extend and enrich the lives of all Americans.

At this point, I insert the articles in the RECORD:

CITIZENS OVER AGE 65

(By Sandy Kay Baer)

One of the constant characteristics of life is cyclical nature: conception, gestation, birth, growth, maturity, and death are inevitable phases of an animal's existence. Of all

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the species, man's lifespan encompasses many years of slow advancement from one stage to another, yet longevity increases each decade. The world surrounding man also advances and technology further perpetuates man's capacity to live. As stated in *Culture and Aging* (Dr. Margaret Clark, Dr. Barbara Anderson, 1967) "Biology then, determines the potential duration of human life, while technology extends the lifespan towards that potential."

MISSOURI RANKS SIXTH

Nationally, there are over 20 million persons over the age of 65 years, representing one out of every ten. During the past 70 years, from 1900 until 1970, the total population in the United States has increased three-fold, whereas the aged population has increased nearly seven times since 1900. On the other hand, the population of persons 65 years and older in Missouri comprises 12 percent of Missouri's total population, an increase of more than 400 percent since 1900. Therefore, one out of every eight Missourians is 65 years or older, ranking Missouri sixth in the nation.

Even though only 34 of the 114 Missouri counties showed an increase in population between 1950 and 1960, the trend has been a migration from rural to urban areas. In 1900, more than ⅗ of Missouri's population lived in rural areas compared to ⅖ today. Technology again has played a significant role in the changing urban-rural composition of the population. It is important to note that this mass movement from the farm to the suburbs has not affected the elderly population as it has their children and grandchildren. The aged prefer staying on the farm where they have peace and privacy, cheaper housing, fertile garden acreage, and the security of familiar faces and places. Whereas Missouri's aged comprise 12 percent of its total population, in 73 rural counties more than 15 percent of the population is 65 years and older. Furthermore, in 21 of those counties over 20 percent fall within this age bracket.

Population trends in Missouri have a direct bearing on the status of the state nationally as well as regionally. For instance, there is a wide variation in income distribution among its families, which in turn differentiates counties regarding the needs of the aged. The major problem areas of the aged—housing, health, finance, transportation, and leisure—vary from one county to another, depending upon the population composition and income. Therefore, such population statistics play an essential role in determining the specific problems of a specific area and should be given consideration when dealing with the overall plight of the aged in your city or county. Furthermore, Missouri's senior citizens represent a potential political force on both the state and municipal levels. According to 1970 census data, the elderly over 65 represent 18 percent of the potential voters 18 years and over. An additional 15 percent of the voters fall within the 55 to 64 age group and 16 percent are aged 45 to 54. Therefore, approximately 49 percent of potential Missouri voters are 45 years and older, casting a powerful senior vote.

POPULATION TREND INDICATIONS

Although the aged voting constituents of Missouri might exert "power with numbers," the state's population trends indicate some less favorable situations resulting from the population composition. For instance:

"The decline of the farm family as an economic unit has left some aging parents with a way of life that is no longer viable or self-sustaining.

"Changes in family living arrangements and mobility patterns have resulted in separation of older parents from homes of their adult children and other familial support."

Lewis Mumford has said, "Trend is not destiny." Trends can be and oftentimes should be altered to compensate for the changing times society forever participates in. Nevertheless, it is beneficial to have an awareness of present trends in order to discern when and where intervention is necessary. Policy makers at the national, state, and municipal levels possess the position to preserve the will and wisdom of the aged as well as to evoke change of their plights.

Is old age a defeat or a victory? Is old age a privilege or a punishment? These questions provided a basis for the now classic speech delivered at the First White House Conference on Aging in America in 1961.[1] Calling for a need of society to revise its usually negative attitudes toward the aged, Abraham Heschel spoke of the enormous cultural and spiritual damage which tend to result when society or parts of it have contempt for those who are old and fear for themselves of getting old. He further emphasized this point of view by stating:

"The test of a people is how it behaves toward the old. It is easy to love children. Even tyrants and dictators make a point of being fond of children. But the affection and care for the old, the incurable, the helpless, are the true gold mines of a culture."[2]

Thus, how the aged are perceived certainly relates to the stereotypes which Walter Lippmann defined many years ago as "the pictures people carry in their heads (toward others)."

Stereotyped views in social science research studies during the 1950's and 1960's tend largely to reinforce the idea that old people are devalued. Some of these views uncovered suggest ". . . that old people are generally ill, tired, not sexually interested, mentally slower, forgetful and less able to learn new things, grouchy, withdrawn, feeling sorry for themselves, less likely to participate in activities (except perhaps religion), isolated, in the least happy or fortunate time of life, unproductive, and defensive in various combinations and with various emphases."[3]

SOCIETY'S VIEW OF AGING

If these are the general views (even though they are frequently based on misconceptions) held by society toward the aged is there any wonder that the aged themselves tend toward having less positive self views.

Thus in every age of development from childhood to young adulthood, from young adulthood to adulthood, society at least suggests learning behaviors for how a person may achieve that next stage successfully. However, what roles may be viewed as incentives as one retires and ages? Not only are there role models for anticipating socialization but there are also benefits and rewards held out for achievement—except for the aged. For this group our achievement oriented society not only withholds benefits or rewards but views their decrements as the undesirable mode.

The third generation, except for those who have frequent contact with grandparents and great grandparents generally tend to have a less positive attitude toward the aged and tend not to identify themselves as being aged someday. Some "generation gap" is to be expected in any new generation. However, students tend to express negative or at best neutral feelings when they describe old people. Since the young cannot experience old age in advance it is reasonable for them to reflect culturally imposed stereotypes. When these stereotypes are largely negative and not considered rewarding or worthy, the lack of the younger generation's looking forward to old age is certainly understandable. Also since our American culture is so increasingly youth-oriented and since the contributions of the young receive greater attention and influence than the contributions of the old, why should the young look forward to being aged?

A CHOICE FOR THE AGED

What do the aged want for themselves? Are there any positive perceptions about aging? These questions are raised recognizing that generalizations about how the aged perceive themselves certainly must be viewed in the framework that the aged are *not* a homogeneous category.

First and foremost they are individualistic adults, each with his own background and history. Each has developed a varied life style which he may value and may like to continue. It is important that he have this choice. If socioeconomic resources are limited then he should also have options available in a spirit of rights, justice and compassion. Studies have shown that even the aged person who just wants "to spend time in a rocking chair" may be happy and adjusted to his seemingly limited but chosen life style. The importance of choice cannot be overemphasized for it embraces many "wants."

If one can choose, he need not feel desperate, useless, or unworthy. He may still have ambitions and dreams and he can feel alive. With choice, of course, is implied relative socioeconomic resources, opportunities for health care and some form of productivity which is a meaningful substitute for occupational routine. Opportunities for choice and resources to enhance them provide meaning to the aged's daily life. Thus he will not just be worthy in the eyes of others, (which is important for most adults) but he will tend to feel significant and important unto himself. In this way he may be accepted for himself not just for his achievement or resources.

NEED FOR POSITIVE PERCEPTION

In summary, how we generally think about a person influences how we perceive him; how we perceive him influences how we will behave towards him; how we behave toward him affects his self-image. If society tends to perceive the aged negatively or in decremental terms; if youth finds itself to be the status orientation; if aged have no adult role models to follow—then the perceptions of aging and the aged are basically those of defeat and punishment. It would also seem that American society has been slow in revising its stereotypes about the aged between White House Conferences. Will the rapidly growing number of generally better educated people, living longer largely due to improved medical science and better sanitation, have an improved quality of life that will be deemed worthy of emulation by the young and of acceptance by society?

If this positive sense of being is permitted and deemed worthy by society, perhaps role models will develop by the aged themselves. They may aspire to opportunities for inner growth and attainment of deeper values than one formerly was capable of attaining. In this frame of reference old age may be an exciting search for inner peace and wisdom transcending jealousies and prejudices. Thus wisdom, status and serenity may be what the aged want for themselves if they can really choose.

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[1] Heschel, Abraham J. *To Grow in Wisdom.* An address delivered at the First White House Conference on Aging, 1961.

[2] Ibid.

[3] McTavish, Donald G. *"Perceptions of Old People: A Review of Research Methodologies and Findings," The Gerontologist,* 1971, 11, No. 4, P. 11, 90–101.

COMMUNITY GRANTS

(By Richard G. Kammerer)

The Office of Aging, Department of Community Affairs, has numerous functions. One of the direct services is the responsibility for administering Title III funds of the Older Americans Act of 1965. These funds represent the source for awarding community grants to local, not-for-profit organizations to assist with financial support of direct service programs to the elderly. Direct service programs may include one or more of the following activities: multi-purpose senior citizen centers, transportation, meals, health care, outreach library services, information and referral services, telephone reassurance, day care, training of special personnel, etc.

TITLE III GRANTS

Who may apply for a Title III grant? Any public or private not-for-profit agency, organization, or institution interested in the initiation or expanson of direct service programs to the elderly. Examples of not-for-profit organizations are Parks and Recreation Departments, Business and Professional Women's Clubs (BPW), Altrusa Clubs, Young Women's Christian Associations (YWCA), Red Cross, churches, universities, etc.

The total cost of programs is not completely covered by a Title III grant. If an application is approved, the sponsoring organization (grantee) is required to earn Title III funds by matching with either cash or in kind contributions which are individually or collectively referred to as local match. The local match may be directly from the grantee or other local resources. The matching ratio for the first year is 75%–25%—75% is Title III funds, 25% is local match. Matching ratios for the second and third years are 60%–40% ,and 50%–50%, respectively. Approval of grants for continuation into the second and third years is dependent upon the grantee's performance in fulfilling the objectives of the program.

Applications are reviewed, in the order that they are received in the Office of Aging, by a Technical Review Committee which is made up of members of the Governor's Task Force on Aging. Consideration is given to the applicants' ability to comply with Federal regulations, to fulfill their objectives, and to progressively involve the local community in support of the program to insure continuation of the program after Title III funds are exhausted.

TITLE III PROGRAMS

Since the inception of the Missouri Office of Aging, 45 programs have been initiated with Title III funds, and 8.7% are continuing following receipt of a grant. Presently, 20 programs are operating with the assistance of this grant program. The majority of ongoing programs are multipurpose senior citizen centers. Activities include Adult Education classes in addition to recreation and other leisure-time activities. Other Title III projects provide outreach library services, transportation and meals. The outreach library service is described in a separate article in this issue.

Older Adults Transportation Service (OATS) is a service provided by the Cooperative Transportation Service, Inc. (CTS), which is a privately owned cooperative incorporated statewide to provide transportation for persons 55 years of age and older, and the handicapped of all ages. OATS presently operates in an eight county area in mid-Missouri consisting of the counties of Audrain, Boone, Callaway, Cole, Cooper, Howard, Moniteau, and Osage. Requirements for membership in OATS are as follows:

1. 55 years of age or older
2. Must purchase at least one share of stock in CTS at $1.00 per share—good for life and nontransferable, and
3. Must purchase a membership in OATS at $5.00 per year—renewable yearly.

For each trip, a nominal fee is also charged which is presently based on a 10 cent pickup charge plus approximately 2 cents per mile. A 30 mile trip would cost 70 cents (10 cents pickup plus 60 cents at 2 cents per mile) one way. Trips can be taken for any purpose; health, business, recreation, etc. Three 14-passenger buses (van type) are presently used in the operation. OATS has been operational since November 21, 1971, and is projected to be self-sustaining in a two or three year period.

The meals program, Twin Towers Meals for Older Citizens, is located in the Twin Towers, a HUD financed elderly housing complex at Poplar Bluff, and is sponsored by the Community Nutrition Corporation. The first meal was served in January, 1970 in the dining room space on the first floor of the high-rise which has been decorated to provide a homey atmosphere. Two choices of each course of the meal are served from 11:00 a.m. to 1:00 p.m., five days each week.

PROGRAM RESOURCES FOR OLDER PEOPLE (PROP)

In addition to the above mentioned program, one Title III project is especially unique in that it provides subgrants to small rural communities throughout the state. The combination of cash and in-kind contributions from a few larger programs is sufficient to match Title III funds and has eliminated the need for some sub-grantees to provide any contribution. The name of this program is PROP (Program Resources for Older People). The sponsor, having the same name, is incorporated and the members contribute their time on a volunteer basis. PROP was organized for the purpose of providing financial assistance to programs in small rural communities that lacked sufficient local resources to match Federal funds. Based on expressed needs of numerous communities.

In summary, the senior citizens of Missouri are benefiting from a wide range of programs and activities funded through Title III of the Older Americans Act. Recently, the Office of Aging has received and is in the process of considering numerous innovative proposals to enhance the dignity and life style of our senior Missourians. Interested citizens may submit proposals or secure additional information from the Office of Aging, Department of Community Affairs, 505 Missouri Boulevard, Jefferson City, Missouri 65101.

TRIBUTE TO J. HOWARD EDGERTON

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. REES. Mr. Speaker, I would like to pay tribute to Mr. J. Howard Edgerton, of Los Angeles. For his dedicated volunteer service to both his community and State, Mr. Edgerton recently received the citationist designation in the National Volunteer Awards Program sponsored by the National Center for Voluntary Action.

As chairman of the California Museum of Science and Industry, Howard Edgerton created a new technique of exhibition, and thus sparked an unprecedented rise in attendance. This personal drive was also evident when the Los Angeles Metropolitan Area National Alliance of Businessmen doubled its goal of new jobs for minority workers while under his direction. Mr. Edgerton was also responsible for the smooth operation of the National Governors' Conference in 1966.

The National Volunteer Awards Program, after 23 years of activity under the auspices of Lane Bryant, Inc., is presently managed by the National Center for Voluntary Action. The national center, a private nonprofit organization, exists to generate new responses to America's pressing needs through the greater recognition and utilization of volunteers.

I extend my heartiest congratulations to Mr. Edgerton for his receipt of this honor, and I offer by thanks for his continued service and dedication to the people of California.

ASTOUNDING VOTE FOR GOD AND GEORGE WALLACE

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, in view of the continuing conflict over forced school busing and other losses of freedom in America, I insert the latest of Mr. James J. Kilpatrick's discerning articles on this and related subjects at this point in the RECORD:

ASTOUNDING VOTE FOR GOD AND GEORGE WALLACE

(By James J. Kilpatrick)

They voted for God and George C. Wallace in Florida last week. God won big. The governor won, too. But it is a curious thing: The significance of these election returns has been largely muffled in wooly speculation on Humphrey's hopes and Muskie's momentum.

The Florida ballot asked voters to say whether they favor an amendment to the U.S. Constitution to allow prayer in public schools. On that question, 1,139,000 voted yes, only 296,000 no.

In the presidential primary, the Democratic ballot listed 11 names—some of them big names, with big money behind them. It was Wallace against the field. He ran them into the ground.

Consider the dimensions of Wallace's victory. He polled a stunning 42 percent of the vote, roughly as much as Humphrey, Jackson and Muskie combined. Wallace carried every county in Florida; he swept eleven of the twelve congressional districts; he won 75 of the 81 Democratic convention delegates.

In the 1st District, up in the panhandle, Wallace polled 66,000 votes; his closest rival was Henry Jackson with 18,000. In the 2nd, it was Wallace 59,000, Hubert Humphrey 12,000. In the Jacksonville district, Wallace had 46,600 to Humphrey's 19,900. Over in Tampa, in the 6th, it was Wallace 38,000 to Humphrey's 14,000. In the 7th, the Sarasota district, Wallace polled nearly 47,000 to Jackson's 14,000. The 9th District, which includes Palm Beach and Fort Lauderdale, gave Wallace 43,800 to Humphrey's 17,600.

Unless one set of rules is to be applied to Wallace, and another set of rules to everyone else, this has to be regarded as a landslide. Yet if you watched network TV Tuesday night and Wednesday morning, you missed the significant story altogether. The significant news wasn't Humphrey or Muskie. The significant news—I mean no irreverence—was in the astounding vote for God and for George C. Wallace.

This was middle America exploding. In the prayer amendment, the people of Florida found a vehicle for demanding a return to all those qualities our society has lost in recent years—a return to decency, to kindness, to obedience, to charity, to tolerance, to a principled and godly way of life.

Busing was the big issue in the Wallace campaign—the imbecilic business of busing children to schools according to the color of their skin. But busing was not the only issue. Wallace attracted more than half a million fed-up Americans who were fed-up with *everything*.

It is imperative that we search for meaning here. This was not a vote against busing alone, but against the whole computerized

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inhumanity of a bloated government that has lost touch with its people. It was a vote against unfair taxes, against unrewarding foreign aid. It was a striking manifestation of the sense of helplessness, of futility, of disillusion, that millions of Americans feel. It was not a vote of confidence in Wallace; it was more nearly a vote of no confidence in anything else.

Edmund Muskie missed this altogether. On election night he bitterly denounced the Wallace voters for their lack of decency and humanity; he saw nothing but a threatening manifestation of "some of the worst instincts of human beings." He said of Wallace: "I hate what he stands for."

That stiff-necked insensitivity will get Muskie nowhere. Florida is a state of almost microcosmic aspects—urban and rural, white and black, old and young, Jew and gentile, liberal and conservative. To impute bigotry to 42 percent of the voters in this Democratic primary is to slander men and women who deserve something better. They deserve to be heard. And one way or another as this campaign proceeds, through God or through George Wallace, they are likely to be heard again and again.

PICK BUFFALO-MADE CHEST FOR GIFT TO TURKISH PREMIER

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DULSKI. Mr. Speaker, I am delighted to learn that the Chief Executive once again turned to a famous Buffalo furniture manufacturer, Kittinger Co., when he was looking for distinctive furniture pieces.

The latest selection is a handcrafted mahogany chest of drawers which the President presented to Prime Minister Mihat Erim of Turkey at a state dinner at the White House last week.

It was 2 years ago that the President learned of the Kittinger work when the company delivered new furniture for the White House west wing.

We in Buffalo and western New York, of course, are well acquainted with the furniture craftsmanship of the company. Indeed, I have a special appreciation of the work through the long-time service of my brother-in-law, Stanley Skopinski, who is looking forward to retirement in July after some 40 years with the company.

Mr. Speaker, as part of my remarks, I include an article from the Buffalo Evening News:

NIXON PICKS KITTINGER CHEST AS GIFT FOR TURKISH PREMIER

WASHINGTON, March 21.—The product of a Buffalo furniture manufacturer has again been selected by the White House for an important state function.

A hand-crafted chest of drawers made by the Kittinger Co., 1893 Elmwood, will be presented by President Nixon to Turkish Prime Minister Mihat Erim of Turkey at a state dinner tonight in the White House.

On Oct. 28, a similar chest of drawers made by Kittinger was the nation's gift to Marshal Tito, president of Yugoslavia, at another state dinner.

The gift to Marshal Tito was a reproduction of a Newport-style colonial mahogany Chippendale chest of drawers. The original, made about 1762, was the work of John Townsend of Newport, R.I., one of the best known furniture makers of the American Colonial period.

The President learned of the Kittinger company's work in 1970 when it delivered some new furniture for the White House's West Wing.

The company at that time installed the large table for the President's Cabinet Room. The table has a 100-inch band of mahogany around the outer edge and a hand-tooled leather top.

Kittinger also designed and built Williamsburg-style furniture for the new White House press center.

On Nov. 24, 1970, two Kittinger officials met with President Nixon and presented him with an historic letter from President Monroe about the remodeling and redecorating of the White House after it was burned by the British.

The latest White House gift and the one for Marshal Tito are modeled on the original Townsend chest of drawers in the State Department's diplomatic reception room.

MY RESPONSIBILITY TOWARD FREEDOM—CATHY FICKER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. DERWINSKI. Mr. Speaker, I am very pleased to insert into the RECORD a letter by Cathy Ficker, a student at Mother of Sorrows High School. I am very proud that a constituent of mine from one of the fine high schools in my district earned an award by this outstanding contribution.

The letter follows:

MY RESPONSIBILITY TOWARD FREEDOM

(By Cathy Ficker)

Cathy Ficker, a student at Mother of Sorrows High school, won first place in the local Voice of Democracy contest sponsored by the P. T. Hallinan Veterans of Foreign Wars post 3580, Blue Island, and its Ladies Auxiliary. Her entry, written from the point of view of a Prisoner of War, then placed fourth in district judging. The text of her presentation is as follows:

DEAR AMERICA: I haven't seen you for a long time, so I decided to drop you a line. There's something I should have told you before I left, but I forgot. I would have written sooner but I have been tied up.

I have been in a concentration camp in Viet Nam for five years. I used to hear from my family once a year, although it was censored. For the past two years I have heard nothing.

During this time I have been thinking. I have tried to remember your busy cities, rolling plains, purple mountains, crowded tenements and rippling waves. I have tried to relieve every trial and error and joy and happiness, but I can't.

It seems that I have been living a life of apathy. Not really worrying about anyone or anything but myself. After you've been living in this type of environment for awhile, you seem to realize many things.

When you see what is happening in other parts of the world, you begin to long for the comforts of home. Those everyday things that most Americans take for granted seem to become a major portion of your life.

The thing that seems to be missing most is my freedom. It's gone. I realize now what it means to be alive and free, but it is only because I am confined and almost dead.

America, I never told you this, but you are beautiful. When I am a part of you I am given the opportunity to choose right from wrong and good from bad. I can say anything I wish and do my own thing.

You openly exposed your constitution and amendments to me, but I didn't care. I do now. I could have come to know you better. I should have realized how much I owed you.

I thought I was doing everything for you. Well, you gave everything to me. You gave me my freedom, yet I gave you nothing in return.

I shunned elections. They asked too much of me and I could not be bothered. I wasn't doing my part to build America into the strong country it is today.

I could have used my freedom of speech to put a good man in office to keep America free and peaceful, but I didn't I realize that it is my responsibility as a citizen to vote, so that I can maintain something that is very important to me, my freedom.

Instead of protesting against the draft and burning my draft card, I should have willingly enlisted in the armed forces. You gave me the opportunity to live in a nice home, eat regularly, and have time for work and relaxation. All I did was criticize. You gave me the opportunity to serve you, my country, but I rejected it.

There is no church in a concentration camp. You allowed me to perform my faith in whatever way I desired.

Money can't buy love, but it is necessary to survive. I hated to pay taxes. Now I would willingly pay anything for freedom. Taxes gave me the opportunity to become educated, live in a modernized country, receive medical aid, and be protected against fire and crime. These things are all a part of you, America.

You have given me many opportunities, but I have taken them for granted, I didn't know what a privilege it was to live in America. It is a free country with equal opportunities for everyone.

You have taken on many shapes and forms to guide us, yet you have left free enterprise alone to maintain the competitive spirit.

Sincerely yours,

A PRISONER OF WAR.

PRESIDENT'S BUSING STAND A FAILURE OF MORAL LEADERSHIP

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. EDWARDS of California. Mr. Speaker, the position taken by President Nixon on busing is terribly saddening to those of us who have hope that our Nation is moving towards fulfilling its constitutional commitment to full justice for all of its citizens. In its political cynicism the President's statement reflects the total lack of moral leadership in the civil rights area which has marked the Nixon administration from its beginning.

An eloquent assessment of the impact of the President's position was set forth by Carl T. Rowan in his column which appeared in the Washington Evening Star on Wednesday, March 22, 1972. I commend the attention of my colleagues to this article.

The article follows:

BUSING STAND A SAD CHAPTER IN U.S. HISTORY

(By Carl T. Rowan)

For many reasons, personal and professional, I have strained to find something good to say about President Nixon's latest pronouncement on school busing. But I am driven to the conclusion that the President's proposals mark one of the saddest chapters in this nation's history.

A periodically glorious campaign to make this one society of mutual admiration and respect, which began full-force back in the 30's, has been dragged to an end. For the first time in half a century the President of the United States has arrayed himself and the immense powers of the executive branch on the side of "separate but equal." He is decreeing generations more in which the poor, the have-nots, wind up without a remote chance to succeed in that race we call the pursuit of happiness.

Nixon turned some neat phrases about integration and equality of opportunity, but they can never camouflage the truth that he was retreating before the charge of George Wallace, bending to the howl of the mob, both of whom he unwittingly armed when he put the phrase "forced busing" into the language.

The White House may call it a "libel" on the the American people, but the naked truth is that bigotry is now riding high in this country, so high that even the President is crowded into a position where he appears to be either its prisoner or its ally.

Nixon beseeches Congress to direct the courts not to order any more busing for racial balance. The President must know that he cannot seize the schools any more than Harry Truman could seize the steel mills in the face of a disapproving court. Congress simply cannot forbid federal constitutional rights of this nation's children. And let no one forget that busing is simply a form of relief to children who have been subjected to a panoply of officially sanctioned injustices.

Nixon may believe that his "strict constructionist" Supreme Court will go along meekly with whatever Congress orders, but I rather suspect that even his most conservative appointees will see the dangers of this meat-cleaver attack on the judicial branch.

Millions of black Americans find bitterly amusing Nixon's argument that a constitutional amendment would "take too long" and leave thousands of youngsters to endure busing next year.

Where has Nixon been during the 17 years and 10 months since the *Brown vs. Board of Education* decision when black parents and children were screaming that "it takes too long" to escape the discriminations and humiliations of Jim Crow schools that our highest court had outlawed?

Justice delayed was justice forever denied to millions of black kids who finished their entire public schooling without getting one iota of judicial relief. Suddenly, when it comes to canceling their late relief, the White House finds that time is of the essence!

The truth is that from Wild Goose, Minn., to Sloppy Gulch, Fla., the school buses will roll on, with more than 18 million children aboard, from now until Richard Nixon is just a name in the history books. Because busing is the passport of white children to equal education. The record will show that the only buses derailed were those carrying black children toward a reasonable chance to secure their American birthright.

I know Nixon proposes to mollify minority and poor children with his "Equal Educational Opportunities Act of 1972" and a $2.5 billion expenditure.

Even if we give the President credit for the most egalitarian of intentions (which I frankly find it hard to do), there are some dismaying flaws to his proposals:

He is offering a warmed-over "compensatory education" scheme with extra financing from unnamed sources. I have documented in previous columns how earlier outlays of billions for educating the deprived and speeding desegregation wound up in swimming pools and fancy frills for affluent whites. Until the White House spells out the guarantees that vast new money will actually be spent to benefit the poor, experience dictates that we regard the new scheme as a pretty piece of wool to be spread over gullible eyes.

Even if the government does pour some money into neighborhoods occupied by blacks, Puerto Ricans, Indians, it would still be a reversion to "separate but equal." It would scarcely differ from 1952 and 1953 when legislatures in South Carolina and other Southern states were pumping money into showcase schools for blacks (after generations of abominable neglect) to try to head off the outlawing of Jim Crow.

Nixon has to know that allocating $2.5 billion to remedy the plight of schools for the poor is like weeping into the Pacific Ocean in an attempt to make it run over. He must know that however flamboyant the gestures toward the ghettos may now be, there is absolutely no possibility of equal education opportunity if you keep the poor, black, brown and red in separate schools while the rich and influential bask in the sanctuaries of their "neighborhood" emporia of education. Money flows toward affluence—and influence.

Much of the nation wants to kid itself. But some of us have to live with the reality that Nixon has asked Congress to underwrite an educational setup that guarantees this country remaining two nations, quite divisible, one white and one black, with liberty and justice for some.

Almost all of us will live to rue this sad interlude in the life of an already too troubled society.

SUPREME COURT CONTINUES DISCRIMINATION BY SELECTING HARVARD GRADUATES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. RARICK. Mr. Speaker, on July 30, 1971, I reported on the Supreme Court's record of discrimination in law clerk selections by favoring law graduates of Harvard and Yale.

In his first two appointees to the U.S. Supreme Court, President Nixon left Harvard to go to Minnesota.

Now we learn that Harvard is again back in favor. It was recently reported that Chief Justice Burger has selected a Harvard graduate for the new post of administrative assistant to the Chief Justice of the U.S. Supreme Court.

I include a pertinent newsclipping and my remarks on "The Supreme Court and Its Record of Discrimination in Law Clerk Selections":

[From the Washington Evening Star, Mar. 22, 1972]

BURGER NAMES NEW ASSISTANT

Mark W. Cannon, a New York City expert on government operations, has been chosen for the new post of administrative assistant to chief Justice Warren E. Burger.

President Nixon on March 1 signed a law creating the new job which pays $40,000 a year. The assistant will help Burger in his dealings with lower federal courts and court administrative agencies.

Cannon, 43, is now director of the Institute of Public Administration in New York City. The institute is a consulting center which does research on administration of government agencies.

Cannon, who holds a doctorate in government from Harvard, formerly served as an assistant to Sen. Wallace F. Bennett, R-Utah.

THE SUPREME COURT AND ITS RECORD OF DISCRIMINATION IN LAW CLERK SELECTIONS

Mr. RARICK. Mr. Speaker, the present members of the Supreme Court of the United States—the noble champions of minorities against discrimination—do not practice what they preach. They are flagrantly discriminatory, and in doing so, must accept their responsibility for the judicial movement to the left.

Black's Law Dictionary defines "discrimination" as:

"That which confers particular privileges on a class arbitrarily selected from a large number of persons, all of whom stand in the same relation to the privileges granted and between whom in those not favored no reasonable distinction can be found."

For some reason or other, the members of the Supreme Court have not recognized this legal definition as binding on their own practice of selecting law clerks—those law graduates who do the basic research for the Justices and in effect present them with the alternative rulings possible in a judicial decision. These law clerks have a similar relationship to the Justices as Henry Kissinger has to President Nixon—they control the decisions because they not only offer the solution, but also suggest possible alternatives.

This immense hidden power in the fudiciary is concentrated in the law schools of the Ivy League; of the 361 law clerks appointed by the Justices who have served on the bench for the past 10 years—including those law clerks appointed by the older justices prior to 10 years ago—over half of the total came from Harvard and Yale. Harvard alone accounted for 125 law clerks, or 35 percent of the total of the legal minds who have researched and written the celebrated "landmark" decisions of the Supreme Court over the past 10 years.

Other law schools represented by 10 or more law clerks were Yale—60; California—18; Chicago—13; Michigan—14; and Columbia—16. Yale and Harvard combined accounted for 51 percent of the legal "expertise" behind the Supreme Court decisions of the past 10 years.

Concentration of this judicial power and privilege among graduates of our more liberal colleges must be considered a primary reason for the judicial trend to the far left.

One thing, however, is certain; it is discrimination, pure and simple. Many good law schools were not represented at all.

This begs the question—Why do not all law school graduates have the same opportunity to serve? Why do not all young law graduates deserve an equal chance?

The record is clear—the Justices of the Supreme Court of the United States have been guilty of rank discrimination which has had an effect on every aspect of American life.

Steps must be taken by the Congress to insure that the Supreme Court Justices start practicing what they preach and adopt a policy of equal opportunity for graduates of all of the 173 law schools in the United States.

LAGUARDIA COMMEMORATIVE STAMP

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. HALPERN. Mr. Speaker, the U.S. Postal Service is paying high tribute to Fiorello H. LaGuardia by issuing a 14-cent postage stamp in his name. Because I truly believe that this was a fitting way

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to honor such an outstanding man I lead a group of my distinguished colleagues in asking that such action be taken. Today our work is done because that stamp has been issued.

Fiorello LaGuardia was a man who embodied the tenets of good and responsible city government and contributed significantly to the unification of the people of New York City.

The stamp, which is in the Prominent Americans series of regular stamps, was designed by Robert Geissman, of New York. It is vertical and bears a portrait of LaGuardia, with a portion of the New York skyline in the background. The inscription at the bottom in two lines is "U.S." and "LaGuardia/14¢." The stamp was engraved by Arthur W. Dintaman—vignette—and Robert G. Culin, Sr.—lettering. The initial printing order is for 40 million stamps, printed in brown on the Cottrell press.

LaGuardia was born in New York in 1882, was elected to Congress in 1916, left office to join the U.S. Air Service during World War I, from which he emerged as a major, returned to Congress, where he served until 1933. He was associated with some of the most liberal legislation of the day, notably the Norris-LaGuardia Act (1932) which banned the strike-breaking injunction.

Among Mayor LaGuardia's contributions was his adherence to progressive ideals. He was, as said before, a co-author in 1932 of the Norris-LaGuardia Act, the famed legislation that banned yellow dog labor contracts and strike-breaking by injunction. Among his most notable credits were his efforts to obtain a new charter for the city. He also did much to reorganize the cumbersome machinery of municipal government by revamping the agency system.

New Yorkers called Fiorello LaGuardia "the Little Flower," a literal translation of his Italian-derived first name. He was colorful, he was flamboyant, LaGuardia liked to chase fire engines. When a strike closed the city's newspapers, he went on radio to read the comic strips.

He was also a hard worker and able administrator who left his mark on the city. LaGuardia reorganized the machinery for municipal government, balanced the budget, involved himself with slum clearance, beautification, construction of parkways and bridges and the airport that later was to bear his name.

As a former staff assistant to Fiorello LaGuardia, I knew he was a firm believer in nonpartisanship. He demonstrated his true commitment to the abolition of human problems. The mayor was regarded as a champion of immigration and made strong efforts to aid the drive for slum clearance. His move to improve the city's health and sanitary conditions further exemplified his grave concern for the welfare of all New York City residents.

For these reasons and many more, LaGuardia won widespread respect and affection. His last term of public service, performed as Director of the United Nations Relief and Rehabilitation Administration, demonstrated the humanitarian zeal which characterized his efforts and ideals.

Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues this commemorative issue and I am proud to have played a part in honoring New York's Fiorello LaGuardia.

SENATE—*Tuesday, March 28, 1972*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Reverend Ben Hayden, pastor, First Presbyterian Church, Chattanooga, Tenn., offered the following prayer:

God, our Father, thank Thee for loving us. Thank Thee for the men and women of this Senate who seek, with legislative ingenuity and integrity, to lead our Nation. Bless their private lives. May they do business today with the living God in the confidence of His love. Bless their families.

Lord, we praise today, in this Week of National Concern, remembering that no man or woman can be paid for the agony or anguish of imprisonment, for the loss of human dignity, for the death of his body.

Give us the rare ability to project ourselves into the other man's shoes—even into his barefoot situation.

Bless the Vietnamese—North and South—and all who share in the agony of this Southeast Asian war.

Lord, our Father, protect, preserve, and encourage the POW's and the men missing in action—and their families. We pray for their soon return.

Father, in this season we thank Thee for the sacred promise of the resurrection of the body and of eternal life. I praise Thee in the name of Jesus Christ. Amen.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of May 14, 1971, Mr. HOLLINGS, from the Committee on Appropriations, reported favorably, with amendments, on March 24, 1972, the bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, and submitted a report (No. 92-719) thereon, which was printed.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts:

On March 23, 1972:

S. 1977. An act to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

On March 24, 1972:

S. 888. An act for the relief of David J. Crumb; and

S. 1362. An act to authorize the Commissioner of the District of Columbia to enter into contracts for the payment of the District's equitable portions of the costs of reservoirs on the Potomac River and its tributaries, and for other purposes.

THE WELFARE SYSTEM—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

The American welfare system is a national disgrace.

Thirty-one months ago, I first proposed to the Congress my plan for total reform of that system.

Since that time, the welfare situation has continued to worsen, and sweeping changes have become even more imperative.

There can be absolutely no excuse for delaying those changes any further. The present system must be reformed.

Its shocking inequities continue to drain incentive from the many poor who work but who see some families making as much or more on welfare.

Its widely varying, discriminatory benefits continue to force needy families, millions of children, and the needy aged, blind and disabled into a web of inefficient rules and economic contradictions.

Its vast costs have continued to escalate, undermining State and local governments and threatening to erode taxpayer support for a welfare system of any kind.

The present system continues to contribute to the breakup of poor families, rather than reenforcing the role of the family in our national life. The welfare life-style continues to dehumanize those who are caught in it, and threatens now to create yet another "welfare generation."

NOW IS THE TIME FOR ACTION

This year must be the year in which we raze the ramshackle welfare system, patched up so many times in the past but still basically unchanged since it was first enacted as emergency legislation in the mid-1930s. In its place, we must build a new system, taking a new direction. We must create an environment that will draw forth and support—rather than smother—the innate ambitions and personal obligations of all needy Americans.

Last December, the Congress did pass transitional legislation which took parts of my welfare reform package—certain of the workfare provisions for job training and work requirements for all employable welfare recipients—and applied them to the present system of welfare. These actions will become effective later this year.

Acceptance of those workfare provisions by the Congress was a step in the right direction, as I said when I signed the measure. But it is still part of the patchwork approach. Now something far better than a patchwork approach is required if the needy are to receive rational assistance, if waste and inefficiency are to be abolished, and if America's work incentive-job reward system is to be placed within reach of every citizen.

We should never forget that it is precisely this system that has enabled us to develop the highest standard of living—with the most widely shared advantages—in the history of the world. We should continue to rely on it as we drive to close the final gaps between economic promise and economic reality.

On June 22 of last year the House of Representatives, for the second time, passed by a wide majority omnibus legislation which would implement my overall welfare reform. This legislation is now being closely scrutinized by the Senate Finance Committee, whose able Chairman, Senator LONG, has assured me that the committee will report H.R. 1 to the Senate floor as soon as possible. H.R. 1 continues to have my full support, and I hope that it will be enacted into law this year in the basic form approved by the House of Representatives.

We need reform this year so that, instead of pouring billions more into a system universally recognized as a failure, we can make a new start.

We must not forget that H.R. 1 contains basic reforms in social security and medical benefits, as well as welfare reform.

These benefits, by themselves, are pathbreaking in scope and impact—including a further 5-percent benefit increase in social security, the automatic adjustment of social security benefits in the future to make them inflation proof, and a host of additional reforms discussed in my recent message to the Congress on older Americans. As I said in that message, even one more year of delay in the passage of H.R. 1 would cost older Americans some $5½ billion in annual benefits.

H.R. 1 clearly lies at the heart of economic progress of millions of Americans in 1972—and into the future. It is the most important single piece of social legislation to come before the Congress in several decades. I strongly urge the Congress to pass it as soon as possible this year. No legislation should have a higher priority.

THE WELFARE MESS WORSENS

When I first presented my welfare reform proposal to the Congress on August 11, 1969, I declared that "America's welfare system is a failure that grows worse every day."

Nine hundred and fifty eight days have passed since that message and that comment. The welfare landscape today is a greater fiscal and ethical wasteland than ever:

—*Injustice and inequities are widespread:* There are glaring differences between welfare benefits paid in various parts of the country—they can range from $60 a month to $326 a month for a woman with three children, depending on in which State she happens to live. Moreover, too many Americans can get more money by going on welfare than by going to work. There is no real requirement that a recipient seek, much less accept, a job.

—*The basic immorality of the system still prevails:* In most States welfare still offers a man a bounty to desert his family.

—*Incentive continues to be penalized:* A man working hard for low wages can see neighboring families on welfare that are better off than his own family.

—*Millions of children suffer:* They are forced to live in degrading and deplorable conditions because the present system precludes their families from any benefits.

—*Waste continues unabated:* State quality control surveys indicate that as many as one in 20 welfare recipients may actually be ineligible for benefits, and that inaccurate payments are being given to as many as one case in every four—a potential total annual waste of more than $500 million.

—*Administration remains a quagmire of red tape:* There are 1,152 separate State and local welfare jurisdictions, with separate eligibility determinations and administrative procedures—making program integrity a virtual impossibility.

What we have in short, is a crazy quilt of injustice and contradiction that has developed in bits and pieces over the years with little serious thought of basic reform. I believe that H.R. 1 is the best and most comprehensive answer yet devised to meet this challenge.

FISCAL CRISIS: WASHINGTON AND THE STATES

The present welfare system is not only morally bankrupt—but is a significant factor in driving the States toward fiscal bankruptcy.

Since I first proposed reform in 1969, the costs of maintaining the present system have mounted at an alarming rate. Each day of delay means further costs—without any offsetting benefits. For example:

—Welfare costs have skyrocketed from $6.2 billion in 1969 to an estimated $9.4 billion in 1971, *a 51 percent increase in just two years.*

—The overall welfare caseload has risen from 9.6 million people in 1969 to 13.5 million today. It has been estimated that, if no changes are made, 17.3 million people will be on welfare in 1974, *an 80 percent rise in just five years.*

What we have on our hands is nothing less than a social and political time bomb. And, in a development of concern to all of us, the patience and support of the American public for welfare programs has been slipping dangerously. Those who are truly needy are becoming scapegoats in the eyes of taxpayers understandably angered about waste and inconsistency.

What we are seeking is an end to the need for public support for people who are essentially employable, but have not been able to work for reasons beyond their control, just will not work, or will not even make themselves available for work-related training—and this is what H.R. 1 would cure.

We also need to establish a nationally uniform system of efficient aid for totally needy families and the old and infirm—and H.R. 1 would achieve that goal, too.

OUTLINE OF REFORM

My program, as embodied in H.R. 1, would place a floor beneath the income of all American families not able to adequately support themselves. Its payments would vary, according to family size and resources, from a minimum of $1,600 to a maximum of $3,600. The basic benefit for a family of four with no other income would be $2,400.

Employable adult members of such families would have to register with the Department of Labor in its Opportunities for Families Program for manpower services, work training and employment availability before *any* benefits were paid to such persons. Exceptions would include mothers of children younger than 6, and mothers whose husbands were either working or registered for work.

Families without employable adult members would not be subject to registration requirements but would receive the same basic benefits under the Department of Health, Education, and Welfare's Family Assistance Program.

For the first time in our history, national wage supplements would be paid to the working poor on a proportionate sliding scale designed to spur, rather than kill, the incentive to start working and keep on earning.

Eligible persons would be able to keep the first $720 earned during the year without reduction in their supplements. As job income rose beyond that, supplements would be reduced by two-thirds of job income until a cut-off point were reached and the recipient had attained a degree of self-sufficiency.

A family of four thus could earn $720 and receive a benefit of $2,400—for a total income of $3,120. When such a family's earnings reached $3,600, it still would be eligible for a supplement of $480 for a total income of $4,080.

When such a family reached earnings of $4,320 it would move completely out of the Federal assistance program.

Under the terms of H.R. 1, the Opportunities for Families program, the Family Assistance Plan and programs for the needy, aged, blind and disabled would be totally financed by the Federal Government—thereby providing much-needed financial relief for the States, which now share welfare costs.

In several respects, the proposed payments to the working poor constitute the basic conceptual foundation of my new approach.

These payments would encourage those who are working to keep on working, rather than sliding into welfare dependency. And they would motivate welfare recipients to start work.

We must hit head-on the cruel fallacy that any income, no matter how low, is sufficient for an American family merely because that money comes from full-time work.

We must establish the more humane and relevant principle that the total income of each American family must reach a certain minimum standard.

Another foundation of my approach is the strong work requirement and the provisions which would help implement

that requirement, including child care benefits, manpower services, job training and job locating, and a program of 200,000 transitional public service jobs.

Recipients, with very few exceptions, would have to register for training and accept jobs which were offered, or benefits would be terminated for that recipient.

An entirely separate new Federal program would be established for needy aged, blind and disabled individuals and couples. While no work requirements would be included, of course, those who could work would be provided with strong incentives for doing so.

The current State payments to such individuals and couples, varying widely across the Nation, would be replaced by a Federal benefit of $130 a month for an aged, blind, or disabled individual, rising to $150 in two steps. For a couple in these categories, $195 a month would be provided, rising to $200. Such benefits now can be as low as $70 a month for an individual and $97 a month for a couple.

In all, some $2 billion in new money would go directly into the hands of the aged, blind and disabled in the first full year.

TIGHT ADMINISTRATION AND PROGRAM INTEGRITY

Those who receive welfare, while they are the most visible victims, are not the only ones who suffer because of the myriad confusions and contradictions of the present welfare mess. The taxpayers are victims as well, for they are paying for a program that not only fails to accomplish its objectives, but is virtually impossible to administer.

Welfare administration is woefully outmoded in this country, with its 1,152 separate State and local welfare jurisdictions. Although virtually all have the same basic programs—Aid to the Blind, Aid to the Disabled, Aid to the Aged, and Aid to Families with Dependent Children—each operates with its own eligibility determination and administrative methods.

In the administrative area, especially, there is nearly an incomprehensible variety of management philosophies, operating policies and methods, and personnel arrangements. Only 20 percent of these jurisdictions have automated management techniques.

Under such conditions, it is not surprising that there are major management problems which exacerbate the skyrocketing costs and add to the growing public concern about welfare. Moreover, because of current open end financing arrangements, States and localities have what amounts to a blank check on the Federal treasury for this activity.

Thousands of dedicated people are doing their best to operate this ponderous machinery. But this system has been patched and repaired too many times. The frustration of current State program managers has resulted in very substantial support among Governors and State welfare administrators for Federal administration of the benefit payments function.

In recent months we have documented the failings of the current system, including the absence of cross-checks of records in adjacent areas, inadequate verification of income and benefits from a variety of benefit programs, and rapid turnover of personnel.

While decentralized management is highly desirable in many fields and is indeed central to my philosophy of government, I believe that many of these problems in welfare administration can best be solved by using a national automated payments system, which would produce economies and considerably increase both equity of treatment and tightened administration.

Such a unified system—partially modeled on the Social Security system—would reduce errors and provide greater controls for fraud and duplicate payments.

H.R. 1 would require each recipient to have a social security number for identification to prevent duplicate benefits and to facilitate the receiving of recipient income information from such sources as the Social Security Administration, the Internal Revenue Service, the Veterans Administration, and other units.

National administration and standards would also ensure equitable treatment for individuals: they would no longer be subject to conflicting rules in different areas, to delays caused by back-ups, and to the confusing tangle of red tape.

Under such a system, States and counties would be freed to concentrate on social services to recipients, making use of their closer understanding of the needs of local residents.

AN INVESTMENT IN THE FUTURE

Because we want a *better* system—not just a new one—welfare reform will cost more in the early years and cover more needy people.

Against the increased initial costs of my proposals in H.R. 1, however, we must weigh the unknown future costs—both human and fiscal—if the present chaotic system, with its present soaring growth rates, is continued. The new system contained in H.R. 1 would be far less costly in the long run—both in terms of dollars and in terms of people.

Historians of the future no doubt will focus on America's 200th birthday—and the years leading up to that significant anniversary—as one important point for measuring the progress of our Republic.

They will find, of course, that over 200 years America's mastery of the industrial revolution, its bountiful economic system, its military might and its technological triumphs helped to make it preeminent in the family of nations.

They will rightfully highlight our moon landings, our deep space probes, our satellite communications, our electronic innovations, and our extraordinary gross national product.

Penetrating observers, however, will also ask other questions:

What did all of this mean to the average American?

What was the quality of the daily life and the basic spirit of all the American people in the 1970's?

How, in particular, did our great Nation provide for those citizens who—through no fault of their own—were unable from time to time to provide for themselves and their families?

I believe that the program contained in H.R. 1 will stand us in good stead when such historical evaluations are considered, for this is a program which has grown out of a fundamental concern for our least fortunate citizens.

The enactment of H.R. 1 would demonstrate both our concern for what is responsible and our concern for what is compassionate.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today, are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 63) to establish a Joint Committee on Inaugural Ceremonies of 1973.

The message informed the Senate that, pursuant to the provisions of Senate Concurrent Resolution 63, 92d Congress, the Speaker had appointed Mr. ALBERT, Mr. BOGGS, and Mr. GERALD R. FORD as members of the joint committee to make the necessary arrangements for the inauguration of the President-elect and the Vice-President-elect of the United States on the 20th day of January 1973, on the part of the House.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

S. 18. An act to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty; and

S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

The enrolled bills were subsequently signed by the President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, March 24, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 678 and 679.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DELEGATE TO THE HOUSE OF REPRESENTATIVES FOR GUAM AND THE VIRGIN ISLANDS

The Senate proceeded to consider the bill, H.R. 8787, to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a delegate to the House of Representatives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-709), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 8787 is to provide that the organized, unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a non-voting Delegate to the House of Representatives. The Committee also considered S. 1400, a companion measure introduced by Senators Jackson and Allott as the result of an Executive Communication submitted to the Congress by the Secretary of the Interior.

BACKGROUND

The territories of Guam and the Virgin Islands are organized, but unincorporated, territories of the United States. Guam was ceded to the United States by Spain in the Treaty of Paris in 1898, and the Virgin Islands were purchased from Denmark in 1917. Since their acquisition, the status and development of both territories parallel one another.

Congress through the passage of organic acts has provided for each territory a formal structure of government. Both territories are governed by a locally elected legislature. The Judiciary is separate from the executive and legislative branches of government. Congress, in 1968, provided for the popular election of a Governor and Lieutenant Governor for each of the territories, and on November 3, 1970, the citizens of both territories elected their first chief executive.

In both territories the people and their elected legislatures have shown an increasingly mature grasp of their responsibilities. Politically, the people of both areas have developed meaningful party systems. The private economy in both territories is experiencing growth and prosperity, largely because of the increase in tourism, supporting services, and manufacturing enterprises. Both territorial governments have responded to the growing social needs in health, education and welfare, and public improvements.

American history is replete with examples where areas under the American Flag were permitted nonvoting representation in Congress—and territorial size and population were not barriers to such representation.

A nonvoting delegate seved in the Congress as early as 1794, from an area that is now the State of Tennessee. The Congress granted Hawaii a nonvoting delegate throughout her status as a territory; the same privilege was afforded Alaska. A nonvoting Resident Commissioner for Puerto Rico has been sitting in the House since 1904, and in 1971, the District of Columbia elected its own nonvoting delegate. And in the cases of Puerto Rico and the Philippines (another area which had nonvoting representation), Congressional representation was granted when the residents of these two territories were not U.S. citizens.

The territory of Alaska, when granted its delegate in 1906, had a population of less than 65,000. Other U.S. territories with earlier representation in Congress had even smaller populations.

According to the preliminary figures of the 1970 census, the Government of Guam must provide for the general welfare of 86,926 people, and the Government of the Virgin Islands must provide the public services for 63,200 inhabitants. While neither of the territories is entirely self-supporting financially, both are able to finance their affairs through revenues generated locally, either directly or indirectly, which are retained and expended pursuant to federal laws.

NEED

This legislation providing that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives has been before every Congress since the 84th Congress. The need or justification for direct territorial representation for Guam and the Virgin Islands in the House of Representatives becomes apparent when viewed in the context of territorial growth, human aspirations, and the principles of American democracy.

The rapidly changing economic and social conditions in both the continental United States and in the territories of Guam and the Virgin Islands provide an urgent basis for direct representation of these territories in the House of Representatives. At the present time, the unincorporated territories of the United States are not affected by general legislation unless they are specifically mentioned in the legislation or the legislation is made applicable to the territories and possessions of the United States.

The fact is that the rapidly changing economic and social conditions in Guam and the Virgin Islands are no longer so limited in scope that the national interest and general welfare of the inhabitants of these territories can be so easily handled in one Committee of the Congress. For example, the legislative objectives of these territories range inter alia, from education and welfare assistance, to housing, agricultural assistance, food stamps, unemployment compensation, prevailing wage rates, immigration amendments, airport construction assistance, federal highway and harbor assistance, air routes, water and electric power, oil and watch quotas, veterans benefits, and voting rights.

The various and complex Federal programs which affect the needs of these territories are now so numerous and so varied that the territories require direct representation to meet conditions in each territory. The enactment of the bill will place the responsibility for the furtherance of the legislative objectives of these territories upon the popularly elected Delegates.

The people of these territories have long been in support of having direct representation in the Congress. In 1959, hearings in both Guam and the Virgin Islands on similar legislation, disclosed unanimous endorsement of the people for a Delegate to the House of Representatives. In furtherance of these aspirations the people of Guam and the Virgin Islands, through the elected legislatures, have provided for the popular election of a Washington Representative.

The Washington Representatives for Guam and the Virgin Islands are representatives of the people in each territory but have no official status in the Congress. These representatives, while effective in their present status, must still present the territorial views and legislative objectives to the various officials of the Executive Branch, the elected Members of Congress and the appropriate Committees of the Congress. H.R. 8787 provides for the election of a Delegate from each of the territories to the House of Representatives who can more effectively represent and interpret the needs, welfare and interest of the inhabitants of each territory. He will carry the responsibility of maintaining the contacts and liaison with the Committees of the Congress and the officials of the Executive Branch of Government to meet territorial concerns. In doing so, the elected Delegate will relieve other Members of Congress of the necessity of dealing with individual problems in these territories in addition to meeting the usual calls upon them from their own constituencies.

This bill is in keeping with the modern trend of democratic governments to encourage fuller representation of people. Congress by a series of enactments over the years has continually provided greater self-government and responsibility for its territories. The enactment of this legislation providing for a non-voting Delegate for the territories of Guam and the Virgin Islands in the House of Representatives should put to rest any lingering impressions of "American colonialism".

Currently, the expenses of the two offices of elected representatives from Guam and the Virgin Islands are payable out of local funds. Under H.R. 8787, each Delegate will be entitled to receive the same compensation and allowances that are received by a Member of the House of Representatives, unless the Rules of the House are amended to provide otherwise. The Federal cost that would be incurred by enactment of this legislation would be the cost of compensation and allowances for the two delegates beginning with the 93rd Congress, and the two territories would be relieved of the expenses involved in supporting their two representatives.

Mr. BURDICK. Mr. President, the bill now pending before the Senate, H.R. 8787, is still further proof that American democracy as an institution is dynamic, growing, and very much viable. The title of the bill states its purpose: To provide that American citizens of the American territories of the Virgin Islands and Guam may each elect a delegate to the Congress of the United States. These delegates will not have a vote, but they will sit in the House of Representatives and have a voice in the shaping of the laws and policies of their country. These laws and policies have the same impact upon the people of the two territories as upon all other American citizens everywhere.

While this is the first occasion on which a bill for an elected representative to Congress for Guam and the Virgin Islands has been before the Senate for action, the subject is by no means new. Proposed legislation for the purpose has been before successive Congresses for the past 15 years. It has had the support and backing of both Democratic and Republican administrations and is truly nonpartisan. Public hearings have been held both in the territories and in Washington and all points of view given full consideration.

Since the Virgin Islands and Guam delegates will sit in the House, the Senate has very appropriately waited for the other body to take the initiative in acting on the proposed legislation. On January 18, 1972, the House did act and, by the overwhelming vote of 232 to 104, H.R. 8787 was passed and sent to the Senate. The Subcommittee on Territories, of which I have the honor to serve as

chairman, held public hearings on the House-passed bill and the Senate Interior Committee has reported it unanimously.

Mr. President, at this historic moment for the Virgin Islands and Guam, it seems appropriate to outline, very briefly, the steps by which we have arrived at this point. Guam came under the American flag in 1898 as a result of the war with Spain. It was governed by the Navy under a two-line Executive order of President McKinley until 1950 when the 81st Congress enacted Public Law 630 on August 1, 1950, the Organic Act for Guam. This act declared Guam to be an unincorporated territory of the United States and established civil government granting American citizenship to its citizens. The territory now has a total population of approximately 100,000; it is our western most defense line in the Far Pacific, and its economy is developing with great rapidity.

The Virgin Islands were purchased from Denmark in 1917 when there was fear that they might fall into the hands of then Imperial Germany and could, under the weapons and warfare of that day, be a threat to the Panama Canal. The Virgin Islands likewise were governed by the Navy for some years, but in 1932 President Hoover transferred administration to the Department of the Interior and appointed a civilian Governor. An organic act constituting the islands as an unincorporated territory, establishing civil government, and granting American citizenship was enacted.

The Virgin Islands also have grown and prospered, economically, politically, and socially.

I should mention the fact that each of the territories has exercised the doctrine of self-help and have sent Representatives to Washington on their own under local law. Guam is represented by Antonio B. Won Pat, who had been a member of the Guam Legislature for many years, and the Virgin Islands by Ronald de Lugo, who has had many years experience in the Virgin Islands government. Both of these men are able and hard working, but neither has any official status. As was pointed out in our hearings on H.R. 8787, both are primarily lobbyists. H.R. 8787 gives the American citizens of both areas the right to choose an official representative in the capital of their country with official recognition and standing.

The fact is that the rapidly changing economic and social conditions in Guam and the Virgin Islands are no longer so limited in scope that the national interest and general welfare of the inhabitants of these territories can be so easily handled in one committee of the Congress. For example, the legislative objectives of these territories range, inter alia, from education and welfare assistance, to housing, agricultural assistance, food stamps, unemployment compensation, prevailing wage rates, immigration amendments, airport construction assistance, Federal highway and harbor assistance, air routes, water and electric power, oil and watch quotas, veterans benefits, and voting rights.

The various and complex Federal programs which affect the needs of these territories are now so numerous and so varied that the territories require direct representation to meet conditions in each territory. The enactment of the bill will place the responsibility for the furtherance of the legislative objectives of these territories upon the popularly elected delegates.

In the 91st Congress we provided for an elective Governor and Lieutenant Governor for both of these territories, and the first elections were held in November of 1970.

Thus, Mr. President, the election of a nonvoting delegate to Congress from each is a logical and equitable development in the growth of democracy and self-government in each of these areas. Our record which has been one in which all Americans, everywhere, can take just pride. Enactment of H.R. 8787 enhances still further that great record of our American democracy in action.

The bill was ordered to a third reading, read the third time, and passed.

THADDEUS KOSZIUSZKO HOME NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 1973) to provide for the establishment of the Thaddeus Koszisuzko Home National Historic Site in the State of Pennsylvania, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, line 22, after the word "this", strike out "Act." and insert "Act not to exceed, however, $592,000 for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve in public ownership the historically significant property associated with the life of Thaddeus Kosciuszko for the benefit and inspiration of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange in accordance with the provisions of 35(b) of the Act of July 15, 1958 (16 U.S.C. 4601–22 (Supp. V)), the land and interests in land, together with buildings and improvements thereon, located at, or in the vicinity of, 301 Pine Street, Philadelphia, Pennsylvania, together with such other lands and interests in land, including scenic easements, as the Secretary shall deem necessary for the administration of the area. The Secretary shall establish the Thaddeus Kosciuszko Home National Historic Site by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands and interests in lands have been acquired for administration in accordance with the purpose of this Act.

SEC. 2. Pending establishment and thereafter, the Secretary shall administer lands and interests in lands acquired for the Thaddeus Kosciuszko Home National Historic Site in accordance with the Act approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 416 et seq.), as amended.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $592,000 for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved herein.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–710), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The primary purpose of S. 1973 is to provide proper and lasting recognition to General Thaddeus Kosciuszko, the great Polish patriot and soldier whose genius as a military engineer contributed materially to the success of the American Revolution.

General Kosciuszko was an outstanding figure in American history, and without question, merits an appropriate memorial. His complete devotion to liberty and Polish independence has made him an immortal Polish hero, and it is evident that tribute should be paid to one who came to this country to help in our struggle for independence.

It would seem fittting, therefore that the house in Philadelphia where General Kosciuszko lived in 1797–98, modest though it may be, would be the place to commemorate this exceptional man who played a significant part in the American Revolution and whose name has great meaning now not only for Americans of Polish descent but for all Americans.

BACKGROUND

America's debt to the foreign officers who came to fight for our independence has long been recognized. There were many of them; the Marquis de Lafayette, Baron Johann DeKalb, Baron Frederic Steuben, Count Kazimierz Pulaski, and Thaddeus Kosciuszko, to been recognized. There were many of them: Among all of them, best known was Thaddeus Andrzej Bonawentura Kosciuszko, a man who represented the finest traditions of the Polish Lithuanian Commonwealth that nurtured him.

Kosciuszko's part in the American Revolutionary War was unique for many reasons. Among those who came to fight for the cause of liberty, he was the first foreign soldier of destination to volunteer his services on behalf of our freedom. He arrived at Philadelphia at the end of August 1776, when the attempt of the Americans to gain their freedom was considered hopeless by most European soldiers and statesmen. While those who came in the hope of securing advancement or financial gain, as happened after France and Spain joined the colonists in the war against England, Kosciuszko came to fight for that freedom he was then unable to fight for in his own exploited native land.

Kosciuszko was also unique among the foreign officers who volunteered their services to the cause in that he was able to play a major part in the most decisive battle of the war, the Battle of Saratoga, October 1777. It was the surrender of Gen. John Burgoyne, following this battle, that convinced the European powers of the fighting ability of the American militiamen and brought France and Spain into the war on the side of the colonists. Gen. Horatio Gates, the commander of the American forces at Saratoga, described Kosciuszko's part in this battle as follows:

"Let us be honest. In war as in medicine, natural causes not under our control do much. In the present case (i.e., Saratoga), the great tacticians of the campaign were hills and forests, which a young Polish engineer was skillful enough to select for my encampments."

From the time of his arrival, Kosciuszko's engineering skill contributed greatly to the security and defense of America. His plans for the fortification of Billingsport, an island on the Delaware River, and his defensive works at Red Bank, on the New Jersey side of the Delaware, contributed much to the defense of Philadelphia. His fortification of West Point, to which he directed his attention from 1778 to 1780, helped protect New York City from British attack by way of the Hudson.

Following his services at West Point, he was attached as chief engineer with Gen. Nathaniel Greene and the Army of the South, where he contributed greatly to the American successes there. His chief functions were to survey the fields of operations, to indicate strategic points, to determine possible sources of food and water, and to devise means for the rapid transportation for troops and provisions. When the campaign turned into guerrilla warfare, as was so often the case, Kosciuszko disregarded his rank and fought with the rest as a common soldier. For his services he was promoted to brigadier general at the war's end.

THE RESIDENCE IN PHILADELPHIA

The historical significance of the Philadelphia residence of Kosciuszko cannot be viewed apart from his special relationship with Thomas Jefferson. During his term as Vice President, Jefferson visited Kosciuszko at the Philadelphia residence and asked him to travel to France on behalf of the United States to act as a peacemaker.

The relationship between the two men was so close that Kosciuszko, while living at the Pine Street residence, wrote and delivered to Jefferson his will and testament in which he bequeathed his fortune for the purchase of freedom of enslaved blacks.

As for the Philadelphia residence itself, where Kosciuszko took up lodging on November 29, 1797, it appears that most of the brick walls, and probably the flooring, are original. Although the house is in poor condition, and although many changes were made in the house during the 19th century, the committee believes it is feasible to restore the house to its general appearance at the time General Kosciuszko lived there. Moreover, such a restoration would enhance restoration projects already underway in Philadelphia. The residence is located near the Philadelphia Society Hill project, where many other colonial homes are being restored for posterity. The inclusion of Kosciuszko's residence as a national historic site in this project would be a fine and appropriate addition.

COST

Since the structure would be donated to the Federal Government by Mr. Edward J. Piszek, an industrialist of Philadelphia, there would be no acquisition cost. It is estimated that the cost of restoring the three-story house in the style and furnishings of the late 18th century would be approximately $592,000.

AMENDMENT

The committee amended S. 1973 to limit the cost of development to $592,000.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 1973.

Mr. SCHWEIKER. Mr. President, I am delighted that the Senate Interior Committee has taken quick action to approve legislation S. 1973, designating Philadelphia's Thaddeus Kosciuszko home as a national historic site.

As one of the original cosponsors of this legislation, I want to extend my personal thanks for the speed with which Chairman JACKSON and the rest of the Senate Interior and Insular Affairs Committee responded to the tremendous support this legislation has received this year, not only in Philadelphia and Pennsylvania, but across the Nation.

We have been working on this legislation for several years. On June 25, 1970, Senators HART, HARTKE, SCOTT, and I introduced S. 2046, the predecessor in the 91st Congress to the bill we are considering today, S. 1973. Just over 1 year later the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments decided against recommending the house as a national historic landmark. The primary reason for rejection seemed to be that General Kosciuszko lived in the house some time after the American Revolution, and for only about 6 months. Also, the house has been altered since the time of Kosciuszko's residence there.

At that time, I did not agree with the reasoning of the Advisory Board. Significantly, neither did Mr. Edward Piszek, who has devoted a considerable amount of his own time and efforts in the last several years toward getting this designation made. Neither did several Polish organizations including the Polish American Congress, and the Central Council of Polish Organizations.

I was pleased to testify in support of this legislation before the Interior Committee on July 26, 1971. At that time, I pointed out that the city of Philadelphia and Polish American citizens in general, were vitally interested in the preservation of the last and only dwelling associated with Gen. Thaddeus Kosciuszko.

General Kosciuszko fought in the American Revolution and later returned to his native Poland to lead a revolution to secure the freedom of his own people. After returning again to the United States he gave the moneys granted him by the Congress to the cause of freeing the slaves.

It is entirely fitting that we dedicate his home in Philadelphia at 301 Pine Street as a national memorial in order to preserve the deeds and works of this great Folish American patriot and I am certainly pleased that our efforts over the last few years will come to fruition as a result of the Senate action today.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEGISLATIVE BRANCH APPROPRIATIONS, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 490, S. 1821 which had previously been laid before the Senate as the pending business, and is now the unfinished business, be replaced by Calendar No. 689, H.R. 13955, an act making appropriations for the legislative branch, and made the pending business at the conclusion of morning business today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ACCOMPLISHMENTS OF THE SECOND SESSION OF 92D CONGRESS

Mr. MANSFIELD. Mr. President, I would like to point out that today marks the 45th day the Senate has met since convening on January 18. It has passed a total of 130 measures—no small achievement for 2 month's work. Of these, 34 have already become public laws. Two treaties have been acted upon favorably and 7,875 nominations have been confirmed. During the first quarter of this session, there have been 116 rollcall votes.

Mr. President, I ask unanimous consent that a report of Senate legislative activity for the second session of the 92d Congress, prepared by the Democratic policy committee, under the guidance and direction of the new chief clerk of the committee, Mrs. Elizabeth Shotwell, be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE LEGISLATIVE ACTIVITY—92D CONGRESS, SECOND SESSION

(By Senate Democratic Policy Committee)

Days in Session	44
Hours in Session	262:59
Total measures passed	130
Public Laws	34
Treaties	2
Confirmations	7,875
Record Votes	116

Symbols: P/H—Passed House; P/S—Passed Senate.

Following is a brief summary of major Senate activity.

AGRICULTURE

Grapefruit marketing orders

Permitted marketing orders for Florida Indian River grapefruit to provide for crediting a handler's direct market promotion expenditures against his assessment under the order for that purpose. S. 1058. Public Law 92— .

Pest control research

Directs the Secretary of Agriculture to carry out pilot field research programs in integrated methods of controlling agricultural and forest pests; authorizes him to reimburse farmers for losses sustained as a result of such research being conducted on their lands, crops, or livestock; and authorizes expanded research on integrated control by the National Science Foundation. S. 1794. P/S 1/31 72.

APPROPRIATIONS 1972

Foreign assistance and related programs

Appropriated $3,189,437,000 for foreign assistance and related programs. H.R. 12067. Public Law 92-242.

Urgent supplemental appropriations

Appropriated $957,476,059 for certain urgent supplemental appropriations. H.J. Res. 1097. Public Law 92–256.

CONGRESS

Cornelia Fasset painting

Auuthorizes the Architect of the Capitol, on behalf of the Congress, to loan to the Smithsonian Institution a painting, "The Electoral Commission of 1877," by Cornelia Fasset, for an exhibit by the National Portrait Gallery. S. Con. Res. 59. P/S 3/24/72.

Equal time requirement and political broadcasting

Repeals the equal opportunities requirement of section 315 of the Communications Act of 1934 insofar as it applies to legally qualified candidates for the office of President and Vice President in the general election campaign. S. 3178. P/S 3/23/72.

Federal Election Campaign Act

Required broadcasters to charge all candidates (Federal and State) no more than the lowest unit rate in the same period for 45 days before primaries and 60 days before general elections; provided that a person sell-

ing space in any newspaper or magazine to candidates for Federal office may not make a charge in excess of the charges made for a comparable use of such space for other purposes; imposed a limitation on expenditures for the use of communications media by candidates for Federal office of the greater of (1) 10 cents times voting age population, or (2) $50,000, but not more than 60 percent of the overall limitation can be spent for the use of broadcasting stations; provided that no candidate for Presidential nomination can spend for the use in a State of communications media, or for the use in a State of broadcast stations, on behalf of his candidacy, a total amount in excess of either the overall communications media limitation, or the broadcast limitation, which would have been available to him had he been a candidate for the office of Senator from that State; provided that the communications media expenditure limitations shall be increased in proportion to increases in the Consumer Price Index, with the base period being calendar year 1970; provided that the States may make the broadcasting spending limit applicable to State-wide elections, and made the limitation applicable to any money spent by a candidate or on his behalf; required broadcasters selling time on behalf of a candidate to obtain a written certification that the amount to be spent will not put the candidate over the limitation, and applied the same requirement to spending for non-broadcast media; made the provisions of the act respecting disclosure of Federal campaign funds applicable to every elective process, every candidate, and every political committee (national, state or local) which accepts contributions in a calendar year in excess of $1,000; provided that responsibility for receiving, compiling, and publishing financial statements of contributions and expenditures for candidates and political committees shall be vested in the Secretary of the Senate with respect to candidates for Senator, the Clerk of the House of Representatives with respect to candidates for Representative, and the Comproller General in other cases; and contained other provisions. S. 382. Public Law 92-225.

Joint Committee on Inaugural Ceremonies of 1973

Established a Joint Committee on Inaugural Ceremonies of 1973. S. Con. Res. 63. Senate adopted 3/24/72.

Senate intervention in Supreme Court proceedings

Authorized Senate intervention in the Supreme Court proceedings involving Senator Gravel on the issue of the scope of article 1, section 6, the so-called speech and debate clause of the Constitution. S. Res. 280. Senate adopted 3/23/72.

CRIME-JUDICIARY

Administrative Assistant to the Chief Justice

Added a new section 677 to title 38, United States Code, creating the Office of administrative assistant to the Chief Justice of the United States. H.R. 8699. Public Law 92-238.

Bankruptcy receivers and trustees

Amends the Bankruptcy Act to increase the maximum compensation allowable to receivers and trustees. S. 1395. P/S 2/18/72.

Bankruptcy referees' salaries and expenses

Amends the Bankruptcy Act to abolish the criteria for fixing the salaries of full-time referees and thus permit the Judicial Conference of the United States to fix the salaries of all full-time referees at the same level and to abolish the referees' salary and expense fund. S. 1394. P/S 2/18/72.

Bankruptcy referees

Amends the Bankruptcy Act to permit a full-time referee in bankruptcy to perform the duties of a U.S. magistrate. S. 1396. P/S 2/18/72.

Care for narcotic addicts

Authorizes the Attorney General to provide for narcotic addicts who are placed on probation, released on parole, or mandatorily released; and clarifies the intent of Congress that release under a program of supervisory aftercare is an appropriate mode of treatment for both parolees and mandatory releasees who may have been narcotic addicts or drug dependent persons. S. 2713. P/S 3/3/72.

Commission on bankruptcy laws extension

Extended the Commission on the Bankruptcy Laws from July 24, 1972, to June 30, 1973, and increased the limit on appropriations to the Commission from $600,000 to $826,000. S.J. Res. 190. Public Law 92-251.

Federal court jurors

Amends the Jury Selection and Service Act of 1968 to change from 21 years to 18 years the minimum age qualification for service on grand juries in the district courts of the United States. S. 1975. P/S 12/1/71. P/H amended 3/6/72.

U.S. Magistrates temporary assignment

Added a new subsection to section 636 of title 28, United States Code, to permit the temporary assignment of U.S. magistrates from one judicial district to another in emergency situations and only upon the concurrence of the chief judges of the districts involved. H.R. 9180. Public Law 92-239.

DEFENSE

Boy Scouts loans

Provided permanent authority for the Secretary of Defense to lend Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in support of their national jamborees and world jamborees. H.R. 11738. Public Law 92-249.

Disposals from national and supplemental stockpiles

Authorizes disposal from the national and supplemental stockpiles of various materials, as follows:

Chromite, metallurgical grade

1,313,600 short dry tons. S. 733. P/S 3/21/71.

Lead

498,000 short tons. S. 764. P/S 3/21/72.

Nickel

38,876 short tons. S. 3086. P/S 3/21/72.

Naval vessel loans

Authorizes the loan of a total of 16 vessels of the destroyer and submarine category of the Reserve fleet to certain foreign countries for a period of 5 years. H.R. 9526. P/H 12/6/71. P/S amended 3/24/72.

DISTRICT OF COLUMBIA

Healing Arts Practice Act Amendments

Revises the makeup of the Commission on Licensure; provides for temporary licensure of certain physicians and osteopaths; and broadens the use of endorsement as a method of licensure, by eliminating the application of reciprocity as a barrier to the admission of competent physicians to practice in the District of Columbia. H.R. 8589. P/H 6/14/71. P/S amended 8/6/71. House requested conference 3/9/72.

Potomac River reservoirs

Gives broad authorization to the D.C. Commissioner to enter into contracts to provide for payment to the United States of the District's equitable share of the non-Federal costs of any reservoir which may be authorized by Congress for construction on the Potomac River or any of its tributaries which would benefit the D.C. water supply. S. 1362. Public Law 92- .

ECONOMY-FINANCE

Federal Reserve Bank branch buildings

Increases the $60 million limitation in section 10 of the Federal Reserve Act on construction of buildings for branches of the Federal Reserve banks to $120 million. S. 3197. P/S 2/22/72.

Par Value Modification Act

Authorized and directed the Secretary of the Treasury (1) to take the steps necessary to establish a new par value of the dollar of one dollar equals one thirty-eighth of a fine troy ounce of gold; (2) to maintain the value in terms of gold of the holdings of the United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asian Development Bank to the extent provided for and required by the Articles of Agreement of these institutions; (3) authorized the appropriation, to remain available until expended, of such amounts as may be necessary to satisfy these maintenance of value obligations; and (4) directed that the increase in the value of the gold held by the United States resulting from the change in the par value of the dollar be covered into the Treasury as a miscellaneous receipt. S. 3160 (H.R. 13120). Public Law 92- .

Public Debt Limit

Increased from $430 billion to $450 billion the public debt limit through June 30, 1972. H.R. 12910. Public Law 92-250.

Small Business Act Amendments

Amends section 4(c) of the Small Business Act to increase the total amount of loans, guarantees, and other obligations or commitments outstanding by the Small Business Administration; includes an increase from $3.1 billion to $4.1 billion in the SBA's lending authority for certain direct, immediate participation and guaranteed loans, an increase from $450 million to $500 million in the SBA's lending authority to SBIC's, and an increase from $300 million to $350 million in SBA's lending authority under title IV of the Economic Opportunity Act of 1964 for loans to low-income individuals and for business located in areas of high unemployment or low income; increases the SBA's lending authority under section 7(a) from a maximum loan of $350,000 to $500,000; increases from $25,000 to $50,000 the maximum loans that the SBA is authorized to make, participate in, or guarantee to small business concerns in urban or rural areas with high proportions of unemployed or low-income individuals or to small business concerns owned by low-income individuals. S. 3166. P/S 3/22/72.

EDUCATION

Education amendments

Revises the Higher Education Act of 1965 to constitute a single law including all continuing higher education financial assistance programs, and, in general, extends the authorization for higher education programs through fisal year 1975; amends the Vocational Education Act of 1963, and extends authorizations for funds for programs thereunder through fiscal year 1973; establishes an Education Division within the Department of Health, Education, and Welfare to include the present Office of Education and the newly created National Foundation for Secondary Education and National Institute of Education; and contains other provisions. S. 659. P/S 8/6/71. P/H amended 10/4/71. P/S amended 3/1/72. In conference.

GENERAL GOVERNMENT

Air taxi mail transportation claims

Provided authority for the filing of claims by air taxi transportation operators; authorized determinations by the Postal Service of the amounts due claimants for certain additional operational expenses; authorized and directed the Secretary of the Treasury to pay such amounts; and contained other provisions. S. 996. Public Law 92- .

American Revolution bicentennial commemorative medals

Authorized the American Revolution Bicentennial Commission to utilize the facilities of the Bureau of the Mint on a fully reimbursable basis to strike a series of commemorative national medals, including a medal commemorating the year 1776 and its significance to American independence and a maximum of 13 separate medals commemorating historical events of great importance recognized nationally as milestones in the continuing progress of the United States. H.R. 7987. Public Law 92-228.

American Revolution Bicentennial Commission

Authorized $4.3 million for the Commission for fiscal year 1972; enlarged the Commission representation from 37 to 50 members; and contained other provisions. S. 1857. Public Law 92-236.

Civil Service survivor annuities

Defined "child" for the purpose of a survivor anuity to include children living with an adoptive parent and made them eligible for a survivor benefit if the child is in the process of being adopted at the time of death of the employee or annuitant and the adoption process is later completed by the surviving spouse. S. 2896. Public Law 92-243.

Equal rights for men and women

Submitted to the State legislatures an amendment to the Constitution of the United States which, if ratified, would insure equal rights under the law for men and women. H.J. Res. 208.

New Mexico land

Disclaims U.S. interest in the title to about seven acres of the Antoine Leroux Spanish Land Grant along the Rio Hondo near Taos, New Mexico. S. 2674. P/S 3/17/72.

Transpo '72 commemorative medals

Authorized and directed the Secretary of the Treasury to strike and furnish at cost to the Secretary of Transportation medals commemorating the First United States International Transportation Exposition ("Transpo 72)" to be held at Dulles Airport May 27 through June 4, 1972; and contained other provisions. S. 3353. Public Law 92——.

Trust Territory of the Pacific Islands

Authorized approximately $3.1 million in additional Federal funds to the trust territory economic development loan fund, thus bringing the total in the fund to $5 million; and contained other provisions. S. 860. Public Law 92-257.

Volunteers in national forests

Authorizes the employment of volunteers to work without compensation in areas administered by the Forest Service; authorizes the Secretary of Agriculture to provide for their incidental expenses; authorizes a maximum annual appropriation of $200,000; and contains other provisions. S. 1379. P/S 3/21/72.

HEALTH

Drug Abuse Office and Treatment Act of 1972

Strengthened and improved the administrative structure within the Department of Health, Education, and Welfare (HEW) through which the Secretary of HEW is responsible for delivering a broad range of coordinated drug abuse prevention, treatment, and rehabilitation services; established a Special Action Office for Drug Abuse Prevention in the Executive Office of the President; established a national Institute on Drug Abuse within the National Institute of Mental Health to be created on December 31, 1974; establish a National Advisory Council for Drug Abuse Prevention; and provided for extensive new Federal assistance to promote and improve the development of State and local drug abuse prevention, treatment, and rehabilitation programs. S. 2097. Public Law 92-255.

Nutrition program for the elderly

Amend the Older Americans Act of 1965 to authorize $100 million for 1973 and $150 million for fiscal year 1974 in grants to the States for establishing and operating nutrition projects to provide low cost, nutritionally sound meals to individuals 60 years of age or older and their spouses, provided such individuals fall within certain categories. S. 1163. Public Law 92- .

Sickle cell anemia

Establishes a national program to control, to conduct research, and to improve procedures in the treatment of persons suffering from, sickle cell trait or sickle cell anemia; authorizes grants and contracts to public and nonprofit private agencies, organizations, or institutions to assist in establishing and operating voluntary sickle cell anemia screening and counseling programs; and contains other provisions. S. 2676. P/S 12/8/71. P/H amended 3/22/72.

HOUSING

Housing and Urban Development

Overhauls legislation involving the Federal Housing Administration mortgage insurance program and the low-rent public housing program; contains a new block grant program to provide Federal assistance to localities for community development; establishes a new program of Federal grants to communities to help meet operating expenses of the Nation's mass transit systems; and contains other provisions. S. 3248. P/S 3/2/72.

INDIANS

Blackfeet and Gros Ventre Tribes, Montana

Authorized division and disposition of judgment funds awarded to the Blackfeet Tribes of the Blackfeet Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana. S. 671. Public Law 92-254.

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana

Authorized disposition of judgment funds awarded to the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana. S. 602. Public Law 92-253.

Confederated Tribes of the Colville Reservation

Authorized disposition of judgment funds awarded to the Confederated Tribes of the Colville Reservation, and contained other provisions. H.R. 6291. Public Law 92-244.

Indian Claims Commission Act of 1946—Extension

Extended the life of the Indian Claims Commission for 5 years, from April 10, 1972, to April 10, 1977, and contained other provisions. H.R. 10390 (S. 2408). Public Law 92- .

INTERNATIONAL

Agreements With Portugal and Bahrain

Stated the sense of the Senate that any agreement with Portugal or Bahrain for military bases or foreign assistance should be submitted as a treaty to the Senate for advice and consent. S. Res. 214. P/S 3/3/72.

Asian Development Bank—U.S. Contributions

Authorized the Secretary of the Treasury, in his capacity as U.S. Governor of the Bank, to agree to a U.S. contribution of $100 million in two installments to the Bank's Consolidated Special Funds; authorized appropriations therefor of $60 million and $40 million for fiscal years 1972 and 1973, respectively; required the President to instruct the U.S. Executive Director of the Bank to vote against any loan to any country which expropriates property; and contained other provisions. S. 749. Public Law 92-245.

Diplomatic privileges and immunities to the mission of the European communities

Authorizes the President to extend or enter into an agreement extending to the mission of the Commission of the European Communities and its members the same privileges and immunities now enjoyed by diplomatic missions in Washington, D.C. S. 2700. P/S 3/17/72.

Foreign aid authorization

Authorized for fiscal year 1972 $1,518,000,000 for military assistance and for fiscal year 1973 $984 million for economic and humanitarian assistance; imposed a ceiling of $341 million on funds which may be obligated in or for Cambodia in fiscal year 1972 and put a ceiling of 200 on the number of American civilian and military government personnel in Cambodia; and contained other provisions. S. 2819. Public Law 92-226.

Inter-American Development Bank (IDB—U.S. contributions

Authorized the Secretary of the Treasury in his capacity as U.S. Governor of the IDB to pay to the Fund for Special Operations the second and third installments of $450 million each for U.S. contributions; authorized appropriations therefor; required the President to instruct the U.S. Executive Director of the Bank to vote against any loan to any country which expropriates property; and contained other provisions. S. 748. Public Law 92-246.

International agreements other than treaties

Requires that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof, except where the immediate public disclosure of an agreement would, in the opinion of the President, be prejudicial to national security, the agreement shall not be so transmitted to the Congress but to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House under an appropriate injunction of secrecy to be removed only upon due notice from the President. S. 596, P/S 2/16/72.

International Coffee Agreement, 1968—extension

Extended the authority of the President to October 1, 1973, to carry out and enforce certain provisions of the International Coffee Agreement Act of 1968. H.R. 8293. Public Law 92- .

International Development Association (IDA—)—U.S. contributions

Authorized the Secretary of the Treasury, in his capacity as the U.S. Governor of the Association, to contribute to the IDA three annual installments of $320 million each; authorized appropriations therefor; required the President to instruct the U.S. Executive Directors of the International Bank for Reconstruction and Development and the IDA to vote against a loan for any country which expropriates property; and contained other provisions. S. 2010. Public Law 92-247.

Olympic Games

Extended the good wishes of the Senate to the citizens of Japan and the participants of the Eleventh Winter Olympic Games and affirmed the Senates support for the designation of Denver as host city for the Twelfth Winter Games in 1976. S. Res. 246. Senate adopted 1/31/72.

Radio Free Europe and Radio Liberty

Authorized $36 million for fiscal year 1972 to the Department of State for grants to Radio Free Europe and Radio Liberty. S. 18. Public Law 92- .

Recognition of Bangladesh

Expressed the sense of the Congress that the President should recognize Bangladesh

as an independent foreign country and recognize its Government. S. Con. Res. 55. Senate adopted 3/21/72.

TREATIES

Amendment to Statute of International Atomic Energy Agency

Increases the membership of the Board of Governors of the International Atomic Energy Agency from 25 to 34 or 35 members, for the purpose of achieving more equitable representation on the Board for the countries of the lesser developed regions as well as to increase the representation of countries most advanced in the technology of atomic energy.

Seabed Arms Control Treaty

Provided that the parties undertake not to emplant or emplace nuclear weapons or other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a "seabed zone" as defined therein. Ex. H, 92–1st. Resolution of ratification agreed to 2/15/72.

LABOR

Equal Employment Opportunities Enforcement Act

Provided the Equal Employment Opportunity Commission with a court enforcement method for enforcing the rights of workers who have been subjected to unlawful employment practices; expanded the coverage of title VII of the Civil Rights Act of 1964 from those employers and labor organizations having 25 or more employees or members to those having 15 or more one year after the date of enactment and expanded the coverage to include employees of educational institutions and most employees of State and local governments; and contained other provisions. H.R. 1746 (S. 2515). Public Law 92–

Manpower Development and Training Act Amendment of 1972

Deletes the existing provision in the Manpower Development and Training Act of 1962 which prohibits the further disbursement of funds under that act after December 30, 1972 (6 months after the act's expiration date of June 30, 1972), in order to enable MDTA contracts to continue to make commitments extending over the period of a full year in accordance with past practice. S. 3054 P/S 2 15/72. P H amended 3/16/72.

West coast dock strike

Provided a procedure for settlement of the dispute on the Pacific coast and Hawaii among certain shippers and associated employers and certain employees, by providing for the appointment of a board or arbitration to make a determination of all issues in the dispute, which will be final and binding on the parties, subject only to judicial review in the Court of Appeals for the Ninth District; and contained other provisions. S.J. Res. 197. Public Law 92–235.

MEMORIALS AND TRIBUTES

Chapel of the Astronauts

Authorized the Administrator of the National Aeronautics and Space Administration to convey for fair market value to the Chapel of the Astronauts, Inc., a nonprofit Florida corporation not to exceed 7 acres of unimproved land at the John F. Kennedy Space Center, NASA, in Florida, for the purpose of constructing, operating, and maintaining a public facility for worship or meditation and a memorial to our Astronauts. H.R. 11487. Public Law 92–227.

George William Andrews Lock and Dam

Named the Columbia lock and dam, Chattahoochee River, Alabama, in honor of the late Honorable George William Andrews. H.R. 12488. Public Law 92–229.

Girl Scouts of America

Commended the Girl Scouts of the United States, during the week of March 12 through 18, on the occasion of their 60th birthday for a progressive spirit and lasting contribution to the social welfare of this Nation. S. Res. 259. Senate adopted 2/21/72.

John D. Rockefeller, Jr., Memorial Parkway, Wyoming

Authorizes the establishment and designation of the John D. Rockefeller, Jr., Memorial Parkway, to extend from west Thumb in Yellowstone National Park to the south entrance of Grand Teton National Park in Wyoming. S. 3159. P/S 3/24/72.

Law enforcement officers

Requests that on Law Day, May 1, 1972, special emphasis be given in tribute to law enforcement officers. S.J. Res. 169. P/S 2/18/72.

PROCLAMATIONS

National Beta Club Week

Authorized and requested the President to proclaim the week which begins on the first Sunday in March, 1972, as "National Beta Club Week." S.J. Res. 153. Public Law 92–234.

National Day of Prayer for World Peace

Declared it to be the sense of the Congress that the President designate Sunday, February 20, 1972, as a National Day of Prayer for the cause of world peace. H. Con. Res. 524. P/H 2/16/72. P/S 2/16/72.

National Hunting and Fishing Day

Requests the President to declare the fourth Saturday of each September "National Hunting and Fishing Day." S.J. Res. 117. P/S 3/2/72.

National week of concern for prisoners of war/missing in action

Authorized the President to designate the period beginning March 26, 1972, as "National Week of Concern for Prisoners of War/Missing in Action" and to designate March 26, 1972, as a national day of prayer for these Americans. S.J. Res. 189. Public Law 92–248.

RESOURCE BUILDUP

Buffalo National River, Arkansas

Established the Buffalo National River in the State of Arkansas, said area to include not more than 95,730 acres. S. 7. Public Law 92–237.

Fossil Butte National Monument, Wyoming

Establishes the Fossil Butte National Monument in the State of Wyoming to consist of 8,200 acres. S. 141. P/S 3/24/72.

Golden Eagle Passport program

Establishes a uniform Federal fee system to defray some of the expenses incidental to the establishment and operation of Federal recreational facilities, and continues the "Golden Eagle Passport" annual permit for entrance to designated recreational areas. S. 1893. P/S 11/22/71. P/H amended 2/7/72. In conference.

Gulf Island National Seashore, Florida and Mississippi

Amends the existing law which created the Gulf Islands National Seashore by increasing the land acquisition acreage on the Mississippi mainland from 135 to 400 acres and by increasing the amount authorized for land acquisition by $342,000; increases the development ceiling for the seashore by $2,995,000. S. 3153. P/S 3/23/72.

Interstate Environment Compact Act of 1972

Permits the States involved to establish regional waste management organizations with the necessary authority, including capability to incur debt and sell bonds, to implement existing and future water pollution requirements without the lengthy delay often associated with usual compact approval, and contains other provisions. S. 907. P/S 3/1/72.

Longfellow National Historic Site

Establishes the Longfellow National Historic Site in Cambridge, Mass., and authorizes the Secretary of the Interior to acquire by donation the former home, together with furnishings and other property of the popular American poet of the 19th century, Henry Wadsworth Longfellow. S. 3129. P/S 3/22/72.

National Park System

Increased ceilings in appropriation for land acquisition at nine areas in the national park system; increased ceilings on appropriations for development at three areas; and authorized boundary revisions at eleven areas. S. 2601. Public Law 92– .

Oregon Dunes National Recreation Area

Established the Oregon Dunes National Recreation Area of 32,237 acres within and adjacent to the Siuslaw National Forest in Oregon. S. 1977 (H.R. 8763). Public Law 92– .

Sycamore Canyon Wilderness, Arizona

Designated approximately 48,500 acres as the Sycamore Canyon Wilderness within and as a part of the Coconino, Kaibab, and Prescott National Forests, Arizona. S. 960. Public Law 92–241.

Van Buren National Historic Site

Establishes the Van Buren National Historic Site, which includes the former residence, called Lindenwald, of Martin Van Buren, eighth President of the United States, at Kinderhook, N.Y. S. 1426. P/S 3/22/72.

Washakie Wilderness and the Shoshone National Forest, Wyoming

Designates the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, Wyoming. S. 166. P/S 5/3/71. P/H amended 2/7/72. In conference.

Water Pollution Control Act—Extension

Extended authorizations for salaries and related expenses under Section 5(n) of the Federal Water Pollution Control Act in an amount of $9 million for the period November 1, 1971, to June 30, 1972 and for grants for State water pollution control programs under Section 7 in an amount of $15 million for fiscal year 1972. S. 3122. Public Law 92–240.

Westlands Water District

Provides for deferment of construction charges against Westlands Water District for facilities to serve irrigation water to certain lands within the district which are presently in Federal ownership. H.R. 1682. P/H 11/1/71. P/S amended 3/1/72.

TRANSPORTATION AND COMMUNICATIONS

Alaskan Ferry Vessel Operation

Authorized the MV "Wickersham," a ferry vessel of foreign registry owned by the State of Alaska, to be utilized for a limited period of time in the transportation of passengers and their personal effects and private vehicles, and vehicles engaged in the transportation of passengers but not merchandise, between ports in southeastern Alaska and between ports in Alaska and ports in the State of Washington, commencing on the date a binding contract is entered into by the State of Alaska and a United States shipbuilder for the construction of a replacement vessel. H.R. 10834. Public Law 92– .

High-Speed Ground Transportation Act Extension

Removes the ceiling and termination date on authorization for research and development in the field of high speed ground transportation. S. 979. P/S 6/15/71. P/H amended 3/2/72.

International Aeronautical Exposition of 1972

Increased from $3 million to $5 million the funds authorized for appropriation under the fiscal year 1970 Military Construction Authorization Act for the conduct of an international aeronautical exposition to be held at Dulles International Airport from May 27, 1972, through June 4, 1972. S. 3244. Public Law 92–252.

Rates in Foreign Air Transportation

Gave the Civil Aeronautics Board discretionary authority, subject to disapproval by the President, to suspend or reject tariffs in international air transportation to and from the United States; imposed on U.S. and foreign air carriers engaged in foreign air transportation a duty to establish just and reasonable individual and joint rates and practices; maintained the present mechanism for establishing international air transportation rates through the International Air Transport Association, but gave the Board the statutory tools needed to perform its responsibility to protect the traveler, the shipper and air carriers by suspending and rejecting rates which are too high and rates which are destructively low; in essence, gave the Board the same degree of control over rates and practices of foreign air carriers operating into U.S. territory as foreign countries now have over operations of their own carriers and over operations of carriers foreign to those nations. H.R. 11416 (S. 2423), Public Law 92–259.

Uniform Time Act Amendment

Permitted any State which is divided by a time zone boundary to exempt all of the State lying within one time zone from the observance of advanced or "daylight saving time." S. 904 (H.R. 4174). Public Law 92– .

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks Mr. JAVITS made on the introduction of S. 3421 and on the submission of Senate Concurrent Resolution 71 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions and under submission of a concurrent resolution, respectively.)

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Making the Concentrated Employment Program Work in Rural Mississippi", Department of Labor, dated March 15, 1972 (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the Senate of the State of Hawaii; to the Committee on Government Operations:

"RESOLUTION NO. 210

"Congratulating President Richard M. Nixon, the Congress of the United States, and the Commission on Population Growth and the American Future for their concern and work towards a better America.

"Whereas, the subject of population growth is presently a most vital and volatile issue to the people of the United States; and

"Whereas, the Commission on Population Growth and the American Future was proposed by President Nixon and established by Congress in March 1970; and

"Whereas, the first of three final reports was recently released after a detailed, two-year assessment of the impact of population growth on the economy, the environment, government, and the quality of life; and

"Whereas, the twenty-four member Commission chaired by John D. Rockefeller, III, and composed of members of Congress, businessmen, union leaders, foundation and university officials, youth, and minority groups concluded: 'no substantial benefits would result from continued growth of the Nation's population'; and

"Whereas, the report expressly rejected views at the extremes of current public debate over population, challenging both 'bigger-the-better' boosterism on the one hand and 'the emergency-crisis response' on the other; and

"Whereas, the operative word is 'prudence', not 'crisis' nor 'complacency'; and

"Whereas, the Commission's report thereby called on the United States to become the first nation to adopt a deliberate population policy and enable parents now to avoid unwanted childbearing; and

"Whereas, the Commission's main concern in preparing this first report was not the quantity of people in the future but the quality of life; and

"Whereas, it concluded that unless population growth is checked, social freedom will be choked by fees, forms, licenses, lines, regulations, and red tape; and

"Whereas, the resulting society would be so oppressive that 'the population of the year 2020 may look back with envy on what, from their vantage point, appears to be our relatively unfettered way of life'; and

"Whereas, the size of the population as well as the distribution of the population is important in promoting the future welfare of Americans; and

"Whereas, the stabilization of the national population would greatly allay the burdens of metropolitanization; and

"Whereas, the report also expresses that 'the time has come to challenge the tradition that population growth is desirable: what was unintended may turn out to be unwanted, in the society as in the family'; and

"Whereas, the Commission intimated that in the next two reports it would offer recommendations concerning regional and metropolitan government and the idea of purposely establishing alternate growth centers to ease pressures on existing metropolitan areas; now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that this body extend its congratulations and appreciation to Richard M. Nixon, President of the United States, members of the Congress of the United States, John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future, and members of the Commission on Population Growth and the American Future for their unselfish concern and work towards the betterment of America for the people; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, and John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future."

A resolution of the House of Representatives of the State of Hawaii; to the Committee on Finance:

"HOUSE RESOLUTION

"Whereas, the number of persons receiving financial assistance from public welfare in Hawaii has more than tripled in the past ten years, and more than two-thirds of this growth has occurred in the past four years; and

"Whereas, welfare costs in Hawaii have risen even faster, increasing more than five-fold in the past ten years; and

"Whereas, the main immediate reason for the rising caseload and cost is simply that more eligible needy people are applying for assistance from the programs that were intended to help them, yet this includes perhaps only one-third of those who might be eligible; and

"Whereas, local welfare officials acknowledge that no more than one per cent of Hawaii's welfare recipients could be considered cheaters who are not entitled to the benefits they are receiving; and

"Whereas, a large majority of the persons receiving financial assistance are not employable since they are children, mothers of pre-school children, the sick, the blind and disabled, and the elderly; and

"Whereas, many other persons who do work must still resort to welfare to supplement their incomes because of low earnings combined with Hawaii's high cost of living; and

"Whereas, there are not now enough jobs in Hawaii even for those able-bodied persons who want to work; and

"Whereas, a recent study by the Department of Social Services and Housing shows that newcomers to Hawaii who have resided here less than one year receive only about five per cent of the total financial assistance; and

"Whereas, current welfare benefits in Hawaii are among the highest in the nation but still require the average non-working recipient families to live below the federal poverty standard; and

"Whereas, it is desirable that all persons have at least a minimum income that will assure them a decent standard of living above the poverty level; and

"Whereas, because of rising welfare caseloads and costs and declining State revenues, the State of Hawaii would find it difficult to maintain this standard without additional help from the federal government; and

"Whereas, the State of Hawaii is already bearing a relatively greater burden than other States by maintaining higher benefit levels and receiving a smaller share of the cost from the federal government; and

"Whereas, the most desirable way to deal with these immediate fiscal problems is not to cut back welfare benefits to recipients but instead to seek greater fiscal support from the federal government; and

"Whereas, weaknesses in the present welfare system include not only the fiscal burden it imposes on states, but also its inadequate benefit levels, unfair variations from state to state, disintegrating effects on family life,

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disincentives to work, and cumbersome, costly, dehumanizing procedures; and

"Whereas, these problems must be dealt with through meaningful, comprehensive, enlightened, and progressive reform of the welfare system at the national level; and

"Whereas, in addition to dealing with the immediate problems of the welfare system, all levels of government and the community must deal meaningfully with the underlying issues and problems, including the shortage of decent jobs, educational barriers, inflation, housing shortages and costs, and the breakdown of the family social unit; now, therefore,

"Be it resolved by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Congress of the United States be, and hereby is, respectfully requested to enact public welfare reform legislation embracing the concepts of federalization of costs, elimination of unfounded variations from state to state, a guaranteed minimum annual income for all persons, more jobs and work incentives, and simpler administration of benefits; and

"Be it further resolved that the national welfare program, as reformed, shall include the following features:

"(1) Basic Benefits

"(A) A minimum annual income should be guaranteed by the federal government to all needy persons falling within the income limits.

"(B) The minimum income standard should be uniform throughout the nation but adjusted for regional differences in cost of living.

"(C) The standard should be no less than the official poverty level, which should be revised to reflect a more realistic minimum standard of living.

"(D) Under the new program no recipient should be allowed to receive less than his current level of benefits plus the value of food stamp bonus.

"(E) Where necessary, states should be required to supplement the federal standard, but with the federal government assuming any increased cost to the state over 1971 expenditures.

"(F) Eventually, the regionally adjusted minimum income should be funded fully by the federal government, with the states allowed to deal with special and emergency needs and persons not covered by the basic federal program.

"(2) Earnings and Assets

"(A) Over and above the minimum income assured, recipients should be allowed to retain a portion of any earnings sufficient to make it worthwhile to work.

"(B) Recipients should also be allowed to retain a reasonable amount of savings and other liquid assets as well as property such as a home, automobile, personal property, and other property essential to their well being.

"(3) Work

"(A) Any work or training requirement should not apply to mothers or other caretakers if and when they are needed to care for children or other family members. This safeguard should be applied on an individual basis, taking into account such factors as the availability of child care, the child's needs, mother's needs, and other pertinent factors.

"(B) Jobs offered under any mandatory work requirement should be required to pay at least the prevailing wage in the locality for the type of work involved or the federal minimum wage, whichever is higher, and to be suitable to the individual in terms of his qualifications, past experience, interests and proficiencies, personal health, safety factors, and working conditions.

"(C) More federally funded public service career jobs should be created for those who want to work, not only those who may be required to work.

"(4) Procedures

"(A) Procedures for determining and checking eligibility, making payments, and periodic reporting should be no more complex or stringent than those used for federal social security benefits.

"(B) All recipients should be guaranteed due process in any action denying, reducing, or otherwise materially affecting their rights and benefits under the program; and

"Be it further resolved that the Congress of the United States be, and hereby is, respectfully requested to review and reassess the totality of income maintenance programs in relation to other federally sponsored programs which purport to serve the needy; and that those programs which prove to be ineffective or inefficient be curtailed or abolished and be replaced with programs which will benefit the needy, directly and equitably; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional delegation."

"HOUSE RESOLUTION REQUESTING THE CONGRESS OF THE UNITED STATES TO ENACT PUBLIC WELFARE REFORM LEGISLATION INCLUDING A FEDERALIZATION OF THE PRESENT STATE WELFARE SYSTEMS

"Whereas, the number of persons receiving financial assistance from public welfare in Hawaii has more than tripled in the past ten years, and more than two-thirds of this growth has occurred in the past four years; and

"Whereas, welfare costs in Hawaii have risen even faster, increasing more than fivefold in the past ten years; and

"Whereas, the main immediate reason for the rising caseload and cost is simply that more eligible needy people are applying for assistance from the programs that were intended to help them, yet this includes perhaps only one-third of those who might be eligible; and

"Whereas, local welfare officials acknowledge that no more than one per cent of Hawaii's welfare recipients could be considered cheaters who are not entitled to the benefits they are receiving; and

"Whereas, a large majority of the persons receiving financial assistance are not employable since they are children, mothers of pre-school children, the sick, the blind and disabled, and the elderly; and

"Whereas, many other persons who do work must still resort to welfare to supplement their incomes because of low earnings combined with Hawaii's high cost of living; and

"Whereas, there are not now enough jobs in Hawaii even for those able-bodied persons who want to work; and

"Whereas, a recent study by the Department of Social Services and Housing shows that newcomers to Hawaii who have resided here less than one year receive only about five per cent of the total financial assistance; and

"Whereas, current welfare benefits in Hawaii are among the highest in the nation but still require the average non-working recipient families to live below the federal poverty standard; and

"Whereas, it is desirable that all persons have at least a minimum income that will assure them a decent standard of living above the poverty level; and

"Whereas, because of rising welfare caseloads and costs and declining State revenues, the State of Hawaii would find it difficult to maintain this standard without additional help from the federal government; and

"Whereas, the State of Hawaii is already bearing a relatively greater burden than other States by maintaining higher benefit levels and receiving a smaller share of the cost from the federal government; and

"Whereas, the most desirable way to deal with these immediate fiscal problems is not to cut back welfare benefits to recipients but instead to seek greater fiscal support from the federal government; and

"Whereas, weaknesses in the present welfare system include not only the fiscal burden it imposes on states but also its inadequate benefit levels, unfair variations from state to state, disintegrating effects on family life, disincentives to work, and cumbersome, costly, dehumanizing procedures; and

"Whereas, these problems must be dealt with through meaningful, comprehensive, enlightened, and progressive reform of the welfare system at the national level; and

"Whereas, in addition to dealing with the immediate problems of the welfare system, all levels of government and the community must deal meaningfully with the underlying issues and problems, including the shortage of decent jobs, educational barriers, inflation, housing shortages and costs, and the breakdown of the family social unit; now, therefore,

"Be it resolved by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Congress of the United States be, and hereby is, respectfully requested to enact public welfare reform legislation embracing the concepts of federalization of costs, elimination of unfounded variations from state to state, a guaranteed minimum annual income for all persons, more jobs and work incentives, and simpler administration of benefits; and

"Be it further resolved that the national welfare program, as reformed, shall include the following features:

"(1) Basic Benefits

"(A) A minimum annual income should be guaranteed by the federal government to all needy persons falling within the income limits.

"(B) The minimum income standard should be uniform throughout the nation but adjusted for regional differences in cost of living.

"(C) The standard should be no less than the official poverty level, which should be revised to reflect a more realistic minimum standard of living.

"(D) Under the new program no recipient should be allowed to receive less than his current level of benefits plus the value of food stamp bonus.

"(E) Where necessary, states should be required to supplement the federal standard, but with the federal government assuming any increased cost to the state over 1971 expenditures.

"(F) Eventually, the regionally adjusted minimum income should be funded fully by the Federal government, with the states allowed to deal with special and emergency needs and persons not covered by the basic federal program.

"(2) Earnings and Assets

"(A) Over and above the minimum income assured, recipients should be allowed to retain a portion of any earnings sufficient to make it worthwhile to work.

"(B) Recipients should also be allowed to retain a reasonable amount of savings and other liquid assets as well as property such as a home, automobile, personal property and other property essential to their well being.

"(3) Work

"(A) Any work or training requirement should not apply to mothers or other caretakers if and when they are needed to care for children or other family members. This safeguard should be applied on an individual basis, taking into account such factors as the availability of child care, the child's needs, mother's needs, and other pertinent factors.

"(B) Jobs offered under any mandatory work requirement should be required to pay

at least the prevailing wage in the locality for the type of work involved or the federal minimum wage, whichever is higher, and to be suitable to the individual in terms of his qualifications, past experience, interests and proficiencies, personal health, safety factors, and working conditions.

"(C) More federally funded public service career jobs should be created for those who want to work, not only those who may be required to work.

"(4) Procedures

"(A) Procedures for determining and checking eligibility, making payments, and periodic reporting should be no more complex or stringent than those used for federal social security benefits.

"(B) All recipients should be guaranteed due process in any action denying, reducing, or otherwise materially affecting their rights and benefits under the program; and

"Be it further resolved that the Congress of the United States be, and hereby is, respectfully requested to review and reassess the totality of income maintenance programs in relation to other federally sponsored programs which purport to serve the needy; and that those programs which prove to be ineffective or inefficient be curtailed or abolished and be replaced with programs which will benefit the needy, directly and equitably; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional delegation."

A letter, in the nature of a petition, from Mr. Victor H. Ashe, House of Representatives, State of Tennessee, praying for the enactment of legislation to lower the age of majority from 21 to 18 insofar as it affects Federal statutes; ordered to lie on the table.

A letter, in the nature of a petition, from Bernard Botein, President of the Association of the Bar, New York, New York, relating to the appointment of a National Commission to help assure for the future the more effective enforcement and observance of the laws of war; to the Committee on Armed Services.

By Mr. FONG:

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"CONCUARENT RESOLUTION

"Ratifying a proposed amendment to the Constitution of the United States providing for equal rights under the law without discrimination on account of sex

"Whereas, the Congress of the United States has proposed an amendment to the Constitution of the United States to prohibit the denial or abridgment of equal rights under the law on account of sex; and

"Whereas, the transformation of our legal system to one which establishes equal rights for men and women under the law is long overdue; and

"Whereas, what was begun in the Nineteenth Amendment to the United States Constitution, extending to women the right of franchise, should now be completed by guaranteeing equal treatment to women in all areas of legal rights and responsibilities; and

"Whereas, the proposed Equal Rights Amendment provides for the establishment of complete legal equality so that before the law women and men will be treated without discrimination and individuals will be accorded the dignity and respect to which they are entitled politically and morally; and

"Whereas, House Joint Resolution 208, approved by the Ninety-Second Congress, Second Session, reads as follows:

"HOUSE JOINT RESOLUTION 208—JOINT RESOLUTION

"Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

"ARTICLE

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"Section 3. This amendment shall take effect two years after the date of ratification."; now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, the House of Representatives concurring, that the Article proposed as an amendment to the Constitution of the United States as set forth in the United States House Joint Resolution 208, dated March 22, 1972, be hereby ratified by the Legislature of the State of Hawaii; and

"Be it further resolved that a certified copy of this Concurrent Resolution be transmitted to the Administrator, United States General Services Administration, and that certified copies of this Concurrent Resolution also be transmitted to the President of the United States Senate and to the Speaker of the United States House of Representatives and to the members of Hawaii's delegation to the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. 3343. A bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans (Rept. No. 92-720).

By Mr. BROCK, from the Committee on Government Operations, with amendments:

S. 1819. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide for minimum Federal payments after July 1, 1972, for relocation assistance made available under federally assisted programs (Rept. No. 92-721).

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce, with an amendment:

S. 2684. A bill to amend section 509 of the Merchant Marine Act, 1936, as amended (Rept. No. 92-722).

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce, with amendments:

H.R. 8140. An act to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States (Rept. No. 92-724).

By Mr. MANSFIELD (for Mr. ANDERSON), from the Committee on Interior and Insular Affairs, with an amendment:

S. 50. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, New Mexico, and for other purposes (Rept. No. 92-723).

ORDER FOR ADDITIONAL REFERRAL OF BILL

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), I ask unanimous consent that, after consideration by the Committee on the Judiciary of the bill (S. 3316) to consent to the Arkansas Basin Compact, Arkansas-Oklahoma, the bill may be referred to the Committee on Public Works for further consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself, Mr. BOGGS, Mr. BROOKE, Mr. HATFIELD, and Mr. SCHWEIKER):

S. 3421. A bill to provide for a phased assumption by State and local governments in combination with other local institutions of the responsibility of planning and conducting programs providing manpower training and employment opportunities and related services to economically disadvantaged, unemployed, and underemployed individuals with emphasis upon persons most in need, to increase the availability of such opportunities, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 3422. A bill for the relief of Sukhdev Singh Guram. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 3423. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen. Referred to the Committee on Commerce.

By Mr. HARTKE (for himself and Mr. THURMOND) (by request):

S. 3424. A bill to amend title 38, United States Code, in order to authorize an agreement with the Republic of the Philippines providing for hospital care and medical services to be furnished Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities, and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. MONTOYA:

S. 3425. A bill for the relief of Murray A. Getz. Referred to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 3426. A bill to establish the El Malpais National Monument, in the State of New Mexico, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. NELSON:

S. 3427. A bill to amend the River and Harbor Act of 1968 in order to preclude consideration of a certain portion of the St. Croix River in a survey to determine the advisability of a waterway between Lake Superior and the Mississippi River. Referred to the Committee on Public Works.

By Mr. MANSFIELD (for Mr. JACKSON) (for himself and Mr. ALLOTT) (by request):

S. 3428. A bill to designate certain areas in the United States as wilderness areas; and

S. 3429. A bill to designate certain areas in the United States as wilderness areas. Re-

ferred to the Committee on Interior and Insular Affairs.

By Mr. MANSFIELD (for Mr. JACKSON) (for himself, Mr. ALLOTT, Mr. MOSS, and Mr. FANNIN) (by request):

S. 3430. A bill to designate certain areas in the United States as wilderness areas. Referred to the Committee on Interior and Insular Affairs.

By Mr. PELL:

S. 3431. A bill to amend the Federal Employees' Compensation Act so as to permit injured employees entitled to receive medical services under such Act to utilize the services of podiatrists. Referred to the Committee on Post Office and Civil Service.

By Mr. COTTON (by request):

S.J. Res. 219. A joint resolution to establish a national policy relating to conversion to the metric system in the United States. Referred to the Committee on Commerce.

By Mr. PELL (for himself, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. MONDALE, Mr. EAGLETON, and Mr. CRANSTON):

S.J. Res. 220. A joint resolution making additional appropriations for the Office of Education for the fiscal year ending June 30, 1972. Referred to the Committee on Appropriations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. BOGGS, Mr. BROOKE, Mr. HATFIELD, and Mr. SCHWEIKER):

S. 3421. A bill to provide for a phased assumption by State and local governments in combination with other local institutions of the responsibility of planning and conducting programs providing manpower training and employment opportunities and related services to economically disadvantaged, unemployed, and underemployed individuals with emphasis upon persons most in need, to increase the availability of such opportunities, and for other purposes. Referred to the Commitee on Labor and Public Welfare.

THE COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972

Mr. JAVITS. Mr. President, I introduce the Community Manpower Training and Employment Act of 1972, a bill designed to establish a community-based program of manpower training and jobs for economically disadvantaged, unemployed and underemployed persons. I am joined by the following cosponsors: Senators BOGGS, BROOKE, HATFIELD, and SCHWEIKER.

The bill—which consists of two titles—would authorize $10.6 billion for training and employment programs over a 4-year period, beginning in fiscal 1973; for the current fiscal year 1972, Federal expenditures total approximately $1.6 billion under existing authority. The administration proposes the expenditure of $2.0 billion in fiscal 1973.

THE NEED FOR REFORM

Mr. President, there is no area in the field of human resources where the gap between promise and performance is more keenly felt by the poor than that of manpower training programs.

A decade of experience under the Manpower Development and Training Act of 1962 and title I of the Economic Opportunity Act of 1964 and related authorities has taught us the importance of a Federal commitment to assist individual efforts toward self-support, but in their present form the programs increasingly have failed to meet their original objectives.

As funds have increased—from $100 million in fiscal 1962 to more than $1.6 billion in the current fiscal year, administration of programs directly from the Federal level has become an increasingly ineffective manner of doing business.

Moreover, programs conducted under these authorities—so-called remedial manpower programs—have been carried out too much in isolation on the one hand, from related vocational activities in the schools and, on the other, from poverty and other community-based organizations which represent the greater portion of persons to be served.

They have failed to provide sufficient resources and direction to zero in upon—and in fact have often excluded—those most in need of assistance, such as criminal offenders, ex-addicts and particularly disadvantaged persons.

And, by too frequently concentrating upon training for its own sake, they have often failed to attain their most relevant objectives—to get the participant into a meaningful and satisfying job.

These shortcomings—in contrast to the tenets of the free enterprise system and the call for "workfare" in connection with welfare reform—have become a source of despair and frustration to the poor, who want to provide for themselves even more than society—hit by rising welfare costs—urges or would require them to do.

It is not surprising that for a large segment of the economically disadvantaged, manpower training is viewed as an empty promise thrown out by the "establishment" to keep people off the streets or forever out of the mainstream of the economy.

Mr. President, the manpower system clearly demands reform—as much as the welfare reform to which it so closely relates.

President Nixon called for manpower reform as early as August 1969.

The Congress sought to achieve it—through enactment in 1970 of S. 3867, the Employment and Manpower Act of 1970.

But, the failure of the administration and the Congress to reach agreement on its terms and the resulting Presidential veto of that act in December 1970 have left this crucial matter of business unfinished.

THE ELEMENTS OF REFORM—AN ALTERNATIVE TO MANPOWER REVENUE SHARING

The President's remedy for the shortcomings of the current system is: S. 1243, the Manpower Revenue Sharing Act of 1971.

It proposes, in short, to eliminate the existing "categorical" programs and to distribute each year beginning in fiscal 1973, all but 15 percent of approximately $2 billion in flexible funds directly to the States and units of general local government for use as they see fit, generally without Federal review or approval.

Mr. President, the day that programs can be said to be more effectively run directly from Washington has long passed, but the solution to our problems does not automatically call for throwing them almost completely and immediately at the States and the cities—which are only just now developing their capacity in this area.

Mr. President, this bill—which is designed as an alternative to the administration's proposal—has as its sole objective the reform of the existing manpower training system. It is not intended to meet the need for public service employment—although such employment is an element which may be funded by States and other governmental prime sponsors as they assume manpower training responsibility. I consider the question of the amount of additional public service employment funds to be run through that system to be a separate one, properly considered in an economic context, and I expect to introduce in the near future my own separate proposal to that end.

I shall now indicate how the bill would meet each of the four deficiencies with the existing programs and manpower delivery system which I previously noted.

First, the bill would decentralize and decategorize existing programs, now conducted directly by the Federal Government, but on a phased basis—not all at once as the administration has proposed.

Under title I, State and local governmental and other prime sponsors would be given flexible funds for the conduct of a wide range of training and related employment programs.

In general, cities with a population of 75,000 or more, counties of 100,000 or more, and combinations thereof would be eligible to serve as prime sponsors under title I, with States responsible for other areas and for insuring coordination and the effective use of resources over the entire State; under these provisions approximately 700 sponsors would deal directly with the Secretary, as in the case of the Emergency Employment Act. The Secretary would review local plans, or program statements, but principally from the standpoint of national criteria relating to priorities, objectives and procedures, as opposed to programmatic content.

Title II authorizes the Secretary to continue to fund existing "categorical" programs of special importance—for example Job Corps, Neighborhood Youth Corps, and opportunities industrialization centers, and to provide support, technical assistance, and job matching services.

Of the basic amounts authorized—$2.5 billion for fiscal year 1974, $3 billion for fiscal year 1975, and $3.5 billion for fiscal year 1976—the amounts allocated to title I would increase from 65 percent in the first year to 85 percent in the third year, with the remainder applied to title II.

The substantial amount of new funds each year should act as a real incentive for improvements in performance at the local level: assuming full appropriation of the amounts authorized, the funds for title I would increase from $1.6 billion in fiscal year 1974 to $2.9 billion in fiscal year 1976, while the Secretary's account would decrease from $900 million in fiscal year 1974 to $500 million in fiscal year 1976.

The Secretary, in allocating among State and local sponsors the amount

added to local programs under title I in each subsequent year, is directed to take into account past performance, in accordance with objective criteria established in consultation with an independent interdisciplinary committee, as well as such factors as the number of unemployed persons in the area.

The Secretary would fund programs under title II directly to public and nonprofit private agencies and organizations, or if he wishes, through prime sponsors designated under title I; in so doing the Secretary would be governed by criteria relating to particular categorical programs and to the specific purposes of the act, as well as to allocation provisions to assure equitable coverages of States and other areas.

Mr. President, in vetoing the Employment and Manpower Act, the President stated that the bill's continued categorization of programs would "hamstring efforts of communities to adjust to changes in their local needs." Although this bill proposes a different timetable for decategorization and would identify the programs specifically in the legislation, I do not believe that it should be subject to that criticism. What is contemplated is a transitional period in which the Secretary, through his use of title II funds, will act as a catalyst weaving past efforts of demonstrated effeciveness and relevancy into the local fabric. As the Secretary's funds to do so decrease over the 3-year period, sponsors of categorical programs, having established a role in the new system, may look more securely to State and local prime sponsors for funding.

Second, it would provide for the involvement of educational, community action and similar agencies by insuring their eligibility for direct assistance under each title, their review and comment on the program statement, and their participation on Employment Councils, which each prime sponsor must establish; under the administration's bill they would not be given such a direct role.

Mr. President, the doctrine underlying revenue sharing—that those on the local level are in the best position to determine what is in their interest—must be applied beyond traditional units of government to various other institutions of the community which share interest in the objective of making it possible for more persons to obtain meaningful employment.

The bill contains unique provisions under which special funds are set aside on the one hand, divided equally between governmental prime sponsors and community action and similar anti-poverty agencies and, on the other, between governmental prime sponsors and educational agencies, for cooperative programs on the local level, in each instance these funds would be available only if the governmental prime sponsor and the other agency reach agreement on cooperative programs otherwise they would be redirected to other governmental prime sponsors and agencies who are able to agree upon such programs.

In respect to the schools, this is particularly important in light of the fact that about 40 percent of young people in poverty drop out of junior or senior high school without earning a diploma.

Third, it would give clear priority to economically disadvantaged persons with specific reservations of funds for migrants, Indians, older persons and other persons with particular needs, provisions for poor youth including the establishment of a summer youth employment fund and a new program and provisions to meet the employment and training needs of heroin addicts and other drug-abusing persons.

Mr. President, at the current time, manpower programs cover approximately 1 million of the more than 12 million persons which the Department of Labor estimates could benefit therefrom.

Therefore, although we must fight for more funds, hard decisions must sometimes be made with respect to the allocation of existing resources.

The economically disadvantaged—those persons who live below the poverty level of approximately $4,000 for a family of four—must receive special attention not only because they are the major recipients under existing authority, but because of the welfare problem. In the category of families on welfare alone, the Department estimates that there are approximately 2 million persons who would be subject to the work requirements under H.R. 1, the proposed Family Assistance Act, who will be difficult to place without further training or employment opportunities. In comparison, the President's Family Assistance Act, in its present form in H.R. 1, will provide only 200,000 employment and 412,000 training opportunities per year, against these overwhelming needs.

We should give special attention to the needs of poor youth—who constantly experience unemployment levels of four to seven times the national norm, and whose lack of opportunity is aggravated particularly in the summer months, according to the most recent statistics, unemployment in poverty levels is at 25.7 percent, with a rate of 34.7 percent among black teenagers.

The bill provides continued authority for the Job Corps, insures that youth, like their campus counterparts, have a voice on advisory councils, establishes a special youth employment assistance fund for the summer months and authorizes special model youth programs on a neighborhood basis.

Without this emphasis I am concerned that the priority given to youth, who constitute approximately 73 percent of those now served under existing authority, will be lost; preliminary results from the Emergency Employment Act show that where States and cities hired without such priority, youth constituted less than 14 percent of persons covered by the act.

Mr. President, no facts are more startling in combination than that there are as many as 560,000 drug addicts in the Nation—half of which are in New York City—and that expenditures of the Department of Labor in fiscal year 1972 for manpower training programs for such persons is at $728,356—less than one-twentieth of 1 percent of the Department of Labor's manpower budget; there is much we do not know, but clearly much more must be done.

The bill would establish a special national emphasis program of employment and training for heroin addicts and other drug-abusing persons, require State and local prime sponsors to coordinate their activities with programs providing methadone maintenance and other treatment, and insure that such persons are not "screened out" of existing programs.

Any comprehensive program should give attention also to the employment needs of criminal offenders. During this fiscal year, Department of Labor manpower programs will reach only 4,000 defendants, approximately three-tenths of 1 percent of the total of one and a quarter million individuals who are under the jurisdiction of the criminal justice system at any one time. With respect to correctional institutions, the Department of Labor programs will reach 6,000 inmates nationwide while 400,000 persons—60 times that number—are not incarcerated in correctional institutions in the Nation.

S. 2962, the Correctional Manpower Training Act, which I introduced on December 7, 1971, with 18 cosponsors, as an amendment to the Manpower Development and Training Act, would establish a special program for that group; I hope that this subject will be considered by the Subcommittee on Employment, Manpower, and Poverty as a part of manpower reform.

Fourth, it contains new provisions to insure that training leads to jobs and that public service employment opportunities, which sponsors may fund under the act, lead transitionally to nonsubsidized job opportunities, as well as provisions to encourage the greater involvement of the private sector.

Mr. President, there is a growing disenchantment with training programs as such and an increasing desire for the allocation of available resources to public service jobs.

This is understandable in light of the fact that training too often has failed to lead to a job.

But this does not mean that we should drop training and pour all of our resources immediately into public service employment.

The use of training programs will still represent a sound allocation of resources since so many jobs continue to go unfilled, for example, in January 1972 there were 87,000 jobs available in manufacturing firms. We must, however, link training to the jobs that are or will become available.

The bill I introduce today authorizes training programs only where the Secretary determines that there is a reasonable likelihood that they will lead to employment.

And it provides 100 percent Federal matching, in contrast to the 90 percent which would apply usually under the bill, in cases where prior to training arrangements are made for a job upon the completion of training.

Mr. President, just as we need training to match unemployed or underemployed people with available jobs, we need to create additional jobs since even at so-

called acceptable unemployment—in the 4-percent range—there are approximately 3 million persons who are unemployed.

We therefore need—and I support—an enlarged public service employment program; this proposal, like the administration's would permit State and local prime sponsors to use their allocated funds on a flexible basis for such programs, which would be permanent in the sense that they would be operative irrespective of the unemployment rate.

Mr. President, training for its own sake is clearly poor policy, but so, in my view will be job creation for its own sake.

We need a carefully honed policy of job creation in the public sector which focuses on individual needs, with attention to those most in need. And we need a program which supplements training in some instances and complements it in others and which proceeds in cooperation with rather than in isolation from the regular public and private sectors.

The bill I introduce extends priority to the economically disadvantaged for participation in public service employment programs.

And importantly, it is designed to view public service employment, although permanent as a program, as transitional as to the individual—that is to lead wherever possible to nonsubsidized job opportunities in the public or private sector.

This does not mean that mobility shall be the rigid rule, but that it, rather than permanency, shall be our starting point, assumption, and goal.

The bill directs the Secretary to establish procedures for review of other opportunities on a regular basis, and grants full Federal payment to the cost of programs in which prior arrangements have been made for nonsupported employment in the public or private sector, thus providing an incentive for the public sector to review and upgrade participants for regular public opportunities and to seek arrangements with the private sector for other participants.

I reject as arbitrary and unrealistic the administration's proposal, which would place a 2-year limit on an individual's participation in a public service job program.

Mr. President, it is important to emphasize the continued need for involvement of the private sector in meeting the manpower training and employment needs of the disadvantaged. Despite great past contributions—for example the provision of more than 700,000 jobs over the past 5 years by the National Alliance of Businessmen under the JOBS program—there is danger, with all the talk of public sector employment, that the private sector will not contribute to its full capacity.

The bill authorizes private sector programs on the local level and contains a new authority for a 2-year demonstration program to test the use of certificates or vouchers in the provision of training and manpower services. This proposal, which is described more fully in materials which I shall place in the RECORD, would apply in the manpower field the approach which has been a success on a trial basis in the housing field, upon the urging of Senator BROOKE, a cosponsor of this bill.

Of course, we must learn also from the experience with tax credits under the recent amendments to the Social Security Act, and improve those provisions if necessary.

Unfortunately, attention on H.R. 1, the Family Assistance Act, has elevated the promise of "workfair" far above our ability to deliver the resources which individuals require to cut their own road out of poverty and unemployment. Most Americans want to work; indeed statistics provided by the Department of Health, Education and Welfare to the Senate Committee on Finance show that 70 percent of family heads on welfare work to some extent, but in jobs that are inadequate to provide for their families.

We should not assume that the poor do not want to work—because they do—merely because we as a Nation have failed to provide the opportunity for training and related employment.

There will soon be a Senate-House Conference to deal with the interim extension of the Manpower Development and Training Act; the House has voted to extend the Act for one year, through June 30, 1973, while the Senate has voted to extend only the contract authority to permit funding of programs lasting for as much as a year beyond this June 30 if entered into before that date. An extension of the authority under title I of the Economic Opportunity Act, proposed by Senator NELSON and myself in S. 3010, is now before the Senate Committee on Labor and Public Welfare. If the Conference does not deal adequately with the problem of extension of the Manpower Development and Training Act then I shall add the one-year extension of the MDTA authority, which this bill contains, to the extension of the Economic Opportunity Act.

Mr. President, with these basic elements in mind, I hope that we will move quickly to establish a new direction in training and related employment programs for the 1970's.

Mr. President I ask unanimous consent that in addition to the bill itself, the following documents be printed at this point in the RECORD: a section-by-section analysis of the bill; which includes a summary of funds authorized thereunder; a comparison of the bill with S. 1243, the Manpower Revenue Sharing Act and S. 3867, and with the vetoed Employment and Training Act of 1970; a copy of my remarks in introducing S. 2962, the Comprehensive Correctional Employment and Training Act; a letter dated February 1, 1972, from Assistant Secretary of Labor, Malcolm Lovell, Jr., regarding the programs for drug addicts an article from the New York Times, dated December 14, 1971, describing a program conducted by VERA Institute of New York in providing employment opportunities to drug addicts and an excellent article by Sar Levitan, Center for Manpower Studies, the George Washington University entitled "Manpower Programs for a Healthier Economy."

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Community Manpower Training and Employment Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) millions of economically disadvantaged persons, including youth, continue to suffer from lack of opportunity for employment and training, resulting in hardship to such individuals and in increased welfare dependency;

(2) there are many millions of other persons who are unemployed or are employed below their capacity who, with appropriate employment and training opportunities, could make a greater contribution to the national economy and share more fully in its benefits;

(3) at the same time, the prosperity, economic stability, and productive capacity of the United States are limited by a shortage of workers to perform many tasks in the private sector, and substential needs in the public sector, in fields suc : as environmental quality, health care, education, public safety, and other areas, which remain unfulfilled;

(4) It is within the capability of the United States to attain the objective of the Employment Act of 1946 "to provide maximum employment, production and purchasing power" by assuring to every American seeking work a full opportunity, within the framework of a free society to prepare for and obtain employment at the highest level of productivity, responsibility, and remuneration within the limits of his or her abilities;

(5) experience under programs conducted under title I of the Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962 and related programs have demonstrated the importance of the application of substantial Federal resources to attain the objectives of maximum employment;

(6) at the same time, experience under such programs has identified the need to increase the responsibilities of State and local governments and other local institutions in the conduct of such programs, to give greater attention to the employment-related objectives of such programs and to apply more substantial resources for such programs, with particular emphasis upon persons most in need.

(b) It is therefore the purpose of this Act to establish an increasingly flexible and decentralized system for the provision of employment and training opportunities, by providing Federal funds for such purposes on an increasing basis to State and local governments in combination with other local institutions, to increase the availability of such opportunities, with emphasis upon persons most in need, and to insure that training and other programs lead to employment.

AUTHORIZED APPROPRIATIONS

SEC. 3. (a) For the purpose of carrying out this Act, there are authorized to be appropriated $2,500,000,000 for the fiscal year ending June 30, 1974, $3,000,000,000 for the fiscal year ending June 30, 1975, and $3,500,000,000 for the fiscal year ending June 30, 1976.

(b) For the purpose of providing training, technical assistance, planning and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this Act and for the purpose of programs authorized pursuant to paragraphs (6) and (7) of section 202 and section 205 and section 206 of this Act, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973.

(c) The amounts appropriated under subparagraph (a) to carry out this Act for any fiscal year shall be allocated among the titles of this Act in such a manner that of the amounts appropriated—

(1) there shall be allocated for Community Training and Employment programs pursuant to title I of this Act an amount equal to 65 per centum of the amounts appropriated for the fiscal year ending June 30, 1974, 75 per centum of the amounts appropriated for the fiscal year ending June 30, 1975, and 85 per centum of the amounts appropriated for the fiscal year ending June 30, 1976; and

(2) the remainder in each fiscal year shall be allocated for Special Federal Responsibilities under title II of this Act.

(e) In order to make funds available to complete any grant or contract entered into prior to the effective date of this Act under the Manpower Development and Training Act of 1962, or title I of the Economic Opportunity Act of 1964, the Secretary may transfer sums newly authorized under this Act for that purpose.

(f) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, funds appropriated to carry out this Act which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropoprtion action, the provisions of subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

DEFINITIONS

SEC. 5. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "Local service company" means a community development corporation or other corporation, partnership, or other business entity organized to operate an employment or training program or compenent thereof and owned or operated in substantial part by economically disadvantaged, unemployed or underemployed, residents of the area to be served.

(4) "Health care" includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and other services.

(5) "City" means an incorporated municipality having general governmental powers.

(6) "Wagner-Peyser Act" means "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113), as amended.

(7) "Public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, anti-poverty work in local public and private nonprofit organizations, crime prevention and control, prison rehabilitation, transportation, recreation, housing and neighborhood improvements, rural development, and other fields of human betterment and community improvement.

(8) "Unemployed persons" means—

(A) persons who are without jobs and who want and are available for work and

(B) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or food stamps or surplus commodities under the Agriculture Act of 1949 or the Food Stamp Act of 1964 (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed;

(9) "Underemployed persons" means—

(A) persons who are working part time but seeking full-time work;

(B) persons who are working full time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget;

(10) "Economically disadvantaged person" means a person whose annual income is less than the "poverty level" as defined by the Director of the Office of Economic Opportunity.

(11) "minority group" includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers, may need special assistance, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

(12) "bilingual" means, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned to speak the language of the minority group of which they are members and who, as a result of language barriers, may need special assistance;

(13) "unit of general local government" shall mean any public agency having general governmental powers substantially similar to those of a city.

TITLE I—COMMUNITY TRAINING AND EMPLOYMENT PROGRAMS

DESCRIPTION OF PROGRAMS

SEC. 101. The comprehensive programs for which funds may be provided under this title shall include provision of employment and training opportunities and related services needed to enable economically disadvantaged, unemployed and underemployed individuals to secure and retain employment consistent with their full potential. Such services may include, but are not limited to:

(1) Programs to make persons aware of the availability of employment and training and related services and to encourage the full utilization of such services.

(2) Assessment of the individual and his potential and interests and referral to appropriate employment, training, and related services.

(3) Orientation, counseling, education and institutional training to prepare the individual to enter the labor market or to qualify for more productive job opportunities.

(4) Public service employment in jobs providing needed public services and related training and services.

(5) Programs to encourage and to provide incentives to private employers, nonprofit organizations and public employers to train or employ economically disadvantaged, unemployed or underemployed persons, including arrangements by direct contract, for reimbursement to employers for the costs of recruiting and training such employees to the extent that such costs exceed those customarily incurred by such employer in recruiting and training new hires, payment for on-the-job counseling and other supportive services, transportation, and payments for other extra costs including supervisory training required by the program.

(6) Programs to provide full- and part-time employment for economically disadvantaged, unemployed, or underemployed persons who are in the ninth through twelfth grades of school or who are not attending school but are of equivalent ages, including but not limited to summer on-the-job training, employment, and work experience programs in youth training centers, special job development programs in public and private agencies, and related supportive services.

(7) Special programs for jobs in public and private agencies leading to career opportunities in the public service which provide maximum prospects for advancement and continued employment without Federal assistance, which give promise of contributing to the broader adoption of new methods of structuring jobs and new methods of providing job ladder opportunities, and which provide opportunities for further occupational training to facilitate career advancement.

(8) The development of job opportunities through the establishment and operation of skill training and other centers for economically disadvantaged, unemployed or underemployed persons, providing recruitment, counseling, remediation, vocational training, job development, job placement, and other appropriate services.

(9) Special programs which involve work activities directed to the needs of those chronically unemployed economically disadvantaged persons who have poor employment prospects and are unable (because of age, physical condition, obsolete or inadequate skills, declining economic conditions, criminal records, former drug-addiction, alcoholism, other causes of a lack of employment opportunity, or otherwise) to secure appropriate employment or training assistance under other programs. Such projects, in addition to other services provided, shall enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including but not limited to activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands; the rehabilitation of housings; the improvement of public facilities; and the improvement and expansion of health care, education, child care, and recreational services.

(10) Payment of allowances for training, and for transportation, subsistence, or other expenses incurred while participating in employment or training programs, where such allowances are necessary to enable the individual to participate therein.

(11) Supportive services to enable individuals to take advantage of employment and training opportunities, including basic education, necessary health and medical services, child care, residential support, assistance in securing bonds, or any other necessary assistance incident to employment,

and any other service needed to participate in employment and training programs.

(12) Special job development programs with public or private employers, including employment centers and mobile employment service units to provide recruitment, counseling, and placement services, conveniently located in urban and rural areas and particularly accessible to economically disadvantaged persons.

(13) Development of information concerning the labor market and activities, such as job restructuring, to make such activities more responsive to objectives of employment and training programs.

(14) Such other activities as the Secretary may deem consistent with the purposes of this Act.

ELIGIBLE APPLICANTS

SEC. 102. (a) The Secretary is authorized to enter into arrangements with any eligible applicant in accordance with the provisions of this title in order to make financial assistance available for the purpose of carrying out comprehensive employment and training programs and related services where the Secretary determines that such programs and related services can be most effectively implemented by such applicant.

(b) For the purpose of entering into arrangements with the Secretary under this title, eligible applicants shall be—

(1) prime sponsors designated pursuant to plans approved by the Secretary under section 103; and (2) other public and private agencies, institutions, and organizations, including community action agencies and local service companies.

PRIME SPONSORS

SEC. 103. (a) For the purposes of this title—

(1) any State; and

(2) any unit of general local government—

(A) which is a city which has a population of seventy-five thousand or more persons on the basis of the most satisfactory current data available to the Secretary; or

(B) which is a county or other unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary and which is determined by the Secretary, in accordance with such regulations as he shall prescribe, to have general governmental powers substantially similar to those of a city and to serve a substantial part of a functional labor market area; or

(C) which does not meet the population criteria in clause (A) or (B) and which has the largest population of a unit of general local government in the State otherwise meeting the requirements of clause (A) or (B); and

(3) any combination of such units of general local government having a total population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary, and which is determined by the Secretary, in accordance with such regulations as he shall prescribe, to serve a substantial part of a functional labor market area and to have at least one such unit having general governmental power substantially similar to those of a city; and

(4) any unit or combination of units of general local government, without regard to population, in rural areas designated by the Secretary which have substantial outmigration and high unemployment;

shall be eligible to be a prime sponsor of a comprehensive community employment and training program in accordance with the provisions of this section.

(b) Any State or unit (or combination of units) of general local government which is eligible to be a prime sponsor under subsection (a) and which desires to be so designated in order to enter into arrangements with the Secretary under this title shall submit to the Secretary a prime sponsorship plan describing the area to be served and including provisions which evidence capability for carrying out effectively a program statement in accordance with section 104 of this title and provisions for the establishment of a community employment council which—

(1) provide that the chief executive officer or officers of the unit or units of government establishing such council shall appoint the members of the council and shall designate one member to be chairman;

(2) provide that the council shall include members who are representative of community action programs; other significant segments of the community to be served; the public employment service; education and training agencies and institutions, including vocational educational agencies and community postsecondary educational and training institutions; social service programs, including child care, environmental quality, health care, recreation, vocational rehabilitation, and welfare agencies; industrial development organizations, apprenticeship programs; business; labor; and civil rights and veterans organizations including economically disadvantaged persons to be served including economically disadvantaged youth.

(3) provide that the chairman of the council shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) set forth procedures under which program statements for any fiscal year will be submitted by the prime sponsor which shall be responsible for planning for and carrying out services for which financial assistance is provided under this title and under which appropriate arrangements may be made for the council's participation in planning and development, including initial preparation of such program statements;

(5) set forth the prime sponsor's plans (adopted after full consultation with the council) for conducting on a continuing basis surveys and analyses of need for employment training and related services in the area served by the prime sponsor to be used in the development of program statements under this title;

(6) set forth arrangements assuring that community action agencies, other community-based organizations, and educational institutions will be involved in the development of program statements and in the implementation of programs assisted under this title; and

(7) set forth the council's plans for evaluating the effectiveness of programs for which financial assistance is provided under this title.

(c) In any case in which a State has submitted a plan under this section to serve a geographical area under the jurisdiction of a unit (or combination of units) of general local government which is eligible under paragraph (2), (3), or (4) of subsection (a) and which has submitted a plan meeting the requirements set forth in subsection (b), the Secretary shall approve the latter plan after carrying out the procedures set forth in subsection (d). When two or more units (or combination of units) of general local government each submit plans which include a common geographical area under their respective jurisdictions and which are consistent with the purposes of this title and meet the requirements set forth in subsection (b), the Secretary, in accordance with such regulations as he shall prescribe, shall approve for that geographical area the plan of that unit of general local government which he determines will most effectively carry out the purposes of this title.

(d) The Secretary shall not approve a prime sponsorship plan submitted under this section unless—

(1) the plan was submitted to the Secretary by such date as the Secretary shall prescribe by regulation, prior to the date such plan is to take effect, in order to provide a reasonable period of time for review in accordance with the provisions of this section;

(2) a copy of such plan has been submitted for comment thereon to the Governor or other chief executive officer of the appropriate State; the Governor has been provided such period of time, as the Secretary shall prescribe by regulation, after the copy of such plan was sent to him, during which time he may submit comments on such plan to the Secretary, a copy of which comments shall be sent to the plan applicant in advance of submission to the Secretary; and, if comments have been submitted by the Governor, the Secretary shall confer with and encourage the plan applicant to resolve any difference arising from such comments;

(3) in the case of a plan submitted by a State, satisfactory arrangements are set forth for serving all geographical areas under its jurisdiction except for areas for which a local prime sponsorship plan is approved under this section;

(4) the plan was made public upon submission to the Secretary, in accordance with regulations promulgated by the Secretary.

(e) In the event that a unit (or combination of units) of general local government eligible to be a prime sponsor under subsection (a) does not submit a plan meeting the requirements set forth in this section, a community action agency or other nonprofit, community-based organizations serving a geographical area under the jurisdiction of such unit may submit a prime sponsorship plan for that area.

(f) Except as provided in subsections (c) and (d), the Secretary may approve any prime sponsorship plan submitted under this section if it is consistent with the provisions of this title. A plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of the reasons therefor;

(2) for a reasonable time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(g) For the purpose of making such payments as may be reasonably necessary to cover the staff and other administrative expenses of the community employment councils established pursuant to subsection (b) and to support other planning and evaluative activities of prime sponsors, the Secretary shall reserve not less than 1 per centum of the amounts available for title I.

PROGRAM STATEMENTS

SEC. 104. (a) Prior to the receipt of financial assistance under this title for any fiscal year, each eligible applicant shall develop a program statement, which statement shall be binding upon such eligible applicant and shall include—

(1) a statement of manpower needs and priorities in the area, description of the services for which such financial assistance will be used, and performance goals, as determined by the Secretary;

(2) the identity of any agency or agencies designated to carry out such services under such supervision;

(3) any arrangements made for services to be performed, on a reimbursable basis or otherwise, by the public employment service or any other public or private agency, institution, or organization;

(4) a description of the areas to be assisted by such programs, including data indicating the number of potential eligible participants; and

(5) such other information, assurances, statements, and arrangements as the Secretary may require pursuant to his special responsibilities under section 201 of this Act or which he otherwise deems necessary, in accordance with such regulations as he shall prescribe.

(b) Funds may be provided by the Secretary upon the approval by him of a program statement submitted by an approved eligible applicant as provided in subsection (c).

(c) A program statement or modification or amendment thereof, for financial assistance under this title, may be approved only if the Secretary determines that—

(1) the application is consistent with the purposes of this title;

(2) an opportunity has been provided to any community action agency in the area to be served to submit comments with respect to the program statement to the applicant, the Secretary, and to the Director of the Office of Economic Opportunity;

(3) an opportunity has been provided to the appropriate local or State agency or agencies having responsibility for vocational education, vocational rehabilitation and other related agencies to submit comments with respect to the program statement to the applicant, the Secretary, and the Secretary of Health, Education, and Welfare;

(4) an opportunity has been provided to the Governor or other chief executive officer of the State to submit comments with respect to the application to the applicant and to the Secretary;

(5) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the applicant and to the Secretary.

(d) If any State, unit of general local government, or any interested public or private agency submits to the Secretary a written statement and supporting reasons alleging that, with respect to the area served by such unit, the prime sponsor is not complying with the requirements for program statement under this section or other applicable sections of this Act or is maintaining a pattern or practice of exclusion of economically disadvantaged persons or members of a minority group and giving its reasons for the allegation, the Secretary shall, in accordance with regulations he shall prescribe, in no more than thirty days from the date he receives such written statement, make a decision on the allegation, after providing the prime sponsor with a copy of the written statement and with a reasonable opportunity to respond in writing and holding such conferences and hearings as he deems appropriate. The Secretary shall transmit to all interested parties a written statement of his decision, including his findings and supporting reasons. Until he makes such decision, the Secretary shall withhold approval of so much of a prime sponsor's pending program statement under this Act as relates directly to the matter under contention. With respect to allegations not involving such pending program statement, nothing in this subsection shall in any way require the Secretary to withhold any financial assistance under this Act. If the Secretary determines that the requirements of this section or other sections of this Act will not be complied with, then he shall enter into direct arrangements with the appropriate unit of general local government or any other public or private agency with respect to the programs involved, and funds which would otherwise be available to the prime sponsor for such programs shall be made available through such direct arrangements. If the Secretary finds upon examination of the allegation that it requires no investigation because it is frivolous on its face, he may reject the allegation summarily without regard to the procedures required in this subsection except for transmission of a written decision to the interested parties.

SPECIAL REQUIREMENTS FOR STATES

SEC. 105. (a) Any State seeking assistance under this title or the Wagner-Peyser Act shall submit an annual comprehensive State employment and training plan to the Secretary for approval in accordance with the requirements of this section.

(b) The comprehensive State employment and training plan shall—

(1) indicate the extent to which all State agencies providing employment, training and related services will be available to cooperate with local prime sponsors designated under this title and, at the request of the local prime sponsor, participate in the development and implementation of program statements by prime sponsors in accordance with the provisions of this Act;

(2) provide for the development and publication of information regarding economic, industrial, and labor market conditions which will be useful and made available to assist prime sponsors in the development and implementation of program statements under this Act, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations, and economic and business development and location trends;

(3) provide for the conduct of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing effective assistance to those individuals requiring employment, training, and related services to achieve their full occupational potential in accordance with the policy of this Act; and

(4) provide, without reimbursement and upon request, to any prime sponsor serving an area within the State, such information, technical assistance and advice as may be necessary and appropriate to assist the prime sponsor in developing and implementing the prime sponsorship plan and program statements submitted under sections 103 and 104 respectively.

(c) The Secretary may reserve not to exceed 5 per centum of the funds allocated for use in any State pursuant to subsection (c) of section 107 of this Act, to any State for the purposes of this section.

PAYMENTS

SEC. 106. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 107 the Federal share of the costs of programs, services, and activities, in accordance with program statements which have been approved as provided in this title.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall pay an amount not in excess of 90 per centum of the cost of carrying out programs, services, and activities under this title. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the employment, training and related needs of economically disadvantaged persons.

(2) The Secretary shall pay the full cost of public service employment programs and training programs in which prior arrangements are made for subsequent nonsupported employment of participants with public or private employers, in accordance with regulations promulgated by the Secretary.

(c) The non-Federal share of the costs of programs, services, and activities assisted under this title may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes) reasonably evaluated, and employee and employer contributions.

(d) If, with respect to any fiscal year, a prime sponsor provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this title.

(e) No State or locality shall reduce its expenditures for training or employment programs by reason of financial assistance under this title.

ALLOCATIONS OF FUNDS

SEC. 107. (a) The amounts allocated for carrying out this title for any fiscal year pursuant to subsection (a) of section 3 shall be made available in the following manner—

(1) 10 per centum of the sums appropriated for this title shall be reserved by the Secretary of Labor for the purposes of section 108;

(2) 10 per centum of the sums appropriated for this title shall be reserved by the Secretary of Labor for the purposes of section 109;

(3) Not less than that portion of funds appropriated for this title which is equivalent to that portion which the total number of economically disadvantaged Indians and Alaska Natives bears to the total number of economically disadvantaged persons in the Nation shall be available under title I only for programs and projects designed to meet the employment and training needs of such Indians and Alaska Natives;

(4) Not less than that portion of funds appropriated for this title which is equivalent to that proportion which the total number of economically disadvantaged migrant and seasonal farmworkers bears to the total number of economically disadvantaged persons in the Nation shall be available under title I only for programs and projects designed to meet the employment and training needs of such migrant and seasonal farmworkers;

(5) Not less than that portion of funds appropriated for this title which is equivalent to that proportion which the total number of economically disadvantaged heads of households who are forty-five years of age and older and are not in the labor force or are unemployed bears to the total number of economically disadvantaged persons in the Nation shall be available under title I only for programs and projects designed to meet the special employment and training needs of such heads of households who are forty-five years of age and older and are not in the labor force or are unemployed; and

(6) Not less than that portion of funds appropriated for this title which is equivalent to that proportion which the total number of economically disadvantaged persons with limited English-speaking ability bears to the total number of economically disadvantaged persons in the State shall be available under title I only for programs and projects designed to meet the special employment and training needs of such persons with limited English-speaking ability;

(b) Except as provided in subsection (d) of this section, the remainder of such amounts shall be apportioned among the States in accordance with the proportion which the total number of economically disadvantaged persons, and the number of unemployed persons in each such State bears to such total numbers, respectively, in the United States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $150,000 each shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) The amount apportioned to each State under subsection (b) shall be apportioned among areas within each such State in the proportion which the total number of economically disadvantaged and the number of unemployed persons in each such area bears to such total numbers, respectively, in the State.

(d) For each fiscal year after July 1, 1975, the additional amount to be distributed among the States by reason of the application of paragraph (d) of section 3 of this

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Act shall be allocated by the Secretary among the States and among prime sponsors within the States on the basis of the factors set forth in subsections (b) and (c) of this section and upon the basis of the relative performance of such prime sponsors, in accordance with exemplary standards established by the Secretary on the basis of the criteria set forth in section 201 of this Act, after consideration of recommendations of the National Employment and Training Advisory Committee established under section 207 of this Act, which standards shall be published prior to the period with respect to which performance is to be assessed.

(e) The Secretary is authorized to make reallocations for such purposes under this title as he deems appropriate of the unobligated amount of any apportionment under subsections (b) and (c) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. No amounts apportioned under subsections (b) and (c) for any fiscal year may be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were appropriated and unless the Secretary has provided fifteen days advance notice to the prime sponsor for such area of the proposed reallocation.

(f) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsection (a), (b) and (c) of this section.

SPECIAL MODEL COOPERATIVE PROGRAMS WITH COMMUNITY ACTION AND OTHER COMMUNITY-BASED ORGANIZATIONS

SEC. 108 (a) The Secretary of Labor shall allocate one-half of the sums reserved pursuant to paragraph (1) of subsection (a) of section 107 of this title for the purpose of this section among governmental prime sponsors designated under title I and shall transfer the remainder of such sums to the Director of the Office of Economic Opportunity. The Director of the Office of Economic Opportunity shall allocate such funds, on an equitable basis and after consideration of the capacity of such agencies, corporations, and cooperatives to carry out the purposes of this section, among community action agencies, community development corporations, and rural cooperatives eligible for assistance under the Economic Opportunity Act of 1964. Funds received under this section shall be used by such agencies, corporations, and cooperatives in cooperation with the appropriate prime sponsor for the purpose of special model cooperative programs pursuant to program statements to meet the special needs of economically disadvantaged persons, including but not limited to (A), the establishment of programs informing economically disadvantaged persons of the availability of employment and training programs and related services and identifying persons who could benefit particularly therefrom; (B) formulating, establishing, and conducting elements of employment and training programs and services particularly responsive to the special needs of economically disadvantaged persons and significant segments thereof; (C) the establishment of neighborhood centers for employment and training and the provision of such programs in existing centers in urban and rural areas having high concentrations or substantial numbers of economically disadvantaged persons. One-half of the assistance furnished under this section shall be paid from funds furnished to prime sponsors by the Secretary of Labor pursuant to this section.

(b) Nothing in this section shall be construed to limit the opportunity of any agency, corporation, or cooperative receiving assistance under this section from otherwise receiving assistance under this Act.

SPECIAL MODEL COOPERATIVE PROGRAMS WITH EDUCATIONAL AGENCIES

SEC. 109. (a) The Secretary of Labor shall allocate one-half of the sums reserved pursuant to paragraph (2) of subsection (a) of section 107 of this title among governmental prime sponsors designated under title I for the purposes of this section and transfer the remainder of such sums to the Secretary of Health, Education, and Welfare. The Secretary of Health, Education, and Welfare shall allocate such funds, on an equitable basis and after consideration of the capacity of such agencies to carry out the purposes of this section, to educational and other agencies and institutions eligible for assistance under the Vocational Education Act, the Allied Health Professions Personnel Training Act, the Elementary and Secondary Education Act, the Vocational Rehabilitation Act, and the Higher Education Act. Funds received under this section shall be used by such agencies in cooperation with the appropriate prime sponsor for the purpose of planning and carrying out cooperative model educational and vocational educational programs and activities pursuant to program statements designed to lead to employment, with emphasis upon programs providing students who are in the ninth through twelfth grades of school, or who have left school or may potentially leave school, with guidance and outreach; work study programs; in-school job preparation efforts and job placement assistance designed to make students cognizant of employment and training services and programs providing vocational education for students below the ninth grade; and programs providing adult basic education. One-half of the assistance furnished under this section shall be paid from funds furnished to prime sponsors by the Secretary of Labor pursuant to this section.

(b) Nothing in this section shall be construed to limit the opportunity of any agency or institutions receiving assistance under this section from otherwise receiving assistance under this Act.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 201. (a) The Secretary, with the prior concurrence of the Director of the Office of Economic Opportunity shall establish appropriate procedures to ensure that—

(1) priority in programs conducted under this Act is given to economically disadvantaged persons.

(2) programs conducted under title I of this Act are implemented in accordance with approved program statements;

(3) due consideration is given by prime sponsors under title I of this Act to the continued funding of programs previously conducted under title I of the Economic Opportunity Act of 1964 as amended and the Manpower Development and Training Act of 1962, as amended;

(4) appropriate arrangements are made with community action agencies, and with other community based organizations for their participation in the conduct of programs for which financial assistance is provided under this Act;

(5) training provided under the Act has a reasonable prospect of leading to appropriate employment opportunities upon completion of such training;

(6) periodic reviews are conducted by an appropriate agency of the status of each person employed in a public service job under this Act to assure that in the event that any person so employed and the reviewing agency find that such job will not provide sufficient prospects for advancement or suitable employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and that such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling;

(7) heroin addicts and other drug-abusing persons who are economically disadvantaged, unemployed, or underemployed persons who are participating in methadone maintenance, abstinence, or other therapeutic treatment programs, persons previously convicted of a crime have a full opportunity to participate in programs conducted under this Act; and

(8) due consideration is given in public service employment programs to the creation of employment opportunities with community action agencies, community development corporations, and rural cooperatives eligible for assistance under the Economic Opportunity Act of 1964, local services companies, and other community-based agencies, institutions, and organizations.

(b) The Secretary shall review the implementation of the procedures established under subsection (a) of this section six months after funds are first obligated under this Act and at each six-month interval thereafter.

SPECIAL NATIONAL PROGRAMS

SEC. 202. (a) The Secretary shall carry out the following special national programs by providing financial assistance to any public or private agency including any prime sponsor approved under section 103 of this Act:

(1) "Job Corps" program to assist economically disadvantaged persons who have not reached twenty-two years of age who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens, through the establishment of residential and nonresidential centers in which enrollees participate in intensive programs of education, vocational training, work experience, counseling, and other activities.

(2) "Mainstream" programs providing financial assistance for the support of projects which involve work activities directed to the needs of those chronically unemployed economically disadvantaged persons who have particularly poor employment prospects and are unable (because of age, physical condition, obsolete or inadequate skills, declining economic conditions, or otherwise) to secure appropriate employment or training and related services under other programs. Such projects, in addition to other services provided, shall enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including but not limited to activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands; the rehabilitation of housing; the improvement of public facilities; and the improvement and expansion of health care, education, child care, antipoverty, and recreation services.

(3) "New Careers" programs providing economically disadvantaged or unemployed persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served in fields of public service, including but not limited to health care, education, welfare, recreation, child care, antipoverty, neighborhood redevelopment, and law enforcement, which provide maximum prospects for on-the-job training, promotion and advancement and continued employment without Federal assistance.

(4) "Opportunities Industrialization Centers" and other programs designed to provide comprehensive employment opportunities and training and related services for economically disadvantaged persons who are unemployed or underemployed including persons of limited English-speaking ability, migrants, and others through the establishment of skill centers. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that (1) the residents of the area to be served by such programs are involved in the planning and operation of such centers and (2) the business community in the area to be served by such programs is consulted in its development and operation.

(5) "Neighborhood youth corps programs" to provide (a) part-time employment, on-the-job training, and useful work experience for economically disadvantaged students who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of earnings to permit them to resume or maintain attendance in school; (b) unemployed, underemployed, or economically disadvantaged persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment; and (c) job and related recreation opportunities for economically disadvantaged persons during the summer months. In the case of a program under subsection (a), the Secretary shall not limit the number or percentage of participants in the program who are fourteen or fifteen years of age. In the case of a program under subsection (b), the Secretary shall not limit the number or percentage of participants in any age group under twenty-two years of age, and the Secretary shall not limit the number of hours which participants may spend in work and on-the-job training to less than 80 per centum of the number of hours per week spent in the program, and allowances for such work and on-the-job training shall not be less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938.

(6) "Management training" programs under which education, training, and experience in business management are provided to enable economically disadvantaged persons to secure and retain business management opportunities or to establish their own business concerns. In carrying out the provisions of this section, the Secretary shall consult with the Secretary of Health, Education, and Welfare, the Secretary of Commerce, the Administrator of the Small Business Administration, and the Director of the Office of Economic Opportunity.

(7) "Drug rehabilitation employment assistance programs" providing employment training opportunities and related services for rehabilitated heroin addicts and other drug-abusing economically disadvantaged, unemployed, and underemployed persons who are participating in methadone maintenance, abstinence, or other therapeutic treatment programs including but not limited to public service supported work; special demonstration projects; assistance to provide employment and training and related services in programs conducted for the treatment and rehabilitation of such persons; assistance to employment and training programs under this Act and related authorities for the inclusion of such persons in such programs; and technical, financial, and other assistance to private employers to make available employment opportunities for such persons. In undertaking such programs the Secretary shall give special consideration to veterans with priority to those States and areas within the States having the highest percentages of heroin addicts.

(8) Such other programs as the Secretary may deem necessary in order to (A) meet the special needs of economically disadvantaged persons, or particular segments thereof, including but not limited to minority groups, Indians, and Alaska natives, migrant and seasonal farmworkers, heads of households who are forty-four years or older, persons with limited English speaking ability, (B) demonstrate the feasibility of conducting programs on the basis of a neighborhood or other area possessing a commonality of interest within the area of a unit of general local government, or (C) to otherwise fulfill the purposes of this Act.

(b) The Secretary is authorized to establish such procedures as he deems appropriate for the submittal of applications for assistance under this section.

(c) The Secretary shall allocate funds available for each of the special national programs conducted under subsection (a) among States and among urban and rural areas within States, on an equitable basis taking into consideration the purposes of such program and, to the extent practicable, the number of economically disadvantaged, unemployed, or underemployed persons to be served by such program within such State or area relative to the number of such persons in the Nation.

RESEARCH AND PROGRAM SUPPORT

SEC. 203. (a) In order to maximize the effectiveness of activities carried out by prime sponsors and other eligible applicants under title I of this Act, the Secretary shall, either directly or by way of grant contract, or other arrangement with public agencies and private organizations—

(1) provide training, staff development, and technical assistance;

(2) carry out a comprehensive program of research and experimental, demonstration, and pilot programs to improve understanding and methods of meeting employment and training needs;

(3) develop a comprehensive system of labor market information on a national, State, local or other appropriate basis, which shall be made publicly available in a timely fashion; and,

(4) establish and carry out a nationwide computerized job bank program on a regional, State, or local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs;

(b) For the purpose of training, staff development, and technical assistance under paragraph (1) of subsection (a), the Secretary may reserve from the funds allocated to title II in each fiscal year such sums as he deems necessary: Except that the Secretary shall make available to the Secretary of Health, Education, and Welfare not less than 30 per centum of funds reserved under said paragraph for the purpose of carrying out training staff development and technical assistance programs relating to elements of a health, education, or welfare character with respect to which concurrence of the Secretary of Health, Education, and Welfare is required under subsection (a) of section 210.

SPECIAL YOUTH SUMMER EMPLOYMENT ASSISTANCE FUND

SEC. 204. (a) There is hereby established in the Treasury a revolving fund to be known as the Special Youth Summer Employment Assistance Fund (hereinafter referred to as the "fund"). There are authorized to be appropriated for such fund $450,000,000 for the fiscal year ending June 30, 1974, $500,000,000 for the fiscal year ending June 30, 1975, and $550,000,000 for the fiscal year ending June 30, 1976. Amounts appropriated pursuant to section 3 of this Act which are not needed for immediate expenditure in accordance with this Act and amounts appropriated pursuant to this section shall be deposited in such fund to be available for obligation without fiscal year limitation in accordance with this Act. The Secretary is directed to utilize sums deposited in the fund to provide assistance under this section.

(b) The Secretary shall enter into agreements with public agencies and private organizations, including eligible applicants under title I, subject to the provision of section 201 of this Act, in order to make financial assistance available for Neighborhood Youth Corps summer and other programs providing employment, training, and services for economically disadvantaged persons who have attained fourteen years of age, but not twenty-two years of age including programs providing financial incentives to private employers, nonprofit organizations and public employers to employ or train such persons during the summer months.

(c) The Secretary shall apportion funds made available pursuant to subsection (b) among urban and rural areas, including areas having high concentrations or substantial numbers of economically disadvantaged persons eligible under this section in such a manner as to ensure equitable coverage of eligible economically disadvantaged persons irrespective of residence.

SPECIAL MODEL YOUTH EMPLOYMENT PROGRAMS

SEC. 205. The Secretary may provide financial assistance to any public or private agency to carry out special model youth employment and training programs for economically disadvantaged unemployed and underemployed youth who have attained fourteen years of age, but not twenty-two years of age, including but not limited to the establishment of special youth employment service agencies to provide a channeling of employment and training resources to youth in a neighborhood, poverty area, or other area possessing a commonality of interest; the establishment and operation of special youth employment skill centers and facilities; programs involving the private sector in the solution of special employment problems of such youth; and services and activities dealing with youth who are criminal offenders as otherwise charged with a crime, heroin addicts, or other drug-abusing persons.

SPECIAL DEMONSTRATION PROGRAM

SEC. 206. (a) The Secretary is authorized to conduct a special program to demonstrate the efficacy of providing certificates to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment, training, and services to such persons at their request to payment in amount equal to the face value of the certificate for periods of time during which such person may not be fully productive.

(b) In order to implement subsection (a), the Secretary shall, during the two-year period beginning July 1, 1972, issue certificates to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment training and related services to such persons to reimbursement of part of the cost thereof. Such certificates shall be issued by the Secretary in accordance with regulations which he shall prescribe; except that—

(1) the amount of the certificate shall not exceed the comparable cost of other programs providing employment and training opportunities and related services, but the Secretary may issue certificates in different amounts based either upon the extent of employment, training and services to be offered to the individual or to test the relative effectiveness of certificates of differing amounts;

(2) the Secretary shall insure, to the maximum extent consistent with the purposes of this section, that the demonstration is con-

ducted so as to benefit, on an equitable basis, economically disadvantaged, unemployed, and underemployed persons residing in rural and urban areas;

(3) no certificate shall be issued to any person receiving assistance (except referral or counseling services) under any other employment or training program conducted under this or any other Act;

(4) the Secretary shall insure that the certificate relates only to employment training and services which will provide preparation to the participant for employment appropriate to his or her abilities.

(c) Upon receipt of any certificate the Secretary shall pay to any private employer, in accordance with its terms, the amount of its face value. Such payments shall be made by the Secretary in accordance with regulations prescribed by the Secretary, on a periodic or lump-sum basis; except that—

(1) the Secretary shall prescribe, as a condition to receipt of all, or a portion, of the face amount, that the employer continue to employ the participant for no less than six months after the certificate has expired;

(2) no payment shall be made for any employment that does not meet the wage and other requirements set forth in subsection (b) of section 209 and subsection (b) of section 212 of this title;

(d) The Secretary shall provide for a continuing evaluation of programs conducted under this section;

(e) The Secretary shall report to the Congress not later than January 1, 1974, on the results of the demonstration program conducted under this section, together with his recommendations (including recommendations for legislation) and shall provide the Congress with an interim report not later than January 1, 1973;

NATIONAL EMPLOYMENT AND TRAINING ADVISORY COMMITTEE

SEC. 207. (a) The President, in consultation with the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the Director of the Office of Economic Opportunity shall appoint a National Employment and Training Advisory Committee which shall consist of at least thirteen but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, education, vocational education, vocational rehabilitation, employment and training programs, economic opportunity programs, civil rights, and veteran's organizations and the general public and which shall include participants in programs conducted under this Act, including youth participants. From the members appointed to such Committee, the President shall designate a Chairman. Members shall be appointed for terms of thee years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such Committee shall hold not less than two meetings during each calendar year.

(b) The National Employment and Training Advisory Committee shall—

(1) identify the employment and training goals and needs of the Nation and assess the extent to which educational, vocational education, institutional training, vocational rehabilitation, employment and training, economic opportunity, equal employment opportunity, antipoverty and other programs under this and related Acts represent a consistent and coordinated approach to meeting such needs and achieving such goals;

(2) review the administration and operation of the programs referred to in clause (1) and advise the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the Director of the Office of Economic Opportunity and other appropriate officials as to the carrying out of their duties under this Act and related Acts;

(3) conduct independent evaluations of programs carried out under this and related Acts and publish and distribute the results thereof; and

(4) make an annual report, and such other reports as it deems necessary to the President and to the Congress (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs. The President is requested to transmit to the Congress as a part of his report under subsection (a) section 214 such comments and recommendations as he may have with respect to such reports of the National Employment and Training Advisory Committee.

(c) The National Employment and Training Advisory Committee may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(d) Appointed members of the National Employment and Training Advisory Committee shall be paid compensation at a rate not to exceed the per diem equivalent of the rate for GS–18 when engaged in the work of the Committee, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(e) The National Employment and Training Advisory Committee is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

(f) For the purposes of this section, funds may be reserved by the Secretary from the sums allocated to carry out this title.

LEGAL AUTHORITY

SEC. 208. Subject to the provisions of section 201 and of subsection (a) of section 210, and section 211 of this Act, the Secretary may prescribe such rules, regulations, guidelines, and other published interpretations or orders under this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, for the purpose of carrying out this Act, shall contain, with respect to each material provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based and shall be binding upon approved applicants conducting programs under this Act. Such rules, regulations, guidelines, and other published interpretations or orders may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968.

SPECIAL LIMITATIONS AND CONDITIONS

SEC. 209. (a) (1) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitations on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) Any amounts received under chapters 11, 13, 31, 34, or 35 of title 38, United States Code, by any veteran, as defined by section 101 of title 38, United States Code, who served on active duty for a period of more than one hundred and eighty days or was discharged or released from active duty for a service-connected disability or any eligible person as defined in section 1701 of such title, if otherwise eligible to participate in programs under this title, shall not be considered for purposes of determining the needs of qualifications of participants in programs under this Act.

(3) Acceptance of family planning services provided to persons participating in programs under this Act shall be voluntary on the part of the individual to whom such services are offered and shall not be prerequisite to eligibility for or receipt of any benefit under the program.

(4) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared, appropriately, comparative effectiveness of the programs authorized under this Act. Such data shall include information on—

(A) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(B) duration in employment and training situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(C) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a prime sponsor, State, regional, and national basis.

(5) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(6) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, or personnel employed therein shall be, in any way or to any extent, engaged in the conduct of political activities of contravention of chapter 15 of title 5, United States Code.

(7) The Secretary shall not provide financial assistance for any program under this Act unless he determines in accordance with guidelines established by him that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(8) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(9) Every participant shall be advised, prior to participation in any program, of his rights, benefits, and responsibilities in connection with such program.

(b) The Secretary shall not provide financial assistance for any public service job program under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program will result in an increase in employment opportunities over those which would otherwise be available and will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), and will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(2) all persons employed in a public service job under this Act will be assured of workman's compensation, retirement, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(3) the provision of section 2(a)(3) of Public Law 89–286 shall apply to such agreements; and

(4) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants.

(c) In carrying out public service employment programs assisted under this Act special consideration shall be given to economically disadvantaged, unemployed, or underemployed persons with priority to economically disadvantaged persons who served in the Armed Forces on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and the secretary shall insure that the public applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment service for veterans) or carried out by other public or private organizations or agencies.

(d) For programs which provide work and training related to physical improvements, special consideration shall be given to those improvements which will be substantially used by economically disadvantaged persons or which will contribute substantially to amenities or facilities in urban or rural areas having high concentrations or proportions of economically disadvantaged persons and families.

(e) Where a labor organization represents employes who are engaged in similar work in the same labor market area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(f) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

PROGRAM COORDINATION

SEC. 210. (a) The Secretary shall not provide funds of a health, education, or welfare character under this Act or prescribe rules, regulations, guidelines, published interpretations or orders under this Act with respect thereto unless he shall first have obtained the concurrence of the Secretary of Health, Education, and Welfare. Such activities shall include but not be limited to basic and general education; health, child care, programs for criminal offenders and related activities; and supported employment and job restructuring in the health, education, and welfare professions.

(b)(1) The Secretary shall enter into appropriate arrangements with the Secretary of Health, Education, and Welfare, the Director of the Office of Economic Opportunity, the Attorney General, and other appropriate officials conducting programs for the treatment and rehabilitation of heroin addicts and other drug-abusing persons including methadone maintenance, abstinence and other therapeutic treatment programs for the referral of such persons to programs providing employment and training opportunities under this Act and for referral from such programs to treatment and rehabilitation programs; (11) the Secretary may require any prime sponsor, as a condition to financial assistance under this Act, to enter into appropriate referral and other arrangements with local public agencies or private organizations or institutions administering programs for the rehabilitation of such addicts and other persons.

SPECIAL PROVISION

SEC. 211. The Secretary, with the concurrence of the Director of the Office of Economic Opportunity, shall establish procedures pursuant to regulations in insure that economically disadvantaged persons residing without areas having high concentrations of economically disadvantaged persons receive assistance provided under this Act on an equitable basis relative to economically disadvantaged persons residing in such areas.

ALLOWANCES AND COMPENSATION

SEC. 212. (a) The Secretary shall, where appropriate, provide for the payment of weekly allowances to individuals receiving services under this Act. Such allowances shall be at a rate prescribed by the Secretary which, when added to amounts received by the trainee in the form of public assistance or unemployment compensation payments, shall approximate the minimum wage for a workweek of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State minimum wage law, or, where the trainee is being trained for particular employment, at a rate equal to 80 per centum of the weekly wage for such employment, whichever is greater. In prescribing allowances, the Secretary may allow additional sums for special circumstances such as exceptional expenses incurred by trainees, including but not limited to meal and travel allowances, or he may reduce such allowances by an amount reflecting the fair value of meals, lodging, or other necessaries furnished to the trainee. The Secretary shall take such action as may be necessary to insure that such persons receive no allowances without good cause with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein. Notwithstanding the preceding provisions of this subsection, the Secretary may, in accordance with such regulations as he shall prescribe, make such adjustments which take into account the amount of time per week spent by the individual participating in such programs and adjustments to reflect the special economic circumstances which exist in the area in which the program is to be conducted. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) All persons employed under programs assisted under this Act shall be paid wages which shall be equal to whichever is the highest of (A) the minimum wage which would be applicable to the employment under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay in the same labor market area for persons employed in similar occupations.

(c) For purposes of subchapter I of chapter 81 of title 5, United States Code, any person receiving services under this Act shall, under such circumstances and subject to such conditions and limitations as the Secretary shall by regulation prescribe, be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except that in computing compensation benefits for disability or death, the monthly pay of such person shall be deemed to be his allowance for a month, if he is receiving one. Regulations prescribed by the Secretary under this subsection may include but are not limited to adjustments in the amount of compensation payable under this subsection to take into account entitlements to workmen's compensation under other applicable laws or arrangements.

INTERSTATE AGREEMENTS

SEC. 213. In the event that cooperation or agreements between States is necessary in order to realize the full benefit of provisions of this Act, the consent of Congress is hereby given to such States to enter into such agreements.

ADMINISTRATIVE FUNCTIONS

SEC. 214. (a) The Secretary is authorized to exercise all powers necessary for the implementation of this Act, including the power (1) to rent or renovate real property without regard to any other law or regulation governing rental or renovation of such property, provided he first advises the Administrator of General Services Administration of his intent to do so and the reasons therefor, (2) to purchase real property for training centers, (3) to accept and use gifts and voluntary services for the benefit of the program, (4) to enter into contracts or agreements, (5) to make such payments in advance or by way of reimbursement as he may deem to be necessary or appropriate to carry out the provisions of the Act, and (6) to expend, without regard to the provisions of any other law or regulation, funds made available for purposes of this Act for printing and binding.

(b) Enrollees in residential centers assisted under section 202(1) of this title shall not be regarded as Federal employees for any purpose, except that such enrollees shall be deemed Federal employees for the purposes of (1) the Federal tort claims provisions of title 28, United States Code; (2) the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.); and (3) subchapter I of chapter 81 of title 5 of the United States Code.

REPORTS

SEC. 215. (a) The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, shall make such reports and recommendations to the President as he deems appropriate pertaining to employment and training requirements and re-

sources and manpower use, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to such matters which report shall indicate the number of employment opportunities and training opportunities provided to economically disadvantaged, unemployed and underemployed persons, and significant segments thereof including heroin addicts and other drug abusing persons.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall report to the Congress by January 20, 1973, on the extent to which community colleges, area vocational and technical schools, and other vocational educational agencies and institutions have been utilized to carry out employment and training programs supported in whole or in part from provisions of Title I of the Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962 as amended, the extent to which administrative steps have been taken and are being taken to encourage the use of such facilities, agencies, and institutions in the carrying out the provisions of this Act and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment, training and vocational educational programs can more effectively accomplish their objectives of providing all persons needing occupational training an opportunity for such training.

(c) The Commissioner of Education shall report to the Congress within one year from enactment of this Act on the extent to which vocational orientation, preparation, and education are being incorporated in regular elementary and secondary education programs and curricula to the end that educational institutions serving youth during years of compulsory school attendance are affording meaningful opportunities, education, and incentives for students to enter vocational careers and with respect to any legislation that may be necessary to facilitate an appropriate combination of vocational and academic education.

AMENDMENT TO MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

SEC. 216. (a) Subsection (a) of section 310 of the Manpower Development and Training Act of 1962 is amended by striking "1972" and inserting in lieu thereof "1973";

(b) Subsection (b) of said section is amended by striking "1972" and inserting in lieu thereof "1973".

EFFECTIVE DATE

SEC. 217. Except as otherwise provided in this Act shall take effect July 1, 1972. Rules, regulations, guidelines, and other published interpretations or orders may be issued by the Secretary at any time after the date of its enactment.

AMENDMENT TO THE ECONOMIC OPPORTUNITY ACT OF 1964

SEC. 218. (a) Effective July 1, 1973, title I of the Economic Opportunity Act of 1964 is amended by—

(1) amending all of the matter that appears preceding part D thereof to read as follows:

"TITLE I—MANPOWER DEVELOPMENT AND COMMUNITY ECONOMIC DEVELOPMENT PROGRAMS

"PART A—RESEARCH, EXPERIMENTAL, AND DEVELOPMENTAL AUTHORITY IN THE MANPOWER AREA

"STATEMENT OF PURPOSE

"SEC. 101. It is the purpose of this part to provide authority for the conduct of research, experimental, and developmental activities focused on providing more effective means for dealing with the employment and employment-related problems of economically disadvantaged persons.

"ACTIVITIES AUTHORIZED

"SEC. 102. The Director is authorized to contract with or provide financial assistance to public or private agencies or organizations for the payment of all or part of the costs of developing and carrying out programs designed to further the purposes of this part. Programs assisted under this part shall be of an experimental, developmental, demonstration, or pilot nature and shall be structured in such manner as the Director deems will best equip them to yield information as to the relative effectiveness of various approaches (including new approaches and refinements or variations of traditional approaches) directed to the solution of the employment and employment-related problems of the economically disadvantaged. Such programs may include provision for supportive and followup services.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 103. The Director may provide (directly or through contracts or other appropriate arrangements) technical assistance to assist in the initiation or effective operation of programs under this part. He may also make arrangements for the training of instructors and other personnel needed to carry out programs under this part.

"RESEARCH AND EVALUATION

"SEC. 104. The Director is authorized to contract with or provide financial assistance to public or private agencies or organizations for research pertaining to the purposes of this part. He shall also provide for the careful and systematic evaluation of programs related to the purposes of this part, directly or by contracting for independent evaluations, with a view of measuring specific benefits, so far as practical, and providing information needed to assess the relative potential of the various approaches employed in such programs for contributing significantly to the solution of employment and employment-related problems of the economically disadvantaged. He shall further be required, as appropriate, to disseminate such findings to prime sponsors of comprehensive community employment and training programs under the Comprehensive Community and Employment Training Act and to other interested agencies. In formulating plans for the implementation of this section, the Director shall consult with the Secretary of Labor and, as appropriate, with the heads of other Federal agencies.

"SPECIAL CONDITIONS

"SEC. 105. Participants in programs under this part shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.";

(2) redesignating part D thereof as part B and sections 150 through 155 as sections 121 through 126, respectively;

(3) striking out part E thereof and

(4) redesignating part F as part C and section 171 as section 141.

(b) Effective with respect to fiscal years after June 30, 1971, section 810(a) of the Economic Opportunity Act of 1964 is amended by striking the word "and" at the end of paragraph (2) thereof, by inserting in lieu of the period at the end of paragraph (3) a semicolon and the word "and", and by adding the following new paragraph:

"(4) with the approval of the Secretary of Labor, in Job Corps centers operated under title II of the Comprehensive Employment and Training Act.".

(c) Grants and contracts entered into pursuant to the provisions of title I of the Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962 prior to the effective date set forth in subsections (a) and (b) of this section shall not be affected by the provisions of this section.

COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972

SECTION-BY-SECTION ANALYSIS

SEC. 2. *Statement of Findings and Purposes.* This section states the findings that large numbers of economically disadvantaged, unemployed and under-employed persons lack sufficient job and training opportunities, resulting in hardship and in increased welfare dependency while many jobs in the public and private sector are unfilled; that it is within the capability of the United States to provide every American with the opportunity to prepare himself for and obtain employment at the highest level of productivity; and that increased responsibility and funds should be extended on a phased basis to State and local governmental and other local institutions for the planning and conduct of such programs.

It is the purpose of the Act to establish an increasingly flexible and decentralized system for the provision of employment and training opportunities, to increase the availability of such opportunities with emphasis on persons most in need, and to insure that training and other programs lead to employment.

SEC. 3. *Authorized Appropriations.* This section authorized appropriations under the Act of $2.5 billion for FY '74, $3 billion for FY '75, and $3.5 billion for FY '76. (Additional appropriations are authorized under the Act for a Special Youth Summer Employment Assistance Fund, under Section 204, described below.)

This section also authorizes the appropriation of $100 million for FY '73 for planning, technical assistance, training, and certain other activities.

This section also allocates the funds appropriated for the Act under subsection (a) to Community Employment and training programs under Title I as follows: 60% of the amount appropriated for FY '74; 70% for FY '75; 80% for FY '76, and allocates the remainder thereof in each fiscal year to Special Federal Responsibilities under Title II. (subsection (e))

SEC. 4. *Advance Funding.* This section contains advance funding authority.

SEC. 5. *Definitions.* This section defines the terms: Secretary; State; local service company; health care; city; Wagner-Peyser Act; public service; unemployed persons; underemployed; economically-disadvantaged persons; and certain other terms.

Title I—Community Training and Employment Programs

SEC. 101. *Description of Program.* This section describes the comprehensive employment and training programs for which funds may be made available under the title, including information programs, individual capability assessment, counseling and institutional training, public service employment, inducements to private employers to expand job opportunities, on-the-job training and work experience for economically-disadvantaged youth, new careers, skill centers, establishment of employment recruitment centers, job information, training allowances and supportive services.

SEC. 102. *Eligible Applicants.* This section authorizes the Secretary to enter into arrangements with eligible applicants to carry out the provisions of the title. (subsection (a))

Eligible applicants shall be prime sponsors designated pursuant to Section 103 and other public and private agencies and institutions including community action agencies and local service companies. (subsection (b))

SEC. 103. *Prime Sponsors.* This section authorizes as eligible for prime sponsorship: (1) any State and (2) any unit of general local government (A) which is a city with a population of 75,000 or more or (B) which is a county or other unit of general local government having a population of 100,000 or more or (C) which does not meet the above population requirements but which has the largest population of a unit of general local government in the State; (3) any combinations of units of general local government with an aggregate population of 100,000 and (4) units of local government or combinations thereof in a rural area designated by the Secretary as having substantial outmigration and high unemployment. (subsection (a))

This section permits eligible prime sponsors to be designated by submitting to the Secretary a prime sponsorship plan describing the area to be served; evidencing capability for carrying out a program statement; and providing for a broadly representative community employment council with at least one-half the membership thereof to be persons representative of the economically disadvantaged.

In the event that a state submits a plan to serve a geographical unit under the jurisdiction of a unit of general local government (or combination) eligible as prime sponsor, the Secretary must approve the latter plan. The Secretary, in choosing between competing plans submitted by two or more units of general local government (or combination) shall approve that plan which he determines will most effectively carry out the purposes of the title. (subsection (c))

The section provides also for review and comment of plan by other interested units of government and community action agencies, (subsection (d)); sponsorship by a community action agency in certain instances (subsection (e)); procedures in the event of disapproval (subsection (f)) and for expenses of councils (subsection (g)).

SEC. 104. *Program Statements.* This section requires prior to receipt of funds, that each eligible applicant develop and publish a program statement including a description of the services to be provided; the identity of agencies carrying out such services, an area description and assurance relating to national purposes under Section 201. (subsection (a)); subsection (b) authorizes disbursement of funds upon certification of the statement by the Secretary.

This section also establishes procedures for approval by the Secretary including comment by the Governor, other units of general local government and community action and vocational education agencies, (subsection (c)) and for the withholding of funds by the Secretary, upon allegation of any unit of general local government that the prime sponsor is not complying with the requirements of the Act or is maintaining a pattern or practice of exclusion of economically disadvantaged persons or of minorities.

SEC. 105. *Special Requirements for States.* This section requires that any State seeking assistance under the title submit an annual State employment and training plan, to ensure state-wide planning in cooperation with local prime sponsors and technical assistance to such sponsors. The Secretary may reserve up to 5% of funds allocated for use within a State for these purposes.

SEC. 106. *Payments.* This section authorizes payment of the federal share of the cost of programs in accordance with program statements. It prescribes payment of 90% of costs of programs (subsection (a)), while providing payment in excess thereof pursuant to regulations of the Secretary in order to meet the needs of economically disadvantaged persons.

The full cost of public service programs and training programs may be paid by the Secretary where prior arrangements for subsequent non-supported employment have been made, in accordance with regulations established by him. (Subsection (b))

This section provides that the non-federal contribution may be in cash or goods and contains a maintenance of effort clause. (subsection (c), (d) and (e))

SEC. 107. *Allocations.* This section allocates funds under Title I as follows: (1) 10% of the funds allocated under Title I are reserved to the Secretary of Labor for special cooperative programs with community action agencies under section 108; (2) 10% of the funds under the title are reserved to the Secretary of Labor for special cooperative programs with educational agencies under section 109; (3) additional sums are reserved for migrant and seasonal farmworkers, older persons and persons with limited-English speaking ability.

The remainder of the funds are to be apportioned among the States (and among areas within each State) taking into account the proportion which the number of unemployed persons and the number of economically disadvantaged persons in each State bears to the total number of such persons respectively in the United States, with a minimum of $1.5 million to each State. (subsection (b))

SEC. 108. *Special Cooperative Programs with Community Action and other Community-based Agencies.* This section provides funds to prime sponsors and community action agencies and other organizations funded under the Economic Opportunity Act for use together in special model cooperative programs for economically disadvantaged persons.

SEC. 109. *Special Cooperative Programs with Educational Agencies.* This section provides funds to prime sponsors and educational agencies for use together in special cooperative programs linking employment opportunities to vocational programs conducted in the schools.

Title II—Federal Responsibilities

SEC. 201. *Special Responsibilities of the Secretary.* This section requires the Secretary to establish procedures to ensure (1) priority for economically disadvantaged persons; (2) due consideration by State and local prime sponsors of programs previously carried out under existing authority programs are carried out in accordance with program statement; (4) involvement of community action and other agencies; (5) training provided has a reasonable prospect of leading to appropriate employment; (6) periodic reviews to insure movement from public service employment into "regular" employment in the public sector; (7) heroin addicts and other drug-abusing persons are given full opportunity for participation in programs; and (8) due consideration is given to the creation of public service jobs with community action agencies.

SEC. 202. *Special National Programs.* This section requires the Secretary to carry out certain national programs by providing financial assistance to public and private agencies (including prime sponsors) for (1) Job Corps; (2) Mainstream; (3) New Careers; (4) Opportunities Industrialization Centers; (5) Neighborhood Youth Corps; (6) Management training; (7) special employment programs for heroin addicts and other drug-abusers and (8) other employment and training programs to meet the special needs of economically disadvantaged persons.

SEC. 203. *Research and Program Support.* This section directs the Secretary, in order to maximize local effectiveness, to provide staff training and other technical assistance; carry out comprehensive research and demonstration programs; and establish a national computerized job bank program.

SEC. 204. *Special Youth Summer Employment Assistance Fund.* This section establishes a special youth summer employment assistance fund in the Treasury (subsection (a)), with an authorization of $450 million for FY '74; $500 million for FY '75; and $550 million for FY '76.

SEC. 205. *Special Model Youth Employment Programs.* This section authorizes the Secretary to provide assistance to public and private agencies for special model programs designed to meet the needs of economically disadvantaged, unemployed and underemployed persons 14–21 years of age, including programs establishing special service agencies in poverty neighborhoods and programs conducted by youth.

SEC. 206. *Special Demonstration Program.* This section authorizes a two-year demonstration project under which certificates would be issued to economically disadvantaged, unemployed or underemployed persons for employment, training and related services with private employers. The section provides for reimbursement to employers, upon receipt of certificate, of part of the cost of such activities.

SEC. 207. *National Employment and Training Advisory Committee.* This section authorizes an interdisciplinary committee of not less than 13, no more than 17 members, appointed for 3-year terms, to: identify national employment goals and needs; review administration of programs and advise Executive branch officials; conduct independent investigations; make recommendations and make an annual report to the President and to the Congress.

SEC. 208. *Legal Authority.* This section authorizes the Secretary to prescribe rules as necessary.

SEC. 209. *Special Limitations and Conditions.* This section contains general conditions applicable to programs under the Act as follows: training programs are not to be established in low wage industries where prior skill or training is typically not prerequisite to hiring; veterans benefits received pursuant to title 38, U.S. Code on account of active duty or service-connected disability are not to be considered in determining eligibility of such persons to participate in programs under the Act; acceptance of family planning services is voluntary; the Secretary must receive pertinent data for evaluation purposes; discrimination is barred; no funds may be used for political activities nor shall funds be granted for sectarian facilities; the Davis-Bacon prevailing wage provisions apply to construction. (subsection (a))

The following additional conditions apply with respect to public service employment: programs will result in increased employment opportunities; persons so employed will be assured workmen's compensation, retirement, health and unemployment insurance and other benefits comparable to regular employees of the particular employer; the program will contribute to the individual's occupational development. (subsection (b))

Due consideration must be given to unemployed or underemployed persons who served in the Armed Forces on or after August 5, 1964, with special consideration to such persons who are economically disadvantaged. (subsection (c))

Those work and training programs providing physical improvements which will be substantially used by economically disadvantaged families or in urban or rural areas having high concentration of economically disadvantaged families shall be given priority. (subsection (d))

Labor organizations must be notified as to similar work to be conducted under the Act (subsection (e)), administrative controls required. (subsection (f))

SEC. 210. *Program Coordination.* This section requires that the Secretary in providing funds of a health, educational or welfare character have the prior concurrence of the Secretary of Health, Education and Welfare (subsection (a)) and that the Secretary will arrange with the Director of the Office of Economic Opportunity and the Secretary of Health, Education and Welfare for referral to or from employment or training of persons in drug rehabilitation programs. (subsection (b))

SEC. 211. *Special Provision.* This section requires the Secretary and the Director of the Office of Economic Opportunity to ensure that economically disadvantaged persons re-

siding outside areas having high concentrations of such persons, receive assistance on an equitable basis under the Act.

SEC. 212. *Allowances and Compensations.* This section requires the Secretary, where appropriate, to supplement the earnings of individuals receiving services under the Act so that a trainee's income, taking into account public assistance and unemployment benefits received, will approximate the higher of the federal, State minimum wage or prevailing wage rate; or in cases where a trainee is being trained for particular employment 80% of the weekly wage for such employment. (subsection (a))

This section also requires that all persons assisted in programs under the Act be paid wages equal to whichever is the highest of (A) the minimum wage which would be applicable; (B) State or local minimum wage or (C) the prevailing rates of pay for persons employed in similar occupations.

SEC. 213. *Interstate Agreements.* This section grants the consent of the Congress to interstate agreements necessary to achieve the purposes of the Act.

SEC. 214. *Administrative Functions.* This section grants administrative powers to the Secretary.

SEC. 215. *Reports.* This section authorizes various reports to the Congress by the Secretaries of Labor and Health, Education and Welfare and the Commissioner of Education.

SEC. 216. *Amendment to the Manpower Development and Training Act of 1962.* This extends the authority to conduct program through June 30, 1973, with an extension of the disbursement authority through December 30, 1973.

SEC. 217. *Amendments to Economic Opportunity Act of 1964.* This section amends the Economic Opportunity Act with respect to years after FY '73 to: add a part A to Title I, providing new authority to the Director of the Office of Economic Opportunity to conduct special research, experimental and development programs relating to manpower.

SEC. 218. *Effective Date.* This section sets the effective date, unless otherwise specified, as July 1, 1972 and authorizes the Secretary to issue regulations following enactment.

COMPARISON BETWEEN COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972; S. 1243, MANPOWER REVENUE SHARING ACT OF 1971; AND S. 3867, EMPLOYMENT AND TRAINING ACT OF 1970*

COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972	MANPOWER REVENUE SHARING ACT OF 1971	S. 3876—EMPLOYMENT AND TRAINING ACT OF 1970
	Authorizations	
FY '73: $100.0 million for planning, technical assistance FY '74: $3.45 billion ($2.5 billion basic, $450.0 million for special youth fund) FY '75: $4.5 billion ($3.0 billion basic, $500 million for youth fund) FY '76: $5.55 billion ($3.5 billion basic, $550 million special youth fund.	Such sums permanent authorization	FY '71: $200 million for public service employment. FY '72: $2 billion for basic and additional $400 million for public service employment. FY '73: $2.5 billion basic and $600 million for public service employment. FY '74: $3 billion basic and $800 million for public service employment. Of the basic authorization in each year after FY '72, ⅓ allocated to public service employment.
	Eligible applicants and prime sponsors	
Under Title I ("Community Employment programs") governmental prime sponsors (cities with 75,000; counties with 100,000, and combinations) are eligible to serve as prime sponsors; with state responsible for remaining areas. Other public or non-profit agencies also eligible for direct assistance under Title I and under Title II ("Special Federal Programs").	Under Title I ("State and Local Programs"), states, cities, counties or combinations with 100,000 which are in standard metropolitan statistical areas, eligible. Other public and non-profit private agencies directly eligible only under Title II ("Secretary's Activities).	Same sponsorship as Comprehensive Community Employment and Training Act. Same as above.
Funds available to eligible applicants for State and local programs and approval thereof by Secretary		
The following percentages of the basic authorization: 65% FY '74. 75% FY '75. 85% FY '76. Prior approval by Secretary.	85% of all fund appropriated for each fiscal year. No prior approval by Secretary.	As a general matter ⅔ of basic authorization and all of special public service funds. Prior approval by Secretary.
Effect on existing programs (e.g. Job Corps, Mainstream, Neighborhood Youth Corps, Industrial Opportunity Center, New Careers)		
Secretary authorized to continue under Title II from funds not allocated to Title I in each year (see above). Also eligible (basically through prime sponsors) under Title I.	Eligible under Title I and Title II, but no special provisions.	Essentially the same as Comprehensive Community Employment and Training Act.
	Effect on Existing Programs (cont'd.)	
Secretary required to insure existing programs given due consideration by State and local sponsors under title I.	No comparable provision. Same.	No comparable provision.
	Focus on Particular Segments of Eligible Persons	
Economically disadvantaged, unemployed and underemployed persons eligible. Priority to economically disadvantaged. Reservations from funds under title I for Indians, migrants, bilingual persons, and older persons.	Same. Priority to economically disadvantaged and persons on welfare. No comparable provision.	Same. No comparable provision. Separate titles and programs for each group with reservations and additional authorizations.
	Public Service Employment	
Among the activities prime sponsors may fund under title I. No limit on participation but full federal matching (as compared with 90% under the Act generally) where prior arrangements made for subsequent nonsubsidized public or private employment.	Same. No comparable provision. Two-year limit on participation.	Of the basic authorization in each year after FY '72, ⅓ allocated therefor. Separate title for public service employment, with additional authorization (see above "Authorization"). General authority in the Secretary to review status of person in public service job, to determine if better opportunities are available.

*Passed by both Houses of the Congress, but vetoed by the President.

COMPARISON BETWEEN COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972; S. 1243, MANPOWER REVENUE SHARING ACT OF 1971; AND S. 3867, EMPLOYMENT AND TRAINING ACT OF 1970*—Continued

COMMUNITY MANPOWER TRAINING AND EMPLOYMENT ACT OF 1972—Continued	MANPOWER REVENUE SHARING ACT OF 1971—Continued	S. 3876—EMPLOYMENT AND TRAINING ACT OF 1970—Continued
	Special "Emergency Funds"	
No special provision; anticipates refinement and inclusion of elements of Emergency Employment Act of 1971. Contains special summer youth employment fund (see "Authorization" above).	Authorizes in each fiscal year an additional 10% of funds appropriated under Act when national unemployment 4.5% or above. No comparable provision.	Authorizes in each fiscal year $200 million when national unemployment 4.5% or above and an additional $200 million when equals or exceeds 5%. No comparable provision.
	Effective Date	
July 1, 1972 for planning, fully operative July 1, 1973.	July 1, 1972.	July 1, 1973.
	Effect on Existing authority	
Extends Manpower Development and Training Act of 1962 through June 30, 1973.	Repeals Title I D Economic Opportunity Act and MDTA, effective June 30, 1972.	Repealed Title I D Economic Opportunity Act and MDTA effective June 30, 1971.

*Passed by both Houses of the Congress, but vetoed by the President.

[From the CONGRESSIONAL RECORD, Dec. 7, 1971]

COMPREHENSIVE CORRECTIONAL TRAINING AND EMPLOYMENT ACT

Mr. JAVITS. Mr. President, I send to the desk a bill on behalf of myself and the distinguished Senator from Michigan (Mr. HART) who is the principal cosponsor. We are joined in this measure by Senators BAYH, BROOKE, BURDICK, CRANSTON, EAGLETON, JACKSON, KENNEDY, MCGOVERN, MONDALE, MUSKIE, NELSON, PELL, RANDOLPH, STAFFORD, STEVENSON, and TUNNEY.

The act authorizes the Secretary of Labor, in coordination with the Attorney General and the Secretary of Health, Education, and Welfare, to make available training and employment opportunities for offenders, including work release and other programs for incarcerated offenders, jobs in the public and private sectors, as well as pretrial intervention and probation programs, technical assistance and research.

We propose, in short, that the administration and members of the Congress join in formulating a national effort through which public resources and private efforts may be combined to improve opportunities for offenders, to increase the effectiveness of the correctional process and to better serve the Nation by reducing recidivism.

Mr. President, it has been apparent for some time—and the events at Attica and elsewhere serve as a tragic reminder—that prisoner rehabilitation and related offender processes are in disgraceful shape, with a heavy cost for society and the individuals involved.

As President Nixon stated, on November 14, 1969:

"The American system for correcting and rehabilitating criminals presents a convincing case of failure. No realistic programs to substantially reduce crime can ignore the appalling deficiencies in our prisons and rehabilitation efforts."

There are many inadequacies in our present correctional process which must be addressed, but, as the President's task force on prisoner rehabilitation stated in its April 1971, report:

"Satisfying work experiences for institutionalized offenders including vocational and pre-vocational training when needed, and the assurance of decent jobs for released offenders, should be at the heart of the correctional process."

Yet, surveys have established that 90 percent of local penal institutions have no training or education at all; 85 percent of Federal inmates lack any marketable skill and have not completed high school; ex-offenders have levels of unemployment three times the norm; and less than one-third of inmates who receive training use it in their first job.

It is not surprising that two out of three persons confined in correctional institutions are repeaters.

The measure which we introduce today seeks to provide a framework to begin to remedy these deplorable facts. It has been designed with particular attention to three major objectives:

First, we have identified the various elements of manpower training and employment programs which have been demonstrated to be particularly effective in rehabilitating offenders; in this regard, we drew heavily upon the experience of the Department of Labor and the Department of Health, Education, and Welfare under the general provisions of the Manpower Development and Training Act of 1962, particularly the demonstration section contained in section 251 of that act.

A key element is the provision of pretrial manpower training and employment opportunities. The Department of Labor has funded test programs in seven cities—Cleveland, Minneapolis, San Antonio, Baltimore, Boston, Atlanta, Newark—under which persons charged with crime are given the opportunity to be committed for training and placement assistance for a 90-day period prior to judicial consideration of their cases. The training staff subsequently makes a recommendation to the court, relating to disposition of the case, which may include further training or employment. In a demonstration project along these lines involving defendants 15 to 25 years of age conducted last year in Washington, D.C., it was found that participants committed further criminal acts at a rate less than one-half of that of a control group that did not receive the manpower training project services. A similar program, the Manhattan court project, has been conducted with considerable success in New York City.

Another important element concerns the provision of manpower training and related services during confinement in prison, where inmates do not now have the opportunity to make maximum use of their time. Considerable promise has been shown in programs under which prisoners are permitted to receive training in real work situations with up-to-date equipment and the involvement of the private sector. For example, at Greenhaven Prison in Poughkeepsie, N.Y., training is provided for 40 prison inmates in office machine repair under a program conducted with the assistance of the private sector. In New York City, the Department has funded a program for a community treatment center for 40 offenders awaiting parole or release from Federal institutions; inmates receive employment placement, counseling, and job training. Another program is underway at Rikers Island, N.Y., where 100 training slots in metal fabrication, woodworking, and production machine work are supplemented with basic education and vocational training.

In a project conducted by the South Carolina Department of Crime, inmates have been working in industry and private business during the day in communities in which they plan to live upon release from incarceration, returning to community prerelease centers at night. In the last 5 years, work release inmates have paid from their earnings nearly $500,000 to the Department of Corrections for room and board and more than $300,000 to support their families.

Mr. President, perhaps the most crucial element is linking the training to an actual job.

The importance of such a link has been demonstrated generally in the JOBS program, conducted by the National Alliance of Businessmen and funded by the Department of Labor under which almost 600,000 opportunities have been provided for the disadvantaged over the last 4 years.

But, this approach has been applied to criminal offenders only in a handful of cases and the National Alliance of Businessmen has advised me that it has no estimate of the number of offenders or ex-offenders currently involved in their programs.

The Departments of Labor, Health, Education, and Welfare, and Justice are currently funding joint projects to this end—for example "Project Transition" which supplements the South Carolina work-release program to which I referred—but these efforts represent only a very small beginning, compared with the potential that exists through a combination of public and private resources.

Mr. President, the bill we introduce today emphasizes the links between training and employment opportunities by—

Giving funding priority in respect to training programs for those efforts as to which prior arrangements have been made for subsequent employment;

Involving private industry and up-to-date equipment in training programs assisted under the title;

Requiring the Secretary and the applicant to determine that training which relates to a job for which there is generally a demonstrated demand on the National, State, and local level;

Requiring the formation of advisory committees for programs, including representatives of the private sector, as well as participants in the programs.

Moreover, it provides for an increase in the jobs generally available to criminal offenders and persons charged with crimes by—

Authorizing the Secretary to provide employment opportunities in the public and private sectors, with reimbursement where necessary;

Requiring the Secretary to insure that programs involving criminal offenders and persons charged with crimes are given full consideration for funding under the on-the-job training and job creation programs under the Manpower Development and Training Act of 1962, the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971;

Authorizing the Secretary to provide personnel to assist the U.S. Employment Service in providing jobs;

Requiring the Commissioner of the Civil Service Commission to report to the President and to the Congress on the manner in which Federal jobs may be increased.

As this bill is considered in the context of manpower reform generally, we shall consider what quotient of public service jobs may be set aside particularly for criminal offenders, and persons charged with crime.

Second, we have sought to insure that the programs authorized under the title will interlock with existing programs and advance the larger objective of comprehensive and coordinated penal reform.

To this end, the bill:

Grants considerable flexibility to the Secretary of Labor in choosing between public and private agencies, institutions, and organizations for the planning, conduct, and evaluation of programs;

Requires the Secretary of Labor and the Attorney General to enter into agreements to assure the combining of resources, maximum program coordination and joint planning between programs conducted under the Safe Streets Act and other similar laws. Of the $700 million available for correctional programs under that act for this fiscal year, approximately $2 million will be spent on training in correctional institutions;

Requires the Secretary of Labor and the Secretary of Health, Education, and Welfare to enter into agreements under which the latter shall be responsible for providing education to persons assisted under the title and for maintaining linkage to educational, vocational education, and rehabilitation to programs, as currently is the case under existing programs.

Third, we seek a substantial increase in Federal funding for offender programs.

The administration is to be commended for the priority that it has given to these efforts—expanding funding from less than $1 million in fiscal 1968 to $31 million in the current fiscal year, but the training and employment programs still account for less than 1 percent of the $4 million spent on manpower programs generally and less than 4 percent of the $1 billion spent for corrections generally.

The bill authorizes the appropriation of $40 million for fiscal year 1972, $100 million for fiscal 1973, and $200 million for fiscal year 1974.

We consider these amounts to be reasonable yearly additions which may be put to effective use, to cut into the overall need—which is so much greater:

With respect to pretrial programs, the Department of Labor efforts will reach 4,000 dependents, approximately three-tenths of 1 percent of the total of one and a quarter million individuals who are under the jurisdiction of the criminal justice system at any one time. Many of whom are of an appropriate age for such program.

With respect to correctional institutions, its programs will reach 6,000 inmates nationwide while 400,000 persons—60 times that number—are now incarcerated in correctional institutions in the Nation.

Mr. President, I am glad to note that Senator GAYLORD NELSON, chairman of the Subcommittee on Employment, Manpower, and Poverty of the Senate Committee on Labor and Public Welfare, of which I am the ranking minority member, intends to have hearings on such programs, as a part of consideration of comprehensive manpower reform early next session, and I hope to have the benefit of comments and suggestions of the administration, as well as experts in the field with respect to the approach which I have proposed. Particularly, I hope we will consider what portion of funding might be expressly reserved for the essential educational element.

We look forward also to working with members of the Subcommittee on Criminal Laws and Procedures for the Committee on the Judiciary, as well as the Subcommittee on Penitentiaries—whose chairman, Mr. BURDICK, held very beneficial hearings on this subject earlier this year.

The current situation and the goals which we seek were expressed by Chief Justice Warren E. Burger, in remarks before the Association of the Bar of the City of New York, on February 17, 1970. He said:

"Few prisons today have even a minimal education or vocational training program to condition the prisoner for his return to society as a useful self-supporting human being. A distressing percentage of prisoners cannot read or write.

"The training program in most State institutions are limited to a few skills, and there is almost no effort to correlate training programs with the demand for particular skills. It is no help to prisoners to learn to be pants pressers if pants pressers are a glut in the labor market or bricklayers or plumbers if they will not be admitted into a union. I suggest these two simple illustrations to indicate the desperate need for comprehensive and coordinated planning and research at a local and national level. This requires a monumental effort with the best leadership and brains of labor unions, industry, the Departments of Justice, of Labor, and of Health, Education, and Welfare. To be successful these programs need local community support which must involve Churches, YMCA's, Chambers of Commerce and Bar Associations."

Mr. President, as I indicated, inadequate training and job programs is one of the elements contributing to the crisis in our correctional process. I shall introduce additional proposals which would affect other reforms.

February 1, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your letter to January 14, 1972 enclosed you will find a copy of the VERA Institute contract and a report prepared by Dr. I. Ira Goldenberg of Harvard University in 1970 entitled, "Special Problems in Existing Manpower Training and Opportunity Programs: Drug Addiction and Alcoholism."

During fiscal year 1972 the Manpower Administration plans to obligate $728,356 for activities related to drug addiction rehabilitation. A brief description of these activities is also enclosed.

If there is more information I may provide you please let me know.

Sincerely,

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

TITLE OF PROJECT: SUPPORTED EMPLOYMENT PROJECT

(Contract No. 82-36-71-09)

Objective: To determine the effectiveness and costs of a program of creating supported employment for chronic alcoholics and addicts.

Project Procedures or components: The Vera Institute will (a) develop and operate an enterprise, under the auspices of a nonprofit agency, to provide employment at "regular" wages for chronic alcoholics and addicts, (b) determine the extent to which such an activity can, after its developmental stage, generate income for its continuation and the extent to which it would require continuing support, (c) determine the degree to which various participants can perform in low-stress employment situations and/or progress to competitive employment, and (d) analyze the operational practicalities of such an enterprise to develop guides for possible expansion of this type of job creation.

Participating group and characteristics: 75 chronic alcoholics and drug addicts who are unable to maintain employment in the regular community.

Contractor: Vera Institute of Justice, 30 East 39th Street, New York, New York 10016. Telephone: 212 YU6-5380.

Project Director: Gary Walker (address as above).

Funding and Phasing:

Phase I $323,944 Title I MDTA. Phase I—1/1/71—12/31/71.

Phase II increased by $220,356. Phase II—12/30/71—12/31/72.

Total—Phase II $544,300.

MANPOWER ADMINISTRATION—DRUG ADDICTION REHABILITATION PROGRAMS, FISCAL YEAR 1971-72

Drug Abuse Educational Materials—Special films and other educational materials are being developed for the use of Job Corps staff and enrollees. Funding costs in FY 1972 are estimated at $40,000.

Drug Abuse Workshop—Regional workshops are being held by the Job Corps for professional and administrative personnel including those engaged in screening and job placement activities for Job Corps enrollees. The purpose of these workships is to increase the awareness of Job Corps personnel of drug abuse problems. The funding costs for FY 1972 are estimated at $144,000. In FY 1971 the funding costs were $30,000.

National Survey of Job Corps Centers—In FY 1972 Job Corps will undertake a survey in 16 Job Corps centers to gain information about the knowledge, attitudes, and patterns of drug use by corps members of differing geographic and socio-economic backgrounds. The funding costs for FY 1972 are estimated at $121,000. In FY 1971 the amount was $32,000.

Demonstration Projects—In FY 1971 a demonstration project was begun to establish an on-center drug control and prevention program to develop and implement a variety of educational and counselling efforts to work with Job Corpsmen who have been identified as drug users. Two additional projects are to be operational during FY 1972. The funding costs for FY 1972 are estimated at $175,000. In FY 1971 the funding costs were $25,000.

Supported Employment Project—A contract was let with Pioneer Messenger Service, a subsidiary of the Vera Institute of Justice in New York City, to develop and operate an enterprise to provide "regular" employment for drug addicts and chronic alcoholics. A determination will be made as to the extent such an enterprise can be self-supporting and to what extent it can be used as a model for continued use. Funding costs were $323,944 for FY 1971, however, this was for both alcoholics and drug abusers. Drug abusers are about 50 percent of the enrollees. In FY 1972 the amount is $220,356.

National office support to drug abuse programs in the Job Corps was estimated to be $10,000 in FY 1971. Costs in FY 1972 are estimated to be $28,000.

U.S. SENATE,
Washington, D.C., January 14, 1972.

Hon. MALCOLM L. LOVELL, Jr.,
Assistant Secretary for Manpower,
U.S. Department of Labor,
Washington, D.C.

DEAR MR. LOVELL: On December 21, 1971, I wrote requesting information concerned with drug rehabilitation. I am now writing to request some additional information.

Would you please estimate the amount of all manpower training funds used for these purposes.

I would be grateful also for a copy of the VERA Institute contract and of the 1970 survey entitled "Special Problems in Existing Manpower Training and Opportunity Programs", referred to in the excerpt from the manpower report which you enclosed.

Sincerely,

JACOB K. JAVITS.

[From the New York Times, Dec. 14, 1971]

TWENTY-THREE FORMER HEROIN ADDICTS WORK AS TELLERS IN ONE OTB BRANCH

(By James M. Markham)

The man behind the window at an Off-track Betting Corporation office is rarely an object of scrutiny for the eager bettor standing impatiently in line, hopefully clutching his Morning Telegraph, his scratch sheets and dollar bills.

But since Nov. 30, an unusual group of 21 men and two women has been operating the teller windows at OTB's new office at 575 Lexington Avenue, near 51st Street. All 23 are former heroin addicts.

The experiment was started by Howard J. Samuels, president of OTB, who said yesterday that unless other business in the city changed their policies and started hiring former addicts, "we'll never solve the drug problem."

"And if every office of OTB had the spirit of work—and as good results as the new office has had—then we'd be even farther ahead than we are now," Mr. Samuels said in an interview.

The 23 former addicts—20 are in methadone maintenance programs, three are affiliated with drug-free programs—have been handling up to $19,000 a day in bets. The OTB office, also has seven supervisors, who, are not former addicts.

Preston Jenkins, branch manager of the office, said yesterday that his new employes were more prompt and conscientious than those of two other OTB operations he had worked in, and that the few shortages they had reported had mainly been a result of computer, not human error.

"We open at 7, and they're there at 6:50 waiting for the doors to open," Mr. Jenkins said.

"When I come here to work, I want to come here," said James Cropper, who is shop steward for the 23 new employes, members of Local 2021 of the State, County and Municipal. Employes union. Starting salary is $6,000 a year for an OTB teller.

"It's beautiful," said the 25-year-old Mr. Cropper, who said he had been on methadone for nine months after seven years of heroin addiction.

Mr. Samuels, who is a member of the Mayor's Narcotics Control Council, said that OTB did not approach the hiring of former addicts as "a therapy or make-work project" and that the 23 men and women finally hired had passed the mental aptitude tests normally administered to job applicants.

FEDERAL GRANT USED

The project was paid for by a $100,000 Federal grant from the Law Enforcement Assistance Administration to the Vera Institute of Justice, which prescreened 250 applicants from drug programs in the city who were judged ready for employment. Of the people screened, 40 were chosen for testing by OTB.

The Federal grant provides for the hiring of two counselors, who have a small room in the OTB Lexington Avenue office, as well as of four extra tellers to take some pressure off the new former-addict employes. Ordinarily, the OTB office would have only 20 tellers instead of the present 23; one more may be hired under the provisions of the grant.

David Macton, one of the two counselors, said yesterday that the tellers often turned to him for help in domestic matters such as schools and housing, but that psychological questions also cropped up.

"Some of the people here take it very hard if they make a very small mistake," he said. "I try to tell them that it's normal, that it's not the end of the world."

Mr. Macton added that he kept in touch with the drug programs with which the former addicts were affiliated, where they received more extensive supportive services.

Mr. Samuels said that he hoped eventually to graduate the former addicts out of the Lexington Avenue office and place them in OTB offices throughout the city. He added that if the Lexington Avenue experiment was successful he would consider opening another OTB office staffed by former addicts.

OTB at present has 36 branches, with about 1,500 employees.

MANPOWER PROGRAMS FOR A HEALTHIER ECONOMY

(By Sar A. Levitan, Center for Manpower Policy Studies, The George Washington University)

(NOTE.—Charters referred to are not printed in the RECORD.)

AN ACCEPTABLE LEVEL OF UNEMPLOYMENT

The federal government's responsibility to encourage high employment and economic growth has been the law of the land for over a generation and has achieved the status of a self-evident truth. Even President Nixon has recently professed to be a Keynesian. The acceptance of broad goals does not guarantee, however, a consensus about the implementation of specific measures; reasonable people have even disagreed about the optimum level of sustained employment. Few would agree today with the view commonly held when the Employment Act of 1946 was passed that the federal government should avoid a direct role as long as unemployment remains below the 6 percent level. President Kennedy indicated that 4 percent unemployment would be acceptable, at least as an interim goal, but this level was achieved by the succeeding Johnson Administration only after the expansion of the war in Southeast Asia.

Emphasis on the domestic war on poverty led many economists to conclude that a tight labor market is the best and most effective means to help the poor, and they advocated achieving a sustained unemployment rate of 3.5 percent and even lower. The recent recession and sticky high level of unemployment led policy shapers at the highest federal level to countenance a higher level of unemployment than we experienced during the tight labor markets in the 1960s. Secretary of the Treasury, John B. Connally, suggested that 4 percent unemployment has been achieved only in wartime and the goal established a decade ago is, therefore, based on "myth" and unattainable without excessive inflationary costs in peace time. Being a realist, he accepted a higher rate of unemployment. Paul McCracken, former Chairman of the Council of Economic Advisors, agreed with President Nixon's chief economic policy spokesman when he cautioned that we should not strive to achieve an unemployment rate below 4.5 percent.

Underlying the debate about the irreducible but responsible level of unemployment is the recognition that excessively tight labor markets can be bought only at a prohibitive cost of inflation, declining productivity, and rising unit labor costs which price our exports out of foreign markets and aggravate high unemployment at home. R. A. Gordon of the University of California (Berkeley) and George Perry of The Brookings Institution have demonstrated that earlier goals of high employment are more difficult to attain at present than they were, say, a decade or two ago. According to Gordon, the change in the age-sex distribution of the labor force between 1956 and 1970 would have yielded a 0.3 percent higher unemployment in the latter year than in 1956, everything else remaining equal. But the changes of reporting labor force data during the 1960s and the decision to exclude enrollees in manpower programs from the rolls of the unemployed have on balance reduced the number of those who are counted among the unemployed.

Whatever the comparable level of unemployment today with a decade or two ago may be, the fact is that the United States has tolerated a higher level of unemployment than most other advanced industrial countries. Even during the four years following the escalation of the war in Vietnam, the average unemployment rate in the United States was 3.8 percent—about the same as in Italy, but substantially higher than in other western European nations and in Japan. The rate in Great Britain between 1965 and 1969 was 3.2 percent; in France, 2.6 percent; in Sweden, 1.8 percent; and in Germany, only 0.7 percent. It is true that most other countries achieved the lower level of unemployment at a higher cost of inflation, but it can be argued that the goal was worth the costs and that the U.S. should have been willing to pay for achieving a lower unemployment rate.

Policy shapers can take little comfort that unemployment today would be lower if women's participation in the labor force were at a level of two decades ago. Rationalization of higher level of unemployment reflects callousness about the problems faced by millions of families who depend upon the income of working wives and mothers, especially the nearly 6 million families headed by females. We tolerated the high level of youth unemployment in the 1950s and suffered an alarming rate in the 1960s. High youth unemployment was not so serious a problem when there were fewer youths and there was little reason to be concerned about unemployment among married women when few of them entered the work force. But the number of 14- to 19-year-olds increased from 12.4 million in 1950 to 23.1 million two decades later. Women, also, are entering the labor force in increasingly larger numbers, and more of them are becoming heads of families.

INFLATION-UNEMPLOYMENT TRADE-OFF

Rationalization of higher unemployment reflects the failure of fiscal and monetary policies to cope with the twin ills of inflation and unemployment. While avoiding the sharp boom and bust cycles of earlier generations, we have not achieved both full employment and stable prices. Each of these can be purchased only with the coin of the other; we cannot have both. Other industrial countries have shown an inclination to tolerate higher inflation in order to secure lower unemployment.

Arthur Okun, President Johnson's chief economic advisor, estimated in 1962 that every 1 percent increase in GNP reduces unemployment by 0.3 percent. Though different estimates have been made since then, "Okun's Law," suggesting a straight relation between monetary and fiscal measures regulating aggregate demand and the level of unemployment, is now part of the conventional wisdom. Aggregate demand also, of course, affects price levels: the relation between price changes and the level of unemployment, though not exact, is clearly inverse, as shown in Chart 1. The curve fitted to these points slopes downward and to the right, meaning that lower employment is correlated with increasingly higher rates of price change and vice versa. This graphical relationship is usually referred to as the "Phillips curve," named after A. W. Phillips, the British economist who popularized the notion and measured the connection between employment levels and the rate of changes in wages. While wage and price changes are not synonymous, they are closely related and the term "Phillips curve" has been applied loosely to both the price change-unemployment and the wage change-unemployment relationships.

The sustained economic growth of the 1960s, with declining unemployment and only moderate inflation, generated forth in a "new economics" based on the foundations of fiscal and monetary policies. The experience of the past decade seemed to confirm the received doctrine of the Phillips curve that a little inflation could buy low unemployment, or vice versa. As the decade came to a close, however, the terms of trade were altered drastically. The Phillips curve, whatever its statistical validity, proved to be an undependable guide for action, as even substantial unemployment did not bring stable

prices. Policy shapers had to choose according to their own values the most preferred combinations of unemployment and inflation. Although adequate to combat one problem at a time, the traditional tools were unable to fend off the dual foe, spurring a search for additions to the government's arsenal. The aggressive use of manpower programs seemed to have great promise.

THE ROLE OF MANPOWER POLICY

Some economists have argued that the difficult choice between unemployment and inflation can be eased by expanding the options available to policy planners. Manpower programs, they argue, have the potential to shift the trade-off to a more favorable position by changing the structure of the labor market, where inflationary pressures presumably originate.

The goals of manpower programs fall into three general categories: first, to help match the supply and demand for labor by increasing the efficiency of the labor market mechanism; second, to help workers who suffer particular disadvantages in competing for available jobs; and, finally, in the broadest sense, to provide every worker the vocational preparation needed for his chosen occupation, while insuring that society's labor requirements will be met.

During the 1960s the United States began to develop manpower policy as an added major tool in sustaining economic growth at stable prices and with minimum unemployment. Specific programs have been designed and implemented for each of the above goals. While politicians expanded the resources allocated to the development of manpower programs to help persons in need, it was also hoped that these efforts would improve the trade-off between unemployment and price changes or, to use the technical terms of the economists, would shift the Phillips curve leftward, so that reductions in unemployment could be achieved wtih less pressure on prices.

Until the last decade federal manpower programs were reactions to specific crises, such as the emergency measures which were taken during the Great Depression and World War II. Measures evolved during the 1960s may serve as a foundation for a comprehensive manpower policy that would, in turn, become part of overall governmental economic policy. Existing manpower programs can be divided into three categories:

1. labor market services to combat frictional unemployment by matching vacant jobs with idle workers;

2. rehabilitation and training programs undertaken to reduce structural unemployment by preparing technologically displaced or disadvantaged workers for existing job vacancies and to promote upward mobility; and

3. public job creation to counteract cyclical and seasonal unemployment.

It may be safely assumed that some frictional unemployment will always remain as long as workers are free to leave jobs or prepare for new employment and employers are free to lay off workers, relocate, or close their businesses. Structural unemployment also cannot be completely eliminated as long as changing technology continues to make some skills obsolete, as long as many entrants to the labor force are ill-prepared, and as long as the supply and demand for labor do not match perfectly. The manpower programs designed during the past decade were supposed not only to reduce the level of unemployment but also to help achieve stable prices.

CURRENT MANPOWER PROGRAMS

Federal outlays for manpower programs have risen more than thirteen-fold during the past decade. In fiscal 1961 the federal government contributed less than a quarter billion dollars for various manpower activities, half of which was allocated to the federal-state employment service network and the other half for vocational education and vocational rehabilitation. In fiscal 1971, $3.2 billion was spent for a broad array of efforts (Table 1). The countercyclical measures adopted in the summer of 1971 will raise federal appropriations for manpower programs by another billion dollars during fiscal 1972. Clearly, manpower programs have been a growth industry with total enrollment in late 1971 of about half a million (Table 2). Though some of these programs obviously reduced unemployment by providing stipends and some work or training to participants, their effectiveness in shifting the Phillips curve leftward (easing inflation pressures) remains to be proven. Each program may have a different impact upon the trade off, but only those efforts which affect persons already in the labor force, or expected imminently to enter, hold much hope of being useful as policy tools.

TABLE 1.—FEDERAL OUTLAYS FOR MANPOWER PROGRAMS FISCAL 1961 TO 1971 [1]

	1961	1964	1966	1968	1970	1971 (estimate)
Total (millions)	$239	$539	$1,579	$2,208	$2,502	$3,187
Total (percent)	100	100	100	100	100	100
Institutional training	17	31	27	23	21	
On-the-job training	1	2	4	6	9	
Work experience and work support	(2)	21	23	17	17	
Job placement and support	53	34	17	15	18	19
Administration, research, and support	2	3	5	6	6	6
Vocational education	23	29	15	12	11	12
Vocational rehabilitation	23	16	10	13	18	17

[1] Includes only outlays by the Departments of Health, Education, and Welfare, and Labor, and Office of Economic Opportunity.

[2] Less than 0.5 percent.

Source: U.S. Office of Management and Budget.

TABLE 2.—ENROLLMENT IN MANPOWER PROGRAMS, SEPTEMBER 1971

	Amount
Total	490,400
Manpower Development and Training Act:	
Institutional	5,380
On-the-job	57,240
Neighborhood Youth Corps:	
In-school and summer	79,000
Out-of school	39,810
Operation mainstream	21,460
Public service careers	34,400
Concentrated employment program	35,030
Job opportunities in the business sector	33,880
Work incentive program	110,820
Job Corps	22,380

Source: U.S. Department of Labor, Manpower Administration.

EMPLOYMENT SERVICES

Investment in job placement efforts has increased more than threefold during the past decade, but the number of nonagricultural placements made by the public employment service declined almost continuously during the period from 6.7 million to 4.6 million annually. This occurred while the total labor force was expanding at a rate of about 1.5 million jobs a year. One explanation for the declining number of employment service placements is the expansion of industries and occupations which do not usually turn to the public employment service for new employees. State and local governments, for example, normally utilize their own hiring channels and do not depend on public employment services. Another reason, and one that has greater importance for the future, has been the emphasis upon serving the poor and the unskilled. Many employers may therefore believe that the public employment service refers only marginal workers and they shun the public employment service or turn to it only to fill jobs requiring the barest preparation.

Other activities of the employment service, however, promise increased potential for its placement activities as well as for a better unemployment-inflation trade off. Efforts are underway to automate much of the public employment service. The most important activities in this area include:

1. A job bank system for the accumulation and dissemination of current job order information. Job orders submitted to the employment service in a labor market are microfilmed and distributed to public agencies that can effectively utilize this information in the placement process. Job banks now operate in 40 states covering 88 labor markets.

2. The conversion of the job banks into a computerized job-matching system. While the job bank is a relatively simple and inexpensive operation, the job-matching system involves sophisticated electronic hardware; and the matching of jobs with vacancies also requires difficult programming. The employment service is now experimenting with several computerized matching systems.

Efficient data handling does not create jobs. The computerization of the public employment service's activities will be of little help if employers do not turn to the local offices for job placement. The federal government departed in mid-1971 from a long-standing policy against compulsory registration by requiring employers engaged in government contracts to register job vacancies. Whether the effectiveness of the public employment will be improved by this departure from voluntarism remains to be seen.

The employment service is, however, more than just a placement agency. It also performs various services for both employers and job applicants. Until the mid-1960s, these were largely limited to the counseling and testing of applicants. The expanded responsibilities of the employment service required the local offices not only to reach out into communities to encourage unemployed and underemployed workers to apply for jobs, but also to offer various services to applicants in order to enhance their employability. This may include the purchase of medical assistance, referral to training, or provision of other services. Most significant of these may be the provision of funds for child care to free mothers with preschool children for work. But as long as the bulk of the public employment service clientele remains unskilled and unemployed, a provision for their training is essential in order to place them in sustained employment.

TRAINING

Effective training programs offer promise in reducing structural unemployment and inflationary pressures because skill improvement increases workers' productivity and may also reduce pressure on prices resulting from labor bottlenecks. Helping those with the most severe labor market problems should also expand the supply of labor, lowering in turn the pressure on wages so that there will be less price rise at any level of unemployment.

The impact of past manpower programs on the trade-off between unemployment and the rate of price change has not been measured; whether it ever will be is doubtful. Nor are conclusive data available about the extent to which the employability of trainees has been improved. A large proportion of total expenditures has been allocated to income maintenance (Table 3) and the long-run impact of actual training has not been ascertained. An attempt by the Labor Department to measure the changes in earning capacity—and presumably productivity—of former enrollees as compared with a control group has proven inconclusive and the Department has been slow in releasing the available data.

TABLE 3.—FUNCTIONAL DISTRIBUTION OF MANPOWER FUNDS IN 1970

	OJT	Institutional	Work support	Rehabilitation	Job placement assistance
Total Federal outlays (millions)	$159	$584	$429	$441	$460
Total (percent)	100	100	100	100	100
medial education	1	12	1	1	(1)
Skill training	17	22	(1)	6	(1)
Work supervision	(1)	(1)	11	(1)	1
Child care	(1)	11	(1)	(1)	27
Health	(1)	1	(1)	18	(1)
Recruitment, counseling, and placement	5	10	5	29	60
Other supportive services	33	2	2	25	2
Program administration	5	13	11	7	9
Allowances	38	29	70	15	(1)

[1] Less than 0.5 percent.

Source: U.S. Office of Management and Budget.

There was an increasing emphasis until the 1970 recession on private sector participation through wider use of on-the-job training, subsidies to private employers, appeals to corporate conscience, and government-business partnership programs. This approach gained its original impetus under the Johnson Administration, but its continued and increased support stemmed from its compatibility with Republican ideals.

The benefits of private sector participation are obvious. Where jobs are offered to disadvantaged workers without subsidy, the aims of manpower policy are achieved at little cost. To the degree that the business sector knows its own needs and is most skilled in preparing workers to meet these needs, the training it provides will be more efficient. With "hiring first and training later," jobs are assured to participants, creating a built-in incentive to remain in training.

The Manpower Development and Training Act of 1962 provided for reimbursement to employers for direct costs of training. This involved a much lower outlay on the part of the government per trainee than institutional training, but left to the employer the choice of trainees. Government officials found it difficult to ascertain whether the reimbursed training would have been done even without the government subsidy. To gain some control over the selection of new employees, if not the training, the government changed the rules of the game and reimbursed employers for hiring and retaining only disadvantaged applicants. Apparently in an effort to overcome employer reluctance to hire employees certified by a governmental agency, the federal government also raised the ante paid to employers.

Job opportunities in the Business Sector started off with much fanfare and apparently with a fair degree of success, though its achievements were usually exaggerated. However, unfavorable economic conditions in 1970 and 1971 slowed expansion. JOBS funds which had been earmarked in the anticipation of continued growth were re-allocated to other programs because of the meager participation of employers.

In the early days of the JOBS program, costs per hire were almost $3,000, nearly twice as high as under MDTA-OJT. This increase was necessary in part because the JOBS clientele was more disadvantaged. However, some of the increase was unrelated to employers' actual training costs and was instead an inducement for hiring.

Little is known about the training offered under JOBS, but fragmentary evidence suggests that in many cases it is little more than what is normally offered. Moreover, many of the disadvantaged hired under JOBS would likely have been placed in similar slots even without subsidies. These subsidies were not sufficient during 1970 and 1971 to induce hiring in the face of a recession and the program was refocused, with less emphasis on the disadvantaged.

If training has had a pay-off in shifting the Phillips curve, then the impact should have been most pronounced in youth programs. The training program most clearly designed for youth has been the Job Corps, and to a lesser extent skills centers under the Manpower Development and Training Act. The Job Corps was launched under the Economic Opportunity Act of 1964 to provide vocational and basic education to youths in a residential setting, under the assumption that removal from debilitating home environments would be necessary for training to be effective. Two types of centers were available for men in the initial years of the program. Those most deficient in preparation for work were placed in rural centers where the emphasis was on basic education combined with conservation work; those with better education received intensive vocational training in urban centers. For women, centers were opened in smaller urban areas; these emphasized training for clerical and service positions with fewer educational offerings, since women, as a rule, had more schooling than the men.

Coming into office with the promise to end the waste in the Job Corps, the Nixon Administration did more than trim the fat off the program; it closed 59 of 123 centers. Although a careful procedure was set up to insure that the least effective centers were closed and a variety of performance factors were considered and then weighted, enrollments in urban centers were cut the most drastically, though their performance was relatively better than rural centers. Careful analysis of the post-enrollment experience of corpsmen and women revealed improvements in employment and earnings, but the issue was whether these justified the very high costs of training.

The Neighborhood Youth Corps was designed as a work experience, income maintenance, and training program for youths. There are three types of operations. Part-time jobs are provided for those in school, under the assumption that extra income will forestall dropouts for economic reasons. Summer NYC employs youths who might otherwise be "on the streets," the aim being to cushion their return to school the next fall. For out-of-school youths, NYC provides jobs and training, but most of all income, during the years of least employability. NYC has remained largely an income maintenance program, offering little training and preparation for work.

MDTA skills centers offer training for a number of alternative occupations, counselors to help with occupational choice and personal problems, and a prevocational orientation period to acquaint the trainee with various occupational options before choosing one. Training modules, occupational clusters, and training "ladders" are combined, providing a number of broad skill areas in which trainees can find the specific occupation that best suits them. Flexibility is also attained by allowing students to enter at frequent intervals and leave when they reach their training goal.

A major concern of skill center administrators is that they have tended to become over time but another segregated institution just for the disadvantaged. However, a new move is to integrate MDTA skills centers into community colleges. The combination allows prestige, a mingling of disadvantaged and regular students, and a broader selection of occupation that might motivate trainees to continue into regular enrollment.

Conceptually, the most anti-inflationary manpower program has been the drive to convert relief recipients—most of whom are not employed—into productive workers and taxpayers. President Kennedy's slogan to describe the effort was "rehabilitation not relief"; President Nixon has used the slogan "workfare instead of welfare." Thus far, manpower authorities have been largely frustrated in designing effective programs which would improve the employability of relief recipients. Among the several public assistance programs, attention has been focused on Aid to Families with Dependent Children (AFDC) whose ranks have been swelling continuously since the end of World War II and particularly during the past decade.

Despite the decline of both poverty and unemployment due to sustained economic growth during the 1960s and despite a variety of other rising expenditures in aid of the poor, AFDC grew steadily. Having about doubled each decade between 1936 and 1966 AFDC again doubled within four years. By mid-1971 more than 10 million persons were on AFDC rolls. A number of contributory

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factors can be identified, but the relative ease to qualify and the increased attractiveness of AFDC as an income source played a paramount role in the expansion of AFDC. Cash payments during the 1960s increased about 50 percent faster than spendable earnings for workers with families. In addition, the value of in-kind benefits, such as food stamps, Medicaid, and public housing, increased even faster.

Programs were initiated under the 1964 antipoverty legislation and under the 1967 Social Security amendments to place employable adults on relief in training or jobs. However, these efforts have not worked well, and under President Nixon's prodding, Congress is now in the process of overhauling the public assistance system. These reform efforts run into the thorny problem of providing adequately for those who cannot work, maintaining incentives for the able-bodied to contribute to their own support, and keeping costs acceptable to the majority that foots the bill.

Any action Congress takes on President Nixon's proposals to induce or coerce public assistance recipients to enter gainful employment is likely to have little effect on shifting the Phillips curve in the desirable direction. Moreover, the initial costs would be considerable and the bill approved by the House carried an initial annual price tag of about $5 billion above current welfare expenditures. Since most AFDC family heads are females with small children, the government may have to provide child care facilities in order to free many mothers for work. According to HEW estimates, the annual cost for full day care for the preschoolers is some $1,800 and about a third as much for children attending school. For a mother with one pre-school child and one school child, the annual cost for day care could amount to $2,400. Another $1,000 might be added for the initial cost of training. The Labor Department has estimated that, largely because of the high dropout rate, governmental outlays amount to over $5,000 to place a mother in a job, in addition to public assistance payments. But even then, her earnings would have to be considerably above the average amount earned by females with limited skills and education before she would become economically independent. There may be persuasive reasons to encourage the economic independence of mothers and to induce them to choose work over relief, but the desire to avert inflationary pressures is not one of them.

Another hope for public training has been that the acquisition of new skills would improve the productivity of the work force and eliminate bottlenecks. Government subsidies were expected to induce employers to upgrade their labor force and, in the process, open up new jobs at the entry level for unskilled workers. While the Johnson Administration favored direct subsidies to employers, others have proposed that tax incentives be offered to employers to cover training costs. The latter notion was popular with most Republicans in the 90th Congress who endorsed the Human Investment Act, which proposed a 10 percent tax cut for wages paid to trainees in order to reimburse employers for training non-managerial or non-professional employees.

The major appeal to the tax incentive lies in the belief that the inducement will eliminate bureaucratic meddling in private business while it encourages business to pursue socially desirable goals. However, it is not clear whether the sought after goals can be achieved without government intervention. In the absence of governmental monitoring, business would do what comes naturally—hire the most acceptable workers and provide the same training to employees as it did in the past. Though President Nixon appeared to favor the Human Investment Act approach, he has not formally proposed it and the notion has not received careful consideration in Congress.

The idea of using federal funds for upgrading either through tax incentives or direct subsidies remains the subject of much rhetoric, but little action. Given the limited resources available for the manpower programs and the increasing emphasis upon helping the poor and the disadvantaged, very little resources are left to lesser priorities and upgrading has never received top billing in the manpower agenda. The limited activity reflects also not only inadequate foresight about future manpower needs, but more significantly the result of controls exercised by vested interests over entry and training in certain occupations. The current glut of engineers and assorted Ph.Ds in science is an illustration of the former and shortage of health personnel a manifestation of the latter.

JOB CREATION AND COUNTERCYCLICAL EFFORTS

The use of manpower outlays as a countercyclical measure, an outgrowth of the 1970 recession, is the latest weapon in the ever-expanding arsenal of manpower policy. These countercyclical mechanisms, however, reflected the ambivalence of the administration and Congress about the tolerable level of unemployment. In connection with releasing added manpower funds during high periods of unemployment, the administration proposed that trigger mechanism become operative when the total national unemployment averaged 4.5 percent during three consecutive months; but in connection with the automatic extension of unemployment insurance during the recession, the law provided that the mechanism became operative when *covered* unemployment reached 4.5 percent, an equivalent to total unemployment of 5.6 or 5.7 percent.

While the extension of the duration of unemployment insurance payments may be an effective countercyclical measure. President Nixon's proposal to expand manpower funds during a recession was modest indeed. The President proposed that manpower funds be expanded by 10 percent when the trigger mechanism became operative. Since less than $2 billion of manpower funds were covered by the proposal, the 10 percent boost would have raised annual manpower outlays during the recession by $200 million at most. The Administration proposed that these funds be allocated for training workers for jobs that might be expanded when recovery occurs.

The use of public employment as a countercyclical strategy, with permanent or temporary expansion during periods of economic decline, was the intent behind the Emergency Employment Act. Signed into law in July 1971 to combat the recession, it authorized outlays of $1 billion in fiscal 1972 and $1.25 in fiscal 1973 for the creation of an estimated 130,000 jobs in the public sector. The EEA was implemented at a breakneck speed, rare in the annals of government, with the intent of getting people on the job as quickly as possible. Monies were distributed among states and cities or counties with populations over 75,000. To assure the quickest possible implementation, federal regulations were kept to a minimum, leaving maximum authority and responsibility for the program to state and local officials. The jobs were reserved for the unemployed or underemployed and they were explicitly transitional in nature, with funding geared to the aggregate unemployment rate with a requirement that half of EEA participants eventually be moved onto permanent payrolls.

Contrary to conventional wisdom about the snail's place of governmental activity, the EEA experience showed that manpower programs can serve as an effective tool to counteract a recession, though not necessarily as a countercyclical tool. Within four months of the first allocation of EEA funds, 79,000 persons were reported to be on the job. Nine-tenths of these had been unemployed for at least a week, so that the program had some impact on unemployment. A variety of jobs were filled, but most appeared to be fairly productive, with a number of teachers, firemen, policemen, clerks, and typists being hired.

The EEA experience demonstrates some of the inherent problems in using public employment as a countercyclical strategy. The major problem is one of scale. Despite the fact that the EEA is the single largest manpower program, it will provide jobs for less than three percent of the unemployed at the end of 1971 and a much smaller proportion of the total number inside and outside of the labor force who have been hurt by the recession. It may have been possible to double or even triple the EEA appropriations and to distribute the funds with some semblance of order, but the massive commitment of resources needed to make a noticeable dent in unemployment would have been impossible at least within the time constraints needed to make the effort worthwhile as a countercyclical weapon. Hiring 79,000 persons in four months is a notable achievement, but the bulk of these persons were not on the job until the end of this period and the remaining 40 to 50 thousand to be hired under EEA will probably not be on board until six or eight months have elapsed. Since the recession was already in full swing for at least a year before congressional action was taken, and another four months were needed to get a majority of potential participants on the job, the program will probably reach its full scale as recovery is well on its way.

A final problem is that, despite the rhetoric, countercyclical public employment is a one-way street—state and local jobs can be expanded, but contraction may be more difficult and painful. For instance, under the EEA, the states and localities were informed that one-half of all participants must be moved into permanent jobs upon the expiration of EEA support. But there is no guarantee that the states and localities will absorb employees hired with EEA funds. Already, pressure is being exerted by mayors and governors to change EEA from a transitional to a permanent program, and this may well be in the cards. While there may be good reason for expanding the public sector, EEA might even contribute to inflationary pressures when recovery is achieved.

Though experience with the Emergency Employment Act has demonstrated that a public employment program can be implemented rapidly and is worthwhile during a recession, it has not shown that it can be a major countercyclical tool. Funds going to hire the unemployed are probably more effective than other public expenditures, but public employment can not be implemented on the scale or with the flexibility and timeliness that could give it a prominent place along with aggregate monetary and fiscal policies.

In expanding federal funds allocated to job creation in the public sector under the Emergency Employment Act of 1971, Congress may have been motivated by other than theoretical economic considerations; but it would appear that the congressional action reflects little faith in utilizing manpower programs as part of a countercyclical policy. Many economists would no doubt agree. In order to utilize manpower programs as a countercyclical device, there must be a reasonable anticipation that the faucets can be turned on and off at will in accordance with the dictates of economic needs. Experience has shown that this is not a reasonable expectation. It takes considerable time to expand manpower programs: training facilities have to be organized and personnel assembled; courses have to be developed; and trainees have to be selected and enrolled. And training of individuals cannot be terminated abruptly because average unemployment drops below a certain predetermined level.

Nonetheless, since every little bit helps, it would be a mistake to use the limitations of manpower programs as an argument against their utilization as a countercyclical measure. If President Nixon's proposal appeared too modest, Congress could have extended the trigger mechanisms by granting an additional boost in manpower funds for step increases in unemployment above 4.5 percent. For example, if manpower funds had been boosted by 10 percent for each 0.2 percent increase (above 4.5 percent) in unemployment over a period of three months, there would have been a 60 percent automatic increase of manpower funds by mid-1971. There should be little concern that the need for additional funds would suddenly disappear. Experience has shown that unemployment is slow to drop during a period of recovery and the additional training funds could be well utilized to prepare workers for expanding jobs. Moreover, unlike fiscal and monetary policies, manpower expenditures are directed at those most in need of help. Dollar for dollar, manpower programs probably have more impact on unemployment than other types of spending; expanding them may be the best way to help the unemployed when demand slackens.

Little effort has been enacted thus far to counteract seasonal unemployment. The lack of action may have been due to the wide diversity in climate and economic conditions in the various regions of the country which forms serious obstacles to the development of federal policy. But other industrial countries, particularly Germany and Canada, have adopted various incentives intended to counteract seasonal unemployment. The most significant U.S. manpower program to counteract seasonal unemployment is the annual expansion of the Neighborhood Youth Corps that provides income, if little employment, to as many as half a million unemployed youths who are out of school during the summer.

THE LIMITATIONS OF MANPOWER POLICY

Although ample room remains for further expanding manpower programs, it is doubtful that the phenomenal growth which was experienced during the past decade can be duplicated, nor is it even clear that it should. Manpower efforts are likely to remain a junior partner in the formulation of economic policy. Given the present magnitude of manpower programs, their limitations in affecting economic policy become obvious. The tax cut of 1964 pumped some $14 billion annually into the economy. The 1968 surtax relieved taxpayers of only somewhat more than half of that amount, but still three times the annual outlays for manpower programs. Moreover, as noted, unlike monetary and fiscal policies, manpower programs cannot be expanded or contracted easily.

Nonetheless, there has been no lack of advocates favoring expansion of manpower programs. Most of these advocates fail to recognize the problems of administering manpower programs, overcoming reluctance by vested interests, and assessing prospective manpower needs. Even if we would make the heroic assumption that these obstacles could be overcome, the case for a continued expansion of manpower programs as an economic rather than social or welfare tool would still remain to be proven. The inherent obstacles of adopting manpower programs as countercyclical tools are formidable. None of the recessions since the end of World War II has thus far lasted more than 13 months and most skill shortages have also been of short duration. With start-up time, recruitment and screening of candidates and instructors, actual training time, and allowances for those who will not complete training, the time period between recognition of a particular shortage and delivery of the first candidates may stretch into years. Some training efforts under existing programs, launched in a period of immense need, have provided graduates only when the need was long past. Advocates of expanded budgets continue to hope that manpower forecasting would be improved. Greater investment in early warning systems would provide better insights into projected manpower needs. But until these anticipations are realized, the constraints on expanding manpower programs remain very real. It would take much more to overcome discrimination in hiring and in the control exercised by special interest groups over entry and training.

Any program which enhances the employability of marginal workers, reduces labor market frictions, expands skills supply, or reduces institutional barriers to employment makes possible lower unemployment or reduced wage costs per unit of output. It does not follow, however, that the inflation-unemployment tradeoff will necessarily be improved. The additional supply of labor resulting from training may actually raise unemployment and the cost of training may raise total costs although direct unit labor costs may decrease. In the short run, the resources allocated to training may actually reduce the total labor supply engaged in production because skilled labor would be assigned to training.

The extent to which trainees fill jobs that would otherwise have remained unfilled or merely displaced other workers is also crucial through practically unresolvable. Displacement is frequently justified as an attempt to "spread the burden" of unemployment beyond those on the bottom of the economic pile. While this may be desirable on equity grounds, it actually detracts from efficiency by spending money and gaining no net yield.

Moreover, tradition and powerful institutions tend to determine wage rates and prevent sharp improvements in the unemployment-inflation trade off. In addition, inflationary pressures may, but do not necessarily, originate in the labor market. In the early 1960s, for example, price increases were considerably larger than unit labor cost boosts, reflecting large increases in nonlabor costs. Devices other than manpower programs are necessary to alter the observed relationship between prices and unemployment.

LOOKING AHEAD

This brief review of manpower programs also suggests that the presumed salutary effect of shifting the Phillips curve is more an article of faith than an established fact. The delivery of manpower services, the training of the unemployed and the underemployed, and the upgrading of employed workers should be judged on their own merits and not by their impact upon aggregate economic activity. If the manpower programs ease the unemployment-inflation trade off, so much the better. The controlling factor for the expansion or contraction of manpower efforts should be the needs of individuals and not an abstract, presumed trade off. Some improvement in the unemployment-inflation tradeoff may be anticipated from specific job training and placement programs. But these expectations do not by themselves justify further expansion of manpower programs since current efforts do not warrant inflated notions about the impact of manpower programs.

The effectiveness and role of manpower programs should be neither exaggerated nor denigrated. Experience has shown that the employment stability and earnings of many manpower program participants have improved. Others have not gained primarily because manpower programs were being asked to solve social and economic problems beyond their reach. Skill training is no substitute for adequate economic growth or job creation and improvements in labor market operations do not create jobs. Manpower policies can hardly instill a preference for work over welfare, nor can they single-handedly overcome the cumulative disadvantages or discrimination which are usually the cause of low earnings.

The relatively short experience with manpower programs during the 1960s must be viewed as experimental; hence, the limited success of these tools heretofore does not preclude reliance on them in the future. From the many trials and failures experienced during the past decade, lessons were learned, services were improved, and new options were provided to disadvantaged persons, especially blacks, to improve their abilities and thus gain entry into the mainstream economy. In many cases, manpower programs offer a second chance to those who failed in, or were failed by, the educational system and for those whose skills have been eroded by technological change. As more knowledge is gained about the needs of particular individuals and about the effectiveness of particular services or combination of services in meeting these needs, the manpower programs may become an alternative for those who do not succeed in the regular school system. The experience gained from the manpower programs may also help the regular school system to avoid past mistakes.

Experience has shown that in the short run the unemployment rate can be lowered or raised almost at the public will. The problem is to achieve sustained high employment without undue inflation and the key issue, therefore, is the trade off between unemployment and inflation. Despite the rhetoric of politicians and economists, it is not likely that we can achieve in the immediate years ahead both high employment and stable prices. Given this dilemma, experience dictates measures which will cushion the negative effects of inflation in order to sustain a high employment economy. The progress made during the past three or four decades justifies some optimism that increasingly sophisticated designes will ease the choice between inflation and unemployment. Meanwhile, we must make the hard decisions between the two and that remains a matter of personal values.

By Mr. HARTKE:

S. 3423. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen. Referred to the Committee on Commerce.

MEDICAL CERTIFICATION OF AIRLINE PILOTS

Mr. HARTKE. Mr. President, the Federal Aviation Administration has proposed a radical change in the medical certification procedures for airline pilots which deserves our attention, interest, and concern. The proposed rule would require that all airline pilots take their Government-required, semiannual, and annual physical examinations from physicians hired by or under contract to their respective companies. Currently, airline pilots obtain their medical certifications from more than 2,100 private physicians who have been carefully chosen by the FAA on the basis of background, interest, and experience in aerospace medicine. The pilot pays for these examinations.

To the average air traveler, it may seem unimportant who gives the airline pilot his physical examinations—as long as he gets them and passes them, but it is important to anyone who chooses to take advantage of our air transporta-

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tion system. Because it is vital to the public interest that airline pilots are always in top physical condition, we all must be concerned when a change in the medical examination procedures might mean that a pilot may not be in a proper physical or mental condition to pilot a commercial airliner.

The proposed change is contained in FAA Notice of Proposed Rulemaking 71-31 which was issued last October. Comments from interested parties in reply to the docket were due in no later than March 2.

Strangely, the Notice of Proposed Rulemaking did not give any rationale in the preamble which appeared in the Federal Register as is customary nor was a public hearing offered so that both sides—if there are two sides—could be provided a forum to express their views to the proposed change.

The reaction to the rule from the airlines, physicians, airline pilots, and the public was overwhelmingly in opposition to making any change. There are many good reasons for this opposition.

In the first place, the rule would be a blatant destruction of the time-honored doctor-patient relationship which we are privileged to have in this country. Since the doctors would be employed by the airlines, medical records would be company property and therefore available to anyone in authority. A doctor whose income depends on pleasing management could not very well refuse to produce records on pilots without jeopardizing his job.

Examine this arrangement from the airlines' point of view. The proposed rule would require them to set up or contract for physical examination facilities at great expense. Obviously, this new Government-directed cost would eventually be reflected in ticket prices. At this critical time in the history of air transportation when so many U.S. airlines are having financial difficulties, it is ludicrous to ask that they assume this added burden by Government dictum without any good reasons given them why they should.

The financial difficulties the airlines are experiencing could easily creep into this program. For example, I have been informed that it costs as much as $200,000 to train a pilot to qualify for the captain's seat of a modern, complex jet airliner. Picture what could happen if a company-paid doctor gives a physical examination and finds that a pilot should be disqualified. He reports this fact to management. Management officials, looking at their balance sheets, then ask the doctor if the pilot could not be allowed to fly for another 6 months or a year. The doctor, since he holds his job only if he pleases his superiors, reevaluates his conclusion, and gives the verdict that the pilot can continue flying. The pilot goes back to the cockpit thinking he is in good shape. The innocent passengers who fly with him assume he has no physical defects which might cause his incapacitation while in flight. What could happen as a result needs no elaboration.

Now look at this procedure from the pilot's point of view—especially a pilot who may have been active in representing his brother pilots in contract negotiations. If he has been particularly forceful in his efforts, it is not beyond the realm of possibility that management could pass the word to the medical examiner to find reasons why that man should not be certified as an airline pilot. Obviously, it is not in the public interest in either case to have passengers' lives or the career of a pilot rest on the whims of airline management.

There are other aspects to this plan to change the system of medical certification that must be considered. A proper question to ask is whether the Federal Aviation Administration has the legal authority to delegate to the airlines the mandatory requirement that the airlines conduct the Government-required physical examinations. The Air Transport Association, representing the Nation's scheduled airlines, has studied this question thoroughly and has concluded that the Notice of Proposed Rulemaking 71-31 is without statutory foundation or authority and could possibly be in violation of the fifth amendment of the Constitution. The basic legal question involved is whether the FAA Administrator can delegate a function which is clearly his under the law to persons unwilling to accept that responsibility.

It is interesting to note that the Federal Air Surgeon seeks to effect a change in a long-standing medical examination policy which he clearly supported several years ago. On July 1, 1966, he issued a medical bulletin to all aviation medical examiners to remind them that—

> Physicians employed by or consultants to airline carriers and designated as Aviation Medical Examiners are not permitted to conduct FAA physical examinations on pilots or other flight crew members by their same company.

He added that—

> The purpose of the adoption of this policy was to avoid any dual affiliation, conflict of interest and/or any adverse public criticism.

It is perfectly obvious to all that there is a great need for objectivity in the medical certification of airline pilots. Travelers aboard an airliner have every right to believe that their pilots have been examined by a physician who is completely unbiased in his judgment about their ability to function properly, on the job. No physician acting in the public interest should be asked to serve the Government on one hand, the airline on another and the pilot on still another. No human being, even a physician, would be free of the potential for conflicting pressures which would inevitably cause medical judgments to be warped in some way.

In recent newspaper accounts, the Federal Air Surgeon, Dr. Peter V. Siegel, is quoted as saying that some airline pilots suffering from serious ailments are escaping detection during FAA examinations and that "to get rid of the bad apples, the Government revokes 10 to 12 medical examiner certificates a year, and lets about 100 others lapse." The inference is that a few doctors are not doing their jobs under the program he administers and that he must fire them.

There are more than 2,100 medical examiners who are authorized to give airline pilot physical exams. The Nation's 35,000 airline pilots can go to any of them. Presumably they are all of them. Presumably they are all qualified or they would not be given the privilege. The Federal Air Surgeon has the tools to get rid of them if they do not perform according to the regulations and, to his credit, he does just that. Undoubtedly, he is ill at ease about this, because it places him in the position of telling his medical colleagues that some of them do not measure up to his standards.

To solve his problem of management of the aviation medical examiners under his supervision, the Federal Air Surgeon now wishes to pass the problem to the airlines. Failing that, there is only one other direction that he can go and that is for Government-paid physicians to perform the medical certification task—physicians who would man expensive federally supported examination facilities. Thus, the entire burden of examining 35,000 airline pilots would be borne by the taxpayers.

Since the FAA seems intent upon changing the medical certification system despite the strong opposition to it by the airlines, their pilots, and the aerospace physicians, it is necessary that legislation be enacted that would prohibit the FAA from making such an arbitrary move which has no reasonable basis. Accordingly I am today proposing legislation in the public interest which will expressly prohibit the Federal Aviation Administration from requiring the airlines to conduct the Government's medical certification of airline pilots. Further, this legislation will prohibit the Government from setting up and operating medical examination facilities for this function. In short, I respectfully propose that the medical certification now in effect remain unchanged. This legislation will assure the air traveler that the pilots of his aircraft are in absolutely tip top physical condition.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 314 (a) of the Federal Aviation Act of 1958 (49 U.S.C. 1355 (a)) is amended by inserting immediately after the first sentence the following new sentence: "In exercising his authority under this Act to determine medical qualifications of airmen, the Secretary shall not delegate any part of his authority to an employee of any air carrier or to any person performing medical services on a contractual or regular consulting basis for any air carrier, but shall provide that such determination be made only by private physicians under appropriate arrangements".

By Mr. ANDERSON:

S. 3426. A bill to establish the El Malpais National Monument, in the State of Mexico, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. ANDERSON. Mr. President, today I am introducing legislation to give El Malpais—Grants Lava Flow—located near Grants, N. Mex., national monument status. For many years the Grants Lava Flow has been considered by the people in the Southwest as one of the most unusual laval flows in the entire United States. From time to time suggestions were made that the area be set aside as a national park or monument. In 1965 the people of Grants, N. Mex., began a vigorous drive to obtain national monument status for El Malpais. At their request, I asked the National Park Service to do a reconnaissance study of the area which the Department did. After the reconnaissance study, the National Park Service determined that the area was of such significant importance as to warrant a thorough study by the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, and the matter was referred to the Board for its study.

After 2 years, the Board determined that the area was of national significance and would be eligible for inclusion in the National Registry of Natural Landmarks. However, the studies by the National Parks Advisory Board continued and in 1971 the Board recommended that, because of the outstanding scenic, scientific and natural historic features of El Malpais, the area was fully qualified for monument status and recommended that the Department of the Interior take action to get the area authorized as a unit of the national park system. The Board further recommended that if the Park Service was unable to obtain this authorization, the area be designated by the Bureau of Land Management as an outstanding, natural area and that it be given national landmark status.

El Malpais is situated in the famous Mount Taylor volcanic region of western New Mexico. Estimated to be 120,000 acres in extent, it consists of several flows. The most striking is the McCarty's, a beautiful, fresh, black lava flow. A second flow, the Laguna, is larger, older, and more weathered than the McCarty's flow. It contains a large number of beautiful volcanic features including some of the largest and most extensive lava tubes reported within the United States; many cinder cones of classic symmetry; and some astonishingly magnificent ice caves, full of ice stalagmites, crystalline ceilings, and other unique formations. Two small features—lava tube sinkholes—large water ponds within the lava—and shark's tooth projections—formations angled in opposite directions on adjacent walls of a crack in the lava—are unreported elsewhere on the North American Continent.

Legislation drafted by the Park Service provided for setting aside of up to 165,000 acres. I believe this to be excessive; therefore, I have provided in the legislation that I introduced that the area is not to exceed 120,000 acres. It may be that we need even less than this, but I believe we can make this determination only after hearings are held before the Senate Interior Committee.

There has been no development of access roads into the El Malpais area. Tourists passing through that part of the Southwest have never known of the magnificent attraction that this area holds. Giving the area national monument status would permit us to open up the area for visitors, scientists, and others who are interested in this historic resource.

I am certain that once this area is made known to the people, there will be widespread interest in this unusual formation.

By Mr. MANSFIELD for Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 3428. A bill to designate certain areas in the United States as wilderness areas; and

S. 3429. A bill to designate certain areas in the United States as wilderness areas. Referred to the Committee on Interior and Insular Affairs.

By Mr. MANSFIELD for Mr. JACKSON (for himself, Mr. ALLOTT, Mr. Moss, and Mr. FANNIN) (by request):

S. 3430. A bill to designate certain areas in the United States as wilderness areas. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I introduce three bills, and I ask unanimous consent that a statement prepared by Senator JACKSON in connection with the three bills and a communication from the President of the United States transmitting these proposals for additions to the national wilderness preservation system be printed in the RECORD.

There being no objection, the statement and communication were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

WILDERNESS LEGISLATION

On behalf of myself, the Ranking Minority Member of the Committee on Interior and Insular Affairs (Mr. Allott) and the Junior Senator from Utah (Mr. Moss), I send to the desk by request three bills to designate certain lands as wilderness pursuant to the Wilderness Act.

Mr. President, the Wilderness Act of 1964 established the National Wilderness Preservation System to insure that present and future generations of Americans have the benefits of a lasting natural resource.

These three bills will add 18 new areas to the System, as recommended to Congress by the President.

The first bill comprises those lands determined to be suitable for wilderness by the Bureau of Sport Fisheries and Wildlife. A total of five areas are included in the bill; the first is the 355-acre San Juan Islands Wilderness in the State of Washington; the second area is the 4,598-acre Moosehorn Wilderness (Baring Unit) located in northern Maine; the third area is the 17,746-acre St. Marks Wilderness located along the northeast Florida Gulf Coast; the fourth area is the 4,168-acre Wolf Island Wilderness located south of Savannah, Georgia, on the Atlantic Coast; and the last area is the 28,000-acre Cape Romain Wilderness in South Carolina.

The second bill designates areas deemed suitable by the U.S. Forest Service for inclusion in the Wilderness System. These are the Glacier Wilderness in Wyoming, Eagles Nest Wilderness in Colorado, Agua Tibia Wilderness in California, Emigrant Wilderness in California, Weminuche Wilderness in Colorado and Mission Mountains in Montana. I feel the proposals have great merit and their inclusion into the National Wilderness Preservation System will afford these areas of the National Forests even greater protection in the future.

The third bill includes areas recommended by the National Park Service. The four areas are embraced in the following Federal land units:

Colorado National Monument, Colorado, to be designated Colorado Wilderness; Bryce Canyon National Park, Utah, to be designated Bryce Canyon Wilderness; Chiracahua National Monument, Arizona, to be designated Chiracahua Wilderness, and Black Canyon of the Gunnison National Monument, Colorado, to be Black Canyon of the Gunnison Wilderness.

This proposal affords us another opportunity to set aside unique natural environment with outstanding scenic, geological and biological resources.

The Senate and the public may be assured that the Committee on Interior and Insular Affairs will consider these proposals as expeditiously as possible. We recognize that time is of the essence if we are to meet the goal established by the Wilderness Act and endorsed by millions of Americans who are concerned about the threat to our last remaining wild lands.

THE WHITE HOUSE,
Washington, D.C., February 8, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to the Wilderness Act of September 3, 1964, I am pleased today to transmit proposals for 18 additions to the National Wilderness Preservation System.

The proposed new wilderness areas, which cover 1.3 million acres in all, are enumerated in my Special Message on the Environment of today's date. Two other possibilities considered by the Secretary of the Interior in his review of roadless areas of 5,000 acres or more—Martin National Wildlife Refuge, Maryland, and Wupatki National Monument, Arizona—were found to be unsuitable for inclusion in the Wilderness System. I concur in this finding and in the 18 favorable recommendations of the Secretaries of the Interior and of Agriculture, all of which are transmitted herewith.

Timely and farsighted action is imperative if we are to preserve America's irreplaceable heritage of wildness as part of our legacy to the future. I urge that protected status be promptly extended to the lands covered by these proposals and by the 31 previous wilderness recommendations already pending before the Congress.

Sincerely,

RICHARD NIXON.

By Mr. PELL:

S. 3431. A bill to amend the Federal Employees' Compensation Act so as to permit injured employees entitled to receive medical services under such act to utilize the services of podiatrists. Referred to the Committee on Post Office and Civil Service.

COVERAGE OF PODIATRISTS UNDER FECA

Mr. PELL. Mr. President, I introduce for appropriate referral a bill to permit employees who have been injured in federally related jobs to receive the services of podiatrists if it is necessary.

Although the services of podiatrists are included in the coverage of medicare, medicaid, and Federal employees health plans, the services of podiatrists are not authorized under the provisions of the Federal Employees Compensation Act.

As Dr. Robert J. Houle, president of the Rhode Island Podiatry Society, has noted

in a recent letter to me, this situation is "incongruous."

To change this situation I believe the Employees Compensation Act (5 U.S.C. 8101 et seq.) should be amended to define the doctor of podiatric medicine as being in the same category as doctors of medicine and osteopathy.

Precedents for this bill have already been established by the Congress. Title XVIII of the Social Security Act defines the podiatrist as a "physician" for purposes of medicare. Equally important are the numerous national health insurance—NHI—proposals now pending in the Congress. Podiatrists' services are integral parts of these proposals, including the administration's plan which specifies the podiatrist as a physician.

Licensed in every jurisdiction to medically and surgically treat conditions of the foot, the podiatrists also participate in the medicaid program. The Health Professions Act provides scholarships and loans to podiatric students and provides for the construction of schools of podiatric medicine.

Also, presently pending in Congress is legislation which would enable podiatrists to participate in the FHA group practice facilities program.

Since the early days of World War II, podiatrists have served as commissioned officers in the various branches of the Armed Services. Veterans' Administration Hospitals, too, employ podiatrists for their programs as do a growing number of city, county, and State public health departments.

It is of special interest that State legislatures, attorneys general, and State insurance commissioners have consistently interpreted the podiatrist as a "physician" for State workmen's compensation programs, use of drugs, scope of practice, private health insurance, and school accident programs.

In 1961 the Bureau of Retirement and Insurance of the Civil Service Commission designated the podiatrist as a "physician" and "doctor" for the various health plans provided under the Federal Employees' Health Benefits Act of 1959.

The lack of coverage for podiatric service is a more serious problem for Federal employees who live in rural areas since they do not even have available the limited number of Federal health facilities available in urban areas that have been permitted by the Bureau of Employees Compensation to treat foot injuries of Federal employees.

In rural areas the injured Federal employee has no choice but to seek a podiatrist for the treatment of his foot problem.

As a result there have been many cases on record indicating that Federal employees in these areas have sought and received needed services from podiatrists in private practice; and yet, these services have not been compensated due to FECA's limited interpretation of "physician." I do not believe that Congress intended to impose distinctions among licensed practitioners of the healing arts. The present language of the Federal Employees Compensation Act allows that discrimination and unfairly denies the services of podiatrists to injured Federal employees. I would hope that that act would be amended to correct this inequity.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent letter addressed to me by Dr. Robert Houle, president, Rhode Island Podiatry Society. Dr. Houle's letter, succintly addresses the very problem the legislation I introduce today proposes to correct.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RHODE ISLAND PODIATRY SOCIETY,
Providence, R.I., January 31, 1972.

HON CLAIBORNE PELL,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR PELL: In recognition of your untiring efforts to bring improved health care to the American people, I want to seek your help in remedying a problem Federal employees face in seeking the professional services of doctors of podiatric medicine. Specifically, I refer to the *Federal Employees Compensation Act* and the fact that podiatrists are not authorized to render professional services thereunder.

As you are aware, however, the *Federal Employees Health Benefits Program* does provide for podiatry services. It is therefore difficult at best to understand why Federal employees *cannot seek* the services of podiatrists for work-related injuries when the same services are fully authorized for non-work-related injuries and diseases.

In order to correct this incongruous situation, the *Federal Employees Compensation Act* will have to be amended defining the podiatrist as a physician, alongside doctors of medicine and osteopathy. And the Rhode Island Podiatry Association would very much appreciate your assistance in moving this objective forward.

Thanking you in advance for the sincere consideration you will give this matter, I remain

Yours truly,
ROBERT J. HOULE, D.S.P.

By Mr. COTTON (by request):

S.J. Res. 219. A joint resolution to establish a national policy relating to conversion to the metric system in the United States. Referred to the Committee on Commerce.

NATIONAL POLICY ON CONVERSION TO METRIC SYSTEM

Mr. COTTON. Mr. President, at the request of the Acting Secretary of Commerce, I introduce for appropriate reference a joint resolution to establish a national policy relating to conversion to the metric system in the United States.

There presently is pending before the Committee on Commerce another legislative proposal, S. 2483, which proposes to provide a national program for conversion to the metric system and to provide for converting to the general use of such system within 10 years after the date of enactment of such legislation. The full Commerce Committee held hearings on this bill, S. 2483 on February 29 and March 1.

These measures—that which I am introducing today and S. 2483—take a somewhat different approach with respect to providing for conversion to the metric system and in view of that fact I am today introducing this joint resolution in order that the committee may have the benefit of all views on this most important matter. This is a most important matter having far-reaching implications for American business and the national economy. It therefore is deserving of most careful consideration.

This legislation represents the work product of the final report of the metric system study authorized by the Congress pursuant to Public Law 90-472, whereby the Secretary of Commerce was directed to conduct a 3-year study of the advantages and disadvantages of the U.S. converting to the metric system.

Mr. President, I ask unanimous consent that the full text of the joint resolution be printed in the RECORD at this point together with the transmittal letter and the statement of purpose of need.

There being no objection, the joint resolution, letter, and statement were ordered to be printed in the RECORD, as follows:

S. J. RES. 219

Whereas the use of the metric system of weights and measures in the United States was authorized by the Act of July 28, 1866 (14 Stat. 339); and

Whereas the United States was one of the original signatories to the Convention of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures, and the International Bureau of Weights and Measures; and

Whereas the metric measurement standards recognized and developed by the International Bureau of Weights and Measures have been adopted as the fundamental measurement standards of the United States and the customary units of weights and measures used in the United States have been since 1893 based upon such metric measurement standards; and

Whereas the governments of Australia, Canada, Great Britain, India, Japan, New Zealand, and the Union of South Africa have determined to convert, are converting or have converted to the use of the metric system in their respective jurisdictions; and

Whereas the United States is the only industrially developed nation which has not established a national policy committing itself to and facilitating conversion to the metric system; and

Whereas as a result of the study to determine the advantages and disadvantages of increased use of the metric system in the United States authorized by Public Law 90-472 (82 Stat. 693), the Secretary of Commerce has found that increased use of the metric system in the United States is inevitable, and has concluded that a planned national program to achieve a metric changeover is desirable; that maximum efficiency will result and minimum costs to effect the conversion will be incurred if the conversion is carried out in general without Federal subsidies; that the changeover period be 10 years, at the end of which the nation would be predominantly, although not exclusively, metric; that a central coordinating body be established and assigned to coordinate the changeover in cooperation with all sectors of our society; and that immediate attention be given to public and formal education and to effective U.S. participation in international standards making; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the policy of the United States shall be:

(1) to facilitate and encourage the substitution of metric measurement units for customary measurement units in education, trade, commerce and all other sectors of the economy of the United States with a view to making metric units the predominant, although not exclusive, language of measurement with respect to transactions occurring after 10 years from the date of the enactment of this Resolution.

(2) to facilitate and encourage the development as rapidly as practicable of new or revised engineering standards based on metric measurement units in those specific fields or areas in the United States where such standards will result in rationalization or simplification of relationships, improvements of design, or increases in economy.

(3) to facilitate and encourage the retention in new metric language standards of those U.S. engineering designs, practices, and conventions that are internationally accepted or embody superior technology.

(4) to cooperate with foreign governments and public and private international organizations which are or become concerned with the encouragement and coordination of increased use of metric measurement units or engineering standards based on such units, or both, with a view to gaining international recognition for metric standards proposed by the United States and to encourage retention of equivalent customary units in international recommendations during the U.S. changeover period.

(5) to assist the public through information and educational programs to become familiar with the meaning and applicability of metric terms and measures in daily life. Programs hereunder should include:

(a) Public information programs conducted by the Board through the use of newspapers, magazines, radio, television, other media and through talks before appropriate citizens groups and public organizations.

(b) Counselling and consultation by the Secretary of Health, Education, and Welfare and the Director, National Science Foundation with educational associations and groups so as to assure that the metric system of measurement is made a part of the curricula of the nation's educational institutions and that teachers and other appropriate personnel are properly trained to teach the metric system of measurement.

(c) Consultation by the Secretary of Commerce with the National Conference of Weights and Measures so as to assure that State and local weights and measures officials are appropriately informed of the intended metric changeover and are thus assisted in their efforts to bring about timely amendments to weights and measures laws.

(d) Such other public information programs by any Federal agency in support of this Resolution which relate to the mission of the agency.

Sec. 2. *Definitions*

For the purposes of this Resolution—

(a) The term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b) The term "engineering standard" means a standard which prescribes a concise set of conditions and requirements to be satisfied by a material, product, process, procedure, convention, test method, and the physical, functional, performance and/or conformance characteristics thereof.

(c) The term "changeover period" means the length of time for the United States to become predominantly, although not exclusively, metric.

(d) The term "international recommendation" means a recommendation formulated and promulgated by an international organization and recommended for adoption by individual nations as a national standard of measurement.

Sec. 3. There is hereby established a National Metric Conversion Board (hereinafter referred to as the "Board") to implement the policy set out in this Resolution.

Sec. 4. The composition of the Board shall be as follows:

(a) Not to exceed twenty-one persons appointed by the President who shall serve at his pleasure and for such terms as he shall specify and who shall be broadly representative of the American society. The President shall designate one of the members appointed by him to serve as Chairman and another to serve as the Vice Chairman of the Board;

(b) Two members of the House of Representatives who shall not be members of the same political party shall be appointed by the Speaker of the House of Representatives; and

(c) Two members of the Senate who shall not be members of the same political party shall be appointed by the President of the Senate.

Sec. 5. The Executive Director of the Board shall be appointed by the President and shall be responsible to the Board for carrying out its responsibilities according to the provisions of this Resolution.

Sec. 6. (a) Within 12 months after funds have been appropriated to carry out the provisions of this Resolution the Board shall, in furtherance and in support of the policy expressed in section 1 of this Resolution, develop and submit to the Secretary of Commerce for his approval and transmittal to the President a comprehensive plan to accomplish a changeover to the metric system of measurement in the United States. If such plan is approved by the President, he shall transmit it to the Congress. Such plan may include recommendations for legislation deemed necessary and appropriate. In developing this plan the Board shall:

(1) Consult with and take into account the interests and views of United States commerce and industry, including small business; science; engineering; labor; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; and such other individuals or groups as are considered appropriate by the Board to carry out the purposes of this section.

(2) Consult, to the extent deemed appropriate, with foreign governments, public international organizations, and, through appropriate member organizations, private international standards organizations. Contact with foreign governments and intergovernmental organizations shall be accomplished in consultation with the Department of State.

(b) Any amendment to an approved plan shall be submitted by the Board to the Secretary and the President under the provisions set out in subsection (a) of this section.

(c) Unless otherwise provided by the Congress, the Board shall have no compulsory powers.

Sec. 7. Upon approval of the plan by the President, the Board shall begin the implementation of the plan, except for those recommendations, if any, which require legislation.

Sec. 8. In carrying out its duties, the Board is authorized to:

(a) enter into contracts in accordance with the Federal Property and Administrative Services Act of 1949, as amended, with Federal or State agencies, private firms, institutions and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(b) Conduct hearings at such times and places as it deems appropriate;

(c) establish such committees and advisory panels as it deems necessary to work with various sectors of the American economy and governmental agencies in the development and implementation of detailed changeover plans for those sectors; and

(d) perform such other acts as may be necessary to carry out the duties prescribed by this resolution.

Sec. 9. (a) Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be entitled to receive compensation at a rate of $100 per day, including travel-time, and while so serving on the business of the Board away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose.

(b) The Executive Director of the Board shall serve full-time and receive basic pay at a rate not to exceed the rate provided for GS-18 in Subchapter III of Chapter 53 of title 5, United States Code.

Sec. 10. (a) The Board is authorized to appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act.

(b) The Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of the rate prescribed for grade 18 of the General Schedule under section 5332 of such title, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of said title 5 for persons in the Government service employed: *Provided, however*, that contracts for such employment may be renewed annually.

Sec. 11. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other staff services as may be requested by the Board shall be provided the Board by the Secretary of Commerce, for which payment shall be made in advance, or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and the Secretary of Commerce.

In performing these functions for the Board, the Secretary is authorized to obtain such information and assistance from other Federal agencies as may be necessary.

Sec. 12 (a) The Board is hereby authorized to accept, hold, administer and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For the purpose of Federal income, estate, and gift taxes, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest in securities of the United States any moneys contained in the fund herein authorized. Income accruing from such securities, and from any other property accepted to the credit of the fund authorized herein, and shall be disbursed upon the order of the Board.

Sec. 13. The Board shall cease to exist no later than ten years after approval by the President of the plan called for by Section 6.

Sec. 14. The Board shall submit annual reports of its activities and progress under this Resolution to the Secretary of Commerce for his approval and transmittal to the President and to the Congress.

Sec. 15. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Resolution. Appropriations to carry out the provisions of this Resolution may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

THE SECRETARY OF COMMERCE,
Washington, D.C., February 29, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft Joint Resolution "To establish a national policy relating to conversion to the metric system in the United States" together with a statement of purpose and need in support thereof.

The Department of Commerce urges enactment by the Congress of this Joint Resolution for the reasons set forth in the statement of purpose and need.

We have been advised by the Office of Management and Budget that enactment of this draft Joint Resolution would be consistent with the Administration's objectives.

Sincerely,

KARL E. KAKKE,
Acting Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

In view of the increased use of the metric system of measurement in international trade and its adoption by virtually every major nation in the world, the Congress, by Public Law 90–472 in 1968, directed the Secretary of Commerce to undertake a three year study of the metric system so as to determine its impact on the United States. The Secretary's final report, submitted in July 1971, concludes that eventually the United States will join the rest of the world in the use of the metric system as the predominant common language of measurement. Rather than drifting to metric with no national plan to help the sectors of our society and guide our relationships abroad, a carefully planned transition in which all sectors participate voluntarily is preferable. Such a plan would assist these sectors in adjusting to the metric system more efficiently, more effectively, and more economically.

As a means of providing an effective changeover to the metric system, there is herewith proposed a Joint Resolution which would establish a national policy for converting to the metric system in the United States. The Resolution, after describing previous United States involvement in metric system measurement activities, declares that the policy of this Nation shall be to facilitate and encourage the substitution of the metric system of weights and measures in place of the current customary measurement units in education, trade, commerce and all other sectors of the economy. It is intended that metric units would become the predominant, though not exclusive, language of measurement within a period of ten years from the date of this Resolution's enactment. Another important part of this policy pertains to the retention in new metric language standards of those U.S. engineering designs, practices, and conventions that are internationally accepted or embody superior technology. It would also be this country's intention to cooperate with foreign governments and private international organizations which are concerned with the encouragement and coordination of the increased use of metric measurement units or engineering standards based on such units. Finally, it would be the policy to conduct extensive publication information and educational programs through use of the public media so as to familiarize the public with the meaning and applicability of metric terms and measurements in their daily life. In addition, the Secretary of Health, Education, and Welfare and the Director of the National Science Foundation are authorized to counsel and consult with educational associations and groups so as to assure that the metric system of measurement is made a part of the curricula of the Nation's educational institutions and that teachers and other personnel are properly trained to teach the metric system of measurement. Further, the Secretary of Commerce is authorized to consult with the National Conference of Weights and Measures so as to assure that State and local weights and measures officials are appropriately informed of the intended metric changeover and are thus assisted in their efforts to bring about timely amendments to weights and measures laws.

To carry out these policies, the Resolution would establish a National Metric Conversion Board composed of not more than 21 distinguished private citizens appointed by the President and 4 members of the Congress selected by the Speaker of the House of Representatives and the President of the Senate. One of the initial functions of this Board would be to develop and submit to the Secretary of Commerce, for his approval and transmittal to the President, a comprehensive plan to accomplish the changeover to the metric system of measurement in the United States. This plan shall be submitted to the Secretary within 12 months after funds have been appropriated to carry out the Resolution's provisions. The Resolution would give no compulsory powers to the Board and the changeover proposed by the Board in its plan would be entirely voluntary.

In developing the plan, the Board would be required to consult with United States commerce and industry, including small business, science, engineering, labor, education, consumers, nationally recognized standards developing and coordinating organizations, government agencies at the Federal, State, and local level as well as, where appropriate, with foreign governments and public international organizations. Upon the approval of the plan by the President, it would be submitted to the Congress. The Board, after approval by the President, would begin implementation of the plan except for those recommendations in the plan, if any, which would require legislation. The life of the Board would be no longer than 10 years after its plan is approved by the President.

The Resolution makes provision for an Executive Director and a staff to assist the Board. In carrying out its duties, the Board would be authorized to enter into contracts, conduct hearings, establish committees and advisory panels, and perform such other acts as may be necessary to implement the functions prescribed by the Resolution. Annual reports of its progress would be submitted by the Board to the Secretary of Commerce for his approval. The Secretary would, in turn, forward such reports to the President for his approval and transmittal to the Congress.

The Resolution would authorize the appropriation of such sums as may be necessary to carry out its provisions. The appropriations would be available for obligation and expenditure for such periods as specified in the Acts making such appropriations.

It is estimated that expenditures in the first full year of operation would approximate three million dollars.

By Mr. PELL (for himself, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. MONDALE, Mr. EAGLETON, and Mr. CRANSTON):

S.J. Res. 220. A joint resolution making additional appropriations for the Office of Education for the fiscal year ending June 30, 1972. Referred to the Committee on Appropriations.

Mr. PELL. Mr. President, the Subcommittee on Education of the Senate Committee on Labor and Public Welfare on Friday held a hearing on S. 3395, the President's Equal Educational Opportunity measure. This legislation, while spoken of as a new breakthrough by the President in one of his recent TV appearances, delivers little that is new. During the hearing, it became increasingly evident to the members of the subcommittee, that under the new proposal, the President was actually calling for funding of that which has already been enacted. In fact, it appeared more cosmetic rather than real.

In 1965, the U.S. Senate enacted Public Law 89–10. The major provision in that legislation is title I which seeks to provide funds to schools which teach disadvantaged children in urban and rural areas. After a few years of operation it was realized that further efforts were needed to target funds to those schools which serve the highest concentration of disadvantaged children. Therefore, in 1970 with the enactment of Public Law 91–230 a targeting mechanism was established.

Unfortunately, the administration in its budget requests has never sought to adequately utilize the title I tool. For example, it is estimated that last year's authorization for title I was $6 billion. The administration asked for $1.5 billion and the final appropriation was $1.6 billion. This year's budget calls for the same figure.

The point I wish to make clear to the Senate is that there is already a mechanism to do what the President calls for in his equal education opportunity bill. With full funding of title I of the Elementary and Secondary Education Act he can target money into schools teaching high concentrations of disadvantaged children.

With this in mind, and in behalf of myself and Senators WILLIAMS, RANDOLPH, KENNEDY, MONDALE, EAGLETON and CRANSTON I am introducing a joint resolution which will provide a supplemental appropriations in the amount the President proposes to use for equal educational opportunity, $2.5 billion. This procedure is unusual in that traditionally appropriations bills come from the House, but busing and equal education ought not be treated as ordinary matters and it is my belief that an unusual procedure should be adopted. I call upon the President to support this effort. To use a cliche, to put the money where the mouth is.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 649

At the request of Mr. MANSFIELD, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 649, a bill to abolish the Interstate Commerce Commission.

S. 1819

At the request of Mr. BAKER, the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Florida (Mr. GURNEY) were added as cosponsors of S. 1819, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2956

At the request of Mr. JAVITS, the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 2956, the War Powers Act.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3067

At the request of Mr. JAVITS, the Senator from New York (Mr. BUCKLEY), the Senator from Tennessee (Mr. BAKER), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 3067, a bill to eliminate racketeering in the sale and distribution of cigarettes.

S. 3140

At the request of Mr. METCALF (for Mr. MUSKIE) the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3140, the Intergovernmental Cooperation Act of 1972.

S. 3232

Mr. PACKWOOD. Mr. President, I would like to clarify for the RECORD an omission in the printing of legislation I have introduced, S. 3232, the Transportation Crisis Prevention Act.

The distinguished senior Senator from Florida (Mr. GURNEY) was a cosponsor of this legislation when it was introduced as an amendment to Senate Joint Resolution 197 on February 8, and was also an original cosponsor when it was reintroduced on February 24 as S. 3232. Unfortunately, his name does not appear on the bill as printed, and I would like the RECORD to show that the Senator from Florida is an original cosponsor.

I ask unanimous consent that at the next printing the name of the Senator from Florida (Mr. GURNEY) be added as a cosponsor of S. 3232.

The PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3334

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3334, a bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes.

S. 3338

At the request of Mr. HARTKE, the Senator from North Carolina (Mr. JORDAN) was added as a cosponsor of S. 3338, a bill to amend title 38, United States Code to increase the rates of compensation for disabled veterans, and for other purposes.

S. 3343

At the request of Mr. HARTKE, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 3343, a bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans.

S. 3351

At the request of Mr. BROCK, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 3351, a bill to establish a Council on International Economic Policy.

S. 3357

At the request of Mr. MONDALE, the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of S. 3357, a bill to provide price support for milk at not less than 85 per centum of the parity price therefor.

S. 3378

Mr. NELSON. Mr. President, Senator Moss and Senator MUSKIE have requested that their names be added as cosponsors of S. 3378, the Tax Reform Act of 1972.

I ask unanimous consent that Senator MUSKIE's statement on this proposed legislation be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR EDMUND S. MUSKIE ON COSPONSORSHIP OF TAX REFORM ACT OF 1972

I am co-sponsoring Senator Nelson's Tax Reform Act of 1972 because of my conviction that tax reform is one of the most urgent issues facing the Congress. I want to do all that I can to assist the passage of comprehensive meaningful reform legislation that will end many of the inequities of our federal tax system. Senator Nelson correctly points out that a tax system supposedly progressive, designed to tax people according to their ability to pay, has in fact become an unfair, discriminatory system which shelters the wealthy from a fair share of the tax burden. The American people recognize this inequity and they are demanding an end to it. Their demand does not represent, as some would argue, a retreat from responsibility, or a diminished commitment to the public welfare. Instead, it represents a simple, just appeal for fairness in the distribution of the tax burden. Congress must respond to this appeal with the kind of legislation advanced by Senator Nelson.

However, as Senator Nelson stated when he introduced his legislation, supporters of tax reform do not agree on all details of reform. There are items in my tax reform program not contained in Senator Nelson's bill. There are some details of Senator Nelson's bill not contained in my own program. Therefore, to further consideration of the details of all aspects of tax reform, I intend to introduce a tax reform bill which embodies the proposals in my program. This bill will not be competitive with Senator Nelson's. I simply hope, by its introduction, to add to the momentum for tax reform in Congress and encourage a dialogue which will lead to enactment of the best tax reform measure possible.

S. 3382

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. WEICKER) and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 3382, the Gifted and Talented Children's Education Assistance Act.

SENATE JOINT RESOLUTION 180

At the request of Mr. ROTH, the Senator from Maine (Mrs. SMITH) was added as a cosponsor of Senate Joint Resolution 180, authorizing the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

SENATE JOINT RESOLUTION 191

At the request of Mr. CRANSTON, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of Senate Joint Resolution 190, to designate the week of May 1–7, 1972, as "National Bikecology Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. MCGEE, the Senators from New Jersey (Mr. CASE and Mr. WILLIAMS), the Senator from Oklahoma (Mr. HARRIS), the Senator from California (Mr. TUNNEY), and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of Senate Joint Resolution 217, a joint resolution to create an Atlantic Union delegation.

SENATE CONCURRENT RESOLUTION 71—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE DENIAL OF ADMISSION OF WOMEN TO SERVICE ACADEMIES

(Referred to the Committee on Armed Services.)

Mr. JAVITS. Mr. President, I submit, for appropriate reference, a concurrent resolution expressing the sense of the Senate that a woman duly nominated to a military service academy should not be denied admission solely on the ground of sex.

Mr. President, last month I nominated a woman to receive a nomination to the U.S. Naval Academy—Miss Barbara Jo Brimmer of Staatsburg, N.Y. I held a press conference to announce that nomination and to explain my reasons for making it.

Later in February, I received a letter from Secretary Chafee informing me that he would not accept my nomination, although he was opening Naval ROTC to women for the first time.

It is my judgment that women deserve consideration for the best training if they qualify. Not only do women deserve it, the military services deserve the best trained officers as well.

Mr. President, the Secretary's refusal to accept this nomination is a direct challenge to the authority granted to Members of the Senate by law. The U.S. Code, title 10, section 6954, grants each of us the right to nominate five residents from our home State to the Naval Academy, and similar provisions govern nominations to the other academies. This provision makes no restriction on the sex of the nominees.

XUM

Indeed, the constitutional amendment which the Congress passed overwhelmingly this month and sent to the States for ratification would clearly prohibit the kind of discrimination now being practiced by Service Academies. Thus, the Congress is already on record as to the general policy against discrimination, and this resolution merely represents one particular of that general policy.

Although I had considered offering an amendment to the law dealing with this matter, I decided that, as a first step, it ought to be sufficient for the Congress as a body, to express its own determination not to accept a discriminatory restriction imposed by the executive branch but not found in the statute itself, and I would expect that, when we pass this resolution, the Secretary will revoke his discriminatory policy.

It is my hope and expectation that the Armed Services Committee will proceed to the consideration of this resolution without delay, so that it can be decided with all deliberate speed.

Mr. President, I have worked very hard to seek to bring about recognition of women as suitable admittees to the service academies to pursue the purposes and roles in which they can properly function and in which they already serve in the military. In pursuance of that objective I am joining today with Representative McDONALD of Michigan—who also nominated a woman who was rejected by the Naval Academy—in introducing this concurrent resolution.

This is but another milestone in the long road to true equality for women. I hope the measure will be acted upon favorably by both bodies.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the close of these remarks my press conference statement, and a press release issued by the University of Michigan opposing the Secretary of the Navy's discriminatory policy and setting forth the views of Ross J. Wilhelm, a Michigan business economist and professor at the University of Michigan Graduate School of Business Administration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JAVITS NOMINATES FIRST WOMAN TO U.S. NAVAL ACADEMY

I have today submitted to the Secretary of the Navy my nomination of Miss Barbara Jo Brimmer of New York for the class of midshipmen entering the United States Naval Academy at Annapolis in June 1972.

I believe this is the first nomination of a woman to a service Academy—in this instance the Naval Academy because that was the one for which Miss Brimmer applied. I have called this press conference to introduce her and to explain my reasons for making this nomination.

THE NOMINEE

Miss Brimmer is 17 years old and a resident of Staatsberg, New York. She is a 1971 graduate of Franklin Delano Roosevelt High School in Hyde Park, New York, where she won a New York State Regents Scholarship and was elected to the National Honor Society. This year she is attending Russell Sage College in Troy, New York.

She graduated with an A average, and her scores on the "College Boards" were all above the 90th percentile. Barbara comes from a family steeped in the traditions of military service, and of the Navy. Her father is a retired Navy Commander who graduated from the Naval Academy in the class of 1920. Her mother was a WAVE officer in World War II. And her uncle is a graduate of West Point.

She hopes to be able to qualify for the Academy's newly-established pre-medical course, and become a Navy Doctor; but in any event, her objective is to follow in her family's proud tradition as a Naval Academy graduate and Naval Officer.

REASONS FOR MAKING THIS NOMINATION

First, I wish to emphasize that the step I am taking today is not designed to compel the Navy to use women officers in any Naval career to which women are now not already assigned.

It may well be that the Navy *ought* to expand the scope of permissible activity for women officers—I suspect that that is the case. But that is not what *this* nomination seeks to accomplish.

At this point, I seek only to have the Academy conform to the Navy itself. Some 3.6 percent of Naval Officers are women. Shouldn't a similar percentage of Annapolis entering class and graduates also be women? Shouldn't there be at least *one*?

There are now women Naval officers serving in a broad range of Naval careers. I have examined the recruiting literature which the Navy uses, no doubt at considerable expense to itself, to recruit women Naval officers. The colorful brochures published by the Navy tell the potential women recruit "side by side with them (men) in *every kind of Naval activity ashore*, we do our part to see that these goals (the Navy's goals) are achieved. *Our assignments cover the widest possible range of interests.*"

What are these assignments? The Navy's brochure tells the prospective woman recruit that she may work in meteorology, electronic data processing, purchasing, expediting material and equipment from private industry for Navy use, as an instructor in one of the Navy's specialized schools, as an information and education officer, in the field of office administration, as a member of the Medical Service Corps, as a public affairs officer, as a personnel officer, and in innumerable other professional capacities now open to both men and women officers, and for which the Navy is *now actively recruiting women to seek careers as Naval officers.*

That is what the Navy wants women officers for. Now if one examines the Departments and majors in the Academy catalog, it is easy to see how very appropriate Academy training would be for a woman who could be outstanding in a career—for which the Navy is already seeking women officer recruits.

For example, the Navy seeks women officers to work in meteorology; and the Academy offers a whole Department of Environmental Sciences.

The Navy seeks women officers to work in electronic data processing, and the Academy offers a whole Department of Computer Science.

The Navy seeks women to serve in such office-oriented fields as office administration, personnel, and public affairs, and the Academy offers a major in general management.

The Academy offers a major in Naval Achitecture—hardly a career for which men alone can qualify (certainly the many highly-qualified women architects already practicing their profession in this country could testify to that).

None of these specialties is limited to "general line" combat officers, and thus women should be permitted to prepare for these careers as they are taught at the Naval Academy.

Indeed, the Navy's own recruiting brochure includes a full-page picture of one Lieutenant Roberta Hazard, who is the Project Manager for the Computer Assisted Research Project at the Naval Academy! How can we accept that she is good enough to *manage* projects at the Academy, but not to go there as a Midshipman? How can she be good enough to instruct at the Academy, but not good enough to learn there?

In short, the Academy's tradition is to train officers for the Navy who are highly skilled and motivated to rise to top leadership positions in the service—in any of the many careers which Naval officers pursue. Many of those careers are already open to women for which the Navy already recruits women officers. But the Academy—the best training available, for the best officers—is still closed to women officers. That is unfair to women. And it is *not* in the best interests of the Navy—the *only* Service which has no women in "flag grade" (Admiral, General) positions.

It was just over a year ago that I announced my appointment of the first female Page to serve in the United States Senate.

The precedent I confronted there was just as old and established as the all-male precedent at the Academy.

Then, as now, it was argued by some that the work involved was not appropriate for females. Then, as now, I was confronted by the argument that the ambiguous law on the subject (in that instance, the Senate's own Rules) precluded such an appointment. Then, as now, I argued that no such legal prohibition existed.

Then, as now, I had the power to "nominate", but the actual appointive power lay elsewhere (in the Sergeant at Arms, and the Rules Committee). After making the nomination, I was denied the appointment by the appointive power, but the Senate as a whole sustained such a nomination. Since then, we have seen a half-dozen girls from all corners of the nation serving as Senate Pages—and serving every bit as successfully as the boys.

I hope very much that, in this instance, my nomination will be accepted by the appointive power (in this instance, the Secretary of the Navy, acting for the President). But if the Secretary of the Navy persists in the position (discussed below) that the law as he interprets it precludes this appointment, then, once again, I will be compelled to put the matter before the Congress. And I have confidence that, in due course, that vote would be affirmative once again.

There is no longer any logical or legal basis for this kind of discrimination. Some 196 years ago our Nation was founded on the proposition that "All men are created equal." The 18th century of the Declaration of Independence may not have deemed it "self evident" that the Declaration applied to women as well, but who among us would argue nearly 200 years later that half the nation is made up of second class citizens, or that women have less to contribute to the strength and the pride of our Nation? This country has crossed that bridge long ago, though we may have left some stragglers behind on the far bank. No doubt the Academy can and will maintain its proud traditions even after it ends its anachronistic ones. Indeed, the Navy may take great pride, in due course, that its first woman Admiral will be a graduate of the Naval Academy.

BACKGROUND

(Preliminary Discussions with the Navy: The Law, Regulations, and Policy Considerations)

My authority to nominate to the Naval Academy is provided in the United States Code, Title 10, Section 6954, which provides that at any one time there may be at the Academy a certain number of Midshipmen from various sources, including:

"Ten from each State, five of whom are nominated by each Senator from that State."

That provision says nothing about men or women, and, as I have a vacancy now, it is my capability to nominate a female to the Academy.

Accordingly, on September 22, 1971, after receiving an unsolicited application from Miss Brimmer, I began to explore with the Navy the possibility of making this appointment, and wrote to Secretary Chafee, stating my interest and asking what problems or impediments there might be.

The Navy responded on September 30, 1971, taking the position that the Academy was limited to men only. In support of that position, the Navy took note of the provisions of the law (10 U.S. Code 6954 and 6956) providing for the appointment of "sons" of certain persons, such as those killed in action in military service. Based upon those provisions, which the Navy construed as evidencing Congressional intent to exclude women, the Navy pointed to its own regulations, 32 CFR 710.12(a), which exclude women and are said to be based upon the authority given to the Secretary of the Navy under a federal statute, 10 USC 5031, 6958.

I reviewed the authority cited by the Secretary. The reference to the appointment of "sons" of those killed in action left me with exactly the opposite conclusion; since the code specifically cites male appointees—that is, those who are "sons" of those killed in action—but contains *no such exclusion as to sex* in other authorities for appointment (as in the authority for nominations by a Senator), I concluded that Congress did not intend the all-male limitation to apply, or else Congress would have said so, as it did in the case of "sons" of those killed in action.

As to the cited statutory authority for the Secretary's exclusionary regulations, I examined section 5031, and found that it simply provides that the Secretary of the Navy shall be in charge of the Navy—and says nothing about excluding women. I examined Section 6958, also cited by the Navy, and found that Congress specifically listed, in the Statute, the qualifications for Admission to the Naval Academy: age 17, passage of examinations prescribed by the Navy, and a resident of the State of the appointing Senator. Not a word about "men only." Indeed, the Attorney General issued an opinion as long ago as 1910 in which he held that a nominee whose qualifications have been regularly certified by a Senator, and who has passed the necessary mental and physical examinations and received and accepted appointment, "cannot, in the absence of fraud, be deprived of that office." 28 Op. Atty. Gen. 180 (1910).

The Navy also cited the provisions in the Code (10 USC 6015) excluding women from service on combat ships. Again, I was unpersuaded. This exclusion has never prevented recruitment of WAVE officers; therefore, why should it be deemed to exclude women from the Naval Academy, which trains Naval Officers?

And certainly, the use of such terms as "he" or "midship*men*" in the Statute is not such an exclusion, as the male gender in terms like that has always been construed to be neutral, neuter, and to cover both men and women. Indeed, the very first section of the United States Code (1 USC 1) states specifically that in construing any act of Congress:

"words importing the masculine gender include the feminine as well"

unless the context requires otherwise, which it does not, as far as I can tell.

Finally, the Secretary of the Navy informed me that, in addition to the legal questions raised, "The Navy's position is in consonance with the Judeo-Christian concepts with respect to the status of women," and went on to state "historically, the basic attitude in our American culture has been one of protection of women from the dangers of combat and the rigors of life at sea."

It still seems clear to me that the moral argument made in this instance by the Navy, if it were really valid, would have prevented the Navy from recruiting women officers at all. And this, of course, is not the case. The Navy has recruited, and continues to recruit, women to be noncombat Naval officers, and I see no reason why the Academy, whose curriculum includes many "majors" in those very same fields, ought to take a different position.

Accordingly, I wrote back to the Secretary on October 7, 1971, to explore the matter in even greater detail, asking whether the curriculum was adaptable to fields in which women officers now serve. The Secretary replied on November 9th, that the Navy has a current need for about 150 women "line officers" each year, which the Navy manages to recruit through other means (principally OCS). Other specialized women officers are recruited in other ways. The Secretary informed me that, in his judgment, admission of women at the Academy would result in an equivalent reduction in male enrollment, and that that would not be in the best interests of the Navy.

I also specifically asked the Secretary about the pre-medical program, and he replied that the Academy is instituting a premedical program, limited to the top two percent of each class, and that the Navy requires its doctors to function in the entire spectrum of "the Naval environment," which would not be open to women under the Statute which precludes women from serving on combat ships. Under the statute on which the Navy relies, however, hospital ships are specifically excluded from the restriction upon the service of women officers (10 USC 6015) in combat zones. The Secretary did not indicate whether service in Naval Hospitals (where the highest specialties are practiced, and where the size of the staff makes command training more significant) would be open to women.

Again I went back to the Navy, raising more questions. If the function of the Navy is to increase "retention" of Naval officers after their initial enlistment, wasn't that objective just as applicable to women? In reply, I was informed that the retention rate for men officers in the Navy is now 24 percent, while for women officers it is 35 percent, while as to Academy graduates (male) the retention rate is 50 percent. In short, the retention rate (and consequent cost to the Navy to train replacements) is very poor for *both* men and women, but retention is twice as high when it comes to Academy graduates.

So the argument based on "retention" amounts to this: the Navy has to replace three-fourths of its Academy graduates. The Navy also has to replace two-thirds of its women officers after one hitch (a better reenlistment record than for men, but still not as good as the Academy). Following this logic to its obvious conclusion, it strikes me that (a) the Academy could be expected to double the reenlistment rate for women (two-thirds), and (b) women, being more likely to reenlist, ought to be assigned more important tasks and be used more widely in the service, as their re-enlistment rate will produce more experienced officers.

As to the curriculum and facilities of the Academy, I again asked the Navy what would be involved in admitting women (at least in proportion to their current rate of enlistment in the Navy—3.6 percent of the class). As far as I could tell, what was involved was the construction of a women's locker room in the Academy gymnasium. In reply, the Secretary informed me on January 11, 1972, that the "cost" of admitting women to the Academy would be the additional "cost" of training those men whose otherwise available positions at the Academy would be filled by women—i.e., the cost of "expanding" the Academy's male enrollment by the number of women admitted. Beyond that, I have yet to learn what the real cost of admitting a few women to the Academy would be, and must continue to assume that the cost would be minimal—particularly when measured against the cost—the *current* cost—of training replacements for those who do not reenlist after their initial "hitch."

STANDARDS FOR ADMISSION

There are already intelligence and physical requirements for admission to the Academy.

As to the intelligence standards, women need seek no special treatment, and I have no doubt that my nominee can pass those standards with ease—as could many other candidates who no doubt will follow. As to the physical standards, obviously some new criteria will need to be developed—but not developed "from scratch." The Navy's own brochure for recruiting women officers now lists as qualifications that a candidate must be:

"A citizen of the United States;

At least 18 and under 27 years upon application;

Able to meet the Navy's *physical* and mental standards;

Have no dependents under 18;

(You may be single or married)."

Obviously, the Navy *already* has physical standards for WAVE officers. I can see no reason why they ought to be any different for women admitted to the Academy.

To sum it up, I find nothing in the law to persuade me that women must, as a matter of law, be excluded from the Academy, or that they should, as a matter of policy, be so excluded. And I hope that it is not the Navy's intention to continue to exclude them by maintaining the artificial barrier that now exists. By the nomination I am making today, I propose to begin the process of removing that barrier—which I deem to be in the Nation's best interest.

THE UNIVERSITY OF MICHIGAN NEWS

ANN ARBOR.—President NIXON should countermand the secretary of the Navy's decision to reject two female candidates for the Naval Academy at Annapolis, a University of Michigan business economist insists.

Ross J. Wilhelm says the Navy decision to deny admission to Barbara J. Brimmer of Staatsburg, N.Y., and Valerie Schoen, U-M student from Redford Twp., Mich., is wrong for two reasons:

1. The secretary of the Navy has made it more difficult for all the military services to switch from reliance upon the draft to volunteers, many of whom will have to be women.

2. Rejection of the two women will mean that the Navy Department and the entire Department of Defense will have a more difficult time in securing passage of the military budget in Congress during the coming year.

Prof. Wilhelm, a member of the U-M Graduate School of Business Administration, contends that the Navy decision runs counter to current employment trends in the United States. He discussed the subject on his radio program, "Business Review," produced by the University Broadcasting Service (WUOM, WVGR).

Women now constitute about 37 per cent of the work force, Wilhelm notes, and about 6 out of 10 of new persons available for employment are women—a growing percentage of whom are married.

"As a consequence of the increasing number of women who are working and the growing proportion who want to work," he adds, "it is obvious that any employer who wishes to hire new employes will have to plan to hire more women than would have been the case in the past."

The text of the Concurrent resolution is as follows:

S. CON. RES. 71

Resolved, That it is the sense of the Congress that no citizen of the United States should be denied admission to or be excluded from any military service academy of

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the United States solely on the ground that such citizen is a female if such citizen is otherwise qualified for admission to such academy and is qualified to be trained in a skill or profession in which citizens of such sex are permitted to serve as commissioned officers in the Armed Forces of the United States.

SENATE CONCURRENT RESOLUTION 72—SUBMISSION OF A CONCURRENT RESOLUTION TO CONGRATULATE WAIPAHU, HAWAII, ON ITS DIAMOND JUBILEE

(Referred to the Committee on the Judiciary.)

Mr. INOUYE, for himself and Mr. FONG, submitted the following concurrent resolution:

S. CON. RES. 72

Whereas, the Hawaiian word "Waipahu" means "spring water", and

Whereas, the availability of spring water in the Auaili area of the Island of Oahu, Hawaii, led to the development of an agricultural district whose principal crops were bananas and rice; and

Whereas, more than 75 years ago, a sugar plantation was started in the area where ten thousand fertile acres were lying at waste covered with brush; and

Whereas, the sugar company was incorporated in 1897, and thereupon built a mill at a place known to the Hawaiians as Waipahu; and

Whereas, over the years the company grew, expanded, acquired new lands, and brought great prosperity; and

Whereas, a thriving plantation town was created at Waipahu, amid the picturesque setting of the old sugar mill of the 1900's with its towering smokestack, the smell of molasses and the vista of sugar cane fields, the rickety clatter of a sugar cane railroad train tugging crop-laden cars, the activity of horses, mules, and pack animals, and the laughter of browned, barefooted children walking over dusty roads to rural school houses; and

Whereas, the slow growth of the community over the first 60 years was in marked contrast to the "boom" experienced in more recent times; and

Whereas, the faded red plantation houses down from the mill, with their little lawns and gardens and flowers have been replaced by a bustling business community with modern shopping centers, medical clinic, health center, theater, new post office, fire department, banks, churches, and numerous schools including three elementary schools and one high school; and

Whereas, Waipahu was once described as "a sleepy plantation town, where field and mill workers brought the necessities of life from the company store and lived in company-provided housing," but now the residents own their land, there are 300 businesses, and many individuals are employed in Honolulu 18 miles away; and

Whereas, the plantation once employed immigrant labor at low wages, today the workers bargain collectively, are the highest paid sugar workers in the world, and are provided year-round employment of 40 hours per week with fringe benefits such as pensions, group insurance, paid holidays, vacations with pay, medical plan, dental plan, sick leave, and recreational facilities; and

Whereas, Waipahu is the hub of Leeward Oahu, and has a population of 25,000, who are community-minded citizens anxious to preserve for their town the flavor and charm of an old plantation community; and

Whereas, the city of Waipahu will celebrate its 75th anniversary birthday in 1972 with appropriate "Diamond Jubilee" ceremonies, events, exhibits, and festivities: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress sends greetings and congratulations to the city of Waipahu, Hawaii, and its residents, on the occasion of that city's Diamond Jubilee, and extends the good wishes of the people of the United States that Waipahu will continue to grow and prosper.

SENATE RESOLUTION 288—SUBMISSION OF A RESOLUTION RELATING TO MINIMUM AIRCRAFT NOISE LEVEL REQUIREMENTS

(Referred to the Committee on Foreign Relations.)

Mr. CRANSTON, for himself, Mr. MUSKIE, and Mr. PELL, submitted the following resolution:

S. RES. 288

Resolved, That it is the sense of the Senate that, at the preliminary meetings of the International Civil Aviation Organization Convention on Aeronautical Noise, to be held in Canada in March and August, 1972, and with respect to any agreement resulting from such meetings, it should be the position of the United States that any aircraft used in international flights and exceeding aircraft engine noise levels prescribed in Annex 16 of the Convention on International Civil Aviation should be retrofitted or modified to reduce aircraft engine noise so as not to exceed such levels.

SENATE RESOLUTION 289—SUBMISSION OF A RESOLUTION RELATING TO SONIC BOOMS OF SUPERSONIC AIRCRAFT

(Referred to the Committee on Foreign Relations.)

Mr. CRANSTON, for himself, Mr. MUSKIE, and Mr. PELL, submitted the following resolution:

S. RES. 289

Resolved, That it is the sense of the Senate that any treaty or agreement entered into by the United States, to permit or approve the conditions under which supersonic aircraft used in international flights may land in the United States, should require that such aircraft be flown in a manner so that no sonic booms occur over the United States, its territories, or possessions, or within 3 miles of any coast of the United States, its territories, or possessions.

THE VICTIMS OF CRIME ACT—AMENDMENTS

AMENDMENTS NOS. 1087, 1088, AND 1089

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. MONDALE. Mr. President, I am pleased to be one of the numerous cosponsors of S. 2994, the "Victims of Crime Act," introduced by the Senator from Arkansas (Mr. MCCLELLAN). This is a very comprehensive approach to several facets of the problem of compensating victims of violent crime which have been addressed in a variety of bills. Among them are S. 750, introduced by the distinguished majority leader (Mr. MANSFIELD) and my own bill, S. 2817.

I am delighted that S. 2994 has been scheduled for hearings on March 27. I hope the Senator from Arkansas, who chairs the Subcommittee on Criminal Laws and Procedures, will be able to report this measure to the Senate at an early date. Surely, the time has come when society should express its concern for the innocent victims of violent crime.

I was gratified that a number of the provisions first proposed in S. 2817 were included in S. 2994. Among them are the provisions for emergency awards and the requirements that the victim report the crime to the authorities within 72 hours.

There are other features of S. 2994 which represent improvements over earlier bills. For example the $50,000 limit on compensation in any one case will provide adequate assistance in the great majority of circumstances. At the same time, there will be a few cases—chiefly involving permanent disability for young heads of families—where even this figure will prevent making the victim whole, financially.

When I asked to cosponsor S. 2994, I stated my intention to propose a few amendments. The sponsor of the bill had invited such suggestions for improvements from his colleagues. It is my pleasure, today, to send to the desk three amendments to S. 2994.

The first amendment refers to that portion of the bill which would provide grants to the States. The Federal Government would pay up to 75 percent of the cost of compensation in programs similar to that authorized by the bill. While certain requirements are spelled out and provision is made for Federal approval of the State programs, such programs could be substantially less comprehensive than the new Federal program. For example, all of the seven States that have established compensation programs would leave many of the victims without adequate compensation.

In several of the States, the maximum is only $5,000 to $10,000. In long-term disability or death cases, such a limit is wholly inadequate. Only New York places no limit on medical expenses, and it does limit all other payments. If the Federal Government is going to pay three-fourths of the cost of a State compensation program, I think it should require that the program be at least equal to the Federal program.

Seven States have adopted compensation programs since California led the way in 1965. I hope that enactment of this legislation will spur the remaining States to action. But do we not have a responsibility to provide equal protection to all of our citizens if some States choose not to adopt a program?

Experience in other Federal-State programs shows that most States will want to have their own programs. For example, under the Wholesome Meat Act of 1967, many States resisted a Federal takeover, even though it would have saved them money. I propose that we give the States 5 years to decide whether they want to enact a satisfactory program. If not, we should then extend the scope of the Federal program to those States which have not adopted such a program.

Mr. President, my first amendment would accomplish the two purposes which I have just described.

The second amendment provides a number of improvements. First, it authorizes compensation for those injured as a result of the flight or pursuit of a criminal or suspect. S. 2994 has a so-called Good Samaritan provision but it ignores this group of innocent citizens. I feel it very important that they receive compensation for their losses.

I also propose to provide limited compensation for pain and suffering. I recognize the fear of administrative difficulties which such a provision raises. For that reason, I propose a limit of $10,000 on awards for this purpose. I think experience under other compensation programs shows that this would be practicable.

I am concerned about the interpretation of the provision in the bill that would deny compensation unless "undue financial hardship" would result. This might become what is known as a needs test. The goal of any compensation program should be to restore the victim to his financial position before the crime. Accordingly, I propose to eliminate this provision.

This amendment would also provide that 100 percent of all actual expenses related to the injury be compensated for, and that the victim receive remuneration for loss of earning power without an overall limit. However, such payments would be limited to a rate not to exceed twice the average weekly industrial wage. This may seem potentially very costly, but experience in similar programs suggests that very few settlements would involve large payments. In Great Britain, for example, where there is no ceiling, the average is about $900.

Physical and occupational rehabilitation and training should reduce costs in the care of long term disability. Expansion of health insurance coverage will also help keep costs down under this program. Simple justice dictates that we not cut off aid for the victim until his need has passed.

Finally, under this amendment, I would soften the prohibition against compensation to any "member of the family" of the criminal. This provision could leave innocent children, for example, helpless. I propose that compensation could be awarded as long as the agency determines that no unjust enrichment to or on behalf of the offender would result. The bill already prohibits payment where there was provocation of the injury by the victim.

The bill under consideration provides for the creation of a Violent Crimes Compensation Board in the Department of Justice to administer the program. My third amendment would eliminate this Board and assign responsibility to the Secretary of Labor. This, I believe, would be more efficient, as the Secretary administers compensation programs, with quite similar features, for several million workers. He would, therefore, be equipped to take on this new program rapidly.

Our society has the responsibility to protect its citizens. Individuals are discouraged from carrying weapons for self defense, so when someone suffers an injury at the hands of a criminal, the Government has essentially failed in its duty to that citizen. It is only fair that some restitution be provided.

These three amendments strengthen the protections offered in the bill. This is an issue affecting every member of our society and it is very important that the rights of the individual be preserved to the utmost. I hope the amendments will be agreed to.

Mr. President, I ask unanimous consent that the text of the three amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1087

On page 27, strike out lines 10, 11, and 12, and insert in lieu thereof the following:

"'(2) set forth a program for the compensation of victims of violent crime which is equal to the requirements of the Victims of Crime Act of 1972.'"

On page 13, between lines 19 and 20, insert the following new paragraph:

"'(3) five or more years after the date of enactment of this Act within a State that has not established or maintained a program which is eligible for grants under section 301(b)(10) of the Omnibus Crime Control and Safe Streets Act of 1968, for the compensation of victims of violent crime.'"

AMENDMENT NO. 1088

On page 16, between lines 10 and 11, insert the following new subsection:

"'(d) The Board may also order payment of, and pay compensation in accordance with the provisions of this Act for personal injury or death which resulted from the flight or pursuit of a criminal or suspected criminal.".

On page 18, line 7, strike out through line 13 on page 19, and insert in lieu thereof the following:

"Sec. 404. (a) No order for the payment of compensation shall be made unless—

"'(1) the act, to which the personal injury or death to be compensated for is based, was reported to the proper law enforcement authorities within 72 hours after its occurrence, unless the Board finds that the requirements of this paragraph is unreasonable; and

"'(2) the application has been made within two years of the personal injury or death.

"'(b) No compensation shall be awarded in any situation in which the Board, at its discretion, determines that unjust enrichment to or on behalf of the offender would result.

"'(c) Compensation shall be paid as follows:

"'(1) 100 per centum of all hospital and medical bills and for any other pecuniary loss or expense proximately arising from the injury or death to be compensated for;

"'(2) loss of earning power not to exceed twice the average weekly industrial wage as determined by the Board, until the victim resumes gainful employment at a rate equal to or in excess of the rate of earning power that the victim had at the time of his injury; and

"'(3) an amount not to exceed $10,000 for pain and suffering.". On page 19, line 14, redesignate subsection "(g)" as subsection "(d)".

AMENDMENT NO. 1089

On page 3, strike out line 5 through line 8 on page 4, and insert in lieu thereof the following:

"SEC. 102. The Longshoremen's and Harbor Workers' Act (44 Stat. 1424) is amended by inserting:

'TITLE I—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION'

immediately above the heading of section 1, by striking out 'this Act' wherever it appears and inserting in lieu thereof 'this title' and by adding immediately after section 51 the following new title:

'TITLE II—CRIMINAL INJURIES COMPENSATION'

On page 6, line 23, strike out "Justice" and insert in lieu thereof "Labor".

On page 7, line 14, strike out "456" and insert in lieu thereof "207".

On page 4, line 10, strike out "450" and insert in lieu thereof "201".

On page 6, line 22, strike out "451" and insert in lieu thereof "202".

On page 7, line 20, strike out "452" and insert in lieu thereof "203".

On page 8, line 10, strike out "453" and insert in lieu thereof "204".

On page 10, line 16, strike out "454" and insert in lieu thereof "205".

On page 11, line 13, strike out "455" and insert in lieu thereof "206".

On page 11, line 20, strike out "456" and insert in lieu thereof "207".

On page 13, line 10, strike out "457" and insert in lieu thereof "208".

On page 15, line 4, strike out "458" and insert in lieu thereof "209".

On page 16, line 12, strike out "459" and insert in lieu thereof "210".

On page 16, line 19, strike out "460" and insert in lieu thereof "211".

On page 17, line 5, strike out "461" and insert in lieu thereof "212".

On page 17, line 21, strike out "462" and insert in lieu thereof "213".

On page 18, line 2, strike out "463" and insert in lieu thereof "214".

On page 18, line 7, strike out "464" and insert in lieu thereof "215".

On page 19, line 19, strike out "465" and insert in lieu thereof "216".

On page 21, line 4, strike out "466" and insert in lieu thereof "217".

On page 22, line 2, strike out "467" and insert in lieu thereof "218".

On page 23, line 6, strike out "468" and insert in lieu thereof "219".

On page 23, line 11, strike out "469" and insert in lieu thereof "220".

On page 23, line 19, strike out "470" and insert in lieu thereof "221".

On page 24, line 6, strike out "471" and insert in lieu thereof "222".

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from Illinois (Mr. STEVENSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

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NOTICE OF HEARINGS ON THE WHEAT AND WHEAT FOODS RESEARCH, EDUCATION AND PROMOTION ACT

Mr. ALLEN. Mr. President, I hereby announce the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry will hold a hearing Tuesday, May 9, on S. 3276, the Wheat and Wheat Foods Research, Education and Promotion Act. The hearing will be in room 324, Old Senate Office Building, beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Nevada (Mr. BIBLE), I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. April 6, in room 3110, New Senate Office Building, on the following bill: S. 1295, to establish the Amistad National Recreation Area in the State of Texas.

HEARINGS ON INDIAN SELF-DETERMINATION BILL

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished junior Senator from Washington (Mr. JACKSON), I wish to announce for the information of the Senate and the public that open public hearings have been scheduled before the Subcommittee on Indian Affairs on S. 3157, the Indian self-determination bill. This hearing will be held on April 24, beginning at 10 a.m. in room 3110, New Senate Office Building.

This measure, which the Senator from Washington introduced on February 9, would permit the Indian people to realize their long-standing desire to assume increasing responsibility in the control and management of Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service.

ADDITIONAL STATEMENTS

COMPENSATION FOR PERSONS MAIMED BY CRIMINALS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "If You Are Maimed by a Criminal, You Can Be Compensated (Maybe)," written by Wayne King, and published in the New York Times Magazine of March 26, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IF YOU ARE MAIMED BY A CRIMINAL, YOU CAN BE COMPENSATED (MAYBE)

(By Wayne King)

Friday had been a good day for Jack Harris. His wife, Nelle, who had been sick for several weeks, was out of the hospital; his four children were excited about Christmas, a week away, and the car trunk was full of presents for them from fellow employes at Northshore Hospital, where he worked as a kitchen helper. Everyone seemed happy and expectant. All in all, a very good day.

The only nagging thing was the little dog next door. It wasn't big enough to be called vicious, just feisty; an angry little dog with an almost uncanny ability to jump over fences on the street four or five times taller than it was. To Jack Harris the dog seemed to be a little like the middle-aged neighbor who owned him, Robert Collier. Persistent, petulant, Collier didn't seem to like people very much.

Harris does not think of himself as a prideful or arrogant man; like most of the black migrants from rural Mississippi, some of whom lived near him in the same section of St. Albans in Queens, he had been brought up in a life-style that scarcely accommodated that kind of personal luxury. He had worked the rich Delta fields, chopping cotton and picking it, and he had washed dishes in a cafe in his little all-black town of Mound Bayou, growing up like his 12 brothers and sisters with a kind of stubborn endurance that dictated, as he put it, that a man tries to act like a man and do what he has to do.

That's what he had tried to do about the dog, just what any man would do. He had gone over to talk to the neighbor about it. There had been problems before, but this time it was worse. The dog had jumped into the back yard and chased his sister-in-law, seven months pregnant, and when Harris came home, she was near hysterics.

So he had gone over to talk to Mr. Collier, giving him a little lecture about brotherhood and how it was downright unneighborly to let that little dammit of a dog chase pregnant women around the back yard. He tried to be friendly about it, even deferential, at one point even going so far as to pick up Collier's cigar for him when he dropped it during what the police later described as a "verbal altercation."

Collier seemed in a fighting mood. But Jack Harris wasn't having any of that. For one thing, he was 28 years old, tall and strong, and it didn't seem right to hit a man twice his age. So he had given up and gone inside his two-story house and everybody there had had a big laugh about it.

He went back out about 45 minutes later to unload the car trunk. One of the Harris children, probably 4-year-old Brian (Mrs. Harris doesn't remember for certain), saw what happened next through a window. Or pehaps he didn't, perhaps he simply assimilated the patterns of noise and excitement into a vision that for him had all the vividness of a borrowed reality.

"It was just like on TV," the boy told his mother later. "The man pulled a gun and shot daddy, and daddy fell down dead."

It was, of course, not like that in its hard actuality, neither so clinical, nor so brief, nor so final.

Three months later, to the day, on March 18, 1971, Jack Harris became the 3,370th person to file a claim with the Crime Victims Compensation Board of the State of New York. The Harris boy had been wrong; his father had not been killed. There had been a single shot from Collier's rifle—which, in a dim irony, was later identified by the police as a 7.35 mm. Italian Carcano, the same type of mail-order weapon that had killed John Kennedy—and the bullet tore into Harris's back as he wheeled to run, destroying a kidney and severing nerves in his back, paralyzing him from the waist down. Harris remembers Collier saying, "I didn't like what you said."

The files of the crime compensation board are filled with cases like Jack Harris's, all different, but with the common element of sudden, unexpected violence. An elderly storekeeper in the Bronx opens his door in the morning, to be greeted by a gunman who orders him to the floor, shoots him once in the head, killing him, then turns and wounds his wife. A woman walking in Prospect Park in Brooklyn turns to look at a boy bicycling by; the boy grabs her purse, and throws her to the ground, jerking her shoulder out of joint. Or the recurring incident: someone walking down the steet, often elderly; a mugger snakes an arm around his neck, throws him to the ground, kicks him in the ribs or the face. There is robbery, rape, murder, mugging, random assault—a swelling litany of violence, each crime with a perpetrator and each with a victim.

New York State's crime compensation program was adopted by the State Legislature six years ago to aid the victims, people like Jack Harris who are suddenly wiped out financially through no fault of their own. Six other states have similar programs and Congress is now considering a plan to provide the states with 75 per cent Federal funding for such efforts. (At least eight states have proposals pending to set up programs.)

The programs are essentially based on the concept that society has an obligation to protect its citizens against crime, and that when it fails to do so, it must assume the burden of replacing the worst of their losses. The concept is not a new one. The ancient Babylonian Code of Hammurabi, promulgated about 2100 B.C., included a provision for compensating victims of robberies:

"If the brigand be not captured, the man who has been robbed shall, in the presence of God, make an itemized statement of his loss, and the city and the Governor shall compensate him."

Such exalted social theory apparently was well ahead of its time, since it was more than 4,000 years later that it was re-adopted, in New Zealand in 1963 and in England in 1964.

In the United States, the first state to adopt the principle was California, in 1965, but it was some time before the program was put into practice. The New York program grew out of a widely publicized incident in 1965 in which a man was stabbed to death coming to the aid of two women being molested on a subway. The New York City Council, in response to public pressure, awarded the man's widow a yearly stipend and shortly afterward passed the Good Samaritan Law, which provides compensation for persons hurt coming to the aid of a policeman or a crime victim on public property.

The state program, although stimulated by the same crime, is in no way connected with the Good Samaritan Law and has much wider application. Fewer than a dozen awards have, moreover, been made so far under the Good Samaritan program. Few people in New York, it appears, have been hurt coming to someone else's aid.

The Crime Victims Compensation Board handles all cases in which a person is hurt in the state as a result of a crime. It does not pay for property loss, only for medical care and lost wages.

There is no dearth of potential claimants. In 1970, there were 122,976 violent crimes in the state, according to F.B.I. statistics, including some 1,500 murders, 2,800 forcible rapes, 80,000 robberies and 38,000 aggravated assaults. Not all of these produced injuries, of course, but the figures indicate the magnitude of the problem. Given this, it is at first surprising to learn that the crime compensation board has received only about 5,100 claims since its inception; and of those, only about 1,800 have received awards, with another 1,300 cases in process.

Closer examination reveals the reasons. Oddly enough, one of them seems to be that very few people know the program exists. "There are even prosecutors who have never heard of it," says P. Vincent Landi, one of three board members who administer the program and adjudicate cases, two in New York City and a third, Chairman Stanley L. Van Rensselaer, in Albany. The board does no

advertising and, short of occasional press mention, word passes almost by happenstance, from friend to friend.

Nelle Harris learned of the board a week or so after her husband was shot, from a neighbor whose insurance work often took him to courtrooms. Even then she made no move to apply for an award, although it was obvious by then that many months would pass before Jack Harris could return to work—if ever. He had been on an operating table for six hours at Queens General Hospital while doctors quelled massive internal bleeding, patched up vital organs and simply shook their heads over the shattered nerves.

When the Harrises finally did apply for help, through lawyers, it was three months later, just within the 90-limit set by law. Under special circumstances—serious injury and hospitalization, for instance—the period can be waived and applications accepted up to a year after the crime. (Offices of the Crime Compensation Board, listed in the phone books in Albany and New York, will mail out application forms upon telephone request.)

Some potential applicants are turned away after initial informal inquiry when it becomes clear that they do not meet minimum requirements for assistance. Harris's case seemed to meet them all, although every key statement had to be authenticated in a lengthy and tedious investigation. The case took eight months; the average is about three months, though a few stretch to more than a year. "This is public money," says Angelo Petromelis, the stocky, affable supervisor of investigation in New York. Petromelis, 43, oversees the office staff and six city investigators (three more work in Albany), each of whom carries about 40 cases continuously and manages to dispose of about 15 each month. There is a current backlog of about 1,100 cases, stretching longer every month. Petromelis, who worked for 10 years as an investigator of consumer fraud cases for the New York State Banking Board (and who once worked the other side of the street, repossessing cars), says the intensive investigation is necessary not so much to detect fraud as to make sure compensation is not available elsewhere.

"You can count the fraud attempts on your fingers," he says, chewing on a cigar, "but there are some people who will try to pad their claim, throwing in other bills—you know, having their appendix taken care of while they're in the hospital." (In one case, a grocery manager filed on the basis of a broken leg and other injuries sustained in a holdup; there had indeed been a holdup, but the broken leg came later, in an accidental fall.)

But the major aim of the investigation is to find untapped sources of compensation already available to the crime victim. The Harris file is typical: an inch thick with 29 separate documents, ranging from a copy of his tax return to five pages of notes on informal phone conversations. The board does not regard it as necessary for applicants to hire lawyers—Harris's were already working for him on a related matter—and their fees must come out of whatever award the claimant gets. About a fifth of those applying hire lawyers. "This is not an adversary proceeding," explains Petromelis. "We consider it our job to make awards wherever possible, not to go out of our way to deny them."

Application is made on a four-page form requesting details of the crime, injuries, expenses and any medical insurance the victim might have. In the Harris case, medical expenses were formidable, nearly $40,000. This meant that he met a key test—financial hardship. Although the Harrises owned their home, its value was not taken into account, consistent with board policy. Despite his slender take-home pay of $102 a week, he had also managed to accumulate savings of $3,000. This too, was considered inadequate to forestall serious hardship. Bank statements and Harris's most recent tax return were requested and submitted to document his assets. Because of the bank balance, however, a request for an emergency award—up to $500, payable immediately—was denied. All medical bills already paid by the Harrises were submitted and reimbursed.

Unlike many in his situation, Harris had substantial medical insurance—Blue Cross, Blue Shield, Medicaid and a group employe policy. The state program pays only those expenses that are not reimbursed by some other source. It was also determined that Harris met the minimum requirement for lost wages—at least $100 or two weeks of lost pay. Disability payments were deducted from the total lost wages.

Harris also met the requirement of "innocence" in the incident—a nettlesome question in many cases. To be eligible for an award, the victim must not have provoked or substantially contributed to the attack. This is not always clear-cut. In Harris's case, there had been an argument. The police report on the incident, however, corroborated Harris's statement that he had done nothing to provide his assailant and had, in fact, tried hard to avoid a fight. Even if there had been a fight, the circumstances were such that Harris would probably have been absolved of provocation.

"The key point here is the amount of force used," explained board member Landi, an imposing, nattily dressed attorney who has practiced law for 40 years, including several years as a referee in workmen's compensation cases. "If there is a fist fight, and someone pulls a gun and shoots the man he is fighting with, then it's fairly clear that the victim has not provoked that response, a deadly response. If he pulls a knife or gun himself, then it becomes an entirely different question."

The guideline sometimes becomes fuzzy. Consider the case, filed with the board, of a man who became entangled in an argument with another while standing in line at a food service counter.

The man left the restaurant and returned later to renew the squabble, this time brandishing a claw hammer. He strode toward his enemy and swung the hammer at him. The man pulled a pistol and shot him dead. Provocation?

No. At least not in the view of Max L. Nissman, the other board member who, with Landi, is based in an office at 80 Centre Street in Manhattan. His reasoning went this way: Despite the fact that the man had left and returned with what could be considered a deadly weapon, it seemed clear from his actions, on the basis of witnesses' testimony, that he had not intended to inflict deadly injury. He had swung the hammer at the man's legs. Moreover, Nissman felt that if the assailant had not been carrying a gun, he would have left the scene—but that he had in fact incited his victim, walking toward him and taunting him. An award to the man's family—a death claim to cover burial and other losses—was authorized.

A death claim filed by the family of a man who had visited a prostitute and been beaten to death in her apartment was denied, however, partially on the grounds that if the man had not chosen to engage in an illicit situation he would not have been killed. He shouldn't have been there in the first place, the board sniffed.

Similarly, the board rejected the application of a widow who said her husband had been shot to death in a bar and grill below their apartment one evening. The board found no cause for an award. The victim was scarcely innocent, since in fact he was shot while burglarizing the place.

Other cases rejected out of hand involve family situations. A provision in the statute that established the program serves to eliminate all claims growing out of domestic squabbles. No award is made when the victim is hurt or killed by someone related to him. A father-son assault, for example, is not considered to be as clearly society's responsibility as a mugging or a robbery. The myriad man-wife assaults and killings are thus not covered. Nor is a man shot by his mistress eligible. It's not entirely a matter of bureaucratic morality: there is a conscious effort to avoid the possibility of a prearranged fraud on a family claim.

It is not required that the injured party be hurt directly by the criminal, as in a mugging or assault. The requirement is that he be hurt as a result of a crime. Thus an innocent person wounded by a stray bullet in a chase is eligible, if he meets the other requirements. In Brooklyn, a 67-year-old rabbi, permanently disabled, receives $152 a month from the board as a result of injuries he suffered when he jumped from the window of his second-story apartment to escape a pair of assailants. His medical expenses were also paid.

There is no legal limit to payments for medical care under the New York program. The largest award so far, more than $25,000, was recently authorized for the parents of Jean Crez, a 24-year-old French exchange student who was robbed and shot in the neck last year after being forced to lie down on the floor of an apartment on West End Avenue. Paralyzed by the bullet, he later died. Although his medical expenses exceeded $35,000, he apparently had a $10,000 student life-insurance policy at Tulane University where he was studying.

Reimbursement for lost wages under the program is limited to $15,000. Most often, payments are made monthly until the amount is exhausted. In Harris's case, the payment—$1,367—was made in a lump sum. Although Harris actually lost $2,875, disability insurance paid the rest. Because of his extensive insurance coverage, Harris's total award from the board amounted to only $1,615—the lost wages plus $248 in uncompensated medical bills—less than the $1,930 average for personal injury awards. (Compensation in death cases, including payments for burial expenses up to $1,000 and for uncompensated wages up to $15,000 to survivors in financial hardship, averages $2,040.)

For one reason or another—the major ones being failure to meet the minimum requirements, no serious financial hardship or failure to furnish necessary information—fewer than half the claims made to the board result in awards. In 1970, the most recent full year for which information is available, there were 1,090 decisions by the board; 458 claimants received awards and 632 did not.

The awards are made out of an appropriation—$2,350,000 this year—taken from the state's general fund. The amount has grown steadily each year since the program started and is expected to keep doing so. If the appropriation proves inadequate in a given year, a supplementary appropriation may be sought. In 1970, it was necessary to obtain an additional $100,000 from the deficit budget.

Just how many eligible crime victims have not applied because they have never heard of the program is speculative, but the stipulations of the system are such that the number who would receive awards is not considered excessively large. The requirement of financial hardship troubles the board. The question becomes particularly oppressive when applied to the elderly, some of whom have substantial savings eked out over the years from frugal living. A sizable bank account can be enough to deny an award to an applicant—even if he has no income. The board also feels that the middle-income wage-earner and taxpayer is unfairly penalized, since his losses, which might be substantial, are not recoverable unless they create serious financial hardship.

There are other criticisms that can be made. A major one is that the program, be-

cause it is not widely known and because it places stringent restrictions on eligibility, touches only a tiny percentage of the victims of crime. Another is that the application procedure is sometimes laborious and discouraging; the administration of the program is unwieldly and—perhaps necessarily—well-wrapped in red tap. (Personnel costs alone will take $233,000 out of the $2,637,000 appropriation this year.) And, when it is over, the award, as in Jack Harris's case, is often relatively small.

Set against the huge, if themselves inadequate, outlays for prevention of crime and rehabilitation of the criminal, the expenditure for the victim is pitifully small, and does far too little to rehabilitate *him*. Nor does it do much to heal the psychic scars that, in extreme cases, abuse at the hands of a criminal can produce, especially among the elderly. With crime rates—particularly those for violent crime—growing at an alarming pace, the question of what happens *to the victim* after the blow is struck is certain to become a matter of greater concern. Should as much be spent on him as on the criminal?

Despite total paralysis below the waist and almost constant pain, Jack Harris has returned to his job at Northshore Hospital. His assailant, Collier, was charged with assault in the first degree, a felony involving the inflicting of grievous bodily harm. He was allowed to plead guilty to the lesser charge of second-degree assault and was sentenced last October to three years in prison. Harris is undergoing therapy for the paralysis, but his condition is described as "static." He has refused welfare, because that would mean allowing a lien on his home, which he and his wife refuse to jeopardize. His new job, making sandwiches, allows him to work sitting down, but working alone in a corner depresses him sometimes, so now he also works inside the cafeteria, at the cash counter, where he sees people. If he is again hospitalized and unable to work, the state will reopen his case. He still wears the overcoat he had on the night he was shot. It was almost new and is in perfectly good shape except for the small round hole in the back, not even big enough for Nelle to bother to mend.

COMMANDER IN CHIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES OPPOSES "AMNESTY"

Mr. HANSEN. Mr. President, the attached statement by a thoughtful American patriot, Mr. Joseph L. Vicites, commander in chief of the Veterans of Foreign Wars of the United States, sets forth the conviction of more than 1.7 million members of the Veterans of Foreign Wars on the issue of "amnesty." I commend "G.I. Joe" Vicites both for the substance and timeliness of his contribution to the Judiciary Subcommittee of this body on this topic.

The VFW has for many years given clear-headed views on some of the most troublesome problems of our times. Mr. Vicites's statement provides one more outstanding example of the patriotism and forthrightness of this fine body of Americans.

I ask unanimous consent that the statement by Mr. Vicites to the Senate Judiciary Subcommittee be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOSEPH L. VICITES, COMMANDER IN CHIEF, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the subcommittee: The subject which you and other members of your sub-committee have recently been weighing—that of "amnesty" to military deserters and draft dodgers—is of central concern to the more than 1,700,000 members of the Veterans of Foreign Wars of the United States.

In the brief statement that follows, I shall faithfully set forth the views of the V.F.W. on this painful and divisive matter.

Nearly one-third of the membership of the V.F.W. (more than 470,000 comrades) are veterans of our country's struggle in Vietnam. They, and the rest of us in the V.F.W., are keenly aware that more than 55,000 American servicemen have been killed carrying out our nation's commitment to that war-torn land and that thousands more have been wounded, many maimed for life. Additionally, the V.F.W., consecrated to honoring our dead by helping the living, knows full well that hundreds of American fighting men remain as prisoners in the camps of North Vietnam and the jungles of the South.

The massive fact of 55,000 dead Americans—killed in a war they neither chose nor shaped, but one from which they did not shrink—must dominate any consideration of this question from any quarter.

In short, the Veterans of Foreign Wars of the United States is *unalterably* opposed to any general amnesty for draft dodgers or deserters now, or for as far ahead as any one of us can now see.

Specific supporting rationale for the foregoing position follows:

(1) *Effect on Families of Servicemen KIA, MIA, and POW.* It is difficult, if not impossible, to conceive of any but a handful of this tragedy-touched group being so confused in their perception of events as to urge a general amnesty. The overwhelming majority of this specially-affected group vehemently opposes any such step. (You will recall the witness before your Senate panel who movingly recalled President Kennedy's call "to bear any burden, pay any price, support any friend, and oppose any foe to assure the survival and the success of liberty.")

(2) *Effect on the Active Military Forces.* Beset as these forces are with seeking to assure disciplined, combat-ready forces in the current social environment, the harmful effect of "amnesty" to those who, self-serving and indulgent rationale apart, chose to stand aside rather than to fight would be, and I choose the word carefully, calamitous.

(3) *Effect on the Selective Service System.* As Director Tarr of the Selective Service has testified, the effect of "amnesty" would be deeply hurtful to this beleagured manpower mechanism. In short, why should any American appear for induction when those who preceded them evaded this manifest responsibility of citizenship without incurring any penalty.

(4) *Effect on Reserve Forces and the National Guard.* These national assets are confronted with multiple problems in meeting their manpower goals in the blindly anti-military environment of today. A heedless "amnesty" would make their thankless job even tougher.

(5) *"Qualified Amnesty"—The Senator Taft Formula.* Some variation of Senator Taft's approach may at some future point in time merit consideration—*but not now.* As both the president and the Secretary of Defense have indicated, when the U.S. casualty lists from Southeast Asia are over and we hear evidence from our POW/MIAs, the time may be more propitious for a policy review. *That time is not now.*

(6) *Views Attributed to Certain Draft Dodgers/Deserters.* If I can believe the testimony of my eyes and ears, certain self-annointed "leaders" of groups in Canada, Sweden, and even in the U.S., have stated that "amnesty"—which implies forgiveness—is inappropriate for these people have done nothing for which forgiveness is appropriate in that, having been proven "right" by events, they have done nothing calling for forgiveness. The twisted logic of something called "premature morality" would apparently call for wecoming draft dodgers and deserters back home in a ticker tape parade down lower Broadway. This position and those who advocate it bring on something akin to physical nausea in me personally and in the membership of the V.F.W. These interminably vocal people don't want amnesty and we don't want to see them receive it. On this point we can all agree.

(7) *Deserters.* This category has a mechanism in being to give them full consideration upon their apprehension or return to military control, i.e., the military courts martial system under the Uniform Code of Military Justice, as recently amended.

(8) *Draft Dodgers.* A group that I believe is more culpable than many of the less advantaged military deserters and merits no favorable consideration.

To conclude, I am aware that the position set forth above may be considered by some to be predictably "hard-nosed" and not in step with "current realities."

I disagree with those who would so charge. The issue here is not the wisdom of having waged the war in Vietnam; the real gut question is do we countenance self-serving indulgence at best, or cowardice at worst. If we choose to so do, the days of this nation—"the last and best hope of mankind"—are numbered indeed.

DANGEROUS IMPLICATIONS OF THE WAR POWERS BILL

Mr. McGEE. Mr. President, the Senate will soon begin debate on a bill which proposes a fundamental change in the constitutional relationship between the President and Congress in the field of foreign affairs. That bill is the so-called war powers bill.

Eugene V. Rostow, in a paper entitled "Great Cases Make Bad Law," offers an excellent analysis of this legislation and the dangerous implications that it holds for world stability.

What Mr. Rostow warns, and what all of us should heed, is the taking from the President of the flexibility that is needed to deal with international affairs in the real world of the 1970's.

What is most disturbing about the bill is the fact that instead of preventing future limited hostilities, such as Vietnam, it may be opening the way for larger conflagrations which could have been averted if cool heads had prevailed during the course of this historical debate.

I ask unanimous consent that Mr. Rostow's paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

GREAT CASES MAKE BAD LAW

(By Eugene V. Rostow)

Responding to the tragedy of Vietnam, a group of Senators led by Jacob K. Javits proposes a fundamental change in the constitutional relationship between President and Congress in the field of foreign affairs. They wish to accomplish their goal without the inconvenience of the amendatory process, by legislation alone, based on new perspectives they have discovered in the "necessary and proper" clause of the constitution.

They assert that the underlying cause of the Vietnam tragedy is a modern and most unconstitutional excess of presidential power, caused by presidential "usurpations" since the time of McKinley, and especially those they claim Johnson made with regard to Vietnam. Ignoring their own repeated votes for Vietnam, these Senators say "we live in an age of undeclared war, which has meant Presidential war. Prolonged engagement is undeclared. Presidential war has created a most dangerous imbalance in our constitutional system of checks and balances." Although Senator John Sherman Cooper has rightly criticized their theory as a rewriting of history, Senator Javits and his colleagues are pushing a Bill which in their view would correct nearly two hundred years of error, strip the Presidency of many of its most essential powers, and restore what they fondly imagine was the constitutional model of 1787.

Holmes once said that great cases, like hard cases, make bad law. The Javits Bill confirms Holmes' quip more vividly than any proposal since the Bricker Amendment. But it is a more serious attack on the constitution, and the security of the nation, than any of the Bricker Amendment proposals. They would have required affirmative Congressional action before treaties became operative as the supreme law of the land. The Javits Bill would deprive the President of powers which were used routinely by Washington, both Adams, Jefferson, Madison, Monroe, and by nearly every President since—powers to use or threaten to use force in aid of diplomacy which experience, and the Supreme Court, have found indispensable to the effective functioning of the nation in the society of nations. The armed forces of the United States have been used abroad more than 150 times since 1789, only 5 times under declarations of war, and only a few dozen times pursuant to congressional action that could arguably be construed to authorize what in fact that President did.

In this respect American practice corresponds to that of all other nations in the 18th, 19th, and 20th centuries. There is nothing special, under either international law or American constitutional law, about "undeclared" limited war in time of peace, or campaigns handled by the executive alone. In the nuclear age, as the Cuban Missile Crisis and several subsequent crises demonstrate, these are the flexible powers the nation needs most if there is to be any hope of avoiding nuclear war.

With admirable candor, Senator Javits has said that the purpose of his Bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as a third autonomous and co-equal branch of the government, to the humble posture of George Washington during the Revolution, when he functioned as Commander-in chief, appointed by the Continental Congress, and its creature, or the creature of its committees, in every respect.

Congress has made no bid for supremacy so bold, and so foreign to the basic ideas of the American constitution, since the impeachment of Andrew Johnson. The legal theory on which the Bill rests would permit a plenipotenlary Congress to dominate the Presidency (and the courts as well) more completely than the House of Commons governs in Great Britain.

I reach this conclusion not as an advocate of increased Presidential power, but as a defender of the constitutional pattern of enforced cooperation between President and Congress we have inherited, for all the friction it inevitably generates. I disagree with the arguments for enlarged Presidential power advanced in recent years by McGeorge Bundy, James McGregor Burns, Richard Neustadt, and Senator Fulbright, among others. In my experience, the respective powers of each branch are indispensable if the making and execution of foreign policy are to remain under effective democratic control. Our practice is strenuous. But a quiet life for Presidents or members of Congress is not a very important goal of our constitutional arrangements.

The corollary of this principle, however, is democratic responsibility. It is not seemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They knew everything the executive branch knew. But their argument has no bearing on the problem in any case. Even if they had been brainwashed, their votes stand. Their claims recall the arguments that the Fourteenth Amendment was a nullity, and could be ignored, because many of the legislatures which ratified it voted under circumstances of fraud, or the coercion of military occupation.

The Javits Bill is full of paradox. While it purports to assure the Nation that a specific Congress will staunchly keep future Presidents from engaging in limited wars like that of Vietnam, the Bill would not have prevented the campaign in Vietnam if it had been enacted thirty years ago. The procedures used to bring Congress and the Presidency together behind the campaign in Vietnam fully comply with the substantive standards of the Javits Bill. Our participation in Vietnam was specifically authorized by Eisenhower's SEATO Treaty, and by several subsequent pieces of legislation, including the Tonkin Gulf Resolution, enacted for the purpose of approving the use of armed force to uphold the commitment of the Treaty. In the case of Korea, the Javits Bill would have required Truman to obtain a congressional Resolution within 30 days supporting the action he took in Korea under the United Nations Charter, which has the status of a treaty in our internal law. Such a Resolution could surely have been obtained at the time, although the President and the Congressional leaders thought it unwise and unnecessary to do so under the circumstances.

But if the Javits Bill had been on the books, it would have prevented Kennedy from handling the Cuban Missile Crisis as he did, by the skillful and minimal deployment of our armed forces as an instrument of deterrence and persuasion, in order to protect our interests without a confrontation that could have led to limited or unlimited war with Cuba, or the Soviet Union, or both. Under the Javits Bill, President Johnson could not have employed the implicit threat of force to keep the Soviet Union out of the Six Day War in 1967. President Nixon could not have used the same methods to avert a general war in the Middle East in September, 1970, or to confine and contain the India-Pakistan war of 1972. Similarly, earlier Presidents could not have used or threatened to use the armed forces of the nation to persuade France to leave Mexico in 1865–1866, to avoid war with Spain or Britain over Florida, with France over Hawaii, or to send commodore Perry on his fateful voyage to Japan.

The Javits Bill would annul the military provisions of all our outstanding treaties and congressional Resolutions authorizing the use of force by the President, including NATO and the Middle Eastern Resolution of 1957, which was renewed in 1961. Equally, it would annul all Presidential commitments, some of immense sensitivity and importance, of like effect.

The country is in the midst of a profound foreign policy crisis. It is not a constitutional crisis requiring a redefinition of the historical relationship between the President and Congress in the making and execution of foreign policy, but an intellectual and emotional crisis caused by the growing tension between what we do and what we think. The ideas that have shaped our policy since 1947 have suddenly lost their power to command. We can resolve that crisis only through a disciplined consideration of what foreign policy is for—an examination of what the nation must do, given the condition of world politics, to preserve the possibility of surviving as a democracy at home. That process is difficult. The relevant Congressional Committees, and the Congress as a whole, should be leading the nation in a courteous and sustained debate, through which we could hope to achieve a consensus as vital as that which sustained the line of policy which started with the Truman Doctrine, NATO and its progeny, and the Point Four Program.

Instead, the Senate Foreign Relations Committee has chosen to escape from the demanding but finite task of reality by plunging into the insoluble, and dangerous one of constitutional myth.

Korea and Vietnam did not come about because the Presidency abrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. Those who now believe these campaigns were an error should recall the prudent wisdom of an earlier time, when the Supreme Court left the powers of the Supreme Court untouched even after the catastrophic error of Dred Scott. Errors are inevitable in the making and execution of policy, both by governments and by other institutions. In the turbulent and unstable world in which we live, the strong Presidency which has developed in the crucible of nearly 200 years of intense experience has never been more needed than it is today.

STAMP HONORING FIORELLO H. LAGUARDIA

Mr. JAVITS. Mr. President, I invite the attention of Senators to the announcement by the U.S. Postal Service that a 14-cent postage stamp honoring Fiorello H. LaGuardia will be issued in New York on April 24, 1972.

I ask unanimous consent that the release issued on this matter be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD:

Fiorello La Guardia, who had a long and varied career in public service, is best remembered as a three-term mayor of New York. He died in 1947.

The stamp, which is in the Prominent Americans series of regular stamps, was designed by Robert Geissman, of New York. It is vertical and bears a portrait of La Guardia, with a portion of the New York skyline in the background. The inscription at the bottom in two lines is "U.S." and "La Guardia/14¢." The stamp was engraved by Arthur W. Dintaman (vignette) and Robert G. Culin, Sr. (lettering). The initial printing order is for forty million stamps, printed in brown on the Cottrell press.

Collectors may direct first day cancellation requests to "La Guardia Stamp, Postmaster New York, NY 10001," enclosing the proper remittance, with requests postmarked no later than April 24.

New Yorkers called him, with affection, "The Little Flower," a literal translation of his Italian-derived first name. He was colorful. He was flamboyant. La Guardia liked to chase fire engines. When a strike closed the city'snewspapers, he went on radio to read the comic strips.

He was also a hard worker and able administrator who left his mark on the city. La Guardia reorganized the machinery for municipal government, balanced the budget, involved himself with slum clearance, beautification, construction of parkways and bridges and the airport that later was to bear his name.

As mayor of New York (1934–1945) he rejected partisan politics, appointing to administrative offices persons of every shade of political adherence.

La Guardia was born in New York in 1882, was elected to Congress in 1916, left office to join the U.S. Air Service during World War I, from which he emerged as a major, returned to Congress, where he served until 1933. He was associated with some of the most liberal legislation of the day, notably the Norris-La Guardia Act (1932) which banned the strikebreaking injunction.

La Guardia was the first director of the Office of Civilian Defense (1941–42) and later was director general of the United Nations Relief and Rehabilitation Administration in 1946.

RETIREMENT OF REAR ADM. LEVERING SMITH

Mr. STENNIS. Mr. President, a respected naval officer, Rear Adm. Levering Smith, retires on the 31st of March after 40 years of naval service. We are fortunate that after his retirement, he will remain on active duty in his present assignment as Director, Strategic Systems Projects.

Throughout his career Admiral Smith has served with distinction. Especially noteworthy are his major achievements in the Polaris and Poseidon programs which are so vital for the preservation of world peace. He has contributed in a variety of capacities to those programs for the past 16 years, serving as Director since February 1965.

Admiral Smith's outstanding managerial expertise and effective leadership have in large measure been responsible for the success of these efforts to project the Nation's defense far from our shores. Upon the occasion of his retirement and on behalf of the Nation, I wish to convey to Admiral Smith our sincere gratitude and appreciation and to extend best wishes for the continued success of this great American.

THE HONORABLE DAVID KAMMERMAN

Mr. HANSEN. Mr. President, on the 31 of March, 1972, one of the most honored employees of the Senate, who has served us loyally, industriously, and selflessly for 30 years, retires from our employ and from our midst. For 22 years he has been a member of the staff of the Republican Policy Committee and the Republican Conference. For more than 20 years he has been counsel to the Calendar Committee. Prior to this time he was executive secretary to Senator Danaher of Connecticut as well as administrative assistant to Senator Hawkes of New Jersey. Most recently all of us on the Republican side of the aisle have had occasion to use the Record Vote Analyses of the Senate which he has so diligently prepared and published.

In recognition of David Kammerman's devoted service to the country and to his party, the Republican leadership has caused to be engraved and presented to him the folowing Resolution:

Whereas the Senate of the United States and the Nation have been most admirably and faithfully served by David Kammerman for more than thirty years, during which time he has for more than twenty years been a member of the Staff of the Republican Conference and Counsel to the Calendar Committee, and

Whereas David Kammerman has for more than a decade been responsible for compiling and publishing the Record Vote Analyses of the United States Senate, and

Whereas David Kammerman is now retiring from the long and arduous service he has so well performed;

Now therefore, on behalf of the Senate of the United States and the Republican Conference, we express our gratitude to David Kammerman for his exemplary services and extend to him our high regard and hopes for many long and productive years to come.

Mr. President, I know that all Senators, whether they be of my party or not, join me in expressing gratitude to the Honorable David Kammerman for the many years he has given us, and wish him many long, happy, and productive years in the future.

JOHN D. ROCKEFELLER, JR., MEMORIAL PARKWAY

Mr. McGEE. Mr. President, as we commemorate the centennial year of Yellowstone National Park and the National Park System, I note with pleasure a most appropriate action taken by this body last Friday in its passage of an act to create the John D. Rockefeller, Jr., Memorial Parkway.

This action represents a fitting recognition of the philanthropic efforts of Mr. Rockefeller to create the now world-famous Grand Teton National Park. His private initiative is an inspiration to all who care for the protection of their environment. That the highway linking the Yellowstone and Grand Teton National Parks should be redesignated the John D. Rockefeller, Jr., Memorial Parkway is a most proper undertaking.

At present, there exists a 23,000-acre corridor between the two national parks which is threatened by the existence of numerous mining claims. With the approval of the bill by both Houses, this threat will be removed as the land is transferred to the National Park Service in order that it might have complete jurisdiction of the parkway. It is to be hoped that under the wise administration of the Park Service, this land will be protected and its environment preserved for the benefit of the many generations of visitors to come.

Once again, Mr. President, I commend the Senate for its passage of the bill to create the John D. Rockefeller, Jr., Memorial Parkway.

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

Mr. ROTH. Mr. President, I am pleased to cosponsor S. 3351, introduced by my colleague, Senator Brock, to provide statutory authority for a Council on International Economic Policy within the executive branch and to insure that annual reports of its activities and area of responsibility are presented to the President, Members of Congress, and the public. The Senator from Tennessee has demonstrated in the clearest possible manner the need for such a council.

Our international economic policies touch on all the vital aspects of our Nation's domestic economy—employment, standards of living, control of inflation, productivity, and pollution regulation. In addition, they constitute an increasingly important element in our relationships with foreign countries, and particularly with our closest allies and business partners—Canada, Japan, Great Britain, and members of the European Community Because the responsibility for this very important area of policy is scattered among some 60 governmental agencies and departments, legislation establishing a central body to review, coordinate, and establish policy priorities is badly needed.

No one is in a better position to assess this need than the Secretary of the Treasury who told an audience at the Council of Foreign Relations on March 15 that:

> The conduct of foreign economic policy today is characterized by traits of ponderousness, division of responsibility, rivalry and, in some sectors, innocence. Too often, in the past, it has been fragmented and immobilized by concern for other sectors of our foreign policy. New organizations—and new missions for old organizations—are clearly required if the Chief Executive is to have the scope of counsel required for decision and the sensitive apparatus required for securing coherent implementation of decisions.

Secretary Connally's evaluation is borne out by our experience of the past decade, a painful period of adjustment in our international economic relationships and policies. In the immediate postwar world, we were by far the preeminent economic power. The European countries were then suffering from dollar shortages rather than unwanted dollar overhangs, and our technological superiority and high rates of productivity more than compensated for the relatively higher wage rates in the United States than abroad. Now, partly because of our generous efforts to help reconstruct and stimulate the economies of our allies and mostly because of their own energy and industry, we are no longer in such a preeminent position. But many of the legacies of that early period have remained, including our dominant role in the defense and foreign assistance responsibilities of the free world, an international monetary system based on a key role for the dollar, trading regulations in GATT that tend to favor European taxation and trade protection structures, and, until recently, exchange rates that no longer realistically reflected comparative purchasing power.

Painful adjustments will continue as we reconcile old and continuing responsibilities with new needs and a new international economic situation. Among the tasks we may be facing during the coming months are a complete overhaul of the postwar international monetary system, the disposition of vast amounts of U.S. dollars held in foreign central banks, the formulation of new policy directions in the trade and investment fields, new trade negotiations with foreign countries, and the creation of policies that more closely harmonize foreign and domestic economic programs.

The formulation of wise policies requires foresight. Unfortunately, in the past we tended to wait until the crisis point and then to make piecemeal, short-term adjustments that lasted only until the next crisis. I do not underestimate the problems involved. Adjustments are always difficult, and especially so when our decisions require coordination and compromise with those of other countries, but they are that much more difficult when there is inadequate policy coordination within our own Government.

If Treasury has one set of responsibilities and positions, Commerce another, State a third, and Agriculture a fourth, and there are no smooth channels to higher levels of authority to coordinate policies and resolve conflicts over priorities, policy formulation tends to be postponed rather than decided upon. Moreover, there is no one body responsible for presenting, within the Government, to the Congress, and to the public, a coherent picture of the totality of our international economic policies and relationships.

It was the recognition of this situation that caused the President to create a Council on International Economic Policy within the Executive Office in January of last year. We now have tangible evidence of what such a Council can do. The first Executive Director, Mr. Peter G. Peterson, now our Secretary of Commerce, presented to the Council, the President and Congress a thoughtful statement of personal views on the major issues involved in our international economic policies. Accompanying the Peterson report were useful charts giving factual information on our balance-of-payments position, trade trends in various commodity groups and with particular countries, the extent of our restrictions on trade compared with that of our allies, and international capital and investment movements.

This kind of factual information provides a basis for intelligent and informed discussion of our international economic policies. An annual report, as provided in S. 3351, will provide a continuing source of information. Nobody expects such information to provide the basis for a complete consensus on the substance of policy, but policy decisions are more substantively based when grounded in sound data.

I am convinced that S. 3351 is a good step in the direction of better policy coordination and better collection and dissemination of information on our economic relationships with other countries. I believe that it is time to give permanent statutory basis to what began as an experiment in the Executive Office of the President. I commend the Senator from Tennessee for his initiative in this matter, and I hope that the Banking Committee will give expeditious consideration to this bill in the context of its continuing review of the Export Administration Act.

EFFECTS OF WEST COAST DOCK STRIKE ON HAWAII

Mr. PACKWOOD. Mr. President, the State of Hawaii has been particular vulnerable to the devastating effects of the west coast dock strike, and has suffered more directly than probably any other State in the Union. Over the months, the distinguished Senator from Hawaii (Mr. Fong) has been closely and actively involved in efforts to protect his State from continuing and increasing economic harm, and has been of tremendous assistance both in moving the Senate to approve emergency legislation to deal with the west coast situation, and also in convincing his Senate colleagues of the urgency of enacting permanent legislation to give the President new authority to deal with emergency disputes in the transportation industry in the future.

The Committee on Labor and Public Welfare was to have considered the many bills on this subject in an executive session scheduled for Friday, March 17. Unfortunately, the executive session was devoted to other committee business, so I am not today able to report any progress. However, I invite the attention of the Senate to a statement presented by the distinguished Senator from Hawaii (Mr. Fong) to the Labor Committee. Senator Fong's statement points up the dire consequence of Senate inaction in the area of emergency transportation disputes, and calls upon all of us to move swiftly to enact the necessary remedial legislation. This is a most timely statement, I commend it to Senators for their careful consideration and attention, and ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator Hiram L. Fong on Emergency Strike Legislation

I understand that this Committee has no less than twelve bills under consideration at this time, representing many different approaches to the problem of protecting the public interest in emergency labor disputes. I have myself co-sponsored three of those bills, S. 2850, S. 2959, and S. 3232, which have in common the concept that the best way to proceed is to give the Executive Branch of government more statutory alternatives, including the final offer selection process, than are now available in such emergencies.

This Committee has already heard extensive testimony on the merits of the various reform proposals, and particularly on final offer selection, which I regard as one of the most original and hopeful ideas to emerge in labor-management relations for many years. I say this because I believe it places the burden of compromise where it should be, on the parties to the dispute themselves, rather than on an arbitrator.

Two parties going before an arbitrator know that he will try to compromise their differences. They therefore have every incentive to state extreme positions, in hopes of getting more when a compromise position is sought. The same parties would be confronted with an entirely different situation in going before a final offer selection panel. They know that compromise is out—that the most reasonable offer will be selected by the panel—and so their interest lies in moving towards a reasonable, centrist position.

I believe that enlarging the options available to the executive to include final offer selection, partial operation, and an extension of the injunction period, will work to the advantage of both workers and management by keeping jobs open and operations continuing while these procedures are being followed.

I have been following the hearings held by this Committee on emergency strike legislation with the closest attention. In my judgment, there is one critical matter which has received insufficient attention from previous witnesses. It is to this point, the impact of the West Coast dock strike on the State of Hawaii and the manifest need to safeguard such areas of the country when deprived of essential transportation services, that I wish to give primary attention in my statement.

It is too little realized that Hawaii lies approximately 2,500 miles from the West Coast of the United States. It is farther from a continent, in fact, than any other inhabited area in the world. Even were it not so far distant, of course, it is obvious that the Island State is extremely vulnerable to disruptions of its maritime commerce.

I endeavored to find out how many scheduled ships and barges, on the average, are required each month to service Hawaii's needs adequately. From what statistics are available, it appears that about 22 Matson and Seatrain ships service Hawaii each month on a scheduled basis, while some 150 unscheduled U.S. ships arrive per month, many unloading varying smaller amounts. As the Matson and Seatrain freighters are quite large, they carry by far the largest portion of cargo to Hawaii. Ships and barges must also be available, of course, to carry Hawaii's agricultural and industrial products to mainland markets.

What is important to keep in mind is not so much the number of ships or tonnage required to serve Hawaii, but the fact that the preponderant bulk of the food, medicine, supplies, equipment, heavy appliances, automobiles, parcel post, cattle feed, industrial products, clothing—almost every item essential to modern living and Hawaii's economy—arrives by sea transport.

Other states have alternative surface transportation systems for interstate commerce—rail or truck in every instance, and in many cases the additional choices of river or ocean shipping. But when ships no longer arrive at the ports of Hawaii, the only alternative is air freight. This means added expense, and is manifestly impossible for many imports and exports by reason of high ratio of cost, a function of weight and volume, to value.

The inherent transportation difficulties and vulnerability of an island location obtain also, it is important to realize, in the case of Guam, American Samoa, the Trust Territory of the Pacific Islands, Puerto Rico and the Virgin Islands. A longshore or maritime strike can quickly disrupt any insular economy.

My State of Hawaii was very badly hurt by the longshore strike which began on the West Coast on July 1st last year and ultimately became the longest dock strike in American history, excepting the devastating 177-day Hawaii longshore strike in 1949. An economic crisis in Hawaii was well advanced by the time a Taft-Hartley injunction brought the longshoremen back to work in October after 100 days on strike. After the injunction period and two voluntary extensions ran out on January 17th, the International Longshoremen's and Warehousemen's Union struck again for 34 days, until the Union membership approved a settlement on February 19th.

Of course, labor peace on the West Coast between the ILWU and the Pacific Maritime Association remains precarious, because of the Pay Board modification of their agreement. Such action may precipitate a new

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West Coast strike and a sympathy strike by the International Longshoremen's Association on the East and Gulf Coasts.

No one put Hawaii's position during the recent West Coast dock strike more succinctly than Secretary of Labor Hodgson, who in testimony before this Committee last December summed up as follows: "The Island State of Hawaii was almost defenseless—a sitting duck at the mercy of a process in which it had no part. The results were traumatic." I am afraid that this may equally well characterize our prospects for the future if no remedial action is taken by Congress.

The impression held by many persons on the mainland was that the West Coast strike was not seriously affecting Hawaii because sufficient food was available and there was no starvation. Food is, of course, of prime importance, but the economy of a state cannot survive on bare essentials.

The strike was directly responsible for millions of dollars in lost business and individual income, reduced Federal and State tax revenues, a significant slowdown in construction activity, numerous business failures and rising unemployment, which in November 1971 reached 6.4%, the highest in Hawaii's history as a State. The number of jobless receded in December, but returned to the 6.4% figure in January 1972, the latest period for which figures are available.

I was particularly aware, throughout this period, of the hundreds of individual hardships and tragedies recounted in letters from my constituents. Every person and business in Hawaii was affected, directly or indirectly, by the dock strike. We were not a party to the dispute, but we swiftly and surely became its major victim.

The principal long-range impact of the shipping strike on Hawaii is to make it more difficult to attract investment capital. For the last twenty years or more, the economic growth of Hawaii has been financed in large measure by capital attracted from outside the State. This is necessarily true for three reasons. The first is that even if most savings of Hawaii residents were kept in liquid form and invested locally, our rate of growth has been such that the funds would be inadequate. The second reason is that more and more savings of Hawaii residents are funneled into mainland institutions, such as insurance companies, mutual funds, the stock and bond market, and so on. Thirdly, more and more of Hawaii business enterprise is owned by out-of-state parent corporations, so that profits made in Hawaii are not left for local investment but are returned to the home office on the mainland.

Personal savings and business profits, therefore, tend to flow out of Hawaii, and the economic development of the State depends upon local ability to attract outside investment funds into Hawaii. The capacity to attract such funds has been dealt a severe blow by the recent West Coast dock strike.

The fabric of the Hawaii business community has also been weakened. A strong firm becomes weak; a weak firm becomes marginal a marginal firm becomes submarginal, or goes out of business. The survivors are more vulnerable to future adversity.

Finally, shipping strikes imperil or destroy the markets for Hawaii's export industries. In his message to Congress on February 2nd, regarding the dock strike, President Nixon expressed his grave concern for lost export markets with reference to our nation as a whole; the threat is no less real for a single state.

The recent history of Hawaii provides a case history of disintegrating economic health under the pressure of a labor dispute in the transportation industry, a blow to my State whose results will be felt far into the future. Never again should the people of any section of our country be subject to such a calamity.

When this Committee reports an emergency transportation dispute bill to the Senate floor, I strongly urge that it make available to the President a range of flexible procedures, including, I would hope, final offer selection, to be utilized to prevent interruption of transportation services essential to the health or safety of a substantial part of the nation's population or territory. Language specifying that such remedies as are provided would become available "upon the deprivation of any section of the country of essential transportation services" would, I believe, apply precisely to Hawaii's position during the West Coast dock strike. It would also give assurance to the people of other outlying areas under the American flag.

It is not sufficient to legislate solely in terms of national emergencies and assume that our insular areas will somehow take care of themselves.

Our recent experience demonstrates all too clearly that wishful thinking cannot protect Hawaii. To cite a proverb from the Middle East, "Hope makes an excellent breakfast but a poor supper."

The people of my State, who bore the brunt of the West Coast dock strike and will bear it again unless Congress acts, know that there is no substitute for statutory safeguards to protect their vulnerable position.

It is my firm hope that this Committee will be mindful of their requirements.

GOVERNOR WALLACE APPEARS ON "MEET THE PRESS"

Mr. ALLEN. Mr. President, on March 19, 1972, Alabama's distinguished Governor, George C. Wallace, was the guest on the outstanding public service program of the National Broadcasting Co., Meet the Press.

Governor Wallace's appearance on Meet the Press came on the heels of his landslide victory in the Florida Democratic presidential primary on March 14. Following the completion of my remarks, I wish to have printed in the body of the RECORD, the transcript of Governor Wallace's appearance on "Meet the Press." I feel that the remarks of Governor Wallace in response to the questions put to him by the program panelists, are both interesting and deserving of widespread attention.

I ask unanimous consent that the transcript be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD: as follows:

MEET THE PRESS

Guest: Governor George C. Wallace, Democrat, Alabama.

Moderator: Lawrence E. Spivak.

Panel: Claude Sitton, Raleigh News & Observer; James T. Wooten, The New York Times; Robert Novak, Chicago Sun-Times; Rebecca Bell, NBC News.

Mr. SPIVAK. Our guest today on Meet the Press is the winner of Florida's Democratic primary, Governor George C. Wallace of Alabama. Governor Wallace ran for President in 1968 on the American Independent ticket, in one of the most successful third party campaigns in American history.

Governor, I'd like to start the questioning. You have already indicated that you are not completely satisfied with President Nixon's proposals to Congress on busing. If you were President today, what additional steps would you recommend that you consider constitutional?

Governor WALLACE. I would have supported the Griffin Amendment that limited federal jurisdiction in the matter of busing, which was an amendment offered to the educational appropriations bill. I would ask the Justice Department and HEW, headed by appointees of Mr. Nixon, not to ask for orders in the federal courts that require busing, because that is what has happened throughout our part of the country.

Mr. SPIVAK. 18 years ago the Supreme Court ruled that segregated schools are inherently unequal. If you were President would you take steps to speed school desegregation once forced busing was ended?

Governor WALLACE. There are no segregated schools now in the country. The dual school system has been abolished. Non-discrimination is a practice throughout the South and throughout the country. It has been accepted, as evidenced by the vote in Florida the other day, but the people have not accepted the artificial method of acquiring quotas and balances, which is contrary to law, by closing of neighborhood schools and by busing little children across counties and cities. That is what the American people object to. They are not against equal opportunities for education in Alabama or any other state in the union.

Mr. SPIVAK. Governor, my question was, would you do anything to speed desegregation of the schools? They haven't gone forward as fast as many people would like them.

Governor WALLACE. Well, as many people would like—I don't know how many they are. I believe they are fewer than you think. As far as wanting to speed up, why not just have the school systems under a freedom of choice plan, as was accepted some time ago by the courts, and let people make the choice of the school they want to attend or let the parents choose for them. Then we would have nondiscrimination, a most democratic method of school attendance. That is what I would do. Then I would not worry about whether we had so many of one group in a particular school. I would only then be concerned about quality education for every child, black and white.

(Announcements)

Mr. SITTON. Governor, since no busing means in effect little or no northern desegregation, do you think that this ban on busing therefore would set up a double standard, one for the south, one for the north?

Governor WALLACE. The moratorium suggested by the President would do just that, although I don't want to see any busing in any state in the union, that is, to achieve balances. So the people in Alabama and our part of the country who have been under the gun a long time, including the people of North Carolina, say that if it is nonsense to bus in the future, it is nonsense to have bused in the past, and so if they are going to declare a moratorium in the future we want a rollback of that which is creating hardship among so many people in the South

Mr. SITTON. All right, sir, that would take us back to the neighborhood school principle, in effect. Will this limit desegregation—the neighborhood school principle, that is—to rural schools and those in urban working class neighborhoods.

Governor WALLACE. Would it do what?

Mr. SITTON. Would it limit desegregation so that the impact, the effect of desegregation is only on rural schools and only on schools in urban working class neighborhoods?

Governor WALLACE. Mr. Sitton, the 1954 decision said that you could not assign students because of race to a particular school system, and so if a neighborhood school turns out to be mostly people of one race, as long as that school is open to all races, there is nothing wrong with it. There is just something artificial and it is rejected by the American people and if the pseudo-intellectuals, as I like to say, think it is good to bus little children backwards and forwards

in Michigan and Wisconsin and Alabama, the average man doesn't, and there are more of them than there are the pseudos.

I frankly think we must have a rollback. So have the schools open under freedom of choice, with no discrimination because of race, and then you have your neighborhood schools and in my judgment everyone ought to be satisfied.

Mr. SITTON. I am just asking you about the practical effect, Governor, and won't the practical effect be that the load, the burden of desegregation will be placed on the people in the country and the people in the urban working class neighborhoods.

Governor WALLACE. Won't the burden be placed on——

Mr. SITTON. On rural schools, where everyone is bused already and on urban schools in working class neighborhoods where working class whites and working class negroes live side by side and therefore attend somewhat the same schools, if you go to the neighborhood school principle.

Governor WALLACE. I don't think anyone objects to the matter of neighborhood schools in the country. I think they object to busing, and so the objection you raise I don't think is shared by the majority of the people either in Michigan or any other state.

Mr. NOVAK. Governor Wallace, despite your victory in the Florida Democratic presidential primary, there are a good many leaders in the party who don't think you are a Democrat at all. In that connection can you say that you definitely, under no conditions, would support Richard M. Nixon for President in November?

Governor WALLACE. I am not supporting Mr. Nixon. I didn't support him in 1968. I am running for the nomination of the Democratic party in the primaries. I don't like many things Mr. Nixon has brought about, including busing, an unbalanced budget, and so I am not a supporter of Mr. Nixon, if that is what you are driving at, at all. But, as far as the leaders of the party are concerned, they were rejected in Florida by the average citizen who feels that he has been neglected by the party leadership and by the government of our country, and so I have as much chance to be nominated as anyone else.

Mr. NOVAK. Let me try to clarify my question, sir. Let's assume that the Democratic Party in Miami Beach drafts a platform which is not to your liking and nominates a candidate which is not to your liking. Let's just make that assumption. Can you guarantee that against such a candidate and against such a platform you will not support President Nixon?

Governor WALLACE. I am not a supporter of Mr. Nixon but I can't guarantee you anything here on this program. You ought to ask Mr. Muskie also. He said on the television the other night that he would fight me until the day he died.

If I were the nominee, he is, in effect, saying, "I wouldn't support the nominee of the Democratic Party," so I don't think I ought to have to make any commitment if the so-called frontrunners, the party leadership, are saying they wouldn't support me.

Mr. NOVAK. Just for the record, sir, can you tell me the last Democrat you voted for for President of the United States?

Governor WALLACE. I voted for, let's see, in 1964 I voted the Democratic ticket in Alabama, which was unpledged electors. In 1968 I voted for George Wallace, who was the truest Democrat running under the Democratic ticket in Alabama. I voted in 1960 the Democratic ticket in Alabama. Mr. Kennedy carried Alabama in 1960, and I voted under the rooster, the Democratic ticket in that. I have never voted a Republican ticket in my life.

Mr. NOVAK. But in those three elections—you have not voted for the nominee of the Democratic National Convention in those three elections?

Governor WALLACE. Oh, yes, I did. In 1960, six of the electors went to Mr. Kennedy and five went to Senator Byrd, so I voted 6/11s for Mr. Kennedy and 5/11s for Mr. Byrd.

Mr. WOOTEN. Last week on the eve of the Florida Primary, Governor, in Vero Beach, Florida, as a matter of fact, you said—and this is a direct quote from your speech—"If we are to restore law and order in this country, we may have to abrogate some civil rights."

I wonder if you would be specific as to which civil rights you are considering abrogating as President?

Governor WALLACE. I think you have not quoted me right. I said unless law and order is restored in this country and people can walk on the streets safely, there may come a time in which civil rights will have to be abrogated. In fact, they are abrogated already when you have a curfew in a city that says, if you get out after nine o'clock you are a law violator. That is the abrogation of a civil right, not to be able to walk into the streets. So what I am saying is that all of us who believe in civil liberties and free ingress and egress to wherever we want to go must see that law and order is maintained in this country and that unless law and order is restored in the large cities, especially in our country, then some civil liberties some day might have to be abrogated, and I am against that.

Mr. WOOTEN. You have already expressed some distaste for the oil depletion allowance and you went to Texas the other day into some oil country.

Governor WALLACE. Yes.

Mr. WOOTEN. I wonder if you could be more specific about just how much you believe the oil depletion allowance should be cut?

Governor WALLACE. I can't be specific about any particular tax reform insofar as this program is concerned because we don't have time, but I think that the tax reform is one of the top issues in the country. I brought it up in 1968.

The other candidates have never talked about tax reform in the Congress to any appreciable amount. Now they are all interested in tax reform, because the average citizen is taxed to death. I believe we ought to have tax reform, and that goes for a lowering of the oil depletion allowance.

Mr. WOOTEN. About how much, Governor?

Governor WALLACE. I don't know how much any more than I know at the moment how much we ought to tax foundations or the other commercial properties in competition with free enterprise, but it ought to be taxed and were I the President, I would send a tax reform bill to the Congress of the United States that called for just that, to tax those who have escaped taxes and to lower taxes on the average workingman and businessman in this country, which I think must come about and will come about as a result of the Florida primary because everybody is talking about it now, including the Republicans.

But I want to say that the Democrats in this race in Florida, and now in Wisconsin and Illinois, never opened their mouths about it in 1968, and I might say also they have been in the Congress 109 years, altogether, these six Senators. Why didn't they bring about tax reform in those 109 years?

Miss BELL. Governor, your critics say that you have no program, that you deal in generalities and oversimplifications. For example, sir, in the Florida campaign, you told voters you would cut taxes, but you promised to increase spending in defense, in education and also in Social Security. How, specifically, can you do this?

Governor WALLACE. You can do it specifically but as I say we don't have time on this program to go into all the specifics.

Miss BELL. We will take the time, sir.

Governor WALLACE. Mr. Spivak won't let me take the time, and we don't have the time, you know. But in the first place, the welfare program that—grand juries in New York, for instance, pointed out in New York last year, that $1 billion went down the drain in one program alone in that state. The welfare giveaway program would save billions of dollars in this country in the next quadrenium, in the next President's term. The curtailment of foreign aid in many places, military and otherwise, would also give additional money, and the increase in revenues generated through closing the tax loopholes in this country where $200 billion of money and wealth is tax exempt, virtually.

That ought to come to an end. That would provide additional funds. And the administration of the affairs of our government here in Washington, with thousands into hundreds of thousands really of bureaucrats—that all Governors when they meet here in Washington wonder what they do—in my judgment the administration can be cut, and we must cut, whether we like it or not, and we can then by cutting in the administration, foreign aid programs, welfare programs and plugging up the loopholes in the tax structure, we can give additional funds to Social Security, those who have reached 62 or 65. We can have additional money for national defense and we can have a tax reduction for those in the lower and middle income classes in the country.

Miss BELL. Governor, to silence your critics on this issue that you do not have a program, can you say specifically have you or any member of your staff worked out exactly how much money you could cut from welfare, foreign aid, to give to defense and education and these other things?

Governor WALLACE. Yes. In the matter of tax loopholes and the curtailment of expenditures in some welfare programs and the administrative cost of the government of our country, and cutting back on some other programs with some fringe benefits which the people just cannot continue to pay for, we can cut $12 to $15 billion off, and we can also have an increase of four to five billion dollars in additional revenues.

Mr. SPIVAK. Governor, despite your victory in Florida, there are very few political observers who believe that you can possibly win the Democratic nomination. Why do you think you can?

Governor WALLACE. There were very few political observers who thought in the beginning that I would win in Florida. They didn't think I could get on the ballot in 1968.

Mr. SPIVAK. But the question was, why do you think you can win the nomination?

Governor WALLACE. Because the average citizen in this country feels that he has been ignored, that the leadership of the Democratic Party and the Republican Party have paid attention to the exotic and those who made the most noise, they have bused their children, they have given their money away in foreign aid, they have given it away to welfare loafers, and they have skyrocketed administrative costs of government to the point that they have broken his back financially, and as a consequence they are going to vote for someone who wants to restore the party back to being a party of the people. They pay attention to those who make the most noise. For instance the matter of busing: Only about 15 percent of the American people are in favor of busing; the others are against it. Yet they turn right around and bus people's children and the average man says that "I am through with that."

Mr. SITTON. Governor, on that point now, a survey has shown that at least half of the people in the South believe in desegregation. They may not believe in busing, but that is just true of the South. Now you want to go back to freedom of choice. Isn't it true that in Alabama freedom of choice has brought only token desegregation?

Governor WALLACE. Freedom of choice in which you could choose to go to any school

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you want to go to—what you are saying is a token. If every school is open to people regardless of their color and they can choose to go there if they want to, then what you are saying is that some bureaucrat or some theoretician says, "They didn't choose correctly." If we open all the schools in every State in the Union as we have in the past to people of all colors, and then they come along and say, "But not enough on this side of town choose to go over here and not enough on this side over here, but they could have if they wanted to," what is wrong with that as long as people have a free choice? What difference does it make about quotas and percentages?

Mr. NOVAK. Governor Wallace, you have been very vague about what your intentions are as far as a third party run. You have said that you would not run as a third party candidate unless your delegates are kicked out of the Miami Beach Convention or something else happens. Could you, sir, tell me what the something else could possibly be?

Governor WALLACE. I have been asked this question so many times, and I will answer it again. I have no thought at this time—and I say "at this time"—of any involvement except in the Democratic primaries, and already we find that the candidates are saying exactly what I have been saying. For instance, Mr. Humphrey the other day said Mr. Nixon, when he came out against busing, came to my position. That is incorrect. Mr. Humphrey voted for busing when he was in the Congress. Now he is against it evidently, but he did vote for it when he was there. So I said that in my judgment I will get deferential treatment and those whom I represent in Miami. But since you raised the hypothetical question, which is a future hypothetical question, I can foresee, since—to answer your question—suppose I am kicked out of the Convention, suppose they bar the doors to me. Well, then that would be a horse of a different color.

Mr. NOVAK. That is the only condition under which you would run as a third party candidate?

Governor WALLACE. Yes, at the moment that is the only condition, because I see now that the Democratic Party is going to straighten up because all of its candidates are talking about tax reform, law and order. Some of them are saying no busing. They are talking about foreign aid. They are talking about—well, Mr. Humphrey had a spot in Florida in which he said, "Kick welfare loafers off the welfare rolls." Did you ever think he would make a statement like that?

Mr. WOOTEN. What you are saying there is even if the candidate, the nominee of the Democratic Party is not to your liking, and even if the platform is not to your liking, as long as you are allowed to participate in the nomination process, then you will not run as a third party candidate?

Governor WALLACE. Well, I am going to be like Mr. Muskie and Mr. McGovern and all the rest of them and Representative Chisholm, Mrs. Chisholm. I don't have to make any commitments along that line at this time at all. I do know that I am running in good faith, and as long as I am treated in good faith then that is one thing.

Mr. WOOTEN. Governor, one of the major thrusts of your Florida campaign has been a kind of populistic attack on tax reform and tax structure and a stance as the champion of the average man, yet in Alabama most of the taxes come from the average man. You have a six per cent sales tax—

Governor WALLACE. No, we do not.

Mr. WOOTEN. But you have a five per cent limit on corporate taxes, and just recently you signed a bill which allowed the maximum—which raised the maximum interest rate charged to consumers on consumer loans from eight to eighteen per cent. Now, is that consistent as a populist?

Governor WALLACE. Very consistent in the sense that I didn't bring the tax structure on. I opposed the sales tax. We only have a four per cent and the people voted the limitation of five per cent corporate tax, and the bill that you are talking about had 22 consumer items that all the consumer groups in Alabama wanted. I signed the bill and then got an agreement from the lending agencies not to charge the amount, introduced a bill in a special session to reduce it, and the session concluded without doing it. I shall call another special session of the legislature in the not too distant future for the purpose of reducing the interest rates that you are talking about.

The bill passed on the last day. I could not send up a message because it could have killed the entire bill, that had 22 items to protect the consumer, that I won't enumerate here, that all the consumer groups in Alabama wanted. But the high interest rate I opposed and I oppose now, and I am going to call a special session for the purpose of reducing the rates that you are talking about.

Mr. SPIVAK. We have less than four mintes.

Governor WALLACE. I couldn't sign half a bill with the consumer goods items in it and then veto the other half of the bill on the last day, for the simple reason that it would have killed the entire bill, so the leadership said, in the legislature. I disagreed with the rates very vehemently. I went on state-wide television in a special session and talked about the high rates: that we were going to ask them to be reduced. They are too high and I am going to ask the legislature to reduce them. In my judgment the legislature will reduce them.

Miss BELL. Governor, you say you are a serious candidate and that you can win. In recent political history only once has a conservative been the standard-bearer of a major party—I am thinking of Senator Goldwater in '64.

Now, this resulted in almost sheer disaster for the Republican party.

What makes you think your candidacy would be any different?

Governor WALLACE. I don't know what you mean by conservatism or liberalism or middle-of-the-roadism.

Miss BELL. You certainly wouldn't call yourself a liberal, would you, Governor?

Governor WALLACE. I don't know that I am a liberal in the sense of the liberalism we have had in the last ten years, but I am not a reactionary, and I believe in progress. I think evidence in the Florida primary shows that I can win. If I do well in other states, in my judgment I can win the Democratic nomination. In fact, Mr. Humphrey and Mr. Muskie now say—Mr. Muskie says, "It is myself against Wallace." Mr. Humphrey says the same thing. There is something——

Mr. SPIVAK. May I interrupt you to ask this: If you don't get the Democratic nomination and don't run as an Independent, does that mean that President Nixon will carry all the Southern states?

Governor WALLACE. I don't know. It all depends upon the state of the economy: it will all depend upon the people's attitude they take about his—on the matter of busing, whether they believe he has actually done anything to stop the busing that has come about mostly in his administration.

Mr. SPIVAK. We have less than two minutes.

Mr. SITTON. Governor, you did well in the '64 primaries, and yet in 1968, running as a third party candidate, you received only 13 per cent of the vote nationally. What has changed since then?

Governor WALLACE. Psychologically it is difficult to win on a third party movement, but the other two candidates in '68 began to say exactly what I was saying. They talked about law and order, some talked about tax reform briefly. I think you know the psychology of winning on a third party ticket, but it did orient the other parties toward the middle.

Mr. NOVAK. Governor, I am going to give you a question on tax reform that you can answer very quickly. Would you be in favor of legislation that would require everybody in this country to pay some income tax even if he got his income from tax-free municipal bonds or whatever?

Governor WALLACE. Yes, I would and even though tax-free municipal bonds are necessary in many instances, there ought to be a limitation as to how many bonds a person could buy so that he would not be able to make a million dollars and not pay any tax. That is correct.

Mr. SPIVAK. We have less than a minute.

Mr. WOOTEN. As candidate for President, Governor, could you tell us at what point in any international tension you might commit troops to a foreign country, combat troops and at what point you would use nuclear weapons?

Mr. SPIVAK. You have thirty seconds.

Governor WALLACE. If we had a genuine disarmament move on the part of the Soviet Union and the Red Chinese with adequate inspection programs, I would be for disarmament, but until that time comes, I would want us to be No. 1. I can't think of any particular place at the moment that I would say we would commit American troops. I don't want to commit American troops anywhere unless it would be absolutely necessary.

Mr. SPIVAK. I am sorry to interrupt, Governor, but our time is up. Thank you, Governor Wallace, for being with us today on Meet the Press.

THE PRACTICAL EFFECTS OF S. 2956, THE WAR POWERS BILL

Mr. GOLDWATER. Mr. President, I ask unanimous consent that a memorandum pinpointing the very serious practical effects of S. 2956, the war powers bill, be printed in the RECORD. The paper identifies many of the actual true-life situations in which the bill would prohibit a sound and wise American defensive action, I hope it will be carefully reviewed by each Senator.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

A MEMORANDUM BY SENATOR BARRY GOLDWATER

1. Specific Practical Effects of Statutory Limitations:

(a) The NATO area:

The effects in the NATO area are the most critical, not only because it is the most integrated defense set-up, but because enemy capabilities would require prompt reaction if ever used.

S. 2956 would:

Prohibit the President from making an advance deployment of force or show of force in the event of belligerent build-ups or threats of use of force. The bill directs that U.S. troops shall not be used in developing crises except in the narrow situations where the President can prove that the U.S. itself or U.S. forces are directly attacked or directly and imminently threatened with attack.

Example: At the time of the Soviet build-up during the invasion of Czechoslovakia, it would not have been possible to augment the U.S. forces in Europe since the U.S. itself was not immediately threatened. The Reforger concept, based on redeployment in time of crises, would become illegal. Augmentation of forces, such as we deployed during the various Berlin crises in the past, also would no longer be possible until the situation became so grave that our troops were directly and imminently under threat of attack. At that point reinforcement may be impossible or too late.

An armed attack against any NATO nation or area where U.S. forces are not already deployed would not permit any redeployment of U.S. forces or show of force, let alone participation in hostilities.

Example: This would include pressure or attack on Norway, Denmark, Belgium, France, and most of Turkey and Greece, particularly those areas contiguous to the Warsaw Pact terrain.

Section 3(4) of S. 2956 would flatly prohibit U.S. personnel in the NATO integrated commands from exercising any functions without specific Congressional authorization once there is an imminent threat that any NATO forces will become engaged in hostilities.

Example: The Supreme Allied Commander, Europe, could not assume command in time of crisis or attack before further Congressional action. The integrated structure of the various NATO headquarters and forces would become inoperative since they are heavily dependent on U.S. participation.

Even in the event of actual armed attack in an area covered by the North Atlantic Treaty, and involving an attack or the threat of attack on U.S. territory or armed forces, the President could repel the attack for only thirty days without later Congressional authorization which itself might include an additional time limitation.

In the event of actual armed attack on the armed forces of the U.S. located outside of the U.S., retaliatory actions, as distinguished from actions to repel attack, would not be authorized. Retaliatory action for up to thirty days is authorized only in the event of attack on the U.S., its territories and possessions.

The sum total of these effects would be shattering to the NATO alliance.

(b) Berlin:

The legislation would require Congressional action to authorize the U.S. to exercise its right of access to Berlin should the routes be blocked by the Russians or the East Germans, since such an effort would run the risk of imminent hostilities. The closing of the access routes in itself would not constitute an attack or immediate threat of attack on U.S. forces which under the bill would authorize a U.S. response. Also, under such circumstances, the bill would forbid any reinforcement of U.S. forces since they might become involved in hostilities. The legislation would forbid the taking of the very sort of action we have taken in the past in such circumstances without Congressional approval; moreover, the public debate and delay involved could both harden the enemy's position and give him the advantage of delay on our part.

(c) The Middle East:

We often have used the deployment of naval strength in the Mediterranean in relation to various situations in the Middle East. But under S. 2956, the deployment of Sixth Fleet elements would be forbidden because an attack against Israel, or Jordan, for example, would not constitute a direct attack or immediate threat thereof against the U.S. or its armed forces, as required by the bill. President Johnson's prompt deployment of the Sixth Fleet to within fifty miles of the Syrian coast when he believed the Soviets might intervene against Israel in the six-day war of 1967 could not be repeated under similar circumstances.

(d) Secrecy:

Sometimes secrecy is essential in conducting negotiations and operations. An example of secrecy in the conduct of negotiations was the need for a secret inititive by the President during the early build-up and deployment related to the Cuban Naval quarantine of 1962. A similar situation can easily be envisaged in which the President needs more than the two weeks or so which the war powers bill allows him for secretly developing a diplomatic initiative before he must open a national debate by seeking the action of Congress.

An example of secrecy in operations was the necessity for secrecy in conducting the Stanleyville rescue operation of 1964 so that the Congolese rebels would not be alerted to slaughter the 2,000 hostages, including 60 Americans, they had threatened to kill. The latter joint operation would be prohibited by S. 2956, which strictly limits U.S. rescue missions to protecting U.S. citizens only.

(e) Deployment to Excrcise Rights:

From time to time, the Soviets or others may try to bluff the U.S. out of the exercise of freedom of the seas and passage of international straits. A prize example was their attempt to force us out of early NATO exercises in the Baltic and elsewhere. All they would need to do would be to threaten that if we deploy our forces to a particular area they will run the risk of hostilities, and Congressional action would have to be taken before even a preliminary display or movement of forces by the U.S. If our forces have such an advance opportunity not to enter a known trouble area, it is the purpose of the bill to require that they refrain from entering the area.

(f) Capture of U.S. Citizens on the High Seas or Holding of U.S. Citizens as Hostage:

In circumstances such as these—an example is the recent capture from a Panamanian vessel of U.S. citizens—we could be powerless to act without Congressional authorization, since the protection of U.S. citizens on the high seas is not covered by the bill.

(g) Deployment of Forces to Counter Other Activities, or Limit the Use of Threat of Force by Other Side:

Deployment overseas would be forbidden without Congressional authorization in cases involving the imminent threat of hostilities, where the crisis has not yet developed into the stage of a direct attack or threat thereof on the U.S. or its armed forces. This would deny the U.S. the ability quickly to use a display of armed force as an indication of serious U.S. interest in circumstances when other nations may be threatening to use force in international affairs of direct concern to our nation. Such deployments reduce, rather than increase, the *net* chances of hostilities. They are diplomatic acts of deterrence.

2. The Effect of These Limitations on Allies and Friends:

In the Far East, this would probably be viewed as a further indication of a changed national attitude, weakening trust in the U.S., and suggesting accommodation as a wise course for our allies to follow in the future.

In the Middle East, it could be construed as overriding all the past Presidential commitments given to Israel. It is suggested that Congress would readily pass a blanket authorization to defend Israel, but this is as yet only an assumption. Israel might therefore well be tempted to "go it alone" to an even greater extent than at present, increasing the risk of hostilities in the area.

The NATO situation has been dealt with above.

3. Effect on Opponents:

In the eyes of potential opponents, the limitations would create a truly dangerous invitation to take advantage of the apparent change in the steadfastness of this nation, the ensuing erosion of confidence in our allies, and the pressures that could be brought to bear through the simple threat to use force.

4. Summary:

(a) The practical effects of the enactment of the War Powers Bill would be in three principal areas:

Limitations on ability of the U.S. to respond appropriately to attack or threat of attack affecting its security interests;

A flagging of these limitations to a potential opponent;

A serious erosion of the credibility of the U.S. as a collective security partner in the eyes of its allies.

(b) The bill assumes that limitations on action without Congressional consent, except in the cases defined in the bill, always will be prudent.

(c) The bill overlooks: That in many cases inaction can be even more dangerous than action;

That it is impossible to prophesy all the unexpected and unlimited variations of events when the President may need to act without advance Congressional approval;

That in confronting a major opponent, the publicity that would come from public discussion and Congressional action could so harden our own position as to present the other side with an ultimatum, thereby denying it the ability to modify its position;

That there is a potentially dangerous and confusing impact that will follow the enactment of new restrictive legislation at this time, after a quarter century of living under our 42 collective defense treaties without any such legislation. There is no analysis whatsoever by proponents of the bill as to how our enemies would read this change as a sign of U.S. will and capability; nor is there any recognition of the fact that it would tear NATO apart and have serious effects in the Far East and elsewhere where we have bilateral commitments.

(d) The core issue is whether the U.S., at this stage in history, when total detente is not by any stretch of the imagination a reality, should unilaterally limit its ability to respond flexibly in situations when the other side is in no way inhibited from threatening the use of force.

OUR DEDICATED VETERANS—SALUTE FROM A SENATOR

Mr. HARTKE. Mr. President, the scene is a familiar one, although for many it is only a dim memory. A group of young men shuffles into a spare, utilitarian office; an officer tells them to raise their right hand. Self-consciously, they comply and are duly sworn in. The men, drawn from all stratas of society, are now members of a branch of the Armed Forces of the United States. What lies ahead for them? There has never been a sure answer in this angry century. It may depend on a state of war, declared or otherwise; on the military needs of the Nation at a given time; on the ability of the individual; on the nebulous quality of luck or the vagaries of fate. Over the past 70 years, all of the expected and unexpected things have happened. Some servicement saw battle; other spend 3 dreary years at one base in the States. Men now grown old survived the Argonne, or pulled through an attack of influenza at Fort George C. Meade. Some knew the terror and horror of Anzio and Okinawa, Pork Chop Hill and Hue; still others discovered, over a seemingly endless protraction, that one stretch of ocean looks exactly like another.

They handled weapons and machines, with all their inherent dangers, and found that exhaustion could be interspersed with tedium. They went where they were told. Many were badly wounded and others badly hurt, miles from combat. John F. Kennedy was decorated for bravery in the South Pacific;

Harold Russell lost his hands in a grenade blast in North Carolina.

They marched and flew and sailed in every element of the world, and in every part of it. Not one generation of Americans since 1917 escaped that obligation. At the end of their service time, they parted as they had once come together to share the common oath, but now as veterans. Today, there are 28 million men and women in the United States with that status.

There is no set reaction by the individual to the fact that he is a veteran. For some people, their service record is the source of their greatest pride; others left the uniform in bitterness; still others fulfilled their military requirements quietly and returned to civilian life with scarcely a backward glance. They were the lucky ones. Too many Americans cannot forget, because wounds of crippling injury left them with the irremediable scars of their service.

Yet, all who served are part of an enormous veteran population in this country, whose ranks are still burgeoning from the Vietnam era. If the United States were never to fight another war, or draft another man, veterans would be here well into the 21st century.

They are entitled to compensation and to benefits, as ordained by local, State, and Federal authorities, and most veterans accept them. Although time in a man's life cannot be recaptured, he can be recompensed by a grateful government. He can demand government participation in his health care, his education or other civilian training, and in the future well-being of his family and himself.

Veterans' homes and businesses have been underwritten by the Government, to one degree or another, since the end of World War I. The generation that served in World War II received educational benefits never paralleled in this or any other country. Medical care for the veteran is obligatory and, despite instances of neglect, it has generally been sound.

The veteran has privileges that extend even to the grave. He may lie with his family and among his comrades, though his service may date back three-quarters of a century.

All this the American veteran welcomes as his right and due. But too few ever stop and wonder how those benefits were obtained.

Of the 28 million veterans in America, less than 7 million belong to organized veterans' groups, which are chartered by the Congress and which act as effective spokesmen for the whole roster of former servicemen. The organized veterans provide the only ready representation the only forum, the only real say in which is accomplished at the Federal level. Seldom does the nonjoiner give the veterans group a second thought. Content with his benefits, he pays no credit to those who gained them. In some circles, it is even fashionable to slight them. We have all heard the term "professional veteran." That should be in the realm of a compliment. It takes a professional to win something. The organized groups have worked long and hard in the veteran's behalf, and they continue to insist, from Capitol Hill to the State houses, on assistance, better hospital care, and rightful benefits.

It is said that Vietnam returnees, coming home from an unpopular war, are being ignored by the bulk of the American people. Not by the veterans' groups. I know, as chairman of the Senate Committee on Veterans' Affairs, what work is being done. Relying on the guidance of veterans' organizations, my committee is introducing bills that would correct inequities in the treatment of Vietnam era servicemen. I have asked for the same level of educational benefits for today's veterans as was available to us who served in the second World War. This is not a radical suggestion, even though the Nation suffers from inflation and tight money. The Carnegie Commission on Higher Education has formally recommended that—

> Federal legislation should be amended to provide benefits fully comparable to those available following World War II in relation to prevailing wage levels, tuition and fees, and the cost of living.

I know that the organized veterans are behind such action, and the public will follow with their support. Such a bill is right and it will pass.

The Veterans' Affairs Committee has introduced other measures in this young session of Congress. One would grant a 10-percent across-the-board increase in benefits for disabled veterans predicated on the cost-of-living. We want to make sure that the disabled man and his family are not further victims of inflation. The committee is trying to alleviate the problems of cemetery space—it is growing scarce. We have proposed that the national cemeteries be placed under the Veterans' Administration as the first step.

The committee also has under study a number of proposals that would primarily affect the older veteran. Last year, we were able to get through Congress a bill liberalizing the payment of disability and death pensions, principally directed at men over 65. Pension rates were increased by 6.5 percent.

There are 1½ million veterans of World War I in this country, and their average age is 75. Many of them face a rather bleak time in their remaining years. Old and incapacitated men have to go into a nursing home; their wives must go live with their children. We think there is a possibility of establishing a kind of leisure world for them, a senior veterans retirement home. The aged man and his wife could live together and help each other. We see these homes as being established in areas of high veteran population, and disabled men could perhaps be included.

These are but a few projects in the continuing process of serving the Nation's veterans. Again, we must always rely on the reasoning and advice of the "professional" veteran. He is the watchdog of our congressional conduct in veterans' affairs; his is the counsel of concern.

All who have that special status of American—veteran—owe a debt to those comrades who organized for the common good. From the day he is sworn in, the American veteran has a friend in court.

STAN HEISLER ON EMERGENCY LABOR DISPUTES

Mr. PACKWOOD. Mr. President, the name of Stan Heisler is known up and down these halls, and not without good reason. Stan first came to Washington as a member of my staff in January 1969. As a research and legislative assistant, Stan performed in his usual outstanding way. Using his experience as a speechwriter for Oregon's Gov. Tom McCall, and his participation as researcher for my Senate campaign, Stan was well equipped to handle the multitude of duties and responsibilities which were visited upon him here in Washington. He also took in stride the endless and frustrating variety of obstacles and redtape devices one finds both on the Hill and "downtown."

Sadly for my staff and myself, but wisely for him, Stan decided to return to law school at Willamette University in Salem, Oreg., in the fall of 1969. Since then, we have missed his presence, both personally and intellectually, except for the summers and Christmas vacations he has spent on the staff here in Washington.

Stan is now completing his last year in law school and has written a law journal article on a subject which is one of my primary areas of interest, emergency labor disputes. With 13 bills now pending, including my own, this is a timely subject, and Stan's commentary is both interesting and informative. I ask unanimous consent that it be printed in the RECORD and commend it to all Senators for their reading.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

THE COMPULSORY ARBITRATION OF MAJOR WORK STOPPAGES

President Harry S. Truman [1]—1946: "I shall always be a friend of labor, but in any conflict that arises between one particular group, no matter who they be, and the country as a whole the welfare of the country must come first."

Senator Bob Packwood [2]—1972: "No union or industrial baron, individually or collectively, should have the right to strangle an economy and inflict untold injury on thousands and thousands of innocent victims. At some point, the public interest must take precedence, and I think we have reached that point."

The incidence of strikes is greater in the United States than in any other Western democracy.[3] However, strikes differ greatly from one another. While the public can tolerate most strikes, they have manifested a profound unwillingness to abide by major work stoppages in critical industries. A strike, for instance, of the shortest duration in the electric power industry or the transportation industry would be met by nearly unanimous public disapproval.[4]

Among the major work stoppages of the recent past which have greatly inflamed the public passions are the marathon 1959 steel strike which lasted 116 days; the longshore and airlines dispute which followed; and the more recent longshore conflict on the East and Gulf coasts. To this chronicle must be added the New York and Cleveland newspaper strikes—particularly the 114-day New York strike; the Chicago Northwestern Railroad strike; and the New York Central strike of 1960.[5] Perhaps the most devastating strike of recent history is the 1971–1972 West Coast longshore strike.

An analysis of any one of these major work stoppages will explain why the public is losing patience with the present-day collective bargaining process. When the 116-day steel strike came to an end with the Supreme Court's approval of a Taft-Hartley injunction on November 7, 1959,[6] the price tag, in terms of lost wages and production, was estimated at $6 billion. Of this amount, the 500,000 steelworkers lost an estimated total of $1.6 billion in wages. More than 350,000 workers in related industries were laid off. Lost steel production totaled nearly $5 billion.[7]

This litany of economic horror warrants the observation that:

"The industrial warriors do not shoot at each other alone; innocent bystanders are hurt as well." [8]

Given the intense interdependence of the American economy, it is inevitable that the entire nation will be affected by a major work stoppage.

As Bok and Dunlop pointed out in a recently-published study of labor:

"An airlines stoppage may cause considerable financial loss to businesses and unemployment for workers at airports who are engaged in catering, vending, or enterprises dependent on plane deliveries. Merchants and their employees are adversely affected by strikes which shut down plants employing a significant part of the local population. Newspaper disputes can cause significant harm to retail establishments and businesses dependent on advertising. The New York City ten-day transit shutdown of January 1969 and the eight-month copper shortage of 1967–68 both inflicted hardship on multitudes far beyond those directly involved in the disputes." [9]

Thus, the public has a legitimate interest in seeing that major economic alterations are settled as quickly and as decisively as possible.[10] The public is concerned not only because it must bear the brunt of the strike but because the American economy has never fully recovered from any major work stoppage.[11]

The public, therefore, is demanding a higher level of performance from collective bargaining than was expected in the past.[12] Former Secretary of Labor W. Willard Wirtz aptly characterized the diminishing public tolerance for such strikes, nearly a decade ago, when he stated:

"I conclude, even applying the necessary discount rate to trials and tribulations of the moment, that we stand today at what history will probably mark as a fairly clear fork in the development of labor-management relations in this country. Neither the traditional collective bargaining procedures nor the present labor dispute laws are working to the public's satisfaction, at least so far as major labor controversies are concerned. It doesn't matter any more, really, how much the hurt has been real, or has been exaggerated. A decision has been made, and that decision is that if collective bargaining can't produce peaceable settlements of these controversies, the public will." [13]

PROCEDURES FOR GOVERNMENT INTERVENTION IN NATIONAL EMERGENCY DISPUTES TODAY

Taft-Hartley procedure

The procedures governing national emergency disputes are set forth in the Labor Management Relations ("Taft-Hartley") Act.[14] When the President determines that a threatened or actual strike or lockout in an entire or substantial part of an industry will endanger the national health or safety, he may appoint a board of inquiry to look into the situation.[15] The fact-finders are strictly limited to gathering information. They do not submit any recommendations for settlement of the dispute.

After the President receives the report of the board of inquiry, if he concludes that a strike or lockout will threaten the national health or safety, he may direct the Attorney General to petition an appropriate Federal District Court for an injunction [16] halting the strike for eighty days. The court, if it finds that such a threatened or actual strike or lockout "affects an entire industry or substantial part thereof" engaged in interstate commerce or "in the production of goods for commerce", and will imperil the national health or safety, may then grant an injunction of eighty days duration.[17] During this period the parties are to continue to bargain with the assistance of the Federal Mediation and Conciliation Service.[18] If a dispute remains unsettled, a reconvened board of inquiry must submit a final report within sixty days of the issuance of the injunction. The report sets forth the current status of the dispute, the parties efforts at settlement, and the employer's last offer of settlement.[19]

Within the next fifteen days the National Labor Relations Board is directed to take a vote among the members of the striking union to determine whether they wish to accept their employer's last offer. The Board must then certify the results of the election to the Attorney General. The injunction expires on the eightieth day in any event.[20] If the employees reject the offer and no settlement has been reached within the eighty-day life of the injunction, the parties concerned are free to resume the strike. The President, then, must submit a full report of the proceedings to Congress, "together with such recommendations as he may see fit to make." [21]

Railway Labor Act procedure

Labor disputes in the railroad and airline industries are governed by the provisions of the Railway Labor Act.[22] Under that statute, when a dispute between a carrier and its employees has not been adjusted under normal procedures and would, "in the judgment of the National Mediation Board threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service," the Mediation Board is directed to notify the President.[23]

The President, upon such notification, may appoint an emergency board. The creation of such board imposes a waiting period during which the parties must maintain the status quo until thirty days after the Board makes its report.[24] Under the terms of the Act, the board is required to report to the President within thirty days after its creation.[25] The emergency board may make specific recommendations for the settlement of the dispute in its report.[26] At the expiration of the thirty-day period following the board's report, the parties are free to take any action that they deem appropriate if no agreement has been reached.[27]

CRITICISM OF THE PRESENT LAW

There are a number of imperfections in both statutes. But the greatest drawback of these procedures is that they postpone a strike, instead of resolving it.[28] The procedures—

"Have no terminal point. While they postpone a strike, they have no way of ultimately resolving one. If the proposition is accepted that strikes simply cannot be tolerated in certain phases of our national life, then having as our procedure one which cannot terminate such a dispute is a serious weakness." [29]

After the eighty-day "Taft-Hartley" cooling-off period and the Railway Labor Act's sixty-day cooling-off period, a union can lawfully continue the strike—regardless of the damage that may be done to the national economy—if no settlement has been reached.

The public policy in labor relations was laid down by the Congress in Section 1(b) of the Labor-Management Relations Act of 1947 [30] in these words:

"Industrial strife which interferes with the normal flow of commerce and with the full production of articles and commodities for commerce, can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another's legitimate rights in their relations with each other and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety or interest."

The national emergency provisions of "Taft-Hartley" were enacted to implement this vital national policy. Yet, no one can rationally maintain that the 1959 116-day steel strike, or the New York 114-day news black-out, or the sudden shutdown of seven major airlines in 1961, or the 1962–1963 longshore strike or the 1971–1972 West Coast longshore strike accord with this policy declaration.[31]

Congress's purpose in enacting the eighty-day "cooling-off" period in the "Taft-Hartley" Act was two-fold. First, it sought to protect the public interest against the paralytic effect of such work stoppages. Second, it sought to create a climate in which the disputants would have another opportunity to reassess their position.

"It was believed that when an impasse was reached after protracted negotiations, and resort was had to a strike or lockout to enforce certain proposals, a cooling-off period would tend to restore equilibrium and calm aroused tempers and frayed nerves. During this period, discussions would be renewed and exploratory talks continued with a view to eventually reaching a mutually acceptable agreement. Most importantly, the nation would be receiving the goods and services it required." [32]

That at least was Congress's intent. In practice, though, these provisions have fallen far short of their mark. They have failed to provide adequately for a contingency where the parties decide to resume the strike or lockout after the injunction is dissolved.[33] The same criticism applies to the Railway Labor Act.[34]

As one writer has observed:

"In most cases, labor and management representatives engaged in collective bargaining negotiations resolve their differences only when faced with a deadline." [35]

As a matter of practicality today, both sides of a labor negotiation know that any major strike deadline will be delayed by the use of the emergency procedures. Therefore, as there is no incentive to reach a prompt settlement, they delay compromise and agreement until the real deadline arrives—the end of the eighty-day injunction or the sixty-day status quo period. The parties know that government action will not have a directly adverse effect upon their positions and that knowledge increases their willingness to wait until the last possible moment for settlement.

Were the existing statutory procedures reshaped so as to induce a penalty for such foot-dragging, the parties to a major work stoppage might be more willing to reach agreement before any government action becomes necessary.

Any form of public intervention in the collective bargaining process is certain to be criticized. But it is evident that public intervention in large-scale industrial dis-

Footnotes at end of article.

putes is inescapable. As one perceptive writer has observed:

"Desirable as it might be to leave such disputes to the parties alone to work out, this is not a realistic alternative; labor and management well know that once a dispute becomes serious enough, the public and the authority of government will be drawn into it. The question to be considered is, therefore, not whether such intervention will occur, but what form it should take." [36]

Ad hoc intervention is the traditional means by which both the President and the Congress have sought to solve major work stoppages.[37] But there are profound limitations to this. During the 1966 airline strike, for example, President Johnson strongly endorsed a negotiated settlement reached by the airlines and officials of the Machinists' Union. But the union membership rejected the President's pressure when they resoundingly turned down the settlement offer.[38] Correspondingly, ad hoc Congressional action, after the injunction has been dissolved, is not a viable alternative. Congress, by its very nature, is ill-equipped to work with the requisite speed. It's action, when taken, is all too often hasty and ill-considered. One writer observed.

"Any contemplated legislation would not receive the study requisite to such an important issue. Congress is accustomed to working in a slow and unhurried manner and it is questionable whether the interests of the parties of the nation would be sufficiently protected under these circumstances." [39]

Other alternative forms of intervention are equally limited. The power of seizure, which would have a limited utility at best, cannot constitutionally be exercised during peacetime unless authorized by Congress—and Congress has never been especially receptive to the use of seizure in labor disputes.[40] Mediation is already available and could be intensified whenever the President considers it necessary.[41] The "non-stoppage" strike has been advanced, but it has been widely criticized as an impractical solution.[42]

That leaves compulsory arbitration. As Judge Samuel I. Rosenman has stated:

"With equality now reached by labor unions in nearly every industry, and insured for the future by our many labor laws their right to strike should be curtailed when it is in conflict with the public interest, and . . . some form of final compulsory arbitration must be provided." [43]

IMPLEMENTING COMPULSORY ARBITRATION

At the outset, it must be emphasized that "the blanket imposition of compulsory dispute settlement in peacetime is unthinkable." [44] Compulsory arbitration should be considered only as a last resort. It should be utilized only in those instances where a major work stoppage has paralyzed a vital segment of the national economy with devastating effects.

When companies and unions enter into contract negotiations, the first aim should be—as it usually is—to bring about a settlement by direct negotiations. If such collective bargaining between the parties is unsuccessful in resolving the issues, the emergency provisions of the "Taft-Hartley" Act or the Railway Labor Act should be implemented. Only then, after the expiration of the injunctive "cooling-off" period, should compulsory arbitration be instituted by the President through a Federal court order. The spectre of compulsory arbitration should be brought into the picture only if everything else fails.

The critics of compulsory arbitration assert that it interferes with the vital collective bargaining process and, for that reason, should be rejected.[45] But the public is growing so intolerant of major work stoppages that unless some carefully tailored measures are taken soon, the pressures will intensify to adopt even stronger legislation which may wholly emasculate the collective bargaining process. Further, the disputants by allowing the threatened cr real strike or lockout to reach national emergency proportions have abrogated their right to control the terms of settlement.[46]

As Professor Neil Chamberlain has written:

"Compulsory arbitration may be a means of preserving collective bargaining rather than destroying it; if bad situations are allowed to develop which arouse strong adverse public opinion, a degree of intervention in basic union-management relations may be legislated that is far more destructive of voluntarism and free collective bargaining than is an occasional compulsory decision." [47]

This proposal is presented, not as a panacea, but as a "last-ditch" effort to solve a problem of the greatest magnitude. The concept of compulsory dispute settlement is not foreign to Anglo-American jurisprudence.[48] Indeed our legal system is based on the concept that anyone with a grievance is able to compel an antagonist to meet him peaceably at a public hearing where, after argument, a binding third-party settlement is handed down. For instance, if a neighbor commits a trespass or a business associate breaches a contract, he is brought into court and the matter is compulsorily arbitrated rather than settled by force. Isn't it about time to apply our eight centuries of judicial experience to the problems of labor?

FOOTNOTES

[1] Radio address on the second day of the nationwide railroad strike—May 24, 1946.

[2] Statement of Senator Bob Packwood before the Senate Committee on Labor and Public Welfare. Reprinted in 118 CONG. REC. S521 (daily ed.—Jan. 26, 1972).

[3] DERECK C. BOK AND JOHN T. DUNLOP, LABOR AND THE AMERICAN COMMUNITY, 229 (New York, 1970).

[4] Jerre S. Williams, *Settlement of Labor Disputes in Industries Affected with a National Interest,* 49 A.B.A.J. 862, 867 (1963).

[5] Harold S. Robbins, *Compulsory Arbitration.* CRITICAL ISSUES IN LABOR, 403 (Max Wortman ed. New York, 1960).

[6] United States Steelworkers of America v. United States, 361 U.S. 39 (1959).

[7] R. W. Fleming, *Emergency Strikes and National Policy,* 11 LAB. L.J. 267 (1960). For the total economic impact of the 1963 nationwide airline strike see: Hugh J. Crossland, *Public Interest Labor Disputes,* 12 WAYNE L. REV. 780, 801–804, 838–9 (1966). For the total economic impact of the twelve-day New York City transit strike see William J. Curtin, *National Emergency Disputes Legislation: Its Need and Its Prospects in the Transportation Industries,* 55 GEO. L.J. 786, 788–9 (1967).

[8] Bok and Dunlap, *supra* n. 3 at 231–32.

[9] *Ibid.*

[10] Fleming, *supra* n. 7 at 271; Robbins *supra* n. 5 at 404; Anthony P. Marshall, *New Perspectives on National Emergency Disputes,* 18 Lab. L.J. 451, 451–452 (1967).

[11] Crossland, *supra* n. 7 at 839.

[12] Bok and Dunlop, *supra* n. 3 at 235.

[13] Quoted in Benjamin Aaron, *Observations on the United States Experience,* 14 Lab. L.J. 746, at 746 (1963).

[14] 29 U.S.C. §§ 176–180 (1970).

[15] 29 U.S.C. § 176 (1970).

[16] 29 U.S.C. § 178 (1970).

[17] 29 U.S.C. § 176 (1970).

[18] 29 U.S.C. § 179 (1970).

[19] *Ibid.*

[20] 29 U.S.C. § 180 (1970).

[21] *Ibid.*

[22] 45 U.S.C. § 160 (1970).

[23] *Ibid.*

[24] *Ibid.*

[25] *Ibid.*

[26] *Ibid.*

[27] *Ibid.*

[28] William J. Curtin, *Transportation Strikes and the Public Interest: The Recommendations of the ABA'S Special Committee,* 58 GEO. L.J. 243, 247 (1969); Crossland, *supra* n. 7 at 812; Williams, *supra* n. 4 at 866.

[29] Williams, *supra* n. 4 at 866.

[30] 29 U.S.C. § 141(b) (1970).

[31] Paper of Louis Waldman, *New York University Sixteenth Annual Conference on Labor,* 251 at 261–262 (New York, 1963); Crossland, *supra* n. 7 at 812.

[32] Murry H. Roman, *National Emergency Disputes and Seizure,* 13 L(2. L.J. 25, 29 (1962).

[33] NOTE: In the 25 years since Congress passed the Taft-Hartley Act, its emergency provisions have been used in 30 disputes where the national health and welfare have been threatened. Strikes occurred in 25 of the 30 disputes, resulting in the loss of over 86 million man-days of work. Eleven of these 25 strikes which threatened the national welfare were in the longshore and maritime industry. Cooling off periods were required in each of the 11 disputes, but in only two cases out of eleven were the disputes fully resolved within the 80 days. Nine out of eleven times saw resumption of the strikes at the end of the cooling off period.

[34] Rohman, *supra* n.32 at 29. *NOTE:* The rail industry has experienced an increasing number of crippling work stoppages. Eight times in less than a decade, and four times since 1970, Congress has been forced to pass ad hoc legislation to prevent or end rail strikes which threatened to create national emergencies.

[35] Curtin, *supra* n.28 at 247.

[36] Marshall, *supra* n.10 at 451.

[37] HARRY H. WELLINGTON, LABOR AND THE LEGAL PROCESS, 281 (New Haven, 1968).

[38] *Id.* at 282.

[39] Rohman, *supra* n.32. See also: Wellington, *supra* n.37 at 282–83.

[40] Youngstown Sheet and Tube Company v. Sawyer, 343 U.S. 579 (1952).

[41] Wellington, *supra* n.37 at 283–84.

[42] Benjamin Aaron, *National Emergency Disputes: Is There A "Final Solution"?,* 1970 Wisc. L. REV. 137, 143 (1970); Wellington, *supra* n.37 at 293.

[43] Quoted in Bok and Dunlop, *supra* n.3.

[44] ORME W. PHELPS, COMPULSORY ARBITRATION: SOME PERSPECTIVES, READINGS IN LABOR ECONOMICS AND LABOR RELATIONS, 384 (Richard L. Rowan and Herbert R. Northrup ed. Homewood, Illinois, 1963).

[45] Amalgamated Association v. Wisconsin Employment Relations Board, 340 U.S. 383 (1951), footnote 21; President's Advisory Committee on Labor Management Policy, *Report of Presidential Commission on Free Collective Bargaining,* CRITICAL ISSUES IN LABOR, 389 (Max S. Wortman ed. New York, 1959); Stuart Rothman, *National Emergency Disputes under the LMRA and the RLA,* 15 LAB. L.J. 195 (1964); Laurence H. Silberman, *National Emergency Disputes—The Considerations Behind a Legislative Proposal,* 4 GEORGIA L. REV. 673, 682 (1970); Charles M. Rehmus, *Taft-Hartley Title II: An Emergency At Sea,* 14 LAB. L. J. 865, 873 (1963); Curtin, *supra* n.7 at 801–802.

[46] Cyrus F. Smythe, *Public Policy and Emergency Disputes,* 14 LAB. L.J. 827, 829–830 (1963); Rohman, *supra* n.32 at 32–33.

[47] Paper of Professor Neil Chamberlain, *New York University Thirteenth Annual Conference on Labor,* 421 at 440 (Albany, 1960).

[48] Until the last quarter of the nineteenth century there was a Common Law prejudice against the enforceability of arbitration clauses for future disputes.

S.J. Res. 187(2)(h) (92d Congress, 2d Sess.) provides for appeal to the United States Court of Appeals for the District of Columbia and for ultimate review by the Supreme Court of the United States.

CORONARY ARTERY DISEASE

Mr. MONDALE. Mr. President, an interesting and informative article on heart disease recently appeared in the Washington Post. The article, entitled "Shellburst Film Aids Heart Study," was written by Thomas Grubisich. It presents information on techniques used in coronary heart disease diagnosis, treatment and prevention, and the prevalence of disease in the U.S. population.

I introduced the proposed National Heart, Lung, and Blood Act of 1972, S. 3046, which would greatly expand research, public information, and treatment programs relating to heart disease. I have also cosponsored S. 3323, a similar bill introduced by the Health Subcommittee chairman (Mr. KENNEDY).

More research is badly needed on causes, detection, and treatment of heart disease and improved techniques to prevent heart disease must be developed. The thoughtful article to which I have referred shows the need for these advances which would be stimulated by enactment of legislation along the lines of S. 3046 and S. 3323. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHELLBURST FILM AIDS HEART STUDY

(By Thomas Grubisich)

[From the Washington Post, Feb. 17, 1972]

"Linagraph Shellburst" is the name of a 35-mm movie film that's made by the Eastman Kodak Co. The Army uses the film to study the fragmentation patterns of artillery shells. Shellburst is fast (an ASA rating of 125 to 200), infrared, has a high resolution and gives maximum contrast. All these properties ideally suit it to studies on the artillery range.

These days the film is being used, just as effectively, to record a different kind of burst—the surge of blood through the coronary arteries, the three vessels that wrap around the heart, giving it the nourishment it needs to beat without cease 100,000 times every 24 hours.

At a number of Washington-area hospitals and medical centers, this photography, called coronary arteriography, is becoming perhaps the most important tool in the detection and treatment of coronary heart disease, the scourge of millions of Americans—rich and poor, young and old, sometimes trim but more often overweight, both sickly and robust, and mostly male.

The disease, which begins with the hardening of the heart's arteries and progressively incapacitates the heart, kills more Americans than cancer, pneumonia, influenza and accidents combined. This year it probably will kill more than 600,000 Americans, a disproportionate number of them males in their productive years. The cause of death is commonly called a heart attack.

Doctors don't know why men are more prone to coronary disease than women, but speculate that the reasons may be differences in physical activity, stress, genetics and hormones.

Arteriography can pinpoint in remarkable, unequivocal detail trouble spots in the heart's arteries, places where fats and other deposits have clogged or even completely shut the blood's pathway to the heart. With this information, heart surgeons can remove the obstruction in diseased portions of an artery or bypass it with part of another vessel, usually a segment of an expendable vein from the thigh.

In bypass surgery, the vein is connected directly from the aorta (the trunk from which the arteries branch) to the coronary artery beyond the obstructed site, creating an entire new passageway. The surgical and arteriographic techniques were developed at the Cleveland Clinic.

For patients suffering chronic chest pains from heart disease, the operation has brought relief that neither drug therapy nor other treatment had been able to provide. Even cardiac cripples, people condemned to spend most of their lives in a chair or bed, have been able to return to work and go about their everyday business.

According to George A. Kelser Jr., chief of cardiology at George Washington University Medical Center, 80 per cent of patients who underwent heart-artery graft at the hospital have shown improvement.

Bypass surgery has not attracted the attention that heart transplants have, even though it has permitted a number of people with advance coronary disease to lead relatively normal lives. Some 20,000 operations were performed nationally last year.

Among the hospitals and centers doing both the surgery and the arteriography in the area are George Washington, Georgetown, Howard, National Institutes of Health, Bethesda Naval, Veterans Administration and Walter Reed. The Washington Hospital Center has been doing arteriographies for two years and next month will begin artery surgery. Fairfax Hospital has been doing arteriographic still photography for about six months and is installing equipment for motion-picture studies. The hospital expects to perform its first bypass surgery this year.

Some heart experts have wondered whether there are enough trained surgeons and other personnel to justify all this activity and whether hospitals aren't becoming too concerned with the prestige associated with a new surgical technique. Some cardiologists have refused to endorse coronary bypass surgery in any case. They think the technique needs more study.

Heart doctors don't know yet if bypass surgery prolongs the lives of heart cases because the operation has only been available three or four years nationally. Long-term studies now underway will provide that answer. Doctors tend to be cautious when they talk about the operation. Overall, there is an operative risk of 5 to 6 per cent, but this varies from case to case.

But for all their caution, cardiologists are excited about the possibilities of bypass surgery. Says Dr. Stephen Epstein, chief cardiologist at the National Institutes of Health, "Coronary artery disease is so prevalent that if this operation is successful (in prolonging lives), it will so revolutionize health care delivery that the ramifications boggle the imagination."

Dr. James Bacos, chief of cardiology at the Washington Hospital Center, thinks "we might be overwhelmed by requests for arteriography" once more referring physicians become acquainted with the procedure. Dr. Bacos said there are an estimated 500,000 people in the area with heart disease of one kind or another, of one degree or another. Many people with coronary disease he added, aren't aware they have it. Some, he said, mistakenly think chest pains caused by the disease are heartburn or something else far less serious.

He said arteriography alone could benefit many people simply by identifying their problem, which probably could be handled by drug therapy.

The hazards involved in photographing the heart's arteries are not as great as they are in the surgery.

The photography is potentially hazardous because it requires what doctors call an "invasive" technique. A catheter, a narrow, flexible plastic tube, is placed in an arm or leg artery. The tube is advanced manually under direct X-ray visualization until it reaches the aorta. From the aorta, the catheter tip is manipulated into one of the heart's arteries, where about a tablespoon of contrast material ("dye") is injected to make the artery visible on X-ray film. The blood, tinted by the "dye," suddenly shows up as a white burst. In healthy arteries, the white burst stretches out in a thick, uninterrupted line. In diseased arteries clogged by atherosclerosis, the most common cause of obstruction of arteries, the line narrows or stops altogether, indicating blood flow to the heart is obstructed. Then doctors know where surgery is necessary.

The photography has not only enabled doctors to pinpoint artery obstructions, but detect mistaken diagnoses of coronary disease. In 15 per cent to 30 per cent of all cases (depending on the hospital), arteriography has revealed that patients with suspected coronary disease actually have healthy arteries. Their chest pains may originate elsewhere, perhaps in the wall of the chest. Said George Washington's Dr. Kelser, "One thing this technique has taught us is humility. Before arteriorgraphy, we could be wrong in 1 out of 10 cases or even more frequently."

The arteriographic technique is not itself painful. The patient is given a local anesthesia, at the point where the plastic tube enters the artery in his arm. If he wants to, he can watch a fluoroscopic screen and see the tube move toward his heart. Some patients report a slight warm sensation as the tube moves through their arteries.

Because the procedure involves—literally—an invasion of the body there are risks of complications. But the risk rate is low and most of the complications are reversible. Emergency equipment that could be used to reverse complications is kept on hand and all the patient's vital life signs are monitored as his arteries are photographed.

Doctors point out that the mortality rate for performance of the diagnostic procedure is less than one-half of 1 per cent for the thousands of coronary arteriographies that have taken place.

The photographic procedure, counting a three-day hospital stay, use of the equipment and professional services, is about $800, according to Dr. Kelser. The diagnostic room costs an institution about $200,000 to equip. The cost of a followup operation can range to several thousand dollars. Most of these costs are covered by most hospitalization insurance plans.

Because arteriography is so accurate in detecting coronary heart disease, it raises an intriguing question: Can it, should it, become a common part of preventive medicine, like say, the chest X-ray is in connection with tuberculosis? Can it be used routinely to detect artery disease before the heart is damaged?

Dr. Kelser answers the question this way: "Many more people have coronary artery disease than we have the facilities to perform coronary arteriography, if every person with the disease were advised to have the test." But, he adds, not every coronary patient is advised to have the test. The reasons, though, are often subjective. Dr. Kelser explains: "In some instances, arteriography is not needed to make a diagnosis. Some physicians feel that whatever arteriography showed, they wouldn't change their treatment because they would not recommend operative treatment."

Dr. Kelser thinks further that arteriography won't become a routine tool of preventive medicine because of the inconvenience, potential risks, cost and lack of adequate facilities. "Everyone," he said, "is looking for some noninvasive technique, which we don't yet have."

He added, though, that the electrocardiogram—one of the most common tools in testing for heart disease—"is of little value in recognizing angina (a common symptom of the disease)." He also said, "Neither the physician's interpretation of the patient's history, nor a physical exam, nor an electrocardiogram will in every instance provide

an accurate diagnosis of the presence or absence of coronary artery disease."

Mistaken diagnoses, and more often lack of diagnoses, have left many people unaware that they have coronary disease. Dr. Peter Frommer of the National Heart Institute, offers this disturbing statistic: "Of 100 people who show signs of coronary heart disease, 20 per cent to 25 per cent will first show them with sudden death."

An equally disturbing statistic is that coronary heart disease kills, proportionately, more people in *all* age groups each succeeding year. This is especially disturbing to cardiologists because it runs counter to the generally lowering trend in the death rate from all cardiovascular diseases combined. According to the American Heart Association, there has been an 18 per cent decline in the cardiovascular death rate since 1950, among Americans under 65 years of age.

Some experts say there is an "epidemic" of coronary disease. Others, more conservative, say the disease rate has reached "pandemic" proportions—that it is found throughout the country in all age groups. Some others, skeptical of these assessments, say one major reason the disease is more prevalent is that with new controls on infectious diseases (like pneumonia or influenza), people are living longer. And eventually they have to die of something, which is usually coronary disease, brought on by hardening of the heart's arteries.

Yet coronary disease has become an increasingly more common killer not only of the aged but of those—especially men—in their middle years. In 1949, for example, coronary disease accounted for 27 per cent of all deaths among men in the 40 to 60 age group. By 1967, 33½ per cent of all deaths among males was caused by the disease.

Dr. Acors W. Thompson, a Falls Church cardiologist, refers to coronary disease as a "garden variety type of heart disease. It's not something exotic—it's something I see every day in my practice. All one has to do is look at the obituary column every day and note the number of young people, people 35 to 50, who die of a heart attack. And that's the great tragedy. If you delve into the history of these people, you'll find they are the backbone of the nation. They are the ones who make things go. And these are the people we have to help."

Dr. Thompson is one of the leaders of the group that is setting up the arteriography and bypass surgery group at Fairfax. The hospital will be the only one in Northern Virginia equipped to photograph the heart's arteries and provide artery surgery.

The facts about coronary heart disease are not new. One of the most famous studies, by Dr. William F. Enos Jr., an Arlington cardiologist, done in 1953, found that 77.3 per cent of 300 American soldiers (average age: 22.1 years) killed in the Korean War had some evidence of diseased coronary arteries.

For years, the Public Health Service, the American Heart Association and other groups have carried on intensive general information programs urging people to take measures to prevent the onset of coronary disease.

One of the most common recommendations is that every adult have a physical examination at least once a year. But Dr. Jeremiah Stamler, professor and chairman of the department of community health and preventive medicine at Northwestern University, said if most people did get an annual exam, which they do not, "this would produce such a burden on medical care that it would lead to a collapse. So that's out."

Dr. Stamler, a leading expert on preventive medicine, thinks instead there should be a system of screening tests that would assess a person's risk of coronary disease. Such tests—involving among other things, electrocardiograms while the subject was resting and exercising and cholesterol counts in the blood—could be given by a nurse or technician, Dr. Stamler said. Such services, he said, have been set up in some areas, "but generally they aren't available."

Dr. Stamler said that even when a person knows he has a high risk of coronary disease, "he doesn't know how to reduce the risk. There is a lot of misinformation, and only limited sources of precise information, on what to avoid or have in a diet, for example, and only limited opportunities to alter exercise habits. All the necessary resources are exceptional rather than normal. Preventive medicine is honored in the breach."

The Northwestern cardiologist said he has tried to persuade insurance companies to write policies for nonsmokers and people with low cholesterol counts, "but they say we're doing very well financially right now."

For years the commonly cited "risk factors" leading to coronary heart disease have been cigarette smoking, high-cholesterol diet, lack of exercise, heredity and personality type. Cardiologists still cite these factors, but they tend to be more cautious about diet.

They know, from case histories, that people with a high cholesterol count in their blood are more likely to have coronary disease than those with a low count. But though a low-cholesterol diet is strongly urged by many cardiologists (and the American Heart Association), no one has been able to demonstrate that if a person lowers his cholesterol count, he is less likely to have an attack. The NIH is devoting a great deal of research to the quandary right now.

On exercise, cardiologists usually distinguish between activity that builds strength and activity that builds endurance. Strength builders, like weightlifting and most calisthenics, may do nothing to increase collateral circulation, which can carry blood past artery obstructions. It's better, say doctors, to jog, walk fast or bicycle.

Cardiologist Thompson of Falls Church says exercise should be tailored, by the doctor, to an individual's needs. For some people, jogging may not be good, either because of their physique or because they don't have access to areas where they could run on a regular basis.

"A person should undertake an exercise program he can maintain for the next 30 or 40 years of his life," said Dr. Thompson.

Because everyone is different, that could involve anything from a nightly game of ping-pong to a four-mile jog every morning.

FEDERAL CIVIL SERVICE TENURE PROVISIONS

Mr. GOLDWATER. Mr. President, it certainly is no mystery to the Members of this body that enormous problems have been created by Federal civil service tenure provisions. They arise almost daily in the conduct of Government business and over the years a situation has been built up which now requires the attention of and corrected action by the Congress of the United States.

This problem is well known to me, and it is well known to the House of Representatives in my home State of Arizona. Accordingly, that body has adopted a memorial urging such an investigation by Congress to the end that constructive steps for modification of present tenure provisions may be taken. I ask unanimous consent that Arizona House Memorial No. 2001 be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

HOUSE MEMORIAL 2001

A memorial urging Congress to investigate problems created by Federal civil service tenure provisions and to make constructive modifications thereto

To the Congress of the United States:

Your memorialist respectfully represents:

Under the tenure provisions of the federal civil service system there has built up over the years a situation which demands the attention of and corrective action by the Congress of the United States.

On the one hand the job security provisions of civil service laws afford much needed protection to the thousands of loyal, hard-working, conscientious employees whose salary levels are generally lower than those offered by private industry.

On the other hand the same job security provisions provide the disloyal, disruptive, power hungry few a shield with which to ward off attempts to remove them.

The Congress must initiate and put into effect needed reforms in the tenure provisions of the civil service laws so that administrative responsibility within the agencies of the federal government may be returned to the control of the people.

Wherefore your memorialist, the House of Representatives of the State of Arizona prays:

PUSHING OLDER AMERICANS TOWARD POVERTY

Mr. CHURCH. Mr. President, of all the economic pressures upon older Americans, inflation is one of the most cruel.

The Senate Special Committee on Aging, on which I serve as chairman, has described the impact of rising costs, especially the property tax, upon the elderly in recent reports and hearings. We believe that retirement income must be adjusted upward and that inflationary pressures must be brought under control.

For these reasons, we hope that phase II of the administration's wage and price program will have more success in the future than it has had in the past, and we also hope that genuinely healthy economic growth will accompany other positive economic trends.

A hard-hitting and comprehensive summary of inflation and other drains upon the income of retired people appeared in the U.S. News & World Report of March 27. Committee on Aging, findings and testimony are used to help inform other Americans about the desperate situation encountered by so many Americans during their retirement years.

And the article makes a point which cannot be repeated too often: The number of older persons living below statistical poverty levels is increasing at a time when it is decreasing among other age groups.

To share the findings of U.S. News & World Report with others, I ask unanimous consent that the article, as well as a table showing living costs for retired couples in 40 cities of the United States, be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COST SQUEEZE: PLIGHT OF RETIRED PEOPLE

Despite wage-price controls, many elderly Americans are being pushed toward poverty. Personal interviews show that, for some, the "golden years" are tarnished by rising expenses, taxes and illness.

Few people have a greater stake in the success of the Administration's wage and price-control program—now moving into its second six months—than the millions of Americans living on retirement incomes.

Years of steadily rising prices have forced many of these elderly folk into desperate financial straits.

Consider the Chicagoan who came to the United States from Europe during World War II and opened a small business. He and his wife retired not long ago, but can take little comfort from their present circumstances.

Says the immigrant:

"We lost everything we had in Europe during the war, and built it up again in this country. Now we are losing everything again, to inflation. The trouble is that now I am an old man, and I can't start over."

A retired public-school teacher in New England declares:

"For the past 15 years, I've been living on my teacher's annuity. That's all I have, except for the house I inherited.

"Month after month," she adds, "I've seen my buying power whittled down by rising prices. Property taxes, household repairs, food, all keep going up. If prices aren't stabilized soon, I don't know what I'm going to do."

Many elderly folks across the U.S. are living comfortably on retirement incomes. But many others are feeling the pinch of steadily rising expenses.

To find out how they are coping with today's cost-of-living problems, staff members of "U. S. News & World Report" talked with retired individuals and couples, and sifted through Government reports and congressional documents.

This is the pattern that emerges:

The number of elderly men and women officially regarded by the Government as poverty-stricken is climbing rapidly.

Many other retired persons, although not classified as poor, must count their pennies to pay for even the necessities of life.

Even people who though they had planned carefully for the leisure years find their reserves running low under the pressure of rising prices and taxes.

Some of the elderly are in imminent danger of losing their homes—in many cases the only major possession they have—and being cast onto the welfare rolls.

The medicare program, criticized by some as radical and excessively expensive when it was enacted seven years ago, now is being attacked by many retired people for not paying a larger portion of their health-care costs.

Government officials in Washington are starting to focus attention on money problems of the retired, and the elderly themselves leave no doubt that they are well aware of what is happening.

Says a spokesman for a group of retired persons in New York City:

"We are not senile morons. We are intelligent, experienced people, greatly handicapped with the inflationary spiral cutting into our income all the time."

OVERWHELMED BY INFLATION

Nelson H. Cruickshank, president of the National Council of Senior Citizens, told the Senate Finance Committee recently:

"The elderly does not parade their poverty. As a matter of pride, they do their best to hide it . . . The stark fact is that more and more low-income elderly are being overwhelmed by the ever-rising tide of inflation."

Interviews with retired persons by staff members of this magazine bear out that contention.

Mrs. Kathleen E. Houston, a widow in Houston, Tex., retired from her secretarial job in 1957 and now, at age 78, has a pension of $318 a month.

"I'm having a terrible time," Mrs. Houston says. "I've already run through my savings. I couldn't make it if I didn't work to make some extra money each month."

A retired accountant in Trumbull, Conn., reports he had counted on dividends from stocks to augment his company pension and Social Security. Now, he notes:

"Several companies in which I have stock have reduced or discontinued dividends. Right now, if I could get out of the market unhurt, I would be very much tempted to do it."

In Fort Wayne, Ind., Mrs. Charles E. Geller, widow of a wholesale grocer, says she must live on a small Social Security check and proceeds from a mutual-fund investment made when she sold her home and moved into an apartment. Mrs. Geller adds:

"Last year was really hard, because the mutual fund didn't pay any capital gains. It was a shock to me."

Some aged persons say they realize now they did not start preparing soon enough for retirement.

Mrs. Thaddesia Moss, a former stenographer in Atlanta, Ga., explains that she and her husband are getting by on a combined monthly income of $436—but with little to spare for emergencies. Mrs. Moss comments:

"When I got my first job in 1927, it would have been better to start saving right then and there. But we wanted to spend it all right away."

WHEN PLANNING FAILS

Sometimes, however, even what appears to be adequate planning for retirement can prove insufficient.

George L. Martin of Houston, Tex., notes that he felt pretty well prepared with his company pension, Social Security and a company health-insurance policy. But he now has to work part-time to make ends meet. Explains Mr. Martin:

"It takes everything I get each month to break even. If things go any higher, I'll probably be forced to dig into my savings."

Government reports show that nearly 5 million of the 20 million Americans who are 65 and older have incomes below official poverty levels.

This number of recognized poor among the aged had declined for a decade before 1968, but since then it has risen by more than 100,000 and continues to grow.

The chances of being classified as "poor" double if you are over 64. If you are black as well as old, your chances of being poverty-stricken double again. About half of the aged widows in this country are considered poor, and that figure soars to nearly 80 per cent among elderly Negro women living alone.

For statistical purposes, the Government figures anyone who is living alone is poor if he has income of less than $2,000 a year. For a couple living in a nonfarm setting, the poverty line is $2,600 annually.

The Government estimates that current Social Security benefits average $2,628 a year per couple—just above the poverty level. Typical Social Security benefits for a single person amount to $1,572 annually—more than $400 short of the poverty line.

In the spring of 1970, the Department of Labor computed a series of sample budgets for retired couples—not what they actually spend but what they would spend if they lived normally, owned their own homes and were in reasonably good health.

The "intermediate" budget calls for outlays of $4,489 a year—a figure that nearly 40 per cent of the elderly could not attain today, even without allowing for inflation over the last two years.

The table on page 68 shows such intermediate budgets for 40 areas—plus "minimum" and "more comfortable" budgets.

Government experts estimate that 6 million elderly persons in this country are living in inadequate housing. Federal programs, authorities say, have provided only about 350,000 low-cost housing units for the elderly in the last 10 years—compared with a need for 120,000 units every year.

Although at least 36 States provide some measure of property tax relief for the elderly, the financial burden of maintaining a home is proving too much for many.

Government estimates indicate that elderly persons with incomes below $5,000 a year are paying some 1.5 billion dollars annually in property taxes.

A retired couple in the Detroit suburb of Birmingham, Mich., recalled that taxes on their house were $190 when they bought the property in 1943. Now the levy is nearing $1,700 a year.

"I don't see how we can keep paying the taxes if they reach $2,000," the wife declares.

PENSIONS THAT GROW

Some retired persons, especially former Government employes, believe the economic pinch has been eased by cost-of-living increases built into their pensions.

James Campbell, who worked for the State of California, finds retirement easier than he expected in Sonoma, Calif. Says Mr. Campbell:

"We had thought at the time I retired that we would have to live at just one level. But cost-of-living raises have been made. As costs have gone up, my pension has gone up. So now, we're not hurting."

But official estimates show that pensions other than Social Security provide only about 11 per cent of total income received by the aged.

Transportation is a vexing problem for the elderly, since many of them can no longer afford automobiles, or are physically incapable of driving.

James A. Willoughby, a retired federal worker living in Washington, D.C., sold his 1966 car after he suffered a stroke. He and his wife managed to save $85 to buy an awning for their back porch, but by the time they had arranged for transportation across town to the store, they had spent the money on other things.

The transportation problem is alleviated in at least 50 cities, where the aged ride buses at reduced rates during nonrush periods. In Minneapolis-St. Paul, they can ride free much of the day.

In parts of cities with high crime rates, federal investigators report, numerous elderly residents are virtual prisoners in their homes and apartments because they are afraid to venture into the streets.

ONE GOOD MEAL

The Senate Special Committee on Aging has heard from many elderly persons on the economic squeeze.

In Pitman, N.J., a retired worker told the Committee that he and his wife have to live on $1,920 a year. He then added:

"We cannot afford three full meals each day, so we manage on one good meal. The prices of meat are outrageous, and to have a roast or steak once a week is beyond our reach."

Many elderly citizens are protesting the $1,680 a year ceiling on earnings under Social Security. If a person younger than 72 earns more than the limit, his Social Security payments are reduced.

A widow in New London, Conn., wrote to the American Association of Retired Persons on this issue, saying:

"The fact that I am receiving Social Security payments causes me not only to have to kill time, but I think it's slowly killing me. I am not sufficiently occupied and am not accustomed to being so inactive. It's a perfectly intolerable situation."

A woman from New York complains:

"If relief for me is not forthcoming, I will be forced to give up my job and go on welfare, where I will receive more in the long run than working. I will have my rent paid, get

a color TV, have my insurance paid and no income tax to pay. Utopia!"

PROBLEMS OF HEALTH

Sickness is a particularly dreaded threat to the elderly in times when the expense of medical care is one of the fastest-rising items in the cost of living.

Government researchers report that persons 65 and older spend, on the average, about three times as much on health care as younger citizens. Less than half the bill, experts say, is covered under medicare.

A spokesman for a group of elderly persons in New Jersey says:

"Medicare to us is like a leaking umbrella. You go outside when it is raining, and you think you have protection. You open it up, and the rain comes right through it."

Many aged persons complain about the increasing premiums they have to pay for optional physician's coverage under medicare, and the fact that it does not pay for many health aids or for out-of-hospital prescription drugs.

An elderly woman in Riverside, Conn., is one who finds that expenses for items such as hearing aids, glasses and other devices have been "terrific." She adds:

"It cost me $48 recently at the dentist's for just a couple of fillings and a cleaning of my teeth. There ought to be some way to help out on that."

Government programs to aid the elderly have expanded in recent years.

The Administration on Aging reports that federal spending directed entirely or largely to the aged has risen from 25 billion dollars in the fiscal year that ended June 30, 1967, to more than 46 billion dollars in the current fiscal year—representing a gain from 16 per cent to 20 per cent of the total budget.

However, many critics insist that this is far from enough. Senator Frank Church (Dem.), of Idaho, chairman of the Senate's Special Committee on Aging, said recently:

"No Administration to date—whether it be Democratic or Republican—has really come to grips with the predicament of the elderly.

"The retirement-income crisis which now affects millions of older Americans . . . deserves no less than a national commitment to eliminate poverty for the elderly and to allow them to share in the economic abundance which they have worked most of their lives to create."

An elderly woman in New Jersey put it a bit more strongly in telling Government investigators:

"I am so tired of hearing what you are 'going' to do for the senior citizens, the golden-agers, et cetera. What you are doing is driving us to the wall.

"I wish everyone would stop talking about what they're going to do—and get busy and do it."

WHEN YOU RETIRE: LIVING COSTS IN 40 PLACES

Following are sample annual budgets for a retired couple, as estimated by the U.S. Labor Department. These budgets include allowances for key items used in family living and are based on spring 1970 prices. Since then, living costs, on the average, have climbed about 7 percent]

	A "minimum budget" for health and well-being	A "moderate comfort" budget	A "more comfortable" budget
Northeast:			
Boston	$3,306	$5,113	$8,623
Buffalo	3,412	4,973	7,977
Hartford	3,558	5,158	8,039
Lancaster	3,081	4,460	6,964
New York area	3,390	5,209	8,531
Philadelphia	3,044	4,695	7,683
Pittsburgh	3,121	4,526	7,215
Portland	3,233	4,679	7,162
North-central:			
Cedar Rapids	3,131	4,501	7,221
Champaign-Urbana	3,194	4,681	7,361
Chicago	3,075	4,584	7,342
Cincinnati	$2,997	$4,313	$6,613
Cleveland	3,320	4,807	7,591
Dayton	3,102	4,377	7,062
Detroit	3,139	4,563	7,503
Green Bay	3,000	4,375	7,267
Indianapolis	3,240	4,686	7,475
Kansas City	3,195	4,578	7,442
Milwaukee	3,152	4,604	7,464
Minneapolis-St. Paul	3,212	4,576	7,232
St. Louis	3,150	4,529	7,048
Wichita	3,090	4,413	6,917
South:			
Atlanta	2,781	4,039	6,283
Austin	2,814	4,070	6,413
Baltimore	3,039	4,410	6,984
Baton Rouge	2,797	4,035	6,316
Dallas	2,968	4,309	7,023
Durham	2,982	4,239	6,473
Houston	2,909	4,217	6,863
Nashville	2,944	4,255	6,636
Orlando	3,006	4,150	6,273
Washington	3,256	4,656	7,380
West:			
Anchorage	4,457	6,127	9,286
Bakersfield	2,977	4,289	6,673
Denver	3,063	4,373	6,970
Honolulu	3,562	5,166	8,312
Los Angeles area	3,241	4,626	7,630
San Diego	3,103	4,419	7,027
San Francisco-Oakland	3,431	4,913	7,776
Seattle-Everett	3,451	4,848	7,467

OBSERVATIONS ON ISRAEL

Mr. PACKWOOD. Mr. President, the New York Post of March 18, 1972, included a column written by Mr. Roy Wilkins, executive director of the National Association for the Advancement of Colored People. I invite Senators to read this thoughtful and enlightening article by Mr. Wilkins, as he presents a perceptive look at the State of Israel.

Having visited Israel for 1 week last June, I know first hand of her remarkable achievements, and I welcome the opportunity to share Roy Wilkins' observations with CONGRESSIONAL RECORD readers.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE STATE OF ISRAEL

(By Roy Wilkins)

JERUSALEM.—The headlines go to the political maneuvering in Israel and to the military clashes with the terrorists and guerrillas. However, the overwhelming message to a visitor is that the new state is busy trying to see that state power is used to attain peace, freedom and opportunity for the ordinary citizen.

Israelis go about this backbreaking task industriously, with grumbling over the extra-heavy burdens, but no whimpering. The stark realities, born of Israel's existence, stare every citizen in the face from each morning until (and through) each night. Israel is surrounded by hostile governments but there is no Israeli hatred of the people in these countries.

Israel chooses to build a nation, all the while on a constant alert to safeguard, as far as is humanly possible, the builders. The children of Israeli and Arab citizens are provided for in the school system and in health care.

The state pays for education through one year of high school. Parents and scholarships take over there. There is no discrimination against Arabs within Israel. In fact, Arabs in the newly-annexed territory enjoy a higher standard of living than they did previously.

In health, the Hadassah-Hebrew University of Jerusalem Medical Center gives care and the latest in treatment to the babies of every race and religion. At meal times many mothers, some of whom have benefited from this spread, who do not speak either Hebrew or English, assist in the feeding of their youngsters. The medical center uses the new idea of admitting mothers to the hospital at all hours to help allay the fears of children and aid their recovery.

Just as the state uses its machinery for the health of the child and not for the convenience of the staff, so it operates in its community villages, known as kibbutzim. Here not only agriculture and small manufacturing flourish, but schools, music, art, and drama as well. It is in these villages that Israel has built a nation with its bare hands.

Nowhere is this concern of the state for individual welfare more pronounced than in the universities which are growing tremendously. The Hebrew University of Jerusalem is the oldest, but the younger (and larger) Tel Aviv University is also bursting at the seams. Technion, in Haifa, is the M.I.T. of Israel, at present training nearly all the engineers.

What is not generally known among American Negroes is that Israeli educational, professional and technical teams have been sent to many nations in Africa. The program is a thorough one-involving the exchanging and additional training of black professionals.

Histradrut's Afro-Asian Institute for labor studies is heavily attended by Africans. Small black groups here who preach a subtle (and often blatant) anti-Semitism will find no support for their racism among African nations of Know-how.

For this and much more, the Israelis pay out 40 per cent of their gross national product for defense. They pay for education and for the ceaseless building which goes on everywhere. They pay for the research and development needed by the army and air force. Every young person serves his time in the armed forces before he begins his civilian career, including college.

There have been problems, naturally. The one requiring persistent trial and error has been that of bringing dark Hebrews from the deprived areas of countries of the Middle East and Africa up to the understanding and achievement common to those of Europe and America. Israel is addressing itself, with the travail inherent in any democracy, to these emotional problems.

A tiny colony of self-styled Black Hebrews, who come from Chicago, claim to be the only authentic Jews in Israel. In addition, there are internal problems not concerned with color, including that of the persecution of Jews who seek to leave the Soviet Union.

Through every tribulation the basic aim of the state has been to make a full life for the individual. It is a thrilling visit.

TRIBUTE TO HON. WILLIAM BRICE DORTCH OF GADSDEN, ALA.

Mr. ALLEN. Mr. President, tomorrow, March 29, 1972, the Gadsden, Ala., Kiwanis Club, one of the finest civic clubs in the entire country, is honoring and paying tribute to Hon. William Brice Dortch, of Gadsden, Ala., for today attaining the age of 80 years and for being a member of the club for 22 years with a perfect attendance record for the last 21 years.

Mr. Dortch is a native son of Gadsden, a graduate of the U.S. Naval Academy and of the University of Alabama Law School and through the years has been one of Gadsden's finest citizens. He was a law partner of my father as was his father, Col. W. R. Dortch, before him, and for more than 30 years I had the privilege of being one of his law partners. His ability as a lawyer, his deep religious convictions, his lofty principles as a lawyer and a citizen and a man have always served as an inspiration to me and a challenge to me to "go thou and do likewise." Truly, Mr. Dortch lives up to the requirements set by God as expressed by the Prophet Micah that we should do justly, love mercy, and walk humbly with our God. My wife, Maryon, joins me in extending sincerest felicitations to Mr. Dortch and his beloved Helen who has been his faithful companion and helpmate for more than 35 years and who has brought so much happiness to his life.

Happy birthday, Mr. Dortch, and may you have many happy returns of the day.

CANON MICHAEL HAMILTON ON POPULATION AND THE ENVIRONMENT

Mr. PACKWOOD. Mr. President, concern over the welfare of humanity, present and future, certainly must extend to questions of population growth, resource utilization, and the abuse of our environment. Many in our religious communities have begun to speak out on these issues and their implications for future generations. Among the first to recognize the dangers which continued population growth poses for mankind was Canon Michael Hamilton, of the Washington Cathedral. As early as 1966, Canon Hamilton was delivering sermons on population and the environment. His sermon of March 8, 1970, has recently come to my attention and I have found it a well-reasoned and thoughtful commentary. I ask unanimous consent that it printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

GOD, MAN, AND POLLUTION

(By Canon Michael Hamilton)

This morning I would like to make some suggestions regarding the role of the Church in relation to ecology and the problems of pollution in our land. Since President Nixon in his State of the Union Address and his subsequent message to Congress has provided leadership in raising these issues to a national priority, we have all been flooded with information about them. New Yorkers, of course, have had more of their share of the experience of pollution. It was in New York, as you no doubt remember, that in 1953 approximately two hundred people died prematurely during an extended poisonous smog. For those who recognize the moral implications, the politics of ecology are no longer the goal of gaining a public hearing, but rather to exert the necessary pressure on Congress and the Executive so that the promises to reform become economic and legislative realities. The political task is to be done, I believe, in addition to and not as a substitute for the relief of poverty, racial discrimination, and crime, the other major scourges of our land.

The Churches should be involved in combating pollution because Christians, both individually and corporately, must be concerned for whatever goes on in the world, in order to reflect God's concern for His creation. If one needs a more specific moral argument for involvement, pollution affects health and Christ clearly evidenced his wish to relieve those who were sick and suffering.

The first task of Church people of all denominations is to read the newspapers and to keep informed about developments regarding the misuse of our natural resources. As Christians we should have a special interest in seeing that all the aspects of the problem are considered. We should try to see the issue as a whole, from the perspective of God, even though this sounds presumptuous. The facts regarding our present plight lie in the separate disciplines of demography, medicine, agricultural theory, industrial engineering, and so on. Hence, a technological breakthrough in one area is often falsely hailed as a great success. However, unless the improvement is compared to changes occurring in related fields, a true evaluation cannot be made. To take an example from the international field, recent increases in grain production through the development of a new hybrid were hailed as a success. The success is limited, however, because in another research corner population analysts are predicting a rise in population in the underdeveloped countries which, within a decade, will more than absorb the extra food. All too often the agricultural expert and the demographer do not meet to share their predictions and so provide the public with a balanced judgment on what is a success and what is a failure. God has given us human minds capable of contemplating our own future and we should be working for long-term solutions to our problems, as well as for temporary relief.

In the process of education we must face up to what I believe is the most disturbing prospect of all for our nation. Even if scientists perfected the technology for curbing toxic wastes, even if industrial groups cooperated with pollution controls and recycling systems, even if Congress, State Legislatures and the Executive passed effective environmental legislation, even if the public accepted the resultant burden of taxation, even if all this was done and we did not also lower the birth rate in our country we would still face disaster. The alternative to lowering the size of our families is eventual overcrowding to a degree that only those who have lived in tenement slums have experienced, a low standard of living for all, and ultimately because of resultant pressures, political revolution and economic chaos. These conditions, with the additional factor of malnutrition, are being approached in the larger cities of some underdeveloped countries today.

As Churchmen and as citizens we must practice restraint now, before the problem of overpopulation becomes more serious. As a society we still may be able to induce parents voluntarily to have no more than two children, but as yet no effort to effect this has been made. We have not yet made family planning information available to all, or produced nation-wide T.V. programs to teach the merits of such planning. We have not yet discovered a birth control means that is truly satisfactory, or provided sufficient money for research for this purpose. Our state laws do not permit therapeutic abortion upon request of the mother, much less provide it free for those who desire it. If as a nation we do not adopt such voluntary means for reducing population, within the lifetime of our children I believe we will be obliged to adopt much more disruptive and coercive methods.

The second task for Churchmen is to clean our own theological house. We have held interpretations of Biblical passages which no longer make sense, and we have provided Western culture with attitudes towards nature, often borrowed from Greek sources, that we can now recognize as being ecologically harmful. Dr. Lynn White, professor of History at the University of California in Los Angeles, pointed out in a lecture printed in a March 1967 edition of Science magazine that the Western Church, drawing upon selected passages in the book of Genesis, taught that man was to have dominion over the earth, to subdue nature, and to believe that the animal and vegetable world existed only for his own pleasure and sustenance. This, said Professor Lynn White, produced an arrogance in man that has encouraged him to misuse his natural environment without concern for its welfare.

Professor White's criticisms are justified and he comes as a prophet to recall to us our own heritage. I say recall because I do not believe we need to reject our role as having dominion over our environment but rather to see that passage in relation to the rest of scripture. If we did so we would recognize that God also gave men responsibility for stewardship of the earth which meant we were to tend, not to exploit it. I believe, as Professor White suggests, that our scientific knowledge and technological skill is a fulfillment of man's dominion over nature. But if such powers have brought us pollution as well as enrichment of life, surely our responsibility is not to reject technology but to discover how to use it better. Men and animals are the product of a single evolutionary process and members all of one interdependent ecological system. This biological truth complements the Biblical understanding of the universe as being the product of a single creation, that our world and all its inhabitants are to be cherished.

There are other fictions that have been associated with the Judeo-Christian tradition, phrases repeated out of their context of time and place. For instance, the command that we should be "fruitful and multiply and replenish the earth" meant good sense when the Hebrew death rate was high, but it is not an eternal verity for all. Today we humans have replenished the earth, and we must avoid multiplying and being fruitful. In relation to this, the so-called moral right of parents to be free to have as many children as they wish has no sound basis in Biblical heritage. Rather it is largely the result of an out-moded theology which said that marriage was primarily for the purpose of procreation. I believe a better ethic related to parenthood can be deduced from a simpler article of the Christian faith—that we should love our neighbors. This latter would lead parents to plan for children, not just according to their individual fortunes or whims, but also in relation to the needs of the world-wide family of man.

I believe the greatest single contribution the Church can make to a sound ecological national policy is the development of new attitudes to nature. We should aim to provide ideas and examples for our secular culture to be refreshed and to guide itself through the necessary political and economic decisions that are required for a new style of life.

The third task of the Church is to do something about stewardship in terms of family size, pollution control, and the work required to achieve the necessary legislative reforms for the best use of our natural resources. I hope for a new movement in our country in which the Churches and the youth take as active a part as they did in the Civil Rights movement of times gone by. For some this will mean demonstrations, for others lobbying, for some passing resolutions, for others writing letters and for some offering prayer. Let each of us give our witness as God endows us, not complaining at our neighbor's manner of expressing his concern, but rather giving thanks that God has given us such a rich variety of talents.

In closing I would like to illustrate what I believe a Christian attitude to nature is, in terms of the Eucharistic meal we are gather-

ing together to eat this morning. I wish to express my thanks to Dr. Conrad Bonifazi, a theologian, for much of what I am about to say. He has pointed out how deeply dependent the early Hebrew was upon things of nature around him, a dependence based not only upon physical needs, but stemming from his understanding that all things, including himself were created by a God who loved his creation.

For the Jew, his identity was bound up not only with his relatives with whom he lived, but also with the material things and land which he possessed. Things became extensions of himself, they stood as symbols of him before others. If a man laid claim to an object it was readily understood that an intrinsic relationship was established between him and that object. Hence it was not difficult for the disciples as they gathered together at the Last Supper to understand Christ when He took a loaf of bread and a pitcher of wine, and having thanked God for providing the food for this occasion, said to them: "Take this bread and eat it, and from now on it is to be for you a sign of myself, my body, my presence with you. And when you gather together remembering me, drink the wine, and it shall be for you my blood, my very life given for you." This morning we are his disciples and we gather together around this table. We shall take bread and share it amongst us, and in so doing Christ will be present with us in a clear and practical way. We shall take wine and drink it and by these acts understand a little better our closeness to Christ who is amongst us, our dependence upon each other as members all of one family of man, and our dependence upon the world of nature in which we live.

NUTRITION PROGRAMS FOR THE ELDERLY

Mr. CHURCH. Mr. President, in 1968 the Administration on Aging launched a special emphasis nutrition demonstration program for the Nation's elderly. Thirty projects have been funded and now 21 programs are still operating.

These programs have been especially successful in providing both nutritious meals and essential social services to the elderly participants. The Administration on Aging in its report to the Senate Special Committee on Aging for 1970 said, in reference to these programs:

> Experience indicates that food-nutrition services and social-health services become mutually reinforcing in meeting the totality of the needs of elderly participants.

In my own State of Idaho, a nutrition program in Emmett has had a dramatic impact upon the lives of the elderly. Here too, the nutritional aspects of the programs are important, but I have seen that the social and service aspects are prime elements, which have a very beneficial effect for those taking part.

Therefore, I think it would be particularly regrettable if a gap in funding were to occur with the changeover to funding under the Nutrition for the Elderly Act. Older people would be especially affected, but projects would also lose staff with valuable experience. Communities would not be able to maintain the continuity of services to the elderly participants.

I recently wrote to the Commissioner on Aging about this problem. I specifically asked Mr. Martin to outline for me the course of action the Administration will take to prevent this gap in program funding.

Mr. President, I believe this matter is of concern to all Members of the Senate. I ask unanimous consent that my letter to Commissioner Martin be printed in the RECORD. I also would like to submit for the RECORD a recent letter to Commissioner Martin from the directors of the 21 demonstration nutrition programs.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., March 17, 1972.

Hon. JOHN B. MARTIN,
Commissioner, Administration on Aging, Department of Health, Education, and Welfare, Washington, D.C.

DEAR COMMISSIONER MARTIN: There is a distinct possibility of a gap in funding between the expiration of Title IV demonstration nutrition program funds and the availability of funds appropriated for the Nutrition for the Elderly Act.

I am hopeful that this hiatus need not occur. The 21 existing nutrition demonstration programs for the elderly have had an impact upon the lives of many older Americans. A break in the continuity of these programs would be disastrous.

Of the 21 programs, 18 are scheduled to expire during June, July, and August of this year. It is probable that the Labor-HEW appropriations bill will not be signed before the funding for these programs terminates. The FY 1972 Labor-HEW appropriations bill was not signed into law until August 10, 1971, and the FY 1971 bill was not signed until January 11, 1971.

Given this recent history of the appropriations process, it appears necessary to implement administrative action to preclude a gap in nutrition program operations.

I would urge that the Administration act to maintain continuity in these programs.

Would you outline for me the steps the Administration may intend to take to prevent the disruption of these programs?

Sincerely,

FRANK CHURCH,
Chairman.

FEBRUARY 12, 1972.

Mr. JOHN B. MARTIN,
Commissioner, Administration on Aging, Department of Health, Education, and Welfare, Social and Rehabilitation Service, Washington, D.C.

DEAR MR. MARTIN: The directors of the twenty-one Title IV nutrition programs are naturally delighted, as we know you must be, at the overwhelming support given S. 1163 and HR 5017. We want to express our collective appreciation for your contribution to the cause of Nutrition for the Elderly.

Being familiar with the problems of appropriations we are concerned that there may be a lapse of funding between the expiration of our Title IV R & D funds and the availability of nutrition monies resulting from this new legislation. As you are aware, at the end of our fiscal year, our R & D assignments will have been completed; our means programs will convert to direct services.

Should a lapse of funding occur it would in most instances result in a breakdown of this essential service, the loss of some of our trained, experienced staff, confusion and deprivation for many of our participants. The latter would suffer a traumatic experience that would affect them adversely not only physically and emotionally, but economically as well. Whether in rural areas such as Greenwood, Mississippi, where our low cost meals program has become literally the center around which the lives of these retired, sans Social Security, sharecroppers revolve; or Olive Hill, Kentucky, where participants are experiencing a new economic way of life sparked by the meals program, a break or reduction in service would spell disaster. The impact would be equally catastrophic to many of the thousands of Title IV participants living in the densely populated urban areas. These oldsters depend on the group meal service, the hot meals delivery to the homebound, and the ancillary services provided for both. All of these older Americans should be spared any further anxiety about the future of their hot meals programs.

As directors of these projects we share their concern and seek to allay their apprehensions but we can do this only if we are assured well in advance that there will be no break or reduction in services. Only then can we maintain an adequate, experienced staff. To secure and train new personnel is a costly procedure. To rebuild a reduced program and regenerate confidence in it is indeed an uphill undertaking. We also believe that by an uninterrupted continuation we will be in the best possible position to give leadership and guidance to the new projects that this nutrition legislation will make possible.

We are sure that ways can be found to avoid a funding hiatus and are therefore appealing to you who understand the situation to review the problem it presents as early as possible and to advise us as to what course of action it would be best to pursue.

Again our thanks for your much needed assistance.

Sincerely and respectfully yours,

San Juan W. Barnes, Washington, D.C.; Peggy Best, Los Angeles, Calif.; Alvin Bielefeld, Tulsa, Okla.; Ruth Braver, Chicago, Ill.; Fred Buchholtz, St. Petersburg, Fla.; Mary Champlin, Buffalo, N.Y.; Lucille S. Costello, Cincinnati, Ohio.

Regina Fanning, Olive Hill, Ky.; Alfred W. Gilpin, Walthill, Nebr.; Edward Kramer, New York City; Virginia MacNeur, Phoenix, Ariz.; Clifford McCloud, Miami, Fla.; Mildred V. Muthleb, Detroit, Mich.; Ella Reason, Roxbury, Mass.

Frank M. Robison, Seattle, Wash.; Yolanda C. Rossi, Salt Lake City, Utah; Ivan O. Simonsen, Emmett, Idaho; Wilma Jo Slaughter, Helena, Mont.; Gertrude W. Wagner, New York City; Leola G. Williams, Greenwood, Miss.; Mason Willis, Denver, Colo.

NUCLEAR VOTING RECORDS AND NUCLEAR HAZARDS

Mr. GRAVEL. Mr. President, I urge every Member of Congress to pay close attention when the Joint Committee on Atomic Energy recommends legislation to accelerate licensing of nuclear powerplants, as it probably will before the Easter recess; hearings were held March 16 and 17 on such legislation, H.R. 13731 and H.R. 13732. Then on March 23 another version of the measure was introduced as H.R. 14065. In addition, hearings on a similar bill, H.R. 13757, are underway before the House Committee on Merchant Marine and Fisheries.

If Members of Congress pass such legislation, and if one of the prematurely licensed plants ever has an accident, perhaps rendering an entire State uninhabitable, the voting record on that measure will be examined for sure.

Senators, therefore, may well want to ask themselves the following:

What are the real experts saying today about nuclear safety?

How much confidence can we have in safety assurances from the nuclear industry?

How candid has the AEC been with us about nuclear safety?

New information on these three questions is revealed daily by the citizen intervenors, who are contending with both the AEC regulatory staff and with lawyers from the giant nuclear corporations at the AEC's safety hearings on emergency core cooling systems. Unfortunately, the revelations are generated in a remote room in Bethesda, instead of before a committee of Congress where we would all have access to the full documents.

The best I can do is provide some excerpts from time to time.

THE NO-TEST LICENSING POLICY

The most crucial safety system of all, which is called the emergency core cooling system or ECCS, is installed in all the large nuclear powerplants, although it has never had a complete large-scale test at any time, anywhere.

In late 1970, six miniscale tests were run on this system, with a 9-inch pot substituting for a 14-foot reactor vessel, and electrical heat substituting for nuclear fuel.

Six out of six tests showed ECCS failure, a fact which did not reach the press until May 6, 1971. According to Nucleonics Week, the Joint Committee on Atomic Energy held a secret session on the problem May 3.

The AEC tries to belittle the significance of the test failures, and continues licensing by relying on computer programs or "codes" to calculate the effectiveness of the system. We are now learning that the codes are based on some very shakey assumptions.

AEC LAB DIRECTOR URGING REALISTIC TESTS

Document No. 1027 at the Bethesda hearing is an extraordinary expression of concern, considering the source. It is a letter dated February 9, 1972, from the Director of the Oak Ridge National Laboratory, Dr. Alvin Weinberg, to the Chairman of the AEC, James Schlesinger and it states in part:

> As an old-timer who grew up in this business before the computing machine dominated it so completely, I have a basic distrust of very elaborate calculations of complex situations, especially where the calculations have not been checked by full-scale experiments.
>
> As you know, much of our trust in the ECCS depends on the reliability of complex codes. It seems to me—when the consequences of failure are serious—then the ability of the codes to arrive at a conservative prediction must be verified in experiments of complexity and scale approaching those of the system being calculated.
>
> I therefore believe that Serious consideration should be given first to cross-checking different codes and then to verifying ECCS computations by experiments in large scale and, if necessary, on full scale.
>
> This is expensive, but there is precedent for such experimentation—for example, in the full-scale tests on COMET and on nuclear weapons.

Testimony in Bethesda from an Oak Ridge expert on March 10th elaborated further on the uncertainties which go into those computer codes. How cautious, or "conservative," are the assumptions?

"WE DON'T KNOW WHAT IS HAPPENING PHYSICALLY", SAYS EXPERT

Cyril G. Lawson, a metallurgist in the Oak Ridge reactor program, testified as follows:

> The assertion is made in many places in the testimony that conservative assumptions are made where possible, and this is true, but there are some areas where, in my opinion, we don't know whether the assumption we are making is conservative or not, because we don't know what is occurring physically . . .
>
> I'm not sure in my mind whether the conservatisms existing in other places in the calculation are sufficient to overcome the possible unconservatisms in these assumptions . . .
>
> I have concerns because there are two particular areas where major uncertainties exist. One is what happens during the so-called refood stage of the core . . . That, I think, is major because this is that aspect of the response which is going to cool the core and make the recovery.

"WE ARE NOT CERTAIN" THERE IS "REASONABLE ASSURANCE" ON SAFETY PERFORMANCE, SAYS EXPERT

Document No. 1020 is a letter dated December 6, 1971, from William B. Cottrell, Director of the Nuclear Safety Program at Oak Ridge, to the AEC's new Director of Regulation, L. Manning Muntzing, former attorney for the Chesapeake & Potomac Telephone Co.

The letter, which was designated as a "draft" by the Associate Director of Oak Ridge, Donald Trauger, states in part:

> To summarize what follows herein, we are not certain that the Interim Criteria for ECCS adopted by the AEC will, as stated in the Federal Register, "provide reasonable assurance that such systems will be effective in the unlikely event of a loss-of-coolant accident."

After several pages of technical explanation for this opinion, the letter concludes:

> At the present time, we would not presume to offer a "realistic" [set of] criteria because of the wide gaps in our knowledge.

"NO ONE REALLY KNOWS WHAT WILL HAPPEN IN A [NUCLEAR] REACTOR CORE," SAYS EXPERT

Document No. 1030 is a letter dated March 4, 1971, from William Cottrell to Andrew Pressesky, AEC Assistant Director for Nuclear Safety. This letter also concerns the loss-of-coolant accident or LOCA which requires effective performance by the Emergency Core Cooling System or ECCS. This letter states in part:

> In recent months, the nuclear community has become aware that the previous assumptions and calculations, upon which the loss-of-coolant accidents were based, have been optimistic in terms of the ability to cool the core during the accident transient. These developments have been discussed in a number of recent meetings with the manufacturers, most recently with Regulatory on February 11th. . . .
>
> The meeting indicated a wide divergence of opinion because of the lack of definitive information from experimental programs, which led the chairman to conclude that no one really knows what will happen in a reactor core in the event of a LOCA.
>
> Despite this fact, two of the manufacturers chose to argue that maximum temperatures should be raised from 2300 to 2700 degrees Fahrenheit—completely ignoring data which indicates the imprudences of such a change, or for that matter which question the adequacy of the existing limit.
>
> As you know, the experiments run to date have not only shown the unconservatism of earlier assumptions on rod swelling, but also are capable of determining the allowances for cooling during blowdown that could be taken into consideration in the real reactor analysis.
>
> The greater impetus for continued investigation is the likelihood that undiscovered phenomena, or presently worrisome ones, will undermine ESF effectiveness.

SOME INDUSTRY FAILURE "TO GET TO THE HEART OF THE SAFETY PROBLEM IN QUESTION"

Document No. 1029, which is an earlier letter from Cottrell to Pressesky dated June 30, 1970, also refers to what may indicate a cavalier safety philosophy in the nuclear industry. This letter states in part:

> The Commission's position in its support of nuclear safety research is seriously compromised by relegating significant portions of the nuclear safety research and development program to the same industry it would license . . .
>
> It is informative to cite a few recent examples, within our knowledge, where a reactor vendor, when given the responsibility for undertaking safety research on the reactor he was selling, failed to get to the heart of the safety problems in question.
>
> 1. Fuel Rod Swelling in Loss-of-Coolant Accident or LOCA: In this instance, the reactor vendors, on the basis of their own in-house research and development, concluded that the diametrical swelling of the fuel rods during the LOCA would be less than 30 percent. This they later increased to 60 percent. Oak Ridge experiments subsequently demonstrated that swelling greater than 100 percent was possible, under realistic conditions, over significant portions of the core.
>
> 2. Fuel Rod Embrittlement in Loss-of-Coolant Accident or LOCA: Here the vendors maintained that embrittlement would not occur in the LOCA and hence the consequences need to be considered in evaluating this accident. Our experiments have been much more pessimistic in this regard.
>
> 3. Radiolysis during Emergency Core Cooling System (ECCS) Operation: Radiolytic hydrogen generation was initially presumed to be a minor problem in the use of containment sprays. At this time, the use of theoretical yields obtained for triple distilled water in quartz glassware were submitted by vendors to substantiate low hydrogen yields. Industry-sponsored experimental work of a later date was initially interpreted to substantiate the pure water rates. Oak Ridge experiments have resulted in a significantly difference and realistic approach to the problem, to the point that work is now under way by the industry in development of hydrogen recombiners.
>
> In addition to their questionable performance in the instances cited above, there is little evidence that industry is developing improved safety and safety-evaluation techniques. This is not to say that they have not done so, but that if they have, they have chosen to keep it to themselves.

WHY CONGRESS HEARS SO LITTLE

Document No. 1029 also helps explain why Congress has heard so little in the past about nuclear hazards. It reveals a recommendation by the late AEC Commissioner Theos Thompson to keep the press unaware of AEC uncertainties regarding safety. It states in part that, in February 1970, Commissioner Thompson addressed some 170 people who came to

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Oak Ridge for the nuclear safety program annual information meeting, and:

While speaking on several topics, his principal topic concerned the current confrontation between the nuclear power critics and the nuclear community. On this subject, he made the observation that the nuclear community should present a united front to better assure success of our mutual objective of safe, economic nuclear power, and that one of the more effective ways of doing so is by fully exploring our ideas and criticisms with the Commission itself and not in the public press.

"I DON'T WANT TO SOUND DEROGATORY, BUT . . ."

The AEC has an unsavory history of attempting to discredit anyone who publicly challenges its safety claims, instead of attempting to deal with the substance of the challenge.

The Union of Concerned Scientists did not escape this treatment, after four of its members published reports in July and October 1971 in which they discussed the inadequacy of the AEC's "Interim Criteria" for emergency core cooling performance.

When I asked AEC Commissioner Doub about the union's reports at the November 3 hearing before the Senate Interior Committee, the Director of Reactor Licensing, Mr. Morris, was eager to unload as follows:

Might I make a further remark? I don't want to sound derogatory in commenting on these people, but they are not experienced in this field. None of them have any experience with power reactor design or operation.

These "amateurs," who are now leading the citizen intervenors in Bethesda, include Dr. Henry W. Kendall, one of the country's foremost high-energy nuclear physicists.

On November 15, these "amateurs" visited the AEC's nuclear safety experts at Oak Ridge. Their visit impelled the lab's Associate Director, Donald Trauger, to warn the AEC's reactor king, Milton Shaw, that indeed the Union had figured out the deficiencies of the emergency core cooling system very well indeed.

ATTEMPT TO DISCREDIT BACKFIRES: CRITICS "INTIMATELY FAMILIAR WITH SAFETY "DEFICIENCIES"

Trauger's letter to Shaw, dated November 24, 1971, was presented as part of testimony before the Joint Committee on Atomic Energy on March 16 by the intervenors' attorney, Mike Cherry. It states in part:

Three members of the Union of Concerned Scientists met with members of the Oak Ridge staff last Monday, November 15, to discuss various aspects of the Laboratory's work on the Fuel Rod Failure Program. . . . We felt that the technical publications of this group, as well as their professional integrity, justified our meeting with them. However, inasmuch as the Union of Concerned Scientists has intervened in the hearing on the construction permit for the Pilgrim reactor, we also felt that you should be aware of the nature of our discussions.

The visiting scientists were Henry W. Kendall, physicist (MIT); Daniel F. Ford, economist (Harvard University); and James J. MacKenzie, physicist (Audubon Society) . . .

It was immediately obvious from our discussions that the visitors were well read in the relevant literature . . .

H. W. Kendall showed us how he has used our data . . . to demonstrate that approximately 85 percent of the fuel rods are "candidates" for producing fuel channels with coolant channel blockage in the range 90 to 100 percent.

Kendall had reached this conclusion independently, and wanted to know if he was using our data properly, which he was, with the limits of its accuracy . . .

The three members of the Union of Concerned Scientists who visited here appeared to be well educated and dedicated people . . .

They have become intimately familiar with the relevant published literature . . . Their experience led them to examine this situation very closely, and they have become aware of various deficiencies in the case for Emergency Core Cooling System performance in a Loss-of-Coolant Accident.

Was it proper for the AEC Director of Reactor Licensing to suggest to a November hearing, which was packed with Senators and press and industry people, that the Union's opinion could be dismisssed?

THE FIRST ACCIDENT; A PROBLEM FOR INCUMBENTS

And is it wise for Congress also to dismiss warnings about nuclear hazards? How long will the voters tolerate us after the first nuclear powerplant goes out of control? A severe nuclear accident could dump more radioactivity on some of our States than would the explosion of 100 Hiroshima bombs.

The pace of nuclear licensing far exceeds the readiness of the technology. Instead of accelerating nuclear operations, I think it would be more reasonable for Congress to consider a temporary moratorium on all nuclear power operations, as proposed in S. 3223 which I introduced on February 23.

THE EQUAL RIGHTS AMENDMENT: A POTENTIALLY DESTRUCTIVE AND SELF-DEFEATING BLUNDERBUSS

Mr. ERVIN. Mr. President, the Senate is asked to join the House in submitting to the States the proposed equal rights amendment, which specifies:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

The professed objective of most of the advocates of the amendment is a worthy one. It is to abolish unfair or unreasonable discriminations which the law makes against women.

No one believes more strongly than I that discriminations of this character ought to be abolished.

Any rational consideration of the proposed equal rights amendment raises these questions:

First. What unfair or unreasonable discriminations does the law make against women?

Second. Is it necessary to amend the Constitution to abolish these unfair or unreasonable legal discriminations?

Third. Is it desirable to add the equal rights amendment to the Constitution?

I will discuss these questions in their numerical order.

UNFAIR DISCRIMINATIONS

The accepted traditional customs and usages of society undoubtedly subject women to many discriminations.

If it should be added to the Constitution, the equal rights amendment would have no effect whatever upon discriminations of this character. Inasmuch as they are not created by law, they cannot be abolished by law. They can be altered only by changed attitudes in the society which imposes them.

When I have sought to ascertain from them the specific laws of which they complain, the advocates of the equal rights amendment have cited some outmoded State statutes which constitute legislatively forgotten relics of a bygone age.

Among these laws are State statutes which forbid a wife to become a surety for third persons without her husband's consent, or which prefer the father over the mother in the granting of letters of administration on a child's estate, or which impose weight-lifting restrictions on working women, or which bar women from operating saloons, or acting as bartenders, or engaging in professional wrestling.

Legislatures would undoubtedly repeal statutes of this character if any demand were made upon them to do so. Moreover, statutes of this character would certainly be adjudged invalid by the courts under the unanimous decision handed down by the Supreme Court in *Reed* v. *Reed*, 404 U.S. 71, on November 22, 1971. In that case, the Supreme Court held in express terms that State legislation violates the equal protection clause of the 14th amendment if it treats differently men and women who are similarly situated.

I respectfully submit that resorting to an amendment to the Constitution to nullify State laws of this character would be about as wise as using an atomic bomb to exterminate a few mice.

If it should be added to the Constitution, the equal rights amendment would apply to the admission policies of public institutions of higher learning, but not to those of private institutions of that nature.

With the exception of a few State-supported military colleges, virtually all State institutions of higher learning are coeducational. Despite this, some militant proponents of the equal rights amendment complain that State institutions of higher learning discriminate against women by denying them enrollment.

In the final analysis, this complaint rests upon decisions of Federal courts that the equal protection clause of the 14th amendment does not nullify a South Carolina law which restricts admission to the State military college known as the Citadel to men, and a Texas statute which restricts admission to one of the State's 18 institutions of higher learning, that is, a military school known as Texas Agricultural & Mechanical College, to men.

It is extremely doubtful whether any substantial number of women believe that these decisions and these State laws enslave them, or impair their educational opportunities in any unfair or unreasonable way, or justify adding the equal rights amendment to the Constitution to eliminate these laws and decisions and destroy the reasonable protections the equal protection clause of the 14th amendment permits the States to accord to women.

I submit that it would be a far easier task for the militants who raise a hue and cry about these laws to persuade South Carolina and Texas to alter them to their liking than it is going to be for them to induce South Carolina, Texas, and 36 other States to ratify a constitutional amendment, which is designed to convert men and women into identical legal beings, and to rob their sisters who become wives, mothers, and widows of the reasonable protections which the fifth and the 14th amendments permit Congress and the States to give them.

From my study of the subject, I am convinced that most of the unfair or unreasonable discriminations against women arise out of the different treatment given men and women in the employment sphere.

No one can gainsay the fact that women suffer many discriminations in this sphere, both in respect to the compensation they receive and the promotional opportunities available to them.

REMOVAL OF LEGAL DISCRIMINATIONS BY STATUTES

While many of these discriminations are based on the mores of society and can be removed only by changed attitudes of people, some of them arise out of law or an absence of law, and can be eliminated by acts of Congress and acts of State legislatures if such acts are enforced after they are enacted.

The overwhelming majority of the most profound lawyers in America advocate the elimination of discriminations against women by the statutory method. This method, they say, is wise because it will enable legislative bodies to proceed in an orderly way, and thus avoid the constitutional and legal chaos which the adoption of the equal rights amendment would visit upon the Nation.

Let me point out that Congress has done much in recent years to abolish discriminations of this character insofar as they can be abolished at the Federal level. It has amended the Fair Labor Standards Act to make it obligatory for employers to pay men and women engaged in interstate commerce or in the production of goods for interstate commerce equal pay for equal work, irrespective of the number of persons they employ.

Congress has also decreed by the equal employment provisions of the Civil Rights Act of 1964 as amended that there can be no discrimination whatever against women in employment in industries employing 15 or more persons, whose business affects interstate commerce, except in those instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the enterprise. Furthermore, it is to be noted that the President and virtually all of the departments and agencies of the Federal Government have issued orders prohibiting discrimination against women in Federal employment.

Moreover, State legislatures have adopted many enlightened statutes in recent years prohibiting discrimination against women in employment.

If women are not enjoying the full benefit of this Federal and State legislation and these executive orders of the Federal Government, it is due to a defect in enforcement rather than a want of fair laws and regulations.

The validity of what I have just said is emphasized by the fact that during the immediate past Federal courts have invoked the supremacy clause of article VI of the Constitution to invalidate a number of State laws because of their inconsistency with the provisions of the Fair Labor Standards Act and the Civil Rights Act of 1964 prohibiting discrimination in employment on account of sex.

NO AMENDMENT IS NECESSARY

This brings me to the second question, that is, whether a constitutional amendment is required to abolish unfair or unreasonable legal distinctions between the rights and responsibilities of men and women. I submit the answer is an emphatic "No."

The due process clause of the fifth amendment forbids the Federal Government to deprive any person of life, liberty, or property without due process of law. The due process and equal protection clauses of the 14th amendment forbid a State to "deprive any person of life, liberty, or property without due process of law," or to "deny to any person within its jurisdiction the equal protection of the laws."

Properly interpreted these constitutional provisions nullify any Federal or State laws which make unfair or unreasonable distinctions between the legal rights and the legal responsibilities of men and women. For this reason, no constitutional amendment is necessary.

The equal protection clause became a part of the Constitution in 1868. Candor compels the confession that for sometime thereafter the Supreme Court put some unenlightened interpretations upon the effect of the equal protection clause. For example, it held in *Bradwell* v. *Illinois*, 16 Wall. 130 (1873), that the equal protection clause did not deny to a State the power to refuse to license women to practice law, and it held in *Minor* v. *Happersett*, 21 Wall. 162 (1875), that the equal protection clause did not invalidate a State law which granted the right to vote to men and denied it to women.

As Bernard Schwartz makes manifest in his recent commentary upon the Constitution, these and similar decisions are now outmoded and would not constitute controlling precedents in any cases involving the validity of State laws under the equal protection clause.

The equal protection clause embodies a simple and sound principle. It requires a State to treat in like manner all persons similarly situated regardless of their sex. The clause does not require identity of treatment. It permits a State to make distinctions, between persons subject to its jurisdiction if the distinctions are based on some fair or reasonable classification, and all persons embraced within the classification are treated alike. It merely outlaws unfair or unreasonable discrimination.

The Supreme Court of the United States has held in *Bolling* v. *Sharp*, 347 U.S. 497, and other cases that the due process clause of the fifth amendment imposes the same obligations on the Federal Government that the equal protection clause imposes on the States.

My conviction that the fifth and 14th amendments outlaw every unfair and unreasonable legal distinction between the rights and responsibilities of women is shared by the overwhelming majority of the lawyers of America. Moreover, it is fully sustained by the unanimous opinion of the Supreme Court of the United States in *Reed* v. *Reed*, 404 U.S. 71, which was handed down on November 22, 1971.

Prior to the Reed case, many of the most knowledgeable legal authorities in the Nation expressed the opinion that the fifth and 14th amendments nullify all laws either Federal or State which discriminate unfairly or unreasonably against women.

Let me quote only a few of them.

The late Dean Roscoe Pound of the Harvard Law School, who was one of the greatest legal luminaries America has ever known, made this statement with respect to the fifth and 14th amendments, and the proposed equal rights amendment:

With respect to the proposed constitutional amendment I feel very strongly that it is a mistake to pile up specific prohibitions in addition to the general guaranties of the Bill of Rights. The guaranty of due process in the Fifth and Fourteenth Amendments secures against arbitrary and unreasonable legislation of every sort, whether on the part of Congress or of State Legislatures. With this protection against arbitrary and unreasonable legislation it certainly ought not to be necessary to add specific prohibitions. If the things aimed at are arbitrary and unreasonable there is already protection against them; if they are reasonable they ought not to be inhibited.

Bernard Schwartz stated in his recent commentary on the Constitution of the United States that—

A law based on sexual classification will normally be deemed inherently unreasonable unless it is intended for the protection of the female sex.

Leo Kanowitz, author of the book "Women and the Law," who now advocates the adoption of the equal rights amendment on psychological rather than legal grounds, testified before the Senate Judiciary Committee on September 11, 1970. On that occasion, I put to him the following question, and received from him the following answer:

Senator ERVIN. Professor, I have enjoyed my discussion with you on the intellectual plane and I don't think you made any change in your position except you now urge the ratification, whereas you opposed ratification before. I think your position on the law as expressed here today and as expressed in these other writings is perfectly consistent. In other words, I think you have made it plain that you think, just like I believe, that if the due process clause of the Fifth Amendment and the equal protection clause of the Fourteenth Amendment were properly interpreted they would outlaw every arbitrary and invidious discrimination made by law against women in our society."

Mr. KANOWITZ. That is correct, sir.

As will hereinafter appear, Mr. Kanowitz entertains the opinion that virtually all of the legal distinctions made between the legal rights and responsibilities of men and women are based upon the func-

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tions they perform and not upon sex, and for that reason the equal rights amendment would have little effect on existing legal distinctions.

The decision in the Reed Case was presaged by the decision of the Supreme Court in *Hoyt* v. *Florida*, 368 U.S. 57 (1961), which declares:

> We address ourselves first to appellant's challenge to the statute on its face.
>
> Several observations should initially be made. We of course recognize that the Fourteenth Amendment reaches not only arbitrary class exclusions from jury service based on race or color, but also all other exclusions which "single out" any class of persons "for different treatment not based on some reasonable classification."

To be sure, some militant advocates of the equal rights amendment condemn the decision in the Hoyt case. In the ultimate analysis, they are displeased with it because the Florida statute, which the Court sustained, did not compel wives to desert their housekeeping duties and mothers to forsake their children in order to serve on juries in State courts.

The Reed case involved the validity under the equal protection clause of an Idaho statute which gave the father preference over the mother in the granting of letters of administration to administer upon the estate of a deceased child. By a unanimous decision, the Supreme Court adjudged that the Idaho statute violated the equal protection clause because it provided "dissimilar treatment for men and women" who were "similarly situated."

In reading this sound conclusion, the Supreme Court declared:

> In applying that clause, this Court has consistently recognized that the Fourteenth Amendment does not deny to States the power to treat different classes of persons in different ways. The Equal Protection Clause of that amendment does, however, deny to States the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification "must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

The Reed case makes it indisputable that the equal protection clause invalidates any State law making any unfair or unreasonable distinction between the legal rights and responsibilities of men and women, and thus sets the matter at rest.

Many legal scholars predict, I think quite rightly, that the Reed case will ultimately result in the elimination of all State laws making unfair or unreasonable discriminations against women.

Since its rendition, I have received a letter from one of America's foremost legal scholars, Philip B. Kurland of the Law School of the University of Chicago, which makes the following statement:

> I am still of the opinion that a constitutional amendment to afford equal rights for women is both unnecessary and undesirable. . . . I am also of the view that a sound program of legislative reforms would do more, especially under the mandate now received from the Supreme Court in *Reed v. Reed*, to eliminate more of the grievances that women have against their roles frequently imposed on them in our society. Legislation can get at specific problems in a way that no constitutional provision can.

I have also received a letter from another most knowledgeable person, Paul A. Freund of the Law School of Harvard University, which makes the following declaration:

> In view of the Reed decision, however, I believe more strongly than ever that the subject should be left to be worked out under the equal protection clause, as are other questions of group classification. The equal protection guarantee, together with the ample legislative powers of Congress, is the best avenue to achieve meaningful equality of the sexes under law. This approach is greatly to be preferred to one that would for all the manifold legal relationships of men and women, from coverage under selective service to the obligation of family support, into a mold of mechanical unity.

OBJECTIVES OF MILITANT SUPPORTERS OF THE EQUAL RIGHTS AMENDMENT

While undoubtedly the objective of most of the supporters of the equal rights amendment is merely to abolish unfair or unreasonable legal discriminations against women, this is not the objective of its most militant advocates.

Their objective is clearly revealed by an article which appeared in the Yale Law Journal for April 1971. This article was written by Prof. Thomas I. Emerson and three recent graduates of the Yale Law School, Barbara A. Brown, Gail Falk, and Ann E. Freedman.

The distinguished Congresswoman from Michigan (Mrs. GRIFFITHS) and the distinguished Senator from Indiana, Senator BAYH, have heaped praise upon this article, which is hereinafter referred to by me as the Yale Law Journal. In sending a copy of the article to all Members of the House of Representatives, Congresswoman GRIFFITHS states that—

> It will help you understand the purposes and effects of the Equal Rights Amendment. . . . The article explains how the ERA will work in most areas of the law.

Senator BAYH inserted a copy of the article in the CONGRESSIONAL RECORD, and commended its reading by Members of the Senate in a statement which declared it to be "a masterly piece of scholarship."

The Yale Law Journal article clearly reveals that the objective of the militant supporters of the equal rights amendment is to nullify every existing Federal any State law making any distinction whatever between men and women, no matter how reasonable the distinction may be, and to rob Congress and the legislatures of the 50 States of the legislative power to enact any future laws making any distinction between men and women, no matter how reasonable the distinction may be.

This is made clear by the following three quotations from the Yale Law Journal:

> 1. The basic principle of the Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women, or of men. This means that the treatment of *any* person by the law may not be based upon the circumstance that such person is of one sex or the other. (p. 889) . . . the principle of the Amendment must be applied comprehensively and *without* exceptions. (p. 890)
>
> 2. Only an *unequivocal ban* against taking sex into account supplies a rule adequate to achieve the objectives of the Amendment. (p. 892) . . . prohibition against the use of sex as a basis for differential treatment applies to *all* areas of legal rights. (p. 891) . . . From this analysis it follows that the constitutional mandate must be absolute. (p. 892)
>
> 3. Our legal structure will continue to support and command an inferior status for women so long as it permits any differentiation in legal treatment on the basis of sex. (p. 873) . . . Equality of rights means that sex is not a factor. (p. 892)

This analysis of the objective of the militant proponents of the equal rights amendment is confirmed by their demand that the Senate pass the amendment without altering one jot or tittle of it and their threat to visit political retribution upon any Senators who dare to vote for any amendment which would permit Congress to exempt women from compulsory military service or from service in combat units of the Armed Forces, or any amendment which would authorize Congress or State legislatures to extend economic or social protection to women in general or wives, mothers, or widows in particular, or any amendment which would authorize Congress or State legislatures to safeguard the privacy of women or girls, or any amendment which would permit Congress and the States to continue in force laws punishing men for committing sex crimes on women or girls.

FUNCTIONAL DIFFERENCE BETWEEN MEN AND WOMEN

In appraising the objective of the militants, we are confronted by the question whether there is any rational basis for reasonable distinction between men and women in any of the relationships or undertakings of life.

We find in chapter 1, verse 27 of the Book of Genesis this statement which all of us know to be true:

> God created man in His own image, in the image of God created he him; male and female created He them.

For this reason, I share completely this recent observation of a legal scholar:

> Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law itself and a complete disregard of fact.

While I believe that any laws making unfair or unreasonable distinctions against women should be repealed by legislative bodies or judicially annulled by the courts under the provisions of the fifth and 14th amendments, I have the abiding conviction that the law should make such distinctions between men and women as are fairly or reasonably necessary for the protection of women and the existence and the development of the race.

When He created them, God made physiological and functional differences between men and women. These differences confer upon men a greater capacity to perform arduous and hazardous physical tasks. Some wise people even profess the belief that there may be psychological differences between men and women. To justify their belief, they assert that women possess an intuitive power to distinguish between wisdom and folly, good and evil.

To say these things is not to imply that either sex is superior to the other. It is simply to state the all-important truth that men and women complement each other in the relationships and undertakings on which the existence and development of the race depend.

The physiological and functional differences between men and women empower men to beget and women to bear children, who enter life in a state of utter helplessness and ignorance, and who must receive nurture, care, and training at the hands of adults throughout their early years if they and the race are to survive, and if they are to grow mentally and spiritually. From time whereof the memory of mankind runneth not to the contrary, custom and law have imposed upon men the primary repsonsibility for providing a habitation and a livelihood for their wives and children to enable their wives to make the habitations homes, and to furnish nurture, care, and training to their children during their early years.

In this respect, custom and law reflect the wisdom embodied in the ancient Yiddish proverb that God could not be everywhere, so he made mothers. The physiological and functional differences between men and women constitute the most important reality. Without them human life could not exist.

For this reason, any country which ignores these differences when it fashions its institutions and makes its laws is woefully lacking in rationality.

Our country has not thus far committed this grievous error. As a consequence, it has established by law the institutions of marriage, the home, and the family, and has adopted some laws making some rational distinctions between the respective rights and responsibilities of men and women to make these institutions contribute to the existence and advancement of the race.

OBSCURITY OF THE EQUAL RIGHTS AMENDMENT

In the nature of things, lawmakers use words to express their purposes. Courts must ascertain from their words the purposes of the lawmakers. In his famous opinion in *Towne* v. *Eisener*, 245 U.S. 418, 425, Justice Oliver Wendell Holmes made this trenchant observation:

> A word is not a crystal, transparent and unchanged; it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used.

During my many years as a lawyer, a judge, and a legislator, I have discovered that many words have many meanings, and that the purpose they are intended to express must be gathered from the context in which they are used. I have also learned that the most difficult task which ever confronts a court is determining the meaning of imprecise words used in a scrimpy context.

The word "sex" is imprecise in exact meaning, and no proposed constitutional amendment ever drafted exceeds the equal rights amendment in scrimpiness of context. The amendment contains no language to elucidate its meaning to legislators or to guide courts in interpreting it. When all is said, the equal rights amendment, if adopted, will place upon the Supreme Court the obligation to sail upon most tumultuous constitutional seas without chart or compass in quest of an undefined and unknown port.

The imprecision of the word "sex" as used in the proposed amendment is clearly revealed by these definitions set forth in the recently published American Heritage Dictionary of the English Language:

> 1.a. The property or quality by which organisms are classified according to their reproductive functions. b. Either of two divisions, designated male and female, of this classification. 2. Males or females collectively. 3. The condition or character of being male or female; the physiological, functional, and psychological differences that distinguish the male and the female. 4. The sexual urge or instinct as it manifests itself in behavior. 5. Sexual intercourse.

When one undertakes to ascertain the obscure meaning of the ambiguous equal rights amendment in an impartial, intellectual, and unemotional manner, he is inevitably impelled to the conclusion that it is susceptible of several different and discordant interpretations.

If it should accept the fourth and fifth definitions of the term "sex" as set forth in the dictionary, the Supreme Court could reach the conclusion that the equal rights amendment merely annuls existing and future laws, visiting upon the adulterous acts of women different legal consequences from those it visits upon such acts of men.

If it should accept the first, fourth, and fifth definitions of "sex" as set forth in the dictionary, the Supreme Court could reach the conclusion that the amendment is only concerned with sex per se, and has no application whatever to legal distinctions made between men and women on the basis of their respective functions in the relationships and undertakings on which the existence and development of the race depend.

A learned student of the constitutional aspects of sex-based discrimination in American law, Prof. Leo Kanowitz, accepts this interpretation. He had this to say in his work on "Women and the Law, the Unfinished Revolution":

> It is submitted that the adoption of the Equal Rights Amendment would not fundamentally change the picture. While the proposed amendment states that equality of rights shall not be abridged on account of sex, sex classifications could continue if it can be demonstrated that though they are expressed in terms of sex, they are in reality based upon function.

If it should accept the third definition of "sex" as set out in the dictionary, the Supreme Court could reach the conclusion that the equal rights amendment annuls every existing Federal and State law making any distinction between men and women, however reasonable such distinction might be in particular cases, and forever robs the Congress and the legislatures of the 50 States of the constitutional power to enact any such laws at any time in the future.

This is the interpretation which I fear the Supreme Court may feel itself obliged to place upon the House-passed equal rights amendment.

When he testified before the Senate Committee on the Judiciary in opposition to the equal rights amendment on September 10, 1970, Prof. Philip B. Kurland pointed out that the equal rights amendment merely provides that—

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

He stated that the language of the proposed amendment is too barren to elucidate its meaning; that he thought the difficulty of its construction did not arise out of the use of the word "sex" but rather from the use of the word "equality"; that almost a century ago Sir James Fitzjames Stephen asserted in his book "Liberty, Equality, and Paternity" that the word "equality" is a word so wide and vague as to be by itself almost unmeaning; and that nothing that has happened in the intervening years has done anything to make the word specific.

I am not alone in my fear that the Supreme Court may reach the conclusion that the equal rights amendment annuls every existing Federal and State law making any distinction between men and women, however fair or reasonable such distinction might be in particular cases, and forever robs the Congress and the legislatures of the 50 States of the constitutional power to enact any such laws at any time in the future.

When the equal rights amendment was under consideration in 1953, Roscoe Pound of the Harvard Law School; Albert J. Harno of the University of Illinois Law School; Charles Warren, noted constitutional lawyer and author of "The Supreme Court in United States History"; Leon Green of the University of Texas Law School; Dorothy Kenyon, distinguished lawyer and one-time judge of municipal court of New York City; Monte M. Leman, noted constitutional lawyer; E. Blythe Stason of the University of Michigan Law School; Harry Shulman of the Yale University Law School; William H. Holly, U.S. district judge; Everett Frazer of the University of Minnesota Law School; Walter Gellhorn of the Columbia University Law School; Glenn A. McCleary of the University of Missouri Law School; and Douglas B. Maggs of the Duke University Law School, joined one of America's greatest legal scholars, Paul A. Freund of the Harvard Law School, in a statement opposing the equal rights amendment upon the ground that they feared that this devastating interpretation might be placed upon it if it should be adopted. This statement made these indisputable observations:

> If anything about this proposed amendment is clear, it is that it would transform every provision of the law concerning women into a constitutional issue to be ultimately resolved by the Supreme Court of the United States. Every statutory and common law provision dealing with the manifold relation of women in society would be forced to run the gauntlet of attack on constitutional grounds. The range of such potential litigation is too great to be readily foreseen, but it would certainly embrace such diverse legal provisions as those relating to a widow's allowance, the obligation of family support and grounds for divorce, the age of majority and the right of annulment of marriages, and

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the maximum hours of labor for women in protected industries.

Not only is the range of the amendment of indefinite extent, but, even more important, the fate of all this varied legislation would be left highly uncertain in the face of judicial review. Presumably, the amendment would set up a constitutional yardstick of absolute equality between men and women in all legal relationships. A more flexible view, permitting reasonable differentiation, can hardly be regarded as the object of the proposal, since the Fourteenth Amendment has long provided that no state shall deny to any person the equal protection of the laws, and that Amendment permits reasonable classifications while prohibiting arbitrary legal discrimination. If it were intended to give the courts the authority to pass upon the propriety of distinctions, benefits and duties as between men and women, no new guidance is given to the courts, and this entire subject, one of unusual complexity, would be left to the unpredictable judgments of courts in the form of constitution decisions.

Such decisions could not be changed by act of the legislature. Such a responsibility upon the courts would be doubtless as unwelcome to them as it would be inappropriate. As has been stated, however, the proposal evidently contemplates no flexibility in construction but rather a rule of rigid equality. This branch of the dilemma is as repelling as the other."

After analyzing in some detail the laws whose validity might be jeopardized by the equal rights amendment, the statement concluded with these observations:

The basic fallacy in the proposed Amendment is that it attempts to deal with complicated and highly concrete problems arising out of a diversity of human relationships in terms of a single and simple abstraction. This abstraction is undoubtedly a worthy ideal for mobilizing legislative forces in order to remedy particular deficiences in the law. But as a constitutional standard, it is hopelessly inept. That the proposed equal rights amendment would open up an era of regrettable consequences for the legal status of women in this country is highly probable. That it would open up a period of extreme confusion in constitutional law is a certainty.

When the equal rights amendment was first proposed by the Woman's Party way back in 1924, Justice Felix Frankfurter, who was then a member of the faculty of the Harvard Law School, made some remarks concerning it which merit the attention of the Senate. I quote his words:

Miss Crystal Eastman challenges the gallantry of men by offering as a poser in connection with the "equal rights" amendment of the Woman's Party, the question: "How would you feel about it if you were a woman?" Her question assumes a power of imagination which, alas, has been denied to mere men just because he can only think within his own skin. Therefore, I can't tell her how I would feel about it as a woman. It may be more relevant for me to tell her how I feel about it as one who cares, I suspect, as deeply as a man can care for the elimination of unjustifiable differentiations in law between men and women, but one who also happens to be a lawyer and perhaps familiar with what law can do and what law cannot do, in the significant details that matter.

The legal position of woman cannot be stated in a single simple formula, especially under our constitutional system, because her life cannot be expressed in a single simple relation. Woman's legal status necessarily involves complicated formulation, because a woman occupies many relations.

The law must have regard for woman in her manifold relations as an individual, as a wage-earner, as a wife, as a mother, as a citizen. Only those who are ignorant of the nature of law and of its enforcement and regardless of the intricacies of American constitutional law, or indifferent to the exacting aspects of woman's industrial life, will have the naivete or the recklessness to sum up woman's whole position in a meaningless and mischievous phrase about "equal rights." Nature made man and woman different; the Woman's Party cannot make them the same. Law must accommodate itself to the immutable differences of nature. For some purposes men and women are persons and for these purposes the law should treat them as persons, subjecting them to the same duties and conferring upon them the same rights. But for other vital purposes men and women are men and women—and the law must treat them as men and women, and, therefore, subject them to different and not the same rules of legal conduct.

The unjustifiable legal differentiations as to women still existing in different States vary greatly from State to State. Now that women have the vote, these discriminations will readily yield to correction by appropriate State action, provided the attempts at reform are preceded by an effective analysis of the legal situation in each State, an understanding formulation of remedies and an adequate educational exposition of the evils and remedies as a preliminary to legislation. But in a binding effort to remove remaining differences in the law, in the treatment of women as compared with men, which do not rest on necessary policy based on inherent differences of sex, the Woman's Party would do away with all differences which arise from the stern fact that male and female created He them. The Woman's Party cannot amend nature. But it can add considerably to the burdens already weighing too heavily upon the backs of women, the industrial workers, who are least able to bear them.

THE DESTRUCTIVE POTENTIALITY OF THE EQUAL RIGHTS AMENDMENT

Time and space preclude me from an attempt to picture in detail the constitutional and legal chaos which would prevail in our country if the Supreme Court should find itself compelled to place upon the equal rights amendment the devastating interpretation feared by these legal scholars.

Frankly, I do not see how the Supreme Court can do otherwise. The equal rights amendment contains no exceptions or limitations, and applies in absolute terms to every situation falling within its scope.

The Congress and the legislatures of the various States have enacted certain laws based upon the conviction that the physiological and functional differences between men and women make it advisable to exempt or exclude women from certain arduous and hazardous activities in order to protect their health and safety.

Among Federal laws of this nature are the Selective Service Act, which confines compulsory military service to men; the acts of Congress governing voluntary enlistments in the Armed Forces of the Nation which restrict the right to enlist for combat service to men; and the acts establishing and governing the various service academies which provide for the admission and training of men only.

Among the State laws of this kind are laws which limit hours during which women can work, and bar them from engaging in occupations particularly arduous and hazardous such as mining.

If the equal rights amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, all existing and future laws of this nature would be nullified, even though the courts might find them to be fair or reasonable.

The Yale Law Journal makes it clear that one of the primary purposes of the equal rights amendment is to deprive Congress of the legislative power to draft men for compulsory military service unless it drafts women for compulsory military service on exactly the same terms, or to sanction the voluntary enlistment of men for service in combat units of the armed service unless it authorizes the enlistment of women in such units on precisely the same terms. Moreover, the Journal makes it obvious that another of the objectives of the amendment is to convert Annapolis, West Point, and the other service academies into coeducational war colleges.

The Journal further asserts, in substance, that if the equal rights amendment is added to the Constitution substantial numbers of women will be enrolled in the Armed Forces to serve in combat and all other roles on exactly the same terms and under exactly the same circumstances as men; that these women will suffer the loss of their privacy and sometimes become pregnant and bear illegitimate children; and that the equal rights amendment will prohibit the discharge from the armed services of any single woman for pregnancy or child bearing, no matter how often she becomes pregnant or how many bastards she bears.

I am satisfied that the veterans who waded in the icy waters in the trenches until their feet bled during the First World War, the veterans who endured the heat of north Africa and the Anzio beachhead and the cold of the Battle of the Bulge during the Second World War, and the veterans who fought in the mountains of Korea and the steaming swamps of Southeast Asia during the conflicts in Korea and Vietnam are implacably opposed to having the equal rights amendment subject American girls to similar experiences. And I am sure that the fathers and mothers of the daughters of America agree with them.

At the present time Congress has the discretionary power to draft or refuse to draft women and the discretionary power to enlist or refuse to enlist women for combat service. Congress should retain this discretionary power.

America faces a precarious world. Powerful nations indicate their desire to extinguish the lights of liberty throughout the earth. As a consequence, America must maintain military might throughout the foreseeable future.

There has never been a more inopportune time in the history of our country for a constitutional amendment which will put Congress in a straitjacket and compel it to make a choice between having no Armed Forces at all or mingling men and women in our Armed Forces on exactly the same terms for exactly the same service.

In a moment of truth or a moment of pessimism more than a hundred years

ago a British politician, T. B. Macaulay, made this statement about the Members of the House of Commons:

The members are more concerned about the security of their seats than about the security of their country.

I hope that no truthful or pessimistic person will be prompted by any votes on the equal rights amendment to make a similar remark about Members of the Congress.

Sometimes I question the soundness of my conviction that women should not be converted into combat soldiers. If the militant women who demand that Congress submit the equal rights amendment to the States without changing a dot over an "i" or a cross over a "t" have the capacity to frighten the enemy like they frighten male politicians, the enemy might hoist the white flag without firing a shot.

The common law and statutory law of the various States recognize the reality that many women are homemakers and mothers, and by reason of the duties imposed upon them in these capacities, are largely precluded from pursuing gainful occupations or making any provision for their financial security during their declining years. To enable women to do these things and thereby make the existence and development of the race possible, these State laws impose upon husbands the primary responsibility to provide homes and livelihoods for their wives and children, and make them criminally responsible to society and civilly responsible to their wives if they fail to perform this primary responsibility. Moreover, these State laws secure to wives dower and other rights in the property left by their husbands in the event their husbands predecease them in order that they may have some means of support in their declining years.

If the equal rights amendment should be interpreted by the Supreme Court to forbid any legal distinctions between men and women, it would nullify all existing and all future laws of this kind.

As appears from pages 936 to 954 of the Yale Law Journal, the equal rights amendment is expressly designed to nullify the State laws which give these economic and social protections to wives, mothers, and widows, and to provide in their stead that the rights and responsibilities of men and women in the areas covered by the nullified laws shall be absolutely coequal.

There are laws in many States which undertake to better the economic position of women. I shall cite only one class of them, namely, the laws which secure to women minimum wages in many employments in many States which have no minimum wage laws for men, and no other laws relating to the earnings of women.

If the equal rights amendment should be interpreted by the Supreme Court to prohibit any legal distinctions between men and women, it would nullify all existing and future laws of this kind.

In addition there are Federal and State laws and regulations which are designed to protect the privacy of males and females. Among these laws are laws requiring separate restrooms for men and women in public buildings, laws requiring separate restrooms for boys and girls in public schools, and laws requiring the segregation of male and female prisoners in jails and penal institutions.

If the equal rights amendment should be interpreted by the Supreme Court to forbid legal distinctions between men and women, it would annul all existing laws of this nature, and rob Congress and the States of the constitutional power to enact any similar laws at any time in the future.

Moreover, there are laws which make it punishable as crimes for men to seduce innocent and virtuous women under promises of marriage, to have carnal knowledge of girls under the age of consent, and to transport women in interstate or foreign commerce for immoral purposes. The militant advocates of the equal rights amendment assure us that women and girls do not stand in need of the protection offered by laws of this nature, and that the amendment, if adopted, will invalidate them.

With one exception, everything I have said concerning what the equal rights amendment will do to existing Federal and State laws is fully supported by the article entitled "The Equal Rights Amendment—A Constitutional Basis for Equal Rights for Women," which appears in the April 1971, issue of the Yale Law Journal.

I wish the time at my disposal made it possible for me to read this 114-page article to the Senate.

The Yale Law Journal disagrees with my analysis of the effects of the equal rights amendment in one particular only. It contends that the amendment will not nullify laws requiring segregated rest rooms for the sexes.

I submit there is no basis for this position. The amendment contains no exception or limitation, and is absolute in its terms. It must be remembered that constitutional amendments are interpreted according to the words in which they are couched, and not according to the assertions or wishes of their advocates.

My contention on this score is supported by a statement which wise women joined in submitting to the 91st Congress to express their opposition to the equal rights amendment. This statement expressly declares that the amendment will destroy "laws that require separate rest rooms for women workers."

Moreover, my contention finds support in the letter which J. Fred Buzhardt, general counsel of the Department of Defense, wrote to Senator Bayh on February 24, 1972. Mr. Buzhardt stated in part:

The question here is whether Congress would be required either to draft both men and women or to draft no one. A closely related question is whether Congress must permit women to volunteer on an equal basis for all sorts of military service, including combat duty. We believe that the likely result of passage of the equal rights amendment is to require both of those results. . . .

If this amendment allowed no discrimination on the basis of sex even for the sake of privacy, we believe that the resulting sharing of facilities and living quarters would be contrary to prevailing American standards.

Even if segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field there are often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforce.

MISGUIDED FAITH

Its advocates profess implicit faith in the potency of the equal rights amendment. They assert that it will usher in a new heaven and a new earth for American women. They are doomed to disappointment.

If I may borrow the words of Omar Khayyam, I will say that the equal rights amendment will undoubtedly shatter to bits what militant women deem "this sorry scheme of things entire," but will not "re-mold it nearer to the heart's desire."

The problems which life presents to women will remain and the effect of the amendment would be to diminish substantially the legislative power of the Congress and the legislatures of the 50 States to find solutions for them.

I am informed that the National Organization of Business and Professional Women has adopted the submission and ratification of the equal rights amendment as its project. I suspect that this organization is like some organizations to which I belong in which a handful of delegates to conventions adopt projects for the organization with little or no concern for the wishes of the membership of the organization as a whole.

Be this as it may, the equal rights amendment will not better a whit the position of the business and professional women who advocate its adoption. The reason for this is extremely simple.

The amendment will not remove any disabilities imposed upon women by the mores of society because these disabilities can be removed only by changing the attitudes of the people. Insofar as the law itself is concerned, business and professional women now have complete legal freedom to compete on terms of equality with men in all the relationships and undertakings of life.

MAJORITY OF WOMEN OPPOSE THE AMENDMENT

I am somewhat puzzled by the insistence of some of the supporters of the amendment that their sisters who become wives, mothers, and widows should be robbed of the legal protections which life and law have placed around them.

The overwhelming majority of American women oppose the equal rights amendment. This is made manifest by national polls conducted by experienced national pollsters.

There are 74,690,000 women of the age of 16 and upward in the United States. As a result of choice or necessity, 32,975,000—44.1 percent—of them are either working or seeking work outside of their homes. The remaining 41,715,000—55.9 percent—devote themselves exclusively to the keeping of their homes.

Millions of women in both of these groups find their deepest satisfaction and their highest fulfillment in enacting the roles of wives and mothers.

These women undoubtedly understand my love for the poem entitled "The Bride," which was composed by a gifted North Carolina poet, John Charles Mc-

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Neill, whose beautiful poetry has not yet found its way into anthologies of verse; and a poem entitled "John Anderson My Jo," which was written by the Scottish bard, Robert Burns, who had such an uncanny capacity to describe the simple things which enrich life.

"The Bride" pictures a bride and groom standing at the threshold of their married life, and "John Anderson My Jo" portrays a long-married husband and wife nearing the end of their joint journey.

I deem it not amiss to quote these poems in full:

THE BAIDE

(By John Charles McNeill)

The little white bride is left alone
With him, her lord; the guests have gone;
The festal hall is dim.
No jesting now, nor answering mirth.
The hush of sleep falls on the earth
And leaves her here with him.

Why should there be, O little white bride,
When the world has left you by his side,
A tear to brim your eyes?
Some old love-face that comes again,
Some old love-moment sweet with pain
Of passionate memories?

Does your heart yearn back with last regret
For the maiden meads of mignonette
And the fairy-haunted wood,
That you had not withheld from love,
A little while, the freedom of
Your happy maidenhood?

Or is it but a nameless fear,
A wordless joy, that calls the tear
In dumb appeal to rise,
When, looking on him where he stands,
You yield up all into his hands,
Pleading into his eyes?

For days that laugh or nights that weep
You two strike oars across the deep
With life's tide at the brim:
And all time's beauty, all love's grace
Beams, little bride, upon your face
Here, looking up at him.

JOHN ANDERSON MY JO

(By Robert Burns)

John Anderson my jo, John,
When we were first acquent,
Your locks were like the raven,
Your bonnie brow was brent;
But now your brow is bald, John,
Your locks are like the snow,
But blessings on your frosty pow,
John Anderson my jo!

John Anderson my jo, John,
We clamb the hill thegither,
And mony a canty day, John,
We've had wi' ane anither;
Now we maun totter down, John,
And hand in hand we'll go,
And sleep thegither at the foot,
John Anderson my jo!

CONCLUSION

Congress and the States should amend the Constitution advisedly and soberly, and not emotionally.

Constitutional amendments are for keeps. Unlike a statute, they cannot be easily repealed. Once adopted, they can be removed from the Constitution only by the amending process. Consequently, they are likely to remain in the Constitution, and either bless or curse the American people until the last lingering echo of Gabriel's horn trembles into ultimate silence.

After reading the article in the Yale Law Journal, Dr. Jonathan H. Pincus, associate professor of neurology at the Yale University School of Medicine, posed the question which now confronts the Senate:

Is the Equal Rights Amendment to be the Tonkin Gulf Resolution of the American social structure?

It is manifest that Dr. Pincus described the equal rights amendment correctly. Its probable effect is correctly summarized in a question I put to Prof. Philip B. Kurland and an answer he made to such question during the hearings of the Senate Committee on the Judiciary on the amendment. The question and answer were as follows:

Senator ERVIN. I take it from your statement that you are of the opinion that the most probable construction of the House-passed Equal Rights Amendment is that it would do these two things if ratified by the requisite number of States after submission by the Congress. First, it would nullify existing congressional and State laws which make distinctions between men and women which the legislative bodies considered to be reasonably justified by the physiological and functional differences between men and women, and second, that it would disable Congress and the legislatures of the 50 States ever to pass any such laws in the future unless the Constitution was amended to eliminate the House-passed amendment from the Constitution.

Professor KURLAND. I am afraid that is the way I read the meaning of the words that are set out in the House Joint Resolution.

I entreat Senators to take pause before they approve "the Tonkin Gulf resolution of the American social structure."

I entreat them to remember:

The moving finger writes; and having writ,
Moves on: nor all your piety nor wit
Shall lure it back to cancel half a line,
Nor all your tears wash out a word of it.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA

Mr. BOGGS. Mr. President, yesterday marked the beginning of the week that Congress earlier this year designated as a National Week of Concern for Prisoners of War and Missing in Action in Southeast Asia. As a sponsor of that joint resolution, I am pleased to take this opportunity to salute the National League of Families of American Prisoners and Missing in Southeast Asia for their efforts in having this week set aside to focus national attention on the plight of our POW's and MIA's.

The list of activities sponsored by the League of Families during the coming week is impressive. Beginning with a national day of prayer last Sunday, the league has organized nationwide displays, rallies, dedications, broadcasts, and letter-writing campaigns to dramatize the fate of their loved ones.

Mr. President, the relatives and friends of our POW's and MIA's, who have worked so tirelessly to make this week a truly meaningful observance for all Americans, live daily with anguish and frustration unknown to most of us. Their dedication to the release of their loved ones, some of whom have been held captive for as long as 8 years, is truly inspiring.

During the coming week, I hope that every American is touched by the appeals of the National League of Families on behalf of our prisoners of war and missing in action. The plight of these men, though most difficult for their wives and parents and children, must be the concern of every American of good conscience.

CLEARCUTTING ENDANGERS GAME

Mr. CHURCH. Mr. President, the Subcommittee on Public Lands, of which I am chairman, has been holding hearings on clearcutting, a logging practice that involves clearing all existing trees from a section of forest. Timber companies use this technique to reduce the cost of logging and to permit planting in the cleared areas of a single species of tree, such as pine. In much of the East and the South this means a conversion from mixed forests of hard and soft woods to soft wood alone, usually pine.

Our hearings brought out a number of disadvantages of the clearcutting technique: Soil erosion and siltation of streams, loss of nutrients from the soil, failure to maintain forest regrowth, and unattractive scenery to those visiting our national forests.

Those favoring clearcutting as a logging technique often pointed to benefits to wildlife. Deer and other game are presumably provided browse in the cover that grows on the cleared areas. This argument, however, has been challenged.

Mr. Charles D. Kelley, Alabama fish and game director, recently spoke to the Alabama Conservancy on the relation between clearcutting and game management. Contrary to the conventional wisdom, he found that clearcutting hurt rather than helped game in Alabama. He has received reports from professional game managers saying that there was "immediate damage to all species of wildlife. Squirrel and turkey habitat lost permanently to areas planted in pines." From another area of Alabama, he found that "clearcutting and replanting to pine were detrimental to most species of game, some immediately, others over a longer period of time." Another biologist in Alabama states "I am convinced that clearcutting is the most serious threat to wildlife that we face today."

I ask unanimous consent that the address by Mr. Kelley at Auburn University, Auburn, Ala., on February 26, 1972, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT PRESENTED BY CHARLES D. KELLEY, TO THE ALABAMA CONSERVANCY, FEB. 26, 1972, AUBURN UNIVERSITY, AUBURN, ALA.

I appreciate the opportunity of appearing here today and consider it an extreme pleasure to continue the discussion on what appears to be one of the greatest timber-wildlife problems which we have faced in many years. Timber management and its relationship to wildlife has been a topic for many heated discussions and it is time that we think seriously of reaching a common ground whereby all interests can get reasonable consideration.

I am not here to excuse the actions which have been taken, nor am I here to needlessly criticize individuals or companies unless such criticism has a bearing on reaching a common ground.

In preparing information for this presentation, I contacted several of the game biologists serving here in Alabama. I offer excerpts from their reports to give you some idea of the professional game managers' feelings about the clear-cut timber operations and to show that the practice and related problem is rather widespread in Alabama.

A report from southeast Alabama stated: "Timber was cut to the very edge of the stream. Many tops had been deliberately pushed into the water, others piled on the banks. An attempt was made to burn these piles but with little success. Erosion from the cleared areas is evident. Water has been retarded and access to the stream bank and to the stream itself is most difficult. The deeper areas of the creek are fast filling with silt. Flooding has increased due to the retarded runoff."

From southwest Alabama the following was received.

"Immediate damage to all species of wildlife. Squirrel and turkey habitat lost permanently in areas planted to pines. After one to two years, deer, quail and rabbit habitat returns, then is again lost as pines mature and shade out other species of desirable plants. Long range damage affects all species of wildlife. Loss of mast restricts carrying capacity of most wildlife species. Erosion following clear-cutting is detrimental to streams. Clear-cutting in District VII usually exceeds 400 acres, some up to 3,000 acres. Clear-cutting of large areas is resulting in strained relations between sportsmen, communities and the companies carrying out clear-cutting practices."

From north central Alabama came the following: "Clear definition needed on 'clear-cutting'. Believe the extent of land cleared and the replanting of pines rather than the practice itself is the 'bone of contention'. Clear-cutting and replanting to pine detrimental to most species of game, some immediately, others over a longer period of time. Clear-cutting by different companies varies."

A west Alabama game biologist stated that "large areas in this area clear-cut, followed by spraying to kill hardwood reproduction, then replanted to pines on a thirty-five year rotation. Clear-cut areas range in size from forty to several hundred acres—operations severely affecting small game and turkey."

Comments of another biologist were as follows: "I am convinced that clear-cutting most serious threat to wildlife that we face today. Wildlife losses greater than benefits received. Some clear-cutting in all three state game management areas. On one game management area, over 20,000 acres clear-cut and replanted to pines in last twenty years. Clear-cut area usually a solid block compartment of about 1,000 acres each. Another company has been clear-cutting approximately 20,000 acres scheduled for completion in the next three to four years. On a clear-cut area on the Talladega National Forest (Hollins Management Area) several turkeys were found dead following the seeding of the area with pine seed treated with a highly toxic chlorinated hydrocarbon."

From northwest Alabama came the report that "most clear-cutting in this area is confined to large timber companies and the U.S. Forest Service. There have been instances where a refuge manager has been denied the right to clear one acre for wildlife plantings because of the possibility of soil erosion, but just a sort distance away the same people who refused to agree to the clearing of a one-acre food patch clear-cut an area of approximately 200 acres."

The above reports are not pleasing but do represent what has happened over large areas of Alabama. As evidence by the reports, there has been large scale clear-cutting and little real consideration given to wildlife.

An exception to the majority practices is the consideration given by some companies and individuals to much smaller clear cuts and extensive use of controlled burn to benefit both timber production and wildlife. Recognition is also given to the design of cuts and the leaving of hardwoods in key locations. At least one major company has made major changes in recent years to better recognize wildlife needs, and indications are that others are planning to follow suit.

As Director of Alabama's Game and Fish Agency, I am charged by law to protect and enhance the fish and wildlife resources and in doing so, I am attempting to consider all reasonable factors involved with this objective. To arbitrarily state that clear-cutting is all bad or that no cutting is all good would not, in my opinion, be proper. I have lived in Alabama all my life and have witnessed a great deal of real progress and a sizeable portion of false progress, and to the best of my ability I have attempted to separate the two and prevent objections to realistic long range progress for our state.

Fish and wildlife resources are the products of our waters and our land. How we manage our land and water determines the amount of fish and wildlife that is present in any area.

With the demand for more outdoor recreational opportunities occurring at the same time that large areas of fish and wildlife habitat are being destroyed or degraded as a result of the ever increasing human population, the need for a multiple use concept for land and water is becoming more pressing with each passing year.

We have heard much about a multiple use concept for our forests and streams which includes hunting, fishing and other outdoor recreational activities. Unfortunately, the multiple use concept up until this time appears to have been more for propaganda purposes rather than for action.

An excellent example is the operation carried on by the U.S. Forest Service. This agency adopted a "multiple use concept" on forest lands on June 12, 1960. Multiple use practices on national forest lands as originally conceived included timber, wildlife, water, range and recreation. Today, twelve years after the program was initiated, only one wildlife technician is employed by the Forest Service in Alabama as compared to thirty graduate foresters. Of the 1972 budget for Alabama of nearly two million dollars, only $18,000.00 is allotted for fish and wildlife purposes. Over four and one-half times as much money will be spent by this federal agency in Alabama for forestry practices than will be spent on all other multiple use practices combined.

Despite the very meager effort by the U.S. Forest Service to develop forest service land on a practical multiple use basis, recreational visits to these lands by the general public have continued to increase each year. This fact alone underscores the urgent need for immediate implementation of the multiple use concept.

Frankly, we now enjoy a very favorable working relationship with the U.S. Forestry personnel in Alabama and feel that they are sincerely concerned about the failure to implement a sound multiple use program. Unfortunately, the policies are established well above the level of the Alabama office and there must be some soul searching throughout the U.S. Forest Service if we are to come to a state of cooperative effort rather than one of continued arguments.

During the past several decades, many forestry practices have been initiated which benefit both our forests and our wildlife. Some of these beneficial practices include selective cutting which results in a forest of both large and small trees that assures continuing income to the landowner and good habitat for wildlife. Control of wildfires and prescribed burning are also beneficial to wildlife and the forest.

Unfortunately, there have been other recent practices that some foresters claim to be exceedingly profitable, but are detrimental to our fish, our wildlife, our land and our water. These detrimental practices include clear-cutting of large blocks of hardwoods or mixed pine-hardwood forests and the replanting of these areas to pure stands of pines. Clear-cutting of large blocks of hardwood, as well as pine-hardwood forests are being carried out by governmental agencies, large timber companies and in some instances by private individuals.

Much misinformation and distortion have been used in the past to justify clear-cutting. A classic example of false propoganda in this field is a news article that appeared recently in a number of newspapers in Alabama and nearby states. The headlines read "Wildlife Flying High on Pulp Firm Lands." I quote the news report in part:

"This will make environmentalists and ecologists happy; Alabama's pulp and paper companies, which own thousands of acres of Alabama woodlands, are doing great things for wildlife in those forests. More wild turkey, deer and quail are in these woods today than ever before. The fourteen news media people on a Southern Forest Institute tour of Georgia and Alabama forests this week saw some of the things that big companies are doing to improve the environment for wildlife. At the Pickens County forest holding of . . ."

I end the quote here as enough has been said.

Now let us examine what really did occur. The group visited a game preserve in west Alabama that has been developed as a hunting area for company officials, special guests, employees and prospective customers. The company has spent large amounts of money on this preserve to increase deer, turkey, quail, squirrel, dove, waterfowl and other wildlife. The company has constructed a fine hunting lodge and there is no doubt that there is more wildlife on this game preserve than in years past. This explanation was not included in the news release. Neither did the news release reveal the fact that as a result of certain forestry practices by the same company, there is less game on other areas of company-owned lands now than was present a few years ago.

The practice of clear-cutting has had wide publicity during the past several years. Congressional subcommittee hearings have been held on the subject, both in Washington and in other cities throughout the nation. On April 20, 1971, Senator Gale McGee, Democrat from Wyoming, introduced a bill, S. 1592 to ban clear-cutting of timber on federal lands for a period of two years. Few meetings that are attended by concerned conservationists adjourn without the subject of clear-cutting having been discussed.

There does not seem to be a "clear-cut" definition for "clear-cutting." In Alabama some companies cut all brush and trees, burn the debris and thoroughly disc the area. Others cut all brush and trees, pile the debris in piles or push it into the nearby streams, but do not disc, while still others cut all merchantable poles and logs, spray the area with herbicides to kill hardwood, but do not otherwise disturb the soil. All of these operations are classed as clear-cutting by the landowners.

In this state, clear-cutting operations are almost without exception the first step for converting the land into even age pine production. Both clear-cutting and pine monoculture go hand in hand, and they will be discussed as far as practical as a single activity.

Forest lands provide the necessities for survival for many species of wildlife and the removal of all trees from large blocks of land deprives wildlife of a suitable enironment. Wildlife, in order to survive in clear-cut areas, is faced with two alternatives. It must adapt to the quick and drastic change in its environment or move to a suitable environment; otherwise it dies.

Clear-cut areas planted to pines provide habitat for rabbit and quail for a period of two to three years, and deer habitat for a period of up to five years. Although deer habitat may be present in some degree for a period longer than five years without control burning, vegetation usually becomes so dense on the area after this period that deer cannot be successfully harvested by the hunter. For all practical purposes, pure pine plantings in many areas after five to seven years become a relative wildlife desert. If the planting is not too wide, wildlife will sometimes pass through, but without suitable food and cover, it will not tarry. Turkey, squirrel and raccoon habitat is destroyed immediately upon clear-cutting, and if the area is planted to pure pine, it will not be productive for these species. Clear-cut areas planted to pine that are long and narrow do not appear to pose as serious a threat to wildlife as do large, wide, solid compartments, even though the total acreage in the long and narrow strips may be the same size or even greater. The present trend for clear-cutting in many areas of Alabama appears to be in large, solid blocks from several hundred acres to 3,000 acres.

On observing clear-cut areas throughout the state, a number of severe environmental problems have been noted in addition to those already mentioned.

A number of clear-cuts have been made on steep slopes which have created a severe erosion problem. On at least some of these steep areas, furrows for planting seedlings have been plowed straight up and down the hill and no attempt was made to follow the contour. The results have been the creation of large gullies and a much greater erosion problem than was created by the clear-cutting alone. This eroded soil enters nearby streams and fills the stream channel for many miles downstream. Not only is fish habitat destroyed in the immediate area, but fish habitat is degraded on the entire watershed.

On a large clear-cut area on a stretch of one of the game management area located on a major timber company's lands, bulldozers were used to push tops, stumps, dirt and other debris into a creek until the creek was filled. That which could not be pushed into the creek was piled on the creek bank. Needless to say, fishing opportunities on this creek have been greatly depreciated for many years in the future.

An area in Wilcox County which contained some of the best turkey hunting in the state was leased to a large timber company for sixty years. Over half of this 1,500 acres has now been clear-cut and planted to pines. Although an occasional turkey may be found in the area that remained uncut, quality turkey hunting on this land no longer exists.

I have stated the case as we see it in our Game and Fish Agency and have referred to situations which have now made history. During recent months, I have had meetings with representatives of the forest industry and have worked with these people toward formulating guidelines which will not necessarily be pleasing to the wildlife interests, nor will they be pleasing to large numbers of timber producers in Alabama. I have found that, among the timber producers in our state, there are many in high positions who are concerned wildlifers and faced with the dilemma of trying to satisfy timber production demands while maintaining reasonable wildlife populations. Basically, the timber interest is looking for a common meeting ground for two reasons: (1) the desire of many of these people to maintain lands where wildlife can be given reasonable treatment and (2) mounting pressure from an aroused public to ban clear-cutting per se.

As stated earlier, I am not advocating, nor do I intend to advocate, the banning of clear-cutting on private lands in Alabama, but I will continue to devote my efforts and the efforts of my staff to assure that in producing the timber products in Alabama that wildlife is not eliminated or greatly decreased in the process. Frankly, I am convinced that although we have realized tremendous success with the wild turkey in Alabama, a continuation of this success is not expected and in fact, a rapid decrease in population is expected if the program to eliminate large areas of hardwood with a conversion to pine is continued. The same holds true for the fate of the squirrel and other lesser hunted species such as racoon, opossium, etc.

The dark side has been stated and now for something more pleasant.

I was extremely pleased to receive a policy statement adopted by the Board of Directors of the Alabama Forest Products Association at a January meeting. The policy is as follows:

A. Areas to be harvested by the clearcutting system should be kept as small and as narrow as practical. Large, wide clearcuts should be avoided.

B. Clearcutting should not be employed on an area adjacent to lands recently harvested by this method. The lapse of time should be sufficient for the newly established forest growth to present a pleasing appearance and afford game cover.

C. Hardwood types should be left along stream beds and drains and managed as hardwoods. Clumps of hardwood trees, including den trees and good food-producing trees, should be left in other areas.

D. The forested area along stream beds should not be clearcut but managed as uneven aged forest.

E. Forested strips should be left along highways for their aesthetic value until such time as harvested areas behind them are tall enough for their removal.

F. Control burning should be considered at periodic intervals for hazard reduction and to encourage the growth of food plants for wildlife.

G. Streams should be kept clear of tops.

Although this is merely a recommendation to Association members and does not go as far as some would expect, I do feel that it is a recognition of many members' desire to retain wildlife and a further recognition of the public pressure which has been brought to bear in recent years. I feel that it is a giant step toward a common meeting ground and it is my desire and intent to continue to meet with the forest products industries and to attempt to gain compliance with the policy and even improve the policy where needed in future years.

In closing, I must state that I feel that we have fussed long enough and the time has now arrived whereby we should get together to see what can be done toward the production of timber and the retention of quality wildlife in Alabama.

UNEQUAL RIGHTS

Mr. DOLE. Mr. President, today I wish to emphasize my belief that we, as a nation, have not committed ourselves to the concept of providing equality of educational opportunity for all children—an education based on the unique needs of the child, rather than a single stereotype.

The problem as it pertains to the handicapped is serious, particularly because it is generally true that education for the handicapped can only be as good as our Nation's commitment to and success in providing adequate educations for the so-called masses of normal children.

Our failure to guarantee adequate instructional services to handicapped children not only inflicts undue hardship upon the child and his family, but afflicts the Nation as a whole. As adults, for example, our handicapped children today would have an earning capacity of more than $15 billion.

The problem is well stated in the March 3 Wall Street Journal article entitled "Unequal Rights," written by David Gumpert, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNEQUAL RIGHTS—DENIAL OF EDUCATION TO ABNORMAL CHILDREN SPURS PARENT PROTESTS

(By David Gumpert)

MEDFORD, MASS.—Every weekday morning at about 7:30, 14-year-old Wayne Keel stations himself by the living-room window to watch the yellow school bus pick up the children from neighboring houses in this pleasant Boston suburb. As he watches the bus make its rounds, the thin boy turns to his mother and asks, "Go to school?"

Sometimes Mrs. Keel tells Wayne that school is closed. On other days, she tells the boy that he's too old to go to school. Wayne never presses the issue, but the mother knows her son isn't satisfied, because the question always comes up again. "I think he's really puzzled," Mrs. Keel says. "Every day he looks out and sees that bus, and he can't understand why he isn't going to school."

The morning ritual in the Keel household has been going on for almost two years now. The reason: Wayne Keel is afflicted with autism (a little-understood form of schizophrenia characterized by withdrawal) and also shows signs of mental retardation. His schooling stopped in April 1970, when the special private institution that he'd attended said the boy's behavior made further assistance impossible.

Now, Wayne Keel has nowhere to go for schooling. The Medford public school system says it doesn't have any regular classes for severely disturbed children. The few state and private schools that are equipped to handle children like Wayne are full. Since mid-1970, the boy's sole schooling has consisted of sporadic private tutelage, ranging from one-and-a-half to 10 hours weekly, provided by the Medford system. So Wayne, who has no friends or playmates, spends his days pasting together paper rockets and buildings, and babbling to himself.

A COMMON PLIGHT

The plight of Wayne Keel, unfortunately, is far from uncommon in the U.S. According to Department of Health, Education and Welfare estimates, fewer than three million of the nation's approximately six million handicapped children of school age are receiving adequate special education. And of those who aren't receiving special attention, slightly more than two million are either in regular classes, where they're often falling and learning little or else they're receiving a minimal amount of home instruction, like Wayne. About a million receive no instruction whatsoever.

"This means there are more than three million children for whom the American school system has said, 'We don't have the time or the resources to provide you with an appropriate education,'" says Fred Weintraub, assistant executive secretary of the Council for Exceptional Children, a nonprofit organization for the handicapped based in Arlington, Va.

Until recently, protests have been rarely voiced by parents whose handicapped children were excluded from special programs. In the vast majority of such cases, however, this lack of action hasn't been caused by apathy. Rather, many parents were reluctant to discuss their abnormal children because of the real or imagined social stigma involved in the siring of retarded or emotionally disturbed offspring.

CHANGING ATTITUDES

But attitudes have changed, largely because of increasing exposure in the media and in discussion groups of the many families (including prominent families) whose children are handicapped. Around the country, parent groups are going to court in an attempt to force school systems to provide special classes for abnormal children. For example, class-action suits on behalf of abnormal, out-of-school children have been filed in the District of Columbia and a number of states, including California, Pennsylvania, Michigan, New York and Massachusetts.

Such activity is beginning to have some effect. Federal courts in Pennsylvania and the District of Columbia have already cleared the way for at least some handicapped children to be enrolled in special public-school classes. And on both federal and state levels, legislation is being proposed to grant handicapped children the same educational rights as other children have. (Among the states, Florida, Georgia, Massachusetts and South Carolina are in the process of overhauling their laws on education to benefit handicapped children.)

"The incredible number of . . . handicapped not receiving any educational services is one of the great tragedies in the American way of life," asserts Rep. Charles A. Vanik (D., Ohio), sponsor of a bill in the House that would amend the 1964 Civil Rights Act to prohibit discrimination against the handicapped in federally assisted programs, including education-aid plans. The House bill and an identical bill in the Senate are pending.

Federal agencies have also become increasingly active in protecting the educational rights of the handicapped. According to Edwin Martin, associate commissioner for the Health, Education and Welfare Department's Bureau of Education for the Handicapped, federal spending to spur the education of the handicapped has increased to an estimated $215 million this year from $45 million five years ago.

OPTIMISM FOR 1980

Mr. Martin also cites the fact that the number of handicapped children being placed in special classes has been increasing at a rate of about 100,000 a year for the past five years—partly because of increased federal spending. He adds that this rate should accelerate to the point that by 1980 all handicapped children will be receiving an adequate education.

But such acceleration is dependent on state cooperation—and school systems in most states have traditionally done little for handicapped children. To be sure, some public schools have established special classes for the handicapped; but more often than not these classes aren't all-inclusive in their acceptance of pupils, and many will accept only those with the mildest disabilities. Medford, for example, has elementary school classes for mentally retarded children, for children with mild emotional disturbances and for those who are blind or visually handicapped; it has no classes for other types of handicapped children. (State residential schools, which usually do accept severely disabled children, are in most cases hopelessly overcrowded and understaffed—New York's highly publicized Willowbrook being a case in point.)

"The more serious the handicap, the more difficult it is to get services," Mr. Martin says. "It's kind of as if a doctor would treat you if you had a cold but not if you had pneumonia."

Certainly, the range of abnormalities afflicting handicapped children is wide. Such abnormalities, which often stem from birth defects, include emotional disorders, deafness, blindness, cerebral palsy and other types of brain damage, and mental retardation. It's estimated that 10% to 12% of all school-age children have one or more of these handicaps.

Despite the problems of educating all these children, Mr. Martin believes further state cooperation is possible. Furthermore, he says, it's "not an unreal possibility" that the government might consider withholding federal funds from a state that doesn't fully cooperate in the education of handicapped children.

On their side, public schools argue that they're not equipped to cope with the special problems of many handicapped children. Some physically handicapped children, the schools say, aren't toilet-trained. Emotionally disturbed children, they contend, often disrupt classes and are sometimes violent.

SPECIAL CLASSES? "TOO COSTLY"

What about special classes for these children? "Too costly," school administrators say. They point to the fact that educating a handicapped child can cost up to three times that of educating a normal child—at a time when most school systems across the country are squeezed for cash. And some administrators say that even if funds were available their use could often be wasteful since, they argue, many handicapped children will never benefit from schooling.

Such arguments have little sway with many educators and parents of the handicapped. "If a new apartment house goes up, and there are more children, the schools find facilities," says Lewis Klebanoff, a professor of special education at Boston University and an editor of The Exceptional Parent magazine.

Others charge that public schools often don't care what happens to handicapped children. "Some principals simply tell parents, 'The schools aren't for crippled kids,'" says Larry Brown, director of the Task Force on Children Out of School, a Boston group that has studied the exclusion of handicapped children from public schools.

The contention that many handicapped children can't benefit from education is also dismissed by numerous educators. While these educators concede that some children are so severely disabled that they'll require lifetime institutionalization and that schooling would be of little help, they add that the vast majority—possibly 95%—of handicapped children could benefit from proper educational treatment. "There's no reason why, if we spend a few dollars, these kids can't fit smack into society," says Frances Connor, a professor of special education at Columbia Teacher's College in New York.

According to others who favor aiding the handicapped, the payment of these "few dollars" now will also be cheaper for the public in the long run. HEW's Mr. Martin, for example, says that more than 30% of the 2.5 million handicapped children expected to leave school during the next five years may need either partial or full public support in the form of institutionalization or welfare. Mr. Martin adds that it costs about $250,000 for lifetime institutionalization or welfare. But with proper education, he says, "at least 90% of the handicapped are potentially employable."

Money, however, will not provide the entire solution to the problem. Other than the absence of funds, a major obstacle exists: finding all handicapped children. Many state and local school officials say they don't know how many handicapped children are being denied a proper education. In Massachusetts, for example, Joseph Rice, associate commissioner of special education for the state, readily concedes that he doesn't know the number of handicapped children who aren't in school. "In theory, we ought to have records of this," Mr. Rice says. "In practice, we don't." (The location problem is compounded by the fact that some of the less severely handicapped children are enrolled in regular classes and are being simply dismissed as slow learners.)

The early discovery of handicapped children is particularly crucial, educators say, since intelligence and physical coordination develop to the greatest extent in the earliest years. For this reason, HEW's Mr. Martin says his bureau has been advising states to begin "preschool programs (for the handicapped) as a priority." Nevertheless, most educators concerned with the plight of the handicapped agree that even delayed discovery and treatment can be productive.

The history of 20-year-old Laura Bernard is illustrative. Laura has slight brain damage but went through the fourth grade before her condition was noticed, says her mother, Martha Bernard, president of the New York Association for Brain Injured Children. When the Bernards realized that their daughter wasn't learning to read or write, they had her examined by a neurologist. Following the neurologist's discovery of "minimal brain dysfunction," Laura was placed in special classes for the remainder of her school career and today she is learning to be a teacher's aide in a special program at New York University for handicapped people and slow learners.

Laura Bernard's brain damage is slight, but educators say even severely handicapped children can profit from special classes despite years of neglected treatment. For example, the Campus School, a state-supported school for the handicapped operated under the auspices of Boston College, Chestnut Hill, Mass., reports that it has had success in preparing many types of severely handicapped children for school programs from which they had previously been excluded.

According to Dan McCarthy, director of the Campus School, his institution last year moved four of its 30 students into regular school programs. Mr. McCarthy says one case involved a 14-year-old emotionally disturbed boy with cerebral palsy who had been sitting home for a year prior to enrollment in the Campus School. After one year of special treatment, the director says, the boy was admitted to a Boston private school for mildly handicapped children; prior to his treatment, the school had rejected the boy.

"There's no question even the most severely handicapped children can be helped with the proper program," Mr. McCarthy says. He adds, however, that the Campus School, which this year hopes to integrate about 20 of its 57 students into regular school programs, hasn't been able to enroll all the children it would like because of a shortage of state funds. The school currently has a waiting list of about 70, Mr. McCarthy says, and most of these applicants are sitting at home.

Such children may ultimately be helped by the courts—as has already occurred in Pennsylvania and Washington, D.C. Last year's successful suit in Pennsylvania, for example, claimed that denying an education to some mentally retarded children violated the equal protection provisions of the Constitution's 14th amendment. The suit, filed in federal district court by the state's Association for Retarded Children, resulted in a consent agreement that, in effect, obligates Pennsylvania to provide schooling for all retarded children in the state.

SUCCESS FOR SEVEN CHILDREN

The successful suit in Washington, D.C., was filed in federal district court by the National Law Office, a legal-aid organization, on behalf of all handicapped children in the city. Specifically listed were seven handicapped children, who had been excluded from public schools. The court subsequently ordered the Washington school system to immediately provide the seven children "with a publicly supported education suited to

their needs" and to compile a list of all city children who are excluded from school. The court is expected to decide about the latter group in the near future.

Court action on handicapped children's education rights isn't always immediate or affirmative. In New York, for example, a federal appeals court recently received a case brought by parents of two brain-injured boys, who, the parents claimed, were being denied an education. The federal court, however, referred the case to state courts, where an outcome is pending. (Lawyers in such cases say they prefer to avoid state courts, which, they say, tend to be more protective of state school officials and less receptive to class-action suits than federal courts.)

Expeditious court action favoring the handicapped may pose its own problems. Some special education experts express concern that hasty court action will leave the public schools unable to cope with a flood of handicapped children. "I'm worried that all this is being dumped on one agency," says I. Ignacy Goldberg, professor of special education at Columbia University's Teacher's College; he cites the fact that Pennsylvania public schools must place all mentally retarded children by next September.

Nevertheless, as time goes by, uneducated handicapped children and their parents continue to suffer. Robert Dickinson of Spencer, Mass., for example, worries that his nine-year-old brain-damaged son, Tony, may never learn to speak or otherwise communicate since the youth has never had proper training.

Tony Dickinson is physiologically able to speak, and Mr. Dickson says he has been told by speech therapists that the youth, with proper special training, might be helped to speak to some degree and that he also has the potential to learn sign language. Tony, however, has spent only slightly more than a year in school and now spends most of his days watching television. (He is also tutored an hour a day in academic subjects.)

"We must develop some communication before his neurological growth stops," Mr. Dickinson says. He adds that he has inquired about enrolling Tony at special schools as far away as Kansas and Georgia—all to no avail.

Here in Medford, Barbara Keel, mother of autistic Wayne, says that caring for her son "keeps me at home almost constantly." Mrs. Keel has one source of optimism, however. In early April, she says, Wayne will be enrolled in a four-week evaluation program at a state school to determine whether he has the potential to learn a vocation.

Meanwhile, Mrs. Keel says, Wayne's hyperactivity prevents her taking him on outside excursions. She also worries about the absence of playmates.

"I really think he needs someone besides me," she says.

AIR TRANSPORTATION TO NEW ENGLAND

Mr. TALMADGE. Mr. President, last week the distinguished senior Senator from New Hampshire (Mr. COTTON) placed in the RECORD correspondence he had addressed to Delta Air Lines.

The Senator's objective was to express his concern with respect to the future air service to northern New England, particularly New Hampshire and Vermont, should the pending merger of Northeast Airlines into Delta Air Lines be consummated.

I can well understand the Senator's concern, because air transportation is important to the economy of any region.

As the Senator knows Delta Air Lines is based in my State of Georgia—and I must say Delta does a pretty good job in serving all of our State, including smaller communities such as Augusta, Columbus, Brunswick, Macon, and Savannah in addition to our capital, Atlanta. I have never known Delta to shirk its responsibilities with respect to the smaller communities it is required to serve.

I ask unanimous consent that the reply of Delta Air Lines to the letter of the senior Senator from New Hampshire be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DELTA AIR LINES, INC.,
Atlanta, Ga., March 23, 1972.

Hon. NORRIS COTTON,
U.S. Senate, Committee on Commerce, Washington, D.C.

DEAR SENATOR COTTON: This is in response to your letter of March 20, 1972, to Mr. Tom Beebe, Chairman of Delta Air Lines' Board of Directors and Delta's Chief Executive Officer, concerning airline service in New England. In that letter you informed us of certain data which appeared in the *Commuter Airline World* of January 1972 (which we have not yet seen), and posed certain questions involving Delta's planning with respect to northern New England service. Specifically, your question was whether you properly interpreted Delta's underlying intention as portending a drastic curtailment of certificated air service to northern New England following consummation of the Delta-Northeast merger.

We cannot tell you whether the report in *Commuter Airline World* is accurate or not. As stated above, we have not seen the article, and would comment only after seeing it in its entirety. We can state, however, that point number 5 as summarized in your letter of March 20, 1972, is not accurate, if it speaks as of a time immediately following consummation of the merger.

And the latter is the point which I want to make perfectly clear to you. Neither statements made by Delta at its informational meeting with New England commuter carriers, nor the rationale embodied in our recent realignment application (filed just prior to the prehearing conference in the *New England Service Investigation*) spoke of a time immediately following consummation of the merger, but rather as of some future point in time following *conclusion* of the *New England Service Investigation*.

So that our overall position will be clear, following is a recapitulation of the position which Delta has expressed consistently in both the merger proceeding and the pending *Investigation*:

First: Upon consummation of the merger, Delta will inherit all of Northeast's authority, obligations and rights in New England, including northern New England. In addition to various service improvements which Delta will inaugurate as a result of the joinder of the Delta and Northeast route systems, Delta will continue serving all markets which are being served by Northeast in New England on the date of merger consummation.

Second: Northeast, of course, is suspended at a number of points in New England. As these suspension authorities come up for renewal (whether the suspensions are in favor of service by a third level carrier, or otherwise) Delta will deal with them on a case-by-case basis, pending completion of the *New England Service Investigation*.

Third: In the *New England Service Investigation*, Delta will propose what it thinks will be the best possible future service pattern *for New England*, including trunkline service where it appears to be in the public interest and economically feasible, and service (with or without subsidy, as circumstances may dictate) by a local service carrier and/or a third level carrier where that appears best calculated to serve the traveling and shipping public. Delta's realignment application was filed to facilitate this thorough exploration of New England's service needs in the *Investigation*. Delta would not expect to receive subsidy itself under presently foreseeable circumstances.

Fourth: Once this thorough exploration and investigation is completed, Delta will be bound by whatever the Board decides in the *Investigation*. Delta will, of course, live up to those obligations and responsibilities to the best of its ability.

Ever since the Delta-Northeast merger was first proposed, Delta has supported a thorough investigation of northern New England's service needs, such as that now getting underway in the *New England Service Investigation*. This is the proceeding in which the future of northern New England's air service can best be resolved, with whatever changes are required by the public convenience and necessity, based upon the record to be developed.

By contrast, further delay in deciding the *Delta-Northeast Merger Case* would do nothing but further delay New England service improvements, and may well result in Northeast's demise and the loss of job opportunities for hundreds of New England citizens. Northeast's survival is at stake, and the Board's decision to examine the problem in two separate proceedings—the *Merger Case*, concerned with the problems of Northeast and its several thousand employees, and the *Investigation*, concerned with the long-range overall New England service pattern for the future—has made good sense.

These same basic considerations require all reasonable expedition in the *Merger Case*. On the other hand, the *Service Investigation* will require an in-depth and comprehensive examination of all facets of New England air service problems.

On the assumption that the merger will be approved at an early date, Delta is devoting its attention to these problems with vigor, and will continue to unfold its thinking as our studies progress. We sincerely hope that you will understand our real and serious concern with all facets of these problems.

Respectfully,

R. S. MAURES.

TOWARD A NEW ERA OF AMERICAN TECHNOLOGICAL RENEWAL

Mr. BROCK. Mr. President, this year, as every 4 years, the country will again go through the process of electing a President. These months of campaigning illustrate well the diversity and size of this country. The magnitude of our United States allows for many variations, in economic as well as in cultural development. Some of these economic variations have come about voluntarily; with some communities electing to keep an agricultural rather than industrial way of life such as the Amish of Pennsylvania, other having been swept up in an industrial whirlwind of economic growth, such as the cities bordering on New York and the suburbs of Los Angeles. An economic map of the States would present a picture of a multitude of cities, counties and States, all at widely differing plateaus on the development scale.

In the past, this pattern has worked, out of coincidence, much to the favor of the Nation, with areas once considered economic backwaters, such as my own State of Tennessee, now becoming the growth nodes of the country. Older industrialized areas are shifting into new growth patterns emphasizing the nature of an increasingly service-dominated economy.

Today, communities throughout America find their fates more closely interlocked with America's ability to maintain its technological lead than ever before in our history. The small town no longer produces agricultural products but now has its own electronics or plastic pipe factory.

The face of America has changed. The need for a new policy for technology has been established. And the President's program for that purpose will successfully carry out the mandate to keep America in the forefront of technological change.

The pattern of dynamic change in the American economy has evolved out of the freedom of the American system. Free exchange of ideas, and the accompanying freedom to build and benefit from this building have been the blocks of progress used in economic development of the country. As we grew, the fund of knowledge required to sustain this growth grew. In 1966, Professor Schmookler, one of the foremost students of economic change said:

> Society generally uses far more of its resources to disseminate technology than to advance it. This is plain from the far greater manpower, including that of students, devoted to formal and informal technological education than to discovery and invention. Indeed the task of imprinting existing technology on each new generation seems to grow in size and complexity with each increase in the stock of knowledge.

The composition of this growth has been challenged of late, but the necessity for the further development of knowledge on controlling our environment has not. Whether you are for economic development through industrialization, or against it, both sides recognize the necessity for further development of technical know-how. Only by this further development can either side hope to achieve its respective goal.

What has perplexed the policymakers as well as the students of growth is the question of how a continuous stream of science and technology can be fed into the system to insure this growth in knowledge. An equally difficult question has been just what proportions of pure science are needed in combination with technological know-how to bring the desired result.

First and foremost, I would like to say that no one has come up with complete answers to these two questions. Economists from Schumpeter to Kuznets to Professor Schmookler have attempted to isolate these proportions so as to cast some light upon how much we should expect and to make sure whether we are moving ahead or falling behind in this very important enterprise. Debates have only served to illustrate how much more we need to know.

This need to know was recognized by the administration and prompted the first message of its kind to the Congress on science and technology.

In his message the President outlined efforts to stimulate support for research and innovation in the private sector, efforts to strengthen collaboration between Federal agencies and State and local governments, as well as efforts to strengthen cooperation between the United States and other nations in science and technology.

These efforts are already well underway in the National Bureau of Standards' experimental technology development and applications incentives program as well as a complimentary program, administered by the National Science Foundation.

The approaches being considered as well as those already underway emphasize the high quality of talent and understanding that is being brought to bear on this problem.

Problems of governmental imposition of priorities are wisely being avoided as the program will heavily rely on private sector initiative for the identification of opportunities in which Government and business can enter into cooperation.

The Bureau of Standards has indicated that preference will be given to experiments showing promise of stimulating additional research and application without further investment of Government funds.

Preference will also be given to experiments in which there is evidence that more effective transfer of research and development to applications can be achieved and where similar efforts are not already underway.

These preferences closely correspond with what available evidence we have on what to do and what not to do to foster a climate of sustainable self-generating discovery and adoption of new technology.

Rather than operate in competition with existing efforts in high technology areas, the Government is purposely seeking out industries in which the size of the individual companies in the industry is small and their technologies dated. There are industries where a number of companies may wish to mount a new technological effort of substantial scale. Without Government assistance such efforts would be impractical. One such operation is already underway with the National Retail Merchants Association, a trade association representing more than 26,000 retailers. In collaboration with the National Bureau of Standards, NRMA has begun work in the areas of automated merchandise and customer identification systems and in formulating the technical evaluation criteria for assessing the high technologies which may be applicable to these systems.

The program will also include an evaluation of existing programs for inventors and the development of experiments to render new forms of assistance to inventors and small firms.

Other areas in which the effort will be mounted are experiments dealing with the transfer of Government-held technology, the use of Government procurement as an R. & D. incentive, the stimulation of the adoption of new technology by the aggregation of users with diverse requirements and dissemination of knowledge about advances in science and technology by way of published studies, symposia and demonstration tests. While in the past, information has been widely available, development costs of the applications has limited their adoption to the largest companies. The application of computer technology via the mini computer and computer networks now makes management tools more widely available to diverse and as yet unstructured markets. Experiments in this area will aid in the adoption of high technology within middle sized firms.

I would like to endorse this program, so sweeping in its effects, so relatively costless in its price. I would like to go on record as saying that these steps are the first movements toward a new era of American technological renewal.

FOREIGN TRADE AND INVESTMENT

Mr. HARTKE. Mr. President, the current debate on my Foreign Trade and Investment Act of 1972 has brought forth recurrent charges of probable retaliation on the part of our trading partners. The specter of Smoot-Hawley is trotted out—and then ignored—to frighten the uninformed.

The world of the 1970's is vastly different from preceding eras. Transportation costs have plummeted downward, communications are vastly improved, multinational organizations and corporations abound, and most countries are pursuing nationalistic trade policies or seeking to industrialize behind carefully designed tariff walls.

Nor can we forget the historical setting of past and present trade policies. A recent article in the Washington Post written by Barbara H. Starkey, Ph. D. candidate at Georgetown University and an international economist with the Department of Agriculture, puts into historical perspective the movement for preserving a diversified production base and helping to assure full employment through a regulated trade policy. Barbara Starkey notes that trade quotas were vital in starting America on the path to industrialization and have frequently played an important role in our industrial growth. She acknowledges that the Smoot-Hawley tariff did nothing to bring us out of the depression. However, she further notes that similar legislation in the 1890's was followed by an industrial boom, but stresses that the difference was the presence of dynamic new industries.

In my Full Employment Act of 1972, S. 3179, I have set as a national goal the achievement of a zero rate of long-term unemployment. I share Barbara Starkey's feeling that continued reliance on the principles of free trade will make the achievement of full employment a near impossibility. Under my Foreign Trade and Investment Act of 1972, S. 2592, our foreign trade will continue to grow but in the context of much-needed stability. Rather than operating under a series of rules which allow the precipitate demise of one industry after another, imports would rise only in concert with domestic production.

Mr. President, because Barbara Starkey has added to the debate over trade policy much needed background and thought, I ask unanimous consent that her article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 1972]

AMERICAN JOBS AND FOREIGN TRADE: TWO VIEWS

(By Barbara H. Sharkey)

Categorical opposition to protection has been expressed in many quarters during recent months. Some have argued against it on the ground of economic efficiency while others have expressed fears that a worldwide reversion to economic nationalism and regional trading blocs would lead us into the same kind of disasters as did the Hawley-Smoot Tariff of 1930. Devastating trade wars and worldwide depression have been prophesied by our Cassandras. There is, however, a rational argument for protection, though perhaps not for protection of the kind and magnitude demanded by its more vociferous supporters.

Throughout much of our history, American economic development has taken place behind fairly high tariff walls, and some of our ablest minds have defended this policy. As the first Secretary of the Treasury, for example, Alexander Hamilton argued for a variety of measures to stimulate the growth of manufactures at home. Among them were protective tariffs and outright import prohibitions; restrictions on exporting necessary raw materials; subsidies and prizes; tariff exemptions for raw material imports; encouragement of new inventions; consumer protection regulations and inspections of manufactured commodities and facilitating money and credit transactions and transportation.

Today government intervention to encourage research and development of new products and technologies, to protect consumer interests, to provide access to credit and to facilitate transportation is still considered appropriate. It is only in the area of tariffs, quotas and subsidies that free traders object to government interference with the free market mechanism.

What Hamilton was really advocating was the principle of a managed economy, a principle which economic nationalists have been defending ever since. This principle is, of course, incompatible with laissez faire economics, which requires minimum government intervention so that the forces of supply and demand determine the direction of economic development. But those who propose to bring about maximum economic growth and full employment in the American economy by following a policy of international trade liberalism have failed to face up to the pitfalls which lie ahead if we pursue this course.

THE ADJUSTMENT PROBLEM

Among these pitfalls, suggested in other contexts by various commentators are:

A free trade policy does not guarantee investment will move into industries that would provide mass employment. If the pressure of freer competition is allowed to force U.S. producers into industries in which they are most efficient, they may well invest in capital-intensive technologies that are highly productive but do not create many jobs, or they may continue exporting capital and technology to countries where labor costs are cheaper than at home.

A free trade policy will create substantial adjustment problems for firms and workers in the older, less competitive industries which have formed the backbone of our economy. Although the Williams Commission on International Trade and Investment recently recommended a strong program of adjustment assistance to meet this problem, rapid economic change exacts a social cost from those affected which federal adjustment aid, no matter how strong, could scarcely offset. Furthermore, if substantial unemployment persisted, adjustment assistance would be unable to accomplish one of its principal objectives—relocation of displaced workers. In that case adjustment benefits would become a glorified form of unemployment compensation for those arbitrarily put out of work.

Of course, one way out that would be compatible with free trade would be to give up the goal of full employment and provide a guaranteed minimum income with no obligation to work. The state of technology is such that if the economy were operating at maximum efficiency, the United States probably could achieve the productivity level required to provide a decent income to all citizens at less than full employment. This is not a serious possibility, however, since it would run counter to the still-cherished American belief in the importance of work.

The alternative is to provide work rather than compensation for unemployment. In this case it would probably be more rational for the country to sacrifice the goal of maximum economic efficiency and seek instead to achieve full employment by giving deliberate direction to the economy's development during the coming decade. This would mean abandoning the idea that our domestic and international interests would be well served only if we allow the pressure of freer competition to push total output to its highest possible level. It would mean accepting a somewhat slower rate of economic growth and a slightly smaller GNP pie in order to obtain more stability in the job market, more equality in the distribution of national income, and more balance among the various sectors of our economy.

Philosophically, this would mean a radical departure from current thinking about international economic problems, for it would mean giving up the primary assumption of trade liberals—that competition-induced efficiency is the *sine qua non* of economic health. In practice, however, we have been moving away from economic liberalism ever since we began to adopt Keynesian prescriptions to cure our domestic economic ills.

Even the Williams commission, which generally affirmed the liberal philosophy, recognized that "advanced industrial societies, including our own, have become less tolerant of the disruptive effects of economic change . . . Workers have acquired substantial stakes in their skills, jobs, homes, and communities. They have acquired valuable seniority and pension rights. They are unwilling to bear disproportionately the costs of changes that benefit society as a whole; they look to government to protect their stakes. Governments have had to assume greater responsibilities for ensuring high levels of employment, social stability, a healthy environment, and other social objectives."

Managerial economic policies of the kind needed to promote full employment, stabilize prices, and secure economic justice are not now and never can be compatible with foreign trade policies founded upon classical economic liberalism. That this incompatibility is not recognized by so many economic writers and commentators today is attributable to the fact that the free trade philosophy has taken on many of the qualities of religious dogma or myth in our increasingly secular society. It gained acceptance at a time when it had immediate practical value, and the postwar world has been well-served for the past 25 years by the international economic institutions which were shaped by its advocates.

Today, however, if we spend our energies trying to ward off the supposed dangers of rising protectionism and renewed trade wars, we will be fighting straw men. Of far more importance to the future economic health of both the United States and its principal trading partners is the question of what new leading sector industries we are respectively going to encourage to replace those which led us into the postwar boom we have been experiencing.

THE NEW GROWTH LEADERS

Our historical experience should have taught us by now that the introduction of a dynamic new industry into a lagging economy is usually a much more effective restorative than is a change in tariff policy, either in a more liberal or a more protectionist direction. Thus in the 1890s, for example, new industries such as automobiles, chemicals and electricity provided the stimulus needed to lift industrial economics out of the doldrums. In the 1930s, on the other hand, no such new industries were forthcoming, and in the end it was only war which brought renewed dynamism to the international economy. Even though there was a worldwide return to protectionism during both periods, and the United States at both times enacted two of the highest tariff schedules in the country's history, it was not the tariff but the ability to create new leading sector industries at the end of the 19th Century and the failure to do so in the 1930s that made the difference between the return to prosperity and deepening depression.

As in the past, so now our economic troubles can be attributed largely to the aging of the mass-consumption and high-technology industries which have been the leaders of our economy for much of the century. Patchwork help, in the form of excise tax cuts on domestic automobiles, import quotas on foreign textile manufacturers or subsidies for ailing aerospace firms, can keep such industries reasonably healthy for some time to come, but it cannot restore to these sectors their former role as growth leaders.

To take their place the Council of Economic Advisers and the National Goals Research Staff have identified several areas whose development would be both stimulating to the economy and consonant with the emerging national consensus on recorded priorities. These include health care, education, mass transit, new towns and leisure industries. Either private or public investment in such fields could provide substantial employment opportunities and would be responsive to the increases in consumer income which a growing economy should engender.

THE CASE OF THE STOL

The problem is, however, that the probable growth industries of the 1970s will not necessarily be high productivity industries, even though they are capable of providing full employment at a modest rate of expansion. For this reason, we cannot expect that investment tax credits of the type proposed to date by the Nixon administration will provide sufficient incentive to private industry to move into potential growth sectors of the economy. Such credits are consistent with a liberal policy in international trade matters, for they are likely to encourage investment in technologically intensive industries and they do not subject business to many governmental controls. But if high-technology industries are not the probable leading sectors of the American economy in the 1970s, generalized investment incentives will do little to bring about full employment.

What will be needed to accomplish this goal are deficit spending that puts money directly into the hands of consumers, and government direction of the flow of new investment so that funds are forced into the lower productivity, more labor-intensive industries that promise most for the economy's future. Policies of this type cannot help but have a distorting effect on the international economy. Apart from the problems caused by a demand-induced inflation created by deficit-financed consumer spending, government direction of the flow of public and private investment into high-priority sectors of the economy whould prevent the principle of comparative advantage from functioning properly in international trade.

An example of this effect may soon confront us with respect to the question of the short-takeoff-and-landing airplane (STOL), a desirable addition to our transportation service in highly populated regions of the country and a product with high employment potential for the lagging aircraft industry. NASA, FAA and the Air Force have all been working cooperatively with aircraft manufacturers to develop a satisfactory STOL for domestic commercial use, and so far $500 million has been spent on the project. Yet not too long ago Time magazine reported that Canadian manufacturers already had successfully tested a STOL, which they hope to produce and sell principally to the U.S. market, Without resorting to a tariff, the United States could keep out the Canadian product simply by subsidizing the American STOL at a level sufficient to give it a cost advantage over its competitor.

Similar situations might arise with respect to other products that have recently attracted public interest. For example, tax breaks for domestic companies producing low-cost modular housing for the mass consumption market, subsidies for developers of pollution control devices, or research support for the design of more effective health care delivery systems might operate just as effectively to keep out potential foreign competitors as would outright tariff barriers. Such policies would differ little in intent from the protection accorded to our infant industries in the 19th Century, and would in fact serve the very purposes which were then given as justifying protection—the encouragement of balanced growth and domestic prosperity.

BEYOND THE MARKETPLACE

The international implications of a return to an economic nationalism of this sort need not be at all gloomy if they are dealt with straightforwardly and with a concern for the economic interests of our friends and allies. As Lord Keynes observed almost 40 years ago:

"If nations can learn to provide themselves with full employment by their domestic policy [and, we must add, if they can also attain equilibrium in the trend of their population], there need be no important economic forces calculated to set the interest of one country against that of its neighbors. . . . International trade would cease to be what it is, namely, a desperate expedient to maintain employment at home by forcing sales on foreign markets and restricting purchases, which if successful, will merely shift the problem of unemployment to the neighbor which is worsted in the struggle, but a willing and unimpeded exchange of goods and services in conditions of mutual advantage."

Interestingly, many of the most vigorous opponents of protectionism today would probably support initiatives taken by the public sector to stimulate investment in innovative and socially desirable directions. What free traders of this persuasion really object to is not so much the principle of government management of the economy but rather the idea that old, powerful and highly visible industries such as automobiles, textiles and aeronautics might be the chief beneficiaries of protectionist policies. If the economy were not to rely solely on the marketplace to guide it in making investment decisions, however, their argument against using moderate tariff and quota protection to support older, less dynamic sectors of the economy while promoting the development of newer, more vigorous growth industries would lose much of its force.

What I wish to suggest is that in the future the marketplace will probably not be an adequate governor of the American or any other industrialized economy which genuinely wishes to achieve full employment; that if this is so, protectionist policies could serve a variety of useful purposes, either as a spur to economic development or as a low-cost form of adjustment assistance or both; and that if protectionist policies are to be used in either of these ways, they should not be selected haphazardly but as part of an overall national economic plan whose international impact has been taken into account.

Keynes' point was that "The outstanding faults of the economic society in which we live are its failure to provide for full employment and its arbitrary and inequitable distribution of wealth and income." These are still the outstanding faults of the economic society in which we live, with the addition perhaps of its inadequate provision for environmental protection and the quality of life.

Many of the policies required to correct these faults will not be consistent with the free trade philosophy. And unless we and our trading partners are prepared to make creative use of economic nationalism to overcome these problems, it is unlikely that international free trade, no matter how complete, will serve the purposes of either prosperity or peace.

CONTINUATION OF TRADITIONAL DIPLOMATIC HIERARCHY

Mr. FULBRIGHT. Mr. President, recently one of our most distinguished commentators, Mr. Eric Sevareid of CBS, reported on a suggestion relative to the continuation of the traditional, diplomatic hierarchy to be found in all the capitals of the world. He attributes the revival of this idea to Mr. Cyrus Sulzberger in the following words:

Mr. Sulzberger's thought concerns the almost equally preposterous, exhausting and expensive world of international diplomacy. It is not precisely a new idea but an idea whose time has come, which is what counts.

Abolish the whole structure of embassies with their lavish residences, immense staffs and endless, meaningless round of luncheons, dinners, receptions and courtesy calls. In Washington today there are one hundred and fourteen embassies, three legations, seven so-called interest sections; over 1600 people with diplomatic credentials, besides their families; and office staffs totaling around five thousand.

The point is that instantaneous communications and the jet plane have made formal embassies redundant. Heads of state and foreign ministers now deal very directly with each other. Specialists travel constantly. Ambassadors have all but lost their realistic function. Norway, says Sulzberger, is thinking of abolishing ambassadors, just maintaining specialists in ordinary offices and flying them around.

Newspaper society pages in this and other capitals would look a bit barren, the canape industry would suffer a slump, and liveried doormen and chauffeurs become a vanishing race. But a great number of others, including some ambassadors, would feel the lifting of a great weight. As Adlai Stevenson remarked when he was our U.N. Ambassador, the diplomatic life is "one third protocol, one third alcohol and one third geritol."

The transfer in our own Government of responsibility for foreign policy from the Department of State to the National Security Council, under the leadership of Dr. Kissinger, makes much more reasonable the idea of discontinuing the outmoded and obsolete diplomatic machinery. Dr. Kissinger quite obviously is perfectly able to perform the necessary functions formerly discharged by ambassadors. I commend this idea to the attention of the Senate. I ask unanimous consent that the statement by Mr. Sevareid and the article by Mr. Sulzberger be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Anyone in the realm of public affairs learns to be grateful for small favors, one good idea in a week is a rarity; two is a feast. This week Time magazine's Hugh Sidey has one; the New York Times' Cyrus Sulzberger has another. Both come under the general heading of "stop the nonsense."

Since the Democrats are out this year trying to get in, Mr. Sidey's thought is directed at them. He would abolish the autumn presidential campaign in its traditional sense. Let the Democratic nominee, he says, set up a shadow administration, somewhat in the British manner; let the nominee name and gather the men who would form his cabinet and agency heads. Let them all speak and decide as if they were in power, showing the people their policies and programs and maybe even demonstrate in the field how they would approach things like housing and water pollution.

The endless, exhausting, preposterous barnstorming from airport to auditorium to airport all over the country with all the attendant hoopla and repetitious speeches could be cut way down; the news media would cover the candidate just as intensively in his changed role, and—mostly—in one place, as they cover an actual administration. Millions of dollars and nerve ends could be preserved and the populace left far less jaded and fed up.

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[From the New York Times, Jan. 28, 1972]

SENT TO LIE ABROAD NO MORE

(By C. L. Sulzberger)

JERUSALEM.—The practice of diplomacy has changed enormously since Sir Henry Wotton, a seventeenth-century poet-envoy, observed: "An ambassador is an honest man sent to lie abroad for his country."

Nowadays he spends less time "lying abroad" in a physical sense because of innumerable hours taken up in faraway conferences, and if he "lies" by distorting the truth, either his own government or that to which he is accredited will probably leak it to the press.

Diplomacy as once known is at an end—but the last to know it are the diplomats and their foreign ministries. The inflation in their rank and consequent deterioration of their capacities is all too often evident. In diplomatic as in monetary affairs there is a kind of Gresham's Law which sees bad money driving out the good.

Once an effective ambassador required cultivation, perspicacity and the ability to make decisions. Communications took a long time and sometimes there was the need for swift action. Even as recently as 1945 Averell Harriman, while U.S. envoy in Moscow, personally decided to exclude Russia from allied military occupation of Japan.

The diplomat was often a personage. France employed as ambassadors the famous Paul Claudel and Saint-John Perse (Alexis Leger). George Seferiadis, Greek Ambassador to Britain, won the Nobel Prize for literature as the poet "Seferis." Even the nineteenth-century U.S.A.'s diminutive overseas representation included Washington Irving and Nathaniel Hawthorne.

But the need for experienced decision-takers or intellectual luminaries has faded in the mechanized modern world. There are and will be exceptions. A notable case is Walworth Barbour, who has been American envoy here for more than half of Israel's life. His wisdom and decisiveness have been responsible for avoiding several dangerous crises and solving others.

If one considers today's plethora of independent states and ministates, each of which has come to demand exchanges of embassies, one sees the game has become ridiculous. There is no urgent reason for the U.S.A. to maintain ambassadors in Burundi or Mauritius, for example.

Moreover, the need to fill all posts transcends the ability of the Foreign Service and tempts U.S. Presidents even further to pay off campaign contributors on an absurdly lavish scale by dispatching them around the mushrooming diplomatic world.

It would be wiser and cheaper to pare swollen staffs and do more international business at the U.N. glass menagerie in New York to which almost all countries are accredited. Even such envoys of the prosperous United States as Ellis Briggs and John Tuthill found they could work more efficiently as well as more cheaply with half the staff allotted.

Norway has begun to think aloud about doing away with ambassadors altogether. One idea discussed in Oslo is that teams of experts could be maintained and flown abroad if and as required to represent Norwegian interests.

With all the multilateral bodies now existing—such as the U.N., the Organization of African Unity, the Organization of American States, etc.—surely there are enough common meeting grounds to allow nations to handle bilateral business.

The happiest ambassador I ever knew was a Nepalese general who, years ago, served simultaneously in Paris, London and Washington. Whenever he received a rare message from Katmandu he handed it to his local Number Two, told him to say the Ambassador was traveling, and promptly took off. The unhappiest ambassador I knew was the envoy of an East European land, proud of its cuisine, who was deprived of his cook by budget cutters at home.

Jean Laloy, a brilliant French diplomat, regarding an age in which cabinet ministers and supercnvoys jet around the world, suggested in a book six years ago (*"Entre Guerres et Pair"*) that much of today's diplomatic burden could be borne by permanent working groups of experts set up in a nation's capital to handle specific problems as they arose.

It is certainly time to consider these and other approaches with the idea of reducing costs and lowering bureaucratic towers of Babel as they rise in even the smallest capitals. At one moment the United States had four ambassadors in Paris and three in Beirut. Hasn't the moment arrived to repeal traditional diplomacy if those are its current methods?

FOOD SERVICE PROGRAM FOR CHILDREN

Mr. CASE. Mr. President, on February 16, 1972, the regulations for the special food service program for children were published for comment. The program's purpose is to feed needy children during the summer months, thus carrying on the work of the national school lunch, school breakfast, and preschool feeding programs. It is a very important program because, without it, the nutritional progress made during the school year will be lost.

One month after the regulations for this program were issued for comment, the Department of Agriculture told school administrators that—

> plans for financing such programs must be limited as matters now stand to anticipated revenues not in excess of amounts expended for identical purposes last summer.

The communication went on to state:

> Imperative you establish obligations under this constraint.

When I received word of this communication, I wrote to the Secretary of Agriculture as follows:

MARCH 17, 1972.

Hon. EARL L. BUTZ,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: In light of the President's most recently expressed concern for the school children of our inner cities, I am shocked to hear that the United States Department of Agriculture intends to curtail severely the Special Summer Feeding Program.

This will be a great loss to our cities and will lend to further intensification of our urban problems.

As you know, the summer program was curtailed last year because funds for the program were impounded. The program to feed needy children did not begin until July 26, 1971, instead of the end of the school year in early June. We now learn that New Jersey will not be allowed to spend any more than last year's actual expenditures. In other words, New Jersey is being asked to stretch money for six weeks to nine weeks of the feeding program.

Moreover, the situation is even more serious. The actual need for the summer feeding program in New Jersey goes well beyond last year's approved funds. A well run program that will reach children this year will cost between $2.5 and $3.0 million—or more than double last year's costs.

Congress is committed to seeing that all our children receive the food they need. I am sure you concur in this view and I request that you reconsider promptly the funding for the Special Summer Feeding Program.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

In effect, what the Department appears to be doing is instituting its regulations before considering the pertinent questions on the regulations.

I have received a number of letters from interested organizations which raise serious doubts about the proposed regulations. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY,
DEPARTMENT OF EDUCATION,
Trenton, N.J., March 17, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR CASE: We have sincerely appreciated your concern and efforts on behalf of the Child Nutrition Programs. Unfortunately, however, once again the U.S. Department of Agriculture has created a situation which threatens the nutritional well-being of both New Jersey's and the nation's children.

On February 16, the Department of Agriculture issued proposed new regulations for the operation of the Summer Special Food Service Program for Children. Our comments on those regulations, which were submitted to Mr. Rorex, are attached.

Despite statements from the Regional Office of the U.S. Department of Agriculture that plenty of time would be allowed for the planning of summer 1972 meal programs, these regulations were issued in preliminary form only six weeks before applications from summer sponsors had to be received by the state agency. The regulations themselves probably will not be published in final form until a few days before the April 1 deadline for applications.

New Jersey has not yet been informed by the Department of Agriculture of the size of our summer allocation for this year, so that sponsors must prepare elaborate applications on extremely short notice with no guarantee that funds will be available for their projects.

The proposed regulations require new application forms and a complicated application procedure. All our application forms had to be revised before sponsors could be invited to submit proposals. After we had spent two weeks of staff time revising forms, a package of forms prepared by U.S. Department of Agriculture arrived—the day before our scheduled information meeting with potential sponsors.

Late in the fall, U.S. Department of Agriculture had announced that the new summer program regulations would be available in plenty of time to allow thorough planning of this year's programs. Through December and January, regulations were expected "momentarily." When they were finally issued, they included a totally unrealistic application deadline, which prevents sponsors from making any but the most superficial plans for their summer activities.

I am sure you recall the delay and confusion which preceded the funding of last year's Summer Special Food Service Programs. Your role in that victory, in which funds were released for all summer program applicants, was decisive.

I feel we may be forced to call upon you, and other members of Congress, again this year in order to prevent the Department of Agriculture from succeeding with its apparent effort to restrict the operation of the summer meal programs.

I am sure you are well aware of the importance of these summer meal programs to our children, especially those in urban areas. We must do everything we can to insure that these programs will be available to all children who need them.

I will keep you apprised of the number of applications we receive and the total amount of funds New Jersey will need this summer.

Any assistance you can offer will be most appreciated by summer program sponsors, and more importantly, by the children themselves.

Sincerely,

LEWIS B. STRAUS,
Director, Office of Food Program Administration.

STATE OF NEW JERSEY,
DEPARTMENT OF EDUCATION,
Trenton, N.J., March 1, 1972.

MR. HERBERT D. ROREX,
Director, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. ROREX: I would like to offer the following comments on the proposed amendments to the regulations governing the Special Food Service Program for children.

225.7 (a–1): As a result of the late issuance of these amendments, and the further delay before their final publication, it is most unrealistic to expect summer program sponsors to submit completed applications before April 1. The effect of this regulation will simply be to prevent summer meal programs from reaching the children who need them most.

Moreover, we received on February 28 a letter from T. F. O'Shaughnessy, Director of Child Nutrition Programs in the New York Regional Office, informing us that the revised application form was not yet ready. It is totally unjustifiable to require applications to be submitted on such short notice if they are not even available to the state office four weeks before they are due. We would suggest May 1 as a more realistic deadline.

Finally, the priorities established in the regulations here penalize potential new sponsors by placing them in a category of second preference. There is no logical reason why children deprived of summer meal programs in the past should be further penalized by this type of priority.

225.7 (b–1): Again, the April 1 time constraint makes it virtually impossible for potential sponsors to gather the information required for the individual site sheets. In particular, new sponsors who have not participated in the program before, must do thorough planning for their programs even before this information can be provided. The unrealistic deadline precludes this.

Two of the items required on the site sheet are impossible to require of some sponsors and are in themselves contrary to the purposes of the Summer Special Food Service Programs. First it is unrealistic and impractical to require free public parks to develop a means to identify children who are eligible to participate at the site.

Children at a summer playground should not be regimented into attendance, or excluded from participating in any way. The additional expense of such identification cannot be borne by many sponsors, and should not be required unless additional Federal funds will be available to bear these costs. Finally, this discriminates against poor children who must attend a public park rather than attend a more structured summer camp where enrollment is based on payment of a fee.

Of course, good management in food production and ordering will require accurate estimates of the number of children at each site, but these can be obtained without penalizing children by excluding them from the program.

Also, identifying children eligible for free meals is contrary to the requirements of the school lunch program which forbids identification of the poor children. In most urban areas, all children are eligible for free meals, and blanket determinations should be made on the basis of the need data required for participation in the program.

In the rare instance of summer programs with substantial numbers • • • collect payment.

Finally, although this is not discussed in the regulations, I must protest the fact that we have received no information thus-far on the amount of funds to be allocated for summer 1972 meal programs. It is difficult and unjust to demand that sponsors produce elaborate information on proposed programs with no knowledge of the number of programs which can be approved.

I trust that some changes will be made in the regulations to attend to these serious inequities. The summer meal programs have the potential of benefiting many needy children, but only if they are administered sensibly and with due consideration of the amount of planning they require.

Sincerely,

LEWIS B. STRAUS,
Director, Office of Food Program Administration.

JERSEY CITY YOUTH
DEVELOPMENT PROJECT,
Jersey City, N.J., March 16, 1972.

Senator CLIFFORD CASE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CASE: I am writing to you in regard to the refunding of the State Summer Food Program for Jersey City. The city has received word that the refunding will probably be given out at the same level as last year's unless the Federal Government allocates more money to the State of New Jersey.

As Program Developer of the Jersey City Youth Development Project, I work with a great many of the youth in Jersey City everyday. Through my experiences with the youth, and working as a supervisor in the last three Summer Food Programs in Jersey City, I have learned what a program like this means to our city and especially to the children who so often are forgotten by their parents as well as their government.

However, I am sure that a person with your foresight and concern for the people of the city can realize the importance of our city receiving an increase over last year's allotment. I feel, just seeing the satisfied look on a child's face who just finished eating a balanced, nutritional lunch instead of his normal, if any, lunch of potato chips and coca cola, is reason enough for the increase of funds the city asks for. However, reason for such an increase is due to the increase of city agency participation. Mayor Jordan and his administration has been able to unite the different agencies and government programs of our city in one common cause; that, through the nutritional meals supplied by the state, we can develop the minds and bodies of our youth during this vital stage of growth and development. This cause is important to the city because the youth, under the leadership of a new, ambitious, courageous and unselfish mayor, are our last hope to revive a dying, but once promising city.

I urge you to recognize their needs and do all you possibly can to help us. I hope more letters from other agencies such as mine follow this letter to emphasize the need. The future of our country, the youth, lie in the government's hands.

Conrad Vuocolo, Director of Operation Step-Up and Tenant-Selections of the Jersey City Housing Authority, once said, "I'd rather see a kid hold a container of milk in his hand than a rock to break a window." I leave this thought with you as you consider our request.

Thanking you in anticipation, I remain,

Respectfully yours,

MICHAEL G. TSUCALAS,
Program Developer.

THE CHILDREN'S FOUNDATION,
Washington, D.C., March 6, 1972.

MR. HERBERT D. ROREX,
Director, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.

DEAR HERBERT ROREX: I am writing in response to the Notice of Proposed Rule Making (7 CFR Part 225) published in the *Federal Register*, Vol. 37, No. 32 on Wednesday, February 17, 1972.

In general, we are distressed by the shift in the emphasis of the summer feeding programs as proposed. The requirements for service institution participation are clearly designed to cater to the big cities which led the battle for full funding of the Special Feeding Programs last summer.

Our specific comments, objections and recommendations follow below:

Section 225.1 We are pleased that the Special Food Service Program for Children is no longer a "pilot" program.

Section 225.2 (i–1) We recommend that full instructions as to what constitutes an "in kind" contribution be published in the *Federal Register* and not simply in shortened form in the two guide-books (one of which, according to your letter of March 2, 1972, presently is not available.) Non-profit community groups who do not regularly receive FNS Instructions are at a distinct disadvantage because they are forced to add another step to their application process.

Section 225.2 (p–1) The administrative decision to divide the Special Feeding Programs into two different programs: one, year-round non-school food service and the other, summer food programs, is without statutory authority. While this division may allow for more efficient administration—a laudable move—it has already provided a rationale for withholding funds left over last summer from this fiscal year's year round non-school food programs.

Section 225.7 (a–1) The filing deadline of April 1 is unreasonable for this year in view of the late date of publication of the proposed rule making. Instead we suggest the following wording:

(1) Applications for participation of special summer programs for summer, 1972, which are filed within (6) weeks of the final publication of these amended regulations shall be given first priority.

(2) Applications for participation of summer programs for the following years must be submitted by May 1 of the year. Approval or denial of the application will be made within thirty (30) days or less of the date of filing. Applications received after May 1 shall be reviewed in the order of the date of receipt and shall be approved or denied within thirty (30) days or less of the date of filing.

Section 225.7 (a–1) DELETE the proviso that applications shall be considered "to the extent that funds are available for special programs." The size of the federal budget for child nutrition programs has *no bearing whatsoever* on the requirements for participation of local service programs.

Section 225.7 (a–1) Applications filed before the [designated] deadline shall be considered in the following priority: (1) First, applications from service institutions in economically needy areas serving more than a majority of children from low-income families and eligible for free or reduced price meals. (2) Second, applications from service institutions in economically needy areas but serving less than a majority of children eligible for free or reduced price meals. (3) Third, applications from service institutions not located in economically needy areas nor serving a majority of children eligible for free or reduced price meals *but* ones which serve children from low to middle-income families. (4) Applications from service insti-

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tutions which participated in the program in the prior calendar year.

Section 225.7 (a–1) DELETE the following requirement which is irrelevantly and cruelly based on an unknown but, nevertheless, projected federal budget restriction:

If funds will not permit approval of all applications received prior to April 1, local interest as indicated by the level of local financial support and in-kind contributions shall be considered in determining which applications shall be approved.

The specific focus of this program is on economically needy areas, and yet, outrageously demands that interest in participation be measured by local cash and in-kind contributions.

Section 225.7(b) The amount of data required to demonstrate that poor economic conditions exist is unreasonably detailed. Only major cities with large bureaucracies could produce such extensive documentation without enormous effort.

This requirement discriminates against small, locally run programs, for example, summer programs conducted by churches or low-income community groups.

Furthermore, the requirement that at least half the mothers in the area be engaged in work outside the home is blatantly sexist and is a misreading of that portion of the statute addressed more specifically to the Breakfast Program.

Section 225.7(b–1) This requirement that individual applications be submitted for each site serves little use other than to generate additional paper work (which in turn serves to increase the amount of the "in-kind contribution" claimed).

To identify children eligible for free and reduced price meals counters the protection of the anonymity of needy children ensured by the Congress and the laws governing the child nutrition programs. The requirement that service institutions explain the methods they will use to identify needy children is regressive and discriminatory.

We therefore strenuously object to this requirement and suggest that the following wording be *deleted:*

. . . a description of . . . and the methods to be used to identify children eligible for participation at the site, including the methods to be used to identify those children eligible for free or reduced price meals.

Section 225.7(c) Competitive bidding for federal contracts should be required no matter how small that contract may be. If an arbitrary number must be selected we strongly suggest that any operation serving more than 100 children use a competitive bid procedure.

Section 225.10(e) This section is unclear and ignores the legislative history of Public Law 92–32 and in particular, the Joint Explanatory Statement of the Committee of the Conference. We have the following objections:

1) The term "severe need" used in the Conference Report is unreasonably translated into the requirement that "all or nearly all the attending children are in need of free meals". We suggest, instead, that that line be deleted and that the only requirement be that the State agency or FNSRO judge whether or not the service institution is unable to contribute financially to the program.

2) There is no real difference between the 80 percentum of the operating costs and 100 percentum of the cash expenditure. The conferees pointed out in their report that they *"felt that the Secretary of Agriculture has been unduly restrictive in using the authority to pay up to 80 per cent of the operating costs, and it is intended that he will be more liberal in recognizing circumstances of severe need and utilizing the authority to pay all the operating costs in such cases".*

In view of this statement by the conferees we urge the following wording: "in lieu of reimbursement for meals, up to 100 percentum of the cash expenditure for the costs of its food service, *provided, however,* that such financial assistance shall not exceed 60 cents for a lunch or supper, 20 cents for a breakfast, and 15 cents for supplemental food."

Section 225.18 (a–1) The State Agency or FNSRO should not be responsible for the meal-time schedules of each site operation.

Our conclusion is that these proposed rules serve little else than the interests of the Office of Management and Budget.

We urge you to revise them to serve the needs of hungry children in America.

Bread and justice,

BARBARA BODE,
Vice-President.

SUGGESTIONS, COMMENTS, AND OBJECTIONS CONCERNING PROPOSED REGULATIONS GOVERNING OPERATION OF THE SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

(Memorandum to Herbert Rorex, Director, Child Nutrition Division, Food and Nutrition Division, U.S. Department of Agriculture)

We, the undersigned organizations and individuals, protest the new focus of the Special Food Service Program for Children as reflected in the Notice of Proposed Rule Making (7 CFR Part 225) published in the *Federal Register,* Vol. 37, No. 32, Wednesday, February 17, 1972.

The proposed regulations appear designed to inhibit participation in the summer food programs. We cite below the most blatant examples of this attempt to play off the unrecognized food needs of millions of hungry children in non-urban areas against the needs of those crowded into the ghettos of major cities, for whom political concern has been expressed.

We strongly urge that equal consideration be given to non-urban as well as urban areas.

OBJECTIONS AND/OR RECOMMENDATIONS

Section 225.7 (a-1)—April 1 is an unreasonable deadline for filing of applications. Only those sponsoring agencies which regularly receive FNS notices can be expected to be aware that this early date is being considered. Even those areas in which a full time staff is employed to administer children's food service programs will have great difficulty meeting all the other requirements for participation prior to April 1.

Recommendations: That the required filing date for applications for summer, 1972 be placed six (6) weeks after the date of final publication of these amended regulations. The size of the federal budget for child nutrition programs is irrelevant in this context and cannot be considered a requirement for local participation.

Recommendation: Delete the proviso which reads "to the extent that funds are available for special programs".

The priorities serve no purpose other than to FREEZE summer food programs at a level below that reached last summer, 1971.

Recommendation: That applications filed prior to the (designated) deadline be assigned priority in accordance with the percentage of children served who would be eligible for free or reduced price meals.

Although this Special Food Service Program for children is designed ostensibly to serve poor children in economically needy areas, this section of the proposed regulations projects restrictions in the federal budget for child nutrition programs and then demands that local interest be measured by the amount of local cash and in-kind contributions. Furthermore, too much discretionary power is allowed to an unspecified agency to determine what will constitute a sufficient measure of local interest.

Recommendation: Delete the proviso which reads:

If funds will not permit approval of all applications received prior to April 1, local interest as indicated by the level of local financial support and in-kind contributions shall be considered in determining which applications shall be approved.

Section 225.7(b)—The amount of data required is ridiculously detailed and could be provided easily only by a large bureaucracy. These requirements discriminate against programs run by local community groups, churches and the like. The requirement that at least half the mothers be employed outside the home is a perverse misinterpretation of the statute and is blatantly sexist.

Recommendation: That the date requirements remain as they are currently written.

The anonymity of children receiving free or reduced price meals *must be protected.*

Recommendation: Delete the requirement that a description be given of the manner in which needy children will be identified which reads:

". . . a description of . . . the methods to be used to identify children, eligible for participation at the site, including the methods to be used to identify those children eligible for free or reduced price meals."

Section 225.10(e)—This section is unclear and ignores the warning of the Committee of the Conference in the Joint Explanatory Statement of Public Law 92–32, published in the *Congressional Record* October 22, 1971, in which they wrote that they felt that the Secretary of Agriculture has been unduly restrictive in using the authority to pay up to 60 per cent of the operating costs, and it is intended that he will be more liberal in recognizing circumstances of severe need and utilizing the authority to pay all the operating costs in such cases.

Recommendation: That up to 100 per cent of the cash expenditure for the operating costs be paid in lieu of reimbursement for meals to service institutions financially unable to meet the need to serve free or reduced price meals to more than a majority of participating children.

We object to the arbitrary and capricious design of these proposed regulations and the insensitivity which they reflect to the needs of hungry children.

Barbara Bode, Vice President, The Children's Foundation.

John Kramer, Faculty Member, Georgetown Law School.

Carol Shapiro, Programs Director, Women's Action Alliance.

Susan Berson, Asst. Community Coordinator, The Children's Foundation.

Samn Brown, Southern Regional Coordinator, The Children's Foundation.

Pat Francisco, Asst. Community Coordinator, The Children's Foundation.

Susan Wager, Asst. Community Coordinator, The Children's Foundation.

Steve Martin, Field Coordinator, Selma Project, Alabama.

Louise Moody, Day Care Expert, Selma Project, Alabama.

Peg McConnell, Pres. of the Board, Massachusetts Alliance against Hunger.

Barbara Splain, N.E. Regional Coordinator, The Children's Foundation.

Jay Lipner, Staff Attorney, Rhode Island Legal Services.

Hulbert James, Director, Crusade against Hunger.

Paul Matthias, South Carolina Council on Human Relations.

Wade Rathke, Chief Organizer, Arkansas Community Organization for Reform Now.

Stephen Brooks, Deputy Director, Food Research and Action Center.

Charles C. Dunn, Administrator, The Children's Foundation.

Susan Orr, Community Co-ordinator, The Children's Foundation.

Bill Pastreich, Director, The Massachusetts Alliance against Hunger.

Johnnie Tillmon, Asso. Exec. Director, National Welfare Rights Organization.

Marie Daniels, Field Coordinator, Selma Project, Alabama.

Jim Evans, Executive Director, MISSEDUC Foundation.

Bert de Leeuw, Legislative Liaison, The Children's March for Survival.

AIR FORCE "OVERPAYMENTS" TO LOCKHEED

Mr. CHILES. Mr. President, I am appalled at testimony offered yesterday by the General Accounting Office regarding overpayments of more than a billion dollars knowingly made by the Air Force to Lockheed Aircraft Corp. on the C–5A transport plane contract.

I feel it is imperative to examine further just what role the Air Force has played in these overpayments, and certainly the Congress needs to find out what action the Justice Department needs to take in this regard.

Last year, when the Lockheed loan guarantee legislation was before us in the Senate, I asked a question that has never been answered to my satisfaction. I still want to know, why should Congress be called on to bail out certain private corporations that apparently so mismanage their affairs that they cannot keep themselves above water? And I also want to know: Once begun, where does it end? Why such special treatment for a very few companies when many others throughout the country will never get it and they have employees who do not want to lose their jobs, too.

Last night, I had a call from one of my constituents, the superintendent of a construction company in West Palm Beach. What he told me is worth passing on because, I feel, it puts this situation in perspective. He said that if his company operated like Lockheed, his company would surely go under, for he knows there will be no Government agency or action by Congress to bail them out. Mr. President, you and I know it, too.

I certainly feel the people of this country, as well as us in Congress, have every right to know more about this situation. It alarms me when the Air Force chooses to overpay Lockheed $400 million in one payment, more than the entire net worth of the Lockheed Corp. at the time. It further alarms me that the Air Force then saw fit to make available $705 million more for the same purpose. And it astonishes me that the Air Force would then arbitrarily change Lockheed's contract from a negotiated, fixed fee contract to a cost-plus contract on a retrocative basis, thereby making the overpayment beyond recovery. This smells to me like special treatment which, if not criminal in nature, is certainly indicative of irresponsible handling of taxpayer funds.

I really believe that when the people of our Nation get the picture of this disastrous practice of funneling millions of tax dollars to selected private corporations apparently not able to handle properly their affairs, a great pressure will build on both the executive branch and the Congress to discontinue it. I certainly hope so.

Mr. President, the need is obvious for Congress to delve deeply into this appalling situation. The need is obvious for the Justice Department to be responsive and concerned, to investigate thoroughly this problem. I call for these actions, and I commend the General Accounting Office for once again proving its effectiveness and value to us.

THE CONCEPT OF SECRECY

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Mr. Jack Foisie of the Los Angeles Times, dated Bangkok, March 22. It illustrates, better than anything I have seen, the absurdity to which our Government is carrying the concept of secrecy. I call particular attention to the ingenious way in which a stranger may now enter the most secret establishment—by pretending to be a secret agent, the guards will refrain from even asking for identification.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAI-BASED U.S. OPERATIONS CLOSETED IN TIGHT SECRECY

(By Jack Foisie)

BANGKOK, March 22.—Thailand is gradually becoming the staging area for most American-directed ground operations in Indochina as U.S. troop withdrawals from Vietnam continue and the war and political situations in Cambodia and Laos become more tense.

This has resulted in increased sensitivity on the part of Thai and American officials alike concerning U.S. air bases in Thailand and the camps and bases involved in cross-border operations.

In answer to a newsman's request, U.S. officials disclosed that there are 245 U.S. military advisers in Thailand and 280 members of the U.S. Special Forces.

But other than outlining their acknowledged training and advising roles, the officials declined to go deeper into Thai-based American operations in the Indochina war.

Officially, the role of all American Green Berets is to "train the Thais to be trainers" in counterinsurgency warfare, teaching tactics to their own troops and to those of "third-country" armies—that is, Laotians and Cambodians.

But these same American officials acknowledge that there are numerous secret camps—they call them "ad hoc training areas"—at which Americans are placed. They will not discuss the American role in these camps.

It is known however, that some are border camps fronting on Laos and Cambodia, manned by Thai soldiers and American Green Berets engaged in clandestine cross-border operations. Rebellious areas in Burma are also being penetrated from Thai-American camps in the western provinces of Thailand.

The participation of Thai army "volunteers" in Laos, as part of a Western-backed Royal Lao army, is now an established fact. More than 5,000 Thai troops, artillerymen and airmen are in action on foreign soil.

They are American-paid, but the Thai government has its own reason for making the "volunteers" available. The North Vietnamese army and its Communist Pathet Lao auxiliary are closer to the banks of the Mekong River than in past dry seasons, and the Mekong is Thailand's border.

Despite contrary evidence, both Thai and American officials continue to pretend that the volunteers sign up on their own. They are, in fact, regular Thai units led by their own officers and taking orders mostly from the U.S. Central Intelligence Agency.

One of the assembly areas for this trans-Mekong migration is the Thai army camp of Saritsena, outside the north central town of Phitsanulok. CIA-operated Air America transport planes fly the new men from there directly into Laos.

In the most recent explanation of the Thai presence in Laos, a U.S. State Department spokesman last week described the Thais as "local forces" eligible for U.S. support.

This definition is intended to avoid violating the congressional ban on recruiting and paying mercenaries for fighting in Laos and Cambodia.

Secrecy concerning military assignments in Thailand has reached the point that a visitor with a great deal of aplomb can stumble into a secret American camp and stay a while by pretending that he, also, is on mysterious assignment.

It happened this way, without a lie being told. The gate guard challenged: "Who are you?" The newsman assumed a serious, knowing look and replied: "Don't ask me."

For emphasis he pressed a finger to his lips. "Oh," the guard said, impressed. "I understand." He opened the gate and directed the visitor to the command post.

Exotic code names also figure into the secrecy. "Peppergrinder" is the name of a big American-Thai logistical base, for weapons and supplies destined for allied forces in Laos.

Despite their various unpublicized roles, the American Special Forces in Thailand have declined from the high point of 369 in 1969. The reduction was made possible after the Thai field police assumed their own training. The U.S. advisory force also has been cut back by 25 per cent from its high point.

Other American military activities have offset the reduction.

VEHICLE EMISSIONS MONTH

Mr. HARTKE. Mr. President, we are rapidly approaching the month of April—a month in which everything around us seems to come to life. Unfortunately, unless we maintain our struggle to eliminate pollution, those lovely April days that we all remember will be lost forever. One of the efforts that I have made to insure that every month is an enjoyable month was to introduce on September 16, 1971, a joint resolution to designate the month of April, 1972 as "National Check Your Vehicle Emissions Month."

Along with Representative ECKHARDT, I took this action because it is estimated that annual emission inspection, simple adjustments, and minor tuneups would result in at least a 15 to 25 percent reduction in air pollution caused by motor vehicle pollution. On the other hand, manufacturers estimate that compliance with the Federal emissions standards for 1975 model cars will result in only a 2-percent reduction in automobile emissions.

The resolution has received considerable public support. Shortly after its introduction, there was the formation of an ad hoc committee to support a presidential proclamation designating April 1972 as National Check Your Vehicle Emissions Month. This group has worked night and day to implement a program to carry out this resolution. Additional support has come from almost every quarter of American society.

Senate Joint Resolution 156 recently passed the House of Representatives, but unfortunately the Senate has to

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date failed to take action on the resolution. April is close at hand, and I call upon Senators to support the efforts of the House of Representatives, the public, the industry, and other concerned citizens to make April the beginning of a commitment to act affirmatively to eliminate the unnecessary pollution caused by vehicle emissions.

FAR-REACHING RESULTS OF COURT-AUTHORIZED WIRETAPPING

Mr. McCLELLAN. Mr. President, in 1968, the Senate by a vote of 68 to 12 defeated a motion to strike title III of the Omnibus Crime Control and Safe Streets Act of 1968, a title of the 1968 act that I sponsored. By this vote, the Senate indicated its approval of the use of court-authorized and supervised wiretaps and electronic surveillance in the investigation of certain Federal offenses. Because of the claims and fears of some that title III would be ineffective or would not stand up to challenges in court, I have attempted to keep this body informed of significant developments in the use of wiretaps and electronic surveillance, so that we all might be able to judge the results of our work.

On December 1 of last year, I was pleased to inform the Senate that in its first major Federal appellate review, title III was sustained as constitutional. On October 13, 1971, the U.S. Court of Appeals for the Tenth Circuit, in *Cox. v. United States*, No. 71–1043, specifically upheld the legal reasoning behind and justification for title III.

The issue before the court in the Cox case was the right of the Government to use information concerning a robbery, which had been incidentally obtained during the course of a lawfully authorized and executed narcotics wiretap. The court upheld the statutory scheme, which provides for retroactive judicial approval for such incidentally intercepted communications. In so doing, Judge Doyle stated:

> In electronic surveillance of organized criminals involved in gambling, information might be intercepted disclosing a conspiracy to commit murder. Surely the officials must be empowered to use this information notwithstanding the lack of specific prior authorization.

Mr. President, to show the far-reaching and successful results of this one wiretap, I should like to bring to the Senate's attention additional facts in the Cox case as revealed by a July 30, 1971, full-page article in the Kansas City Star, an article which has only just been drawn to my attention.

According to this article, from January 1969, through May 1970, an organized group called by law enforcement officials a "Black Mafia" conducted "virtually 100 percent of the narcotics traffic and controlled much of the loan-sharking, gambling, prostitution, and burglary on Kansas City's East Side," carried out several bank robberies, had an estimated gross income of upwards of $100,000 a day, in the course of its diabolical operations killed at least 20 women and men, and were planning further killings when the leaders were finally incarcerated. Further, the article states:

The Kansas City Black Mafia had ties with many other cities around the country. Asked if the gang could have operated for the length of time and with the efficiency it did without the assistance to some persons in law enforcement, a highly placed federal source said it definitely could not.

The organization's murder victims were people who refused to join the organization, who owed money or were suspected of being police informants. At least two of these victims were tortured before they were killed. Youths were recruited from the street to carry out robberies. These young men were often heavy narcotics users, who were supplied with weapons, given instructions, and forced to turn over some or all of the loot to the organization. Sometimes they were beaten out of what was to have been their share of the robbery proceeds. We can thus see how such an organization can ensnare susceptible youths into the most despicable and inhuman sort of life. But not only were young hoodlums reached by this gang: one of the regular targets for the organization's narcotics trade were the soldiers at Fort Riley.

By the beginning of 1970, Government agents knew a great deal about the nature and extent of the organization's operations, but "hard evidence was needed before they could secure indictments." After a series of incidents involving informants, infiltration, and plans for more killing, on April 30, 1970, agents received authorization to place a wire tap on the phone of one of the gang's three leaders. This is what the paper says about that wire tap:

> The wire tap proved to be the key that broke the case, for in addition to recording enough information on narcotics activity to warrant indictments, agents also overheard plans to rob the Southgate State Bank and a scheme to murder one of the pushers.

The repercussions of this one wire tap were far-reaching. Four men, bank robbers, were arrested and subsequently convicted. Fourteen narcotic convictions and one for assault of a Federal officer were obtained.

The wire tap also revealed plans to murder a pusher for shooting large quantities of the narcotics he was meant to sell. The intended victim was taken into private custody and agreed to testify for the Government. It was learned that a price of $10,000 was put on this man's head.

With the wire tap evidence and testimony of the pusher, the leaders of the gang were arrested. The tenacity of these men is shown by one fact that this was not the end of their evil-doing, for there were plottings from within jail and further killings of potential informants. But now 19 convictions have been obtained, including the convictions of the three leaders on various charges. This indescribably evil organization, Mr. President, has been thwarted by one wire tap.

Surely this case is a vivid demonstration of the worth of title III and the good it can do to end crime that nothing else can achieve. This one case alone vindicates the Senate's 1968 judgment that the motion to strike title II should have been defeated.

Mr. President, I ask unanimous consent that the entire text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NARCOTICS RING HELD EAST SIDE IN DEATH GRIP

(By Michael J. Satchell)

Between January 1969 and May 1970 a Black Mafia organization conducted virtually 100 percent of the narcotics traffic and controlled much of the loan sharking, gambling, prostitution and burglary on Kansas City's East Side, it has been learned.

Authorities are convinced that in that period and in the months immediately after at least 17 persons and possibly more were slain as men and women who refused to cooperate, who owed money or who were suspected of being police informants were systematically eliminated.

An organized group, termed "Black Mafia" in a confidential federal report on its activities, also carried out or organized several bank robberies. At the height of the operation, between January and May 1970 its gross income was estimated in the confidential report to be an incredible $100,000 a day in Kansas City.

The Kansas City Black Mafia had ties with many other cities around the country. Asked if the gang could have operated for the length of time and with the efficiency it did without the assistance to some persons in law enforcement, a highly placed federal source said it "definitely could not."

The organization was broken up, but not routed. May 20, 1970, when federal agents and police conducted seven post-midnight raids and arrested seven of 18 persons named in a federal indictment charging narcotics violations. Others were arrested later.

At least three of the slayings and some of the bank robberies occurred after some of those arrested on the narcotics charges were released from jail on bond. Two high-ranking gang members, one suspected of being the informant who caused the May 20 arrests, were marked for death by the gang but were taken into protective custody by federal agents.

Authorities have learned from underworld sources that the men currently have $10,000 murder contracts on their lives.

The full scope and details of the Kansas City Black Mafia have been learned following a wide-ranging investigation. Sources include local and federal authorities and individuals who were at the heart of the narcotics activities that revolved around a highly profitable heroin and cocaine traffic.

Identified as leaders are James Eugene Richardson, 33, James Phillip (Doc) Dearborn, 38, and a white man, Eddie David Cox, 35.

Richardson received a 20-year sentence Oct. 16, 1970, after pleading guilty in U.S. District Court to a charge of conspiracy to sell narcotics. He also was found guilty two days later in Jackson County Circuit Court of assault with intent to kill a police detective during the May 20 raid. He received a 15-year sentence on that charge. He is now confined in the federal maximum security prison at Marion, Ill.

Dearborn is now in the U.S. Penitentiary in Leavenworth serving a 28-year sentence stemming from the narcotics violations. He also faces an 8-year sentence in the Missouri penitentiary after pleading guilty to a charge of burglary.

Cox is in the Kansas State Penitentiary, Lansing, serving time for parole violation on a 1- to 30-year sentence for kidnaping and felonious assault on a police officer that occurred in 1961. He faces a total of 35 years in federal prison when released from Lansing. Cox was sentenced to 15 years on the narcotics indictment and received a 20-year sentence for his role in the robbery of the Southgate State Bank, May 8, 1970.

The three men have extensive prior police records and all persons who authorities say

were close to the three principals have received lesser sentences, have been released because of their co-operation with authorities, have fled or have been killed.

After the arrests in 1970 federal authorities here prepared a confidential report for the organized crime section of the Department of Justice in Washington. Entitled "Black Mafia" the report focuses on the activities of Richardson, Dearborn and Cox, and reads in part:

"It was learned the men were engaged in clandestine wholesale narcotics. They were also engaged in crimes of bank robbery, burglary, murder, loan sharking, gambling and prostitution.

"They had the ghetto area of Kansas City under their complete control through fear, intimidation, violence and corrupt public officials."

This was not an exclusive Kansas City operation but had operatives in nine other cities, the report states.

"At the height of the operation in January 1970 through May 1970," the report continues, "it is estimated these men were taking in approximately $100,000 a day. The major sources of this income was through narcotics.

"Many of the earlier activities of Cox, Dearborn and Richardson are not clear in that most witnesses have been murdered, or they are not willing to talk."

Ironically it was Cox, a white man, who set up the syndicate rule and remained the "brains" behind the figurehead leadership of Richardson, a widely known and feared individual on the East Side.

Cox was paroled from Lansing in January 1968. One of his known associates was Dearborn, who had been released from the Kansas penitentiary in 1966 after serving time for burglary.

It has been learned that after revealing to Dearborn that they would take over and control the crime in the ghetto, Cox recruited Richardson, who was released in January 1969 from Leavenworth after serving a 4-year sentence for violating the Mann Act. Cox remained a leader except for the period between—1969 and January 1970 when he was in jail for a parole violation.

Together the three men reached their systematic process to take over the disorganized narcotics traffic here and to muscle in and control multiple criminal ventures.

Related one source: "There are 25 individuals in the way and each controlled two or more persons. It was started by talking to the individuals and telling them any activity had to be cleared with the group.

"Most of them were favorable. They had no alternative. Those who didn't accept it are no longer around.

"Between 1963 and 1970, 20 people were killed . . . mostly by gunshot. Men and women. There were no hired killers . . . it was done by the principals of the organization."

Related one gang member who joined after being released from a state penitentiary:

"They got to killing off people like crazy. Anybody got in their way, they would kill 'em. All you heard in the pen was 'Gene's (Richardson) taking over the town.'"

Federal authorities have described Richardson as "a tough, dangerous individual," "a rattlesnake without a rattle," and as a "tough sonofagun" whom "nobody dared cross."

A man marked for death, but who escaped, noted: "If you gave him a smart answer he would kill you."

Cox, while not having the reputation on the street for violence that Richardson had, nor being as well known on the East Side as Dearborn, put his special talents to full use in the gang's business, as the authorities noted.

A native of Joplin, Cox has a tested I.Q. of 162 and operates, according to the confidential federal report, "at the genius level."

The report describes him this way:

"Cox has all the characteristics of being a personable businessman but underneath this front he is a cold-blooded killer who has no respect for the life of anyone he thinks is a threat to his safety or livelihood.

"It is believed that he has been a participant in 17 homicides in the Kansas City area since March 1968, the murder of a federal narcotics agent in Chicago in March 1970 and the instigator of numerous other homicides.

"A reliable informant stated that Cox will not allow anyone to do the killing that directly involves himself as he does not trust anyone to do it correctly.

"He is very personable whose brilliance is concealed behind a guileless, blue-eyed countenance. The individual commands respect for his brilliance as well as his ruthlessness."

According to authorities the Cox, Dearborn and Richardson plan had been consolidated by October 1969 and the narcotics operation was functioning smoothly.

Below the triumvirate was an integral, second echelon of four persons. They were Mrs. Cecilia Mae Tucker, 33, a girl friend of Richardson who lived in a house he owned in the 1300 block on East 84th; Charles Edward Hudgens, 34, of the 1300 block of East 36th; Edward Courtland (Sonny) Miller, 34, of the 2100 block on N. 2nd, Kansas City, Kansas; and Walton Ireland Froniabarger, 38, of the 3200 block on E. 73rd.

Also involved, although not playing major roles, were the wives of two of the leaders, Mrs. Lee Esther Richardson of the 1700 block on Monroe and Mrs. Rita Mae Dearborn, who lived in the 7200 block on Brooklyn.

The main focus of the operation and its main source of income was in the narcotics trade. Heroin and cocaine were brought into Kansas City by carriers from Los Angeles, New York, Chicago and other cities.

At first, said a source, the narcotics would come in by the ounce. As the operation became better organized and other wholesale dealers were eliminated, it was carried into the city in pounds, and then in kilo (2.2-pound) quantities.

"In the beginning it had been stepped on (cut with quinine and milk sugar) and was only about 28 per cent pure," a source related in describing the quality of the heroin.

"The last stuff coming in was 87 to 95 per cent pure; it was straight off the boat."

After the heroin was tested by one of the gang—usually a pusher—to determine its strength, it was cut to about 10 per cent or less of purity and then placed in gelatin capsules which sell in Kansas City at a standard $10 a cap.

About 15 main street pushers were put to work selling the narcotics at $10 each. Generally the pusher got $4 for each one sold with $6 being paid to the organizers.

Deliveries would be made twice a day to the main pushers who usually would sell from their houses and apartments, known among narcotics users as "shooting galleries." The gang controlled almost 100 per cent of the narcotics traffic in the inner city and also moved about 100 capsules of heroin a day through a white dealer named Bobby who sold to addicts in the Plaza area.

At some point the heroin and cocaine trade expanded to Kansas City, Kansas, and Junction City, Kans., where there is a steady demand for narcotics from the soldiers at Ft. Riley.

While the estimate by some federal authorities of a daily income of $100,000 is too high, according to other federal sources and former gang members, there is no doubt that the profits from narcotics and other illegal activity were considerable.

Money was being raked in from individuals who were allowed to carry on their separate rackets with the gang's permission. It cost these persons 25 per cent of their take to remain in business. The gang also reaped profits from prostitution, gambling, loan sharking and other illegal activity, some of which they controlled directly, others which they "franchised."

Bank robberies also were planned by the group with Dearborn, Cox and Froniabarger specializing in this activity. Sources report they planned the robberies and used intermediaries to recruit youths from the street to carry out the robberies.

The youths, often narcotics users with heavy habits, were provided weapons, given detailed instructions, and then were forced to turn over most or all of the loot to the gang.

"The kids used were little hustlers off the streets . . . kids who were mugging and strong-arming," reported one person familiar with the bank robbery aspect of the gang's activities.

"They got kids who would kill their mamas to get a reputation. Usually 75 per cent of the take went to the group, although sometimes the kids didn't get anything or they got beaten out of their money."

Although federal authorities have only been able to link the gang definitely to one bank robbery—the May 8 holdup of the Southgate State Bank in which Eddie Cox was convicted with three other men—they say others were initiated by the organization.

To protect the leaders from close identity with the bank holdups twin brothers well-known on the street were used as intermediaries to the unreliable youths, a source related.

The brothers currently are serving 20- and 25-year terms for bank robbery after convictions stemming from the robberies of the Suburban Bank and Trust Company, Feb. 9, 1970, and the Empire State Bank, July 29, 1970.

Although huge profits were being reaped, principally from the narcotics operations, money was being spent fast.

"Expenses and overheads were high" noted a gang member, mentioning in the same breath the fees charged for bringing the narcotics into the city (up to $10,000) to the cost of payoffs.

Leaders of the group also lived expensively. Most, particularly the pushers and Richardson, were heavy narcotics users themselves although Cox was not.

Some gambled heavily, bought property and drove new cars. Richardson was fond of tooling around in a 1970 Cadillac Sedan de Ville and he also owned a Buick Electra 225. Money was spent carelessly with some members lavishing expensive presents on girl friends.

There also is evidence that some members were hoarding part of their profits, either in cash or jewels, in safe deposit boxes or possibly in numbered bank accounts outside the United States. After their May 20 arrests all of the core leaders quickly were freed after bonds totaling nearly half a million dollars were paid.

The story of how the illegal operation was smashed by authorities is a convoluted, often bizarre and irony-filled series of events involving undercover agents, infiltration, informants, secret surveillance that reportedly was not secret very long, a telephone wire tap and finally the May 20 raids.

Not until the principals were imprisoned, in some cases as much as six months after their arrests during which time all but Cox were out on bail, did their illegal activities cease.

Completely unknown to the gang was the fact that Walton Froniabarger, one of the main pushers, was an informant. He had been arrested by agents in a narcotics case and began supplying information on the gang in the hope of escaping prosecution.

Agents learned, however, he was playing a double role. In addition to supplying them with some information he gradually began taking a more active and genuine role in the gang's operation. Agents believe Froniabarger assumed he could beat his earlier narcotics arrest in court, and so reverted to his role of allegiance to the gang. He was dropped as an informant and agents, as they gathered evidence on the gang, included him in their prosecution plans.

After being released on bond following the May 20 raids Froniabarger jumped bail and now is being sought by authorities on a federal fugitive warrant.

Authorities began investigating the East Side narcotics activities intensively in October 1969, spurred in part by informant information and the killings Oct. 30 of Rudolph Hill, 28, and Laura Rosemary Jackson, 29.

Hill and Miss Jackson were found in their fourth-floor apartment at 3627 the Paseo. Their hands were bound behind them and they had been shot in the back of the head. Before they died, a source said, they had been tortured.

The couple dealt in narcotics and both had extensive police records. Federal sources say Froniabarger was seen leaving their apartment 30 minutes before the deaths and he took pains to leave unnoticed. Authorities believe he set up the couple for the killing.

According to sources the killings of Hill and Miss Jackson were only two of the estimated 17 to 20 murders that occurred here in connection with the Black Mafia's activities. Discipline among the pushers and others was strict, one informant recalled, adding:

"People were killed for three reasons: They wouldn't join the organization, they tried to hold out money or start their own bag (sell narcotics independently) or because they might be informants.

"All the pushers got into trouble at some time or other. The first time they were jumped on and got a good whipping. There was no second violation—they knew they wouldn't be around. Those who were eliminated were replaced."

Of the 17 homicides the investigation indicates that the following murders, in addition to those of Hill and Miss Jackson, are indisputably linked.

July 2, 1970: Mrs. Mary Louise Hudgens, 36, wife of Charles Hudgens, beaten unconscious and given a fatal overdose of heroin.

July 6, 1970: Hermanthony Quillar, 36, shot twice in the right temple with .38-caliber bullets.

Sources also indicate the following homicides are connected to narcotics and other alleged illegal activities and those in the latter part of 1970 may be part of the legacy of violence left by the operation after it initially was broken up.

May 15, 1969: Clifford Ernest Lucas, 37, shot twice in the back of the head with a shotgun.

May 23, 1969: Olnie Smith, Jr., 24, shot three times in the side with a small-caliber weapon.

June 6, 1970: Daniel McNeal, 21, shot in the head with .45-caliber and .22-caliber weapons.

July 26, 1970: Gary Lee Hill, 21, bludgeoned and strangled to death and his body tossed in Troost Lake.

Sept. 6, 1970: Manchester George Owens, 22, shot four times in the head and chest.

Dec. 18, 1970: Frank Delano Poole, 29, also known as Rollin Toby Smith, hit by shots fired from a passing car as he walked on the street.

By the first part of 1970 agents had a good idea of the extent and operation of the underworld activities, but hard evidence was needed before they could secure indictments.

A narcotics agent from Houston had entered the investigation in an undercover role and was posing in the ghetto as an armed robber and as a militant. Feb. 25, with the help of an informant, he successfully bought four capsules of heroin for $60 from Froniabarger at his residence. Also present at the transaction was a woman member of the gang. The agent also bought heroin from Hudgens.

Soon after it was discovered the man was a federal narcotics agent and plans were made to kill him. Tipped off that their man was in grave danger authorities quickly pulled him out of the investigation. The informant who introduced the agent to the gang to make the narcotics purchases also was spirited away.

By March 1970 the group reportedly was tipped off by a police officer that they were under heavy surveillance and attempts were made to tighten up the criminal organization.

"In March the gang got their first real knowledge that it was being surveilled," a gang source reported. "They heard it from a Kansas City police department officer . . . a detective. The word was the gang was being watched by the Bureau of Narcotics and Dangerous Drugs.

"Attempts were made to tighten up the loose ends . . . make sure there were no informants in the group and that pushers weren't selling to people they didn't know or who hadn't been buying (narcotics) for a number of months."

In addition leaders were also monitoring the radio traffic of agents who were assigned to watch them, for Eddie Cox owned a motor car equipped with radios which could receive police broadcasts.

"The Plymouth automobile he (Cox) owns is a law enforcement vehicle with an extra high performance engine and the car is equipped with both high- and low-band monitor radios which will intercept and monitor 16 police frequencies at one time," it is stated in the confidential federal report.

(Most law enforcement vehicles are sold after they have been driven for a certain number of miles. The radios are removed from them, but radio receiver equipment is not difficult to obtain.)

"It is known that he monitored FBI, Bureau of Narcotics and Dangerous Drugs, and the Kansas City Police Department frequencies frequently," the report adds.

The FBI and Bureau of Narcotics and Dangerous Drugs frequencies are highly confidential and it would be virtually impossible to guess them.

April 30, 1970, agents received permission from Judge Elmo B. Hunter of the federal district court to place a wire tap on Richardson's telephone. The tap was installed and connected to an office manned by agents at 121 W. 63rd.

The wire tap proved to be the key that broke the case, for in addition to recording enough information on narcotics activity to warrant indictments, agents also overheard plans to rob the Southgate State Bank and a scheme to murder one of the pushers.

The plan for the bank robbery was discussed on Richardson's telephone by Michael DeWayne Piggie, 21. Four men, the agents overheard, would rob the bank May 8 at 1:15 p.m. The bank was subsequently robbed and Piggie; Cleveland D. Ford, 26, Maurice Lanear, 21, and Eddie Cox, who was accused of driving the escape car, were arrested the following day and later convicted. Cox has remained in jail since then.

May 18 Dearborn and Richardson were overheard discussing plans to kill one of their pushers because he had been "coming up short on his bag." He had been short $4,000 on his payments because he had been shooting up large quantities of the narcotics himself.

Agents staked out the pushers' home and watched Dearborn and Richardson enter through a door left unlocked by prearrangement with another resident of the house. They were arrested and the pusher, who was asleep upstairs, was not hurt. After he listened to the tape recording of the plot to kill him he agreed to testify for the government and was taken into protective custody. Richardson and Dearborn were later released.

Authorities say that from then on a $10,000 price was put on the pusher's head. The offer remains.

Armed with the wire-tap evidence and the testimony of the pusher 50 agents and detectives swooped in on the gang two days later and arrested the principals.

Richardson, Dearborn, Froniabarger and Hudgens were held in the Jackson County Jail and there they began planning strategy after their anticipated release on bail.

"When they were in jail they got a copy of the indictment and went down the list of who might crack," a source related.

First out on bond was Mrs. Lee Esther Richardson, who reportedly went to a bank safe deposit box and removed enough valuable jewelry to act as collateral for the bonds for her husband, Dearborn and Froniabarger, whose earlier informant role still was not known by the gang.

In a federal report it states that it was then decided by the gang leaders that Mrs. Mary Louise Hudgens and Charles Edward Hudgens must be killed. Mrs. Hudgens reportedly had told another woman she and her husband might testify against the gang. The information was related to Richardson.

The report states Richardson arranged for the bond to free Mrs. Hudgens.

"Two days after her release on bond, the money for the bond being provided by James Richardson, she was found dead and available information indicates that she was killed by Richardson or one of his associates . . . by forcibly injecting an overdose of heroin," the report states.

"Information has come to this office that she was killed because Richardson felt she might have become a government witness. Richardson also was interested in getting Charles Hudgens released on bond.

"He provided the fee and posted bond. Information was received that he was also slated to be killed. After Hudgens was released he was taken into voluntary protective custody."

Information also was received that some persons were so anxious to kill Hudgens—who originally had been forced by Richardson to work for the gang in repayment of an old debt—that there would even be an attempt made on Hudgens' life while he was being transported between jails by a U.S. marshal.

Authorities spirited Hudgens away quickly and he remains in hiding, also with a $10,000 offer for his death.

Authorities were anxious to prosecute Hudgens for his role in the narcotics ring, but instead he was given a lengthy sentence and placed on probation.

"It would be almost impossible for the Bureau of Prisons to confine Hudgens in any institution where an associate of Richardson is not confined," a federal report states. "It is sincerely believed that if Hudgens is confined in jail he would be killed."

Out on bond Richardson and Dearborn moved swiftly to collect all the money owed them.

"When Gene (Richardson) got out on the streets he started collecting debts and putting the fear of God in everyone," a source said. "Tony (Hermanthony Quillar) was killed as an example. He owed money. There were more who got killed."

In a sidelight to the breaking up of the gang agents raided a house in the 4500 block of Benton May 22, two days after the mass arrests, and seized a cache of 23 weapons, described as extremely fine guns. The cache, owned and used by the gang, included eight .38-caliber revolvers, two sawed-off shotguns, two pistols, six rifles, four long-barreled shotguns and a .30-caliber military carbine.

The gang's last encounter with the law occurred Sept. 21, the day after Richardson pleaded guilty in federal court on the narcotics charges. Police officers stopped Richardson's car on a traffic violation and discovered three felons, Mrs. Tucker, a bag of heroin and plastic syringes in the car.

Authorities said Mrs. Tucker was carrying two fully loaded .38-caliber revolvers beneath her armpits. Richardson tried to grab one of the revolvers, but was prevented from doing so by a policeman.

Oct. 16 Richardson finally was placed behind bars after being sentenced to 20 years in a federal prison. Cox still was confined after his May 9 arrest for the Southgate bank robbery.

Mrs. Rita Mae Dearborn was placed on probation Dec. 1 for five years with the provision that she remain out of Kansas City. Feb. 5 this year Dearborn was sentenced to 28 years and Mrs. Tucker received a 7-year sentence. Miller, who handled the Kansas City, Kansas, end of the narcotics operation, was sentenced to a 17-year term Feb. 23. Cox received 15 years the same day and Mrs. Richardson was sentenced to a 3-year term.

Others in the gang received varying sentences. Froniabarger, who jumped bail, still faces sentencing.

GROWTH AND INFLUENCE OF NATIONAL SECURITY COUNCIL

Mr. FULBRIGHT. Mr. President, several articles in the press recently have discussed the growth and influence of the National Security Council, and more specifically, Dr. Henry Kissinger, who controls the NSC, but not under the title of Executive Director. I, along with others, have raised the question of the wisdom of extending the immunity for accountability to the Congress, under the guise of Executive privilege to those in the White House, such as Dr. Kissinger, who appear to have the greatest influence upon the formulation of our foreign policy. This is a matter of fundamental importance to the conduct of our foreign relations, and in order to make clear the position of the Committee on Foreign Relations as well as the White House, I ask unanimous consent to have printed in the RECORD my letter of February 10, 1972, to Dr. Kissinger, and the reply thereto of February 28, 1972, signed by Mr. John W. Dean III, counsel to the President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., February 28, 1972.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge receipt and thank you for your letter to Dr. Henry A. Kissinger dated February 10, 1972, which in his absence has been referred to me for response.

Consistent with long established principle and precedent, because of Dr. Kissinger's position as a member of the President's immediate staff he will be unable to accept your gracious invitation to appear before the Committee on Foreign Relations.

However, please be assured that we share your belief that the Executive and Legislative Branches should exchange views on foreign policy, and we are confident that such exchange can be carried out to the fullest extent by the constituted officers of the Executive Branch.

With warm regard.

Sincerely,

JOHN W. DEAN III,
Counsel to the President.

U.S. SENATE,
Washington, D.C., February 10, 1972.

Hon. HENRY A. KISSINGER,
Assistant to the President for National Security Affairs, The White House, Washington, D.C.

DEAR HENRY: In view of the wide public exposure you have received as a result of your recent press and television briefings, I wondered whether you might wish to reconsider your earlier reluctance to appear before the Committee on Foreign Relations. I doubt that the Founding Fathers contemplated that the Executive and Legislative branches should exchange views on foreign policy by reading press accounts.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

THE "VAT" TAX AND EXPORTS

Mr. HARTKE. Mr. President, it is common knowledge that the Nixon administration is considering the imposition of a value-added tax as a new source of revenue and a possible substitute for the real property tax. At the time of the introduction of my bill to provide a tax credit for education (S. 3322), I noted that the VAT tax is a regressive tax which will hit low- and moderate-income consumers the hardest.

In defense of VAT, some have claimed that it will aid American exports on the international market. But the impact of VAT is unpredictable. It may not help our exports, and it should not be imposed with that purpose in mind.

Mr. President, I ask unanimous consent that an article published recently in the Washington Post be printed in the RECORD. I believe that it represents a rational discussion of this one aspect of the value-added tax.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPACT ON TRADE IS UNPREDICTABLE—VAT AS AN INCENTIVE TO EXPORTS—A SHAKY BELIEF

(By Philip H. Trezise)

In floating the idea of a value-added tax (VAT) as a partial substitute for local property taxes and as a source of school revenue, the administration has opened the issue for serious discussion, which is to the good. Whether a national tax on consumption is a desirable way to raise funds for education or, for that matter, for other purposes, is surely a proper subject for national debate. But we should not be diverted by the repeated assertion that such a tax is also needed to help our international trading position.

No matter what some of our businessmen have come to believe about the "unfairness" to us of the VAT, as it operates in Europe, a national sales or consumption tax cannot be justified as a way to improve the U.S. trade accounts. Indeed, it is not even clear in which direction such a tax would work so far as our external trade is concerned.

Once more, we need to be sure what the issue is, it is true that some European countries levy a VAT on a wide range of goods and are allowed by the international trade rules to collect the same tax on imports and to rebate it on exports. We also have state sales and federal excise taxes which are imposed on imports and are not collected on exports. These taxes are not the same as customs duties or export subsidies. The benefits to the trade account from them, if any, depend on who in fact pays the taxes.

The argument for believing that our trade will benefit from a VAT is a rather simple one. The idea is that a general sales or consumption tax cannot always be passed on in its entirety to the home market consumer, because competitive conditions sometimes will not permit. When this happens, the producer absorbs part of the tax and in consequence accepts a lower rate of profit on his domestic sales. In that circumstance, he has an incentive to export, since the tax is then rebated to him and he can more nearly fulfill his profit expectations. Note that when the tax is wholly passed on to the consumer, the export incentive does not exist.

Should we expect that American producers will be required by domestic market conditions to absorb some of a VAT in their domestic sales and thus be induced to export more? One clue at least is that at present we find it necessary to apply controls over most of these same goods so as to restrain upward pressures on their prices. It is certainly not crystal clear why we should suppose that producers, who must be prevented by the application of federal power from raising prices, would find it impossible or even difficult to pass on to consumers, and in full, a national sales tax, which they could perfectly legitimately do.

In Holland a few years ago a VAT was imposed at a time of strong inflationary pressures. Prices rose by more than the VAT rate and the Dutch had to impose a general freeze to keep them in check.

The point is that the impact on trade of a VAT is not predictable and can, as in the Dutch case, be perverse. In our current economic situation, the assumption must be that at best a VAT would not help exports and, if the price controllers were not alert and effective, might hurt them by pushing prices up by more than the amount of the VAT.

Even if one assumes different competitive conditions, and widespread absorption of a part of a VAT by producers, skepticism about the trade effects would be warranted. Reports from the White House are that the VAT being considered would raise revenues of $16 billion. This would imply a tax rate of about 3 per cent on a broad base, or, with probable exemptions, perhaps 5 per cent. (VAT rates in Europe, by comparison, range upward from 11 per cent.) Rates of this kind, reflected in consumer prices as they mostly would be, would have some predictable and lively responses at home. But worked through to the international trading arena, they could not amount to significant export incentives.

More fundamentally, we do not need to go to a VAT or to other devices of the sort for trade or balance of payments reasons. The Group of Ten finance ministers agreed at the Dec. 18 Smithsonian meeting that "discussions should be undertaken promptly to consider reform of the international monetary system over the longer term" and that "attention should be directed to . . . means of establishing a suitable degree of flexibility [in the system]." This prescription is the valid one for our government, which must have had a large role in drafting it.

A sufficiently flexible monetary mechanism would assure that changes in national competitive positions, whether induced by tax changes or by other causes, would be reflected promptly in exchange rates, that is, in the international prices of national currencies. Any trade gains or losses from changes in tax systems would be quickly eliminated by changes in exchange rates. Surely, if we continue to believe in the vir-

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tues of the market mechanism, an understanding with our trading partners on greater monetary flexibility must be priority number one for foreign economic policy.

VAT by contrast is irrelevant as an approach to our external accounts. Let us debate the issue of imposing such a tax as a domestic question, on which there is ample to be said.

RACIAL INTEGRATION—A THIRD ALTERNATIVE

Mr. HANSEN. Mr. President, as the country agonizes over the issue of forced busing to achieve racial integration in the schools, it is assumed by some with regard to this controversy, as with regard to the question of integration itself, that there are only two positions to be taken: To favor integration, and therefore, busing; or to prefer segregation, and therefore oppose busing.

Particularly do politicians find themselves categorized as supporting or opposing integration on the basis of their position on forced busing.

Prof. Nathan Glazer, whose most enlightening comments on the busing issue appeared in a recent Washington Post article, notes:

But if to stand with the further extension to all the Northern cities and suburbs of transportation for desegregation is suicide, how can the liberal congressmen join with the South and with what they view as a northern bigotry in opposing busing? Is there a third position, something which responds to the wave of frustration at court orders, and which does not mean the abandonment of hope for an integrated society?

Professor Glazer concludes that not only is there a third position, but that it is by far the most logical and reasonable to embrace. Says the professor:

There is a third path for liberals now agonized between the steady imposition of racial and ethnic group quotas on every school in the country—a path of pointlessly expensive and destructive homogenization—and surrender to the South. It is a perfectly sound American path, one which assumes that groups are different and will have their own interests and orientations, but which insists that no one be penalized because of group membership, and that a common base of experience be demanded of all Americans.

Professor Glazer points out that despite the pessimistic views of civil rights experts and bureaucrats administering desegregation laws, tremendous progress has been made in the past 10 years. He notes that the South is more integrated than the North; that the school systems of the South are desegregated; that hundreds of thousands of blacks have moved into professional and white collar jobs, into schools and universities, into integrated housing areas, into voting patterns, and into the mainstream of American life. He notes that while the Constitution specifies that certain rights must be guaranteed to all:

One understand that the Constitution sets limits to the process of negotiation and bargaining even in multi-racial and multi-ethnic setting.

But the judges have gone far beyond what the Constitution can reasonably be thought to allow or require in the operation of this complex process. The judges should now stand back and allow the forces of political democracy in a pluralistic society to do their proper work.

The tremendous progress made during the 1960's toward integration and protection of the rights of minorities must be continued in the 1970's. But the shuffling of children among schools to satisfy racial quotas does not serve the necessary and attainable goal of integration, or the moral obligation of racial equality. Rather, forced busing is the hysterical approach of those who have rejected without cause the ability of our society, guided by the Constitution, to right these wrongs, and who wrongly view opponents of such contrived and counterproductive approaches as racists.

Professor Glazer said the cause of civil rights and integration—

Has been advanced because millions of blacks now vote—in the South as well as the North—and because hundreds of blacks have been elected to school committees, city councils, state legislatures, the Congress. This is what is creating an integrated society in the United States.

We are far from this necessary and desirable goal. It would be a tragedy if the progress we made in achieving integration in the 1960s were not continued through the 70s. We can now foresee within a reasonable time the closing of many gaps between white and black. But I doubt that mandatory transportation of school children for integration will advance this process.

Mr. President, I ask unanimous consent that Professor Glazer's comments be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS BUSING NECESSARY?

(By Nathan Glazer)

It is the fate of any social reform in the United States—perhaps anywhere—that, instituted by enthusiasts, men of vision, politicians, statesmen, it is soon put into the keeping of full-time professionals. This has two consequences. On the one hand, the job is done well. The enthusiasts move on to new causes while the professionals continue working in the area of reform left behind by public attention. But there is a second consequence. The professionals, concentrating exclusively on their area of reform, may become more and more remote from public opinion, and indeed from common sense. They end up at a point that seems perfectly logical and necessary to them—but which seems perfectly outrageous to almost everyone else. This is the story of school desegregation in the United States.

For 10 years after the 1954 Supreme Court decision in *Brown*, little was done to desegregate the schools of the South. But professionals were at work on the problem. The NAACP Legal Defense Fund continued to bring case after case into court to circumvent the endless forms of resistance to a full and complete desegregation of the dual school systems of the South. The federal courts, having started on this journey in 1954, became educated in all the techniques of subterfuge and evasion, and in their methodical way struck them down one by one. The federal executive establishment, reluctant to enter the battle of school desegregation, became more and more involved.

The critical moment came with the passage of the Civil Rights Act in 1964, in the wake of the assassination of a President and the exposure on television of the violent lengths to which Southern government would go in denying constitutional rights to Negroes. Under Title IV of the Civil Rights Act, the Department of Justice could bring suits against school districts maintaining segregation. Under Title VI, no federal funds under any program were to go to districts that practiced segregation.

With the passage of the Elementary and Secondary Education Act in 1965, which made large federal funds available to schools, the club of federal withdrawal of funds became effective. In the Department of Justice and in the Department of Health, Education and Welfare, bureaucracies rapidly grew up to enforce the law. Desegregation no longer progressed painfully from test case to test case, endlessly appealed. It moved rapidly as every school district in the South was required to comply with federal requirements. HEW's guidelines for compliance steadily tightened, as the South roared and the North remained relatively indifferent. The Department of Justice, HEW, and the federal courts moved in tandem. What the courts declared was segregation because what HEW declared was segregation. After 1969, when the Supreme Court ordered, against the new administration's opposition, the immediate implementation of desegregation plans in Mississippi, no further delay was to be allowed.

PROGRESS IN THE SOUTH

The Federal government and its agencies were under continual attack by the civil rights organizations for an attitude of moderation in the enforcement of both court orders and legal requirements. Nevertheless, as compared with the rate of change in the years 1954 to 1964, the years since 1964 have seen an astonishing speeding-up in the process of desegregating the schools of the South.

Writing during the presidential campaign of 1968, Gary Orfield, in his massive study, "The Reconstruction of Southern Education," stated: "It has been a social transmutation more profound and rapid than any other in peacetime American history."

Orfield thought that it was all coming to an end. With Mr. Nixon attacking the guidelines that had brought such progress, and with the civil-rights coalition coming apart in the fires of the cities of the North, Orfield wrote, "A clear electoral verdict against racial reconciliation [that is, the election of Mr. Nixon] could mean that the episode of the school guidelines may recede into history as an interesting but futile experiment."

Orfield underestimated the bureaucrats, the courts, and the overall American commitment to the desegregation of Southern schools. While Mr. Nixon's appointees were suffering the same abuse as Mr. Johnson's before them for insufficient zeal, the desegregation of the racially divided school systems of the South proceeded. Thus the director of the HEW Office of Civil Rights, J. Stanley Pottinger, could summarize some of the key statistics as of 1970 in the following terms:

"When school opened in the fall of 1968, only 18 per cent of the 2.9 million Negro children in the Southern states attended schools which were predominantly white in their student enrollments. In the fall of 1970, that figure had more than doubled to 39 per cent . . . [and] the percentage of Negroes attending 100 per cent black schools dropped . . . from 68 per cent to 14 per cent."

There has been further progress since, and if one uses as the measure the number of blacks going to schools with a majority of white children, the South is now considerably more integrated than the North.

WHY THE DIVISION?

Yet the desegregation of schools is once again the most divisive of American domestic issues. Two large points of view can be discerned as to how this has happened. To the reformers and professionals who have fought this hard fight—the civil rights lawyers, the civil rights organizations, the government officials, the judges—the fight is far from over, and even to review the statistics of change may seem an act of treason in the war against evil. Indeed, if one is to take

committed supporters of civil rights at their word, there is nothing to celebrate.

A year ago the Civil Rights Commission, the independent agency created by the Civil Rights Act of 1957 to review the state of civil rights, attacked the government in a massive report on the civil rights enforcement effort: "Measured by a realistic standard of results, progress in ending inequity has been disappointing. . . . In many areas in which civil rights law afford pervasive legal protection—education, employment, housing—discrimination persists, and the goal of equal opportunity is far from achievement."

The civil rights movement sees that minorities are concentrated in schools that may be all or largely minority, sees an enormous agenda of desegregation before it, and cannot pause to consider a success which is already in its mind paltry and inconclusive. The struggle must still be fought, as bitterly as ever.

There is a second point of view as to why desegregation, despite its apparent success, is no success. This is the Southern point of view, and now increasingly the Northern point of view. It argues that a legitimate, moral, and constitutional effort to eliminate the unconstitutional separation of the races (most Southerners now agree with this judgment of *Brown*, has been turned into something else—an intrusive, costly, painful, and futile effort to regroup the races in education by elaborate transportation schemes.

The Southern congressmen who for so long tried to get others to listen to their complaints now watch with grim satisfaction the agonies of Northern congressmen faced with the crisis of mandatory, court-imposed transportation for desegregation. On the night of Nov. 4, 1971, as a desperate House passed amendment after amendment in a futile effort to stop busing, Rep. Jack Edwards (R-Ala.) said:

"Mr. Chairman, this will come as a shock to some of my colleagues. I am opposing this amendment. I will tell you why. I look at it from a rather cold Southern point of view. We are busing all over the First District of Alabama, as far as you can imagine. Buses are everywhere . . . people say to me, 'How in the world are we ever going to stop this madness?' I say, 'It will stop the day it starts taking place across the country, in the North, in the East, in the West, and yes, even in Michigan.'"

And indeed, one of the amendments had been offered by Michigan congressmen, longtime supporters of desegregation, because what had been decreed for Charlotte, North Carolina, Mobile, Ala., and endless other Southern cities was now on the way to becoming law in Detroit and its suburbs.

As a massive wave of antagonism to transportation for desegregation sweeps the country, the liberal congressmen and Democratic presidential aspirants who have for so long fought for desegregation ask themselves whether there is any third point of view: whether they must join with the activists who say that the struggle is endless and they must not flag, even now; or whether they must join with the Southerners.

To stand with the courts in their latest decisions is, for liberal congressmen, political suicide. A Gallup survey last October revealed that 76 per cent of respondents opposed busing, almost as many in the East (71 per cent), Midwest (77 per cent), and West (72 per cent), as in the South (82 per cent); a majority of Muskie supporters (65 per cent) as well as a majority of Nixon supporters (85 per cent). Even more blacks oppose busing than support it (47 to 45 percent).

But if to stand with the further extension to all the Northern cities and suburbs of transportation for resegregation is suicide, how can the liberal congressmen join with the South and with what they view as Northern bigotry in opposing busing? Is there a third position, something which responds to the wave of frustration at court orders, and which does not mean the abandonment of hope for an integrated society?

NOT A BETRAYAL

There is, unfortunately, a widespread feeling, strong among liberals who have fought so long against the evil of racial segregation, that to stop now—before busing and expanded school districts, are imposed on every city in the country—would be to betray the struggle for an integrated society. They are quite wrong. They have been misled by the professionals and specialists—in this instance, the government officials, the civil-rights lawyers, and the judges—as to what integration truly demands, and how it is coming about. Professionals and specialists inevitably overreach themselves, and there is no exception here.

It would be a terrible error to consider opposition to the recent judicial decisions on school integration as a betrayal of the promise of *Brown*. The promise of *Brown* is being realized. Black children may not be denied admittance to any school on account of their race (except for the cases in which courts and federal officials insist that they are to be denied admittance to schools with a black majority simply because they are black). The school systems of the South are desegregated. But more than that, integration in general has made enormous advances since 1954. It has been advanced by the hundreds of thousands of blacks in Northern and Western colleges. It has been advanced by the hundreds of thousands of blacks who have moved into professional and white-collar jobs in government, in the universities, in the school systems, in business. It has been advanced by the steady rise in black income which offers many blacks the opportunity to live in integrated areas. Most significantly, it has been advanced because millions of blacks now vote—in the South as well as the North—and because hundreds of blacks have been elected to school committees, city councils, state legislatures, the Congress. This is what is creating an integrated society in the United States.

A THIRD PATH

We are far from this necessary and desirable goal. It would be a tragedy if the progress we made in achieving integration in the 1960s were not continued through the 70s. We can now foresee within a reasonable time the closing of many gaps between white and black. But I doubt that mandatory transportation of school children for integration will advance this process.

For, so far as the schools in particular are concerned, the increase in black political power means that blacks—like all other groups—can now negotiate, on the basis of their own power, and to the extent of their own power, over what kind of school systems should exist, and involving what measure of transportation and racial balance. In the varied settings of American life there will be many different answers to these questions. What Berkeley has done is not what New York City has done, and there is no reason why it should be. But everywhere black political power is present and contributing to the development of solutions.

There is a third path for liberals now agonized between the steady imposition of racial and ethnic group quotas on every school in the country—a path of pointlessly expensive and destructive homogenization—and surrender to the South. It is a perfectly sound American path, one which assumes that groups are different and will have their own interests and orientations, but which insists that no one be penalized because of group membership, and that a common base of experience be demanded of all Americans. It is the path that made possible the growth of the parochial schools, not as a challenge to a common American society, but as one variant within it. It is a path that, to my mind, legitimizes such developments as community control of schools and educational vouchers permitting the free choice of schools. There are as many problems in working out the details of this path as of the other two, but it has one thing to commend it as against the other two: it expands individual freedom rather than restricts it.

One understands that the Constitution sets limits to the process of negotiation and bargaining even in a multi-racial and multi-ethnic setting. But the judges have gone far beyond what the Constitution can reasonably be thought to allow or require in the operation of this complex process. The judges should now stand back, and allow the forces of political democracy in a pluralist society to do their proper work.

VOICE OF DEMOCRACY CONTEST

Mr. PELL. Mr. President, the Veterans of Foreign Wars each year sponsors a Voice of Democracy contest. The Rhode Island representative in this national competition this year was Richard Webb, a junior at Barrington, R.I., High School.

I think the Veterans of Foreign Wars, and the Department of Rhode Island of the VFW, are to be commended and congratulated for their sponsorship of this fine program, which prompts our young citizens to stop and consider some of the basic tenets of our society and our form of government.

I believe that Senators will be interested in Richard Webb's thoughtful exploration of the limits of individual freedom in our country. I ask unanimous consent that the text of his essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

VOICE OF DEMOCRACY SPEECH BY RICHARD WEBB, OF BARRINGTON, R.I., HIGH SCHOOL

Mom: Hey, Mom—Where does our freedom stop? No, I've got to do this essay for history and the question was, "Where does an American's freedom end?" When he breaks a law and gets put in jail? Yeah, okay, thanks Mom. Hmmm—that's true, I guess, but I've got a feeling I can come up with something better! I don't exactly have to break a law to have freedom taken away from me. I mean, look at Roger Williams. He wasn't breaking a law when he wanted religious freedom, but the Puritans kicked him right out of Massachusetts for it, so he had to go start Rhode Island. And in the news, when those kids were demonstrating. They didn't break a law, but the policemen told them to go someplace else. Hey, wait a minute! They didn't break a law, but what about those other kids who weren't demonstrating? They couldn't get to classes, some of them, and it was too noisy to study. I bet that's the reason they got kicked out. Yeah, and "majority rules . . ." I know about that! There was only a couple of hundred guys demonstrating, I think, but there were lots and lots more who weren't, so it wasn't fair to the majority.

Now, back to this paper. Where did I hear it, "one man's freedom ends where another man's freedom begins"? Oh, I don't remember, but it's still a good way to start. One man's freedom ends where another man's freedom begins. Mmm . . . we've got a responsibility to the other people in our country, and each one of them has a responsibility to try and preserve the freedom that our fathers fought for as best they can. Each one of us has that responsibility to freedom. The thing is, however, no one can be taught responsibility to anything, let alone to free-

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dom. How could anyone get all upset if I decided tomorrow that an intangible ideal like freedom just wasn't worth the worry—wasn't worth that responsibility. How can I understand that I'm responsible for the freedom I supposedly have if I can't even conceptualize freedom. The Constitution says I've got lots of freedoms, that they're guaranteed to me because I'm a citizen of the United States. What would it be like without my guaranteed freedoms? I don't know! That's even more difficult to visualize than the freedoms themselves. Maybe I can't really see the freedoms I've got, but I know they're there, and I know everybody tells me what a good thing it is to have them. When I'm older, they say, I'll understand. I hope so.

Good job, Dave. I liked the way you questioned freedom by pointing out that it's intangible. I think you could have drawn a better conclusion, a better reason for that responsibility to freedom, however, other than that older people tell you it's important. Your decision that freedom relies on individual and collective responsibility was a very good point. Your ideas were all there, though I think you could have developed them more, continuing to say, perhaps, that this responsibility to freedom is why we're not supposed to infringe upon the rights of others. If each person tries to fulfill his responsibility and is careful not to abuse the rights of others and the rights that are given to him in addition, I think we'll be that much closer to a peaceful existence.

FUTURE OF THE KENNEDY CENTER

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Mr. Christopher Lydon from the New York Times of February 27, 1972, about Mr. Roger L. Stevens, chairman of the Board of Trustees of the Kennedy Center. The article raises some fundamental questions about the future of the Center, especially with regard to the question of support from public funds in order that the patronage may be widened to include all economic classes. Mr. Stevens has done a remarkable job in guiding the Center through a most difficult period. The acceptance by the public in general has been far beyond expectations, but there remain very serious problems involving the last payments to the contractors for claims arising out of delays, together with the maintenance of the Center as a memorial. I commend the article to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRY THE BELOVED STEVENS?

(By Christopher Lydon)

WASHINGTON, D.C.—By all measures, the most powerful performance of the Kennedy Center's first six months has been that of Roger L. Stevens, the deceptively shy, vaguely monkish-looking millionaire who has come to dominate the Center almost to the point of making it a personal vehicle. "Some day," says a Broadway producer, admiringly and only half-kiddingly, "it will be renamed The Roger Stevens Center for the Performing Arts." Younger artists who question his taste and his authoritarianism had begun to call him "the Robert Moses of Culture" in unhappy memory of New York's master highway builder. Like him or not, almost everyone recognizes by now a distinctive Stevens style about the place.

A large part of Stevens's power results from his versatility. A self-made success in real estate, he took complete charge of the Center's difficult and often controversial construction. As the producer of more than 100 Broadway plays through the 1950's and 1960's, he has done all the booking at the Center's three theaters. A man of innumerable roles, he often meets himself coming and going.

Roger Stevens, the Kennedy Center chairman, has arranged, for example, with Roger Stevens, the independent producer, to bring his New York production, "Old Times" by Harold Pinter, to Washington this week. The same Mr. Stevens was able to ease out the Kennedy Center's first artistic director, George London, by naming him executive director of the National Opera Institute, which Stevens created when he headed President Johnson's Arts Council and of which Stevens happens still to be president.

Besides booking traveling shows into the Kennedy Center, Stevens has occasionally listed himself as producer—of Leonard Bernstein's Mass, for example, because he had commissioned it, and of Odets's "The Country Girl," because the revival was his idea and he had done the casting. For "The Time of Your Life," which played the Eisenhower Theater for three weeks in January, he did not credit himself, though in fact he had served a producer's function by posting a $35,000-a-week guarantee for the Plumstead Playhouse venture.

Even if theater professionals did not know Stevens was shaping every detail of the Kennedy Center program, they could guess it. There are details, like the prominent consulting assignments given to Oliver Smith, Stevens's long-time stage designer, adviser and occasional collaborator in New York productions.

But there are larger and more important patterns, like Stevens's preference for "classics" and for big-name stars, and the upper-middlebrow tone with which he stretched but seldom escaped the boundaries of commercial theater in New York. Two of the Kennedy Center's big opening productions, the Mass and "Candide," were the work of Leonard Bernstein, the composer with whom Stevens struck it rich in "West Side Story." And the Center's current musical is "Lost in the Stars," an adaptation of "Cry the Beloved Country," which Mr. Stevens guided to Broadway some 20 years ago.

It is widely—and for the most part ungrudgingly—observed that the Kennedy Center, a 70-million joint venture of private and government effort, would never have been built without Stevens' tireless pushing. Gradually, and with somewhat more misgiving, it is recognized that production, too, is a one-man show—that Roger Stevens in one form or another stands behind every policy, every triumph and every embarrassment.

"I respect Roger Stevens as a theater man," says Joseph Papp, founder of the New York Shakespeare Festival and a strong promoter of the idea of a government-supported "national theater." "He's a serious theater person. I have grave doubts that anyone can do better at selecting plays and booking them into the theater. But if you're going to *create* theater there, you're going to need other people."

Stevens' defense of his program—as it is of the building, which he is happy to have finished in the face of innumerable difficulties—is a pragmatic one: at a time when half the theaters in New York are dark and attractive product is scarce, he is keeping three theaters busy and audiences coming in droves. Yet as some of the opening euphoria wears off, questions hinting at an identity crisis keep coming up among the staff as well as among critical outsiders.

Is the Kennedy Center going to be a home of the arts or just a house? Can it be satisfied without initiating a single new play this season, settling instead for touring shows like the Broadway-bound musical "Sugar," and revivals like "Captain Brass-bound's Conversion" with Ingrid Bergman? Will it expand its audience beyond the rich, white and middle-aged who predominate night after night?

And, at the root, should it keep trying to break even, as Stevens still aspires to make it do? Or must it acknowledge that any truly national theater (if that is what the Kennedy Center wants to be) needs and deserves continuing outside support? "It's hard to argue with success if he's filling the house with nice stuff," Papp observed the other day. "They can make this case: why create a problem where none exists—that is, a situation where you *need* a subsidy. But the danger of institutions like that is they do the old stuff over and over again until they become moribund.

"Where are the new plays?" Papp persists. "And where are the American authors who are writing today? Being located in Washington, the Kennedy Center should reflect the serious work that's going on in this country. It should be provocative, challenging, political, strong in social content. There should be a Vietnam play there, and a black play. The way a theater grows is by producing its own stuff."

"Well, I mean, where *are* the new plays?" Stevens inquires in response. He has seen Mr. Papp's new season, with its plays on Vietnam and black militancy, but prefers not to discuss it specifically. "I read three or four plays a week, and they've all come to me from substantial people, but I just don't see any new plays that are worth doing. It's one thing to try out a play in a small threater where it doesn't cost you an arm and a leg, but not in a theater where it's going to cost you $150,000. We're not in a position to amortize the cost of a play in a week."

Steven's critics see that high level of cost—a lavish production standard and a rich stagehands' contract that was only rewritten under public pressure last month—as a sad inhibition on the Kennedy Center. But Stevens seems to consider it as inevitable as his own exclusive control over the selection of shows. "I'm supposed to be in charge of the theater," he says. "I put 125 plays on Broadway and I didn't go around asking people's opinions before I did them. I take the responsibility for that. You can't have a committee sit around and choose the plays."

Producer Jerry Schlossberg, whose new mystery, "The Others," with Julie Harris and Richard Kiley, would have been the first new play to appear at the Kennedy Center, found that the Washington opening he had hoped for would have been substantially more expensive than the Philadelphia tryout he settled for. "A play that could break even in New York with a weekly gross around $32,000 might need $41,000 to break even at the Kennedy Center."

Much more important, Schlossberg says, the Eisenhower Theater lacks the beam or ceiling lights that can be cast down over the front of the stage and that are essential to theatrical effects his and many other modern plays require. "They haven't done anything new at the Kennedy Center," Schlossberg says, "and the arrangements at the Eisenhower Theater almost preclude it"—at least under the old stagehands' contract that had most of the local production staff on overtime rates from midweek on.

It is an "absolute lie" that lighting problems forced Schlossberg out," Stevens rejoins. "He walked away from a commitment to the Kennedy Center because he got a guarantee in Philadelphia and we didn't have any Theater Guild subscriptions left. How could he say you can't light a play in there? We've had five successful plays."

If there is a distinctive Stevens smoothness about many of the Kennedy Center operations, there is an equally characteristic acrimony when things go wrong. Stevens

claims he was forced to absorb a substantial loss, about $30,000, on the opening two weeks of the American Ballet Theater last fall. Sherwin M. Goldman, the ballet company's president, who suspects that Stevens is covering up embarrassing losses on "Candide" and the two enormously expensive performances of the opera "Ariodante," has charged "hokum" and insists that the Kennedy Center made money on his ballet. Stevens, outraged, says bluntly, "American Ballet Theater won't come back here as long as Sherwin Goldman is president." There evidently has been no effort to let auditors from either side resolve the disputed profit and loss figures.

Stevens gets the last word in these little squabbles; but he also controls—or is stuck with—financial and political decisions that must shape the Kennedy Center's future. Persuading Congress to grant him $1.5-million a year to maintain the memorial functions of the building and reopen it to tourists is Steven's most immediate problem.

But the question of production subsidies—seemingly unavoidable after unexpectedly large opening losses—would seem to be closer to the heart of the matter. The $1-million production fund that Stevens raised for the start of the season is "pretty well decimated," he says. The deficit on Bernstein's Mass alone is about $400,000—much more than the Kennedy Center is likely to recover from its 40-cents-a-record share of royalties of the cast album. Anticipated profits from commercial shows like "Sugar" were supposed to have replenished the artistic production fund, but they have largely vanished into the Center's huge overhead. And the recently announced plan to take Center productions out of town—starting with New York bookings this spring of "The Country Girl," "Lost in the Stars," and the Mass—are not based on any clear prospect of profit.

For Joseph Papp, asking for subsidy and getting it is important in itself—a test of whether the theater will free itself of the primary need to fill its seats with people who can afford $10 apiece for an evening's entertainment. For others, the critical need for subsidy would be welcome if it forced questions of purpose that have never been openly debated at the Kennedy Center. For Stevens, who seems to sense the dilemma of purpose, the question of where the Center must look for help is another of the issues he keeps largely to himself.

The original hope was that the theaters in the Center would pay for themselves. The next best thing would be private sponsorship by individuals and corporations. Stevens does not rule out the last resort to Congress but, in fact, his concrete plan does not extend beyond finishing the Center's construction and paying off his building bills.

"Then," he promises, "We will see where we're going."

THE PARIS PEACE TALKS

Mr. BROCK. Mr. President, I call attention to events which took place last week in the Paris peace talks. It was quite appropriate that U.S. Ambassador William J. Porter repeated his strong demands that the North Vietnamese discuss the plight of our prisoners of war and missing in Southeast Asia. It was fitting because at the direction of this distinguished body the President has designated this week of March 26–April 1 as a National Week of Concern for Prisoners of War/Missing in Action, in his continuing attempt to bring world opinion to bear on the North Vietnamese with the hope that they will abide by the terms of the Geneva Convention in the treatment of prisoners.

The Communist response was the same as it has been before—a charge that the POW issue is being raised for political reasons. I suggest that such a charge is amply refuted by the fact that 74 of my distinguished colleagues joined as cosponsors of my Senate Joint Resolution 189 authorizing this action, and three others—the Senator from Colorado (Mr. EAGLETON), the Senator from Nevada (Mr. BIBLE), and the Senator from Oregon (Mr. HATFIELD)—indicated their desire to do so after the measure had passed, making a grand total of 77 names on this legislation.

No partisanship motivated our desire to give our Government another powerful tool with which to try to bring world opinion to bear on the North Vietnamese, to abide by the provisions of the Geneva accords, beginning with inspection of the camps by the International Red Cross which regularly inspects camps on the South.

To the contrary, the facts speak for themselves that an overwhelming majority of the Members of the House and Senate do, indeed, recognize this cause as one which is humanitarian, a cause which deserves first priority over any personal considerations. I am very grateful for their support. I ask unanimous consent that the article from the Washington Evening Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES TO SHUN PARIS TALKS, HANOI CHARGES "SABOTAGE"

PARIS—U.S. Ambassador William J. Porter, angered by Communist refusal to negotiate at the Paris talks on Vietnam, adjourned the deadlocked talks today and said he would not return to the conference table until the Communists indicated in advance they were ready to get down to business.

A U.S. State Department spokesman said the move did not mean the United States was breaking off the talks, but chief Hanoi delegate Xuan Thuy denounced Porter's move as "sabotage" and said the United States "must assume full responsibility for the consequences."

The Viet Cong reaction was even sharper. "We will never accept these conditions," Viet Cong spokesman Ly Van Sau said, angrily shaking his fist. "What Mr. Porter is trying to do is assume for himself unilaterally the role of a judge who alone decides when the meetings are to be held. We reject Mr. Porter's action."

Porter said the United States would boycott next Thursday's session, and no new date was set for the next round. He told North Vietnam and the Viet Cong delegations that the United States or South Vietnam might suggest meetings to take up "particular points or subjects whenever such discussions appear likely to be useful."

Porter used his strongest language during the 147 meetings in Paris over three years. He was especially bitter at the Communists' refusal to negotiate on American prisoners and accused them of using them to exert "a particularly abhorrent form of blackmail."

"It would be a mockery of our concern for them were we to sit in this room with you and listen to more of your blackmail and distortions to the effect that the prisoner-of-war issue is an imaginary problem," Porter said.

The Communists had said President Nixon was using his plea for impartial inspection of POW camps as part of his re-election campaign.

MRS. BINH RETURNING

The U.S. move came while the conference awaited the announced return to Paris of Mme. Nguyen Thi Binh, the foreign minister of the Viet Cong's Provisional Revolutionary Government who has been in Hanoi since September for consultations with the Government of North Vietnam.

Stephen Ledogar, spokesman for the U.S. delegation, told newsmen the United States was willing to listen "if she comes with a negotiable plan. If she has no authority to negotiate there is no point of discussing it."

"We have had three years, 147 meetings, so there is ample evidence that the old formula of meetings does not work," Ledogar said. "We can't be any worse off than we are now. We are not ready to show up every Thursday for a new dose of their litanies."

REMINDER ON POWS

The talks have fallen into a familiar pattern—U.S. demands that the North Vietnamese discuss the freeing of American prisoners of war and Communist countercharges that the United States is escalating the air war while talking peace in Paris.

Porter reminded the Communists that President Nixon has declared next week as a week of national concern for prisoners held in Indochina. He said it would be a mockery of the U.S. concern for prisoners to meet next week without serious negotiation.

Today's session started off in familiar pattern. Porter once again called for North Vietnam to permit impartial inspection of the POW camps and the Communists refused on grounds the request was merely a maneuver in President Nixon's bid for reelection.

"President Nixon is raising the so-called prisoner of war issue while day and night U.S. bombers are raining thousands of tons of bombs on the Vietnamese population, including old men, women and children," Deputy Viet Cong negotiator Dinh Ba Thi said in a prepared speech.

BUSING AND THE SUPREME COURT

Mr. METCALF. Mr. President, on last Friday, March 24, 1972, I had the privilege of presiding over the Senate when the distinguished junior Senator from Connecticut (Mr. WEICKER) made a memorable speech. I returned to my office determined to make a statement in support of Senator WEICKER's able and courageous address, but the Senate adjourned before I had an opportunity to do so.

This is the comment that I would have made had I not been presiding and been present at Senator WEICKER's speech.

In discussing busing, the U.S. Supreme Court is talking about a constitutional question, and Senator WEICKER is eminently correct in reminding us that these issues cannot be resolved by an act of Congress, that a statutory resolution is not the solution.

On the second issue, that of an adequate appropriation for quality education, the Senator from Connecticut has made a strong case. Senator WEICKER points out that $2½ billion is woefully inadequate and that there should be an appropriation of at least $12 billion for this purpose. I agree that $2½ billion is pitifully inadequate, but the $12 billion is also insufficient. It would probably take at least $14 billion to give America the quality education that every boy and girl is entitled to expect to attain the American dream of equality of opportunity.

Nevertheless, in an innovative and bold

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speech the Senator from Connecticut has opened up an avenue of debate that will be significant and important.

THE WAR IN VIETNAM—AN EVALUATION

Mr. FULBRIGHT. Mr. President, several books and many articles have been written about the war in Vietnam. With the thought that perhaps an exchange of letters between the Secretary of Defense and the junior Senator from Arkansas, in May and June of 1964—prior to the Tonkin Gulf incident—might be of interest to Senators as a supplement to the books, I ask unanimous consent that they be printed in the RECORD. Subsequent developments, I believe, give these exchanges some historical interest.

In addition, Mr. President, I ask unanimous consent to have printed in the RECORD an article from the February 1969 Reader's Digest, consisting of an interview with Adm. John S. McCain, Jr., commander in chief, Pacific, also for the purpose of enabling Senators to evaluate the judgment of one of our most influential leaders in the light of subsequent developments.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

MAY 23, 1964.

ROBERT S. MCNAMARA,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I enclose a picture from this morning's Washington Post with the cutline "Vietnamese soldiers hitch a Communist Viet Cong guerrilla prisoner to an armored truck carrier before dragging him through a stream to make him talk."

I want to know if this is the kind of advice the numerous American advisers are giving the Vietnamese. If we are not advising this procedure, why are we not using our considerable influence with the Vietnamese to prevent it?

The fact that torture is morally repugnant ought to be sufficient reason not to practice it. But if there are those who think it is required as part of a "realistic" approach to a tough and dirty war, let them ponder the fact that so far as I know, it has never really achieved its purpose, but on the contrary has frequently served to strengthen the sympathizers of those on whom it is practiced while degrading its practitioners. The experiences of the Romans with the Christians, of the Spanish Inquisition with presumed heretics, and of the German Gestapo with the European underground are prominent examples chosen at random from history.

I think we are all agreed that a major part of the problem in Viet Nam is political. The sort of activity pictured in the enclosure can only aggravate the political problem. It is all the more disturbing because it follows reports of napalm bombing of innocent villagers simply because the presence of Viet Cong is suspected.

I have been gravely concerned over the situation in Viet Nam even without reports of torture and indiscriminate bombing. In the best of circumstances, it is difficult to foresee a satisfactory solution. If the civilian population of Viet Nam—and the people of the United States—are to be alienated by such tactics, then it seems to me a satisfactory solution becomes impossible. Despite my concern, I have been restrained in my public comments and have supported the Administration's policy because, frankly, I have seen no alternative. However, I cannot support a policy such as that pictured in the enclosure, nor do I believe the Congress or the American people will support it. It is bound to fail. This being the case, we should cut our losses and withdraw.

I will welcome your early and candid comments.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

THE SECRETARY OF DEFENSE,
Washington, June 12, 1964.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I share the concern you have expressed in your letter of 23 May concerning the reported mistreatment of a Viet Cong prisoner, and assure you that our U.S. military advisors neither advise nor condone such practices. To the contrary, our advisors at all levels have emphasized the necessity for humane treatment not only because of the moral factors involved, but because of the very real psychological and propaganda benefits that can accrue to the Government of Vietnam cause in combatting the Communist insurgency and terrorism. Indeed, during the last eighteen months we have made major efforts to influence the Vietnamese military and civilian leadership to deal humanely with prisoners. Practical measures which have been fully accepted and supported by the Vietnamese High Command include intensive training in proper handling and interrogation of prisoners, and a widely-publicized amnesty program ("Chieu Hoi" program)—under which some 12–15,000 Viet Cong voluntarily turned to support of the Government.

Prisoner procedures provide for minimum routine interrogation at the time of capture in order to gain information of immediate tactical value. The prisoner is then moved to Division or Corps levels where more detailed interrogations are conducted. Prisoners believed to have knowledge of important information are transferred to Saigon where they are further questioned by expert interrogators.

On March 7, 1964 the Vietnamese High Command issued a directive controlling upon all Vietnamese forces on the subject of prisoner interrogation which states, in part: "Mistreatment of killing of prisoners of war is forbidden. Each unit is responsible for the handling of its prisoners. Mistreatment, beating or killing of prisoners will be severely punished".

Despite determined efforts to assure humane treatment of prisoners, we must recognize that in the heat and excitement of battle against any enemy who uses murder, terror and atrocity as his standard weapons, exceptions to the rule will occur. This is especially the case when Viet Cong atrocities or the results thereof have been seen by Vietnamese troops.

The particular incident to which you refer was investigated by the U.S. Military Assistance Command in Vietnam. We cannot tell definitely whether the incident actually occurred, inasmuch as no U.S. personnel were present and the Associated Press representative states he was given the picture by a Vietnamese stranger. However, the area in which the action allegedly occurred is one in which numerous Viet Cong atrocities have been committed and in which many bloody battles have been fought.

With regard to the use of napalm, this weapon is not employed indiscriminately by the Vietnamese air force. It is used when it is considered to be the most effective available ordnance against a specific target. U.S. adfisors ontinue to emphasize the need for care and discrimination in target selection and use of weapons.

Please accept my assurance that the importance of these matters is fully recognized by the Vietnamese High Command and that our U.S. advisors will continue their efforts to see that the Vietnamese High Command directive of March 7 is followed.

Sincerely,

ROBERT S. MCNAMARA.

[From the Reader's Digest, February 1969]

IN VIETNAM, THE ENEMY IS BEATEN

(An interview with Adm. John S. McCain, Jr., commander in chief Pacific)

(By John G. Hubbell)

Q. Admiral McCain, what is the military situation in Vietnam?

A. We have the enemy licked now. He is beaten. We have the initiative in all areas. The enemy cannot achieve a military victory; he cannot even mount another major offensive. We are in the process of eliminating his remaining capability to threaten the security of South Vietnam. I am convinced that that is why he has come to the conference table in Paris—to try to win there what he has failed to win on the battlefields.

We must, of course, expect further periods of very hard fighting as he attempts to negotiate some sort of victory. He could not care less about sacrificing manpower in an effort to win a political objective.

Q. Political and military leaders have been making this kind of optimistic statement for the last four years, yet the war has continued to escalate. What reason is there for such optimism now?

A. My optimism is based on hard military realities. The enemy has suffered staggering losses. More than 420,000 communist troops have been killed, 170,000 last year alone. In both Vietcong and North Vietnamese army units, leadership and general caliber of troops are deteriorating rapidly. The Vietcong has been so decimated that two thirds of its ranks are now composed of North Vietnamese, and the training capacity of the North Vietnamese can't keep up with the Vietcong's demands. Inexperienced youngsters are replacing battle-seasoned veterans (we have captured 14-year-olds) North Vietnam has had to increase its draft age from 30 to 33. North Vietnamese officers who have surrendered or deserted to us complained bitterly to having had to throw inadequately trained troops into battle.

North Vietnamese and Vietcong desertion rates have been high and appear to be accelerating. Of the nearly 90,000 who have come over to us since 1963, almost half have come in the past two years. Enemy troops now are giving up to our side at a sustained rate of 500 per week (including prisoners of war). In short, for the past year we have been looking at an increasingly anemic military capability.

Q. Is this the result of some new strategy on our part?

A. It's the result of having worked a terrible attrition on the enemy for four years. In recent months, General Abrams* has taken the initiative from the enemy in brilliant fashion. An enemy offensive in May—the first they were able to launch since last winter's Tet offensive against South Vietnam's cities—was crushed. The enemy then spent months gathering his forces for another major offensive in August. But Abrams hit the enemy in his staging areas before he was able to strike, and there was no August offensive. The South Vietnamese military supported by allied forces are rooting out the enemy's political apparatus, scattering his guerrillas, surfacing his arms and food caches, blocking his lines of communication, sealing off his sources of recruitment and undercutting his every hope of revival as a military threat.

Q. How is General Abrams able to launch such effective pre-emptive strikes? He must have better intelligence now than was available a short year ago, prior to the Tet offensive. It appeared that no one knew that was coming.

A. There are really two answers to that. First, we *did* have signs that the Tet offensive was coming, but we didn't read them correctly because we couldn't believe what we were seeing. We couldn't believe that the communists would profane Tet, which is the most sacred time of the year to all Vietnamese, especially after agreeing to honor it with a truce.

Second, our intelligence is indeed much better now. One reason is that, after the communists so savagely violated Tet, large numbers of South Vietnamese finally turned against them. Prior to this, many South Vietnamese had no tradition of loyalty to the central government. Now such a tradition is developing. The people have become better sources of intelligence. In retrospect, the Tet offensive may have been the turning point of the war, where the enemy once and for all lost the South Vietnamese people—which is what this war is all about.

Q. And there is no chance the enemy could launch another offensive as savage as Tet?

A. Obviously, if you give an enterprising enemy a breathing spell, he is going to reestablish *some* capability. He is going to rebuild bridges, repair roads, train and equip forces and move supplies south. But he can't do anything again on the scale of the Tet offensive. Our intelligence is too good and our forces are too strong for him. It is possible he will try something spectacular—a major rocket attack on Saigon, for example—but it would be aimed mainly at demoralizing the American people and at scoring bargaining points at the conference table in Paris.

Q. You say the communists have lost the South Vietnamese people. What is the situation in the countryside, in the villages?

A. About 70 percent of the population now lives in relatively secure areas. This is largely the result of the government of South Vietnam's pacification effort and its new Phoenix Program, a highly efficient and successful intelligence effort which got under way in late 1967. Its purpose is to destroy the communists' political structure in South Vietnam. It goes about this by gathering intelligence, putting together dossiers, and distributing "most wanted" lists in villages and hamlets. We are now able to go into villages and pick up the communist leaders. Recently, for example, we apprehended 57 of the highest-ranking communists in Quang Duc province. We have destroyed the communist infrastructure in many villages and severely damaged morale among communist cadres.

Q. How effective are South Vietnam's armed forces now?

A. They have come a long way. In recent months, they have been displaying an increased morale, proficiency and dedication. The main reason is that they are receiving much better training, and are being led by a growing number of competent, combat-experienced men. Also, they are now equipped with the M–16 rifle (replacing the M–1), which increases their firepower by 50 percent. And there have been intangible factors, including the increased support of the South Vietnamese people, and an awareness that the war is being won.

There is still a lot of room for improvement, of course, but, in one recent week we got a good look at what the South Vietnamese can do. First, South Vietnamese Marines and regional-force soldiers took on the enemy at the Phuoc Tan outpost in Tay Ninh province, killed 148 and inflicted a casualty ratio of 20 to 1. Four days later, a Civilian Irregular force at Katum outpost in Tay Ninh province met the enemy, killed 135, inflicted a casualty ratio of 13 to 1 and captured a large quantity of arms and munitions. Two days after that, the enemy launched simultaneous attacks on the Phuoc Tan and Thlen Ngon outposts in Tay Ninh province. Both attacks were beaten off; the enemy lost 276 killed, the South Vietnamese only 11. Significantly, these battles were fought close to the enemy's Cambodian sanctuaries, where he is supposed to have an advantage.

Just as happened with South Korea's armed forces, I believe it is entirely reasonable to assume that South Vietnam will come out of this war with a sufficiently strong military posture to face up to any communist aggression in future years. I think, too, however, that as in Korea, some sort of American military presence will be required in South Vietnam for several years.

Q. Do we need more men in Vietnam to finish the war?

A. Our current authorized strength is 549,500 (U.S. forces actually there now total 537,500), and total allied strength is about 1,400,000. This should be ample to do the job, particularly in view of the enemy's fast-deteriorating military posture.

Q. Do you have any advice for war-weary American people?

A. Yes. We must remember that the communists announced publicly long ago that they meant to extend their dominion over the world's peoples through "wars of national liberation." Vietnam is the first "war of national liberation," the testing ground. If the communists make it work there, we must expect to find ourselves involved in more such wars elsewhere. So we must not let it work in Vietnam. We must fight it to a finish, and achieve in Paris the kind of peace that will convince the communists that their evil experiment in warfare will not work anywhere else. The job will be much easier if every American understands that the war is as much his concern as that of the boys who are doing the fighting, bleeding and dying.

* W. Creighton Abrams, Commander, U.S. Forces Vietnam.

WAR POWERS

Mr. FULBRIGHT. Mr. President, my attention has been called to a publication of the Bureau of Public Affairs of the Department of State on the subject of the war powers of the President and Congress. It is a small publication called GIST.

This document presents the view of the executive branch on the bill which will soon be before the Senate, S. 2956. It ignores completely the position and arguments set forth in the committee report on this bill. This publication makes no mention of the 800 pages of testimony taken on the subject.

One would think that as a simple matter of fairness and objectivity, this document, published by the Department of State for domestic use, would at least mention the availability of congressional documents on the subject.

What bothers me is that Congress appropriates funds to the executive branch which the Executive then uses to propagandize the American people in support of the positions of the executive branch. It is rather as if a committee were to hold hearings and then publish only the views in support of the committee decisions.

I ask unanimous consent that the document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

THE WAR POWERS OF THE PRESIDENT AND CONGRESS

1. *Background:* On February 9, 1972, the Senate Foreign Relations Committee reported out a bill (S. 2956) which, in the absence of a declaration of war by the Congress, or specific statutory authority, would limit the Presidential use of U.S. forces in hostilities or in situations involving an imminent risk of hostilities to the following:

To repel or forestall or to retaliate against an attack upon the U.S., its territories and possessions;

To repel or forestall an attack against U.S. Armed Forces outside of the U.S., its territories and possessions;

To protect U.S. citizens being evacuated from any country where their lives are being threatened.

The use of U.S. Armed Forces in any of the foregoing situations would be limited to 30 days or less, unless specifically extended by Congressional legislation.

2. *Effects of bill:* It is our view that the bill as now drafted would curtail Presidential action in many important situations that may be vital to the nation's interest. It could increase, in certain important cases, rather than decrease, the risks of involving the U.S. in armed conflict. The bill would:

Prohibit the President from using the armed forces as a demonstration of U.S. determination to exercise its rights, as for instance in the event of a renewed Berlin blockade.

Drastically reduce the President's ability to deploy U.S. Armed Forces for deterrent or defensive purposes, as in the case of the Czech invasion, when U.S. forces in Europe were augmented as a precautionary measure.

Appear to severely limit our ability to cooperate with our allies by prohibiting the participation of members of the U.S. Armed Forces in integrated commands such as NATO and NORAD, when forces under such command became engaged in hostilities.

Restrict the President's ability to react in the event of armed attacks against our nuclear submarines or even against U.S. citizens or merchant vessels on the high seas.

In addition, the bill could:

Reduce the President's ability to deploy U.S. armed forces and the world for peacekeeping purposes. This role is vital to the deterrence of armed conflict; it was so viewed at the time the Constitution was written. Such deployment of U.S. forces is not an act of war but an attempt to keep the peace.

Be misinterpreted by potential enemies and by our allies as an indication that the U.S. would be incapable of reacting swiftly in an emergency situation.

Generate, because of the 30-day limitation on the involvement of U.S. Armed Forces in hostilities, pressures to escalate hostilities in order to achieve objectives by whatever means available within that time period.

In the event of an armed attack on the United States itself, Congress may be unable to meet within the 30-day period, and the President would therefore be unable legally to continue U.S. defense measures. Moreover, once U.S. forces are being used for a legitimate purpose, it may prove impossible, as a practical matter, to terminate that action within an arbitrary time period.

3. *Administration's position:* Both the Congress and the President have constitutional powers affecting the use of our Armed Forces, and the two branches of Government should cooperate to see that these shared powers are exercised in a way that serves the nation's interest.

The Executive Branch:

Realizes that under our constitutional system decisions in this vital area should reflect a common perspective among the Legislature and the Executive, as well as the electorate, so that each may play its proper role;

Believes that Congress already has ample powers under the Constitution which it could exercise as a check upon Presidential action and that any attempt to try to define Congressional or Presidential powers more precisely than the Founding Fathers thought

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wise should be approached with the utmost caution and study.

It is not advisable, in the emotional atmosphere of Viet-Nam today, to enact far-reaching legislation with major Constitutional implications. The views of the organized bar, which is presently undertaking a study of the war-powers issue, should be known and debated generally throughout the country before Congress takes action on this subject.

AID TO BANGLADESH

Mr. SAXBE. Mr. President, on March 2 of this year I placed in the RECORD at page 6520, the latest figures from the State Department relating to aid to Bangladesh. These figures showed that the United States was the supplier of at least 75 percent of all governmental assistance to East Pakistan prior to the war and 37 percent of the total prewar refugee relief in India. Further, I stated our contributions to postwar Bangladesh represented 14 percent of the known worldwide contributions.

These figures were furnished to me pursuant to my request for clarification of U.S. assistance to the subcontinent in comparison with that of other countries. I had heard reports that our assistance was no where near that great and that substantial amounts of food and other humanitarian assistance had been diverted to Vietnam, Indonesia, and Afghanistan.

When I testified before the Foreign Relations Committee on the recognition of Bangladesh, I scrupulously avoided any mention of economic assistance, although the subject was raised by my colleagues. It now appears that these reports may in fact be true, and I now seek publicly the clarification that I heretofore sought privately from the State Department.

In a letter to the editor of the Washington Post on Tuesday, March 14, 1972, David A. Weisbrod, Director of the Bangladesh Information Center, stated:

> The confusion surrounding just how much aid has actually flowed to East Pakistan/Bangladesh has become so intense that several Senate offices have reported they have received different figures from the Administration as to the amounts delivered . . . Despite considerable prodding from capitol hill, AID has not been able to produce a clear-cut breakdown of the quantities off-loaded.

The March 27 issue of Newsweek magazine contains an article entitled "Bangladesh: The Fight for Survival," stating:

> Yet, the United States not only maintains that no catastrophe is in sight, but has actually cancelled more than 60% of the humanitarian aid that it had previously earmarked for Bangladesh. 'Most people in Bangladesh are living such a marginal existence that economic problems don't really affect them,' one Administration official said last week.

Ignoring for the moment the callousness of this remark, I again ask now that the U.S. Senate is on record favoring the recognition of Bangladesh: What is our policy to that country and what aid and assistance have we delivered to it?

I ask unanimous consent that the letter to the editor of the Washington Post plus the Newsweek magazine article, plus a cable from the Emergency Relief Fund sent to the President, and finally an article in the Washington Post dated March 16 be printed in the RECORD.

There being no objection. the items were ordered to be printed in the RECORD, as follows:

U.S. AID TO BANGLADESH

(By David A. Weisbrod)

Through the spring and summer of 1971 President Nixon declared that humanitarian concern was one of the cornerstones of United States policy in South Asia. As evidence of this concern the President in his State of the World message referred to a figure of $158 million which the United States had "committed" to programs of relief in East Pakistan.

Lately, however, there has been a rising tide of criticism both from the public and Congress questioning the extent of U.S. humanitarian assistance to Bangladesh. Congress especially has expressed concern about the lack of dispatch on the part of the administration in helping mobilize a relief effort.

Although three weeks have elapsed since United Nations Secretary-General Kurt Waldheim issued what he called the most urgent appeal for funds in the history of the U.N., so far no answer has been received from the United States commensurate with the $200 million appropriated by Congress for this purpose.

Several senators note that what has been holding up the program is the President's hesitation in according diplomatic recognition to the government of Bangladesh. Despite the administration's denial of this charge, during the entire period that the question of recognition has been kept under "review" no significant fresh assistance has been earmarked for Bangladesh.

On March 6, testifying before the Senate Foreign Relations Committee, Deputy Assistant Secretary of State Christopher Van Hollen announced the signing of a $21 million food agreement with the United Nations. Three days later a Washington Post editorial praised the agreement, noting, "The United States which provided two-thirds of the world's emergency aid to then East Pakistan has just kicked in another $25 million worth (sic)."

Senator Edward Kennedy however disclosed on March 7 that the new deal amounted to nothing but a restatement of a six month old agreement with the government of Pakistan that had already been credited as "committed" in 1971.

The confusion surrounding just how much aid has actually flowed to East Pakistan/Bangladesh has become so intense that several Senate offices have reported that they have received different figures from the administration as to the amounts delivered. One congressional source said that he was told by the Agency for International Development that so far $30 to $40 million worth of assistance had been delivered—only a fraction of the $158 million labelled as committed more than six months ago. Despite considerable prodding from Capitol Hill, AID has not been able to produce a clear breakdown of the quantities off-loaded.

If assistance is not provided quickly and if substantial work is not initiated on repairing the country's internal transportation network, a second, devastating and unnecessary round of disaster may strike Bangladesh.

After 10 months of struggle, civil war and atrocities the people of Bangladesh have at last established their own government. The political complications inherent in the relief operation last summer and fall have been eliminated. There is new found hope to build a free, democratic society. Will the United States meet its commitment to help in this effort?

BANGLADESH: THE FIGHT FOR SURVIVAL

Even to the poets who have so eloquently sung its praises, "Golden Bengal" has sometimes seemed a living hell. For centuries, famine, disease and civil strife have visited the land as regularly as the monsoons that lash its coast. But nothing in this ancient and bitter legacy prepared the Bengalis for the calamities that have befallen them in recent months: a devastating cyclone, the insensate massacres carried out by West Pakistan's army of occupation and, finally, a savage war. And while they emerged from this baptism of death as the proud inheritors of a newly independent nation, the Bengalis' suffering is far from over. For now, another tragedy looms—the specter of an internal collapse that could conceivably lead to revolution, anarchy and the destruction of the fledging state of Bangladesh.

Instead of alleviating their suffering, independence has in fact only brought the Bengalis new adversities. For Bangladesh emerged from war a ravaged nation. Its economy lies in collapse, its fertile farmlands are trampled and barren and its treasury is bankrupt. More than a million and a half people have died—and still the killing goes on. Though the new government of Bangladesh is led by a revered national hero. Sheikh Mujibur Rahman, it has so far proved inept and unequal to the Gargantuan tasks at hand. And with the exception of the Soviet Union, which has launched an effective campaign to carve out a new sphere of influence in Bangladesh, the developed nations of the world have been either indifferent to the plight of Bangladesh or clumsy in their attempts to alleviate it.

What is most baffling about all this is that, although a number of respected voices have been raised in alarm, the world as a whole has failed to grasp the magnitude of the new tragedy that threatens Bengal. "Seventy-five million people have been caught in this upheaval," says Toni Hagen, the Swiss director of the United Nations Relief Operation in Dacca. "There are no yardsticks for measuring it. Previous disaster relief operations around the world faced nothing so immense." Yet, the United States not only maintains that no catastrophe is in sight, but has actually canceled more than 60 per cent of the humanitarian aid it had previously earmarked for Bangladesh. "Most people in Bangladesh are living such a marginal existence that economic problems don't really affect them," one Administration official said last week. That type of reasoning has infuriated critics of the Administration such as Sen. Edward M. Kennedy. "The Administration's policy defies understanding," he told NEWSWEEK last week. "Each day this Administration delays in using already appropriated funds holds back the relief effort, and each day means one more day of suffering."

The Nixon Administration contends that additional emergency aid to Bangladesh is unnecessary because the threat of famine no longer exists. But the fact remains that the economy of Bangladesh—and thus the livelihood of the Bengalis—is in shambles. Industry lies idle, with much of its machinery ruined or ransacked and without the raw materials available to begin even modest production in those plants still capable of functioning. More than 400 factories owned by West Pakistanis or their collaborators before the war have been abandoned, and Bangladesh is empty of skilled men to run them. Virtually the entire transportation and communications infrastructure of the country has been destroyed. Some 500 road and rail bridges were blown up during the prolonged fighting and 7,000 of the country's 8,000 trucks are wrecks. All in all, there is hardly any way that vital foodstuffs can be distributed in the countryside. Says Hagen: "The situation is hopeless unless we can put the transport system back into operation, and this is a titantic effort."

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Making the picture even bleaker is the fact that many of the supplies that have been donated to Bangladesh are thoroughly useless. Costly air charters from West Germany flew in 250,000 sets of long woolen underwear, worthless in Bengal's sweltering spring heat. Hundreds of bales of hand-me-down winter clothes from Norway sit unneeded in valuable warehouse space. Planeloads of canned herring were flown into a country whose rivers abound with fish. Repeatedly, desperately needed money has been used to buy the wrong items. Six million dollars would have been more than enough to rebuild the country's two largest bridges; but, that sum was spent on blankets. Similarly, $200,000 would have purchased enough hand pumps to decontaminate thousands of wells putrified by human remains; instead, that amount was spent on air-freight charges for drugs, with the result that people are now cured of cholera one day only to contract it all over again the next day by drinking contaminated water "Bangladesh has been a playground for charitable hobbies," says Hagen. "You can't build bridges with baby food and you can't transport food with blankets. We need cash."

REFUGEES

The failure to come to grips with the chaos in Bangladesh cannot help but take a deadly toll in the wretchedly impoverished and overcrowded country. If 40 per cent of the people of the U.S. were packed into Florida, the population density would roughly equal that of Bangladesh. And with each passing week, the situation gets worse. More than 9.7 million of the nearly 10 million refugees who fled to India during West Pakistan's campaign of terror have returned to Bangladesh. But in a multitude of cases, their homecoming has been bitter; 1.6 million dwellings, each of which, on average, sheltered a family of seven, have been demolished, according to a U.N. survey. By the tens of thousands, refugees have been flooding Bangladesh's cities. More than 175,000 jobless Bengalis arrived last week in the capital of Dacca, taking squatters' rights in sordid shantytowns or living amid the rubble of ruined buildings, sleeping on the streets or in burned-out railroad cars.

Unemployed, unsheltered and underfed, these droves of humanity have hardly any chance of a better existence in the coming months. For by June, the relentless summer monsoon is expected to begin, flooding three-fifths of the countryside and enhancing the chances of widespread starvation. U.S. officials, to be sure, are dubious about such developments. One State Department specialist called the danger of starvation "possible but not probable," and added: "I've heard no anxiety in this office about mass famine." But others are not so sanguine. With nearly 230,000 tons of food—a six-week supply—in danger of rotting in the ports of Chittagong and Chalna because they cannot be distributed, the U.N.'s Hagen predicts widespread food riots "a few weeks from now."

VIOLENCE

If such riots should break out, they would be but another instance of the lawlessness that has scarred every day of Bangladesh's brief existence. There are nightly firefights in the major cities, and looting has become commonplace. (One formerly wealthy man recently wandered into a police station in his underwear—all he had left after being robbed for the seventh time.) Far more serious is the ongoing persecution of the 1.5 million Biharis, much-hated northern Indian Moslems who cooperated with the West Pakistani military. Less than two weeks ago, in the worst single outbreak of violence since independence, enraged Bengalis overran a Bihari camp near Khulna and indiscriminately slaughtered hundreds of its occupants. Compounding the general trend to lawlessness is the fact that most of the Mukti Bahini guerrillas have not turned in their weapons, and such violent extremists as Abdul Kadr Siddiqui, a man who won international notoriety by bayoneting Pakistani prisoners in public, are still running private armies.

Confronted with such myriad problems, Sheikh Mujibur Rahman's regime has so far failed to find solutions. Mujib himself puts in punishing eighteen-hour days and runs what amounts to a one-man government. His home is jammed with supplicants who beseige him even while he dresses and has breakfast in the morning; his office is awash with students asking for textbooks, men hunting lost trucks, civil servants with papers to sign. Sadly, the genial Prime Minister seems congentially unable to turn anyone away or to admit that he cannot satisfy every request; the result is that hardly anything gets done, and many supplicants wind up bitterly disappointed. "How can anybody run a country like this?" asks one incredulous diplomat in Dacca. "It's like being in a madhouse."

So it is. And not only are none of the country's pressing problems being solved, but Mujib's schedule is exacting a personal toll. Last week he told NEWSWEEK Senior Editor Arnaud de Borchgrave that he had been suffering pains in his chest and left arm. "But how can I rest?" he asked. "You saw all those people waiting to see me, and when they are gone it will be something else." And to another foreign visitor he complained: "Jail in Pakistan was not as bad as this job."

To be sure, Mujib's administration has been getting some support from its allies, most notably India, whose army was principally responsible for the creation of Bangladesh. Last week, as the last Indian troops left his country, Mujib won India's agreement on two sensitive issues—his government's right to try Pakistani prisoners where there is prima facie evidence that they committed atrocities and the demand that Pakistan recognize Bangladesh before other POW's will be repatriated.

Yet relations between Bangladesh and India have soured somewhat in recent weeks, as evidenced by the rather lackluster welcome given Indian Prime Minister Indira Gandhi when she arrived last week for talks with Mujib. During the last months of Pakistani rule, Indians smuggled out the bulk of Bangladesh's vital jute crop, thereby depriving the Bengalis of essential foreign exchange. Moreover, India also took all captured Pakistani Army equipment, although much of it had been paid for by taxes levied on the Bengalis when their state was part of Pakistan. As one resentful Bangladesh official said, "What India took as war booty actually belongs to us."

HOSTILITY

But whatever coolness may exist between Bangladesh and India is minor compared with the hostility the Bengalis feel toward the United States. A supporter of Pakistan during its war with India and the Bengalis, the U.S. still has not recognized Mujib's government; it is the only major power besides China that has not done so. U.S. officials have seized on the fact that no diplomatic ties exist between Washington and Dacca to justify the cancellation of some $97 million in previously committed aid. "Since we have not recognized the state," said one Administration official, "we cannot deliver this aid." But that argument cuts little ice with many people. When a group of 70 American fund raisers for Emergency Relief Fund, Inc., of Lansing, Mich., returned from Bangladesh last week after taking a firsthand look at the relief crisis, one of its members fumed, "Our government is not going to respond—for all the wrong reasons."

Others argue that Washington has been less than forthright on the aid questtion. As they see it, the Administration has been sulking over the loss of face it incurred by supporting Pakistan and has held back aid deliveries for fear of having to admit a mistake. There is also ground to believe that the U.S. hopes to see the Soviet Union get bogged down financially in Bangladesh. "The Russians acted as the champions for the Indian and Bangladesh cause," said one official. "Let them pay now." And as de Borchgrave found when he traveled to Bangladesh last week, the Russians have done just that. Below, his report:

Russia has wasted no time—and spared no effort—moving into Bangladesh. Before Mujib left for Moscow on a state visit three weeks ago. Soviet Ambassador Valentine Popov urged that he give Russia the contract to clear the nation's harbors and thereby facilitate the flow of relief supplies. With 29 sunken ships blocking the port of Chittagong and some 100 smaller vessels obstructing the only other port, Chalna, the project had top priority in Dacca. But Mujib still hoped that a U.N.-sponsored operation could do the job. Assured by U.N. relief administrator Hagen that the U.N. would approve the project by the time Mujib returned from Moscow, the Bengali leader stalled the Russians. But on his return to Dacca, Mujib found that final approval had not been granted by U.N. authorities in New York. "Tell the U.N. to forget about salvage," the Prime Minister told Hagen, "We have accepted the Soviet offer. The discussion is closed."

The Soviets obviously are hoping that by undertaking the harbor-clearance project they may pave the way toward acquiring long-term berthing facilities in the two Bay of Bengal ports—and thus have an eastern anchor for their Indian Ocean fleet. But the Russians have extended their influence in Bangladesh in other ways as well. They have offered a squadron of MIG's and a small fleet of transport planes to the young nation and have expanded their embassy staff to 90 people—many of them fluent in Bengali. (So rapid has this expansion been—and so long does it take the Bangladesh bureaucracy to accomplish any task—that official Soviet automobiles have taken to sporting homemade diplomatic license plates.) Everywhere in Bangladesh the Soviet presence is now visible. Communist propaganda films abound on television. The Moscow News fills Dacca newsstands and symposiums on Communism are held in outlying cities.

LOBBYING

It takes little detective work to determine Russia's motives in Bangladesh. For the Soviets believe, as indeed they have said privately, that the real revolution in the Bengali nation is yet to come. And when it does, they want to insure that it is oriented toward Russian Communism rather than the Chinese brand. According to the Soviet scenario, the suffering and unrest in Bangladesh will of necessity force the relatively conservative Mujib to move ever farther to the left. And just in case the Bengalis do not move toward a more radical regime on their own accord, the Soviets have been doing some lobbying toward that goal. The have been telling their local sympathizers that the working class in Bangladesh has been denied the fruits of the struggle against Pakistan while the middle class has been lining its pockets.

Many Bengalis—not the least of them Mujib himself—seem to believe that if they can swing the U.S. to their side, their problems will begin to disappear. "If you Americans can put a man on the moon, you can do anything," the Prime Minister said recently. "I plead with you to come to the aid of my people." But while the Nixon Administration may grant diplomatic recognition to Bangladesh in the coming week—and will, in all likelihood, increase American aid—it is by

no means ready to plunge into yet another Asian commitment. For one thing, active involvement in the multiplying problems of Bangladesh would siphon off far too much of the already reduced foreign-aid budget. Beyond that, there is little doubt that Washington believes the Soviet Union has taken on an insoluble problem that can only cause it grief—and thus distract Moscow from creating havoc in areas more valuable to the U.S. But that these budgetary and geopolitical considerations should be allowed to stand in the way of a massive humanitarian aid project is by no means universally accepted. "Surely," said one foreigner in Dacca last week, "the world's most generous nation cannot be so callous that it will stand by while millions go hungry."

CABLE SENT TO PRESIDENT RICHARD M. NIXON FROM AIRLIFT OF UNDERSTANDING PARTICIPANTS

In an airlift of understanding at their own expense, seventy American citizens from thirty-seven states associated with the Emergency Relief Fund chaired by Chester Bowles and Dr. Douglas Ensminger have visited most Bangladesh areas making on-spot observations, holding discussions with the Bengali people and their leaders about ways in which the American people may assist them in their desperate situation. We are gratified at news reports your administration may soon recognize Bangladesh. We join in urging immediate recognition. Overwhelming Bangladesh food needs compounded by severe transportation deficiencies. Therefore on humanitarian basis we urge that you make available through U.N. required number and kinds of aircraft and amphibians necessary to deliver foodgrains before onset monsoon rains. All required equipment available in Vietnam as surplus. This possible "Operation Save the People" airlift already cleared with Dr. Toni Hagen U.N. Mission Chief of Operations Bangladesh who would give it top priority. In view of massive need for funds, food and transport, and since normal channels including PL YBO funds are not available we beg you as a fellow concerned citizen to set in motion whatever effective action you deem proper to make same immediately available to save this struggling nation further tragedy and hopefully bring into being spirit of brotherhood with Bengalis which is in best American tradition. Some airlift members would be happy to meet with you at your convenience to share with you their personal experiences regarding specific needs in this new nation.

WEST HESITATES, DACCA GIVES PORT JOB TO SOVIETS

(By William J. Drummond)

DACCA, March 15.—The Soviet navy has taken a major step toward extending its influence in the waters surrounding the Indian subcontinent, taking advantage of the inability of Western countries to come up with $6 million to finance salvage operations.

After waiting for more than two months for the West, acting through the United Nations, to clear sunken vessels from the ports of Chalna and Chittagong, Bangladesh Prime Minister Sheih Mujibur Rahman gave the Russians permission to do the work.

Thirty hours later, United Nations headquarters in New York came through with approval for its representatives here to accept bids for the work. By then, it was too late.

The Soviet vessels were already under sail, and although it is understood that the Sheikh would like to cancel the invitation, he cannot, for diplomatic reasons.

Some neutral diplomatic sources here think that the Russian salvage fleet is the precursor of an extensive Russian naval presence in the Bay of Bengal.

The Russians will be able to chart every mile of the vast waterways of Bangladesh and will gain an important supply foothold to complement the growing Soviet naval presence in the Indian Ocean, according to these sources.

Other sources dispute this contention, pointing out that the larger of the two ports, Chittagong, cannot accommodate a vessel larger than a destroyer and would require extensive work before it could become a useful facility for ships of the line of the Soviet fleet.

Furthermore, these sources say, it seems unlikely that Mujib would tolerate full-fledged Soviet bases since the prime minister has proclaimed his country to be "The Switzerland of Asia."

In addition, India, the Soviet Union's majorally in the region, is committed to keeping the area free of the navies of the big powers.

Whether or not the Soviet Union gains a base, diplomatic sources of all persuasions say, its undertaking of the salvage operation is a significant step that will further heighten its political influence in Bangladesh.

The granting of the salvage job to the Soviet Union was a natural outgrowth of the delay, characterizing Western relief operations in Bangladesh, most of which are channeled through the United Nations Relief Operations Dacca (UNROD).

In early January, UNROD informed headquarters in New York that clearing the ports of vessels sank during the December war was an item of the highest priority. Even in the best of times Bangladesh imports more than a million tons of foodgrains a year, and with the ports blocked to normal shipping, a food shortage in the hinterland was bound to develop, UNROD said.

A Singapore firm was asked to provide a cost estimate for the work and the figure came to $6 million, which UNROD asked New York to supply.

Each day the food shortage up country became more severe. Rahman went to Moscow for an official visit, during which the Russians offered to clear the ports. Mujib did not give an answer immediately.

Mujib returned to Dacca on March 6, inquiring immediately whether the ports would be cleared by the U.N.

No approval had come. He waited until March 9 before accepting the Soviet offer to do the salvage job.

ELECTION OF C. R. GUTERMUTH AS PRESIDENT OF WORLD WILDLIFE FUND

Mr. METCALF. Mr. President, I invite the attention of Senators to another recognition of the effective work of C. R. Gutermuth on behalf of our natural resources.

That recognition was "Pink's" election as president of the World Wildlife Fund.

Pink Gutermuth was here when I came to the other body in 1953. At that time, he was vice president of the Wildlife Management Institute, a position he held for 26 years before his retirement in 1971. The institute, a nonprofit, private, membership organization dedicated to the sound management and wise use of natural resources in the broad public interest, is one of the oldest national conservation organizations in this country. Its program dates back to 1911.

Mr. President, I ask unanimous consent that the World Wildlife Fund press release of March 4, 1972, be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

GUTERMUTH ELECTED PRESIDENT OF WORLD WILDLIFE FUND

C. R. Gutermuth of Washington, D.C., one of the founders of the World Wildlife Fund and its voluntary Treasurer for the past seven years, was elected President of the organization at a meeting in Palm Beach, Florida, on March 1, it was announced by Board Chairman, John D. Murchison of Dallas. The change was recommended by Dr. Ira N. Gabrielson who has headed the WWF (U.S.) since its inception in 1961. Gabrielson was elected Honorary President, a place of distinction created several years ago for President Dwight D. Eisenhower.

Gutermuth, widely known in conservation circles as "Pink" has been Secretary of the North American Wildlife Foundation since 1945 and was the Vice-President of the Wildlife Management Institute from 1946 to 1971. He is the recipient of numerous conservation awards, including the "Leopold Medal" of The Wildlife Society and "Albright Medal" of the American Scenic and Historic Preservation Society. Gutermuth also is one of the founders of the Natural Resources Council of America and the National Watershed Congress.

WWF is the only conservation organization that assists, on a priority basis, projects to help save threatened species and habitat areas anywhere in the world. It recently launched a world-wide program to preserve biotopes, entire ecosystems, upon which all forms of flora and fauna depend. During its short lifetime, WWF has supported more than 550 projects in 70 countries around the world.

H.R.H. Prince Bernhard of the Netherlands, President, and Peter Scott and Dr. Luc Hoffmann, Vice-Presidents of the WWF International, and Board Member Guy Mountfort, participated in the WWF meetings in Florida, along with Dr. Gerardo Budowski, the Director-General of the International Union for the Conservation of Nature and Natural Resources in Morges, Switzerland.

JOHN JAY—GREAT LAWYER AND STATESMAN

Mr. JAVITS. Mr. President, John Jay, one of our greatest early American statesmen, was also a great lawyer. He was the first chief justice of New York State and wrote the constitution of the State. He was also President of the Continental Congress and later first Chief Justice of the United States. At the same time, Jay played a critical role in the negotiation of the settlement of the Revolutionary War as one of the Peace Commissioners.

On December 9, 1971, Otto E. Koegel, himself a distinguished lawyer and president of the John Jay Homestead Association, delivered an address at the American Bible Society commemorating the 150th anniversary of the election of John Jay as president of the society. Mr. Koegel outlines the highlights of John Jay's extraordinary career in a very interesting way and I call his address to the attention of my colleagues.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

HONORABLE JOHN JAY, U.S. STATESMAN

John Jay has not been given the importance as a founding father that his contribution to our nation deserves. His extraordinary record includes the following:

(1775) (1) Jay was first in his class at Kings College (Columbia) and was a lawyer of great ability. He wrote the celebrated "Address to the People of Great Britain" hoping to stave off the war. It was published anonymously but when Thomas Jefferson saw it, he said: "This is a production certainly of the finest pen in America. . . . the first composition in the English language." Age 30.

(1776) (2) Chairman of the Committee to evade and defeat conspiracies, a committee with unlimited powers to imprison or banish from the country dissidents, a committee which required the greatest amount of courage and judgment. Age 31.

(1777) (3) First Chief Justice of New York State. Wrote its Constitution—included entire Declaration of Independence in its Preamble. Age 32.

(1779) (4) President of the Continental Congress. Age 34.

(1779) (5) Minister to Spain to obtain assistance in our difficulties with Great Britain. Age 34.

(1782) (6) One of the Peace Commissioners (Franklin, Adams and Jay) who negotiated the settlement of the Revolutionary War. As Peace Commissioner, he, on his own and against instructions from America (because it would displease France), insisted that the western boundary of the new nation be at the Mississippi instead of the Allegheny Mountains. Jay prevailed. Jay had received instructions from Gouverneur Morris, then Secretary of Foreign Affairs of the Confederation, not to insist on boundaries to the Mississippi River nor to the right to navigate the Mississippi. Morris stated that everyone knew that the Mississippi could be navigated only downstream and that the territory between the river and the Alleghenies was so vast that if you dropped all of Asia into it, it would be lost! Age 37.

Professor Richard B. Morris, Pulitzer Prize historian and a leading authority in the field, is editor of the Jay papers acquired by Columbia University. He says, "Jay's diplomatic achievements in Paris in 1782 still stand unrivalled in the annals of American diplomacy."

(1784–1789) (7) Secretary of Foreign Affairs of the Confederation, then the highest executive position in the land. Age 39.

(1786) (8) Under a New York law providing for the gradual manumission of slaves, a Manumission Society was formed and in 1788 John Jay was named its president. Age 41.

(1786) (9) In August 1786, nine months prior to the Constitutional Convention in Philadelphia, Jay, with great foresight, wrote Thomas Jefferson, Age 41:

"To vest legislative, judicial and executive powers in one and the same body of men, and that, too, in a body daily changing its members, can never be wise. In my opinion those three great departments of sovereignty should be forever separated, and so distributed as checks on each other."

(1787) (10) Wrote several of the Federalist papers advocating adoption of the Constitution, and collaborated with Hamilton and Madison as to the others. Also with Hamilton worked mightily to get New York to ratify the Constitution which actually was done by the slenderest of margins and New York was so backward in the matter that it sent no U.S. Senators to the Congress for several months. Indeed, New York was so difficult as far as being a part of a national government that even in ratifying the Old Articles of Confederation, New York did so with the reservation that its consent was conditional upon all the other states ratifying the Articles! Also, when it came to sending delegates to the Philadelphia Constitutional Convention, three were named, Hamilton, Lansing and Yates. Hamilton attended less than half of the sessions and Lansing and Yates seceded and went home, leaving only Hamilton to sign the Constitution. Even Patrick Henry of Virginia refused to go to the Convention, saying: "I smell a rat." Age 42.

(1789) (11) Served as Secretary of State under Washington for three months until Jefferson could get to America from France. Age 44.

(1789) (12) At the same time, Jay was Chief Justice of the United States. Age 44.

(1792) (13) In 1792, Jay was nominated by the Federalists for Governor of New York while holding the office of Chief Justice of the United States. He lost to Governor George Clinton although if the votes of one of three upstate counties had been counted, Jay would have been elected. Such votes were not counted. The law provided for the County Sheriff to deliver the votes to the Secretary of State. The Deputy Sheriff to whom the ballots were delivered was taken ill on the road and he sent them on to the Secretary of State by his Clerk. The opposition said the votes could not be counted by the Secretary of State and produced an opinion of Aaron Burr to that effect. Jay, when urged to make a fight of it, said, age 47:

"That injustice has taken place does not surprise me. . . . A few years will put us all in the dust, and it will be of more importance to me to have governed myself, than to have governed the State."

The greatness of Jay as a person is further revealed in the circumstances of family opposition to him both in the 1792 gubernatorial election and the Jay Treaty. Mrs. Jay's brother, Brockholst Livingston, was a talented man who later had a distinguished career on the New York Supreme Court and as Associate Justice of the Supreme Court of the United States, 1806–1823. Jay had selected him as his secretary when he undertook his mission to Spain. Livingston's biographer says that he developed a personal antipathy towards Jay, perhaps because of his personal and financial obligations to his brother-in-law. Livingston's behavior in the gubernatorial election, said a contemporary, was "almost like a madman." Mrs. John Jay said of her brother's vicious attack on her husband, "Oh, how is the name of Livingston to be disgraced." In 1798, her brother killed a man in a duel and there is evidence that he participated in one or two more.

(1794) (14) Ambassador to Great Britain in 1794 to negotiate the so-called Jay Treaty which settled many disputes and, in Washington's view, "bought time" and postponed another war until 1812 when we would be better prepared. Hamilton was first suggested as such Ambassador but President Washington was informed that the Senate would not confirm him. As to Jay, Vice-President John Adams wrote a remarkable letter to his wife April 19, 1794, age 49:

"You can not imagine what horror some persons are in, lest peace should continue. The prospect of peace throws them into distress. . . . The opposition to Mr. Jay has been quickened by motives which always influence everything in an elective government. . . . If Jay should succeed, it will recommend him to the choice of the people for president, as soon as a vacancy shall happen. This will weaken the hopes of the Southern States for Jefferson. This I believe to be the secret motive of the opposition to him, though other things were alleged as ostensible reasons; such as his monarchical principles, his indifference about the navigation of the Mississippi, his attachment to England, his aversion to France, none of which are well founded, and his holding the office of chief justice."

(1794–1800) (15) Twice elected Governor of New York State. Age 49–55.

(1800) (16) In the election of 1800 New York elected a pro-Jefferson legislature. Under the law at the time the legislature would cast its twelve electoral votes for Jefferson. Hamilton, who mortally detested Jefferson, urged Governor Jay to call a special session of the legislature, cause the state to be redistricted and make provision for the presidential electors to be chosen by popular vote. Such would almost surely have insured the defeat of Jefferson but Governor Jay rejected the proposal as one which "would not become me to adopt." Age 55.

(1800) (17) After his retirement as Governor of New York and without his knowledge or consent, he was again appointed Chief Justice of the United States by President Adams, and he was confirmed by the Senate. Secretary of State John Marshall sent to him his appointment, which he declined. President Adams, never one to flatter anyone, paid Jay a sublime compliment, viz, age 55:

"In the future administration of our country, the firmest security we can have against the effects of visionary schemes or fluctuating theories, will be in a solid judiciary; and nothing will cheer the hopes of the best men so much as your acceptance of this appointment. . . . I had no permission from you to take this step, but it appeared to me that Providence had thrown in my way an opportunity, not only of marking to the public the spot where, in my opinion, the greatest mass of worth remained collected in one individual, but of furnishing my country with the best security its inhabitants afforded against the increasing dissolution of morals."

(1821) (18) Second President of the American Bible Society. Age 76.

John Adams, in 1815, after more than a quarter of a century to reflect on the subject, said of those who contributed to the founding of our nation:

"I forbore to mention one of more importance than any of the rest, indeed of almost as much as all the rest, I mean Mr. Jay. That gentleman had as much influence in the preparatory measures in digesting the Constitution, and obtaining its adoption, as any man in the nation."

During the five years between the war's end and the formation of the new government, many of the founding fathers were disheartened and fearful that possibly the struggle for independence had been in vain. During that period Washington from Mount Vernon and Jay in New York exchanged frequent correspondence. On May 18, 1786, Washington wrote Jay from Mount Vernon, where he had been in retirement following the conclusion of the war, little suspecting that he might be called upon in a few years to become the first President of the United States. Washington was almost convinced that a federal union was impossible. He stated to Jay:

"My fear is, that the people are not yet sufficiently misled to retract from error! To be plainer, I think there is more wickedness than ignorance mixed with our councils. . . . I think often of our situation, and view it with concern. From the high ground on which we stood, from the plain path which invited our footsteps, to be so fallen! so lost! is really mortifying!"

Jay's reply was lofty and confident:

"That we shall again recover, and things again go well, I have no doubt."

In a letter from Mount Vernon of August 15, 1786, Washington wrote Jay:

"What astonishing changes a few years are capable of producing. I am told that even respectable characters speak of monarchical form of government without horror."

And Jay's reply of January 7, 1787:

"Shall we have a king? not in my opinion while other expedients remain untried."

Recently Arthur Schlesinger, Jr. wrote in the *New York Times* on the importance of preserving historical ties so as better to conduct our lives in terms of the present, the following:

"Some will regard preoccupation with the past as a matter of sentimentality. They could not be more wrong. The present emerges from the past, and a sense of history is one of the means by which a people achieve

purpose and strength for the future. 'In times of change and danger,' as John Dos Passos has written, 'when there is a quicksand of fear under men's reasoning, a sense of continuity with generations gone before can stretch like a lifeline across the scary present.' The benefits of past may not be so tangible as the benefits of superhighways; but it is precisely a perception of these impalpable values that our confused and turbulent society needs most today."

John Jay had nothing to gain materially and everything to lose by aligning himself with the revolutionary government. He was a third generation American of a prosperous family, his grandfather having come to America in 1686. His forebears had to flee France because of religious persecution. The Jays had marriage ties to important American families, John Jay's mother being a Van Cortlandt and his wife, Sarah, a daughter of William Livingston, signer of the Constitution and first governor of New Jersey. John Jay was moved entirely by patriotic motives and his life, public and private, was exemplary. Truly, he was the right man, at the right time, in the founding and preservation of our nation.

John Jay was a man of almost complete rectitude. In his long and distinguished career, he was never moved by opportunism. It seems fitting that we should conclude this resume of the first Chief Justice of the United States with a statement made by Daniel Webster:

"When the spotless ermine of the judicial robe fell on John Jay, it touched nothing less spotless than itself."

ADDRESS BY THE VICE PRESIDENT

Mr. CURTIS. Mr. President, last week, in New Orleans, Vice President AGNEW addressed a meeting of the National Grain and Feed Association. He spoke with his usual candor and demonstrated a deep understanding of the problems faced by our Nation's farmers as he discussed the Nixon administration's programs designed to remove stifling restraints and increase farm income and markets. I ask unanimous consent that the Vice President's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE VICE PRESIDENT OF THE UNITED STATES

So there won't be any mistake about it—I am not here as a Democratic presidential hopeful.

In this even-numbered year, divisible by four, you can't be too careful. Every time there is a national meeting, an unpredictable number of would-be presidents show up, pooling their rhetorical resources as they try to make headlines.

But I am here in support of this Administration's agricultural policy. It is a policy which has unshackled the producers of grain and cotton from the restraints of previous policy—restraints that stiffled the initiative of farmers and restricted the acreage they could plant to these crops.

I am here to speak out in praise of those on Capitol Hill—both Republicans and Democrats—who enacted the bi-partisan Agricultural Act of 1970.

I am here to commend the efforts of organizations like the National Grain and Feed Associations from the various States—that have consistently supported the major goals of the Administration although frequently differing sharply with us on individual programs or methods for achieving our aims. We appreciate your having agreed with us on the target even when we have differed on the means of hitting it.

Every American should be proud of the accomplishments of American agriculture. Farming is the Nation's largest and most vital industry. It employs over 4.5 million workers, more than the employment in transportation, public utilities, the steel industry and the automobile industry combined.

In addition to being proud, we should take time to examine what we owe agriculture. And I'm talking now not just to those in this room, but to all the American people. The productivity of farmers enables the average family in this country to purchase its food requirements with only about 16 percent of its disposable income, after taxes.

The achievements of American agriculture are due mainly to the energy and skill of the farmers themselves. However, without the services of country elevators and other private handling and storage facilities, their labors would be in vain.

It is equally true that without the fruits of research and marketing projects, the financial assistance available through farm ownership and operating loans, and the backstopping of price support programs, it is highly unlikely that American agriculture would have reached its present pinnacle of efficiency.

The United States is the most progressive Nation on earth, and productivity is the key to our progress. Agriculture not only leads increases in productivity in the United States, but throughout the world.

In the past 20 years, the total of American industry boosted its output per man-hour by 150 percent. That is a significant increase. But during those same 20 years American farmers and farm families raised their output per man-hour by 300 percent—twice as much.

So why do we talk about problems in agriculture?

To answer this question brings us to the heart of what's wrong with American agriculture. Farmers are unable to get the same returns on their investments of capital, time and labor as do other segments of the American economy.

Some people seem to think that four-letter words are something new, developed for and the sole property of the radical-left and the underground publications.

But a good many of us have been using four-letter words for a long time. And one of the words used most often is *WORK*.

Down through the years it has been understood that whoever produces more should be compensated for more. A person was to be rewarded in proportion to his measurable output or contribution. This hasn't been true for farmers.

The income per capita of those who live on America's farms has gone up—but to a lesser degree than that of their colleagues who work in manufacturing and other industries.

One of the reasons is that farm income is only partially related to output and price developments in the general economy, and it fluctuates widely from year to year. But even more important has been the fluctuation caused by supply conditions for agricultural products.

In the past three years, farm production expenses have been increasing at a slightly faster pace than the general rate of inflation. But there has been a strong improvement in farm income in recent months.

After a generally disappointing income performance in the first half of 1971, agriculture closed out the year on the upswing.

The total earnings of the farm population from all sources reached a record high of $28 billion in 1971, and it is estimated that the realized net income of farm operators in 1971 was about $15.7 billion.

The year 1972 promises to be an even better year. Realized gross farm income is expected to exceed the 1971 record level by at least $3 billion, an increase of 5 percent or more. This would carry total gross income from farming to the highest level in history—to around $62 billion.

If 1972 turns out as present conditions indicate, the realized net income of farmers will average $16 billion for the four years of the Nixon Administration, 1969 through 1972. That's a 19 percent increase over the $13.8 billion average for the period 1961 through 1968.

What do such statistics prove? They prove that this Administration cares about farmers, and farm income—and is doing something about them. Yet even as Administration programs take hold—and it appears that this year some farm prices are at last rising faster than costs—the strident voice of opposition is heard.

Self-appointed spokesmen for consumers are beating the drums for price ceiling on farm products and loosened import controls on beef.

Secretary of Agriculture Earl L. Butz says he'll fight "like a wounded steer" to keep ceilings off farm prices.

For the truth is that, even if consumer food prices are slightly higher in 1972 than last year, disposable personal income will rise much more substantially.

If consumers were spending the same percentage of their take-home pay for food as they did 20 years ago, they would be spending about $40 billion more per year than they do now, or about $286 more per person for all food.

Food is the biggest direct outlet for raw farm products. However, it is the export market that holds out the greatest promise for the future of agriculture. Due to agricultural technology and efficiency, American farm production already is so huge that the output from one of every four cultivated acres goes into export market.

American farm leaders, notably those familiar with the basic commodities of wheat, feed grains and cotton have supported programs and policies that would tend to open up some of the half-shut doors to world trade.

However, international trade in agricultural commodities continues to be impeded by a variety of import restrictions. The economic and social conditions in nearly every major industrialized country present serious problems of adjustment for resources employed in agriculture, quite apart from international trade considerations.

Most governments have responded to this problem by adopting domestic price-support measures that are supplemented by restrictive trade policies. Tensions over these policies have been growing and surfaced prominently in 1971.

Unlike trade in manufactured products, agricultural trade received little substantive attention in the successive rounds of negotiations which reduced international tariff barriers in the postwar years. Indeed, many developed countries, including the United States, pursued domestic agricultural policies that resulted in an increased level of protection against agricultural imports.

U.S. farmers have a significant comparative advantage in many agricultural products and therefore a clear interest in reducing existing impediments to trade in these products. It is also clear that price-support techniques used in most industrial countries, including the United States, are major impediments to the development of freer trade in agriculture.

Our agriculture support policies in this country have been substantially modified in recent years. Direct payments have been substituted for high price supports for major grains and cotton—the commodities traditionally exported.

This change has permitted market forces to have more influence over actual prices and has reduced the necessity for large export subsidies and import restrictions. The Agricultural Act of 1970 extends these reforms and improves upon them by giving farmers greater freedom in their planting decisions.

This Administration has focused attention on the situation and forced recognition that agricultural trade is an important item on the negotiating agenda.

In his Economic Report, transmitted to the Congress in January of this year, President Nixon quoted from his Commission on International Trade and Investment Policy as follows:

"The time is ripe for a concerted international effort to deal with all aspects of the problem including, in particular, the levels and techniques of agricultural support."

The President suggested four important guidelines for future negotiations on agricultural trade:

Discussions over agricultural trade policies will be unproductive until domestic techniques of support are modified.

New policies will be needed to aid the adjustment of some resources, particularly low-income workers, to more productive and higher income pursuits.

Importing countries must participate with exporting countries in facilitating adjustment if an improvement in the international use of resources is to be obtained.

While each country must be free to provide income assistance to those employed in agriculture, the mechanism for this assistance should minimize interferences with production, consumption, and trade.

I commend these guidelines to your study, and invite the National Grain and Feed Association to lend its considerable influence and support in helping to create a climate of understanding that will hasten their application in future negotiations.

As you know, 1971 was the year we widened the political dialogue between the United States and Communist nations, setting in motion the forces that led to the recent historic visit to China of the President and Mrs. Nixon.

Commercial relations between state-controlled and free-enterprise economies present a great many problems, completely different from those experienced in trade between predominately market-oriented economies.

For example, private firms can be at a disadvantage in dealing with large state-trading agencies, and legal recourse by individual firms against foreign states may be difficult.

It is awkward to apply to rigorously socialized nations the commercial policy codes that have been negotiated among governments of market-oriented countries—such as those participating in the General Agreement on Tariffs and Trade.

And, of course, the Communist countries can more readily employ economic relationships for political ends than free-enterprise States.

Finally, the Communist states are not a party to a number of important international economic organizations and conventions.

Some significant changes took place in U.S. trading relationships with Communist countries in 1971.

In June the President lifted the embargo on imports from the People's Republic of China and freed a long list of U.S. goods for export to that area.

A requirement that 50 percent of U.S. exports of wheat, flour, and other grains to Eastern Europe and the Soviet Union be carried in U.S. vessels was also rescinded. (The lifting of this requirement has since been extended to include shipments to the People's Republic of China.)

The termination of this requirement facilitated the sale in November of last year of over $125 million in U.S. feed grains to the Soviet Union—the first such grain sales since 1964.

An amendment to the Export-Import Bank Act in August authorized the President to extend Export-Import Bank credits to further exports to Communist countries when he finds this to be in the national interest. In his first use of this authority, the President directed the Bank to participate in financing exports to Rumania.

Two Soviet Deputy Ministers of Foreign Trade visited the United States in 1971, and at the end of the year the U.S. Secretary of Commerce led a trade delegation from this country to Moscow and Warsaw.

U.S.-Soviet talks on trade and shipping are to be continued in 1972.

Today, with roughly two-thirds of our rice crop going into export, more than half our wheat and soybean crop, and about a third of our cotton crop, we can point to agricultural sales abroad as the brightest star in our galaxy of foreign trade—and one that will most certainly help our international balance-of-payments situation.

Well, all this has been a prelude to my spelling out for you that the agricultural policy of this Administration remains in 1972 what it was in 1971. We have offered farmers this year wheat, feed grain and cotton programs that are voluntary, that are not tied to rigid acreage allotments or bases as production controls, that are not subject to marketing quotas or penalties.

We have offered farmers programs that are market-oriented, with low price supports.

We are determined to keep the Federal Government out of competition with individual producers of grain and cotton insofar as we are able. This goal cannot be achieved if non-recourse loan levels attract production for government warehouse and takeover, rather than production based on what the commercial markets will accept.

As you know, we just went through this lesson in economics for the benefit of some slow-learners in Congress.

A strategic Grain Reserve and Loan Increase Bill passed the House of Representatives in December by a vote of 182 to 170. The bill as it came to the Senate would have done two things: It would have directed the Secretary of Agriculture to buy wheat and feed grain reserves, and it would have increased the loan level for the 1971 and 1972 crops of wheat and feed grains by 25 percent.

Secretary Butz said the bill would wreck farm export prospects and sabotage the government's farm surplus control bill. He called on the Senate to reject the House-passed bill.

Al Oliver, your capable executive vice president, testified against the bill before the Senate Committee on Agriculture and Forestry, citing as major flaws the additional buy and sell authority granted the Secretary of Agriculture and the price umbrella effect from high loan rates.

The Agriculture Act of 1970 deserves at least another look before I lose. This is a three-year farm measure which began with the 1971 crop year. It is the result of extraordinary efforts by a great many people interested in the future of American agriculture, and of much consultation among Congressional committee members, the conferees of both the Senate and the House of Representatives, and the Administration.

The Act provides realistic guidelines in a transitional period for U.S. farming. It has already demonstrated during its first year of operation that it is helping achieve the basic agricultural goals of this Administration:

1. To protect and improve farm income.
2. To provide more flexibility for farmers in making their own farm operating decisions.
3. To develop greater reliance on the marketplace.
4. To balance our supply of agricultural products with the demands of the marketplace and consumer.

The tools have been specially designed and honed for the job. Events of 1971 present solid ground for confidence that agriculture, and the 65 million people directly dependent on it, are moving toward a greater economic and social future.

I know we can count on the support of your organization as we help agriculture achieve this goal. And despite the problems of the moment, I believe with Oliver Wendell Holmes that "the great thing in this world is not so much where we stand, as in what direction we are moving."

THE GENOCIDE CONVENTION AND THE NUREMBERG TRIALS

Mr. PROXMIRE. Mr. President, at the end of World War II, one concentration camp after another was liberated only to reveal the horrors and atrocities of German genocide. All civilized men and women were shocked and outraged, and the victor nations organized the Nuremberg tribunal to investigate and punish those crimes against humanity. Never had we seen greater brutality, and never was there a greater desire to seek justice for the men, women, and children so brutally murdered.

That was nearly 30 years ago, and since then the horror and vengeful passions have died. And with the ebbing of this burning vindication, many have asked "What right did we have to hold the Nuremberg trials?" No doubt we had a moral right to punish those great acts of inhumanity and brutality, but what legal right?

In reality, the United States had no legal justification for trying Nazi war criminals. The fact that their actions were more than reprehensible was not sufficient cause for us to morally judge every major and minor official. Rather, there should have been a standing international agreement which outlawed inhumane methods of persecution and wholesale slaughter. Since such a treaty was nonexistent, we were forced to operate in a legal vacuum.

However, this vacuum has since been filled. There need not be another Nuremberg where civilized men make judgments based only on self-righteous indignation. A legal framework is provided by the Genocide Convention. I hope the Senate will act on it soon.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, I commend President Nixon for his forthright and timely message on welfare reform. The President's message is the most positive one he has made on this subject in 2½ years and demonstrates

his commitment to passage of welfare reform this year.

As in the past, I do not agree with all aspects of the President's speech. We must go farther in several areas if we are to reform our welfare system adequately.

But disagreement over parts of the program should not obscure the principles we all support.

The family assistance plan, first proposed by President Nixon 958 days ago on August 1, 1969, would completely rebuild the unworkable patchwork which now passes for a welfare "system." For the first time in history a floor would be placed under the income of every family.

As the President said in his message today:

We must establish the more humane and relevant principle that the total income of each American family must reach a certain minimum standard.

Those who are unable to work should be given an income to sustain their needs. But the $2,400 provided in H.R. 1 is not sufficient. And those who can work would be provided with training, jobs and income supplements to their wages to bring them above the poverty level.

This legislation, which the President rightfully calls the most important single piece of legislation to come before the Congress in several decades, would do more than simply provide welfare payments. It would provide vitally needed rehabilitation and social services, employment opportunities, and massive aid for children.

H.R. 1 as modified by amendments I have proposed would provide assistance to millions who have never received aid before—single people and childless couples—while insuring that no recipient loses benefits. Substantial fiscal relief would also be provided to every State.

My amendments would establish uniform eligibility and payment standards and afford recipients due process and administrative fairness. No longer would welfare recipients be subject to payment cutbacks at the hands of State governments nor would they be subject to arbitrary administrative decisions at the hands of local officials.

If the family assistance plan were adopted, we would eliminate a system which creates incentives to receive welfare rather than work. We would eliminate a system in which it is financially advantageous for a father to desert his wife and children.

My proposals do "care" about children. For children, my proposals would provide $1.5 billion in child care services, $100 million for child care facility construction, $25 million for training of day care personnel, and for the first time would require all day care providers to meet comprehensive quality standards.

My proposals would not force mothers with small children to enter the working force. In fact, my proposal exempts mothers with preschool children from the work registration requirement. It exempts mothers with children above age 6 if adequate day care and/or suitable employment is unavailable. And it establishes priorities for enrolling people in the work program which insures that only those mothers who want to work will receive training and employment. These protections are more than sufficient to assure that no mother will be forced to leave her children against her will.

The President recognizes that in the short term the costs and caseload of the new welfare system will increase. But he also recognizes, as we all must recognize, that the future costs, both human and fiscal, will be much greater if we do nothing.

I join the President in urging Congress to take action on these proposals as soon as possible this year. No legislation should have a higher priority.

GUARANTEED ANNUAL INCOME

Mr. CURTIS. Mr. President, last week I called attention to a poll taken in his State by the senior Senator from North Dakota (Mr. YOUNG), indicating that 70 percent of North Dakotans oppose the President's welfare reform proposal with its guaranteed annual income. I suggested that those results would be substantially duplicated in many other States.

I wish now to invite the attention of Senators to a similar questionnaire poll recently conducted by the Senator from Oklahoma (Mr. BELLMON). Oklahomans responding to that poll indicated overwhelming opposition to the guaranteed annual income concept. Only 6 percent favored such a plan. It is particularly relevant to note that an equal number—6 percent—at the opposite extreme favored "stopping welfare entirely and letting people go hungry if they cannot or would not work."

Such polls show the extremist minority position which those advocating a guaranteed annual income occupy.

On the other hand, 84 percent of the Oklahomans responding to the poll favored "requiring able-bodied welfare recipients below 65 to register for a job or training and take a job when one is offered." This is consistent with the position which I believe represents the views of a majority of the members of the Committee on Finance where welfare reform is now under consideration. It is also consistent with the views of a majority of Congress as attested by the work requirements for welfare recipients enacted as the Talmadge amendments last December.

The recent children's march for survival in Washington was in protest of the President's welfare reform proposal. The vast majority of those responding to the questionnaire in North Dakota and Oklahoma also oppose the plan. I recognize that the protest marchers oppose it because it guarantees too little while most of those polled in the questionnaire probably opposed it because the very idea of a "guaranteed income" is anathema to our free society and free enterprise economy.

But no matter how you slice it, a broad spectrum of our people oppose the plan.

I repeat therefore my observation of last week:

It ill behooves Congress to force upon the citizens . . . a program they oppose by so wide a margin.

I commend Senator BELLMON and his constituents for their assistance in clarifying this issue before Congress. The full results of the Oklahoma poll appear at page 9484 of the CONGRESSIONAL RECORD of March 22.

MEDICINE IN NORTH VIETNAM

Mr. STEVENSON. Mr. President, considerable attention has been given to medical practices and research in Asia, especially because of President Nixon's recent trip to China. We are all fascinated by Chinese medical procedures and theories different from our own, yet seemingly effective.

One hears little about medicine in Vietnam, that little country where many of our young men—including many physicians—are still being sent.

Science magazine published an interesting article which describes the medicine and research in North Vietnam. The article portrays a body of medical practitioners with a deep interest in maintaining independence and self-reliance but the absence of a tradition of scientific research. Despite shortages of supplies and facilities, the people of North Vietnam are building up a medical knowledge and treatment on their own which could assist them in post-war reconstruction. North Vietnam follows medical procedures much closer to our own, but they are striving for their own body of medical knowledge apart from their Chinese neighbors.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Science magazine, Oct. 22, 1971]

EDUCATION AND SCIENCE IN NORTH VIETNAM

(By Arthur W. Galston and Ethan Signer)

We spent the 18 days from 23 April through 10 May in the Democratic Republic of Vietnam (DRVN), also called North Vietnam. As guests of the Vietnam Committee for Solidarity with the American People and the State Committee for Science and Technology, we visited educational, scientific, agricultural, and medical institutions, gave lectures and seminars on plant physiology (Galston) and molecular biology (Signer); and met at length with Vietnamese scientists and officials, including Premier Pham Van Dong. Like other American scientists who have visited the DRVN we found the Vietnamese to have a serious commitment to science, expressed primarily in the training of technicians and engineers for agriculture and industry, in the establishment of facilities, personnel, and supportive research for their expanding program of medical care, and in their interest in recent progress in Western scientific research.

SCIENCE EDUCATION

The Vietnamese have an ancient tradition of learning. We saw the Quoc Tu Giam (or National) University, founded in 1070—17 years after Bologna and 50 years before Paris were founded—which has graduated over 2000 persons (including many national figures) at the doctoral level in literature, history, philosophy, and mathematics until it was moved to Hue in 1797. The university

was rebuilt around 1700, but the buildings were partially burned by the French when they left in 1954; most of them have since been restored as a historical museum under the Ministry of Culture.

Elementary (1st through 7th grade) and nontechnical secondary (7th to 10th grade) education is supervised by the Ministry of General Education. All DRVN children attend school through the 4th grade; about one-third go through the 7th grade, and one-tenth go through the 10th grade (from which 45,000 graduated last year). Compulsory 7th-grade education was originally planned for next year, but fulfillment of the plan will probably take somewhat longer. By comparison, it is reported that in South Vietnam less than half the children are in school.

When the French left in 1954, the single university in Hanoi with its 700 students was the only one in all Indochina. Now, 17 years later, in the DRVN alone there are 75,000 students in 37 colleges and universities, including the University of Hanoi, the Polytechnic Institute and its branches, and specialized colleges. There are also 150,000 in vocational secondary schools (7th to 10th grade) among the population of 21 million. The vocational schools and ten of the colleges and universities are supervised by the Ministry of Higher Education, which shares supervision of the remaining 27 with production ministries such as that of Agriculture. Almost all the Ministry's staff of 200 have candidates (equivalent to our master's) degrees.

Ta Quang Buu, the dynamic Cambridge-educated Minister of Higher Education, still teaches mathematics to maintain contact with the university. In excellent English, he told us that in education the Vietnamese "are trying to do in 20 years what you Americans have done in 200 years." To some extent they are using both the Soviet and U.S. systems as models. However, Minister Buu feels that the Soviet system is too rigid and produces scientists whose training is too specialized, while the American system, although more practical in that it links science more efficiently to production, produces scientists whose scope is limited by their narrow political and social background. The DRVN is trying to evolve its own educational philosophy. As Minister Buu says, "We are in some sort of great Skinner box and trying to find reinforcement."

Students are selected for university by a competitive matriculation examination, given on one day each year throughout the country even during the height of the war. Each student chooses an examination in one of three blocks. Block 1 includes mathematics, physics, and chemistry; block 2, mathematics, chemistry, and biology; and block 3, literature, history, and geography. Candidates are screened to eliminate those with unusually poor political records, and to select those with unusually good records for new fields, but there is said to be no other systematic political selection.

Next year, Minister Buu hopes that the universities can begin graduate education. At present, 864 people in the country have either candidate's (master's degrees or doctorates, and these candidates come mostly from socialist countries; recently three Vietnamese candidate's degrees in biology have been awarded in fish breeding, cattle genetics, and ecology of estuarine vegetation.

Women constitute about 30 percent of the student body, but the number of women in fields such as medicine and pharmacy comes to 70 to 80 percent. The Vietnamese are trying to increase the participation of women in all of society, but they consider some fields, such as those requiring great patience, more suitable for women, whereas others, such as those requiring physical strength and endurance, are thought to be less appropriate. They say this despite the fact that much of the routine heavy agricultural labor in Vietnam is done by women. At present, not enough women are considered to be participating in education—for instance, only 10 percent of the students studying abroad are women, and only two or three women hold professorships with tenure, which are called chairs. Therefore, like disadvantaged minority groups in the United States, women are permitted lower university entrance requirements and are given special tutoring to prepare them for higher education. Scholarships, in the form of compensation to the family for loss of services at home and in the fields, are used to increase the number of women in secondary schools. "There is no freedom," said Minister Buu, "when there is no freedom of women."

As is the case in Europe, institutions are divided into faculties, each having at least one chair. The 37 higher institutions have 529 chairs for 7000 faculty members. Although the younger faculty members depend on a chair as in the European system, there is said to be more democracy here because of the relative lack of traditions. New chairs are decided upon in connection with the state committees on planning and on science and technology, with money being a prime consideration. Thus, chairs of physical engineering and of mathematical engineering were recently created at the Polytechnic Institute. The latter, which includes cybernetics and linguistics, was made possible by the gift of a Soviet Minsk 22 computer (roughly equivalent to the IBM 704). On the other hand a research chair of biochemistry, although needed, was considered too expensive because it would require equipment like electron microscopes.

Education at the old French university was in French. Now higher education is almost entirely in the Vietnamese language, although the many ethnically distinct minorities use their own language in everyday affairs, with Vietnamese as a second language. The most used foreign language is now Russian and the second is English, although most of the older professors speak French. Many of the textbooks are in Vietnamese; at first they were translations but now they are also as original writings; some Russian, English, and French texts are also used.

At the University of Hanoi (which we did not visit), occupying the buildings of the old French All Indochina University there are 500 faculty and 3500 students of whom 20 percent are women. Whereas 80 percent of the population as a whole are peasants, the student body includes rural peasants, urban working people, and intellectuals in the ratio 60:15:25. After graduation, 10 percent of the students go into academic work, 30 percent go into industry or agriculture, and 60 percent go into school teaching. Some 1200 of the ablest university graduates are now receiving advanced training in other socialist countries. About 75 to 80 percent of the students take the rigorous science curriculum.

The Polytechnic Institute, where we were received by a group of department heads led by the vice-director, Nguyen Thien Huoc, is now housed primarily in a spacious modern building constructed with Soviet aid in 1965. Is was founded in 1956 with 40 teachers, all educated in Vietnam, and 800 students, and was located at a muddy site in a former French military encampment. By 1965 there were 6000 full-time students and 200 correspondence students. At that time the Institute spawned four new engineering colleges, but retained the rest of the curriculum. Courses here emphasize technology, and even those in science are more applied than in the universities; for example, mathematics and physics are combined into a single department. There are currently the same number of students as in 1965 and more than 800 faculty; of the faculty over 100 have doctorates or candidate's degrees, and they devote, on the average, 30 percent of their time to research.

The Polytechnic's general educational policy is formulated by the government and the Communist Party. Scientific training aims at combining what is "most fundamental, most modern and most Vietnamese," but ideological and political education are not neglected. About 10 to 15 percent of the formal curriculum is set apart for courses in the history and political aims of the Vietnamese Communist Party and in Marxist-Leninist philosophy, taught by a special staff. In addition, Thursday evenings are spent in discussion of what they call "morals" and current events, and in other political activities.

Applicants to the Polytechnic must pass the general nationwide matriculation examination and also a second special examination. By design, one-third of the entrants are women, and special consideration is also given to ethnic minorities and factory workers. Most students are from peasant and working-class families, some from South Vietnam. Each receives a scholarship, including meals and textbooks throughout the 5-year course. Most graduates go into factories, although a few stay for further training as teachers or researchers.

The Polytechnic maintains more than 50 laboratories and shops simulating factory conditions. Those we visited were furnished with teaching equipment donated by the Soviet Union (some of which had been modified by the students, using electronic components from downed U.S. planes) and heavy machinery made in the Soviet Union, in Czechoslovakia, and also locally in Haiphong. The 300,000-volume library, whose 76,000 journals are mostly in Russian and Chinese, seemed well designed and housed.

During our visit to the Polytechnic, we saw damage remaining from the 1965–68 air war, when Hanoi, Haiphong, and surrounding areas were bombed by U.S. planes. A section of the main building had been damaged by a bomb attack during which 5 were killed and 20 were wounded by steel pellets from an "antipersonnel" cluster bomb. Such bombing disturbed the operation and the development of the Institute; in November 1965, the Polytechnic and most of its facilities were evacuated to a mountain area 300 kilometers away, where new facilities were built by the students. Most of the institute is now back in Hanoi, although we were told it could be quickly evacuated again—this time virtually without interrupting studies.

Some institutions are still dispersed in the countryside because of the war. Agricultural College Number 2, founded in 1967 at the height of the air war, is located about 1½ hours' driving time from Hanoi (College Number 1 is nearer Hanoi, and Number 3 is in a northern province). The 86-hectare campus which we visited was designed mainly for teaching and is a collection of small, temporary, bamboo-framed, thatch-roofed buildings including classrooms, a library, laboratories, and dormitories, which are dispersed among farm plots. A second campus 50 kilometers away includes 300 hectares of experimental farms. Both campuses have been bombed—up to eight times in 1 day—and the college claims to have shot down one plane and captured the pilot. To minimize damage from a possibility resumed air war, the buildings are set far apart, with air-raid trenches in between.

Vice-director Dao Truong Con told us that the college, which is supervised jointly by the Ministries of Higher Education and Agriculture, trains agriculturalists in three faculties: botany, zoology, and agricultural economics. Of the 104 teachers, about two-thirds belong to the Ho Chi Minh Labor Youth and many belong to the Communist Party, although neither is obligatory. There

are 1400 students, of whom one-third are women, and the college is just now graduating its first class. The 4-year course is planned to follow secondary school (10th grade), but the college also runs a 2-year "crash course" for 7th-grade graduates and remedial courses for weak secondary school graduates. Most college graduates will work on agricultural cooperatives, state farms, and agricultural stations as technical cadres; in the future some may be trained as teachers.

Students live at the college. Classes (7) run 6 days a week, with the students free to go home from 5 p.m. on Saturday until Sunday night. Half a day a week is spent in constructive maintenance of the grounds and fields. Students have private clubs where they may spend an hour a day at art and gymnastics, although 2 hours a week of these activities are included in the regular curriculum. Formal study takes 30 weeks a year, the rest of the time, except for 2 months' summer vacation, being spent at practical work.

The laboratories that we visited provided a striking contrast between their modest bamboo and thatch farmhouse-like exterior and the modern interior containing such equipment as microscopes, centrifuges, and electrophoresis apparatus. We also looked in on several classes in session. They seemed to be run in a traditionally formal way, with students, even in small groups, carefully taking notes from teachers who were, in turn, lecturing from their own notes.

SCIENTIFIC RESEARCH

Most of the research we saw was connected with medicine, such as that at two sections of the Materia Medica Institute: the Van Dien station just outside Hanoi and its affiliated pharmaceutical laboratories in the city. Both, under the direction of Dr. Nguyen Van Dan, are attached to the Ministry of Public Health. Since 1963 the institute has been preparing the first *Vietnamese Pharmacopoeia*, which will be ready this year. Written by a team of more than 100 doctors and pharmacists, its 600 monographs will describe general methods of analysis, plants, chemicals, medications, and vaccines. A second volume describing traditional medicines, started last year, is expected to be ready in 5 or 6 years.

The institute supervises plant research at ten botanical stations and testing of medicines at about 20 laboratories, dispersed throughout the country because of the air war. About 2000 villages throughout the country have their own medicinal gardens. The institute also runs seminars, colloquia, and symposia, and has some students doing theses.

The 10-hectare Van Dien station specializes in tropical botany, especially the introduction and acclimatization of new medicinal plants that are ultimately to be propagated and used at agricultural cooperatives. The 1000 medicinal plant species now in the garden are mostly common ones, but some new effective plants have been obtained from peasants who have developed their own home remedies, such as one used for curing diarrhea. Many of the display gardens, production fields, and seed-multiplication plots were destroyed during the air war when the station was bombed seven times. Although some of the damage has been repaired, several large craters were still evident, and not all the plant species lost during the bombing have been replaced.

One of the Hanoi laboratories resembles our Food and Drug Administration; it is part of a network, with a branch in every province, for testing medicines. Other laboratories study the chemical composition of medicinal plants; carry out chemical and microbiological analysis of antibiotics, vitamins, plant derivatives, and clinical samples; and practice pharmacognosy and forensic medicine. There is also a library, stocked mainly with Russian and German but also some American texts.

The National Institute of Hygiene and Epidemiology, where Huang Thuy Nguyen is director, was dispersed in the countryside during the air war, but is now back in Hanoi. However, the building—formerly the French Institut Pasteur for all Indochina—is reinforced on the ground floor with sand and brick against air raids, and so requires year-round air conditioning. The staff of 500 includes 98 with candidate's degrees (many of them women), most of whom are also professors at the medical or pharmacological faculty of the University of Hanoi. This institute's eleven divisions include seven for research, one for coordinating provincial hygiene and epidemiology stations, one for laboratory animals with farms and colonies in the countryside, a library, and a school of microbiology and chemistry.

We visited several research laboratories that were studying the growth of pathogenic organisms (*Treponema, Toxoplasma, Leptospira*), serological typing and preparation of antiserums and vaccines, including a polyvalent vaccine (against leptospira, cholera, and paratyphoid A and B) developed locally and said to be in adequate supply for the entire country. Director Nguyen's virology laboratory has prepared a measles vaccine and is now working on one for trachoma and rabies. The nutrition laboratories study health problems arising from ingested herbicides, insecticides, and additives; and they are also interested in increasing nutritive value of foods. We were told that there is no kwashiorkor and little beriberi in the DRVN because the government controls the degree to which the rice is polished. Since rice protein is poor in several amino acids (lysine, methionine, and tryptophan), an attempt is being made to supplement it with chemicals and with legumes in the diet. They had heard of and were interested in the lysine-rich strain of maize ("opaque-2") developed in the United States. They are also developing new foods, such as an infant formula made of wheat, rice, soybean, and fish extracts.

The institute's school offers a 3-year course, leading to a medical assistant's diploma. It accepts about 50 students a year, mostly women, who ultimately staff hospitals, laboratories, and provincial epidemiology stations. First-year training includes general physiology, chemistry, physics, and anatomy, while in the second and third years the students specialize in either chemistry or bacteriology. The school also has some postdoctoral medical students doing specialist's diplomas.

The laboratories in the various educational and research institutions were clean and orderly, even when the facilities were modest. There was a remarkable variety of foreign instruments—an East German Zeiss spectrophotometer, a West German Leitz fluorescence microscope, a French Jobin Yvon vaporphase chromatography apparatus, *p*H meters from China and Denmark, a Japanese inverted cell culture microscope, an electrophoresis apparatus from the Soviet Union, a Hungarian polarograph, and so on. Nevertheless, equipment and materials were obviously in very short supply.

Besides the very extensive library of the Polytechnic and the smaller libraries in all the institutions we visited, scientists may use the Central Scientific and Technical Library in Hanoi, directed by Tran Mai. Started in 1957 as an outgrowth of the Far Eastern Archaeological Library founded by the French in 1901, the library now has some 150,000 books and 4,000 periodicals. Most are in Russian, with English next, and then French, German, and Japanese. Chinese journals stopped coming during the Cultural Revolution but have now started again. In general, older people read French and English, whereas younger people read Russian and Chinese, although efforts are being made to extend language training. French scientists have recently sent 10,000 of the best books in their fields, including monographs, textbooks, and mimeographed materials, and gifts have also been received from other countries, including the United States. But books and especially recent periodicals are in very short supply. There are facilities for microfilming, but not for photoduplication.

The library is exclusively for the use of postgraduates, since undergraduates are expected to use either the libraries at their own institutions or their own state library, which has duplicates of many of the books here. Loss, mutilation, and theft of books occur occasionally but are said not to be a major problem. On the other hand, insect and fungus degradation cause serious difficulties in the tropical climate.

MEDICINE

Health care in the DRVN was efficiently and briskly described to us by Dr. Le Van Phung, director of hospitals, at the Ministry of Public Health. He said that the system is organized under five principles: (i) Medicine must serve production, national defense, mother and child, and ethnic minorities; (ii) it must be based on prevention; (iii) prophylactic and therapeutic care must be linked; (iv) Western and traditional medicine must be combined; and (v) administration must be through the mass organizations.

Dr. Phung summarized a number of statistics for us. Under French colonial rule, cholera, smallpox, trachoma, malaria, venereal disease, and leprosy were rampant, and infant mortality was high. There were only 47 hospitals in the entire country, and only one doctor for every 180,000 people. Now there is one doctor for every 7000 people (and if auxiliary medical personnel are included, there is one for every 1600 people). The yearly death rate has been reduced from 26 to 7.6 per thousand; maternal mortality from 20 to 0.8 per thousand births; and neonatal mortality (first 7 days of life) from 300 to 26 per thousand births (36 per thousand in the first year). Vaccination has made possible control of cholera, polio (Sabin-Shumakoff vaccine), typhoid, paratyphoid, and smallpox. Unlike Saigon Hanoi has no plague. The incidence of trachoma has been reduced from 80 percent to 40 percent and that of malaria from 9 to 0.14 percent; malaria has been controlled primarily with DDT supplied by the Soviet Union, although the disease is again on the rise because of resistant strains of mosquitos. Leprosy has been reduced from 2 to 1 percent, although facilities for leprosy treatment have been diminished since the world-renowned 2600-bed Quynh Lap leprosarium was destroyed by repeated aerial bombardment. Tuberculosis has been reduced from 4 to 1.5 percent partly through development of a heat-killed (43°C) variant of the standard BCG (Bacillus Calmette Guérin) preparation that makes storage and transport easier. Venereal disease has been reduced to several hundred cases a year, primarily because prostitution has been banned.

Despite the war, the population of 21 million is increasing by about 600,000 or 2.8 percent per year. Since this rate is considered too rapid for optimum development of the country, a birth control program has been instituted; this program is based on the use of rhythm method, condoms, and intrauterine devices. Abortion by dilation and curettage is also available on request at the district hospitals.

The core of the public health system is the village maternity clinic, of which there are

now 6000; there were 200 in 1955. Almost every village in the country has such a clinic, which is staffed by at least one doctor, an auxiliary doctor, a midwife with 2 or 3 years' training, a nurse, and a pharmacist. Using scale models, Dr. Phung showed us the two technical advances by which this network was able to establish effective sanitation. The first is a new type of double compartment privy that combines sanitation with production of economically valuable fertilizer. Urine is led off separately; feces are collected, a sand and ash mixture being added to the compartment after each use. When the first compartment is full it is sealed hermetically and the second compartment is put into use. After 2 months' anaerobic incubation of the first compartment, during which all parasites are killed and odors are destroyed, the material is removed and used as fertilizer. The second compartment is then sealed, and with the first ready for use, the cycle begins again. Except for about one-quarter of Hanoi, which uses a sewer system, each family in the DRVN now has such a privy.

The second advance is the provision of clean drinking water. Each group of two or three families is taught by the clinic to dig a good well with water-tight stone-lined sides. Where there is no water table, a channel filled with sand is used to filter swamp water. The clinics also do vaccinations, grow medicinal plants, and conduct educational campaigns such as one that reduced gynecological problems by teaching women to bathe daily.

Based upon the network of clinics is a pyramidal system of district and then provincial hospitals, and there are also special dispensaries for diseases such as trachoma, tuberculosis, and leprosy. The provincial stations of the National Institute of Hygiene and Epidemiology keep track of potential and actual epidemics and diseased individuals and operate mobile units for vaccination and spreading of public health information. The institute's Hanoi staff also operates mobile units for collection of samples, preliminary laboratory work in epidemiology, and control of epidemics.

The air war necessitated a tight and efficient organization of health services. Casualties were first minimized by dispersal of buildings and people (as with the Agricultural College we had seen earlier), camouflage, and trenches and shelters, especially between the 17th and 19th parallels where the bombing continues. For instance, we were told that a particular commune in the demilitarized zone, although hit with 430 tons of explosives in 180 bombardments, has suffered only 6 dead and 29 wounded because of efficient use of bomb shelters. Casualties are treated by a four-level network: Each cooperative has medics who dig out collapsed shelters, resuscitate, set tourniquets and splints, and evacuate to the village clinics if necessary. There shock treatment and transfusions may be given, and minor wounds are treated. Surgical cases are evacuated to the district hospitals, all of which can now perform operations, unless cranial surgery is required in the top level provincial hospitals. Because of the war, all medical students are now trained in surgery.

We learned more about medicine in the DRVN from Dr. Ton That Tung, a vigorous and forceful surgeon at the Viet Duc Huu Nghi Hospital, who was formerly Vice-Minister of Public Health, is a "Hero of Labor," and is widely respected among the scientists we met. Trained as a surgeon in Hanoi, he is a member of the Surgical Academy in Paris and of the Academy of Medical Scientists of the Soviet Union. The 350-bed hospital, started in the forest during the anti-French resistance and moved to Hanoi only in 1954, is used as a surgical training clinic for the university medical school.

In animated, rapid French, Dr. Tung told us that this medical school, the only one in the DRVN, graduates 300 to 500 doctors a year from the 5- to 6-year course following secondary school. Although students used to start in the hospital doing chores in the first year according to the French system, the war and dispersal of facilities have forced a change to the American system where students do not enter the hospital until the third year. This is not as desirable, according to Dr. Tung, because it gives less of a feeling for the patients. He also criticized the students for being too eager to specialize. In addition there are 20 schools throughout the country training 800 to 1000 auxiliary doctors ("feldschers") a year with a 3-year course. There are apparently enough nurses now, for the first time.

The hospital itself seemed clean and well run, although in modest quarters. We saw equipment from many different countries, mostly from the Soviet Union, China, East Germany, and Hungary, but also from France and Britain, and even oxygenators from the United States—not used very often, he said, because they waste precious oxygen. The hospital had recently received a gift of a heart machine from the American Friends Service Committee, for which Dr. Tung repeatedly expressed his appreciation. However, the hospital is still short of equipment and desperately short of medicines, especially methotrexate, isoniazid-streptomycin, and antibiotics.

Dr. Tung is very concerned about herbicides, which he believes accumulating evidence suggests are carcinogenic, although he is dissatisfied with the statistics obtained thus far. Since the start of defoliation by the United States, the most common cancers reported are hepatomas, and hydatiform moles and chorioepitheliomas of the placenta. Hydatiform moles have increased particularly in Tay Ninh, a province in South Vietnam heavily sprayed with herbicide Orange, which contains 2,4,5-T. This preparation, partly because it is contaminated with dioxin, is already known to cause embryonic malformations. He also described the effects of other "antipersonnel" weapons used in both the DRVN and South Vietnam. Among these is CS gas (*o*-chlorobenzalmalononitrile) which can cause ocular lesions. It reaches fatal concentrations when pumped into unventilated bunkers and tunnels by the Mighty Mite, a device developed by the U.S. Army. This allegation was supported by a film shown to us. Magnesium incendiaries burn at temperatures high enough to melt bone, and napalm has been "improved" so that it sticks better to flesh. Many children are treated for loss of or damage to limbs or eyes. These injuries are incurred when the children accidentally detonate small camouflaged mines that have been dropped earlier from the air. The fragmentation bombs now contain, besides steel pellets, small vaned steel arrows called "flechettes" that are more difficult than pellets to remove. We saw numerous photographs, x-rays and tissue specimens of civilians with pellets and flechettes embedded in their bodies; these were said to cause much pain and suffering. Treatment is becoming more difficult now that pellets are being made of plastic, and so cannot be located by x-rays. Dr. Tung and other Vietnamese are quite impressed with the remarkable variety of U.S. antipersonnel weapons, and the high level of research an development indicated by the yearly improvement and sophistication in each type. As he put it, "The United States has shown a kind of existentialism in applying science so creatively to the problem of killing people."

The Vietnamese appeared to take very seriously the task of cataloging the effects of the war. At the recent International Conference on Chemical Warfare in Vietnam, held in Paris on 12 to 14 December 1970, and attended by scientists from the United States, Britain, France, and other countries in addition to the DRVN and South Vietnam, the various herbicides, defoliants, gases, and other chemicals, their mode of application, and some of the effects of their use were extensively described. One study reported an increase in the rate of stillbirths at the Tay Ninh Provincial Hospital, and a rise in the incidence of the birth defects cleft palate and spina-bifida in Saigon, coincident with large-scale herbicide spraying in South Vietnam. Another study of 903 South Vietnamese patients evacuated to the Benh Vien Hospital in Hanoi included 179 who had spent from 2 months to 5 years in sprayed areas. Of the 19 women, 4 had been pregnant at the time.

Although the women appeared normal, had not been x-rayed during pregnancy, and had no family history of congenital abnormalities, three of the four infants were born with severe abnormalities. One of the children whose abnormalities are digital was born to a woman directly sprayed in the seventh week of pregnancy, the time when digital differentiation occurs in human embryos. A program of karyotyping cultured peripheral blood cells of these and other victims has recently been initiated. One of the three infants above, who has the symptoms of Down's syndrome (Mongolism), has the corresponding karyotype (21-trisomy), and preliminary karyotyping of other victims is claimed to show chromosome and chromatid breaks.

In all this work, the Vietnamese scientists impressed us as being very painstaking in amassing evidence and very cautious in drawing inferences. Nevertheless, it was quite clear from their research that chemical and other types of antipersonnel weapons are being used against civilians, and that teratogenic and carcinogenic effects may result from the use of herbicides in addition to their severe and possibly sometimes irreversible effects on plant and animal ecology.

VIETNAMESE SCIENTISTS

Our lectures began at 7:30 a.m., fairly late for the Vietnamese who are used to rising at 5 and then taking a siesta in the middle of the day. The large, bare lecture hall at the State Committee of Science and Technology building was filled with about 150 students, professors, and scientists—plant physiologists and agriculturalists for Galston's lecture and virologists, geneticists, and biochemists for Signer's. The lectures, delivered from a platform in front of an old, scratchy blackboard, were translated by Dang Vinh Thien, a 33-year old mechanical engineering graduate of the Pedagogical school. Thien's performance was extraordinary—rather than translating, he paraphrased groups of several sentences at one time. Often he didn't even wait for us to finish what we were saying since he clearly understood almost everything quite well, while at other times he interrupted to clarify a scientific point before translating. His broad scientific knowledge, he said, stems from his job as one of a team of ten that reviews international technological and scientific literature for a popularized fortnightly mimeographed bulletin, about 600 copies of which are distributed to scientists throughout the country.

The audience seemed to be listening closely and taking pains to follow. At the lectures and the three smaller seminars we each gave to groups of about 20, and in other discussions with scientists (for instance, at the Agricultural College), we were able to get some feeling for the scientific level of the Vietnamese from their interests and the questions they asked. Many of the questions were far too comprehensive for a brief answer; others dealt with details of our

lectures and related areas; still others asked for more information about developments in Western science of which they were aware and curious, and particularly about environmental and developmental effects of the herbicides with which their country is being sprayed. Most of the scientists had a good, if somewhat uneven, general background, biased toward the agricultural and medical sciences in which they specialize, and a few were extremely well read in even rather abstruse topics such as genetics of bacteriophage lambda. Their obvious interest and eagerness to learn made the discussions very enjoyable, and many of them seemed particularly intrigued by complex arguments and trains of reasoning.

Teaching was taken seriously by most scientists as an important aspect of their scientific development. Their approach seemed to be somewhat rigid and, to us, conventional. For example, they were quite disturbed when we happened coincidentally to mention that definitions of some terms and concepts—like "cistron"—were rather arbitrary and likely to change as information accumulated. "How, then," they wondered, "can you teach people what a gene is?"

Having essentially no scientific tradition of their own, the Vietnamese were very interested in learning how scientific research is organized in the United States and arranged several small meetings on the subject for us. They were careful to collect all the details of how we do things, with a view to planning ultimately to organize science to reflect their country's unique needs.

GENERAL EVALUATION

Several characteristics stood out among the institutions we visited and the scientists we met. One is the attitude of independence and self-reliance present in science as in everything else Vietnamese. Even as they described to us the various kinds of aid and assistance they were receiving from foreign countries, the scientists took pains to point out that conditions in Vietnam were unique, and that their particular problems required a specifically Vietnamese solution. For example, rather than bringing in foreign medical specialists they preferred to develop their own public health program from the beginning.

A second is the absence, despite an obvious respect for learning and knowledge, of a tradition of scientific research and higher education. This may once have existed, but has been missing at least since the years of French occupation. This causes the Vietnamese, on the one hand, to organize science and education in a way that matches their own assessment of their needs; but on the other, it means that at least temporarily they must adopt foreign methods for the organization of such matters as university education.

A third is the strong orientation toward public service and public welfare that runs through their scientific endeavors. Quite limited in resources, the Vietnamese are giving priority to the development of medical sciences, as they relate to care for war victims, to public health and nutrition, and to the development of scientific education and research establishments connected with the needs of agriculture and industry. Surprisingly, concern for public welfare was not restricted to the DRVN. Several times scientists urged us, in the name of national unity, to help their colleagues in South Vietnam too.

A fourth characteristic is close interaction between science and Vietnamese society. Examples are the change in orientation of doctors from curative to preventive medicine, and the adjustment of the research and educational structure to provide equal opportunity for women.

It is worth noting that these characteristics—independence and self-reliance, serious and responsible planning for the future, concern for public welfare, and change in social values—were also quite evident in the nonscientific aspects of Vietnamese life that we saw.

The scientists we met, and particularly the upper level administrators such as Minister Buu and Drs. Phung and Tung, seemed highly intelligent, serious, and competent. The institutions appeared well organized and well run. On the other hand, the little we saw of classroom procedure suggested that it was rather tightly disciplined and depended heavily on rote learning. The scientific, medical, and educational facilities all seemed hampered by shortages of equipment, supplies, books, journals, educational materials, and particularly medical supplies such as antibiotics.

In addition to the problems that beset all developing countries, the DRVN must deal with the war, which penetrates Vietnamese society at every level. During the air war—from 1965 through 1968 for most of the country, and through the present for areas below the 19th parallel—bombing on an unprecedented scale has severely crippled the country and its physical plant and has retarded the nation's development. Antipersonnel bombs and mines, napalm, and gas have killed many civilians and permanently maimed many more. Science must be extremely difficult under these conditions, and in the face of such destruction it might be expected to fall far behind national defense in priority. Yet, not only are morale and national unity very high, but we and other American scientists found a vigorous material and intellectual commitment to the development of science, and a lively interest in many areas of basic biology that are only remotely related to the country's immediate needs. Apparently, fighting the war does not preclude building up civil society and planning for the future.

The personal response of the Vietnamese, both scientists and others, also surprised us. Far from being treated as the enemy, we were continually welcomed warmly as friends. Their quarrel, they said, is with the U.S. government, but not with the American people. They also exhibited a nice sense of humor. While lecturing on independent and associated states of bacterial episomes, Signer noticed the translator's use of *doc lap*, one of the few Vietnamese words he had managed to learn. "I just recognized a familiar Vietnamese word—Independence," An appreciative chuckle ran round the room.

A HOUSING VICTORY IN BROOKLYN

Mr. BUCKLEY. Mr. President, in this day of multibillion-dollar outlays for public housing and urban renewal, it is refreshing to come across a story of a housing victory that was won by the dedication, determination, and old-fashioned commonsense of private individuals. Such a victory is the story of 24 Furman Avenue, in the Bushwick section of Brooklyn, N.Y.

A remarkable woman named Mrs. Helen Barrera, starting with little more than a dream and the realization that more than money is required to renovate the slums, converted a garbage-strewn abandoned building in 1 year into a spanking clean residence to which the building's formerly despairing tenants now point with pride. The secret of Mrs. Barrera's success lay in her understanding that social as well as architectural rehabilitation is required if our urban renewal programs are to produce lasting results. By training and counseling the tenants, by arranging for onsite management in the form of three Baptist ministers, and by co-oping the building, Mrs. Barrera successfully infused the tenants with pride and hope. The rest was relatively easy.

An article entitled "How Hope Returned to 24 Furman Avenue," which tells the story of Mrs. Barrera's accomplishment, appeared in the Trinity Parish Newsletter for November–December 1971, as an item of interest to its readers, even though the project itself was not sponsored by Trinity Church.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW HOPE RETURNED TO 24 FURMAN AVENUE

A year ago, the 53-family apartment building at 24 Furman Avenue in the Bushwick section of Brooklyn was a house without hope. Physically, it was worse than a shambles—it was an unmitigated horror. It was ringed with heaps of garbage thrown from the windows of despairing tenants. Garbage choked the basement. Holes gaped in ceilings, toilets didn't work and the tenants in the top floor apartments were without heat for two years.

The owner, seeing only losses ahead, had walked away from 24 Furman Avenue with its controlled rents, tax arrears and $58,000 mortgage. The building was "abandoned," and this despite the fact that it was assessed at $180,000 and could not be duplicated today for a million dollars.

Worse even than the physical deterioration and pervasive putrefaction was the havoc wreaked on the spirit of those condemned to live here. Dogged by poverty, prejudice, frustration, fear and filth, they experienced a degree of degradation that grew progressively worse. When tenants moved out junkies moved in. There was a heroin factory on the fifth floor.

In short, a year ago the building was a disaster.

24 FURMAN AVENUE TODAY

Today, 24 Furman Avenue is transformed, regenerated, redeemed, a house to which hope has returned. The garbage is gone and so is the heroin factory. The basement, clean and newly painted, is a recreation area for children, teen-agers and adults. The toilets work, the ceilings are plastered and refinished, and the tenants have heat.

Even more important than the physical transformations have been the changes in the tenants. For the tenants have overcome fear and prejudice, and organized and become responsible. Cooperation has replaced friction between blacks and Puerto Ricans. The halls are patrolled and the junkies are kept out. The vacancies—there were seven a year ago—are filled and there is a waiting list.

How explain this miraculous change, this rebirth of hope and life?

HELEN BARRERA "GETS IT ALL TOGETHER"

Any explanation would have to begin with Helen Barrera. The Baptists with whom Mrs. Barrera works call her a general consultant, while the people at Catholic Charities describe her as an urban affairs specialist. Neither catagorization adequately describes this dyanamic, articulate and resourceful woman. For years she was engaged in "product development," an occupation that involved the rescue of faltering businesses. Then she switched to housing in the black ghetto. Now she is concentrating her formidably vitality and extraordinary concern for distressed humans on Puerto Rican housing.

Her specialty is "getting it all together" . . . bringing together the people who have financial muscle with people who have the expertise and the capacity to love and counsel oppressed and troubled fellow humans. It involves prodding, cajoling and enlisting the cooperation of government officials, city, state and federal, of whose behavior, powers and duties she apparently has a thorough knowledge.

Officially, Mrs. Barrera is consultant for Total Operations for Neighborhod Environment, Inc. (TONE), the low-budget organization through which the miracle of Furman Avenue was wrought.

THE BAPTISTS AND TONE

TONE may be described as an activist expression of concern of the Southern Baptist Church. It got its initial funding—$1,000—as a gift from Dr. Cal Guy, a professor of Southern Baptist Seminary, and it was Dr. Guy who aroused the interest of 18 of the Southern Baptist leadership in TONE's mission. TONE's chairman, J. D. Callender, financial vice president of Amerado-Hess Corp., its president, Joe H. Hunt, vice president of AT & T, and its vice president, Robert Bell, of the American Can Co., are all active lay members of the Baptist Church.

The Rev. Rudolph Morgan, TONE's secretary, and the Rev. Kenneth Lyle, its treasurer, are both Baptist ministers.

Another leading actor in the drama of Furman Avenue is Joseph Colon, a Puerto Rican mortgage banker, president of the Puerto Rican Home Owners Association and a director of Banco Popular de Puerto Rico, a commercial bank. It was Mr. Colon who "discovered" 24 Furman Avenue and learned that it could be picked up from the nervous insurance company that held the $58,000 first mortgage for the bargain price of $24,500.

The sum was advanced by Banco Popular but was personally guaranteed by Messrs. Callender, Hunt and Bell, and was, in addition, underwritten by the Baptist Church of Lubbock, Tex. Mrs. Barrera and Mr. Hunt had been to all the banks that publicly boast of investing 1 percent of their assets in ghetto housing. Not even the personal guarantee of TONE board members would move the conventional Brooklyn banks. No savings bank would give TONE a mortgage.

TACKLING THE HARD-CORE PROBLEMS

Once TONE got possession of the property it found itself facing a host of weighty problems, some of them "hard-core things" like the heroin factory on the fifth floor. "The local precinct police captain was cooperative," Mrs. Barrera said. "He introduced me to the nice big black man who is his local aid in Community Relations. Pretty soon—guess what?—everything happened. The heroin factory disappeared."

Getting heat to the top floor tenants wasn't all that hard. "Someone had gone in and painted the valves. All we did was remove the valves, let out the air and up came the heat."

Then there were the stopped drains, the main sewer back-up, flooding the basement. "No one had ever told these people that they shouldn't throw lard down the sink or toilet. At the bottom of this huge structure the grease was caked so badly that when we went in with the Roto-Rooter knives it came out like candles for the altar."

Now the tenants began to get into the spirit of the thing. As Mrs. Barrera recalled it: "We said to the unemployed men, one day you work for us for the rent and the next day we'll pay you $20 to feed your family. We bought $300 worth of paint and with some of the back rent money we got from welfare we painted the whole house."

COLLECTING BACK RENTS

Getting this rent money from welfare illustrates Mrs. Barrera's resourcefulness. When TONE took over the title, she insisted that the insurance company formally relinquish all claim to back rents and assign these rents to TONE. Expensive boiler repairs were pending and the back rents (26 tenants were far in arrears) were needed to pay for them. "I gave the welfare people down at City Hall the choice of making reservations at the Waldorf-Astoria for these delinquent tenants or paying their back rents," Mrs. Barrera explained. "We got over $5,000." She added, her laughing dark eyes negating her words:

"Of course, this isn't the way you're supposed to do it."

Another hard-core problem facing TONE involved persuading tenants to give up some of the fruits of their ingenuity—free gas, electricity and telephone service, for example.

As Mrs. Barrera put it: "People are marvelously ingenious when they attack the system. Someone in the house was making 10 or 11 free calls a day to Puerto Rico. People had piped in gas and rewired the electricity and they were getting gas and electricity for nothing. No one would admit who the superintendent was. Con-Ed couldn't get into the locked-up basement to turn anything off. They couldn't collect. It was great!"

But it had to stop. Some of the hard-core people fought back. They sabotaged the elevator—cut the cable and started fires. And they broke into the storage room and stole everything in sight. "We had everything happen in that house."

WHEN "LOVE" MOVED IN

Three months after TONE took over, a crucial move was made. A two-room apartment on the ground floor where a dentist was supposed to be was vacated and three black, Spanish-speaking Baptist ministers were moved in.

With their arrival the turn around in the spirits and hopes of the tenants entered a new phase. As Mrs. Barrera described it:

"The quickest way you can get to the people is through the children. The children of these tenants were having problems—reading and writing and going to school. So the Baptist ministers opened their door and invited the children to come in. They gave them milk and helped them with their English homework. The mothers? They sort of seduced them—with goodness—tea, coffee and cookies.

"Then they helped the men with such things as notorization and getting jobs."

As the Rev. Rudolph Morgan, secretary of TONE, summed it all up: "Love is the name of the game."

Resentment, prejudice, suspicion—all collapsed before this onslaught of concern and love.

There was a great deal more to be done to make 24 Furman Avenue a good place to live. The tenants themselves did most of it, including plumbing and boiler-repair work under the tutelage of expert craftsmen. And the men cleaned out that garbage-choked basement and painted it for their family use.

"Joe Hunt gave $200 and got a friend to give another $200." Mrs. Barrera recalled, "so that for $400 we installed a toilet down there for the children. We bought an electric coffeepot and a ping-pong table and got a record player for music for the teenagers. Pretty soon everyone in the building had moved into the basement that only months before was so filthy you couldn't get through.

"Then the men and women organized committees and took the building over. They gave us a reception. The president of the tenants council said to us, 'You have come in here and changed our lives. And you haven't even asked us to become Baptists.' They were all Catholics," Mrs. Barrera added.

This isn't the end of the story of 24 Furman Avenue. TONE is now in the process of turning the building into a tenant-owned co-op or condominium. But that is a phase we won't go into here except to note that it is entirely feasible and will have a continuing beneficient effect in inculcating pride, spirit and hope in the families that live here.

Mrs. Jane Gallagher of Senator Buckley's office is giving Mrs. Barrera full support in this project. ("Jane keeps the bureaucratic doors open by asking 'why?' on the Federal Housing level. She is a crowbar when doors slam shut!")

Obviously, 24 Furman Avenue is a "pilot project." In the context of the gigantic problem of ghetto housing, which is now being climaxed by the abandonment by their owners of nearly 30,000 dwellings units a year, it is no solution at all. No one knows this better than Mrs. Barrera, Joe Colon and Joe Hunt, and the people associated with them. That is why Mr. Colon has worked out an ingenious program that aims to create a limited partnership on a substantial basis between churches and other community groups with profit-making institutions for the purpose of rehabilitating structurally sound buildings in ghetto areas that, like 24 Furman Avenue, have been abandoned by their owners.

FINANCING IS NO OBSTACLE

Thanks to federal housing and tax laws, financing large-scale rehabilitation of such buildings is not an insurmountable problem. Indeed, the profit and tax-shelter advantages are very attractive to profit-making organizations. Mrs. Barrera has a solid pledge now of $5 million—if she can put together $5 million worth of housing with the same kind of program that has worked so well at 24 Furman Avenue. This would be a substantially larger pilot project, or demonstration, involving several buildings. It would be large enough to set the stage for a full-scale attack on the problem.

Obviously, here is an opportunity for churches, or for an interfaith coalition of churches, to perform a spiritual ministry such as the Baptists are performing at 24 Furman Avenue on a scale that will truly test their Christian commitment. Prospective investors, for whom (and this should be clearly understood) the project is a business proposition, want to make certain the buildings will be there while they are getting their money back plus profit. But this assurance requires the limited partnership of churches to sponsor the program, to be the catalyst, so to speak, that puts the package together, and to perform the ministry that organizes the tenants and turns their lives around.

SOME "AMAZING" STATISTICS

The almost miraculous disciplining effect of putting the people in control of their own housing is revealed dramatically by a rehabilitation project at a 200-unit project in Spring Valley, New York.

The statistics, as recounted by Abraham G. Gerges, a lawyer with vast experience in housing rehabilitation, were "utterly amazing." Forty per cent of all the police calls in the town of Spring Valley in the year of 1969 went to this project. So did 35 per cent of the minor and major fire calls. In 1970 and to date in 1971 there has been not one police or fire call to the project.

"Bear in mind," said Mr. Gerges, "that there were the same tenants—there wasn't one change. There was just one difference—these were rental units in 1969; after rehabilitation they became co-op apartments.

"Another thing, with the transition we lowered the rents. We saved the welfare people about $38,000 a year."

Mrs. Barrera is still busy "getting it together." She has the tentative $5 million commitment to rehabilitate ghetto housing. But she has still to win the vital—meaning indispensable—commitment to the interfaith body that will undertake, through unremitting labor, patience and love, to "rehabilitate" the people and inspire them with hope and life. She needs and deserves the ardent cooperation of Christians.

CONGRESSIONAL CONTROL OVER U.S. DISTRICT JUDGES

Mr. ALLEN. Mr. President, we have read much and we have heard much of late on the question of whether or not Congress may exercise any degree of control over U.S. district court judges in the matter of fashioning specific remedies to implement the U.S. Supreme Court desegregation decision.

In the interest of clarifying the issue, I believe we should isolate the factual elements from the purely rhetorical and political arguments. Let us examine the facts.

First, a unanimous U.S. Supreme Court has said that racial balance in public schools is not required by the Constitution.

Second, Congress has not required racial balance. In fact, to the extent that Congress has addressed itself to the point, it has defined desegregation to exclude a requirement of racial balance in the schools. Obviously, since racial balance is required neither by the Constitution nor by Congress, it must follow that judicial decrees which require forced busing of children to achieve racial balance in schools is not required.

Third, despite the fact that racial balance and busing to achieve racial balance is required neither by the Constitution nor by Congress, U.S. district court judges have issued decrees which do require busing to achieve racial balance. Many of such decrees have required massive busing and other disruptive and—in my judgment—unjustified remedies such as disregard of the boundaries of separate political subdivisions of a State.

Fourth, these lower court decrees up until now have been upheld by the U.S. Supreme Court, as in the Charlotte-Mecklenburg case, not as a requirement of law, but as a permissible exercise of equity powers of U.S. district courts. In this connection, when we refer to equity powers, we are, in fact, talking about near-unlimited discretionary powers of U.S. district court judges to shape remedial decrees which are designed to balance the public interest with private rights protected by the Constitution.

There are those who contend that Congress can exercise no control whatsoever over the discretionary powers of U.S. district court judges except to enlarge and reinforce the powers of such judges. This is the issue. I contend that Congress does have the power to limit discretionary remedies which can be imposed by U.S. district court judges in cases involving 14th amendment issues. In fact, the 14th amendment specifically grants Congress that power.

Mr. President, in the Charlotte-Mecklenburg opinion, the Supreme Court pointed out that Congress has given Federal courts very little help by way of guidelines with respect to shaping remedial decrees in desegregation cases. The court, in fact, extended what I consider an open invitation for Congress to exercise its judgment in the matter of determining proper remedial decrees in school desegregation cases.

It should be pointed out that the exercise of congressional oversight in this area has nothing to do with limiting the jurisdiction of U.S. District Courts. To the contrary, any congressional guidelines which might be proffered necessarily recognize the constitutional issue involved and the jurisdiction of U.S. District Courts to effect remedies.

Mr. President, it would be presumptuous of me to cite the many types of cases where Congress has, in the past, prescribed judicial remedies designed to vindicate constitutional and statutory rights. For example, in the area of labor disputes, Congress has inhibited U.S. District Court judges in the exercise of discretionary powers in shaping remedies to the exclusion of congressional oversight. The comprehensive argument can wait.

In the meantime, Chief Justice Burger has said, in a different subject context, but in a context relevant to the question of the power of Congress to control U.S. District Courts in the area of injunctions:

> In these circumstances Congress may, of course, take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the Three Sisters Bridge project, even to the point of limiting or prohibiting judicial review of its directives.

Mr. President, the statement I have just quoted is from a news item published in the Washington Post, on Tuesday, March 28, 1972. I believe it contains an expression of a sound principle of law and also that it can be taken as a straw in the wind—an indication of the attitude of the U.S. Supreme Court on the question of congressional power to limit the exercise of discretionary powers by U.S. District Court judges.

Mr. President, I ask unanimous consent that the news item be printed in the RECORD.

There being no objection, the item was ordered to be printed in the RECORD, as follows:

TEXT OF JUSTICE BURGER'S OPINION IN BRIDGE CASE

Following is the text of Chief Justice Warren E. Burger's concurrence in the U.S. Supreme Court's refusal to consider the Three Sisters Bridge case:

I concur in the denial of certiorari in this case, but solely out of considerations of timing. Questions of great importance to the Washington area are presented by the petition, not the least of which is whether the Court of Appeals has, for a second time, unjustifiably frustrated the efforts of the Executive Branch to comply with the will of Congress as rather clearly expressed in Section 23 of the Federal-Aid Highway Act of 1968. If we were to grant the writ, however, it would be almost a year before we could render a decision in the case. It seems preferable, therefore, that we stay our hand. In these circumstances Congress may, of course, take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the Three Sisters Bridge project, even to the point of limiting or prohibiting judicial review of its directives.

U.S. ACCESS TO FOREIGN MARKETS

Mr. BURDICK. Mr. President, we are all aware of the need for easier U.S. access to foreign markets. Expanding U.S. exports is an established objective of our Government.

While we may differ on ways to right our trade balance, we can agree, I believe, that we face serious problems in this regard.

So it was particularly interesting and informative for me—and about 500 other representatives of government and industry—to hear recently the thoughts of the Senator from Hawaii (Mr. INOUYE) on the U.S. export situation.

Senator INOUYE addressed the Government-Industry Awards dinner of the Electronic Industries Association on March 8. I was in attendance at the dinner.

Because Senator INOUYE's remarks are particularly pertinent and the speech was carefully prepared, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH DELIVERED BY SENATOR DANIEL K. INOUYE AT THE ELECTRONIC INDUSTRIES ASSOCIATION GOVERNMENT-INDUSTRY AND AWARDS DINNER, WASHINGTON, D.C.

America has often been described as the land of promise. Every two years this becomes very evident . . . "I promise if elected to provide the people of the United States the best educational system that money can buy. I promise if elected to cut taxes $10 billion . . ."

Like all of you, I am thrilled by these promises to buy the best housing, the best educational system, and the best health care for the people of the United States. These are dramatic and tangible promises and they are easily understood. However, I maintain that in concert with these promises someone should tell the people of the United States how we intend to pay for these programs. I gather that politicians—and I am one of them—are reluctant to discuss this, but if we are to make America the land of reality and not only of promise, then we must turn our thoughts to creating the wealth that will pay for this vast array of social programs. This evening I wish to discuss the potential of foreign commerce as a source of this necessary wealth.

Our national attention has been directed to foreign commerce more closely than at any time since the early 1930's. For the first time in many years politicians, businessmen, bureaucrats and labor leaders are scrutinizing international commerce and are discovering the links that bind our domestic welfare to the international commercial and financial system.

However, it was only after a shaky monetary and commercial structure began to disintegrate that we, as a people, began to give international commerce sufficient attention.

I am certain that you, as important leaders in the business community, are familiar with the disheartening statistics.

Nowhere is the relative decline of our economic power more graphically illustrated than in our merchandise trade accounts. For nearly a century we enjoyed large positive trade balances. These export surpluses covered deficits resulting from overseas defense, foreign assistance, and tourism. The growth in exports also created well-paying jobs for millions of American workers. However, since 1964, when the United States enjoyed a trade surplus of some $7 billion, our positon as a competitor in the world marketplace has rapidly disintegrated. Last year, the United States suffered a deficit for the first time since 1893 approximately $2 billion. The deterioration from 1970 to 1971 alone amounted to more than $4 billion.

Even this retelling understates the gravity of the situation. Because of our peculiar accounting practices in counting concessionary "soft currency" sales and not including the cost of insurance and freight in computing our balances, we have chronically overstated the extent of our export sales. If one makes adjustments to reflect these distortions and arrives at a more realistic figure, it becomes clear that our Nation has for the last five years been experiencing severe trade deficits.

We have been rapidly losing our export competitiveness. In the crucial area of manufactured goods, the United States slipped from 25% of the world market in 1960 to 21% in 1970. In dollar terms that has meant a $6 billion loss in exports. In human terms it has meant 400,000 lost job opportunities that were and are desperately needed. In 1970 we also lost our position as the world's largest exporter of manufactured goods to Germany. The gap between the two nations increased in 1971, a year in which our imports grew three times faster in percentage terms than our exports.

In these circumstances the events of August 15th appear logical and necessary. I believe they were appropriate and deserving of support even if somewhat tardy.

The present Administration has shown considerable interest in arresting the decline in our foreign trade. It negotiated the terms of a dollar devaluation. It encouraged the formation of the Domestic International Sales Corporation (DISC). It supported legislation which expanded the credit facilities of the Eximbank. Finally, it has made a step towards coordinating economic policy by creating the Council on International Economic Policy, headed by Peter Peterson, now Secretary of Commerce.

Nevertheless, and important as these developments have been, I believe that we must have the vision to look beyond the two or three years during which time the devaluation should have its initial effects if we are to prevent such crises from becoming a recurring phenomena. The most important, and in some ways most difficult, task is for our country to establish a clear long range public policy on trade and exports.

It is a sad fact that in spite of the recent measures, this nation does not have a strategy to deal with the new world in which the United States is no longer *the* economic power center. These recent measures have basically been a response to developments over which the Administration has exercised little control and steps which can best be described as "crisis management". In the years ahead, however, "crisis management" must be subordinated to establishing clear commercial objectives or we shall find ourselves careening from crisis to crisis over which we exercise no control

As you undoubtedly know, there have been a number of proposals to deal with the problem. They range from "benign neglect" to the imposition of high quota barriers to foreign goods.

This last, draconian plan is, of course, what is popularly known as the Burke-Hartke bill, or the so-called "Fair Trade and Investment Act".

Although there may be several desirable features to the bill, its overall effect would be to disrupt our foreign commerce by impeding the flow of goods and services between the United States and the rest of the world and retarding our growth as well as that of multinational enterprises. Adoption of the bill would unquestionably lead to a massive trade war in which we would all be losers. The biggest loser would be the American consumer, who would find his choice of goods seriously limited and far higher priced.

The results of this protectionist measure can be devastating. Simply put, it will: (1) reduce overall foreign trade adding more men and women to the unemployment list. (2) reduce competition among domestic producers. (3) result in higher prices for consumer goods.

In other words, although proponents of this measure have every good intention to help the poor, the unemployed and the labor force of America, the results will be just the opposite.

Businessmen and academics have launched a massive attack on this bill. The Department of Commerce and several business associations have produced scholarly and persuasive studies which refute the claims made by the proponents of the legislation. However, I submit that these well-documented books and speeches are an inadequate response to this protectionist drive.

We must recognize that the Burke-Hartke bill is the result of the legitimate worry of working men and women about their jobs. It may be easy for a business executive making $100,000 or more per year to belittle the Burke-Hartke bill, but for the man whose very livelihood is threatened by foreign competition, it means job protection. It is their "security blanket." This protectionist threat would not have materialized if we did not have a 6% unemployment rate, but the fact is that this abnormally high unemployment is with us and threatens to be a long-term component of our economy. Nor is it helpful for various Administration officials to talk darkly about a permanent shift to a higher unemployment rate.

If we are to avoid the Fortress America strategy epitomized by the Burke-Hartke bill, we must first deal with the fears generated by our present economic policies. We can combat protectionism only by developing and implementing the kind of international trade strategy that we presently lack.

A sound strategy to coping with the economic difficulties we now face requires a judicious balance of offensive and defensive programs. In shaping our response to this new world of vigorous economic competition, we must include the following components in our strategy: (1) domestic and foreign policies and programs to encourage present and potential exporters; (2) policies to remove or alleviate current impediments to our foreign trade; (3) policies which place sufficient emphasis in our foreign affairs on economic matters and permit us to react, if necessary, to the actions of foreign governments that injure our economy; and (4) improved governmental machinery to develop the policies favorable to export and the U.S. economy, to provide the climate for trade and investment, and to conduct negotiations and administer assistance programs. Government can help to fulfill these demands, but it cannot do so without the cooperation of business and labor.

In the drama of the fight over quotas and tariffs, most individuals overlook the fact that export expansion is the other side of the coin. Every $1 billion in exports creates thousands of new jobs.

As Chairman of the Senate Subcommittee on Foreign Commerce and Tourism, I have had an opportunity to review this problem of export expansion. I discovered much to my dismay that there was literally no significant export expansion legislation currently before the Congress. It is particularly noteworthy that even the Administration, which has taken several important steps in helping to reorder the international monetary system and initiate trade negotiations, has failed to request of the Congress new authority to establish programs oriented to deal with the economic competition we are encountering.

It was to fill this vacuum that Senator Magnuson, Chairman of the Senate Commerce Committee, and I last year introduced S. 2754, the Export Expansion Act of 1971. Among the major provisions of this bill are the creation of an International Commercial Service under the auspices of the Commerce Department to replace the old commercial attaché system operated by the State Department; the creation of a Trade Development Corps to assist American business in solving exporting problems and finding markets for their products; establishment of a new program to train exporters; creation of a cost-sharing program; grants to states to encourage local initiative; strengthening the Federal Maritime Commission to deal with unreasonable freight rate disparities that injure American exports and to simplify complex rate structures; rejuvenation of foreign trade zones as a means to stimulate exports; creation of a commission to oversee unfair foreign trade practices; and finally reorganization of certain Commerce Department foreign trade functions.

In introducing the bill, Senator Magnuson and I were fully cognizant of the fact that we were only taking the first step in providing the necessary Congressional input. Because of Senate jurisdictional reasons our initial efforts had to be limited, but in the weeks and months ahead we intend to explore the following ideas:

(1) Ways to stimulate East bloc-American trade. In 1970 the United States accounted for only four percent of the total East-West trade, and American joint ventures with Communist organizations were virtually nonexistent. If we are to participate meaningfully in this trade, we must liberalize our system of export controls, streamline review procedures, and expedite legislative action on most-favored-nation treatment for Eastern bloc countries;

(2) Reorganization of the governmental machinery. It has recently been brought to light that there are more than 70 bureaus, agencies, offices, and commissions in the Executive branch dealing with international economic affairs. Of these approximately 40 deal with some aspect of export expansion. Clearly this situation cannot be tolerated in spite of the efforts of the Council on International Economic Policy. We must consider how we wish to overhaul this sprawling conglomeration of offices and whether or not we wish to emulate some of our competitors by forming a Department of Trade and investment to consolidate them in a form that can be effectively utilized;

(3) Renewed emphasis on high technology research and development. Other countries, particularly Western Germany and Japan, have embarked on programs to intensify their research and development spending. High-technology products is the field in which the United States still maintains its eminence. It is this area which had hitherto provided our substantial export surpluses, amounting to more than $8 billion in 1971. Even in this field our competitive advantage is disappearing. It is noteworthy that our surpluses in technology-intensive manufactured goods have not grown in the last few years. In spite of laudable Administration interest in this area, I believe that more direct assistance to high-technology companies should be considered, e.g., a "technology bank" to provide low-interest loans for research and development; direct grants for export-sensitive projects; financing and servicing beyond present Eximbank programs; and tax credits for higher research and development expenditures;

(4) Additional incentives to exporters. Only four per cent of our manufacturers now export in spite of the fact that international trade offers great opportunities as well as great challenges. It is common knowledge that foreign governments offer their exporters substantial incentives, including large depreciation write-offs. Our seven percent tax credit is hardly sufficient to offset these advantages. Therefore, I believe we would do well to consider the possibility of further tax incentives such as increased accelerated depreciation write-offs for those manufacturers who compete in the export market; and finally

(5) Additional governmental programs to facilitate exports. As I noted earlier, the proposed Export Expansion Act contains several new proposals to encourage exporting. These include cost-sharing programs with the Government and the establishment of service centers abroad. Further programs might include program grants and loans directly to manufacturers repayable according to incremental exports; improved servicing by domestic field offices; improved and easier documentation requirements; and computerized informational systems that will provide trade leads to companies at a moment's notice, with, of course, governmental follow-through and encouragement.

A full reversal and restoration of competitiveness can be accomplished only by the determined partnership of government, business, and labor. We in government can learn a few lessons from foreigners to enable American business to compete more effectively. Indeed you will notice that the proposals I have presented this evening are specifically designed to create a friendly climate for businessmen to engage in exporting.

It is easy for me to say that we should be more pro-business and enact realistic laws consistent with the challenges we face abroad, but we shall not achieve this by my saying it. The change will also have to come from business itself. In each of the countries with aggressive export expansion programs, business, government, and labor have forged policies which stress close cooperation and consultation. In many cases, this cooperation takes the form of agreement on social goals.

Japan is perhaps the outstanding example of this kind of society. In return for job security and rising wages, Japanese labor unions have been very cooperative authorizing only minimal industrial disruptions. While I do not advocate the wholesale adoption of foreign values and institutions, business leaders should reassess their corporations' activities if they expect government support to meet foreign competition.

Business must show that it can meet new social demands responsibly and effectively. A good example of the social conscience we need is the Xerox program through which participating employees take a paid leave of absence to work on programs beneficial to their communities. Much-maligned General Motors has an impressive range of programs designed to train minority group employees and encourage minority-owned small business. Not every company has Xerox's or GM's resources, but many large companies can afford to do more. This community involvement and commitment are precisely what must be done if we are not to remain frozen in those antiquated attitudes which see government, labor and business as mutually antagonistic blocs.

Corporation executives have sometimes privately asked me why business has been losing public support. I am not nor do I pretend to be a sociologist, but I have pointed out some examples in which business has not been adequately progressive. At a time when we face a serious drug problem, many people were properly horrified by the determined fight against the regulation of amphetamines by some pharmaceutical companies. Nor has business been in the vanguard to rectify consumer and environmental problems.

We in government should not have to legislate to compel these changes.

Too many people still think of business only as a profit-motivated and insensitive. All too often the attitude that many people see expressed by business is one of avoidance and defensiveness. When business fails to contribute positively, the field is left open for anti-business elements to motivate government to take steps that business views hostile. This essential public support is a key ingredient, not only in domestic politics, but, also, in export expansion.

The major beneficiaries of expanded foreign trade and exports will undoubtedly be the working men and women of America. And labor has a major role to play in the expansion of our exports. This must be kept in mind by labor negotiators as they approach the bargaining table.

I would like to conclude my remarks tonight with an optimistic appraisal of the state of the union. The naysayers and prophets of doom to the contrary, I find much to be hopeful about. It is true that deep divisions scar our society and that our economy has been badly buffeted. Nevertheless, we have the world's best-educated and most-skilled labor pool. Our society still produces the most advanced ideas in technology, business management, the social sciences, and the arts.

As we in government and you in business embark on this common journey through an unknown terrain we have reason for confidence that by working together we can reassure ourselves and assure the rest of the world that we have not yet seen the end of the American century.

THE FOOD PRICE HOAX

Mr. HUGHES. Mr. President, one of the cruelest hoaxes that has been visited on the American people in recent years has been the attempt of certain interests in the food industry to blame the farmer for the precipitate rise in food prices—particularly meat—in recent months. No one can blame the American consumer for being worried and indignant about the high prices at the supermarket. However, as those of us from the great food-producing regions of our country have been pointing out, the major cause for escalating food prices falls within the spread between what the farmer gets for his product and what the processed and distributed food sells for at the grocery counter.

Statistics released by the U.S. Department of Agriculture Monday, March 27, confirm that while charges for processing, transporting, and distributing food increased by 2.5 percent during February, prices paid to the farmer rose only 0.9 percent.

A news article in the March 28 Des Moines Register tells the true story and for the benefit of my colleagues and the consumers of our country I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MIDDLEMAN'S FOOD SHARE RISES—USDA REPORT SAYS FARMER SLICE DROPS

(By George Anthan)

WASHINGTON, D.C.—The "middlemen" who are being blamed by the Nixon administration for the rise in food prices, got most of the increase recorded last month, a government report said Monday.

The farmers' share of the consumer dollar actually dropped during the month, the U.S. Department of Agriculture (USDA) said in a report issued at the same time.

President Nixon and Agriculture Secretary Earl Butz have emphasized in recent days that consumers should not blame farmers for the 1.9 per cent increase in food prices in February.

The USDA announced Monday that while the retail cost of a typical "market basket" of food produced on U.S. farms rose 1.9 per cent in February, charges for processing, transporting and distributing this food increased by 2.5 per cent. Prices paid to farmers rose only 0.9 per cent.

This means the farmers' share of the total consumer dollar fell from 40.1 cents in January to 39.7 cents in February, the USDA said.

The USDA estimated that in January a typical American household was spending at the rate of $1,274 a year for its food. Farmers received $511 of this and middlemen $763.

But in February, the department said, prices increased so that the market basket of food was costing an annual rate of $1,297, with farmers getting $516 and middlemen $781.

Beef prices, which have undergone a steep jump in recent weeks, indicate the farmer's dilemma, according to the USDA. Retail prices of beef increased 3.9 per cent in February, the department said, but the price farmers receive increased by 1.2 per cent.

The USDA said middlemen handling beef, pork and some fresh vegetables "substantially increased their margins." However, handlers of poultry and egg products realized a smaller margin in February than in January.

The Price Commission has scheduled hearings for Apr. 12 on the increase in food prices, and Chairman C. Jackson Grayson has indicated that if the rise continues the unit will take action to impose controls.

Currently, raw, unprocessed agricultural products are exempted from the Nixon administration's price controls, but processed food is not.

Grocery prices in February were 6.5 per cent higher than a year earlier, the USDA reported.

DEATH OF LUKE C. QUINN

Mr. PELL. Mr. President, recently the health community of the Nation lost a particularly valued worker, leader, and friend with the death of Luke C. Quinn.

Luke Quinn was uniquely helpful in presenting to the Congress some of the most compelling health needs of the Nation during the past 20 years. His knowledge, his helpfulness, and his understanding of the health problems of the country will be sorely missed.

Personally, I had a huge admiration for Luke Quinn, both because of his own high qualities of dedication and integrity and because of the kindness and breadth of his interests. Our country is the poorer that we have lost the services of such a selfless, fine gentleman. I shall miss him and know that those who join me in missing him are legion in numbers.

I ask unanimous consent that the obituary of Col. Luke C. Quinn, Jr., published in the Washington Post, be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 13, 1972]

LUKE C. QUINN, CANCER FIGHTER, DIES

(By Claudia Levy)

Col. Luke C. Quinn Jr., 64, a lobbyist for the American Cancer Society who played a major, behind-the-scenes role in the passage last year of the Conquest of Cancer bill, died Saturday at the Clinical Center of the National Institutes of Health.

A legislative representative for the society and other public health groups here for 20 years, he died of a cancer that was discovered last summer. The retired Air Force officer put off further treatment until the fall, his assistant said, because Congress was holding hearings on the cancer bill he had fought so hard for.

That bill, signed into law by President Nixon two days before Christmas, authorized a $1.6-billion federal crusade against cancer and gave the President a special responsibility for finding new research and treatment methods against a disease that kills 325,000 Americans a year.

The compromise legislation, Col. Quinn's associates said, was in part a tribute to the lobbyist's skill in encouraging both President Nixon and Sen. Edward Kennedy to join forces. He had also worked hard to marshal the support of citizens and scientists while the legislation was being fought out.

"There were so many bills floating around, and unless there was a single person to coordinate, we could have ended up with a mess," said Dr. Solomon Garb, cochairman of the Citizens Committee for the Conquest of Cancer.

The colonel had asked him and others to form the committee in 1969, said Garb, science director for the American Medical Center in Denver, Colo., because he was alarmed at the continuing cutbacks in cancer research funding.

A native of New York City who had studied at Columbia and American universities and the City College of New York, Col. Quinn served during World War II as an intelligence officer in Italy and then was assigned to Capitol Hill as the Air Force liaison officer. In 1952, after he retired from the service, he became a registered lobbyist for a number of professional and scientific groups interested in expanding medical research, including the cancer society.

He lobbied successfully for a 10-million special task force on genetic diseases and was instrumental in the establishment of the National Eys Institute and the Fogarty International Center at the National Institutes of Health.

He also helped create the John E. Fogarty Foundation for research into children's diseases in Providence, R.I., an institute that is named for the late congressman who was among the first to urge Col. Quinn to take on health legislative work.

"Quinn carefully kept his name out of the news for the 20 years he spoke for health interest," his assistant, Noël Noël, said.

"There was an element of martyrdom in which he did (last summer)," Garb said. "I think he probably sacrificed his own chances for survival to insure that a good bill was passed."

"The historic Cancer Act passed last year in Congress will be a permanent memorial to Luke Quinn," Sen. Kennedy said. "Because of his tireless efforts, we enacted the most important milestone so far in our national effort to conquer cancer. The disease claimed his life, but because he lived, millions will be saved."

Col. Quinn, who lived at the Watergate Apartments, is survived by a sister, Dorothy Judge, of Caldwell, N.J.

PUBLIC LAND LAWS

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him and insertions on the subject of the William K. Wyant series on public land laws.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

I am pleased to bring to the attention of the Senate an authoritative appraisal of the environmental and legal issues surrounding the status of laws relating to mining operations.

Since 1951 when he first joined the staff of the St. Louis Post-Dispatch, Mr. William K. Wyant, Jr. has endeavored to inform the public of important environmental concerns. Mr. Wyant has been affiliated with the Post-Dispatch's Washington Bureau since 1964, and, through his diligent and comprehensive reporting, has made numerous and valuable contributions to the efforts to preserve and conserve our precious environment.

Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks this series of informative articles, written by Mr. Wyant, which appeared in the St. Louis Post-Dispatch successively, beginning December 12, 1971. I wish to also submit for the RECORD two related articles which appeared in the St. Louis Post-Dispatch.

Mr. President, in view of the fact that the Committee on Interior and Insular Affairs currently has under careful consideration legislation designed to revise and reform the mining laws, these scholarly works are a timely and valuable contribution to the body of information relevant to the issues concerning mining legislation.

[S. Louis Post Dispatch editorials—News analysis and interpretation]

OUTDATED MINING LAWS A BOOM TO DESPOILERS

(By William K. Wyant, Jr.)

(First of a series)

WASHINGTON, Dec. 11.—Before leaving office early in 1969, former Secretary of the Interior Stewart L. Udall denounced the 1872 federal mining law as "an outright giveaway of vital national resources." For a century, the law has encouraged plunder of the public lands, critics say, permitting minerals worth billions of dollars to be taken off without payment.

The law is regarded as an engraved invitation for miners to come in, look, and take. This right of virtually untrammeled access, defended as sacred by some in industry and Government, hampers good management of an increasingly valuable national heritage.

Action is under way in Congress to change the bewhiskered old law. It was enacted after the California gold rush and reflects a time when the Western domain seemed limitless. It provided the lonely and grizzled prospector, braving Indians with his pickax and burro, a way of staking his claim and defending it against others.

But today, the descendants of the burros are running wild in the western desert, and giant companies such as Kennecott, Anaconda and American Smelting and Refining Co. need a quarter of a billion dollars in capital to bring in a new mine.

What the miner found on public lands was his by right, free of charge. He had earned it. That was the philosophy. With respect to hardrock minerals such as copper, molybdenum or uranium, that philosophy still prevails in the law and is widely championed to this day, particularly in the mining industry.

"All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States," Congress declared in 1872.

Under the General Mining Laws as they have developed, a person who has discovered a valuable mineral deposit on public lands—or thinks he has discovered it—may stake it and file a claim at the local county courthouse. There is no obligation to file with or notify the Federal Government, a fact that has caused great trouble.

After filing, the claimant, whether he be the Anaconda Co. or a weekend prospector hoping for a lucky strike, has acquired what is known as an unpatented mining claim. There are said to be at least 6,000,000 such claims. The claimant may proceed to take out his minerals without paying anybody for them, if he wishes. His claim is a property right that can be bought and sold.

If the mining claimant wants to own the land, he has the right to apply to federal officials for a patent. He can purchase the land outright for $2.50 or $5 an acre, provided he can prove that he has spent at least $500 on his claim, that a valuable mineral deposit has in fact been discovered, and that other requirements of the law have been met.

The amount of land involved in these transactions is sizeable. A lode claim, the kind filed for veins or zones of mineralized rock, can be as large as 600 by 1500 feet, about 20 acres. A placer claim, typical for sand and gravel containing gold, can be 20 acres. A mill site claim is limited to five acres of nonmineral lands. A person may file as many claims as he wants.

Only in the case of the so-called "locatable" hardrock minerals, such as copper, gold, silver and the like, does the 1872 mining law still apply with its full nineteenth-century vigor. In such cases, the seekers still may roam the public lands at will and take what he finds for nothing.

Restrictions on the way the miner uses or abuses the land are lacking. The fact that he need not notify the Government that he has made a claim has greatly complicated the task of federal officials charged with managing the public's property.

In 1917 and 1920, Congress enacted leasing acts covering fuels and fertilizer minerals—coal, oil, gas, oil shale, potash, phosphates and others. Common varieties of sand, stone and gravel have been sold outright since 1955. From mineral leases beginning in 1920 and running through the middle of last year, the U.S. received nearly two billion dollars. In addition, more than 3.3 billions were realized from leases on the Outer Continental Shelf.

Under a leasing system, the Government may permit exploitation of a mineral deposit. But the Government exacts a price and is in a position to impose terms, including measures to safeguard the environment. Moreover, the land itself remains under federal ownership. It is impossible to estimate how much the U.S. might have received from mining of hardrock minerals on public lands if they had been put under lease in 1920, as were oil and gas.

Arizona, by far the major copper-producing state, is said by that state's Department of Mineral Resources to have yielded more than 11 billion dollars worth of copper through the end of 1969. The state's copper output in 1969 alone was worth nearly $762,000,000. The U.S. owns about 45 per cent of Arizona. Most of that has always been owned by the Federal Government.

Although the Government gets no direct benefit under the 1872 law on hardrock minerals if taken from the public domain, it can impose a royalty on those minerals if taken from acquired land—that is, land the Government had to buy. For example, Missouri's "new lead belt" is on acquired lands in the Clark National Forest. Federal royalty receipts there are from $2,000,000 to $3,000,000 a year.

The giveaway aspects of the century-old law are important but are less harmful, in the minds of many critics, than other grievances to which the venerable statute gives rise. They include damage to the public's land that could be avoided and the almost intolerable burden the law imposes on federal land managers.

"It's nearly an impossible situation for us to operate under, the way it is at the present time," said E. I. Rowland, the Bureau of Land Management's director for Colorado at Denver.

A Forest Service official in northern Arizona put it more plaintively: "Sometimes you have to laugh to keep from crying."

The Government's land holdings add up to about one-third of the U.S. The major managing agencies are the Bureau of Land Management in the Department of the Interior and the Forest Service in the Department of Agriculture. Each is short of money and

personnel, particularly the Bureau of Land Management.

That agency, an Oliver Twist among federal agencies, has exclusive responsibility for a staggering 451,000,000 acres, or 60 per cent of federally owned lands. More than half is in Alaska. Much of it is marvelously beautiful—and, in total size, it is larger than Britain, France, Spain and Italy combined.

To look after all this federal real estate—essentially what is left of the original "public domain" after the nation's Western expansion—the bureau is authorized a permanent staff of less than 3800 persons. Its management appropriation for next year, exclusive of funds for emergency fire fighting and western Oregon forestry, will be $66,235,000, a pitifully small outlay, considering the dimensions of the bureau's task.

The Agriculture Department's Forest Service is in better shape, but it too is strapped. The Forest Service is responsible for 187,000,000 acres of forests and rangelands. Full-time employes in the National Forest Systems total 17,152, and this year's appropriation for forest protection and management is $192,000,000.

Because of a federal budgetary squeeze, both the Bureau of Land Management and the Forest Service are going through a personnel cutback. Both agencies operate at a profit, in the sense that they make a great deal more money selling resources from the public lands than they cost to run.

In recent years, the federal land managers have been caught between conservationists, who want the public's heritage protected and even salted away for the future, and the pressures generated by the national search for more energy, more minerals and more timber.

The pressure from mining interests is intense. This nation has only about 6 per cent of the world's land area and 6 per cent of its population, but it is using one third of the world's mineral production. Hollis M. Dole, the Interior Department's assistant secretary for mineral resources, said in September that the U.S. demand for primary minerals would quadruple by the year 2000.

As Congress sets about revising the old mining laws and setting new terms under which the public lands will be available for mineral search and development, there is obviously a great deal at stake for the mining industry. The industry, represented by the American Mining Congress, says it is fighting for its life.

That group's executive vice president, J. Allen Overton Jr., told the Idaho Mining Association at Cour d' Alene in July that he had come to tell them about "the alleged demise and burial of the American mining industry." He said the industry was facing the twin dragons of the 1970s—evil and misrepresentation.

"If unthinking purposeful opponents succeed in locking us out of the untouched mineral lands in this nation, and also lock us out of overseas resources," Overton said, "we stand in very definite danger of losing our freedom."

There is no question that access to the land is important to the mining industry, or that the industry itself is basic to the economy. However, the industry has powerful friends in Government, both in the Executive branch and in Congress. Traditionally, the Interior Committees of the Senate and House have been loaded with Westerners sympathetic to the mining viewpoint.

The Public Land Law Review Commission, headed by Representative Wayne N. Aspinall (Dem.), Colorado, was heavily stacked on the side of mining and other interests exploiting the public lands. The commission's monumental report, issued last year, was flabby in its approach to mining law revision, although it did say miners should pay for what they get.

In the wake of the commission's report, Senator Henry M. Jackson (Dem.), Washington, the chairman of the Senate Interior Committee, introduced a bill last February to erase the 1872 law, to give the Bureau of Land Management definite status and mission, and to provide for the leasing of hard-rock lands.

Other legislative proposals to throw out the old law have been offered by Representative John P. Saylor (Rep.), Pennsylvania, the ranking Republican on the House Interior Committee, and Representative Morris K. Udall (Dem.), Arizona, a committee member.

Udall's bill, which has brought him harsh criticism in his home state, is substantially what was suggested in 1969 by his brother, the former Secretary of the Interior. Also pending are Administration proposals drawn up by the Interior Department and put forward by the present Secretary, Rogers C. B. Morton. They are too strong for industry's taste.

What the various bills would do, essentially, is establish a leasing system under which the Government would keep title to the land and the hardrock miner would pay a royalty on what he extracts. In addition, federal officials would get more power to control mineral exploration and development in the interest of other values of the land.

The handwriting on the wall was not difficult for the industry to see. It favored changing the law in some respects, anyway, and it set a battery of legal talent to drawing up a bill that was introduced in September by Aspinall in the House and by Senator Alan Bible (Dem.), Nevada, in the Senate.

The Aspinall-Bible bill would provide for payment of a small royalty and would eliminate some of the evils of the old law. It would preserve the structure of the mining location and patenting system, however, and would make it easier for claimants to tie up mineral lands for future development, an important benefit.

The industry-backed bill, a federal official said, would continue the present priority that mining enjoys over other values and would maintain the option of developing the land in private hands. It would continue the opportunity to tie up lands regardless of their mineral value, he said, and would make it easier for the mining industry to tie up land for prospecting.

High noon is approaching for the 1872 mining law, which has contributed richly to the mining industry, created a few millionaires and many paupers, and enlivened the legends of the Old West. The shoot-out in Congress will be next year.

Mining Law Change Fought In Arizona

(By William K. Wyant, Jr.)

(Second of a series)

Phoenix, Dec. 13.—This sun-drenched desert metropolis, made verdant by irrigation waters and prospering with the copper industry, is the legal citadel for the American Mining Congress's effort to stave off drastic change in the 1872 mining law.

The hard-rock miners are willing to accept some alteration, but are unhappy about conservationist onslaughts and about legislative proposals that would limit their free access to hundreds of millions of acres of federally-owned land in the West.

In self-defense, the Congress has embraced and is supporting vigorously an alternative measure its lawyers here helped shape—the "Mineral Development Act of 1971", introduced in the House Sept. 14 by representative Wayne N. Aspinall (Dem.), Colorado, and three days later in the Senate by Senator Alan Bible (Dem.), Nevada.

Mining's importance to Arizona, which produces more copper than all the other states combined, would be difficult to overstate. Senator Paul J. Fannin (Rep.), Arizona, told the Congress at Las Vegas in October that copper mining employs more than 20,000 persons in his state, pays $177,000,000 in wages and foots about 12 per cent of Arizona's tax bill.

In 1970 Arizona turned out well over half the total United States and 13 per cent of the world's mine production of copper. Most of that came from around Tucson, much of it from what is or until recently was public lands.

The bills, miners are worried about, notably one championed early this year by Senator Henry M. Jackson (Dem.), Washington, would wipe the century-old law off the books and substitute a leasing system for hard-rock minerals like copper. The Government would keep the title to the land and impose a royalty for minerals removed, as has been true since 1920 for oil and gas.

In contrast the mining industry's Aspinall-Bible proposal would fall well short of eliminating the old location-patent method which for generations gave hard-rock miners a blank check to roam the public lands, stake their claims, and take the minerals for nothing.

The Aspinall-Bible bill does provide for payment of a 2 per cent royalty to the Government on the "mine value" of minerals extracted, a point on which Aspinall, chairman of the House Interior Committee and a friend of mining, says he insisted when a committee of Congress lawyers consulted with him last summer about their draft.

"It was at my insistence they put it in," Aspinall told the Post-Dispatch in Washington.

As defined in the Aspinall-Bible measure, the mine value on which the Government's 2 per cent cut would be based is the proceeds from sale less depletion and all direct and indirect costs incurred, plus a reasonable profit. Other bills would exact 3 to 5 per cent on gross value, or leave the matter to the discretion of the Secretary of the Interior.

The industry's bill would tighten up the old law in ways designed to eliminate the nonmining abuses that have been rampant. It would convey title to minerals and land, but restrict the use of the surface to mining purposes. As far as legitimate mining is concerned, it would leave the public domain open to the virtually unhampered invasion miners insist is essential in their search for ore.

". . . It is to the public lands that the mining industry must look for a greater portion of our country's future metal and mineral requirements," George Munroe, president of Phelps Dodge Corp., told the Senate Interior Committee in indorsing the Aspinall-Bible approach Sept. 22.

"In the eight Western states in which the bulk of hard-rock mining is done, nearly half the land is public land, or under the supervision of the Federal Government."

Munroe is a director of the Congress and the head of a corporate giant that netted $112,621,000 on more than three quarters of a billion dollars in sales last year. Phelps Dodge is second only to Kennecott Corp. in domestic copper mining.

Also testifying on behalf of the mining congress along with Munroe were three other leaders of the industry—Ian K. MacGregor, chairman of American Metal Climax Inc.; Howard I. Edwards, vice president and secretary of Anaconda Co.; and Charles F. Barber, chairman of American Smelting & Refining Co.

Another mining witness that day was W. Howard Gray, chairman of the Congress's public lands committee. Gray is a Reno lawyer who served on the advisory council of the Public Land Law Review commission. The commission issued its report to Congress and the President in June 1970.

Of the four companies whose executives testified, a group with aggregate 1970 sales of more than 3.3 billion dollars and earnings of more than $370,000,000, Phelps Dodge and Amax had the best year in their history.

Despite the size of their own companies, however, the Congress spokesman voiced concern for the small miner.

The big mining companies have exploration divisions and stake claims of their own on the public lands. They also look to individual prospectors and small companies for bird-dogging evidence or minerals. Edwards of Anaconda reminded the Senate committee that Utah's Topaz Mountain beryllium strike—the world's largest—was made by a moonlighting school bus driver.

Senator Jackson's mining law revision bill would give the Secretary of Interior broad discretionary power over issuance of hard-rock mineral leases and require him to seek competitive bids for lands in which valuable deposits are known to exist. The Congress witnesses argued that competitive bidding would squeeze out individuals and small companies, since they could not afford the ante.

As was eloquently set forth, the cost of the mining game is going up. In their search for minerals basic to the American economy, miners are digging deeper and deeper and processing, with improved technology, ores of lower and lower grade. Anaconda's Twin Buttes copper mine south of Tucson cost more than $200,000,000. Amax's new Henderson molybdenum in the Colorado Rockies will run to more than $250,000,000.

The mining congress published and circulated the testimony of its star witnesses under the caption, "Mining Fights For Its Life". J. Allen Overtone Jr., the Congress's executive vice president, is proud of his industry's contribution to the national welfare but convinced that it is going through a "crisis of communications". Its problems, he says, are poorly understood by a public that takes for granted the metals essential to modern life.

"People have become hardware store mineral resources" that looms ahead.

On the same theme, Overton pointed to the September testimony of another Interior Department official, assistant secretary for Mineral Resources Hollis M. Dole, indicating that the United States demand for primary minerals will be four times greater in 30 years than it is now.

Contributing to the industry's present-day frustrations is the fact that the Federal Government speaks with many voices. Miners are being exhorted to go out and find more minerals, sometimes with federal financial help. At the same time, they are being chivvied about pollution, saddled with increased federal control, and told to stay out of scenic areas. The Government blows an uncertain trumpet.

Overton complained that the number of Government entities involved with mining had proliferated in the last 10 years. He ticked off 85 committees and subcommittees in Congress, nine federal departments, and 98 federal agencies, offices and bureaus.

The industry's legal committee involved in shaping up what became the Aspinall-Bible bill for mining law revision, Overton said, were Phoenix lawyers of "fine legal talent" who serve as counsel to the Congress's public lands committee headed by attorney Gray of Reno.

Included in the group are Howard A. Twitty of the Phoenix law firm of Twitty, Sievenwright & Mills; G. Henry Ladendorff, another lawyer here, and the Phoenix firm of Evans, Kitchel and Jenckes, Denison Kitchel of the firm, former counsel for Phelps Dodge and Asarco, came to public attention in 1963 when he directed the Goldwater campaign for the presidency.

It is not unusual for groups affected by prospective legislative action to draw up or help shape bills that eventually find their way into the hopper. They may not, of course, get what they want. The Sierra Club, a conservationist organization, claims credit for helping draft a rival to the Aspinall-Bible proposal, introduced by Representative John P. Saylor (Rep.) of Pennsylvania.

The Saylor bill, like measures sponsored by Senator Jackson and Representative Morris K. Udall (Dem.), of Arizona, would be a much more bitter potion for the mining industry to swallow.

The Interior Department in October offered its own proposals for change, retaining elements of the old location system for hard-rock minerals but giving the secretary more control over what goes on.

All the proposals, including the mining industry's, provide for payment of royalties to the Government where none, in the case of metals like copper and the like, have been paid before.

The industry lost the royalty battle when Aspinall's Public Land Law Review Commission, in which mining had great influence, came out last year with the recommendation that all users of the public lands should pay for what they get from what is owned by all the people, and specifically that the Government ought to collect royalty from miners.

"We have doubts that it is really necessary," Overton told the Post-Dispatch. After Aspinall insisted, he said, the Congress polled its members and they agreed to go along. He said one reason they went for it was that they did not want it thought that they were "flim-flamming the public."

Former Interior Department solicitor Frank J. Barry, an Arizonan now teaching law at the University of Oregon, became appalled at the iniquities of the old mining law while in federal office. He said he thought the copper companies could afford to pay a royalty.

"I don't see why they shouldn't," he remarked recently. "They get a 15 per cent depletion allowance on our copper."

Copper: Arizona's Treasure

(By William K. Wyant, Jr.)

(Third of a series)

Tucson, Ariz., Dec. 14.—When the United States made the so-called "Gadsen Purchase" from Mexico for $10,000,000 in 1853, it got a bonanza. The package included what is now southern Arizona and a rich treasure of mineral deposits. Copper is the big payoff now.

Close to 60 per cent of the nation's copper—a metal vital to modern industrial society—comes from this picturesque and fascinating desert country with its harsh, clear counters and soft Spanish names—the Santa Ritas, the Huachucas, Sahuarita, the Coronado National Forest.

It is a good place to look as the controversy gets under way over proposals in Congress to change the old 1872 mining law. That law, which invites the lonely miner to enter the public lands and take what he can find, is under intense fire as a legal monstrosity, woefully inadequate for the present day.

At stake in the struggle is the future of a vast federal land domain, owned by all the people of the United States and consisting of hundreds of millions of acres in the Western states and Alaska. This heritage is becoming more valuable as time goes by. The pressures on it are intense.

Around Tucson—sometimes called "the most cosmopolitan mining camp in the world"—and elsewhere, the pressures fall mainly on the Department of the Interior's underfed Bureau of Land Management, and on the forest service of the Department of Agriculture.

The bureau, a neglected and thinly staffed agency, has responsibility for 451,000,000 acres of federally owned lands. The Forest Service oversees 187,000 more. Neither is equipped to keep up with the multiple thousands of mining claims stake out on the public lands under the old law.

Regional and local federal officials in the West spent an inordinate amount of their time trying to cope with problems in which the old law—a holdover from pick-and-burro prospecting days—clashes with other uses of the public lands, such as recreation and the enjoyment of scenic areas.

Under the nineteenth century system that still covers copper, gold, silver, and other "locatable" hard-rock minerals, the claimant has no obligation to file his claim any place but the county courthouse. Federal landmanagers have no direct way of knowing what claims have been filed, who filed them and where.

Federal officers hereabouts have little fault to find with the big, well-financed, legitimate mining corporations. They say the big outfits try to minimize damage, want a good public image, operated by the book, and know what they are doing.

Most of the difficulty, it was said, comes from small-time operators or individuals. Some are bona fide modern exemplars of the old prospector seeking minerals and hoping to strike it rich. Others are after cheap land. Some are speculators. Mining claims have been used for real estate developments, fishing cabins, even brothels.

As a billion-dollar-plus producer and a leading contributor to the state's economy, copper is treated with respect in Arizona, although politicians no longer wear copper collars. The industry takes robust pride in its story and has an excellent man to tell it, Edward H. Peplow Jr.

Peplow is the executive secretary of the Arizona Mining Association, composed of American Smelting & Refining Co., Anaconda, Duval, Kennecott, Phelps Dodge and eight other companies.

One of Peplow's educational tasks is to drive to Tucson from his headquarters at Phoenix occasionally and show visitors through the immense complex of open pit copper mines in the Twin Buttes area 20 miles south of Tucson.

In times past, Arizona's mines processed rich ore containing 15 per cent to as high as 45 per cent copper. Bonanza ore is gone. The point about Twin Buttes is that the mines there are chewing up and getting copper out of ore that is less than 1 per cent copper, ore that would have been scorned in the past as worthless rock.

"It is ridiculous to say we are running out of minerals," Peplow said. As technology improves, more and more rock becomes mineable but such mining required immense amounts of capital for machinery and equipment. It also underlines the future importance of the public lands as a mineral resource.

One morning several weeks ago, Peplow showed up in a yellow miner's hard hat at a Tucson shopping center and met two busloads of New York Stater Club members. He had arranged to escort them through the Anaconda and Asarco work at Twin Buttes.

When box lunches, soda pop and the mining association's pamphlets had been stowed aboard, Peplow rode south with his charges through miles of flat country peppered with cactus and mesquite.

With a jovial good humor that would charm the scales from an Arizona rattlesnake, Peplow regaled the group with information about copper's importance to the state and nation, Anaconda's efforts to revegetate its alluvial dikes, and the expense and complexity of the mining process.

He discussed also the industry's state tax bite, about $44,000,000 or more a year. He warned his audience not to fail for pending efforts in Congress to change the old mining law in ways the industry considers unwise. He foresaw perils for the small miner.

"Every one of these properties," Peplow said after the New York Staters had viewed the yawning pits and the ore crushers and mills of Twin Buttes, "was first pointed out by the small miner—don't be fooled.

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"The small miner is the basis on which this tremendous industry was built. Let's not deprive the little man of his right to come in and reap the fruit of something he has discovered. It is not right or equitable for the little man to be so severely penalized."

Just as Peplow suggested, there is a stupendous quality, a grandeur about a big copper operation that stirs admiration. In the immensity of Anaconda's pit, a mile long and 900 feet deep, the huge rock-moving trucks crawl about like ants. The grass the company planted is growing on the giant dikes of waste rock. Peplow told of plans for establishing a nature walk in the desert below.

"The No. 1 reason," he confided, "is that we're birdwatchers. But we also want to show that a mine is not the kiss of death for wildlife."

At Asarco's Mission Mine and the adjacent Pima, the visitors saw another gaping pit. They watched a primary cone-type crusher gulp truckloads of ore, grinding it to small rocks with lazy power. Finally they filed through a mill where the ore was ground to facepowder consistency. It came out as 35 percent or so copper to be sent elsewhere for smelting.

Bureau of Land Management officials at Phoenix said that the Anaconda, Asarco, and Pima operations around Twin Buttes as well as two more, the Esperanza and Sierrita mines of Duval Corp., involve lands that were federally owned until the late 1950s. Some are still unpatented mining claims and still in the public domain.

The old mining law permits hard-rock miners to obtain ownership of federal lands on which a valid mineral discovery has been made for a nominal fee, $2.50 or $5 an acre. There is no royalty payment to the Government, as is the case with oil, gas and coal. A move is afoot in Congress to put minerals like copper under a leasing system.

A leasing system would mean the government would retain title to the land, rather than having it pass into private hands. It also would mean a royalty on minerals taken out. The industry has agreed reluctantly to a modest royalty, but opposes a change to leasing because it would hamper their access to federal lands and their freedom of operations.

Typically, a big mining company that finally decides to invest as much as a quarter billion dollars in a new mine may go through a painful and elaborate process of assembling the land. Its lawyers must track down old claimants and buy their rights. It may have to pay a lot.

For example, it cost Duval Corp., a wholly owned subsidiary of Pennzoil United of Houston, around $15,000,000 to get together the real estate for its properties in the Twin Buttes complex, a Duval official said. Duval's Esperanza mine went into production in 1959. The company's new Sierrita mine, adjacent to Esperanza, got under way last year.

Both the Duval mines process low-grade ore and turn out molybdenum, used to strengthen steel, as well as copper. In the case of Sierrita, the project's total cost is expected to exceed $165,000,000. Duval received an advance of $83,000,000 in federal funds under a Defense Production Act copper expansion program. By 1975 it will have paid the government back in copper at a fixed price of 38 cents a pound, well below market.

"Esperanza was called to my attention by a promoter who had an option on unpatented mining claims," Ben G. Messer, vice president of Duval, said in his office at Tucson. Messer and a mining geologist first looked at the property in 1954. Duval bought the promoter's retained royalty interest in 1969 for more than $6,000,000. The promoter was a retired contractor from Tulsa.

Messer said Duval patented some 1730 acres of BLM federal land in 1961. It is getting ready to apply for patent to roughly 1000 acres at Sierrita. The company bought some land at auction from the state and some from private owners.

"You run into all combinations of state, federal and private lands," said Messer, a graduate of the Colorado School of Mines. At Mineral Park in northwestern Arizona, another Duval mine, the land was mostly public domain and he was able to acquire it for $600,000 to $700,000.

The price of copper escalated during the Vietnam war, causing protests from the Johnson Administration. United States Bureau of Mines statistics indicate that the domestic price rose to nearly 48 cents from less than 36 cents a pound from 1965 to 1969. The average price last year was more than 58 cents.

EXPLOITATION OF PUBLIC PROPERTY

(By William K. Wyant, Jr.)

(Fourth of a series)

JEROME, ARIZ., Dec. 15.—From this old mining town on Mingus Mountain in central Arizona there is a spectacular view across the Verde Valley to the Mogollon Rim and beyond. The abandoned copper works in the foreground loses itself in the northeastward sweep that reaches into the Coconino National Forest.

First came the Indians and then the Spaniards. Then, in the nineteenth century, after the California gold rush moved Congress to pass the 1872 mining law, men staked claims and took out more than a billion dollars in metals, chiefly copper, before the mines shut down in the early 1950s.

The United Verde Mine and United Verde Extension were the chief contributors to Jerome's glory. One produced more than $470,000,000 in copper, gold and silver and the other yielded $125,000,000. Phelps Dodge Corp. bought the United Verde Mine in 1935 and discontinued operations in 1953.

When Jerome was booming, the town had 11,000 people. The 1971, Arizona road map gives it 243. The mines poured millions of dollars into the pockets of a few men, employed thousands of others, left some holes in the ground, and took out mineral wealth that is gone forever from lands once publicly owned.

The 1872 law encourages the prospector or miner, giving him special status on the public lands. He may roam them more or less at will, stake his claim, and buy the land for a pittance if he has a valid mineral discovery. The law exacts no payment to the United States for hard-rock minerals removed.

In early expansionist days, western land was cheap. Much of the present public domain is what nobody wanted then. It was too high, too dry, too wet, too mountainous, too far away. The prospector in such country, it was felt, should have his reward. Let the man who found the minerals take them away. He had earned them.

National attitudes toward the public lands have changed, as have attitudes on scenic and recreational values. The one third of the United States that is federally owned is now looked on widely as a reasured heritage. The old mining law has not changed much, however. It is a legal mastodon that is dying hard.

There are numerous proposals in Congress for repealing the century-old General Mining Law, as it is called. Some would put hard-rock minerals on a leasing basis, like oil and gas, and make the miner pay a royalty on what he takes. The mining industry has expressed willingness to pay a modest royalty, but does not want the federal controls that a leasing system would entail.

Above all, the mining industry wants—and insists it must have—a continuance of the more or less unfettered access to the public lands. Conservationists, seeking to protect the lands, want controls. The struggle will be bitter because much is at stake, Arizona is a battleground.

The Arizona territory had fewer than 10,000 persons in 1870 when the Jerome mines were firing up. When admitted to the union in 1912, the state had more than 200,000 and in 1970 it had 1,752,122. Nearly 45 per cent of Arizona is federaly owned. Arizona has abundant minerals and scenery. It cashes in heavily on both, but sometimes these assets come into conflict.

There are about 1,000,000 mining claims now on federal lands in Arizona. These lands are managed chiefly by the Department of the Interior's Bureau of Land Management, which is responsible for nearly 12,000,000 acres in the state, and the Department of Agriculture's Forest Service, which has 11,436,756 acres.

Nobody knows precisely how many claims there are, old and new. One of the old law's mule-train anachronisms is that a claimant files at the county courthouse, not with the Federal Government. The Government has to find out the hard way.

Mining is essential to the United States There will be more of it, rather than less as the national requirement for minerals increases. The question is not whether mining shall take place but whether the public—through its officials—will be in a position to insist on minimizing and repairing damage, and to make an intelligent choice when mining threatens priceless scenic areas.

The damage that mining inflicts on the public lands, some of it inevitable, comes from exploration for minerals and from the extraction process. Snorting bulldozers penetrate and scar the back country. Antiquated laws require the miner to rip the surface to make good his claim, even though the minerals he seeks may be thousands of feet down.

Of the thousands of mining claims that are staked, relatively few turn out to contain valid mineral discoveries worth the time and effort of a prudent man. The old law encourages purposeless damage, as former Secretary of Interior Stewart L. Udall said in 1969. It contains strong incentives for fraud and abuses.

"The mining law of 1872 is just as good today as in 1872—if people were honest," Hall F. Susie, chief of the minerals branch at the BLM's state office in Phoenix. "One thing that is bad about it is that we have no way of knowing who is out there, so we can't even watch them."

Among federal officials in Arizona and elsewhere in the West, many are as enthusiastic about legitimate mining as the mining industry itself. The big outfits are trying to behave, they say. Most of the trouble is attributed to small wildcatters, nuisance claimants, and persons trying to use the old law to get a piece of government land for nonmining use.

The land management agency in Arizona cited six examples regarded as misuse of the 1872 law. Mining claims have been staked along the route of the proposed Central Arizona Project canal.

At Tucson in 1960, owners of expensive homes awoke to find mining claims staked in their yards. In the Phoenix area in 1955–60, claimants got title to about 400 acres of public lands at $2.50 an acre. Some was developed into valuable home sites.

At Wickenberg, the bureau said, a man put 160-acre placer mining claims on public lands and offered to trade these "desert ranches" on reasonable terms, accepting a horse as part of the payment. Near Sonora, a man developed a trailer court on unpatented mining claims. In Arizona's national forest, hundreds of "weekend miners" from the city have cabins or unpatented claims.

Congress in 1955 approved Public Law 167 providing that unpatented claims be used

only for mining. With this authority, the Forest Service has made a drive to remove cabins where mineral claims are invalid. In all such challenges, however, the Government may be put to great time, expense and trouble in disentangling the public's property from legal encumbrances.

"We haven't got as tough as we could have been," said James H. Fitch, special land use and minerals officer for the Coconino National Forest Ranger District at Sedona, a growing resort town northeast of Jerome.

"When you are dealing in mining claims, you are dealing in dreams. You're dealing in lifetime dreams."

Nestling in the forest amid surroundings of dramatic beauty, Sedona is still unincorporated but is beginning to generate urban problems. Fitch said that less than 20 years ago old homestead lands could be bought there for $1.50 an acre but now private land brings $10,000 or more.

The Sedona District of the Coconimo Forest covers 226,000 acres, Fitch said, and is looked after by a staff of five professionals. He estimated that there were 150 to 300 mining claims. One prospector has been searching two decades for the lost Geronimo gold mine. The district is not as beleaguered by claimants as are heavily mineralized forests in the state.

About 230 miles to the south, in the copper-producing area around Tucson, Coronado Forest Supervisor Clyde W. Doran has struggled hard to cleanse his 1,800,000 acres of various types of illegal occupancy under the mining law. He has a total force of about 60.

There has been an upsurge in claim-staking in the Coronado Forest in the last five years, Doran said, more than half of it by big, legitimate mining companies. He estimated 250,000 to 300,000 acres had been tied up. Doran emphasized that he was not against mining.

"If we are going to have two cars and a telephone, and go to the moon," Doran said, "we are going to have to put up with some of these things. Don't get me wrong, don't put me out on an environmental cloud."

However, Doran said that it would be a blessing if the old law was changed. In time, he said, Arizona's open spaces will be filled with people who will want places to go for recreation. He said that claimants should be required at least to register with the Federal Government and obtain a permit.

"Here's the sad part," Doran said. "We can spend up to five years going through a hearing—to decide whether a claim is valid. A day later, the claimant can go back to the same place and start over again."

Doran's zeal has gotten him crossways with the outspoken editor of the Tombstone Epitaph Wayne Winters, a champion of the small miner. Winters, 56 years old, staked a placer gold claim on the Coronado Forest near the Mexican border. He built a small adobe building on it. He called the claim "Oro Escondido," or hidden gold.

When forest supervisor Doran sought to dislodge him, Winters fought tooth and nail. After tedious legal proceedings, Winters finally filed his claim anew this year and called it "Doran's Folly."

In his writings, Winters has charged the Forest Service's "boys in green"—as he calls them—with pursuing a scorched earth policy.

Winters told the Post-Dispatch that he had a valid gold claim he expected to mine after retirement, to augment his income. In his view, there are things about the old law that need to be made modern but the federal bureaucracies are seeking to clear title to all the public lands.

"It amounts," he said, "to nationalization of the mining industry."

The embattled Tombstone editor expressed his conviction that if Congress substituted a leasing arrangement for the 1872 law, it would mean the end of the individual prospector and small miner seeking hard-rock minerals.

OLD MINING LAW HAMPERS U.S. AGENTS IN CALIFORNIA

(By William K. Wyant, Jr.)

(Fifth of a series)

SAN FRANCISCO, December 16.—The old 1872 mining law, which reflects the rough-and-ready, finders-keepers philosophy of California gold rush days, is today a thorn in the side of federal land-managers in the Golden State. This year a federal agent was shot as he tried to investigate a mining claim.

Unfetted access to public lands, a key point of the old law, is still vigorously defended by the mining industry as essential to the search for minerals. It is guarded also by vocal groups of small miners who, like the big ones, see increased federal controls as a threat.

Whether a mining claim benefits a big corporation or provides an excuse for a loner to live in the great outdoors, there is a mystique about the old law and its nineteenth century crotchets. The old law served the nation well in its time. Its admirers hate to see it go.

The shooting incident, followed by the roughing up of two government mining engineers, took place last April in the Shasta Trinity National Forest in northern California. Nobody was hurt seriously, but the circumstances illustrate the fierce resentment some small mining claimants have toward what they regard as federal harassment.

Joseph V. Flynn, chief of the division of lands for the Forest Service's California region here, said that a working party of four men had ventured into steep, Douglas fir country on a tributary of the New River in Trinity Forest. Their purpose was to examine a gold claim on which the claimant was living.

The claim belonged to Edward Isaacs, who had purchased it about a year earlier, it was reported. Flynn said the Forest Service had given the claimant notice, but he was not present. The federal men went ahead with their test, which consisted of using a sluice box to determine whether gold in significant quantity was to be found there.

"During the testing or sampling," Flynn recounted, "somebody fired a number of shots close to the sluice box. One of the shells had a hard-cased jacket and a fragment struck one of the helpers in the neck."

The wounded man, Flynn said, was Forest Service resource assistant Charles McFadden. He was taken to the nearest medical facility, about 60 miles away. Flynn said the two mining engineers went back to retrieve their equipment, whereupon they were attacked by unfriendly onlokers. One came away with a chipped tooth, the other a head cut.

Newspapers, reported the incident, which was investigated by the Federal Bureau of Investigation and the county sheriff.

Rallying to the trinity claimants, the Hayfork chapter of the Western Mining Council took an advertisement in the newspaper at Weaverville, proclaiming that the Forest Service and the Bureau of Land Management must produce court orders showing their right to make mineral examinations on unpatented mining claims.

An unpatented mining claim is a piece of land, typically 20 acres, that has been staked for minerals but is still owned by the Government. The claimant may take the minerals from the Government's land. If the claimant applied for and receives a patent to the land, it becomes his private property and goes on the tax rolls. Most claims never go to patent.

Speaking of the Trinity Forest difficulties and some others nearby, William Sanborn, the Forest Service's field mining engineer at San Francisco, said, "Basically, I don't regard these people as small miners. They are occupants of mining claims."

The Forest Service officials said New River in the Trinity region had been extensively mined in the old days, but gold production now was practically nil.

California, the nation's most populous state, is thickly carpeted with 20,000,000 acres of national forests, or about one fifth of the land. To handle this, the Forest Service has 3181 permanent fulltime employes. About 32,500 "live mining claims" were counted at the end of 1970, including 2362 filed during the year.

The Interior Department's land bureau in the state manages an additional 5,597,000 acres of federally owned land in the state. Much of that is in the southeast and includes 11,000,000 acres of desert, manned by five desert rangers. All in all, nearly 45 per cent of California is federally owned land, nearly as large as a proportion as in Arizona.

Under the 1955 multiple use law and the Mining Claims Occupancy Act of 1962, the federal land-managing agencies in California and other western states have been able to clear thousands of cabins from unpatented mining claims. At the same time they have tempered the law for certain hardship cases, where people have been living on mining claims a long time.

There used to be a good deal of cabin-building on mining claims in California by people who wanted summer homes, but that is a problem of the past. The state still has trouble with claims filed on the rights-of-way on rail, highway or pipeline projects. It is tedious and costly to clear away these encumbrances.

Charles F. Park Jr., professor of geology and mineral engineering at Stanford University, told the Post-Dispatch he thought the federal holdings would become more and more important to mining. He was not worried about the Government getting no direct payment for the hard-rock minerals removed.

"I think there is a tendency to overtax these things," Park said. He argued that American prosperity had been built on the availability of cheap resources in large quantities. Additional cost imposed at the mine, he said, would be multiplied by the time products reached the consumer.

Park has looked for minerals in many parts of the world. He sees a possibility that mineral supplies undergirding modern industrial civilization may run out, particularly if population continues to increase. He wrote a book on the theme, "affluence in jeopardy," published in 1968.

Last spring Park and David Brower, former Sierra Club leader and now head of Friends of the Earth, figured in a much-discussed New Yorker Magazine article. Park and Brower walked into the Glacier Peak wilderness in Washington State, where Kennecott Copper Corp. has a patented mining claim. Park thought the copper should be mined. Brower wanted it left alone.

"The lands used by the extractive industries are not necessarily ruined for recreation and other purposes," Park said in his book.

Another well-known geologist, a friend and contemporary of Park, is James Boyd, executive director of the new National Commission on Materials Policy set up by Congress under the National Materials Policy Act of 1970.

"We are old friends but we fight like stallions," Boyd said in his office in Washington. "Park assumes we are going to run out of raw materials. I start from the assumption that raw materials are infinite. You can get anything you want if you want to pay for it."

He said that Park would have been named to the materials commission but for the magazine article, which cast Park in an anti-conservationist role.

Boyd, an Australian by birth, directed the Interior Department's Bureau of Mines in 1947–51, and worked for Kennecott in the

1950s. From 1960 until recently, he headed the Copper Range Co.

When Boyd was president of Copper Range, he took the lead during the Vietnam War in pushing up the domestic price of copper, moving it toward the world price. In his view, the price is not high enough today to provide a sufficient flow of money to the industry.

"How do you encourage people to take business risks?" Boyd asked. "The only chance is the hope of reward."

The new statutory commission that Boyd is directing consists of seven members named by President Richard M. Nixon June 23. One is J. Hugh Liedtke, president of Pennzoil United at Houston. The Senate Public Works Committee voted to waive hearings, and the Senate confirmed them en bloc July 23. The commission's task is to recommend what the nation's materials policy should be.

Like Park, Boyd favors the mining industry's proposal for only limited revision of the 1872 mining law. A proponent of more drastic reform—a move to a leasing system providing federal controls over hard-rock mining—is conservationist Michael McCloskey, executive director of the Sierra Club in San Francisco.

"The crucial issue," McCloskey said, "is whether mining takes place at the option of the miners or whether it is to be made permissible at the discretion of the Government."

COLORADO METALS FIRM OBEYING ECOLOGY RULES

(By William K. Wyant, Jr.)

(Sixth of a series)

DENVER, December 17.—Colorado is a scenic and mineral-rich Rocky Mountain state, that is pocked and pitted by mining of the past. More than one-third of the state is federally-owned. Recreation and conservation pressures are interfering today with the mining industry's easy access to the public lands.

Many minerals made up Colorado's total production of $371,883,497 in 1970, but the most important—ranking even above petroleum—was molybdenum, a metallic element used for hardening and strengthening steel.

Under the 1872 mining law, molybdenum is one of the hard-rock "locatable" minerals such as copper, silver or gold, that can be taken from the public domain without payment to the Government. This is in contrast to oil, gas and other "leasable" substances on which the extractor pays a royalty.

It is not the Government's failure to obtain immediate revenue that spurs most critics of the old law to seek radical change, however. What concerns them more than the money is what they see as a crying need for better controls over mining on lands that are an increasingly valuable national heritage.

Two mines in Colorado's National Forests produce more than 60 per cent of the nation's molybdenum output and about 40 per cent of what is mined in the free world. The mines are owned and operated by the same company, Climax Molybdenum Co. of American Metal Climax Inc.

AMAX, a large concern with international ramifications, has an excellent record as a corporate entity that cares about the environment. The parent company and subsidiaries had net sales of $840,720,000 last year and earned $83,000,000 after taxes. There were 32,216 common stock shareholders. Dividends were $3.40 a share.

The company's Climax Mine, on Bartlett Mountain in the San Isabel National Forest northeast of Leadville, is the largest molybdenite deposit known to man. Claims were staked in the 1870s and the mine first got into production in World War I. The producing company merged with American Metal Co. in 1957 to form AMAX.

A "caving" system of mining is used at Climax. It is an underground mine, one of the world's biggest. As ore is taken from the inside of the mountain, there is a caving action in overlying rock, producing a cavity on the mountainside known as the "glory hole."

Climax and the company's second mine, the smaller Urad works in the Arapaho National Forest to the northeast near Empire, are credited with turning out more than $114,000,000 worth of molybdenum last year. Across the mountain from Urad, AMAX expects to have its new Henderson mine in operation by 1975.

The Henderson project will cost AMAX $250,000,000 and is expected to nearly double the company's present molybdenum output by the late 1970s. It has become famous among conservationists because of the measures the company is taking to prevent unnecessary damage to the environment.

Much of the responsibility for AMAX's efforts to minimize the adverse impact of mining in the beautiful country where it operates centers on H. Stanley Dempsey. He is division attorney for Climax Molybdenum Co. at Golden and chairman of the AMAX Environmental Planning and Protection Committee.

Another company officer who has assisted the effort is David H. Ackerman of New York City, vice president of the AMAX copper division.

"I think Stan Dempsey is probably the most enlightened mining industry executive I know — Stan really is a conservationist, philosophically," said Roger P. Hansen, executive director of the Rocky Mountain Center on Environment at Denver. Dempsey is a vice president of ROMCOE, a private environmental service for the Rocky Mountain states.

Hansen and Dempsey worked together to shape the "experiment in ecology," a project aimed at planning the company's new Henderson mine in such a way as to reduce its impact on the area's forests and streams. Among other things, the mill site will be 14 miles from the mine and a $40,000,000 railroad tunnel will be built under the Continental Divide to transport or from mine to mill.

The Henderson project has received national praise. In another project, ROMCOE contracted with AMAX to make an environmental resources inventory in the Wood River Valley in northwest Wyoming. The company has copper properties it may develop there.

"Spending anything on environmental studies is revolutionary," Hansen said. The American Smelting and Refining Co. asked ROMCOE to make a resource study, he said, on its molybdenite deposit in the White Cloud Peaks area of Idaho. Conservationists want that area protected. Hansen said the cost of ROMCOE's studies was in the $100,000–$125,000 range—small relative to the total sums spent in finding and developing a mine.

Hansen, who has a law degree from the University of North Carolina, is the chairman of the American Bar Association's Environmental Quality Control Committee. He said that most companies still considered environment a public relations responsibility." ROMCOE, he said, regards environmental quality as a total social problem requiring everybody's energy and resources—including industry's.

"These resources are not all in the hands of the traditional conservationists," he said. He protested against the attitude that people who worked for industry are villains, while those working for a conservationist group such as ROMCOE, for example, are heroes. "Nothing is that simple," he said.

In exploring and proving up the deep ore body for the new Henderson molybdenum mine and in assembling the land for it, AMAX officials at Golden estimated that the company had spent nearly $10,000,000. The Urad mine across the mountain will be exhausted and closed out in 1974.

AMAX filed claims at Henderson in the 1960s, it was said, and has obtained title to about 200 acres there by patenting under the 1872 Mining Law. In addition, the company got 8000 to 9000 extra acres through a swap with the Forest Service and is proposing another exchange involving several thousand more. The property now covers about 14,000 acres, some purchased from private owners.

Congress has authorized land exchanges on a value-for-value basis, when the trade is in the public interest. In the case of the Henderson project, the company bought up 24 plots of land that the Forest Service wanted in other areas and received in exchange federal lands it needed for the mine. Thousands of acres at the Climax mine were acquired in that fashion. Another 1000 or more is being sought, the Forest Service said.

The AMAX molybdenum operations in Colorado are an example of a favorable industry attitude toward the environment and also illustrate the transition into private hands of mineral deposits on public lands in the West. It is a transition the 1872 mining law encourages.

As Congress moves to revise the old law, the mining industry has reconciled itself to going along with a modest royalty on mined metals but is fighting imposition of federal controls it says might hamper its access to hundreds of millions of acres in the public domain.

The industry's pressure can be seen from the current controversy over the Uncompahgre National Forest on Colorado's western slope. Part of it is intensively mineralized. The acreage under new mineral claims has doubled in the last four years in a primitive area designated in 1932, when it was thought the miners—active there earlier—had finished with it.

The struggle is over a Forest Service proposal that the area, about 69,253 acres of rugged, scenic country, not be included as a unit of the National Wilderness Preservation System established by Congress in 1964. A chief reason was the prospecting and mining activity there.

Regional Forester W. J. Lucas said at a hearing in November that there was a lot of exploration work going on, and much of the area was "laced with four-wheel drive access routes leading to the patent mining properties and claims."

When the Wilderness Act was passed after a long battle, the mining industry was successful in getting into the law a provision that National Forest wilderness would remain open to prospecting and mining through 1983, but with regulations to protect wilderness values. For the Uncompahgre area, the Forest Service says mineral extraction should continue without the act's restrictions.

Clifton R. Merritt, director of field services for the Wilderness Society at Denver, countered with a conservationist proposal. He agreed that part of the old primitive area was unsuitable for wilderness, but urged setting up a new 127,000-acre wilderness, mostly outside the present tract.

"The mining interests say the conservationists are for a lockup of the whole region," Merritt said. "This is not the case."

In Colorado the Interior Department's Bureau of Land Management has nearly 8,500,000 acres of federally owned land. The Department of Agriculture's Forest service has more than 14,000,000. Both agencies have trouble keeping up with mining claims.

"They lap over each other like a pile of Jackstraws," said E. I. Rowland, bureau land director at Denver. "Many are located and recorded and forgotten."

ONE MAN WITH STAKES NAILS DOWN A FORTUNE

(By William K. Wyant, Jr.)

DENVER, December 18.—The Paul Bunyan and Robin Hood of the Western mining-claims scene is Merle I. Zweifel of Shawnee, Okla. Nobody has staked more claims than Zweifel, it appears, and nobody has done more to illustrate the absurdities of the 1873 federal mining law.

Federal and state officials concerned with mining know Zweifel's name well. He is the owner of Zweifel International, which describes itself as the "world's largest mining claim location service." Its motto is: "We fly farther and stake faster."

If Zweifel and his associates do not get their share of the mineral bonanza on public lands made possible by the old mining law, it will not be because of lack of enthusiasm or energy.

Last January, Zweifel, 59 years old and Oklahoma-born, issued a reference book of mining properties owned by his company and its colocators. The book termed the Zweifel assemblage of mineral claims the largest in North America.

"The properties comprise more than 20,000,000 acres of lode and place mining claims located in the states of Arkansas, New Mexico, Colorado, Wyoming, Utah, Arizona, Nevada, and off shore the East and West Coasts of North America," Zweifel said in his statement.

"Assemblage was commenced in 1954 and was accomplished without public financing or the issuance of shares of stock or securities."

Lawyers of the Department of the Interior are working at the federal center in Denver to shake the rich Government-owned oil shale lands in western Colorado loose from a cluster of Zweifel claims. Oil shale is a leasable mineral and cannot be claimed under the 1872 law. But the land can be staked for other "locatable" minerals, such as aluminum.

Zweifel is involved in a dispute with state officials in Nevada, where he is said to have filed more than 20,000 claims in eight counties. His claims cover silver and iron in New Mexico, uranium in Wyoming and beryllium in Utah. He has filed along the proposed canal route of the Central Arizona Project between the Colorado River and Phoenix.

Last summer, Nevada Attorney General Robert List alleged in criminal and civil actions that Zweifel had not done legally required preliminary work in filing claims along the Humboldt River. Zweifel publicized the case as the "Battle on the Humboldt," depicting himself as a victim of big mining interests, gamblers and the state's Republican Party.

Zweifel told readers of his quarterly news sheet that Nevada was really charging him with refusal to use a bulldozer on his claims to dig trenches and tear up the land. He made a virtue of his refusal by saying that he refused to inflict unnecessary damage on the environment.

"The mining law is a wild thing right now," Zweifel said in an interview. "It is out of step with the ecological and environmental concepts of today."

Under the antiquated 1872 federal law, which covers hardrock minerals such as copper, silver and gold, and under state laws in parts of the West, miners must do a certain amount of work on their claims. This requirement frequently results in pointless bulldozing and pitting of the public lands.

Zweifel's contention that his actions have a moral base, critics say, don't sit well with the fact that he served about two years in a federal correctional institution in the 1950s after his conviction on charges of mail fraud in a case involving gas fields in Oklahoma. But Zweifel says he was not guilty.

At any rate, he remains undaunted by the buffeting of fortune and his bouts with big oil, big mining and the Interior Department. He furnished material suggesting that his holdings might prove to be "a fantastic, trillion-dollar mineral and land package deal" and that he might leave his estate to the Assembly of God Pentecostal Movement.

"As long as I can make it right with my God, that's all I care about," he said.

Zweifel is said to have been moved toward religious considerations by the example of Zweifel International's former executive director, Mrs. Sandee Wyatt, a student of the Pentecostal Holiness Faith.

Zweifel's concern has advertised in Barron's and other publications, offering to take claim to 11,500 acres for $168, with the company retaining a one-half interest. Zweifel braved heavy snows in the winter, of 1965–66, shortly before he swooped down that spring on Colorado's oil shale lands with a truckload of claim stakes.

"I do the work myself," Zweifel said. "Actually, you can run 200 or 300 in a single day if you are staking placers. It's much slower in the mountains."

In February 1969, Zweifel received a letter from the then solicitor of the Interior Department, Edward Weinberg, who congratulated Zweifel on having provided one of the outstanding examples of "chutzpah"—a Yiddish term for brassiness. Zweifel took it in good humor.

Today, the Interior Department regional solicitor's office outside Denver is contesting 2910 claims made by Zweifel and his colocaters in the slate-rich Piceance Creek basin of western Colorado. The dispute involves 465,000 acres of Government land.

Since 1968, the Government has been trying to determine the validity of all mining claims on its immensely valuable oil shale lands in Colorado, Utah, and Wyoming. As President Richard M. Nixon noted in his message on energy June 4, 80 per cent of the nation's oil shale is on federal lands in the three states. In addition to Zweifel's claims, thousands of others have been filed over the years.

Secretary of the Interior Rogers C. B. Morton announced in June that the Government would undertake to develop its oil shale resources through a leasing program. This program is part of the federal search for ways of meeting the national energy needs of the future. It is a search that often conflicts with conservationist goals. And it is hampered by the claims of Zweifel and others.

As he thumbed through a printout of Zweifel's claims as thick as a Bible, an Interior Department lawyer said 1214 of them apparently had been filed in one day. He estimated the case had cost the Government from $25,000 to $50,000.

"If we were to attempt to contest in the next five years every questionable mining claim in the states of Colorado and Wyoming, in groups of 10 to a dozen," he said, "I don't know how many lawyers and mining engineers it would take. What we are trying to do is devise methods by which we can lop this stuff off in chunks."

However Zweifel may fare, his prodigious activity as a claim staker points up the fact that the 1872 law invites the miner onto the public lands. The miner may locate as many claims as he wants and file at the county courthouse. He has no obligation to inform the Federal Government.

The law gives the hard-rock miner priority on the public domain. Land agencies for the Government, chiefly the Interior Department's Bureau of Land Management and the Department of Agriculture's Forest Service, are thinly staffed.

Don Biddison, supervisor of Arapaho National Forest at Golden, Colo., said he had spent all his time for two weeks on an iron oxide mining claim in a scenic area near the Continental Divide. He recommended contesting the claim, partly on the ground that developing a mine there would be inconsistent with the National Environmental Policy Act.

"The old mining laws simply don't speak to the things we are concerned with nowadays." Biddison said, "they speak strictly to the monetary value of the mineral without regard to the consequence on the environment. There are literally thousands of claims on the Arapaho National Forest, most of which we are unaware of."

Former Interior Secretary Stewart L. Udall criticized the 1872 law shortly before leaving office in 1969. He urged the Public Land Law Review Commission to recommend that the old law be replaced with a modern system of mineral leasing.

Not only has the outmoded law been an obstacle to wise conservation and good management of what belongs to all Americans, Udall said, but it "operates as an outright giveaway of vital national resources."

When the commission came out with its report in June of last year, it recommended that the Government collect a royalty on production of hard-rock minerals but favored sticking with a modified version of the old law's location-patent system. Critics of the old law were disappointed.

One of those who was disappointed was commission member Robert Emmet Clark, a law professor at the University of Arizona, Tucson. Clark had sought support for a strong minority statement urging a full leasing system for all minerals except those made available by law for outright sale, but his effort failed.

"The main point," Clark said in an interview, "is that the United States does not surrender ownership under a leasing system. The only way you can have any kind of decent management is to have a leasing system."

Clark said he had long been convinced that mining companies have enjoyed an unplanned advantage since the beginning of the century. He said the 1872 law might have been justified for its time, but not today.

"I think there's got to be larger public control of natural resources," he said. "Responsible government must have more to say about how we use the surface of the earth."

There will be a struggle in Congress next year over rival proposals to change the old law. The mining industry opposes a leasing system on the ground that it would give the Secretary of the Interior too much power. The other side insists that the Government must have the right to control what happens on public land.

It will be a power struggle and a clash of philosophies. The mining industry has influential friends in Government, but the giveaway aspects of the existing system will be difficult to defend. Morris E. Garnsey, an economics professor of the University of Colorado, thinks the West has been exploited.

"These guys are getting away with murder," he said. "They are making millions. They have it all sewed up."

[From the St. Louis Post-Dispatch, Dec. 22, 1971]

THE PUBLIC STAKE IN MINING

After a century of private plundering of the public land under an antiquated 1872 federal mining law, 1972 may turn out to be year in which the remaining part of a rich public heritage is either saved or lost for posterity. As shown by a recent series of articles in the *Post-Dispatch* by William K. Wyant Jr., a battle is shaping up in Congress between conservationists, who want to remove the incredible giveaway provisions of the 1872 statute, and the private beneficiaries of the law, big and little, who want to limit change to a minimum.

The 1872 law, passed under the finders-

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keepers philosophy engendered by the California gold rush, provides, among other things, that miners of so-called hardrock mineral such as copper, gold, silver, molybdenum and uranium may stake a claim on public lands and take out the mineral free of charge; that such miners may obtain outright ownership of federal lands on which a valid mineral discovery has been made for $2.50 to $5 an acre.

As a result of the 1872 act, a holdover from pick-and-burro prospecting days, huge mining companies as well as little miners have extracted billions of dollars worth of minerals from public land without paying anything to its owners, the American people. Others have used mining claims as a cheap means for acquiring or occupying public land for speculative purposes, for real estate developments or for fishing camps and private cottages.

Most of this exploitative activity has taken place on the 451,000,000 acres of federally-owned land managed by the Interior Department's Bureau of Land Management or the 187,000,000 acres managed by the Agriculture Department's Forest Service. Both agencies are woefully understaffed and underfinanced for guarding the public interest against a host of exploiters, many of whom are unknown. After a century of raids on the public land, royalties that might have been exacted on hardrock minerals have been irretrievably lost and some scenic lands have been scarred beyond repair.

To safeguard public property against the further reckless search for and extraction of minerals and against the further spoliation of priceless recreational and scenic values, legislation has been introduced in Congress which would give the Federal Government more control over mining.

Bills sponsored by Democratic Senator Henry M. Jackson in the Senate and by Democratic Representative Morris K. Udall and Republican Representative John P. Saylor in the House, and generally backed by conservationists, would wipe the 1872 anachronism off the books, retain federal title to the land and charge a royalty on minerals mined under leasing arrangements with the government, such as has been true of coal, oil, gas, phosphates and other such minerals since 1920. Other proposals would require hardrock mineral claimants to register their claims with the Federal Government and obtain a permit and require the Secretary of the Interior to seek competitive bids.

Bills which the mining industry helped draft and which were introduced in the Senate by Senator Alan Bible of Nevada and in the House by Representative Wayne Aspinall, both from states with rich mining constituents, would also impose royalties, but at much lower rates, and with far fewer safeguards for the public owners of land and minerals.

Although the mining industry contends that the industry bill is the only way to insure the satisfaction of the U.S. economy's colossal appetite for minerals, this is no reason why the public interest both in an adequate future reserve of minerals and in preserving other values should not be firmly overseen by the Federal Government, as would be provided by the conservationist bills.

INTERIOR DEPARTMENT OFFICIAL OPPOSES MINE INDUSTRY'S ROYALTY PLAN

(By William K. Wyant, Jr.)

WASHINGTON, December 31.—Harrison Loesch, assistant secretary of the interior, strongly backed today the Administration's proposal that the hard-rock mining industry pay a royalty on minerals taken from public lands.

A Department of Interior bill now before Congress would impose a royalty of 3 per cent of the gross value of minerals extracted. The mining industry is backing a 2 per cent royalty based on sale value less costs, reasonable profit and taxes.

"I wouldn't buy their deal at all," Loesch said of the American Mining Congress royalty plan. "By the time they get everything deducted, they wouldn't pay a durn thing."

Loesch is an outspoken lawyer from Montrose, Colo., on the western slope of the Rocky Mountains. He was named by President Richard M. Nixon in March 1969 to enter the Government as the Interior Department's assistant secretary for public land management.

Under an 1872 mining law, the Government still gives away hard-rock minerals like copper, gold and silver when found on unreserved public lands. The law permits miners to obtain full title to mineral lands on payment of nominal fees, if a valid claim has been made.

The Interior Department proposal advocated by Loesch would impose a royalty but retain some aspects of the traditional location-patent system. It would enable federal land managers to control mining and reduce environmental damage.

As Loesch pointed out in an interview, the Administration bill is a compromise. It goes further than the mining industry wants to go but not as far as conservation-backed bills, which would throw out the old law altogether and institute a full leasing system.

"I think it is a viable alternative that will not discourage the mining industry, while returning a reasonable revenue to the Government," Loesch said.

"It will take care of the environmental concern we all have about mining. It will give the control we do not now have over the reclamation and rehabilitation of mined areas."

Stronger proposals have been made in Congress by Senator Henry M. Jackson (Dem.), Washington, the chairman of the Senate Interior Committee, and by Representatives John P. Saylor (Rep.), Pennsylvania, and Morris K. Udall (Dem.), Arizona.

The American Mining Congress and its attorneys helped write an industry-backed bill that would eliminate some of the evils of the nineteenth-century law but fall short of giving the Government the control over mining on public lands that some proponents of change regard as essential.

Loesch said the Administration bill, taking what he called "a good middle ground" between extremes, would help dignify prospecting as a profession and would safeguard the interests of the small miner.

"It's going to operate in favor of the little guy," he said, "whereas the Jackson bill would cut him off completely."

Loesch has supervision over the Interior Department's Bureau of Land Management, which is responsible for about 451,000,000 acres of federally owned lands in the west and Alaska. He said the agency had been starved for years, in terms of money and personnel.

"Congress and the Budget Bureau don't believe the BLM needs what it really needs," Loesch said. Asked how he felt about the predominance of westerners on the Senate and House Interior committees, which deal with public lands, he said candidly that he favored it.

"I feel the public lands committees should be dominated by westerners," he said. "They live there."

Loesch said the conservationist spirit was strong in the west. It is particularly notable, he said, among cattle and sheep ranchers.

Loesch is not a darling of conservationists, but is regarded in his department as a champion of better management. He is not afraid of anybody, his admirers say.

He is friendly to mining but not as strongly oriented toward the industry as William T. Pecora, Under Secretary of Interior, a career geologist, or Hollis M. Dole, the department's assistant secretary for mineral resources, observers say.

Dole was director of Oregon's Department of Geology and Mineral Resources for 13 years before taking the federal post early in 1969. He has been a member of the board of governors of the American Mining Congress.

In mining as in other major fields, the American federal system is characterized by close and interlocking relationships between Government agencies and industry. This is often accomplished through "advisory committees" working at various levels. When properly supervised, the system works well.

The Interior Department, along with other agencies of Government, encourages mining as a means of obtaining minerals essential to defense and the economy. The department is charged also with the conservationist role of safeguarding the land, protecting it from undue harm.

"It's a dichotomy that has plagued better men than me," Loesch said in commenting on this aspect of public service. "It's a great problem as to what is really in the public interest."

There is agreement between men like Loesch in the Government and such harsh critics of the mining law as Representatives Saylor and Udall in the House that the nineteenth-century statute is now out of date.

Saylor, who has been criticizing the 1872 law since 1951, told the Post-Dispatch that the federal land-managing agencies were not only starved, "They are pale and emaciated, shivering and shaking, because until the past five or six years they have been the private domain of western members of Congress."

"The east has never realized the people own this land. The people of this country are beginning to realize they have a stake . . . and they have a big stake."

Saylor, a leading conservationist and the ranking Republican on the House Interior Committee, said that if all else failed he would vote for the mining industry bill introduced by the committee chairman, Representative Wayne N. Aspinall (Dem.), Colorado.

"It is better than nothing," Saylor said.

Representative Udall, who represents the major copper-producing area of the United States but favors drastic change of the old law, said things were changing in the west. He is believed to have taken a political risk by his stand.

"I did it as a matter of conviction and I find it is good politics," he told the Post-Dispatch. He pointed to a recent poll that showed Arizonans overwhelmingly supported his bill altering the old mining law.

Udall said he always believed nothing would be done about the outmoded law until western Senators and Representatives were willing to lead the fight. Pointing to the example of Senator Jackson and others, he said this had now come about.

There is also the testimony of Representative Aspinall himself, sometimes charged with being overly kind to the mining industry. Aspinall's colleagues—even those who battle against him—say he is unfairly maligned and is the hardest working man in Congress. Aspinall may take his time about it, but he has decreed that there must be a change.

The question is, how much?

"MIDDLEMAN," NOT FARMER, GAINING FROM HIGH FOOD PRICES

Mr. MOSS. Mr. President, for the past couple of weeks, administration officials have been telling the American consumer that increased food prices should be greeted as a healthy sign. Higher prices at the supermarket mean that hard-working American farmers are getting a better price for their crops.

According to information I just received from the Department of Agriculture, that is not the case at all. Record high consumer prices are simply not being passed on to the farmer. They are being waylaid by processors, distributors, and other "middlemen."

For purposes of measuring food price increases, the Department of Agriculture usually talks about a standard "market basket" of farm products. During February, the retail price of this standard "market basket" increased $23 or 1.9 percent. On the other hand, prices received by farmers for this same "market basket" rose only $5. This meant that almost four-fifths of the food price increase went to the "middlemen."

This is hardly a good record for the administration's anti-inflation apparatus. Under Price Commission regulations, middlemen are only supposed to pass on the effects of increased crop costs. It is now obvious, however, that retail prices are growing at a faster clip than farm prices.

The Department of Agriculture has, in fact, determined that the "farm-retail spread" index, which shows the difference between what the retailer charges the consumer and what the farmer gets for his crops, has increased 2.5 percent in February alone. Translated into annual terms, this means that the middleman's share of the food price is growing at the rate of 30 percent a year.

I ask unanimous consent to have a chart showing the increase in this farm-retail spread during February printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEBRUARY INCREASE IN PRICE OF STANDARD "FOOD BASKET"

	Retail prices	Farm prices	Farm-retail "spread"
February	$1,297	$516	$781
January	1,274	511	761
Increase	23	5	20

Mr. MOSS. Mr. President, as far as I originally understood it, food prices were excluded from phase II controls in order to help the farmer. These new Department of Agriculture figures on the other hand show that the farmer himself is getting a very small portion of the high food prices being paid by consumers. Most of the money is going elsewhere.

I believe the administration should explain to the hard-pressed American consumer why we have to give special treatment to the food industry under the pretense of helping the farmer.

EVIDENCE MOUNTS AGAINST A VALUE-ADDED TAX

Mr. PROXMIRE. Mr. President, last week the Joint Economic Committee held 4 days of hearings on the merits of a value-added tax for the United States. We attempted to receive testimony from both proponents and opponents of the tax, but among the distinguished economists and businessmen that testified, only two gave the VAT their unqualified support. The majority of our witnesses agreed that VAT is both inequitable and inefficient and they were unanimous in recommending that the value-added tax should not be substituted for the property tax. Yet this rationale for imposing a VAT has been the only one emphasized by the administration.

In testimony before the committee, Prof. Richard Musgrave of Harvard University made a convincing case for not substituting VAT to raise needed local revenues. He said that—

I do not believe that there is a valid case for such a substitution (of VAT for the property tax). While the property tax need be improved—including above all state-wide administration and assessment—it is not a bad tax nor do I believe that, on the whole, it is excessively high. . . . Given the agenda of unmet public needs and the inadequacy of present revenue sources to provide for them, I find it unacceptable to introduce a major new tax such as the VAT only to serve as a substitute for the property tax. The property tax should be improved but it will continue to be needed as a major source of revenue at the state and local level. Its incidence, though controversial, is undoubtedly on the progressive side of VAT.

The case against VAT on equity and efficiency grounds was made more emphatic by Prof. Paul Taubman of the University of Pennsylvania and the National Bureau of Economic Research. According to his estimates more than $5 billion of consumer expenditures would not be taxed under VAT. The tax would be inefficient on the grounds that some consumption expenditures would be made cheaper relative to others by imposition of the tax. Professor Taubman also argued that the tax would be inequitable since it could be made progressive only for the low- and middle-income taxpayer. Even if income tax credits were given to the poor- and lower-middle-income taxpayer, Professor Taubman stated that VAT would "be regressive for income above $10–15,000, and certainly above $20,000."

As an alternative to VAT, Dr. Taubman suggested that—

To raise new revenues Congress should make the income tax fairer. To this end capital gains should be taxed as ordinary income and should be constructively realized at death. Congress should also eliminate the loopholes and subsidies in the existing tax law as detailed in the recent report of the JEC.

One aspect of the value-added tax that has been neglected until now is its effect on the economy—on overall economic performance, employment, and price stability. Dr. Allen Sinai of Data Resources, Inc., presented devastating testimony against VAT, based on the consequences that its imposition would have for economic growth. Dr. Sinai incorporated a valued-added tax into the reputable DRI forecast of the economy. He considered three alternative forms of VAT over a 2-year period. He concluded that—

The effects of all three alternatives are similar over the two year simulation period. The real growth of the economy declines. Inflation intensifies and unemployment rises. The growth of employment slows and productivity drops. Long-term interest rates increase sharply. The Federal budget deficit improves at first but later increases to more than it would have been without the tax. The only bright spot is in international trade where the trade balance grows substantially.

Dr. Sinai concludes that—

The evidence appears to be negative for one of the major arguments usually advanced in VAT's behalf. The VAT is inimical to economic growth in the U.S. economy, primarily because of its effect on the inflationary process. In fact, any of the VAT packages considered in this study would severely interfere with almost all of the goals of the recent Nixon Economic Plan, i.e., greater economic growth, lower inflation and unemployment, increased productivity, and reduced interest rates.

Mr. President, the excellent testimony presented before the Joint Economic Committee will provide background material for the public policy discussions that will follow in Congress.

I ask unanimous consent that the testimony of Dr. Musgrave, Dr. Taubman, and Dr. Sinai be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

JOINT ECONOMIC COMMITTEE, HEARINGS ON VALUE-ADDED TAX—APPRAISAL OF VALUE-ADDED TAX

(By Richard A. Musgrave)

The case for a federal value-added tax, prior to the currency adjustment of last year, was made mainly in terms of balance of payment considerations, viewing it as a means to corporation tax reduction. Since then the argument has shifted, with the VAT now to be used for property tax relief. Neither case is acceptable to me but I would not rule out the use of a value-added tax if it were applied to the finance of new social programs.

SHOULD WE FOLLOW EUROPE?

To begin with, let me point out that the background for the value-added tax in the U.S. is totally different from the European experience. There, the widespread move to a VAT in recent years was made as replacement for prior reliance on turnover taxes, a move which everyone agrees was an improvement. Moreover, it was undertaken to harmonize the tax structure among Common Market countries. Looking forward to a uniform rate, this would obviate the need for border adjustments on exports and imports within the Market. Again, an improvement. But here neither consideration applies. Fortunately, we do not have a turnover tax to replace and we do not contemplate joining the Common Market, having had one of our own for some time. For the U.S., introduction of a VAT would involve a massive shift of the federal tax structure towards sales taxation and this is quite a different matter.

VAT OR RETAIL SALES TAX?

The debate over VAT is somewhat misleading. The real issue is whether the federal government should adopt a broad-based consumption tax. Whether such a tax will take the form of a value-added tax or a retail sales tax is a relatively minor point, especially if the VAT appears as an explicit part of retail price. The two differ mainly in administration. Their burden impact and economic effects are essentially the same. My discussion, therefore, applies equally to both versions of consumption tax. While I lean towards the retail technique—mainly because it permits integration with the state sales taxes—this is not the major issue before your Committee.

RATES AND YIELD

At 1972 levels of G.N.P., the base for a study broad-based VAT should be about $500 billion, while with a narrow base it may be

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as little as $250 billion. Using the broad-base concept, a 1 percentage point tax would yield $5 billion. By its nature the VAT involves a large number of taxpayers and is not an easy tax to administer. It would seem inadvisable, therefore, to introduce such a tax unless a substantial amount of revenue—say, $25 billion with a 5 percent rate—was involved.

BURDEN DISTRIBUTION

The burden distribution under a general consumption type VAT would be regressive.[1] This is the case because such a tax falls on the consumer, and because consumption as a percent of income falls when moving up the income scale. Its incidence thus differs sharply from that of a progressive income tax. This is illustrated in Columns I and II of the table, where we compare tax burdens under a 5% VAT with income tax liabilities yielding the same amount. The striking difference between the two taxes is obvious and needs no further comment.

BURDEN IMPACT OF RAISING $25,000,000,000 IN ALTERNATIVE WAYS TAX AS PERCENT OF AGI

Adjusted gross income	Income tax [1]	Value-added tax, 5 percent [1]	Value-added tax, 6 percent with credit [2]
	I	II	III
2,000		5.0	
4,300		4.5	2.7
5,000	0.49	4.4	2.9
10,000	2.25	4.0	4.8
15,000	3.03	3.7	4.4
50,000	5.96	2.5	3.0
100,000	8.63	2.0	2.4

[1] Joint returns, 4 exemptions. Above $15,000 assumes 10 percent as deduction. All income fully taxable. Assuming the yield from present rates at $100,000,000,000, the above equals one quater of present liabilities to yeild $25,000,000,000.

[2] Ratios estimated with reference to "Tax Burden and Benefit of Government Expenditures by Income Classes 1961-65." Tax Foundation, 1967. These estimates, especially for higher incomes, should be taken as illustrative.

[3] $2,000 of consumption is tax-free Credit of $120 to vanish by $24 for each $1,000 of income in excess of $5,000.

DISTRIBUTION WITH CREDIT

It would not be fair to the cause of the VAT, however, to let matters rest here. Devices may be developed which will go far to take the regressive sting out of VAT or to be more—precise—to do so for all but the upper tail of the income scale. To some extent this might be accomplished by excluding certain items of consumption (e.g. food and clothing, in addition to housing) from the tax base, items which weigh heavily in low income budgets. Preferably and much more effectively, it could be done by using a broad-based tax but permitting an initial amount of tax-free consumption expenditure. As an administrative matter, the credit would take the form of a refund of tax on the exempted amount.

Thus, the taxpayer might be refunded for VAT paid on, say, the first $2,000 of consumption. With a 5% tax rate, the credit would equal $100 and to avoid excessive revenue loss, it might be made to vanish as income rises. Thus, the credit might shrink by $200 for each $1000 of income in excess of $5,000, so as to disappear when an income of $10,000 is reached. The revenue cost of such a credit would be, say, $5 billion, thus calling for a 6% (rather than a 5%) rate if $25 billion was to be raised.

The resulting burden distributions as shown in Column III would be progressive up to an income of above $10,000, thus including as much as 80% of all taxpayers in the progressive range. However, it is also shown that liabilities up to $15,000 would be above those under the income tax and that the burden distribution over the higher income range would remain regressive. While the former difference could be narrowed down by granting a higher credit, the latter feature cannot be removed by a practicable credit device.

IMPLEMENTATION OF CREDIT

Before turning to this aspect, let me note that the credit scheme is nice in theory but would be difficult to implement in practice. For households which are subject to income tax, the refund would simply be taken as a credit against income tax and the vanishing feature could be handled readily. For others, a cash refund would be needed. Since the bulk of households for whom the credit matters most will not pay income tax, effective implementation of the cash refund would be of crucial importance. This would be a difficult task and might cancel out most of the simplification gained by raising the tax-free limit under the income tax. The difficulty would be compounded if allowance was made against family size. In its absence a credit against payroll tax might be explored for the case of taxpayers subject to payroll but not to income tax, thus reducing the scale over which cash refunds would be needed.

FURTHER COMPARISONS WITH INCOME TAX

However this may be, suppose that an adequate credit can be implemented. This would remove the regressivity of the tax for the bulk of taxpayers but leave open two further questions.

(1) If a credit could be imposed which would leave the burden distribution more or less the same for, say, the lower 70 percent of taxpayers, as it would be under the income tax, what then would be gained by adding a new tax with all its compliance and administrative cost? While it is true that the tax would favor savers as against consumers (relative to the income tax) one may question whether this difference is sufficiently important to justify a new tax over this income range.

(2) Regarding the other 30 percent of taxpayers, a substantial difference between the two approaches would remain. Here, progressive taxation of consumption could be implemented only via a personal expenditure tax which is not in the cards. Now it may be argued that this is not too important, provided that upper bracket progression is implemented effectively via the income tax. If a VAT were introduced, it should thus be accompanied by removal of income tax preferences over the upper part of the income range.

If this were done and if an adequate credit was provided, I see no great objection to the use of VAT on distributive grounds. But the question is whether the result is worth the extra effort, compared to improvement of and continued reliance on the income tax.

SUBSTITUTION FOR PROPERTY TAX

I am now turning to the Administration's proposal—or what is said to be its proposal—that a federal VAT be introduced to support grants to states, to be passed on to local governments for school finance. This is to achieve the double objective of (1) eliminating dependence of educational facilities on the local tax base with resulting service differentials, and (2) of permitting property tax relief. The first objective is in line with the California court decision and altogether praiseworthy; but it is a non sequitur to suggest that property tax reduction is a necessary consequence. The obvious point to make is that to equalize service levels, it is merely necessary to place the property tax on a state-wide basis with equalized assessments and to redistribute proceeds back to localities in line with school needs. If a case is to be made for replacing property taxation with VAT revenue, it must therefore be made quite independent of the school issue.

I do not believe that there is a valid case for such a substitution. While the property tax need be improved—including above all state-wide administration and assessment—it is not a bad tax nor do I believe that, on the whole, it is excessively high. Home-owners, after all, not only pay property tax, but also derive favorable treatment under the individual income tax. Given the agenda of unmet public needs and the inadequacy of present revenue sources to provide for them, I find it unacceptable to introduce a major new tax such as the VAT only to serve as a substitute for the property tax. The property tax should be improved but it will continue to be needed as a major source of revenue at the state and local level. Its incidence, though controversial, is undoubtedly on the progressive side of VAT. Moreover, federal assistance to state-local finance, whether drawn from the income tax or a value-added tax, should be given to help jurisdictions with low fiscal capacity and high need to enable them to meet minimum standards of public service; it should not be given as an invitation to tax reduction at the state-local level.

BALANCE OF PAYMENTS ASPECTS

Since attention has moved away from the alleged balance of payment advantages of the VAT, I will note them but briefly. The argument has been that European countries have enjoyed a trade advantage because they have been able to apply an export credit under the turnover tax or VAT, whereas our exporters (not having such a tax to credit) have been at a disadvantage. This argument, at least in its crude form, is fallacious: Introduction of such a tax without an export credit bestows a disadvantage on the exporters; and granting the credit merely removes this disadvantage, leaving the net situation unchanged. VAT-financed reduction in the corporation tax may involve certain indirect balance of payment gains—especially on capital account—but I do not consider these sufficient to be a major factor in the VAT issue. Moreover, if tax adjustments are to be made to improve the balance of payment situation, there are other steps (e.g. reconsideration of tax deferral) which should come first.

CONCLUSION

In conclusion, I would oppose introduction of the value-added tax as a substitute for revenue from present taxes, be it the property, income or corporation tax. Rather, I would support income tax and property tax reform. At the same time, it is my view that revenue available from present taxes will not suffice to meet our public needs during the coming decade. It is by now recognized that the hoped-for bonanza of excess revenue, due to built-in revenue growth, will not materialize. This mirage having vanished, we should recognize that substantial amounts of additional revenue—say, $50 billion or more—will be needed by the mid-70's if we are to mean business in meeting our social needs, including income maintenance, schools, health, environment, housing and other public services. We should recognize also (and I have seen none of our plentiful presidential candidates do so) that this revenue will not be obtained primarily from budget cuts or the closing of income tax preferences. These measures are important, but new taxes or substantial rate increases under the income tax will be needed to meet the bill.

Viewed in this context, I am not prepared to rule out the use of a value-added tax. Assuming that an adequate credit is provided and that VAT is accompanied by income tax reform in the upper brackets, the resulting burden distribution need not differ greatly from that of raising income tax. If Congress is willing to finance overdue public needs in this way, while rejecting the income tax route, I for one would not object to the VAT approach. But this, I repeat, is a different matter from viewing the new tax as a replacement for present and in most cases superior, revenue sources.

ADDENDA

While I consider my conclusion (*no* for substitution, *possible yes* for finance of substantial new programs) sensible on substantive grounds, I must admit to some misgivings regarding its political viability. The revenue legislation of recent years has provided for substantial slippage in income and corporation tax revenue, and has been accompanied at the same time by a substantial increase in the weight of payroll taxes. Making a major new revenue source such as VAT available may well lead to further income tax slippage; and though VAT may not be introduced as a substitute in the first place, it may have a hidden long-run effect of this sort. Given this danger, it may be the better part of political wisdom to forego the VAT to begin with. Yet, nothing will be gained if nothing is risked and I would not adopt a purely defensive position.

Perhaps a solution might be found by linking VAT revenue to a specific social program such as expanded income maintenance (moving towards a negative income tax) or to the provision for health insurance. From my point of view this would be the better approach, although I must add that ear-marking (under ideal conditions) is a bad budget practice.

TESTIMONY OF PAUL TAUBMAN

The tax bill of 1961 reduced revenues by $15–20 billion annually. Now faced with financing new and generally urgently needed programs, Congress has been asked to raise revenues by about $15 billion by instituting a value added tax while earmarking some of these funds to decrease local property taxes. The extra revenues are needed but the value added tax, even with exemptions or tax credits for the poor, is inferior to many other taxes and will create a new set of "loopholes". Thus to raise new revenues Congress should make the income tax fairer. To this end capital gains should be taxed as ordinary income and be constructively realized at death. Congress should also eliminate the loopholes and subsidies in the existing tax law as detailed in the recent report of the JEC. Moreover while I would agree with the spirit of the Serrano decision the appropriate response to it is to replace a local with a statewide property tax.

THE VALUE-ADDED TAX

Technically the value added tax is imposed on the difference between revenues and the costs of goods and services purchased from other businesses. In alternative versions of this system firms: write off investment costs imemdiately; depreciate these costs over their useful life; or have no deduction for investment costs. The Nixon Administration's proposals, to which I will address myself, allow a firm to write off investment costs immediately. With such a write off, the value added tax is equivalent to a tax on the sum of domestic retail sales and imported goods. The value added tax as any other tax should be judged in terms of its equality and efficiency.

EFFICIENCY

Some economists have supported a value added tax in preference to a personal or corporate income tax on the grounds of efficiency. Roughly speaking, a tax is considered efficient if its imposition either does not alter resource allocation or does eliminate a preexisting misallocation. The income taxes in use in this country cause inefficiencies because of loopholes and preferential treatment. But even if these deficiencies were corrected, it is usually argued that income taxes would discriminate against the corporate form of business and against personal savings in general because of "double taxation" of profits and of savings.

The proposed value added tax, however, produces its own inefficiencies. First since investment costs are, but labor costs are not, allowed as a deduction, this particular value added tax would increase the cost of labor relative to capital and induce firms to use a more capital intensive process. Additional capital subsidies are not needed since the recently enacted investment tax credit and asset depreciation range system, both of which are unnecessary, bestowed a $7 billion subsidy.

Second for practical reasons the value added tax will not be applied to the total amount of consumption, i.e. the value of all goods and services that yield satisfaction to a consumer. While this criticism can also be levied against the income tax, additional problems occur with a value added tax. The basic areas of consumption which will not be subject to the value added tax are: those for which there are no market transactions; those that are provided by government; and those both purchased and consumed abroad.

One extremely important type of nonmarket transaction is provided by savings and wealth. In the discussion of taxation it is generally emphasized that people accumulate savings to provide for the consumptions of goods and services in the future. But while waiting to be consumed, wealth provides its owner with a feeling of security, status, and power—valuable services which would not be subject to the value added tax.

Two other important nonmarket transactions are the services of spouses and the rental value of owner occupied houses. The latter may eventually be taxed as houses are sold (if a house is not counted as an investment, but even in this instance the tax would inhibit people from trading in.) The non-taxing of a spouse's services will not only reduce the incentive to women to join the (officially defined) labor force but will also mean housewives will be taken out to dinner less.

Consumers also buy some consumption goods collectively and pay for these goods through taxes. While the extent of government provisions of consumer type goods and services varies by locale, at least some and probably most areas provide entertainment (in the form of parks, swimming pools, and concerts), higher education, garbage collection and medical services. I presume the value added tax will not apply to such services financed through general taxes; hence, these goods will become relatively cheaper. Such a relative price reduction would not be desirable for all such items. Moreover since the extent of public provisions of services varies both within and between locales, any benefits so conferred would not be distributed uniformly, but would be conferred upon people who itemize taxes paid to support personal consumption.

In recent years American tourists have spent about 3½ billion abroad *exclusive* of payments for transportation. While this total includes goods that will be imported, it excludes payments of Americans living abroad and non U.S. connected transportation. Thus perhaps some $5 billion of consumer expenditures would not be subject to the value added tax. In other words, since the value added tax would apply to hotel and other vacation expenses, the tax would encourage Caribbean vacations outside of Florida, Puerto Rico, and the Virgin Islands, ski vacations in Canada, etc.

The inefficiencies introduced by the value added tax will be costly because it is relatively easy for consumers to substitute non-taxed for taxed items. On the other hand I don't believe the inefficiency produced by "double taxation" to be costly. First the distortion introduced between present and future consumption by the tax on interest is counterbalanced by the zero tax imposed on the income (and consumption) in the form of security, status and power. At a more empirical level, let me also observe that the personal saving rate has not shown any trend in the last hundred years despite the major increases in income tax rates. Moreover there are available a number of devices such as pension funds and Series E bonds which sharply reduce the double tax on saving. While the nonintegration of the corporate and personal income tax involves an extra tax on the corporate form of business, it is difficult to believe that much extra resources have been misallocated out of the corporate and into the noncorporate sector. The costly inefficiencies from the income tax laws arise from its loopholes and preferential treatments. Rather than putting in a new law with another set of inefficiencies, it would be better to close the existing loopholes.

EQUITY

Economics generally does not provide a definition of equity. However, I believe that we should have a progressive tax system to narrow the extremes in income and to reduce the undue concentration of power of the wealthy. In judging the progressivity of the value added tax, it is necessary to consider this tax in isolation and as part of the tax system. Through a system of income tax credits, the value added tax system can be designed so that the poor effectively pay nothing, and the middle class very little. But while I have not seen the proposed rebate schedule, I would doubt that a $15 billion value added tax would be progressive as between the middle class and the wealthy. Indeed I would suspect the tax to be regressive for income above $10–15,000, and certainly above $20,000. Thus even judging the tax in isolation, I would consider it undesirable on equity grounds.

But this tax should not be judged in isolation. Congress is considering the value added tax now because it reduced taxes so greatly last year. In the 1971 Tax Act Congress, justifiably upset by a 6% unemployment rate, enacted a program of permanent tax reductions for business and for the wealthy without giving due thought to the short and long run consequences.

Part of these consequences are now apparent. To support needed expenditures, Congress is being asked to replace a tax on profits with one that is levied on wages and the total of profits less the expenditures on investment. Since wages constitute about two-thirds of nongovernmental GNP, the value added tax and last year's tax bill combine to produce a subsidy to wealthy owners of machinery and equipment paid for by consumers in general and the lower middle and middle class in particular. This combination is unwise since the subsidy to machinery and equipment will be translated primarily into higher interest rates and into less resources available for housing including low income housing. Therefore the first step Congress should take to raise $15 billion is to eliminate the Investment Tax Credit and especially ADR.

THE USEFULNESS OF THE PROPERTY TAX

Recently following the blockbusting Serrano decision, the local property tax has been subjected to severe attack. I think, however, that a national or statewide tax on residential property with uniform assessment to market value ratios is appropriate for the following reasons. First the available evidence, which admittedly is far from conclusive, would sug-

[1] Under the consumption type value-added tax the tax base for any one firm equals sales minus purchase of intermediate goods and minus purchases of capital goods. The sum of these bases equals consumption. Under the income type valued-added tax the base for each firm equals sales minus purchases of intermediate goods and minus depreciation. The sum of these bases equals national income. The tax here at issue and the one which is used generally in Europe is of the consumption type.

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gest that the amount a person spends on housing increases in proportion to his income. Second the implicit rental income received by a homeowner is not subject to the income tax though his interest payments and property tax payments can be listed as itemized deducations. But in principle it would not make any difference if the same revenues were raised by taxing the income from capital or the value of capital. In other words, the property tax tends to offset the inequities and inefficiencies arising from the income tax treatment of owner-occupied houses.

A BETTER TAX PLAN

Rather than imposing a value added tax which will introduce new elements of inefficiency, Congress should correct the well known but glaring deficiencies in the income tax system. Much of the needed funds could be obtained by treating capital gains as ordinary income and by having constructive realization of gains at death. The ADR and Investment Tax Credit provisions of the 1971 Tax Act were major steps backward in our tax system. Both of these subsidies should be eliminated as soon as possible. Finally Congress should give serious thought to improving and raising more revenues from the gift and estate tax. Total private wealth in this country is in excess of $5 trillion. Since about 1% of the people die each year about $50 billion of wealth annually enters estates. Since wealth is highly concentrated among few families, about $30 billion of wealth is subject to estate taxes. But gift and estate tax revenues only amount to about $4 billion at all levels of government. Substantially more revenues should be raised from this source.

THE VALUE-ADDED TAX AND THE U.S. ECONOMY

I. INTRODUCTION AND SUMMARY

Evidence is mounting which indicates new sources of Federal revenues must soon be found. Vast amounts of funds may be required for welfare reform, revenue sharing and other expenditure programs. A budget margin for 1976 of only $5 billion is projected by the Administration, down substantially from last year's estimate of $30 billion. And this is under the assumption of no new Federal initiatives!

At the same time that new programs are being proposed, the options available for financing them are rapidly disappearing. There is no "peace dividend" from the gradual cessation of the Vietnam War. Tax reduction aimed at spurring a stagnant economy has just taken effect. Prolonged deficit financing might eventually lead to renewed inflation and higher interest rates. Even the return of full employment may not bring any fiscal bonus. Independent estimates of the full employment surplus show a substantial deficit for fiscal 1973.

Thus, the problem seems to be one of raising additional taxes, *given* the present expenditure programs in the Federal budget.[1] One candidate for this task is a Value Added Tax (VAT), already adopted by most major European countries and under consideration in Latin America.

This paper analyzes the quantitative economic effects of introducing VAT into the U. S. economy. The method of analysis involves simulating the behavior of the economy under alternative VAT programs. The simulations are performed with the Data Resources, Inc. econometric model of the United States. Comparisons are made on the basis of the Data Resources Control Solution of February 23, 1972. The VAT simulations are run over the two year period of 1972–73. This is done in order to permit the effects of VAT to evolve over time. It is unlikely that the tax, if adopted, would begin before 1973 and 1974 would be a more probable starting date.

Three basic alternatives are considered in this study. The first is an income type of VAT with essentially no exemptions, except for exports. The second is also an income based VAT but with a number of exclusions and rebates to low income families. The third alternative is an across-the-board consumption type VAT. All of the examples assume a 3% tax and that $14.8 billion of the generated revenues are transferred to state and local governments through increased grants-in-aid. These revenues are used by States and Localities to reduce property taxes by an equal amount. The $14.8 billion figure represents about one-third of the present estimated state and local government outlays for elementary and secondary school education. Any additional revenue is applied to the Federal budget deficit that arises from other new spending programs. Thus, the major rationale for VAT is to relieve the severe fiscal problems of States and Localities and to provide a source of funds for new social legislation.

A sketch of the principal findings follows. *Comparisons are relative to the DRI forecast of February 23, 1972.*[2]

On Prosperity and Growth: The economy is weaker under all three VAT alternatives. The real growth of GNP slows by an average of 1.0–1.5% over the two year period of the simulations, depending on the program that is assumed. An average of $8–18 billion of real GNP is lost. There are significant declines in real consumption and real capital expenditures. After tax profits fall anywhere from 2.2–2.4% by the second year of the new tax. The unemployment rate rises 0.6%, at a minimum, by the last quarter of the simulation.

The weakness in the economy is the result of inflation and subsequently lower disposable income which causes a decrease in consumption; the effect of higher interest rates on housing and business fixed investment; the effect of lower final demands and a reduced cash flow on investment; and the elimination of a portion of the full employment deficit without a compensatory easing of monetary policy.[3]

On Inflation and Unemployment: Inflation intensifies as the VAT is approximately fully passed forward into higher prices. In the initial year of the VAT simulations the implicit GNP deflator grows by at least 5% and in the second year by almost 4.5%. This compares to present DRI forecast rates of inflation of 3.4% and 3.5%. Wage claims gradually rise in response to the new burst of inflation. Further price reactions occur as wages move upward and productivity falls. The recently experienced chronic inflation makes inflation expectations especially sensitive to price changes and contributes to the price-wage interaction. The current incomes policy is assumed to continue.

Unemployment worsens, ranging from 5.8–6.3% by the second year of the three VAT simulations. The corresponding unemployment rate in the Control Solution is 5.3%. Thus, VAT is associated with a rightward shift in the Phillips curve.

On Interest Rates: Substantial increases occur in bond yields and initially in short-term rates. Higher long-term rates persist because of the continuing inflation, but a weak economy causes short-term rates to fall slightly by the end of the second year.

On International Trade and Finance: The balance of trade improves substantially as imports are taxed and exports exempted. This would contribute to an improvement in the balance of payments which also would be aided, in the beginning, by higher short-term interest rates. However, relatively higher domestic prices would somewhat offset these effects.

On the Federal Budget Deficit: The deficit is reduced initially except in the simulation with rebates. By the second year the deficits in all three simulations exceed their levels before VAT. The feedback effect of the weaker economy on tax receipts is responsible for this result.

II. METHOD OF ANALYSIS

The quantitative effects of broad based taxes, such as VAT, are impossible to determine with traditional methods of economic analysis. The principal analytical problem is the difficulty of applying a general equilibrium theoretical framework in an examination of the tax. The other major impediment is the absence of numerical estimates of the relations that realistically characterize economic behavior.

A large-scale econometric model is a useful device for dealing with these problems. A fully specified model will include equations which represent the interactions of all sectors of the economy, at least on the macroeconomic level. Such a model also will incorporate the appropriate time lags of economic behavior.

Established statistical methods are used to estimate the parameters of the model's equations. Once these have been obtained, the equations can be solved to provide a set of values for all of the dependent variables. The dynamic nature of the model permits a solution at each period of time, as previously solved for variables are "fed" into equations in subsequent periods. Thus, a solution path for each dependent variable can be generated over a specified interval of time in a general equilibrium framework.

Of course, the solution depends upon prespecified or exogenous variables, definitions, and the estimated parameters of the model. Some of the exogenous variables and parameters are thought to be subject to the control of policymakers. These are called policy instruments. Some large-scale econometric models are structured so a user can adjust the constants of the equations and the values of exogenous variables to correct for equation errors or to reflect judgment.[4]

A control solution is one where a "best" set of assumptions about the state of the world is incorporated into the model by the selection of specific values for variables and by constant term adjustments. A policy simulation is a solution of the model after one or more changes have been made in the set of assumptions about the world; specifically in the values of the policy instruments. The difference between the solution path of a variable in the control solution from that in a policy simulation provides a quantitative estimate of the policy's effect. Thus, in principle, a large-scale econometric model could be used to evaluate the effects of a VAT.

The Data Resources Econometric Model that was used for the VAT simulations consists of over 100 behavioral equations in its macroeconomic sectors.[5] Definitions and exogenous variables bring the number of economy-wide variables forecast to approximately 340. Parameters are estimated by ordinary least squares and two-stage least squares. Adjustments can be made by adding to the constant term, multiplying the solution values of dependent variables by a constant, and by changing exogenous variables. The Gauss-Seidel technique is used to solve the model.

III. RESULTS OF SIMULATIONS

A. Assumptions: The following discussion indicates the assumptions underlying each VAT simulation.

1. An Across-the-Board VAT:

(a) Coverage: The base is national income plus the change in inventories. The government sector is exempted as are exports. Depreciation is exempted but expenditures on capital goods are included. These characteristics define an income type, destination principle method of VAT. The resulting base is approximately $780 billion.

(b) Rates and rebates: A 3% VAT is assumed. This yields $23.4 billion of revenue in the first year of the tax. The tax is rebated on exports but fully levied on imports.

(c) Use of revenues: $14.8 billion of the increased federal revenues are transferred to States and Localities by increasing grants-in-aid. The remaining $8.6 billion is applied to the Federal budget deficit. States and Localities, in turn, reduce property taxes by $14.8 billion. Thus, there is no direct extra local spending, just a change in revenue sources.

(d) Monetary and fiscal policy: No compensating ease of monetary policy is assumed. The DRI control forecast underlying this VAT simulation already embodies an accommodating monetary policy. Government expenditures and transfers are assumed to be constant during VAT's initiation. Economy feedbacks affect transfers later in the simultation period.

(e) Prices and wages: VAT is assumed to be also fully shifted forward. This is because the slack economy of the underlying Control Solution does not assure a 100% shifting. Wages rise somewhat with the increase in prices as workers bargain for maintained real purchasing power. This process, however, is assumed to be a gradual one. Thus, only one-eighth of the initial rise in the GNP deflator is regained in the first period of the VAT. By the end of two years almost one-half of the first quarter's rise in prices has been recovered in wages. Phase 2 continues in effect. No additional incomes policy is assumed.

2. A VAT with Exemptions and Rebates:

(a) Coverage: The base is national income plus the change in inventories. The government sector is exempted as are exports. Depreciation is excluded but expenditures on capital goods are included. Services, except financial, are excluded. The value added in agriculture and in the manufacturing of food, clothing and shoes also is exempted. These features make this VAT more progressive than one that is levied across-the-board. However, it is still an income type, destination principle method of VAT. The resulting base is approximately $610 billion.

(b) Rates and rebates: A 3% VAT is assumed. This yields $18.3 billion of revenue in the first year of the tax. The tax is rebated on exports but fully levied on imports. Rebates to low income families are assumed, adding another element of progressivity to this VAT.

(c) Use of revenues: $14.8 billion of the increased Federal revenues are transferred to States and Localities by increasing grants-in-aid. States and Localities, in turn, decrease property taxes by $14.8 billion. Low income families receive $2.5 billion in transfer payments. The remaining $1.0 billion is applied to the Federal budget deficit.

(d) Monetary and fiscal policy—same as in the Across-the-Board VAT.

(e) Prices and wages: VAT is assumed to be fully shifted forward. Wages rise somewhat with the increase in prices as workers bargain for maintained real purchasing power. This process, however, is assumed to be a gradual one. Thus, only one-fifth of the initial rise in the GNP deflator is regained in the first quarter of VAT. By the end of two years almost 60% of the first period's price rise has been recovered in wages. Phase 2 remains in effect with no new incomes policies.

3. A Consumption Type VAT:

(a) Coverage: The base is equivalent to total consumer expenditures plus imports. The full value of capital goods purchased from other firms is exempted. Depreciation and other indirect taxes are included. These characteristics define a consumption type, destination principle method of VAT. The base is approximately $717 billion.

(b) Rates and rebates: A 3% VAT is assumed. This raises $21.5 billion of revenue in the first year of the tax. The VAT is rebated on exports and fully levied on imports.

(c) Use of revenues: $14.8 billion of the increased Federal revenues are transferred to States and Localities by increasing grants-in-aid. States and Localities reduce property taxes by that amount. The remaining $6.7 billion is applied to the Federal budget deficit.

(d) Monetary and fiscal policy—same as in the Across-the-Board VAT.

(e) Prices and wages: The consumption based VAT is assumed to be fully shifted forward into prices of consumer goods. Import prices also are increased. No other prices are changed initially; however, wage increases and feedback effects do raise the prices of investment goods and exports somewhat in subsequent years. Wages rise slightly as labor bargains for maintained purchasing power. About 10% of the initial rise in the GNP deflator is regained in the first period of VAT. After two years only 35% of the first period's price rise has been recovered in wages. The incomes policy of Phase 2 is assumed for the simulation.

B. Simulation Procedures: The assumptions are incorporated in the model through the use of constant term adjustments, multiplicative factors, and changes in exogenous variables.[6] The model then is solved and the values obtained in the policy simulations are compared with the control solution to obtain the quantitative effects of VAT.

Federal tax receipts are increased by raising indirect taxes $23.4 billion in the Across-the-Board VAT, $18.3 billion for the VAT with Exemptions, and $21.5 billion for the Consumption Type of VAT. These figures are the expected revenues from the application of a 3% VAT to the tax base in each program. State and local taxes are reduced by $14.8 billion, the assumed reduction in property taxes. Grants-in-aid are increased by $14.8 billion to reflect the transfer of Federal revenues to States and Localities. Other government expenditures and transfers are held constant in real terms. This requires increasing nominal Federal government expenditures except in the Consumption Type of VAT simulation.

To achieve the initial increase in prices caused by VAT the relevant implicit price deflators are raised with multiplicative factors. The price of exports is never increased since each VAT assumes their exemption from the tax base. In the Across-the-Board VAT all other prices are increased by approximately 3% except for the government expenditure deflators. The latter are increased by less since only a portion of government purchases are for goods and services from the private sector.

In the VAT with Exemptions and Rebates, no change is made in the deflators for food and beverages, clothing and shoes; and only a partial increase is imposed on the deflator for services. The other deflators, except for those related to government expenditures and exports, are increased by 3%.

Finally, for the consumption type VAT simulation the implicit deflators for consumer expenditures are raised by 3%. So is the deflator on imports. In all the simulations multiplicative factors are used to increase private, non-farm wages gradually during the first year. Also, first quarter feedback effects intensify the change in prices.

Analysis of the structure of the DRI model leads to other adjustments because the price increases are brought about by the VAT rather than by normal economic forces. Most of these apply only to the first quarter of the simulation.

C. Results: *All comparisons are relative to the DRI Control Solution of February 23, 1972.*

1. Prosperity and Growth: All of the VAT alternatives have restrictive effects on the economy. Tables 1 and 2 show some differences between the Control and VAT solutions.

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[1] It is not certain that all of the proposed programs of the Administration will be totally enacted or effective at the times indicated in the 1973 budget. There is also the possibility that a strong recovery may generate more tax receipts than are expected. This has occurred in other recoveries, most notably during the period following the enactment of the Revenue Act of 1964. Thus, with *no additional spending initiatives* the budget margin projected by the Administration might be too low.

[2] The economic environment surrounding the introduction of a VAT is reflected in the DRI Control Solution of February 23, 1972. The effects of VAT may very well depend on the prevailing state of the economy. For example, a salient feature of the February DRI forecast is the presence of substantial slack in the economy. The unemployment rate ranges from 5.9–5.0%, capacity utilization remains low at approximately 78%, and the gap between potential and actual GNP is still $28.6 billion at the end of 1973. Introducing a VAT at full employment might produce somewhat different results. For a discussion of the conditions underlying the control solution, see Data Resources, Inc., *Forecast of the U.S. Economy*, January 31, 1972 and *The Data Resources Review*, February 23, 1972.

[3] In another VAT simulation nonborrowed reserves were raised in the first period to maintain a constant real value. At the end of eight quarters real GNP still had decreased by 0.9%, profits after tax were down by 4.3%, and the unemployment rate was up 0.3%.

[4] See L. R. Klein, *Theory of Economic Prediction*, Chicago, 1971, for a discussion of constant term adjustments.

[5] There are a large number of additional equations that deal with industry sales, profits, and production. See *The Data Resources Econometric Forecasting System: a Preliminary Account*, December 1971.

[6] Multiplicative factors change the solution values of the variables by a constant.

TABLE 1.—EFFECT OF A 3-PERCENT VAT ON THE ECONOMY (DIFFERENCES BETWEEN VAT SIMULATIONS AND FEB. 23, 1972, DRI CONTROL SOLUTION)

	Year 1 VAT			Year 2 VAT		
	Across the board	With exemps	Cons. type	Across the board	With exemps	Cons. type
GNP (current dollars)	5.1	10.3	2.5	−1.4	6.0	1.4
GNP (1958 dollars)	−14.4	−5.1	−12.5	−23.9	−12.9	−16.9
Consum. (1958 dollars)	−11.9	−3.8	+12.1	11.2	−6.4	−13.6
Durables	−3.8	−2.0	−4.2	−6.3	−4.3	−5.2
Nondurables	−3.8	−.6	−5.0	−5.5	−.8	−6.4
Services	−4.3	−1.2	−2.9	−4.4	−1.3	−2.0
Invest. (1958 dollars)	−3.1	−2.2	−.9	−6.5	−4.9	−2.6
Bus. fixed	−1.7	−1.2	.4	−5.0	−3.3	−1.3
Res. constr.	−1.4	−1.0	−1.3	−1.5	−1.6	−1.3
Savings rate (percent)	.1	.5	−.5	.4	.6	−.2
Housing starts (mills.)	−.156	−.118	−.148	−.065	−.122	−.075
Profits (after tax) (billions of dollars)	−2.8	−1.2	−.6	−5.5	−3.6	−1.9

TABLE 2.—EFFECT OF A 3-PERCENT VAT ON THE ECONOMY (PERCENT CHANGES IN VAT SIMULATIONS AND FEB. 23, 1972, DRI CONTROL SOLUTION)

	Year 1				Year 2			
	VAT				VAT			
	Across-the-board	With exemps	Cons. type	Control	Across-the-board	With exemps	Cons. type	Control
GNP (current dollars)	9.7	10.2	9.5	9.2	8.9	9.0	9.3	9.5
GNP (1958 dollars)	3.7	5.0	4.0	5.6	4.6	4.8	5.3	5.7
Consum. (1958 dollars)	2.1	3.7	2.0	4.5	4.8	4.9	5.4	5.5
Durables	3.3	5.4	2.9	7.6	5.9	5.9	7.5	8.2
Nondurables	1.5	3.0	.9	3.2	3.5	3.6	3.7	4.2
Services	2.2	3.8	2.9	4.4	5.7	5.7	6.2	5.7
Invest. (1958 dollars)	6.8	8.3	9.0	10.7	4.1	5.0	5.9	8.2
Bus. fixed	3.7	4.4	6.3	5.9	4.1	5.5	5.9	8.0
Res. constr	6.0	7.3	6.2	11.1	−2.7	−4.3	−2.3	−2.2
Housing starts	.3	2.2	.7	8.0	−.7	−4.0	−.3	−3.6
Profits (after tax)	11.1	14.5	15.8	17.0	7.0	7.3	9.2	11.4

The rise in nominal GNP is due to higher prices, Subsequently, a weaker economy lowers current dollar GNP. The effects of the Across-the-Board VAT are so severe that nominal GNP falls in the second year of the simulation.

Real growth declines at least 1.6% in the first year and 0.4% in the second, as compared to the Control Solution. Cutbacks in expenditures on durable goods, fixed investment, and residential construction account for most of the drop in real GNP.

Except for the effects of a Consumption Type VAT, higher prices reduce consumption, especially for durable goods where the elasticity of demand is greatest. Subsequent declines in real disposable income further diminish consumer spending. Business fixed investment falls because of decreases in final demand, higher interest rates which affect the relative price of capital goods, and declines in corporate profits. Residential construction is down because of an inflation-induced rise in mortgage rates and a decreased supply of mortgage money. Deposits at mutual savings banks and savings and loan institutions, the major source of funds for conventional mortgages, are diminished as short-term money market rates of interest rise during VAT's first year. The private sector saving rate increases sharply, but this rise does not enhance the growth of capital stock. The decrease in product demand, higher interest rates, and reduced business saving more than offsets the increase in private saving.

In the case of the VAT on consumption, there is a clear shift in the allocation of resources to investment. Real consumption declines more in this simulation than in the others. Fixed investment is stronger than in the other simulations. The net effect is a total loss of $29.4 billion in real GNP over the two year period. The VAT with Exemptions and Rebates showed the smallest cumulative decline in real GNP, $18 billion, of the three VAT simulations.

Table 3 shows the effect of VAT on prices, wages, and productivity. VAT intensifies the existing price-wage inflation, especially in the first year of its introduction. The chronic inflation of the last few years "sensitizes" inflation expectations to renewed increases in prices, whatever the source. The rate of wage increase depends mainly on unemployment and current price expectations. Since these expectations are not particularly sensitive, a given change in prices leads to a greater reaction of wages than in a situation where severe inflation has not been present recently. Prices subsequently react more because the movements in wages are greater than otherwise would have been the case. This sharper interaction of wages and prices occurs when the average of the annual rates of inflation has exceeded 2½% during the previous two years.[7]

[7] Eckstein and R. Brinner, "The Inflation Process in the United States", A Study Prepared for the Joint Economic Committee, February 1972, p. 3.

TABLE 3.—EFFECT OF A 3-PERCENT VAT ON INFLATION AND PRODUCTIVITY (PERCENT INCREASES IN VAT SIMULATIONS AND FEB. 23, 1972, DRI CONTROL SOLUTION)

	Year 1				Year 2			
	VAT				VAT			
	Across-the-board	With exempts	Cons. type	Control	Across-the-board	With exempts	Cons. type	Control
CPI	6.9	5.2	7.4	3.9	4.4	4.5	4.3	4.1
GNP deflator	5.8	5.0	5.3	3.4	4.1	4.0	3.9	3.5
Wages [1]	6.4	6.4	6.3	6.0	5.9	5.9	5.8	5.6
Production [2]	2.4	2.8	2.8	3.3	2.7	2.5	3.0	2.8

[1] Private nonfarm index of compensation per manhour.

[2] Real output per manhour, excluding agriculture.

Table 4 shows the course of employment and the unemployment rate. The labor situation grows substantially worse because of the weaker economy. The unemployment rate increases at least 0.2% in Year 1 (in VAT with Exemptions) and 0.5% in Year 2. In the other VAT simulations the unemployment rate gets even worse. The minimum declines in employment are 300,000 in the first year and 700,000 in the second. Decreases in aggregate demand lead to reductions in output and employment. These effects are consistent with rising wages.

TABLE 4.—EFFECT OF A 3-PERCENT VAT ON EMPLOYMENT AND UNEMPLOYMENT

	Year 1				Year 2			
	VAT				VAT			
	Across the board	With exemps	Cons. type	Control February 23	Across the board	With exemps	Cons. type	Control February 23
Employment (millions)	81.5	81.9	81.1	82.2	84.4	84.9	84.4	85.6
Unemployment rate (percent)	6.2	5.9	6.2	5.7	6.3	5.8	6.0	5.3

Table 5 shows the effects of VAT on some long- and short-term interest rates. Long-term interest rates rise substantially as a result of VAT. The new issue rate rises by as much as 80 basis points during the first year and 95 basis points in the second year.

TABLE 5.—EFFECT OF A 3-PERCENT VAT ON INTEREST RATES (PERCENT)

	Year 1				Year 2			
	VAT				VAT			
	Across-the-board	With exemps	Cons. type	Control Feb. 23	Across-the-board	With exemps	Cons. type	Control Feb. 23
Long-term rates:								
New bonds	7.70	7.38	7.77	6.97	8.15	7.81	8.23	7.28
Mortgages	7.67	7.60	7.65	7.38	7.49	7.51	7.43	7.19
Government bonds	5.85	5.76	5.86	5.65	6.18	6.03	6.21	5.81
Short-term rates:								
3-month bills	4.09	4.09	4.07	3.80	4.46	4.68	4.44	4.59
4 to 6 month paper	4.69	4.67	4.66	4.35	5.14	5.38	5.12	5.27
90-day CD's	4.61	4.59	4.59	4.29	5.03	5.26	5.00	5.15

This effect occurs in the VAT on consumption where the deflator for consumer purchases of goods and services rises the most of any simulation. Inflation expectations are rekindled and drive long-term rates upward. The increases are net of the weaker economy and show the important effect of sustained inflation.

Short-term yields climb in the first year of VAT but fall slightly during the second year as the weaker economy limits the demand for short-term funds. The supply of funds and demand for credit are relatively more important in determining short-term interest rates than is inflation.

Table 6 presents the impact of VAT on international trade. The destination principle method of VAT taxation that is employed decreases imports.

TABLE 6.—EFFECT OF A 3-PERCENT VAT ON THE U.S. TRADE BALANCE

[Billions of dollars]

	Year 1				Year 2			
	VAT				VAT			
	Across-the-board	With exmps.	Cons. type	Control	Across-the-board	With exmps.	Cons. type	Control
Exports-imports (current dollars)	0.9	0.5	0.5	0.3	3.9	3.1	1.3	2.0
Exports-imports (58 dollars)	3.2	3.1	3.2	1.4	5.3	4.8	5.0	2.8

The weaker U.S. economy also contributes to the improvement in the trade balance. The result is a very substantial improvement in international trade. The real value of the trade balance is about double that of the control solution for all of the VAT simulations. The implications of the increased balance of trade are on improved balance of payments and a strengthening of the dollar in foreign exchange markets.

Finally, Table 7 contains the figures for the NIA budget. Most of the VAT revenues that are earmarked to reduce the deficit are lost in the first year because of the feedback effects on tax receipts of a weaker economy. In the second year, the deficit is higher than it would have been without a VAT.

TABLE 7.—EFFECT OF A 3-PERCENT VAT ON THE FEDERAL BUDGET DEFICIT (DIFFERENCE IN VAT SIMULATIONS AND FEB. 23, 1972 DRI CONTROL SOLUTION)

	Year 1			Year 2		
	VAT			VAT		
	Across-the-board	With exemps.	Cons. type	Across-the-board	With exemps.	Cons. type
Fed. Sup. (NIA)	3.0	−2.3	3.1	−2.2	−1.9	−0.4

IV. CONCLUSIONS

This study analyzes the quantitative economic effects of three alternative programs for a Value Added Tax. The effects of VAT on prosperity and growth, inflation, employment and unemployment, international trade, and the Federal budget deficit are examined in simulations with the Data Resources, Inc. forecasting model of the U.S. economy. Traditional economic analysis of a broad based tax, such as VAT, would be difficult since the general equilibrium effects of a complete fiscal package are of interest. Furthermore, the quantitative effects a VAT can not be obtained without adequate estimates of the parameters of relations that realistically characterize economic behavior.

The alternative programs are:

(1) a 3% income based VAT which raises $23.4 billion and has no exemptions except for the government sector and exports. The tax is levied on imports. $14.8 billion is transferred to States and Localities.

(2) a 3% income based VAT which raises $18.3 billion and has exemptions for services, except financial, agriculture, food, clothing, and shoes. The tax is levied on imports. Low income families receive $2.5 billion in rebates. $14.8 billion is transferred to State and Localities.

(3) a 3% consumption based VAT which raises $21.5 billion and has exemptions for capital goods, purchases and exports. The tax is levied on imports. $14.8 billion is transferred to States and Localities.

The effects of three alternatives are similar over the two year simulation period. *Comparisons are based on the Data Resources, Inc. Forecast of February 23, 1972.* The real growth of the economy declines. Inflation intensifies and unemployment rises. The growth of employment slows and productivity drops. Long-term interest rates increase sharply. The Federal budget deficit improves at first but later increases to more than it would have been without the tax. The only bright spot is in international trade where the trade balance grows substantially. This is due to border tax adjustments where imports are taxed and exports are made exempt through tax rebates.

Ranking the alternative VAT programs is difficult, but in terms of the effects of each on real economic growth, inflation, profits, unemployment and interest rates, the order of preference would be VAT with Exemptions and Rebates, the Consumption Type VAT, and Across-the-Board VAT.[8] Thus, the more progressive method of VAT has the least deleterious effect on the economy.

The evidence appears to be negative for one of the major arguments usually advanced in VAT's behalf. The VAT is inimical to economic growth in the U. S. economy, primarily because of its effect on the inflationary process.[9] In fact, any of the VAT packages considered in this study would severely interfere with almost all of the goals of the recent Nixon Economic Plan, i.e., greater economic growth, lower inflation and unemployment, increased productivity, and reduced interest rates. Only the position of the United States in international trade would be enhanced.

[8] One need merely rank each simulation with respect to its performance in each category. The above ranking clearly emerges. No clear-cut evidence on the distribution of income could be obtained from the results.

[9] However, the results obtained in these simulations might not be matched in other instances where a different fiscal package was considered, e.g., the substitution of VAT for the corporate income tax or for personal taxes.

REFERENCES

Aaron, H., "The Differential Price Effects of a Value Added Tax", *National Tax Journal*, 21, June 1968, 162–175.

Data Resources, Inc., *The Data Resources Econometric Forecasting System: a Preliminary Account*, December 1971

Eckstein, O. (assisted by V. Tanzi), "Comparison of European and United States Tax Structures and Growth Implications", *The*

Role of Direct and Indirect Taxes in the Federal Revenue System. Princeton, New Jersey, 1964, 217–229.

Eckstein, O. and Brinner, R., "The Inflation Process in the United States", prepared for the Joint Economic Committee, Congress of the United States, February 1972, U.S. Government Printing Office, Washington, D.C.

Eckstein, O., Green, E. W., and Sinai, A., "The Value Added Tax and the Economy", December 28, 1971, Data Resources, Inc.

Harberger, A. C., "Taxation, Resource Allocation, and Welfare" *The Role of Direct and Indirect Taxes in the Federal Revenue System*. Princeton, N.J., 1964, 25–81.

Klein, I. R., *Theory of Economic Prediction*, Chicago 1971.

Krauss, M. and Bird, R. M., "The Value Added Tax: Critique of a Review", *Journal of Economic Literature*, 9, December 1971, 1167–1173.

Krauss, M. and O'Brien, P., "Some International Implications of Value-Added Taxation", *National Tax Journal*, 23, December 1970, 435–440.

Lindholm, Richard W., "The Value Added Tax: A Short Review of the Literature", *Journal of Economic Literature*, 8, December 1970, 1178–1189.

Musgrave, R. A. and Richman, P. B., "Allocation Aspects, Domestic and International", *The Role of Direct and Indirect Taxes in the Federal Revenue System*. Princeton, New Jersey, 1964, 81–140.

Shoup, C., *Public Finance*, Aldine, Chicago, 1969, 250–269.

Sullivan, C., *The Tax on Value Added*, New York, 1965.

HEALTH SCIENCE AND SOCIETY

Mr. MONDALE. Mr. President, more than 4 years ago, I first introduced a resolution to create a commission to investigate the ethical, legal, and social implications of advances in biomedical research and technology. At that time, there was great public attention to the innovation of heart transplants. This seemed to me to raise a whole host of complex issues for which society was unprepared. Such obvious issues as the definition of death and the consent for the removal of viable organs were presented.

I was somewhat surprised to find that there were many in the field of medicine and research who thought that the creation of a study commission was unnecessary or even undesirable. Four years later, we have seen that many of the problems which we predicted then have come to pass. Law suits have been initiated concerning the removal of organs. Moreover, a whole new set of issues have arisen which we only dimly perceived a few years back. In genetic engineering and in behavior control, we confront, sometimes, even more profound issues than we do in connection with organ transplants and implantation of artificial organs.

The passage by the U.S. Senate of Senate Joint Resolution 75, to create a National Advisory Commission on Health Science and Society, on December 2, 1971, represents a refreshing consensus in this body of the need for a thorough and comprehensive review of the way in which society must deal with issues posed by advances in medical technology. I invite the attention of Senators to a wide range of articles and editorials commenting on the state of the art, the hearings on Senate Joint Resolution 75, and the need to move forward in a comprehensive but judicious manner in equipping society to deal with such questions.

An article in the Wall Street Journal, of December 2, 1971, written by Jonathan Spivak, discusses many of the experimental efforts in the field of genetics. The article makes clear both the great potentials and risks which are involved.

The November 19, 1971, issue of Science magazine, contains an article entitled "The New Biology: What Price Relieving Man's Estate?" The article was written by Dr. Leon R. Kass, who serves as executive secretary of the Committee on the Life Sciences and Social Policy of the National Research Council—National Academy of Sciences. Dr. Kass surveys a number of developments in medical technology and comments perceptively on the ethical and social dilemmas which are presented. Two interesting articles appeared in the March 3 issue of Science magazine on gene therapy. One is by Ernest Freese of the Laboratory of Molecular Biology at NIH. The other, by Theodore Friedmann and Richard Roblin, contains some very useful comments on the ethicoscientific criteria which should be applied in gene therapy.

In the Washington Evening Star of November 18, 1971, an article entitled "The Patient-Individual or Society?" written by Judith Randal, discussed some of the ethical issues posed by the purposeful infection of mentally retarded children at Willowbrook in Staten Island, N.Y., with a hepatitis virus. Miss Randal points out how this experiment, and many others raising similar issues, have sparked Senate Joint Resolution 75. Another article on psychosurgery was written by Miss Randal and published in the Washington Evening Star of March 3, 1972.

Another indication of the rapidly growing awareness of ethical and social dilemmas was the sponsoring by the Kennedy Foundation of a symposium in Washington, D.C., on "Human Rights, Retardation and Research." More than a thousand experts drawn from a broad spectrum of scientific and academic disciplines participated in seven sessions exploring diverse questions in ethics and medicine. Such attention was noted in a column by James J. Kilpatrick in the Washington Evening Star on Tuesday, October 19, 1971, in a Washington Post editorial on November 3, 1971, and in a Boston Globe article on October 17, 1971.

Shortly after this very valuable symposium, the Senate Health Subcommittee held hearings on Senate Joint Resolution 75 and reported the bill favorably to the Senate on November 29, 1971. Articles commenting on hearings appeared in the January 7, 1972, issue of Science magazine, in the January 1972 issue of Technology Review, in the December 4, 1971, issue of Science News and in the December 1971 issue of Biomedical News.

After the hearings, I was pleased to see favorable editorial comments in a number of journals, some of which I have already placed in the CONGRESSIONAL RECORD.

I should like to invite the attention of Senators to an editorial in the Washington Evening Star of December 15, 1971, and to one in the St. Louis Post Dispatch on January 29, 1972. The Star editorial describes the proposed study as covering "a subject with enormous implications for all of us." The Post Dispatch concludes by saying:

> The bill now is before a House Subcommittee and strongly deserves positive action.

Mr. President, I can only echo the sentiments of the Post Dispatch editorial. I hope that our colleagues in the House will be able to act on this measure promptly. As Nobel Prize winner Dr. James Watson said in testimony before a House committee last year:

> If we do not think about the matter now, the possibility of our having a free choice will one day suddenly be gone.

I ask unanimous consent that the articles and editorials to which I have referred be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 12, 1971]

PROBING THE CELL—SOME SCIENTISTS SEEK TO ALTER HUMAN GENES TO CURE MANY DISEASES

(By Jonathan Spivak)

WASHINGTON.—Medical researchers are preparing for a daring biological venture: an attempt to correct genetic defects that afflict mankind.

Their stated goal is nothing so awesome or controversial as breeding supermen, though some critics fear the effort could lead in that direction. Rather, the aim is to treat a variety of inherited diseases for which little help now can be had. Among these are cystic fibrosis, in which mucus clogs the lungs and other organs; sickle-cell anemia, which afflicts Negroes; and hemophilia, a tendency to uncontrollable bleeding.

Toward this end, the researchers are altering genes, the tiny packets of hereditary material that determine mental and physical endowment. The proponents like to call this effort "gene therapy," and they foresee great benefits. But critics call it "genetic engineering," and they foresee grave risks. Some scientists question whether the impact of gene changes on future generations can be adequately anticipated or effectively controlled. If a harmful gene were introduced into the human body, it couldn't be recalled and might spread eventually to thousands of persons, these scientists say.

"The promises offered by proponents of gene therapy largely ignore its limitations and hazards. . . . Let us not do to ourselves what we have done to our environment," researchers Maurice S. Fox of the Massachusetts Institute of Technology and John W. Littlefield of Harvard Medical School write in an editorial in the magazine Science.

THE SITUATION SO FAR

What's happening so far is this:

Laboratory researchers at the government's National Institutes of Health and elsewhere are working on genes in attempts to understand and eventually eliminate their disease-causing defects. These defects can permit accumulation in body cells of toxic substances that lead to brain damage and other harm.

Experiments being pursued include:

Fusing cells together so healthy genes replace defective ones.

Implanting cells with normal genes in developing embryos to overcome hereditary defects.

Tailor-making viruses to carry corrective genetic material.

Outside the research lab, a pioneering and controversial attempt at gene therapy has already been made. Last year two German girls with hereditary mental retardation were deliberately infected with a virus carrying a gene that might effect a cure. No cure resulted, probably because the girls' mental damage was already irreversible. Nonetheless warns one specialist, "there will be a rush to get into this area and test new procedures on hopeless cases."

Some scientists suggest this research is opening up the eventual possibility of producing humans of any desired genetic characteristics—whether seven-foot basketball stars or geniuses with Einsteinian IQs—though the researchers argue this is not their aim at all. The basic technique for building supermen already has been developed in the laboratory. It avoids the haphazard mixture of genes resulting from a sexual union of sperm and egg. It is known as cloning.

THE STAKES ARE HIGH

In this laboratory procedure the nucleus of an unfertilized egg is replaced with a nucleus from another cell; that nucleus in effect fertilizes the egg and controls all its genetic properties. In a landmark experiment, British researchers have shown that a frog egg can thus be fertilized with another cell from the same animal. The offspring develops normally and is genetically identical with the single parent. This research is designed to gain a better understanding of human reproduction, rather than for any practical purpose.

But since all species are genetically similar, it will probably prove possible to clone man eventually, most scientists say. Human cloning, of course, would raise serious ethical issues.

Cloning aside, the stakes in the current debate over gene therapy are high, for the outcome is likely to control future progress in the science of human genetics. Many experts argue that a major push could bring immensely important results. Genetic diseases now show up in an estimated 70,000, or 2% of the babies born in the U.S. each year, and they take a high toll in prenatal deaths. Moreover, gene alterations might shed light on the causes of other diseases, including cancer, diabetes and arteriosclerosis, which are influenced by heredity, researchers say.

With strong congressional encouragement, the National Institutes of Health is investing about $20 million in genetic studies this fiscal year, and officials hope to increase the sum substantially next year. The problem of the hereditary aspects of disease "is ripe today," declares Dr. DeWitt Stetten Jr., director of NIH's National Institute of General Medical Science.

With the added money, NIH would establish genetic research centers throughout the country. These centers would seek to map the exact location of genes within human cells, identify individuals who carry genetic defects that could endanger their offspring, and determine the chemical processes by which gene defects cause disease. The ultimate goal: developing ways to remedy defective genes and prevent at least some forms of hereditary disease.

There are about 100,000 genes in every cell in the human body and each consists of the hereditary material known as DNA (for deoxyribonucleic acid). Scientists have already figured out the structure of DNA and the chemical code by which it enables genes to direct human growth.

It's also known that genes direct the formation of specific enzymes that are essential to the normal functioning of cells. And it's known that defective genes often lead to a breakdown in the cell's metabolism and thus to the accumulation of toxic substances.

Gene therapy is surrounded by a welter of problems, however. One major difficulty is finding ways to deliver genes to the specific cells that have hereditary defects. Most experts think it will be necessary to use infective viruses, but they worry that even apparently harmless viruses might turn out to have dangerous effects, particularly in causing cancer. Laboratory experiments with DNA have shown how easily gene changes can lead to malignancy.

Another obstacle is the probability that only 100 of the 2,000 known genetic diseases are produced by a single defective gene. Each of the other disorders presumably involves several defective genes and would be far more difficult to correct.

Nonetheless, progress is being made. NIH laboratory experiments have shown that a bacterial virus, known as the lambda phage, will correct a genetic disease called galactosemia; this disease, caused by lack of enzymes needed to metabolize the sugar galactose, may result in eye cataracts, brain damage and other difficulties. In lab experiments, the virus has transferred the healthy gene that prevents galactosemia to cells taken from a child suffering from the disease. But much more must be learned about the virus' effects before actual experiments on children are undertaken, scientists caution.

At the University of Maryland, Vasken Aposhian, who heads the department of cell biology and pharmacology, is directing a project that could lead to another early effort at gene therapy. He's hopeful that the gene or genes responsible for the body's production of insulin, which controls diabetes, can be identified and synthesized. If so, he would use a virus to pick up the genetic information and deliver it to human body cells. Youthful victims of severe diabetes could be candidates for such treatment.

Another approach, called cellular engineering, relies on replacement of entire cells to correct genetic defects. Dr. Robert A. Good at the University of Minnesota reports curing usually fatal blood disorders in several youngsters by transplanting healthy cells that replace genetically deficient ones. "These achievements involve full correction of several different inborn errors of metabolism and alleviation of their certainly fatal genetically based diseases," he reports.

But any tinkering with human genes remains worrisome to many scientists. "What you are really doing," argues one, "is dealing with the genetic stock of the human race, and dealing with it at a time when you don't know everything about it."

[From Science magazine, November 1971]

THE NEW BIOLOGY: WHAT PRICE RELIEVING MAN'S ESTATE?

(By Leon R. Kass)

(The author is executive secretary, Committee on the Life Sciences and Social Policy, National Research Council, National Academy of Sciences, Washington, D.C. 20418. This article is adapted from a working paper prepared by the author for the committee, as well as from lectures given at St. John's College in Annapolis, Maryland; at Oak Ridge National Laboratory, biology division, Oak Ridge, Tennessee; and at a meeting, in Washington, of the Council for the Advancement of Science Writing. The views expressed are those of the author.)

Recent advances in biology and medicine suggest that we may be rapidly acquiring the power to modify and control the capacities and activities of men by direct intervention and manipulation of their bodies and minds. Certain means are already in use or at hand, others await the solution of relatively minor technical problems, while yet others, those offering perhaps the most precise kind of control, depend upon further basic research. Biologists who have considered these matters disagree on the question of how much how soon, but all agree that the power for "human engineering," to borrow from the jargon, is coming and that it will probably have profound social consequences.

These developments have been viewed both with enthusiasm and with alarm; they are only just beginning to receive serious attention. Several biologists have undertaken to inform the public about the technical possibilities, present and future. Practitioners of social science "futurology" are attempting to predict and describe the likely social consequences of and public responses to the new technologies. Lawyers and legislators are exploring institutional innovations for assessing new technologies. All of these activities are based upon the hope that we can harness the new technology of man for the betterment of mankind.

Yet this commendable aspiration points to another set of questions, which are, in my view, sorely neglected—questions that inquire into the meaning of phrases such as the "betterment of mankind." A *full* understanding of the new technology of man requires an exploration of ends, values, standards. What ends will or should the new technology serve? What values should guide society's adjustments? By what standards should the assessment agencies assess? Behind these questions lie others: what is a good man, what is a good life for man, what is a good community? This article is an attempt to provoke discussion of these neglected and important questions.

While these questions about ends and ultimate ends are never unimportant or irrelevant, they have rarely been more important or more relevant. That this is so can be seen once we recognize that we are dealing here with a group of technologies that are in a decisive respect unique: the object upon which they operate is man himself. The technologies of energy or food production, of communication, of manufacture, and of motion greatly alter the implements available to man and the conditions in which he uses them. In contrast, the biomedical technology works to change the user himself. To be sure, the printing press, the automobile, the television, and the jet airplane have greatly altered the conditions under which and the way in which men live; but men as biological beings have remained largely unchanged. They have been, and remain, able to accept or reject, to use and abuse these technologies; they choose, whether wisely or foolishly, the ends to which these technologies are means. Biomedical technology may make it possible to change the inherent capacity for choice itself. Indeed, both those who welcome and those who fear the advent of "human engineering" ground their hopes and fears in the same prospect: *that man can for the first time recreate himself.*

Engineering the engineer seems to differ in kind from engineering his engine. Some have argued, however, that biomedical engineering does not differ qualitatively from toilet training, education, and moral teachings—all of which are forms of so-called "social engineering," which has man as its object, and is used by one generation to mold the next. In reply, it must at least be said that the techniques which have hitherto been employed are feeble and inefficient when compared to those on the horizon. This quantitative difference rests in part on a qualitative difference in the means of intervention. The traditional influences operate by speech or by symbolic deeds. They pay tribute to man as the animal who lives by speech and who understands the meanings of actions. Also, their effects are, in general, reversible, or at least subject to attempts at reversal. Each person has greater or lesser power to accept or reject or abandon them. In contrast, biomedical engineering circumvents the human context of speech and meaning, bypasses choice, and goes directly to work to modify the human material itself. Moreover, the changes wrought may be irreversible.

In addition, there is an important practical reason for considering the biomedical technology apart from other technologies. The advances we shall examine are fruits of a large, humane project dedicated to the conquest of disease and the relief of human

suffering. The biologist and physician, regardless of their private motives, are seen, with justification, to be the well-wishers and benefactors of mankind. Thus, in a time in which technological advance is more carefully scrutinized and increasingly criticized, biomedical developments are still viewed by most people as benefits largely without qualification. The price we pay for these developments is thus more likely to go unrecognized. For this reason, I shall consider only the dangers and costs of biomedical advance. As the benefits are well known, there is no need to dwell upon them here. My discussion is deliberately partial.

I begin with a survey of the pertinent technologies. Next, I will consider some of the basic ethical and social problems in the use of these technologies. Then, I will briefly raise some fundamental questions to which these problems point. Finally, I shall offer some very general reflections on what is to be done.

THE BIOMEDICAL TECHNOLOGIES

The biomedical technologies can be usefully organized into three groups, according to their major purpose: (i) control of death and life, (ii) control of human potentialities, and (iii) control of human achievement. The corresponding technologies are (1) medicine, especially the arts of prolonging life and of controlling reproduction, (ii) genetic engineering, and (iii) neurological and psychological manipulation. I shall briefly summarize each group of techniques.

(1) *Control of death and life.* Previous medical triumphs have greatly increased average life expectancy. Yet other developments, such as organ transplantation or replacement and research into aging, hold forth the promise of increasing not just the average, but also the maximum life expectancy. Indeed, medicine seems to be sharpening its tools to do battle with death itself, as if death were just one more disease.

More immediately and concretely, available techniques of prolonging life—respirators, cardiac pacemakers, artificial kidneys—are already in the lists against death. Ironically, the success of these devices in forestalling death has introduced confusion in determining that death has, in fact, occurred. The traditional signs of life—heartbeat and respiration—can now be maintained entirely by machines. Some physicians are now busily trying to devise so-called "new definitions of death," while others maintain that the technical advances show that death is not a concrete event at all, but rather a gradual process, like twilight, incapable of precise temporal localization.

The real challenge to death will come from research into aging and senescence, a field just entering puberty. Recent studies suggest that aging is a genetically controlled process, distinct from disease, but one that can be manipulated and altered by diet or drugs. Extrapolating from animal studies, some scientists have suggested that a decrease in the rate of aging might also be achieved simply by effecting a very small decrease in human body temperature. According to some estimates, by the year 2000 it may be technically possible to add from 20 to 40 useful years to the period of middle life.

Medicine's success in extending life is already a major cause of excessive population growth: death control points to birth control. Although we are already technically competent, new techniques for lowering fertility and chemical agents for inducing abortion will greatly enhance our powers over conception and gestation. Problems of definition have been raised here as well. The need to determine when individuals acquire enforceable legal rights gives society an interest in the definition of human life and of the time when it begins. These matters are too familiar to need elaboration.

Technologies to conquer infertility proceed alongside those to promote it. The first successful laboratory fertilization of human egg by human sperm was reported in 1969 (1). In 1970, British scientists learned how to grow human embryos in the laboratory up to at least the blastocyst stage [that is, to the age of 1 week (2)]. We may soon hear about the next stage, the successful reimplantation of such an embryo into a woman previously infertile because of oviduct disease. The development of an artificial placenta, now under investigation, will make possible full laboratory control of fertilization and gestation. In addition, sophisticated biochemical and cytological techniques of monitoring the "quality" of the fetus have been and are being developed and used. These developments not only give us more power over the generation of human life, but make it possible to manipulate and to modify the quality of the human material.

(2) *Control of human potentialities.* Genetic engineering, when fully developed, will wield two powers not shared by ordinary medical practice. Medicine treats existing individuals and seeks to correct deviations from a norm of health. Genetic engineering, in contrast, will be able to make changes that can be transmitted to succeeding generations and will be able to create new capacities, and hence to establish new norms of health and fitness.

Nevertheless, one of the major interests in genetic manipulation is strictly medical: to develop treatments for individuals with inherited diseases. Genetic disease is prevalent and increasing, thanks partly to medical advances that enable those affected to survive and perpetuate their mutant genes. The hope is that normal copies of the appropriate gene, obtained biologically or synthesized chemically, can be introduced into defective individuals to correct their deficiencies. This *therapeutic* use of genetic technology appears to be far in the future. Moreover, there is some doubt that it will ever be practical, since the same end could be more easily achieved by transplanting cells or organs that could compensate for the missing or defective gene product.

Far less remote are technologies that could serve *eugenic* ends. Their development has been endorsed by those concerned about a general deterioration of the human gene pool and by others who believe that even an undeteriorated human gene pool needs upgrading. Artificial insemination with selected donors, the eugenic proposal of Herman Muller (3), has been possible for several years because of the perfection of methods for long-time storage of human spermatozoa. The successful maturation of human oocytes in the laboratory and their subsequent fertilization now make it possible to select donors of ova as well. But a far more suitable technique for eugenic purposes will soon be upon us—namely, nuclear transplantation, or cloning. Bypassing the lottery of sexual recombination, nuclear transplantation permits the asexual reproduction or copying of an already developed individual. The nucleus of a mature but unfertilized egg is replaced by a nucleus obtained from a specialized cell of an adult program or embryo (for example, a cell from the intestines or the skin). The egg with its transplanted nucleus develops as if it had been fertilized and, barring complications, will give rise to a normal adult organism. Since almost all the hereditary material (DNA) of a cell is contained within its nucleus, the renucleated egg and the individual into which it develops are genetically identical to the adult organism that was the source of the donor nucleus. Cloning could be used to produce sets of unlimited numbers of genetically identical individuals, each set derived from a single parent. Cloning has been successful in amphibians and is now being tried in mice; its extension to man merely requires the solution of certain technical problems.

Production of man-animal chimeras by the introduction of selected nonhuman material into developing human embryos is also expected. Fusion of human and nonhuman cells in tissue culture has already been achieved.

Other, less direct means for influencing the gene pool are already available, thanks to our increasing ability to identify and diagnose genetic diseases. Genetic counselors can now detect biochemically and cytologically a variety of severe genetic defects (for example, Mongolism, Tay-Sachs disease) while the fetus is still in utero. Since treatments are at present largely unavailable, diagnosis is often followed by abortion of the affected fetus. In the future, more sensitive tests will also permit the detection of heterozygote carriers, the unaffected individuals who carry but a single dose of a given deleterious gene. The eradication of a given genetic disease might then be attempted by aborting all such carriers. In fact, it was recently suggested that the fairly common disease cystic fibrosis could be completely eliminated over the next 40 years by screening all pregnancies and aborting the 17,000,000 unaffected fetuses that will carry a single gene for this disease. Such zealots need to be reminded of the consequences should each geneticist be allowed an equal assault on his favorite genetic disorder, given that each human being is a carrier for some four to eight such recessive, lethal genetic diseases.

(3) *Control of human achievement.* Although human achievement depends at least in part upon genetic endowment, heredity determines only the material upon which experience and education impose the form. The limits of many capacities and powers of an individual are indeed genetically determined, but the nurturing and perfection of these capacities depend upon other influences. Neurological and psychological manipulation held forth the promise of controlling the development of human capacities, particularly those long considered most distinctively human: speech, thought, choice, emotion, memory, and imagination.

These techniques are now in a rather primitive state because we understand so little about the brain and mind. Nevertheless, we have already seen the use of electrical stimulation of the human brain to produce sensations of intense pleasure and to control rage, the use of brain surgery (for example, frontal lobotomy) for the relief of severe anxiety, and the use of aversive conditioning with electric shock to treat sexual perversion. Operant-conditioning techniques are widely used, apparently with success, in schools and mental hospitals. The use of so-called consciousness-expanding and hallucinogenic drugs is widespread, to say nothing of tranquilizers and stimulants. We are promised drugs to modify memory, intelligence, libido, and aggressiveness.

The following passages from a recent book by Yale neurophysiologist José Delgado—a book instructively entitled *Physical Control of the Mind: Toward a Psychocivilized Society*—should serve to make this discussion more concrete. In the early 1950's, it was discovered that, with electrodes placed in certain discrete regions of their brains, animals would repeatedly and indefatigably press levers to stimulate their own brains, with obvious resultant enjoyment. Even starving animals preferred stimulating these so-called pleasure centers to eating. Delgado comments on the electrical stimulation of a similar center in a human subject (4 p. 185).

[T]he patient reported a pleasant tingling sensation in the left side of her body 'from my face down to the bottom of my legs.' She started giggling and making funny comments, stating that she enjoyed the sensation 'very much.' Repetition of these stimulations made the patient more communicative and flirtatious, and she ended by openly expressing her desire to marry the therapist.

And one further quotation from Delgado (4, p. 88).

Leaving wires inside of a thinking brain may appear unpleasant or dangerous, but actually the many patients who have undergone this experience have not been concerned about the fact of being wired, nor have they felt any discomfort due to the presence of conductors in their heads. Some women have shown their feminine adaptability to circumstances by wearing attractive hats or wigs to conceal their electrical headgear, and many people have been able to enjoy a normal life as outpatients, returning to the clinic periodically for examination and stimulation. In a few cases in which contacts were located in pleasurable areas, patients have had the opportunity to stimulate their own brains by pressing the button of a portable instrument, and this procedure is reported to have therapeutic benefits.

It bears repeating that the sciences of neurophysiology and psychopharmacology are in their infancy. The techniques that are now available are crude, imprecise, weak, and unpredictable, compared to those that may flow from a more mature neurobiology.

BASIC ETHICAL AND SOCIAL PROBLEMS IN THE USE OF BIOMEDICAL TECHNOLOGY

After this cursory review of the powers now and soon to be at our disposal, I turn to the questions concerning the use of these powers. First, we must recognize that questions of use of science and technology are always moral and political questions, never simply technical ones. All private or public decisions to develop or to use biomedical technology—and decisions *not* to do so—inevitably contain judgments about value. This is true even if the values guiding those decisions are not articulated or made clear, as indeed they often are not. Secondly, the value judgments cannot be derived from biomedical science. This is true even if scientists themselves make the decisions.

These important points are often overlooked for at least three reasons.

(1) They are obscured by those who like to speak of "the control of nature by science." It is men who control, not that abstraction "science." Science may provide the means, but men choose the ends; the choice of ends comes from beyond science.

(2) Introduction of new technologies often appears to be the result of no decision whatsoever, or of the culmination of decisions too small or unconscious to be recognized as such. What can be done is done. However, someone is deciding on the basis of some notions of desirability, no matter how self-serving or altruistic.

(3) Desires to gain or keep money and power no doubt influence much of what happens, but these desires can also be formulated as reasons and then discussed and debated.

Insofar as our society has tried to deliberate about questions of use, how has it done so? Pragmatists that we are, we prefer a utilitarian calculus: we weigh "benefits" against "risks," and we weigh them for both the individual and "society." We often ignore the fact that the very definitions of "a benefit" and "a risk" are themselves based upon judgments about value. In the biomedical areas just reviewed, the benefits are considered to be self-evident; prolongation of life, control of fertility and of population size, treatment and prevention of genetic disease, the reduction of anxiety and aggressiveness, and the enhancement of memory, intelligence, and pleasure. The assessment of risk is, in general, simply pragmatic—will the technique work effectively and reliably, how much will it cost, will it do detectable bodily harm, and who will complain if we proceed with development? As these questions are familiar and congenial, there is no need to belabor them.

The very pragmatism that makes us sensitive to considerations of economic cost often blinds us to the larger social costs exacted by biomedical advances. For one thing, we seem to be unaware that we may not be able to maximize all the benefits, that several of the goals we are promoting conflict with each other. On the one hand, we seek to control population growth by lowering fertility; on the other hand, we develop techniques to enable every infertile woman to bear a child. On the one hand, we try to extend the lives of individuals with genetic disease; on the other, we wish to eliminate deleterious genes from the human population. I am not urging that we resolve these conflicts in favor of one side or the other, but simply that we recognize that such conflicts exist. Once we do, we are more likely to appreciate that most "progress" is heavily paid for in terms not generally included in the simple utilitarian calculus.

To become sensitive to the larger costs of biomedical progress, we must attend to several serious ethical and social questions. I will briefly discuss three of them: (i) questions of distributive justice, (ii) question of the use and abuse of power, and (iii) questions of self-degradation and dehumanization.

DISTRIBUTIVE JUSTICE

The introduction of any biomedical technology presents a new instance of an old problem—how to distribute scarce resources justly. We should assume that demand will usually exceed supply. Which people should receive a kidney transplant or an artificial heart? Who should get the benefits of genetic therapy or of brain stimulation? Is "first-come, first-served" the fairest principle? Or are certain people "more worthy," and if so, on what grounds?

It is unlikely that we will arrive at answers to these questions in the form of deliberate decisions. More likely, the problem of distribution will continue to be decided ad hoc and locally. If so, the consequence will probably be a sharp increase in the already far too great inequality of medical care. The extreme case will be longevity, which will probably be, at first, obtainable only at great expense. Who is likely to be able to buy it? Do conscience and prudence permit us to enlarge the gap between rich and poor, especially with respect to something as fundamental as life itself?

Questions of distributive justice also arise in the earlier decisions to acquire new knowledge and to develop new techniques. Personnel and facilities for medical research and treatment are scarce resources. Is the development of a new technology the best use of the limited resources, given current circumstances? How should we balance efforts aimed at prevention against those aimed at cure, or either of these against efforts to redesign the species? How should we balance the delivery of available levels of care against further basic research? More fundamentally, how should we balance efforts in biology and medicine against efforts to eliminate poverty, pollution, urban decay, discrimination, and poor education? This last question about distribution is perhaps the most profound. We should reflect upon the social consequences of seducing many of our brightest young people to spend their lives locating the biochemical defects in rare genetic diseases, while our more serious problems go begging. The current squeeze on money for research provides us with an opportunity to rethink and reorder our priorities.

Problems of distributive justice are frequently mentioned and discussed, but they are hard to resolve in a rational manner. We find them especially difficult because of the enormous range of conflicting values and interests that characterizes our pluralistic society. We cannot agree—unfortunately, we often do not even try to agree—on standards for just distribution. Rather, decisions tend to be made largely out of a clash of competing interests. Thus, regrettably, the question of how to distribute justly often gets reduced to who shall decide how to distribute. The question about justice has led us to the question about power.

USE AND ABUSE OF POWER

We have difficulty recognizing the problems of the exercise of power in the biomedical enterprise because of our delight with the wondrous fruits it has yielded. This is ironic because the notion of power is absolutely central to the modern conception of science. The ancients conceived of science as the *understanding* of nature, pursued for its own sake. We moderns view science as power, as *control* over nature; the conquest of nature "for the relief of man's estate" was the charge issued by Francis Bacon, one of the leading architects of the modern scientific project (5).

Another source of difficulty is our fondness for speaking of the abstraction "Man." I suggest that we prefer to speak figuratively about "Man's power over Nature" because it obscures an unpleasant reality about human affairs. It is in fact particular men who wield power, not Man. What we really mean by Man's power over Nature" is a power exercised by some men over other men, with a knowledge of nature as their instrument.

While applicable to technology in general, these reflections are especially pertinent to the technologies of human engineering, with which men deliberately exercise power over future generations. An excellent discussion of this question is found in *The Abolition of Man*, by C. S. Lewis (6).

It is, of course, a commonplace to complain that men have hitherto used badly, and against their fellows, the powers that science has given them. But that is not the point I am trying to make. I am not speaking of particular corruptions and abuses which an increase of moral virtue would cure: I am considering what the thing called "Man's power over Nature" must always and essentially be . . .

In reality, of course, if any one age really attains, by eugenics and scientific education, the power to make its descendants what it pleases, all men who live after it are the patients of that power. They are weaker, not stronger: for though we may have put wonderful machines in their hands, we have predordained how they are to use them. . . . The real picture is that of one dominant age . . . which resist all previous ages most successfully and dominates all subsequent ages most irresistibly, and thus is the real master of the human species. But even within this master generation (itself an infinitesimal minority of the species) the power will be exercised by a minority smaller still. Man's conquest of Nature, if the dreams of some scientific planners are realized, means the rule of a few hundreds of men over billions upon billions of men. There neither is nor can be any simple increase of power on Man's side. Each new power won *by* man is a power over man as well. Each advance leaves him weaker as well as stronger. In every victory, besides being the general who triumphs, he is also the prisoner who follows the triumphal car.

Please note that I am not yet speaking about the problem of the misuse or abuse of power. The point is rather that the power which grows is unavoidably the power of only some men, and that the number of powerful men decreases as power increases.

Specific problems of abuse and misuse of specific powers must not, however, be overlooked. Some have voiced the fear that the technologies of genetic engineering and behavior control, though developed for good purposes, will be put to evil uses. These fears are perhaps somewhat exaggerated, if only because biomedical technologies would add very little to our highly developed arsenal for mischief, destruction, and stultification. Nevertheless, any proposal for large-scale

human engineering should make us wary. Consider a program of positive eugenics based upon the widespread practice of asexual reproduction. Who shall decide what constitutes a superior individual worthy of replication? Who shall decide which individuals may or must reproduce, and by which method? These are questions easily answered only for a tyrannical regime.

Concern about the use of power is equally necessary in the selection of means for desirable or agreed-upon ends. Consider the desired end of limiting population growth. An effective program of fertility control is likely to be coercive. Who should decide the choice of means? Will the program penalize "conscientious objectors"?

Serious problems arise simply from obtaining and disseminating information, as in the mass screening programs now being proposed for detection of genetic disease. For what kinds of disorders is compulsory screening justified? Who shall have access to the data obtained, and for what purposes? To whom does information about a person's genotype belong? In ordinary medical practice, the patient's privacy is protected by the doctor's adherence to the principle of confidentiality. What will protect his privacy under conditions of mass screening?

More than privacy is at stake if screening is undertaken to detect psychological or behavioral abnormalities. A recent proposal, tendered and supported high in government, called for the psychological testing of all 6-year-olds to detect future criminals and misfits. The proposal was rejected; current tests lack the requisite predictive powers. But will such a proposal be rejected if reliable tests become available? What if certain genetic disorders, diagnosable in childhood, can be shown to correlate with subsequent antisocial behavior? For what degree of correlation and for what kinds of behavior can mandatory screening be justified? What use should be made of the data? Might not the dissemination of the information itself undermine the individual's chance for a worthy life and contribute to his so-called antisocial tendencies?

Consider the seemingly harmless effort to redefine clinical death. If the need for organs for transplantation is the stimulus for redefining death, might not this concern influence the definition at the expense of the dying? One physician, in fact, refers in writing to the revised criteria for declaring a patient dead as a "new definition of heart donor eligibility" (7, p. 526).

Problems of abuse of power arise even in the acquisition of basic knowledge. The securing of a voluntary and informed consent is an abiding problem in the use of human subjects in experimentation. Gross coercion and deception are now rarely a problem; the pressures are generally subtle, often related to an intrinsic power imbalance in favor of the experimentalist.

A special problem arises in experiments on or manipulations of the unborn. Here it is impossible to obtain the consent of the human subject. If the purpose of the intervention is therapeutic—to correct a known genetic abnormality, for example—consent can reasonably be implied. But can anyone ethically consent to nontherapeutic interventions in which parents or scientists work their wills or their eugenic visions on the child-to-be? Would not such manipulation represent in itself an abuse of power, independent of consequences?

There are many clinical situations which already permit, if not invite, the manipulative or arbitrary use of powers provided by biomedical technology: obtaining organs for transplantation, refusing to let a person die with dignity, giving genetic counselling to a frightened couple, recommending eugenic sterilization for a mental retardate, ordering electric shock for a homosexual. In each situation, there is an opportunity to violate the will of the patient or subject.

Such opportunities have generally existed in medical practice, but the dangers are becoming increasingly serious. With the growing complexity of the technologies, the technician gains in authority, since he alone can understand what he is doing. The patient's lack of knowledge makes him deferential and often inhibits him from speaking up when he feels threatened. Physicians *are* sometimes troubled by their increasing power, yet they feel they cannot avoid its exercise. "Reluctantly," one commented to me, "we shall have to play God." With what guidance and to what ends I shall consider later. For the moment, I merely ask: "By whose authority?"

While these questions about power are pertinent and important, they are in one sense misleading. They imply an inherent conflict of purpose between physician and patient, between scientist and citizen. The discussion conjures up images of master and slave, of oppressor and oppressed. Yet it must be remembered that conflict of purpose is largely absent, especially with regard to general goal. To be sure, the purposes of medical scientists are not always the same as those of the subjects experimented on. Nevertheless, basic sponsors and partisans of biomedical technology are precisely those upon whom the technology will operate. The will of the scientist and physician is happily married to (rather, is the offspring of) the desire of all of us for better health, longer life, and peace of mind.

Most future biomedical technologies will probably be welcomed, as have those of the past. Their use will require little or no coercion. Some developments, such as pills to improve memory, control mood, or induce pleasure, are likely to need no promotion. Thus, even if we should escape from the dangers of coercive manipulation, we shall still face large problems posed by the voluntary use of biomedical technology, problems to which I now turn.

VOLUNTARY SELF-DEGRADATION AND DEHUMANIZATION

Modern opinion is sensitive to problems of restriction of freedom and abuse of power. Indeed, many hold that a man can be injured only by violating his will. But this view is much too narrow. It fails to recognize the great dangers we shall face in the use of biomedical technology, dangers that stem from an excess of freedom, from the uninhibited exercises of will. In my view, our greatest problem will increasingly be one of voluntary self-degradation, or willing dehumanization.

Certain desired and perfected medical technologies have already had some dehumanizing consequences. Improved methods of resuscitation have made possible heroic efforts to "save" the severely ill and injured. Yet these efforts are sometimes only partly successful; they may suceed in salvaging individuals with severe brain damage, capable of only a less-than-human, vegetating existence. Such patients, increasingly found in the intensive care units of university hospitals, have been denied a death with dignity. Families are forced to suffer seeing their loved ones so reduced, and are made to bear the burdens of a protracted death watch.

Even the ordinary methods of treating disease and prolonging life have impoverished the context in which men die. Fewer and fewer people die in the familiar surroundings of home or in the company of family and friends. At that time of life when there is perhaps the greatest need for human warmth and comfort, the dying patient is kept company by cardiac pacemakers and defibrillators, respirators, aspirators, oxygenators, catheters, and his intravenous drip.

But the loneliness is not confined to the dying patient in the hospital bed. Consider the increasing number of old people who are still alive, thanks to medical progress. As a group, the elderly are the most alienated members of our society. Not yet ready for the world of the dead, not deemed fit for the world of the living, they are shunted aside. More and more of them spend the extra years medicine has given them in "homes for senior citizens", in chronic hospitals, in nursing homes—waiting for the end. We have learned how to increase their years, but we have not learned how to help them enjoy their days. And yet, we bravely and relentlessly push back the frontiers against death.

Paradoxically, even the young and vigorous may be suffering because of medicine's success in removing death from their personal experience. Those born since penicillin represent the first generation ever to grow up without the experience or fear of probable unexpected death at an early age. They look around and see that virtually all of their friends are alive. A thoughtful physician, Eric Cassell, has remarked on this in "Death and the physician" (*8*, p. 76):

> [W]hile the gift of time must surely be marked as a great blessing, the *perception* of time, as stretching out endlessly before us, is somewhat threatening. Many of us function best under deadlines, and tend to procrastinate when time limits are not set. . . . Thus, this unquestioned boon, the extension of life, and the removal of the threat of premature death, carries with it an unexpected anxiety: the anxiety of an unlimited future.

In the young, the sense of limitless time has apparently imparted not a feeling of limitless opportunity, but increased stress and anxiety, in addition to the anxiety which results from other modern freedoms; personal mobility, a wide range of occupational choice, and independence from the limitations of class and familiar patterns of work. . . . A certain aimlessness (often ringed around with great social consciousness) characterizes discussions about their own aspirations. The future is endless, and their inner demands seem minimal. Although it may appear uncharitable to say so, they seem to be acting in a way best described as "childish"—particularly in their lack of a time sense. They behave as though there were no tomorrow, or as though the time limits imposed by the biological facts of life had become so vague for them as to be nonexistent.

Consider next the coming power over reproduction and genotype. We endorse the project that will enable us to control numbers and to treat individuals with genetic disease. But our desires outrun these defensible goals. Many would welcome the chance to become parents without the inconvenience of pregnancy; others would wish to know in advance the characteristics of their offspring (sex, height, eye color, intelligence); still others would wish to design these characteristics to suit their tastes. Some scientists have called for the use of the new technologies to assure the "quality" of all new babies (*9*). As one obstetrician put it:

> "The business of obstetrics is to produce *optimum* babies." But the price to be paid for the "optimum baby" is the transfer of procreation from the home to the laboratory and its coincident transformation into manufacture. Increasing control over the product is purchased by the increasing depersonalization of the process. The complete depersonalization of procreation (possible with the development of an artificial placenta) shall be, in itself, seriously dehumanizing, no matter how optimum the product. It should not be forgotten that human procreation not only issues new human beings, but is itself a human activity.

Procreation is not simply an activity of the rational will. It is a more complete human activity precisely because it engages us bodily and spiritually, as well as rationally. Is there perhaps some wisdom in that mystery

of nature which joins the pleasure of sex, the communication of love, and the desire for children in the very activity by which we continue the chain of human existence? Is not biological parenthood a built-in "mechanism," selected because it fosters and supports in parents an adequate concern for and commitment to their children? Would not the laboratory production of human beings no longer be *human* procreation? Could it keep human parenthood human?

The dehumanizing consequences of programmed reproduction extend beyond the mere acts and processes of life-giving. Transfer of procreation to the laboratory will no doubt weaken what is presently for many people the best remaining justification and support for the existence of marriage and the family. Sex is now comfortably at home outside of marriage; child-rearing is progressively being given over to the state, the schools, the mass media, and the child-care centers. Some have argued that the family, long the nursery of humanity, has outlived its usefulness. To be sure, laboratory and governmental alternatives might be designed for procreation and child-rearing, but at what cost?

This is not the place to conduct a full evaluation of the biological family. Nevertheless, some of its important virtures are, nowadays, too often overlooked. The family is rapidly becoming the only institution in an increasingly impersonal world where each person is loved not for what he does or makes, but simply because he is. The family is also the institution where most of us, both as children and as parents, acquire a sense of continuity with the past and a sense of commitment to the future. Without the family, we would have little incentive to take an interest in anything after our own deaths. These observations suggest that the elimination of the family would weaken ties to past and future, and would throw us, even more than we are now, to the mercy of an impersonal, lonely present.

Neurobiology and psychobiology probe most directly into the distinctively human. The technological fruit of these sciences is likely to be both more tempting than Eve's apple and more "catastrophic" in its result (*10*). One need only consider contemporary drug use to see what people are willing to risk or sacrifice for novel experiences, heightened perceptions, or just "kicks." The possibility of drug-induced, instant, and effortless gratification will be welcomed. Recall the possibilities of voluntary self-stimulation of the brain to reduce anxiety, to heighten pleasure, or to create visual and auditory sensations unavailable through the peripheral sense organs. Once these techniques are perfected and safe, is there much doubt that they will be desired, demanded, and used?

What ends will these techniques serve? Most likely, only the most elemental, those most tied to the bodily pleasures. What will happen to thought, to love, to friendship, to art, to judgment, to public-spiritedness in a society with a perfected technology of pleasure? What kinds of creatures will we become if we obtain our pleasure by drug or electrical stimulation without the usual kind of human efforts and frustrations? What kind of society will we have?

We need only consult Aldous Huxley's prophetic novel *Brave New World* for a likely answer to these questions. There we encounter a society dedicated to homogeneity and stability, administered by means of instant gratifications and peopled by creatures of human shape but of stunted humanity. They consume, fornicate, take "soma," and operate the machinery that makes it all possible. They do not read, write, think, love, or govern themselves. Creativity and curiosity, reason and passion, exist only in a rudimentary and multilated form. In short, they are not men at all.

True, our techniques, like theirs, may in fact enable us to treat schizophrenia, to alleviate anxiety, to curb aggressiveness. We, like they, may indeed be able to save mankind from itself, but probably only at the cost of its humanness. In the end, the price of relieving man's estate might well be the abolition of man (*11*).

There are, of course, many other routes leading to the abolition of man. There are many other and better known causes of dehumanization. Disease, starvation, mental retardation, slavery, and brutality—to name just a few—have long prevented many, if not most, people from living a fully human life. We should work to reduce and eventually to eliminate these evils. But the existence of these evils should not prevent us from appreciating that the use of the technology of man, uninformed by wisdom concerning proper human ends, and untempered by an appropriate humility and awe, can unwittingly render us all irreversibly less than human. For, unlike the man reduced by disease or slavery, the people dehumanized à la *Brave New World* are not miserable, do not know that they are dehumanized, and, what is worse, would not care if they knew. They are, indeed, happy slaves, with a slavish happiness.

SOME FUNDAMENTAL QUESTIONS

The practical problems of distributing scarce resources, of curbing the abuses of power, and of preventing voluntary dehumanization point beyond themselves to some large, enduring, and most difficult questions: the nature of justice and the good community, the nature of man and the good for man. My appreciation of the profundity of these questions and my own ignorance before them makes me hesitant to say any more about them. Nevertheless, previous failures to find a shortcut around them have led me to believe that these questions must be faced if we are to have any hope of understanding where biology is taking us. Therefore, I shall try to show in outline how I think some of the larger questions arise from my discussion of dehumanization and self-degradation.

My remarks on dehumanization can hardly fail to arouse argument. It might be said, correctly, that to speak about dehumanization presupposes a concept of "the distinctively human." It might also be said, correctly, that to speak about wisdom concerning proper human ends presupposes that such ends do in fact exist and that they may be more or less accessible to human understanding, or at least to rational inquiry. It is true that neither presupposition is at home in modern thought.

The notion of the "distinctively human" has been seriously challenged by modern scientists. Darwinists hold that man is, at least in origin, tied to the subhuman; his seeming distinctiveness is an illusion or, at most, not very important. Biochemists and molecular biologists extend the challenge by blurring the distinction between the living and the nonliving. The laws of physics and chemistry are found to be valid and are held to be sufficient for explaining biological systems. Man is a collection of molecules, an accident on the stage of evolution, endowed by chance with the power to change himself, but only along determined lines.

Psychoanalysts have also debunked the "distinctly human." The essence of man is seen to be located in those drives he shares with other animals—pursuit of pleasure and avoidance of pain. The so-called "higher functions" are understood to be servants of the more elementary, the more base. Any distinctiveness or "dignity" that man has consists of his superior capacity for gratifying his animal needs.

The idea of "human good" fares no better. In the social sciences, historicists and existentialists have helped drive this question underground. The former hold all notions of human good to be culturally and historically bound, and hence mutable. The latter hold that values are subjective: each man makes his own, and ethics becomes simply the cataloging of personal tastes.

Such appear to be the prevailing opinions. Yet there is nothing novel about reductionism, hedonism, and relativism; these are doctrines with which Socrates contended. What is new is that these doctrines seem to be vindicated by scientific advance. Not only do the scientific notions of nature and of man flower into verifiable predictions, but they yield marvelous fruit. The technological triumphs are held to validate their scientific foundations. Here, perhaps, is the most pernicious result of technological progress—more dehumanizing than any actual manipulation or technique, present or future. We are witnessing the erosion, perhaps the final erosion, of the idea of man as something splendid or divine, and its replacement with a view that sees man, no less than nature, as simply more raw material for manipulation and homogenization. Hence, our peculiar moral crisis. We are in turbulent seas without a landmark precisely because we adhere more and more to a view of nature and of man which both gives us enormous power and, at the same time, denies all possibility of standards to guide its use. Though well-equipped, we know not who we are nor where we are going. We are left to the accidents of our hasty, biased, and ephemeral judgments.

Let us not fail to note a painful irony: our conquest of nature has made us the slaves of blind chance. We triumph over nature's unpredictabilities only to subject ourselves to the still greater unpredictability of our capricious wills and our fickle opinions. That we have a method is no proof against our madness. Thus, engineering the engineer as well as the engine, we race our train we know not where (*12*).

While the disastrous consequences of ethical nihilism are insufficient to refute it, they invite and make urgent a reinvestigation of the ancient and enduring questions of what is a proper life for a human being, what is a good community, and how are they achieved (*13*). We must not be deterred from these questions simply because the best minds in human history have failed to settle them. Should we not rather be encouraged by the fact that they considered them to be the most important questions?

As I have hinted before, our ethical dilemma is caused by the victory of modern natural science with its nonteleological view of man. We ought therefore to reexamine with great care the modern notions of nature and of man, which undermine those earlier notions that provide a basis for ethics. If we consult our common experience, we are likely to discover some grounds for believing that the questions about man and human good are far from closed. Our common experience suggests many difficulties for the modern "scientific view of man." For example, this view fails to account for the concern for justice and freedom that appears to be characteristic of all human societies (*14*). It also fails to account for or to explain the fact that men have speech and not merely voice, that men can choose and act and not merely move or react. It fails to explain why men engage in moral discourse, or, for that matter, why they speak at all. Finally, the "scientific view of man" cannot account for scientific inquiry itself, for why men seek to know. Might there not be something the matter with a knowledge of man that does not explain or take account of his most distinctive activities, aspirations, and concerns (*15*)?

Having gone this far, let me offer one suggestion as to where the difficulty might lie: in the modern understanding of knowledge. Since Bacon, as I have mentioned earlier, technology has increasingly come to be the

basic justification for scientific inquiry. The end is power, not knowledge for its own sake. But power is not only the end. It is also an important *validation* of knowledge. One definitely knows that one knows only if one can make. Synthesis is held to be ultimate proof of understanding (16). A more radical formulation holds that one knows only what one makes: knowing *equals* making.

Yet therein lies a difficulty. If truth be the power to change or to make the object studied, then of what do we have knowledge? If there are no fixed realities, but only material upon which we may work our wills, will not "science" be merely the "knowledge" of the transient and the manipulatable? We might indeed have knowledge of the laws by which things change and the rules for their manipulation, but no knowledge of the things themselves. Can such a view of "science" yield and knowledge about the nature of man, or indeed, about the nature of anything? Our questions appear to lead back to the most basic of questions: What does it mean to know? What is it that is knowable (17)?

We have seen that the practical problems point toward and make urgent certain enduring, fundamental questions. Yet while pursuing these questions, we cannot afford to neglect the practical problems as such. Let us not forget Delgado and the "psychocivilized' society." The philosophical inquiry could be rendered moot by our blind, confident efforts to dissect and redesign ourselves. While awaiting a reconstruction of theory, we must act as best we can.

WHAT IS TO BE DONE?

First, we surely need to recover some humility in the face of our awesome powers. The arguments I have presented should make apparent the folly of arrogance, of the presumption that we are wise enough to remake our selves. Because we lack wisdom, caution is our urgent need. Or to put it another way, in the absence of that "ultimate wisdom," we can be wise enough to know that we are not wise enough. When we lack sufficient wisdom to do, wisdom consists in no doing. Caution, restraint, delay, abstention are what this second-best (and, perhaps, only) wisdom dictates with respect to the technology for human engineering.

If we can recognize that biomedical advances carry significant social costs, we may be willing to adopt a less permissive, more critical stance toward new developments. We need to reexamine our prejudice not only that all biomedical innovation is progress, but also that it is inevitable. Precedent certainly favors the view that what can be done will be done, but is this necessarily so? Ought we not to be suspicious when technologists speak of coming developments as automatic, not subject to human control? Is there not something contradictory in the notion that we have the power to control all the untoward consequences of a technology, but lack the power to determine whether it should be developed in the first place?

What will be the likely consequences of the perpetuation of our permissive and fatalistic attitude toward human engineering? How will the large decisions be made? Technocratically and self-servingly, if our experience with previous technologies is any guide. Under conditions of laissez-faire, most technologists will pursue techniques, and most private industries will pursue profits. We are fortunate that, apart from the drug manufacturers, there are at present in the biomedical area few large industries that influence public policy. Once these appear, the voice of "the public interest" will have to shout very loudly to be heard above their whisperings in the halls of Congress. These reflections point to the need for institutional controls.

Scientists understandably balk at the notion of the regulation of science and technology. Censorship is ugly and often based upon ignorant fear; bureaucratic regulation is often stupid and inefficient. Yet there is something disingenuous about a scientist who professes concern about the social consequences of science, but who responds to every suggestion of regulation with one or both of the following: "No restrictions on scientific research," and "Technological progress should not be curtailed." Surely, to suggest that *certain* technologies ought to be regulated or forestalled is not to call for the halt of *all* technological progress (and says nothing at all about basic research). Each development should be considered on its own merits. Although the dangers of regulation cannot be dismissed, who, for example, would still object to efforts to obtain an effective, complete, global prohibition on the development, testing, and use of biological and nuclear weapons?

The proponents of laissez-faire ignore two fundamental points. They ignore the fact that not to regulate is as much a policy decision as the opposite, and that it merely postpones the time of regulation. Controls will eventually be called for—as they are now being demanded to end environmental pollution. If attempts are not made early to detect and diminish the social costs of biomedical advances by intelligent institutional regulation, the society is likely to react later wtih more sweeping, immoderate, and throttling controls.

The proponents of laissez-faire also ignore the fact that much of technology is already regulated. The federal government is already deep in research and development (for example, space, electronics, and weapons) and is the principal sponsor of biomedical research. One may well question the wisdom of the direction given, but one would be wrong in arguing that technology cannot survive social control. Clearly, the question is not control versus no control, but rather what kind of control, when, by whom, and for what purpose.

Means for achieving international regulation and control need to be devised. Biomedical technology can be no nation's monopoly. The need for international agreements and supervision can readily be understood if we consider the likely American response to the successful asexual reproduction of 10,000 Mao Tse-tungs.

To repeat, the basic short-term need is caution. Practically, this means that we should shift the burden of proof to the *proponents* of a new biomedical technology. Concepts of "risk" and "cost" need to be broadened to include some of the social and ethical consequences discussed earlier. The probable or possible harmful effects of the widespread use of a new technique should be anticipated and introduced as "costs" to be weighed in deciding about the *first* use. The regulatory institutions should be encouraged to exercise restraint and to formulate the grounds for saying "no." We must all get used to the idea that biomedical technology makes possible many things we should never do.

But caution is not enough. Nor are clever institutional arrangements. Institutions can be little better than the people who make them work. However worthy our intentions, we are deficient in understanding. In the *long* run, our hope can only lie in education: in a public educated about the meanings and limits of science and enlightened in its use of technology; in scientists better educated to understand the relationships between science and technology on the one hand, and ethics and politics on the other; in human beings who are as wise in the latter as they are clever in the former.

REFERENCES AND NOTES

1. R. G. Edwards, B. D. Bavister, P. C. Steptoe, *Nature* 221, 632 (1969).
2. R. G. Edwards, P. C. Steptoe, J. M. Purdy, *ibid.* 227, 1307 (1970).
3. H. J. Muller, *Science* 134, 643 (1961).
4. J. M. R. Delgado, *Physical Control of the Mind: Toward a Psychocivilized Society* (Harper & Row, New York, 1969).
5. F. Bacon, *The Advancement of Learning, Book I*, H. G. Dick, Ed. (Random House, New York, 1955), p. 193.
6. C. S. Lewis, *The Abolition of Man* (Macmillan, New York, 1965), pp. 69–71.
7. D. D. Rutstein, *Daedalus* (Spring 1969), p. 523.
8. E. J. Cassell, *Commentary* (June 1969), p. 73.
9. B. Glass, *Science* 171, 23 (1971).
10. It is, of course, a long-debated question as to whether the fall of Adam and Eve ought to be considered "catastrophic," or more precisely, whether the Hebrew tradition considered it so. I do not mean here to be taking sides in this quarrel by my use of the term "catastrophic," and, in fact, tend to line up on the negative side of the questions, as put above. Curiously, as Aldous Huxley's *Brave New World* [(Harper & Row, New York, 1969)] suggests, the implicit goal of the biomedical technology could well be said to be the reversal of the Fall and a return of man to the hedonic and immortal existence of the Garden of Eden. Yet I can point to at least two problems. First, the new Garden of Eden will probably have no gardens; the received, splendid world of nature will be buried beneath asphalt, concrete, and other human fabrications, a transformation that is already far along. (Recall that in *Brave New World* elaborate consumption-oriented, mechanical amusement parks—featuring, for example, contrifugal bumble-puppy—had supplanted wilderness and even ordinary gardens.) Second, the new inhabitant of the new "Garden" will have to be a creature for whom we have no precedent, a creature as difficult to imagine as to bring into existence. He will have to be simultaneously an innocent like Adam and a technological wizard who keeps the "Garden" running. (I am indebted to Dean Robert Goldwin, St. John's College, for this last insight.)

11. Some scientists naively believe that an engineered increase in human intelligence will steer us in the right direction. Surely we have learned by now that intelligence, whatever it is and however measured, is not synonymous with wisdom and that, if harnessed to the wrong ends, it can clevely perpetrate great folly and evil. Given the activities in which many, if not most, of our best minds are now engaged, we should not simply rejoice in the prospect of enhancing IQ. On what would this increased intelligence operate? At best, the programming of further increases in IQ. It would design and operate techniques for prolonging life, for engineering reproduction, for delivering gratifications. With no gain in wisdom, our gain in intelligence can only enhance the rate of our dehumanization.

12. The philosopher Hans Jonas has made the identical point: "Thus the slow-working accidents of nature, which by the very patience of their small increments, large numbers, and gradual decisions, may well cease to be 'accident' in outcome, are to be replaced by the fast-working accidents of man's hasty and biased decisions, not exposed to the long test of the ages. His uncertain ideas are to set the goals of generations, with a certainty borrowed from the presumptive certainty of the means. The latter presumption is doubtful enough, but this doubtfulness becomes secondary to the prime question that arises when man indeed undertakes to 'make-himself': in what image of his own devising shall he do so, even granted that he can be sure of the means? In fact, of course, he can be sure of neither, not of the end, nor of the means, once he enters the realm where he plays with the roots of life. Of one thing only can he be sure: of his power to move the foundations and to cause incalculable and irreversible consequences. Never was so much power coupled with so little guidance for its use." [*J. Cent. Conf. Amer. Rabbis* (January 1968), p. 27.] These remarks demonstrate that, contrary to popular belief, we are not even on the right road toward a rational understanding of and rational control over human nature and human life. It is indeed the height of irrationality triumphantly to pursue rationalized technique, while at the same time insisting that questions of ends, values, and purposes lie beyond rational discourse.

13. It is encouraging to note that these questions are seriously being raised in other quarters—for example, by persons concerned with the decay of cities or the pollution of nature. There is a growing dissatisfaction with ethical nihilism. In fact, its tenets are unwittingly abandoned by even its staunchest adherents. In any discussion of "what to do." for example, in the biomedical area, everyone, including the most unreconstructed and technocratic reductionist, finds himself speaking about the use of powers for "human betterment." He has wandered unawares onto ethical ground. One cannot speak of "human betterment" without considering what is meant by the human and by the related notion of the good for man. These questions can be avoided only by asserting that practical matters reduce to tastes and power, and by confessing that the use of the phrase "human betterment" is a deception to cloak one's own will to power. In other words, these questions can be avoided only by ceasing to discuss.

14. Consider, for example, the widespread acceptance, in the legal systems of very different societies and cultures, of the principle and the practice of third-party adjudication of disputes. And consider why, although many societies have practiced slavery, no slave-holder has preferred his own enslavement to his own freedom. It would seem that some notions of justice and freedom, as well as right and truthfulness, are constitutive for any society, and that a concern for these values may be a fundamental characteristic of "human nature."

15. Scientists may, of course, continue to believe in righteousness or justice or truth, but these beliefs are not grounded in their "scientific knowledge" of man. They rest instead upon the receding wisdom of an earlier age.

16. This belief, silently shared by many contemporary biologists, has recently been given the following clear expression: "One of the acid tests of understanding an object is the ability to put it together from its component parts. Ultimately, molecular biologists will attempt to subject their understanding of all structure and function to this sort of test by trying to synthesize a cell. It is of some interest to see how close we are to this goal." [P. Handler, Ed. *Biology and the Future of Man* Oxford Univ. Press, New York. 1970), p. 55.]

17. When an earlier version of this article was presented publicly, it was criticized by one questioner as being "antiscientific." He suggested that my remarks "were the kind that gave science a bad name." He went on to argue that, far from being the enemy of morality, the pursuit of truth was itself a highly moral activity, perhaps the highest. The relation of science and morals is a long and difficult question with an illustrious history, and it deserves a more extensive discussion than space permits. However, because some readers may share the questioner's response, I offer a brief reply. First, on the matter of reputation, we should recall that the pursuit of truth may be in tension with keeping a good name (witness Oedipus, Socrates, Galileo, Spinoza, Solzhenitsyn). For most of human history, the pursuit of truth (including "science") was not a reputable activity among the many, and was, in fact, highly suspect. Even today, it is doubtful whether more than a few

appreciate knowledge as an end in itself. Science has acquired a "good name" in recent times largely because of its technological fruit; it is therefore to be expected that a disenchantment with technology will reflect badly upon science. Second, my own attack has not been directed against science, but against the use of *some* technologies and, even more, against the unexamined belief—indeed. I would say, superstition—that all biomedical technology is an unmixed blessing. I share the questioner's belief that the pursuit of truth is a highly moral activity. In fact, I am inviting him and others to join in a pursuit of the truth about whether all these new technologies are really good for us. This is a question that merits and is susceptible of serious intellectual inquiry. Finally, we must ask whether what we call "science" has a monopoly on the pursuit of truth. What is "truth"? What is knowable, and what does it mean to know? Surely, these are also questions that can be examined. Unless we do so, we shall remain ignorant about what "science" is and about what it discovers. Yet "science"—that is, modern natural science—cannot begin to answer them; they are philosophical questions, the very ones I am trying to raise at this point in the text.

PROSPECTS OF GENE THERAPY

(By Ernest Freese)

The prospects of developing gene therapy to treat inherited diseases were discussed by specialists of different disciplines at a meeting jointly sponsored by the National Institute of Neurological Diseases and Stroke and by the Fogarty International Center at the Stone House at the National Institutes of Health (NIH). Medical researchers have the following concern. More than 2 percent of humans suffer from diseases or defects in vitality that are inherited according to Mendelian laws (that is, have alterations within single chromosomes, resulting in, for example, homocysteinuria, sickle cell anemia, and the like). In addition, more than 5 percent have familial disorders whose tendency to develop depends both on the environment and on the cumulative effect of two or more genetic defects (diabetes, schizophrenia, and certain cancers). In fibroblasts, shed by the growing embryo and obtained through amniocentesis, some hereditary diseases can be detected either by the cytological analysis of chromosome anomalies (mongolism) or by biochemical tests (Lesch-Nyhan syndrome). If such an analysis clearly indicates the presence of a hereditary disease, the fetus can be aborted. Whether this kind of eugenics will be extensively employed depends on each society's ethical decisions, influenced by religious attitudes and economic affluence. But only a small fraction of all hereditary defects can be discovered by amniocentesis because most do not show up in fibroblasts. Most hereditary diseases will therefore persist in the human population and, with certain glamorous exceptions, will not yield to treatment with diets or drugs. In some of these cases gene therapy appears to be the only hope.

If foreign cells were not rejected, one could modify the genetic makeup of a tissue by transplanting cells or organs from a normal person into a person with hereditary disease. Such transplantation of erythropoietic cells or whole organs has been successfully performed in inbred mice. In humans, however, transplants are rejected in almost all cases (except identical twins). But one could take cells from the sick person, genetically transform them (by reversion, isolated DNA, virus transduction, cell fusion, and so forth) into cells expressing the normal genetic information, grow a larger number of them in tissue culture, and then return them to the donor. One would hope that their surface antigens would not have changed by this manipulation. (For polygenic diseases replacement of one defective gene by a normal one may be sufficient.) Or one could use certain artificial transducing viruses to treat the patient directly. Recent discoveries have made it probable that transfer of specific genetic information in humans will be feasible within one or two decades. This gene therapy would be initially useful only for mobile multiplying cells (such as those in bone marrow). But when more is known about the differentiation of cells, the replacement of other cell types, which can still multiply in the adult, may become feasible (for example, liver).

The possibilities and potential hazards of gene therapy were the subjects of the conference. Several speakers presented evidence indicating that human cells can express some genetic information contained in the DNA or RNA of animal or bacterial viruses and that the transferred information can be inherited from cell to cell. It is even feasible to link desirable genetic information to a nonpathogenic virus DNA and convey it by a virus into the cell. Furthermore, genetically normal human DNA can be taken up by human cells either directly or packaged into a virus coat, or whole chromosomes can be transferred via cell infusion. It is still not clear which conditions are necessary to allow the replication of the transferred DNA. Instead of transferring normal genetuic information, one could possibly subject tissue cultures of deficient cells to mutations and isolate revertants that have regained the normal biochemical property. In principle, it would even be possible to manipulate eggs or sperms genetically, or to produce chimeras by mixing blastocysts, but these possibilities have been disapproved because they would create many new problems and possibly increase, or at least perpetuate, undesirable mutations in the population.

A detailed summary of the meeting will be printed by NIH and can be obtained from the Fogarty International Center, National Institutes of Health, Bethesda, Maryland 20014.

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GENE THERAPY FOR HUMAN GENETIC DISEASE?

(By Theodore Friedmann and Richard Roblin)

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(NOTE.—Figures referred to are not printed in the RECORD.)

At least 1500 distinguishable human diseases are already known to be genetically determined (1), and new examples are being reported every year. Many human genetic diseases are rare. For example, the incidence of phenylketonuria is about one per 18,000 live births or about 200 to 300 cases per year in the United States (2). Others, such as cystic fibrosis of the pancreas, occur about once in every 2500 live births (3). When considered together as a group, however, genetic diseases of humans are becoming an increasingly visible and significant medical problem, at least in the developed countries. While the molecular basis for most of these diseases is not yet understood, a recent review (4) listed 92 human disorders for which a genetically determined specific enzyme deficiency has been identified.

Concurrent with the recent progress toward biochemical characterization of human genetic diseases have been the dramatic advances in our understanding of the structure and function of the genetic material, DNA, and our ability to manipulate it in the test tube. Within the last 3 years, both the isolation of a piece of DNA containing a specific

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group of bacterial genes (5) and the complete chemical synthesis of the gene for yeast alanine transfer RNA (6) have been reported. These advances have led to proposals (7) that exogenous "good" DNA be used to replace the defective DNA in those who suffer from genetic defects. In fact, a first attempt to treat patients suffering from a human genetic disease with foreign DNA has already been made (8).

Nevertheless, we believe that examination of the current possibilities for DNA-mediated genetic change in humans in the light of some of the requirements for an ethically acceptable medical treatment raises difficult questions. In order to focus the discussion, in this article we concentrate on the prospects for using isolated DNA segments or mammalian viruses as vectors in gene therapy. For this reason we do not discuss other techniques, such as cell hybridization (9), which have been used to introduce new genetic material into mammalian cells. We limit our discussion to the possible therapeutic uses of genetic engineering in humans. The potential eugenic uses, for example, the improvement of human intelligence or other traits, are not discussed because they will be very much more difficult to accomplish (10) and raise rather different ethical questions. Whether genetic engineering techniques can be developed for therapeutic purposes in human patients without leading to eugenic uses is an important question, but lies mostly beyond the scope of this article.

SCHEMATIC MODEL OF GENETIC DISEASE

Some aspects of a hypothetical human genetic disease in which an enzyme is defective are shown in Fig. 1. The consequences of a gene mutation which renders enzyme E_2 defective could be (i) failure to synthesize required compounds D and F; (ii) accumulation of abnormally high concentrations of compound C and its further metabolites by other biochemical pathways; (iii) failure to regulate properly the activity of enzyme E_1, because of loss of the normal feedback inhibitor, compound F; and (iv) failure of a regulatory step in a linked pathway because of absence of compounds D or F, as in the increased synthesis of ketosteroids in the adrenogenital syndrome (11). In some cases of human genetic disease, accumulation of high concentrations of compound C and its metabolites appears to do the damage. Often a consequence is mental retardation.

The pathway in Fig. 1 is typical of some recessively inherited genetic defects which result in a deficiency of some gene product, usually an enzyme or hormone. In theory, such defects might be corrected by gene therapy, since such techniques might be able to restore the deficient gene product. Other kinds of genetic defects, including those such as the Marfan syndrome which show dominant inheritance and those such as Mongolian that are caused by chromosome abnormalities, could probably not be ameliorated by the kind of gene therapy we emphasize here.

CURRENT THERAPY

Human genetic diseases are usually treated by dietary therapy (12), drug therapy, or gene product replacement therapy (11). For example, diets low in lactose or phenylalanine are used as treatments for individuals with galactosemia and phenylketonuria, respectively. Such diets have proved exceedingly effective in galactosemia and have produced a marked reduction in the incidence of mental retardation associated with phenylketonuria. In terms of Fig. 1 this therapy corresponds to restricting the intake of compound A, thus minimizing the accumulation of compound C whose further normal metabolism is blocked.

Drug therapy has been used to block or reduce the accumulation of undesired and possibly harmful metabolites. One example is the inhibition of the enzyme xanthine oxidase with the drug allopurinol to reduce the accumulation of uric acid associated with gout and the Lesch-Nyhan syndrome (13). At present, this method of treatment has been applied to only a few human genetic diseases. Its more general application clearly depends upon the availability of drugs which act selectively on specific enzymes. In another form of drug therapy, drugs which combine specifically with the accumulated compound C are used. An example is the use of D-penicillamine to promote excretion of excess cystine in patients with cystinuria (11).

In theory, some human genetic diseases might be alleviated by supplying directly the deficient enzyme (E_2 in Fig. 1). Recently, attempts to treat Fabry's disease (14), metachromatic leukodystrophy (15), and type 2 glycogenosis (16), by administering the missing enzyme have been reported. Since exogenous enzyme molecules are eventually inactivated or excreted from the body, repeated enzyme injections would be required to manage the diseases in this way. In time, the patients would probably respond by forming antibodies against the administered enzyme. However, insoluble or encapsulated enzyme preparations may in the future provide a means of supplying therapeutic enzymes in a more stable and perhaps less immunogenic form.

There are growing possibilities for the early detection of some genetic diseases by diagnosis in utero. It is now possible to sample the cells of a growing fetus in utero and by examining these cells to diagnose a variety of genetic defects (17). If genetic defects are detected, some states will permit an abortion if the prospective parents so desire. We recognize that diagnosis in utero and abortion raise difficult social and ethical problems of their own and cite them only to indicate that there are additional alternatives to prospective gene therapy for coping with human genetic disease.

However, many genetic diseases do not yet respond to any of these treatments. For example, most genetic disorders of amino acid metabolism (other than phenylketonuria) cannot be well controlled by dietary therapy. Storage diseases associated with lysosomal enzyme deficiencies (18) do not appear to respond to enzyme therapy (14, 15) and will probably be impossible to control by dietary restriction. In addition, even in cases where disease management is effective, it is seldom perfect. Individuals with diabetes mellitus, when treated with insulin, have an increased incidence of vascular and other disorders and a decreased life expectancy compared to the nondiabetic population (19). Children with Lesch-Nyhan syndrome may have their uric acid accumulation controlled by drug (allopurinol) therapy, but their brain dysfunction, has to date, not been reversible.

These limitations of current therapy are stimulating attempts to develop techniques for treating human genetic diseases at the genetic level, the site of the primary defect. Genetic modification of specific characteristics of human cells by means of exogenous DNA seems possible for several reasons. DNA-mediated genetic modification of several different kinds of bacteria has been known for many years (20), and recent experiments suggest that the genetic properties of mutant *Drosophila* strains can be modified by treating their eggs with DNA extracted from other *Drosophila* strains (21). It has also been found that treatment of human cells in vitro with DNA extracted from the oncogenic virus SV40 results in permanent hereditable alteration of several cellular properties (22).

GENETIC MODIFICATION MEDIATED BY DNA

Permanent, heritable, genetic modification of a human cell by means of DNA requires (i) uptake of the exogenous DNA from the extracellular environment; (ii) survival of at least a portion of the DNA during its intracellular passage to the nucleus; (iii) stabilization of the exogenous DNA in the recipient cell; and (iv) expression of the new genes via transcription into an RNA message (mRNA) and translation of this message into the appropriate protein. Some of these processes are illustrated schematically in Fig. 2.

Mammalian cells take up proteins, nucleic acids, and viruses from their environment by a process known as endocytosis (23). After binding to the cell membrane, the macromolecules are drawn into the cell by an infolding of the external cell membrane leading to vesicle formation (see Fig. 2). Macromolecules contained in vesticles derived from invaginations of the external cell membrane can be degraded if these vesicles fuse with lysosomes. Lysosomes are cell organelles which contain a variety of hydrolytic enzymes. These enzymes can rapidly degrade ingested macromolecules, including DNA (24). Thus, mammalian cells possess mechanisms for protecting themselves from the potentially perturbing influences of foreign DNA.

Despite this cellular defense mechanism, exogenous foreign DNA can, under certain circumstances, become integrated in the DNA of the recipient cell. The evidence of this has come from studies of oncogenic virus transformation of mammalian, including human, cells (25). In the case of oncogenic transformation with SV40 virus, the viral DNA is apparently physically integrated into the chromosomal DNA of the recipient cell (26). It seems probable that heritable alterations of cell morphology and biochemistry are the result of the expression of one or more viral genes. Presumably, viral DNA integration takes place by base pairing of homologous regions of host cell and viral DNA followed by genetic recombination. However, the integration of ongenic viral DNA may represent a special case since at least one viral gene product may be required for integration (27). Other, nonviral DNA molecules, unable to supply this integration function, might integrate at a much lower frequency, if at all.

In addition to integration by genetic recombination, exogenous DNA might be stabilized in the recipient mammalian cell as an independently replicating genetic unit in the cell nucleus. Although such units are known to exist in bacteria, they have not been observed in mammalian cells. However, the cytoplasmic mitochrondria of mammalian cells do contain nonchromosomal, independently replicating units of DNA. The mitochondrial DNA replication system thus offers another possible site for stabilization of exogenous DNA.

For a human genetic defect to be repaired by administering exogenous DNA, the stabilized newly introduced DNA must be correctly expressed. That is, the new gene must be correctly transcribed into mRNA and this mRNA must be correctly translated into protein. Since little is known about the regulation of mRNA synthesis and translation during natural gene expression in mammalian cells, a corresponding high degree of uncertainty exists concerning the ability of newly introduced DNA to be expressed correctly.

A variety of attempts have been made to demonstrate DNA-mediated modification of genetically mutant mammalian cells, both in vivo and in vitro. Apparently successful results in vitro have been reported for diploid human cells lacking the purine "salvage" enzyme hypoxanthine-guanine phosphoribosyltransferase (HGPRT); in human reticulocytes synthesizing an abnormal hemoglobin; in several malignant cells of mouse origin carrying markers for drug resistance; and in mouse cells with defective melanin synthesis, among others (28). In addition, transient expression of HGPRT enzyme function haa been detected in human cells deficient in HGPRT after exposing them to DNA from cells with normal amounts of HGPRT (29). This suggests that exogenous DNA may be taken up and expressed, without necessarily being stabilized. However, none of the successful experiments described to date have been reproducible.

There may be several reasons for failure to demonstrate consistently the genetic modification of mammalian cells by DNA. Many previous experiments suffered from the unavailability of good genetic markers and sensitive selective systems for detecting modified cells. An important difficulty in using bulk DNA isolated from human (or other mammalian) cells is that the fraction of this DNA which is specific for any given gene is estimated to be extremely small, of the order of 10^{-7} (30). As we mentioned earlier, nonviral exogenous DNA may not be able to integrate into the chromosomal DNA of the recipient cell, thus preventing permanent genetic modification.

In spite of the lack of reproducible success in past experiments, several recent technical developments have suggested new ways in which the problems of low DNA specificity, failure of integration, and intracellular DNA degradation might be overcome.

The prospects for directing genetic modification of mammalian cells would almost certainly be enhanced by using DNA preparations containing only the gene for which the genetically defective cells are mutant. As already pointed out, both the isolation of a specific group of bacterial genes and the complete chemical synthesis of a single gene were reported recently (5, 6).

The RNA-dependent DNA polymerase recently found in RNA tumor viruses (31) could also be used for gene synthesis in vitro. Since this enzyme is able to make DNA copies from an RNA templete, it offers a method for synthesizing the DNA for any specific RNA which might be isolated in pure form. Thus, it seems probable that our developing ability to isolate specific genes, or synthesize them, will eventually eliminate the problem of low specificity of the exogenous DNA.

Some workers are developing techniques which could be used to overcome the problem of stabilizing the incoming exogenous DNA in the recipient cell (32). They plan to make use of the ability of the DNA from SV40 virus to integrate into the chromosomal DNA of the cell. Specific genes will be attached to the viral DNA by means of several biochemical steps which are already known and fairly well characterized. These operations would create a hybrid DNA molecule which would carry the information for integration from the original viral DNA and perform the specific gene functions of the attached DNA.

In this approach, DNA integration would be combined with biochemical manipulation of the DNA gene substance in vitro, and any gene-specific DNA segments obtained by synthesis or isolation could be utilized. It is clear that before such hybrid DNA molecules could be used in a human therapeutic situation, the oncogenic potential of the viral DNA would have to be eliminated.

In another experimental approach, virus-like particles which contain pieces of cellular DNA (pseudovirions) instead of viral DNA are being used as the vector for DNA-mediated genetic modification (33). This might help to protect the incoming DNA from intracellular degradation. However, pseudovirion DNA is probably a random collection of cellular DNA fragments (34) and hence nonspecific for any given gene; it might also be unable to stabilize itself by integration into the host cell DNA. This may explain why attempts to modify thymidine kinase-deficient mouse cells in vitro by means of polyoma virus pseudovirions have been unsuccessful (35).

It has recently proved possible to reconstruct infectious particles of several plant and bacterial viruses from the nucleic acid and capsid protein components (36). This suggests the possibility of creating artificial pseudoviruses as vectors for DNA-mediated genetic modification. These pseudovirions would contain specific DNA segments (either isolated or synthesized) surrounded by virus capsid protein. The probability of introducing a specific piece of genetic material might be greatly increased when compared with natural pseudovirions carrying randomly excised pieces of DNA. This in no way solves the difficulties of integration and expression of the genetic material. Since the specificity of virus-cell interactions is determined at least in part by the virus capsid protein, encapsidation of specific DNA molecules might confer some cell or tissue selectivity upon the DNA molecules used for gene modification.

DNA-MEDIATED GENE THERAPY

In attempting to envision how DNA might be used as a mediator for the modification of genes in a human being suffering from a genetic defect, we foresee several kinds of new problems. First, the existence of differentiation and cell specialization in the human body will pose several questions. Many human genes are active or expressed only in a small fraction of the cells of the body. For example, the activity of the enzyme phenylalanine hydroxylase (deficient in individuals with phenylketonuria) is demonstrable only in the liver. For prospective gene therapy there might be several consequences. (i) The introduction of, for example, the gene for phenylalanine hydroxylase into cells which do not normally express this enzyme would yield no therapeutic benefits if the expression of the newly introduced genes were also blocked.

Methods would have to be developed to deliver the exogenous DNA to the appropriate "target tissue," and to confine its action solely to that tissue. (ii) Some gene products (hormones, for example) are made and secreted by one specialized group of cells and act on target cells elsewhere in the body. Synthesis and secretion of hormones such as insulin are regulated by mechanisms which are still imperfectly understood. Thus, the introduction of new genes for insulin into cells not appropriately differentiated to provide the correct synthetic and secretory responses would be of little use as a treatment for diabetes. (iii) In several genetic disorders, genetic modification of the brain cells themselves may be required to reduce the accumulation of metabolites in the brain, because the blood-brain barrier might prevent enzymes made in other parts of the body from entering the brain (15). We wonder whether direct genetic modification of brain cells could be made safe enough for use in human patients.

Second, regulation of the quantitative aspects of enzyme production may present a problem. By mechanisms as yet unknown, concentrations of cellular enzymes are regulated so that neither too much nor too little enzyme is produced by normal cells. How will we ensure that the correct amount of enzyme will be made from the newly introduced genes? Will the integration event, linking exogenous DNA to the DNA of the recepient cell, itself disturb other cellular regulatory circuits?

Third, the patient's immunological system must not recognize as foreign the enzyme produced under the direction of the newly introduced genes. If this occurred, the patient would form antibodies against the enzyme protein, perhaps nullifying the intended effects of the genetic intervention. This suggests that the new gene introduced during gene therapy would have to code for an enzyme with the same amino acid sequence as the human enzyme.

In addition, administration of foreign genetic material to patients carries a risk of altering the germ cells as well as the desired target cells. One might think that this problem could be circumvented by first removing some of the patients' cells, carrying out DNA-mediated genetic modification in vitro, and then reimplanting the altered cells back into the patient. However, this approach is likely to be limited by the tendency of cells to dedifferentiate and become malignant when grown in vitro.

For an acceptable genetic treatment of a human genetic defect, we would require that the gene therapy replace the functions of the defective gene segment without causing deleterious side effects either in the treated individual or in his future offspring. Years of work with tissue cultures and in experimental animals with genetic defects will be required to evaluate the potential side effects of gene therapy techniques. In our view, solutions to all these problems are needed before any attempt to use gene therapy in human patients could be considered ethically acceptable.

We are aware, however, that physicians have not always waited for a complete evaluation of new and potentially dangerous therapeutic procedures before using them on human beings. Consider how little was known of the basic aspects of virology during Jenner's development of vaccination against smallpox. In this regard, potential gene therapy techniques resemble other medical innovations. There is currently, and there may continue to be, a tendency to use incompletely understood genetic manipulative techniques, borrowed from molecular biology, in clinical settings. We believe that the first attempt at gene therapy in human patients (8) illustrates this contention.

The case in question (8) concerns two children suffering from hyperargininemia, a hereditary deficiency of the enzyme arginase. The arginase deficiency leads to high concentrations of arginine in the children's blood and cerebrospinal fluid, and has associated with it severe mental retardation (37). An attempt has been made to correct this defect at the genetic level by injecting Shope papilloma virus into the children (8). The scientific rationale for this treatment is based upon the report that the synthesis of arginase is stimulated in rabbit skin infected with Shope papilloma, and that this new arginase activity had some properties which are different from those of the normal enzyme of rabbit liver (38).

In 1958, when these experiments were first reported, it was postulated that the viral DNA carried the gene for a vital arginase different from the cellular enzyme. In addition, the serums of laboratory workers who had worked with and thus been exposed to Shope papilloma virus were tested, and 35 percent of them exhibited lower concentrations of arginine than control hospital patients who had not knowingly been exposed to the virus (39). Thus, there were some grounds for believing that inadvertent infection with Shope papilloma in humans could lower the concentration of serum arginine without apparent harmful effects.

More recently, the interpretation that Shope papilloma virus codes for an arginase has been seriously questioned (40). It now appears more probable that the virus infection stimulates the production of a cellular arginase. Whether the induced arginase is coded for by viral or by cellular genes is important to the rationale of this attempt at gene therapy. If virus infection induces the synthesis of cellular arginase, and if the children have hereditarily lost the ability to produce arginase, then infecting the children with Shope papilloma virus may not have any possibility of correcting their condition (41).

The use of intact viruses as vectors in gene therapy raises further questions. When applied to the skin of rabbits Shope papilloma virus induces skin papillomas, a variable

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proportion of which develop into cancerous skin lesions. Although Shope papilloma has not had any known harmful effects on humans, tests to establish the safety of large doses have not been performed. It should also be shown that a vector for clinical gene therapy is free from other contaminating viruses latent in the cells used to produce the injected virus.

The clinical results of this therapeutic attempt are not yet known. But we are concerned that this first attempt at gene therapy, which we believe to have been premature, will serve as an impetus for other attempts in the near future. For this reason, we offer the following considerations as a starting point for what we hope will become a widespread discussion of appropriate criteria for the use of genetic manipulative techniques in humans.

SOME PRELIMINARY CRITERIA

We propose the following ethico-scientific criteria which any prospective techniques for gene therapy in human patients should satisfy:

(1) There should be adequate biochemical characterization of the prospective patient's genetic disorder. It should be determined whether the patient (i) is producing a mutated, inactive form of the normal protein; (ii) is producing none of the normal protein; or (iii) is producing the normal protein in normal amounts, but the protein is rendered inactive in some way. For example, alterations in membrane structure leading to loss of the cellular receptors for insulin could produce a diabetes-like condition, even though the patient were producing normal amounts of insulin. We anticipate that defects of this type may be found affecting the activity of enzymes which are normally constituents of cell membranes. Our point is that only in the first type of genetic defect (i) would currently envisioned gene therapy techniques be likely to improve the patient's condition.

(2) There should be prior experience with untreated cases of what appears to be the same genetic defect so that the natural history of the disease and the efficacy of alternative therapies can be assessed. Thus, the first reported cases of a new human genetic disease would seldom be candidates for attempts at gene therapy. The reason for this criterion comes from our accumulating experience with some of the better studied genetic defects such as phenylketonuria and galactosemia. We now observe heterogeneity in these conditions; that is, what appears to be the same genetic disease turns out to have different genetic bases in different individuals. Widespread screening for phenylketonuria in newborns has detected individuals who, like phenylketonurics, have high concentrations of phenylalanine in the serum just after birth, but have concentrations in the normal range several months later (2). It is now also clear that some individuals with high concentrations of phenylalanine in the serum have normal intelligence quotients (2). We anticipate that other genetic diseases will exhibit the same kind of heterogeneity. Concern for the welfare of each individual patient dictates that we not rush in with gene therapy until we are very sure about the precise nature and consequences of his genetic defect.

(3) There must be an adequate characterization of the quality of the exogenous DNA vector. This will require the development of new, more accurate methods of analyzing the base sequence of the DNA, if synthetic DNA molecules are to be used, or the development of new methods of isolation and purification, if naturally occurring DNA molecules are to be used. We visualize the Food and Drug Administration, or some similar organization, establishing and enforcing quality standards for DNA preparations used in gene therapy.

(4) There should be extensive studies in experimental animals to evaluate the therapeutic benefits and adverse side effects of the prospective techniques. These tests should include long-term studies on the possible induction of cancer and genetic disturbances in the offspring of the treated animals. This will require the development of animal models for human genetic diseases. Previous work, which led to the isolation of a mouse strain deficient in the enzyme catalase (42) suggests that such animal models could be developed and might yield answers to some of the questions we have raised.

(5) For some genetic diseases, the patient's skin fibroblasts grown in vitro reflect the disorder. Thus, in some cases it would be possible to determine whether the prospective gene therapy technique could restore enzyme function in the cells of the prospective patient. This could be done first in vitro, without any of the risks of treating the whole patient. Some side effects, such as chromosome damage and morphological changes suggesting malignancy, could also be assessed at this time. Only when a potential gene therapy technique had satisfied all these safety and efficacy criteria would it be considered for use in human patients.

These criteria omit some other considerations which we believe are important. Although the ethical problems posed by gene therapy are similar in principle to those posed by other experimental medical treatments, we feel that the irreversible and heritable nature of gene therapy means that the tolerable margin of risk and uncertainty in such therapy is reduced. Physicians usually arrive at a judgment regarding the ethical acceptability of an experimental therapy by balancing the risks and consequences of different available treatments against their potential benefits to the patient. In general, the degree of risk tolerated in medical treatment is directly related to the seriousness of the condition.

High-risk treatments are sometimes considered more justified in life-threatening situations. For different human genetic diseases, the severity of the problem in the untreated condition and the response to currently available therapy varies greatly. Thus, phenylketonuria leads to mental retardation can be avoided for the most part by prompt neonatal dietary therapy. In contrast, in the infantile form of Gaucher's disease, a deficiency in the enzyme glucocerebrosidase (important in the metabolism of brain glycolipids) leads to severe and progressive neurologic damage and death within 1 or 2 years (38). There is as yet no effective therapy. Thus, the specific characteristics of each genetic disease will be an important factor in evaluating whether or not to attempt gene therapy. We believe that the prospective use of gene therapy will need to be evaluated on a case by case basis.

Another ethical ideal which guides experimental medical treatments is informed consent. By informed consent we mean that the patient, after having the nature of the proposed treatment and its known and suspected risks explained to him by the physician, freely gives the physician his consent to proceed with the treatment. Since many of the cases where gene therapy might be indicated will involve children or newborns as patients, there will be especially troubling problems surrounding informed consent. Parents of newborn children with genetic defects may be asked to give "consent by proxy" for gene therapy. Clearly, until we know much more about the side effects of gene therapy, it will not be possible to provide them with adequate information about risks to the treated individual and his offspring.

CONTROL OF GENE THERAPY

How can gene therapy in humans be controlled to avoid its misuse? By misuse we mean the premature application of techniques which are inadequately understood and the application of gene therapy for anything other than for the primary benefit of the patient with the genetic disease. In our view, it will be possible to control the procedures used for gene therapy at several levels. For example, between the patient and physician, we can usually rely upon the selection of a therapeutic technique having optimal chances of success. In general, we believe that the doctor will not recommend and the patient will not accept an uncertain, risk-laden gene therapy if a reasonably effective alternative therapy is available.

However, the physician, in this as in other cases of experimental therapeutic techniques, has a near monopoly on the relevant facts about risks and benefits of various treatments. Since the physician concerned may also be active in trying to develop the gene therapy technique, how can the patient be protected from a physician who might be over-eager to try out his new procedure?

It seems to us that significant opportunities for control also exist at the level of the hospital committees responsible for examining experimental techniques. Already at accredited hospitals, all proposals for research in which human subjects will be used must pass through a review committee. Further control exists through scrutiny of the proposed techniques by the physician's immediate peers.

Procedures to be used for gene therapy might also be controlled by the committees and organizations approving and funding research grants. Moderately large amounts of money will be required for the development of gene therapy techniques, hence there should be competition for public funds with other urgent medical needs. Thus, the first use of gene therapy in human patients would, of necessity, have secured the implied or direct approval of several larger public bodies beyond the principal physician-investigator. In our judgment, these levels of control will probably prove adequate to prevent misuse of projected gene therapy if, as we suspect, gene therapy is attempted in only a small number of instances. Any potential large-scale use of gene therapy (for example, the prospect of treating the approximately 4 million diabetics in the United States with DNA containing the gene for insulin) might appreciably affect the overall quality of the gene pool and would require other forms of control.

CONCLUSIONS

In our view, gene therapy may ameliorate some human genetic diseases in the future. For this reason, we believe that research directed at the development of techniques for gene therapy should continue. For the foreseeable future, however, we oppose any further attempts at gene therapy in human patients because (i) our understanding of such basic processes as gene regulation and genetic recombination in human cells is inadequate; (ii) our understanding of the details of the relations between the molecular defect and the disease state is rudimentary for essentially all genetic diseases and (iii) we have no information on the short-range and long-term side effects of gene therapy. We therefore propose that a sustained effort be made to formulate a complete set of ethicoscientific criteria to guide the development and clinical application of gene therapy techniques. Such an endeavor could go a long way toward ensuring that gene therapy is used in humans only in those instances where it will prove beneficial, and toward preventing its misuse through premature application.

Two recent papers have provided new demonstrations of directed genetic modification of mammalian cells. Munyon *et al.* (44) restored the ability to synthesize the enzyme thymidine kinase to thymidine kinase-deficient mouse cells by infection with ultraviolet-irradiated hedpes simplex virus. In their experiments the DNA from herpes simplex virus, which contains a gene coding for thymidine kinase, may have formed a hereditable association with the mouse cells. Merril *et al.* (45) reported that treatment of fibroblasts from patients with galactosemia with exogenous DNA caused increased activity of a missing enzyme, *a*-D-galactose-1-phosphate uridyltransferase. They also provided some evidence that the change persisted after subculturing the treated cells. If this latter report can be confirmed, the feasibility of directed genetic modification of human cells would be clearly demonstrated, considerably enhancing the technical prospects for gene therapy.

REFERENCES AND NOTES

1. V. A. McKusick, *Mendelian Inheritance in Man* (Johns Hopkins Press, Baltimore, ed. 3, 1971).
2. D. Y. Y. Hsia, *Progr. Med. Genet.* 7, 29 (1970).
3. E. R. Kramm, M. M. Crane, M. G. Sirken, M. D. Brown, *Amer. J. Public Health* 52, 2041 (1962).
4. V. A. McKusick, *Annu. Rev. Genet.* 4, 1 (1970).
5. J. Shapiro, L. MacHattie, L. Eron, G. Ihler, K. Ippen, J. Beckwith, *Nature* 224, 768 (1969).
6. K. L. Agarwal, H. Buchi, M. H. Caruthers, N. Gupta, H. G. Khorana, K. Kleppe, A. Kumar, E. Ohtsuka, U. L. Rajbhandary, J. H. Van De Sande, V. Sgaramella, H. Weber, T. Yamada, *ibid.* 227, 27 (1970).
7. S. Rogers, *New Sci.* (29 Jan. 1970), p. 194; H. V. Aposhian, *Perspect. Biol. Med.* 14, 98 (1970).
8. *New York Times*, 20 Sept. 1970.
9. A. G. Schwartz, P. R. Cook, H. Harris, *Nature* 230, 5 (1971).
10. B. D. Davis, *Science* 170, 1279 (1970).
11. J. B. Stanbury, J. B. Wyngaarden, D. S. Fredrickson, Eds., *The Metabolic Basis of Inherited Disease* (McGraw-Hill, New York, ed. 2, 1966).
12. N. A. Holtzman, *Annu. Rev. Med.* 21, 335 (1970).
13. W. N. Kelley, F. M. Rosenbloom, J. Miller, J. E. Seegmiller, *N. Engl. J. Med.* 278, 287 (1968).
14. C. A. Mapes, R. L. Anderson, C. C. Sweeley, R. J. Desnick, W. Krivit, *Science* 169, 987 (1970).
15. H. L. Greene, G. Hug, W. K. Schubert, *Arch. Neurol.* 20, 147 (1969).
16. G. Hug and W. K. Schubert, *J. Cell Biol.* 35, Cl (1967).
17. A. Milunsky, J. W. Littlefield, J. N. Kanfer, E. H. Kolodney, V. E. Shih, L. Atkins, *N. Engl. J. Med.* 283, 1370, 1441, 1498 (1970).
18. R. O. Brady, *Annu. Rev. Med.* 21, 317 (1970).
19. S. Pell and C. A. D'Alonzo, *J. Amer. Med. Ass.* 214, 1833 (1970).
20. R. D. Hotchkiss and M. Gabor, *Annu. Rev. Genet.* 4, 193 (1970).
21. A. S. Fox, S. B. Yoon, W. M. Gelbart, *Proc. Nat. Acad. Sci. U.S.* 68, 342 (1971).
22. S. A. Aaronson and G. J. Todaro, *Science* 166, 390 (1969).
23. H. J. P. Ryser, *ibid.* 159, 390 (1968).
24. J. T. Dingle and H. B. Fell, *Frontiers Biol.* 14A, 220 (1969).
25. R. Dulbecco, *Science* 166, 962 (1969); M. Green, *Annu. Rev. Biochem.* 39, 701 (1970).
26. J. Sambrook, H. Westphal, P. R. Srinivasan, R. Dulbecco, *Proc. Nat. Acad. Sci. U.S.* 60, 1288 (1968).
27. M. Fried, *Virology* 40, 605 (1970).
28. E. H. Szybalska and W. Szybalski, *Proc. Nat. Acad. Sci. U.S.* 48, 2026 (1962); M. Fox, B. W. Fox, S. R. Ayad, *Nature* 222, 1086 (1969); R. A. Roosa and E. Bailey, *J. Cell. Physiol.* 75, 137 (1970); L. M. Kraus, *Nature* 192, 1055 (1961); D. Roth, M. Manjon, M. London, *Exp. Cell Res.* 53, 101 (1968); J. L. Glick and C. Sahler, *Cancer Res.* 27, 2342 (1967); E. Ottolenghi-Nightingale, *Proc. Nat. Acad. Sci. U.S.* 64, 184 (1969).
29. T. Friedmann, J. H. Subak-Sharpe, W. Fujimoto, J. E. Seegmiller, paper presented at Society of Human Genetics Meeting, San Francisco, Oct. 1969.
30. Calculated with the assumption that (i) the DNA contents of a diploid human cell is 4×10^{12} daltons; (ii) representative gene codes for a protein containing 200 amino acids equivalent to 4×10^{5} daltons of DNA; and (iii) there are two copies of each gene per cell. This would represent a minimum estimate if the redundant DNA segments in human cells include genes which specify enzymes.
31. H. M. Temin and S. Mizutani, *Nature* 226, 1211 (1970); D. Baltimore, *ibid.*, p. 1209.
32. P. Berg, and D. M. Jackson, personal communication.
33. J. V. Osterman, A. Waddell, H. V. Aposhian, *Proc. Nat. Acad. Sci. U.S.* 67, 37 (1970).
34. L. Grady, D. Axelrod, D. Trilling, *ibid.*, p. 1886.
35. B. Hirt, seminar at Brandeis University, Oct. 1970.
36. H. Fraenkel-Conrat, *Annu. Rev. Microbiol.* 24, 463 (1970).
37. H. G. Terheggen, A. Schwenk, A. Lowenthal, M. Van Sande, J. P. Colombo, *Lancet* II–1969, 748 (1969); *Z. Kinderheilk* 107, 298 and 313 (1970).
38. S. Rogers, *Nature* 183, 1815 (1959).
39. ——— and M. Moore, *J. Exp. Med.* 117, 521 (1963).
40. P. S. Satoh, T. O. Yoshida, Y. Ito, *Virology* 33, 354 (1967); G. Orth, F. Vielle, J. B. Changeux, *ibid.* 31, 729 (1967).
41. This objection would be straightforward if only one type of arginase were present in human cells. Even though there seem to be two arginase isozymes in both human liver and erythrocytes, the objection is still cogent since one isozyme contributes 90 to 95 percent of the total arginase activity, and the two isozymes cross-react immunologically. See J. Cabello, V. Prajoux, M. Plaza, *Biochem. Biophys. Acta* 105, 583 (1965).
42. R. N. Feinstein, M. E. Seaholm, J. B. Howard, W. L. Russel, *Proc. Nat. Acad. Sci. U.S.* 52, 661 (1964).
43. H. Harris, *Frontiers Biol.* 19, 167 (1970).
44. W. Munyon, E. Kraiselburd, D. Davis, J. Mann, *J. Virol.* 7, 813 (1971).
45. C. R. Merril, M. R. Geier, J. C. Petricciani, *Nature* 233, 398 (1971).

[From the Washington Star, Nov. 18, 1971]

THE PATIENT—INDIVIDUAL OR SOCIETY?

(By Judith Randal)

When earlier this year it was announced that Dr. Saul Krugman of the New York University School of Medicine had succeeded in immunizing a small group of children against serum hepatitis, the achievement was widely hailed as a promising public health development. If a vaccine could be perfected against this disease, many thousands of Americans each year—mostly over 40 or enfeebled—might be spared serious illness or death.

But less widely publicized has been the furor over ethics that has ensued in medical circles because of the design of the experiment and the patients on whom it was carried out. For the subjects of this study not only were too young to have legally volunteered, but were mentally defective, as well. Furthermore, although they served the cause of science, they were deliberately infected with virus with no assurance that the exposure would be of any benefit to them.

The experiment took place at Willowbrook, a state institution for the retarded on Staten Island. Related studies, involving similar risk, have been undertaken there by Krugman for the past 15 years. Throughout this period, "informed consent" has been obtained from the parents or guardians of the children, but one of the key factors in the controversy has been the meaning of that phrase.

Krugman maintains that deliberate infection is justifiable because hepatitis becomes a fact of life at Willowbrook for any child entering the institution who has not already had the disease. What is not clear, however, is what "informed consent" entailed in this instance.

His critics would like to know, for example, whether parents who volunteered their children knew that the disease carries a slight but real risk of death in this age group.

In their view, experimentation on children, particularly retarded children, is never justified and the presence or absence of parental consent is somewhat irrelevant.

At present, Krugman is bearing the brunt of criticism, but he is by no means the only investigator whose experiments, however valuable and valid, are controversial.

The question in all such studies—who is the patient, the individual or society?—disturbs the experimenter and his critics alike. And the deeper biological science probes into fundamental mysteries, the faster developments come and the broader are their implications.

At present, for example, it is possible, by taking a frog egg and replacing its nucleus with that of another cell from the frog's body, to grow an entire new frog without the egg's having been fertilized by a sperm—a technique known as "cloning."

At the same time, cancer researchers, in seeking to understand what makes man susceptible to malignancy in the first place, are turning their attention to the development of the fetus. Thus it certainly is theoretically possible that a cloned human being could be grown in the laboratory for cancer research, with various clones being "stopped" at different stages of development for study, as frogs are.

But such a human being would be every bit as human as the cloned frog is frog, with all the rights that human beings have and frogs do not. What, then, of the ethics of lethal experimentation on humans? Or experiments that, while not necessarily lethal, carry a high risk of injury? Would the goal of the conquest of cancer for the many justify the sacrifice of a few clones? From whom should informed consent be sought—or is this relevant? Can science achieve the same ends by other means?

It is just these sorts of questions that have sparked a congressional joint resolution which, at the cost of $1 million, would create a 15-member commission drawn from many disciplines to study for two years the ethical problems raised by advances in the biological sciences.

No one expects that the commission would come up with definitive answers, but just as the Kerner report on violence focused public attention on that issue, so the ethics commission could serve to examine in orderly

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fashion the interlocking developments that are coming from laboratories around the world.

In a society preoccupied with such short-term issues as busing and the cost of living, and gearing up for a presidential election, the proposal will not gain much public attention. This is too bad. Failure now to confront the issues posed by advances in science only increases the likelihood that they will haunt us more deeply in the future.

[From the Washington Star, Mar. 3, 1972]

PSYCHOSURGERY TREND ALARMING

(By Judith Randal)

Is there any length to which society will not go to suppress behavior it considers deviant?

The question is raised by a 20,000-word report on brain surgery inserted into the Congressional Record last week by Rep. Cornelius E. Gallagher, D-N.J. Written by Dr. Peter R. Breggin, a Washington psychiatrist, after almost a year's research, it documents in chilling detail for psychological purposes portends.

At the University of Mississippi School of Medicine, for instance, Dr. Orlando J. Andy, working with a psychologist, has operated on several dozen people, most of them children. Some were only 5 years old.

According to letters written by the pair to Breggin, "these are not psychiatric cases, but behavioral problems." Furthermore, the goal seems to have been less the welfare of the children than to "reduce their hyperactivity to levels manageable by the parents."

What this may entail is illustrated by a boy whom Andy cals J.M. Nine years old at the time of his first operation, in 1966, the child has had three others since because his short-temper, aggression and other symptoms recurred after initial periods of "improvement."

At last report he was "manageable," which should at least spare him further surgery. But in the 1970 account, Andy notes: "Intellectually, however, the patient is deteriorating." Since the effects of psychosurgery are permanent, there will be no turning back.

It would be bad enough if such mutilation were confined to Mississippi. Unfortunately, it is not. Lobotomy—the procedure which ironically won Portuguese neurologist Antonio C.A.F.E. Moniz a Nobel prize—was replaced by electro shock and drugs as a treatment for the insane in the late 1950s. Now, however, it is experiencing a worldwide comeback, both in its original form and with refinements that reflect recent progress in medical technology. And this time, it is not only the schizophrenics whose brains are under siege.

Breggin has found, indeed, that most of the targets are people with "anxiety-tension states" and "obsession syndromes," particularly individuals of "good intelligence and personality." A disproportionate number of them are, he says, women and children, rebellious adolescents and, in a few cases—notably in California—prisoners whom authorities have found troublesome.

In fact, anyone who rubs his family or society the wrong way is apparently at risk.

In Texas, it has been drug addicts and alcoholics; in Canada, individuals who become "intractable" with age; in Britain, people with a pathologic fear of open spaces, and homosexuals; in Germany, sexual deviants, too.

Even chronic gamblers are in peril. Hauled into court for stealing money to meet his gaming debts, one Englishman was offered a choice between "voluntary" surgery and imprisonment. It is not hard to imagine that this could happen to political radicals as well.

An "old-fashioned" lobotomy involves deliberate destruction by scalpel of a portion of the brain's frontal lobes that is not by objective criteria diseased. More recently, however, other brain structures just as crucial to the personality have also been attacked and radium seeds, ultrasound, injections of olive oil or implanted electrodes have sometimes replaced the knife.

No matter how done, however, the operations have a uniform purpose: The "taming" of an uruly spirit that if not cowed by one procedure can always be blunted by the next. Thus, while these advances have the advantage of greater surgical ease and safety, their very simplicity makes them disturbingly attractive as tools for the mass application of mind control.

For the would-be despot—be he politician, prison warden, mental hospital superintendent, law enforcement official, bigot or simply family tyrant—psychosurgery is a dream come true.

Take the case of a woman with a long history of depression. So angered was she by what had been done to her in two operations insisted on by her mother that she refused to undergo a third and, let out of Boston City Hospital to go shopping took a fatal dose of poison. Yet instead of interpreting her suicide as understandably symbolic of vengeance, her doctors described her behavior as "paranoid" and were "gratified" that her apathy had lifted to the point where she could act.

The last time psychosurgery was in fashion some 50,000 Americans underwent this assault on their inmost beings and virtually every state hospital still harbors pitiful remnants of the results. Among the nations of the world, Russia alone has taken legal steps to see that it will not happen again. If the public cares about the rights of the individual guaranteed by the Constitution, it will demand that the United States do so, too.

[From the Washington Star, Oct. 19, 1971]

SCIENCE STARTS TO FACE ITS COMING OF AGE

Seventy-five of the most distinguished scientists and thinkers of the Western world turned up in Washington this past Saturday afternoon, as guests of the Joseph P. Kennedy Jr. Foundation. Their purpose was to think aloud for a few hours on some of the gravest questions ever raised. They were not concerned with science fiction; they were concerned with science reality instead.

Very few persons, outside the scientific community, have given much thought to these questions. We have more immediate things to worry about, after all, than "Who Should be Born?" It is fearfully hard work to grapple with such a topic as "The Ethics of New Technologies in Beginning Life." Few persons are equipped to comprehend today's biology. Given the word "gene" in a word association test, most of us would respond, "McCarthy."

The time is at hand when a great many Americans, at every level of public and private life, must begin to interest themselves in the frontiers of science that are now being actively explored. Yet the scientific questions are perhaps the least complex. Embryologists already know, in general, how to make a "test-tube baby." It is only the technology that remains to be solved. The moral and ethical questions are infinitely more profound: Who decides that such a baby shall be made?

Or consider, if you will, a less shocking prospect. It is only a matter of a few years before the mystery will be solved of sex determination as an aspect of child-bearing. Eventually—certainly by 2000—parents will be able to choose "boy" or "girl" as precisely as they fix a time for dinner. Should this determination be left solely to parents? Or does society as a whole, through some agency of government, have a right to exercise control?

War, it is said, is too serious to be left to generals. By the same token, is parenthood too serious to be left to parents? Within the next few years—certainly by 2000—new techniques of contraception will be universally available. These will be simple, foolproof, and for all practical purposes, free. The moral implications to one side, what of the social and economic implications? Who is to say how many children should be conceived? Should the number be left simply to chance?

Such questions barely cross the frontier. The day will come when geneticists will be able to concoct a fertilized egg of certain preselected properties. The arts of gene insertion, of gene deletion, even of gene surgery, are still primitive and experimental.

Let your mind wander in another field: Mood control. Here the chemistry is far advanced. We already have drugs—they are marketed by the billions—intended to tranquilize or to stimulate. It is but a step (the step can be taken if we choose) to the development of drugs more precisely intended to suppress or to enhance our capacity for aggression.

Should boxers, or football players, or soldiers be given "aggression pills" to improve their performance? Would the Attica uprising have occurred if violent prisoners were treated methodically, as a condition of their sentences, with non-aggression drug? The possibility of putting tranquilizers in water supplies has been discussed at scientific meetings. It could be done. Crime, presumably, would drop. Should it be done?

The most absorbing questions, perhaps, go to the limitations that should be imposed, if any, upon the process of discovery itself. Is there some point at which the door should be slammed? Are there frontiers that ought never to be crossed? Some eminent scientists believe that even now, they may have gone too far in playing God. Is it their responsibility to create life, or vastly to prolong life? Yet who can extinguish Promethean fire?

The scientists who met on Saturday at the Shoreham put in a skull-cracking afternoon. Most of the rest of us were watching college football on the boob-tube. For their thoughtful labors, some grateful thanks are due.

[From the Washington Post, Nov. 3, 1971]

THE ETHICS OF NEW DISCOVERIES

Following the recent symposium sponsored by the Joseph P. Kennedy Jr. Foundation on "Choices On Our Conscience," 21 participants issued a clear and useful statement on the need for greater attention to solving the ethical problems in the physical sciences. "Science and technology," they said, "have added immeasurably to human knowledge, health, well-being, and possibility for good. Inevitably, they have also radically changed the conditions of life and altered the choices that individuals and society have to make. Nowhere is this more evident than in relation to the dramatic advances being made in biological, genetic and medical science. In this field choices may be made, dogmatically or in ignorance, by inadvertence or by default, that can have an irreversible effect on our human future."

Awesome questions face us all in such human issues as how to treat artificial organs, mongoloid infants, test tube conception (cloning), education of the retarded, genetic engineering, electric stimulation of the brain. What has happened in these and other fields is that scientists have often been moving independently, and only now are the ethicists, lawyers, jurists, physicians, social workers, politicians and the common citizens catching up to pose ethical questions. No one denies that scientific exploration is in itself a good or that the quest for knowledge is beneficial. But it is now clear that although a scientist may work in isolation, the results of discoveries may affect the general population. As Dr. Philip Handler, president of the National Academy of Sciences, recently said in a speech to the American College of Surgeons, doctors, for one group, might have to adopt a new kind of ethics where "the responsibility of medicine is not merely to the individual but to the human species."

Happily, the fear that scientific explorations and discoveries may be abused is not a matter of scientists battling ethicists. Many in the scientific community are alarmed also, including the Nobel winning co-discoverer of the structure of the DNA, Dr. James D. Watson; if we do not think about these matters now, he says, "the possibility of our having a free choice will some day suddenly be gone." The Kennedy symposium appears to have been a productive meeting. It aroused public awareness to the new conflicts between science and ethics. Perhaps most important, it forced those who followed the proceedings to realize that the options for future action are decidedly "choices on our conscience."

[From the Boston Globe, Oct. 17, 1971]

ETHICS OF LIFE AND DEATH WEIGHED AT KENNEDY-SPONSORED MEETING

(By Charles E. Claffey)

WASHINGTON.—Eight years ago, an infant lay in a bassinet in a distant corner of the nursery in Baltimore's Johns Hopkins Hospital, condemned to death.

His death sentence, all perfectly legal, was a sign on the bassinet that read: "Nothing by mouth."

The child, a mongoloid, lived 15 days, then starved to death.

His life might have been saved by a routine operation to remove the intestidigestion.

However, his parents, because the child was a mongoloid, refused to give the hospital permission to operate. Thus, doctors had no legal right to perform the surgery.

Right or wrong? Ethical or immoral?

That was one of the subjects yesterday in the most comprehensive symposium on human rights, retardation and research ever held, sponsored by the Joseph P. Kennedy Jr. Foundation.

Among the panelists was Dr. Paul A. Freund of the Harvard Law School, who said that he could not agree with the assumption made in the hospital that if the question had been presented to a court a judge would have endorsed the parent's right to decide that the child should die.

"In the case of a more 'normal' child, the parents would clearly have no such right, and this appears to be acknowledged on all sides."

And, Freund added, even if parents do not will their child's death but refuse consent to a lifesaving operation because of religious objections courts have overridden the religious scruples of the parents and ordered the operation in a child's best interests.

"Parents have an obligation not to mistreat or neglect their children and the courts will enforce that duty. Moreover, physicians who undertake to care for a patient have an obligation to use all reasonable measures (not forbidden by the parents) to promote the patient's well-being and not do him harm."

Freund compared the case of the 15-day old infant to euthanasia, or mercy-killing.

The death, he said, was caused not by human agency, but by impersonal forces.

But he offered these arguments to the contrary:

—Death occurred from starvation, resulting from directions given at the hospital.

—Inaction is tantamount to action when there is a duty to act and an omission to do so.

Freund concluded that the decision involving the proper care and custody of the child should not be made by doctors or parents but by a disinterested tribunal.

"In the end, though," he added, "the decision of parents and hospital, in harmony with that of law itself, would have been in favor of life."

Social critic Michael Harrington said the case of the mongoloid baby was important because "we are more and more going to have to face just such tormenting decisions." He added:

"Society is going to have to play God."

He noted, though, that such a tendency is "an enormously dangerous undertaking which could lead us, as Dostoevsky thought, to totalitarianism.

"Yet this role is thrust upon us whether we like it or not because we have ingeniously created the power to intervene in questions of life and death which were previously determined by a mysterious order of things . . . which was sometimes called God."

Harrington likened the issue to that of abortion, "so that is least now some- • • • Catholics are now willing to debate the details of a public policy which does not universalize their own private ethics and even contradicts it."

Harrington stressed, though, that he would have favored saving the life of the mongoloid child and using legal compulsion to do so if that were necessary.

"I am not arguing in favor of giving to government a new power of life and death but rather insist that it must protect life."

Therefore, Harrington said, that even though there are dangers inherent in law and state power in such cases, "I think they must be risked, for that is the only way to expand individual freedom—in this case, the individual freedom of a mongoloid child."

While the conference in Washington got under way, the Boston's Joint Center for the Study of Law and Human Genetics, cosponsored by Tufts-New England Medical Center and Boston College Law School, prepared for a meeting Wednesday at Boston College on the medical, ethical and legal ramifications of genetic advances.

Another major move in bioethics also is being taken by the Senate subcommittee on health, headed by Sen. Edward M. Kennedy. The commitee will hold hearings in November on a resolution filed by Sen. Walter F. Mondale (D-Minn.) and co-sponsored by Kennedy.

The resolution calls for establishing a National Advisory Commission on Health, Science and Society. This group of 15 would report to the President and to Congress after a two-year study of the broad ramifications of bioethical problems.

The Senate health group's hearings are expected to include testimony on total body irradiation of patients in Cincinnati to study the effects of radiation on human beings. The purpose of the studies, it is alleged, is to understand better the influence of radiation on the combat effectiveness of troops. The studies were done under Pentagon contract.

The Joseph P. Kennedy Jr. Foundation has supplied funds for an Interfaculty Program on Medicine and Ethics at Harvard and given $1.5 million to Georgetown University for a new Institute of Bioethics, which opened this month.

[From Science, Jan. 7, 1972]

ETHICS: BIOMEDICAL ADVANCES CONFRONT PUBLIC, POLITICIANS, AS WELL AS PROFESSIONALS WITH NEW ISSUES

Early last month the Senate passed a resolution calling for the establishment of a National Advisory Commission on Health Science and Society. The vote, assuming it is reaffirmed in the House, culminates a quiet battle that Senator Walter Mondale (D-Minn.) has waged for several years for a federal-level body to center the nation's attention on ethical and policy questions raised by new advances in biomedical technology.

The new body would have a 2-year existence, with a budget not exceeding $1 million a year. The commission, directed by a board of 15 professionals from the fields of law, theology, medicine, government, and the humanities, would have as its mandate the study and evaluation of the ethical, social, and legal implications of advances in biomedical research and technology. In addition to holding hearings and seminars, the commission would contract for studies to be conducted by various universities and research centers.

The resolution was unanimously approved by the Senate, despite mild Administration opposition voiced in testimony by Merlin K. DuVal, undersecretary of Health, Education, and Welfare for health and scientific affairs, who said public and private groups already have things under control.

Mondale tried to get the Senate to act on his commission idea in both 1967 and 1968, when heart transplants were the center of medical controversy. But the proposal met strong resistance from members of the biomedical community and got bogged down in committee. During hearings in 1968, for example Nobel laureate geneticist Arthur Kornberg testified he saw no new ethical or moral problems arising from advances in his field. The only use he could see for such a commission, he said, would be in educating the public on the need for more research money for scientists. Heart transplanter Christian Barnard took a similar tack. His remarks betrayed the assumption that attempts by any nonmedical body to influence medical or scientific policies would automatically be repressive.

Times have changed. Heart transplant decisions are child's play compared to the questions raised by advances in other fields, notably genetics, which have transformed yesterday's science fiction into today's foreseeable reality. Amniocentesis has made it possible to detect certain genetic disorders, such as mongolism and Tay-Sachs disease, in utero. In vitro fertilization of human ova has been achieved, and scientists are working on reimplantation of an egg in the womb. The ability to choose the sex of a baby is pending. And cloning—that is, producing an individual genetically identical to the original individual—may be technically possible in the next 50 years (some scientists say in the next decade).

Behavior modification is another field of equally rapid advances and stupendous implications. Both through chemistry and through electrical manipulation of the brain, scientists have found ways to stimulate or control emotion—developments that have the press speculating about "thought control" and the imminence of 1984.

Technology that indefinitely prolongs the life of the dying has raised questions as to the "right to die" and when to "pull the plug." Linked with this is confusion over the allocation of scarce and expensive resources such as kidney dialysis machines.

The increased sensitivity to individual rights manifested over the past decade has caused a number of old practices to be reevaluated. Sterilization of the hopelessly retarded has become taboo. Methods of obtaining "informed consent" for human experiments are being questioned. And the denial of a life-saving operation to a newborn Mongoloid, a practice taken for granted

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at many hospitals for years, was the subject of passionate denunciation at a recent symposium on ethics.

A central issue in recent ethical debates has been abortion. Genetic advances and the rolling back of legal and religious prohibitions has turned the question of abortion into a forum for new attempts to define "life," "the right to life," the conflicting rights of interested parties (in this case, mother and fetus), and even (in the case of a grossly defective fetus) the right to be aborted.

A number of organizations that have recently come into existence are attempting to lay the groundwork, through symposia and interdisciplinary studies, for principles covering these matters.

One is the 2-year-old Committee on the Life Sciences and Social Policy of the National Academy of Sciences, directed by biochemist Leon Kass, which has been conducting studies in four areas: choosing the sex of the unborn, in vitro fertilization, behavior modification, and aging. Another is the Institute of Society, Ethics, and the Life Sciences of Hastings-on-Hudson, N.Y., which was set up in 1969 by Daniel Callahan, a writer and theologian. The Hastings institute has set up interdisciplinary task forces to conduct long-term studies on a similar range of subjects, including population and the teaching of medical ethics.

The Joseph P. Kennedy, Jr., Foundation, hitherto primarily devoted to the study of mental retardation, recently gave Georgetown University $1.3 million for the establishment of the Joseph and Rose Kennedy Institute of Bioethics, which will provide "on the job" training for graduate students in ethics.

The Kennedy institute, according to director Andre Hellegers, will be an unusual experiment in reuniting long-fragmented disciplines. Under one roof will be all the clinical, scientific, psychological, and sociological aspects of reproduction, genetics, and obstetrics.

Many people think that the reunification of long-estranged disciplines will be the only way to ensure a built-in sensitivity on the part of medical practitioners and researchers to the implications of their work. Says Hellegers: "Ethics as a cogent force fell apart when it became divorced from other faculties." By the same token, intradisciplinary barriers have allowed the legal profession to come up with laws that are theoretically sound but medically senseless, and have left most members of the clergy ill-equipped to offer advice on anything but religion.

There are still only a handful of universities across the country that offer courses with an interdisciplinary approach to ethics. The only full-fledged program is a 4-year course offered at Columbia University's College of Physicians and Surgeons. But ethics seminars, where available, are increasingly popular with medical students.

It has been more through the activities and symposia sponsored by such interdisciplinary groups as the Hastings institute than through the efforts of organized medicine that public attention has been focused on questions raised by new biomedical technology. These groups see a federal-level commission as a desirable supplement to their endeavors and a way to educate scientists as well as laymen on the need for public discussion.

The American Medical Association, by contrast, has indicated to Mondale's committee that the private sector is giving adequate attention to these matters through such forums as the biennial AMA congresses on ethical issues in medicine, which began in 1968. Nonetheless, the AMA Judicial Council moved in November to arrange for a series of articles on euthanasia, genetic engineering, and so forth to be written for the AMA journal—a possible sign that deep-rooted complacency in some areas is being rapidly replaced by concern over unanticipated and possibly irreversible developments the future may have in store.—Constance Holden.

[From Technology Review, January 1972]

WASHINGTON REPORT—"WHAT ABOUT THE RIGHTS . . .?"

(By Victor Cohn)

Has the time come for society to regulate science?

Consider this event. A mongoloid boy was born at Johns Hopkins University Hospital. Common enough—mongolism or Downs' syndrome is the most common cause of mental retardation. It occurs once in 600 births.

This baby also had an intestinal obstruction, however, that prevented him from receiving any nourishment. This could easily have been corrected by surgery, but the baby's parents refused permission.

They were told all the pertinent facts. Mongoloid children can lead happy, productive lives. They can learn simple jobs, though their IQ seldom tops 75. They are a focus of warmth and love in many families.

The parents nonetheless said "no" to the surgery, explaining, "Why burden society with a mongoloid child? Why not let God's will be done?"

The doctors consulted lawyers and judges, who said that no court would make the child a ward of the state—the only circumstance under which a judge could order the operation. It took 15 days for the baby to die, while, testified Dr. William Bartholme, senior assistant resident in pediatrics and doctor in charge, "I tried not to look at the baby, and when I did, I didn't want to touch it. The nurses were full of horror and disbelief. The father would call and ask, 'How are things?' meaning 'Did the baby die yet?' "

Dr. Robert E. Cooke, Pediatrician-in-Charge at Johns Hopkins, said of this case: "That's certainly child abuse. It gets on the border of murder."

An unusual case? Not so very. Bartholme said that at least four times in the last five years at this hospital alone, parents have similarly allowed mongoloid children to die by denying permission for surgery. He said that similar life-and-death decisions are made at least twice a week by doctors at this hospital.

"Society," added Dr. Cooke, "seems awfully unwilling to help us out of a jam."

This bona fide example was presented in a 25-minute film during a compelling symposium on the ethics of medicine—and a search for solutions—sponsored last fall in Washington by the Joseph P. Kennedy Foundation.

CHILD DEFENDERS?

Dr. Batholme thought that "what we need is a group of people sophisticated enough in law, ethics, sociology and medicine to make this kind of decision," instead of leaving it to parents and doctors. (Johns Hopkins now has such an advisory group.)

Mrs. Sydney Callahan, psychologist and mother of several children, agreed. Parents should not have the right, she argued, to doom a child as though it were their "property." Each person should be thought of as "belonging" to the human species, with "child defenders," perhaps, to represent a baby versus his executioners.

But Dr. Renee Fox, professor of Sociology at the University of Pennsylvania, said there are also dangers in the concept that we all must be our brother's—or child's—keeper. Severe emotional problems have been triggered by the request or demand of one member of a family that another sacrifice a kidney to save the first person's life. While some families have successfully accommodated a retarded child, others have been broken up. "What about the rights of our other children?"—this question was asked by the parents in the Johns Hopkins case.

Asked in Washington, such questions may be expected to generate political answers or responses. Sen. Walter F. Mondale (D-Minn.) and 16 senatorial colleagues have proposed a joint Congressional resolution to create a 15-member National Advisory Commission on Health, Science and Society, with a $1 million budget to make a two-year study of such dilemmas.

Mondale, a minister's son, has made such a proposal before, and in 1967 he even prompted a set of Senate hearings on the subject. They caused some, not much, comment. The largest notice was taken during the appearance of the glamorous Dr. Christian Barnard—his heart transplants were in their heyday. Barnard or not, the subject was soon forgotten.

DOES THIS SOUND FRIGHTENING?

One of these days, however, some new event—the birth of a test-tube baby? something else?—will take place someplace with the impact of an atom bomb, and all over the world everyone will say, "Why didn't we talk about such things?"

Biologist James D. Watson (of the double helix) passionately believes there should be "some form of international agreements" about whether or not to permit research leading to test-tube babies and cloned, biologically identical individuals "before the cat is totally out of the bag. If we do not think about the matter now," he maintains, "the possibility of our having a free choice will one day suddenly be gone."

Dr. Robert Edwards of Britain, a leading experimenter in test-tube conception, met Watson in debate in the Washington symposium, saying that the field is being investigated to help barren mothers have much-wanted children; that the "dogma that has entered biology from either communism or Christian sources has done nothing but harm"; and "we will do our transplants and go on with our work as we decide, not as anyone else decides."

Dr. Leon Kass of the staff of the National Academy of Sciences and Dr. Paul Ramsey, Princeton theologian, joined Watson in a call for a moratorium on such research. Dr. Howard Jones, Johns Hopkins obstetrician, compared such a call to the persecution of Galileo.

In any case, hazarded Dr. Anne McLaren of the University of Edinburgh, Scotland, babies produced in the test-tube and transplanted to mothers for their full growth and birth will be "a routine gynecological procedure within 20 years."

In that case, said Watson, "There are going to be a lot of mistakes. What are we going to do with the mistakes. . . . You can only go ahead if you accept the necessity of infanticide."

Does this sound frightening?

The fact is that infanticide is already being widely practiced in American society—in elective abortions, which the majority of us favor, and in the growing medical use of amniocentesis. (Fetal cells are drawn from the amniotic fluid to be tested for chromosomal abnormalities, if the doctor suspects they may be present. Mongolism is one that can be found.) Amniocentesis is often followed by abortion to prevent birth of an abnormal baby.

We also widely tolerate:

The incarceration—that's what it amounts to—of thousands of the retarded and mentally ill in institutions where life can only be called mean and degrading. There are good

institutions, too, but society usually isn't willing to pay the bill for them.

The sterilization of thousands of men and women, increasingly by voluntary choice to avoid producing babies, but also by law or judicial coercion or the decision of parents in the cases of many persons judged to be retarded or dangerous.

The inoculation of retarded children (as at Willowbrook School on Staten Island, a New York state institution for the mentally retarded) with infectious hepatitis virus, deliberately infecting them. This study has been necessary over the past 15 years to develop a hepatitis vaccine. The children would all have been exposed to hepatitis virus anyway in this crowded little society, the experimenters explain. In every case, there was "informed consent" of the parents. Yet some critics believe that no one, not even a parent, has the right to consent to an experiment on anyone else.

AND IF WE STOPPED?

In many other medical experiments and investigative treatments today, informed consent is a dubious instrument. How, asks Dr. Henry Beecher of Harvard, can anyone give informed consent to a procedure whose result no one can know?

But how would we develop new vaccines and new ways of medicine without human experiments?

Has the time come for society to regulate science? The question is rhetorical. To a degree, we are regulating science already—by setting innumerable rules for the uses of drugs and practices of physicians; by allocating funds for research and development, slighting some fields and stressing others; by laws and taboos and social and ethical sanctions.

So far the talk about such matters has mainly been expert to expert. A Mondale commission might at least bring in the public.

[From Science News, Dec. 4, 1971]

FROM HIPPOCRATES TO SENATE RESOLUTION 75

(By Robert J. Trotter)

Ethics became an integral part of medicine when Hippocrates first gave his oath. Since then, however, medicine and ethics have both grown more complex. Every advance in science and technology has ethical implications for society. In the biomedical field, the new issues are increasingly becoming matters of public concern, as the recent Kennedy and Airlie House symposiums indicated (SN: 10/23/71, p. 275; 10/30/71, pp. 294 and 298). Some say the Government should become involved.

These questions came before the public eye in 1967 when Christiaan Barnard completed the first successful human heart transplant. At that time Sen. Walter F. Mondale (D-Minn.) proposed to Congress a resolution that would establish a national commission to study medical ethics. Extensive hearings were held before the Subcommittee on Government Research but nothing came of them. In 1968 Mondale proposed almost the same bill and again no action was taken. In March of this year he reintroduced his bill and this time it will probably get out of committee and onto the Senate floor for a vote where it seems to have a good chance of passing.

The bill (Senate Joint Resolution 75) has bipartisan co-sponsorship of 22 Senators, among them the ranking members of the Senate Health Subcommittee. In the House Rep. Thomas Foley (D-Wash.) has introduced a companion measure that has similar bipartisan support. "This reflects a welcome consensus on the need for action which has developed since 1968," says Mondale. The Senate Health Subcommittee held hearings on the proposed commission bill Nov. 9.

Joint Resolution 75 would establish a National Advisory Commission on Health Science and Society. The commission would be composed of 15 members appointed by the President from among the fields of medicine, law, theology, biological science, social science, philosophy, humanities, health administration, government and public affairs. Its job would be to undertake a comprehensive investigation and study of the ethical, social and legal implications of advances in biomedical research and technology.

Seminars and public hearings would analyze and evaluate scientific and technological advances, current and projected, and implications for individuals and society. Investigations by public and private agencies would be commissioned and findings and recommendations would be reported to Congress and the President at interim periods and at the end of two years. The commission would terminate after two years and $2 million.

Testimony — mostly favorable — given at last month's hearing centered on recent developments in science and specific areas where ethical guidelines are needed. Many of the questions that are recently finding their way into the public consciousness came up. Should carriers of hereditary diseases be allowed to have children? Should retarded persons be segregated from members of the opposite sex? Should they be sterilized? What are the ethical implications of test-tube babies? What will happen to society when men and women are free to determine the sex of their children? Which individuals should receive the benefits of artificial kidney facilities? How should society regulate the use of behavior modification drugs and other techniques to control human behavior? How can the controllers be controlled?

"The ethical over-kill has been tremendous" on these topics, says Henry K. Beecher of Harvard Medical School. He therefore emphasized some of the more discrete ethical problems of medical research that he believes need examination: invasion of privacy, trust and deception, and situation ethics were among the problems he believes need more attention.

These problems are "more portentous than any I have ever dealt with" says Abram Chayes of Harvard Law School. But, says Daniel Callahan of the Institute of Society, Ethics and the Life Sciences in Hastings-on-Hudson, N.Y., "I am optimistic enough to think that progress can be made." The issues have now surfaced and the public wants open discussion and debate.

The Administration, represented at the hearings by Merlin K. Duval, HEW assistant secretary for health and scientific affairs, seems to feel that enough progress is being made without another commission being formed. The National Institutes of Health, the Public Health Service, the Department of Health, Education and Welfare and the National Science Foundation are all doing work in the field of medical ethics. For example, NSF recently awarded $68,000 to the National Academy of Sciences to conduct a one-year technology assessment in biological and medical science developments. NSF has awarded a $1.5 million grant to the Center for Advanced Studies in the Behavioral Sciences to establish an integrated program of technology assessment that will take into account the societal impacts of current and future developments in medical biology. "In the private sector," says Duval, "several distinguished groups already in existence have broad responsibilities in the area outlined for the proposed Commission on Health Science and Society." He cites the American College of Surgeons, the National Academy of Engineering, the American Academy of Arts and Sciences, the American Philosophical Society, the IBM Co. and the World Council of Churches among others. "In the light of relevant activities already under way, and the number of existing institutions concerned on a continuing basis with issues raised by health research advances, is there a need for the National Commission proposed in Senate Joint Resolution 75?" asks Duval. He and the Administration think not, and therefore do not recommend that the resolution be enacted into law.

Mondale supporters, however, do not agree. They believe that the existing groups do not have enough public input and are not coordinated or staffed to handle all of the problems. Resolution 75 provides for public hearings, input from consumer groups and public reports to Congress and the President. The commission would make a blueprint of the problem and then contract with specific agencies to handle specific problems, instead of having many agencies each trying to cover all aspects of the same problem simultaneously.

[From the Biomedical News, December 1971]

SENATE APPROVES BIOETHIC PANEL; HOUSE NEXT

A national level bioethic commission has come a step closer to realization with unanimous approval by the Senate of enabling legislation.

Sponsored by Senator Walter F. Mondale (D.-Minn.), the bill to establish the National Advisory Commission on Health Sciences and Society now awaits House approval, expected in the early part of next year.

Advances in modern medical science have elicited innumerable questions of ethical, social, and legal considerations. The definition of death, complicated by the ability to artificially maintain the heart beat, and the ethical questions raised by the creation of test tube babies exemplify some of these complex concerns.

To study and evaluate the implications of such advances in biomedical research and technology, the 15-member commission appointed by the President from medicine, law, theology, philosophy, and the sciences is charged with the task of investigating and assembling the many complex considerations and of making recommendations which help create standards and guidelines.

COMMISSION POWER

Funded with $1 million a year for its two-year duration, the commission is empowered to conduct hearings and to perform or contract for research and study programs.

Importantly, the environment for a united, intense discussion on the bioethical considerations has changed drastically since Senator Mondale first proposed establishment of such a commission over three years ago, shortly after the first heart transplant. The bill never reached the floor of the Senate following hearings conducted early in 1968.

CHANGING MILIEU

Now, the bill has received a more favorable audience. "The depth of the interventions that are becoming feasible is such that they put the destiny of man at issue," remarked Dr. Hans Jonas, professor of philosophy at The New School for Social Research, New York, in his testimony before the Senate Subcommittee on Health's hearings on the proposed commission.

In this favorable light, the testimony given at the hearings last month largely endorsed creation of a national advisory commission.

However, Dr. Merlin K. DuVal, Assistant Secretary for Health and Scientific Affairs at the Department of Health, Education, and

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Welfare, did not support enactment of the bill. Accompanied by Dr. Robert Q. Marston, Director of the National Institutes of Health, Dr. DuVal questioned the need for a national commission, citing examples of existing investigations on ethical problems.

OTHER EFFORTS

The National Science Foundation has awarded grants to conduct technological assessments in biological and medical science developments. In the private sector, the World Council of Churches recently completed a conference on technology and the future of man.

"The issues are so complex and the underlying currents of change moving so swiftly that in our view no attempt to describe this particular healthscape, at what would have to be a given moment of time, could be definitive for long," Dr. DuVal testified.

Instead, he favored "lower-keyed but continuing efforts by the present variety of private and semipublic organizations and entities attempting to rationalize and explain."

Responding to Dr. DuVal's testimony, Senator Edward M. Kennedy (D-Mass.), chairman of the subcommittee and a cosponsor of Senator Mondale's bill, stressed that the purpose of the commission was not to produce a "one time set of policy judgments but to address itself to new mechanisms and processes of making dynamic recommendations."

Praising the timeliness and need for the commission, Dr. Abram Chayes, professor at Harvard Law School and cochairman of the Commission on Law, Biology, and Ethics at Harvard, encouraged the subcommittee in its "forward and timely action" in meeting the urgency for such a study rather than waiting for a crisis situation

Comparing the work of his own commission to that of the proposed one, Dr. Chayes said that his group did not have the time, concentration of energy, staff, or resources "to conduct a sustained effort over a considerable period of time with critical masses of people."

[From the Washington Star, Dec. 15, 1971]

EDITORIAL—FACING ETHICAL DILEMMAS

Professor Abram Chayes of the Harvard Law School described the problem as "more baffling . . . and more portentous than any I have ever dealt with." Strong words those, but probably not exaggerated, for he was talking about the ethical dilemmas posed by the steady advances of biomedical research and treatment.

Chayes, along with a number of medical authorities, appeared before a Senate health subcommittee recently to testify in favor of creating a 15-member National Advisory Commission on Health, Science, and Society. The commission, with $1 million to assemble a staff representing a number of disciplines, would conduct a two-year study assessing the ethical problems of medical experimentation.

Another commission study, one that would get some brief publicity and then be pushed to oblivion in the back of somebody's file cabinet? Perhaps so. But there aren't any shortcuts in so complex a field. Moreover, the ethical questions involved here are compelling enough, while threatening to get even sharper as time goes on, that a high-calibre study could well serve as a major base of reference for charting future courses of action.

As the testimony presented so far to the subcommittee bears out, the scope of this subject is staggering. There are the familiar abuses of medical research where human subjects are not told the full story of the medicines to be tested or the experiments to be tried. Here the issue is one of assuring full disclosure while keeping open valuable avenues of research. Or consider those life-saving but extremely expensive devices, such as the dialysis machine that when used regularly can keep alive those people with serious kidney ailments. That only a fraction of Americans with defective kidneys who could benefit from these machines now has access to them, while the rest are left to die, brings into question the values of our rich society.

The issue of medical ethics extends farther. Who should decide, and on what basis, whether a defective infant or a terminal cancer patient is kept alive or left to die? It goes farther, still, to the frontiers of biomedical research. What should be the application, if any of drug-controlled behavior modification or the kinds of genetic engineering that some day will enable scientists to alter the characteristics of the unborn? Here, indeed, is uncharted territory, teeming with hope and horror.

There are few laws covering the dilemmas involved here. And no one has assumed command of trying to sort them out. It may well be that no one segment of our society, public or private, should be in total charge. But this is a question that in itself deserves full exploration.

The Nixon administration is on record as opposing creation of the new commission. So far, it has not presented a convincing case. Perhaps it just doesn't want to spend the $1 million. That a cheap price to pay for a full study of a subject with enormous implications for all of us.

[From the St. Louis Post Dispatch, Jan. 29, 1972]

EDITORIAL—"BIOETHICS"

The Senate last month quietly gave its approval to a bill which, if enacted into law, might well provide the nation with guidance in coping with one of the murkiest problems posed by the advance of science, the ethical, legal and social implications of developments in biomedical research and technology. The bill would establish a National Commission on Health, Science and Society; its passage by the Senate is the result of persistent efforts by Senator Mondale, who twice unsuccessfully had proposed such an agency.

Mr. Mondale's previous attempts came at a time when heart transplants were controversial and his bills met vigorous opposition from the medical community. As *Science* magazine points out, however, "heart transplant decisions are child's play compared to questions (now) raised by advances in other fields, notably genetics . . ." But the problems posed by medical developments go far beyond genetics. Advances in behavior modification have made thought or emotional control a reality; techniques of obtaining consent for experiments in humans are being challenged and medical technology which can prolong the lives of the hopelessly ill has raised the question of a person's right to die.

The proposed commission would have a modest budget of less than $1,000,000 and would consist of 15 members drawn from such professions as law, theology, government, the humanities and medicine. In addition to its own hearings, the commission would sponsor studies by universities and research groups on problems in "bioethics." The bill now is before a House subcommittee and strongly deserves positive action.

TRANSPORTATION TIEUPS AND AGRICULTURE

Mr. PACKWOOD. Mr. President, as Labor Subcommittee hearings on emergency transportation disputes progress, it becomes increasingly apparent that probably the foremost losers in any crippling transportation tieup are the Nation's farmers. Several excellent statements have recently been presented to the subcommittee on the impact of transportation tieups on agriculture and particularly agricultural exports, which comprise a significant portion of all agricultural goods produced in this country.

Because of their importance and relevance to other areas of study and other committeee work, I ask unanimous consent that three of these excellent statements be printed in the RECORD. The first was presented by Mr. Rodman Kober, of the National Grain and Feed Association; the second by Mr. Glen Hofer, of the National Federation of Grain Cooperatives; and the third was submitted by Mr. Joseph Halow, of Great Plains Wheat, Inc.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT FOR NATIONAL GRAIN AND FEED ASSOCIATION BY RODMAN KOBER

Mr. Chairman and Committee Members: The National Grain and Feed Association ("NGFA") is a nationwide organization representing every aspect of the grain and grain processing industry from the smallest country elevator to the largest grain and feed complex. In addition, fifty-one state, regional and specialized industrial organizations are affiliated with NGFA, representing over 20,000 grain, grain processing, and farm service firms throughout the United States. Thus, we believe that we speak for the wide spectrum of interests generically referred to as the grain and feed industry.

I am General Counsel to Louis Dreyfus Corporation whose primary interest is the exportation of bulk grain and soybeans from the United States. In addition, I am Chairman of the NGFA's Transportation Committee whose interest in the pending legislation is obvious. Analogous to our interest as large scale users of transportation is the interest of the agricultural community whose ability to market its vast production is intimately related to the availability of adequate and reliable transport services. As a New Jersey resident who has commuted by train to and from New York City, I have a personal interest in the maintenance of those essential services.

It is characteristic of human nature that complaints are the likely response of those whose economic interests are disrupted by strikes. In the context of the proposed legislation, however, much more is at stake. Can the internal economy afford to forgo export sales of agricultural commodities because of interruptions in our national distribution system? Can our balance-of-payments account risk the adverse affects associated with port labor stoppages? Can we entertain erosion of our farmers' economic position because of price reversals associated with the farmers' inability to market their production?

Our sentiments are not intended as a general attack on organized labor and its right to bargain collectively. We do believe, however, that there are specific circumstances in which the effects of a work stoppage far exceed any potential benefits for the workers. National transportation strikes and coast-wide longshore strikes are particularly illustrative of such circumstances, where a single union can bring an important element in our marketing system to a halt under a contract or contracts that expire on the same date.

You may question whether transportation or longshore strikers can cause the loss of export sales of agricultural commodities or whether such strikes merely cause the postponement of that export business. Our corn, grain sorghum, wheat and soybean exports are relacable by similar grains and oilseeds produced in surplus in other countries. In fact, our national position as a grain exporter can be characterized as residual, which means that lower priced supplies are usually available from other sources. Foreign grain importers are quite sensitive to the possibility of crippling strikes in our distribution system, and the threat of a strike is often enough to cause America's agricultural export customers to look elsewhere for their supplies. We lose tens of millions of dollars in export sales in this way, although no one has determined an accurate means of quantifying this loss. I know from first-hand information that Japanese customers of Louis Dreyfus Corporation specifically refused to purchase portions of their requirements unless we were willing to guarantee shipment in the face of a threatened dock strike. Our experience can be verified by every one of our competitors. These are dollars sales which are irrevocably lost, especially in those instances where the exporter makes the sale with the option to ship comparable grain from some other country.

In 1970, the contribution of agricultural exports to our balance-of-payments was a record high of $6.4 billion. In view of its significance, any change in this factor must affect materially our balance-of-payments position. If balance in our international trading is an objective founded in the national interests, we can no longer afford the types of interruptions which the proposed legislation would seek to stem.

Existing legislation has simply failed in the transportation and stevedoring industries to provide the means of effecting collective bargaining agreements with a minimum of disruption to the national economy. In recent years, in fact, the Congress has increasingly been called upon to exercise its power to mandate ad hoc labor agreements when the parties appear on the verge of tying up a significant part of our distribution network. One would think that Congress itself would welcome the opportunity of extricating itself from the politically sensitive task of mediating such labor-management disputes.

Agriculture is particularly affected in an adverse manner by curtailment in rail service. Bulk grain and soybeans move in such vast quantities, both in interstate and foreign commerce, that alternate means of transport are simply not available to replace the capacity lost in a rail strike. The price effects of this situation are ironic: Consumer supplies dwindle precipitating increases in end product prices, whereas prices for the raw materials decrease as farmers find it impossible to move their produce to the marketplace.

As export sales of grain are lost, either due to a rail or longshore strike, we have unfortunately diverted substantial volume from commercial channels to surplus holdings in this country. The effect of dock strikes on American agriculture is particularly ironic since seldom do any of the issues that delay contract agreement relate even indirectly to the loading of bulk grain or grain products onto an ocean vessel. The best economic proof of the effect on farm prices of a dock strike can be found in the recent experiences in the Pacific Northwest. The existence or threat of a strike depressed grain prices, artifically, by up to ten cents a bushel (at a time when we sense a deepening national concern that farmers have been unable to maintain their relative share of our economy).

We are competing for economic survival in a world whose notions of labor-management relations are far different than ours. We must find some means of rationalizing adversary labor-management positions in the transportation and stevedoring industries if we are seriously to compete effectively in world markets. We believe that S. 560 and S. 3232 would achieve that objective while avoiding the consequences of a compulsory arbitration process in which third parties can dictate terms other than those proposed by either or both of the primary parties to a prospective labor agreement.

We believe that the last-offer selection alternative proposed in S. 560 and S. 3232 has considerable merit with one reservation. We agree with those who have predicted that the last-offer selection process should tend to cause the parties to formulate reasonable final positions. Our reservation is concerned with the possibility that each party to a dispute might submit a final position that was reasonable in certain respects and clearly unreasonable in other respects. Thus, it may be prudent to modify this portion of S. 560 and S. 3232 in this way: (1) the parties should be directed to identify those issues on which agreement has not been possible; and (2) the selection panel would be free to choose, without modification, the most reasonable final position on each unresolved issue from each of the final proposals.

If modified in this way, we believe that S. 560 and S. 3232 offers the best prospect of rationalizing labor negotiations in the transport and longshore industries with the least disruption to the bargaining process. It is in the nation's interest that this legislation be enacted now.

TRANSPORTATION CRISIS PREVENTION

(Statement of the National Federation of Grain Cooperatives)

Mr. Chairman and Members of the Subcommittee: My name is Glen Hofer and I am Executive Vice President of the National Federation of Grain Cooperatives. We appreciate the opportunity to express our observations on the impact of dock strikes and other transportation tie-ups on agriculture.

The membership of NFGC consists of 19 regional, farmer-owned grain cooperatives which, through their affiliated local cooperatives, serve well over a million grain producers. Their primary activities involve the storage, conditioning, processing and marketing, both in the domestic and foreign markets, of all grains. In the 1969–70 crop year, our network of local and regional facilities handled 2.3 billion bushels of grain or approximately 34% of the total U.S. grain crop.

U.S. grain production, like all agriculture everywhere, annually is faced with drought, disease and insect pests. In addition, artificial curbs are placed on U.S. production by the application of farm program regulation. Despite the inroads of these agents, however, once triggered by seasonal planting, the combination of U.S. geography and farm technology is invariably going to put in the neighborhood of ten billion bushels of grain (including soybeans) in the bin at the end of harvest. *Ten billion bushels* which must disappear in the following 12-month period before another crop rolls from the field. Ten billion bushels to be stored, milled, crushed, merchandised, eaten or exported; a very demanding exercise in logistics and one that depends entirely on an orderly flow of grain through the marketing channels which have evolved over the years. Linking each component of this marketing system are the trucks and trains, and barges and freighters which must conduct the grain each step of the way from the field to the ultimate consumer.

Needless to say—whenever one of the transportation modes fails to provide orderly movement for any reason, back pressure develops on one side of the blockage and a vacuum develops on the other side. Both of those conditions place stress on the entire system and, if prolonged, the effects become chaotic, costing the producers countless millions of dollars in terms of lost export markets and depressed prices. In addition, and perhaps equally significant for the purposes of these public hearings, the injurious influence soon spreads to the interests of the general taxpayer who has a vital concern in the U.S. balance of payments and the cost and effectiveness of U.S. farm programs.

Disruption or stoppage of transportation service can occur for one of several reasons. The shortage of railroad equipment during peak periods of grain movement has been a chronic ailment and has seemed to intensify during the past decade. The most acute problems, however, have developed from work stoppages on the railroads and at the seaports, due to labor-management disputes. The most recent, of course, being the 134-day tie-up of West Coast Docks and the 58-day work stoppage at East and Gulf Coast ports.

As mentioned beforehand, a block in the grain pipeline causes an intolerable upstream pressure buildup and a damaging downstream vacum. Using the recent dock tie-up as an example and looking back toward the producer from the blocked terminal export position, the following conditions were soon apparent:

Equipment Tie-up. A severe congestion of transportation equipment is inevitable when the docks are struck. The manager of Farmers Export facility at Ama, Louisiana, reports there were 649 grain barges waiting to be unloaded at Baton Rouge and New Orleans on the day before dock side operations were resumed in November under court order. Such immobilization of significant numbers of available barges severely disrupts the dry bulk traffic on the entire river system. In the same manner, loaded rail cars may be tied up in large numbers, intensifying the chronic harvest-time shortage of rolling stock.

Overtaxed Storage and Handling Facilities. With the work stoppage coming as it did, in the midst of harvest of a more-than-bumper grain crop, the facilities for storing and conditioning the grain were soon swamped. Our Indiana member reported a million bushels of corn on the ground in Indianapolis. Much of this corn had high moisture content and losses were suffered from it going out of condition. Drying facilities at Indiana Grain's elevators have good sized capacity for conditioning grain, but with the storage completely full and harvest still underway, they simply could not handle the situation. These conditions were repeated in many areas with another notable example in the Pacific Northwest where as much as six million bushels of soft white wheat are still on the ground in November, months after the July/August harvest time.

Depressed Farm Prices. Already under heavy supply pressure from the huge crop being harvested, farm gate prices for grain have suffered a further depressant through the loss of the export outlets. Since several factors bear on price, it is difficult to quantify the influence of the strike; but many responsible observers have projected a drop of from 8 to 10 cents per bushel. Our Illinois member has calculated that, at that rate, the Illinois farmers alone lost $34 Million directly out of net income from harvest time sales. Perhaps, the most serious impact on farm prices is yet to be felt. The combination of the export stoppage and the very large 1971 crop has made inevitable, the carryover of significantly increase stocks of all grains into

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the new crop year. The effect of this burden of excess carryover will be extremely bearish and loan level farm prices are in prospect unless weather severely cuts back the predicted production figures for the 1972 U.S. grain crop.

Disruption of Government Program Planning. Supply agricultural control programs must plan well in advance if production is to be tailored to disappearance. The USDA recently announced the details for the 1972 wheat and feed grain programs. In view of the huge crop produced this year and in an attempt to forestall any further burgeoning of carryover stocks, the Department committed an additional $800 Million to the 1972 feed grain program and up to $200 Million more in the wheat program to pay for production cutbacks. Obviously, the loss in export disappearance will offset some portion of the anticipated cutback and the taxpayers' money will have gone for naught.

Looking downstream or toward the world market from the port bottleneck, these depressing conclusions can be drawn:

Loss of Export Sales. Documentation of the eventual actual losses are difficult to provide, but expert opinion in the form of comparative statistics and projections has been fractured in recent USDA releases and statements by grain trade leaders. Suffice to say here that very substantial losses have been suffered, even to the point of impairing agriculture's positive contribution to the critical U.S. balance of trade.

Loss of Export Customer Confidence. The most serious aspect of the involuntary absence from the world grain market is the rapid deterioration of customer relations. Few, if any, of the grain importing countries have adequate storage facilities for accommodating a grain stock pile of any volume. They must necessarily depend upon a regular schedule of purchase and delivery to keep their supplies in balance with current food and feed demand. Consequently, the capability of a supplier to provide regular service becomes a high priority factor in the importer's purchasing decision. Conversely, any inability to keep the pipeline full forces an immediate switch to alternate supply. Given the presence in the world grain market of a number of aggressive and well-stocked suppliers, business lost through transportation failure not only detracts from the seasonal total, but very likely is displaced in subsequent marketing years.

These are the reasons we are testifying in favor of legislation designed to limit the impact of *prolonged* transportation stoppages. In our view such legislation need not inhibit the bargaining posture of either management or labor but rather, if thoughtfully conceived and impartially administered, should greatly enhance the possibility of good faith bargaining.

In terms of the language of the legislative propcsals being considered by this Subcommittee, we would make only two general observations.

In the context of agricultural production and marketing, the consequences of regional transportation stoppages quickly become national in impact on the farm community. For this reason, we urge favorable consideration for broadening the definition of national emergency to include regional strikes or lock outs.

We believe the "final offer" concept has merit. We also would express our agreement with a practical suggestion made by a previous witness at these hearings. Mr. Rodman Kober, representing the National Grain and Feed Association on March 3 proposed the last-offer selection process shoud provide that:

(1) The parties should be directed to identify those issues on which agreement has not been possible; and

(2) The selection panel would be free to choose, without modification, the most reasonable final position on each unresolved issue from each of the final proposals.

The National Federation of Grain Cooperatives would summarize as follows:

There is indisputable evidence that U.S. agriculture suffers immediate and disasterous results when prolonged work stoppages occur which stem from labor/management disputes in the transportation industry. The negative effects of these agricultural losses spread beyond the agribusiness community and should be of concern to the general U.S. taxpayer. Agriculture's problems are compounded and in some ways unique because there is no recourse to a plugged pipeline. We cannot bank the furnaces, lay off shifts or stop the pumps. When the season calls, agriculture's plant responds and the industry must accommodate to that schedule. Thus, we are terribly susceptible and need shelter from lengthy strikes resulting from disagreements in which we have no role in either the cause or the solution. It is our hope that these hearings will lead to the eventual passage of legislation similar to S.3232. We specifically cite two features as being necessary in any remedial legislation:

A. It should include regional application of its emergency definition.

B. It should contain a final determination tool such as the "final offer" concept.

We appreciate the opportunity to appear with testimony before the Senate Labor Subcommittee.

U.S. GRAIN EXPORTS

[Data in one thousand bushels]

	Marketing year [1] July 1, 1970 to Mar. 12, 1971	July 1, 1971 to Mar. 10, 1972	Difference
Wheat	475,756	360,419	−115,337
Barley	58,335	13,983	−44,352
Oats	15,265	8,751	−6,514
	Marketing year [1] Sept. 1, 1970 to Sept. 12, 1971	**Sept. 1, 1971 to Mar. 10, 1972**	**Difference**
Soybeans	247,498	242,209	−5,289
	Marketing year [1] Oct. 1, 1970 to Mar. 12, 1971	**Oct. 1, 1971 to Mar. 10, 1972**	**Difference**
Corn	241,917	291,624	[2] +49,707
Sorghum	97,968	43,619	−54,349

[1] Marketing year for individual commodities have different starting dates due to different harvest periods.
[2] Corn blight in 1970 severely restricted availability for export during that marketing year.

WHEAT EXPORTS, BY CLASS, FROM PACIFIC NORTHWEST PORTS

[Data in million bushes]

	Marketing year July 1, 1970, to Feb. 28, 1971	July 1, 1971 to Feb. 28, 1972	Difference
White Wheat	77.6	39.1	−38.5
Hard Winter	37.9	17.8	−20.1
Spring	35.4	14.2	−21.2
Durum	1.3	1.0	−.3
Total	152.2	72.1	−80.1

DOCK STRIKE EFFECT ON FARM PRICES

The above chart [not printed in the RECORD] shows the farm price of corn and soybeans from Sept. 15 to Dec. 7, along with indication of various actions involving the "on again-off again" dock strikes. Dec. 7 is the last day plotted since market prices beginning at that time were distorted by serious congressional conaideration of increases in price supports and the enactment of a strategic reserve.

Note in the chart that between Sept. 15 and Oct. 1, corn prices fluctuated between 96c and 94c per bushel. On Oct. 1, the dock workers at the major Gulf ports walked off the job. In the next two weeks, corn prices drifted down to about 90c per bushel and then fluctuated around 90c to 92c until Oct. 20. At this time rumors began to fly through the grain trade that action would be taken by the National Labor Relations Board to end the strike. An NLRB complaint was filed on Oct. 22 but workers did not return to work until the following week when corn prices immediately responded by increasing to the 94c to 95c range. Prices continued to increase to the $1.00 to $1.01 level in the second week of November. Then on Nov. 13, the dock workers walked off the job. In three market days corn prices fell 6c per bushel. By the 22nd of November rumors began to fly that the "cooling off" provisions of the Taft-Hartley Act would be invoked. On Nov. 23rd corn prices were 98½c per bushel. On Nov. 24, it was announced that the President was beginning the proceedings to invoke the Taft-Hartley Act. Corn immediately jumped to $1.05 per bushel or by some 7c. In the first full week of December, corn had climbed to the $1.10 to $1.11 range.

While the market forces and reactions are somewhat different for soybeans and because the supply-demand balance for soybeans is much tighter than corn which subjects soybeans prices to greater anticipation and speculation, much of the same kind of analysis can be made for soybean prices.

STATEMENT OF JOSEPH HALOW

My name is Joseph Halow, and I am Executive Vice President of Great Plains Wheat, a non-profit regional market development organization representing approximately 400,000 wheat producers in the major wheat producing states in the Mid-West. Our organization was founded and is directed by wheat producers, who decided some thirteen years ago that their responsibility in the wheat industry did not end with wheat production. They decided they might then help a depressed wheat industry by becoming active in export market development. They recognized the fact that domestic demand for wheat remains fairly constant year after year and the most important variable disappearance factor is the export market. They felt they could best help themselves by attempting to develop new foreign outlets and expand existing overseas markets for U.S. wheat.

The efforts have proved to be successful, and during the 12 years of Great Plains Wheat's existence we have seen a very healthy expansion of wheat exports. It is true that there are other factors which have contributed to this expansion, and we cannot nor do we attempt to take credit for all of it, but we are proud to have been a part of this expansion. Prior to Great Plains Wheat's existence U.S. wheat exports had rarely exceeded 500 million bushels annually. In 1966/67 wheat exports reached the peak figure of 867.4 million bushels, and in the 1970/71 marketing year wheat exports totaled 739 million bushels, also a satisfactory figure. Not all the years are this good, however, and in this marketing year wheat exports are now forecast at no more than 575 million bushels, a reduction of 25 million from the previous forecast. Again there are various factors which contribute to this decline in our exports, but one of the most glaring and frustrating has been the dock strike which on the West Coast has run for more than 130 days, exclusive of the 80-odd days cooling-off period as a result of the Taft-Hartley injunction. The effects of the strike on Asian wheat exports are borne out by the following figures:

U.S. WHEAT EXPORTS JULY 1 THROUGH JAN. 31 [1]

[In thousands of bushels]

Region	1970–71	1971–72	Percent change
Asia	184,715	128,676	−30.3
Africa and Near East	56,917	63,846	+12.2
Europe	105,142	44,909	−57.3
Latin America	55,532	67,884	+22.2
Total	402,306	305,315	−24.1

[1] Inspections for export, USDA "Grain Market News."

The reduction in sales to the European markets is the result of a much larger than usual grain crop in 1971, greatly reducing Europe's import needs. There were increases in exports to Latin America, Africa and the Middle East, all served from Eastern or Gulf ports, which were closed for nearly 60 days before a Taft-Hartley injunction caused the ports to be opened again. Wheat sales to the Far Eastern markets, serviced from the Pacific Coast, registered a drop of a little over 23% in the first six months of the 1971/72 marketing year, that is, from July 1, 1971 through December 31, 1971 as compared to sales for the same period of time the preceding year. By the end of January, after another month of closed ports on the Pacific Coast, this percentage loss had dropped to over 30%. Our sales performance to this area would have been even worse had not some wheat moved to the Far East from Gulf ports, a longer and more expensive procedure.

The Far Eastern countries have no significant wheat production of their own, and their consumption has been increasing annually. This year they have taken a larger than usual share of their requirements from other wheat exporting countries. These lost sales are irretrievable, and, in themselves, represent a substantial loss to the wheat producer. Of even greater consequence, however, is the foreign buyers' loss of confidence in the United States as a dependable supplier. It is unreasonable to expect that a foreign mill must stop milling wheat and foreign consumers will stop eating wheat products merely because the U.S. is unable to deliver. They look to other sources of supply, and if their experience with the new supplier is good, will undoubtedly continue to buy from these other sources.

There is no shortage of wheat in the world, and other wheat exporting countries would be both willing and able to supply the needs of importers whom we are not able to service. Canada is easily able to supply much larger quantities of the high protein bread wheats and durum, and Australia is able to supply an entire range of wheat qualities, from higher protein wheats to their Fair Average Quality, a semi-hard wheat. Both countries have greatly increased their share of the Far Eastern markets during the West Coast strike.

We have learned early in the game that advertising, without adequate distribution, is of no value and can actually be detrimental. Market promotion is, therefore, of little value unless we can be assured that the merchandise can move to its destination when the demand has been created for it. Our work—indeed, the livelihood of U.S. wheat producers—is dependent on a freely moving transportation system. Strikes which tie up transportation means and the ports through which merchandise must move are highly prejudicial to the agricultural producer. Mr. Harry Bridges, president of the International Longshoremen and Warehousemen's Union on the West Coast, himself stated in testimony recently presented before the House and Senate Labor Committees that agricultural interests were prejudiced as a result of the strike.

The West Coast dock strike is now considered to be ended, following the longshoremen's ratification of the agreement reached between the Union and the Pacific Maritime Association. The strike lasted for 134 days, the longest strike of its kind in U.S. history. The disputants finally reached an agreement under the shadow of legislation passed by both the House and the Senate, requiring only the President's signature, to impose an end to the strike. Public pressure had also built up to the extent that the disputants must have been keenly aware of the fact that some form of action would be taken if they did not arrive at a solution themselves.

This was only the second strike in the Pacific Coast ports in 26 years. The East Coast and Gulf ports have been closed by strikes every two or three years, each time the contracts come up for renewal. The East Coast and Gulf Ports strike began this year on October 1, 1971. The Taft-Hartley injunction was invoked on November 27, 1971. It was due to expire on February 14, 1972, but was extended voluntarily for another 30 days by the International Longshoremen's Association, on the verge of a solution which could not have been completed by that time, and under public and Congressional pressure.

The last strike of the East Coast and Gulf ports longshoremen began September 30, 1968. The strike lasted 113 days from the time it began until the last of the ports was reopened on April 13, 1969, exclusive of the 80-day Taft-Hartley injunction which was invoked shortly after the strike began. Wheat exports to areas serviced from these ports registered a drop of over 20% in the 1968/69 marketing year as compared to export figures for the preceding year.

This drop in sales is shown in the following chart, with export figures for the 1967/68 and 1968/69 marketing years:

U.S. WHEAT EXPORTS (ASIAN MARKETS EXCLUDED) [1]

[In thousands of bushels]

	Africa and Near East	Latin America	Europe	Total
1967–68	60,507	112,917	80,203	253,627
1968–69	37,883	89,634	72,632	200,149
Difference				−53,478
Percent decline				−21.1

[1] Inspections for export, USDA "Grain Market News."

Unless something happens to change the pattern, we can look forward to the strong possibility of another strike when the contracts now being negotiated on the East Coast and Gulf ports expire in two or three years, depending on the length of time for which the contracts are written. The wheat producer cannot afford this. He is seeing his own efforts and the efforts of all the others who have worked to build up foreign markets negated by transportation tie-ups which prohibit delivery of the merchandise he is trying to place on the world markets. The wheat producer is exerting great efforts and spending large sums of his own money trying to build up these markets, and anything which impedes the free flow of merchandise is a costly frustration.

When he returned recently from a trip into the major wheat importing countries as part of a five-man group, Great Plains Wheat President Dean Parsons reported that the major marketing problems they encountered was the dock strike. He stated that throughout the trip they noted over and over again the buyers' reluctance to purchase U.S. wheats during the dock strike crisis. "In each country we visited wheat buyers told us they were forced to look to other sources because they did not have sufficient storage capacity to carry them while the U.S. worked out its labor problems." Mr. Parsons reported. He added that some of the flour mills have only enough storage to operate for 20 days and must be assured of a steady flow of supplies. The long dock tie-up has severely shaken their confidence in the U.S. as a dependable supplier.

The wheat producer remains very sympathetic to the desire of the longshoremen to improve their own situation, and their right to strike is a freedom which he too has felt should not be denied them. There should, however, be protection for other sectors of the economy, when their freedom and economic interests are prejudiced through no action or fault of their own.

Legislation covering mediation of strikes would provide such protection. It should also provide a means by which the striking factions themselves can arrive at a solution when other means fail. In instances when solutions cannot be reached within a reasonable period of time. It will also free them of the responsibility of maintaining an action which in the long run can be of benefit to no one. For in the end, when strikes are extended as long as the current West Coast strike, everyone loses.

This latter point has been vividly brought out by statements recently made by the AFL–CIO maritime unions, pointing out that the unions have themselves suffered as a result of the strikes. They point out that part of the problem of the loss of business by American-flag ships to foreign carriers is labor instability. This then represents a real loss also to labor. These unions are suggesting voluntarily to end strikes. Certainly legislation would help in future instances to buttress this argument, for it can serve as an instrument which the union leaders may themselves use when all else fails. The authority of such legislation would provide a means to which no one would have to resort when the union leaders deal as responsibly as they apparently wish.

REPORTS CONCERNING FOREIGN CURRENCIES AND U.S. DOLLARS

Mr. ELLENDER. Mr. President, in accordance with the Mutual Security Act of 1954, as amended, I ask unanimous consent to have printed in the RECORD the reports of several committees of the Senate, certain joint committees, and parliamentary bodies concerning the foreign currencies and U.S. dollars utilized by them in calendar year 1971 in connection with foreign travel.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON AGRICULTURE AND FORESTRY, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Jack Miller:											
Venzuela	Bolivars	840	187.89	578.45	128.72			32.50	7.27	1,450.95	323.88

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$323.88
Total	323.88

HERMAN E. TALMADGE,
Chairman, Agriculture and Forestry.

Mar. 17, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENICES AND APPROPRIATED FUNDS BY THE COMMITTEE ON APPROPRIATIONS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Senator Gordon Allott:											
Germany	D. mark		39.51		19.75		640.94		6.59		706.79
France	F. franc		41.04		20.52		17.71		6.84		86.11
United Kingdom	Pounds		61.56		30.78		8.92		10.26		111.52
Senator Allen J. Ellender:											
New Zealand	N. Z. dollar							170	200.00	170	200.00
Australia	A. dollar							43	50.00	43	50.00
Ceylon	Rupees							919	150.00	919	150.00
Lebanon	L. pound							630	200.00	630	200.00
France	F. franc							783	150.00	783	150.00
India	Rupees						2,532				2,532.00
Senator Hiram L. Fong:											
Nigeria	Pound					95.67	268.04	4.94	14.00	100.61	282.04
Nigeria	U.S. dollar		14.30						2.40		16.70
Congo	Zaire	13.83	27.67	11.95	23.90	134.13	408.82	35.61	71.24	195.52	531.63
Zambia	Kwacha			4.50	6.30	78.52	11.09	11.00	15.40	94.02	32.79
Tanzania	Shilling	547.19	78.17	41.37	5.91	2,827.44	396.77	756.96	107.99	3,472.96	588.84
Kenya	Shilling	672.00	96.00	49.21	7.03	693.33	97.19	678.79	96.97	2,093.33	297.19
Burundi	Francs					138.88	1.61			138.88	1.61
Burundi	U.S. dollar		20.00		4.40				75.60		100.00
Ethiopia	E. dollar	110.30	44.12	29.25	11.70	386.66	155.85	367.06	147.22	893.27	358.89
Egypt	Pound	12.22	22.00	2.15	3.88	8.85	15.93	31.17	56.12	54.39	97.93
Israel	Pound	210.00	60.00	67.20	19.20	274.65	78.47	169.08	48.31	720.93	205.93
Tunisia	Dinar	30.00	60.00	4.15	8.31			17.95	31.69	52.10	100.00
Botswana	Rand							70.00	10.00	70.00	100.00
Senator Ernest F. Hollings:											
Finland (4.140/1)	Marks	294.75	71.20	119.25	28.80	319	77.01			733.00	177.01
Sweden (5.075/1)	SW kroner	458.00	90.27	196.00	38.62	494.35	97.92	55.82	11.00	1,204.17	237.81
Norway (6.87/1)	N. kroner	950.11	138.30	282.98	41.19	540.56	76.13			1,773.65	255.62
Denmark (7.35/1)	D. kroner	684.87	93.18	358.97	48.84			51.45	7.00	1,095.29	149.02
Italy (616/1)	Lire	147,433.00	239.34	986.51	160.14	106,223.00	172.44	42,386.00	68.81	3,946.71	640.70
Morocco (5.02/1)	Dirhan	274.29	44.68	175.70	35.00	75.30	15.00	139.81	27.85	615.10	122.53
Israel	Pounds		370.44		185.22				61.74		617.40
Germany	D. marks					5,511.23	1,561.25			5,511.23	1,561.25
UAR							20.22		10.26		30.48
Portugal			120.00		60.00				20.00		200.00
Senator Roman L. Hruska:											
Germany	Marks					4,001	1,184.00			4,001	1,184.00
Finland	Markas		90.00		45.00				15.00	624	150.00
Netherlands	Guilders		118.00		59.00	475	134.00		20.00	1,175	331.00
Switzerland	Francs		60.00		30.00	130	32.00		10.00	535	132.00
United Kingdom	Pounds		180.00		90.00	133	321.00		119.00	293	710.00
Austria	Shillings		120.00		60.00	4,610	186.00		20.00	9,574	386.00
Belgium	Francs		90.00		45.00	15,634	324.00		15.00		474.00
Senator Gale W. McGee:											
Nigeria	Pound					95.67	268.04	19.70	56.00	115.37	324.04
Nigeria	U.S. dollar		14.30		2.00				34.93		51.23
Congo	Zaire	13.84	27.67	11.95	23.90	134.13	408.82	71.07	142.17	230.99	602.56
Zambia	Kwacha					78.52	11.09	70.00	100.00	148.52	111.09
Zambia	U.S. dollar		46.00		10.79						56.79
Tanzania	Shilling	547.19	78.17	75.67	10.81	2,827.44	396.77	1,184.10	169.01	4,634.40	654.76
Kenya	Shilling	637.00	91.00	49.21	7.03	693.33	697.19	591.01	1,184.43	1,970.55	279.65
Burundi	Francs					138.88	1.61			138.88	1.61
Burundi	U.S. dollar		20.00		4.40				75.60		100.00
Ethiopia	E. dollar					386.66	155.85	506.61	203.04	893.27	358.89
Ethiopia	U.S. dollar		79.52		17.92						97.44
Egypt	Pound					8.85	15.93	56.66	102.00	65.51	117.93
Egypt	U.S. dollar		40.00		7.85				1.52		49.37
Israel	Pound	192.50	50.00	57.68	16.48	274.65	78.47	187.32	53.52	712.15	198.47
Tunisia	Dinar							52.10	100.00	52.10	100.00
Tunisia	U.S. dollar		70.00		29.55						99.55
Senator Charles H. Percy:											
Belgium	B. Franc	1,285	25.70	1,600	32.00	1,300	26.00	815	16.30	5,000	100.00
Belgium	U.S. dollar						877.00				877.00
John B. Childers:											
Belgium	Franc	6,300	126.00	4,375	87.50	10,744	216.51	302	6.04	2,172	436.05
Netherlands	Guilder					3,208.05	893.61			3,208.05	893.61
Staff Sergeant Leroy E. Cullen (USAF escort):											
Nigeria	Pound					95.67	268.04			95.67	268.04
Congo	Zaire					130.38	401.32	.61	1.24	130.99	402.56
Zambia	Kwacha					78.52	11.09			78.52	11.09
Tanzania	Shilling					2,827.44	396.77	56.96	7.99	2,884.40	404.76
Kenya	Shilling					693.33	97.19			693.33	97.19
Burundi	Francs					138.88	1.61			138.88	1.61
Ethiopia	E. dollar					386.66	155.85	131.61	53.04	518.27	208.89
Egypt	Pound					8.85	15.93	1.11	2.00	9.96	17.93
Israel	Pound					274.65	78.47			274.65	78.47

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Lt. Col. Robert A. Delmar (USAF escort):											
Nigeria	Pound					95.67	268.04			95.67	268.04
Congo	Zaire					130.38	401.32	.61	1.24	130.99	402.56
Zambia	Kwacha					78.52	11.09			78.52	11.09
Tanzania	Shilling					2,827.44	396.77	56.96	7.99	2,884.40	404.76
Kenya	Shilling					693.33	97.19			693.33	97.19
Burundi	Francs					138.88	1.61			138.88	1.61
Ethiopia	E. dollar					386.66	155.85	131.61	53.04	518.27	208.89
Egypt	Pound					8.85	15.93	1.11	2.00	9.96	17.93
Israel	Pound					274.65	78.47			274.65	78.47
Cpt. Philip R. Reid (USAF medical officer):											
Nigeria	Pound					95.67	268.04			95.67	268.04
Congo	Zaire					130.38	401.32	.61	1.24	130.99	402.56
Zambia	Kwacha					78.52	11.09			78.52	11.09
Tanzania	Shilling					2,827.44	396.77	56.96	7.99	2,884.40	404.76
Kenya	Shilling					693.33	97.19			693.33	97.19
Burndi	Francs					138.88	1.61			138.88	1.61
Ethiopia	E. dollar					386.66	155.85	131.61	53.04	518.27	208.89
Egypt	Pound					8.85	15.93	1.11	2.00	9.96	17.93
Israel	Pound					274.65	78.47			274.65	78.47
Vorley M. Rexroad:											
Nigeria	Pound					95.67	268.04			95.67	268.04
Nigeria	U.S. dollar		29.30		6.10				2.40		37.80
Congo	Zaire	9.33	18.67	13.70	27.40	135.38	411.32	48.61	97.24	207.02	554.63
Zambia	Kwacha	32.14	45.00	13.80	19.33	78.52	11.09	25.47	35.67	149.93	111.09
Tanzania	Shilling	547.19	78.17	41.37	5.91	2,827.44	396.77	798.40	113.91	4,214.40	594.76
Kenya	Shilling	644.00	92.00	50.26	7.18	693.33	97.19	530.74	75.82	1,918.33	272.19
Burundi	Francs					138.88	1.61			138.88	1.61
Burundi	U.S. dollar		10.00		7.27				82.73		100.00
Ethiopia	E. dollar	92.55	37.02	41.75	16.70	386.66	155.85	356.61	143.04	877.57	352.61
Egypt	Pound	16.66	30.00	2.85	5.14	8.85	15.93	26.58	47.86	54.94	98.93
Israel	Pound	175.00	50.00	49.42	14.12	274.65	78.47	147.00	42.00	646.07	184.59
Tunisia	Dinar	25.00	50.00	6.56	13.12			18.44	36.88	52.10	100.00
Michael A. Samuels (State Department):											
Nigeria	Pound					95.67	268.04			95.67	268.04
Congo	Zaire					130.38	401.32	.61	1.24	130.99	402.56
Zambia	Kwacha					78.52	11.09			78.52	11.09
Tanzania	Shilling					2,827.44	396.77	56.96	7.99	2,884.40	404.76
Kenya	Shilling					693.33	97.19			693.33	97.19
Burundi	Francs					138.88	1.61			138.88	1.61
Ethiopia	E. dollar					386.66	155.85	131.61	53.04	518.27	208.89
Egypt	Pound					8.85	15.93	1.11	2.00	9.96	17.93
Israel	Pound					274.65	78.47			274.65	78.47
Ralph E. Vandervort (Peace Corps):											
Nigeria	Pound					95.67	268.04			95.67	268.04
Congo	Zaire					130.38	401.32	.61	1.24	130.99	402.56
Zambia	Kwacha					78.52	11.09			78.52	11.09
Tanzania	Shilling					2,827.44	396.77	56.96	7.99	2,884.40	404.76
Kenya	Shilling					693.33	97.19			693.33	97.19
Burundi	Francs					138.88	1.61			138.88	1.61
Ethiopia	E. dollar					386.66	155.85	131.61	53.04	518.27	208.89
Egypt	Pound					8.85	15.93	1.11	2.00	9.96	17.93
Israel	Pound					274.65	78.47			274.65	78.47
Total			3,498.30		1,460.99		20,849.82		4,089.75		29,897.83

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$28,738.26
Appropriated funds:	
Government Department: Department of Defense	1,159.57
Total	29,897.83

ALLEN J. ELLENDER,
Chairman, Committee on Appropriations.

Mar. 11, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON ARMED SERVICES, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Col. William B. Arnold:											
Hong Kong	Dollars	810.00	134.94	459.40	76.66			92.60	17.60	1,362.00	229.20
Thailand	Bahts	1,800.00	86.46	900.00	43.23	160.00	7.68	263.00	12.63	2,123.00	150.00
Vietnam	Piastres	34,583.00	125.76	34,780.00	126.47			12,137.00	44.13	81,500.00	296.36
Germany	German mark					14,027.33	3,918.04			14,027.33	3,918.04
Laos	Kips	11,272.00	22.37	4,310.00	8.55			3,818.00	7.57	19,400.00	38.49
Senator Lloyd Bentsen:											
Hong Kong	Dollars	600.00	100.00	180.00	31.00	150.10	24.68	5.00	1.44	935.10	157.12
Thailand	Bahts	1,800.00	86.46	900.00	43.23	160.00	7.68	263.00	12.63	3,123.00	150.00
Vietnam	Pastres	13,750.00	50.00	2,500.00	9.09					16,250.00	59.09
Germany	German mark					6,908.87	1,901.48			6,908.87	1,901.48
Senator Harry Byrd:											
Morocco	Dirhams	261.67	51.72	70.59	12.00			62.74	9.59	295.00	73.31
Spain	Pesetas	3,688.00	52.99							3,688.00	52.99
United Kingdom	Pounds	30.78	72.63	6.36	15.00	74.30	178.31	1.89	7.29	113.33	273.23
Belgium	Francs	2,429.00	48.58	899.00	19.42			503.00	8.06	3,831.00	76.02
Germany	German mark					3,595.62	990.53			3,595.62	990.53
Charles J. Conneely:											
Germany	German mark	412.80	129.00	672.00	210.00	12.80	4.00	140.80	44.00	1,238.40	387.00
Italy	Lire	33,735.00	54.15	37,380.00	60.00			9,875.00	15.85	80,990.00	130.00
Spain	Pesetas	3,924.00	65.40	3,240.00	54.00			396.00	6.60	7,560.00	126.00
United Kingdom	Pounds	13.00	32.50	10.40	26.00			7.00	17.50	30.40	76.00
Belgium	Francs	2,700.00	57.45	4,089.00	87.00			1,624.00	34.55	8,413.00	179.00

Footnote at end of table.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON ARMED SERVICES, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971—Continued

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Ben J. Gilleas:											
Germany	German mark	412.80	129.00	723.20	226.00	19.20	6.00	179.20	56.00	1,334.40	417.00
Italy	Lire	46,289.00	74.30	37,380.00	60.00	12,047.00	19.34	9,781.00	15.70	105,497.00	169.34
Spain	Pesetas	3,882.00	64.70	3,240.00	54.00	120.00	2.00	678.00	11.30	7,920.00	132.00
United Kingdom	Pounds	13.00	32.50	12.40	31.00	65.23	159.29	7.00	17.50	97.63	240.29
Belgium	Francs	2,700.00	57.45	4,230.00	90.00	188.00	4.00	1,859.00	39.55	8,977.00	191.00
John A. Goldsmith:											
Vietnam	Piastres	17,500	63.64	16,200	58.91			4,550	16.54	38,250	139.09
Laos	Kips	18,660	37.02	4,300	8.53			4,440	8.81	27,400	54.36
Germany	DM					7,118.46	2,016.56			7,118.46	2,016.56
Hong Kong	Dollars	210	34.94	200	33.28			72	12.73	482	80.95
Lt. Col. Thomas McGuire:											
India	Rupees	76	10.00	76	10.00	76	10.00	152	20.00	380	50.00
Hong Kong	Dollars	598	100.00	299	50.00					897	150.00
Japan	Yen	18,000	50.00	9,000	25.00	3,600	10.00	5,400	15.00	36,000	100.00
Vietnam	Piastres	2,750	10.00	5,500	20.00	1,375	5.00	6,585	23.95	16,210	58.95
France	Francs	331.08	60.00	110.36	20.00	55.18	10.00	55.18	10.00	551.80	100.00
Germany	DM	762.3	210.00	163.35	45.00	9,808.94	2,700.47	163.35	45.00	10,897.94	3,000.47
United Kingdom	Pounds	80	196.00	40	98.00	3.96	6.00	86	2.06	124.82	302.06
Belgium	Francs	2,500	50.00	1,500	30.00	500	10.00	500	10.00	5,000	100.00
Wade Clarke:											
Vietnam	Piastres	29,700	108.00	10,145	36.75			3,735	13.72	43,580	158.47
Hong Kong	Dollars	236.81	39.60	383.31	64.10	69.97	11.70	117.21	19.60	807.30	135.00
Bruma	Kyats	396.14	72.25	369.13	72.24					738.27	144.49
Thailand	Bahts	1,672.24	80.30	1,926.10	92.50	244.41	11.70	593.90	28.50	4,436.65	213.00
United Kingdom	Pounds	14.20	34.80	10.10	26.30	3.30	8.30	6.90	17.60	34.50	87.00
Khmer Republic	Riels	515	9.30	855	15.30			402	7.22	1,722	31.82
India	Rupees	107.13	14.10	205.96	27.10	16,814.10	2,212.38	36.48	4.80	17,163.67	2,258.38
Laos	Kips	11,239	22.20	22,887	45.50			2,024	4.03	36,150	71.73
Brig. Gen. Robert G. Gard:											
Vietnam	Piastres	37,950	138.00	26,950	98.00			14,850	54.00	79,650	290.00
Hong Kong	Dollars	484.5	81.00	311.00	52.00			101.5	17.00	897	150.00
Thailand	Bahts	1,124.53	54.00	687.23	33.00			270.74	13.00	2,082.50	100.00
Maj. Charles Hoff:											
Vietnam	Piastres	30,771	111.89	19,089	69.42					49,860	181.31
Hong Kong	Dollars	469.90	78.58	237.10	39.65					707	118.23
Burma	Kyats	511	100.00	227.27	44.49					738.27	144.49
Thailand	Bahts	2,412.30	115.84	1,561.85	75.00			987.10	47.40	4,961.25	238.24
United Kingdom	Pounds	18.20	45.05	11.20	27.72					29.40	72.77
Khmer Republic	Riels	1,053.15	19.15	825	15.00			575.85	10.47	2,454	44.62
Laos	Kips	14,557	28.88	6,552	13.00			21,891	43.44	43,000	85.32
India	Rupees	328	40.00	82	10.00					410.00	50.00
Park Rinard:											
Vietnam	Piastres	29,700	108.00	15,645	56.75			15,705	57.25	61,050	222.00
Hong Kong	Dollars	236.81	39.60	413.21	69.10	100.30	16.69	246.98	41.30	997.30	166.69
Burma	Kyats	369.14	72.25	369.13	72.24					738.27	144.49
Thailand	Bahts	1,672.24	80.30	2,134.35	102.50	1,240	59.56	1,019.66	50.40	6,066.25	292.76
United Kingdom	Pounds	14.20	34.80	12.10	31.25	17.72	42.92	1.60	3.10	45.62	111.98
Khmer Republic	Riels	515	9.30	1,405	25.30	3,000	54.55	1,383	25.45	6,303	114.60
India	Rupees	107.13	14.10	228.76	30.10	16,814.10	2,212.38	74.11	5.80	17,224.10	2,262.38
Laos	Kips	11,239	22.20	27,927	55.50			22,450	44.55	61,616	122.25
Richard J. Wise:											
Vietnam	Piastres	32,175	117.00	20,500	74.55			5,075	18.45	57,750	210.00
Hong Kong	Dollars	508	85.00	299	50.00	23	3.75	42	7.05	872	145.80
Burma	Kyats	370	72.25	370	72.25					740	144.50
Thailand	Bahts	25,120	121.00	1,450	65.00			140	6.70	26,170	192.70
United Kingdom	Pounds	9	22.17	6	14.85			5.45	13.48	20.45	50.50
Khmer Republic	Riels	1,055	19.30	950	17.30			215	3.76	2,220	40.36
India	Rupees					16,814.10	2,212.38			16,184.10	2,212.38
Laos	Kips	14,868	29.50	11,070	20.50	1,260	2.50	10,652	20.42	37,850	72.92
Sen. William B. Saxbe:											
Pakistan	Rupees			200	40.00	440	88.00	360	72.00	1,000	200.00
India	Rupees	76	10.00	988	130.00	2,082.4	274.00	2,781.6	366.00	5,928	780.00
Hong Kong	Dollars	598	100.00	299	50.00	91.80	15.25			988.80	165.25
Japan	Yen	27,000	75.00	9,000	25.00	30,288	84.13			66,288	184.13
Vietnam	Piastres	2,750	10.00	27,500	100.00	2,750	10.00	8,250	30.00	41,250	150.00
Germany	Deutsche Marks	363	100.00	181.5	50.00	6,988.27	1,925.15	181.5	50.00	7,714.27	2,125.15
Total			4,684.67		3,690.63		21,236.40		1,639.98		31,251.68

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN C. STENNIS,
Chairman, Committee on Armed Services.

Mar. 10, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS, U. S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar equivalent or U.S. currency[1]	Meals: Foreign currency	Meals: U.S. dollar equivalent or U.S. currency[1]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[1]	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency[1]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency[1]
John R. Evans:											
Japan	Yen	16,794	46.65	22,590	62.75			6,480	18.00	45,864	127.40
Korea	Won	9,184	28.55	12,000	37.30			5,600	17.40	26,780	83.25
Thailand	Bahts	640	30.73	500	24.00			430	20.65	1,570	75.38
India	Rupees	239.4	31.50	32.3	4.25			57.0	7.50	328.7	43.25
Israel	Pounds	163.45	46.70	49.87	14.25			43.75	12.50	257.07	73.45
Hong Kong	Hong Kong Dollars	403.20	67.20	174.00	29.00			142.50	23.75	719.70	119.95
Germany	Deutsche marks					7,850.70	2,162.73			7,850.70	2,162.73
Total			251.33		171.55		2,162.73		99.80		2,685.41

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Dudley L. O'Neal, Jr.:											
Japan	Yen	16,794	46.65	24,660	68.50	19,156	53.21	9,540	26.50	70,150	194.86
Korea	Won	9,184	28.55	11,840	36.80			6,080	18.90	27,104	84.25
Thailand	Bahts	640	30.73	696	33.42			480	23.05	1,816	87.20
India	Rupees	239.40	31.50	72.20	9.50			64.60	8.50	376.20	49.50
Israel	Pounds	163.45	46.70	64.75	18.50	153.60	43.89	65.62	18.75	447.42	127.84
Germany	Deutsche marks					7,850.70	2,162.73			7,850.70	2,162.73
Hong Kong	HK dollars	403.20	67.20	250.15	41.75			135.00	22.50	788.35	131.45
Subtotal			251.33		208.47		2,259.83		118.20		2,837.83
Stephen J. Paradise:											
France	Francs	991.80	180.00	661.20	120.00	467.60	84.51			2,120.60	384.51
Germany	Deutsche marks	612.00	180.00	408.00	120.00	135.20	38.30			1,155.20	338.30
Netherlands	Guilders	412.80	120.00	275.20	80.00	3,171.85	926.09			3,859.85	1,126.09
Belgium	Belgian franc	4,320.00	90.00	2,880.00	60.00	1,161.00	24.04			8,361.00	174.04
Subtotal			570.00		380.00		1,072.94				2,022.94
Senator Wallace F. Bennett:											
Germany	Deutsche marks	697	200.00	174	50.00					1,045	300.00
Peru	Soles	9193.27	212.31			4966.73	114.11			14,160	326.42
Subtotal			412.31		50.00		114.11		50.00		626.42
Senator Adlai E. Stevenson III:											
Hong Kong	HK dollars	371.00	62.04	184.00	30.77	153.05	25.47	15.00	2.51	570.00	120.79
Thailand	Bahts	1308.30	62.82	100.00	4.80			88.95	4.27	1497.25	71.89
Vietnam	Piastres	31,503	114.56	22,100	80.36			2247.00	8.17	55,850	203.09
Japan	Yen	9,092	25.26	4,546	12.63	30,312	90.08	362	1.02	14,000	128.99
Soviet Union	Rubles			40.00	44.44			225.00	250.00	265.00	294.44
Germany	Deutsche marks					6027.08	1782.63			6027.08	1,782.63
Subtotal			264.68		173.00		1898.18		265.97		2,601.83
Thomas J. Wagner:											
Hong Kong	HK dollars	418.10	69.92	207.70	34.72			15	2.51	640.70	107.15
Thailand	Bahts	1,244.20	59.75	100.00	4.80			39.25	1.89	1,383.45	66.44
Vietnam	Piastres	31,525	114.64	17,500	63.64			8,470.00	30.80	57,495	209.08
Japan	Yen	28,168	78.24	3,001	8.34			1,831.00	5.09	33,000	91.67
Soviet Union	Rubles			60.00	66.67			225.00	250.00	285.00	316.67
Germany	Deutsche marks					5,926.62	1,752.92			5,926.62	1,752.92
Subtotal			322.55		178.17		1,752.92		290.29		2,543.93
Carl A. S. Coan:											
Mexico	Pesos	380.00	30.42	563.50	45.11	92.75	7.52	51.25	4.10	1,088.50	87.15
Guatemala	Quetzales	182.25	182.25	82.25	82.25	2.50	2.50	33.00	33.00	300.00	300.00
Switzerland	Francs	414.00	75.00	113.16	20.50	24.84	4.50			522.00	100.00
France	Francs	1,152.00	290.54	618.36	155.96	18.24	4.60	193.88	48.90	1,982.50	500.00
Germany	Deutsche marks					2,589.64	713.54			2,589.64	713.54
Subtotal			578.21		303.82		732.66		86.00		1,700.69
Total			2,650.41		1,465.01		9,993.37		910.26		15,019.05

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

Foreign currency (U.S. dollar equivalent)	$15,019.05
Total	15,019.05

JOHN SPARKMAN,
Chairman, Committee on Banking, Housing and Urban Affairs.

Mar. 13, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Thomas F. Eagleton:											
Canada	Dollars		104.00		80.00				16.00		200.00
Netherlands	Guilders					546.42	167.00			546.42	167.00
Total			104.00		80.00		167.00		16.00		367.00

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

THOMAS F. EAGLETON,
Chairman, Committee on the District of Columbia.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON FINANCE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Senator Bennett: France	Guilders					3,113.45	875.06			3,113.45	875.06
	Franc	537.30	97.51	66.70	11.84	1,062.63	192.86			1,666.63	301.40
Subtotal			97.51		11.84		1,067.92				1,176.46

Footnote at end of table.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON FINANCE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971—Continued

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Senator Fannin:	Guilders					3,201.00	934.60			3,201.00	934.60
	Franc	1,104.00	200.00	663.50	120.15	2,415.93	436.64	164.50	29.85	4,347.93	786.64
Subtotal			200.00		120.15		1,371.24		29.85		1,721.24
Senator Hansen: France	Guilders					3,566.00	1,002.25			3,566.00	1,002.25
	Franc	537.30	97.51	567.42	102.98	1,512.55	274.51	56.70	10.29	2,673.97	485.29
Subtotal			97.51		102.98		1,276.76		10.29		1,487.54
Senator Harris:											
Soviet Union	Rubles	55.49	61.04	25.00	27.50			3.64	4.00	84.13	92.54
Romania	Lei	1,382.40	77.58	900.00	50.50			390.60	21.92	2,673.00	150.00
Hungary	Forints	1,866.50	62.22	2,000.00	66.66			2,133.50	71.12	6,000.00	200.00
Czechoslovakia	Crown	922.00	64.25	600.00	41.81			630.50	43.94	2,152.50	150.00
Poland	Zlotys	277.00	4.26	500.00	7.69			2,123.00	32.67	2,900.00	44.62
United Kingdom	Pounds	41.32	99.17							41.32	99.17
Transportation	Marks					4,505.46	$1,231.00			4,505.46	1,231.00
Subtotal			388.52		194.16		1,231.00		173.65		1,967.33
Fred Gipson:											
Soviet Union	Rubles	52.63	57.90	25.00	27.50			3.64	4.00	81.27	89.40
Romania	Lei	1,207.80	67.78	900.00	50.50			565.20	31.72	2,673.00	150.00
Hungary	Forints	1,812.00	60.40	2,000.00	66.66			2,188.00	72.94	6,000.00	200.00
Czechoslovakia	Crown	422.50	29.44	600.00	41.81			1,130.00	78.75	2,152.50	150.00
Poland	Zlotys	277.00	4.26	500.00	7.69			5,023.00	77.28	5,800.00	89.23
United Kingdom	Pounds	30.00	72.00	11.32	27.17					41.32	99.17
Transportation	Marks					4,505.46	$1,231.00			4,505.46	1,231.00
Subtotal			291.78		221.33		1,231.00				2,008.80
C. W. Maynes:											
Soviet Union	Rubles	50.95	56.05	25.00	27.50			3.64	4.00	79.59	87.55
Romania	Lei	1,336.40	75.01	900.00	50.50			436.60	24.49	2,673.00	150.00
Hungary	Forints	2,574.40	85.81	2,000.00	66.66			1,425.60	47.53	6,000.00	200.00
Czechoslovakia	Crown	422.50	29.44	600.00	41.81			1,130.00	78.75	2,152.50	150.00
Poland	Zlotys	277.00	4.26	500.00	7.69			3,673.00	56.50	4,060.00	68.45
United Kingdom	Pound	30.00	72.00	11.32	27.17					41.32	99.17
Transportation	Marks					4,505.46	1,231.00			4,505.46	1,231.00
Subtotal			322.57		221.33		1,231.00		211.27		1,986.17
Senator Long:											
France	Guilders					3,201.00	899.66			3,201.00	899.66
	Franc	1,521.50	277.91	982.38	178.28	1,899.08	344.67	30.31	5.50	443.27	804.92
Subtotal			27.991		178.28		1,244.33		5.50		1,704.58
Robert Best:											
France	Guilders					3,201.00	899.66			3,201.00	899.66
	Franc	671.00	121.77	629.80	113.94	2,396.55	433.14	82.20	14.91	3,779.55	683.76
Total			121.77		113.94		1,332.80		14.91		1,583.42
Senator Abraham Ribicoff:											
United Kingdom	Pound	106.26	255.00	75.01	180.00			29.17	70.00	210.43	505.00
France	Franc	2,282.90	413.57	1,335.84	442.00	1,617.43	293.55	276.00	50.00	5,512.17	999.12
Belgium	Franc			1,250.00	25.00	581.00	11.70	1,250.00	25.00	3,081.00	61.70
Romania	Lei	1,269.90	70.55	720.00	40.00			270.00	15.00	2,259.90	125.55
Hungary	Forints	1,753.20	58.44	1,950.00	95.00	1,715.20	57.17	1,110.00	57.00	6,528.40	267.61
Transportation	Franc					4,025.00	1,121.33			4,025.00	1,121.33
	Mark					3,099.21	853.30			3,099.21	853.30
Total			797.56		582.00		2,337.05		217.00		3,933.61
M. J. Amitay:											
France	Franc	514.00	93.28	761.76	138.00	1,727.95	313.61	375.36	68.00	3,379.07	613.61
Romania	Lei	1,369.00	76.07	720.00	40.00			162.00	9.00	2,251.26	125.07
Hungary	Forint	3,099.70	103.32	3,060.00	102.00			1,050.00	35.00	7,206.90	240.23
Transportation	Guilders					4,088.00	$1,148.96			4,088.00	1,148.95
Total			272.67		280.00		1,462.57				2,127.24

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$119,696.39
Grand total	19,696.39

RUSSELL B. LONG,
Chairman, Committee on Finance.

Mar. 9, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON GOVERNMENT OPERATIONS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar equivalent or U.S. currency[1]	Meals: Foreign currency	Meals: U.S. dollar equivalent or U.S. currency[1]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[1]	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency[1]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency[1]
Laverne J. Duffy:											
Germany	Deutsche Mark	1,183.68	360.00	1,332.00	405.00	227.22	69.00	1,070.64	325.00	3,813.54	1,159.00
Netherlands	Guilders					4,551.55	1,328.92				1,328.92
Subtotal			360.00		405.00		1,397.92		325.00		2,487.92

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Walter S. Fialkewicz:											
W. Germany	Deutsche Mark	583	186.75	500	200.62	360	115.00	463	151.75	1906	654.12
France	Franc	918	165.36	1047	188.50	324	58.32	400	38.00	2689	450.18
Belgium	B Franc	3627	85.32	4045	87.20	1515	30.30	500	11.10	9687	213.92
England	Pound			1.5	3.45	4.5	10.34	1.5	3.45	7.50	17.24
Netherlands	Guilders					3298	917.00			3298	917.00
Subtotal			437.43		479.77		1130.96		204.30		2252.46
Subtotal			797.43		884.77		2528.88		529.30		4,740.38
Kenneth A. Guenther:											
Mexico	Pesos	340	27.20	1,150	92.00	260	20.80	125	10.00	1,875	150.00
Costa Rica	Pesos	250	20.00	312.5	25.00	62.5	5.00			625	50.00
Costa Rica	Colon	266	40.00	234.5	35.00	98	15.00	66.5	10.00	665	100.00
Subtotal			87.20		152.00		40.80		20.00		300.00
Albert A. Lakeland:											
Canada	Dollars	101.64	101.64	69.00	69.00	21.00	21.00	58.36	58.36	250.00	250.00
Subtotal			101.64		69.00		21.00		58.36		250.00
Wm. M. Knaul:											
Germany	DM	1,183.68	360.00	2,071.86	630.00	1,639.12	498.00	1,175.69	358.00	6,070.35	1,846.00
Netherlands	Guilders					3,298.00	917.00				917.00
Subtotal			360.00		630.00		1,415.00		358.00		2,763.00
Total			548.84		851.00		1,476.80		436.36		3,313.00

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent), Total	$8,053.38

JOHN L. McCLELLAN,
Chairman, Commission on Government Operations.

February 29, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Charles F. Cook:											
Switzerland	Francs	630.00	155.55	664.95	164.18	52.03	12.84	45.50	11.24	1,392.45	343.81
	Francs					259.05	63.49			259.05	63.49
	Guilders					1,770.25	497.54			1,770.25	497.54
Total											904.84
Senator Ted Stevens:											
Japan	Yen	16,290.00	45.25			4,315.00	11.99	1,300.00	3.61	21,905.00	60.85
Vietnam	Piastres	48,750.00	[2] 177.27							48,750.00	177.27
Germany	Deutsche Marks					3,723.53	1,080.45			3,723.53	1,080.45
Total											1,318.57
Merrill W. Englund:											
Switzerland	Francs		350.00		412.00		150.00		120.00		1,032.00
	Guilders						172.20				172.20
Total											1,204.20
Total, Committee on Interior and Insular Affairs			728.07		576.18		1,988.51		134.85		3,427.61

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [2] Including meals (no breakdown).

HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs.

Mar. 10, 1972

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON THE JUDICIARY, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
deHaan, Dale S.:											
India	Rupees	965.20	127.00	1,003.20	132.00	7,587.02	2,314.08	433.16	56.99	19,988.52	2,630.07
Greece	Drachmas	1,500.00	50.00	1,950.00	65.00			1,050.00	35.00	4,500.00	150.00
Israel	Pounds	535.50	153.00	532.00	152.00	777.25	222.07	152.50	45.00	1,997.25	572.07
Switzerland	Francs	450.74	114.00	470.29	119.00	201.00	49.26	66.47	17.00	1,188.50	299.26
Great Britain	Pounds	29.40	73.00	43.50	108.00			7.66	19.00	80.50	200.00
Total			517.00		576.00		2,585.41		172.99		3,851.40

Footnote at end of table.

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REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON THE JUDICIARY, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971—Continued

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Kennedy, Edward:											
India	Rupees			463.60	61.00	18,107.77	2,382.60	296.40	39.00	18,867.77	2,482.60
Lewis, John P.:											
India	Rupees			1,588.40	209.00	16,043.25	2,110.95	1,030.60	135.61	18,662.25	2,445.56
Italy	Lire	13,083.00	21.00	14,952.00	24.00			3,115.00	5.00	31,150.00	50.00
Total			21.00		233.00		2,110.95		140.61		2,505.56
Mesmer, Fred M.:											
France	Franc					2,916.22	528.88			2,916.22	528.88
Germany	Mark	285.52	86.00	312.08	94.00	2,971.48	878.88	66.40	20.00	3,635.48	1,078.88
Ireland	Pound	45.07	112.50	47.07	117.50	65.00	158.61	8.01	20.00	165.15	408.61
Italy	Lira	78,948.00	129.00	86,292.00	141.00			18,360.00	30.00	183,600.00	300.00
Portugal	Escudo	2,568.18	94.00	2,349.60	86.00			546.42	20.00	5,464.20	200.00
Spain	Peseta	7,363.75	107.50	8,048.75	117.50	11,205.00	161.20	1,712.50	25.00	28,330.00	411.20
Switzerland	Franc	508.80	129.00	556.12	141.00	240.00	59.11	118.33	30.00	1,423.25	359.11
United Kingdom	Pound	26.97	67.50	27.59	69.00	63.39	154.69	5.39	13.50	123.34	304.69
Total			725.50		766.00		1,941.37		158.50		3,591.37
Randall, Donald:											
England	Pounds	56.00	140.00	24.00	60.00					80.00	200.00
Germany	Marks	996.00	300.00	365.20	110.00			298.80	90.00	1,660.00	500.00
Belgium	Francs	1,739.00	37.00	1,880.00	40.00			1,081.00	23.00	4,700.00	100.00
France	Francs	496.80	90.00	331.20	60.00					828.00	150.00
Total			567.00		270.00				113.00		950.00
Scrimshaw, Nevin:											
India	Rupees				81.00	15,517.50	2,041.78	244.31	32.16	16,377.50	2,154.84
Tinker, Jerry M.:											
India	Rupees	1,223.60	161.00	1,580.80	208.00	17,587.02	2,314.08	1,577.41	207.58	21,969.02	2,890.66
Greece	Drachmas	3,060.00	52.00	2,010.00	67.00			930.00	31.00	4,500.00	150.00
Israel	Pounds	392.00	112.00	427.00	122.00			196.00	56.00	1,015.00	290.00
Switzerland	Francs	445.74	114.00	430.10	110.00			101.66	26.00	987.50	250.00
United Kingdom	Pounds	33.46	84.00	41.13	102.00	38.16	92.35	5.64	14.00	118.66	292.35
Total			523.00		609.00		2,406.43		334.58		3,873.01

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. $ equivalent)	$19,408.78
Total	19,408.78

Mar. 21, 1972.

JAMES O. EASTLAND,
Chairman, Committee on the Judiciary

REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Benjamin Palumbo:											
Sweden	Kroner		75.00		60				15.00	759.39	150.00
United Kingdom	Pounds		125.00		100	274.56	669.99		25.00	101.10	250.00
	Pounds					274.56	669.99			274.56	669.99
Dr. John Stubbs:											
United Kingdom	Pounds	200.00	480.00	150.22	360.55			24.77	59.45	362.35	900.00
United Kingdom	Pounds					52.16	443.79			52.16	443.79
Germany	Deutsche marks					1,442.10	426.53				
Dr. R. Glyn Thomas:											
Denmark	Kroner					367.50	50.00			367.50	50.00
Angelique Voutselas:											
Israel	Pounds	201.00	48.00	193.20	46	6,117.36	1,470.80	25.80	6.00	6,697.36	1,570.80
Sweden	Kroner	308.81	61.00	324.01	64			124.61	25.00	757.13	150.00
United Kingdom	Pounds	52.72	131.00	60.71	149	274.56	669.99	7.92	20.00	395.91	969.99
Richard Wise:											
Austria	Schillings	2,164.00	84.00	1,319	54	129	5.00	180	7.00	3,864	150.00
France	Francs	442.00	80.00	287	52	44	8.00	36	6.56	809	146.56
Dr. John Brun:											
Norway	Kroner					547.16	80.46			547.15	80.46
Edward Campbell:											
Austria	Schilling	772.80	30.00	1,932.00	75.00			2,445.20	95.00	5,150.00	200.00
Germany	Deutsche marks					3,468.22	954.91			3,468.22	954.91
Philip S. Caper:											
Denmark	Kroner	804.00	117.00	215.00	32.00	6.00	1.00			1,025.00	150.00
Finland	Markkas	92.50	22.00	75.00	17.00	10.00	4.00	29.60	7.00	207.10	50.00
Norway	Kroner	180.00	26.00	200.00	29.00	8.00	2.00	300.00	43.00	688.00	100.00
Sweden	Kroner	1,330.00	250.00	600.00	116.00	400.00	77.00	704.74	157.00	3,035.04	600.00
Great Britain	Pounds	32.91	81.00	7.50	17.00	10.00	26.00	10.24	26.00	60.65	150.00
Wade P. Clarke:											
Austria	Schilling	5,924.80	230.00	6,568.80	255.00	1,803.20	70.00	6,646.08	258.00	20,942.88	813.00
Great Britain	Pounds	28.00	67.20	32.30	87.50	9.80	23.15	9.30	22.15	83.30	200.00
Sweden	Kroner	279.70	54.10	374.83	72.50	53.25	10.30	196.98	38.10	904.76	175.00
Germany	Deutsche marks					2,532.17	697.23			2,532.17	697.23
Total			877.30		701.00		1,946.05		646.25		4,170.60

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Jay B. Cutler:											
Austria	Schillings	1,820.80	80.00	1,024.20	45.00	227.60	10.00	341.40	15	3,414.00	150.00
France	Francs	552.00	100.00	386.40	70.00	82.80	15.00	8.2.80	15	1,104.00	200.00
Sweden	Kroner	924.25	175.00	494.55	105.00	94.20	20.00	235.50	50	1,748.50	350.00
United Kingdom	Pounds	85.55	225.00	51.33	135.00	9.50	25.00	24.71	65	171.10	450.00
Germany	Marks	314.00	010.00	188.40	60.00	1,972.86	628.30	62.80	20	2,538.06	808.30
Israel	Pounds	1,164.80	280.00	520.00	125.00	9,274.42	2,230.63	187.20	45	11,146.42	2,680.63
Nicholas Edes:											
France	Francs	15.94	88.00	14.49	80.00				5.79	32	1,104.00	200.00
Netherlands	Guilders	17.54	63.00	16.71	60.00				7.52	27	538.78	150.00
Sweden	Kroner	16.27	84.00	17.44	90.00				5.03	26	1,034.00	200.00
United Kingdom	Pounds	66.66	160.00	73.33	176.00				26.66	64	8.36.6	400.00
Germany	Deutsche Marks	19.23	70.00	17.58	65.00				17.58	65	728.00	200.00
Germany	Deutsche Marks					2,262.51	623.10				2,262.51	623.10
Total			1,425.00		1,011.00		3,552.03		424.00			6,412.03
LeRoy Goldman:											
Germany	Deutsche mark					1,442.10	426.53				1,442.10	426.53
Denmark	Krone	184.00	25.00	184.00	25.00	814.00	25.00	184.00	25.00		735.00	100.00
Israel	Pound	525.00	125.00	315.00	75.00	2,099.25	499.82	210.00	50.00		3,149.25	749.82
Sweden	Krona	375.00	75.00	125.00	25.00	125.00	25.00	125.00	25.00		760.00	150.00
United Kingdom	Pound	750.00	300.00	500.00	200.00	803.00	1,958.71	250.00	100.00		1,045.31	2,558.71
Julian Granger:											
United Kingdom	Pound	54.00	129.60	90.22	216.50	31.36	75.60	11.79	28.30		187.37	450.00
Sweden	Krona	370.45	71.80	496.91	96.30	80.50	15.60	85.11	16.30		1,032.97	200.00
Austria	Schilling	1,329.25	51.12	1,549.60	59.60	348.40	13.40	672.88	25.88		3,864.00	150.00
Germany	Deutsche mark	204.93	56.30	249.70	68.60	2,443.52	671.30	44.04	12.10		2,942.19	808.30
Robert Harris:											
France	Franc	352.00	60.00	174.00	38.25						526.00	98.25
Netherlands	Guilder	269.39	75.00	269.39	75.00						538.78	150.00
Sweden	Krona	517.00	100.00	517.00	100.00	1,403.00	271.53				2,437.00	471.53
Total												6,313.14
Robert Harris:											
United Kingdom	Pounds	63.00	157.50	41.30	92.50	200.47	481.09				304.62	731.09
Austria	Schillings					3,992.50	154.99				3,992.50	154.99
Germany	Deutsche marks	178.00	42.00	186.00	46.25	2,249.44	619.34				2,613.44	707.59
Senator Harold Hughes:											
Austria	Schillings	2,679.04	104.00	1,004.64	39.00	3,000.00	116.46	1,466.32	57.00		8,150.00	316.46
Germany	Deutsche marks					3,468.21	954.90				3,648.21	954.90
Dr. Sahari Haro:											
Finland	Markkas					202.50	48.89					48.89
Jacob K. Javits:											
Switzerland	Swiss francs			163.60	40.00			40.90	10.00		204.50	50.00
Edward Kennedy:											
Denmark	Kroner					1,320.55	176.17				1,320.55	176.17
Israel	Pounds	205.80	49.00	193.20	46.00	5,264.03	1,254.34	21	5		5,684.03	1,354.34
Sweden	Kroner	308.81	61.00	357.19	71.00	560.29	108.54	91.13	18		1,317.42	258.54
United Kingdom	Pounds	50.86	126.00	48.45	120.00	324.02	790.67	1.79	8		425.12	1,040.67
James B. King:											
Denmark	Kroner	184.00	25.00	184.00	25.00	184.00	25.00	184.00	25		735.00	100.00
Israel	Pound	525.00	125.00	315.00	75.00			210.00	50.00		1,050.00	250.00
Sweden	Krona	375.00	75.00	125.00	25.00	125.00	25.00	125.00	25.00		760.01	150.00
United Kingdom	Pound	113.85	273.24	81.00	194.40			55.46	113.10		250.31	600.00
United Kingdom	Pound					319.75	780.26				319.75	780.26
United Kingdom	Pound					418.80	1,021.96				418.80	1,021.96
United Kingdom	Pound					274.56	669.99				274.56	669.99
United Kingdom	Pound					1,601.05	473.54				1,601.05	473.54
Eugene Mittleman:											
Switzerland	Guilder					2,084.15	563.60				2,084.15	563.60
Switzerland	Swiss franc	904.65	222.00	815.00	200.00	2,575.60	598.42	114.10	28.00		4,409.35	1,048.42
Dr. Aimo Oja'a:											
Finalnd						202.50	48.89				202.50	48.89
Benjamin Palumbo:											
Israel	Pound										420.00	100.00
Israel	Pound					6,027.00	1,435.00				6,027.00	1,435.00
Richard Wise:											
Sweden	Kroner	537.00	104.00	372.00	72.00	21.00	4.00	104.00	20.00		1,034.00	200.00
United Kingdom	Pounds	65.00	156.00	45.00	108.00	4.10	10.00	10.00	25.20		124.10	299.80
Germany	Marks	44.00	12.00	117.00	32.05			57.00	13.35		218.00	57.40
Germany	Marks					2,209.36	608.30				2,209.36	608.30
Germany	Marks					155.15	42.74				155.15	42.74
Germany	Marks					2,800.00	7.93				28.00	7.93
Dr. Jorgen Worm-Petersen:											
Denmark	Kroner					943.50	126.84				943.50	126.84
Total												36,725.21

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Mar. 10, 1972.

HARRISON WILLIAMS,
Chairman, Committee on Labor and Public Welfare.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON PUBLIC WORKS, UNITED STATES SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31 1972

Name of country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Senator T. F. Eagleton:											
Hong Kong	H.K. dollar	451.350	75.00	601.800	100.00			150.450	25.00	1,203.600	200.00
Viet Nam	Piastres	4,720.0	40.00	11,800.0	100.00			4,397.86	37.27	20,917.86	117.27
Cambodia	Riels			548.80	10.00			2,195.20	40.00	2,744.0	50.00
Subtotal			115.00		210.00				102.27		427.27

Footnote at end of table.

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REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON PUBLIC WORKS, U.S. SENATE, EXPENDED BETWEEN JAN. 1, AND DEC. 31, 1972—Continued

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
L. Stephen Vossmeyer:											
Hong Kong	H.K. dollar	431.350	75.00	601.800	100.00			150.450	25.00	1,203.600	200.00
Viet Nam	Piastres	4,720.0	40.00	11,800.0	100.00			4,397.86	37.27	20,917.86	177.27
Cambodia	Riels	5,664.048	12.10							5,664.048	12.10
Subtotal			127.10		200.00				62.27		389.27
J. B. Huyett, Jr.:											
Germany	Marks	432.00	130.12	192.90	60.00			32.80	9.88	664.0	200.00
Belgium	Franc	1,222.00	26.00	940.00	20.00			188.0	4.00	2,350.00	50.00
France	Franc	496.80	90.60	332.20	60.18					829.00	150.18
Subtotal			246.12		140.18				13.88		400.18
Total			488.22		559.18				178.42		1,216.82

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

Foreign currency (U.S. dollar equivalent)	$1,216.82
Total	1,216.82

JENNINGS RANDOLPH,
Chairman, Committee on Public Works.

Jan. 31, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON RULES AND ADMINISTRATION, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
John F. Haley:											
United Kingdom	Pound	85	204.00	60	144.00			14	33.60	159	381.60
Ireland	Pound	10	24.00	8	19.20			2	4.80	20	48.00
Transportation (air)	Guilder					3,040.45	834.54				834.54
Transportation (ground)	U.K. pound					181.06	438.19				438.19
Total			228.00		163.20		1,272.73		38.40		1,702.33

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$1,702.33
Total	$1,702.33

B. EVERETT JORDAN,
Chairman, Committee on Rules and Administration.

Mar. 7, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE JOINT COMMITTEE ON ATOMIC ENERGY, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
John B. Anderson:											
Austria	Schilling	1,414.60	55.00	902.00	35.00			257.40	10.00	2,574.00	100.00
Belgium	B. francs	3,375.00	67.50	2,875.00	57.50	250.00	5.00	1,000.00	20.00	7,500.00	150.00
Germany	D. marks					5,034.75	[2] 1,322.80			5,034.75	1,322.80
United Kingdom	Pounds	24.78	60.00	12.39	30.00	10.28	24.67	4.13	10.00	51.58	124.67
Edward J. Bauser:											
Belgium	B. francs	1,840.00	36.80	1,200.00	24.00	2,116.00	42.32	660.00	13.20	5,816.00	116.32
Denmark	D. kroner	165.00	22.00	85.00	11.30	90.86	12.12			340.86	45.42
Finland	F. marks	74.75	18.68	104.60	24.14	27.48	6.57	28.75	7.18	235.58	56.57
Netherlands	Guilders					4,735.87	[3] 1,331.05			4,735.87	1,331.05
Portugal	Escudos	2,200.00	77.57	1,500.00	52.57	400.00	14.28	1,584.00	[4] 55.58	5,684.00	200.00
Spain	Pesetas	13,700.00	196.70	7,840.00	113.00	7,520.00	108.30	1,750.00	25.00	30,810.00	443.00
Switzerland	S. francs	473.70	120.42	400.00	100.00	330.00	83.50	116.30	29.08	1,320.00	333.00
Wallace F. Bennett:											
Germany	D. marks					3,163.65	[2] 935.71			3,163.65	935.71
Switzerland	S. francs	475.00	120.00	253.00	64.00	755.00	185.05	64.00	16.00	1,547.00	385.05
Peter H. Dominick:											
Austria	Schilling	1,910.00	79.61	1,771.20	73.80	2,800.00	114.66	400.00	16.66	6,882.00	284.73
Germany	D. marks					3,377.55	[2] 998.98			3,377.55	998.98
James B. Graham:											
Morocco	Dirham	258.78	51.55	160.44	31.96					489.50	97.51
South Africa	Rand	96.18	134.65	68.20	95.50			7.14	10.00	171.52	240.15
Congo	Zaire			22.05	45.00			11.76	24.00	33.81	69.00
Germany	D. marks					3,275.70	[2] 901.95			3,275.70	901.95
Kenya	K. shilling	1,367.00	192.00	857.96	120.50	370.60	51.95	199.36	28.00	2,794.92	392.45

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Orval Hansen:											
Austria	Schilling	1,544.40	60.00	643.50	25.00	257.40	10.00	128.70	5.00	2,754.00	100.00
Belgium	B. francs	2,500.00	50.00	1,000.00	20.00	600.00	12.00	1,000.00	20.00	5,100.00	102.00
Germany	D. marks					4,898.66	[3] 1,377.12			4,898.66	1,377.12
Switzerland	S. francs	930.00	235.00	388.00	98.00	2,818.00	690.69	68.00	17.00	4,204.00	1,040.69
United Kingdom	Pounds	30.00	74.30	10.35	25.70	26.79	64.83			67.14	164.83
Chet Holifield:											
Belgium	B. francs	1,800.00	36.00	1,200.00	24.00	816.00	16.89			3,816.00	76.89
Denmark	D. kroner	165.00	22.00	85.00	11.30	90.86	12.12			340.86	45.42
Finland	F. marks	70.00	17.50	104.60	24.14	27.48	6.57	33.50	8.36	235.58	56.57
Netherlands	Guilders					4,735.88	[3] 1,331.05			4,735.88	1,331.05
Portugal	Escudos	2,400.00	83.71	1,700.00	60.21	1,524.00	53.50	184.00	6.57	5,808.00	203.99
Spain	Pesetas	20,000.00	286.71	6,500.00	94.85	3,520.00	50.64	350.00	5.44	30,370.00	437.64
Switzerland	S. francs	590.00	150.40	400.00	100.00					990.00	250.40
Craig Hosmer:											
Belgium	B. francs	1,890.00	37.80	1,400.00	28.00	1,116.00	22.87	410.00	8.22	4,816.00	96.89
Congo	Zaire			17,420	35.56			12,250	25.00	29,670	60.56
Denmark	D. Kroner	165.00	22.00	85.00	11.30	90.86	12.12			340.86	45.42
Finland	F. marks	103.50	25.86	104.60	24.14	27.48	6.57			235.58	56.57
Germany	Deutsch marks					3,275.70	[3] 901.95			3,275.70	901.95
Kenya	K. shilling	1,399.60	196.50	950.00	133.38	370.60	51.95	142.40	20.12	2,862.60	401.95
Morocco	Dirham	813.20	161.83	466.90	92.91			100.40	20.26	1,380.50	275.00
Netherlands	Guilders					5,228.62	[3] 1,469.54			5,228.62	1,469.54
Portugal	Escudos	2,400.00	85.22	1,800.00	64.28	532.00	18.75	624.00	20.20	5,356.00	188.45
South Africa	Rand	96.36	134.90	69.00	96.60			13.21	18.50	178.57	250.00
Spain	Pesetas	24,000.00	343.85	10,000.00	143.85	4,060.00	58.41	750.00	11.53	38,810.00	557.64
Switzerland	S. francs	640.00	161.00	350.00	89.00					990.00	250.00
George F. Murphy, Jr.:											
Austria	Schilling	1,540.00	60.50	1,125.00	44.84	750.00	31.23	1,181.00	48.43	4,596.00	185.00
Belgium	B. francs	2,300.00	46.00	3,160.00	63.20	2,515.50	50.31	1,786.30	36.00	9,761.80	195.51
Germany	Deutsch marks					7,108.97	[3] 2,029.72			7,108.97	2,029.72
Italy	Lire	56,490.00	90.87	33,470.00	53.36	15,000.00	24.00	13,440.00	23.77	118,400.00	192.00
France	F. francs			120.70	21.89					120.70	21.89
John O. Pastore:											
Austria	Schilling	1,264.00	51.00	1,153.00	46.00	2,457.00	99.62	541.00	23.00	5,415.00	219.62
Belgium	B. francs	1,991.00	39.00	1,778.00	36.00	2,970.00	59.72	750.00	15.00	7,489.00	149.72
Germany	D. marks					6,857.13	[3] 1,960.35			6,857.13	1,960.35
Italy	Lire	50,160.00	79.87	22,670.00	36.26	13,515.00	24.74	9,120.00	14.76	95,465.00	155.73
Melvin Price:											
Germany	D. marks					2,385.23	[3] 705.48			2,385.23	705.48
Switzerland	S. francs	632.00	160.00	333.00	84.00	918.70	223.96	25.00	6.00	1,908.70	473.96
Stuart Symington:											
Austria	Schilling	650.00	25.00	80.00	3.07	100.00	3.84	37.00	1.43	867.00	33.34
Belgium	B. francs	1,195.00	23.90	728.00	14.56	77.00	1.54			2,000.00	40.00
France	F. francs	195.00	34.00	11.03	2.00			27.58	5.00	233.61	41.00
Germany	D. marks					3,482.60	[3] 960.31			3,482.60	960.31
Total			4,027.20		2,485.77		18,481.30		638.29		25,632.56

[1] If foreign currency is used, enter dollar equivalent; if U.S. currency is used, enter amount expended.

[2] Commercial air transportation.
[3] Telephone call to United States of America.

RECAPITULATION

Foreign currency (U.S. dollar equivalent)	$25,632.56
Total	25,632.56

JOHN O. PASTORE,
Chairman, Joint Committee on Atomic Energy.

Date: Mar. 15, 1972.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE JOINT ECONOMIC COMMITTEE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Kenneth A. Guenther:											
Canada	Dollar	76.59	76.59	81.11	81.11	22.30	22.30	20.00	20.00	200.00	200.00
Subtotal			76.59		81.11		22.30		20.00		200.00
Albert A. Kakeland, Jr.:											
Belgium	Franc	3,871	78.00	1,836	37.00	596	12.00	794	16.00	7,097	143.00
France	Franc			82.99	15.00	33.20	6.00	5.53	1.00	121.72	22.00
Hong Kong	Dollar	210.35	35.00	150.25	25.00	90.15	15.00	132.22	22.00	582.97	97.00
Japan	Yen	20,394	56.65	18,000	50.00	6,480	18.00	9,126	25.35	54,000	150.00
Netherlands	Guilder					6,641.35	[4] 1,849.96			6,641.35	1,849.36
United Kingdom	Pound	29.92	72.40	28.51	69.00	12.23	29.60	11.98	29.00	82.64	200.00
Vietnam	Piaster			22,000	80.00	6,875	25.00	12,100	44.00	40,975	149.00
Subtotal			242.05		276.00		1,955.56		137.35		2,610.96
William S. Moorhead:											
Cyprus	Pound	36.96	90.00	18.48	45.00			6.16	15.00	61.60	150.00
France	Franc	165.99	30.00	82.99	15.00			27.67	5.00	276.56	50.00
Greece	Drachma	4,200	140.00	2,550	85.00			750	25.00	7,500	250.00
Lebanon	Pound			16.20	5.00			145.80	45.00	162.00	50.00
Netherlands	Guilder					4,850.63	[3] 1,363.30			4,850.63	1,363.30
Russia	Ruble	252	280.00	189	210.00	126	140.00	63	70.00	630	700.00
United Kingdom	Pound	33.06	80.00	20.66	50.00			8.26	20.00	61.98	150.00
Subtotal			620.00		410.00		1,503.30		180.00		2,713.30
Myer Rashish:											
France	Franc	1,027.67	185.00	527.72	95.00			111.10	20.00	1,666.49	300.00
United Kingdom	Pound	39.26	95.00	18.59	45.00			4.13	10.00	61.98	150.00
Subtotal			280.00		140.00				30.00		450.00

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE JOINT ECONOMIC COMMITTEE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971—Continued

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency
Henry S. Reuss:											
Austria	Schilling	747	30.00	1,245	50.00			498	20.00	2,490	100.00
Czechoslovakia	Crown	861	60.00	1,435	100.00			574	40.00	2,870	200.00
Germany	Deutsche mark					2,225.28	[2] 612.69			2,225.28	612.69
Hungary	Forint	2,250	75.00	3,750	125.00			1,500	50.00	7,500	250.00
Italy	Lire	77,875	125.00	62,300	100.00			15,575	25.00	155,750	250.00
Romania	Lei	801.90	45.00	1,336.50	75.00			534.60	30.00	2,673	150.00
Subtotal			335.00		450.00		612.69		165.00		1,562.69
Klaus-Dieter Arndt [3]:											
Germany	Deutsche mark	2 days per diem at $25 a day				3,293.50	933.00			3,470	983.00
Subtotal			[4] 50.00				933.00				983.00
Milton Gilbert [3]:											
Switzerland	Franc					3,779	926.23			3,779	926.23
Subtotal							926.23				926.23
Total			1,603.64		1,357.11		5,953.08		532.35		9,446.18

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[2] Round trip transportation purchased by State Department.
[3] Testified before the Subcommittee on Foreign Economic Policy.
[4] Advance by U.S. Embassy—no breakdown furnished the committee.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$9,446.18
Total	9,446.18

Feb. 18, 1972.

WILLIAM PROXMIRE,
Chairman, Joint Economic Committee.

REPORT OF EXPENDITURE OF APPROPRIATED FUNDS BY THE MEXICO-U.S. INTERPARLIAMENTARY GROUP, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency
Mike Mansfield:											
Mexico	Dollar		342.74		72.00				4.60		419.34
George D. Aiken:											
Mexico	Dollar		66.53		34.78				6.45		107.76
Lloyd Bentsen:											
Mexico	Dollar		66.53		57.78		5.10		15.08		144.49
Robert C. Byrd:											
Mexico	Dollar		66.53		43.11		4.60		14.19		128.43
Lawton Chiles:											
Mexico	Dollar		52.41		52.94		3.90		15.05		124.30
Marlow W. Cook:											
Mexico	Dollar		66.53		74.95		4.31		3.23		149.02
Edward J. Gurney:											
Mexico	Dollar		56.45		47.90		4.70		20.30		129.35
Henry M. Jackson:											
Mexico	Dollar		66.53		41.20		5.09		3.54		116.36
Joseph M. Montoya:											
Mexico	Dollar		70.56		63.94		5.20		14.40		154.10
Robert Dockery:											
Mexico	Dollar		66.53		56.04		4.27		14.93		141.77
Pat M. Holt:											
Mexico	Dollar		66.53		55.88		1.60		5.56		129.57
Milrae Jensen:											
Mexico	Dollar		56.45		19.04						75.49
Arthur M. Kuhl:											
Mexico	Dollar		56.45		61.85				2.01		120.31
David Paton:											
Mexico	Dollar		56.45		102.58				9.88		168.91
Elmira Vogtmann:											
Mexico	Dollar		56.45		2.50						58.95
Delegation expenses:											
Official meals and receptions					173.79						173.79
Transportation							323.50				323.50
Miscellaneous									47.07		47.07
Total			1,213.67		960.28		362.27		176.29		2,712.51

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Other Public Law 86-420	$2,712.51
Total	2,712.51

MIKE MANSFIELD,
Chairman, Senate Delegation.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE U.S. GROUP, INTERPARLIAMENTARY UNION, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency
Gordon Allott:											
Iceland	Krona	5,570	64.18	3,194	36.66	43.04	49.16			13,068	150.00
United Kingdom	Pounds	31.58	78.32	28.90	71.68					60.48	150.00
France	Francs	1,656	301.09	725.35	131.88	124.00	22.41	124.00	22.55	2,629.35	477.93
Birch Bayh:											
United Kingdom	Pounds	31.58	78.32	26.47	65.66			2.43	6.02	60.48	150.00
France	Francs	1,656	301.09	436.60	79.38			582.50	105.91	2,675.10	486.38
Vance Hartke:											
Venezuela	Bolivar	840.00	186.69	360.30	80.06			23.00	5.51	1,223.30	272.26
Iceland	Krona	5,570	64.18	32.18	36.70					8,788	100.88
United Kingdom	Pounds	29.72	71.97					4.90	12.15	33.92	84.12
France	Francs	1,012	184.00	118.70	21.58			107.50	19.55	1,238.20	225.13
Ernest F. Hollings:											
France	Francs	621.00	112.91	871.40	158.44	253.22	45.77	367.50	66.81	2,113.12	383.93
Jacob K. Javits:											
France	Francs	1,188.00	216.82	2,464.30	447.96	1,645.92	300.13	614.00	110.82	5,916.22	1,075.73
Germany	Deutsche mark					2,534.70	749.69			2,534.70	749.69
Len B. Jordan:											
Venezuela	Bolivar	840.00	186.67	333.15	74.03			104.00	39.30	1,277.15	300.00
Iceland	Krona	5,570	64.18	7,453	85.32			45.00	.50	13,068.00	150.00
United Kingdom	Pounds	31.58	78.32	28.90	71.68					60.48	150.00
France	Francs	1,656.00	301.09	645.50	117.39			1.50	.24	2,303.00	418.72
Mike Mansfield:											
France	Francs	1,000.50	181.91	809.50	147.18			1.00	.18	1,811.00	329.27
Lee Metcalf:											
Venezuela	Bolivar	840.00	186.67	1,024.45	227.77	1,050.00	235.00			2,595.30	649.44
Jack Miller:											
Venezuela	Bolivar	840.00	186.67	250.85	55.75			2.50	.55	1,093.35	242.97
Frank Moss:											
Iceland	Krona	5,570	64.18	7,433	85.32			45	.50	13,068	150.00
United Kingdom	Pounds	31.58	78.32	28.90	71.68					60.48	150.00
France	Francs	1,656.00	301.09	351.90	63.80			192.10	35.11	2,200.00	400.00
Hugh Scott:											
Venezuela	Bolivar	840.00	186.67	1,450.25	323.37			994.25	223.13	3,284.50	733.17
France	Francs	2,353.15	427.83	2,071.05	376.56	580.25	104.87	1,201.10	218.39	6,205.55	1,127.65
William B. Saxbe:											
Iceland	Krona	5,570	64.18	6,298	72.04	2,000	22.95	8,001	91.84	21,869	251.01
United Kingdom	Pounds	31.58	78.32	26.16	64.88	20.48	50.79	18.00	44.84	96.22	238.83
France	Francs	1,656.00	301.09	2,261.75	411.22	300.00	51.55	200.50	36.45	4,418.25	800.31
John Sparkman:											
Iceland	Krona	5,570	64.18	7,498	85.82					13,068	150.00
United Kingdom	Pounds	65.58	162.64	65.46	162.20	261.69	633.32	10.14	25.16	402.87	983.32
France	Francs	2,668.00	485.09	1,286.15	233.84	489.00	88.38	122.00	22.18	4,565.15	829.49
Harrison A. Williams, Jr.:											
Venezuela	Francs	255.00	56.91	271.15	60.52			144.15	32.57	670.30	150.00
Milrae Jensen:											
Venezuela	Bolivar	652.00	145.55	788.00	175.90			120.00	26.75	1,560.00	348.20
Iceland	Krona	2,780.00	31.91	4,800.00	55.09			2,090.00	24.00	9,670.00	111.00
United Kingdom	Pounds	15.79	39.16	20.09	48.84	3.22	8.00	11.30	28.00	50.40	124.00
France	Francs	1,012.00	184.00	920.50	167.42			125.00	22.82	2,058.00	374.24
Darrell St. Claire:											
Venezuela	Bolivar	840.00	186.67	423.25	94.05			252.60	56.13	1,515.85	336.85
Iceland	Krona	4,120.00	47.30	3,580.00	41.09					7,700.00	88.39
United Kingdom	Pounds	31.58	78.32							31.58	78.32
France	Francs	1,656.00	301.09	593.00	107.82			269.15	48.93	2,518.15	457.84
Total			6,129.58		4,610.58		2,362.02		1,326.89		14,429.07

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$8,774.55
Appropriated funds: Other 22 U.S.C. 276	5,654.52
Total	14,429.07

EDWARD DERWINSKI,
President and Chairman, U.S. Group.

REPORT OF EXPENDITURE OF APPROPRIATED FUNDS BY SENATE DELEGATION, NORTH ATLANTIC ASSEMBLY, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name of country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency	Foreign currency	U.S. dollar [1] equivalent or U.S. currency
John Sparkman: Canada	Dollar		151.50		142.82		68.57		15.61		309.93
Jacob Javits: Canada	Dollar		117.60		59.53				16.92		262.62
Edward M. Kennedy: Canada	Dollar		74.66		53.50				39.75		167.91
William B. Spong: Canada	Dollar		117.60		56.24		49.20		4.50		227.54
Donald G. Henderson: Canada	Dollar		89.25		86.20				.50		175.95
Milrae E. Jensen: Canada	Dollar		89.25		64.45				19.66		173.36
Mark Schneider: Canada	Dollar		31.50		58.85				33.21		123.56
Jo Ann Green: Canada	Dollar		89.25		60.92						150.17
DELEGATION EXPENSES:											
Official meals: Canada	Dollar				1,360.13						1,360.13
Transportation: Canada	Dollar						1,162.06				257.57
Office space, furniture and equipment rental: Canada	Dollar								257.57		204.45
Telephone charges: Canada	Dollar								204.45		821.58
Overtime of Embassy personnel: Canada	Dollar								821.58		17.00
Gratuities: Canada	Dollar								17.00		3.41
Miscellaneous: Canada	Dollar								3.41		
Total			760.61		1,942.64		1,279.83		1,420.16		5,403.24

REPORT OF EXPENDITURE OF APPROPRIATED FUNDS BY SENATE DELEGATION, NORTH ATLANTIC ASSEMBLY, EXPENDED BETWEEN JAN. 1 AND DEC. 1, 1971—Continued

RECAPITULATION

Public Law 84-689 ..... Amount $5,403.24

Mar. 3 22, 1972

JOHN SPARKMAN,
Chairman, Senate Delegation, North Atlantic Assembly

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY SENATE DELEGATION, BRITISH-AMERICAN PARLIAMENTARY CONFERENCE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name of country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. curaency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency
J. W. Fulbright:											
England	Pound	18.03	43.64	16.47	39.88	76.82	185.92	5.13	12.41	116.45	281.85
Netherlands	Guilder[2]					1,076.75	298.18			1,076.75	298.18
Lawton Chiles: England	Pound			60.37	145.16	3.00	7.20	7.08	17.00	70.45	169.36
Frank Church: England	Pound			69.45	168.80	8.00	19.20	5.00	12.00	82.45	200.00
Robert Packwood:											
England	Pound			10.35	25.02			4.85	11.81	15.20	36.83
Netherlands	Guilder					1,438.10	[3] 404.19			1,438.10	404.19
Hugh Scott: England	Pound			71.13	172.50	351.05	[3] 842.55	7.40	18.00	429.58	1,033.05
William B. Spong, Jr.: England	Pound			24.81	61.75			1.91	4.73	26.72	66.48
Donald G. Henderson: England	Pound			9.45	24.81	1.96	4.70			11.41	29.51
Milrae E. Jensen: England	Pound			12.00	29.04			2.50	6.05	14.50	35.09
Delegation expenses:											
Car and bus hire and driver overtime	Pound					85.91	207.86			85.91	207.86
Official meals	Pound			26.15	63.30					26.15	63.30
Telephone charges								7.02	17.00	7.02	17.00
Gratuities								35.00	84.00	35.00	84.70
Total			43.64		730.26		1,969.80		183.70		2,927.40

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[2] Airline tickets.

RECAPITULATION

Foreign currency (U.S. dollar equivalent) ..... Amount $2,927.40

Mar. 20, 1972.

J. W. FULBRIGHT,
Chairman, Senate Delegation British-American Parliamentary Conference.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency
Mike Mansfield:											
Finland	Finnmarks	409.88	99.95			323	77.05			733	177.01
Sweden	Kroner	414.90	82.98	92.60	17.02	448.67	88.92			956.17	188.92
Norway	Kroner	927	132.00	103.50	18.00	540.56	76.13			1,571.06	226.13
Denmark	Kroner	691	94.00	44.00	6.00					735	100.00
Italy	Lire			61,100	99.00	54,210	87.15			115,210	186.15
Morrocco	Dirhans	145	29.00	106	21.00	100	20.00			351	70.00
Mexico	Peso	760.00	60.80	848.50	67.88	1,321.50	105.72	95.00	7.60	3,025.00	242.00
Frank Church:											
Germany	Deutsche Marks					1,196.82	329.52			1,196.82	329.52
India	Rupee	319.20	42.00	364.8	48.00	15,306	2,014.00	76	10.00	750	2,114.00
England	Pound			22.00	52.34	52.20	127.13	1.50	3.63	75.70	184.00
U.S.S.R.	Ruble	110	122.22	130	144.45	4	4.44	10	11.11	254	282.22
Netherlands	Guilder					3,339.75	938.66			3,339.75	938.66
Stuart Symington:											
Japan	Yen	24,963.00	81.04	34,808.00	113.01			1,835.00	5.95	61,606.00	200.00
Thailand	Baht	1,600.00	78.81	1,809.00	89.11			81.00	3.99	3,490.00	171.91
India	Rupee			180.00	23.68			35.00	4.60	215.00	28.28
Iran	Rial	2,778.00	36.55							2,778.00	36.55
Israel	Pound	455.10	108.35	22.70	5.40	238.32	56.74	12.60	3.00	490.40	173.49
Italy	Lire			15,650.00	26.34	18,466.00	31.09	3,450.00	5.80	19,000.00	63.23
Austria	Schilling	1,180.00	50.21	996.00	42.38			75.00	3.19	2,251.00	95.78
Germany	Dutsche Marks	13.00	4.00	92.00	28.30			10.00	3.07	115.00	35.37
Israel	Pound					8,613.44	2,050.82			8,613.44	2,050.82
Claiborne Pell:											
Switzerland	Franc	289.17	71.40	252.32	62.30	46.98	11.60	19.03	4.70	607.50	150.00
United Kingdom	Pound	13.47	32.70	7.13	17.30	4.45	10.77			25.05	60.77
Netherlands	Guilder					3,735.99	1,090.80			3,735.99	1,090.80
John Sherman Cooper:											
United Kingdom	Pound	29.30	70.90	18.32	44.34	5.92	14.33	7.15	17.30	60.69	146.87
India	Rupee			98.65	12.98	30.40	4.00	22.80	30.00	151.85	46.98
Germany	Deutschemark	424.80	118.00	136.80	38.00	423.20	116.20	144.00	40.00	1,128.80	312.58
Germany	Deutschemark	(Air ticket)				7,338.30	2,020.46			7,338.30	2,020.46
Germany	Deutschemark	(Air ticket)				1,575.82	437.59			1,575.82	437.59
Austria	Schilling	3,725.50	145.00	921.60	36.00			486.40	19.00	5,134.50	200.00
Belgium	Franc	2,525	50.50	1,325	26.50	709	14.68	650	13.00	5,209	104.68
Finland	Finnmark	550	132.21	211.32	50.79	244.02	58.35	56.82	13.66	1,062.16	255.01
France	Franc	1,577.40	286.80	4,977.50	90.50	860.62	155.55	137.50	25.00	7,553	557.85
Nethierlands	Guilder	(Air ticket)				1,989.25	580.80			1,989.25	580.80
Israel	Pound	638.40	152	126	30.00	40	9.52	168	40.00	972.40	231.52
Israel	Pound	(Air ticket)				5,967	1,420.60			5,967	1,420.60
Egypt	Pound					10.0	18.00			10.0	18.00
Greece	Drachma			508.00	16.93			1,050.00	35.00	1,558.00	51.93
Austria	Schilling (air ticket)					6,990.00	270.92			6,990.00	270.93

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Name and country	Name of currency	Lodging		Meals		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency	Foreign currency	U.S. dollar[1] equivalent or U.S. currency
Jacob Javits:											
Mexico	Pesos			624.50	50.00	1,503.45	120.38	1,336.43	107.00	3,464.38	277.38
Germany	Duetschemarks	(Air ticket)				1,328.68	366.00			1,328.68	366.00
Vietnam	Piasters			14,750	125.00			2,092.14	17.73	39,250	142.73
Hong Kong	Hong Kong dollars	284.40	47.26	200.00	33.23	195.65	32.51	27.60	4.59	707.65	117.59
Japan	Yen	47,173	131.04	6,827	18.96	18,669	51.86			72,669	201.86
France	French francs	181.80	32.96	94.20	17.08	74.00	13.41			350.00	63.45
Belgium	Belgian francs	6,000	120.92	1,500	30.23	5,427	109.37			10,639	260.52
United Kingdom	Pounds	64.30	154.31	18.20	43.68	81.65	195.94			164.15	393.93
Netherlands	Guilders	(Air ticket)				6,641.36	1,849.96			6,641.36	1,849.96
Italy	Lire	118.00	200.00	147.00	250.00	70,752	119.11	6,200	10.58	344,252	579.69
Israel	Pounds	420.00	100.00	210.00	50.00					630.00	150.00
Germany	Marks	327.00	100.00	163.50	50.00					490.50	150.00
Jacob Javits:											
France	Francs	1,070.22	205.42							1,070.22	205.42
United Kingdom	Pounds	98.48	250.00			98	2.56			101.04	252.56
Israel	Pound	(Air ticket)				4,672.08	1,112.80			4,672.08	1,112.80
Hugh Scott:											
England	Pound	75.31	182.50	90.84	220.36	14.24	34.57	14.25	34.64	194.64	472.07
Finland	French marks	282.00	67.78	318.50	76.58	87.11	20.83	23.50	5.64	711.11	170.83
U.S.S.R.	French marks	1,206.40	290.00	1,206.40	290.00	41.60	10.00	41.60	10.00	2,497.20	600.00
Romania	Lei	1,296.00	72.73	1,377.00	77.27					2,673.00	150.00
Bulgaria	Leva			199.00	99.50			24.00	12.00	223.00	111.55
Denmark	Kroner	885.00	118.00	581.25	77.50	1,815.00	242.13	33.75	4.50	3,315.00	442.10
Netherlands	Guilder	(Air ticket)				3,356.80	943.45			3,356.80	943.43
Japan	Yen					311,670	865.75			311,670	[2] 865.75
Pat M. Holt:											
Italy	Lira	95,880	153.90	91,800	147.35	27,481	44.11	14,570	23.29	229,731	368.75
Mexico	Peso	760.00	60.80	1,605.20	128.42	1,321.70	105.74	117.60	9.41	3804.50	304.37
Brazil	Cruzeiro	1,525	305.00	1,261	252.20	427	85.40	903	180.60	4,116	823.20
Guatamala	Quetzal	216	216.00	209.30	209.30	54.30	54.30	59.70	59.70	539.30	539.30
Dominican Republic	Peso	175.92	175.92	169.08	169.08	16.00	10.00	49.00	49.00	404.00	404.00
Haiti	Gourde	800.00	160.00	233.25	46.65	10.00	2.00	119.75	23.95	1,163.00	232.60
Robert Dockery:											
Brazil	Cruzeiros	2108.28	421.65	1,550	310.00	525.80	105.16	41.75	8.35	4,225.83	845.16
Germany	Deutsche mark (air ticket)					3281.16	903.90			3,281.16	903.90
Arthur Kuhl:											
Japan	Yen	19,587	63.59	12,915	41.93	1,520	4.93	3,680	11.94	37,702	122.39
Korea	Won	31,080	83.77	19,010	51.23			4,100	12.66	54,190	147.66
Thailand	Bahl	1,600	78.81	1,783	84.90			336	16.00	3,719	179.71
India	Rupee			105	13.81			30	3.94	135	17.75
Iran	Rial	2,778	36.55	2,596	34.15			170	2.23	5,544	72.93
Israel	Pound	332.65	79.20	166.50	39.64	328.32	56.74	182.95	43.55	920.42	219.13
Italy	Lire	42,000	70.70	31,282	52.66	18,465	31.08	15,125	25.46	106,872	179.70
Austria	Schilling	1,100	46.80	1,795	76.38			116	4.93	3,011	128.11
Germany	Deutsche mark	6.50	2.00	61.60	18.95			14	4.30	82.10	25.25
Israel	Pound (air ticket)					8,613.44	2,050.82			8,613.44	2,050.82
David Keaney:											
Switzerland	Franc	792.35	197.95	788.45	196.97	185.90	46.47	241.80	60.23	2,008.50	501.62
Netherlands	Guilder (air ticket)					3,347.05	940.71			3,347.05	940.71
J. G. Lowenstein:											
France	Francs	242.89	44.00	155.55	28.19	138.59	25.12	33.21	6.00	570.34	103.31
Germany	Deutsche mark	(Air ticket)				1,546.35	425.76			1,546.35	425.76
Germany	Deutsche mark	(Air ticket)				4,377.36	1,205.22			4,377.36	1,205.22
Germany	Deutsche mark	(Air ticket)				8,082.38	2,227.68			8,082.38	2,227.68
Greece	Drachmas	3,060.00	102.00	2,950.00	98.33			2,010.00	67.00	8,020.00	267.33
Hong Kong	HK dollar	381.13	63.00	87.87	14.60	196.95	17.77	75.94	12.00	640.45	107.37
Laos	Kip	81,413.58	162.00	81,278.42	161.71	7,530.00	15.00	22,590.00	45.00	192,812.00	383.71
Belgium	Francs			1,827.98	36.37			312.02	6.00	2,140.00	42.37
Richard Moose:											
Greece	Drachmas	3,180	106.00	2,961	98.73			1,879	62.60	8,020	267.33
France	Francs	283.60	51.21	200.00	36.23			102.65	20.56	586.25	108.00
Germany	Deutsche mark	(Air ticket)				4,535.56	1,162.83			4,535.56	1,162.83
Germany	Deutsche mark	(Air ticket)				7,794.71	2,227.68			7,794.71	2,227.68
Hong Kong	Dollar	420.40	69.86	205.70	35.29					626.10	105.15
Laos	Kip	96,484	190.20	93,874	189.00	11,295	22.50	29,720	58.74	231,373	460.44
Thailand	Bahts	1,045.80	50.11	836.70	40.29					1,882.50	90.40
Cambodia	Riels	3,000	54.66	2,564	36.18			540.88	10.00	5,564	100.84
Francis R. Valeo:											
England	Pound	15.15	37.57	16.90	42.00	9.40	22.75	3.40	8.43	40.25	110.75
Denmark	Kroner	854.50	116.25	615.50	83.75					1,470	200.00
France	Franc	592.90	107.83	232.10	42.17					825	150.00
Italy	Lire	56,610	91.89	61,600	100.00	54,210	87.15	4,600	7.50	177,410	286.54
Morocco	Dirhans	98.67	19.73	62.33	12.02	100	20.00			261.00	51.75
Germany	Deutsche marks	(air ticket)	(air ticket)			1,587.00	469.39				469.39
Gerald C. Hickey:											
Germany	Deutsche marks	(air ticket)	(air ticket)			7,217.15	2,044.52			7,217.15	2,044.52
Don Luce:											
Germany	Deutsche marks	(air ticket)	(air ticket)			5,143.95	1,457.21			5,143.95	1,457.21
Robert Shaplen:											
Hong Kong	Hong Kong dollars	(air ticket)	(air ticket)			11,592.78	1,930.51			11,592.78	1,930.51
D. G. Henderson:											
United Kingdom	Pound	15.15	36.36	32.15	77.16	12.30	29.52	11.80	28.32	71.40	171.36
Poland	Zlotles	1,048	16.12	6,102.70	93.89	4,890.00	75.23	1,209.30	18.60	13.250	203.84
Poland	U.S. dollar		15.00						12.00		27.00
Belgium	Belgian franc	4,500.00	90.00	7,590	151.80	100	2.00	1,610.00	32.20	13.800	276.00
France	French franc	472	85.51	620	112.32	64	11.59	74.00	13.41	1.230	222.83
United States	Dollar						30.16		10.00		40.16
Poland	Zlotles					70,967	1,091.80			70,967	1,091.80
Finland	Finn-mark	148.90	35.97	133	32.13	334	80.63	17.10	4.13	648	152.86
Sweden	Kroner	250	49.26	170.5	33.60	489.6	96.00	21	4.13	972.1	182.99
Norway	Kroner	269.50	39.23	319	46.43	620.5	87.77	102.00	14.85	1,391	188.28
Denmark	Kroner	360	48.98	237	32.24	23	3.13	15	2.04	635	86.39
Italy	Lire	27,138	44.06	42,790	69.46	63,810	102.73	4,172	6.77	147,510	223.02
Germany	D. Marks	71.4	21.00	181	53.24	20.3	5.97	57.3	16.85	330	97.06
France	New franc	103.5	18.82	121.5	22.09	16	2.91	14	2.55	255	46.37
Morocco	Dirhams	91.17	18.16	140.5	27.92	112	22.42	7.33	1.50	351	70.00
Germany	Deutsche mark (air ticket).					351.73	103.45			351.73	103.45
Total			8,091.76		6,418.60		37,880.33		1,517.10		53,907.79

[1] Local transportation for U.S. delegation to 3d United States-Japan Parliamentary Conference.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971—Continued

RECAPITULATION

Foreign currency (U.S. dollar equivalent)	$53,840.63
Appropriated funds: Other Public Law 84-689	67.16
Total	53,907.79

Mar. 27, 1972.

J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations.

DRUG ABUSE

Mr. SPONG. Mr. President, drug abuse is one of our most pressing domestic problems. As I travel throughout my State of Virginia, I hear concerns about drug use voiced again and again. Yet, some of our most successful programs to combat crime and drug abuse are threatened. They are threatened by a new hard-match requirement which will become applicable to the action grants of the Law Enforcement Assistance Administration—LEAA—this July.

Where previously States have been able to provide equivalent value goods and services in lieu of cash, the amended Safe Streets Act requires that effective July 1, 1972, at least 40 percent of the non-Federal funding be in money. Despite the fact that the Virginia General Assembly added $400,000 to the budget for matching purposes, Virginia still stands to lose $6 million over the next 2 years—$6 million which would be applied to the fight against drug abuse—because of the new requirements.

I believe the hard-match requirement should be delayed for at least a year and have introduced a bill to that effect. Furthermore, on March 21 I wrote the President, who had just made a trip to New York to review efforts to combat drug abuse, regarding this matter. I ask unanimous consent that my letter to the President be printed in the RECORD.

Mr. President, the problem my State is experiencing in meeting the matching fund requirements of the LEAA program is shared by many other States and local communities around the Nation. Recently, Mr. George W. Orr, executive director of the Iowa Crime Commission, undertook a survey of the States to determine which face prospects of reducing or discontinuing participation in the LEAA program. Thirty percent of the States surveyed were pessimistic about being able to continue at present levels of participation, while another 8 percent could go either way. I ask unanimous consent that the Iowa Crime Commission survey and a letter to Senator MILLER from Mr. Orr be printed in the RECORD.

Furthermore, one of the States not facing an immediate problem—Michigan—strongly supports the bill I introduced, S. 3137. I also ask unanimous consent that a letter to me from Mr. Don P. LeDuc, administrator of the Office of Criminal Justice programs in Michigan, be printed in the RECORD.

Mr. President, my office is only now beginning to hear from local communities which recognize that if their States cut back participation in LEAA programs, all of the subunits of the State will suffer accordingly. This is the case in my own city of Portsmouth. Consequently, I ask that a letter from City Manager A. P. Johnson, Jr., on this subject, also be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., March 21, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I read with interest of your visit to New York to review various efforts to combat drug abuse. I share your concern over this pressing domestic issue and was pleased to see that you were quoted as saying that we "must have no budget cuts in waging total war" on drug abuse.

I would, however, like to bring to your attention the fact that we are, in effect, bringing about a budget cut by requiring the States, beginning July 1, 1972, to meet new matching requirements under the Law Enforcement Assistance Administration (LEAA) programs.

Where previously States have been able to provide equivalent value goods and services in lieu of cash the amended Safe Streets Act requires that effective July 1, 1972, at least 40 percent of the non-Federal funding be in money.

As a result of this and other amendments which require the States to assume a greater financial burden in connection with the program, my own State of Virginia stands to lose over the next two years about $6 million in Federal action grants which otherwise would be available to it.

Other States are experiencing similar problems. According to a national survey undertaken for the Association of State Planning Agency Directors by Mr. George W. Orr, executive director of the Iowa Crime Commission, 17 States thus far have indicated they will have to reduce their participation in LEAA drug and crime programs or drop out altogether unless some relief is granted. Those States are Kansas, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Indiana, Louisiana, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, West Virginia, and Virginia.

On February 17, I introduced legislation which would delay for one year the so-called hard-match funding requirement imposed on the States by a 1971 amendment to the Safe Streets Act. About that same time, I contacted the LEAA regarding this amendment. To date, I have not heard from them concerning it.

I believe that it is most important that we continue with all means possible our efforts against drug abuse, but I believe that many of these efforts will have to be on the State level and in view of that, depriving the States of much-needed funds for crime and drug activities appears counter-productive.

Consequently, I hope that you will review this matter in the near future and that the Administration can support this urgently needed legislation. I look forward to hearing from you.

Respectfully,

WILLIAM B. SPONG, JR.

IOWA CRIME COMMISSION,
Des Moines, Iowa, February 28, 1972.

Hon. JACK MILLER,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MILLER: Attached is a survey the State Planning Agency of the Iowa Crime Commission conducted nationwide, several months ago. The purpose was to determine which of the states would have difficulty in complying with the "buy-in" requirement resulting from the 1970 amendment to the Omnibus Crime Control and Safe Streets Act. As you see, a number of states do not believe that they can continue this important program.

In requiring state contributions Congress evidently felt that state governments had money to appropriate that local governments did not. In truth, state governments now are as sorely pressed as are local governments. In order to appropriate new money, an increase in taxes is generally necessary. This would hardly assist local governments. In Iowa, our once enviable surplus exists no longer. A recent discussion with the State Comptroller indicated that the difference between appropriations and projected revenues is not more than one to one and one-half percent. You must agree that the margin is dangerously small in view of fluctuating economic conditions.

Senator Spong of Virginia is even now attempting to provide some relief to the States from the requirements initiated by the above mentioned amendment to the Safe Streets Act. I am told he does not feel that he would be successful in trying to eliminate or forestall the "buy-in" and has, therefore, asked for relief from the "hard match" requirement applicable in fiscal 1973.

Since the financial conditions of the states may even be more desperate after fiscal year 1973, the Congress must take another look at the Safe Streets Act and realistically align it with the capabilities of states and local governments to continue the program. It is hoped that you will assist Senator Spong in his current effort as well as for possible legislation in the next Session providing lasting relief.

Several suggestions are made. First, Part "B" of the Act has never been adequate to discharge the planning/administrative task required in an ever increasing amount by the federal government. In Iowa our planning grant has risen only 77% while our action grant represents an increase of 2544%. Had we maintained the concept of a block grant without the involvement of the federal government in great detail, we may have been able to carry on. This has not been the case however. The Iowa State Planning Agency is absolutely saturated with the requirement to administer the program statewide, provide comprehensive planning, to audit all accounts, and to evaluate the performance of projects and programs. More Part "B" money must be provided.

The "buy-in" requirement referred to above, originally stemmed from a move by the large cities to require more state involvement in the form of money. A second suggestion is available which would actually reduce the necessity for local matching monies. To be specific, it is recommended Act be matched on the basis of 10% state that all programs entertained under the

or local and 90% federal. Therefore, the cost to the cities or other grantees would be reduced in local matching funds from 18.75% to 10% on the average.

The intent of the Congress to involve states and local governments by virtue of contributions of money is well understood. From our point of view, however, it must be understood by Congress that we have reached the end of the road at state and local levels in our ability to levy more taxes. Therefore, the ever increasing federal involvement in the form of initiating new programs, cannot be accommodated longer unless matching requirements are extremely low or non-existent. No one denies the need for federally sponsored standards and the resultant work required within the states. The federal government, however, should realize that it has long since outstripped state and local government ability to fund programs. We simply cannot abide a continual commitment of state and local resources for new programs which carry the threat of losing our federal tax dollars if we fail to make good our part. This is a very sore point in the Iowa Legislature and the minds of the people of this State.

Your cooperation will be greatly appreciated.

Sincerely,

GEORGE W. ORR,
Executive Director.

FISCAL YEAR 73 BUY IN SURVEY

State	1970 population by millions	Percent State population to total	State has appropriated	State is optimistic	State can go either way	State is pessimistic
Alabama	3.44	1.69				X
Alaska	.30	.15		X		
Arizona	1.77	.87				X
Arkansas	1.92	.95			X	
California	19.95	9.82				X
Colorado	2.20	1.08				X
Connecticut	3.03	1.49				X
Delaware	.54	.27				X
District of Columbia [1]	.76	.42	Not applicable			
Florida	6.78	3.34		X		
Georgia	4.58	2.26				X
Hawaii	.76	.37		X		
Idaho	.71	.35		X		
Illinois	11.11	5.47		X		
Indiana	5.19	2.56				X
Iowa	2.82	1.39		X		
Kansas	2.24	1.10		X		
Kentucky	3.21	1.58	X			
Louisiana	3.64	1.79				X
Maine	.99	.49	X			
Maryland	3.92	1.93		X		
Massachusetts	5.68	2.80			X	
Michigan	8.87	4.37		X		
Minnesota	3.80	1.87	X			
Mississippi	2.21	1.09		X		
Missouri	4.67	2.30			X	
Montana	.69	.34	X			
Nebraska	1.48	.73		X		
Nevada	.48	.24		X		
New Hampshire	.73	.36	X			
New Jersey	7.16	3.53		X		
New Mexico	1.01	.50				X
New York	18.19	8.96			X	
North Carolina	5.08	2.50	X			
North Dakota	.61	.30				X
Ohio	10.65	5.25			X	
Oklahoma	2.55	1.26				X
Oregon	2.09	1.03			X	
Pennsylvania	11.79	5.80			X	
Rhode Island	.94	.46				X
South Carolina	2.59	1.28			X	
South Dakota	.67	.33				X
Tennessee	3.93	1.93			X	
Texas	11.19	5.51	X			
Utah	1.06	.52				X
Vermont	.45	.22			X	
Virginia	4.65	2.29			X	
Washington	3.41	1.67			X	
West Virginia [2]	1.75	.86				X
Wisconsin	4.42	2.17	X			
Wyoming	.34	.16	X			
Totals	203.00	100.00	9	22	4	15
Percent of 50 States			18	44	8	30
Percent of population			14.98	52.49	7.31	24.80
Percent of 50 States positive or negative [3]			66 positive		34 negative	
Percent positive or negative by States based upon population [3]			71.12 positive		28.46 negative	

[1] The population of D.C. excluded in items 3 and 5.
[2] Constitutional Restriction.
[3] Assuming one-half of "State can go either way" category will fall into positive and one-half into negative.

STATE OF MICHIGAN,
EXECUTIVE OFFICE,
Lansing, Mich., March 15, 1972.

Hon. WILLIAM B. SPONG, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPONG: I am writing in regard to the legislation which you introduced which would delay implementation of the hard match and buy-in amendments to the Omnibus Crime Control and Safe Streets Act of 1968. As I understand it, your bill would defer imposition of the requirements of the amendments pending complete review of the Omnibus Crime Control and Safe Streets Act. As I understand it, that review would occur during hearings which will examine a reauthorization for the Law Enforcement Assistance Administration and the Act for the next three years.

This legislation is badly needed in my state and in several others, of which I am aware. Although the State of Michigan has always favored some arrangement for support of this Act, our efforts to date to achieve implementation of the buy-in and hard match provisions have been most trying. Michigan is nearing completion of the legislative process required to approve the State's budget. During that process it has become apparent that many questions regarding the buy-in and hard match remain unanswered and that a great deal of money will be committed without full awareness of compliance with LEAA guidelines. Further, I am not convinced that the intent of Congress is being satisfied, either by Congress' own language or the interpretations being offered by the Law Enforcement Assistance Administration.

Implementation of these requirements on a project by project basis presents many difficulties, and seems to overlook substantial State contributions to various law enforcement and criminal justice efforts. Interpretations being offered by the Law Enforcement Assistance Administration, while helpful to the states, seem to present a distorted picture regarding compliance with Congress' intent. I do not believe that LEAA has acted improperly or unwisely in any way, but I do feel that the interpretations and instructions being offered indicate a basic flaw in the structure of the Act.

I strongly endorse your bill and hope that it will be passed. I would appreciate any information which your office might send me regarding its present status and your potential for passage.

I would be happy to furnish you with information regarding the difficulties which have transpired in Michigan, if you would like this information. Your attention to this matter is appreciated, as is your effort to relieve the states of this obligation until such time as the issue is fully explored.

Sincerely,

DON P. LEDUC, *Administrator.*

CITY OF PORTSMOUTH,
Portsmouth, Va., March 7, 1972.

The Honorable WILLIAM B. SPONG, JR.,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR SPONG: The City of Portsmouth is vitally interested in LEAA funds and wishes to solicit your continued efforts to assure that Virginia receives its planned allocations for FY 1973 and FY 1974. We wish to endorse and support Mr. Richard Harris's position as stated in his letter to you of January 28, 1972.

Portsmouth, like most other municipalities, has just become experienced in planning and using LEAA grant resources to the the point of bringing them to bear on specific crime reduction and control problems. It would be very unfortunate to fail to take advantage of the maximum fund resources available under the Omnibus Crime Control and Safe Streets Act.

With warm personal regards.

Sincerely,

A. P. JOHNSON, JR.,
City Manager.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

Under the order previously entered, the Chair recognizes the Senator from South Carolina (Mr. HOLLINGS) to call up the Legislative Appropriation Bill.

LEGISLATIVE BRANCH APPROPRIATIONS, 1973

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 13955.

The PRESIDENT pro tempore. The clerk will read the bill by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 13955) making appropriations for the Legislative Branch for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which

had been reported from the Committee on Appropriations with amendments.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that this measure be the pending matter until finally disposed of.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COTTON. Mr. President, will the Senator yield for 1 second?

Mr. HOLLINGS. I yield.

Mr. COTTON. Mr. President, I should like to take this opportunity to congratulate the distinguished Senator from South Carolina and congratulate the distinguished Chairman of the Appropriations Committee, who is presiding, and call attention to a fact which has not previously been brought to our attention. This is the earliest in any session since March 16, 1962—10 long years—that a regular appropriation bill has been before the Senate. I think that both the chairman of the subcommittee and the chairman of the full committee, as well as all the members of the Appropriations Committee, should be aware of that and should be congratulated on this achievement.

Mr. HOLLINGS. I thank my distinguished colleague from New Hampshire. This 10-year drought could not have ceased without the unceasing loyalty, contributions, and guidance given by the senior minority member upon this Appropriations Subcommittee, the Senator from New Hampshire (Mr. COTTON). He met with me on every occasion. We conducted full hearings, and we so wrote the markup, and his ideas and positions and advices to the committee as a whole were most valuable contributions.

Mr. President, the legislative branch appropriation bill for fiscal year 1973 is now before the Senate. This is the first regular annual appropriation bill for the new fiscal year which begins on July first. Included in the bill are funds for the operation of the Senate, the House of Representatives, the various Joint activities of the Senate and House, the Architect of the Capitol, Botanic Garden, Library of Congress, Government Printing Office, General Accounting Office, and the Cost Accounting Standards Board.

The bill as recommended to the Senate by the committee recommends appropriations in the amount of $514,722,880—and while this is an increase of $87,118,116 above the amounts recommended in the bill by the House of Representatives, I wish to point out that the House did not consider budget estimates in the amount of $85,740,895 relating to the financing of Senate functions.

So obviously, then, there is only a slightly less than $2 million increase over the House amount, because $85 million of the increase is attributable to the Senate Office Buildings and Senate Garage, and for the project to restore the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol.

The committee's report is before each Member, and beginning on page 21 there is a tabulation which shows the appropriations for fiscal year 1972 enacted to date, the budget estimates for fiscal year 1973, the amounts recommended in the House version of the bill, and the recommendations of the Senate committee, together with comparisons. It should be made clear that the figures for fiscal year 1972 do not include increased pay costs which are expected to be included in the second supplemental appropriation bill, 1972, now being processed and scheduled to be before the Senate sometime during the month of April. The amounts recommended by the committee for fiscal year 1973 do include funds to finance these increased pay costs.

Mr. President, I will proceed to an explanation of the significant items in the bill, but will be happy to respond to any questions during the course of this presentation.

The distinguished Senator from Montana (Mr. METCALF), of our Joint Committee on Congressional Operations, desires to comment, and perhaps make motions on the appropriations for the Joint Committee on Congressional Operations that have been reduced by the Senate from the House appropriated amount.

The Secretary of the Senate requested, and the committeee has approved, an additional appropriation of $213,253 to enable the Secretary to carry out his duties under the Federal Election Campaign Act of 1971. This act designated the Secretary of the Senate as one of three supervisory officers responsible for carrying out the functions established in this legislation. These duties are outlined in the report, beginning on page 4, and an itemization of the funds requested to implement this new act is also listed.

Compare that to over $1 million, or $1.4 million, for performing the same functions for the House Members—of course, a larger body—but the appropriations for the General Accounting Office are estimated in the same bill to run at $1.6 million. So I think our distinguished Secretary of the Senate is being on the conservative side, and of course we are ready and anxious to cooperate with this cautious financial approach to this new task.

For the Joint Committees of the Congress and other joint items financed in the bill, a total appropriation of $25,923,220 is recommended. The sums recommended are itemized in the table at the conclusion of the report. However, I will highlight several of them at this point.

The committee recommends the sum of $716,900 for the Joint Economic Committee. This is an increase of $42,710 over the House allowance and the budget estimate. The increase will provide for additional administrative expenses to enable the committee to operate at its current level—that is, for hearings and investigations and the pay increase. We did not want to cut back, but we did refuse this committee's request for some 5 additional employees.

For the Joint Committee on Congressional Operations, the committee effected a reduction of $214,634 below the House bill and approved the sum of $355,000. It was the view of the committee that this joint committee, just recently organized, should proceed at a less accelerated rate of expenditure than has been indicated in its budget presentation after 1 year of operation. This joint committee was established pursuant to the Legislative Reorganization Act of 1970 (Public Law 91–510) and is responsible for the continuing review of the organization and operations of the Congress and making recommendations for improvements thereon.

Mr. METCALF. Mr. President, will my friend from South Carolina yield?

Mr. HOLLINGS. I yield to the chairman of the joint committee.

Mr. METCALF. I am the vice-chairman, not the chairman of the joint committee.

Mr. HOLLINGS. Well, he serves as the Senate leader on that joint committee.

Mr. METCALF. The joint committee, as the distinguished Senator has said, was created by Public Law 91–510 in the last Congress. We held extensive hearings last year on such subject matters as whether we should have a Federal budget for the fiscal year or for the calendar year. We made a report that I think is significant and very interesting and informative to every Member of the Senate and every Member of the Congress. The joint committee, also as directed in the act, was to set up and supervise a placement office for both Senate and House employees. That is section 402(a) of the bill, which states that joint committees shall provide for an office of placement and office management.

Under the very able leadership of the committee chairman, Representative BROOKS of Texas, we went very slowly and proceeded very carefully in establishing this Office of Placement and Office Management, and it was only after a year of studies, surveys, and discussion that it was established. So it has only been established for a few months. Before January 1 of this year, operation of a placement office on Capitol Hill was paid for through appropriations to the Department of Labor. Many Senators and even more Representatives have utilized the Office of Placement and Office Management, which we have already improved considerably, both to give tests for employees whom they seek to hire and also to find employees whom they need.

I call the Senator's attention to the fact that under the law, in even numbered Congresses, the chairman should come from the House of Representatives. So in the 92d Congress, the chairman comes from the House committee, and Representative Brooks, is chairman. Next year, the chairman would come from the Senate side. Certainly it would be most unfortunate that, at a time when the House of Representatives has had the chairman and has had an opportunity to establish this committee, considerably more money has been appropriated, and then, when it reverts over to the Senate side, whoever is going to be chairman—it may be Senator CASE, Senator GRAVEL, Senator CHILES, Senator SCHWEIKER, or I might be the chairman of the committee—that we would be deprived of the opportunity to do what Congress has directed us to do.

A cut of $214,000, despite the committee report, is a cut of 38 percent of our request, as approved by the House. It would prevent the committee from doing what Congress has directed it to do. We have not proceeded at any accelerated or headlong pace. We have proceeded very slowly, and for example, it took a year before we began to operate the office of placement, because we wanted to establish it properly.

I feel, Mr. President, that this is a cut that not only is directed at the Senate and the Senate's opportunity to do a job, but is directed at the efficiency of the joint committee that has been established by law and directed to do something that we can no longer do if $214,000 is cut from our budget.

Mr. HOLLINGS. Mr. President, in response to the statement of the Senator from Montana, who led the way on the Senate floor for legislative reorganization, in fairness it should be pointed out that this matter only came up in normal fashion before the subcommittee markup of the bill in the middle of last week, approximately on Tuesday afternoon, I think it was, and by Friday afternoon we had the full committee markup. The subcommittee at no time requested the Senator from Montana to present any fuller views of this matter.

Mr. METCALF. I relied on the usual procedure and did not appear before the Appropriations Committee to explain the matter.

Mr. HOLLINGS. Well, the Senator had every right to rely on the standard operating procedure, Parkinson's law, that once we got a committee it would continue to grow, and nobody would step in its way, certainly not a legislative committee.

But, of course, the mood and the atmosphere have changed to one of prudence and frugality, and a very harsh look-see is being taken at all these expenditures, particularly legislative expenditures. After all, how can we control the cost of Government if we cannot control ourselves?

So when we got to the Joint Economic Committee, we told the Senator from Wisconsin (Mr. PROXMIRE), "No, you cannot have any additional funds." Our distinguished colleague from Washington (Mr. MAGNUSON), whose committee handles this $30 billion HEW appropriation which has gone completely out of the realm of reason and consideration, by just a fluke, has an outstanding staff, but there are really only two or three; the Chief Counsel, Harley Dirks, does a magnificent job, but he could stand three or four more; and then when we got down to the Senator's committee, he can understand the atmosphere and mood, and when it was said, "What does that committee really do, anyway, how did they get started, and what do they really want?" and then when we looked into it, and saw they were going to give us an administrative manual for congressional officers, the senior members of the committee said, "I don't want an administrative manual; I can run my own office and do not need one."

Then when it was seen that it involved a procedure for employing people, the response was, "We have got enough people already, and we do not need a special committee to tell us how to hire." Then the proposition was made, "Well, they are going to give us an orientation."

"Well," they said, "if you are not oriented by now, particularly on the score of money and dollars, you had better quit."

So we decided we had better cut it. It may be that the House will insist on the full amount, and we are not going to fight it, because I want to be fair to the outstanding job being done; I think the Representative from Texas, Mr. BROOKS, has only responded in a responsible way to carry out the legislative mandate. It is pretty difficult to carry out the job Congress says to do when the funds are cut out from under you. I understand that, but this was the feeling of the committee.

The Senator's distinguished colleague from Montana, the majority leader, supported him openly and convincingly within the full committee markup, but we just went along with holding the line on the employment of these additional clerks. The best thing we thought we could do was hold the line on the employment of these additional staff members.

Mr. COTTON. Mr. President, will the Senator yield for a moment?

Mr. HOLLINGS. I yield.

Mr. COTTON. I would like to add to what my distinguished chairman has just said. There was not any hostility or real opposition to the objective of the new joint committee chaired by the distinguished Senator from Montana.

Mr. METCALF. Mr. President, I am not now the chairman. I am vice-chairman and could be the chairman next year. This year the chairman is Representative JACK BROOKS of Texas.

Mr. COTTON. I understand. As a practical matter, as the distinguished Senator from South Carolina has already mentioned, the thought there was that we were holding back what we considered to be the mushrooming growth of some of these joint committees, growing constantly and reaching out for greater staffs, when the legislative committees of the Senate and the House of Representatives needed those staffs to a greater degree.

I also think the chairman will agree with me that when the amount of this cut was fixed, being practical men who have been dealing with appropriations through the years in committees of conference, we were absolutely certain that whatever cut was made in this bill would certainly be split in two in the conference with the House of Representatives. In fact the House might even do better than that.

So as a practical matter, we realized that in recommending this reduction of $214,631 that only half of that cut could prevail in conference, and perhaps less.

Those are some of the facts of life that the Senator from Montana knows we have to take into consideration. I certainly think every member of our subcommittee and of the full committee, and those who go to conference, will want to see this committee properly taken care of.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. METCALF. I am delighted to hear the statement of the ranking minority member.

The Joint Committee cannot possibly do the job Congress directed it to do in the 1970 Legislative Reorganization Act with a cut of $214,000.

It seems to me that the bare bones cut, beyond which we would be crippled is slightly more than $100,000.

Perhaps if we could go to conference and split the difference or the House would prevail on part and the Senate would prevail on part, I would not have to offer an amendment. I urge the conferees not only to respect the responsibility of the Senate in the next Congress but also to respect the responsibility given by the legislation to the Joint Committee on Congressional Operations. I urge the conferees to keep in mind that Representative BROOKS has been very careful and very cautious in the expenditure of any money.

I will not offer an amendment, but I assure my colleagues that we must have at least $104,000 in order for the Joint Committee, established in the 1970 act as a permanent committee, to function.

Its purpose is to study—on a continuing basis—congressional organization and operation, and to recommend necessary changes designed to strengthen the Congress.

It is also directed to report periodically on court proceedings of vital interest to the Congress and to maintain a central Office of Placement and Office Management.

As vice chairman of this committee, I am deeply concerned over the action of the Senate Appropriations Committee, which sharply reduced our appropriations for next year. Their figure is $214,634 below the House allowance and our budget request. This is a 38 percent cut. It gives us a budget for fiscal 1973 that is $70,000 less than was appropriated last year.

We have developed the joint committee's schedule of activities and staffing with extreme care over the past year. We have done so to make certain that we did not build up another bureaucracy or provide services which are not clearly useful to members of the Senate and House of Representatives.

We were not—and are not—interested in building an empire.

Nevertheless, consistent with our desire to avoid unnecessary expenditures, the joint committee has maintained a full agenda of activities since January 1971. We have not just spent this time getting organized. We have been—and are now—actively engaged in the work intended to be carried out by this committee under terms of the 1970 act.

Last year, we held extensive hearings on proposals to change the Federal fiscal year. We issued a report on this in November 1971.

In March of this year, we opened hearings on work toward improved executive branch reporting of fiscal and budgetary data, as required by the 1970 act. We intend to devote sustained attention to this important problem.

As part of our continuing study of im-

plementation of the act, we compiled and published, in October 1971, rules adopted by the committees of Congress. We intend to bring this up to date each Congress.

We have issued three reports, advising both Houses of court actions affecting the powers and operations of Congress.

We have a number of studies underway now, ranging from a broad review of the speech or debate clause of the Constitution to a narrowly focused study of automatic data processing applications in legislatures.

These are only a few of the significant activities presently being conducted by our joint committee.

As I noted a moment ago, we have moved carefully on recruitment and employment of staff, to keep our staff level consistent with our workload. We have not hired the full complement of professional and clerical staff authorized in the 1970 act. However, to perform—and complete on a timely basis—the work we now have underway or scheduled, we will require additional professional and clerical staff during fiscal 1973.

Also, on January 1 of this year the joint committee assumed full responsibility for the personnel placement operation which, previously, had been conducted on Capitol Hill by the Department of Labor.

Until January 1, the costs of this operation had been paid out of appropriations to the Labor Department. We now have to pay the full costs for this service, including staff, equipment, and other necessary items.

We already have made significant improvements in the placement operation.

The office is for the first time interviewing job seekers as they come into the office. No one who is looking for work any longer has to make an appointment weeks or months in advance before he can even fill out application forms.

The Office for the first time is thoroughly testing applicants for typing and stenographic positions.

The Office is maintaining useful lists of applicants, so that congressional offices with specific needs can expect to review the papers on all candidates qualified for the job they are attempting to fill.

The joint committee is working to fulfill the important responsibilities assigned it by the 1970 act. We anticipate a need to complete our permanent staff roster next year. We will require additional funds—our estimate for fiscal 1973 is about $125,000 higher than the estimate for the previous year—to operate the Office of Placement and Office Management.

If these funds are not available, if this deep cut is retained, if we do not receive the support necessary to fill out our staff—then the work of our joint committee will be severely limited, if not crippled, next year.

I urge the conferees on both sides of the aisle to consider the level of our activities—and our present staff—and to restore our budget request.

Mr. President, I ask unanimous consent to have printed in the RECORD a somewhat more detailed description of our joint committee's work and staffing over the past year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF ACTIVITIES—JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

I. PUBLICATIONS

"Changing the Federal Fiscal Year: Testimony and Analysis." The first report of the Joint Committee on Congressional Operations, November 5, 1971. The report draws conclusions and makes recommendations on proposals to change the Federal fiscal year.

"The Federal Fiscal Year as It Relates to the Congressional Budget Process." Hearings before the Joint Committee. June 14, 16, 17 and 21, 1971. Record of the hearings on changing the fiscal year and appropriations procedures.

"Court Proceedings and Actions of Vital Interest to the Congress." Three editions: Cumulative to October 20, 1971; Cumulative to December 1, 1971; Cumulative to February 21, 1972. These reports are published every three months to advise both Houses of court actions affecting constitutional powers of Congress, powers of congressional committees, congressional access to Executive Branch information, et cetera.

"Rules Adopted by the Committees of Congress." October 27, 1971. The compilation was published as part of a continuing study of implementation of the 1970 Legislative Reorganization Act.

"The Joint Committee on Congressional Operations." January 1, 1972. The report describes the Committee's purpose, jurisdiction and rules, and contains a brief list of major changes in congressional operations over the last decade.

II. HEARINGS

On March 1 the Joint Committee opened hearings on work under way to improve Executive Branch reporting on revenues and expenditures—and to provide for congressional access to the data that goes into budget preparation. The Committee intends to devote sustained attention to congressional access to basic fiscal and budgetary data on Federal programs and activities.

III. OTHER STUDIES

Other studies under way are, first, a broad investigation of litigation affecting the operations of Congress. This includes a review of the history of the Speech or Debate Clause of the Constitution, its establishment, purpose and operation; agents and agencies of the Congress; and an examination and assessment of the impact of the doctrine on congressional operations.

A second study, narrower in scope, is concerned with the history of "legally privileged" relationships—for example, lawyer-client, and doctor-patient—and the few court decisions relating to a privilege, or lack of it, for congressional staff under the privileges afforded Members by the provisions of Article 1, Section 6, of the Constitution. The study will look at the feasibility of establishing by statute a privileged relationship between Members and staff—as has been done at the state level for some other relationships—and extending to staff employees constitutional privilege of immunity from legal action for matters related to legislative duties.

A third study will describe current and prospective automatic data processing applications in Congress. Work on this report is under way, in consultation with staffs of the House and Senate administration committees. Included will be summaries of applications in both the House and Senate, the GAO, the Library of Congress and Government Printing Office. Additionally, the report will summarize results and costs of such applications in the state legislatures. Publication of this material, not presently available, will help coordinate data processing applications in Congress, expediting their development and helping to insure their compatibility.

A fourth study will provide existing plans developed by the General Accounting Office and the Congressional Research Service for upgrading their information capabilities to meet the new requirements intended under the Legislative Reorganization Act. The report will include both organizational changes and budget estimates projected over a five-year period.

IV. OFFICE OF PLACEMENT AND OFFICE MANAGEMENT

The Office of Placement and Office Management, established in Section 406 of the Legislative Reorganization Act of 1970, is now in operation under the supervision of the Joint Committee on Congressional Operations.

Personnel placement services—available on request to members, committees, and officers of the Senate and House of Representatives—include:

(1) interviewing candidates for employment on a walk-in basis,

(2) conducting tests for typing and stenographic positions,

(3) maintaining rosters of eligible candidates by job categories, and

(4) submitting resumes and qualification forms for review by the employing office before scheduling interviews.

The Office is also preparing an administrative manual describing in a single source various supporting services available to members of the House and Senate. Some training functions are also contemplated, with the first to be an orientation program for new Capitol employees.

JOINT COMMITTEE PROFESSIONAL AND CLERICAL STAFF

The following table indicates the authorized and employed staff of the Joint Committee on Congressional Operations:

Authorized professional, 6; clerical 6.
Employed professional, 4; clerical 4.
Vacancies professional, 2; clerical 2.

OFFICE OF PLACEMENT AND OFFICE MANAGEMENT

The Joint Committee on Congressional Operations was directed to establish an Office of Placement and Office Management that, upon request, assists Congressional offices seeking competent personnel with specified qualifications. To accomplish this objective the Placement Office was established on January 3, 1972. The Joint Committee on Congressional Operations is authorized to appoint staff as it deems necessary to carry out this function. The Placement Office is staffed as follows:

1 Acting Chief
4 Placement Officers
2 Clerks

Up to February 28, 1972, the Placement Office had on loan from the District of Columbia Manpower Administration three placement officers and one clerk. All but one placement officer has been returned to the District of Columbia Manpower Administration.

Since its inception, the Placement Office has been interviewing approximately 200 people per week. A great majority of these applicants are tested for clerical skills. The following table will show the volume of work performed by this office during January and February of this year:

Total requests for assistance, 306.
Positions filled: by referral of applicant from Office of Placement and Office Management, 124.
Other sources, 83.
Requests pending, 99.

An average of six applications were reviewed by Congressional Offices for each vacancy. Over 400 interviews have been scheduled by the Placement Office between applicants and employers.

The Office of Placement and Office Management is further directed to furnish advice and information with respect to office management procedure. To accomplish this, only one staff assistant has been appointed thus far; he has held various discussions with Congressional officials and is in the process of gathering material to publish in an Administrative Manual that we hope to have available for all offices by the end of this year.

Mr. HOLLINGS. We will be fully cognizant of the comments and the position of the distinguished Senator from Montana. I think the Senator feels that the fact that the ranking minority member and I thought that Senator METCALF was the chairman of the committee indicates that at the time we were cutting him, and thereby were cutting ourselves, that there was no intent to do this. This joint committee was headed by the distinguished Representative from Texas (Mr. BROOKS), and we were not cutting because the House Member was the chairman and because he was not doing a job. He is doing an outstanding job.

We are trying to hold back, and we will take cognizance of the comments of the Senator from Montana.

The committee concurs in the House allowance of $21,226,480 to cover official mail costs. This is $2,826,480 more than the $18,400,000 appropriated to cover the estimated costs for fiscal year 1972. The committee noted the Postal Service statement that:

Our long range goal is to develop actual volume data by class of service so that the reimbursement for the Congress will be based, to the extent practicable, on the different classes of mail at prevailing rates.

Since it appears that classification of mail, the establishment of proper conversion factors, and class rate application—all matters involved in the determination of the official mail costs—are under study by the Postal Service, the committee recommends and urges that the Committees on Post Office and Civil Service of the Senate and House of Representatives also study this entire matter with a view to establishing criteria upon which the Postal Service will be paid for congressional mail.

For the various activities under the jurisdiction of the Architect of the Capitol, the committee recommends a total of $26,332,300, plus an additional $771,600 for the Botanic Garden, which is also administered by the Architect of the Capitol.

For salaries, Office of the Architect, the committee recommends $1,171,500. This is $27,000 below the budget estimate and deletes two positions—one general engineer at $15,866 per annum and one architectural draftsman at $11,046 per annum—which had been approved in the House of Representatives.

The committee has approved an appropriation of $75,000 for the contingent fund, which is an increase of $25,000 over the amount which has been available in this fund for many years.

These funds are provided for the purpose of expediting emergency repairs and necessary modifications in those instances where comparatively small sums are involved. All expenditures from the fund must first receive the approval of the chairman of the Senate Committee on Appropriations for those items affecting the Senate and the Speaker of the House of Representatives for those items affecting the House.

Under Capitol buildings, the committee has included the sum of $1,521,000 for the restoration of the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol. As Members will recall, an appropriation of $37,500 was provided in the Legislative Branch Appropriation Act, 1964, to enable the Architect of the Capitol to prepare working drawings, specifications, and estimates of cost for restoration of these two historic Chambers substantially to the condition in which they existed and were furnished when last occupied in 1859 by the U.S. Senate and in 1860 by the Supreme Court of the United States.

The drawings and specifications were completed in 1965 and a budget estimate in the amount of $700,000 was submitted for consideration in connection with the legislative branch apropriation bill, 1966. The Senate approved the proposal at that time, but this did not prevail in conference with the House. On subsequent occasions, the Senate has included funds in several regular and supplemental appropriation bills to accomplish this important restoration work, which likewise failed to survive conference action.

In the years intervening since the initial budget estimate was prepared, escalating costs of labor and materials required submission of revised estimates, first in the amount of $1,209,000 and, more recently, $1,521,000.

Details of current cost estimates are available in the printed hearings but, in summary, the project will proceed in two stages whereby the Old Supreme Court—lower—Chamber will be completed first, followed by restoration of the old Senate—upper—Chamber. It is estimated that the work can be accomplished in approximately 2 years' time, thus insuring that the Chambers will be open to public view by the bicentennial year.

Mr. President, the next subject I wish to discuss concerns resolutions introduced in both the Senate and House relating to the protection of the Capitol complex. Senate Concurrent Resolution 65 has been introduced in the Senate and referred to the Committee on Rules and Administration of the Senate. A companion resolution—House Concurrent Resolution 550—was approved by the House on March 16, 1972. These resolutions direct the Architect of the Capitol to procure and install security apparatus for the protection of the Capitol at a cost of not to exceed $3 million. The two resolutions provide further that the cost of acquisition and installation of such security apparatus shall be paid from the contingent fund of the House of Representatives.

The Senate Committee on Appropriations is not familiar with the details or the merits of the proposal since no request was made for funds and the matter was not presented to the committee. The pending bill, as it passed the House of Representatives, does not contain the $3 million. The Senate committee is of the view that the proposal to finance this expenditure from the contingent fund of the House is irregular. It was the committee's view that if the Congress agrees that such security apparatus should be procured and installed, it should be financed in the regular order from the appropriation, "Capitol Buildings," under the Architect of the Capitol.

The committee has so advised the Senate Committee on Rules and Administration, and further recommends to that committee that if it is favorably inclined toward the installation of this apparatus that Senate Concurrent Resolution 65 be amended to authorize an appropriation. Upon enactment of the authorization, the Committees on Appropriations of the two Houses can then consider the request for an appropriation in a supplemental appropriation bill.

Mr. President, turning now to the amendment inserted by the committee prohibiting the expenditure of funds for the preparation of final plans on the West Front extension proposal:

An appropriation of $2,275,000 under the head, "Extension of the Capitol," was made in the Legislative Branch Appropriation Act for fiscal year 1970. There is a balance in this account, as of March 1, 1972, of $2,020,665. On March 8, 1972, the Commission for Extension of the U.S. Capitol directed the Architect of the Capitol to proceed with the preparation of final plans for extending the west central front in accord with plan 2 heretofore approved by the Commission.

The committee was of the view that no funds should be used for the preparation of final plans until such time as the Congress has specifically approved and appropriated funds for the extension of the west central front. It is estimated that the cost of this project may total $60 million. The funds presently available may be used for preparation of preliminary plans. Should the balance of $2,020,665 be used for the preparation of final plans and should the Congress not approve of extending the west central front in accordance with plan 2, the funds would be wasted. On the other hand, should the final plans be prepared at a cost in excess of $2 million, the argument can be made that the Congress is obligated to proceed further with appropriations of $60 million for the extension.

Under these circumstances, the committee has inserted language in the bill stating that the funds may be used for preliminary plans but prohibits the use of any funds for the preparation of final plans or initiation of construction until the project is specifically approved and appropriated for by the Congress.

For the Senate Office Buildings, the committee recommends an appropriation of $4,932,200, an increase of $173,600 over the fiscal year 1972 appropriations enacted to date. Details with respect to

the items recommended under this head may be found on page 12 of the report.

For the Library of Congress, the committee recommends a total appropriation of $78,576,450, and information concerning the individual line items is available in the report, commencing on page 14.

In the appropriation account, "Salaries and expenses," which supports the Library's basic operations, the committee recommends an appropriation of $36,455,000. This appropriation finances the acquisition and processing of materials, custody, and general services relating to the collections, and general administration of the Library. The sum recommended will finance the 51 additional positions requested for the various activities funded under this appropriation. This is an incerase of 30 additional positions over the House allowance of 21, urgently requested by the Librarian of Congress.

For the Congressional Research Service, the committee recommends concurrence in the House allowance of $9,155,000, which is a reduction of $650,000 below the budget estimate. The sum recommended will provide for an additional 86 positions, for a total complement of 524 in the Congressional Research Service. Sufficient funds are included in the recommendation to establish the information center in the Senate Office Building proposed by the Library of Congress.

For furniture and furnishings, the committee recommends concurrence in the House allowance of $4,435,300, of which $4 million is earmarked for the purchase and supply of furniture, book stacks, shelving, furnishings, and related costs necessary for the initial outfitting of the James Madison Memorial Library Building. The completion of the building is scheduled for February 1975, and to facilitate occupancy as soon as possible thereafter, furnishings and equipment must be contracted for prior to July 1, 1974. The item requiring the longest leadtime is the specialized compact bookshelving proposed for the building.

For the Government Printing Office, the committee recommends an appropriation of $46,500,000 for Congressional Printing and Binding and $17,239,900 for the Office of the Superintendent of Documents.

The committee has included in the bill $97 million for salaries and expenses of the General Accounting Office. This is $1,180,000 above the amount recommended by the House of Representatives, and will provide the full complement of the 238 additional positions requested by the Comptroller General. Included in the sum recommended is $1,600,000 for GAO responsibilities in connection with the recently enacted Federal Election Campaign Act—Public Law 92-225—which has imposed major new duties on the GAO.

That completes my statement, Mr. President, and I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER (Mr. McGEE). Without objection, it is so ordered, and the committee amendments are considered and agreed to.

The amendments, agreed to en bloc, are as follows:

On page 2, line 1, insert:

SENATE

On page 2, after line 1, insert:

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $4,778,340.

On page 2, after line 9, insert:

EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate, $3,000; in all, $16,000.

On page 2, after line 14, insert:

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

On page 2, after line 20, insert:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $430,200.

At the top of page 3, insert:

OFFICE OF THE PRESIDENT PRO TEMPORE

For office of the President pro tempore, $54,130: *Provided*, That effective July 1, 1972, the Comptroller may appoint and fix the compensation of an auditor at not to exceed $18,130 per annum in lieu of a secretary at not to exceed $15,281 per annum.

On page 3, after line 6, insert:

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, $206,165.

On page 3, after line 9, insert:

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips, $104,640.

On page 3, after line 12, insert:

OFFICE OF THE CHAPLAIN

For office of the Chaplain, $18,650.

On page 3, after line 14, insert:

OFFICE OF THE SECRETARY

For office of the Secretary, $2,244,230, including $99,974 required for the purpose specified and authorized by section 74b of title 2, United States Code: *Provided*, That effective July 1, 1972, the Secretary may appoint and fix the compensation of a third assistant parliamentarian at not to exceed $19,684 per annum, and a messenger at not to exceed $9,583 per annum.

On page 4, after line 2, insert:

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $7,696,705.

On page 4, after line 6, insert:

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority, at rates of compensation to be fixed by the chairman of said committee, $153,070.

For clerical assistance to the Conference of the Minority, at rates of compensation to be fixed by the chairman of said committee, $153,070.

On page 4, after line 13, insert:

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $34,264,925.

On page 4, after line 17, insert:

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of Sergeant at Arms and Doorkeeper, $8,633,250.

On page 4, after line 20, insert:

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $248,120.

At the top of page 5, insert:

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $473,810.

On page 5, after line 4, insert:

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $309,770 for each such Committee; in all, $619,540.

On page 5, after line 9, insert:

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and Sergeant at Arms, $36,000.

On page 5, after line 17, insert:

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, including $511,460 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, $11,848,545.

At the top of page 6, insert:

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $3.34 per hour per person, $74,475.

On page 6, after line 4, insert:

MISCELLANEOUS ITEMS

For miscellaneous items, $6,532,150.

On page 6, after line 6, insert:

POSTAGE STAMPS

For postage stamps for the Offices of the Secretaries for the Majority and Minority, $320; and for air mail and special delivery stamps for the Office of the Secretary, $610; Office of the Sergeant at Arms, $240; Comptroller, $100; Senators and the President of the Senate, as authorized by law, $137,355; in all, $138,625.

On page 6, after line 13, insert:

STATIONERY (REVOLVING FUND)

For stationery for Senators and the President of the Senate $385,800; and for stationery for committees and officers of the Senate, $17,200; in all, $403,000.

On page 6, after line 17, insert:

ADMINISTRATIVE PROVISIONS

The second sentence of section 4 of the joint resolution entitled "Joint Resolution transferring the management of the Senate Restaurants to the Architect of the Capitol, and for other purposes", approved July 6, 1961, as amended (40 U.S.C. 174j-4), is amended (1) by striking out "1972" and inserting in lieu thereof "1973", and (2) by striking out "specifically for such restaurants as a" and inserting in lieu thereof a comma and the following: "which shall be part of a".

Effective July 1, 1972, the last paragraph under the heading "Administrative Provisions" in the appropriations for the Senate under the Legislative Branch Appropriation Act, 1971 (2 U.S.C. 46d-5), is repealed.

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972, (1) to procure technical support services, (2) to procure the temporary or intermittent services of individual technicians, experts, or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to incur official travel expenses. Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 shall be covered into the Treasury as miscellaneous receipts.

On pages 15, line 8, after the word "Committee", strike out "$674,190" and insert "$716,900".

On page 15, line 26, after the word "Management", strike out "$569,634" and insert "$355,000".

On page 21, line 13, after the word "law", strike out "$1,198,500" and insert "$1,171,500".

On page 21, after line 24, strike out:

For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; furnishings and office equipment; special and protective clothing for workmen; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901, 5902; personal and other services; cleaning and repairing works of art, without regard to section 3709 of the Revised Statutes, as amended; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase of necessary reference books and periodicals; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $2,852,900, of which $50,000 shall remain available until expended: *Provided*, That there is hereby authorized to be established and maintained in an amount not to exceed $100, a petty cash fund for small purchases necessary for care and operation of the buildings and office administration, which shall be reimbursed by vouchers properly chargeable to this and successor appropriations.

And, in lieu thereof, insert:

For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; furnishings and office equipment; special and protective clothing for workmen; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902); personal and other services; cleaning and repairing works of art, without regard to section 3709 of the Revised Statutes, as amended; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase of necessary reference books and periodicals; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $4,411,000, of which $1,521,000 shall remain available until June 30, 1974, to enable the Architect of the Capitol, under the direction of the Commission on Art and Antiquities of the United States Senate established by S. Res. 382, 90th Congress, agreed to October 1, 1968, to make such expenditures as may be necessary, without regard to section 3709 of the Revised Statutes, as amended, to restore the Old Senate Chamber on the principal floor of the Capitol and the Old Supreme Court Chamber on the ground floor of the Capitol substantially to the condition in which these chambers existed when last occupied in 1859 and 1860, respectively, by the United States Senate and the United States Supreme Court, including expenditures for procurement, restoration, and repair of furniture and furnishings for these chambers: *Provided*, That there is hereby authorized to be established and maintained, in an amount not to exceed $100, a petty cash fund for small purchases necessary for care and operation of the buildings and office administration, which shall be reimbursed by vouchers properly chargeable to this and successor appropriations.

The sum of $74,000 of the $470,000 made available until expended under the heading "Senate Office Buildings" in the Legislative Branch Appropriation Act, 1968, is hereby rescinded.

The unobligated balances on June 30, 1972 in the following appropriation accounts, now available until expended, shall cease to be available for obligation on June 30, 1973:

Senate Office Buildings (excluding the $74,000 rescinded); Extension of Additional Senate Office Building Site; Structural and Mechanical Care, Library Buildings and Grounds; John W. McCormack Residential Page School.

At the top of page 25, insert:

EXTENSION OF THE CAPITOL

Funds available under this appropriation may be used for the preparation of preliminary plans for the extension of the west central front: *Provided, however*, That no funds may be used for the preparation of the final plans or initiation of construction of said project until specifically approved and appropriated therefor by the Congress.

On page 25, after line 19, insert:

SENATE OFFICE BUILDINGS

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; including eight attendants at a gross annual rate of $7,695 for the period January 9, 1972 to June 30, 1972 and whose salary rates shall be fixed on and after July 1, 1972 by the Architect of the Capitol without regard to Chapter 51 and Subchapters III and IV of Chapter 53 of Title 5, United States Code and shall thereafter be adjusted in accordance with 5 U.S.C. 5307; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol; in all, $4,932,200.

On page 26, after line 14, insert:

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $89,100.

On page 27, line 25, after the word "services", strike out "$1,516,400" and insert "$1,531,400".

On page 29, line 4, after the word "Board", strike out "$36,040,000" and insert "$36,455,000".

At the top of page 35, strike out:

Hereafter, appropriations for authorized printing and binding for the Congress shall not be available under the authority of the Act of July 30, 1947 (1 U.S.C. 211) for the printing, publication, and distribution of more than two copies of new editions of the Code of Laws of the United States and of the Code of the District of Columbia for each Member of the Senate and House of Representatives.

On page 37, line 16, after "(Public Law 87-195, 22 U.S.C. 2396 (b)", strike out "$95,820,000" and insert "$97,000,000".

Mr. MANSFIELD. Mr. President, will the distinguished Senator from South Carolina yield?

Mr. HOLLINGS. I yield.

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 25, strike out beginning on line 2 all language through line 7 and insert the following:

"Funds available under this appropriation may be used for the preparation of plans for the extension of the West Central Front: *provided however*, That no funds may be used for construction of said project until specifically approved and appropriated therefor by the Congress.

Mr. MANSFIELD. Mr. President, I voted for the amendment contained on page 25 of the bill when the Appropriations Committee met last Friday. I must admit, in all candor, that I did so under a misapprehension and, therefore, I stand corrected for my misunderstanding; but

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as a member of the commission for the extension of the U.S. Capitol, created by Congress and on which certain responsibilities were imposed, I attended my first meeting of that commission earlier this week for 2 hours, along with the Vice President of the United States, the Speaker of the House, the minority leader of the Senate, the minority leader of the House, the majority leader of the House, and the Architect of the Capitol. I listened to the arguments advanced by the Architect as to why he thought, in his judgment, we should go ahead with plans for the West Front.

He made some cogent arguments and I find that the agreement to which I was a party in the Appropriations Committee last Friday afternoon really accomplishes nothing, because it means nothing. I was under the impression, or at least I thought I was, that what we were doing was going ahead with funds for the plans, not for the appropriation of funds for the construction of any extension which, as a matter of fact, would have to come again before Congress, anyway.

But, Mr. President, not to take up too much of the time of the Senate, I ask unanimous consent at this time that a memorandum to the members of the commission for the extension of the U.S. Capitol, under date of March 6, 1972, and recommendations signed by all seven members of the commission for the extension of the U.S. Capitol dated March 6, 1972, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMISSION FOR EXTENSION,
OF THE U.S. CAPITOL,
March 8, 1972.

Whereas Public Law 91–145, approved December 12, 1969, provides:

EXTENSION OF THE CAPITOL

For an additional amount for "Extension of the Capitol", $2,275,000, to be expended under the direction of the Commission for Extension of the United States Capitol as authorized by law: *Provided*, That such portion of the foregoing appropriation as may be necessary shall be used for emergency shoring and repairs of, and related work on, the west central front of the Capitol: *Provided further*, That not to exceed $250,000 of the foregoing appropriation shall be used for the employment of independent nongovernmental engineering and other necessary services for studying and reporting (within six months after the date of the employment contract) on the feasibility and cost of restoring such west central front under such terms and conditions as the Commission may determine: *Provided, however*, That pending the completion and consideration of such study and report, no further work toward extension of such west central front shall be carried on: *Provided further*, That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;

(4) That the cost of restoration would not exceed $15,000,000; and

(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol, as proposed in such report.

Under the prevailing statute providing for this report, the Commission is charged with the responsibility of establishing to its satisfaction whether the five conditions specified in the law are met.

If the Commission determines that the five conditions are *not* met, then the law provides that the Commission shall direct the preparation of final plans for extending the West Central Front in accord with Plan 2 which the Commission has heretofore approved.

If the Commission concludes that the five conditions *are* met, then the law provides that the Commission shall make recommendations to the Congress on the question of whether to extend or restore the front.

LAW RELATING TO THESE DETERMINATIONS

In the Legislative Branch Appropriation Act, 1970, (Public Law 91–145), the Congress simultaneously appropriated $2,000,000 for preparation of final contract drawings and specifications for carrying out Plan 2 for extension of the West Central Front of the Capitol and $250,000 for engineering and other necessary services for studying and reporting on the feasibility and cost of restoring the front.

The law provided that pending the completion and consideration of the restoration study and report, no further work toward extension was to be undertaken.

The law also contained the following provisions which are pertinent to your consideration today:

"• • • That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;

"(4) That the cost of restoration would not exceed $15,000,000; and

"(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol."

Upon direction of the Commission for Extension of the United States Capitol, after exhaustive study, the engineering contract for the restoration study was awarded to Praeger-Kavanagh-Waterbury, Engineers-Architects of New York City, on July 1, 1970.

The Praeger report was received at the end of December, 1970, and was forwarded immediately to all Members of the Commission and released to the press and others interested.

STATEMENT OF THE ARCHITECT OF THE CAPITOL RELATING TO HIS STUDY OF THE WEST FRONT PROBLEM

Early last year, as the newly appointed Architect of the Capitol, and in anticipation that the Commission in Charge, before reaching a conclusion on the matter, would seek my professional judgment in assisting them to evaluate the Praeger report, I began a detailed professional review of all available information relating to the history and development of the West Central Front proposals.

Among the activities in which I engaged during the review are the following:

1. A careful and diligent open-minded study of the Praeger report.

2. A physical examination of both the interior and the exterior of the original west walls.

3. A careful review of testimony given over a period of many years before various House and Senate Committees concerned with the proposals for the extension of the West Front of the Capitol, and before the Commission for Extension of the United States Capitol.

4. A reading and review of the record of the floor debates in both the Senate and the House that led to the various actions of the Congress.

5. A review of the legislation, committee reports, and other documents on the subject.

6. Study of the Mueser, Rutledge, Wentworth & Johnston engineering report of 1957.

7. Study of the 1964 engineering report of The Thompson & Lichtner Co., Inc.

8. A study of the various reports of the former Architect of the Capitol, as well as reports made to him by the Associate Architects for the Extension Project.

9. Meetings and discussions of the various past studies, and of the Praeger report, with the staff of the Architect of the Capitol.

10. Requested and received advice and counsel from the American Institute of Architects which responded by appointing a new Task Force to re-examine the AIA position. We engaged in several conferences and a written report from the Task Force was received.

11. Asked three prominent general contractors, an officer and members of the AGC, for their opinion with regard to estimates of cost as outlined in the Praeger report and the feasibility of obtaining competitive lumpsum bids.

12. Conversed at some length with Mr. E. H. Praeger himself in order that I might obtain verbal clarification of a number of what I considered to be ambiguous or contradicting portions of the written report.

13. Conferred with the Advisory Architects, Consulting Engineers, and others.

14. Conferred with other individuals who have maintained a long interest in the Capitol, including Senators, Congressmen, and design professionals.

15. Spoke with a British stone preservation expert who inspected the Capitol, and then read several of his papers regarding the deterioration of stone generally and in England in particular.

16. Inspected, at no cost to the Government, several European restoration projects.

17. Personally examined the space needs of the House of Representatives and, to some degree, the space needs of the Senate. Have explored all areas on the House Side of the Capitol, from the basement through the attic, and many of the Senate areas. Several discussions have been held with Senator Jordan about my proceeding with a full space study of Senate facilities and he has now approved my proceeding with that study.

18. Examined and studied the matter of how the Congress uses the building, how the public (visitors) also uses the building, and further, how their respective and simultaneous needs must be considered.

19. Spent untold hours in review of the various data and in the reading of articles by many persons concerned with preservation, planning, the history of the Capitol, and in the re-examination of the Praeger report.

PROFESSIONAL JUDGMENTS OF THE ARCHITECT

After these many months of study and investigation, I am prepared to offer the following professional judgments, which for the purposes of this brief presentation have been necessarily simplified:

1. The structural adequacy of the west wall is, in fact, indeterminate. As many experts will declare that it is stable as will say that it is unstable. But even those who support the position of stability admit to the indeterminacy of the loading computations, and, therefore, say that the wall should be strengthened as an insurance against the probability of a possible failure. Thus, although there appears to be no imminent danger of an immediate collapse, there may well be concentrations of forces that have accumulated through structural and other changes over the years and that could, under certain circumstances, be triggered and released. There appears, then, to be no basic disagreement regarding the need to strengthen, and thus stabilize the wall in some fashion. Further, there appears to be no disagreement that this goal may be achieved in at least two ways, one of which is through restoration, or a strengthening of the wall in situ, and another of which is through an extension of the building itself, which will, in effect, buttress and thus strengthen the wall.

2. There appears to be no disagreement with regard to the exterior appearance of the proposed extension, nor any disagreement with regard to the total appearance of the Capitol that would result.

3. That human characteristic which manifests itself in our desire to save and preserve at least some of our heritage, whether it be personal, national, or international, finds a high degree of intensity in some, and it may then be expressed in the feeling that preservation is a primary goal in and of itself. I submit that the intensity with which that desire exists in the spectrum of people's feelings must, in this instance, be weighed against some of the physical needs of the Congress that must be met. If the Congress, for example, were to commission the design of a new legislative complex, the designers would undoubtedly need to assist in the writing of a program which would describe the physical needs of the Congress in the transaction of its daily business. The configuration of the building or buildings would arise from a study of these needs. In this existing legislative building, viz, the Capitol, these needs have changed and expanded over the years, and, indeed, are continuing to do so. It is apparent that complex problems such as these are not generally capable of simple solutions. Recognizing that it may thus be an oversimplification to so state, it is nevertheless my opinion that the Congress must weigh the sentiment of preservation against its physical needs, taking into account the various alternative methods of providing needed space in close proximity to the legislative chambers.

4. The argument can be made that the fact that the West Front contains the last remaining exposed original wall, is indicative of the past life and hence the growth of this living, working symbol of democracy and freedom that is the Capitol. Sometime, of course, acceleration in the growth of our Nation may diminish and perhaps that point is already in sight. It has therefore been suggested that the existing physical outline of the Capitol be considered inviolate at its present location. Somewhere that position must surely be taken, but it appears that it is not necessarily valid to presume that it cannot be taken at some other location, such as, for example, that of the proposed extension.

5. The final cost of the proposed restoration appears to be indeterminate. Most experts feel that the cost will certainly be more than $15,000,000, notwithstanding the written statement in the Praeger report. The requirements of items 3 and 4 of Public Law 91–145, previously quoted, indicated that a lumpsum contract for restoration of not more than $15,000,000 must be capable of being obtained. I interpret these two items, taken together, as meaning that the Congress has set a fixed, limited, i.e., maximum, cost of $15,000,000 as one of the criteria for the feasibility of restoration. Experience in the construction of buildings indicates that a lumpsum contract, in and of itself, is not an assurance that the designated sum will indeed be the final cost. It is my considered professional opinion, based upon my recent investigations as outlined above, that the restoration, as proposed, cannot be accomplished for a total final cost of $15,000,000. In that connection, it is important to recognize that even though the cost per square foot of an extension might appear to be high because of the particular kind of construction that would be necessary, any expenditure for restoration, because no space would be added, would result in what mathematically results in an infinite cost per square foot.

It is, further, worthy of note that there is no disagreement among the advocates of the various positions that restoration work generally, and the West Front of the Capitol in particular, should, because of its specialized nature, be accomplished through the medium of a cost plus a fixed fee contract rather than through a lumpsum agreement obtained on a competitive bid basis.

Although the specifics of the other three provisions of Public Law 91–145 can generally be said to be capable of being met, with the obvious possibility for disagreement regarding what is "safe, sound, durable, and beautiful for the foreseeable future," I believe that it would be inappropriate to presume that the cost limitation can or could be met.

SUMMARY

Summarizing, then, I submit the following judgments: (a) although it is relatively stable, the west wall needs repair and strengthening; (b) the restoration method of strengthening the wall cannot be accomplished for a guaranteed cost limit of $15,000,000; (c) the Congress must weigh and decide upon the relative importance and the appropriate methods of providing for its space needs in the Capitol, as compared with the admittedly highly desirable goal of preserving the exposed physical wall.

Additional information will be available at the meeting of the Commission.

GEORGE M. WHITE,
Architect of the Capitol.

Mr. MANSFIELD. Mr. President, may I point out that the Commission has done precisely what Congress mandated it to do in the Legislative Branch Appropriations Act of 1970. The charge that we have done otherwise, as has been enunciated by certain Members in the other body, is absolutely incorrect and absolutely without foundation.

Five conditions were spelled out in the Legislative Branch Appropriations Act of 1970, which restoration must meet in order to be considered by the Commission. If all of these questions were not met to the satisfaction of the Commission, then the law said the Commission shall direct the preparation of final plans for the extension as already approved by the commission. This is exactly what the Commission has done, and done unanimously.

Before the meeting of March 8, 1972, the Commission had received from the Architect of the Capitol the restoration report, the Architect's comments on the report and on his effort going back over a period of more than a year, and his professional judgments relating to the west front problem. At the meeting, we had available the preliminary plans and estimates of cost for the extension, and all the background information, including hearings, debate on the floor, committee reports, and so forth, during the last several years on this question.

Near the close of the Commission's discussion, Representative FORD read aloud each of the five conditions specified in the law and asked Architect White to comment on each one. The following resulted:

1. That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future.

Mr. White stated that the wall can be made relatively safe and sound. However, he said, there is grave doubt that it can be made durable and beautiful except with continued and substantial maintenance.

Representative FORD then read the next condition:

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2. That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension plan 2.

Mr. White said that this was a true statement.

Representative FORD then read the following conditions:

3. That the method or methods of accomplishing restoration can be so described or specified as to form the basis for perfomance of the restoration work by competitive, lump sum fixed price construction bid or bids.

4. That the cost of restoration would not exceed $15 million.

Mr. White stated that conditions 3 and 4, taken together, cannot, in his opinion, be met.

Representative FORD then read condition 5:

5. That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the plan to extension work: Provided further, That after consideration of the restoration report, if the commission concludes that all five of the conditions hereinbefore specified are met, the commission shall then make recommendations to the Congress on the question of whether to extend or restore the West Central Front of the Capitol.

Mr. White stated that condition 5 can be met.

Mr. White then gave us the analysis which he had arrived at after some thought and since assuming his position as Architect of the Capitol. And incidentally if he is not the first architect in a real sense of the Capitol, he is one of the very few. As I have said, he has made a number of investigations, surveys, and inquiries. He is a man who is honest in his outlook, and I am sorry to note that some Members, at least in the other body, have already started up the cry that he should resign his position because he does not agree with what they advocate about the west central front.

I can only say that Mr. White is a qualified architect and a former president of the American Institute of Architects. He is a man with a very high reputation. His integrity and his interest in this symbol of liberty, this Capitol of the Nation, which does not belong to the Members of the House or Senate, but to all people, is not subject to question. He is a man in whom the commission has the utmost confidence.

He was questioned quite closely for 2 hours. On the basis of his recommendations and on the basis of his answers to our questions, the Commission unanimously recommended that the plan go ahead, but also said that before any construction would be undertaken, that it would be subject to the will of the House and Senate Appropriations Committees, as well as their parent bodies.

What the Commission advocated has been stipulated under the laws of Congress and agreed to by both Houses.

I urge that the Senate give most serious consideration to backing up the Commission in what it did unanimously and in allowing the plans to go ahead, seeking to bring about, if the Senate and House agree, at an appropriate time, construction which is badly needed.

All we have to do now is to go out to the west front and see those 8-by-8 beams that are holding up the building.

There are some Members of this body, and perhaps I was included among them, who had questions concerning the extension of the east front. Certainly we have been satisfied, if not more than satisfied, with the architectural beauty which has enhanced the Capitol of the Nation on that side. The same can be done to the west central front, and if so the Capitol will be enhanced considerably, the building will be in a more central position, and the classical and architectural aspects of this building will, in my opinion, be enhanced considerably.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the action taken by the members of the Commission, representing both the House and Senate, relative to the west front of the Capitol, as well as remarks in the House by the distinguished Representative from Iowa (Mr. SCHWENGEL).

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

Mr. SCHWENGEL. Mr. Chairman, I hope there is no one here who may seriously question my interest in and my concern for the preservation of the Capitol. Few, I believe, and I confess humbly, surpass my interest in the history and the heritage of this great monument, our Capitol.

I will begin by suggesting to you and telling you, as many of you already know, that originally as a historian, I was opposed to both the East Front and the West Front extensions. But because of my growing interest, I researched this question and I have studied it in depth. The original plans were considered. The needs were noted. I have changed my mind. I was wrong and I have said so at different times on the floor of the House.

One of our troubles around here is that an institution for publicity in this area insists on only publishing one side of the story. On March 8 and 9, I took the floor and discussed this matter and commented on the decision of the Commission. This organization for publicity was made known of this, but not one line was in the paper. But, the opposition was there.

So I invite now, Mr. Chairman, the publicity facilities here, and one in particular, to pay attention to another side and to note what other people have said who are competent and who are interested and who are just as dedicated and concerned about this.

Now having commented on that, let me talk about change. My colleagues, there have been many changes in this Capitol Building. It is not a status quo-building just as this Nation is not a status quo institution.

We had the original design—and the first dome was a low dome. Then wisely and because the Congress needed more space, in 1850 a move was made to expand the Capitol and the result is this room—with one comparable to it on the Senate side.

Then it was noted that there was something wrong with that low dome and that it was out of proporttion. So it was recommended that we put a dome on like you see on the Capitol.

Then there was the question of need for balance on the west front and the terrace idea was conceived and an extension was conceived at that time.

In 1904 this Congress, looking forward to that extension part of the project to develop some bronze doors and there are three magnificent bronge doors on the east front now and they tell a magnificent story of our early history.

There is another set of doors which will be on display soon that will be designed for the west front, but because something happened we never could get on with this business. Every time it was up, there was somebody on the House floor opposing it. Even when we changed from gas light to electric light, some of the wise men in the Congress on the House and Senate side both commented: Well, what is the matter with the gas light? This electric business is just a fad and it is dangerous and we should not do it.

There was debate about the dome. So change has been a tradition and the status quo has not been the tradition.

Now as to the hideaways—I have been, I think, and every man can if he wants to, get into every room in this building. Some are not convenient to get into—you have to go through a manhole to explore the area where they dug there one time.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman.

Mr. JACOBS. I would like to see the gentleman get into the room where this committee met, the Appropriations Committee. I understand that no Members of Congress except members of the committee were admitted while the hearings were going on.

Mr. SCHWENGEL. I knew about those hearings. But I happen to trust those people very much. They are our representatives.

While we are commenting on that, I will say I have been able to find it and I have gone there and no discourtesy was shown. I found out what took place there. There was an honest evaluation of the facts that they were acting in accordance with the wishes of the Congress.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. Yes, I yield to the gentleman from Indiana.

Mr. JACOBS. Does the gentleman take the position that hearings on the expenditure of public money should be closed, that that is perfectly all right, and that we should just trust the members of the committee?

Mr. SCHWENGEL. I do not endorse that, of course, but that is not the question.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. The committee was glad to receive all Members who expressed an interest in coming to the committee, and all such Members did come and were heard.

Mr. JACOBS. Mr. Chairman, will the gentleman yield further?

Mr. SCHWENGEL. I yield to the gentleman from Indiana.

Mr. JACOBS. That is not an answer to my question. The question is whether Members can attend, not as witnesses, but to observe other witnesses. I would like the committee to state whether that would be permitted.

Mr. SCHWENGEL. Under the provisions of Congress, as the act was passed originally, the amendment called for a study and report, that the Commission would make the judgments, they did so, and they reported. When this happened, I went down here to see what happened. As far as I was concerned, they were very courteous.

I know what has taken place. I have every confidence in the judgment of these people, and I have confidence, I will say, in the new Architect. He is a qualified architect, and to question his integrity when he comes here is just not fair. I do not believe these kinds of people are affected by politics and political pressures. He could make a lot more money than he is getting, I believe, in private practice. So why should he worry about a job? Why should he not represent the best interests of the people?

Someone mentioned Campioli. He was one of the great architects of all time. He was hired by the Rockefeller Foundation and developed the Williamsburg layout there. This man is a traditionalist. Originally, like myself, he was opposed to both the east front and the west front extensions. But he was wise enough to recognize the facts and he changed his mind.

Now, I am not worried about hideaways. Any Member of the Congress can get into any room in the Capitol he wants to get into, and that includes those rooms that are used by Members on the other side. Of course, there are not nearly so many over here. Percentagewise, more of the Members on the other side can be taken care of.

Let me tell you about a great need here, my friends. The dome section of the Capitol, to me, is holy ground. That is the center of this building. That is where a lot of important events have taken place. That is where our great statesmen have lain in state. That is the reception center. I am ashamed of it.

I do not like something else. When a carload of people come here from Iowa, Texas, Indiana, New York, or elsewhere, some of whom are 65 years of age and older, they have to park a block and a half away, walk, climb 47 steps, and there is not even a restroom anywhere in the area. There is no place to sit down and relax. But there will be if we have an extension. We will have a nice driveway up the west front. They can walk 14 steps, get on a moving platform, and move into the reception center and begin their tour at that point. What is wrong with that? Nothing, of course.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I am glad to yield to the gentleman from Texas.

Mr. CASEY of Texas. I want to commend the gentleman for his activities in seeing that the Capitol becomes what it should be, a thing of beauty. If Members will look around, they will see that little by little we are accomplishing some of the things that need to be done. They will notice that our old Chambers are starting to get a little cleaning. Our committee has helped in getting junk off the balcony. I think by the time the centennial arrives and we have our celebration, we will have more pride in this building.

Mr. SCHWENGEL. Mr. Chairman, I now want to comment for the RECORD on the following questions:

First. Statements relating to Congressman STRATTON'S remarks on the floor March 16, 1972; the action of the Commission March 8, 1972; and the restoration and other reports.

Second. Resolution of the Commission March 8, 1972, containing the Commission's decision and the law relating to the restoration study and the extension of the Capitol.

Third. Law authorizing the extension of the central portion of the Capitol—east and west fronts—under direction of the Commission created therein.

Fourth. Editorial from the Evening Star, March 10, 1972.

Fifth. Memorandum from the Architect to the Commission, March 6, 1972.

Sixth. Background of George M. White, Architect of the Capitol.

The material referred to follows:

NOTES ON WEST FRONT ON THE CAPITOL

(If Congressman Stratton tries to stop planning through amendment or other device on the Legislative Branch Appropriation Bill, 1973)

1. Stratton stated in his speech on the floor of the House, March 1972, that he had introduced three separate bills to accomplish his objectives. These bills were referred to the Committee on Public Works. Why is he now attempting to circumvent the regular legislative processes through an appropriation bill?

2. The House debated the West Front problem fully on September 19, 1969, and agreed to appropriate $2,000,000 for the final planning of the extension. Mr Stratton's amendment to stop this was defeated by the House (vol. 115, pt. 19, p. 26389).

As far as the House was concerned, we could have proceeded then, more than 2 years ago, with the extension, which would have saved the escalation that has resulted in the meantime—some $10,000,000 to $15,000,000.

It was only after the insistence of some members of the other body that the provision for a so-called restoration study was agreed to in conference and the extension was postponed until the restoration study could be received and studied.

Any escalation of the cost of the extension, therefore, can be laid at the doorstep of the restorationist. It is not the fault of the Commission or the Architect of the Capitol.

3. The Commission composed of the Speaker, the Majority Leader and the Minority Leader on this side; the President of the Senate, the Majority Leader, and the Minority leader on the Senate side; and the Architect of the Capitol, is about as representative of the Membership of the Congress as anyone could hope for. Yet, the gentleman from New York (Mr. Stratton) would characterize the Commission as some kind of a monster who goes about making arbitrary decisions. He even wants the Commission abolished. Well, I think we can all draw our own conclusions from such explosive oratory. If he can't have his way, then all is wrong.

4. The Commission has done precisely what the Congress mandated in the Legislative Branch Appropriation Act of 1970. The charge that we have done otherwise is absolute nonsense.

Five conditions were spelled out in the Legislative Branch Appropriation Act, 1970, which restoration must meet in order to be considered by the Commission. If *all* those considered were not met to the satisfaction of the Commission, then the law said the Commission shall direct the preparation of final plans for the extension as already approved by the Commission. This is exactly what the Commission has done.

5. Before our meeting of March 8, 1972, the Commission had received from the Architect of the Capitol the restoration report, the Architect's comments on the report and on his effort going back over a period of more than a year, and his professional judgments relating to the west front problem. At the meeting, we had available the Preliminary Plans and estimates of cost for the extension, and all the background information, including hearings, debate on the floor, committee reports, etc., during the last several years on this question.

Near the close of the Commission's discussion, Congressman Ford, read aloud each of the 5 conditions specified by the law and asked Architect White to comment on each one. The following resulted:

"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;"

Mr. White stated that the wall can be made relatively safe and sound. However, he said, there is grave doubt that it can be made durable and beautiful except with continued and substantial maintenance.

Representative Ford then read the next condition:

"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2".

Mr. White said that this was a true statement.

Representative Ford then read the following conditions:

"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;

"(4) That the cost of restoration would not exceed $15,000,000;"

Mr. White stated that conditions 3 and 4, taken together, cannot, in his opinion, be said to be capable of attainment.

Representative Ford then read condition (5):

"That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: Provided further, That after consideration of the restoration report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol."

Mr. White stated that condition (5) can be met.

Mr. White said that after a great deal of study and soul-searching, he concluded that he should not think in terms of "preservation" or "extension", but he should think in terms of what would best serve the people of the Nation. The building has a tremendous meaning for the people because it is to them a symbol of democracy and a Temple of Liberty. He said that the great mass of the people who view the Capitol see it as a beautiful scene and are unconcerned with the theoretical priorities of importance of various exterior features. Their money, he concluded, would be best spent by proceeding with the extension rather than trying to save the one remaining old wall.

Mr. White was asked if he had complete jurisdiction of the building and full responsibility for it, would he restore it or extend? He said without hesitation that he would extend the old west central front.

6. George M. White, Architect of the Capitol: Mr. White was highly recommended to the President for appointment in his present position by the American Institute of Architects. He is a professional engineer, a professional architect, as well as a member of the bar. When he was appointed as Architect of the Capitol, he was an officer of the AIA. His leanings were toward restoration as a result of his association with the AIA. After studying the west front problem for more than a year and after his experience as Architect of the Capitol, he felt compelled in the interest of sound judgment and good planning to recommend the extension, rather than the so-called restoration.

7. Mr. Stratton mentions the cost of the restoration study, of approximately $245,000. It should be remembered that the Congress also spent some $266,000 for the extension study, preliminary plans and estimates of cost, which were also before the Commission when its decision was made and which have been before the Congress since 1967. Every Member of the Congress was sent a copy by former Speaker McCormack.

8. Mr. Stratton says the Commission's action was wrong "no matter what the 1970 appropriation bill may say." The gentleman is well known as a "law and order" man. Why then would he expect the Commission to ignore the very precise provisions of the law?

9. Mr. Stratton says the restoration report "totally demolished all the contentions that had underlain the long pressure for the West Front extension."

Mr. White, a professional architect and engineer says that is not true. He says "The structural adequacy of the west wall is, in fact, indeterminate. As many experts will declare that it is stable as will say that it is unstable. But even those who support the position of stability admit to the inde-

terminacy of the loading computations and, therefore, say that the wall should be strengthened as an insurance against the probability of a possible failure." Even the restoration report recommends structural restoration.

10. Mr. Stratton seeks to prove that all five conditions are met by the restoration study. Even those who prepared the restoration did not believe this was true. Example:

In the transmitttal letter accompanying the restoration, it is stated:

"The restoration can be accomplished within the general guidelines set forth by Congress as a directive to the Commission for Extension of the Capitol."

Page IV of the report under "Findings" it is stated

"Restoration methods can be specified to form a basis for performance of the work by competitive lump sum construction bids."

Page 15 of the report:

"A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis."

Commenting on the first quotation: The Congress enacted five specifics—not general guidelines.

Commenting on the second quotation: Nowhere in the report is there an explanation of how this can be accomplished. Just a bare statement.

Commenting on the third quotation: This is, in effect, an admission that those responsible for the restoration agree that a lump sum bid procedure cannot be utilized—they recommend a cost plus procedure for the restoration work

11. Mr. Stratton admits that the cost of restoration could go over the $15,000,000 limit established by the Congress, but he attributes this to escalation. The restoration report in explaining the cost estimates (page 15) says: "Unit costs include an escalation factor."

12. Mr. Stratton does not like what the Commission has done. Well, that is no surprise. And we respect his right to differ, but in so doing he should look at *all* the facts, and not just those that suit his purpose. The decision on the West Front was made and should have been made on the facts, the evidence, and sound judgment—not upon intemperate, wild and misleading statements such as we have read of late in the Congressional Record and in at least one local newspaper.

13. The decision of the Commission was a wise, thoughtful, and reasonable decision. It was made in an atmosphere of calm study and consideration, with each Member of the Commission taking part and expressing his views. Still, there was a unanimous vote in favor of going ahead with the extension.

14. Hideaways—Mr. Stratton says there is no reason to extend the building except to have "secret hideaways" in the Capitol. When the East Front was extended, the House portion was put to use for official business of the House—there are no hideaways in that extension. Why should he try to mislead the public and his colleagues into thinking the West Front extension would be given over for hideaways for House Members?

ADDITIONAL RESPONSES TO STRATTON'S REMARKS

1. Remarks have been made by Stratton concerning the proposed extension transforming the Capitol into a super Howard Johnson's, inferring that the appearance of the building would change and that the interior would provide services of that nature. Such demagoguery obscures the facts and speaks only to the emotions. A model of the extended building has been in Statuary Hall for several years. Can anyone see *any* Howard Johnson appearance in that design? The old plan to provide visitors' facilities in the Capitol has long since been abandoned in favor of the new Visitor Center in Union Station. The exterior of the extension will be a faithful continuation of the classical design of the Capitol with which everyone is familiar. The renderings of the Associate Architects' proposal are and have been available for everyone to see and clearly indicate the enhancement of the magnificent appearances of the building.

2. Remarks by Stratton and Randall regarding the Washington Post editorial state their agreement that the editorial was "well reasoned and reach valid conclusions." On the contrary, the editorial was intemperate, emotional, inflammatory and largely nonfactual.

The editorial characterizes the Commission's unanimous decisions as "an arrogant maneuver of dubious legality." Even Mr. Stratton admits the legality of the decision when he says, "It is true that the provisions of Public Law 91–145 do not require the Commission to justify their decision or to make any report to anybody."

The editorial criticizes the design itself, when even the American Institute of Architects in their testimony stated that the design was not in question. To the contrary, some of the most respected designers of classical architecture in the Nation have viewed the proposed design as an improvement to the West Central Front.

The editorial states that "William Thornton's softly elegant sandstone facade is the only visible link to the Capitol's beginnings." What sandstone? The original sandstone has been covered with layer upon layer of gray paint since 1819. Plate #1 in the Praeger report clearly shows the cracked, messy and miserable appearance of the so-called elegant stone once the paint is removed.

The editorial says that the Olmstead terraces will be ruined. Not so. In fact, changes to them will hardly be noticeable and, instead, they will become more beautiful and broader in vista than they are now. Even the American Society of Landscape Architects (and Olmstead was a Landscape Architect) reviewed the plan and had no objection to it. The perspective of the dome will be enhanced by the design strength of the new pediment that will be incorporated over the extended portico.

So, it is rather obvious that the last vestige of objectivity was wrung from the editorial policy of the Post in this instance.

3. Mr. Randall remarks that "As I recall, all the Architects of America were against this change and all the historians were against it." That is a blatant exaggeration to say the very least. A substantial number of highly respected and nationally prominent architects have testified and expressed themselves in favor of the extension. The official position of the American Institute of Architects is by no means representative of *all* of the architects in the *Institute* membership, and certainly doesn't represent even the majority opinion of all of the *registered* architects in America.

It is also interesting to note that the Architect of the Capitol was a Vice-President and Member of the Board of Directors of the American Institute of Architects and he also opposed the extension until he became aware of all of the facts involved, and he has now changed his position and supports extension.

4. Stratton remarks that the Praeger report confirms that the Capitol is not going to collapse. *Not true.* The Praeger report clearly says that *in their opinion* collapse is not *imminent, but* because of the indeterminacy of the loading forces, no one can be certain of that, and therefore the wall should be strengthened and repaired. The Praeger report does *not* say there is no danger.

5. Stratton says the report states that "We can fix it up so that the cracks are gone." *Not true.* The report states clearly that the wall will continue to crack even after their recommended procedures.

6. Stratton says the existing bracing is a "public relations gimmick." *Not true.* The visible bracing is primarily at the portico and the Praeger report agrees with the necessity for the bracing to prevent the collapse of the portico. The portico is *not* the wall.

7. Detailed study indicates a thicket of unknowns that can never be adequately penetrated. An attempt to restore the wall will lead to endless maintenance and repair at no predictable cost limitation, as indicated by the Praeger report itself in its factual portions.

COMMENTS ON THE WEST FRONT OF THE CAPITOL DISCUSSION

There are some basic facts about which there is no substantive or actual disagreement.

Fact No. 1: The wall must be strengthened in some way, either by an attempt to do so in its present position or by a positive method of buttressing through additional laterally placed walls that will be part of an extension. Prior information *and* the Prager report substantiate this.

Fact No. 2: The existing wall, if an extension is provided, will *not* be disturbed. It will remain in place and continue to be partially exposed on the interior as is the old East Front original wall.

Fact No. 3: The design of the extension is a virtual reproduction of the existing appearance, is *not* a point of contention by architects, and, if anything, is viewed by experts in classical architectural design as an improvement and an enhancement of the basic appearance of the Capitol from the west. This results from the original design having been related to the old, small, low dome, rather than the existing dome which was added in 1865.

Fact No. 4: The proposed extension will reproduce the existing classical details at all points where it can be done, as was done on the East Front, in order to recreate the original design insofar as possible.

Fact No. 5: The existing terraces will be disturbed only in part and will be extended in accordance with the extension of the wall itself, and, again will reproduce the existing design insofar as possible.

Fact No. 6: The wall in question totals only 20% of the total exposed existing walls of the Capitol; thus 80% of the exterior of the building will not be disturbed in any way.

POSITIONS

The *building* itself—the Temple of Liberty—is the shrine to the American people and a symbol of freedom and democracy throughout the world. The dome, the wings, the steps on the East Front, the general appearance of the building as a unified whole, form the shrine that lives in the minds of people everywhere. The 20% of the exterior wall is *not* the shrine but is being made to appear so on the part of those whose sentiment brings them to believe that any disturbance to the building at all is a disturbance to the shrine. History tells an opposite story. There have been 15 separate and distinct changes to the bulk of the Capitol and countless changes and alterations, numbering into the hundreds, on the interior of the building. (See the attached list.) The history of the building has been one of continuous change and growth as the Nation has changed and grown and the needs of the Congress have similarly changed and grown.

At one time in the history of the Nation this single building housed the Supreme Court, the Library of Congress, and all of the offices of all of the Senators and all of the Congressmen. The space demands gradually forced the removal of the Supreme Court in 1935, the Library of Congress in 1898, and the working offices of the Senate and the House into buildings which now form the Capitol Hill complex. There remains in the building especially on the House side, the dire need for space in proximity to the legislative chambers for those supportive

functions of the legislative process that are a necessary part of the legislative process. Not only do the separate branches of the legislature require supportive offices of their own, but the legislative process has evolved an increasing number of joint conferences and other joint Senate-House activities which are requiring increasing volumes of space close to the legislative chambers. These space requirements are increasing year by year.

The Praeger report contains a number of ambiguities which are resolved in favor of strengthening the existing wall in its present location instead of buttressing with the walls of an extension. There is no doubt that the wall can be strengthened in some fashion in that way. The body and substance of the report do not substantiate some of the opinions which are presented in the form of conclusions to the report. A great many ambiguities are apparent as one reads the details and supportive information in the report itself. These unknowns and ambiguities can lead to a quicksand of entrapment in terms of the final possible cost of restoring the wall in place.

A real question exists as to whether an expenditure of $20 to $30 million to repair the wall and get no usable space in return is a valid expenditure of the taxpayers' money. The differential between the cost of $20 to $30 million and the cost of the extension, which is estimated at $50 to $60 million, will result in the creation of 270,000 gross square feet of space so that the citizens of this Nation will receive something tangible in return for the expenditure of their funds. We must concern ourselves primarily with what will best serve the people of this Nation. The needs of their elected representatives to enable them to properly conduct the legislative process will be served through the expenditure of public funds to provide necessary space. The people will not be served through an expenditure of 20 or 30 millions of dollars which will result in a repaired, patched, painted wall in the Capitol of the greatest Nation on earth.

If we were discussing the building as a whole, the people undoubtedly would want funds to be spent for the preservation of this Shrine of Democracy. But we are not talking here about the *building* as a whole. We are talking merely about a piece of wall. That kind of sentiment for this living, working building, which is part museum and visited by millions of Americans every year, and yet is an active legislative business building, must be placed on the scales against the tremendous need of the legislature for additional space. Our space needs will not diminish. They will increase as the population increases. We will need space in many ways, one of the most important of which is space in proximity to the legislative chambers.

The need for continued repair and maintenance to the wall, if it remains in place as an exterior wall of the building, is indicated by the Praeger engineering report. The report states: "If the wall voids were filled, exterior cracking would be inhibited by transfer of stress to interior portions of the wall. Generally, however, *cracking will continue to occur* as the wall adjusts to temperature change." The report then recommends a series of control joints which, in theory, are supposed, but not guaranteed, to control the locations of the cracks. The report then says "With these measures *future cracking should occur at a much reduced rate.*" This is an example of numerous places in the report where an opinion is expressed which leaves the decisionmakers to live with the result in the event that the opinion is not borne out by future experience.

It will be noted that the report does not say future cracking *will not* occur, nor does it say that future cracking *will be* reduced. It merely says future cracking *should* occur at a much reduced rate.

The question of condensation on the interior wall is examined in only a very cursory fashion in the report and leaves a great measure of doubt as to the future needs for maintenance and repairs as interior plaster may become damaged from moisture. The appendix to the recent AIA report indicates a similar concern for this problem.

Continuous painting of the wall forever into the future is recommended by the report, not only as a preservative method but also to cover the blemishes that will occur in the wall as a result of the repair process that the report recommends. The report says, "Effective gouting will require relatively close spacing of drill holes vertically and horizontally in the upper walls." These holes are recommended to be drilled every three feet in both directions. "This would increase the need for the replacement stone required to obtain an unflawed surface, possibly in excess of that available in the East Front storage piles. For Scheme 2 this would mean either some proportion of *artificial replacement stone,* or toleration of a pock-marked appearance on a fairly regular grid. Under Scheme 1 this would be of no concern, since patch marks would be painted over."

The report also says, "Future damage by intrusion of moisture or paint can be *controlled* by the application of a stone preservative and joint sealer, *a procedure which should be applied at regular intervals.*"

The report thus indicates that the restoration will, at the very best, be a patchwork process with a result that requires continuous maintenance and painting in order for the appearance to approach the level of being satisfactory.

This is further indicated in the report by the statement that the removal of the existing paint, some of which is an eighth of an inch in thickness, cannot be accomplished without damage to the existing stone. "The experience gained by the test removal of paint, performed as part of this study, indicates that it will not be possible to completely remove the paint and paint stain without some damage to the stone."

The report contains several gratuitous opinions of a non-engineering nature, which indicate a bias that raises the question of credibility with regard to the report's conclusions, especially since the broad conclusions do not appear to follow the weight of the evidence in the body of the report.

The following quotations are examples: "Some stones are so far eroded that they should be replaced but others, less seriously deteriorated, *may be tolerated as an expected sign of age.* . . . The Capitol is 150 years old and should give an impression of venerable age, not a crisp newness that denies its historical background." Neither of these are opinions in areas in which the engineering firm holds itself out to be competent. They appear to be added in order to rationalize some preconceived notions.

The body of the report states, "A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis." Thus, although the report concludes that a competitive lumpsum fixed price construction bid or bids *can* be obtained, it nevertheless recommends that the work should *not* be accomplished on that basis.

The entire question of cost is thus left wide open. Even the AIA report says, "It would be impossible for anyone at this stage of study to guarantee a total restoration cost." The AIA report also says, "The Task Force recognizes that the work could be done on a competitive, lumpsum, fixed price construction bid or bids but we feel that competitive bidding for a fixed profit and overhead *with the work being done on a cost basis* should be strongly considered in the same way the White House restoration was accomplished."

The appendix to the AIA report makes the following statement in commenting on the Praeger report: "There is discussion of the thermal effect of solidification of the wall resulting from the infilling of the present cavity. This phenomenon is not discussed in great detail other than to conclude that there is to be predicted a 10% net increase in heat gain or heat loss in the solidified wall. The effect of this change in the internal structure of walls of such comparatively great mass bears closer investigation. It is probable that it will require an interval of time, perhaps 18 months to 2 years, for the long stabilized thermal and hydro balance within the walls to become re-established, responsive to modifications resulting from the filling of the voids and the possible modification in the reverse permeability or breathing property of the wall."

In further comments, the appendix to the AIA report states, "It is difficult to accept the categorical statement that 'condensation in the wall will not occur during the summer'. The computations on Figure 22 do not appear to indicate a recognition of the lag in change of the ambient humidity and temperature of the internal wall volume and it is possibly questionable whether the conclusions shown thereon are valid without further experimental documentation."

Thus, we find that even those who support the Praeger report find serious difficulties in accepting it in toto. If one examines the report *objectively* and one recognizes the responsibility of having to face the future with the possibilities of future difficulties and additional repairs and, thus, additional costs. In the saving of the wall, then one must conclude that these factors will lead the Congress into a thicket of unending difficulties with the wall if it should decide to try to save it. That circumstance, coupled with the dire need for space, will bring any dispassionate, reasonable man to the conclusion that all *extension* to the United States Capitol will best serve the people of this Nation.

1. Original North Wing:
Begun 1793—completed 1800.
Senate occupied from 1800–1859.
House occupied 1800–1801, 1804–1807.
Supreme Court occupied 1801–1935.
Library of Congress occupied 1800–1824.

2. 2-story Senate Chamber converted to separate stories with Supreme Court occupying lower chamber from 1810–1860.

3. Temporary structure at location of Statuary Hall occupied by House from 1801–1804.

4. South Wing completed in 1807. Occupied by House 1807–1857.

5. Both North and South Wings (and 1-story wooden connecting passageway) burned in 1814 and reconstruction was completed in 1819.

6. Central Section begun in 1818 and completed in 1829. Library of Congress occupied 2 stories of West Central Front 1824–1897. Altered to provide office spaces after 1897.

7. Present Senate and House Wings begun in 1851 and completed in 1859.

8. Old low dome replaced from 1856–1865.

9. West Central section reconstructed following a fire in 1851.

10. Terraces on North, South and West added 1884–1892.

11. Gas explosion in old North Wing required reconstruction in 1898.

12. Original wood roof construction replaced with steel and concrete in 1902.

13. Cast iron and glass skylights over both Chambers from 1857–1949 replaced from 1949–1951.

14. East Front extension constructed 1958–1962.

15. Interior alterations and changes 1958–1972.

COMMISSION FOR EXTENSION OF THE U.S. CAPITOL—MARCH 8, 1972

Whereas Public Law 91–145, approved December 12, 1969, provides:

EXTENSION OF THE CAPITOL

For an additional amount for "Extension of the Capitol", $2,275,000, to be expended under the direction of the Commission for Extension of the United States Capitol as authorized by law: *Provided*, That such portion of the foregoing appropriation as may be necessary shall be used for emergency shoring and repairs of, and related work on, the west central front of the Capitol: *Provided further*, That not to exceed $250,000 of the foregoing appropriation shall be used for the employment of independent nongovernmental engineering and other necessary services for studying and reporting (within six months after the date of the employment contract) on the feasibility and cost of restoring such west central front under such terms and conditions as the Commission may determine: *Provided, however*, That pending the completion and consideration of such study and report, no further work toward extension of such west central front shall be carried on: *Provided further*, That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;

(4) That the cost of restoration would not exceed $15,000,000; and

(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol.

Whereas, the restoration feasibility and cost study and report of Praeger-Kavanagh-Waterbury, Consulting Engineers-Architects, made pursuant to Public Law 91–145, was considered by the Commission at its meeting of March 8, 1972, in Room EF–100 of the Capitol; and

Whereas, the Commission established to its satisfaction that all five of the conditions specified in Public Law 91–145, relating to restoration, cannot be met: Now, therefore, be it resolved,

That the Architect of the Capitol is hereby directed to proceed with the preparation of final plans for extending the west central front in accord with Plan 2 heretofore approved by the Commission.

CARL ALBERT, Speaker of the House of Representatives, Chairman; HALE BOGGS, Majority Leader of the House; GERALD R. FORD, Minority Leader of the House; SPIRO T. AGNEW, President of the Senate; MIKE MANSFIELD, Majority Leader of the Senate; HUGH SCOTT, Minority Leader of the Senate; GEORGE M. WHITE, Architect of the Capitol.

LEGISLATION GOVERNING EXTENSION OF THE CAPITOL PROJECT

(Public Law 242, 84th Congress, as amended by Public Law 406, 84th Congress, Public Law 88–248, 88th Congress and Public Law 91–77, 91st Congress)

Extension of the Capitol: The Architect of the Capitol is hereby authorized, under the direction of a Commission for Extension of the United States Capitol, to be composed of the President of the Senate, the Speaker of the House of Representatives, the majority leader of the Senate, the majority leader of the House of Representatives, the minority leader of the Senate, the minority leader of the House of Representatives, and the Architect of the Capitol, to provide for the extension, reconstruction, and replacement of the central portion of the United States Capitol in substantial accordance with scheme B of the architectural plan submitted by a joint commission of Congress and reported on March 3, 1905 (House Document numbered 385, Fifty-eighth Congress), but with such modifications and additions, including provisions for restaurant facilities, and such other facilities in the Capitol Grounds, together with utilities, equipment, approaches, and other appurtenant or necessary items, as may be approved by said Commission, and for such purposes there is hereby appropriated $5,000,000, to remain available until expended, and there are hereby authorized to be appropriated such additional sums as may be determined by said Commission to be required for the purposes hereof: *Provided*, That the Architect of the Capitol under the direction of said Commission and without regard to the provisions of section 3709 of the Revised Statutes, as amended, is authorized to enter into contracts and to make such other expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of this Act and, prior to any appropriations being provided for extension, reconstruction, and replacement of the west central portion of the United States Capitol, to obligate such sums as may be necessary for the employment of nongovernmental engineering and other necessary services and for test borings and other necessary incidental items required to make a survey, study and examination of the structural condition of such west central portion, to make reports of findings, and to make recommendations with respect to such remedial measures as may be deemed necessary, including the feasibility of corrective measures in conjunction with extension of such west central portion."

[From the Washington Star, Mar. 10, 1972]

WHITE'S RIGHT VOTE

When the late J. George Stewart was the non-architect Architect of the Capitol, that anachronism was widely blamed for Stewart's persistent campaign to extend the west side of the U.S. Capitol rather than patch up its eroded surface.

"Fire Stewart!" was the battle cry in those days, the argument being that no real architect would for a moment support such a project.

Thus, upon Stewart's death in 1970, his replacement predictably turned out to be an impeccably credentialed professional. George M. White, the new man, was not only a respected former vice president of the American Institute of Architects, he had personally shared—before taking on the new job—that outfit's objections to any alteration in the dimensions of the Capitol. So what's happened?

Well, after more than a year's day-to-day exposure to the needs and realities of the Capitol, Architect White joined the House and Senate leadership this week in voting unanimously to proceed with an addition that will reproduce precisely the architectural features of the present worn-out west front and provide, in the process, a lot of space for some essential facilities the Capitol now lacks.

And, also predictably, a few strident voices now are calling for White's resignation. But most of the steam by now has gone out of this tired old refrain, and it's high time. White's decision was not, as the charge goes, a cave-in to political pressures. It springs from a wealth of exposure to facts he did not have a year ago, and which most of his critics still do not have.

Among the things he came to realize, White says, was that "the Capitol is not a museum." Indeed it is not. It is the workshop of Congress. As such, the Capitol's entire history during the past century and a half has been one of constant change and growth, accommodating to Congress' changing needs and paralleling—if one chooses to look at it that way—the growth of the nation itself.

The marvel is that this sequence of changes—some, in the earlier days, involving drastic architectural modification—invariably has added to rather than detracted from the allure and symbolic magnificence of the beloved old building, while keeping pace with Congress' urgent space requirements.

That tradition was scrupulously upheld in the controversial extension of the Capitol's east front a dozen or so years ago. It will be, as well, by the project on the west which White rightly endorsed this week.

THE ARCHITECT OF THE CAPITOL,
Washington, D.C., March 6, 1972.

Memorandum to the members of the Commission for Extension of the U.S. Capitol:

The primary purpose of this meeting is the consideration by the Commission of the January, 1971 report of the firm of Praeger-Kavanagh-Waterbury, Consulting Engineers and Architects, relating to the feasibility and cost of the restoration of the West Central Front of the Capitol, as proposed in such report.

Under the prevailing statute providing for this report, the Commission is charged with the responsibility of establishing to its satisfaction whether the five conditions specified in the law are met.

If the Commission determines that the five conditions are *not* met, then the law provides that the Commission shall direct the preparation of final plans for extending the West Central Front in accord with Plan 2 which the Commission has heretofore approved.

If the Commission concludes that the five conditions *are* met, then the law provides that the Commission shall make recommendations to the Congress on the question of whether to extend or restore the front.

LAW RELATING TO THESE DETERMINATIONS

In the Legislative Branch Appropriation Act, 1970, (Public Law 91–145), the Congress simultaneously appropriated $2,000,000 for preparation of final contract drawings and specifications for carrying out Plan 2 for extension of the West Central Front of the Capitol and $250,000 for engineering and other necessary services for studying and reporting on the feasibility and cost of restoring the front.

The law provided that pending the completion and consideration of the restoration study and report, no further work toward extension was to be undertaken.

The law also contained the following provisions which are pertinent to your consideration today:

"That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:

"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;

"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;

"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids;

"(4) That the cost of restoration would not exceed $15,000,000; and

"(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol."

Upon direction of the Commission for Extension of the United States Capitol, after exhaustive study, the engineering contract for the restoration study was awarded to Praeger-Kavanagh-Waterbury, Engineers-Architects of New York City, on July 1, 1970.

The Praeger report was received at the end of December, 1970, and was forwarded immediately to all Members of the Commission and released to the press and others interested.

STATEMENT OF THE ARCHITECT OF THE CAPITOL RELATING TO HIS STUDY OF THE WEST FRONT PROBLEM

Early last year, as the newly appointed Architect of the Capitol, and in anticipation that the Commission in Charge, before reaching a conclusion on the matter, would seek my professional judgment in assisting them to evaluate the Praeger report, I began a detailed professional review of all available information relating to the history and development of the West Central Front proposals.

Among the activities in which I engaged during the review are the following:

1. A careful and diligent open-minded study of the Praeger report.

2. A physical examination of both the interior and the exterior of the original west walls.

3. A careful review of testimony given over a period of many years before various House and Senate Committees concerned with the proposals for the extension of the West Front of the Capitol, and before the Commission for Extension of the United States Capitol.

4. A reading and review of the record of the floor debates in both the Senate and the House that led to the various actions of the Congress.

5. A review of the legislation, committee reports, and other documents on the subject.

6. Study of the Mueser, Rutledge, Wentworth & Johnston engineering report of 1957.

7. Study of the 1964 engineering report of The Thompson & Lichtner Co., Inc.

8. A study of the various reports of the former Architect of the Capitol, as well as reports made to him by the Associate Architects for the Extension Project.

9. Meetings and discussions of the various past studies, and of the Praeger report, with the staff of the Architect of the Capitol.

10. Requested and received advice and counsel from the American Institute of Architects which responded by appointing a new Task Force to re-examine the AIA position. We engaged in several conferences and a written report from the Task Force was received.

11. Asked three prominent general contractors, an officer and members of the AGC, for their opinion with regard to estimates of cost as outlined in the Praeger report and the feasibility of obtaining competitive, lumpsum bids.

12. Conversed at some length with Mr. E. H. Praeger himself in order that I might obtain verbal clarification of a number of what I considered to be ambiguous or contradicting portions of the written report.

13. Conferred with the Advisory Architects, Consulting Engineers, and others.

14. Conferred with other individuals who have maintained a long interest in the Capitol, including Senators, Congressmen, and design professionals.

15. Spoke with a British stone preservation expert who inspected the Capitol, and then read several of his papers regarding the deterioration of stone generally and in England in particular.

16. Inspected, at no cost to the Government, several European restoration projects.

17. Personally examined the space needs of the House of Representatives and, to some degree, the space needs of the Senate. Have explored all areas on the House Side of the Capitol, from the basement through the attic, and many of the Senate areas. Several discussions have been held with Senator Jordan about my proceeding with a full space study of Senate facilities and he has now approved my proceeding with that study.

18. Examined and studied the matter of how the Congress uses the building, how the public (visitors) also uses the building, and further, how their respective and simultaneous needs must be considered.

19. Spent untold hours in review of the various data and in the reading of articles by many persons concerned with preservation, planning, the history of the Capitol, and in the re-examination of the Praeger report.

PROFESSIONAL JUDGMENTS OF THE ARCHITECT

After these many months of study and investigation, I am prepared to offer the following professional judgments, which for the purposes of this brief presentation have been necessarily simplified:

1. The structural adequacy of the west wall is, in fact, indeterminate. As many experts will declare that it is stable as will say that it is unstable. But even those who support the position of stability admit to the indeterminancy of the loading computations, and, therefore, say that the wall should be strengthened as an insurance against the probability of a possible failure. Thus, although there appears to be no imminent danger of an immediate collapse, there may well be concentrations of forces that have accumulated through structural and other changes over the years and that could, under certain circumstances, be triggered and released. There appears, then, to be no basic disagreement regarding the need to strengthen, and thus stabilize the wall in some fashion. Further, there appears to be no disagreement that this goal may be achieved in at least two ways, one of which is through restoration, or a strengthening of the wall in situ, and another of which is through an extension of the buildings itself, which will in effect, buttress and thus strengthen the wall.

2. There appears to be no disagreement with regard to the exterior appearance of the proposed extension, nor any disagreement with regard to the total appearance of the Capitol that would result.

3. That human characteristic which manifests itself in our desire to save and preserve at least some of our heritage, whether it be personal, national, or international finds a high degree of intensity in some, and it may then be expressed in the feeling that preservation is a primary goal in and of itself. I submit that the intensity with which that desire exists in the spectrum of people's feelings must, in this instance, be weighed against some of the physical needs of the Congress that must be met. If the Congress, for example, were to commission the design of a new legislative complex, the designers would undoubtedly need to assist in the writing of a program which would describe the physical needs of the Congress in the transaction of its daily business. The configuration of the building or buildings would arise from a study of these needs. In this existing legislative building, viz., the Capitol, these needs have changed and expanded over the years, and, indeed, are continuing to do so.

It is apparent that complex problems such as these are not generally capable of simple solutions. Recognizing that it may thus be an oversimplification to so state, it is nevertheless my opinion that the Congress must weigh the sentiment of preservation against its physical needs, taking into account the various alternate methods of providing needed space in close proximity to the legislative chambers.

4. The argument can be made that the fact that the West Front contains the last remaining exposed original wall, is indicative of the past life and hence the growth of this living, working symbol of democracy and freedom that is the capitol. Sometime, of course, acceleration in the growth of our Nation may diminish and perhaps that point is already in sight. It has therefore been suggested that the existing physical outline of the Capitol be considered inviolate at its present location. Somewhere that position must surely be taken, but it appears that it is not necessarily valid to presume that it cannot be taken at some other location, such as, for example, that of the proposed extension.

5. The final cost of the proposed restoration appears to be indeterminate. Most experts feel that the cost will certainly be more than $15,000,000, notwithstanding the written statement in the Praeger report. The requirements of items 3 and 4 of Public Law 91–145, previously quoted, indicated that a lumpsum contract for restoration of not more than $15,000,000 must be capable of being obtained. I interpret these two items, taken together, as meaning that the Congress has set a fixed, limited, i.e., maximum, cost of $15,000,000 as one of the criteria for the feasibility of restoration. Experience in the construction of buildings indicates that a lumpsum contract, in and of itself, is not an assurance that the designated sum will indeed be the final cost. It is my considered professional opinion, based upon my recent investigations as outlined above, that the restoration, as proposed, cannot be accomplished for a total final cost of $15,000,000. In that connection, it is important to recognize that even though the cost per square foot of an extension might appear to be high because of the particular kind of construction that would be necessary, any expenditure for restoration, because no space would be added, would result in what mathematically results in an infinite cost per square foot.

It is further, worthy of note that there is no disagreement among the advocates of the various positions that restoration work generally, and the West Front of the Capitol in particular, should, because of its specialized nature, be accomplished through the medium of a cost plus fixed fee contract rather than through a lumpsum agreement obtained on a competitive bid basis.

Although the specifics of the other three provisions of Public Law 91–145 can gen-

erally be said to be capable of being met, with the obvious possibility for disagreement regarding what is "safe, sound, durable, and beautiful for the foreseeable future", I believe that it would be inappropriate to presume that the cost limitation can or could be met.

SUMMARY

Summarizing, then, I submit the following judgments: (a) although it is relatively stable, the west wall needs repair and strengthening; (b) the restoration method of strengthening the wall cannot be accomplished for a guaranteed cost limit of $15,000,000; (c) the Congress must weigh and decide upon the relative importance and the appropriate methods of providing for its space needs in the Capitol, as compared with the admittedly highly desirable goal of preserving the exposed physical wall.

Additional information will be available at the meeting of the Commission.

GEORGE M. WHITE,
Architect of the Capitol.

GEORGE M. WHITE

Born in Cleveland, Ohio, November 1, 1920. Four children: Stephanie 19, Jocelyn 18, Geoffrey 17, and Pamela 14. Holds the degrees of Master of Science and Bachelor of Science from the Massachusetts Institute of Technology (1941). Master of Business Administration from the Graduate School of Business of Harvard University (1948); Bachelor of Laws from Case Western Reserve (1959). He is a Registered Architect in Ohio, a Registered Professional Engineer in Ohio and Massachusetts, a member of the Ohio Bar, and certified by the National Council of Architectural Registration Boards, and the National Council of State Boards of Engineering Examiners.

A former electronics design engineer and assistant division manager, Electronics Dept., General Electric Company (1946), he has practiced as an architect and as a consulting engineer since 1948.

Former member of the Faculty in Physics and in Architecture at Case Western Reserve University.

A Fellow of the American Institute of Architects, he is a former A.I.A. Vice President and Board Member; Member and former Chairman of the A.I.A. Documents Board and Insurance Committee; Chairman of A.I.A. Task Forces on Structure, on Professional Liability Insurance, and on Labor Liaison; member of the National Panel of Arbitrators of the American Arbitration Association, the National Society of Professional Engineers, the American Bar Association, and the Bar of the Supreme Court of the United States. Awarded the Gold Medal of the Architect's Society of Ohio.

Author of numerous articles on Professional Liability, Professional Corporations, and Construction Law.

President, Director, and Trustee of several real estate development organizations; President of Whitecliff Inc., a 100 bed extended care facility; Chairman of the Board of Merriman Holbrook, Inc., a marine hardware manufacturer.

Appointed Architect of the Capitol in January 1971.

Mr. Chairman, the following is the essence of a letter to the editor that provides in part the answers to some questions raised by the Washington Post.

To the Editor of the Washington Post:

It seems to me that your editorial "Obstinate Vandalism on Capitol Hill" is most unfortunate, inaccurate, and highly misleading. The editorial appears calculated only to inflame—not to inform. It is the same old refrain such as experienced in former years. One must conclude that all objectivity has been wrung from your editorial policy on the West Front matter. The editorial reflects a closed mind—"None so blind as those who will not see".

It is amazing that you characterize the Commission's unanimous decision as "an arrogant maneuver of dubious legality". One assumes that your editorial writer is capable of reading and understanding the very clear language of the governing statute—language which I might say was inserted at the request of those sponsoring restoration:

"That after submission of such (restoration) study and report and consideration thereof by the Commission, the Commission *shall direct* the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), *unless* such restoration study report establishes to the satisfaction of the Commission: (1) That • • • •" (emphasis supplied)

and then the five well-publicized conditions to be met by restoration are stated in the law.

The entire membership of the Commission met on March 8, 1972, considered the report, and established to its satisfaction that all of the five conditions specified could not be met. It therefore unanimously directed the Architect of the Capitol to proceed with the preparation of final plans for the extension, precisely as mandated by the statute. When a Commission of Congress carries out the responsibilities placed upon it by Act of Congress, how can any fair and reasonable editor charge arrogance and dubious legality?

Your criticism of the design of the approved extension is indicative of your frantic state of mind insofar as this project is concerned. Even the various groups from the American Institute of Architect who have reviewed the plans have had no objection to the design. The American Registered Architect's Society has endorsed the design.

How long will you continue to mislead your readers by such worn out and inaccurate statements as the extenders would "bury the last remaining external vestiges of the Capitol as it was originally designed and built. William Thornton's softly elegant sandstone facade is the only visible link to the Capitol's beginning • • •." This makes me chuckle just a bit. I am sure your writer knows (or he should know) that Dr. Thornton's "softly elegant standstone" has not been seen for over 160 years. What one sees is the old cracked stones, patched up over the years, and buried under numerous coats of grey paint—yes, paint, not softly elegant sandstone. Dr. Thornton's work (as changed by Architects Bulfinch and Latrobe) have not been seen for many generations. If you wish to see how "elegant" this old sandstone is, I invite you to examine Plate 1 in the restoration report, showing the messy and miserable appearance of the old stone once the paint is removed.

The Olmstead terraces will be ruined? Not at all, in fact, changes to them will hardly be noticeable and they will become even more expensive and more beautiful with the magnificent new front as a backdrop. The American Society of Landscape Architects should know about such things. They reviewed the plans and had no objections. In fact, they assisted the Architect by making several helpful suggestions.

The perspective of the dome, far from being hurt, will be enhanced by the new front with its central pediment.

Relative to the five conditions which the restoration study was required to meet: although the restoration report contains a passing, general statement "Further, the restoration can be accomplished within the guidelines set forth by Congress", the same report contained the following qualification in another part of the report:

"The third Commission condition stipulates that 'restoration can be so described or specified as to form the basis for performance of the restoration work by competitive bid or bids'. A cost plus contract with an 'upset price' seems more realistic and could be obtained on a competitive basis."

This language indicates that even those who prepared the restoration report did not believe a competitive lumpsum contract was feasible, although they, in effect, had previously stated otherwise in their general statement. We all know that the only meaningful competition on a cost-plus-a-fixed-fee contract is on the fixed fee itself (perhaps 10% of the contract) and even that figure is usually subject to adjustment if unknowns are encountered.

Since the Commission's decision, I have had the opportunity to discuss the five conditions with George White, the Architect of the Capitol, who is an eminently qualified architect and engineer. He advised me that, in his professional judgment (after studying the project for over a year), the two requirements relating to the cost and lumpsum bid features could not be met and he also doubts that the requirement relating to safety, soundness, durability and beauty could be met to any great degree. Therefore, it is his judgment that only two out of five conditions could probably be met.

But he also informs me that his recommendation in favor of extension was founded on a much broader basis than the five conditions. That basis is "what solution would best serve the people of the United States", and on that question, he felt compelled by sound planning and good judgment to vote in favor of extension.

You conclude that the crumbling west wall is now proven to be a myth by the restoration report. If that is so, then why does the restoration report state that "a structural restoration program is required"? If the poor condition of the west wall is a myth, why spend more than $15,000,000 on it?

I sincerely believe the Commission and the Architect have made the right decision and I would express the hope that you would now appreciate and respect that decision although you previously espoused restoration. I have noted with much satisfaction the editorial favorable to the extension in the Washington Evening Star and I invite you to join us in carrying forward the now approved extension.

A unanimous decision of the Leaders of the Congress, from both the Senate and House and from both sides of the aisles, plus the Vice President and the Architect of the Capitol, deserves support—not condemnation.

FRED SCHWENGEL,
Member of Congress.

Mr. MANSFIELD. Mr. President, I make this request because no one is more interested in the preservation of the historical aspects of the Capitol than Representative SCHWENGEL. No one has devoted more time, no one has worked more diligently and conscientiously, and no one in either body knows more about this particular question than does this particular Representative.

I have asked unanimous consent that these remarks be printed in the RECORD only for the purpose of setting the record straight and getting away from the emotionalism which has surrounded this proposed project which, in my opinion, is very much needed to round out the format and retain the classical grace which the Capitol should have for the people of the United States of America.

Mr. HANSEN. Mr. President, I rise simply to join my distinguished colleague, the majority leader, in expressing and sharing the hope and desire that action may quickly be taken on what now is the pending business.

I agree completely with what the distinguished majority leader has said. It would seem to me that the time for emotionalism has long since passed and the time for action is now. I therefore hope that Congress will face up to its responsibilities and its duties.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. Mr. President, since I am a member of the Commission, I, too, join in all that the majority leader has said.

The Capitol has been altered or changed at least 14 times since its construction. There is no reason why it should not be improved or beautified. It lacks a pediment, for example, on the west side. Anyone who has an eye for form would see at once that something is needed. Of course, something has to be done, whether we restore it or extend it. However, for the time being if the committee were to limit these funds to the development of preliminary plans, it would have no meaning at all, because this has already been accomplished.

Mr. MANSFIELD. Mr. President, I did not know that at the time of the hearings on appropriations.

Mr. SCOTT. Mr. President, I appreciate the comment of the majority leader. However, the reason for the joint amendment offered by the distinguished majority leader and myself is simply to submit the available funds to be used for the completion of plans.

This would allow the action of the Commission to be ratified by the two Houses of Congress.

The Commission has given much more time to this collectively than individual Senators and Members of the House of Representatives have been able to give to it. Therefore, we ask only that the funds be available for the preparation of plans, provided, however, that no funds may be used for the construction of such project until specifically approved and appropriated therefor by the Congress.

Therefore, I would hope that the amendment could be accepted.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HOLLINGS. Mr. President, I yield to the distinguished minority member of our subcommittee.

Mr. COTTON. Mr. President, the only reason I asked for time is that I have to leave the Chamber for an important meeting at half past 11. I wanted to get in a word before our distinguished chairman answers the majority and minority leaders.

I am speaking only for myself, but I think I voice the opinions of a number of the members of the Appropriations Committee, that the point involved here is not any lack of confidence in the decision of the commission or the Architect of the Capitol with respect to the extension of the West Front. I think the commission is absolutely right. I thought so from the beginning. I agree with the Architect, I think the West Front should be extended.

But the reason this matter of preliminary plans rather than final plans is involved in this language is that the use of the added space concerns some of us. It is my understanding that part of it might be used or is planned to be used for another public restaurant. Another public restaurant in the Capitol will undoubtedly bring into the Capitol many more people to eat. It is perfectly true that this Capitol is not our property, but it is the property of the people. But on the other hand our experience with our public restaurants has not been very good. The cafeterias over in the New Senate Office Building are ample in space to take care of the many members of the public who visit us, but they have gotten such a reputation as to the quality of food and everything else that the situation needs attention.

Any new space which we may provide by extension of the west front—and I support that extension—should be largely confined to helping Congress do its work.

As far as I am concerned that is the only reason any distinction should be made between preliminary and final plans.

Mr. MANSFIELD. As a new member of the commission I do not know what has been done under the heading "preliminary planning," but I am sure I speak for the distinguished minority leader as well as myself when I say we will be most happy to bring this matter to the attention of the commission and point out that the need evidently is for more space rather than eating facilities and the like. We would be most pleased to have the recommendations as to what this particular subcommittee thinks should be done because it has legislative and appropriation authority over the request pending.

But I cannot speak any more definitely because I just do not know what has been done under preliminary plans, except the term "preliminary" in the bill reported from committee is of no significance because there is no more preliminary planning to be done.

Mr. SCOTT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MANSFIELD. Mr. President, I yield to the chairman of the subcommittee.

Mr. HOLLINGS. I yield to the Senator from Pennsylvania.

Mr. SCOTT. I shall need only one-half minute. The extension provides for 232 rooms.

Mr. COTTON. I have spoken my piece. I want to make plain as far as I am concerned this language was not to reopen the question between the restoration or extension because I consider that settled. In fact I would note that the committee's own language on page 25 reads:

> Funds available under this appropriation may be used for the preparation of preliminary plans for the extension of the west central front, etc.

By those words "plans for the extension of the west central front" we have settled the issue of extension or restoration. However, the committee is concerned about this matter of using the added space in such a manner as to enable Congress to do its work better and not to get ourselves into another restaurant business with all of the difficulties of handling the large amounts of people that would be attracted to such a facility.

I thank the chairman for letting me express my thoughts.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MANSFIELD. Mr. President, if I may, I yield the floor to the chairman of the subcommittee.

Mr. HOLLINGS. Mr. President, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, I have listened to the arguments both pro and con for at least 10 years in connection with the rebuilding of the west front of the Capitol. I was convinced long ago it was necessary that we take this course recommended by the Capitol Building Commission.

In committee I was convinced this amendment that the committee adopted would permit us to go forward, but if the Capitol Building Commission and the majority leader and the minority leader feel they have already accomplished the preliminary plans I, for one, would be inclined to go along with them and defeat this committee amendment.

Mr. SCOTT. I thank the distinguished Senator. I believe we are speaking also for Members of the other body who are on the Commission. Their understanding is similar to ours.

Mr. MANSFIELD. Yes. It was a unique experience for many of us, and it was an experience for me because I had never been on the Commission before.

Mr. HOLLINGS. I wish to ask conjunctively the distinguished minority leader and the distinguished majority leader whether in the proposed amendment where it reads "No funds may be used for construction of said project until specifically approved and appropriated therefor by the Congress" contemplates they must have further approval before any further construction commences?

Mr. MANSFIELD. The Senator is correct.

Mr. SCOTT. That is my understanding, also.

Mr. HOLLINGS. And under approval there would be public hearings.

Mr. MANSFIELD. Fine; that would be all right as far as the joint leadership is concerned. We would be most happy to recommend and we feel sure that our colleagues on the Commission would agree to public hearings. If it were decided, I would hope there would be public hearings before the committee of the distinguished Senator which has control of the measure now pending.

Mr. SCOTT. I think that should be done.

Mr. MANSFIELD. I would favor it.

Mr. HOLLINGS. I appreciate that. At least we have that part of the record clear and we have made that much progress.

I shall speak to the particular amend-

ment, which I oppose for various reasons, but first I wanted to make that clear because there are two things involved. One thing is the matter of whether or not you agree to the extension. That is the first proposition. The other proposition, which is even more important to me, whether approved or disapproved, is that we proceed to a decision in an accepted procedural fashion whereby everyone has the opportunity to express his position to have it heard and aired, and whereby Congress knows what is occurring and is not snookered into positions by this language. We cannot allow closed meetings to take away the right of the public to be heard, and the right of Senators standing in the well to be counted on this score.

We have just experienced a dialog between the minority leader and the majority leader and myself as the chairman of the subcommittee. Apparently, with the use of the language "final planning going ahead" we would be faced thereafter with having it said, "You already approved. You gave the commission authority. The commission acted on authority and the final plans were approved by Congress."

So we are only talking about amount. Whether we have a $50 million, $60 million, $130 million, or $140 million extension we are back to having approval before we have any construction.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I agree with what the distinguished chairman of the committee has just said. There should be public hearings, and the mere fact that the planning is going ahead does not mean construction is going to proceed as a matter of course.

I recommend, and I know the minority leader would, too, that hearings would have to be held; that the fact that further planning was to be undertaken would not imply that on that basis construction would go ahead; and I would be the first to make certain the witnesses of all persuasions appeared before the Senator's committee to justify any proposal made.

Mr. HOLLINGS. I thank the distinguished majority leader.

Now, the difference between "preliminary" and "final": If the distinguished Presiding Officer was present at those very hearings, he has been so experienced in Government as to know what is what and who is who, and if you want to see a moving target, all you have to do is be at the discussion of the so-called plans, whether or not they were preliminary and whether or not they were finalized or whether they have proceeded to a point where we knew what we were voting.

The distinguished Senator from Maine said, "Is there going to be a cafeteria?" We took the word from the Commission and said "Yes, ma'am." Someone slipped her a note and the answer was "No, ma'am." All you have to do is object to a particular facet as a Senator, and that architectural report changes on the spot. If you object to a window, the Architect says, "No, we are not going to have windows." If you object to a bathroom, the Architect says, "No, we are not going to have a bathroom." All we wanted to do was obtain a report. That is what we are talking about—preliminary plans to find out specifically about bunches of restaurants, committee rooms, bathrooms, lounges, tourist spots, sale of trinkets, Disneyland East—or are we going to maintain the Capitol for use as a capitol?

These things came out. This preliminary plan is the thing I wanted them to go ahead on, because, as chairman of the subcommittee, that is what should guide this particular appropriation. I can tell you, Mr. President, no one has presented that plan, and I can say here that this is a preliminary plan as to numbers of rooms, designation of the rooms, how they are going to be generally prepared, and things like that. Then when we get to the specific plans, and specifications to go to the Architect and design drawings, that is where the very expensive plans are. But we thought there ought to be a general meeting of the minds first. Whether we prevail or are defeated is another question, but at least I would have had a chance to know, and that is key. When this matter was first raised in the legislative subcommittee I was told, "Forget it. It has already been agreed to and you no longer have discretion. They have appointed a commission, and the commission has acted under the law and we are going ahead with the extension of the Capitol."

Of course, all of us know the distinguished majority leader as one who is completely honest, so I do not question the misunderstanding he had, but the matter of preliminary and final plans was discussed. I was the one who raised an amendment and had the opposition of the ranking minority member, (Mr. COTTON) and of the senior minority member on the committee (Mr. YOUNG).

Practically the entire committee was in the room last Friday afternoon. I kept pressing the point. That was very important. Did this commission understand its authority to be one of final authority? When they acted, was it to plan? When they acted on construction, there was construction and a contract was agreed to? I was trying to point out in the committee during Friday afternoon in the markup, that if I were a lawyer for the construction company, I would say "Look, as a lawyer, I still do not see authority for it." Then we know they receded from the proposition of final and they agreed on preliminary plans, and in the committee report, on page 11, inserted as of Friday, this is the language:

> Under these circumstances, the Committee has inserted language in the bill stating that the funds may be used for preliminary plans for the extension but prohibits the use of any funds for the preparation of final plans or initiation of construction until the project is specifically approved and appropriated therefor by the Congress. The language included in the bill by the committee reads as follows—

and we inserted that language in it.

I would like to have been more fully prepared this morning to have a statement, chapter and verse, completely checked and double checked, on this particular occasion, because this particular endeavor by the Congress has a rather hazy record, and there are some misunderstandings. I am the first to say I do not have complete understanding, but from my best study of trying to prepare and present the proposition objectively to my colleagues, I went back and found that in 1955 the Commission was in authority, and that was authority at that particular time for the east front. There is a question whether in that particular authority it extended to the west front. Some Senators say, No; the easy front. In the extension authority back in 1955, in the establishment of the Commission, it referred to the east front, never the west front, but on the other side of the Capitol they have said that it had authority over the west front.

I did not boil this down to before 1964, because at that time, in 1964, Senator Monroney, then chairman of the subcommittee, raised the question and, by action on the floor of the Senate, concurred in by the House, the authority for final contract was taken—it was withdrawn, if you please, from this particular Commission.

I maintain, and certainly it has been maintained by men of good conscience on the House side, that the Commission is acting as if that authority was never withdrawn, that they do have final authority, that they can act finally. This is where, for example, Representative STRATTON raised a colloquy on the floor only as a rearguard action, because under the rules of the House, they do not discuss it fully. The procedures of the Senate allow us to discuss it at this time, and I appreciate the opportunity.

The question: Has the Commission done precisely what the Congress has asked it to do? I say no. I say no not because Members surreptitiously, in a sense, or dishonestly, went about their duties, but because we only have to look at the undisputed facts to find out that these sensitive questions were raised. The Senator from Wisconsin again later, after the Senator from Oklahoma headed up the subcommittee, as chairman of the Legislative Appropriation Subcommittee, raised it. The chairman on behalf of the Senate comes up with the same view. This is in the public interest.

Every time, we get mislead and the issues clouded in the confusion of the rules and the language about finality. Somehow, this is an assignment for new Members. Certainly we do not want to contest actions taken by the Vice President, the Speaker, the majority leaders of both Houses, the Architect of the Capitol. Who are you? What do you know about architecture and the historical heritage and the wishes of the people? The leaders have spoken.

I say they have not done what the Commission charged them to do because, under those circumstances, at the particular time the Senator from Wisconsin raised the point, he said:

> Now, all this has not been considered.

There is all this word going around that if you really start renovating and repairing the west front, not extending it, then you are opening Pandora's box. The whole thing will come apart. It cannot be done. This building is about to fall on your heads. Do not start tinkering around here and say we are trying to close a crack or repair a piece of the face stone, because if you do, the building will fall.

So, question one: Is it safe to go about even repairing it?

Question two: Look, if you start repairing it, what about the offices around? You have people around there. What about their safety? Somebody is going to get hurt. You cannot start repairing, but go ahead with the extension of the building.

All these contentions were made pursuant to the drive to have it extended, but when they got to the renovation they said his is unsafe to the occupants. You are going to shake up the legislative committees and the occupants are going to have something fall on their heads, the first thing, like excavating a tunnel for the highway system. How are you going to explain that?

Then they said, "Well, if it is not unsafe, there is the other question: Can they carry out their duties?" That was another question.

They really got to several other questions, too, mainly on cause. Can you imagine Representatives and Senators standing around, with no preliminary plans and no idea whatever other than a few words from different architectural groups, and saying: "Can it be done for under $15 million, renovation and repair? We want to know whether or not that condition can be adhered to."

Then, of course, if it exceeded that, the question was: Did not the cost of renovation and repair of the Capitol exceed the actual cost of extension, so that we would really pay more to renovate than to go ahead and get the Disneyland East and the restaurants and the various other rooms for everybody who is now so crowded?

As to all that it was determined that a study should be undertaken, an outstanding firm was retained, conducted a study on restoration and we now have the Praeger Report—it has a fuller designation than that—Praeger, Kavanaugh, and Waterbury, of New York City. Here is a big report, prepared at a cost of $245,000. The report is entitled "Restoration of the West Central Front, Feasibility and Cost Study, January 1971," actually furnished Congress in December of 1970.

Public Law 91-145, approved in December 1969 had provided:

> EXTENSION OF THE CAPITOL
>
> For an additional amount for "Extension of the Capitol", $2,275,000, to be expended under the direction of the Commission for Extension of the United States Capitol as authorized by law: *Provided*, That such portion of the foregoing appropriation as may be necessary shall be used for emergency shoring and repairs of, and related work on, the west central front of the Capitol: *Provided further*, That not to exceed $250,000 of the foregoing appropriations shall be used for the employment of independent nongovernmental engineering and other necessary services for studying and reporting (within six months after the date of the employment contract) on the feasibility and cost of restoring such west central front under such terms and conditions as the Commission may determine: *Provided, however*, That pending the completion and consideration of such study and report, no further work toward extension of such west central front shall be carried on: *Provided further*, That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:
>
> (1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;
>
> (2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2.
>
> (3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lumpsum, fixed price construction bid or bids;
>
> (4) That the cost of restoration would not exceed $15,000,000; and
>
> (5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work: *Provided further*, That after consideration of the restoration study report, if the Commission concludes that all five of the conditions hereinbefore specified are met, the Commission shall then make recommendations to the Congress on the question of whether to extend or restore the west central front of the Capitol.

Now, the Praeger report stated that the five conditions could be met. No, you commissioners, you have not done your duty under the direction of Congress, because the language—while it is not the best ever drawn, was the best language at that particular time, said—"after the submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with plan 2, unless such restoration study report establishes to the satisfaction of the Commission" that these five conditions can be met.

Obviously, the Vice President and the Capitol extension commissioners felt that the five conditions could not be met, and therefore, in responding to that directive, "shall be directed to proceed with the preparation of final plans," as the majority leader has pointed out, they have given the go ahead.

But that has to be taken in the context of the report itself, the timing of the report, and what else occurred. And it is here where members of good heart and intent feel that somehow they have been outmaneuvered, because the report said the five conditions could be met.

In December of 1970 it said that the five conditions could be met, and specifically on the one that is now differed upon by the Commission, the $15 million, it said at that particular time it could be done for $13.7 million, which came within the $15 million.

So what happened? This is a smart Commission. They are men of good judgment and prudence, and they are men of progress, and they know. With their progress goes the economy; it progresses, too. It inflates. And they knew that whereas they could, under the Commission report which was asked for by Congress, say in December 1971, "Oh, yes, the five conditions could be met then," they could also say to themselves, "But do not worry; just let things be. It will inflate by the time we meet again. And by then you could not get anybody to say that anything could be done on that west front for $15 million." And sure enough they ignored the rest of it. They said nothing to Congress. They never in that whole year said one word to me or any other member of the Appropriations Committee. In the meantime prices have gone up and we are now faced with the uncertainty of whether or not restoration can still be done for $15 million.

The majority leader just joined the Commission. He is acting in good faith, but they ignored such things as what? When my distinguished friend from Montana talks about that president of the American Institute of Architects, I would take it that he respects the reputation of American Institute of Architects. Well the Commission must not, because the American Institute of Architects, Mr. President, came to the Capitol in May of last year, and they went over it thoroughly. They spent 2 days. They studied the report, they met with their former president, Architect White. They met with the Assistant Architect. They met within a task force.

Mr. President, I shall not burden the Senate with it at this particular moment, but I ask unanimous consent that the "Report of the American Institute of Architects on the West-Central Front of the U.S. Capitol," with the resolutions thereon, dated September 22, 1972—this crowd goes fast, too, but it should obviously be September 1971—be printed in its entirety in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

> THE WEST CENTRAL FRONT OF THE U.S. CAPITOL
>
> (By the American Institute of Architects)
>
> Resolutions passed at AIA Board Meeting, September 22, 1972.
>
> Resolved, That the AIA accepts the Task Force report on the West Front of the Capitol, endorses and supports its findings and recommendations, and directs that this report be promulgated as reaffirmation of existing AIA policy; and, be it further
>
> Resolved, That the AIA Board express its appreciation to the members of the Task Force and the Architect of the Capitol for their cooperation.
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> REPORT OF THE 1971 AMERICAN INSTITUTE OF ARCHITECTS TASK FORCE ON THE WEST FRONT OF THE U.S. CAPITOL, SEPTEMBER 1, 1971
>
> In response to a request from George M. White, FAIA, Architect of the Capitol . . . "to have The American Institute of Architects review the information and circumstances involved in the proposed extension of the West Front of the United States Capitol", the President of The American Institute of Architects, Robert F. Hastings, FAIA, appointed a review Task Force.
>
> The AIA members appointed by President Hastings to this Task Force were: Milton L. Grigg, FAIA, Chairman; William W. Caudill, FAIA; Leon Chatelain, Jr., FAIA; Francis D.

Lethbridge, FAIA; Harry M. Weese, FAIA; and Maurice Payne, AIA, Staff.

They were directed by President Hastings, "to examine AIA's position on the West Front of the Capitol now that the engineering report (the Praeger Report) has been submitted."

The full Task Force met at AIA Headquarters in Washington, D.C. on May 26 & 27, 1971, to review background material previously distributed including the Praeger-Kavanaugh-Waterbury report on "Feasibility and Cost Study for Restoration of the West Central Front of the United States Capitol". Architect White, Assistant Architect of the Capitol Mario E. Campioli, AIA, and Philip L. Roof, Executive Assistant to the Capitol Architect, met for a period of time with the Task Force and were the gracious hosts for a general tour of the Capitol building by the Task Force on the afternoon of May 26th.

Subsequent detailed inspections of the Capitol and informal meetings with the Capitol Architect were held.

RESTORE THE WEST CENTRAL FRONT OF THE U.S. CAPITOL

Having studied and analyzed the report by Praeger-Kavanaugh-Waterbury on "Feasibility and Cost Study—Restoration of the West Central Front—United States Capitol—January 1971," the AIA Task Force is unanimous in endorsement of the method of analysis, the general findings and the conclusions of the report. It offers conclusive evidence to sustain the Institute's resolution for, and belief in the practicality of restoration of the West Front in situ.

It is our opinion that the proposed restoration as recommended by the Praeger Report fulfills the five conditions for restoration as set down by Congress in Public Law 91–145:

1. That the restoration can, without undue hazard, be made safe, sound, durable and beautiful for the foreseeable future.

2. That restoration can be accomplished with no more vacation of the west central space than would be required by any extension plan.

3. The Praeger Report provides proper methods of restoration. The Task Force recognizes that the work could be done on a competitive, lump sum, fixed price construction bid or bids but we feel that competitive bidding for a fixed profit and overhead with the work being done on a cost basis should be strongly considered in the same way the White House restoration was accomplished.

4. It would be impossible for anyone at this stage of study to guarantee a total restoration cost. However, the Task Force felt that the Praeger Report methods and budget allowed adequate contingency.

5. The Task Force is certain that the restoration work would not exceed the projected time estimated for accomplishing the extension plan.

This Task Force recommends that the present perimeter facades of the Capitol building be declared inviolable and the surrounding grounds, bounded by First Streets, East and West, and Independence and Constitution Avenues, be declared open space, devoid of significant structures protruding above present grade levels. Extant mature tree groupings in these surrounding grounds also shoud be declared inviolable and subsurface development be encouraged but confined to areas now either in grass, paving or shrubbery.

Prepare a comprehensive plan for long range development of the properties under the jurisdiction of the Architect of the Capitol and the surrounding areas.

The Task Force observed, that the present space usage in the Capitol is crowded, misused, or underused; that many functions now located in the Capitol have questionable need or being there; and some functions are duplicated. The Task Force was made aware of the need for additional space by Members of the House of Representatives, especially space adjacent to the House Chamber.

Present preliminary findings of the Architect of the Capitol, following a space need study of the House of Representatives, would seem to indicate that any proposed future extension of the Capitol will not begin to meet present, least of all projected, space needs.

The Task Force reaffirms the AIA's historic position that Master Planning of the Capitol must be undertaken if impetuous action by the Congress is to be avoided.

This planning should include 1) an inventory space utilization of present buildings; 2) an analysis of floor area ration within the confines of the present Capitol area; 3) a study of possible new land acquisition; 4) a study with particular reference to below surface development capability, categories of use, and environmental factors.

Consideration must be given to the displacing of routine services or lower priority functions now occupying space in the Capitol to new locations.

With the realization of the Metro system, the Visitor's Center at Union Station and the emergence of new people-mover systems, all parking should be remoted and the Capitol's surrounding grounds cleared of all but official business cars. New systems of shuttles, horizontal elevators and even a Metro branch should be considered. They could provide fast, automatic, safe and frequent service between all of the buildings in the Capitol complex and would make ready proximity a question of time rather than distance.

It is the recommendation of the Task Force that the Architect of the Capitol could and should request the counsel and guidance of leading architects and other design professionals. Since the future of our Capitol is of deep concern to all Americans, their gratuitous participation in the development of a comprehensive plan can be expected.

TASK FORCE OBSERVATIONS ON THE PRAEGER REPORT

Settlement

(1) Soil pressures are such that there is a 2-to-1 factor of safety.

(2) Further settlement can be expected over the next 150 years, but in order of the ½ inch of the past, which occurred at the outset.

(3) There has been no evidence of differential settlement.

Cracking

(1) Thermal movement and frost action over the years, as between the interior rubble wall and the sandstone face, has caused local failure of cut stone creating a natural pattern of vertical cracks from top to bottom approximately 30 feet apart.

This is a natural phenomenon which designed control joints obviate. The report recommends making control joints of the existing pattern of cracks. There is no reporting of settlement cracking nor out-of-plumb walls.

Erosion and spalling

(1) Sandstone weathers well when laid on bed faces for natural drainage of trapped moisture from within the wall. Improper stone cutting in some cases, but more important, the use of oil paint over the years, has trapped moisture and contributed to surface spalling. The effect is superficial and akin to accelerated weathering. Modern paints which allow the wall to breathe obviate this. The aesthetic effect is that of time making its mark. No attempt should be made to deny these minor inroads of time.

(2) Significant deterioration was noted on marble surfaces on the Olmsted terraces—a condition that should "flash a warning" whenever future consideration is given to wearability of various stone surfaces.

Loose or cracked stones

(1) Certain stones, voussoris, flat arches, quois, and cornice members are in need of affixing to the backup masonry. They are visible and can be treated with modern rock bolting techniques and post tensioning.

Wall strength

(1) The facing stone is bonded to the rubble wall with alternate courses, making a physical bond uniting the wall in a series of vertical shafts separated by the aforementioned natural control joints. These walls are over 4 feet thick at the foundations. They are not overstressed, taking 236 p.s.i. maximum loading with the stone itself capable of 6,000 in the case of sandstone and 14,000 for rubble fieldstone. The lime mortar is the limiting factor, but there is no reporting of vertical displacement or cracking of interior walls. It is proposed that a grout injection to fill voids in the mortar matrix and bond the exterior wall to the interior would add strength.

After paint removal and patching and further measurements, it may prove that grout injection could be limited to the lowest story or localized or could be eliminated altogether. It is not clear that so-called solidification of the wall is called for, but this task force defers to the judgment of the Praeger report.

(2) On page 10, near the conclusion of the portion of the report on the experimental wall grouting, amplification and clarification would seem desirable. The type of epoxy as a final bonding material is questioned and should be clarified to the extent that description is not found with respect to the viscosity of the material proposed. Elsewhere, it is reported that various formulations seem to be identified. Furthermore, experience elsewhere indicates that ferrous metals and certain epoxy compounds are not mutually compatible and that deterioration may occur in both materials through chemical action; hence, use of iron reinforcing rods should be evaluated.

(3) There is discussion of the thermal effect of solidification of the wall resulting from the infilling of the present cavity. This phenomenon is not discussed in great detail other than to conclude that there is to be predicted a 10% net increase in heat gain or heat loss in the solidified wall. The effect of this change in the internal structure of walls of such comparatively great mass bears closer investigation.

It is probable that it will require an interval of time, perhaps 18 months to 2 years, for the long stabilized thermal and hydro balance within the walls to become re-established, responsive to modifications resulting from the filling of the voids and the possible modification in the reverse permeability or breathing property of the wall.

Moisture

(1) It is difficult to accept the categorical statement that "condensation in the wall will not occur during the summer". The computations on Figure 22 do not appear to indicate a recognition of the lag in change of the ambient humidity and temperature of the internal wall volume and it is possibly questionable whether the conclusions shown thereon are valid without further experimental documentation.

(2) The Praeger Report does not contain a bibliography, therefore the following paper may have been available to the authors. Reference is made to *Consolidation des Monuments D'Architecture par injection dans les Maconneries*, Moscau N. Zvorikine. From this, it is seen that the Russian experiences indicate that the epoxy infilling should not be impermeable to moisture; therefore, the formulation of the material ultimately used should be investigated in light of these reported results.

It was found that the dilution of the epoxy with a solvent helped to provide better penetration and greater adhesion and, at the same time, did not produce a mass incapable of "breathing". In the same connection, we were informed by Dr. R. M. Organ, Chief, Conservation—Analytical Laboratory, Smithsonian Institution, that Savestone is an excellent material, particularly if the manufacturers are at this time employing the Lewin Sayre patents. Acrylic plastic compounds have elsewhere been found to be very deleterious in these uses and should be avoided.

The Report suggests quite discouraging results from the several experimental methods of removing the old paint from the stone. From other sources, it has been found that the Methylene Chloride paint remover which was used, while not formulated for removal from stone surfaces, actually can be made very effective when combined with a neutral jelly to create an emulsion, keeping the mixture moist for a longer period. (Actually, in the results cited, the coated stone surfaces were covered with aluminum foil to prevent accelerated evaporation.) The latter expedient might increase the effectiveness of the gel remover reported.

In this connection, it is somewhat surprising to find that the report does not cover the matter of vapor transmission more positively. It would seem desirable to investigate the advantages of providing a vapor barrier back of the plaster on exterior wall surfaces. It is possible that this will alleviate the tendency for plaster fatigue through thermal and moisture changes as well as more effectively stabilizing the moisture content of the interior of the interior of the wall volume. This vapor barrier, if found to be necessary, could be of the framed-in-place variety, thus avoiding extensive replastering.

(3) Apparently, the authors of the Report have not found conditions to indicate the desirability of horizontal moisture barriers in the base of the walls to offset the capillary action often found in walls of this mass and porous character.

Performance Design

(1) The Praeger Report analyzes the structure and loadings of the West Front portion of the Capitol building and proves they are within the parameters of sound practice. The effects of static and dynamic loadings and soil pressures due to dead load, live load, wind and seismic forces, and sonic booms have been given complete attention and analysis.

Painting

(1) The continued use of oil paint in many applications 15 to 105 mils thick has caused accelerated but not severe weathering. Modern breathing paints will obviate this difficulty.

The Capitol is made of three materials: yellowish sandstone (original wings), Walter's marble House and Senate extended wings, marble East Front extension and the cast iron dome. White paint on the sandstone and dome is used to unify the ensemble. This has been the style for more than 100 years. The White House is painted stone. London abounds in painted stone. The tradition of painting should continue.

Mr. HOLLINGS. I shall have to hold this just a minute.

What did they find? They found—not with those driving for new office space, not with those driving for the public to have new cafeterias, not with those driving for a place to bring over their own special groups for special lunches, not with those driving for special rooms with curtains, running water, and everything else, so we can all lounge around—they found that the five conditions could be met, and they found that in September.

The commission has not said anything about their finding, and that was not reported to Congress when it was turned over to them, nor was it reported to my committee. We had to search that out.

What did the Architect say? The Architect opposed the extension, just as I am opposing it now, until he became Architect. Then, of course, to be a good architect, he did not have to sublimate any of his architectural intellectuality or ethics or anything else of that kind. He said:

That's a matter of judgment. I still think like I did before on that score. I have not changed my mind, but you folks over here are the bosses of the need for any office space.

So when I brought it up with him originally, I think it was—last spring, because I think the distinguished George White, the Architect, came on board about January—he said:

I have not had time to read it.

I said, "Read it and study it," and later on, when he again appeared before the subcommittee, he said the cost was "indeterminate," that he could not say one way or the other. He said that he had sought expert advice from the outside, and any time you would ask anybody, including me, as an expert from the outside, about the cost of congressional construction, I can tell you, "just treble it if you want a commonsense answer," because anything you think is reasonable, this crowd over here is going to bollix it up. Look at the Rayburn Building. Look at the Senate Office Building. What has happened? If we were to go after the Pentagon the same way, we would put them out of business. Or if we only treated ourselves on that score the same way we treat the Pentagon experts when we inquire about the cost, no one would say under oath, "under $15 million." And how could they, if they had not taken off all these stones and everything like that? The best the Architect can say, to go along with the Commission's report, is that it is indeterminate. That is his answer: Indeterminate.

So they did not put out any preliminary plans. In fact, as we have been gleaning it, searching and trying to find out who is who and what is what, and where are the rooms, Mr. President, do you know that the chairman of the Rules Committee does not know, either? If you want to talk about top secrets, whoever is in charge of where the rooms are, and who they are assigned to, they ought to give him that job over in the Pentagon or put him in charge of the CIA, because when I asked my distinguished friend from North Carolina (Mr. JORDAN), he said:

We are making a survey now. We never have known what all the rooms are and what they are about and we would like to know. We would like to know so that we can give an intelligent answer.

During its tour and study of the Capitol, we do know that AIA task force observed that the present space usage in the Capitol is "crowded, misused, and underused." And I believe it.

Why should the Senate disbursing office be in the Capitol, when the House has its disbursing office in the Cannon Building? Why should we have the Democratic Senatorial Photo Lab in the Nation's Capitol? Is that so highly important for the Nation's Capitol? Wait until the people find out about that, when we are talking about more room around here. I want to see how many Members attend the hearings we are going to have and plead on the record for the extension of the Capitol.

The Office of Contracts and the Flag Department can be put elsewhere.

The Airline Ticket Office, why should it be in the Capitol?

The House Airline Ticket Office is in the Longworth Building. I say to the Senator from Michigan, why not put ours in the Senate Office Building?

Barber shops, repair shop, sheetmetal shop, carpenters' shop, plumbers' shop—if we really needed the room, all these could be placed elsewhere. We have not employed the room, and all of us know that we have not done so.

I say to the Senator from North Dakota that with some 160,000 square feet at $60 million, that is $368 a square foot. Using the gross amount, they use the figure of $166, but since the proponents of extension want usable space, we must look at the net amount of square footage for space, and here we are paying $368 a square foot.

Go to North Carolina and North Dakota and tell the people that. They will not agree with us. They will not elect us on that kind of record, when they know that we can get additional room elsewhere much more cheaply—and they should not.

My staff eats in the New Senate Office Building, so why cannot the visitors do likewise? Why create people pollution? We have only one Nation's Capitol. Add all the extra rooms, and bring in the board of architects for a luncheon, and there will be a luncheon for another special group, and I will have a special luncheon for the crab catchers in South Carolina. The crab catchers are going to come to the Capitol, and I want to impress them, so I am going to bring them into the ornate $368 a square foot private room and feed them and show them how I am running the Government up here.

Then they will all start corralling around, making all these meetings and special luncheons and everything else. Then, as they leave my crab luncheon, I will say, "Do you not want to go over and see Senator Pastore, from Rhode Island? He is a great orator." And the Senator from North Dakota will say, "You ought to see the majority leader, who is engaged in colloquy with him." So everyone leaves the luncheons and they come here, and you have added 3,500 people in the one hall. It is difficult to get around now. I have big enough competition with my senior colleague to get the school groups and special friends into the White House. I would then be competing to see if I can get class 3B of a Mitchell school into the cafeteria.

So you deface the Capitol and extend the taxpayers' money at $368 a square foot, and you have gone beyond the express intent of Congress.

The five conditions were met. There were no final plans to be approved if

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those conditions could be met, and the report said they could be met.

The commission did not play fair with Congress, to have a closed meeting on March 8, and they never said a word from December 7 until March 8 and did not say anything then, until they had met; and they said that by now inflation has corrected the report and no one can say—including our Architect, who used the word "indiscriminate"—that we can do it for under $15 million. That gives us carte blanche authority: final plans, final construction; and that is the way it had been understood, and that is the way they offer the amendment.

It was because of this that the language was agreed upon unanimously in the full committee, and the Senator from Montana says now he misunderstood. But the language was hammered out among us all so that there would be no misunderstanding. We said that funds available under this appropriation may be used for the preparation of preliminary plans so we would all know, once and for all, whether there were cafeterias, how much room there was and for what it was going to be designated, because they could not now tell us.

One report was that there were rooms for cafeterias and another was that there were not. There were private dining rooms, and one Member objected to that, and another Member objected to another usage.

We wanted to fix preliminary plans before we started paying in the millions for architectural and engineering drawings and specifications. We said,

> Give us the preliminary plans for the extension of the West Central Front, provided, however, that no funds may be used for the preparation of the final plans for initiation of construction of said project until specifically approved and appropriated therefor by Congress.

I submit, Mr. President, that that is the orderly way to go about doing the business of Congress. I do not like to take the vote from the State of South Carolina or the State of North Dakota or any other State and vest it in one of these commissions that goes ahead and spends all this money, and then somebody comes along and says, "Look, you wasted all the funds. You have no sense of historic propriety. You have a cultural commission but you can easily get more rooms for committees and others to meet."

Why should the Vice President have two offices here? Give him one office, one of the most beautiful—but why two?

The Disbursing Office of the House is in the Cannon Building. The Democratic Senatorial Campaign Photolab can be moved. The Contracts Office and the Flag Department can be put elsewhere. The airline ticket office on the House side is in the Longworth Building, as are the railroad ticket office, the barber shop, and the repair shop.

We have room, if we want to go about this judiciously. Everyone knows what is happening. I contend that we have not done so until this time.

It is not a matter of questioning the qualifications of the Architect. I am the first to agree that this is a distinguished and dedicated gentleman, and he has been very responsive to our subcommittee.

The American Institute of Architects has proposed this. They said the five conditions could be met, which was a congressional mandate for not going ahead with extension.

They waited for inflation, for a year and half, and now want to go ahead. We put in the language so there would not be a misunderstanding and it would not be left in a never-never land. We are not voting finally on whether or not we approve it. We are voting finally on whether or not we can approve it, and whether or not we ought to have a chance to approve it.

You can both have hearings, you can both look at the plans, and you can both see a cafeteria there or a senatorial office or see a committee room, and we are looking at the same thing. It appears to me that we have not seen it together. This really goes to the procedural integrity of Congress itself, particularly the Senate. We wanted to put in there no final plans, no construction, until there is a hearing and it is appropriated for by Congress. The people cannot expect less.

I would oppose the amendment.

We are not on limited time. I shall be glad to try to answer any questions, if I can.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. YOUNG. I listened with a great deal of interest to the Senator's speech, but I have to disagree with him on several issues.

For example, when the White House was restored and remodeled, it had to be done. Otherwise, the walls probably would have fallen. It was unsafe. We could have built a new White House for one-third or one-fifth the cost. Perhaps it would have been cheaper to have made a museum out of the Capitol, because we could have built a new one, and a better one, at one-fifth the cost that keeping this one will cost. So the Senator's figure which he uses, of $268 per square foot, I do not believe is really comparable.

The Senator mentioned that we have a carpenter shop. Yes, we do have one, but it is in the cellar, and I do not believe that any Senator wants to have an office in the cellar.

It is true we also have a barber shop. Senators do not have time to go uptown to get haircuts. The office buildings are completely occupied. Most Senators are crying for more office space. I do not know how we would want to put it over there.

Some Senators want to bring in more interns this summer. We turned down an amendment to bring a whole flock of new interns at $300 a month here this summer. There is no room for them. So while I think there is considerable good sense to what the Senator says, as I have listened to him, and we have been on this problem for 10 years now as to whether we should restore the west front, reinforce it, or build a new one, but the time for decision must come some time, because each year we delay it will cost more money to get the job we want done.

Mr. HOLLINGS. If I may respond to my good friend from North Dakota, during the time the 10-year discussions were going on, everyone was shooting from the hip, and we did not know. We had no one comprehensively studying it or architecturally studying this particular question. It is certain they said that the west front was in imminent danger of collapsing, that it would soon come tumbling down around our heads. It was charged in five specific points here, that the funds for extension could not be released unless restoration could not be carried out without undue hazard to the structure and to persons, and that the wall could not be made safe, sound, and durable. But they said restoration could not be done.

The Praeger study reported that the west central front can be made safe, sound, and durable for the foreseeable future without impairing its inherent beauty and without hazard to the safety of the structure and to persons by cleaning the walls, restructuring it and grouting and restoring the appearance, and by repainting. There you go. They said it can be done.

A man can differ as to the usage of space. We had that discussion. In fact, in our discussion, we found that our barbers are going out of business, because their customers now go uptown to get their haircuts, because of the new hair styles. They do not like the old ways in barbershops any more. So the barbers here are going broke in the Old Senate Office Building. We have to increase their pay under this bill so that they can retire with a little more money.

So the barbers here have a real problem, because everyone is running uptown to get his hair cut in the new styles. They have to get with the new ways or go out of business.

Mr. MANSFIELD. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. In 1 second I will be glad to yield to the Senator from Rhode Island and to the Senator from Montana, but offices in the cellar are not only desired and sought after, but are occupied there by distinguished senior Members of his Senate. They like those offices in the cellar and they brag about them.

I yield now to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I quite agree with the distinguished Senator from North Dakota (Mr. YOUNG) that there is a great deal of logic in what the distinguished Senator from South Carolina (Mr. HOLLINGS) has said.

I remember that in my parish we used to celebrate mass in the school auditorium. One day the pastor came to me and said, "We are going to build a new church." Knowing, of course, that money was a little tight, he suggested that a debt-free church be built. He showed me the plans. I said to him: "Father, this will not do. These plans for the church are plans for just today and tomorrow. We would be just temporizing. You have to begin thinking of what the situation will be in this parish, not today or tomorrow, but at least 15 or 20 years from now."

The Senator will remember that when we decided to do something about the east front of the Capitol, there was a

tremendous furor. There was remonstrance, I believe, even from the National Association of Architects. I think that decision was one of the best we ever made because the East Front of the Capitol now is much more beautiful than it was before. Instead of having to look at that brownstone, or whatever it was, now it is a granite and marble front and a really beautiful edifice that meets the eye.

We must realize that the Capitol of the United States is the citadel of this country, the cynosure of our people. I suppose we could demolish the building completely then rebuild it and make it more purely utilitarian for a great deal less money.

As the Senator from North Dakota (Mr. YOUNG) brought out, there is only one White House, and it cost us $5 million to reconstruct it. It was actually falling apart. President Truman had to live in the Blair House while they were repairing it, but he had the foresight and the courage to look to the future. We spent $5 million to repair that edifice and I feel it is one of the best investments we ever made.

I do not believe that we should involve ourselves in an emotional argument about the taxpayers of North Dakota or the taxpayers of Rhode Island having to pay for this. I think we have to be pretty careful about the taxpayers' money whatever the project. If it is true that we need plans that we do not have, then we should develop adequate, appropriate plans, because we surely should know what we are doing. But, fundamentally, I see nothing wrong with students from the Hamilton High School coming to visit the Capitol of the United States—there is only one Capitol of the United States. It is their Capitol and that they should have lunch while they are here seems sensible and reasonable. I do not see any waste of money there.

As a matter of fact, if this Nation can spend $101 billion in Vietnam, with all that money going right down the drain, if this Nation can spend $101 billion in Vietnam, and if this Nation can spend, at the request of the President, $3 billion for foreign aid, certainly we can spend some money to expand the west front of our Capitol.

All we have to do is to take a look at that west front. It is a disfigured disgrace. That front is now jacked up with piles and what-have-you. It has a forbidding appearance. Indeed, there is a sign reading "No Admittance Beyond This Point." They believe the stone is disintegrating—ready to fall down—and likely to injure the too curious visitor.

I am not being critical of the Senator from South Carolina, because I know how he feels about this—but whatever we do, let us not do it for next week or the week after. I hope that this Republic will last for eternity plus 1 more day, and that the Capitol Building that we will have in these United States will be a Capitol of the United States that, 100 years from now, will be as adequate.

So, let us not temporize. Perhaps we cannot plan for eternity, but we can plan for posterity.

Let us do that.

Growth toward perfection has been the history of this Capitol. We have grown in our pride of it. And when I say "we," I mean the continuity of this Government—of, by, and for the people.

When this building was first constructed, there was no Senate wing and there was no House wing. We had to add these wings. That cost us a lot of money. We spent a lot more money in decorating the inside of the building with frescoes and other fine arts, especially the work of Constantino Brumidi. I do not believe that all of that was a waste of money. I believe that we should look at all expenditures very carefully.

But we hear people say, "You cannot spend all this money for the Capitol." My goodness, gracious, on the exchange program, we spend millions of dollars to do what? To have many students from other countries come here and get an eyeful and a heartful of America so that they can take the good story of America back home with them. But now are we to say that when some high school students board a bus in New Jersey, Rhode Island, or South Carolina, and come to the Capitol of the United States, are we going to say to them, "If you want a sandwich, go downtown and get it elsewhere, because there is no room here."

Mr. President, did you ever go down to the cafeteria on B floor of the new Senate Office Building and see these people all lined up and willing to wait for hours to get into the cafeteria? Is it not good to see that? Is it not good for this country? Is it not good to feel that when they come here, they cannot only explore the building, but if need be, they can also go to a cafeteria and have a glass of milk and a hamburger? There is nothing wrong with that. It is good to see our people coming to Washington to see their Capitol. It is even better when we refresh them personally as well as patriotically.

Now I do not believe anybody should be ridiculed for saying he does not want to waste the taxpayers' money, but I regret that that is what this whole discussion has disintegrated into.

Mr. MANSFIELD. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. First, I want to explain my comments on this point, if you please; then I shall be glad to yield to the Senator from Montana. In this colloquy, we have gotten ourselves into an emotional appeal by saying that if we have money to spend for Vietnam, if we have enough to spend for foreign aid, we have enough to spend for the Capitol. That is making an emotional appeal. I am making an appeal for the Capitol.

My good friend from Rhode Island says we are going to deny funds for the Capitol; that if we have enough for Vietnam, if we have enough for foreign aid, we ought to have enough for the Capitol.

But this is my argument. I want the Capitol to be renovated.

The Architect's task force report says it is not necessary to have the buttresses to keep the wall strong and keep it from falling down. I want to keep the Capitol as it is, as it was.

I want the children to see this building. The Senator from Rhode Island is not going to put me in the position of making children go hungry; of saying that they cannot go down and get a peanut butter sandwich.

I am for children coming to see the Capitol; and they can do that in an orderly fashion at this time. Actually, thousands upon thousands are coming here to see the Capitol, so that they can appreciate it. To put in more cafeterias would be doing a disservice to them by creating traffic jams.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Not at this moment. I want to finish this point.

The next thing, it is said, we will be making children go hungry. But by putting in cafeterias, we will create such traffic jams that we will be hiding the Capitol, and the children will not be able to see it. I am for setting up cafeterias to serve our visitors, just put them somewhere near the Capitol, not in it.

At present, entire classes come through the Capitol. But how many classes go to see the White House? The classes get there in the morning, and after waiting a long time they are quickly driven through a few rooms, because there are just so many people who can be admitted, and there is just so much time.

Why not put a restaurant in the White House, so that the people will not have to go downtown?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Not just yet.

Why not put a restaurant at the Taft Memorial, so that the people can go in and eat?

I am for feeding the hungry, but not in the Nation's Capitol.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PASTORE. I did not inject myself into this debate. I came into the Chamber and sat right here and listened to the Senator from South Carolina. I heard the Senator mention the name of the Senator from Rhode Island.

The Senator from South Carolina mentioned that. Then I heard him say something about the children from Hamilton High School. The Senator mentioned it. I did not make it up. He is the one who mentioned it. He started it for some reason. He thought he would like to address questions to the Senator from Rhode Island. The Senator knows the Senator from Rhode Island.

I did not accuse the Senator of letting anyone go hungry.

All I am asking the Senator is this question: Is it a matter of money that bothers the Senator? Is it money that bothers him? All I can say to him is that if this great country of ours can spend all this money in Vietnam, why should we be worried about the miniscule amount we would spend to make the Capitol a delightful place for the children of our country to come and visit. Does the Senator think that is emotional?

Mr. HOLLINGS. I think it is a delightful place to come to. That is what I thought when I came to it.

Mr. PASTORE. Positively; and every time I look at the dome, I get new in-

spiration. I will never forget when I got off the train coming down to Washington the first time. I got off the train, walked out of the station, and my eyes rose to the Capitol dome, I got goosebumps all over my body. I still get goosebumps when I look at the Capitol. And as Senators enjoy the Capitol the more because they can dine here, then if it gets to the hour of 15 minutes after 12, what is wrong if there is a little place where visitors can get a hamburger?

Mr. HOLLINGS. Nothing, I am for that.

Mr. PASTORE. There are no hamburger stands around here.

Mr. HOLLINGS. No, and we ought to have something.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HOLLINGS. I will yield.

Mr. MANSFIELD. Mr. President, there is supposed to be a matter of $2 million for plans. That is not for a building structure. We are getting away from the question at hand.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I said at the very beginning of the discussion that we unanimously agreed on this in the Appropriations Committee on Friday. I thought the matter would not be the subject of controversy. Otherwise, as the chairman of the subcommittee, I would have prepared myself more entirely on the architectural niceties of this edifice.

It is not money for pollution. It is money for office space, for more space. It is the architectural design for the Capitol.

A gentleman by the name of Mr. Olmstead, one of the outstanding architects in our history, studied this matter. I want to see that the Capitol does not look like the beanie on a freshman's head after the construction is done. That is the reason I oppose this.

If the distinguished majority leader wants to bring it back to the original thinking, we agreed that preliminary plans would be made. His amendment is to go ahead with final plans.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MANSFIELD. Mr. President, I think I admitted to the Senate that I was under a misapprehension. I have no one to blame for what I did except myself. I was not aware that the preliminary plans had already been completed.

May I say that, for someone who was unprepared to speak on this subject, the distinguished Senator from South Carolina was very, very well prepared.

What we are asking now is that we uphold the action taken by the Commission under the law passed by Congress, and that is to allow funds to be used for the purpose of finalizing the plans.

After that, it is not the intention of the Commission to go ahead and order the construction as a result of this finallization, because in my opinion we have not got the authority. It would be up to the subcommittee of the Senator from South Carolina in this body and the counterpart in the House, along with the ranking minority members, to undertake this responsibility.

Are we going to go this far and stop? I would have no compunction in going back to my State of Montana and telling my people how much I was going to spend. And no one knows what the figure is yet, because on the basis of the plans, it cannot be figured out as to what the actual costs will be on a square-foot basis.

This is something which has to do with the citadel of this country, the symbol of this land. It is not a case of a small dome. It is the case of symmetry. It is a case of planning for something which we think needs to be done and should be done. And if anything is recommended, the distinguished chairman and the ranking members of the committee can be assured on my word that any plans will be brought before their subcommittee and the full committee for final approval and that the Commission as such will not have the final say as to what shall be done.

So I think the record should be kept pretty clear. We should sweep away all the side plans, all openings and angles, and get down to what is at stake. Does the Senate want to appropriate money for looking into the possibilities of beautifying this citadel, which is not just for us but for all the people of this Nation? It is that simple. I apologize publicly and privately for not being on my toes Friday. What the Senator said is correct. It was unanimously reported out as it is before the Senate today. The fault is mine, but certainly the intent is to correct the fault at this time.

Mr. HOLLINGS. No one is trying to win a point or an argument or to prove someone right or wrong. We are back to the crux of the matter: final plans versus preliminary plans. The Senator from Montana understands the characterization of the plans as final. Final plans encompasses final preparation and evacuation of offices.

Mr. MANSFIELD. It would be subject to the approval of the Appropriations Committee.

Mr. HOLLINGS. Now, we have the crux of it. How do I get approval later if I tell them now to go ahead with final plans?

Mr. MANSFIELD. Not the Senator, but the Senate or Congress tells them to go ahead. They have to go before the Senator's committee for approval or disapproval. The Senator's subcommittee and then the full Committee on Appropriations in both Houses.

Mr. HOLLINGS. Do they go before our committee before they evacuate the offices and prepare the ground?

Mr. MANSFIELD. I would so recommend to the commission if the Senator would like me to.

Mr. HOLLINGS. I rely on my distinguished leader, of course, but whether or not the Vice President will do so and other members of the Commission is another question. Therein I cannot see where the Senator from Montana and I are differing. I think we are both asking for preliminary plans.

Mr. MANSFIELD. No; the preliminary plans are through.

Mr. HOLLINGS. No; they are not. There is a difference in fact there. We asked for preliminary plans Friday. They come and say they are. But when we ask about it, they say, "No; they are not." They keep changing the designation and what encompasses extension of the Capitol, how many rooms there are, the uses thereof, and whether they are needed. That is preliminary planning.

Mr. MANSFIELD. There is money appropriated already for plans. So the thing to do, as the Senator agrees, is to go through to a conclusion, to a final plan, and then you have all the answers to the questions that the Senator raises. They cannot be reached on the basis of preliminary plans, because the job has been done.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. COTTON. Mr. President. I thank the distinguished Senator for yielding. We have backed ourselves into this position. A vote against the amendment of our distinguished majority leader would be interpreted as a vote against extension of the west front of the Capitol. I want to stand by my subcommttee and my chairman who has treated me always with the greatest consideration. I am in favor and have been from the start. I certainly have been since I saw the matter demonstrated on the east front. I have been in favor that we go in there, do the job thoroughly, and extend the west front.

I am guilty of suggesting this language.

Mr. MANSFIELD. I was there.

Mr. COTTON. I suggested it, because I merely wanted to make sure that before everything was finalized, we had an opportunity to look into this restaurant business. I feel that before we open up any more restaurants in this building, we had better learn to operate the ones we have. There is ample room for the children and the people who come here to be accommodated in the cafeterias in the New Senate Office Building. But I would not send any constituents of mine to eat there as I would not serve that food to one of my pigs. It is the poorest prepared food I have ever had served before me.

I used to eat there regularly, but I do not go there now. The food downstairs in the Capitol is very satisfactory. I am not talking through my hat, because I can give the names of a half dozen Senators who used to eat breakfast regularly in the cafeteria in the Senate Office Building and who now eat breakfast downstairs and never go to the cafeteria in the New Senate Office Building.

Mr. MANSFIELD. Four of the half dozen are in the Chamber right now.

Mr. COTTON. Yes. The reason I proposed the words "preliminary plans" in the language of the bill was that I do not want this thing decided before we have a chance to see how this space is going to be used. As I said earlier, I think our own language indicates that the question is settled on extending the west front of the Capitol. We have every confidence in the Commission. I have been

for it. I consider the matter settled. It seems to me this matter can be settled without tearing ourselves to pieces.

I would like to ask the distinguished majority leader how much money is involved in the complete plans.

Mr. MANSFIELD. As I understand, it is in the vicinity of $2 million. I would be subject to corroboration by the chairman of the committee in that respect.

Mr. COTTON. When the majority leader says to the Senate, "I give my word that we are not going to build a cafeteria or restaurant in there without coming back to the committee," his word is good so far as I am concerned, but in the meantime we will have spent $2 million.

Mr. MANSFIELD. That is correct.

Mr. COTTON. I think because of that I should be compelled to stand by my subcommittee and my chairman, but that is not to be interpreted as a vote against the extension of the west front, because I think that is the only sensible and logical thing to do. I hope when we decide how the added space will be used, that it will be used to let Congress function more adequately. I would like a chance, before the $2 million is spent, for some of us to be heard further on this matter of the restaurant business.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COTTON. I yield to the majority leader.

Mr. MANSFIELD. I think I could on my own give the Senator and the chairman of the committee the assurance that the Commission, which I have just recently become a member, would be given the chance to express their views.

But the Senator said he favors the west central front expansion. We must recognize the fact that there will be none unless there is a finalization of the plans which up to this time have been conducted on a preliminary basis. The matter is simple. I do not want to bring it to a final vote. I blame myself for not doing what I should have done in committee, but I would like to see the chairman and the ranking member take this proposal to conference without a vote and come back with what they would like reported to the Commission.

Mr. COTTON. We cannot take it without language.

Mr. MANSFIELD. I would favor the language I have offered.

Mr. COTTON. I will just say this and then sit down. My chairman and I are in disagreement on one point. I understand the Senator from South Carolina is opposed to extension and wants to restore the building as it is. I want the extension, and so the disagreement. The reason I suggested the word "preliminary" was because I thought that tentative or preliminary plans would be presented to us so that we could thrash out how that space was going to be used. I know the distinguished majority leader knows what he is talking about, because he always does——

Mr. MANSFIELD. No; I do not know as much as I should know, I am sorry to say.

Mr. COTTON. He says the preliminary plans are already made.

Mr. MANSFIELD. Preliminary studies.

Mr. COTTON. And that if that goes through, then everything stops——

Mr. MANSFIELD. Preliminary studies have been made. I do not think any preliminary plans as such have been made.

Mr. COTTON. What is wrong with calling them preliminary plans and presenting them to us?

Mr. MANSFIELD. Because I thought on the basis of the authority of the Commission, we should go ahead, and I think I have an obligation to the Commission, just as the Senator has an obligation to adopt the position he has on the committee, and I would do the same thing the Senator has done if I were in his shoes.

Mr. COTTON. The Senator understands I do not disagree with him.

Mr. MANSFIELD. I know.

Mr. COTTON. The Senator's assurance is enough for me.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. YOUNG. Would not the Appropriations Committee have the plans unless completed and, when they asked for the appropriation for construction funds, have an opportunity to say whether they want to go ahead with construction or to make any changes?

Mr. MANSFIELD. That is correct. I have said so several times.

Mr. HOLLINGS. That is the point—there are honest differences. One gentleman says they already have preliminary plans. The other gentleman says no preliminary studies. Another one says he is for the front and he considers that question settled. The only question is the distribution of the rooms, and he is against any more cafeterias. Therefore he would like a chance to vote on it. The Senator from Rhode Island says, "Oh, no, let us have a cafeteria."

We have never had a meeting of minds. We are letting the matter go, we are irrevocably moving forward in this particular regard without hearings, without reflection and without full awareness of what we are getting into. That is the reason we had the matter drawn to the attention of the members of the Appropriations Committee. The ranking Republican member and I as chairman never were presented the preliminary plans. When we reach the Senate floor, we are told they have preliminary plans. Then when we press them, we are told they are preliminary studies. A distinguished member of the Commission says they have no preliminary plans.

Turning to another point, the Commission has not furnished us the amount for the final plans. The figure given 3 years ago was about $2 million. If we are going to consider inflation, and if the figure of $13 million for restoration in 1971 can be inflated to above $15 million, we can equally inflate the cost of the final plans to well in excess of the $2 million.

Further, when we talk about final plans, that could mean site clearance, and office evacuation, that is getting ready for final construction.

That is why we raised the point in a candid fashion before the Appropriations Committee. We wanted to have a chance to rule on this and to see what would be proposed by way of offices, and we would only know this if we could look at preliminary plans. Therefore, I think it would be bad procedure to have it unanimously agreed to, at the suggestion of the Senator from New Hampshire, to use the plans as preliminary plans, with no construction funds to knock out. Someone could come before the committee and say, "Now we can clear the site and get the final plans, come around, and it will be in a state of upheaval, and the only question will be how do we settle the upheaval because we did not settle the question in the first place?"

Mr. MANSFIELD. Mr. President, that does not mean that these will commence the process of digging up, site clearance for construction, and offices being evacuated. This is a set of plans that will be drawn up. It will be subject to the approval of the subcommittee and the full committee and the Congress.

Public Law 91–145, approved December 12, 1969, provides under the title "Extension of the Capitol"—

> For an additional amount for "Extension of the Capitol" $2,275,000, to be expended under the direction of the Commission for Extension of the United States Capitol as authorized by law——

I repeat, "as authorized by law." The Congress passed this law and gave the delegation of authority to this Commission. The Commission does its job and the Commission comes back and finds itself questioned. None of us asked to serve on that Commission. I would just as soon get off. I did not know I was on it until this month. But we have to have something to operate on. I would hope we could reach a compromise that the planning could go ahead with the authorization that was authorized and was put in the hands of the proper commission.

Mr. YOUNG. Mr. President, who has the floor?

Mr. MANSFIELD. The Senator has the floor.

Mr. HOLLINGS. Go ahead, Senator.

Mr. YOUNG. I want to make this comment. I think the real controversial issue is whether we extend the west front or restore it. I think there will always be differences of opinion as to whether we should have a restaurant or other accommodations in the west front if we go ahead with it, but I think there would be no moving out of offices while we were in the planning stage. I would feel—and I feel assured of it—that after the plans are made we can make the decision whether we appropriate the money to go ahead and what further changes there should be.

Mr. AIKEN. Mr. President, if the Senator will yield, I read the proposed amendment by the Senator from Pennsylvania and the Senator from Montana. I was wondering, where it says may be used for the preparation of plans, does that mean tentative plans shall have to be approved by the Congress? I think probably it would be well to restore the historic proposal to the west front——

Mr. MANSFIELD. No.

Mr. AIKEN. But I am inclined to agree with some of my colleagues, including

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my neighbor from New Hampshire, that an enormous restaurant there would probably create some difficulties, possibly with the taxpaying restaurants—I assume they all pay taxes—in other parts of the city.

It seems to me we have to go ahead to prepare these plans before the Senate knows what it really wants to do.

Mr. HOLLINGS. Exactly. If the Senator will yield, I will be glad to say, with respect to what the Senator from Vermont has said, that that is what we all want to do, read some document and read some language, saying whether they agreed or disagreed. We would not have preliminary plans before we went into multimillion-dollar plans that would include site clearing, and so forth. That is why we agreed in the committee to ask for preliminary plans. That is the job of the Commission. Everybody thought the Commission had that job. They had a professional report made, which said the five conditions could be met, but then the Commission waited 14 months, with inflation coming in, so that the Architect's estimate now is "indeterminate," and then said the conditions could not be met. I do not blame the majority leader for that.

He is crossed between his position as majority leader and a member of the Commission and a sense of loyalty to that. I do not want plans to include site clearing, and so forth; I want preliminary plans before they do that.

Mr. MANSFIELD. "Final plans" does not mean moving offices and clearing the site. It means detailed plans to go before the committee before construction is started.

Mr. YOUNG. I find myself in the same position as the majority leader. We all went along with the language proposed by the senior Senator from New Hampshire. We thought this would be a good answer to the question. I am inclined to agree with the majority leader that we have completed preliminary plans, and that what is really needed now is to proceed with the necessary planning. I am going to vote against the vote on this matter taken in the committee.

I am glad to learn from the majority leader that final plans will not include site preparation.

Mr. HOLLINGS. But he talks about preliminary plans, and then he changes that and says they are studies.

Mr. MANSFIELD. He should not talk about those words, because he is talking about an amateur as far as the Senator from Montana is concerned.

I have not had the privilege or the opportunity to achieve the knowledge which the distinguished Senator from South Carolina has had—and I say this respectfully—as the chairman of the committee which is in charge of this particular aspect contained in the bill; but certainly he has mentioned the question of conditions laid down. First, he says, they were all agreed to, then he says they were not all agreed to, because of escalation.

It would appear to me that this is a part of the preliminary study, and that very likely this was the basis on which the Commission was called into meeting earlier this month.

Mr. AIKEN. Well, I think the proposal of the leaders more nearly meets the present need, because I do not know whether I am in favor of the plans or not until they are drawn. Where preliminary ends and regular plans begin I am not sure, but I think they have got to go ahead with doing the planning.

Mr. MANSFIELD. Will the Senator yield at that point?

Mr. AIKEN. I yield.

Mr. MANSFIELD. It is only after the plans are drawn up that it leaves the hands of the Commission and goes into the hands of the Appropriations Committee.

Mr. AIKEN. That is right; and the Appropriations Committee could then rule the restaurant out, or not, I would think.

Mr. MANSFIELD. That is right.

Mr. HOLLINGS. Mr. President, could I respond to the Senator from Vermont on that point?

We are not objecting to the plans. That is what we want. The Senator from New Hampshire and I and the entire subcommittee said, "Give us a plan so we will know and can answer intelligently when a Senator asks whether the cafeteria should go in there or not."

That is the kind of plans we need, and no one has furnished them. We have not studied it out; we are trying to search for information to make a fair judgment. We have not been given any plans, so we do not know whether or not a cafeteria is there or any other type of room.

We want the plans. But when you get into detailed drawings, the indications were 2 years ago that it would cost approximately $2 million, and I would say, now it would exceed that amount.

Mr. AIKEN. They have spent about $250,000 or $260,000 already, and a little over $2 million is left.

Mr. HOLLINGS. That is right.

Mr. AIKEN. I think the word "preliminary" is a little confusing. It confuses me, anyway, because I do not know where preliminary stops.

Mr. HOLLINGS. Well, preliminary plans, in any construction project, includes the exterior and interior design and the square footage application as to where it is to be assigned, but it does not have every final drawing and every particular door and everything drawn in, that a contractor could take as a final plan and respond to it. Preliminary plans a politician can respond to; final plans a contractor can respond to. We all know the difference between preliminary and final plans. That is why the language of the Appropriations Committee is ultimately fair; and when you knock out fair language, you look like you are indirectly saying it is settled. I do not believe it is settled, and I do not believe the majority leader, the Senator from Vermont, or anyone else believes it is settled.

Mr. MANSFIELD. That is why we want the rest of the money, so we will know the final plans, and then the committee and Congress will have the opportunity to render their own judgment.

Mr. YOUNG. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MANSFIELD. Why not get a time to vote?

Mr. HOLLINGS. The majority leader has suggested that we get a time to vote.

I ask unanimous consent that we vote on this measure no later than 2 p.m., with the time to be equally divided between ourselves, the leadership on the bill and the proponent of the amendment.

The PRESIDING OFFICER. Is that on the amendment or on the bill?

Mr. HOLLINGS. That is on the amendment itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I commend the Senator from South Carolina for his presentation here today and for the efforts he has made in the Appropriations Committee to protect the Capitol, and I urge the Senate to reject the pending amendment.

I fully support the action of the committee in restricting the use of funds that may be expended for planning the extension of the west front of the Capitol.

I strongly oppose the substance of the decision announced earlier this month by the Congressional Commission on Extension, and I am even more strongly opposed to the procedures by which the Commission has attempted to railroad its decision through Congress and foist it on the American people.

Last Thursday, barely 2 weeks after the Commission announced its decision, the Legislative Branch Appropriations Act—the traditional vehicle for the debate on extension versus restoration—was passed by the House of Representatives. And today, less than 3 weeks after the decision, the Senate is about to approve the bill.

Clearly, the cynical coincidence of timing—or at least the appearance of such timing—of the announcement by the Commission and the passage of the legislation present Congress with the very real danger of being faced with a fait accompli on this year's budget. Two million dollars was about to be committed for planning and initial construction, and the Capitol was well on its way to irreversible change before a suitable legislative challenge could be mounted.

Thanks to the vigilance of the Appropriations Committee, however, and to the efforts of Senator HOLLINGS, Senator PROXMIRE, Congressman STRATTON, the American Institute of Architects, the National Trust for Historic Preservation, and others who oppose the extension project and who sounded the alarm so promptly, the tide may yet be turned, and Congress may yet have the opportunity to give the project the full and open scrutiny it needs.

Surely, it did not have to be this way. There was no need to generate the turbulent atmosphere of the past 3 weeks. The present phase of the crisis was precipitated by the Commission's decision on March 8 to reject the report of Praeger-Kavanagh-Waterbury favoring restoration, and to proceed with the extension of the Capitol. Yet, the Praeger report had been submitted to the Commission in December 1970, more than 15 months ago. Surely, we are entitled to wonder at the long delay in the Commission's consideration of the report and the sudden decision to reject it just as the Legislative Branch Appropriations Act was about to reach the floor of the House and Senate.

As the Senate Appropriations Committee has rightly recommended, whatever our individual views on the merits of extension versus restoration, drastic changes in the Capitol of the sort involved in the proposed extension should be made only after specific authorization and approval by the full Congress. They should not be made by the fiat of a small Commission, however select or distinguished, operating on a decade-old mandate that flouts the spirit, if not the letter, of the 1969 statute that authorized the Praeger study.

In a table accompanying these remarks, I have set out the relevant provisions of the Praeger report, side by side with the relevant provisions of the 1969 law, in which Congress specified with great particularity the conditions that would have to exist for restoration to go forward. Even a Philadelphia lawyer would have trouble arguing that the statutory conditions were not generously and amply met by the Praeger report.

Perhaps, in the current debate, the Commission will enlighten us as to its reasons for rejecting the Praeger findings. On their face, however, it seems clear that the Praeger findings make a strong prima facie case for restoration, not extension, of the Capitol.

Undoubtedly, many Members of Congress, familiar with the Praeger findings when they were announced in 1971, assumed that the issue was resolved, and that the report had laid to rest the spectre of extension. At the very least, therefore, the rationale for the Commission's rejection of the findings deserves a full and open public airing before the Commission' controversial new decision is implemented.

In recent years, I have repeatedly stated my view that extension of the west front would be a gross affront to the Capitol, the Nation's most sacred monument. Rufus Choate put it well many years ago, when he said, "We have no national temples but the Capitol." For nearly two centuries, virtually since the birth of our Republic, the west front has stood as monument to the American experiment in democracy, a symbol of America no less magnificent than St. Paul's in London or St. Peter's in Rome.

Now the work of our great early artisans—brilliant pioneers of American architecture like William Thornton, Benjamin Latrobe, and Charles Bulfinch—and the magnificent terraces of perhaps our greatest landscape architect, Frederick Law Olmstead, are in jeopardy. And all because a handful of senior Senators and Congressmen want a room

with a view and a little more office space. To me, the destruction of the work of these early pioneers would be a historical, esthetic, and economic mistake of vast proportions.

This is hardly the time to launch such a costly congressional office space boondoggle. We know the fantastic Federal budget deficits now facing the Nation—$23 billion last year, $39 billion this year, and $25 billion promised for next year. Surely, in this time of Federal budget crises, it makes no sense for Congress to try to take care of its own most senior Members by launching this open-ended new multimillion dollar construction project for new office hideaways in the Capitol. Rather, Congress ought to be setting an example of budget restraint for the Nation.

Even if we could somehow justify the expenditure of such enormous funds as would be required for extension of the Capitol, what conceivable faith can we have that extension is the way the money ought to be spent?

In 1969, when the issue last boiled over on the Senate floor, one of the strongest arguments against the proposed extension was that the restoration of the planned visitor's center at Union Station would relieve much of the demand for visitor's facilities in the Capitol. Now, I understand, the Extension Commission, in tacit acquiescence of that argument, has quietly dropped some of the planned cafeterias, private dining rooms, and comparable facilities from its proposal, and has correspondingly expanded the allotment for private offices and hideaways.

In light of these surreptitious changes in the proposal and the shifting rationale for its existence, it is fair to ask whether it is not time for Congress to examine the entire proposal in its current form, and to give it the full analysis it obviously demands.

We know, for example, that substantial doubts have already been raised as to whether existing office space in the Capitol is being utilized rationally. We ought to have the benefit of a fair and impartial survey of existing space allocations in the Capitol, before simply stamping our approval on the present scheme and opting for acres of new office space in the historic west front.

A task force of the American Institute of Architects has reported, for example, that much of the present space in the Capitol is unused or underused. More ominously, the task force report states that any proposed future extension of the Capitol will not begin to meet present space needs, let alone future needs. Obviously, we need to know much more before we launch the present plan.

We also know the critical congestion that exists with respect to parking space in the Capitol area, especially for congressional employees. Again, we simply do not know at this time by what logic we must spend tens of millions of dollars for extension, when so many other unmet needs are so obvious wherever we look on Capitol Hill.

The economic argument against extension is not without irony. The Congressional Commission balks at spending $15 million for restoration of the Capitol, but blithely hopes to go forward with an extension project which is estimated to cost approximately $60 million in today's dollars, and which will undoubtedly cost far more by the time the proposed construction is completed. I can think of no more flagrant example of Congress violating the biblical injunction by straining at a gnat and swallowing a camel.

My own preference would be for Congress to require a master plan for the Capitol, of the sort proposed for so long by the American Institute of Architects. In fact, the Senate passed a resolution in 1967 requiring such a plan. The resolution died in the House, but it is not too late to revive it today.

We in Congress are fond of imposing comprehensive planning requirements on State and local governments as a condition for receipt of Federal grants in a variety of programs. Yet, when the shoe pinches Congress, we are unwilling to recognize the obvious wisdom of such a requirement in the development of the Capitol.

In sum, I am appalled at the haste with which the proponents of extension are attempting to rush this momentous decision past us. I believe that Congress owes it to the Nation to proceed in a rational and orderly and coherent way in whatever plans it eventually adopts to change the Capitol, instead of simply allowing ourselves to lurch irrationally toward the future.

None of us—no Senator, no Congressman, no citizen—should lightly tamper with the great physical treasure of our Capitol. I urge the Senate, therefore, to resist the present effort to stampede the Congress into an ill-conceived and ill-starred extension plan. Now is the time for calm thought, not impetuous action.

I would like to call to mind one of the great triumphs of the human spirit, the monumental struggle of the citizens of London to shield St. Paul's Cathedral and its glorious dome from the devastating rocket and bombing attacks of the Second World War. The efforts of these citizens were successful, against incredible odds, and St. Paul's was saved. Yet today, in Washington, there are those who would sacrifice the integrity of our Capitol on the altar of congressional seniority and the need for additional office space. Not since the British burned the Capitol in the War of 1812 has it faced such serious danger.

A comparison of the 1969 Legislative Branch Appropriations Act and findings of the Praeger report follows:

Comparison of 1969 Legislative Branch Appropriations Act (Public Law 91-145) and findings of the Praeger Report

Congressional Requirements for Restoration in Public Law 91-145, (December 12, 1969):	Findings of Praeger-Kavanagh-Waterbury Report on Feasibility and Cost Study of Restoration (December 21, 1970):
"That after submission of such study and report and consideration thereof by the Commission, the Commission shall direct the preparation of final plans for extending such west central front in accord with Plan 2 (which said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission:	"Through survey, research and analysis, the following findings are submitted with regard to the five conditions established by Congress on the question of whether to extend or restore the west front of the Capitol, as defined in Public Law 91-145:
"(1) That through restoration, such west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future;	"(1) The West Central Front can be made safe, sound and durable for the foreseeable future without impairing its inherent beauty and without hazard to safety of the structure and persons by cleaning the wall, strengthening it by grouting and restoring its appearance by repainting.
"(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2;	"(2) Such restoration can be accomplished without vacation of west central front office space or the terrace structure.
"(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids;	"(3) Restoration methods can be specified to form a basis for peformance of the work by competitive lump sum construction bids.
"(4) That the cost of restoration would not exceed $15,000,000; and	"(4) The cost of restoration can be limited to $15,000,000.
"(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work."	"(5) The restoration work can be accomplished within the time projected for the Plan 2 extension work."

The letter of transmittal of the Praeger report contains the following general conclusions:

Our studies indicate that while the Capitol is over one hundred and fifty years old and has been exposed to many adverse conditions, it survives in relatively good condition, attesting to the excellence of its builders and to the concern of those responsible for maintaining this, the national monument to our Republic.

Based upon a detailed investigation of the west front walls, we conclude that under conditions indicated in the report, restoration of the west central front of the Capitol is feasible. Further, the restoration can be accomplished within the general guidelines set forth by Congress as a directive to the Commission for Extension of the Capitol.

Mr. President, as I understand the position of the Senator from South Carolina, he wants to insure simply that we have full information on the issue before extension of the Capitol proceeds. It seems to me that this is an enormously fair and reasonable way of proceeding.

May I ask the Senator from South Carolina if he would be willing, if this matter is deferred on this appropriations legislation, to hold a subcommittee hearing in order to provide the Senate with the kinds of detailed information that are necessary for any Senator to make an informed decision on the issue of extension versus restoration. Would it be possible for the Senate to address itself fully to this issue at some time later in the session? Would that not be a reasonable way of proceeding so that the membership of the Senate would have full information, and not just partial information, before it makes such a momentous decision?

Mr. HOLLINGS. Mr. President, replying to the Senator from Massachusetts, it is the design and intent of this particular language to have full information so that we could all know, we would have a hearing, and we would all have an understanding of the same things:

Funds available under this appropriation may be used for the preparation of preliminary plans for the extension of the west central front:

So that we would all know where the rooms would be, and the kinds of rooms:

Provided, however, That no funds may be used for the preparation of the final plans or initiation of construction of said project until specifically approved and appropriated therefor by the Congress.

That is the time we would have to approve or disapprove, at the public hearing.

Mr. KENNEDY. Does the Senator feel the $2 million is needed to move ahead with the kind of program the Senator has mentioned?

Mr. HOLLINGS. I think it could well come within $2 million. I think the final plans would exceed that.

Mr. KENNEDY. Does the Senator feel that preliminary plans could be made for something less?

Mr. HOLLINGS. Yes. However, I do not think there is any difference on the money. If it cost $5 million, I would vote for it, to see what I was voting for. But we have not really had it presented to us, so we do not know what we are voting on.

Mr. KENNEDY. Is the Senator concerned, as I am, about the shifting sands of the rationale for extension of the Capitol? It seems to me that when it was first being talked about back in 1966, there was great stress in terms of dining rooms, cafeterias, and visitors' facilities. Now, those arguments have been met by the proposed expansion of Union Station, and so we have a different rationale for extension of the Capitol. Does not the Senator agree with me that the Senate ought to have a very clear and precise idea as to exactly what is being contemplated?

Mr. HOLLINGS. The Senator from Massachusetts has stated it very clearly and concisely. We are all trying to do, I think, the same thing, but I am not going to respond unknowingly to the actions of this Commission, whose record shows that they got the report saying the five conditions can be met in December, never met until this month, that inflation had then put one of the conditions met in December 1970 uncertain in March of 1972, and ipso facto, saying, "They cannot be met, and, therefore, we will go ahead with final plans," the expression "settled" having been used. I do not think it is settled. I think we ought to be at least seeing the same thing, and then make our judgment. But that is what we have not had in the Appropriations Committee.

Mr. KENNEDY. Is the Senator also concerned about the fact that the Commission had the benefit of the Praeger-Kavanagh-Waterbury report for more than a year. Yet, the Commission only made its new recommendations a few days before the Appropriations Committee was about to act on this year's bill, and a few days before the Senate was going to have to make a final judgment on it? Is the Senator concerned about that as well? Has not the timing of the Commission's announcement cut off at least some of the possible remedies that might be available to us because the time is so short? Should not we have time to try to gain more information about the position of the Commission, as well as information generally which would be useful to the Senate in making a proper judgment on this issue?

Mr. HOLLINGS. That is correct. I think that what we really ought to do is get this out of the hands of the Commission. Why was the Commission designated in the first place? To get it beyond the question of repair, for the consideration of Congress as of the particular time, and it was gotten through under circumstances that have been amended several times. Each time, they used very inaccurate language. The particular Commission language here for the extension of the Capitol approved in December 1969 is bad draftsmanship.

But it was worked out on the floor at that time, and that is the best they could do to have a meeting of the minds. I do not think it is necessary in order to make final judgment to award a contract, with the past record of Congress on the Senate Office Building and the Rayburn Building, and these political committees constructing buildings around this town, to leave it to any Commission that can meet in closed session, when you do not know they are meeting; and when you ask for information, it is said that you are questioning the integrity of the Commission. I do not like to represent the State of South Carolina to put people in any spot. They say, "You approved it," when you did not.

Mr. KENNEDY. What reasons did the Commission give the Senator's committee for its action?

Mr. HOLLINGS. They did not give us any. They did not give us any information. As a matter of fact, they filed another matter that came to us over the weekend. They have not given us the cost of the final plans. You ask about cafeterias and they say it was thought it might be a good idea. No cafeterias. Somebody else is against windows and they say, "No windows." They will go to any extent to leave it obscure so that they have the question settled and can go headlong into this thing, and the people will not have their day in court.

Mr. KENNEDY. Did the Senator or the committee ask the members of the Commission about how they reacted to the Praeger report or the feasibility of restoration, which indicated quite clearly that restoration was possible according to the congressional requirements laid out in Public Law 91-145? What did the Commission say in response to that type of inquiry?

Mr. HOLLINGS. The Commission did not say on the House side. We never had the opportunity. We saw that Mr. STRATTON and those concerned on the House side were rebuffed out of hand, and they never really had a fair chance.

On the Senate side, we raised the question at the first opportunity that was afforded us. In the Appropriations Committee, last Friday afternoon, we unanimously agreed to language which we all say, in exchange of dialog and the colloquy held on the floor, that we all want. We want a preliminary plan. We want to look at it. We want to have hearings so that the people can see the plan and I can see the plan, and the majority and the minority can see it, and everybody can look at the same thing and say it is good or bad, and then approve or disapprove it.

When we asked for that, they said, "Oh, no; let's go along with the final plans and the Commission's procedures on it."

It is highly questionable up to this point.

Mr. KENNEDY. I know that the Senator has referred to the five conditions which were laid out in Public Law 91-145 to express the sentiment of the Senate on the requirements of restoration. I know that the Senator has referred to this, but I think this is certainly a point that needs stressing.

First of all, Public Law 91-145 states that there can be no restoration unless the "west central front can, without undue hazard to safety of the structure and persons, be made safe, sound, durable, and beautiful for the foreseeable future."

The Praeger report indicated, as the first requirement:

(1) The West Central Front can be made safe, sound and durable for the foreseeable future without impairing its inherent beauty and without hazard to safety of the structure and persons by cleaning the wall, strengthening it by grouting and restoring its appearance by repainting.

The second requirement for restoration is:

(2) That restoration can be accomplished with no more vacation of west central front space in the building proper (excluding the terrace structure) than would be required by the proposed extension Plan 2.

The Praeger report finds:

(2) Such restoration can be accomplished without vacation of west central front office space or the terrace structure.

The third requirement for restoration is:

(3) That the method or methods of accomplishing restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids.

The Praeger report finds:

(3) Restoration methods can be specified to form a basis for performance of the work by competitive lump sum construction bids.

The fourth requirement for restoration is:

(4) That the cost of restoration would not exceed $15,000,000.

The Praeger report finds:

(4) The cost of restoration can be limited to $15,000,000.

The fifth requirement for restoration is:

(5) That the time schedule for accomplishing the restoration work will not exceed that heretofore projected for accomplishing the Plan 2 extension work.

The Praeger report finds:

(5) The restoration work can be accomplished within the time projected for the Plan 2 extension work.

As I understand it, the five statutory conditions were thoroughly considered by the Praeger report. And the Praeger report—which is very extensive, exhaustive, and commendable—says that the five conditions can be complied with. Am I not correct in that conclusion?

Mr. HOLLINGS. That is correct, as of the time of the report on the matter of cost. The Praeger report said $13.7 million in December 1970. Now the Architect uses the characterization "indeterminate," that he cannot say that it can be done within the $15 million. Therefore, the five conditions cannot be met. That is the point of misunderstanding.

Mr. KENNEDY. Now the Commission has come back with a fresh recommendation for extension. Yet, as I understand it, the Commission has not provided, or will not provide, or cannot provide the information to the Senator's committee or to the Senate about how much weight they gave to the conditions which were established in the legislation or to the findings in the Praeger report. They cannot say to the Appropriations Committee or to the Senate how they reached their decision or how persuasive the Praeger findings were in this matter.

Mr. HOLLINGS. That is correct.

Mr. KENNEDY. I support the position of the Senator from South Carolina. I feel that it is an eminently sound way to proceed. I commend him for the work he has done in this area.

I think that the American people realize that the Capitol is one of the finest buildings in the Nation. It is the work of some of the greatest architects and founders of the Republic. The people of the Nation have every right to expect that, before this building is defaced, whether internally or externally, Congress will have the information which is necessary to make a considered judgment. More important, we must have the opportunity for sound and full debate and discussion in the committee and on the floor.

I agree with the Senator from South Carolina that we should not operate in a vacuum or in secrecy, particularly when this is a matter of such great importance to the American people and to the Nation's Capitol. I commend the Senator from South Carolina for the leadership he has provided.

Mr. HOLLINGS. I thank the distinguished Senator from Massachusetts. I commend him for his awareness and his persistence in following through in this matter so that we can preserve our Nation's Capitol.

I am not unaccustomed to one of these struggles or fights when it comes to historic preservation. The Senator from Massachusetts is from a historic city, the city of Boston. My hometown of Charleston has 124 "firsts" in America—from the first chamber of commerce, the first theater, to the first museum, and right on down the line. I have former partners in a law firm in South Carolina who occupy a building that we renovated under the historic trust.

On Friday, having raised the question, if we had not prevailed for a clear understanding on the procedures, I was prepared to yield the leadership post on the bill and suggest that the Commission be abolished, because that is where the Commission ought to go—to abolition.

We cannot operate in the dark with a Commission of that kind, if two or three are interested. The distinguished majority leader is trying to catch up with the facts as between plans and studies and whether or not it costs $2 million or more than $2 million for final plans. I understand him to say that he has been to only one meeting. Do we know of any other report between the Praeger report in December 1970 and this month, 14 months later?

Did they have any particular meeting? That is no way to handle the people's business. I would hate to have to defend the extension of the Capitol. I would hate to have to lose, but I have done my best to defend the procedures of the Senate. I would hate to sit there and have nothing done about it. They would run circles around us, and then they would say, You approved it. Why did you not raise your voice? I did speak up so that the people would have an interest in it, and we would discuss it, and we could bring it into the light of day and have an orderly procedure on the preliminary plans that the Architect has asked for. I call for hearings so that the public, cultural societies, and all other interested people, including the landscape architects, can give us the best of advice and not have to say that we go along with the Commission because the Commission has done it. I think that is a

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poor way to do business. I did not want to have to do away with the Commission. We can raise the point we all are agreed on, on what, in my judgment, after this discussion, results in understandable language. The preliminary plans are that we want to go ahead with any construction and the final plans are on the expenditure of the millions of dollars until specifically approved or appropriated therefor by Congress.

The aim of this amendment is to go right down the middle. I know how to draft amendments. Why do they want to knock out the "preliminary" when at the same time they say, We have got it? Why do you not come in here? We have been on this thing for 2 hours. The Commission has been running around here so that everybody wants to go along with the Vice President—not everybody but many—the Speaker of the House, the leaders of the Senate, the Architect of the Capitol. We are all in the political business. We would like to get approval for them. We would like to give them approval, but, when it comes down to it, this would be bad—very bad.

I say to the Senator from Massachusetts that we really should look at not only what the Praeger committee says, but what the American Institute of Architects stated. They came down to the Nation's Capitol in the spring of last year. All along this high level commission, saying nothing either to the people or to Congress, saying nothing in the light, at that time, of five conditions being met. The figure was there. So the American Institute of Architects, in May, visited the Capitol and architect of the Capitol and reviewed the report and they filed a report in September. They had a synopsis of this very thick and voluminous restoration of the West Central Front report. They said to go ahead with the renovation and repair, that it could be done safely without disturbing anything. They said it could be done within reason for $15 million and that it would preserve not only the building but also the landscaping, the grounds, and the general overall appearance of the building.

With respect to the use of space, they said that space in the Capitol is crowded. Let me read the language in this one little squib:

> The task force observed that the present space usage in the Capitol is crowded, misused, or under-used.

Now, what about that?

These are things that your committee, Mr. President, either the subcommittee or the full Appropriations Committee, never stated the facts on. As of this minute, the chairman of the Committee on Rules and Administration, for the first time, has directed a study of the allocation of rooms in this particular building.

If we put the four gentlemen under oath, or anyone else under oath, to say how many rooms there are and who occupies the rooms, we cannot get an answer. Let the Pentagon operate that way—and you know there would be so many joint committees, and hearings, you wouldn't be able to move. But when Congress engages in this kind of conduct, they say that we should gloss over it all—senatorial courtesy, if you please.

Look at the offices, look at the building, when they are asking for more space. The Senate Disbursing Office does not need to be in the Capitol. The House Disbursing Office is in the Cannon Office Building. It is not in the Capitol. Why cannot we do the same thing with the Democratic Senatorial Campaign Photo Lab? That is highly important? How are we going to explain that to the people? If it costs $368 per square foot, if we are going to extend the Capitol, we shall need more room. The Contract Office we could put elsewhere. The Flag department we could put elsewhere. The Airline ticket office we could put elsewhere. The House has it in the Longworth Office Building. We could put it in one of our office buildings. We could build that for $100 a square foot, or $150 a square foot. That would at least be a tremendous saving.

I believe that Members deceive themselves in never having considered the fact that we can physically add on x number of rooms. To add on x number of rooms will mean additional meetings, cafeteria rooms, and everything else for everyone to come to. When they are used either for committee purposes, or an individual Senator's purpose, or a chairman's purpose, or a majority leader's purpose, or a cafeteria's purpose, or whatever the purpose, when we get through a meeting at the lunch hour, there is the usual break, and as goes on on both the House and Senate sides, they say, "Oh, by the way, do you want to go over and see your Congressman or Senator in debate?" And they crowd up all into one place, which makes it impossible, because we have no rooms to take care of those who would like to linger. We create all kinds of problems—people pollution, traffic jams, and so forth.

Mr. President, I do not want to put people out of the Capitol but because of the usage of this historic shrine, in which we work, it should be considered as an historic shrine and not one just for office space, like any building. We should not fall into the argument that because the Nation has grown so much, this Capitol should grow too. We must respect the tradition of the past and the investment the people of this country have in this structure as it stands. We have not studied the space problem or the extension problem and they should be studied. They do not have to go together though.

Mr. KENNEDY. I think that what the Senator from South Carolina has just mentioned is extremely valuable, especially the point on assessment of the special needs in the Capitol. All of us are very much aware that Senators have offices in the Capitol. I had an office in the Capitol for a brief time when I was assistant majority leader. How am I going to go back and explain to the people of Massachusetts, or to any of the respective States, that we voted to deface the Capitol because the Members of the Senate wanted to have a little more office, in spite of the fact that we already have offices in the Old Senate and New Senate Office Buildings? I think that would be an extremely difficult argument to make.

I think the Senator is correct that we ought to assess what our real space needs are. How many functions take place in the Capitol building that are not essential to the workings and the functions of the Capitol? Obviously, there are many. Many others are necessary. But the Senator is entirely correct in indicating that we should have that information before we go ahead.

I would like to ask the Senator from South Carolina whether accurate information has been developed as to the cost of restoration versus extension?

As I understand it from the figures that have been presented, we are talking about approximately $15 million for restoration and approximately $60 million for extension. We all know the enormous inflation in construction costs. That $60 million could very well, and probably will, move on up to $70 million or $85 million or even $100 million. Is that any way to spend the taxpayers' money?

I think that the American people will want to know why we are spending anywhere from four to five times as much for extension as we would for restoration. Is this a sound economic program that is being presented? Are there sound economic reasons for spending such large sums, at a time when we have a $23 billion deficit in 1971, a $39 billion deficit in 1972, and the expectation of a $25 billion deficit for 1973? I wonder if that is not of concern also to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think the Senator from Massachusetts has gone to the heart of the problem. We cannot justify the economics of $60 million in additional money for additional space. We should never confuse the Capitol with space needs. We should only relate the Capitol to Capitol needs.

I think there is a positive need for eating facilities, for parking facilities, and for office space perhaps for all of us, but not in the Capitol.

We know the parking crisis that exists. I have a member on my staff for whom I am trying to search around so that she might get parking space for her car. She has some $60 worth of parking tickets. I have members of my staff that come here way before 8 o'clock in the morning just so they can find a place to park. I have to let them go early because of the unsafe condition of the streets where their cars are parked.

When a poor constituent arrives, he has to get to the Senate Office Building and then to the fourth floor without much in the way of directions or parking. I try my level best to see him because I know how he has fought to get there. He has literally had to fight to find a place to park his car and then he has to walk all kinds of distances to find the office with no directions.

We really put our constituents to a tough task when they come here. I see them when they come here. They need parking space and eating facilities, and

I want to provide them but not within the Nation's Capitol.

It would forbid the full use of the Capitol for the sightseeing that we want all to enjoy if we were to put aside little rooms for special uses, even a cafeteria.

The Architect says that a group is coming to the Capitol and wants to have lunch here. Every one of the Senators will be setting up facilities for groups.

Can the Senators imagine, if 100 Senators and 435 Representatives were to arrange luncheons, what the people pollution would be here? It would be drastic. I do not think that Congress wants to do it.

I agree with my distinguished leader that we should have preliminary plans laid in front of us. There is no complaint. I am not picking between $250,000 for preliminary plans and for $2 million for final plans. That is not the point. If we get preliminary plans, we will know what we are doing, and we would not be blamed, as we are in the discourse here, when one Member stands and says that he thinks this is settled.

Mr. KENNEDY. Mr. President, I commend the Senator from South Carolina. I think he is making a very reasonable request for additional kinds of information. He has raised it squarely. The matter has not yet been resolved. The satisfactory answers have not been received by the committee. We ought not to be proceeding with this project under such conditions.

I think the Senator has shown great statesmanship in coming to the floor here and taking this position. So often, when such matters come out of a committee, the chairman is asked to respond to the issues and questions, such as space or any of these other items. He realizes and recognizes that he cannot give this information to the membership and is distressed by it, and we should all be.

I commend the Senator again for the effort he has made in this undertaking.

Mr. HOLLINGS. I thank my friend, the Senator from Massachusetts.

Mr. President, we are on limited time. I have almost exhausted my time.

Mr. MANSFIELD. Mr. President, I am in receipt of the preliminary plans and estimates of cost for the extention of the West Central Front of the Capitol.

These were drawn up pursuant to Public Law 84–242, Public Law 84–406, Public Law 88–248, and Public Law 89–309.

To show how preliminary this has been, the letter of transmittal by Mr. J. George Stewart, the Architect of the Capitol, is dated May 8, 1967, is addressed to the Honorable John W. McCormack, Chairman of the Commission for the Extension of the United States Capitol.

The Commission for the Extension of the United States Capitol then consisted of the Speaker of the House of Representatives, John W. McCormack, Chairman; Vice President HUMPHREY, the minority leader of the Senate, former Senator Dirksen, the minority leader of the House of Representatives, Representative FORD, and the Architect of the Capitol, Mr. J. George Stewart.

Since that time, it will be noted from a reading of the list of membership that the minority and majority leaders of the Senate and the majority leader of the House have been added to the Commission.

The contents contain a report and recommendations of the Associate Architects, covering the preliminary plans and estimates of cost for the extension of the west central front of the U.S. Capitol, in accordance with plan 2 approved by the Commission at a meeting of June 17, 1966, and a report of the Advisory Architects on plan 2, and a summary of the engineering study by the Thompson & Lichtner Co., Inc., dated November 1, 1964.

Mr. President, this indicates that this preliminary plan is something which was done under the sponsorship of the preceding Architect of the Capitol.

Mr. President, I ask unanimous consent, in view of the interest generated by this particular meeting, that the preliminary plans and estimates of cost for the extension of the west central front of the Capitol be printed in the RECORD.

There being no objection the preliminary plans were ordered to be printed in the RECORD, as follows:

LETTER OF TRANSMITTAL

MAY 8, 1967.

Hon. JOHN W. MCCORMACK,
Chairman, Commission for Extension of the U.S. Capitol, Congress of the United States, Washington, D.C.

DEAR MR. CHAIRMAN: I am forwarding, herewith, the following documents:

(1) Report and recommendations of the Associate Architects, covering the preliminary plans and estimates of cost for the Extension of the West Central Front of the United States Capitol, in accordance with Plan II approved by your Commission at meeting of June 17, 1966.

(2) Report of the Advisory Architects on Plan II.

These are preliminary plans and estimates of cost which the Commission approved at meeting of June 17, 1966, and directed that they be completed and perfected. Large scale plans are available for inspection in my office. As you know, at your direction, a scale model of the United States Capitol showing the proposed extension of the West Central Front in marble as proposed under Plan II has been on exhibit in Statutary Hall in the United States Capitol since November 21, 1966.

I strongly endorse the plans and recommendations of the Associate and Advisory Architects.

I am also enclosing for ready reference a summary of the engineering study by The Thompson & Lichter Co., Inc., dated November 1, 1964.

With best wishes, I am

Sincerely yours,

J. GEORGE STEWART,
Architect of the Capitol.

PRELIMINARY PLANS AND ESTIMATES OF COST FOR THE EXTENSION OF THE WEST CENTRAL FRONT OF THE CAPITOL

(Report and recommendations, J. George Stewart, Architect of the Capitol; Associate Architects; Alfred Easton Poor, Albert Homer Swanke, Roscoe DeWitt, Jesse M. Shelton)

(NOTE.—Photographs referred to are not printed in the RECORD.)

ENABLING LEGISLATION

In 1955, the project for the extension of the Capitol was initiated when the 84th Congress passed Public Law 242 as amended by Public Law 406, as follows:

"The Architect of the Capitol is hereby authorized, under the direction of a Commission for Extension of the United States Capitol, to be composed of the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives and the Architect of the Capitol, to provide for the extension, reconstruction and replacement of the central portion of the United States Capitol in substantial accordance with Scheme B of the Architectural Plan submitted by a Joint Commission of Congress and reported to Congress on March 3, 1905 (House Document numbered 385, Fifty-Eighth Congress), but with such modifications and additions, including provisions for restaurant facilities, and such other facilities in the Capitol grounds, together with utilities, necessary items, as may be approved by said Commission . . ."

The work of extension and reconstruction of the East Central Front was approved and was completed in 1962. The work stands as mute evidence of the validity of the decision to provide for the needs of the Seat of Government while preserving the Capitol as a National Shrine.

HISTORICAL BACKGROUND

The extension and reconstruction of the West Central Front of the Capitol is a project that has been under consideration through the years.

As first substantially completed in 1829, the Capitol consisted of only the central portion, capped by a relatively small copper covered dome of wood construction, consonant in size with the body of the building which it then enhanced.

During the 1850's the North and South wings were added to properly accommodate the Senate and the House of Representatives. Those additions increased the body of the structure to the point where the relatively small dome was inadequate as an expression of the building. Thus, the cast iron dome, as we know it today, was added during the years 1856–1865.

During the 1880's, need arose for further expansion of the Capitol, and that need offered the opportunity to improve the westerly approaches of the Capitol. Thus, the westerly terraces, as we know them today, were added during the years 1884–1892.

No further work of consequence has been accomplished on the West side of the Capitol since the 1880's.

Subsequent to the completion of the East Central Front of the Capitol in 1962, the Commission for the Extension of the Capitol began to concern itself with the West Central Front of the Capitol, activated by the rapidly deteriorating condition of the West Front.

During 1964, at the direction of the Commission, The Thompson & Lichtner Co., Inc., Professional Engineers, of Brookline, Massachusetts, were engaged by the Architect of the Capitol to study the conditions of the West Central Front and to recommend any required remedial action. The study was made and a report submitted in five volumes. This firm recommended that the old wall be retained as an interior wall and that this section of the building be extended westward to provide the required lateral support (in a manner similar to the East Front Extension of 1958–1961).

The Commission held a public hearing on this study and report on June 24, 1965. After hearing the testimony of Dr. Clair, President of The Thompson & Lichtner Co., Inc., and others, and after reviewing the engineering report and the exhibits, the Commission adopted the following recommendation unanimously:

That the Architect of the Capitol be authorized and directed by the Commission for the Extension of the United States Capitol

to submit to the Senate and House Appropriations Committees requests for funds for the preparation of a new set of preliminary plans and estimates of cost for the extension, in marble, of the West Central Front of the Capitol, based on the findings in The Thompson & Lichtner report.

Pursuant to this decision of the Commission, the Architect of the Capitol submitted a request to the Senate and House Appropriations Committees for funds for the preparation of preliminary plans and estimates of cost. Hearings were held on this request by the Appropriations Committees of the Senate and of the House, and the funds were included in the Supplemental Appropriation Act, 1966.

Dr. Clair, President of The Thompson & Lichtner Co., Inc., at the hearing before the Commission for the Extension of the Capitol, June 24, 1965, and again at a meeting with the Commission, July 21, 1965, recommended that certain emergency work of a temporary nature be undertaken to secure portions of the deteriorated sandstone west section of the Capitol Building. This work included temporary shoring of the lower sections of the walls of the original Senate and House wings and the supporting of displaced portions of the architrave in the West Central Portico. His recommendations were approved by the Commission.

The temporary wood shoring was installed last summer and will remain in place until permanent work has progressed sufficiently to provide the required stability to these sections of the buildings.

ACTION BY THE COMMISSION FOR THE EXTENSION OF THE U.S. CAPITOL AND IMPLEMENTATION BY THE ARCHITECT OF THE CAPITOL OF THE INSTRUCTIONS ISSUED BY THE COMMISSION

Subsequent to the approval of funds requested by the Architect of the Capitol in the Supplemental Appropriations Act of 1966, as directed by the Commission, the Commission further directed the Architect of the Capitol as follows:

"Upon approval of the Supplemental Appropriation Act, 1966, you are hereby authorized and directed to direct Roscoe DeWitt, Fred L. Hardison, Alfred Easton Poor, Albert Homer Swanke, and Jesse M. Shelton, the architects for the Extension of the Capitol project, to proceed under their contract ACbr–427 with the preparation of new preliminary plans and estimates of cost for the Extension of the West Central Section of the United States Capitol, such extension to be in marble . . . and to take such action as may be necessary to implement this directive."

Thereupon, the Architect of the Capitol continued the engagement of the above Architects, as associate architects for this work, the group who accomplished the work of Extension and Reconstruction of the East Central Front of the Capitol, and who are under a continuing contract for the Extention of the Capitol work, and continued the engagement of the following advisory group: John Harbeson, architect of Philadelphia, Pennsylvania; Paul Thiry, architect of Seattle, Washington; and Gilmore D. Clarke, landscape architect of New York City.

The requirements of the contract with the Associate Architects provide:

1. To make such surveys and studies and supervise the preparation of such models as in the judgment of the Architect of the Capitol may be necessary and to prepare and furnish to the Architect of the Capitol preliminary drawings for the extension of the west central portion of the United States Capitol, such extension to be in marble, and to include the areas between the Senate and House Wings of the United States Capitol—the preliminary drawings to consist of such plans, elevations, sections and perspective views as may be necessary to fully describe and explain the size, character, arrangement and essential elements and features of the proposed changes and improvements.

2. To make such inspections of the existing construction of the West Central Portion of the United States Capitol Building as may be necessary and to examine and study all drawings of the Capitol Building available in the files of the Architect of the Capitol.

3. To prepare such measured drawings for the West Central Portion of the United States Capitol Building as may be necessary for the proper performance of this contract: provided that any scaffolding required for the purposes of items (2) and (3) hereof shall be furnished by the party of the first part without expense to the parties of the second part.

4. To submit to the Architect of the Capitol a report embodying a description of the proposed changes and improvements, the considerations determining the various features of the design, and estimates of cost of the project: provided that the preliminary drawings and studies required hereunder shall include alternate schemes for the Extension of the West Central Portion of the United States Capitol Building—the number of alternate schemes to be as directed by the Architect of the Capitol: provided further, that the parties of the second part (the Associate Architects), shall submit to the party of the first part (the Architect of the Capitol), periodically, progress studies and other information developed from time to time with respect to the said alternate schemes.

THE NEEDS

The need for improvements on the West Central Front of the Capitol is primarily concerned with the facts that the West Central Front is in an advanced state of deterioration and that its reconstruction cannot be delayed.

The statement made in Volume I, Report and Recommendations for the Extension of the Capitol Project, Washington, D.C., published in 1957, and which was the basis for the Extension and Reconstruction of the East Front of the Capitol still obtains:

"The deterioration of the sandstone out of which the East and West facades of the central portion are constructed, began with the fire started by the British during the war of 1812, was further aggravated, particularly in the East, by the gas explosion and fire of 1898, and has continued ever since, abetted by the distintegration caused by the countless coats of paint applied through the years. As a safety measure and in order to preserve the Capitol not only as a National Shrine, but also as the Seat of Government, the East and West walls must be replaced."

Since that time, weather and the normal processes of aging have wrought further changes in the West Central Front of the Capitol. The process of deterioration reached the point where the Architect of the Capitol was directed by the Commission for the Extension of the Capitol to order a structural survey of its condition by an eminent independent consulting engineering firm, The Thompson & Lichtner Co., Inc., headed by Dr. Miles N. Clair of Boston. The findings of Dr. Clair's survey are expressed by the Summary, Conclusions and Recommendations of his report submitted during 1964. After examination of several alternate methods of correction of the extant conditions, Dr. Clair found and recommended:

"Retention of the wall as an interior wall of an extended building is recommended as the least hazardous and as causing the least interference with the occupancy of the present structure. A properly designed and constructed extension would also provide desirable lateral support for the west central portion of the Capitol."

Acting on the recommendations of Dr. Clair, the Architect of the Capitol was directed by the Commission to effect temporary repairs to insure against an actual failure on the West Front, work that was accomplished last year.

Through the years much concern has been expressed about the architectural inadequacy of the West Central Front of the Capitol. With one of his letters to Trumbull, in 1836, Bulfinch enclosed a sketch which delineated a pediment above the central portico of the West Front, one similar to that of Latrobe's earlier drawings.

Further concern was expressed about the West Front and its relationship with the newly completed dome by Thomas U. Walter in 1865.

Olmsted, in connection with his studies for the West Terraces in 1882, prepared sketches which suggested the strengthening of the West Central Front, including in one sketch the provision of a central pediment similar to that on the East Central Front, and in the other the provision of three pediments.

Harper's Weekly, in a commentary on the Capitol in 1885 observed: "The Capitol has always been unfortunate in an architectural sense. The great dimensions of the dome have overweighted the whole lower structure, and the building has always conveyed the impression of lacking adequate foundation and stability."

Concern has been expressed by others through the years about the West Central Front.

Advisory architects, Brown, Harbeson and Shepley, stated in their report on the Extension of the Capitol, June 11, 1957:

". . . The West Front of the Capitol is less successful as an architectural composition than the East Front. Although adequate for the original building, it is not suited to the enlarged composition resulting from the addition of the wings and of the present dome".

Architects Ralph Walker, designated Architect of the Century and awarded The 100 Year Gold Medal by The American Institute of Architects, Lorimer Rich, F.A.I.A., and Douglas Haskell, an architectural editor, urged in a memorandum dated July 3, 1958:

". . . The real needs of Congress could in any event be best cared for by extending the building to the west where there is no great architectural masterpiece to be preserved".

The Memorandum of the American Institute of Architects, dated January, 1958, stated:

"It is believed that the space requirements could be better filled—at far less cost—by leaving the East Front alone and instead developing a proposed scheme for expansion on the west side of the building".

Thus, the impelling need for reconstruction of the West Central Front of the Capitol affords the opportunity to satisfy needs in other areas:

1. The need for additional space for legislative functions.

2. The need for the provision of adequate service facilities for the Capitol.

3. The need for horizontal circulation at the west.

4. The need for additional restaurants and cafeteria facilities in the Capitol.

5. The need for adequate provision for visitors to the Capitol.

THE PROGRAM

The solutions to the needs outlined are summarized as follows:

Reconstruction

The inescapable need for the reconstruction of the West Central Front of the Capitol is dealt with in detail in the report submitted by The Thompson & Lichtner Co., Inc. The Associate Architects concur in those findings and endorse the recommendations of that report. It is inescapable that something must be done—and soon.

The Thompson & Lichtner Company report considered and rejected the following possibilities:

"Retention and repair of the existing walls as corrective action is not recommended as it would require the hazardous removal of much of the facing so as to allow installation of ties to the backup wall, or the installation of ties through the face joints with resulting disfiguration of the structure. There would still be walls and foundations of structurally inferior construction with the walls requiring continuing protective treatment.

"Facing of the existing walls as corrective action with durable marble and granite, leaving the sandstone in place, is not recommended because it would require additions to the present foundations and there would still remain walls and foundations of structurally inferior construction without preserving the historic architecture.

"Removal of the sandstone completely and replacement by high quality marble and granite as corrective action is not recommended because it would be a very costly and hazardous operation and there would still remain walls and foundations of structurally inferior construction.

"Removal of the entire wall and foundation and replacement by reinforced concrete with a facing of high quality granite for the course at grade and high quality marble above for the face stone is not recommended because of the hazard, cost and interference with occupancy."

The Associate Architects do not recommend, nor would they undertake, the reconstruction of the existing wall, stone by stone, because of the structural condition of the existing exterior wall and its structural relationship with the floor arches. Although theoretically such work could be accomplished, the cost and hazards of such work would be overwhelming.

The construction of a new exterior wall, as a veneer on the existing wall, would involve the exposure of the foundations on the existing retaining walls to install additional foundations for the new veneer, and the end product would add little to the structural stability of the existing retained wall, and would not eliminate the continued effort of expansion and contraction in the future.

The Associate Architects recommend the construction of a new free-standing exterior wall of sound new material, structurally capable of stabilizing the existing wall for posterity, designed and installed to avoid exposure of the existing foundations walls, except for localized underpinning in a manner similar to that employed for the extension and reconstruction of the East Front.

Additional space

Volume I, Report and Recommendations for the Extension of the Capitol Project, Washington, D.C., published in 1957, which was the basis for the extension and reconstruction of the East Front of the Capitol, dealt at length with the occupancy and use of the Capitol. That report indicated a need for an increase in total net occupied area of 139,250 square feet.

The reconstruction of the East Front satisfied the need for additional space in part only, and a deficiency still exists, aggravated by the increase in demand for additional restaurant facilities, legislative occupancy, and storage space that has developed since 1957.

Service

The extension and reconstruction of the East Front as constructed did not allow or provide for adequate service facilities in that such provisions were to be provided in the Underground Garages which have never been approved by the Commission for the Extension of the Capitol project. The United States Capitol is still without adequate means for service. It is one of the few major buildings in the United States that is without truck docks, service elevators, or other means for the orderly handling of the necessary services of the building and for its occupants.

Food is still delivered to, and garbage removed from, the restaurants of the Capitol by means of sidewalk lifts or hoists at the East Front Plaza. Supplies are similarly handled or brought in through public areas of the building. These methods are as inefficient as they are unsightly.

Circulation

The extension and reconstruction of the East Front provided horizontal circulation semi private to legislators in that area, and has allowed direct access from one end of the building to the other without crossing the visitors' traffic that is concentrated in the central north/south circulation of the Capitol.

No such circulation presently exists at the West Central Front of the Capitol.

Restaurants

The extension and reconstruction of the East Front of the Capitol provided for the extension of the restaurant facilities of the Capitol within the space limitations imposed by the extent of the area made available by that work and the demands made on that space by other uses.

Experience since the completion of that work shows that even the new facilities are overcrowded, and that the need for restaurant facilities for visitors has increased.

The extension and reconstruction of the West Front will provide the urgently needed restaurant facilities.

Visitors

As recently as 1935, there were only approximately 100,000 annual visitors to the Capitol. By 1955, this number had increased to approximately 1,000,000 per year. Last year, 1965, the count had increased to 6,300,000. If the rate of growth from 1955 to 1965 is maintained, the 1975 visitor population in the Capitol will reach 11,600,000.

The maximum daily influx of visitors in 1965 was 30,000, a figure that may be expected to reach 50,000 by 1975. These are hard and inescapable facts. Thus, the only course is to accept the fact that people in these indicated numbers must be accommodated as a responsibility of the Congress.

These visitors should have easy and ready access to the Museum elements of the Capitol, as well as the Galleries of the Chambers, and adequate means of circulation must be provided, sufficiently separate from that of the legislators to allow the orderly operation of the legislative function of the Capitol while allowing the orderly passage of visitors through the Capitol. These visitors must be provided with adequate facilities.

THE RECOMMENDED SOLUTION, EXTENSION AND RECONSTRUCTION

It is inescapable that the West Central Front of the Capitol must be extended to preserve the exterior walls. The needs and the program indicate that if such reconstruction is accomplished it should be done so as to satisfy the other impelling reasons for this work.

To be meaningful and to allow a useful architectural and functional employment of the advantages inherent with such a reconstruction, the Westerly Central Front should be extended to the west approximately 44'–0" at the center and approximately 88'–0" at the westerly courts, with the connecting wings brought forward approximately 56'–0".

Such a solution will allow for the satisfaction of the requirements for additional space, service, horizontal circulation at the west, (semiprivate to legislators), additional restaurant facilities for the legislators, and for the adequate accommodation of visitors.

The Recommended Solution contemplates the reconstruction and substantial architectural reproduction of the West Central Front, including the connections to the Senate and House wings at the forward and westerly locations indicated on the drawings, extended to satisfy the requirements of the program.

The exterior steps and configurations of the West Terraces would remain generally unchanged except for a slight reduction in width of the steps and their relocation to center on the old wings of the West Central Front and their relocation further to the west.

The requirements of the program would be satisfied in all respects:

Additional space

The deficiency in space would be satisfied by the addition of 269,528 gross square feet, with a net usable area of 162,468 square feet. Not only would the additional space be provided, but it would be provided in areas where most needed; adequate hearing rooms and administrative facilities would be provided in readily accessible locations, service and storage needs would be satisfied, adequate horizontal circulation, (semiprivate to the legislators), would be provided, the additional dining facilities would enjoy the finest outlook in the Capitol, and adequate provisions would be made for the ever increasing flow of visitors to the Capitol.

Service

This solution undertakes the correction of presently insufferable conditions by the provision of access and service at the West Front. A vehicular drive from Constitution or Pennsylvania Avenues to and through West Front to Independence or Maryland Avenues will allow deliveries and removals to and from separate service docks located at the subbasement level in the area of the Old Senate and House wings flanking the west central wing of the Capitol.

A new service elevator, contiguous with the service dock, will provide ready distribution of supplies and removal of trash to and from all areas of the Capitol. Horizontal access will be provided from the service docks to the easterly portions of the basement to allow service to those areas and the restaurant kitchens located in the East Front.

Circulation

The extension and reconstruction of the West Front as contemplated will provide through horizontal circulation at the west, semiprivate to legislators, and will complete the circulation system flanking the heavy concentration of visitors' traffic in the central north/south axis of the Capitol.

Restaurants

This solution provides for new restaurants at the basement level as follows:

	Persons
On the Senate Side:	
One Senate restaurant seating	242–303
One private dining room seating	42
One cafeteria seating	264–396
On the House Side:	
One House restaurant seating	242–303
One private dining room seating	42
One cafeteria seating	264–396

These restaurants will overlook the Mall to the Washington Monument, the most magnificent view in the city; one of the finest in the world. Each will overlook a terrace where pedestrians may stroll and enjoy the magnificent view.

Ready access will be had to the new restaurants from the Senate and House by the two new passenger elevators located west of the Old Senate and House wings flanking the west central wing of the Capitol.

Visitors

This solution recognizes the needs of visitors, and the need to accommodate them in a manner which will allow the proper maintenance of the legislative functions of the Capitol. It provides a main entrance to the Capitol from the west at grade level of the

west lawn, and makes such entrance accessible by a vehicular drive from Constitution or Pennsylvania Avenues to and through the West Front to Independence or Maryland Avenues which will allow delivery and pick-up under cover by vehicles.

It is anticipated that tourist buses might discharge passengers at the foot of the west lawn at First Street West, that the passengers would approach the Capitol from the West by foot and enter the West Entrance.

From that entrance, the visitors could proceed up and east by escalators and elevators to the Rotunda on the second floor, or by elevators to any other portion of the Capitol, or via subways to other buildings on Capitol Hill.

Adequate toilet, telephone, and other such facilities are provided in readily available locations.

The redirection of visitor traffic to the new lower west entrance should do much to minimize the traffic and congestion at the East Front, and provide a means whereby, hopefully, vehicular traffic can be lessened at the East Plaza.

A review of the history of the Capitol will reveal that the West Front as designed by Bulfinch was related to the West Central Front only, with no anticipation of the future addition of the Senate and House wings, and in scale with the original copper covered wooden dome (1829), with no thought to its being replaced (circa 1863) by the presently powerful cast iron dome added by Thomas U. Walter. Obviously, the West Central Front Portico is not in proper scale nor is it visually adequate to the task of supporting the present dome and of competing successfully with the overwhelming enframement of the Senate and House wings (1851–1859).

This architectural inadequacy has been noted time and again during the last hundred years. Both Latrobe and Bulfinch, in the very early part of the nineteenth century prepared drawings which contemplated a pediment for the West Central Front. When engaged in the addition of the westerly terraces, undertaken to improve the aspect of the Capitol from the West, Olmsted prepared a sketch which indicated a widening and strengthening of the westerly portico, including the addition of a pediment to supplement and give direction to the placement of the Walter dome as the central element of the Capitol.

Even in the heat of discussions in recent years in the matter of the reconstruction of the East Front, the American Institute of Architects and some of its prominent members urged that work be accomplished at the West, where aspects of the Capitol left something to be desired.

It is inescapable that the West Front, with its magnificent outlook to the Potomac, should be of prominence and dignity consonant with the East Front. The recommended solution seizes the opportunity afforded to render the West Front compatible with the East Front and the whole of the Capitol.

For these reasons the Recommended Scheme contemplates the widening and strengthening of the West Central Portico, the addition of a pediment, consonant with that of the East Front, to give direction to the Capitol on the East/West axis, to accentuate the dome, to interrupt the long straight line of the existing roof balustrade, and to strengthen the central element by the introduction of circular openings and an arcade at the ground floor level. It includes the relocation of the two central westerly stairway approaches to relate them to the dominant central features of the flanking facades of the West Central Portico.

This solution contemplates the development of the Westerly Terraces as adjuncts to the restaurants located at the West Central Front—to provide a means of enjoyment of the magnificent view down the Mall to the Washington Monument and beyond.

The Associate Architects, with the concurrence of the Advisory Architects, recommend this solution because:

1. It satisfies the basic program, and

2. It strengthens the West Capitol Facade architecturally without a radical departure from the architect and general aspects of the West Front, and

3. It can be accomplished in the shortest possible time with the least inconvenience.

TEMPORARY RELOCATION

The construction program has been planned to impose the minimum dislocation and disturbance to the occupancy in the central portion of the Capitol. Except for the occupancy in the West Terraces, the effect of the construction program will impose little more burden than that imposed on the occupancy of the East Front during its extension.

The situation of the occupancy of the West Terrace is such that it should be relocated during the prosecution of the work. While it would be possible to so stage the work that this occupancy could be relocated in final locations in the areas of construction that will be constructed in the West Courts flanking the West Central Front, in the disused subway tunnels, and in the mezzanine of the House Subway Terminal, it is the recommendation of the Associate Architects that temporary structures of approximately 15,000 sq. ft. each be constructed at the north and south ends of the West Terrace.

Thus, the affected occupancy of the West Terrace could be relocated in these temporary structures, and the entire work could go forward without interruption, and could be completed at the earliest possible date.

Although the provision of temporary structures and their ultimate removal from site would cost approximately $500,000, the total construction time would be shortened by approximately one year.

If one applies the current cost escalation factor to a total cost of $300,000,000, a savings of $900,000 is realized by the shortening of the construction period.

The areas affected in the West Terraces which must be vacated extend from the south wall of the Senate Wing to the north wall of the House Wing.

The solutions offered are so planned that the existing mechanical rooms and the air tunnels serving those areas at the West Terrace will be virtually undisturbed. The Terminal for the House Subway Building leading to the Rayburn Building will be bypassed, as will the recently installed transformed vaults and electrical switching centers at the west lawn.

The contemplated work has been planned to avoid general underpinning of the existing Capitol structure, and the new structural system will be installed to add stability to the entire West Central Portion of the Capitol, in a manner similar to the work accomplished on the East Front.

The work contemplated includes the relocation of the chilled water, electric, and other utilities that cross the terrace at the west without serious disruption of service.

PERMANENT RELOCATION

The areas in the extension of the West Central Front have been developed for such basic elements as ingress and egress, vertical and horizontal circulation, service, restaurant and kitchen facilities, and where space is devoted to utilities, machine rooms, etc.

Elsewhere, tentative layouts have been indicated on the drawings only for the purpose of exposing the potential use of space and occupancy. These layouts have been explored in preliminary form to the point of assuring that all existing occupancy deprived of an exterior exposure or displaced by the work can be reassigned to an equal or better occupancy.

The proposed work will, in addition to the area added, provide considerably more exterior space than now exists, with the superb view of the Mall to the West.

SUMMARY OF AREAS—ROOMS—FACILITIES

Gross Area: 269,528 square feet.
Net Usable Area: 162,468 square feet.
Areas—Rooms—Facilities/Totals by Floors:
In the sub-subbasement:
1 unassigned space of 6,500 square feet.
10 storage areas totaling 18,310 square feet.
2 local service elevators.
5 stairs.
2 mechanical equipment rooms.
In the Subbasement:
1 unassigned hall (public space) of 9,052 square feet.
8 storage areas totaling 9,048 square feet.
2 service docks with control offices.
2 general service elevators.
2 local service elevators.
4 stairs.
2 men's toilets.
2 women's toilets.
2 service toilets.
2 garbage refrigeration rooms.
2 janitors closets.
2 electric closets.
2 mechanical equipment rooms.
In the Basement:
2 cafeterias—each seating, 264 to 396 persons.
2 dining rooms—each seating 242 to 303 persons.
2 private dining rooms—each seating 42 persons.
2 dining foyers.
6 offices (2 large—4 medium).
2 office areas totaling 3,360 square feet.
1 entrance lobby.
2 elevator lobbies.
4 passenger elevators.
2 general service elevators.
2 local service elevators.
4 stairs.
2 kitchens—each with pantry and dishwashing facilities.
2 kitchen storage—locker—toilet areas.
2 mens toilets.
2 womens toilets.
2 janitors closets.
2 electric closets.
2 telephone closets.
2 mechanical equipment rooms.
On the First (Ground) Floor:
1 large committee room, 44 x 50.
1 large conference room, 20 x 40.
23 offices (13 large—9 medium—1 small).
1 barber shop, 15 x 44.
3 storage areas totaling 820 square feet.
4 private toilets.
1 entrance lobby.
2 elevator lobbies.
4 passenger elevators.
2 general service elevators.
2 stairs.
2 mens toilets.
2 womens toilets.
2 janitors closets.
2 electric closets.
2 telephone closets.
2 mechanical equipment rooms.
On the Second (Principal) Floor:
1 large subcommittee room, 41 x 44.
1 office area totaling 896 square feet.
28 offices (14 large—12 medium—2 small).
10 private toilets.
1 entrance lobby.
2 elevator lobbies.
4 passenger elevators.
2 general service elevators.
2 stairs.
2 mens toilets.
2 womens toilets.
2 janitors closets.
2 electric closets.
2 telephone closets.
2 mechanical equipment rooms (1 a mezzanine).

On the Third (Gallery) Floor:
1 joint conference room, 38 x 43.
1 large subcommittee room, 42 x 46.
1 document room, 15 x 44.
27 offices (14 large—13 medium).
1 elevator lobby.
4 passenger elevators.
2 general service elevators.
2 stairs.
2 mens toilets.
2 womens toilets.
2 janitors closets.
2 electric closets.
2 telephone closets.
2 mechanical equipment rooms.
On the Fourth (Attic) Floor:
18 offices (17 medium—1 small).
1 large unassigned area of 5,380 square feet.
1 large storage area of 6,300 square feet.
3 small storage rooms of 224 square feet.
2 elevator lobbies.
4 passenger elevators.
2 general service elevators.
2 stairs.
2 mens toilets.
2 womens toilets.
2 janitors closets.
2 electric closets.
2 telephone closets.
3 mechanical equipment rooms.

Offices are classified above as:
Large—if of an area greater than 400 square feet.
Medium—if of an area greater than 180 square feet.
Small—if of an area of less than 180 square feet.

Areas—Rooms—Facilities/Totals by Types:

Joint conference rooms	1
Large committee rooms	1
Large subcommittee rooms	2
Large conference room	1
Large offices (or conference rooms)	43
Medium offices	55
Small offices	3
Dining rooms	2
Dining foyers	2
Private dining rooms	2
Cafeterias	2
Document room	1
Barber shop	1
Unassigned office areas (4,256 square feet)	3
Unassigned public space (subbasement)	1
Unassigned space (subbasement)	1
Unassigned storage space (34,702 square feet)	25
Private toilets	14
Entrance lobbies	3
Elevator lobbies	10
Escalators	2
Passenger elevators	4
General service elevators	2
Local service elevators	2
Stairs	19
Mens toilets	12
Womens toilets	12
Kitchens	2
Kitchen facilities	2
Service docks with control facilities	2
Garbage refrigeration rooms	2
Service toilets	2
Janitors closets	12
Electric closets	12
Telephone closets	10
Mechanical equipment rooms	15

TIME SCHEDULE

If funds are available during or before October, 1966, to implement the direction given by the Commission, and the order to proceed is given during October, it is anticipated that:

Construction of temporary structures can begin March, 1967.

Granite and marble supply can begin June, 1967.

The foundation work can begin July, 1967.

Temporary structures can be occupied September, 1967.

The construction of the superstructure can begin May, 1968.

The work should be substantially complete mid-1970.

The details of the projected time schedule are explored in the action/time chart following.

Cost of Relocation and Preparation:	
Temporary structures	$500,000
Relocation of utilities and other facilities	460,000
Total contract 1	960,000
Cost for Granite and Marble Supply: Granite and marble—cut/carved/delivered. Total contract 2	6,272,000
Cost for Foundations: Demolition—excavation — footings—structural to terrace. Total contract 3	5,300,000
Cost for Superstructure:	
Structural above terrace—setting granite and marble.	
Mechanical — electrical — plumbing—vertical transporation.	
Interior finishes.	
Total contract 4	14,584,000
Total estimated building cost	27,116,000
Cost for Interior Furnishings: Carpets — drapes—furniture—accesories	1,116,000
Total building and furnishings	28,232,000
Additional Costs: Associate architects and administrative costs	3,529,000
Total	31,761,000
Add 10% contingency	3,176,100
Total estimated cost	34,937,100

ARCHITECTURAL

Architecturally, the West Central Front Extension will follow in design and materials the quality established by the Extension of the East Central Front.

The exterior walls will be faced with new white marble, and generally, except for the widening of the central portico, the addition of a pediment thereto, and the introduction of an arcade at the windows of the terrace level, as a reproduction of the existing facade, brought forward to the west. The columns will be white marble.

The marble facing and columns of the connections between the West Central Portion of the Capitol and the Senate and House wings will be removed and re-set in the new location at the west.

Granite will be used for the base above the main terrace level. The existing pre-cast concrete paving of the main terrace will be reused, as will such of the granite extant in the present west terraces as may prove recoverable. All exposed faces of the terrace structures will be of new marble, except for the driveway beneath the terrace steps, which will be of granite recovered from demolition, and the new granite base of the Extension.

Exterior bronze light standards will be re-used and supplemented as needed, as will area drains, railing, grilles, urns, etc. The statue of Marshall will remain in place, with the new work built around.

The exterior walls will be backed up with brick, structurally anchored to the reinforced concrete frame, and will be provided with adequate built-in expansion joints.

Interior walls and partitions, shafts and other enclosures will be constructed of concrete block, with finishes applied.

In general, marble will be employed for floors and walls in corridors, lobbies and other public places. Offices and conference rooms, in general, will be carpeted, with acoustic plaster walls and ceilings, and fireproof wood wainscot and cornices. Work areas will be finished with resilient tile floors, vinyl wall covering or paint on hard white plaster walls, with acoustic ceilings.

In general, architectural finishes, fixtures, furniture and furnishings will follow the standards set for design and quality by the Extension of the East Central Front.

STRUCTURAL SYSTEMS

The report of Dr. Miles N. Clair, President of The Thompson & Lichtner Company, Inc., on the structural condition of the West Central portion of the United States Capitol, submitted to the Architect of the Capitol in November, 1964, states: "A properly designed and constructed extension would also provide desirable lateral support for the west central portion of the Capitol."

The associate architects and their engineering consultants, Mueser, Rutledge, Wentworth & Johnston and Severud-Perrone-Fischer-Sturm-Conlin-Bandel, agree with this recommendation and believe the work should be accomplished with the least possible disturbance of existing foundations and exterior walls.

Unlike the East Central Front of the Capitol, the West Central Front sits on the edge of Jenkins' Hill, with the land falling down and away to the west, and with the existing foundations resting only a few feet below grade. For these reasons, the design of the extension has been laid out to generally restrict bottoms of footings and other new construction above a slope of repose of one in two. To further insure against further structural deterioration, the entire structure below the main terrace level has been designed as a buttressing frame of reinforced concrete, with vertical buttresses extending to and against the lower portions of the wall of the West Central Front to provide lateral support.

The loadings on the soil have been restricted to four tons per square foot on the hard mottled, brown, grey and green silty clay which underlies the West Front, extends to the east, and which provided similar bearing for the Extension of the East Central Front of the Capitol.

The design requires minimum underpinning at the west. Where special conditions require localized underpinning, it will be accomplished in a manner and sequence that will be least disturbing to the existing structure.

For those areas of the extension above the main terrace level at the West Central Front and in the North and South Courts, the structural system will be a rigid concrete frame, so arranged that it will carry its own load on its own new columns, independently of the existing structure, with columns located as far as practical away from existing walls, and with the floor slabs cantilevered to provide horizontal restraint for the existing exterior walls. This cantilevering will be supplemented by vertical struts between slabs to provide vertical buttressing for the existing exterior walls.

The structural framing in the area of the connecting wings between the central portion of the Capitol and the Senate and the House wings will be steel, similar to the system used successfully in the Extension of the East Central Front. The structural framing at the attic for the roof of the extension will be steel, similar to the system employed for the Extension of the East Central Front.

MECHANICAL SYSTEMS

(Heating—Ventilating—Air Conditioning)

Steam and chilled water will be taken from the central system of the Capitol to pro-

vide heating and air conditioning throughout all occupied areas of the extension by systems independent of those now serving the existing Capitol building.

New mechanical rooms will be created in central locations, and the occupied areas will be heated and air conditioned by a low-pressure, draw-through system of ductwork, provided with hot water terminal re-heat coils to afford flexibility of room temperature control. The system will provide comfort control of temperature and humidity, both winter and summer, by the circulation of filtered air, heated or cooled, humidified or de-humidified, as may be required.

Ductwork in occupied areas will be concealed, and registers, grilles, and other elements of the mechanical systems will be concealed or made a part of the architecture in a manner similar to the East Central Front Extension.

Adequate exhaust and ventilation will be provided for all kitchen, toilet and storage areas, discharged in a manner to avoid the fouling of any occupied areas.

Provision will be made mechanically for the installation of the new Senate and House Restaurants and Cafeterias.

ELECTRICAL SYSTEMS

Electric power will be supplied from the existing switchgear located in the Terrace. New systems for light and power, independent of those now in place, will be provided, distributed as required throughout the West Central Front Extension at 480 volts, and stepped down to 120/208 volts as needed by the use of dry type transformers.

A general capacity for occupancy loads of 10 watts per square foot is being provided throughout all occupied areas.

Lighting fixtures and light sources similar to those of the East Central Front will be provided

Emergency electric power for emergency lighting and essential power will be provided from the existing emergency generators.

Low tension systems will be provided throughout occupied areas for telephone, legislative calls and clocks. Telephone conduit will be extended from the existing terminal room to convenient distribution centers on each floor. The legislative call system will be extended from the existing signal generators.

The existing fire alarm system will be extended to serve the extensions.

Provision will be made electrically for the installation of the new Senate and House Restaurants and Cafeterias.

Birdproofing, as installed on the East Front, will be provided throughout the West Central Front Extension.

PLUMBING

The existing drainage system will be extended to provide roof, terrace, court, and site drainage for the West Central Front Extension.

The existing water supply will be extended to serve the additional toilets and kitchens. A new chilled water system for drinking fountains will be provided and new fountains installed at convenient locations throughout.

New basic kitchen equipment, including dishwashing facilities, will be provided for the new Senate and House Restaurants and Cafeterias. New slop sinks will be conveniently located on each floor.

Plumbing fixtures and facilities will be similar to those installed in the East Central Front Extension.

Sprinklers and standpipe protection will be provided as required.

VERTICAL TRANSPORTATION

The design of the West Central Front Extension includes the establishment of a new vertical circulation core in each of the North and South Courts flanking the West Portico, each consisting of two passenger elevators, each with a capacity of 20 persons and a speed of 500 feet per minute, and one freight elevator, with a platform size of 6'–8" x 8'–6", a capacity of 4,500 pounds and a speed of 350 feet per minute (30 persons). The passenger elevators serve the basement, first (ground) floor, second (principal) floor, third (gallery) floor, and fourth (attic) floor, and the freight elevator serves the sub-basement in addition to those floors served by the passenger elevators.

Escalators of a width of 48", with a capacity of 8,000 persons per hour, are provided on the east/west center line of the Capitol, serving between the new entrance from the west at the sub-basement level and the basement, at which level inter-connection with the new circulation cores is readily made.

Freight elevators are provided, one each at the north and south truck docks at the sub sub-basement level and sub-basement level, serving the restaurants and cafeterias at the basement level. These elevators have a platform size of 6'–8" x 6'–8", a capacity of 2,500 pounds, and a speed of 100 feet per minute.

By the installation of these freight elevators, with the attendant freight docks, the Capitol, for the first time in its history, will be provided with adequate means for the handling and distribution of freight and services throughout the Capitol.

APPENDIX—REPORT CONTENT SUMMARY

This volume III is the written text of the "Report & Recommendation—Extension of the Capitol Project". It is attendant to Volume IV, which includes Photographs—Renderings—Drawings as follows:

Photographs and Renderings:
The West Front Existing.
The West Front Extended.
Model—West Front Extended.
Model—West Front Extended.
Elevations:
West Elevation—West Front Extended.
Court Elevation—West Front Extended.
Plans and Sections:
1. Plot Plan.
2. Sub-Subbasement Plan.
3. Subbasement Plan.
4. Basement Plan.
5. First (Ground) Floor Plan.
6. Second (Principal) Floor Plan.
7. Third (Gallery) Floor Plan.
8. Fourth (Attic) Floor Plan.
9. East/West Centerline Section.
10. East/West Court Section.

These Photographs-Renderings-Drawings appear in this Volume III at reduced size.

Volume IV is supplemented with Technical Drawings (Bound Separately) as follows:

1. Perspective of West Front.
2. Rendered Elevation
3. Rendered Section.
4. Plot Plan.
5. Sub-Subbasement Plan.
6. Subbasement Plan.
7. Basement Plan.
8. First (Ground) Floor Plan.
9. Second (Principal) Floor Plan.
10. Third (Gallery) Floor Plan.
11. Fourth (Attic) Floor Plan.
12. East/West Centerline Section.
13. East/West Court Section.

T–1. Temporary Structures.
F–1. Plan and Section/Foundations.
F–2. Sections/Foundations.
S–1. Plan and Section/Structural Frame.
P–HVAC–E–1. Sub-Subbasement Plan.
P–HVAC–E–2. Subbasement Plan.
P–HVAC–E–3. Basement Plan.
P–HVAC–E–4. First (Ground) Floor Plan.
P–HVAC–E–5. Second (Principal) Floor Plan.
P–HVAC–E–6. Third (Gallery) Floor Plan.
P–HVAC E–8. Diagrams and Details.

NOTE.—Volumes I and II deal with the Extension of the East Front of the United States Capitol (1958).

Consultants to the Associate Architects: Mueser, Rutledge, Wentworth & Johnson foundations; Severud, Perrone, Fischer, Sturm, Conlin, Bandel; structural; Leo L. Landauer & Associates, Inc., Mechanical, Electrical, Plumbing, and Vertical Transportation.

ADDENDUM I

Subsequent to the issuance of the "Report and Recommendations" in August, 1966, of which this addenudm is a part, it occurred to the associate architects that additional information, taken from the records of the office of the Architect of the Capitol might be of interest in connection with the Extension and Reconstruction of the West Central Portion of the United States Capitol.

Prior to 1897 the Library of Congress was housed in the West Central Portion of the Capitol, the Supreme Court was housed in the original north wing of the Capitol, and the only offices available to the Congress were within the Capitol itself.

In the years following the completion of the Senate and House wings, and prior to the end of the nineteenth century, growth began crowding out these ancillary functions, to provide additional space for purely legislative use.

Thomas U. Walter became involved with these problems, both while in office as the Architect of the Capitol, and subsequently after he returned to private practice in 1865.

Studies and drawings made by him during this period to solve these continuing space problems indicate his concern that the addition of the Senate and House wings and the Dome had overpowered the original central portion of the Capitol.

Records indicate that Walter prepared many solutions concerned with both the problems of space and the exterior configuration and design of the Capitol. The first, in 1865, shows the extension and redesign of the East Central Front. Just prior to his retirement as Architect of the Capitol, Walter prepared plans which included the extension and re-design of both the East and West Fronts of the Capitol.

In 1874, Walter prepared further drawings which proposed an extension of the East Central Portion of the Capitol, with variations concerned with the proposed extension of the West Central Portion of the Capitol.

The extension favored by Walter, and presented to the Joint Committee on the Library on October 30, 1874, proposed extensions and re-design of both the East and West Central Portions of the Capitol. This scheme contemplated a re-design of the West Central Portion to include a portico increased in width from 102 feet to 116 feet, with a double row of columns and with a pediment. The extension of the west was 58 feet at the center, 104 feet at the east and west courts flanking the central portion, and 80 feet at the connecting wings.

These extensions provided for additional legislative space at the east and for the expansion of the Library of Congress at the west.

Although generally of the configuration of the westerly extension outlined by the "Report and Recommendations", Walter's scheme went somewhat further west; 14 feet further at the center, 16 feet further at the north and south courts flanking the central portion, and 24 feet further at the connecting wings. The West Central Front was redesigned by Walter to provide not only a widened portico and a pediment, but to break with the past and join with the later architecture of the Senate and House wings which he had designed.

Walter's concern with exterior scale and design persisted, after abandonment of his earlier schemes, in his suggestion that the addition of the West Terraces in 1882 by Olmsted include an enlarged West Central Portico with pediment (page 25 of this "Report and Recommendations").

Edward Clark, who succeeded Thomas U. Walter as Architect of the Capitol, in his report of July 1, 1889 wrote:

"The importance given to the western front of the Capitol by the construction of this terrace seems to require that the central portion of the building be extended and remodeled, which, when done, should be constructed of marble, as are the porticoes of the wings."

Elliott Woods, who succeeded Edward Clark as Architect of the Capitol, shortly after his appointment recommended one of the Walter plans of 1874, and in his report of May 3, 1902, to the Speaker of the House of Representatives stated:

. . . "a sacrilage to offer any other plan for consideration than the Walter plan."

Frederick Law Olmsted, who conceived the grandeur of the west as expressed by the landscaping and the terraces, was concerned with the architectural quality of the West Central Portion of the Capitol: "On the West it is assumed * * * the present facade of the old Capitol will eventually be replaced by a wall of marble corresponding in dimension and architectural character to those of the wings * * *".

So through the years of the late nineteenth and early twentieth centuries, the Library of Congress building, the Senate and the House office buildings, and the Supreme Court building were constructed to remove these ancillary functions to adequate quarters to provide expansion for the legislative functions, and to accommodate the ever increasing public visitations. And through those years the architectural deficiency of the West Front was recognized, and efforts were made to effect correction as need for space dictated that consideration be given to the enlargement of the Capitol.

The floor plan following indicates the extent of the Extension of the East Central Front as now constructed, and the extent of the Extension of the West Central Front as set forth in this "Report and Recommendations" is compared with a plan proposed by Thomas U. Walter in 1874 and endorsed by his next two successors in the office of the Architect of the Capitol.

These recommendations have not been hastily or lightly come by. They have been examined at length over the years and endorsed by many.

ADDENDUM II

Cost of work, preliminary estimate, west front extension

Item A—Contract 1—Cost for relocation and preparation:	
Temporary structures	$480,000
Site work	20,000
Total temporary structures	500,000
Relocation work:	
Power feeders	$68,000
Control circuits and telephone	31,300
Lighting panels	2,700
Total	102,000
Heating, ventilating, and air conditioning:	
New chilled water feeds—12", 600' at $80	38,000
Valves and connections	10,000
New tunnel manholes: 2 at $9,000	18,000
Relocation 30" sewer 340' at $50	17,000
Relocation 18" sewer 430' at $30	12,900
New manholes: 4 at $250	1,000
Relocation unit No. 12	44,000
Relocation unit No. 15A	17,000
Relocation terrace unit	21,000
Relocation: Reverse flow heating	6,500
Relocation HW generators	$5,000
Relocation existing ductwork and piping in existing fan rooms	89,600
Relocation of miscellaneous drainage	15,500
Relocation of lawn sprinklers and fire hydrants	17,600
Total	312,000
Subtotal relocation work	414,000
Contingency and escalation	46,000
Total relocation work	460,000
Total cost for relocation and preparation: Contract 1	960,000
Item B—Contract 2—Cost for granite and marble supply:	
Granite: Rework existing stone for base course	50,213
Marble: Cut/carved/delivered:	
Terrace: 41,391 cu. ft. at $54.50	2,255,810
First floor: 15,087 cu. ft. at $38.78	584,772
Second and third floors: 28,609 cu. ft. at $70.09	2,005,205
Top of column caps to roof: 22,789 cu. ft. at $60.38	1,376,000
Total	6,221,787
Total cost for granite and marble supply: Contract 2	2,221,000
Item C—Contract 3—Cost for foundation work:	
Demolition	1,403,900
Excavation and backfill	448,500
Underpinning	284,750
Sheet piling	500,500
Steel bracing	210,000
Structural steel	205,000
Concrete	1,836,590
Waterproofing	129,750
Sand	14,640
Timber supports	24,000
Barricades and closure walls	10,000
Subtotal foundation work	5,067,630
Contingency and escalation	232,370
Total cost for foundation work: Contract 3	5,300,000
Item D—Contract 4—Cost for superstructure:	
Concrete and steel:	
Arch work	810,000
Fill and finish	270,000
Roofing and sheet metal	100,000
Set all stonework	1,000,000
Exterior wall backup, windows, and furring plaster, etc	1,100,000
Finishes:	
Unfinished areas: Partitions, doors and frames, hardware, hung ceilings, floor finish, stairs and painting	1,050,000
Finished areas: Partitions, doors and frames, hardware, special ceiling, wall and floor finishes, miscellaneous and ornamental metals, and finished toilet areas, etc	4,907,787
Vertical transportation	500,000
Subtotal superstructure	9,737,787
Heating, ventilating, and air conditioning:	
Piping, pumps, convertors and reheat coils	325,000
Sheet metal and outlets	360,300
Insulation	437,000
Air apparatuses, fans, filters	335,000
Controls	190,000
New chilled water loop	149,000
New steam service extended	93,000
Steam and return for existing building	84,000
Subtotal heating, ventilating, and air conditioning	$1,973,300
OH and profit on subcontractors	150,000
Contingency and escalation	465,893
Subtotal heating, ventilating, and air conditioning	2,589,193
Electrical:	
Lighting and power distribution wiring	524,000
Lighting fixtures and close-up lamps	137,000
Underfloor duct systems	260,000
Bird control system	109,000
Clocks and legislative calls	154,000
Signal and alarm systems	98,000
Total electrical	1,282,000
Contingency and escalation	279,220
Subtotal electrical	1,561,220
Plumbing:	
Waste and vent piping	250,000
Fixtures	53,000
Sprinkler systems	28,600
Fire standpipe systems	17,000
Roof and terrace drainage	165,400
Drinking water systems	34,000
Product refrigeration	18,000
Total plumbing	568,000
Contingency and escalation	129,800
Subtotal plumbing	695,800
Total cost for superstructure: Contract 4	14,584,000
Total estimated building cost	27,116,000
Item E—Cost for interior furnishings:	
Carpets	239,400
Drapes	130,500
Furniture	574,200
Accessories	60,300
Total	1,004,400
Contingency and escalation	111,600
Total cost for interior furnishings	1,116,000
Total cost for building and furnishings	28,232,000
Item F—Additional costs:	
Associate architect's fee for building	2,033,700
Surveys — measured drawings—contract documents—Shop drawings—Travel and expenses.	
Associate architect's fee for interior furnishings	94,860
Total associate architect costs	2,128,560
Administrative cost: Architect of the Capitol	1,400,440
Total additional costs	3,529,000
Total estimated cost before contingency	31,761,000
10% contingency	3,176,100
Total estimated cost	34,937,100

GENERAL DESIGN CRITERIA

STRUCTURAL SYSTEMS

Loads

Footings, foundations, and the structural frame of the extension will be designed to accommodate loads in addition to the dead weight of the building as follows:

Live Loads:	*Square feet*
Offices and committee rooms	100#
Corridors and public assembly	100#

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Live Loads—continued	
Stairs and toilets	100#
Mechanical rooms	100#
Document storage	250#
Terrace	100#
Roof	25#
Dead Loads:	
Floor fill	60#
Partitions	40#
Hung ceilings	10#

The terraces will be strengthened to structurally accommodate the concentrated wheel load of a truck in any position, and the service driveway and loading docks will be strengthened to structurally accommodate on H-20/S-16 loading—sufficient for a tractor-truck or semitrailer.

Bearing

Footings, foundations, and walls bearing on earth will be designed on the basis of an allowable soil bearing intensity of four tons per square foot.

Underpinning

Underpinning will be installed at existing foundations as necessary to protect existing foundations against the effect of the new work. Existing foundations will be underpinned where new construction bears on existing walls.

Footings

Footings, in general, will be constructed directly on the sub-grade exposed by general excavation. Where footings are adjacent to existing work they will be constructed in sheeted boxes. In the central portion, footings supporting the new main and outer colonnade walls, because of their depth below and proximity to existing foundations, will be constructed in sectionalized steel sheeted and braced cofferdams.

Structural fame

Below the terrace level, depending on column spacing and floor loads, the floor systems will be reinforced concrete, concrete joist, or composite steel and concrete construction, with all columns of reinforced concrete.

Above the terrace level, the structural frame generally will be a composite system of reinforced concrete and steel frame, with self-supporting exterior stone masonry walls, with all elements anchored together at each floor, to work together, and to provide the maximum buttressing effect for the existing structure.

At the West Central Portion, the structural frame above the terrace and up to and including the fourth floor, will be of reinforced concrete. In the connecting wings between the central portion of the Capitol and the Senate and the House wings the structural system will be of steel in composite action with the concrete floor slabs, above the terrace and up to and including the attic floor.

The roof will be framed in structural steel, with a precast roof plank.

All structural steel beams and girders will be fireproofed with asbestos or vermiculite spray insulation, and all steel columns will be fireproofed by masonry enclosures.

Exterior walls will be constructed of stone with masonry back-up, anchored to the structural frame at each floor level.

Buttressing

The foundations and floor systems for the floors below the terrace will be designed to incorporate a series of reinforced concrete buttresses which bear directly against the existing structure below the first floor, continuous in the east-west direction, terminating at the westerly limits of the new foundations, and with "deadmen" below the subgrade where possible.

Above the first floor, the structural frame, utilizing the weight of the exterior stonework, all tied together, will provide buttressing for the existing structure in the following manner:

(*a*) Each floor slab will abut the existing structure in such a manner as to transmit lateral pressure against the old structure without imposing any vertical pressure from the dead load of the new structure.

(*b*) At two locations on each side of the central portion, vertical lines of buttressing will be accomplished by installing vertical struts between each floor to receive the lateral thrust.

(*c*) At the west face, the lateral thrusts from the buttressing will be transferred to the ground through the rigid structural framing and to the exterior shear walls.

(*d*) At the connections, the thrusts from the north and south faces of the West Central Portion will be transferred through the new floor slabs to the Senate and House wing structures.

Materials

The quality of materials proposed is:
(*a*) Structural concrete: 3000 psi.
(*b*) Reinforcing steel: ASTM 432.
(*c*) Structural steel: ASTM A36.

Expansion joints

Provision will be made for the effect of temperature changes in the exterior materials by the introduction of four east/west expansion joints, located at the north and south ends of the West Central Portico, and between the new construction and the existing Senate and House structures, installed in a manner similar to the methods employed at the East Central Front Extension.

MECHANICAL SYSTEMS—HEATING—VENTILATING—AIR CONDITIONING

Environmental design conditions

The air conditioning system will serve all enclosed areas with the exception of storage areas. Summer conditions within air conditioned areas of the building will be maintained at 75° F. dry bulb, 62° F. wet bulb, with outside summer condition of 95°F. dry bulb and 78°F. wet bulb. Inside conditions during winter will be maintained at 75°F. dry bulb and 53.5° F. wet bulb with outside temperature of 0° F.

Utility sources

Steam will be supplied by the Government at approximately 200 psig pressure at the existing team manhole on the House side of the Capitol. The steam distribution system is carried in dual mains. Dual 12 inch lines, with a single 6 inch condensate return line, will be extended from the House side steam manhole to the Senate side of the sub-subbasement and stubbed through the north wall for continuation by the Government.

Steam will be distributed from both the House and Senate sides to the building at 50 psig. The new steam service will serve the entire building including the East Front Extension. Existing steam loads are as follows:

Existing building House side: 15,000 pounds per hour.

Existing building Senate side: 15,000 pounds per hour.

Existing East Front: 7,800 pounds per hour.

These existing loads will be served at a pressure of 50 psig at the points indicated on the preliminary drawings. The condensate return system for the entire building will be reversed and pumped to the new condensate return line which will be installed along the new West Front.

Pumping pressure into this line will be 50 psig at elevation 31.0 Steam pressure reducing stations will be installed throughout the building as required. Pressure reducing stations from 200 psi to 50 psi will have two stages of reduction. Steam pressure reducing stations will be installed in equipment rooms to reduce steam pressure to 5 psi, for both heating and domestic water heating. Certain kitchen equipment will be served at 50 psi pressure. Each pressure reducing valve station will consist of two pressure reducing valves. These valves will be sized for summer and winter loads respectively.

Chilled water

This is available for air conditioning use with adequate differential pressures for circulation. Chilled water supply temperature from central system is approximately 40 F. All dehumidifiers within the building will be designed for a temperature rise of 12 F.

Relocation of existing equipment and systems

The existing chilled water loop which is installed in the terrace will be re-routed underground, around the new West Front Extension with a portion of the new loop passing through the new sub-subbasement area. New connectons to the existing chilled water distribution mains will be extended through the existing fresh air tunnels and re-connected to the existing distribution piping in the existing equipment room areas.

The new portico will require relocation of certain equipment in both the House and Senate fan rooms. On the House side the relocation will consist of relocating apparatus No. 12, driving motor for apparatus No. 3, freeze protection pumps and convertor, and the apparatus presently serving the House terrace. Senate side relocation will consist of temperature controls, air compressors, hot water generators, cloak room supply unit, and filter washing pump and converter.

New outside air ducts will be provided for apparatus No. 2 on the House side and for apparatus No. 7 on the Senate side.

Relocation of existing equipment will, generally, consist of the construction of new equipment before the dismantling of the existing equipment in order to assure continuous service to the existing building.

Ventilating system

Outside air will be preheated and, where obtained near grade level will be prefiltered. Systems of exhaust will be installed for kitchen, storage, and toilet areas. Sub-subbasement and subbasement areas will be exhausted into truck dock for ventilation of this area. Heated air will be introduced at window units to prevent drafts during the cold weather. Kitchen and toilet exhaust will be discharged through the room in locations remote from outside air intakes.

Heating system

Heating will be generally accomplished by means of hot water reheat coils located in the duct work. Heating converters located in the basement and attic equipment rooms will provide hot water for the heating systems. These converters will operate at 5 psi steam pressure. Leaving water temperature will be reset by means of an outside thermostat. Central circulating pumps will circulate heating water throughout the building (above the subbasement floor). Zone pumps located in equipment rooms on each floor will circulate water from the mains to the individual terminal reheat coils.

Air-conditioning system

Air conditioned areas will be served by a system of low pressure conventional ductwork from the various air conditioning apparatuses. Outside air and return air will be mixed, filtered and passed into a sprayed coil dehumidifier, through reheat coils into the conditioned area. Space temperature conditions will be maintained by means of room thermostats which will control modulating 3-way valves at each reheat coil. Reheat coils will be installed in the duct system for each zone.

In general, each air conditioning apparatus will consist of an inlet plenum in which outside air and return air is mixed. Outside air connections to this plenum will be fitted with both maximum and minimum section dampers. Maximum section will pass 100% outside air, minimum section will pass 15% outside air. Return and relief air dampers will be installed. These will operate in conjunction with the maximum outside air damper to provide a 100% outside air ventilating cycle. Filters will be of the high efficiency type similar to Microton Corporation's "Micromatic".

Sprayed coil dehumidifiers will consist of spray assembly, cooling coil and eliminators. Adequate access will be provided to spray section and between coil and eliminator section. Fans will be double or single width and double or single inlet as indicated. Each apparatus will be field assembled of factory components and will have adequate access between all components. Each apparatus will have interior lighting.

Humidity will be controlled during the winter by the operation of the sprays. Return air ducts will be fitted with smoke detection devices. All air conditioning apparatus housings will be constructed of factory fabricated insulated metal panels. Each apparatus will be fitted with gauges and the thermometers including draft gauges to indicate filter resistance, dehumidifier resistance and total static pressure.

Plumbing—design conditions and utility sources

Systems of sanitary waste and vent piping will be provided to serve the various plumbing fixtures throughout the building. Sanitary piping systems will be designed in accordance with the requirements of the District Plumbing Code. Sanitary sewers will be extended to the west and connected to the existing brick combination sewer.

Storm drainage systems will be installed for the roof and terrace areas. These drainage systems will be extended separately from the new sanitary system to the existing brick combination sewer along the west side of the building.

Cold water systems for domestic water supply will be extended from existing city mains along the West Front. Separate systems will be provided for the House and Senate sides. These systems will be distributed throughout the building to all plumbing and other water consuming equipment.

Plumbing fixtures will be selected in type and quality to match the existing fixtures in the new East Front Extension.

Hot water generators will be installed for kitchens and for domestic use. Hot water will be extended to all fixtures requiring hot water. Hot water recirculating pumps and piping will be installed to insure circulation of hot water to each fixture. Hot water generators will be of the storage type. Heating medium will be 5 psi steam.

Drinking water chillers will be installed on both House and Senate sides to provide chilled drinking water to each of the drinking fountains in the new West Front Extension.

Systems of fire protection sprinklers will be installed for storage, truck dock drive and storage areas. Water supply, for these systems will be indepndent of the existing fire sprinkler system.

A fire standpipe system will be provided for all areas. First aid hose cabinets and 2½" fire department connections will be located to service all areas as required. Water supply for the standpipe system will be taken from the existing fire loop in order that the existing fire pump may be utilized.

Relocation of existing equipment and systems

Relocation of existing plumbing systems will consist primarily of rerouting the existing sewers which extend through the terrace to the combination sewer along the West Front of the Capitol. The fire protection loop will be completed during the new construction. Ends of this loop will be capped during the construction period and an existing 4-inch connection between the Senate side of the loop and the fire pump located in the House side will be utilized during the construction period.

Electrical—utility sources and supply

Electrical power for new West Front Extension will be obtained from existing substation "A" on the House side and existing substation "B" on the Senate side. Power will be supplied at 480-volts, three-phase, 60-cycle. Existing spare breakers will be utilized in switchgear "B". A new 1600-ampere circuit breaker will be installed in the existing space in switchgear "A" and the existing spare breaker in this switchgear will also be utilized.

Two new feeders from each substation will be extended to serve the new West Front Extension. One of these feeders will serve lighting loads, the other will supply motor and other power loads. Feeders and branch circuits will not cross the centerline of the Capitol and thus the House and Senate sides will be entirely independent of each other for power and lighting services.

The two feeders from each of the existing switchgear rooms will be extended to a central distribution point in the basement of the new West Front Extension. The available fault current at the existing switchgear is 50,000 amperes rms. Fuses of the time delay, high interrupting capacity type, will be installed in the mains at this distribution center as required, to limit the available fault current to the various branches to a level which will not exceed the interrupting capacity of the various terminal breakers.

It is estimated that the new West Front Extension will add a demand of approximately 650 kva on each of the substations "A" and "B".

Grounding system presently installed within the building will be extended throughout the new West Front Extension.

Emergency power and lighting

Emergency power for the West Front Extension will be obtained from the existing emergency engine generators. Emergency power will be extended from each of the generators to automatic transfer switches in the new East Front. One automatic transfer switch will be utilized to provide emergency power to the elevators. The other automatic transfer switch will provide emergency power to the emergency lighting sources throughout the building.

Each elevator serving the basement through attic floors will be so arranged that it may be served by the emergency power source. Capacity in the emergency power feeder will enable any single elevator in each bank to operate during an electrical power outage.

Emergency lighting will consist of elevator cab lighting, exit lighting, and selected fixtures throughout the building. General lighting levels in exit routes will be adequate to prevent panic and to provide safe passage.

Emergency lighting will be provided for exit signs, elevator cabs and for general exit passageways and corridors.

Relocation of existing equipment and systems

Several relocations will be required before demolition can begin to provide uninterrupted service to the building. The existing electrical ducts which pass under the existing terrace courts contain feeders serving the existing building. These feeders will be rerouted from the existing switchgear rooms to their persent termination or in some instances, to a convenient splice point within the existing building. The duct bank under the terrace court carries communication, control, and supervisory circuits in addition to the above described power feeders. A temporary control center will be installed in the House wing during the construction period. Control circuits will be continued to the existing control center as construction permits.

Supervisory circuits will be interrupted during the construction period and continued through the new construction as construction permits.

Lighting

Lighting throughout the building will be selected on an occupancy basis. Fluorescent lighting of adequate intensity will generally be employed throughout the work and storage areas of the building.

Private offices, public areas, dining rooms, committee rooms, and conference rooms will be lighted to suitable levels by means of a combination of fluorescent, incandescent, and architectural fixtures.

Lighting outlets will be provided for illuminated signs.

Power

Power for receptacles and portable appliances will be distributed to all spaces by means of raceways. Flexibility of possible locations of outlets in office areas will be provided by means of an underfloor duct system. The underfloor duct system will also provide flexibility in the location of telephone outlets.

Controls and special systems

Signal, alarm and control systems will be installed for the following functions:

(*a*) A signal system will be installed on both House and Senate sides. This system will indicate elevator position, and other pertinent elevator data. Extension to the existing panels in the Engineer's offices on both the House and Senate sides will be provided as required to house the indicating devices.

(*b*) Control circuits for the emergency operation of the elevators will be extended to the Engineers offices on the House and Senate sides respectively.

(*c*) Smoke detection devices located in return and exhaust air duct-work throughout the building shall sound audible and visual alarms in the Engineers offices on the House and Senate sides respectively. Silencing switches will be installed for the audible alarms.

(*d*) Remote control circuits for exterior lighting will be extended to the control center which is located in the basement level of the Senate side.

Legislative call system

This will be provided for both the Senate and House sides. Audible and visual signals for this system will match the signals which are installed in the new East Front Extension to the building. Signals receivers will be installed as required to transmit the legislative calls to the various audio-visual locations.

The existing signal generators, which impress high frequency signals for legislative calls on the electrical distribution system, are adequate in capacity for the new West Front Extension, and will be utilized for the new West Front Extension.

Electronic clock system

The existing system will be extended to serve the new West Front of the building. Clocks will be selected in quality and type to match those installed in the new East Front Extension.

Communications system

A system of empty conduits will be installed in accordance with the requirements of the Chesapeake and Potomac Telephone Company. Conduits will be extended from existing telephone equipment rooms on both the Senate and House sides to new equipment rooms located at the basement floor level on both the Senate and House sides of the new West Front Extension. Telephone distribution closets, approximately 6' by 10' in size, will be located on both Senate and House sides of each floor. These closets will be connected to each other and to the basement telephone equipment room by a system of empty conduit risers. Branch conduits and underfloor duct systems serving individ-

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ual telephone outlets will terminate in telephone closets located on each floor. Galvanized fish tapes will be pulled into each empty conduit for use by the telephone company.

A communication system will be installed which will follow the pattern set in the existing building. This system will consist of sound powered telephones located in equipment rooms. The system will interconnect with the existing and will be compatible with it.

Sound reinforcement systems will be provided for the committee and joint conference rooms. Sound reinforcement systems will be limited to speakers and amplifiers. Adequate input jacks will be provided for microphone connections.

Fire alarm system

The existing fire alarm system will be extended as required to serve the new West Front Extension. All devices will match those installed in the new East Front Extension.

Electric bird control system

The system provided will be of the same extent as that installed on the new East Front Extension except that it will be designed to control birds as small as sparrows.

Vertical circulation

The present West Central Portion of the Capitol is serviced by two small passenger elevators which operate between the basement and attic floors, and no service or freight elevators. The West Front Extension will add two cores of elevators—one on the Senate and one on the House side—near the center of the added floor space and equidistant between the connecting necks and the east-west corridor at the West Portico.

Each core will consist of two medium-speed passenger elevators with a lobby off the main circulation artery and a freight elevator with its enclosed lobby adjacent to the corridor. These elevators will serve all floors from the basement thru the fourth and the freight elevators will extend down to serve the sub-basement floor which ties in with the service drive and loading docks.

Vertical pedestrian circulation from the basement floor down to the westerly main entrance and service drive will be provided by moving stairs on the east/west center-line of the building at the extended West Front. Corridors on the basement floor connect the new elevator cores with the new moving stairs.

The new passenger elevators will have a capacity of 2500 pounds at a rate of 400 feet per minute; the service or freight elevators, 4000 pounds at 200 feet per minute. The moving stairs will be the standard 30-degree incline with a rate of rise of 90 feet per minute, forty-eight inches in width.

The extension has been planned with new horizontal circulation connecting the westerly north-south corridor of the Senate Wing, Central Portion, and the House Wing. Adjacent to the new elevator cores on the ground floor, new east-west corridors will be provided in the existing building connecting the main north-south corridor with the new north-south corridor provided in the extension.

An additional passenger-freight elevator will be provided in the terrace spaces on both the Senate and House sides serving the three floors in that area. They will be hydraulic of a capacity of 4500 pounds at a rate of 65 feet per minute. These elevators will be located adjacent to the kitchen and pantry areas at the basement floor, have a stop at the service loading dock on the subbasement floor, and continue down to the storage areas at the sub-subbasement floor.

REPORT TO THE ARCHITECT OF THE CAPITOL BY THE ADVISORY GROUP, GILMORE D. CLARKE, JOHN F. HARBESON, PAUL THIRY

Appointed by direction of the Commission for Extension of the United States Capitol to advise the Architect of the Capitol in the carrying out of the "Legislative Appropriation Act, 1956", incorporating provisions for the extension, reconstruction and replacement of the central portion of the United States Capitol in substantial accordance with Scheme B after architectural plan submitted by a joint committee of Congress on March 3, 1905, but with such modifications and additions as may be approved by the Commission. This report relates to the West Central Portion, the East Central Portion having been extended and reconstructed in 1958–1962.

The commission

The Congress, in 1955, in its legislation for the extension of the Capitol provided that the work should be under the direction of a Commission composed of the President of the Senate, the Speaker of the House of Representatives, the Minority Leaders of the Senate and the House of Representatives, and the Architect of the Capitol.

We who are Advisers to the Architect of the Capitol express confidence in the wisdom of the Commission for the Extension of the United States Capitol and in the conduct of the project by the Architect of the Capitol. We express approval of the design for the West Front made by the Associate Architects.

The technical advisers

The Architect of the Capitol, in calling upon members of the professions of architecture and engineering to carry out the work, with the approval of the Commission for the Extension of the United States Capitol chose specialists of established reputation to investigate the needs of the Congress and the condition of the present structure including the foundations and the need for underpinning; he chose architects to study the program of requirements and the formulation of plans and elevations; he selected the advisory group, with membership from various parts of the country, to study with the specialists and architects the facets of the work, particularly that related to architectural design and landscape setting.

In the choice of these associates the Commission directed that they must be selected to assure that any new work be in harmony with the architecture of the Capitol as conceived by George Washington and more particularly by Thomas Jefferson, and that it be in the classic style of the early Federal Period. The Commission indicated that there is no justification for that expression of transcience apparent in many of the more recent government office buildings.

The east central front of the Capitol

The rebuilding of the central part of the East Front was undertaken essentially by the same professionals now entrusted with the extension of the West Front. That work has been satisfactorily accomplished, a marble construction faithfully carried out in the architecture of the Early American Republic. The new relationship of the East Portico to the great dome has proved the validity of one of the arguments for making this change. The result is distinguished. The new construction has successfully stabilized the stresses of the east side of the original structure.

The present condition of the exterior of the Capitol is excellent except for the central part of the West Front. That portion is in disrepair, the walls are cracked in many places, large pieces of stone have fallen from the cornice and, in many places on the surface, an outer layer of stone has scaled off and has been patched with cement. The entablature over the West Portico is sagging, conditions which successive coats of paint do not conceal.

In 1963, the Commission authorized the retention of a competent engineering firm to study the structural conditions of the West Central Portion. These engineers, The Thompson & Lichtner Co., Inc., reported that the West Front originally had not been well built; that it was poorly constructed after destruction by fire by the British in August 1814 and further damaged by the fire of 1851 and the explosion of 1898, and that there is excess loading within the structure. They further reported that the penetration of moisture forced stones out of place and that the core construction, between the outer and inner walls, is of poor masonry held together with inferior mortar. These bearing walls nevertheless support the outward thrust of heavy brick vaults on one story over another.

The Engineers recommend buttressing of the entire West facade to be accomplished by an extension providing lateral stability. They recommend against any attempt to restore and to repair the present exterior wall because of its inferior construction.

Your Advisers have examined the present condition of the West Front and are familiar with the particulars of the distintegration that is apparent. They have carefully studied the detailed report of The Thompson & Lichtner Co., Inc., and endorse its recommendations, namely that the existing walls be retained as interior walls and that an extension, be constructed to provide lateral support for them.

Restoration of present exterior walls

We are convinced that the exterior walls cannot be repaired in their present position because of the attendant danger of collapse of the interior vaults that thrust against them, thus causing the destruction of the Brumidi frescoes on these vaults and the supporting walls.

We wish clearly to state that the present West Central Portion of the Capitol is *not*, as has been averred, "a last external vestige of the work done by Thornton, Latrobe and Bulfinch remaining as visual evidence of our heritage"; it is but a travesty, a poor travesty, in fact, of that architecture. The original design has been patched with cement and has been covered with forty coats of paint, in some cases 3/8 inch thick, thus masking dentils, eggs and darts, small scale rinceaux and acanthus leaves on the capitals and the brackets. The tips of many of the acanthus leaves have been broken off and some are missing; band ornaments have been eroded away. For many years it has become divested of all of the qualities which would make it a distinguished relic. The precise relation of each part to every other part so necessary in classic architecture, is completely negated by the many thick coats of paint. Mouldings are distorted out of recognition, while all marks of handicraft and age are lost.

Rebuilding in place not retention of history

We want to make it clear that if it were deemed to be feasible to replace each exterior stone with a new stone, whether the replacement be of sandstone or of marble and cut by today's artisans, the result would not be a preservation of the architecture of Thornton, Latrobe and Bulfinch but rather a modern simulacrum, much like some of the reconstruction in Williamsburg and other architectural reproductions. To call it preservation is to deceive the public with a specious falsehood.

To attempt to "restore" the existing West Front in its existing location, the interior rooms would have to be vacated for as long as ten years. The walls would have to be uniformly supported on shoring while the stone facing, which is bearing, is removed stone by stone to a height of five floors. To support the arches and the vaults, while the exterior supporting wall is removed, would be both difficult and dangerous, resulting in a possible collapse of the vaulting. The Brumidi frescoes would be irreparably damaged by the centering supports below and the great weight above.

To buttress the walls by extending the West Front to the west will save many parts of the exteriors and many frescoes on vaults and walls that an attmepted restoration in place would surely destroy.

Uninformed opinion

There has been some controversy in Congressional Hearings and much in the Public Press, the latter being neither well informed nor based upon a knowledge of the conditions that obtain. It has been swayed largely by emotion. It is discouraging that so few representatives of the Press have made an effort to learn of the existing conditions so as to be able to arrive at an understanding of the problems involved and of the particulars of the proposed solution before printing opinions, particularly editorial opinions, which so far have been superficial, emotional and untrustworthy. This is regrettable inasmuch as it concerns the country's most important building and symbol, the United States Capitol.

A statement made at a recent public hearing should be noted. It was there stated, "Nobody denies the West Front is in need of some repair and reconstruction. Much of its present condition is the result of almost total neglect over the past five years; the masonry has not been pointed up, the paint is peeling badly * * *. Any building will deteriorate if nobody does the regular maintenance work."

The West Front was pointed and repainted in 1960 before the late President Kennedy's inauguration; its disrepair is not due to neglect or to improper maintenance but rather to several causes well known to those who have made the detailed structural examination. The causes have their origin from the very beginning of the original construction:

(1) The foundations were not carried to adequate depth; they rest on soil of poor bearing quality. This is the primary reason for the cracked window and door heads and for many other cracks in the masonry walls.

(2) Much of the stone used was of poor quality. The Aquia Creek quarry did not have enough good stock to provide all of the stone required for such a large building. The architects selected the best stock for the capitals, the cornices and the moulded and ornamented band courses. Much of the plain ashlar stock was from beds of stone of inferior quality.

(3) The mortar used in the original building was made from lime, much of which was fashioned by burning oyster shells. The artisans were not experienced and, as a result, the fabrication was improperly done; the mortar used has disintegrated into powder. The inferior mortar cannot be corrected by pointing.

(4) The burning by the British in 1814 calcined much of the stone and discolored large portions of it. Some of this stock was replaced when Latrobe rebuilt the burned sections; those parts merely discolored were later hidden by the painting of the exterior which process has also hidden disintegration by calcination.

(5) The paint, while it improved appearance, did not serve as a preservation but rather as a cause of further disintegration of the stone. The only paint then known had a linseed oil base. Linseed oil, when mixed with water, made an emulsion which broke down the cementitious material which held together the grains of sand of the sandstone, resulting in a progressive scaling of the surfaces.

Need for space

A careful survey was made for the Architect of the Capitol in 1957 with many of the chief officers of the Senate and the House occupying space in the Capitol. This survey indicated that an additional 140,000 square feet of space was required to enable the Government to operate efficiently. The reconstruction of the East Front has made available approximately one third of this space; the remainder is still needed, as well as additional space requirements made since that survey. This can be provided by the plan proposed for extending the West Front.

Portions of building not functional

The sunken courtyards on the west are unsightly and have not been appropriately developed. The lower floors, particularly under the Olmsted terraces, are much subdivided and not useful in a modern sense.

The service requirements of the Capitol, such as deliveries, maintenance, shipping, storage, mechanical equipment, are inadequate, unsightly and outmoded. To correct such deficiencies within the present building would necessitate visual and structural changes of magnitude.

A proposal to move the Congress

It has been proposed in the Public Press, to avoid the necessity to provide an increase in area in the Capitol for the expanding needs of the Congress, that all government functions connected with the Legislative Branch be moved out of the Capitol to a new building, constructed in the current fashion of plate glass, concrete, steel and metal trim leaving the Capitol that has served the Congress since 1800, as a "shrine", a lifeless shell. This building, the scene of more than 160 years of great events would be abondoned to became a museum to exhibit our past glories.

To us this is unthinkable. The legislative halls made the Capitol the Seat of Government; they have served as such since the beginning of the 19th Century and the Congress can continue so to operate in the Capitol by causing to be made the changes now proposed; to do so will make all areas more efficiently serviceable to the Members of the Congress and their staffs without in any way marring the building's unique architectural qualities of beauty and proportion.

Visitors

The Capitol is the most important edifice in the United States. Not only have many important episodes in the Nation's history been enacted there, its laws debated and passed, including a score of amendments to the Constitution, but still more important it is the seat of the Government's legislative assemblies. Here citizens from all over the United States may visit and talk with their legislators in action; in fact they do. More than 20,000 citizens on an average visit the Capitol daily and the number is increasing. They come in part to see the halls and chambers of the Capitol including the Rotunda that has been the temporary resting place of deceased presidents and heroes, the great stairways, the statues, portraits and paintings. But primarily they come to see their Representatives and their Senators in the actual process of debating problems before the two legislative bodies in the chambers where the difficulties related to the Civil War and two World Wars were argued. Here they witness the passing of laws, including providing for appropriations to carry on the many projects that go before the Congress.

The Capitol housed the deliberations of the lawmakers of our infant Nation; it continues so today and should continue so to do in the future as a symbol that this Country is a living institution of worthy traditions, still able to solve larger problems in the spirit of the Founding Fathers who formulated the institutions of the young nation.

The Commission is planning to make appropriate provisions for visitors. Provisions are now inadequate for the reception of visitors; for example, there is inadequate circulation to take them from the Senate side to the House side of the Capitol without interfering with the work of Congress. The proposed plans provide adequate facilities for visitors, including briefing rooms, separate vertical circulation and space for passage north to south on the public floors of the Capitol.

Whereas the Capitol serves as an historical museum it must also serve many useful functions. With the growth in the complexity of the Government and of the duties of its legislators, it is inevitable that the building must undergo changes when they are necessary. The Government is in need of more adequate space for the operation of those functions that must remain within the fabric of the Capitol.

The problem

The problem, which has been studied by the Associate Architects, is one requiring both technical and aesthetic competence of a high order. To restore the structural integrity or soundness of the structure, to preserve the character and detail of the work of the original architects in an enduring material, to increase the usable areas of the Capitol, to make all areas more serviceable to the Members of Congress and their staffs, as well as to the other employees of the building, while still conserving the historic aspects of the structure together with its unique architectural qualities of beauty and proportion, is a difficult task.

In his book, published in 1939 and entitled "Washington Past and Present," Dr. Charles Moore, a distinguished historian of Washington, Secretary of the Senate Park Commission of 1901 and a member of the National Commission of Fine Arts from 1910 to 1940 (chairman 1915–1937), wrote the following paragraph at the beginning of Chapter V, "The United States Capitol":

"The Capitol is historically the most important building in the United States. Architecturally, it stands among the great buildings of the world. It marks the beginning and typifies the growth of the nation. Like the great cathedrals of Europe, its chief merit is not its completeness but its aspirations."

The Capitol is not finished. Changes are going on constantly. What is now proposed will complete the process that Thomas U. Walter started when he added the wings and the great dome.

The proposed solution

The design for the modification of the West Front of the Capitol, that has been presented by the Associate Architects, has been carefully studied. The renderings, the model, the drawings of elevations, sections and plans that have been submitted have the endorsement of the Advisory Board. These should be equally satisfactory to all those willing to familiarize themselves with the program and the conditions and who are willing to study these documents with unprejudiced minds. For more than ten years the Associates and the Advisers have been studying a workable plan to solve the various problems and to accommodate present and projected space requirements.

When the work on the West Front, as now projected, is completed the citizens of the Country will take an increased pride in this great building which will, indeed, be the most handsome and most dignified legislative structure in the world.

The new west front

The design submitted will preserve most of the basic elements of the existing West Central Front built before the Senate and House Wings were added and before the great dome replaced the low wooden dome designed by Bulfinch and related to the present portico. Although adequate to the original building, the design of the present portico is not suited to the enlarged composition comprising the Senate and the House wings and the great dome. When the wings for the Senate and the House chambers were completed in 1857 and 1859, the necessity for replacing the low wooden dome over the Rotunda became increasingly evident. The existing cast iron dome, designed and added by Thomas U. Walter, is completely satisfying as the crowning motive to the enlarged building, a symbol of the growing importance of our Government.

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With the completion of this enlarged dome, it was apparent to Walter that the East Portico, which the drum of the dome overhung, would have to be extended further to the East; and that the West Portico, with its loose intercolumniation, would have to be replaced by a feature more appropriate in size to relate properly with the increased mass of the expanded building. He prepared designs for both the east and the west facades of the central building.

Charles Bulfinch designed the present West Central facade and portico for what was a small building compared to the present structure. His portico for the Massachusetts State House (erected 1795–97) makes use of the same motives, viz., end bays of doubled columns with single columns between. There he used four intermediate columns, not two, the base course having rounded arches. He crowned the back wall with a pediment to mark the axis of this important building, relating the portico to the crowning high dome. It is such a scheme which is now proposed for the Capitol to make a suitable composition at the east end of the Mall as provided in the McMillan Commission plans of 1901 and subsequently built as one sees it today.

The ideas to provide for an improved west facade of the central element of the Capitol have been advanced before; Bulfinch himself recommended a central pediment, and a pediment was proposed by Thomas U. Walter at the time he designed the great dome. More than two decades ago, the distinguished architect members of the National Commission of Fine Arts, after viewing the model showing proposed changes to the Capitol as designed by Carrere and Hastings, stressed the desirability of the suggested modifications of the West Front in order to bring it into scale with the dome.

Your Advisers are also of that opinion. In our judgment the Associate Architects have prepared an eminently successful solution to a difficult problem. We have had a part in the development of the studies of this elevation and we agree that the enlarged central element with the handsome pediment will provide for the Nation's Capitol a degree of distinction and a compositional relation to the great dome which, up to now, it has lacked. The relationship between the several elements, the wings, the central part and the dome, will be magnificent.

From its beginnings the Capitol has been an imposing structure. None of the departures from the original design have interfered with the simplicity and dignity of the building, nor will the changes as now proposed. Those persons most appreciate the Capitol who familiarize themselves with the adaptations which the growth of this Country have brought about. The enlarged Capitol will enable a correction in the proportion of the building to the dome, and greater compatibility with the impending program for the Mall and surrounding areas.

The landscape setting

The minor aesthetic modifications of the grounds on the West, made necessary by the proposed extension of the West Front, are minimal and wholly in consonance with the original design. In our considered judgment the proposed increase in dimension between the two large flights of steps, so that they may center on the "Thornton" elements of the facade, materially aids the scale and composition of the terraces. The proposed planting on both sides of each of the flights of steps will also contribute nobly to the composition.

The grounds west of the steps, developed and executed from plans by Olmsted, remain unchanged. The projected road necessary to serve the Capitol, which passes under one of the terraces, fits the ground; it will not intrude into the composition for it will be screened from view from the terraces and from the west by trees and other appropriate planting.

President Lincoln, during the Civil War, directed that work on the new dome should not cease, saying: "If the people see the Capitol going on, it is a sign we intend the Union shall go on." We urge that the vital proposed reconstruction of the Capitol should now be pursued for the same reason. We feel it appropriate to quote from another speech of that President:

"With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in."

Respectfully submitted,

JANUARY 1, 1967.

GILBERT D. CLARKE,
JOHN F. HARBESON,
PAUL THIRY.

THE THOMPSON & LICHTNER CO., INC.,
Brookline, Mass, November 1, 1964.

Hon. J. GEORGE STEWART,
Architect of the Capitol,
U.S. Capitol, Washington, D.C.

DEAR MR. STEWART: We present herewith in five volumes a Report on the Structural Condition of the West Central Portion of the United States Capitol, Extension of the Capitol Project, in fulfillment of Control No. ACbr–540 of March 13, 1964, which included under paragraph 4, submission of a report of findings to the Architect of the Capitol upon completion of examinations, analyses, and studies, together with recommendations with respect to such remedial measures as may be deemed necessary, including recommendations as to (1) whether the existing wall, if found deficient, can be repaired in its present condition, (2) whether the existing wall can be refaced with marble in its present condition, (3) whether remedial action requires extension of the west central front and its reconstruction in marble, or (4) whether any other means of preservation are deemed feasible and advisable.

Plans and Specifications for Exploratory Work, including test pits, soil borings and cores of walls were prepared under date of May 15, 1964 with Invitation for a Proposal of June 10, 1964. The J. F. Fitzgerald Construction Co., Inc. of Canton, Massachusetts, was awarded the Contract No. ACbr–545 for this work on June 29, 1964. Observations of the exploratory work, consultation and advice, examination, study, analyses and tests were performed by representatives of The Thompson & Lichtner Co., Inc. resident at the site or in Brookline, Massachusetts.

The purpose of this study being primarily to determine the structural condition of the exterior west wall of the Central or original portion of the Capitol, information was obtained on the quality of the facing sandstone, the backup fieldstone, the mortar used in laying the stone, the thickness, the workmanship, and the stresses in the wall. As the stability of the wall is dependent on the foundations and supporting soils, the Report on the Foundation Investigation of the Capitol of May 1957 was examined in detail and such additional borings, test pits and tests were made as appeared necessary. The interior of the West Portion of the Capitol was examined to determine whether there was evidence of structural distress and, in particular, if such conditions were affecting the exterior walls. The use to which an old structure, such as the Capitol has been subjected, and the conditions under which it was constructed required study of its history in evaluating the structural condition, particularly since much of the construction is covered by ornamentation and cannot be examined.

The facing stone is a white to light gray sandstone obtained locally and known as Aquia Creek sandstone. The color of much of this stone is also light brown gray or buff, depending on the iron content. Pieces of stone were removed and cores cut from the walls at sufficient locations to evaluate the quality of the walls. These samples were examined in the field and laboratory. Analysis shows the stone is composed of quartz grains cemented together largely by silica and therefore it is inert relative to compounds usually found in the atmosphere. Tests for compressive strength and absorption show that it is relatively weak and absorptive compared to sandstone normally used for exposed building stone. Observations of the disintegration of unpainted areas of the stone, such as the Bulfinch gate posts on Constitution Avenue at 7th and 15th Streets, confirm the low quality as related to resistance to weathering. Spalled areas are found throughout the wall surfaces and in the ornamentation, particularly of the entablature at the top of the building. There were also numerous patched areas and areas of replacement of stone. Spalling in certain areas probably is partly the result of the burning of the Capitol by the British in 1814.

The major portion of the stone shows softening and discoloration to a depth of 3/16" and no other signs of weathering despite the inferior quality of the stone, because it has been covered with paint. Painting started about 1822 and the wall was painted at about 8-year intervals thereafter as evidenced by the thickness of paint on the stone at present. Although the painting has been effective as protection, it has affected the architectural detail and quality which is found objectionable by those interested in the appearance. The removal of the paint should involve the removal of the affected 3/16" of stone behind and this would give rise to a similar objection since such removal of the paint could not be made without changing the texture as well as the dimensions. The stone would then have to be repainted or treated with silicone at not over 5-year intervals to protect it from the weather.

Although the stone does not show evidence of major weathering because of the paint, there is a serious amount of cracking and dislocation of stones. The stones are found to have been carefully cut on the face and sides to uniform dimensions and plane, but rough cut in the back and the rear portion of the sides. The resulting ashlar dimensional sandstone masonry is of good line and surface and of excellent appearance. Voids of varying widths were found, however, behind almost all facing stone and the fieldstone or brick backup, evidencing movement of the two resulting from temperature and moisture, as well as settlement and load adjustment effects. The fact that the fieldstone is of granite gneiss means that it has a thermal coefficient of expansion of about 70% of that of the sandstone. The sandstone will have a higher or lower temperature than the backup and the differential movement in 100 feet could be ¼ of an inch or more. There is no provision for expansion or contraction and, as the joints of the dimensional stone are very small, expansion could cause the poorly backed ashlar to bulge out and contraction would open up the joints causing cracks to appear. Water getting into the cracks and freezing would further open the cracks and cause heaving out of the wall. The situation is aggravated by the fact that in many locations voids of several inches in width are found in back of the ashlar which had not been filled in during the laying of the wall. The areas of the wall at the basement floor level above the terraces on the Old House and Old Senate Wings which had been veneered at a later date are in a dangerous condition. Bonding was done in those areas by the use of metal ties which have corroded and broken. Apparently the space between the veneer and the backup was not filled with mortar as called for by good practice. The walls are leaning and must be replaced shortly or they will fall.

The character of the cracking in the walls shows that an important factor is also settlement. Shrinkage cracks normally will appear at the edges of openings, such as windows and door frames, but would not cause cracking and dropping of lintels. Keystones will drop due to excessive loading or release of the support of the abutment stones of the arch. There must have been differential settlement of the foundations through the years causing cracking of the walls as investigation of the stresses due to loads does not indicate overloading of the arches or lintels as a cause. The backup of the ashlar sandstone is brick masonry with lime mortar in the Old Senate Wing and elsewhere it is fieldstone or granite gneiss rubble with lime mortar. The stone is of good strength; the workmanship varies but, in general, is not of good quality containing many voids. The masons laid a reasonably good face in back of the sandstone and a poorer inside face, but were generally very careless about the interior of the wall which appeared to be constructed in some cases by dumping the stone in little or no mortar as a bed. The cores taken through this masonry and examination of the holes by means of a boroscope disclosed not only voids, but also cracked stone and brick, providing further evidence of settlement.

Cracking of the walls can also result from shrinkage of mortar and because of the low strength of lime mortar, adjustment of the stone to solid bearing during the early life of the wall. Laboratory tests show that the brick and stone were of acceptable strength.

The lime mortar was poorly mixed in many cases, and in one case the lime shells from which the lime was made were found in the mortar. The mortar is of such quality that it can only be classified as generally weak.

The structure, except for the exterior walls, has not been subjected to weathering and is not in a hazardous condition. Certain areas of the exterior walls are now in a dangerous condition and the entire walls in a very few years will be in a similar condition unless proper corrective measures are taken.

The structure represents a high quality of engineering for the materials, manpower and construction facilities available at the time of construction. The use of the local sandstone was probably dictated by time limitations and cost. The poor workmanship on the walls was undoubtedly the lack of good mechanics and the quality of inspection.

The conclusions and recommendations are summarized in the following:

1. The workmanship on the sandstone ashlar masonry facing is generally good.
2. The workmanship on the fieldstone rubble masonry is generally inferior.
3. The workmanship on the brick masonry is generally acceptable.
4. The sandstone used for the exterior facing is an inferior material for use in a monumental structure.
5. The fieldstone used for the backup of the sandstone and for foundation walls is generally a good material.
6. The brick used for the backup of the sandstone and for interior floor and foundation arches and walls is generally a satisfactory material.
7. The mortar used is largely a lime mortar and is generally not of good quality for such mortar.
8. The masonry facings at the terrace level on the west side of both the Old Senate and Old House Wings, which were not part of the original construction, are displaced and require prompt removal and replacement with proper bonding to the backup wall. The bottom course should be of granite.
9. The entablature at the front of the Center Wing is displaced and requires prompt removal and replacement.
10. The retaining walls of the terraces at both the Old Senate and Old House Wings require reconstruction of the foundations to provide adequate frost protection.
11. The exterior walls of the West Central Portion of the Capitol are distorted and cracked, and require corrective action for safety and durability.
12. Retention and repair of the existing walls as corrective action is not recommended as it would require the hazardous removal of much of the facing so as to allow installation of ties to the backup wall, or the installation of ties through the face joints with resulting disfiguration of the structure. There would still be walls and foundations of structurally inferior construction with the walls requiring continuing protective treatment.
13. Facing of the existing walls as corrective action with durable marble and granite, leaving the sandstone in place, is not recommended because it would require additions to the present foundations and there would still remain walls and foundations of structurally inferior construction without preserving the historic architecture.
14. Removal of the sandstone completely and replacement by high quality marble and granite as corrective action is not recommended because it would be a very costly and hazardous operation and there would still remain walls and foundations of structurally inferior construction.
15. Removal of the entire wall and foundation and replacement by reinforced concrete with a facing of high quality granite for the courses at grade and high quality marble above for the face stone is not recommended because of the hazard, cost and interference with occupancy.
16. Retention of the wall as an interior wall of an extended building is recommended as the least hazardous and as causing the least interference with the occupancy of the present structure. A properly designed and constructed extension would also provide desirable lateral support for the West Central Portion of the Capitol.
17. The attic roof slab in the House Wing requires corrective action because of the extensive corrosion of the reinforcing steel.
18. Drawings should be prepared of the Capitol so that there is readily available information on the structural condition in relation to the many mechanical and electrical, and other installations which have resulted in much cutting and patching. These drawings should be kept current so that the safety of the structure as affected by changes in installations and usage can be readily checked.
19. Level readings of vertical movements and measurements of horizontal movements should be taken annually of all important elements of the Capitol so as to provide data as a basis for corrective action before cracking and failures occur.
20. Piezometer readings to check the ground water level should be made on a regular schedule and the data used to assist analysis of the settlement data.

Respectfully,

MILES N. CLAIR,
President.

Mr. MANSFIELD. Mr. President, may I say that many questions have been raised concerning this matter which the distinguished chairman of the committee has brought to the attention of the Senate today. For example, there is the question of eating places, cafeterias, and dining rooms, the question of the needs and the program, and the pictures which cannot be incorporated in the RECORD; the program, the subtitle of which is entitled "The solution to the needs outlined are summarized as follows: The recommended solution, extension and reconstruction—with recommended changes—temporary relocation, permanent relocation, summary of areas, rooms, spaces, facilities, time schedule, cost of work; outline specifications for architectural, structural, mechanical, electrical, plumbing, and vertical transportation; consultants to the associate architects; report and recommendations on extension of the Capitol project; extension and reconstruction of the west-central portion of the U.S. Capitol; cost of the work; and general design criteria."

So there is much to be considered by the committee. It would be my hope that now that we have this set of preliminary plans—which are out of date at the present time—that the Senate would see fit to allow the remaining amount with the stipulation on the part of both Houses that if this is done, any requests for appropriations would have to come before the appropriating subcommittees and the Appropriations Committees, and they would have to render a judgment in addition to that rendered by the commission. That would be up to those committees to stipulate as to whether or not they would be willing to appropriate funds. And if they do, it would be up to Congress to confirm. And if they do not confirm, it would be up to Congress to decide the matter.

It appears to me that much has been done in the way of preliminary studies under the present Architect, who is an architect. So, we have the moneys expended by the previous Architect. There is a need to face up to the question which have been raised on the Senate floor today.

And it would be my hope that the Senate would agree to the amendment to the end that this matter could go ahead and be settled one way or another.

Mr. HOLLINGS. Mr. President, quickly responding to the distinguished majority leader, obviously these are not preliminary plans upon which we could make a judgment. I am the chairman of of the subcommittee. I refer, for instance, to the apprehension that the ranking minority member (Mr. COTTON) had in connection with certain restaurant facilities. He did not see this, and I have only seen it now for the first time.

We are only asking for plans by this new Architect because I think there has been a substantial change for the good, so that we can all consider the same thing. We have a supplementary bill. There is nothing wrong with the preliminary plans, but we should have plans that we can all look at. This preliminary plan presented by the leader was prepared in 1966 and does not have the allocations, certainly not current ones. I am looking at the statements which are not agreed upon. Then, if Congress wanted to do so in a later supplemental this year, it could go ahead with final plans. That is why the Committee on Appropriations unanimously agreed to the language, and that is why we are not for striking preparation of plans because then we would leave it in the realm of misunderstanding.

Mr. MANSFIELD. Mr. President, I have to disagree with the chairman of the committee because there is a preliminary plan and an estimate of cost for the extension which was done under the

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previous Architect of the Capitol. There is information relative to additional space, service, circulation, restaurants, and all the questions which have been brought up in the course of debate today, and they could be answered in finalizing the plans which would then be subject to scrutiny of the committee of the Senator from South Carolina. I think the necessary funds are needed and then I think it would be time for the Senate and the House, first through its Appropriation Subcommittees and then Appropriation Committees to render a decision based on the evidence produced at that time.

If I have any time remaining I yield it back.

Mr. HOLLINGS. Mr. President, I will use a few minutes to finally bring into focus the difference between the amendment presented and the language adopted by the Committee on Appropriations. It was adopted after all sides were heard. We agreed funds under this appropriation may be used for preparation of preliminary plans for the extension of the west central front, provided no funds be used for the preparation of final plans or initiation of construction of said project until specifically approved and appropriated therefor by Congress.

That was the suggestion of the Senator from New Hampshire. We both wanted to sit down and have a hearing.

I charged them with running around and they went out and found a 5-year-old book which no one considers worthwhile on any score at this time. These are not the preliminary plans we want. We want this present Architect with his acumen as a full-fledged architect—the previous Architect was never an architect, to prepare plans on how the space will be used. The present Architect is past president of the AIA. We want him and his group to give us preliminary plans on which we can make a judgment, and not a 5-year-old booklet.

I would oppose the amendment. I think the language is extremely clear to me and by agreeing to the language of this amendment, in essence, it would put the matter in the realm of arguing. I think we are all trying to do the same thing. We are just not letting the Commission do it for us. I want Congress to have a full-fledged hearing, look at one plan and vote it up or down. That we do not have now. This Commission insisted on its operation to make certain Congress does not get the power that is before us now and it is wrong.

Mr. MANSFIELD. This is the only preliminary plan the Office of the Architect has. I sent down and asked them for it. It is very old. It indicates something must be done to bring it up to date. That need is already stated in the RECORD. If the present language is retained in the bill reported by the committee it means no funds will be available and nothing can be done.

Mr. HOLLINGS. Oh, yes; funds are available, but the first funds available under this appropriation; that is, up to $2 million, may be used for preparation of preliminary plans.

Mr. MANSFIELD. That is correct. Preliminary is the committee word. I wish the Senate would keep that in mind because we have that and need the rest of the report.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time.

Mr. MANSFIELD. On my time, if I have any remaining.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask that, momentarily, we not change the unanimous-consent agreement for a vote at 2 o'clock, but that the Senate be permitted to take up an additional amendment, which is agreed to by the majority and minority at this time, consider it, and adopt it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I send that particular amendment to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 23, in line 5, after the word, "art", and before the comma, insert the following "and procurement of fabric and installation of same on the wall panels in the galleries of the Senate Chamber".

Mr. HOLLINGS. Mr. President, this particular amendment is necessary for the replacement of the tapestry in the galleries and the Senate walls of the Senate Chamber. It has become soiled and defaced. We have had it looked at by experts. We think it should be replaced. This is the necessary language. The distinguished ranking minority member (Mr. COTTON) agrees to the amendment.

I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending amendment occur at the hour of 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I also think I should suggest to the Senate that immediately after that amendment is disposed of, there will be a rollcall vote on final passage. I do not see enough Senators in the Chamber to get the yeas and nays at this time, but at the appropriate time I will make that request.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 28, 1972, he presented to the President of the United States the following enrolled bills:

S. 18. An act to amend the U.S. Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty; and

S. 1975. An act to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 490, S. 1821; that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read the bill by title, as follows: A bill (S. 1821) to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS, 1973

The Senate resumed the consideration of the bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that after the vote on the Mansfield-Scott amendment we proceed immediately to vote on the final passage of the bill and vitiate rule XII so that we can vote back to back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Is the time to be charged against the Senator from Montana?

Mr. MANSFIELD. Yes, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now resume the transaction of routine morning business, with statements limited therein to 3 minutes, and that the period for the transaction of routine morning business close at 2 o'clock p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day this order was changed to provide for the Senate to convene at 11 a.m. tomorrow.)

TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that, following the recognition of the two leaders under the standing order tomorrow, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, until the hour of 2 o'clock p.m. today, with the consideration of S. 1821.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate continued with the consideration of the bill (S. 1821) to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

The PRESIDING OFFICER. Who yields time?

PRIVILEGE OF THE FLOOR

Mr. CANNON. Mr. President, I ask unanimous consent that Mr. Bob Ginther of the committee staff be permitted to remain on the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself 12 minutes, as I understand we have a vote at 2 o'clock.

Mr. President, the purpose of S. 1821 is to amend the Federal Aviation Act of 1958, as amended, to establish a firm legal requirement that certificated air carriers of the United States be used to the fullest extent practicable by Government agencies for international movements of persons or property by air. The requirement will apply with respect to both transportation procured or provided by the Government directly and transportation which is financed or assisted with Government funds.

The legislation is needed both to prevent unwarranted diversion of Government traffic to foreign flag air carriers and to prevent the use of Government-owned and operated aircraft for the movement of traffic which should move on civil air carriers. The most urgent need arises from the fact that the Air Force's Military Airlift Command is operating a vast international airline in competition with the civil airlines and in violation of the policy established and supported by the Congress and the President over the past decade.

NEED FOR THE BILL—GOVERNMENT TRAFFIC GENERALLY

Mr. President, many departments and agencies of the U.S. Government use air transportation for international movements of passengers and cargo. From time to time, the Congress and the Executive have indicated the desirability of using U.S. flag civil air carriers for these movements. However, there has not been a firm and comprehensive statutory requirement on the subject. While detailed data on the use of foreign flag airlines, or Government-owned aircraft, for Government-financed passengers and cargo have not been compiled on a comprehensive basis, it is apparent that in the aggregate such usage is substantial.

On October 1, 1962, the Congress passed a concurrent resolution—Senate Concurrent Resolution 53—87th Congress—expressing the sense of the Congress that when Government officers and employees traveled on official business, a preference should be given to the use of U.S. flag carriers. However, this concurrent resolution is not considered legally binding and is frequently disregarded. Some departmental regulations prescribe the use of U.S.-flag carriers. However, such regulations provide Government employees with wide latitude in the selection of U.S.-flag or foreign-air carriers.

Section 901 of the Merchant Marine Act of 1936 as amended (46 U.S.C. 1241), requires the use of American vessels for the necessary transportation by sea of Government employees, cargos and certain other Government-financed traffic. No parallel statutory requirement exists in the case of air transportation. The absence of specific legislative direction has permitted the development of practices inconsistent with other actions being taken by the U.S. Government to place primary emphasis on financing of goods and services of U.S. origin. This is particularly so in the case of the international air transportation of persons and goods under Government-approved contracts, or loans, in the use of Public Law 480 or other acquired currencies for the purchase of air transportation, and in the transportation involved in other Government financed programs, such as educational and cultural exchange programs.

Some foreign governments require the use of their national air carriers by government personnel and engage in various devices to induce others to use such national carriers.

Testimony before the committee indicates that one foreign government has ordered its national carrier to offer a 40-percent discount for travel to and from its country for all foreign nationals, including U.S. citizens, who are engaged in work on Government projects. This would apply to all AID, Peace Corps, and so forth, personnel whose expenditures, including transportation, are funded by the U.S. Government. AID has already told its personnel to utilize this program.

If all a foreign government has to do is order its national carrier to introduce a discounted fare for U.S. personnel or cargo in order to divert this traffic from U.S. carriers, it is all too likely to do so, since it knows there exist no U.S. statutory requirements for U.S. personnel to use U.S. carriers. In fact, we understand that other governments are studying this question now, particularly in view of the fact that AID has taken action to implement the program in the first instance it had the opportunity.

In addition, we heard testimony indicating that another foreign government has directed that all personnel participating in events which are financed by that government, by appropriations or other means, must use that nation's air carriers. This directive even applies to those employed with unions, organizations, or enterprises the capitol of which—original capital or capital stock—is wholly or partly owned by the national government.

In view of the restrictions imposed by foreign governments favoring their national airlines, the committee believes that it is only prudent, fair, and financially sensible for the United States to require use of U.S.-flag carriers in connection with Government-financed traffic, so that U.S. traffic will not contribute to the U.S. balance-of-payments deficit.

It should also be recognized that in a large percentage of cases, foreign air carriers are subsidized instrumentalities of foreign governments, whereas our U.S. air carriers are privately owned, nonsubsidized businesses.

When U.S. Government funds are expended for transportation on foreign flag carriers, it has the effect of strengthening foreign competition. This, in turn, imposes financial strains on and can adversely affect employment by U.S.-flag carriers. Although such expenditures may be a relatively small portion of total

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Government expenditures abroad, Government leadership in efforts to improve the U.S. balance-of-payments position in the transportation account by use of U.S.-flag carriers would have an immediate beneficial effect. An amendment to the Federal Aviation Act of 1958 as amended establishing requirements in concert with the philosophy of the Merchant Marine Act of 1936 as amended for the transportation of Government sponsored direct or indirect traffic is in order. Legislative action in this area will constitute a positive step to provide guidance and leadership in solving a serious problem while supporting and promoting American business interests in international trade and transportation.

In summary, this proposed legislation is necessary because it helps support the U.S. dollar; it supports U.S. airline employment; and it supports financially troubled U.S.-flag carriers against discriminatory restrictions by foreign governments in favor of their national airlines and against unwarranted competition from aircraft owned and operated by their own government.

DEPARTMENT OF DEFENSE TRAFFIC

Over the past decade, the President and Congress have established and supported a broad policy establishing a major role for the civil air carriers in meeting the airlift requirements of our national defense both during peace and war. The cornerstone of this policy has been that the Nation's civil certificated air carriers were to carry, pursuant to contract with the Government, the great bulk of routine, channel-type Department of Defense cargo and passengers in order to permit them to maintain, in time of peace or war, a major airlift capability to be availabile to the United States in times of emergency.

A major purpose of S. 1821 is to reaffirm this policy and implement it with firm statutory requirements in the case of international air movements of traffic of the Department of Defense. In considering this bill, the committee's attention has been focused particularly on present international cargo movements of the Air Force's Military Airlift Command—MAC. However, the provisions of the bill are applicable with respect to movements of both persons and cargo by other units of the Department or the armed services, as well as the Military Airlift Command. The committee has recently received information concerning domestic air transportation operations of the Department which may, upon further study, indicate the need for legislation in the domestic field as well.

BACKGROUND

The concept that an effective military airlift system must be based upon a partnership between what was then known as the Military Air Transport Service—MATS—and the civil air carriers can be traced back to the late 1940's and early 1950's, when a series of Defense Department studies all concluded that programs and policies must be developed for the rapid mobilization of civil aircraft to augment the military airlift system in time of national crisis. Pursuant to Executive Order 10219, issued by President Truman on February 28, 1951, the Department of Defense developed the first plan for the establishment of a Civil Reserve Air Fleet—CRAF—which was issued on March 20, 1952.

It was recognized very soon thereafter that in order to have a large and modern civil fleet available for use in time of crisis, the Government would also have to use that fleet for routine traffic in peacetime. Thus, in 1954, a report entitled "Civil Air Policy," prepared for President Eisenhower by the Air Coordinating Committee, comprised of Government officials of both military and civil agencies, advanced the following recommendations, among others:

(3) In determining the extent to which air transportation will be used in meeting military peacetime and wartime airlift requirements, the Department of Defense should continue its policy not to engage in competition with private industry, and to support the expansion of the Nation's civil airlift capability on an economically sound basis. (p. 17)

(4) The Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. (p. 17)

(5) Federal agencies should, within . . . sound . . . supply management, expand their use of civil cargo airlift as it becomes available for routine, non-emergency use. (p. 24)

In 1955, the Hoover Commission's report on transportation recommended:

That the peacetime operations of the integrated military air transport service be restricted and realistically limited to persons and cargo carefully evaluated as to necessary for military air transportation and, only after commercial carriers have been utilized to the maximum extent, should transportation on service carriers be authorized. (p. 59)

We believe it important that the Congress direct the Department of Defense to transfer, wherever possible, military mail, cargo and passengers to United States certificated air carriers. As stated in the (air coordinating) commission's report, prompt action by the Department would result not only in a significant reduction in subsidy for international carriers, but also in the development of an economic self-sufficient civil airline system, thus providing a substantial reservoir of airlift to be available to meet mobilization emergencies. (p. 30)

These policies, however, were not really implemented in the 1950's as the MATS fleet of military aircraft expanded, the Department of Defense tended increasingly to utilize these aircraft for purposes which could appropriately be served by the civil carriers. Several congressional committees took note of this problem, and asked the Defense Department to correct the situation. For example, in 1956 the House Appropriations Committee emphasized the fact:

That commercial air facilities, including scheduled and non-scheduled airlines, are an essential part of the overall mobilization transport strength of the United States.

And called upon the Air Force to:

Give attention to handling its air transport business in such a way as to assist in keeping the non-scheduled and other airlines in a reasonably sound financial and operating position—(H. Rep. No. 2104, 84th Cong., 2nd Session, p. 46 (1956)).

The Senate committee fully concurred with this view, as it made clear in its report the following year:

Last year in the conference committee on the defense appropriations bill the Senate joined with the House in stating in a letter to the Secretary of Defense that the Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. This statement was based upon our position that maximum utilization by the Department of Defense of United States civil air carriers is essential both in the promotion of our free enterprise economy and in the provision of the necessary ready reserve civil airlift for national defense; and that Government operations of its own air transport facilities should be limited to that essential to military security—(S. Rep. No. 543, 85th Cong., 1st session, P. 13 (1957)).

The report went on to direct the Department of Defense to advise the committee by January 1, 1958, as to the progress made in expanding the use of the civil carriers—Id. at p. 14.

In 1958, a comprehensive investigation of the entire relationship between the civil carriers and the Department of Defense was undertaken by the Military Operations Subcommittee of the House Government Operations Committee. The committee produced a lengthy and thorough report, containing 22 specific recommendations. Among them were the following:

RECOMMENDATION NO. 2

The Military Air Transport Service should concentrate on outsize and special-cargo traffic and technical missions, leaving to the civil air carriers the primary responsibility for the transportation of passengers and the more conventional kinds of military cargo.

RECOMMENDATION NO. 3

The applicable military directives and regulations should be redrafted to eliminate the preferential position of the Military Air Transport Service in peacetime military airlift and to establish, consistent with other recommendations in this report, a full partnership role for civil carriers in moving peacetime military traffic through the civil reserve air fleet.

RECOMMENDATION NO. 4

In the event the applicable military directives and regulations are not redrafted to eliminate the preferential position of the Military Air Transport Service and an effective program is not developed for expanding the use of commercial air services, the Congress should adopt appropriate legislation to achieve these objectives.

RECOMMENDATION NO. 5

The civil reserve air fleet should be expanded and more closely integrated with military airlift missions. It is especially important that the Air Force encourage the civil air carriers to procure more modern cargo aircraft for the civil reserve air fleet, by allocating to these civil carriers a larger share of the cargo traffic of the military air transport service. Such action would more adequately provide the incentive necessary to overcome the dangerous risk inherent in the deficit that now exists in meeting overall wartime requirements for cargo airlift—(H.R. No. 2011, 85th Cong., 2nd Sess., pp. 5–7 (1958)).

Another detailed investigation was conducted in 1960 by the Airlift Subcommittee of the House Armed Services Committee. Its report clearly revealed the extent to which the Defense Department's underutilization of civil carriers had seriously weakened the Nation's overall airlift capability:

In the cargo area the CRAF capability is not only grossly inadequate in terms of capacity, but it is limited and outmoded in terms of equipment. . . . There is not a single aircraft is CRAF's cargo fleet which was specifically deisgned for cargo operations. It is this gross deficiency which gives rise to an overriding requirement that new, turbine-powered cargo aircraft be procured by the civil carriers who participate in CRAF and that there be created an incentive for such participation—(H. Rep. No. 53, 86th Cong. 2nd Sess., p. 4042 (1960)).

To meet this problem, the subcommittee recommended that new procurement policies be devised which could create a greater incentive for the civil carriers to modernize and expand their cargo capacity.

In the same year, the Department of Defense issued a detailed report of its own on the entire problem, entitled "The Role of Military Air Transport Service in Peace and War." This report, for the first time, articulated a clear division between the respective roles of the military and civil in the total airlift system:

In the context of the philosophy of maintaining within the armed forces only the resources or capability essential ot the effective implementation of military strategy, MATS ideally should perform only the "hard core mission" leaving to the commercial carriers the job of providing airlift for routine logistic supply and normal personnel movements in accordance with criteria prescribed by the Department of Defense. This is a realistic delineation between military and commercial carriers for programming purposes. However, for peacetime operations economic considerations will dictate some adjustment—(P. 9).

That report also noted that:

Current airlift procurement policies and practices are not accomplishing the desired results in promoting a healthy growth of United States overseas commercial cargo airlift capability. With congressional approval, if necessary, they should be better adapted to reflect the long-term interest of the Department of Defense in commercial airlift capability and provide the continuity and stability required for effective and economical support of military forces—(P. 4).

A number of specific "presidentially approved courses of action" were set forth in the report designed to implement the policies and objectives noted above. These included the curtailment of MATS operations with respect to other than hard-core traffic, and the expanded utilization of commercial carriers for these purposes. To provide greater incentive for expansion of the civil cargo fleet, the report called for the elimination of competitive bidding, which had generally produced uneconomical rates for the transportation of military cargo, and the substitution of CAB ratemaking in this area. In addition, it proposed a major overhaul of the CRAF program, and the development of a formula by which a carrier's share of military traffic would be determined by such factors as the quantity and relative value of the aircraft which it has committed to CRAF, and its willingness to acquire cargo aircraft.

"The Role of MATS in Peace and War" was the product not only of Defense Department studies, but also of the work which had been done over the years by various committees of the Congress. The policies which it contained were promptly implemented, and resulted in a rapid expansion and modernization of both the military and civil segments of the airlift system.

As a result of the new policies adopted at the beginning of the decade, the cargo capacity of both the military and civil carriers was greatly expanded and modernized in the sixties. On the military side, MAC has acquired a massive fleet of C–141's now being supplemented by the C–5A's. On the civil side, new modern turbine-powered cargo and cargo-convertible aircraft have been acquired and committed to CRAF. The total civilian capacity in cargo ton-miles committed to CRAF has increased five and one-half fold since 1960.

The benefits of the policy are well described in a 1966 report of the Military Airlift Subcommittee of the House Armed Services Committee, as follows:

This increased activity on the part of the commercial carriers in support of military requirements has benefited both the military and civil airlines. The commercial airlift relieved military aircraft to perform other missions and to be available to meet military contingencies that arose. The civil carriers benefited from this government business at a minimum rate determined to be fair and reasonable by the Civil Aeronautics Board. The revenue from this government business has served the intended purpose of helping the commercial airlines to modernize their fleet by acquiring new long-range jet aircraft which are more efficient, reliable and less costly to operate. This increased capability, especially in the long-range jet cargo equipment, becomes an important asset to our national airlift inventory, and will make a substantial contribution in the future toward meeting the military requirement for airlift in times of emergency.

Despite the enormous progress which has been made, however, there is still insufficient civil air cargo capacity to meet defense needs. As last year's report of the House Airlift Subcommittee of the Armed Services Committee noted:

The problem of obtaining adequate commercial cargo airlift to augment our military capability in times of emergency remains. At the time of the subcommittee's hearings, no wide-bodied cargo jets had been ordered by the U.S. civil carriers and only ten wide-bodied convertible aircraft had been ordered. The convertible "jumbo jets" have been ordered by supplemental air carriers with an option to procure an additional five aircraft. The large scheduled air carriers have not ordered these large cargo/convertible aircraft apparently because of cost and the lack of a commercial requirement for this increased cargo capability. It is obvious to the committee that the procurement of the jumbo cargo/convertible aircraft will be at a slow pace unless some incentive is offered to the carriers to obtain these aircaft and contribute that increased capability and flexibility toward meeting military requirements—(H.A.S.C. No. 1–59, p. 9236 (1970)).

It is thus apparent that the underlying reasons for the policies established in "The Role of MATS in Peace and War" are still valid. Moreover, those policies which were approved by the President and implemented pursuant to his direction, have never been officially revised or repealed. Nevertheless, the actions of the Department of Defense in recent years have been in direct conflict with those policies.

RECENT DEVIATIONS FROM ESTABLISHED POLICIES

In fiscal year 1960, the total volume of military cargo which was moved by air was approximately 170,000 tons, of which only 17,500 tons or 10.5 percent was handled by the civil carriers. In the years which followed, the total volume of military cargo increased dramatically, largely as a result of the expanding war in Vietnam. The civil carriers, responding to the need, greatly expanded their cargo capacity, and the Department of Defense, in accordance with its announced policies, allocated to them an ever-increasing amount of military cargo. In percentage terms, the civil carriers' share of military cargo reached its peak in fiscal year 1962, when they carried 40.5 percent of all cargo moved by air. In terms of tonnage, the peak was reached in fiscal year 1967, when the civil carriers handled a total of 202,000 tons, which represented 33.6 percent of the total military cargo shipped that year.

Then, very suddenly, the trend was reversed. Although total military cargo shipments continued to grow in fiscal years 1968 and 1969, the amounts allocated to the civil carriers fell to 163,000 tons or 24 percent in 1968, and 148,000 tons or 20.3 percent in 1969.

In fiscal years 1970 and 1971 the total military cargo shipped began to decline due to the reduction in the level of warfare in Vietnam. The amount carried by the civil carriers, however, fell off much more dramatically. In 1970, the civils carried only 15.7 percent or 104,000 tons.

Mr. President, I ask unanimous consent that a chart showing the percentage of channel Department of Defense international cargo carried by CRAF carriers, fiscal year 1960 to 1973, be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Percentage of channel DOD international cargo carried by CRAF carriers—fiscal years 1960–73

	Percent of total
1960	10.4
1961	16.5
1962	40.5
1963	37.4
1964	22.1
1965	26.0
1966	30.1
1967	33.6
1968	24.0
1969	20.3
1970	15.7
1971 (estimate)	8.9
1972 (January 1 estimate)	2.2
1972 (June 24 estimate)	9.0
1972 (July 20 estimate)	18.0
1972 (September 30 estimate)	22.0
1972 (February 15 estimate)	31.0
1973 (estimate)	27.0

Mr. CANNON. What has happened is obvious. There has been a complete reversal of policy. After inducing the civil carriers to acquire substantial cargo capacity by offering them a fair share of military cargo business, the Department of Defense has simply pulled the rug out.

In a memorandum submitted by the Air Force to me on April 7, this reversal

of policy is quite clearly revealed. That memorandum states that—

Efficiency and economy dictate the use of this (MAC) capability to satisfy logistic support requirements. (P. 1)

It further states that

The primary role now developing for the civil air carriers is to replace the MAC aircraft on their worldwide DOD logistics support route when they are diverted to carry out a wartime deployment. (P. 2)

Otherwise, the only role contemplated for the civil carriers, so far as international cargo is concerned, is "to satisfy peak international cargo demands. (P. 3)

In "The Role of MATS in Peace and War," the very first item listed under the heading "Presidentially Approved Courses of Action" reads as follows:

1. That MATS be equipped and operated in peacetime to meet approved military hardcore requirements in a general war and in situations short of general war, and such other military requirements as cannot be met adequately by commercial carriers on an effective and timely basis. (P. 5)

The Air Force has now turned this policy on its head. It proposed to use the civil carriers only for "such other military requirements as cannot be met adequately" by the military.

CURRENT SITUATION

Aside from being militarily shortsighted, the new Air Force policy is contrary to the whole philosophy of our free enterprise system. In effect, MAC is now running a cargo airline, at the taxpayers' expense, in direct competition with the commercial carriers. In the 1950's, the Congress repeatedly criticized MATS for engaging in precisely this kind of competition with private enterprise. The Department of Defense ultimately recognized the validity of this criticism, and specifically altered its policies in response to it. This, indeed, is what "The Role of MATS in Peace and War" was all about.

MAC's cargo operations today go far beyond the requirements of minimum training of flight crews. Until recently, MAC's cargo fleet was operating as much as 8 hours per day, and it is only because the volume of cargo has diminished that it is now proposing to reduce its operations to 4.25 hours per day. The Air Force memorandum submitted to me on April 7 makes it crystal clear that its utilization of military cargo aircraft is now being pegged to military cargo requirements, rather than training and hard-core requirements. This is squarely contrary to established policy, and constitutes direct competition with the commercial carriers.

The current Air Force policy flouts not only the long-standing policy of the President, but also the recommendations made just last year by the House Airlift Subcommittee. In its report, that committee specifically disapproved the reduction in the civil carriers' share of military cargo traffic:

This reduction in cargo airlift allocated to the CRAF participants is no incentive for the commercial carriers to order new cargo aircraft to offset the existing deficit.

The C–5A was designed to airlift vehicles and cargo outsize to the C–141, not troops or general cargo. Yet the Air Force and MAC now propose to use the C–5 in peacetime for movement of general cargo—both bulk and palletized—under the guise of maintaining flight crew proficiency.

The effect of such a policy will be the elimination of a substantial commercial cargo airlift capability now available from the civil carriers, in particular the supplementals . . . (H.A.S.C. No. 91–59, pp. 9236–37.)

The Air Force seems to think it can use its own aircraft for routine cargo carriage in times of peace, and still expect the civil carriers to take over that function in times of emergency or of "peak" demand. Clearly, this makes no economic sense. The commercial carriers cannot afford idle capacity—their present financial posture makes that clear enough. If the Department of Defense does not use their cargo capability then they will be forced to put it to work elsewhere or dispose of it. Either way, it will not be available to provide immediate airlift service for the military in times of national crisis. And certainly the civil carriers will not be willing or able to expand their cargo capacity unless there is an immediate and continuing market for it.

The basic concept of the policies which were developed and applied so successfully in the early 1960's was that MAC, not the civil carriers, should retain a substantial reserve capacity for use in times of emergency. The routine cargo missions, which must be performed in peace as well as in war, were to be handled by the civil carriers, thus leaving MAC free not only to carry the "hardcore" traffic, but also the sufficient capacity in reserve to expand its hardcore operations in times of crisis. If MAC aircraft are heavily committed to routine supply missions, they will be unable to respond to an emergency without causing a substantial disruption of normal service. Moreover, unless the civil carriers are used to perform this function in times of peace, they will simply not have the capacity which would be needed in time of war.

Even from a training viewpoint, the current Air Force policy makes no sense. It seems elementary that if MAC is to carry hardcore traffic in times of crisis, it must train for that mission by performing the same functions in peacetime. This principle was recognized in a MATS document entitled "Review of the Civil Reserve Air Fleet Program" issued in 1963:

It is imperative that any concept or system which is to be employed in warttime must be nothing more than an expansion of the system utilized in peacetime. Therefore there must be designed and tested in peacetime the operational concept and organization which must do the job in war. (P. 16)

MAC'S MISSION

MAC's wartime mission requires it to be capable of performing such combat missions as troop drops with the C–141, short field landings with the C–141 and C–5A, and other difficult and specialized military operations. The idea that MAC can achieve meaningful training for its combat role by performing routine logistical support missions in and out of major airports or military air fields in peacetime is simply unrealistic. And it is even more unrealistic to think that a large and modern civil cargo fleet can simply be available, on a standby basis, "to replace the MAC aircraft on their worldwide DOD logistics support routes when they are diverted to carry out a wartime deployment," or even "to satisfy peak international cargo demands." Anyone who thinks this is possible has not read the history of the decade of the 1950's.

THE NEED FOR CONTINUATION AND STRENGTHENING OF THE CRAF PROGRAM

Even the Air Force has acknowledged that the continuation of the Civil Reserve air fleet—CRAF—is essential to the Nation's defense system. The CRAF concept, which was originated in 1952, has been periodically modified to meet changing defense needs, and to reflect economic realities. Under the initial plan, only the entire CRAF fleet could be activated. This was changed in 1963, when the program was made more flexible so that it could respond more readily to limited as well as general emergencies. There are now three separate stages of CRAF. Stages I and II, to which aircraft are committed voluntarily by the carriers, can be activated separately—stage I by the commander of MAC and stage II by the Secretary of Defense—to meet an immediate crisis which falls short of a full national emergency. Stage III would be activated only in times of complete national mobilization.

Recent history has dramatically demonstrated the needs for civil augmentation of military airlift to meet emergency situations. In every major crisis since World War II—the Berlin blockade, the Korean conflict, the Cuban missile crisis, the Vietnam war—the civil carriers have played an important role in providing essential transportation service to the military. Although the need to activate CRAF has never arisen, this is only because the civil carriers responded to the need voluntarily. And the fact that they had the capacity to respond was, especially in recent years, largely the result of the CRAF program.

An essential part of that program is the procurement policy which was developed in the early 1960's. Under this program, each carrier's military business is related directly to its CRAF commitments, not only in terms of the number of aircraft committed, but also the size and type of aircraft involved. Before this procurement policy was initiated, the CRAF fleet was woefully inadequate. Today, as a result of the enlightened policies of the early 1960's, the CRAF passenger fleet consists of 126 long-range passenger jets and 196 cargo jets, of which 12 are fully convertible.

As the House Airlift Subcommittee observed in its recent report, however, "modernization of the CRAF is a continuous process." House Armed Services Committee Report No. 91–59, page 9236. In particular the committee noted that—

Current firm orders for new aircraft do not indicate production of enough convertible or cargo aircraft to fulfill projected wartime requirements." (Ibid.)

And continuous expansion and modernization of the entire fleet is obviously essential if it is to be capable of meeting tomorrow's needs as well as those of today.

The recent decision of the Air Force to withdraw large amounts of national military cargo traffic from the civil carriers is certainly not calculated to preserve and strengthen CRAF. On the contrary, its inevitable effect will be to weaken the ability of the civil carriers to respond in times of crisis—particularly in the area of cargo capacity, where a shortage already exists. What we are witnessing today is a repetition of the same shortsighted policies which, in the 1950's prevented the expansion of the civil fleet.

We believe the policies set forth in "The Role of MATS in Peace and War" should be continued, subject only to such changes or modifications as are needed to carry out the underlying objectives of those policies. One needed change, which was recommended in the report of the House Airlift Subcommittee last year, is to provide an increased incentive for the acquisition of cargo-convertible jets by appropriate revisions in the procurement formula and by requiring carriers to use such aircraft to the greatest extent possible in performing military contracts. The implementation of these reforms, of course, presupposes a continuing flow of cargo business to the civil carriers.

The military-civil partnership which was fostered by the policies of the 1960's yielded enormous benefits to the Government, the air transport industry and, most importantly, the Nation as a whole. It provided an essential military airlift capacity at a cost far below what the taxpayers would have had to spend if that capacity had been provided primarily by the military services themselves. Simply by using civil carriers for the performance of needed military cargo and passenger transportation, at rates which were far below those paid by commercial passengers and shippers, the Government was able to obtain not merely efficient transportation service, but also a huge reserve fleet of aircraft which is available on a moment's notice to augment the military airlift capability in time of war. This reserve fleet, which has an estimated value of $3 billion, was created without cost to the Government, entirely through private financing.

The acquisition by the carriers of aircraft suited to the needs of the Department of Defense was no mere accident. It was the result of a carefully planned procurement policy, designed to encourage and reward such acquisition. The continued modernization and expansion of this fleet will depend upon the continuation of the same kind of policy.

The procurement policy which the Air Force has adopted in the last year or two ignores the demonstrated benefits of the military-civil partnership concept which was developed in the 1960's. It ignores also the need for the continued maintenance and modernization of the civil fleet. It represents a return to the policies of the 1950's, which failed to produce an adequate airlift capability and which were condemned by the Congress and the President.

COMMITTEE EFFORTS TO FIND SOLUTION

For the past 12 months, the Committee on Commerce has been trying to work with the Air Force and the civil carriers to find a solution to this problem without resorting to legislation. As a result of these efforts, the committee has become convinced that legislation is necessary to assure that the Air Force will adhere to the previously established policy for major use of the civil carriers for scheduled movements of channel cargo.

When S. 1821 was introduced on May 11, 1971, the available information indicated that the Air Force intended virtually to phase out the civil airlines from the carriage of international DOD cargo. For example, it appeared that the Air Force then was projecting that civil carriers would carry only about 2 percent of such cargo in fiscal 1972. At that time, no contracts had been awarded to the civil carriers for such cargo for fiscal 1972.

At the hearings on S. 1821 on June 24, 1971, the Air Force stated that the fiscal year 1972 budget submitted to the Congress for the Department of Defense included $43.2 million for commercial cargo service to support MAC. This sum represents carriage of about 9 percent of DOD's international cargo for fiscal 1972, thus being substantially larger than the original estimate projected by the Air Force. But still no specific contracts for cargo movements for fiscal year 1972 had been awarded the civil carriers.

Following the hearings in June, an executive session of the committee was scheduled for July 20, 1971, to consider S. 1821. However, on that day the committee received a letter from Assistant Secretary of the Air Force Whittaker explaining what appeared to be a revision of DOD policy on airlift procurement. Secretary Whittaker's letter indicated that based on a new evaluation of DOD requirements the civil carriers could expect their international military cargo revenues for fiscal 1972 to reach $85 million instead of the $43 million that had been mentioned in June, an increase of nearly 50 percent which would make available to the civil carriers about 18 percent of total DOD international cargo.

THE "REAL" PROGRAM

In addition, Secretary Whittaker reported that a new program being established by the Army called the routine economic airlift program—REAL—would result in even further cargo increases available to the CRAF carriers. He said that from this new program "an increase in air cargo tonnages in the magnitude of 200,000 per year is foreseeable."

After receipt of Secretary Whittaker's letter, the committee deferred action on S. 1821 pending further review and analysis of DOD's revised estimates. In particular, the committee wanted to ascertain exactly what effect the REAL program might have on total airlift procurement for fiscal 1972, hoping that this new program could lead to significant additional cargo and revenue for the CRAF carriers. However, at later hearings on September 30, 1971, when pressed for more specific information on the REAL program, the Air Force estimated that the program would generate only 10,000 tons of cargo in fiscal 1972—not 200,000 tons—and gave no assurances that this program would result in any net increase at all in the MAC business awarded the CRAF carriers. Thus, it becomes apparent that the REAL program holds little genuine hope for a solution of the immediate program.

ANALYSIS OF REVISED AIR FORCE ESTIMATES

The committee also wanted further information as to the revised estimate contained in Secretary Whittaker's letter of July 20, 1971, that the international cargo airlift procured from the civil carriers in fiscal 1972 would be $85 million—apart from the REAL program. The committee wanted to know if this revised estimate reflected a change in the Air Force policy. Accordingly, the Subcommittee on Aviation requested the Air Force and the CRAF carriers to provide further information as to the latest operations under the cargo procurement program.

Secretary Whittaker, in a letter of September 21, 1971, reported to the committee as follows:

In regard to international cargo movements, cargo actually turned over to the military airlift command (MAC) for airlift from July through August, and now estimated for September and October, exceeds forecast levels for fiscal year 1972. To accommodate these added requirements, the *capability of the military airlift force was increased to the maximum extent practical*, within existing resources. Since the cargo being generated exceeded this adjusted military capacity, the increased requirements have resulted in additional orders for commercial air cargo services.

Thus, it appears, first, the reason for increased commercial procurement was that total cargo exceeded forecast levels; second, the Air Force first increased the capability of its own military airlift force "to the maximum extent practicable, within existing resources"; and third, the additional orders for commercial cargo services resulted only because "the cargo being generated exceeded this adjusted military capacity." The committee finds this disquieting, because the Air Force followed a policy of increasing its own capability before turning to the civil carriers, but even worse, this adjusted military capacity was not able to handle relatively moderate increased demands. This does not speak well of MAC's surge capability to meet real emergencies.

On the other side of the coin, the experience of the past few months shows how the policy the Air Force has been following reduces the available capacity of the CRAF cargo fleet as well as reducing MAC's own surge capability. Beginning in July, MAC did offer more cargo to the civil carriers. But it was offered on very short notice with no advance planning or programing. All of this was "expansion" business, with the carriers having no fixed-buy contracts. Having no earlier contracts, they had, of necessity, committed their aircraft elsewhere, and were therefore limited in the response they could make to short-notice MAC requests.

In short, the experience of the past few months has shown that the Air Force policy of committing the major part of MAC's capability to routine commercial-type operations and leaving only the overflow traffic to the civil carriers—relying on them to meet surge requirements—weakens the capability of both the military and civil cargo fleets to meet and utilize such capacity.

EXCESSIVE UTILIZATION OF MAC AIRCRAFT

The Air Force has programed 4.25 hours per day average utilization for its long-range cargo aircraft—claiming this is necessary to provide adequate training and to maintain proficiency and to maintain maximum surge capacity. In fact, this rate of utilization is far in excess of that needed for training and leaves far too little opportunity to increase utilization when surges are needed.

Using, as the Air Force does, three crews per aircraft, 4.25 hours utilization per day provides an average of 42½ flying hours per month for each crew member. The Air Force has reported to the committee that in fact the average hours flown per month by MAC airlift aircrews during August 1971 was as follows:

Aircraft commanders	47.2
Copilots	44.3
Navigators	59.2
Flight engineers	48.5
Loadmasters	45.1

The average flying hours of an airline pilot working full time ranges from 60 to 80 a month. Civil air carriers have testified that 6 to 8 hours' flying time per month is adequate to maintan a pilot's proficiency. In fact, the only Federal regulation pertaining to maintenance of proficiency for airline crews is that a pilot makes at least three takeoffs and landings every 90 days. This is in addition to his semlannual proficiency checks.

In testifying before the committee, the Air Force spelled out the Military Airlift Command's mission priorities as follows:

> The highest priority for peacetime use of MAC aircraft is internal training of the MAC force for combat readiness. The next priority is joint training and exercises with other elements of the Armed Forces. The third priority is performance of special airlift missions not suitable for incorporation in the MAC channel airlift system. Movement of DOD channel traffic on military airlift aircraft is the lowest priority peacetime mission for those aircraft. To the extent, however, that productive airlift capability is created through training activities, we believe it to be in the interest of the national defense and of the taxpayers to minimize the cost to the government by using this capability effectively to meet current transportation needs.

However, under questioning the Air Force testified that its flying hours are distributed among the training priorities in the following pattern:

	Percent
1. Internal training of the force for combat readiness (this is the highest priority)	8.4
2. Joint training and exercise with other elements of the Armed Forces	15.4
3. Performance of special airlift missions	21.1
4. Movement of DOD channel traffic on military aircraft	48.5

Thus, only 35.9 percent of the total flying hours performed by MAC crews is devoted to the three highest mission priorities. The lowest priority mission—the one the civil carriers are capable of performing—accounts for nearly half of the total flying time of the Military Airlift Command Force.

Clearly, this is indicative that the flying hours are inflated over and above those necessary to provide adequate training to meet the MAC mission and the committee is of the view that the current flying hour program could be reduced significantly without impairing the training and exercise of the MAC force.

Recent experience with the C–5A aircraft clearly indicates that the current flying hour program—that is, 4.25 hours per day per aircraft—is inflated over and above that which is strictly needed for crew training and proficiency. For example, during the last 6 months of 1971, the utilization rate of the C–5A ranged from 2.41 hours per day down to 0.79 hours per day. This significant reduction in flying is, of course, attributable to the fact that the C–5A aircraft were undergoing severe structural problems during this period, which resulted in far less than optimum daily flight hours.

Nonetheless, the aircraft were flown in training and proficiency exercises, and I doubt very seriously that the Air Force would contend that present C–5A crews are not proficient or are not in a state of readiness to meet a national emergency as a result of reduced flying time.

While I am not advocating a reduction in flying hours of the magnitude recently forced on the C–5, I clearly believe, based on my long experience as an Air Force command pilot, that an aircraft utilization rate of 2½ hours per day is certainly sufficient to provide adequate training for the three crews assigned to that aircraft.

The MAC aircraft themselves, of course, need no training. On the contrary, these extremely expensive logistic aircraft, purchased for high priority military cargo, are being needlessly utilized and worn out at too fast a pace in routine cargo operations. These expensive logistic aircraft were not procured for the purpose of flying routine cargo, post exchange goods, and foot lockers around the world.

Mr. President, an alarming example of the needless utilization and unnecessary waste associated with the excessive use of MAC aircraft is the C–5A.

According to the latest Air Force figures, C–5 aircraft is costing the taxpayers $57 million each, the most expensive production aircraft ever produced. The C–5's history of problems and trouble is well known. For example, while the Air Force specified that the aircraft was to be designed for a standard 30,000 flight hours life expectancy, recent problems and malfunctions have vastly reduced the service life which may be expected from this giant aircraft. The Air Force now estimates that the C–5A's life expectancy has been drastically reduced to between 7,500 and 12,500 hours with the possibility—and I stress possibility—that the aircraft's life may be extended to 20,000 hours. But based on the 7,500-hour estimate, at least one C–5 in the present fleet is 20 percent used up; that is, it has been flown 1,500 hours and may have only 6,000 hours remaining.

Mr. President, my colleagues may be shocked to learn that based on the current Air Force plan for C–5A utilization—that is, 4.25 flight hours per day—these gigantic airplanes may be used up after only 4.8 years of service with the Military Airlift Command. Even using the more optimistic estimate of a 12,500-hour life span, with utilization at the present planned level, the C–5 aircraft will be completely worn out in 8 years.

Mr. President, these airplanes are being needlessly worn out at a rate of an astonishing $7,600 per flight hour, or more than $31,000 a day if the Air Force succeeds in flying them the planned 4.25 hours per day.

With those facts in mind, it seems clear to me that utilization of this expensive aircraft in carrying routine channel cargo is gross mismanagement of an expensive piece of military hardware which was built and paid for to perform a completely different mission. The C–5 is being needlessly used up in an effort to effect short term illusory savings. However, this policy, if continued, will result in massive new long term expenditures for new aircraft long before the MAC fleet should have been worn out.

Mr. President, the C–141 starlifter, the backbone of the MAC force, which has been a highly successful aircraft designed to meet the needs of the military in an emergency or war time situation, is also being foolishly overutilized and therefore worn out at a rate far in excess of normal needs.

While these aircraft have a service life of 30,000 flying hours, they will nonetheless be worn out at an excessive rate if current Air Force plans prevail. Clearly, it would be more economical to keep these aircraft in reserve, utilizing them only at a sensible rate to maintain their crew proficiency and state of readiness.

As to surge capability, it is obvious that the larger the number of hours flown regularly, the smaller the number of hours remaining for expanding operations. If any proof were needed, the very limited ability of MAC to expand its operations in the past few months clearly shows that its surge capability is reduced by its excessive commitment to routine cargo operations.

COSTS OF THIS PROGRAM AND THE "40-PERCENT SET ASIDE"

I wish to emphasize that this bill provides that, to the greatest extent practicable, all Government and military routine channel international cargo must be moved on the Nation's civil air carriers. However, the committee recognizes that a variety of schemes and ruses could be used to nullify the spirit of this legislation, resulting in the same pattern of unsatisfactory cooperation as we have witnessed in the past several years. For this reason, the committee decided that some minimum statutory level must be established to insure that the Department of Defense in particular continues to provide adequate routine cargo to the civil air carriers.

RATIONALE FOR SELECTION OF 40 PERCENT MINIMUM ALLOCATION IN CONNECTION WITH S. 1821—ALLOCATION OF CIVIL-ELIGIBLE CARGO TO CIVIL CARRIERS

While any percentage figure may be regarded as somewhat subjective, there are several measures of reasonableness. First, the amount of cargo generated at the 40-percent level is a reasonable match with available civil and military capacity. Second, it will still leave room for expansion in the civil fleet in the event of an emergency. Third, it will also provide a reasonable level of cargo for MAC to haul on concurrent training missions.

Many percentage figures were considered during the drafting of the legislation. Seventy-five percent was initially considered, and the bill, as originally submitted, contained a 50-percent minimum. After considerable dialog with the Department of Defense relative to their ability to transport civil-eligible freight during training missions, the 50-percent minimum was further reduced to 40 percent by the Senate committee in recognition of available Air Force capability with their C–141 and C–5 fleets.

The establishment of a percentage figure will resolve one of the principal deficiencies in our present MAC/CRAF system. As presently structured, the demands placed on the airlines can fluctuate from zero to almost any amount of cargo without advance notice or planning. This leaves the airline no ability to reasonably schedule either equipment or crews and, certainly, no basis for long range planning in terms of aircraft acquisition. This latter fact directly impacts, of course, the carrier's ability to modernize its CRAF-eligible cargo fleet. An assured 40-percent allocation would provide the airlines with a meaningful level of traffic for planning purposes and would also tend to stimulate development of advanced cargo aircraft. A lesser percentage would probably be ineffective in both of these areas.

The whole idea of CRAF is based on a partnership or sharing concept between the military and civil branches of aviation. The civil carriers of this country have been willing to commit their aircraft to national defense under the CRAF program, on the basis that their participation will entitle them to peacetime DOD business. In addition, the peacetime business enables them to maintain a state of training and readiness for emergency call-up. It has been maintained by some that utilization of the passenger capability would achieve this objective. This is unrealistic, inasmuch as the major deficiency for an emergency situation is cargo rather than the passenger capability. To be ready for massive cargo moves during an emergency, a reasonable level of cargo must be available to exercise the system during nonemergency periods. A 40-percent minimum is the least that will meet this test.

Mr. President, while the enactment of this bill, without a reduction in MAC flying hours, will result in some increase in current expenditures by the Department of Defense, more importantly the bill will, result in long-range savings a good many times greater than the current cost increase.

One of the fallacies of the Air Force position on this bill is that the Air Force takes into account only actual out of pocket costs or direct operating costs, while ignoring the enormous costs of depreciating the MAC aircraft at a rate much faster than is necessary.

Any businessman knows that depreciation of capital equipment—in this case aircraft—is as an important and meaningful a cost as direct cash outlays. Because some time in the future the worn out equipment will have to be replaced by new equipment requiring a vast new capital investment. At some point in the future the Air Force will come to the Congress asking for funds for the development and purchase of new MAC aircraft—to replace aircraft that will have been worn out needlessly early if the Air Force continues its wasteful policy of over utilization. Despite this simple law of economics the Air Force chooses to completely ignore and even obfuscate the tremendous costs relating to depreciation which are being incurred under its present policy. It is our intent not to increase the cost to the Government for moving military cargo, but to reduce it and I shall point out how this bill will achieve that end in a moment.

The Air Force has submitted estimates of the increase in current expenditures that would result from increased use of civil carriers for routine cargo movements. These estimates relate to costs involved if 40 percent of MAC's cargo traffic was moved on civil carriers.

The Air Force estimates, based on current CAB rates and current projected tonnages for fiscal year 1973, that if 40 percent of total DOD international cargo was consigned to civil carriage it would result in additional payments to the civil carriers of $41.90 million over that now programed.

Because the volume of DOD international cargo varies significantly from year to year and because unforeseen contingencies which may arise creating additional airlift needs, it is not possible for the committee to estimate the costs of the 40 percent "set aside" for periods beyond the present fiscal year.

The committee has attempted to calculate the net Government cost of the 40 percent "set aside" program in conjunction with a reduction in MAC flying hours consistent with the greater reliance on the civil air carriers, MAC utilization rates could be cut from the fiscal year 1972 rate of 4.25 hours per day to to 3.60 hours per day at a savings in direct operating costs of $22.4 million in fiscal year 1973. This savings when deducted from the increase in payments to the civil air carriers results in a net cost increase of $19.5 million for fiscal year 1973.

As explained in more detail above, the committee is convinced that present levels of utilization of MAC aircraft are far in excess of those needed for training and readiness maintenance. This means the surge capability of MAC would be increased if current utilization rates of its aircraft in routine cargo movements were reduced. It also means the C–5A and other critically important high-priority logistical aircraft are being subjected to needless mechanical wear and structural fatigue. Experience with the C–5A thus far indicates that it is very unwise indeed to use up such lifespan as it may have in carrying routine cargo.

Mr. President, the committee has calculated the tremendous savings to the Government which would accrue if the MAC flying hour program was reduced by a modest 15 percent, thus giving the civil carriers an opportunity to carry at least 40 percent of the routine cargo traffic.

A 15-percent reduction in the planned flying hour program for the C–5 aircraft would result in depreciation-cost savings of $52,425,000. Similarly, a reduction of 15 percent in the planned flying hour program for the C–141 will yield significant savings. For example, this small reduction in flying hours will yield $5,590,000 in savings each year. Mr. President, these are real savings—they will result in a greater lifespan for our military cargo aircraft and will postpone the day when Congress will have to appropriate new funds for aircraft to replace the worn out C–141's and C–5's.

Taking into account these enormous savings that may be achieved by enacting this bill, I have calculated that rather than costing the taxpayer $41.9 million additional each year, we will actually save the taxpayer $38,515,000 each year.

Mr. President, I ask unanimous consent to have printed in the RECORD a table indicating how these calculated savings will be achieved.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REDUCED DEPRECIATION OF MAC MILITARY AIRCRAFT IF 40 PERCENT OF MAC CARGO WERE TRANSPORTED IN COMMERCIAL AIRCRAFT, FISCAL YEAR 1973

	C–141 (234)	[1] C–5A (60)
1. Cost/unit (thousands)	$6,251	$57,000
2. Service life (hours)	30,000	7,500
3. Depreciation/hours of use	$208	$7,000
4. Cargo shifted from military aircraft to commercial aircraft to reach 40 percent (million nautical ton miles) [2]	253.1	236.5
5. Reduced MAC military aircraft requirement (hours)	26,925	6,898
6. Saving in depreciation (fiscal year 1973 (thousands)	$5,590	$52,425
7. Total saving in depreciation fiscal year 1973 (thousands)		$58,015
8. Saving in industrial fund cost from reduced flying (thousands)		$22,400
9. Total saving from reduced flying (thousands)		$80,415
10. Less increased payments to civil carriers (thousands) [2]		$41,900
11. Net saving to DOD (thousands)		$38,515

[1] Assumes average of 60 C–5A's used in moving channel cargo in fiscal year 1973.
[2] Derived from Air Force data submitted to the committee.

Note.—(Assumes cargo shifted is allocated between C–141's and C–5A's in proportion to the cargo capability of the respective fleets).

Mr. CANNON. Mr. President, in addition, the cargo capable aircraft in the Civil Reserve Air Fleet provide a strategic airlift capability over 1½ times as great as the cargo capability of MAC's entire fleet of 234 active C–141's. Everyone, including the Air Force, agrees that this CRAF capability is essential for defense purposes. Everyone, including the Air Force, agrees that this capability will diminish unless the civil carriers can be assured of a substantial amount of DOD international cargo. However, the Air Force is unwilling to provide these assurances and has no other plans for replacing this essential defense capability. It is the view of our committee that the

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strategic airlift capability of CRAF is essential, that it must be maintained, and that the cost of maintaining it by assuring business to the civil carriers is far less than the cost of providing and maintaining equivalent capability in MAC. The long-range savings thus realized will be much larger than the increased current costs discussed above.

LEGISLATIVE BRANCH APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 13955), making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, the question is on agreeing to the amendment of the Senator from Montana, which will be stated.

The assistant legislative clerk read as follows:

On page 25, strike out beginning on line 2 all language through line 7 and insert the following:

"Funds available under this appropriation may be used for the preparation of plans for the extension of the West Central Front: *provided* however that no funds may be used for construction of said project until specifically approved and appropriated therefor by the Congress."

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Nevada (Mr. BIBLE), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Louisiana (Mr. ELLENDER), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Washington (Mr. MAGNUSON), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Texas would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 35, nays 40, as follows:

[No. 129 Leg.]

YEAS—35

Aiken	Gravel	Pastore
Baker	Griffin	Pearson
Beall	Gurney	Percy
Bennett	Hansen	Saxbe
Boggs	Hartke	Schweiker
Brock	Hatfield	Scott
Cooper	Hruska	Stafford
Curtis	Javits	Stevens
Dole	Mansfield	Taft
Dominick	McGee	Talmadge
Fannin	Metcalf	Young
Goldwater	Moss	

NAYS—40

Allen	Eagleton	Pell
Allott	Eastland	Proxmire
Anderson	Ervin	Randolph
Bentsen	Fulbright	Ribicoff
Buckley	Hollings	Roth
Burdick	Hughes	Smith
Byrd, Robert C.	Inouye	Spong
Cannon	Jordan, Idaho	Stevenson
Case	Kennedy	Symington
Chiles	Miller	Thurmond
Church	Mondale	Tunney
Cook	Montoya	Williams
Cotton	Nelson	
Cranston	Packwood	

NOT VOTING—25

Bayh	Harris	McGovern
Bellmon	Hart	McIntyre
Bible	Humphrey	Mundt
Brooke	Jackson	Muskie
Byrd, Harry F., Jr.	Jordan, N.C.	Sparkman
Ellender	Long	Stennis
Fong	Magnuson	Tower
Gambrell	Mathias	Weicker
	McClellan	

So Mr. MANSFIELD's amendment was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COTTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I wish to yield to the Senator from Maine who, I believe, has a point to clarify in the bill.

Mrs. SMITH. Will the distinguished chairman of the Appropriations Subcommittee advise the Senator from Maine if anywhere in the bill there is a complete amount set aside for food, food facilities, and personnel having to do with food in the restaurant?

Mr. HOLLINGS. Yes. There is an amount of $497,000, which is contained in the provision on page 6 of the bill and on page 7 of the committee report. That is to use so much of the $497,000 as may be needed—not to exceed $497,000, but to be expended from time to time under the jurisdiction of the Committee on Rules and Administration. For example, at the present time, of the sum of $497,000 for this fiscal year, about $205,000 has been expended so far.

Mrs. SMITH. Will the Senator advise if that includes restaurant personnel and labor?

Mr. HOLLINGS. I am advised by the committee staff that there are certain members of the management people under the Senate Office Building appropriation that are included as personnel, and that includes those.

Mrs. SMITH. That is identified as "labor"?

Mr. HOLLINGS. Yes.

Mrs. SMITH. I thank the chairman very much.

The PRESIDING OFFICER (Mr. BROCK). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13955) was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on passage of the bill. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 76, nays 0, as follows:

[No. 130 Leg.]

YEAS—76

Aiken	Ellender	Packwood
Allen	Ervin	Pastore
Allott	Fannin	Pearson
Anderson	Fulbright	Pell
Baker	Goldwater	Percy
Beall	Gravel	Proxmire
Bennett	Griffin	Randolph
Bentsen	Gurney	Ribicoff
Boggs	Hansen	Roth
Brock	Hartke	Saxbe
Buckley	Hatfield	Schweiker
Burdick	Hollings	Scott
Byrd, Robert C.	Hruska	Smith
Cannon	Hughes	Spong
Case	Javits	Stafford
Chiles	Jordan, Idaho	Stevens
Church	Kennedy	Stevenson
Cook	Long	Symington
Cooper	Mansfield	Taft
Cotton	McGee	Talmadge
Cranston	Metcalf	Thurmond
Curtis	Miller	Tunney
Dole	Mondale	Williams
Dominick	Montoya	Young
Eagleton	Moss	
Eastland	Nelson	

NAYS—0

NOT VOTING—24

Bayh	Hart	McIntyre
Bellmon	Humphrey	Mundt
Bible	Inouye	Muskie
Brooke	Jackson	Sparkman
Byrd, Harry F., Jr.	Jordan, N.C.	Stennis
Fong	Magnuson	Tower
Gambrell	Mathias	Weicker
Harris	McClellan	
	McGovern	

So the bill (H.R. 13955) was passed.

Mr. HOLLINGS. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HOLLINGS. Mr. ELLENDER, Mr. INOUYE, Mr. COTTON, Mr. BROOKE, and Mr. YOUNG conferees on the part of the Senate.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS

The Senate continued with the consideration of the bill (S. 1821) to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

Mr. CANNON obtained the floor.

Mr. SYMINGTON. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I am delighted to yield to the Senator from Missouri.

Mr. SYMINGTON. Before making my remarks I should like to ask the Senator a question or two. As I understand it, from what the Senator says—and there is no more knowledgeable Senator on the subject of air power than the distinguished Senator from Nevada (Mr. CANNON)—this will save many millions of dollars for the taxpayers if we follow his recommendations; is that not correct?

Mr. CANNON. The Senator is exactly correct. If we take into consideration the lifespan of the 141's and the C-5's, which is very short with respect to the C-5 with all the problems we have been having there, and if we take that into consideration, we know very well we will have to replace them or have to do something to them to extend their lifespan.

The net savings to the Department of Defense, based on the recommendations we have made here, to have a modest reduction in flying hours and thus extend the life expectancy of the aircraft itself, would be $38,515,000 per year.

Mr. SYMINGTON. Will the distinguished Senator yield further?

Mr. CANNON. I am delighted to yield.

Mr. SYMINGTON. It is my understanding that, with the exception of a few countries, and the only ones I know of are Greece and Iceland, all the airlines are Government-owned. In the United States, however, a percentage of any profits made by our airlines—automatically around 48 percent of such profits—is returned to the Government to help to pay the cost of Government.

If the unfortunate profit record of the airlines in recent years continues, we will either have to take them over or go to something such as the previous Lockheed loan. Am I not correct in that?

Mr. CANNON. The Senator is correct. If we are going to maintain a healthy and viable United States, we are going to have to do something to help them.

The distinguished Senator from Mississippi (Mr. STENNIS) made a statement on the floor the other day, unfortunately an erroneous statement and I want to correct him on it—I am sorry he could not be in the Chamber now—but he said in his statement, in effect, that this bill would further subsidize the aircraft carriers.

Well now, Mr. President, nothing could be further from the truth. The trunk air carriers are not subsidized and do not receive one nickel of subsidy, nor do the supplemental carriers under any of the Government business that they get from the Government. The trunk carriers have long been off the subsidy. The only carriers that get any subsidies are the local carriers, and they are not involved in this big problem.

Mr. SYMINGTON. Mr. President, will the Senator yield further?

Mr. CANNON. I am delighted to yield.

Mr. SYMINGTON. It will mean forcing our own airlines in the private sector to compete for U.S. Government business against those airlines operated by governments supported by foreign aid contributions of the American taxpayer; is that not correct?

Mr. CANNON. The Senator is correct. As I said in my remarks here, most of the foreign carriers who are basically owned by their own governments require even our people—and some of the programs are working in those countries—to use or subsidize their own carriers.

Mr. SYMINGTON. I thank the Senator from Nevada very much.

Mr. President, I ask the distinguished manager of the bill, may I proceed for 10 minutes?

Mr. CANNON. Mr. President, I yield 10 minutes to the Senator from Missouri.

The PRESIDING OFFICER (Mr. BROCK). The Senator from Missouri is recognized for 10 minutes.

MAINTENANCE OF THE CIVIL RESERVE AIR FLEET

Mr. SYMINGTON. Mr. President, let me congratulate Senator CANNON and members of the Senate Commerce Committee for bringing forward this legislation relative to the transportation of Government traffic by civil air carriers. I am glad he has pointed out in his talk today on the floor, that this will save the taxpayers around $38 million a year.

In my understanding S. 1821 has as its general objective the firming up of long-standing policies for use of U.S.-flag carriers by the Government when it has need to transport personnel and property by air. More specifically, with regard to movements of military cargo, it is required that at least 40 percent of the annual gross tonnage of all property moved internationally by the Department of Defense be transported by those U.S. carriers who are participants in the Civil Reserve Air Fleet—CRAF—program.

These air carriers are committed to provide aircraft for use of the Department of Defense in the event of a national emergency declared by the Congress or the President; and in crises which fall short of a full national emergency, they may be activated by the commander of the Military Air Command and by the Secretary of Defense. Their obligation includes the commitment of specified aircraft to the reserve fleet and the purchasing of special aircraft for cargo use.

In return, under policies supported for more than a decade by the Congress and the President, these carriers were to handle in peacetime routine defense cargo and passengers.

The Defense Department acknowledges that the continuation of the Civil Reserve Fleet is essential to the Nation's defense system, but the Commerce Committee has found that the Department's recurrent resistance to a cornerstone of these policies makes it necessary to write into the law a firm 40-percent international cargo set-aside for CRAF carriers.

The Air Force, in recent years, has diverted routine international military cargo from the commercial carriers to move it, instead, on the Military Air Command system. More and more it has come to appear that the military is running, in effect, a cargo airline, this in a sense in direct competition with the commercial carriers, a highly questionable procedure in a country built on the concept of private enterprise. According to an article appearing in the September 1970 Armed Forces Journal entitled "MAC's Private Airline?" in 1969 MAC carried 2.6 million ton-miles of cargo in its own fleet—more than half of all freight carried by all 44 scheduled and supplemental carriers on both domestic and international routes.

In its report on S. 1821, the Commerce Committee states that there has been a complete reversal of policy and that "after inducing the civil carriers to acquire substantial cargo capacity by offering them a fair share of military cargo business, the Department of Defense has simply pulled the rug out." I read from the report:

In a memorandum submitted by the Air Force to Chairman Cannon on April 7, this reversal of policy is quite clearly revealed. That memorandum states that "Efficiency and economy dictate the use of this (MAC) capability to satisfy logistic support require-

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ments." (p. 1.) It further states that "the primary role now developing for the civil air carriers is to replace the MAC aircraft on their world wide DOD logistics support route when they are diverted to carry out a wartime deployment." (p. 2) Otherwise, the only role contemplated for the civil carriers, so far as international cargo is concerned, is "to satisfy peak international cargo demands." (p. 3.)

In "The Role of MATS in Peace and War," the very first item listed under the heading "Presidentially Approved Courses of Action" reads as follows:

1. That MATS be equipped and operated in peacetime to meet approved military hardcore requirements in a general war and in situations short of general war, and such other military requirements as cannot be met adequately by commercial carriers on an effective and timely basis. (p. 5.)

The Air Force has now turned this policy on its head. It proposed to use the *civil carriers* only for "such other military requirements as cannot be met adequately" by *the military*.

There are at least three reasons why commercial carriers should transport routine military traffic in peacetime: First, emergency use of CRAF committed carriers for routine military traffic frees the military transports for the highly specialized logistics missions for which they are designed. Second, it enables the commercial carriers to become proficient in peacetime in a job they will be called upon to perform in times of national emergency. Three, movement of routine peacetime military traffic via commercial carriers provides an economic incentive to these carriers to invest in the type of aircraft most needed in CRAF.

I thought this concept with respect to the use of CRAF committed carriers for the movement of routine military traffic was clearly settled and agreed upon more than a decade ago. I remember that back in 1959, during hearings on military airlift and related matters, I joined former Senator MONRONEY in writing the following suggestions to the Secretary of Defense.

We suggested that the essential function of the Military Air Transport Service, MATS—it has since become the Military Airlift Command, MAC—should be to provide the strategic airlift required in a military emergency on an immediate readiness basis; that to insure availability of MATS aircraft in an emergency, routine logistic operations should be the responsibility of the commercial carriers; and that the MATS peacetime function should be limited to providing that portion of military air logistics which cannot be provided by commercial carriers because of the nature, size, or destination of the cargo.

The reply from the Assistant Secretary of Defense for Supply and Logistics said in substance:

First. That the Department of Defense should depend upon the commercial carriers for the routine transportation of people and things and on MATS for strategic airlift for a military emergency.

Second. That passengers could be handled on this basis immediately; and

Third. That movement of cargo would be shifted to the commercial carriers as rapidly as their capacity permitted.

After trying for many months to work with the Air Force and the civil carriers to find a solution without resorting to legislation the Committee on Commerce has become convinced that it is now necessary to enact S. 1821 in order to assure that the Air Force will adhere to established policies for major use of the civil air carriers for scheduled movements of military cargo in international traffic.

It is almost impossible to determine whether or in what amount this legislation might involve additional costs to the taxpayer. Such a determination rests on answers to several questions.

Is the amount of MAC flying schedules outside the continental United States essential for training purposes? The Assistant Secretary of Air, Philip N. Whittaker, answers that question in the affirmative and states that this is necessary in order that all MAC aircrews may be familiar with the many different parts of the world to which they might be required to operate immediately in a contingency. Defense Department thus looks upon military cargo carriage as a by-product of their training requirements.

In contrast, the Commerce Committee found that MAC's cargo operations today go far beyond the requirements of minimum training of flight crews and also found that the programed 4.25 hours per day average utilization for its long-range cargo airlift is far in excess of that needed for training and leaves too little opportunity to increase utilization when surges are needed. In fact, the committee found that only 35.9 percent of MAC's total flying hours are devoted to its three highest mission priorities while the lowest priority mission—the movement of DOD channel traffic on military aircraft—accounted for nearly half of MAC's total flying time. The committee concluded that the current flying hour program could be reduced significantly without impairing the training and exercise of the MAC force.

Using an estimated $527.7 million as representing organic costs for DOD to maintain its strategic airlift for fiscal 1972, the Air Force further estimates that a 40-percent setaside would result in total payments to civil carriers of $132 million as against $85 million that had been programed for civil air augmentation. The Air Force estimate of the increased cost of the 40-percent setaside is thus reasoned to be $47 million and this would not take into account any savings that might be effected through reduction of MAC flying hours. The committee however, estimates that if, as they believe possible, MAC utilization rates were reduced from 4.25 hours to 3.6 hours per day, there would be a MAC savings of $30.9 million in fiscal 1972. When that is deducted from the increased payments to CRAF carriers, the net cost increase of the 40-percent setaside amounts to $16.1 million; further reduced to $9.1 million when an additional $7 million in taxes returned to the Government is calculated.

On a 1-year basis then, the Defense estimate amounts to an increased cost of $47 million in contrast to the committee suggested estimate of $9.1 million. But it must be borne in mind that the original cost estimates on which those figures are based, the $527.7 million for moving MAC cargo in fiscal 1972, does not include any allowance for the original costs of the aircraft for the Reserve or MAC fleet.

So what about long-range costs to the taxpayers? Opponents of the legislation may urge that MAC's fleet of 234 C–141's and growing fleet of C–5A's being more than adequate to satisfy all peacetime military cargo airlift requirements, full use should be made of this fleet and savings will accrue to taxpayers. This contention however fails to recognize that if the Civil Reserve Air Fleet does not obtain military cargo business, these carriers cannot afford to maintain their cargo capacity which the Defense Department recognizes as essential for defense purposes. With a reduction in CRAF capacity, would we not then be asked to furnish additional DOD funds for the replacement of these aircraft? The carriers estimate net capital costs of replacement of their airlift capability at $2.6 billion, with a further cost of $4.1 million for operating and maintaining such equipment by MAC over a 10-year period—the latter figure includes additional military pay and allowances. MAC replacement and operating costs for the 10-year period would amount to $6.8 billion as against only $1.4 billion estimated cost to continue CRAF with a 40 percent set aside.

The Commerce Committee has found that long-range savings to the taxpayers should be far in excess of any increased current costs. In light of the above figures, such a conclusion is reasonable for the funds required to replace the capacity of CRAF would be heavy indeed.

Since this legislation will serve to assure orderly and consistent adherence to policies that provide for the maintenance of the Civil Reserve Air Fleet, I support the bill and urge its passage.

Mr. CANNON. Mr. President, I thank my distinguished colleague for his remarks, particularly the complimentary remarks he made about me.

I understand the Senator from California has a question he wished to ask and I yield now to the Senator from California.

Mr. CRANSTON. I thank the Senator for giving me this opportunity. I join the Senator from Missouri in praising the very effective work the Senator from Nevada has done on this measure.

Mr. President, I understand the bill applies mainly to international shipments of standard military-related aircargo, but I would like to know whether or not the bill is intended to exclude the services of an outsized cargo air carrier such as Aero Space Lines of Santa Barbara.

Mr. CANNON. The bill pertains only to the international shipment of Government and DOD cargo and the 40-percent requirement pertains only to international shipments. However, the committee is equally concerned that the Department of Defense, to the maximum extent practicable, utilize the civil air carriers for the domestic transportation of Government and DOD goods.

We hope the Department of Defense will continue to rely on carriers such as Aerospace Lines to meet its routine transportation needs not only internationally but also domestically.

Mr. CRANSTON. I thank the Senator. His answer deals with the problem I was concerned about.

Mr. STENNIS. Mr. President, I want to emphasize a defect in this bill, S. 1821, which I mentioned last Friday. This is the planned underutilization of our very expensive military cargo fleet.

The military air command operates craft to meet its cargo carrying requiremainly with C–141 and C–5A cargo aircraft to meet its cargo carrying requirements. The Government has invested some $6.8 billion for this capability. This is a significant sum of money to me and I believe to every American taxpayer.

Here are the facts: First, we are now using our military air cargo fleet at only 60 percent of capacity—as the Air Force reckons it, and this in itself is a serious matter. Second, if this bill passes, the rate of use goes down to 48 percent. Third, looking down the road to completion of the C–5A aircraft deliveries next year, the rate of use drops to 39 percent if this bill becomes law. Fourth, the utilization rate would further drop with this law to as low as 20 percent if all the C–5A and C–141 aircraft are available and the Air Force were to use the aircraft 8 hours a day, similar to that which airlines use their aircraft.

I submit, Mr. President, that approval of this bill would result in gross mismanagement of a very large investment which we have made on behalf of the American taxpayer.

At present there are 54 C–5A aircraft and 277 C–141 aircraft in the military inventory. The last C–5A is in the production line right now and will be added to the fleet next year. Completion of that program will greatly increase our cargo capability at the time when this bill would reduce our cargo requirement. This does not make sense to me—especially when I look at the money that Congress has spent to increase this capability. The fiscal year 1973 budget contains a request of over $200 million to complete the C–5A program.

The cargo workload requirements projected for fiscal year 1973 when compared to the current capability show a utilization rate of only 60 percent as the situation now stands—that is without this bill. If S. 1821 is enacted, the utilization rate immediately drops to 48 percent because the cargo will have to be shifted to commercial carriers.

In other words, our investment of $6.8 billion will be used at only 48 percent of capacity while we are asked to appropriate $41 million more dollars to transfer this cargo to commercial airlines. It does not even make good business sense to operate this way, and the facts make the true picture even worse.

When the full complement of C–5A aircraft are in the inventory next year, and if this S. 1821 is enacted, the utilization factor will drop even further to only 39 percent. I do not mean to get all wrapped up in these figures and percentages, but I do want to reemphasize my point. Many people will easily understand that when an investment of $6.8 billion is being used at 39 percent of its capability, we are not doing a very good job in managing the taxpayer's dollar.

That is not all. Mr. President, in computing the 39 percent utilization factor, I have assumed that aircraft would only be used an average of 3.87 hours per day. That is the Air Force projection. However, normal commercial cargo aircraft are flown an average of at least 8 hours per day. If the Pentagon decided to fly its cargo aircraft, when all C–5A's are delivered, the same as commercial airlines, the utilization factor would be reduced to only 20 percent if this bill becomes law.

The point is that the utilization of these military cargo planes is low already. Should this be compounded by transferring the cargo to commercial airlines at additional cost to the taxpayer? I think not.

Congress has invested about $6.8 billion in air cargo capability which must be on hand for emergency. Meanwhile, we are using it at only 60 percent of capability—even without the pending bill's ill effects.

To protect the defense dollar and the hard-pressed taxpayer who must provide it, I urge the Senate to reject S. 1821.

Mr. COTTON. Mr. President, I wish to associate myself with remarks of the distinguished chairman of our Aviation Subcommittee of the Committee on Commerce, the Senator from Nevada (Mr. CANNON), in supporting and urging passage of the bill S. 1821.

As previously noted, the purpose of the bill S. 1821 is to so amend the Federal Aviation Act of 1958 as to establish a statutory requirement with respect to the utilization of certificated air carriers of the United States in the transportation of persons or property generated by the United States. This is by no means a novel concept. For example, with respect to American merchant vessels, it is a concept which has been with us for more than 65 years with the enactment of a statute in 1904 (10 U.S.C. 2631), providing preferences to American-flag vessels in the ocean transportation of Army and Navy ". . . coal, provisions, fodder, or supplies, . . ." And, this same principle with respect to marine transportation has been extended further to be applicable to Federal officer and employee travel and to the transportation of personnel effects and automobiles.

Mr. President, what is involved here is the age-old issue of balancing the equities of promoting viable transportation facilities to meet our national needs both in peacetime and in periods giving rise to national security requirements. It is the conflict between effective utilization of the capacity of private enterprise versus that of the Government's. With respect to aviation, an attempt was made to meet this issue through the establishment of a Civil Reserve Air Fleet—CRAF—established pursuant to an Executive order of February 1951 issued by President Truman. With respect to marine transportation, it was the so-called Wilson-Weeks agreement executed in August 1954 between then Secretary of Defense C. E. Wilson and then Secretary of Commerce Sinclair Weeks. Neither of these has served to abate the built-in conflict between the utilization of Department of Defense air and sea lift capability vis-a-vis the commercial sector.

Insofar as concerns airlift capability, the problem has become particularly acute. Under the leadership of President Nixon, the requirements of the conflict in Southeast Asia have diminished substantially creating a surplus of airlift capability in the commercial sector. At the same time, the military has been expanding rapidly its own airlift capability through the development and production of C–5A aircraft. This ever-growing military airlift capability has only served to aggravate the existing problem which the Department of Defense has failed to meet effectively through administrative action, although provided an opportunity to do so by the distinguished chairman of our Aviation Subcommittee (Mr. CANNON).

Mr. President, I am aware of the argument on the other side of the coin with respect to those who would oppose the bill S. 1821. It is the thinking of some that since the Congress has funded the development of this military airlift capability, to now require by statute that a specified amount of Government-generated traffic be transported on U.S. commercial air carriers would be both inconsistent and would serve to unduly burden the American taxpayer. I—and I am sure my colleagues on the Committee on Commerce—share this concern. But, I question whether the opponents of this measure have carefully examined all of its ramifications. For example, with respect to the matter of cost, the Commerce Committee report estimates a net cost increase in the first fiscal year of the bill's application on the magnitude of $16 million which does not appear to me to be too great a price to pay for the maintenance of a viable U.S. air carrier industry.

Perhaps even more telling in this regard is the declaration of national policy which the Congress itself has approved in the Federal Aviation Act of 1958, as amended. In section 102 of that act there is imposed upon the Civil Aeronautics Board the following obligation:

(a) *The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States,* of the Postal Service, and *of the national defense;* (Emphasis Supplied)

Similarly, in section 103 the same act mandates that the Secretary of Transportation shall consider, among other things, as being in the public interest the following:

(a) *The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense;* (Emphasis Supplied)

In conclusion, Mr. President, while I share the fiscal concerns of the opponents of S. 1821, I firmly believe that we must be ever mindful of the above-quoted policy declaration which the Congress itself has enunciated. S. 1821 is, in my opinion, in keeping with this declaration of policy and I, therefore, respectively urge the favorable consideration of the bill S. 1821.

Mr. CANNON. I thank the distinguished Senator.

Mr. President, I reserve the remainder of my time.

Mr. ELLENDER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ELLENDER. Is the bill open to amendment at the present time?

The PRESIDING OFFICER. The committee amendments must be acted upon first.

Mr. ELLENDER. Mr. President, I send to the desk an amendment to which there is no objection on the part of the manager of the bill. During the consideration of the defense bill on November 23d last year, the distinguished Senator from Nevada agreed that when the bill came up for consideration he would accept an amendment that would provide that the mandatory 40-percent set-aside provision would not be effective during the fiscal year ending June 30, 1972.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. CANNON. The Senator is absolutely correct. I did agree at that time and I am willing to accept such an amendment to provide that the effective date of the bill would be July 1, 1972, to make it effective for fiscal year 1973.

If it is necessary, I ask unanimous consent that that amendment be considered in order at this time.

The PRESIDING OFFICER. Is there objection?

Mr. ELLENDER. Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read the amendment, as follows:

On page 4, line 8, after "rates" insert the following:

Provided, That this paragraph shall not be effective during the fiscal year ending June 30, 1972

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, as I just indicated, the purpose of this amendment is simply not to have the mandatory 40-percent set-aside effective until after the present fiscal year 1972, which ends on June 30.

Mr. CANNON. Mr. President, as I said, I am willing to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CANNON. I am willing to yield back my time on the amendment.

Mr. ELLENDER. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. CANNON. Mr. President, in order to be in a proper situation legislatively, I ask unanimous consent at this time that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be considered and agreed to en bloc.

Does the Senator wish that the bill as amended be considered as original text for the purpose of the amendment?

Mr. CANNON. Yes, Mr. President. I ask unanimous consent that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, I intended to offer another amendment to delete the mandatory 40-percent set-aside provision from the bill, but after reading the bill, I decided that the primary purpose of the bill is the 40-percent set-aside feature and a vote against this provision is the same as a vote against passage of the bill. The bill, aside from the 40-percent set-aside provision is a declaration of policy.

If the bill before us is adopted as written, it will increase Department of Defense cost during fiscal year 1973, $42 million. If the bill had been applicable to the current fiscal year, according to a letter I have from Mr. Packard, who was then Deputy Secretary of Defense, the total cost to the Government would have been about $120 million.

That is the reason why I obtained an agreement with the distinguished Senator from Nevada not to have the 40-percent set-aside effective during the current fiscal year.

As chairman of the Committee on Appropriations and chairman of the Department of Defense Subcommittee, I now want to express my opposition to the passage of Senate bill No. 1821.

I want to call the Senate's attention to paragraph (b) (2) of the bill which begins on line 24 of page 3 and ends on line 8 of page 4. This paragraph reads as follows:

(2) As a minimum, at least 40 per centum of the annual gross tonnage (measured in ton-miles) of all property moved by the Department of Defense by air between such places (except property that must move in military aircraft because of special military considerations which by their nature preclude the use of civil aircraft, or because of security, or because of limiting physical characteristics such as size or dangerous properties) shall be transported by air carriers participating in such program and holding such certificates to extent such carriers are available at such rates.

That, of course, is the provision of the bill which the Defense Department objects to.

This provision makes it mandatory that at least 40 percent of all Department of Defense requirements for international air cargo services shall be given to civil reserve air fleet air carriers, exclusive of cargo which is outsize or dangerous. This mandatory provision does not take into consideration the Department's total requirement for these services nor the capability of the Military Airlift Command's flight training program to meet this requirement

Mr. President, I wish to point out that in the early 1960's the Congress made a decision to equip the Military Airlift Command with modern jet transport aircraft. This decision led to the production of the C–141 and C–5A aircraft.

Mr. President, I have the responsibility to manage the Department of Defense appropriation bills recommended by the Committee on Appropriations, and when I have these bills on the floor, I am plagued with the question: Why did the committee not recommend further reductions? On this point, I have made my position clear on many occasions. I want to make as large a reduction in the pending Department of Defense budget as can be made without endangering the security of our country. However, the passage of this bill would mean that we would have to provide an additional $42 million for the Department of Defense for fiscal year 1973. I intend to discuss this point in detail later.

On July 8, 1971, former Deputy Secretary of Defense David Packard in a letter to the distinguished chairman of the Committee on Commerce (Mr. MAGNUSON) expressed the opposition of the Department of Defense to legislation of this nature. Secretary Packard stated:

Although we certainly support a healthy and viable air transport industry, and hope that it will develop more commercial cargo business as a peacetime alternative to our contingency needs, we do not believe the defense budget should be used as a medium to support the industry in peacetime at the expense of defense programs and military force readiness. Under the circumstances, we strongly oppose enactment of S. 1821 in its current form and recommend that other avenues be sought to assist the airlines in their currently depressed economic state.

I ask unanimous consent that the text of Secretary Packard's letter to the Senator from Washington be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., July 8, 1971.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: As you are aware, the Aviation Subcommittee of the Senate Committee on Commerce completed its hearings last week on S. 1821 which we understand would set aside 50% of the defense cargo moving over Military Airlift Command channels for carriage by the participants in the Civil Reserve Air Fleet program.

In our view this proposal is inconsistent with maintaining the full combat readiness of our airlift forces. Of importance also is the fact that enactment of this proposal will increase the cost of the defense programs before the Congress by at least $120 million for fiscal year 1972, although the net economic benefit to the airlines would be considerably less than this amount.

The size of our active military airlift force is determined so that it, together with the full capacity of our Reserve and National Guard airlift forces, and the capacity of those suitable U.S. civil aircraft which the Department of Transportation will allocate to the Civil Reserve Air Fleet, can meet peak contingency airlift needs. These contingency needs far exceed the Department of Defense peacetime airlift needs.

In the late 1950s, Congressional interest in modernizing our military airlift forces and making full use of available civil airlift led to a Presidentially directed study in 1960 on "The Role of Military Air Transport Service in Peace and War" which has guided our relationships with the airlines for the past ten years. In keeping with the conclusions of this study, Congress guided the Military

Airlift Command modernization into cargo and troop carrier aircraft and urged the Department of Defense to turn the bulk of its passenger transportation business over to the commercial carriers who had adequate capacity for that purpose. The practice has been for commercial carriers to meet passenger requirements and peak cargo requirements in peacetime, with wartime commitments to move both passenger and cargo traffic. The airlines have been told repeatedly that the military would not provide peacetime scheduled passenger travel but would, as a product of wartime readiness training, move defense cargo.

As the Vietnam situation developed, we experienced a progressive demand for airlift of cargo which exceeded the capability of the available airlift force, even with the new C–141 aircraft operating 8 hours a day. The airlines participated extensively in this contingency airlift requirement; however, at the same time they were cautioned repeatedly of the decline in military cargo business which would be experienced as the activity in Southeast Asia came to an end. The carriers have also been told specifically ever since 1963 that they should not buy more aircraft based upon anticipated defense business, but only if the growth of their commercial business justified such procurements.

As defense requirements for cargo airlift have reduced, the Air Force has reduced the active Military Airlift Command's daily flying hour rate per aircraft from 8 to 4.25 hours. The total amount of flying currently scheduled for Military Airlift Command aircraft outside the continental United States is considered necessary for training replacement aircrews, for training with Army and Marine forces, and to assure that all the Military Airlift Command crews may be familiar with operating procedures for the many different parts of the world in which they might be required to operate immediately in a contingency. It is during this system readiness training that the Department of Defense makes economic use of the available military airlift by transporting defense cargo throughout the world.

Although current projections of Department of Defense air cargo movement requirements indicate that only limited amounts of cargo service will be needed from the civil carriers, the Department's total business with the civil air carriers procured through Military Airlift Command remains substantial. During the peak year of 1968, about $740 million was paid to the airlines under MAC contracts and for mail service paid for by MAC. The corresponding figure for Fiscal Year 1972 is estimated at $440 million, the majority of which is for the movement of Department of Defense passengers. The difference between these two sums is accounted for largely by the reduction in Southeast Asia cargo airlift needs.

In our view, the proposed legislation is an outgrowth of the generally depressed air carrier industry and the progressive reduction in defense cargo movements as the United States phases out of SEA.

If the proposed legislation were enacted into law, the Fiscal Year 1972 DOD budget would be insufficient, by at least $120 million, to comply with its provisions. As indicated above, the net economic benefit to the airlines would be considerably less than this amount. The airlines would incur substantial operating costs in performing the additional business. Thus, the improvement in the industry's profit and loss position by reason of the additional DOD business would be much less than the $120 million added cost to the Government. A comparable improvement in the industry's financial position could be achieved at a much lower cost to the Government by a direct subsidy or a temporary rebate of taxes or of airline payments to the Government for services.

The implications of the proposed legislation upon the war readiness posture of our military forces would become progressively more severe if military air cargo movement requirements continue to decline in the next few years. The only alternatives to increased expenditures for readiness training would be a reduced ability to respond immediately and effectively to demanding contingency airlift requirements, or a diversion of funds from other important defense programs. Neither alternative can be justified by the Department of Defense.

The 4.25 flying hour per day utilization rate programmed for the training of our Military Airlift Command aircrews amounts to 42.5 flying hours per month per crew. A typical airline crew flies nearly twice this much. In this amount of time the Military Airlift Command crews must not only maintain their training to perform missions comparable to airline missions on a worldwide basis, but must also maintain their training for a variety of special military missions such as airdrops, operations at semi-prepared runways, and operations at airfields without normal ground handling equipment. Additionally, the 29% per year turnover in crew personnel experienced by the Military Airlift Command is unknown in any established airline.

In addition to the foregoing considerations, we believe the legislation would negate our continuing efforts to encourage the transition of the Services' surface based logistics systems to a greater reliance on air transportation with lower stock levels. This unfortunate result would occur because enactment of this legislation would force a substantial increase in the rates charged to the Services for air cargo transportation, and any increase in the use of airlift is directly dependent on the cost of that service.

Although we certainly support a healthy and viable air transport industry, and hope that it will develop more commercial cargo business as a peacetime alternative to our contingency needs, we do not believe the defense budget should be used as a medium to support the industry in peacetime at the expense of defense programs and military force readiness. Under the circumstances, we strongly oppose enactment of S. 1821 in its current form and recommend that other avenues be sought to assist the airlines in their currently depressed economic state.

Sincerely,

DAVID PACKARD.

Mr. ELLENDER. In recent years, as I have stated, the Congress has provided over $2 billion to the Air Force for the procurement of a fleet of approximately 275 C–141 jet transport aircraft, and everybody is familiar with the fact that we are in the process of acquiring a fleet of 81 C–5A jet transport aircraft which will cost in excess of $4 billion. These aircraft must be operated at a reasonable rate to maintain combat readiness, and common sense dictates that they be operated efficiently, which is to meet, in part, the international air cargo requirements of the Department of Defense.

In a letter to the distinguished chairman of the Committee on Armed Services (Mr. STENNIS) dated February 22, 1972, the Secretary of the Air Force, in commenting on this bill, stated:

As reported, the bill would establish a fixed rule that at least 40% of DOD's international air cargo which is physically suitable for civil aircraft be transported in civil aircraft without regard to other considerations. This would have the following effects:

Increase annual cost to the taxpayer. In FY 1973 this could be as much as $42 million.

Force Military Airlift Command (MAC) to fly empty or with inefficient loads in order to give commercial carriers more cargo.

Force DOD to buy commercial airlift which would not otherwise be needed. This would increase the ton mile cost of airlift to the DOD user.

Inhibit adequate training of the MAC for its wartime mission.

I ask unanimous consent that the Secretary's letter to Chairman STENNIS be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 22, 1972.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: You will recall that I wrote to you on November 3, 1971, expressing my strong objections to the enactment of S. 1821 which had been favorably reported by the Senate Committee on Commerce, with certain amendments. As the Executive Agent of the Department of Defense for airlift I must reiterate the opposition of the Department of Defense and the Air Force to the enactment of this legislation.

As reported, the bill would establish a fixed rule that at least 40% of DOD's international air cargo which is physically suitable for civil aircraft be transported in civil aircraft without regard to other considerations. This would have the following effects:

Increase annual cost to the taxpayer. In FY 1973 this could be as much as $42 million.

Force Military Airlift Command (MAC) to fly empty or with inefficient loads in order to give commercial carriers more cargo.

Force DOD to buy commercial airlift which would not otherwise be needed. This would increase the ton mile cost of airlift to the DOD user.

Inhibit adequate training of the MAC for its wartime mission.

The Air Force has consistently recognized the importance of the commercial airline industry to national defense. This is attested by the fact that in the past ten years the DOD support of the industry has exceeded $7 billion. In FY 1973 the total estimated DOD expenditure for military and commercial airlift will amount to approximately $900 million. Of this amount, $560 million, more than 62% of the total expenditure, will go to the civil air carrier industry.

In addition to the airlift of passengers, mail, and domestic cargo which is virtually all carried solely by the commercial air carriers, we are presently transporting between 25 and 30% of DOD's international air cargo on commercial aircraft. On the basis of present estimates, this will amount to about $120 million in FY 1972 and over $92 million in FY 1973. We feel that these amounts are reasonable and equitable when viewed in the context of the total airlift dollars.

If the bill is enacted in its present form, it will not only distort what we feel is a proper balance between the military and civil workload but would in effect force MAC to fly empty or with inefficient loads. It would seem inexcusable if MAC were required to fly empty or partially loaded aircraft to maintain a constant state of readiness while at the same time funds are expended to procure commercial airlift.

A collateral ramification of forcing DOD to buy unneeded commercial airlift is that it will raise the ton mile cost to the DOD user significantly. Commercial airlift procured by MAC is purchaesd at set rates. Since MAC airlift capability is a by-product of readiness training, the cost is considerably less than that procured from the commercial carriers. DOD is trying to encourage the military departments to make more use of airlift in order to reduce total logistics costs. However, an increase in airlift costs may work in opposi-

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tion to both this goal and the intent of the bill if the departments make less cargo available for airlift.

In summary, there appears to be no basis for a judgment that substantial benefits would accrue to the taxpayer upon the enactment of S. 1821. Nor would national security interests be furthered because the airlines would not necessarily buy any new modern cargo airlift but could handle the additional cargo afforded by this bill with their present fleet. To the contrary, significant added costs to the taxpayer, clearly unnecessary, appear inevitable should the proposed legislation be adopted. Accordingly, I solicit your assistance to prevent enactment of S. 1821.

Sincerely,

ROBERT C. SEAMANS, Jr.

Mr. ELLENDER. The pending Department of Defense budget for fiscal year 1973 includes approximately $309 million for international air cargo requirements. Of this total requirement, approximately $216.9 million can be provided by using the capability generated by the required operation of the Military Airlift Command's C–141's and C–5A's to maintain combat readiness. The balance, $92.9 million, will be obtained by contract from the commercial carriers.

However, if the pending bill is enacted in time to be effective on July 1, 1972, we will have a different situation. The mandatory 40-percent set-aside for the commercial carriers will require approximately $134.8 million, and $216.1 million will still be required to operate the C–141's and C–5A's to maintain combat readiness, giving a total of $350.9 million—an increase of $41.9 million. This is the fiscal year 1973 increase of $42 million referred to by the Secretary of the Air Force in his letter to Chairman STENNIS.

The Congress has seen fit to authorize the production of a fleet of C–141's and C–5A's which will cost the taxpayers of this country over $6 billion. As I stated earlier, these aircraft have to be operated at a reasonable rate in order to maintain combat readiness. For the Congress now to enact legislation that will require these aircraft to fly empty or with inefficient loads, with a resulting additional cost of over $40 million annually, shows complete disregard for the interests of the American taxpayer.

In his letter to Chairman STENNIS, the Secretary of the Air Force pointed out that, during the past 10 years, the Department of Defense has procured from the commercial airline industry services costing in excess of $7 billion. During fiscal year 1966, the Department of Defense spent $841.3 million for airlift, of which $622.9 million—74 percent—was obtained from the commercial carriers; during fiscal year 1969, the Department of Defense spent $1,255.5 million for airlift, of which $872.1 million—69.5 percent—was obtained from the commercial carriers; during fiscal year 1971, the Department of Defense spent $1,069.5 million for airlift, of which $744.4 million—69.6 percent—was obtained from the commercial carriers. The current estimate for fiscal year 1972 is a total of $1,103.7 million for airlift, of which $789.8 million—71.5 percent—will be obtained from the commercial carriers. The budget for fiscal year 1973 is based on a total of $876.9 million for airlift, of which $554.2 million—63.2 percent—will be obtained from the commercial carriers.

Mr. President, legislation may be required to provide a subsidy for these commercial carriers. However, if this is true, I submit that the proper way to grant this subsidy is not a statutory set-aside of 40 percent of the Department of Defense's international air cargo requirements. This form of subsidy is needlessly wasteful and should not be a charge against the Department of Defense.

Mr. President, since receiving these letters from the Defense Department, which I have placed in the RECORD, I further considered the matter, and I wonder what the position of the executive branch of Government might be with respect to this bill.

On March 23, I requested the Honorable George P. Shultz, Director of the Office of Management and Budget, to give me the views of his office on this legislation.

Yesterday, Mr. Shultz replied and stated:

> On February 22, 1972, the Secretary of the Air Force expressed his opposition to this bill in a letter to Senator Stennis.

Mr. President, this is the letter that I referred to earlier in my comments and included in the RECORD.

To continue, Mr. Shultz went on to state:

> For the reasons given in the Secretary's letter we recommend against enactment of S. 1821.

Mr. President, it is clear that the executive branch of the Government does not favor the enactment of this bill.

I ask unanimous consent that my letter of March 23 and Mr. Shultz' reply of March 27 be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MARCH 23, 1972.

MR. GEORGE P. SHULTZ,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. SHULTZ: The Senate is scheduled to consider Senate Bill 1821 next Tuesday, March 28. I am sure you are aware of the fact that this bill includes a provision making it mandatory that the Department of Defense obtain 40% of its international air cargo services from commercial carriers. It is my understanding that this could result in an increased cost of such services of as much as $42 million for fiscal year 1973.

I would appreciate having the views of the Office of Management and Budget on this legislation prior to its consideration next Tuesday.

With kindest regards and best wishes, I am,

Sincerely,

ALLEN J. ELLENDER,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 27, 1972.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of March 23, 1972 requesting the views of the Office of Management and Budget on S. 1821 a bill, "To amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States."

On February 22, 1972, the Secretary of the Air Force expressed his opposition to this bill in a letter to Senator Stennis. A copy of the Secretary's letter is attached for your consideration. For the reasons given in the Secretary's letter, we recommend against enactment of S. 1821.

Sincerely,

GEORGE P. SHULTZ,
Director.

Mr. ELLENDER. I yield the floor.

Mr. YOUNG. Mr. President, I wish to join in the position taken by the distinguished chairman of the Senate Appropriations Committee.

Unquestionably, the U.S. airlines operating overseas are getting into deep financial trouble. This is understandable, because most foreign airlines are operated by the governments themselves. There is a big difference in salaries paid by the various airlines. For example, a pilot of a 747 on a U.S.-operated airline is paid approximately $61,000 a year. The salary of a 747 pilot for a big overseas airline such as BOAC is only about half that.

Many foreign countries now are charging our airlines an overflight fee for flying over their country.

There are many differences such as this which are causing our airlines to get into more and more financial trouble.

It is much like the situation with respect to our merchant marine. We are now subsidizing our merchant marine in direct payments of hundreds of millions of dollars a year. For the past several years, 50 percent of the food for peace that we sold to other countries—agricultural commodities—had to be carried in U.S. bottoms. In almost every instance, the costs for foreign bottoms are far less than our own.

I am not opposed to helping our airlines, but I do not think they should be subsidized by the Department of Defense, particularly in legislation such as this, which is permanent. This 40 percent is not for 1 year. It is permanent legislation.

In the Appropriations Committee, we usually have a formula each year of a percentage of Navy construction and repairs to be done in Navy shipyards and a percentage to be built and repaired in privately owned shipyards. I would not object to something like this for cargo carried by airlines.

The jurisdiction certainly belongs to the Appropriations Committee or the Armed Services Committee. If we were to adopt any kind of program such as this, it should be on a year-to-year basis. Forty percent extended permanently is a wrong approach to a difficult problem.

I think the airlines are being very unreasonable in making a request for this kind of subsidy. It is just as unreasonable as subsidizing the merchant marine in the food-for-peace program. We have enough problems getting the amount of money in a defense bill to provide necessary military security for this country.

So, Mr. President, I have to oppose vigorously the adoption of this kind of legislation. I point out again that the Armed Services Committee or the Appropriations Committee properly has jurisdiction of a matter such as this.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, for 3½ years I have fought to bring commonsense to bear on the question of military cargo airlift. Year after year, my staff and I have probed for concealed facts, painfully dragged figures out of the Pentagon and analyzed them in attempts to persuade the Congress to stop, look, and listen before charging off in a mad and ruinously expensive effort to increase the capacity of the Military Airlift Command beyond all reasonable need. We have worked as hard as we know how to head off the worst effects of the utterly disastrous and scandalous procurement of the C–5A transport plane.

Mr. President, we lost those fights. All our attempts to get the facts on the C–5A rip-off as it developed were resoundingly defeated. Billions of dollars of the taxpayers' money have been spent for C–5A airplanes which, according to the Comptroller General, cannot fly their originally intended tactical mission of landing heavy equipment on rough airfields at the FEBA, the forward edge of the battle area. However, we are told that Fat Albert, as the C–5A is known, can be flown from one smooth airport to another provided it is done carefully. Therefore, I think we may assume that we have at least added to the Military Airlift Command's capability to carry routine channel traffic cargo in return for the tragically wasteful investment of $5 billion of hard-earned taxpayer dollars.

Even without the C–5A, MAC's cargo carrying capacity is enormous. MAC's C–141 fleet alone could easily transport MAC's necessary ordinary-sized cargo for the foreseeable future, not only in peacetime, but also during a sizable war. One C–141 airplane carrying 30 tons of cargo at an average block speed of 400 miles an hour would carry 12,000 ton-miles per hour or 4,380,000 ton-miles per year flying an average of only 1 hour per day. If our fleet of 234 C–141's flew with similar loads and speeds, the fleet would carry more than 1 billion ton-miles of cargo per year for each hour of daily utilization.

Now, the fact is that our C–141's are vastly under utilized, but if they were used fully, the fleet could carry all the military cargo airlifted in 1961 flying only 1.5 hours per day. In 1968, at the peak of our Southeast Asia airlift effort, MAC and its contractors hauled just under 7.5 billion ton-miles of cargo. This level of business would require a fully utilized fleet of C–141's operating an average of 7.5 hours per day. The C–141's have already demonstrated a capability of operating at this level, flying an average of 7.8 hours per day in 1969 and 7.2 hours per day in 1970.

Commercial companies operating modern jet aircraft in similar service have achieved aircraft utilization rates of more than 14 hours per day over a whole year. Although MAC has not yet demonstrated such a high daily utilization rate, I am confident they could if called on to do so. The Air Force's policies and habits in buying airplanes leave much to be desired, but our MAC pilots and ground crews are magnificent. They are among the best men our Nation has produced, and I am confident they could duplicate the efficiency of commercial cargo airlines if required. If they could, the C–141's alone could support the equivalent of almost two Vietnams.

The C–5A's, costing more than $60 million each, are now coming into service. By next year all 79 of them should be in MAC's hands. Each C–5A has been highly advertised as the equal of three C–141's in cargo carrying capability. If this is true, if Fat Albert can be made to work, our C–5A fleet of 79 airplanes should be equal to 237 C–141's, which would almost double MAC's airlift capacity. This would mean that MAC alone, without any cargo help from contractors, could support almost four Vietnams, an expeditionary force of more than 2 million men in Southeast Asia. Because of shorter distances and extensive prepositioning many more men could be supported in a European war.

While this vast increase in MAC cargo capacity is taking place, the legitimate requirements for airlift is declining sharply. Whereas about 7.5 billion ton-miles of cargo was airlifted at the peak of the Asian war, volume declined to 4.9 billion ton-miles in 1971. Legitimately, this volume should decline further, hopefully receding to about the 2 billion ton-mile per year level of pre-Vietnam years. Unfortunately, the Air Force does not plan to let this reduction take place if they can help it. They are scrambling frantically to find enough cargo to fly both the C–141's and C–5A's 4.25 hours per day. Their plans were revealed in the following exchange between Senator CANNON and Assistant Secretary of the Air Force Phillip Whittaker during the Committee on Commerce hearings on S. 1821:

> Mr. WHITTAKER. Eventually we hope to get to the 4.25 level, the same as for the C–141.
>
> Senator CANNON. Does this mean that you are going to be hunting additional cargo to carry in the C–5 when you increase that hourly utilization?
>
> Mr. WHITTAKER. Absolutely. That is one of the reasons why we are trying to be just as friendly to the Army as we know how to be.

In other words, having conned the taxpayers out of $5 billion for unneeded C–5A's, the Air Force is now energetically drumming up business to try to justify their action. This will produce fresh horror stories of military waste. GAO investigators have told my staff that MAC is now hauling large amounts of household goods—furniture and the like—in their efforts to generate new business.

Other ridiculous examples abound. I recently received a package of documentation dealing with a supposedly urgent requirement for an item to be brought sole-source for hurry-up airlift to the troops in Vietnam. To facilitate this procurement, which would not wait on normal competitive processes, a page from the sole-source supplier's catalog was attached to the two-page Government order form. The page was clipped from a Sears catalog. It pictured and described the line of toilets—ordinary bathroom commodes—offered by Sears. As usual, Sears offered a variety of models ranging through "good, better, and best" qualities. The "good" model appeared to be a perfectly serviceable device for the "low, low" price of $27.95. Did our guardians of the rockbottom, bare-bones Pentagon budget buy this model? You know they did not. Nor did they choose from the "better" models offered at $36.95, $41.95, $44.95, $77.95, $82.05 and $94.95. Our stewards of the public purse chose the top of the line, the "best" model at $104.95. It was baby blue. It was described as "ideal for carpeted baths," and promised "silent as a whisper operation."

Justification for the urgent airlift of the baby blue silent as a whisper toilet was supported by three pages from Air Force Manual 67–1. Those pages were attached to the documentation package, and had applicable sections marked for emphasis. The section authorizing this transaction began by describing "item(s) required for immediate end use."

Mr. President, the enormous overcapacity already evident in the MAC fleet is wasting huge sums and will get worse as the Pentagon's bureaucracy attempts to find things to haul in order to justify their disastrous purchases. Now we are being asked to compound the overcapacity problem by requiring that MAC contract out 40 percent of its cargo airlift. This is the principal requirement of S. 1821.

Proponents of this bill claim the measure will save money. They point to the lower ton-mile cost of commercial cargo carriage as compared to MAC when full comparable costs of MAC operations, including depreciation, are considered. They are right regarding comparable total costs, and this would have been an excellent argument to make in 1965, in 1968, 1969, 1970, or even 1971 when some of my colleagues and I were pleading vainly for an intelligent, orderly and balanced analysis of the C–5A investment decision. We would have welcomed the support of the Senators and industry lobbyists who are now promoting S. 1821 so energetically. Tragically, they were silent then, and now it is too late to undo this damage to the taxpayers. The chief lobbyists for S. 1821, the Air Transport Association, should have made their case when the investment decisions were being made, or at least before so much money had been spent. Billions have already been spent in unnecessary expansion of the MAC fleet. Most of the money is gone. Now the Pentagon can make comparisons on an out-of-pocket basis which show that it is cheaper to haul

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cargo in Air Force planes than to contract it out. From now on they can make a case for ignoring the huge sunk costs.

Supporters of S. 1821 are claiming that they were misled on the intended use of the C5–A. Some say they were led to believe it would be used only for hauling outsize cargo. They were not paying attention. They should have listened to the debate in this Chamber in 1969. The C–5A was pictured as the great freight train in the sky, hauling everything from Cadillacs and Volkswagens to lobsters in addition to a complete range of military cargo and personnel. The able chairman of the Armed Services Committee made it perfectly clear that the C–5A's would replace the aging C–124's and C–133's in the MAC fleet. Both the C–124 and the C–133 were used to meet the general airlift requirements in addition to carrying outsized cargo.

Supporters of S. 1821 have made a strong point of citing a September 3, 1971, letter from the Comptroller General to the chairman of the Committee on Commerce. Lobbyists claim this letter "validates" a need to expand the Civil Reserve Air Fleet, pointing to a passage reading "it has been estimated that 85 additional aircraft of the so-called wide-bodied jet cargo types are needed in the reserve fleet to satisfy current planning for airlift in wartime or in the event of other major contingency."

Mr. President, the GAO did not make such a determination. They have no figures that support such an assumption. According to explanations by the GAO relayed to me, the Comptroller General was merely reporting assertions made by others in his letter to the chairman of the Committee on Commerce.

Asked directly to state their stand on mandatory airlift contracting, GAO airlift specialists told my staff flatly, "We're against it."

Despite my criticism of the past inaction of the Air Transport Association and their members and supporters, I can sympathize with their plight. They believe they have been flim-flammed by the Air Force. They think they have been taken. They are not alone. We have all been played for suckers, and the taxpayers are footing the bill. We should resolve never to let it happen again, and should start work immediately on a comprehensive study of what our legitimate airlift requirements are likely to be—excluding bathroom fixtures, of course—and how they may be met most economically. I would welcome the support and assistance of the Air Transport Association in such an economic study. I believe a sound economic study would be invaluable in guiding our next big investment decision on military cargo planes.

However, the mandatory contracting provisions of S. 1821 are not a proper response to the C–5A heist. S. 1821 is an airborne leaf-raking project. With MAC's present growing organic capability, coupled with a declining legitimate requirement for military airlift, mandatory contracting will stimulate further wasteful aerial busywork, and will encourage such nonsense as airlifting furniture, toilets, telephone poles, and concrete blocks, all examples of waste which have been documented or witnessed by my staff.

S. 1821 should be resoundingly rejected.

Mr. PEARSON. Mr. President, I wish to associate myself with the remarks of my chairman, the distinguished Senator from Nevada (Mr. CANNON). The statement he has made in support of S. 1821 is complete, comprehensive, and thoroughly fair. The case for immediate passage of this legislation, without crippling amendment, is compelling. The arguments advanced by opponents of the bill have been met.

The plain truth is that the Military Airlift Command—MAC—operates an airline, at public expense, in competition with U.S. air carriers. Nearly half of all MAC flying hours are devoted to the routine transportation of air cargo. This pattern of MAC utilization is in derogation of express congressional policy, and must be reversed by express congressional action.

Mr. President, among other things the pending bill would require the Department of Defense to move not less than 40 percent of its international air cargo by civil air carriers participating in the Civil Reserve air fleet program. This provision has been termed "needlessly costly" by spokesmen of the Department of Defense. The contrary, of course, is true. The enactment of S. 1821 would promote a significant cost savings to the taxpayer by insuring a longer useful life for each of the aircraft in the MAC fleet.

The knowledgeable taxpayer is acutely aware that vast sums of money must be appropriated for procurement of military hardware. The C–5 aircraft, for example, is costing the taxpayers $57 million per copy—the most expensive production model ever procured. Under the current Air Force plan for utilization of the C–5, these aircraft may be worn out after only 4.8 years' service with the Military Airlift Command. The Congress and the American taxpayers, in that eventuality, will be faced all too soon with the obligation to allocate additional billions for new, replacement aircraft to maintain the combat readiness of the MAC.

Mr. President, the distinguished chairman has enumerated the depreciation cost savings which will accrue to the Air Force under the terms of the pending bill. This is an occasion when Congress must legislate to conserve military hardware from overuse in routine, nondefense related missions. This is an occasion when Congress must legislate to insure that long-term cost savings are achieved by prudent management policies today.

The committee report on S. 1821 shows that net additional cost to the Government in fiscal year 1972 should not exceed $9.1 million, a tolerable immediate increase when the long-range cost savings in procurement of replacement aircraft is considered.

Mr. President, there is no question that the Civil Reserve Air Fleet carriers have acquired a substantial cargo-carrying capacity to fulfill their obligation to the national defense. The current CRAF capacity is more than 1½ times as great as all the C–141 aircraft in the MAC fleet. The CRAF carriers cannot be expected to maintain this vital defense capability without assurances that they will secure a reasonable proportion of routine international military air cargo during peacetime.

The pending bill would establish a minimum requirement upon the Department of Defense: At least 40 percent of all international military air cargo must move by civil air carrier under its terms. This requirement, Mr. President, is not unreasonable. In fiscal year 1962, the civil air carriers were allocated 40.5 percent of the military air cargo. In fiscal 1966, they were allocated 30.1 percent. During the next fiscal year, the Air Force estimates that the CRAF carriers will be allocated 27 percent of the total international air cargo of the Department of Defense.

But in fiscal year 1971, the civil air carriers received only 8.9 percent of DOD's international air freight. No responsible manager of a civilian air carrier could be expected to maintain his CRAF capability when he has no assurance that capital costs will be recovered, and operating expenses will be met. The legislation before the Senate would provide a basis upon which civil air carriers could rely. The overall national defense interest would be served.

Mr. President, there is no justification for the needless depreciation of the MAC fleet, at the expense of private enterprise. There is no basis for the suggestion that routine cargo operations are needed to maintain pilot proficiency in the Military Airlift Command. The pilots and crew members of MAC devote countless hours to their primary missions—internal training of the force for combat readiness; joint training and exercise with other elements of the Armed Forces; and performance of special airlift missions.

In conclusion, I would urge my colleagues to vote in favor of S. 1821 to promote a viable Civil Reserve Air Fleet, to stabilize the proportion of international air cargo operations undertaken by the CRAF carriers for the Department of Defense, to achieve long-term cost savings to the taxpayers, and to promote the national defense.

Mr. SPONG. Mr. President, I am opposed to that section of S. 1821 which would require that 40 percent of military air cargo be shipped by commercial air carrier, because I believe it would be an unconscionable waste of taxpayers' money.

The American people have been taxed heavily to provide for an adequate military air cargo capability, and it makes no sense to me to provide now that those aircraft cannot be used to the maximum. Just today, the press carried reports of a GAO study estimating cost overruns for the C–5A cargo plane at a billion dollars. That is just the cost overrun; many additional billions of dollars have been invested in developing and building a fleet of these aircraft and other air cargo planes. Can we now tell the American taxpayers that these planes are not going to be used, that the military is going to be required by law to duplicate its capability by subsidizing the air carriers to do the job for it? Can we justify increasing defense costs by $120 million in fiscal year 1972 alone, which is what the Defense Department estimates this legislation will cost?

The basic rationale for this legislation is that the air carriers are required to maintain a reserve defense airlift capability, and that they are not now compensated for that requirement.

I do not know all the facts as to what kind of requirement is really put upon the air carriers, what kind of expense may be involved, or even whether it is a necessary requirement any longer. I do know that the Defense Department has a required airlift capability, and that it has cost the taxpayers a great deal to maintain that capability. It would seem to me that somewhere in this situation there is waste and duplication. Either we did not need all those cargo planes we purchased for the military, or we do not need this legislation. I believe that question should be explored before we take action of the kind contemplated today.

Mr. President, the second argument used is that a vote for S. 1821 is a vote to preserve and promote a sound air transportation system. That is a worthy objective, but I do not believe it is an obligation of the Defense Department. If the air carriers are in trouble, Congress ought to look into the situation and consider such steps as may be necessary, but we should not require the Defense Department and the taxpayers to bail them out through this kind of subsidy.

Mr. President, I have no objection to giving preference to U.S. air carriers when Federal civil agencies are utilizing commercial air for overseas shipment of cargo. I think it is quite proper that we do all we can to benefit U.S. civil aviation. But, again I do not think this should come at the cost of duplicating existing military capabilities.

VISIT TO THE SENATE BY THE HONORABLE DAVID ANDREWS, CHIEF WHIP OF THE GOVERNMENT PARTY OF THE REPUBLIC OF IRELAND

Mr. ROBERT C. BYRD. Mr. President, I am delighted at this time to be able to present to the Senate a very distinguished visitor to our country from the Republic of Ireland.

He is here as a participant in a culture and education program. He is Parliamentary Secretary to the Taoiseach and to the Minister for Defense. He is a Member of the House of Representatives of the Republic of Ireland, and he has been a Member of that body for 10 years.

We are honored with the presence here today of this very honorable gentleman who, for the past 2½ years, has been and is now the Chief Whip of the Government Party of the Republic of Ireland.

Mr. President and my colleagues, it is my honor and privilege to present to the Senate our distinguished visitor and guest, Mr. David Andrews.

[Applause, Senators rising.]

TWO-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 2 minutes so that Senators may greet our distinguished visitor.

The motion was agreed to; and at 4:03 p.m., the Senate took a recess for 2 minutes.

The Senate reassembled at 4:05 p.m. when called to order by the Presiding Officer (Mr. BROCK).

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS

The Senate continued with the consideration of the bill (S. 1821) to amend the Federal Aviation Act, as amended, with respect to the transportation of Government traffic by civil air carriers of the United States.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes.

Mr. CANNON. Mr. President, in light of the questions which have been raised with respect to this bill, many of which have been answered in a press release which I made today and is provided on the desk of each Senator, I ask unanimous consent that the press release be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

SENATE'S AVIATION SUBCOMMITTEE CHAIRMAN SAYS ENACTMENT OF S. 1821 WILL SAVE THE GOVERNMENT MORE THAN $38 MILLION A YEAR

Senator Howard W. Cannon, D-Nev., Chairman of the Senate's Aviation Subcommittee said today that the government would save more than $38 million in fiscal year 1973 as a result of enactment of S. 1821 coupled with a slight reduction in the Air Force's wasteful utilization of the Military Airlift Command's C–5A and C–141 aircraft.

Cannon's estimate of government savings will be made in a statement to be delivered on the Senate floor today urging favorable action on S. 1821. The bill, sponsored by Senator Warren G. Magnuson, D-Wash., would require that at least 40% of the Department of Defense's routine international cargo shipments be transported on civil aircraft owned by the nation's certificated airlines.

The Air Force has charged that the bill would result in additional costs of $41.9 million in FY 1973. However, the Air Force estimate ignores the tremendous depreciation costs associated with its use of MAC aircraft to carry routine government cargo.

In his statement, Cannon charges the Air Force with excessive and wasteful utilization of its fleet of 294 C–141's and C–5A's, leading to higher costs and premature depreciation of the MAC aircraft. Cannon said that at planned utilization rates of 4.25 hours per day per aircraft, the Air Force will have worn out the C–5A's—costing $57 million apiece—in less than 5 years.

He added that a modest 15% reduction in the MAC flying hour program would save the taxpayers more than $80 million a year in depreciation and out of pocket operating costs. The reduction in MAC's utilization rate would permit the nation's airlines to carry at least 40% of the international DOD cargo, affecting a net government saving of $38,515,000 in fiscal year 1973.

Attached is a chart showing the cost savings outlined in the statement.

Cannon said, the 40% "set aside" will assure the airlines who participate in the Civil Reserve Air Fleet a fair share of government cargo in peacetime so that adequate modern airline long-range cargo aircraft will continue to be available to the government in times of war or emergency. Recently, the Air Force has sought to virtually exclude the civil air carriers from carrying routine DOD international cargo by using its own fleet of cargo aircraft, despite the long-range costs savings which would be effected by using the MAC aircraft only for essential training purposes.

REDUCED DEPRECIATION OF MAC MILITARY AIRCRAFT IF 40 PERCENT OF MAC CARGO WERE TRANSPORTED IN COMMERCIAL AIRCRAFT, FISCAL YEAR 1973

	C–141 (234)	[1] C–5A (60)
1. Cost/unit (thousands)	$6.251	$57.000
2. Service life (hours)	30,000	7,500
3. Depreciation/hours of use	$208	$7,600
4. Cargo shifted from military aircraft to commercial aircraft to reach 40 percent (million nautical ton miles)[2]	253.1	236.5
5. Reduced MAC military aircraft requirement (hours)	26,925	6,898
6. Saving in depreciation, fiscal year 1973 (thousands)	$5,590	$52,425
7. Total saving in depreciation, fiscal year 1973 (thousands)		$58,015
8. Saving in industrial fund cost from reduced flying (thousands)		$22,400
9. Total saving from reduced flying (thousands)		$80,415
10. Less increased payments to civil carriers (thousands)[2]		$41,900
11. Net saving to DOD (thousands)		$38,515

[1] Assumes average of 60 C–5A's used in moving channel cargo in fiscal year 1973.
[2] Derived from Air Force data submitted to the committee.

Note.—(Assumes cargo shifted is allocated between C–141's and C–5A's in proportion to the cargo capability of the respective fleets).

Mr. CANNON. Mr. President, I have a few brief comments that I wish to make before we go to a vote.

First, the statement by the Air Force that they would have additional costs of just under $42 million a year does not take into consideration two very important points. One of them is that they have considered no reduction in flying hours. As I pointed out carefully in my presentation, we feel that a 15-percent reduction could be made in the flying hours, which would result in a longer life for the aircraft themselves. Second, they completely disregard the depreciation factor. I pointed out earlier, based on their own estimate of 7,500 hours of life expectancy for a C–5 aircraft, that the net saving to the Department of Defense on a yearly basis, based on this year's figures, would be $38,515,000, taking into consideration: First, the reduced flying hours and, second, the reduced depreciation, which has the side effect of extending the life of the C–5 and the C–141, which means that we would not be required to come up with Federal moneys in the meantime either to supplement those aircraft or to provide replacement aircraft.

Just one other point, and that is this: The purpose of providing military equipment is to train the services that have it so that it can be used in time of an emergency if needed.

We do not go out with the Navy and have them use every ship they have, just to haul cargo or to compete by hauling Government cargo. As a matter of fact, we have a "set-aside" required in the Merchant Marine Act. The Navy does not even try to haul or to compete with De-

partment of Defense cargo. They try to use those ships for the purpose of training and to carry out their missions.

Take the Army, for example; we do not have the Army try to go out into the surface transportation hauling business with their trucks. They have many very fine 2½-ton trucks and up—some smaller—and they very likely could haul a good bit of military cargo from place to place if that was the policy of our Government; but that is not the policy of our Government.

They use their vehicles for the purpose of training so that they will be available. They preserve them and take good care of them so that they will have them if they need them in the event of an emergency.

We do not want the Army to get in on the ground transportation hauling business with their trucks, hauling military cargo from place to place.

We do not want the Navy to be placed in that same position, or the Air Force to be in any position except a position necessary for training.

I submit, on the facts as presented here, that instead of having a $41.9-million deficiency, we would really have, when we take into consideration the depreciation of these very expensive aircraft, a saving of $38,515,000 a year to the American taxpayers.

Mr. President, if no other Senator wishes to speak at this time, I am willing to yield back the remainder of my time.

Mr. ELLENDER. Mr. President, will the Senator from Nevada yield me 2 minutes?

Mr. CANNON. I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. ELLENDER. Mr. President, as I stated earlier, the Congress made a decision to modernize the fleet of the Military Airlift Command in the latter part of the 1950's and the early 1960's. Based on this decision the Congress has spent over $6 billion for the C–141's and C–5A's. I think it would be a mistake for us not to use them to the fullest extent, consistent with sound operations policies.

Let me point out, Mr. President, that the executive branch of the Government is against this bill and, of course, the Department of Defense and the Air Force is against it.

Mr. President, I feel confident that if this bill is enacted into law, the President might veto it.

Mr. CANNON. Mr. President, I yield back the remainder of my time if there are no further amendments.

The PRESIDING OFFICER. All time has expired. If there be no further amendments to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from Mississippi (Mr. STENNIS) is paired with the Senator from Washington (Mr. JACKSON).

If present and voting, the Senator from Mississippi would vote "nay" and the Senator from Washington would vote "yea."

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) and the Senator from Georgia (Mr. GAMBRELL) each would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

On this vote, the Senator from Pennsylvania (Mr. SCOTT) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from Massachusetts would vote "nay".

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Texas would vote "nay".

The result was announced—yeas 32, nays 35, as follows:

[No. 131 Leg.]

YEAS—32

Allott	Cranston	Moss
Anderson	Dole	Packwood
Baker	Eagleton	Pearson
Beall	Gravel	Percy
Bentsen	Griffin	Randolph
Boggs	Hartke	Ribicoff
Brock	Inouye	Stafford
Burdick	Metcalf	Symington
Byrd, Robert C.	Miller	Tunney
Cannon	Mondale	Williams
Cotton	Montoya	

NAYS—35

Aiken	Fannin	Pell
Allen	Fulbright	Proxmire
Bennett	Hansen	Roth
Buckley	Hatfield	Saxbe
Case	Hughes	Schweiker
Church	Javits	Smith
Cook	Jordan, Idaho	Spong
Cooper	Kennedy	Stevenson
Curtis	Long	Talmadge
Eastland	McGee	Thurmond
Ellender	Nelson	Young
Ervin	Pastore	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—32

Bayh	Gurney	McGovern
Bellmon	Harris	McIntyre
Bible	Hart	Mundt
Brooke	Hollings	Muskie
Byrd, Harry F., Jr.	Hruska	Scott
Chiles	Humphrey	Sparkman
Dominick	Jackson	Stennis
Fong	Jordan, N.C.	Stevens
Gambrell	Magnuson	Taft
Goldwater	Mathias	Tower
	McClellan	Weicker

So the bill (S. 1821) was not passed.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the bill was not passed.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WAR POWERS ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 577, S. 2956. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 2956) to make rules governing the use of armed forces of the United States in the absence of a declaration of war by the Congress.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations with an amendment to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "War Powers Act".

PURPOSE AND POLICY

SEC. 2. It is the purpose of this Act to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations after they have been introduced in hostilities or in such situations. Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. At the same time, this Act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions, to repel attacks or forestall the imminent threat of attacks against the Armed Forces of the United States, and, under proper circumstances, to rescue endangered citizens and nationals of the United States located in foreign countries.

EMERGENCY USE OF THE ARMED FORCES

SEC. 3. In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—

(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

(2) to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;

(3) to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country; or

(4) pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so constituted unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

REPORTS

SEC. 4. The introduction of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall be reported promptly in writing by the President to the Speaker of the House of Representatives and the President of the Senate, together with a full account of the circumstances under which such Armed Forces were introduced in such hostilities or in such situation, the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act. Whenever Armed Forces of the United States are engaged in hostilities or in any such situation outside of the United States, its territories and possessions, the President shall, so long as such Armed Forces continue to be engaged in such hostilities or in such situation, report to the Congress periodically on the status of such hostilities or situation as well as the scope and expected duration of such hostilities or situation, but in no event shall he report to the Congress less often than every six months.

THIRTY-DAY AUTHORIZATION PERIOD

SEC. 5. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless the continued use thereof in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

TERMINATION WITHIN 30-DAY PERIOD

SEC. 6. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act may be terminated prior to the thirty-day period specified in section 5 of this Act by an Act or joint resolution of Congress.

CONGRESSIONAL PRIORITY PROVISIONS

SEC. 7. (a) Any bill or joint resolution authorizing a continuation of the use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act, or any bill or joint resolution terminating the use of Armed Forces of the United States in hostilities, as provided in section 6 of this Act, shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it is introduced, be considered reported to the floor of such House no later than one day following its introduction unless the Members of such House otherwise determine by yeas and nays. Any such bill or joint resolution, after having been passed by the House of Congress in which it originated, shall be considered reported to the floor of the other House of Congress within one day after it has been passed by the House in which it originated and sent to the other House, unless the Members of the other House shall otherwise determine by yeas and nays.

(b) Any bill or joint resolution reported to the floor pursuant to subsection (a) or when placed directly on the calendar shall immediately become the pending business of the House in which such bill or joint resolution is reported or placed directly on the calendar, and shall be voted upon within three days after it has been reported or placed directly on the calendar, as the case may be, unless such House shall otherwise determine by yeas and nays.

SEPARABILITY CLAUSE

SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE AND APPLICABILITY

SEC. 9. This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.

PROGRAM

Mr. MANSFIELD. Mr. President, it is my understanding there will be no debate or discussion on this bill (S. 2956) tonight. Therefore, there will be no further votes. It is anticipated we will get underway on the pending legislation tomorrow. Also at that time, during the course of the day, we will take up Senate Joint Resolution 218, a joint resolution to extend the authority conferred by the Export Administration Act of 1969.

Mr. JAVITS. I congratulate and appreciate the consideration of the leadership in not requiring debate tonight.

My reason for saying that is that we really deserve to have as many Senators as possible, and that the opening statement on the bill should not be pro forma, but should really be a considered presentation on a critically important historic event, to wit, the opening of this debate. I think the setting tomorrow, when we get ready for it, will be much more appropriate for that purpose. I am deeply grateful to the majority leader for recognizing that and the dispositions he has made tonight.

Mr. MANSFIELD. Mr. President, may I say I agree completely with the remarks of the Senator from New York, except for the last sentence with reference to me, because this is a most important measure, and I think it is entitled to debate and serious consideration. I am sure it will receive that.

I anticipate that it will take a matter of days, because a grave constitutional question is inherent in this bill, reported out of the Foreign Relations Committee. Therefore, it is necessary that due and deliberate consideration be given to it.

May I say, incidentally, that I announced this morning that up to today there had been 116 rollcall votes. With what has happened today, the number now stands at 119, which is an extraordinary application of the Senate's energy covering a 2-month period.

May I say also that the calendar is pretty clean? The committees have been very diligent in what they have done.

As far as appropriation bills are concerned, the House has passed three; the Senate has passed three. The Senate is up to the mark. As a matter of fact, it is ahead of what I anticipated a month or so ago.

I just want to take this means to extend my congratulations and commendations to all Senators on both sides of the aisle for what they have been able to do, because what they have done reflects great credit on the Senate.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. McGEE. I wanted to inject, with regard to the question of the Senator from New York a moment ago, but also to mention to my majority leader, that while we are passing out plaudits on the number of rollcall votes we have had, one single measure accounted for a great many. So we take credit for it in the Committee on Civil Service and Post Office, in view of the voter registration impasse we reached here at one point. If that is a laudatory record, we file for some kind of purple heart under the circumstances.

However, I do want to raise a serious question with respect to that raised by the Senator from New York in terms of the procedures now on the war powers billt—he Javits bill, really—at the present time. As I understand it, there will be no presentation of a basic position or a basic paper by the bill's chief sponsor tonight. Is that the understanding?

Mr. MANSFIELD. Not tonight. There will be no further debate on it.

Mr. McGEE. In other words, it is on the calendar as the pending business?

Mr. MANSFIELD. Yes.

Mr. JAVITS. I will do that tomorrow. I will speak tomorrow.

Mr. MANSFIELD. I know the Senator from New York, the Senator from Missouri (Mr. EAGLETON), and other Senators have indicated an interest in the bill and will want to be heard, because its authorship is quite a composite.

Mr. JAVITS. Yes, and I would be the first to confirm that.

Mr. McGEE. And, to continue the inquiry, we are doing that tomorrow so we will have a much wider attendance? Did I hear that mentioned?

Mr. MANSFIELD. Not necessarily. As the distinguished Senator is well aware, some Senators have a very important engagement this evening, if they desire to attend to it. The Senate has had a pretty good day. The calendar is fairly clean. I think a little respite now and again does us some good.

Mr. McGEE. I think it would be helpful. I raised my question inasmuch as I would want to raise some points in regard to the war powers measure passed to the Senate from the Foreign Relations Committee. I was hopeful it would fall at a time when there were likely to be many Senators around town. I was wondering what the anticipated show might be tomorrow in terms of orators who would be interested in this very serious constitutional and updating question.

Mr. MANSFIELD. May I say I would expect the attendance to be about average. If any Senator expects the turnout to be bigger than they have been when he speaks, he is going to be disappointed. The record will have to speak for itself. What I have said applies to every Senator as well as to the Senator from Montana himself. I would say the Senator from Wyoming, being here as long as he has and being well-versed in the mores of the Senate, was well aware of what my answer would be.

Mr. McGEE. The Senator from Wyoming did anticipate. I was wondering whether it might be more practicable to develop the scheduling of the opening dialog of this measure on the return of Senators. I hasten to add that the Senator from Wyoming is going to be here the entire week, and he would just as soon we discussed it on Friday or on Saturday next.

Mr. MANSFIELD. No; Good Friday is a day we all like to observe. Holy Saturday is a day we all like to observe. Easter is a day we al llike to commemorate. because of what lies behinc it.

We will have plenty of time on this bill. I would not want to come back after meeting later this afternoon and get started. I think it would be a little late. The attendance would be very sparse. Tomorrow will be a good day, at about 11 o'clock.

Mr. McGEE. The Senator from Wyoming is ready to proceed either right now or to defer to the commitments of his colleagues and proceed tomorrow at 11 o'clock. Is that the time we will meet tomorrow?

Mr. MANSFIELD. Yes.

Mr. McGEE. And await his turn in line for the dropping of pearls of wisdom that the circumstances will permit.

Mr. MANSFIELD. May I say that the Senator from Wyoming, for some reason, reminds me of a colt scratching the ground, waiting to get out the gate or corral to get going. I am sure we will have plenty of time.

Mr. McGEE. Well, the Derby is not very far off. It is spring, and there are colts that are very impatient, even though the Senator from Wyoming is confined to a Mustang with its top down. So we will begin the dialog tomorrow morning at about 11?

Mr. MANSFIELD. After the morning business.

TREATY ON THE SWAN ISLANDS—REMOVAL OF INJUNCTION OF SECRECY

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty on the Swan Islands with the Government of Honduras, signed at San Pedro Sula on November 22, 1971 (Executive H, 92d Congress, second session), transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I am transmitting for the Senate's advice and consent to ratification the Treaty on the Swan Islands between the Government of the United States of America and the Government of Honduras, signed at San Pedro Sula on November 22, 1971. The Treaty provides for the recognition by the United States of the sovereignty of Honduras over the Swan Islands. The two Governments also agree to establish a cooperative meteorological program to maintain the weather observation and telecommunications facility there, with Honduras assuming the responsibility fo roperation o fthe radio air navigation facility.

The Treaty will thus settle amicably a long-standing difference between the United States and Honduras resulting from their conflicting claims to the Swan Islands. These Caribbean islands are rock keys about 98 miles off the coast of Honduras, the larger of the two islands being two miles long and one-half mile wide. The islands have no intrinsic value for the United States, and our interests for many years have been confined to maintaining a weather observation and telecommunications facility there, as well as an air navigation beacon. The only inhabitants are the few Americans who operate the facility and a small group of Honduran and Cayman Island workers.

The United States claim to the islands is based on the 1863 bonding of the islands "as appertaining to the United States" under the Guano Act of 1856. The Honduran claim is based on succession to the alleged discovery of the islands by the Spaniards, and the incorporation of the islands into Spanish possessions, in the early sixteenth century. The conflicting claims have been an irritant in the otherwise friendly relations between the United States and Honduras.

In a joint communique issued in November of 1962, President Kennedy and President Villeda Morales of Honduras recognized the need to resolve this question, taking into account the rights and interests of both parties. Following appropriate Congressional consultation and exploratory talks wit hthe Hondurans, I authorized the Secretary of State in October of 1969 to seek a settlement of the issue.

The resulting Treaty meets the practical needs of both countries. Acknowledgment of Honduran sovereignty over these islands satisfies a long-held desire of the Honduran people. At the same time, the practical interests of the United States are fully met through retention of the right to operate and maintain, with the active cooperation of Honduras, the meteorological observation and telecommunications facility on the Swan Islands. The enclosed report of the Department of State describes the arrangements under the Treaty in greater detail.

I believe this Treaty exemplifies our ability to reach a peaceful settlement of a territorial dispute in a spirit of good will. I hope the Senate will act favorably concerning the Treaty in the near future.

RICHARD NIXON.

THE WHITE HOUSE, *March 28, 1972.*

THE NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL

Mr. FANNIN. Mr. President, it is quite evident that the time has come to bring an end to the ITT hearings and to vote on the confirmation of Mr. Richard Kleindienst as Attorney General of the United States.

Despite more than 3 weeks of testimony, no evidence has been found to link Richard Kleindienst with any wrongdoing or indiscretion. It is clear that nothing will be found no matter how long these hearings continue.

The hearings have gone far past the point of serving any good purpose.

Richard Kleindienst was placed on trial as a result of allegations by columnist Jack Anderson. Mr. Kleindienst denied these allegations under oath before the Senate Judiciary Committee. I have known Dick Kleindienst for 20 years, and I know that he is a God-fearing man who is sincere, honest, and devoted to his Nation.

Anderson failed to produce any proof of his charges.

The question boils down to this: Do we believe the highest administrator of justice and law enforcement in this Nation, or do we believe the unsubstantiated allegations of a gossip columnist?

The only persons who have anything to gain out of continuation of the hearings are those who thrive on innuendo or character assassination.

Reports today are that Mrs. Dita Beard will not be able to testify again for at least 6 months. She has denied—by affidavit and in testimony before a subcommittee—that she wrote the memorandum in dispute.

This is the appropriate time to put an end to these hearings which have ranged far and wide.

I would remind everyone that the original purpose of the sessions concerned Richard Kleindienst and his nomination to be Attorney General.

All the evidence—and much more—is in. It is time for a verdict.

Mr. President, I call on my colleagues to join in urging a decision in this matter. Let us bring the nomination before the Senate and confirm it.

It is unfair to the administration, to the Justice Department, and to Mr. Kleindienst, to allow the fishing expedition to continue indefinitely.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. FANNIN. I yield to the Senator from Michigan.

Mr. GRIFFIN. To what the distinguished Senator from Arizona has said I would add that every day the political three-ring circus before the Judiciary Committee continues is another day that the committee is not considering important legislation pending before the committee. I refer, for example, the President's busing moratorium bill which has been referred to the Committee on the Judiciary and which should have its prompt attention.

Obviously, the ITT circus has now bogged down. It has been interesting but it has had little or nothing to do with Mr. Kleindienst's fitness to be the Attorney General. Indeed, most people have forgotten that the question before the Judiciary Committee is supposed to be the nomination of Richard Kleindienst.

So, I join the Senator from Arizona in suggesting that it is about time for the Senate to get about the business of rendering a verdict on whether or not Mr. Kleindienst should be the Attorney General. It is also time for the Judiciary Committee to get about the business of considering some of the important legislation that should come before this body.

Mr. FANNIN. I thank the distinguished Senator from Michigan. He certainly has placed the matter in proper perspective. I agree with him on the importance of the question of bringing this busing legislation before the Senate and making decisions that are very important to the people of this Nation. I know the Senator agrees that there are many other matters of vast importance that will be before the Committee on the Judiciary, and should have full consideration. I thank the Senator for his comment. I know he has a great interest in what is being done by the Committee on the Judiciary and in what should be done, and I commend him for the statement he has made at this time.

Mr. President, I yield the floor.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, before moving to adjourn, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business (S. 2956), a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The distinguished majority leader has indicated that at an early hour tomorrow, the Senate will also proceed to consider Senate Joint Resolution 218, a joint resolution to extend the authority conferred by the Export Administration Act of 1969.

It has been indicated by Senators, who ought to be in a position to know, that there will not likely be a rollcall vote on the export administration bill. However, as all Senators are well aware, rollcall votes can and do sometimes occur when they are least expected. It is not anticipated, however, that much time will be required for debate and action on the Export Administration Act.

The Senate will proceed, throughout most of tomorrow's session, to debate the unfinished business, the war powers legislation, and as of now it is not anticipated that there will be any rollcall votes on that measure tomorrow.

On Thursday, the Senate will resume its consideration of the war powers bill. Debate will continue thereon, and in all likelihood this will be the measure before the Senate when it reconvenes following the Easter recess on Tuesday, April 4.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and at 4:48 p.m. the Senate adjourned until tomorrow, Wednesday, March 29, 1972, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1972:

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

Dr. Jerome H. Jaffe, of Virginia, to be Director of the Special Action Office for Drug Abuse Prevention, (new position).

Paul Louis Perito, of Massachusetts, to be Deputy Director of the Special Action Office for Drug Abuse Prevention, (new position).

UPPER MISSOURI RIVER REGIONAL COMMISSION

Robert L. McCaughey, of South Dakota, to be Federal Cochairman of the Upper Missouri River Regional Commission, (new position).

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Edward Pickett, 577-54-0390, U.S. Army.

IN THE MARINE CORPS

The following named officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel:

Jesse L. Altman, Jr.	Charles K. Breslauer
Thomas C. Andrew, Jr.	Clyde W. Brewer, Jr.
George L. Bailey	Earl E. Brown
George N. Bailey, Jr.	Ralph E. Brubaker
Harry H. Bair	Richard D. Buttolph
Terrance P. Baker	Pasquale L. Cacace
John A. Barry	Michael P. Cady
Karlton L. Batt	Ronald E. Cardwell
Andrew F. Bauer	Daniel I. Carroll
Robert C. Baughman	Brendan J. Cassidy
Pierre H. Begnaud	Ralph L. Chapman
Daniel T. Benn	Keith L. Christensen
Arthur A. Bergman	Richard J. Coogan
Donald C. Bieger	Thomas D. Cooney
Edward A. Birzer	James M. Cox
Carl E. Black	Thomas C. Cox
William A. Bloomer	James O. Cranford
George F. Boemerman	Ernest C. Cunningham, Jr.
George J. Bollard	Kenneth D. Curry, Jr.
Royce L. Bond	Stanley J. Czubal
William Boone	

Donald A. Dalrymple
Neal L. Derickson
Donald E. Dilley
William E. Dodds
Lloyd J. Draayer
John L. Driefer
Orville R. Edmondson
Myrddyn E. Edwards
Robert F. Eggers
Stephen S. Eisenhauer
Gordon P. Emery
Eldon L. Erickson
George J. Ertlmeier
George G. Evans, Jr.
Richard L. Evans
William R. Falls
Michael J. Fibich, Jr.
William M. Foley
Clarence D. Foreman
William J. Forristall
Robert D. Fowner
Charles H. Frazier, Jr.
Laurence R. Gaboury
Louis F. Gagnon
Edward E. Gerding
John C. Gonzalez
Frank E. Graham
James R. Green
Jimmie L. Green
Joe L. Gregorcyk
Jesse R. Greer
Charles E. Griggs
Darold L. Guttormson
Charles R. Habgood
Robert D. Hagan
Manuel H. Hedges
Charles A. Henry
Arthur R. Hickle
Gary W. Hintz
Lyell H. Holmes
Robert R. Hull
Donald L. Humphrey
Will D. Isbell
Henry C. Ivy, Jr.
Russell E. Jamison
Edward P. Janz
Fidelas W. Jarnot
Leroy E. Johnson
Richard J. Johnson
Homer P. Jones
Walter A. Jupp
Raymond G. Kennedy, Sr.
Alvah J. Kettering
John R. Koch
Russell L. Kramer
Billy D. Kraxberger
Harold F. Kuhn
Allan W. Lamb
Erik Larsen
George H. Leach
Julius M. Lewis, Jr.
Orville V. Lippold, Jr.
John A. Livingstone
Robert E. Loehe
John E. Lorzing
Peter F. Lottsfeldt
Arthur S. Loughry
Cornelius W. MacFarlan
Joseph M. Magaldi, Jr.
Gordon E. Malone
Marvin P. Mann, Jr.
Frank M. Manrod
John A. Manzione, Jr.
Samuel J. Marfia
Manuel O. Martinez
Andrew G. Marushok
Howard J. McCarty
Charles A. McCluskey
Melvin W. McCoury, Jr.
Charles J. McDonald, Jr.
Ernest P. Meier
Paul F. Melcher
Henry G. Miller, Jr.
James E. Miller
Hubert A. Monteau
Robert D. Myers
Arthur A. Neibach, Jr.
Stephen Ondrako, Jr.
Alfonso Oseguera
Billy E. Pafford
James E. Page
Charles E. Parker
Marvin E. Peacock
David W. Phifer
Louis J. Plantadosi
Robert Plant
George E. Pratt
Leonard T. Preston, Jr.
Lonnie E. Ramsey
Eugene W. Rawlins
Thomas S. Reap
Van S. Reed
Elwin Reichert, Jr.
Richard G. Ritchie
James A. Roberts
Charles D. Robinson
Jon R. Robson
George F. Rogers, Jr.
Peter C. Scaglione, Jr.
Kenneth L. Scarborough
Harold Schofield
Norbert F. Schnippel, J
Charles C. Seabrook
Walter C. Service III
Karl E. Sharff
James F. Sheehan
William P. Shunkey, Jr
Con D. Silard, Jr.
Paul D. Slack
Clarence E. Smith, Jr.
Norman A. Smith
William R. Smith
Richard P. Spreier
David N. Sprott
Victor D. Stauch, Jr.
Richard G. Steffey
Arthur L. Stewart, Jr.
Francis T. Sullivan
Bernace M. Symm
Robert W. Topping
Donald J. Verdon
Ralph V. Walker, Jr.
Alphonse I. Warczakowski
Charles Ward
Lloyd K. Warn
Donald E. Webb
Gerald A. Weiland
William L. Whelan
Robert E. White
Warren H. Wiedhahn, Jr.
Martin J. Williams
James W. Willkomm
Paul A. Wilson, Jr.
Henry F. Witter
Peter R. Worden
Neal B. Wynn
Walter N. Yanochik
John T. Zych, Jr.

The following named officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel:

Kenneth R. Allen
Louis W. Alter, Jr.
Lloyd J. Barnes
Bobby A. Barringer
Donald J. Berryman
Robert E. Black
Ronald J. Bordenaro
John T. Brassfield
William F. Braucher
Clayton P. Brennan
Anthony J. Brosco
Irvin C. Brown
Thomas P. Burke
Paul T. Campbell
Donald J. Capinas
Joseph A. Caprara
Michael W. Cervenak
Charles T. Chapman
Edward A. Clark
Robert M. Clark.
George F. Coleman
Wiley E. Conder
Richard M. Condrey
John H. Coram
Thomas J. Cribbs
Robert M. Croll
George Cutsogeorge
Wayne B. Daniels
Louis Datillo
Allan D. Davis
Johnny O. Dean
William Delorenzo, Jr.
William L. Dickens
Dwight R. Dickey
Russell E. Dolan
Thomas L. Dunton
John R. Enright
Charles R. Ensley
Edmund R. Euler
Louis E. Farrell
Roland B. Field
Robert E. Finney
Patrick J. Foley
Ronald L. Fraser
Francis R. Frola
John E. Gallagher
Gordon Gannon, Jr.
Charles R. Gardiner
Theodore L. Gey, Jr.
Alvin H. Goeser, Jr.
Henry J. Goffi
Thomas J. Golden, Jr.
William L. Golemon
Ed W. Graham
Donald H. Green
Jean B. Green
John J. Griffin
Francis D. Hadden
Bernard J. Harmon
David M. Hatfield
James C. Heigham
Travis N. Hines
Theodore T. Hogan, Jr.
Gordon W. Holm
Francis M. Horn
Edmund L. Hudson
Eugene L. Hughes
Bobby G. Hunter
Marvin H. Janson
Ernest F. Janney, Jr.
Warren I. Jaycox
Frederick R. Jerrett
Eugene D. Johnson
Kenneth W. Johnson
Dennis K. Joyce
David P. Karcher
Douglas F. Keith
Thomas F. Kelaher
Thomas C. Kerr
George Kiraly, Jr.
Fred W. Koehler, Jr.
John E. Kussman, Jr.
James H. Lane, Jr.
John E. Laurent
Dewitt B. Lawrenson, Jr.
Albert M. Leahy
Hillary M. LeClaire, Jr.
John K. LeDeaux
Edward C. LeLouis, Jr.
Harold A. Lipska
Candido H. Lucero
Charles F. Lundy
Peter J. Lynch
Peter H. Lyons
Richard S. Manley
James V. Martin, Jr.
Robert S. Masters
David S. Manuel
Harry A. Marmion
Gerald S. Mayer
William F. McCaffrey
Vincent J. McGarry, Jr.
Jimmie L. McWhirt, Sr.
John R. Merrill
William F. Messerli
Bardell D. Miller
Aiwin L. Moeller, Jr.
Robert A. Monfort
Domenick Muffi
John R. Mullin
Timothy C. Murphy
Frank G. Nelson
Clynch Newsome, Jr.
William L. Nicolls
Robert D. Nolan
Joseph G. Norton
Kenneth W. Northwick
Kermet W. Northwick
Donald F. Oatis
Philip F. Oestricher
Paul J. Otis
Paul J. Pardy
Joseph M. Parker, Jr.
Stephen Percy.
James W. Persons
William Piper
John R. Powers
Paul E. Fruett
Robert W. Rauch
Thomas P. Redden, Jr.
Harold W. Robbins
Edward H. Roemer
John K. Roschlau
Russell A. Rourke
Robert F. Ruan II
Frederick H. Russell
William H. Sackett
Ronald W. Salmon
Gordon A. Samuel
William D. Saylor
James H. Schell
Robert D. Scherer
John F. Schmitt
William L. Seay
Richard T. Secrest
Robert H. Shortsleeve
John D. Slack
Clarence L. Smith
John P. Stayton
George B. Stebbins, Jr.
Leonard B. Stolba
George E. Strickland
Ray U. Tanner
Paul E. Thomsen
Romaine D. Thorfinnson
Tommy A. Tinker
Frank T. Tobin
Howard Troxell
Fred T. Schopp, Jr.
Paul D. Tucker
Gerald H. Turley
Emil L. Veer
Jerry T. Verkler
Richard D. Wagner
Robert T. Waters
Ben F. Weaver
Larry M. Wheeler
Robert E. Wheeler
Alexander P. White, Jr
Joel A. Yarboro
William E. Yeager

The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant:

Lynn Adams III
Bruce J. Adkins
James A. Albright
John H. Alico
Edward T. Allard III
Kenneth C. Allison, Jr.
Robert C. Anderson
Walter Antin, Jr.
Michael R. Antonelli
Charles L. Armstrong
Ronald J. Armstrong
Russell P. Armstrong
Christopher C. Ashby
Lewis Babre
Rayfel M. Bachiller
Welles D. Bacon
Gerald D. Badinger
Calvin D. Baker, Jr.
Lorenza T. Baker
William B. Baker
William F. Ball III
Gary W. Barnes
Michael F. Barone
Thomas W. Battaglia
Larry E. Beagley
Jonathan M. Beall
Fred W. Beard
Peter R. Beavins
Jimmy E. Belcher
George G. Berg
Dan T. Bergstrom
William L. Bettes
Albert H. Bickmore
Jerome F. Bierly
Ralph A. Bingham
Sammy G. Binion
Michael J. Bixiones
Carl V. Black
Robert R. Blackman, Jr.
Archie G. Bobo
John N. Bockstanz, Jr.
John R. Bollman
Harvey L. Borden
John L. Borst
Raymond D. Bourque
Rodney L. Bowers
Charles F. W. Bowman, Jr.
Joseph S. Boyd
Robert J. Boyd, Jr.
John Boyle IV
Richard T. Brady, Jr.
Robert L. Brake
Frank X. Braun IV
Brooks J. Breece
Donald C. Brewer, Jr.
Richard T. Brady, Jr.
Eugene D. Brindle
Jude T. Brock
William F. Broderick
Dennis R. Brons
Clifton R. Brooks, Jr.
Donald R. Brown
Jerome S. Brown
Shepard R. Brown
Thomas A. Browne
Paul V. Bruckner
Bruce E. Brunn
Johnny Bruntlett
David M. Bryan
Thaddeus H. Burak, Jr.
Gary C. Burch
Joseph E. Bruch
Timothy L. Burfield
Jerry L. Burton
Lawrence A. Butterini
Edward C. Caliri
John V. Calkins
Thomas J. Callan, Jr.
Kenneth D. Cameron
John T. Campbell, Jr.
Edward L. Carman III
Martin D. Carpenter
Thomas T. Carpenter
William H. Carroll, Jr.
John E. Casey
Barry L. Cassidy
Norman A. Chandler II
Jonah H. K. Chang
Connie S. Chavez
Jimmy H. Church
Robert M. Churchill
Anthony J. Ciotti
James K. Cobb
Dan M. Colglazier
James A. Collins
Henry J. Colyar, Jr.
Leroy J. Cook
Patrick C. G. Coulter
John D. Counselman, Jr.
James P. Courtney
Bruce P. Couturier
Glenn B. Cowen
Joseph R. Crockett, Jr.
Ronald J. Cruz
Eugene P. Cuccaro
Mark L. Danin
James B. Darcy, Jr.
James R. Daugherty
Charles E. Davis, Jr.
John W. Davis
Joseph J. Day
Orland O. Defrates, Jr.
Timothy G. Delaney
Donald V. Demikis
Glenn C. Remunck
Robert J. Depass
Lawrence S. Derrig
Howard Devore, Jr.
Kurt M. Dieterle
Alphonso B. Diggs, Jr.
Louis A. Dirker, Jr.
Kenneth R. Dobrovolny
Dennis R. Dodd
John T. Donahue
Cleve B. Doster
Dennis R. Dowling
Steven J. Draper
Ronald M. Dressin
Christian F. Dubia, Jr.
Paul V. Duncan
Clifford D. Dunn, Jr.
Robert W. Dyar, Jr.
Robert A. Edmond
Sidney B. Edwards
James B. Egan
Robert P. Elchorn
Richard K. Eisert
Thomas L. Ekle
Jeffery S. Ellason
Roger L. Emch
Richard A. Engel
William J. Esmann
Robert G. Essink
Riley S. Ethington
Jot Eve
James L. Ewoldsen
Kenneth R. Falasco
Charles B. Farber
Phillip F. Fargotstein
Jon W. Farmer
Michael C. Fassion
Thomas R. Fasulo
Paul M. Felix
George W. Fels, Jr.
Arnold Fields
Vincent L. Fischer, Jr.
Ronald C. Fish
Lloyd D. Fitzpatrick
Jan P. Fladeboe
Homer W. Fogle, Jr.
Robert A. Forrester
Percy E. Foster, Jr.
David W. Fowkes
Charles K. Freeman
Joseph B. Freeman
Richard B. French
John D. Frew
Roland V. Funk
Edward A. Gabarra
Timothy M. Gahan
Francis O. Galloway, Jr.
Thomas G. Gaspanas
Vito F. Gentile
Terry A. Geron
Edward C. Gerstner
James H. Gesner
Williams J. Gibbons
Richard A. Glover
Patrick J. Glynn
Bruce A. Gombar
Franz M. Gottlieb
John A. Granger
William M. Grant
Robert A. Grice
Arthur J. Grimley III
Orrin L. Grover III
William C. Grubb, Jr.
Ronald L. Gruber
Robert L. Gruber
Edward B. Guckert
Ralph T. Gutierrez
William R. Hackney III
Dennis G. Hagen
Donald C. Haines
Stephen D. Haley

John B. Hall
John E. Hall
Robert J. Halliday
James C. Hardee
Robert R. Hare III
Gregory Harrison
Robert L. Hart
Guy B. Harwood
James E. Haskins
Michael J. Havrilla
Edward G. Hayden II
James L. Hayes
Askold T. Haywas
Homer L. Hazel
Dennis J. Hellman
David H. Henderson, Jr.
Michael W. Henig
Leon F. Henley, Jr.
Roger D. Herring
Bruce A. Henry
John P. Hertel
Stephen M. Hill
William H. Hill III
Timothy J. Himes
Kingsley E. Hoemann
William D. Holcomb
John R. Hollcraft
Louis S. Hollier IV
William D. Hollister
James E. Hollopeter
Jack W. Holt, Jr.
Richard A. Houston, Jr.
Sylvester Howard
Vance B. Howerton, Jr.
Thomas W. Hoysa
Thomas P. Hudson, Jr.
Jan C. Huly
Jerry D. Humble
Dennis B. Ioerger
Timothy J. Ireland
Gordon R. Jackson
Robin S. Jackson
Joseph D. Jeffares
Siguard L. Jensen III
Eddie E. Johansson III
Thomas S. Jones
Timothy J. Joyce
Larry J. Jurica
Kenneth M. Jurjevich
Robert L. Jones
Michael R. Kain
Terry R. Kane
Raymond J. Kaufman
Robert J. Keller
Michael M. Kephart
Joe Killebrew
Robert J. Kimble, Jr.
David L. King
Robert C. King
Bruce J. Kirry
Ray E. Kittilstved
Clifford H. Kittle, Jr.
Herbert W. Klein, Jr.
William L. Kleinpeter
Joseph Kochuba
Clifford J. Kolson II
Gregory C. Koons
Raymond M. Kruse
Walter M. Kubiak
Gregg C. Kubu
Mitchell A. Kudla
William P. Kyle
Paul A. Lambert
Roland L. Lambert, Jr.
Harry J. Landau
Charles E. Landry, Jr.
John Langdon II
Charles R. Larkin, Jr.
Michael W. Leach
David J. Lee
Dean J. Legidakes
Gregory G. Lemmer
James F. Leonard
Richard C. Lepley
Timothy B. Levan
Terry N. Lewis
Robert J. Livingston
Carl J. Loguidice
Herbert B. Long II
Leonard A. Long
Michael E. Lowe
John F. Lucas
Edmund A. Lucke
John K. Lynn
John M. Machen
James W. MacMurray Jr.
Don B. MacNamee
Thomas A. Manfredi
Edwin C. Mann
William T. Manning
Esmond W. Marks
Gary W. Marshall
George L. Marshall, Jr.
Thomas M. Marsillo
Terry L. Martin
Harold Mashburn, Jr.
Danny C. Masters
Robert A. Matthews
Aove E. Mattox
Roger J. Mauer
William L. Maxey
Jerry C. McAbee
Robert P. McCaleer
Robert F. McCarthy
John I. McClurkin
Larry H. McCollum
Richard M. McCool III
Boyd S. McCord
John J. McDermott
Ian D. McDonough
Bryan M. McGill
Terry W. McKinsey
James F. McLean
Billy D. McMillin
Gene S. Mead
Kenneth H. Medeiros
William J. P. Melby
David L. Mellott
Joseph A. Menart
Richard D. Metcalf
Francis J. Meyer
Robert D. Michael
Gene A. Milleson
Thomas P. Milne
Alex G. Mitkevich
Charles G. Mittnacht
Robert J. Moberg II
Robert A. Mohlin
Donald J. Monroe
Samuel Moore Jr.
William M. Moore
Richard C. Morgan
Terrence C. Morgar
Robert V. Morris
Louis R. Moyzan
John C. Mullane, Jr.
Robert S. Mutcher
John W. Muth III
William N. Myers
Gerald N. Nance
James M. Naylor
Lannie D. Neal
John G. Nemec, Jr.
Paul S. Nickolaus
Miken J. Nielsen
Raymond K. Noll
William R. Norton III
Jerry R. Oberg
Gerald B. Ogden
Ward C. Ogle
Gregory C. Okelly
Steven E. Olmstead
Thomas F. Oreilly
Michael C. Osajda
Paul R. Ottinger
Joseph J. Pantalone
Frederick D. Parker
Charles A. Parlier II
James W. Parrish
Clarence F. Patten III
Christopher R. Pastel
William W. Pattison II
Ralph E. Pearcy III
Wiley H. Pearson
Frederick C. Peck
Hugh F. Phillips
Henry N. Pilger
John W. Pitz
Carl O. Plath, Jr.
Allan J. Polachowski
Raymond L. Polak
Christopher C. Polson
James J. Porter, Jr.
Gregory M. Potter
Ronald G. Powell
Andrew N. Pratt
Francis J. Priest
Kenneth L. Priestley
Bernard C. Proctor
David A. Proffitt
Randall B. Pyles
Henry A. Pyzdrowski, Jr.
Leamond C. Ramsey
Garrett V. Randfl, Jr.
Robert W. Rathbun
Brett D. Rayman
Edward J. Reardon, Jr.
Peter J. Reding
James L. Reid
Steven S. Reinemund
John H. Reynolds
Larry J. Richardson
Dwight G. Rickman
David W. Riggle
James W. Rinschler
Richard H. Roamer
Edward J. Robeson IV
Robert S. Robichaud
Edmond L. Robin
James R. Robinson II
Earl W. Rogers
Jeffrey A. Rogers
Winston E. Rorabaugh
Wiley J. Rosemond
James M. Rosen
Alfred G. Roth
Robert M. Rudolf
Jeffrey C. Rupp
Robert A. Rys
Robert J. Saffer
Roger A. Sager
James E. Sall, Jr.
David W. Sanasack
Lewis M. Sanders
Edward J. Sandrick
David A. Sannes
Ervin W. Scarlett, Jr.
Jeffrey E. Scheferman
Raymond W. S. Schellinger
David K. Scmmidt
Robert D. Schow
James R. Schwenk
Roland R. Seaman
James E. L. Seay
William J. Seemeyer
Gary C. Selser
Ellsworth A. Shaw
Michael J. Shaw
Anthony P. Shepard
Stevan A. Shepherd
John E. Sherbin
Jimmy R. Shideler
James D. Shimp
Mitchell E. Shivers
James G. Shockley
Thomas J. Short
Ronnie E. Sirmans
Joel M. Skousen
James L. Smee
Arthur M. Smith, Jr.
Charles L. Smith
Delmer Smith
Dennis R. Smith
Edward D. Smith, Jr.
Lyle W. Smith
Terry A. Smith
William G. Smith
Jon W. Smythe
Leslie Solymossy
Robert E. Sonnenberg, Jr.
Douglas K. Spaulding
Jerry L. Spencer
Sidney L. Spurgeon
Joseph F. Startari
Richard M. Stearns
Robert E. Steinhorst, Jr.
Stephen K. Steinmeyer
Thorys J. Stensrud
Bruce M. Stevens
Ronald L. Stevens
Henri P. Stewart
David A. Stockwell
John D. Stokes
Timothy F. Stoufer
Robert L. Strawser
Andre D. Summers
Larry A. Sunn
Leonard M. Supko
Donald F. Swanda, Jr.
John R. Switzer
Aloysius Sypniewski
Alfred J. Talevi
James M. Tarkington
Rex N. Taylor
Jon D. Terry
Paul W. Thomas
Jimmie R. Thompson
John L. Thompson
Wayne P. Thompson
Joseph Thorpe
Erik B. Thueson
Joseph Thurmond
Theodore K. Tolle
James F. Trahern
Dennis E. Tripp
Robert F. Turbyfill
Craig J. Turner
Conrad B. Turney
Douglas D. Tyler
Larry F. Vance
Martin R. Vanderbrook
Neal W. Vanhouten, Jr.
John A. Vansteenberg
Lowell F. Vanwagenen
Robert J. Varley
Gerald A. Vianello
Bruce R. Wahlsten
William W. Walker
Lawrence C. Walt
Clark L. Waters
Larry D. Walters
James G. Ware
Merrill C. Waters
David M. Webster
Michael J. Weiss
Charles N. Wells
Steven G. Western
Robert H. Whitlock
Paul A. Whitham
Gene W. Whitten
Leo V. Williams III
Nicholas J. Williams, Jr.
Norris E. Williams
Clarence E. Willie, Sr.
Douglas G. Wilson
Thomas E. Wilson
Richard P. Wolfe
Thomas S. Wolfe
James E. Woodruff, Jr.
Donald W. Workman
Gary J. Wright
James L. Young III
George E. Zaklelarz
William E. Zales, Jr.

WITHDRAWAL

Executive nomination withdrawn from the Senate March 28, 1972:

IN THE COAST GUARD

Capt. William H. Brinkmeyer, U.S. Coast Guard, from further consideration for appointment to the grade of rear admiral, U.S. Coast Guard. His name was submitted together with that of one other nominee for appointment to the grade of rear admiral in the Coast Guard on March 20, 1972.

HOUSE OF REPRESENTATIVES—*Tuesday, March 28, 1972*

The House met at 12 o'clock noon.

Rev. Bob W. Parrott, Seabrook United Methodist Church, Seabrook, Tex., offered the following prayer:

Let us pray.

Almighty God, we have desired position more than wisdom to handle the responsibility. And we have paid for it, not in loss of office, but in loss of confidence that we are doing our best.

Help us regain integrity, which comes by being truthful. The truth is, before we vote, we need to listen—to those who put us in office and to You who put us in the world.

You have programed us with a curiosity to fly to the moon, and beyond; with a desire to help the underdog; with the potential to be truthful. O God, electrify this Chamber with truth in order that our words and actions will declare, "Not my will but Thy will be done."

In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. BOB PARROTT, PASTOR, SEABROOK UNITED METHODIST CHURCH

(Mr. CASEY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASEY of Texas. Mr. Speaker, it has indeed been our honor to have our invocation given by the Reverend Bob Parrott, pastor of the Seabrook United Methodist Church, which is part of my congressional district.

Reverend Parrott is truly a "space-age parson," as his church is located near the Manned Spacecraft Center, and he has astronauts and NASA personnel as most of his congregation. He is an instrumentrated pilot, flies his own Beechcraft Bonanza, and has authored two space-oriented books, "A Man Talks With God," and "Earth, Moon, and Beyond." He has a third book scheduled to be published late this year.

Rev. Bob Parrott's real pride and ac-

complishment has been the leadership he gave his 1,200 members in establishing the Edward H. White II Memorial Youth Center, in memory of America's first man to walk in space. He and the members of his church were successful in persuading Bob Hope and other prominent entertainers to perform a benefit at the Dome Stadium in Houston in May of 1970, which resulted in raising $300,000 for the building of this great center and memorial. The Seabrook United Methodist Church owns and operates this center, and it is indeed a great source of inspiration and guidance to the youth of their community.

Reverend Parrott, a graduate of the Perkins School of Theology, Southern Methodist University, is married to Doris Ann Melton of Tyler, Tex., and they have one daughter, Deborah Ann. I hope that many of my colleagues will have the opportunity to meet and talk personally with Reverend Parrott on the occasion of his visit to our Chamber.

ADJOURNMENT FROM MARCH 29 TO APRIL 10, 1972

Mr. BOGGS. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 571) and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 571

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON FRIDAY, APRIL 28, 1972, TO RECEIVE FORMER MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that it shall be in order for the Speaker to declare a recess on Friday, April 28, 1972, subject to the call of the Chair, for the purpose of receiving in this Chamber former Members of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 91]

Abernethy	Fish	Pryor, Ark.
Abourezk	Fisher	Quillen
Badillo	Gallagher	Rarick
Baring	Gaydos	Rees
Blanton	Gettys	Reid
Bow	Goldwater	Rooney, N.Y.
Chisholm	Gray	Rostenkowski
Clark	Green, Pa.	Roy
Clawson, Del	Hébert	Scherle
Clay	Hosmer	Scheuer
Collins, Ill.	Hull	Teague, Calif.
Corman	McKinney	Teague, Tex.
de la Garza	Madden	Thompson, N.J.
Dellums	Mann	Tiernan
Diggs	Mitchell	Van Deerlin
Dowdy	O'Konski	Whitten
Dwyer	Patman	Yates
Edwards, La.	Pelly	

The SPEAKER. On this rollcall 378 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR THE COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

THE DOORMEN'S SECURITY CLASS

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, a series of classes are in progress designed to improve the efficiency of the House doormen. The schedule calls for 2 weeks of classroom activity which all doormen must attend. Classes are for a 2-hour period, and are held in the Capitol Police training room in the Rayburn Building. Subsequent courses will be conducted annually. Capt. William Garner, of the Metropolitan Police, has been assigned to the Capitol to conduct the course. The courses consist of a variety of topics, including duties of doormen, introductions, courtesy, methods of dealing with mentally disturbed or suspicious persons, first aid, identification of suspicious packages. Captain Garner will be assisted by instructors from the Washington area bomb squad. Personnel in the office of the Capitol physician will assist in first aid classes. Films and other classroom aids will be used.

The security classes were initiated by the House Doorkeeper with the cooperation and assistance of the Sergeant at Arms and the Capitol physician.

THE 92D CONGRESS DEMOCRATIC CLUB

(Mr. McCORMACK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCORMACK. Mr. Speaker, the 92d Congress Democratic Club, made up of Freshman Democrats, recently elected new officers for 1972.

As fate would have it, a tie occurred between the two candidates running for President: RON MAZZOLI of Kentucky, and Congressman LES ASPIN of Wisconsin. Congressman ASPIN and Congressman MAZZOLI have agreed to share the office of president of the freshman Democrats, dividing the responsibility so that Congressman MAZZOLI would be President until June 15, and Congressman ASPIN will serve from June 15 until new officers are elected in January 1973. Other officers elected are: BOB BERGLAND of Minnesota, vice president; JOHN SEIBERLING of Ohio, secretary; DAWSON MATHIS of Georgia, treasurer.

It has been a great honor for me to serve as President for the first year of the 92d Congress Democratic Club, and to have the support of Congressman GUNN MCKAY of Utah, retiring vice president; Congresswoman LOUISE DAY HICKS of Massachusetts, retiring secretary; and Congressman NICK BEGICH of Alaska, retiring treasurer.

I know they will join me in extending appreciation to all the other Members of Congress for the support you have given us during our first year on the Hill, and in encouraging all the other Members of Congress to continue this sort of enthusiastic support for our new officers.

SPRING CONFERENCE OF THE INTERPARLIAMENTARY UNION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, as president of the U.S. Group to the Interparliamentary Union for the 92d Congress, I wish to report on the House Members who will participate in the spring conference of the IPU, which will be held from April 3 through April 9, 1972, at Yaounde, Cameroon.

The Honorable ALEXANDER PIRNIE, of New York, and the Honorable LEE HAMILTON, of Indiana, will serve on the council of the IPU.

Other House Members who will serve on various committees of the IPU are: JOHN JARMAN, of Oklahoma; PAUL ROGERS, of Florida; EDWARD PATTEN, of New Jersey; ROBERT MCCLORY, of Illinois and myself.

Senators serving on the delegation, by appointment of their respective party leaders, are ERNEST HOLLINGS, of North Carolina; BIRCH BAYH, of Indiana; and WILLIAM SAXBE, of Ohio.

We will make a full report to the House on the conference.

UPLAND GAME CONSERVATION ACT

(Mr. ZWACH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ZWACH. Mr. Speaker, the upland game bird population in our agricultural areas has declined almost to the point of extinction. Wildlife is a part of our heritage which is important to urban and rural residents alike, whether or not they hunt. In Minnesota alone, the popular ring-necked pheasant is now present at about 20 percent of its numbers just 10 years ago. Population of other farm wildlife has declined by a somewhat lesser degree.

This alarming decrease in the upland game population is largely due to today's farming practices of eliminating fence rows and clear cultivation and annual rotation of crops. There is a definite need to provide a permanent section-by-section system of game shelters.

In an effort to remedy this situation, I introduced the Water Bank Act which preserves wetlands for water fowl and other wildlife. This was enacted in the last Congress and is now in the process of being implemented. As a companion measure, I, along with other Members here, am now introducing an upland game act which would provide cover, nesting habitat and feeding areas for pheasants, grouse, and partridge, as well as preserve some of our natural beauty areas.

The Upland Game Conservation Act would provide that landowners enter into agreements with the Secretary of Agriculture for a period of not more than 10 years or not to exceed 10 acres per farm. While requiring a cover crop, the landowner would not harvest any crop from nor graze the acreage during the agreement period.

We owe it to the generations after us to rebuild our wildlife population and I hope this measure will receive the consideration and implementation it deserves.

BEEF CARCASS PRICES BELOW COST OF 20 YEARS AGO

(Mr. ANDREWS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. ANDREWS. Mr. Speaker, the propaganda which has been floating around recently concerning the price of beef has been far more confusing than honest. I think it is important to get some honesty in the discussion about the prices of beef and I would hope that our metropolitan newspapers will take note of what the farmer is really getting for his choice beef.

On August 13, 1971, the President imposed the economic freeze. That date, choice beef carcasses at Omaha were selling for $54 per hundred pounds. Last Friday, March 24, 1972, choice beef carcasses at Omaha brought $53.25, below the August 13, 1971, figure and, probably more important, below what beef carcasses were 20 years ago.

I wonder if my colleagues realize that during the past 20 years, Government employees salaries have increased 430 percent, wages for off-farm labor have gone up 340 percent, and business and professional income has increased 200 percent. Yet, during that same period, the 70 major farm commodities have increased in price by only 7 percent. We have seen editorial cartoons in a Washington paper indicating the consumer is being forced to pay outrageous prices for beef and that the farmer should get less for his product. I would like to point out that 20 years ago, the Sunday edition of this newspaper was selling for 10 cents. Today it costs the consumer 40 cents, an increase of 400 percent.

Perhaps if the Price Commission is concerning itself with a product whose cost is below what it was 20 years ago, I think it is only equitable that it should review a product whose price has gone up fourfold.

Think about it.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. BLATNIK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11896, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read the first section of the committee amendment in the nature of a substitute, ending on page 198, line 6. If there are no amendments to be proposed to this section, the Clerk will read.

The Clerk read as follows:

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF GOALS AND POLICY

"SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1981;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent and abate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement of pollution.

"(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

"(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called 'Administrator') shall administer this Act.

"(e) Public participation in the development, revision, and enforcement of any regulation, standard, or effluent limitation established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays of all levels of government.

"(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

"COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

"SEC. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for abating or reducing the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial

wastes, or substance which may adversely affect such waters.

"(b)(1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

"(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

"(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

"(5) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

"(c)(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin or portion thereof which—

"(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

"(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

"(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

"(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

"(3) For the purposes of this subsection the term 'basin' includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

"INTERSTATE COOPERATION AND UNIFORM LAWS

"SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and abatement of pollution; and encourage compacts between States for the prevention and control of pollution.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

"RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

"SEC. 104. (a) The Administrator shall establish national programs for the prevention and abatement of pollution and as part of such programs shall—

"(1) in cooperation with other Federal, State, and local agencies, conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement of pollution.

"(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

"(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

"(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

"(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

"(6) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than July 1, 1973.

"(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

"(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

"(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

"(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

"(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

"(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention and abatement thereof; and

"(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement of pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

"(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

"(1) Practicable means of treating municipal sewage and other waterborne wastes to remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

"(2) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

"(3) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control pollution not susceptible to other means of abatement.

"(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out.

"(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

"(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities; and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and abatement of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

"(1) engage in research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

"(2) publish from time to time the results of such activities; and

"(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to, public or private organizations and individuals.

"(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

"(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than October 3, 1972, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

"(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

"(m)(1) The Administration shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

"(2) The Administrator shall report the results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

"(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

"(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any three year period. Copies of each such report shall be made available to all interested parties, public and private.

"(4) For the purpose of this subsection, the term 'estuarine zones' means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term 'estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

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"(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

"(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

"(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and impoved methods and the better application of existing methods of preventing and abating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

"(q)(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

"(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

"(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

"(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water development activities. No such grant in any fiscal year shall exceed $1,000,000.

"(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

"GRANTS FOR RESEARCH AND DEVELOPMENT

"SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

"(1) any project which will demonstrate a new or improved method of preventing and abating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

"(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

"(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced pollution treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with in-stream water quality improvement techniques.

"(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

"(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

"(1) waste management methods applicable to point and nonpoint sources of pollutants to eliminate the discharge of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

"(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining and containing pollutants so they will not migrate to cause water or other environmental pollution; and

"(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

"(e)(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing and abating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

"(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

"(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

"(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

"(2) No grant shall be made for any project in an amount exceeding 75 per centum of the cost thereof as determined by the Administrator; and

"(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

"(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

"(h) For the purpose of this section there is authorized to be appropriated $70,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and from such appropriations at least 10 per centum of the funds actually apppropriated in each fiscal year shall be available only for the purposes of subsection (e).

"GRANTS FOR POLLUTION CONTROL PROGRAMS

"SEC. 106. (a) There are hereby authorized to be apppropriated the following sums, to remain available until expended, to carry out the purposes of this section—

"(1) $60,000,000 for the fiscal year ending June 30, 1973; and

"(2) $75,000,000 for the fiscal year ending June 30, 1974;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

"(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

"(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

"(1) the allotment of such State or agency for such fiscal year under subsection (b), or

"(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

"(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

"(e) Grants shall be made under this section on condition that—

"(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after the date of enactment of this section:

"(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

"(B) such additional information, data, and reports as the Administrator may require.

"(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

"(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval its program for the prevention and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

"(f) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

"(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Administrator; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

"(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

"(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and sources of in-place pollutants, including bottom loads, sludge banks, and polluted harbor dredgings.

"(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 109. The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(B) training and retraining of faculty members;

"(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

"SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

"(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applianct under this section; and

"(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"(2) The Administrator shall allocate

grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

"(3)(A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee it. connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

"AWARD OF SCHOLARSHIPS

"SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

"(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(A) provide an equitable distribution of such scholarships throughout the United States; and

"(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(A) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 110 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Administrator shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

"(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

"DEFINITIONS AND AUTHORIZATIONS

"SEC. 112. (a) As used in sections 109 through 112 of this Act—

"(1) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(2) The term 'academic year' means an academic year or its equivalent, as determined by the Administrator.

"(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

"(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out sections 109 through 112 of this Act.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

"(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Administrator shall report to Congress not later than January 31, 1974, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be apropriated not to exceed $2,000,000 to carry out this section

"ECONOMIC GROWTH CENTERS

"SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

"TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

"PURPOSE

"SEC. 201. (a) It is the purpose of this title to require, and to assist the development and implementation of, waste treatment management plans and practices.

"(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment technology and aerated treatment-spray-irrigation technology.

"(c) To the extent practicable, waste treatment management shall be on an areawide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

"(d)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works.

"(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

"(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

"(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

"(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

"(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"FEDERAL SHARE

"SEC. 202. (a) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

"(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

"(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

"(2) the State water pollution control agency certifies that the quantity of available ground water will be insufficent to meet the future requirements for public water supply, unless effluents from publicly owned treatment works, after adequate treatment are injected into the ground to replenish the supply of ground water.

"PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

"SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(d)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

"(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

"LIMITATIONS AND CONDITIONS

"SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(1) the Administrator shall determine—

"(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

"(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

"(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act;

"(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

"(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required;

"(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'.

"(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(d)(1) after June 30, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation, maintenance (including replacement), and expansion of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

"(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

"(3) Revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title, as determined by the Administrator, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance with regulations promulgated by the Administrator.

"(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

"ALLOTMENT

"SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than 30 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of the table on page 18 of volume I of Senate Document 92-23 entitled 'The Cost of Clean Water'. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

"(b)(1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last

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allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"REIMBURSEMENT AND ADVANCED CONSTRUCTION

"SEC. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1971, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of Federal funds or (2) with financial assistance authorized by section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimbursement of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1974, to the maximum extent that assistance could have been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and adequate funds had been available (including retroactive State participation).

"(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

"(c) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,000,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

"(d)(1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

"(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

"AUTHORIZATION

"SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

"AREAWIDE WASTE TREATMENT MANAGEMENT

"SEC. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

"(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

"(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

"(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization of developing effective areawide waste treatment management plans for such area.

"(4) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

"(5) Designations under this subsection shall be subject to the approval of the Administrator.

"(b)(1) Not later than two years after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved.

"(2) Any plan prepared under such process shall include, but not be limited to—

"(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

"(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

"(C) the establishment of a regulatory program to—

"(i) implement the waste treatment management requirements of section 201(c),

"(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

"(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

"(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

"(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic, social, and environmental impact of carrying out the plan within such time;

"(F) a process to (i) identify, if appropriate, agriculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(H) a process to (i) identify construction activity related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources; and

"(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan.

"(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

"(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

"(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

"(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

"(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

"(E) to raise revenues, including the assessment of waste treatment charges;

"(F) to incure short- and long-term indebtedness;

"(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

"(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

"(I) to accept for treatment industrial wastes.

"(d) After a waste treatment management agency has been designated under this subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(d)(1) within such area except to such designated agency and for works in conformity with such plan.

"(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

"(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.

"(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

"(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

"(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

"BASIN PLANNING

"SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated by a Governor or Governors under paragraphs (2) and (3) of subsection (a) of section 208 of this Act.

"(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submittted not later than January 31, 1973.

"(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

"ANNUAL SURVEY

"SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

"SEWAGE COLLECTION SYSTEMS

"SEC. 211. No grant shall be made under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

"DEFINITIONS

"SEC. 212. As used in this title—

"(1) The term 'construction' means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"(2)(A) The term 'treatment works' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"(B) In addition to the definition contained in subparagraph (A) of this paragraph, 'treatment works' means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

"(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

"(3) The term 'replacement' as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"(4) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

"TITLE III—STANDARDS AND ENFORCEMENT

"EFFLUENT LIMITATIONS

"SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the objective of this Act there shall be achieved—

"(1)(A) not later than January 1, 1976, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

"(B) for publicly owned treatment works in existence on January 1, 1976, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or

"(C) not later than January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, establish pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

"(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the

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cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

"(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph. Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

"(c) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

"(d) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

"(e) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

"(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet affluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever periods ends first.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

"(b)(1) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intent to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the person submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(2) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(3) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

"(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

"(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

"(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

"(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

"(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

"(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

"(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

"(c)(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

"(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses, and also taking into consideration their use and value for navigation.

"(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

"(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

"(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

"(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

"(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

"(d)(1) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. Each State shall establish for the waters so identified, and in accordance with the priority ranking, the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

"(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the load established under paragraph (1) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

"(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish for such waters the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation, at a level that would implement the water quality standards.

"(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

"(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

"(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

"(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2)(B), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

"(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

"(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

"(D) procedures for revision;

"(E) adequate authority for intergovernmental cooperation;

"(F) adequate implementation, including schedules of compliance, for revised or new water quality standards under subsection (c) of this section;

"(G) controls over the disposition of all residual waste from any water treatment processing;

"(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

"(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

"INFORMATION AND GUIDELINES

"SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

"(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

"(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources

(other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the control measures and practices to be applicable to any point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act, shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate;

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available demonstrated control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available demonstrated technology shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate; and

"(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

"(c) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within one year after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

"(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

"(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

"(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

"(C) all construction activity, including runoff from the facilities resulting from such construction;

"(D) the disposal of pollutants in wells or in subsurface excavations;

"(E) salt water intrusion resulting from reduction of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

"(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

"(f)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

"(h) The Administrator shall (1) within ninety days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act, and (2) within ninety days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

"(A) monitoring requirements;

"(B) reporting requirements (including procedures to make information available to the public);

"(C) enforcement provisions; and

"(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

"(i) The Administrator shall, within one year after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

"(j)(1) The Administrator shall, within six months from the date of enactment of this title, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act.

"(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, during 1972, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

"(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants into all navigable waters and the waters of the contiguous zone; and

"(3) identify specifically those navigable waters, the quality of which

"(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(B) can reasonably be expected to attain such level by 1976 or 1981; and

"(C) can reasonably be expected to attain such level by any later date.

"(b)(1) Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

"(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

"(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

"(D) an estimate of (i) the economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievement; and (iii) an estimate of the date of such achievement; and

"(E) a description of the nature and extent of non-point source of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

"(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before April 1, 1975, and annually thereafter.

"NATIONAL STANDARDS OF PERFORMANCE

"SEC. 306. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"(2) The term 'new source' means any source, the construction or modification of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

"(3) The term 'source' means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

"(4) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a source.

"(5) The term 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants, discharged by a source.

"(6) The term 'construction' means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at time the premises where such equipment will be used, including preparation work at such premises.

"(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall at the minimum, include:

"pulp and paper mills;

"paperboard, builders paper and board mills;

"meat product and rendering processing;

"dairy product processing;

"grain mills;

"canned and preserved fruits and vegetables processing;

"canned and preserved seafood processing;

"sugar processing;

"textile mills;

"cement manufacturing;

"feedlots;

"electroplating;

"organic chemicals manufacturing;

"inorganic chemicals manufacturing;

"plastic and synthetic materials manufacturing;

"soap and detergent manufacturing;

"fertilizer manufacturing;

"petroleum refining;

"iron and steel manufacturing;

"ironferrous metals manufacturing;

"phosphate manufacturing;

"steam electric powerplants;

"ferroalloy manufacturing;

"leather tanning and finishing;

"glass and asbestos manufacturing;

"rubber processing; and

"timber products processing.

"(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

"(3) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"SEC. 307. (a)(1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition.

"(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards

for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

"(2) The Administrator shall from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure establish by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standards shall apply.

"(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

"INSPECTIONS, MONITORING, AND ENTRY

"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records; (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 309. (a) (1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, or 316 of this Act in a permit issued by a State under an approved permit program under section 402 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of 'federally assumed enforcement'), the Administrator shall enforce any permit condition or limitation with respect to any person—

"(A) by issuing an order to comply with such condition or limitation, or

"(B) by bringing a civil action under subsection (b) of this section.

"(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

"(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

"(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(c) (1) Any person who willfully or negligently violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(3) For the purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in section 505(5) of this Act, any responsible corporate officer.

"(d) Any person who violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

"(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

"INTERNATIONAL POLLUTION ABATEMENT

"SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which

may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

"(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

"(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

"(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(e) Board members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

"OIL AND HAZARDOUS SUBSTANCE LIABILITY

"SEC. 311. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(3) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(4) 'public vessel' means a vessel owned or bare-boat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(5) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(6) 'owner or operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an on-shore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(7) 'person' includes an individual, firm, corporation, association, and a partnership;

"(8) 'remove' or 'removal' refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(9) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land;

"(11) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit;

"(14) 'hazardous substance' means any substance designated pursuant to subsection (b)(2) of this section.

"(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines and beaches.

"(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance is itself actually removable.

"(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and disposal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and disposal characteristics of such substance.

"(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharge of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

"(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c)(1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

"(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances; and

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is dischargd in violation of subsection (b)(2) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

"(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

"(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshores facilities, and to contain such discharges and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

"(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (l), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (l) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (l)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility.

Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"MARINE SANITATION DEVICES

"SEC. 312. (a) For the purpose of this section, the terms—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance

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used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessel (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f)(1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

"(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

"(3) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsection (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with only such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

"CLEAN LAKES

"SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

"(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

"(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

"(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

"(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

"(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

"(2) There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

"NATIONAL ACADEMIES STUDY

"SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1981 in section 301(b)(2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Notwithstanding the provisions of section 301(b)(2) of this title or any other provision of this Act to the contrary, effluent limitations, goals, and policies established for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

"(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

"(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

"REGULATION OF THERMAL DISCHARGES

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

"FINANCING STUDY

"SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

"(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

"AQUACULTURE

"SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will

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originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 306, 307, or 316 of this Act.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations of other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, or any regulation under section 316 of this Act, and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, 316, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

"(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator may authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(h)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

"(b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violation of any condition of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants into wells;

"(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

"(B) Except with respect to sources owned or operated by the United States, to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

"(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

"(7) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby; and

"(8) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have made public, in writing, the reasons for such withdrawal.

"(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

"(2) No permit shall issue if the Administrator within sixty days of the date of his notification under subsection(b)(5) of this section objects in writing to the issuance of such permit.

"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(e) In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this subsection at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

"(h) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

"(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of his Act.

"(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(l) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"OCEAN DISCHARGE CRITERIA

"SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines.

"(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

"(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

"(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

"(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

"(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

"(D) the persistence and permanence of the effects of disposal of pollutants;

"(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

"(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

"(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

"(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

"PERMITS FOR DREDGED OR FILL MATERIAL

"SEC. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

"(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403(c)(1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

"(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirement which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

"TITLE V—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

"(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

"(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"GENERAL DEFINITIONS

"SEC. 502. Except as otherwise specifically provided, when used in this Act:

"(1) The term 'State water pollution control agency' means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

"(2) The term 'interstate agency' means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

"(3) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(4) The term 'municipality' means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

"(5) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(6) The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other waste discharged into water. This term does not mean (A) 'sewage from vessels' within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal discharges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

"(7) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(8) The term 'navigable waters' means the navigable waters of the United States, including the territorial seas.

"(9) The term 'territorial seas' means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

"(10) The term 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

"(11) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(12) The term 'effluent limitation' means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(13) The term 'discharge of a pollutant' and the term 'discharge of pollutants' each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"(14) The term 'toxic pollutant' means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(15) The term 'point source' means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or from which there is or may be a thermal discharge.

"(16) The term 'biological monitoring' shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain, appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

"(17) The term 'thermal discharge' means the introduction of water into the navigable waters or the waters of the continguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

"(18) The term 'discharge' when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

"WATER POLLUTION CONTROL ADVISORY BOARD

"SEC. 503. (a)(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

"(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding them.

"(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

"EMERGENCY POWERS

SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'effluent standard or limitation under this Act' means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standard under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

"(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

"(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

"APPEARANCE

"SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

"EMPLOYEE PROTECTION

"SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secreatry of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was

no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established under this Act.

"FEDERAL PROCUREMENT

"SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 509. (a) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) Review of the Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306 (b)(1)(C), (3) in promulating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested persons in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such thirtieth day.

"(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms, and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"STATE AUTHORITY

"SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

"OTHER AFFECTED AUTHORITY

"SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) The consultation and coordination requirements of the Act of March 10 1934, as amended (16 U.S.C. 661, et seq.), shall apply under this Act only to the provisions of (1) section 306 of this Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

"(c) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

"SEPARABILITY

"SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"LABOR STANDARDS

"SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"AGRICULTURAL FACILITIES

"SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

"EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

"SEC. 515. (a)(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

"(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

"(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

"(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304 (b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

"(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall trasnmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

"(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

"(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

"(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

"(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GSX18, as provided in the General Schedule under section 5332 of title V of the United States Code.

"(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

"(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

"REPORTS TO CONGRESS

"SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

"(b) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (3) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (4) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

"GENERAL AUTHORIZATION

"SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 206, 207 208 (f) and (h) 209, 304, 311 (c), (d), (l), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

Mr. BLATNIK (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I know my good friend and colleague from Minnesota is always agreeable, and I ask the gentleman if he will agree that we will not find ourselves faced with an undue limitation on time.

Mr. BLATNIK. We certainly hope not. Our only purpose in doing this is because of the nature of the section, which encompasses all five titles. Several amendments will touch some two or perhaps three of the titles simultaneously, so they would be rather small amendments which would be confusing in a technical sense. This will expedite matters and make much clearer the intent, if we do as I have requested unanimous consent to do, and it certainly will not restrict us. It should not. I certainly shall see that we give the fullest consideration to these important amendments.

Mr. DINGELL. Mr. Chairman, I am well satisfied, and I thank my good friend for his gracious assurance. I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Chairman, I wish first of all to commend the committee on producing a comprehensive measure designed to reduce water pollution throughout the Nation and to authorize funding which can lead toward reduction and eventual elimination of municipal wastes and other resources of contamination of our waterways.

Mr. Chairman, there is a broad area of distinction between this bill and the measure passed earlier in the other body (S. 2770). Many persons have the feeling that S. 2770 is the panacea for all our water pollution woes—and are recommending to the Members of this House that we amend the pending bill to make it identical with the Senate version.

Mr. Chairman, it seems to me that by establishing a target date of 1976 for the initial cleanup goals of the major sources of water pollution, we will be meeting the standard established in the other body. In addition, insofar as the 1981 and 1986 goals for the intended elimination of all pollution are concerned, we should be better informed as to precisely where we are going.

The provision in the pending bill which would require a study by the National Academy of Science upon which the 1981 and 1985 target dates would be established is, in my opinion, quite valid and

responsible. To establish a final "no discharge" target at this time—without clear evidence that such a goal is possible—and with virtually no reliable estimate as to cost—if funds alone can accomplish such a result—would seem most inadvisable.

Mr. Chairman, in expressing myself in this way on behalf of the House bill, I do not want to indicate that I will not be supporting various amendments which may be proposed in the course of the debates. Indeed, it is my intention to vote in favor of various amendments which I expect will be offered. In that connection, I will comment on the amendments at that time and will endeavor to vote consistently with a long-range and meaningful program to reduce sources of pollution wherever they exist throughout the Nation. Again, let me commend the committee for producing a strong and comprehensive bill which should be most encouraging to the American public, one that demonstrates that the Congress is determined to take necessary legislative action to improve the waters of our Nation.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment, known as the title III, section 301 and section 315 Reuss-Dingell-Saylor package amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 267, line 19, strike the words "except as provided in section 315,"; and

Page 346, strike the sentence beginning on line 19 and ending on line 2, page 347.

Mr. REUSS. Mr. Chairman, section 301 of the reported bill provides that all polluters shall install by 1981 the best available technology, taking into consideration cost factors related to such technology. This same provision is found in the bill S. 2770, passed by the Senate last November 86 to 0.

It is a most reasonable provision. We should insist that within the next decade polluters must move toward establishment of the best available technology to treat their wastes before discharging them, or to avoid discharging them, into the waters of our country.

We find, however, that section 301 (b) (2) of the bill contains a clause that refers to another section of the bill, namely section 315. In that section we find that the reported bill provides for a study to be conducted by the National Academy of Sciences and the National Academy of Engineering concerning the soundness of this requirement for 1981.

We, of course, do not object to such study. But what we do object to is the fact that the bill delays the effectiveness of the 1981 requirement until: First, the study is completed; second, a report is submitted to Congress some time in 1974; and third, the 94th Congress, or some later Congress, passes a new law establishing the 1981 limitation that we are considering today.

Even with this requirement there are several factors that must be applied in assessing the best available technology. For example, there are such factors as the age of equipment and the facilities involved, the process employed, the cost and the economic, social, and environmental impact of achieving this degree of effluent reduction. Foreign competition also will be considered.

In addition, the bill provides a means for extending the 1981 deadline an additional 2 years where it is not physically or legally possible to complete the necessary changes by 1981.

Let me emphasize at this point that the 1981 limitation does not mandate a no-discharge requirement. The no-discharge goal which is set forth earlier in the bill is for 1985, and it is merely a goal, not a requirement. Our amendment does not affect that goal in any way.

Our amendment would delete the provision in section 315 which delays the 1981 requirement until some future act of Congress. Our amendment would not affect the study by the National Academies. That study would, of course, be made and the results of the studies made available to Congress. The Congress will then have ample opportunity to consider the results of the study. If we find that we need legislation to modify the 1981 requirement, we can act then.

But we think that we have enough information today to establish this requirement for 1981 now. We think it is misleading to the public to state in one portion of the bill that a goal of "best available technology" for 1981 is sound, but then refuse to establish it as a requirement until such time as a future Congress passes a new law.

We think it is time we establish a mechanism by which we can insure long range planning for industry and avoid the countless changes that have occurred for industry over the last several years.

If we allow further delay, we will find that the cost of pollution control will increase. Polluters will be forced to install minimal treatment which may not be compatible with the future systems that may be necessary for 1981. Establishment of the 1981 requirement today will influence and encourage the use of greater technology at reasonable costs.

Mr. Chairman, this is the amendment which would make the bill mean what it seems to mean about making the year 1981—that is 10 years from now—a year in which the best available technology, taking into consideration costs, should be the rule of the road for water pollution. Our amendment would, as I say, make the bill mean what it seems to mean.

The bill before us now says just what I have said, but then it goes on to say that it does not really mean it, that there will have to be a study taking several years by the National Academy of Sciences and the National Academy of Engineering and then, after these august bodies have submitted their report, a future Congress will have to enact the standard.

Well, this is just saying that H.R. 11896 hath given, H.R. 11896 hath taken away, and the public is not going to regard H.R. 11896 as very blessed in this particular, because we do shirk what seems to me our obligation to set up a standard.

The 1981 standard in the bill, if it were not repealed by a later section of the bill, is an excellent standard. It requires all sorts of factors to be taken into account, such as the age of the equipment, the process employed, the costs, the economic, social, and environmental impact, and the impact of foreign competition.

Let me emphasize that the 1981 limitation I am talking about does not mandate a no-discharge requirement. That is done by the 1985 sweet by-and-by goal, which is not a statutory requirement at all and which this amendment would in no way affect. Our amendment would simply delete the provision in section 315 which delays the 1981 requirement until some future act of Congress.

Our amendment would not affect the study by the national academies. That would go on just as in the case of the air pollution law now on the statute books. Congress would have ample opportunity to study these reports and, if it sees fit, alter the 1981 standard. But what is important is that industry and the States know now what the standards are. Otherwise industry, with the best of good faith, is going to start on a career of water pollution control which later law may change.

So, I would hope that this amendment No. 1 in the clean water package, supported by some 30 organizations, would be adopted. This would conform it in general with the bill unanimously passed by the other body, and I believe it is the right thing to do.

Mr. GROSS. Will the gentleman yield?

Mr. REUSS. I am glad to yield to my friend from Iowa.

Mr. GROSS. The gentleman keeps reverting to his amendment as "our amendment." Would he say what "our" in this case means?

Mr. REUSS. Yes. I certainly will. "Our" is a group which started with 11 and then became 30 and 40 and 70 and 140, and I hope that the word "our" will refer to a majority of this body when the teller vote with clerks procedure is undertaken in just a few minutes. I suppose the possessive pronoun "our" also refers to the whole series of organizations, the League of Women Voters and some of our great labor union organizations and a dozen or more conservation organizations, a total of some 30 of them, which believe that this bill can be substantially improved by adding to it the six principal amendments that we are offering here today, of which this is No. 1.

Mr. GROSS. In other words, it takes in all outdoors as well as indoors. Is that correct?

Mr. REUSS. The gentleman, as usual, has said it all, and I thank him.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. It is not pleasant for me to be in the posture of opposing an amendment offered by my distinguished colleague from Wisconsin and my very good friend HENRY REUSS. Perhaps it is not pleasant for any of us to be in the posture of opposing an amendment that comes to us under the well-intentioned aegis of any environmental organization. I honor the credentials of the gentleman from Wisconsin; I honor his dedication to the ideals of a clean environment.

But what he would do in this amendment would remove from the bill the very critical triggering factors that leave it

to the Congress of the United States to determine, after a thorough study by the National Academy of Sciences and the National Academy of Engineers, just what the cost environmentally, sociologically, and economically will be of achieving these ambitious goals that are contained in the House and Senate bills.

Now, Mr. Chairman, admittedly, the Senate bill is more ambitious in its concepts. It holds out the total expectation of no discharge of any kind into any stream in the United States by 1975 as a policy of the United States.

We, in our bill, hold this out as a goal. Certainly, everyone wants to achieve that goal. Certainly, everyone would like to see marihuana stopped in the next 5 years for example. But we cannot simply set a goal and say there will be no more marihuana in use in the United States in the next 5 years and have any realistic expectation that our promise will come true.

Surely, we would like to pass a law and say that there will be no more poverty in the United States in the next 5 years. However, saying it and doing it are two different things.

The House bill promises performance and in my judgment it will produce performance. But it promises no more than we honestly believe it will perform.

Mr. Chairman, Larry O'Brien said something the other day which I feel is worth repeating here. He said that public officials have gained the reputation, unfortunately, among much of the electorate of being big promisers and cruel deceivers. So I think the choice confronts us here as to whether we shall promise big and perform relatively less, or perform more and promise no more than we know we can perform.

The House bill authorizes, a thorough, comprehensive study by the National Academy of Sciences to determine the feasibility and costs of achieving these laudible, ambitious goals.

Let me recite to you the words of Senator MUSKIE, the sponsor of the bill in the other body, when commenting upon this question. He said:

The committe realizes that there is insufficient evidence to implement the policies and objectives of this Act without additional information.

He said further:

Consequently, the 1985 deadline for achieving no discharge of pollutants is a policy objective. It is not locked in concrete. It is not enforceable. It simply establishes what the committee thinks ought to be done on the basis of present knowledge.

Then later on in the debate Senator PEARSON asked this perceptive question:

The other question I wish to ask the Senator is whether some estimate or judgment has been made as to the cost of achieving zero pollution by 1985, both as to capital cost and operative cost.

Now, listen to the answer which was given by Senator MUSKIE:

There are no estimates of that kind that, in my judgment, have any validity.

He later states:

But the 1985 target has not been related to cost. The bill does provide for water quality inventories which by the mid-seventies are designed to give us some hard estimates as to the cost of achieving no pollution discharge by 1985. When we have that information, then it will be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

So, Mr. Chairman, this is what we provide for in this bill. When this learned academy reports to us after 2 years we shall sit down and see what the costs of achieving the 1981 and 1985 goals will be. Then we shall be in a position to act knowledgeably and responsibly.

Some of the most knowledgeable people in the field have represented to the committee in lengthy testimony the probability that removing the last 3 percentage points of pollution based upon our present knowledge and our projected technology may cost as much as the total cost—and, I am not speaking in terms of billions, I am speaking in terms of hundreds of billions of dollars—for removing the first 97 percent.

Mr. Chairman, Governor Rockefeller testified that in order to achieve no discharge in his State, the State of New York alone, it would cost something like $275 billion. We need to know the costs before we make irrevocable promises. Therefore, I urge that the amendment be rejected.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent (at the request of Mr. GROSS) Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Iowa.

Mr. GROSS. In view of the statement by Mr. MUSKIE, what does the Senate bill provide? Does it provide for 1985 and no study?

Mr. WRIGHT. The Senate bill does not provide for any study whatever.

Mr. GROSS. Although the target date is 1985 or 1981?

Mr. WRIGHT. The Senate bill provides a 1981 requirement of best available technology and a policy of no discharge by 1981. The best available technology, regardless of the cost or the demonstrated capability within American industry and American research to achieve that goal and the author of the Senate bill admits that we do not know what the cost is going to be.

That is a fine objective, and we are for it, but we want to know what the cost is going to be.

Mr. GROSS. I assume from what the gentleman has said, and despite what he read from the statement of Senator MUSKIE, that the Senator then went right ahead and voted for the bill?

Mr. WRIGHT. Of course he did. Every Member of the Senate present at the time voted for the bill, I will say to the distinguished gentleman from Iowa. But I want to say further that what we provide in the House bill is what the majority of the people in the Senate thought they were providing for in the Senate bill.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. HORTON, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. Mr. Chairman, I thank the gentleman for the additional time.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I will yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman from Texas yielding to me. I have great respect for the gentleman from Wisconsin (Mr. REUSS) and the position that he takes, as I am sure the gentleman in the well also has. I am concerned about the statement that the gentleman from Wisconsin made with regard to the uncertainty that business would have if the committee bill was adopted. I would wish that the gentleman in the well would make some comment with regard to the cost problem.

Mr. WRIGHT. Numerous representatives of industry are fearful that, if we require these objectives that we have set forth without a study of what they will cost, it might conceivably put them at a competitive disadvantage with foreign competitors to the extent that they would have to move to other lands to conduct their business, rather than to comply with these objectives which might be prohibitively costly. I do not know what they will cost. I do not believe anybody knows what they will cost. I do not believe the gentleman from Wisconsin knows what they will cost.

I think the Congress should know what they will cost, what the alternatives are, what is the best available and what is the next best available, and some relation of benefit to cost in achieving the objectives we seek to achieve. It is for this purpose that the House bill creates the study to which this debate refers.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Mr. Chairman, I will first yield to the gentleman from Maryland (Mr. LONG) and then if I have sufficient time to do so I will again yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman.

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I want to start cleaning up our waters, and I want to do so without delay. Will the House bill as it stands start us right now on the road toward cleaning up our water, and greatly cutting down on undesirable discharges?

Mr. WRIGHT. Absolutely, beyond any question or doubt, the House bill represents the most significant advance in pollution abatement in this country that has ever been undertaken. It is stronger than the Senate bill in the amount of help it provides to assist municipalities and the States to achieve these objectives.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ZION. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think all of us on the committee share a sincere desire to clean up our water. There is little question about that. But the question of cost is something that we are unable to answer.

The gentleman from Texas (Mr. WRIGHT) said it would cost somewhere in excess of $2.3 billion to put this into effect in the State of New York. Extrapolating that figure, we find that we are talking of something in the nature of $2.5 trillion insofar as it affects this country, which is considerably more than the gross national product of the world.

There is also this question concerning unemployment. We had but one industry testify before our committee, and that was the paper industry. They said that if they could have considerably more electric power than they are getting—and we all know that there is a very dim future for increases in electric power—the production of increased electric power often causes pollution itself—that they might be able to comply with this legislation. But it would result in a price increase of between 50 and 60 percent. They then testified that this would wind up the paper industry in this country, and we would forfeit the papermaking industry to Canada and Sweden.

So we are concerned about unemployment. When this bill came before us I sought some help from the AFL-CIO. I talked to their chief economist. They were going to send somebody over to talk to me about it. Several times I tried to get a little more attention from them, to see if they were interested in this problem, but they never did contact me.

Then on the day the bill was written up we received a new section 6, which was going to be presented from the AFL-CIO, which not only anticipates massive unemployment, but which would give them the opportunity to create the largest new welfare bill in the history of this country.

Let me read part of what they were proposing here under a new section 6:

Declaration of Policy. The Congress hereby finds and declares that closure and/or reduction of employment in workplaces subject to provisions of the Act are matters of serious national concern. Therefore, in order to prevent and relieve such adverse consequences to employees, employers and communities which otherwise may result from strong environmental control standards and their vigorous enforcement a program of federal regulation and assistance is hereby created.

Look at what they want to do. They want to maintain a continuous evaluation of all private industry as to potential employment loss within a community or facility which he has reason to believe or it is alleged will result from a standard or an order issued under this act.

That is rather extensive. They recognize that the possibility of loss of employment may well go up into the millions.

According to their proposed amendment—

Where the Administrator has found and determined that unemployment loss of 15 or more jobs from a facility or a single community has resulted from a standard or enforcement order issued under this Act, he may provide economic assistance to such individuals.

In other words, this is creating a brand new welfare program for the hundreds of thousands or millions of people who might be unemployed under this act.

Look at what else is included:

Where such job loss has been alleged by the owner or operator of a facility as stemming from a standard or enforcement order under this Act, * * *

If a man loses his job and it is alleged that he lost his job because of this strong pollution bill—

Such owner or operator shall reimburse the United States Government for all sums expended for assistance under this Title.

My colleagues, if there are serious questions about the cost of this bill and certainly there are if some people think it is going to cost over $2 trillion—if there are serious questions about the unemployment effect of this bill, as the AFL-CIO anticipates massive unemployment and wants to convert this to a massive welfare bill—I think this is something that should be looked at.

Mr. Chairman, I do not think we can disregard the need for future congressional action after the National Academy studies to do so would simply emasculate this legislation of its commonsense approach to cleaning up our environment.

Our prescribed obligations in all matters of public concern is to legislate responsibility. We must recognize that effluent limitations, goals, and policies set forth in this bill will have major impacts upon all elements of our modern society.

Until we know more precisely what effect this bill will have on costs and employment, we have no right to commit future generations to its provisions.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment, and all amendments thereto, close in 10 minutes.

Mr. DINGELL. Mr. Chairman, I object.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment, and all amendments thereto, close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. GUBSER) is recognized.

Mr. GUBSER. Mr. Chairman, I take this time in order to ask a question of the gentleman from Wisconsin (Mr. REUSS).

I do not know how it started—I presume some Washington organization notified a number of my constituents regarding this bill but I received numerous identical telegrams, all of which asked me to support the "Tingell-Reuss" substitute.

I wonder if the gentleman from Wisconsin could inform me as to who "Mr. Tingell" is.

Mr. REUSS. He is "tingling" with emotion right now.

Mr. GUBSER. I thank the gentleman.

(By unanimous consent, Mr. GUBSER yielded his remaining time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, it pains me to be on the other side from my good friends on the committee, but I must observe regretfully that they are talking about an amendment other than that which is offered to the House today.

The amendment offered by my good friend from Wisconsin (Mr. REUSS) is very simple. It is a part of the clean-water package, and what it says is that, very simply, by 1981, the Federal law would require, without study or previous congressional action, that the industries of this Nation go to the best available technology. The amendment does not affect the 1985 requirement study before in abating water pollution and in treating our wastes. The requirement is imposed for zero discharge at all. It makes the requirement that polluters go to the best available technology subject to the reasonableness of the cost of the requirement that has to be met.

Let me just recap that very briefly, because this point is important: All that is required by this amendment is that industry by 1981 go to the best available technology, and that such requirement is subject to reasonableness of cost.

Now I yield to my good friend, the gentleman from Alabama (Mr. JONES) to state whether or not I have been telling the truth.

Mr. JONES of Alabama. Of course the gentleman has been telling the truth——

Mr. DINGELL. I thank the gentleman.

Mr. JONES of Alabama. The bill so provides.

Mr. DINGELL. The bill does not so provide. The bill requires a study before that takes place. The bill gives with the right hand and then takes away with the left by saying that is subject to section 315. Section 315 says but no one really need not do it until after legislation and study. There has to be a study first. This is a giving with the right hand and a taking away with the left. If the committee had wanted congressional action to take place before we go to the highest available technology, they should have just simply deferred the whole question, and we could then come back and consider this question again in 1979 or thereabouts. What we do here essentially to engage in what is really an unfair practice with our constituents by giving with the right hand and taking away with the left. The amendment offered by the gentleman from Wisconsin (Mr. REUSS) provides that what we are giving with the right. We will not take with the left. All you have to do is to go up to 1981 with the best technology, and that is subject to reasonableness of cost.

I yield back the balance of my time.

Mr. HARRINGTON. Mr. Chairman, yesterday, I discussed some of the good points of the water pollution bill before us.

Today, I would like to direct my remarks toward the bill's weaknesses. Congressmen DINGELL, REUSS, RANGEL, and Congresswoman ABZUG have done an excellent job of pointing out these defects and have prepared the "clean water amendments" package to overcome the faults. I wish to commend my colleagues for the fine job they have done. I fully support and will vote for each of these amendments. Let me explain why.

The Congress, particularly the House, often displays the skill of a magician. The sleight-of-hand that takes place here on the floor and in committee is astounding. The object of the exercise is often to legislate without legislating—to pass a law with no teeth so that the status quo remains unchanged. The water pollution bill we are amending today is a fine example of congressional magic.

We say we are going to set goals for the elimination of pollution, and there they are in section 101 of the bill. This section states that—

It is the National goal that the discharge of pollutants into the navigable waters be eliminated by 1985.

And that—

It is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved in 1981.

These are only goals—not a legislative mandate—but they are dates which give us a framework for our efforts. Section 301 of the bill further strengthens these goals by making them "statutory limitations." But looking further on in the legislation we come across a beautifully contrived disappearing act. Suddenly we find that before these dates become either statutory mandates or even goals, we must have a study by the National Academy of Sciences and the National Academy of Engineering "of the technological aspects of achieving, and all aspects of the total economic, social and environmental effects of achieving or not achieving the effluent limitations and goals" for 1981.

The study will be sent to Congress 2 years after enactment of this bill. On the surface, no one could possibly object to such a study, and I certainly have no objections. The impact of pollution on our society has not really been studied in depth. But, the hooker in this bill is that none of the goals or the legislative mandates for 1981 and 1985 can go into effect until the report has been received by the Congress and the Congress votes to put those dates into effect. There is no cleanup requirement beyond 1976 in this bill. Thus, by voting on the bill with this provision in it today, we are voting to delay the 1981 and 1985 effective dates and are destroying the goals the Senate and many Members of the House have tried so hard to achieve. The Senate bill requires "zero discharge" and "best available technology" only when it can be done at a "reasonable cost." In addition, the 1985 date is merely a target date for planning purposes—not a rigid legislatively enforceable mandate.

I support the amendment requiring that we vote today on establishing these goals and require that the study be made for our future knowledge. We cannot wait for the results of the study before we establish goals for clean water and rational planning for industry. Congress can always amend these goals in the future if necessary.

This bill attempts to change our previous method of controlling pollution by shifting the primary focus of water pollution control from water quality standards to effluent limitations. The change is effected by the establishment of a permit program for effluent discharges. Under the Senate bill, the EPA would have the final say about the issuance of permits. Under H.R. 11896 the permit program must be put solely in the hands of the States if they meet certain loose Federal guidelines. And, once this grant of power is complete, EPA is not required to initiate proceedings to take back the State program if the State is not complying with the Federal guidelines in administering the program. Finally, the power of the EPA to review and when appropriate to veto individual permits for industries issued by the States—who may be unduly influenced by local and powerful industry groups or not have adequately trained personnel—is removed.

We can have no coherent, realistic and fair water pollution standards unless EPA has the final veto power over permits. The system established under H.R. 11896 would lead to competition between States for industry which will locate in the States with the lowest standards to comply with. What about States with tough standards now? They will lose businesses to States with more relaxed standards. We cannot hope to make the permit system work without strong enforcement. The House bill dissolves that enforcement authority—leaving the shell of a good idea gutted by impractical and unreasonable restrictions.

I support the amendment to give final veto power to the Federal EPA.

One of the most critical problems inherent in legislating water pollution controls is that the standards will be so haphazard that workers will be pushed out of jobs by industries moving from State to State in search of less strict pollution standards. The House bill in not allowing the EPA a veto over individual permits establishes dangerous policies for the industrial workers. We must establish national effluent limitations to prevent industrial "shopping" and we must establish an equitable system of assistance to those workers and communities affected by plant closures due to environmental regulations.

The present amendment offers workers the right to ask for both a study and a hearing of their allegations that their company is either closing or laying off employees because it is unable to operate as a result of the new regulations.

Although I do not believe the amendment goes far enough, I will support it at this time. It is my understanding that hearings will be held later this year by the Public Works Committee or EDA and that direct economic assistance to workers out of jobs as a result of stringent, but necessary, pollution standards will be considered at that time. Such assistance is essential.

I also support amendments to retain the Fish and Wildlife Coordination Act. Under this act State fish and game agencies and the Fish and Wildlife Service of the Interior Department may comment on all discharge permits to insure both fish and wildlife resources protection. This comment procedure should be a part of the current law and I will vote to reinsert the provision.

Finally, I support the amendment to retain the public's procedural rights and consideration of water quality problems by agencies granting Federal licenses and permits under the National Environmental Policy Act. As H.R. 11896 is presently written these rights would be seriously weakened.

All of these amendments are important for strong legislation. We only hurt ourselves by passing a weak bill. Antipollution costs are skyrocketing. There is a definite danger to health. If we are so shortsighted that we crumble in the face of a real commitment to ending pollution now, we will pay the price later and wonder at our own stupidity. The time for magic tricks is over. We have been long overdue in seeing the reality of the crisis facing us.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

(By unanimous consent, Mr. HECHLER of West Virginia yielded his time to Mr. GUDE.)

Mr. GUDE. Mr. Chairman, I would like to commend the committee for the time and effort which it has put into developing this legislation. H.R. 11896 is unquestionably a great improvement over the law presently on the books.

The bill, for example, goes far toward aiding municipalities in constructing treatment facilities. It provides money on a contract basis thus giving the local officials the kind of assurance they need to make wise, long-range plans.

The bill when fully funded taking into consideration updated needs would provide the necessary funds to continue the upgrading and expansion of the Blue Plains treatment plant in the Washington metropolitan area. This plant, with its high level tertiary treatment, will serve as a model for communities around the Nation which are considering going the route of regional cooperation.

As one of the supporters of the clean water package of amendments, I recognize and applaud the committee's efforts. The amendments we are offering today are designed to round out and better implement the basic framework already well developed by the committee.

The amendment to H.R. 11896 proposed by my colleague Mr. REUSS is, I believe, necessary and vital, if this legislation is going to fulfill its promise.

In the policy section of the bill it is held to be a national goal that the discharge of pollutants into the navigable waters be eliminated by 1985. It is also stated that, as an interim goal, we achieve water quality sufficient to allow recreation and the protection and propagation of fish, shellfish, and wildlife by 1981.

Having stated these admirable goals this legislation then removes them in section 315 of the bill by calling for a study by the National Academy of Science and the National Academy of Engineering of the potential effects of their achievement. Thus the 1981 and 1985 standards are made dependent on future legislation.

If H.R. 11896 passes in its present form the polluters of the Nation will be on notice that Congress has failed to bite the bullet and write a water pollution law that will bring results within the foreseeable future. These polluters will be on notice that delay, and obfuscation are still available to them as they use our Nation's waterways as open sewers.

The heart of the amendment offered by the gentleman from Wisconsin is to the question of why the crippling language of section 315 is necessary? The main criticism has been that these provisions will entail exorbitant costs which will close down industries and lay off workers in large numbers.[1] This is the kind of scare tactic which is regularly employed whenever the House takes up pollution control legislation. It is, however, highly misleading, based on several faulty premises, and destined to lead to even higher costs in the future.

First of all, the 1981 requirements only take effect when they can be applied at a "reasonable cost." If they cannot be accomplished at a reasonable cost, the requirement of "best available technology" will be applied, but here again there is a caveat—"taking into account the cost of such controls." In addition, the 1985 no discharge goal is merely a target date for planning purposes. It is not a rigid legislative deadline which can be enforced, but is something to aim for.

Now, those of us who are familiar with how pollution control legislation has fared in the past realize that these loopholes are already potentially damaging. It will depend on how the administration interprets the will of Congress and the public as to how strictly they will be enforced.

Another reason why the cost argument is overblown is that the figures being thrown about—such as the $316.5 billion cost of the zero discharge goal—are not based on reality. It is absurd to suggest that the zero discharge goal would be achieved solely by advanced removal techniques. The zero discharge goal is designed to move industry toward closed-loop recycling systems, and where it is practical, toward land disposal systems.

This alternative was practically ignored in the cost estimate. In fact, many industries have reported that the costs of pollution controls can be substantially recovered when recycling systems are used.[2]

[1] Environmental and Economic Benefits and Costs Related to Various Water Pollution Abatement Strategies (administration report).

[2] See Business Week, Feb. 5, 1972, p. 70–71. "The Stormy Debate Over Zero Discharge."

Even where the cost estimates are applicable; namely, those situations where treatment, rather than recycling, is employed, it is foolish to assume, as the cost estimate did that the treatment will consist of the distillation of waste water, a process nearly twice as expensive as the most advanced forms of tertiary treatment.

Instead of being economical by delaying the effective date of these deadlines, we are in fact being extravagant since we are discouraging industries from going ahead with plans for recycling. We are putting the burden on the public to prove the feasibility of the goals rather than on industry to prove that the costs are reasonable.

The committee, as I mentioned, has done a good job with this bill and has taken an important step forward in tightening up our water pollution laws. But the American people deserve a commitment on the part of Congress that the polluters will not be able to drag their feet, and degrade our resources with impunity in the future as they have in the past. Let us put the burden of proof on the polluters, not the citizens. Let us preserve the 1981 and 1985 requirements intact so that we will not not have to meet again here in 3 or 4 years to make up for the time that has been lost.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, do I understand the gentleman does concede the House bill, as it stands, is a very significant improvement on the existing legislation and would result in a very great improvement in control of pollution?

Mr. GUDE. It is a significant advance, and it would be a much more significant advance if we could adopt the amendment of the gentleman from Wisconsin. The committee, as I mentioned, has done a good job in this bill and has taken an important step toward tightening up our antipollution laws, but the American people deserve a commitment from Congress that polluters will not be able to drag their feet with impunity in the future as they have in the past.

As I previously stated let us put the burden of proof on the polluters, not on the citizens. Let us preserve the 1981 and 1985 requirements intact so that we will not have to meet again here in 3 or 4 years to make up for the time that has been lost.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, as a member of the Public Works Committee, I support this amendment. I hope that we can all agree to it, for it will strengthen our bill significantly.

Both this bill and the bill which passed the other body last year require the use of the "best practicable" technology by 1976; both bills contain language requiring use of the "best available" technology by 1981, but our bill renders this requirement meaningless by providing that it will not take effect until a National Academy of Sciences study is completed and Congress enacts legislation to make it effective.

It is important—and perhaps unfortunate—to note that "best available," as defined in our bill, does not mean "best available at any price." Section 301(b)(2) speaks of controls achievable through the best available demonstrated technology, "taking into account the cost of such controls," and section 304(b)(2) requires that the assessment of what constitutes the best available demonstrated technology shall take into account, among other things, the cost, and the economic, social and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate.

It is apparent that the "best available" requirement has enough fudge factors in it to allow for almost any difficulty which may arise. To remove it altogether, as the bill proposes, would clearly allow industry to take its good time about getting about the job of abating water pollution; in addition, because no one will know just what to expect after 1976 and the leadtime on treatment facilities is considerable, it will end up costing industry—and the consumer—far more in the long run.

I note in this connection that there was testimony before the Public Works Committee to the effect that retention of the "best available" requirement in the bill would cost more than anyone could afford. In point of fact, questioning by members of the committee including myself demonstrated that many of these figures were made up out of whole cloth, and were no more than a smokescreen to delay the earliest possible attainment of clean water in this country.

To restore the 1981 target date, as this amendment would do, would be to make a resounding statement that we really do intend to make our waters clean again. It would afford industry and State and local authorities plenty of time to plan for their future needs. With all the "ifs, ands and buts" in the definition of "best available" no one will be compelled to do anything which is at all unreasonable. Furthermore, if for some reason we have not built enough leeway into the definition, and it develops that industries and localities which are really doing their best cannot meet the deadline, I am certain that we in the Congress would be willing to reconsider it.

We must make it clear that we mean business, and we must give the Nation sufficient notice of exactly what will be required in terms of the task of cleaning up our waters. I urge the adoption of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(By unanimous consent, Mr. FRENZEL yielded his time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Ohio (Mr. HARSHA), the ranking minority member of the Committee on Public Works in his introductory remarks yesterday commented upon the National Academy of Sciences and the National Academy of Engineering Studies.

As he pointed out, the procedure to implement the 1981 requirement could have such tremendous economic and social impact it should be made only on the basis of thorough study and evaluation in line with competing priorities, potential costs, and benefits of these requirements.

During the hearings on this bill the committee heard evidence that the proposed water quality goals might be undesirably strict from an overall environmental point of view. Recycling and land disposal, for example, might be environmentally less desirable than controlled discharge to water.

Increased energy needs or solid waste disposal problems could be created. The purpose of the study is to determine the best balance, based on better information and experience than is presently available to us, and to avoid setting goals prematurely, which may turn out to be quite undesirable in ways which we are not well enough informed to foreseee.

The amendment implies that time would be lost in moving toward the 1981 and 1985 goals.

I submit that this is not necessarily the case. The two goals will serve as a focal point for research, development and demonstration efforts.

Such development of technology will be required in any event. The technology to meet these goals is not sufficient at this time.

Many of the plants and factories in the United States are less modern than their European and Japanese counterparts. It is estimated that U.S. industries must invest $26 billion to meet secondary treatment requirements.

Recognizing that the time period from project evaluation to actual plant startup can easily be 10 years, it is easy to see that if this amendment were passed we would create a 2-year delay because managers will not authorize new construction knowing that there were existing laws which could make their proposed plant useless in 1981. It is conceivable to advance the 1981 requirement based on the academy's study.

We must modernize both for economic competitiveness and environmental control. This amendment could slow or stop such needed modernization for up to 2 years.

We cannot afford in an uninformed manner to let this happen.

Heed what my friend from Ohio said:

The magnitude of the effects of this amendment could require an immediate major national program with immediate and major effects on all aspects of the life of this Nation, a program with unknown costs, without the assurances that this major potential disruption to the life of our Nation will ultimately be required or can be afforded.

Congress needs a definition of "best available" technology. It is conceivable that a city could have built a modern plant and, because of discretionary power of the Administrator of EPA, that plant would not meet the "best available" criteria.

We cannot reverse the key triggering device of the national academy study. We must reject this amendment.

(By unanimous consent, Mr. DON H. CLAUSEN yielded the remainder of his time to Mr. HARSHA).

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I shall not take my 2 minutes. I want to make the point that my amendment is not unfriendly or disrespectful to the great Committee on Public Works.

The Committee on Public Works, right at the start of the committee amendment, on page 268, set forth a very reasonable and sensible standard for 1981. I am reading starting on line 3, page 268:

There shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls,

That is an entirely sensible standard. The only trouble is that 78 pages later, on page 346, it is all taken back, when it says that at some future date, after years of uncertainty, a future Congress shall vote on this.

I say, vote for the clean water amendment, and in so doing you are not just backing the committee's opposition, but also reinforcing the Public Works Committee in its first good instinct, which is a splendid expression of what we ought to have by 1981, at the end of the environmental decade.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, after a period of several months of consideration of the provisions of the Senate bill and this bill, I have decided to oppose this amendment. I see no point in quibbling over whether Congress considers its 1981 and 1985 deadlines for effluent cleanup to be a policy or a goal, for there is probably not a single Member in either body who is not firmly committed to the elimination of water pollution as both a policy and a goal.

It seems that this amendment seeks to strengthen the resolve behind the policy by eliminating the provision for a comprehensive study by the National Academy of Sciences to determine the estimated costs and alternatives available to achieve the eradication of water pollution by the next decade.

For several reasons, which to me seem perfectly clear, I think that Congress and the Nation could benefit from such a study, conducted at a high level, and with adequate financial support.

We have seen in the literature that has been sent to our offices regarding the costs of cleaning up our waterways by the 1980's that "authoritative" cost estimates for completing the task range everywhere from $55 billion to close to half a trillion dollars. Without agreement on more precise cost estimates, how can the Appropriations Committees of Congress and the budgeting agencies of the administration possibly come up with realistic and effective tax dollar allocations to fund the antipollution effort?

The NAS study could well determine that the amounts authorized in both the House and Senate bills for the Federal share of these programs is woefully inadequate to assure that the job of cleaning up our waters can and will be done. Should we not seek and have this information at a time soon enough to intelligently plan and commit the proper resources to doing the job?

The prime sponsor and supporter of the Senate bill, the distinguished Senator from Maine, stated himself that further information on costs and technological alternatives would be needed before the policy or goal of zero effluent could be planned and implemented. What better way to obtain reliable estimates and reliable scientific information than for Congress to make the gathering of this data a central and intrinsic part of its strong legislative commitment to clean water.

I feel the funds for the NAS study will not be wasted. On the contrary, the study could save us countless millions of dollars in misallocated projects, and it could even provide technological data which may shorten the time between now and the day when our Nation can enjoy pollution-free waters.

Mr. HARSHA. Mr. Chairman, we have heard here a back-and-forth discussion of a variety of costs for this program. I believe this is very indicative of the fact that no one really knows what this program is going to cost. That is why it is so important to get this study completed before we get on the path of an irretrievable position on this; before we lose more than we actually gain.

While we are talking about studies, I want to call the attention of Members to a report by the Environmental Protection Agency, the Council on Environmental Quality, and the Department of Commerce. This involves a study contracted out to private persons to determine the effect of air and water pollution on some 14 industries.

This study concluded that there would be an estimated loss of 50,000 to 125,000 jobs simply because of the 1976 date, not the 1981 date, to which this amendment addresses itself. So obviously there are going to be many jobs lost in this pro-

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gram if we do not know where we are going and how we are going to go about it.

The gentleman from Wisconsin and the gentleman from Michigan indicated that this was not a no-discharge requirement. I would refer them to the language of the bill, which says that the 1981 date is a no-discharge requirement, that it is a no-discharge mandate, unless, if we cannot attain that at a reasonable cost, we have to fall back on the best available technology.

I should also like to raise the point that if this study is knocked out, if the triggering mechanism of this study is knocked out, conceivably the National Academy of Sciences could come back to say that this goal can be reached prior to 1981. If we take out the triggering mechanism we are locking in on the best available technology by 1981, unless Congress comes back to enact subsequent legislation. Let us not block ourselves from moving up this 1981 date if that is feasible under the circumstances.

I would like to point out, also, that nobody, not industry or anyone else, is going to know what is required of them until 1 year after the publication of the rules and regulations and guidelines setting up how the factors are to be determined and what is to go into the decision of the judgment of what is the best available or best practicable technology. So it will be at least a year from the enactment of this bill before the guidelines are ready.

We are talking about a study that will be ready and before the Congress only a year hence, and it seems to me to be a lot more reasonable and prudent to wait until we can act in an informed manner.

I would also like to point out that while we require all industry to use the best practicable technology available by January 1, 1976, that that is only a floor; it is not a maximum. It is a floor, and we fully intend that that floor shall be attained before January 1, 1976. So there will be a continuing process from now on up until that date to achieve the best practicable technology available.

In addition to that, we require water quality standards on all intrastate waters. Heretofore it has not been required of the legislation. This feature is not in the Senate bill. They do not require water quality standards on intrastate waters.

In addition to water quality standards, Mr. Chairman, we require load limits on all of the waters within a State and require a continual upgrading of these load limits which are based upon water quality standards. Thus no industry can say that it is going to meet the 1976 requirement of the best practicable technology, and that is all it must do. We require in this bill, if the best available or best practicable control technology does not meet the water quality standards or does not coincide with the load limits on the streams, that they must upgrade it.

So we are providing in this legislation a much more stringent requirement for effluent limitations and water quality standards and load limits than the other body did. Therefore industry will be on notice now that they are to meet at the very minimum no later than January 1, 1976, this very desirable goal of using the best practicable technology, but they have to go beyond that and assure that the best practicable technology will meet the water quality standards and the load limits and they are put on notice that they are going to be continually revised so that they cannot sit on their laurels but must continue to upgrade the process.

We have one more control in this bill. I refer to new source performance standards. Most industries will, by 1981, be modernizing their facilities. Thus, they will have to meet new source standards. These standards consist of best available technology. Thus, new sources must meet the 1981 standards.

Until we have adequate information by the National Academy of Sciences and the National Academy of Engineers, we cannot proceed in an informed manner.

Mr. Chairman, the Honorable Russell E. Train, of the Council on Environmental Quality testified before our committee. His statement was clear and to the point. I would like to insert portions of it at this time.

H.R. 11895 would require no discharges of best available technology by 1981 with a goal of no discharges by 1985. This sounds like a simple, straightforward, and laudatory goal. But in practice, I believe it would either be very costly compared to the benefits or would, in fact, be ineffective.

As you are doubtless aware, the marginal costs of abatements increase greatly as higher levels of reductions are required. For example, the EPA estimates that as a general proposition 85 percent reduction costs only 20 percent as much as 100-percent reduction.

To go from 95-percent treatment to 98-percent treatment costs the same amount as going from 85- to 95-percent treatment. And to reduce another percentage of wastes costs the same amount. The last percent of reduction often costs as much as the first 99 percent.

If we insist that the public pay—through tax revenues and increased prices for manufactured goods—many billions of dollars for water cleanup beyond the point where added benefits can be demonstrated or even assumed, I believe we will hurt the environmental cause in two ways: First, the public legitimately will question our wisdom on this and other environmental matters and perhaps feel that the measures needed to deal with environmental problems are being exaggerated.

Second, the imposition of enormous incremental costs unsupported by water quality benefits attained will divert an inordinate amount of our resources from other environmental priorities, where they could be much more effectively utilized.

In addition, since wastes will not simply disappear and must be disposed or recycled in some way, a no-discharge requirement presupposes that it is uniformly preferable to dispose of all waterborne waste on the soil or in the air rather than in the water except where some type of reuse is possible.

It is true that the land should be considered and quite possibly used to a much greater extent as an alternative to water or water for waste disposal, particularly for wastes that are composed of usable nutrients.

However, I am aware of no evidence that land can be regarded as the best or even a viable solution for all or most waste disposal requirements. There are practical limits on land availability; there is potential for contamination of soil and ground waters by heavy metals and other materials.

I urge defeat of this amendment.

Mr. RUPPE. Mr. Chairman, I rise in support of the amendment. In all candor, I have grave reservations about the zero-discharge provision. None of us can be certain that this goal can be attained. The question, therefore, is not whether this goal is realistic at this time. The question is whether setting such a goal will actually help us to solve one of the most pressing issues of our time.

I have reached the conclusion that setting a target date for zero discharge will, even though we may never be able to attain that goal, draw attention to the incalculable value of our fresh water. By encouraging the maximum use of recycling, and by striving toward the elimination of all discharge of pollutants, the Nation will become aware that our supplies of fresh water are finite and extremely valuable.

Mr. Chairman, I represent a district that is almost surrounded by the three largest bodies of fresh water in the world: Lake Superior and Lake Michigan, and Lake Huron. When you add to that the heavy precipitation—I might point out to my colleagues that the snow is still falling in northern Michigan—you would think that my constituents would not be too concerned about the supplies of fresh water. However, the contrary is true. They are deeply concerned. In northern Michigan we have grown up knowing what crystal clear water looks like. Now, we are beginning to see the signs of change in water quality, and my constituents want to reverse the trend before it becomes irreversible.

It is not enough to merely say, "it can't be done," and lower our sights accordingly. The mere fact that our present capabilities seem to render those goals unattainable is no excuse, in my mind, to eliminate those goals. How many times in history has the impossible been reached? And how many times would it have been reached if the impossible were not sought after?

I suggest that we set the goals for zero discharge, that we get to work to achieve those goals, and if, after we have made the effort to develop the technology, that goal is deemed to be unattainable, then and only then, should we lower our sights. Those on both sides of this issue must plead ignorance about our chances of winning the battle against pollution, but the issue is important enough to warrant the utmost effort.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin (Mr. REUSS).

The question was taken; and the Chair announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers: Messrs. REUSS, WRIGHT, ZION, and DINGELL.

The Committee divided, and the tellers reported that there were—ayes 140, noes 249, not voting 43, as follows:

[Roll No. 92]

[Recorded Teller Vote]

AYES—140

Abourezk	Fraser	Pike
Abzug	Frenzel	Podell
Adams	Frey	Preyer, N.C.
Addabbo	Gibbons	Price, Ill.
Anderson, Calif.	Grasso	Pucinski
Anderson, Tenn.	Green, Pa.	Rangel
Annunzio	Griffiths	Rees
Aspin	Gude	Reuss
Badillo	Halpern	Riegle
Bell	Hamilton	Rodino
Bergland	Hanley	Rogers
Biaggi	Harrington	Rooney, N.Y.
Biester	Hays	Rooney, Pa.
Bingham	Hechler, W. Va.	Rosenthal
Brademas	Heckler, Mass.	Roush
Brasco	Heinz	Roybal
Brinkley	Helstoski	Ruppe
Broomfield	Hicks, Wash.	Ryan
Burke, Mass.	Hillis	St Germain
Burlison, Mo.	Jacobs	Sarbanes
Burton	Karth	Saylor
Byrne, Pa.	Kastenmeier	Seiberling
Carney	Kemp	Smith, N.Y.
Celler	Koch	Steele
Clay	Leggett	Stokes
Conte	Lujan	Stratton
Corman	McCloskey	Sullivan
Cotter	Macdonald, Mass.	Symington
Coughlin	Madden	Taylor
Culver	Mailliard	Tiernan
Daniels, N.J.	Melcher	Udall
Dellums	Mikva	Vander Jagt
Denholm	Minish	Vanik
Dent	Mink	Waldie
Diggs	Minshall	Whalen
Dingell	Moorhead	Whitehurst
Donohue	Morgan	Wilson, Charles H.
Drinan	Morse	Wolff
Dulski	Moss	Wydler
du Pont	Murphy, Ill.	Wylie
Eckhardt	Nedzi	Yatron
Edwards, Calif.	Nix	Young, Fla.
Eilberg	Obey	Zablocki
Fascell	O'Hara	Zwach
Fish	O'Neill	
Foley	Patten	
Ford, William D.	Pelly	
	Pepper	
	Peyser	

NOES—249

Abbitt	Burleson, Tex.	Derwinski
Albert	Byrnes, Wis.	Dickinson
Alexander	Byron	Dorn
Anderson, Ill.	Cabell	Downing
Andrews	Caffery	Duncan
Archer	Camp	Edmondson
Arends	Carey, N.Y.	Edwards, Ala.
Ashbrook	Carter	Erlenborn
Ashley	Casey, Tex.	Esch
Aspinall	Cederberg	Eshleman
Baker	Chamberlain	Evans, Colo.
Barrett	Chappell	Findley
Begich	Clark	Fisher
Belcher	Clausen, Don H.	Flood
Bennett	Cleveland	Flowers
Betts	Collier	Flynt
Bevill	Collins, Ill.	Ford, Gerald R.
Blackburn	Collins, Tex.	Forsythe
Blatnik	Colmer	Fountain
Boggs	Conable	Frelinghuysen
Boland	Conte	Fuqua
Bolling	Crane	Gallifianakis
Bray	Curlin	Garmatz
Brooks	Daniel, Va.	Giaimo
Brotzman	Danielson	Gonzalez
Brown, Mich.	Davis, Ga.	Goodling
Brown, Ohio	Davis, S.C.	Green, Oreg.
Broyhill, N.C.	Davis, Wis.	Griffin
Broyhill, Va.	Delaney	Gross
Buchanan	Dellenback	Grover
Burke, Fla.	Dennis	Gubser
Hagan	McDade	Runnels
Haley	McDonald, Mich.	Ruth
Hall	McEwen	Sandman
Hammer-schmidt	McFall	Satterfield
Hanna	McKay	Schmitz
Hansen, Idaho	McKevitt	Schneebeli
Hansen, Wash.	McKinney	Schwengel
Harsha	McMillan	Scott
Harvey	Mahon	Sebelius
Hastings	Mallary	Shipley
Hathaway	Mann	Shoup
Hébert	Martin	Shriver
Henderson	Mathias, Calif.	Sikes
Hicks, Mass.	Mathis, Ga.	Sisk
Hogan	Matsunaga	Skubitz
Holifield	Mayne	Slack
Horton	Mazzoli	Smith, Iowa
Hosmer	Meeds	Snyder
Howard	Metcalfe	Spence
Hungate	Michel	Springer
Hunt	Miller, Calif.	Stanton, J. William
Hutchinson	Miller, Ohio	Stanton, James V.
Ichord	Mills, Ark.	Steiger, Ariz.
Jarman	Mills, Md.	Steiger, Wis.
Johnson, Calif.	Mizell	Stephens
Johnson, Pa.	Mollohan	Stubblefield
Jonas	Monagan	Talcott
Jones, Ala.	Montgomery	Teague, Calif.
Jones, N.C.	Mosher	Teague, Tex.
Jones, Tenn.	Murphy, N.Y.	Terry
Kazen	Myers	Thompson, Ga.
Keating	Natcher	Thompson, N.J.
Kee	Nelsen	Thomson, Wis.
Keith	Nichols	Thone
King	Passman	Veysey
Kluczynski	Perkins	Vigorito
Kuykendall	Pickle	Waggonner
Kyl	Pirnie	Wampler
Kyros	Poage	Ware
Landgrebe	Poff	Whalley
Landrum	Powell	White
Latta	Price, Tex.	Whitten
Lennon	Purcell	Widnall
Lent	Quie	Williams
Link	Randall	Wilson, Bob
Lloyd	Rhodes	Winn
Long, La.	Roberts	Wright
Long, Md.	Robinson, Va.	Wyatt
McClory	Robison, N.Y.	Wyman
McClure	Roe	Young, Tex.
McCollister	Roncallo	Zion
McCormack	Rousselot	
McCulloch	Roy	

NOT VOTING—43

Abernethy	Fulton	Rarick
Baring	Gallagher	Reid
Blanton	Gaydos	Rostenkowski
Bow	Gettys	Scherle
Chisholm	Goldwater	Scheuer
Clancy	Gray	Smith, Calif.
Clawson, Del	Hawkins	Staggers
Conyers	Hull	Steed
de la Garza	Mitchell	Stuckey
Devine	O'Konski	Ullman
Dow	Patman	Van Deerlin
Dowdy	Pettis	Wiggins
Dwyer	Pryor, Ark.	Yates
Edwards, La.	Quillen	
Evins, Tenn.	Railsback	

Mr. CARNEY and Mr. DENT changed their votes from "no" to "aye."

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: Page 306, line 25, before the words "any permit" insert the following: "any order issued by the Administrator under subsection (a) of this section, or".

Mr. VANIK. Mr. Chairman, I want to compliment our committee for its fine work on this bill. I concur in thousands of the words that have been written, and I simply offer an amendment to add 12 words to the bill.

Mr. Chairman, the amendment I am offering is not a controversial one. It makes a small change in the language providing for the Federal enforcement of this act and the penalties for violating this act—a change which makes the enforcement provisions of the House bill comparable to the bill passed by the other Chamber.

The amendment provides that anyone who "willfully or negligently" violates an order issued by the Administrator, shall be subject to criminal penalties, just as he would be if he violated a permit condition or the other major provisions of the act—such as the control of discharges of toxic wastes.

Everyone knows that the enforcement and penalty provisions provided in previous pollution control laws have been so cumbersome as to be unworkable. Under the 1948 abatement procedure, only one case has reached the courts in more than two decades. The 1899 Refuse Act has been a useful new enforcement tool, but it has weaknesses: it applies only to industrial polluters and it is under the divided jurisdiction of two different Federal agencies.

A strong new enforcement tool is needed.

The enforcement provisions in the committee bill and in S. 2770 are almost identical to the enforcement powers provided by the landmark 1970 Clean Air Act. And it should be noted that the Clean Air Act—Public Law 91-604, section 113(c)(1)(B)—provides that a person who "knowingly" "violates or fails or refuses to comply with any order issued by the Administrator" is subject to criminal penalties of up to $25,000 or 1 year in jail.

The intentional violation of a clean air order can result in a criminal penalty—surely the same provision should apply to the willful violation of clean water orders.

An administrative order, issued through procedures in accordance with a law passed by Congress and signed by the President should have force behind it. When such an order is "willfully or negligently" violated, the public should have recourse to criminal prosecution.

In additional views made by two members of the committee and included in the committee's report, it is suggested that the failure to provide for criminal penalties for anyone who willfully or negligently violates an order may just be a drafting defect.

I urge that this amendment be accepted so that this defect may be corrected and the enforcement provision be brought into line with that worked out by the other Chamber, and with the provisions of other major pollution control laws.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

This is not a weak bill. As it comes to the House, it is a very tough bill. I would like for Members to listen to this section as it appears in the bill. The bill provides that—

Any person who willfully or negligently violates—

The requirements of this act—

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day—

And that is per day—

of violation, or by imprisonment for not more than one year, or by both.

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For any subsequent convictions, a violation committed after first conviction shall be punishable—

by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

That is already in the bill. What the gentleman from Ohio would add to that is not only that a person who violates the law or a person who violates the requirements of the law would be subject to these penalties, but also that a person who violates any order of the Administrator would be subject to these penalties.

Now, normally we would assume that an order of the Administrator would be issued in conformity with the law. Normally we would assume that the Administrator would be judicious and wise in his issuance of orders. But, Mr. Chairman, I have seen illustrations to the contrary on occasion—and there is one extant right now, in which an Administrator for the Department of Transportation is issuing certain orders to States in violation of the clear language of the enacting statute.

What defense would there be for an individual in case of an arbitrary order, if this amendment were adopted? No defense whatever, so long as he had violated the order, notwithstanding the fact that he might make a case that he was, indeed, abiding by the law.

What defense would there be against an ill-advised or uninformed order or an order based upon a legitimately controversial interpretation of what the law requires? As I read the amendment, there would be more.

We believe the committee has done a thorough job. We believe we have done a hard, tough job in requiring compliance with this act, but we do not believe it would be wise to place the Administrator in the ultimate position of power in which, simply by the issuance of an order, he could place someone subject to this kind of fine, and/or imprisonment.

For that reason, I ask that the Members stay with the committee bill. It is a good bill. It is an effective bill. It provides effective enforcement for those who violate the law. Let us not encumber it by placing an administrator in the position of putting a man in jeopardy of imprisonment, based upon a controversial order. I urge the Members to vote "no" on the amendment.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to call to the attention of my colleagues the fact that in this legislation we already can charge a man for simple negligence, we can charge him with a criminal violation under this bill for simple negligence. When a violation occurs, the Administrator or the State or the interstate agency, whoever may be involved, can either file a criminal charge under this law if there is negligence or if there is a willful violation of the law.

Assuming there was some discharge of pollutants contrary to this act and the Administrator notified the violating party as he is required under this act and told him what he was doing wrong and told him where it was happening, and ordered the violator to stop, and if the polluter did not obey that order, then the polluter becomes a willful violator and can be charged under this section as a willful violator.

Thus the amendment of the gentleman from Ohio is not needed. It is superfluous. The violator can be proceeded against both civilly and criminally under this law. I urge the Committee to reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 291, between lines 11 and 12, insert the following:

"(k) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within six months after the date of enactment of this title (and from time to time thereafter) regulations for the effective treatment, including, where appropriate, the safe storage for treatment purposes of mine water wastes resulting from new or currently operating surface and underground coal mines. Effluent limitations for point sources established by this title shall, where applicable, be in accord with such regulations. Upon promulgation such regulations would be subject to the enforcement provisions of section 309 (a) of this title."

Mr. HECHLER of West Virginia. Mr. Chairman, each of us has read or seen or heard of the Buffalo Creek tragedy in the State of West Virginia, the effects of which caused the death of more than 120 persons. Possibly as many as 150 are dead and missing.

At 8 a.m. on February 26, a wall of greasy, grimy water and sludge thundered down the Buffalo Creek Valley in Logan County, W. Va. My amendment is a direct outgrowth of the Buffalo Creek disaster.

These retaining dams, which are frequently formed in the first instance by excavation of the mine and the large amount of rock or soil or slag which is separated from the coal, not only hold back rainwater but also are utilized in the coal cleaning and preparation process.

In many instances, with the present coal cleaning facilities, the acid, sludge, and other polluted mine waste water will either be diverted into a sludge pond or retaining dam or else dumped directly into the streams.

My amendment directs the Environmental Protection Agency to publish enforceable regulations for the treatment of mine waste water. This can be done.

As a matter of fact, it is now being done in many mines in West Virginia and Kentucky. For example, the Eastern Associated Coal Co., to its great credit, has installed closed circuit coal preparation facilities at its mines located in Herndon, Stotesbury, Granttown, and Affinity, W. Va. The Pikeville Coal Co., in Kentucky, is another example of a company which has made progressive efforts to install such a system.

Several companies build these systems, such as the Roberts & Schafer Manufacturing Co. in Chicago and the J. O. Lively Co. in Beckley, W. Va.

These systems, Mr. Chairman, recycle and reuse the waste mine water, so that it is not discharged into a waterway or an impoundment.

Mr. Chairman, many other coal companies have not followed this example of the companies I have just mentioned, because to construct a dam out of mine refuse is much cheaper. But, at the same time, it creates a hazard to people who live below these unsafe dams and also to our waterways.

Mr. Chairman, the people of West Virginia are fed up with living and dying with these repeated tragedies. We are tired of building monuments to people who were killed in air crashes or mine disasters or in the collapse of a bridge like the Silver Bridge.

We want to do what is necessary to protect the living instead of building monuments for the dead.

Mr. Chairman, I ask for support of this amendment, which will truly indicate our determination to protect human beings instead of profits and production alone.

Mr. JAMES V. STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, no one can do anything but sympathize with my colleague from West Virginia regarding the plight of the people in Logan County, W. Va., in the tragedy which struck that county. However, nobody, has more concern for the problems of West Virginia than our Committee on Public Works of the House.

The reason for our opposition to the gentleman's amendment is that the existing water pollution control law already provides for a program of demonstration projects to develop methods for the elimination or control within all or part of a watershed of acid or other mine water pollutants emanating from active or abandoned mines. This bill continues this demonstration program and authorizes $15 million for this purpose.

In addition to that, there are provisions in this legislation controlling discharges from point sources as well as numerous other requirements which cover the matter presented in this amendment.

Accordingly, I believe the amendment would duplicate provisions contained in this bill and therefore we oppose the amendment.

Mr. HECHLER of West Virginia. Will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I appreciate the comments of my good friend from Ohio, but what we need are not demonstration projects but action. My amendment provides for immediate action instead of further demonstration projects.

Mr. JAMES V. STANTON. What this committee cannot control are the illegal dams. It is my understanding that the dam in Logan County was an illegal dam. No one can control that. This committee can only act within the purview of the law.

Mr. DON H. CLAUSEN. Will the gentleman yield?

Mr. JAMES V. STANTON. I yield to my colleague from California.

Mr. DON H. CLAUSEN. I want to state, as a member of the Flood Control and Internal Development Subcommittee of the Committee on Public Works, that we just recently visited the area of Buffalo Creek. As far as action is concerned, it is my understanding that the Governor of that State, Arch Moore, did take some action wherein he demanded that they drain all of these slag piles, which are not dams. They are not dams; they are just refuse from the mines.

In addition to this, the Watershed Subcommittee of the Committee on Public Works, chaired by Mr. KEE, of West Virginia, has a committee evaluation and inspection program underway in addition to what we are advancing in this legislation, in the form of pilot projects.

So there is a definite program of action, and you, Mr. STANTON, are absolutely correct in your response.

Mr. KEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Committee on Public Works is keenly aware of the flood dangers which the gentleman's amendment seeks to deal with. As you know, the collapse of an earthen dam in Logan County, W. Va., last month cost the lives of many men, women, and children in my own district and brought untold misery to their survivors.

With other members of the committee and staff experts, I have made on-the-spot inspections of the disaster area with a view to developing comprehensive measures that will prevent a recurrence of such disasters.

My colleague's proposed amendment has merit, but frankly it does not get to the heart of the problem, and I feel strongly that this problem touches too closely on the lives of our fellow citizens to be dealt with in hasty fashion.

The chairman of the Public Works Committee has authorized a special subcommittee, which I have the honor to chair, to go thoroughly into this matter and develop realistic, effective answers to this terrible problem. We want the most effective action we can get. Half way measures would not do.

For that reason, Mr. Chairman, I oppose the amendment. Our committee, Mr. Chairman, is going back down there as we have before.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. KEE. I yield to the gentleman.

Mr. HECHLER of West Virginia. Is it not true that there are many companies operating in West Virginia like the Eastern Associated Coal Co., that have been able through closed circuit systems to recycle these mine wastes in such a way as not to pollute our waterways? We have been too easy on those coal companies that find it is cheaper to keep their mine wastes behind a retaining dam without treating the wastes.

Unless we can support the more progressive efforts of those coal companies, we would be penalizing the better coal companies and also threatening the people who are living below these areas with both pollution and danger to their safety; is that not true?

Mr. KEE. We have no idea of penalizing innocent coal companies that do the job. Our purpose is to get down there and get the facts and find out just what the situation is. You cannot tell me or anyone else—including our committee—why that dam broke. We are going to do this right after the primary and work on it until every single one of them is inspected and we will make an onsite investigation and come up with a watershed on this. I can assure the gentleman of that.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield further?

Mr. KEE. Yes; I yield further to my colleague.

Mr. HECHLER of West Virginia. I would hope we could take early and decisive action instead of all of this investigating. All of us know what the problem is. The Department of the Interior and the Bureau of Mines came out with a full-blown report which was presented to the gentleman's committee, and it seems to me that now we ought to take action.

Mr. KEE. That is exactly what we are going to do but we have to have the facts so we will know exactly what to do and so we can do it in a logical fashion.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KEE. Yes; I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I want to reiterate again that these are not structured dams. They are nothing more than a piling up of waste from the mines and mining operations.

I would simply state to the gentleman that I am sympathetic to the problem because I have seen disasters of this type all over this Nation. However, immediate action has been taken to avoid a recurrence of this by Gov. Arch Moore when he ordered that all these areas be drained.

Once we move in the direction that this legislation provides, we will then come up with a permanent and comprehensive solution, and if there is any additional requirement, then our subcommittees that have jurisdiction over flood control, watersheds, and conservation will also be looking into the matter. In addition to the Oversight and Investigation Subcommittee of which I am a member.

Mr. Chairman, I oppose the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I do not think the amendment is really needed at this point.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield further so that I may ask a question of the gentleman from California?

Mr. KEE. Yes.

Mr. HECHLER of West Virginia. I would like to ask the gentleman from California, through the kindness of the gentleman from West Virginia in yielding further to me, whether the drainage of these dams——

Mr. DON H. CLAUSEN. They are not dams. By describing them as dams, it tends to mislead people into believing that an engineered structure broke or gave way—causing this horrible disaster. This is not the case.

Mr. HECHLER of West Virginia. If the gentleman cares to call these garbage piles, that contain water——

Mr. DON H. CLAUSEN. That is more appropriate.

Mr. HECHLER of West Virginia. Whatever you want to call them, when you drain them, they pour polluted water and sludge into our streams, when this could be recycled before it is dumped into our waterways. Once they are drained, they will refill again with the wastes from the coal preparation plants, and all I am trying to do is to insure that these coal mine wastes are treated before they cause hazards and are polluting our waterways.

Mr. DON H. CLAUSEN. My response to that was, if the gentleman will recall, I said, however, that if I had my choice between people and fish, I will protect the people. As I understand the situation, this is the reason Governor Moore ordered the immediate drainage of water behind these slag piles in order to prevent any future disasters of a similar nature, until such time as a comprehensive and coordinated program can be advanced to a point of implementation.

I certainly understand the motivation behind Mr. HECHLER's amendment. The West Virginia disaster should have been avoided.

The tragedy was needless and it is certainly recognized that the potential for repetition exists and legislative actions must be taken promptly.

Unfortunatcly, I do not believe that Mr. HECHLER's amendment will do what is required.

Problems of this magnitude require more comprehensive legislation.

Therefore, I suggest to the Congress that this amendment be rejected and that the committee and particularly the special subcommittee headed by Mr. KEE to study this problem be charged with developing comprehensive legislation at the earliest possible time.

A start toward the development of this legislation was made when Mr. KEE and myself made an investigation trip to West Virginia to evaluate the immediate problem and to make a determination as to what steps the committee should take.

I know that Mr. KEE has been most concerned and most involved in the preliminary steps toward the development of this legislation.

He is chairman of the appropriate subcommittee and the full talents of the professional staff will be available to accomplish the task in the comprehensive and yet detailed manner that is required.

Rejection of this amendment is not turning our back on the problem. I assure you that legislation will be forthcoming. Mr. KEE and the subcommittee are committed to the development of comprehensive legislation.

Reject this amendment because I can assure you our committee will do what is necessary to eliminate the types of con-

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ditions which resulted in the West Virginia tragedy.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I would like to call the attention of the members of the Committee to the remarks which were made by the distinguished gentleman from Ohio (Mr. JAMES V. STANTON). He pointed out that the problem is adequately covered in our demonstration projects provision in this bill. It is also dealt with in the Appalachian program. We have means and methods by which we can cure this problem.

Certainly, I am wholeheartedly sympathetic with the distinguished gentleman from West Virginia with reference to this problem. However, I am also aware that this amendment is not needed because there are other provisions in this bill in addition to the demonstration projects.

We have in this bill a provision providing for areawide waste water management procedures. These are for areas of urban and industrial development, or other areas where there are water quality problems. Obviously this part of West Virginia has such a water quality problem. Thus, the State in implementing an areawide water quality management plan must consider this problem.

Also let me point out to my good friend, the gentleman from West Virginia (Mr. HECHLER), that under that requirement for areawide waste water management plans there must be a process to identify, if appropriate, mine-related sources of pollution, including new, current, and abandoned surface and underground mine runoff. There must be set forth procedures, processes, and methods—including land use requirements—to control such sources to the extent feasible.

We have built into this legislation a means whereby we can deal with this problem and a means whereby the States can deal with it. So I really do not think the amendment offered by the gentleman from West Virginia (Mr. HECHLER) serves any purpose, but simply reiterates something which is already in the bill.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. It was under the very State regulations for the protection of the waterways by the State of West Virginia that caused the Pittston Coal Co. to create this garbage pile which backed up the water, and the collapse of which caused this horrible disaster which many people called an act of God. But it was a terrible act of man which caused the tragedy at Buffalo Creek.

Mr. HARSHA. That may well be, but what we are providing for in this bill is areawide waste water management procedures and programs. We require the States to develop the plans. They can secure a grant from the Federal Government for developing such a program in conformance with the Federal guidelines and regulations. The State of West Virginia will certainly have to do this for the specific situation that you have described. I am sincere, and I am telling my good friend, the gentleman from West Virginia, that I think his situation is amply covered under the legislation we have here.

Therefore, Mr. Chairman, I urge the defeat of the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. ABZUG

Mrs. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ABZUG: on page 390, strike lines 6 through 16 inclusive.

Mrs. ABZUG. Mr. Chairman, I rise to offer an amendment which was printed in the CONGRESSIONAL RECORD on March 22, on page 9690.

The amendment reads as follows:

On page 390, strike lines 6 through 16 inclusive.

Mr. Chairman, section 511(d) of the bill before us, to which this amendment refers, strikes at the heart of the National Environmental Policy Act of 1969. This amendment, one of the clean water package amendments, was referred to by Mr. RANGEL and myself in our separate views in the committee report and is supported by many of my colleagues and by numerous conservation groups throughout the country. It would delete section 511(d), thus leaving the National Environmental Policy Act intact.

The National Environmental Policy Act requires every agency to consider the total impact of its work on the environment before embarking on any project which may have a significant impact on the environment. Every agency must now examine not merely its narrow mission, such as building a dam, a road, or a sewer outfall, but also the unavoidable adverse effects of its action, the alternatives, and the resources which would be irretrievably committed by the action. The National Environmental Policy Act also requires the agency to prepare an environmental impact statement after consultation with other agencies, and to receive the views of the public.

Section 511(d) of the reported bill provides that the "requirements of the National Environmental Policy Act of 1969" "as to water quality considerations shall be deemed to be satisfied" by a certification issued by a State with respect to Federal licenses or permits for the construction or operation of "any activity."

The language of the bill does not specify just what those "requirements" are. Thus, the committee bill leaves it to the courts to try to determine what requirements in the law are, in fact, satisfied by this certification.

The committee, in its report—page 137—states that the differences in language between this section in the House bill and a similar one in the Senate bill are "editorial." Yet a careful review of these differences shows that the Senate provisions apply only to waste "discharges," whereas the House bill applies to "any activity" which has a Federal license or permit. This would include not only waste discharges but also such matters as dams licensed by the Federal Power Commission and permits to mine coal on Federal lands issued by the Interior Department.

Under the House bill, the States will be handling almost all of the certifications and permits under sections 401 and 402. Hence, section 511(d) would mean that all kinds of activities having "Federal" permits or certifications will be deemed to have complied with NEPA without ever having to be considered by any Federal official. Furthermore, many sources of water pollution will not have to file environmental impact statements, even though they are being constructed with Federal grants, so long as they have a certification or a permit under the bill.

The National Environmental Policy Act has been one of the significant statutes enacted in our time. It requires a full airing of governmental decisionmaking where the environment is involved. Informal administrative procedures which were once closed are now open to full public view and participation, and agencies are forced to articulate the rationale behind actions which might affect our precious environment.

Most Federal agencies have learned to live with NEPA in the 2 years since its enactment. They have learned to look at their responsibilities in a new, broader light, and all the people are profiting as a result.

The argument has been advanced that the requirements of NEPA cause delays in projects and place undue administrative burdens on Federal agencies. However, according to Russell Train, Chairman of the Council on Environmental Quality:

Of all the suits filed under [NEPA], only a small proportion (less than 15 percent) have resulted in Government actions being held up in whole or in part. Even in these instances, the court has ordered only a temporary halt—pending either trial, preparation of a 102 [environmental impact] statement, or revision of agency NEPA procedures.

The committee says that section 511 (d) is necessary to reverse the effect of Federal District Judge Robinson's decision in *Kalur* v. *Resor*, 3 ERC 1458, which held that the Corps of Engineers must make environmental impact statements before issuing Refuse Act permits. But the committee report admits—page 139—that section 511(d) may be wholly ineffective to accomplish this objective. The report states——

The CHAIRMAN. The time of the gentlewoman from New York has expired.

(Mrs. ABZUG asked and was given permission to proceed for 2 additional minutes.)

Mrs. ABZUG. Mr. Chairman, the report states:

If it is determined after enactment of this legislation that section 102 of NEPA is applicable to Section 402 permits, the Administrator may be required to prepare environmental impact statements prior to his issuing such a permit.

Indeed, the Kalur decision would not have occurred if the Corps of Engineers, the Council on Environmental Quality, and the Environmental Protection Agency had listened to the advice which many of the Members of the Congress repeatedly gave to them before they issued their Refuse Act regulations.

I think the Corps' regulation waiving all environmental impact statements in connection with the Refuse Act was a violation of law. In short, if you will excuse the expression, I think the arguments for section 511(d) just do not hold any water. The only activities which have have been delayed or stopped are those which failed to comply with NEPA, a law designed to protect our environment.

It is interesting to note that just a few weeks ago, Interior Secretary Rogers Morton, a respected former Member of this body, testifying that he did not "think NEPA needs changing. We have got to learn to administer it. I think that we haven't given it a fair chance."

I think so, too, Mr. Chairman.

My amendment would simply strike paragraph (d) of section 511 from the bill. Whatever problems there may be with NEPA ought to be considered in connection with the bills concerning it that are now being considered by the committee which has legislative jurisdiction over NEPA.

As a matter of fact, I read a bill in today's CONGRESSIONAL RECORD—at page 10299—which would meet the specific problems raised by the 20,000 applications for Corps of Engineer permits now pending, which require environmental impact statements under the Kalur decision. I believe this bill, proposed by Mr. DINGELL, would provide some relief for these 20,000 cases. I see no reason, therefore, to sweep away the requirement of the environmental impact statement in so wide a variety of cases as section 511(d) does.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment. The amendment has primary application to the Atomic Energy Commission. This language was deliberately inserted in the bill in the other body upon the motion of Senator BAKER, the Senator from Tennessee. It was suggested by the Joint Committee on Atomic Energy. That committee of the House and of the Senate recommended that this language be included.

The language which would be stricken by the amendment offered by the gentleman from New York merely states:

The requirements of the National Environmental Policy Act of 1969 as to water quality shall be deemed to be satisfied by the certifications pursuant to section 401.

Section 401 sets forth an elaborate procedure whereby the States would have to certify, in the first place, that any such discharge would comply with the applicable provisions of the 1976, 1981 and other goals of this act, including the "no discharge" and point limitations, and that would have to be agreed to by the EPA, the Environmental Protection Agency. This is already required in section 401. It seems illogical to require that, after that has already been done by people who presumably know what it is all about, they would have to come and get still another determination as to environmental impact. What we are trying to do in all of this is to reduce pollution in streams in the first place. Therefore, I urge defeat of the amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, yesterday in the RECORD my good friend and colleague, the Senator from Washington (Mr. PELLY), and I announced the introduction of legislation to afford reasonable relief both as to time and as to quantity with regard to the Kalur decision. That legislation would afford a reasonable opportunity to EPA to issue discharge permits, without filing environmental impact statements on each discharge permit. Our bill, H.R. 14103 would exempt effluent permits from the requirements of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act for approximately 5 years. It is our intention to afford reasonable relief to EPA and to allow them to move rapidly forward in issuing permits without having to file an environmental impact statement on each and every one of the thousands of permits which they would propose to issue. But I think we have to see what the committee bill does. This committee bill does more than to give relief from environmental impact statements. It says that for all intents and purposes, once a State has certified a water quality standard, all of the requirements of the National Environmental Policy have been met. What does this say? This says they no longer have to consider the cost-benefit requirements that are included in the National Environmental Policy Act. It says they no longer have to consider all the other questions relating to the wholesomeness of environment. They no longer have to consider the question of permit on the basis of systematized interdisciplinary approach to achieve a quality environment.

I do not know who suggested this language to the Committee on Public Works, but I will tell the gentlemen of the Committee on Public Works it was never cleared with the subcommittee of which I am chairman, which authored the National Environmental Policy Act. It was never cleared with the Committee on Merchant Marine and Fisheries, which wrote the National Environmental Policy Act.

It was never cleared with the Senate Interior Committee, which participated with me jointly in the writing of the National Environmental Policy Act.

What this provision of the bill does is to make a clear attempt, not to give the limited relief which is necessary, but rather to see to it that there is a total exemption from the requirements of the National Environmental Policy Act with coordination with EPA, or by the Council on Environmental Quality, or by any other Federal agencies. As a result, the language of the committee bill is very bad. The language of the amendment offered by the gentlewoman from New York is an extremely valuable attempt to preserve an important measure of environmental protection. She and her colleague, the gentleman from New York (Mr. RANGEL) have provided both valuable leadership to this body and to the conservationists in a move forward with the very valuable report which they submitted to this body, setting forth for the first time to this body the clean water package which we offer today, of which this amendment is an extremely important part.

Just to recap briefly, there will be relief given from the question of the Kalur decision. My subcommittee is working very closely with the Council on Environmental Quality and with the Environmental Protection Agency to afford this opportunity. I anticipate within the very near future my subcommittee will be legislation on H.R. 14103 to afford the appropriate measure of relief without gutting the National Environmental Policy Act.

Mr. Chairman, I urge my colleagues, if they are interested in good environment legislation, if they are interested in a good, wholesome, systematized approach that deals with all aspects of the environmental problem, to support the amendment offered by the gentlewoman from New York, and thereby change the committee bill significantly for the better.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. ABZUG).

TELLER VOTE WITH CLERKS

Mr. DINGELL. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DINGELL. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mrs. ABZUG and Messrs. WRIGHT, DINGELL, and HARSHA.

The Committee divided, and the tellers reported that there were—ayes 125, noes 268, not voting 39, as follows:

[Roll No. 93]

[Recorded Teller Vote]

AYES—125

Abourezk	Burke, Mass.	Fascell
Abzug	Burlison, Mo.	Fish
Adams	Burton	Foley
Addabbo	Carney	Ford, William D.
Anderson, Calif.	Conyers	Forsythe
Anderson, Ill.	Corman	Fraser
Anderson, Tenn.	Coughlin	Frenzel
Ashley	Culver	Fulton
Aspin	Dellenback	Gallagher
Badillo	Dellums	Gibbons
Bell	Dennis	Grasso
Bergland	Dingell	Green, Pa.
Biester	Drinan	Griffiths
Bingham	Dulski	Gubser
Brademas	du Pont	Gude
Brasco	Eckhardt	Halpern
Brotzman	Edwards, Calif.	Hamilton
	Esch	Harrington

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Hathaway	Mallary	Rosenthal
Hechler, W. Va.	Mazzoli	Roush
Heckler, Mass.	Meeds	Roy
Heinz	Melcher	Roybal
Helstoski	Mikva	Ruppe
Hicks, Mass.	Mink	Ryan
Hillis	Minshall	Sarbanes
Howard	Mitchell	Saylor
Jacobs	Mosher	Scheuer
Karth	Moss	Selberling
Kastenmeier	Nedzi	Skubitz
Keating	Nix	Smith, Iowa
Kemp	Obey	Smith, N.Y.
Koch	O'Hara	Stanton,
Leggett	Pelly	J. William
Link	Pepper	Udall
Long, Md.	Peyser	Veysey
Lujan	Pike	Waldie
McClory	Podell	Whalen
McCloskey	Pucinski	Wilson,
McClure	Quie	Charles H.
McKinney	Rangel	Wolff
Macdonald, Mass.	Reuss	Yatron
	Roe	Zwach
Madden	Rogers	

NOES—268

Abbitt	Eilberg	McMillan
Albert	Erlenborn	Mahon
Alexander	Eshleman	Mailliard
Andrews	Evins, Tenn.	Mann
Annunzio	Findley	Martin
Archer	Fisher	Mathias, Calif.
Arends	Flood	Mathis, Ga.
Ashbrook	Flowers	Matsunaga
Aspinall	Flynt	Mayne
Baker	Ford, Gerald R.	Metcalfe
Barrett	Fountain	Michel
Begich	Frelinghuysen	Miller, Calif.
Belcher	Frey	Miller, Ohio
Bennett	Fuqua	Mills, Ark.
Betts	Gallifianakis	Mills, Md.
Bevill	Garmatz	Minish
Biaggi	Gettys	Mizell
Blackburn	Gialmo	Monagan
Blatnik	Gonzalez	Montgomery
Boggs	Goodling	Moorhead
Boland	Gray	Morgan
Bolling	Green, Oreg.	Murphy, Ill.
Bray	Griffin	Murphy, N.Y.
Brinkley	Gross	Myers
Brooks	Grover	Natcher
Broomfield	Hagan	Nelsen
Brown, Mich.	Haley	Nichols
Brown, Ohio	Hall	O'Neill
Broyhill, N.C.	Hammer-schmidt	Passman
Buchanan		Patten
Burke, Fla.	Hanley	Perkins
Burleson, Tex	Hanna	Pettis
Byrne, Pa.	Hansen, Idaho	Pickle
Byrnes, Wis.	Harsha	Pirnie
Byron	Harvey	Poage
Cabell	Hays	Poff
Caffery	Hébert	Powell
Camp	Henderson	Preyer, N.C.
Carey, N.Y.	Hicks, Wash.	Price, Ill.
Carter	Hogan	Price, Tex.
Casey, Tex.	Holifield	Railsback
Cederberg	Horton	Randall
Celler	Hosmer	Rees
Chamberlain	Hungate	Rhodes
Chappell	Hunt	Roberts
Clancy	Hutchinson	Robinson, Va.
Clark	Ichord	Robison, N.Y.
Clausen, Don H	Jarman	Rodino
	Johnson, Calif.	Roncalio
Cleveland	Johnson, Pa.	Rooney, N.Y.
Collier	Jonas	Rooney, Pa.
Collins, Ill.	Jones, Ala.	Rousselot
Collins, Tex.	Jones, N.C.	Runnels
Colmer	Jones, Tenn.	Ruth
Conable	Kazen	St Germain
Conte	Kee	Sandman
Cotter	Keith	Satterfield
Crane	King	Schmitz
Curlin	Kluczynski	Schneebeli
Daniel, Va.	Kuykendall	Schwengel
Daniels, N.J.	Kyl	Scott
Danielson	Kyros	Sebelius
Davis, Ga.	Landgrebe	Shipley
Davis, S.C.	Latta	Shoup
Davis, Wis.	Lennon	Shriver
Delaney	Lent	Sikes
Dellenback	Lloyd	Sisk
Dent	Long, La.	Slack
Derwinski	McCollister	Smith, Calif.
Devine	McCormack	Snyder
Dickinson	McCulloch	Spence
Donohue	McDade	Springer
Dorn	McDonald, Mich.	Staggers
Dowdy		Steed
Downing	McEwen	Steele
Duncan	McFall	Steiger, Ariz.
Edmondson	McKay	Steiger, Wis.
Edwards, Ala.	McKevitt	Stephens
Stratton	Thone	Williams
Stubblefield	Tiernan	Wilson, Bob
Stuckey	Ullman	Winn
Sullivan	Vigorito	Wright
Symington	Waggonner	Wyatt
Talcott	Wampler	Wylie
Taylor	Ware	Wyman
Teague, Calif.	Whalley	Young, Fla.
Teague, Tex.	White	Young, Tex.
Terry	Whitehurst	Zablocki
Thompson, Ga.	Whitten	Zion
Thompson, N.J.	Widnall	
Thomson, Wis.	Wiggins	

NOT VOTING—39

Abernethy	Goldwater	Reid
Baring	Hansen, Wash.	Riegle
Blanton	Hastings	Rostenkowski
Bow	Hawkins	Scherle
Broyhill, Va.	Hull	Stanton,
Chisholm	Landrum	James V.
Clawson, Del	Mollohan	Stokes
Clay	Morse	Van Deerlin
de la Garza	O'Konski	Vander Jagt
Diggs	Patman	Vanik
Dwyer	Pryor, Ark.	Wydler
Edwards, La.	Purcell	Yates
Evans, Colo.	Quillen	
Gaydos	Rarick	

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLFF: Page 388, line 10, after "Sec. 510." insert "(a)". Page 389, after line 4, insert the following:

"(b) Nothing shall preclude or deny the right of any State or political subdivision thereof or interstate agency, with respect to radioactive materials and thermal discharges, to adopt or enforce any standard or limitation respecting the release of radioactive materials and thermal discharges into water, or any requirement respecting control or abatement of pollution from such radioactive materials and thermal discharges; except that if an effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation relating to radioactive materials or thermal discharges is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation relating to such radioactive materials or thermal discharges which is less stringent than the effluent limitation or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or regulation under this Act.

POINT OF ORDER

Mr. PRICE of Illinois. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PRICE of Illinois. Mr. Chairman, the proposed amendment is directed to "any other law" which the Congress after due deliberation has passed relative to radioactive materials and thermal discharges. It does not seek to improve upon or clarify the bill before us. As to radioactive materials, the target of the amendment is clearly the Atomic Energy Act of 1954 which is the only "other law" providing for the regulation of such materials. The reason it is the only other law is that Congress intended by that law to fully occupy that field and preempt that authority to the Federal Government to be exercised by the Atomic Energy Commission. A Federal district court in Minnesota so held and the U.S. Court of Appeals for the Eighth Judicial Circuit affirmed that decision. This proposed amendment seeks to reverse the decision of the courts and seeks to reverse the clear intention of the Congress when it adopted the Atomic Energy Act of 1954.

As to the matter of thermal discharges, I must confess that I know of no "other law" under which such discharges are regulated other than the Federal Water Pollution Control Act now being considered. The provisions of the amendment as to such discharges are already provided in section 510 of the bill as reported by the committee. It appears, therefore, that in this respect the amendment is redundant.

Mr. Chairman, I therefore raise a point of order that the proposed amendment is not germane to the bill since it is directed only at "other law" and not toward any provision of the bill before this Committee.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. WOLFF. I do so desire, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, for the information of the gentleman from Illinois (Mr. PRICE) who raised the point of order, the amendment, when originally conceived of, had reference to "any other law." The amendment as it was offered here did not mention "any other law," and stated specifically that nothing shall preclude or deny the right of any State. That language was originally in the amendment, but was excluded from the amendment before it was offered. Therefore the amendment is germane to the question of effluents of radioactive waste material, and related pollutions, as it refers to this matter.

There is nothing in here that refers to "any other law," but merely amends the legislation that we have before us today.

The CHAIRMAN. Does the gentleman from Minnesota (Mr. FRENZEL) seek recognition?

Mr. FRENZEL. Mr. Chairman, I do. As the coauthor of the amendment I would like to speak to the point of order raised against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota for that purpose.

Mr. FRENZEL. Mr. Chairman, H.R. 11896, in sections 1, 3, and 5, touches on control and regulation of both radioactive wastes and thermal discharge.

In section 502(6), page 372, radioactive materials are defined as pollutants, or rather, the definition of pollutants includes radioactive material.

In section 104(T), page 221, the Administrator is charged with conducting studies in cooperation with State and Federal agencies on the effects and control of thermal discharges.

In section 301(E), page 269, radiological warfare agents and high-level radiological wastes are included. In section 316(A), page 347, the Administrator is charged with issuing regulations with respect to control of thermal discharges.

In section 316(E) on page 349, the Administrator's regulations are made to apply at point sources owned or operated by the United States or an instrumentality thereof.

In paragraph (D) on page 346, the regulations apply to thermal discharges from all sources.

In section 510, on page 388, the section to which the Wolff-Frenzel amendment applies, thermal discharges are included.

Mr. Chairman, the entire bill is shot full of references to thermal discharges and radioactive wastes. Clearly it was the intent of the committee and the bill's authors to provide for control of these types of pollution. An amendment which merely specifies a type of control is surely germane to this bill.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. HARSHA) rise?

Mr. HARSHA. Mr. Chairman, I rise in support of the point of order.

The CHAIRMAN. The gentleman from Ohio is recognized for that purpose.

Mr. HARSHA. Mr. Chairman, I simply wish to say that the amendment attempts by reference to amend a separate statute already on the law books, and as such is not germane, and subject to a point of order. And, insofar as the amendment treats with thermal discharges, whether or not there is jurisdiction in this particular bill to require that kind of amendment or the portions of it concerned with thermal discharges with the portions concerned with amending the Atomic Energy Act, the two cannot be separated, and therefore the point of order must lie.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair is prepared to rule on the point of order.

The amendment of the gentleman from New York (Mr. WOLFF) to which a point of order has been raised by the gentleman from Illinois (Mr. PRICE) reads that "nothing shall preclude or deny the right of any State or political subdivision thereof or interstate agency," and then it addresses itself to the definitions of the term "pollutants" on page 372 in which radioactive materials are referred to.

In view of these circumstances, the Chair holds that the amendment is germane and overrules the point of order.

The gentleman from New York (Mr. WOLFF) is recognized for 5 minutes in support of his amendment.

Mr. WOLFF. Mr. Chairman, there is an urgent open item of legislative policy that prompts me to propose, with my respected colleagues, the gentleman from Minnesota (Mr. FRENZEL), an amendment to H.R. 11896, and this is the need to reaffirm the right of the States to set standards for the discharge of radioactive materials and waste heat into the Nation's waters, standards that are more stringent than those of Federal agencies.

Our amendment would do this by adding a new paragraph to section 510 of the Federal Water Pollution Control Act amendments which would specifically prevent anything in any other law from precluding or denying the right of any State or political subdivision thereof, or interstate agency, to adopt or enforce any standard or limitation respecting the release of radioactive materials and thermal discharges into water, or any requirement respecting control or abatement or pollution from such radioactive materials and discharges; except, that these standards, and so forth, could not be less stringent than those set under the Water Pollution Control Act Amendments of 1972.

This amendment is germane to the legislation before us, for in title III, section 301(e), the bill makes it unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters, and in section 316 provides for regulation of thermal discharges. It does seem strange to me, though, that the bill fails to prohibit the routine discharge of radioactive wastes from nuclear powerplants into the water. Our amendment will give the States a voice in deciding what kinds and amounts of such radioactive wastes may be discharged into their waters.

If there ever was a case for States' rights, this is it.

The States that have already petitioned to do this on their own are the States of Minnesota, Michigan, Illinois, Vermont, Wisconsin, Hawaii, Kentucky, Maine, North Dakota, Pennsylvania, Utah, and Virginia.

The primary reason for this amendment is to give the States a long delayed voice in dealing with the public health and environmental effects of the mammoth nuclear powerplants that are starting to litter the landscape. These plants routinely emit radioactive gases into the air and other radioactive wastes into the waters. They also discharge enormous amounts of waste heat, and, I submit, no State should be expected to accept the risks of these plants to the public health and to the quality of the environment without the option of being able to set standards more restrictive than those set on the Federal level.

Today, a quarter century after the Atomic Energy Commission was established, and some 17 years after the Atomic Energy Act was revised to open the way to commercial nuclear power, we still find nuclear powerplants being designed, built and operated to routinely emit radioactive wastes into the air and water surrounding a powerplant. When we consider that the Federal Power Commission forecasts that within 20 years virtually half of the electricity generated will come from nuclear powerplants, and when we further consider that this span of years barely encompasses three generations of nuclear powerplants, it seems abundantly evident to me that now is the time to seriously consider standards more stringent than those promulgated by the AEC.

If a State government anticipates having a dozen or so huge new nuclear powerplants built within its borders during the next two decades and wishes to impose stringent standards for emission of radioactive and thermal wastes, standards more strict than Federal ones, who are we to second-guess the responsibility exercised by State officials and say "nay"?

I would like to recall that on September 2, 1969, the National Governor's Conference adopted a policy statement on natural resources which bears upon the radioactive waste issue. The conference resolved that—

> While we fully recognize the problems of environmental abuse such as pollution respect no governmental boundaries and that, therefore, leadership in setting minimum standards of environmental quality can be a proper concern of the Federal Government, it is the position of the Governors that the States have and must retain the authority to establish additional environmental controls as required by special conditions.

The Republican Governors followed suit by adopting a similar position on December 12, 1969.

The heart of opposition to reasserting the right of the States to control discharges of radioactive and thermal wastes within their boundaries lies in the fear by proponents of nuclear power that a State might impose such unduly restrictive requirements as are tantamount to the exclusion of nuclear facilities within their borders. However, the fact of the matter is that there are many other ways in which a State government, if it wished, could curtail expansion of nuclear power generating capacity. States clearly have the power presently to do this by refusing to issue certificates of convenience and necessity for construction and operation of new powerplants; State Public Utility Commissions could forbid use of expensive nuclear power by their rate determinations. So our amendment would not give any special, unique power to the States. It would simply reassert the full range of their present authority in our federal system.

In conclusion, I urge support for this amendment because the perils of nuclear power are too grave, too fearsome to exclude a voice for the States. The government that is closest to the people who will be personally affected should be able to set stricter standards if in its balancing of economic costs and social benefits, such standards are indicated.

Mr. Chairman, I urge my colleagues to join with me and with my distinguished colleague from Minnesota (Mr. FRENZEL) in support of this amendment. We have before us today the opportunity to reaffirm the rights of the States to set stricter standards for emission of radioactive and thermal wastes from nuclear powerplants; these rights must be carefully guarded and vigorously reasserted in accordance with the best interests of every American citizen.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California is recognized.

(Mr. HOLIFIELD asked and was given permission to speak for an additional 3 minutes and to revise and extend his remarks.)

Mr. HOLIFIELD. Mr. Chairman, we have before us an old problem. This is not a new problem. It is a problem which has been considered now for about 25 years by the committee that the House formed to consider this problem, the whole problem of atomic energy, the use and application of atomic energy with safety to the American people. This complex problem should not be legislated on the floor today under advocacy of people who have no real expertise in the subject, and

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I say that with due respect to every one of my colleagues. At this time let me point to a pile of volumes of hearings that have been held over the years, over 15 volumes on the operation of atomic reactors with safety to the people of the United States. The bulk of that testimony reveals what has happened since the first reactor was built which made the bomb that destroyed Hiroshima, and that is a record of no fail, no damage to the people of this country.

I want you to listen to what I am about to say very carefully. In 1958, because we wanted the States to participate in this development, we passed a law permitting the States to participate in it. I hold the text of that law in my hands. I do not have the time to read it. That was contingent upon the States' first wanting to do the job and, second, showing that they had the people with the expertise to do the job—not the birdwatchers, not the people who are emotionally disturbed about pollution in our environment, but the physicists, the scientists, and the engineers who have built 100 submarines in each of which more than 100 men live within a few feet of the reactors for many months, and there has not been one case of radioactive damage to our personnel in those submarines. We are not even talking about close proximity like that. We are talking about reactor plants with concrete and steel insulation, from 5 to 7 feet thick, and around that a big steel vessel to prevent any kind of gas or any radioactive material from escaping which would be noxious or harmful to the people of the United States.

This issue has been put to test in the State of Minnesota in the courts, and the lower Federal court found that the Federal Government, under the act of Congress, had preempted, in this very narrow field, this subject and, as I said before, we provided in a law that States could participate in this development, but only 23 out of the 50 States have shown a desire to do so. Now many of those States have a petition before the Joint Committee for Federal funding to help them do what they are supposed to do. That is the situation that exists. Those are the facts of life. We are dealing with something here that can be tremendously dangerous, or it can be handled safely. The record of the last 30 years shows it has been handled safely. Now comes forth these new-found proponents of environment and ecology who say, "We are afraid that something will happen, and because we are afraid, turn this matter over to the States to perform this highly complex job."

The States have in the past 15 years shown an incapacity or an unwillingness to build on the State level the expertise required.

Here is one place, I can tell Members, where if they vote for States rights in this instance, they are voting to endanger the people of their States, because the States do not know how to do this job. The States do not know how to do this job. If they learn how to do the job, under the 1958 law, I am sure that they will be given enlarged fields of control of radiation.

The case in Minnesota was taken, not only to the lower Federal courts, but also to the court of appeals, and the court of appeals upheld the lower court's decision that the Federal Government had preempted this narrow but very important field of safety to the people of the United States.

The court of appeals upheld the lower court. The case went to the Supreme Court. It has not yet been heard, but the Supreme Court has asked the Solicitor General to prepare a brief before the Supreme Court on this matter, and that brief sustains the actions of the other two courts. It says that Congress has preempted this right for the Federal Government and that the Federal Government is disposing of it in a careful way.

If the Members want to gamble—and I am not just talking to the 23 States that are already learning how to do this job of radiation monitoring and control, but I am also talking about the 27 States that have not even a vestige of control apparatus in them—I would point out many reactors are being built in these States. I do not want to go into the subject of the need for electricity from these nuclear reactors. I am telling the Members this, and the testimony is ample, that before the end of this century most of the fossil fuels are going to be depleted, and if we are going to have energy in this Nation of ours to meet the energy needs, we are going to have to have it from nuclear energy. Long after I am gone from the Congress the Congress is going to have to watch this and guard it because this is the only source of heat and energy that will provide for the Nation in the next thousand years the energy needs of the people of this Nation.

I am saying this. We are not fooling with dynamite. We are fooling with the state of the Nation. There are certain areas where protection has to be extended across State boundaries, and this is one of those instances, because if we have a State in one place that is enforcing the law, and if we have a State next to it that is not enforcing the law and does not know how to enforce the law, it can damage all the States around it. This is not anything to consider lightly or to fool with.

I say to the Members this is a dangerous amendment and ought to be voted down.

Mr. FRENZEL. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, along with the distinguished gentleman from New York (Mr. WOLFF) I am a sponsor of the pending amendment to give States the right to set more restrictive standards for radioactive and thermal pollution than the Federal Government. I urge you to adopt it.

The distinguished gentleman from New York and I mean no disrespect for the committee. They have done a first-rate, workmanlike job. We believe that we are simply clarifying the intent of section 510 which extends to States the right to set stricter standards. We want to make sure this policy is broad enough.

I am a proud sponsor—proud because my State of Minnesota has taken the lead in the fight to establish any State's right to protect its citizens in a reasonable method of its own choice.

My State's proud story is also a sad one. In 1969 we tried to establish standards stricter than the AEC for a nuclear powerplant. We lost in district court in 1970. We lost, on a split decision in the Eighth Circuit Court of Appeals in 1971. Now we are on our way to the Supreme Court.

Today you can save us the trouble of begging the Supreme Court for our State's rights. You can also stand up for the rights of all our States by adopting our amendment.

In 1970, our then Gov. Harold LeVander told the Joint Committee on Atomic Energy:

> We hold that the State has an obligation to protect its citizens against environmental pollution. We are not willing to abdicate this obligation.

The Governor said he could not sort out the conflicting opinions of distinguished scientists:

> I do not know who is correct. I do know I have a duty to protect the health and welfare of the citizens of my State.

Minnesota has been critical of AEC standards from the beginning. The standards which our State has set are far stricter than the AEC standards. Since 1969, we have not had any reason to suspect that our standards are not far better for our citizens. The AEC is a marvelous and effective institution. Its scientists are brilliant and distinguished. But the AEC has a dual mission—that of promotion as well as safety. In Minnesota we worry more about the health and welfare of our citizens than about the promotion of nuclear power.

Like Governor LeVander, I do not know who is correct. I do feel that the State has the responsibility to err on the side of safety in the standards that it sets. If its standards are more strict than those of the promotional agency, the AEC, it should have the opportunity to operate under its stricter standards and to prove that they are superior for the protection of its citizens.

LeVander, a Republican, was speaking for Minnesota and for all States. His successor, Democrat Wendell Anderson, has spoken and acted with equal vigor in pursuit of the right of States to protect their own citizens.

The present Federal preemption tells us how closely the Congress and the AEC cling to the concept that "The King can do no wrong." Washington centralists seem to be telling the States and local governments that only Federal big shots can be trusted with this important business.

Most of us have believed in the ability of local governments to solve local problems where they have sufficient authority. In this case, my State, and, perhaps someday your State, felt that stricter standards were a local solution to a local problem. Proponents of nuclear promotion and AEC will say that local standards will restrict the growth of nuclear power. If such restrictions occur in the name of the public safety, then they are worth while. However, it is more than likely that whatever restrictions the various States set will not be bad enough, nor so nonuniform, as to restrict unduly the growth of nuclear power. Before the States are accused of being crazy, they ought to have a chance to prove that they can react reasonably.

Like my two Governors, I believe that my State, and yours, has the responsibility, and should have the authority, to protect its citizens no matter what Federal big shot, or what appointed bureaucrat, may say to the contrary. If the States do wrong, let AEC take them to court, not vice versa.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

In the previous statement made by the gentleman from California he questioned whether or not the States would jeopardize the lives of the people by setting standards that were perhaps below the standards set by the AEC today. That is not the case. Our amendment specifically states that no standards could be set below the AEC standards. In fact, the standards would be higher more restrictive standards.

Mr. FRENZEL. I thank the gentleman for his contribution. That is exactly correct.

This Congress gave the States the right to set stricter limits under the Air Pollution Control Act. This body voted the States that right in the Ocean Dumping Act. Let us not give up on State government in this important pollution bill.

For over 30 years we have watched an acquisitive central government gather unto itself and its agencies all manner of powers formerly belonging to the States. For over 30 years we have witnessed Federal failure after Federal failure in countless areas where States and local governments could have done the job.

I believe in a Federal standard as a floor under State efforts. But I do not condone a Federal floor, Federal ceiling and four Federal walls to form a Federal coffin, boxing State authorities and stifling State initiatives.

Some of us may be attracted to the "papa knows best" theory. Centralism always dies hard, I suppose But if enough of us still believe in State and local governments—in their ability to solve local problems—we can, by passing this amendment, give our States the authority to exercise their rightful responsibilities.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Minnesota (Mr. FRENZEL) would allow any State or any political subdivision of any State to totally preempt the regulatory authority of the Atomic Energy Commission with respect to the discharge of radioactive materials.

I know this amendment is well intentioned. I know the appeal to States' rights sounds attractive, but in my considered opinion, gentlemen, nothing could be more dangerous to this Nation than to adopt the amendment.

Mr. Chairman, I am the chairman of the Science and Astronautics Committee's Task Force on Energy Research and Development. During the past 6 months we have conducted more than 2 dozen briefings and information collecting sessions on our Nation's energy crisis.

Let me assure the Members that this crisis is real and very dangerous to this Nation. It will affect our gross national product, our national defense, our level of employment, and the protection of our environment.

We have no alternative but to proceed with all haste, consistent with maximum safety, to consider all forms of energy conversion: coal, oil, gas, nuclear, geothermal, hydro, and some time in the future, solar and fusion.

During the next 50 years our Nation must depend on nuclear fission as a major source of power.

We cannot afford delay. Every area of this Nation is in imminent danger of brownouts and blackouts during peakload periods.

The Wolff-Frenzel amendment would submit the life and death of any nuclear powerplant to the whim of any person, qualified or unqualified, representing any political subdivision of any State.

Ladies and gentlemen, I have worked for 20 years as a nuclear research scientist at the Hanford atomic energy plant. The fact is that the Atomic Energy Commission reactor safeguards program has the best safety record of any industrial activity in history. I believe it can be shown that more detailed research has been conducted by the Atomic Energy Commission on nuclear safety and safety with regard to radioactive materials than on any other subject of any kind in history.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. No.

Thousands of man-years of highly qualified work have gone into a study of each radioisotope, its half-life, its disintegration energy levels, its daughters, its biological paths and its biological concentrations and their effects. Nothing exists outside of this meticulous work which remotely compares to it in quality, accuracy or thoroughness with regard to safety considerations. Nothing in any State remotely compares to the work of the Atomic Energy Commission. AEC safety standards are totally consistent in detail with the safety standards for the International Agency for Atomic Energy.

To accept the Wolff-Frenzel amendment would amount to throwing away all of this rational work and substituting for it what is at best semi-informed opinion, and what is many times nothing more than hysteria.

I would like to point out to you that I live on the Columbia River. It is my home. This is the river that is supposed to be "the most radioactively polluted river in America," if I may quote some persons. Hundreds of outstanding scientists live alongside me on this river—physicists, chemists, and biologists. We and our children and our wives spend all of our summer days swimimng, fishing, scuba diving, water skiing, sailing, and drifting on rafts on this river. We have a "whole-body counter" at Hanford with which the level of radioactivity in human beings may be measured.

A person is isolated from all outside radiation, and a large radiation detector is placed against the chest and stomach, and another near the head. All the radioactivity in a body is counted. Every employee at Hanford is "counted," as are most children in the area's schools.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. EDMONDSON, Mr. McCORMACK was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. I thank the gentleman. I will finish and then I will yield to the gentleman from Oklahoma.

This whole body count was made on me on my last day of work, as it had been each year. As the tape comes out of the computer one can tell what radioactive materials, and how much a person has in his body. The cesium 137, which everybody carries from weapons tests, shows up. So does the potassium 40 that every human being has in his body, and has had from the beginning of time. In spite of my work activity and my recreation on the river, nothing has ever shown up in me that is not also present in every person in this room.

Mr. EDMONDSON. Will the gentleman yield?

Mr. McCORMACK. I am glad to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding and for giving the Committee of the Whole the informed judgment which he has given with regard to this particular amendment, which itself on its face does have considerable appeal. What the gentleman is saying when you boil it down to the final meat of the coconut is that we have an assured expert surveillance of this system at the present time with know-how built into the system, and there is great danger under the proposed amendment of some well-intentioned amateurs writing some strong legal language which might preempt the inspection field and eliminate existing expertise and know-how from the safety operation. Is that correct?

Mr. McCORMACK. I thank the gentleman from Oklahoma. I agree with his statement, and express my respect for his knowledge in this subject, since he serves on the Joint Committee on Atomic Energy, as well as the Public Works Committee.

I would like to conclude by saying that it is obvious from the report by the House Committee on Public Works for this bill, and from the committee report from the other body that this bill does not impact directly upon the Atomic Energy Act of 1954. This bill applies only to radioactive materials not covered by the Atomic Energy Act of 1954 and, as such, the amendment is not relevant to this bill at all.

I suggest for these reasons that the amendment should be rejected.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 5 minutes.

The CHAIRMAN. Is there objection to

the request of the gentleman from Alabama?

Mr. HOSMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Chairman, I move that all debate on this amendment and all amendments thereto conclude in 7 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Alabama (Mr. JONES).

The question was taken; and on a division (demanded by Mr. WOLFF) there were—ayes 56, noes 46.

So the motion was agreed to.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on section 2 and all amendments thereto be concluded within 30 minutes after the consideration of the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. REUSS. Mr. Chairman, I object.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on section 2 and all amendments thereto be concluded in 1 hour.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARSHA. Does that include all amendments to the rest of the bill?

Mr. JONES of Alabama. All amendments to section 2.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. DINGELL. Mr. Chairman, I object.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Chairman, I move that all debate on section 2 and all amendments thereto be concluded within 1 hour.

Mr. DINGELL. Mr. Chairman, I think under the rules of the House I am entitled to be heard on this point.

Mr. JONES of Alabama. Mr. Chairman, the earlier request was a unanimous-consent request.

Mr. DINGELL. Mr. Chairman, as I understand the rules of the House, I am entitled to be heard on this motion.

The CHAIRMAN. The gentleman from Alabama made a motion.

The question is on motion offered by the gentleman from Alabama (Mr. JONES).

The motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman who most deserves the right to speak on water pollution, the gentleman from Pennsylvania (Mr. FLOOD).

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, the gentleman from Indiana is quite right. I do have an inherent right to be heard on water pollution, being that my name is FLOOD. But I am speaking on behalf of the Governor of the Commonwealth of Pennsylvania, and the attorney general of that great State, and to say that we want to hold hands with our friends from the State of Minnesota on the question of the rights of the States.

Can you imagine Pennsylvania taking the lead with our friends on the question of States' rights? Pennsylvania is the Keystone State—never forget that—who has a better right?

The levels of pollution of atomic wastes and safety levels have never been set by anyone, especially with reference to nuclear fallout pollution. The Federal Government has set its own standards and has preempted the rights of the States—Pennsylvania insists on its right to set standards above those set by the Federal Government.

Mr. Chairman, I rise in support of this amendment to permit State and local agencies to adopt regulations restricting radiological or thermal discharges more stringent than those prescribed by the Federal Government—it is germane to the legislation at hand and is not only desired by the States, who have been traditionally charged with the responsibility for the health and safety of its citizens; but is critically needed to insure maximum abatement and control of such water pollution.

The attorney general of the State of Pennsylvania has expressed his opinion to me concerning the amendment: "It is a good idea, an excellent amendment, and I strongly urge its adoption," said Attorney General Cramer, and for good reasons. The States have set radiological standards since the discovery of the potential danger of the X-ray. This is nothing new. Control of radiation has been in the hands of the States dealing with their regulation over dental, medical, industrial, and recently laser emissions. It is perfectly consistent that they be granted the opportunity, which has been their right previously, to regulate radiation passing into their streams and waterways.

Concern to protect the public safety does not exist solely in the Federal Government. Surely the States have the right to protect their citizens which reside within their borders. The State governments are much closer to the citizens affected by radioactive waste; and furthermore, have a direct physical threat to them. The nuclear "sword of Damocles" hangs over their heads and for this primary reason I support the amendment to give the States a large voice in dealing with the public health and environmental dangers which the multiplying nuclear plants represent to them.

It is a routine matter for nuclear powerplants to discharge radioactive wastes into the water and vast amounts of waste heat which constitutes thermal pollution. It is a commonly known fact amongst outdoorsmen that in the critical summer months a rise in stream temperature of 1 or 2 degrees can cause a massive fish kill and promote the oxygen depleting growth of algae. Should a State government such as Pennsylvania, which leads the Nation in fish licenses issued and invests a substantial amount of money into fish culture and hatchery programs; and whose citizens themselves invest money in such sport, should such a government have no say in the regulation of powerplants which have the real potential to despoil all of the above investment. This, Mr. Chairman, is to say nothing of the harm to nature herself, to generations unborn who may be deprived of the opportunity to see a clean stream in any form.

It is apparent also that special conditions exist within each State—varying conditions of climate, topography, degree of urbanization, and so forth; and for this reason I would again urge adoption of this amendment. Each State must have the right to decide what suits the special conditions within its borders that may require additional and more stringent regulation of radioactive and thermal waste.

In conclusion, Mr. Chairman, I would state that the Constitution recognized the need for concurrent powers and that need should be met by this body today. This is merely to say that the perils of nuclear power are so threatening; that no one knows what is indeed a safe level of radiation; that levels of radiation will indeed be apparent in waterways adjacent to and downstream from nuclear powerplants; and that the States, while meeting minimum levels, should not be denied their right to go beyond the concept of minimum safety into the higher order of maximum safety.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. WOLFF). This amendment would permit State and local agencies to adopt regulations restricting radiological or thermal discharges more stringent than those prescribed by the Federal Government.

It is consistent with the bill's intent to place the primary responsibility for pollution control in the States. States should not be subject to the preemptive action exercised by the Atomic Energy Commission regarding such discharges.

I am neither a bird watcher nor an atomic expert, but we have one of these situations in my district, and I can tell you that they cannot clean it up. I do not know what they are going to do with it, and nobody else does, either. The university wanted it, AVCOM wanted it. Contractors wanted $170,000 to clean it up, and then spent $3 million before deciding that they could not decontaminate it. I think it is certainly proper that we let the States work on this important problem.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, radioactive emission standards are either safe or unsafe. They are either unsafe or safe all over the United States, and if you try to segment this and let 50 different States set 50 different standards, and 50 different ways of handling radioactive emissions, you will ruin the nuclear industry in this country, and you still will not make anyone any more safe, that being an absolute matter of immutable physical laws and by no means an accident of a State regulator's opinion. By fractionating controls you will make it possible to impose additional requirements, above and beyond those required for public health and safety. This is unnecessary. It is uneconomic. It is xenophobic. It can impose operating conditions on reactors which are over stringent and a detriment rather than a contribution to safe operation.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. ANDERSON of Illinois yielded his time to Mr. HOSMER).

Mr. HOSMER. Mr. Chairman, I merely ask the Members that we observe the immutable laws of safety which cannot be amended by this body as to nuclear reactors any more than this body can, by statute, repeal the law of gravity. I urge the defeat of this amendment, which is totally mischievous and nonproductive.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, addressing first the question of thermal wastes, let me say that I believe section 316 is quite clear in its requirements that while thermal discharges may be permitted, they must be consistent with regulations to be promulgated by the Administrator.

These would apply to any source of a thermal discharge. On the question of control of radioactive wastes, it seems to me that the gentleman's amendment is clearly an attempt to modify the Atomic Energy Act. This is not in the jurisdiction of this committee.

There is a serious energy crisis developing in this Nation. It is far greater than the average person is aware of. The Interior Committee of which I am a member, is planning to hold indepth hearings on the energy crisis.

Normally, I would be in favor of the principle of this amendment but as stated before, I believe the section 316 and the bill itself provides sufficient latitude for the States and political subdivisions as well as interested persons, who have the opportunity to provide written comment to the Administrator, on proposed regulations.

I will read the section 316 on regulation of thermal discharges in full into the RECORD in further substantiation of the earlier point I made. It states as follows:

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or non-evaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternative change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such source, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York (Mr. WOLFF) and the gentleman from Minnesota (Mr. FRENZEL) and I am sure that if adopted it will accomplish the necessary purpose in this legislation, because if there is any area where the Federal Government has failed to keep on top of a situation and to modernize it, it is in this area.

We have a peculiar situation in our State of Minnesota, and I believe that we ought to have the right to deal with it ourselves.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Fraser).

Mr. FRASER. Mr. Chairman, our State Pollution Control Agency hired an expert, knowledgeable in the field of radioactive emissions, to establish standards for our State of Minnesota with respect to nuclear reactors, and he set standards higher than those of the AEC in the belief that this would better protect the health and welfare of the people of the State of Minnesota.

I think that the right of a State to establish higher standards ought to be sustained.

Mr. FRENZEL. Mr. Chairman, the gentleman from California (Mr. HOLIFIELD), said that AEC preempts a narrow band, but I would state that the general health and welfare of the people of our country is not a narrow band. The States do have a responsibility here, and the way to give it to them is through this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. JAMES V. STANTON).

Mr. JAMES V. STANTON. Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from New York (Mr. WOLFF).

The amendment presents the House with a very complex and difficult proposition. It proposes to take authority for the setting of pollution control standards from the AEC and places it in the hands of EPA. For normal operations involving pollution, that control properly belongs under EPA. But atomic energy is a peculiar field. To date, the operation of the atomic energy program has been under the control of the Commission itself. Eventually, such control will be delegated to the States as more and more knowledgable people at the State level become involved in the atomic energy program. That time, however, has not yet arrived. Until we reach that stage it is obvious that the control of which we speak should remain with the Atomic Energy Commission itself, as the committee points out on page 131 of House Report 92-911 which accompanies this bill. For this reason, I would oppose the amendment offered by my distinguished colleague.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I have a large nuclear reactor in my congressional district constructed by Commonwealth Edison Co. At the time the permit was granted, I communicated with the Atomic Energy Commission and in my opinion they did a totally inadequate job with respect to a consideration of the subject of thermal pollution.

Mr. Chairman, at the time the application for a permit was addressed to the Atomic Energy Commission, I presented a statement to the Commission, as follows:

[United States Atomic Energy Commission, Dockets Nos. 50-295 and 50-304]

(In the Matter of Commonwealth Edison Company (Zion Station Units 1 and 2), Hearing on Application for Provisional Construction Permits)

STATEMENT OF ROBERT MCCLORY, MEMBER OF CONGRESS

It is my opinion that the two-unit nuclear generating station which Commonwealth Edison Company proposes to construct at Zion, Illinois, is essential to meet adequately the power needs of the area of Northeastern Illinois which applicant intends to serve, and to prepare for the community growth that is anticipated.

The Commonwealth Edison Company has an excellent reputation for responsible management, financial stability, and efficient and economical service to the public. It can be expected to take all reasonable and necessary steps to protect the public interest while utilizing the advantages of atomic energy in generating the much needed additional power.

Special attention should be given to the subject of possible thermal pollution of the waters of lake Michigan from the operation of such facilities. Although I am not acquainted with the details involved in the

plans for these atomic energy generator units, I am confident that the Commission will give full and adequate consideration to this subject, to the end that marine life in the immediate area will not be affected adversely.

In conclusion, I want to express emphatically my support in behalf of the application of Commonwealth Edison Company.

Respectfully yours,

ROBERT MCCLORY,
Member of Congress.

August 30, 1968.

Unfortunately, Mr. Chairman, when the Atomic Energy Commission rendered its decision in December 1968, it was stated:

The Commission view is that it does not have jurisdiction over reactor caused thermal effects on liquids used for cooling, and that another administrative agency has control of thermal levels in lakes, for instance, pursuant to a divided regulatory program.

Mr. Chairman, the position which I am representing appears to be supported by the U.S. Court of Appeals in the case of Calvert Cliff's Coordinating against U.S. Atomic Energy Commission, decided last July. Perhaps the holding in that case—and subsequent amendments passed by the Congress will impress upon the AEC that it must secure assurances that thermal effects will be nonpolluting before it grants permits to construct nuclear-powered generating plants.

Mr. Chairman, in order to make eminently clear that we are controlling nuclear and thermal pollution in this bill, we should adopt the amendment offered by my colleagues from New York (Mr. WOLFF), and Minnesota (Mr. FRENZEL).

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE of Illinois. Mr. Chairman, the proposed amendment to section 510 of the bill would extend the effect of this legislation well beyond that intended by the committee. This bill takes the form of a major amendment—in fact a rewriting—of the current Federal Water Pollution Control Act. It is far reaching and pervasive in its effect on water quality, but it was not intended to amend other basic enabling statutes. The proposed amendment is directed solely at other statutes, since its provisions relative to this basic bill are already contained in the language of section 510 as reported by the committee.

The bill as reported establishes a program of effluent limitations and standards, and section 510 clearly provides that the States may set more restrictive standards should they so desire. The proposed amendment is aimed at two so-called pollutants—radioactive materials and thermal discharges—and seeks to collaterally amend any statute enacted by the Congress relative to them without any specific reference to the statutes that might be affected. As to radioactive materials, the target of the amendment is obvious. It seeks to reverse the decisions of the courts which have held that the Atomic Energy Act of 1954 preempted to the Federal Government, acting through the Atomic Energy Commission, the exclusive jurisdiction to regulate most radioactive materials. Clearly, if such is the will of the House, it should be undertaken only after a thorough examination of the impact of such a decision and it should be done directly by amending the statute involved—the Atomic Energy Act—not collaterally through this legislation. If this amendment had been proposed as a piece of original legislation, it would have been referred to the appropriate committee for hearings and evaluation of all the pertinent factors involved in such a decision. I could go on with the explanation of those factors, but this is not the time nor the place for such a consideration in the first instance. This bill is not the appropriate vehicle for amending a major piece of legislation, thoroughly considered in committee and by the Congress, which established at the direction of the Congress a thorough and pervasive regulatory program relative to radioactive materials.

As to thermal discharges, I must confess that I know of no other law under which regulations governing thermal discharges are promulgated. Therefore, that portion of this proposed amendment appears to be surplusage. Section 316 of this bill provide for the establishment of regulations with respect to control of thermal discharges which are to be established by the Administrator of EPA. Section 510 as reported by the committee reserves the right of the States to set more restrictive standards than those promulgated by EPA should the States so desire. I could only ask the sponsors of the proposed amendment to identify the legislation which they seek to amend indirectly on this point.

Mr. Chairman, I urge rejection of the proposed amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, actually science agrees there is no safe level of radiation.

The gentleman from California says that Congress has preempted the rights of the States. That is exactly what this amendment tries to do—to upset the preemption by the Congress and give the right to protect its citizens back to the States to set their own standards, higher than the AEC standards, not lower.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I would just like to put this debate in perspective.

This amendment purports to deal not only with radioactive material under the jurisdiction of the Atomic Energy Commission, but also thermal discharges. This bill specifically provides that any State can issue a regulation or a permit or control of thermal discharges that can be as stringent as it wants it to be. Thus, the question is moot in this amendment.

The only thing we are talking about is radioactive material which should be left up to the agency that has the expertise.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Chairman, I do not ever recall hearing so many contradictions as I have seen here this afternoon.

We have one group up here that says that we must have the Federal Government to do everything under this bill. Yet, the same advocates come back and say that the States have to do it.

We have to rationalize under our bill, we have brought in the Federal Government and the States to work together on this program. This is exactly what the gentleman from Ohio has pointed out.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The time for debate on the pending amendment has expired.

The question is on the amendment offered by the gentleman from New York (Mr. WOLFF).

The question was taken; and on a division (demanded by Mr. WOLFF), there were—ayes 36, noes 106.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'DONALD OF MICHIGAN

Mr. McDONALD of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCDONALD of Michigan: Page 248, line 5, strike out "(B)" and all that follows down through and including "(C)" on line 11 and insert in lieu thereof "(B)".

Page 249, strike out lines 6 through 13, inclusive.

Page 249, line 14, strike out "(4)" and insert in lieu thereof "(3)".

Change any references to such provisions accordingly.

Mr. McDONALD of Michigan. Mr. Chairman, my amendment would delete from H.R. 11896, the Water Quality Bill, title II, section 204 (b) (1) (B) and (b) (3) or, in other words, those provisions requiring industrial users of municipal treatment works to pay, in addition to user charges for the maintenance and operation of the plant, a portion of the initial Federal capital investment.

Studying the problems of water pollution and finding solutions to those problems is a long and arduous task. The Public Works Committee has done a most commendable job on the Water Control Act, and as a member of that committee, I am proud to have taken part in the deliberations which went into this bill.

I would, however, like to draw your attention to that section of the bill which I wish to amend. While I am a firm believer in the concept of user charges for the purpose of maintenance and operation, I feel it is a grave inequity for the bill to single out industry as the one user also responsible for capital costs. This inequity will surely be destructive as far as development of hoped for regional concepts in water pollution control is concerned.

Revenue must be generated from users on a proportionate basis that will take care of the maintenance, operation, and expansion. To charge industry a fee beyond that of user charges, however, is unfair. Businesses, like individuals, are taxpayers and deserve the benefit from Federal grant programs as do other taxpayers. It is clearly unjust and inequitable to require reimbursement from industry while not requiring reimbursement from other users.

What is necessary today to correct our water pollution problem is a massive, cooperative effort on the part of every individual and corporate entity. And any legislation which has as its intent a solution to this highly complex problem must assign the responsibility equally between those who are creating the problem.

If this bill is to be just, either we make all users pay part of the investment costs, or we release all users from such charges.

Now the general intent of this legislation is to eradicate pollution by fostering joint and regional approaches to water control projects, and to provide Federal tax dollars to help achieve this objective. The section which I propose to amend assesses a penalty to industry which may lead to the bill's intent being thwarted. Should this amendment fail, there are two ramifications which should be considered:

First, industry, basing their action on the cost factors of paying user charges in addition to investment costs, could well decide to find it more economical to build its own plant rather than participate with municipalities or regional authorities in developing a comprehensive water pollution control project. This means that the charges of constructing, maintaining and operating the water facility will not be based on the most possible number of users.

Second, the user would have to pay a premium price for clean water simply because industry, using its own facilities, would not be sharing in the maintenance and operations costs.

What those two ramifications bring, then, is a fragmented approach to solving water pollution problems. I do not think I oversimplify when I say that the increased costs of a piecemeal water pollution control program are going to end up coming out of the taxpayer's pocket.

Another facet of the bill which disturbs me is the lack of direction regarding the amount of the investment capital to be paid back, how to pay it back, and when to pay it back. Those decisions are left up to the local municipality, the regional commission, or whomever the original applicant for the grant happens to be. The problem of additional industrial users coming into the region as new customers also will pose a problem. Under the language of the Senate version of this bill, the definition of industrial users would include many commercial entities other than manufacturing, thereby increasing the problems of regional authorities.

In a large region we can expect continuous growth. This means that each time a hotel, apartment building, restaurant, car wash, or some other commercial user joins the region, it could necessitate a recomputation of the capital investment charge, which could become a daily occurrence. I feel that the looseness and ambiguity of this section must be stricken from the legislation.

My amendment would curb the double taxation, it would foster a unified attack on the problems of water pollution, and would keep user taxes down. Industry can be—in fact must be—a willing ally in our quest for a cleaner environment. I feel this amendment will do much toward achieving that objective.

Mr. EDMONDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee felt that the allocation system that was developed in this bill in section 204 was one that dealt fairly with both the general user and the industrial user, and one that assured that fee revenues paid in by the industrial users would remain in the community for the development and construction and operation and maintenance of treatment works which are publicly owned. We felt it was a method by which we could accomplish a quantum step forward in connection with much needed treatment work in the various communities of the country.

The gentleman has said we are going to create problems about allocation and reallocation of cost. Well, we are going to have a continual addition of new users of this system outside the case of the industrial user, but the gentleman does not endeavor to eliminate from this bill the provision that other users must continue to contribute and pay a portion of the costs. He is concerned solely with the problem of the industrial user, and if we are going to have a recomputation problem with the industrial uses, we will have the same problem with the addition of new residents that are not industrial users. I feel the gentleman's point does not have substance.

We have devised here a system that will assure strong new effort in the community to assess user charges fairly and to plow the income from those user charges back into the system. We are trying to the limit of our ability to encourage local effort and local initiative in this very important field.

The gentleman's amendment would just cut the heart out of the revenue portion of this system by eliminating from it the user fees that would be allocable to the industrial users under this system, to recover part of the Federal investment and to use it for the purpose of additional improvement and development in the communities.

Mr. Chairman, I think the amendment should be defeated. Certainly if we want to write a bill that indicates a real bias in favor of industry, the Members will adopt the gentleman's amendment.

Mr. McDONALD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. McDONALD of Michigan. Mr. Chairman, I would have to disagree with the gentleman, because there is a user charge for every user in the bill, including industrial users. The point I was making in my amendment was to eliminate the added user charge to industry. We do not know how this will be computed. Let me point out to the gentleman, user charges to all users under an earlier section of the bill will be computed on the cost of maintenance and use of the plant. Under section 204 of the bill, which we attempt to amend, the portion of the Federal grants that the user would have to pay would have to be recomputed each time a new user would come into the system, because each user is required to pay his proportionate share of that Federal outlay. So if we add a new user, perhaps daily, the shares of all the other users would have to change, and it would mean daily in large areas we would have to compute their user fee, whereas the flat rate user fee would not have to be recomputed, because it would be on each individual user.

Mr. EDMONDSON. Is the gentleman contending the industrial polluter-user should not be considered a more substantial and dangerous polluter?

Mr. McDONALD of Michigan. No. The industrial polluter will pay his proportionate user fee share.

Mr. EDMONDSON. The committee did not feel he would be paying his proportionate share without the provision included in the bill.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Chairman, as I understand it, the gentleman objects to the industrial user being charged their fair portion of construction costs. I oppose the amendment because the fact is in a large Federal grant program which has a high percentage of construction funds, that it would be unfair to expect the taxpayer to subsidize the industrial user. I am quite surprised at the gentleman's amendment, because the fact is the industrial user is being given the opportunity to participate in a municipal plant based on a user charge schedule and of the users proportional share of financing construction costs without interest rates. If the industrial user would have to construct his own plant he would have to find the money and then pay interest, and large interest rates, and he would find it could not be done on an economic scale that would make it cheaper.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mrs. ABZUG. Mr. Chairman, I rise in opposition to the amendment.

As a member of the committee I can tell you that I thought we should include interest charges to industrial users, but the committee in its wisdom overruled me.

What this means is that the industrial user is actually getting the capacity to participate in the use of the municipal plant without paying as much as it would cost if, being free he built his own plant of the burden of interest rates.

I believe we recognized in the committee that there may be administrative difficulties in establishing various classes of industrial users. It is left to the local system to set up a fair and equitable

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system, subject to the approval of the Administrator.

Any other provision would actually place an onerous burden on the taxpayer, to subsidize the industrial user, and also make it impossible for a municipality to conduct an effective system. I oppose the amendment.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

I must say when I read the gentleman's "colleague" letter on this it had a certain appeal, because it implied industrial users were going to be charged twice. However, when one analyzes the effect of his amendment, it would have the result that industrial users would be charged for maintenance and operation of treatment facilities but not for amortization of capital cost. This strikes me as being an unsound principle. Industrial polluters should not be placed in a position to require that local taxpayers subsidize a part of the capital cost of eliminating the pollution generated by industry as the price for obtaining Federal assistance under this section.

Mr. CLEVELAND. Mr. Chairman, I rise in support of the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by my colleague from Michigan (Mr. McDONALD).

This amendment will correct a large inequity in both the bill before us and the version passed by the other body—an inequity that has been largely overlooked in the flood of proposed amendments and "Dear Colleague" letters that have been circulating for the past week.

The inequity stems from title II section 204(b)(1)(B). This section requires that industry, unlike other users of facilities, must reimburse the Federal Government for a portion of the initial capital investment. This reimbursement is in addition to the user charges industry must pay for the maintenance and operation of the facilities.

Mr. Chairman, if there is one concept that must prevail in the final version of this bill, it is the concept that industry must be a participant in, not the victim of, the fight against pollution. This holds true not only for industry but for the thousands of employees dependent on industry for their livelihood.

Section 204(b)(1)(B) is contrary to this concept. My colleague from Michigan has estimated that the section will result in an additional charge to industry of some $7 billion over the next 4 years. That figure is probably conservative. More important than the cost in dollars, however, is the cost in jobs.

I represent a district that has several small paper mills located within it. These industries are not rich, they are fighting for their very survival. For many of them, the reimbursement of the initial capital investment is simply beyond their capacity. It will force them to close their doors. Hundreds of jobs will be lost. I am sure that the situation in my district is representative of that in many other parts of the country.

The amendment proposed by the gentleman from Michigan (Mr. McDONALD) is not a so-called weakening amendment. It does not change the goals or basic mandates of the bill. It merely provides for a rearrangement of the burdens of costs for what we all desire. As a person who has supported virtually every sound conservation and pollution-abatement measure that has come before this body in my 14 years in Congress, I would not be supporting this amendment if I were not convinced that it is consistent with a sincere concern for the protection of our environment.

By deleting section 204(b)(1)(B), we can make industry and its employees participants in this struggle. We can clean up our waters without destroying jobs. I, therefore, urge passage of this amendment.

Thank you.

Mr. CLEVELAND. Mr. Chairman, there has been a good deal of misunderstanding about this amendment.

I am addressing myself now to the members of the committee at the desk, and particularly the gentleman from Oklahoma who rose in opposition to this amendment, and particularly the members of the staff who wrote this section of the bill.

In fairness to the gentleman from Michigan, he has raised a valid point. In fairness to the gentleman from Michigan, the Public Works Committee overlooked a real problem in drafting this section of the legislation.

I received a letter from the New Hampshire Water Supply and Pollution Control Commission after they had an opportunity to review this matter. This involves one of their chief objections to the legislation as written.

This is from the water quality people. It is not from industry. Any attempt to suggest that the gentleman from Michigan is offering a proindustry antipublic amendment is not only totally unfair but is totally untrue on the record.

This is the criticism of the New Hampshire water quality people. If the New York people, the Texas people, and the California people had been given an opportunity to read this bill, they might have joined in objecting to this section of the bill.

This is why, and I quote from the letter:

> The arrangement with regard to industry bearing not only its share of operating costs, but also capital construction costs, will certainly serve to discourage joint projects. Industry will soon decide to go it alone because it will be easier, and, in many instances, more economical to do so.

Do not forget that the Ways and Means Committee has given industry a 60-month writeoff privilege. Do not forget that many States, like New Hampshire, totally remove any pollution abatement properties from the property tax.

Do not forget that industry using their own labor and not having to go through the layer after layer after layer after layer of Federal requirements and redtape may find it cheaper, as we have already found in Turnkey projects, to build their own sewage treatment plants. And that is where the gentleman from Michigan comes in, because, when they go their own way and build their own plants, it may leave John Q. Public having to build an uneconomic plant. That is what the gentleman from Michigan is trying to point out.

The committee made a mistake when they wrote this portion of the bill, and they will not admit it or do anything about it. That is the unfortunate thing about what we are doing here today. The very least we should do is permit the Administrator to waive this provision to prevent undue economic hardship.

Now, let me continue with a quote from the New Hampshire Pollution Control Commission:

> The main underlying objective which the bill seeks to promote; namely, regional solutions, areawide treatment concepts, and so forth, will be frustrated.

The full text of the letter appear in yesterday's RECORD, page 10245.

I can point to situations in my district where it will totally frustrate the objectives of this legislation.

It is a shame that the committee closed their eyes in this area of joint projects which are permitted now. They are trying to say the gentleman from Michigan is trying to give special privilege to industry. What he is trying to do here is encourage cooperative effort undertaken between industry and the local districts.

Mr. EDMONDSON. Will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. EDMONDSON. Will the gentleman explain to me how in the gentleman's view the cost of building their own plant would be less than the cost would be of participation in a municipal plant with Federal grants participating in the cost of the municipal plant that was jointly used? Will you explain to me how industry would have a cheaper operation for industry to go its own way and build its own plant? I would like to hear that explanation.

Mr. CLEVELAND. The explanation is clear. First of all, they get the fast writeoff if they spend it themselves, a privilege the Committee on Ways and Means has already given them. Second, if they build it themselves, they have none of the requirements of the Davis-Bacon Act or any of the other legislative acts and countless rules, regulations, and requirements that we have put on top of them. We have some towns in my district that are building without Federal participation because, under the so-called Turnkey approach, they can do it cheaper than with Government aid. We are living in a dream world if we do not realize such facts and others which I cannot detail as my time has expired.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. EDMONDSON. Will the gentleman yield?

Mr. ROE. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes after the time now being taken by the gentleman from New Jersey.

Mr. BYRNES of Wisconsin. Mr. Chairman, I must object. Give us some more time. Give us 15 minutes.

Mr. EDMONDSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes after the presentation being made by the gentleman from New Jersey.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ROE. Mr. Chairman, I subscribe to the point of view that the committee in no way made any mistake whatever on the intent of the user charge section of this legislation as it relates to industry.

The committee was adroit. They listened to the testimony and thoroughly understand this issue. It ought to be called to the attention of the House that the statement was made that it would be cheaper for industry to go it alone rather than joining in with the municipalities in the overall program because they were paying twice. Well, they are not paying twice. The purpose of the user charges would be that those funds would in part go to the municipalities to help not only the maintenance of the program but in turn help to amortize part of the capital expenditures granted by the Federal Government.

It would be fundamentally wrong for the Federal Government to provide funding directly to industry in order to build their sewage disposal plants and, in fact, under existing law this has happened. What has happened is that industry has gone into towns where there were small populations and they did not have a sewage disposal system and they have gone to the governing bodies of those towns and said:

> We want to locate a plant here and we want you, the small town, to create a sewage disposal authority and apply for Federal grants.

This was part of the testimony in dozens of cases in dozens of States where representatives testified before us and, in effect, will be—and I do not mean this unkindly—the utilization of the last Federal law or the present Federal law which would have the effect of milking the public to build the plant so that they did not have to pay the bill.

All we are saying here, in effect, is that this insures two things. It insures the capability of the municipality to provide the revenues to pay this amortization on local bonds and the proper taxes on equipment which would be equipment designed to handle exotic chemicals in wastes which are not provided for normally by a municipality.

Second, it simply says that industry pays its fair share.

Further, let this House understand one thing and the important point is that the provision of the bill setting the date of 1985 that there will be no discharge unless it is economically or physically impossible to do so, the point remains that this applies to municipal and governmental sewage disposal systems also. So, it means before this House, that come 1985 the "no discharge" provision still prevails, it means at that point the municipalities have to come to grips with this situation and they have got to pay their fair share.

I think this bill as it was meant to be written, and in only one instance, in the words of my colleague from New York (Mrs. ABZUG), that industry is being required to pay its fair share and no more.

The CHAIRMAN. Under the time limitation, the Chair recognizes the gentleman from Michigan (Mr. McDONALD).

Mr. McDONALD of Michigan. Thank you, Mr. Chairman.

I have just received today a telegram from the director of one of the largest waste treatment area facilities in the United States, and I quote, in part, from the telegram.

> Pay back by industry should be opposed. Otherwise industry will build their own pollution facilities rather than join the regional system. It is a form of paying twice, once to pay for public system and again to pay back or build their own; impossible to administrate . . .

The telegram is signed by Gerald Remus, director of an area-wide sewage disposal system in the Detroit area which encompasses the area of Detroit and 72 other cities.

Mr. Chairman, this is a backup to the statement of the gentleman from New Hampshire (Mr. CLEVELAND) as to how the people in New Hampshire feel, those people who are actively and daily engaged in the business. Grants are to be made at 60 percent if there is not some kind of a State program, but if there is a State program, grants will be made up to 75 percent.

I can foresee industry being opposed to seeing a State program come about so that they would not have to pay that extra 15 percent of the Federal share of cost of construction.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Thank you very much, Mr. Chairman.

We are concerned here today with costs. We are concerned with the cost to industry and the possibility of plants closing, as well as the cost to the Federal Treasury.

I would like to ask the gentleman from Michigan (Mr. McDONALD) if he could tell us if we removed this industrial repayment, what the cost will be to the Federal Treasury?

Mr. McDONALD of Michigan. Mr. Chairman, if the gentleman will yield, there will not be any cost to the Federal Treasury because under the House bill the funds would be recovered in the double payment that industry would have to make that would go directly to the municipality. They would be used for the same purposes as the original user charge, that which the industry would pay anyway along with all other users of the system.

Mr. VANDER JAGT. If this amendment is adopted, industries in the regional systems will be paying the full user charge that everybody else is paying in that area, is that correct?

Mr. McDONALD of Michigan. They will be paying that but in addition they would be paying what could amount to an extra $7 billion in the next 4 years for the same purpose for maintenance and operation of plants.

Mr. VANDER JAGT. Mr. Chairman, I think in terms of economy to industry and also as long as this provision remains in the bill, the bill would cause industry to keep from participating in the local system, thereby driving the cost up to the housewife, I strongly support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. ZION).

Mr. ZION. Mr. Chairman, I rise in support of the amendment. We talk about the flight of business and jobs overseas. Many companies in this country are voluntarily including very expensive air and water pollution control devices in construction of their plants.

For example, in Indiana the Bethlehem Steel Co. is spending over $43 million on air and water pollution control devices, while their competitors in Japan, with twice the capacity, is spending $7 million.

Eli Lilly Co. spends 20 percent of the construction costs of its new plants for new air and water pollution control devices. If we are going to double tax the industries in addition to the cost they now pass on to their customers, the problem will become more compounded, and we will lose more business to our competitors overseas. When we create more unemployment we lessen the tax moneys we would otherwise be collecting from those busineses and their employees. We thus have less tax money with which to support and broaden this vital program.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I do not believe we are looking at the other side of the coin. The first fact being that the real estate tax would not be borne by the corporation; the system would be a part of the municipal system. Second, eminent domain is available to the municipality or other governmental operator.

The responsibility for correction of a construction defect would rest with the governmental operator. Thus, the private industries using the municipal system would be relieved of the responsibility which would be corrected by the area-wide municipal operator.

Therefore I oppose the amendment.

The gentleman from New Hampshire (Mr. CLEVELAND) stated that some of the States may not have gone over this as closely as did the State of New Hampshire. I would like to advise my distinguished colleague that the State of New York has displayed the utmost care in the examination of this measure. The State representatives have been in the Nation's Capitol continuously reviewing this complex measure and have expressed no objection to the provisions which the gentleman from Michigan (Mr. McDONALD) seeks to amend.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GROVER).

(By unanimous consent, Mr. HARSHA yielded his time to Mr. GROVER.)

XUM

Mr. GROVER. Mr. Chairman, I rise in opposition to the amendment.

The provision that industrial users of publicly owned systems be required to pay charges for their fair portion of the costs of a treatment facility attributable to use by industrial sources is a controversial feature of this bill. This proposal was originally made by the administration, with such charges being repaid into the Treasury. The Senate bill likewise contains such a provision.

Under our bill, however, revenues derived from the payment of costs by industrial users of waste treatment facilities would be retained by the applicant for use in the operation, maintenance, expansion, and construction of treatment works. Such uses could include the repayment of principal and interest on indebtedness incurred by the applicant in constructing such facilities. Our committee report also enumerates other possible uses for revenues received under this provision.

In establishing this user charge system, our desire is that industrial users pay a fair portion of costs, including capital costs, attributable to their use of waste treatment facilities. This is a Federal grant program. The Federal Government is providing a major percentage of construction costs. It is certainly not intended that a construction subsidy by the taxpayers be made to industrial users.

The requirement that industries repay their fair share of construction costs is a reasonable one. Although payments would be phased over the lifespan of the facility, no interest would be charged to industrial users. No doubt there will be some difficulties in establishing an equitable system of charges, but we do not believe that this is an insurmountable obstacle.

I might also point out one fact which seems to be overlooked by opponents of industrial user charges. They complain that the definition of section 212(4) restricts repayment of a proportionate share of construction costs to industrial user only. As a matter of fact, the definition is broader than this. While "industrial user" includes all industries classified under "Division D—Manufacturing" of the Standard Industrial Classification prepared by the Bureau of the Budget in 1967, other classes of significant waste producers are also included. Let me read the entire definition:

> The term "industrial user" means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented under the category "Division D—Manufacturing" and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

Clearly, the Administrator of the Environmental Protection Agency is given wide latitude in this regard. He may include other classes of significant waste producers through the publication of regulations relating to them. The Senate Report on S. 2770 (92–414) makes this clear. According to it:

> This definition permits the Administrator to designate as an "industrial user" any commercial or business enterprise which, as a class, or as a single installation, discharges significant wastes to a municipal system, under the intent of the Act.

Thus, any businesses which pollute to a significant degree may be classified as an industrial user so as to require repayment.

Another factor alleged by proponents of this amendment is the so-called discriminatory nature of the repayment requirement. A covered manufacturing enterprise, to be sure, would have to pay a regular user charge as well as paying its proportionate share for the cost of constructing the treatment work facility.

But there is another side to the coin. Failure to provide recovery of the Federal share of capital costs allocable to industrial users would constitute a Federal subsidy for those particular businesses so benefited. In other words, those industries which were fortunate enough to be situated so as to be able to make use of public facility would receive what amounts to a Federal water pollution abatement subsidy. Other businesses, however, which were not so favorably located, would have to foot the costs on their own. Under the circumstances, I am very much afraid that the competitive advantage afforded by such a quasi-subsidy would tend to promote further concentration of industry at a time when national policy should be seeking to disperse it.

As to the assertion that requiring industrial users to pay their fair share of construction costs will discourage their participation in the cost of constructing municipal facilities, I suggest that the economies of scale and other benefits of public treatment works would still permit a net capital saving to business. By that I mean that on balance industrial users would still, except in rare instances, opt for participation in a municipal program.

Now it is true that in some cases the requirement to repay could pose an undue hardship on some industrial users. In such cases, provision has been made for special small business loans to cover up to 100 percent of the cost of pollution abatement facilities.

Self-sufficiency is a primary aim of the program. In the case of industrial users, the only way it can be attained is through user charges of this type. Of the types of payments sought to be eliminated by this amendment, to my knowledge, industry as a whole has offered no strenuous objections to this provision.

I, therefore, urge rejection of the amendment of the honorable gentleman from Michigan.

Certainly a majority of us here do feel that if this McDonald amendment were honored by passage it would indeed amount to a subsidy of industry, and I am not persuaded that industry is going to run away and build its own plants, and not contribute in any way to assist us because of this so-called double taxation provision because, as has been pointed out, they can get away with one great big break, and that is that they pay no real estate tax. They must fund the money from the outset, and they have millions of dollars of capital costs from the outset. By participating as required in this bill they do not have to raise the cost at once, and they can spread it through the lifespan of the system.

Also, they pay no interest charges on the money that they would normally have to pay if they were building their own plants. Participation, also, reduces their potential liability. Since we are continuing to develop technological improvements, and there is often doubt whether the present technology is going to work, where the liability is imposed upon the municipal waste facilities administrators, the industry which is participating with a municipality is relieved of that liability, and secure from it.

So, in short, Mr. Chairman, they do not have to develop their own capital, they pay no interest, the community has the right of eminent domain for getting easements across privately owned property for outfall, and other facilities, and there are a good many other advantages to their participating in the municipal system.

Another factor is that in the payment, if they had to build their own, they had to give 100 percent of the money at the outset—or the bonds from the outset.

In this case, they are only charged up to 75 percent of the total capital cost because they are only reimbursing for the Federal share.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. GROVER. I yield to the gentleman.

Mr. EDMONDSON. I thank the gentleman for pointing out that the administration is in support of the user charge provisions in this bill. I think the gentleman is correct in stating that the bill provides a balanced operation that is fair to industry when you look at the whole picture.

Mr. GROVER. I thank the gentleman.

May I point this out, too. I am sympathetic with the position of the gentleman from New Hampshire. He has a very serious local problem. I think this committee should continue oversight to get relief in areas where these situations do continue to exist.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I can both appreciate and understand the apprehensions expressed by the sponsors of this amendment. We have to strike a balance between the demands of ecology and the demands of the economy. But I really believe the provisions contained in the House bill would not do the violence that they fear.

It seems clear to me that we provide only that which the majority of the people desire, and that is if an industrial polluter imposes by reason of his discharge a certain burden upon the municipal treatment plant that he pay a fair share of the cost, a share that would have some relation to the volume of discharge that he puts into that plant.

He can charge that off for tax purposes as a cost of doing business. The user fee is deductible just as a tax is deductible. I do not see that this places any undue burden upon him.

The bill requires that the Administrator come up with guidelines that are equitable and fair with regard to such charges and that they be based upon the elements of volume and delivery flow of waste that goes into the system.

That money would stay in the municipality. It would not be recoverable by the Federal Government. It would stay right there and be used by the municipality in the operation, maintenance, expansion, and construction of treatment works.

It seems to me that it is a fair provision.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I think the point has been well covered.

I have sympathy for the position of the sponsors of this amendment, but I believe the merits have been fairly considered by the committee and the committee's position is to deal fairly with all users in this bill.

The position of an industrial user is different basically from the position of the residential user. For one thing, he is in a position to offset his cost through tax deductions that the average individual residential user cannot charge off for his water bill and his sewage bill in his tax return.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from New York.

Mr. GROVER. I might point this out. The gentleman from Wisconsin said that this is too narrow, that it is for the manufacturer only to be subject to the user charge. I might point out that in Senate Report 92–14 it is made clear that the administrator has wide latitude to promulgate regulations to include other industrial users such as large laundries or other business facilities omitting large quantities of effluent.

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I thought we were debating the House bill, not the Senate bill. The House bill defines industrial users as those classified in this volume here of several hundred pages as manufacturers. The rest of them are those performing services or something else. They were not covered in the House bill.

Mr. GROVER. I point out to the gentleman that the identical provision is in both the House and the Senate bills.

Mr. EDMONDSON. Mr. Chairman, we ask for defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. McDONALD).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. McDONALD of Michigan. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. McDONALD of Michigan. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. McDONALD of Michigan, EDMONDSON, CLEVELAND, and Mrs. ABZUG.

The Committee divided, and the tellers reported that there were—ayes 66, noes 337, not voting 29, as follows:

[Roll No. 94]

[Recorded Teller Vote]

AYES—66

Abbitt	Esch	Price, Tex.
Archer	Eshleman	Quillen
Ashbrook	Fish	Robinson, Va.
Betts	Forsythe	Rousselot
Bray	Goodling	Ruppe
Broomfield	Gross	Satterfield
Brown, Mich.	Hall	Saylor
Burke, Fla.	Harvey	Schmitz
Byrnes, Wis.	Heckler, Mass.	Scott
Camp	Hicks, Wash.	Sebelius
Cederberg	Hunt	Shriver
Chamberlain	Johnson, Pa.	Steiger, Ariz.
Clancy	Jonas	Talcott
Cleveland	Landgrebe	Thompson, Ga.
Collier	Lujan	Vander Jagt
Conte	McClure	Ware
Crane	McDonald, Mich.	Whalley
Davis, Wis.	Martin	Whitehurst
Dennis	Mills, Md.	Williams
Devine	Montgomery	Wyman
Downing	Peyser	Zion
Dulski	Powell	
Erlenborn		

NOES—337

Abourezk	Caffery	Flood
Abzug	Carey, N.Y.	Flowers
Adams	Carney	Flynt
Addabbo	Carter	Foley
Albert	Casey, Tex.	Ford, Gerald R.
Alexander	Celler	Ford, William D.
Anderson, Calif.	Clark	Fountain
Anderson, Ill.	Clausen, Don H.	Fraser
Anderson, Tenn.	Clay	Frelinghuysen
Andrews	Collins, Ill.	Frenzel
Annunzio	Collins, Tex.	Frey
Arends	Colmer	Fulton
Ashley	Conable	Fuqua
Aspin	Conyers	Galifianakis
Aspinall	Corman	Gallagher
Badillo	Cotter	Gettys
Baker	Coughlin	Giaimo
Barrett	Culver	Gibbons
Begich	Curlin	Gonzalez
Belcher	Daniel, Va.	Grasso
Bell	Daniels, N.J.	Gray
Bennett	Danielson	Green, Oreg.
Bergland	Davis, Ga.	Green, Pa.
Bevill	Davis, S.C.	Griffin
Biaggi	Delaney	Griffiths
Biester	Dellenback	Grover
Bingham	Dellums	Gubser
Blackburn	Denholm	Gude
Blatnik	Dent	Hagan
Boggs	Derwinski	Haley
Boland	Dickinson	Halpern
Bolling	Diggs	Hamilton
Brademas	Dingell	Hammer-schmidt
Brasco	Donohue	Hanley
Brinkley	Dorn	Hansen, Idaho
Brooks	Dow	Hansen, Wash.
Brotzman	Drinan	Harrington
Brown, Ohio	Duncan	Harsha
Broyhill, N.C.	du Pont	Hastings
Broyhill, Va.	Eckhardt	Hathaway
Buchanan	Edmondson	Hawkins
Burke, Mass.	Edwards, Ala.	Hays
Burleson, Tex.	Edwards, Calif.	Hébert
Burlison, Mo.	Eilberg	Hechler, W. Va.
Burton	Evans, Colo.	Heinz
Byrne, Pa.	Evins, Tenn.	Helstoski
Byron	Fascell	Henderson
Cabell	Findley	Hicks, Mass.
	Fisher	
Hillis	Minish	Sciwengel
Hogan	Mink	Seiberling
Holifield	Minshall	Shipley
Horton	Mizell	Shoup
Hosmer	Mollohan	Sikes
Howard	Monagan	Sisk
Hungate	Moorhead	Skubitz
Hutchinson	Morgan	Slack
Ichord	Morse	Smith, Calif.
Jacobs	Mosher	Smith, Iowa
Jarman	Moss	Smith, N.Y.
Johnson, Calif.	Murphy, Ill.	Snyder
Jones, Ala.	Murphy, N.Y.	Spence
Jones, N.C.	Myers	Springer
Jones, Tenn.	Natcher	Staggers
Karth	Nedzi	Stanton, J. William
Kastenmeier	Nelsen	Stanton, James V.
Kazen	Nichols	Steed
Keating	Nix	Steele
Kee	Obey	Steiger, Wis.
Keith	O'Hara	Stephens
Kemp	Passman	Stokes
King	Patten	Stratton
Kluczynski	Pelly	Stubblefield
Koch	Pepper	Stuckey
Kyl	Perkins	Sullivan
Kyros	Pettis	Symington
Latta	Pickle	Taylor
Leggett	Pike	Teague, Calif.
Lennon	Pirnie	Teague, Tex.
Lent	Poage	Terry
Link	Podell	Thompson, N.J.
Lloyd	Poff	Thomson, Wis.
Long, La.	Preyer, N.C.	Thone
Long, Md.	Price, Ill.	Tiernan
McClory	Pryor, Ark.	Udall
McCloskey	Pucinski	Ullman
McCollister	Purcell	Vanik
McCormack	Quie	Veysey
McCulloch	Railsback	Vigorito
McDade	Randall	Waggonner
McEwen	Rangel	Waldie
McFall	Rees	Wampler
McKay	Reuss	Whalen
McKevitt	Rhodes	White
McKinney	Riegle	Whitten
McMillan	Roberts	Widnall
Macdonald, Mass.	Robison, N.Y.	Wiggins
Madden	Rodino	Wilson, Bob
Mahon	Roe	Wilson, Charles H.
Mailliard	Rogers	Winn
Mallary	Roncallo	Wolff
Mann	Rooney, N.Y.	Wright
Mathias, Calif.	Rooney, Pa.	Wyatt
Mathis, Ga.	Rosenthal	Wydler
Matsunaga	Roush	Wylie
Mazzoli	Rey	Yatron
Meeds	Raybal	Young, Fla.
Melcher	Runnels	Young, Tex.
Metcalfe	Ruth	Zablocki
Michel	Ryan	Zwach
Mikva	St Germain	
Miller, Calif.	Sandman	
Miller, Ohio	Sarbanes	
Mills, Ark.	Scheuer	
	Schneebeli	

NOT VOTING—29

Abernethy	Edwards, La.	O'Konski
Baring	Garmatz	O'Neill
Blanton	Gaydos	Patman
Bow	Goldwater	Rarick
Chappell	Hanna	Reid
Chisholm	Hull	Rostenkowski
Clawson, Del	Kuykendall	Scherle
de la Garza	Landrum	Van Deerlin
Dowdy	Mayne	Yates
Dwyer	Mitchell	

So the amendment was rejected.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. GERALD R. FORD. Mr. Chairman, late in 1971 the EPA submitted to the Office of Management and Budget a proposal for accelerating the fight against water pollution in the Great Lakes. The cost figure for this accelerated program ranged from $133 million to $141 million. The Office of Management and Budget did not approve these budget items for submission to the Congress in 1972.

EPA's plan includes $100 million for the treatment of sanitary sewerage and

storm water involving the Great Lakes, a $25 million proposal for setting up a Great Lakes soil conservation program, a special $5 million program that calls for EPA to work with State and local communities on the cleanup of a selected river basin such as the Maumee River, and a $5 million accelerated research program in Great Lakes water pollution problems. It also provided for an additional 100 personnel positions in EPA's organizational structure.

I have done some investigating to determine whether this Great Lakes accelerated clean water program is authorized under current law or prospective legislation, including this bill. I have discussed the matter with the gentleman from Alabama and the gentleman from Ohio. I have worked with EPA, and I would like to have the assurance of the two gentlemen handling this bill that this program is authorized under existing law or prospective legislation. If it is not, I am prepared to offer an amendment to this bill which would provide such an authorization.

Can the gentleman from Alabama respond to my inquiry?

Mr. JONES of Alabama. Yes, if the gentleman from Michigan will yield to me.

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. JONES of Alabama. The amendment that you propose to offer would be merely repetitious of existing law. Therefore, it would not require a new authorization under this bill. Consequently, the only problem that would be involved is the appropriation of the necessary funds to carry out the project.

Mr. GERALD R. FORD. I thank the gentleman from Alabama.

Would the gentleman from Ohio give me the benefit of his views?

Mr. HARSHA. If the gentleman will yield to me, I will be glad to respond to him.

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. HARSHA. It is my understanding and I am of the opinion, I may say to my good friend the distinguished minority leader, that under existing law, under research investigations and demonstration programs already written into the law such as those of sections 108, 104(h) and 105(a)(1), I also say that parts of the subject project could be constructed using grants from the treatment works construction grant program of title II. There is ample authority for the construction of a demonstration project of the nature that the minority leader speaks about.

I also note that we have written into this new law a new definition of treatment works which would include storm sewers or combination storm and sanitary sewers under the grant program where we provide over a period of 3 years the sum of $18 billion.

It is my understanding and I think it is quite clear from a reading of the report and the bill itself that the intent is that a project of the nature that the minority leader speaks could be funded under the grant section in the new definition of treatment works. I refer to title II. We did not intend to exclude projects of this type.

I think a combination of States or an interstate agency could join together in this effort and each with a proportionate share of their allocation can fund this type of project, particularly where it will benefit a multiplicity of States and such a large number of citizens.

Mr. GERALD R. FORD. I thank the gentleman from Ohio.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I am glad to yield to the chairman of the committee.

Mr. BLATNIK. I want to thank the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD) for yielding and I want to congratulate the gentleman for his consistent concern over many years and for his bipartisan effort to get long delayed assistance to all of the five Great Lakes.

I wish to associate myself with the remarks of the gentleman from Alabama (Mr. JONES) as well as the explanation which was made by the gentleman from Ohio (Mr. HARSHA).

Under this bill you will have eight of the nine States participating, the eight States that border the Great Lakes.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent (at the request of Mr. BLATNIK) Mr. GERALD R. FORD was allowed to proceed for 3 additional minutes.)

Mr. BLATNIK. Mr. Chairman, if the gentleman will yield further, there will be authorized approximately $4.8 billion to accomplish the purpose which the gentleman seeks.

Mr. GERALD R. FORD. I thank the gentleman very much.

I think we now have on the record ample indication of the legislative authority for the accelerated Great Lakes pollution control program. All we need is the appropriation, and we are going to work on that.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I wish to associate myself with the efforts of the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD), and the very serious concern that all of us have in the Great Lakes States in trying to save our lakes.

I wish to congratulate the gentleman on the fact that this does authorize the appropriate agencies to do what is necessary. I want to assure the gentleman from Michigan that I will bend every effort to try to get the very necessary money with which to carry out this most necessary program.

AMENDMENT OFFERED BY MR. PODELL

Mr. PODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PODELL: Page 221, after line 20 insert the following:

"(u) The Administrator shall, in cooperation with the appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote continuing comprehensive studies of the effects of pollution on the shorelines and beaches on their ecosystems, on fishing, on recreation in and on the water and on other beneficial purposes. Such studies shall also consider the effects of demographic trends, exploitation of mineral resources and fossil fuels, land and industrial development and hurricanes upon the pollution of beaches and shorelines."

Page 221, line 21, strike out "(u)" and insert "(v)"

Mr. PODELL. Mr. Chairman, title I, section 104 of the bill before us, the Federal Water Pollution Control Act Amendments of 1972, is remarkable in its scope and foresight, authorizing the Administrator to establish a wide range of research and development programs in fundamental areas of water ecosystems and pollution abatement.

The act authorizes the Administrator of Environmental Protection Agency to enlist the services and expertise of State and local governments, universities, public and private agencies, and organizations in the investigation of water pollution and its effects on the health and welfare of our citizens.

The legislation provides funds for coordinated research and development of accurate measurements of social, economic and environmental costs of pollution and pollution abatement, for researching the prevention and control of pollution, as well as specific problem areas like pesticide residues, waste oil disposal, and thermal discharge.

In addition, the act designates funds for special research into the ecology of river basins, river systems, fresh water lakes, the great lakes, and estuaries and estuarine zones.

But the act, in defining an estuary as a mouth of a river or stream with unimpaired natural connection with the natural sea and within which the sea water is measurably diluted with fresh water from land drainage, while encompassing many of the areas effected, does not specify clearly enough an area that has born the brunt of extensive water pollution—our beaches and shorelines.

Unless a generous administrator expands the definition of estuaries and estuarial zones, many of our beaches and shorelines will not be eligible for research assistance, and some importanct pollution problems related to beaches and shoreline will go unstudied. Rather than this, I propose adding a provision to the act which would specify beaches and shoreline as eligible for funds under title I and would instruct the Administrator to study the effects of pollution on beach and shoreline ecosystems.

The beaches and shoreline of our country suffer from all types of pollution—sewage, garbage, thermal discharge, oil wastes and spills, and more—leading to their closing to recreation in and out of the water. The Environmental Protection Agency estimated last year that 91 beaches were closed due to pollution. In addition to those, 13 were labeled "unsatisfactory" and another 10 were called "not recommended for use." And this survey did not include all beaches.

The survey pointed to another drastic consequence of water pollution: few new beaches have been opened, although increasing population and leisure time have made the growing need for new facilities all the more plain.

Still, the number of beaches declines and demands rise. Rare these days is the quiet, clean shore that affords a moment's reflection and escape from the pace of our mechanized lives. And these rare spots all too often succumb to development plans and new land uses, new economic opportunities, and pollution from nearby such "progress."

But, although we have some conception of the problem, we need comprehensive studies and reseach before we can understand or cope with it and its implications.

To assure that such research will be undertaken to help us clean up our beaches and shorelines, this additional subsection must be added to section 104 of title I.

Mr. PODELL. In a discussion with the chairman of the committee, I had been told that even though the bill does not refer to beaches and shorelines specifically, it is the legislative intent of the bill before us, particularly section 104, to include beaches and shorelines so that the thrust of my amendment would be included in the bill.

Mr. ROBERTS. The gentleman is correct; it would be included. And I would like to compliment the gentleman because the first section of his amendment, the first half of it, is word for word almost the language of the bill providing for research and development, and his proposal would be covered, the Administrator would have the authority to do exactly as the gentleman suggests.

Mr. PODELL. If the gentleman will yield further, so therefore it is my understanding that, despite the fact that the words "beaches and shorelines" are not included, nevertheless it is the legislative intent that beaches and shorelines will be included under the language of this bill.

Mr. ROBERTS. The committee intended that it should, and the answer is "Yes."

Mr. PODELL. I thank the gentleman for his statement.

Mr. ROBERTS. I again commend the gentleman.

Mr. PODELL. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the reouest of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. PODELL

Mr. PODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PODELL: Page 359 amend line 15 to read as follows: "approve each such submitted program if it is as or more stringent than the permit program of the Administrator under paragraph (1) of this subsection unless he determines".

Mr. PODELL. Mr. Chairman, title IV, section 402 of the bill we have before us, the Federal Water Pollution Act Amendments of 1972, provides for the establishment of State and Federal permit programs to allow the discharge of pollutants into the navigable waters.

The rationale for permitting exceptions to the general requirements of this act is sound—indeed, in some instances, it is either technologically or economically not feasible to enforce the provisions as such. State administration of permit programs would draw on the States' expert professional staffs in these areas whose close contact with the parties and issues involved put them in the optimal position to weight the public interest and all the other complex factors. However, this close contact, while one of the strengths of State administration of permit programs, is also one of its most dangerous weaknesses.

It is difficult to put a market price on environmental balance and clean water—it is by far easier to attach a dollar and cents figure to economic benefits of industrial expansion. Interstate competition for this industrial investment, with its emphasis on noninterference, low tax rates, tax discounts and incentives, and hints and illusions to flexible environmental policies and languid enforcement, is well known and needs no exposition.

These combined pressures may be too strong for economically conscious State officials to resist, unless this act develops a baseline which will insure that the quality of our waterways and their environs will not be sacrificed to industrial development.

But establishing minimum guidelines for the components of a State permit program is not enough: Intensive industrial lobbying combined with the sort of pressures I cited earlier, can make too many individual cases the exception to the rule.

In order to minimize interstate competition and safeguard our water from the hazards of leniency, we must require that State permit programs be as, or more stringent than the Federal one. That is, rather than only establishing minimum guidelines in accordance with section 304(h)2 as the legislation presently instructs, the Federal permit program itself would serve as a minimum standard.

If my amendment is adopted, State-suggested permit programs, whose administrators serve in the direct line of economic fire, would be acceptable only if they are more stringent than the Federal one.

Using the Federal program as a minimum standard, as my amendment requires, rather than only issuing minimum guidelines as outlined in the legislation has other advantages as well: It encourages equality and uniformity in standards; it makes the program easier to administer and enforce; it gives personnel a wider base of experience on which to draw.

But most important, it insulates State officials to some extent from the severest economic pressures, thus eliminating one of the key hazards of State administration of permit programs while retaining State flexibility.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deals specifically with the permit section of the legislation. Section 402, title IV, establishes a national discharge elimination system.

The gentleman's amendment would in essence require that any State desiring to administer its own permit program under the Federal guidelines must first prove that its program is stronger and more stringent than the Federal guidelines would require.

The gentleman's logic in a way escapes me. If any State wishes to establish a program stronger than the Federal criteria, there is nothing in this legislation that will prevent the State from doing so.

The gentleman's amendment seems to be based on the completely unfounded assumption that the Federal guidelines would be too weak and ineffective and that the State would automatically have to go beyond that.

I think it is important to note that the responsibility of the EPA Administrator is to establish minimum Federal standards which all States that want to participate in the program must at least adopt those minimum standards.

There is nothing to say, however, in the law that if a State chooses because of peculiar environmental characteristics in its State or peculiar types of exotic chemicals involved in the discharge of waste, they can amend and expand as long as it does not denigrate the approved program of the EPA Administrator.

Therefore, the State has the prerogative under the law of expanding the requirements, if they so desire.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman.

Mr. PODELL. The gentleman will note in the amendment before the House the words used were, "Standards as strong as; if not stronger." So, in no event can the standards be made weaker.

There was no attempt to make them stronger than. It is as strong as or stronger. It is up to the State to provide, if the gentleman will yield further, there should be Federal standards and up to now there are no standards, but merely guidelines and there is a substantial difference.

Mr. ROE. Once EPA establishes the Federal program and establishes the guidelines, the States must live up to a minimum of that program to be eligible to participate. Therefore, the legislation covers it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PODELL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. REUSS

Mr. REUSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REUSS: Page 358, strike all after the period on line 7 through to the end of line 24.

Page 359, lines 15 and 16, strike "unless he determines that adequate authority does not exist:" and insert in lieu thereof the following: "if he determines, and publishes

his determination, that adequate authority does exist:".

Page 359, lines 18 and 19, strike out "any applicable" and insert in lieu thereof: "all".

Page 362, line 25, insert a comma after the word "Administrator"; and on page 363, line 2, strike "(b)(5) of this section" and insert in lieu thereof the following "(d)(1) of this section that such State proposes to issue a permit,".

Page 363, line 13, after the period insert the following: "No waiver shall be made under this subsection unless regulations have been first promulgated under subsection (f) of this section relating to the category of point sources with respect to which each waiver is proposed".

Page 365, line 1, after "a" insert "valid".

Page 365, strike out the sentence beginning on line 5 and ending on line 19.

Mr. REUSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. It is a legal and technical amendment having to do with the permit program.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. REUSS. Mr. Chairman there are many good provisions in H.R. 11896 and I thoroughly support them.

I commend our distinguished Chairman, Congressman BLATNIK, for his great leadership in improving our Federal laws to combat water pollution.

My amendment is one of the clean water package amendments sponsored by me and more than 40 of our colleagues. It deals with several weaknesses in the permit program which will be established by section 402 of the committee bill.

The Federal permit program which the President established in December 1970 under the Refuse Act of 1899, has proven to be, as the President rightly said, one of the best tools to combat water pollution. It has helped to identify, and to limit, toxic substances in water which were previously uncontrolled by industry. It has helped to create national water standards and has substantially encouraged industries to take more vigorous action to control them.

But section 402 would transfer the permit program to the States, and we shall then have 54 separate programs in the States, Puerto Rico, District of Columbia, Virgin Islands, and Guam, with no meaningful Federal control over the program.

When Governor Anderson of Minnesota testified before the Public Works Committee last December, he pointed out that the greatest political barrier to effective pollution control is the threat by industrial polluters to move their factories out of any State that seriously tries to protect its environment. That threat can be answered only by a review at the Federal level of permits.

It is at this point that the committee bill is weakest.

The committee's bill permits the transfer of the permit program to the States before standards for toxic pollutants and for pretreatment are adopted, and before effluent limitations are established. Our amendments would require that these standards and limitations be established before EPA turns the permit program over to the States.

Under the committee's bill, once the permit program is turned over to the States, EPA would lose all voice over the permits unless it chose to cancel the whole State program. As Governor Anderson said, why should EPA be forced to cancel the State's entire program because it objects to the issuance of a few permits.

Under our amendments, EPA would be allowed 60 days to review and object to the issuance of any State permit. If EPA fails to act within that time, the permit will issue. EPA's veto power would be used only for the more important permits, since EPA would have the right to waive the notice and veto provisions pursuant to regulations concerning the category of point sources with respect to which a waiver is proposed.

The committee bill also gives immunity from prosecution, under the Refuse Act and this bill, until 1976 to all pollutors who apply for discharge permits. We say that there is no justification for granting such immunity. President Nixon granted no such immunity in the Refuse Act permit regulations for the mere filing of a permit application. We should do likewise.

EPA review of individual permits is essential to protect against the unfair competition which will result when some States weaken their pollution controls to lure industries from those States which have effective pollution control regulations. Such competition will harm not only the environment but also the industries of our country and the workers of our Nation. Without Federal review of the waste discharge program, the economic and political pressures generated by such unfair competition will undercut the effectiveness of pollution controls in many States.

I urge the adoption of my amendment.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be concluded in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ROE. Mr. Chairman, the tone of the debate and the amendments we are hearing at this point really come to grips with the situation of the partnership between the States and the Federal Government. I am one who believes that, as this legislation evolves into a determination by this body, it should not be a piece of legislation that has established the Federal Government in competition with the States. I believe that the common effort of the Federal Government and the State governments, in protection of our natural resources in the States of the people, is the job we are all about.

Mr. Chairman, I rise in opposition to the amendments.

Time and time again we hear of the need to strengthen the role of the States in our Federal-State relationship. And yet over and over again when legislation comes to the floor the trend is in the opposition direction.

Mr. Chairman, simply put, the amendment which we have just heard declares in loud, shrill tones that the States cannot be trusted. The gist of the amendment is that only the Administrator of the Environmental Protection Agency in Washington, D.C., can prevent environmental nightmare and economic chaos—and that if we rely on the States to carry out anything but the most mechanical and menial acts, our waters will be forever ruined.

In my humble judgment, this is nonsense—simple, pure unadulterated nonsense.

The States with appropriate cooperation by the Federal Government are capable of insuring that the quality of our waters will be preserved and enhanced. To believe otherwise is sheer folly. A successful program of this kind requires the total efforts at all levels of government. It requires the assistance of the general public and of industry. A successful program cannot be established on the basis of mistrust or on the belief that the Federal Government and only the Federal Government is endowed with honesty and integrity.

I have had considerable experience working on this program at the State level as a cabinet officer in New Jersey, and I can attest to the fact that State officials are as capable as their counterparts in EPA. And they enjoy an advantage not shared by those who work in our Nation's Capital in that they are closer to the problems and, in many cases, have a better understanding of what has to be done.

I think that just about everybody now agrees that in order to have an effective water pollution control program we need a permit program to regulate the effluent discharges entering our waters. The question then becomes what is the best approach. In my judgment, the approach in H.R. 11896 is sound and workable.

Much has been said about the Refuse Act of 1899 and the permit program initiated in December 1970. It should be noted that after 15 months only 21 permits have been granted under that program. The committee's long and extensive hearings revealed several very important defects in the Refuse Act. The overall direction of the program was in the Corps of Engineers and not EPA. The Refuse Act permit program is a totally Federal program and as such usurps the enforcement of water quality control from the States. The program also duplicates the efforts of the States in administering a system of permits and thus destroys the initiative of the States and local government.

H.R. 11896 declares to be unlawful the discharge of any pollutant by any person except as specifically authorized in the bill. The bill establishes in section 402 a new Federal-State discharge permit program. All permits issued under this program must be consistent with the specific requirements of the bill, including effluent limitations, national standards of performance, toxic and pretreatment standards, and ocean discharge.

Section 402 provides that upon enactment of this bill, no new permits will be issued under the 1899 Refuse Act. Permits previously issued under that act will be considered to be permits under this new program. Pending applications under the Refuse Act program would be transferred from the Corps of Engineers to the Administrator of the Environmental Protection Agency who would be initially responsible for the administration of the new program.

The Refuse Act is continued without modification as a valuable enforcement tool.

The Administrator would have 90 days to issue guidelines as to what constitutes an acceptable State permit program. In this interim period, he would be solely responsible for administering the permit program. If, however, he determined that a State had a satisfactory program, he could, during this interim period, transfer authority to the State to issue permits. The Administrator would retain the right to review and veto any of these proposed permits during that period.

After the guidelines are issued, if the State submits an acceptable program, the Administrator would approve it and the State would take over administration of the permit program in that State. In States which fail to meet the guidelines, the Administrator would carry on the program.

The committee considered extensively the proposition that all the permits issued by the States ought to be subject to review and possible veto by the Administrator. During the hearings, the Governors and other representatives of the States, almost unanimously, stressed the need to put the maximum responsibility for the permit program in the States. They deplored the duplication and second guessing that could go on if the Administrator could unilaterally veto the State decisions. In our judgment, the States ought to have the opportunity to assume the responsibilities that they have requested. If, however, a State fails to carry out its obligations and misuses the permit program, the Administrator is fully authorized under subsection (c)(3) of this section to withdraw his approval of a State program—after public hearing.

H.R. 11896 includes a provision that any permit program administered by the State must insure that any other state whose waters may be affected by the issuance of a permit have an opportunity to submit written recommendations with respect to the permit application. If any part of the recommendations are not accepted by the permitting State, the affected State and the Administrator must be notified in writing of its failure to accept such recommendations together with its reasons for so doing. Subsection (d)(2) provides that no permits shall issue if the Administrator within 60 days of his notification objects to the issuance of such permits. This procedure was included to protect States which might otherwise be affected by the issuance of a permit in a second State.

As the argument that has been made that industry will play one State off against another and go where the water quality requirements are the lowest, stated in the bluntest of language, this just is not so.

Section 306 requires that new sources of water pollution be constructed to meet a standard that reflects the greatest degree of effluent reductions that can be achieved by the use of the best available, demonstrated control technology. If practicable, the standard would permit no discharge of pollutants. Each new plant or modification of an existing plant will be required to follow this standard. In other words, what we are saying is that if an industry threatens to leave an area because of its stringent requirements, it would be confronted with the requirement of meeting the 1981 goal immediately.

One final point I would make is that the purpose of subsection (d) in section 402 which would be deleted by the amendment, is to protect from harassment an applicant for a permit who has done everything he can possibly do, has furnished all the information he has been asked for, and, most importantly, is complying with all the applicable water quality standards.

I ask that the amendment be soundly defeated and that the House support section 402 as it now appears in H.R. 11896.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from Wisconsin would, in effect, give the Administrator permit-by-permit review and veto authority over all permits issued under permit programs already approved by the Administrator as meeting his guidelines. It would require a total duplication of the effort required to review permit applications. The amendment, however, apparently recognizes that the States should issue permit.

We have numerous provisions in this bill that are intended to encourage State participation in the water pollution control program. We have numerous provisions to encourage training of environmental control personnel. Now we have a proposed amendment that would exacerbate the manpower problem we are trying to solve and reduce the effectiveness and initiative of State programs.

This amendment would place the State permit personnel in the position of having someone look over their shoulder at each action instead of overlooking the total program. On the one hand we are trying to develop local participation in accordance with the federal system. On the other this amendment would have us say—we are going to duplicate your every move. Scarce, trained personnel, in short supply at both the Federal and State level, would duplicate each other's efforts. This would be unreasonably wasteful.

Section 402(b) of H.R. 11896 requires that the Administrator shall not approve any State permit program unless he determines that adequate authority exists to issue permits which comply with the discharge controls imposed by sections 301, 302, 306, 307, and 403. It also provides that any permit can be terminated for cause.

The system proposed by the current bill language is designed to promote three purposes: First, to assure and encourage full implementation of permit issuing authority to States which are qualified and have approved programs; second, to retain Federal overview authority to the extent actually needed to prevent any abuse by the State of its permit-issuing authority; and, finally, to provide Federal review of all permits which might result in impacts on States other than the issuing State.

If a State is not administering permit programs in accordance with the requirements, the Administrator can withdraw his approval after notice of hearing. The Administrator has a rigid control over permits via this provision.

In addition to the overall program control, any State whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State. If these recommendations are not accepted, the Administrator is notified. Then the Administrator upon receiving such notice can veto the permit in question if he determines that the complaint of the downstream State is reasonable.

Thus, H.R. 11896 provides for a veto on any permit where a downstream State objects and he has a veto over the overall approval of the program. The committee believes these provisions are sufficient to assure proper control over the issuance of permits.

I also call your attention to the provisions for a State permit program during the interim period from the date of enactment to a time 90 days after the promulgation of guidelines for State permit programs. If the Administrator, under the authority that would be available under section 402(a)(5), approves an interim State permit program, he would retain a permit-by-permit veto. Thus, until a State permit program meets the Administrator's guidelines, there would be the veto you suggest.

This system makes wise and efficient use of State and Federal governmental resources and authority and adequately protects Federal interests and the goals of the Federal Water Pollution Control Act. The proposed amendment would create needless, burdensome, and duplicative work at the Federal level and uselessly undercut the powers of the States.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I would like to call the attention of my colleagues to the last part of the amendment the gentleman offered. We are merely trying to prevent a discharger who is meeting the water quality standards and who has made a valid application for a permit from being prosecuted where he is meeting the water quality standards and otherwise not violating the laws. There are 25,000 permits on the books now. Conceivably there will be 30,000 in the future. Time does not permit the handling or processing of those permits im-

mediately. Obviously it will take some time. As long as the applicant has done nothing to delay or impede the issuing of that permit, he should not be prosecuted because the Federal Government or the State is dilatory or cannot get to the job of processing his application.

In addition to the applicant having to comply with the water quality standards, discharges and violations can be enforced by the Administrator who has the fallback of the emergency powers. Also, notwithstanding any other provision of this act, the Administrator, upon receipt of evidence that a pollution source or combination of sources is presenting imminent and substantial and dangerous problems for the health of persons, may bring a suit and bring an end to the discharge of that pollutant.

So there is ample authority on this point to protect the environment and protect the State and Federal Government.

I would also like to address the question of the interim permit program. The Administrator could authorize a State which has the capability of administering a permit program which will carry out the objectives of this act, to issue discharge permits for the period between enactment of this act and a time 90 days after the promulgation of the guidelines for permit programs. He would give this authorization only if he were confident water quality control would not suffer. I also wish to emphasize that the Administrator would maintain a permit-by-permit veto power during the interim period.

On the question of a permit-by-permit veto power for approved State programs which are consistent with the Administrator's guidelines, I wish to associate myself with the excellent remarks offered by the gentleman from New York (Mr. TERRY).

He pointed out that such a veto power would require needless duplication of effort. It would waste valuable, trained manpower. The amendment is unnecessary.

I urge my colleagues to reject this amendment.

The CHAIRMAN. The gentleman from Alabama is recognized.

Mr. JONES of Alabama. Mr. Chairman, the amendment offered by the gentleman from Wisconsin, if adopted, would simply mean the demise of the genesis and theory of this whole bill. It would erase the State-Federal relationship. I hope under the principles we have established in this bill, that have so far received almost universal support, the Federal-State relationship will be continued in this bill and that the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. REUSS).

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. REUSS, ROE, TERRY, and DINGELL.

The Committee divided, and the tellers reported that there were—ayes 154, noes 251, not voting 27, as follows:

[Roll No. 95]

[Recorded Teller Vote]

AYES—154

Abourezk	Ford, William D.	Nix
Abzug	Fraser	Obey
Adams	Frelinghuysen	O'Hara
Addabbo	Fulton	O'Neill
Anderson, Calif.	Gallagher	Pelly
Anderson, Tenn.	Gibbons	Pepper
Annunzio	Grasso	Peyser
Ashley	Green, Pa.	Pike
Aspin	Gubser	Podell
Badillo	Gude	Preyer, N.C.
Barrett	Halpern	Price, Ill.
Bell	Hamilton	Pryor, Ark.
Bergland	Hanley	Pucinski
Biaggi	Harrington	Quie
Blester	Hays	Rangel
Bingham	Hechler, W. Va.	Rees
Boland	Heckler, Mass.	Reuss
Brademas	Heinz	Riegle
Brasco	Hicks, Mass.	Rogers
Brown, Mich.	Hicks, Wash.	Rooney, N.Y.
Broyhill, Va.	Hillis	Rooney, Pa.
Burke, Fla.	Horton	Rosenthal
Burke, Mass.	Hungate	Roush
Burlison, Mo.	Karth	Roy
Burton	Kastenmeier	Roybal
Byrne, Pa.	Kemp	Ruppe
Carney	Koch	Ryan
Clay	Kyros	St Germain
Conte	Latta	Sarbanes
Conyers	Leggett	Saylor
Corman	Lent	Scheuer
Cotter	Long, Md.	Selberling
Coughlin	Lujan	Stanton, J. William
Culver	McCloskey	Steele
Danielson	McKinney	Steiger, Wis.
Delaney	Macdonald, Mass.	Stokes
Dellenback	Madden	Stratton
Dellums	Meeds	Sullivan
Dingell	Melcher	Symington
Dow	Metcalfe	Tiernan
Drinan	Mikva	Udall
Dulski	Mink	Vander Jagt
du Pont	Minshall	Vanik
Eckhardt	Mitchell	Vigorito
Edwards, Calif.	Moorhead	Waldie
Eilberg	Morgan	Whalen
Esch	Morse	Wilson, Charles H.
Eshleman	Mosher	Wolff
Fascell	Moss	Wylie
Fish	Murphy, Ill.	Yatron
Foley	Nedzi	Zablocki
		Zwach

NOES—251

Abbitt	Chappell	Flynt
Albert	Clancy	Ford, Gerald R.
Alexander	Clark	Forsythe
Anderson, Ill.	Clausen, Don H.	Fountain
Andrews	Cleveland	Frenzel
Archer	Collier	Frey
Arends	Collins, Ill.	Fuqua
Ashbrook	Collins, Tex.	Gettys
Aspinall	Colmer	Giaimo
Baker	Conable	Gonzalez
Begich	Crane	Goodling
Belcher	Curlin	Gray
Bennett	Daniel, Va.	Green, Oreg.
Betts	Daniels, N.J.	Griffin
Bevill	Davis, Ga.	Griffiths
Blackburn	Davis, S.C.	Gross
Blatnik	Davis, Wis.	Grover
Boggs	Denholm	Hagan
Bolling	Dennis	Haley
Bray	Dent	Hall
Brinkley	Derwinski	Hammer-schmidt
Brooks	Devine	Hanna
Broomfield	Dickinson	Hansen, Idaho
Brotzman	Diggs	Hansen, Wash.
Brown, Ohio	Donohue	Harsha
Broyhill, N.C.	Dorn	Harvey
Buchanan	Dowdy	Hastings
Burleson, Tex.	Downing	Hathaway
Byrnes, Wis.	Duncan	Helstoski
Byron	Edmondson	Henderson
Cabell	Edwards, Ala.	Hogan
Caffery	Erlenborn	Hollfield
Camp	Evans, Colo.	Hosmer
Carey, N.Y.	Evins, Tenn.	Howard
Carter	Findley	Hunt
Casey, Tex.	Fisher	Hutchinson
Cederberg	Flood	Ichord
Celler	Flowers	Jacobs
Chamberlain	Foley	Jarman
Johnson, Calif.	Minish	Skubitz
Johnson, Pa.	Mizell	Slack
Jonas	Mollohan	Smith, Calif.
Jones, Ala.	Monagan	Smith, Iowa
Jones, N.C.	Montgomery	Smith, N.Y.
Jones, Tenn.	Murphy, N.Y.	Snyder
Kazen	Myers	Spence
Keating	Natcher	Springer
Kee	Nelsen	Staggers
Keith	Nichols	Stanton, James V.
King	Passman	Steed
Kyl	Patten	Steiger, Ariz.
Landgrebe	Perkins	Stephens
Landrum	Pettis	Stubblefield
Lennon	Pickle	Stuckey
Link	Pirnie	Talcott
Lloyd	Poage	Taylor
Long, La.	Poff	Teague, Calif.
McClory	Powell	Teague, Tex.
McClure	Price, Tex.	Terry
McCollister	Purcell	Thompson, Ga.
McCormack	Quillen	Thompson, N.J.
McDade	Railsback	Thomson, Wis.
McDonald, Mich.	Randall	Thone
McEwen	Rhodes	Ullman
McFall	Roberts	Veysey
McKay	Robison, Va.	Waggonner
McKevitt	Robison, N.Y.	Wampler
McMillan	Rodino	Ware
Mahon	Roe	Whalley
Mailliard	Roncallo	White
Mallary	Rousselot	Whitehurst
Mann	Runnels	Whitten
Martin	Ruth	Widnall
Mathias, Calif.	Sandman	Wiggins
Mathis, Ga.	Satterfield	Williams
Matsunaga	Schmitz	Wilson, Bob
Mayne	Schneebeli	Winn
Mazzoli	Schwengel	Wright
Michel	Scott	Wyatt
Miller, Calif.	Sebelius	Wydler
Miller, Ohio	Shipley	Wyman
Mills, Ark.	Shoup	Young, Fla.
Mills, Md.	Shriver	Young, Tex.
	Sikes	Zion
	Sisk	

NOT VOTING—27

Abernethy	Galifianakis	McCulloch
Baring	Garmatz	O'Konski
Blanton	Gaydos	Patman
Bow	Goldwater	Rarick
Chisholm	Hawkins	Reid
Clawson, Del	Hébert	Rostenkowski
de la Garza	Hull	Scherle
Dwyer	Kluczynski	Van Deerlin
Edwards, La.	Kuykendall	Yates

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc because they cover the same subject.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. WILLIAMS: Page 243, after line 10, insert the following:

"(5) Notwithstanding any other provision of this Act, or of any other law, no treatment works, whether publicly or privately owned, shall be constructed unless the Administrator has first approved such construction. This subsection shall apply to all treatment works whether or not such works receive any Federal financial assistance under this Act or under any other provision of law. The requirements of this subsection shall take effect on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

And on page 264, line 2, immediately after "Sec. 211." insert:

(a) Page 264, immediately after line 5, insert:

"(b) Notwithstanding any other provision of this Act, or of any other law, no sewage collection system, whether publicly or privately owned, shall be constructed unless the Administrator has first approved such construction. This subsection shall apply to all sewage collection systems whether or not such systems receive any Federal financial assistance under this Act or under any other provision of law. The requirements of this subsection shall take effect on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

Mr. WILLIAMS. Mr. Chairman, I have two amendments at the desk and I ask unanimous consent that they be considered en bloc.

Mr. Chairman, these amendments increase the power of the EPA Administrator to control pollution.

We are here today to try to find answers to the ecological problems that we face. The quality of our water has changed so much since we were children that it all but surpasses belief. As a child I recall swimming in Lake Erie and enjoying the experience. Now we are told that Lake Erie is dying or dead. The pollution is so severe that swimming and wading cannot be allowed.

Our rivers have become open sewers and a threat to our very health. We are polluting the oceans to an almost unbelievable degree. Thor Heyerdahl, of Kon Tiki fame, reports that on his recent RA expedition he found petroleum and plastic pollution in the middle of the Atlantic Ocean. I ask you to consider that, gentlemen. Hundreds of miles from the nearest shoreline and Heyerdahl found pollution. We must act now if we are to save our priceless waters.

In this bill we are taking many admirable steps and the committee has done a fine job. However, I fear that we have left a loophole in the final draft. In this bill we charge the Administrator with the duty of approving the plans for those facilities for sewage treatment which are to be constructed using Federal funds. But I ask, why should he not also have approval authority for those facilities constructed without Federal funds?

I am well aware that there are many communities and industries which have thrown up their hands is disgust when they have learned how costly the requirements are for Federal grants. Many have decided not to apply simply because the costs involved have been overwhelming. As a result, they have chosen to build a waste treatment plant that does not meet EPA standards because it is cheaper to do so without a Federal grant and thereby continues pollution.

Today we are not here to debate the need for grants. We are here to attempt to save our priceless water supplies. But if we are serious in our efforts we must apply the same standards to all similar sources of pollution.

I believe that the administrator must be given the power to approve all plants before construction or enlargement. Since all of these plants are similar, and all will be discharging similarly treated sewage into our rivers and streams, and all should comply with the same standards.

We are dealing with two separate constructions in this bill. The first is sewage treatment plants, and the second is sewage collection systems. The basic plans for each combine to determine how effectively the sewage will be treated.

In recent years we have all seen how the growth of our metropolitan areas has created severe overloading of treatment capacity in sewage systems in many areas. We have also seen combined sewage systems which collect sanitary sewage and storm water, repeatedly exceed their capacity following rainstorms and thereby discharge raw, untreated sewage into our waterways. As our population continues to grow, the pollution potential soars. I know of combination systems that have been extended without Federal grants because it was too costly to meet Federal requirements.

We have stated in this act that it is our "national goal that the discharge of pollutants into the navigable waters be eliminated by 1985." If we are to achieve this goal we must act now to give the administrator the authority to place the same requirements on all treatment plants and collection systems, without regards to where the funds to construct them may have originated.

In the past we have not placed this centralized clearance authority with the executive and now we are paying a high price for that failure. If we do not act now we may never reach our goal for 1985.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Certainly we would honor the motive and the purpose that impels our colleague, the gentleman from Pennsylvania, to offer this kind of an amendment.

I am sure he hopes to improve the quality of the construction of treatment works throughout the country by requiring that every treatment work be approved as a project by the Administrator of EPA.

I think perhaps that what the gentleman may not fully understand is that we have created in this bill a very finely tuned working relationship between the Administrator of EPA and the various States.

Obviously, it definitely is to the benefit the cause of clean water to bring the States with their administrative machinery carefully and energetically and vigorously into the act.

The bill already requires that the Administrator of EPA shall promulgate guidelines and that those guidelines will be adhered to by the States in their permit practices. The bill already requires that by 1976 every industrial discharger of any kind of pollution into streams must apply the best practicable technology.

The bill already requires that by 1981, every industrial discharger into the streams must apply the best available demonstrated technology, and that every municipal sewage treatment work by that year would apply not only secondary treatment, but the best available demonstrated technology.

I do not know that we can require any more than that. Surely we do not want to place upon the Administrator of this nationwide agency the burden of having to look at each individual project—whether it be a small industry or a big industry or a small town or a big town—and approve that construction individually. That is not the work of the EPA's nationwide Administrator—that is the work of the local administrator.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to my friend, the gentleman from Pennsylvania.

Mr. WILLIAMS. Let me say this.

First, the first point is that you are going to have a far better protection agency at the Federal level and the only way we are going to achieve the objective for 1976 and 1981 and 1985 is to make absolutely certain that the guidelines are being adhered to.

We have had these guidelines for a matter of years.

Unless we do that, we are not going to achieve our goals.

Mr. WRIGHT. I would say to the gentleman, under the bill the Administrator does have the ultimate authority. The bill confers upon the Administrator the right to bring a civil action or to issue orders if in his judgment someone has not compiled with the requirements of the act. I think that is the only duty we can confer upon the Administrator.

Surely we do not want to make the Administrator look at every single treatment works and say that no treatment works could be built until the Administrator here in Washington has approved the plans and specifications for it.

What we are trying to do is to encourage them to move forward, and to prevent the establishment of an extra layer of bureaucracy with these extra duties which would slow down the program.

While the amendment offered by the gentleman is certainly well intentioned and I have no argument with his goals, I think the result of such an amendment as this would surely be to slow down the program when what we are trying to do is to speed it up. We are trying to bring the States, municipalities, and industries themselves into active compliance. I believe the bill contains adequate safeguards and protections, as well as adequate penalties for those who would fail or who would refuse to abide by this law.

I do not see that we need to create an extra layer of bureaucracy by having every little individual project brought before the Administrator himself for his personal approval.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. We created an additional layer of bureaucracy when we created the EPA. The gentleman and I both know, and so do the members of this committee, that the EPA has a series of regional administrators throughout this country. It is not a question of the Administrator himself. We are not talking about that. When you say "the Administrator," you mean the EPA, and we can rely on his regional administrators to approve plans or disapprove. It is not another layer of bureaucracy at all. It is simply using what we have right now.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania.

The amendments were rejected.

Mr. HOLIFIELD. Mr. Chairman, I take the well at this time to make some legislative history locally, and I would like to have the attention, if I might, of the manager of the bill, Mr. JONES, and the manager, Mr. HARSHA. On page 372 of the bill, section 6, there is a definition of the word "pollutant." On line 10 there occur the words "radioactive materials." Has the gentleman found those words? On page 131 of the report, in the second indented paragraph, the following language appears:

> The term "pollutant" as defined in the bill includes "radioactive materials." These materials are those not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated pursuant to that Act. "Radioactive materials" encompassed by this bill are those beyond the jurisdiction of the Atomic Energy Commission. Examples of radioactive material not covered by the Atomic Energy Act, and, therefore, included within the term "pollutant," are radium and accelerator produced isotopes.

The question I should like to ask the gentleman from Alabama, the manager of the bill, is this: Is that a true and clear definition of the intent of the committee in the utilization of the words "radioactive materials" on line 10, page 372?

Mr. JONES of Alabama. The gentleman is correct. That was the intent. The gentleman has just read from page 131 of the report, and that is our specific intention, as I understand.

Mr. HOLIFIELD. I thank the gentleman for that response, and I assume it is the intent of the gentleman, if he is one of the managers of the bill in conference, to try to sustain that definition to the best of his ability.

Mr. JONES of Alabama. Certainly I shall be directed by the action of the House on a bill, and will stand as steadfastly for that action as I know how.

Mr. HOLIFIELD. I thank the gentleman from Alabama.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to my colleague from California.

Mr. HOSMER. I should like to address the same question to the gentleman from Ohio and also another question.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Ohio.

Mr. HARSHA. I will respond in the affirmative to that question. That is definitely what we mean. As I said earlier in the debate on the Wolff amendment, we intended to leave the jurisdiction of radioactive material that came within the Atomic Energy Act up to the Atomic Energy Commission. The language applies only to everything outside the jurisdiction of AEC. That is definitely the intent of the wording of the bill and the intent of the committee.

Mr. HOSMER. Mr. Chairman, will the gentleman yield further?

Mr. HOLIFIELD. I yield to the gentleman from California.

Mr. HOSMER. I would like to ask the gentleman from Ohio a further question. Earlier in the afternoon a point of order was made to an amendment offered by the gentleman from New York (Mr. WOLFF). The point of order was decided upon a definition of the words "radioactive material." The same definition is contained in the bill before the House today. There is no distinction raised between the source, byproduct and other nuclear material as defined in the Atomic Energy Act of 1954. I ask the gentleman if it is his intent that the ruling was made in recognition of the distinction between the definitions?

Mr. HARSHA. I do not know that I could answer on what basis the Chairman or the Parliamentarian based their ruling. I felt it was not germane to this act in view of the way we had written the language of the act and the language of the report. We definitely intended to exclude from our jurisdiction of radioactive material that which lies within the jurisdiction of the Atomic Energy Commission under the Atomic Energy Act.

Mr. HOSMER. That is exactly the way I see it. I thank the gentleman.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I want to thank the able gentleman from California for helping to clarify the earlier position as included in the earlier ruling. As a member of the Committee on Public Works and also as a member sitting on the Joint Committee on Atomic Energy, it has been enlightening to me. There is no intention on the part of the Committee on Public Works to move into the jurisdiction of the Joint Committee on Atomic Energy, or in any way to disturb the existing responsibilities that are declared under that law.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASPIN: Page 277, line 3, after "navigable waters" insert "and the ground waters".
>
> Page 277, line 4, after "such" insert "navigable and ground".
>
> Page 278, line 3, after "navigable waters" insert "and ground waters".
>
> Page 278, line 6, after "such" insert "navigable or ground".
>
> Page 281, line 8, after "navigable waters" insert "and ground waters".
>
> Page 372, line 14, strike out "water," and all that follows down through and including "(C)" on line 22.
>
> Page 372, line 24, strike out "(D)" and insert "(C)".
>
> Page 373, line 21, after "navigable waters," insert "ground waters,".
>
> Page 374, line 4, strike out the period and insert in lieu thereof a comma and the following: "(C) any addition of any pollutant to ground waters from any point source."

Mr. ASPIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ASPIN. Mr. Chairman, the amendment which the gentleman from Massachusetts (Mr. CONTE) and I are introducing involves some small but important changes in the bill, concerning one subject: ground water pollution. Ground water is that water which lies below the surface of the earth. It is in reservoirs and pools, it is well water, it is drinking water. In other words, it is subsurface water.

Mr. Chairman, the bill we have before us today deals mostly with navigable water, rivers and streams and lakes and other surface waters but it deals only ambiguously and, in some cases, inconsistently with the subject of ground water. The purpose of our amendment is to eliminate some of these ambiguities and inconsistencies.

The amendment does two things, two very simple things.

First, the amendment brings ground water into the subject of the bill, into the enforcement of the bill. Ground water appears in this bill in every section, in every title except title IV. It is under the title which provides EPA can study ground water. It is under the title dealing with definitions. But when it comes to enforcement, title IV, the section on permits and licenses, then ground water is suddenly missing. That is a glaring inconsistency which has no point. If we do not stop pollution of ground waters through seepage and other means, ground water gets into navigable waters, and to control only the navigable water and not the ground water makes no sense at all.

So our amendment eliminates that inconsistency.

The second thing our amendment does is eliminate the inconsistency between the way we treat oil companies in this bill and the way we treat other companies. Oil companies and other industries can pollute ground water, through the operation of what are called "waste injection wells."

Industry sinks wells into the ground to get rid of waste. The chemical industry sinks wells into the ground to get rid of waste. The steel industry sinks wells into the ground to get rid of waste. The oil industry does it. The danger to the ground water from these waste injection wells is obvious. If the waste injection well is not built properly, if standards are not met, if the waste injection well is not operated properly, the pollution of ground water can result.

What this bill does is cover the waste injection wells of every industry except oil. The waste injection wells of the chemical industry are covered. The waste injection wells of the steel industry are covered. The waste injection wells of every industry except oil are covered. But, Mr. Chairman, 99 percent of all the waste injection wells in this country are oil industry waste injection wells.

Again, this is an inconsistency which should not be allowed to stand. This amendment would eliminate this inconsistency.

Mr. Chairman, the amendment offered by the gentleman from Massachusetts (Mr. CONTE) and I really does not raise the question of strengthening or weakening the bill, but would simply make this important legislation more consistent and rational.

Mr. Chairman, I urge the adoption of this amendment.

Mr. RONCALIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as much as I hate to oppose the amendment offered by the esteemed gentleman from Wisconsin, with whom I have spent a great deal of time since we came to the 92d Congress together, I must oppose him on these basic grounds.

The saline content of water that is seeped into the ground and returns to the aqua turf or streamflow is not a point discharge. This entire bill is applicable to it.

Second, I would like to call your attention to page 131 of the committee's report on H.R. 11896 wherein the committee's intent is clearly and forcibly stated, and I quote:

> It is the intent of the Committee that the exclusion from the term "pollutant" relating to the injection of water, gas, or other materials into wells applies only to the properly executed injection of materials into wells to stimulate the primary, secondary, or subsequent production of crude oil or natural gas, and to the properly executed disposal in wells of brines derived in association with the production of crude oil or natural gas, with appropriate precautions taken to assure that such injection or disposal does not lead to, or make substantially more likely, the degradation of usable water resources. *For such exclusion to be effective, the State is required* (1) to approve the well used either to facilitate production or for disposal purposes, and (2) to make a determination, based on sufficient investigation and evidence that such degradation has not taken place and has not been or will not be made substantially more likely as a result of such injection or disposal."

If the State fails to approve the wells or fails to make the required determination, then there is no exclusion from the coverage of the term "pollutant." I believe this is a fair and reasonable approach and strongly urge that the amendment be defeated.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in the early deliberations within the committee which resulted in the introduction of H.R. 11896, a provision for ground waters, similar to that suggested by the gentleman from Wisconsin, was thoroughly reviewed and it was determined by the committee that there was not sufficient information on ground waters to justify the types of controls that are required for navigable waters.

We recognized this lack of information and date and the committee sought to correct it.

I refer the gentleman to the objectives of this act as stated in section 101(a). The objective of this act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

I call your attention to the fact that this does not say the Nation's navigable waters," "interstate waters," or "intrastate waters."

It just says "waters." This includes ground waters.

In section 102 the Administrator in cooperation with other Federal and State agencies is required to prepare and develop comprehensive programs for abating and reducing the pollution of the Nation's waters and ground waters and for improving the sanitary conditions of both surface and underground waters.

In the development of such programs, the Administrator is required to consider those improvements which are necessary to conserve surface and underground waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agriculture, industrial, and other legitimate actions.

We recognized the need for control of the disposal of pollutants into wells in order to protect our ground waters. Therefore, in section 402(b)(1)(D) we provided that the Administrator shall approve a State program unless he determines that authority does not exist to control the disposal of pollutants into wells.

As I stated, the committee recognizes the need for research and development both in determining the effects of underground disposal of pollutants and the migration of such pollutants.

The Administrator under his broad research powers as set out in sections 104, 105, and 106 is expected to concentrate a portion of his research effort on the study of underground disposal in order that the Congress might have a basis for determining the need and appropriately extending the controls of H.R. 11896 as they apply to navigable waters to ground waters if needed.

The gentleman from Wisconsin testified during the committee's hearings that he felt that we should delete item (B) of paragraph (c) of section 502.

While the committee did not delete the provision in question, I call to my colleague's attention lines 20 through 22 of page 372 of H.R. 11896. The committee added language specifying that the exemption is applicable only if the State involved has determined that the injection or disposal of such water, gas or other material will not result in the degradation of ground or surface water resources.

I then call my colleague's attention to page 131 of the committee report. I read from the report:

> It is the intent of the Committee that the exclusion from the term "pollutant" relating to the injection of water, gas, or other materials into wells applies only to the property executed injection of materials into wells to stimulate the primary, secondary, or subsequent production of crude oil or natural gas, and to the properly executed disposal in wells of brines derived in association with the production of crude oil or natural gas, with appropriate precautions taken to assure that such injection or disposal does not lead to, or make substantially more likely, the degradation of usable water resources. For such exclusion to be effective, the State is required (1) to approve the well used either to facilitate production or for disposal purposes, and (2) to make determination, based on sufficient investigation and evidence, that such degradation has not taken place and has not been or will not be made substantially more likely as a result of such injection or disposal.

The report language makes it clear that State approval of any disposal will be based upon investigation and evidence.

I believe this committee amendment and the legislative history clarify the intent of the provisions of paragraph (c) of section 502. I do not believe further amendments or deletion is required to protect our waters. I do not agree with the gentleman from Wisconsin. I urge the House to reject the amendment.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it seems to me the issue is equal application of Federal standards. If we are going to make these standards apply to the steel companies and the chemical companies and the paper companies who have the least part of this ground water problem, it seems to me that we ought to make it apply equally to oil companies that have the greatest part of the ground water problem.

If injections that affect ground water are properly handled, there need not be any danger, but from what I have heard and understood with respect to the potential of this pollution, and it is very vital in the State of Florida, just as it is all over the country, the contamination would last for centuries because of the fact that there are no living organisms in the water and it is very slow moving. Once that happens I am not sure what it would take to undo it.

It seems to me that we should not have State standards subject to review on the Federal level in one case and in the other case have only Federal standards that everyone will have to live up to. If we are going to be fair, we should do it across the board. We should have Federal standards that everyone will have to live up to.

Mr. HANNA. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. HANNA. Does the gentleman understand, as I do, that what we are talking about here is the enforcement provisions relating to the standards which this amendment tries to make across the board, including the oil companies?

Mr. FASCELL. That is the way I understand it.

Mr. HANNA. And the testimony of the other gentleman that there is wordage in the bill that includes ground water is true, but we are talking about a specific section of the bill that has to do with enforcement under the standards.

Mr. FASCELL. That is the way I understand it. We are talking about equal application of the enforcement provisions.

Mr. HANNA. I thank the gentleman.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am very much appreciative of what the gentleman seeks to do, but he is missing the point a little bit. He is confusing injection with secondary recovery from oil wells. The committee understood it, and I think he has missed the point.

When you bring out a barrel of oil, you bring out from three to five barrels of salt water with it. If you put that salt water back in the same hole that you took it out of—and you have to do that if you are going to keep recovering oil—you are not polluting but, in fact, you are putting it back in the same hole and in the same strata.

XUM

There is no industry in the world that is regulated as much as the drilling industry. Every State where they produce oil requires surface casing, which is a big piece of steel pipe that is cemented on all the way through the fresh water stratas. When you pump the water back, it goes into a smaller tube into that same strata, and it mingles with that production.

I agree with the gentleman in his basic statement concerning ground water, but he is talking about two different things here.

Mr. Chairman, I urge that this amendment be rejected.

Mr. ASPIN. Will the gentleman yield?

Mr. ROBERTS. I am happy to.

Mr. ASPIN. I understand what the gentleman is saying about how the oil industry is different in that it uses the pumped waste into the ground to get a secondary recovery.

Mr. ROBERTS. You are confusing waste and pollution because it comes out of one place and goes into the same place.

Mr. ASPIN. Exactly. But as it comes out and then goes back it passes through the ground water.

The effect is going to be no different with pumping oil than pumping paper waste from paper mills or waste from the steel industry.

Mr. ROBERTS. It goes through the casing and down through the casing and it is cemented. We had a scientist to testify to the effect that the casing is solidly cemented. The scientist testified that in 1970, which was the last year we had figures on this matter, there were probably six failures that polluted ground water. Five of those were in a section that had been abandoned some time back in the twenties. Only one well—and we are not sure it was a failure—showed evidence of this. So, there is absolute protection from the secondary recovery of the oil business, whether it is gas or oil or water and there should be. I agree with the gentleman's position that we ought to be sure, but we have more stringent regulations now on the oil industry than we could ever impose through this legislation.

Mr. ASPIN. If the gentleman will yield further, if that is the case and if the oil company is doing such a good job, then why not let it come under the regulations just the same as the chemical companies, the steel companies, and others?

Mr. ROBERTS. Because we have already got them regulated in a similar fashion in which the Atomic Energy Commission, for instance, is regulated as well as others are already regulated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague (Mr. ASPIN).

The amendment would delete section 502(b) from the bill before us today. That section presents yet another example of special favorable treatment for oil producers. Its inclusion in the bill demeans the very honest attempt that has been made to produce a progressive, fair, and effective bill to clean up our waters.

Under section 102(a) of the proposed legislation, the Administrator of EPA is authorized to make investigations of any "pollutant." Section 502(b), however, would exclude from such scrutiny the material which oil companies inject into their wells to facilitate production. For some unknown reason we are asked to declare by legislative fiat that such material should not be classified as a pollutant. Considering the threat that such injections pose to our groundwaters, I can only conclude that section 502(b) is based on the financial interests of the oil companies rather than on a concern for clean water.

This is just one more loophole that has been forged by the powerful oil lobby. Are we going to again close our eyes to the interests of the public in order to serve the interest of the oil barons? When will they be satisfied? They are already protected from foreign competition by the oil import quotas which cost our consumers more than $5 billion per year in excess prices. Their special tax breaks result in an annual loss to our Treasury of more than $4 billion. The Justice Department, through inaction, has granted them immunity from antitrust violations in their acquisition of other competitive energy sources, such as coal and uranium.

And now we are asked to grant them immunity from EPA scrutiny of the effects of their drilling practices. Our answer to their latest request for favored treatment must be "no." To give such an answer we must delete section 502(b) by approving the amendment offered by my colleague, Mr. ASPIN.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am glad to yield to my colleague, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by my colleague from Wisconsin (Mr. ASPIN) and cosponsored by my colleague from Massachusetts (Mr. CONTE) to include ground water within the provisions of the Water Pollution Control Act of 1972.

Mr. Chairman, to consider that we are providing for protection of the surface waters—which we can see—and omitting from the strong provisions of this measure vast ground-water supplies—is to my mind unthinkable.

Mr. Chairman, the extent of pollution of surface waters is readily visible. In addition, there is ready access to these waters when it comes to eliminating pollutants. However, the problem of eliminating pollution from ground waters—once these become polluted—is far more complicated. The eventual points which may be reached by polluted ground waters are virtually unknown.

Mr. Chairman, we know that vast bodies of ground waters have already been polluted by nondegradable detergents. All ground-water supplies could be threatened unless protection is provided in this bill by specifically including ground waters within the definition as contained in section 502(b) and elsewhere.

Mr. Chairman, I support this amendment and hope that it will receive the favorable vote of the Members.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the first part of this amendment purports to require water-quality standards for ground water. We do not have the knowledge or the technology to devise water-quality standards for ground water. We do not as yet know how to do that; we do not have the ability. That is why we have provided for the study by the Administrator to determine that.

The second part of the amendment deals with the question of the injection process, and the technology for the extraction and the removal of oil and gas. This is a highly technical process, certain technology has to be perfected in order to successfully extract the oil and the gas from under the ground.

Initially the gentleman came to the committee with his amendment, and at that time there were not as many safeguards in the bill as there have been included since his appearance before the committee. As a result of the committee's consideration of the gentleman's amendment we added an amendment which I offered which is H.R. 11896—is much more stringent than S. 2770—its Senate-passed counterpart, on this issue. My amendment on page 372, line 17, tightens this provision down considerably and will not permit this process until the State makes a finding or determination that such process will not degrade the waters. This provision recognizes that those States which pioneered and developed effective methods of protecting subsurface waters against contamination from oil and gas production—long before any great public concern about surface water pollution—shall continue to have primary responsibility for protecting those subsurface waters.

The injection or brine water resulting from petroleum operations back into the earth for disposal purposes is itself an important form of pollution control. Similar injection of "water, gas, or other material" to facilitate production—referred to in the petroleum industry as "secondary recovery"—is not only an excellent form of pollution control, but also the only known method for bringing up millions upon millions of barrels of oil that otherwise would be totally lost to this country. Water flood recovery, already of tremendous importance, now accounts for almost one-third of all the petroleum produced in the United States, and in the years ahead secondary recovery is expected to continue to contribute substantially to our energy supplies.

Few people outside the petroleum producing States are sufficiently aware of a simple, but crucial fact about the production of oil and gas. Normally, the same well that produces oil and gas also produces from the same reservoir varying quantities of associated water, ranging from fresh to saline. Huge volumes of water are commonly found in the same underground strata as oil and gas and come up with produced oil and gas.

In 1970, for example—the latest year for which complete data are available—the United States produced 9,447,000 barrels of crude oil and 64,327,000,000 cubic feet of natural gas per day. Produced in association with this oil and gas were more than 30 million barrels of salt water per day. Produced in association with this oil and gas were more than 30,000,000 barrels of salt water per day. Put another way, on the average, for every barrel of crude oil that comes up, about three barrels of salt water also come up. All of this salt water—which for the year 1970 amounted to more than 11 billion barrels—must be disposed of safely, somewhere. Both disposal wells and secondary recovery injection wells return the salt water deep into the earth from which it originally came. Most fresh water strata lie near the surface of the earth, usually hundreds, sometimes thousands of feet above the strata into which the disposal and secondary recovery water is injected. Such wells actually offer the best and sometimes the only disposal method available to oil producers, who otherwise would be compelled to dispose of the salt water in evaporation pits on adjacent lands or in surface waters.

Over the years, the State regulatory bodies where substantial petroleum operations are conducted have built up a vast store of knowledge essential to the full protection of subsurface waters. These agencies are thoroughly familiar with petroleum operations and the local geology where such operations are conducted. They have experts knowledgeable in such disciplines as fluid dynamics and reservoir and petroleum engineering. Such knowledge is needed in evaluating applications for disposal and secondary well permits. Approval of these wells, for example, involves such technical data as permeability and porosity of the underground strata, which govern the amount and flow-rate of liquids and gases; the geographic extent of the reservoir; and the pressure of the reservoir.

During the last 35 years, and particularly during the last 10 years, the State regulatory agencies have developed and enforced oil-field disposal and secondary recovery methods which have reduced the risk of subsurface pollution to a minimum. Without prodding or assistance from the Federal Government they have established a record of strict and effective control over oil and gas operations involving deep disposal and secondary recovery production. It does not seem appropriate that such control should be displaced by new Federal authority.

Therefore, Mr. Chairman, I urge the defeat of the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I appreciate the gentleman yielding to me.

I would state to the gentleman that I believe the testimony reveals in these States that the standards and requirements are substantially higher than in many cases are necessary.

Mr. HARSHA. That is quite true. The injection of the brine resulting from a petroleum operation back into the well, is in itself a pollution abatement, or pollution control process.

Mr. DON H. CLAUSEN. I thank the gentleman.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I think this is a very dangerous amendment, and I hope that we do not accept it lightly because, as I understand, what they are attempting to do here is bring ground water under the control of the EPA. It is further my understanding that the committee has provided for a study of this subject.

Is that correct?

Mr. HARSHA. The gentleman is correct.

Mr. SISK. I am wholly in favor of that. I recognize the possibility of pollution of ground water, but this whole matter at this point in time, with no more knowledge than we have, bringing this ground water under this type of control, is improper, and I think is a very dangerous thing to do. I would certainly hope that the House would not adopt the amendment.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Wisconsin (Mr. ASPIN), to bring ground water under the coverage of the Federal Water Pollution Control Act Amendments of 1972, which we are now considering.

The committee bill is drilling a loophole into which contaminants from the injection wells of the oil producers will be permitted to flow, thus adding to the pollution of our ground water resources. This is inexcusable. There is no other industry in America that is more pampered and that benefits more from special-interest legislation than that of oil. Not content with import quotas, tax writeoffs, a 22-percent depletion allowance, international cartel arrangements and joint ventures—all of which cost the American public additional billions of dollars each year—the oil industry and its friends in the Congress now have the sheer nerve to seek an exemption from our antipollution laws.

In the United States far more fresh water is stored in aquifers than in all the Nation's rivers, reservoirs, and lakes. With proper planning, this vast storehouse of fresh water can be managed as effectively as surface reservoirs. Around 20 percent of the Nation now is dependent on ground water. Nearly one-third of the 100 largest cities in our country obtain all or part of their drinking water from wells. About 90 percent of rural families drink ground water. More than half the water used for irrigation and livestock comes from underground water. Ground water used to have a reputation of being free of chemical and biological contamination. Now, this resource, too, is threatened by pollution. Unlike surface water, however, the slow movement of ground water makes the correction of pollution both time consuming and very expensive. While injection wells may represent the best presently available technology for dealing with certain oil industry pollutants, it is not in the best public interests to grant the oil industry in perpetuity the free and unregulated privilege of continuing to pump into such wells numerous chemicals and other pollutants, such as brine and acid, which eventually may escape into ground water and thus destroy the purity of this important water resource.

Mr. Chairman, if we are to be serious about our efforts to stop pollution and to begin the immense task of restoring the quality of our environment, in this instance, our water resources, then it would be the height of hypocrisy for the Congress to grant any exemption and, in particular, to one of the Nation's greatest polluters, the gluttonous oil industry, from our basic antipollution laws. I urge my colleagues to accept this amendment which will assure that the pollution of ground waters is subjected to the same regulation as pollution of navigable waters.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ASPIN).

The question was taken; and on a division (demanded by Mr. ASPIN), there were—ayes 34, noes 86.

So the amendment was rejected.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in support of H.R. 11896.

This is probably one of the most difficult and complex pieces of legislation this body has ever considered. It creates the basis, foundation and framework for the total and eventual solution to the problem of cleaning up our Nation's waters.

We have moved from 1956 and the days before that to a period, over the last 16 years, when all of us know that the American public wants and demands that this job be done. Here is the bill that will do it. It is the result of countless weeks and months of work in the Committee on Public Works which was the creater of the original Federal program for water pollution legislation.

The bill today will give us in one complete package the start to provide funding, planning, research, programing, and enforcement to achieve our goals. The money in it is but the beginning, but it is a start. The time has come when we must vote and vote for what is needed.

This bill is the answer, and I urge its adoption without amendment.

Mr. LEGGETT. Mr. Chairman, I believe the Public Works Committee should be complimented on this bill. It is a commendable piece of legislation which makes a sincere effort to come to grips with our water pollution problems. In some respects it is even preferable to the excellent bill the Senate passed unanimously. It authorizes $18.35 billion for waste treatment construction grants, allotted to States on the basis of need. In contrast, the Senate bill only authorizes $14 billion for waste treatment, and allots it on the less justifiable basis of population. The House bill authorizes a total of $24.62 billion through fiscal year 1965, as opposed to only $20 billion in the Senate bill.

The House bill originates the concept, not mentioned in the Senate bill, of a $100 million Environmental Financing Authority, set up in the Treasury Department, which would make low-interest loans to communities unable to bor-

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row conventional funds for their matching share of waste treatment construction. I understand there may be an amendment to delete the Environmental Financing Authority. I hope any such amendment will be defeated.

My colleague, LES ASPIN, one of the most conscientious and capable Members of this body, is going to propose a ground water pollution amendment designated to deal with oil waste injection wells. I share his concern over the danger of waste oil contaminating our drinking water, and if this were the extent of his amendment I would happily support it. But I do not believe it is a good idea to inject the Federal bureauracy into ground water problems in general, and for this reason I will oppose his amendment unless it is split into two parts.

I am convinced that basic management of ground water basins must be left under State and local control.

In addition, I feel very strongly that supervision of dredge spoil permits must be kept in the hands of the Corps of Engineers, and I will oppose any efforts to take it from them.

But many other of the proposed amendments are desirable, and I shall support them. The Reuss-Dingell clean-water package is excellent; I hope it will pass in its entirety. I am particularly impressed by the need to proceed directly to our clean-water goals without wasting another 2 years on a National Academy of Sciences study. We do not need another study to tell us we have water problems; a dip in the Potomac will confirm that beyond doubt. The amendment does not ask the impossible; it has a reasonable economic escape clause. I cannot imagine why anyone would oppose it.

Another particularly desirable amendment is the Heinz proposal to charge industries for the pollutants they produce. This is really the only way to absolutely discourage an industry from polluting: make it more costly to pollute than not to pollute. Industries do not pollute because they are inherently evil; they do it because it saves them money. Take away the economic incentive, and we eliminate the bulk of our pollution.

I understand there will be a series of amendments to encourage and support recycling. Congressman VANDER JAGT's reasoning on this matter is perfectly sound: Recycling is not simply "one of a number of ways of dealing with waste"; it is by far the most desirable. I hope his amendments will be accepted.

In closing, I again compliment the Public Works Committee for its excellent work. This is a bill everyone from Ralph Nader to Richard Nixon can be happy with, particularly if the best of the amendments are accepted.

Mr. MIKVA. Mr. Chairman, the water pollution control bill before us today deserves the support of every Member of the House of Representatives. It establishes two national goals to save the environment: an end to the deadly pollution of this country's rivers and lakes by 1985 and, by 1981, clean water in the lakes and rivers— clean enough for people to swim in, clean enough to support fish and plant life. The bill is a step forward, but it does not go far enough. The bill sets noble goals, but it equivocates on the best way to reach them. That is why I joined Congressman DINGELL and REUSS and more than 40 of our colleagues in asking the House to adopt six amendments to the bill called the clean water package. The amendments had the support of a coalition of 25 conservation, environmental, consumer, and labor groups, and should be given careful consideration by the House.

The United States is the most technologically advanced country in the world. It is the most prosperous. Those distinctions have not come without a price. In the process of developing our industries and cities, we have destroyed our environment. In the most prosperous and technologically advanced country in the world, there is a river so overrun with volatile industrial discharges that it is a fire hazard. There is a lake, one of the Great Lakes, that has become a dead sea—fit only for scavenger fish, sludge worms, and algae which seem to thrive on the industrial and municipal waste. Near my own home in Illinois, beaches are regularly closed because there is too much bacteria in the water. It is hardly safe to touch the water, let alone drink it.

In the cities of medieval Europe, the people dumped human waste and garbage into the streets. We have progressed in the last 400 years. Now, we dump it into the water. And things are not getting any better. The last few years have seen the beginning of a new national awareness on the problems of the environment. Despite that, we are losing ground in the battle against pollution. For example, every one of the Great Lakes is more polluted today than it was 5 years ago. As a Nation, we still are spending more time and money polluting the Great Lakes than we are spending to revitalize them. We must change that. We must begin to repay the debt to the environment—a debt that compounds with every gallon of sewage dumped into the lakes and rivers of this country, a debt that threatens the very quality of our lives. This bill can be the first installment on that debt, but it needed strengthening.

There has been a great deal of debate over the costs involved in meeting the 1981 and 1985 deadlines. The bill does provide adequate protection against exorbitant costs, and one of the purposes of the "no discharge" goal for 1985 is to stimulate the search for new ways to recycle our wastes and protect the environment. Critics of the "no discharge" proposal have ignored new waste treatment systems like land disposal—a system that the Corps of Engineers studied for the Chicago area and found feasible and economical. The cost of meeting these deadlines will be great, but the cost of not meeting them will be even greater.

Mr. Chairman, I specifically would like to commend the committee for its attention to the problems of pollution in the Great Lakes. Section 108 of the bill outlines a comprehensive program of demonstration projects for the Lakes. It is aimed at developing new methods and techniques to eliminate pollution, and the program is based on cooperation among Federal, State, and local governments. The Great Lakes desperately need this kind of help because they are being poisoned by pollution—slowly but surely.

Nowhere has the threat to the environment been more real, nowhere have we failed so miserably in attacking the problem, than in the Great Lakes. Late last year, the Environmental Protection Agency asked the administration for $141.3 million to support a proposal which assigned "national priority" to the fight against pollution in the Great Lakes. It was a comprehensive proposal—bold and innovative with a clear-cut goal and a good chance of meeting it—but the Office of Management and Budget rejected the request. It was another example of the chronic gap between what is said and what is done in the area of environmental protection.

This bill may help close the gap and, therefore, I will vote for it. When the Environmental Protection Agency's budget comes before Congress, I will ask that an additional $2 million be appropriated to hire more personnel to enforce Federal antipollution laws and to enforce the provisions of this bill. With that additional money and with the provisions of this bill, many of EPA's plans to save the Great Lakes will be possible to complete.

Altogether, this bill represents a modest start. We have talked about pollution for years. We simply cannot afford to wait any longer to start doing.

Mr. PRYOR of Arkansas. Mr. Chairman, the consideration of H.R. 11896 this afternoon marks a significant crossroads this great body must face on the long road to total environmental quality in this Nation.

The distinguished chairman and members of the House Public Works Committee have labored long and hard on this most important piece of legislation, and they are to be commended for the result of their efforts. H.R. 11896 is a good and substantial piece of legislation.

It is my feeling, however, that the measure does not go quite far enough in insuring that not only the goal but the policy of this Government will be, without a doubt, a return to the best possible natural environment for our people in the shortest possible time.

Everyone of esteemed colleagues realizes the growing concern of the American people over the deteriorating quality of our water resources. And each and every one of you hope to see this condition alleviated. Here, we are in agreement, just as were our friends in the Senate when they unanimously passed S. 2770. The division occurs over the exact methods and emphasis that we shall impose on this high priority.

I would respectfully urge my distinguished colleagues in this Chamber to support the amendments as offered by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Wisconsin (Mr. REUSS) and a large bipartisan group of Members representing a wide spectrum of our Nation.

I believe it is imperative that industry begin as soon as possible to plan the implementation of the most efficient

waste treatment technology. And our good friends in industry are not in objection to clean waters. They have always tried to comply with governmental standard in this regard because a happier, healthier public is in their favor. Resident industry in my great State has been sincere in its attempts to keep Arkansas waters as clean and clear as they have always been. But with the future development of Arkansas and new industries finding a pleasant and productive home for their enterprises, the Federal Government must provide them with definitive guidelines upon which to plan and base their efforts. Putting off the establishment of the deadline by which time the best available techniques will be employed has the effect of wasting time, money, natural resources, and, perhaps even lives.

We can no longer delay. Man is responsible for his polluted atmosphere, and man is responsible for its cleansing. The longer we wait, the more difficult the task.

In regard to other amendments offered, I firmly believe that the EPA should have some part to play in the issuing of discharge permits. After all, the American people are financially supporting this agency—it has the experience and expertise in these matters—and if they have the money and the personnel, I believe that their resources should most definitely be put to use for the good of the States. This would provide a safeguard for those States that might not have the facilities or their own resources to give adequate consideration of permit requests.

I further am of the persuasion that every citizen should have the right to bring suit against pollutors or the EPA. The bill as reported restricts this right only to those directly affected. But the courts are the proper institutions to determine who has a legitimate right standing to bring suit. And let us remember that the maintenance of a quality environment is the responsibility of every citizen.

And if we are to impose stringent but necessary measures to clean our national waters, there should be no question that these provisions should be applied in all States, and that any worker displaced due to compliance with the law should be assisted economically as well as any affected communities. There are other amendments I support, but I do not wish to consume an unreasonable amount of time, though I hope that I make my point very clear. I do not desire to place unreasonable burdens on any segment of our society. The safeguarding of our environment is not the sole responsibility of any one interest, but of all interests, all governments, and all individuals. But we can hesitate no longer.

Let us legislate now a goal of the best possible environment quality so that all our people can earnestly and sincerely begin the fight to clean up the mess that we have all made.

Mr. DONOHUE. Mr. Chairman, as one who has consistently advocated and supported increasingly stringent environmental pollution control measures, I most earnestly urge and hope that this pending "clean water package" of strengthening amendments, to the Federal Water Pollution Control Act now before us, is overwhelmingly adopted by this House.

I think that our action on the basic substance, as well as the proposed strengthening amendments, on this bill should and must be governed by our conscious realization that we are, in effect, dealing with a subject that is virtually a matter of life or death to our entire population. I also very deeply believe there can be no higher order of priority and prudent spending than the protection and preservation of human life together with the constant improvement of the quality of that life by insuring adequate facilities for wholesome recreational exercise and sporting activities.

Mr. Chairman, the goals set forth in this bill, to eliminate the discharge of pollutants into our water by 1985 and the achievement by 1981 of water quality that will actually protect our fish and wildlife resources and permit participation in water recreation activities without serious health menace, are imperative to our national survival and progress as a people. With all due respect to the sincerity and motivation of those of other opinion, I have the very deepest conviction that these goals cannot be accomplished without the establishment of definite timetables of attainment. Past experience has demonstrated that, unless we have a definite target to hit or a definite point to reach, we tend to become rather loose in our aim and laggard in our pursuit. We cannot afford to be either if we expect to timely remove the poison that is now in our rivers and streams and repair the sources and agents that cause the disastrous pollution of our waters.

On this score, I think that the distinguished and dedicated chairman of the House Public Works Committee and his diligent committee associates deserve the appreciation and the congratulations of the country and the Congress for the thought, the work, the time and the constructive suggestions that are contained in this basic bill. It is, without doubt, the most stringent and all-embracing water pollution control bill ever to be presented to the House of Representatives. In most of its aspects, it is commendable and in many areas it gives real promise of effective impact, particularly in those several provisions which directly affect our States, our municipalities, and our industries and businesses.

To most of us and particularly to those of us who have comparatively small communities within our districts, it is obvious that these communities need the greatest possible amount of Federal assistance to construct, repair, and expand their deficient waste treatment facilities. In recent years and more especially in the unhappy economics situation in the country today, these smaller cities and towns just have not been able to raise the money from their already overburdened taxpayers to provide these facilities. Fortunately, both the already-passed Senate bill and the measure up before us now move toward the correction of this inequity, with the House bill recommending higher maximum Federal contributory share of 75 percent if the States will contribute 15 percent of the project cost. I shall urge and earnestly hope that the higher House-provided contribution will prevail and that the Congress will, if and when the need arises, as I think it will, increase the authorization and appropriation from the $20 billion suggested in the pending measure to whatever higher figure is actually required to help our communities to do the job that must be done. Too often in the past, promises of assistance have been held out to these financially pressed cities and towns that have not been carried out. This type of action has naturally lessened the confidence of these cities and towns in the performance of the Federal Government and, in too many instances, has caused great financial hardships to fall upon the local citizens. That evil should and I think will be corrected in this bill through the section that now requires contractual obligations to be set up between the Federal Government and municipalities in these financial transactions. This procedure will reassure our municipalities and States that they can plan waste treatment construction projects with the confidence that once these plans are approved, the construction can go forward to completion in an orderly manner without fear of sudden stoppage or cancellation.

A further most equitable and timely provision in this bill authorizes retroactive reimbursements to States, municipalities and other agencies for waste treatment projects that were initiated after 1956 and constructed but for which they did not receive the Federal contribution to which they were entitled. The committee deserves special commendation for their recognition and rectification of this major injustice.

Mr. Chairman, another aspect of our common effort to clean up the Nation's waters that is of intense concern to me as it is to so many others who have a great number of small businesses in their districts, is to insure that these businesses, especially in this time of high unemployment and economic depression, will not be inequitably burdened by this legislation beyond their ability to survive and carry on normal operations. At the request of myself and a great many other Members of the House, the committee has commendably and rightfully recognized the economic pressures and hardships that will fall upon a great many small businesses and their employees and has attempted to relieve this threatening situation by including a section to provide at least $800 million in low-cost loans to businesses and industries "likely to suffer substantial economic injury without assistance," in meeting the water pollution operating standards established by this bill. The loans could be used to assist any small business or industry "in effecting additions to or alterations in the equipment, facilities—including the construction of pretreatment facilities and interceptor sewers—or methods of operation of such concern to meet water pollution control require-

ments established under the Federal Water Pollution Control Act."

Mr. Chairman, the committee and its members, as well as a great many of my colleagues here, have wisely and justly indicated and registered their intent not to project this legislation in such harsh or unmindful manner as to primarily influence the close-down of businesses and industries that earnestly and honestly desire to observe any newly enacted pollution regulations but who, because of the present precarious and repressive state of our economy, might be forced to substantially reduce or eliminate their operations. Unfortunately, there are no authoritative guiding statistics yet available about the extent of the financial difficulties that may be visited upon our smaller businesses and industries because of the imperative national necessity to control water and other pollution, but this is an area in which the proper Federal Government agencies can promptly begin to lend a resourceful and useful hand and I am hopeful that our Chief Executive will order and encourage that type of administration cooperation in our common effort to remove all dangerous pollutants from our waters.

In any case, the $800 million included in this bill to help these small businesses and industries is a very wholesome initial recognition of the problem by the Congress and, from the attitude of the great majority of the Members here, I would unhesitatingly predict that if the amount projected proves inadequate, it will be quickly and overwhelmingly increased to an amount that will meet the purpose.

Mr. Chairman, in summary, this bill is, of course, a very complex and expansive legislative proposal for the achievement of an imperative national objective. To accomplish that objective within the timetables set will require the highest measure of cooperative understanding and effort on the part of every responsible element within our society and most of all, it will require the highest acceptance of individual and organizational sacrifice. However, I earnestly believe the very great majority of the American people want our Nation's waters to be cleaned up in the shortest time possible. The appropriations, definite goals and realistic enforcement provisions contained in this bill and the proposed strengthening amendments are all designed to meet and overcome the very serious water pollution problem and challenge that threatens our very existence and I urge its adoption in the present national interest and for our future progress.

Mr. ANNUNZIO. Mr. Chairman, today we are considering a bill which may be the most important of this Congress—the Federal Water Pollution Control Act Amendments of 1972. One can hardly overstate the importance of good, clean water to man. It is, of course, essential to life; we must drink water every day. It is also essential to our industry, agriculture, and energy production. The average American family of four uses 600 gallons of water per day. In industry, it takes 600 gallons of water to produce a loaf of bread, 700 gallons to process a ton of oranges into juice, and 660,000 gallons to manufacture a ton of synthetic rubber. The steel industry uses 13 billion gallons of water per day. One acre of irrigated farmland consumes 1.6 million gallons in a growing season; nationwide, irrigation accounts for 135 billion gallons per day. The rates of water use are, furthermore, increasing.

Reuse of water is essential. Yet the water resources of much of the Nation are so polluted as to require extensive treatment if they are to be usable. One-fifth of the Nation's shellfish beds have been closed. Recreation uses have been eliminated in some areas, sharply curtailed in others; one estimate reported by the Council on Environmental Quality put the loss of recreation opportunities for the Delaware Basin alone at $350 million for 1966. How much more sensible it would be if our rivers and streams flowed with pure usable water. This is the need addressed by the bill before us, H.R. 11896.

This bill contains many important provisions for the abatement of water pollution. These have been reviewed and commented on by many—provisions such as the goal of no polluting discharge by 1985 and the interim goal of water quality suitable for the protection and propagation of fish, shellfish, and wildlife and for swimming by 1981; and the provisions prohibiting toxic pollutants, intensifying research, and encouraging the construction of waste treatment facilities. As a comprehensive attack on water pollution, this bill is promising: but unfortunately it contains some critical flaws, making it weaker than S. 2770, unanimously passed by the Senate and vigorously attacked by polluters. These flaws must be corrected if we are to have adequate water for this Nation's future.

And these shortcomings in H.R. 11896 can be rectified. Mr. REUSS, along with many others, has introduced a "clean water package of amendments" to perfect the bill. These amendments are basically technical—they do not in any way contravene the fundamental goals and policies established in this legislation. These amendments have the support of a wide range of interested citizens, including environmental groups like the Sierra Club and the National Wildlife Federation; unions such as the United Steelworkers and the Oil, Chemical & Atomic Workers Union; and the National Farmers League, the League of Women Voters, and the National Consumer's League, and many more, as listed by Mr. REUSS when he introduced his amendments on March 22, 1972, with the support of 39 other Members of the House.

I am now adding my strong support for these amendments; and I call on all my other colleagues to support them also. They are absolutely essential if this Nation is to have adequate supplies of clear, clean water for future consumption, use, and recreation.

The most important of the deficiencies in H.R. 11896 and the correcting amendments are as follows:

First. H.R. 11896, while establishing a zero discharge goal for 1985 and an interim goal for 1981 and effluent limitations to achieve them, includes a requirement that action to achieve these goals after 1976 is contingent on further congressional action subsequent to a National Academy of Sciences-National Academy of Engineering Study—section 301(b)(2)(A) and section 315(a).

I cannot believe that we require yet another study to know what needs to be done. We know that our waters must be cleaned up. The requirement for further congressional action will merely delay the effective abatement of pollution and provide an opportunity for more waffling. Furthermore, by putting off establishing a firm goal, industry will not know what action it must begin taking to meet the ultimate standards; it is in everyone's best interest, including especially those who must plan how to abate pollution, to know where they stand now and in the future. Uncertainty will lead to future delays and expense. Therefore I most strongly support the amendment which strikes from H.R. 11896 the language requiring further congressional action. The NAS–NAE study will still be carried out, and it may indicate some adjustments to be made; but the goal will be established toward which abatement actions will be directed.

Second. A further critical defect in the present bill is the repeal of the permit program as established by President Nixon—Executive Order No. 11574—and turning Federal control of permits over to the States. According to H.R. 11896, the Administrator of EPA authorizes the States to issue permits, while he can set only very general guidelines, and only under certain very restricted conditions can the Administrator veto State actions.

This provision could destroy the comprehensive, national program to abate pollution. Some States could set very weak standards, allowing industry to shop around for a location where they could pollute the most, and thus continue to destroy our water resources. There is, of course, a need for local and regional inputs to the establishment of standards and for granting of permits; but the only way to make a coordinated national attack on water pollution is to place the final responsibility where it belongs, with the Administrator of the Environmental Protection Agency.

Mr. REUSS' amendment will do this by cutting out the provision (section 402(a)(5)) which authorizes the Administrator to turn over the permit granting powers to State or local authorities without retaining significant control or veto powers over them.

Third. While the retention of Federal powers over the granting of permits will discourage industries from shopping around for sites, an activity which would destroy healthy employment patterns, requirements for pollution abatement will in some cases place strains on employers. Consequently, an amendment is included to ease, as far as possible, any undesirable impacts on employment; this amendment to section 507 requires the Administrator to consider employment aspects when issuing effluent limitation orders and to investigate and to hold hearings if requested, on any losses of jobs resulting from pollution abatement programs.

Fourth. Another major shortcoming in H.R. 11896 is a provision—section 402(1)—according to which a polluter who has filed an application for a permit has immunity until 1976 from any enforcement action of the Federal Government under the bill or the 1899 Refuse Act. This would permit polluters to continue until 1976 to continue discharging even if they could start abating it sooner, for this immunity clause removes from the Government its most potent antipollution weapon, one which has proven itself in the last few years. An application for a permit should not itself be a permit. I urge support for Mr. REUSS' amendment which would strike the immunity clause from the bill.

Fifth. Two further critical defects in the present bill are its impacts on existing legislation. Section 511(d) of H.R. 11896 amends the National Environmental Policy Act of 1969—the act which has become the guardian of the quality of our lives—by adding to it a loophole such that certification of water pollution permits would constitute compliance with NEPA. Under present interpretations, the issuance of such permits would have to be reviewed by agencies of the Federal Government to insure that approval of the permit took into account environmental impacts; the proposed amendment to NEPA would remove that requirement for review.

Such a weakening of NEPA should not be allowed, certainly not without greater analysis of what it would imply. The Committee on Merchant Marine and Fisheries has jurisdiction over NEPA and is presently holding hearings on this very problem of permits. Surely any action to amend NEPA should await the careful scrutiny of the appropriate committee. We should all, therefore, support the clean water package of amendments which excises the subsection affecting the requirements of NEPA.

The second legislation affected by H.R. 11896 is the Fish and Wildlife Coordination Act. Under present law activities impinging on fish and wildlife must be reviewed by the Fish and Wildlife Service before they are carried out, including such activities as permits for discharge of pollutants or for dredging and filling. H.R. 11896 would remove the requirement for coordination in the granting of permits for discharge and for dredge and fill activities. The committee report says it did not "intend—to decrease or limit the consideration of fish and wildlife," but this exclusion would certainly do so. Therefore, I again support the clean-water package of amendments, which specifically makes the requirements of the Fish and Wildlife Coordination Act apply to the permits for discharge and for dredge and fill.

Sixth. While H.R. 11896 recognizes the need for citizens to be able to sue polluters or the Administrator for not performing his nondiscretionary duties, the bill is defective in closely limiting who has standing to sue. According to H.R. 11896, those with standing to sue are citizens of the geographic area and having a "direct interest," and groups of the area having a direct interest, and, in addition, having actively engaged in the administrative process.

These limitations are too restrictive and confusing. Furthermore, they are regressive. The Clean Air Act of 1970 and the Noise Pollution Control Act adopted by the House on February 29 of this year make no such limitations. Who has standing is an issue which should be up to the courts to decide in each particular case. This defect is corrected in the package of amendments, which says any "person" may sue: the regressive limitations being stricken.

(7) The final major provision of the Clean Water Package of Amendments correct what is, I suspect, an oversight in the present bill. According to section 309(c), violations of the law or of permit conditions are subject to criminal penalties, but violations of a pollution abatement order by the Administrator of EPA are not. The clean water package of amendments correct this deficiency by inserting in the list of violations subject to criminal penalties, the words "any order issued by the Administrator." Without this correction, the Administrator would have no way to back up his directives to abate pollution.

Additionally, section 206 of H.R. 11896, establishes conditions for reimbursing States, municipalities, intermunicipal agencies, or interstate agencies for any publicly owned treatment works constructed by them for which the full Federal contribution to which they were entitled was not received. As presently written, section 206 designates as eligible for retroactive Federal assistance those projects that were initiated after June 30, 1966, but before June 30, 1971. An amendment offered by Mr. WRIGHT of Texas would extend the June 30, 1971 date to June 30, 1972, and I wholeheartedly support this amendment. It would mean reimbursement to the various States for funds expended in good faith during fiscal year 1972 for which the full Federal contribution was not immediately available. For my own State of Illinois, this would mean an additional $165 million in advance reimbursement funds, and would benefit the other States as well.

Mr. Chairman, H.R. 11896 is fundamentally a good bill. With the passage of the amendments I have cited, H.R. 11896 will be an excellent bill. The deficiencies I have listed and the corrections of the Clean Water Package of Amendments and the Wright amendment are important—so important that without the passage of these needed improvements, little progress in abating water pollution can be expected. But by making the goals of the bill firm by eliminating the requirement for further action after the NAS–NAE report; by reaffirming Federal control over the permit program rather than granting such power completely to the States; by insuring that the possible impacts of abatement orders on employment are considered; by striking the immunity clause from the bill which would allow pollution to continue until 1976 without penalty; by removing the restrictions on the National Environmental Policy Act and the Fish and Wildlife Coordination Act; by providing every citizen the right to sue for relief from water pollution; and by establishing sanctions for orders of the Administrator, this bill is made workable, is made truly a protector of our precious waters.

These amendments deserve the support of everyone—everyone in this Chamber and everyone in the Nation. They are not anti-industry, or anti-any group: they are antipollution. That is the purpose of this bill, these amendments, and of our actions today—to clean up our rivers and streams, our harbors and estuaries, so that we and our children may live better. I believe that H.R. 11896, with the passage of these amendments, will provide for that cleanup. I urge each and every one of my colleagues to join with me and the 40 introducers of these amendments to vote "yea" on them. And to vote "yea" for H.R. 11896 as thus amended.

LIMITATION OF DEBATE ON AMENDMENTS

Mr. JONES of Alabama. Mr. Chairman, I ask unanimous consent that debate on all amendments to the bill conclude 2 hours after the Committee of the Whole House on the State of the Union resumes consideration of this bill tomorrow, Wednesday, March 29, 1972.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. JONES of Alabama. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

HOUR OF MEETING TOMORROW

Mr. JAMES V. STANTON. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. HALL. Mr. Speaker, reserving the right to object, may we have some announcement of the intended program in addition to the unanimous-consent request just agreed to, when we meet tomorrow?

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. GERALD R. FORD. I understand that we have two other bills on the whip notice—one is the Coast Guard authorization and the other is the Maritime authorization. I think the gentleman is specifically asking whether those will be on the program tomorrow; is that correct?

Mr. HALL. I would say that that is among the questions the answers to which I would like to know before we allow this unanimous consent request to go through.

I would like to know if the previously announced Ways and Means Committee bill is going to be brought up under

unanimous consent, and any other program that might be planned in addition to the 2-hour stint.

The SPEAKER. The Chair hesitates to make this announcement, but the gentleman from New Jersey has some privileged resolutions from the Committee on House Administration.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. BOGGS. Mr. Speaker, I announced yesterday that besides the regular program, we would consider by unanimous consent a bill from the Committee on Ways and Means plus six money resolutions from the Committee on House Administration.

Now whether or not after we have concluded that business we would have time to consider the authorizations listed on the whip notice I do not know. If it is not too late in the afternoon, I think we would take up at least one of them and, if not, they would go over until after the Easter recess.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman.

Mr. BYRNES of Wisconsin. If the gentleman has objection to the bill from the Committee on Ways and Means, I would see no point in calling it up, and I am sure the chairman would not call it up. I do not know why that would interfere necessarily on the question of the time for the House to meet tomorrow. If the gentleman would like to have my assurance, I will guarantee that the bill will not come up. I will object myself, if that is the gentleman's desire.

Mr. HALL. That is the kind of talk I like to hear. Do I hear any others?

Mr. BYRNES of Wisconsin. Does the gentleman desire that the Ways and Means Committee bill be taken off? I would like an answer to that question.

Mr. HALL. Yes, Mr. Speaker.

Mr. BYRNES of Wisconsin. All right, then, it will not be called up.

Mr. HALL. I do understand about the House Administration investigating resolutions. I have no objection to them. Would it be the intention to program them before or after the 2-hour stint to which we have just agreed after completion of the antipollution bill?

Mr. BOGGS. It would be my intention to program them after we have completed this legislation.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TRUTH ABOUT MEAT PRICES HEARINGS APRIL 10 AND 11

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, the war of words on food costs and inflation is generating more heat than light, and half truths circulate galore.

The White House has its own Punch & Judy show in progress, with its puppets espousing both sides of their own self-made verbal battle, to attract voters of clashing views.

Secretary of Agriculture Dr. Earl L. Butz is cast as a villian to consumers and hopefully as a hero to farm voters, in a curious charade in which C. Jackson Grayson, the little known chairman of the Price Commission, and Virginia Knauer, the President's consumer adviser, speak for the other side. They wallop each other with all the zest of Barnum & Bailey's most experienced clowns, hopefully to the delight of everyone in the national audience whether pro or con.

Secretary Butz, in a clumsy attempt to appear to champion the cause of the beef producer, told his audience in Atlanta last week, "The price of steak is just right." Obviously the Secretary has never talked to housewives in front of a meat counter. There never has been a time when that ultimate was attained—because steak prices in the eyes of the buyer and in the family budget are invariably considered high. But it was considered a good act for the man who had only recently raised red meat import quotas 10 percent over last year's imports.

If you are selling—and the farmers and ranchers are always on that end as far as meat is concerned—the best sales technique is to listen to your customer and explain the advantages of your product. To start an argument with consumers, as Secretary Butz' speeches have done, and slyly infer that organized labor is the real cause of higher food prices, does not provide the rebuttal facts that should be provided for the inquiries of Mr. Grayson and Mrs. Knauer.

The most curious aspect of this series of episodes, leading to full-page ads by food chains advising their customers to avoid buying red meats, is that the wholesale price of choice steer beef at Chicago has dropped 5 percent or $3.07 per hundredweight during the past 60 days. All the recent rhetoric, all the claims and counterclaims, cannot refute the facts of the marketplace. Farm and wholesale beef prices are down and the decrease should have a measurable impact on the retail pricing system of the chain stores. Last week's wholesale price was $55.15.

I was shocked at the retail meat price figures for February which I just obtained from the Department of Labor. It showed the national average price of every cut of beef went up in February, while the wholesale price of beef was going down.

The week of January 29, choice beef carcasses in carlots at Chicago sold for $58.22. The week of February 26 they were down to $57.17 or $1.05 per hundredweight. But during February choice round steak went from $1.44 average per pound in January in major U.S. cities to $1.51 per pound—7 cents a pound higher. Boneless choice rump roast went up from $1.41 to $1.48 per pound—up 7 cents. Hamburger went up from 70.8 cents a pound to 73.2 cents or 2.4 cents per pound. Choice chuck rose from 79 cents to 84 cents. Sirloin steak went up from $1.49 to $1.54, or 5 cents.

Chairman Grayson calls for a Price Commission hearing on meat costs for April 12 and he should have facts and figures such as these:

First. Red meat wholesale prices for meat produced in the United States since July of 1970 are hardly up at all. I have looked up carlot prices at Chicago July 18, 1970, and March 18 this year, and here is what I found:

	Per hundredweight	
	July 18, 1970	Mar. 18, 1972
Price of beef [1]	$50.50	$55.15
Price of pork [2]	55.62	51.10
Combination	106.12	106.25
Percentage increase		0.1

[1] Choice steer beef, carlot price Chicago.
[2] Average of 8–14 pound loins, Boston Butts and spareribs.

Second. Imported hamburger meat has increased 8 percent between August 12, 1971 and March 20 of this year. The wholesale price on this low-grade hamburger meat last week was 67 cents per pound. Imported meats are given only a slipshod inspection for sanitation and wholesomeness and end up for the most part in hamburger and hot dogs and are not the best buy either in nutritional value or dollar value.

Third. Eastern prices on beef are substantially higher than Midwest or western beef prices. This is not accounted for by freight costs and reflects a different pricing policy—even within the same chain stores. It indicates that larger profit margins are charged up to consumers in the big eastern metropolitan centers where, after all, most of the Nation's beef supply is consumed. The wholesale price of beef is the same for an eastern supermarket as it is for a Midwest supermarket except for 1 cent per pound for freight and yet the average retail price on beef cuts is running up to 40 percent higher in the East. This could be a clear case of deliberate consumer gouging.

Judge for yourself from these January Bureau of Labor Statistics retail prices in Chicago as compared to five metropolitan centers in the populous Northeast.

	Chicago	Baltimore	Washington	New York	Philadelphia	Boston
Round steak	1.22	1.62	1.42	1.71	1.60	1.73
Rump roast	1.24	1.55	1.45	1.51	1.58	1.47
Hamburger	.72	.76	.69	.94	.74	.83

In an election year any damn fool thing can happen, but I believe it is time to blow the whistle on some of the far-out verbal baloney that is being thrown around to attract voting blocks. In the long run consumers and producers, farmers and labor, have a common goal—each strives to survive and progress. If there is any political gain by inciting one group against another, I am sure it is a shallow gain only hurting us in the long haul.

If this country continues as it has for 200 years we shall continue to raise the standard of living of the people and part of that will be an increase in red meat consumption. We will want to provide it at fair prices. Production costs are extremely high and are locked in, but there is evidence that distribution costs, at least in some areas, are higher than necessary. That is the area that we should be looking at first.

The President's appointments to membership on the Price Commission and Pay Board failed to include anyone representing agriculture. This failure to include representatives from this most basic of our industries perhaps explains the quandry now evidenced by administration officials. Chairman Grayson's Price Commission requested hearings on food prices reflects an absence of facts concerning food production costs, and the existing markets on agriculture products and the pricing policy of food wholesalers, jobbers, and retailers.

It is apparent that a serious void exists for information on food costs within the Price Commission. Representatives of agricultural producers can supply factual data on markets and available food supplies.

Yesterday, I called hearings before the Agricultural Task Force of the Democratic Study Group to assemble and sort factual information on agricultural production and costs for April 10 and 11.

Chairman GRAHAM PURCELL of the Livestock and Grains Subcommittee of the House Agriculture Committee was also setting hearings for the same purpose on those same dates.

The official hearings are preferable, and I am pleased they have been called.

The transcript should provide Chairman Grayson, as he goes into his April 12 hearings, information so he may know that farmers and ranchers are not causing inflation—they are the goats of the inflation he is failing to control.

IF I SHOULD DIE

(Mr. CABELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CABELL. Mr. Speaker, in January 1969 I had the privilege of giving a principal appointment to West Point to a young man then serving in Vietnam. This young man had volunteered in service to his country and had been commissioned on the field of battle. His tour of duty would have ended with his entrance into the military academy.

But before this could take place—he was killed by a Communist bullet April 9, 1969.

Only last week I was furnished a copy of his last letter to his father. I am extending this letter at this time in the RECORD, with the hope that every Member of this body will read it. This letter is typical of the love of country and bravery exhibited by thousands of young men who have given their lives in protest of Communist tyranny.

After reading this letter I hope that you will give sober thought before advocating blanket amnesty to those who fled to other countries to avoid the draft, or even worse, deserted their posts of duty and sought foreign sanctuary.

IF I SHOULD DIE

If I should die during my tour in Vietnam, I want my parents to read and understand the following:

1. I came here by choice, I joined the Army by choice, I chose to become an Infantry Officer. It was my destiny to become a professional soldier. It (Fighting for my country—right or wrong) is a job that must be done. It is a job I feel I am best at.

2. The American people too often forget what the Flag stands for—I am a Patriot, I believe in our country, and I believe in our system of government—I Feel that My country is worth Fighting for and if need be dying for. The Country we have today was not built by the weak, and the disbelievers—It was built with the blood of men who felt they had something worth dying for. I think it is the duty, the right, and the privilege of every American to fight for this country. It has to be this way, and thank God there are still Men left who believe. The people in the streets who protest our country and its policies have that right to protest only because Men believed enough in the system to give their lives for it. There are still Men with dreams and Ideals that they feel are worth fighting for. This is what I also believe in.

If I die it was for a reason, my life bought something, it was not wasted, I believe this, otherwise I would not be here.

I am a believer, a dreamer, a patriot, and most of all a professional soldier in the United States Army, from the bottoms of my boots to the top of my steel hat. I feel proud and honored to serve for my country and with men who believe.

My Life Was Not Wasted.
Your Loving Son Bruce.
Thank You For Everything.

CAN WE AVOID A GREAT AMERICAN TRAGEDY?

(Mr. HALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HALL. Mr. Speaker, it is indeed significant that on this day when we find ourselves embroiled in debate over what will probably become landmark antipollution legislation, I have received a copy of past remarks, made by my lifelong friend, Mr. Joseph W. Rittenhouse, group vice president, electrical products of the Joslyn Manufacturing Co., Chicago, to the National Association of Purchasing Management in Denver, entitled, "Can We Avoid a Great American Tragedy?" Mr. Rittenhouse discusses the demands made on the electrical industry, not only by the users, but by the environmentalists as well. In his remarks a series of question are:

Can we as a Nation survive without the basic industries that have been the muscle and cartilage binding us together for nearly 200 years? He answers with three other questions:

1. Where are we? Squarely in the middle, caught between conflicting forces in a seemingly unbreakable grip. On the one hand those who want to flip the switch and partake of the $100 billion in plant and equipment that supplies 1.5 trillion kilowatt hours per year. While on the other hand, the counter demands for less pollution at any cost.

2. How did we get there? From zero a scant 90 years ago to present day investor owned segment that employs nearly 400,000 people; paying them more than $2.5 billion annually, and paying taxes to the tune of $3.5 billion in 1970. Balance this off against the impossibility of satisfying demands for more of everythng, at a zero rate of pollution growth, with industry as the sole culprit rather than the highway litterers and those who generate the 360 million tons of solid waste per year.

3. Where do we go from here? The government must stop over regulation, conflicting policies, and indecisions which affect essential, massive project and increased costs which in turn will be paid by each of us. The environmentalists must become more realistic in the goals they seek, with the knowledge that the real polluter may be the one who flips the switch rather than the one who supplies the electricity but do we dare to turn the electricity off?

Mr. Speaker, there is much in what Mr. Rittenhouse has to say. I offer his remarks for the enlightenment of all:

CAN WE AVOID A GREAT AMERICAN TRAGEDY?

(By Joseph W. Rittenhouse)

Today we may be facing the most demanding set of contradictions ever confronted by industry, not just ours, but by all of industry and, in fact, by the very roots of our capitalistic society.

Whether the power business can survive is a monumental question; but, monumental as it is, it fades to insignificance in the shadow of the threat to survival of our entire social system.

As I see it, we are a spoiled people. Our national history is a nearly 200 year distillation of the electoral process into the simple question: which candidate has promised the most for the least?

So long have the American people been promised more for less that great masses of them now insist upon privileges as rights, and woe unto the politician who dares approach election day on a platform of economic privation or self-denial.

By giving impetus to a burgeoning bureaucracy and appeasement to our mollycoddled masses, our "promising" politicians have succeeded in virtually denuding the country of its radio production, and television is not far behind.

Every significant producer of automobiles in the country has established major holdings in foreign companies; I suspect as a hedge against the day when federal paternalism chokes the life blood or profit out of their domestic operations.

The steel industry is staggering under the trip hammer blows of our managed economy and foreign labor rates.

Textiles, clothing, and perhaps even food itself, are someplace in the queue of industries that leads to the sewers of self-destruction designed and built by greed, a greed that has learned for nearly 200 years that the masses cast more votes than management, and they respond more gleefully to the euphoria of the give-away than they do to the soberness of self-sacrifice.

By now, I have opened such a Pandora's box that we could spend the rest of our lives debating how best to get the lid back on.

I have raised the question: how can we as a nation survive without the basic industries that have been the muscle and cartilage binding us together for nearly 200 years? My major purpose today is to concentrate on the implications of these generalities to our industry.

Where are we? How did we get there? And where can we go from here?

I believe that the answers to these questions will reply to the query "Can we avoid a great American tragedy?"

WHERE ARE WE?

I guess this depends upon your point of view, and I think that I was invited to speak from my point of view.

XUM

XUM

We are at a pinnacle of achievement unmatched by any other industry in any other nation in the world. In the short span of about 90 years, the investor owned segment alone has risen from virtually nothing to the mighty stature of a 100 billion dollars investment in plant and equipment. An investment capable of supplying man's needs for 1.5 trillion kilowatt hours per year, and capable of responding instantly at the flip of a switch with a nearly 100% perfect record of satisfying the demand.

From the point of view of the bureaucrat perhaps the most confounding aspect of this gargantuan achievement is that throughout its entire growth our industry has rarely failed to pay taxes on real profits; it has rarely reached for the federal dole; and it has continually reduced the price of its product. The self-same kilowatt hour that cost 11.2¢ in 1906 can be bought for about 2¢ today.

Perhaps it is jealousy that prompts our critics to characterize us as nasty conniving monsters, belching fire and noxious fumes into the atmosphere, killing babies with mysterious and sinister radiations, and scalding the very rocks into which the innocent fish are lured to deposit their eggs.

Perhaps also there is a thread of reason in the concern that they express for our ecology. Whatever their motivations, though, it seems clear that however great are our accomplishments, we are today precariously balanced on a razor's edge. On the one hand there are the demands of the people for more power for less cost. On the other hand, there are the counter demands for less pollution whatever the cost.

It is not enough that we must get as many as 40 different approvals to build a generating station; we are expected to do this and continue to meet society's demands of more for less.

It is not enough that we must tolerate seemingly endless delays in getting rate increases; we must suffer the debilitating impact of reduced ratings for bond issues which, according to the Wall Street Journal, a Standard & Poor's official has attributed to "lagging increases in rates" and consequent declining margins between earnings and fixed charge debt payments.

The conflicts of our dilemma would seem irreconcilable to a less formidable adversary than we. Our heritage, though, is rich in the surmounting of Herculean odds.

In the 90 years of our growth, we have honed to a razor's edge the knife for cutting through the persiflage and duplicity of the heckling obstructionists. We have become exceedingly adept at defining the problem, evolving its solution, and implementing that solution. Our deliberateness and efficiency thoroughly confound the harbinger of doom whose perch is supported by a pipeline to the trough of federal gratuities.

Nevertheless, here is where we are. Squarely in the middle, caught between conflicting forces in a seemingly unbreakable grip.

Let us proceed then to examine my second question: how did we get there? How is it possible that we could have fallen into such a seemingly bottomless pit?

Again, we are at a question of point of view, and again I choose to take my own.

It all began with our gigantic bootstrap operation.

Starting with direct current generators belted to reciprocating steam engines just before the turn of the century, we have expanded our technology to allow construction of single shaft turbogenerators having maximum ratings of 150 megawatts in 1950, 350 megawatts in 1960, and 800 megawatts in 1970.

From zero a scant 90 years ago, we had nearly 3,500 generating stations in 1970, and, as I have already said, the investor owned segment of the industry had about 100 billion dollars in plant and equipment in 1970.

From zero the investor owned segment alone has grown until it employs over 372,500 people; paying them more than 2.5 billion dollars a year, and it paid taxes to the tune of 3.5 billion dollars in 1970.

From zero we have made it possible for more than 90% of the homes in this country to contain refrigerators, radios, washing machines, television sets, and vacuum cleaners.

From zero we have advanced the technology of electric power transmission from the hundreds of volts level to the 765 kV level, and we have established a level of reliability that is second to no other industry in the world.

In a nutshell, our industry has performed a miracle, a miracle of technological advance through self-improvement, and all of this in spite of the tirades of the hecklers, the opportunists, and the headline seekers.

Where then have we gone wrong? If we are so great, how did we end up in such a bind?

I think that Mr. George J. Bloom, Chairman of the Pennsylvania Public Utility Commission, succinctly summarizes one link in the sinister chain of circumstances. On January 26, speaking before the New York Society of Security Analysists, he said:

"Beginning about 1967 . . . What happened to the electric industry was that the trend lines from which it projected public demands for service, and which had proven reliable in the past, suddenly became unreliable.

"Public use greatly exceeded the predictions, and the industry—until then quite comfortable in the knowledge that it had ample generating capacity—confronted a demand that dangerously reduced reserves, and created the strong probability of brownouts and blackouts.

"The particular difficulty which this phenomenon caused for the electric utilities arises from the fact that a generating station requires five or more years to translate drawing-board plans into a fully operating plant, without the roadblocks we experience today."

He goes on to comment on the financial implications of a rapid corrective reaction by the utilities. He points out, for example, that prior to 1968, the seven utilities in Pennsylvania had a net plant investment of about 3.5 billion dollars and that between 1971 and 1975, they will invest 5 billion dollars in new plant and that 3.9 billion of that ". . . will have to be raised in the capital markets.".

He takes cognizance of the reality that ". . . when all the utilities began competing at the same time for huge chunks of investors' money, the cost of that money also moved upward. First mortgage bond money, which had cost 3.5% in the mid-fifties and 5% in the mid-sixties, moved up to cost in the 8% to 9% range by 1970.".

Then he takes the bit in his teeth and summarizes in a few short paragraphs the crux of my next point. He cites ". . . the public's increased service requirements . . ." as the trigger that forces the utilities into new plant construction which in turn ". . . obliges the utilities to sell securities . . ." which establishes the responsibility of the commission to allow ". . . a rate level sufficient to make the securities attractive".

He says, "If I don't do my job . . . (by allowing reasonable rate relief) . . . the utility cannot sell its securities, the plant construction will not take place, and the public will find service in short supply.".

As Mr. Bloom points out, the general public does not understand the relationship between rates that will attract capital and reliability of electric service.

My point is that unscrupulous politicians do understand it, and they also understand that the masses will vote for one who opposes a rate increase; so, as Mr. Bloom says, they call the regulators "cats' paws" of the utilities then they oppose the rate increases. In Bloom's words, "If the political demagogues had their way—if four years from now the householder pushed his wall switch and the lights did not go on—the politicians would disclaim any responsibility and charge the regulatory commissions with neglect of duty."

Between the election-hungry politicians, the power-hungry people, and the skyrocketing cost of money, then, we have all the makings of a real donnybrook, but there is still another link in the chain to compound our sorry plight; the ecology!

There simply has been no way to satisfy the demands of the people for more of everything, including power, at a zero rate of pollution growth, but industry alone is not the sole culprit.

Some of our most accomplished polluters are the garbage skows of New York, the incinerators of Chicago and the beer drinkers and automobile drivers among the people. Cans and soft drink and beer bottles constitute 17.7% of the litter on our highways.

It costs 4.5 billion dollars per year to dispose of the nation's garbage.

We, the people, generate 360 million tons of solid waste per year, and by 1980 we will increase this to enough to build a pile 10 feet deep from Los Angeles clear past New York and into the Atlantic Ocean.

When the question of pollution began to get serious attention, as I'm sure it should, it was immediately seized upon by every vote-hungry headline seeker in the land.

The clarion call to action was picked up by the long-haired malcontents, the holier-than-thou do-gooders, and all the other rabble rousers who would much rather march than work.

The sincere and conscientiously concerned ecologist was quickly lost in the clamor for an audience, and this is a shame because he is a reasonable man and we all could have worked in harmony with him to satisfy all of our major requirements.

"Now" (if Mr. Lincoln will forgive me) "we are engaged in a great civil war . . ." testing whether our great industry or, indeed, this great nation can much longer endure.

The answer to how we got there then is really sort of simple. Over the decades:

1. The people, spoiled by the politicians' perpetual promise of more for less, have demanded more power.

2. We have responded to these demands with speed and efficiency.

3. Exponential growth of population has produced exponential growth in demand. Satisfaction of this demand has caused some cluttering of our environment.

4. The enormous value of our contribution to society has exaggerated our profile on the horizons of pollution.

5. The vote seekers and headline hogs, attracted to this profile, have singled us out for such castigation as will serve their selfish purposes.

6. The money market's coincidental response to massive demands has been substantial escalation of prices.

The combination of these six circumstances has put us across the proverbial barrel, and the situation could soon be ripe for the classical stupidity of a hue and cry for government take-over, and this brings me to my third question:

Where can we go from here?

Dr. John J. McKetta, the E. P. Schoch Professor of Chemical Engineering at the University of Texas, expressed some views relative to this question in the 1971 annual report of Dresser Industries. Dr. McKetta served in 1970–71 as Chairman of the Advisory Committee on Energy to the Secretary of the Interior.

On the subject "Energy—a Growing National Crisis", and more specifically in response to a question as to whether or not our problems all boil down to a matter of money, he says:

"Not entirely. As a matter of fact, as the energy crisis grows, money may eventually be the easiest part of the solution. The more difficult problems lie in the areas of establishing more realistic government policies and setting environmental standards that can be economically attained . . ."

Still speaking in terms of energy in general, he says:

"The government must stop over regulation, conflicting policies, and indecisions which affect essential, massive projects and increase costs which in turn will be paid by each of us.—The environmentalists must become more realistic in the goals they seek."

Still speaking of the supply problems of energy in general, he says ". . . we need an informed public . . ." and ". . . an enlightened government . . .". He goes on to say, ". . . too many people, including some of our national politicians, simply refuse to recognize the plain hard facts. They think someone will always come up with a magic solution and the problem will go away.".

The challenge is clear.

The bandwagon politicians in league with scaremongers and irresponsible self-servers, have spun a thread of truth into a mighty cable with the potential strength to pull down the greatest society in all of history. We can parry their thrust if we can arouse the people with the facts, and above all else, continue to satisfy their demands for more power.

I need not dwell too long on the dimensions of their future demands. The statistics are almost commonplace:

1. Electric Light & Power says that housing starts will increase 18% in 1972 and another 18% in 1973.

2. Eleven billion dollars worth of electric appliances will be produced this year. This is 4.2 billion more than was produced 10 years ago.

3. Virginia Electric and Power Co. reported a 12% increase in annual residential use of electricity last year over the previous year.

4. A single Chicago plant requires 4,000 kilowatts to grind up junk automobiles for re-melting.

5. We plan to spend 13 billion dollars on new plant and equipment in 1972, and nearly 14 billion in 1973.

6. The Atomic Energy Commission projects that nuclear generating capacity will expand to 150 million kilowatts by 1980, and 123 million of it is already under construction or on order.

7. Electric Light & Power says that by the year 2000 we will double the size of our plant four times.

8. They say that we will add 1,000 power plants at a cost of 480 billion dollars by 1980 and 269 of those plants are now under construction.

9. They also project a total plant investment of 600 billion dollars by 1990.

I think we can satisfy the demands.

The problem is how do we reach the people with the facts? The politician who jumps on the environment theme and castigates the power industry has a platform that is not available to us. He is running for office and we are not. By the time we can respond to his charges, he is off to a new television interview where a whole new set of charges are made, and we are slaughtered by the lightning blows of his trip hammer approach.

Our only recourse is to a patient and persistent indulgence in facts with all our available resources. We must counter every half truth with a truth; we must convert innendo to fact, but we must get our message to the masses who vote.

It does little good for us to talk to each other as we are doing today. We must organize a massive effort to reach the platforms of the Rotary Clubs, the garden clubs, the college campuses and the public schools.

We dare not overlook the assembly halls of our schools because our children are daily being shown our stack plumes by teachers who would rather conduct inspection trips than teach.

The people must learn that the real polluter may be the one who flips the switch, rather than the one who supplies the electricity, but part of our problem is that we dare not demonstrate this by turning the electricity off.

We can't even refuse to accept any new load. To do so would simply unleash new charges of unreliability.

We can certainly tell the people the truth and we won't have to look very far for half truths to rectify. The fakery of the witch's tales about nuclear plants is ripe for exposure, and typical of the job that we must do is the strange case of Dr. Ernest J. Sternglass.

Dr. Sternglass, of the Department of Radiology, University of Pittsburgh, recently charged that the infant mortality rate in Illinois began a "sharp climb" in 1964 with a "peak in 1965 of 25.6 per thousand births", and he tied this to Commonwealth Edison's nuclear power station at Dresden, Illinois. Dr. Sternglass failed to mention that while this nuclear plant continued in operation during 1966 to 1969, the infant mortality rate in Illinois began a steady decline to 22.4 in 1969.

In his statement, he referred to higher infant mortality rates in the "downwind" counties adjacent to the Dresden plant. Yet meteorological data indicates that the predominant wind in the Dresden area is away from the counties cited by Dr. Sternglass.

It required time and expert testimony of scientists, physicians, and bio-statisticians to repudiate this man's allegations.

Perhaps somebody should tell Dr. Sternglass that a transcontinental airplane trip exposes him to more radiation than he would receive in a year's residence adjacent to a nuclear power plant.

Then there is the case of the missing "not".

On February 1 of this year, the Chicago Tribune ran a story that Commonwealth Edison was considering closing down its Dresden Unit I because of excessive radioactive emissions. The truth is that the plant was shut down for refueling.

The next day the Tribune ran a correction, a small one hidden in the inside pages and admitting that a quote from a biophysicist at Argonne National Laboratory should have said the emissions from the plant were not dangerously high. In its initial big-headlined story the Tribune had omitted the word "not".

Indian Point # 2 has now been delayed for three years by militant environmentalists. In the meantime, Johnny Carson continues to poke fun at Con Ed's power supply problems.

Quad Cities has stood idle for over five months while the courts consider the cases of environmentalists. This plus the plight of Point Beach Plant could result in Commonwealth Edison's having to operate with extremely skinny reserves this summer. Somebody must insure that the people get the facts in these cases because if power shortages occur you can be sure that your friendly newscaster will lay the blame to poor planning and bad management.

In the non-nuclear area, even Arthur Miller, the playwright, has had his day, and who would dare dispute his authority. When Connecticut Light & Power Co. recently sought a route for a 345 kV line he charged that they were seeking ". . . approval of a project which cuts a mile wide corridor down the State of Connecticut for a distance of 70 miles."

The actual width of the proposed right-of-way, of course, was 250 feet, not 5,280.

Typical of wholly irresponsible heckling is a report prepared recently by three undergraduate students. They were employed for the summer by the Wisconsin State Attorney General's office under a Students to Oppose Pollution Program.

They charged the utilities with not using such methods of pollution abatement as tall stacks, low sulphur coal, tangentially-fired boilers, electrostatic precipitators and cooling ponds, when in truth the utilities were using all of these techniques.

Where then do we start?

Let's dispel the myth that electricity comes out of the wall. Let's dispel the myth that we are irresponsible, money grubbing polluters. Let's dramatize the miracle of electric power until it transcends the federal give-away as man's great benefactor.

I suggest a direct mail campaign using the routine electric power bill as a vehicle. At a cost little greater than the ink to print it we can tell each householder what his monthly contribution to pollution was. We need simply print on his bill the number of equivalent pounds of coal that were burned to produce his kilowatt hours.

We can tell him on a routine and frequent schedule how many dollars are invested in generation, transmission, and distribution equipment to insure satisfaction of his kilowatt requirements.

We can tell him how many dollars in taxes, labor, and other expense are spent to guarantee that his lights will respond instantly to his light switch.

We can even show him with a series of mailing pieces exactly how the energy in a piece of coal is converted to serve his needs.

Obviously, we will have to digress from the language of the engineer. Minds that are attuned to Pogo will not respond readily to the partial differential equation; but Disney built a fortune on knowledge of how to appeal to the masses. His techniques are available to us.

I suggest a massive cooperative effort to reach the popular platforms and their audiences. An activity reminiscent of the flying truth squads of Eisenhower might even become appropriate.

If this seems a little revolutionary, then I have made my point. If it seems old hat in the sense that you think we're already doing it, then we've been wasting each other's time.

I'm talking about a vigorous, hard-hitting program of activism in which we energetically search out the source of the big lie and attack it in its favorite haunts.

We select from throughout all of our industry the finest communicators that we have.

We organize them into a dynamic task force available for use all over the land.

We equip them with all of the education and facts they can absorb relative to the issues of the moment then unleash them upon the dealers in half-truths wherever they may be.

The women's clubs, civic groups, college assemblies, and public schools are fertile fields in which to spread the seeds of truth.

Can we avoid a great American tragedy? I wish I could say.

We have come a long way. Our path is lined with accomplishments that were not really possible.

Unfortunately, just as we are on the verge of even greater miracles we find ourselves beset on all sides by vicious howling packs bent, however innocently, on bringing to a halt everything that does not look to Washington for direction and support.

In the words of Thomas Sheppard, Jr., Pub-

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lisher of the late Look Magazine, "Free enterprise is a relative newcomer as a method of commerce. It could vanish as quickly as it came, and there are signs that it may be on the way out.".

Where can we go from here? The goals are clear; 600 billion dollars in plant, 1,100 generating stations, eleven billion per year in electric appliances, and on and on and on . . . if! If we can overcome the distractions of those who would bring us to our knees before the graven images of the welfare state and a federally controlled economy.

Woe unto us when Betty Furness prevails in her insistence, as Sheppard says, on a law requiring manufacturers to tell ". . . not only what they know about a product but also what they don't know.".

We can achieve our goals, and we can avoid a great American tragedy, but only if we match fact to lie with a vigor that overwhelms. Failing in that we are doomed to lose our freedom—a freedom that Shepard says has many facets including ". . . an individual's right to live in a manner of his own choosing, even if his selections are not the most efficient or the most salubrious or the most esthetically pleasing, in the eyes of a government bureau. It includes his right to buy and eat the least nutritious breakfast cereal, if he happens to like the taste. He may even buy a product that is not the most economical of its kind. It's his decision, his choice, his responsibility.".

Can we avoid a great American tragedy? I think we can. Whether we will or not is the real question. The odds are bad, but I have seen us overcome great odds before. This time success or failure by our industry determines more than in any previous crisis the fate not alone of industry, but of the greatest society in all of history.

Gentlemen, if you don't like my proposal, in heaven's name develop one of your own because this time we dare not fail.

AMNESTY OPPOSED FOR THOSE WHO FAILED TO ANSWER CALL OF THEIR COUNTRY

(Mr. GOODLING asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GOODLING. Mr. Speaker, as the war is winding down in Vietnam, there are some in our midst who are contemplating extending amnesty, conditional or otherwise, to those Americans who ran from the boundaries of the United States to hide in foreign lands for the purpose of escaping military duty in Vietnam.

I am vigorously opposed to extending such amnesty, and I have today introduced legislation designed to thwart any grant of pardon to those who failed to answer the call of their country.

I feel these escapees are utterly undeserving of amnesty.

For one thing, these individuals have deserted their country in its time of need; hence, they have been morally wrong. Other American citizens might have differed with the effort of the United States in Vietnam, but they still responded to their country's petition for service, subordinating their personal feelings to the will of their Nation.

In effect, these draft dodgers and deserters have accepted their country on a conditional basis; that is, only when things are pleasing and acceptable to them. These "conditional patriots" must realize, of course, that while American citizens have a multitude of privileges, they also have corresponding responsibilities. A major responsibility is an allegiance to country, a resolve to serve America in its time of need. In brief, these individuals committed a breach of obligation.

For another thing, these persons broke faith with those who responded to the call of duty. Many of those who went forth to fight did not live to return to their homeland, while many others returned with injuries and ailments suffered in the line of duty. Amnesty, then, for those who ducked military service would make a mockery of the sacrifice made by those who obeyed the call to national service and fulfilled their enlistment oath.

Furthermore, these escapees from military service violated the law, purely and simply. The fact that conditions are continuously improving in Vietnam does not change the fact that these individuals who fled the United States and sought safety abroad from the draft and military assignment were breaking the law. They should be dealt with accordingly.

Fundamentally, a national security issue is involved in all of this. If amnesty were extended these draft dodgers and deserters, it would encourage others to avoid their obligation to military service, both in the present and the future. There would be no need to answer a call to the colors, because failure to do so would be excused.

Those who have dodged the draft and deserted the military ranks must realize that if they return to the homeland they fled in time of emergency, they will have to plead their case before a court of law. In doing so, they will be satisfying both their own conscience and the law. Amnesty will be supplanted by justice, and it is, indeed, in their good fortune that while justice will have to be served, justice is not without mercy.

THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. ASPINALL) is recognized for 60 minutes.

Mr. ASPINALL. Mr. Speaker, like many Americans, I have been wrestling with the problem of our Nation's energy resources. I know that our Nation's greatness has been possible largely because of the availability and development of economical energy resources. I know that huge quantities of these resources will be required to conquer our national problems of poverty, unemployment, and environmental degradation. I know, too, that, if energy costs continue to escalate, our battle against inflation will be adversely affected. I firmly believe that the isolated blackouts and brownouts we have helplessly confronted in recent years are mere preludes to what will happen on a much broader scale if we fail to heed their warning.

I have been listening to spokesmen for environmental and consumer groups, the Government, and private industry, and they have agreed almost unanimously on one point: Our country is facing an energy crisis.

In conversations with representatives of each group over the past months, I have learned that there is unanimous agreement that public discussion, thought, and understanding of our total energy picture must be stimulated.

Each of these interests, quite naturally, defines the crisis in terms of its own point of view, and, if we are to deal effectively with the situation, these divergent points of view must be brought together. There is, however, no dispute on the following premises:

First. Our country has grown and prospered in great measure because of low-cost energy resources;

Second. Our consumption of energy resources is increasing more rapidly than our development of new resources;

Third. Even if new resources are developed, we must recognize their finite nature and guard closely this trust for future generations;

Fourth. Wanton degradation of the environment cannot be permitted.

The sum of these premises is that we are confronted with one of the major problems of this decade and one of the great problems of our time. Balances must be made, attitudes changed, and perhaps some alteration of our way of life is necessary. For if our future course is not clear, our present direction is.

Take electricity, for example. After World War II, consumption increased at about 7 percent per year. In 1970 it increased 9.2 percent over the previous year. By the year 2000 if present trends continue, this Nation will consume six times as much electricity as it did in 1971.

Crunches this year and next are inevitable, and it makes little difference in which section of the country you live. According to the Federal Power Commission, brownouts are likely in Chicago and Miami this summer. Shortages also may occur in the New York metropolitan area, southern California, large parts of the Southeast, the Midwest, and elsewhere. If nuclear powerplants now ready to operate remain closed by legal actions, the problems could multiply. Some kind of emergency legislation to permit the use of such facilities may be necessary.

With natural gas, the situation is more critical. The Washington Gas Light Co. in the Nation's Capital is accepting no new customers. A Chicago firm can meet only 30 percent of new demand for service. And other cities are experiencing similar difficulties.

The future is not much brighter. For, with less than 6 percent of the world's population, the United States today consumes roughly one-third of the world's energy production. Over the next 15 years, we are told, the demand for fuels and energy will double. Where will it come from, and at what cost?

At present, 96 percent of our primary energy comes from the traditional fossil fuels—petroleum, 43 percent; natural gas, 33 percent; coal, 20 percent—while the remaining 4 percent is divided between waterpower and nuclear power, an underdeveloped resource. Because nuclear plants take 7 to 10 years to plan and build, because technical and environmental questions have not been entirely satisfied, and because capital costs are high, nuclear energy is not likely to reach maturity as a major source of energy for many years.

For the short-term period, then, certainly for the next 15 years, we must continue to rely heavily on our traditional energy resources. And here we are confronted with a paradox: Despite difficulties meeting demand for gas, oil, and coal, geologists tell us the United States has enough of these fuels underground or offshore to last until the nuclear egg is hatched.

But paradox or not, abundance or not, we still have problems. As natural gas supplies fail, reserves and productive capacity of petroleum in the continental United States decline and determination to protect the environment impacts upon production and use of energy in all forms, dependence on energy sources over which we have no control increases.

Last year billions of dollars left the United States to pay for foreign fuels. That outflow can only be expected to increase substantially in the future.

Today about 25 percent of our liquid fuel is imported, mostly from Venezuela and Canada. By 1980, less than 10 years away, as much as 50 percent may be imported—the bulk of it from the Middle East—and it will not be cheap. I know that Americans are willing to pay for what they get, but we are all entitled to know we are getting what we pay for.

Why am I concerned about this trend? I am concerned because increasing U.S. dependence on foreign supplies will permit the seller to set virtually any price he wants. I use the singular word seller because with petroleum we now must deal with one entity, the Organization of Petroleum Exporting Countries—OPEC.

As our dependency grows, this 11-nation international monopoly could assume autocratic power over petroleum. And competition from other consumer blocs, primarily Western European countries and Japan, who also need more and more oil, will strengthen this power.

National security is a paramount issue. But the implications of the Organization of Petroleum Exporting Countries extend well beyond balance of payments and national security into the whole question of balance of power throughout the world. For, as Secretary Morton has suggested, OPEC's "demands may not always be stated in purely economic terms."

This country needs to take a hard look at its energy resource supplies. It needs to view these supplies in relation to projected demand, the reasons for that demand, and the governmental and industrial policies designed to balance supply and demand.

I believe there are alternatives to brownouts and blackouts, and alternatives to homes without heat and factories without power. I believe there are alternatives to foreign domination of our major energy resource, and alternatives to broad-scale social and economic disruptions. And I believe these alternatives need not be at the expense of a livable world. To the contrary, I believe they may insure a livable world for the future.

But interim solutions and stopgap measures are not enough. National problems require national thought and attention, not the first aid of temporary repair. Do not misunderstand, I respect the job being done by our administrators. Unfortunately, however, they do not always have the time to develop public understanding as they try to extinguish the brush fires in the energy resource area.

For these reasons the Committee on Interior and Insular Affairs has undertaken a project which I hope will stimulate rational discussion and lead to better understanding and practical solutions. In the last week or so, the staff put out a reader intended to acquaint committee members with broader dimensions of the problem.

I realize there is a superabundance of studies on the fuel and energy situation—more than 1,000, in fact, since 1962. Yet these studies more often than not fragment the overall picture. They look at the energy crisis in terms of offshore drilling, or gas shortages, or too many air conditioners, or not enough air conditioners, or blackouts, or too much economic growth, or not enough growth, or too much water pollution, or too many automobiles. And while the studies continue to proliferate—often oblivious to each other—so does the energy crisis.

A second staff report resulting from our study, therefore, will synthesize and evaluate some of the best of these studies. We are hopeful it will identify the major issues and provide a common ground for future discussion. Also planned are reports projecting supply and demand over the next 15 years—outlining what our resources are and what the demands on them are likely to be during this period.

In addition, the Committee on Interior and Insular Affairs plans hearings from April 10–18. These will bring together a range of recognized experts in an attempt to inform the Congress and the public of the dimensions of the energy crisis and explore alternatives to further crises over the next 15 years. We want these hearings to provide a platform for the best minds we can find, whatever their points of view.

At this point I do not contemplate any specific legislation coming from this project, which we expect to conclude by midsummer. Legislation may be called for at some future time, but that is not our intent now. At this time we merely want to gather the facts, and we want to do this without the constraint of trying to focus one eye on the problem and the other on the legislation.

I am pleased to say that Secretaries Morton and Connally are among those who will be appearing, and that an outstanding environmentalist, Dr. Barry Commoner, has agreed to testify. We welcome these men and look forward to receiving their views, and those of others.

I am disappointed to say that Ralph Nader has decided not to appear before this committee. For perhaps more than any other single interest group, American consumers will feel the impact of our fuels and energy crisis. As a spokesman for consumer interests, Mr. Nader's views would have been appreciated.

Finally, we know that the politics of energy involves special interests and firm points of view. In staffing the committee for these hearings, we have tried to avoid any conflict of interest. Because the burden of the energy crisis will fall heavily on the young, I want the young to be actively involved in helping to solve the problem.

In keeping with these goals, we have named Edward Weidenfeld, a New York attorney, as counsel on energy matters. Mr. Weidenfeld, though only 28, is a man of demonstrated intellectual ability, and he has never represented any energy firm, nor does he have financial holdings in any energy interest. I believe his selection symbolizes what the committee hopes to accomplish—a fresh, unbiased overview of one of our major domestic problems.

I am not a young man and I honestly do not know at this time whether I will run for reelection. I do know that a project of this magnitude, added to the heavy burden of existing committee work, will require personal sacrifice on my part and on the part of my fellow committee members. Yet this sacrifice is essential if we are to meet our responsibilities.

In deciding to confront these issues, I thought of the vast beauty of this land, nowhere more lovely than in my own State of Colorado, and of this country's greatness, and I thought of the New Englander who, like all of us, worried about his commitments. The lines were written by Robert Frost:

> The words are lovely, dark and deep. But I have promises to keep. . . .

The promise of abundant, low-cost energy has brought our Nation prosperity and growth. It will play a major role in achieving peace and in improving the quality of life for all of us. It is a promise that, together with the promise of a clean earth, we must keep.

At this time I shall be glad to recognize my colleague from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I thank the able chairman for yielding.

I am very, very pleased to hear from my chairman this public disclosure and explanation of the goals of the Committee on Interior and Insular Affairs and of the scope of the studies and hearings that are contemplated for the future. I believe personally this is one of the most important undertakings the Committee on Interior and Insular Affairs has ever launched. I think the chairman of the committee demonstrated his usual foresight and his usual statesmanship in putting together the essential elements of a successful study of this kind. He has assembled what I know to be an expert staff. He has given the staff an assignment that has taken them across the country already in their exploration of the facts and deep into the other studies that have been made on this subject. I think it is literally true that the future of the American leadership of the world in terms of our industrial economy is one of the very important stakes that will be involved in the study which is being conducted at this time by the committee. I am very proud of the committee decision to go ahead with it and commend the gentleman from Colorado for his leadership on this important subject.

Mr. ASPINALL. I wish to thank my friend from Oklahoma for his remarks and for his aid as we have gotten these proposed hearings thus far.

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I yield to my good friend from California now (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I should like to congratulate the distinguished chairman of the Committee on Interior and Insular Affairs on his remarks concerning the fuel and energy crisis.

I certainly agree that we have an energy crisis of potentially staggering magnitude facing us today.

It is imperative that our Nation take immediate and forthright steps to meet this crisis.

The distinguished gentleman from Colorado has accurately defined the basic problem.

As he stated, our consumption of energy resources is increasing much more rapidly than our development of new resources for the production of energy.

The fact that 96 percent of our energy comes from traditional fossil fuel sources emphasizes the great drain which these resources are undergoing.

At the present rate of increase in consumption, these fossil fuels will last for only a brief span in man's existence on this planet.

Many of us find it hard to realize that mankind has consumed more energy since 1940 than it did in all of recorded history up until that time.

This means that in order to adequately cope with energy demands in the face of decreasing supplies of traditional fossil fuels, we must develop new sources.

In my view, research and development is the key to an adequate, long-term solution to the energy crisis.

I should like to point out to my colleagues that the Committee on Science and Astronautics has recognized the need to take a careful look at energy research and development.

The Subcommittee on Science, Research, and Development, which is chaired by the distinguished gentleman from Georgia (Mr. DAVIS) plans hearings on energy R. & D. in May.

We have also established a task force on energy within the Science Subcommittee.

This task force is chaired by the only scientist presently sitting in the House of Representatives, MIKE MCCORMACK of the State of Washington.

The task force has made much progress in looking at the overall energy research and development issue.

Their work and the work of the subcommittee as a whole will, I am confident, be a great help in developing the kinds of answers that we need to meet the energy crisis, both in the immediate future and in the 21st century and beyond.

I should also like to point out that research and development is only a part of the answer to the energy crisis.

An adequate resource base is also an important aspect of the energy problem, an aspect which we must face immediately and deal with swiftly.

I applaud the leadership which the distinguished gentleman from Colorado is giving the Congress in this regard.

I should like to point out that the interests of our respective committees, interior and insular affairs and science and astronautics, complement each other with regard to the energy issue.

We have already a record of close cooperation.

It is important that the Congress get a total picture of all components of the energy crisis.

I believe this can be done if there is adequate cooperation and coordination among the various legislative committees.

Our committee system exists in order to serve effectively the needs of the Congress and the Nation.

The energy problem overlaps the jurisdictions of several committees, and cannot be solved by any one committee acting alone.

But if each does its part, we can find viable solutions.

I look forward to working closely with Chairman Aspinall in the future, as in the past, as we attempt to find the illusive answers to this important problem facing our Nation.

Mr. ASPINALL. I thank my able colleague, the gentleman from California, who has so distinguished himself as the chairman of the Committee on Science and Astronautics.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I would be glad to yield to my friend from California (Mr. HOLIFIELD), the present distinguished chairman of the Committee on Government Operations and the former chairman of the Joint Committee on Atomic Energy.

Mr. HOLIFIELD. Mr. Speaker, I strongly support remarks of my colleague, Congressman WAYNE ASPINALL, concerning the importance of energy to our Nation. I am sure that the hearings he has announced before his Interior Committee, which are scheduled to start on April 10, will be a basic source of information for the public, the Congress, and the executive agencies to plan to meet the Nation's energy requirements.

The President's June 4 energy message last year clearly recognized the national importance of energy. I strongly endorsed his message. Its contents contained research and development plans to meet our long-term energy needs; but, as I said at a recent Atomic Energy Commission authorization hearing, it may be time for another Presidential energy message.

I refer to the need for informing the public of the more immediate energy requirements problem since I believe the public does not appreciate the tight situation which is developing for the next year or two. I am sure a message by the President would help a great deal in getting national public attention to this matter. Of course, the hearings planned by my colleague will be of outstanding value to convey the facts concerning this matter to the public.

There are many obstacles to the attainment of a concerted and satisfactory effort toward meeting our energy requirements in a way which will not burden this country in its international role and will not put a greater burden on the quality of our environment. One problem, of course, is the education of the public concerning the multiple factors in the energy equation—the need for clean energy to control environmental insults, the need for energy from the standpoint of national security, the need for energy for our welfare in this industrial society, and the need to conserve energy.

One aspect of the energy problem which it is so very difficult for the lay public to understand is the lead time required to obtain solutions to energy requirements. We must inform the public of the irreversible consequence of an action now on energy supplies years in the future. We must inform the public that once a basic shortage devleops, nothing can be really done to solve the problem in less than about a decade. I am sure that the hearings that my respected colleague has announced will help a great deal in these areas.

As I told a group of utility executives recently, I would be the first to admit we need changes in our Government to better handle problems of energy and the environment. We need changes at all levels. Energy and energy fuels are, to a major degree interchangeable. They should be treated as a unit by the Government. But such is not the case in our Federal Government. The President has proposed a Department of Natural Resources which combines responsibilities concerning energy. Although some of my colleagues in the Congress differ on the specific packaging of an all-energy organization, most agree a combined energy organization in the executive branch is necessary. As you know, the President's bill to establish a Department of Natural Resources is before me officially in my position as chairman of the Government Operations Committee.

I believe an organization on energy lines is also called for in the Congress. The hearings that my colleague has announced will probably develop very important factors which the Congress should consider in organizing itself on an overall energy basis. I believe that when these hearings are finished and the Senate Resolution 45 hearings are completed in the Senate, we will have the facts we need to organize the Congress on the basis of national energy needs. One approach could be the setting up of a joint committee on energy. Another approach could be to form Energy Committees in the House and the Senate. Clean and plentiful energy supplies are now of such importance to the welfare and future of our Nation to warrant such special considerations.

Many studies have been made concerning the demand for and supply of energy. One of the earliest comprehensive ones was the one entitled "Civilian Nuclear Power—A Report to the President—1962". I think it is important to consider a statement at the beginning of this report which considered all significant energy sources—and I quote:

> Next to the land, the water, and the air, without which we could not exist at all, energy is by far the most important of our terrestrial resources. Without it our industrial society would be impossible. In common with the other three it has no substitute.

I am most pleased to hear the attention of the Interior Committee is planning to give to energy.

Mr. ASPINALL. I thank my colleague from California for his contribution.

At this time I would be glad to yield to my other colleague from California (Mr. DON H. CLAUSEN), a member of the committee and one who is certainly interested in this subject.

Mr. DON H. CLAUSEN. Mr. Speaker, I am proud to be associated with this special order that has been taken today to focus attention on the rapidly developing energy crisis in the United States and to commend the chairman again for demonstrating the kind of leadership that we have grown to expect from him as the chairman of our Interior Committee upon which I have the privilege of serving.

Mr. Speaker, for so long the people of the United States have taken for granted the fact that we have unlimited resources upon which to develop the energy of this land and yet there is too little information known upon which to base a finding of fact.

Mr. Speaker, just as I serve on the Public Works Committee, we today having been debating the central issue of water pollution and how to handle some of our energy resources as they relate to pollution, again we find over and over again that there is a need for more and more information. So, I am pleased and proud to be a part of the committee and hope that we can bring to the American people a greater awareness of what I believe to be one of the most impending crises that the United States has yet faced.

I thank the chairman for yielding.

Mr. ASPINALL. I wish to thank my friend from California who has served so ably on these committees.

Mr. PRICE of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I am glad to yield to my friend, the gentleman from Illinois (Mr. PRICE), the present vice chairman of the Joint Committee on Atomic Energy.

Mr. PRICE of Illinois. Mr. Speaker, I rise to voice my support of the statement delivered by my distinguished colleague from Colorado (Mr. ASPINALL), the chairman of the Interior and Insular Affairs Committee. His intention to conduct public hearings on the energy needs of our Nation should represent an important step toward the development of a public record of the energy crisis which confronts us.

The record of this body over the past several years is replete with statements by Members calling attention to the energy needs of our Nation and the manner in which energy production and utilization of energy resources relate to the quality of our environment. In the overall picture we must consider all energy sources, both those that are now available to us and those which future research may provide. Unfortunately, many efforts to date have dealt with the problem in piecemeal fashion.

The Interior Committee is directing its attention to our need for energy principally between the present time and the year 1985. It appears unlikely that research, either present or planned, can produce new means of generating energy or provide new energy resources which can make a significant contribution during this time period. Therefore, in large part we will have to meet these energy requirements by the conventional means now available—oil, natural gas, coal, hydroelectric and nuclear power. We have all heard of dwindling supplies of oil and natural gas in the face of increasing demand. I might comment that I may be for the first time referring to nuclear power as a "conventional" source of energy. At the present time nuclear-power stations are generating only 3 percent of the electricity in this country. By 1980, the contribution is expected to rise to 22 percent, and, by the year 2000, in the range of 50 percent.

I certainly agree with Chairman ASPINALL, and I reemphasize his statement that energy resources are important national assets which we will need to conquer our problems of poverty, unemployment, and environmental degradation. We should be wary of becoming overly dependent upon foreign sources of energy fuels. To the best of our ability we should attempt to conserve our own energy resources and to utilize them as efficiently and effectively as we can.

I am hopeful that the witnesses to be called before the Interior Committee will represent not only the Federal agencies and representatives of industry but also spokesman for responsible environmental organizations and members of the public at large. Such public discussion and consideration of all points of view should permit developing a record which will serve as a valuable reference for the use of the Congress and for the public as well.

Mr. ASPINALL. I wish to thank my friend, the gentleman from Illinois (Mr. PRICE) for his cooperation.

Mr. Speaker, I now yield to the gentleman from Idaho (Mr. MCCLURE).

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. MCCLURE. I will be happy to yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I just want to acknowledge the fact that the gentleman from Idaho (Mr. MCCLURE) is the chairman of the Task Force on Energy and Resources for the Republican Research Committee. I think that this special order today demonstrates that there is a genuine bipartisan concern and interest for this subject. I believe the remarks that he will make will add greatly to the record on this matter.

Mr. MCCLURE. Mr. Speaker, I thank the gentleman from California for his kind comments.

Mr. Speaker, I wish to thank the chairman, the gentleman from Colorado (Mr. ASPINALL) for yielding this time to me, and to thank the gentleman, as indeed I think all of the people of our country should also do, for taking this special order to focus attention on this matter, which I think is of such fundamental importance to the health and the welfare and the safety of this country. Certainly there is no question upon which we will focus our attention that is more important to the future of the country than that of our energy resources, and the problems of meeting the energy demands of our economy in future years.

Mr. Speaker, this country is poised on the brink of a national energy crisis. Oil reserves dwindle, gas companies freeze out new customers, power blackouts threaten entire regions of our country, and the cost of energy soars upward. The environment is threatened, not only by the production of energy, but also by its use. Whether or not we can meet this challenge depends on how quickly the American people wake up.

Energy has become an issue of major importance to the people of the United States. We are discovering as energy influences each aspect of our daily lives it affects all segments and individuals in our society. The impact of energy on the worker, the businessman, the consumer, the housewife, the environmentalist—on each of us—is being vividly demonstrated in 1972, not only by increasing prices, but also through continuing announcements of energy shortages. It is difficult to overemphasize the scope or direct relationship of energy in areas of national importance. Our economic well-being is one example of how energy can determine which direction a society goes.

Economic growth cannot be separated from the problems of energy supply and demand. As the Commission on Population Growth and the American Future recently concluded:

> Energy makes the difference between poverty and affluence.

The Commission goes on to say, in part I of its final report:

> The reason per capita income in the United States is so high is that the average American worker has at his command more energy, chiefly in the form of electricity, than any other worker in the world.

I believe the text of their statement is of value, and ask that it be included at the conclusion of my remarks—attachment 1. The analysis of future needs as our population grows, whether under a two-child projection or a three-child projection, indicates the need for new R. & D. efforts directed toward clean energy.

One classic indication of the state of our economy is the gross national product. From 1947 to 1966, the United States benefited from the generally increasing efficiency with which energy was used to meet our economic needs. The ratio of energy consumption to GNP, expressed in terms of British thermal units per dollar, decreased from 106.1 in 1947 to 86.5 in 1966. This meant that we were able to produce a dollar's worth of goods and services with less energy input, a situation which began to change in 1967. During the last 4 successive years, this energy-GNP ratio has increased, and the reversal is of more than academic interest. As discussed in a report by National Economic Research Associates, this "phenomenon" is definitely cause for concern. It questions our future ability to meet the expanding economic needs of our society, within the framework of finite energy resources. I would like to include a portion of the NERA report at the conclusion of my remarks. Attachments II and III.

Analysis for 1971 will soon be available, and should allow a projection for the critical period from now to 1976, a period when demands for new jobs and Govern-

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ment revenues are expected to increase at least as rapidly as new sources of energy, if not faster.

To better understand future energy needs, we do have projections concerning anticipated consumption for each sector of society. One such projection, published by the National Petroleum Council, discusses each energy consuming group—residential/commercial, industrial, transportation, and so forth—and illustrates both absolute energy requirements through 1985, in terms of British thermal units, and relative percentages for each grouping.

In addition, the report of the Council projects primary energy consumption by geographic breakdown for selected census divisions. Attachments IV and V. One dominant feature of these projections is the future growth of the electric utilities. As the chart shows, electric utilities will consume over a third of our primary energy by 1985.

As of December 31, 1971, the electric power industry had a total capability of 367,396 megawatts. Of this, 15 percent was hydroelectric, 75 percent was fossil fuel, and 2 percent was nuclear. By 1980, this capability is projected to be 665,000 megawatts, with 10 percent hydro, 60 percent fossil, and 22 percent nuclear. And, by 1990, estimates for total electric utility capability are 1,260,000 megawatts, with 6 percent hydro, 45 percent fossil, and 40 percent nuclear. To keep these figures in perspective, we need only remember that one megawatt is equal to one million watts of electric power.

Fuel use by electric utilities is also high. In 1971, electric power generating plants consumed 329 million tons of coal, 386 million barrels of oil, and almost 4 trillion cubic feet of natural gas.

By 1980, coal consumption alone is estimated at 472 million tons, rising to 600 million tons by 1990.

We cannot, however, underestimate the impact of present electric generating plants on our natural environment. Operating at less than 40 percent efficiency, they reject over 60 percent of their heat to the environment. Fortunately, the United States still has vast potential sources of geothermal energy, energy which like hydroelectric can help meet our future needs with decreased levels of air and water pollution. It is important that any investigation of our energy crisis includes consideration of environmental impacts and I consider it especially noteworthy that Chairman Aspinall has made protection of the environment a major item for the forthcoming energy hearings by the House Committee on Interior and Insular Affairs.

Another item of importance is the end-use of electrical energy. We know that of the 1,463 billion kilowatt-hours sold during the 12-months ending November 30, 1971, over 497 billion kw.-hr. were for residential consumers. In fact, residential consumption of electricity during that same period increased 7.1 percent, compared to only 3.1 percent for industrial consumers. To better understand how energy is used by residential consumers, I would like to include the following table, received from the Chase Manhattan Bank, for the year 1970:

Residential electricity sales
(billion Kw.-hr.)

Kitchen use:	
Refrigeration	84
Cooking	32
Other	23
Cleaning & Grooming:	
Water heating	69
Cleaning appliances	31
Lighting	71
Radio and television	34
Space heating	31
Air conditioning	27
Miscellaneous appliances	46
Total	448

As we can see, nearly one-third of the residential energy was used in the kitchen, and over one-half of that was for refrigeration. Lighting and water heating were also large users of energy.

Energy shortages have been predicted for this summer and the following winter, 1972–73, due in a large part to delays in operation of new steam-electric powerplants. The Federal Power Commission has prepared information concerning reserve margins for various regions of the United States, for both critical periods—Attachment VI. The margin percentages are calculated both with and without the new generation capacity. I believe that they demonstrate the seriousness of one aspect of our energy issue.

Another aspect which has recently hit very close to the residential home is the natural gas shortage. I believe by now we're aware of gas utility announcements concerning freezes on new customer hookups, including new homes.

There are presently three general approaches to supplementing domestic production: pipeline imports from Canada and Mexico, liquified natural gas—LNG—imports, and synthetic gas, produced from coal or liquid hydrocarbons.

Pipeline imports from Canada and Mexico have been projected to 1996, and are included in the attached chart—attachment VII—which also indicates the natural gas supply situation for those two countries. As we can see, authorized annual imports decrease from 1,041,319 million cubic feet in 1971 to 7,656 million cubic feet in 1995. Of this amount, over 95 percent is from Canada. Based on present data, we cannot expect any substantial increase in imports from Mexico, due to low levels of exploration activity and the small undiscovered gas potential.

Any increases in authorized imports from Canada will depend on approvals by the Canadian Government. As we have recently seen, the National Energy Board of Canada has denied three applications for export to the United States, based on the need to maintain Canada's reserve-to-production ratio at 30 for the next 20 years.

LNG imports to the United States are increasing, and I have attached information concerning existing applications, peak shaving plants—operating and under development—and export/import points—attachments VIII, IX, and X. I believe that there are two pertinent facts illustrated by the data.

First, LNG will cost two to three times more than domestic natural gas. Whereas long term contracts are for about $1 per thousand cubic feet, short term projects can run about $2 per thousand cubic feet and above.

Second, we will be competing with European nations, such as France, Italy, Spain, and England, plus Japan, for future supplies and, even more important, future LNG tanker capacity. And, a list of 39 new LNG tankers either under construction or on order shows not one single tanker to be built in U.S. shipyards.

Synthetic gas facilities are planned extensively for the United States. A projection of coal-gasification plants—attachment XI—estimates a total production capacity of 17.3 trillion cubic feet, cumulative, by 1990. Total capital expenditures by 1990 are projected to be $7,955,000,000, cumulative. The anticipated impact on future demand for bituminous coal and lignite is also available, shown in attachment XII, with historical figures for reference.

Another major source of synthetic gas is liquid hydrocarbons. These plants, utilizing naptha, natural gas liquids, crude oil, and so forth, will be heavily dependent on foreign sources and the estimated rate is from $0.77 to $1.50 per thousand cubic feet. Additional details on the plants, including geographic location, are contained in attachment XIII.

The Federal Power Commission has estimated that by 1980, domestic production of natural gas will be able to meet less than 60 percent of the U.S. demand. All other sources combined—pipeline imports, LNG, Alaskan gas, synthetic gas—will meet less than 15 percent of the total demand. This will leave over 8 trillion cubic feet of natural gas demand which will not be met under existing projections.

Mr. Speaker, even though I have touched on only a few issues involved in our energy crisis, I believe that they typify the serious questions which must be answered, and answered soon. Under the leadership of Chairman Aspinall, I am confident that the House Committee on Interior and Insular Affairs will provide a better understanding and a basis for solutions to this crisis. And, by hearing all points of view and providing a platform for rational discussion of dissenting opinions, the committee's energy hearings will undoubtedly result in a complete presentation of the facts, facts which the people of the United States need to know. As a member of the committee, I look forward to participating in the future hearings concerning our Nation's energy resources.

I include the following:

Attachment I: Report, Commission on Population Growth and the American Future

ENERGY

Energy makes the difference between poverty and affluence. The reason per capita income in the United States is so high is that the average American worker has at his command more energy, chiefly in the form of electricity, than any other worker in the world. With energy we refine aluminum, make rubber, shape steel, form new synthetic chemical compounds, propel automobiles, and heat our homes.

How much energy we have available depends on the availability of the necessary fuels and on our ability to convert the fuels to energy—the greatest advance in this regard was the development of inexpensive methods of electricity production. The technology of fuels acquisition and the technology of energy conversion are both critical. So is purchasing power—the ability to pay for domestic development of fuels or to import them. The original inhabitants of North America occupied a continent rich in energy fuels. But they neither knew how to get the fuels out of the ground nor how to convert them to energy. Some modern countries with advanced means of energy conversion lack their own fuel supplies; they buy them from other countries.

The ability of the United States to meet its future energy needs will be determined chiefly by development in technology—the technology of conversion and the technology of fuels acquisition. A major question will be whether we can find methods that are environmentally safe. Virtually every stage of energy use—fuel production, delivery, conversion, and consumption—has a significant environmental impact. For example, one-third of all coal is produced by strip mining, and the consequence is a scarred landscape and severe runoff into streams and rivers. Oil spills which contaminate the oceans and beaches may result from offshore drilling. Much airborne pollution comes from the use of such relatively dirty fuels as coal and oil. Some scientists are beginning to raise the possibility of thermal pollution resulting from concentrated use of energy in local areas. Nuclear power generation requires the disposal of radioactive atomic wastes. Because of these problems, the development of energy-production capacity could be impaired.

The increase in our energy needs will be immense under any projection, although not as large under the 2-child population projection as under the 3-child projection. The relative difference in energy demands under the different population projections is about the same as for minerals, and it becomes very large after the population with the lower rate of growth stabilizes.

Whether population growth will strain fuel supplies, or cause serious environmental damage in the process of acquiring and using the necessary fuels, depends on future developments in technology.

With no major changes in technology, oil and gas supplies could become a problem for the United States by the year 2000—we would be importing more and paying higher prices; and supplies would certainly be a problem for some world regions. These problems could be averted if we found inexpensive means of using such potential sources as oil shale and tar sands, but using these sources is likely to have environmental consequences as serious as those from the strip-mining of coal. If we unlock the secrets of atomic fusion, we could have an environmentally clean way of generating electricity, with no fuel supply problem. The energy from converting the deuterium contained in 30 cubic kilometers of seawater would equal that of the earth's original supply of coal and petroleum.

Our review of the energy situation indicates that high priority ought to be given to research and development in clean sources of energy production. The faster population grows, the more urgent such breakthroughs become. We turn now to several areas where population growth dominates other considerations—where we cannot be hopeful about the ability of purchasing power and technical development to avert population problems.

Attachment II: Report, NERA

At a time when environmental preservation has become a dominant national concern and when the inherent conflict between measures to that end and the continuing growth in energy consumption is creating a growing policy dilemma, it is of interest to examine a recent phenomenon that has occurred in the statistical series measuring energy consumption per dollar of (constant dollar) GNP. As shown in Figure I and Table I, the ratio followed a secular decline at an annual compounded rate of 0.7 per cent) between the end of World War II and 1966; since then the year-to-year change has been consistently upward (at an annual compounded rate of 3.0 per cent). On the basis of preliminary 1970 figures, the ratio has risen to the level of the early 1950s. The trend reversal is all the more interesting because of the full length of the period of decline, which was previously shown to date from the early 1920s.[1]

This phenomenon has profound implications for the energy-environment policy dilemma. The demand for energy *in toto* can be viewed as being separate and distinct from the demand for the individual forms of energy because of the wide range of substitutability among the different energy commodities. A given level of population and GNP will generate a certain demand for energy which will be satisfied by a mix of energy commodities, the nature of which will be determined by relative price levels, convenience and taste. As long as the energy/GNP ratio declines, economic growth results in a less than proportionate increase in energy consumption; but with an increasing ratio,economic growth acts as a multiplier. Even with the declining trend in the ratio there has never been any dispute that the economy will require very large increases in energy supplies during the coming decades. A reversal in the trend of the ratio, however, implies even greater increases in the future and consequently greater difficulties in reconciling energy consumption (and the economic growth responsible for it) with environmental preservation.

One can obtain a measure of the significance of the trend reversal by assuming that it did not occur and calculating what aggregate energy consumption would have been on that basis in 1970. The actual level of the ratio in 1970 was 95,400 Btu per dollar of GNP. Projecting the 1947-1966 trend in the ratio to that year, the ratio would have been 84,000 Btu per dollar of GNP, or 12 per cent less. When this ratio is applied to the 1970 GNP figure, we find that aggregate energy consumption in that year would have been 8.258 trillion Btu, or 12 per cent, less than actual consumption. (See Figure I.) This difference is a quantity of energy equivalent to more than the total coal consumption by electric utilities in 1970. *Indeed, it seems fair to conclude that in the absence of the trend reversal in the energy/GNP ratio, the energy supply crisis of 1970 would have been far less severe or would not have occurred at all.*

ATTACHMENT III: REPORT, NERA

ENERGY CONSUMPTION, GROSS NATIONAL PRODUCT AND THE ENERGY/GNP RATIO, 1947–70

Year	Aggregate energy consumption: Amount (trillion B.t.u.'s)	Aggregate energy consumption: Percent change from preceding year	GNP (1958 dollars): Amount (billions)	GNP (1958 dollars): Percent change from preceding year	Energy/GNP ratio: Amount (thousand B.t.u.'s per dollar)	Energy/GNP ratio: Percent change from preceding year
	(1)	(2)	(3)	(4)	(5)	(6)
1947	32,870		$309.9		106.1	
1948	33,994	+2.5	323.7	+4.5	105.0	−1.0
1949	31,604	−7.0	324.1	+.1	97.5	−7.1
1950	34,153	+8.1	355.3	+9.6	96.1	−1.4
1951	36,913	+8.1	383.4	+7.9	96.3	+.2
1952	36,576	−.9	395.1	+3.1	92.6	−3.8
1953	37,697	+3.1	412.8	+4.5	91.3	−1.4
1954	36,360	−3.5	407.0	−1.4	89.3	−2.2
1955	39,956	+9.9	438.0	+7.6	91.2	+2.1
1956	42,007	+5.1	446.1	+1.8	94.2	+3.3
1957	41,920	−.2	452.5	+1.4	92.6	−1.7
1958	41,493	−1.0	447.3	−1.1	92.8	+.2
1959	43,411	+4.6	475.9	+6.4	91.2	−1.7
1960	44,960	+3.6	487.7	+2.5	92.2	+1.0
1961	45,573	+1.4	497.2	+1.9	91.7	−.5
1962	47,620	+4.5	529.8	+6.6	89.9	−2.0
1963	49,649	+4.3	551.0	+4.0	90.1	+.2
1964	51,515	+3.8	581.1	+5.5	88.7	−1.6
1965	53,785	+4.4	617.8	+6.3	87.1	−1.8
1966	56,948	+5.9	658.1	+6.5	86.5	−.7
1967	58,868	+3.4	675.2	+2.6	87.2	+.8
1968	62,448	+6.1	707.2	+4.7	88.3	+1.3
1969	65,832	+5.4	727.1	+2.8	90.5	+2.5
1970	[2] 69,099	+5.0	724.3	−.4	95.4	+5.4

[1] Preliminary.
[2] Corrected from Bureau of Mines published values on the basis of Federal Power Commission data.

Source: col. (1)—1947–67: U.S. Department of the Interior, Minerals Yearbook, vol. II, 1962–68; 1968: U.S. Department of the Interior, news release of Apr. 7, 1970, revised; 1969–70: U.S. Department of the Interior, news release of Mar. 9, 1971; col. (3)—1947–65: U.S. Department of Commerce, Business Statistics, 1969, 17th biennial edition (Washington: U.S. Government Printing Office, 1969); 1966–70: U.S. Department of Commerce, Survey of Current Business, July 1970, and unpublished data.

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ATTACHMENT IV: REPORT, NATIONAL PETROLEUM COUNCIL

U.S. PRIMARY ENERGY CONSUMPTION PROJECTION BY CONSUMING SECTORS

U.S. PRIMARY ENERGY[1] CONSUMPTION IN TRILLIONS OF B.T.U.'S

Sector	1960	1970	1975	1980	1985
Residential/commercial	9,426	12,994	14,733	16,669	18,768
Industrial	13,056	17,798	20,039	22,341	24,667
Transportation	10,817	16,282	19,905	23,870	28,214
Electric utilities	8,387	16,695	23,525	32,996	44,363
Nonenergy and miscellaneous	2,916	4,058	5,279	6,705	8,930
Total	44,602	67,827	83,481	102,581	124,942

PERCENTAGE BREAKDOWN OF U.S. PRIMARY ENERGY[1] CONSUMPTION

Sector	1960	1970	1975	1980	1985
Residential/commercial	21.1	19.2	17.6	16.2	15.0
Industrial	29.3	26.2	24.0	21.8	19.7
Transportation	24.3	24.0	23.9	23.3	22.6
Electric utilities	18.8	24.6	28.2	32.2	35.5
Nonenergy and miscellaneous	6.5	6.0	6.3	6.5	7.2
Total	100.0	100.0	100.0	100.0	100.0

AVERAGE ANNUAL PERCENT CHANGE IN U.S. PRIMARY ENERGY[1] CONSUMPTION

Sector	1960–70	1970–75	1975–80	1980–85	1970–85 projection
Residential/commercial	3.3	2.6	2.5	2.4	2.5
Industrial	3.1	2.4	2.2	2.0	2.2
Transportation	4.2	4.1	3.7	3.4	3.7
Electric utilities	7.2	7.1	7.0	6.1	6.7
Nonenergy and miscellaneous	3.4	5.4	4.9	5.9	5.4
Total	4.3	4.2	4.2	4.0	4.2

[1] Includes fossil-fuel consumptions in each sector. The nuclear and water power outputs are converted to fossil-fuel input equivalents at average central station heat rates and are included in the electric utility sector.

Source: The historical volumes are from the U.S. Bureau of Mines, except for the 1970 electric utility estimate which is based on Federal Power Commission data for 1970. The B.t.u. conversion factors also are from the Bureau of Mines except for modifications in the bituminous coal factors as follows: Electric utility coal is calculated at 24,000,000 B.t.u.'s per short ton and all other bituminous at 26,200,000 B.t.u.'s per ton.

ATTACHMENT V: REPORT, NATIONAL PETROLEUM COUNCIL

SELECTED CENSUS DIVISIONS GEOGRAPHIC BREAKDOWN OF U.S. PRIMARY ENERGY CONSUMPTION PROJECTION BY CONSUMING SECTORS[1]

(Trillion B.t.u.'s)

	1970	1975	1980	1985
New England:				
Residential/commercial	1,042	1,141	1,249	1,341
Industrial	297	311	322	326
Transportation	761	919	1,094	1,280
Electric utilities	647	894	1,155	1,496
Mid-Atlantic:				
Residential/commercial	2,892	3,213	3,572	3,895
Industrial	2,792	3,031	3,267	3,469
Transportation	2,337	2,805	3,249	3,685
Electric utilities	2,364	3,222	4,388	5,692
South Atlantic:				
Residential/commercial	1,277	1,436	1,596	1,783
Industrial	1,627	1,848	2,063	2,249
Transportation	2,454	3,084	3,821	4,656
Electric utilities	2,565	3,835	5,742	8,073
East North Central:				
Residential/commercial	3,404	3,860	4,401	5,011
Industrial	4,414	4,689	4,960	5,303
Transportation	2,877	3,529	4,227	4,963
Electric utilities	3,189	4,187	5,675	7,276

[1] Note: Energy consumption in these Census Divisions is not totaled because a breakdown of nonenergy and miscellaneous uses is not available.

ATTACHMENT VI: REPORT, FEDERAL POWER COMMISSION

Within individual areas of the contiguous 48 states, five regions merit special attention in evaluating power supply conditions in the summer of 1972: New York (a part of the Northeast Power Coordinating Council area); Northern Illinois-Wisconsin (part of the Mid-America Interpool Network Council) and Iowa (part of the Mid-Continent Area Reliability Coordination Council area); Virginia-Carolinas and Florida (both part of Southeastern Reliability Council area).

The Commission's staff estimates that with and without the planned nuclear units and fossil-steam units, the following conditions will obtain in the summer of 1972. Because of constant revisions of load estimates and new power purchase agreements, the staff estimates may not exactly agree with latest utility estimates.

ATTACHMENT VI

	Megawatts	Percent
New York:		
Estimated peak loads	20,050	
Planned capacity	24,414	
Estimated reserve margin[1]	4,363	21.8
Without one nuclear unit	3,491	17.4
Without one nuclear and two fossil steam units	2,483	12.3
Northern Illinois-Wisconsin:		
Estimated peak loads	18,414	
Planned capacity	20,920	
Estimated reserve margin	2,506	13.6
Without three nuclear units	1,604	8.7
Without three nuclear and one fossil steam units	764	4.2
Iowa:		
Estimated peak loads	3,117	
Planned capacity	3,476	
Estimated reserve margin	359	11.5
Without one nuclear unit	−45	−1.5
Without one nuclear and one fossil steam unit	−366	−12.8
Virginia-Carolinas:		
Estimated peak loads	20,605	
Planned capacity[2]	23,078	
Estimated reserve margin	2,473	12.0
Without two nuclear units	812	3.9
Without two nuclear and two fossil steam units	−78	−0.4
Florida:		
Estimated peak loads	11,706	
Planned capacity	13,454	
Estimated reserve margin	1,748	14.9
Without one nuclear unit	1,348	11.5
Without one nuclear and two fossil steam units	665	5.7

[1] Estimated reserve margin is equal to the difference between planned capacity and estimated peak loads.

[2] Does not reflect the elimination of 841 megawatts associated with Oconee 1.

Winter 1972–73—The projected conditions which may prevail with and without—if the planned cumulative generation additions of 15 nuclear units and 44 fossil units (currently through January 1973) do not become operative, are as follows. The most adversely affected regions are New England, the Virginia-Carolinas area, Florida, the Tennessee Valley, and the Rocky Mountain area.

The projected loads, generating capacities and reserves are:

ATTACHMENT VI

	Megawatts	Percent
New England:		
Estimated peakloads	13,543	
Planned capacity	16,942	
Estimated reserve margin	3,399	25.1
Without 2 nuclear units	2,229	16.5
Without 2 nuclear and 3 fossil steam units	980	7.3
Virginia-Carolinas:		
Estimated peakloads	18,965	
Planned capacity	23,412	
Estimated reserve margin	4,447	23.4
Without 2 nuclear units	2,786	14.7
Without 2 nuclear and 2 fossil steam units	1,796	9.5
Rocky Mountain:		
Estimated peakloads	1,725	
Planned capacity	2,108	
Estimated reserve margin	383	22.2
Without 1 nuclear unit	153	8.8
No fossil additions		
Florida:		
Estimated peakloads	12,231	
Planned capacity	14,802	
Estimated reserve margin	2,571	21.0
Without 2 nuclear units	1,121	9.2
Without 2 nuclear and 3 fossil steam units	55	0.4
Tennessee Valley Authority:		
Estimated peakloads	18,410	
Planned capacity	21,605	
Estimated reserve margin	3,465	19.1
Without 1 nuclear unit	2,400	13.2
Without 1 nuclear and 1 fossil steam unit	1,100	6.1

ATTACHMENT VII: REPORT, FEDERAL POWER COMMISSION

U.S. NATURAL GAS IMPORTS—MAXIMUM AUTHORIZED ANNUAL IMPORTS FROM CANADA AND MEXICO[1] 1971–95

(All volumes in millions of cubic feet at 14.73 psia and 60° F. at 1,000 B.t.u. per cubic foot)[2]

Year	El Paso Natural Gas Co.	Pacific Gas Transmission Co.	Montana Power Co.	Midwestern Gas Transmission Co.	Great Lakes Gas Transmission Co.	St. Lawrence Gas Co.	Vermont Gas Systems Inc.	Inter-City Minnesota Pipelines Ltd., Inc.	Tennessee Gas Pipeline Co.	Total from Canada	Mexico	Total
1971	270,393	373,500	49,092	147,235	[3] 103,763	6,700	[4] 5,318	[5] 8,052	39,000	1,003,311	[6] 38,008	1,041,319
1972	310,377	373,500	49,092	147,235	103,763	5,520	5,318	8,052	(7)	1,002,857	35,000	1,037,857
1973	332,359	373,500	29,661	147,235	103,763	5,520	5,318	8,052	----------	1,005,408	32,000	1,037,407
1974	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	29,000	1,033,948
1975	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	26,000	1,030,947
1976	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	23,000	1,027,947
1977	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	20,000	1,024,947
1978	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	17,000	1,021,947
1979	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	14,000	1,018,947
1980	332,359	373,500	29,200	147,235	103,763	5,520	5,318	8,052	----------	1,004,947	10,000	1,014,947
1981	329,427	373,500	29,200	100,400	103,763	5,520	5,318	8,052	----------	955,180	6,000	961,180
1982	281,359	373,500	29,200	73,235	103,763	5,520	5,318	8,052	----------	879,947	1,709	881,656
1983	281,359	373,500	29,200	73,235	103,763	5,520	5,318	8,052	----------	879,947	----------	879,947
1984	281,359	373,500	29,200	73,235	103,763	5,520	5,318	8,052	----------	879,947	----------	879,947
1985	281,359	362,221	28,590	73,235	103,763	5,520	5,318	8,052	----------	868,058	----------	868,058
1986	281,359	280,389	23,725	73,235	103,763	5,520	5,318	8,052	----------	781,361	----------	781,361
1987	281,359	152,730	14,600	73,235	103,763	1,909	5,318	8,052	----------	640,966	----------	640,966
1988	281,359	152,730	14,600	73,235	103,763	----------	5,318	8,052	----------	639,057	----------	639,057
1989	234,344	140,226	13,383	64,496	103,763	----------	5,314	8,052	----------	569,578	----------	569,578
1990	----------	77,900	7,300	17,184	91,784	----------	----------	8,052	----------	202,220	----------	202,220
1991	----------	72,336	6,783	----------	26,736	----------	----------	8,052	----------	113,907	----------	113,907
1992	----------	44,600	4,200	----------	----------	----------	----------	8,052	----------	56,852	----------	56,652
1993	----------	37,147	3,500	----------	----------	----------	----------	8,052	----------	48,699	----------	48,699
1994	----------	----------	----------	----------	----------	----------	----------	8,052	----------	8,052	----------	8,052
1995	----------	----------	----------	----------	----------	----------	----------	7,656	----------	7,656	----------	7,656
1996	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------	----------
Total	5,772,926	6,549,276	565,726	2,167,075	2,090,017	91,409	101,038	200,904	39,000	[8] 17,577,632	251,717	17,829,349

[1] As authorized by the Federal Power Commission and the National Energy Board, through Jan. 1, 1971.

[2] B.t.u. content of Mexican imports are unspecified.

[3] Figures represent volumes for U.S. consumption. The company is authorized to transport additional volumes for redelivery to Trans-Canada at St. Clair and Sault Ste. Marie, Mich.

[4] Annual volumes of 6,700,000,000 cubic feet are authorized by NEB. However, if scheduled at this rate the remaining reserves would not extend over the life of the license. Actual imported volume in 1970 was 2,532,000,000 cubic feet.

[5] Figures represent volumes for U.S. consumption. The company is authorized to transport additional volumes for redelivery to customers in Canada.

[6] Volumes shown are dedicated to Texas Eastern Transmission Co. Relatively small volumes. (34,000,000 cubic feet in 1970) are imported for ultimate consumption by the city of Roma, Texas. However, annual volumes remaining under this contract are not available.

[7] Temporary authorization on an interruptible basis. Present authorization expires on Apr. 1, 1972. License is renewable on an annual basis if gas is available.

[8] Actual volumes authorized for export from Canada as of Jan. 1, 1971 were 17,656,686,000,000 cubic feet. 79,054,000,000 cubic feet more than above. This difference is due to the maximum annual volumes, as authorized by NEB, not being imported every year prior to 1971.

Sources: FPC form 15, NEB Annual Report for 1970 and report to the Governor in Council, August 1970.

NATURAL GAS SUPPLY OF CANADA AND MEXICO, 1960–70

CANADA

(All volumes in million M c.f. at 14.73 p.s.i.a. and 60° F.)

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Proved reserves[1]	30,507	33,356	35,245	36,759	43,155	44,131	43,214	45,434	47,407	51,669	53,086
Production[1]	537	783	944	1,000	1,108	1,245	1,119	1,209	1,387	1,548	1,789
R/P ratio	56.8	42.6	37.3	36.8	38.9	35.4	38.6	37.6	34.2	33.4	29.7
Reserve additions	4,578	3,631	2,833	2,489	7,476	2,229	4,180	3,425	3,362	5,809	3,186
F/P ratio	8.5	4.6	3.0	2.5	6.7	1.8	3.7	2.8	2.4	3.8	1.8
Gas well completions	292	392	331	338	366	390	386	374	432	498	723
Exploratory	147	159	110	136	145	162	165	149	161	176	267
Development	145	233	221	202	221	228	221	225	271	322	456
Total wells drilled[2]	2,852	2,833	2,741	3,090	3,569	3,842	3,185	2,824	2,789	3,105	2,898

MEXICO

(All volumes in million M c.f. at 14.69 p.s.i.a. and 68° F.)

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Proved reserves	10,120	11,128	11,204	11,368	11,510	11,250	11,724	11,851	11,819	12,000	12,000
Production	341	361	371	402	485	493	529	573	577	609	665
R/P ratio	29.7	30.8	30.2	28.3	23.7	22.8	22.2	20.7	20.5	19.7	18.1
Reserve additions	(3)	1,369	447	56.6	627	233	1,003	700	545	790	665
F/P ratio	(3)	3.8	1.2	1.4	1.3	.5	1.9	1.2	.9	1.3	1.0
Gas well completions	33	53	63	68	97	36	44	90	97	89	26
Exploratory	19	17	25	16	24	14	27	12	17	15	7
Development	14	36	38	52	73	22	17	78	80	74	19
Total wells drilled[2]	762	726	639	554	631	361	296	497	602	519	523

[1] Through 1965 the Canadian Petroleum Association reported "proved remaining recoverable reserves" and production therefrom. In 1966 they discontinued publishing the reserves defined in this manner, showing instead "proved remaining marketable reserves," and production therefrom. Marketable gas reserves measured on a dry gas basis equals recoverable gas less field and plant fuel requirements, and gas vented or flared.

[2] Total oil and gas well completions and dry holes.

[3] Not available.

Sources: Canada; Reserves and production, CPA. Well data 1960–66, Canadian Petroleum Association Statistical Yearbooks, 1967–70, Oilweek's Annual Forecast-Review Issues. Mexico; Reserves and production, World Oil, "Mexico" International Outlook issues, Aug. 15, 1961 through Aug. 15, 1971 and American Association of Petroleum Geologists, "Mexico" Foreign Developments issues, July 1961–July 1963 and August 1964–August 1971. Well data from American Association of Petroleum Geologists Foreign Development Issues.

ATTACHMENT VIII: REPORT FEDERAL POWER COMMISSION

FEDERAL POWER COMMISSION SHORT-TERM LIQUEFIED NATURAL GAS IMPORT APPLICATIONS NOV 30, 1971

No.	Applicant	Docket number	Source	Delivery point	Transport mode	(MMcf)	Estimated volume and price[1] (Mcf)	For deliveries
1.	Boston Gas Co.	CP69-112	Algeria	Boston, Mass.	Ship	200	$1.14	
2.	Lowell Gas Co.	CP70-143	do.	do.	do.	[2] 374	1.52	
3.	Willbros Terminal Co.	CP70-194	Canada	do.	Truck	[3] 266	2.20	

Footnotes at end of table.

ATTACHMENT VIII: REPORT, FEDERAL POWER COMMISSION—Continued

FEDERAL POWER COMMISSION SHORT-TERM LIQUEFIED NATURAL GAS IMPORT APPLICATIONS NOV. 30, 1971—Continued

No.	Applicant	Docket number	Source	Delivery point	Transport mode	(MMcf)	Estimated volume and price [1] (Mcf)	For deliveries
4.	Texas Eastern Transmission Corp	CP70-208	Algeria	Staten Island, N.Y.	Ship	2,600	1.37	
5.	Boston Gas Co	CP70-291	do	Boston, Mass.	do	1,600	1.70	
6.	Fall River Gas Co	CP70-305	Canada	Fall River, Mass.	Truck	[4] 150	1.12	
7.	Lowell Gas Co	CP71-9	do	Tewksbury, Mass.	do	630	1.25	Oct. 7, 1970.
							1.94	Oct. 7, 1970, to Apr. 30, 1971.
8.	Boston Gas Co	CP71-61	do	Boston, Mass.	do	220	1.25	Oct. 19, 1970, to Nov. 1, 1970.
							2.00	Nov. 1, to Apr. 1, 1971.
9.	Boston Gas Co	CP71-247	do	do	do	[3] 714	1.30	Apr. 1, 1971, to Sept. 1, 1971.
							1.45	Sept. 1, 1971, to Nov. 1, 1971.
							1.92	Nov. 1, 1971, to Apr. 1, 1972.
10.	Boston Gas Co	CP71-248	Algeria	Boston, Mass.	Ship	1,250	1.66	
11.	Lowell Gas Co	CP72-10	Canada	Tewksbury, Mass.	Truck	[4] 696	1.30-1.45	Apr. 1, 1971, to Oct. 31, 1971.[6]
							1.92	Nov. 1, 1971, to Apr. 1, 1972.
12.	Fall River Gas Co	CP72-18	do	Fall River, Mass.	do	[5] 120	1.30	Aug. 31, 1971.[6]
							1.45	Oct. 31, 1971.
13.	Texas Eastern Transmission Corp	CP72-93	Libya	Staten Island, N.Y.	Ship	[6] 11,160	.81	

[1] Volumes and prices rounded to the nearest million cubic feet (MMcf) and cents per thousand cubic feet (Mcf) where necessary; B.t.u. content not given; delivery at shiprail or truckside.
[2] Estimated at 52 thousand cubic feet per metric on the basis of the original application.
[3] Estimated at 88.693 cubic feet per gallon on the basis of reported volumes delivered.
[4] Estimated at 83.3 cubic feet per gallon on the basis of the original application.
[5] Volume is in billion B.t.u. and prices are for million B.t.u.
[6] Based on estimated transportation cost of 45 cents per million B.t.u.

ATTACHMENT IX: REPORT, FEDERAL POWER COMMISSION

U.S. LIQUEFIED NATURAL GAS PEAK SHAVING PLANTS OPERATING OR UNDER DEVELOPMENT

Company and location

1. Alabama Gas Corp., Birmingham, Alabama.
2. Arkansas-Missouri Power Co., Blytheville, Arkansas.
3. Atlanta Gas Light Co., Riverdale, Georgia.
4. Baltimore Gas & Electric Co., Baltimore, Maryland.
5. Boston Gas Co., Boston, Massachusetts.
6. Brooklyn Gas Co., Brooklyn, New York.
7. Chattanooga Gas Co., Chattanooga, Tennessee.
8. Citizens Gas & Coke Utility, Beach Grove, Indiana.
9. Commonwealth Natural Gas Co., Tidewater, Virginia.
10. Connecticut Natural Gas Co., Rocky Hill, Connecticut.
11. Consolidated Edison Co., Astoria, New York.
12. Delmarva Power & Light Co., Wilmington, Delaware.
13. Fall River Gas Co., Fall River, Massachusetts.
14. Iowa-Illinois Gas & Electric Co., Bettendorf, Iowa.
15. Long Island Lighting Co., Holbrook, New York.
16. Lowell Gas Co., Lowell, Massachusetts.
17. Memphis Light Gas & Water Div., Memphis, Tennessee.
18. New England Electric System, Lynn, Massachusetts.
19. New England Gas & Electric Assoc. and Air Products & Chemicals, Inc., Hopkinton, Massachusetts.
20. Northern States Power Co., Eau Claire, Wisconsin.
21. Northwest Natural Gas Co., Portland, Oregon.
22. Peoples Gas Light & Coke Co., Mahomet, Illinois.
23. Philadelphia Electric Co., West Conshohocken, Pennsylvania.
24. Philadelphia Gas Works, Philadelphia, Pennsylvania.
25. Roanoke Gas Co., Roanoke, Virginia.
26. San Diego Gas & Electric Co., Chula Vista, California.
27. Southern Connecticut Gas Co., Bridgeport, Connecticut.
28. Texas Eastern Transmission Corp., Staten Island, New York.
29. Transcontinental Gas Pipe Line Corp., Heckensack, New Jersey.
30. Union Light, Heat & Power Co., Erlanger Kentucky.
31. Wisconsin Natural Gas Co., Oak Creek, Wisconsin.
32. Piedmont Natural Gas Co., Charlotte, North Carolina.

Source: Pipeline & Gas Journal, "LNG Continues Big Growth—More Projects, More Dollars," June 1971, pp. 44–45; International Gas Highlights, "Carolina Plant to Liquefy, Store Gas," August 30, 1971, p. 2.

ATTACHMENT X: REPORT, FEDERAL POWER COMMISSION

CURRENT AND PROSPECTIVE WORLDWIDE LNG OCEAN TRADE

EXPORT AND IMPORT POINTS

Current

1. Arzew, Algeria: Canvey, England; LeHavre, France.
2. Kenai, Alaska: Negishi, Japan.
3. Marsa el Brega, Libya: Barcelona, Spain; La Spezia, Italy.

Prospective and planned

4. Skikda, Algeria: Fos, France (Mediterranean); Boston, Mass.; Staten Island, New York.
5. Brunei: Japan.
6. Sarawak: Japan.
7. Persian Gulf Area of Iran: Japan.
8. Arzew, Algeria: Cove Point, Md.; Savannah, Ga.
9. Venezuela: U.S. East Coast.
10. Alaska: California.
11. Ecuador: U.S. West Coast.
12. Trinidad: U.S. West Coast.
13. Nigeria: U.S. East Coast.
14. North Sea: U.S. East Coast.

Sources: FPC files; "Proceedings: The Second International Conference and Exhibition on Liquefied Natural Gas," Paris, France, October 19–23, 1970; various news clippings and trade journal articles; personal communications.

ATTACHMENT XII: REPORT, FEDERAL POWER COMMISSION

HISTORICAL AND PROJECTED U.S. DEMAND FOR BITUMINOUS COAL AND LIGNITE

[Millions of tons]

Year	Domestic conventional usage [1] Production	Demand	Domestic demand including gasification Demand
1961	403.0	374.4	
1962	422.1	387.8	
1963	458.9	409.2	
1964	487.0	431.1	
1965	512.1	459.2	
1966	533.9	486.3	
1967	552.6	480.4	
1968	545.2	498.8	
1969	560.5	507.3	
1970	602.9	517.0	517.0
1971		533.8	533.8
1972		551.2	551.2
1973		569.1	569.1
1974		587.6	587.6
1975		606.7	606.7
1976		626.4	626.4
1977		646.7	646.7
1978		667.7	667.7
1979		689.4	689.4
1980		711.9	711.9
1981		735.0	749.6
1982		758.9	789.4
1983		783.5	831.2
1984		809.0	875.3
1985		835.3	921.6
1986		862.4	970.5
1987		890.5	1,021.9
1988		919.4	1,076.1
1989		949.3	1,133.1
1990		980.1	1,193.2

[1] Historical data, U.S. Bureau of Mines. Excludes tonnage for conversion to synthetic gas.

ATTACHMENT XI: REPORT, FEDERAL POWER COMMISSION

PROJECTION OF UNITED STATES COAL GASIFICATION CAPABILITY—1976-90

[Gas volumes in trillions of cubic feet; coal in millions of tons; expenditures in millions of dollars; gasification plant capacity is 250 million cubic feet per day]

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Gas production from coal:															
During year	0.1	0.2	0.2	0.3	0.3	0.5	0.5	0.7	1.0	1.4	1.6	2.0	2.4	2.8	3.3
Cumulative	.1	.3	.5	.8	1.1	1.6	2.1	2.8	3.8	5.2	6.8	8.8	11.2	14.0	17.3
Availability of coal for gasification:															
During year	6	6	0	6	0	15	30	47	66	87	109	131	157	184	213
Cumulative	6	12	12	18	18	33	63	110	176	263	372	503	660	844	1,057

	1976	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1993
Coal gasification plants:																
Added during year	1	1	0	1	0	2	0	3	3	4	3	4	4	5	5	
Cumulative	1	2	2	3	3	5	5	8	11	15	18	22	26	31	36	
Coal gasification capital expenditures:																
In mines during year	20	20	0	20	0	100	100	120	120	140	140	160	160	180	200	
In mines—cumulative	20	40	40	60	60	160	260	380	500	640	780	940	1,100	1,280	1,480	
In plants during year	200	250	0	200	0	400	0	525	525	700	525	700	700	875	875	
In plants—cumulative	200	450	450	650	650	1,050	1,050	1,575	2,100	2,800	3,325	4,025	4,725	5,600	6,475	
Total during year	220	270	0	220	0	500	100	645	645	840	665	860	860	1,055	1,075	
Cumulative total	220	490	490	710	710	1,210	1,310	1,955	2,600	3,440	4,105	4,965	5,825	6,880	7,955	

ATTACHMENT XIII: REPORT, FEDERAL POWER COMMISSION

U.S. LIQUID HYDROCARBON/SNG PLANTS UNDER CONSTRUCTION, PLANNED, OR PROPOSED

Company	Location	Investment (Millions of dollars) [1]	Feedstock Mb/d [2]	Type	Cents per gallon [2]	Source	Output MMcf/d [2]	Dollar Mcf	Plant operation	Number of plants	Status/comments
Columbia LNG Corp. [3]	Green Springs Ohio.	37.8	[4] 285	Natural gas liquids.	[5] 84.5	Alberta, Canada	250	[6] 1.12	Yearlong	1	Under construction; projected completion 1973.
Algonquin SNG, Inc. [3 7]	Freetown, Mass.	39.5	27.2	Naphtha	10.5	Bayway, N.J.	120	[6] 1.41	do	1	Design stage; projected completion Oct. 1973; total feedstock required not under contract
Tecon Gasification Co. [3 7]	South Plainfield, N.J.	139.8	110	do	[8] 10.3 [9] 8.3	⅓ domestic; ⅔ foreign	500	[6] 1.23	do	1	Contracts let for design and construction; projected completion 1973; total feedstock required not under contract.
Consumers Power Co	Marysville, Mich.	40	25	Natural gas liquids.		Alberta, Canada.	100		do	1	Under construction; projected completion 1973; capacity to double in 1974.
Brooklyn Union Gas Co	New York	20	10	Naphtha		New Jersey.	50	1.50	Seasonal	1	Contract let for engineering and design; projected completion 1973.
Public Service Electric & Gas. [7]	New Jersey	30	25	do	7	Foreign	125	.77	Yearlong	1	Precedent agreements for feedstock have been entered into; contracts for engineering to be let soon; projected completion 1973.
Boston Gas Co	Everett, Mass.	4.5	10	Propane/ Naphtha.			40	1.30	Seasonal	1	Contract let for design; projected completion 1972.
Continental Oil Co. [7]			33	LPG		Foreign	125			2	Under consideration; possible by 1974.
Panhandle Eastern Pipe Line Co. [7] (trunkline)	Illinois	50–60	60	Naphtha		do	250	1.20–1.30		1	Proposed.
Transcontinental Gas Pipe Line Corp.	New York	80–85		do			250			1	Planned.
Zapata Norness, Inc. [7]	East coast	200–250	85–90	Crude oil	5.9–7.1	Foreign	400	.85–.95	Yearlong	2	Proposed program; could have 1 plant ready by 1974; liquid fuels would also be produced.
Foster Wheeler Corp. [7]	Nansemond County Va.	189–326	180	do	6.5	Kuwait	250–700	.95	do	1	An evaluation program done for a large group of gas transmission and electric power companies for a fuels complex producing various outputs of SNG, Nos. 2, 6 and bunker fuels, and sulfur, depending on equipment configuration.
Tenneco Oil Co. [7]				Crude and unfinished oils.						1	Under investigation; byproduct distillate would also be produced.
Consolidated Gas Supply Corp.	Oswego, N.Y.			Naphtha						1	Under study in conjunction with Niagara Mohawk Power and New England petroleum Corp.
Northern Illinois Gas Co	Illinois	50	36	Natural gas liquids.		Domestic	150			1	Letter of intent for feedstock supply has been signed; projected completion 1973.
Ashland Oil of Kentucky				Petroleum liquids.							Development program underway.
Peoples Gas Co		100		do							Part of a 3-year company program for expansion by 1974.
Crown Central Petroleum Corp. [7]	Baltimore, Md.	200		Crude oil		Foreign	100	1.05		1	Columbia Gas System has agreed to purchase the SNG; projected completion 1973–74; liquid fuels will also be produced.
Felmont Oil Corp. [7]	Olean, N.Y.		22.5–24	Naphtha		do	[10] 35				Planned.
APCO Oil Corp	East	30	28	do		Freeport, Bahama Islands	125	1.05–1.13		1	A letter of intent has been signed under which APCO will produce SNG for Columbia Gas System; first deliveries 1974.
Amerada Hess Corp	Reading, N.J.	14		Naphtha							Included in proposal to expand existing facility.
Howard Oil Co	Philadelphia, Pa.		150	Crude oil		Foreign					Proposed; site acquired, design in progress, and a market waiting.
Indiana Gas Co	Indiana			Naphtha		Middle East					Under investigation in conjunction with other distributors in the area.
Tenneco, Inc				do							Negotiating stage; expected to be on-stream by 1974; more than 1 plant.

[1] May include various equipment and offsites depending on the particular project.
[2] Except where noted.
[3] Filed with the Federal Power Commission.
[4] MMM B.t.u./d.
[5] Cents per B.t.u.
[6] Based on full production rate; subject to contractual escalation or adjustment.
[7] Filed with the Oil Policy Committee or the Office of Emergency Preparedness.
[8] Domestic.
[9] Foreign.
[10] MMM c.f. per year.

Sources: FPC files; trade journals and reports; personal communication.

(Mr. McCLURE asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. ASPINALL. Mr. Speaker, I wish to thank my colleague, the gentleman from Idaho, who serves so ably as the counterpart on the minority side as the Chairman of the Subcommittee on Mining and Mines, whose interest is also in this particular field.

Mr. Speaker, I now yield to my colleague who is the only scientist that we have in the House of Representatives at the present time, the gentleman from Washington (Mr. McCORMACK)

Mr. McCORMACK. Mr. Speaker, I thank the gentleman from Colorado (Mr. ASPINALL) for yielding me this time.

Mr. Speaker, it is indeed a privilege to participate in this special order called by the distinguished Chairman of the House Committee on Interior and Insular Affairs, the gentleman from Colorado (Mr. ASPINALL) to announce hearing on the Nation's fuels and energy crisis.

I wish to associate myself completely with the calling of these hearing, with the hearings themselves, and with the remarks of Mr. ASPINALL, as well as those of the Honorable Chairman of the House

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Committee on Science and Astronautics, the gentleman from California, Mr. GEORGE MILLER, and with those of the Vice Chairman of the Joint Committee on Atomic Energy, the gentleman from Illinois, the Honorable MEL PRICE, and the gentleman from California, the Honorable CHET HOLIFIELD, and the other members of that joint committee.

The consequences of failure on the part of this Nation to provide clean and adequate energy at a reasonable price are truly frightening. They go far beyond the inconvenience and discomfort which most people associate with brownouts and blackouts.

Energy shortages and the consequent skyrocketing costs of energy will lead to industrial stagnation and even shutdowns for those industries that consume large amounts of energy.

The immediate effect of this is increased unemployment in those industries that are large consumers of energy, and soon thereafter unemployment in all those industries that are dependent on the output of the high-energy industries. In short, almost all of our industrial production and employment will suffer.

If we do not have adequate and inexpensive energy we cannot have clean energy. The environmental controls we need to assure future generations of clean air and water, and the measures we must adopt now for ourselves will require, according to Dr. Killian, a 25-percent increase in energy production.

Chairman ASPINALL, I will do everything I can in my power to aid you in your hearings.

Mr. ASPINALL. Mr. Speaker, I wish to thank my friend, the gentleman from Washington, for his leadership in the task force operation and for his cooperation that he has given to this special study on the energy problems in the near future.

GENERAL LEAVE

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that any Member of the House desiring to do so may have 5 legislative days in which to extend his remarks on this subject at this point in the RECORD.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

A NEW HARVEST OF SHAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, last week the Subcommittee on Agricultural Labor of the House Committee on Education and Labor began hearings on several pending legislative proposals in the field of labor-management relations in agriculture. On March 23, the subcommittee of which I am chairman, took testimony from several Members who had introduced bills on this subject. It is our intention to resume these hearings shortly after the Easter recess, first, hearing from other Members, and then from organizations and individuals who are concerned with this issue, and, to the extent they can shed light on the problem, from Government agencies. Dates are not yet fixed for the post-Easter hearings, but they will shortly be announced. In the meantime, groups or individuals who would like to be heard should so advise the subcommittee, at its office in room 320, Cannon House Office Building, so that we can work out a hearing schedule that will provide for a comprehensive and expeditious examination of the issues and problems involved.

Coincident with the subcommittee's opening of hearings on this problem however, Mr. Peter Nash, who was chosen by the President to be General Counsel of the NLRB, began an effort to overthrow years of precedent, and to bring a farmworker's union under the punitive provisions of the present National Labor Relations Act. Quite in keeping, of course, with the basic policy of this administration, Counsel Nash made no perceptible effort to provide farmworkers with any of the protections of the act. As the President's hand-picked NLRB General Counsel, Mr. Nash, of course, shares the standard Nixon administration one-way of the question of the rights and obligations of farmworkers.

The petition filed by the Los Angeles Regional Office of NLRA, under Mr. Nash's direction, for an injunction against the United Farm Workers' current boycott activity, while based on the alleged presence of a few dozen UFW members in nonfarm labor jobs, is, in fact, aimed at the entire union, and at all its boycott activities, including, for all practical purposes, those which are legal under present law, and even, arguably, those which would be legal if agricultural labor were covered by the National Labor Relations Act.

It is worth noting, too, Mr. Speaker, that Mr. Nash is not only changing the policy of the Board with regard to farmworkers, but he is doing so in the face of a clear prohibition in the most recent NLRB appropriation legislation, Public Law 92–80, against the expenditure of any NLRB funds "in connection with investigations, hearings, directives or orders concerning bargaining units composed of agricultural laborers * * * as defined in section 3(f) of the Fair Labor Standards Act. I have, today, incidentally, sent the Comptroller General of the United States a formal request to examine Mr. Nash's decision to initiate this complaint, in the light of that appropriations limitation, and to see if the will of the Congress is again being ignored by the administration.

In going down the one-way street, Mr. Nash is, of course, following the party line long since made "perfectly clear" by President Nixon. During his campaign for election to the Presidency, Mr. Nixon posed for publicity shots showing him eating California table grapes, at a time when the efforts of the United Farm Workers to organize grape pickers and bring them into the 20th century were largely dependent on the grape boycott. Candidate Nixon got the backing he hoped that picture would bring him among grape growers and other segments of agribusiness, and now that his 4-year uninterrupted campaign for reelection is reaching a crucial phase, he is again sending out signals, this time through Peter Nash, to his agribusiness supporters that he fully intends to do whatever he can to break the farmworkers' union and to keep farmworkers on the bottom of the economic ladder.

It is ironic, of course, that the President, his Cabinet members, and his other campaign workers are trying to paint a picture of this administration as "caring" about members of the Spanish-speaking community, through the appointment of a few—a very carefully selected few—members of that community to conspicuous and powerless Federal posts, while the President's other aides—the fellows who are running the Government while the President is running for reelection—are carrying out what gives every appearance of being a deliberate, multiagency effort to harass the farmworker whenever he actually tries to improve his own lot through his own efforts. The campaign poster shows Richard Nixon similing benevolently at a farmworker, while the ugly reality is one of neglect where that will do the job, and active hostility where neglect is insufficient.

A few other instance will suffice to fill in the picture, Mr. Speaker.

Yesterday, my subcommittee took testimony with regard to the administration of section 301 of the Sugar Act. This section of that act establishes, as a condition of the payment of subsidies, that employers must pay their workers a fair and reasonable wage as determined by the U.S. Department of Agriculture. According to a table entered into the record of those hearings, covering the period 1949–71, there have been increases almost every year in that period. The increases have not been tremendous, there have been years where there were no increases, and even the present Sugar Act "fair and reasonable wage" in Louisiana has only "risen" to $1.65 per hour. But nonetheless, a small but perceptible increase, based on hearings in the summer, announced in mid-September, and made effective September or October at the beginning of the harvest season, has been the annual pattern in this industry.

But this year, a new pattern was worked out. And I must express my admiration for the USDA or other Nixon administration officials who thought this one up. Because they managed to announce an increase in the Sugar Act wage on the basis of an "increase" which was wholly nonexistent in Louisiana, and nearly so in Florida.

This bit of administrative legerdemain was performed by the simple device of holding the customary hearings in July, making the customary sugar price determinations at the customary time, and then waiting until December to announce the "new wage," and making that wage effective only after the harvest season was over. The USDA's action meant in effect that the planters could pay their help during the harvest season at last year's rate, while the USDA could issue a press release triumphantly claiming that it had increased cane harvesters' wages.

The Department justified this specious reasoning by linking it to the President's "wage-price freeze," although the wage freeze was long since over when they made their announcement, and the "price freeze" had never applied to sugar, anyway.

There are other areas where the Nixon administration plays this game of "now you see it, now you don't" with the farmworker. The Manpower Administration of the Department of Labor has proudly, and with great fanfare, announced its "$20 million migrant manpower program," but neither the farmworkers who hoped to use manpower programs to break out of their endless cycle of exploitation, nor my subcommittee, which 9 months ago asked the Labor Department for some hard information about its plan, have seen anything substantial, except more press releases.

In the occupational safety field, in spite of a specific mandate in the Occupational Safety and Health Act that the Department must give special priority to the most dangerous occupations, and in spite of the fact that agriculture is the third most hazardous occupation in the Nation, the Department of Labor is still on dead center, promising that an ad hoc advisory committee will be appointed "in a couple of weeks to begin the long task of developing standards, while it refers inquiries to the Department of Agriculture, which promised last winter to name some farmworkers to its Advisory Committee on Farm Safety, and has not yet kept that promise.

The Subcommittee on Farm Labor, Mr. Speaker, would be hard put to cope with, or even to keep advised of, all the forms of discrimination and harassment the farm labor movement is experiencing under the Nixon administration. But we can examine it from case to case, and we can try to cope with it on the same basis. In the case of the NLRB, we can, and we will, invite Mr. Nash to appear at the hearings that have already begun on labor-management relations, and we can ask him just what benefits, if any, he believes will accrue to farmworkers if his slightly myopic interpretation of the law should prevail. We can, I suppose, ask him his opinions on what legislation is needed, but a letter of August 20, 1971, from the Education and Labor Committee to the Board asking for the Board's views on one labor-management bill, has gone as yet unanswered. Similar letters to the Labor and Agriculture Departments, I should mention, have received the same silent treatment.

Our hearings on the administration of the Sugar Act will continue tomorrow, when the Secretary of Agriculture has been asked to appear. I am informally advised that he will not be there, and that he is sending instead a career USDA official who only carries out the policies set by the administration. We will nonetheless do our best to pursue the issues raised in yesterday's hearing.

The Labor Department has been invited for April 24 to explain whatever happened to the migrant manpower program. At that time they will also be asked to explain why a Department response to a complaint, filed by farmworkers against the rural manpower service, has yet to appear, even though the rural manpower service is already beginning to process another year's cycle of farm placement requests.

Mr. Speaker, the fact that the farmworker stands at the lowest rung of the economic ladder; the fact that he is excluded from coverage under most labor protective legislation, and covered inadequately under the rest; the fact that he subsidizes the rest of us by his low wages, his miserable working conditions, and the labor of his children—all these facts have been documented so often as to have become cliches. Why, Mr. Speaker, even Nixon administration officials have been heard to express concern over the pattern of legislative exclusion—though they have been uniformly and eloquently silent when asked for help in changing some of the laws. I would certainly hope that the Nixon administration is not increasing the burden already borne by the farmworker in the form of inequality under the law, by adding to it an equally broad and far more effective pattern of harassment and hostility.

But if that pattern exists, then a new "harvest of shame" is being planted and cultivated right now at the White House.

SPACE EXPLORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 20 minutes.

Mr. ESCH. Mr. Speaker, whenever I listen to our national debate on the future of the space program I somehow conjure up visions of a similar one which must have taken place within the court of Ferdinand and Isabella nearly 500 years ago. I am sure there were courtiers then who said, "but we do not know whether he will find the way. Maybe all the money will be wasted." Some undoubtedly argued that there were serious problems existing in Spain which needed instant attention. Perhaps still others were cautious about how much the Government was spending and urged that the fantastic project be dropped in order to bring the royal budget into balance.

Similarly, a year later when Columbus returned from his journey, the skeptics must have continued to greet him with scorn. After all, though he had found something he had not brought back any great quantity of gold or rich spices—just a couple Indians and some new plants.

Yet the discovery which Columbus had made was to expand the horizons of the world and to improve the quality of life everywhere. It was Columbus' discovery which initiated and inspired much of the progress made in the next few centuries. It was to inspire both bold new ideas and bold new ways of life.

So, too, has it been with our space program. From the beginning the skeptics have urged that money should be spent instead on "urgent domestic priorities." Many have argued that we simply cannot afford the costs in light of our budget deficits. We all have realized that we really do not know just what we will find and how it will apply to us here on earth. Mr. Speaker, in my opinion, we should not be short-sighted. Our resources are great. We need not turn our backs on any segment of this Nation, including our great cities. To proceed with this project does not mean that we are going to neglect these grave responsibilities. I have faith that as Americans we will respond affirmatively to these challenges.

Our explorations of space, like Columbus' journey to the Western Hemisphere will expand the horizons of the entire world and, I am convinced, will improve the quality of life everywhere. Already, the spinoff of presently ongoing space programs have made vast advances in medical science, in miniaturization, in weather prediction—and thus protection of populations from violent storms—in the location of natural resources, in the location of plant diseases and their control, and many others.

In the next few weeks we will begin debating a new concept of space travel which will determine whether or not the United States will take advantage of the tremendous opportunities and challenges of the new horizons we have found in space. We will decide, like the Spaniards of old, whether we should exploit our new discoveries, or whether we should forego their possibilities.

I strongly feel that we should accept the latest challenge and that we should embark on the new method of exploring the outer reaches of space science.

Space exploration, as we all know, has been extremely expensive. The cost will continue to be high—almost prohibitive—as long as we continue to use today's expendable, one-shot launch vehicles. The kind of extensive manned and unmanned program which could result in so many important discoveries to improve life here on the earth will be impossible unless we find some means of reducing the cost of space exploration.

The space shuttle, as proposed by NASA is our chance to reduce those costs to an acceptable level. The space shuttle represents an entirely new basis of transportation for men and materials from earth to outer space and back. It will take off like a rocket, fly in orbit like a spaceship, and land like an airplane. It will not only take materials and satellites and men into space and serve as their spacecraft, but it will return to earth intact. It is completely reusable.

The space shuttle will expand our space horizons in many ways. First, and perhaps most obvious, it will reduce the cost of putting a payload into orbit, an effort which presently costs from $700 to $1,000 per pound. The shuttle will reduce that cost to $100 per pound. It is estimated that over the initial 12 years of operation, the space shuttle will save the Nation $12 billion in launch and payload costs.

However, far more important than the money saving aspects of the shuttle are its contributions to making our space program more flexible and more useable in solving the difficult problems we face in the decades ahead. The space shuttle will reduce drastically the amount of

training that a person will have to undergo in order to participate in a space flight. It is projected that, within a short period of time, the space shuttle will become a sort of commuter plane for scientists and technicians. It will not be necessary for each of them to be trained in all the essentials of space flight. Thus, if a particular mission involving plant disease is undertaken, agronomists can be transported into space to do the work. Or, if we are having difficulty with communications satellites, we can send our best communications technicians into space to examine the orbiting communications satellite and repair it.

In short, the shuttle will make manned space flight far more productive in scientific discoveries and in practical applications. It will give us a working presence in space. It will also make unmanned space exploration more productive through the repair of unmanned instruments, and perhaps through the collection of actual films rather than just radio signals of the photographs taken. The shuttle will remove the barriers between manned and unmanned research and unify them into a more effective whole.

Additionally, with the shuttle's easy and routine access to space, scientists and astronauts of many nations could be taken into orbit with their experiments to join first-hand in space studies. Thus the expertise of the scientists throughout the world can be brought to bear. In the area of science, perhaps more than in any other, international cooperation and friendship have transcended national borders, hostilities and philosophies.

One important aspect of the space shuttle proposal will be its contributions as a spur to our economy. The leadership momentum this country has maintained in the past has depended upon the "cutting edge" provided by our major national technological programs which have focused our advanced management/scientific/engineering/production talents on the achievements of specific capabilities at specific times. The shuttle program is well suited to replace Apollo as the cutting edge which is required to maintain our national technological superiority.

I sometimes think when we discuss money spent on the space program that many believe the money is sent off in a Buck Rogers-like vehicle to float through the vacuum of the far reaches. To the contrary, every dollar spent on the space program is invested here on earth. A recent economic study indicated that $10 billion invested in the space shuttle over a period of 15 years would result in almost $27 billion in additional indirect stimulation of our economy.

It is well, when we discuss this new proposal, to review the many areas in which the space program has already made significant contributions to our quality of life. The space shuttle can, in every case, expand the practical applications and usefulness of these space research programs. Briefly, the major areas of contribution are:

First. Communications—satellite communications has, within the decade, moved from novelty to accepted convenience. World Olympics, Presidential visits to China, and other historical events, made possible only through use of communications satellites, are now accepted matter of factly by the general public.

Second. Weather—meteorological observation via satellite has provided one of the most significant advances in weather reporting in the Nation's history. Until the advent of earth satellites 80 percent of the earth was subject to only scattered weather observations. Reliable long-range weather predictions of 2 weeks or longer should be attainable using weather satellites.

Third. Navigation—satellite navigation systems can provide global coverage. They are practically invulnerable to weather, available day or night, and are capable of responding instantaneously.

Earth orbiting navigational satellites discern ship and aircraft positions much more accurately than previous systems. In our fast moving environment of air traffic, such a capability is essential for traffic control, and collision avoidance. With satellite assists, controllers can pinpoint an aircraft's position within approximately 1 mile.

Fourth. Agriculture and forestry—observation via satellite will offer a substantial improvement in the kind of crop and fire observation that was initially made possible through aerial photography. The satellite method makes possible regular periodic observation on a routine basis.

Using satellites and their remote sensors, man will be assisted in his management of food crop and timber resources. He can monitor the health of timber resources, aid in determining the best time to plant and to harvest for maximum yields, detect potential damaged crops, help improve land use, conduct crop inventories, spot plant blights before they spread, and be forewarned of impending droughts, erosion, and floods.

Fifth. Astronomy—Astronomers have heretofore been limited in their observations of space by the earth's obscuring atmosphere. Observing equipment placed outside the earth's atmosphere will aid substantially in understanding celestial mechanisms. Manned attendance of astronomical instruments within the shuttle orbiter will allow for modification, adjustment, maintenance, repair, and film recovery and replenishment.

Advancements such as this will assist in transforming astronomy from mere data collection to a better understanding of the universe.

Sixth. Earth resources—the space shuttle will offer man a new and comprehensive view of the earth's resources. It will be a view that will contribute to conservation, as well as utilization.

Man will be able to monitor mineral resources such as iron, copper, and gold. Nonmetallic deposits such as sand, gravel, limestone, oil, and gas will also be observed from the space shuttle. Electromagnetic energy and the electrical properties of rocks and terrains will be much more satisfactorily observed from the shuttle than is presently possible from the limited height of aircraft observation.

The infrared scanners which will be utilized in the space shuttle will be able to track thermal pollution in overheated waterways, follow forest fires through the thickest smoke, and, coupled with other sensors, will monitor oil spills and solid waste dispersal. Utility companies will be assisted by the shuttle through detection of such things as hot spots in transmission lines and location of underground geothermal sources, which have been suggested as pollution-free sources of energy for powerplants.

Forest services and agricultural groups will be benefited by the shuttle's ability to detect crop and plant diseases. The very same film that is used to detect these crop and plant diseases will also be used to detect local underground faults.

Air pollution will be observed by the shuttle and it will become an invaluable tool in charting corrective action as it reports the movement and diffusion of pollutants and the effects of weather and climate in the creation and dissipation of pollution.

In short, the space shuttle will provide the human race with its first opportunity to take an inventory of the planet. Man will be able to know exactly what is on his planet in the way of plants, animals, forests, land, water, minerals, and people. He will be able to determine the stresses that he and nature are placing on this planet, and hopefully be able to establish a harmonious relationship between himself and his surroundings.

Seventh. Oceanography—two-thirds of the earth's surface is covered by the oceans. They can be viewed in their entire scope only from a distant point in space. This distant point of view, which the shuttle will provide, will be utilized to increase our understanding of the oceans, to utilize them as a medium of transport, to detect their influence on weather and climate, and to evaluate them as fishing grounds.

The continually changing state of the sea requires that information, in order to be useful, must be gathered quickly. This is feasible only using satellite techniques.

Eighth. Pollution control—the increased use of outer space afforded us by the shuttle will aid us in locating and minimizing pollution of the oceans and major lakes. It will detect the heat and content changes that typify pollution growth, and will continue to detect disease and insect growth patterns.

Ninth. Space manufacturing—the shuttle's cargo bay, and ability to service stations in space will make it an ideal mechanism for aiding in the development of products that are more easily created in the weightlessness and hard vacuum of space. These possibilities include foamtype steel that has the strength of solid steel yet the lightness of balsa wood and the growth of crystals for industrial uses.

In conclusion, Mr. Speaker, it is my firm belief that 500 years from now when future generations are discussing history, they will point to our decisions to pursue the exploration of space with the same kind of respect which we accord to the decisions our ancestors made to explore the new world. For all of mankind, space is the new world, the new frontier. An investment in the space shuttle is an investment in the future.

PENSION PLAN REFORM LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker last week the House received a major document from the President, a comprehensive statement of proposals and programs directed toward helping older Americans. A key element of that wide-ranging package was a plan to reform this Nation's private pension system. Today I offer two bills presented by the President which address the issues of pension expansion and protection and aim to encourage broader coverage and sounder management of private retirement plans.

This century has seen a phenomenal growth in retirement and pension programs as, for the first time in history, significant numbers of people have lived past the Biblical three score and ten and into a phase of life where they have no longer been actively employed. While widespread growth of pension plans was somewhat late in coming to the United States, once it began, it expanded dramatically in both the public and private sectors.

Three million people were covered under private pension plans in 1930. Today some 30 million people are under such plans, a growth given tremendous impetus during World War II when massive amounts were shifted into pensions while wages and salaries were controlled. Some 4 million retired persons are now receiving private pensions totaling about $5 billion a year. Private pension plans now claim assets of over $130 billion, a figure that will soar to $215 billion by 1980.

Even with these impressive figures, however, the pension picture needs qualification. Many are still not covered—perhaps half of the country's wage earners are not in private group plans—and many are in plans deemed inadequate for a retirement income or supplement. Older Americans are particularly aware of such deficiencies and have, in forums like the recent White House Conference on Aging, spoken eloquently about them. Besides broadening coverage, there is the issue of protecting pension rights, the matter of assuring a measure of funds to an employee even before retirement—the vesting principle—as well as the post-retirement income of our older citizens.

As a spur to broaden the coverage of retirement plans, I offer today the Individual Retirement Benefits Act which supports pension contributions in a sound, noncompulsory way via tax incentives. It would allow individuals to invest up to 20 percent of their income, up to a level of $1,500, to private retirement plans and claim a tax deduction for that amount. Such investments could be placed in a broad range of assets held in custodial accounts. To further enhance such investments, earnings on amounts contributed to individual retirement plans would be excludable from gross income.

The act also liberalizes the limitation on contributions on behalf of self-employed individuals. The bill calls for a tax deductible level of 15 percent of earned income or $7,500, up from earlier figures of 10 percent or $2,500. The earlier limitations offered little incentive for the self-employed to contribute to pension plans for themselves or their employees. Since corporations making such contributions on behalf of their employees are subject to no such limitation, the present law has, in effect, forced the self-employed to incorporate for pension purposes. The new ample deduction will encourage the self-employed to continue to operate on their own with adequate retirement benefits for themselves and their workers.

Finally, the act establishes a minimum standard for vesting pensions based on what is called the "Rule of 50." A Presidential message of last year explained the concept:

> Under this standard, every pension would be considered half vested when an employee's age plus the number of years he has participated in the pension plan equals 50. The vesting process would begin with this jump to half-vested status. After this point has been reached, an additional ten percent of the pension would be vested every year—so that the pension would be fully vested five years later.
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> Under this standard, which must apply to workers who are 30 years of age or older, anyone joining a plan when he is 30 years old would find that his pension would begin to vest at age 40, when his years of participation (10) plus his age (40) would equal 50. The pension of an employee joining at age 40 would begin to vest at age 45, and that of an employee joining at age 50 would begin to vest immediately. And in each case, the degree of vesting would increase from 50 percent to 100 percent over the subsequent five-year period.

There are any number of existent vesting formulas, all addressed to guaranteeing employee pension benefits before retirement age. Many plans already have liberal vesting arrangements, the great majority of large single employer plans providing 100 percent vesting by the 15th year of service. This bill does not attempt to underwrite anything like rapid, full vesting, but it does set a solid base of protection as a standard for employees subject to the whim of a business downturn or an act of employer arbitrariness.

Related to this desire for protection of retirement plans, I also offer the President's Employee Benefits Protection Act which would amend the welfare and pension plans disclosure of 1958. The President cited this legislation in his message of last Thursday. He noted there his original proposal of this legislation 2 years ago, yet the Congress has not seen fit to act upon it. I introduce it today to underline the importance of pension protection, a subject the Congress has too long neglected. A distinguished bipartisan group of members of the Education and Labor Committee have already endorsed the bill and acted as its original sponsors.

This measure aims at strengthening the interests of those participating and benefiting from pension and welfare plans. It achieves this by broadening reporting and disclosure requirements, by establishing a "prudent man" standard for evaluating fiduciaries entrusted with plans, and by providing remedies through the courts to insure that the act's protections can be effectively enforced. Abuses of welfare and pension funds are by no means widespread; most are soundly and honestly run.

Yet we know of the periodic spectacular case in the press, and these and other offenses have been little subject to remedy or redress, either by plan participants or Government entities. This bill proscribes fiduciary conduct under the law of trusts, opens and expands information on the use of funds, and allows civil suits to be brought upon malfeasance of such funds by those responsible. This bill's introduction gives me a chance to reiterate the urgency of the President's original exhortation to the Congress to act in this area.

These are important steps toward fostering and protecting private pension plans. More can be done, particularly in the areas of funding, portability, and reinsurance. I personally favor the reinsurance concept, that is, Federal insurance of private pension plans. While the need for such insurance may not be widespread—a datum still to be confirmed—its object seems highly laudable; protection of an employee whose plan is terminated through no fault of his own. There is widespread concern in my district about this issue and I hope Congress will soon address it. A revealing fact about the need for reinsurance is that my constituents who favor it represent almost wholly organized workers. If union members, who may already possess certain pension safeguards through their membership, feel the issue strongly, how much more do those unorganized, less advantaged workers need it?

Still, reinsurance, as well as funding and portability are controversial issues: One side's focus is on protection for those not covered or for those summarily treated, the other secs increased costs, the specter of Government regulation and the dampening of the future expansion of pension plans. One vision sees the worker dropped after 20 years' service because of a plant layoff and without sufficient service time to qualify for the company pension. The other foresees eventual Government interference in management's options, an employer burdened with costly bookkeeping and denied flexibility in an area where he should be free to work out agreements with his employees.

These are serious issues and have and will be fully debated within this Congress. Toward that end, I am delighted that the General Subcommittee on Labor has undertaken a special study of pension plans which will offer data pertinent to legislation in these areas. How many pension programs possess adequate funding? How necessary is reinsurance due to plant closings or business layoffs? How viable are present portability arrangements? These are the kinds of questions we will be better able to answer from the committee study, hopefully this spring.

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The skepticism about private pension plan coverage was neatly summarized in a recent CRS report which cited a former Assistant Secretary of Labor:

In all too many cases the pension promise shrinks to this: "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

An overdrawn example perhaps, but still too true in too many cases for too many wage earners. I urge the Congress to move expeditiously on the bills I have presented today and to followup in producing Federal standards for this Nation's private pension system.

PROTECTING EMPLOYEE PENSION BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. RUPPE) is recognized for 10 minutes.

Mr. RUPPE. Mr. Speaker, today I am introducing the Employee Benefits Protection Act of 1972, a bill to protect the private pension benefits of over 27,000,000 American working men and women.

To date this huge segment of our national labor force and employers have built up private pension reserve assets totaling some $125 billion, and this figure is growing at the rate of $10 to $15 billion annually. As letters of despair from a number of my constituents clearly and tragically indicate, however, this sizable employee investment in a secure retirement is never enjoyed by some contributors because of job transfer, lack of tenure, or plant shutdown. My legislation, therefore, introduces stronger Federal regulation into this virtually unregulated field in order to foster the creation and maintenance of sounder, more secure private pension plans.

I would like to emphasize my firm belief in the role of private pensions as an important, desirable source of retirement income for our senior citizens. The job of the Federal Government, as I see it, is to eliminate those cases where a worker loses all his pension benefits because of unintentional accidents, shortsighted planning, or misuse of private pension programs.

To accomplish this goal, the Employee Benefits Protection Act includes the following key provisions:

One. The legislation requires minimum vesting standards for pension plans, to assure that no plan sets its eligibility standards so high as to deny rights to the majority of the participants in the plan. This vesting requirement states that after 6 years of contribution to a plan, the worker would be guaranteed the right to at least 10 percent of any benefits he had earned up to that time. Each succeeding year an additional 10 percent of his benefits would be vested, so that by the 15th year there would be full vesting. Gradual vesting has a distinct advantage over flat, ungraduated 100-percent vesting in the 15th year: it avoids the situation where a worker is laid off after 14 years and 11 months of participation in the pension plan, thereby losing his right to receive any of his retirement benefits.

Two. Minimum funding standards are required to assure the sound, responsible operation of pension programs and the delivery of promised retirement incomes.

Three. A Federal insurance program is established for private pension programs in order to guarantee the payment of benefits if an employer goes out of business before the plan is fully funded.

Four. Rules of conduct covering conflict of interest and other unethical practices are established to prevent graft and mishandling of pension funds.

Five. The legislation consolidates present regulatory standards for pension plans—now administered by various Federal agencies—into a new, single Pension and Employee Benefit Plan Commission.

Six. Finally, the Employee Benefits Protection Act provides for effective judicial enforcement of the bill's provisions, and for recovery of pension benefits.

I do not take credit for authoring this bill; this legislation represents years of research and debate by many legislators, administrators, and staffers. Neither does this bill mark the end of the debate over what role the Federal Government should play in regulating private pension plans. Nevertheless, I have carefully studied the various proposals before the Congress, and I firmly believe that this bill is a far-reaching and comprehensive approach which will fully guarantee retired employees the private pension benefits which are rightfully due to them.

Because of the urgency and desirability of insuring that our Nation's senior citizens can enjoy full lives and secure retirement years, I strongly hope that the Congress will actively consider this year the Employee Benefits Protection Act or similar legislation.

JOINT ECONOMIC REPORT—1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 15 minutes.

Mr. BRADEMAS. Mr. Speaker, I wish to call to the attention of my colleagues the 1972 Joint Economic Report of the Joint Economic Committee, and particularly, the supplementary views of our distinguished majority leader, HALE BOGGS.

Mr. BOGGS is well versed in both legislative and economic matters, and his supplementary views are an excellent statement of the leadership of the Congress in the effort to stimulate employment, halt inflation, and restore the economy to its former health.

I am inserting the text of Mr. BOGGS' supplementary views in the RECORD and calling it to the attention of my colleagues:

THE 1972 ECONOMIC REPORT OF THE JOINT ECONOMIC COMMITTEE

SUPPLEMENTARY VIEWS OF REPRESENTATIVE BOGGS

I am in general accord with the views expressed in the Majority Report and hasten to commend my associates on the Joint Economic Committee both for the hard working and thorough way in which they went about exploring the President's economic policy recommendations and for their impressive competence in appraising it. Regrettably, my duties as Majority Leader did not permit me to participate fully in the hearings and, for this reason, it would not be appropriate for me to take a position on each and every recommendation in the Report.

At the same time, I want to take this opportunity to emphasize the fundamental conclusion that the misguided economic policies of the Administration have cost this country some $125 billion in lost production during the past two years and brought about a situation where 5 million people are out of work. What is more, had it not been for the programs put through at the initiative of the 92nd Congress, the situation would have been far worse.

In the circumstances, I feel it incumbent on me to set forth briefly in these supplement views the legislative record of the 92d Congress aimed at the goal of restoring to this nation the full employment enjoyed prior to January 1969 and toward ending the unhappy and unprecedented combination of escalating inflation and plunging employment which has been our lot during the past two years.

When this Congress convened in January 1971, we found the nation's economy in disarray. The legacy of full employment bequeathed President Nixon by the outgoing Democrats in January 1969 had been dissipated and replaced in two years by an additional two million jobless Americans. After witnessing a steady growth of the economy throughout the Kennedy-Johnson years we were now faced with an industrial plant operating below 75 percent of capacity and an annual GNP $74 billion below its potential.

The costs to the nation of this deliberate slowdown have been enormous. Far from bringing down prices as intended, Administration policies produced an unprecedented combination of inflation and recession. The cost of living was 12 percent higher in January than it had been two years before, and unemployment was approaching the ten-year high of 6 percent where it has stayed throughout the year. The number of Americans living in poverty increased in 1970 for the first time in a decade, and welfare rolls also hit all-time highs.

Because this nation obviously could no longer afford inaction, the 92nd Congress extended the authority it had given the President in 1970 to control wages and prices, and urged him once again to act immediately. The Congress approved emergency employment legislation and accelerated public works authorization to get the Federal government into the attack on joblessness.

And after the President finally adopted our recommendations on August 15, we expeditiously enacted tax relief to stimulate the economy and a further extension of the economic stabilization legislation to give full latitude to the Phase II proposal. The Congress strengthened and refined both these measures to provide balance and equitable treatment for all Americans.

A partial list of the measures passed by the 92nd Congress demonstrates the extent and character of our actions up to now.

Cost of Living Stabilization Act.—On its own initiative the Congress kept the Economic Stabilization Act of 1970 operative through April 30, 1972, despite the President's repeated disclaimers that he would not invoke the wage-price control mechanism it authorized. However, when the continuing poor performance of our economy led to the August 15 unveiling of the New Economic Program, the President requested a further extension of the controls, and we complied by making the Act operative until 1973 while including additional provision for standby authority to control interest rates.

Emergency Employment Act.—With persistent unemployment the most troublesome aspect of our sluggish economy, we enacted several bills to give the job market a shot-in-the-arm. The Emergency Employment Act authorizes $2.25 billion over the next two years to reimburse State and local governments for placing the unemployed in public service jobs—in health, education, sanitation, public works, environmental control. It provides for special consideration for Vietnam veterans and earmarks funds for unemployed professional and technical personnel. And, when unemployment hovered consistently at the six percent level throughout 1971 we expedited a separate $1 billion appropriation in early August to get the Act immediately implemented.

Accelerated Public Works.—Another major Congressional initiative aimed at our pervasive unemployment problem would have authorized $5.5 billion for a program of accelerated public works projects, extension of the Public Works and Economic Development Act, and the Appalachian Regional Development Act. The $2 billion that was earmarked for job creation in speeded-up public works projects proved unacceptable to the President, however, and drew a veto which the Senate sustained. With such Administration intransigence toward the highest unemployment in a decade, we were forced to re-draft a compromise bill to extend Appalachia aid and EDA, with only $500 million for unemployment in accelerated public works. Though we passed this legislation on August 5, the President did not order its implementation until December, and then only in a most parsimonious manner.

Revenue Act.—To provide stimulation for a lagging economy we approved $15.8 billion in personal and business tax relief. These tax breaks included a seven percent investment tax credit for industry and speed-up of personal tax exemption and deduction increases scheduled for subsequent years. The final product due to Democratic Congressional efforts gave a far greater measure of tax relief to those in the low and moderate income brackets than would have the President's original proposal.

Small Business Loan Ceiling Increase.—To ease problems faced by small businessmen during recessionary times, we increased SBA's outstanding loan ceiling from $2.2 billion to $3.1 billion for regular and displaced loans, trade adjustment loans, prime contracts and opportunity loans through fiscal 1972.

Unemployment Compensation.—In a bill amending the administration of the Federal unemployment tax collection system, we authorized the payment of an additional 13 weeks of unemployment compensation to individuals who have exhausted their benefits in States with a jobless rate over 6.5 percent.

Conventional text book wisdom of our era has it that, in areas of paramount legislative importance the President proposes and the Congress disposes. Like so many unexamined maxims dealing with human affairs, this, when tested against the practical experience of the 92nd Congress, proves to be less than the entire truth. This Congress, certainly in the economics sphere, to an extent unwitnessed probably for half a century, has been the innovator, the proposer; the President and the entire Executive Branch, by way of contrast, have played the passive role of reactor or receiver, sometimes opposing, sometimes accepting with great reluctance economic reforms emanating from Capitol Hill. The current combination of inflation and recession would be much worse had the Congress relied on the Administration's recommendations alone and failed to enact on its own initiative the economic legislation placed on the statute books during the past year.

The Congress will not allow continued high unemployment and underutilization of productive ability to further pile up the mass of lost potential. We will stand ready during the year to expand public employment further, to enact emergency grants to State and local governments to tide them over the recession, to build additional necessary public facilities, and thereby meet basic needs while providing additional employment, and take any other steps necessary to restore our economic well being.

A PLEA TO END SECOND-CLASS CITIZENSHIP FOR GOVERNMENT EMPLOYEES OR LET US PUT THE HATCH ACT BACK IN THE EGG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 10 minutes.

Mr. BEGICH. Mr. Speaker, last week, I introduced H.R. 14036, a bill to restore to Federal civilian employees their rights to participate fully in the political life of the Nation. More specifically, it is legislation designed to remove the outdated and unreasonable restrictions of the Hatch Act. Today, I would like to followup the introduction of the bill with some comments on this legislation, especially as it might affect the people of Alaska.

In making these comments, I want to specifically associate myself with the gentleman from California (Mr. WALDIE) and the gentleman from Illinois (Mr. MIKVA), who are standardbearers in the cause of eliminating the repressive features of the Hatch Act. Both of these gentlemen appeared on February 29, 1972, before the Elections Subcommittee of the House Administration Committee, and made articulate statements advocating Hatch Act reform. H.R. 13737, by Mr. WALDIE, is the basis for my own bill. It is my privilege to join them in this cause. My action in doing so fulfills both a campaign promise to the people of Alaska, and a strong personal conviction on my own part.

I do not intend to retread the ground covered so well by others, but I believe a brief review of the Hatch Act history will be useful here.

In 1939, the Hatch Act was enacted for a single important reason. It was intended to protect public employees from involuntary political activity. The key word, I believe, is involuntary.

In 1940, the act was amended to extend its prohibitions to State and local government employees working in federally funded programs.

In 1966, the act was amended to cover employees of private groups carrying out community action programs funded under the Economic Opportunity Act.

Finally, the passage of over 30 years has also brought forth a barrage of incomprehensible rules and regulations to administer the act. Any person who has ever worked under the Hatch Act's shadow knows very well the key rule for survival: "When in doubt, do not do anything, because what you do might be wrong." The classic rule was quoted by Mr. WALDIE in the recent hearings when he read from the Civil Service Commission Pamphlet No. 20, "Political Activity, Federal Officers and Employees," under "Activity by Indirection":

Employees are therefore accountable for political activity by persons other than themselves including wives or husbands if, in fact, the employees are accomplishing by collusion and indirection what they may not do openly and directly.

In summary, the repressive effects of the Hatch Act now fall on over 5 million Federal and Federal-related employees. Also, the Hatch Act has spawned a great number of State level "Little Hatch Acts," which offer varying degrees of the same treatment. The ambiguity of the regulations which carry out the act is pervasive, stopping the expression of opinion in the worst instances and frustrating the expression of opinion even in the best of cases. An act which was originally intended only to protect public employees from involuntary political activity now serves primarily to deny these same employees the freedom to engage in voluntary political activity.

The other face of the argument against the Hatch Act is that it effectively deprives our democratic system of the participation of 5 million citizens. As one who considers Government service to be among the highest callings in our society, I believe this particular 5 million persons to be especially vital to the system. Locking them out of the political process is, very simply, an expense to democracy which we cannot afford.

Let me state specifically why my own commitment is so firm. It is because few States are hit so hard by the twin losses of individual rights and nonparticipation of this valuable component in democracy as is my own State of Alaska.

Nationwide, 5 million employees are restricted in their activities out of a population of 210 million. This is approximately 2½ percent of the total population, and about 7 percent of the voting population of approximately 73 million. As sad as these figures are, they are exceeded substantially by the statistics describing denial of participation in Alaska.

In Alaska, there are over 17,000 Federal employees in a population of 302,000. This means that approximately 6½ percent of the population is restricted, or about 21 percent of the voting population of 82,000.

I really do not believe that either the Nation or Alaska can or should have to stand the loss of this many people from the process of democracy.

The bill which I have introduced is based on the philosophy that the original intent of the Hatch Act is a valid one. That is, to protect public employees from involuntary political activities, and to prevent political activities from becoming a part of the individual's performance of his employment. To this extent, this bill retains features of the present law.

At the same time, the bill I have introduced totally rejects the notion that voluntary political activity, carried on separately from the employment, should be restricted to any degree. Among the rights specifically protected by this legislation are:

Expression of political opinion.

Candidacy for any public office at any level.

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Candidacy for, and service as, a party convention delegate or officer.

Participation in, or organization of, meetings, caucuses, conventions, or rallies for political purposes.

Membership in political clubs.

Political campaigning.

I believe strongly that an individual's exercise of these basic rights of political participation should not be a sacrifice required by Government employees. The recent hearings by the House Administration Committee indicate that others feel the same way, and that interest is finally being expressed in reconsidering the Hatch Act. For the sake of over 5 million citizens, I hope that reform is undertaken in a rapid manner and to a meaningful extent.

PHASE II FLOATS LIKE CORK BUT IS NO STOPPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I fail to understand what is taking the administration so long to conclude that something has to be done to control skyrocketing food prices. I thought I knew what the answer was up until a few ays ago. I just assumed that the administration, with its eyes firmly planted on the 1972 election, was going out of its way to court the farm vote and what might make sense to some east coast or west coast housewives might not be popular with the families who work on farms. But investigations I have been able to make into this matter convince me that this is a classic case of misplaced concern. The fact of the matter is that, as on so many occasions in American history, the answer is not the one who is making the profits—certainly not the small farmer every public official holds so dear in his speeches—but rather the middlemen who are buying from the farmers and selling to the supermarket chains. I think the administration is gradually coming around to realizing this. Thus, in the space of one weekend, we hear the Secretary of the Treasury and the President himself thinking out loud and indicating that action to control food prices may well be essential if phase II is going to have any chance of success. The problem, of course, will be to convince the Secretary of Agriculture, Mr. Butz, who has gone way out on the limb on this issue, and with no if's, and's, or but's about it, committed himself to opposing price controls over food.

But I, as a Congressman who has to read letters from hundreds of housewives in my district, complaining about ever-increasing food prices while their husbands' wages are held down, cannot be satisfied with this weekend treat of high administration officials thinking out loud and admitting that there is a problem and that something must be done. Phase II has been in operation for far too long. Complaints have been coming in for too many months for this administration to pretend that a problem has just been uncovered and in a few months' time action will be forthcoming. A family's food budget is just too big a factor to be left out of price controls in the first place for me or any other Member of Congress to be satisfied with an assurance that our concern is very much in the forefront of the President's thinking these days. This is not saving the housewife a single blessed penny and, in fact, has cost families across the land millions of dollars in higher food prices.

I do not mind admitting, while I am on the subject of phase II, that this food price fiasco is simply the latest in a whole series of inexplicable sins of omission perpetrated by the designers and architects of the "house of sand" we refer to as phase II. High on my list of sins of omission for some time now was the initial failure of the administration to include insurance premiums covering medical costs in the initial freeze and subsequent guidelines. Again, health costs are just too big a factor for families across this Nation to be subjected to 22, 37, or 44 percent proposed increases in health insurance rates. The fact that in the end the Federal Employees' Blue Cross/Blue Shield premium was rolled back to a staggering 22-percent increase is no cause for universal celebration. A 22-percent increase in such a major budget item as health insurance not only makes a mockery out of the attempt to hold down costs in and of itself, but sets a poor example to the rest of the economy. The Government cannot even control the costs of the Federal employees' health insurance program.

Also high on the list of sins of omission is the failure to effectively control utility costs. The same month that citizens of Massachusetts were hit with announced rate increases from the health insurance companies, we find that they have also been informed about rate increases in their electric bills and telephone bills and other utility bills. Anyone who thinks that after a family writes out the checks to cover all these bills, that that family can possibly feel that inflation is being tackled across-the-board is certainly pipedreaming and has been in Washington too long. He ought to get out of this city and go back to the city from whence he came.

Also high on my list of sins of omission by the architects of phase II is the rather ridiculous pretense that one can have effective control of costs when local property taxes are deliberately exempted from any wage-price control program. I am well aware that States and local government have the right to collect taxes independently from the Federal Government, but the local property taxes are just too big an item in the budget of every American citizen for them to be able to afford the pretense that these taxes can be ignored by the wage-price control people and still have inflation kept in control. Make no mistake about it, you do not have to own property to appreciate what I am getting at. Rent adjustments permitted after the freeze in most cases simply tried to adjust to increases in local property taxes. We all know local property taxes have spiraled in recent years to dizzying heights with no end in sight. Reading the local papers in my district in the past few months has made it crystal clear to me that wage-price controls, phase II, the whole show down here has not made one iota of difference in keeping down the trend of local property taxes increasing by leaps and bounds.

Now I ask you, how can anyone pretend that wage-price controls are working when the architects of the policy have gone out of their way to omit health insurance premiums, local property taxes, food prices, and utility rates from direct controls? In other words, if you leave out health, home, food, heat, and water from controls who is kidding whom that inflation has a chance of being restrained?

The American people are seeing through this, my constituents certainly are. They are not in the mood to take it much longer. Patchwork controls, half-hearted efforts are no substitute for effective controls and ultimate victory over inflation. The wage-price controls were billed originally as a long-awaited lid on costs and price. Some lid. Most of the time the lid seems more and more like a helpless cork, bobbing on the top of the ever-rising tide of higher prices, just barely keeping its head above water. This is not my idea of an effective lid. If the administration is serious about putting the lid on prices, let us get a lid with real clamps that will work instead of float. The time for action is now, without further delay.

ILLEGAL ADMINISTRATIVE ACTION AGAINST FARMWORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, through the course of the years since the initiation of the trade and labor movement in this country, big business, and corporate interests in general have used cruel and insidious methods to try to thwart and even reverse this trend.

These people have tried to use both economic coercion and physical intimidation to frighten the union members. They have used scab labor and illegal aliens in order to break strikes. When threats of violence did not work, they used violence itself. At one point, groups of companies even hired their own police forces in order to legitimize that violence. The people of Pennsylvania remember them well. The ultimate step, or at least what I thought until now was the ultimate step, came when State governments and even the Federal Government intervened with laws prejudicial to the unions.

Today, unionism is well established in this country. Yet, the fight against it continues, and it continues in even more subtle ways. Instead of management contravening the laws, the executive branch of the Government is now doing it for them. I am speaking specifically about the action by the General Counsel of the National Labor Relations Board against the United Farm Workers Union.

First of all, farmworkers have been specifically excluded from coverage under the National Labor Relations Act ever since that act was passed. Since agricultural workers have never been covered by the benefits and protection of the NLRA, there was no way until just now that one could construe that they are covered by the prohibitions. Yet, that is exactly what Peter Nash, the new NLRB General Counsel, is trying to do.

Nevertheless, I have a more immediate concern, and it should be the concern of the Congress as a whole. This action is in direct conflict with congressional mandate as manifested in the Department of Labor Appropriations for 1972. In title III the law explicitly states that no part of the National Labor Relations Board appropriations should be available "to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3)) of the act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, as defined in section 3(f)' of the act of June 25, 1938 (29 U.S.C. 203)." In the face of congressional mandate as well as judicial precedent, Peter Nash has initiated a very questionable action.

For the purposes of the Appropriations Act, the definition of agricultural labor is the same as that in the Fair Labor Standards Act of 1938 which is within the purview of my General Subcommittee on Labor. The act originally excluded any employee employed in agriculture and defined agriculture as:

> Farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices . . . performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

Therefore, it would seem as though the members of the United Farm Workers Union are clearly covered under that provision.

Now, what is Mr. Nash doing? He is using both the power and the resources of the U.S. Government against specific congressional mandate to suppress a movement of workers who have traditionally been most exploited and the poorest paid group of workers in the country. Is this not the most despicable and illegal device yet used to prevent hardworking people from earning a decent, livable wage? I wonder what our country has come to when its Government, one for all the people, uses its powers to suppress a segment thereof.

I am happy to join today with my honorable colleague from Michigan (Mr. O'HARA), in exposing the actions of an administration long unfriendly to labor. This is only one case in a series of prejudicial actions perpetrated against American workers. Let us hope that the tide soon turns. Viva la causa of the United Farm Workers.

THE NATIONAL HEALTH CARE SERVICES REORGANIZATION AND FINANCING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 30 minutes.

Mr. ULLMAN. Mr. Speaker, the legislation which I am submitting to the Congress today represents an essentially new concept for this Nation's health care system. It is a new concept that can be be phased in over a 5-year period with changes in both the financing and delivery of health care accomplished on a practical timetable. Although it is as broad in scope as any of the major health care proposals now being considered, I believe it is the most realistic. After nearly 2 months of hearings in the Ways and Means Committee, it is my opinion that the administration's proposals are only a piecemeal approach to the problems of national health care, while the Kennedy-Griffiths plan would create a monolithic, federal system tied too closely to Washington. My plan would build on existing resources to reorient our system of health care delivery and would improve and ease the financing of health services for all people. It is a blueprint for the future. But it is also the basis for change today.

The problems of our health care system are certainly well known. We need to restructure the system so that it can more effectively provide services for all. We need to put an end to the fragmentation of services. We need desperately to pull it all together. We need full health insurance coverage for everyone.

The National Health Care Services Reorganization and Financing Act has provisions to move us toward such goals.

It would create a new and better system built on the best resources of the existing system.

It would provide the benefits everyone wants, and absorb medicare and medicaid.

It would assist the average family through government sources and assure that everyone would be provided with comprehensive health care coverage.

Above all, this act would make health services much more readily available to all and would emphasize outpatient services so that illness could be prevented, or treated before it reaches an acute stage.

At the heart of the bill is the establishment of HCC's or health care corporations, locally organized and operated units that would pull community health resources together in a meaningful way, in keeping with community customs and precedent. These HCC's would be organized and run by providers—hospitals, doctors, dentists, and other health professionals, as well as nursing homes and key organizations—within the community. They would grow out of the community and be suited to it, be required to provide for citizen or consumer representation, and would be accountable to the public.

HCC's would, in time, be required to offer services to their enrollees or registrants on a capitation basis. This means that they would provide services for so much per person per year. And providers would then have an incentive to deliver the most appropriate service in the most effective, least costly way. Outpatient services would be used much more widely, and therefore costly inpatient services would be utilized much more wisely.

Every employer would be required to provide a program of comprehensive health care benefits for his employees, paying 75 percent of the premium costs.

For individuals and their families who registered with HCC's, the Federal Government would contribute 10 percent of premium costs.

The Department of Health, Education, and Welfare would set standards of quality for the total program and establish the scope of health insurance benefits. It would purchase coverage for the aged and, to the extent necessary, for those needing assistance in meeting the cost of health insurance protection.

State health commissions, newly appointed by State governors, would approve HCC's for operation and approve charges for service. These same commissions would regulate the administration of health insurance benefits and approve the insurance premium charges of underwriters. Thus, State government would play a vital role and there would be no need for large bureaucratic operations for the system out of Washington.

The details of the act are set forth in the section by section summary, as well as in the bill itself. But in this brief statement, I would like to emphasize these features of the bill especially:

It offers everyone, regardless of age or income, the same broad package of benefits;

It consolidates all HEW health programs;

It insures everyone against the cost of catastrophic illness so that no one's resources could be depleted as a result of his being seriously sick;

It has the Federal Government pay the costs of health care for the poor and the old, and part of the costs for all others;

It offers free medical, dental, and eye care provisions for all children up to age 12;

It emphasizes an increase in outpatient services so that everyone will know where to turn in time of need for health care;

It places the incentives for keeping costs down and the responsibility for care where they belong—at the community level, allowing maximum Federal support with minimum Federal interference;

It develops resources for better health education to raise the levels of health maintenance, nutrition, and the management of illness in the family.

I feel that the national health care program set forth in this bill is truly workable and not just theoretically appealing. Its concept originated in a special committee of the American Hospital Association, which also applied technical resources to its development. Now it has been translated into a realistic, workable bill that deserves the serious consideration of Congress and of the American people.

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The program is realistic because communities could begin immediately to coordinate health care resources and to form HCC's. It would take time and much effort to bring about the necessary affiliations among providers of services, but the need to do so is well known and universally understood.

Every individual would have an opportunity to join an HCC, and would have a choice among HCC's in communities where more than one would be formed. In large communities, HCC's would compete with each other for registrants on the basis of quality of service, convenience, and cost. HCC's in underserved areas, rural and urban, would be linked within the requirements of a State plan to HCC's in areas where resources are better developed. In this way, every State would be able to link its health care resources, and all of the people would be served.

Under the restructured system, registrants of HCC's would have a choice in determining what community health services should be provided and how they should be provided. The governing boards of HCC's would include representatives of the community, as well as representatives of affiliated providers of service. There would be, in each State, provisions for fair hearings and for solving problems inherent in any system of health services. This provision is especially important in the development of a system better suited to the public need.

Individuals would continue to have a choice of health insurance carrier, as they do now, and all HCC registrants, regardless of the sources of funds to finance their health insurance protection, would be assumed a common level of benefits and services. Eligibility for federally purchased benefits, whether these would be purchased by the Government in whole or only in part, would be based on income tax records or declarations of income. And recipients of such benefits would not need special identification at the time they sought health services. The restructured system, in other words, would prevent dual class medicine.

HCC's would provide emergency services to all persons, including travelers registered with HCC's elsewhere, or any nonregistered individuals. This would greatly mitigate discontinuity in service and in health insurance protection in our highly mobile society.

HCC's would, through mutual arrangements, provide special services for other HCC's such as cancer therapy, open heart surgery, or dialysis, thereby reducing the need for the most costly of services on a standby and duplicative basis.

The newly formed State health commissions would approve HCC's for operation and would assure the adequacy and quality of health services. These commissions would formulate detailed plans for the coordination of health services and would submit them for approval to the Secretary of HEW. They would have responsibility for approving the rates charged for services by all health care providers, including those not affiliated with HCC's. Their duties would include control of the benefit and premium structures of prepayment plans and insurance companies at the State level, and the issuance of certification of need for new health facilities and services.

The State health commissions would approve HCC proposals to offer services on a capitation basis to their registrants. These proposals would have to result in active programs within 5 years after the approval of HCC's for operation.

In effect, Government would be responsible in the restructured system for fulfilling the principle that health care is an inherent right of every person. This would be a joint responsibility of the Federal and State governments, with the Secretary of HEW in charge of the total national health program, responsible to the President, and also responsible for making reports to Congress as well as recommendations for future legislation.

This, then, is a complex and comprehensive program. But of necessity it must be so. And for this reason the bill provides for appropriate phasing in of benefits and of strengthening resources.

Following the enactment of the legislation, there would be a 5-year period for the development of State plans, the establishment of HCC's, and the setting up of new governmental agencies. It would also be a period for experimentation with various forms of HCC's, and it would provide the interval needed for combining of parts A and B under medicare and for the Federal financing of most benefits under medicare.

The essence of the act is the coordination of our health care system and its financing. Its objective is the improvement of health care services for all. It is aimed at the containment of health care costs and removal of the threat to American families of disastrously high health care expenses.

The bill represents the culmination of much effort, and its basic concepts reflect major policies of the American Hospital Association. It is, in my opinion, the most flexible and progressive solution to the Nation's health care problems, and the most comprehensive bill of its kind. My hope is that it will become the basis in Federal law for better health services for generations to come.

The above-mentioned material follows:

SECTION-BY-SECTION ANALYSIS

To establish a new program of health care delivery and comprehensive health care benefits (including catastrophic coverage) to be available to the employed, the unemployed, and low income individuals at a cost related to their income.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act, divided into titles, parts, and sections, may be cited as the "National Health Care Services Reorganization and Financing Act."

FINDINGS AND DECLARATION OF PURPOSE

Section 2(a) states that in recognizing health care as an inherent right of each individual and of all the people of the United States, Congress declares that health services must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that health services must enhance the dignity of the individual and promote better community life; and that it is a function of government to see that these ends are attained.

(b) calls for reorganization of the methods of delivery, and methods of financing health services, these purposes to be accomplished through a nationwide system of independent Health Care Corporations embodying specific principles:

(1) each corporation must provide through its own resources, or through affiliations with qualified institutional and professional providers, five levels of comprehensive health care: health maintenance services, and primary, specialty, restorative and health-related custodial care;

(2) through a system of independent corporations, every individual would be provided an opportunity to register and, where possible, to have a choice of Health Care Corporations;

(3) Health Care Corporations should be locally established and operated, but subject to State regulation and to national standards of quality and scope of services.

This section also states that with Federal financial assistance in developing corporations and needed outpatient facilities, the system can become operative within five years after the enactment of legislation.

(c) states that in addition to its responsibilities cited above, the Federal government should include financial assistance to the public in obtaining the services of corporations, in accordance with these principles:

(1) the Federal government should require all employers to participate in the purchase of Comprehensive Health Care Benefits for their employees;

(2) the Federal government should purchase or subsidize health insurance for those unable to pay, or unable to pay in full;

(3) social insurance should continue to finance health care for the aged;

(4) to encourage participation by individuals in new health delivery and benefit programs, the Federal government should bear a part of the cost of services.

(d) provides that:

(1) in the fifth year following enactment, every person residing in the United States will be eligible to participate in the program;

(2) every individual will be entitled to the services established in the Act if he has registered with a Health Care Corporation and has obtained health benefit coverage from a qualified insurance carrier, or has had it provided on the basis of his income or age;

(3) coverage will be provided without cost to persons in the lowest income bracket and at reduced cost to persons in higher income brackets specified in this Act; and

(4) coverage will be provided through social insurance to those 65 and over.

DEFINITIONS

Section 3 defines the term "Comprehensive Health Care Benefits" as the benefits described in Title II part B; the term "State" as including the District of Columbia and Puerto Rico; the term "United States" (when used in a geographic sense) as meaning the 50 States, the District of Columbia, and Puerto Rico; the term "Governor" as including the Commissioner of the District of Columbia; and the term "Secretary" as the Secretary of Health, Education, and Welfare.

TITLE I—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

Section 100. Title I may be cited as the "National Health Services Reorganization Act.

PART A—FEDERAL ADMINISTRATION

ESTABLISHMENT OF OFFICE OF HEALTH AFFAIRS; UNDER SECRETARY FOR HEALTH

Section 101(a) establishes a new organizational entity at the departmental level in the Department of Health, Education, and Welfare, hereafter referred to as the Office of Health Affairs.

(b) establishes a new position of Under Secretary for Health, DHEW.

(1) states that the appointments to this position shall be made by the President with the advice and consent of the Senate.

(2) establishes the grade and salary level for the Under Secretary.

(3) establishes the Under Secretary for Health as director of the Office of Health Affairs, HEW.

FUNCTIONS AND RESPONSIBILITIES OF THE OFFICE OF HEALTH AFFAIRS

Section 102(a) transfers to the Office of Health Affairs all of the health programs of the Department of HEW, including those under the direction of the Assistant Secretary for Health and Scientific Affairs, the health activities of the Social Security Administration, and the Social and Rehabilitation Service.

(b) charges the Under Secretary for Health, Office of Health Affairs, with responsibility for planning, operation, coordination, and evaluation of all of the health programs of HEW.

(c) with respect to the Health Services Reorganization and Financing Act, charges the Under Secretary for Health with:

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) responsibility for annual reports, to be transmitted through the Secretary of HEW to the President, first to evaluate the progress of State plans and the development of Health Care Corporations, and thereafter, to evaluate the national program, including recommendations for legislation, if any;

(4) dissemination to State governments, providers of service, and the public, of all pertinent information about the national program; and to State governments, providers of service, and potential sponsors of Health Care Corporations, information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

Section 103(a) authorizes the Secretary of HEW to prescribe all further regulations that it considers necessary to implement this Act.

(b) further authorizes the Secretary to prescribe by regulation—

(1) uniform systems of accounting for Health Care Corporations;

(2) the method(s) to be used in determining the financial requirements of institutional health care providers, including operating and capital requirements, and for non-institutional providers, all reasonable fees, salaries, or other compensation for services;

(3) standards of quality and safety, such standards to require as a minimum that hospitals, extended care facilities, and home health agencies meet the applicable requirements contained in title XVIII of the Social Security Act, and that nursing homes meet such requirements as the Secretary finds appropriate;

(4) standards relating to the qualifications and use of paramedical personnel as assistants to physicians and dentists; and

(5) standards for the determination of qualified carriers under Section 232.

NATIONAL HEALTH SERVICES ADVISORY COUNCIL

Section 104(a) establishes a National Health Services Advisory Council, whose Chairman shall be the Under Secretary for Health Affairs, with 20 other members to be appointed by the Secretary.

Members of the Council shall include representatives of health care providers; not less than half of the members shall be representatives of consumers of health care services. Members are to be appointed for four-year staggered terms, with five members appointed each year.

Council members representing providers shall be outstanding in fields related to medical, hospital, and health activities, or be representatives of organizations of professional health personnel. Consumer representatives shall not be engaged in or have financial interest in furnishing health services and shall be persons knowledgeable about health needs and the problems of providing health services.

(b) authorizes the Advisory Council to appoint professional or technical committees; and states that the Council, its members, and its committees may hire staff as authorized by the Secretary. The Council shall meet not less than four times each year and as often as the Secretary deems necessary.

(c) charges the Council with:

(1) advising the Secretary on general policy, and

(2) studying the activities of State Health Commissions, and Health Care Corporations, and other health care providers in order to recommend changes to the Secretary. The Council shall make an annual report to the Secretary which shall be transmitted to Congress with a report by the Secretary on any administrative recommendations of the Council that have not been followed. The Secretary shall report to Congress his views of the Council's recommendations for legislation.

(d) provides that the Council's members and members of its committees shall be compensated for their work at rates fixed by the Secretary but not more than the daily rate for grade GS-18 of the General Schedule; and that they will be reimbursed for travel expenses.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

Section 105(a) requires the Office of Health Affairs to make a continuing study of the operations under this title, including all of the aspects of services of health care providers, the effectiveness of supervision by State Health Commissions, and the financing of services through insurance. The Office is further authorized to study alternative methods of furnishing and financing health care services, and methods of improving the delivery of health services.

(b) authorizes the Office to conduct the functions under this section through contract and to make grants to public or other nonprofit agencies for this purpose.

(c) requires the Office to publish the results of its studies from time to time.

UTILIZATION OF STATE AGENCIES

Section 106(a) authorizes and encourages HEW to make arrangements with State Health Commissions which will enable the commissions:

(1) to contract, as agent and in the name of the Department of HEW, with health insurance carriers approved by the Secretary; and

(2) to perform other functions that the Secretary may deem appropriate.

(b) requires the Department to pay State Health Commissions for their administrative costs pursuant to the arrangements above.

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

Section 107(a) amends (effective January 1 or July 1, whichever comes first, at least 6 months after the date of enactment of this Act) the Social Security Act to:

(1) make available to all persons eligible for Part A of Title XVIII also eligible for Part B of that Title, and to finance Part B contributions through appropriations from general Federal revenue.

(2) provide for annual appropriations by the Federal government for health insurance benefits that are equal to Title XVIII benefits (with no obligations for copayments or deductibles) for all those eligible under income class 1 as defined in Section 203(a)(1).

(3) provides that no premium or similar amount shall be payable by any individual eligible for benefits under (1) and (2) above.

(b) provides that effective on the first day of the third full fiscal year that begins after this Act is enacted, the Federal government will make annual appropriations in behalf of the program outlined in Title II to meet the following estimated cost for the fiscal year:

(1) expansion of Title XVIII benefits to include Section 225 Catastrophic Expense Benefits for the Aged;

(2) prepaid coverage equivalent to Title XVIII benefits and Section 225 Catastrophic Expense Benefits for persons under 65 who are low income persons or members of low income families and the net cost, after deducting the contribution required of them of this coverage for persons who are under 65 who are medically indigent or members of medically indigent families; and

(3) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 under Section 202(c) who register with Health Care Corporations also provided are appropriations for additional costs incurred under this subsection.

(c) provides that effective on the first day of the fifth fiscal year that begins after the calendar year in which this act is enacted, the Federal government will make annual appropriations in behalf of the program outlined in Title II, to meet the following estimated costs for the fiscal year:

(1) prepaid coverage for Comprehensive Health Care Benefits for persons under 65 who are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution required of them, of such coverage for persons under 65 who are medically indigent or members of medically indigent families;

(3) the net cost, after deducting the contribution from the Title XVIII Part A trust fund, of such coverage for aged persons; and the added cost of those 65 and over who are either low-income persons or members of low-income families, or are medically indigent persons or members of medically indigent families;

(4) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 (as defined in Section 202(c)) who register with Health Care Corporations;

(5) the cost of establishing or maintaining a reserve of 5 per cent of the foregoing costs; and

(6) the cost of administration incurred by HEW in providing the coverages in (1), (2), and (3).

(d) states that the Secretary shall estimate the costs of (a) and (b) and make requests to Congress for necessary annual appropriations.

CONTRACTING AUTHORITY OF THE SECRETARY

Section 108(a)(1) states that the Secretary shall provide prepaid coverage, through contracts with carriers for the benefits to which individuals and their families (i.e., the aged, the low-income, and the medically indigent) are entitled under Section 203.

(2) permits the Secretary to establish qualifying standards for carriers in addition to those set forth in this part of the Act.

(b)(1) permits the Secretary to negotiate and enter into (A) contracts with a carrier or carriers to provide Comprehensive Health Care Benefits for all individuals in the abovementioned categories; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a pre-

determined capitation charge basis; and (C) direct contracts with Health Care Corporations under Section 235 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) permits the Secretary to authorize State Health Commissions to act as his agents in contracting with carriers described in (1).

(3) exempts contracts under this part from any provision of law requiring competitive bidding and from such other requirements of law as the Secretary may waive. It requires the Secretary, however, to communicate to all qualified carriers a description of the coverage he desires, the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. The paragraph lists some of the factors which the Secretary is to consider in negotiating contracts, such as the carriers' experience with group health insurance or prepayment plan coverage. It further provides that the Secretary may require the contracting carrier to reinsure with other carriers, and states that he shall enter into a contract with a combination of carriers only if this does not result in high premium rates and only if it best serves the purposes of this title. The term "combination of carriers" is defined.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

Section 109(a) states it to be a responsibility of the Secretary to promote and assist the establishment, as soon as practicable, of the system of comprehensive health care delivery contemplated by this title, this to be accomplished through a variety of means of financial and technical assistance in the planning and development of Health Care Corporations, including the provision of incentives for use of the capitation method of payment for health care and the development and improvement of outpatient care centers, particularly in poverty and rural areas.

(b) authorizes the Secretary to recommend necessary appropriations for each fiscal year to carry out this responsibility.

AUTHORIZATION OF DEVELOPMENT FINANCIAL ASSISTANCE

Section 110(a) authorizes the Secretary to:

(1) make grants for planning, organizing, developing, and establishing Health Care Corporations, including their affiliation agreements with providers of health care;

(2) enter into contracts to pay all or part of the operating deficits of these corporations during their establishment or expansion;

(3) make grants to such corporations or their affiliated public or nonprofit providers for the initial operation of new outpatient care centers or new or expanded services in outpatient care centers; and

(4) make grants for major health maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central service equipment, needed for the initial operation of Health Care Corporations.

(b)(1) requires the Secretary, in making the above grants and/or contracts, to take into consideration existing health care resources and systems, and relative needs of States and areas within States; and requires the Secretary to make equitable distribution of such assistance.

(2) states that not more than 15 percent of the appropriations made for such grants or contracts may be spent in any one State.

(3) states that in awarding such contracts during the first five years for which funds have been appropriated, the Secretary shall give priority to corporations that (a) operate primarily on predetermined capitation charges, or (b) are in the process of converting primarily to that basis, or (c) agree to operate on or convert to primarily that basis if awarded such a contract. After the 5-year period, the Secretary may award contracts only to such corporations.

(4)(a) states that a grant or contract shall not be awarded when there is a State plan approved under this part of the Act, unless the State Health Commission has recommended approval of the application and has certified:

(1) in the case of start-up funds for a Health Care Corporation, that such a corporation is needed in the area involved, consonant with the State plan;

(2) in instances of a contract to meet for a reasonable period operating deficits of a Health Care Corporation, that the corporation applicant satisfies the definition of a Health Care Corporation and has been, or upon approval of the contract by the Secretary will be, approved by the commission;

(3) in the case of grants for the initial operation or equipping of outpatient care centers or for the expansion of such centers, or for major equipment, that the corporation satisfies the requirements referred to in paragraph (2) above, and that the outpatient care center or major equipment involved is needed for the effective discharge of the functions of the respective Health Care Corporation under the State plan.

(c) declares that in a state in which there is not yet an approved State plan but in which a State Health Commission and a State Advisory Council have been established, the Secretary shall not make a grant or contract under the foregoing sections unless the commission, the State planning agency, if any, and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity to review and comment on the application. This paragraph also defines "appropriate areawide health planning agency" as that agency referred to in Section 314(b) of the Public Health Service Act or, if there is no such agency, another public or nonprofit private agency or organization (if any) performing similar functions.

GRANTS FOR STATE PLANS

Section 111(a) authorizes the Secretary to make grants to State Health Commissions for all or part of the cost of developing State plans, including the expenses of State Advisory Councils, and the cost of dissemination of information about the proposed plan, and of public hearings.

(b) authorizes appropriations for grants under this section for each fiscal year in the period beginning with the fiscal year of enactment and ending with the close of the 3rd full fiscal year.

(c) requires the Secretary to pay to each State with an approved plan a percentage of the expenditures for the administration of the plan, beginning with 90 per cent during fiscal years ending before the effective date of the benefit program of this Act (Section 201 and 202), and diminishing to 85 per cent during the next two fiscal years and to 75 per cent thereafter. With respect to Federal functions as agent of the Secretary (see Section 124(b)(10)) the Federal percentage is fixed at 100.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

Section 112(a)(1) states that the Secretary shall, to the optimum extent, use other programs of financial assistance in the field of health care to promote the purposes of this Act.

(2) authorizes the Secretary, notwithstanding any other provision of law, to give highest priority to the needs of Health Care Corporations in the administration of such other programs, particularly in urban or rural poverty areas.

(b)(1) requires the Secretary to develop and disseminate informational materials about the availability of assistance under this part of the Act.

(2) states that the Secretary, on request, may provide advice, counsel, and technical assistance to Health Care Corporations and other named in this part in preparing applications and meeting requirements for grants and contracts.

PENALTIES FOR FRAUD

Section 113(a) provides for any individual, provider of health care, carrier or other person who knowingly or willingly makes or causes to be made any false statement or representation of a material fact in the application of any benefit or any grant or other payment under this Act or makes false statements or fails to disclose or who willingly converts such benefit or payment to any other use or purpose shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year or both.

(b) provides a similar penalty for any provider of health care or other person who furnishes items or services to an individual for which payment is made under this Act for a kick-back or bribe or furnishing of such services or a rebate of any fee or charge.

(c) provides a $2,000 fine or imprisonment for not more than 6 months or both for false statements or misrepresentations of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or provider of health care for purposes of this Act.

PART B—STATE FUNCTIONS

General conditions of State participation

Section 121 requires that in order for its residents to participate in the provision of Comprehensive Health Care Benefits that are financed or assisted by Federal funds, a State (1) must accept the provisions of this title and establish a newly-constituted and independent agency to carry out its provisions, this agency to be headed by a governing body to be known as the State Health Commission; (2) must establish a State Advisory Council; and (3) must have the Secretary's approval of a State plan submitted by the State Health Commission under section 124 for carrying out the State's responsibilities. (See also sec. 129, Federal Exercise of State Functions in Cases of Noncompliance by States.)

State health commissions

Section 122 (a) establishes the following requirements, among others, for State Health Commissions: a membership of three or five commissioners (depending upon the State law establishing the commission) appointed by the governor, for staggered terms (renewable) of six years. Not more than two members of a three-member commission, nor more than three members of a five-member commission, shall be members of the same political party. The governor shall designate one of the members as chairman.

(b) lists the principal qualifications of and requirements for State health commissioners. It provides that commissioners should be chosen not primarily for their experience in health affairs, but for their ability to bring effective and objective policy direction to the commission's affairs, and it requires that (1) health professionals shall not constitute a majority of the membership of a State Commission; (2) commissioners shall serve full-time and not be engaged in any other business; (3) the chairman and the commissioners shall be salaried at levels comparable to those of heads of State executive departments; (4) commissioners may be subject to removal only for causes listed in this section; and (5) commissioners (and other officers or employees of the commission) may not hold any official or contractual relation with, or have any pecuniary interest in, any Health Care Corporation or provider of health care under the regulatory jurisdiction of the State Health Commission. This regulation is not to bar persons having such a relation or interest from serving as members of the State Advisory Council.

State advisory council

Sec. 123 states that members of the State Advisory Council shall consist of (1) persons broadly representative of providers of health care in the State, including but not limited to representatives of Health Care Corporations, other nongovernmental and public organizations, and representatives of schools and institutions concerned with education or training of persons in the health professions and ancillary occupations, and (2) not less than an equal number of persons representative of consumers of health care who are neither providers nor have a financial interest in providing care, are familiar with the State's health care needs, and have knowledge of the problems of providing health care.

State health care plans

Sec. 124(a) states the requirements for State plans: (1) conformity with subsection (b) below; (2) submission of the plan in detail to the Secretary by the State Health Commission; (3) preparation of the plan in consultation with the State Advisory Council; and (4) in the case of submission of the initial plan to the Secretary, or of a submission for annual renewal of the Secretary's approval after major revision of the plan, prior reasonable opportunity to the public to express its views of the plan.

(b) itemizes the State plan requirements, including the following:

(1) designation of the State Health Commission as sole administrative agency for the plan;

(2) evidence of the Commission's authority to carry out the plan;

(3) provision for adequate consultation with the State Advisory Council;

(4) statement of qualifications for personnel responsible for administration of the plan;

(5) provision of methods for efficient administration, including personnel merit system standards consistent with those of the Civil Service Commission (but the Secretary shall have no authority with respect to the selection, tenure, and salary of individuals if employed in accordance with the merit system methods); and provision for utilization of qualified professional medical personnel and other professional personnel;

(6) provision for the designation of preferred service areas by applicant Health Care Corporations (in keeping with section 135); approval for each such area of one or more Health Care Corporations (in accordance with section 126); and inclusion of a program for the completion of these initial designations and approvals (including creation of governmental corporations if necessary to carry out the policy of this Act to provide every individual with an opportunity to register and, when possible, to have a choice of Health Care Corporations) as well as registration of eligible individuals with approved Health Care Corporations, not later than the end of the fourth fiscal year that begins after the calendar year in which the bill is enacted;

(7) provision for State arrangements to assure group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents not entitled to HEW-purchased coverage, and for effective enforcement of these arrangements (subject to review by the Secretary with respect to enforcement of Federal regulations); and provision for regulation of the premium rates of carriers (except under contracts negotiated directly by the Secretary) by the State Health Commission or one to which it delegates that function or alternatively, by the State's insurance department; provision for other regulation and supervision of the carriers by the State Health Commission (including, for Comprehensive Health Care Benefits, a required standard provision for temporary continuation of coverage for the family in the event of the primary insured's death); and provision for hearings, before the Commission, on claims of Health Care Corporations against carriers, and for adjudicating such claims;

(8) provision for optimum use or adaptation of various Federally-aided programs developed for the State and at regional and local levels with respect to comprehensive health planning;

(9) provision that when requested by the Secretary the State Health Commission will, in behalf of the Secretary, contact with qualified carriers for CHCB coverage (other than coverage negotiated and contracted directly by the Secretary) required to be financed by Federal purchase; act as fiscal agent of the Secretary in transactions with carriers;

furnish to the Secretary all information necessary for prospective estimates of government appropriations for implementation of this Act; and review and make recommendations with respect to applications for grants under Part A of this title or for other Federal aid administered by the Secretary;

(10) inclusion of a program whereby the State can cooperate with HEW in a nationwide system for the collection of health data;

(11) protection of individual registrants or applicants for registration through safeguards on the use or disclosure of identifying information collected under paragraph (10) above;

(12) evaluation, at least annually, of the effectiveness of the activities of the State Health Commission, of Health Care Corporations, and other health care providers;

(13) provision that the Commission will make reports of such evaluations of effectiveness, as well as such other reports as the Secretary may require; and

(14) provision that the Commission will review the State plan at least annually and submit modifications to the Secretary.

(c) requires the Secretary to approve a State plan meeting the above-stated requirements, except that the Secretary is directed not to approve a State plan if the plan or other State law, or the practice of a State licensure or regulatory authority—

(1) prevents or limits Health Care Corporations from providing services to registrants through the employment of licensed medical or other health care practitioners by the corporation or other nonprofit providers; or through group practice or other arrangements;

(2) deprives any Health Care Corporation of its rights to designate its preferred service area and of its right of appeal for change in such service area, in accordance with the provisions of this Act;

(3) disqualifies a physician from serving on the governing board of a Health Care Corporation or of an institutional provider thereof;

(4) prevents health care practitioners from employing or arranging with assistants under their supervision to perform health care functions for which they are trained; and

(5) prevents or limits carriers from offering coverage of health care provided in accordance with (1), (2), (3), or (4) above, unless the Secretary finds that the State prohibition or restriction is consistent with the purposes of this title.

(d) stipulates that, with certain minor exceptions, the approval of a State plan shall be for one calendar or one fiscal year, whichever the Secretary determines.

Designation of health care areas

Section 125(a) requires each State Health Commission to make a study and survey with a view to approval of service areas for applicant Health Care Corporations and establishes criteria to be considered for that purpose, including the following: size and distribution of population, and patterns of illness among population groups in various parts of the State; existing health care resources, their potential for sponsoring or participating in Health Care Corporations, and their distribution in relation to need for health care; local governmental structures; transportation; patterns of organization for the delivery of care and patterns of use; and requires the Commission, in that connection, to set a date for initial applications of Health Care Corporations indicating their preferred service areas (or statements of intention by proposed sponsors of such corporations) to assist the Commission in its study.

(b) requires, in addition to (a), that the Commission consult representatives of the general public; of public and private health care institutions or their organizations; of medical and other health care profession (including representatives of group practice); of appropriate State and local government agencies; where appropriate, of State Health Commissions in adjoining States; and other interested groups and individuals.

(c)(1) obligates the Commission to publish, as part of the State plan, its survey findings and the designation of service areas for Health Care Corporations. The Commission is required to conduct public hearings on its proposal and thereupon to issue initial designations.

(2) states that the Commission may, in cooperation with another state, designate jointly a service area or areas that include parts of both States.

(d) permits subsequent amendment of a designated service area under subsection (c) either on the Commission's own initiative or on petition of Health Care Corporations or other concerned parties, but requires that final action on the amendment may be taken only after reasonable notice and opportunity for a fair hearing.

Regulatory functions of State health commissions

SEC. 126(a) requires that a State plan shall, in addition to requirements above—

(1) stimulate the organization of Health Care Corporations through every means available and provide for cooperative arrangements with other State commissions in jointly or reciprocally approving corporations to serve joint or adjoining service areas;

(2) provide for authorizing the incorporation (or admission into the State from another State) of Health Care Corporations, either through the Commission or other appropriate state agency;

(3) provide for the evaluation of the application of any corporation for approval to operate as a Health Care Corporation in a service area or areas approved by the Commission in accordance with Section 125, and describes the procedure for granting approval and issuing a certificate of approval for the service area or areas involved;

(4) provide that in areas, in whole or in part, where more than one Health Care Corporation has been approved the Commission may, if necessary, restrict the number of individuals to be registered by each corporation, residents to be accepted for registration within that number on a first-applied-first-accepted basis;

(5) limit the charges of approved Health Care Corporations and other licensed providers to charges and rates prospectively approved by the Commission; and require that services are not duplicative or excessive that charges for physicians' services (such as radiologists and pathologists) which are generally available to all inpatients of an institution, be included as part of institutional service charges and not as separate physicians' charges (regardless of the method of payment to the physician), the purpose being to require no additional copayment from the patient for such services; require that the budgets of Health Care Corporations and other institutional providers be prepared as prescribed by the Secretary; and provide that all providers are entitled to a fair hearing if it is dissatisfied with a decision of the Commission with respect to its charges;

(6) provide for effective enforcement, by

the Commission, of the responsibility of Health Care Corporations and other licensed providers as defined in this Act, assuring that with respect to Health Care Corporations their services be of not less than the scope, quality, and comprehensiveness required by this title, including standards prescribed by the Secretary, and requirements for the provision of services by Health Care Corporations as prescribed in Sections 133 and 134 of this title, and for other providers, requirements for the provision of services similar to those specified in Section 134 as defined by regulations;

(7) prohibit the construction of health care facilities, or changes in major services, or their establishment through rental of major equipment or existing structures, by Health Care Corporations or other providers except when authorized by the Commission on the basis of a finding of need;

(8) authorize the Commission to adjudicate controversies between corporations, affiliated providers, and non-affiliated providers.

(9) provide for a fair hearing, before the Commission, of any individual not accepted for registration by an approved Health Care Corporation of whose service area he claims to be a resident; or with respect to a monetary claim of at least $100 by a registrant against a corporation or carrier; or to any individual who alleges that the corporation has failed to fulfill its obligations under this Act and that the failure is part of a pattern of conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and continued surveillance over their operations; and

(11) provide for implementation of comparable peer review systems for services performed by providers not affiliated with Health Care Corporations.

(b) recognizes that compliance with the procedures set forth in Sections 1863 through 1865 of the Social Security Act are to be employed in establishing compliance with this Act for Health Care Corporations and non-affiliated providers.

(c)(1) authorizes the Commission to take prompt corrective action whenever it determines that a Health Care Corporation has failed to fulfill all of its obligations; and states that the corporation is entitled to opportunity for a hearing with respect to the Commission's decision in this regard, the outcome subject to judicial review as provided by State law. However, initiation of a proceeding for judicial review shall not operate as a stay of the Commission's decision unless so ordered by the court.

(2) states that, paragraph (c)(1) notwithstanding, the Commission may give its order immediate effect, subject to reversal or modification following judicial review, if it decides that a corporation's failure to function creates an imminent hazard to the health of its registrants.

(3) empowers the Commission, in addition to its authority for corrective action above, to revoke (following fair hearing) its certificate of approval for operation by the corporation in its service area and to approve for service in that area another Health Care Corporation or corporations, or, in lieu of this, to bring the delinquent corporation into compliance through appointment of a receiver or other effective means. The order of the Commission shall be subject to judicial review in a State court.

(d) authorizes the Commission to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. Appeal procedures outlined in (c) apply to this provision.

Judicial review

Section 127(a) states that any State dissatisfied with the Secretary's action under section 128 (other than subsection (c)(3)) may obtain judicial review of the action, and establishes requirements for the petitioning of such review.

(b) provides that the findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive on the court, but that the court, for good cause shown, may remand the case to the Secretary to take further evidence.

(c) provides that the judgment of the court shall be final, subject to review by the Supreme Court, and that the commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the Secretary's action.

Federal exercise of State functions in cases of noncompliance by States

Section 128(a) deals with the authority of HEW in the case of any State which has not established a State Health Commission in conformity with Section 122 and submitted an approvable State plan prior to the third fiscal year beginning after the calendar year of enactment of this Act. It grants authority to the Secretary in such an instance to appoint commissioners, hire staff, and assume all functions of a State commission in compliance with the provisions of this Act, and in that event to utilize for that purpose any Federal funds available for administration of State plans under the Act.

(b) stipulates that the Secretary shall not refuse approval of a State plan without reasonable notice to the State and opportunity for hearing; and that, when an application for renewal of approval of the State plan is pending, the Secretary may temporarily postpone expiration of its last approval until it has come to a decision concerning renewal.

(c)(1) describes the instances under which the Secretary may withdraw approval of a State plan which, no longer complies with Section 124(c), and may withhold further payments (or may, in its discretion, suspend approval of parts of a plan and limit payments thereby), until it is satisfied that there will no longer be such a failure to comply.

(2) states that the Secretary may postpone action under (1) to allow necessary time for compliance.

(3) provides that in addition to or in lieu of taking action under (1) the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this part.

(4) permits the Secretary, when he has withdrawn approval of a State plan, to exercise the functions and use the funds referred to in subsection (a).

Cooperative interstate activities and uniform laws

Section 129(a) states that the Secretary shall:

(1) encourage and assist the States and their State Health Commissions with interstate agreements and approvals with respect to Health Care Corporations, including the establishment of joint health service areas; and

(2) shall assist in the development of model State legislation in the areas covered by this Act.

(b) provides for Congressional consent to any two or more States that wish to enter into agreements as cited above.

Other administrative procedures

Sec. 130 amends section 505(a)(2) of the Social Security Act to require that the State agency required to administer, or supervise the administration, of a State plan under title V of the Social Security Act be the "State Health Commission" (rather than the "State health agency") of the State (in the case of any State that is a participating State under Title I of the bill). (The amendment would not supersede the grandfather clause of section 505(a)(2) which allows the crippled children's service portion of a State plan to continue to be administered (or supervised) by a welfare agency in the case of a State which on July 1, 1967, provided for administration of its crippled children's service plan by that agency.)

PART C—HEALTH CARE CORPORATIONS

Incorporation and State approval

Sec. 131. (a) defines a Health Care Corporation as a nonprofit private or governmental corporation organized to furnish services (through its own resources or through affiliation with other providers, nonprofit or for-profit) to registrants, and to engage in education, research, and other activities related to the furnishing of personal health services. The section specifies that the governing board of the Health Care Corporation must have effective and equitable representation of the corporation's registrants and of its affiliated institutional and professional providers.

(b) requires that a Health Care Corporation must be found by the State Health Commission to satisfy the requirements in (a) above and must be approved by the Commission for service in a designated service area or areas of the State (in accordance with Sections 125 and 126) upon a finding that the corporation is well organized under professionally competent management, has adequate resources in facilities and personnel, and has given satisfactory assurance of financial responsibility.

Registration with health care corporations

Section 132(a) specifies that the corporation shall register all residents, within the designated service area for which it has been approved by the State Health Commission, who seek registration during a period of open registration; and that the corporation shall make reasonable effort to register those residents of the area who have failed to apply for registration.

(b) Permits the Health Care Corporation to recruit and register persons outside of its designated service area if its quota of registrants has not been filled;

(c) states that, in accordance with regulations of the Secretary, a registrant may effect registration for his or her spouse and their children under 19;

(d) requires the corporation to disseminate to the public infomation about its operations and its services, including registration information in detail; that it must disseminate information about benefit coverages; assist individuals in establishing entitlement to coverage purchased by the Secretary and in obtaining other coverage;

(e) sets the registration period at 12 months; permits termination of registration with change in residence or for such cause as may be approved by the State Health Commission.

Undertaking to furnish services

Section 133(a) states that the Health Care Corporation shall provide all of the services for which registrants have Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate).

(b) permits the corporation to contract for services through (an) affiliated provider(s)—hospital(s), extended care facility(ies), nursing home(s), or home health service agency(ies); physicians, dentists, podiatrists, or optometrists, or combinations of these, such as partnerships, clinics, or group practice organizations; or other kinds of providers designated in regulations. Providers may affiliate with more than one Health Care Corporation, but must designate one such affiliation as primary.

(c) permits the provision of drugs, devices, appliances and equipment to ambulatory patients, and ambulance and other emergency transportation services through providers not affiliated with the corporation; it states that medical and other services of a specialized nature, with permission of the

State Health Commission, may be provided through arrangements with other Health Care Corporations or with providers that are not affiliated with the Health Care Corporation.

(d) emphasizes health maintenance (including health education) for all registrants, assurance of continuity of care, and to the greatest extent possible, the provision of care on an outpatient basis. Health maintenance services are to be periodically scheduled; outpatient services furnished in centers and in physicians' offices; emergency care, including ambulance service, to be available at all times.

(e) requires that a system of outpatient care centers be developed by the Health Care Corporation, these centers to provide health maintenance services and community-based services such as home care, medical social services, and well-baby clinics and mental health clinics. These centers are to be related to institutional and other providers in order to provide necessary laboratory and other diagnostic services and referral and transfer of patients to facilities providing more comprehensive services.

(f) stipulates that the Health Care Corporation must review services provided for registrants in time of emergency by other corporations or providers and, upon approving the charges, submit them to the carriers responsible for payment. Not included are payments for services rendered to registrants who leave their place of residence expressly to obtain health care, unless by arrangement with the corporation.

(g) stipulates that the corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it and may furnish other services to such persons when it can do so without interference to service to its registrants.

Quality of services

Section 134(a) fixes the responsibility on the Health Care Corporation for the quality of all health services it provides, or had provided in its behalf, including responsibility for compliance with standards of quality and comprehensiveness prescribed by the Secretary. The corporation is made responsible for maintaining controls on utilization of services; for continuing appraisal of the effectiveness of services; and for identifying problems that require planning for additional services. To these ends the corporation is required to have a system of comprehensive peer review by physicians (and dentists in the case of dental services) which covers all services provided by the corporation and its affiliates. The corporation is required to maintain a program of continuing education for its physicians, dentists and nurses.

(b) requires that all medical policies of the corporation be established with the advice of physicians and all dental policies with the advice of dentists; that all medical judgments must be made by or under the supervision of physicians, and dental judgments by or under the supervision of dentists.

(c) encourages participation of physicians in all aspects of policy formulation and operation of the Health Care Corporation.

Participation of professional practitioners

Section 135(a) requires the corporation, so far as practicable, to provide opportunity to all practitioners in its approved service area (physicians, dentists, podiatrists, and optometrists) to furnish services in its behalf. The corporation is required to annually review the scope of services of each practitioner in accordance with his training, experience, and professional competence as determined through peer review. A practitioner must be able to enlarge the scope of his services through in-service training.

(b) stipulates that the corporation may not discriminate in selecting practitioners on any ground unrelated to professional qualifications, but may in initial recruitment give preference to local practitioners as between equally qualified persons.

(c) requires the corporation to permit each practitioner to select, consistent with the requirements for the corporation established by the Act, the form of practice in which he wishes to engage.

Charges by health care corporations

Sec. 136(a) requires that charges made by a Health Care Corporation be made at rates fixed prospectively for 12-month periods and approved by the State Health Commission. These may be revised under circumstances that would create hardship, with Commission approval.

(b) states that charges shall consist of an annual capitation amount per registrant or registrant family, or of itemized charges for separate services or units of service. With approval of the Commission, the corporation may vary its methods of determining charges; capitation charges, except for variations based on size and composition of families, must be uniform for all registrants to whom they are applicable, other than registrants having coverage under government-purchased contracts. After three years of operation, the corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. This plan must be implemented by making this option to all registrants five years after the HCC's incorporation.

(c) specific that the corporation's charges shall meet its financial requirements as determined in accordance with regulations and with systems of accounting as prescribed by the Secretary. This section states that the corporation must justify to the Commission the rates it pays to affiliated providers, and must justify the budgets of any affiliated providers on which these rates are based. In cases where an affiliated provider contracts with more than one Health Care Corporation, the corporation with which it has a primary affiliation becomes responsible for the justification of budgets and rates.

(d) affirms that in reviewing budgets and rates the corporation and the Commission must assure that services are provided without unnecessary duplication and that services are not excessively costly.

Continuing personal health records

Section 137(a) requires the maintenance by the Health Care Corporation of a personal health record for each registrant and states that these records must be readily available to the medical and other staff of the corporation and its affiliated providers, and that they must make it possible for the Commission to carry out its statistical responsibilities, including those related to the utilization and cost of health services.

(b) states that the corporation must be equipped to promptly transmit personal health records of registrants to appropriate providers.

(c) requires transfer of personal health records from corporation to corporation when registrants transfer; and transmission of information from personal health records to corporations and providers when they furnish emergency services to the registrant of a Health Care Corporation.

(d) restricts the disclosure of personal health information without consent of the registrant to purposes necessary to the administration of the corporation, the State plan, or benefit coverage and provides up to a $1,000 penalty or one year of imprisonment or both for violation of this confidential information.

Participation by registrants; health education

Section 138(a) requires corporations to establish methods by which registrants may express their views about the program and performance of the corporation and the health needs of the community, in addition to representation on the corporation's governing board; requires that such opportunity be available to groups of registrants (geographic, economic, or other), and to the extent practicable, to individual registrants; and that advisory committee representation be afforded registrants in general, with subcommittees or separate committees formed for representatives of groups whose interests may differ from those of other registrants.

(b) requires that the corporation undertake a program of continuing health education for its registrants, with special emphasis directed toward low income and medically indigent registrants, affording representation to registrants in the formation of such a program. The section defines the scope of such a program and further requires collaborative efforts in community-wide health education with governmental and private agencies. It also requires the corporation, so far as practicable, to provide assistance to registrants in overcoming language or educational handicaps in obtaining access to health care.

NONDISCRIMINATION; COMPLAINTS

SEC. 139. (a) bars discrimination by the corporation in recruitment, registration, and in provision of services (subject to medically appropriate differentiations, or as specifically authorized in this title), on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health.

(b) requires the establishment of complaint procedures for registrants or for persons whose applications for registration have been refused. Records of complaints and their disposition must be available for inspection by the Commission.

(c) requires the establishment of procedures for the settlement of disputes with affiliated providers and other providers with whom the corporation has made arrangements for services to its registrants.

Responsibilities for manpower and for research

Section 140(a) requires a corporation to coordinate determination of its manpower needs and those of its affiliated providers; coordinate recruitment and allocation of such personnel; and determine qualification and performance standards for such personnel, to be at least equal to standards of recognized professional organizations. Corporations are required to conduct in-service training programs and to encourage these among affiliated providers and to encourage the use of physician assistants and other ancillary personnel under professional supervision.

(b) states that the corporation shall engage in continuing research concerning the organization and methods of delivery of health services, and concerning their quality, effectiveness, and cost. Results of such research are to be available to the State Health Commission and the Secretary of HEW for their use.

Records and reports

Section 141 specifies that corporations shall keep records with respect to such areas as financing, utilization of services, and the results of peer review, and require that affiliated providers do the same, all such records to meet reporting requirements of the Commission, in accordance with regulations of the Secretary and to be available for inspection by the Commission.

TITLE II—FINANCING OF NATIONAL HEALTH SERVICES

Short Title

Section 200. Title II may be cited as the "National Health Services Financing Act."

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

Employer benefit requirements

Section 201(a) amends the Social Security Act to require that employers have an ap-

proved health care plan for their employees (and their families). The new Section 230 of Title II of the Social Security Act:

(a) requires every employer within the meaning of this title to provide for each of his employees (and members of their families) coverage equivalent to Title XVIII benefits (both Parts A and B) and Section 225 Catastrophic Expense Benefits during the third and fourth full fiscal years after enactment and to provide Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal year of enactment.

(b) lists the situations in which the provision of subsection (a) do not apply—

(1) (A) to any employer which is the United States, a state or political subdivision thereof (notwithstanding any agreement entered into in Section 218), or any agency or instrumentality of one or more of the foregoing, or any other employer, all of the services performed for which are excluded from employment by one or more of the numbered paragraphs of Section 210 (a);

(B) in the case of individuals or members of the same families who have multiple employers, all of the employers except the employer paying the highest total taxes under Section 3111 (a) of the Internal Revenue Code of 1965;

(2) (A) with respect to an employee (or member of an employee's family) who is entitled to health insurance benefits under Title XVIII; or

(B) with respect to any medically indigent person or family which elects to obtain coverage under Section 107 (b) or (c).

(c) (1) provides that the Secretary shall pay to or on the behalf of an employer, whose average premiums payable for the health insurance required in subsection (a) an amount by which the premium payments exceed 4 per cent of the average wages paid by him to such employees multiplied by the number of such employees (not in excess of 10).

(2) provides for the prescription of regulations by the Secretary on the period for determining the number of employees of an employer, the wages of the employees, and the premiums payable under subsection (a), as well as the method for determining such wages (and the average thereof) in the cases in which the payment may be made to a payee other than the employer.

(3) provides that payments by the Secretary may be made in advance or by way of reimbursement at such times, in such manner, and in such installments as the Secretary shall deem to be appropriate.

(4) provides that the employer's contributions must be at least the actuarial equivalent of 75 per cent of the premium cost of benefits equivalent to the Medicare coverage during the third and fourth full fiscal years and of the premium cost of Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal period. This requirement shall in no way prohibit an employee choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

(5) stipulates that the period of coverage extends from the date of involuntary termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of —— days from such termination, whichever occurs first.

(b) amends Title IX of the Social Security Act by adding at the end thereof a new section which requires the Secretary of Labor in accordance with regulations prescribed in consultation with the Secretary of HEW to purchase coverage as defined in subsection 201 (a) for every individual who is receiving benefits under any federal or state unemployment compensation law for the individual and members of his family.

ENTITLEMENT TO BENEFITS

Section 202(a) specifies that every individual who is a resident of the U.S., including the District of Columbia and Puerto Rico, is eligible for full or partial Federal contribution to the premium cost of qualified Comprehensive Health Care Benefits (CHCB).

(b) obligates the Secretary to contract with carriers for coverage in behalf of the aged, the low-income, and the medically indigent.

(c) allows all others who are eligible for the program, and those (other than the aged) who are eligible but choose not to enroll in an HEW-contracted plan, to obtain a Federal subsidy of 10 per cent of the premium cost incurred for the purchase of qualified CHCB, irrespective of the source of payment, if the individual (and his family) is registered with an approved Health Care Corporation or with any other similar organization that demonstrates it meets standards prescribed by the Secretary. If existing coverage is broader than CHCB, an actuarial equivalent of CHCB will be utilized to determine the amount of the subsidy.

(d) refers to definitions of the low-income and medically indigent income classes.

INCOME CLASSES

Section 203(a) defines a low-income person or family as a single individual (i.e., one who is not a member of a "family" as defined) or a low-income family in income class 1; a medically indigent person or family as a single individual or family in income classes 2, 3, or 4; and the remainder of the population as falling in income class 5.

(b) establishes the following table of income classes for the above-defined categories:

TABLE OF INCOME CLASSES [1]

Col. I	Col. II	Col. III	Col. IV	Col. V
	Family size and income ranges			
Income class	Single individual	Family of 2	Family of 3	Family of 4 or more
1	0 to $2,000	0 to $3,000	0 to $4,500	0 to $6,000.
2	$2,001 to $3,000	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500.
3	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500	$7,501 to $9,000.
4	$4,501 to $5,000	$6,001 to $7,500	$7,501 to $9,000	$9,001 to $10,500.
5	Above $6,000	Above $7,500	Above $9,000	Above $10,500.

[1] These amounts are to be adjusted under sec. 204, according to increases in the Consumer Price Index.

PERIODIC REVISION OF INCOME CLASSES

Section 204 provides for an increase by the Secretary in the initially fixed dollar amounts of the income class tables, the premium contributions by the medically indigent, the copayments, and the catastrophic expense benefit expenditure limits, whenever in any calendar year the monthly average of the Consumer Price Index for the July-September quarter exceeds by 3 per cent or more the monthly average of the CPI for the corresponding quarter of the base year. The increase would be effective for any "coverage year" that begins in the next fiscal year of the United States. (A "coverage year" is defined by section 222 with respect to an individual, as a 12-month period of CHCB coverage of the individual under an insurance contract or prepayment plan that coincides with a 12-month (annually renewable) term of that contract or plan.)

DETERMINATION OF INCOME LEVEL

Section 205 (a) provides that for the purposes of this part the rate of an individual's (or family's) income shall be determined on the basis of his adjusted gross income (or the family's combined adjusted gross income), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury, for the calendar year preceding the coverage year, except that the Secretary may by regulation exclude items of income that are not reasonably available for living expenses and include items that are reasonably available for living expenses although not included in adjusted gross income, and may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) defines the term "family" as (1) a husband and wife and their dependent unmarried children under 19 or (2) an individual and his or her dependent unmarried children under 19, and defines the terms "child" and "dependent" (as applied to a child) as having the same meaning as in section 1512 of the Internal Revenue Code.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

Section 206(a) specifies the contributions to premiums for Federally-contracted CHCB coverage to be made by the individuals or families in the 3 income classes of the medically indigent (i.e., income classes 2, 3, and 4), with the amounts rising as income rises. (Section 203(b) contains the table of income classes.) The amounts of contributions initially are $50 for a single individual and $125 for a family in income class 2, $100 and $250 respectively in income class 3, and $150 and $375 in income class 4. In the case of a family in any such income class) in which there is only one member under 65, the contribution rate for a single individual applies. The amounts set initially by section 206 (a) (as well as the income ranges in the income class table) would be adjusted according to increases in the Consumer Price Index under section 204.

(b) requires that individual or family premium contributions by the medically indigent for Federally-contracted coverage be paid to the carrier in accordance with the Secretary's regulations and that there shall be no recourse against the United States in the event of delinquency or default in the payment of such contributions.

INCOME TAX DEDUCTIONS

Section 207 permits individual taxpayers to deduct 100 percent, without dollar limit, of the amounts paid by them as premiums for insurance contracts or prepayment plans approved by State Health Commissions for the actuarial equivalent of CHCB.

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF UNIFORM HEALTH BENEFITS

Section 208(a) provides that, beginning with the effective date of part A of title II of this bill (creating entitlement to Comprehensive Health Care Benefits coverage), the State plan under Title XIX of the Social Security Act (of a participating State under title I of the bill) shall not be required to cover, and there shall be no Federal matching for expenditures for, services or items that are covered by Comprehensive Health Care Benefits and that are furnished to an individual who is entitled to such coverage under section 202 of the bill and who either is a resident of a service area of the State designated in accordance with section 125 or is in fact registered with a health care corporation that holds a certificate of approval for another service area.

(b) requires the Secretary to prescribe the minimum scope of services to be included in a State plan under title XIX of the Social Security Act (instead of the requirements of section 1903(a)(13) of that Act) on and after the effective date of part A of title II of the bill, with a view to supplementing the coverage of Comprehensive Health Care Benefits.

PART B—CONTENT OF COMPREHENSIVE HEALTH CARE BENEFITS

Payment for comprehensive health care benefits

Section 221(a) stipulates that coverage for CHCB entitles the registrant to have payment made by his carrier to his HCC for all medically necessary or appropriate services and items at the HCC's approved predetermined charges. HCCs would receive the full amount of such charges from the carrier; the carrier would bill the registrant for the dollar amounts related to copayments, and certain non-covered services (with the residual risk of nonpayment accruing to the provider) as provided in part C of the bill. Special reference to HCCs operating on a capitation basis is made in Sec. 235.

(b) stipulates that payment for coverage for CHCB for an individual who has not registered with an HCC shall be made by his carrier at approved predetermined charges, less copayments applicable for the services provided.

Definition of comprehensive health care benefits

Section 222(a) describes Comprehensive Health Care Benefits as consisting of the following components: outpatient services; inpatient services; and catastrophic expense benefits. The Secretary is authorized to issue from time to time such further regulations to adjust the application of these benefits to best carry out the purposes of this Act.

In addition, this section defines, among other things, the terms coverage year, benefit period and regulations as they relate to CHCB.

(b) states in tabular form the actual benefits to be included in the CHCB package. Emphasis is on outpatient services, including a wide range of health maintenance benefits. Cost sharing (in addition to premium contributions by the medically indigent) would be achieved through copayments and a limitation on the number of inpatient institutional care days and outpatient physician visits. Copayments would be removed through the catastrophic expense provisions, once the covered individual or family reached the predetermined expenditure limit ceilings. Once the catastrophic expense provisions apply the limitations would be removed on the number of physician visits (except for mental illness in a non-HCC environment), the number of inpatient hospital care days (except for mental illness, alcoholism, and drug dependence in a non-HCC environment) and the number of days under outpatient institutional care programs for mental illness, alcoholism, and drug dependence.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

I—SERVICES AND ITEMS COVERED	II—COPAYMENTS* AND LIMITATIONS
A. OUTPATIENT SERVICES	
1. Periodic Health Evaluation	
a. Screening tests and examinations, as prescribed by regulations under section 226, followed by physical examination by a physician or physicians when indicated by the screening.	No copayment. Within such limits as may be prescribed by regulation under section 226.
b. All Immunizations	No copayment and no limitation.
c. Well-Baby Care (for infants under age 5)—	
(i) during 1st 12 months following birth;	No copayment.
(ii) during next 12 months;	8 visits.
(iii) during next 3 years.	4 visits.
d. Dental Services	2 visits per coverage year.
The following professional dental services, including drugs and supplies that are commonly furnished, without separate charge, as an incident to such professional services:	Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12.
(i) Oral examination, including (I) prophylaxis (with fluoride application at appropriate ages), (II) dental X-rays, and (III) in accordance with regulations, other accepted preventive dental procedures.	No copayment. 1 examination per coverage year.
(ii) To the extent prescribed by regulation under section 226 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances.	Copayment 20% of charges.
e. Vision Services (in accordance with regulations under section 226).	For individuals through age 12.
(i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an opthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select).	No copayment. 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit).
(ii) Eyeglasses, with prescription lenses, including the fitting thereof, and including additional lenses and frames as needed.	Copayment 20% of charges. Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses (but not frames) as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated by the Secretary in accordance with section 226.
2. Physicians' Services and Ancillary Health Care.	
When not otherwise covered under this table—	
a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations).	For physicians' services, a copayment for each visit of two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician. Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provider for such outpatient and inpatient services.
b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a.	20% copayment. Copayment requirement waived for registrants of Health Care Corporations.
c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1.	No separate limitation.
d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3.	No separate copayment. No separate limitation.
e. Ambulance services.	20% copayment. Covered only when other methods of transportation are contra-indicated by the patient's condition, and only to the extent provided in regulations.

* Footnote at end of table.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS—Continued

I—Services and Items Covered—Continued	II—Copayments* and Limitations—Continued
A. OUTPATIENT SERVICES—continued	
3. Other Outpatient Services	
a. Outpatient Institutional-Care Program for Mental Illness, Alcoholism, or Drug Abuse and Dependence.	A two dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies under this subparagraph, whether or not such services are charged for separately.)
Such day-care or other part-time services and other items as may be specified in regulations under section 226, furnished to patients, other than inpatients, under a program for the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence.	Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of mental illness, alcoholism, or drug abuse or drug dependence.
b. Drugs, Prosthetic Devices, and Medical Equipment	
(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1. of this table) dispensed to patients other than inpatients.	For each drug prescription, and each refilling of such a prescription, a one dollar copayment. Covered only if (1) the drug (whether or not it is subject to a prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 226(c), and (2) in the case of a drug listed under section 226(c)(2)(B), the disease or condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate.
(ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 2206.
(iii) In accordance with regulations, durable medical equipment (not otherwise covered) as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 226; and subject to criteria for payment prescribed under that section.
c. Home Health Services	
Such items and services as are defined as "home health services" by section 228(d) and regulations thereunder.	For each visit, a two dollar copayment. Coverage of such services shall be limited to 100 visits per coverage year. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modifications (if any) as the Secretary may by regulation prescribe, may be applied by the carrier.
B. INPATIENT SERVICES	
1. Institutional Services	
a. Inpatient Hospital Care	
Items and services defined by section 228(e) as "inpatient hospital care."	A five dollar copayment, per day. Coverage is limited to 90 days of inpatient hospital care received in any benefit period: except that for treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence the limit is 45 days. (The limitation on treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence is 90 days of inpatient hospital care for registrants of Health Care Corporations.)
b. Post-Hospital Extended Care	A two dollar and fifty cent copayment, per day. Limited to 30 days of such care received in any benefit period.
Extended care services (as defined in section 228(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purposes of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply.	A two dollar and fifty cent copayment, per day. Coverage shall be limited to 90 days of such care received in any benefit period.
c. Nursing Home Care	
Nursing home care as defined in section 228.	A two dollar copayment, per visit of the attending physician only. In accordance with regulations under section 226, in the case of services (such as surgery or pregnancy and obstetrical care) in which a single charge is made by the corporation for the attending physicians' services combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care.
2. Physicians' Services and Ancillary Health Care.	
Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1. a., b., or c.	No separate limitations
C. CATASTROPHIC EXPENSE BENEFITS	
Section 225 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contribution, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by application of a table in section 225. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 204 and 224).	For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 225.

* The initial amounts of the dollar copayments are subject to changes in the Consumer Price Index as determined under sections 204 and 224.

The definition of institutional services for inpatients includes, for benefit purposes, physicians' services, such as those of radiologists and pathologists, which are held out as generally available to all inpatients of an institution, regardless of the method by which the Health Care Corporation compensates the physicians.

Limitations and exclusions

Section 223(a) lists the limitations and exclusions, including the exclusion of services that are not medically necessary or appropriate; treatment of TB, mental illness, alcoholism, and drug dependence, when these illnesses are not in an acute phase; purely custodial care; cosmetic surgery (except for prompt repair of accidental injury or improvement of functioning of a malformed member of the body); and certain other services or items.

(b) excludes from CHCB services for which payment is made through workmen's compensation or motor vehicle insurance.

(c) excludes from CHCB (1) charges for items or services (other than emergency services) furnished by a Federal provider, except (under arrangements with the HCC) one that functions as a community institution, or (2) charges by providers for services required to be furnished at public expense by Federal law or contract with the Federal government.

(d) defines the difference between semi-private and private institutional accommodations and excludes carrier payment for charges in excess of the semi-private rate unless the more expensive accommodations were required for medical reasons.

(e) limits carrier payment to approved charges for covered services, or items where the provider has furnished to an individual services, or items in excess of or more expensive than those covered by CHCB. (However, part C permits the HCC, to the extent authorized by the Secretary's regulations, to have the carrier make payment for non-covered services when billed by the provider, subject to refund if the individual does not reimburse the carrier.)

Copayment provisions

Section 224(a) outlines the conditions under which copayments, when indicated in the benefit table, for services or items furnished by the HCC, become the obligation of the registrant for payment to his carrier, or in the instance of an individual not registered with an HCC, by the individual to the provider. Nominal copayments must be paid except by low-income persons or where the out-of-pocket expenditure ceiling has been reached and catastrophic benefits are in effect (see Table of Special Expenditure Limits).

(b) specifies the applicable dollar amounts and refers to the benefit table for the applicable percentage amounts, of copayments related to the various categories of benefits included in the CHCB package. The dollar amounts set initially by this section would be adjusted according to increases in the Consumer Price Index.

Catastrophic expense benefits

Section 225(a) stipulates that all copayments would cease, and that except as noted under sec. 222(b) restrictions on the number of physicians' visits and inpatient hospital care days, and outpatient institutional care days under programs for mental illness, alcoholism, and drug dependence (except for extended care and nursing home care days) would become inapplicable when the catastrophic expense benefits provision is in effect.

(b) describes the conditions under which catastrophic expense benefits would take effect. These benefits would be instituted automatically for the low-income persons and families (i.e., those in income class 1), so that no out-of-pocket expenditures would be required to be incurred for this group. As income rises above that category, individuals or families would be required to incur an increasing amount of out-of-pocket expenditures before catastrophic expense benefits take effect, with the actual amounts specified in the Special Expenditure Limit Table.

SPECIAL EXPENDITURE LIMIT TABLE

Income class	Expenditure limit under 65	Expenditure limit 65 and over
2	$250	$125
3	500	250
4	750	375

The dollar amounts initially set for the expenditure limit table would be adjusted according to increases in the Consumer Price Index. For individuals or families in income class 5, the special expenditure limit varies according to level of income, with the exact limit set at 10 percent of income as defined by regulations.

Expenditures creditable toward this ceiling include (1) premiums for CHCB coverage (whether paid by the individual or in his behalf by an employer), (2) copayments related to covered services (including a three-month carry over provision) and (3) expenditures for covered services rendered beyond the specified limits on physician visits (excluding mental illness), on inpatient hospital care days, and on outpatient institutional care days under programs for mental illness, alcoholism, or drug dependence.

Regulations for comprehensive health care benefits

Section 226(a) calls for the issuance of regulations by the Secretary to implement the benefit table, in addition to regulations and standards required in other sections of the bill.

(b) provides guidelines for the Secretary in developing regulations relating to health maintenance benefits, in particular, specification of the services that the Secretary may wish to require in the periodic health evaluation portion of CHCB. Special attention through the development of regulations is also given to dental services and vision services, under the expectation that the Secretary shall prescribe the scope of benefits for these services, and allow for future increases, based on the availability of resources.

(c) provides guidance to the Secretary in other key areas of CHCB, including the establishment of the national categories of drugs for outpatient care. The Secretary is directed to list those categories which he finds to be necessary for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose substantial financial hardship, and also list the diseases for which drugs are required for treatment, diseases deemed by the Secretary of special importance to the public health, e.g. VD. With respect to the latter drug categories, ambulatory benefits extend only to categories of drugs for diseases or conditions thus listed with respect to it. This section also requires the Secretary to develop special regulations and standards relating to CHCB categories of "prosthetic devices and medical appliances" and to the special outpatient institutional care programs related to the treatment of mental illness, alcoholism, and drug dependence.

Phasing of benefits

Section 227 requires the Secretary to submit recommendations for the expansion of benefits after the first five years of the program and to give special consideration to the expansion of dental and vision service benefits.

Other definitions

Section 228 defines the terms "drug", "extended care services", "nursing home care", "health-related custodial care", "home health services", "inpatient hospital care", "physician" (by cross reference to section 1861(r) of the Social Security Act), "physicians' services", and "attending physicians". These terms all occur in the benefit table, except for "health-related custodial care" which is referred to in section 223.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

Definition of "Carrier"

Section 231 broadly defines carriers as nongovernmental organizations that underwrite insurance for the cost of health care, or provide health benefit plans of the service type, in consideration of predetermined premiums. Approved Health Care Corporations qualify under the definition if they charge for covered health care on an annually predetermined capitation basis in accordance with section 136(b).

Determination of qualified carrier

Section 232 establishes qualifications for carriers, essentially that they must be authorized in each State for whose residents they operate health benefit prepayment plans or insurance at group rates, must comply with Section 233, must meet any special Federal standards in the case of a contract with HEW and must, with respect to coverage (under other contracts) for which a Federal premium contribution is requested, accord to HEW and its agents the same informational rights and access to records that HEW is entitled to in the case of coverage purchased by the Secretary.

Requirement that carriers participate under State plan

Section 233 requires that a carrier agree to participate in a coverage pool if so required (in accordance with provisions of a State plan pursuant to Section 124(b)(7) in order to qualify for a contract with HEW or for issuance of CHCB coverage eligible for a federal premium subsidy under Section 202(c).

Conditions of approval of carrier contracts or plans for Federal premium subsidy

Section 234 provides that the Secretary shall, for the purpose of the Federal premium subsidy under Section 202(c) approve a carrier prepayment plan or contract only if it is in conformity with applicable State standards and regulations and contains payment provisions and protective provisions (specified in Section 124(b)(7)) similar to those provided for in Section 108 for HEW contracts with carriers.

Contracts with health care corporations on capitation basis

Section 235 makes it possible for HEW to enter into a contract with a Health Care Corporation that operates on the basis of predetermined capitation charges to provide Comprehensive Health Care Benefits to which registrants are entitled under Section 202(b). The copayment component of the corporation's capitation charges or any separate copayments charged for by the corporation, would not be paid by HEW but collected by the corporation directly from the registrant. This section makes the same requirement of corporations with respect to records and notification of registrants as Section 108 imposes on carriers. Corporations are also required to establish record and payment centers and to issue identical membership cards to all of their registrants to prevent discrimination on account of economic status at the point of service.

Effect of nonpayment

Section 236(a) sets forth requirements for premium contributions and special premiums to be paid in advance to carriers by or on behalf of individuals.

(b) contains provisions for termination of benefit coverage (subject to a grace period) in the event of nonpayment with respect to the above.

Enrollment under contracts with carriers

Section 237(a) vests authority in the Secretary to establish regulations for the enrollment of registrants entitled to HEW-purchased Comprehensive Health Care Benefits.

(b) limits the types of enrollment to enrollment by a registrant for himself only or for himself and his spouse and other registrants who are members of his family. The conditions for change in type of enrollment

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are left to regulations. The individual enrolling for himself and his family is held liable for premium contributions related to family coverage.

(c) specifies that to the optimum extent open enrollment periods under this section and open registration periods for Health Care Corporations shall be coordinated, and that a corporation's registration center shall provide information concerning enrollment.

Reports by, and audits of carriers

Section 238 states that contracts shall require carriers to make such reports as the Secretary finds necessary, to keep essential records, and to assure the correctness and verification of its reports.

Jurisdiction of courts

Section 239 invests district courts with original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States concerning this part of the Act.

Prospective regulations

Section 240 specifies that contract regulations, or amendments thereto, or to this title, shall not apply until the next contract year if their applications would increase the obligations or adversely affect the rights of a contracting carrier unless made applicable by the contract itself or by amendment thereto.

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

Section 301(a) except as otherwise provided in this section and in section 302 (including any amendments made by it to existing law) shall be effective upon the date of the enactment of this Act.

(b) Sections 101, 102, 107(a), 109, 110, 111, and 112 and parts B and C of Title I shall take effect upon the first January 1 or July 1 which occurs 6 months or more after the date of enactment of this Act.

(c) Section 107(b), 128 (with respect to States which have not complied with Sections 122 and 124), and the amendments made by Section 201 shall take effect on the first day of the third fiscal year which begins after the date of enactment of this Act.

FULL OPERATION OF PROGRAM

Section 302. The program under this Act shall be fully in operation, and the benefits of part B of Title II shall be fully effective and available (in lieu of any benefits which would otherwise be available under Title XVIII of the Social Security Act), in accordance with all the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of enactment of this Act.

H.R. 14140

A Bill to establish a new program of health care delivery and comprehensive health care benefits (including catstrophic coverage), to be available to employed, unemployed, and low-income individuals at a cost related to their income

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, parts, and sections in accordance with the following table of contents, may be cited as the "National Health Care Services Reorganization and Financing Act".

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FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) Recognizing health care as an inherent right of each individual and of all the people of the United States, the Congress finds and declares that health services must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that the services must be so provided as to enhance the dignity of the individual and promote better life for all; and that it is a function of Government to assure that these ends are attained.

(b) The Congress finds that achievement of these purposes requires substantial modification of the organization and methods of delivery of health services and the methods of financing them, and that these purposes will best be served by the creation of a nationwide system of independent Health Care Corporations embodying the principles—

(1) that each corporation should combine, either in its own structure or by affiliation, institutions and professionals qualified to furnish the entire range of health services, and should provide to its registrants an integrated and comprehensive program of health services, emphasizing preventive and outpatient care and embracing health maintenance services, primary care, specialty care, restorative care, and health-related custodial care;

(2) that such independent corporations should span the Nation, so that every resident of the country will have the opportunity to register with a corporation and, where practicable, a choice among corporations; and

(3) that such corporations should be locally established and operated, but should be subject to State regulation and to national standards of quality and scope of services;

and the Congress finds that, with financial assistance by the Federal Government in the development of Health Care Corporations and the creation of needed outpatient facilities, such a system can become operative nationwide within five years after the enactment of this Act.

(c) The Congress further finds that, in addition to stimulating and assisting the creation of Health Care Corporations and the establishment of State Health Commissions, and setting nationwide standards for the operation of Health Care Corporations, the functions of the Federal Government should include financial assistance to members of the public in obtaining the services of such corporations, in accordance with the principles—

(1) that the Federal Government should require all employers to participate in the purchase of Comprehensive Health Care Benefits for their employees;

(2) that the Federal Government should assume the cost of purchasing or subsidizing health insurance for those unable to pay for it, or unable to pay in full;

(3) that social insurance should continue to finance hospital care for the aged and that general revenues be used to fully finance medical care; and

(4) that to encourage participation by individuals in new health delivery and benefit programs, the Federal Government should bear a part of the cost of services.

(d) Pursuant to the foregoing findings, and to carry out the foregoing declarations, the Congress by the enactment of this Act declare and provides—

(1) that all persons residing in the United States will be eligible to participate in the program created by this Act, beginning in the fifth year after its enactment;

(2) that each person so participating will be entitled to receive from a Health Care Corporation services as described in this title, if he has registered with the corporation and has obtained a qualified health benefit coverage from a carrier, or on the basis of his income or his age has been provided with such a coverage;

(3) that such coverage will be provided through a Government contribution without cost to persons in the lowest income bracket and at reduced cost to persons in the other income brackets specified in this title; and

(4) that such coverage will be provided through social insurance and general revenues to persons who have attained the age of 65.

DEFINITIONS

SEC. 3. For the purposes of this title—

(1) the term "Comprehensive Health Care Benefits" means the benefits described in part B of title II;

(2) the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico;

(3) the term "United States", when used in a geographical sense, means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico;

(4) the term "Governor" includes the Commissioner of the District of Columbia; and

(5) the term "Secretary" means the Secretary of Health, Education, and Welfare.

TITLE I—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 100. This title may be cited as the "National Health Care Services Reorganization Act".

PART A—FEDERAL ADMINISTRATION

ESTABLISHMENT OF OFFICE OF HEALTH AFFAIRS; UNDER SECRETARY FOR HEALTH

SEC. 101. (a) There is hereby established within the Department of Health, Education, and Welfare, as a separate organizational entity, the Office of Health Affairs.

(b) The Office of Health Affairs shall be under the direction and control of an Under Secretary for Health, Department of Health, Education, and Welfare, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate provided for positions in level III of the Executive Schedule as set forth in section 5314 of title 5, United States Code.

FUNCTIONS AND RESPONSIBILITIES OF THE OFFICE OF HEALTH AFFAIRS

SEC. 102. (a) All of the health programs of the Department of Health, Education, and Welfare, including the programs under the direction of the Assistant Secretary for Health and Scientific Affairs, and the health activities of the Social Security Administration and the Social and Rehabilitation Service, are transferred to the Office of Health Affairs.

(b) The Office of Health Affairs shall be charged with responsibility for the planning, administration, operation, coordination, and evaluation of all programs so transferred as well as the program under this Act.

(c) With respect to the program under this Act, the Office of Health Affairs shall be specifically charged with responsibility for—

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) annual reports, to be transmitted through the Secretary to the President, first to evaluate the progress of State plans and the development of health care corporations, and thereafter to evaluate the national program, including recommendations for legislation, if any; and

(4) dissemination to State governments, and to providers of service and the public, of all pertinent information about the national program, and to State governments, providers of service, and potential sponsors of health care corporations of information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

SEC. 103. (a) In addition to regulations specifically required or authorized by this title, the Secretary is authorized to prescribe such further regulations, not inconsistent with law, as he deems necessary to the efficient administration of the title. Regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code.

(b) In addition to authority otherwise conferred by this title, the Secretary is authorized to prescribe by regulation—

(1) uniform systems of accounting to be used in determining the reasonableness of the budgets and charges of Health Care Corporations and other providers of health care;

(2) the method or methods to be used, and the elements to be considered, in determining, for the purposes of section 136 the financial requirements of Health Care Corporations and other providers, including—

(A) for such corporations and for institutions, all reasonable operating costs (including approved educational costs) and sufficient capital payments to permit the corporation or institution to reasonably finance existing or needed facilities and equipment for comprehensive health services; and

(B) for individual providers or groups of providers, all reasonable fees, salaries, or other compensation for needed professional and related services;

(3) standards of quality and standards of safety for all facilities of, and all services furnished by, Health Care Corporations (including facilities of, and services furnished by, affiliated providers or other providers acting under arrangements with such corporations) and other providers; such standards to require, as a minimum, that hospitals, extended care facilities, and home health agencies (including units of Health Care Corporations performing the functions of any such institutions) meet the applicable statutory requirements, pertaining to quality and safety, contained in title XVIII of the Social Security Act, and that nursing homes meet such of the foregoing requirements as the Secretary finds appropriate;

(4) standards relating to the use of paramedical personnel as assistants to physicians and dentists, and relating to the qualifications of such personnel; and

(5) standards for the determination of qualified carriers under section 232.

NATIONAL HEALTH SEVICES ADVISORY COUNCIL

SEC. 104. (a) There is hereby established a National Health Services Advisory Council (hereinafter in this section referred to as the "Council"), which shall consist of the Undersecretary for Health, who shall serve as Chairman of the Council, and twenty members, not otherwise in the employ of the United States, appointed by the Secretary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall include persons who are representative of providers of health services, and of persons (who shall constitute not less than one-half of the Council) who are representative of consumers of such services. Each appointed member shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year, after the date of the enactment of this Act. Members of the Council who are representative of providers of health care shall be persons who are outstanding in fields related to medical, paramedical, hospital, or other health activities, or who are representative of organizations or associations of professional health personnel; and members who are representative of consumers of such care shall be persons, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the furnishing of such services.

(b) The Council is authorized to appoint such professional or technical committees, from its own members or from other persons or both, as may be useful in carrying out its functions. The Council, its members, and its committees shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Secretary for carrying out their respective functions. The Council shall meet as frequently as the Secretary deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chairman to call a meeting of the Council.

(c) It shall be the function of the Council (1) to advise the Secretary on matters of general policy in the administration of this title and in the formulation of regulations, and (2) to study the operation of this title and the activities of State Health Commissions, Health Care Corporations, and other providers, with a view to recommending any changes in the administration of this title or in its provisions which may appear desirable. The Council shall make an annual report to the Secretary on the performance of its functions, and the Secretary shall transmit the report to the Congress, together with a report by the Secretary on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(d) Appointed members of the Council and members of technical or professional committees, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary but not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule; and while so serving away from their places of residence they shall be entitled to receive actual and necessary traveling expenses, including per diem in lieu of subsistence, as authorized by section 5703 (b) of title 5, United States Code, for persons in the government service employed intermittently.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

SEC. 105. (a) The Office of Health Affairs shall make a continuing study of the operation of this title, including the adequacy, quality, and utilization of services furnished

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by Health Care Corporations and other providers, the effectiveness of peer review and cost controls, the effectiveness of supervision of such corporations by State Health Commissions, the financing of services through insurance and otherwise, and all other aspects of the system of health care created pursuant to this title. The Office is authorized, also, to make studies and conduct research in regard to alternative methods of furnishing and financing health care (including methods followed in other countries), and of methods of enhancing, through financial incentives or otherwise, the quality of care and the economy and efficiency of its delivery.

(b) The Office may carry out its functions under this section directly or through contracts, and it is authorized to make grants to public or other nonprofit agencies or institutions for studies and research which it deems likely to further the purposes of this section.

(c) The Office shall from time to time publish the results of studies and research conducted pursuant to this section.

UTILIZATION OF STATE AGENCIES

SEC. 106. (a) The Secretary may, and to the optimum extent determined by him to promote efficient administration of this title shall, make arrangements with State Health Commissions (in accordance with section 124(b)(9) whereby the commission involved (directly or through arrangements approved by the Secretary with another State agency or agencies) will—

(1) subject to the applicable provisions of part C of title II, contract, as agent and in the name of the Department of Health, Education, and Welfare, with carriers approved by the Secretary, as provided in paragraph (1) (B) and (C) of section 108(b); and

(2) from time to time perform such other functions for or on behalf of the Secretary, other than the issuance of Federal regulations and standards, under this title as the Secretary may deem appropriate.

(b) The Secretary shall, in accordance with section 111, pay State Health Commissions the cost of the proper and efficient administration of their functions under arrangements made with them pursuant to subsection (a).

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

SEC. 107. (a) Notwithstanding any provision to the contrary in title XVIII of the Social Security Act or in any other law, effective with respect to items and services furnished (and periods occurring) on or after the first transitional effective date as specified in section 301(b) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act shall be automatically enrolled in the supplementary medical insurance program established by part B of such title (with such coverage period, and subject to such other terms and conditions, as may be prescribed by the Secretary in regulations);

(2) every resident of the United States who is a low-income person or a member of a low-income family (as those terms are defined in section 203(a)(1) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements, or any coinsurance, copayment, or deductible requirements, which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits under part B of such title; and

(3) no premium or similar amount shall be payable by any individual for or on account of his enrollment in or coverage under the insurance program established by part B of such title XVIII, or for or on account of the provision to him of benefits under paragraph (2) of this subsection.

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to (A) the cost of the additional benefits paid from such funds by reason of paragraph (2), and (B) the total premiums which, but for paragraph (3), would be payable by all individuals for or on account of enrollment in or coverage under the insurance program established by part B of such title XVIII or the benefits provided to them under paragraph (2).

(b) Effective with respect to items and services furnished (and periods occurring) on or after the second transitional effective date as specified in section 301(c) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual age 65 or over described in paragraph (1) or (2) of subsection (a) shall be provided by the Secretary (in addition to the benefits provided such individual under subsection (a)) with Catastrophic Expense Benefits coverage under and in accordance with section 225 of this Act but without regard to any special expenditure limit which might otherwise apply under subsection (b) of such section;

(2) every resident of the United States who is a medically indigent person or a member of a medically indigent family (as such terms are defined in section 203(a)(2) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits available under part B of such title, and in addition shall be provided with Catastrophic Expense Benefits coverage under and in accordance with section 225 of this Act at premium rates determined under secttion 206; and

(3) any other individual who registers with a Health Care Corporation shall be entitled to the 10-percent premium subsidy under section 202(c).

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to the additional costs incurred by such Funds by reason of benefits under this subsection.

(c) There is authorized to be appropriated for each fiscal year beginning on or after the effective date specified in section 302, for the purpose of financing the program set forth in title II of this Act, an amount sufficient to pay (on the basis of estimates for such fiscal year)—

(1) the cost of providing prepaid coverage for Comprehensive Health Care Benefits to persons who are under the age of 65 and are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution to be required of them, of providing such coverage to persons who are under the age of 65 and are medically indigent persons or members of medically indigent families;

(3) (i) the added cost, resulting from their low incomes or their medical indigence, of providing such coverage to persons who have attained the age of 65 years and who either are low-income persons or members of low-income families or are medically indigent persons or members of medically indigent families, and (ii) the added cost of Comprehensive Health Care Benefits available to those eligible for benefits under part A of title XVIII of the Social Security Act;

(4) the cost of providing the 10-percent premium subsidy under section 202(c) for all individuals who register with Health Care Corporations and purchase Comprehensive Health Care Benefits privately (or for whom such benefits are purchased by private sources);

(5) the cost of establishing or maintaining a reserve equal to 5 percent of the foregoing costs; and

(6) the cost of administration incurred by the Secretary in providing the coverages referred to in paragraphs (1), (2), and (3).

(d) For each fiscal year the Secretary shall estimate the costs referred to in subsections (a), (b), and (c) by projection based upon the costs in the second preceding fiscal year, or (in the case of the first two fiscal years involved) upon the Secretary's estimate of the costs that would have been incurred in such second preceding fiscal year if this title had then been in effect. Each projection shall take account of the then current rate of change in the cost of health services, expected changes in the low-income population and the medically indigent population, trends in the utilization of health services, and other factors which the Secretary finds relevant; and, in projecting aggregate contributions to be made by medically indigent persons and families, shall take account of the then current rate of change in the Consumer Price Index.

CONTRACTING AUTHORITY OF THE SECRETARY

SEC. 108. (a)(1) The Secretary shall, through contracts with carriers, provide the prepaid coverage for the benefits to which aged, low-income, and certain other individuals and their families are entitled under section 203.

(2) In addition to the qualifying requirements for carriers specifically set forth in this title, the Secretary may establish further qualifying standards for carriers (or classes thereof).

(b)(1) The Secretary may negotiate and enter into (A) contracts with a carrier or carriers to administer Comprehensive Health Care Benefits for all individuals entitled to benefits under section 203; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a predetermined capitation charge basis; and (C) direct contracts with Health Care Corporations under section 235 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) The Secretary may authorize State Health Commissions to act as his agents in contracting with carriers as described in paragraph (1).

(3) Contracts under this part are exempted from any provision of law requiring competitive bidding and from such other requirements of law as the Secretary may waive. The Secretary is required, however, to notify all potentially qualified carriers a description of the contract requirements he desires and the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. Among the factors which the Secretary is required under this title to consider in negotiating and approving contracts shall be the carriers' experience with group health insurance or prepayment plan coverage. The Secretary may require the contracting carrier to subcontract with other carriers, and he shall enter into a contract with a combination of carriers only if this does not result in higher administrative costs and only if it best serves the purposes of this title. The term "combination of carriers" or "combination," as used in this section, means (i) a group of qualified carriers that have entered into a joint venture or other cooperative arrangement for the purpose of administering coverage under a contract under this part, or (ii) a corporation (which itself is a qualified carrier) designated or caused to be created by a group of qualified carriers for the purpose stated in clause (i); and any further reference in this part to a "carrier" shall be deemed to include reference to such a combination.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

SEC. 109. (a) It is one of the purposes of this part to establish the responsibility of the Secretary to encourage, promote, and assist the establishment, as soon as practicable, of the comprehensive health care delivery system contemplated by this title, by providing financial and technical assistance for the early planning, development, establishment, and initial operation of Health Care Corporations, including incentives for use of the capitation payment method for health care and for the development and improvement of outpatient care centers, particularly in poverty and rural areas.

(b) There are authorized by the Secretary to be appropriated for each fiscal year, for carrying out the purpose stated in subsection (a), such sums as may be necessary. Sums so appropriated for grants or contracts for any fiscal year shall remain available for obligation until the close of the succeeding fiscal year.

AUTHORIZATION OF DEVELOPMENTAL FINANCIAL ASSISTANCE

SEC. 110. (a) For the purpose stated in section 111, the Secretary is authorized, in accordance with the provisions of this part, to make—

(1) grants for planning, organizing, developing, and establishing Health Care Corporations (or for any one or more of such activities), including affiliation or other arrangements (if any) of such a corporation with providers of health care, in conformity with part C of this title;

(2) contracts, in connection with the establishment or substantial expansion of Health Care Corporations, to pay for a reasonable period all or part of any operating deficits of such corporations;

(3) grants to Health Care Corporations, or to public or nonprofit providers affiliated therewith, for the initial operation of (A) new outpatient care centers or (B) new or expanded services in (or based in) outpatient care centers; and

(4) grants for major health-maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central-service equipment, needed for initial operating capability of Health Care Corporations.

(b)(1) In making grants and contracts under this part, the Secretary (A) shall take into account existing health care resources and health care delivery systems in the several States, the relative need of the States and areas within the States for such assistance, and their populations, and (B) shall have due regard to the achievement, consistently with the purposes of this title and this part, of an equitable distribution of such assistance.

(2) Not more than 15 percent of the appropriations made for grants or contracts under this part may be expended in any one State.

(3) In making grants and awarding contracts during the first five fiscal years for which funds have been appropriated under this part, the Secretary shall give priority to the applications of corporations that (A) operate primarily on the basis of predetermined capitation charges, or (B) are in the process of converting to primarily that basis, or (C) agree to operate on or convert to primarily that basis if awarded such a contract. After that period, the Secretary may award such contracts only to such corporations.

(4)(A) A grant or contract shall not be made or awarded under the preceding provisions of this part when there is in effect, for the State that includes the area involved in the application for such assistance, a State plan approved under part B, unless the State Health Commission has recommended approval of the application and has certified—

(1) in the case of an application for a grant under subsection (a)(1) of this section 111, that (A) there is need for a Health Care Corporation in the area involved (or of an additional Health Care Corporation if one approved under part B has already been assigned to the area), and (B) the area has been designated as a health service area in accordance with the State plan or, if not, there is probable cause to believe that it will be so designated;

(2) in the case of an application for a contract under subsection (a)(2) of this section or section 112, that the applicant (A) is a Health Care Corporation in conformity with section 131(a), (B) has been approved, or upon the Secretary's approval of the application for the contract will be approved, by the Commission under part C, and (C) has been, or upon approval of the contract application by the Secretary will be, assigned by the Commission under the State plan to the health care area or areas involved in the application; or

(3) in the case of an application for a grant under subsection (a)(3), that (A) the Health Care Corporation which is the applicant or involved in the application is in conformity with section 131(a) and has been, or upon approval of the grant application by the Secretary will be, approved by the Commission under part B and assigned under the State plan to the health service area involved in the application for the grant; and (B) the outpatient care center or services thereof, or the equipment or system, for which the grant is sought, is needed for the effective discharge of the corporation's functions under the State plan.

(c)(1) In the case of a State for which there is not yet in effect a State plan approved by the Secretary under part B but in which a State Health Commission and a State Advisory Council have been established in conformity with that part, the Secretary shall not make a grant or contract under the foregoing sections of this part unless the Commission, the State planning agency (if any) designated or established for the State as required under section 314(a)(2)(A) of the Public Health Service Act (if it is a separate agency from the commission), and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity (in accordance with regulations of the Secretary) to review and comment on the application for the grant or contract.

GRANTS FOR STATE PLANS

SEC. 111. (a) In order to facilitate and expedite the submission of State plans to the Secretary pursuant to section 124, the Secretary is authorized to make grants to State Health Commissions for all or part of the necessary cost of developing and preparing such plans, including (but not limited to) the expenses of their State advisory councils consulted in connection therewith, the cost of disseminating to the public and to others information concerning a proposed plan, and the most of public hearings thereon.

(b) There are authorized to be appropriated for grants under this section such sums as may be necessary for each fiscal year in the period beginning with the fiscal year in which this Act is enacted and ending with the close of the third full fiscal year after this Act is enacted.

(c)(1) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title an amount equal to the Federal percentage of the sums expended for the proper and efficient administration of the State plan. Such payments and payments under grants pursuant to this section may be made in installments (not less often than quarterly) and may be made in advance (on the basis of estimates) or by way of reimbursement, with necessary adjustments on account of prior overpayments or underpayments.

(2) The Federal percentage, for the purpose of paragraph (1), shall be 90 percent with respect to sums expended by a State during fiscal years ending prior to the effective date of the benefit program under this Act (as set forth in sections 201 and 202), 85 percent with respect to sums so expended during the next two fiscal years, and 75 percent with respect to sums expended thereafter; except that with respect to sums expended by the State for proper and efficient administration pursuant to provisions of the State plan contained therein in compliance with section 124(b)(10) the Federal percentage shall always be 100 percent.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

SEC. 112. (a)(1) In administering other programs of financial assistance in the field of health care (including construction of facilities for health care) the Secretary and, on recommendation of the Secretary, other Federal agencies shall to the optimum extent utilize those programs to promote the purposes of this Act.

(2) Notwithstanding any other provision of law, the Secretary may, and such other agencies when requested by the Secretary shall, in the administration of such other programs, give (or require agencies and organizations assisted to give) highest priority to the needs of Health Care Corporations, particularly in areas determined by the Secretary to be urban or rural poverty areas.

(b)(1) The Secretary shall prepare and widely disseminate, through publications and otherwise, information concerning the availability of assistance under this part.

(2) The Secretary may upon request provide advice, counsel, and technical assistance to Health Care Corporations and other interested organizations and agencies in preparing applications, and in meeting the requirements of this part and of the Secretary, for grants and contracts authorized by this part.

PENALTIES FOR FRAUD

SEC. 113. (a) Any individual, provider of health care, carrier, or other person who—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit, or any grant or other payment, under this Act,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

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(3) having knowledge of the occurrence of any event affecting (A) his or its initial or continued right to any such benefit or payment of any other person in whose behalf he or it has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for a particular use or purpose and having received it, knowingly and willfully converts such benefit or payment or any part thereof to any other use or purpose,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Any provider of health care or other person who furnishes items or services to an individual for which payment is or may be made under this Act and who solicits, offers, or receives any—

(1) kickbacks or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services.

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or a provider of health care for purposes of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

PART B—STATE FUNCTIONS

GENERAL CONDITIONS OF STATE PARTICIPATION

SEC. 121. (a) Except as otherwise provided in this Act, the Comprehensive Health Care Benefits provided for individuals in this title and financed or assisted from Federal funds shall be available in any State if, and only if, in conformity with the requirements of this part, (1) the State has accepted the provisions of this Act and created, as a newly constituted and independent establishment within the executive branch of the State government, a State agency for carrying out the responsibilities devolving upon the State under this Act headed by a multimember governing body hereinafter in this title referred to as the "State Health Commission" (or as the "State commission" or the "commission"); (2) there has been established in that agency a State Advisory Council; and (3) there is in effect an approval, by the Secretary, of a State plan submitted by the State Health Commission under section 124 for carrying out the State's responsibilities under this title.

(b) For Federal exercise of State functions in cases of noncompliance by States, see section 103.

STATE HEALTH COMMISSIONS

SEC. 122. (a) The State Health Commission of a State shall be composed of three or five members (whichever number may be authorized under the law of its creation) appointed by the Governor of the State for staggered terms, which shall be renewable. Each term shall be for six years, except as necessary in the case of initial appointments to meet the requirement of staggered terms, and except in the case of a member appointed to fill a vacancy occurring before the expiration of the term of his predecessor. Not more than two members of a three-member commission, nor three members of a five-member commission, shall be members of the same political party. The Governor shall designate one of the members of the commission to serve as chairman.

(b) (1) It is the sense of the Congress that the members of a State Health Commission should be chosen, not primarily from the standpoint of specialized experience in the subject matter fields within the commission's jurisdiction, but rather with a view to their ability to bring to the affairs of the commission broad gaged, highly qualified, effective, and disinterested policy direction. Persons representative of the health care professions shall not constitute a majority of the membership of the commission.

(2) During his term of membership, no member of the commission shall engage in any other business, vocation, or employment.

(3) The chairman and other members of the commision shall receive salaries at levels comparable to the compensation of the head of a principal executive department of the State.

(4) No member of the commission shall during his term of office be subject to removal except for dereliction of duty, corruption, incompetency, or conviction of a crime involving moral turpitude, or for a cause stated in paragraph (5) of this subsection.

(5) Any individual, while in the employ of or holding any official or contractual relation to or affiliation with a Health Care Corporation or any other corporation or provider of health care under the regulatory jurisdiction of the State commission, while in any manner pecuniarily interested in any such corporation or provider, shall be disqualified from being a member, officer, or employee of the commission; except that if such disqualification by reason of pecuniary interest arises otherwise than voluntarily while such individual is such a member, officer, or employee, the individual may be permitted to remain in office or employment if within a reasonable time he divests himself of that pecuniary interest. The preceding sentence shall not apply to membership on the State Advisory Council by an individual who discloses his interest in or relation to a corporation or provider, nor shall it apply to any individual solely because he is a registrant of a Health Care Corporation or a beneficiary member of or subscriber to another provider of health care.

STATE ADVISORY COUNCILS

SEC. 123. The Advisory Council to the State Health Commission of a State, which shall consult with the commission in the development and carrying out of the State plan, shall consist of (1) persons broadly representative of providers of health care (including health maintenance) in the State (including but not limited to persons representative of Health Care Corporations when organized and approved, other nongovernmental and public organizations, societies and groups of health professionals, and schools and institutions particularly concerned with education or training of persons in the health professions and ancillary occupations), and (2) not less than an equal number of persons who are representative of consumers of health care and (A) neither are providers nor have a pecuniary interest in the provision of such care, (B) are familiar with the needs of the various segments of the State's population for such care, and (C) are experienced in dealing with problems associated with the provision of such care.

STATE HEALTH CARE PLANS

SEC. 124. (a) In order to be approvable under this part for any year the State plan of any State must—

(1) meet the requirements of subsection (b);

(2) have been submitted to the Secretary by the State Health Commission (constituted and operating in conformity with the preceding sections of this part) at such time and presented in such detail, and contain or be accompanied by such information, as the Secretary deems necessary;

(3) have been prepared in consultation with the State Advisory Council; and

(4) have been submitted to the Secretary only after the commission has afforded to the general public of the State a reasonable opportunity for presentation of views on the plan in the case of submission of the plan for initial approval or for annual renewal of approval after major revision of the plan.

(b) The State plan must—

(1) designate the State Health Commission of the submitting State as the sole agency for the administration of the plan, except as otherwise authorized by this part;

(2) contain or be supported by satisfactory evidence that the commission has the authority to carry out the plan in accordance with this part;

(3) provide for adequate consultation with the State Advisory Council in carrying out the plan;

(4) set forth, in such detail as the Secretary may prescribe, the qualifications for personnel having responsibilities in the administration of the plan;

(5) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of the plan, including (A) methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91-648), and (B) provision for utilization of qualified professional medical personnel (particularly in connection with the development or administration of standards of quality and utilization of health care) and of paramedical and other qualified professional staff; but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(6) (A) provide for the designation of preferred service areas by applicant Health Care Corporations in accordance with the requirements of section 135 and for approval in each such area of one or more Health Care Corporations in accordance with section 126;

(B) include, with respect to existing and proposed Health Care Corporations, their affiliated providers of health care, and other such providers, (i) provisions incorporating the requirements of part C of this title, and (ii) the provisions required by section 126;

(C) provide, in accordance with sections 125 and 126, for cooperation with other States in the administration of the plan, and in particular authorize cooperative arrangements with adjoining States with respect to (i), joint service areas and (ii) establishment, admission, and approval of Health Care Corporations for service in such joint areas for serving separate areas in the cooperating States; and

(D) include a program by completing (i) the initial approval of Health Care Corporations for service in designated areas (including, if necessary to carry out the purpose stated in section 2(b)(2), the creation of governmental Health Care Corporations), and (ii) the initial registration of eligible individuals with such approved corporations, not later than the close of the fourth fiscal year that begins after the calendar year in which this Act is enacted;

(7) (A) include such provisions for effective arrangements or procedures as will assure an opportunity to obtain group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents of the State who are not entitled to coverage of such benefits purchased by the Secretary, and provide for the effective enforcement of these arrangements and procedures by the commission (subject to review by the Secretary with respect to enforcement of Federal regulations);

(B) provide for regulating the premium rates of carriers issuing group health benefit prepayment plans or insurance contracts for residents of the State (except under contracts negotiated and made directly by the Secretary), except that the plan may—

(i) vest in the State agency primarily charged by State law with regulating the business of insurance in the State, or

(ii) authorize the commission to delegate to that or another appropriate State agency, the function of regulating the premium rates for such prepayment plans or insurance contracts charged by carriers (other than Health Care Corporations acting as carriers for their own registrants);

(C) provide, consistently with regulations and standards of the Secretary relating to Comprehensive Health Care Benefits coverage, for the regulation and supervision of such carriers and such plans and contracts by the commission, including in the case of group coverage for Comprehensive Health Care Benefits the establishment, by the commission, of required standard provisions whereby, in the event of interruption or termination (by death or otherwise) of a covered individual's status as a member of the employee or other group that the plan or contract covers, the individual (or covered members of his family in case of his death) will have the privilege of continuing coverage under the plan or contract for a specified period (not less than 30 days) that the commission deems reasonable; and

(D) provide (subject to any regulation by the Secretary or interpretations thereunder with respect to contracts with carriers or otherwise with respect to coverage for Comprehensive Health Care Benefits)—

(i) for granting an opportunity for a fair hearing, before the commission, to any approved Health Care Corporations or nonaffiliated provider whose claim against a carrier for payment of charges for services or items furnished to a registrant of the corporation covered by the carrier for Comprehensive Health Care Benefits, or for payment of capitation charges with respect to a thus covered registrant in the case of a Health Care Corporation operating on a capitation charge basis, has been denied by the carrier in whole or in part, and

(ii) for adjudicating the claim;

(8) provide effective methods and procedures for (A) optimum utilization or adaptation, in the administration of the plan submitted under this section, of (i) such plans as have been or will be developed for the State pursuant to subsection (a) of section 314 of the Public Health Service Act, (ii) the State plan approved under subsection (d) of that section, (iii) any comprehensive plans developed under subsection (b) of that section for regions, metropolitan areas, or other local areas wholly or partly within the State, and (iv) relevant plans developed under any other programs, and (B) coordination (or, at the State's option, consolidation in the case of planning at State level) of planning under the plan submitted under this section with ongoing or projected planning activities under those subsections or programs;

(9) provide that, if and to the extent requested by the Secretary, the commission (directly or through appropriate arrangements, approved by the Secretary, with another appropriate State agency or agencies) will perform, for or on behalf of the Secretary, any or all of the following functions:

(A) as authorized by section 108, contract, as agent of the Secretary, with qualified carriers for Comprehensive Health Care Benefits coverage in the State required under this Act to be financed by Federal purchase of such coverage from a carrier;

(B) act as fiscal agent of the Secretary in transactions with carriers (or classes thereof) in the State, including (if and to the extent that the Secretary assumes this function) the collection or receipt, and transmittal to carriers, of premium contributions by beneficiaries of federally purchased Comprehensive Health Care Benefits coverage (or by others on their behalf) when such contributions are required by or pursuant to this Act;

(C) furnish to the Secretary such timely information and prospective estimates as the Secretary may find necessary for developing its estimates of costs and required Government contributions under section 107;

(D) review, and make recommendations with respect to, applications to the Secretary for grants under appropriate sections of part A of this title, and, when requested, review and make recommendations with respect to applications to the Secretary for grants or contracts under other provisions of law administered by the Secretary, act as agent for the Secretary in investigating and certifying compliance with the terms and conditions of such grants or contracts, and make payments from Federal funds thereunder; and

(E) perform such other functions for or on behalf of the Secretary as he may reasonably request;

(10) (A) in cooperation with the Secretary, and in accordance with such methods as may be recommended for the design and implementation of a nationwide cooperative system for producing comparable and uniform health-related information and statistics, function as a center, for the State, for the collection (from Health Care Corporations and other providers, health benefit prepayment plans and private health insurance companies, and other sources), retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, including data on the fiscal operations of such corporations, plans, and companies and including data of the kinds enumerated in section 305 of the Public Health Service Act, and (B) require such corporations and providers, and such plans and companies doing business in the State, to make statistical and other reports of such information and data to the commission;

(11) provide safeguards that restrict to purposes directly connected with the administration of the plan the use or disclosure of identifying information concerning (A) individuals with respect to whom information is obtained in carrying out the State plan provisions required by paragraph (10), or (B) individuals who are registrants or applicants for registration under this Act or who claim eligibility for Comprehensive Health Care Benefits coverage by a carrier;

(12) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the health-related and economic effectiveness of the activities of the commission and of Health Care Corporations (including their affiliated providers) and other providers under the commission's supervision, including a review and comparative evaluation of data on utilization of health care services (including drugs) provided by Health Care Corporations and other providers;

(13) provide that the commission will make such annual and other reports (including reports of evaluations made pursuant to the provisions contained in the plan in accordance with the preceding paragraph) as the Secretary may from time to time reasonably require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports; and

(14) provide that the commission will from time to time, and in any event not less often than annually, review the plan and submit to the Secretary any modification thereof which it considers necessary.

(c) The Secretary shall approve any State plan and any modification thereof which complies with subsections (a) and (b); except that he shall not grant such approval if the plan or modification or other State law (statutory or otherwise) or the practice of a State licensure or regulatory authority under color of law—

(1) prevents or limits Health Care Corporations (approved by the commission under the plan) from undertaking to provide covered health care to registrants (and to others at its election) (A) through direct employment of medical or other licensed health care practitioners by the corporation or other nonprofit providers, or (B) through group practice (as defined by regulations of the Secretary) or other arrangements by the corporation or other providers with such practitioners or groups thereof (whether such arrangements be on a capitation, fee-for-service, or other basis); or

(2) deprives any Health Care Corporation of its right to designate its preferred service area and of its right of appeal for change in such service areas, in accordance with the provisions of this Act;

(3) disqualifies from service on the governing board of a Health Care Corporation or affiliated institutional provider thereof a physician who is on the staff of the Health Care Corporation or the institution or is an affiliated provider of the Health Care Corporation;

(4) prevents or limits such practitioners from employing or arranging with appropriately trained assistants under this supervision to perform, consistently with standards of the Secretary prescribed under section 103(b)(4), health care functions commensurate with their qualifications and training; or

(5) prevents or limits carriers from offering coverage of health care provided in accordance with paragraph (1), (2), (3), or (4), unless the Secretary determines, in accordance with regulations issued by him, that the prohibition or restriction is consistent with the purposes of this title.

(d) (1) An approval of a State plan submitted to the Secretary under this part shall, unless renewed, or unless sooner withdrawn or suspended under this part, be in effect for a period of one calendar or fiscal year, whichever the Secretary determines, except that the initial approval may be for the remainder of the fiscal or calendar year then current or, where deemed appropriate by the Secretary, may be made effective until the end of the succeeding year.

(2) For the purposes of this Act, a State with respect to which there is in effect an approval of a State plan by the Secretary under this part, or with respect to which the Secretary is performing the functions that he is authorized to perform under section 128(a) or (c)(4), is a "participating State".

DESIGNATION OF HEALTH CARE AREAS

SEC. 125. (a) As soon as practicable after its organization, the State Health Commission of each participating State shall conduct a study and survey with a view to the approval of service areas for applicant Health Care Corporations as a basis for the issuance of certificates of approval by the commission (in accordance with section 126(a)(3)), with the objective of affording to all the people in the State equal and ready access to the full range of comprehensive health care of high quality provided for in this title and, where practicable, a choice among Health Care Corporations. In making its study and survey, the commission shall give appro-

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priate consideration to (1) the size and distribution of the State's population and the incidence of illness or disease in population groups in different regional, metropolitan, or other local areas (or parts thereof) of the State, (2) existing health care organizations, institutions, or resources for the provision of health care, their potential for sponsoring or participating in the organization of Health Care Corporations, and their distribution in relation to the need for care, (3) local governmental structures, (4) transportation facilities, (5) patterns of organization for the delivery of health care, (6) patterns of use of health care, and (7) other relevant factors. To assist in its study and survey, and especially in connection with its consideration and evaluation of the factors referred to in clause (2) of the preceding sentence, the commission shall set a date by which shall be filed with it applications by Health Care Corporations for certificates of approval for operation in areas defined in the respective applications (or statements of intention, by proposed sponsors of such corporations, to file such applications). No such certificate shall be granted under section 126 until a final regulation has been issued under the last sentence of subsection (c)(1) of this section.

(b) In addition to making the study and survey referred to by subsection (a), and before approving applications for certificates of approval, the commission shall consult with persons representative of the general public, representatives of public and private health care institutions or their organizations, representatives of the medical and other health care professions, including persons representative of health care practitioners engaged or employed in group practice, representatives of appropriate State and local governmental agencies, State commissions in adjoining States (where appropriate), and other interested groups and individuals.

(c)(1) After its study, survey, and consultation, the commission shall publish a proposed regulation setting forth its findings and approvals of Health Care Corporations and the service areas proposed, which need not coincide with the areas of existing municipalities or political subdivisions of the State. The commission shall give reasonable public notice of its proposal and of a public hearing or hearings on the proposal and shall, after such hearing or hearings, by final order confirm the regulation or issue a revised regulation.

(2) In carrying out this section the commission may, in accordance with cooperative arrangements referred to in section 124(b)(6)(C), designate with another State or States a service area or areas that include parts or all of such States.

(d) The commission may, either on its own motion or on petition of any interested Health Care Corporation or other interested provider of health care, an interested registrant or organization representing registrants, or any other interested person, amend or repeal a final regulation issued under subsection (c), but final action on a proposal under this subsection may (upon request of an interested person filing objections to the action proposed, specifying with particularity the changes desired, and stating reasonable grounds therefor) be taken only by decision on the record made after fair hearing.

REGULATION FUNCTIONS OF STATE HEALTH COMMISSIONS

SEC. 126. (a) For the purposes of part C of this title and of paragraph (6) of section 124(b), a State plan shall, in addition to complying with section 125—

(1) provide for (A) stimulating and encouraging the organization of Health Care Corporations (as defined in section 131(a)) where needed by (i) giving information and advice to providers of health care and other potential sponsors as to the requirements for organization of such corporations and for commission approval of such corporations for service, (ii) giving technical assistance to sponsors in meeting such requirements, and (iii) in appropriate cases recommending to the Secretary grants or contracts under part A of this title; and (B) in accordance with cooperative arrangements referred to in section 124(b)(6), cooperating with State Health Commissions of the other States in jointly (or concurrently) or reciprocally admitting and approving Health Care Corporations for service, especially in joint or adjoining service areas of the respective States;

(2) provide for authorizing the incorporation in the State, or admission from other States, of nonprofit corporations and, at the State's option, of governmental corporations that can under the law of the State qualify as Health Care Corporations in accordance with section 131(a), but this function may at the option of the State be vested in an authority of the State other than the State Health Commission if this will not substantially permit the duplication of functions of the commission or impede the objectives of this Act;

(3)(A) provide for evaluation of the application of any corporation (incorporated in or admitted to the State in accordance with paragraph (2)) for approval to operate as a Health Care Corporation in a service area or areas approved by the commission in accordance with section 125;

(B) provide for granting such approval (evidenced by a certificate of approval) if (after reasonable notice and opportunity for hearing to the applicant, to any other corporation which holds or has applied for a certificate of approval for the service area or areas involved, and to the public) the commission finds—

(i) that the applicant qualifies as a Health Care Corporation in conformity with section 131(a) and satisfies the requirements of clauses (2) and (3) of section 131(b),

(ii) that there is need for the facilities and services to be provided by the applicant in the area or areas covered by the certificate,

(iii) if another Health Care Corporation or corporations already holds a certificate of approval for a service area covered by the certificate, that the additional operation of the applicant in that area will be economically feasible and will promote the purpose of giving a choice to registrants as stated in section 2(b)(2), and

(iv) if there is also pending before the commission the application of another Health Care Corporation for approval of its operation in a service area included in the certificate granted to the first-mentioned applicant, that the proceedings for the consideration of both applications have been consolidated and either (I) that approval is also granted to the other applicant or (II) that for reasons stated in the commission's findings approval to the other applicant is denied; and

(C) provide that any certificate of approval granted by the commission is subject to revocation or amendment in accordance with subsection (c) of this section or upon revision of the approved service area or areas, covered by the certificate, under the provisions included in the State plan in accordance with section 125;

(4) provide, with respect to any service area for which more than one Health Care Corporation is approved and in which the combined capacity of all such corporations is sufficient to serve adequately all residents of the area but in which the separate capacity of one or more (but less than all) of such corporations can serve adequately only a reasonable proportion of the area's residents, for allowing any such corporation (whose capacity is thus limited) to restrict to a number approved by the commission the number of individuals whom it will accept for registration, and requiring the corporation in that event to accept, in such manner as may be required by the commission, residents of the area up to that number for registration on a first-applied first-accepted basis; but the plan shall preclude any action or procedure under this paragraph that does not assure the adequate provision, on a nondiscriminatory basis, of all the benefits of this Act to all the residents of the area who desire to register;

(5)(A) provide for limiting all charges of approved Health Care Corporations and other licensed providers for health services and items to the kinds of charges and the rates that are prospectively approved by the commission, in accordance with the principles and requirements of section 136, after (i) review of the provider's budget and its proposer charges, and (ii) such review or examination of other data, and such inspection, as the commission may deem appropriate; (B) require that the provider's budget and charges (i) do not make provision for services that are excessive or unnecessarily duplicative and (ii) do not take into account any actual or proposed capital ependitures (as defined in regulations of the Secretary) related to construction or rental of health care facilities by or for the provider for which the commission has not granted a certificate of need when required under the plan; (C) require that charges for physicians' services, such as those of radiologists and pathologists, that are held out as generally available to all inpatients of an institution, be included as part of institutional-service charges and not as separate physicians' services charges (regardless of the method of payment to the physician); (D) require that the provider's budget and proposed charges be prepared in accordance with accounting principles, prescribed by the Secretary, designed to bring about uniform methods of determining institutional costs and financial requirements; and (E) provide for granting an opportunity for a fair hearing to any health care provider which is dissatisfied with a decision of the commission with respect to the provider's proposed charges;

(6) provide for effective enforcement, by the commission, of the responsibility of approved Health Care Corporations and other licensed providers to (A) provide the necessary health care and items for which the registrants have Comprehensive Health Care Benefits coverage, (B) assure that such care be of not less than the scope, quality, and comprehensiveness required by this Act, including regulations and standards of the Secretary prescribed under part A of this title, (C) in the instance of Health Care Corporations, perform the functions specified in sections 133 and 134 with respect to services furnished by others to registrants while absent from their place of residence or in emergencies, and (D) in the instance of nonaffiliated providers, perform functions similar to those specified in section 134, as specified in regulations;

(7) prohibit the construction, modernization, or expansion of facilities and services of hospitals, extended care facilities, nursing homes, or other health care facilities, or the establishment of such facilities through rental of major equipment or existing structures, by Health Care Corporations or other providers, except when authorized by a certificate of need by the commission;

(8) authorize the commission in its discretion to adjudicate, at the request of an approved Health Care Corporation or a provider affiliated with it, or a nonaffiliated provider, a controversy between the corporation and the provider with respect to any matter within the regulatory or supervisory authority of the commission;

(9) provide for granting an opportunity for a fair hearing before the commission (A) to any individual who is not accepted for registration by an approved Health Care Corporation of whose approved service area he claims to be a resident; or (B) with respect to a monetary claim by a registrant against a provider or against a carrier under whose prepayment plan the individual is covered for Comprehensive Health Care Benefits, or by a provider or a carrier against the individual relating to the provision of health care or to such coverage, where the claim has been denied (in whole or part) or is not acted upon with reasonable promptness and the amount in controversy is $100 or more; or (C) to any individual who alleges a substantial failure of the provider with respect to the provider's obligations to provide health care to the individual, and alleges facts showing that the failure is part of a pattern of similar conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and for continuous surveillance over the performance of approved Health Care Corporations in relation to their obligations under this Act, and enforcement of those obligations as provided for in this section; and.

(11) provide for review and approval of peer review systems of nonaffiliated providers and for continuous surveillance over the performance of such providers in relation to their obligations under this Act, and enforcement of those obligations as provided in this section.

(b) If a Health Care Corporation or nonaffiliated provider complies with the procedures set forth in sections 1863 through 1865 of the Social Security Act, such provider shall be deemed to meet the standards relating to comparable elements established by this Act and regulations thereunder.

(c)(1)(A) Whenever the State Health Commission determines that there is a failure on the part of an approved Health Care Corporation (whether owing to its own acts or omissions or those of a provider furnishing services on its behalf) to fulfill all obligations assumed by the corporation or placed upon it by this Act, the commission shall by order direct the corporation to take prompt corrective action.

(B) If the corporation, within such reasonable period as may be required by the commission by regulation, requests a hearing on the commission's order and states reasonable grounds for objecting to the decision, the commission shall give the corporation reasonable notice and opportunity for a hearing with respect to the commission's decision and, if a hearing is held, shall on the basis of the record at the hearing render a decision, subject to such judicial review on the record as may be provided by applicable State law. Initiation of a proceeding for judicial review shall not operate as a stay of the commission's decision unless so ordered by the court.

(2) Notwithstanding paragraph (1), where the failure of a Health Care Corporation to comply with its obligations is so gross as in the judgment of the commission to create an imminent hazard to the health of registrants, the commission may give its order immediate effect, subject to later reversal or modification if so determined after hearing or after judicial review.

(3) In addition to the authority of the commission to order corrective action to be taken as above provided, the State plan shall, in the event of a substantial failure of the corporation to fulfill its obligations, empower the commission, after reasonable opportunity for a fair hearing, (A) to revoke its certificate of approval for operation by the corporation and issue for the service area involved a certificate of approval to another Health Care Corporation, or corporations, or (B) in lieu of such revocation, to take effective action (through appointment of a receiver for the corporation or other appropriate means) to bring the corporation into compliance with its obligations and provide its registrants with the health care services to which they are entitled. The order of the commission shall, when final, be subject to judicial review in a State court of competent jurisdiction on the basis of the record before the commission, and the findings of fact of the commission shall, if supported by substantial evidence in the record when considered a whole, be binding on the court.

(d) The commission is authorized to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. The appeal procedures outlined in subsection (c) shall apply with respect to action taken under this subsection.

JUDICIAL REVIEW

SEC. 127. (a) Any State that is dissatified with a final action of the Secretary taken under section 128 (other than subsection (c)(3) thereof) may obtain judicial review of such action by filing, within sixty days after such action, a petition for review with the United States court of appeals for the circuit in which the State is located. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary shall thereupon file in the court the record of the proceedings on which it based it action, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the Secretary may modify or set aside its order.

(b) The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

FEDERAL EXERCISE OF STATE FUNCTIONS IN CASES OF NONCOMPLIANCE BY STATES

SEC. 128. (a) In the case of any State which has not established a State Health Commission in conformity with section 122, and submitted to the Secretary an approvable State plan pursuant to section 124, prior to the third fiscal year that begins after the calendar year in which this Act is enacted, the Secretary may, until such a State plan has been submitted to and approved by him under this title, assume and exercise, through the Department of Health, Education, and Welfare, with respect to the area of that State, those functions which would be required or authorized by this title to be exercised by the State Health Commission of that State if there were in effect a State plan approved under this title, and may utilize for that purpose any funds available under this title for payments for the administration of State plans. In any case in which the Secretary invokes the authority contained in the preceding sentence, any State law or practice that under section 124(c) would preclude approval of a State plan under this title shall be inoperative.

(b)(1) The Secretary shall not finally refuse to approve a State plan submitted to it under this title except after according to the State reasonable notice and opportunity for hearing.

(2) If, at the scheduled expiration of the effective period of approval of a State plan, there is pending before the Secretary an application of the State for renewal of the approval, the Secretary may, by order, temporarily postpone the scheduled expiration date until its decision on the application for renewal.

(c)(1) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Health Commission administering a State plan approved under section 124(c), determines—

(A)(i) that the plan has been so changed that it no longer complies with the provisions of section 124(b), including any provision of this title incorporated therein by reference, or (ii) that in the administration of the plan there is a failure to comply substantially with any such provision;

(B) that there is a failure to comply with any requirement of section 122; or

(C) that the State law or practice is such as, under the provisions of section 124(c), would preclude approval of the plan; the Secretary shall by order withdraw approval of the plan and withhold further payments under section 124(e) (or, in the Secretary's discretion, suspend approval as to the part or parts of the plan affected by a failure determined under clause (A) or (B) of this paragraph and limit payments to those payable with respect to other parts), until the Secretary is satisfied that there will no longer be any such failure to comply or, in a case described in clause (C), until the plan is approvable under section 124(c), and shall forthwith notify the Commissioner of the order.

(2) If in the judgment of the Secretary it would better promote the purposes of this title to do so, he may postpone the effective date of his order under paragraph (1) for such reasonable period as he finds appropriate to allow necessary time for compliance with the requirements of this title.

(3) In addition to or in lieu of issuing an order pursuant to paragraph (1), the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this title.

(4) Whenever the Secretary has withdrawn approval of a State plan pursuant to paragraph (1), he may, with regard to the State involved, exercise the functions and use the funds referred to in subsection (a).

COOPERATIVE INTERSTATE ACTIVITIES AND UNIFORM LAWS

SEC. 129. (a) The Secretary (1) shall encourage and assist the States and their State Health Commissions in carrying out cooperatively with other States their respective functions in accordance with part B, including the making of agreements between States for that purpose with respect to the establishment, admission (into jurisdictions other than those of incorporation), and approval of Health Care Corporations, the establishment of joint health care areas and assignment of such corporations thereto, the exchange of information, and other matters, and (2) shall develop and encourage the enactment of model State legislation in the fields covered by this title.

(b) The consent of the Congress is hereby given to any two or more States to enter into agreements of the kinds referred to in subsection (a), not in conflict with any provision of this Act or regulation of the Secretary thereunder or with any other law or treaty of the United States.

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OTHER ADMINISTRATIVE PROCEDURES

SEC. 130. (a) Effective on and after the effective date of part A of title II of this Act, the Secretary is authorized and directed, notwithstanding any provision of title V of the Social Security Act, to provide by regulation for limiting the use (directly or indirectly) of Federal funds under title V of the Social Security Act for personal health services and items (or for reimbursement for expenditures for such services or items) in participating States (as defined in section 124(d)(2) of this Act) in such manner as will avoid to the maximum extent practicable the use of such funds for personal health services or items for individuals to the extent that these individuals are entitled under section 202(b) of this Act to Comprehensive Health Care Benefits coverage for like services and items.

(b)(1) Section 505(a)(2) of the Social Security Act is amended (A) by striking out "State health agency" the first time these words occur and inserting in lieu thereof "State Health Commission (established in accordance with section 121 of the National Health Care Services Reorganization and Financing Act)", and (B) by striking out "State health agency" the second time these words occur and inserting in lieu thereof "State Health Commission".

(2) The amendments made by paragraph (1) shall, with respect to any State, become effective on the date on which the State becomes a participating State (as defined in section 124(d)(2) of this Act).

PART C—HEALTH CARE CORPORATIONS

INCORPORATION AND STATE APPROVAL

SEC. 131. (a) A Health Care Corporation is a nonprofit private or governmental corporation which (1) is organized for the purpose of furnishing (through its own facilities and personnel or through other providers, nonprofit or for-profit) comprehensive and coordinated personal health services to persons registered with the corporation, furnishing personal health services to other persons to the extent authorized by this title, and engaging in educational, research, and other activities incidental or related to the furnishing of personal health services; and (2) provides (or will provide after the period of organization and initial registration) effective and equitable representation, on its governing board, of the registrants with the corporation and of the affiliated institutional and professional providers furnishing services on its behalf.

(b) A Health Care Corporation is eligible, for the purposes of this title, to furnish services in a State only if it is approved by the State Health Commission of the State, for operation in an approved service area or areas of the State (under the provisions of the State plan in accordance with sections 125 and 126), upon a finding by the commission (1) that the corporation conforms to the provisions of subsection (a), (2) that it has an adequate organization under professionally competent management, and adequate resources in facilities and personnel (including resources available to it through contracts with affiliated providers), to meet the requirements of this part and of regulations prescribed thereunder and requirements prescribed by the State Health Commission, and (3) that it has given assurances (including assurances of financial responsibility), satisfactory to the commission, that in operation it will meet all such requirements.

REGISTRATION WITH HEALTH CARE CORPORATIONS

SEC. 132. (a) A Health Care Corporation shall, in accordance with regulations of the State Health Commission—

(1) register with the corporation all persons (or such number of persons as may be required by the commission pursuant to section 126(a)(4)), resident in the service area approved for it by the commission, who apply for such registration during a period of open registration fixed by the commission, or apply therefor after termination of registration with another corporation pursuant to subsection (e); and

(2) make all reasonable efforts, on a continuing basis, to procure the registration of persons resident in the area who, having failed to apply for registration, have been assigned by the commission to the corporation for recruitment.

(b) Within its capacity to furnish services and with the approval of the commission, the corporation may recruit and register persons (whether or not residents of the area) whom it is not required by subsection (a) to recruit or register.

(c) In such cases and such manner as may be specified in regulations of the Secretary, a registrant may effect registration on behalf of his or her spouse and children under 19 years of age.

(d) The corporation shall make available, and shall employ all reasonable means to disseminate throughout its approved service area, full information about its operations, including descriptions of the services it furnishes and places where they are furnished, and including information about the methods and times of registration; and information about the benefit coverages (both those purchased by the Secretary and others) available to residents of the area, and the methods of obtaining such coverage. It shall assist registrants and applicants for registration to establish entitlement to coverage purchased by the Secreary under section 202, and to obtain other coverage as appropriate.

(e) Registration with a Health Care Corporation shall be effective for a period of twelve months, except that a registrant may terminate his registration if he changes his place of residence or for such other cause as may be approved by the State Health Commission.

UNDERTAKING TO FURNISH SERVICES

SEC. 133. (a) A Health Care Corporation shall assume responsibility for making available and furnishing to each registrant with the corporation, and to any other person to the extent required by regulations of the Secretary, all services for which he has Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate). The acceptance of a registration shall constitute an obligation of the corporation to the registrant to furnish all such services, either through the facilities and personnel of the corporation, through affiliated providers meeting the requirements of subsection (b), or through other providers in accordance with subsection (c).

(b) Services may be provided through an affiliated provider who, by contract with the Health Care Corporation, has undertaken (1) to furnish on behalf of the corporation a portion of the services for which the corporation is responsible, and (2) to cooperate and (to the extent practicable) participate in discharging all other responsibilities of the corporation under this part. Affiliated providers may be hospitals, extended care facilities, nursing homes, or home health service agencies (hereafter referred to collectively as "institutional providers"); physicians, dentists, podiatrists, or optometrists; combinations of the foregoing, such as partnerships, clinics, or group practice organizations, which may include appropriate paramedical, technical, or other supporting personnel; or other providers of kinds designated in regulations of the Secretary. The services of an affiliated provider may, but need not, be furnished exclusively on behalf of one Health Care Corporation. A provider may be affiliated with two or more Health Care Corporations, but in the case of an institutional provider shall designate one affiliation as the provider's primary affiliation.

(c) Drugs, devices, appliances, and equipment may be furnished to outpatients, and ambulance and other emergency transportation services may be furnished, through providers not affiliated with the corporation, under arrangements which the commission finds assure adequate availability of such items and services. Medical and other services of specialized nature, which the commission in accordance with regulations of the Secretary finds cannot practicably be furnished by a Health Care Corporation or its affiliated providers, may be furnished through arrangements with or referral to other Health Care Corporations or other providers.

(d) The organization of the services furnished by or on behalf of the corporation shall emphasize health maintenance (including health education) of registrants, assure continuity of care and referral of patients to such services and at such times as may be medically appropriate, and to the greatest extent possible provide care on an outpatient basis. All services shall be made as readily available as is practicable to all registrants within the approved service area of the corporation, and the corporation shall (in accordance with regulations of the Secretary) maintain a system of scheduling periodic health maintenance services for each registrant and reminding him thereof. Outpatient care shall be furnished in centers and physicians' offices conveniently accessible throughout the area. Emergency care, including ambulance service within the approved service area of the corporation, shall be available at all times.

(e) The corporation shall as rapidly as practicable develop, by affiliation with existing organizations or otherwise, a system of outpatient care centers throughout its approved service area, utilizing hospital medical staffs and other physicians practicing in the area, and staffing the centers with physicians and appropriate ancillary personnel to furnish primary medical care. To the extent practicable, the corporation shall also furnish through or in conjunction with such centers health maintenance services and community-based services suoh as home care, medical social services, and the services of well-baby clinics and mental health clinics. Centers shall be so related to institutional or other providers as to assure the availability of necessary laboratory and other diagnostic services, and the ready referral and transfer of patients to facilities providing more comprehensive services when medically appropriate.

(f) Whenever services for which the corporation is responsible under subsection (a) are furnished by another Health Care Corporation to a registrant who is absent from his place of residence, or are furnished in an emergency by any provider (wherever situated) who is not affiliated with the corporation or acting under arrangements with it, the corporation shall review a report of the services rendered and the charge therefor and shall submit it to the carrier responsible for its payment; or, if it is itself the carrier or is otherwise responsible for payment, shall pay the charge. This subsection shall not be applicable in the case of a registrant who, otherwise than pursuant to arrangement by the corporation, has left his place of residence for the purpose of obtaining health services.

(g) The corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it, and may furnish other services to such persons when it can do so without interference with services to its registrants.

QUALITY OF SERVICES

SEC. 134. (a) A Health Care Corporation shall assume responsibility (1) for the quality of all services furnished by it either through its own facilities and personnel or by providers affiliated or acting under arrangements with it, and for compliance with standards of quality and comprehensiveness

prescribed by the Secretary, (2) for maintaining controls upon the utilization of all such services, (3) for continuing appraisal, through medical audits and otherwise, of the effectiveness of such services, and (4) for identifying problem areas requiring planning for additional services. For these purposes the corporation shall maintain a system (approved by the commission) of comprehensive peer review by a group or groups of physicians (and a group or groups of dentists in the case of dental services) selected from its staff and from affiliated providers and their staffs, embracing services furnished by affiliated providers as well as services furnished directly by the corporation, and shall require similar review by a staff committee or committees of each hospital and extended care facility affiliated with it. The corporation shall, through an appropriate staff committee or committees, maintain a program of continuing professional education of physicians, dentists, and nurses (and, to the extent the corporation deems desirable, of other professional personnel) furnishing services on its behalf.

(b) All medical policies of the corporation shall be established with the advice of physicians, and all dental policies with the advice of dentists. All medical judgments related to health care shall be made by or under the supervision of physicians, and all dental judgments by or under the supervision of dentists.

(c) The corporation shall encourage the participation of physicians in all aspects of its policy-formulation and operation (including budget review), both in administrative and in advisory capacities.

PARTICIPATION OF PROFESSIONAL PRACTITIONERS

SEC. 135. (a) Within the limits of its need for physicians, dentists, podiatrists, and optometrists (hereafter referred to collectively as "practitioners"), and so far as is consistent with the furnishing of the highest practicable quality of care, a Health Care Corporation shall provide opportunity to all practitioners practicing in its approved service area to furnish services on its behalf, either (at the election of the corporation) as members of its professional staff or as affiliated providers. It shall fix, and review annually, the scope of services which each practioner may so furnish, in accordance with his training, experience, and professional competence as determined, pursuant to rules of the corporation, through peer review of his credentials and performance. A practitioner who desires to enlarge the scope of services assigned him shall be assisted through inservice training in acquiring added experience and professional competence, and his assigned scope of service shall be reconsidered from time to time.

(b) In selecting practitioners to furnish services on its behalf and in fixing the scope of services which each may furnish, the corporation shall not discriminate on any ground unrelated to professional qualifications; but in carrying out the purpose of subsection (a) in its initial recruitment of practitioners the corporation may give preference, as between equally qualified persons, to those who at the time are practicing in its approved service area.

(c) The corporation shall so organize the services furnished by practitioners on its behalf as to meet the purposes of sections 133 and 134. To the extent consistent with such organization it shall permit each practitioner to elect the form or forms of practice (individual office practice, group practice, or other form of practice) in which he wishes to engage.

CHARGES BY HEALTH CARE CORPORATIONS

SEC. 136. (a) All charges by a Health Care Corporation for health services shall be made at rates fixed by the corporation prospectively for a twelve-month period and approved by the commission. Rates so approved may be revised before the end of the period only on the basis of events, occurring subsequent to the approval, which the commission finds (1) could not reasonably have been foreseen at the time of approval, and (2) will, if the rates are not revised, impose severe financial hardship on the corporation.

(b) Such charges shall consist either of an annual amount for each registrant or registrant family (hereafter referred to as a "capitation amount"), or of itemized charges for separate services or units of service. With the approval of the commission, the corporation may use one method of determining charges for some services or with respect to some registrants and the other method for other services or with respect to other registrants. After three years of operation, the corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. This plan must be implemented by the corporation by making this option to all registrants five years after its incorporation. Except for reasonable variations (in accordance with regulations of the Secretary) based on the size and composition of families, capitation amounts shall be uniform for all registrants to whom they are applicable, other than registrants having coverage under contracts purchased by the Secretary.

(c) Charges of the corporation, by whichever method determined, shall be at rates estimated to be sufficient for the twelve-month period to meet the financial requirements of the corporation, as reflected in its budget for the period, to enable it to fulfill its responsibilities under this part. The financial requirements shall be determined in accordance with regulations, and with systems of accounting, prescribed by the Secretary under section 103(b). The corporation shall be responsible for justifying to the commission the rates the corporation proposes to pay to affiliated and other providers for services it has undertaken to furnish, and for justifying the budgets of any affiliated providers on which such rates are based; except that justification of the budget and rates of an institutional provider affiliated with two or more health care corporations shall be the sole responsibility of the corporation with which the institutions has its primary affiliation.

(d) The corporation and the commission, in developing and reviewing the budget of the corporation and the rates to be paid to other providers, and in reviewing the budgets of any affiliated providers, shall seek to assure that adequate services are available to registrants of the corporation without unnecessary duplication or other excessively costly or excessive services.

CONTINUING PERSONAL HEALTH RECORD

SEC. 137. (a) A Health Care Corporation shall develop, and keep current, a continuing personal health record for each registrant of the corporation, in such form, consistent with regulations of the Secretary, as may be required by the commission for the purposes (1) of making medical histories and other pertinent data readily available to the medical and other staff of the corporation and its affiliated providers, and (2) of enabling the corporation to meet requirements of the commission for gathering and reporting health care statistics, including statistics on the utilization and cost of health services.

(b) The corporation shall, to the greatest extent practicable, equip its facilities, and assure that facilities of its affiliated providers are equipped, for the prompt transmission, to appropriate members of the staffs of all such facilities, of the personal health records of its registrants.

(c) Whenever a registrant with one Health Care Corporation transfers his registration to another such corporation, his personal health record shall be transferred to the latter corporation. To such extent as may be required by regulations of the Secretary, a Health Care Corporation shall make available to other Health Care Corporations, and other providers (not affiliated with it), who furnish emergency or other health services to its registrants, information from the personal health records of the registrants.

(d) Personal health records, information contained therein, and other information concerning individual registrants or applicants for registration shall be used or disclosed, without the consent of the individual only (1) in accordance with this section, or (2) for purposes necessary to the administration of the Health Care Corporation, the State plan, or any benefit coverage pursuant to this tile. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

PARTICIPATION BY REGISTRANTS; HEALTH EDUCATION

SEC. 138. (a) A Health Care Corporation shall establish methods by which (in addition to their representation on its governing board) registrants may express their views with regard to the policies and operation of the corporation, the health needs of the community, and the need for any modification or expansion of the services furnished by the corporation. The corporation shall take all practicable steps to assure that this opportunity is readily available to all substantial groups (geographic, economic, or other) of registrants, and to the extent practicable, to individual registrants. The corporation shall establish an advisory committee representative of registrants in general, and subcommittees or separate committees representative of any groups whose interests may differ materially from those of other registrants. Through such committee or committees, the corporation shall seek a continuing evaluation by its registrants of its program and performance.

(b) The corporation shall undertake a program of continuing health education, with special emphasis directed toward low-income and medically indigent registrants. The program shall be designed and conducted with the advice and participation of representatives of the registrants, for the purpose of overcoming lack of information and correcting misinformation on the part of registrants about personal health matters, encouraging their interest in healthful living, proper nutrition, and the avoidance of illness, and enabling them to make more responsible and effective use of health maintenance services and, when illness occurs, of the diagnostic and therapeutic services available to them. Corporations shall provide, to registrants in need thereof, assistance in overcoming language or education handicaps in obtaining access to health care. In carrying out this subsection the corporation shall collaborate with governmental and private agencies engaged in community wide health education.

NONDISCRIMINATION; COMPLAINTS

SEC. 139. (a) In recruitment and registration a Health Care Corporation shall not discriminate on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health. Subject to such differentiations as are medically appropriate or are specifically authorized by this title, the corporation and other providers shall not discriminate on any of the foregoing grounds in furnishing services on behalf of the corporation.

(b) The corporation shall establish adequate procedures for the receipt and disposition of complaints by registrants with

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respect to service furnished them, failure to furnish services or to pay for services furnished by others, or the propriety of charge made by the corporation; and complaints by persons whose applications for registration have been refused. The corporation shall, to such extent and in such form as may be required by the commission, maintain records of such complaints and of their disposition, and shall make such records available for inspection by the commission.

(c) The corporation shall establish adequate procedures for the settlement of disputes with affiliated providers, with other providers having arrangements with the corporation for the furnishing of health care to its registrants, and with nonaffiliated providers.

RESPONSIBILITIES FOR MANPOWER AND FOR RESEARCH

SEC. 140. (a) A Health Care Corporation shall coordinate among its own staff and the staffs of its affiliated providers determination of the needs for the several classes of health personnel, and the recruitment and allocation of such personnel; shall set qualification and performance standards for such personnel, which shall at least equal standards established or recommended by recognized professional organizations; and shall conduct within its own organization and encourage in its affiliated providers such programs of inservice training as it finds necessary or useful in meeting manpower needs, improving the quality of care, and promoting upward mobility within the several health professions and occupations. To the extent permitted by the law of the State in accordance with section 124(c)(3), and consistent with regulations of the Secretary and good professional practice, the corporation shall encourage the use of physician assistants and paramedical and other ancillary personnel, under appropriate professional supervision, to increase the productivity of its medical and dental staff and of affiliated providers and their staffs.

(b) The corporation, in addition to a continuing evaluation of its own performance, shall engage or participate in continuing research concerning the organization and methods of delivery of health services, and concerning their quality, effectiveness, and cost. The results of such research shall be made available to the commission and the Secretary for such dissemination as the commission or Secretary may deem proper.

RECORDS AND REPORTS

SEC. 141. A Health Care Corporation shall keep such records, and on behalf of itself and its affiliated providers make such reports to the commission, as the commission, in accordance with regulations of the Secretary, shall require with respect to financial matters, the utilization of services, the results of peer review of quality, and other matters; and shall require that its affiliated providers keep such records and furnish it with such information as may be necessary for this purpose. The corporation and its affiliated providers shall make the records required pursuant to this section available for inspection by representatives of the commission when necessary for the purpose of verification of such reports.

TITLE II—FINANCING OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 200. This title may be cited as the "National Health Care Services Financing Act".

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR EMPLOYEES

SEC. 201. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE—BENEFITS COVERAGE FOR EMPLOYEES

"SEC. 230. (a) Under regulations prescribed by the Secretary (subject to subsection (b)), every person who is an employer within the meaning of this title shall be required—

"(1) during the period beginning on the transitional effective date specified in section 301(b) of the National Health Care Services Reorganization and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to provide benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and in addition to provide Catastrophic Expense Benefits coverage under and in accordance with section 225 of the National Health Care Services Reorganization and Financing Act, for each of his employees (performing employment for him within the meaning of section 210(a) of this Act) and for the members of the family of each such employee; and

"(2) from and after the effective date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to provide Comprehensive Health Care Benefits coverage (as provided or made available under such Act) to each such employee and for the members of the family of each such employee.

"(b) The provisions of subsection (a) shall not apply—

"(1)(A) with respect to any employer which is the United States, a State or political subdivision thereof (not withstanding any agreement entered into under section 218), or any agency or instrumentality of one or more of the foregoing, or any other employer all of the services performed for which are excluded from 'employment' by one or more of the numbered paragraphs of section 210(a); or

"(B) in any case where the employed member of a family has two or more employers, or where two or more members of the family each have one or more employers, with respect to any such employer other than the one whose total taxes paid under section 3111(a) of the Internal Revenue Code of 1954 on account of the employment of such members or members is greatest; or

"(2)(A) with respect to any employee (or member of an employee's family) who is entitled to health insurance benefits under title XVIII; or

"(B) with respect to any medically indigent person or family (as defined and determined under section 203 of the National Health Care Services Reorganization and Financing Act) who or which elects to obtain comprehensive Health Care Benefits coverage under the National Health Care Services Reorganization and Financing Act without regard to this section.

"(c)(1) The Secretary shall reimburse any employer to whom subsection (a) applies for any amount by which such employer's share of the average premiums payable for the coverage of his employees to whom such subsection applies during any period exceeds (1) 4 percent of the average wages per employee paid by such employer to such employees for such period, multiplied by (2) the number of such employees (not in excess of ten).

"(2) The Secretary shall prescribe regulations for purposes of this subsection relating to the period for determining the number of employees of an employer, the wages of the employees, and the premiums payable under the National Health Care Services Reorganization and Financing Act, as well as the method for determining such wages (and the average thereof) and the cases in which payment may be made to a payee other than the employer.

"(3) Payments by the Secretary pursuant to this subsection shall be made in advance or by way of reimbursement, at such times, in such manner, and in such installments as the Secretary shall determine to be appropriate.

"(4) For purposes of this section the employer's contribution must be at least the actuarial equivalent of 75 percent of the premium cost of the coverage provided by him for his employees as required by subsection (a). The requirement for an employer's contribution shall not in any way prohibit the employee from choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

"(5) The period of coverage of any employee whose employment is involuntarily terminated shall extend from the date of such termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of — days from such termination, whichever first occurs."

(b) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION BENEFITS

"SEC. 906. Every individual who is receiving benefits under any Federal or State unemployment compensation law, and the members of his family, shall be entitled under the National Health Care Services Reorganization and Financing Act (while such individual is eligible for and receiving such benefits)—

"(1) during the period beginning on the transitional effective date specified in section 301(b) of the National Health Care Services Reorganization and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to coverage in the form of (A) benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and (B) Catastrophic Expense Benefits coverage under and in accordance with section 225 of the National Health Care Services Reorganization and Financing Act; and

"(2) from the after the effect date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to Comprehensive Health Care Benefits coverage as provided or made available under such Act.

The Secretary of Labor, in accordance with regulations prescribed in consultation with the Secretary of Health, Education, and Welfare, shall purchase such coverage for, and determine the methods by which (and the terms and conditions under which) it is to be made available to, such individuals and members. There are authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out this section."

ENTITLEMENT TO BENEFITS FEDERALLY SUBSIDIZED

SEC. 202. (a) Every individual who is a resident of the United States shall, as provided in this section and under the conditions and to the extent otherwise specified in this part, be entitled—

(1) in cases specified in subsection (b), to coverage for Comprehensive Health Care Benefits (as described in this part) contracted for by the Secretary, or

(2) in cases specified in subsection (c), to a Federal contribution to the premium cost of coverage for such benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party.

(b) Such an individual shall be entitled to such coverage contracted for by the Secretary with a carrier under section 108, if he—

(1)(A) has attained the age of 65, or (B) is under 65 but is a low-income person or a member of a low-income family, or

(2) is under 65 and is a medically indigent person who complies, or a member of a medically indigent family which complies, with the requirement of section 206 with respect to contributions to premiums for such coverage.

(c)(1) Every other individual referred to in subsection (a) who is registered with an approved Health Care Corporation in a participating State, or with any other organization providing comprehensive health care and services which is engaged in the delivery of such care and services to a defined population group established through open enrollment and has demonstrated such standards as the Secretary may prescribe in order to assure that it will be operated and its services delivered in an effective manner consistent with the purposes and provisions of this Act, and every individual under 65 who is entitled to coverage under subsection (b) but elects not to enroll therefore, shall be entitled to a Federal subsidy of 10 percent of the amount of premium charged by a qualified carrier (as determined under section 232) at an approved group rate for prepaid coverage of the individual for Comprehensive Health Care Benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party, except that in the case of individuals under 65 who are entitled to coverage under subsection (b) but elect not to enroll therefor the Federal contribution shall not exceed an amount equal to 10 percent of the total premium rate for such individuals that would have applied if they had elected coverage under subsection (b). Payments under this subsection shall, upon certification by the Secretary, be made to the carrier.

(2) As used in this subsection, (A) the term "approved group rate" means a group rate prescribed or approved (for the coverage referred to in paragraph (1)) by the State Health Commission (or its delegate agency) under the State plan (approved under part B of title I) of the participating State of which the individual concerned is a resident or, in the case of coverage under an employer plan, the State in which the individual is employed; (B) the term "approved insurance contract or prepayment plan" means an insurance contract or prepayment plan that is approved by the Secretary under section 234; and (C) the term "premium" does not include special premiums payable, in accordance with the provisions referred to in section 234, by a registrant to a carrier to cover the copayment component of capitation charges paid by the carrier to the registrant's Health Care Corporation.

(3) If the coverage of the insurance contract or prepayment plan for an individual (or an individual and his family) entitled to a contribution under paragraph (1) includes Comprehensive Health Care Benefits but also includes benefits greater than those required for Comprehensive Health Care Benefits coverage and a combined premium rate is charged by the carrier for the total coverage, the Federal contribution payable under paragraph (1) shall be based on that portion of the total premium which, in accordance with actuarial principles, is attributable to coverage for Comprehensive Health Care Benefits for that individual (or him and his family) and shall be determined in accordance with regulations of the Secretary.

(4) Entitlement to a contribution under paragraph (1), and the amount thereof, shall be determined without regard to whether the cost of the remainder of the premium is borne (or whether in the absence of that contribution the cost of that portion of the premium which is equal to the contribution would be borne) by the covered individual, by his employer, or by any other person or agency.

(d) For definitions of "low-income person", "low-income family", "medically indigent person", "medically indigent family", and "family", see sections 203 through 205.

INCOME CLASSES

SEC. 203. (a) For purposes of this part—

(1) the terms "low-income person" and "low-income family" mean, respectively, a single individual or family in income class 1;

(2) the terms "medically indigent person" and "medically indigent family" mean, respectively, a single individual or family in income class 2, 3, or 4;

(3) all persons or members of families not in income class 1, 2, 3 or 4 are classified as being in income class 5;

(4) the term "income class", with respect to a single individual or a family, means for any coverage year the individual's or family's income class as determined by application of—

(A) the table set forth in subsection (b) of this section, or

(B) if containing higher dollar amounts, the redetermined income class table promulgated by the Secretary for that year under section 204; and (5) the term "single individual" means an individual who is not a member of a "family" within the meaning of section 205.

(b)(1) The income class table referred to in subsection (a)(4)(A) is as follows:

TABLE OF INCOME CLASSES

Column I	Column II	Column III	Column IV	Column V
	Family size and income ranges			
Income class	Single individual	Family of 2	Family of 3	Family of 4 or more
1	$0 to $2,000	$0 to $3,000	$0 to $4,500	$0 to $6,000.
2	$2,001 to $3,000	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500.
3	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500	$7,501 to $9,000.
4	$4,501 to $6,000	$6,601 to $7,500	$7,501 to $9,000	$9,001 to $10,500.
5	Above $6,000	Above $7,500	Above $9,000	Above $10,500.

PERIODIC REVISION OF INCOME CLASSES

SEC. 204. (a) Not later than December 31 of each calendar year (after the year in which this Act is enacted), the Secretary shall, in accordance with subsection (b), redetermine and promulgate—

(1) the dollar amounts in the table of income classes under section 203(b);

(2) the amounts of annual premium contributions to be required of medically indigent persons and medically indigent families under section 206;

(3) the dollar amounts of copayments under section 222; and

(4) for Catastrophic Expense Benefits, the dollar amounts for the special-expenditure limits under section 225.

(b) The redetermined amounts shall be the same as the amounts specified in the respective sections cited in subsection (a) unless the average of the Consumer Price Index for the months of July, August, and September of the calendar year in which the redetermination is made exceeds by 3 percent or more the average of that index for the corresponding months of the year in which this Act is enacted. In the latter event, the Secretary shall adjust each of the amounts so specified by increasing it by the same percentage as the percentage increase (referred to in the preceding sentence) in the average of the Consumer Price Index, after rounding the latter percentage to the nearest multiple of 0.1 percent (or to the next higher multiple if the percentage is an odd multiple of 0.05 percent) and rounding each dollar amount so obtained—

(1) for the table of income classes, to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50),

(2) for premium contributions to be made by medically indigent persons and medically indigent families, to the nearest multiple of $10 (or to the next higher multiple if the amount to be rounded is an odd multiple of $5),

(3) for copayments, to the nearest multiple of 25 cents (or to the next higher multiple if the amount to be rounded is an odd multiple of 12½ cents), and

(4) for the special-expenditure limits for Catastrophic Expense Benefits, to the nearest multiple of $100 (or to the next higher multiple if the amount is to be rounded is an odd multiple of $50).

(c) The amounts as so redetermined and promulgated in any calendar year (whether or not the same as the amounts specified in the sections cited in subsection (a)) shall be effective for any coverage year that begins in the fiscal year beginning in the following calendar year.

(d) As used in this section, the term "Consumer Price Index" means the Consumer Price Index (All Items—United States City Average) published monthly by the Bureau of Labor Standards of the Department of Labor.

DETERMINATION OF INCOME LEVEL

SEC. 205. (a) For the purposes of this part, the rate of income of a single individual or a family shall be determined on the basis of his adjusted gross income (in the case of a single individual) or the family's combined adjusted gross income (in the case of a family), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate, for the calendar year preceding the coverage year with respect to which the determination is made; except that—

(1) the Secretary may prescribe regulations (A) excluding from the amount thus determined items of income that are not reasonably available for living expenses, and (B) including therein items that are reasonably available for living expenses although not included in adjusted gross income, and

(2) the Secretary may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) For the purposes of this part—

(1) the term "family" means (A) a husband and wife (not divorced or judicially separated), or (B) such spouses and their dependent unmarried children under 19, or (C) an individual and his or her dependent unmarried children under 19; and

(2) the terms "child" and "dependent" (as applied to a child) have the meanings assigned them in sections 151 and 152 of the Internal Revenue Code of 1954.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

SEC. 206. (a)(1) In the case of medically indigent persons and members of medically indigent families referred to in section 202(b)(2), entitlement to coverage contracted for by the Secretary shall be subject to the condition that the individual or family concerned, or another person or agency on the individual's or family's behalf, contribute to the carrier's annual premium charge for such coverage.

(2)(A) The annual amount of contribution so required with respect to such an individual or family shall be—

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(i) $50 for a single individual, and $125 for a family, in income class 2;

(ii) $100 for a single individual, and $250 for a family, in income class 3;

(iii) $150 for a single individual, and $375 for a family, in income class 4;

except that in the case of a family (in any such income class) in which only one member is under the age of 65, the amount of contribution required under the foregoing clause applicable to that income class shall be the amount specified in that clause for a single individual, and except that if, by reason of an increase in the Consumer Price Index, higher contribution amounts are promulgated under section 204 by the Secretary with respect to single individuals or families in income class 2, 3, or 4 for any coverage year, those amounts shall apply for that year.

(B) For determination of income classes, see section 203.

(b) Annual contributions under this section shall be payable, by or on behalf of the individual or family concerned, to the carrier under whose contract with the Secretary the individual or family is enrolled, in such installments and in such manner as may be prescribed by the Secretary by regulation. There shall be no recourse against the United States under this title on account of any delinquency or default in the payment of such contributions. For effect of delinquency or default on coverage, see section 236.

INCOME TAX DEDUCTIONS BY INDIVIDUALS

SEC. 207. Section 213(a)(2) of the Internal Revenue Code of 1954 (relating to individual's deduction for medical insurance expense) is amended to read as follows:

"(2) the sum of—

"(A) an amount (not in excess of $150) equal to one-half of the expenses (other than those deductible under subparagraph (B)) paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152), and

"(B) in the case of a taxpayer who at any time during the taxable year is covered under an insurance contract or prepayment plan approved by the appropriate State Health Commission under title I of the National Health Care Services Reorganization and Financing Act, an amount equal to all the expenses paid during the taxable year for Comprehensive Health Care Benefits coverage, as defined in section 222 of that Act."

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 208. (a) On and after the effective date of entitlement to benefits under part A of title II, a participating State (as defined in section 124(d)(2)) shall, notwithstanding any provision of title XIX of the Social Security Act (relating to grants to States for medical assistance programs), not be required to provide in its State plan under that title for paying under that plan for any service or item (set forth in section 222) that is covered by Comprehensive Health Care Benefits and is furnished to an individual who is entitled to such coverage under section 202 and who (1) is a resident of a service area of that State (designated in accordance with section 125) or (2) is in fact registered with a Health Care Corporation that holds a certificate of approval for a service area of that State other than the area of which he is a resident. Any amount expended by such a participating State for furnishing any such service or item to such an individual on or after the date (whether or not the service or item is in fact covered under that State plan) shall be disregarded in determining the amount of any payment to be made to the State under title XIX of that Act.

(b) The Secretary shall, with a view to supplementing (so far as practicable), through State plans under title XIX of the Social Security Act, the coverage of Comprehensive Health Care Benefits for individuals referred to in subsection (a), prescribe by regulation the minimum scope of services and items that shall (in lieu of the requirements of section 1903(a)(13) of that Act) be included, on and after the date referred to in subsection (a), in a State plan as a condition of approval under title XIX of that Act.

PART B—COMPREHENSIVE HEALTH CARE BENEFITS

PAYMENT FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 221. (a)(1) Except as provided in paragraph (2), coverage of a registrant for Comprehensive Health Care Benefits shall entitle the registrant to have the carrier pay, in accordance with part C of this title but subject to the limitations of this part, the approved predetermined charges of the Health Care Corporation, of which he is a registrant, for services and items (set forth in section 222) furnished to him and covered by such benefits, or, in those instances in which subsection (b)(3) applies, the charges (approved and submitted to the carrier in accordance with section 133(f)) of another Health Care Corporation or provider that furnished to him covered services or items. Such coverage is subject to the carrier's right (as provided in part C of this title) to reimbursement from the registrant in the amount of the copayments (if any) payable under this part, and subject to the other provisions of this part.

(2) In the case of registrants of an approved Health Care Corporation that operates on a capitation charge basis, coverage for Comprehensive Health Care Benefits shall entitle the registrant to have the covering carrier (or the Secretary where the registrant is enrolled under a contact of the Secretary with the corporation under section 235) make payment of capitation charges (instead of fee-for-service charges) on his behalf in accordance with the applicable provisions of part C of this title. The conditions under which, the manner in which, and the extent to which the amounts of copayments provided for in this part, or the actuarial equivalent of such copayments, is to be paid and collected in such cases, is also governed by part C of this title.

(3) For payment by the carrier to the Health Care Corporation for certain charges not covered by Comprehensive Health Care Benefits, see section 234.

(b) In the case of an individual not registered with a Health Care Corporation, such individual shall make copayments in the amounts specified in the benefit table in section 222, and subject to changes in the Consumer Price Index as determined in sections 204 and 224. Such individuals shall be responsible for copayments and payment for noncovered services at the time services are provided, the carrier paying the non-affiliated provider for covered services, less the copayment amount, in accordance with charges approved by the State Health Commission.

DEFINITION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 222. (a)(1) Comprehensive Health Care Benefits shall, subject to other provisions of this title, consist of benefits for (A) Outpatient Services, (B) Inpatient Services, and (C) Catastrophic Expense Benefits, as described or referred to in the benefit table set forth in subsection (b) and in other provisions of this title. In addition to specific requirements for the issuance of regulations in the table and in other provisions of this part, the Secretary is authorized to issue from time to time such further regulations governing and otherwise adjusting the application of the table as in his judgment will best carry out the purposes of this Act.

(2) For the purposes of the table and of the subsequent provisions of this part—

(A) the term "coverage year" with respect to an individual means a 12-month period of Comprehensive Health Care Benefits coverage of the individual under a qualified carrier's insurance contract or prepayment plan which coincides with a 12-month (annually renewable) term of that contract or plan; and the Secretary shall by regulation provide for application of the table to an individual whose initial enrollment under such a contract or plan occurs after the beginning of a then current 12-month term of the contract or plan or who is enrolled under a carrier contract with the Secretary that has a shorter initial term;

(B) the term "benefit period" with respect to an individual means a period of consecutive days—

(i) beginning with the first day (not included in a previous benefit period) that occurs during a coverage year and on which he is furnished covered inpatient hospital services, post-hospital extended care services, nursing home care, or services under an outpatient institutional-care program for mental illness, alcoholism, or drug abuse or drug dependence (as provided in paragraphs A.3.a. and B.1, respectively, of the benefit table), and

(ii) ending with the close of the first period of 60 consecutive days thereafter (whether or not in the same coverage year) on which he is not receiving any of the care or service referred to in clause (i);

(C) the term "regulations" refers to regulations of the Secretary; and

(D) the term "outpatient services" means services listed under the heading "Outpatient Services of Health Care Corporations" in the benefit table (including such services to patients confined to the home) and furnished to individuals who are not inpatients covered for services under paragraph B.

For other definitions of terms used in the table, see section 228.

(b) The table referred to in subsection (a) is as follows:

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

I—SERVICES AND ITEMS COVERED A. OUTPATIENT SERVICES	II—COPAYMENTS* AND LIMITATIONS
1. Periodic Health Evaluation	
a. Screening tests and examinations, as prescribed by regulations under section 226, followed by physical examination by a physician or physicians when indicated by the screening.	No copayment. Within such limits as may be prescribed by regulation under section 226.
b. All Immunizations	
c. Well-Baby Care (for infants under age 5)—	No copayment and no limitation.
(i) during 1st 12 months following birth;	No copayment.
(ii) during next 12 months;	8 visits.
(iii) during next 3 years.	4 visits.
d. Dental Services	2 visits per coverage year.

* Footnote at end of table.

I—SERVICES AND ITEMS COVERED—Continued A. OUTPATIENT SERVICES—continued	II—COPAYMENTS* AND LIMITATIONS—Continued
The following professional dental services, including drugs and supplies that are commonly furnished, without separate charge, as an incident to such professional services: (i) Oral examination, including (I) prophylaxis (with fluoride application at appropriate ages), (II) dental X-rays, and (III) in accordance with regulations, other accepted preventive dental procedures. (ii) To the extent prescribed by regulation under section 226 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances.	Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12. No copayment. 1 examination per coverage year.
e. Vision Services (in accordance with regulations under section 226)	Copayment 20% of charges.
(i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an ophthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select).	For individuals through age 12. No copayment. 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit).
(ii) Eyeglasses with prescription lenses, including the fitting thereof, and including additional lenses and frames as needed.	Copayment 20% of charges. Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses and frames as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated by the Secretary in accordance with section 226.
2. Physicians' Services and Ancillary Health Care When not otherwise covered under this table—	
a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate institutional or noninstitutional setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations).	For physicians' services, a copayment for each visit or two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician. Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provider for such outpatient and inpatient services.
b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a.	20% copayment. Copayment requirement waived for registrants of Health Care Corporations.
c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1.	No separate limitation.
d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3.	No separate copayment. No separate limitation.
e. Ambulance services.	No separate copayment. No separate limitation. 20% copayment. Covered only when other methods of transportation are contraindicated by the patient's condition, and only to the extent provided in regulations.
3. Other Outpatient Services	
a. Outpatient Institutional-Care Program for Mental Illness, Alcoholism, or Drug Abuse and Dependence.	A two-dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies under this subparagraph, whether or not such services are charged for separately.) Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of mental illness, alcoholism, or drug abuse or drug dependence.
Such day-care or other part-time services and other items as may be specified in regulations under section 226, furnished to patients, other than inpatients, under a program for the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence.	
b. Drugs, Prosthetic Devices, and Medical Equipment	
(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1. of this table) dispensed to patients other than inpatients.	For each drug prescription, and each refilling of such a prescription, a one dollar copayment. Covered only if (1) the drug (whether or not it is subject to prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 226(c), and (2) in the case of a drug listed under section 226(c)(2)(B), the disease or condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate.
(ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 2206.
(iii) In accordance with regulations, durable medical equipment (not otherwise covered as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 226; and subject to criteria for payment prescribed under that section.
c. Home Health Services Such items and services as are defined as "home health services" by section 228(d) and regulations thereunder.	For each visit, a two-dollars copayment. Coverage of such services shall be limited to 100 visits per coverage year. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modifications (if any) as the Secretary may by regulation prescribe, may be applied by the carrier.

* Footnote at end of table.

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TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS—Continued

I—Services and Items Covered—Continued	II—Copayments* and Limitations—Continued
B. INPATIENT SERVICES	
1. Institutional Services	
a. Inpatient Hospital Care Items and services defined by section 228(e) as "inpatient hospital care."	A five-dollar copayment, per day. Coverage is limited to 90 days of inpatient hospital care received in any benefit period; except that for treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence the limit is 45 days. (The limitation on treatment of mental illness, alcoholism, and problems and conditions of drug abuse or drug dependence is 90 days of inpatient hospital care for registrants of Health Care Corporations.)
b. Post-Hospital Extended Care Extended care services (as defined in section 228(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purpose of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply.	A two-dollar-and-fifty-cent copayment, per day. Limited to 30 days of such care received in any benefit period.
c. Nursing Home Care Nursing home care as defined in section 228.	A two-dollar-and-fifty-cent copayment, per day. Coverage shall be limited to 90 days of such care received in any benefit period.
2. Physicians' Services Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1. a., b., or c.	A two-dollars copayment, per visit of the attending physician only. In accordance with regulations under section 226, in the case of services (such as surgery or pregnancy and obstetrical care) in which a single charge is made by the corporation for the attending physicians' services combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care. No separate limitations.
C. CATASTROPHIC EXPENSE BENEFITS Section 225 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contributions, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by application of a table in section 225. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 204 and 224).	For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 225.

*The initial amounts of the dollar copayments are subject to changes in the Consumer Price Index as determined under sections 204 and 224.

LIMITATIONS AND EXCLUSIONS

SEC. 223. (a) Notwithstanding any other provision of this title, Comprehensive Health Care Benefits shall not cover charges for—

(1) services or items that are not medically necessary (or, in the case of health maintenance services under paragraph A. 1. of the benefit table, medically appropriate), as determined in accordance with regulations and subject to such requirements for certification and recertification by physicians as are specified in this part or in regulations;

(2) inpatient treatment of tuberculosis, mental illness, alcoholism, or problems of drug abuse or drug dependence, unless the condition of the patient is in an acute phase;

(3) custodial care, other than health-related custodial care;

(4) cosmetic surgery or charges incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member;

(5) personal comfort items;

(6) drugs not prescribed, except when administered by or under the immediate supervision of a physician; or

(7)(A) treatment of flat-foot conditions and the prescription of supportive devices therefor, or

(B) routine foot care (including the cutting or removal of corns or calluses, the trimming of nails, and other routine hygienic care).

(b) Comprehensive Health Care Benefits shall not cover any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to that item or service under a workman's compensation law or plan of the United States or a State or under a motor vehicle insurance policy or plan. Any payment by the carrier under coverage under this title with respect to any item or service shall be conditioned on reimbursement to the carrier when notice or other information is received that payment for the item or service has been made under such a law, policy, or plan.

(c) Comprehensive Health Care Benefits shall not cover—

(1) charges for items or services (other than emergency services in accordance with section 133(f)) furnished by a Federal provider of services, except a provider of services which the appropriate State Health Commission determines is providing services (by arrangement with a Health Care Corporation or otherwise in accordance with part C of title I) as a community institution or agency; or

(2) charges of a Health Care Corporation or other provider for any item or service which the corporation or provider is obligated by a law of, or contract with the United States to render at public expense.

(d)(1) If the bed and board furnished as part of inpatient institutional services is in accommodations more expensive than semiprivate accommodations, the amount taken into account for purpose of payment with respect to such care under Comprehensive Health Care Benefits coverage may not exceed an amount equal to the approved charges of the Health Care Corporation or nonaffiliated institutional provider for such services if furnished in semiprivate accommodations unless the more expensive accommodations were required for medical reasons.

(2) If the bed and board furnished as part of inpatient services is in accommodations other than, but not more expensive than, semiprivate accommodations and the use of such other accommodations was neither at the request of the patient nor for a reason consistent with the purposes of this Act (as determined under regulations), the amount of the payment, if any, with respect thereto shall in no event be greater than the corporation's or nonaffiliated provider's approved charge for bed and board in the accommodations furnished.

(3) For purposes of this subsection, the term "semiprivate accommodations" means two-bed, three-bed, or four-bed accommodations.

(c) If, any other case, items or services are furnished to an individual in excess of, or more expensive than, items or services with respect to which payment may be made under Comprehensive Health Care Benefits Coverage, there shall be taken into account, for purposes of payment by the carrier, only the approved charges of the corporation or other provider with respect to which such payment may be made.

COPAYMENT PROVISIONS

SEC. 224. (a) Except to the extent that Health Care Corporations operate on a predetermined capitation charge basis and do not impose separate charges for services and other items covered by Comprehensive Health Care Benefits at the time such services and items are furnished to a covered individual, and except when Catastrophic Expense Benefits are in effect as determined under section 225, coverage for Comprehensive Health Care Benefits is subject to the payment, by the covered individual or on his behalf by another person or agency, of copayments in the case of services or items with respect to which copayments are specified in the benefit table set forth in section 222, but only if the individual is not a low-income person or a member of a low-income family (as defined in section 203). As provided in part C of this title, the amount of such copayments shall not be deducted by the carrier from payment to the Health Care Corporation for covered services and other items but shall be recovered by the carrier

as provided in that part, without recourse against the corporation. Payment for coverage for Comprehensive Health Care Benefits for an individual who has not registered with a Health Care Corporation shall be made by his carrier at approved predetermined charges, less copayments applicable for the services provided.

(b) In those cases in which the table in section 222 specifies as the required copayment a stated percentage of charges with respect to a covered service or item, the amount of the copayment shall, subject to section 223, be equal to that percentage of the approved charges of the provider involved for the covered service or item. In those cases in which the copayment in the table is stated as a dollar amount, if by reason of an increase in the Consumer Price Index, a higher amount is promulgated for any coverage year under section 204 by the Secretary with respect to any copayment item than the amount specified in the table of benefits for that item, the amount so promulgated shall apply with respect to that year.

CATASTROPHIC EXPENSE BENEFITS

SEC. 225. (a) When Catastrophic Expense Benefits are in effect as a part of coverage for Comprehensive Health Care Benefits with respect to a covered individual in a coverage year, (1) copayments that would otherwise be required to be made by or on behalf of that individual shall not be required with respect to services or items furnished in that coverage year on or after the effective date of those benefits, and (2) the benefit limits shown in column II of the benefit table for physicians' services and ancillary health care (paragraph A. 2. a.), for outpatient institutional-care programs for mental illness, alcoholism, or drug abuse or drug dependence (paragraph A. 3. a.), and for inpatient hospital care (paragraph B. 1. a.) become inapplicable during that period for those classes of services and care except as otherwise indicated in that column.

(b)(1) In the case of a covered individual who is (or whose family is) in income class 1, with respect to a coverage year, Catastrophic Expense Benefits shall automatically be in effect during the entire year as part of his coverage for Comprehensive Health Care Benefits.

(2) In the case of any covered individual (or his family) in income class 2, 3, or 4, Catastrophic Expense Benefits shall become effective in a coverage year when the sum of creditable expenditures incurred by him, or incurred by him and all other members of his family in the case of an individual who is a member of a family, equals the amount of a special expenditure limit determined as in the table below (or the amount redetermined by the Secretary for that year under section 204).

SPECIAL EXPENDITURE LIMIT TABLE

Income class	Expenditure limit under 65	Expenditure limit 65 and over
2	$250	$125
3	500	250
4	750	375

(3) In the case of an individual and his family who are in income class 5, the special expenditure limit beyond which Catastrophic Expense Benefits are to take effect shall vary according to the level of income, with the exact limit set at 10 percent of the individual's or family's income (as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate). The income base to which the 10 percent is to be applied shall be rounded to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50).

(4) The following expenditures incurred by a covered individual, or incurred by him and other members of his family in the case of an individual who is a member of a family, shall be counted as creditable expenditures in determining under paragraph (2) whether and when Catastrophic Expense Benefits become effective with respect to him in a coverage year:

(A) Expenditures incurred for premiums, or contributions to premiums, for Comprehensive Health Care Benefits coverage (for that year) of that individual, or of him and other members of his family.

(B) Expenditures incurred in that year for copayments under Comprehensive Health Care Benefits coverage, and expenditures for copayments incurred in the last 3 months of the immediately preceding coverage year under such coverage.

(C)(i) Expenditures incurred in the coverage year involved for charges for physicians' services and ancillary health care (other than treatment of mental illness) described in column I of paragraph A.2 of the benefit table, or for outpatient institutional care for mental illness, alcoholism, or drug abuse or drug dependence as described in paragraph A.3.a. in that column, or for inpatient hospital care or physicians' services to inpatients (other than for mental illness, alcoholism, or drug abuse or drug dependence) described in paragraph B.1.a. or B.2. in that column, if those charges were excluded from coverage under such paragraph solely because of the applicable limitations in column II of the benefit table on the number of visits per coverage year or on the number of days of care per benefit period; and (ii) like expenditures incurred in the last 3 months of the immediately preceding coverage year and applied toward the applicable expenditure limit or limits under this section for that year.

(5) For the purposes of this section—

(A) expenditures or (whether or not payment is or has been made) deemed to be incurred—

(i) in the case of premiums or contributions to premiums, when payment is due; or

(ii) in the case of copayments, and of charges described in paragraph (4)(C), when the service or item giving rise to the copayment or charge was provided, unless payment is sooner made; and

(B) expenditures are deemed to be incurred by a covered individual (unless they are Federal payments) if paid or payable by the covered individual or on his behalf by another person or agency.

REGULATIONS FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 226. (a) In addition to any other regulations and standards with respect to the coverage of Comprehensive Health Care Benefits and the various classes thereof, payment of charges to Health Care Corporations for services and items covered thereby, collection of copayments by carriers as provided in part C of this title, and other matters relating to such benefits, the Secretary shall issue regulations on the matters required by this section. Section 240, relating to regulations affecting the rights and obligations of carriers, shall also apply to regulations under this part.

(b) The Secretary shall issue regulations amplifying the provisions of the benefit table with respect to health maintenance benefits covered by paragraph A. 1. of the benefit table and in particular shall—

(1) in the light of the special emphasis of this Act on the obligation of Health Care Corporations for health maintenance, prescribe the coverage of Comprehensive Health Care Benefits with respect to periodic health evaluation as comprehensively as resources of facilities and personnel will permit and with a view to keeping in step with modern developments in this field, and in this connection consider—

(A) insofar as the frequency of evaluations for particular age groups is concerned, the provision of one appropriate evaluation per coverage year for individuals aged 65 or older, one every second year for those aged 19 to 64 inclusive, and one every five years for those aged 5 to 18 inclusive; and

(B) insofar as the components of such evaluations are concerned, including in such coverage, as the Secretary may deem medically appropriate and practicable for the different age, sex, and other patient groups, regularly scheduled complete histories, blood tests, serologies, urinalyses, and other appropriate chemical laboratory tests; chest X-rays; electrocardiograms; Papanicolaou smear tests; rectal and proctoscopic examinations; glaucoma tests; and hearing tests; and

(2) issue regulations with respect to the coverage of paragraph A.1.e. of the benefit table for vision services.

(c) The Secretary shall issue standards and other regulations with respect to coverage under paragraphs A.2. and A.3. and paragraph B of the benefit table, and in particular shall—

(1) define the physicians' and other services, and the drugs and other items, that are to be covered as benefits under paragraph A.3.a. of the benefit table in outpatient institutional-care programs for mental illness, alcoholism, or problems of drug abuse and drug dependence, and set forth such criteria for these benefits as will encourage the establishment and use of such programs on a sound basis and lessen the need for inpatient treatment of these conditions; and waive, or provide for the waiver, of copayments in such programs for the treatment of drug abuse and drug dependence to the extent that the Secretary finds that such waiver is desirable in order to encourage the use of these programs by persons who are in need of such treatment;

(2) for the purpose of coverage of drugs under paragraph A.3.b.(i) of the benefit table, establish and keep current, on the basis of determinations of the Secretary with respect to the safety and efficacy of the drugs involved—

(A) a list of the categories of drugs that the Secretary finds to be appropriate for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose financial hardship; and

(B) a list that (i) designates diseases and conditions, requiring intensive drug therapy (with drugs other than those listed under subparagraph (A)), which the Secretary finds to be of especial importance to the public health, and (ii) specifies with respect to each such disease or condition the category of drugs which the Secretary finds to be appropriate for the treatment thereof;

(3)(A) designate prosthetic devices (including such devices not included under section 1861(s) of the Social Security Act and including hearing aids) to be covered under paragraph A. 3. b. (ii) of the benefit table, and (B) prescribe the conditions for coverage of durable medical equipment (as described in section 1861(s) of the Social Security Act) under paragraph A. 3. b. (iii) of that table (including criteria for determining whether payment for expensive purchased equipment shall be made on a rental-equivalent basis);

(4)(A)(i) prescribe regulations for determining what is to be counted as a visit in the case of physicians' services coverage under paragraph A. 2. a. of the benefit table and physicians' services coverage under paragraph B. 2. of the table; (ii) prescribe regulations (I) exempting from the limits on the number of visits under paragraph A. 2. a. of the table physicians' services preceding or following inpatient care in cases (such as surgery, or pregnancy and obstetrical care) in which a single combined charge is made by the provider involved, for any outpatient and inpatient services, and (II) providing for copayments in such cases in an amount equal to a percentage of the combined covered charges for outpatient and inpatient, phy-

sicians' services as specified in column II of paragraph B. 2. of the table; and

(5) prescribe regulations, referred to in column II of paragraph A. 3. c. of the benefit table, with respect to the nature and number of visits to be counted for home health services coverage purposes.

PHASING OF ADDITIONAL BENEFITS

SEC. 227. The Secretary shall submit to Congress recommendations for the expansion of benefits after the program is in operation as specified in section 302. The Secretary shall give special consideration to the expansion of benefits for dental and vision services based on the availability of resources.

OTHER DEFINITIONS

SEC. 228. For the purposes of this part:

(a) The term "drug" means a drug within the meaning of section 201(g)(1) of the Federal Food, Drug, Cosmetic Act, as now in force or as hereafter amended, including any product of a kind subject to licensing under section 351 of the Public Health Service Act.

(b) The terms "extended care services" and "nursing home care" mean, respectively, services and items specified as such in regulations of the Secretary (including the services specified in section 1861(h) of the Social Security Act) for the respective classes of institutions, if the services are—

(1) furnished to patients who require active inpatient treatment but are not in an acute phase of illness and who currently either require primarily convalescent or restorative services or require primarily health-related custodial care;

(2) furnished under arrangements, in accordance with section 133(d), for the transfer of patients among inpatient care facilities as medically appropriate;

(3) furnished by an institution which (A) meets the requirements of paragraphs (1) through (9) of section 1861(j) of the Social Security Act (defining the term "extended care facility" for purposes of title XVIII of that Act), (B) meets such other conditions relating to the physical facilities or to the safety or quality of care of patients as the Secretary may by regulations prescribe for the respective classes of institutions, and (C) is not an institution primarily for the care and treatment of mental illness or tuberculosis; and

(4) in the case of extended care services, furnished by an institution which is structurally a part of, physically connected with, or in immediate proximity to a hospital, and either is under the supervision of the professional staff of the hospital or has an organized medical staff.

(c) The term "health-related custodial care" means that component of comprehensive health care which—

(1) is furnished to a patient who has a non-curable disease diagnosed by a physician (as defined in section 1861(r)(1) of the Social Security Act) as still requiring medical or nursing care (or both), for palliation or as terminal care, through extended care services or nursing home care or home health services or physicians' home calls;

(2) has the purpose of maintaining the well-being of that patient to the maximum degree possible; and

(3) involves a patient who either—

(A) is bedridden, or unable to get into and out of bed without assistance, or

(B) requires nursing care procedures (such as complicated dressings, irrigations, or intravenous medications) that cannot be performed by the patient or by nonnursing personnel (such as a family member or companion), or

(C) experiences frequent episodes of sudden, acute illness requiring emergency treatment that cannot be controlled by medication (such as uncontrolled diabetes, epilepsy, paroxysmal tachycardia, or fibrillation), or

(D) requires constant physical restraints to prevent injury to himself or others (as in the case of senile patients or patients who suffer from certain mental illnesses).

(d)(1) The term "home health services" means (subject to paragraph (3)) the items and services specified in paragraph (2), if—

(A) they are furnished to an individual who is under the care of a physician;

(B) they are furnished by a Health Care Corporation either directly or through an affiliated provider that is a "home health agency" as defined in section 1861(o) of the Social Security Act (but not excluding an agency or organization that is primarily for the care and treatment of mental illness);

(C) they are furnished under a plan, established and periodically reviewed by a physician, for furnishing them to the individual; and

(D) they are, except as provided in paragraph (2)(G), furnished on a visiting basis in a place of residence used as the individual's home.

(2) The items and services referred to in paragraph (1) are—

(A) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(B) physical, occupational, or speech therapy;

(C) medical social services under the direction of a physician;

(D) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(E) medical supplies (other than drugs), and the use of medical appliances, while under the plan referred to in paragraph (1)(C);

(F) medical services provided by an intern or resident-in-training in a provider institution; and

(G) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the Health Care Corporation or home health agency referred to in paragraph (1)(B), at a hospital, extended care facility, or rehabilitation center, and

(i) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the place of residence referred to in paragraph (1)(D); or

(ii) which are furnished at that facility while he is there to receive any item or service referred to in clause (i) of this subparagraph,

but not including transportation of the individual in connection with any such item or service.

(3) Notwithstanding the provisions of paragraphs (1) and (2), the term "home health services" does not include any item or service if it would not be included under "inpatient hospital care" (as defined in subsection (e)) if furnished to an inpatient of a hospital.

(e) The term "inpatient hospital care" means the following items and services furnished to an inpatient of a hospital and, except as otherwise specified, by the hospital:

(1) Bed and board.

(2) Such physicians' services in the hospital (such as those of radiologists and pathologists) as are held out as generally available to all inpatients of a hospital and which are charged for by the hospital as part of its services.

(3) Such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by the hospital for the care and treatment of inpatients.

(4) Such other diagnostic or therapeutic items or services, furnished by the hospital, as are ordinarily so furnished to inpatients of the hospital.

(f)(1) The term "physician" means, except when otherwise specified, a physician as defined in section 1861(r) of the Social Security Act. Such term also includes a chiropractor who is licensed as such by the State (or, in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of paragraph A.2. of the benefit table and paragraph (2) of this subsection and only with respect to treatment by means of manual manipulation of the spine which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

(2) The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls.

(3) The term "attending physician" means, with respect to a patient, the physician having primary responsibility for the patient's medical care.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

DEFINITION OF "CARRIER"

SEC. 231. As used in this Act, the term "carrier" means—

(1) a voluntary association, corporation, partnership, or other nongovernmental organization that is engaged in providing, paying for, or reimbursing the cost of, health care under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of predetermined premiums or other periodic charges payable to the carrier; and

(2) a Health Care Corporation approved by a State Health Commission under a State plan approved by the Secretary under this Act, to the extent that the corporation charges for covered health care on an annually predetermined capitation basis in accordance with section 136(b).

DETERMINATION OF QUALIFIED CARRIER

SEC. 232. A carrier is a qualified carrier for the purposes of this Act if—

(1) it is authorized to operate health benefit prepayment plans or insurance at group rates in each State for whose residents it provides, or proposes to provide, coverage under this Act, is in compliance with section 233, and meets such additional standards as the Secretary may establish, including, in the case of contracts with the Secretary under sections 202 and 206, any special standards established for the purpose of those sections; and

(2) with respect to coverage for which a premium contribution by the Secretary is requested under section 202(c), the carrier agrees to accord to the Secretary and his agents the same rights to information and access to the carrier's records as is required to be accorded to them under section 241.

REQUIREMENT THAT CARRIERS PARTICIPATE UNDER STATE PLANS

SEC. 233. A carrier shall not be qualified for award of a contract with the Secretary under section 202 or 206 or for issuance of Comprehensive Health Care Benefits coverage eligible for a premium subsidy under section 202(c), unless the carrier agrees, if required by the appropriate State Health Commission (or its delegate agency) of a State, to participate in a coverage pool in accordance with provisions therefor contained in the State plan pursuant to section 124(b)(7), or unless the carrier is in fact such a participant.

CONDITIONS OF APPROVAL OF CARRIER CONTRACTS OR PLANS FOR FEDERAL PREMIUM SUBSIDY

SEC. 234. The Secretary shall, for the purpose of any premium contribution under section 202(c), approve an insurance contract or prepayment plan of a carrier (including such a contract or plan under State plan provisions referred to in section 124(b)(7)) only if the insurance contract or prepayment plan—

(1) is in conformity with applicable regulations and standards prescribed under the State plan (approved under part B of title I) of the appropriate participating State;

(2) provides for 12-month coverage terms;

(3) does not permit any exclusion from, or limitation with regard to, coverage of an individual because of health status (pre-existing, current, or future), economic status, race, sex, occupation, age, or establishment of any other condition inconsistent with regulations of the Secretary, but this paragraph shall not be construed to preclude reasonable classification of risks for premium rate purposes in accordance with actuarial principles; and

(4) contains such provisions as the Secretary may prescribe or approve relating to coordination of the coverage under the insurance contract or prepayment plan involved with overlapping or duplicative coverages under other insurance contracts or prepayment plans.

CONTRACTS WITH HEALTH CARE CORPORATIONS ON CAPITATION BASIS

SEC. 235. In the case of a Health Care Corporation that operates on the basis of predetermined capitation charges (approved by the appropriate State Health Commission), the Secretary may, if satisfied as to the corporation's financial responsibility to qualify as a carrier for itself under this section, provide the coverage for Comprehensive Health Care Benefits under this Act to which registrants of the corporation are entitled under section 202(b), by entering (directly or through the State Health Commission as the Secreary's agent as authorized by section 108(c)(2)) into a contract with the corporation, whereby the Secretary, in consideration of the corporation's undertaking to provide (or, when authorized under part C of title I, pay for) the services and items covered by such benefits, agrees that there shall be paid by the Secretary to the corporation, with respect to those registrants of the corporation who enroll under the contract, the same amounts that a third-party carrier would be required to pay under a contract with the Secretary, except that a contract under this section—

(1) shall authorize the Secretary in the case of a Health Care Corporation that does not impose separate charges equivalent to copayments in addition to capitation charges, to deduct, from any capitation payments otherwise payable by the Secretary to the corporation on behalf of an individual enrolled under the contract, the value (as determined on the basis of actuarial principles) of any copayments to which the covered registrants would be subject under part B of title II if the corporation imposed separate charges equivalent to copayments;

(2) shall not, in the case of a Health Care Corporation that imposes separate charges equivalent to copayments in addition to capitation charges, undertake to pay those charges to the corporation;

(3) shall provide that the corporation shall itself collect from a registrant (or from others on his behalf) all copayments and premium contributions (in the form of capitation charges) payable by the registrant, and shall keep for the registrant the record of such copayments and contributions incurred by him (or his family) and notify him when he has reached the applicable expenditure limit under section 225 giving rise to Catastrophic Expense Benefits; and

(4) shall require the corporation to establish, in accordance with regulations or with provisions in the contract, effective procedures (through such means as establishment of a separate record and payment center and issuance of identical membership cards to all its registrants, regardless of whether they have benefit coverage purchased by the Secretary) that will prevent persons who furnish health services or items for the corporation from identifying those registrants who enjoy coverage purchased by the Secretary and discriminating against them on that account.

Any reference in this part to premiums, or contributions to premiums, shall be deemed to include capitation amounts paid by the Secretary, or contributions to capitation charges by registrants, respectively, under contracts made under this section.

EFFECT OF NONPAYMENT OF PREMIUMS

SEC. 236. (a) Premium contributions and special premiums payable pursuant to section 206, by individuals referred to therein who are enrolled under a contract under this title, shall be paid by or on behalf of the registrant to the carrier (from sources other than the Secretary) in periodic installments in advance in a manner and at the time or times prescribed in regulations of the Secretary but not less often than quarterly nor more often than monthly.

(b) In the event of nonpayment of a contribution or special premium installment, when due, to the carrier by or on behalf of an individual, the benefit coverage to which the overdue installment relates shall, upon notice by the carrier in accordance with regulations of the Secretary, and unless payment is made prior to the expiration of a grace period (not in excess of 90 days) prescribed by the regulations, except that (1) the manner and order of termination of coverage of family members in the event of partial delinquency or default in family contribution installments payable under section 206 shall be determined in accordance with regulations, (2) delinquency or default in contribution installments under section 206 shall not affect the coverage of any family member who has attained the age of 65, and (3) delay in payment shall not give rise to termination of coverage if attributable to an act or omission of a Federal officer or employee used as a conduit for transmitting such installments.

ENROLLMENT UNDER CONTRACTS WITH CARRIERS

SEC. 237. (a) The Secretary may, by regulations consistent with other provisions of this Act, prescribe the time or times at which, the manner in which, and the conditions under which individuals may (1) enroll, under a contract made under this part, for Comprehensive Health Care Benefits coverage purchased by the Secretary to which under section 202 they are entitled, or (2) change enrollment under one contract to enrollment under another.

(b) The regulations under this section shall permit enrollment by an individual for himself only, or for himself and his spouse and other individuals who are members of his family (as defined in section 205(b)), and shall prescribe the times at which, the manner in which, and the conditions under which a change from one such type of enrollment to another may be made. An individual enrolling for himself and family shall be liable for any premium contributions on which entitlement to family coverage is conditioned.

(c) To the optimum extent, (1) open enrollment periods under this section and open periods for registrations with Health Care Corporations approved by State commissions under approved State plans under this Act shall be closely coordinated, to the end that registration and enrollment, and changes therein, may be effected concurrently, and (2) registration centers of Health Care Corporations shall function also as centers at which to apply for, and obtain information concerning, enrollment.

REPORTS BY AND AUDITS OF CARRIERS

SEC. 238. Each contract with a carrier under this title, including contracts with Health Care Corporations qualifying as carriers and contracting with respect to their registrants, shall require the carrier to make such reports, in such form, and containing such information as the Secretary or his agents may require to carry out their functions under this Act, and to keep such records and afford such access thereto as the Secretary or his agents may find necessary to assure the correctness and verification of the reports and otherwise to carry out its functions under this Act.

JURISDICTION OF COURTS

SEC. 239. The district courts of the United States shall have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this part.

PROSPECTIVE REGULATIONS

SEC. 240. Regulations, amendments to regulations, or amendments to this Act, issued or enacted during an annual contract term under this title, shall not, to the extent that their applications would increase the obligations or adversely affect the rights of the contracting carrier, apply to that contract until the next contract year unless made applicable by the contract or by amendment thereto.

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

SEC. 301. (a) Except as otherwise provided in this section and section 302, this Act (including and amendments made by it to existing law) shall be effective upon the date of its enactment.

(b) Sections 101, 102, 107(a), 109, 110, 111, and 112, and parts B and C of title I, shall take effect upon the first January 1 or July 1 which occurs six months or more after the date of the enactment of this Act.

(c) Section 107(b), section 128 (with respect to States which have not complied with sections 122 and 124), and the amendments made by section 201 shall take effect on the first day of the third fiscal year which begins after the date of the enactment of this Act.

FULL OPERATION OF PROGRAM

SEC. 302. The program under this Act shall be fully in operation, and the benefits under part B of title II shall be fully effective and available (in lieu of any benefits which would otherwise be available under title XVIII of the Social Security Act), in accordance with all of the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of the enactment of this Act.

REAR ADM. LEVERING SMITH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. HÉBERT) is recognized for 10 minutes.

Mr. HÉBERT. Mr. Speaker, on the 31st of March Rear Adm. Levering Smith, U.S. Navy, retires after 40 years of naval service. Since April of 1956 he has held positions in the Strategic Systems Projects Office—formerly designated Special Projects Office—and in February 1965 he was appointed its Director.

During those 16 years with the Polaris and Poseidon programs, he has contributed immeasurably to the defense of the Nation.

Although Admiral Smith will continue to serve on active duty as Director in a retired status, the occasion of his formal retirement from regular active duty presents an excellent opportunity for a grateful Nation to express recognition of Admiral Smith's accomplishments and contributions to its defense. Through his

forceful leadership and unswerving devotion, he has overcome formidable obstacles and directed a crucial defense program with notable and continuing success. For this he deserves a hearty "well done."

CLEVELAND COMMUNITY COMMITTEE ON CONSUMER PRICES TESTIMONY BEFORE THE PRICE COMMISSION, WASHINGTON, D.C., MARCH 28, 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, it was my privilege today to introduce and accompany Mrs. Carolyn Sugiuchi, of South Euclid, Ohio, during her testimony before the Price Commission, which was holding public hearings on the economic stabilization program in Washington, D.C.

When President Nixon on August 15, 1971, announced his new economic policy, the citizens of my community organized a Community Committee on Consumer Prices.

Mrs. Carolyn Sugiuchi, and the chairman of the committee, Mr. Craig Seasholes, and the other 215 volunteers of the Community Committee on Consumer Prices, have rendered a great service to our community, and the whole Nation.

This dedicated group of concerned citizens has monitored over 6,600 prices of a complete range of consumer goods in an effort to help make phase II successful in the Cleveland community. Our committee has a record of base prices—those in existence before November 15.

At the time the President announced his price control program, I urged that all consumer prices be cataloged for future reference. From what I can gather—this was never done by a public agency.

It may be that the Community Committee on Consumer Prices of the 22d District of Ohio has the best records in America on base prices.

I was pleased to present Mrs. Carolyn Sugiuchi to the Price Commission as a citizen who has provided exemplary public service in a great American struggle to hold back the tide of inflation.

Mrs. Sugiuchi's statement is as follows:

STATEMENT OF CAROLYN SUGIUCHI

Mr. Chairman, members of the Council: I appreciate this opportunity to appear before you and to share with you some of the work and experiences of the Community Committee on Consumer Prices. The Committee is a group composed of approximately 250 (275) citizen volunteers from Ohio's 22nd Congressional District. This District is largely middle income, middle class with comfortable homes and family life. These volunteers are extremely concerned about the critical state of the Nation's economy and their own economic situation. The Committee is organized into 12 subcommittees on the basis of geographical area within the boundaries of the District; each subcommittee has a chairman, all of whom combine to form an Executive Committee. Two student representatives, a Chairman, and a Secretary complete this smaller planning group. In addition to individual participation, several school and community organizations have done work on a group basis.

Our volunteers are anxious to continue monitoring prices and can be mobilized at a moment's notice. They are eager to work to insure the stabilization of prices in a unified effort to stop inflation.

The Committee was formed at a public meeting on October 25, 1971. This meeting was called in response to inquiries from citizens who were concerned about rising prices. These people wanted to do something constructive and wanted to co-operate with the Administration. They agreed on a project of helping in monitoring the voluntary compliance sought by the Economic Stabilization Program. In accord, our plan has been one of organized and directed checking of consumer items and prices.

To implement the purpose of our Committee, we began by dividing consumer items into eight categories—Autos and Transportation, Clothing, Food, Health, Housing, Recreation, Services, and Utilities. Pricing forms which were developed to organize data collections, were given along with a set of instructions to each volunteer. Volunteers were asked to do their initial listing of items in a ten-day period—November 1–10 before the end of Phase I. They could chose any category—and goods or services—in any number desired—while recognizing that some products were under control and others were not.

The original sheets were collected, indexed, and items catalogued with "Freeze Prices." For mass price checks, all volunteers were asked to do their monitoring within a stipulated period of time. We encouraged people to report any increases which they felt might be a violation to people to report any increases which they felt might be a violation to the Economic Stabilization Program. A listing of monitored items was the Economic Stabilization Program. A listing of monitored items was maintained in a separate catalogue with the Phase I price and the current price for comparative purposes.

The results of the first mass check conducted from December 1st through 10th indicated that prices in most of the categories held fairly well. Items increased in price in three categories—Food, Health, and Services. Only three items increased out of 113 checked in Health and Services. What became glaringly obvious early in our checking was the number of food items which increased, and the amounts of those increases. In comparison to three items increasing out of 113 in Health and Services, Food items checked revealed 93 items increasing in price out of 708. This trend continued in the January 3rd through 25th check when 1805 items were monitored. This month five categories contained item increases—adding Housing and Recreation to those already mentioned. The checks in Health, Housing, Recreation and Services revealed that 34 items increased in price out of 484 checked. In the Food category among 231 items increased out of 1203 food items checked. Of all the specific items under Food, beef, fresh fruit, and fresh vegetables were responsible for nearly one-third of these increases. In the January check period, 57 beef items increased in price out of 81 checked; 28 produce items went up in price out of 73 items checked. Complete reports on the two mass food checks may be found in the addenda. Examples of price increases in beef are as follows:

Hamburger—least expensive with 24–30% fat content:
November 8: 59c/lb.
December 7: 67c/lb.
January 21: 69c/lb.
March 27: 89c/lb.
Rump Roast:
November 4: $1.38/lb.
December 6: $1.39/lb.
January 3: $1.44/lb.
March 27: $1.49/lb.
Top Round Steak:
November 4: $1.29/lb.
December 6: $1.39/lb.
January 3: $1.49/lb.
March 27: $1.49/lb.

One can readily understand the cries of absolute indignation over meat prices. Food budgets are simply devastated by such price increases in this single food item. In early March, one volunter buying a small rump roast (less than three pounds) found that this one item accounted for over 10% of his total bill for the week at the supermarket. The headline "Meat Leads Spiral" was hardly front page news to the volunteers in the 22nd Congressional District when we picked up the morning paper last Friday. We have been well aware of this spiral which has squeezed our food budgets for months.

In the attempt to work within the structure of the Economic Stabilization Program, the people have met many frustrations. When Phase II began, people thought prices would be controlled, that prices would not increase, but would stabilize. Our understanding of the word "stabilize" is to remain unchanged, non-fluctuating, but this is not what has happened, to say the least. People are confused and amazed to learn that a price increase is not necesarily a violation. We are further confused when told "The goal of the (Price) Commission is to hold increases of prices and rents, on the average for the whole nation, to no more than 2½% a year." We are puzzled, because we see increases of much more than 2½% on items that are supposed to be controlled. Early in Phase II a man who had been purchasing a chocolate coconut bar cookie for 12 cents found the same bar cookie increased in price by 3 cents. He calculated three over twelve equals one fourth which equals 25%—considerably more than 2½%. The Economic Stabilization Program explained, "It's not that simple." It certainly isn't! Reading from the General Information pamphlet (S–2) provided by Internal Revenue Service we learned that *extra costs* incurred can be passed on to the consumer *in addition* to the usual percentage of profit margin, something the consumer does not know. With these allowances and conditions which permit price increases, plus the exclusion of some items from control altogether, the man wonders, as we all wonder, where is the price control and where is stabilization. We can only conclude that these are really misnomers, more than a little bit misleading, and a source of much dissatisfaction with the Stabilization Program.

The use of the Base Price Catalog or Forty Items List is another source of difficulty. The choices, if one has the time and energey to invest in checking a base price, are going to the store's office (often several floors away), trying to locate a list which may not exist, or, in supermarkets, finding an item in a huge, unindexed catalog whose pages are filled with many items and numbers from which to extract a base price. At best, one or two items might be checked, but to check all items which could be in violation would be impossible. The entire procedure for determining violations is too complicated and not at all realistic.

Although it is obvious that many businesses have been co-operative, another problem for the people is that of violators. Notice of violators has not been forthcoming for the public, and we wonder who we might be patronizing that has been or is a violator. For example, one volunteer who had been paying 68¢ for a twelve-ounce package of pasteurized process American cheese found the price increased to 75¢ in mid-February. On February 18, 1972, an Alleged Violation Form was sent to the Economic Stabilization Program and an acknowledgement received on February 22, 1972. Over a month has passed with no communication, and, as of last Saturday, the cheese was still 75¢. The volunteer wonders whether the price is a violation, how many unsuspecting people are paying the higher price unnecessarily, and when the Economic Stabilization Program will advise her.

What does the present economic situation mean to our families personally? Hoping that no one becomes ill, no appliance needs repair, the car holds together, families are cutting down and cutting out to what is absolutely necessary—and the list of what is essential is getting shorter and shorter. Women who turned to economy meats found they are not inexpensive—stewing beef in one market was priced $1.24 per pound on March 18, 1972; that same week, boneless short ribs were $1.04 per pound. For the woman who has a policy of spending no more than $1.00 per pound for meat, her choices last Saturday (March 25, 1972) would have been from such things as beef heart—59¢ per pound, back and neck bones—52¢ per pound, country style sausage 84¢ pre pound, beef tongue—74¢ per pound.

As for meat substitutes, fish and cheese prices have increased also. Budget stretchers such as beans, noodles, and macaroni are starches. One volunteer who has $50 table money for her two children, her husband, and herself, has to stretch that amount not one week, but two, rather difficult at today's prices. Most disheartened, and most disheartening, of all are these retirees on fixed, low incomes who already have been counting every penny and cutting every corner. Even a small increase on items causes a hardship, and these people, along with the rest of us, are fearful of where it will end.

Several suggestions have been made by the Executive Committee and volunteers regarding the Economic Stabilization Program. They suggest that all foods be controlled, that raw materials for manufacturing be controlled, that prices be set firmly so that everyone knows the cost, that people be permitted to report possible violations by telephone, that the public be informed of violators, and that profits be limited.

Mr. Chairman, I hope that my statement illustrates to the Council the utter frustration of the individual consumer with rising prices and the apparent ineffectiveness of Phase II. At the same time I want you to know that this Community Committee will continue to monitor prices and undertake whatever else may be needed to make the Economic Stabilization Program effective.

In addition, Mr. Speaker, I would like to include in the RECORD the text of my remarks to the Price Commission which followed Mrs. Sugiuchi's presentation. The recommendations which I made to the Price Commission have largely been based on the information and data which the 22d District Community Committee on Consumer Prices has furnished my office during the last several months:

STATEMENT OF CONGRESSMAN CHARLES A. VANIK

Mr. Chairman, members of the Commission: The testimony of Mrs. Sugiuchi demonstrates the value of community committees on consumer prices. These efforts demonstrate the availability of community service—people are delighted to be a part of this program. They will work in the cause of halting inflation without compensation.

Not only have they monitored prices in the Cleveland area and helped instill a greater sense of price consciousness, but their reports have been invaluable to me in my congressional efforts to help develop a successful economic stabilization program. Their reports have provided me with detailed and individualized information on price changes and trends, often a month before government statistics are available.

I, therefore, recommend that Citizens' Committees on Consumer Prices be established in every Congressional district of America. Until a better plan is devised, these Committees could be appointed by Members of Congress and include representatives of all segments of the community. The Cost of Living Council could fund the basic cost of a community office and a fulltime consumer agent. If we can provide every community with an agricultural agent—why not a consumer agent to carry on the administrative work of the community committee?

A Citizens' Committee can provide facts on price changes with astounding speed. Two months before government agencies were aware of meat price escalation, our 22nd District Committee reported this fact and it sounded the alram—one of the first in the Nation.

My efforts to provide greater price stabilization in meat prices were largely inspired by the findings of this citizen committee. In early December, this citizens' group predicted that fresh food prices were rising to a dangerous level. As a result of the Community Committee on Consumer Prices' findings, I directed letters to the Council and to the Secretary of Agriculture on January 5th asking that immediate action be taken to control rising food prices. Unfortunately, no significant action has been taken.

From our community efforts, we also conclude that the President's Economic Program to Control Inflation is absolutely doomed if the Administration persists in exempting meat, fresh vegetables and fruits from price control.

We cannot expect Agriculture and the food processors to monitor themselves or exercise effective restraints on price abuse. The temptations for "quick profits" are too grave. If controls reduce supplies, as some have suggested, let us test that challenge in the open market place.

Present pricing policies on meat have, for all practical purposes, already created a shortage for the low and moderate income families. Their dinner tables have already felt the sting of reduced meat rations. High meat prices have already driven millions of people to some degree of voluntary meat rationing. They buy the meat they can afford—and it is less and less every day.

You simply cannot convince the worker, whose real income fell last month, that an economic program which freezes his wages is good for America while the price he must pay for meat, fresh fruits and vegetables is on a trajectory to the moon.

The average American family spends $41 for food each week. Of this purchase 54% is for meat and fresh fruits and vegetables. The average consumer has to face up to increased food prices as a daily experience. This inflationary effect is felt with every swallow, and he has already taken more inflation than he can stomach.

It is now obvious that the decision to exempt fresh produce and meats from some forms of controls was a serious mistake.

I hope that the alarming rate of price increases during the last few months will at last move the Commission to take action.

There are several actions which can be taken.

First, the supply—and, therefore, the price—of lean and manufacturing meats used in hot dogs, hamburgers, and other cheaper cuts of meat is largely determined by restrictions imposed under the authority of the Meat Quota Law of 1964. While this year's quota has been set at a level 7% higher than last year's, it is still too restrictive. We are simply not letting enough lean meat into this country to meet demand or stabilize prices.

Therefore, I have introduced legislation, along with Congressman Rosenthal of New York and 30 others to repeal the Meat Quota Law of 1964.

Some have said that the repeal of the Quota Law would not be helpful. Others have said that it would hurt the American farmer at the time when they are finally beginning to receive a more adequate return on their investments and efforts. Their arguments are a smokescreen thrown up to blind the American consumer.

The American farmer and rancher simply does not produce the tough, range fed meat that certain foreign countries do. This foreign meat is too tough to be used in the higher priced roasts and steaks, which the American producers specialize in. It can only be used in items like hamburger meat, hot dogs, sausages, and tinned meats. To a very large extent, American meat and foreign meat are not in the same competitive categories.

The price of meat for the cheaper cuts, which the middle and lower income families of America rely on, is still rising. Although it is late in the shipping season, a repeal of the Meat Import Quota Law could help stabilize these rising prices.

My last point, Mr. Chairman, concerns the method by which the Internal Revenue Service investigates violations.

The man on the street has the right to know who is holding the line on prices and who is violating the "national conscience." But the I.R.S. has informed me that, while they will make some information available to a person who makes a specific complaint, they will not "make public" the news of violators. Only if the Justice Department files suit against a company or corporation will this information be made public.

A number of my constituents have indicated that if they knew which companies and businesses had been found to be in violation by the I.R.S.—but the Justice Department had not yet acted—it would influence their shopping habits. In other words, the public might like to avoid patronizing those companies and stores which are not cooperating during the present economic emergency.

For example, my office received a press release from the Council just this last Friday that reported that the first suit had been brought against Tier I prenotifier—Purity Supreme, Inc., a $150 million sales per year company which operates 39 discount supermarkets in Massachusetts. The press release further noted that the improper actions of the company occurred between November 18 and December 17 of last year. Yet only now, three months later, is the government clearly publicizing this case. I am sure that quicker action and better publicity in this case would have altered the shopping habits of many in the Boston area.

In an effort to increase the public's awareness of violators, I have introduced legislation "to direct the posting in all local and regional offices of the Internal Revenue Service of up-to-date lists of violators of orders and regulations issued under the Economic Stabilization Act." These violator lists should be those found in violation by the Cost of Living Council before court litigation.

The success of your program—of our program to control inflation—depends upon a total partnership between industry, agriculture, and the consumer. There can be no exceptions to this commitment. The exemptions set the stage for the destruction of your work.

LEWIS E. TURNER RECEIVES THE DISTINGUISHED SERVICE CITATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, one of the able and effective members of the Department of the Air Force, the Honorable Lewis E. Turner, has received the Distinguished Service Citation from the Reserve Officers Association of the United

States. Mr. Turner who is the Deputy Assistant Secretary of the Air Force for Installations received this important award on February 25. It was made by the Air Force Chief of Staff, Gen. John D. Ryan.

Mr. Turner's friends are legion and his outstanding work is appreciated throughout the Nation. I present for publication in the CONGRESSIONAL RECORD the news release on the occasion, the citation which accompanied the award, and a biographical sketch of Mr. Turner.

LEWIS E. TURNER RECEIVES RESERVE CITATION

WASHINGTON, March 3.—Lewis E. Turner, Deputy Assistant Secretary of the Air Force for Installations, received the Reserve Officers Association of the United States' Distinguished Service Citation February 25. Presentation was made by Air Force Chief of Staff General John D. Ryan during the Association's 50th Anniversary Mid-Winter Council Meeting at the Washington Hilton Hotel.

Mr. Turner was cited for providing ". . . outstanding service to the United States Air Force, Active and Reserve, in timely provisioning of facilities to support mission requirements of a rapidly changing force."

The Reserve Officers Association further credited Mr. Turner with providing priority efforts to the approval process for individual Air Force Reserve construction and maintenance projects. "His support in the vital review and approval process has contributed immeasurably to earlier contract awards with the resultant reduction in the time required to provide facilities support for the Air Force Reserve units," the citation accompanying the award concluded.

The award consists of a laminated plaque and is awarded for outstanding contributions to national security through support of the United States reserve forces.

CITATION TO ACCOMPANY AWARD OF ROA DISTINGUISHED CITATION TO MR. LEWIS F. TUANER

As the Deputy Assistant Secretary of the Air Force for Installations since 1964, Mr. Turner has "performed outstanding service to the United States Air Force, Active and Reserve, in timely provisioning of facilities to support mission requirements of a rapidly changing force."

On numerous occasions Mr. Turner has provided priority efforts to the approval process for individual Air Force Reserve construction and maintenance projects. His support in the vital review and approval process has contributed immeasurably to earlier contract awards with the resultant reduction in the time required to provide facilities support for Air Force Reserve units.

Mr. Tuner's consistent support of USAFR programs and purposes and distinguished service have brought great credit to himself, the Air Force Reserve and the United States Air Force.

BIOGRAPHY: LEWIS E. TURNER, DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (INSTALLATIONS)

As the Deputy Assistant Secretary for Installations, Mr. Turner is the senior official, within the Department of the Air Force, responsible for installations and civil engineering matters. In this capacity, he directs the management, utilization and maintenance of the Air Force's $16.6 billion inventory of real property involving the annual expenditure of over $1.7 billion in construction and maintenance efforts. He executes these functions through an organization consisting of 95,000 engineers and technicians, operating from bases located on every continent of the world.

Mr. Turner was born in Radford, Va., on June 7, 1917. He was educated in the Virginia public school system and has completed various management courses conducted by military and civilian institutions in the Washington area, including a short course at the Air War College in 1952. He has also attended the Defense Advanced Management Systems Course at Monterey, Calif., and the Brookings Institution Management and Program Executives Course at Williamsburg, Va.

He began his career in the Government in 1940 with the Civil Service Commission, later moving to the General Accounting Office and the War Production Board. At the end of World War II he became associated with the War Assets Administration where he worked as a budget officer. When the Air Force became a separate service, he was asked to join the Air Force Budget Office to assist in establishing a management and budgeting system for the Department.

In 1959 Mr. Turner moved to the Office of the Secretary of the Air Force as Deputy Assistant Secretary (Financial Control). He left the Government service in 1961 to enter private industry as Executive Vice President of a large construction and maintenance firm in Los Angeles, Calif. He returned to the Air Force in February 1964 to assume his present post after three successful years in private industry.

During Mr. Turner's career in the Government, he has received many awards and public recognition: Outstanding Performance Ratings each year of Government service; in 1961 and 1969 Exceptional Civilian Service Awards by the Secretary of the Air Force; in 1969 the Air Force Association Citation was presented "For exceptionally outstanding service to the United States Air Force active and reserve, in the timely provisioning of facilities to support mission requirements of a rapidly changing military force." In 1967 Mr. Turner was nominated by the Secretary of the Air Force for the National Civil Service League Career Service Award.

Mr. Turner is married to the former Della Kate Pettus of Montgomery, Ala., and they have three children. He and his family are members of the Walker Chapel Methodist Church of Arlington. Mr. Turner is a member of the Westwood Country Club of Northern Virginia, Officers' Clubs of Bolling and Andrews Air Force Bases, and is a non-resident member of the Oakmont Country Club of Glendale, Calif.

The family resides at 3539 North Valley Street, Arlington, Va.

IRVING BRANT COMMENTS ON RACISM IN AMERICA

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I would like to commend to the attention of my colleagues a speech delivered by Mr. Irving Brant, recipient of the E. B. MacNaughton Civil Liberties Award in Oregon this year and renowned constitutional authority and defender of liberties.

Mr. Brant addresses himself to a problem that has long been with us, and one which remains basically unsolved and immensely threatening to our society and to the American people as a whole.

Irving Brant was born only 19 years after the formal abolition of slavery. Yet, the Nation's slavery to racism continues to this day. His comments on the continuing racism in our country show the insight and perception that only a man of his years, intelligence, and sensitivity could provide.

The speech follows:

SHALL RACISM DESTROY AMERICA?

(Speech of Irving Brant, accepting E. B. MacNaughton Civil Liberties Award, Mar. 4, 1972, Eugene, Oreg.)

I cannot begin to tell you how deeply this award is appreciated. Personally, it affords the keenest pleasure, although my contributions have been small compared to the dedicated service of those who devote time and effort, day after day, to the operations of the American Civil Liberties Union. The very existence of this annual award testifies to the depth of the ACLU dedication at a time when civil rights and liberties are being challenged throughout our country and the world. Here in the United States that challenge is seen in the mindless attitudes of unthinking people and in the callousness of congressional majorities. It is seen in senators who disregard the basic philosophy of Supreme Court nominees. It is seen in a President and Attorney General who yearn to name, for that high tribunal, more extreme deniers of liberty than they can hope to get away with.

The Supreme Court today is at a stage of crisis. I remember reading, about sixty years ago, the remark of some prominent American that the only really important function of a President is to appoint members of the Supreme Court. The clear implication was that the country would be safe only as long as that court continued to misconstrue the Fourteenth Amendment and employ it to strike down state laws regulating corporations.

That perversion ended with the first four Supreme Court appointments made by Franklin D. Roosevelt. His purpose was to select justices who would uphold the power of Congress to cope with national economic emergencies. No primary thought was given by him at the outset to the guarantees of personal liberty, which were not acutely at issue then. It was more or less by the laws of chance that four of the eight Roosevelt appointees turned out to be exceptionally valiant defenders of the Bill of Rights.

President Truman made five appointments to the Supreme Court, choosing personal friends. His closest approach to a judicial philosophy, perhaps, lies in a remark he made to me: "I can tell you one thing. I never will appoint a professional liberal to the Court." My idea of a professional liberal is a conservative who, for political gain, tries to make a public record as a liberal. I suspect that Mr. Truman's real animus was against intellectual liberals. The breed repelled him, and his conservative appointments reflected that fact.

Then came President Eisenhower, who made four appointments and regretted two and one-half of them. I remarked one day to Chief Justice Warren that he and Justice Brennan were "happy accidents." He replied with a smile, "I doubt if the President expected us to take the stands we have taken." A third Eisenhower selection, Justice Potter Stewart, has moved gradually toward the liberal side; not decisively, but enough so that bitter outcries are reaching him from the Ohio rightwingers who rejoiced at his appointment.

Truman's appointee Tom Clark is another conservative who became increasingly liberal as the years passed. He always was that way on one point. I asked him once why he was a stricter enforcer of the ban on unreasonable search and seizure than of other constitutional guarantees. He replied that he did not know that this was true but if it was, it was because, as a prosecuting attorney in Texas, he was denounced by a judge in open court for refusing to prosecute a Negro whose house had been almost torn to pieces by ransacking police.

Speaking of Justice Clark, Hugo Black said to me: "The only thing wrong with Tom is that he doesn't read enough." I suspect

that if Tom Clark had steeped himself in Hallam's *History of England* and Howell's *State Trials*, he would have become as ardent a libertarian as his son Ramsey, of whom he is justly proud.

Most members of the Supreme Court, but especially the liberals, are avid readers on controversial topics. I told Black about a splendid, impartial paper on the history of the NAACP, delivered by an Alabama Negro before the Southern Historical Association. Black asked me to get it for him. I did so, requesting its return. It came back—from Chief Justice Warren.

John F. Kennedy and Lyndon Johnson, I believe, were the only Presidents, unless Woodrow Wilson can be included, who consciously sought to place libertarians on the Court. Johnson is commonly regarded as a Southern conservative who, as Senate leader, opposed civil-rights legislation until it was forced on him by political pressures. I know better. In 1957, I was asked to come to Johnson's office. There a special assistant told me that Johnson was considering the introduction of a sweeping bill based on the Fifteenth Amendment, to clear up the entire race problem at one stroke. I was asked to submit an opinion on what could be done under that amendment. A week later this assistant called me and said the decision had been made to push a milder bill that would be assured of passage. Thurgood Marshall was put on the Supreme Court because of outstanding fitness and Lyndon Johnson's sense of racial justice. Incidentally, Tom Clark, a southerner, helped put Marshall in line for that post.

Chief Justice Warren did not rule the "Warren Court," but the Warren Court died with the Chief Justice's retirement and the loss of three other members. In the making of four replacements, two Nixon nominees were rejected by the Senate as unfit, seven indicated presidential choices were negated either by the American Bar Association or the bar of public opinion. All replacements were made by a President who was the enthusiastic partner of Senator Joe McCarthy in the infamous political revival of Salem witchhunting. Picture the fate of the country if the Senate had no veto!

The years just ahead will be the most critical since 1798, as far as the rights and liberties of the American people are concerned. In 1798, a Congress crazed with fear of the French Revolution and American democracy tore the Constitution to shreds with a Sedition Act that wiped out every vestige of freedom of speech and press. Justices of the Supreme Court in that day rode circuit, and every one of them enforced the Sedition Act with the same ferocity displayed by Congress.

There is no possibility of that situation recurring; public opinion would not permit it. A few weeks ago a right-wing newspaper columnist observed that the Warren Court period was a deviation from nearly two hundred years of judicial conservation. The recent liberal epoch, he said hopefully, might prove to be a brief interlude, giving way to a long-term swing in the conservative direction.

This is possible, but the Warren Court did not invent liberalism. The Fourteenth Amendment, as a protection of human rights, lay dormant for more than fifty years. Then social imperatives began piling up, expressed in dissenting opinions by Justices Holmes and Brandeis. In 1925, a Supreme Court ruled by reactionaries ushered in a new day by planting a libertarian dictum in a vicious decision.

Upholding the conviction of Socialist Benjamin Gitlow under New York's criminal anarchy statute, Justice Sanford wrote: "For present purposes we may and do assume that freedom of speech and of the press are . . . protected by the due process clause of the Fourteenth Amendment from impairment by the States." That grudging concession, won by the ACLU, did not save Gitlow, but it opened the floodgates of reform. Step by step, the guarantees of the first eight amendments were brought within the compass of due process of law and equal protection of the laws, commanded by the Fourteenth Amendment. These concepts of liberty have become the stabilizing imperatives of American society. No Supreme Court, no matter how heavily Nixonized and Mitchellized, will ever jam the Fourteenth Amendment back into an iron-spiked coffin. In the debate on William Rehnquist's confirmation to the Court, it was brought out that as law clerk to Justice Robert Jackson, he had drafted a brief upholding *Plessy* v. *Ferguson* and its "separate but equal" device for maintaining segregated schools. Mr. Rehnquist protested that he took this side by direction of Justice Jackson to help Jackson reach a decision. That may well be true, but even if not, *Plessy* v. *Ferguson* would stay dead if there were nine Rehnquists on the Court. Regardless of his rightwing politics, Justice Rehnquist is an intelligent man, an able lawyer of good intentions, and he understands, perhaps too well, the driving forces of politics.

This does not imply a liberal stance in the Nixon appointees; far from it. The danger is not that a Nixonized Court will strip itself of basic authority, under the Fourteenth Amendment, to uphold racial equality and protect freedom of religion, speech and press against violations by the states. Nor will such a court formally abdicate other applications of the Bill of Rights to the states. The danger is far more insidious. It lies in acceptance of the working principles of Nixonism-Mitchellism itself, in undue zeal for law and order at the expense of liberty, in insensitivity to wrongs, in subordination of rightful judicial power to the other branches of government. Successfully remodeled such a Court will undermine all constitutional guarantees, in both state and federal fields, by loose and devitalizing construction of the guarantees themselves. Chipping off a bit here, a bit there, such a Court may with the best of intentions nullify a great part of the Bill of Rights.

Even that would not be fatal, however unfair and repugnant to the Constitution, if it merely reduced for a time the protections thrown around persons guilty or innocent of conventional criminality. The deadly peril lies in the impact of such a trend upon the American racial crisis. Strip the guiltiest robber or rapist of constitutional protections and it opens the way to harassment by police, prosecutors and courts of all organized groups working for social objectives. On that score, all too little recognized, the very existence of the United States as a viable society is at stake. Looming above all else, in this respect, is the racial conflict, to which I shall devote the remainder of this address.

The race struggle will not be settled by the Supreme Court. It will be ended by Congress, by state governments, and by the American people, or it will destroy this nation. Popular reaction against the Sedition Act of 1798 overthrew the political party that imposed it on the country. Political freedom prevailed, after that, until the growing cancer of Negro slavery corroded American society and finally plunged the nation into the calamity of civil war.

And what since then? From the time the slaves were set free and were guaranteed equality by the Constitution, the ancient corrosion has continued to corrupt society. No longer clearly visible, as it was in the days of slavery, it has worked with a deadliness comparable to parasites in the human body, feeding on a victim that does not know it is infested. *Brown* v. *Board of Education* cleared the skin but failed to cure the deeper infection.

I came into this world in 1885, only nineteen years after slavery came to an end. That is comparable to the speck of time since Eisenhower entered the White House. Two years before I was born the Supreme Court struck down the Civil Rights Acts passed for the protection of the emancipated slaves. Thus my life span has been virtually identical with the period of oppression that began in a bargain between Northern Republicans and Southern Democrats. The North said to the South: "You can do what you like to the blacks, if you will let us do what we want for the corporations." The bargain thus entered into has a residue today in what is called the Southern Strategy of Richard Nixon.

You may perhaps assume, from my present remarks, that I have been a lifelong recognizer of racial equality. By no means. I have never at any time felt hostility toward persons of a different color of skin. However, my growing up, in regard to racial equality involved a shedding, one by one, of nearly every false cliche about Negro inferiority ever possessed by a Georgia hillbilly, or, at that time, by a Northern professor of ethnology.

Like virtually all white Americans, I believed in early years that intelligence in a Negro was prima facia evidence of white blood in his veins. I did not scoff at the barbershop idea that Jack Johnson won the heavyweight boxing championship because Negro skullbones were a quarter of an inch thick.

I was seventeen years old before I became personally acquainted with a Negro. Before that, my racial impressions were picked up from blackface comedians in minstrel shows. My first black acquaintance was Hal Short, an Iowa City high school classmate, the only Negro in school. He was a topnotch student, who must therefore have had a white grandfather, although he did not look it. We elected him class treasurer. He went with us kids to Reichardt's ice cream parlor. This proved that we were completely free of racial prejudice. Of course, we said in Hal's absence, he knew enough not to come to class parties. He understood his place. In truth, our dumb self-satisfaction did not spring from conscious prejudice. It was thoughtlessness based on ignorance. That was carried to the limit, indeed far beyond the limit, in our high school football yell—the same yell that was given in thousands of high schools throughout the United States. I can never forget its wording:

"Nigger, nigger, hoe pertater,
Half past alligator,
Ram, ram, bulligator,
Sizz boom bah!
Iowa City high school, rah, rah, rah!"

Half a century ago, the average white American did not know that black people had feelings, did not believe that they were fully human. For a parallel, go back to Shakespeare's *Merchant of Venice*. Listen to the words of Shylock, whom every Christian spat upon:

"I am a Jew! Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian? If you prick us, do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die?"

Let me go back to Hal Short, who also became my classmate in the University of Iowa. He graduated in engineering—a course I would have been sure to flunk. A year after graduation he came back to Iowa City and resumed his old job as porter in a barber shop. "That's it," I thought, "the shiftlessness of a black man will always come through." I did not hear the words Hal Short had been listening to, day after day, month after month, at engineering employment offices all over the United States: "No opening." "Sorry, no opening." "No opening." "No opening."

My awakening to Negro intelligence began in Washington, in 1938, when I started work on my biography of President Madison, a man who worked to abolish slavery but could not escape it himself. I discovered that during Madison's sixteen years' residence in the national capital one of his farms, of 2,000 acres, was under the unsupervised management of a Negro slave.

Then I read a slender book of recollections of Madison by his black valet. The excellent literary style marked the book, for me, as a white man's writing based on a black man's talk—until I ran across a letter written by that slave, written at the same intellectual level as the book.

In the Papers of Thomas Jefferson I came upon the original manuscript of the remarkable treatise on mathematics written by the Negro Robert Banneker. It had the same effect upon me that it had on Jefferson—it wiped out every preconception of racial inferiority in a fullblooded black.

That effect was magnified when I ran across, in the French Archives, the letters written to Napoleon by Toussaint Louverture, black leader of the slave revolt in Haiti. Writing in perfect French, he dealt with the master of Europe in terms of equality, dignity and strength. His large bold signature heightened the effect. No wonder that Napoleon made him a general in the French army before tricking him into a peace conference, under a sacred pledge of safe conduct, and then throwing him into a dungeon for the rest of his life.

My research in the Library of Congress took me into the Legislative Reference division. There I had the surprise of my life. The executive secretary, essentially the highest working official, turned out to be a Negro woman. That meant that whenever a Mississippi senator phoned the Library of Congress to ask for material to prove Negro inferiority, the request was handled by a black woman, and, like as not, was assigned to a black researcher. Hundreds of others on the library staff furnished proof that black men and women were the intellectual equal of whites.

But these Negroes had grown up in a white society, benefiting from association with whites. Did African Negroes possess similar qualities? I doubted it. That doubt was swept away by a guest speaker at a luncheon of the Overseas Writers Club, Tom Mboya of Kenya. I listened for an hour as he fielded questions from a hundred hard-hitting correspondents about Kenya's relations with the British government. At the conclusion of the session I remarked that I had never heard a man better fitted to be prime minister of England. And this man was a product of the African plains and jungles.

Within the past year a prominent doctor of philosophy has published a book affirming once more, by alleged impartial scientific inquiry, the discredited theory of inherent inferiority in the Negro mentality. Disclaiming all racial prejudice, the author claims that the absence of certain genes of heredity in the black race inescapably reduces Negroes to a lower level of achievement. This book has been eagerly seized on by racial segregationists. I discussed the book recently with another doctor of philosophy—a woman—who said that she had been a student at Antioch College when the author of that book was on the faculty. "My clearest recollection of him," she said, "is of his intense dislike of Negroes." So, it appears, the defect is not in Negro genes governing intelligence, but in white genes governing candor.

The whole issue is silly, anyway. If you should disfranchise all voters, black and white, whose IQ falls below the highest IQ achieved by a Negro, you would wipe out ninety-nine per cent of the electorate. Distribute governing power according to intelligence quotients, and this country will certainly be in a hell of a fix.

Prejudice! Prejudice! That is what the nation is up against today. The innate equality of blacks and whites has been demonstrated by the unchallengeable criterion of human experience. The only remaining obstacle to attainment of equal status is the white man's refusal to face reality. A continuance of that refusal spells national disaster, threatens national destruction.

Seventy years ago the great majority of blacks picked cotton, cut sugar cane, or plowed corn, as sharecroppers or farm hands in fourteen Southern states. They were kept in economic subjection, enforced illiteracy and political impotence by landowner pressure, sheriffs' deputies and the Ku Klux Klan. The white North looked upon that situation with complacent disregard or even support. As late as 1938, an Atlanta newspaper editor told me that ninety per cent of the Georgia Negroes south of Macon were living in peonage. Such may still be the case in some southern counties, but nationally, that situation of the blacks has disappeared forever. It has been destroyed by their northward migration, by the Supreme Court, by the voting rights acts of Congress, by education, and by Negro voting power. What they face now is exclusion from the skilled working force and denial of the right to live where they please.

How has the white population responded to this near-revolution? By a flight to the suburbs that turns the big cities into black ghettos. By job discrimination, by housing discrimination, by police harassment. What happens in physics and chemistry when a constantly expanding mass encounters constantly increasing pressure? Sooner or later an explosion is bound to result. So it is in our cities today. Ghetto confinement and frustration are building an atomic bomb, to which, if the pressure is not relieved, despair and anger will some day furnish the trigger.

Black Americans, once helpless on the farms, today lack only national organization to give the United States a choice between racial equality and universal chaos. The black ghettos soon will control the governments of all large cities. Once fully organized, their officers need only to act together to halt every railroad train in the nation, to block every major truck route. And national organization will come if the pressure inducing it continues to mount.

The remedy is simple, though not easy. All that is needed is sufficient insight and resulting action, based either on goodwill or the necessities of self-preservation. The black population must be admitted to an equal share in the fruits promised by the preamble of the Constitution—A Constitution written and ordained to "secure the blessings of liberty to ourselves and our posterity." The one overwhelming need is for white people to recognize black people as a genuine part of our common society.

NATIONAL PEACE ACTION COALITION IS CONTROLLED BY SOCIALIST WORKERS PARTY

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, at a series of hearings last June held by the House Committee on Internal Security which I have the honor to chair, a considerable amount of evidence established that a group in this country called the National Peace Action Coalition is completely controlled by the Socialist Workers Party, a collection of Trotskyite Communists.

While considerable attention is paid to the various demonstrations and other activities carried out by the NPAC, little heed has been paid to the fact that its leadership is topheavy with members of the SWP and its youth arm, the Young Socialist Alliance.

Now one might take the fact that the Socialist Workers Party controls every activity of the NPAC—this has never really been denied or challenged—and adopt a ho-hum attitude.

"What danger does this present to us?" one might ask.

Well, Mr. Speaker, the danger represented by the worldwide movement of the Trotskyite Communists—those who advocate armed revolution on an international scale—is already close to home.

Its dangers are as fresh as can be found in the daily news accounts from Argentina and that country, Mr. Speaker, is in the Western Hemisphere, not far off in Southeast Asia.

I talk, Mr. Speaker, of the deeds of the Trotskyite Revolutionary Army of the People in Argentina, a group that this moment is holding prisoner Mr. Oberdan Sallustro, an executive of Fiat, a large Italian motorcar company. That is, they are holding him prisoner if they have not yet, as promised, murdered him.

This revolutionary army, known by its Spanish initials as E.R.P., has threatened to execute Mr. Sallustro if its demands for ransom in various forms of $1 million are not met. It also seeks other concessions for the release of Mr. Sallustro, 56-year-old Fiat manager for Argentina. These include release of 50 jailed guerrillas and their safe conduct to a country of their own choosing.

Last year, Mr. Speaker, the same group kidnaped the manager of a Swift meat packing plant in Argentina, freeing him only after similar demands were met. The Committee on Internal Security described this kidnaping in appendix B of part 2 of the hearings held last year on the NPAC and the People's Coalition for Peace and Justice.

During the hearings on NPAC, an expert witness, Mr. Milorad Popov, who is assistant editor of the Yearbook on International Communist Affairs put out by the Hoover Institution at Stanford University, testified that the Socialist Workers Party is for all intents and purposes a segment of an international collection of Trotskyite Communists called the Fourth International.

I would like to point out, Mr. Speaker, that the revolutionary army in Argentina is also one segment of the Fourth International. This connection came up during my questioning of Mr. Popov.

Also described in part 2 of the hearings is a statement of views of the E.R.P. as carried in the Intercontinental Press, official organ of the international Socialist Workers Party.

I would like to quote some of these aims for the benefit of my colleagues. Remember, Mr. Speaker, that these are the words of the official organ of the Socialist Workers Party.

The strategic principle guiding us is to extend the war, which in our opinion has already begun . . .

We carry forward this extension of the people's civil war through (both) political and military action.

What is involved in activity that is both "open" and clandestine . . .

Among us we have neither rankings nor insignia. Our only commandante is and will be Che Guevara . . . This alone defines our internationalist revolutionary tradition—our complete solidarity with Cuba.

For us the road to liberation in Latin America passes historically through armed revolution.

On the world level we view with revolutionary sympathy Korea, Vietnam and China in addition to Cuba.

There may be those, Mr. Speaker, who believe that "it cannot happen here," that this country faces no danger of political kidnapings, of demands for huge ransoms, of ultimatums to free convicted criminals upon pain of execution of some hapless and helpless individual whose only crime is being important enough to serve as a suitable hostage.

I am not that sanguine, Mr. Speaker; this country has already suffered from a wave of bombings carried out by radicals.

Let us hope, Mr. Speaker, that when the SWP decides that marches and demonstrations are insufficient to bring about imposition of the form of government it prefers on this country, we are not confronted with the kind of terrorist activities already launched in Argentina and elsewhere in this hemisphere.

As I have said before, Mr. Speaker, the Socialist Workers Party and its allies do not represent the "doves" of honorable peace; they are instead the "hawks" of the other side.

I think, Mr. Speaker, it is not only the right of those of us in this House to be concerned by what they are doing and what they might do—it is our duty.

TAX REFORM ACT OF 1972

(Mr. HORTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HORTON. Mr. Speaker, in the Tax Reform Act of 1969, Congress sought to distribute the tax burden fairly among the poor, middle-income, and wealthy Americans as well as businesses and corporations. Many improvements in the Federal tax system were made, but it is equally apparent that further adjustments are needed to correct remaining deficiencies.

In an effort to remedy this situation, I have introduced today H.R. 14144, the Tax Reform Act of 1972. This measure would bring in an additional $5.25 billion in Federal revenue. Included in the bill are several provisions plugging loopholes for wealthy Americans now paying little or no taxes. The legislation also provides for tightening tax rules on the income of foreign subsidiaries of American corporations. Under the reform package, the Federal Government would receive an estimated $2.1 billion in revenue through taxing capital gains on property transferred at death or by gift and in offering an alternative to States and localities issuing only tax-free bonds. Through adjustments such as these, Federal revenue can be increased substantially, the exportation of American jobs to foreign countries can be discouraged, and many inequities in our tax system can be erased.

While the Congress succeeded in enacting comprehensive tax reforms in 1969, it is by no means too early to consider more needed reforms. Indeed, given our high unemployment rates and huge budget deficits, tax reform should be one of the primary issues which Congress confronts. Apart from strictly economic considerations, this is an election year. Each of us will be asking our constituents for another vote of confidence and economic questions will rank high, if not first, among their concerns.

Mr. Speaker, the legislation I have introduced does not address all the tax loopholes that need closing, but it will eliminate some of the most glaring inequities, it will create jobs, and it will raise desperately needed Federal revenue. Because H.R. 14144 is limited in scope, it can and should serve as a bipartisan vehicle for meaningful tax reform—one that can be acted upon quickly in the remainder of this session.

An explanation and complete text of H.R. 14144 follows:

SECTION-BY-SECTION EXPLANATION OF H.R. 14144

TITLE I. TAXATION OF CAPITAL GAINS ON PROPERTY TRANSFERRED AT DEATH OR BY GIFT

(Anticipated Annual Revenue Gain: $2–3 billion.)

When shares of stock, real estate, and other forms of property increase in value, the increase is taxed as a capital gain. Under present law, the capital gains tax rate on assets held longer than 6 months is about half of the tax rate for ordinary income.

Take, for example, an individual who purchases stock in a company for $50,000. Assume that the company's stock rises dramatically in price so that, in a few years, his stock is worth $150,000. If he sells the stock, he will have to pay a capital gains tax on the $100,000 increase in value. If he is in the top 70% tax bracket, he would have to pay a tax of $30,000—25% of the first $50,000 plus 35% of the second $50,000.

However, if this individual never sells the stock but passes it on to his heirs, no capital gains tax is paid by anyone. The heirs would only have to pay capital gains taxes on any increase in the value of the stock beyond $150,000 and only if they sell it.

Several billion dollars in tax revenue fall through this loophole each year. Who benefits? Those individuals with large amounts of accumulated wealth to pass on to the next generation.

H.R. 14144 would close this capital gains loophole by treating property transferred at death as if the decedent had sold it at death. An income tax would be imposed on the capital gain and the tax would be treated as a debt of the decedent's estate. It would thus be deductible from the gross estate for estate tax purposes and would reduce the estate tax liability. Estates under $60,000 would be exempted and there would be additional exemptions for personal and household effects, transfers to a husband or wife, and to orphans. The gain on appreciated property transferred by gift would also be taxed at the time of transfer to avoid giving an artificial incentive for lifetime gifts.

Closing the capital gains loophole was originally recommended by the Treasury Department in 1968 in its "Tax Reform Studies and Proposals", published by the House Ways and Means Committee and the Senate Finance Committee. H.R. 14144 would not only correct the inequitable policy of not taxing appreciation on assets transferred at death, but also eliminate the incentive to older Americans to hold on to and, in effect, immobilize their assets.

TITLE II. FEDERAL INTEREST SUBSIDY TO STATES AND LOCALITIES TO ENCOURAGE ISSUANCE OF TAXABLE BONDS

(Anticipated Annual Revenue Gain: $100 Million.)

State and local bonds have long been an attractive investment for the very rich because the interest paid on such bonds is tax-free. The average taxpayer sees no great advantage in buying tax-free municipal bonds paying 4 or 5 percent interest when he can buy taxable corporate bonds paying higher interest. But tax-free interest becomes progressively more attractive as a taxpayer's marginal tax bracket climbs to around 42 percent. It has been estimated that over 80 percent of the tax-free bonds purchased by individuals are held by the wealthiest 1 percent of the population.

This tax exemption does serve an important purpose because it enables states and cities, suffering terrific revenue crises, to raise funds at relatively low interest rates to finance roads, schools, sewage treatment plants and other vital facilities. If we simply taxed the interest on municipals, our states and localities would be forced to forgo badly-needed public improvements or pay higher interest rates, which few could afford. Neither of these alternatives is acceptable.

H.R. 14144, therefore, would allow states and localities to continue issuing tax-free bonds. But it would give them the additional option of issuing taxable bonds and receiving an interest subsidy from the Federal Government to make up for the higher interest rate they would have to pay bond purchasers. The Federal interest subsidy could be as high as 40 percent of the total interest paid, with no strings attached.

The treasury now loses far more revenue by failing to tax the interest on municipal bonds than states and localities save in lower borrowing costs. A conservative estimate put the saving to states and localities at $1.3 billion annually, while the yearly revenue loss to the Federal Government was estimated at $1.8 billion. Thus, it is reasonable to expect a revenue gain of $100 million each year from this provision.

Apart from raising additional revenue, H.R. 14144 would make municipal bonds salable to a much wider market. Tax-free municipals are now bought almost exclusively by very wealthy individuals, banks and other financial institutions. By enabling these bonds to be sold at higher, Federally-subsidized interest rates, H.R. 14144 would make them attractive to a far wider spectrum of investors.

This provision was included in the House-passed version of the 1969 Tax Reform Act, but was dropped in conference with the Senate.

TITLE III. TAXATION OF INCOME OF FOREIGN SUBSIDIARIES OF U.S. CORPORATIONS ON A CURRENT BASIS

(Anticipated Annual Revenue Gain: $150 Million.)

The income of foreign subsidiaries of U.S. corporations is not taxed by the United States until it is returned to the parent corporation or corporations in this country. As a result, the tax on this income is usually deferred for many years, and in some cases the income may never be taxed at all.

In addition to costing the Treasury roughly $150 million a year in lost revenue, this tax loophole gives U.S. corporations an artificial incentive to build plants in foreign countries and export American jobs. A U.S. firm may well decide to build a plant in a foreign country in order to get the tax deferral benefits of present law.

H.R. 14144 would close this revenue-losing loophole by taxing foreign subsidiary income on a current basis. Only "controlled" foreign

corporations—those with more than half of their stock held by American corporations—would be covered. Each American corporation holding more than 10 percent of a controlled foreign corporation's stock would have to include in its U.S. tax return each year its pro rata share of the foreign corporation's earnings and profits for that year.

While this provision is not intended to sharply curtail the investment of U.S. business capital abroad, it will be a step toward equalizing at least a part of low labor costs and other advantages to U.S. firms doing business abroad at the same time it provides a modest revenue gain for the Treasury.

TITLE IV. TIGHTENING OF MINIMUM TAX ON TAX PREFERENCES

(Anticipated Annual Revenue Gain: $3 Billion.)

The Minimum Tax provision was included in the 1969 Tax Reform Act to deal with the problem of very wealthy persons who paid little or no Federal income taxes. There were, for example, 301 persons with reported incomes for 1969 in excess of $200,000 who paid no Federal income tax at all for that year.

The Minimum Tax provision has had some impact, but not enough. In 1970, the first year the Minimum Tax was in effect, there were still 112 persons with reported incomes in excess of $200,000 who paid no Federal income tax for that year.

The problem is that the Minimum Tax contains so many exclusions and exemptions that relatively little "preference income" is reached by it. In addition, the taxpayer's total "tax preference" income must exceed $30,000 plus the amount of income tax he pays on his regular, non-preference income before the Minimum Tax is even assessed. Moreover, the Minimum Tax rate is only 10 percent, about what a married couple filing separately would pay on a total family income of $12,000.

According to preliminary figures released by the Treasury, the Minimum Tax brought in only $116.9 million in additional revenue in 1970. When the 1969 Tax Reform Act was passed, the Treasury estimated that the Minimum Tax would bring in about $500 million a year in additional revenue when fully implemented. H.R. 14144 would raise an additional $3 billion a year by making the following changes in the Minimum Tax:

1. Eliminate the deduction presently allowed for the amount of tax paid on regular, non-preference income;

2. Include state and local bond interest among the "tax preference" items subject to the Minimum Tax; and

3. Increase the Minimum Tax rate from 10 percent to 20 percent.

H.R. 14144

A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1972".

(b) TABLE OF CONTENTS.—

TITLE I—GAIN ON CERTAIN PROPERTY TRANSFERRED AT DEATH OR BY GIFT
Sec. 101. Gains and losses on property transmitted at death.
Sec. 102. Gains and losses on lifetime gifts.
Sec. 103. Gross income definition.
Sec. 104. Basis of certain property acquired from a decedent.
Sec. 105. Basis of property acquired by gift.
Sec. 106. Contributions of certain property to charity.
Sec. 107. Time for filing decedent's final income tax return.
Sec. 108. Extension of time for paying tax.
Sec. 109. Effective date.
TITLE II—STATE AND LOCAL BONDS
Sec. 201. Interest on State and local obligations.
TITLE III—FOREIGN CORPORATIONS
Sec. 301. Taxation of earnings and profits of controlled foreign corporations.
Sec. 302. Effective dates.
TITLE IV—MINIMUM TAX FOR TAX PREFERENCES
Sec. 401 Repeal of deduction for taxes and rate increase.
Sec. 402. Inclusion of interest on State obligations.
Sec. 403. Effective date.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(d) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of the technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TITLE I—GAIN ON CERTAIN PROPERTY TRANSFERRED AT DEATH OR BY GIFT

SEC. 101. GAINS AND LOSSES ON PROPERTY TRANSMITTED AT DEATH.

(a) Part II of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 84. GAINS AND LOSSES ON PROPERTY AT TIME OF DEATH.

"(a) IN GENERAL.—In the case of the death of a taxpayer there shall be included in computing taxable income for the taxable period in which falls the date of his death, the gains and losses which would be taken into account if the taxpayer had sold all property (except items of income in respect of a decedent under section 691), which is considered to have been acquired from or to have passed from the decedent taxpayer (within the meaning of section 1014(b)) at a selling price equal to its fair market value at death, or if an election is made under section 2032 (relating to the alternate valuation date), at a price equal to its fair market value on such date. The gains and losses so computed shall be considered amounts received from the sale or exchange of a capital asset held for more than six months. For purposes of this section, losses shall be determined without regard to section 1091.

"(b) EXEMPTIONS.—Subsection (a) shall not apply to the following:

"(1) HOUSEHOLD OR PERSONAL EFFECTS.—Gain on a personal or household item acquired from a decedent or which has passed from a decedent (within the meaning of section 1014(b)), if the fair market value of such item at death (or, if an election is made under section 2032, relating to the alternate valuation date, the fair market value on such date) is less than $2,000.

"(2) PROPERTY WHICH PASSES OR HAS PASSED TO SURVIVING SPOUSE.—Property which passes or has passed from the decedent to his surviving spouse, but only to the extent deductible under section 2056 (relating to the allowance of an estate tax marital deduction).

"(c) BASIS FOR COMPUTING GAIN OR LOSS.—For purposes of subsection (a), the following rules shall apply in determining basis for computing gain or loss:

"(1) MINIMUM BASIS.—Property to which subsection (a) applies shall be considered to have a minimum total adjusted basis to the decedent of $60,000 or the total fair market value of the property, if lower.

"(2) PROPERTY ACQUIRED BEFORE DATE OF ENACTMENT.—In the case of property acquired before the date of enactment of this section, if the basis otherwise determined under this subtitle, adjusted as provided in section 1016, is less than the fair market value of the property as of the date of enactment of this section, then the basis for determining gain shall be such fair market value.

"(3) ALLOCATION OF BASIS.—If subsection (a) does not apply, by reason of paragraph (2) of subsection (b), the basis of property (as determined under paragraphs (1) and (2)) shall be allocated (pursuant to rules and regulations prescribed by the Secretary or his delegate) among all property (other than cash) to which subsection (a) applies in proportion to the fair market value of such property.

"(d) LOSS CARRYBACK.—If the application of subsection (a) produces a net long term capital loss, the amount thereof (to the extent not utilized against net capital gain, computed without regard to subsection (a), for the decedent's final taxable period) shall be a loss carryback to each of the three taxable years preceding the decedent's final taxable year. The entire amount of the net loss produced by subsection (a) shall first be carried, as a net long term capital loss, to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other years to which such loss may be carried shall be the excess, if any, of such loss over the total of the net capital gains for each of the prior taxable years to which such loss may be carried. If there remains, after the application of the preceding sentence, any unused loss produced by subsection (a), one-half of the amount thereof shall first be carried, as a loss deductible against ordinary income, to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be that portion, if any, of one-half of such loss which is not used to reduce the amount subject to income taxation for a prior taxable year to which such loss may be carried. The carryback of a loss pursuant to this paragraph may not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back.

"(e) LIABILITY FOR INCOME TAX ON GAINS AT DEATH.—Unless the decedent directs otherwise in his will, if any part of the property which is subject to tax by reason of section 84 (relating to income taxation of gains at death) consists of property transferred by the decedent during his lifetime, the executor shall be entitled to recover from the donee to which the decedent made a transfer during his lifetime, such portion of the total tax paid by reason of section 84 as the tax attributable to the property transferred during the decedent's lifetime bears to the total tax paid."

(b) The table of sections for part II of such subchapter is amended by adding at the end thereof the following item:

"Sec. 84. Gains and losses on property at time of death."

SEC. 102. GAINS AND LOSSES ON LIFETIME GIFTS.

(a) Part II of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 85. GAINS AND LOSSES ON LIFETIME GIFTS.

"(a) IN GENERAL.—In the case of the transfer of property by gift, there shall be included in computing taxable income for the taxable period in which the transfer was made, the gains and losses which would be taken into account if the taxpayer had sold the transferred property at a selling price equal to its fair market value at the time of the transfer.

"(b) EXEMPTIONS.—Subsection (a) shall not apply to the following:

"(1) PROPERTY TRANSFERRED TO SPOUSE.—Property transferred by gift to an individual who at the time of the transfer is the taxpayer's spouse, but only to the extent the property transferred is deductible (without regard to the limitation equal to one-half of the value of the transferred property) under section 2523 (relating to the allowance of a gift tax marital deduction).

"(2) ANNUAL PER DONEE EXEMPTION.—In the the case of transfers of property by gift made to any person during the taxable year, the first $1,000 of the amount of gain which would otherwise be taken into account for purposes of subsection (a).

"(c) BASIS FOR COMPUTING GAIN OR LOSS.—In the case of property acquired before the date of enactment of this section, if the basis otherwise determined under this subtitle, adjusted as provided in section 1016, is less than the fair market value of the property as of the date of enactment of this section, then the basis for determining gain shall be such fair market value.

"(d) LOSSES BETWEEN RELATED PARTIES.—No deduction shall be allowed in respect of losses from transfers of property by gift where both the donor and the donee (or transferee) are persons specified within any one of the paragraphs of subsection (b) of section 267."

(b) The table of sections of part II of such subchapter is amended by adding at the end thereof of the following item:

"SEC. 85. GAINS AND LOSSES ON LIFETIME GIFTS."

SEC. 103. GROSS INCOME DEFINITION.

Section 61(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"(16) Gains derived, pursuant to section 84, on property at time of death.

"(17) Gains derived, pursuant to section 85, on property transferred during lifetime."

SEC. 104. BASIS OF CERTAIN PROPERTY ACQUIRED FROM A DECEDENT.

Section 1014 of the Internal Revenue Code of 1954 (relating to basis of property acquired from a decedent) is amended by striking out paragraph (6) of subsection (b) and by adding at the end thereof the following new subsection:

"(d) PROPERTY NOT SUBJECT TO TAX AT DEATH.—The basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent, which is not, pursuant to paragraph (2) of section 84(b) (relating to property which passes or has passed to surviving spouse), subject to taxation under section 84(a), shall be the adjusted basis of the property, determined with regard to section 31(c)(3) (relating to allocation of basis), immediately before the death of the decedent."

SEC. 105. BASIS OF PROPERTY ACQUIRED BY GIFT.

Section 1015 of the Internal Revenue Code of 1954 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following subsection:

"(e) Property Subject to Tax Upon Transfer.—To the extent that gain or loss is taken into account in computing taxable income, pursuant to section 85(a) (relating to gains and losses on lifetime gifts), the basis of property in the hands of a person acquiring the property by gift shall be the fair market value of the property at the time of the transfer by gift."

SEC. 106. CONTRIBUTIONS OF CERTAIN PROPERTY TO CHARITY.

Section 170(e) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(3) PROPERTY SUBJECT TO TAX UPON TRANSFER TO A CHARITY.—In determining the amount of any charitable contribution of property otherwise taken into account under this section no reduction shall be made under paragraph (1) to the extent gain is taken into account in computing taxable income under section 85(a) (relating to gains and losses on lifetime gifts)."

SEC. 107. TIME FOR FILING DECEDENTS FINAL INCOME TAX RETUAN.

Section 6072 is amended by redesignating subsection (e) as subsection (f) and by adding after subsection (d) the following new subsection:

"(e) FINAL INCOME TAX RETURN OF A DECEDENT.—The return for a decedent's final taxable period, required under section 6012 or 6013, shall be filed on or before the date required by subsection (a) or within 9 months after the date of the decedent's death, whichever is later."

SEC. 108. EXTENSION OF TIME FOR PAYING TAX.

(a)(1) Section 6161(a)(1) of the Internal Revenue Code of 1954 is amended by inserting "or income tax due for the decedent's final taxable period" after "estate tax" in the parentheses in the first sentence thereof.

(2) Section 6161(a)(2) of such Code is amended by striking out the comma at the end of subparagraph (A) thereof and inserting in lieu thereof "or section 84 (relating to income taxation of gains at death),".

(3) The heading of section 6161(a)(2) is amended to read "Estate Tax or Income Tax on Gains at Death."

(b)(1) Section 6166(a) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the first sentence thereof.

(2) Section 6166(b) of such Code is amended—

(A) by inserting "imposed by section 2001" before "which may be paid in installments"; and

(B) by adding at the end thereof a new sentence to read as follows: "The maximum amount of tax imposed by section 84 (relating to income taxation of gains at death) which may be paid in installments as provided in this section shall be an amount which bears the same ratio to the tax imposed by section 84 as the gain attributable (pursuant to rules and regulations prescribed by the Secretary or his delegate) to the interest in the closely held business bears to the total gains subject to tax pursuant to section 84."

(3) Section 6166(f) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the first sentence thereof.

(4) Section 6166(h)(1)(B) of such Code is amended by inserting "section 84 (relating to income taxation of gains at death) or" before "section 2001" in the last sentence thereof.

(5) The heading of section 6166 is amended by inserting "Or Income Tax on Gains at Death" after "Estate Tax" and the item relating to section 6166 in the table of sections for subchapter B of chapter 62 of subtitle F is amended to read as follows: "Extension of time for payment of estate tax or income tax on gains at death where estate consists largely of interest in closely held business."

SEC. 109. EFFECTIVE DATE.

The amendments made by this Act shall apply to decedents dying on or after the first day of the first calendar year beginning after the date of the enactment of this Act.

TITLE II—STATE AND LOCAL BONDS

SEC. 201. INTEREST ON STATE AND LOCAL OBLIGATIONS.

(a) ELECTION TO ISSUE TAXABLE BONDS.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELECTION TO ISSUE TAXABLE BONDS.—

"(1) SUBSECTION (a) NOT TO APPLY.—The issuer of obligations described in subsection (a)(1) may elect to issue obligations to which subsection (a)(1) does not apply.

"(2) ELECTION.—The election described in paragraph (1) shall be made (at such time, in such manner, and subject to such conditions as the Secretary or his delegate by regulations prescribes) with respect to each issue of obligations to which it is to apply. An election with respect to any issue once made shall be irrevocable."

(b) UNITED STATES TO PAY FIXED PERCENTAGE OF INTEREST YIELD ON TAXABLE ISSUES.—

(1) PERMANENT APPROPRIATION.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subsection; and such appropriations shall be deemed permanent annual appropriations.

(2) PAYMENT OF FIXED PERCENTAGE OF INTEREST YIELD.—

(A) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay a fixed percentage of the interest yield on each issue of obligations with respect to which an election under section 103(e) of the Internal Revenue Code of 1954 (relating to election to issue taxable bonds) applies. Before the first day of each calendar quarter, the Secretary or his delegate shall determine (and publish in the Federal Register) the fixed percentage—

(i) for calendar quarters beginning before January 1, 1977, not less than 30 percent and not more than 40 percent, and

(ii) for calendar quarters beginning after December 31, 1976, not less than 25 percent and not more than 40 percent,

of the interest yield which he determines it is necessary for the United States to pay in order to encourage the States and political subdivisions thereof to make elections under section 103(e). The fixed percentage so determined and published shall apply with respect to all issues of obligations made during such calendar quarter to which elections under such section 103(e) apply.

(B) INTEREST YIELD.—For purposes of this subsection, the interest yield on any issue of obligations shall be determined immediately after such obligations are issued.

(C) TIME OF PAYMENT.—Payment of any interest required under subparagraph (A) shall be made by the Secretary of the Treasury or his delegate not later than the time at which the interest payment on the obligation is required to be made by the issuer.

(3) DUAL COUPON OBLIGATIONS.—At the request of the issuer, the liability of the United States under this subsection to pay the interest to the holder of an issue of obligations shall be made through assumption by the United States of the obligation to pay a separate set of interest coupons issued with the obligations.

(4) SUBSECTION TO APPLY ONLY TO SECTION 103(e) OBLIGATIONS.—This subsection shall apply only to obligations which, but for an election under section 103(e) of the Internal Revenue Code of 1954, would be obligations to which section 103(a)(1) of such Code applies.

(c) EFFECTIVE DATE.—This section shall apply only to obligations issued in a calendar quarter beginning after June 30, 1973.

TITLE III—FOREIGN CORPORATIONS

SEC. 301. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by inserting after subpart H thereof the following:

"SUBPART I—CONTROLLED FOREIGN CORPORATIONS

"Sec. 982. Amounts included in gross income of United States shareholders.
"Sec. 983. Definitions.
"Sec. 984. Rules for determining stock ownership.
"Sec. 985. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 986. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 987. Records and accounts of United States shareholders.

"SEC. 982. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation who owns (within the meaning of section 984(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 984(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (I) which bears the same ratio to its earnings and profits for the taxable year, as (II) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (I) which bears the same ratio to the earnings and profits of such corporation for the taxable year, as (II) the part of such year described in subparagraph (A)(II) during which such shareholder did not own (within the meaning of section 984(a)) such stock bears to the entire year.

"(b) EARNINGS AND PROFITS.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations,

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning after December 31, 1971,

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"SEC. 983. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a domestic corporation which owns (within the meaning of section 984(a)), or is considered as owning by applying the rules of ownership of section 984(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 984(a)), or is considered as owned by applying the rules of ownership of section 984(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"SEC. 984. RULES FOR DETERMINING STOCK OWNERSHIP.—

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this snubpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation or foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for the purposes of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 983, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any domestic corporation as a United States shareholder within the meaning of section 983(a), or to treat a foreign corporation as a controlled foreign corporation under section 983(b), except that—

"(1) In applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(2) In applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"SEC. 985. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 982(a) shall not, when such amounts are distributed directly, or indirectly, through a chain of ownership described under section 984(a), to—

"(1) such shareholder (or any domestic corporation which acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such domestic corporation or of such trust).

"(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 982(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 982(a), shall not, when distributed through a chain of ownership described under section 984(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 982(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 982(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC 986. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 984(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 982(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 985(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 985(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 987. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote."

(2) Section 951 is amended by adding at the end thereof the following:

"(e) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1971.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(II) of such subsection) with respect to a taxable year of a controlled foreign corporation ending after December 31, 1971."

(3) Section 1016(a)(20) is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 986".

(4) Section 1246(a)(2)(B) is amended by inserting "or 982" after "section 951" and by inserting "or 985" after "section 959".

(5) Section 1248 is amended—

(A) by striking out subsection (b);

(B) by revising subsection (d)(1) to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 982.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 982, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 983.";

(C) by striking out in subsection (d)(3) "section 902(d)" and inserting in lieu thereof "subsection (h)", and by adding at the end of such subsection "No amount shall be excluded from the earnings and profits of a foreign corporation under this paragraph with respect to any United States person which is a domestic corporation for any taxable year of such foreign corporation ending after December 31, 1971."; and

(D) by adding at the end thereof the following:

"(h) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term "less developed country corporation" means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(e)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B)."

SEC. 302. EFFECTIVE DATES.

(a) Except as provided in subsection (a), the amendments made by this title shall apply with respect to taxable years of foreign corporations ending after December 31, 1971, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(b) The amendments made by subsection (b)(4) of section 301 shall apply with respect to sales or exchanges occurring in taxable years beginning after December 31, 1971.

TITLE IV—MINIMUM TAX FOR TAX PREFERENCES

SEC. 401. REPEAL OF DEDUCTION FOR TAXES AND RATE INCREASE.

(a) IN GENERAL.—Section 56(a) (relating to imposition of minimum tax for tax preferences) is amended to read as follows:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 20 percent of the amount (if any) by which the sum of the items of tax preference exceeds $30,000."

(b) REPEAL OF TAX CARRYOVER PROVISION.—Section 56(c) (relating to tax carryovers) is hereby repealed.

SEC. 402. INCLUSION OF INTEREST ON STATE OBLIGATIONS.

Section 57(a) (relating to items of tax preference in general) is amended by inserting after paragraph (10) the following new paragraph:

"(11) Interest on certain governmental obligations.—The interest on obligations which is excludable from gross income for the taxable year under section 103."

SEC. 403. EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years ending after the date of the enactment of this Act.

PRIMARY PROLIFERATION

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, last Tuesday I introduced H.R. 13985, to require that every primary election held for the expression of a preference for the nomination of persons for election to the office of President be held within 30 days before the national nominating convention. This bill is a companion to H.R. 8606 which I introduced on May 20, 1971, to limit presidential campaigns to a period of 60 days.

The March 21 edition of the Hartford Times carried an editorial entitled "Illinois Just the Third; 19 Primaries Still To Go" which concisely indicates the major deficiencies of the present primary system. The American public are fed up with the length, the inanity, the frustration, and the waste of presidential primaries and campaigns. They are aghast at the pouring out of huge sums of money and the inability to focus on issues which affect the fate of our country. I know that my colleagues will read the editorial with interest:

ILLINOIS JUST THE THIRD; 19 PRIMARIES STILL TO GO

The long, wearying trek began in cold, snowy New Hampshire on March 7. It will end on a warm June day in New York State.

On that day, if not before, one of the Democratic aspirants for nomination for president should be clearly in the forefront.

Presidential primaries, 22 of them this year, can be wearisome affairs not only for the candidates, but for the electorate. Do we really need more than four months of campaigning to get to know the competitors and where they stand? Is it really necessary to spend millions of dollars on staff and on advertising and on travel expenses? Could there not be one national primary held on the same day in every state?

The answer is that yes, of course four months of campaigning is too long, the money expenditure is monstrous (Paul N. McCloskey of California and Fred Harris of Oklahoma have already dropped out of the race because of lack of money) and there could be (and probably some day will be) a national primary day.

But much as many people would like to see these reforms, there are those who find merits in our present scrambled system.

Arthur Schlesinger, former aide to President Kennedy, says the extended primary race gives a candidate an exceptional chance to get to know the country, its people, their problems and their moods.

Likewise, the long primary gives voters a chance to shop and compare, and make both factual and intuitive judgments on the men seeking their votes. (Senator Muskie, in a moment of emotion, sheds angry tears in Manchester, N.H., as a good many Americans watched via television. They are entitled to their own conclusions).

Mr. Schlesinger is also candid in describing the primaries as a device for Democrats to get their message before the people, offsetting the President's daily access to the news media.

But even Democrats wonder if it's worth while.

One of the most dogged advocates of campaign reform is Rep. John Monagan of Waterbury. He has long urged a time limit on election campaigns. This month he suggested a similar time limit on primary electioneering: A law requiring that no primary contest occur any earlier than one month before the nominating convention itself.

Were such a law in effect now, the weekly parade of state contests—Illinois today, Florida last week, New Hampshire the week before—wouldn't even have begun yet.

The Monagan proposal is less stringent than that offered by some—including John M. Bailey, Connecticut's Democratic chairman—for a single national primary day. A "primary month" would allow more local exposure for candidates, and more of the kind of give-and-take Schlesinger champions.

But the primaries would be neatly concentrated in June, and serious campaigning wouldn't really begin until May. Meantime,

our political aspirants could concentrate on doing the job they were elected to do.

Congressman Monagan should keep plugging away. He makes sense.

LISTENING TO RADIO FREE EUROPE

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, just last week, after a prolonged deadlock, the two Houses of the Congress gave their approval to legislation which authorizes financing of Radio Free Europe and Radio Liberty through the end of the current fiscal year.

What will happen to these two stations after June 30 is anyone's guess. The House, on November 19 of last year, voted overwhelmingly—271 to 12—in favor of a study proposal which I advanced and which could have provided the Congress with reliable, indepth information on which to base its decision regarding the future of these broadcasting operations.

The Senate conferees, however, would not accept this proposal.

While the issue is still before us, therefore, I thought that many of my colleagues would be interested to read an article by Mr. Henry Kamm which appeared in the March 26 issue of the New York Times Magazine.

One passage in the article struck me as being particularly pertinent to the debate which has engaged the Congress in recent months. It reads:

Despite its cold-war origins and CIA sponsorship, Radio Free Europe's listeners consider it not a propaganda station, but the anti-propaganda station that adjusts the one-sided view of the world laid down for all domestic media by the information department of the central committee of each /Eastern European/ country's Communist party. The people of Eastern Europe are sophisticated enough to know that Radio Free Europe is interested in influencing their minds, but they seem to feel that its methods do less violence to their intelligence than do those of the state media.

Mr. Kamm's article follows:

LISTENING IN ON RADIO FREE EUROPE—THE STATION THAT FULBRIGHT WANTS TO SHUT DOWN

(By Henry Kamm)

MUNICH.—"*Mr. President, I submit that these radios should be given an opportunity to take their rightful place in the graveyard of cold-war relics.*"—Senator J. W. Fulbright, speaking in the Senate on Feb. 17, 1972.

"*It happens quite often that I am unable to hear your station because of the jamming. At such moments I feel like smashing the radio, as if the wooden box were to blame, and I almost cry in helpless rage. It seems to me that somebody wants to tear me away by force from my good friends. Be with us, as we remain with you*—"Your Listener From Chrudim," writing to the Czechoslovak Department of Radio Free Europe on Sept. 27, 1971.

No doubt the Senator from Arkansas is right. Radio Free Europe began broadcasting to five countries of Eastern and Central Europe at the height of the cold war, not to mention a hotter one raging in Korea, on July 4, 1950. But just as surely, the lady from Chrudim is right. She is just one of millions in her own country, Poland, Hungary, Rumania and Bulgaria who believe that their own newspapers, television and radio tell them lies, that nothing available to them is quite so reliable as Radio Free Europe.

As Chairman of the Senate Foreign Relations Committee, Fulbright prevented all Congressional attempts to renew funding for Radio Free Europe and its sister station, Radio Liberty, which broadcasts to the Soviet Union, before their last appropriation expired Feb. 22. Despite a House bill providing new funds through June 30, 1973, and a Senate measure guaranteeing funds through next June 30, Fulbright has kept the stations living on borrowed time by blocking any compromise bill. The House will no doubt accept the Senate version (which the Administration has reluctantly backed) to keep the stations from dying before June 30, but there is still permission here about its prospects. At a time when President Nixon will be preparing to visit Moscow, the pessimists ask, what chance is there for the passage of a measure to continue a service that has been a thorn in the Soviet side for many years?

The disclosure that Radio Free Europe and Radio Liberty operated on funds secretly supplied by the Central Intelligence Agency set off in the United States a heated debate on the propriety of continuing to pretend that they were private institutions supported by charitable contributions, and that debate ultimately led to Fulbright's stand. But the disclosures and the debate caused no concern among the stations' listeners. They continue to tune in with as much faith as an American might bring to a newspaper that has a decent record for factual reporting and an editorial policy with which he agrees more often than not. Their devotion is almost unmatched in countries that offer more than one credible source of news.

It takes a while for a newcomer to the countries of the East to stop being surprised when a Polish or Rumanian friend says, "I heard on the radio last night . . ." and relays a bit of news that the Polish or Rumanian radio would announce only if its management, the Government, were to repudiate everything it stands for. "The radio" means Radio Free Europe; the Warsaw or Bucharest stations are more likely to be discussed as "they."

Despite its cold-war origins and C.I.A. sponsorship, Radio Free Europe's listeners consider it not a propaganda station, but the antipropaganda station that adjusts the one-sided view of the world laid down for all domestic media by the information department of the central committee of each country's Communist party. The people of Eastern Europe are sophisticated enough to know that Radio Free Europe is interested in influencing their minds, but they seem to feel that its methods do less violence to their intelligence than do those of the state media.

"We don't project one point of view, but the diversity of freedom," said Jan Nowak, the head of Radio Free Europe's Polish service.

Although it is an American station, recognized by its audience as such despite its neutral name, its programs do not reflect a specifically American point of view. The bulk of its news report is drawn from four news agencies, of which only one, United Press International, is American. The others are Reuters, of Britain; Agence France-Presse, and Deutsche Presse Agentur. More European newspapers of all political persuasions than American are cited in the press reviews that form an essential part of the programming.

Unlike the three other foreign broadcasters with large audiences in Eastern Europe—the British Broadcasting Corporation, the Voice of America and the West German Deutsche Welle—Radio Free Europe is not regarded as an official station pushing a government point of view. In countries in which only government views are broadcast and there is a deep audience skepticism toward all official views, Radio Free Europe's quasi-private sponsorship gives it a great credibility edge.

"The programs of the B.B.C. or the Voice of America are welcome, but they bear an official stamp," said Karel Jezdinsky, one of the most popular and politically influential commentators of Radio Prague when that station found its long-muffled voice for a few glorious months in 1968. "Their news programs are limited to news from a national point of view. The rest are nonpolitical programs of no basic interest to the listener. They can get some nonpolitical news on life in England or America even in their own press. The achievements of American science, for instance, are discussed even on the Czech radio.

"Radio Free Europe is unique in broadcasting Western ideas as such," said the bearded, 32-year-old commentator. "You can't tell what country they come from." Jezdinsky's listening experience goes back to his school days. He recalls a period in the early nineteen-fifties when Czechoslovak school children were warned by their teachers to pay no attention to the Radio Free Europe leaflets being dropped from balloons over that country as well as Poland and Hungary. "My teacher would say to the class, 'Don't read them, just bring them to school,' but privately he would ask me whether I'd read one and what it said."

In 1969 Jezdinsky, then the Prague radio correspondent in Belgrade, held a news conference to announce that he could no longer work for a station that collaborated with the forces occupying his country. He intended to accept a post with the B.B.C. "But then I thought that I would have more freedom here to comment in the way I was used to . . . . I would not be just a translator of an Englishman's commentary."

Since then, Jezdinsky says, he has been broadcasting his own views without interference or suggestion from any quarter. Listener mail encourages him and Slava Volny, another popular broadcaster of the Prague Spring who joined R.F.E., to believe that they made the right choice.

Radio Free Europe's balloon-launching days are long over. Flamboyant gestures are eschewed, as are excited words. The American front office and the five broadcasting departments, each headed by a former national of the country it serves, are kept aware of the charges to which the station laid itself open after the Soviet Union crushed the Hungarian Revolution of 1956.

After the collapse of the revolution, the station was accused of having incited rebellion and having promised the rebels foreign assistance. Independent investigations failed to bear out the charges, but a subsequent reappraisal of the station's functions and performance introduced an attitude of prudence and restraint that prevails to this day.

While station officials contend that there was never any organized campaign to fan the flames of revolution in Budapest, they concede that a number of broadcasts indicated strongly, even after resistance was doomed, that if the rebels held out a few more days help would arrive. "There was an absence of control during the critical four days," said James F. Brown, a soft-spoken, scholarly Briton who heads Radio Free Europe's research department.

In what Brown called an "agonizing reappraisal" after the revolution, a number of heads rolled. Some of those who had been writing political commentaries or directing that work found themselves reporting on sports or other less sensitive matters. A new feeling pervaded the sprawling building in Munich's English Garden, a feeling that a station like Radio Free Europe had a potential for provoking violence and that it must not use the potential—but must expect to be accused of doing so.

"As a radio man, I am against any supposition that one can from afar influence policy on such important matters directly," said Jezdinsky, who holds a doctorate in sociology and mas media. "You can inform and educate and give ideas, but I don't think any action committed in Czechoslovakia in the last 20 years was incited by R.F.E. As a listener, I never heard any appeal to tell me what I should do or should not do."

While there is no doubt that the tone of the broadcasts softened progressively after 1956, most officials here contend that this was caused more by the softening of the East European governments after Nikita S. Khrushchev's repudiation of Stalinism than by the Hungarian catastrophe. Thinking back again on his days as a listener, Jezdinsky said:

"Sure, the tone was rough in condemning the terroristic system that objectively existed and was called Stalinism. The tone was justified, because life then was horrible. We used the same tone when we were able to broadcast from Radio Prague about that period in 1968. Journalists too young to have listened to R.F.E. in those days "discovered" the same facts independently and spoke about them on the air from Prague just as harshly as R.F.E. did."

Harsh speech is rare these days on Radio Free Europe. The harshest denunications of the Soviet Union and its allied parties and governments that are broadcast are the condemnations issued by dissidents from within the Soviet Union and by critics in Western Communist parties.

In its own commentaries, Radio Free Europe tries hard to encourage reforming trends in the countries to which it broadcasts. But it avoided strong criticism of Wladyslaw Gomulka, who was carried to power by liberal Communist forces in Poland in 1956, long after he had repudiated his original supporters. And it is sparing now in criticizing his successor, Edward Gierek, because it fears that the alternatives are worse.

Istvan Bede, Hungary's first postwar Ambassador to Britain and since 1957 the head of the Hungarian service of Radio Free Europe, remembers a joke that circulated in Budapest after the party's First Secretary, Janos Kadar, introduced in the later nineteen-sixties economic reforms that were unpopular because a number of consumer prices rose. "The joke," says Bede, "was that the only ones who were for the reforms were Kadar and Radio Free Europe. We supported the reforms because we think they are sound and good for the people."

Like other department chiefs, Bede comes down hard against any intention to "liberate" his former homeland or to "roll back" Communism. "I wouldn't even say we are an opposition party," he remarks. "Opposition parties sometimes go to extremes, and we must always be restrained. We are not asking the Communists to give up Communism. Friends who have been to Hungary tell me they believe Socialism is now generally accepted in the country. I don't wish it, but one must accept reality. I am not entitled by the Hungarian people to represent or lead them. I have no mandate from anybody. I am not the voice of Free Hungary or the Hungarian conscience. We don't broadcast the views of Hungarian émigré politicians because they live in the past. We have to be realistic. We would like a beautiful Communism or, as Khrushchev said, goulash Communism."

The Czechoslovak service, broadcasting to a country in which unhappiness with the Communist leadership is greatest and the wounds are still fresh, in which the political arrests continue and the gulf between those who govern and those who are governed is widest, is doing its utmost to discourage either rage or unwarranted hope. To Rozina Jadrna, a disk jockey with a large following, the job is mainly one of binding wounds. In reply to many despairing letters from young people, she occasionally plays a record called "Desiderata," on which a singer named Les Crane recites against a musical background a bit of prose containing these lines:

"Go placidly amid the noise and haste and remember what peace there may be in silence. As far as possible without surrender be on good terms with all persons. Speak your truth quitely and clearly and listen to others, even the dull and ignorant; they, too, have their story. With all its sham, drudgery and broken dreams, it is still a beautiful world. Be careful, strive to be happy."

Miss Jadrna played that record on Jan. 19, the third anniversary of the death of Jan Palach, the Prague youth who set himself aflame and became a symbol of his country's martyrdom. She also played a song by Leonard Cohen, the American pop poet and singer, about Joan of Arc at the stake. She made no comment, but she received a letter thanking her for remembering Palach on his anniversary.

In these days when opponents of Soviet-imposed "normalization" are regularly arrested, Radio Free Europe employs a caution that some consider to be excessive. The temporary detention of Jiri Dienstbier, a liberal former radio commentator, had not yet been broadcast several days after his release because only one newspaper had published a report of his arrest, and Radio Free Europe rules require a second corroborating source before an item is put on the air.

Even the strongest personalities on the staff express a sense of the limitations their role imposes on them. Jan Nowak, who left Poland as a courier to London during the Warsaw uprising of 1944 (carrying the archives of the Resistance in bandages on an arm that had been broken in a parachute drop), customarily answers questions about when he left Poland with, "I have never left Poland." The director of the Polish service, which he runs with an iron hand, he has more independent political support in the United States than anyone else at Radio Free Europe because of the political strength of the Polish-American community.

But the 57-year-old Nowak says he recognized, for instance, that on a cardinal question for Poland on which he saw eye-to-eye with the Communist Government he could never broadcast any commentary. The question was that of Poland's western frontier on the Oder-Neisse Line. Because Radio Free Europe broadcasts from West Germany, which did not recognize the loss of German territories behind the line, the Polish service could not comment on the issue until Chancellor Willy Brandt accepted Poland's borders.

Nowak rejects allegations that Radio Free Europe represents the thinking of those who want to restore the prewar right-wing rule over Poland. "I don't believe for a moment that Poland can be capitalist or should be capitalist. My own dream is that the system should be more pragmatic, more human and more free. That is all we want, and it can happen. Policy is the art of the possible, and socialism has many meanings. I would be most happy if Poland had social democracy. I don't see any other practical solution."

Asked to apply the sensitive barometer of anti-Semitism, usually a reliable measure of how right-wing a Polish organization may be, Nowak reluctantly—because, he said, he did not like this way of looking at people—noted that there were a number of Jews among his closest associates. During the anti-Semitic purge of 1968, Radio Free Europe was habitually branded by the Government as a key part of the "Zionist conspiracy" against Poland.

"I wouldn't take any other job," Nowak said. "It is not a sacrifice but a privilege. Our voices are in every Polish home. We defend intellectuals, repressed Communists, the church, Jews and peasants. We defend with equal zeal Kolakowski and Wyszynski." Leszek Kolakowski, a philosopher driven out of the Communist party and now in emigration, and Stefan Cardinal Wyszynski, the Primate of Poland, represent the opposite ends of their nation's political spectrum.

Perhaps Nowak was exaggerating when he said R.F.E. was in every Polish home, but there is no doubt that it is very popular, the most trusted source of news and the most keenly resented opposition medium in Poland. Poles call it Warsaw West, to contrast with the official Warsaw station. Dinner-table conversation often assumes that all present have been listening to the station, and foreign correspondents called on the carpet for dispatches that the Foreign Ministry's press officials find objectionable have noted that the officials' displeasure seems to be in direct proportion to the use Radio Free Europe has made of the offending article.

The station's audience-research projects, conducted in seven West European countries among tourists from the five nations to which it broadcasts, consistently put Poland at the top of the list. In 1971, 60 per cent of Poles over 14 years of age listened to the station often. In Rumania, it was 57 per cent; in Hungary, 53 per cent; in Bulgaria, 46, and in Czechoslovakia, 45. Jamming is heaviest in the last two countries, widespread in Poland, weak in Hungary and nonexistent in Rumania.

It is doubtful that Radio Free Europe has ever broadcast a prepared commentary that conflicted directly with a clearly defined United States foreign-policy position. "We operate under a generally understood frame of reference in this building," said Ralph E. Walter, the 47-year-old Minnesotan who has been director of the station since 1968 and has never worked for anyone else. ("I am not a C.I.A. man," he says. "I have never been a C.I.A. man.")

But there is enormous freedom within the frame of reference Walter describes. The restriction applies only to commentaries by staff members; the full range of the world press is available for broadcast. American opposition to the war in Vietnam has been expressed in many excerpts from hostile newspaper editorials and columns that must have made some listeners wonder whether they had turned on their national stations by mistake. The controversy over the Pentagon Papers published by The New York Times last year received more coverage than a European audience—even in the West—could have found interesting.

But imagine what a Rumanian listener, accustomed by his press and radio to a solidly one-sided news presentation, must have thought of a "propaganda" station that wound up a review of American, British, French, West German and Swedish comment on the Pentagon Papers with an editorial from the Swiss newspaper Neue Zuercher Zeitung. "Europeans, having read Thucydides, may find [the Pentagon Papers] naive and ask again if a country where these things occur can be a leading power," it said of the country that paid to have the remark broadcast to a hostile nation.

"On foreign affairs I say what I want," contends Noel Bernard, the head of the Rumanian service, who speaks in the clipped English he learned in Palestine and perfected at the B.B.C. "I don't know another radio station that has as much freedom as this station. It's been quite uncanny."

Bernard, who left Rumania in 1940, said there was no pro-American bias. "I have difficulty making my six people in New York be more objective in reporting from America. They are much too kind, probably because they are new immigrants and very pro-American. They are so grateful."

Walter, the director, believes that Radio Free Europe's autonomy is the *sine quo non* of its operation. "We don't sit here and take orders from the State Department, the C.I.A. or anybody," he said. "If it has been effective—and I think it has been—it is because of the way it has been allowed to operate."

Policy direction from the front office is loose. The practice of issuing guidance summaries daily was abandoned more than 10 years ago, and they now appear only occasionally (there were 40 in 1971 and two in the first two months of this year). The summaries are windy accounts of publicly available information on such complex problems as Chinese-American or Soviet-Rumanian relations and end with the instruction that broadcasters will report "along the above lines." They provide a lot of leeway and little guidance.

The American hand is felt strongest in the area of news. In the central newsroom, Nathan Kingsley, a former national editor of The New York Herald-Tribune and editor of its Paris edition, applies rigorous standards of objectivity that are straight out of American journalism textbooks. Nothing that has not been put on the internal wire from the news room to each broadcasting service may be used in the 10-minute hourly newscasts prepared separately by each service. Kingsley's staff, an English-language rock in the currents of East European languages swirling around it, is made up of American and Commonwealth newsmen.

They work like any large news organization, relying on a variety of commercial sources. In addition to the four news agencies to which it subscribes, Radio Free Europe receives the reports of all the official press agencies of the Communist world. The station has correspondents in the major capitals of Western Europe, as well as in New York and Washington. The news staff also scours the major newspapers of the West.

President Nixon's China trip, to take one example, was passed off with a minimum of highly editorialized coverage by the East European media while Radio Free Europe's New York office monitored all American television broadcasts from China and sent second-hand "live" coverage to Munich to enliven the official statements, toasts and speeches with a sense of presence at the event.

Eastern and Western official and press reaction to the Presidential trip, rather than the station's comments, made up most of the coverage after Nixon's return. In addition to news, commentaries and press reviews, the bulk of Radio Free Europe's programing is devoted to discussions under such specific headings as "economics," "labor," "agriculture," "literary life" or "problems of youth." There are readings from books that circulate secretly in their countries of origin but are published openly in the West. A Sunday religious service is broadcast in each of the languages, and disk jockey shows present the most popular Western commodity in the East, pop music.

There are 1,140 Radio Free Europe employes here, 344 at its transmitters in Portugal and 96 at its New York offices. They broadcast 20 hours daily to Czechoslovakia, 19 each to Poland and Hungary, 12 to Rumania and 7½ to Bulgaria. "What nobody else has ever in history done, the Americans have done here," said Bede, the Hungarian service chief. "They have brought five nations who have forever detested each other together under one roof and there have never been disputes between us." He says American sponsorship of the station comes close to "pure idealism," and he expresses a feeling that is widespread in the warren of offices and studios:

"Not for a moment do I have the feeling that R.F.E. is American and receives American money and therefore I have to serve American interests. This would be possible only under the Americans because Americans are most liberal in accepting others as full-fledged partners. The British would also let you do it your way, but if once it came out in a way they didn't like you'd be out. If you worked for French money, it would have to show in what you did. The Americans have a tolerance that no Europeans have."

Senator Fulbright's onslaught, which has left the station's staff feeling that it is living on borrowed time, has brought out the sardonic humor that is native to Central and Eastern Europeans in times of political stress. Over an unending flow of coffee in the basement cafeteria, the former Bulgarians, Poles, Hungarians, Czechoslovaks and Rumanians, most of whom are now stateless or American, puzzle over the paradox: A man who gained an international reputation for liberalism by sponsoring an unprecedentedly large program of educational exchanges now, in the name of the same liberalism, wants to cut off the principal source of news from the citizens of the Soviet Union and its dependencies. Since Radio Free Europe's building was designed to be usable as a hospital when the station is closed, a statue of the Senator is being proposed for the entrance hall with the inscription, "To the man who made this hospital possible."

Jezdinsky, the Czechoslovak commentator, says it is all very familiar to him—he attended the demise of Radio Free Prague. Fulbright's contention that Radio Free Europe and Radio Liberty are roadblocks on the way to Soviet-American *détente* has a familiar ring to Czechs, Jezdinsky said. "Chamberlain and Daladier once came to this city to arrange a *modus vivendi* with Hitler. And to the Czechs who said that the price for the arrangement was very heavy for them, they said, 'You bloody Central Europeans are just an irritant here.' "

To the R.F.E. staff, this is the heart of the issue. Even many here who agree with Fulbright on his opposition to the war in Indochina and who, like him, think Congress should not have been deceived about the funding of the stations are hurt by being written off as rusty knights riding off to a superannuated cold war.

"Every Eastern European statement I read about peaceful coexistence—and I read at least three a week—," says Bernard, the chief of the Rumanian service, "they're all in favor of it, but there must never be peaceful coexistence in the realm of ideas. So why should we capitulate? The time to close this is when there will be a reasonably free press in Eastern Europe."

There is general agreement here that Fulbright is right in saying that the nations of Western Europe should participate in the financing of the stations. But they have been getting it for nothing, the view here goes, and it is even more difficult to persuade a government to start paying for something it already gets free than to create something new at its own expense. European support in the latest crisis has been expressed by most of the major newspapers of the Continent and Britain and by the many scholars of Soviet and Eastern European affairs who depend on research material provided by the stations.

"Send Senator Fulbright to Poland for a little," said Krystyna Milotworska, who came to Radio Free Europe in 1968 straight from Sztandar Mlodych, the Communist youth daily, "to write what they wouldn't let me write there."

"It depends on how you understand *détente*," said another staff member, Lucjan Perzanowski, who left the Polish Weekly Forum in 1967. "If you mean a better relationship between governments while borders remain practically closed, censorship fully in effect and contacts between people unfree, then Senator Fulbright's criticism has some justification. But I understand *détente* as a long-range process, involving the people at large. If noth ng is done to keep the Western side alive, then this real *détente* will die. Radio Free Europe and Radio Liberty are factors keeping real *détente* alive."

Beneath the sarcasm and the optimism, one senses at Radio Free Europe a feeling of deep concern that a cause in which people believe—far beyond their concern for their jobs—is in danger of dying, that Senator Fulbright may succeed in doing what only Alexander Dubcek has come close to accomplishing. In 1968, when the Czechoslovak press and radio were free, serious thought was given to closing the Czechoslovak service.

That Prague spring did not last. The winter, the coldest war against the truth, that has been restored throughout the Soviet empire will be colder yet if the two major voices of uncensored news are stilled.

ADDRESS BY H. E. JOAO AUGUSTO DE ARAUJO CASTRO, AMBASSADOR OF BRAZIL TO THE UNITED STATES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on the 11th of February, 1972, His Excellency H. E. Joao Augusto De Araujo Castro, Ambassador of Brazil to the United States, delivered a very able address before the University of California at Los Angeles Symposium on the "Semana De Arte Moderna" entitled "Brazil and the Community of Nations." The Ambassador of Brazil to the United States is one of the most learned men of our hemisphere. He is a scholar, a man of letters, a statesman, and a great spokesman for his country, indeed for the Western Hemisphere. When so great a country speaks through so distinguished a spokesman her message is a meaningful expression.

It is with particular pleasure, as an admirer of His Excellency the Ambassador and of his country, that I commend the Ambassador's outstanding address upon the part of his country in the Community of Nations, delivered on this significant occasion, to my colleagues and to my fellow countrymen.

I therefore insert the Ambassador's address immediately following my remarks in the RECORD.

BRAZIL AND THE COMMUNITY OF NATIONS

Mr. Chairman, first of all, I wish to extend to you and the other Members of the Organizing Committee of the UCLA Semana de Arte Moderna Symposium my heartiest appreciation for your kind invitation to address you today and to participate in the commemorations of two anniversaries, of two events, which are one hundred years apart in time, but which reflect, within the pattern of the history of Brazil, the same desire for independence, for authenticity and for the creation and preservation of a national identity. For better and for worse, we have decided in 1822—and we have reiterated this decision in 1922—to remain Brazilians; and we still insist on being Brazilians, even before we insist on being nationalist. Art and culture cannot be dissociated from life. They are not the outward trappings of a civilization. They are part of its spirit and of its very soul. It is thus only proper and fitting that chronological fortuitousness permit us to hold today a joint celebration. The Modern Art Week was a manifestation of youth at the respectable age of 100, decades before the rather recent assertion of the promises and wonders of geriatrics, which is the youngest of sciences still in the throes of immaturity.

It was an effort towards endowing art and literature with a richer social and national significance. It was, as I have indicated, an effort towards authenticity and towards identity, not an effort towards narrow nationalism or isolation. We believe in Brazil as part and parcel of the community of nations and, likewise, we believe in Brazilian culture as part and parcel of the culture of Man.

ON BEING HUMAN

Out of step with what is happening elsewhere, we are still absorbed by and obsessed with the problems of Man and the problems of the Earth. This explains why the cultural events of 1922 were both earthly and human. Brazil is a land of many races and many cultures, of unity and diversity, a melting-pot of ideas and conceptions, philosophies and prejudices, dogmas and heresies. Brazil grew and asserted itself as a nation, in spite of the gloomy prophecies and predictions of scholars and social scientists. Its economy developed in direct and open defiance of the accepted tenets of economic orthodoxy. It is a chapter by itself and, yet, it is a chapter of humanity. It is a land where you can still locate a fast disappearing species, the human being, with all his shortcomings and possibilities, his contradictions and his qualities, his liabilities and his assets. But of course you may enquire whether there is much to be said on behalf of the human being or on the merits of being human and this would necessarily reopen the whole question. This debate could carry us too far and it is safer to leave it at this point, for the sake of brevity and for the sake of prudence. My only purpose was to stress the basic humanism, for all it is worth, which permeates and helps to explain the history of Brazil. This accounts for 1822 and for 1922. And this accounts for today.

SUDDENLY, LAST SUMMER . . .

Before dealing specifically with the theme "Brazil and the Community of Nations", it might perhaps be helpful to try to characterize certain trends in today's international pattern. We have recently said that the Washington summer of 1971 might still be recorded in History as the Summer of Transition, inasmuch as it was a Summer in which many dogmas were broken or were altogether dispelled. Political dogmas, diplomatic dogmas, financial dogmas, monetary dogmas. July and August may have been little more than adjustments to realities, and it is only proper that we should strive towards defining, identifying and characterizing the realities of our present situation, the realities we are called to live in. The reasonings and assumptions of only six or seven months ago are no longer valid and no longer do they prevail; they have been superseded by the logic, the impact or the forcefulness of events. The new policies announced in July and August will determine not only political and economic consequences of far-reaching portent. They will precipitate—and have already precipitated—tremendous psychological changes, attitudes, postures and patterns of international behaviour. Dogmas have been broken and until new dogmas are erected—they eventually will—there prevails the impression that anything goes, that all is permissible and admissible in this age of transition. The world and the dollar will never be quite the same again.

THE END OF THE POST-WAR PERIOD

This may well be the end of a post-war period which had been protracted beyond measure, beyond expectation and even beyond reason, and the re-emergence of Japan and Germany as Major Nations, although not so in a strictly military sense, may well symbolize the end of this post-war period. We may well be going through the birthpangs of a new world and we wish to make it a world of Hope. We may well be at a new pre-Dumbarton Oaks and at a new pre-Bretton Woods stage. Power is fluid and volatile by nature and Power is still the measuring-rod and the yardstick against which people are gauging the acts of men and the acts of nations. We may be entering a period that will bear a close resemblance to the period of 1945–1948, which laid the basis for the post-war period we are just quitting.

THE NEW PENTARCHY

Suddenly, last Summer, we were launched into a new cycle of History, perhaps into a cycle of Pragmaticism, which is a recurring human fantasy. Adam Smith and John Foster Dulles appear to have been relegated to the past. China was again called to play a major role in world affairs and it might even be said that some consideration is now being given to the concept of a new Pentarchy of Power, which would no longer coincide with the present five Permanent Members of the Security Council. It even appears that some Professors think of a world concert, which could, on a world scale, follow the general pattern and fit into the broad mould of the old and outmoded European concert. We appear to be reviving and resuscitating theories and doctrines which have been proved illusory and self-defeating in the past, theories of Balance of Power which constitute the negation of the very Purposes and Principles of the Charter of the United Nations.

THE UNITED NATIONS AND THE FREEZING OF THE STRUCTURE OF POWER

On many occasions, in the United Nations and in other international bodies, Brazil has consistently stressed the dangers inherent to this new cult of Power, which appears to inspire some of the basic documents of our age, such as the Treaty on the Non-Proliferation of Nuclear Weapons. This Treaty institutionalizes the inequality of nations and establishes different categories of States: one category of adult and therefore responsible States and one category of non-adult and therefore non-responsible States. The overheralded Non-Proliferation Treaty, which is interpreted as a complement of the Charter of the United Nations in the process of the Freezing of the Structure of World Power, is in direct violation, however, of several of the Purposes and Principles of the Charter, inasmuch as it accepts the premise that the strong countries will become ever stronger and the weak one will become ever weak. On the other hand, the Non-Proliferation Treaty extends to the fields of Science and Technology privileges and prerogatives which the Charter of the United Nations had conferred on the five Permanent Members of the Security Council in the exclusive domain of the maintenance of world Peace and Security. The Treaty is the most flagrant example of the whole process of the Freezing of the Structure of World Power. And when we say Power, we do not mean Military power alone. We are referring to economic, financial, scientific and technological power. Not only does the Treaty adhere to the philosophy that only five nations, which by the way include Red China, are adult and responsible enough to be granted licenses to carry certain weapons, but it appears inspired by the nation that access to knowledge and research, science and technology, should be controlled by a dependable Board of Nuclear Trustees, which may not be guided by educational and character-building criteria alone.

COLLECTIVE SECURITY IN THE ECONOMIC FIELD

The same purpose of stabilization and maintenance of Power have led the Great Powers to oppose tenaciously the efforts of the developing countries towards modifying the norms that still govern international trade. It is clear that some evolution has occurred in the attitude of the industrialized countries since March 1964, the date of the installation of the UNCTAD I. It happens, however, that the specific problems of the developing countries have become aggravated at a much faster tempo than that of the changes in question, and in consequence the problem of underdevelopment has never presented more somber and discouraging aspects.

It suffices to consider the following: the entire development program of the United Nations (UNDP) has at its disposal yearly a maximum of two hundred and thirty million dollars, representing one tenth of one percent of merely the world's yearly military expenditures. At one of the General Assemblies of the UN, Brazil advocated that a quantitative fund corresponding to one percent of such expenditures be allocated for the tasks of development, which would permit a tenfold increase in the effort actually undertaken. "We are only asking for one percent of human folly"—was the explanation then given by the Brazilian Delegation.

It should be noted that the attitude adopted by the USSR and the other socialist countries has been extremely negative in the matter of multilateral programs for economic development. In this field, the socialists paradoxically cling to outdated principles of economic liberalism and show themselves to be ultra-faithful followers of Jean Baptiste Say's "laissez faire, laissez aller." It has been said that when the socialist Delegates are preparing to attend any meeting of the Economic and Social Council or of the Second Committee of the UN General Assembly, they take the elementary precaution of leaving in the cloakroom all their books by Karl Marx.

Actually, what the developing countries are seeking to do is to transpose into the international field certain principles of social justice and redistribution of wealth that have been gradually gaining ground within the internal systems of the more politically advanced countries. Ultimately, the objective is to obtain international recognition and enforcement of the principle of "collective security in the economic field", similar to that which we are trying, gradually and slowly, to outline in the field of peace and international security. It must be admitted that the results to date have not been too promising. The First Decade of Development implemented by the United Nations was a failure and the prospects for the Second Decade are not very promising either. At bottom, it is a matter of determining whether the United Nations, or rather, the States comprising that Organization, are willing or not willing to accept a collective responsibility in the field of economic development.

THE DIVIDEND AND THE DIVISOR

There exist, however, other factors that are beginning to affirm themselves within this process of freezing of world power. We refer specifically to some tendencies which are emerging in the treatment of the problems of population and preservation of the environment. It is said that the "population bomb" can become more fatal and nefarious than the nuclear bomb itself and there is a growing tendency to handle the problem on uniformly universal bases, ignoring that the matter lies within the exclusive competences of each State, which, in the exercise of its full sovereignty, has to take into account facts and circumstances of an eminently national character. No one doubts that there are overpopulated States, just as no one should doubt that some States, such as Brazil for instance, with its ninety five million inhabitants—are requiring a demographic growth in line with their needs for full use of their natural resources and the effective occupation of their territories. To try to solve the problem in the abstract, on allegedly cold and statistical terms, without taking into account a series of factors of the greatest importance to the survey of the general problem of Development, strikes us as an attitude devoid of logic and surely

fated to political failure. It is argued that demographic growth neutralizes the advantages of the growth of the Gross National Product, in the evaluation of per capita income, held nowadays in a rather simplistic manner as the sole and absolute index of economic development. In short, instead of insisting on an increase in *dividend*, or in other words the GNP, insistence is being made on the immobilization of the *divisor*, that is, the population contingent. Still in other words: It is attempted to convert the grave problem of underdevelopment into a mere problem of stabilization, thus ignoring the fact that any attempt to stabilize the economies of many countries at their present levels would be tantamount to accepting extremely low levels as a target for stabilization.

AGAIN, THE HAPPY SAVAGE

On the other hand, in tackling the problems related to the preservation of the human environment, the tendency is to place an unduly strong accent on the dangers of rapid industrialization. Emphasis is laid on the dangers of pollution, certainly serious for the highly industrialized countries, while the larger part of the planet is still in a stage of pre-contamination, or, in other words, it has not yet had a chance to become polluted. Two-thirds of mankind are far more threatened by hunger and poverty than by the evils of pollution. For this same reason, much concern was felt over the recent statement by Mr. McNamara—contradicted by Brazil in the Economic and Social Council—to the effect that the World Bank henceforth would not authorize any project for economic development without a minute prior evaluation of possible repercussions on the environment. It is clear that the developing countries will not want to fall into the same errors incurred by the highly industrialized countries, but it is evident that we could not passively accept the resurrection, in the twentieth century, of Rousseau's theory of the "happy savage" which lent flavor and color to French romanticism. "Do not let happen to your cities what has happened to New York", "Preserve your beautiful landscapes" such warnings are constantly hammered into the ears of the representatives of developing countries. Now, these developing countries start from the premise that the preservation of the human environment ought to take into account the basic factors of Development, since underdevelopment represents by itself one of the worst forms of pollution of the human environment.

POLITICS AND TECHNOLOGY

At the moment the great Powers appear to be interested in "depolitizing" the United Nations, which is becoming really irrelevant in the matter of International Peace and Security. Every effort is now being centered on the so-called "new-tasks" (Non-Proliferation, Population Control, Narcotics, Environment etc.), which should be requiring new norms of international cooperation on *supra-national* terms. The Brazilian Delegation has consistently and openly opposed this tendency to transform the United Nations into a sort of "International Institute of Technology," or into a mere ineffective chapter of the International Red Cross. For this very reason, Brazil proposed, in a memorandum dated April 8, 1970, addressed to Secretary General U Thant, an entire process of "diplomatic reactivation of the UN", through the establishment of Ad-hoc Negotiation Committees within the scope and under the authority of the Security Council. More specifically, it proposed that one of those Committees be immediately constituted to explore the modalities of a peaceful solution of the question of the Middle East. Arabs and Israelis have, in principle, welcomed the Brazilian suggestion, which, to date, has been received coldly by the Great Powers. An effort is being made at the moment to "rationalize" the working methods of the General Assembly, with the concentration of all *technical* subjects in one of the Political Committees of the Assembly. Technical consideration of political subjects is one of the elements of this policy of Freezing of the World Power, it being well known that the developing countries are much less prepared for discussion on this terrain. Another method utilized by the policy of freezing consists in the idea of the constitution of Committees with memberships of experts or "wise men" instead of official and direct representatives of the Member States. Now, experience has shown that such scholars and wise men are, by the very reason of their wisdom, to defend the interests of the highly industrialized countries. The "depolitization" of the United Nations, a tendency that grows daily, is thus one of the main features of the whole process of the "freezing of the structure of World Power."

"MARE NOSTRUM"

On subjects relating to the Law of the Sea, the same tendency toward freezing is prevalent. The great maritime Powers are tenaciously opposed to the fixing of limits to territorial seas beyond the perfectly arbitrary distance of twelve miles. Here, also, it is argued that national sovereignty must yield ground to norms of a supranational character that should govern the subject on the basis of the principle of freedom of the seas, "for the common benefit of mankind". It is pertinent, however, to note that in regard to the utilization and exploitation of the resources of the sea, the Major Powers refuse to accept the logical consequences and implications of the thesis of the "common heritage of mankind". Through the initiative of the Brazilian Delegation, adoption by the XXIV General Assembly of the United Nations was obtained—actually by two-thirds of the membership—for a Resolution establishing a moratorium of freeze for the exploitation of the sea-bed pending an agreement on an international regime on the matter. The Great Powers not only opposed stubbornly the Resolution but declared expressly that they would not comply with the recommendations of a Resolution adopted against their will. They even held that Resolutions of this type could not be approved by a simple majority of two-thirds; on subjects of such a general scope they said, unanimity or consensus would normally be required. This signifies that for all practical purposes, the Great Powers now wish to extend to the UN General Assembly the right of vetc—already in force within the Security Council. On this particular subject, of the free and unlimited right to exploit the resources of the seabed the Great Powers, holders of the monopoly over adequate technology, cling to the traditional right of sovereignty, which they try to discredit in other areas.

INDEPENDENCE AND INTERDEPENDENCE

In order to provide a better international regulation of these questions of nuclear non-proliferation, population control, preservation of the environment and restrictions to the free and unimpeded exploitation of natural resources, the Great Powers, who make not the slightest concession of a political character in regard to the major themes of International Peace and Security, now appear to favor a concept of interdependence, which would imply a sensible attention of the concept and practice of national sovereignty. No one doubts that the world tends to become ever more interdependent. No one doubts that any tangible progress in the international field will have to be stimulated by reciprocal concessions of sovereignty. All this is true. It is our standpoint, however, that interdependence presupposes the independence, economic emancipation and sovereign equality of nations as an indispensable prerequisite. We cannot declare that the Principles inscribed on Article 2 of the San Francisco Charter are superseded, before we apply them and transform them into reality. First let us be independent. Then let us become—and as rapidly as possible—interdependent.

DEVELOPMENT AS A NATIONAL RESPONSIBILITY

Brazil has taken a firm stand on such international matters and has emphasized the necessity of a more affirmative response and a more constructive cooperation on the part of the highly industrialized nations of the world. Nevertheless, we are deeply conscious and aware of the fact that *the development of Brazil is our national responsibility and our national goal.* Although prospects are pretty gloomy for the world-wide pattern of development, Brazil's gross national product has risen steadily at a rate of more than nine percent a year in the last three years. The rate of growth for the year 1971 has been estimated at eleven percent, which is amazing and exceptional for any country, with the possible exception of Japan. Only two decades ago, the exports of coffee earned Brazil about ninety percent of the country's foreign exchange revenues. Now, for the first time, diversity has become the rule and provides the basis for Brazil's current economic boom. Coffee is no longer the mainstay of the national economy and currently accounts for roughly thirty-three percent of the exports. In 1971, Brazilian exports reached a record total close to the three billion dollar mark and manufactured goods accounted for nearly twenty percent of the total. Inflation has been brought down to manageable proportions and foreign exchange reserves have moved upwards to a record total of 1.2 billion dollars. As a result of policies adopted and of the implementation of plans already in operation, the Gross National Product is expected to rise by 41 percent in 1974 as compared to 1970. In that four-year period, population growth is estimated at 12 percent. Per capita income should grow by 26 percent in the same period. Foreign investment pouring into Brazil now totals five billion dollars.

The fact that such progress and development were possible in the specific case of Brazil does not invalidate what we said as regards the failure of the United Nations multilateral plans. Nor does it counteract our disappointment at the lack of a more affirmative response on the part of the highly industrialized nations in willing to accept a common responsibility for the problem of development.

In Brazil, development was possible through a tremendous national effort and untold sacrifices and because of the existence of certain basic conditions in manpower and natural resources, which may not prevail elsewhere. The so-called "Brazilian Miracle" should be taken as an example and a stimulus, not used as a convenient excuse for inaction and lack of imagination. Miracles are becoming less and less frequent in the world of today and the case of Brazil is an illustration of effort, determination and self-sacrifice, helped by a particular set of circumstances.

NATIONAL INTEGRATION

The basic policies of encouragement of economic growth and of inflation control which had been so highly successful in Brazil in the late sixties remain the cornerstone of current economic planning. A new element, however, has received increased attention from the Government: National integration as a means of creating a strong and healthy internal market and fostering improvements in income distribution so as to promote the raising of the general standards of living. For the ultimate goal is not the economy as such. The ultimate goal is the Brazilian Man. We view social development as being inseparable from the concept of economic development. National Integration is to be achieved mainly through the National Integration Program, a Government plan launched in 1970 and designed to speed up the development of the still depressed regions of the Northeast and to encourage development of the virtually unoccupied Amazon region. To this effect, Government planners aim at a 7% annual growth in overall agricultural production. In the Northeast the programs call for a transformation of farming methods through land redistribution and the establishment of agricultural incentives. In the Amazon region, the chief aim is the expansion of the agricultural frontier so as to incorporate the Amazon basin as an economically productive region. An all-important element in this effort is the construction of the Transamazonic Highway, running on a rough parallel line south of the mighty Amazon River. The highway will provide the physical basis for the orientation and resettlement of population contingents from the Northeast into the Amazon Valley. Development programs for the Amazon region provide for settlement of families in homesteads along a 16 mile-wide strip on both sides of the highway. The land, expropriated by Government decree, is being sold to the homesteaders through long-term financing.

Of course the Transamazonic Highway is an act of faith in the destiny of Brazil and represents a willingness to sacrifice present resources for the sake of future rentability. It is a high and costly investment in the future of Brazil, much as the new capital, Brasilia, was so in the late fifties. Some pessimists say that available resources being necessarily restricted they should be applied in areas and projects of sure and immediate rentability. Those who adhere to this line of reasoning do ignore the fact that a country with the size, population and resources of Brazil, is not viable as a small or even a medium nation. By circumstances, if not by nature, we are bound to think big. Mediocre and small-scale solutions are not applicable or effective to the Brazilian case. And, as we have tried to point out, the whole idea behind the Transamazonic Highway is the idea of National Integration. We are determined to see that the whole of Brazil will benefit from the progress of economic development. The Transamazonic Highway symbolizes the Road to the Future.

THE BRAZILIAN MODEL OF GROWTH

The national model of economic development aims at the creation of a modern, competitive and dynamic economy and at the achievement of economic, social, racial and political democracy. In a nutshell, it aims at national integration on a Brazilian model. Overall objectives envisage the transformation of Brazil into a developed country, within one generation, i.e., duplicating *per capita* income by 1980 and achieving, as early as 1974, economic dimensions which allow for self-sustained growth at a stabilized rate of seven per cent a year. This calls for an increase in the rate of employment expansion, a further reduction of the inflation rate and the implementation of international trade policies geared for development. Main cornerstones of the development process thus conceived are improved distribution of wealth generated by the process, through all income levels and all regions of the country, social changes designed to modernize institutions, to accelerate growth and to promote better income distribution, political stability and national security. This is the sense of the Revolution daily developing in Brazil today.

THE INTERNATIONAL POLICY OF BRAZIL

The International Policy of Brazil, such as it has been defined and expressed within the United Nations, has as its objective the removal of all obstacles whatsoever that may counter its full economic, technological and scientific development, the preservation of its cultural heritage and national identity as a sovereign country, and the affirmation and growth of its National Power. Pending the establishment of a system of distributive justice among Nations, each State has the right, and even the duty, of promoting the active defense of its national interests. And these Brazil has not renounced. In the development of its International Policy, Brazil must continue to oppose tenaciously any attempt at *containment*, all the more so since it is sure that with the country at the threshold of a full economic development, Brazil would be, among the countries in the world one of those that would suffer the most through the affirmation of a policy of Containment, or in other words, of a Policy of Freezing of World Power. Brazil cannot accept shackles and hindrances to its free takeoff towards a full economic development. Nor can it accept limitations to any aspect of its growth, whether economic or demographic, in defense to a doubtful principle of interdependence or of a supranationality. On matters of sovereignty, concessions are possible when nations feel strong enough to make them. The moment has not yet come for us to yield. This International Policy is authentic in the measure in which Brazil preserves its national identity and in the measure in which it can fulfill its needs for social and economic development.

FREEDOM AND DEVELOPMENT

This is how and where Brazil stands today in the community of nations, conscious of its rights and legitimate claims which it will not renounce, but fully aware of its duties and obligations, towards the people of Brazil, towards Latin America, towards mankind and towards the humanism and universalism which are inherent to Brazilian History, in 1822, 1922 and 1972. Nationalism pushes us to participation and dialogue, not to isolation and soliloquy. Brazil wishes to grow and to diversify in a community of equally sovereign nations, directed towards Peace, Development and Freedom, under the aegis of which it was established as a nation and to which it is determined to remain faithful.

ADVANCE APPROPRIATION FUNDING FOR WATER POLLUTION CONTROL

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, unanimous consent having been granted, I insert in the RECORD at this point an amendment which I will offer to the bill H.R. 11896 now pending, as follows:

AMENDMENT TO BE OFFERED BY MR. MAHON

On page 245, in line 13, strike out all after the word "submitted"; strike out all of lines 14 and 15, and all of line 16 down to the period,

and,

On page 250, strike out all of line 18 after the word "shall"; strike out all of line 19; and strike out the words "for obligation" in line 20,

and,

On page 251, strike out the words "for obligation" in line 12,

and,

On page 254, add the following at the end of line 18:

To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

Mr. Speaker, the amendment is a procedural one, striking out the 3-year contract authority language in the committee bill, substituting a 3-year direct appropriation authorization in the identical amounts but with language specifically authorizing 1-year advance funding.

The basic idea behind the 1-year advance appropriation authorization feature of the amendment is that when the advance appropriation is made, it provides advance notice for State and local planning purposes; some reasonable advance funding period on which they can rely; something tangible on which they can count, and plan, and move forward.

My amendment specifically provides that any appropriation made for waste treatment construction grants can be made available "without fiscal year limitation," that is, available until expended. So, whatever is appropriated would remain available as long as necessary—for as many years as necessary—to see through to completion whatever projects it funds.

When the administration approves an application for a construction grant for the Federal share of a project—for illustration, let me use a figure of $500,000—that amount would be chargeable to the State's allotment and to the appropriation available. It would thus be a firm obligation against the appropriation and would be so recorded on the books. It would remain open on the books as long as necessary to see the project to completion, because the appropriation itself would also remain open on the books "until expended."

Under section 203(b) on page 245 of the bill, the Administrator would "from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project."

The effect, then, of the amendment would be to keep Congress in the act year by year in dealing with the momentous problems of water pollution control. There would be no abdication of congressional authority.

Already, 71 percent of the 1973 spending budget is considered to be relatively uncontrollable under present law.

For the current fiscal year 1972, Congress, under the leadership of the House Committee on Appropriations, has already appropriated $2 billion for waste treatment construction grants, which is actually $350 million more than has thus far been authorized.

Some seem to feel that the contract authority approach guarantees full funding of authorizations. In that connection, let it be noted that a cumulative total—that is, over a period of years—of about $6.6 billion has been impounded in the Highway Trust Fund. According to the new budget, about $1.3 billion in fiscal 1973 is scheduled for impoundment in this contract authority-type program bringing the total to almost $8 billion.

Mr. Speaker, the direct appropriation procedure with 1-year advance funding with a no-year stipulation as to availability gives Congress the best plat-

form to get action in the fight against water pollution.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. VANIK, for 15 minutes, today; to revise and extend his remarks.

(The following Members (at the request of Mr. HILLIS), to revise and extend their remarks and include extraneous matter:)

Mr. ESCH, for 20 minutes, today.

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. RUPPE, for 10 minutes, today.

Mr. HALPERN, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM), to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. HÉBERT, for 10 minutes, today.

Mr. BRADEMAS, for 15 minutes, today.

Mr. BEGICH, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mr. DENT, for 5 minutes, today.

Mr. ULLMAN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KEE and to include extraneous matter.

Mr. MCCLORY to extend his remarks prior to discussion of amendments on H.R. 11896.

Mr. RUPPE, prior to the vote on the first amendment offered by Mr. REUSS in the Committee of the Whole today.

Mr. DON H. CLAUSEN and to include extraneous matter.

(The following Members (at the request of Mr. HILLIS) and to include extraneous matter:)

Mr. FINDLEY.

Mr. CONTE.

Mr. DERWINSKI in three instances.

Mr. HORTON.

Mr. BLACKBURN in two instances.

Mr. WYMAN in two instances.

Mr. ESHLEMAN.

Mr. SNYDER in two instances.

Mr. MCDADE.

Mr. CÓRDOVA.

Mr. SMITH of New York in two instances.

Mr. MARTIN.

Mr. ZWACH.

Mr. ANDERSON of Illinois.

Mr. FRENZEL.

Mr. PRICE of Texas.

Mr. HOSMER in two instances.

Mr. SCHMITZ in three instances.

Mr. DELLENBACK.

Mr. WYDLER.

Mr. COLLIER in three instances.

Mr. BROOMFIELD.

Mr. LLOYD.

Mr. BAKER in two instances.

Mr. GUDE.

Mr. BRAY in two instances.

Mr. HALPERN.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. EDWARDS of California in three instances.

Mr. MURPHY of New York in two instances.

Mr. DINGELL in two instances.

Mr. EILBERG in three instances.

Mr. CARNEY.

Mr. JACOBS.

Mr. CORMAN in two instances.

Mr. ROONEY of New York in two instances.

Mr. BRASCO.

Mr. ROGERS in five instances.

Mr. DELANEY.

Mr. BURKE of Massachusetts in two instances.

Mr. MIKVA in eight instances.

Mr. METCALFE.

Mr. BYRNE of Pennsylvania.

Mr. MURPHY of Illinois in two instances.

Mr. HAMILTON.

Mr. PATTEN.

Mr. BEGICH.

Mr. PERKINS.

Mr. STOKES.

Mr. LENNON.

Mr. DAVIS of Georgia in five instances.

Mr. PRYOR of Arkansas.

Mr. DORN in three instances.

Mr. HANNA in five instances.

Mr. BADILLO in two instances.

Mr. VANIK in two instances.

Mr. HARRINGTON in three instances.

Mr. MILLER of California in five instances.

Mr. EDMONDSON in two instances.

Mr. GALIFIANAKIS.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 29, 1972, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1795. A letter from the Director, Office of Legislative Affairs, Agency for International Development, Department of State, transmitting copies of Presidential Determination 72–12; to the Committee on Foreign Affairs.

1796. A letter from the Chairman, U.S. Tariff Commission, transmitting the 55th Annual Report of the Commission; to the Committee on Ways and Means.

1797. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of proposed actions to conduct certain programs at levels in excess of those authorized in the National Aeronautics and Space Administration Authorization Act, 1972, pursuant to section 4 of the act; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POAGE: Committee on Agriculture, H.R. 13361. A bill to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended; with amendment (Rept. No. 92–957). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 914. Resolution providing for the consideration of H.R. 9552, a bill to amend the cruise legislation of the Merchant Marine Act, 1936 (Rept. No. 92–958). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 915. Resolution providing for the consideration of H.R. 13188, a bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard (Rept. No. 92–959). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 916. Resolution providing for the consideration of H.R. 13324, a bill to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. (Rept. No. 92–960). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 917. Resolution providing for the consideration of H.R. 13336, a bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations. (Rept. No. 92–961). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 14132. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

H.R. 14133. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations; to the Committee on Ways and Means.

By Mr. BETTS:

H.R. 14134. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 14135. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. COLLIER:

H.R. 14136. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 14137. A bill to amend the Environmental Policy Act of 1969; to the Committee on Merchant Marine and Fisheries.

By Mr. DULSKI:

H.R. 14138. A bill to amend section 103 of title 23 of the United States Code relating to additional mileage for the Interstate System; to the Committee on Public Works.

By Mr. EILBERG:

H.R. 14139. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 14140. A bill to establish a new program of health care delivery and comprehensive health care benefits (including catastrophic coverage), to be available to employed, unemployed, and low-income individuals at a cost related to their income; to the Committee on Ways and Means.

By Mr. ERLENBORN:

H.R. 14141. A bill to amend the Davis-Bacon Act to raise the minimum size of the construction contracts to which such act applies; to the Committee on Education and Labor.

By Mr. GUBSER:

H.R. 14142. A bill to amend title 5, United States Code, to provide for additional minimum amounts to which Federal employees group life insurance may be reduced after retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HARRINGTON (for himself and Mr. PIKE):

H.R. 14143. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for the fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. HORTON:

H.R. 14144. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

By Mr. KYROS:

H.R. 14145. A bill to establish and implement a national transportation policy for the next 50 years, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LENNON (for himself, Mr. GARMATZ, Mrs. SULLIVAN, Mr. MOSHER, Mr. PELLY, Mr. ROGERS, Mr. KEITH, Mr. ASHLEY, Mr. GOODLING, Mr. DOWNING, Mr. MAILLIARD, Mr. CLARK, Mr. STEELE, Mr. JONES of North Carolina, Mr. FORSYTHE, Mr. LEGGETT, Mr. DU PONT, Mr. GRIFFIN, Mr. MILLS of Maryland, Mr. ANDERSON of California, Mr. GROVER, Mr. BIAGGI, Mr. RUPPE, Mr. KYROS and Mr. MCDONALD of Michigan):

H.R. 14146. A bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MCDONALD of Michigan:

H.R. 14147. A bill to amend section 121 of title 23 of the United States Code relating to payments to the States for construction on Federal-aid highways, in order to authorize such payments in certain cases where materials are not at the construction site; to the Committee on Public Works.

By Mr. MATSUNAGA:

H.R. 14148. A bill to amend title 5, United States Code, to authorize the payment of increased annuities to secretaries of justices and judges of the United States; to the Committee on Post Office and Civil Service.

By Mr. MORGAN (by request):

H.R. 14149. A bill authorizing continuing appropriations for Peace Corps and for other purposes; to the Committee on Foreign Affairs.

By Mr. ROONEY of New York:

H.R. 14150. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. RUNNELS:

H.R. 14151. A bill to establish the El Malpais National Monument, in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY:

H.R. 14152. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON (for himself, Mr. DULSKI, Mr. UDALL, Mr. HANLEY, Mr. CHAPPELL, Mr. DERWINSKI, Mr. ROUSSELOT, and Mr. MALLARY):

H.R. 14153. A bill to amend title 13, United States Code, to assure confidentiality of information furnished in response to questionnaires, inquiries, and other requests of the Bureau of the Census, to provide for a mid-decade sample survey of population, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI:

H.R. 14154. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary and/or secondary education of dependents; to the Committee on Ways and Means.

By Mr. ZWACH (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. ANDERSON of Illinois, Mr. ANDREWS, Mr. ASPIN, Mr. CARTER, Mr. DELLENBACK, Mr. DINGELL, Mr. DOW, Mr. DUNCAN, Mr. FRENZEL, Mr. HELSTOSKI, Mr. MAYNE, Mr. NELSEN, and Mr. SCOTT):

H.R. 14155. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to establish an upland game conservation program; to the Committee on Agriculture.

By Mrs. ABZUG:

H.R. 14156. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes; to the Committee on Education and Labor.

By Mr. DUNCAN (for himself, Mr. J. WILLIAM STANTON, and Mr. ROY):

H.R. 14157. A bill to amend section 120 of title 23, United States Code, to provide that the Federal share payable for Interstate System projects shall be 100 percent, and for other purposes; to the Committee on Public Works.

By Mr. FISHER (for himself, Mr. RUNNELS, and Mr. BURLESON of Texas):

H.R. 14158. A bill to provide that the Secretary of Agriculture shall indemnify farmers and ranchers for certain farm animals and fowls which are killed by predatory animals; to the Committee on Agriculture.

By Mr. JOHNSON of California:

H.R. 14159. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada; to the Committee on Interior and Insular Affairs.

By Mr. MCCOLLISTER:

H.R. 14160. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of firemen and law enforcement officers killed in the line of duty; to the Committee on the Judiciary.

By Mr. MARTIN:

H.R. 14161. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 25 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

H.R. 14162. A bill to amend the Internal Revenue Code of 1954 to provide that certain homeowner mortgage interest paid by the Secretary of Housing and Urban Development on behalf of a low-income mortgagor shall not be deductible by such mortgagor; to the Committee on Ways and Means.

By Mr. POAGE (for himself, Mr. MELCHER, Mr. DE LA GARZA, Mr. KAZEN, Mr. PURCELL, Mr. DENHOLM, Mr. ROBERTS, and Mr. ULLMAN):

H.R. 14163. A bill to amend the Agricultural Act of 1970, as amended, to indemnify farmers and ranchers whose domestic animals are killed by predatory animals; to the Committee on Agriculture.

By Mr. PODELL:

H.R. 14164. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 14165. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

By Mr. RIEGLE (for himself and Mr. JAMES V. STANTON):

H.R. 14166. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. RUPPE:

H.R. 14167. A bill to provide additional protection for the rights of participants in employee pension and profit-sharing-retirement plans, to establish minimum standards for pension and profit-sharing-retirement plan vesting and funding, to establish a pension plan reinsurance program, to provide for portability of pension credits, to provide for regulation of the administration of pension and other employee benefits plans, to establish a U.S. Pension and Employee Benefit Plan Commission, to amend the Welfare and Pension Plans Disclosure Act, and for other purposes; to the Committee on Education and Labor.

By Mr. SHIPLEY:

H.R. 14168. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 14169. A bill to provide cost-of-living adjustments in retirement pay of Federal judges in the territories and possessions of the United States; to the Committee on the Judiciary.

By Mr. TIERNAN:

H.R. 14170. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of fair stained and better india ruby mica films first or second quality; to the Committee on Ways and Means.

XUM

By Mr. BLACKBURN:
H.J. Res. 1133. Joint resolution providing for the designation of the third week of October of 1972 as "National German Shepherd Dog Week"; to the Committee on the Judiciary.

By Mr. DELLENBACK:
H.J. Res. 1134. Joint resolution to proclaim the last Friday in April as Arbor Day; to the Committee on the Judiciary.

By Mrs. MINK:
H.J. Res. 1135. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. GOODLING:
H. Con. Res. 572. Concurrent resolution expressing the sense of Congress concerning the granting of amnesty to draft-evaders and deserters; to the Committee on Armed Services.

By Mrs. MINK (for herself and Mr. MATSUNAGA):
H. Con. Res. 573. Concurrent resolution to congratulate Waipahu, Hawaii, on its Diamond Jubilee; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

348. The SPEAKER presented a memorial of the Legislature of the State of Idaho, relative to the Salmon Falls Division project on the Salmon Falls Creek in Idaho; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. GREEN of Oregon:
H.R. 14171. A bill to incorporate in the District of Columbia the American Ex-Prisoners of War; to the Committee on the District of Columbia.

By Mr. O'NEILL:
H.R. 14172. A bill for the relief of Maria Fernanda Teodoro; to the Committee on the Judiciary.

By Mr. SEIBERLING:
H.R. 14173. A bill for the relief of Mr. Walter Edward Koenig; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A PRESIDENTIAL CLASSROOM FOR YOUNG AMERICANS

HON. LEE METCALF
OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. METCALF. Mr. President, from time to time it has been my privilege to visit with young students from my home State who are here to participate in the program A Presidential Classroom for Young Americans.

The week they spend in Washington enriches their studies in class and provides them a unique experience to observe their Government firsthand.

For a Member of Congress, visits with these bright young leaders are refreshing and delightful.

Among Presidential Classroom students this year was Miss Lauren Larson, whose account of her week here appeared in the Monitor, a weekly paper serving her home town of Boulder, Mont.

I ask unanimous consent that Miss Larson's report on her week in Washington be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Monitor, Boulder, Mont., March 2, 1972]

MISS LAUREN LARSON REPORTS ON PRESIDENTIAL CLASSROOM

(By Lauren Larson)

I flew out of Helena on Friday although the actual classroom did not begin until Saturday. There are six different weeks of the classroom and I was scheduled for the first one.

Saturday was mainly spent just meeting your roommates and being introduced to the program and the staff. My roommates were from California, Missouri, North Carolina and Pennsylvania.

Sunday, I attended Mass at St. Matthew's Cathedral. That afternoon we went on a tour of Washington and although it rained, we did see most of the major sights.

All of the instructors were lent from various government agencies to work at the classroom for its six weeks. There was, of course, also the Board of Directors who mainly set up the program.

When we arrived, among other things, we received a Syllabus which contained information on the different branches of government which we were to cover. Every night we received a Presidential Daily which contained the next day's schedule, what each seminar was to be on, a bibliography on the speakers and some bibliographies on the staff. Some of our speakers were Congressman Pierre Du Pont from Delaware, Senator Ted Stevens from Alaska, a White House speech writer, a member of the press, lobbyists, Mr. Oleg Sokolor from the Soviet Union and a Brigadier General.

Tuesday was spent on Capitol Hill in meetings with our Congressmen. There were three of us from Montana and I was proud to stand up in the National Student Body and say that the Montana delegation had been welcomed warmly when many students had not been. On that day we visited with Senator Mansfield and Senator Metcalf. Congressman Shoup was in Montana on Tuesday, but on Friday two of us returned to see him.

One of the really educational parts of the week were the evening discussion group.

I spent a few extra days in Washington with some relatives and so I was able to see even more of D. C. All in all I had one of the most wonderful times of my life and would go back at any moment.

I would like to thank very much all the people who helped make my trip possible.

SENATOR PAUL DOUGLAS

HON. ANDREW JACOBS, JR.
OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. JACOBS. Mr. Speaker, this is the excellent article about Senator Paul Douglas by Jean M. White which appeared in the Washington Post on Sunday, March 26, 1972.

I insert the article in the RECORD to remind America to remember that in Senator Douglas we have one of the authentic saints of our time:

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes the fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that came to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University and then perhaps a sentimental journey back to the Indiana Dunes country, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of everyday politics as a city alderman from Chicago's South Side and specialized in problems of garbage collection.

It is the story of the 50-year-old patriot who, defeated in his first run for the Senate, enlisted the next day as a Marine private, won the bronze star and two purple hearts in landings in Okinawa and Peleliu and was left with a withered left arm from his war wounds. It is the story of the Democratic senator from Illinois, elected on his second try in 1948, who became the liberal goad of the Senate, always in the forefront of the fight for social advances in the crucial years of the 1950s and 1960s.

And it also will be the story of Paul and Emily Douglas, two people who share deep affection for each other and politics.

"I was the only man who ever succeeded my wife in Congress," Sen. Douglas likes to point out.

"Paul, why don't you say I was the only woman who ever preceded her husband in Congress. It's women's lib these days," Mrs. Douglas corrected her husband the other day.

Emily Taft Douglas, a former actress, served as congresswoman-at-large from Illinois with the same constituency her husband was to represent when he was elected senator in 1948.

Rugged, slouch-shouldered and bespectacled, the economics professor came to Washington and soon plunged into the midst of the early battles for social and reform legislation that came out of Congress in the following two decades. But he was too much of a maverick ever to become part of the Senate's inner circle. Douglas has a dramatic flair, which he employed effectively to focus attention on the causes he was championing.

There was a time that he wanted to take a hatchet and scalpel on the Senate floor to demonstrate the difference between hacking and surgically pruning a budget.

"His staff talked him out of that one," recalls Howard Shuman, who was the senator's administrative aide for 14 years and now holds the same post with Sen. William Proxmire (D-Wis.).

"But he did go on the floor with a huge magnifying glass once. The public works bill was up for vote, and projects are sacrosanct to senators. Anyways, the senator came into the chamber carrying a magnifying glass and a large map. It seems there was a river—in New England, I think—mentioned for an appropriation and the senator couldn't find it on the map."

Shuman remembers Douglas as "an absolutely honest man," even to avoiding the phone calls that can swamp a senator's time.

"When he couldn't take a phone call, before he would have his secretary say he was out of the office, he would open the door and step out into the hall. I've seen him do it numerous times."

Once William McChesney Martin, disturbed over remarks attributed to Douglas in criticism of Martin's fiscal policies, came up to the Hill to check with the senator personally.

The senator told him: "I honestly don't remember saying that. But I've thought it a number of times so I suppose I could have said it."

But the senatorial career of Paul Douglas has more substance than a collection of lively anecdotes. It is a career threaded with landmark legislation on the big issues that the nation faced in the 1950s and 1960s. Perhaps the most dramatic was the long fight for civil rights, crowned by the sweeping Civil Rights Act of 1964.

"As for 1964, that was done years earlier—that was done in the hard years when we could get only 20 votes or so," Douglas points out. "What was heresy then, the nation has accepted, intellectually at least. Now remans the pain of working it out."

Despite the acrimonious legislative fights and his lonely crusades, Paul Douglas does not look back in anger or bitterness today.

"If he was righteous in causes, he was never self-righteous about people," Shuman says.

And the senator still has the buoying hope that sustains reformer.

"Well, I'm not a pessimist," he said the other day. "It's a great source of relief in bowing out of politics to see new men and good people coming up."

In the Senate, he points to such men as Proxmire, Alan Cranston of California, Adlai Stevenson III (whose father ran for governor of Illinois on the same ticket with Douglas), Walter Mondale of Minnesota. And Douglas always remembers Sen. Hubert H. Humphrey, who fought by his side in many of the old battles.

Among the governors, Douglas singles out Florida's Reubin Askew and Ohio's John J. Gilligan as "absolutely fine men."

Douglas also sees promise in the young people. "We had a bad convention in 1968. But I see healthy signs with the younger people working in politics, social causes, environment."

If some of the Douglas causes have come in the fullness of time, there are those still being fought: cloture in the Senate, the family allowance (Douglas proposed this idea as a young economist in 1925), pollution, consumer protection, the vanishing wilderness of areas like the Indiana Dunes, disclosure of campaign financing, tax reform.

When he talks of tax loopholes today, there are flashes of the old Douglas indignation.

"I think they say we—Lister Hill of Alabama was with me—have saved the nation $4 billion up to now in blocking a clause that would have allowed offshore drilling in the open ocean to take oil," the Senator points out.

In 1967, at 75, when he was no longer a senator but a private citizen, Douglas journeyed to Colorado to inspect the oil shale deposits there.

The year before, defeated in his try for a fourth term in the Senate, Douglas had made a graceful exit, giving a final accounting of his assets and income and thanking the voters who had kept him in office 18 years. It took two farewell parties for all his friends and admirers to pay tribute.

In that race, Douglas campaigned with his usual vigor. But there was his age—he was 74 and his challenger, Charles H. Percy, was 47, with the attractive face of new Republican liberalism. There was the race backlash. And there was the deteriorating war in Vietnam, in which Douglas had been a firm supporter of the Johnson administration.

A pacifist in World War I from his Quaker upbringing, Douglas had gone to Europe in the 1930s and was in Italy when Mussolini sent his legions into Ethiopia. He warned of appeasement of Hitler. During World War II, he was an enlistee in the Marine Corps, accepting a commission only to get into battle when he saw they were not going to send 50-year-old riflemen overseas for combat.

He still believes in collective security, of "keeping our guard up while exploring the possibilities for peace."

After his 1964 defeat, Douglas went back to work in a double harness. He returned to teaching and served as head of the National Commission on Urban Problems, making a study at the time the incendiary cities were flaring up in riots and racial turmoil.

Soon after the Commission on Urban Problems made its report, the stroke hit the senator's right side. His recovery was complicated by his war-disabled left arm and a fall abetted by a football knee (Douglas played center on the Bowdoin College team while winning a Phi Beta Kappa key.).

In 1969, he returned a $5,000 check that went with an AFL–CIO award. While in the Senate, Douglas had set a $2.50 limit on the value of any gifts he would accept, and he is a man who holds firm to a principle.

If the "18 most stimulating years of my life" were spent in the Senate, Douglas also had several decades of achievement before he entered the Senate at 56.

As a distinguished economist, his applied work on the theory of wages and production is one of the bedrocks of contemporary economic analysis. The Coob-Douglas Function—a mathematical formula set forth in the 1920s—is discussed at length in the recent Nobel Prize-winning work of Prof. Paul A. Samuelson.

"I once was an economist," the senator says now with a rueful smile. "They are now feeding information into the computers at Brookings Institution and coming out with figures to support the formula."

Born in Salem, Maine, March 26, 1892—the New England twang has been leveled a bit by the Midwest plains—Douglas remembers when mill workers in Newport, Maine, were told not to vote for Bryan and the factory whistles sounded for 24 hours when McKinley was elected.

"And I grew up feeling it was . . . well, improper," he once told an interviewer.

He was a friend of Jane Addams and Clarence Darrow. He helped organize the steel workers. Even before entering politics as a Chicago city alderman in 1939, he was one of the earliest advocates of old-age pensions and unemployment insurance in the 1920s and 1930s, working with then New York Gov. Franklin D. Roosevelt and Pennsylvania Gov. Gifford Pinchot.

Now, the autobiography finished, there will be two labors of love for the 80-year-old economist and former senator.

First, another look at the theory of wages and productivity as a statistical study. Then a study of the last days, the winter years of genius, in the lives of Beethoven, Shakespeare, Michelangelo, and Titian.

"A fine subject for a crippled politician," Douglas observes.

It will be a fine subject for the senator who brought a graceful touch of erudition and scholarship to the Senate. In Douglas' former office, Suite 109 in the Old Senate Office Building, photographs of live politicians never were hung. Instead, there were studies of Michelangelo's majestic, brooding figures for the tombs of the Medici and Titian reproductions.

As a campaigner, Douglas was known to quote John Stuart Mill of "Spoon River Anthology" poetry to voters at the factory gate.

The other day, on the eve of her husband's 80th birthday, Emily Taft Douglas looked fondly, but objectively, at her husband and said:

"He's a much handsomer man than the man I married. He doesn't wear glasses any more. They say we make our own faces. It is a good man that makes a good face."

THE DELAWARE VFW HONORS PRESIDENT DuBOIS

HON. J. CALEB BOGGS
OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. BOGGS. Mr. President, recently it was my privilege to attend a testimonial dinner in honor of Mrs. Edith DuBois, president of the Ladies Auxiliary to the Veterans of Foreign Wars, Department of Delaware.

This fine dinner was held at the J. F. Speer Post 615 in Wilmington, and it was heartening to be among the large numbers of people who turned out to honor this distinguished lady.

The speaker for the occasion was

Mr. Elmer Saxton, the service officer for the Department of Delaware. Mr. Saxton does an excellent job for our veterans and for all the people of Delaware. He is a most conscientious servant.

Mr. President, I ask unanimous consent that Mr. Saxton's most informative remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF MR. SAXTON

In the area of benefits, the VFW has always been very strong in its feelings that all veterans should be treated alike with respect to assistance and benefits. It is however quite difficult today to ignore the fact that there are over 1.5 million WWI veterans in the midst of our society whose average age is 76. At the opposite end of the age scale are 5 million young or Viet Nam veterans many of whom are in the early 20's. It is easy to see that even though their sacrifices and contributions are common, their needs will be quite different, and the help that we can provide the young veteran starting out in life will be of little significant assistance to the WWI veterans. Most of the WWI veterans have retired, and are now concerned with a modest and yet realistic income or pension which will provide them and theirs adequate food, clothing and shelter.

This then is the reasoning behind present emphasis on legislation for these two categories. Help and rehabilitate the younger veteran back into our society and provide for the older veteran that which is sufficient to enjoy a dignified and well earned retirement.

Scheduled for congressional consideration as mandates of the Dallas convention are programs to insure best hospital and medical care; with emphasis on—elimination of paupers oath for any admission to VA Hospital, construction and modernization program to keep VA Hospitals second to none, drug treatment and both medical and employment rehabilitation for all drug dependent veterans. Much is being said about a National Health Care Program. Your attention is invited to an article in the February VFW Magazine by Representative Wilbur Mills, D-Ark.

Congressman Mills said that he will oppose any provision which would obliterate or adversely affect VA Medical Programs. He relates the success of the VA in drug treatment cure for TB, first pacemaker which established regular heartbeat, cancer research and training. In 1971 over 53,000 persons were trained in our VA Hospitals. But without funds and adequate staffing this can't be expected to go on. This article expresses the firm desires of the VFW that we do not want the VA system becoming a second rate hospital system, or being closed in favor of any other national system.

In the immediate concern of the WWI veteran such provisions as a pension of $125 for single veteran and $150 per month for a married veteran, with hospital and medical care, furnishing of drugs and medicines and a greater expanded hometown nursing care program are being proposed. As mentioned earlier, increases in pension rates have been made. The next cycle for increase, again geared more to inflation or its highly related companion, "cost of living" will be increases in compensation, and expansion of the GI and Education Training Programs. Some features of this are an addition to the funds to be provided for regular attendance assistance in paying for costs of books, tuition, etc., to funds for providing more on the job training, for those who do not seek or desire higher education, to increase the educational payments and increase entitlement from present 36 months to 48 months, and to restore educational benefits to WWII and Korean veterans who have never availed themselves to this program to date. Real assistance for returning Vietnam Veterans is programmed in contact and outreach programs, personal, letters and news media to insure that every veteran knows his rights and benefits. Crash programs to create jobs for the over 100,000 veterans returning monthly, and establishment of a low cost insurance program similar to that earlier provided to WWII and Korea. Jobs and job security initiated through actions by the Department of Labor to preserve the preference for veterans employed by the Federal Service and also to insure that all agencies, companies or other industries and employers who work under government contracts employ at least a minimum of 10% veterans in their work forces.

National Cemeteries, and our state lacks one, are proposed for transfer to the VA, with a cemetery in every state. This may or may not be affected by a counter proposal to increase the burial allowance to ranges between $350 to $750. This increase is proposed and the struggle will be continued to oppose those who have long favored elimination of Social Security death benefits when this VA allowance is payable.

It has been a longstanding bone of contention with military retirees that they are forced to reduce their retirement pay by the amount of VA compensation they might be entitled to. Service connected veterans, not retirees, may continue to work, may be retired and compensation payments will not be affected. It is hoped that a remedy for this situation will soon be resolved.

What does the Ladies Auxiliary mean to the V.F.W. There is a simple one word answer—Plenty! First, if it were not for the 460,000 ladies in our auxiliary it could be readily assumed that there wouldn't be as many as 1,700,000 in our national men's organization. More will be said on Department totals later. Another question is why do we depend so much on our ladies Auxiliary. This is primarily because they contribute so much to the VFW planning and the outstanding development of so many of its programs. How is this done? The accomplishments are the results of always working together, and it is this togetherness that has helped build our reputation as the world's leading combat veteran's organization.

It all boils down to one, good, hard fact, that true success in anything is founded upon action not just words. Also good action has to reach, be important to and produce satisfactory results in all segments of our population, not only here in Delaware but across the entire span of our more than 204 million American citizens. Incidentally have you ever stopped to think that in this great nation of ours that there are over 26,000,000 veterans, and also that the families of these individuals add up to over 100,000,000 or almost half of that total. This should put you in the proper perspective as to the vastness of the tasks before us.

In order to reach everyone we want to benefit, our VFW men and women—together—create a wide variety of very important campaigns. This includes programs to provide better health, more jobs, community improvements and others.

Yes, the VFW men and women are translating ideals into action. And the fact that they are succeeding is proved by our popularity and growth in both the VFW and its ladies auxiliary. This growth has been going on for many years. As you know the VFW dates back to September 1899, and its ladies Auxiliary was organized in September 1914. This indicates our men and women have been working together very well for well over a half a century. Here in Delaware the VFW has approximately 4,800 members. This is nearly 95% of our total membership last year. Also, in 1972, well over 1220 women are ladies Auxiliary members, over 100% compared with last year. This figure was reached by December 31, 1971. Truly an outstanding achievement.

A few words of praise now and then are most important to that individual who through her enthusiastic and vigorous leadership, has inspired her loyal co-workers to perform this truly outstanding work, and have they stopped there? Rested a little maybe, but they are just gathering their second wind (or waiting for the men to catch up, which is another example of their fine cooperation) we are here to recognize that lady, Madam President Mrs. Leland Edith DuBois of the Ladies Auxiliary, Department of Delaware, Veterans of Foreign Wars. She presently resides in Simonds Gardens, New Castle, The couple have three children and three grandchildren. Her daughter, Sandy is equally active in VFW affairs and is president of the J. Ferdinand Speer Post 615 Auxiliary. Edith is a volunteer worker at Emily Bissell Hospital, a hospital for respiratory illnesses. She is also a member of the Greater Wilmington Federation of Women's Organization, Inc. Therefore Edith contributes to many helpful activities in addition to her V.F.W. Auxiliary leadership.

Personally, I had the honor to meet Edith for the first time at another Auxiliary President's Testimonial Dinner. She was Chaplain on that occasion and I was your brand new Service Officer. I have since been able to learn that she has held every post in her auxiliary, right here in J. F. Speer, had similiar positions in district one and right on up in department to her present position in state leadership. Edith has been present at many functions, planning, social or informative in nature as a worker, chairman or leader. She has always displayed the strongest desire to accomplish the chore at hand in the best manner. Not the easiest or shortest, but in the way that would produce the best results. Her spirit has always been undaunted. She has been fully able to impart this aura to those who were her co-workers.

Proof of this winning personality and her ever vigorous, devoted dedication toward helping others—and toward building our Ladies Auxiliary—is made very clear in many, many ways.

How is the Ladies Auxiliary making out in the development and following through of several key campaigns? Auxiliary members in greater numbers than ever are contributing personal services—and generous funds—toward assisting veterans and their families—for the VA Hospital, other hospitals, nursing homes and convalescent centers.

They are helping to guide young Americans through VFW youth programs, and have assisted in one of the finest years that our Voice of Democracy programs has ever had. The Buddy Poppy Sale for this year is just getting up a head of steam. Also they are supporting Cancer Research and Cancer Aid—rehabilitation work—and a wide variety of community activities.

Delaware is a small state, but here our voices are loud and clear in behalf of the policies and goals set by the VFW and its Ladies Auxiliary. This year's ladies membership pace has been the pacemaker for the entire nation. There is some rumor that South Carolina has displaced our ladies, but factual or not, it is only that temporary respite mentioned earlier, where the lassies are waiting for we lads to catch up. Just a little food for thought for the entire crowd is the fact that there are over 30,000 veterans in this state eligible for membership in our organization. This leads one to believe that we could still make better progress on our totals, but equally important is the fact that with a little more help from the 5,000 men we already have, Edie's Ladies Auxiliary would easily outdistance South Carolina or any other upstart state aspiring to beat this

Department's Auxiliary in this or any year.

I would like to digress once more to allude to remarks by our National Commander in Chief Joseph L. Vicities and Ladies Auxiliary President Frances Harmon. These remarks seem to be so ably sum up the attitude and aims that Madam President Edith DuBois has instilled into all of her programs this year.

CIC Vicities has related that—we shall work for veterans and their families—and for everything that strengthens opportunities, loyalties, unity and progress here in the America we love. He also adds—we are building to strengthen the positive—and to align ourselves against all threatening negative influences, and we shall counteract any neglect or outright destruction of our freedom ideals. National President Harmon tells us, Our VFW Auxiliary women are standing tall, proud and enjoying the view. We are putting into practice one of America's cherished ideals—which is—that all of our people can and will work together when they have a common purpose. She says further that the primary goals shall be to show love for our country—and to assist veterans and their families—to work closely with the Veterans of Foreign Wars and towards strengthening our many valuable service programs.

You have heard earlier words of praise for various attributes of our honored Madam President here tonight. These are echoes of the praise that she has been getting all year. They are recognition and proof of capable leadership and equally enthusiastic and good response. What better way is there to prove that the winning combination so strongly sanctioned and supported by our national organizations leaders is firmly established here in Delaware. Yes, this lady has proven her position very clearly—and with the added support of truly remarkable results.

Madam President, it has been an honor and a privilege for me to lead the accolades for your contributions to the Veterans of Foreign Wars, Department of Delaware Ladies Auxiliary this year. I would conclude my remarks with the simple statement that your skill is very evident, I would exhort you to keep right on working—leading the auxiliary and boosting us—throughout Delaware.

ALASKA: YES, NO, MAYBE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DINGELL. Mr. Speaker, the New York Times of March 21, 1972, carried an editorial under the heading, "Alaska: Yes, No, Maybe," which makes clear the need for additional public hearings on the Trans-Alaska pipeline environmental impact statement. I would like to share this editorial with my colleagues:

ALASKA: YES, NO, MAYBE

A year ago the Department of the Interior issued a preliminary statement declaring that, despite some adverse environmental impact, an oil pipeline across Alaska along the route eagerly desired by the international oil consortium was acceptable. That draft statement was so cursory in its analysis and so biased in its premises that intense criticism developed at the departmental public hearings. Under pressure of this criticism by scientists, conservationists and members of Congress, and confronted with lawsuits, the department withdrew the statement and began to prepare a complete substitute.

After repeated postponements, Interior yesterday unveiled the substitute. This time the department has tried the converse technique. Instead of last year's superficial statement of fewer than 200 pages, there is a tidal wave of words running to thousands of pages in nine volumes. Naturally, no one outside Government has yet had time to study this document.

According to Interior Department officials, the report discusses several possible routes for an oil pipeline, finds that no single route would be free of damage to the environment and reaches no conclusion. Since a pipeline is sure to be built, the basic questions are which route would be least damaging and which ecological values are going to have to bear the greatest loss and risk—birds, marine life, scenery, wilderness, soil or animals.

The route favored by the oil companies, for example, would run from the North Slope to Valdez, an ice-free port east of Anchorage, where the oil would be transshipped in tankers. The normal oily wastes discharged when tankers are cleaned at sea and the spectacular oil spills when tankers accidentally collide would over the long term have an adverse effect an Alaskan salmon and on marine life generally. By contrast, some conservationists favor a land route running mostly through Canada, although this route also poses some hazards.

Clearly, a report of this size and complexity needs careful study and thorough public discussion. Otherwise, an environmental impact statement would be no more than a screen of words covering a predetermined decision. Yet Interior officials announced that a final decision on the pipeline might be forthcoming after 45 days. Moreover, they peremptorily declared that there would be no public hearings on the new statement. One official went so far as to say that hearings would only add a "circus" atmosphere.

This undemocratic fiat cannot be allowed to stand. If independent scientists and citizen conservationists are to evaluate this mass of data, they will need at least two or three months for study. The Interior Department then has an obligation to hear their views in public hearings. Otherwise the procedures set forth by Congress would be nicely circumvented while the Administration and the international oil men quietly reached their own decision about the future of Alaska.

The voice of the American people must be heard in the making of that decision for they are the owners of this last great unspoiled frontier on the continent of North America. That is no circus; that is self-government.

BOYCOTT OF FRENCH WINES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, we in the Congress are all too well aware of the plethora of serious problems which are direct and indirect results of heroin addiction. During the past 2 months I have been calling my colleagues' attention to the dangers of the drug traffic coming out of the Far East. However, we must also bear in mind the traffic which comes to our streets from Turkey via France.

This deadly narcotics traffic must be stopped. The governments involved are finally beginning to crackdown on the traffickers. The American people must continue to keep up the pressure to act on this vital issue. I was therefore pleased to receive a resolution adopted by the Long Island Restaurant and Caterers Association which proposes a boycott of French wines. I am including the text of this resolution at the conclusion of my remarks.

This boycott is an excellent step which I hope will be broadly accepted and also broadened to include other French imports. Only in this way will the French Government understand how critical this situation is to all Americans.

The resolution follows:

LONG ISLAND RESTAURANT AND CATERERS ASSOCIATION—PROCLAMATION

Whereas, The Long Island Restaurant & Catering Association, representing 120 of the outstanding restaurants and caterers on Long Island and in cooperation with and appeal to 30,000 restaurants in the State of New York and,

Whereas, it is necessary to take drastic steps to protect our youth from the use of heroin, the most damaging and insidious of all drugs and

Whereas, the main source of supply of the world heroin cache is imported from Turkey and processed in Marseilles, France and then illegally distributed throughout the world, and

Whereas, this insidious plague of moral and physical destruction is eventually sold at enormous profits by criminal elements to our youth in the United States, and

Whereas, the illegal profits from the sale of heroin is used by organized crime to further their inroads into the very foundation of the American way of life, and

Whereas, many appeals to the French Government to seriously crack down on the importers, processors and exporters of heroin for foreign consumption have gone unanswered and

Whereas, it is necessary, for the future of our youth, that the restaurant industry take the initial step, even though it may mean financial loss of income, to impress the French Government that we will take a strong stand against their apathy in dealing with this problem,

Be it therefore resolved, That the Long Island Restaurant and Caterers Association recommends to its members, to members of the State Restaurant Association of New York, and to the National Restaurant Association, and to the General Public of the United States, that in order to make same effective, the sale of all imported French wines, liquors and brandies, be boycotted and other imported and domestic wines be suggested in all our restaurants, until evidence of positive action by the French Government is shown to curtail the illegal activities of French heroin processors and exporters becomes evident to the American people.

NATIONAL WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

HON. FRANK CHURCH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. CHURCH. Mr. President, this is the second year that Congress and the President have set aside a week to remember those Americans now being held as prisoners of war in Indochina or who are listed as missing in action. This is also the seventh anniversary of the capturing of the first American by the North Vietnamese. In this time of na-

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tional concern for those nearly 2,000 Americans held captive or missing, we renew together our pledge to maintain unrelenting pressure on the Government of North Vietnam, the Pathet Lao, the Khmer Rouge, and the Vietcong, to render more humane treatment to these prisoners and bring nearer the day they may return home.

In a free society such as our own, we must expect and cherish differences of opinion as to the best way for this country to end its part in the war in Indochina. Yet, regardless of these differences, Americans are united in their deep concern for the plight of our young men who are known or thought to be prisoners. No one in Hanoi, or any other place in the world, should underestimate the unity of feeling with which we support these men. No one should misunderstand our desire to see them freed.

I myself look forward to the day when all American military personnel—those still engaged in the continuing war as well as the prisoners—are returned home to their families. The notion of a residual force to be left behind must be rejected. Our prisoners will never be released, and nothing in the long run will be gained, by attempting to retain an American garrison in South Vietnam.

The President should agree, therefore, to fix a date for the completion of our withdrawal, contingent only upon the release of our prisoners of war. Fixing a deadline for our withdrawal could become a lifeline for our prisoners. As the French learned before us, the release of prisoners does not precede, but follows, the commitment to withdraw.

It is time for Congress, the President, and the American people to join together in ending further American hostilities in Indochina so that there will be no need next year for proclaiming still another Prisoners of War-Missing in Action Week.

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RESOLUTION CHART

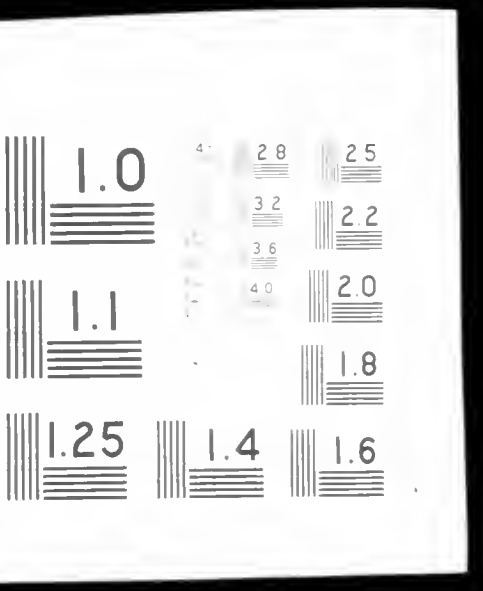

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.

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PART 9

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS
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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, March 29, 1972*

The House met at 10 o'clock a.m.

Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Let us not grow weary in well-doing for in due season we shall reap, if we do not lose heart.—Galatians 6: 9 RSV.

Our Father, we are thankful for the miracle of life. We are thankful for this season that reminds us of rebirth as we see green things springing up to leaf and flower. May we, who have been granted the swift and solemn trust of life, use it in the the light of Thy great promise of life eternal.

Today, we are grateful for this body and the emphasis given not only to temporal matters but also to spiritual values. In the spirit of the resolution passed by this body that this be a national week of prayer and concern, we pray for our Nation and our world. Give us peace on earth we pray. May the living presence of Christ be with the Members of this body as they travel home in the next few days. Bring them back renewed in spirit and hope.

Please, Lord, give us wisdom, give us courage for the facing of these days. In the name of the living Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title.

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 13955. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13955) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. ELLENDER, Mr. INOUYE, Mr. COTTON, Mr. BROOKE, and Mr. YOUNG to be the conferees on the part of the Senate.

PERMISSION FOR SPECIAL SUBCOMMITTEE ON LABOR TO SIT WHILE HOUSE IS IN SESSION TODAY

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the special Subcommittee on Labor may sit while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INEQUITY IN 235 HOUSING PROGRAM SHOULD BE CORRECTED

(Mr. MARTIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, yesterday I introduced H.R. 14162, a bill to correct an inequity in the 235 housing program which I feel never was the intent of the Congress.

Under the 235 plan, families within certain income limits may purchase homes with practically all of the interest subsidized by the Federal Government. The purchaser in many cases pays only 1-percent interest and the balance of the interest on the loan is subsidized by the taxpayers.

Now I find that the Internal Revenue Service has ruled that such a taxpayer may deduct the full amount of the interest even though he pays only 1 percent.

For instance, if the loan is at 8 percent, the purchaser pays 1 percent and the taxpayer 7 percent. But the Internal Revenue Service allows the purchaser to deduct the full 8 percent from his income tax.

This is a double subsidy. The Internal Revenue Service seem to be adamant in their position. I feel that this misinterpretation should be corrected by the legislative route. I trust that the Ways and Means Committee will give early consideration to this important matter.

NIXON ADMINISTRATION PROGRAMS FIGHT UNEMPLOYMENT

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, all the attention focused on the President's phase II economic program tends to obscure the administration's determined efforts to fight unemployment. While the administration's programs to reduce unemployment are less dramatic than the anti-inflationary effort, they, nevertheless, carry an equally high priority.

In addition to the stimulative fiscal policies being pursued, the administration is also carrying out numerous programs which are directly providing employment. For example, the veterans employment programs have helped find jobs for more than 270,000 Vietnam-era veterans. The administration's public employment program has created 145,000 new jobs among more than 6,000 State and local jurisdictions at a cost of $2 billion over a 2-year period. The Department of Labor has announced that a record number of federally supported job opportunities for youth will be available this summer: Nearly 1.1 million jobs will be funded, 89,000 more than last year.

This administration is currently spending more than $4.3 billion on manpower programs, expanding enrollment to 2.3 million trainees. The Department of Labor has also financed computerized job banks to match available jobs with available manpower in 46 States, covering well over half of the Nation's labor force.

The administration's fiscal policies are designed to increase GNP by $100 billion over the last year and bring the unemployment rate down. Efforts to improve America's competitive position in world markets will increase our sales abroad and generate more jobs here at home.

In short, the administration is conducting a major effort to fight unemployment through its general public employment program as well as through the stimulative thrust of its general economics policies.

WHY ARE NOT OUR ANTITRUST LAWS WORKING?

(Mr. MIKVA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I hesitate to get into a "hissing" contest with the

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minority leader of the other body or the minority leader of this body, but in this morning's Washington Post, beneath a picture of those two distinguished minority leaders, appeared a story in which the Senator from Pennsylvania went into an epexegetic sesquipedalian attack on the Senate Judiciary Committee's ITT inquiry.

Senator SCOTT accused some Members of the other body of indulging in a form of "jackassry." I think he used the wrong animal. I think he ought to worry more about the elephantiasis of ITT, a group so immense that they have to have their own state department, their own CIA, their own health department, their own justice department, and apparently their own political convention. I think he ought to worry about the elephantiais of a Justice Department which allowed ITT to acquire a substantial number of more companies since the settlement.

But more seriously, he ought to worry about the thorough disgust of a body politic which does not trust its Government, its institutions, its elected officials, all with apparently good cause. The gentleman from Pennsylvania ought to worry about an antitrust policy that has developed arthritis either in the law or in its enforcement such that free enterprise and a competitive society have become terms only to be used in Fourth of July speeches but never to be taken seriously.

And this House of Representatives, Mr. Speaker, has to have similar concerns. I would hope that the Judiciary Committee, of which I am a member, will diligently pursue its investigation of conglomerate mergers and hold immediate hearings on Chairman CELLER's bill to improve and redistribute antitrust enforcement responsibilities. I refer to H.R. 12004. The importance of such concerns transcends the issue of the identity of the next Attorney General and perhaps even the identity of the President who designates the next Attorney General. Unless there is an antitrust policy which is aimed at achieving and maintaining a free economic society, the world will little note nor long remember who it was that followed Martha Mitchell's husband as Attorney General of the United States.

ITT

Mr. CEDERBERG. Mr. Speaker, I have listened with interest to the remarks of the gentleman from Illinois, talking about various types of animals and ITT. My only comment would be that ITT grew like an elephant when the jackasses were in charge.

CALL OF THE HOUSE

Mr. GROVER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 96]

Abernethy	Edwards, La.	O'Hara
Abourezk	Gallagher	Patman
Anderson, Tenn.	Gaydos	Pryor, Ark.
	Goldwater	Rangel
Badillo	Gray	Rarick
Baring	Hagan	Rees
Blanton	Hawkins	Reid
Bow	Hays	Rogers
Brown, Ohio	Hébert	Rostenkowski
Celler	Hogan	Sandman
Chappell	Hull	Saylor
Chisholm	Johnson, Calif.	Scherle
Clark	Keith	Scheuer
Clawson, Del	Kuykendall	Stokes
Clay	Landrum	Stubblefield
Collier	Mills, Ark.	Stuckey
Davis, Ga.	Mills, Md.	Teague, Tex.
Dorn	Mitchell	Van Deerlin
Dowdy	Morse	White
Dwyer	Murphy, N.Y.	Yates

The SPEAKER. On this rollcall, 372 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL ANNOUNCEMENT

Mr. CONTE. Mr. Speaker, on the recorded teller vote yesterday regarding the amendment offered by the gentlewoman from New York (Mrs. ABZUG), rollcall No. 93, I voted "no." I meant to vote "aye." I wish at this time to indicate my wholehearted support of this amendment.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. JONES of Alabama. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11896) to amend the Federal Water Pollution Control Act.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11896, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on yesterday the Clerk had read the section 2 of the committee amendment in the nature of a substitute, ending on line 25, page 396, and it had been agreed that debate on all amendments to the bill would be limited to 2 hours.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of my distinguished colleague from Alabama (Mr. JONES) I have a question for the gentleman.

At section 204(b)(4) of the committee bill, at page 59, concerning the terms and conditions to govern the Administrator in making the financial grants authorized by the bill to the States and interstate agencies for the construction of "treatment works," the bill states, and I quote:

Approved by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

We have such an interstate compact agency in my district, the Delaware River Basin Commission, comprised of the States of Delaware, New Jersey, New York, and Pennsylvania as well as the Federal Government, which has substantial powers and duties pertaining to the control of water pollution.

With funds provided by the EPA's predecessor agency, the DRBC recently completed a regional waste treatment program for the protection and enhancement of the waters of the Upper Delaware Basin, including the authorized Tocks Island Reservoir project. The commissioner recently adopted a resolution committing itself to undertake construction of this regional system, if need be, in the interests of insuring the protection and enhancement of those basin and reservoir waters.

The commission's regional approach in this particular matter was commended by the Council on Environmental Quality on February 3, and the commission's specific plan to implement this regional system, that is, its so-called alternative V, was endorsed unreservedly by the Environmental Protection Agency in the DRBC's public hearing last February 22.

I now come to the point of my question: Last February 3 the Council on Environmental Quality stated that the Governors of the concerned Delaware River Basin States should make a commitment or affirmation that their respective States will provide their share of the DRBC cost of implementing this regional plan. My question is, Does the committee's language at section 204(b)(4), intend that the Administrator may make a grant to the DRBC, of the full Federal share of from 60 to 75 percent, of the cost of this regional program for the protection of Upper Delaware Basin and Tocks Island Reservoir waters?

Mr. JONES of Alabama. The answer to the gentleman's question is "yes," provided, as he explained it, the EPA has endorsed the program, or that it meets the regional and other standards of the committee's bill. The intent of section 204(b)(4) is to make it clear to the States, and to their interstate compact agencies in the water pollution area, that the Federal Government will bear the bulk of the cost of these costly, necessary programs, and that the States or their interstate agencies may move ahead as quickly as possible, confident that the Federal Government is going to pay the lion's share of the way. That is the intent of section 204(b)(4).

Mr. THOMPSON of New Jersey. I thank the gentleman very much, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEINZ: On page 350 following line 6:

"SEC. 319(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to section 208(a) of this Act.

"(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect two years after the enactment of this Act a schedule of national effluent charges for all those discharges including municipal sewage which detract from the quality of the water for municipal agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, biochemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public informtion all amounts collected pursuant to such charges.

"(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year, or both, together with costs of prosecution.

"(3) The United States district courts shall, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States, have jurisdiction to restrain violations of regulations established pursuant to this Section.

"(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the 'fund') in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

"(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies), except that any owner or operator of a point source of pollution including publicly-owned treatment plants, who installs pollution abatement equipment or revises production methods to comply with standards shall receive a rebate of 50% of the aggregate amount of effluent charges paid prior to the installation or revision, such rebate not to exceed 100% of the cost of the pollution control facility. Money in the fund in excess of the amounts required to fund Section 106 shall be available for the general purposes of Title II, of this Act (grants for construction of treatment works).

"(e) Organizations established pursuant to Section 208(a) of this Act shall, not later than two years after the enactment of this Act, or, in the case of organizations designated two years or later after the enactment of this Act, not later than 180 days after they are designated, provide for a schedule of effluent charges covering all navigable waterways within the boundaries of the area designated pursuant to Section 208(a)(2). Charges may be set at or above the level and on substances in addition to those designated by the Administrator pursuant to subsection (b)(1) of this Section. After approval by the Administrator, the charges may be imposed by the State or interstate agency, and all revenues therefrom shall henceforth accrue to the State or interstate agency to be used for the purposes of attaining the standards and goals of this Act."

Mr. HEINZ (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of the amendment and ask that it be printed at this point in the RECORD.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, reserving the right to object, I want to make a parliamentary inquiry.

The CHAIRMAN (Mr. SMITH of Iowa). The gentleman will state it.

Mr. HARSHA. Mr. Chairman, I intend to make a point of order against this amendment and, if the unanimous-consent request is granted, do I then waive my right to make that point of order at the appropriate time?

The CHAIRMAN. The gentleman will not wavie his right if he makes it immediately after the unanimous consent is granted.

Mr. HARSHA. I reserve a point of order against the amendment, and if the waiver of the reading of the amendment will not waive my right to a point of order——

The CHAIRMAN. The gentleman can make his point of order immediately following the granting of the unanimous-consent request.

Mr. HEINZ. I am willing, certainly, to let the gentleman reserve his point of order until after discussion.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HARSHA. Mr. Chairman, I reserve a point of order against the amendment.

Mr. HEINZ. May the gentleman reserve his point of order?

The CHAIRMAN. The gentleman from Ohio reserves a point of order.

Mr. HEINZ. I thank the gentleman for reserving the point of order.

Mr. JONES of Alabama. Mr. Chairman, I would like to make the same reservation on the point of order against the amendment that the gentleman just offered.

The CHAIRMAN. The point of order is reserved.

The Chair recognizes the gentleman from Pennsylvania for 5 minutes.

Mr. HEINZ. Thank you.

Mr. Chairman, my amendment to add effluent charges to this bill, I believe, can effectively insure that the promise of clean water becomes a reality. It would provide the necessary incentive to industry and municipalities alike to halt the waste and degradation of this Nation's precious and irreplaceable water resources.

In effect, the effluent charge in the amendment I propose places part of the burden for a pollution clean-up where it belongs—on the polluter himself—and ultimately in the marketplace where the cost structure and price of the product or service can be judged by the consumer.

I support this bill and many of the strengthening amendments. I am well aware that a thorough job of investigation and preparation went into this legislation, and I applaud the committee, its distinguished chairman, and, especially, the gentleman from Ohio (Mr. HARSHA), for a sincere and generally successful attempt to protect our Nation's water. However, I see the effluent charge as a necessary and vital extension of this bill in order to save the taxpayers' dollars, to attack pollution at its source, and to provide a more responsive and flexible incentive to adopt innovative and less costly methods of pollution abatement.

My amendment requires that the Administrator of EPA establish a reasonable and appropriate schedule of effluent charges to be paid by polluters on all discharge, including municipal sewage, which detract from the quality and serviceability of using water for municipal, agricultural, recreational, wildlife propagation, and other important purposes.

As an added incentive to reduce the amounts of discharge to a point within and below the limits of the law, owners or operators may claim a 50-percent rebate of those charges after installing proper facilities, including changed production methods, to abate pollution. Rebates would at no time exceed 100 percent of the total cost of the capital expenditures.

I have just sent out a questionnaire to my constituents on the water pollution bill and have talked to a great many people about their willingness to spend the billions of dollars required by this bill. The returns are running overwhelmingly in the affirmative. They realize, as we all must, that generations of neglect of our water will not be inexpensive to reverse.

I contend, however, that there is a wiser way to implement this objective than simply through spending billions of dollars on vast public works projects to build water treatment facilities. I submit this is through the use of effluent charges.

Effluent charges can save taxpayer money in several ways.

First, and most important, I would like to emphasize that the increased incentive to industry, in particular, as provided by effluent charges and their partial rebate, will have the desirable and necessary effect on reducing the need to spend the very large amounts authorized to construct water treatment plants. This means a substantial savings in tax dollars. Second, half or more of the effluent charges paid would be used to fund section 106 and title II of this bill, which, as it stands now, would authorize the expenditure of $7 billion in the first year alone. We must either raise taxes or further increase the vast Federal deficit, unless we find another means to pay for this bill, and that is why I propose the self-financing vehicle of effluent charges. I am firmly convinced we must make

every effort to minimize or reduce the devastating tax burden the people of this country now bear.

The administration and effectiveness of this bill also are of concern to me.

I am aware that this bill and its amendments commit us to the principle of environmental restoration. But I believe there is also a crying need for an effective bridge between the administration of pollution control, as set by law, and the goal of a pollution-free environment.

Let us be as realistic as possible. It is not simply a question of passing laws that we face, but how to administer the law. The procedures of this bill are necessarily complex at both Federal and State levels. The effluent charge I propose will minimize the need to further expand the bureaucracy by applying to all polluters—across the board—a built-in and easily administered incentive to meet or surpass our water quality goals.

There is one final and additional concern that I believe we must take into account, and that is our economy and the effect of this legislation on jobs.

I would add that there is a real added benefit to be derived from my amendment, to add effluent charges to this bill, and that is that the economy of this Nation could well be greatly expanded by the creation of a whole new generation of technology, the role of which would be to realize the need for polluters to pay effluent charges by finding and applying the means to control pollution through the elimination of damaging discharges. Countless new jobs could and would be developed through the demand for the manufacture and installation of devices, and other capital equipment, to halt the free flow of effluents into our water. The creation of a new industry to employ our expanding work force is urgent business if this country is to avoid the specter of unemployment.

Mr. Chairman, I submit that my amendment complements and improves this bill, and I urge my colleagues who are interested in lower taxes, increased employment, a smaller bureaucracy, and meeting the goals of this legislation, to support this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio insist upon his point of order?

Mr. HARSHA. I do insist upon my point of order, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, my point of order is as follows:

First, the amendment proposed is nongermane and therefore violates rule XVI, clause 7. The purposes of the amendment as contained in a letter circulated by the proponent on March 22, 1972, includes the purpose of producing revenues. Now, the production of revenues is completely alien to this committee, and is properly a matter for the consideration of the Committee on Ways and Means under rule XI. Moreover, another purpose stated in the letter is to permit industry to choose the most cost-effective means of reducing pollutants. This too is nongermane to the bill, which concerns itself with the control of pollution and enforcement. Another stated purpose in the letter is to encourage industry to sell products which take a smaller environmental toll. This too is not germane to the bill, as the encouragement of business practice is not necessarily related to any item within the bill.

Second, this amendment is not within the jurisdiction of the Committee on Public Works. It proposes a tax on effluents, and raises revenues, and therefore violates rule XI, which places jurisdiction of revenue raising in the Committee on Ways and Means.

Section 319(c), Mr. Chairman, categorically refers to revenues collected by the Secretary of the Treasury pursuant to such charges.

Third, the amendment violates rule XXI, clause 4 prohibiting appropriations in legislative bills. Section 319(c) and (d) of the amendment directs the action to be taken with the revenues raised in accordance with the amendment. In addition to the clear language of the amendment, the stated purpose of the amendment in the proponent's March 22, 1972, letter demonstrates the intent that these funds be used for a specific purpose in violation of rule XXI, clause 4.

Therefore, Mr. Chairman, I insist upon my point of order.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, as many of us on the committee recognize, there are certain alternate methods of studying the means and values that might be available, and in so doing we did address ourselves to this proposition in section 317(a), wherein we state:

"SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

So we are addressing ourselves to that, and it is in the report, as well as part of the bill under section 317 for the financing of that.

Mr. HEINZ. Mr. Chairman, would the gentleman yield so that I may address an inquiry to the gentleman from California?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. Mr. Chairman, I wonder if the gentleman from California would state whether this subject is addressed to the National Academy of Scientists for the purpose of studying this?

Mr. DON H. CLAUSEN. My suggestion to the gentleman would be that he convey his ideas to the administrator during the course of the study.

Mr. HEINZ. I thank the gentleman.

May I speak to the point of order?

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania (Mr. HEINZ) on the point of order.

Mr. HEINZ. Mr. Chairman, I would argue, in response to the statement of the distinguished gentleman from Ohio (Mr. HARSHA) in urging his point of order, that effluent charges are basically user charges, and user charges are fundamental to the bill. The bill would not work without them; they are the primary means of financing the operation and construction of the water treatment works herein.

And I would add further that this in itself is an important consideration in ruling on this.

Also I would hasten to add that clearly under sections 204(b)(2) and 204(b)(3) that in fact the purpose of this bill is to raise revenues for the purposes of the bill, and without this we could not possibly construct any water treatment facilities.

Finally—and to be brief—there are two historical precedents that I believe are important that establish the principle that user charges are germane to the legislation.

Volume IV, section 4119 of Hinds' Precedents of the House of Representatives—no relation, I would add—state that on February 23, 1905, the River and Harbor Appropriations Bill was under consideration, and included in such bill was a section permitting the collection of tolls on freight and passengers. A point of order was made to that. The point of order was not sustained.

Similarly, at a later date, in Volume VII, section 1929 of the same precedents, a bill that included a provision calling for fines and penalties for offenses on lands of the public domain was reported from the Committee on Public Lands, now called the Department of the Interior, and it was determined that those charges might properly be considered by the Committee of the House as a Whole.

Mr. Chairman, I respectfully request that the Chair consider these precedents in ruling on the point of order raised by the gentleman from Ohio.

The CHAIRMAN (Mr. SMITH of Iowa). The Chair is prepared to rule.

The gentleman from Pennsylvania has submitted an amendment to which a point of order has been raised on the ground that it is not germane and that it violates rule XXI, clause 4 prohibiting appropriations on legislative bills.

The Chair has examined the amendment.

The gentleman from Pennsylvania states that the bill contains similar provisions. However, the rule under which we are operating specifically waives all points of order against sections 2, 8, and 12 of the committee amendment, but it does not waive such points of order against an amendment to the committee amendment.

So far as nongermaneness is concerned, the Chair finds in clause 3(c) of the amendment submitted a provision for collecting revenues or taxes. Also in section 3(d) it provides for money collected from the fund shall be available for distribution—in other words, an appropriation.

So the Chair finds it is not germane for the reason that it provides for raising revenue, or a tax, and appropriates money. Therefore, the amendment is in violation of clause 7, rule XVI and also it is in violation of clause 4, rule XXI, prohibiting appropriations on legislative bills.

The Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAHON: On page 245, in line 13, strike out all after the word "submitted"; strike out all of lines 14 and 15, and all of line 16 down to the period.

On page 250, strike out all of line 18 after the word "shall"; strike out all of line 19; and strike out the words "for obligation" in line 20.

On page 251, strike out the words "for obligation" in line 12.

On page 254, add the following at the end of line 18: "To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation."

Mr. MAHON. Mr. Chairman, the amendment which has just been read appears in the CONGRESSIONAL RECORD, volume 118, part 8, page 10739.

I had hoped, Mr. Chairman, that the committee itself would offer this amendment. It is a procedural amendment which retains the full 3-year authorization in the committee bill, but provides for annual funding by the Congress—but on an advance basis—in lieu of the 3-year contract authorization proposed by the committee.

Thus the amendment would keep Congress where it ought to be—in the center of the action on this vital and momentous issue each year—annually, not once every 3 years.

Water pollution control activities are vital and will become more so from year to year. They require profound and lively debate and action by Congress each year.

My amendment provides for 1-year advance funding in order to accommodate sound planning by the cities and localities and to achieve the objectives of the bill. Under my amendment, the money would remain available from year to year until expended, further facilitating administration of the program. Funding by Congress each year—a year in advance—would provide maximum impact to keep the issue alive in Congress and among the people, and would have far more impact on the executive branch than the one-shot, 3-year contract authority.

The 3-year contract authority provided in the bill would tend to shelve the issue for 3 years. It would send it to the legislative graveyard rather than keep it alive and dynamic and before us an annual issue.

Some seem to think that contract authority will guarantee full funding of the authorization. Of course, nobody is so naive as to think that you can bypass the President or the executive branch. The President is the top official in all departments and agencies, and he would permit or not permit full-scale application of the contract authority—or appropriations, for that matter. But if we deal with the question annually, we in Congress can have maximum impact and we can better monitor the program.

The highway program is funded by contract authority, and on the matter of full funding there is no magic to it. In the current budget, the executive branch is proposing to impound about $1.3 billion of the 1973 amount, bringing the total accumulated impounding in the highway fund to about $8 billion. So there is no magic in a contract authorization. A 3-year contract authority just takes Congress out of the picture for the next two sessions, and puts the Executive in there with both feet.

I think experience shows that it is less painful for the Executive to impound contract authority. I say to you without fear of successful contradiction that Members who want to get something big and meaningful done—I mean really want to get something big and meaningful done—about water pollution should support a program of lively and profound debate on annual appropriations, keeping us in the act where we ought to be, where the people expect us to be. Yes, this would keep Congress in the picture, have a greater impact on the Executive and, importantly, tend to create national public sentiment to get an effective job done.

Congress, for the current fiscal year 1972, under the leadership of the Committee on Appropriations, has already appropriated $2 billion in the appropriations bill handled by Mr. WHITTEN—$2 billion for waste treatment construction grants—which is $350 million more than has even yet been authorized by law.

Why should we then abdicate for 3 years, my friends?

Take note of this: Already, 71 percent of the spending budget submitted in January for 1973 is classified as "relatively uncontrolled under existing law." This 3-year contract authority would put more of the annual budget in that category. What next?

Pollution is a big and a growing problem. Shall we further surrender our authority and power to annually work our collective will on Government spending?

The American people demean Congress for giving too much power to the Executive. Shall we continue to march toward congressional oblivion, surrendering our real authority to the Executive, or shall we take the ball and run with it? The power of the purse is our supreme power over government in behalf of the American people and annual review and control is at the very heart of that power.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. My amendment is a vital step toward preserving congressional prestige, dignity and power, and I urge you to support it. It would greatly improve the pending bill. It would fully facilitate carrying out the big program we have launched in recent years. While the amendment is procedural, it is also fundamental.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. If I have time remaining, I yield to the distinguished minority leader.

Mr. GERALD R. FORD. As I understand the gentleman's amendment, the Committee on Appropriations would recommend full funding for fiscal year 1973 of $5 billion and the full funding for fiscal year 1974 of $6 billion. Thereafter it would only require one-year funding, because you have the advance funding in the one instance. Is that correct?

Mr. MAHON. The amendment specifically contemplates one-year advance funding, and the Congress itself would decide this year, next year, and every year how much the funding would be. Congress ought to be willing to trust itself to deal appropriately with this vitally important and expanding issue. We cannot of course say today with any certainty what the situation will be during the forthcoming 3-year period and thereafter. But the advance funding contemplated by the amendment is designed to give appropriate certainty and flexibility to the program.

I prefer to trust the Congress each year, not leave it entirely up to the executive branch for the 3 years.

Mr. GERALD R. FORD. But in the first year there would be double funding under the gentleman's proposal.

Mr. MAHON. Double funding is what the amendment contemplates.

Mr. ROE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am honored to follow the most distinguished gentleman from Texas, the chairman of the Appropriations Committee, Mr. GEORGE MAHON, in his eloquent presentation made in this House, but let me present something for the attention of the Members.

The moment of truth is at hand. The heart of the bill is involved: Whether or not this Congress is going to make a full commitment to the people of the United States or whether it is not. That is the point involved. We talk about priorities. Yes, there is ending the Vietnam war, as priority No. 1 but the second priority is the very health and safety of the people of the United States. We cannot live more than 3 minutes without air and we cannot live more than 4 days without water. It is not a question of what priority comes first. The first priority is the health and safety of the people of this country. That is what this commitment is all about.

Whether we make that commitment now or in the future is the question before this House. We know we are systematically poisoning ourselves. We know the situation we are faced with right now is literally involved in the survival of our society. The determination we make, the order of financial au-

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thorization voted here today means the success or failure of this particular bill.

Previous water pollution legislation—every bit of it—failed, and it failed because of the fact that this Government, our Federal Government, built in acres and acres of redtape. The States cannot function under it and the municipalities cannot function under it. They are burdened with bureaucracy, bureaucracy, bureaucracy. The people of America are tired of being had. They want the truth. They want the truth, and they want what they want as the citizens of this country.

The legislation before this House has been debated before this House and before the Senate.

Some people say the States are not participating and the States did not do anything and the States are to blame. This is not the truth. The State of New York voted a $1 billion bond issue, and the State of New Jersey voted a half billion dollar issue, and a half dozen other States have also acted.

The fact of the matter, as I see it, which must be said, is that the Federal Government has not appropriated the money to do the job and they are using the fiscal resources of every single State that is participating in the development of this vital water pollution control program. That is the truth.

When we talk about precontract authority, we are talking basically about paying the States back on the money they are providing to build the program, the Federal water pollution control program.

So to anybody who says the States are not doing their job, I have to reply that it is not true. The States are tired of taking the blame and being had and being the "black hats" in this issue.

I know the time is short and I know it appears we are saying we neel more money. But we give it with one hand and take it away with the other. We put our hand in one pocket and say, hooray, look at the testimony today, the headlines in the papers, see what a great job we did in the Congress of the United States—except for one thing. We did not provide the money to do the job. The States are bilked again. They cannot go any further.

Who is the servant and who is the master? Were we not elected from the States to serve the States of this country? Were we not elected to be the Representatives in the Congress of the United States of the people of this country? We are not here to fight the executive branch and the President of the United States. We are here to serve the people.

The priority No. 1 in this country of ours is the health and safety of the people of this country. They should not be manipulated politically as a counterpressure on the Executive. Every day we fritter away and waste our time, costs on construction will be going up. They go up year after year after year. Then who pays through the nose? It is the American taxpayer. Congress cannot fritter away time on this issue while the people of our country drown in their own swill.

Woe to any Member of this Congress who votes for this amendment, because if he does he will be voting against the health and safety of every man, woman, and child in his district and in this country, and voting against priority No. 1, against the health and environment and safety for our people. I say the precontract provision must be retained and this amendment should be soundly defeated.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from New York.

Mr. GROVER. I want to compliment the gentleman on that statement. I do believe this amendment will indeed "gut" the spirit of the bill.

I do not believe that all the Members of the House realize the gentleman who just presented this statement is one of the most distinguished and knowledgeable persons in this field, as a former commissioner of conservation and economic development in New Jersey. I want to compliment him again on a very fine statement.

Mr. ROE. I thank the gentleman.

Mr. JONAS. I move to strike the last two words.

Mr. Chairman and members of the committee, I take this time to express my support of the amendment of the chairman of the Committee on Appropriations, the distinguished gentleman from Texas. I associate myself with the remarks he made in support of his amendment.

I am sure the gentleman from Texas is not parochial in his attitude, nor is he oversolicitous of the prerogatives of the Committee on Appropriations; but he is seeking to preserve the prerogatives of the House of Representatives and of the Congress. He just does not believe it would be wise for the Congress to vote $18 billion in a blank check to the executive branch of the Government. He feels that Congress should retain some oversight over this program, to see how it functions and to see what progress is being made.

There is not a word in the amendment that would reduce the total commitment.

The gentleman from New Jersey made a very eloquent speech about priorities. There was not one syllable uttered by the gentleman from Texas in support of his amendment, and there is not one line in the amendment that would take anything whatsoever off the total commitment to proceed vigorously with this program.

The gentleman from Texas believes, and I concur in that belief, that the Congress should not abdicate all of its responsibilities and all of its prerogatives to the executive branch of the Government.

We hear the charge made frequently that the Congress is surrendering prerogatives to the executive branch of the Government. This is an effort to retain some jurisdiction in the Congress of the United States to supervise and oversee the development of this program.

The language of the amendment itself is very clear. I should like to read the final part of it:

To the end of affording eligible recipients of grants for costs of construction adequate notice of available Federal financial assistance therefor, appropriations pursuant to this section with respect to the fiscal years ending June 30, 1974 and June 30, 1975, respectively, are authorized to be included in the applicable appropriation Act for the fiscal year next preceding the fiscal year 1974 or 1975, as the case may be. Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

I believe the position of the gentleman from Texas is sound. I concur in his argument in support of his amendment. I believe it ought to appeal to the good judgment of the House, and I believe it ought to be adopted.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I am glad to yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman from North Carolina for yielding.

Anyone who has studied the evolution of the parliamentary process over 700 years knows that the power of the parliaments has arisen out of the control of the purse. If we give up this power of the purse—control authority feature of this bill is one more significant part of the erosion of that power—we might as well give up the idea that the American Congress is an equal and coordinate branch of the Government.

I support the amendment offered by the gentleman from Texas.

Mr. JONAS. The gentleman from Maryland is absolutely correct, and I was glad to yield to him to make a profound contribution in support of the Mahon amendment. I fully concur in the views he so eloquently expressed.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I am glad to yield to the gentleman from Michigan.

Mr. CEDERBERG. I want to associate myself with the remarks of the gentleman from North Carolina and also those of the gentleman from Texas, and I share the sentiments expressed by the gentleman from Maryland.

We have been talking about many, many times—about how the Congress is abdicating its responsibility to the Executive—here we are going to have to make a decision as to whether or not we are going to take that step. In my opinion we should not do that. We have gone too far already.

Mr. JONAS. Mr. Chairman, in conclusion let me emphasize the language of the last sentence I read:

Appropriations made pursuant to this section are authorized to be made available without fiscal year limitation.

This means there is no limitation on the availability of the funds appropriated. They continue to be available until spent.

The Mahon amendment deserves support from all who believe in the doctrine of separation of powers and I urge the committee to adopt it.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a rather useless discussion. The reason I think so is based on the letter of the gentleman from Texas. We have a 3-year program for the expenditure of $18 billion. The gentleman from Texas in his letter says that he does not object to those appropriations; that he is reconciled to the fact that we will pay $18 billion in the next 3 years. Consequently, I ask what are we talking about? If he is agreeable to these appropriations, why cannot the States in an orderly fashion then proceed, with his agreement, to schedule the works and make the plans and make the useful and necessary programs available?

Let me remind you of something. Since 1916 we have had contractual authorizations under the Federal-Aid Highway Act. There has not been a single dissent from the Committee on Appropriations to the fact that that was a contractual obligation. It was necessary in order that the States could make the necessary arrangements or that the contracts could be made for this construction, which was gigantic in nature.

We recognize this again in 1956 with the Federal Interstate highway program. This was a tremendous undertaking, to the extent of spending many, many billions of dollars on the part of the Federal Government. We invited the States to come in and make the appropriate plans as long ago as 1946.

Now, when they come to these conclusions, why are we here now talking about not giving the States the contractual obligations that they need in order to pursue a building program amounting to $18 billion?

A decade ago we made an estimate of the flood control and river and harbor projects, and we found out that they were 10 years and 2 months behind the authorization in the first appropriation that they received.

I do not understand why we need to have these consequential delays in programing and execution. The Committee on Public Works came back here in cooperation with the Committee on Appropriations and modified the basin authorizations in order to cut down the time, the delay, and the delinquencies on the approved projects.

Now do we want to go back to that same situation? Do we want to tell the people of this country we have established this high priority for these great needs and for the desirability of the people to have a high degree of water quality and then have them come back here every year in large groups as they do on flood control and river and harbor projects to attest to the validity of their claims?

Why of course not.

Here, Mr. Chairman, we are providing the same proposition that the gentleman from Texas (Mr. MAHON) suggests, that we are going to appropriate the money. We are authorizing it and providing contract authority which would accomplish the job.

Mr. Chairman, to adopt such an amendment is not a question of trespassing upon the constitutionality and the sovereignty of the people on the Appropriations Committee.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. JONES of Alabama was allowed to proceed for 1 additional minute.)

Mr. JONES of Alabama. Mr. Chairman, what we are trying to do in our bill is give assurances to the American people that we are dedicated to the proposition of action in preserving and enhancing the waters of our Nation.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

(By unanimous consent, Mr. WHITTEN asked and was given permission to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, I happen to be the chairman of the Appropriations Subcommittee on Agriculture, Environmental and Consumer Protection which will handle the appropriations for this program.

Some of you will recall that when this jurisdiction was assigned to our subcommittee there were quite a number of eyebrows raised about the experience and objectivity of our subcommittee, wrongfully I feel. Luckily for me, in 1966 I had written a book, "That We May Live" a half chapter—page 176–81—of which is devoted to the absolute necessity that we do something to restore and protect the environment. In that book I pointed out many of the factors with which we have to deal to get the job done; the help, the cooperation we would need; the cost we would incur; the decisions we would have to make separating the undesirable from the downright dangerous; pointing out that we had to maintain our day-to-day business as we proceeded.

For instance, we could not ask the people of New York City to move out of town for a month while we clean up the Hudson River. We could not ask the factories to close down and thus throw many people out of work, for hungry people will not care about the environment. At the conclusion of my remarks I shall read to you the statements I made in that book, published in 1966.

Mr. Chairman, there is no finer group of Americans or a better informed group in this Congress than the members of the Committee on Public Works which brings this bill here today. There is not a harder working group that I know of than the chairman, the gentleman from Minnesota (Mr. BLATNIK), the gentleman from Alabama (Mr. JONES), the gentleman from Texas (Mr. WRIGHT), and all the rest. However in this bill heeding public clamor we are trying to do overnight that which cannot be done that quickly without proper plans but with purpose we commit billions of dollars—as though that alone will get the job done. We provide penalties as though we could force people to stay in business. The committee would lead us to believe you can write into any law provisions for self-execution.

May I say to the surprise of some, but not to those who know me, when our subcommittee held hearings on the request of the EPA and the various agencies for funds recommended by the Office of Budget and Management, we recommended those funds to the Congress after trying to tie them down to get maximum results.

So far as grants are concerned, our committee recommended, and Congress approved funds "to be made available when authorized." We did our part to ward carrying out all our commitments.

This $2 billion, to be available as soon as the appropriate legislative committee got the authorization through Congress shows our attitude, and our effective efforts.

As chairman of the subcommittee, I have met with Mr. Ruckelshaus, Mr. Train, and the others and we are working together. I sincerely believe we are making mistakes here in leaving too much latitude to the Administrator. Because the need is so urgent, the desire so strong and the press and news media so powerful in forming public opinion, we are trying to legislate to do by force that which cannot be done that way at least not successfully.

The Congress cannot force people to stay in busines, to stay on the farm, to stay away from the bathroom or to keep paying employees until the employer goes broke, if the purpose be to eliminate undesirable pollution.

If you were to bring together all the authority, all the responsibility you have give to William Ruckelshaus you would be amazed: He has the power of life and death over our economy.

As I told Mr. Ruckelshaus when he was before my subcommittee:

Mr. Ruckelshaus, I feel sorry for you. Congress has given you far more power than a good man would want, or a bad man should have, or that any 10 men could handle.

I understand he has come to realize that fact. You all know the basic fact that you cannot change the sum total of matter. You can change its form. You can move from water to the land and bury it, you may move it from land, put it in the water, or in the air. You break it into its different parts but you cannot change the sum total of it.

Incidentally—and this is beside the the point—but my friend, the gentleman from New Jersey, which is in the vicinity of New York City, will remember that we had the representative from the State of New York who had the overall job of pollution control for New York State, come before our committee this past year.

I asked him:

What can we as the Congress do, or what can our committee do to help you folks in New York?

He answered:

Well, if you can find somebody to pick up the garbage it would do more good than anything I can think of.

I tell you we support the good intentions of the Committee on Public Works. We should support their overall program but we can proceed only at a practical rate to get the most done to restore and protect the environment.

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To this end we need the most complete annual reviews by our committee.

We need to know that contracts are necessary; that the contractors are qualified and the plans sound.

I tell you—and I say this to my friend, the gentleman from Minnesota—there are not 10 men who together could carry out this act and discharge responsibly the authority that is given under it to the Administrator of the Environmental Protection Agency.

But in addition to that we have the other environmental acts which have given additional duties, powers, and responsibilities to one man whom most of you don't know. The EPA is still trying to get organized so that one branch knows what the other is doing and we keep adding all this power and all this money without thought or at least without proper restriction for its use.

The fact is that we cannot move as fast as the press, the extremists and some organizations would like us to; we can only move as far as we can on a sound basis. The bill without the Mahon amendment, lessens our opportunity to review, to recommend or to require sound progress in an orderly manner.

It is not humanly possible to move as fast as we all want to or, as I say , as the public wants us to do. We need to do the day-by-day hard work, taking detailed testimony, to find out just how best we can possibly help Mr. Ruckelshaus to meet the terrific responsibility that is his. I repeat, our subcommittee and the full committee for the current year appropriated $2 billion in advance of authorization, so that there would be no delay in meeting commitments to the cities. And may I say that notwithstanding that fact that $350 million have never been authorized yet.

So I am just saying let us not surrender the obligation that we have to conduct annual hearings so that we can go over their problems with the different departmental witnesses so that we can work out together how we can do the job most effectively. We could change this law and make it 10 times as strong, but you would still have the job of administering it. You would still have to find out where qualified engineers and other experts are. You would still have to find out who is doing what, and where, and you would still have to find out what laboratories we have, what they are doing and can do and work out plans for carrying out the act. All of those things involve long, hard, and grueling work, but your committee and, indeed, the subcommittees, are willing to do this. The Environmental Protection Agency does not have this information now.

Whatever we do we want to do our best. But I say let us reserve full commitment until we can find out; until Mr. Ruckelshaus can find out. Let us retain the annual review so necessary in every other area on how much can be done in the coming 2 years.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. CASEY of Texas. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Mississippi (Mr. WHITTEN).

I would also like to ask the gentleman if it is not true that if we do not adopt this amendment we will have no means in the future to control this program; we will not have the oversight or the ability to hold hearings after the program is started, once we pass this bill without this amendment, and in fact we are just turning it all over to the executive branch.

Mr. WHITTEN. The gentleman makes a sound point. With all due deference to the Administrator, neither he nor any 10 people could set up a sound organization or fully understand all the responsibilities we have given to him. The Administrator needs us to review with his proposed program annually as much as Congress needs to do so. For this Congress to push all this power on him and wash our hands of it is not to get the job done but can waste billions of dollars and get less than half the relief from water pollution we need.

Mr. CASEY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. CASEY of Texas. I am sure most Members agree with me. I want Congress to say each year where the emphasis should be put. This we can do with an annual review, but not otherwise. I want us to have that opportunity.

Mr. WHITTEN. I thank my friend and colleague from Texas. He is right.

Let us wake up to the fact that we could waste half of the money provided in this bill, money we do not have, and lose half the benefits we so badly need.

I think the gentleman's amendment is reasonable in that funds will not lapse, and if we appropriate for a full year in advance, which means 2 years, we thereby provide for forward planning.

Let us keep all the supervision that is possible. Let us keep all the review that is possible in order that we may reap the maximum results from our efforts and really get ahead in eliminating pollution.

I hope that you will vote for this amendment. I think the records show that our committee will use its position to go over the record each year with those who are charged with the responsibility to make this program work effectively.

It is easy to pass this law and say that it does everything in the world. It will not unless we work to make it work.

Mr. Chairman, I repeat my words written in 1966 in my book "That We May Live":

EXCERPT FROM "THAT WE MAY LIVE," WRITTEN BY JAMIE L. WHITTEN, MEMBER OF CONGRESS, PUBLISHED 1966

This is not to say that pollution of air and water does not exist, for, of course, it does. Pollution is part and parcel of man's unplanned and unthinking change of his environment; and particularly is it a part of the subject under discussion in *Silent Spring* and here. Public opinion here seems to be on the move toward action. This public temper can be good if held in balance. It can do more harm than good if not kept on an even keel.

Pollution comes from many sources and becomes greater as our population increases; unless we take corrective action, it will become worse as we become more and more industrial. We do have pollution of the air and water and apparently are going to do something about it. These facts lead me to point to some of the factors with which we must deal as we attempt to meet this problem.

The fact that air is essential to life is as old as knowledge. The fact that polluted air can cause discomfort is probably just as old. As soon as primitive man moved his fire into his cave, he certainly became aware of air pollution in the form of smoke. He also probably soon learned to reduce the smoke in his cave by careful placement and stoking. He then decided to accept some smoke in return for the warmth and convenience of the fire nearby.

We have been weighing pollution against convenience ever since. Now we are beginning to realize that more than convenience is involved and that the air around us is not a limitless sea into which we can continue to pour waste without serious consequences.

Our health and our well-being are threatened.

Thus did the *Agriculture Yearbook of 1963, A Plea To Live,* describe one of the serious problems of our day, air pollution.

The increasing pollution of our water unquestionably is a threat to fish and health. This became a matter of public concern in the United States in the late nineteenth century, when virulent typhoid epidemics appeared in various cities. The then new science of bacteriology identified many of these outbreaks as the result of contaminated water supplies. The public outcry against pollution was great. Public health officers attempted to meet this challenge in two principal ways.

The first was to select certain streams for waste disposal and to reserve other, and protected, streams for municipal supplies. This is the method followed by communities fortunate enough to own or control adequate watersheds. However, with our increasing population, it is virtually impossible today for one city to live separately and apart from another. While one city may protect its water supply, it will be adversely affected if those in adjoining areas do not do likewise.

The other method was the filtration and disinfection of water. This has permitted many cities to have reasonably safe and palatable water, even from such heavily polluated sources as the Missouri, the Mississippi, and the Ohio rivers.

While these systems have worked for many years we now face a period when we must give full attention to water pollution, or else pay substantial penalties in the future. We have some 30,000 sewerage systems and industrial complexes pouring waste into our streams. Included are 10,00 municipal sewerage systems, serving more than 100 million people, which dump sewage into the waterways. Twenty-five per cent of this load is without any treatment whatsoever.

Pollution degrades the physical, chemical, biological, and esthetic qualities of the water. The degree depends upon the kind and amount of pollution in relation to the extent and nature of reuse. Pollution can be just as effective as a drought, or excessive withdrawals, in reducing or eliminating water resources.

Over 2600 new or enlarged sewage treatment works are needed to serve 27.8 million persons living in communities presently discharging untreated or inadequately treated sewage. Another 2598 new sewage collection systems and treatment works are required to serve a population of 5 million living in urban areas where individual disposal systems have failed to function properly.

By the year 2000, thirty-four years from now, we will be around 330 million Americans as against today's 194 million. We will have nearly doubled the quantity of sewage going into our streams and protecting the public health will really be a problem.

Today's 194 million Americans are abusing our resources so far as our use and handling of water is concerned. Our lakes and rivers have oecome catch basins for the residues of our factories, automobiles, household and agricultural chemicals, for human wastes from thousands of villages, towns, and cities. How well we clear up this situation and learn to handle it without restricting man's means of providing our high standard of living may well determine the future of our nation.

As we approach this problem we must keep in mind that the power to control water quality or quantity is not only the power to make or break business but is a power over the life of the nation itself.

Since water is an absolute essential to health and to all man's activities, any group we set up to control water on any basis, by restrictions for protection of its quality or quantity and use, must have not only the cooperation and co-ordination of all departments and agencies, but all interests must be represented. The Department of Agriculture and the Department of Health, Education and Welfare, whose interests are tied together, should have a place in any such group, as should the Department of Commerce; but these are not enough. The states and municipalities must be represented so that the varied interests of all our citizens may be recognized and provided for, including riparian rights, established use, and the determination of priority to use. All this need carries with it the problem of built-in bureaucracy, of too many cooks, yet there is seldom an easy answer to a difficult problem.

If we closed all our manufacturing plants, that would greatly improve the purity of the water in our streams; if we stopped driving automobiles, just think what that would do to improve the atmosphere—and a single departmental head could have done that under several bills; if we could return to the 800,000 population level of this country at the time it was discovered by Columbus, nature would be able to largely eliminate the pollution problem. But with 194 million people we could never live in the simplified way of that day. Neither can we ask nor could we force the residents of New York City to quit eating, quit living, and quit breathing while we clean up the Hudson. The same is true for Washington and the Potomac, as well as the people of thousands of towns and villages. The power to set standards is the power to control, yet some Members of Congress have urged that such power be granted to a single government department.

Agriculture's claims and responsibilities for the use of water are second to none, for agriculture provides our food, clothing, and shelter, the basic necessities for life. In addition, agriculture has a great responsibility in the use of water, for land is the great gathering place and reservoir for storage of water. Just a few years from now we will need three times the water we use today, all of which points up the need to protect and manage the quality and quantity of our water supply.

In our work with the Appropriations Subcommittee for Agriculture, we find the close cooperation and coordination of efforts by both the Corps of Engineers and the Soil Conservation Service are necessary in watershed and flood control programs, both of which are highly essential to water protection. We would not expect a skilled surgeon to use only one instrument for all operations, nor a mechanic to fix our car with a sledge hammer. Thus it is with water pollution; we must use the tools required for the job; and most importantly, we must keep the factory running in the process and not turn the surgeon's scapel over to the mechanic or vice versa.

To do the cleaning up job on pollution, we must call on industry, on the federal, state, and city governments, and on individuals. We need financing and regulations, in the meantime, we must maintain a sense of balance, so that we do not tear up more than we correct. We are not merely limited to the practical but to the possible.

I believe all of you agree on that. My presentation is here today. My efforts shall be along that line.

Mr. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, never during my public life have I seen a more dedicated and well-directed committee than the House Committee on Public Works.

We have throughout our deliberations on this bill taken into account as many problems as were presented and resolved them, in my opinion, in a most satisfactory arrangement.

I take pride in our accomplishments for the Great Lakes, the interceptor sewer systems, and all the other necessary devices to deal with water quality.

Our problems in Chicago and Illinois, through neglect and inattention as in other parts of the country, have come to a pitiful state of affairs. Unless we have this contractual authority, this bill with its magnificent forward thrust will not be very meaningful.

If the contractual authority is removed, as the amendment proposes, we would raise great doubts as to the sincerity of the Congress to meet our obligations for the improvement of our Nation's waters.

We must reject the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Illinois. I yield to the gentleman.

Mr. RAILSBACK. I want to commend my colleague for his remarks and I join with him in his remarks. As the State of Illinois has, I think, been extremely progressive in trying to do something about the serious problems that confront communities, not only the Chicago area but also literally hundreds and hundreds of small towns that have been attempting to meet their responsibilities. The States come up with their fair share, but the Federal Government, which has mandated the programs by law, has not done its fair share. It is about time that we did something so that cities could rely on the Federal Government, which did mandate them to come up with these clean-water programs. I agree 100 percent. It seems to me the amendment would be bad.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Illinois. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I rise in reluctant opposition to the amendment, but I rise also to drive a deal or a bargain. It would take a tremendous amount of appeal for me to depart from my colleagues on this great Public Works Committee and to support the amendment offered by the eminent chairman of the full Appropriations Committee. But I would do so if I thought for 1 minute that what is good in this Chamber for the goose will also be good for the gander.

Last fall a military appropriation of $21.5 billion was proposed. Some of us wanted to know where $2.5 billion of that request was to be spent. We never were able to find out. Later last fall we were again asked to appropriate moneys in a "continuing resolution" bill, a relatively new procedure to me, and at which time we discovered that we were unable to separate the hundreds of millions of dollars requested for the Pentagon from money requested for the George Washington Bicentennial Commission, of all things, and a dozen other wholly unrelated expenditures proposed at the time.

If I thought the principle of making multiannual appropriations for the Pentagon was responsible for the waste that we have there in the last 10 years, and that it was going to be repeated in this water pollution program, then I would be constrained to follow the chairman of the full committee.

If we could be given some assurance that what would be good in relation to this program would apply to every military dollar that we spend and that we will have the right to look into it instead of being told, as my colleague from Ohio (Mr. SEIBERLING) was told last year that you cannot do that, that it had to be voted up or down, I would be constrained to vote for it.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the chairman.

Mr. BLATNIK. Following the speech by the gentleman from Texas and the very able leader of the committee, can we get an agreement to have a time limitation of 10 minutes on the amendment following the conclusion of his speech.

Mr. SIKES. I object.

Mr. BLATNIK. I should like to attempt to come to some understanding. I regret even suggesting a time limitation, but we have less than 1 hour and we have how many more amendments on the table?

The CHAIRMAN. Fourteen.

Mr. BLATNIK. That is correct. I would like some other Members to be heard on their amendments in the time available, which has been limited. That is why, with great reluctance, I made the proposal.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman.

Mr. GROSS. Would it be possible for a Member who is not a member of the Public Works Committee or the Appropriations Committee to get 1 minute on this subject?

Mr. BLATNIK. That is what I am trying to provide. I was trying to get some agreement.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. WRIGHT. Mr. Chairman, some of the amendments offered yesterday were predicated upon the argument that

the bill is too weak, that it does not do enough.

Now, interestingly, we have an amendment deriving from the premise that the bill is too strong, that it goes too far and does too much.

My wonderful friend and colleague (Mr. MAHON) is concerned—and understandably so—with protecting the jurisdiction of the Appropriations Committee of which he is the very able chairman.

He fears that the obligational authority contained in the bill will commit the Congress in advance to appropriate moneys sufficient to complete the construction of multiyear projects once they are approved and undertaken by the cities and towns of this country.

And that is in truth what the bill sets out to do. Some comprehensive pollution abatement projects, particularly areawide projects and those in our larger metropolitan sectors, may require as long as 3 or even 4 years to complete.

Your committee takes the position that we have a responsibility in good faith to give solid assurance to the municipalities of this country that we shall not lure them out onto a limb only to saw it off behind them for want of available funds.

The bill requires that by 1976 every publicly owned plant in the Nation must provide at least secondary treatment, and that by 1981 it must employ as a minimum "the best practicable technology."

The bill promises that the Federal Government will contribute its pro rata share of the cost.

But what good is that requirement, and what good is that promise, if we do not absolutely intend to deliver upon our part of the bargain?

Why should advance obligational authority be necessary? The events of the last few years suggest the answer.

The authorization for fiscal 1969 was $700 million, but the appropriation was only $214 million—less than one-third—and the amount actually spent was only $134 million.

For the 4 years, 1968 through 1971, the shortfall of appropriations below the amounts held out in the authorization bill totaled approximately $1.2 billion. And because of periodic administrative freezes on construction grants, the shortfall in the amounts actually granted came to approximately $1.6 billion.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Mr. Chairman, I cannot yield to the gentleman until I have finished my statement.

Mr. RHODES. Will the gentleman yield? The gentleman is making a misstatement.

Mr. WRIGHT. I cannot yield until I have finished my statement. But I am certain of the facts that I am quoting and, if I had sufficient time, I would be glad to enter into a colloquy with the gentleman from Arizona.

Mr. Chairman, I ask unanimous consent that I may have 2 additional minutes, so that when I conclude, I may yield to this gentleman.

Mr. GROSS. Mr. Chairman, I object to that.

Mr. WRIGHT. Then I am sorry, Mr. Chairman, I cannot yield. I have 5 minutes in which to say all this, and I am quoting the facts.

Mr. Chairman, many municipalities, faced with truly critical water pollution problems and intent on solving those problems in a timely fashion notwithstanding the failure of the Federal Government to live up to its part of the bargain, went ahead on their own and built the plants.

Obviously it would not be our intention to penalize those communities for having demonstrated the initiative and the determination to move ahead. And so this bill authorizes more than $2 billion to reimburse them for that portion of the authorized Federal share that was withheld from them.

But other communities waited, because they were unsure of the strength of the congressional commitment. And because they waited, the cost both to them and to the Federal Government is considerably greater today than it would have been had they been encouraged to proceed 4 years ago.

So this is the acid test. We decide right now just how serious we are about cleaning up the streams of this country. Do we mean it, or do we not? Are we certain, or are we uncertain?

I for one am certain. I believe that most of the Members are. I am ready to make that commitment. I think the Public Works Committee is certain, and the majority of the House is certain. We can prove it by voting down this amendment and saying to the communities of this Nation that once they put their hands to the plow, they need not turn back.

PREFERENTIAL MOTION OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. FINDLEY moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes in support of the preferential motion.

Mr. FINDLEY. I thank the chairman, and I thank the gentleman from Iowa for coming through with proper language forthwith.

I rise in support of the amendment offered by the gentleman from Texas. I believe it is an important step for the House to take in order to retain some semblance of fiscal responsibility.

I know it is perhaps considered in bad taste to talk about budget control and deficits at a time like this, when we are considering a bill that does have such attractive and universally appealing label as clean water, getting rid of pollution in water, but it was not too long ago that the President sent forth this budget that showed a deficit of $25 billion.

During the course of consideration of this bill I looked up the item in the President's budget that had to do with clean water. The President asked for just a bit more than $2 billion in respect to water quality control for fiscal year 1973.

As I understand the first year cost of this bill, it will be in the neighborhood of $7 billion to $8 billion, at least $5 billion for the grants and about $2 billion or more for research and development.

I hope the amendment offered by the gentleman from Texas does prevail. I believe it is an important step forward. But it would certainly be a serious mistake for anyone to conclude that the acceptance of that amendment will really bring us to the point of fiscal responsibility in dealing with the Federal budget.

The gentleman from Texas heads the important Appropriations Committee. We heard from the gentleman from Mississippi (Mr. WHITTEN) the chairman of the subcommittee which would ordinarily deal with appropriation matters like clean water.

If we accept the amendment of the gentleman from Texas and report out a bill with about a $8 billion first year price tag, that request will go to the gentleman's subcommittee of the Appropriations Committee. How in the world will he adjust that figure to fit in to even the President's budget, which is already $15 billion out of whack?

I would be glad to hear from the chairman of the Appropriations Committee or from the chairman of the subcommittee of the Appropriations Committee as to how they would deal with the dilemma they will face when and if this amendment is adopted and when and if the appropriations request does come before the Appropriations Committee.

You will face a tough problem. How are you going to meet it? What are we going to do to bring this runaway budget under control?

As the gentlemen will recall, I have been urging that the House change its procedures to require that we first adopt a budget for the Federal Government before we can appropriate any money.

I believe it is a mistake for us to assume that the price tags on authorization bills have no importance whatever, that we can go ahead and authorize virtually without limit and assume that the Appropriations Committee will take care of the problem. We seem glad to shift responsibility to the Appropriation Committee. But is that really any solution at all?

Can the gentleman from Mississippi (Mr. WHITTEN) shed any light on how he will resolve the dilemma that soon may come before that subcommittee? Are we not really feeding the lion of inflation by passing out a bill like this that has an $8 billion price tax for the first year, four times the President's request?

I am glad to yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say to my colleague, I hope I may shed some light, but so far as solving the dilemma is concerned I do not know how I can do that here.

I am certain the Congress has passed so much legislation requiring so many things, and granting so much power that if we give to the Administrator of the Environmental Agency billions of dollars to enter into contracts, companies will be organized to accept the money, many times without firm plans and a new organization. This may be through the cities and it may be otherwise.

Of course, our subcommittee will do its best through our hearings, through our reports and through our bill to see that projects are sound, that they are planned and that Congress gets a look before hand.

If the Mahon amendment is not adopted our job will be just that much harder, for Congress by denying the Mahon amendment will limit our ability, to get full value for a dollar spent.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 minutes.

Mr. MICHEL. Mr. Chairman and members of the committee, I am glad to have the gentleman who preceded me in the well (Mr. FINDLEY) raise the very important questions about how we are going to pay for this bill. Everybody has been talking about bestowing all of these goodies, these benefits, upon the American people, but I have heard very little about how much it is all going to cost the taxpayer.

The gentleman from New Jersey talked about being truthful. We also want to be truthful with the people, and we think we can be just that by making these amounts appropriated more visible each year.

As a matter of fact, if his is such a popular issue, just think of the points that you can make back home by going to the well every year and appropriating bigger and bigger amounts of money to get this job done.

But, Mr. Chairman, we are only talking about water here today. Just think what additional sums will be required to clean up the air and solid waste disposal?

We have been talking today and in the previous 2 days about a multi-multi-billion-dollar bill. There is no question about the popularity of the cause, but it is expensive.

I said in our Republican conference the other morning and will repeat it here that to be really fiscally responsible we should be down here saying truthfully to the people, "We have to have a Federal tax increase." I say that because we are talking about $18 billion here in this bill over and above, as the gentleman said, a $25 billion deficit this year. Where are we going to get the money for this? Well quite obviously it has to first come out of the taxpayer's hide.

Mr. HARSHA. Will the gentleman yield?

Mr. MICHEL. In a minute I will.

With no more congressional control than what is inherent in contract authority, I do fear the consequences. That is why I support the chairman's amendment. We should retain our power to fund by appropriating for this program in an orderly fashion. As the chairman indicated, his amendment provides for forward funding of 1 year. We have been doing this in the field of education. We can do that also in this bill. The chairman's amendment also says "no year funds," which means that once appropriated they do not lapse. So you will not be short-circuiting your constituents by supporting this amendment. By taking the route advocated by our chairman, these expenditures will be made much more visible.

As a matter of fact, if we have to have a tax increase, would it not be better to have a vehicle, a popular vehicle like this as a means for getting the tax increase to fund it? Somebody has to pay for it.

The gentleman from Illinois mentioned our environmental bond referendum passed in Illinois of $1 billion. We are paying for it by raising our own taxes. I do not think we should go back and reimburse my State because we recognized the problem earlier than others, because the job is so big that it will take billions and billions upon additional billions of dollars, to complete the job. Before long expenditures in this clean-up effort will rival all of the health activities and conceivably the Department of Defense budget itself.

The chairman of the full committee (Mr. JONES) made mention of the contract authority in the highway program. Bear in mind that in this case there is a trust fund. People are being taxed for it with a cent a gallon on gas and it is going into a trust fund and then is disbursed by contract authority. We have to face up to the fact that we are talking about untold billions of dollars here and there ought to be some oversight of it.

How many times have we said that the legislative committees ought to recognize their responsibility and engage more in oversight as we do on a yearly basis in our Committee on Appropriations.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. Yes, I yield to the chairman of the committee.

Mr. BLATNIK. The gentleman is right in his statement to the effect that there should be oversight, and I pledge that there will be such oversight.

First of all, the Committee on Appropriations justly should have jurisdiction over the program of appropriations, and it is with reluctance that I get into this question of jurisdiction. I would point out that the bill authorizes $24 billion. Over $8 billion would still be subject to the annual appropriations procedure.

However, the EPA is working with the States and municipalities in planning waste treatment works. We know that in the next 3 years in order for the States and municipalities to assemble the necessary data and to submit specific projects they will have to have assurance that the Federal grant money will be available. But to match that provided by the local governments each year, EPA will have to come before the Committee on Appropriations and make a thorough accounting with reference to their use of this grant money, and to submit a progress report. In addition to this, we are going to have our own House Investigating Committee involved in reviewing the manner in which the program is operating and whether funds are being spent effectively.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Illinois (Mr. FINDLEY).

The preferential motion was rejected.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one must either have an overabundant supply of intestinal fortitude or be foolhardy to get up here and oppose the distinguished Appropriations Committee, but because I feel so strongly about this issue, I am willing to take that risk.

Now, certainly, there is a lot of money involved. We heard this from the two gentlemen from Illinois who referred to the deficit. I must point out that under this amendment the gentleman from Texas would now appropriate the $5 billion for 1973 and would also advance for 1974 another appropriation of $6 billion. In other words, he would appropriate $11 billion, if I understand his amendment correctly. Add that to the budget deficit and then you can see that this would enormously expand our budgetary problems.

However, under contract authority, all that would be obligated for 1973 is $20 million and for fiscal 1974, $250 million.

Thus, if you are worried about the effect of this bill on the deficit, the much better route is contract authority. This is because in these years when the deficit is so great we would have very small obligations, because the construction program would be stretched out over a number of years.

Because of the magnitude of this program, it is essential that the States, the interstate agencies and the cities have both the ability for and a basis for long-range planning, construction scheduling and financing waste treatment plants, including the sale of bonds that they have to sometimes negotiate.

Now, this can only be accomplished if there is assured availability of Federal grant funds for future years. This necessary assurance is not provided by merely advancing appropriations for 1 year. That will not meet the needed assurance of long-term planning. This is a continuing program.

We must at this time, right now, set up the mechanism for future year financing. Congress is not abdicating its authority. It has control over the program, because this bill provides that we must approve a needs estimate on the odd year, and every 2 years thereafter.

Next year we are coming back to the Congress and asking the Congress to approve a needs report, and at that time we can review it. We will have some control over it. Then we have to come back under this legislation every 2 years thereafter. So we will have some control and some jurisdiction over it as the program progresses.

In addition to that, we are coming back here in 1974 after the National Academies of Science and Engineering have completed their studies, and we are going to have to take whatever action is necessary at that time to further implement the program. We will again have an opportunity to review it.

The construction of a waste treatment plant consists of planning; economic and engineering feasibility studies; preliminary engineering for the preparation of plans, specifications, and estimates; the acquisition of land where appropriate; and the actual physical construction of the building itself. Under this legislation each one of these steps is ordinarily a

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separate project, a separate contract, and it is funded as completed or as work progresses. This is not the case under existing law where 25 percent of the total project must be completed before any payment can be made.

At the time any one of these preliminary steps is taken, such as the plans, specifications, and estimates, there is no assurance that appropriated funds would be available for subsequent projects for land acquisition and the actual building of this plant for which the plans, specifications, and estimates are being prepared. This, therefore, makes the orderly continuous planning and scheduling of work impossible.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HARSHA. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. GROSS. Mr. Chairman, reserving the right to object, does it mean that everybody else is going to be locked out from being allowed to speak on this bill by virtue of these continual extensions of time?

Mr. BLATNIK. Mr. Chairman, if the gentleman will yield, I am not asking for any extension of time.

Mr. GROSS. I understand that, but the gentleman happens to be the chairman of the committee, and the one who will be up here asking to cut off debate.

Mr. BLATNIK. I would like to say that following the conclusion of the remarks of the gentleman in the well that I would like to get some agreement on a time limitation.

Mr. GROSS. That is exactly what I thought.

Mr. BLATNIK. But that is only because of the reason that we have some 20 other amendments with less than an hour's time, and I would like to be able to give a few minutes to each of the sponsors of those amendments.

But that is the situation we are faced with.

Mr. GROSS. Let me say that very few of the committee members have been permitted to speak on these amendments, practically only members of the Committee on Appropriations have had any time, and I would like to have a little assurance that some members of the committee will receive a minute or two on this amendment.

Mr. BLATNIK. I understand that, but as the chairman of the committee I do not have the authority to recognize the gentleman.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HARSHA. Mr. Chairman, I would like to call the attention of the House to the President's environmental message which the President sent up in February of 1970, requesting legislation to implement a forceful water quality control program.

In the message that he sent up he requested contract authority—the President of the United States in February of 1970 requested contract authority.

I read from his environmental message supporting the legislation that he sent up. He said:

> By thus assuring communities of full Federal support, we can enable planning to begin now for all needed facilities and construction to proceed at an accelerated rate.

That was the President of the United States.

Mr. McEWEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. Not at this time. I further point out that the Secretary of the Interior, Mr. Hickle, testified before the Congress in favor of contract authority.

Now, here in 1972 I am advised that the administration is opposed to the provisions for contract authority. I am also advised the administration opposes all amendments. I submit that the position of the administration is untenable. If this was a good proposal in 1970 it is a better proposal in 1972.

The administration sent up legislation requesting contract authority. I point out to my friends on this side of the aisle, which 143 Republican Members introduced including 12 Republican members of the Committee on Appropriations. I have the bills here. If you would like to see them, and if you would like to be identified, just ask me and I will read out your name. I can show you where you committed yourselves to contract authority.

Twelve members from the Committee on Appropriations on this side of the aisle asked for contract authority.

I rest my case, Mr. Chairman.

Mr. BLATNIK. Mr. Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, conclude in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(By unanimous consent, Messrs. McEWEN and MARTIN yielded their time to Mr. RHODES.)

The CHAIRMAN. The gentleman from Arizona (Mr. RHODES) is recognized.

Mr. RHODES. Mr. Chairman, I congratulate the Committee on Public Works on bringing out this bill, which I support. However, I also support the amendment offered by the gentleman from Texas to take contract authority out of this bill and substitute therefor authorization for appropriations which will assure that every community in this country will know without a doubt how much money it can spend for the very important purpose of insuring clean water for everyone.

We are all for clean water. But it just happens that the Members who are in favor of this amendment feel that there is another important issue before the House today. That is whether or not you are going to keep the Committee on Appropriations in business to order the priorities on expenditures.

If this amendment does not succeed and we get a bill with contract authority, I can imagine that those who have their favorite programs, whether they be in education, health, or whatever, and who ask for full funding on these programs, will now ask for contract authority to completely bypass the appropriations process. If we do that, we might just as well abolish the Appropriations Committee. I think it would be much more merciful if you do it openly in one fell swoop instead of trying to do it in degrees the way you have been doing for the last several years.

To me, it is very necessary and very important that this amendment be adopted. Otherwise, I do not know how it is going to be possible for us ever to make any fiscal sense in this country.

I suggest that we need fiscal sense just as much as we need clean water.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, this is a tough bill. This bill is tough on American industry. We are saying to the business and industry of our Nation in this bill that they have to spend billions of dollars to clean up their effluent. So our commitment to clean up pollution in the public sector ought to be as strong as the bill is on industry, and for that reason, I am opposed to the amendment that is presently before the committee and I support the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

(By unanimous consent, Mr. EVINS of Tennessee yielded his time to Mr. SIKES.)

Mr. SIKES. Mr. Chairman, I want it understood that I support the bill. I feel that the Committee on Public Works under its distinguished chairman (Mr. BLATNIK) and the chairman of the subcommittee, Mr. JONES of Alabama, have done a very creditable job of restoring realism to a major program, a necessary program, but one which must be a workable program. We want the Nation to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement. I think this is possible under the House bill. I feel that we would be courting serious danger if we were to follow the procedures set up under the Senate bill. That program could be unworkable and it could certainly be excessively costly in dollars and in damage to the economy.

I support the proposed amendment for it is most important that we reverse the trend of delegating to the administration our responsibility for the annual review and control of Federal expenditures.

The language of the committee bill authorizes the administration to make commitments over the next 3 years for $18 billion worth of waste treatment works without further control by the Congress. It takes Congress out of the picture for the next 3 years, and yet leaves flexibility to the administration as to the level of the program to be carried out. The language of the committee bill seeks to delegate the determination of the rate of obligation under the program to the administrator of the act. It provides that the administrator shall act upon project plans submitted by applicants "as soon as practicable after the same have been submitted," and his approval shall be determined a contractual obligation of the United States. "As soon as practicable" leaves great latitude as to when the contract commitments are made.

There is nothing to prevent the administration from impounding the funds, or slowing down the rate of obligation under the program and yet the Congress as a practical matter would be powerless, for it would have delegated its authority in this regard for the next 3 years.

The main reason set forth for granting the contract authority is to provide State and local interests with adequate notice of funding levels for their planning purposes. The pending amendment would assure such advance notice by providing for 1 year advance funding of the grant program on a direct appropriation basis. For example, in the appropriation bill for fiscal year 1973 we would fund the grant program not only for fiscal year 1973, but also for fiscal year 1974. States would know more than a year in advance the level of funding that they could depend on in planning their projects. Yet this revised funding procedure assures that Congress retains its prerogatives to take annual action on this major grant program.

The track record of Congress in support of this program is excellent. At the end of fiscal year 1970 there was a carryover balance of $440 million and at the end of last fiscal year there was a carryover balance of $211 million. I believe this is ample evidence that we have provided a funding level more than adequate to meet the local abilities to participate in the grant program.

By adoption of this amendment we can meet the local requirements for advance funding and, at the same time, retain in the Congress our responsibility for exercising an annual review and control of the program.

In other words, the Mahon amendment proposes only to retain congressional control on expenditures for water pollution control. We are embarking upon a gargantuan program in an effort to insure clean water for America. It is going to be a costly program. It will touch every corner of the Nation.

Unless there is congressional control, it should be obvious the program could get completely out of hand as unchecked bureaucracy builds itself a huge new empire.

The Mahon amendment would not injure the program for clean water or hinder the orderly operation of any contract. It would simply insure year by year congressional funding. Once projects are authorized and funded, the money would remain available until each project is completed.

We have all heard of the evils of "back-door spending." Without the curbs contained in the Mahon amendment, I believe the bill represents an invitation for back-door spending.

I had felt that the committee would accept this amendment for it is intended only to help control the flow of taxpayers' dollars into sound areas under the control of Congress. Now I urge the approval of the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. MICHEL) is recognized.

Mr. MICHEL. Mr. Chairman, I just want to clear up one point that was made here, that if we go the appropriating route rather than a contract authority route, we would bring the budget that much more out of balance. The two are treated the same, whether it is authorized on a contract basis or under an appropriation. There is no difference in the budget picture itself. But more importantly is the fact that it makes visible what we are really spending in this particular area, and I think that is a point to be made here in support of the Mahon amendment.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. JACOBS. Mr. Chairman, I support the Mahon amendment. I request that the various Members of this House ask yourselves, When is the last time you were invited to a meeting at the White House? Now, let me read to you an old political formula: Reduction in the number of White House meetings with Members of the Congress is in direct proportion to the amount of constitutional authority surrendered to the White House by the Congress. One of these days, if Congress keeps on this path of authority giveway, this body might just wind up with all the authority of the Saigon Legislature.

The CHAIRMAN. The gentleman from New York is recognized.

(By unanimous consent, Mr. DON H. CLAUSEN yielded his time to Mr. TERRY.)

Mr. TERRY. Mr. Chairman, I rise in reluctant opposition to the distinguished and competent Mr. MAHON's amendment to strike contract authority from H.R. 11896.

Over the years, a great deal of misinformation about the States' needs has been generated.

Just recently, for example, I was advised that, as of the end of 1971, the States had used only $200 million of their allocations for the first $650 million which had been made available to them through October 31, 1971. New York, it was asserted, had used only $2 million of its $54 million allocation; Pennsylvania had used only 3 percent of its $35 million allocation, and so on.

In checking for the reasons, I learned that New York had submitted applications to EPA to use all but a fraction of its funds, and the State was negotiating with municipalities to use its fractional balance. Pennsylvania had submitted 25 applications last August to use its entire allocation; by January, EPA had given final clearance to only $2 million for New York's projects, and 3 percent of Pennsylvania's request—the remainder of the applications were pending in EPA's regional offices, and neither New York nor Pennsylvania could get them to budge on giving further final approvals.

Now, when it comes to fiscal year 1973 funds, the EPA has budgeted $2 billion. In spite of the needs of the States, and the demands being made upon them to step up their antipollution efforts, we can expect to hear considerable justification for staying within the $2 billion figure. If the justification is to stay within a budget, that is one thing, but if the justification is based on alleged States' needs, that is quite another matter.

I would like to give a short summary of New York's immediate needs.

The State recently withdrew 45 projects that had a total eligible cost of $546 million. If the Federal share of these costs is to be 75 percent, as provided in H.R. 11896, New York will require $410 million in Federal funds to resubmit all these projects.

In addition, New York has 112 projects in the pipeline, ready to be submitted to EPA for approval, with a total eligible cost of $937 million. With Federal financing at the 75-percent level, New York will require $563 million in Federal funds to finance these 112 projects.

In summary, New York could go ahead immediately on all these 157 projects if $873 million in Federal funds were available.

But, let us look at the $2 billion budgeted for fiscal year 1973. Depending upon the allocation formula finally to be agreed upon, New York will receive an allocation as little as $160 million, but no higher than $220 million.

A $11 billion appropriation for fiscal year 1973 would be required if New York were to receive an allocation of $873 million.

With a $2 billion Federal budget for fiscal year 1973, New York could be able to submit, at the most, only three or four projects over the next year—the number of projects would depend upon their size. We have a large project in Niagara Falls, another in New York City, ready to go now—they have a high priority, since raw sewage is being dumped in both areas. Both projects together would consume our entire allocation from the $2 billion allocation.

Mr. Chairman, if we are going to require the States to move at a faster pace with their antipollution efforts, we must do all we can to keep the faith with them that we in Congress are facing up to the costs that will be required.

The States have not known from year to year what the appropriation will be, so that they will be able to some reasonable degree to know what kind of Federal funds they will be receiving. Without some kind of assurance, such as contract authority as provided in H.R. 11896, the States will continue to be called the "laggards." Let us give them the assurance they must have.

The CHAIRMAN. The gentleman from Connecticut (Mr. GIAIMO) is recognized.

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. MAHON). What is at issue here is not the question of more or less money. Those who oppose this amendment seem to think that they are automatically going to get the whole amount of the contract authority set forth in the bill. Do not you believe it. You are going to get as much money as the administration and the Office of Management and Budget gives you each year. What you are doing by having contract authority rather than an appro-

priation procedure is that you are cutting out congressional control, not Appropriations Committee control, but congressional control over a program, and turning it over to the bureaucrats and the Office of Management and Budget. I, for one, do not want to give up congressional contact and I urge support of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. GRAY).

(By unanimous consent, Mr. BLATNIK yielded his time to Mr. GRAY.)

Mr. GRAY. Mr. Chairman, I think what we must ask ourselves here today is whether or not we want a smooth rolling program or a stumbling program. If the Members have ever driven an automobile with water in the gasoline tank, they know the car hesitates when it gets to that water, and there is not a smooth running motor.

As the gentleman from Connecticut just pointed out, it is not just a question of more or less money. It is a question of the communities, the States and industry who are in this partnership arrangement knowing what they can expect in the way of money for this program. Contract authority gives them that smooth running operation. That is all we are trying to do. I have great respect for the Committee on Appropriations, but we know some years it is September, October or later before appropriations are made for a fiscal year that begins on July 1. In most cases it is the fault of the other body, however, the year is almost gone before a community will know how much money this Congress is going to appropriate.

Let us do this in a smooth-running fashion and get on with the job of cleaning up the Nation's waters. I can assure you we will save both time and money for the taxpayers.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I rise in strong support of the amendment offered by the chairman of the House Appropriations Committee, the gentleman from Texas (Mr. MAHON).

This bill provides a further vast delegation of power at a time when we cannot have too many checks and balances as between Congress and the White House. Why should we deliberately write ourselves out of oversight in this matter of expenditure? I am surprised that the Public Works Committee did not accept this amendment in the first instance for the committee has no crystal ball by which it can gage the future as to the financial and economic health of the Nation.

If I have any criticism of this amendment, it is that it does not go far enough and place full responsibility on the Appropriations Committee. Not a single Member of this House knows what the situation will be a year from now, much less 5 to 10 years, with respect to revenue and with respect to deficits and debt.

Mr. Chairman, the total cost of this program for only 5 fiscal years, as estimated in the report accompanying the bill, is $24,623,000,000—twenty-four billion, six hundred and twenty-three million dollars.

That is a huge amount of money and yet the Appropriations Committees of the House and Senate, charged with the responsibility of guarding the purse strings of the Federal Government, are, under the terms of the bill, relegated to the role of rubber stamps. For all practical purposes they will simply supply the money—no questions asked; no answers given.

Meanwhile, no such restrictions apply to the White House, its Office of Management and Budget, and the bureaucracy which will dish out the billions under contracting authority.

Mr. Chairman, every Member of the House wants every section of this Nation to have an adequate supply of clean water. No one wants pollution of any nature. But there is no such thing as instant salvation from the neglect and mismanagement of the past. In view of the financial crisis now confronting the country, the greatest prudence must be exercised in the spending of these billions. In fact, no one has bothered to even suggest from what source the billions here authorized are to be obtained.

It is because I believe this legislation goes far beyond reason, and because it denies the proper oversight to the House Appropriations Committee that I must vote against it.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, both the Public Works Committee and the Appropriations Committee, I think, are kidding themselves about the effect of the pending amendment. No matter what we decide on this particular amendment, the agency that is going to run the business of Congress is the Office of Management and Budget. Every Member listening to me knows the heavy hand of the Office of Management and Budget and knows what they do to control all appropriations. We had a project in Texas which had money authorized and appropriated for a basinwide survey in the Colorado River, but it is 8 months later and the OMB has not released those funds. This type of delay has happened to every Member of this House. Until the Appropriations Committee can address itself to who does control the appropriations, we will have this debate again and again. The OMB must be harnessed, and we the Congress must give some time to that debate later and in full measure.

The OMB has set itself up to be both judge and jury on how all appropriations are handled. That is for the Congress to decide.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GROVER).

Mr. GROVER. Mr. Chairman, I have seen a badly needed multibillion dollar bond issue for a badly needed treatment plant voted down because the taxpayers were uncertain about whether the Government share was going to be there and forthcoming. Hundreds of our communities around the country have charters which require the taxpayers to saddle themselves with this burden through direct referendum, and they simply are not going to do it if the Congress does not defeat this amendment, because it is going to be known as the "uncertain funding amendment" passed by an uncertain funding Congress.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, all of us here, of course, seek the same objectives, the objectives as outlined in the bill itself. This is not a new problem, the problem of contract authority, and annual funding. These halls reverberate with the arguments between the great Member from Alabama, Al Rains and the late beloved Member from Texas, Albert Thomas. We have fought this battle before, and the Congress has won the fight. This is not the first time we have been engaged in a problem of contract authority. When bills were brought to the floor in the past for housing and for urban renewal and for grants in airways and airports, they were all brought to the floor under contract authority, and the Congress exercised its own will.

We want to do that here. The power of the purse rests here, and if we give it away, we give away the most important power this body has.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I yield back my time.

Mr. EVINS of Tennessee. Mr. Chairman, I have great respect for the distinguished chairman of the Committee on Public Works and for the members of his committee, but rise in support of the amendment of the gentleman from Texas (Mr. MAHON), chairman of the Committee on Appropriations.

Under the present procedure Congress appropriates annually—and generously—for waste treatment grants—including a $2 billion appropriation in the bill this year.

As a matter of fact, there have been large carryover balances of $440 million for fiscal year 1971 and $211 million for fiscal year 1972—a total of more than $650 million in carryover funds.

This demonstrates that the funding level for this program has been adequate and substantial.

Under the committee bill, contract authority for 3 years would be authorized.

This represents another effort to evade the appropriations process and meaningful congressional oversight.

There is constant pressure from many agencies and departments to circumvent Congress in the matter of direct appropriations—and approval of this bill would open another hole in the dike.

This program needs review and oversight and Congress must continue to exercise oversight and control through its constitutional appropriations process.

Under the Mahon amendment, advance funding will be provided for 2 years—1973 and 1974—1 year of advance funding thereafter. This should be sufficient.

Advance funding will assure the continuity desired—and at the same time Congress will retain its control and oversight authority.

Congress should not continue to delegate its authority and responsibility to executive administrators—as capable as they may be. This blank check endorsement procedure should be stopped.

I urge the adoption of the Mahon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. MAHON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. MAHON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered: and the Chairman appointed as tellers Messrs. MAHON, ROE, JONAS, and RHODES.

The Committee divided, and the tellers reported that there were—ayes 161, noes 232, not voting 39, as follows:

[Roll No. 97]

[Recorded Teller Vote]

AYES—161

Abbitt	Gross	Poage
Addabbo	Gubser	Poff
Alexander	Hagan	Powell
Andrews	Haley	Price, Tex.
Archer	Hall	Purcell
Arends	Hansen, Idaho	Quillen
Ashbrook	Hansen, Wash.	Randall
Aspinall	Harvey	Rhodes
Belcher	Hathaway	Robinson, Va.
Bennett	Hébert	Robison, N.Y.
Betts	Heckler, Mass.	Rooney, N.Y.
Bevill	Hosmer	Roush
Biaggi	Hungate	Rousselot
Blackburn	Hunt	Roybal
Boland	Hutchinson	Runnels
Bray	Ichord	Ruppe
Brinkley	Jacobs	Ruth
Brown, Ohio	Jarman	Satterfield
Burke, Fla.	Johnson, Pa.	Schmitz
Burleson, Tex.	Jonas	Schneebeli
Burlison, Mo.	Jones, N.C.	Scott
Byrnes, Wis.	Keith	Sebelius
Byron	King	Shipley
Camp	Kyl	Shoup
Casey, Tex.	Landrum	Shriver
Cederberg	Lennon	Sikes
Clancy	Lent	Skubitz
Collins, Tex.	Lloyd	Slack
Colmer	Long, La.	Smith, Calif.
Conable	Long, Md.	Smith, Iowa
Conte	Lujan	Springer
Crane	McClory	Staggers
Daniel, Va.	McClure	Steed
Danielson	McCollister	Steiger, Ariz.
Davis, Wis.	McDade	Stubblefield
Delaney	McEwen	Talcott
Dellenback	McFall	Teague, Calif.
Dennis	McKay	Teague, Tex.
Derwinski	McKevitt	Thompson, Ga.
Devine	McMillan	Veysey
Dowdy	Mahon	Waggonner
Edwards, Ala.	Mailliard	Wampler
Erlenborn	Mann	Ware
Evans, Colo.	Martin	Whalley
Evins, Tenn.	Mathias, Calif.	Whitten
Findley	Mathis, Ga.	Wiggins
Fisher	Michel	Williams
Flood	Mills, Md.	Wilson, Bob
Flynt	Montgomery	Wilson, Charles H.
Ford, Gerald R.	Myers	Winn
Giaimo	Natcher	Wyatt
Goodling	Patten	Wydler
Griffin	Pelly	Wyman
Griffiths	Pirnie	

NOES—232

Abourezk	Anderson, Tenn.	Barrett
Abzug	Annunzio	Begich
Adams	Ashley	Bell
Albert	Aspin	Bergland
Anderson, Calif.	Badillo	Biester
Anderson, Ill.	Baker	Bingham
Boggs	Blatnik	
Bolling	Grasso	Nix
Brademas	Gray	Obey
Brasco	Green, Oreg.	O'Hara
Brooks	Green, Pa.	O'Konski
Broomfield	Grover	O'Neill
Brotzman	Gude	Pepper
Brown, Mich.	Halpern	Perkins
Broyhill, N.C.	Hamilton	Pettis
Broyhill, Va.	Hammer-schmidt	Peyser
Buchanan	Hanley	Pickle
Burke, Mass.	Hanna	Pike
Burton	Harrington	Podell
Byrne, Pa.	Harsha	Preyer, N.C.
Cabell	Hastings	Price, Ill.
Caffery	Hechler, W. Va.	Pucinski
Carey, N.Y.	Heinz	Quie
Carney	Helstoski	Railsback
Celler	Henderson	Rees
Chamberlain	Hicks, Mass.	Reuss
Clausen, Don H.	Hicks, Wash.	Riegle
Clay	Hillis	Roberts
Cleveland	Hogan	Rodino
Collier	Horton	Roe
Collins, Ill.	Howard	Rogers
Conyers	Johnson, Calif.	Roncalio
Corman	Jones, Ala.	Rooney, Pa.
Cotter	Jones, Tenn.	Rosenthal
Coughlin	Karth	Roy
Culver	Kastenmeier	Ryan
Curlin	Kazen	St Germain
Daniels, N.J.	Keating	Sarbanes
Davis, Ga.	Kee	Schwengel
Davis, S.C.	Kemp	Selberling
de la Garza	Kluczynski	Sisk
Dellums	Koch	Smith, N.Y.
Denholm	Kyros	Snyder
Dent	Landgrebe	Stanton, J. William
Diggs	Latta	Stanton, James V.
Dingell	Leggett	Steele
Donohue	Link	Steiger, Wis.
Dorn	McCloskey	Stephens
Dow	McCormack	Stokes
Downing	McDonald, Mich.	Stratton
Drinan	McKinney	Stuckey
Dulski	Macdonald, Mass.	Sullivan
Duncan	Madden	Symington
du Pont	Mallary	Taylor
Eckhardt	Matsunaga	Terry
Edmondson	Mayne	Thompson, N.J.
Edwards, Calif.	Mazzoli	Thomson, Wis.
Eilberg	Meeds	Thone
Esch	Melcher	Tiernan
Eshleman	Metcalfe	Udall
Fascell	Mikva	Ullman
Fish	Miller, Calif.	Vander Jagt
Flowers	Miller, Ohio	Vanik
Foley	Minish	Vigorito
Ford, William D.	Mink	Waldie
Forsythe	Minshall	Whalen
Fountain	Mitchell	White
Fraser	Mizell	Whitehurst
Frelinghuysen	Monagan	Widnall
Frenzel	Moorhead	Wolff
Frey	Morgan	Wright
Fulton	Mosher	Wylie
Fuqua	Moss	Yatron
Gallifianakis	Murphy, Ill.	Young, Fla.
Garmatz	Murphy, N.Y.	Zablocki
Gettys	Nedzi	Zion
Gibbons	Nelsen	Zwach
Gonzalez	Nichols	

NOT VOTING—39

Abernethy	Gaydos	Pryor, Ark.
Baring	Goldwater	Rangel
Blanton	Hawkins	Rarick
Bow	Hays	Reid
Carter	Holifield	Rostenkowski
Chappell	Hull	Sandman
Chisholm	Kuykendall	Saylor
Clark	McCulloch	Scherle
Clawson, Del	Mills, Ark.	Scheuer
Dickinson	Mollohan	Spence
Dwyer	Morse	Van Deerlin
Edwards, La.	Passman	Yates
Gallagher	Patman	Young, Tex.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: on p. 241 add new section as follows:

"SEC. (115) (a) The Administrator is authorized, in consultation with the Tahoe Regional Planning Agency (established pursuant to an interstate compact approved in Public Law 91-148, 83 Stat. 360, hereinafter referred to in this section as 'Agency') and other Federal and State agencies, to design and carry out projects to develop and demonstrate comprehensive water pollution control programs in areas subject to the jurisdiction of the Agency. Such demonstration programs and projects shall provide controls over nonpoint sources and shall maintain and enhance water quality within the Lake Tahoe Basin, and may include—

"(1) the preparation of detailed plans for development and conservation of the region's water resources, accompanied by a study of possible alternative sources of water for municipal uses;

"(2) the development of reliable and economical programs for recycling of pollutants and reclamation of water for municipal and recreational purposes within the interstate area;

"(3) the development of comprehensive programs for storm water collection and treatment;

"(4) the development of data on the impact of urban development in the area on regional water quality through soil siltation and other runoff; and

(5) assist the Agency in the development of plans for meeting the demands of user populations with the limits imposed upon the area by its fragile ecology.

(b) With respect to the area subject to the jurisdiction of the Agency, the Administrator shall review, in consultation with the Agency, any Federal or federally assisted public works project, any expenditures of Federal funds, any Federal licenses or permits, any Federal insurance, and Federal guarantees of loans where in the judgment of the Administrator such projects, licenses or permits, or activities may result directly or indirectly in discharge or runoff into the navigable waters of such area. No such project shall be undertaken, no such funds shall be expended or licenses or permits granted and no such insurance, guarantees or loans shall be provided in the area subject to the jurisdiction of such Agency until the Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any Federal action to which section 102(2)(C) of Public Law 91-190 applies. Such written comment shall be made public at the conclusion of any such review. In the event the Administrator determines that any such action is unsatisfactory from the standpoint of public health or welfare or environmental quality he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

(c) The Administrator shall report to the Congress, within one hundred and eighty days after the date of enactment of this Act and annually hereafter, on (1) the environmental impact of development in the Tahoe Basin; (2) the adequacy of plans developed by the Agency and the status of implementation of such plans; and (3) demonstration projects authorized by this section, including an analysis of the results.

(d) There is authorized to be appropriated $6,000,000 to carry out the provisions of subsection (a) of this section, which sum shall be available until expended."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment relates to Lake Tahoe, which

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is the location of the single successful federally supported tertiary sewage treatment system in the United States. With respect to the details of this amendment, I defer and yield to my colleague, the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Chairman, I thank the gentleman for yielding me this time.

I had introduced the amendment which is known as the Tahoe amendment, but because of the restrictions on time, the gentleman from California (Mr. MCCLOSKEY) agreed to introduce the amendment so that it might be debated on the floor.

What this amendment seeks to do is to prevent what happened to Lake Erie from happening to Lake Tahoe. You will note that in the bill there is a great deal of attention paid to Lake Erie by the provisions of the bill to attempt to restore Lake Erie to a situation where it is tolerable.

Lake Tahoe is one of the two lakes perhaps in the world presently that is unique in the clarity and quality of the water it contains. If prompt, efficient and effective measures are not taken, Lake Tahoe is confronted with the same fate every lake and every body of water in this Nation is presently experiencing, massive deterioration.

This amendment was heard in the other body, and was supported by both of the California Senators, by both of the Nevada Senators, and by the Governor of Nevada, and was voted upon and acted upon unanimously.

What it does is to recognize that Lake Tahoe is presently jeopardized by sources of pollution that are essentially what are described as non-point pollution, the major part of that pollution being siltation from construction projects.

This amendment will permit the Administrator of the Environmental Protection Agency to support the efforts being made locally to protect Lake Tahoe from pollution.

There is at the present time, by reason of an inter-State compact, a body known as the Tahoe Regional Planning Agency comprised of 10 members, three of whom are from local government divisions that surround the lake, from Nevada and California, and four of whom are appointed, two each, by the respective Governors of Nevada and California. They have done a reasonably good job in protecting the lake, but this bill recognizes that the protection of Lake Tahoe is not solely and exclusively the responsibility, nor is it within the purview and province, of local authorities.

Lake Tahoe is an asset that belongs to others than those who own land surrounding the lake. It is an asset so unique and so priceless that it has attained national stature. Therefore, a national interest in its preservation ought to be implemented into this act.

This amendment which was adopted by the Senate imposes a national interest in terms and provisions that are aimed to protect the lake from further pollution.

The national control, very frankly, is expressed as a very, very light national interest that has no authority whatsoever to overrule or change any decision of the Tahoe Regional Planning Agency, the local body that has presently control of the administration of the problems of pollution of the lake.

What this bill does is to say that any Federal activity that in any way threatens pollution of that lake, and most of the activity around the lake is Federal activity, will be required to have an environmental protection statement filed by the Administrator of the Environmental Protection Agency. That statement shall be published and publicly disclosed.

It is hoped that if an environmental impact statement is sufficiently adverse as to polluting the lake that the local agency will refrain from what acts it might contemplate contrary to that environmental impact statement.

But if they do not, there is not a single thing the Administrator can do to compel them to change their decision. All they can do with the environmental impact statement is to forward it to the Environmental Quality Council where it can come to the attention of the President and, conceivably but unlikely, the President could reverse the decision of the Tahoe Regional Planning Agency if the President felt those decisions were inconsistent with the interest of the Nation in preserving the lake.

So it would be very difficult to suggest that this amendment in any way limits and curtails the local control of pollution of Lake Tahoe.

Mr. EDMONDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everybody recognizes that Lake Tahoe is a beautiful lake. Everybody recognizes that every lake that is beautiful and unique in its beauty has special ecological and environmental problems associated with it.

But this amendment would authorize a special allocation of $6 million for demonstration programs and development of plans to protect the Lake Tahoe basin and would authorize EPA to review and to comment on all actions by Federal agencies affecting the ecology of the Tahoe basin.

The bill we have before us allots water pollution grants to the States on the basis of actual waste treatment needs and it should adequately meet the problems associated with water pollution in the Lake Tahoe region which originate from point sources.

The other needs which include real estate development and the environment should be undertaken by the Tahoe Regional Planning Agency in cooperation with other Federal programs dealing with land and with air. There is no justification for dealing with problems not associated with water pollution in this bill.

There is no justification to go into this particular authorization to get $6 million for what is an overall and comprehensive program going far beyond a mere water pollution problem.

We do have research studies on nonpoint sources authorized in this bill which should aid in arriving at a solution, but we hope that the basic approach under this bill dealing with the States alike and giving to the States responsibility for their allocation of resources within the States and to the municipalities as well will be kept intact and will not be disturbed by this amendment.

Mr. HENDERSON. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman.

Mr. HENDERSON. Mr. Chairman, I would like to address myself to the gentleman from Texas (Mr. WRIGHT) in order to inquire about the "point source" definition in section 502(15).

In section 502(15) which defines "point source," we find the language "concentrated animal feeding operation."

I have had some inquiries about the extent of the definition of this term as it relates to a "point source."

It is my understanding that only those concentrated animal feeding operations which would collect and concentrate waste for discharge through a definite point source outlet are covered under this definition and that it does not apply to nonpoint source discharge, associated with a feedlot operation.

Mr. EDMONDSON. I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, in response to the question of the gentleman from North Carolina, the gentleman is exactly correct. It does not apply to nonpoint source discharge.

I would like to point out that subsection 304(e) does call for the development of guidelines, processes, procedures, and methods to control nonpoint sources of pollutants including those from agricultural activities. That would include discharge from livestock operations other than the "point source" discharge covered in section 502(15).

Mr. HENDERSON. Mr. Chairman, I thank the gentleman for his response and I thank the gentleman from Oklahoma.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. VANIK. Mr. Chairman, I take this time to ask the chairman of the committee whether section 7 of this bill in its present form gives the President the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. I am sorry. I did not understand the gentleman.

Mr. VANIK. My question is whether section 7 in its present form gives the President of the United States the authority to enter into international agreements affecting the Great Lakes.

Mr. JONES of Alabama. Yes, the President has ample constitutional and statutory authority at the present time to negotiate and enter into such international agreements such as the gentleman proposes.

Mr. VANIK. I thank the gentleman.

Mr. Chairman, my distinguished colleague from Ohio, the Honorable JOHN F. SEIBERLING, and I intended to introduce the following amendment to section 7 of this bill:

Page 402, strike lines 2 through 12, and insert the following:

"SEC. 7. The President shall undertake to enter into international agreements for the control of the discharge and emission of pollutants into the oceans and the Great Lakes. Such agreements should endeavor to control not only existing pollutants but activities including, but not limited to, oil, gas, sand, and mineral exploration, drilling, development, extraction, and transportation which have the potential for producing or allowing a discharge of pollutants. For this purpose, the President should encourage the use of existing international organizations including the International Joint Commission and shall negotiate treaties, conventions, resolutions, or other agreements and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums."

The principal purpose of this amendment was to give the President the express authority to enter into international agreements to curb pollution of the Great Lakes not only by the discharge of pollutants but by the extraction and transportation of oil, sand, and other minerals.

During the debate on this bill, I asked the Chairman of the House Public Works Committee whether the language of Section 7 of the bill, in its present form, gives the President the authority to enter into international agreements on the Great Lakes.

In view of the assurances given by the gentleman from Alabama (Mr. JONES) and the legislative history which it establishes—the fact that the bill, in its present form, gives the President the authority to enter into such international agreements—Mr. SEIBERLING and I decided not to offer our amendment.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

I take this time to ask the gentleman from Ohio (Mr. HARSHA) a question: Section 312(f)(3) of section 2, H.R. 11896 states:

If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

The language is identical in both Senate and House bills.

Would the gentleman from Ohio (Mr. HARSHA) give me his interpretation of the meaning of the new language of section 312(f)(3) of section 2 of H.R. 11896 in order to establish to what extent it can be used to grant exemptions for waters within a particular State?

Mr. HARSHA. The gentleman will remember that the purpose of Congress in enacting vessel pollution laws is to establish uniformity among the States. When the House considered this legislation during the 90th Congress, it was very reluctant to include small boats used for recreational purposes in the same category as larger vessels. During the 91st Congress extensive hearings were held from which it became clear that the wide variety of State laws presented a very difficult problem interfering with the movement of those vessels in interstate commerce. It was for that purpose that we enacted in the Water Quality Improvement Act of 1970 legislation to provide for a uniform Federal law for vessel pollution control.

The no discharge exception was, of course, necessary to protect sensitive waters within a State. These included from the drinking water supply, shellfish beds and areas designated for body contact, and the legislative history clearly limited the law in that regard.

The language in the form we have before us today retains that basic concept by limiting the exceptions to "specified waters." In addition, it requires that the Administrator find that the protection and enhancement of the quality of these waters requires such a prohibition.

The intent of this language is clear on its face and does not go beyond it. The suggestion that a State may receive a blanket prohibition for all of its waters—its rivers, its lakes—its coastal waters—clearly would act to negate not only the preemptive clause contained in 312(f)(1) and (2), but, indeed the entire section dealing with vessel pollution control. The purpose and intent of section 312(f)(3) is to provide a safeguard for those waters which do, in fact, as determined by the Administrator, need special and extra protection, and is not a blanket authority for a State to impose its requirements on all vessels that enter its waters.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. MILLER of Ohio. Mr. Chairman, the committee is opposed to the amendment because the general provisions of the pending bill are sufficient to carry out any pollution control involving Lake Tahoe. There are present efforts being made in the Lake Tahoe area for pollution control which specifically the Lake Tahoe regional planning agency is involved in, a pollution control program for the Tahoe area.

The Committee recognizes the natural wonder of Lake Tahoe, and it is our firm intent to enhance its natural beauty and repair any involvement done by discharge of pollutants into the lake. We believe the general provisions under the pending bill will adequately take care of Lake Tahoe. It is the committee's intent to allow the States to receive the grants on the basis of need.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, we on this side of the aisle rise in opposition to the amendment offered. I would just like to point out this amendment singles out a special problem in the entire United States and gives preferential treatment to it. We think the language we have, setting forth studies and demonstration projects and authority of the Administrator, can cover it without giving preferential treatment to one particular area or pinpointing it.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, the problem is not unique to this bill. The bill has singled out and properly so, the tremendous problem presented by Lake Erie. All this amendment seeks to do is to take care of Lake Tahoe. The millions of dollars which will be necessary to restore Lake Erie may not be necessary to restore Lake Tahoe if we act now. I think it is utterly consistent with what we have done with Lake Erie.

Mr. MILLER of Ohio. The committee feels that under section 104, research, investigations, training, and information; and section 105, grants for research and development; and section 106, grants for pollution control programs; and section 314, clean lakes; and the entire title II, the grants title, that Lake Tahoe will be protected.

Mr. WALDIE. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's assurances. I only suggest to the gentleman that those who are deeply concerned with the preservation of Lake Tahoe in the other body, as well as the Governor of the State of Nevada, though, unhappily, not the Governor of California, did not feel the bill places sufficient emphasis on the effort to protect Lake Tahoe.

Mr. JOHNSON of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, we have members of the Committee on Public Works and Committee on Government Operations who have been out to Lake Tahoe on two different occasions in order to try to make some assessment of the injury or pollution in that lake. We have had, I think, very intimate knowledge about the problems with Lake Tahoe. We have not been indifferent to those problems. In this bill I think we are trying to make the necessary repairs that will bring Lake Tahoe up to the same standards of the rest of our streams and lakes.

Mr. JOHNSON of California. Mr. Chairman, I thank the chairman of our committee for his statement.

I merely want to say, Mr. Chairman, to all the Members here in the Committee of the Whole that I have been acquainted with Lake Tahoe since I was 10 years old. I have served now for 24 years in State and Federal Government. We have had many studies authorized and many studies made of Lake Tahoe. Recently there was an action taken by the State legislature, ratified by the Congress of the United States to set up a Tahoe Regional Planning Agency. That was perfected and signed into law by the President. The memberships were appointed within the authority. They are working very well, and just recently they have adopted their first master plan.

Certainly I want to do everything I possibly can to save the beauty and the purity of Lake Tahoe. It has now become a year-round resort area. It used to be just a summer resort prior to the advent of the snowplow, but today it is

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a year-round recreation area. We have about 30,000 people living within the area at the present time year-round. We have a maximum population there of 150,000 in the summertime and probably 70,000 in the wintertime.

At the present time, the National Science Foundation, through the University of California, is making studies there. The California State Division of Highways is making several studies there as they relate to the transportation grid.

The California Fish and Game Department is making studies. Save the Lake Tahoe League, a private organization, is funding many foundations and private enterprises to come in and make certain studies. The Forest Service and the Soil Conservation District are studying all of their lands.

I might say that the Federal Government owns a major part of the lands surrounding Lake Tahoe. The need for additional acquisition of lands is much more important than anything here, and we are going to ask the Congress again for a sum of money to acquire private lands, so that it will balance out 85 percent public in the area and 15 percent private.

Now, the Secretary of Transportation is also making a study, along with the Bureau of Public Roads, as to the relocation of highways throughout this area.

When we passed the Environmental Control Act of 1969, we brought into being the Commission and the Environmental Protection Agency. They have been working with all the groups at Tahoe in previous studies, and they have effected a very fine control there on many of the problems at the present time.

With the Water Pollution Control Act of 1972 and its provisions they are going to follow up and do away with all source point pollution at Lake Tahoe. This is a mandate on the area of Lake Tahoe as well as it is throughout the rest of the Nation.

There is $18.350 billion in the bill for construction. There is a sizable amount of money for planning. There is a sizable amount of money for studies. We have asked the National Academies of Sciences and Engineering to make these additional studies.

We are coming to Congress to require a huge sum of money for land acquisition, but I believe as far as source point pollution is concerned, the bill before us, which comes from the committee, will do the job. I ask all Members to vote down the amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

This is a very difficult amendment for those of us, who come from California, to comment on what appears to be a desirable amendment, because we all recognize the beauty of Lake Tahoe and want to preserve that unique beauty, but I want to point out that the committee has not ignored the problem of water quality of our lakes.

Under section 314, which is a section of the bill on page 345, there is language devoted to clean lakes specifically.

Because of the fact that we are moving in the direction of adopting a new needs formula study, by the time we could gear up for an action program under the new allocation formula, I am convinced Lake Tahoe would be more than adequately taken care of in any instance. This needs formula study, based upon estimates, is also to be considered because of the language contained in section 314(b), wherein it relates to "methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes." It says:

The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

Then we go to the final subsection (2), which says:

There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

With the above stated provisions in the legislation before us, coupled with the new needs study allocation formula, I will do everything within my power to assist the Tahoe regional area compact, created by this Congress and approved as Public Law 91-148, to control pollution in Lake Tahoe—in addition to restoring and/or enhancing the water quality and environment of the lakes in my congressional district and others throughout the Nation.

I look forward to working with my California colleagues toward this worthwhile objective and am pleased to provide this legislative history.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. WALDIE) there were—ayes 16, noes 65.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT: Page 251, line 17, strike out "1971," and insert "1972,".

Page 251, line 25, after "lack of" insert "authority or of".

Page 252, line 10, after "and" insert "authority for and".

Mr. WRIGHT. Mr. Chairman, this is a corrective amendment and I offer it in behalf of the committee.

This amendment has been cleared with both sides. There is an inadvertence in which we left the date of 1971 in as the cut-off date for reimbursement, and we are simply correcting that.

Mr. HARSHA. Mr. Chairman, if the gentleman will yield, we accept this amendment on this side.

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the purpose of the amendment, as the gentleman from Texas has stated, is corrective in nature, and we accept it.

Mr. EDMONDSON. Will the gentleman yield?

Mr. WRIGHT. Yes. I yield to the gentleman.

Mr. EDMONDSON. Mr. Chairman, I appreciate the gentleman's offering this amendment.

The State Department of Health of the State of Oklahoma has been very much concerned about implications of this particular date, and the corrections are very, very helpful. I hope it will be unanimously approved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer a second amendment in the nature of a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT: Page 389, strike out lines 17 through 22 and re-letter succeeding subsections and references thereto accordingly.

Mr. WRIGHT. Mr. Chairman, this, too, is a corrective amendment which I understand has been cleared on both sides of the aisle. It would make the Fish and Wildlife Act applicable in every respect that it applies by its own terms to all sections of the bill. There was an inadvertence by which this particular section was put in the bill that renders the Fish and Wildlife Act inapplicable in certain instances. This was not the intention of the committee to do this.

Mr. DINGELL. Will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman from Michigan.

Mr. DINGELL. This is one of the amendments my colleagues and I were going to offer although in slightly different form. It is eminently satisfactory to us. I thank the committee and commend them for it and rise in support of it.

Mr. HARSHA. Mr. Chairman, I join with the distinguished gentleman from Texas in urging the adoption of this amendment. We on this side of the aisle support it wholeheartedly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WRIGHT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: Page 372, section 502(6), after line 24 insert the following:

"(E) As used in Sections 301(a), 302 and 402, this term does not mean irrigation water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes."

Mr. RONCALIO. Mr. Chairman, I, too, have submitted this amendment to both sides and it meets with the approval of both sides of the committee.

I offer my amendment so that a serious omission to H.R. 11896 can be corrected before we end up with a law that would be virtually impossible to enforce. My amendment would specifically exempt irrigated agriculture from sections 301 (a), 302 and 304 of the Federal Water Pollution Control Act.

I think my colleagues will agree that the type of salinity problems created by irrigation runoff are simply not as alarming as the more common pollutants discharged by industrial and municipal facilities. Substantial salinity concentrations have little effect on recreational use of water or its suitability for the propagation of fish.

My amendment is necessary, Mr. Chairman, because at the present time we could not enforce pollution control on irrigation systems. It is virtually impossible to trace pollutants to specific irrigation lands, making these pollutants a nonpoint source in most cases. Second, we do not have the technology to deal with irrigation runoff (as contrasted to industrial pollution and if we begin making laws to control something that cannot be handled with our given technological knowledge, we will be doing many thousand farmers and ranchers a great disservice. In fact, we will be doing the Federal Government a great disservice if we actually pass a Federal water pollution control bill that cannot be fully enforced.

Furthermore, Mr. Chairman, I sincerely believe that our constituents in rural areas are fed up with Federal controls. I know this is the case with my Wyoming constituents. We have tried to do too much in too short of time. During the three short months of 1972 my constituents have been hit with the following: First, the beginning of the enforcement of the Occupational Safety and Health Act which was passed in 1970 when I was not a Member of Congress, but which has resulted in a profusion of Department of Labor inspectors running around the countryside issuing fines for violations even before the Department has gotten around to supplying each and every person who is affected by the act with information on what he must do to comply with the new law; second, a Bald Eagle Protection Act passed by the House of Representatives which would not allow a farmer or rancher to shoot an eagle even if he should see one in the process of attacking his livestock; and third, a White House ban on predator control on all Federal lands, without any consideration to alternatives such as a Federal insurance plan that would at least reimburse a stockman for losses suffered by predators.

Mr. Chairman, a Federal water pollution control bill that would include irrigation runoff, when it is unrealistic to even meet the law, would be the last straw in my State of Wyoming.

Even though I wholeheartedly support effluent control as the best method of controlling pollution contributed by industrial and municipal waste, I submit that it is not now, at the present time, a practical method of controlling irrigation runoff.

If you have any irrigated farming in your State, whether on a reclamation project or otherwise, my amendment is vital to your constituents. I urge my colleagues to exclude from the definition of "pollutant" irrigated water which is introduced into water from a point source when such irrigation water has been used solely for agricultural irrigation purposes.

I respectfully ask all Members of the House of Representatives to support this amendment.

Mr. BLATNIK. Mr. Chairman, I rise in support of the amendment. I am in full agreement with the gentleman's statement, and we urge its adoption on this side.

Mr. WALDIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order to ask a question of the gentleman from Wyoming relative to the amendment.

In California there is a vast irrigation basin that collects all the waste resident of irrigation water in the Central Valley and places it in a drain—the San Luis Draining—and transport it several hundreds of miles and then dumps it into the San Joaquin River which flows into the estuary and then into San Francisco Bay.

It is highly polluted water that is being dumped in waters already jeopardized by pollution.

Will the gentleman's amendment establish that as a nonpoint source pollution or will it come under the point-source solution discharge?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, my amendment would not require Federal permits to remove that water. I do this to try and avoid irreparable harm to one part of the country from laws welcomed in another.

Mr. WALDIE. I suggest not only to the Members from California but to Representatives of other States that have massive irrigation waste drains that are dumped into navigable waters, if you do not require that as a point-source pollution and require a permit, you will jeopardize those waters.

This residue that is dumped into the San Joaquin River is desperately polluting the river and the bay, and if a permit is not required to dump it, you will have no control over the quality of water that you are dumping into rivers and lakes from these sources.

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's concern, but if you are going to impose upon the small agricultural farmers of Wyoming, Montana, Idaho, and Colorado, Federal permits on top of the other Federal inspections, and agents prevalent today, we are presenting small irrigation farmers a matter with which they cannot cope.

Mr. WALDIE. That was not the question I asked.

The permit is not for the individual farmer who dumps it into the drain but the question I asked is at the end of that drain with hundreds of thousands of farmers dumping into it, does the drain itself require a permit to dump that into the water?

Mr. RONCALIO. Most discharge as the result of irrigation damage is a most difficult thing to handle and is a nonpoint source discharge, but is percolation.

Mr. WALDIE. I understand the gentleman's amendment. What he says is that these hundreds of thousands of farmers that will be dumping their residue into a pipe and that pipe transports it out of the basin and dumps it into a waterway, you no longer will require a permit for the waterway dumping of that material? I think that is desperately dangerous to every one of our States.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. WALDIE. Yes, I yield to my colleague from California.

Mr. WIGGINS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. WALDIE).

This is potentially a very dangerous amendment and at least it is entitled to the careful and mature consideration of a legislative committee. It should not be enacted too hastily on the floor at this time.

I would urge that this amendment be voted down and that the legislative committee give careful consideration to the problem of irrigation runoff as a source of pollution.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Will this come under the effluent limitation provisions of the bill?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, let me say to the gentleman that this amendment does not do what has been indicated. It does not remove irrigation waters from the provisions of this bill, except in those two specific instances, one, from the effluent water quality standards and, second, from the Federal permit section.

It is still in the study program, there still has to be the methodology developed to remove high salinity from such water after its use and re-use for irrigation purposes, and this would be continued under this legislation, without wrecking havoc in California or other areas where you have huge irrigation programs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: On page 397, lines 3 and 4, strike out "$6,000,000", and insert in lieu thereof "$11,000,000".

Mr. HARSHA. Mr. Chairman, I have cleared this amendment with the majority side, and they are willing to accept it in the nature of a committee amendment.

This is at the request of the administration. The money has already been appropriated.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am glad to yield to the gentleman from Minnesota.

Mr. BLATNIK. Mr. Chairman, the gentleman from Ohio had good justification for offering his amendment, and we certainly accept it on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

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AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD: Page 384, between lines 7 and 8, insert the following:

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act."

Page 385, line 21, after the comma, insert the following: "or carrying out section 507 (e) of this Act,".

Mr. WILLIAM D. FORD. Mr. Chairman, this amendment is designed to free workers from the fear that an employer or corporation may cite environmental standards and orders as a reason for threatening to close their plants or reduce employment. It is also designed to protect environmental protection legislation from being rendered partially ineffective due to misguided or self-serving threats by any employer or corporation. And finally, it is designed to protect communities from any adverse economic effects which might also arise from these types of threats.

In other words Mr. Chairman, the purpose of this amendment is to insure that the burdens and sacrifices resulting from legislation designed to protect our environment and benefit all Americans shall not be borne disproportionately by some Americans.

Our amendment simply provides a mechanism to determine whether or not an employer or corporation is threatening to discharge employees or curtail its activities because of alleged results which might possibly arise from an effluent limitation or order which may be issued under the provisions of this act. I want to emphasize that it provides only for a determination of this issue. It does not involve any cease and desist powers and it does not involve any civil or criminal penalties.

The amendment states that any person discharged or threatened with discharge may request the Administrator to conduct a full investigation of the matter. Following such a request the Administrator is merely required to conduct a public hearing and review the information relating to the actual or potential effect of any limitation or order on employment and to inquire into the reasons for any alleged discharge or layoff.

Upon receipt of this information the Administrator is required to make findings of fact and make any recommendations which he deems appropriate. These findings and recommendations would then be available to the public.

Mr. Chairman, in offering this amendment we are only seeking to protect workers and communities from those very few in industry who refuse to face up to the fact that they are polluting our waterways, and who hope, that by pressuring their employees and frightening communities with economic threats, they will gain relief from the requirements of any effluent limitation or abatement order.

We need only recall, I am sure, how one company—Union Carbide—in West Virginia, threatened massive job loss if EPA insisted that it comply with air pollution control standards. But when public pressure was brought to bear, the company finally admitted that it could comply without such job loss occurring. It is our contention that if a mechanism exists to investigate actions such as this, and make the findings available to the public, we will be able to achieve similar results in the future and therefore avoid the enactment of more stringent Federal regulations in this area.

This amendment has received widespread support from many civic-minded organizations, as well as the environmental groups and labor organizations such as the United Auto Workers, the United Steelworkers, and the AFL–CIO.

Mr. Chairman, I urge the adoption of this amendment.

Mr. DULSKI. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. DULSKI. Mr. Chairman, I rise in support of the amendments offered by my colleague from Michigan (Mr. WILLIAM D. FORD).

In the pending bill, we have the opportunity to deal once again—and more effectively as a result of experience—with one of the great domestic problems of our day: Water pollution.

Because of years of neglect and a refusal to recognize the many warning signs, our Nation's waters have reached the crisis stage. We are forced to take drastic steps to try to bring the situation under control as fast as possible.

We have had laws on the books as far back as the end of the 19th century. Of more recent vintage is the current comprehensive Federal Water Pollution Control Act. This latter act—the current basic law—has given us an excellent start on modern control mechanism. We have gained broad experience, and now we are moving forward with necessary refinements and adjustments.

Water pollution control is expensive—indeed, to a degree often not easily understood. For the homeowner who finds it necessary, he finds it plenty costly to install a septic tank in his backyard or to hook up to a new municipal sewage system.

As one might suspect, the outlay rises in direct proportion when industrial firms are required to install treatment works to handle their huge volume of waste.

No longer can industry be allowed to dump raw sewage into our Nation's waters. Neither can we any longer accept halfhearted or partial attempts to treat waste.

Corrective steps not only are expensive, but also are disruptive in long-established major industrial installations. Old-style plants, although they may still be able to do an acceptable production job, often do not adapt easily to efficient pollution control systems and devices. As a result, management understandably is required to face up to changing circumstances. In particular, management must look at the broad-range factor of economics and the likely effect on the company balance sheet.

For me, these industrial facts of life are very fundamental. They strike home in a very practical sense. The Niagara frontier is one of the older and foremost industrial areas in our country. My congressional district is entirely urban and contains much of the basic industry which has become the backbone of our highly developed Niagara frontier over the years.

There is no question about the need to halt water pollution of all kinds, including industrial pollution. Effective pollution control is essential if we are to protect our vital water supply and rescue our lakes and rivers from stagnation beyond repair.

In dealing with industrial pollution, we must recognize that some industries are going to use the pollution control rules as an excuse for phasing out or sharply curtailing certain operations. Either action would cost jobs. We can ill-afford more unemployment—particularly in my home area of Buffalo, N.Y., where the current rate already is half-again larger than the national average.

The pending amendments deal with industrial pollution. In particular, they deal with employee protection. Certain employee protections are included in the bill as it came from the committee. But those protections unfortunately do not go far enough.

The committee bill deals only with protections for those employees who face loss of their jobs or discriminatory action for having filed pollution complaints against their employers. We have no quarrel with these provisions as far as they go.

But there is no protection provided for industrial employees who are laid off or threatened with layoffs because their employers claim they must cut back or close shop as a result of pollution control requirements.

What we are proposing in simplest terms is that the Environmental Protection Agency constantly monitor the economic effect on industry of pollution control rules. In this way, hopefully, the Agency can anticipate trouble spots.

Further, when an industry claims it must cut back or close down because of pollution control regulations, an employee can ask the Agency to conduct a full study of the facts on the industry decision.

Perhaps, even more important, this study can be expanded to include public hearings on the request of the employee or any other party so that all the facts can be spread upon the public record for everyone to see. In other words, answers to the question as to exactly why a shutdown or cutback was ordered.

It seems to me vital that the "employee protection" section of the pending bill be expanded to provide protection for employees facing loss of their jobs through plant shutdown as well as protection for the employees who face firing or discrimination because they filed or participated in a complaint against their employer.

Mr. Chairman, these pending amendments are essential to the "employee protection" section of the bill before us. I urge their adoption as a simple matter of equity for the workers who may become the "job or no-job" pawns in the antipollution drive.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. MEEDS. Mr. Chairman, I rise in support of this amendment. The major city of my congressional district has just received the announcement of a pulp mill shutdown. The company in question announced that the shutdown was "strictly environmental." A closer examination of the facts shows that environmental requirements played only a small part in the closure decision. Other factors including obsolescence, source of market, source of supply, and labor costs all added up to a hard decisive decision based on economics.

The effect upon our community has been almost disastrous. People are engaged in the windmill tilting exercise of attempting to roll back the pollution efforts thus far advanced. This company is being required to meet standards which any pulp mill, anywhere in the United States will be required to meet. Yet they have convinced the citizenry that they are somehow being discriminated against.

When this situation arises, or is threatened, the workers and other people of the community have a right to know the truth. If indeed, the closure is caused by pollution controls, there should be no difficulty in establishing that fact. If, on the other hand, there are other factors involved, pollution controls ought not to be made the scapegoat for an unpopular decision.

The amendment of the gentleman from Michigan (Mr. WILLIAM D. FORD) furnishes a forum for a disclosure of the facts. Hopefully it will place industry on notice that if pollution controls are to be blamed, they had better be prepared to substantiate that fact.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentlewoman.

Mrs. ABZUG. Mr. Chairman, I am pleased to rise in support of the amendment, which would require the Environmental Protection Administration to study and evaluate, on a continuing basis, the effects of effluent limitations upon employment.

One argument commonly raised in opposition to strong antipollution efforts is the claim that enforcement of antipollution laws will lead to the closing of manufacturing facilities and a resulting loss of jobs. I believe that this argument is little more than a red herring, suggested by industry as a device to play upon the economic concerns of working people and I lead them to join with corporate interests in their fight against cleaning up the environment.

It may be that there are instances in which corporations have moved their facilities to avoid compliance with antipollution requirements; to combat this, we should have national minimum standards, leaving their ecological blackmailers with no place to go. Alternatively, there is the suggestion of Leonard Woodcock that employers who move to avoid environmental protection requirements be required to pay the workers who suffer as a result.

This amendment will allow the Congress to get a close look at the effects on employment of legislation such as this, and will thus place us in a position to consider such remedial legislation as may be necessary to ameliorate those effects. This is a good amendment and I urge its adoption.

Mr. BLATNIK. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the chairman of the committee.

Mr. BLATNIK. Mr. Chairman, though I do not speak in opposition to the intent of the amendment, I do hope it will not be adopted at this time and in this manner. The problem is a real one. There is no question about that. The Public Works Committee is presently holding hearings on legislation concerning economic development and the Economic Development Administration. The entire matter of employee protection brought about by the need for industry to comply with environmental standards requires a comprehensive examination. This matter will definitely be considered, and I assure you that we will come up with a measure to take care of the problem which the gentleman has noted.

Mr. MILLER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

The effect of the amendment would be merely to authorize public hearings regarding threatened plant shutdowns or worker layoffs resulting from pollution control requirements. The committee is presently conducting hearings on the Public Works and Economic Development Act, as amended, and is in the process of drafting a bill to extend this act. The committee has purposefully left these hearings open so that following action on the pending bill we may look into the problem of potential plant shutdowns and worker layoffs due to pollution control requirements. It is the committee's intention to include a comprehensive section regarding layoffs, plant shutdowns, and other economic hardships to communities resulting from the pending Water Pollution Control Act amendments.

The committee realizes that some economic hardship, especially in smaller communities who rely on single, older plants, may result from the requirements of the pending bill. Since economic relief properly comes under EDA, it would be more appropriate to include comprehensive language in the EDA extension to take care of this matter. It is not the intent of the committee to establish within EPA an office to deal with economic impact, a subject property belonging within EDA. The committee and I personally, does stress its sympathy and support for the intent of the amendment.

Mr. FRASER. Mr. Chairman, I rise for the purpose of clarifying the intent of the amendment.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. As I understand it, the purpose of the amendment is to provide for a public hearing in the case of an industry claim that enforcement of these water-control standards will force it to relocate or otherwise shut down operations. I do not understand that it has to do with economic adjustment assistance, which would or might properly come up under another legislative area. Since this deals just with the public hearings, I would hope that the amendment would be adopted.

I think too many companies use the excuse of compliance, or the need for compliance, to change operations that are going to change anyway. It is this kind of action that gives the whole antipollution effort a bad name and causes a great deal of stress and strain in the community.

I would think that this is the right place for the amendment to be adopted. It is a very limited amendment. I strongly urge that it be supported.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. REUSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. REUSS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, BLATNIK, HARSHA, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 274, noes 118, not voting 40, as follows:

[Roll No. 98]

[Recorded Teller Vote]

AYES—274

Abourezk	Frenzel	Natcher
Abzug	Fulton	Nedzi
Adams	Galifianakis	Nelsen
Addabbo	Gallagher	Nix
Alexander	Gibbons	Obey
Anderson, Calif.	Gonzalez	O'Hara
	Goodling	O'Konski
Anderson, Ill.	Grasso	O'Neill
Anderson, Tenn.	Green, Oreg.	Pelly
	Green, Pa.	Pepper
Andrews	Griffiths	Perkins
Annunzio	Gude	Pettis
Arends	Halpern	Peyser
Ashley	Hamilton	Pickle
Aspin	Hanley	Pike
Badillo	Hanna	Poage
Barrett	Hansen, Wash.	Podell
Begich	Harrington	Poff
Bell	Harvey	Preyer, N.C.
Bennett	Hathaway	Price, Ill.
Bergland	Hechler, W. Va.	Pucinski
Betts	Heinz	Quie
Bevill	Helstoski	Railsback
Biaggi	Hicks, Mass.	Randall
Biester	Hicks, Wash.	Reuss
Bingham	Holifield	Rhodes
Boland	Horton	Riegle
Brademas	Hosmer	Robison, N.Y.
Brasco	Howard	Rodino
Bray	Hungate	Roe
Brooks	Hunt	Rogers
Broomfield	Hutchinson	Rooney, N.Y.
Brotzman	Ichord	Rooney, Pa.
Brown, Ohio	Jacobs	Rosenthal
Broyhill, N.C.	Johnson, Pa.	Roush
Broyhill, Va.	Jonas	Rousselot
Buchanan	Jones, Tenn.	Roy
Burke, Fla.	Karth	Roybal
Burke, Mass.	Kastenmeier	Runnels
Burlison, Mo.	Kazen	Ruppe
Burton	Keating	Ryan
Byrne, Pa.	Kemp	St Germain
Carney	King	Sarbanes
Chamberlain	Koch	Schneebeli
Clancy	Kyl	Sebelius
Clausen, Don H.	Kyros	Selberling
	Landgrebe	Shoup
Clay	Lennon	Shriver
Cleveland	Lent	Skubitz
Collins, Ill.	Link	Smith, Iowa
Conable	Long, Md.	Smith, N.Y.
Conte	Lujan	Staggers
Conyers	McCloskey	Stanton, J. William
Corman	McClure	
Cotter	McCollister	Steed
Coughlin	McCormack	Steele
Culver	McDade	Steiger, Ariz.
Daniels, N.J.	McDonald, Mich.	Stratton
Danielson		Stubblefield
de la Garza	McEwen	Sullivan
Delienback	McFall	Symington
Dellums	McKay	Talcott
Denholm	McKevitt	Taylor
Dent	McKinney	Teague, Calif.
Derwinski	Macdonald, Mass.	Terry
Devine		Thompson, Ga.
Diggs	Madden	Thompson, N.J.
Dingell	Mahon	Thomson, Wis.
Donohue	Mailliard	Tiernan
Dow	Mallary	Udall
Downing	Mathias, Calif.	Ullman
Drinan	Matsunaga	Vanik
Dulski	Mayne	Veysey
Duncan	Mazzoli	Vigorito
du Pont	Meeds	Waldie
Eckhardt	Melcher	Wampler
Edwards, Calif.	Metcalfe	Ware
Ellberg	Michel	Whalen
Erlenborn	Mikva	Whitten
Esch	Miller, Calif.	Widnall
Eshleman	Mills, Md.	Wiggins
Evans, Colo.	Minish	Williams
Fascell	Mink	Wilson, Bob
Findley	Minshall	Wilson, Charles H.
Fish	Mitchell	
Flood	Monagan	Winn
Foley	Moorhead	Wolff
Ford, Gerald R.	Morgan	Wydler
Ford, William D.	Morse	Wylie
	Mosher	Yatron
Forsythe	Moss	Young, Fla.
Fountain	Murphy, Ill.	Young, Tex.
Fraser	Murphy, N.Y.	Zablocki
Frelinghuysen	Myers	Zwach

NOES—118

Abbitt	Fisher	Mathis, Ga.
Albert	Flowers	Miller, Ohio
Archer	Flynt	Mizell
Ashbrook	Frey	Montgomery
Aspinall	Fuqua	Nichols
Baker	Garmatz	Patten
Belcher	Gettys	Pirnie
Blackburn	Giaimo	Powell
Blatnik	Gray	Purcell
Boggs	Griffin	Quillen
Boiling	Gross	Rees
Brinkley	Grover	Roberts
Brown, Mich.	Gubser	Robinson, Va.
Burleson, Tex.	Hagan	Roncallo
Byrnes, Wis.	Haley	Ruth
Byron	Hall	Satterfield
Cabell	Hammer-schmidt	Schmitz
Caffery		Schwengel
Camp	Hansen, Idaho	Scott
Carey, N.Y.	Harsha	Shipley
Carter	Hastings	Sikes
Casey, Tex.	Hébert	Slack
Cederberg	Henderson	Smith, Calif.
Celler	Hillis	Snyder
Collier	Hogan	Spence
Collins, Tex.	Jarman	Springer
Colmer	Johnson, Calif.	Stanton, James V.
Crane	Jones, Ala.	
Curlin	Jones, N.C.	Steiger, Wis.
Daniel, Va.	Kee	Stephens
Davis, Ga.	Kluczynski	Teague, Tex.
Davis, S.C.	Landrum	Thone
Davis, Wis.	Latta	Vander Jagt
Delaney	Leggett	Waggonner
Dennis	Lloyd	Whalley
Dorn	Long, La.	White
Dowdy	McClory	Whitehurst
Edmondson	McMillan	Wyatt
Edwards, Ala.	Mann	Wyman
Evins, Tenn.	Martin	Zion

NOT VOTING—40

Abernethy	Hays	Reid
Baring	Heckler, Mass.	Rostenkowski
Blanton	Hull	Sandman
Bow	Keith	Saylor
Chappell	Kuykendall	Scherle
Chisholm	McCulloch	Scheuer
Clark	Mills, Ark.	Sisk
Clawson, Del	Mollohan	Stokes
Dickinson	Passman	Stuckey
Dwyer	Patman	Van Deerlin
Edwards, La.	Price, Tex.	Wright
Gaydos	Pryor, Ark.	Yates
Goldwater	Rangel	
Hawkins	Rarick	

Messrs. BROOKS, STEIGER of Wisconsin, and YOUNG of Texas changed their votes from "no" to "aye."

So the amendment was agreed to.

Mr. GUBSER. Mr. Chairman, within the next two hours we will be voting upon one of the most significant bills of all time. For more than two centuries the balance of nature in this continent has been violated by man. Today we will take a meaningful step toward correcting the wrongs we have committed in the past hundreds of years. Because this bill does so much for the environment and because it is well within the bounds of reason, I intend to vote for it.

Like any hallmark legislation, some will think the bill before us goes too far while others will believe it does not go far enough. I sincerely hope the American public in its serious concern for our environment will not look upon the limitations of reason which we have written into the bill as less than a complete dedication by this Congress to improving the environment in which we live. I hope the public will never lose sight of the positive things which this bill accomplishes. It is a meaningful and far-reaching step which we take today.

GOALS AND POLICY

H.R. 11896 establishes for the first time a national goal in removing pollutants from our water supply. It establishes an interim goal for 1981 to achieve water quality suitable for recreation purposes and the propagation of marine life in all waters. It establishes a 1985 goal of "zero discharge" of pollutants into the nation's waters. The bill sharply increases Federal grants for municipal waste treatment facilities in the amount of $18,000,000 for the next 3 fiscal years. It preserves the right and responsibility of the States to prevent pollution and in so doing, it preserves the considerable expertise available at the State level. It allows States which are ahead of the national standards to remain ahead. It does not allow any State to drag its feet but provides national standards which each State must meet if it is to retain its right to issue discharge permits.

RESEARCH, TRAINING, AND RELATED PROGRAMS

The bill grants the Environmental Protection Agency broad authority to participate in and encourage research in pollution. It provides for demonstration projects aimed at developing new pollution control and waste treatment techniques. For fiscal year 1974, $315,000,000 is authorized for these programs.

GRANT ASSISTANCE FOR CONSTRUCTION OF PUBLIC WASTE TREATMENT FACILITIES

For fiscal year 1973, $5 billion, $6 billion for fiscal year 1974, and $7 billion for fiscal year 1975 is authorized for construction of municipal waste treatment works. Under this legislation the Federal share of such project costs will be 75 percent instead of 55 percent as at present. Retroactive payments of between 30 percent and 55 percent are authorized for local communities which have already constructed waste treatment works.

EFFLUENT LIMITS AND PERMIT PROGRAMS

This landmark bill establishes a national discharge permit system and requires that by 1976 the "best practical control technology" be utilized by private industry. A further requirement is that industry achieve zero discharge by 1981 or utilize the "best available demonstrated technology" if the cost of achieving zero discharge is unreasonable.

EVALUATION OF ZERO DISCHARGE GOAL

The bill quite reasonably calls for a study by the National Academies of Science and Engineering on the effectiveness of the 1981 and 1985 water quality goals so that future congressional action can be taken on the basis of scientific data. Though some feel that the Congress should have sailed blindly into the scientific unknown and mandated goals which might prove unrealistic, I feel that the authorized study is one of the bill's strongest features. If the study is not made and if the future goals prove to be unrealistic, Congress would be floundering in scientific ignorance. The National Academies are well qualified and we need the information which their study will produce. Personnel of the National Academies are as dedicated to a clean environment as anyone. I have no fear of the truths they will develop.

STATE ROLE

As I have previously stated, this bill does not abdicate responsibility for pollution-free water by handing it over to the States with no strings attached. The States must submit acceptable plans and demonstrate a capacity to administer their program of issuing permits effectively. The EPA can terminate the delegation of this authority to the States if the State program is not run in accordance with EPA regulations.

Many of us remember the concern of Californians when national legislation to prevent air pollution was far behind the steps California has already taken. California Congressmen of both parties fought and won the right to exceed national standards. This bill will allow State discharge standards more stringent than those required by Federal law.

ENFORCEMENT

Penalties for those who violate the act are provided up to $10,000 per day and criminal penalties of $2,500 to $25,000 per day and/or 1 year imprisonment are provided for. This shows what a tough antipollution measure we are passing today.

OTHER PROVISIONS

Citizens will be allowed to bring a civil action against individuals or government agencies who violate the act. The fact that suits must be brought by residents of the geographical area affected by the violation is not an unreasonable diminution of the right to sue. Conservation groups should experience no difficulty in finding a qualified local citizen to bring a suit. On the other hand, harassing lawsuits which would glut court calendars could not be filed across the entire Nation by individuals from areas not affected.

Of great significance is the portion of the bill which provides an environment financing agency to purchase municipal bonds to finance the local share of waste treatment plant construction projects. Also important is the authorization of $800 million assistance to small businesses to help them meet the pollution abatement requirements of the act.

No person could deny the fact that this bill is a wholesale attack upon pollution. By going further than anything we have ever passed, it truly reflects the proper concern for our environment, which has swept the Nation.

Some have argued for exclusive Federal responsibility for administration and enforcement of the water pollution program and say the bill is deficient in this regard. This is a false issue. As I have previously stated, the bill assigns overriding authority to the Federal Government and gives administration responsibility to the States only when they demonstrate the ability and reliability to live up to their responsibility. When a State fails to discharge its responsibility, the Federal authority can take complete charge of that State's program.

I have already addressed myself to the objections raised by some conservation groups to the 2-year study by the National Academies of Science and Engineering. So I will only ask the question—what is there to fear from learning scientific truth from the groups most qualified to seek it out? Had we such knowledge years ago, perhaps we could have avoided the current level of pollution of our environment.

The fact that Congress must take affirmative action following completion of the study is certainly not a weakness in the bill. What Congress passes today, it could repeal next year. But with the scientific facts before it, Congress will be in a strong position to take affirmative action to protect our environment and to rebut the arguments of those who place profit above a clean environment.

The House bill is estimated by some to involve a price tag of at least $300 billion. Governor Rockefeller has estimated the cost of the Senate bill to exceed $2 trillion. Others estimate the 25-year cost will be $2.34 trillion. Testimony before the Public Works Committee was received indicating that it would cost $700 million per incremental percentage point to remove 85–90 percent of pollutants. To achieve the last percentage point of removal or no discharge would cost $317 billion and raise the total cost from $700 million per incremental percentage point to $66 billion. Let us hope that by 1985 science will have drastically reduced these costs but, in the meantime, we must recognize current reality.

Objections to the House bill are simply not realistic. We must remember that we are passing a law which people must live with. I want to go full speed ahead in cleaning up our environment, but to vote for something which ignores reality is to run the risk of sabotaging responsible, long-range action.

Even though H.R. 11896 is an excellent bill, it nevertheless could have been improved had certain amendments been adopted.

I voted for the Hechler amendment that required a recycling of mine waste water.

I voted for the Abzug amendment to eliminate the provision that compliance with the National Environmental Protection Act could be certified by States. Personally, I believe that compliance with a Federal law should be determined by the Federal officials responsible for administering that law.

I also voted for that provision in the so-called Dingell-Reuss clean water package, which would have prevented a transfer of authority to issue discharge permits prior to the time that national standards are developed. This same amendment would have allowed 60 days for the Environmental Protection Agency to review discharge permits granted by the States. It would also have eliminated immunity until 1976 from national standards. I feel that this amendment would have improved the bill.

I also voted for an amendment by Representative ASPIN which would have applied the same standards to water discharged into the underground as apply to surface discharge. I come from an area which depends completely upon storage of water in the underground basin and I would like to see that type storage given equal protection.

I felt the amendment to do more about cleaning up Lake Tahoe should have passed and there were others which could have improved the bill.

But despite the fact that I voted for these strengthening amendments, and I was on the losing side, I still say that the bill we will pass today is a great and a meaningful step toward the goal of providing clean water for this and future generations. This is a proud moment in the history of the U.S. House of Representatives.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to direct a question to the gentleman from Alabama (Mr. JONES).

Mr. JONES, I understand that during hearings before the Rules Committee, the gentleman from Alabama stated that the allocation of funds under title II would be based on the most recent study conducted by the Environmental Protection Agency.

The bill, as reported, allocates grants under title II according to a 1970 needs survey. The Senate bill allocates grants according to population.

Am I correct that in conference, the managers of the House bill will make every effort to use the EPA study conducted in 1971 as the basis for the allocation of grants under title II, and not the outdated 1970 study?

Mr. JONES of Alabama. Mr. Chairman, if the gentleman will yield, the gentleman is correct. We are making every effort to bring up to date the figures and calculations for the 1971 needs survey and that information will be submitted to us.

Mr. ANDERSON of California. I am sure that the gentleman is aware that the substance of the 1971 needs survey has been released to the Public Works Committee.

According to a response that I received from the White House regarding the 1971 survey, "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

Even if the formal report is not available by the time H.R. 11896 is considered by conference, I would anticipate that the House conferees would base title II allocations on the 1971 survey, the substance of which they now possess.

The CHAIRMAN. Under the unanimous-consent agreement of yesterday, all time has expired.

Are there further amendments to this section of the bill?

AMENDMENT OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANDER JAGT: Page 241, between lines 23 and 24 insert the following:

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment

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and recycling with facilities to treat, dispose of or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

Page 241, line 24, strike "(d)" and insert "(g)".

Mr. VANDER JAGT. Mr. Chairman and members of the committee, I am delighted that the committee has finally recognized that there is no bill so perfect that it cannot be improved upon at least a little bit.

Mr. Chairman, this amendment is designed to ask the Administrator to encourage the development in areas of resources management system the recycling of pollutants into resources, thereby producing income rather than just incurring operating costs.

Actually, in my opinion, of the package of three amendments I plan to offer, this is the easiest one to support and the most difficult to oppose.

It simply asks people to take a look at the problem as to whether it is technically feasible and economically beneficial to recycle our wastes. Who could be opposed to that? Certainly not the administration which is supporting this system with the largest demonstration grant in its history, and certainly not the committee, because throughout the committee report the language of the report indicates this approach to be a desirable one.

Mr. Chairman, this will enable us to do something about the split personality in the bill before us, because in the opening section of this bill we proclaim the goal of zero discharge of pollutants by 1985, but then we turn around and make this an open-ended program of billions and billions of dollars through the use of conventional equipment which can only give us dirty water, in effect a goal of dirty water by 1976.

This conventional equipment will be virtually useless to us if we ever decide that we meant anything when we talked about the clean water goal of 1985 If we do mean that, then we will have to start from scratch and write off most of the money that we will have spent between now and then as wasted billions of dollars of the taxpayers' money.

If that proclamation of 1985 is to mean really to stop pollution by 1985, if it is to mean anything more than the wishful dream of a drunk lying in a gutter who mutters that he is going to stop getting boiled by some certain day, then we ought to take a much more careful look at the alternative systems.

The committee also contends, on page 83 of the report, that if the goal of zero discharge is to be attained, then land treatment systems will be necessary. So then what is wrong with encouraging just taking a look at land treatment system costs, as long as we are trying to reach a zero discharge of pollutants, when we can only wring out of the nack of conventional equipment those systems which probably will cost hundreds of billions and even trillions of dollars?

Let me point out that in my congressional district in Muskegon we are constructing a system that will provide zero discharge of pollutants today for all the industries and municipalities in that entire county, and we are doing it at a lower unit cost than a convention system being constructed now just 20 miles away.

The Corps of Army Engineers in an extensive 2-year study has conducted feasibility studies for Boston, Cleveland, Detroit, Chicago, and San Francisco, and concluded that land treatment systems were feasible in all of these regions. At my urgent request 43 days ago the Corps of Army Engineers did an in-depth study with respect to the Chicago region and its 8 million people, and the conclusion of that study is that this system can provide substantially cleaner water than any alternative at significantly lower cost than any alternative.

To those who are concerned about costs, I would say can we not just take a careful look at this system? In addition the Corps of Engineers study in Chicago said that because of the likelihood of a location of a nuclear plant there, because this system solves the thermal pollution problem, that just by paying normal user charges to the system for the cooling water services rendered it would be possible to retire a bond issue far in excess of the total cost of the construction. Can we not strongly encourage a look at the possibility of the total elimination of pollutants now, through the use of a system which in effect will not cost anything?

The concept of clean water for America is a new concept, and we need to encourage our people all we can to look at anything that is new and promising.

James Russell Lowell told us years ago that:

> New occasions teach new ideas; we
> Cannot make their creed our jailer.
> They must forever onward sweep,
> and upward,
> Who would keep abreast of truth.
> Nor attempt a future's portal with
> A past's outdated key.

Today we stand before the future's portal of a new America. To open that door we should not automatically pass one of nature's own keys. Can we not choose the key of tomorrow? If it does not fit then nothing is lost, but if it does fit then for heaven's sake let us open the door and walk into the future of clean water for America.

Is that too much to ask this House to encourage? I hope not, for the House's sake as well as America's.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in this bill we are doing everything that the distinguished gentleman from Michigan asks for. We recognize the system—we recognize its merits. We require that every grant application must have considered the method that the gentleman is interested in. It is a fine method. The only problem is that it is not applicable to every area in the United States.

We provide that every application for a grant must consider the method that the gentleman is describing. We further provide that every application must contain an analysis that the proposed system is the most cost efficient—the most cost efficient system under the intent of this act over the life of the project. So thus, if it should develop in the analysis of the various systems to be employed that the system of the gentleman from Michigan is the most cost efficient system, then grant applications cannot be approved unless that system is utilized.

Mr. GROVER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman.

Mr. GROVER. Is it not true that the very mesmerizing persuasion of the gentleman from Michigan before our committee impelled us to put language in the bill which you refer to which does give access to this Muskegon type of innovative technique.

Mr. HARSHA. That is quite right. The gentleman came before the committee and made a very persuasive argument, as he did here today. As a matter of fact, because of his interest and concern for this type of method, we changed the definition of treatment plants so that you can include the cost of the land necessary to dispose of the sludge or the spray irrigation system that he has up in Michigan.

In addition to that, we provide in this bill that the Corps of Engineers shall design and describe a pilot project for the entire Lake Erie region to see if that is one of the most workable and effective systems to eliminate pollution.

Thus, we have recognized everything the gentleman says about this legislation. His amendment is unnecessary.

Mr. Chairman, I urge the defeat of the amendment.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Muskegon approach to the treatment of water pollution has far-reaching possibilities for the future. I congratulate the Congressman for the interest and support that he has given to this approach.

The committee devoted extensive time to hearing testimony by those who were knowledgeable regarding the Muskegon plan. However, research has not yet been completed and demonstrated technology established. Until this has been done, the committee does not believe that a special priority should be given to any one method of treatment as contrasted with others.

The committee firmly believes that applicants must in the future examine a much broader range of alternatives for the treatment of pollutants than they have heretofore typically done. Research must be encouraged by EPA to insure the development and application of new treatment technologies which must give full consideration to the impact of a proposed technology not only on the water but also on land and air resources.

The committee has incorporated in the bill a requirement that the consideration of all alternatives for the treatment of pollutants must be fully considered in connection with any application for a waste treatment grant. The bill also includes specific language which would authorize grants to be made for waste treatment systems which adopt the Muskegon technology.

Accordingly, I see no need for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. VANDER JAGT).

PARLIAMENTARY INQUIRY

Mr. VANDER JAGT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VANDER JAGT. Mr. Chairman, if the statement of the ranking minority Member about the 10-percent Federal contribution went to a second amendment to be offered, but did not relate in any way to the amendment that is before the House and we are voting on, would there be any way that I could get time to make that clear for the record.

The CHAIRMAN. The gentleman does not state a parliamentary inquiry.

The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. VANDER JAGT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. VANDER JAGT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. VANDER JAGT, JONES of Alabama, HARSHA, and MCCLOSKEY.

The Committee divided, and the tellers reported that there were—ayes 251, noes 130, not voting 51, as follows:

[Roll No. 99]

[Recorded Teller Vote]

AYES—251

Abbitt	Chamberlain	Flood
Abourezk	Clancy	Flynt
Abzug	Clay	Foley
Adams	Collier	Ford, Gerald R.
Anderson, Calif.	Collins, Tex.	Ford, William D.
Anderson, Ill.	Conable	Forsythe
Andrews	Conte	Fraser
Archer	Conyers	Frelinghuysen
Arends	Cotter	Frenzel
Ashbrook	Coughlin	Frey
Aspin	Crane	Gallifianakis
Badillo	Culver	Goodling
Belcher	Daniel, Va.	Grasso
Bell	Davis, Wis.	Green, Pa.
Bennett	Dellenback	Gross
Bergland	Dellums	Gubser
Blaggi	Denholm	Gude
Blester	Dennis	Hall
Bingham	Dent	Halpern
Blackburn	Derwinski	Hamilton
Brademas	Devine	Hammer-schmidt
Brasco	Diggs	Hanley
Bray	Dingell	Hanna
Brinkley	Dow	Harrington
Broomfield	Dowdy	Harvey
Brotzman	Downing	Hastings
Brown, Mich.	Drinan	Hechler, W. Va.
Brown, Ohio	Dulski	Heckler, Mass.
Broyhill, N.C.	Duncan	Heinz
Broyhill, Va.	du Pont	Hicks, Mass.
Buchanan	Eckhardt	Hicks, Wash.
Burke, Fla.	Edwards, Ala.	Hillis
Burton	Edwards, Calif.	Horton
Byrnes, Wis.	Ellberg	Hosmer
Byron	Erlenborn	Hungate
Camp	Esch	Hunt
Carney	Eshleman	Hutchinson
Carter	Fascell	Ichord
Cederberg	Findley	Jarman
	Fish	Johnson, Pa.
		Karth
		Kastenmeier
		Keating
		Kemp
		King
		Koch
		Kyros
		Landgrebe
		Latta
		Leggett
		Lent
		Link
		Lloyd
		Lujan
		McClory
		McCloskey
		McClure
		McCollister
		McCulloch
		McDade
		McDonald, Mich.
		McEwen
		McKevitt
		McKinney
		Macdonald, Mass.
		Madden
		Mailliard
		Mallary
		Mathias, Calif.
		Matsunaga
		Mazzoli
		Meeds
		Melcher
		Metcalfe
		Michel
		Mikva
		Minish
		Mink
		Minshall
		Mitchell
		Montgomery
		Morgan
		Mosher
		Moss
		Murphy, Ill.
		Murphy, N.Y.
		Nedzi
		Nelsen
		Obey
		O'Hara
		O'Konski
		O'Neill
		Pelly
		Pepper
		Pettis
		Peyser
		Pike
		Pirnie
		Poage
		Podell
		Powell
		Preyer, N.C.
		Price, Ill.
		Price, Tex.
		Pucinski
		Quie
		Railsback
		Randall
		Reuss
		Rhodes
		Riegle
		Robinson, Va.
		Robison, N.Y.
		Rodino
		Rogers
		Rooney, N.Y.
		Rooney, Pa.
		Rosenthal
		Rousselot
		Roy
		Roybal
		Runnels
		Ruppe
		Ruth
		Ryan
		St Germain
		Sarbanes
		Satterfield
		Schmitz
		Schneebeli
		Sebelius
		Shoup
		Shriver
		Skubitz
		Smith, N.Y.
		Spence
		Springer
		Staggers
		Stanton, J. William
		Steed
		Steele
		Steiger, Ariz.
		Steiger, Wis.
		Stokes
		Stratton
		Stuckey
		Talcott
		Teague, Calif.
		Teague, Tex.
		Thompson, Ga.
		Thomson, Wis.
		Udall
		Vanik
		Veysey
		Vigorito
		Wampler
		Ware
		Whalen
		Whalley
		Whitehurst
		Widnall
		Williams
		Wilson, Bob
		Wilson, Charles H.
		Winn
		Wyatt
		Wylie
		Wyman
		Yatron
		Young, Fla.
		Zion
		Zwach

NOES—130

Addabbo	Gialmo	Myers
Alexander	Gonzalez	Natcher
Anderson, Tenn.	Gray	Nichols
Annunzio	Green, Oreg.	Nix
Aspinall	Griffin	Passman
Baker	Griffiths	Patten
Barrett	Grover	Perkins
Begich	Hagan	Pickle
Betts	Haley	Poff
Bevill	Hansen, Idaho	Purcell
Boggs	Hansen, Wash.	Quillen
Boland	Harsha	Roberts
Bolling	Hathaway	Roe
Brooks	Helstoski	Roncallo
Burke, Mass.	Henderson	Roush
Burleson, Tex.	Holifield	Schwengel
Burlison, Mo.	Howard	Selberling
Byrne, Pa.	Jacobs	Shipley
Cabell	Johnson, Calif.	Sikes
Caffery	Jonas	Slack
Casey, Tex.	Jones, Ala.	Smith, Calif.
Clausen, Don H.	Jones, N.C.	Smith, Iowa
Cleveland	Jones, Tenn.	Snyder
Collins, Ill.	Kazen	Stanton, James V.
Colmer	Kee	Stephens
Corman	Kluczynski	Stubblefield
Curlin	Kyl	Sullivan
Daniels, N.J.	Landrum	Symington
Danielson	Lennon	Taylor
Davis, Ga.	Long, La.	Terry
Davis, S.C.	Long, Md.	Thompson, N.J.
de la Garza	McCormack	Thone
Delaney	McFall	Tiernan
Donohue	McKay	Ullman
Dorn	McMillan	Waggonner
Edmondson	Mahon	White
Evans, Colo.	Mann	Whitten
Fisher	Martin	Wiggins
Flowers	Mathis, Ga.	Wright
Fountain	Mayne	Wydler
Fulton	Miller, Ohio	Young, Tex.
Fuqua	Mills, Md.	Zablocki
Gettys	Mizell	
	Monagan	
	Moorhead	

NOT VOTING—51

Abernethy	Chisholm	Gaydos
Ashley	Clark	Gibbons
Baring	Clawson, Del	Goldwater
Blanton	Dickinson	Hawkins
Blatnik	Dwyer	Hays
Bow	Edwards, La.	Hébert
Carey, N.Y.	Evins, Tenn.	Hogan
Celler	Gallagher	Hull
Chappell	Garmatz	Keith
	Kuykendall	Rarick
	Miller, Calif.	Rees
	Mills, Ark.	Reid
	Mollohan	Rostenkowski
	Morse	Sandman
	Patman	Saylor
	Pryor, Ark.	Scherle
	Rangel	Scheuer
		Scott
		Sisk
		Van Deerlin
		Vander Jagt
		Waldie
		Wolff
		Yates

Messrs. ARCHER and TEAGUE of California changed their votes from "no" to "aye."

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 377, line 24, strike the word "citizen" and insert the word "person".

Page 379, line 5, strike the word "citizen" and insert the word "person".

Page 379, line 14, strike the words "issued by the Administrator".

Page 381, strike lines 1 through 6; and in line 7, change "(h)" to "(g)".

The CHAIRMAN. Did the gentleman have the amendment printed in the RECORD?

Mr. McCLOSKEY. It is printed in the CONGRESSIONAL RECORD, volume 118, part 8, page 9690, Mr. Chairman.

The CHAIRMAN. The gentlemen from California is recognized for 5 minutes in support of his amendment.

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment, which is intended to clarify the citizen litigation section of the bill.

I commend the distinguished committee for placing in this bill a very strong provision for citizen litigation, but I point out that the bill, in the language in which it is framed, adds a new definition of "citizen" for the first time in history.

I invite the Judiciary Committee to comment upon this. In my judgment, I believe the distinction made between citizens who can sue under the bill and citizens who cannot, to be an improper, if not an unconstitutional distinction.

In all other actions where this House has recently provided for citizen litigation we have provided that any "person" may bring suit. In the Clean Air Act Amendments of 1970, passed less than 2 years ago, we described the standing to sue precisely:

> Any person may commence a civil action on his own behalf . . .

When we enacted the Noise Control Act 2 months ago we said again: "Any person" can sue. Yet in this bill the committee attempts to say that only a citizen can sue and then defines a citizen in terms that are extremely strained. Instead of using the simple language based on a body of evolving law over the last 100 years as to who has standing to sue, the committee put in the bill the limitation that suit can be brought only by a citizen who is "a citizen of the geographic area and has a direct interest which is or may be affected," or by "any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy." These terms are susceptible of different interpretation by reasonable men.

When we complicate legislation by attempting to define a simple term in new

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and complex language we invite litigation. If there is one area where we lawmakers should feel an obligation, it is that of clarity in the language we write into law so that such language can be clearly understood and does not require lawsuits to define or interpret.

The bill uses the term: "a citizen of a geographic area." Does this mean a citizen of a county, a State, or of a watershed? The citizen "who has a direct interest;" does that mean a man who lives alongside of a waterway or a man who lives within sight of the water or one who swims in it or one who drinks the water? I suggest that it will require lawsuits to determine the interpretation of this kind of language.

When we talk about a group of persons who "has been actively engaged in the administrative process," it may be that no one is actively engaged in the administrative process other than administrators themselves.

What this law does is to take a simple area of law which is well known to citizens and attorneys, the question of who has standing to sue, and make a complex definition which can be interpreted differently by different judges.

In our other enactments, the Clean Air Act and the noise control bill, any person can sue.

Moreover, when the administration gave its approval to this bill, if you will look at page 169 of the report, when the Environmental Protection Agency submitted its letter of approval to the committee bill, it said:

Section 505 provides that any person may commence a civil action.

Yet when the bill was finally drafted several weeks later, the bill's language had been changed to say that only a citizen may sue, and defined a citizen in this strange way.

I think, if we have any obligation to our constituents, it is to pass laws that use clear language and do not invite litigation.

As a matter of fact, I think this particular law will hurt the orderly processes of justice. I can understand, of course, the committee being concerned somewhat with the fact that someone 3,000 miles away might come into an area and bring a lawsuit. Yet by its terms the bill requires that nonprofit corporations such as the Sierra Club or the Audubon Society cannot sue unless there has been an administrative process in which they were one of a group of persons actively participating in such process. This section of the bill may well be unconstitutional both for vagueness and for making a classification between individuals which cannot reasonably be sustained.

Mr. WIGGINS. Will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. WIGGINS. I intend to support the gentleman's amendment and I do so although I frankly oppose the expansion of citizen suits in class actions. This is an abuse that we will have to deal with one day, but we will have to do it in a constitutional manner.

This section creates a cause of action in favor of some plaintiffs and denies it to others without any apparent good reason for it. The record of the committee's deliberations is completely absent of any justification for that classification.

For example, the only plaintiffs permitted to sue here are natural persons, as I read the act. I do not understand—a corporate plaintiff will not be permitted to maintain a cause of action even though he may be as seriously and genuinely aggrieved as an individual. That classification to me is at best constitutionally suspect, and the gentleman's amendment has the virtue of removing that error.

Mr. McCLOSKEY. I may say in conclusion that all my amendment does is to put in the act the same language which we carefully considered and which we put in the clean air amendments and the noise pollution control bill. The term "person" is a term that has been carefully defined by the courts; it is understood by citizens and courts alike and we as lawmakers can take pride in the fact that it will not further burden an already overburdened judicial system with a variety of problems of definition which can easily be avoided.

Mr. EDMONDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me say this: I make no claim to being a constitutional lawyer. The gentleman from California (Mr. McCLOSKEY) has in one portion of his amendment a provision that in my opinion has some appeal because I can see some justification for substituting the word "person" for the word "citizen" in this language used by the committee. But when the gentleman says that you can adopt his amendment and not have any major effect one way or the other upon this legislation and upon the scope of the rights of citizens provided in it, I think he neglects to consider at all the second part of the amendment which he has offered. The second part of the amendment which he has offered—and I have it here before me—would strike from the bill the language appearing at the top of page 381, lines 1 through 6. That is the language that requires that the plaintiff maintaining one of these citizen suits or "person" suits if you want to call it that, must be a citizen of the geographic area having a direct interest which is or may be affected, and second, any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographical area in controversy.

These are words of definite limitation and if you remove these words—while the gentleman says he does not propose to have someone 3,000 miles away bring a lawsuit, he certainly will open the door to anyone 3,000 miles away who wants to come in and file one of these lawsuits. That is what he is going to do if he eliminates this language.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. Yes, I yield to the gentleman from California.

Mr. HOSMER. I thank the gentleman for yielding. The gentleman has stated the situation precisely as it is. We already have itinerant intervenors who go around the country and persons meddling in problems that have significance locally and not nationally for purposes where they are worthy. However, if this amendment were adopted, they could take over an installation and hold it for ransom because of the delay in time involved in the litigation and cause the expenditure of millions of dollars while this litigation is going on.

This kind of provision is really required for the protection of the country.

Mr. EDMONDSON. I thank the gentleman for his contribution.

I am a lawyer and I do not want to do anything that unfairly takes the fees out of the pockets of lawyers, but I am telling you that if you do not keep these words of limitation—and I do not care whether you call the litigants "persons" or "citizens"—you will have some people making a business of traveling all over the country and going into your part of the country when they do not live within 1,500 or 3,000 miles of you and intervening in matters that do not directly concern them, but who will try to block the development of these water-treatment plants, who will try to block the development of sewage-treatment plants and thus interfere with the orderly development of this program.

Mr. Chairman, we have a door open as wide as a barn door for the intervention in these lawsuits by persons or citizens, whichever you want to call them, who are in the area or who have become involved in the administrative process and who want to take it into court. But we are trying to put some reasonable limitation upon the scope of the right to bring these citizen suits.

That is the intent of this language and I hope the gentleman's amendment will be defeated.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. EDMONDSON. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I understood the gentleman to state that he was not a constitutional lawyer. I do not claim to be the greatest expert in this field, but I know of no other case in America where we have attempted to segregate those who can sue and those who cannot sue on one of these questions.

Is the gentleman familiar with any constitutional law or precedent which would justify defining who could bring this kind of lawsuit and who could not?

Mr. EDMONDSON. I could call the attention of the gentleman to two cases in which the limitation theory is mentioned by the court as a theory with validity: 354 F. 2d 608 (2 cir. 1965), the case of *Scenic Hudson Preservation Conference* v. *Federal Power Commission*, and the case of *Smith Hill Neighborhood Association* v. *Romney*, 421 F. 2d 454, 1969.

Mr. McCLOSKEY. I will say to the gentleman that those two cases do not stand for the kind of limitation placed in this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD:

On page 338, amend lines 4 through 25 to read as follows:

"(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such state require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters."

The CHAIRMAN. The Chair will ask the gentleman from Michigan whether the amendment just offered by the gentleman has been printed in the RECORD?

Mr. WILLIAM D. FORD. Yes, Mr. Chairman, it has, at page 10045 on March 23.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

Mr. WILLIAM D. FORD. Mr. Chairman and members of the committee, this is a simple amendment designed to preserve the rights of individual States to prohibit discharge of sewage from vessels. I might attempt to explain it on the basis of a lengthy argument in defense of States rights. Some of my distinguished colleagues might find it surprising that my cosponsor, the distinguished gentleman from Minnesota (Mr. FRASER) and I would be making an argument on the basis of States' rights, but I think the States' rights approach would be appropriate at this point.

I could also make, I believe, a strong argument on the basis of the overall wisdom of this approach to pollution control. But I would like to make a more direct approach, and that is, to ask you to consider the Detroit River, which is a major connection between the Great Lakes, and realize that now with the St. Lawrence Seaway open we carry more tonnage of shipping through that river in its short season than the annual tonnage which passes through the Panama and Suez Canals combined.

Then I would like you to think about what happens to our drinking water in Michigan each time somebody flushes a toilet on one of those ships. If you do this, I am sure you will understand the kind of appeal that I am making to you here today and I think you will want to support this amendment.

It is not necessary to talk about States rights in order for you to understand, and you do not need, as has been suggested, a Geiger counter to tell you what kind of pollution contamination is going into the water supplies of some 4 million people in the immediate area of my congressional district.

Twenty of the States, particularly around the Great Lakes, and along the Mississippi River, have now adopted and have in effect stringent regulations with regard to equipping all boats that carry toilet equipment with them, so that they will retain on board their sewage and waste and take it to the shore, and have it pumped out. If we do not adopt this amendment these existing statutes will, in effect, be wiped out.

Mr. Chairman, I know my time is running out, but I would like to close by reading a telegram from Governor William Milliken, of Michigan, which shows very clearly what the dilemma is for these States:

Concerning H.R. 11896 which is now before you, we have not been able to obtain assurances from the EPA that Michigan's position concerning marine pollution would be protected under the new Federal Water Pollution Act. Therefore: I support amending the bill as reported to preserve the right for a State under a State law to adopt restrictions which are more stringent than those adopted by the Federal Government. This is important to the maintenance of Michigan's "no-discharge" boat pollution law.

The other Governors are joining with Governor Milliken of Michigan in asking us not to bar their right to enforce such legislation in the future, or enact legislation which can bar programs already underway, and not, by virtue of the provisions of this act, suspend these State laws for any length of time.

As I read the act, unless we adopt this amendment, laws like Michigan, Minnesota, and Wisconsin laws could become automatically suspended until such time as the EPA decided to write regulations to replace it and that could be up to 5 years. There are 45,000 boats registered in the State of Michigan now and we expect 75,000 by the end of the next 5 years—boats that are big enough to be equipped with toilets or, as some of my Navy friends say—have "heads" on them.

Mr. Chairman, by adopting this amendment we will simply be permitting Michigan and other States which determine the necessity, to enforce as they see fit, the control of vessel discharges within their own lakes and rivers.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. FRASER. Mr. Chairman, I want to join the gentleman in urging support for this amendment, permitting States to completely prohibit the discharge from a vessel of any sewage, whether treated or not.

The bill before us marks a new and much needed approach to water pollution abatement. It sets admirable goals, provides generous funds, and employs some genuinely innovative and effective administrative procedures, such as the practices of "contract authority" and "user charges." Why then, does it take a backward step with regard to State regulation of marine sanitation devices?

We are still waiting for the final issuance of the Federal regulations required under existing law—Federal Water Quality Act of 1970, section 13f. When issued, these regulations will become effective 5 years after promulgation for existing vessels, and 2 years after promulgation for new vessels. States have had to act. They could not wait 5 years from some indefinite date in the future to stop waterborne polluters from dumping sewage.

Some have traditionally opposed State sanitary codes, health regulations, factory inspections, and such, on the grounds that it interfered with interstate commerce. Federal courts have, just as traditionally, upheld the right of States to protect the health and safety of their citizens.

The most recent Federal District Court decision, *New York State Waterways Ass'n* v. *Diamond*, F. Supp. (W.D.N.Y. Jan. 12, 1972) has found that "there is no merit to the claim of the plaintiffs that the statute—New York's law banning sewage-discharge from boats—constitutes an unconstitutional burden on interstate commerce."

The argument is raised that a no-discharge requirement is impractical inasmuch as pumpout facilities do not exist. Pumpout facilities have sprung up wherever and whenever there was a need for them. Michigan, which had 75 pumpout facilities a year ago, has 175 today. On the St. Croix River, within 12 miles of a spot where I have a summer place, there are six pumpout stations, with charges ranging from $3 to $4.50. In addition, "midstreamer services" on the Mississippi are beginning to add pumpout facilities to their other services. They can service vessels on the move. Pumpout facilities are economically viable. When a boatowner stops to have his holding tank pumped out, he probably gets fuel and possibly provisions as well.

As to the cry of "chaos," the amendment I am proposing will not permit 50 gradations of standards. It will permit only two—a no-discharge policy for those States that need it, and whatever standards the EPA sets for others.

Without the threat of Federal preemption, I am convinced that many other States will follow the example of the 20 or so which already prohibit dumping sewage from boats.

The States I refer to are the States of Arizona, California, Colorado, Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Oregon, Texas, Utah, Vermont, and Wisconsin.

We need this amendment to preserve the right of the States to require holding tanks, otherwise those State laws are going to be wiped out and boats are going to be dumping into the waters that we swim in.

In a way, the struggle over this small issue is a microcosm of the larger struggle to clean up our environment. We all realize the gravity of the water pollution problem. It may already be too late in the case of Lake Erie. But the temptation is still to put off the personal commitment that is necessary if we are to succeed in averting the doom being predicted so graphically by such authorities as Dr. Commoner and the Club of Rome.

Our amendment will cost the Federal Government nothing. But it will require some effort and expense on the part of individual boatowners. It is easier, after

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all, to eject wastes into the water. The facts are that the actual costs for boatowners to avoid polluting the waters upon which they navigate are within reason. For larger commercial vessels the Ford Motor Co. has set an example. It took only 4 weeks to install a $20,000 retention system in each of its six Great Lakes vessels in order to comply with Michigan law.

If we back down on this one—take this step backward in the struggle to clean up our waters, we will have done a double harm. We will have undone the good work of those States which have had the courage and initiative to pioneer in this field, and we will have indicated to an administration already subject to much pressure that the Congress is willing to go along with weaker regulations.

I urge you to support the marine sanitary devices amendment.

Mr. JONES of Alabama. Mr. Chairman, I will not belabor the point of the gentleman's amendment, but I would like to point out that we here in 1970 did exactly what the gentleman from Michigan, the author of this amendment, asked us to do. That was to preempt the States' rights in these circumstances in order that we could have some uniform approach to this problem.

So it seems to me we are coming back here today and saying: "Well, in 1970 you were not correct in your judgment of voting for the Water Quality Act and you want to come back and preempt the Federal Government and give it back to the States."

So it seems to me, that is a total inconsistency with what we are dealing with here in this proposition.

The committee recognizes that after the Federal preemption goes into effect, there could be such situations where the need for prohibiting discharges in certain bodies of waters outweighs the need for uniformity among the States.

Where those circumstances occur, subsection F3 of section 312 permits the Administrator, at the request of a State, to require a complete prohibition of discharge from a vessel of any sewage whether treated or not into any portions of the waters within the State.

Mr. Chairman, I regret to oppose the gentleman's amendment, but in all good conscience I do not see how we can march in here one day and take a position and come back and renege on it the next day.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. WRIGHT. Mr. Chairman, I can sympathize with what the gentleman from Michigan seeks to achieve. Surely a State should not be prevented from improving upon the quality of its navigable waters. It is clearly the intention of the committee that the standards to be promulgated by the Administrator for marine sanitation devices shall be strong and forceful standards, coming as near as technology will permit to zero discharge. It also is the intention that the Administrator shall give full and due consideration to the application of any State, as set forth in the committee bill, to require no discharge within its own waters wherever available on-shore treatment and disposal warrant it.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. PIKE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, everyone is for pure water, but I expect those who use it most care most about it.

No one needs, appreciates, or is more willing to make sacrifices to achieve clean water than the boatmen who use it and love it.

But enough of generalities—here are some specifics. There were 428,114 boats registered in New York last year. All of them combined contribute less sewage to the waters of our State in 2 years than the city of New York does in 1 day. The Army Engineers tell me that approximately 450 million gallons of raw sewage is dumped into New York Harbor by New York City every single day. But boats shall have holding tanks.

In my own county there were 58,993 boats last year—and all of them combined contributed less sewage to the waters of my county than just one State institution—the State University at Stormy Brook. The State, nevertheless, says boats must have holding tanks.

Because they are an easy target—a cheap shot—the State has singled out the boatowners. Not the huge ocean liners or cargo ships. New York would not think of enforcing its holding tank law against them—just the private boatowners and fishermen and clamdiggers. Sewage is neither better nor worse when it comes out of a boat instead of a house or an apartment or a school. It should be treated exactly the same way. When we are ready to stop sewage or put stringent controls on—fine, hallelujah! But let us not create the illusion of a solution by whipping a scapegoat.

Finally, of course, there has to be uniformity. We who live on Long Island like to sail across Long Island Sound to Connecticut and across Block Island Sound to Rhode Island. But these States have a different law, so when I comply with the law in New York I cannot take my boat on a vacation across the sound for they have no facilities for pumping out the holding tanks. I have a boat—and I also have a car. I use my boat in interstate trips in the same manner I use my car or a train on interstate trips. For each State to use its own judgment, not on effluent, but on boat effluent alone, not on sewage treatment equipment, but on boat equipment alone, makes no more sense than to have 50 different gages of railroad tracks or 50 different requirements for automobile carburetors. This amendment should be defeated.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman.

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the present law, which we enacted in 1970, and the regulations promulgated thereunder are so strict that at the present time the only item that would be approved would be a holding tank.

The intent of Congress was set forth when we passed the Federal preemption which was established in 1970. We would be totally repealing that if we would adopt the amendment that is before us.

Those provisions were passed by the Congress because we recognized that vessels in interstate commerce and also many pleasure boats were faced with changing laws from one State to another.

I remember my own State of New York where we first passed the holding tank provision and then did not have holding tanks on certain lakes in order to accommodate the effluent.

We cannot afford to go back to the point of having situations where it cannot be a pleasurable experience to pass from one State to another.

Mr. Chairman, this amendment should be defeated.

We recognize that this amendment is unnecessary. We see nothing that the gentleman has proposed that will not be contained in the new law. The administrator has the right, and as the gentleman from Alabama stated, he can exercise that right where they find a situation that is not covered within the present exemption.

Mr. JONES of Alabama. Mr. Chairman, I should like to make one observation in relation to the attitude of Governors. There has not been a single Governor of any State who has not advocated passage of this bill.

Mr. WILLIAM D. FORD. I agree.

Mr. JONES of Alabama. So I do not think that any petition on behalf of any Governor to change any portion of our bill should cause us to do so. If the National League of Cities, the Governors and county government agencies come in asking us to pass this bill without amendment, why should we now hear about Governors requesting a change in one portion of this bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. FRASER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FRASER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, GROVER, WRIGHT, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 210, noes 173, not voting 49, as follows:

[Roll No. 100]

[Recorded Teller Vote]

AYES—210

Abourezk	Ashley	Brinkley
Abzug	Aspin	Broomfield
Adams	Badillo	Brotzman
Anderson, Ill.	Bell	Brown, Mich.
Anderson, Tenn.	Bergland	Brown, Ohio
	Bingham	Broyhill, N.C.
Andrews	Blackburn	Broyhill, Va.
Archer	Brademas	Buchanan
Arends	Brasco	Burke, Fla.

Burke, Mass.	Helstoski	Podell
Burlison, Mo.	Hicks, Mass.	Poff
Burton	Hicks, Wash.	Price, Ill.
Byrnes, Wis.	Hillis	Price, Tex.
Byron	Hogan	Quie
Carney	Hunt	Railsback
Carter	Hutchinson	Randall
Cederberg	Jacobs	Rees
Chamberlain	Johnson, Pa.	Reuss
Clancy	Karth	Rhodes
Clay	Kastenmeier	Riegle
Collier	Keating	Rodino
Conte	Kemp	Rogers
Conyers	Koch	Rooney, Pa.
Corman	Kyl	Rosenthal
Cotter	Kyros	Roush
Coughlin	Landgrebe	Rousselot
Crane	Leggett	Roybal
Culver	Lent	Ruppe
Daniels, N.J.	Link	Ryan
Danielson	Lloyd	Sarbanes
Davis, Wis.	Long, Md.	Schmitz
Dellenback	Lujan	Schneebeli
Dellums	McCloskey	Selberling
Dennis	McClure	Shipley
Derwinski	McDade	Shoup
Diggs	McDonald, Mich.	Shriver
Dingell	McKay	Smith, Calif.
Donohue	McKevitt	Smith, Iowa
Dow	McKinney	Spence
Downing	Macdonald, Mass.	Springer
Drinan	Madden	Steele
Dulski	Mailliard	Steiger, Wis.
Duncan	Mallary	Stokes
du Pont	Mann	Stuckey
Edwards, Calif.	Mathis, Ga.	Sullivan
Esch	Matsunaga	Symington
Fascell	Mazzoli	Teague, Calif.
Fish	Meeds	Thompson, Ga.
Foley	Melcher	Thomson, Wis.
Ford, Gerald R.	Metcalfe	Tiernan
Ford, William D.	Michel	Udall
Fraser	Mikva	Ullman
Frelinghuysen	Mills, Md.	Vanik
Frenzel	Minish	Vigorito
Frey	Mink	Waldie
Fulton	Mitchell	Wampler
Gallagher	Mizell	Ware
Gibbons	Monagan	Whalley
Goodling	Morgan	White
Green, Pa.	Murphy, Ill.	Whitehurst
Griffiths	Nedzi	Widnall
Gross	Obey	Williams
Gude	O'Hara	Wilson, Charles H.
Hagan	O'Konski	Winn
Halpern	Pelly	Wyatt
Hamilton	Pepper	Wylie
Hanna	Pettis	Yatron
Harrington	Peyser	Young, Fla.
Harvey	Pickle	Zablocki
Hechler, W. Va.	Poage	Zwach
Heckler, Mass.		

NOES—173

Abbitt	Curlin	Haley
Addabbo	Daniel, Va.	Hall
Albert	Davis, S.C.	Hammer-schmidt
Alexander	de la Garza	Hanley
Anderson, Calif.	Delaney	Hansen, Idaho
	Denholm	Harsha
Annunzio	Dent	Hastings
Ashbrook	Devine	Hathaway
Aspinall	Dorn	Henderson
Baker	Dowdy	Holifield
Barrett	Eckhardt	Horton
Begich	Edmondson	Hosmer
Belcher	Edwards, Ala.	Howard
Bennett	Ellberg	Hungate
Betts	Erlenborn	Ichord
Bevill	Eshleman	Jarman
Biaggi	Evans, Colo.	Johnson, Calif.
Biester	Evins, Tenn.	Jonas
Boggs	Findley	Jones, Ala.
Boland	Fisher	Jones, N.C.
Bolling	Flood	Jones, Tenn.
Bray	Flowers	Kazen
Brooks	Flynt	Kee
Burleson, Tex.	Forsythe	King
Byrne, Pa.	Fountain	Kluczynski
Cabell	Fuqua	Landrum
Caffery	Gallifianakis	Latta
Camp	Garmatz	Lennon
Casey, Tex.	Gettys	Long, La.
Celler	Giaimo	McClory
Clausen, Don H.	Gonzalez	McCollister
	Grasso	McCormack
Cleveland	Gray	McEwen
Collins, Ill.	Green, Oreg.	McFall
Collins, Tex.	Griffin	McMillan
Colmer	Grover	Mahon
Conable	Gubser	Martin
Mathias, Calif.	Quillen	Stanton, J. William
Mayne	Roberts	Steiger, Ariz.
Miller, Calif.	Robinson, Va.	Stephens
Miller, Ohio	Robison, N.Y.	Stratton
Minshall	Roe	Stubblefield
Montgomery	Roncallo	Talcott
Moorhead	Rooney, N.Y.	Taylor
Mosher	Roy	Teague, Tex.
Myers	Runnels	Terry
Natcher	Ruth	Thompson, N.J.
Nichols	St Germain	Thone
Nix	Satterfield	Waggonner
O'Neill	Schwengel	Whalen
Passman	Scott	Whitten
Patten	Sebelius	Wiggins
Perkins	Sikes	Wilson, Bob
Pike	Sisk	Wolff
Pirnie	Skubitz	Wydler
Powell	Slack	Wyman
Preyer, N.C.	Smith, N.Y.	Young, Tex.
Purcell	Snyder	Zion
	Staggers	

NOT VOTING—49

Abernethy	Hawkins	Rangel
Baring	Hays	Rarick
Blanton	Hébert	Reid
Blatnik	Heinz	Rostenkowski
Bow	Hull	Sandman
Carey, N.Y.	Keith	Saylor
Chappell	Kuykendall	Scherle
Chisholm	McCulloch	Scheuer
Clark	Mills, Ark.	Stanton, James V.
Clawson, Del	Mollohan	Steed
Davis, Ga.	Morse	Van Deerlin
Dickinson	Moss	Vander Jagt
Dwyer	Murphy, N.Y.	Veysey
Edwards, La.	Nelsen	Wright
Gaydos	Patman	Yates
Goldwater	Pryor, Ark.	
Hansen, Wash.	Pucinski	

Mr. GALLAGHER changed his vote from "no" to "aye."

So the amendment was agreed to.

Mr. MAHON. Mr. Chairman, the vote on my amendment to the pending water pollution control bill has been taken. The amendment did not prevail, although a very substantial number of Members of the House voted for it—in fact, 161 Members.

It was, as I said, a procedural amendment, but as I pointed out in my remarks on the amendment—and otherwise on Monday and Tuesday of this week—it involved a very fundamental question: the orderly processes of legislative consideration and actions annually. Not every few years, but each year, each session of each Congress.

I had hoped—indeed planned—to support the pending measure, especially since in many respects it is, in my opinion, far superior to the Senate version of the bill. On further consideration of the whole matter, and especially in view of the defeat of the procedural and yet fundamental amendment which I offered, I feel reluctant to vote to approve a 3-year, $18-billion expenditure program without requiring further action by the Congress.

In the debate today, reference has been made to a letter which I wrote on Monday of this week to all Members of the House. In view of the references made, I submit the letter for the RECORD at this point:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 27, 1972.

DEAR COLLEAGUE: Let me make two points very clear about the pending *Water Pollution* Control Bill, H.R. 11896:

1. I have not had the remotest thought of offering any amendment to alter the dollar figures for waste treatment construction grants or any other program involved in the bill. It is within the province of the Committee on Public Works to recommend whatever levels of authorization it deems appropriate.

2. My concern arises over the *multi-year contract authority* provision. I have now decided to offer an amendment to substitute *one-year advance appropriation* funding for the three year contract provision. With multi-year contract authority we downgrade Congress—abrogate our annual authority—more or less write the next two congressional sessions out of the act. To me it makes no sense for us to abdicate our power.

One-year advance funding of the waste treatment grant program with direct appropriations would assure that State and local interests would have adequate notice for their planning purposes. Congress would act every year and be solidly in the picture from the standpoint of our people. Why detract from the power and prestige of the Legislative Branch by vesting authority for a 3-year period in the Executive Branch? Why surrender the right and—as I see it—the duty of annual action on this momentous issue?

Just prior to World War II, 18% of the spending budget was classified as relatively uncontrollable. The current budget classifies 71% of spending as relatively uncontrollable under present law! Contract authorizations for waste treatment would continue to move us toward almost complete abdication to the Executive Branch. This is unnecessary. Let's not do it!

Please give this problem your best attention and let's work out an approach which will be acceptable to the House and retain the power and dignity of Congress.

Sincerely,

GEORGE MAHON.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

The SPEAKER. The Committee will resume its sitting.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. GALLAGHER

Mr. GALLAGHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GALLAGHER: Page 254, immediately after line 12 insert the following:

"(e) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1952, but before June 30, 1956, as a result of a court order, or a ruling by an interstate agency, or both, shall qualify for payments and reimbursements of State or local funds used for such project from sums allocated to such State under this subsection in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the total cost of such project. There is authorized to be appropriated to carry out this subsection not to exceed $17,000,000."

Mr. GALLAGHER. Mr. Chairman, my amendment was printed in the RECORD.

The CHAIRMAN. The gentleman from New Jersey is recognized for 5 minutes.

Mr. GALLAGHER. Mr. Chairman, I appreciate the long hours and hard toil of the Public Works Committee that went into the bill before us today. It is an altogether impressive legislative accomplishment, and I intend to support H.R. 11896 on final passage.

Viewed in the context of this $24.6 billion package my amendment designed to provide equal treatment under the law for Bayonne and Jersey City may seem like small potatoes. But I assure the House that this amendment matters a great deal to these two communities in my district.

What my amendment does is to enable Bayonne and Jersey City to receive Federal reimbursements for sewage treatment plants they constructed prior to the June 30, 1956, cutoff as a direct result of governmental mandates.

The background is straightforward enough. Bayonne initiated its sewerage facility in November 1952—and Jersey City did likewise in September 1954. In moving out in front in responding to the needs of their citizens these two communities showed commendable public spirit.

By the same token, these communities could have dragged their feet in responding to the imperative of water pollution control. And that is the irony. By being early birds in meeting their obligations in the water pollution field, Bayonne and Jersey City merit commendations. But instead they are being penalized cruelly by being cut out altogether of reimbursements under subsection 206(b) of this bill.

Moreover, it is not as if either city had a meaningful choice in the matter. Each community, of course, wanted to do its best for its citizens. But this high motivation was reinforced by governmental mandates that neither Bayonne nor Jersey City could ignore.

The Interstate Sanitation Agency ordered both cities to invest in modern sewerage systems. And the agency's orders were backed by court orders.

Thus once again we encounter a deplorable breach of faith between the Governors and the governed. Bayonne and Jersey City responded to orders of the Government to start in on modern sewerage facilities at a prematurely early date. But instead of being rewarded, these two communities are penalized for obeying the orders of their Government.

How does one explain this anomaly to the communities involved? Bayonne raised $16 million through a bond issue. That is $16 million that is now not available for improving Bayonne schools, hiring more police and judges, upgrading hospitals, and so forth.

Jersey City raised $39.4 million through three bond issues. That is $39.4 million that is now not available for drug rehabilitation programs for youthful addicts, dealing with other water as well as air pollution problems in the community, and doing something about traffic snarls.

The fact is that my amendment will not be especially costly. It provides just $17 million as the 30-percent Federal reimbursement for the two communities that would otherwise be available under subsection 206(b).

This $17 million, moreover, is especially important for Bayonne and Jersey City. Both are hosts for Federal installation, and this has had the effect of shrinking their tax bases.

Were these installations not there, Bayonne and Jersey City would have significantly greater tax revenues available for public works projects. But as it stands, both sewage treatment facilities had to be financed from bond issues rather than tax revenues.

For these reasons I urgently ask that the House grant appropriate relief to Bayonne and Jersey City by approving my amendment.

Quite apart from the fate of this amendment, however, it appears to me that Jersey City is entitled to partial reimbursement under subsection 206(b) for its sewage treatment facility. I refer specifically to the $4.4 million that Jersey City committed for this project after June 30, 1956.

An examination of the language of subsection 206(b) is instructive. In both the House and Senate bills the pertinent language is the same. This subsection does not talk in terms of projects "initiated" after June 30, 1956, but rather in terms of projects "constructed or eligible for assistance" between June 30, 1956, and June 30, 1966. This suggests strongly that the legislative intent was to finance both projects—and segments of projects—that were constructed after the June 30, 1956, cutoff.

The first rule of legislative interpretation is to look at the language of the bill itself. Subsection 206(b) could have been drafted in terms of projects "initiated" after June 30, 1956. But it was not. By way of contrast, subsection 206(a) in both the Senate and House versions talks in terms of projects "initiated" after a particular date.

If "initiated" was used in subsection 206(a), why was it not in subsection 206 (b)? Apparently, the legislative intent was to provide under 206(b) for projects underway as well as projects initiated after June 30, 1956. Otherwise, why not use "initiated" in both subsections?

The only other likely explanation is inconsistency in legislative drafting. But given the many hours of expert draftsmanship involved in this omnibus bill, this seems improbable.

What I would urge, therefore, is that in the conference report the managers address themselves to this inconsistency in language between the two subsections, and furnish an authoritative interpretation of the inconsistency. I hope and trust this interpretation will hold that segments of projects underway after June 30, 1956, are eligible for reimbursement.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with reluctance that I oppose the gentleman's amendment because I can appreciate the great difficulties which the gentleman has described with reference to these two cities located in the gentleman's congressional district which was occasioned by the fact that they did not have ample money.

However, under our bill we go back to the 1956 act in making retroactive payments. If they had made an application and had received approval of a plan prior to 1956, we would not have a grant program. Prior to 1956, we did not have a grant program. We had a very meager loan program.

So, consequently, there were no applications for loans which were made.

Now, at this time we could not have any reliance on any kind of figures if we are going to make some kind of reasonable estimate to reimburse every community that has improved and has carried out the construction which the gentleman has described out of their own resources.

Accordingly, as I say—I am reluctant to oppose the amendment. I hope the amendment is not adopted.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I would like to point out, Mr. Chairman, that we have made a study and there are no other communities affected. If there are some at a future point, the limitation of $17 million would apply.

Actually, if this amendment is voted down it means that these two cities that complied with the court orders—while all the other cities along the Hudson River did not—will, in effect, be penalized for complying with the law.

I hope that the committee will understand the equity involved here, so that these two cities might benefit as the rest of the country will from this $24 billion program.

Mr. JONES of Alabama. As I explained yesterday in our conversation to the gentleman, the author of the amendment, the committee would be glad to make an inquiry into the subject matter. However, we have not had an opportunity to go back retroactively and consider anything beyond the 1956 act.

So, I hope the gentleman realizes that we have not made a study and we would not know how to bring in an amendment of $17 million in order to accommodate the two cities. Further, we do not know the other municipalities throughout the country which are in a similar situation. It may be that there is an equal need for it in other locations.

Mr. GALLAGHER. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman that my amendment limits the amount that could be distributed to all cities who may qualify. These are the first two cities in the country where a Federal court ordered them to pay for their sewerage systems out of their own funds—funds, incidentally, that should have been used for many other important purposes.

Mr. JONES of Alabama. I do not see how the committee could have been more generous. If you examine the bill, you will see that there is $2,750,000,000 for reimbursements from 1956 up until the present time. We did not have an opportunity to go into the matter to which the amendment offered by the gentleman from New Jersey's amendment gives rise to, so that our committee is not informed upon this; we have not had the opportunity to make a total examination of the problem the gentleman poses. I would hope that the gentleman would not insist upon his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GALLAGHER).

The question was taken; and on a division (demanded by Mr. GALLAGHER) there were—ayes 16, noes 72.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $6,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $360,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 3? If not, the Clerk will read.

The Clerk read as follows:

SAVINGS PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to section 4? If not, the Clerk will read.

The Clerk read as follows:

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs of such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one

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hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necesary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d)(1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e)(1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g)(1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by insertnig "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Mr. JONES of Alabama (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to the other sections of the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DINGELL. Mr. Chairman, I am deeply concerned that H.R. 11896 as reported by the committee has not been amended to take care of the many serious weaknesses in the bill, particularly:

Elimination of the unreasonable and unnecessary provision in section 315 of the bill which calls for a delay in establishing, in the next decade, a requirement for the use of the best available technology, taking into consideration costs, by all polluters.

Failure to adopt the clean water amendment, which would have deleted this backward provision, was a mistake. I sincerely hope that in conference the Senate's more progressive version of the law establishing the 1891 requirements will prevail.

Moreover, even in providing for a study I believe it is essential that we insure a mechanism which will provide a broader based study by organizations and institutions other than just the National Academy of Sciences and the National Academy of Engineering. The study provision in the committee's bill was placed there at the insistence of the National Association of Manufacturers—NAM.

The provision in the bill relating to the establishment of the permit program.

It is my firm belief that we must provide, as Governor Anderson of Minnesota strongly recommended last December to the Public Works Committee, that EPA be given an opportunity for a veto over individual permits, where appropriate. It is incomprehensible to me that the only way that the Federal Government can review a permit program, once it has been transferred to the State, is by totally taking back that program. It seems to me that any State Governor would be opposed to such a Federal takeover provision except in the most dire of circumstances. It seems much more reasonable to me to have EPA review the permit applications that it will, after all, be receiving even under the committee bill, and to make comments and recommendations on those permit applications, when appropriate.

The present Federal Refuse Act permit program is far superior to the one included in the committee bill and I hope that, if a more workable solution cannot be reached on section 402 of the bill which provides greater Federal control over individual permits, section 402 will be deleted from the bill and that the present and very successful Refuse Act permit program established in December 1970 be retained.

The provisions in the bill for the issuance of subpenas.

It seems unfortunate, as I have stated before, that the House committee bill would not adopt a recommendation of the Senate by providing for the issuance of subpenas in support of enforcement actions under the bill. Certainly such subpena power should be included in the bill on final passage.

Provisions in the bill for citizen suits quite obviously must be revised to conform with the more realistic provisions of the Clean Air Act and the Noise Control Act.

It is unfortunate that the committee saw fit to restrict the rights of citizens to bring suits against polluters when they violate the law and against EPA when it fails to comply with the law. It is also unfortunate that in employing restrictive language in the definition of citizen, the committee bill used such vague and ambiguous terms. Again, I hope that the conferees will resolve this matter in favor of the Senate version of the citizen suit provision of the bill which leaves the question of "standing" to the courts where it belongs.

There are many other provisions of the bill which I and my colleagues have pointed out in the debate on this bill in the last 3 days, and in the additional views by Represetnatives ABZUG and RANGEL, that deserve careful study by the conferees and substantial revision if we are to have a truly clean water bill.

I am, however, particularly pleased that both the House and Senate versions of the bill have recognized that the Refuse Act of 1899 should be continued as an antipollution tool. I note with great pleasure that Mr. ROE said on page 10662 of the CONGRESSIONAL RECORD of March 28 that—

The Refuse Act is continued without modification as a valuable enforcement tool.

I know that all environmentalists join with me and Representative REUSS in praising the committee for retaining this important statute.

At this point in the record, I would like to insert a statement by the assistant U.S. attorney for the southern district of New York, Mr. Ross Sandler, who last January explained how valuable and important the Refuse Act is:

PROSECUTING WATER POLLUTION CASES

(By Ross Sandler)

For persons genuinely interested in the environment and the abatement of pollution, the last year or possibly two years must surely look like the dawning of a new age. Never before, at least in recent history, have as many people been motivated to do something to save our environment; never before have so many candidates for political office run on platforms calling for massive abatement of water pollution; and never before has so many enforcement agencies at various levels of government been actively and methodically prosecuting polluters.

The distinction in my opinion between today's relatively optimistic picture, and the past, is the emerging concensus that government must use its enforcement powers to bring a halt to pollution and to reclaim our natural environment. By enforcement I mean simply the power to order that something be done, and that, if not done, the imposition of sanctions. A few examples might help explain the distinction.

It is one thing for the federal government to purchase or retain ownership of forest land for recreation and protection of a watershed—it is quite another to enforce pollution abatement by criminally indicting an otherwise reputable industry for using a watershed for its private waste disposal system. It is one thing for the government to spend millions of dollars to build sewers and plants to treat the waste of industries, and homes as well—but it is quite another to enforce sewer codes by cutting off a company's water until the company installs adequate and costly pre-treatment facilities. It is one thing

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for the government to give industry a tax break for installing pollution control equipment—and it is quite another to enforce pollution abatement by seeking an injunction against the company halting full operation of its plant until the adequate pollution control machinery is installed.

Although bills currently pending in Congress would give the Federal government a comprehensive and detailed scheme of enforcement, the actual work of enforcement currently being carried out by the federal government through the Department of Justice, the Environmental Protection Agency and the Army Corps of Engineers is built upon what is almost a common law of water pollution abatement. The Primary federal statute remains the Refuse Act of 1899. That statute says simply, in language that approaches a Biblical commandment, that no one may discharge refuse into the navigable waters of the United States. While there is some legislative history to the contrary it is fairly clear that the refuse to which the statute referred to was primarily the type of refuse which would tend to affect navigation, and not refuse causing pollution. Even as late at 1970, J. Clarence Davies in his book *The Politics of Pollution* could dismiss the Refuse Act with one sentence stating that the 1899 Act was designed only to prevent impediments to navigation, "not to clean up the water." (page 38).

But the Refuse Act has emerged as the primary pollution abatement statute on the federal level for the simple reason that it, alone, has proven enforcible.

In my law school criminal class, the professor repeatedly taught that in criminal law, it was the certainty of being caught and punished that caused people to conform to the law, even more than the harshness of the penalty.

The professor gave as his example of the rule the reputed fact that the Norwegian people during the World War II would engage in the most dangerous partisan activities, but would not turn on their lights during blackouts to lead in Allied aircraft. While there is of course many differences, the analogy holds true; The Refuse Act of 1899 has emerged as the premier anti-pollution statute because of the certaintly that persons violating its simple command will be caught and punished.

The certainty is not seen entirely by even a careful reading the statute. It has taken the courts and imaginative litigation by numerous prosecutors to round out the full meaning of the statute. Let me list some of the clauses which have been judicially read into the statute and which have made real enforcement possible.

1. The Refuse Act appears on first reading to create nothing more than a misdemeanor penal provision and is therefor a statute essentially lacking in a credible punishment. The statute provides that if convicted, a defendant can be fined a minimum of $500 and a maximum of $2500, and, if a natural person, can receive a term of imprisonment of not less than 30 days nor more than one year. Yet the statute has ample teeth, since prosecutors may charge defendants with multiple counts based on the actual workings of the defendant's plants. Thus, if a plant has one shift a day, and the polluting discharge virtually stops with the ending of that shift, each day becomes a separate count in the indictment or information.

Recently in the Southern District a defendant felt the full impact of this aspect of the Refuse Act. Anaconda Wire & Cable Co., a division of Anaconda Company, routinely discharged large amounts of copper from its plant in Hastings-on-Hudson. The metal, which is highly toxic to virtually all life, was discharged from the plant as traces in its process water. After hearing the evidence our Special Grand Jury charged Anaconda with 100 counts—an alleged violation of the Act on practically every working day in the first half of 1971. Anaconda pleaded guilty to the indictment, and was fined $2000 per count for a total fine of $200,000. There is no doubt that a fine of such severity has the desired impact of deterrence. The fine, of course, buys no capital equipment, and the corporation must still pay for and install abatement equipment. Other fines in the Southern District have been relatively as severe, running on the order of $25,000, $50,000 and, in the case of Standard Brands, $125,000.

2. The Refuse Act makes no provision for civil relief. It reads as if it were only a criminal provision. It would appear that the statute was defective as the corner stone of federal enforcement in that it contains no provision for the federal government to require a polluter to abate his pollution. But judicial interpretation has entirely filled that void. Relying on Supreme Court cases under companion sections of the Rivers and Harbors Act which held that the government could sue to enjoin violations, the Department of Justice brought, in March, 1970, the first two cases seeking civil relief under the Refuse Act—one in Florida against Florida Power and Light, and the second in the Southern District of New York, against Oceana Terminals. In both cases the courts upheld the federal government's right to sue to enjoin pollution. Since March of 1970, the Department of Justice has brought 90 additional civil actions. These suits were often brought in conjunction with a criminal action. In all of the approximately fifteen criminal cases brought in the Southern District, we initiated a civil action calling for abatement of the pollution. The only exceptions were cases where the pollution resulted from a one time operation or accident, or where the State or local agencies stepped in with an adequate abatement order.

The civil relief obtained has been designed to abate the particular pollution at issue. In Oceana Terminals, where the problem was oil leaching into the East River from an oil saturated shore, the defendant was required to maintain an adequate boom and to continuously clean the oil from the water, while at the same time he was required to repair the underground leaks from his tanks. In Marathon Battery, the defendant was required to install pre-treatment equipment to clean the toxic metal cadmium from its effluent.

Marathon Battery is a particularly interesting case. Marathon and its predecessor companies operated a cadmium-nickel battery plant at Cold Spring, and routinely discharged waste water into a sluggish tidal marsh area in Foundry Cove. The cadmium and nickel built up in the area over a 20-year period, so that today, in some areas the bottom muds are almost 16% cadmium. We have asked the Court to order Marathon and its predecessors to dredge the bottom muds—virtually cadmium ore—out. The issue is still in litigation; but if we are successful we will have firmly established the principle that a polluter can be held to correct the damage he has caused.

3. The Refuse Act appears defective because it has no standards of any kind written into it. It merely states that it is unlawful to discharge refuse. The absence of fixed standards bothers many people, and in large measure the so-called Muskie Bill is an attempt to create standards. But I really doubt that the Muskie Bill in fact says more in the way of standards than that which has already been developed as standards under the Refuse Act. There have been no Court decisions to deal directly with this problem, yet the prosecutor in enforcing the Refuse Act, works with the only standards that as a practical matter can work—the maximum feasible abatement under the present technology. That is the standard for the relief that we seek in our civil suits; and that is the abatement sought by the EPA, as I understand it, in evaluating permit applications.

While I do not wish to seem too cavalier about standards, there really is to my mind much too much made of the fact that no one has precisely stated as law what standards are applicable to each and every discharge under each and every condition. It is ludicrous to observe responsible enforcement officials discussing whether 5 parts or .5 parts per million of copper, for instance, should be the standard for industrial discharge. The fact is that many companies are discharging 50 and 100 parts per million, and that technology exists which can reduce the discharge down to about 5 parts per million or less without exorbitant costs.

In my judgment, the absence of absolute standards is, and has been, no bar to adequate enforcement. As Martin Lang, the Commissioner of Water Resources of New York City stated recently, the only certainty about standards is that they are going to get tougher. Logic and practicality dictate, as a result, that the only acceptable standard for abatement, is the maximum feasible abatement under the present technology.

4. The Refuse Act appears defective in another regard. It creates no laboratories, no investigative arms and no enforcement machinery. No administrative program is included to process and evaluate permit applications. These defects were, of course, in large measure corrected with the executive order establishing the Refuse Act Permit Program and by the creation and reorganization of the EPA. But one of the strongest tools of enforcement comes directly from the Refuse Act itself without special proclamations or funding. The Refuse Act is a criminal statute and violation of it may be investigated in same manner as any criminal conduct—by Grand Jury investigation. In the Southern District of New York we have had a Special Grand Jury sitting since September, 1970. It has indicted 15 companies, and investigated many more. It has the power to subpoena anyone it wishes to hear testify. This is a significant power. Most potential defendants are corporations, and do not enjoy a Fifth Amendment privilege. In the past, and even today, much of the investigative work by the Corps of Engineers begins and ends with a boat ride and the dipping of a glass jar into some noxious smelling liquid. But the Grand Jury can circumvent that procedure of evidence gathering entirely. It simply subpoenas the corporation's responsible officials before it and asks them to explain under oath just what chemicals and other refuse the plant discharges.

The actual investigation may well take many months, however, since often detailed laboratory tests must be made by the defendant before it can adequately report to the Grand Jury the content of its discharge.

This method of investigation has, for the prosecutor, the added advantage that the defendant cannot readily challenge the evidence against him. Most indictments are based on admissions by corporate officials in the Grand Jury, or on tests made by the defendant at the request of the Grand Jury. By the end of the investigation, there is little left for the defendant to dispute, and, as has been our experience, practically all defendants enter guilty pleas.

It should be obvious that I am of the opinion that the Refuse Act has developed into a superior enforcement tool for the betterment of our environment. An examination of the record of enforcement bears this out.

Criminal indictments are increasingly being voted by Grand Juries around the country. In the two years ending July 1, 1969 a total of 87 criminal cases were brought under the Refuse Act. In the next two years ending July 1, 1971, almost four times as many criminal actions were brought—a total of 320. Once convicted, defendants can expect a substantial fine. As Judge Croake stated when he imposed the $200,000 fine upon Anaconda, no longer can pollution fines be viewed as merely a cost of doing business.

Such actions by the Department of Justice and the United States Attorneys bring credibility to the commitment to clean up. Without the certainty of being caught and punished, there is little left to that commitment, no matter how grand the administrative machinery or how stringent the standards. Business Week magazine reported in its first issue of this year that Dow Chemical spent $30.5 million on capital equipment and operations in 1971 for pollution abatement. GM reported to the Southern District that it was spending $43.7 million on abatement equipment to be completed by 1973. These kind of expenditures will only be made when strong enforcement action creates a climate in which businessmen sense that they must abate or face even sterner action by the government.

Strong enforcement of the Refuse Act, along with the growing momentum brought on by knowledgeable and concerned private citizens and organizations, has in addition created the climate in which local and state governments must now emphasize enforcement to a greater extent than ever before. Practically every municipality running a sewage treatment plant has enacted codes which, if enforced, would reduce the amount of toxic metals and oils passing through these plants into the water.

The State has vast powers and resources both for preventing direct pollution and indirect pollution of the waterways. A United States Attorney who vigorously enforces the Refuse Act, such as has Whitney North Seymour, Jr., in this District cannot help but cause the competitive fires to ignite in these local and state agencies. The same competition works between the EPA and the United States Attorney offices, as well as between United States Attorneys in neighboring districts. While it may not be obvious to even the most well informed people, this has been one of the most important products of the Refuse Act. Competition in the form of concurrent jurisdiction is of course not unusual in law enforcement. But there is probably no other area where the competition fostered by concurrent jurisdiction had a more beneficial effect. The Refuse Act is necessary and has been successful on this basis alone—actions under it have proven enforcement is possible and desirable, and have made others uncomfortable if they were not being equally as tough.

If I were to grade the importance of the Refuse Act and enforcement under it I would list these things as the most important, above even the significant successes of individual cases:

It has and is creating a climate in which industry—the potential defendants—now feels a growing certainty that it can no longer pollute with impunity, and;

It has and is creating a climate in which local and state agencies can become more stern in their enforcement policies.

Much remains to be done. But in my opinion, there could not be a more explicit mandate than is now found in the Refuse Act; nor could that be a more workable scheme of enforcement than has evolved under the present statute.

Finally, Mr. Chairman, I bring to the attention of the Committee a matter of utmost importance which will need study by the conferees. It relates to the definition in the bill of the term "contiguous zone."

In 1970 Congress passed the Water Quality Improvement Act. Among other things, that law provided for the prevention and removal of oil spills. The provisions of that law are restated in section 311 of title III of the committee bill.

The 1970 law applies to the contiguous zone of the United States which is the 9-mile belt extending from our territorial seas seaward.

When we enacted that law, we all understood from the State Department and other executive branch witnesses that this zone had been established pursuant to article 24 of the Convention on the Territorial Sea and the Contiguous Zone. Thus, the 1970 law defined the term "contiguous zone" to mean "the entire zone established or to be established by the United States" under the Convention.

The committee bill also contains that same definition, section 311, for oil spills and the spills of hazardous substances. The committee bill also makes other provisions of the bill applicable to the zone, and thus repeats this definition in section 502 of the bill.

A few days ago Congressman REUSS and I learned from the Coast Guard that this zone has not been established. They told us that, in August of 1970, Secretary Volpe had sent a proposed Presidential Proclamation to the Office of Management and Budget which, if issued, would establish the contiguous zone. The Transportation Department letter to OMB and proposed proclamation follow:

UNDER SECRETARY OF TRANSPORTATION,
Washington, D.C. August 24, 1970.

HON. GEORGE P. SHULTZ,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. SHULTZ: Enclosed for your approval is a draft of proposed regulations which provide procedures and reporting requirements for the expenditure of funds from and the collection of monies for deposit into the revolving fund, established by the President on May 20, 1970 in accordance with the provisions of the Water Quality Improvement Act of 1970. The President announced on May 20, 1970 that he was delegating responsibility for the administration of the fund to the Secretary of Transportation and that he will forward to Congress a request for $35 million to finance its operations as soon as regulations governing the operation of the fund are completed. The regulations are to be codified in Subchapter O (Pollution) of Title 33, Code of Federal Regulations and have been tentatively included in Part 150.

Also enclosed for your approval is a proposed Presidential Proclamation which establishes the contigous zone of the United States, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone. The formal establishment of the contiguous zone is necessary since it is specifically referred to in the Act and has not been previously established.

It is requested that the two enclosures be reviewed for your approval.

Sincerely,

J. M. BEGGS.

A PROCLAMATION ESTABLISHING THE CONTIGUOUS ZONE

(By the President of the United States)

Whereas the Proclamation of September 8, 1964 did proclaim and make public the Convention on the Territorial Sea and Contiguous Zone to the end that the same and every article and clause thereof shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof; and

Whereas the enactment of certain statutes by the Government of the United States of America to control pollution of the sea by oil and other hazardous polluting substances, as well as for other purposes, contemplate the exercise of control by the United States of America in a zone of the high seas contiguous to its territorial sea as provided for in the Convention on the Territorial Sea and Contiguous Zone;

Now therefore be it known that I, Richard M. Nixon, President of the United States of America, do hereby proclaim and establish a zone contiguous to the territorial sea of the United States of America extending twelve miles from the baseline from which the breadth of the territorial sea is measured, in consonance with the provisions of Article 24 of the Convention on the Territorial Sea and Contiguous Zone in which the United States of America shall exercise the control necessary to prevent infringement of its customs, fiscal, immigration and sanitary regulations within its territory or territorial sea.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this —— day of —— in the year of our Lord one thousand nine hundred and seventy and of the Independence of the United States of America the one hundred ninety-fifth.

The OMB has failed to act on that proclamation. Once more, the executive branch has apparently failed to tell Congress that the zone has never been established. Thus, today we are including in the bill, according to the executive branch, what amounts to a defective definition of the zone.

On March 23, Congressman REUSS wrote to Secretary Volpe and asked:

First, if he still believes, despite strong legislative history to the contrary, that the zone has not been established as yet, and

Second, why OMB failed to act on the proclamation for nearly 2 years.

Secretary Volpe responded late Monday afternoon.

He told Congressman REUSS that the 1970 Act "does not thereby set the outer limits of such zone for enforcement purposes as has been the practice of Congress" in other legislation for fisheries and customs.

He concludes therefore that:

This Department is of the opinion that an outer limit must be established to assure enforcement of sanctions and other measures.

Mr. Chairman, Congressman REUSS and myself believe that the zone is established. But the fact is that the Coast Guard and the executive branch does not agree. I urge the conference committee to consider this problem. We cannot and should not let this opportunity pass to correct this situation.

At this juncture I insert the letter of my colleague, HENRY S. REUSS, to the Secretary of Transportation, John A. Volpe, dated March 23, 1972:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 23, 1972.

Secretary, Department of Transportation, Washington, D.C.

DEAR MR. VOLPE: On February 2, 1972, we requested the Coast Guard to provide us

data on its actions in enforcing the Refuse Act of 1899 (33 U.S. Code 407) and the Water Quality Improvement Act of 1970 (Public Law 91-224) concerning the discharge of oil into navigable waterways and the waters of the contiguous zone.

On March 7, 1972, Vice Admiral T. R. Sargent of the Coast Guard replied that there were more than 10,000 recorded oil spills into these waters in the period from September 11, 1970 to November 30, 1971. He also said that the Federal Government had spent, as of May 31, 1971, over $170,000 to remove spilled oil and had not recovered any of this sum.

In subsequent discussions with Coast Guard officials, we were informed (a) that nearly one-third of all oil spills occur in ocean waters between the 3-mile limit and the 12-mile limit (here referred to as the contiguous zone), and (b) that the Coast Guard has not assessed civil penalties, as authorized under the 1970 Act, against anyone responsible for any spills in the contiguous zone.

Upon further inquiry, we learned that the Coast Guard apparently assumes that it lacks authority to assess civil penalties for spills into the contiguous zone, on the ground that the contiguous zone has not been established. Acting on this assumption, Under Secretary of Transportation J. M. Beggs sent to the Director of the Office of Management and Budget, on August 24, 1970, for his "approval", (a) a draft of a proposed Presidential proclamation to "establish the contiguous zone", and (b) a draft of proposed regulations to provide procedures for using money from the revolving fund to contain and remove spilled oil, and for collecting money from oil dischargers to deposit into that fund, as authorized by the 1970 Act. The fund was established by the President on May 20, 1970 (H. Doc. 91-340).

We understand that the Office of Management and Budget has not approved the proclamation. The Coast Guard, on the assumption that it lacks authority in the contiguous zone until that proclamation is issued, has apparently suspended its efforts to enforce in the zone the oil pollution provisions of the Water Quality Improvement Act of 1970 which is now almost two years old. We doubt whether any Member of Congress knows that the Coast Guard is failing to enforce the 1970 Act on the assumption that the contiguous zone had not yet been established.

Article 24 of the Convention on the Territorial Sea and the Contiguous Zone simply states the powers of each coastal nation in that zone and specifies that the contiguous zone may not extend beyond the 12-mile limit. It does not expressly require a Proclamation to make the contiguous zone come into being.

Section 11(a)(9) of the 1970 Act defines the "contiguous zone" to mean:

"The entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zones."

The legislative history of the 1970 Act clearly indicates that the Congress thought when that this zone had already been established.

The Senate Committee on Public Works stated in its report (S. Rept. 91-351) p. 66), as follows:

"The definition of a 'contiguous zone' is the zone established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone (TIAS 5639). The authority under which the United States may regulate, with regard to pollution by oil, the conduct of foreign vessels beyond the territorial sea and impose sanctions for violation of such regulations is contained in article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

Article 24(a) allows the coastal State "in a zone of the high seas contiguous to its territorial seas" to exercise the control necessary to 'prevent infringement of its . . . sanitary regulations within its territory or territorial sea.'

"Article 24 1(b) allows the State to 'punish infringement of the above regulations committed within its territory or territorial sea.' The Department of State, in testifying before the Senate Foreign Relations Committee, took the position that article 24 confirmed the U.S. practice of exercising customs jurisdiction in a zone beyond the territorial sea and extended such jurisdiction to fiscal, immigration and sanitary matters as well. (Hearing before the Committee on Foreign Relations, U.S. Senate, 86th Cong., second sess., Jan. 20, 1960, pp. 82, 93). Such customary practice included the right to arrest and impose criminal sanctions for violations of U.S. customs laws in the zone beyond the territorial sea."

The report of the House Committee on Public Works (H. Report 91-127) refers to the "contiguous zone" as the "zone *established* by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone" (p. 10). An identical statement was also made in the Conference report (H. Rept. 91-940, p. 34).

It is our understanding that the words "to be established" were included in the law to allow for future expansion of the contiguous zone through possible future changes in the Convention.

The Coast Guard, despite the above legislative history, apparently has chosen to ignore the first part of that definition which states that the zone has already been "established", and has assumed that the contiguous zone must be established by some further proclamation. That assumption is inconsistent with the views of the Navy Department. In a letter to the Director of OMB, dated October 19, 1970, the Navy Department pointed out that, in the six years since the United States ratified the Convention on the Territorial Sea and Contiguous Zone, the Navy has "clearly demonstrated adherence to and compliance with Article 24 of the Convention." The Navy Department's letter commented on the proposed proclamation as follows:

"Execution of the proclamation will in no way enhance the position of the United States in international law under Article 24 of the Convention. Neither international nor domestic law requires that the United States establish a contiguous zone by Executive proclamation. Perhaps the reason for offering this proclamation can be found in section 11(a)(9) of the Water Quality Improvement Act of 1970. That section indicates that the contiguous zone is to be defined as the entire zone established or to be established by the United States under Article 24 of the Convention. Use of the phrase "to be established" is unfortunate. It appears to require domestic implementing action. As earlier indicated, this is not the case. Since there are potential detriments if the proclamation is in fact made, issuance of the proposed proclamation creates unnecessary problems. Accordingly, the Department of the Navy, on behalf of the Department of Defense, opposes the issuance of the proposed Executive proclamation." (Emphasis in Navy's letter.)

We agree with the Navy's view that the proclamation is unnecessary.

Moreover, the Coast Guard Commandant on March 31, 1971 approved regulations governing the administration of the pollution revolving fund (presumably the regulations which had been forwarded in August 1970 to OMB for its review and approval). These regulations, printed in the Federal Register of April 13, 1971 (36 F.R. 7009) specifically state in section 153.303(a)(1) that the fund may be used to contain or remove oil discharged "into or upon the waters of the contiguous zone". Furthermore sec. 153.315 specifically directs "the cognizant District Commander" to assert claims against the responsible party for the costs of these actions, and sec. 153.317 directs him to deposit in the fund all moneys received as payment for fines, civil penalties, and claims for reimbursement of the Coast Guard's costs in containing and removing oil spills.

It is evident that this regulation constitutes ample directive to the Coast Guard's operating personnel to enforce the oil pollution laws and regulations "in the contiguous zone". We do not understand how or why the Coast Guard's operating personnel now fail to enforce the law in the contiguous zone.

But even if the Coast Guard is correct in its interpretation of the law—and we think it is not—the public interest in assuring effective enforcement of our laws against oil pollution, and in the collection of fines and penalties and moneys owed to the government, was certainly not served during the period that the OMB pigeon-holed the Transportation Department's proposed proclamation. It is apparent that our country's oil pollution enforcement program is being frustrated until either OMB approves the proposed proclamation, or the Coast Guard re-examines its assumption that it has no authority to enforce these laws in the contiguous zone and adopts our view that it does have such authority.

Next week the House is scheduled to vote on H.R. 11896—the Federal Water Pollution Control Act Amendments of 1972. That bill makes a number of changes in the oil pollution control provisions of existing law and is applicable to the contiguous zone. In doing so, the bill uses the current definition of the term "contiguous zone."

We are unable to discover, in the testimony last year by the Administration officials, any reference to the problem raised by the proposed proclamation. Apparently, it is the intention of your Department and OMB to allow the House to vote on this bill, in full belief that the contiguous zone is already established.

If the Coast Guard's previous assumption is correct, it seems imperative to amend the pending bill to clarify the Coast Guard's authority. If the Coast Guard's previous assumption is erroneous, it is imperative that it promptly begin enforcing the law in the contiguous zone.

We request that you provide to us by noon Monday, March 27, 1972:

(a) Your views on whether or not further executive or legislative action is needed to establish the contiguous zone; and

(b) If no such action is needed, please state when the Coast Guard will begin enforcing the law in the contiguous zone.

Sincerely,

HENRY S. REUSS,
Chairman, Conservation and Natural Resources Subcommittee.

At this point in the RECORD I insert matters of significant importance to this legislation:

[From the New York Times, Mar. 26, 1972]

CLEAN WATERS

The water-pollution control bill, which Senator Muskie sponsored and his colleagues long ago approved by a vote of 86 to 0, is even more far-reaching and hence in worse trouble. Between heavy fire from industry and moderate fire from the Administration the Senate bill may be shot down, or existing controls may be seriously weakened in the name of improvement.

Of the changes made by the House Public Works Committee, one of the sharpest setbacks is the drastic modification of the Senate's objective to decrease effluents into the nation's waters for the next thirteen years, by which time (at least this is the goal) they would be eliminated altogether. The House committee, while theoretically retaining the goal, would subject the plan to a study by the National Academy of Sciences, to be followed by a second vote in Congress—by which time a lot of foul water will have flowed under the bridge. Not content to weaken the Senate bill, the committee would also reduce the effectiveness of the EPA by shifting primary responsibility for the issuing of effluent permits to the states, a grave backward step.

Representatives Reuss of Wisconsin and Dingell of Michigan are striving to reverse these stultifying changes with a "clean-water package" of amendments. Unless the efforts of these two outstanding conservationists succeed, there may be no clean water legislation in this Congress at all—a disastrous setback to a cause that cannot afford any delay.

[From the Grand Rapids Press, Mar. 22, 1972]

NO SUBSTITUTE FOR S. 2770

What happens on the federal level to curb water pollution will be determined by whether the Senate or House has its way. Last November the Senate passed a bill (S2770) that has been described as the toughest water pollution control measure ever written in Congress, although even this bill leaves some things to be desired. But the House bill (HR11896) isn't even a pale shadow of the Senate measure.

The most important feature of the Senate bill is that it would set a date—1985—for achieving zero water pollution, although the senators (they approved the bill 86-0) were realistic enough to recognize that this might be beyond achieving. The important point is that the Senate bill has a goal—and goals can be changed if time and experience prove them beyond reach.

The House bill would actually have no goal. Instead, it would in effect call a halt for two years while still another study was being made of the problem. Meanwhile water pollution, which some estimate is causing losses amounting to $13 billion a year, would continue except where states were making a stern effort on their own to eliminate it.

That brings us to another vital difference between Senate and House bills. The Senate bill would not in effect nullify the stringent antipollution laws written by Michigan and some other states but would make their provisions generally applicable on a national basis. As an example, under Michigan law any citizen, whether directly affected or not, can bring suit against an alleged water-polluter. The Senate bill would extend this powerful deterrent to all states. But the House bill would give the separate states extraordinary latitude in dealing with the water pollution problem. Under this kind of setup, some states would be sorely tempted to adopt weak antipollution bills to entice polluting industries away from those states—such as Michigan—that have strong laws.

All citizens would suffer from this kind of rank competition; pollution might well be encouraged rather than discouraged in some states for the sake of temporary economic gain. We say "temporary" because by now everyone should realize that the long-range costs of water pollution not only can totally offset any economic savings or advantages that may result from it—that, in fact, pollution can destroy waterways for recreational and scenic attractions, can make them carriers of disease and permanently alter the environment for the worse.

No citizen who views the protection of the enviroment as one of our most urgent duties or who wishes to see our natural assets preserved for his children and those who come after them should be content with accepting anything less than the Senate bill. The House bill is an outrage and a fraud on the public.

[From the New York Times, Mar. 28, 1972]

RARE OPPORTUNITY

The House of Representatives will decide, perhaps today, whether to support or to undermine the Senate's unanimous and unequivocal move to clean up this country's waters. A Senate bill aims to eliminate all discharge of pollutants by 1985. It would give the Federal Government enough authority, through a veto power over discharge permits issued by the states, to assure uniformity and thus to prevent industries from shopping around for indulgent regulations. And it would allow any citizen to sue polluters, and even the authorities themselves, where standards are not enforced.

The corresponding measure that came out of the House Public Works Committee would eliminate or gravely compromise all of these objectives, although it does have the merit of providing more money than the Senate bill for waste treatment plants. Led by Representatives Dingell of Michigan and Reuss of Wisconsin, a large contingent of Congressmen is pressing on the House a "clean water package" of amendments that would rid the committee bill of its deficiencies, giving the 92d Congress a rare chance to score a historic achievement.

A look at the poisonous Potomac before the final voting should be enough to stiffen the resolve of any Congressman to do right not only by that decaying river but by all the rivers, lakes and streams of America that once sparkled in the sun and now, in polluted gray, offend the eye, the nose and the very spirit of man.

[From the Wall Street Journal, Jan. 7, 1972]

LEAKY LEGISLATION: AN ANTIPOLLUTION PLAN CONTAINS A BIG LOOPHOLE FAVORING OIL COMPANIES

(By John Pierson)

WASHINGTON.—The oil industry has drilled itself a loophole in the clean water bill that Congress is due to pass early in its 1972 session.

Down this loophole, some pollution-fighters fear, could flow enough contaminants to foul water and water-bearing rock in oil-producing states for centuries to come.

Oil's loophole is tucked away near the end of the pending Federal Water Pollution Control Act amendments in a harmless-sounding section called "general definitions." The section resembles the fine print on an insurance policy. Section 502(F) says that the term "pollutant," as used in the bill, means "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes" and a lot of other dirty things. But it does *not* mean:

". . . water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located."

WHAT THAT PARAGRAPH MEANS

That's a lawyer's way of saying that while the federal government is going to crack down on other industries, it will let oil producers continue to dump all sorts of chemicals—some of them harmful to humans—as well as very salty water into the ground. Only the states are left to watch out for trouble, and by the oil industry's own admission, some states watch less sharply than others.

When carefully done, even environmentalists agree, these oil operations are safe. Carelessly done, they can poison, and have poisoned, well water and the rock formations through which water creeps.

Democratic Rep. Les Aspin of Wisconsin urged the House Public Works Committee to treat oil like other industries. "I don't want to change that (oil) process. I think the process is right," Rep. Aspin told the committee. "I just want to protect the groundwater in the process."

"You want to subject the oil and petroleum industry to regulation by EPA," snapped Rep. Ray Roberts, a Texas Democrat. The EPA is the Environmental Protection Agency, the federal government's anti-pollution arm.

The Roberts view prevailed. Just before the Christmas recess, the committee, 31 of whose 37 members hail from oil states, okayed the bill, loophole intact. The full House will take up the legislation soon, and the loophole is expected to remain. The Senate passed a similar measure in November, 86-to-0.

"A LITTLE BIT OF WEAKNESS"

Oil's exemption was largely the work of another Texas Democrat, Sen. Lloyd Bentsen, and of industry representatives, including officials of the American Petroleum Institute. Ron Katz, Sen. Bentsen's pollution specialist, defends the exemption largely on the ground that oil wells are already regulated under state law, and oil industry spokesmen hammer on the same point.

"The states exercise extremely close control over the thousands of wells into which materials are injected," contends P. N. Gammelgard of the petroleum institute. "These states feel they have things in hand." He stresses that they require producers to get permits for injection operations and that they deploy hundreds of field inspectors to watch for trouble.

An EPA official says that behind the exemption for oil is "the presumption that the states are doing a good job." But he concedes that the exemption is "a protection of existing practices in oil-producing states" and "perhaps a little bit of weakness."

Groundwater, the stuff that Rep. Aspin wants to protect, is the water beneath the earth's surface that supplies wells and springs. There's more water underground than on the surface in the U.S., and groundwater is usually purer than surface water.

According to Jack Keeley, an EPA water expert, about 20% of the nation is entirely dependent on groundwater. About a third of the 100 largest U.S. cities get all or part of their drinking water from wells. Nine of 10 rural families drink groundwater. More than half the water used for irrigation and livestock comes from underground. Industry consumes more than seven billion gallons of groundwater a day.

Unlike surface water, groundwater once polluted stays polluted long after the source of contamination has come under control, Mr. Keeley told a Senate Public Works subcommittee. "The restoration of a polluted groundwater resource is very expensive, very lengthy and very difficult," he said.

"POLLUTED FOR CENTURIES"

In its report on the antipollution bill, the Senate committee said that polluted groundwater, because it lacks living organisms and flows slowly, "could remain polluted for centuries."

The loophole in the bill exempts a number of oil operations from the kind of federal-state supervision that other industries will face. In drilling a well, for example, oil men lubricate the drill bit with "muds," which can contain phosphates, caustic soda, formaldehyde and other chemicals. Once a well is drilled, oil geologists explain, they may pump hydrochloric acid down it to enlarge the little spaces in the oil-bearing rock. Often, when a well appears to have stopped producing, they'll force oil, gas, water or chemicals down to flush out more oil.

Finally, when a well is deemed dry, it may be used for disposal of the brine that often comes up a well along with oil. Oil-field brine is a lot saltier than sea water and may contain lithium, potassium, bromine, sulphur

and iodine in amounts that exceed acceptable levels for drinking water.

Oil men used to get rid of brine by putting it in evaporation pits on the surface. But according to Mr. Gammelgard, state officials saw long ago that this was fouling lakes and streams. Many states then told oil producers to put their brine wastes deep underground. Now, each day some nine million gallons of brine are pumped into 40,000 wells.

These methods of producing oil and disposing of brine are recognized as useful and legitimate. The EPA's Mr. Keeley told the subcommittee that all other ways of getting rid of brine are "less satisfactory." David Evans, a geologist at the Colorado School of Mines, recently wrote that injecting brine back into the rock formation from which it came helps keep the ground above from sinking.

Nevertheless, these operations risk polluting the groundwater, environmentalists say. Brine, acid, chemicals and other things are pumped down wells under great pressure to force them out into the rock formations at the bottom. In most places, groundwater lies at a shallower level than oil and is separated from it by layers of impenetrable rock. Still, when an oil well is improperly constructed or when the tubing gets rusty, pollutants can escape into the groundwater on their way down to the deeper oil layers.

Because groundwater moves so slowly, it may be a long time before pollution shows up in a water well—20 to 30 years, according to Jay Lehr, executive director of the National Water Well Association.

SOME ACCIDENTS

Some oil men pooh-pooh the danger. Rep. Roberts of Texas told the House committee that "there is no way" leaks could happen "in any of the reasonable oil-producing states." Wilson Land, director of the Petroleum Institute's committee on exploration, said that each of the nation's 33 oil-producing states regulates brine injection. But in some states, he conceded, regulation "is probably not as stringent as in some of the other states."

And accidents do occur. In a statement submitted to the Senate subcommittee last year, the National Water Well Association said that "instances of water pollution . . . have been reported in operations involving injection of oil-field brines." EPA experts say brine has polluted groundwater in Texas, Kansas, Arkansas, Ohio, California and Oklahoma.

According to a U.S. Public Health Service study, about 10 brine-injection failures are reported to Kansas state authorities each year. Ralph O'Connor, a geologist with the Kansas Board of Health, says there have been "some instances" of groundwater pollution from brine injection wells, usually older wells that lack an inner tubing providing extra safety.

AN AMBIGUOUS APPROACH

Mr. Evans of the Colorado School of Mines reports that injected brine has erupted from the ground "like geysers" in Michigan, Texas and Kansas. And Frank Conselman, past president of the American Association of Petroleum Geologists, while stressing that underground injection of brine is safe if properly done, says the process can cause trouble if precautions aren't taken to insure that the brine gets to its destination. Monitoring is essential, he adds.

Despite these warnings, Congress' approach to the groundwater problem has been ambiguous at best.

Acting on behalf of the Nixon administration, Republican Sen. John Sherman Cooper of Kentucky introduced a bill that would have set up a program of federal-state water quality standards for groundwater as well as navigable waters. The Senate Public Works Committee rejected this approach because "the jurisdiction regarding groundwaters is so complex and varied from state to state."

Both the pending Senate and House clean water bills establish a federal-state system of permits for the discharge of pollutants "into the navigable waters" but not into groundwater. In the next breath however, both bills say that the permits must "control the disposal of pollutants in wells"—to protect groundwater, according to the Senate committee's report.

And elsewhere the legislation requires the EPA to prepare programs for "eliminating pollution of navigable waters and groundwaters." It requires states and localities by 1974 to develop areawide waste-treatment management plans that control the "disposal of pollutants on land or in subsurface excavations . . . to protect ground and surface water quality."

The EPA is required to publish information on how health and welfare are affected by "the presence of pollutants in any body of water, including groundwater," and to issue information on how to control pollution resulting from "the disposal of pollutants in wells or in subsurface excavations."

This is bad news for chemical, steel, paper and other companies that have a small but growing number of waste-injection wells. They'll have to meet federal or federally approved standards. But the oil industry won't have to. For oil, the saving word is "pollutant"—defined as not including the stuff oil producers put in the ground.

[From the Cleveland Plain Dealer, Mar. 22, 1972]

FOR CLEAN WATER AMENDMENTS

A group of environmental-minded legislators in the U.S. House of Representatives has mounted a campaign for a "clean water package" of amendments to a water pollution bill written by the House Public Works Committee.

The bill, much weaker in its present form than the water pollution bill that cleared the Senate last fall, is tentatively scheduled for House vote next Monday.

The environmentalists, who include U.S. Rep. Charles A. Vanik, D-22, Cleveland, hope to bring it nearer to the Senate version with a package of floor amendments. We hope other Ohio congressmen will join in the effort.

The amendments seek to correct four major weaknesses in the House bill.

One—It abdicates to the states nearly all federal authority over water pollution control. Both Senate and House versions establish a national pollution permit system to be operated by the states, but the Senate bill allows the federal Environmental Protection Agency to veto a permit issued by a state; the House bill does not, except in very limited circumstances. This veto power should be retained to discourage industries from "shopping around" for a state that is soft on pollution control, and to encourage uniform standards around the nation.

Two—It fudges on the target date for eliminating water pollution. Each bill fixes 1981 as the year when all discharges must cease unless it is technically impossible, in which case polluters are required to use the best available technology to minimize pollution. The House bill, though, adds two qualifiers: a two-year study by the National Academy of Sciences, and what in effect is reenactment by a later Congress of the 1981 requirements. The House "clean water package" would go along with the study, bill eliminate the requirement for reenactment. This requirement would only encourage polluters to procrastinate in solving pollution problems in the hope that a later Congress would eliminate the tough deadline.

Three—Its language on the citizens' right to sue EPA or polluters is vague and restrictive. It would bar suits by citizens who do not live in the "geographic area" of the pollution, who do not have a direct interest at stake and who have not been "actively engaged" in any administrative proceedings related to the pollution. This seems to be designed to hit at environmental groups whose legal activities have achieved much of the progress that has been attained in recent years in environmental cleanup.

Four—It weakens the National Environmental Policy Act by exempting many federally licensed activities, such as the construction of power plants, from its requirements (so does the Senate bill). This is the act that requires environmental impact statements from federal agencies. It should not be weakened with exclusions.

[From the Cleveland Press, Mar. 27, 1972]

FOR STRICT CLEAN WATER BILL

Environmental groups are waging their first major battle since they helped defeat the SST.

This time they have their eye on the water pollution bill reported out of the House Public Works Committee. Environmentalists maintain the House version is considerably weakened from the version passed 86–0 by the Senate.

They hope to have the weaker bill strengthened when it comes up before the full House, probably next week.

The Dingle-Reuss-Saylor Clean Water Package, sponsored by congressmen whose names it bears, is what they are plugging. And rightfully so.

Probably the worst element in the doctored bill is its almost total reliance on state water pollution agencies to control issuance of permits to waste dischargers.

The sorry history of state control is strong evidence of the need for a strong federal presence. The Government should have the right to veto individual permits where necessary as in the Senate bill.

The Senate set goals of zero discharge of pollutants by 1985 and best available treatment by 1981. The House version calls only for a study—not good enough for a country with such seriously threatened waters as those of Lake Erie.

The limitation on citizens who may file waste pollution lawsuits in the House Bill is wrong. Any person may sue under the Senate bill. And properly so.

It's unfortunate, too, that the House proposes in effect to repeal the 1899 Refuse Act which has proven to be the only potent tool against industrial polluters.

The Dingle-Reuss-Saylor Clean Water Package would correct these and other deficiencies in the legislation that will help govern this nation's environmental future. It deserves and should get the support of congressmen from Cleveland, from Ohio and from the rest of the U.S.

FURTHER CONGRESSIONAL STUDIES NEEDED

Why should the 1981 "best available" technology requirements for industry and the 1985 goal of eliminating discharges of pollutants into the navigable waters be established in this legislation, rather than requiring further Congressional action after the Section 315 study?

I. Astronomical cost estimates for the implementation of the 1981 best available technology requirements of section 301 are misleading in light of the bill's specific requirement that State and Federal officials take costs into account in setting control requirements. The 1985 date for the elimination of all discharges into the navigable waters is not a rigid legislatively enforceable deadline, but rather a target date for planning purposes.

Section 101 declares it a "national goal" that "the discharge of pollutants into the navigable waters be eliminated by 1985." This is not enforceable, but is a target to stimulate research and planning.

Section 301(b)(2) requires industries to eliminate their discharges of pollutants by 1981, provided they can do it at a "reasonable cost." If zero-discharge can't be achieved at a reasonable cost by a particular industrial polluter, then that industry must use the "best available demonstrated technology," which is to be determined "taking into account the cost of such controls."

Section 304 lists the factors to be taken into consideration in determining what is "best available" technology in 1981 as including "the age of equipment . . . engineering aspects of the application of various types of demonstrated control techniques . . . the cost . . . foreign competition . . . and such other factors as the Administrator deems appropriate." Section 302's requirement that, by 1981, controls for point sources provide for water of high enough quality for swimming and fish propagation is qualified by a cost-benefit balancing requirement. This section specifically provides that if the costs of going to that level of control are greater than the benefits, then these high water quality requirements do not go into effect.

Thus, even without the provisions of Section 315, the bill bends over backwards to insure that any unreasonable costs are avoided. But Section 315 then provides that none of these basic requirements take effect unless Congress enacts them in new legislation, after a feasibility study by the National Academy of Sciences and the National Academy of Engineering.

The requirements are all reasonable ones—each containing specific provisions to guard against exorbitant costs—and they should be established now, as in the Senate version.

II. The "zero discharge" provisions are aimed at stimulating recycling, which will produce net benefits in the long run. Low cost recycling techniques are available now which were ignored by the administration in making their inflated estimates of cleanup costs.

Administration cost projections were based on traditional treatment technology which filters wastes out of the water by physical, chemical and/or biological means before dumping the partially cleansed wastewater stream back into the lake or river. The aim of the policy of elimination of discharges is not to promote finer and finer technological filtering prior to dumping (which, it is true, becomes increasingly more expensive with the removal of each additional percentage point of waste), but rather to stimulate entirely new ways of looking at the waste disposal problem, so that wastes and wastewater can be reused and recycled where possible rather than simply discarded. The goal of eliminating discharges is, in other words, intended to spark a search for, and the implementation of, ecologically sound waste disposal methodology.

Recycling waste control methods—methods that the Administration and other critics of the "zero discharge" policy ignored in making their cost projections—are already available. One alternative is spraying wastewater on the land; the wastewater is purified by the soil (typically to drinking water quality) before it joins the groundwater. A recently-completed survey of land disposal methodology contains detailed descriptions of 27 of these systems in this country alone (Green Land—Clean Streams: The Beneficial Use of Waste Water Through Land Treatment. Temple University, 1971). Many of these systems have been operating for twenty years or more. The land disposal systems reviewed are, in general, much more cost-effective than the conventional treatment systems the Administration and other critics had in mind in making their projections of exorbitant costs. Note also that, unlike conventional treatment, a land treatment project can provide benefits to offset the costs. The land treatment system in Muskegon County, Michigan, for example, will fertilize the land and provide new crops and new jobs. The phosphates in detergents (a fertilizer) become a blessing instead of a curse. It is planned that an electric power plant will locate on the waste water lagoon. The thermal discharges improve the biological treatment process while the power company saves the cost of cooling towers.

Another waste control method which avoids the heavy costs of increased percentage removal prior to dumping is the closed cycle system, in which "waste" products are reclaimed from the wastewater stream, which is then reused. Because the products retrieved from the stream are often valuable, this kind of system has achieved cost savings for a number of companies. Dow Chemical expects to make a profit from it. (Business Week, January 1, 1972). Closed cycle systems are becoming available to most industries in this country. (Hearings of Senate Subcommittee on Air and Water Pollution, March 1971, Part 1; Lacey and Cywin and George, "Industrial Water Reuse: Future Pollution Solution," Environmental Science and Technology, Vol. V, 1971).

Another system which uses wastes for constructive purposes is controlled aquaculture, using "waste" nutrients to support underwater farming, with "crops" and "livestock," under confined and controlled conditions.

All of these systems avoid the problem of exponentially increasing costs with higher percentage removal.

The point is not that one or more of these control methods which can provide "zero discharge" is currently available "at a reasonable cost" (in the language of the House and Senate bills) to use in every single situation, though they may be. The point is rather that we need to begin to apply these methods and improve upon them where they are available at a reasonable cost and to begin looking hard for new ones.

III. By not establishing the post-1976 requirements of the Senate bill, the House committee version perpetuates indefinitely the existing water quality standards approach to water pollution control, under which streams are given different use classifications which are then supposed to be reflected in the amount of pollution that is permitted.

Numerical standards are, in many cases arbitrary (since we don't know enough about our complex ecosystem), deal with only a few of the many pollutants and combinations of pollutants, and do not provide for sufficient protection of our sensitive estuarine areas. In addition, relating a given level of water quality to the specific discharge levels needed to attain it is difficult; where it can be done, it places a tremendous technical burden on the government to make these complicated computations before imposing control requirements, a burden the government has not been capable of meeting.

IV. Establishing 1981 and 1985 requirements and goals now, as the Senate bill does, will save money by stimulating rational long-run planning: Postponing a decision, as the House version does, will waste money. Polluters will be encouraged to install minimal treatment equipment now which would not be compatible with future recycling systems that will become mandatory sooner or later.

Up to now, polluters have tightened their controls on pollution increment by increment, not anticipating even more stringent controls that growth in our population's industrial capacity would necessitate further down the road. Each incremental improvement (e.g., installing a device that will strain out an additional percentage point of waste) may look like the cheapest way to meet the control requirement of the moment. When the cost of a series of these short-run incremental improvements is added together, however, it begins to add up to a great deal more money than would have been spent had the polluter shifted over to a better methodology (e.g., recycling) to begin with. If we push polluters along that incremental path to cleanup, they will not only have to bear the heavy cost of straining fine and finer particles out of their wastewater, but also will have to bear the wasteful cost of eventually scrapping their expensive old-technology treatment facilities anyway. Telling polluters to shift to recycling ("zero discharge") systems when they can make the shift at a reasonable cost is aimed at avoiding these excessive costs that will otherwise occur.

Thus by postponing a decision to go ahead with tougher controls until after the NAS study, the House committee is increasing the costs of eventually cleaning up (since polluters will be encouraged to install minimal treatment equipment now which they will have to get rid of later on when higher control requirements are imposed). Similarly, research by polluting companies and by the "pollution control industry" which could reduce the costs of "zero discharge" waste handling methodology will not really begin to take place in earnest until the requirement to eventually shift to "zero discharge" is a firm one. In other words, by putting off making the decision, as the House committee version does, we will forego savings which research and planning for the future could otherwise produce. Industry needs to know what will be expected of them later on, to avoid making wasteful expenditures.

Note that immediate establishment of the 1981 and 1985 requirements and goals would make many industries see that it is in their advantage to join together with municipalities in regional treatment systems. On the other hand, if industries face only low control requirements and can see no higher ones on the horizon, many of them will think they can handle their wastes more cheaply by themselves, thus forcing our municipalities to operate alone in these regional systems and sacrificing savings that can come with larger scale operation. Thus by relaxing controls on industry, the House committee version forces higher cost on municipalities.

V. Postponing the establishment of the Senate bill's goals and requirements also biases the NAS study itself in the wrong direction. The cleanup costs the study projects will be higher because of our indecision. We should give the environment a fair chance to come out on top by deciding now, and letting the results of the study alter our course later if need be.

VI. The burden of proof should not be on the public to prove that eliminating pollution is feasible; the burden should be on the polluters to prove why they should not have to install the most pollution-free systems.

The public should not have the burden of proving that the polluters can afford to clean up before making them do it. The polluters should have to make their own case, since it is they who have all the data (about their cleanup costs, for example) under lock and key. We should start with the presumption that polluters must eliminate their pollution and place the burden on them to demonstrate that the social and economic costs are so great that the requirements should be temporarily relaxed.

Setting high cleanup requirements now rather than later, as the Senate bill does, would help force heretofore tightly-guarded cost information out into the open, by placing the burden of producing it on those who have it—the polluters. By waiting to give

the go-ahead until after a National Academy of Science study of the costs involved, the House committee bill would, on the other hand, give the public, in effect, the burden of proving that we can afford cleanup before we require it. Under this approach, industries will have the same incentive they have always had to exaggerate the costs of cleanup and keep information which might show that waste handling can be accomplished at lower costs concealed.

If we really want our NAS NAE study to produce accurate information about the costs of cleanup, we should establish the requirements and goals now. Congress will respond if the study shows there is any need for change.

[From Business Week, Feb. 5, 1972]

THE STORMY DEBATE OVER "ZERO DISCHARGE"

When Senate bill S. 2770 came to a vote last Nov. 2, it roared through on a rollcall vote of 86-to-0. Such Senatorial unanimity is usually reserved for nonbinding resolutions in support of motherhood, and the casual observer might well have thought that S. 2770 was an innocuous piece of legislation. He would have been dead wrong. S. 2770, the Federal Water Pollution Control Act, now stands as the toughest, most controversial environmental legislation. It states unequivocally that no one has the right to pollute, and establishes a tight timetable to achieve an ambitious goal: the total elimination of all effluent discharges into the nation's waterways by 1985.

This month, as the legislative action shifts to the House floor, a belated fight has erupted, focusing on the 1985 goal, popularly known as "zero discharge." Arrayed against the bill are the Nixon Administration, some economists, and virtually all business groups. Supporting the bill are the environmentalists and, as the Senate vote indicates, large sectors of the public. And since the bill's principal author happens to be Senator Edmund Muskie, the issue is smack in the middle of election-year politics.

The critical barrage, like a high-powered fusillade, is well under way. New York Governor Nelson Rockefeller calls zero discharge "totally impossible." Allied Chemical Chairman John T. Connor says "the Muskie bill . . . raises hopes on which it can't possibly deliver." Paul McCracken, recently departed head of the Council of Economic Advisers, warns that the benefits of zero discharge are not worth the multibillion-dollar costs. And Willard Rockwell, chairman of North American Rockwell, recently proclaimed that the cost of achieving zero discharge is "enough to shake the economic foundations of this country."

Industry groups, too, have weighed in with dire predictions. The American Paper Institute says that zero discharge would cause plant closings, create unemployment, and drive paper prices up by 50%. The American Iron & Steel Institute estimates that zero discharge would add $1-billion to the industry's $3.5-billion cleanup bill over the next few years. And the chemical industry figures it would cost $25-billion in capital equipment by 1985, plus $10-billion a year for operating expenses.

But judging from the language and intent of the Senate bill, much of this gloomy outlook seems unwarranted. Though the legislation is indeed tough, it sets zero discharge as a goal, not a legal requirement. And every step toward achieving that goal is clearly circumscribed by cost considerations.

The bill has two stages. During its first phase ending in 1976, all companies must apply the "best practicable" technology to control water pollution. In its second phase companies must achieve zero discharge by 1981 unless they can show it cannot be done at "reasonable cost." In that case, they must employ the "best available" technology. The aim: to achieve water clean enough for swimming and fish propagation by 1981 and to eliminate all effluents by 1985.

But the language of the bill is careful not to eliminate affluence along with effluents. The phrases "best practicable" and "best available" are defined to consider the ages of the plants, their sizes, their processes, and the cost of controls—thereby ruling out ruinously expensive techniques. Furthermore, the bill requires the Environmental Protection Agency to study the cost and feasibility of zero discharge. If the costs outweigh the benefits, Congress is charged with making a "midcourse correction" by 1976, eliminating zero discharge as a national goal altogether.

A PHILOSOPHIC SHIFT

So why the fuss? Why is industry so adamantly opposed to a bill that safeguards its economic interests? With all those constraints, why did the Senate bother postulating the zero discharge goal? The answers lie in the bill's shift away from the philosophy embodied in the last major water pollution law, enacted in 1965. Under that law, each state is allowed to determine how it wants its rivers and lakes used. Some waterways might be zoned for industrial use, others for swimming. The states next set water-quality standards consistent with the intended uses, then translate these standards into specific effluent limits for all polluters. The effluent limits would vary from stream to stream, depending on its intended use, its assimilative capacity, the nature of the pollutant, and a host of other factors. No company would have to go to zero discharge unless that were necessary to achieve the desired water-quality standard.

In theory, the water-quality approach is sensible. It focuses not on means but on ends: the cleanliness of a river or lake. And by linking cause (effluent) to effect (water quality), it directly relates abatement costs to benefits. But in practice, as experience with the 1965 act shows, the scheme is hard to implement. It is ecologically difficult to link water-quality standards to scores of discharges, and even more difficult to sustain such tenuous links in court. After six years, many states still have not set water-quality standards, while others are still struggling to establish complex relationships between pollutants and water use.

Faced with these difficulties, the Senate Committee on Public Works decided to shift from water-quality standards to direct effluent limits, with the ultimate goal of zero discharge. That was a radical change, for it ended the longstanding policy assumption that one legitimate use of water ways is to assimilate waste. Thou shalt not pollute became the committee's commandment, constrained only by the availability of suitable control technology. It is this basic shift that both the Administration and industry oppose.

To apply the system of effluent limits, the bill requires all polluters to apply for a discharge permit from the EPA. In the second phase, for example, every company would have to show in its permit application that it could not achieve zero discharge at reasonable cost. Thus, the system shifts the burden of proof from the regulator to the polluter, which will probably ease the enforcement task.

The committee also decided that strict effluent limits were needed to spur the development of recycling technology. With water-quality standards, the traditional approach has been "treat and dump"—treat the wastes partially and dump the rest. In the long run, this is ecologically unsound, for what is dumped eventually causes pollution somewhere. Says a committee staffer. "What we want is 14 years of R&D based on the assumption that closed-cycle systems are the norm, not waste discharge."

BALANCING COSTS AND BENEFITS

The Administration, however, does not want a complete shift to effluent limits. It argues that pollution legislation should balance costs against benefits and not impose an arbitrary goal of zero discharge on every stream. It is economically wasteful, the Administration believes, to make the Houston Ship Channel clean enough for swimming. Implicit in this reasoning is the very assumption the Senate rejected: that waste disposal is a desirable, use of at least some waterways. Conceding that progress under the 1965 act has been slow, the Administration nonetheless believes the water-quality approach has worked on some waterways and can work elsewhere.

Like industry, the Administration fears the high cost of strict effluent limits. Russell Train, head of the Council on Environmental Quality, points out that cleanup costs rise exponentially with the degree of cleanliness sought. "The last 1% of treatment costs as much as the first 99%," he says. Preliminary CEQ data estimate the current water program, aimed at reducing pollution by about 85%, would eventually cost $60.8-billion. To achieve a 95% to 99% reduction would nearly double the tab to $118-billion. And to go that last effortful step to zero discharge would escalate the cost incredibly to $316-billion—or some $21-billion a year between now and 1985.

Senator Muskie counters that these estimates, admittedly based on scanty data, are meaningless. "To apply a price tag to a 100% elimination of pollution can serve no purpose other than to frighten the people and intimidate the Congress," he said angrily on the Senate floor. If the costs prove too high, Muskie emphasizes, the goal will be abandoned. But he insists that the nation must move in the direction of zero discharge.

While no one knows precisely what zero discharge would eventually cost, there are signs that the price tag will not be as high as some fear. Several companies, including Dow Chemical and Hercules, are already operating plants that have achieved zero discharge through recycling. And General Motors plans to convert a Chevrolet assembly plant on the Hudson River to complete recycling of waste water. Since no one has compelled these companies to eliminate pollution, the costs are obviously not prohibitive. Indeed, as Dow has found (bw—Jan. 1), it is often cheaper to recycle wastes than to build expensive treatment facilities. With recycling, the waste water need not be purged of all pollutants; it need only be treated to a quality sufficient for the plant's own manufacturing use. The EPA, despite its objections to the Muskie bill, stated that the technology for closed-loop recycling seems within reach for many industries.

The toughest problems of all will confront municipalities. Under the bill's first phase, they are required to have secondary treatment plants under way by 1974. Then they face the same second-phase requirements as industry. But strapped for funds and unable to recoup costs through higher product prices, cities must rely on federal subsidy. The Senate bill authorizes $14-billion over four years, but even if the entire sum were budgeted, it would still fall far short of the cities' needs.

THE LAND DISPOSAL ANSWER

One hope is a land disposal system soon to be built in Muskegon County, Mich. Municipal waste—and some industrial effluent, too—will be routed through relatively simple treatment, stored in holding lagoons, then sprayed on 10,000 acres of nearby farmland. Ecologists have long favored land disposal, for it returns valuable nutrients to the soil, replenishes ground water tables, and minimizes the amount of sludge dumped from treatment plans. Perhaps more important, the costs look reasonable. The Muskegon system is contracted for $34-million, compared with $43-million for a conventional system of smaller size now under construction in suburban Chicago.

Can land disposal be applied in large metropolitan areas? Dr. John Sheaffer, who helped design the Muskegon system and is now a consultant to the Corps of Engineers, says yes, based on studies of San Francisco, Chicago, Boston, Detroit, and Cleveland. The EPA is more skeptical, estimating that versions of the Muskegon system adapted nationally to really large cities would require 7.7 million acres, assuming the land could be found. But Sheaffer says that is only 1% of total farmland. "Everywhere we looked for available land, we found it," he says.

As matters now stand, the House will vote on its version of the zero-discharge bill this month. The House bill also includes the shift to effluent limits and the zero discharge goal. But it calls on the National Academy of Sciences to prepare a detailed cost study in 1974, then requires new legislation to implement the second phase. The House bill also gives more enforcement power to the states at the expense of the EPA, but ups the municipal ante to $20-billion. Environmentalists are hoping to strike the new legislation requirement; the Administration is fighting to preserve some form of water quality standards. The likely outcome: Both effluent limits and the zero discharge goal will remain, but the new legislation requirement may have to be resolved in a House-Senate conference.

Ultimately, zero discharge, or anything close to it, may end up costing more than the nation is willing or able to pay. In that case, both bills provide for a policy shift. For now, though, the goal will spur both industry and municipalities in the direction they must go if the nation is to purge pollution from its waterways.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va., March 21, 1972.

Hon. DAVID E. SATTERFIELD III,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR DAVE: The Virginia State Water Control Board has actively followed the proposed water pollution legislation, and I have been kept advised of the progress of both H.R. 11896 and S. 2770. Virginia supports the concept of this ambitious legislation.

I would like to pass on to you the consensus of the State Water Control Board as to this legislation:

"Specifically, we think that the requirements of 'best available technology' as passed by the Senate should be established in the legislation now. Postponing the establishment of this goal will result in continued confusion and groping for a national policy.

"It is likewise imperative that contract authorization be provided for the municipal grant program of Title II. Unless state and local governments are assured that matching funds will be available, pollution abatement efforts will be seriously impaired. The $20 billion authorized in H.R. 11896 should be retained. The proposed House authorization is much more realistic than the smaller authorization in the Senate legislation.

"Finally, a strong permit program is absolutely essential to the fulfillment of the goals of this legislation. Virginia has an effective permit program, but has no objection to the empowering EPA to review selected permits. A review procedure seems preferable to EPA's being required to revoke an entire state permit program."

If you have any questions on these or other aspects of the bill, I suggest that you contact Mr. Noman Cole, Chairman, State Water Control Board, 5917 River Drive, Lorton, Virginia 22079; Mr. Andrew W. McThenia, Jr., State Water Control Board, 604 Marshall Street, Lexington, Virginia 24450; Mr. Gerald L. McCarthy, Governor's Council on the Environment, Eighth Street Office Building, Richmond, Virginia 23219.

Best wishes.

Cordially,

LINWOOD HOLTON.

STATE OF CONNECTICUT,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Hartford, Conn., December 7, 1971.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works, House of Representatives, Washington, D.C.

DEAR SIR: Your proposed "Federal Water Pollution Control Amendment of 1971", H.R. 11896, represents a major step towards restoring the integrity of the nation's water. I, as Commissioner of the Department of Environmental Protection for the State of Connecticut, strongly support the concept of nationwide effluent standards as the most effective and equitable means for abating water pollution. Yet I am concerned over the lack of a veto provision of specific state permits at the Federal level.

Failure to include the veto provision not only weakens the Federal bill, it undermines our program in Connecticut. I am proud of that program. While still a beginning, it is, I believe, among the best in the country. The State of Connecticut now requires municipalities and industry to install the best feasible control technology. We fully expect to further define and tighten our requirements wherever appropriate in the future. But as we press forward, we are sometimes told that if we require additional effort, polluters will move their operations to areas where environmental laws are nonexistent or not enforced. Citizens in our state—and all citizens—deserve an assurance that an industry seeking to abdicate its environmental responsibilities by moving elsewhere will find no havens of lax enforcement anywhere in this country.

H.R. 11896 would deprive the Environmental Protection Agency of the power, provided in the Senate-passed version of the bill, to review and reject any permits for industrial discharge proposed to be issued by a state. The enforcement mechanism contained in Title IV of both versions of the bill is a permit system under which Environmental Protection Agency authority to issue industrial discharge permits would be delegated to any state whose own program conforms to Federal requirements. Under both versions, EPA could withdraw its approval of a state program—and reassume responsibility for issuing all permits within that state—if the overall program were not administered in accordance with such requirements. But that awkward authority to withdraw total approval which will obviously be invoked as a last resort, if at all as in the House bill is no substitute for the precise power to reject any permit which is inconsistent with Federal policy, as in the Senate bill. It is unwise and unnecessary to limit EPA to a choice between ignoring a state's error and discarding that state's entire permit program.

I urge that the Administrator of the Environmental Protection Agency be empowered to veto any permit within 60 days of his notification under Sec. 402(d)(1) that a state proposes to issue such permit. I believe that to be a workable means of promoting consistent enforcement of effluent standards across the nation.

Finally, I strongly endorse the authorization levels and methodology of disbursement which will allow Connecticut, included present levels of state funding, to complete its presently planned treatment programs on schedule. For the moment, we are at a standstill due to uncertainty in Federal funding; thus I urge immediate passage of this Act.

Sincerely,

DAN W. LUFKIN,
Commissioner.

[From the Washington Evening Star, Mar. 26]

NADER CLAIMS MUZZLING OF CLEAN-WATER STUDY

(By Roberta Hornig)

Ralph Nader yesterday accused the Nixon administration of muzzling a government report containing "convincing evidence" that it is economically feasible to aim for zero discharge of pollutants into the nation's navigable waters.

The House tomorrow begins debate on its version of a clean waters bill—a less stringent measure than the one the Senate passed by a unanimous 86–0 vote.

In a 3½-page letter to Office of Management and Budget Director George Shultz, Nader urged that the report, compiled by the U.S. Army Corps of Engineers, be released tomorrow.

"A MAJOR BOOST"

The information it contains, he said, "could give a major boost to House proponents of tougher controls on industrial pollution."

"By withholding this information from the public at the very time the Congress and the American people most need it to make rational legislative decisions for the future, the administration again demonstrates its willingness to place the interests of corporate polluters ahead of the public's interest in a clean and healthy environment," Nader charged.

The "convincing evidence," he said, is that the cost of eliminating water pollution is but a small fraction of earlier administration estimates and even less than the cost of using present-day inadequate control systems. The administration, in fighting the Senate-passed water pollution bill, had projected a price tag of $316 billion for its attainment.

The corps study, Nader said, was based on how much it would cost to eliminate all discharges of pollutants in waterways in the Chicago metropolitan area and came up with a price tag of $2 billion.

He called the keeping of the report from the public ". . . a most serious example of the invisible and illegitimate controls the Office of Management and Budget and the White House have begun to extend over information developed by federal agencies."

Nader said the first details concerning the report came out, Wednesday at a meeting between representatives of several environmental groups and Environmental Protection Agency Administrator William D. Ruckelshaus. He said the corps defended the accuracy of its price figures but made it clear "that they had been muzzled at the instructions of the White House and the OMB."

"REVIEW" OF REPORT

According to Nader, both corps and EPA officials have reported the study has been undergoing "review" by Don Crabil of OMB and White House officials, including presidential aide John Whitaker, for one week.

"Placing this report under wraps constitutes a continuation of administration efforts to defeat those strong elements of the Senate version of the water pollution bill by throwing up a smokescreen of confusion concerning control costs," Nader wrote Shultz. He also sent a copy of his letter to Speaker Carl Albert.

In its present form, Nader charged, the House bill "is designed to protect industrial polluters."

"It has been rendered so full of loopholes that the corporate lobbyists, far from opposing it, are working hard to preserve its swiss cheese characteristics fully intact," he wrote.

A fight on the House floor is expected when the House Public Works Committee bill comes up tomorrow. Several congressmen led by Rep. John Dingell, D-Mich., and Rep. Henry Reuss, D-Wis., will offer at least seven amendments to bring the measure more in line with the Senate bill which was sponsored by Sen. Edward Muskie, D-Maine.

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
March 19, 1972.

To: Honorable John Brademas, William Bray, Andrew Jacobs, Earl Landgrebe, John Myers, Elwood Hillis, David Dennis, Ray Madden, J. Edward Roush, Lee Hamilton, Roger Zion.

HONORABLE SIRS: The Board of Directors and members of the Indiana Division, Izaak Walton League urge your support of the Dingell-Reuss proposals which will greatly strengthen the 1972 amendments to the Water Pollution Control Act. The Indiana Izaak Walton League fully supports the version adopted unanimously by the Senate, and urges your opposition to Administration attempts to undercut the strong features of this bill. Specifically, we urge:

(1) Restoration of the 1981 requirements for national effluents standards, and 1985 requirements for zero discharge of pollutants. We see no need for an intervening period of "study" by the National Academy of Sciences. Pollution had already been "studied" to death, and even the Senate version will allow nine years for the effluent standards and thirteen for zero discharge;

(2) Restoration of individual review and veto of proposed permits under the Refuse Act by the Environmental Protection Agency. The House Public Works Committee version would for all practical purposes necessitate EPA rejection of a state "package" of permits when only a few might warrant rejection. The effect would be to make a rubber stamp out of EPA, and virtual repeal of the 1899 Federal Refuse Act;

(3) Restoration of the Senate feature giving legal standing to all citizens to sue polluters in the public interest. The Committee version would severely limit this right to those who could show specific damage to their interests. The 1970 Clean Air Act establishes citizens' legal rights, and so should the water pollution amendments;

(4) Restoration of the full intent of the 1969 National Environmental Policy Act. The Committee version would greatly restrict the outstanding value of NEPA. We especially support the requirement for Environmental Impact Statements under Section 102 of this Act, and oppose any impairment of this principle;

(5) Restoration of employee protection features and national standards which will prevent any "shopping" advantages for a polluting industry seeking a state where pollution enforcement is more permissive; and

(6) Full review and veto power under provisions of the Fish and Wildlife Coordination Act of the Department of the Interior.

The Izaak Walton League deplores the efforts to destroy the effectiveness of the 1972 water pollution control amendments passed in the Senate, and we expect to stay aware of every action of the Congress through enactment of a version at least as strong as that approved by the Senate.

We will thank you for your support of the Dingell-Reuss amendments.

Very truly yours,

KAREN GRIGGS *and 21 others.*

CITIZEN'S CRUSADE FOR CLEAN WATERS,
Washington, D.C., February 14, 1972.

Hon. JOHN A. BLATNIK,
2449 Rayburn House Office Building,
Washington, D.C.

DEAR MR. BLATNIK: Many members of the Citizens Crusade for Clean Waters have been following the work of the House Public Works Committee to extend and expand the Federal Water Pollution Control Act. We are pleased with the attention and time you have given this program and we appreciate your leadership in our joint concern for cleaning up our nation's water resources.

However, since the bill was ordered reported on December 16, we have had difficulty in obtaining specific proposals to be contained in the final version of the legislation. We are concerned that the bill which is finally reported out of committee will not, in fact, strengthen present water pollution control efforts, but weaken them.

We understand that there is before the Committee language which would seriously limit the application of the National Environmental Policy Act, the Fish and Wildlife Coordination Act, and the Refuse Act of 1899. These laws have been basic to the protection of environmental quality and have provided an important avenue for citizen participation in clean-up activities. To remove the opportunity for citizen participation seems contrary to the public interest. We feel that it is not appropriate to deal with these Acts in proposed water pollution control amendments. Instead we believe there are other issues which are important to labor, environmental, consumer and other public interest groups in this legislation. Any of us would be pleased to meet with you to discuss these matters.

Sincerely,

RUTH CLUSEN and 10 others.

Finally, I insert in the RECORD an example of the intense pressure put on Members of Congress, under the direction of the White House, by the big industrial polluters of the Nation:

YOU MUST ACT NOW ON THIS WATER POLLUTION CONTROL BILL

NATIONAL ASSOCIATION OF MANUFACTUERERS,
New York, N.Y., March 21, 1972.

This concerns a matter of vital importance to every manufacturing company which uses water—whether or not it has its own waste treatment facilities, or discharges into a municipal system.

The Senate has passed a water pollution control bill, S. 2770, which would require elimination of the discharge of industrial pollutants by 1985. The related costs to manufacturers would be considerable, to say the least. The House is now debating a bill (H.R. 11896) which will provide a more sensible approach. The House bill would make the so-called "zero discharge" requirement contingent on a two-year study by the National Academy of Sciences (NAS) and on added Congressional action.

Strong efforts are being made on the House floor to fight the NAS study approach. You must wire or telephone today to urge your Representatives in Washington to support the sensible NAS study provision and vote to defeat any efforts to eliminate this study or otherwise revise the House bill.

H.R. 11896 would establish a tough, but realistic program for progress in water pollution control, whereas S. 2770 could actually impede such progress through shifting and unrealistic requirements imposing tremendous costs to manufacturers. For this reason, H.R. 11896 is highly preferable to S. 2770.

Tomorrow is too late. It is important that you contact your Congressman today on the House water pollution control debate.

Sincerely,

M. P. GULLANDER.

P.S. Obviously, the pressures on Congress to enact added unrealistic legislation will continue and NAM will be calling on companies across the nation to speak up to their Representatives in Washington. You could help us speed future actions by giving us, on the enclosed self-addressed card, the name(s) of the person(s) in your company responsible for pollution control.

Mr. HANLEY. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Control Act. While I sincerely believe that this proposal, painstakingly prepared by the Public Works Committee, is a sound and progressive bill, there are areas in the measure which I feel can and should be strengthened. I intend to support a number of the various clean water amendments.

With regard to the committee bill, I am particularly pleased with the intent to commit the Federal Government to a program of paying back to States and municipalities those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. To be sure, the real battle over reimbursement funds will be fought out in the appropriations process, but the clear language of H.R. 11896 gives States like New York a good headstart toward gaining repayment of funds advanced to cover the Federal share. The New York share of the reimbursement funds is nearly $1.3 billion.

I am pleased with the provisions in the House bill which will shift the emphasis in water pollution control from the idea of classifying bodies of water to the idea of placing standards on the effluents dumped into those bodies of water. It seems to me to make sense to deal with pollutants at their source.

The committee's increased authorization for the construction of wastewater treatment facilities is vitally needed, and the increase in the percentage of the Federal share should ease the burden on financially hard-pressed local communities who are finding it very difficult to produce the needed funds from local property taxes.

Mr. Chairman, I have one overriding concern about the committee bill which I see being eased by the clean water amendments. I am very much disturbed by the uneven progress in the 50 States toward controlling and abating water pollution. The citizens of New York State have expended or committed $1.4 billion in State funds for water pollution control facilities. Local government financing within the State has amounted to $1.2 billion, and both figures include the $1.3 billion prefinancing of the Federal share. The actual Federal commitment of funds has been $273 million. These figures clearly indicate a massive financial commitment by the people of New York.

Industries in New York State have also borne a heavy burden in terms of complying with State pollution standards and enforcement actions. Many New York workers have lived with the threat of plant closings should pollution standards be enforced. Plants in the State have closed down and moved elsewhere because of the necessity to comply with State water pollution control standards.

The citizens of the State, and the industries on which so many of them depend for their economic livelihood, have made great sacrifices. I want to make sure that the citizens of our sister States, and their industries, are moving ahead at the same pace New Yorkers are. I want them to bear the same burdens we are. I want to guarantee that the Federal Government will insist that all of the States measure up to the same mark. I feel that the power to set national standards for effluent control must be maintained by the Federal Government, and the power to enforce those standards must be kept at the national level.

In New York these days, with our highest unemployment rate in a decade, and with no real signs of bustling economic development on the horizon, one hears about the "high costs of doing business in the State." What this really means is that it is less costly to do business in other States, and I want to make sure that in every State in the Union, industry will be required to make equal sacrifices in behalf of pollution control. Industries have left New York for other States and even foreign countries, leaving the worker stranded and without a job. National standards and national enforcement ought to remove water pollution control as a factor in the competition among the States for industry.

In conclusion, Mr. Chairman, I want to comment on the matter of the national goal or policy of no pollution by 1985. It seems right and proper to me to seek such a goal. There are tremendous fears abroad in the land over this provision and not a little hysteria. It seems to me that the path to this goal is carefully marked with full considerations of costs. The matter of best available or best practicable technology is and must be tempered by considerations of cost. This point must not be overlooked. It is clearly stated that the age of the equipment and facilities involved is a factor to be considered. The nature of the industrial process employed is to be taken into account. So also are questions of the economic, social, and environmental impact of achieving effluent reduction. The matter of foreign competition is specifically set out as a consideration.

The clean water amendments call for cities, towns, and industries to do the best they can. No more and no less. I support this invitation to participate in the restoration of the waters of the United States.

Mr. ANDERSON of California. Mr. Chairman, as coauthor of H.R. 11896, the Federal Water Pollution Control Act of 1972, I rise in support of this historic bill which is designed to clean up the Nation's waters in this decade.

This bill is not perfect. Seldom, if ever, does a bill of this magnitude meet all of the objections of the various States and the various groups.

However, I do not criticize the committee, simply because I do not agree with every provision in the bill's 414 pages. Rather, I commend the committee, especially Mr. BLATNIK, our chairman, Mr. JONES and Mr. HARSHA for producing what I believe to be the best water pollution control bill ever introduced in the Congress.

GOALS

The bill, H.R. 11896, establishes a national goal to eliminate the discharge of pollutants into the waters by 1985 and to achieve water quality capable of supporting fish and wildlife and capable for safe water recreation by 1981. In addition, the bill would prohibit the discharge of toxic pollutants in dangerous amounts.

In implementing the bill, the agencies are required to consider all potential impacts relating to land, water, and air to insure that in enhancing the water quality, other significant environmental problems are not created.

However, the stated requirements and goals would not go into effect until further congressional action is taken. Thus, I supported the clean water amendment introduced by Mr. REUSS which would require industry to use the best available technology to eliminate pollutants by 1981. But, in requiring industry to meet this standard, the Administrator is required to consider the cost of pollution control equipment, its effect on prices and foreign competition, and the age of the industrial facility.

The clean water amendment would have allowed the 1981 effluent standards to go into effect without further congressional action and, thus, would have allowed industry to undertake long-range planning and avoid wasteful expenditures. In addition, this amendment would have given industries an added incentive to join with municipalities in regional treatment systems and, therefore, provide economies of scale.

STATE PERMITS

For years, those of us from California have fought to allow the California authorities to establish more stringent pollution control regulations than those established by the Federal Government. In addition, we feel that California can best regulate and control activities in order to meet the local needs and conditions.

The bill before us today allows California to establish a water pollution control program, subject to general Federal guidelines, and it allows the States to regulate the program. If a State is not adequately enforcing the law, then the Environmental Protection Agency would take over the responsibility.

ALLOCATION OF FUNDS

Under the bill, H.R. 11896, Federal funds will be allocated to the various States on the basis of a survey of States' needs conducted by the Environmental Protection Agency in 1970. Using this formula, California would receive $645 million in Federal funds in fiscal year 1973 and 1974.

This level of funding is completely inadequate for California. According to State officials, California would be required to spend $1.42 billion over the next 2 years to clean up the State's waters. Thus, to construct needed treatment facilities, the local taxpayer would be called upon to pay the difference between $645 million and $1.42 billion.

In order to correct this inequitable situation and to base the formula for allocating funds on a more recent study, I have urged the committee to allocate funds according to the 1971 Environmental Protection Agency survey.

Using the most recent 1971 survey, California's share of Federal pollution control funds would be $1.078 billion, instead of the $645 million which would be California's share under the 1970 survey. Thus, under the 1971 survey I have advocated, the local California taxpayers would be called upon to pay $342 million, instead of $775 million.

At this point, I would like to place in the RECORD the two surveys conducted by the EPA. First, I am including the 1970 survey which will be used as the basis for allocating funds if H.R. 11896, as reported, is enacted into law. Second, I am including the more recent 1971 survey which I believe should be used as the basis for allocating funds.

1970 survey—Estimated cost of construction of municipal sewage treatment works for the period December 1970 through June 1974***

[Million dollars]

Totals	$12,565.2
Alabama	27.0
Alaska	28.1
Arizona	51.0
Arkansas	42.0
California	737.5
Colorado	47.4
Connecticut	229.5
Delaware	62.0
Dist. of Columbia	347.2
Florida	444.2
Georgia	74.0
Hawaii	50.8
Idaho	14.5
Illinois	1,043.6
Indiana	174.8
Iowa	111.9
Kansas	52.7
Kentucky	117.0
Louisiana	132.7
Maine	$157.4
Maryland	349.7
Massachusetts	422.6
Michigan	788.8
Minnesota	295.2
Mississippi	34.1
Missouri	268.2
Montana	31.4
Nebraska	49.0
Nevada	47.2
New Hampshire	137.8
New Jersey	1,308.7
New Mexico	19.6
New York	1,721.0
North Carolina	125.3
North Dakota	8.4
Ohio	733.5
Oklahoma	69.8
Oregon	78.6
Pennsylvania	616.4
Rhode Island	37.7
South Carolina	57.6
South Dakota	13.5
Tennessee	88.9
Texas	398.7
Utah	22.6
Vermont	38.0
Virginia	280.1
Washington	216.3
West Virginia	51.4
Wisconsin	190.8
Wyoming	1.7
Guam	9.7
Puerto Rico	93.0
Virgin Islands	14.6

*Based on 1970 dollars.

**Excluding Storm Water Overflow Facilities.

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76

[Million dollars]

Totals	$14,557.2
Alabama	52.7
Alaska	32.8
Arizona	19.6
Arkansas	51.5
California	1,429.7
Colorado	46.1
Connecticut	244.8
Delaware	95.6
Dist. of Columbia	103.6
Florida	528.1

1971 Survey—Estimated construction cost of sewage treatment facilities planned for the period fiscal year 1972–76—Continued

Georgia	141.7
Hawaii	48.1
Idaho	31.7
Illinois	909.9
Indiana	490.1
Iowa	168.3
Kansas	54.5
Kentucky	96.2
Louisiana	137.2
Maine	140.9
Maryland	620.1
Massachusetts	547.2
Michigan	1,162.2
Minnesota	295.9
Mississippi	57.3
Missouri	241.0
Montana	24.3
Nebraska	54.1
Nevada	41.8
New Hampshire	121.0
New Jersey	1,122.0
New Mexico	30.8
New York	1,610.4
North Carolina	134.4
North Dakota	6.8
Ohio	840.9
Oklahoma	67.1
Oregon	123.6
Pennsylvania	789.5
Rhode Island	71.2
South Carolina	94.0
South Dakota	13.9
Tennessee	169.0
Texas	408.4
Utah	20.5
Vermont	32.3
Virginia	8424.9
Washington	129.7
West Virginia	72.8
Wisconsin	253.6
Wyoming	3.9
Guam	12.7
Puerto Rico	128.8
Virginia Island	13.0

I was pleased that the gentleman from Alabama (Mr. JONES) gave his assurance that the Public Works Committee would support the most recent needs formula, if available, when the bill goes to conference with the Senate to iron out the differences in the two versions of water pollution control legislation. I would like to point out that, according to a response I received from the White House regarding the 1971 survey, that "the substance of the report containing the survey of State needs to implement clean water measures has been released" to the Public Works Committee.

At this point, I place in the RECORD the correspondence I received from the White House in response to my request that the formal 1971 EPA study be released to Congress by March 28:

THE WHITE HOUSE,
Washington, D.C., March 25, 1972.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: I wish to acknowledge and thank you for your March 24 telegram to the President asking that the report of the Environmental Protection Agency, "Cost of Clean Water," be released by March 28.

I have been advised that the formal report has not been completed but that it should be available in the not too distant future. However, I have been told that the substance of the report containing the survey of state needs to implement clean water measures has been released to the Interior and Insular Affairs and the Public Works Committees.

With cordial regards,
Sincerely,

MAX L. FRIEDERSDORF,
Special Assistant to the President.

REIMBURSEMENT

For those States and localities which have constructed publicly owned treatment works for which the full Federal contribution has not been received, H.R. 11896 authorizes the Environmental Protection Agency to reimburse those States and localities for a portion of their expenses.

These progressive jurisdictions have acted in a commendable manner to expedite the cleaning of the Nation's waters and they deserve sufficient and timely reimbursement. However, there is a flaw in the bill which does not allow reimbursement to States and localities for projects that they began after June 30, 1971.

Thus, unless this flaw is removed, California would lose at least $23 million because of projects which were begun after June 30, 1971, and, therefore, are not eligible for reimbursement.

STATE RESEARCH PROJECTS

Mr. Chairman, many jurisdictions recently have undertaken studies in order to determine the principle causes of pollution, the effects of discharges, and the cost of implementing new systems.

In southern California, the local agencies have formed and funded the Southern California Coastal Water Research Project Authority to conduct a comprehensive study of the effect of treated waste water on the off-coast marine environment. This study is scheduled to be released in October of this year.

Mr. Chairman, it is my belief that any proposal requiring an expensive change in the current southern California outfall discharge system should be based on the conclusions of the $951,180 study. I would be most disturbed if the Environmental Protection Agency required the city or county of Los Angeles to undertake an expensive project that was not based on the best, most current, scientific data.

CONCLUSION

Mr. Chairman, this is a good bill which deserves our support. It was not hastily conceived, nor was it hastily considered.

I was proud to participate in the forming of this bill and I am proud to support it.

I urge all of my colleagues to vote for the passage of H.R. 11896, the Federal Water Pollution Control Act of 1972.

Mr. MOLLOHAN. Mr. Chairman, the last 5 years have witnessed a rising tide of concern and resentment across this Nation about the continued and alarming rate of the pollution of our rivers, lakes, ground waters, and the poisoning of our environment.

What was once the concern of a few environmentalists, conservation groups and some public officials has now developed into a national movement. And in my opinion, there are no real substantive disagreements on this issue. We are all against water pollution. We all want government and industry to act against it. We may disagree about techniques, about levels of funding, or about time sequences, but our ultimate goal is identical—to use the best technology we have or can develop, to invest an effective amount of public resources over the next 3 years, and to create a close local-State-Federal partnership which will bring us clean rivers, clean lakes, and pure drinking water to support animal and human life and recreate national pride in America as a land of beauty and health.

The excellent bill before us continues a cycle of impressive clean water and antipollution legislation which dates back to 1956, and was expanded in 1961, 1965, and 1970. But H.R. 11896 goes far beyond its predecessors. It launches a massive and comprehensive fight for improved water quality, sets up strict enforceable tough standards with penalties for violations, and backs this up with a $24.6 billion appropriation—$18.350 billion of which would be used over the next 3 years for grants for the construction of local and regional water treatment plans and for upgrading municipal sewer systems.

The bill contains money for research on new control systems. It contains money for rural areas and for regional planning. It provides funds to help small businesses meet the cost of upgrading pollution controls. In short, it touches every vital area of water pollution control.

One of the more attractive features of the measure for me as a representative of a smaller State such as West Virginia which in some areas is heavily industrialized, is that the bill delegates a good deal of authority to the States. Congress can legislate on important national issues. It can allocate large sums of money. But if its programs are not realistic, and if they do not fully involve local governments, then they are merely going to add to the Federal bureaucratic structure without discernible results.

I like the idea of the States having primary responsibility for issuing permits under this bill so that a State can determine whether its own industries or public facilities are meeting the new pollution standards. If we are serious in our effort to strengthen State government; and if we are serious in wanting to decentralize the powers of the Federal Government to pinpoint responsibility and accountability at the grass roots level, then the House measure should be adopted without significant change.

If we want to be realistic and practical in helping industry meet its commitments to reduce, abate, and possibly eliminate pollution of navigable waterways, then we should retain the provision in this bill calling for a 2-year study of the technological, economic, and social consequences of reaching for our 1981 and 1985 pollution-free goals.

Somehow there is a public misconception that the House version of the Water Pollution Control Act is a weak measure which would let polluters—both private and public—off the hook. Nothing could be farther from the truth. H.R. 11896 is not only realistic in its goals, but it is one of the toughest and far-reaching water pollution control measures ever to emerge from a congressional committee.

First, it establishes a strict State-Federal permit system for any private or public source wishing to discharge waste into navigable waters. If the Federal Government does not feel that a State is being stringent enough, the Environmental Protection Agency has the power to step in and enforce standards.

Second, this bill establishes for the first time the concept of the user charge. This will compel an industry or facility using a public water treatment plant to return a certain portion of construction costs by way of a user charge. User fees would be retained by the local body to underwrite a share of the cost and improvement of the public water treatment facility. This is an effective and fair method of properly allocating costs of public water treatment facilities. Simply stated, those who use will have to pay.

Third, the House bill would base the amount of Federal construction grants on the proven and established antipollution needs of a State, rather than on its population. Coming from a State which has a smaller population than most, I believe the "needs" formula would give smaller States a better chance for grants if they can document their needs. This would apply particularly to some highly industrialized areas in West Virginia, for example, which though small in population has a significant water pollution problem because so many private industries and municipal governments discharge wastes into navigable waterways like the Ohio River.

Fourth, the House bill would provide total grants over 3 years in excess of $18 billion for the construction of waste treatment plans. This is three times the $6 billion proposed by the Nixon administration. The House version would also provide as much as 75 percent in Federal construction grants if State governments provided 15 percent toward costs. This could mean that the matching share for a local government pollution project could be as low as 10 percent—if local-State-Federal cooperation became a working reality rather than a stated ideal.

Fifth, there is a strong emphasis in the present bill on assistance to small businesses to help them meet the increased costs of pollution control without going bankrupt. There is also a call for the establishment of a new Environmental Financing Authority which help local communities borrow their matching share of local capital funds at greatly reduced interest rates. Such an Authority is long overdue and would serve as a vital shot-in-the-arm for many local governments which have tremendous water pollution problems but may have reached the limits of their borrowing capacity.

Sixth, this bill would continue current law which provides funds for pilot projects in the area of acid mine drainage pollution control, and for mining States like West Virginia, this is a provision I am happy to see retained in the law.

Finally, there has been a great deal of controversy raised over one provision—section 315—which would authorize the National Academy of Science and Engineering to undertake a 2-year evaluation of the technological ability and social and economic effects of pollution-free goals set for 1981 and 1985. I believe the provision is fair and realistic. We do not know the costs involved in moving toward zero pollution by a certain date. We really do not know all the implications of what is involved in getting there. The committee in its own report said:

The differential in the cost of 100% elimination of pollutants as compared to the cost of removal of 97–99% of pollutants in an effluent, can far exceed any reasonable benefits to be received.

For example, cost estimate figures supplied by the Environmental Protection Agency indicate the following cost-benefit ratio:

Municipal costs—capital and operating—to reach 95 to 99 percent pollution reduction would be about $54.9 billion. Municipal costs to reach 100 percent pollution control would be almost three times as much: $141.8 billion.

Industrial costs—operating and capital—to reach 95 to 99 percent reduction would be about $63.9 billion. The costs for zero pollution by industry would be about $174.7 billion, or three times as much.

No bill is perfect. Certainly a water pollution control measure as comprehensive as this one will have some defects. But I would remind you that over a 7-month period, the House Public Works Committee held 38 days of hearings, listened to 294 witnesses, and received 135 additional statements for the record. It seems to me that we have a good bill which strikes at the heart of the water pollution problem I urge the House to adopt it without significantly altering its thrust, its proposed appropriation, or its basic language. When it becomes law, it will form part of a record of achievement which we can carry proudly to all the people.

Mr. WILLIAM D. FORD. Mr. Chairman, not all of us have been directly affected by plant closures in our own districts. It is difficult to say how we would respond if we were. One Member, Mr. MEEDS, of Washington, has had this happen. His response has been to work with me and cosponsor the amendment we passed today providing a hearing when pollution control is blamed for closure. Additionally, he has written and sent to his constituency a newsletter which "tells it straight." Mr. Chairman, I commend Mr. MEEDS on his position and insert at this point the text of his newsletter:

YOUR CONGRESSMAN—LLOYD MEEDS REPORTS TO THE PEOPLE

"If we could first determine where we are, and whither we are tending, we could better judge what to do, and how to do it."—Abraham Lincoln, 1858.

THE RIGHT ROAD TO RECOVERY

President Lincoln's "House divided" speech quoted above applies to Snohomish County today. Our economy has gone from prosperous to pitiful. Now comes the searing shock of the Everett pulp mill closures. People are lashing out at the pollution control regulations. They are aiming at the wrong target. Efforts to promote economic recovery can't succeed until we face reality.

Prior to delivery, Lincoln showed his "House divided" speech to his advisors. They told him not to give it. Fortunately for our country, he rejected their advice. I have pondered this newsletter for many weeks and have been advised by my older colleagues in the House not to write it. "Never take on such an emotion-charged issue", they counseled.

But getting people back to work is our most important priority. We cannot move ahead by pretending reality doesn't exist. People have been misled. You placed your confidence in me and now I must return it, regardless of political consequences. I intend to give you the facts and help point the way to positive actions our community can take to get on the road to economic recovery. Using Lincoln's common sense formula, let us proceed:

BAD NEWS IN MILL TOWN

Where We Are: Three hundred and thirty people, many of whom I know personally, will lose their jobs at the Weyerhaeuser sulphite mill in Everett. Already crippled by the Boeing layoffs, the Snohomish County economy was jolted by the pending loss of 330 Weyerhaeuser jobs, 750 jobs at Simpson-Lee, and 100 jobs at Scott Paper.

Scott said that it was laying off men due to a surplus in certain kinds of pulp. The Simpson-Lee mill was built in 1892 and was losing $100,000 a year, according to plant manager Ken Perkins. Its fate was sealed in late 1971 when the company bought a larger, more modern mill from Kimberly-Clark in Anderson, California.

Weyerhaeuser, on the other hand, blamed the pending death of Mill A solely on pollution control requirements. "Strictly an environmental closure," said Mr. George Weyerhaeuser on January 14. They said it would cost $52 million to build a new mill or $10 million to install a recovery process to meet environmental standards.

Whither we are tending: Shock and disbelief spread rapidly. "Just change the pollution laws and Weyerhaeuser will stay open," people said. But that would require changing the pollution control efforts of the entire United States. Weyerhaeuser was asked only to meet standards required of every pulp mill in the nation. To make an exception for Weyerhaeuser would be unfair to all the companies that are meeting cleanup schedules.

As John Biggs, director of the State Ecology Department, said, "The environmental laws in the State of Washington are no harsher nor less harsh than any other state. They are literally the same laws as any other state."

Attacks on these uniform standards are aimed at the wrong target and serve no useful purpose. This sort of windmill-tilting distracts our energies from working on economic recovery. In our anxiety we could make Washington State a Shangri-la for polluters. This must not happen.

What to do: We must correct the misleading notion that our economy can recover or survive only if we go easy on polluters. To do that, we must understand the truth behind the Weyerhaeuser closure. Our best long-range interest lies in attracting industry and payrolls. But it must be industry that respects pollution control and is willing to be an environmental good citizen.

How to do it: With leadership and imagination our community can cushion the immediate shock of lost jobs and work toward long-range prosperity. Together with Senators Warren G. Magnuson and Henry M. Jackson, Everett Mayor Bob Anderson, labor leaders, and the Snohomish County Economic Development Council, I am helping sponsor an Economic Recovery Conference aimed at self-help.

But this conference cannot succeed if we continue to delude ourselves that our salvation lies in softening our pollution control laws. To understand why, it is necessary to understand the regulations themselves, what

they seek to prevent and why Weyerhaeuser is really closing Mill A. Here are the facts:

The Regulations and why: The Water Quality Act of 1965 required states to devise and enforce clean water standards. Washington State's regulations were approved by the Federal government in 1968. The state uses a water discharge permit system to enforce the standards.

Mill A and the Scott mill discharge a fluid known as sulphite waste liquor. According to a 473-page report released in 1967 at a Federal-State Enforcement Conference. . . . "the prevailing water quality of Everett harbor, the lower reach of the Snohomish River, and the surface waters of the broad reaches of the study area has been found to be injurious, or less than satisfactory for many marine forms . . . such damages derive almost wholly from the weak pulping wastes discharged by the Scott and Weyerhaeuser mills." State official Jerry Harper puts it more graphically: "The beaches within two miles of the Everett mills are completely void of any clam population."

The waste liquor kills in two ways. First, it is highly toxic to shellfish, oyster larvae, and small salmon. Second, it 'feeds' the water and produces bacteria which consume oxygen needed by marine life. This latter pollution is called BOD—biochemical oxygen demand. An official of the U.S. Environmental Protection Agency estimates that the BOD level of Port Gardner Bay is equal to that from the wastes of 5 to 6 million human beings. Each day the two mills dump 19,631 tons of waste liquor into the water.

Earlier this year, Mr. Weyerhaeuser said, "We stand by our statement that water studies have proved and will continue to prove that the closure was needless from an environmental standpoint." The company seems to have done quite a bit of research to alleviate effects of this "harmless" discharge.

Mr. Oliver Morgan, Technical Director of the Weyerhaeuser mill in Springfield, Oregon, wrote an article for Pulp and Paper magazine about the company's efforts at Kamloops, B.C. Said Mr. Morgan: "The primary purpose of the treatment facilities at Kamloops is to protect salmon during the fresh water periods of their life by removing possible toxicity from the effluent. Removal of 60% of the BOD was found to render the effluent non-toxic to salmon. . ."

Weyerhaeuser said that the regulations would force Mill A to burn waste material and "add to Everett's air pollution load". But ample technology exists to combat pulp mill air pollution. The most common devices are called 'mechanical dust collectors', 'scrubbers', and 'electrostatic precipitators.' Weyerhaeuser pioneered by developing the 'vapor-sphere', 'black liquid oxidation', and the magnesium oxide pulping process.

The Weyerhaeuser mill in New Bern, North Carolina, eliminates 99.6% of the air pollution particles. At Valliant, Oklahoma, the company's new plant emits about as much pollution as a large apartment house with a coal furnace. It is rated 99.7% effective.

Crown Zellerbach in Port Townsend spent $14 million on a new Combustion Engineering recovery boiler that virtually eliminates the smoke and "rotten egg" smell of a kraft mill. The mill's emissions are now less than the state regulations require. Air pollution will be reduced under standards of the Clean Air Act of 1970.

The Weyerhaeuser sulphite mill in Everett was built in 1936. It is obsolete because of its pulping process and other factors. Sulphite is a dying technology. Compared to the kraft process, it is high cost, low yield. Mill A is one of the least efficient sulphite mills because it uses the calcium base to cook the pulp. This costly method does not permit recovery of the cooking chemicals. Many sulphite mills, including Scott in Everett, have converted to the newer and much more efficient ammonia or magnesium methods.

The Council on Economic Priorities, a private research group, did a massive, eight-month study in 1970 on pulp and paper pollution. The study said that:

"Everett is the only one of the company's three sulphite mills still using the non-recoverable calcium process . . . Weyerhaeuser has taken no visible pollution control activity and will probably close it rather than convert to magnesium . . . The lack of any investment at this plant indicates that Weyerhaeuser has long planned this action."

"UNITS" MUST BE PRODUCTIVE

"The basic problem which we—all of us—face, is the national productivity crisis . . . Neither industry nor government has paid enough attention to the technological innovation essential to increasing productivity per unit of labor."—George H. Weyerhaeuser quoted in Jan. '72 issue of Pulp and Paper.

Weyerhaeuser Pulp Mill (date built):

Everett Sulphite (1936) 330 employees, daily production 300 tons.

Grays Harbor (1957) 250 employees, daily production 400 tons.

New Bern, N.C. (1969) 440 employees, daily production 800 tons.

Valliant, Okla. (1972) 450* employees, daily production 1,600 tons.

WHICH STORY TELLS IT STRAIGHT

During a strike against Weyerhaeuser last summer, the company placed an ad in the Seattle P–I. Among other things that ad said,

"Those familiar with the Everett mill know that it exists principally because of one major pulp contract with a large eastern customer (65% of the total Everett sulphite production goes to this customer.) One more day of closure would jeopardize that business. Its loss could mean that the mill would move into an even more marginal position than it already is in. Conceivably, its closure."

"Even more marginal." But on January 14, 1972, six short months later, we were told by Weyerhaeuser that:

"The closure of our Everett sulphite mill, which has and continues to contribute a significant amount to our annual operating profit, is strictly an environmental closure, it is, in fact, the mill that we would be least likely to close if economics were the reason."

It is difficult to understand how so "marginal" a plant can become so "significant" a profit-maker in six short months—especially after losing its "exclusive contract" with duPont.

Perhaps Mr. Weyerhaeuser was referring to Mill A when he told the stockholders on April 15, 1971: "But the pressure which environmentalism has brought about has had one salutary effect which outweighs all of the occasional exercises in irrationality. It has forced industry to face up to the obsolescence of some of its technology and many of its mills. . . . we will have several closures. . . . The mills which will be forced to close are almost without exception not only poor environmental performers, but the least productive of our mills."

Weyerhaeuser said it would cost $10 million to clean up Mill A. Scott's program in Everett may cost $60 million. But let's consider the tax laws. All plant equipment can be depreciated against the company's federal taxes. It can be written off. For pollution control equipment, section 704 of the Tax Reform Act of 1969 allows much faster depreciation. That's not all. Congress has just voted to let industry subtract 7½ percent of the cost of new equipment from federal corporate taxes. Pollution abatements devices are exempt from the Washington State sales tax and can be depreciated over 25 years against our business and occupation tax.

THE BILLION-DOLLAR DECISION

In 1968 Weyerhaeuser had a 75% increase in net profits over 1967. A year later the company announced that it was going to spend $1 billion on new production capacity. The expansion involves ten new facilities in the south, plus six more on the East Coast, Canada, Oregon, and overseas. Unfortunately the Weyerhaeuser expansion came at a time when the recission was beginning. Cost cutting became very important.

Mill A in Everett makes a special "dissolving" pulp. It is used to make products such as rayon, cellophane, film, and acetate yarn. The market for dissolving pulp is mainly on the East Coast. Weyerhaeuser has contracts with DuPont and Olin.

Closer to these markets is the new mill in New Bern, North Carolina. It is a computerized mill that produces a wide range of products, including dissolving pulp. My office spoke with a New Bern employee who can't be identified for obvious reasons. He revealed that he had seen the company's records and that it cost millions of dollars every year to ship the pulp from Everett to the East Coast. "Weyerhaeuser started hiring men in 1969," he explained. "They told a lot of the guys that the old Everett sulphite mill was to be phased out and replaced with our plant here." The New Bern mill turned out its first batch of dissolving pulp on February 15, 1972, about a month after the company announced it was closing the Everett mill.

Pollution controls which will meet at least the standards required in Everett cost $6 million at New Bern. Question: Why spend $10 million to keep Mill A in Everett going when it is further from the markets and much less efficient?

LABOR LAWS ARE HELPFUL

Like textiles and steel, the pulp and paper industry is moving south. One advantage is faster timber growth. Ten of Weyerhaeuser's new facilities are in the Southern or border states. Section 14(b) of the Taft-Hartley Act allows state option on the union shop. Eighteen states, including North Carolina, have barred the union shop with these "right to work" laws.

According to the U.S. Department of Labor, the average weekly wage in the lumber and forest products industry in Washington State in December of 1971 was $168.66. For the same period, North Carolina averaged $98.70.

Importantly, Section 13(A) (13) of the Federal Wage and Hour Act says that a logging crew or any forestry operation with fewer than 8 persons does not have to pay overtime over the federal minimum wage of $1.60 an hour.

Testimony on this law was given by sworn affidavits in 1965 from several loggers. Mr. James Roberts of McClain, Mississippi said that he worked 60 hours a week and got $35. Wilson Gulby of Warren, Arkansas, said that he worked 60 hours and earned $30. In 1972, James Simpson, a pulpwood cutter from Mississippi, said he formed a labor union after the lumber companies refused to pay the minimum wage or provide Social Security and workmen's compensation.

Don't lose perspective: Is the pending death of Mill A "strictly an environmental closure"? No. We have seen other factors. Now let's ask ourselves a simple question: If the pollution regulations are so unreasonable and unnecessary, then why are the other pulp mills in the United States on schedule in meeting them? They are the minimum standards required of any pulp mill in this country.

The inherent danger of the Weyerhaeuser ploy is obvious. The pulp mill closures could become Exhibit A in industry's fight against pollution rules. "Don't let Everett happen again," they would tell us. We might then forsake efforts toward a cleaner place to live. To industry we would plead, "Do what you want. Just stay."

The main goal of the Weyerhaeuser Board of Directors is to maximize profits. That makes it easier to understand why they decided to close the Everett sulphite mill. It was a hard business decision based on economics. Sure, environmental controls played a part, but a small part, and a part necessary to run any pulp mill in America.

TO FIND OUR FUTURE

You don't find your way out of the forest by sitting down and bawling. One pulp mill nearing death is not going to be revived by changing pollution control laws. Abandoning these regulations would injure our water quality and be unfair to the vast majority of Pacific Northwest pulp mills that are cleaning up. Nor is one pulp mill the only employer in Snohomish County. The county's quarter-million residents work at a host of pursuits.

Economic recovery depends on the spirit of the people. Other communities have been shell-shocked but have come back. We've been bitter before too, but being negative never brought in a new payroll. That's why we have to count our blessings, not our miseries. Let's stop staring hopelessly at the ground and start looking ahead. We must follow new paths toward economic development. We need a new, positive view of the future. We need hard work, ingenuity and above all, staying power.

We can be more optimistic about the economy. We were badly hurt by the Administration's tight money, high interest rates policy, coupled with its "hands-off" posture toward inflationary increases by business and labor. Now the President has reversed his economic policies. Price stability is returning, and interest rates are lower. Washington State's lumber and plywood business is in better shape. Nationally, the unemployment rate is dropping.

In surveying our assets we see first the people of Snohomish County. We have one of the best educated populations anywhere in the United States. We have good schools, a fine place to live, ample land, and very useful transportation resources.

Senator Magnuson, Senator Jackson and I have worked to clear away red tape blocking local development of the now surplus Paine Field complex. The final obstacles are nearly conquered. Paine Field offers superb possibilities as an industrial park as well as a site for education and recreation. The federal government could help local officials implement a comprehensive plan they draw up for the site.

Don't underestimate the job-creating possibilities of Puget Sound shipping and the Port of Everett. Today's vessels increasingly require deep water ports like Port Gardener Bay. Already the Port has constructed an aluminum-loading facility. Other plans in progress will create additional jobs. Firms throughout the county will benefit. Then there's China and the Far East. Not only are the markets of Japan growing rapidly, but President Nixon's China trip may bring increased trade with Peking.

The Air Force intends to update its aerial command posts. Boeing wants to sell its new EC-747, and the Washington State Congressional delegation is working to secure the necessary funds. Another Air Force project for the future, AWACS, could mean 40 to 100 Boeing planes.

A door manufacturer in Everett announced recently that it was expanding by 300 new jobs. A mining firm interested in a site near Sultan may create 800 environmentally sound jobs.

ALASKA MEANS JOBS

Unemployment is the cruelest environment. It saps a person's vitality, corrodes his pride, takes food from his kids. Like massive physical pollution, it degrades and injuries. "Environment" means the whole of man's surroundings: his job, his health, his neighborhood, the air, land and water he uses.

Building the proposed Trans-Alaska Pipeline system can create at least 6,000 jobs in the Puget Sound region by 1980, not counting jobs in existing and future oil refineries.

Just as Weyerhaeuser's decision to close Mill A brought an unwise reaction against pollution control, so has the prospect of Alaskan oil brought an over-reaction against industry. Like the people who would scrap pollution regulations to save jobs, the extreme environmentalists are also negative. They are unrealistic. They would like to kill the pipeline and "keep oil tankers out of Puget Sound."

Some of these extremists would ignore the economy and turn the United States into a museum. Senator Jackson had it right when he said: "Any fool can bring about clean air by shutting down the economy and going fishing. It's fine for the people who have it made to say that we won't have any more economic growth."

The Alaskan oil is coming out. Period. We will have to live with it, just as the pulp companies must accept clean up schedules. Steps are being taken to make oil more compatible with our physical environment. As required by the Environmental Policy Act of 1969, the government has written step-by-step regulations to accompany the building of the pipeline. A 1970 law makes oil companies liable for any petroleum they spill. New legislation that I have sponsored will give the Coast Guard vast new powers to regulate shipping.

MOVING TOWARD RECOVERY

Our Economic Recovery Conference will be held soon. The idea is to help the county help itself. Local leadership is the only path to recovery.

The conference has three objectives: (1) cushion the shock of unemployment, (2) create jobs now and (3) take long range actions to attract clean, diversified industry. To be frank, not all Snohomish County officials and business leaders have been aggressive in seeking new industry. Up in Bellingham, for example, a community team went out and looked for companies. Result many new jobs.

We're going to bring in a federal team of experts to advise on how to bid for government contracts. High-jobless areas get certain preferences. Above all, the team's purpose is to spark local leaders into action with constructive suggestions.

Because of the budget deficit and other factors, federal governmental help is limited. The Emergency Employment Act has already created 6,416 direct jobs in the state. I helped write this law and am trying to expand the program and improve its administration. Congress may also pass an Economic Disaster Relief Act providing a wide variety of limited aid, including unemployment compensation and mortgage assistance.

Public works projects, business development loans, job training assistance, and ship construction are just a few of the aids available. But they can't be had until the community works for them and for itself.

In the short run, we can explore debt counseling and mortgage payment waivers for the unemployed, expand knowledge of veteran's benefits and Social Security, start job retraining, and complete the county's water and sewer plan.

Our local economy hummed along for a long time without much effort on our part. But now we're suffering. And while we're hurting, we aren't trying hard enough to get moving again. We're wasting time condemning pollution control laws when we should be seeking out new industry to replace the Simpson-Lee and Weyerhaeuser mills. There's no point in trying to put toothpaste back into the tube.

I grew up in Snohomish County. I know the potential of our county and its government, business and labor leaders. We've got to seize the initiative now, and develop possibilities into realities. The Economic Recovery Conference will seek clean jobs. We can have clean jobs. But we won't get anything but trouble by sitting around and whining. Lethargy is the enemy of progress. Working together today can bring a better tomorrow.

BUT WE'VE ALWAYS RECOVERED

"The Panic of 1893, which was a panic of lost confidence, crumbled cities like Everett for which confidence was the only adhesive in the foundation of comunity life . . . In December, 1921, mass meetings were again held in Everett, but there were no questions of unions or militancy, of villains or moderation, of peace or conflict. With quiet voices men talked of how they might feed hungry children as the face of winter grew dark and cold."—Norman H. Clark, *Mill Town*.

JOBS GONE, JOBS GAINED

"Edward Hartley also found that his grandfather, as he extracted every dollar of profit the system would yield, had worked the machines beyond obsolescence and to the brink of ruin . . . He then dutifully supervised the junking of the saws, belts, and engines that had once kept the skies dark with smoke and cinders, and he sold the land to the Scott Paper Company, which soon commanded the waterfront with the largest sulphite pulp mill in the world. Closing out the past, Edward Hartley turned away from what was done and finished to find a new and and uncertain future."—Norman H. Clark, *Mill Town*.

*Estimate given by plant's Personnel Supervisor for when the Valliant mill reaches full production in April or May.

Mr. ROBISON of New York. Mr. Chairman, as we approach the moment of decision on this historic bill—the Federal Water Pollution Control Act Amendments of 1972—I am inescapably reminded of Abraham Lincoln's story of the weary nighttime traveler, stumbling on horseback through a thunderstorm-torn woods, who prayed:

Oh, Lord, if it's all the same to you, send us a little more light and a little less noise!

There has been a great deal of noise here, Mr. Chairman—and precious little light—as we sought, those of us who had not worked on this bill in its formative stages, to ascertain who was right and who was wrong in the debate that raged around us.

But, one thing is crystal clear. This is an historic measure—at the very least—insofar as environmental legislation is concerned. It is a complex and confusing measure as well, presenting us as it does with a bill in the form of a committee amendment that is, itself, 216 pages long, and is accompanied by a 425-page report written in some of the most technical language I have ever seen. Talk of "Philadelphia lawyers" as you might—however that figure of speech developed—but here the conscientious legislator faced a situation, truly, where all the lawyers in Philadelphia might be of little help to him.

In such a situation, the simplest thing to do—the obvious political decision to make—would have been to go with the environmentalists, to vote for that clean water package of amendments in support of which my office is presently being inundated by a floodtide of letters, postcards, and telegrams. Those letters,

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cards, and telegrams come from members of a temporary coalition of at least some 25 environmentalist organizations, labor unions—or the leaders thereof—and consumer and public-interest groups, and basically they all say the same thing: "Give us the 'strong' Senate water-pollution bill, and not the 'weak' House version thereof."

Is the House bill, as now finally before us, a weak water-pollution bill?

Surely, it is not—and most certainly not if it were here standing on its own merits.

If that were more clearly the case—by which I mean, if this House bill had emerged before its Senate counterpart—I have no doubt but that its present critics among the organized environmentalists would be singing its praises and would, quite literally, be enraptured over its scope and reach.

Why?

Well, the reasons why have been enumerated, over and over again by members of the committee and others, both on Monday and on yesterday and today. At the risk of being redundant, let me just briefly enumerate, again, some of those major reasons.

First—and, perhaps, foremost—this bill would shift the principal means of water pollution control from water-quality standards, the measuring tool we have used thus far, to effluent limitations. Water quality standards, as already determined, would remain—to be used in tandem with the shift toward the new emphasis on effluent limitations on point discharges—but the stronger measurement in this dual approach would prevail. By contrast, the Senate bill would have us go at once to point discharge limitations, abandoning water quality standards altogether—and the unknowns, and the inevitable delays that would accompany those unknowns in such a precipitate reversal of course, would clearly seem to make this an impractical, if not unworkable, ambition. In that sense, then, the House bill, one can argue, is "stronger."

Like the Senate bill, this House measure sets up certain new national anti-pollution goals—although in the Senate version these are referred to as representing new, national policies. The difference would seem to be largely semantical, but it may be of some value to here restate the nature, as I understand them, of these national goals as set forth in the House bill. First, from the water quality standpoint, by 1981 an interim water quality goal must be achieved which results in water suitable for recreational purposes and the propagation of marine life in all navigable waters. Second, by 1985 all discharges of pollutants into navigable waters must be eliminated—zero discharge, in effect. These goals are, as in the Senate bill, made applicable both to industry, or industrial point sources, as well as to publicly-owned treatment works. It would be well to remember, in this connection, that we are still speaking of water quality goals.

Now, then, to achieve these goals, the House bill sets forth—in its section 301 and following—a schedule of effluent limitations for both industrial point sources of pollution and for public treatment works, which can be summarized as follows: For industry, by January 1, 1976, all industrial discharges must be subjected to the "best practicable control technology," which means, as explained in the committee report, control at the point of discharge rather than at some prior point in the industrial process, whatever it might be, thus bearing in mind the totality of the point source and the plant processes behind that source. However, by January 1, 1981—just a decade hence—industry must achieve that zero-discharge goal, unless, that is, compliance cannot be achieved at a "reasonable cost," a term that requires some definition and, one hopes, some application of commonsense. In this latter event, however, industrial discharges must still be subjected, by January 1, 1981, to the "best available demonstrated control technology"—with the word "demonstrated" being a key one in this regard.

Finally, for public treatment works, this bill's timetable calls for all such to achieve secondary treatment levels, as defined by EPA regulation, by January 1, 1976, and, as a further interim goal, to apply the "best practical waste treatment technology" by January 1, 1981.

For both private industry and public facilities, EPA has—under this bill—the authority to further revise effluent limitations when this is seen as necessary to meet those 1981 and 1985 water quality goals of recreational quality and, then, zero-discharge, respectively. However, and here comes one major point of departure from the Senate bill, those 1981 and 1985 water quality goals, as well as the effluent limitations necessary to meet those goals, must first be evaluated through a $15 million study to be conducted by the National Academy of Sciences and the National Academy of Engineers—thus bringing together the best technological and scientific brains in the Nation—which will focus on the economic, social and environmental effects of achieving, or not achieving, the 1981 and 1985 goals.

I believe this study to be essential. I still say that after carefully evaluating the arguments advanced by the organized environmentalists to the effect that the time to finally set those 1981 and 1985 goals is now, and that any national commitment to clean water is meaningless if it has to be reconsidered, and voted on again 2 years hence, after such a study has been completed.

I say this for a variety of reasons, foremost among which is the patent fact that we simply do not know that the 1985 goal of zero-discharge is an attainable one at a price this Nation, and its citizens, can bear. Senator MUSKIE, the principal sponsor of this bill's counterpart in the other body, admitted as much during the Senate debate thereon when he said:

> The 1985 target has not been related to costs. The bill (the Senate's) does provide for water quality inventories which by the mid-seventies are designed to give us some hard estimates as to the cost of achieving no pollution discharge by 1985. When we have that information, then it would be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

Mr. Chairman, the organized environmentalists are most sincere—I am sure—in advancing their argument for action, now. And, yet, we who have been here a period of years, can remember any number of "strong" bills that were passed by Congress only to prove to achieve results that fell far short of the original goals thereof. I think we need to know—especially since the cost of achieving zero-discharge increases, expotentially, the closer one gets thereto—whether we ought to strive for that Icarian goal, or not. Put another way, what I am saying is that we may find—and possibly will find—that the difference in the cost of 100 percent elimination of pollutants, as compared to the cost of removal of 97 to 99 percent of the pollutants in an affluent, can far exceed any reasonable benefit to mankind achievable therefrom.

Thus, I have voted to retain the contemplated study as a necessary—and desirable—bulwark through which to strengthen the eventual, and final, national policy decision with respect to the zero-discharge goal. This vote may well bring me a black-mark in future voting-indices as compiled and issued by environmental organizations. But I would say to them, now, that unless we know where we are going, and how we can get there, in this regard, the necessary base of public support for carrying us successfully through to the end of that journey will have to remain more or less suspect. In support of that conclusion, I quote these words from Sunday's edition of the Washington Star, which noted:

> The Senate, with its bill, has raised the Nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

And, finally on this point, I would also say to my organized environmentalist friends who presently seem to worry about their political clout with whoever may be representing them in Congress 2 years hence, that the probabilities are—as all of us lift gradually our level of consciousness about environmental degradation—that future Congresses, reflecting public attitudes as they inevitably will, will be even more responsive to the need for clean water and purer air than is now the case, especially if this Congress can bring the people along with them as we advance toward our common goals.

Now, Mr. Chairman, before proceeding onward to touch upon the highlights of the bill before us, let me comment on that other item in the so-called package of Clean Water Amendments, concerning which I am receiving so much mail, which also represents a major point of departure between the thrust of this bill and its Senate counterpart. Here, I refer to that amendment which would—in effect—bring this bill in line with its Senate counterpart insofar as Federal versus State enforcement of the expanded water pollution control program we contemplate is concerned.

The organized environmentalists exhibit, in this instance, both a suspicion and a disdain for the real progress made, and the expertise gained, by the vast majority of our States in what has been, up to now, a Federal-State partnership in the fight against water pollution. The Senate bill reflects that suspicion and disdain and, by and large, would junk that progress and expertise in favor of letting the Federal Government, through the Environmental Protection Agency, take over the whole burden of administrative and enforcement procedures in the water pollution field.

Now, as the gentleman from Minnesota (Mr. BLATNIK), whose environmental concern has never previously been questioned and who has been a real leader in fashioning prior water pollution legislation, has pointed out to all of us, a careful reading of the House bill shows that it assigns overriding authority to the Federal Government and direct administrative responsibilities to the States only when, and as, the individual States demonstrate their ability and reliability to live up to that responsibility. As he has further pointed out, EPA is empowered, under the House bill, to take complete control of any State program whenever and wherever that State fails to discharge its assigned responsibility. He further argues that the House bill thus "retains the wealth of organization, expertise and experience that the individual States have built up over the years—while—proponents of a complete takeover by the Washington bureaucracy would consign that wealth to the scrapheap."

Mr. Chairman, these are convincing words. The States have not—certainly not yet, at least—supplied us with sufficient evidence of need to now terminate the existing Federal-State partnership in this overall effort. The organized environmentalists argue, nevertheless, that it is essential for EPA to retain—evidently in case this picture changes—the right to veto any State-issued discharge permit, apparently as a safeguard against political intimidation by polluters against State or local authorities, as well as to insure uniform water quality standards across the Nation so that those same polluters cannot escalate that intimidation through threats to move to a State where pollution might still be allowed. But these arguments miss the point that it is EPA, under the House bill, which will set, in the first instance, the uniform, national standards by way of guidelines—with which all State programs will have to comply. And they seem to miss the further point, as well, that it would be an administrative nightmare if EPA had to examine each and every State discharge permit against the need for a veto—as well as the further point that, if any State's pattern and practice of permit issuance began to clearly deviate from those uniform guidelines, then EPA could recapture the enforcement initiative therein.

Thus, at the risk of incurring another of those black marks on future environmental voting indices, I have also voted against that amendment which would—as Mr. BLATNIK suggested, consign the existing Federal-State partnership in the water pollution fight to the "scrapheap."

I have also voted—as the record will show—for the amendment offered by the gentleman from Texas (Mr. MAHON), today, which would have struck out the 3-year contract authority as made applicable for the $18 billion construction-grant program set up under the House bill, and substitute therefor what is known as the 1-year advance funding process. If this amendment had carried, appropriations would have had to be made to fund the new, and much higher, level of authorization for the familiar program of Federal dollars toward the cost of sewage treatment facilities. This would permit—in a way the contract authority route does not—congressional oversight, on an annual basis, of this portion of the expanding program, and permit it, also, on the basis of appropriations being made a year in advance of the normal, annual funding procedures so that local and State authorities could plan their programs with more assurance than has in the past been the case.

The arguments against the Mahon amendment, predictably, centered around the failure of the Congress to have adequately funded the waste treatment program in past years—or to have funded it at levels substantially below the authorization. Admittedly, our early track record in this regard left something to be desired and, as a result, abatement progress was delayed. However, in large part this was due to the failure of prior administrations to give this program the priority it deserved in their budgetary requests—and it was not until the advent of the Nixon administration that this program, with congressional concurrence, began to be fully funded.

I believe the Appropriations Committee—on which I am privileged to serve—recognizes, now, the priority of these, and other, environmental programs. But, even in saying that, I also believe our committee has a balancing role to play in seeing to it that this Nation does not, inadvertently, overbalance its overall effort toward a better environment in favor of clean water, let us say, as opposed to clean air, or to solid waste programs, or whatever. With some 71 percent of the 1973 spending budget already falling into that category regarded as relatively uncontrollable, we opt for contract authority as the funding method for new programs only—and let me emphasize this—only at the expense of many other existing programs, be they in the field of education, of health, or whatever. We do, that is, unless we are ready, here in this or the next Congress, to give serious consideration to the need of additional Federal revenues—a portion of which might come, however grudgingly, through closing some of those currently well-publicized tax "loopholes," but with the major portion having to come, assuredly, through higher levels of Federal taxation overall.

In the euphoric mood that is so evident, here today, as we prepare to give our approval to this bill—whose price tag, over the next 3 years, adds up to a grand total of $24.6 billion, thus making it probably the largest nondefense authorization in the history of Congress—it may seem out of place to ask that we reserve to ourselves, through the Mahon amendment, the right to retain some control over the expenditure of that large sum, as well as to ask, generally, how this Nation is going to pay for both this and such other new programs in other areas of concern as may now be pending before us. But, Mr. Chairman, I do so ask—and I am concerned.

Now, in brief, permit me to touch upon a few other highlights embodied in this measure, for which I intend to vote.

As others have noted, the bill contemplates a large increase in spending for essential research into new technologies in the field of waste disposal, for area-wide treatment management, and for comprehensive river basin planning. All of these are programs falling within the jurisdiction—at least in part—of the Public Works Subcommittee of the Appropriations Committee, on which I serve, and I view them all as essential tools in our abatement program. Included herein is a specific authorization of $450 million to both EPA and the Corps of Engineers to carry forward the pilot programs in waste-water management which the corps, chiefly, has so far advanced. One of those pilot programs of the corps is being completed at the present time for Codorus Creek in the York, Pa., area. Its authority stems from a section in the Flood Control Act of 1970, relating to the Susquehanna River—with the wording of which section I had something to do. If we are serious about the concept of zero discharge, it is on the basis of such studies that we can hope to attain such a goal. I am excited—as is the corps—about the tentative results of the Codorus Creek study and plan for action and, without being able to be more specific about it now, am hopeful of seeing the same concept applied on one of the upper reaches of the Susquehanna in the near future.

Next, there is also contained in this bill, though subject to future appropriations, the long-awaited resolution of that plaguing question of reimbursement—with an authorization, separate from the expanded grant program, of $2.75 billion to repay those States, like New York, which have prefinanced, in recent years, Federal grant moneys as anticipated but delayed under the old construction-grant program. It is time, Mr. Chairman, that this moral indebtedness on the part of the Federal Government toward such States, and the communities therein, was thus recognized.

A portion of those reimbursement moneys, as the same are made available, will go to the local communities that have moved ahead on their own in this essential job of cleaning up our water resources, and will help to relieve them, and their citizens, of some of the load of indebtedness they have thus been carrying. The balance of such moneys will go to the States which, with their own funds, have supplemented that local in-

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vestment and, presumably, can be applied to new and badly needed projects.

Considering the further fact that, for the first time, this bill will make grant moneys also available for sewage-collection systems—as well as to treatment plants—and likewise establish the basic Federal share of the cost of such combined projects at 60 percent of the total, and on up to 75 percent if a State will pay as much as 15 percent of the overall cost, this bill should engender a great spurt of forward progress toward getting this essential job of ending water pollution done, and enabling us to meet at least the 1981 water quality goal we have now set for ourselves.

I could go on, Mr. Chairman, for there is much more that could be said—but my point is made. A "weak" bill? Far from it. An historic bill, instead, as I said at the beginning, as well as a carefully considered and balanced measure with far more to recommend it than its Senate counterpart—and I am pleased to give it my support.

Mr. DICKINSON. Mr. Chairman, I rise in support of H.R. 11896 as reported by the House Committee on Public Works. I do not believe anyone in this House or in this Nation will rebut the urgent need for legislation to clean up our waters. However, I will oppose the views of those who want to pass legislation which goes beyond the knowledge we have of the pollution problem and the cost of taking care of that problem.

It is easy to lay blame at the feet of our industries for the terrible state we find our waters in, but we must remember that we have all shared in the advantages our industries have afforded us, and now we must all share in the effort and cost of undoing the wrong. Therefore, I believe it would be unjust to blithely order the polluters to clean up the waters without first finding out what will be involved in the cleaning-up process.

I am well aware, Mr. Chairman, that we need measures to protect the environment, and I support such measures, but I also realize that we must pass realistic measures which do not create undue hardships on anyone. I believe H.R. 11896 is just such a realistic measure—one which will get the job done without going overboard for the sake of putting on paper a task that we are not yet sure can be accomplished.

I oppose any amendments to the bill on the basis that the bill, as reported, is a sufficient beginning to the end of water pollution. In time, I am sure other measures will be passed to encompass whatever new knowledge is developed on the subject, and those measures will carry on the fight against pollution in a realistic manner.

Mr. RANDALL. Mr. Chairman, I rise in support of the Federal Water Pollution Control Act of 1972. The Committee on Public Works is to be commended for bringing out a bill that will go a long way toward conquering the problem of water pollution in this country. I recall with pleasant memories approximately 10 years ago, it was my privilege to serve on a subcommittee with the gentleman from Alabama (Mr. JONES). During the years 1962 and 1963 we traveled from coast to coast considering the problems of water pollution. Those experiences and the knowledge that I gained as a member of his subcommittee 10 years ago were helpful in supporting several enactments between that time and the present. Because the gentleman from Alabama was the floor manager of this bill provides all the confidence needed that this is the kind of bill that every Member of this House could support. I make such a strong assertion because I know that, along with the chairman of the full committee, the gentleman from Minnesota, the ranking majority Member is truly an expert in the field of water pollution.

The basic provisions of the bill are covered in its five titles. Title I provides for research programs. Title II provides for grants for waste treatment works. Title III covers standards and enforcement. Title IV has to do with permits and licenses, and title V contains some general provisions and some authorizations for funding.

There were some differences between the House and Senate bills as to the zero discharge goals. The House declared a goal to eliminate pollutants by 1985 with the interim goal of water quality suitable for swimming and fish propagation by 1981. The Senate simply said that this goal of zero discharge by 1985 should be a policy rather than a goal. Another difference was in the funding level. Our bill authorized a total funding level of $24.62 billion through fiscal year 1975, whereas the Senate authorized a total funding level of $20 billion. The Senate bill allowed any citizen to bring a suit against polluters, and while our bill allows citizen suits, it would restrict such suits to those directly affected in the area where the violation occurred, or to groups actively engaged in administrative proceedings.

Now, Mr. Chairman, there was a whole package of amendments referred to as the clean water amendments. They covered such matters as technology requirements, the permit program, citizen suits, worker protection, consultation requirements, and boat sewage.

Mr. Chairman, the two words, "clean water," present a very attractive image. Who can oppose an effort to provide our population with an abundance of pure, fresh, clean water? Whoever figured out the name of the "clean water" package came up with a masterpiece that could not be improved upon by Madison Avenue, if indeed that is not the source of these words. No one can oppose "clean water" any more than they can be against our flag or motherhood.

However, the ways of this world and the complexities of our civilization are not that simplistic. We all hold clean water as an ideal and one that may well be achieved within the time frames established by this bill. I am sure all of the membership prefer to be idealistic, and if anything short of such a characterization, like to be known as optimists, rather than pessimists. Most of us are happy to be described as realists. The foregoing thoughts serve simply as a background or a foundation for the thought that it is well and good to strive for the objective of clean water in this country just as quickly as the capability of our present technology and our national resources will make this goal possible. Yet, always following right upon the heels of this struggle to achieve the goal is the fact not only of the costs in terms of dollars, but the consequences in terms of loss of jobs.

I cannot recall the exact time or the exact place, but over in Pennsylvania not too many years ago, a vocal minority in a community rose up against one of its industrial polluters. I do not recall whether it was water pollution or air pollution, but I do know this one single industry employed a majority of the people living in this town. The minority kept hammering away at the elimination of pollution in the air and in the water. The company could not meet the demands and after their usual protest, finally gave up and closed down the plant. Now, in this particular town there is no pollution, either of the air or of the water, but there are no jobs. This was the only source of employment and now the majority of this community are not working. Their unemployment compensation has run out. They are trying to get on welfare. About all that is left for most of them is to move away. This kind of a story could be repeated again and again across this Nation unless we try to conquer our problems of pollution in a deliberate way, instead of demanding that all of these problems be solved so suddenly that there will be no jobs left to enjoy the cleaner air and better water.

I supported the Mahon so-called contract authority amendment because it deletes the contract authority provided in the committee bill which would commit the Environmental Protection Agency to a firm, fast, and irrevocable commitment by the Federal Government to pay for the Federal portion of individual waste treatment construction grants. Those who argue for the necessity of this contract authority say that it is necessary and essential for the States to carry out their responsibility if we are to meet the Nation's waste treatment needs in a timely manner, or to kind of or sort of reassure them that the program can be continued in full reliance that the funds will be available.

Mr. Chairman, I had thought that we were all committed to the proposition of the general purpose of this bill which is known as the Federal Water Pollution Control Act of 1972, and that means that we are going to vote for the necessary funding. But here under the committee approach, we are very near to falling into the old back-door spending approach which we have been plagued with for years, and which we had finally conquered as to many of the ongoing programs associated with back-door spending. The Mahon contract authority amendment is necessary to restore the safeguards of any kind of budgetary or appropriations control. We hear so much today about deficit spending. If the Mahon amendment to delete this contract authority does not prevail, then we may be in for some deep trouble.

Aside from the matter of control over the budget, there is another point which makes the Mahon amendment highly desirable and that is that this whole program will be subject to constantly changing needs and constantly changing costs assessments. Maybe the contract authority of the committee will not be enough. On the other hand, maybe it is far too much.

One argument that, so far as I know, was not advanced during the course of the debate on this amendment was the fact that the amendment should be called the congressional control amendment. If the Mahon amendment does not prevail somewhere along the line, all of the control of water pollution, every bit of it, will wind up in the hands of the Executive. Congress will have no voice in or even be given the privilege to indicate the course of this program. Again and again we will see pictures of the head of the Environmental Protection Agency handing checks to the Governors of the several States but Congress will have no voice at all as to priorities, even though the greater portion of these funds will be Federal funds. There is a deep, underlying reason why I supported the Mahon amendment, not simply because of the concept of fiscal responsibility and congressional control but in order to try to maintain some semblance of authority for this very important program between the Congress and the executive branch.

It should be abundantly clear that not all of the so-called clean water amendments dealt solely with more stringent water pollution controls. One of this package of so-called "clean" bills was not offered by the two leaders of the "clean water" package but was in fact offered by another member from Michigan (Mr. FORD).

This amendment should be properly described as a worker protection amendment because it will require national pollutant discharge standards that will prevent movement of those industries that do move their plants from one State to another in order to avoid pollution control; in other words, move to the most favorable State. It has been argued that in industry this bill could be used as an available opportunity to close down a plant or in the event that there is not a complete closure, to use this act as a kind of threat or pressure device against its employees. Well, I don't know that this kind of thing has ever been done, or will now be contemplated. I doubt if a going industry would use these kinds of tactics to defeat itself in order to gain some kind of advantage against its employees.

But Mr. Chairman, the really important thing is that this amendment will provide some worker protection. It will establish a system of economic assistance for those workers in communities affected by plant closures which are genuinely and in all truthfulness under and by bona fide environmental regulations required to close down. This amendment is important, not because it may have some effectiveness in preventing an industry moving from one State to another but because of its help as a result of economic hardship and loss of jobs which may result from the enactment of this bill.

There should be appropriate worker safeguards and those who argue this should not be a part of a water pollution control bill do not make a very persuasive case. If the act itself results in loss of jobs, then the act itself should make some kind of provision for the economic loss or damage in the very provisions of the act that causes such loss.

No industry will be hurt by the provisions of Mr. FORD's amendment because each will be given a full and fair hearing as to whether in truth or in fact they are being forced to close because of too stringent pollution controls, or whether they are closing down the plant for other reasons and using the pollution act as a means to achieve a desired end but altogether unrelated to problems of pollution.

Finally, Mr. Chairman, in my judgment the amendments which have been adopted have improved the bill and those which were rejected have been defeated because they deserved to be beaten and not made a part of this pollution bill. The real struggle all along has been between the ideal of elimination of all pollution but to try to avoid elimination of jobs at the same time. That is a big order. Controls can be made so stringent that there is no way for an industry to adjust itself to these controls, particularly over a short period of time.

The reasonable, responsible approach to this problem is to proceed toward the elimination of pollution and yet try to limit the economic impact to avoid large unemployment as we go about trying to achieve our goal. As has been expressed many times, the two words, "clean water," bring to mind a beautiful image. But there are two other words, "clean plates," which bring to mind the image of a family sitting around the dinner table, unemployed and with not enough to eat because of the loss of jobs occasioned by the economic impact of too hurried, too stringent pollution controls with no provision for worker protection and no provision for the adverse economic impact of trying to reach the ideal of clean water by some arbitrarily fixed date. In my judgment, this bill will not carry us to the extreme of having clean water but also clean plates, but rather strive for the goal of elimination of pollution by 1985, with the hope and prayer that we will have the national resources and the will to attain that objective.

Mr. CULVER. Mr. Chairman, currently the House of Representatives is considering a landmark piece of legislation—the Water Pollution Control Act Amendments of 1972. This broad bill seeks to give reality to an effective, comprehensively funded program to restore and enhance the quality of our waters and to insure their future as a lasting national asset.

Aside from these large common objectives, there is in this environmental measure a key provision which will greatly benefit Cedar Rapids, Dubuque, and Mount Vernon. Under this section, these cities qualify for reimbursement by the Federal Government for part of the cost of sewage treatment plants constructed in recent years. Current estimates are that Cedar Rapids would be eligible for as much as $2.5 million, Dubuque $1.5 million, and Mount Vernon $150,000.

The Iowa delegation, with special help from Congressman SCHERLE and key State officials, has been working on this proposal for some time, and we are happy to see it included in the present bill. We thought that it was only fair that those localities which have committed their own funds to prefinance a portion of waste treatment facilities should be retroactively reimbursed. Such commitments on the part of Cedar Rapids, Dubuque, and Mount Vernon, as well as other cities in Iowa that have built these plants, have accorded with and reinforced the national program to clean up the Nation's waters.

We in Iowa are especially proud of our water resources—two great rivers that set the borders of the State and a multitude of rivers that flow through and lakes that lie within it. This legislation is an historic step in improving the quality of all these water resources and a compelling reminder of the important environment mission in which the Nation, our State, and our communities all share. The Federal Water Pollution Control Act of 1972 will give that effort new strength and sinew.

Mr. SCHWENGEL. Mr. Chairman, the Water Pollution Control Act Amendments of 1972 which so overwhelmingly passed the House today is, indeed, a major step forward in our fight against pollution. It provides many necessary programs, and is fair to both business and the public. That we should authorize $24 billion is a recognition of the problem and an attempt to control and eliminate it. But much more is needed.

While the water pollution control bill hits hard at many areas of water pollution, it does not address itself to many other areas of deep concern. A very large percentage of our national water pollution problems are not covered by this bill. Soil erosion, flood control, and animal wastes all contribute significantly to the pollution of our rivers, lakes, and streams. Programs designed to eliminate these problems must be acted upon.

Perhaps foremost in this area is development of a comprehensive watershed bill. The idea of planning and carrying out conservation measures over an entire watershed is widely recognized today as an appropriate and effective way to approach natural resource problems.

One of the most effective programs to meet this aim has been the Public Law 566 small watershed program administered by the Soil Conservation Service. The program's aims are the multiple ones of flood prevention, soil conservation, sediment reduction, and the better use of an area's water resources.

The Public Law 566 watershed projects have scored notable successes in their multiple aims. During fiscal year 1969 and 1970 alone, they prevented almost $59 million in agricultural flood damages, and more than $11 million in nonagricultural damages; reduced sediment production by millions of tons; provided

land conservation and development benefits of more than $87½ million; provided water recreation opportunities for hundreds of thousands of people, and augmented the municipal and industrial water supplies for 16 communities.

However, new legislation is needed to make the watershed program even more effective, and to satisfy the rising expectations of the American people for a higher standard of good resource use. This needed legislation would include authorization for:

The use of Federal funds already available to local sponsoring organizations under other programs for the purpose of acquiring land, easements, and rights-of-way in watershed projects. Currently, Federal funds can be used for this purpose only for public recreation or public fish and wildlife developments within a project.

Water quality management to authorize the Secretary of Agriculture to cost-share in providing storage for this purpose in a watershed project. Federal cost-sharing for water quality management is not provided for in Public Law 566 watershed projects, but is authorized for mainstem developments under other Federal programs. An amendment would remove this inconsistency and help to maintain high water quality beginning at the farthest upstream point where pollution might occur.

Action such as this is urgently needed to accelerate the reduction and control of pollutants in rivers and streams in watershed project areas, and to make a major contribution to downstream water quality management.

An increased monetary limit for administrative approval of Public Law 566 projects, that would authorize State conservationists to administratively approve projects where the Federal dollar contribution totals $500,000 or less.

Currently, administrative approval is limited to projects where the Federal share of construction costs is $250,000 or less. This limitation has been in effect since 1954. During the intervening 17 years, construction costs have approximately doubled. The proposed increase of authorization amount would, therefore, be consistent with the original intent of Congress, and would contribute to efficient administration of the program.

This modification would also be consistent with an increase, in recent years, from $500,000 to $1,000,000, for administrative approval of small Corps of Engineers' projects. It would also reflect President Nixon's expressed wish to return more governmental authority to State and local areas.

Federal cost sharing for water storage of municipal and industrial water supplies. This would allow the Secretary of Agriculture to cost share on those features of an authorized watershed project that help store water for the area's municipal or industrial water supply needs.

An adequate, dependable supply of good quality water is basic to the stability and life of any community. Reservoirs authorized under the small watershed program can provide dependable water supplies for many small communities, as one feature in overall water supply planning and use. This can make a major contribution to improving rural life and to providing the kind of jobs and environment that will slow the outmigration of people from smaller communities.

Long-term contracting in watersheds. This would authorize the Secretary of Agriculture to sign long-term contracts with landowners and operators for changes in cropping systems and other land uses, and for the installation of necessary conservation measures to develop and improve the soil and water resources within a watershed project area.

The timely installation of needed land treatment measures on a systematic basis, with guaranteed cost-sharing and technical assistance, has proved its value in the Great Plains conservation program. Good conservation practices on the land also reduce the construction and maintenance cost of dams and other engineering works in the watershed program and help to increase their effective life expectancy.

Legislation authorizing these improvements in the small watershed program would be beneficial to all Americans. In addition, I would like to see the entire program speeded up. In my State of Iowa, there are some 473 small watersheds needing this type of treatment. Public Law 566 applications have been received for about 20 percent of these, or 90 watersheds. Some 15 of these 90 applications are currently authorized for planning or construction; 30 more are now under construction, and five are completed and doing their job of improving land and water use.

That leaves 40 applications—out of a total of 90—still awaiting planning authorization. It is my understanding this is representative of the situation in all States.

We need to remedy this by greatly increasing the $76 million proposed for watershed construction in the 1972 fiscal year budget.

The agricultural conservation program, now called the rural environmental assistance program—REAP—and the Soil Conservation Service, have for more than 35 years been conducting successful programs to preserve and enhance our land and water resources. Soil conservation measures, when properly applied, have reduced erosion enormously—in some areas up to 90 percent. The kinds of measures that can do this must be applied even more intensively.

A major thrust of the new REAP program will be to reduce water pollution. Water retaining and retarding measures on farms will be encouraged in the form of dams, ponds, permanent grass cover, waterways, buffer strips and tree plantings. These reduce the amount of sediments reaching our streams and other waterways, as well as the amounts of animal wastes, fertilizers and pesticides swept into waterways by eroding soil. All of this directly benefits the cities, industries and people downstream.

Such legislation must also address itself to animal waste and related agricultural problems. The National Symposium on Animal Waste Management notes that animal wastes and other agricultural problems are significant contributors to our water pollution. Meaningful programs must be developed to eliminate this source of pollution.

Farmers themselves bear a substantial part of the cost of conservation measures. The Soil Conservation Service provides much of the technical know-how for their installation and maintenance. Yet much more can, and must, be done.

These individual and community programs of erosion control, pollution reduction and better land and water use are sound, proven, and successful.

They need to be greatly strengthened. As President Nixon has said:

> The 1970's must be the years in which America pays its debt to the past by reclaiming the parity of its air, its waters and our living environment.

Mr. DELLUMS. Mr. Chairman, vague promises and rhetorical procrastinations are not going to end our Nation's environmental problems. Nor will basically high-minded but weakly enforced legislation.

It is a fraud to tell our constituents that Congress is approving a major advance in cleaning up the Nation's waters. This bill is nothing more than a dirty water bill in a clean water wrapping.

We must not lull the public into thinking that Congress is forging ahead in passing adequate legislation to control water pollution. This bill is just a sketch of what-should-be. It is neither tough enough nor strong enough to meet the goals it so loftily sets.

As a sponsor of the clean water amendments I am committed to a much more stringent and open means of achieving the imperative objective of unpolluted and usuable waters by the end of this decade.

Therefore, it is with very great reluctance that I vote for this bill. True, it has many positive features—the shift to effluent limitations, the user charge systems, the worker protection clauses, the funding level increases, the incentives to progressive State and localities.

Yet those features are just overwhelmed by the bill's weaknesses and drawbacks. Hopefully, the conference committee will see fit to bring back a stronger version for this body to consider. The Nation cannot afford any half-hearted attempts in so key an area.

Mr. CRANE. Mr. Chairman, anticipating some demagogic expressions of horror, misrepresentation, and half-truths from both the media and special interest groups for what I am about to say, let me preface my remarks by stating that: First, I believe in cleaning up our water systems in America as I believe in cleaning the atmosphere and recycling solid waste; second, as a strict constructionist, I nevertheless feel the National Government has a paramount responsibility in this effort since it is a problem of trespass that does not recognize State boundaries; and third, I sponsored the Waste Reclamation and Recycle Act, the Environmental Financing Act, the Clean Water Financing Act—all immediately after coming to Congress—and in addition I have voted for

the Water Quality Improvement Act of 1970, the extension of that act in 1971, the Water Resources Planning Act of 1971, as well as legislation to establish feasibility studies in water resources development projects and to create a Water Resources Research Institute. But I cannot in good conscience support the bill before us today.

I have spoken to many Members of this body—on both sides of the aisle—on this bill. I have discovered a distinct lack of enthusiasm for it. But most take the position that: First, we are going to get a comprehensive water pollution control bill this election year; second, the House version is preferable to the equivalent legislation passed in the Senate; and, third, it would be at the least quixotic and at the worst politically suicidal to be caught voting against a piece of legislation as politically glamorous as this.

To take the first position is, in my judgment, to abdicate our responsibility to attempt to defeat that which we know to be wrong in concept even though we may be defeated in the effort. I have heard many Americans say there is no point in fighting to preserve free institutions since the battle is hopeless. This prophecy is self-fulfilling if enough people accept it and quit fighting.

The second point is simply the argument that this is the lesser of evils. But the lesser of evils is still an evil, and as such warrants our opposition. We should not let ourselves be saddled with alternatives resting upon false premises or myopic reasoning, much less alternatives generated by pressure groups in a climate of hysteria or alternatives initiated by those who do not subscribe to the principles of a free society.

On the third point, let me issue the caveat that this bill may have a sex appeal that is only superficially attractive. My colleague from Indiana (Mr. ZION) noted yesterday that even the AFL–CIO agreed that this bill may throw literally millions of Americans out of work before fully implemented. He noted further that only one industry testified before the committee in hearings and warned that it would be priced out of the market with this bill. Surely, its case will be multiplied by the thousands. Today's newspapers report that February recorded the second highest trade deficit in our Nation's history. We can anticipate either continuing and mounting trade deficits growing out of this legislation or a return to the economic isolationism of the McKinley era—both of which will gravely injure the American economy and American consumers.

The ultimate cost of this legislation has been estimated at $2.5 trillion, more than the GNP of the entire world. We deceive the public when we suggest that such an objective can be realized. But we deceive the public even about lesser costs if we do not portray an accurate picture of the astronomical tax increases that will be required to meet the objectives of the bill, not to mention the astronomical increases in prices and the hardships wrought through massive hikes in the unemployment rate.

There are many other noxious aspects to this type of "crisis" legislation that could be cited if time permitted. Suffice it to say, we are taking a giant step toward a totally regulated economy with all the human costs such regulated economies have traditionally levied. We have heard much emotional testimony in support of this bill. We have been told that this is the No. 1 priority of the Nation. The oaths we have taken to support the Constitution commit us to promote the general welfare of the Nation. To have 100 percent clean water by 1985 at the expense of our total economy, at the expense of crushing tax levels, skyrocketing price levels, millions of lost jobs, and the risk of national bankruptcy does not meet the constitutional mandate to promote the general welfare. Who, in good conscience, can support legislation that runs such a risk? If this legislation passes, as I am sure it will, history will render a sorry judgment on us for our stewardship.

Mr. SIKES. Mr. Chairman, we have before us today in the Water Pollution Control Act a matter of vital importance to our Nation's future. This is a problem which must have concerted and coordinated action. Water pollution problems are very serious in many areas. These conditions did not develop overnight. They got their start long ago, but in recent years they have worsened rapidly as industrial development has been accentuated and city slums have mushroomed. Attention has fully been focused on the need. Now there is a requirement for correction of abuses in water pollution. But there remains a necessity for commonsense; a balance between what we want and what is practical.

I believe that the House bill seeks to achieve water quality standards at the highest possible level at the earliest practical date consistent with technological advancement.

Nevertheless, there are strong voices which urge us to reject the House bill because it allows the States to administer Federal standards and it provides for congressional review before proceeding into the highly expensive and, in some areas, as yet unknown methods of banning all discharge into our lakes and streams by 1981.

Last November, the Senate passed amendments to the Water Pollution Control Act which would bypass the organization, expertise, and experience of the States and would, instead, provide a full-fledged Federal bureaucracy in Washington to administer the program. Further, the Senate version would commit this Nation to completing a program of action less than a dozen years from now without intervening Congresses having a voice in that program.

The House Committee on Public Works has wisely altered these Senate proposals to provide for State administration of federally established water standards while, at the same time, allowing the Congress of 1985 the right to determine whether or not the "zero discharge" provisions of the act are possible and practical.

Mr. Chairman, the House version now before us is clearly more workable than the version adopted by the other body last year. I do not think we are ready for a now-or-never program which can be ruinous to commerce and industry.

Let us look at a few of the basic differences of the two bills.

Both the House and Senate bills declare their objective is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The Senate bill declares this to be national policy which means it is enforceable by law. The House bill declares this to be a national goal.

Both bills change from the present policy of water quality control to a "point source discharge" program. This means eventual elimination of any effluent discharge into the streams, rivers, and public waters.

The Senate bill has a "zero discharge" effective not later than 1981. The House position is that technology is not available to enforce "zero discharge" without serious disruption of industry. Certain industries, such as the pulp industry, the steel industry, and the chemical industries, produce pollutants for which we have no satisfactory method of disposal. So the House bill moves the effective date to 1985 and further provides that the National Science Foundation shall undertake a national study to determine feasibility, desirability, and the best available technology for achieving "zero discharge."

The Senate bill would require all industry and designated plants to secure permits indicating the volume of discharge and type of pollution being discharged. The Senate version leaves all permit and enforcement policies with the Federal Environmental Protection Agency.

The House version would require EPA to provide guidelines and leave enforcement to the States so long as they maintain Federal standards. This is one of the major objections of the environmentalists. The House bill is "long" on research program grants totaling approximately $800 million. It also provides for $24.6 billion authorization for the program as against $16 billion-plus in the Senate bill.

The environmentalists are attacking the House bill as a weak bill, yet my personal opinion is that the House version itself would result in the closing of some 4 to 5 percent of our industrial capacity. But the Senate version could close as much as 20 percent.

Now let us again consider the fact that in some areas there is no technology available with which to achieve the "zero discharge" goals of this measure. The House version carefully provides funds for a 2-year study during which all possible avenues of technology will be studied in a crash effort to find means of achieving this worthwhile goal. Without this study, it may be a long time before we can discover how to reach the "zero discharge" goal with reason and economy.

A flat requirement for "zero discharge" in 1981 would be an extremely dangerous thing to the Nation's economy. We simply cannot close down this country's business and industry just for the

sake of the ecology. We must work for sound programs to bring the problem of pollution fully under control. The recommendations of the House Committee on Public Works provide a commonsense manner in which to achieve this goal.

It is obvious that we are going to have either the Senate bill or the House bill. Let's take the more reasonable approach of the two.

So, Mr. Chairman, I urge passage of H.R. 11895 as recommended by the Committee on Public Works. It is a good bill. It provides logical and reasonable means of achieving what each of us knows is sorely needed—the national will to provide clean, pure water for ourselves and our future generations.

At the same time, it maintains things in order. It provides for uniform standards nationwide, yet it allows each State to enforce the standards.

It also provides for proper congressional review of final plans in connection with the "zero discharge" goal rather than paving the way for possible chaos in future years.

This is the way to get what we want, Mr. Chairman. We can have clean water and we must. But we must have it in concert with a great many other things. If all we get from this is clean water at the expense of too many other things, we will have done great harm and little good.

Let us proceed to the goal of clean water through the provisions of H.R. 11896.

Mr. DRINAN. Mr. Chairman, the measure before us today, the Federal Water Pollution Control Act of 1972, is by any test, one of the most important bills to be considered by the 92d Congress.

This bill, which establishes comprehensive regulations and Federal grant programs to control and abate water pollution, arises at a time when the quality of America's rivers and lakes has degraded into a national emergency.

A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. In 1971, the U.S. Geological Survey reported that the drinking water of 12 urban areas fell below public health standards. It is no exaggeration to state that almost every substantial body of water in the United States is dangerously contaminated in one way or another.

Television, newspapers, magazines and books have vividly brought to our attention beaches too filthy in which to swim, lakes whose oxygen supply has been exhausted and which no longer can support any organic life, drinking water which is brown and unpalatable, and the ugly vision of raw sewage and noxious industrial wastes floating in our historic rivers.

Previous Congresses have attempted to deal with the national water pollution emergency, but their best efforts have been inadequate. The Federal Water Pollution Control Act of 1956 established a national water pollution control program. That act regulated pollution of interstate waters and authorized grants for construction of sewage treatment plants and research programs. 1961 legislation extended pollution abatement programs to navigable intrastate and coastal waters.

The Water Quality Act of 1965 further amended the 1956 act by authorizing the States to adopt water quality standards for their interstate waters. In 1966, Congress passed the Clean Water Restoration Act authorizing a 4-year appropriation of 3.55 billion in Federal grants for the construction of sewerage treatment plants, but appropriations have totaled only 50 percent of the authorized amount.

In 1970, the 91st Congress passed the Water Quality Act, which strengthened the law concerning Federal permits and licenses and regulated oil pollution and discharges of hazardous substances.

On November 2, 1971, the Senate passed the companion measure to the bill we consider today, S. 2770. The Senate bill shifts the focus of water pollution control programs from water quality standards to effluent limitations.

The measure which we are considering today declares the elimination of pollutants into navigable waters a national goal to be achieved by 1985. An interim goal provided for by the bill is to achieve water quality suitable for swimming and fish propagation by 1981.

The policy and intention of this bill, in the words of the Public Works Committee report, is—

> To prohibit the discharge of toxic pollutants in toxic amounts, to provide financial assistance to communities to construct publicly owned waste treatment facilities, to increase research and development, to expand the regional and basin planning and management programs, and eliminate red tape in the administration of water pollution control programs.

I will not here summarize the many imaginative and essential provisions of this legislation. The Public Works Committee in its excellent 424-page report on this measure has performed that function with great competence.

I am, however, particularly eager to endorse section 8 of the bill, which contains a provision for $800 million in low-cost loans to industries "likely to suffer substantial economic injury without assistance." These funds may be used to assist any small business concern "in affecting additions to or alterations in the equipment, facilities—including the construction of pretreatment facilities and interceptor sewers—or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act."

Mr. Chairman, in my testimony before the Public Works Committee on this bill, I tried to indicate as forcefully as possible the potential adverse consequences to many responsible businesses in my district and throughout the country resulting from passage of this bill. Although the $800 million authorized by the bill for small business assistance is not enough, it is an important start, and it constitutes essential help. It is my hope and expectation that the Environmental Protection Agency, in its administration of these funds and of this bill as a whole, will very closely monitor the demand for loans under section 8, and will report to the Congress on the extent of that demand. I know that most of my colleagues will be eager to support an increase in small business funding under this bill should the demand be substantially greater than the drafters of the bill anticipated.

Mr. Chairman, in further elaboration of the foregoing points, I wish to insert in the RECORD at this point the text of my statement to the Public Works Committee on the implications of this bill for businesses in the Third Congressional District of Massachusetts and throughout the country:

STATEMENT OF CONGRESSMAN ROBERT F. DRINAN

Mr. Chairman and Members of the Committee: I am very grateful for the opportunity to appear today to relate to you some of the actual experiences I have had with the present Federal water pollution laws in the course of my work with communities and industries in the Third Congressional District of Massachusetts, and to discuss proposals to reduce water pollution. At the outset I want to note clearly that I am by no means as authoritative on the overall subject of water pollution as some of the outstanding witnesses who have testified before your Committee. I do believe, however, a description of the complex and critical situation that exists in my District may add to the Committee's understanding of the practical aspects of implementing an effective pollution program on the local level.

On a subject such as water pollution, it is a simple matter to acknowledge there is a threat to our well-being which rises to the level of a crisis; it is another, and far more difficult, matter to conceive of and take the steps necessary to deal effectively with such a threat. In the case of water pollution, however, not only do wise and well-trained men recognize the extent of the problem, but these same men also know how to solve that problem. This fact, I believe, represents a solid basis for an increased commitment to cleaning up our despoiled waters; the knowledge is there—it remains only to be effectively implemented.

As with every social problem which involves abstract theory and concrete implementation, it is the manner of approach which dictates the ultimate success or failure of our efforts. The manner of approach in the matter of water quality control *must* be comprehensive. Partial solutions are not the order of the day and in the long run are very dangerous.

Earlier testimony from many distinguished witnesses has pointed out many central needs, including consolidation of water pollution control activities into one principal Federal agency, and administrative separation of water pollution control activities from housing programs. The need to provide greater Federal funding for construction of waste treatment projects, and vastly increased funding for separation of sanitary and storm lines, has not been overstated. We also need to provide greater opportunities for citizens to participate in the national goal of clean water, and we must—perhaps above all else—do everything in our power to come to the aid of our cities and towns which are hard-pressed economically to pay next week's payroll, let alone appropriate twenty-five percent of multi-million dollar wastewater treatment plants. All of these objectives, gentlemen, I believe must be provided for in new water pollution legislation.

When I speak of the need for a comprehensive approach to the problem, I want to stress that it is absolutely essential that any such program be considered in relation to the

many other components of human life. Our efforts in the field of ecology must be integrated with our attempts to better all other aspects of human life. As I stated before, a water quality program that is concerned only with clean water—to the exclusion of the economic implications of Federal programs—bodes human and economic catastrophe. Innovative water control programs will generate a certain number of new employment opportunities, but a water pollution program that does not consider specific economic problems threatens a far greater number of already existing jobs, with all the consequently grave and needless human implications, loss-of-revenue implications, and government expenditure implications.

To underscore the absolute necessity that the proposed new legislation relate ecology to the economy, I want to zero in on the Third Congressional District of Massachusetts. This District, which I represent, is a microcosm of New England. Old manufacturing communities, whose reliance upon a single industry dates back to the turn of the century, form the backbone of this region of the country. In many cases the industries from which the people of these communities draw their employment and economic life are housed in the old factory buildings located in a river valley. The buildings, which once were ample in size, now leave the industries cramped, and the rivers, which once carried the industrial wastes away from the factories can no longer be relied upon to do so.

It is in the New England area, according to the Federal Water Quality Administration's 1970 Clean Water Status Report, that the greatest municipal waste problem exists, and it is in this area that the greatest backlong exists in the construction of wastewater treatment facilities.

Constructive programs to clean up the rivers of New England are underway. Of particular notes is the Nashua River Clean-Up effort. This river, which is perhaps the most polluted river in New England, flows through both Massachusetts and New Hampshire before emptying into the Merrimac River. Long thought hopeless by the residents who live in the many communities through which it flows, the river now, thanks to the Federal Water Quality Act, has real chance of becoming a national model of what can be done through cooperative action by the Federal, state, and local governments working with citizen groups and industries. So important is the clean-up of this river that the New England Regional Commission has designated the Nashua River Clean-Up Program as a model river clean-up and has allocated special funds to provide an office to coordinate the activities of the many communities through which the river flows.

Very briefly I would like to relate to you what is being done to clean this river, and in this way give you a very vivid example of what great strides have been made as a result of the Water Quality Act of 1966, and of the dangers on the horizon.

Following the enactment of the Water Quality Act, a group of citizens organized the Nashua River Clean-Up Committee. The purpose of this Committee was to see that constructive action was taken by every level of government to clean the river. The Committee's activities were very successful. The largest single polluter, the City of Fitchburg, sponsored a year-long comprehensive study of the river in 1967 to determine how best to clean the river.

A comprehensive plan, completed in August 1968, called for the construction of two wastewater treatment facilities in Fitchburg. One, known as the East Fitchburg Waste Water Treatment Plant, would handle all the domestic sewage from the residential areas of the City of Fitchburg. The second, known as the West Fitchburg Waste Water Treatment Plant, is designed to handle the effluent from the western section of Fitchburg, the Fitchburg Paper Company and the Weyerhauser Paper Company. Fitchburg and its paper companies have entered into a contract to build and operate the West Fitchburg treatment plant.

The combined cost of the project will be more than twenty million dollars. Under existing law, seventy-five percent of the cost will be borne by Federal and state government funding sources while the remaining twenty-five percent will be shared by local government and industries. The local industries will pay the entire local share of the facility to process the industrial wastes.

At the present time the East Fitchburg Treatment facility has been completely designed and is being reviewed by Federal and state authorities prior to the awarding of the grants for construction. The West Fitchburg Treatment Facility is being reviewed by state and Federal authorities. It is expected that this plant will also be under construction very shortly, unless there are major changes in the Federal legislation.

According to the current time-table the construction could begin this year. It will require three years to complete these very extensive wastewater facilities. We are all anticipating that by the fall of 1974 there will be clean water in the Nashua River. This water—now filthy and inert—will be odorless, colorless, tasteless and fully capable of supporting natural wildlife.

The success of this river pollution clean-up program has been largely the result of a great amount of effort expended by citizens and their determination to insist that the entire project be completed as quickly as possible.

These citizens have not stopped. They have formed a group called the Nashua River Watershed Association. The group is taking steps to acquire land along the river so that once it is clean there will be plenty of areas in which to have bridle paths, walking trails, general recreation, and camp sites. The Association has just received a $2,000 grant from the Fund for the Preservation of Wildlife and Natural Areas which will be used to study stream regulation, dams, reservoirs, and channelization proposed for the upper North Nashua River Basin.

The project of cleaning the Nashua River is an example of what citizens and governments can begin to accomplish by working together. The cooperative and energetic spirit exhibited by all concerned was a major reason for the City of Fitchburg's designation as an "All American City" for 1970 and for the New England Regional Commission's choice of the Nashua River Basin as a demonstration project for the New England area.

Will the Nashua River story, and many others like it, have a successful ending? Will the combined efforts of citizens, government, and industrial leaders result in the reclamation of a river once given up for lost?

It is likely that the decision as to whether or not the Nashua River becomes a success story or a tragedy, will be made by this, the 92nd Congress. *Any substantial change in the current funding eligibility requirements could wipe out six long years of citizen actions to clean the Nashua River.*

Current legislation makes it possible for communities like those situated along the Nashua River to construct, with full Federal support, joint industrial and municipal wastewater treatment facilities. Such arrangements, in my judgment, should continue to be encouraged and supported by any new legislation. Any attempt to exclude participation in such processes—any onerous financial obligations on marginal businesses or businesses in economically depressed areas such as Fitchburg—would not only scuttle carefully prepared plans such as those for the Nashua River, but, more importantly, would have dire and far-reaching economic consequences on whole regions of the country, including New England.

In Massachusetts alone, any abrupt change in the current funding eligibility requirements would adversely affect projects now in the design phases in no less than eleven communities. Besides the City of Fitchburg, the communities of Springfield, Haverhill, Irving, Millers Falls, Templeton, Russell, Great Barrington, Hardwick, Lawrence, and Barre, which have or are planning shared industrial-municipal treatment plants, would be dealt a crippling set-back.

The need for such industry-government collaboration can best be exemplified by a look at the precarious economic position of a number of large manufacturing facilities throughout New England. These facilities are in many cases teetering on the brink of bankruptcy. In our coolly impersonal economic jargon, we classify these industries as being, at best, "marginal." Although these industries may be "marginal" at the present moment, the unhappy fact is that few of them *can bear*, without assistance, the financial burden of absorbing the enormous cost of water pollution control. Should we place on them the responsibility of shouldering alone this extra financial burden, we are virtually guaranteeing their financial ruin and ultimate shut-down. I can fully document this fact should the Committee so desire.

Few can argue in conscience that Federal laws should be the vehicles which cost people their jobs, render the death blow to failing companies and deprive communities of their economic stability. We could someday have clean water without the necessity of treatment plants; however, this purity would have been won by placing on the polluting industries financial responsibilities so heavy that industries and thousands of jobs were wiped out along with the pollution.

The peril of this situation can best be highlighted by taking a quick look at New England, where in 1970, 27% of the total of national closures of paper mills occurred. In 1970 there was a 218,000 ton reduction in the paper production of New England. Almost half of this reduction occurred in a single community in my District, the City of Fitchburg.

In New England, even a Federal loan program would not be sufficient to sustain industries which must carry the weight of the financial responsibility for water pollution control and abatement.

In addition to the economic benefits of municipal-industrial joint projects, there are important ecological advantages. According to the Federal Water Quality Administration's Status Report for 1970, increased use of joint municipal-industrial treatment systems will facilitate abatement of industrial pollution. The report further indicates that combinations of municipal and industrial wastes actually improve the treatment process by reducing the nutrients in waste discharges.

The FWQA Report recommended that the grants program encourage development of regional treatment facilities which process municipal and other wastes on an area-wide basis and which provide for treatment of many kinds of industrial wastes, as well as municipal sewage. Joint treatment is also effective because it locates responsibility for operation and maintenance within a single authority. In addition, complementary characteristics of sewage and industrial wastes, if properly controlled, can often permit more effective waste reduction within the plant. Joint treatment facilities offer significant advantages to both communities and businesses in terms of lower treatment costs through economies of scale.

More and more communities, with industry and the public sector working together, are designing their facilities to accommodate a larger portion of the total waste load, with the cost of construction shared by the local, state and Federal governments and, under current, reasonable formulas, by busi-

nesses. This is the wave of the future if we are to have both clean water and employed men and women to enjoy it.

Mr. Chairman, the bill which we consider today is the product of nearly a full year's work and study by many Members of Congress. The Public Works Committee held 22 days of public hearings on this measure between July and November 1971, and additional hearings in December 1971. Thousands of ways to achieve the goal of clean water have been studied and restudied; thousands of pages of testimony and statutes have been drafted and redrafted. I believe that this measure is the best possible approach to the water pollution emergency under all of the circumstances. It is my hope that by passing this bill we are taking a giant step toward preventing the day when, in the words of two of my colleagues, our Nation's waters will be "transformed into a vast, rancid sewer."

A recent study by the General Accounting Office concluded that the $2 billion spent since 1956 on water pollution control have merely slowed the deterioration of water quality. By passing this bill today, we have very good reason to expect that the next GAO study on this subject will show that we have begun to clean our Nation's waters systematically.

Mr. FRENZEL. Mr. Chairman, yesterday the gentleman from California (Mr. HOLIFIELD) and the gentleman from California (Mr. HOSMER) engaged in discussion with the gentleman from Alabama (Mr. JONES) and the gentleman from Ohio (Mr. HARSHA) in a professed attempt to establish "legislative history." Their exchange is recorded on page 10666 of the CONGRESSIONAL RECORD of March 28.

The intent of the discussion was to establish in debate that H.R. 11896 did not apply to pollution, radioactive or thermal, from nuclear powerplants controlled or regulated by the Atomic Energy Commission.

A discussion on the floor of this House may or may not be helpful in determining legislative intent. More often than not it simply determines the intent or purposes of the few people engaging in that particular discussion.

In the case of H.R. 11896, the bill clearly applies to various kinds of pollutants which the gentlemen referred to above are trying to cut out of the bill by their discussions yesterday.

For instance, section 316(d) states quite clearly that this bill applies to thermal discharges from "all sources unless the Administrator determines otherwise after a public hearing." In section 316(a) the bill is quite explicit in covering thermal discharges from facilities operated or controlled by the U.S. Government.

In the definition section 502, radioactive waste is defined as a pollutant. Reference to radioactive wastes are made elsewhere throughout the bill. My statement on page 10648 of yesterday's RECORD details other references in the bill.

No matter what kinds of discussions may take place on the floor of this House, it seems to me quite obvious in the legislation itself that it was a clear intent to include all kinds of pollution except the four specified exemptions in section 502(6) A, B, C, D. No matter what some of our Members would like to be the intent of the bill, the bill is quite clear in this respect and needs no amplification. As long as the bill has stipulated what is to be exempted and what is to be controlled, nothing that is said on the floor of the House can change the language of this bill.

Mr. VANDER JAGT. Mr. Chairman, I wish to express my appreciation to the House for adopting my amendment urging the Administrator of EPA to encourage the development of resource management systems that recycle wastes into resources through the land treatment system. The House should be proud of its overwhelming encouragement for this system and I am confident that the House will grow prouder of its decision with each passing year.

It is my understanding that if these systems do, in fact, produce revenue, industry would be permitted to share in the benefits that are produced as a result of their proportionate contribution to the system. Since industry is required by the bill to share in the cost, there is nothing in the bill that would prevent industry from sharing in the benefit of the revenues.

Because of the overwhelming encouragement that the House has given to this system and because there is present the necessary industrial incentive to encourage such systems, I am willing to withdraw my two remaining amendments at the desk.

Mr. HARSHA. The gentleman from Michigan gave a fine speech. Nothing in the language would prevent what he was suggesting, and I am delighted that he is so satisfied with the encouragement of the Muskegon approach to recycling that he is withdrawing his amendments.

Mr. HORTON. Mr. Chairman, I rise in support of this bill to bring the commitment of the Federal Government and of the Congress into line with the needs of the Nation for a priority, and adequately funded clean waters program.

It was only 6 years ago this summer, in 1966, when I, as a member of the House Natural Resources and Power Subcommittee, traveled to Rochester and Western New York to survey the pollution problems of Lake Ontario, Lake Erie, and their tributaries in that area.

What we found, under the able leadership of the distinguished gentleman from Alabama (Mr. JONES) was deplorable pollution, and even worse, we found that little was being done to correct it, except to close Ontario beaches to protect would-be swimmers from filthy water.

Today, Mr. Chairman, the picture is different, and far more hopeful. In my home county of Monroe in New York State, there is over $200,000,000 in construction in progress to clean up the effluent of the Rochester metropolitan area. Industry as well as the municipalities and the county and State are cooperating fully in this effort.

The sad fact is that the Federal commitment, at the present time, lags behind all of the others. While the ongoing antipollution projects are being built with Federal grant commitments, the actual Federal grants received have been a fraction of the authorized Federal percentage grants.

So uncoordinated and underfunded has the Federal program been that a few short weeks ago, after waiting and waiting for Congress to pass a new antipollution bill with adequate funding and updated provisions, the State of New York had to hold back 112 new antipollution construction projects which at this moment are sitting in Albany ready for construction to be authorized. A number of these projects are in my own congressional district.

Today, I am proud to say that many of the Federal stumbling blocks, in fact nearly all of them, are being remedied by this bill.

There has been a great deal of debate about this House Committee bill being inadequate to solve the water pollution problem compared to the Senate bill. A great number of strengthening, and weakening amendments have been offered, and some have been adopted.

As one who has been engaged in a 6-year-long study of the water pollution problem, and a particularly detailed study in the past 5 months, I want to say that the House Committee has done a magnificent job with this bill. It is as realistic in its funding and grant provisions as it is idealistic in its zealous commitment to once, and for all, cleaning up every American body of water.

At the present time the Federal Government owes over $2 billion to the several States in reimbursements for prefinanced shares of Federal grants, $1.3 billion of this money is owed to the State of New York alone. This bill provides for its repayment, so these States can get on with the job.

At the present time, Federal grant commitments for pollution control projects range from 30 to 55 percent of the project cost. In this bill they are raised to 75 percent, which in light of the extremely tight financial situation of the States and localities of America is extremely beneficial. In this respect, the House bill goes further than its Senate companion.

The Senate bill would distribute the authorized pollution grant funds based on a population formula among the several States. In this bill, wisely, the formula is based on need—a provision that is not only sensible nationally, but is particularly helpful to New York, whose need for pollution control dollars is so pressing.

Further, and perhaps most important, this bill authorizes more money for the Federal share of pollution control over the next few years than does the Senate bill. Since both bills contain a national goal of total water cleanup by the 1980's, it is important that at an early stage, we begin putting enough Federal dollars behind this commitment.

I did support some of the amendments offered to strengthen this bill. I supported the amendment which would eliminate the 4-year grace period exempting violators from penalties under

the Refuse Act. This is no time to loosen enforcement efforts even when it is understood that many communities and industries will have to tool up to meet the stringent standards this act contains for the years ahead.

I also supported Mr. VANDER JAGT's amendment to offer special incentive for those who successfully implement antipollution methods which result in the recycling of wastes. At the rate our Nation is using up our resources, it is crucial that our Government encourage the development of the greatest possible recycling technology.

My hope is that the provisions of the House bill will survive the conference with the Senate, particularly those I have cited as being superior and more generous than the Senate bill, and that the President will sign into law what will be the most far-reaching national commitment to eliminate water pollution ever undertaken anywhere in the world. For at the moment this act is signed, States like my own can again pick up their shovels, and resume the job of carrying out the national mandate to our waters to the condition they were in when the earliest European settlers arrived on this continent.

Mr. KOCH. Mr. Chairman, I rise in support of H.R. 11896, the 1972 amendments to the Federal Water Pollution Act. While I believe that this proposal, as prepared by the Public Works Committee, is generally a sound and progressive bill, I think that certain areas of the bill must be strengthened, if this country is truly going to commit itself to a clean water program, and I intend to support all those amendments which will most rapidly and effectively restore our lakes, rivers, and seashores to their natural beauty.

The newspapers have lately been filled with articles prophesying ecological doom, and, certainly, the evidence for these predictions stands very alarmingly before us. The Great Lakes, supposedly the world's largest body of fresh water, are rapidly being poisoned. Lake Erie, which once supported a thriving freshwater fishing industry, is virtually dead. The Cuyahoga River near Cleveland, Ohio, burst into flames in 1969. How many of us have noticed that the beaches, lakes, and rivers we always have swum in have in the last few years been closed or posted dangerous to human health? Not only our recreational refuges are being destroyed, however, but our supply of safe drinking water is also being seriously endangered. A 1970 Public Health Service report found that 30 percent of the Nation's drinking water contains potentially hazardous amounts of chemicals. The clean water crisis is not a specter of the future; it is here with us right now.

There are certain aspects of the committee bill which represent a real advance in our Nation's approach to clean water. Especially important is the shift of emphasis from water quality standards to effluent limitations, for this would strike pollutants at their source. And since the power to set national standards for effluent control lies with the Federal Government, New York State is assured that other States are being compelled to move ahead at the same pace in their water pollution control programs and will be making sacrifices comparable to those New Yorkers are already making.

I am also pleased that the bill provides for the Federal reimbursement of States like New York, which have been in the forefront of pollution control efforts, for those funds which have been used to prefinance the promised but undelivered Federal share of waste treatment facilities. In addition, the bill's increased authorization for the construction of these facilities is vitally needed and the increase of the Federal share from 30 to 60 percent should ease the financial burden on local communities. The cost of waste treatment itself is made more equitable by that section of the bill instituting a system of user charges under which industries will pay for their use of water treatment facilities in proportion to the volume and strength of the waste products which they discharge.

While the committee bill sets the admirable national goal of eliminating the discharge of pollutants into navigable waters by 1985, with an interim goal of achieving a water quality suitable for swimming and fish propagation by 1981, these goals would not be implemented unless Congress enacts affirmative legislation after a 2-year feasibility study by the National Academy of Sciences. One of the excellent strengthening amendments offered by Representatives REUSS and DINGELL in their clean water package would allow the 1981 effluent standards to go into effect without further congressional action and would thus allow industry to undertake long-range planning.

Other amendments in this package would require industry to use the best available waste treatment technology by 1981—with costs taken into consideration; would empower the Environmental Protection Agency to review and, when appropriate, veto individual discharge permits issued by the States; would allow any citizen, rather than only those directly affected, to bring suit against polluters or against the administrators of EPA; and would protect workers by preventing industries from shopping for less strict State pollution regulations and by establishing an equitable system of economic assistance to those workers and communities affected by plant closures due to environmental regulations.

I believe there are several other areas of the bill which need strengthening, and I urge my colleagues to join in support of amendments which will make this a landmark piece of legislation, leading this Nation's antipollution efforts.

Indeed, when we consider that the intestinal bacteria concentration in the Hudson River is 170 times the safe limit set by EPA, due to the dumping there of more than 400 million gallons of human waste, how can we possibly delay any longer in enacting the strongest water pollution bill available to us? Rather than abandon our waters and waterways to sewage disposal, let us restore them and our pride in them as our Nation's most valuable resource.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BOGGS, having assumed the Chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11896) to amend the Federal Water Pollution Control Act, pursuant to House Resolution 913, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 380, nays 14, not voting 37, as follows:

[Roll No. 101]

YEAS—380

Abbitt	Caffery	Esch
Abourezk	Carey, N.Y.	Eshleman
Abzug	Carney	Evans, Colo.
Adams	Carter	Evins, Tenn.
Addabbo	Casey, Tex.	Fascell
Alexander	Cederberg	Fish
Anderson, Calif.	Celler	Fisher
Anderson, Ill.	Chamberlain	Flood
Anderson, Tenn.	Clancy	Flowers
Andrews	Clausen, Don H.	Flynt
Annunzio	Clay	Foley
Archer	Cleveland	Ford, Gerald R.
Arends	Collier	Ford, William D.
Ashley	Collins, Ill.	Forsythe
Aspin	Collins, Tex.	Fountain
Aspinall	Colmer	Fraser
Badillo	Conable	Frelinghuysen
Baker	Conte	Frenzel
Barrett	Conyers	Frey
Begich	Corman	Fulton
Belcher	Cotter	Fuqua
Bell	Coughlin	Galifianakis
Bennett	Culver	Gallagher
Bergland	Curlin	Garmatz
Betts	Daniel, Va.	Gettys
Bevill	Daniels, N.J.	Giaimo
Biaggi	Danielson	Gibbons
Biester	Davis, S.C.	Gonzalez
Bingham	Davis, Wis.	Goodling
Blatnik	de la Garza	Grasso
Boggs	Delaney	Gray
Boland	Dellenback	Green, Oreg.
Bolling	Dellums	Green, Pa.
Brademas	Denholm	Griffin
Brasco	Dennis	Grover
Bray	Dent	Gubser
Brinkley	Derwinski	Gude
Brooks	Devine	Hagan
Broomfield	Diggs	Haley
Brotzman	Dingell	Halpern
Brown, Mich.	Donohue	Hamilton
Brown, Ohio	Dorn	Hammer-schmidt
Broyhill, N.C.	Dowdy	Hanley
Broyhill, Va.	Downing	Hanna
Buchanan	Drinan	Hansen, Idaho
Burke, Fla.	Dulski	Hansen, Wash.
Burke, Mass.	Duncan	Harrington
Burlison, Mo.	du Pont	Harsha
Burton	Eckhardt	Harvey
Byrne, Pa.	Edmondson	Hastings
Byrnes, Wis.	Edwards, Ala.	Hathaway
Byron	Edwards, Calif.	Hébert
Cabell	Ellberg	Hechler, W. Va.
	Erlenborn	

Heckler, Mass.	Miller, Ohio	Scott
Helstoski	Mills, Md.	Sebelius
Henderson	Minish	Seiberling
Hicks, Mass.	Mink	Shipley
Hicks, Wash.	Minshall	Shoup
Hillis	Mitchell	Shriver
Hogan	Mizell	Sikes
Holifield	Monagan	Sisk
Horton	Montgomery	Skubitz
Hosmer	Moorhead	Slack
Howard	Morgan	Smith, Calif.
Hungate	Morse	Smith, Iowa
Hunt	Mosher	Smith, N.Y.
Hutchinson	Murphy, Ill.	Snyder
Jacobs	Murphy, N.Y.	Spence
Jarman	Myers	Springer
Johnson, Calif.	Natcher	Staggers
Johnson, Pa.	Nedzi	Stanton,
Jonas	Nelsen	J. William
Jones, Ala.	Nichols	Stanton,
Jones, N.C.	Nix	James V.
Jones, Tenn.	Obey	Steed
Karth	O'Hara	Steele
Kastenmeier	O'Konski	Steiger, Ariz.
Kazen	O'Neill	Steiger, Wis.
Keating	Passman	Stephens
Kee	Patten	Stokes
Kemp	Pelly	Stratton
King	Pepper	Stubblefield
Kluczynski	Perkins	Sullivan
Koch	Pettis	Symington
Kyl	Peyser	Talcott
Kyros	Pickle	Taylor
Landrum	Pike	Teague, Calif.
Latta	Pirnie	Teague, Tex.
Leggett	Poage	Terry
Lennon	Podell	Thompson, Ga.
Lent	Poff	Thompson, N.J.
Link	Powell	Thomson, Wis.
Lloyd	Preyer, N.C.	Thone
Long, La.	Price, Ill.	Tiernan
Long, Md.	Price, Tex.	Udall
Lujan	Pucinski	Ullman
McClory	Purcell	Vander Jagt
McCloskey	Quie	Vanik
McClure	Quillen	Veysey
McCollister	Railsback	Vigorito
McCormack	Randall	Wagonner
McCulloch	Rees	Waldie
McDade	Reuss	Wampler
McDonald, Mich.	Rhodes	Ware
	Riegle	Whalen
McEwen	Roberts	Whalley
McFall	Robinson, Va.	White
McKay	Robison, N.Y.	Whitehurst
McKevitt	Rodino	Whitten
McKinney	Roe	Widnall
McMillan	Rogers	Wiggins
Macdonald, Mass.	Roncalio	Williams
	Rooney, N.Y.	Wilson, Bob
Madden	Rooney, Pa.	Wilson,
Mailliard	Rosenthal	Charles H.
Mallary	Roush	Winn
Mann	Roy	Wolff
Mathias, Calif.	Roybal	Wright
Mathis, Ga.	Runnels	Wyatt
Matsunaga	Ruppe	Wydler
Mayne	Ruth	Wylie
Mazzoli	Ryan	Wyman
Meeds	St Germain	Yatron
Melcher	Sandman	Young, Fla.
Metcalfe	Sarbanes	Young, Tex.
Michel	Satterfield	Zablocki
Mikva	Schneebeli	Zion
Miller, Calif.	Schwengel	Zwach

NAYS—14

Ashbrook	Dow	Mahon
Blackburn	Findley	Martin
Burleson, Tex.	Gross	Rousselot
Camp	Hall	Schmitz
Crane	Landgrebe	

NOT VOTING—37

Abernethy	Goldwater	Pryor, Ark.
Baring	Griffiths	Rangel
Blanton	Hawkins	Rarick
Bow	Hays	Reid
Chappell	Heinz	Rostenkowski
Chisholm	Hull	Saylor
Clark	Ichord	Scherle
Clawson, Del	Keith	Scheuer
Davis, Ga.	Kuykendall	Stuckey
Dickinson	Mills, Ark.	Van Deerlin
Dwyer	Mollohan	Yates
Edwards, La.	Moss	
Gaydos	Patman	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Dickinson for, with Mr. Bow against.

Until further notice:

Mr. Moss with Mr. Del Clawson.
Mr. Rostenkowski with Mrs. Dwyer.
Mr. Chappell with Mr. Scherle.
Mr. Blanton with Mr. Heinz.
Mr. Hays with Mr. Goldwater.
Mr. Hawkins with Mr. Reid.
Mr. Baring with Mr. Keith.
Mr. Clark with Mr. Saylor.
Mr. Rangel with Mr. Yates.
Mr. Rarick with Mr. Kuykendall.
Mr. Mollohan with Mr. Hull.
Mr. Van Deerlin with Mrs. Chisholm.
Mr. Davis of Georgia with Mr. Mills of Arkansas.
Mr. Ichord with Mr. Patman.
Mrs. Griffiths with Mr. Pryor of Arkansas.
Mr. Scheuer with Mr. Abernethy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 913, the Committee on Public Works is discharged from the further consideration of the Senate bill (S. 2770) to amend the Federal Water Pollution Control Act.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. JONES OF ALABAMA

Mr. JONES of Alabama. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of Alabama moves to strike out all after the enacting clause of S. 2770 and insert in lieu thereof the provisions of H.R. 11896, as passed, as follows:

That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1972".

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF GOALS AND POLICY

"SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1981;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

"(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; and

"(6) it is the national policy that a major research and demonstration effort be made to technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent and abate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention and abatement of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and abatement of pollution.

"(c) It is further the policy of Congress that the President, acting through the Secretary of State and such national and international organizations as he determines appropriate, shall take such action as may be necessary to insure that to the fullest extent possible all foreign countries shall take meaningful action for the prevention, control, and abatement of pollution in their waters and in international waters and for the achievement of goals regarding the elimination of discharge of pollutants and the improvement of water quality to at least the same extent as the United States does under its laws.

"(d) Except as otherwise expressly provided in this Act, the Administrator of the Environmental Protection Agency (hereinafter in this Act called 'Administrator') shall administer this Act.

"(e) Public participation in the development, revision, and enforcement of any regulation, standard, or effluent limitation established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"(f) It is the national policy that to the maximum extent possible the procedures utilized for implementing this Act shall encourage the drastic minimization of paperwork and interagency decision procedures, and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.

"(g) In the implementation of this Act, agencies responsible therefor shall consider all potential impacts relating to the water, land, and air to insure that other significant environmental degradation and damage to the health and welfare of man does not result.

"COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

"SEC. 102. (a) The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for abating or reducing the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purposes of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

"(b)(1) In the survey or planning of any reservoir by the Corps of Engineers, Bureau of Reclamation, or other Federal agency, consideration shall be given to inclusion of storage for regulation of streamflow for the purpose of water quality control, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source.

"(2) The need for and the value of storage for this purpose shall be determined by these agencies, with the advice of the Administrator, and his views on these matters shall be set forth in any report or presentation to the Congress proposing authorization or construction of any reservoir including such storage.

"(3) The value of such storage shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

"(5) No license granted by the Federal Power Commission for a hydroelectric power project shall include storage for regulation of streamflow for the purpose of water quality control unless the Administrator shall recommend its inclusion and such reservoir storage capacity shall not exceed such proportion of the total storage required for the water quality control plan as the drainage area of such reservoir bears to the drainage area of the river basin or basins involved in such water quality control plan.

"(c)(1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, which period shall begin after the date of enactment of the Federal Water Pollution Control Act amendments of 1972, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin or portion thereof which—

"(A) is consistent with any applicable water quality standards, effluent and other limitations, and thermal discharge regulations established pursuant to current law within the basin;

"(B) recommends such treatment works as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works;

"(C) recommends maintenance and improvement of water quality within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

"(D) as appropriate, is developed in cooperation with, and is consistent with any comprehensive plan prepared by the Water Resources Council any areawide waste management plans developed pursuant to section 208 of this Act, and any State plan developed pursuant to section 303(e) of this Act.

"(3) For the purposes of this subsection the term 'basin' includes, but is not limited to rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

"INTERSTATE COOPERATION AND UNIFORM LAWS

"SEC. 103. (a) The Administrator shall encourage cooperative activities by the States for the prevention and abatement of pollution, encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and abatement of pollution; and encourage compacts between States for the prevention and control of pollution.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

"RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

"SEC. 104. (a) The Administrator shall establish national programs for the prevention and abatement of pollution and as part of such programs shall—

"(1) in cooperation with other Federal, State, and local agencies, conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and abatement of pollution;

"(2) encourage, cooperate with, and render technical services to pollution control agencies and other appropriate agencies, institutions, and organizations, public or private and individuals, including the general public, in the conduct of activities referred to in paragraph (1) of this subsection;

"(3) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons, public investigations concerning the pollution of any navigable waters, and report on the results of such investigations;

"(4) establish advisory committees composed of recognized experts in various aspects of pollution and representatives of the public to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

"(5) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and ground waters and the contiguous zone and the oceans and the Administrator shall, to the extent practicable, conduct such surveillance by utilizing the resources of the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Coast Guard, and shall report on such quality in the report required under subsection (a) of section 516; and

"(6) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social and economic costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than July 1, 1973.

"(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities referred to in paragraph (1) of subsection (a);

"(2) cooperate with other Federal departments and agencies, State water pollution control agencies, interstate agencies, other public and private agencies, institutions, organizations, industries involved, and individuals, in the preparation and conduct of such research and other activities referred to in paragraph (1) of subsection (a);

"(3) make grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals, for purposes stated in paragraph (1) of subsection (a) of this section;

"(4) contract with public or private agencies, institutions, organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5), referred to in paragraph (1) of subsection (a);

"(5) establish and maintain research fellowships at public or nonprofit private educational institutions or research organizations;

"(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying water quality and other information pertaining to pollution and the prevention and abatement thereof; and

"(7) develop effective and practical processes, methods, and prototype devices for the prevention or abatement of pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons caused by pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

"(d) In carrying out the provisions of this section the Administrator shall develop and demonstrate under varied conditions (including conducting such basic and applied research, studies, and experiments as may be necessary):

"(1) Practicable means of treating municipal sewage and other waterborne waste to remove the maximum possible amounts of pollutants in order to restore and maintain the maximum amount of the Nation's water at a quality suitable for repeated reuse;

"(2) Improved methods and procedures to identify and measure the effects of pollutants on water uses, including those pollutants created by new technological developments; and

"(3) Methods and procedures for evaluating the effects on water quality and water uses of augmented streamflows to control pollution not susceptible to other means of abatement.

"(e) The Administrator shall establish, equip, and maintain field laboratory and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and control of pollution. Insofar as practicable, each such facility shall be located near institutions of

higher learning in which graduate training in such research might be carried out.

"(f) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices with respect to such waters, and a study of alternate means of solving pollution problems (including additional waste treatment measures) with respect to such waters.

"(g)(1) For the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance pilot programs, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, on entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, and supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellowships; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Administrator shall submit, through the President, a report to the Congress not later than December 31, 1973, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(h) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and abatement of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(i) The Administrator, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall—

"(1) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil and hazardous substances pollution;

"(2) publish from time to time the results of such activities; and

"(3) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used in the control of oil and hazardous substances spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(j) The Secretary of the department in which the Coast Guard is operating shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis or equipment to be installed on small recreational vessels. The Secretary of the department in which the Coast Guard is operating shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any regulations established under section 312 of this Act. In carrying out this subsection the Secretary of the department in which the Coast Guard is operating may enter into contracts with, or make grants to public or private organizations and individuals.

"(k) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

"(l)(1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than October 3, 1972, develop and issue to the States for the purpose of carrying out this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add to such information whenever necessary to reflect developing scientific knowledge.

"(2) The President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which study shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall submit reports, from time to time, on such investigations to Congress together with his recommendations for any necessary legislation.

"(m)(1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling, and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of the disposal of such waste oil; and (C) the potential market for such oils, including the economic and legal factors relating to the sale of products made from such oils, the level of subsidy, if any, needed to encourage the purchase by public and private nonprofit agencies of products from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other persons.

"(2) The Administrator shall report the results of such study to the Congress within 18 months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"(n)(1) The Administrator shall, in cooperation with the Secretary of the Army, the Secretary of Agriculture, the Water Resources Council, and with other appropriate Federal, State, interstate, or local public bodies and private organizations, institutions, and individuals, conduct and promote, and encourage contributions to, continuing comprehensive studies of the effects of pollution, including sedimentation, in the estuaries and estuarine zones of the United States on fish and wildlife, on sport and commercial fishing, on recreation, on water supply and water power, and on other beneficial purposes. Such studies shall also consider the effect of demographic trends, the exploitation of mineral resources and fossil fuels, land and industrial development, navigation, flood and erosion control, and other uses of estuaries and estuarine zones upon the pollution of the waters therein.

"(2) In conducting such studies, the Administrator shall assemble, coordinate, and organize all existing pertinent information on the Nation's estuaries and estuarine zones; carry out a program of investigations and surveys to supplement existing information in representative estuaries and estuarine zones; and identify the problems and areas where further research and study are required.

"(3) The Administrator shall submit to Congress, from time to time, reports of the studies authorized by this subsection but at least one such report during any three year period. Copies of each support report shall be made available to all interested parties, public and private.

"(4) For the purpose of this subsection, the term 'estuarine zones' means an environmental system consisting of an estuary and those transitional areas which are consistently influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and inter-tidal areas, bays, harbors, lagoons, inshore waters, and channels, and the term 'estuary' means all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage.

"(o)(1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including, but not limited to, unnecessary water consumption in order to reduce the requirements for, and the costs of sewage and waste treatment services. Such research and investigations shall be directed to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

"(2) The Administrator shall report the preliminary results of such studies and investigations to the Congress within one year after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and annually thereafter in the report required under subsection (a) of section 516. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, policies, or other methods and also shall reflect estimates of any increase in private, public, or other cost that would be occasioned thereby.

"(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies, and the States, carry out a comprehensive study and research program to determine new and improved methods and the better application of existing methods of preventing and abating pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

"(q)(1) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

"(2) The Administrator shall conduct a comprehensive program of research and investigation and pilot project implementation into new and improved methods for the collection and treatment of sewage and other liquid wastes combined with the treatment and disposal of solid wastes.

"(r) The Administrator is authorized to make grants to colleges and universities to conduct basic research into the structure and function of fresh water aquatic ecosystems, and to improve understanding of the ecological characteristics necessary to the maintenance of the chemical, physical, and biological integrity of freshwater aquatic ecosystems.

"(s) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationships between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water development activities. No such grant in any fiscal year shall exceed $1,000,000.

"(t) The Administrator shall, in cooperation with State and Federal agencies and public and private organizations, conduct continuing comprehensive studies of the effects and methods of control of thermal discharges. In evaluating alternative methods of control the studies shall consider (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, and (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources. Such studies shall consider methods of minimizing adverse effects and maximizing beneficial effects of thermal discharges. The results of these studies shall be reported by the Administrator as soon as practicable, but not later than one year after enactment of this subsection, and shall be made available to the public and the States, and utilized by the Administrator in proposing regulations with respect to thermal discharges under section 316 of this Act.

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, for carrying out the provisions of this section other than subsections (g), (p), and (r); (2) not to exceed $7,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973 for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (p); and not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, for carrying out the provisions of subsection (r).

"GRANTS FOR RESEARCH AND DEVELOPMENT

"SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

"(1) any project which will demonstrate a new or improved method of preventing and abating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and pollutants; or

"(2) any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes), or new or improved methods of joint treatment systems for municipal and industrial wastes;

and to include in such grants such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

"(b) The Administrator is authorized to make grants to any State or States or interstate agency to demonstrate, in river basins or portions thereof, advanced pollution treatment and environmental enhancement techniques to control pollution from all sources, within such basins or portions thereof, including nonpoint sources, together with instream water quality improvement techniques.

"(c) The Administrator is authorized to conduct in the Environmental Protection Agency, to make grants to, and to enter into contracts with, persons for, research and demonstration projects for prevention of pollution by industry including, but not limited to, treatment of industrial waste. No grant shall be made for any project under this subsection unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial wastes or otherwise prevent pollution by industry, which method shall have industrywide application.

"(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

"(1) waste management methods applicable to point and nonpoint sources of pollutants, including, but not limited to, elimination of runoff of pollutants and the effects of pollutants from inplace or accumulated sources;

"(2) advanced waste treatment methods applicable to point and nonpoint sources, including inplace or accumulated sources of pollutants, and methods for reclaiming and recycling water and confining and containing pollutants so they will not migrate to cause water or other environmental pollution; and

"(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

"(e)(1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing and abating pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, section 104(p), and section 304 as will encourage and enable the adoption of such methods in the agricultural industry.

"(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

"(f) Federal grants under subsection (a) of this section shall be subject to the following limitations:

"(1) No grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

"(2) No grant shall be made for any project in an amount exceeding 75 per centum of the cost thereof as determined by the Administrator; and

"(3) No grant shall be made for any project unless the Administrator determines that such project will serve as a useful demonstration for the purpose set forth in clause (1) or (2) of subsection (a).

"(g) Federal grants under subsections (c) and (d) of this section shall not exceed 75 per centum of the cost of the project.

"(h) For the purpose of this section there is authorized to be appropriated $70,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and from such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e).

"GRANTS FOR POLLUTION CONTROL PROGRAMS

"SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

"(1) $60,000,000 for the fiscal year ending June 30, 1973; and

"(2) $75,000,000 for the fiscal year ending June 30, 1974;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and abatement of pollution.

"(b) From the sums appropriated in any fiscal year, the Administrator shall make allotments to the several States and interstate agencies in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective States.

"(c) The Administrator is authorized to pay to each State and interstate agency each fiscal year either—

"(1) the allotment of such State or agency for such fiscal year under subsection (b), or

"(2) the reasonable costs as determined by the Administrator of developing and carrying out a pollution program by such State or agency during such fiscal year,

whichever amount is the lesser.

"(d) No grant shall be made under this section to any State or interstate agency for any fiscal year when the expenditure of non-Federal funds by such State or interstate agency during such fiscal year for the recurrent expenses of carrying out its pollution control program are less than the expenditure by such State or interstate agency of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971.

"(e) Grants shall be made under this section on condition that—

"(1) Such State (or interstate agency) files with the Administrator within one hundred and twenty days after the date of enactment of this section:

"(A) a summary report of the current status of the State pollution control program, including the criteria used by the State in determining priority of treatment works; and

"(B) such additional information, data, and reports as the Administrator may require.

"(2) No federally assumed enforcement as defined in section 309(a)(2) is in effect with respect to such State or interstate agency.

"(3) Such State (or interstate agency) submits within one hundred and twenty days after the date of enactment of this section and before July 1 of each year thereafter for the Administrator's approval its program for the prevention and abatement of pollution in accordance with purposes and provisions of this Act in such form and content as the Administrator may prescribe.

"(f) Any sums allotted under subsection (b) in any fiscal year which are not paid shall be reallotted by the Administrator in accordance with regulations promulgated by him.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution from acid, sedimentation, or other water pollutants and to restore the lands on which such projects are located to usefulness for forestry, agriculture, recreation, or other beneficial uses.

"(b) The Administrator, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, or personal property or services, the value of which shall be determined by the Administrator; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds available under this section in any one year shall be granted to any one State.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any polluting matter from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of subsections (a) and (b) of this section, which sum shall be available until expended.

"(d)(1) In recognition of the serious conditions which exist in Lake Erie, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and develop a demonstration waste water management program for the rehabilitation and environmental repair of Lake Erie. Prior to the initiation of detailed engineering and design, the program, along with the specific recommendations of the Chief of Engineers, and recommendations for its financing, shall be submitted to the Congress for statutory approval. This authority is in addition to, and not in lieu of, other waste water studies aimed at eliminating pollution emanating from select sources around Lake Erie.

"(2) This program is to be developed in cooperation with the Environmental Protection Agency, other interested departments, agencies, and instrumentalities of the Federal Government, and the States and their political subdivisions. This program shall set forth alternative systems for managing waste water on a regional basis and shall provide local and State governments with a range of choice as to the type of system to be used for the treatment of waste water. These alternative systems shall include both advanced waste treatment technology and land disposal systems including aerated treatment-spray irrigation technology and will also include provisions for the disposal of solid wastes, including sludge. Such program should include measures to control point sources of pollution, area sources of pollution, including acid-mine drainage, urban runoff and rural runoff, and sources of in-place pollutants, including bottom loads, sludge banks, and polluted harbor dredgings.

"(e) There is authorized to be appropriated $5,000,000 to carry out the provisions of subsection (d) of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 109. The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(A) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(B) training and retraining of faculty members;

"(C) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(D) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(E) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"APPLICATION FOR TRAINING GRANT OR CONTRACT; ALLOCATION OF GRANTS OR CONTRACTS

"SEC. 110. (1) A grant or contract authorized by section 109 may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(A) sets forth programs, activities, research, or development for which a grant is authorized under section 109 and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111;

"(B) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(C) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"(2) The Administrator shall allocate grants or contracts under section 109 in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

"(3)(A) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a), to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(B) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a).

"AWARD OF SCHOLARSHIPS

"SEC. 111. (1) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

"(2) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(A) provide an equitable distribution of such scholarships throughout the United States; and

"(B) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(3) The Administrator shall approve a program of any institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(A) that such program has a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(B) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(C) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application if any, submitted pursuant to section 110 of this Act; and

"(D) that the application contains satisfactory assurances that (i) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (ii) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(4)(A) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(B) The Administrator shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(5) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

"(6) The Administrator shall by regulation provide that any person awarded a scholarship under this section shall agree in writing to enter and remain in an occupation involving the design, operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

"DEFINITIONS AND AUTHORIZATIONS

"SEC. 112. (a) As used in sections 109 through 112 of this Act—

"(1) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(2) The term 'academic year' means an academic year or its equivalent, as determined by the Administrator.

"(b) The Administrator shall annually report his activities under sections 109 through 112 of this Act, including recommendations for needed revisions in the provisions thereof.

"(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974, to carry out sections 109 through 112 of this Act.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of pollution for all native villages in such State.

"(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Administrator shall report to Congress not later than January 31, 1974, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be appropriated not to exceed $2,000,000 to carry out this section.

"ECONOMIC GROWTH CENTERS

"SEC. 114. In the case of any economic growth center designated under section 143 of title 23, United States Code, the Administrator is authorized to make a supplemental grant to such center in any case where such center receives a grant for construction of treatment works under this Act. Such supplemental grant shall be for such percentage of the costs of such works as the Administrator determines. There is authorized to be appropriated to carry out this section not to exceed $5,000,000.

"TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

"PURPOSE

"SEC. 201. (a) It is the purpose of this title to require, and to assist the development and implementation of, waste treatment management plans and practices.

"(b) Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment technology and aerated treatment-spray-irrigation technology.

"(c) To the extent practicable, waste treatment management shall be on an area-wide basis and provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

"(d) The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

"(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

"(2) the confined and contained disposal of pollutants not recycled;

"(3) the reclamation of wastewater; and

"(4) the ultimate disposal of sludge in a matter that will not result in environmental hazards.

"(e) The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

"(f) The Administrator shall encourage waste treatment management which combines 'open space' and recreational considerations with such management.

"(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for

the construction of publicly owned treatment works.

"(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

"(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this title; and

"(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

"(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

"(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

"FEDERAL SHARE

"SEC. 202. (a) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 60 per centum of the cost of construction thereof (as approved by the Administrator); except that the amount of such grant shall be increased to 75 per centum of such cost if the State agrees to pay at least 15 per centum of the cost of construction of each treatment works for which Federal grants are to be made from funds allocated to such State for such fiscal year. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section.

"(b) The amount of the grant for any project approved by the Administrator after January 1, 1971, and before July 1, 1971, for the construction of treatment works, the actual erection, building or acquisition of which was not commenced prior to July 1, 1971, shall, uopn the request of the applicant, be increased to the applicable percentage under subsection (a) of this section for grants for treatment works from funds for fiscal years beginning after June 30, 1971, with respect to the cost of such actual erection, building, or acquisition. Such increased amount shall be paid from any funds allocated to the State in which the treatment works is located without regard to the fiscal year for which such funds were authorized. Such increased amount shall be paid for such project only if—

"(1) a sewage collection system that is a part of the same total waste treatment system as the treatment works for which such grant was approved is under construction or is to be constructed for use in conjunction with such treatment works, and if the cost of such sewage collection system exceeds the cost of such treatment works, and

"(2) the State water pollution control agency certifies that the quantity of available ground water will be insufficient to meet the future requirements for public water supply, unless effluents from publicly owned treatment works, after adequate treatment are injected into the ground to replenish the supply of ground water.

"PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

"SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201(d)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project.

"(b) The Administrator shall, from time to time as the work progresses, make payments to the recipient of a grant for costs of construction incurred on a project. These payments shall at no time exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

"(c) After completion of a project and approval of the final voucher by the Administrator, he shall pay out of the appropriate sums the unpaid balance of the Federal share payable on account of such project.

"LIMITATIONS AND CONDITIONS

"SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(d)(1) the Administrator shall determine—

"(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

"(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;

"(3) that such works have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State in accordance with any applicable State plan under section 303(e) of this Act;

"(4) that the applicant proposing to construct such works agrees to pay the non-Federal costs of such works and has made adequate provisions satisfactory to the Administrator for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

"(5) that the size and capacity of such works relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the anticipated cost of providing expanded capacity at a date when such capacity will be required;

"(6) that no specification for bids in connection with such works shall be written in such a manner as to contain proprietary, exclusionary, or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment, or at least two brand names or trade names of comparable quality or utility are listed and are followed by the words 'or equal'.

"(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(d)(1) after June 30, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation, maintenance (including replacement), and expansion of any waste treatment services provided by the applicant; (B) has made provision for the payment to such applicant by the industrial users of the treatment works, of that portion of the cost of construction of such treatment works (as determined by the Administrator) which is allocable to the treatment of such industrial wastes to the extent attributable to the Federal share of the cost of construction; and (C) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, maintenance, and expansion of treatment works throughout the applicant's jurisdiction, as determined by the Administrator.

"(2) The Administrator shall, within one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, and after consultation with appropriate State, interstate, municipal, and intermunicipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial recipients of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting all factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

"(3) Revenues derived from the payment of costs by industrial users of waste treatment services, to the extent costs are attributable to the Federal share of eligible project costs provided pursuant to this title, as determined by the Administrator, shall be retained by the grantee for use solely for the operation, maintenance, expansion, and construction of treatment works which are publicly owned, in accordance with regulations promulgated by the Administrator.

"(4) Approval by the Administrator of a grant to an interstate agency established by interstate compact for any treatment works shall satisfy any other requirement that such works be authorized by Act of Congress.

"ALLOTMENT

"SEC. 205. (a) All sums authorized to be appropriated pursuant to section 207 for each fiscal year beginning after June 30, 1972, shall be allotted by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized, except that the allotment for fiscal year 1973 shall be made not later than thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Such sums shall be allotted among the States by the Administrator in accordance with regulations promulgated by him, in the ratio that the estimated cost of constructing all needed

publicly owned treatment works in each State bears to the estimated cost of construction of all needed publicly owned treatment works in all of the States. For the fiscal years ending June 30, 1973, and June 30, 1974, such ratio shall be determined on the basis of the table on page 18 of volume I of Senate Document 92-93 entitled 'The Cost of Clean Water'. Allotments for fiscal years which begin after the fiscal year ending June 30, 1974, shall be made only in accordance with a revised cost estimate made and submitted to Congress in accordance with section 516(b) of this Act and only after such revised cost estimate shall have been approved by law specifically enacted hereafter.

"(b)(1) Any sums allotted to a State under subsection (a) shall be available for obligation under section 203 on and after the date of such allotment. Such sums shall continue available for obligation in such State for a period of one year after the close of the fiscal year for which such sums are authorized. Any amounts so allotted which are not obligated by the end of such one-year period shall be immediately reallotted by the Administrator, in accordance with regulations promulgated by him, generally on the basis of the ratio used in making the last allotment of sums under this section. Such reallotted sums shall be added to the last allotments made to the States. Any sum made available to a State by reallotment under this subsection shall be in addition to any funds otherwise allotted to such State for grants under this title during any fiscal year.

"(2) Any sums which have been obligated under section 203 and which are released by the payment of the final voucher for the project shall be immediately credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be immediately available for obligation in the same manner and to the same extent as such last allotment.

"REIMBURSEMENT AND ADVANCED CONSTRUCTION

"SEC. 206. (a) Any publicly owned treatment works in a State on which construction was initiated after June 30, 1966, but before July 1, 1972, which was approved by the appropriate State water pollution control agency and which the Administrator finds an application was made prior to initiation of construction for financial assistance under this Act and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of the initiation of construction but which was constructed (1) without financial assistance authorized by such section 8 solely because of the lack of authority or of Federal funds or (2) with financial assistance authorized by such section 8 but in a lesser percentage of the cost of construction than authorized by such section 8 shall qualify for payment and reimbursement of State or local funds used or committed (including retroactive use or commitment of State funds) for such project prior to July 1, 1974, from sums allocated to such State under this section for any fiscal year ending prior to July 1, 1975, to the maximum extent that assistance could have been provided under such section 8 and for which it would have qualified if such project had been approved thereunder and authority for and adequate funds had been available (including retroactive State participation).

"(b) Any publicly owned treatment works constructed with or eligible for Federal financial assistance under this Act in a State between June 30, 1956, and June 30, 1966, which was approved by the State water pollution control agency and which the Administrator finds meets the requirements of section 8 of this Act immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 but which was constructed without assistance under such section 8 or which received such assistance in an amount less than 30 per centum of the cost of such project shall qualify for payments and reimbursement of State or local funds used for such project from sums allocated to such State under this section in an amount which shall not exceed the difference between the amount of such assistance, if any, received for such project and 30 per centum of the cost of such project.

"(c) There is authorized to be appropriated to carry out subsection (a) of this section not to exceed $2,000,000,000 and, to carry out subsection (b) of this section, not to exceed $750,000,000. The authorizations contained in this subsection shall be the sole source of funds for reimbursements authorized by this section.

"(d)(1) In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act, and there is construction of any treatment works project without the aid of Federal funds and in accordance with all procedures and all requirements applicable to treatment works projects, except those procedures and requirements which limit construction of projects to those constructed with the aid of previously allotted Federal funds, the Administrator, upon his approval of an application made under this subsection therefor, is authorized to pay the Federal share of the cost of construction of such project when additional funds are allotted to the State under this title if prior to the construction of the project the Administrator approves plans, specifications, and estimates therefor in the same manner as other treatment works projects. The Administrator may not approve an application under this subsection unless an authorization is in effect for the future fiscal year for which the application requests payment, which authorization will insure such payment without exceeding the State's expected allotment from such authorization.

"(2) In determining the allotment for any fiscal year under this title, any treatment works project constructed in accordance with this section and without the aid of Federal funds shall not be considered completed until an application under the provisions of this subsection with respect to such project has been approved by the Administrator, or the availability of funds from which this project is eligible for reimbursement has expired, whichever first occurs.

"AUTHORIZATION

"SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 208 and 209, for the fiscal year ending June 30, 1973, $5,000,000,000, for the fiscal year ending June 30, 1974, $6,000,000,000, and for the fiscal year ending June 30, 1975, $7,000,000,000.

"AREAWIDE WASTE TREATMENT MANAGEMENT

"SEC. 208. (a) For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

"(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

"(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to pargraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred and twenty days following such identification and after appropriate consultation with the officials of all local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) a single representative organization capable of developing effective areawide waste treatment management plans for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing effective areawide waste treatment management plans for such area.

"(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which areawide waste treatment management plans would be most effective, and toward designating, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing effective areawide waste treatment management plans for such area.

"(4) Existing regional agencies may be designated under paragraphs (2) and (3) of this subsection.

"(5) Designations under this subsection shall be subject to the approval of the Administrator.

"(b)(1) No later than two years after the date of designation of any organization under subsection (a) of this section such organization shall have in operation a continuing areawide waste treatment management planning process consistent with section 201 of this Act. Plans prepared in accordance with this process shall contain alternatives for waste treatment management, and be applicable to all wastes generated within the area involved.

"(2) Any plan prepared under such process shall include, but not be limited to—

"(A) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period, annually updated (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

"(B) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

"(C) the establishment of a regulatory program to —

"(i) implement the waste treatment management requirements of section 201(c),

"(ii) regulate the location, modification, and construction of any facilities within such area which may result in any discharge in such area, and

"(iii) assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatment requirements;

"(D) the identification of those agencies necessary to construct, operate, and maintain all facilities required by the plan and otherwise to carry out the plan;

"(E) the identification of the measures necessary to carry out the plan (including financing), the period of time necessary to carry out the plan, the costs of carrying out the plan within such time, and the economic,

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social, and environmental impact of carrying out the plan within such time;

"(F) a process to (i) identify, if appropriate, agriculturally related nonpoint sources of pollution, including runoff from manure disposal areas, and from land used for livestock and crop production, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including new, current, and abandoned surface and underground mine runoff, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources;

"(H) a process to (i) identify construction activities related sources of pollution, and (ii) set forth procedures and methods (including land use requirements) to control to the extent feasible such sources; and

"(I) a process to (i) identify, if appropriate, salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, and (ii) set forth procedures and methods to control such intrusion to the extent feasible where such procedures and methods are otherwise a part of the waste treatment management plan.

"(3) Areawide waste treatment management plans shall be certified annually by the Governor or his designee (or Governors or their designees, where more than one State is involved) as being consistent with applicable basin plans and such areawide waste treatment management plans shall be submitted to the Administrator for his approval.

"(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, may designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(A) to carry out appropriate portions of an areawide waste treatment management plan developed under subsection (b) of this section;

"(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

"(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

"(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

"(E) to raise revenues, including the assessment of waste treatment charges;

"(F) to incur short- and long-term indebtedness;

"(G) to assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;

"(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

"(I) to accept for treatment industrial wastes.

"(d) After a waste treatment management agency has been designated under this subsection for an area and a plan for such area has been approved under subsection (b) of this section, the Administrator shall not make any grant for construction of a publicly owned treatment works under section 201(d)(1) within such area except to such designated agency and for works in conformity with such plan.

"(e) No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

"(f)(1) The Administrator shall make grants to any agency designated under subsection (a) of this section for payment of the reasonable costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) The amount granted to any agency under paragraph (1) of this subsection shall be 100 per centum of the costs of developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section for each of the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, and shall not exceed 75 per centum of such costs in each succeeding fiscal year.

"(3) There is authorized to be appropriated to the Administrator to carry out this subsection not to exceed $100,000,000 for the fiscal year ending June 30, 1973, and not to exceed $150,000,000 for the fiscal year ending June 30, 1974.

"(g) The Administrator is authorized, upon request of the Governor or the designated planning agency, and without reimbursement, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of areawide waste treatment management plans under subsection (b) of this section.

"(h)(1) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Administrator is authorized and directed, upon request of the Governor or the designated planning organization, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in developing and operating a continuing areawide waste treatment management planning process under subsection (b) of this section.

"(2) There is authorized to be appropriated to the Secretary of the Army, to carry out this subsection, not to exceed $50,000,000 per fiscal year for the fiscal years ending June 30, 1973, and June 30, 1974.

"BASIN PLANNING

"SEC. 209. (a) The President, acting through the Water Resources Council, shall, as soon as practicable, prepare a Level B plan under the Water Resources Planning Act for all basins in the United States. All such plans shall be completed not later than January 1, 1980, except that priority in the preparation of such plans shall be given to those basins and portions thereof which are within those areas designated by a Governor or Governors under paragraphs (2) and (3) of subsection (a) of section 208 of this Act.

"(b) The President, acting through the Water Resources Council, shall report annually to Congress on progress being made in carrying out this section. The first such report shall be submitted not later than January 31, 1973.

"(c) There is authorized to be appropriated to carry out this section not to exceed $200,000,000.

"ANNUAL SURVEY

"SEC. 210. The Administrator shall annually make a survey to determine the efficiency of the operation and maintenance of treatment works constructed with grants made under this Act, as compared to the efficiency planned at the time the grant was made. The results of such annual survey shall be included in the report required under section 516(a) of this Act.

"SEWAGE COLLECTION SYSTEMS

"SEC. 211. No grant shall be made under this title for a sewage collection system unless such system is for an existing community and is necessary to the integrity of a total waste treatment works system.

"DEFINITIONS

"SEC. 212. As used in this title—

"(1) The term 'construction' means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

"(2)(A) The term 'treatment works' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"(B) In addition to the definition contained in subparagraph (A) of this paragraph, 'treatment works' means any other methods or system for preventing, abating, reducting, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. Any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to subparagraph (C) of this paragraph, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

"(C) For the purposes of subparagraph (B) of this paragraph, the Administrator shall, within one hundred and eighty days after the date of enactment of this title, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis, described in subparagraph (B) of this paragraph.

"(3) The term 'replacement' as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"(4) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation the Administrator deems appropriate under this title.

"TITLE III—STANDARDS AND ENFORCEMENT

"EFFLUENT LIMITATIONS

"SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the objective of this Act there shall be achieved—

"(1)(A) not later than January 1, 1976, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

"(B) for publicly owned treatment works in existence on January 1, 1976, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

"(C) not later than January 1, 1976, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, establish pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

"(2)(A) except as provided in section 315, not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available demonstrated technology, taking into account the cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, and the environmental impact, or (ii) in the case of a discharge of a pollutant into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance by all publicly owned treatment works with the requirements set forth in section 201(d)(2)(A) of this Act.

"(3) The Administrator may extend for any point source the dates prescribed in subparagraphs (A) and (B) of paragraph (1) of this subsection. No extension or extensions of such date shall exceed a total of two years from the date prescribed in such subparagraph. Public hearings must be held by the Administrator in connection with any such extension prior to granting such extension. No extension shall be granted unless the Administrator determines (i) that it is not possible either physically or legally to complete the necessary construction within the statutory time limit, or (ii) that a longer time period is provided in the plan of implementation for the applicable water quality standard. An extension of dates under this authority may also include a waiver for the same period of any applicable water quality standard.

"(c) Any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

"(d) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge of pollutants in accordance with the provisions of this Act.

"(e) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

"(f) Notwithstanding any other provision of this Act, any point source the construction or modification of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and before the expiration of the one-year period which begins on the date of submission of the report required by section 315 of this Act, and which is so constructed or modified as to meet effluent limitations based upon the best available technology at the time of such construction or modification, shall not be subject to any more stringent effluent limitations with respect to such effluents during a 12 year period beginning on the date of completion of such construction or modification or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or the Administrator, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

"(b)(1) Before establishing any effluent limitation under subsection (a) of this section, the Administrator shall issue a notice of intent to establish such limitation to the Chairman of the Council of Economic Advisers, the Chairman of the Council on Environmental Quality, and the Director of the Office of Science and Technology. Each person so notified shall have a ninety-day period to submit to the Administrator written comments and recommendations which shall be made part of the public record with respect to the establishment of such limitation. If any part of such written recommendations are not accepted by the Administrator, then the Administrator shall notify, in writing, the person submitting such recommendation, of his failure to so accept such recommendations together with his reasons for so doing. Thereafter, the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(2) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic, social, and environmental costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the economic, social, and environmental benefits to be obtained (including the attainment of the objective of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(3) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic, social, and environmental costs and the benefits to be obtained (including attainment of the objective of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person. Whenever the Administrator adjusts or refuses to adjust any limitation as it applies to any person under this paragraph he shall, prior to the time such limitation takes effect, set forth in writing his reasons for such action, and such reasons shall be part of the public record with respect to such limitation.

"(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requireemnts. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of en-

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actment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

"(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

"(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

"(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

"(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

"(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

"(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

"(c)(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Results of such review shall be made available to the Administrator.

"(2) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standards shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses, and also taking into consideration their use and value for navigation.

"(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

"(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

"(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

"(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

"(5) No revised or new standard under this subsection shall have any application to thermal discharges in accordance with regulations issued pursuant to section 316 of this Act.

"(d)(1) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. Each State shall establish for the waters so identified, and in accordance with the priority ranking, the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

"(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the load established under paragraph (1) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

"(3) For the purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1) of this subsection and establish for such waters the total maximum daily load, with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation, at a level that would implement the water quality standards.

"(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

"(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

"(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

"(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2)(B), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

"(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

"(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

"(D) procedures for revision;

"(E) adequate authority for intergovernmental cooperation;

"(F) adequate implementation, including schedules of compliance, for revised or new water quality standards under subsection (c) of this section;

"(G) controls over the disposition of all residual waste from any water treatment processing;

"(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

"(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

"INFORMATION AND GUIDELINES

"SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

"(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

"(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the control measures and practices to be applicable to any point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act, shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate;

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available demonstrated control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available demonstrated technology shall take into account the age of equipment and facilities involved, the process employed (including whether batch or continuous), the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as the Administrator deems appropriate; and

"(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

"(c) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within one year after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

"(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

"(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

"(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

"(C) all construction activity, including runoff from the facilities resulting from such construction;

"(D) the disposal of pollutants in wells or in subsurface excavations;

"(E) salt water intrusion resulting from reductions of fresh water flown from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

"(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

"(f)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

"(h) The Administrator shall (1) within ninety days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act, and (2) within ninety days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

"(A) monitoring requirements;

"(B) reporting requirements (including procedures to make information available to the public);

"(C) enforcement provisions; and

"(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

"(i) The Administrator shall, within one year after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

"(j)(1) The Administrator shall, within six months from the date of enactment of this title, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appro-

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priate implementation of plans approved under section 208 of this Act.

"(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, during 1972, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

"(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants into all navigable waters and the waters of the contiguous zone; and

"(3) identify specifically those navigable waters, the quality of which

"(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

"(B) can reasonably be expected to attain such level by 1976 or 1981; and

"(C) can reasonably be expected to attain such level by any later date.

"(b)(1) Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

"(A) a description of the water quality of all navigable waters in such State during the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objective of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

"(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

"(D) an estimate of (i) the economic, social, and environmental costs necessary to achieve the objectives of this Act in such State; (ii) the economic, social, and environmental benefits of such achievement; and (iii) an estimate of the date of such achievement; and

"(E) a description of the nature and extent of nonpoint sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

"(2) The Administrator shall transmit such State reports, together with an analysis thereof, to Congress on or before April 1, 1975, and annually thereafter.

"NATIONAL STANDARDS OF PERFORMANCE

"SEC. 306. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"(2) The term 'new source' means any source, the construction or modification of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section.

"(3) The term 'source' means any building, structure, facility, or installation from which there is or may be the discharge of pollutants.

"(4) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a source.

"(5) The term 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of pollutants, or combinations of such pollutants discharged by a source.

"(6) The term 'construction' means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

"(b)(1)(A) The Administrator shall, within ninety days after the date of enactment of this title publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

"pulp and paper mills;

"paperboard, builders paper, and board mills;

"meat product and rendering processing;

"dairy product processing;

"grain mills;

"canned and preserved fruits and vegetables processing;

"canned and preserved seafood processing;

"sugar processing;

"textile mills;

"cement manufacturing;

"feedlots;

"electroplating;

"organic chemicals manufacturing;

"inorganic chemicals manufacturing;

"plastic and synthetic materials manufacturing;

"soap and detergent manufacturing;

"fertilizer manufacturing;

"petroleum refining;

"iron and steel manufacturing;

"ironferrous metals manufacturing;

"phosphate manufacturing;

"steam electric powerplants;

"ferroalloy manufacturing;

"leather tanning and finishing;

"glass and asbestos manufacturing;

"rubber processing; and

"timber products processing.

"(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose and publish regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation. In establishing or revising Federal standards of performance for new sources under this section, the Administrator shall take into consideration factors relating to the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of demonstrated control techniques, process changes, the cost of and the economic, social, and environmental impact of achieving such effluent reduction, foreign competition, and such other factors as he determines appropriate.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic, social, and environmental costs of implementing such standard bear no reasonable relationship to the economic, social, and environmental benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards and shall consider the type of process employed (including whether batch or continuous).

"(3) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"SEC. 307. (a)(1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in the receiving waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promugation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition.

"(b)(1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulation establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

"(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

"(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

"INSPECTIONS, MONITORING AND ENTRY

"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 309. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any condition or limitation which implements section 301, 302, 306, 307, 308, or 316 of this Act in a permit issued by a State under an approved permit program under section 402 of this Act, he shall proceed under his authority in paragraph (3) of this subsection or he shall notify the person in alleged violation and such State of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such condition or limitation or shall bring a civil action in accordance with subsection (b) of this section.

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of permit conditions or limitations as set forth in paragraph (1) of this subsection are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such conditions and limitations (hereafter referred to in this section as the period of 'federally assumed enforcement'), the Administrator shall enforce any permit condition or limitation with respect to any person—

"(A) by issuing an order to comply with such condition or limitation, or

"(B) by bringing a civil action under subsection (b) of this section.

"(3) Whenever on the basis of any information available to him the Administrator finds that any person is in violation of section 301, 302, 306, 307, 308, or 316 of this Act, or is in violation of any permit condition or limitation implementing any of such sections, in a permit issued under section 402 of this Act by him or by a State, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

"(4) A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers. An order issued under this subsection relating to a violation of section 308 of this Act shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation.

"(b) The Administrator is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

"(c)(1) Any person who willfully or negligently violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certifica-

tion in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(3) For the purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in section 505(5) of this Act, any responsible corporate officer.

"(d) Any person who violates section 301, 302, 306, 307, 308, or 316 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed $10,000 per day of such violation.

"(e) Whenever a municipality is a party to a civil action brought by the United States under this section, the State in which such municipality is located shall be joined as a party. Such State shall be liable for payment of any judgment, or any expenses incurred as a result of complying with any judgment, entered against the municipality in such action to the extent that the laws of that State prevent the municipality from raising revenues needed to comply with such judgment.

"INTERNATIONAL POLLUTION ABATEMENT

"SEC. 310. (a) Whenever the Administrator, upon receipts of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of pollution in waters covered by those treaties.

"(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

"(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or employees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

"(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to pollution to file with it in such forms as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quanity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(e) Board members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

"OIL AND HAZARDOUS SUBSTANCE LIABILITY

"SEC. 311. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(3) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(4) 'public vessel' means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(5) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(6) 'owner and operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(7) 'person' includes an individual, firm, corporation, association, and a partnership;

"(8) 'remove' or 'removal' refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(9) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"(11)) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit;

"(14) 'hazardous substance' means any substance designated pursuant to subsection (b)(2) of this section.

"(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

"(B)(i) The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether

any such designated hazardous substance is itself actually removable.

"(ii) The owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance determined not removable under clause (i) of this subparagraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, as appropriate, to the United States for a civil penalty per discharge established by the Administrator based on toxicity, degradability, and disposal characteristics of such substance, in an amount not to exceed $50,000, except that where the United States can show that such discharge was a result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States for a civil penalty in such amount as the Administrator shall establish, based upon the toxicity, degradability, and disposal characteristics of such substance.

"(3) The discharge of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

"(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (2) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (2) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $5,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c)(1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs.

"(2) Within sixty days after the effective date of this section, the President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances, pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the Plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the Plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances; and

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shortlines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil, or of a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to fish, shellfish and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substances into or upon the navigable waters of the United States from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge

was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Secretary is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000, whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(2) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

"(i)(1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(2) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k).

"(j)(1) Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

"(2) Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (d), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p)(1) Any vessel over three hundred gross tons, including any barge of equivalent size, but not including any barge that is not self-propelled and that does not carry oil or hazardous substances as cargo or fuel, using any port or place in the United States or the navigable waters of the United States for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective April 3, 1971, with respect to oil and one year after the date of enactment of this section with respect to hazardous substances. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"MARINE SANITATION DEVICES

"SEC. 312. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"'(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b)(1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from a vessel of any sewage, whether treated or not, into such waters.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder

and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsection (h) (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the disrtict court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

"CLEAN LAKES

"SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

"(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such States;

"(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

"(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this section.

"(c)(1) The amount granted to any State for any fiscal year under this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

"(2) There is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

"NATIONAL ACADEMIES STUDY

"SEC. 315. (a) The National Academy of Sciences and the National Academy of Engineering, acting through the National Research Council, shall make a full and complete investigation and study of all of the technological aspects of achieving, and all aspects of the total economic, social, and environmental effects of achieving or not achieving, the effluent limitations and goals set forth for 1981 in section 301(b)(2) of this title. A report shall be submitted to Congress of the results of such investigation and study, together with recommendations, not later than two years after the date of enactment of this title. Notwithstanding the provisions of section 301(b)(2) of this title or any other provision of this Act to the contrary, effluent limitations, goals, and policies establish for 1981 for point and nonpoint sources (other than publicly owned treatment works) and later years for point and nonpoint sources, by this Act shall not take effect until such time as Congress shall, by statute enacted after the submission of the report required by this subsection, specifically so provide.

"(b) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Academies in carrying out the requirements of subsection (a) of this section, and shall furnish to such Academies such information as the Academies deem necessary to carry out this section.

"(c) There is authorized to be appropriated to the President, for use in carrying out this section, not to exceed $15,000,000.

"REGULATION OF THERMAL DISCHARGES

"SEC. 316. (a) As soon as practicable, but not later than one year after enactment of this section, the Administrator shall issue proposed regulations with respect to control of thermal discharges.

"(b) Such proposed regulations shall recognize that the optimum method of control of any thermal discharge may depend upon local conditions, including the type and size of the receiving body of water. The regulations shall require any person proposing to make such a discharge to consider all alternative methods for controlling such a discharge, including, but not limited to (1) utilization of available water bodies or cooling devices, including once-through cooling, mixing zones, cooling ponds, spray ponds, evaporative or nonevaporative cooling towers, (2) dilution of heated waters with cooler waters, and (3) an alteration of the outlet configuration. In evaluating such alternative methods of control consideration shall be given to (1) their relative engineering and technical feasibility, (2) their relative social and economic costs and benefits, (3) their relative impact on the environment, considering not only water quality but also air quality, land use, and effective utilization and conservation of natural resources, and (4) methods of minimizing adverse effects and maximizing beneficial effects of such discharges.

"(c) The Administrator shall afford interested persons an opportunity, not to exceed sixty days, for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, final regulations. The Administrator shall, from time to time, as technology and alternatives change, revise such regulations.

"(d) Such regulations shall apply to thermal discharges from all sources, unless the Administrator determines, after a public hearing requested by the owner or operator of a point source, that the economic and social costs of implementing the regulations at a point source bear no reasonable relationship to the economic and social benefits (including water quality objectives) to be attained. Any such determination shall be accompanied by an appropriate adjustment of such regulations for such sources, which shall reflect the greatest degree of control which the Administrator determines can reasonably be achieved at such source.

"(e) The provisions of this section shall apply to point sources owned or operated by the United States or instrumentalities thereof.

"FINANCING STUDY

"SEC. 317. (a) The Administrator shall continue to investigate and study the feasibility of alternate methods of financing the cost of preventing, controlling, and abating pollution as directed in the Water Quality Improvement Act of 1970 (Public Law 91-224), including, but not limited to, the feasibility of establishing a pollution abatement trust fund. The results of such investigation and study shall be reported to the Congress not later than two years after enactment of this title, together with recommendations of the Administrator for financing the programs for preventing, controlling and abating pollution for the fiscal years beginning after fiscal year 1976, including any necessary legislation.

"(b) There is authorized to be appropriated for use in carrying out this section, not to exceed $1,000,000.

"AQUACULTURE

"SEC. 318. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, not later than January 1, 1974, establish any procedures and guidelines he deems necessary to carry out this section.

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, and there is not an applicable regulation under section 316, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(d) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit reuired for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 306, 307, and 316 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed chanegs in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 306, 307, or 316 of this Act.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 306, 307, or 316 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations

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and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, or any regulation under section 316 of this Act, and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants or any thermal discharge, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, 316, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

"(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator may authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(h)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

"(b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violation of any condition of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants into wells;

"(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

"(B) Except with respect to sources owned or operated by the United States, to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 316 of this Act; or

"(B) Except with respect to sources owned or operated by the United States, to apply and enforce control of thermal discharges from point sources located in such State to at least the same extent as is provided in section 316 of this Act;

"(7) To insure that no permit will be issue if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby; and

"(8) To abate violations of the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have made public, in writing, the reasons for such withdrawal.

"(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

"(2) No permit shall issue if the Administrator within sixty days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit.

"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(e) In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this subsection at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance or enhancement of the quality of any affected waters.

"(h) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(i) In the event any condition of a permit for discharges from a treatment works (as defined in section 210 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

"(j) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

"(k) A copy of each permit application and each permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in a regional office of the Environmental Protection Agency; or (3) with the Administrator, whichever is appropriate. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(l) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, 316, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until January 1, 1976, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, and such discharge is not in violation of any applicable water quality standard under subsections (a) and (b) of section 303 of this Act, and is not in violation of any applicable regulation under section 316 of this Act, such discharge shall not be a violation of (1) this Act (other than an order under section 504), or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"OCEAN DISCHARGE CRITERIA

"SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, after promulgation of guidelines established under subsection (c) of this section, except in compliance with such guidelines.

"(b) The requirements of subsection (d) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea.

"(c)(1) The Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans, which shall include:

"(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

"(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

"(C) the effect of disposal, of pollutants on esthetic, recreation, and economic values;

"(D) the persistence and permanence of the effects of disposal of pollutants;

"(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

"(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

"(G) the effect on alternative uses of the oceans, such as mineral exploitation and scientific study.

"(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection no permit shall be issued under section 402 of this Act.

"PERMITS FOR DREDGED OR FILL MATERIAL

"SEC. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearing, for the discharge of dredged or fill material into the navigable waters, where the Secretary determines that such discharge will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

"(b) In making the determination required by subsection (a) of this section as to whether a permit may be issued, the Secretary shall apply any guidelines which have been promulgated by the Administrator pursuant to section 403(c)(1), together with an evaluation by the Secretary of the effect on navigation, economic and industrial development, and foreign and domestic commerce of the United States. In applying the guidelines established by the Administrator, the Secretary shall consult with the Administrator and shall give due consideration to the views and recommendations of the Administrator in that regard and also in regard to the designations of the Administrator of recommended sites for disposal. The Secretary may issue no permit for discharge of dredged or fill material which would violate the designation of the Administrator, found necessary to protect critical areas, of a site within which certain material may not be discharged. In regard to the designation of recommended sites or sites where certain material may not be discharged, the Secretary after consultation with the Administrator, need not follow the designation of the Administrator where the Secretary certifies that there is no economically feasible alternative reasonably available.

"(c) In connection with Federal projects involving dredged or fill material the Secretary may, in lieu of the permit procedure, issue regulations to govern the discharge of dredged or fill material into the navigable waters which shall require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which are made applicable to the issuance of permits under subsections (a) and (b) of this section.

"TITLE V—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

"(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"(e)(1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method, or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

"(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"GENERAL DEFINITIONS

"SEC. 502. Except as otherwise specifically provided, when used in this Act:

"(1) The term 'State water pollution control agency' means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

"(2) The term 'interstate agency' means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

"(3) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(4) The term 'municipality' means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

"(5) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(6) The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other waste discharged into water. This term does not mean (A) 'sewage from vessels' within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines the injection or disposal of such water, gas, or other material will not result in the degradation of ground or surface water resources; or (C) thermal dis-

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charges in accordance with regulations issued pursuant to section 316 of this Act; or (D) organic fish wastes.

"(7) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(8) The term 'navigable waters' means the navigable waters of the United States, including the territorial seas.

"(9) The term 'territorial seas' means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

"(10) The term 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

"(11) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(12) The term 'effluent limitation' means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents (other than thermal discharges) which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(13) The term 'discharge of a pollutant' and the term 'discharge of pollutants' each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

"(14) The term 'toxic pollutant' means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(15) The term 'point source' means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or from which there is or may be a thermal discharge.

"(16) The term 'biological monitoring' shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain, appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

"(17) The term 'thermal discharge' means the introduction of water into the navigable waters of the contiguous zone from a point source at a temperature different from the ambient temperature of the receiving waters.

"(18) The term 'discharge' when used without qualification includes a discharge of a pollutant, a discharge of pollutants, and a thermal discharge.

"WATER POLLUTION CONTROL ADVISORY BOARD

"SEC. 503. (a)(1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with pollution, and of other public and private agenices, organizations, or groups demonstrating an active interest in the field of pollution prevention and control, as well as other individuals who are expert in this field.

"(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term.

"(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

"EMERGENCY POWERS

"SEC. 504. Notwithstanding any other provision of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 505. (a) Except as provided in subsection (b) of this section, any citizen may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perfom such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any citizen may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 301, 302, 306, and 307 of this Act, or in violation of a permit, or conditions thereunder, issued by the Administrator under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought under this section only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'effluent standard or limitation under this Act' means (1) effective July 1, 1973, an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation or other limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standard under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

"(g) For the purposes of this section the term 'citizen' means (1) a citizen (A) of the geographic area and (B) having a direct interest which is or may be affected, and (2) any group of persons which has been actively engaged in the administrative process and has thereby shown a special interest in the geographic area in controversy.

"(h) A Governor of a State may commence a civil action under subsection (a), without regard to the limitations of subsection (b) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce an effluent standard or limitation under this Act the violation of which is occurring in another State and is causing an adverse effect on the public health or welfare in his State, or is causing a violation of any water quality requirement in his State.

"APPEARANCE

"SEC. 506. The Administrator shall request the Attorney General to appear and represent the United States in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator within a reasonable time, that he will appear in a civil action, attorneys who are officers or employees of the Environmental Protection Agency shall appear and represent the United States in such action.

"EMPLOYEE PROTECTION

"SEC. 507. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decision of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition of effluent limitation or other limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, thermal discharge regulation under section 316 of this Act, or any other prohibition or limitation established under this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any effluent limitation or order under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such limitation or order. Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under this Act, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days notice, and shall at such hearing require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, lay-off, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such effluent limitation or order on employment and on the alleged discharge, lay-off, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator to modify or withdraw any effluent limitation or order issued under this Act.

"FEDERAL PROCUREMENT

"SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309(c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 509. (a) In connection with any determination under section 301(b)(3) of this Act, or for purposes of obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, doument, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) Review of the Administrator's action (1) in promulgating any standard of performance under section 306, (2) in making any determination pursuant to section 306(b)(1)(C), (3) in promulgating any effluent standard, prohibition, or treatment standard under section 307, (4) in making any determination as to a State permit program submitted under section 402(b), (5) in approving or promulgating any effluent limitation or other limitation under section 301, 302, or 306, and (6) in issuing or denying any permit under section 402, may be had by any interested person in the district court of the United States for the district in which such person resides or transacts such business upon application by such person. Any such application shall be made within thirty days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such thirtieth day.

"(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the

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satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"STATE AUTHORITY

"SEC. 510. Except as expressly provided in this Act, nothing in this Act shall (1) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (A) any standard or limitation respecting discharges of pollutants, or (B) any requirement respecting control or abatement of pollution; except that if an effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation which is less stringent than the effluent limitation, or other limitation, effluent standard, prohibition, pretreatment standard, standard of performance, or thermal discharge regulation under this Act; or (2) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

"OTHER AFFECTED AUTHORITY

"SEC. 511.(a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(c) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 3, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity.

"SEPARABILITY

"SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"LABOR STANDARDS

"SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"AGRICULTURAL FACILITIES

"SEC. 514. In the case of any water pollution control facility required to be constructed for any property used for any agricultural purpose, no owner or operator of any such property shall be required to expend any funds for the construction of any such facility (A) until a plan for such facility and its operation shall have been approved by the Administrator; and (B) until a certification by the Administrator that such plan, and the construction and operation of any facility in accordance with such plan, will not result in a violation of the laws or regulations of any local, State, or Federal health agency or other governmental agency.

"EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

"SEC. 515. (a)(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

"(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

"(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

"(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulations required by section 304 (b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

"(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession including that presented at any public hearing, related to the subject matter contained in such notice.

"(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

"(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

"(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

"(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code.

"(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members. A special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

"(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

"REPORTS TO CONGRESS

"SEC. 516. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report, in addition to any other report required by this Act, on measures taken toward implementing the objective of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans under section 102 of this Act, areawide plans under section 208 of this Act, basin plans under section 209 of this Act, and plans under section 303(e) of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of the survey required to be taken under section 210 of this Act; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

"(b) The Administrator, in cooperation with the States, including water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a detailed estimate, biennially revised, of the cost of construction of all needed publicly owned treatment works in all of the States and of the cost of construction of all needed publicly owned treatment works in each of the States; (3) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (4) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

"GENERAL AUTHORIZATION

"SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975.

"SHORT TITLE

"SEC. 518. This Act may be cited as the 'Federal Water Pollution Control Act'."

AUTHORIZATIONS FOR FISCAL YEAR 1972

SEC. 3. (a) There is authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $11,000,000 for the purpose of carrying out section 5(n) (other than for salaries and related expenses) of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(b) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1972, not to exceed $350,000,000 for the purpose of making grants under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of the enactment of the Federal Water Pollution Control Act Amendments of 1972.

(c) The Federal share of all grants made under section 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from sums herein and heretofore authorized for the fiscal year ending June 30, 1972, shall be that authorized by section 202 of such Act as established by the Federal Water Pollution Control Act Amendments of 1972.

(d) Sums authorized by this section shall be in addition to any amounts heretofore authorized for such fiscal year for sections 5(n) and 8 of the Federal Water Pollution Control Act as it existed immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972.

SAVING PROVISION

SEC. 4. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendment made by section 2 of this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Federal Water Pollution Control Act as amended by this Act.

(c) The Federal Water Pollution Control Act as in effect immediately prior to the date of enactment of this Act shall remain applicable to all grants made from funds authorized for the fiscal year ending June 30, 1972, and prior fiscal years, including any increases in the monetary amount of any such grant which may be paid from authorizations for fiscal years beginning after June 30, 1972, except as specifically otherwise provided in section 202 of the Federal Water Pollution Control Act as amended by this Act and in subsection (c) of section 3 of this Act.

OVERSIGHT STUDY

SEC. 5. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by any agency of the Federal Government pursuant to any Federal law or regulation and assess conflicts between, and the coordination and efficacy of, such programs, and make a report to the Congress thereon by October 1, 1973.

INTERNATIONAL TRADE STUDY

SEC. 6. (a) the Secretary of Commerce, in cooperation with other interested Federal agencies and with representatives of industry and the public, shall undertake immediately an investigation and study to determine—

(1) the extent to which pollution abatement and control programs will be imposed on, or voluntarily undertaken by United States manufacturers in the near future and the probable short- and long-range effects of the costs of such programs (computed to the greatest extent practicable on an industry-by-industry basis) on (A) the production costs for such domestic manufacturers, and (B) the market prices of the goods produced by them;

(2) the probable extent to which pollution abatement and control programs will be implemented in foreign industrial nations in the near future and the extent to which the production costs (computed to the greatest extent practicable on an industry-by-industry basis) of foreign manufacturers will be affected by the costs of such programs;

(3) the probable competitive advantage which any article manufactured in a foreign nation will likely have in relation to a comparable article made in the United States if that foreign nation—

(A) does not require its manufacturers to implement pollution abatement and control programs,

(B) requires a lesser degree of pollution abatement and control in its programs, or

(C) in any way reimburses or otherwise subsidizes its manufacturers for the costs of such programs;

(4) alternative means by which any competitive advantage accruing to the products of any foreign nation as a result of any factor described in paragraph (3) may be (A) accurately and quickly determined, and (B) equalized, for example, by the imposition of a surcharge or duty, on a foreign product in an amount necessary to compensate for such advantage; and

(5) the impact, if any, which the imposition of a compensating tariff or other equalizing measure may have in encouraging foreign nations to implement pollution and abatement control programs.

(b) The Secretary shall make an initial report to the President and Congress within six months after the date of enactment of this section of the results of the study and investigation carried out pursuant to this section and shall make additional reports thereafter at such times as he deems appropriate taking into account the development of relevant data, but not less than once every twelve months.

INTERNATIONAL AGREEMENTS

SEC. 7. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 8. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and not later than one hundred and eighty days thereafter, promulgate regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 solely for the purpose of carrying out this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

ENVIRONMENTAL COURT

SEC. 9. The President, acting through the Attorney General, shall make a full and complete investigation and study of the feasibility of establishing a separate court, or court system, having jurisdiction over environmental matters and shall report the results of such investigation and study together with his recommendations to Congress not later than one year after the date of enactment of this Act.

NATIONAL POLICIES AND GOALS STUDY

SEC. 10. The President shall make a full and complete investigation and study of all of the national policies and goals established by law for the purpose of determining what

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the relationship should be between these policies and goals, taking into account the resources of the Nation. He shall report the results of such investigation and study together with his recommendations to Congress not later than two years after the date of enactment of this Act. There is authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this section.

EFFICIENCY STUDY

SEC. 11. The President shall conduct a full and complete investigation and study of ways and means of utilizing in the most effective manner all of the various resources, facilities, and personnel of the Federal Government in order most efficiently to carry out the objective of the Federal Water Pollution Control Act. He shall report the results of such investigation and study together with his recommendations to Congress not later than two hundred and seventy days after the date of enactment of this Act.

ENVIRONMENTAL FINANCING

SEC. 12. (a) This section may be cited as the "Environmental Financing Act of 1972".

(b) There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(c) The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

(d)(1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such excutive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

(e)(1) The Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act.

(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act; and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations.

(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section.

(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

(f) To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this subsection without fiscal year limitation.

(g)(1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States.

(h) The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

(i) The Authority shall have power—

(1) to sue and be sued, complain and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

(k) All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

(l) In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody and delivery of such obligations.

(m) The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(n) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

(o) The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

(p) Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under subsection (h) of the Environmental Financing Act of 1972."

SEX DISCRIMINATION

SEC. 13. No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act. This section shall be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

The motion was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11896) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 571. Concurrent resolution providing for an adjournment of the House from March 29, 1972, until April 10, 1972.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) entitled "An act to amend the Manpower Development and Training Act of 1962."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes.

TOBACCO QUOTA TRANSFERS

Mr. ABBITT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the bill as follows:

H.R. 13361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (c) of section 316 of the Agricultural Adjustment Act of 1938, as amended, is amended to read as follows: "Any lease of Flue-cured tobacco acreage-poundage marketing quotas filed on or after June 1 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was at much as 75 per centum of the farm acreage allotment in effect for such year."

With the following committee amendment:

Page 1, line 7, strike out the words "June 1" and insert in lieu thereof the words "June 15".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJOURNMENT FROM MARCH 29 TO APRIL 10, 1972

The SPEAKER laid before the House the concurrent resolution (H. Con. Res. 571) providing for an adjournment of the House from March 29, 1972, until April 10, 1972, together with the Senate amendment thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR INCREASES IN APPROPRIATIONS CEILINGS AND BOUNDARY CHANGES IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of National Park System, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 2, line 19, of the House engrossed amendment, after "'$10,804,000';" insert "and".

Page 2, of the House engrossed amendment, strike out lines 20 to 23, inclusive.

Page 2, line 24, of the House engrossed amendment, strike out "9" and insert "8".

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the distinguished gentleman from Colorado (Mr. APINALL) explain the Senate amendments?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, this has to do with striking from the multiple park bill the additional authorization of this category of the national parks, which is not germane at this time, and it is simply to provide to strike it out at this time so as not to hold up the consideration of the other matters.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

REFORM OF EXECUTIVE BRANCH—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-273)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

The sand is running in the glass, and the hour is growing late, for enactment of a critically needed reform, one that merits the very best support which you as legislators for 208 million Americans, and I as their Chief Executive, are able to give it.

That reform is reorganization of the executive branch of the Federal Government—the most comprehensive and carefully planned such reorganization since the executive was first constituted in George Washington's administration 183 years ago. Its purpose is to make American government a more effective servant to, and a more responsive instrument of, the American people. Its method is to organize departments around the ends which public policy seeks, rather than (as too often in the past) around the means employed in seeking them.

The broad outlines of the reorganization proposals which I presented to the Congress just over a year ago are now well known. The seven domestic departments which sprang into being under pressure of necessity one at a time since

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1849 would be viewed as a single system for the first time, and their functions regrouped accordingly. *The product would be four entirely new, goal-oriented departments concerned with our communities, our earth, our economy, and our potential as individuals—plus a revitalized fifth department concerned with keeping America in food and fiber.*

A Department of Community Development, a Department of Natural Resources, a Department of Economic Affairs, and a Department of Human Resources would be created to replace the present Departments of Interior, Commerce, Labor, Health, Education, and Welfare and Housing and Urban Development, and Transportation. And the Department of Agriculture—under our plans as I ordered them revised last fall—would be streamlined to increase its ability to serve the farmer and so to serve us all. Several independent Federal agencies would be drawn into the consolidation process as appropriate. Further management reforms would be instituted *within* the new departments, to provide authority commensurate with responsibility at every level and to make form follow function intelligently.

FLECTING BETTER GOVERNMENT MACHINERY

I do not speak lightly or loosely in characterizing this measure as *critically needed.* To say that we must prepare government to perform satisfactorily in the years ahead is only another way of saying that we must provide for its very survival. *This Republic, soon to begin its third century, will surely grow old unless we take wise and decisive action to keep it young.* "Adapt or die"—the Darwinian choice is ours to make.

Hard evidence of this danger abounds—dismal statistics about the low effectiveness of Federal spending, case upon case of national problems stubbornly resisting national programs. "Most Americans today," as I put it in announcing these executive reorganization proposals in my 1971 state of the Union message, and again in transmitting the detailed legislation for them, "are simply fed up with government at all levels."

For us here and now to make a strong beginning at making government work better for the ordinary citizen would hearten the Nation immensely; and it would do so honestly, by getting at the real roots of the fed-up feeling. Yet some may question whether this political year is a time when public men can afford to meet public frustrations head on. "Mollifying gestures, yes," they may say in effect, "but fundamental reform, no—at least not in 1972." Our reply should be that this is a most appropriate year to move ahead with reorganization.

For what is it, after all, that the people want and deserve from the public processes of any year, an election year especially? More effective government. One way they seek to get it is by calling the officials who run the Government to account at the polls, as is being done in 1972. Another way is by regulating the Federal purse strings through their elected representatives in the Congress, as is also being done in 1972. Yet this necessary periodic scrutiny of men and money alone will not reach the heart of the problem. For it is axiomatic among those who know Washington best that, as I pointed out in my earlier message on this subject, "the major cause of the ineffectiveness of government is not a matter of men or of money (but) principally a matter of machinery." We cannot, therefore, in good conscience hold out to the people the hope that this will be a year of change for the better, if we fail to come to grips with reform of government's jerry-built mechanisms.

Institutional structure here in Washington tends to coast along all too comfortably under the protection of an inertia which does not shield elected officials and public expenditures. These last come up for renewal every one, two, four, or six years; not so the structure, which endures with little or no burden of proof for its own worthiness to continue. Now, though, the structure has been weighed in the balances and found wanting.

In less sweeping reorganizations than the one I am urging, of course, a President can institute changes through plans submitted under the Reorganization Act, whereby the burden of proof rests with defenders of the status quo. However such authority no longer extends to the creation, consolidation, or abolition of executive departments. In any event we would have felt it wise to submit so massive a reform as this one for regular statutory enactment, so as to permit consideration of amendments and to provide time for full hearings and review. *My hope now is that the Congress will honor the best spirit of democratic change by electing now, in this election year, to modernize the executive structure and redeem the lagging public faith in our ability to order our national affairs effectively.*

AN OPPORTUNITY WE MUST NOT LOSE

Considerations of practicality, equally with those of principle, make the present time the best time to move ahead on this reform. The efforts of the past several years have amassed significant momentum toward overcoming the inertia which protects obsolete institutions. My proposals of last March 25 have behind them the weight of two years' exhaustive study and analysis by my Advisory Council on Executive Organization, and behind that the substantially similar recommendations of President Johnson's Task Forces of 1964 and 1967 on Government Organization. Since I laid those proposals before the Congress, the Administration and the Government Operations Committees in both Houses have made further headway on perfecting the reform legislation. A spirit of cooperation has been established; good faith and constructive attitudes have been demonstrated on all sides. We must not let these gains go to waste.

The pace of Progress so far has not been disappointing, for no measure this broad and this complex can or should be pushed through the Congress overnight. *What would be deeply disappointing, though—to me, and far more importantly to millions of Americans who deserve better than their government is now organized to give them—is to lose, in this rapidly passing Second Session of the 92nd Congress, our opportunity to record some solid achievement by creating at the very least one, and hopefully two or more, of the four proposed new departments.*

The men and women who begin a new Presidential term and a new Congress next January should not have to start over again on reorganization. They will not have to, if we push ahead now with the realism to see what is wrong with the old structures, the vision to see what benefits new forms can bring, and the courage to take the long step from old to new.

OBSOLETE STRUCTURE: HOW IT HURTS

What is wrong, and what reorganization could do to set it right, is best illustrated with two actual examples. We cannot remind ourselves often enough that this matter of government organization is no mere shuffling of abstract blocks and lines on a wall chart—that it has to do with helping real people, building real communities, husbanding real resources.

The plethora of diverse and fragmented Federal activities aimed at assisting our communities is a glaring case in point. If there is any one social concept which has clearly come of age in recent years, that concept would certainly be the idea of balanced, comprehensively planned community development. Yet where do we find this reflected in government organization? We grope toward it, as with the well-intentioned and (at the time) fairly progressive formation of a Department of Housing and Urban Development; but even that step was premised on an unrealistic, artificial, and harmful distinction between urban and rural communities. In altogether too many instances the dollars and efforts earmarked for communities end up producing more derangement than development.

This is hardly surprising when we consider that:

—A city or town may now seek Federal grants or loans for sewer or sewage treatment facilities from three departments and one independent agency, each with different criteria, different procedures, and a separate bureaucracy.

—Responsibilities for housing assistance are also entrusted to different offices in some of the same departments, and to several other entities as well.

—Highway and mass transit programs have been isolated in a separate department with only partial consideration for what such programs do to our communities, large and small, forcing us to learn the hard way that highways and mass transit must be developed integrally with land use decisions, housing plans, and provisions for other essential community facilities.

Efforts have been made to clarify agency roles on the basis of urban/rural, type of facility, type of applicant, et cetera—but the real need is for unified authority, not artificial jurisdictional clarifications. *In sum, it has become painfully clear that effective integration of all Federal activities relating to community development can be achieved only under a vigorous new Department of Community Development created expressly for that purpose.*

The conservation and development of our rivers offers another pointed example. This important trust, where stakes are high and mistakes irretrievable, has at present so many guardians in Washington that in the crunch it sometimes seems to have none at all. The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers, together with several independent agencies, are all empowered to plan river basin development, to build dams and impound water, and to control water use. Elaborate interagency coordination efforts and all good intentions have not prevented waste and error from thriving under this crippling fragmentation of responsibility. Such costly fiascos as the reservoir built by the Bureau of Reclamation for drinking water supply but severely polluted and depleted by conflicting Soil Conservation Service projects upstream have been repeated too frequently. *The answer? A unified Department of Natural Resources, where comprehensive authority to develop and manage water resources would be concentrated under a single departmental secretary.*

Additional examples of dispersed responsibility could be cited in such areas as consumer protection, manpower and job training programs, and economic development activities. In each case, obsolete departmental structures have made it difficult to move forward effectively.

Even the newest of our domestic departments, like Housing and Urban Development and Transportation, now see the challenges of the seventies and beyond outrunning their own relatively narrow mandates. Departmental missions long circumscribed by law or historical development are suddenly outgrown; departmental preoccupations with limited constituencies no longer serve the public interest as reliably as before. Too often the ability of one department to achieve an important goal proves dependent upon the authority and resources of other departments, departments which inevitably attach only secondary importance to that goal. The new Federal commitments undertaken year by year are increasingly difficult to locate in any one department—usually several can claim partial jurisdiction, but none can show full ability to follow through and get the job done.

DECENTRALIZATION AND ACCOUNTABILITY

The solution to this rapidly worsening snarl of problems is regrouping of related programs by major purpose in a smaller number of executive departments. Besides opening the way for sharp improvements in government performance, such a consolidation would make the executive branch more sensitive to national needs and more responsive to the will of the people, in two ways.

First, it would decentralize decisionmaking. Far too many matters must now be handled above the department level by the Executive Office of the President or within the White House itself—not because of the inherent importance of those matters, but because no single department or agency head has broad enough authority to make and enforce decisions on them. But the four new Secretaries created by my reorganization proposal would have such breadth of authority. Their resultant ability to conduct domestic policy on the President's behalf should speed, streamline, and strengthen the whole process significantly.

Comparable decentralization could also be achieved within each department. At present, too many questions can be decided only in Washington, because of the multiplicity of field organizations and the limited authority of their regional directors. By enlarging the scope of responsibility of the departmental Secretaries and by giving them the tools they need, we could facilitate broad delegation of authority to appropriate field officials. And this in turn means that citizens across the country would receive faster and better service from their Federal Government.

Secondly, the new alignment of domestic departments would enhance the accountability of Federal officials to the people. It is easy to see how the new Secretaries, each with his or her own broad area of responsibility to discharge, would be useful to the President and the Congress in monitoring compliance with direction and accomplishment of objectives. Once scattered responsibility was concentrated, today's frequently used and often quite accurate excuse, "It was the other fellow's fault," would no longer apply.

More importantly, though, whatever slack and tangle can be taken out of the lines of control *within* the Federal establishment will then result in a tightening of those same lines *between* elected Federal officials and a democratic electorate. Notwithstanding the famous sign on President Truman's desk—"The buck stops here"—there will be no stopping of the buck, no ultimate clarification of blame and credit, and no assurance that voters will get what they contracted for in electing Presidents, Senators, and Congressmen, until the present convoluted and compartmentalized Washington bureaucracy can be formed anew and harnessed more directly to the people's purposes.

COOPERATING FOR REFORM

Where, then, does the reform effort stand today? I am pleased to note that the Congress, acting through its Committees on Government Operations, has held extensive hearings on my proposals; that testimony, most of it favorable, has been taken from a broad, bipartisan array of expert witnesses; and that committee work on the House side is nearly complete on the bill to establish a Department of Community Development.

For our part, we in the Administration have continued working to perfect the legislation and the management concepts set forth in my message of March 25, 1971. The Office of Management and Budget has taken the lead in working with Members of the Congress, adopting a flexible and forthcoming approach which has led to refinements in our legislation: one to clarify responsibility for highway safety, another to remove doubts concerning the reform's impact on the Appalachian Regional Commission and the Title V regional planning and development commissions, another to guarantee Community Development participation in airport access and siting decisions, and several more. They have also clarified that the reorganization need not entail any shift in congressional committee jurisdiction.

I am confident that this refinement and clarification process has improved our bills. *I pledge the fullest continuing cooperation of my Administration in seeing that the Congress has what it needs to move forward.*

COMMUNITY DEVELOPMENT AND NATURAL RESOURCES: ACHIEVABLE GOALS FOR 1972

There is still much work to do. For all the excellent hearings conducted to date, action has yet to be completed on any of the departmental bills which were sent to the Congress 370 days ago. Yet their passage by this Congress is still possible—especially for the Departments of Community Development and Natural Resources.

I would call special attention to H.R. 6962, the legislation for a Department of Community Development, which has now undergone 15 days of hearings in the House Government Operations Committee. Prompt, favorable action on this bill would represent a much-needed victory for common sense and the public good. Its defeat or emasculation would serve no interest except entrenched privilege and private advantage, and would cruelly disserve the interest of literally thousands of urban and rural communities with millions of people who are tired of waiting for Washington to get itself together and help them.

I urge all those concerned with the cause of executive reorganization to redouble their efforts to bring H.R. 6962 to my desk for signature during 1972—and, further, to press ahead on enactment of H.R. 6959, the Department of Natural Resources bill, and of legislation for the other two new departments which we need to govern effectively in the seventies.

ORGANIZING TO MEET THE CHALLENGES OF PEACE

Twenty-five years ago, when the United States was realizing that World War II had marked not the end, but only the beginning, of its leadership responsibilities in the world, a reorganization of the executive machinery in the defense area was undertaken. That reform, which created the Department of Defense, marks the only major streamlining of the Cabinet and the only departmental consolidation in our history. The new structure thus established has served America and the free world well in the challenging period since.

Now the time has come to take a similar bold and visionary step on the domestic side of national affairs. The 1960s, troubled, eventful, and full of progress as they were, were only the prelude to a period of still faster change in American life. The peace which we

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find increasing reason to hope will prevail during the coming generation is already permitting us to turn somewhat from the formerly absorbing necessity to "provide for the common defence," the necessity which motivated the last major executive branch reorganization.

Other great purposes now move to the foreground: "to form a more perfect Union, establish Justice, insure domestic Tranquility, . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." To serve these purposes, let us act decisively once again, and forge new institutions to serve a new America.

RICHARD NIXON.

THE WHITE HOUSE, *March 29, 1972.*

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the bill, H.R. 11896, which was just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 911 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 911

Resolved, That the further expenses of conducting the studies and investigations authorized by rule XI(8) and H. Res. 304, Ninety-second Congress, by the Committee on Government Operations, acting as a whole or by subcommittee, not to exceed $835,800, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), which shall be available for expenses incurred by said committee or subcommittee within and without the continental limits of the United States, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $100,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Government Operations shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HALL. Mr. Speaker, reserving the right to object, I wonder if it is the plan of the gentleman, my friend from New Jersey, to explain this rather large add-on amount for the Committee on Government Operations. Anything that he might say in general pertaining to all of these investigating resolutions might expedite their passage.

I appreciate the gentleman's cooperation. On the face of it, it seems to me that on this, the first one of them, the committee has cut it down $35,800, for which I am deeply appreciative.

This is almost as much as the committee report said was originally recommended and was equal to the amount of the first session.

With what they have held over, in spite of the known works of this committee, I just wonder why we need an additional $800,000 in the short session of the Congress when we are planning to get out of here at an early date?

Mr. THOMPSON of New Jersey. I will say to my friend from Missouri that last year the Committee on Government Operations authorized $1,032,600. The new chairman of the committee, the distinguished gentleman from California (Mr. HOLIFIELD) spent considerable time and effort in revising the committee staff and modernizing procedures. He had a carryover. His request for additional funds this year amounts to $800,000, which amounts to a decrease including the carryover of $232,600.

The chairman, the ranking Member, and the subcommittee chairmen all appeared before the committee and satisfied us as to their needs for this year.

Mr. HALL. Further reserving the right to object, Mr. Speaker, would the gentleman advise me if this includes additional expenses for this committee brought on by the pay raise?

Mr. THOMPSON of New Jersey. Yes, it does.

Mr. HALL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey (Mr. THOMPSON)?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 5, strike out "$835,800" and insert in lieu thereof "$800,000"

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IMPROVEMENTS IN THE HOUSE RESTAURANT AND RELATED FACILITIES IN THE LONGWORTH HOUSE OFFICE BUILDING

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 862 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 862

Resolved, That during the Ninety-second Congress the Committee on House Administration is authorized to incur such expenses, not in excess of $146,200, as the committee considers necessary (acting through the Architect of the Capitol or otherwise) in making improvements in the House Restaurant and cafeteria and food service facilities in the Longworth House Office Building. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, signed by the chairman thereof.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE SPECIAL COMMITTEE TO INVESTIGATE CAMPAIGN EXPENDITURES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 907 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 907

Resolved, That effective February 28, 1972, the expenses of the investigations and studies to be conducted pursuant to H. Res. 819, by the Special Committee To Investigate Campaign Expenditures, 1972, acting as a whole or by subcommittee, not to exceed $185,000 including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $150,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all hearings held in the District of Columbia if not otherwise engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Special Committee To Investigate Campaign Expenditures, 1972, shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 908 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 908

Resolved, That the further expenses of investigations and studies to be made pursuant to H. Res. 170 by the Committee on Interstate and Foreign Commerce, acting as a whole or by subcommittee, not to exceed $485,000, including expenditures for the employment of professional, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purposes by any other committee of the House and the chairman of the Committee on Interstate and Foreign Commerce shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 909 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 909

Resolved, That for the further expenses of the investigation and study authorized by H. Res. 20 of the Ninety-second Congress incurred by the Committee on Veterans' Affairs, acting as a whole or by subcommittee, not to exceed $110,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of experts, consultants, and clerical, stenographic, and other assistance, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on House Administration. Not to exceed $18,000 of the amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202 (1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. The official stenographers to committees may be used at all meetings held in the District of Columbia unless otherwise officially engaged.

SEC. 3. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Veterans' Affairs shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR EXPENSES OF THE COMMITTEE ON ARMED SERVICES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 912 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 912

Resolved, That the further expenses of the investigation and study to be conducted pursuant to H. Res. 201, by the Committee on Armed Services, acting as a whole or by subcommittee, not to exceed $150,000, including expenditures for the employment of special counsel, consultants, investigators, attorneys, experts, and clerical stenographic, and other assistants appointed by the chairman of the Committee on Armed Services, shall be paid out of the contingent fund of the House on vouchers by such committee or subcommittee, signed by the chairman of the Committee on Armed Services, and approved by the Committee on House Administration.

SEC. 2. The chairman of the Committee on Armed Services shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing laws.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR THE WEEK OF APRIL 10

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the rest of the week, if any, and the schedule for the next week when the House is in session.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. In reply to my good friend, the distinguished minority leader, we have completed the legislative program for this week and, as the gentleman knows, we have adopted an adjournment resolution. The House will go over until noon on Monday, April 10.

Monday of that week is District Day. There are no bills scheduled.

For Tuesday and the balance of the week we have the following:

House Resolution 910, Select Committee on Crime investigation authority;

H.R. 9552, Merchant Marine Act amendment, open rule, 1 hour of debate;

H.R. 13324, maritime authorization, open rule, 1 hour of debate;

H.R. 13188, Coast Guard authorization, open rule, 1 hour of debate; and

H.R. 13336, Arms Control and Disarmament Act Amendments, open rule, 1 hour of debate.

Thursday is Pan American Day.

Conference reports may be called up at any time and any further program will be announced later.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

XUM

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. It is observed that Thursday of that week is Pan American Day. Will there be any business on that day in addition, or is business scheduled for Thursday?

Mr. BOGGS. The whip notice says "Tuesday and the balance of the week." There are four authorization bills. Each has an hour of debate. It is possible that we would conclude that by Wednesday night. But that does not mean that we will. We have had business on Pan American Day from time to time and we will if we do not complete the program by Wednesday night.

GENERAL LEAVE TO REVISE AND EXTEND NOTWITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until April 10, 1972, all Members of the House shall have the privilege to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject. If they so desire, and may also include therein such short quotations as may be necessary to explain or complete such Extensions of Remarks; but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the said adjournment.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOT WITHSTANDING ADJOURNMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until April 10, 1972, the Speaker be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House from March 29 to April 10, 1972, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS IN ORDER ON WEDNESDAY, APRIL 12

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, April 12, 1972, may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL EXPLANATION

Mr. ICHORD. Mr. Speaker, on rollcall No. 101 I was called from the floor of the House on an emergency matter and was unable to return until after the voting had closed. If I had been present, I would have voted "yea."

PERSONAL EXPLANATION

Mrs. HECKLER of Massachusetts. Mr. Speaker, on the recorded teller vote on the amendment proposed by the gentleman from Michigan (Mr. WILLIAM D. FORD), rollcall No. 98, I arrived a few seconds too late to be recorded. Had I been present in time, I would have voted "aye."

REDUCING MANDATORY RETIREMENT AGE FOR NON-U.S. CITIZEN EMPLOYEES OF PANAMA CANAL COMPANY OR CANAL ZONE GOVERNMENT

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, I introduce for appropriate reference legislation which will be one of a series of bills I will introduce along with other members of the Panama Canal Subcommittee intended to rectify some of the problems of which the subcommittee became aware during its recent factfinding trip to the Panama Canal Zone. In a report of March 9, 1972, on the subcommittee visit to Panama, it was pointed out that over and above current treaty negotiations which are being conducted to eliminate some of the irritants which have hurt U.S.–Panama relations in the past years, there are a number of areas where changes can be brought about that will engender better relations and will help the Canal Zone government function more efficiently in the 1970's.

This first of a series of bills will require the Panamanian employees of the U.S. Government to retire at the age of 62 which will bring the Panamanian retirement age in line with the retirement age of U.S. employees under the Civil Service Retirement Act. This legislation was recommended by Governor Parker to the Panama Canal Subcommittee. Not only will this result in the retirement of persons who are too old to physically carry out their labors at optimal efficiency, it will help to relieve an unemployment problem among hundreds of young Panamanians who live in the zone by making immediately available hundreds of employment opportunities that would result from the lowered retirement age.

Such a retirement age reduction for non-U.S. citizens would result in increased efficiency among the total work force of the canal company agencies. Of the 11,000 non-U.S. employees, 3.6 are over the age of 62. The mandatory requirement for retirement at age 62 would immediately make available 400 positions which would have a salutary impact on the serious unemployment problem among younger Panamanians. Further, in the 5 years after enactment of the law there will be an additional 150 to 200 positions made available annually over and above the normal rate of retirement.

The bulk of semiskilled and unskilled positions including longshoremen, seamen, and other laborers are filled from the local labor market. These three groups comprise 3.4 percent of the work force over the age of 62. Governor Parker has said that:

> Generally, these older employees do not have the agility and physical stamina to meet the demands of handling cargo and heavy lines or of boarding ships by climbing Jacob's ladders. Despite their lower levels of performance, it is considered that termination for cause is not supportable or appropriate. Neither do they qualify for disability retirement under these circumstances.

The Governor has concluded that:

> Mandatory retirement at age 62 would permit their replacement by younger employees. This would be a desirable result not only from the standpoint of greater efficiency but also in terms of improved safety inasmuch as our experience has shown these older employees to be more accident prone. This poses a problem because positions requiring heavy manual labor are filled almost entirely by non-U.S. citizen employees.

Mr. Speaker, I and other members of the Panama Canal Subcommittee feel that this is an amendment that can have benefits and a salutary effect on the Canal Zone work force. There are 800 young unemployed Panamanians who are desperately seeking jobs in the zone. They are a constant source of concern to officials and those responsible for running the canal. This amendment would provide immediate relief for this problem while not exerting any hardships on the older persons who would be retired.

While it should be mentioned that the positions that would be available are at the lower level of the employment scale, subcommittee legislation will be introduced in subsequent weeks which addresses itself to the existing inequities in educational opportunities and the low level of subsequent employment opportunities that result.

I commend this bill to my colleagues and urge its immediate consideration. It has the desirable dual qualities of being noncontroversial and good law.

NIXON ADMINISTRATION TURNS DEAF EAR TO PLEAS OF FARMERS

(Mr. MATHIS of Georgia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MATHIS of Georgia. Mr. Speaker, the Nixon administration is still sitting on $75 million appropriated by the Congress for farm operating loans. While many farmers have their backs against the wall, the Nixon administration continues to turn a deaf ear to their plea for help.

I received a call late last night from a young farmer in Cook County, Ga., whose application for an $18,000 operating loan was approved by Farmers Home Administration but not funded. Based on these assurances from FHA, he leased land, put out fertilizer and is now facing a March 31 deadline for planting the tobacco and peanut allotments he has agreed to lease.

His application has not been funded because the Office of Management and Budget will not release the $75 million appropriated by Congress. Such action by any administration reflects a callous attitude toward the Nation's farmers that is unpardonable.

The young farmer from Cook County is representative of so many farmers who need tangible assistance from the Department of Agriculture. They do not need more rhetoric about how much the new Secretary of Agriculture loves them or how he is fighting their battles like a wounded steer. They need help, and they need it now.

The farmer from Cook County asked me:

> What can I do? My back is against the wall.

I could not give him any hope or any advise. His deadline is Friday. I can only ask President Nixon, "What can this young man do?"

McALPINE DAM, LOUISVILLE, KY.

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, I would like to address myself briefly to a matter of considerable concern in my district, that is the construction and operation of the McAlpine Dam which lies across the Ohio River at Louisville, Ky.

This structure, including navigational locks, was redesigned and rebuilt by the U.S. Army Corps of Engineers during the 1960's with work on the dam completed in September 1964.

Since completion of the project in 1964, there have been persistent complaints about frequent fluctuations in the level of the Ohio River pool impounded above McAlpine Dam. Such fluctuations create considerable distress for those who moor recreational boats to fixed docks situated along the river's edge.

But, of far more concern to me than the discomfort or inconvenience experienced by pleasure craft owners is a recent rash of commercial barge accidents in and around the spillways, gates, and locks of the McAlpine Dam.

I am concerned, as are many of my constituents, that these accidents may somehow be related to the design, or operation, or both, of the reconstructed McAlpine Dam.

At this moment, a barge containing 600 tons of liquid chlorine is wedged into one of the gates of the dam and is lodged precariously at the edge of the spillway. Salvage and recovery operations are now underway, but great dangers are involved in this mission because of the type of cargo involved, and because of the great turbulances and pressures of the water in the area of the barge itself. This barge was one of several which broke away from a tow as it was being positioned for entry into the channel leading to the locks of the McAlpine Dam.

Another barge which broke away from this same tow contained a load of sulfuric acid. This barge was recovered, temporarily moored to the Louisville Gas & Electric Co.'s hydroplant, and has only just been removed by a rescue vessel. No less than six other barges, either sunken or partially sunken—are in the immediate vicinity of the dam structure.

All of these incidents impel me to conclude that it is entirely appropriate, at this time, to suggest that the Corps of Engineers undertake an immediate study to determine whether additional construction modifications to McAlpine Dam or changes in its operation, are needed to insure safe use by commercial and recreational vessels on the Ohio River at and around this dam.

There are some who contend that the primary fault for this series of barge accidents lies with the operators of the tow boats and that more stringent regulations are urgently needed with respect to licensure of river pilots. This certainly is true.

At the same time, however, there remains a clear need to get at the facts pertaining to the reconstructed McAlpine Dam itself. Has the new structure made it more difficult or hazardous for barges and tows to operate in its vicinity? If so, would a modification or redesign of the dam remedy this situation? What would be the costs involved of such modification or redesign?

If the Corps of Engineers study determines that modification of the dam is, in fact, not necessary, we are then faced with the question of what steps ought to be taken by the U.S. Coast Guard or other appropriate regulatory agencies to require greater competence and experience on the part of the barge operators who increasingly handle cargos which can be dangerous if accidentally spilled or released into the air.

There is certainly a need for a study to get all the facts regarding the apparent instability of the McAlpine pool at certain times of the year. If the complaints I have received of excessive flood-stage pooling are valid, the study might recommend modifications in the dam or its operation which could remedy this problem.

Another important consideration is the effects that the McAlpine Dam now has upon the Devonian fossil beds which begin immediately at the foot of the dam. Plans are currently underway to preserve this unique area, known as Falls of the Ohio, as a national park. It appears that because of the construction, McAlpine Dam has partly covered over these unique fossil beds with silt.

In conclusion, Mr. Speaker, I believe that the Corps of Engineers should conduct a detailed study of all the facts—environmental, navigational, economic, and esthetic—pertaining to the existing McAlpine Dam. The results of such a study should be made available at the earliest possible date so that corrective steps, if any are found necessary, can be undertaken without delay.

CREATING COMMISSION ON U.S. PARTICIPATION IN THE UNITED NATIONS

(Mr. MAILLIARD asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. MAILLIARD. Mr. Speaker, on behalf of myself, Representatives BINGHAM, MORSE, PEPPER, and 38 other Members who have asked to join with us, I have today introduced a joint resolution creating the Commission on United States Participation in the United Nations.

I have a special relationship with the United Nations. It was founded in 1945 at a historic conference in my own home city, San Francisco. And I had the honor to be a U.S. delegate to the 18th General Assembly in 1963. So I have known and followed the United Nations' development for a long time. I and many of my distinguished colleagues in the House have been concerned in recent months with developments at the U.N. and here in this city. I am certain that few would disagree that the U.N. faces monumental problems.

Not the least of these is a growing loss of confidence in that organization's ability to achieve its major objective—a peaceful developing world community. But we cannot really blame the U.N. for failures influenced or effected by its individual member nations' indifference or inaction. It is a matter of the greatest immediate importance that this Nation, which led in the assemblage of states which put the U.N. together as an alternative to the bloody world conflict which had just ended in 1945, should not now turn its back on a potential for peace as yet unrealized but very definitely realizable.

In 1970, President Nixon appointed the President's Commission for the Observance of the 25th Anniversary of the United Nations. This Commission was ably led by the Honorable Henry Cabot Lodge. It enjoyed the distinguished participation of Representatives GALLAGHER, LLOYD, MORGAN, and the late Bourke B. Hickenlooper and Senators AIKEN, COOPER, FULBRIGHT, and SPARKMAN. Their report, issued on April 23, 1971, after extensive hearings across the United States, made 96 excellent recommendations for the improvement not only of the U.N. but also of American participation in it.

This brings me back to my original point. If we are to help the U.N. to improve its performance and to realize its

great potential for building a better world for us and our children, we are not going to do it by turning our backs on it when it most needs our support and informed attention. The Commission which this resolution establishes will help us to make fact the promise of the Lodge Commission. It will provide us with a continuing organizational forum for dealing with the responsibility for implementation of U.S. policies and programs toward the U.N. and its specialized agencies and the International Court of Justice.

The record of fulfillment of the promice of San Francisco to the American people leaves much to be desired. This Commission may or may not accomplish a great deal. But if we can establish this Commission, we will be paying a small price for a building block that may indeed bring us closer to fulfilling that promise made to the world 25 years ago.

This Commission, precisely because it would be removed from the daily pressures of legislation and decisionmaking, would be able to make recommendations and provide guidance to those in the legislative and executive branches responsible for policy formation, implementation, and oversight.

An identical joint resolution, Senate Joint Resolution 216, has already been introduced in the other body under the sponsorship of Senators WILLIAMS, CASE, MATHIAS, MOSS, HUGHES, GRAVEL, CRANSTON, COOPER, MUSKIE, HARTKE, PELL, HARRIS, TUNNEY, HART, and JAVITS. The issues at stake, I believe, provide compelling reasons for the prompt establishment of this Commission. The generation of peace which the President and all decent Americans want to build for our children and all the world's children will be brought closer to fruition by the Congress favorable action on this bill. The modest expenditure involved will be a very small price to pay for a significant contribution to world order and justice under law. It deserves our support.

TRANSPORTATION FOR GLACIER NATIONAL PARK

(Mr. SHOUP asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. SHOUP. Mr. Speaker, it is important that all of us be concerned about the potential overloading of our national parks by the millions of visitors who properly visit these parks each year. One of the most difficult problems that Glacier National Park in Montana and others throughout the Nation have is the large number of automobiles that are driven into the parks. This problem is increasing and in my opinion must be properly resolved very soon.

Instead of the simplistic solution involving a total ban on all automobiles in national parks at this time, I am interested in exploring an alternative solution. I propose that the Congress authorize a study of the most desirable and feasible means of transporting visitors within certain portions of one park, specifically Glacier National Park in Montana, so that we can consider such innovative techniques as aerial tramways, and other possibilities.

I believe it is important for the national parks to be accessible to people, but I also believe it is not only possible but imperative that these visitors be managed so that they can enjoy the beauty of the parks and do so in a way that will not damage the natural resources in the parks.

The bill I am introducing today authorizes and directs the Secretary of the Interior to conduct a study of alternative means of transporting visitors from West Glacier to Saint Mary over the Going-to-the-Sun Road. It further requires the Secretary to submit a report thereon, with recommendations, to the Congress within 1 year from the date that funds for the study are made available.

Mr. Speaker, I include the entire bill in the RECORD following my statement:

H.R. 14207

A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Montana, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to conduct a study of alternative means of transporting park visitors over the general route of the Going-to-the-Sun Road from West Glacier to Saint Mary within Glacier National Park in the State of Montana. Not later than one year from the date that funds for such study are made available to him, the Secretary shall submit to the Congress a report thereon, including his recommendation as to the most desirable and feasible means of transporting park visitors over the route referred to herein.

SEC. 2. There are authorized to be appropriated $30,000 to carry out the purposes of this Act.

CONFERENCE REPORT ON S. 3054, TO AMEND THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Mr. PERKINS submitted the following conference report and statement on the bill (S. 3054) to amend the Manpower Development and Training Act of 1962:

CONFERENCE REPORT (H. REPT. No. 92–966)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" the first time it appears in such section and inserting in lieu thereof "1973".

(b) Section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is further amended by striking out the colon and the following: "*Provided*, That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972".

SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

And the House agree to the same.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.
GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
ADLAI E. STEVENSON III,
JENNINGS RANDOLPH,
BOB TAFT, JR.,
JACOB K. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 3054) to amend the Manpower Development and Training Act of 1962 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

1. The House-passed amendment would extend the authority conferred under title II of the Manpower Development and Training Act for one year beyond the existing law's expiration date of June 30, 1972, by inserting in lieu thereof the termination date of June 30, 1973.

The Senate-passed bill does not contain the above provision.

The Senate recedes.

2. The House-passed amendment would extend for one year the existing law's provision that no funds to carry out obligations entered into prior to the termination date may be disbursed later than December 30, 1972—six months after the termination date.

The Senate-passed bill would delete this six months limitation altogether.

The House recedes.

3. The Senate-passed bill also contains the following provision, providing that for purposes of Public Law 874, relating to assistance for schools in federally impacted areas, Federal property transferred to the United States Postal Service shall continue to be treated as Federal property for two years.

The House passed H.R. 11809 on December 6, 1971, containing the same language as section 2 of the Senate-passed S. 3054.

The House recedes.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.
GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
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JENNINGS RANDOLPH,
BOB TAFT, JR.,
JACOB K. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

OCCUPATIONAL SAFETY AND HEALTH

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 1 hour.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks and include extraneous matter.)

GENERAL LEAVE

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their own remarks and include therein extraneous matter on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Speaker, at the end of the 91st Congress we passed the Occupational Safety and Health Act of 1970. While there were many disagreements as to how the act should be structured to improve the safety and health of the Nation's workers, there was general recognition that something had to be done to reduce the rising rate of occupational injuries and to curtail the human and economic costs of occupationally related injuries, illnesses, and deaths. The overall increasing concern with the quality of the environment in which we live was a major factor in making us aware of the need for an improved work environment. Just a little over 15 months ago, this House passed the bill by a vote of 308 to 60, and the act will have been in force for 1 year on April 28 of this year.

I have been struck, Mr. Speaker, by the number of Members of Congress and business and labor people who have apparently forgotten the extraordinary amount of work that went into the passage of this act. There are many who have forgotten the 3 years of hearings and committee work involved in the consideration of this legislation. The controversy was real and substantive. It may be in order to simply review briefly some of that background.

It was President Johnson in 1968 who proposed the first occupational safety and health bill. During 1968 the Committee on Education and Labor held extensive hearings on that legislation and eventually did report a bill which became known as the Hathaway bill. At that time I offered a number of suggestions which were turned down by the committee and made known my views in the minority views of the committee report which accompanied that bill. Because it was late in the session, nothing was done and the House never considered that legislation.

In 1969 when President Nixon came into office, he asked each department to assess its legislative priorities. The Department of Labor placed safety and health at the top of its list. President Nixon, after consultation with all segments of the business, labor, and safety communities, then proposed the original administration's safety and health bill. Congressman DANIELS subsequently proposed a new bill which was cosponsored in the other body by Senator WILLIAMS of New Jersey.

Throughout all of 1969 and 1970 hearings were held on these proposals and a number of factors went into the decision by Congress to eventually consider and pass legislation of this kind. For example, the AFL–CIO made this subject their No. 1 legislative priority for the 91st Congress. The business community represented through the Chamber of Commerce and the National Association of Manufacturers as well as various trade associations switched from opposition to a Federal law to support for a Federal law. The Nixon administration's leadership and initiative as well as the emphasis on safety as reflected in the Coal Mine Safety Act and the Construction Safety Act all were a part of the backyard leading to the eventual signing of the Williams-Steiger Act.

Some may have forgotten the controversy between the Daniels bill and the Steiger-Sikes bill and the fact that there are significant differences in these bills. For example, there was the question of whether an inspector could on his own shut down a plant at the worksite; the question of separation of powers between the promulgation of standards, inspections and enforcement; insuring the right to due process at each stage. All of these were involved in the House debate and were, I believe, reasons for the vote by the House to adopt the Steiger-Sikes substitute. The Williams bill was different and the conference committee had to wrestle with the task of reconciling major differences.

The Williams-Steiger Act is a compromise—one which did not then and does not now reflect 100 percent the views of the AFL–CIO, the Chamber of Commerce, the Nixon administration, Senator WILLIAMS or BILL STEIGER. But it does, in my judgment, reflect a bill which at the time it was passed was supported by all of the organizations, associations and individuals who were active in this field. It is a legitimate, just, and fair bill.

That background is important because while there are differences there are also similarities. The confusion, misunderstanding and controversy which now is to be seen across the country and here in Congress comes to me as no surprise given the magnitude of this law. But all of these questions were addressed by both committees in both Houses and thoroughly discussed in committee reports accompanying the bill and during the floor debate.

The President created the Occupational Safety and Health Administration in the Department of Labor to set and enforce occupational safety and health standards and to seek compliance through educational, promotional, and other techniques. In the short time this organization has existed, much has been done—a large number of standards have been promulgated and others are being developed; compliance officers and industrial hygienists have been recruited and trained, nearly all existing State efforts have been continued while the States are being aided in developing their own programs; educational programs have been developed and training for employers and employees has begun; and, enforcement activities have been undertaken. I am proud of the efforts of this administration in implementing the act, and of those men and women who have worked so hard to get this necessary new program off the ground.

However, in any law of this scope and in any program this new there are inevitably many who feel that either progress is being made too slowly or else that too much change is being required at too rapid a rate. I am sure that nearly all of you in this House have received a number of letters and phone calls from constitutents complaining about the act and its administration. For example, one of my constituents wrote saying:

> I do object to the manner of enforcement. Perhaps large corporations have engineers who have the savvy to comprehend the 744 columns (of standards published in the Federal Register), and the staff to bring everything into compliance. Few small businesses have, or can do so. The $65 "assessment" won't break us. I do consider it unfair and discriminatory.

Another said:

> No one is against safety and health. We do, however, strenuously object to the procedure under this law where a proposed penalty is set up before expiration of the correction period and no opportunity to correct is given without a penalty being proposed.

Such reactions from constituents have led many of my colleagues in this House to demand changes in the administration of the act and to introduce bills to amend it, feeling that too much is being done too fast. However, there are strong voices raised saying just the opposite, that not enough has been done. At its recent convention in Bal Harbour, Fla., the AFL–CIO issued a statement on the program which says in part:

> We have weighed the President's words against his deed and found them wanting. The record is one of foot dragging flabby enforcement and adulteration of the special provisions of the Act setting forth specific rights and protections for employees . . . On the basis of the present enforcement staff of over 300 plus, with 9,800 establishments inspected in five months, the 4.1 million workplaces covered by the Act would all be finally inspected once in the next 170 years.

In addition, the AFL–CIO statement, referring to the Occupational Safety and Health Administration's summary report on its enforcement actions between July and November 1971, says:

> According to the report, $512,000 in fines were assessed against 8,257 employers for violations—an average fine of $62. That is too cheap a price tag to be placed on the lives and health of workers. More stringent fines are necessary to prevent employers from deciding that it is cheaper to violate the law than to correct the hazard.

And, my distinguished colleague from New Jersey (Mr. DANIELS) recently remarked that:

> Now the hopes of this Congress and their constitutents have been undermined by the inept and lax administration of important parts of the occupational safety and health law. A spirit of protecting the lives and health of our workers is barely discernible in many of the Department of Labor's actions. As the chairman of the committee charged with oversight of this act, I feel that

if the Department does not speedily correct its attitudes and actions in this matter, I will exercise full authority to bring about these changes.

Obviously, the Occupational Safety and Health Administration is caught between the pressures from businessmen, farmers, labor, consumer advocates, and others. These pressures raise some fundamental issues on which I would like to comment.

First, why were the present occupational safety and health standards adopted? In passing the act, we recognized that there was a considerable body of safety and health standards that had been developed by national consensus organizations such as the American National Standards Institute and the National Fire Protection Association or by the Federal Government under other statutes. Since these standards embodied a great deal of experience with existing conditions and had provided for the inputs from affected groups in the country over a long period of time, special provision was made for the Department to adopt these standards immediately without further public hearings. In adopting these initial standards, however, the Department carefully edited them to pick those affording the greatest protection for employees while avoiding inconsistencies and impracticalities. A major package of these standards was promulgated last May 29 for general industry. This package also adopts pre-existing Federal standards for the construction and maritime industries. These standards do contain some problem areas such as those dealing with toilet partitions and ice water which have little relationship to occupational safety and health. However, OSHA is moving rapidly to identify and change such standards and there will always be some standards of less importance than others.

In the Extensions of Remarks section of the CONGRESSIONAL RECORD on March 9, 1972, I made available to the House the list from the Department of Labor of the proposed timetable for standards changes. I hope this information will be useful to my colleagues in considering these questions.

The act also provides for new standards to be developed through a careful process which insures adequate research and public hearings before they are promulgated. Temporary emergency standards may be issued to be effective immediately to meet the demands of special situations. The first such standard, on asbestos, was issued in December 1971. We also recognized that employers may do things in many different ways which are as effective in terms of safety and health as would be compliance with the standards, and the act provides for variances in such situations.

It should be clearly understood that the Department of Labor has not arbitrarily adopted the standards now in effect. Rather, they have followed specific congressional direction and, I might add, have done so remarkably well, considering the complexity of the issues involved.

Second, how does an employer get help in understanding what is required of him under the act?

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I would be glad to yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I listened with great interest to the explanation of the gentleman from Wisconsin of the section to which he has just mentioned. I have received numerous calls from Wyoming regarding the lack of cooperation on the part of the officials of the Department of Labor.

Several weeks ago a businessman, the owner of a small operation in New Castle, Wyo., called the Denver office of the Department of Labor and said:

I have here the standards. I employ 85 or 90 people in my operation and I would like to have some help in determining how to comply with the law.

He said:

Will you please send someone up here so that I will know how to be in conformance with the law?

The answer was:

No, we are not familiarizing you with these regulations and we will not help you. If we come to see you, we come to fine you.

So, I look with displeasure upon what has happened in the administration of the bill because there has not been the necessary education done nor the necessary assistance in helping people to comply with the requirements of this act.

It is also a fact that it is not inconsistent to find criticism by the AFL–CIO with reference to the question of lack of enforcement.

I happen to know from Akron, Ohio, and other industrial places, of the absence of such examiners from premises notorious for high industrial injuries. Yet, at Rock Springs, Wyo., a city of virtually no industry and less than 15,000 souls, four officials got there on one day from the Department of Labor.

And three of them walked into one small barbershop at the same time.

I submit to you there is somebody downtown wasting manpower needed in the heavily industrialized areas, who need the effects of this law, and concentrating in the little Western towns, bringing officials in there, and working on the little barbershops and the small businesses. That is the last thing in the world that the Federal employees need to be doing in these difficult and hard times.

So I hope that what the gentleman is doing will prove of some benefit, and will remove some of the hardship of this law. I also hope that the gentleman can come up with rapid hearings with amendments—not necessarily amendments that would exempt employers of a certain size. I do not believe anyone wishes to exempt anybody from the concept of this law. But something has gone wrong between the law concept and the regulations that were promulgated for it downtown in the Labor Department.

Mr. STEIGER of Wisconsin. I might say to the gentleman from Wyoming that I had a call of this very sort this morning from my sister who, incidentally, lives in Sundance, and she, among other things said:

Would you please help me, because everybody knows that I am your sister, and you are my brother, and we are having a real problem when they talk about the Steiger act. Can't you get your name off of it, or do something else?

But I would like to make two comments: one is do not criticize the Department of Labor for what it does in terms of responding to the calls that come in from Newcastle, because clearly the Department of Labor in fact was being helpful to that individual by saying:

Look, if we come on your plant site we can't under the act come there to give you guidance and counsel. We can come there and make an inspection. After the inspection is finished the compliance officer does, under the law, and has in practice, sat down with the employer and gone through those problems wherever they were found during the inspection. But you cannot ask the Department of Labor to come there for the sole purpose of simply providing information and guidance.

Second, let me also tell you that the Department of Labor is prepared to respond to people who have questions about the implementation of the act; about the effect of a specific standard on their particular worksite, and will be delighted to do so. I do know that the person cannot meet them at the plant-site, but the person who has a question can call Denver, or, if it is required, go to Denver. And as part of my remarks, at the end I am including a list of all the district officers and all the area officers, with the name of the man in charge and the phone number, so that if anybody has a question he knows here is the man to go to.

Third, may I suggest—and I will get into this in just a moment in terms of my further discussion, on the very point the gentleman raises, it is not, in my judgment, fair to assume that the Department of Labor is somehow picking out Rock Springs, Hulett, Sundance, Newcastle, or any of the other communities in the State of Wyoming, and not doing the job in Akron, Canton, Milwaukee, Chicago, Rockford, or any of the other cities across this country.

In my remarks, may I say to the gentleman from Wyoming, I do go into the target priorities of the Department of Labor, first, taking care of the situation in which a death takes place; second, those in which there is a demand for inspection by employees; third, the target industries program; fourth, a general random selection inspection program of employers, large and small, across the United States. It is a limited inspection force, and the point that the AFL–CIO is making, which was the point I am trying to draw to my colleague's attention, is between those who say let us exempt certain categories, let us make certain changes in it. But there is the additional suggestion, again by the AFL–CIO, that it is too weak and that we need to have more enforcement, it is this position of the Department of Labor in which it finds itself between the rock and the hard place.

And it is my purpose today to at least try to bring some of this to the attention of the House so that they might consider more carefully the question of whether or not it is appropriate or not to start making modifications in the Occupational Safety and Health Act.

Mr. RONCALIO. I just want to thank the gentleman very much for allowing this discussion. I am sorry, we have had a tremendously complicated and difficult 3 days just concluded, and there are very few Members in the Hall.

But I do not know of anything that is more important right now than this legislation, and I am grateful to you for the time you have taken trying to point the way.

I only hope you recognize a bill providing for amendments by my friend and colleague in the other House, Senator CLIFFORD P. HANSEN, the junior Senator from Wyoming, legislation together with Senator CARL T. CURTIS of Nebraska. It calls for exemptions.

My bill is now in the hopper, and I hope it will get some attention because I just do not think we can go on without ugliness and resentment that adds further to the loss of confidence that people have in their elected officials.

I will say to you in all candor, Mr. STEIGER, if I had been a member I may have voted for the bill, I do not know. But I tell you it is not working well. It is causing irritation and loss of confidence and ugliness that I have never experienced before in a lifetime dedicated to the public service. It is very, very serious.

Mr. RONCALIO. Mr. Speaker, I have taken several occasions over the last few weeks to speak against the injustices arising from the implementation of the Occupational Safety and Health Act of 1970.

We are all aware of the confusion and the furor that has been created by this act, particularly among small businessmen, ranchers, and farmers who have never before been affected by Federal safety laws.

The major concern in my State of Wyoming is not that businessmen, farmers, and ranchers must now run "safe" places of business, for I find my constituents more than willing to comply with reasonable safety requirements. What does upset them is the fact that they are in many cases being fined by Department of Labor inspectors even before that Department has gotten around to seeing that each and every individual affected by the new law has received a copy of the regulations to which he or she must comply.

Even though I was not a Member of the House of Representatives when the Occupational Safety and Health Act was passed, I am certain that it was not the intent of this body to impose specific laws upon the citizens of this Nation before they are made aware of what these laws are.

For this reason, I introduced into the House of Representatives on March 20 an amendment to the Occupational Safety and Health Act (H.R. 13926) which would provide that the first inspection by Department of Labor officials would be for the purpose of pointing out to the owner or manager of a business what changes he must make to be in compliance with OSHA and to allow a reasonable period of time for him to make the necessary changes before he is hit with a fine. In short, my amendment would allow that the first on-site inspection would be to give advice, not fines.

As we all know, my proposal is just one of several amendments that have been offered to correct the injustices and abuses of the Occupational Safety and Health Act.

What I want to urge today, Mr. Speaker, is that the House of Representatives do more than talk about the Occupational Safety and Health Act. We have an opportunity here to take positive action on a matter of major concern to the citizens of this Nation—to show them that Congress is not an unresponsive body isolated from the needs of the people.

I respectfully call on you for hearings on all Occupational Safety and Health Act amendments, and I would suggest that the sooner the amendments can be properly considered by the committee and get on to the floor of the House for discussion and vote, the better.

I am hopeful you will not let this opportunity to act pass us by.

Mr. STEIGER of Wisconsin. There is only one further comment that I would like to make, and that is to suggest as best as I can understand what is happening in Wyoming. There seems to be some confusion on the part of those involved in the State program as to exactly what the Federal program is all about. At least from my sister's standpoint and my brother-in-law's standpoint, they are receiving misinformation about this act. I contacted the Department of Labor in an effort to try to find out exactly what is happening between the State personnel and the Federal personnel.

Then let me go on, if I might say to the gentleman from Wyoming, I dare say there is a responsibility on the part of the Members of Congress to do a job in alerting their constituents in terms of the farmers and ranchers—only 450,000 farmers and ranchers were circulated as to the impact of OSHA when the original standards were promulgated.

There are four specific standards with reference to agriculture. Those standards are not difficult to comprehend or to understand.

There is not any reason at all why a farmer or rancher should not be familiar with them and to be able to comply with them to the extent that they may apply to his operation.

I think there is a serious failing on the part of some of our colleagues who have been unwilling no matter how much they attack the law to say there is also a responsibility on our part to inform our constituents as to the implications of this act and put it in our newsletters and put it in our weekly reports so that we do not get this kind of confusion and misinformation.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman.

Mr. RONCALIO. Those who voted for this law do more than that.

If the Secretary of Labor does not correct the situation, he should be summarily dismissed. Who else is responsible for it?

Mr. STEIGER of Wisconsin. I will say to the gentleman, I think he is 100 percent wrong. I do not know any way that the Department of Labor can undertake to do this job that it has not already done.

It has put out public service ads and made every effort to create an awareness on the part of all businessmen, farmers and ranchers across the Nation, in connection with alerting employers.

The Safety Standards magazine for this month has to do with agriculture. It is available from the Superintendent of Documents for $1 per year.

I urge the gentleman from Wyoming to read them, but I would suggest also to the gentleman that trade associations have a responsibility, labor unions have a responsibility, the chamber of commerce and Members of Congress have a responsibility to make sure at least that if an inspection takes place, their constituents ought to be aware of it so that they will not be fined for not being in compliance with this act.

I think it totally misses the point to attack and blame the Department of Labor for not having done this job when it was given to them by the Congress. Theirs is an intolerable burden in terms of an act that was given to them not long enough before it went into effect. They should have had more time. I recognize that. But I lost on that issue during the conference to reconcile the differences between the Williams bill and the Steiger-Sikes bill.

I think it is very unfair to say that the Department of Labor is to bear the full blame for the fact that some of our constituents are not aware of what we have done.

Mr. RONCALIO. Would the gentleman concur in now recognizing at least a 6-month or a 1-year educational period so that citizens might have at least a 6-month or 1 year education period in which officials can enter the premises and help the citizens to comply?

Mr. STEIGER of Wisconsin. No, I would have to say in all honesty—I do not think this approach would be appropriate.

Mr. RONCALIO. Then what you are saying in effect is if my bill were to come up here, you would testify against it?

Mr. STEIGER of Wisconsin. No. I am not saying that I would testify against it. I serve on the committee, and I would listen sympathetically to the point which the gentleman is making. My point to the gentleman from Wyoming is this. The gentleman wants a 6-month or a year's period of education. I suggest that there are forces, as forceful, perhaps more forceful, than the gentleman from Wyoming, who would come in and want to make some changes which would make it even more difficult for the employers and the employees.

Mr. RONCALIO. Why do we not do what the facts warrant? Why do we not

do what the situation justifies and not pay too much attention to the pressures which push to one side or the other? In those areas where there are industrial accidents now, where there are 14,000 to 16,000 deaths a year from unsafe premises, let there be inspection. I submit that you can go through States such as Utah, Wyoming, Idaho, and Montana and you will not find justification for dozens and dozens of labor inspectors running over the premises of little farmers and ranchers, some barely able to make a living now. They find that they are required to put a hard hat on when they work around cows and a coat hanger for coats available in out-houses.

Mr. STEIGER of Wisconsin. If the gentleman is going to talk about his constituents, at least he should know what he is talking about. There is no requirement that you have to have a hard hat on when you work around cows, and the requirement of a coat hanger is a de minimis violation.

Mr. RONCALIO. You are not getting precisely to what this is directed to. There are 400 pages of such de minimis items to bother ranchers who are trying to make a living and small farmers who are trying to make a living. How about hard hats for shoe clerks?

Mr. STEIGER of Wisconsin. I will suggest to the gentleman that there are but four standards that specifically relate to agriculture. They are not difficult to understand. Most have no application to the kind of ranching situation that I know of in Wyoming. I would find it difficult to justify saying that suddenly the act has become, in your words, so very burdensome to small farmers and ranchers, because I just do not see that happening in my State of Wisconsin or across the country as I have watched the way this act has been implemented.

Mr. RONCALIO. From time to time I have inserted in the CONGRESSIONAL RECORD—on at least five occasions—letters of indignation and hardship, indicating the injustice of this legislation upon the small farmer. If the gentleman is not familiar with that——

Mr. STEIGER of Wisconsin. I am familiar with it.

Mr. RONCALIO. There must be some type of delay in these things for the people in the rural Rocky Mountain area. This legislation will only diminish confidence in elected officials. It does not make much difference to me personally. I did not vote for the bill. I am home free on that. But I am trying to work in the best interests of this legislation. I think it had good motivation. That is why I have engaged in this colloquy today.

Mr. STEIGER of Wisconsin. Let me make one more point, if I may. Let us understand, also, that, difficult as it may be, I heard about one alleged violation and one alleged fine that is being levied as a result of a hay hand. The man was being fined $50 according to my information. I do not understand that. But, you know, agriculture across the United States is the third most hazardous occupation of all industries in the United States. While it has about 5 percent of the employment, it bears, if my memory is correct, about 17 to 20 percent of the number of deaths that take place in industry across the country. It is an industry which, with its problems, is exceedingly hazardous. It is for that reason, it seems to me, to simply take out the Rocky Mountain States would suggest just as good an argument to the people in Kiel, Wis., as to what their status should be, for what is good for your goose may be good for my gander. I am not sure that that is the direction we should take at this point.

Mr. RONCALIO. In light of the water quality amendment regarding irrigation proposed today, I can appreciate this argument and the need for that kind of approach.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's interest in this. I would urge him to continue his efforts, at least to make sure that his constituents are aware of what the act is about.

Mr. RONCALIO. Have no fear. They know.

Mr. DENNIS. I did not realize the gentleman from Wisconsin was holding this special order today; I just happened to come into the room and I am not really prepared to discuss the problem in detail. But I did not want to let the opportunity pass, since I did happen to be here, without putting on record the fact that I have received a great many complaints about the Occupational Health and Safety Act from people in my district, from small businessmen of various kinds, particularly in the construction industry, light construction industry, and also others. I do not claim to be an expert on this subject at all, but these men do claim very seriously that they simply cannot comply with the provisions of the act we passed here and stay in business; and actually they would rather discontinue operations, in many instances, than try to comply.

As a result of, or because of all these complaints and my general feeling along these lines, I have joined recently with some of my colleagues in amendatory legislation which is designed to reach the complaints and objections of these people. I would like to very strongly recommend to the gentleman from Wisconsin and his colleagues on the committee that they give those bills early hearing and serious and favorable consideration.

Mr. STEIGER of Wisconsin. Mr. Speaker, I thank the gentleman from Indiana for his comment and contribution.

On the question frankly of separation of light and heavy construction standards, I would have to say I do not think it is at all appropriate to take that step for a very simple reason, not because it is not important to recognize that there are, in fact, some differences, but because that is something that can be, and in my judgment, should be handled administratively and not legislatively in terms of amending the basic act.

The National Association of Home Builders is extremely active in this. I have had many letters. The Department, with which I have worked as well as with NAHB, is cognizant of the impact of certain of the heavy construction standards and has begun to work to modify that. I think most of those complaints can be taken care of when they are, in fact, legitimate complaints as to reasons about the separation between light and heavy construction.

Mr. DENNIS. If the gentleman will yield further, that may well be true. I may, however, add this caveat. We do not want to put these small businessmen too much at the mercy of the whims of administrators. Granted, we cannot always legislate about everything, but statutory protection—if we are going to have statutory enactment at all in the first place—has got its virtues, because a man who is trying to make a little business go should not have to depend too much on what some bureaucrat in Washington thinks. The man ought to have some protection in the law.

Mr. STEIGER of Wisconsin. May I say to the gentleman from Indiana that the simple act of differentiating in the statute between light and heavy construction is no protection. I do not pretend to be an expert in construction standards, but I am here to tell the gentleman the number of areas in which I can find substance to the complaints about the standards is very small. Most of them apply equally in any construction situation.

Mr. DENNIS. I said to the gentleman in the beginning, I am not really prepared at all to discuss this matter with him, with his acknowledged expertise in the matter. I want to get my thoughts across, however, because I have met a very genuine feeling on the part of these smaller business people. They point out and say to me—and I do not know anything about construction either—that "I have been building these houses for years. It is foolish and ruinous in cost to require me to put up this type of scaffolding, and to do this and to do that under this law. Do the fellows in Washington want to drive me out of business, What is the idea?"

I do not think we do want to do that. I will have to say to the gentleman, that while I got very few requests from home to even pass this bill in the first place, I have heard a great deal about it since. I have been getting a great many complaints since it has been passed. I think we should pay more attention to the people we hear from and whom we represent than we do to those organized groups and to the media which get us to pass more and more legislation, which more and more ties the hands of the man back home who wants to make a living. I am sure the gentleman agrees with me on that philosophy.

Mr. STEIGER of Wisconsin. Absolutely. I spend a great deal of time, about a third of my time responding to complaints from my constituents as well as to suggestions and letters and ideas from people across the country.

I follow the Bureau of National Affairs, BNA, publications, the Commerce Clearing House publications, to make sure the intent of the Congress is being fulfilled, because I believe very strongly what we have done, which I believe was right, can nevertheless cause a problem to that fellow back home unless it is carefully done and unless we watch to make sure we are not doing a hardship to somebody back there being asked to comply with it.

This is something with which I do deal, about which I feel strongly.

Mr. DENNIS. I thank the gentleman for yielding. I appreciate his concern and interest. I encourage him to take it to the other Members of his good committee.

Mr. STEIGER of Wisconsin. I thank the gentleman from Indiana very much.

Mr. LINK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from North Dakota.

Mr. LINK. I should like to associate myself with the concerns expressed by the gentleman from Wyoming, because I represent largely those who are in small industry, who operate small shops, and particularly the farming and ranching community of my State. Some of them hire as few as one employee.

I was not a Member of the Congress that enacted the Occupational Safety and Health Act of 1970. Nevertheless I recognize the importance of adequate health and safety for all of our people.

I am receiving considerable communication of concern from my people, particularly the farmers and ranchers, indicating that the full impact is upon them at this time.

I would at this point wish to inquire of the gentleman in the well, as one of the authors of this act, as to the timetable for the implementation of the provisions as they might apply to the kinds of operators to whom I have referred, namely the small businesses and the farmers and ranchers.

Mr. STEIGER of Wisconsin. The act became fully effective on April 28, 1971, almost 1 year ago. The Department of Labor at that time granted an additional 90-day familiarization period for all industries covered under the act. At that point those initial standards, which are the consensus standards, took effect almost no exception. There were some on which there was a later effective date.

In direct response to the question, I would say that in almost every instance all standards that have up to now been promulgated are now in place, are now in effect, and do cover all places of business across the United States, 4.1 million, with 57 million workers.

Mr. LINK. In other words, the full impact of the act is now bearing upon all the people who are covered by the act?

Mr. STEIGER of Wisconsin. I suppose the answer to that is "yes" and "no," because the full impact of the Act is only to the extent that there are standards now in place. There obviously are going to be, over a period of time, promulgation and development of additional standards in areas in which no standards now exist. There will continue to be an increasing in emphasis on health and health-related problems.

So far as the act today is concerned, yes, the full extent of the act is now in operation and it does apply across the board.

Mr. LINK. It was my understanding, from your colloquy with the gentleman from Wyoming that the act would apply in three stages, depending upon the importance and the applicability of the provisions as they relate to occupational hazards.

Mr. STEIGER of Wisconsin. No. What I was talking about were what were the priorities for inspections; not in terms of whether or not a place of business was covered but, rather, how does the Department determine, with a limited inspector force, how to go about making the inspections required under the act.

Mr. LINK. I thank the gentleman from Wisconsin. I would encourage him and the committee to give proper consideration to those measures that would lend themselves to alleviating those areas of hardship and certainly those areas of misunderstanding that apparently exist at the present time.

Mr. STEIGER of Wisconsin. I thank the gentleman from North Dakota very much for his contribution and his interest.

The standards are voluminous and complex and it is often difficult for the employer to know what is required, especially for the small and middle-sized business which does not have its own expert personnel. Recognizing this, OSHA built into the initial standards a 90-day familiarizaiton period and spent much of its compliance efforts until August 27, 1971, in informing employers as to the requirements. OSHA is also developing training materials and conducting regular orientation sessions for employers and their representatives.

The Department's intentions in this regard are illustrated by the training technique it developed under the Federal Construction Safety Act of 1969. By December 31, some 930 instructors were trained in the construction industry and given materials to go back to their workplaces and pass on the training. Approximately 22,000 had received this training by the end of 1971. Similar courses are now being developed for general industry. The Department has commenced seminars all over the country for employers at the rate of at least 600 a year, and this program will be continued or expanded. In addition, trade associations have been consulted and asked to explain the act to their memberships. For example, more than 10,000 people attended a closed-circuit TV broadcast in 27 cities last June put on by the National Association of Manufacturers, with OSHA officials participating.

During actual inspections, OSHA compliance officers and industrial hygienists meet with employers both before and after the inspection to explain the act and how the establishment may be in violation. When citations are issued, informal consultation on how to come into compliance continues until the citations become final orders of the independent Occupational Safety and Health Review Commission. Even then, OSHA is available for consultation within limitations prescribed by the act or by the Commission. Consultative procedures are spelled out in detail in the Compliance Operations Manual developed by OSHA. The manual is available at $2 a copy from the Public Documents Department, Government Printing Office, Washington, D.C. 20402. It should be noted that the act does not require this compliance manual, an internal operating document, to be made generally available to the public. OSHA has voluntarily published it, and since February, the Superintendent of Documents has sold about 25,000 copies, an indication of the propriety of the decision to publish and of the great interest in the program.

OSHA is not, however, in a consultative business to the exclusion of the private sector. A major responsibility for such consultation rests with the insurance industry, the National Safety Council, trade associations, the States, and private consulting firms which have the necessary expertise to aid employers in understanding the act and its compliance requirements. Indeed, the consultative role of these organizations is of paramount importance since the language of the act generally prohibits the presence of OSHA personnel in the workplace unless full enforcement procedures, such as the walk-around and issuance of citations for alleged violations, are in effect. The act requires that OSHA personnel must take note of violations disclosed while on any worksite and take appropriate enforcement action including the issuance of citations and the proposal of penalties, as necessary. It is this requirement of sanctions rather than warnings that gives real meaning to the enforcement provisions. Finally, in the matter of consultation, I believe I would be remiss if I did not point out the responsibility of the Members of the House to be well informed on this vital act and to advise and assist their constituents, be they employees or employers, in exercising their rights and meeting their responsibilities.

I must say in all honesty that regardless of how one feels about the act I do believe it is the responsibility of those of us who pass the laws to help make sure our constituents are familiar with the law. I have discussed OSHA in my newsletter, for example, and have said I would be pleased to supply information and respond to questions in order to make sure that those within the Sixth District of Wisconsin are aware of this act. I urge my colleagues to undertake the same kind of effort. As a matter of fact, I spend a considerable amount of time following the implementation of this act to make sure the intent of the Congress is complied with. In each speech I make to business or labor organizations, I urge them to keep in touch with their own representative in order to pass on their reactions and comments about this act. I have received letters from people all over the country who have had suggestions and criticisms, and I have tried my best to deal with all the questions being raised.

Third, why is OSHA picking on certain industries and small businesses? This is a loaded question. OSHA is not picking on anyone, but it is trying to handle the worst situations first. To do this, investigations and inspections have been broken down into four general categories and placed in priority order. The

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highest priority in making investigations is in the case of a catastrophe or fatality. For example, in December when the water tunnel being constructed in Port Huron, Mich., exploded killing 22 workers, OSHA compliance officers were on the scene within 4 hours. The next priority is the investigation of valid employee complaints, a subject I will cover in greater detail later.

As its third priority, OSHA has instituted two special programs designed to eliminate some of the worst known hazards within the limits of available manpower. In one of these two programs, five industries were selected as targets based primarily on the injury frequency rate figures from the Bureau of Labor Statistics. In 1970, these industries all had rates more than double the all-manufacturing average injury frequency rate of 15.2 disabling injuries per million employee hours worked.

The five industries with their associated rates are: marine cargo handling, 69.9; roofing and sheet metal work, 43; meat and meat products, 43.1; miscellaneous transportation equipment, primarily mobile homes, 33.3; and lumber and wood products, 34.1. In the other special program, five substances known to be toxic and potentially affecting large numbers of employees were selected for concentrated attention as target health hazards. These substances are: asbestos; lead; silica; cotton dust; and carbon monoxide.

As its last priority, OSHA is scheduling inspections of all industries and sizes of establishments in all parts of the country on a random selection basis. Through this means covered employers from every segment of the economy are being inspected and made aware of their responsibilities, though the number of businesses of any size or type that will be inspected is not very large. While many small businessmen have complained of harassment and amendments to the act have been introduced by many Members to exempt them, very few have actually been inspected. There seems to be more smoke than fire in this matter. In fact, the act gives special treatment to small businesses by providing for consideration being given to the size of the establishment in proposing penalties and by authorizing loans through the Small Business Administration to aid qualifying employers to come into compliance.

Fourth, why are only employers subject to citations and penalties under the act? We looked at this question in considerable depth before the act was passed and both labor and management generally agreed that the Government should not get involved in issuing citations and proposing penalties against employees. To have made employees subject to direct action by the Government would have set a major new precedent of intervention between labor and management in discipline cases that would have unnecessarily threatened the whole fabric of labor-management relations. Employees are responsible for complying with all applicable standards, though employers are generally held responsible for hazardous conditions in the workplace even if resulting from employee action. The employer retains the long-standing management prerogative of appropriately disciplining employees for their violations.

OSHA is developing and conducting training for employees to insure that they know their responsibilities under the act as well as their rights. A minimum of 600 such seminars are being conducted annually, and new types of courses are under development. Despite these efforts, we must recognize that OSHA will never be able to train all 60 million covered employees and that much of this burden will have to be borne by employers or accomplished through a multiplier effect of training instructors.

At this point I want to include the full text of a letter from the Assistant Secretary of Labor for Occupational Safety and Health, George Guenther, regarding this question.

The letter follows:

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Washington, D.C., December 22, 1972.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR BILL: This is in further response to your letter of July 9, 1971, in which you inquired about a speech made by Edward E. Estkowski, Regional Administrator for the Occupational Safety and Health Administration in Chicago, relating to the proposing of penalties under the Occupational Safety and Health Act against employers whose employees refuse to wear personal protective equipment required by standards.

As you know, section 5(b) of the Act requires employees to comply with occupational safety and health standards issued pursuant to the Act which are applicable to their own actions and conduct. However, the Act provides for the issuance of citations and proposed penalties only to employers, and not to employees (sections 9(a) and 17 (a), (b), (c) and (d)).

The legislative history of the Act makes clear that employers are responsible for assuring compliance with standards applicable to employee actions and conduct. The Report of the Senate Committee on Labor and Public Welfare expressly states:

"The committee does not intend the employee-duty provided in section 5(b) to diminish in any way the employer's compliance responsibility or his responsibility to assure compliance by his own employes. Final responsibility for compliance with the requirements of this Act remains with the employer (S. Rept. No. 91–1282)."

Therefore, consistent with both the provisions of the Act and its objective of achieving safe and healthful working conditions, employers will be subject to citation and proposed penalties where their employees violate standards which are applicable to their own actions and conduct. If the Department did not issue appropriate citations and proposed penalties to employers in such cases, the result could be widespread noncompliance with the Act.

The nature of the enforcement action in a particular case will, of course, depend upon a careful evaluation of all the relevant facts. In order to constitute a "serious" violation within the meaning of section 17(k) of the Act, the employer must have known, or with the exercise of reasonable diligence should have known, of the presence of the violation. The fact that a hazardous condition resulted from employee conduct violative of employer work rules may be relevant as to whether the employer knew or should have known of the presence of the violation and, accordingly, whether the violation will be cited as serious or other than serious. Under the Act, the assessment of penalties for serious violations is mandatory (section 17(b)), while the assessment of penalties for violations which are other than serious is discretionary (section 17(c)). Moreover, where the employer has made a good faith effort to secure compliance by his employees with an applicable standard, but the employees systematically refuse to comply, these circumstances will be taken into consideration in determining whether to issue citation and, if a citation is issued, whether a penalty should be proposed and the amount of any proposed penalty.

The Act, of course, contains no provision which would preclude exercise by the employer of the usual management prerogatives in cases involving employee disregard of safety and health rules, including requirements under section 5(b) of the Act. Thus, the employer may make compliance with these requirements a condition of employment, and subject to the provisions of any applicable collective bargaining agreements, he may discharge employees who refuse to comply or invoke such other disciplinary measures as he deems appropriate.

Finally, extensive educational training programs are being undertaken by the Department of Labor and various employer associations, unions and other organizations. By increasing employer and employee awareness of their respective rights and obligation under the Act, such programs will serve to minimize the occurrence of situations such as the one mentioned by Mr. Estkowski.

I hope that this letter will be of assistance to you. If I can be of further help, please do not hesitate to call upon me.

Very truly yours,
GEORGE C. GUENTHER,
Assistant Secretary for Occupational Safety and Health.

It was feared by some that employees would abuse the right to complain about hazardous conditions, especially since they are not subject to penalties. The act provides that if the Department "determines there are reasonable grounds to believe that such violation or danger exist," an investigation shall be made. OSHA is careful to evaluate every complaint received to insure that it appears valid before scheduling an investigation. Through January of this year, 1,519 such complaints have been received from employees and their representatives. With few exceptions, these complaints have shown that employees are very concerned about safety and health conditions and that they are acting responsibly in the manner and timing of their complaints. Assistant Secretary George Guenther has repeatedly stated OSHA's intentions to confine itself to safety and health issues and to avoid involvement in labor-management disputes. He informed me that, to date, this policy is being effectively carried out with regard to compaints and other issues.

Fifth, why is the act structured for immediate enforcement action, rather than for consultation first and enforcement later? This question goes to the heart of the reasons for the passage of the act itself. The uneven past efforts of private industry, insurance companies, and of the States proved generally ineffective in dealing with the growing occupational safety and health problem. Many State programs, including that in my own State of Wisconsin, were based on a system of making inspections and warning employers of violations, with penalties only proposed after subsequent

visits showed that action was not being taken. Were we to have adopted this concept, there would be little reason for an employer to comply with the act until after an inspection has been made.

Such a traditional approach would have seriously impaired the effectiveness of the act since it covers nearly 5 million establishments. Congress therefore provided for citations and, where appropriate, penalties when violations, even in the first instance, were found to exist.

It should be noted that the penalties proposed by OSHA for violations cited give due regard to the gravity of the violation, the good faith of the employer, the size of the business, and the history of past violations. Consistent with the act, substantially greater penalties are proposed for violations which, after citation, are not abated in a timely manner than for violations disclosed during an initial inspection. This approach is designed to provide a strong incentive for employers to promptly eliminate cited hazardous conditions from the workplace. The overwhelming majority of employers have complied with initial citations, indicating the effectiveness of the approach.

In drafting the act, we attempt to insure "due process" so that enforcement actions provide full opportunity for all affected parties to be given a fair hearing. The employer has 15 working days from the time of receipt of the proposed penalty to contest the issuance of the citation, the length of the period for abatement, and/or the amount of any proposed penalty. Employees may also contest the abatement period as being unreasonable. When a timely notice of contest is filed, the independent Occupational Safety and Health Review Commission assigns a judge to conduct a public hearing. The judge's decision may be appealed further to the Commission itself and further still to the appropriate U.S. court of appeals.

While I believe that enforcement in the first instance is a necessary tool to gain compliance, I also firmly believe, as does OSHA, that in the long run the goals of the act can only be achieved through education, training, and the voluntary compliance of both employers and employees. To this end, OSHA has established a broad, long-range approach to training and education. In January, I was proud to attend the opening ceremony of their new training institute in Chicago which will be used as a "pilot" center for the development of needed programs for the training of Government personnel, employers and employees.

Sixth, what are the factors that led to the present size of the inspection force in OSHA? And where do they grow from here? Basically, there are two major factors which have determined the size of the compliance staff in OSHA. I think that we would all agree that there is no point in recruiting vast numbers of Federal inspectors until we know the dimensions of the programs to be run by the States. The Congress declared as its purpose and policy that the Secretary should encourage "the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws."

I am happy to report that this encouragement effort is well along and that the States are actively responding. As of the middle of January 47 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have agreed to continue present levels of activities concurrent with the Federal compliance activities. These interim agreements have preserved full effectiveness of more than 1,500 State and local inspectors at a continued program cost to the States of approximately $80 million. Planning grants have been made to 47 States, the District of Columbia, and Puerto Rico and others are applying. Forty-nine States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have made formal statements during the past few months that it is their intention to develop and submit plans for participation under the act. The first actual submission is expected momentarily. This is the year of decision for the States since the interim agreements expire in December. With this great interest in the States, the level of the Federal staff has been tailored for short term efficiency, but with an eye to the eventual workload that can reasonably be anticipated for assumption by the States.

I am concerned by the effort being made by some to deny to the States an effective role in the implementation of this act. The State plans which are now being drafted in many States must, according to the law, be at least as effective as the Federal act. This does not mean, in my judgment, that the State plan has to be a carbon copy of the Williams-Steiger Act. The language may differ but the effectiveness may not.

I am confident that within a number of States there is the competence on the part of labor officials, business leaders and State officials to develop a State plan as effective as the Federal law. Were the States not to participate fully in OSHA, the end result would be less enforcement and fewer resources nationwide being used in this field. Every bill considered by the Congress in this field, whether the original Johnson administration bill, the Daniels bill, the Steiger-Sikes bill, or the Williams-Steiger Act, envisioned an important role for the States. It may be that the 50–50 matching program is not sufficient; and that question, I believe, should be considered by the Congress. But it is my best judgment that the act cannot succeed if the whole effort is operated solely by the Federal Government.

The other major factor in determining the size of the Federal staff is purely a pragmatic one. Compliance officers can only be recruited, trained, and absorbed so fast. We must remember that OSHA is less than 1 year old, yet already has 49 areas offices and two maritime district offices around the country. I am including at the end of my remarks a copy of the Directory of Field Offices of OSHA for the information of my colleagues.

During the debates on the act, it was universally agreed that the professional staff to be deployed meet strict requirements of experience and expertise. Assembling such a staff and then training them in the complex procedures of the new program cannot be done overnight.

It is too early, then, to accurately assess exactly how many compliance officers will be needed in the combined Federal and State force to achieve the optimum level of compliance. I know, however, that the Department has already made long-range plans for the integrated operation of the Federal efforts with that of approved State programs. I consider such planning to be administratively prudent and fiscally responsible.

There has been one other issue which has recently become important and which was raised vigorously with me at a machinists union meeting which I attended in Fond du Lac, Wis., last Saturday. This has to do with a complaint filed by the Oil, Chemical, and Atomic Workers Union, AFL–CIO, on behalf of the employees of the Mobil Oil Corp., refinery in New Jersey. Since this issue is important and since I believe the Department of Labor's decision is a correct one, I want to include for the RECORD at this point the memorandum prepared by the Department of Labor's Solicitor. This is the basis for the decision by the Department to rule that Mobil did not engage in discrimination because of its refusal to compensate employees who accompanied the compliance officers during the inspcetion. A letter follows:

U.S. DEPARTMENT OF LABOR,
March 1, 1972.

Memorandum for Assistant Secretary George C. Guenther.

Subject: Complaint against Mobil Oil Corp., under section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.

On November 29, 1971, the President of the Oil, Chemical and Atomic Workers Union, AFL–CIO (hereinafter OCAW), filed a complaint on behalf of employees of the Mobil Oil Corporation Refinery at Paulsboro, New Jersey. The complaint alleged that by refusing to compensate employees who accompanied the Compliance Safety and Health Officers of the Occupational Safety and Health Administration during inspection of the refinery under section 8 of the Act, Mobil Oil Corporation (hereinafter Mobil) violated section 11(c) of the Williams-Steiger Occupational Safety and Health Act of 1970.[1]

In accordance with the requirements of section 11(c)(2) of the Act an investigation of this complaint has been conducted. For the reasons stated below, on the basis of such investigation, it is believed that Mobil's conduct was not in violation of section 11(c).

There is no basic dispute as to the pertinent facts. Mobil operates a refinery at Paulsboro, New Jersey, employing more than 1500 employees. The production and maintenance employees at the refinery are represented by the Independent Oil Workers, which is affiliated with OCAW. Mobil and the local union are parties to a collective bargaining agreement which is effective from March 9, 1971, until March 1, 1973.

The compliance inspection conducted by the Administration of Mobil's Paulsboro refinery was based on a request for inspection by OCAW under section 8(f) of the Act. The inspection began on October 15, 1971, and

[1] A Statement of Position in Support of the Complaint was filed by OCAW on January 11, 1972.

continued October 19–21; November 8–9, 11–12, 15–19, 22, and December 1–3. On January 20, 1972, citations were issued against Mobil alleging three serious violations and ninety other violations. Penalties were proposed for a number of these violations. No notice of contest has been filed by Mobil under section 10(a) of the Act.

At the opening conference the Compliance Safety and Health Officers decided that the inspection should be divided into a safety team and a health team. In accordance with section 8(e) of the Act, representatives of Mobil and representatives of the employees at the Paulsboro refinery accompanied the Compliance Safety and Health Officers during the inspection. At various times during the inspection the following five employees at the refinery accompanied the Compliance Officers: Richard Meyer, Frank Leone, Harry Bailey, Louis Giorgianni, and George Giovanni.

On October 27, 1971, Mobil's Manager of Employee Relations informed the employees who had participated in the walkaround that the Company was paying them for the time spent in the inspection to that date, but that this payment has not to be considered as a precedent and that the company reserved the right to "determine whether or not such payments will be made in the future." On November 16, Mobil informed employees participating in the walkaround that they would not be paid for walkaround time during their regular working hours, effective November 11. There are slight discrepancies in the estimate as to the amounts of time not compensated. The higher estimate, submitted by OCAW, is 115.4 hours for the five employees. However, in view of the determination herein, it is unnecessary to resolve this issue.

Mobil does not deny that it refused to compensate employees for the time during which they participated in the walkaround during their normal work hours. It contends, however, that Mobil was not required to pay for such time unless required under the applicable collective bargaining agreement, and that such payment was not required under the current agreement between Mobil and the local union.

OCAW contends basically that the refusal to compensate for walkaround time is *per se* discrimination under section 11(c). OCAW argues that by refusing to compensate employee representatives the "employer is effectively interfering with the exercise of a basic statutory right," and that it would be "contrary to the spirit of the statute" to permit the employer to refuse to compensate employees for participation in the walkaround. OCAW further relies on an internal memorandum of the Department of Labor of July 1, 1971, which expresses the view that the time spent by employees in participating in a walkaround during normal working hours is hours worked under the Fair Labor Standards Act.

1. It is concluded initially that the failure of an employer to compensate employees for the time during their regular working hours that they participate in the walkaround is not discriminatory *per se* under section 11(c).

At the outset, it is deemed significant that, although the Act contains a number of specific provisions dealing with the rights of employees,[2] it contains no requirements that employees be compensated for their regular wages for walkaround time. Congress attached considerable importance to the walkaround,[3] and a separate provision of the Act, section 8(e), delineates the scope of the walkaround. In view of this, the fact that Congress did not expressly provide compensation for walkaround is strong evidence that it was not within its contemplation that such compensation be required.

Viewed in this context, it is concluded that the failure to compensate for walkaround time is not discriminatory *per se* under section 11(c). Participation in the walkaround is the exercise of a right under the Act within the meaning of section 11(c) and, therefore, the discharge of an employee for participating in the walkaround would be discriminatory under that section. However, it is believed that, where the employer refuses to compensate an employee participating in the walkaround, there is no discrimination *per se* under section 11(c). An employee participating in the walkaround is not engaging in normal work activity. Therefore, the employer's refusal to compensate for such time is not "because" of the exercise of rights under the Act but because the activity was not normal work activity.

The situation could best be analogized to the refusal by an employer to pay an employee for testifying in a proceeding before the National Labor Relations Board during norrmal working time. Although the testifying is plainly protected activity under section 7 of the National Labor Relations Act, as amended, the refusal to compensate employees for doing so is not unlawful discrimination under section 8(a) of that Act. *Electronic Research Co.*, 190 NLRB No. 143.

As quoted, OCAW's position is based in large measure on the July 1 memorandum dealing with the Fair Labor Standards Act. On further consideration it is concluded that where an employee participates in the walkaround during his normal working hours, such time is not hours worked under the Fair Labor Standards Act.

The July 1 memorandum, concluding that the accompaniment of compliance officers during inspections under the Act is compensable under the Fair Labor Standards Act, was based on the assumption that such activity was a "service" required by the employer and was an "inherent part of [the] employer's business." Upon reconsideration of the statutory language and careful review of the legislative history, however, it is now believed that this assumption was in error.

As is apparent from its language, Section 8(e) does not require that a representative authorized by employees to accompany the compliance officer during the inspection. Moreover, even where there is a representative authorized by employees, the Act imposes no duty upon the employer to require such representative to accompany the compliance officer during the inspection. Rather, the Act requires only that such representative "be given an opportunity to accompany" the compliance officer, and when the representative avails himself of this opportunity he does so on a voluntary basis. All that is required of the employer is that he permit the employee representative to be relieved of his usual production duties during the inspection.

Not only is the time spent by the employee representative voluntary, but also the principal beneficiaries of the participation by the employee representative in the walkaround are the employees themselves. The legislative history indicates that the purpose of such participation is to allow the employees an opportunity ". . . to inform [the Compliance Safety and Health Officer] of the alleged hazards . . ." and thus to ". . . provide an appropriate degree of involvement of employees themselves in the physical inspections of their own places of employment . . ." Senate Report No. 91–1282, p. 11.

Accordingly, based on the statutory language, and absent any legislative history to the contrary, it is concluded that time voluntarily spent by representatives of employees in accompanying Compliance Safety and Health Officers during OSHA inspections is not working time within the meaning of the Fair Labor Standards Act and is therefore not compensable. *Walling* v. *Portland Terminal*, 330 U.S. 148; *Isaacson* v. *Penn Community Services, Inc.*, 66 CCH Lab. Cas. ¶ 32,583.

OCAW's further argument is, in substance, that nonpayment for walkaround time will discourage the employee representatives from participating in the walkaround. This argument is without merit because it misconstrues section 11(c)(1) of the Act by confusing the limited scope of that section with the broader ambit of section 8(a)(3) of the National Labor Relations Act, as amended. Section 8(a)(3) makes it an unfair labor practice for an employer to discriminate "in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. . . ." This language is couched in terms of the intent or necessary effect of the employer conduct. See *Radio Officers Union* v. *N.L.R.B.*, 347 U.S. 17 (1954). Section 11(c), on the other hand, does not prohibit conduct which discourages the walkaround; it makes it unlawful for an employer to engage in certain conduct "because" of the exercise of statutory rights. It has already been shown that refusal to compensate here was not "because" of such exercise of statutory rights. Accordingly, assuming *arguendo* that the failure to compensate would discourage participation in the walkaround, this fact would not in itself make the conduct discriminatory under section 11(c).

2. Although it has been concluded that refusal to compensate for walkaround time is not discriminatory per se, there may be situations in which a finding of discrimination would be warranted on the basis of specific facts in the proceeding. Thus, for example, an employer's past practice respecting payment for certain other safety and health activities on regular working time may well require the conclusion that the failure to compensate for walkaround is discriminatory. However, OCAW in its complaint has alluded to no such special facts nor has our investigation disclosed any such facts. Determination of the specific circumstances under which discrimination would be found based on refusal to compensate must await development on a case-by-case basis.

3. In implementing the provisions of section 11(c) this Department should be mindful of the national policy favoring the voluntary resolution of disputes under procedures in collective bargaining agreements. See, for example, *Boys Markets, Inc.* v. *Retail Clerks*, 398 U.S. 235 (1970); *Republic Steel Corp.* v. *Maddox*, 379 U.S. 650 (1965); *Carey* v. *Westinghouse Electric Co.*, 375 U.S. 261 (1964); *Collver Insulated Wire*, 192 NLRB No. 150 (1971). Therefore, in some circumstances, it would be appropriate to postpone the resolution by this Department of complaints under section 11(c) until completion of grievance-arbitration proceedings relating to such complaints under the applicable collective bargaining agreement. It may be appropriate, for example, where a grievance-arbitration proceeding has been commenced by a party relating to the same or substantially the same issues presented by a section 11(c) complaint. Similarly, it may also be appropriate for the Department to await the decision of an arbitrator interpreting the collective bargaining agreement where the complaint of employees under section 11(c) is based solely or largely on the provisions of a collective bargaining agreement. Here, too, the precise contours of this policy must be spelled out on a case-by-case basis. However, the circumstances here do not warrant our postponing of the resolution of this matter.

In view of the foregoing, it is believed, on the basis of all the facts in this case, that Mobil did not engage in discrimination under section 11(c) of the Act.

RICHARD F. SCHUBERT,
Solicitor of Labor.

[2] See, for example, section 8(f)(1), dealing with requests for inspection by employees or representatives of employees; section 8(f)(2) providing for procedures for informal review of any refusal by the Secretary to issue a citation with respect to violations alleged by employees or their representatives; section 10(c) requiring that the rules of procedure of the Review Commission provide affected employees or their representatives an opportunity to participate as parties in Commission hearings; section 20(a)(6) allowing authorized representatives of employees to request from the Secretary of Health, Education, and Welfare an evaluation of toxic effects of any substance normally found in the workplace.

[3] See, for example, Report of the Senate Committee on Labor and Public Welfare No. 91-1282.

Mr. Speaker, I have taken this time to attempt to dispel some of the myths and misconceptions that have grown up around the administration of the Occupational Safety and Health Act of 1970. I feel that the administration of the act has gotten off to a good start and has built the necessary foundation to carry out the intent of the Congress. To some extent, the fact that OSHA is being attacked from all quarters is testimony that it is steering a good course. Undoubtedly some mistakes have been made and there are some problems. To the extent that these are within the province of OSHA, I am convinced that they are being worked on. However, many of the disagreements as to how the act should work that I listed at the beginning of these remarks go to the provisions of the act itself, and it has been the purpose of my remarks to clarify some of the misunderstandings which seem to exist. Last month, a Member of the other House, Senator CURTIS recognized these misunderstandings when he introduced a bill to amend the act. He said:

I have been investigating the problems and their causes, and have found that, contrary to the belief of some, the problems are not basically due to ill-advised administrative actions by the Secretary of Labor in carrying out the law. The problems are rooted in the basic law which Congress passed. It is, therefore, not a matter which the Secretary of Labor or the President can remedy. Rather, the problems to which I refer are the responsibility of Congress.

With this in mind, I call upon all concerned Members of this House to both recognize that the responsibility is our own, and that while many people want exceptions, changes, or mitigation of the act, many others want much more strenuous enforcement than has occurred to date.

U.S. DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION DIRECTORY OF FIELD OFFICES—REGIONAL JURISDICTIONS

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Totals: 10 regional offices, 49 area offices, 2 district offices.

REGION I—BOSTON REGION: CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, VERMONT

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Mr. BAKER. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. STEIGER) for reserving this special order on the implementation of the Occupational Safety and Health Act.

Although I was not a Member of the Congress which passed this law, I was well aware of its impact on my own business since we reluctantly dropped some services previously furnished our customers—we could simply not afford to undertake the expense of complying with certain national standards.

Immediately upon taking office here, I heard from constituents regarding situations wherein this act was creating many more problems in addition to those it was intended to solve.

It seems to me that many uncalled-for hardships are being worked upon our retailers, small manufacturers, other small businesses, and farmers.

One small businessman wrote to me as follows:

The most frightening thing confronting us today is the OSHA Act and the manner in which it is being enforced. Workers' safety should be our first interest. However, unfortunately, harassment and heavy fines for violations (imaginary or real) seem to be the primary thought of the inspectors. Invasion of privacy and unreasonable search and seizure, without due process, up until the advent of OSHA, was thought to be unconstitutional: We believe it still is!

Inspectors drop in, inspect, deliver the rather voluminous book covering the OSHA Act, and assess a fine all in one trip. When I checked into this, feeling that is was basically wrong, I found it is in the law. Requests for assistance bring threats. This does not lead to the improvement of the health and safety of employees. Yet the 1970 act puts the Labor Department in this position.

Now that the act has been in existence for a year, I believe it is time for this Congress to review the myriad of problems and take affirmative action on amending the OSHA Act to encourage voluntary compliance, to insure reason in the rules and interpretations of the rules, and flexibility for the Department.

For these and many reasons, I was pleased to join with our distinguished colleague from Nebraska (Mr. THONE) earlier this month in sponsoring legislation which includes the amendments I believe are necessary for a responsible reform of the 1970 OSHA Act while reinforcing the basic purpose for which it was enacted.

Mr. SCHERLE. Mr. Speaker, this Special Order could not have come at a better time. The dissatisfaction, uncertainty and unreasonable costs to employer and employee alike engendered by the Occupational Safety and Health Act of 1970 have, I feel sure, been repeatedly brought to the attention of many Members of Congress by their irate constituents. My office has been flooded with letters requesting information on the applicability of Occupational Safety and Health Standards and advocating support of legislation to amend this law. In response to these letters and in accordance with my own reservations concerning the effectiveness of the law in its present form, I have introduced or cosponsored three bills to make needed changes (H.R. 12679, H.R. 12759, H.R. 13943).

I was a member of the Committee on Education and Labor when this bill was first being considered. I am familiar with its evolution from a useful piece of legislation designed to protect America's workers into an amorphous mass of crippling regulations which has tightened the economic stranglehold on American independent business enterprise. At that time, the committee report on the Occupational Safety and Health Act included additional minority views which I feel are still relevant to the issue. Therefore, I include these views in the RECORD at this point:

ADDITIONAL MINORITY VIEWS OF REPRESENTATIVES SCHERLE, ASHBROOK, ESHLEMAN, COLLINS, LANDGREBE, AND RUTH

There are few matters of greater importance to both employers and working people than that of on-the-job safety and health. Yet, regrettably, for the second year now, the members of this committee have failed to reach public agreement on this vital issue.

The situation has not been helped by the excessive emotion generated mostly by people with little knowledge or practical experience in these fields. This emotionalism has brought us to the verge of making this issue a partisan one. That is unfortunate.

In our view, it is wrong to imply that accidents will end or substantially diminish if only Congress would pass a law. Poor safety laws can and have done more harm than good. Mistakes we make now will have a serious impact on workers and on the state of our economy.

We must also recognize that this legislation will affect nearly every aspect of the employment relationship. The federal government will be called on to regulate such diverse matters as the height of railings, the amount of dust in the air, noise levels and the type of equipment to be used to perform a particular task. Potentially, regulations could be adopted fixing the number of hours employees should work, the qualifications needed to perform a job and the size of crews thought necessary for safe work performance.

Because of the importance of these subjects to both employers and employees, great care must be taken by us. For that reason we have decided to expand on the minority views.

The goal of any occupational safety and health bill can be stated simply: we must foster improved standards of health and safety for American workers and do it in a way that is reasonable and fair. We have little patience with those who believe that to be effective we must destroy fair trial procedures and due process. Neither justice nor safety will be achieved by that kind of approach. We will, therefore, oppose H.R. 16785. It is a penalty oriented bill that does little to build upon and encourage what has already been done by private employer and employee groups in the field of occupational safety and health. It also raises several serious constitutional problems.

No Separation of Powers.—The committee bill vests all authority to write, police and enforce standards in the Secretary of Labor. This procedure is contrary to the basic constitutional theory of separation of powers. It is tantamount to having the chief of police, in addition to his regular duties, also write criminal laws and then act as judge and jury.

In order to provide for effective safety standards, provision must be made for the establishment of an independent, impartial board of experts to develop, on the basis of facts and upon their knowledge and experience, regulations in this field.

Undefined Obligations.—Although H.R. 16785 requires compliance with all interim, permanent and emergency standards promulgated by the Secretary, it also imposes an additional *general duty* upon employers to keep a safe and healthful workplace. A penalty of $1,000 per day can be imposed on violators of this catch-all provision. The Supreme Court has ruled that statutes must designate the standard of conduct expected so that affected parties can govern their actions in order to avoid violations. (See: *International Harvester* v. *Kentucky*, 243 U.S. 216; *U.S.* v. *Pennsylvania Railroad Company* 242 U.S. 208). It seems inconceivable for anyone to suggest that we pass a law prohibiting the doing of wrong to anyone. Yet, in effect, that is what Congress has been asked to do by the sponsors of H.R. 16785. The ruling of the Supreme Court makes good sense. We should heed its wisdom here.

Full Protection of the Administrative Procedure Act Denied.—When Congress passed the Administrative Procedure Act we recognized the importance of requiring government agencies to follow uniform procedures that preserved the effectiveness of the laws to be enforced and at the same time compelled fair methods of developing and enforcing regulations. H.R. 16785 departs from the provisions of the APA in at least two important respects.

First, Section 7 permits adoption of administrative regulations based upon "views and arguments" rather than solely on probative evidence. No reason has been offered justifying this deviation from regular and fair procedures. The requirements that administrative decisions be based upon facts and sound reasons mean little when a loophole of this type is included in a statute.

Second, the bill also authorizes the establishment of an extensive measurement, accident and health reporting system (See Section 19(a)(4)(C) and Section 19(a)(5)(D)).

Regulations under these provisions are a matter of great importance to employees and also will have a substantial financial impact on employers—particularly in the health field where regular psychological studies and medical examinations are obviously contemplated.

Yet, the validity of any regulations developed in this area could not be tested in court pursuant to the normal appeals procedures of Section 10 of the Administrative Procedures Act. This is so, because administrative action by the specific langauge of the bill is committed to the *discretion* of the Secretary. (See *Attorney General Manual* on the Administrative Procedures Act at page 94.)

No Assistance to Employers.—During the hearing estimates were made indicating that between 12 and 16 thousand consensus codes alone have been developed by businessmen themselves. These codes now are intended as non-mandatory guides. Shortly after this legislation is adopted, however, they will in all likelihood become a matter of law.

Experience with other safety regulations shows that some employers will have considerable financial difficulty in obtaining necessary funds to comply with the new mandatory regulations. H.R. 16785 makes no provisions for federal assistance to these individuals. Certainly a federally insured loans program should be made available in order to protect against forced business closedowns and against the unemployment that will follow.

Ill-advised provisions.—H.R. 16785 authorizes searches of employer establishments for safety and health violations. Such searches may be conducted without a warrant and individuals who are not government officials may participate in the search. Evidence so obtained may be used in a criminal prosecution. Anyone who gives advance notice of, or who forceably resists such a search may be subject to criminal prosecution.

These provisions, in our view, indicate the unfortunate direction of this bill. The major approach is penal. It is more concerned with catching employers at some wrong doing than with obtaining safe and healthful working conditions.

The fourth amendment of our Constitution was designed to safeguard the privacy and security of individuals against arbitrary invasions and searches by government officials. (*Norman See* v. *City of Seattle* 387 U.S. 541; *Camera* v. *Municipal Court* 387 U.S. 523). The amendment is a concrete expression of a right that is basic to a free society. (*Wolf* v. *Conorado*, 338 U.S. 25, 27). As a general rule, a search of private property must be decided by "a judicial official, not by a police or government enforcement agent." (*Johnson* v. *U.S.* 33 U.S. 10, 14).

Yet, instead of limiting this extraordinary power to government agents acting in carefully restricted circumstances the bill provides for participation in the search by non-government personnel. Even the use of ad-

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vance notice of intention to search, relied on by some jurists to justify non-warrant inspections in some limited circumstances, is prohibited by the bill. (*See* v. *Seattle* 387 U.S. 541, 549). Advance notice of inspection should obviously be permitted not only to satisfy constitutional consideration but also to permit appropriate company officials to be present in order to immediately correct any violation found.

Lastly, it should be noted that the only way an employer may test the constitutional validity of the search provided for by this legislation is by risking a conviction for forceably resisting the effort to inspect.

We do not oppose inspections designed to protect the public or employees from unsafe and unhealthy working conditions. But we believe that the penal and other provisions that accompany the search procedures provided for in H.R. 16785 are untenable and unnecessary.

Imminent Danger Procedures.—It is equally distressing to note that H.R. 16785 is replete with potentially disruptive intrusions into harmonious labor-management relations.

The procedures to counteract imminent dangers, for example, contained in Section 12 of the bill, simply stated call for giving a federal safety inspector the power to issue an order closing down a place of employment if he discovers what he believes to be an "imminent danger." "An imminent danger" is defined as a danger which could reasonably be expected to cause death or serious physical harm before the imminence of such danger can be eliminated.

The stated purpose of giving this extreme power to one person was that the federal safety inspector would be able to protect employees in case a roof was about to collapse or a boiler about to explode. The prospect of a federal inspector happening upon a scene of imminent disaster is highly unlikely, at best. Nor would any federal safety inspector be needed to point out such situation to an employer; no employer would continue operating if such were actually the case. More realistically, the all powerful inspector would become a pawn in labor disputes.

The great potential for misuse that would be created if this power were put into the hands of an inspector in the field was amply demonstrated during the public hearings. The testimony reflected fears that pressure would be brought to bear upon federal inspectors to shut down plants in cases other than *bona fide* imminent danger situations. Thus, this unrestricted power in one person would realistically find itself in the middle of labor-management disputes. It would be far simpler for a disgruntled employee to pass by established labor-management grievance procedures and complain to a federal safety inspector that unsafe conditions existed when the real basis of a dispute was properly a labor-management problem, to be settled by established collective bargaining methods.

One witness citing examples of experience in his industry stated:

"The following incidents are noted for the purpose of illustrating how the cause of safety and safety legislation has been invoked for other purposes.

"(1) In a Texas refinery, the union workers went out on strike at 2:00 a.m. on a Sunday morning. The unions gave the company only a few minutes notice of the impending strike and walked out leaving the refinery units unattended. The refinery, which had a contract with the Federal Government to supply jet fuel to the Air Force, was able to keep the plant operating with management personnel.

"The union sent a complaint to the Secretary of Labor (and published it in the local newspaper) charging that the plant was unsafe because it was not being operated by a full crew. It asked the Secretary to use his authority under the Walsh-Healey Act to find that the operation of the plant was not safe.

"The union issued a strike bulletin to its members stating that it was going to see that a safety investigation would follow so that the company's Government contracts would be cancelled. This plant had two safety inspections under the Walsh-Healey Act earlier the same year. Furthermore, its safety record during the strike period was considerably better than its average during the normal operation."

This example and others reflected in the record indicate that giving a federal safety inspector complete authority over operations of a business enterprise would certainly subject the inspector to intimidation pressures to act, and in many cases, he would be requested to inspect a plant simply to harass or intimidate employers. In essence, the exercise of this shut-down power amounts to summary punishment which is contrary to our established standards of law.

This is not to say, of course, that the Government should not have the power to abate a *bona fide* potential disaster. This is an inherent power of the Government, both Federal and local. What is objectionable here is the method outlined in H.R. 16785, which has no safeguards or guidelines and realistically would lend itself to misuse.

Clearly, any Occupational Safety and Health Bill should recognize the possibility of disaster potential situations, and provide means for dealing with them. The appropriate means to this end would be through Courts. If a federal safety inspector comes upon what he believes to be an imminent danger situation, he should first notify the employer in an attempt to abate or clarify the situation. Then the Government official should seek injunctive relief in the Federal Courts.

This method would act as a safeguard against possible misuse of power or possible error on the part of the inspector, and more important, with the swift and ready access to our Federal Courts, a bona fide potential disaster situation could be dealt with in short measure. Thus, the health and safety of employees on the job could be reasonably safeguarded, while at the same time, the rights of the employer and the viability of the collective bargaining process would be assured.

A Better Bill.—A better bill than H.R. 16785 is obviously needed. The above are just some of what we believe are valid objections to this measure. There are other important problems, such as: the inequities of the posting requirements and the inadequate protection of trade secrets. The cumulative effects of all of these defects indicate that improvement of this legislation by amendment is not feasible. A complete substitute is necessary. A number of committee members are planning to take this step and we urge that their efforts be given support.

There are other matters developed during the hearing that need decisions.

Safety in America Today.—During the hearings we became deeply concerned over the status of safety in America today. Charges of "on the job slaughter" of the American worker were alleged. Businessmen were portrayed as villains, reaping profits through the abuse of employees.

The facts do not support this picture.

Statistics gathered by the National Safety Council show that the average American is safer at his workplace than he is at home, on the highway, or at play. This is directly attributable to the fact that, for many decades, businessmen have worked hard to improve industrial safety and health conditions. They know they are dealing with the lives and limbs of other human beings. Moreover, they know that operating a safe shop is good business; production losses and medical and insurance costs are expensive by-products of on-the-job accidents, whereas accident prevention programs boost employee morale and promote efficiency.

The results of business' voluntary and continuing dedication to provide a safe workplace are dramatic. In 1912, an estimated 18,000 to 21,000 workers' lives were lost while producing $100 billion worth of gross national product. In 1968, *in a workforce more than double in size and producing over eight times as much*, there were only 14,300 work deaths.

Likewise, during the last 40 years the frequency and severity rates of injuries have been drastically reduced. And while there has been some plateauing of industry's accident frequency record in recent years, it is generally conceded that this is to be expected during periods of highly increasing productivity and employment. Significantly, during the last two decades alone productivity has risen by 93.7 percent and employment has also been up sharply.

Finally, a look at the most recent year for which full statistics are available—1968—provides equally dramatic evidence as to why the safety record of American business has no equal anywhere in the world.

In 1968, there were 14,300 occupational fatalities and 2,200,000 occupational injuries (some were serious, but most were of a temporary nature) *out of a total labor force of nearly 80 million people.**

Statistically, these injury and fatality experiences figure out, respectively, to an extremely low .0275 and an incredibly low .00018.

One accident, of course, is one too many. Greater improvements can and must be made. But these figures make it abundantly clear that American business owes no apology for its safety record, and deserves to be treated fairly in any legislation adopted.

A FEDERAL ROLE IS NEEDED

Notably, too, our present system is based on state-determined standards adapted to local needs, consensus codes voluntarily agreed to by employers, education and cooperation. This pluralistic system has stimulated individual and local commitments and has been largely responsible for the splendid achievements to date. Logically, then, the most prudent and constructive way to attain still greater improvements would be to provide additional encouragement and support for these state, local and voluntary efforts. The federal role, in other words, should be a helping hand, rather than a stiff-arm. The value of such an approach was underscored for the Committee by many industrial safety experts. As a result of extensive personal experiences, these men know that safety cannot be legislated. Their testimony made clear that the cause of occupational injuries is some type of "people failure," rather than inadequate equipment or facilities. All too often the worker himself rebels at wearing safety shoes or hard hats, ignores the warning signs, and tries to beat the machine guards or removes them because they "get in the way."

Nor can we afford to close our eyes to the fact that authoritarian federalization of job safety may well have the opposite effect of that intended.

In Europe, for example, safety programs are nationalized. Yet the safety performance of American industry is far better. A British safety expert who compared the record of the United Kingdom found that the accident frequency rate of U.S. firms in each of the 17 industrial groupings compared was better than the accident rate in his own country. The record of our chemical companies, for example, was seven times better than that of similar British firms; and in the steel industry the accident frequency rate of U.S. firms was ten times better.

CONCLUSION

All of these considerations clearly seem to mandate that any federal legislation be a cautious and reasonable effort genuinely tailored to strengthen our present safety system through incentives and cooperation.

Recognition of this, significantly, was mirrored in the message President Nixon sent to the Congress on August 6, 1969 with his own proposal:

. . . The comprehensive Occupational Safety and Health Act . . . will correct some of the important deficiencies of earlier approaches . . . It will separate the function of setting safety and health standards from the function of enforcing them. Appropriate procedures to guarantee due process of law and the right to appeal will be incorporated. The proposal will also provide a flexible mechanism which can reach quickly to the new technologies of tomorrow.

Under the suggested legislation, maximum use will be made of standards established through a voluntary consensus of industry, labor, and other experts. No standard will be set until the views of all interested parties have been heard. This proposal would also encourage stronger efforts at the State level, sharing enforcement responsibility with states which have adequate programs. Greater emphasis will also be given to research and education, for the effects of modern technologies on the physical well-being of workers who are complex and poorly understood . . .

(This legislation) . . . can do much to improve environment of the American worker. But it will take much more than new government efforts if we are to achieve our objectives. Employers and employees alike must be committed to the prevention of accident and disease and alert to every opportunity for promoting that end. Together the private and public sectors can do much that we cannot do separately.

Regrettably, this philosophy has been rejected by the majority members of the Committee in favor of the authoritarian, penalty-oriented, "bull-in-the-china-shop" approach of H.R. 16785.

Admittedly, industrial accidents are tragic. But to those who cherish constitutional due process to those who know from long experience that job-safety and health programs developed in an uncoerced, cooperative context hold the best hope for continued progress—and to those who believe that American working men and women deserve more than an unworkable legislative deception—the Committee's action in approving H.R. 16785 is a tragedy without equal.

For these reasons, and the reasons set forth in the minority report, me must oppose H.R. 16785.

BILL SCHERLE.
JOHN M. ASHBROOK.
EDWIN D. ESHLEMAN.
JAMES M. COLLINS.
EARL F. LANDGREBE.
EARL B. RUTH.

*There were a total of 115,000 accidental deaths in the United States in 1968. Fourteen thousand three hundred were job-related, and of this amount approximately 20 percent were caused by motor vehicles and 11 percent involved government employees. If accidents attributable to occupations already covered by federal regulations, i.e. mining, government contract employers and transportation, are excluded, the total number of industrial accidents affected by this legislation becomes less than 10 percent.

A BILL FOR AMNESTY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 30 minutes.

Mrs. ABZUG. Mr. Speaker, while our President soothes us with regular reports of his troop withdrawals and claims of success in his Vietnamization program, our forces increasingly devastate the land and people of Southeast Asia and Asians continue to kill Asians with American weapons. A vast and cynical effort is underway to transform the American people's bitterness against the war into a pacified, postwar mentality, even while the computerized destruction in Southeast Asia continues apace.

Perhaps one indication that this new deception is enjoying some success is the recent upsurge in public discussion of the question of amnesty. In one sense the popularity of the subject is a good sign. It is evidence of the widespread judgment that the war is immoral and that steps should be taken to vindicate those who reached this judgment long ago. But at the same time talk of amnesty may show a willingness to close the book on the war, to resolve the war issue prematurely. Amnesty is regarded by some as part of a post-war program of reconciliation—one of those issues we deal with now that peace is restored, now that the fighting is over.

Well some of us are not reconciled yet. Some of us are not fooled. We know that without sending troops into the field we still kill hundreds of Asian soldiers and civilians every week, victims of our new electronic monsters, of our remote control warfare. Our Government is still eagerly perpetuating an immoral war, and talk of postwar programs is not going to pacify us.

Still, most of us are deeply sensitive to the issue of amnesty. We are aware of the needs of those other victims of the war—those conscientious Americans whose moral commitment to peace subjected them to prison sentences or exile. We feel a strong sympathy for those war resisters because we know that the war is and has been morally wrong.

Thus the dilemma: how to talk about amnesty, while not compromising our fierce opposition to the continuing war? I, for one, feel that we can and we must discuss amnesty as long as we deal with the war as a first priority, and as long as we support the kind of amnesty measure which recognizes our constituents' assessment of the whole war policy. In other words, we need amnesty legislation which responds to the war resisters by confronting the war issue straight on—an amnesty measure which focuses, rather than dilutes our bitterness against the war.

Mr. Speaker, I would like to propose just such a measure. I am submitting today legislation which I regard as the first honest, consistent, comprehensive response to the problem of amnesty. My bill is not simply a means to grant relief to certain persons. It is first and foremost a demand for peace and a demand for a new direction in our national goals. My bill would grant relief to war-resisters of course, and it would acknowledge their hardships and their courage. But first it would echo their conscientious opposition to the continuing war.

CESSATION OF HOSTILITIES

My bill embodies six major features. First, of course, it demands a speedy and total cessation of U.S. involvement in Southeast Asia. It does this not only by implication—through vindication of war-resisters—but also by specific language.

Consistent with this first goal, the amnesty I propose would not become effective until the war is really ended. This is necessary if we are to validate the stand taken by war-resisters, and the fact is that the resisters themselves would have it no other way. They have taken their stand on principle and they will not be reconciled except on principle. They would be degraded and their acts of resistance rendered meaningless if they were to accept reinstatement while the war which prompted their acts continues.

UNCONDITIONAL AMNESTY

Second, my bill would grant, after the cessation of hostilities, unconditional restoration of rights to war-resisters, without imposing requirements of alternative service or a showing of "repentance." Imposition of such conditions would imply two fallacious assumptions: first, that recipients of amnesty shirked some legitimate duty to contribute to the war effort, and second, that by avoiding this duty they enjoyed some unfair personal advantage. The answer to the first of these points should be obvious to anyone who has judged the war immoral. How can a citizen have a legitimate duty to support an immoral war? And on the second point, how can it be said that one who has had the courage to face imprisonment or exile has enjoyed an unfair personal advantage? One cannot fail to recognize the bitter hardship that a young man suffers when he must abandon family, friends, job, and home for an uncertain life in a strange country, or worse a life of degradation in prison, with the permanent stigma which that attaches. For the Government to impose these hardships for the sake of a corrupt war policy is equally as unjust as conscripting men and sending them to risk their lives to defend such a policy. A proper amnesty measure must mitigate these hardships while an alternative service requirement would only supplement them.

UNIVERSAL AMNESTY

Not only is the amnesty I propose thus unconditional, but it is broad enough to cover all classes of essentially nonviolent war resisters. I feel that amnesty should extend not just to draft evaders but to deserters and antiwar demonstrators as well. Under my bill amnesty would be granted automatically to anyone who refused or evaded induction under the draft laws, to anyone who absented himself from the Armed Forces, and to violators of associated statutes when such violations occurred or will occur during the war years. In addition, my bill proposes the establishment of an Amnesty Commission appointed by the Congress and the President to grant amnesty to violators of any other Federal, State or local laws when the Commission finds that the violation was motivated substantially by opposition to the war and that it did not result in significant property damage or personal injury. The bill gives the Commission leeway to grant amnesty further when it finds in rare

instances that although the violation did result in damage it was nevertheless justifiable on the basis of a deeply held ethical or moral belief.

FULL RESTORATION OF RIGHTS

The amnesty I propose is thorough enough to negate every legal consequence suffered as a result of war resistance. With respect to the violations I have mentioned, a grant of amnesty under my bill would restore all civil, political, citizenship and property rights. It would release those imprisoned. It would immunize from criminal prosecution. It would expunge all criminal records. And it would require the Armed Forces to grant an honorable discharge to anyone who received other than an honorable discharge because of the violations I have mentioned. A further provision would require restoration of citizenship upon simple request, to anyone who renounced his citizenship because of his opposition to the war.

AVOIDING UNFAIR DISCRIMINATION

In developing amnesty legislation it is essential to insure that a grant of amnesty will not discriminate unfairly between resisters in different formal legal classifications, or from different socio-economic backgrounds. It would be hypocritical in the extreme to restore the rights of draft evaders while denying reinstatement to deserters, who simply came to their moral awareness after entry into the service rather than before. The legal distinction between draft evaders on the one hand, and deserters on the other is not relevant to the question of amnesty. The question is a moral one, and no moral distinction can be made between these two groups.

Other amnesty proposals have suggested automatic amnesty for draft violators but more careful consideration or no consideration at all for deserters. The theory, supposedly, is that the motives of draft evaders are more easily identifiable as conscientious, while the motives of deserters are more diverse or tend to be selfish. While this theory is not supported by the facts, I question its relevancy, since it is impossible to devise a fair administrative mechanism to identify motives. The records of draft boards and military boards who have ruled on the sincerity of conscientious objectors show that such proceedings are by nature arbitrary and capricious, discriminating flagrantly against those who are less well educated and less articulate in stating their beliefs. In fact, many war resisters, both convicts and fugitives, are themselves conscientious objectors who were unable to convince their draft boards but unwilling to compromise their beliefs. It would be absurd to require such men to submit their consciences to further governmental scrutiny. What recourse would they have if they failed a second time to establish their sincerity in an arbitrary administrative proceeding?

At the same time there are a great many other convicts or exiles who have never applied for CO status or perhaps would not consider themselves CO's under the law, who might be unable to articulate their beliefs but who, nevertheless acted upon a deeply felt opposition to the war. The only way to restore justice for those individuals is to grant a blanket amnesty, for certain acts, which undeniably would apply to all regardless of motive.

But is this a real problem? Must we really be concerned as to the motives of those who refused to fight? In the final analysis, if we affirm and stand by the judgment voiced by the majority of the people that the war is immoral, then it follows that no one could rightly be compelled to participate in it. If the duty to fight was not legitimate then we cannot punish anyone who failed to fight, regardless of the motives for his failure. Under our birthright as Americans none of us can be deprived of life, liberty and the pursuit of happiness without just cause. I submit that our war policy in Southeast Asia has never constituted such a just cause.

BRINGING HOME THE WAR-RESISTERS

The final unique feature of my legislation is its effectiveness in responding to the just demands of war-resisters themselves. It is an unprecedented and tragic fact that this country has lost to self-imposed exile, an enormous number of its finest, most conscientious, most creative young people. One of the most important purposes of any amnesty measure must be to bring these exiles home, so they can lend their energies to rebuilding the Nation, to effecting the changes we need, and to working with the political structure to insure that we have no more Vietnams. No measure short of the one I propose can succeed in accomplishing this purpose.

Every communication from war exiles abroad which I have seen in the press, in my own mail, and at recent congressional hearings, makes it clear that virtually none of the war exiles would return home under the half-way amnesty proposals which we have seen in Congress up to the present.

War-resisters to whom amnesty would apply have rejected previous amnesty legislation for a number of sound reasons. First, they must, on principle, oppose any attempt to reconcile them or the American people to a war policy which they have found unconscionable, and which our Government continues to espouse. Second, they reject discriminatory amnesty measures which grant relief to some members of their group while ignoring others, especially deserters. Third, they reject amnesty measures which impose essentially punitive conditions such as alternative service. They regard the war as criminal, and they ask, "Since we refused to commit the crime, why should we be punished?"

I join with war-resisters in rejecting the tokenism inherent in previous amnesty legislation.

To summarize, my bill would grant unconditional amnesty upon a stipulated end of the war. It would grant amnesty to all classes of essentially non-violent war-resisters who have violated Federal, State, and local laws in the course of their protest. It will restore to the recipient every right of citizenship and negate every legal disadvantage suffered as a consequence of war protest. My bill will avoid discrimination against those who are less well educated, by not requiring a sophisticated explication of the philosophical motives behind the acts subject to amnesty. Finally my bill will effectively reconcile and repatriate war-resisters, as soon as that is made possible by an end to the war.

This bill embodies honesty, consistency, and true compassion, while not compromising an unalterable opposition to the war. I feel that only by adopting such a measure can we hope to end the war decisively, restore justice to the war's victims and begin to renew our country morally.

Critics of amnesty are numerous, vocal, and, in the main, sincere. Two arguments are most frequently advanced by them to counter the idea of amnesty. First, while few critics attempt to justify the war policy itself, they argue that amnesty for war-resisters would dishonor or disown the sacrifices made by those Americans who fought in Southeast Asia. I do not belittle these sacrifices. On the contrary I mourn them bitterly and deeply because I deem them to have been purposeless, squandered by the Government for wrongful ends or no ends at all. I am angered and I am sickened when I consider all of the tragedies of the war, but I do not direct my anger at those who refused to fight, who were themselves victimized. I direct my anger at the responsible parties—the war makers in our Government. They are the ones who dishonored our soldiers, by using them and wasting them in a corrupt enterprise. If the Government had listened to the draft refusers, the demonstrators, and the deserters long ago many lives could have been saved and much suffering averted.

To make an analogy, when a court system sentences a man to death and later strikes down the law under which he was sentenced, reversal is ordered. The courts do not insist upon the sentence for the sake of consistency or to honor others who were wrongfully executed. In the carrying out of this war, it is the Government which, as it were, pronounced sentence erroneously against 55,000 young soldiers. It is time for the Government to reverse itself now, and not blindly perpetuate the wrong by punishing those who refused to fight.

Furthermore, how can we be so concerned that amnesty would dishonor the veterans and casualties of Vietnam, when many of the veterans themselves are the most active, dedicated opponents of the war, and the most vocal proponents of amnesty. Many veterans, having experienced the war first-hand, having witnessed its consequences, and having examined the war's deceptive rationale, have concluded that they should not have fought and would themselves have refused to fight had they been aware at the appropriate time.

A second argument commonly advanced to oppose amnesty is that amnesty now would lead young men of the future to believe that they could shirk their military duties with impunity. Thus, the agrument goes, in some future national emergency we would be unable to raise armies. But I would point out that amnesty measures have followed nearly every major war this country has fought. Historically, amnesty is an American tradition. And yet history also shows that whenever the country has been in danger, young citizens have responded and sacrificed willingly in combat. In fact, this country never has experienced significant difficulty in raising armies for its military endeavors. I have faith in the patriotism of young Americans. I have faith that they would rise to defend this country if a national emergency really required it. But I also have faith in their ability to think for themselves, to distinguish right from wrong where their Government's policies are concerned, and to have the courage to resist official policies where they are manifestly immoral.

For these reasons I reject the contentions of those who would deny amnesty. I submit, to the contrary, that a broad amnesty measure would honor us as a nation and serve our most vital national interests.

Mr. Speaker, I urge my colleagues to consider carefully this legislation, the text of which I am including in the RECORD. Enclosed also is a list of cosponsors. I invite your attention to a brief compilation of statements which support unconditional amnesty eloquently and from various points of view.

H.R. —

A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "War Resisters Exoneration Act of 1972".

FINDINGS AND DECLARATION

SEC. 2. (a) The Congress finds and declares that a general and unconditional amnesty with full restoration of all civil, political, property, and other rights is a necessary measure, after the cessation of United States military operations in Indochina, for the reconciliation and reinstatement of persons who have been prosecuted, or who may be subject to prosecution, for failing to comply with any requirement of, or relating to, service in the Armed Forces during the involvement of the United States in Indochina, or for engaging in any nonviolent activity or activity justified by deeply held moral or ethical belief in protest of, or opposition to, the involvement of the United States in Indochina.

(b) The Congress further finds and declares that it is an immunity of citizens of the United States (within the meaning of section 1 of the Fourteenth Amendment to the Constitution of the United States) to enjoy the annulment of all legal disadvantages that have been incurred or suffered by reason of opposition to the involvement of the United States in Indochina, to the greatest extent consistent with the preservation of life and property.

EFFECT OF GENERAL AMNESTY

SEC. 3. The general amnesty granted by or under this Act shall, with respect to any violation of law enumerated in section 4 or covered under section 6—

(1) restore to the grantee all civil, political, citizenship and property rights which have been or might be lost, suspended, or otherwise limited as a consequence of such violation;

(2) immunize the grantee from criminal prosecution for such violation;

(3) expunge all notation relating to such violation from the records of courts and law enforcement agencies;

(4) require the granting of an honorable discharge to any person who received a discharge other than an honorable discharge from the Armed Forces if such violation was solely the cause, or a substantial cause, of the granting of such other than honorable discharge; and

(5) nullify all other legal consequences of such violation.

AUTOMATIC GENERAL AMNESTY

SEC. 4. (a) Notwithstanding any other provision of law, general amnesty is hereby granted to any person for violation of one or more of the laws enumerated in this section, or regulations and policies promulgated pursuant thereto, if such violation was committed between August 4, 1964, and the effective date of this section. Such amnesty is automatic, and no application to the Amnesty Commission or any other agency is necessary to effectuate it.

(b) General amnesty is granted for violations of any of the following laws:

(1) Section 12 of the Military Selective Service Act (50 App. U.S.C. 462) with respect to the following prohibited acts—

(A) evading or refusing registration, evading or refusing induction into the Armed Forces, or willfully failing to perform any other duty under such Act, or conspiring to do so;

(B) knowingly counseling, aiding, or abetting others to refuse or evade registration or service in the Armed Forces of the United States, or conspiring to do so; or

(C) publicly and knowingly destroying or mutilating any registration or classification card issued or prescribed pursuant to such Act and knowingly violating or evading any of the provisions of such Act, or rules and regulations promulgated pursuant thereto relating to the issuance, transfer or possession of any registration or classification card.

(2) Section 882 of title 10 United States Code, which prohibits the soliciting or advising another, or attempting to solicit or advise others, to desert the Armed Forces of the United States.

(3) Sections 885 and 886 of title 10 United States Code, which prohibit deserting or going absent without leave from the Armed Forces of the United States.

(4) Section 887 of title 10 United States Code, which prohibits missing the movement of a ship, aircraft, or unit with which it is required in the course of duty to move.

(5) Section 888 of title 10 United States Code, which prohibits using contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, territory, Commonwealth, or possession on which he is on duty or present while a commissioned officer in the United States Armed Forces.

(6) Section 1381 of title 18 United States Code, which prohibits the enticing or procuring, or conspiring or attempting to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aiding any such person in deserting, or in attempting to desert from such service; or harboring, concealing, protecting, or assisting any such person who may have deserted from such service, knowing him to have deserted therefrom, or refusing to give up and deliver such person on the demand of any officer authorized to receive him.

(7) Section 2387 of title 18 United States Code, which prohibits the advising, counseling, urging or in any manner causing or attempting to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States, with the intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States.

AMNESTY COMMISSION

SEC. 5. (a) There is established a commission to be known as the Amnesty Commission (hereinafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of five members, qualified to serve on the Commission by virtue of their education, training, or experience, as follows:

(1) One appointed by the President.

(2) One appointed by the President pro tempore of the Senate.

(3) One appointed by the Speaker of the House of Representatives.

(4) One appointed by the minority leader of the Senate.

(5) One appointed by the minority leader of the House of the Representatives.

Individuals who are officers or employees of any government are not eligible for appointment to the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members shall be appointed for the life of the Commission.

(d)(1) Members of the Commission shall each be entitled to receive an annual salary equal to the annual salary payable to a judge of a United States district court.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) Three members of the Commission shall constitute a quorum. The Chairman of the Commission shall be elected by the members of the Commission.

(f) The Commission may appoint and fix the pay of such personnel as it deems desirable, including such hearing examiners as are necessary for proceedings under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5 are applicable to hearing examiners appointed pursuant to this subsection.

(g)(1) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(3) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

GRANT OF GENERAL AMNESTY BY THE COMMISSION

SEC. 6 (a) Notwithstanding any other provision of law, the Commission shall grant general amnesty as provided for in section 3 of this Act to any individual who, during the period beginning August 5, 1964, and ending on the effective date of this Act, violated any Federal law (other than one enumerated in section 4 of this Act) or State or local law if the Commission finds that—

(1) such violation was in substantial part motivated by the individual's opposition to, or protest against, the involvement of the United States in Indochina; and

(2) the individual was not personally responsible for any significant property damage or substantial personal injury to others

in the course of his violation of any such law;

except that, in any case in which the Commission finds that an individual was personally responsible for significant property damage or substantial personal injury to others in the course of his violation of any such law, the Commission shall grant amnesty if it finds that such conduct was justifiable on the basis of a moral or ethical belief deeply held by the individual.

(b)(1) Whenever the Commission grants general amnesty under this section to an applicant who received a discharge other than an honorable discharge from the Armed Forces, it shall make a finding as to whether any violation of law for which general amnesty is granted was solely the cause, or a substantial cause, of the granting of such discharge.

(2) The Commission shall also have jurisdiction to hear and determine applications from individuals entitled to automatic amnesty under section 4 of this Act and aggrieved by the refusal of the military board concerned to grant an honorable discharge to him under section 3(4) of this Act.

(3) Any finding or determination made by the Commission pursuant to this subsection shall be conclusive upon the military board concerned and is not reviewable by any agency or member of the Armed Forces or any civilian officer of the military establishment.

(c) Any individual desiring amnesty under this section, or review of the decision by a military board to deny him an honorable discharge, shall make application therefor to the Commission in such form as it shall prescribe. The Commission shall not receive any application for amnesty or discharge review under this Act after the close of the 48th month after the month in which this section takes effect.

(d) Any application for amnesty or discharge review which is timely filed shall be determined on the record after opportunity for hearing in accordance with sections 554, 556, and 557 of title 5, United States Code. The entire record developed at the hearing on any application shall be certified to the Commission for decision. All decisions of the Commission shall be by majority vote.

(e) Any applicant may obtain judicial review of a decision by the Commission which is adverse to him by filing a petition for review in the United States court of appeals for the circuit wherein he resides within 60 days after the date on which the decision is made. The Commission shall thereupon file in the court the record of the proceedings on which the Commission based its decision, as provided in section 2112 of title 28. The court shall have jurisdiction to review the decision in accordance with chapter 7 of title 5 and to grant appropriate relief as provided for in such chapter.

(f) Any individual not able to apply to the Commission for a determination under subsection (b)(2) of this subsection because the decision of the military board concerned to deny him an honorable discharge was made after a date sixty days prior to the closing date specified in subsection (c) of this section may obtain judicial review of such decision by filing a petition for review in the United States district court for the district wherein he resides within sixty days after the date of such decision. The military board concerned shall thereupon file in the court the record of the proceedings on which the board based its decision. The court shall have jurisdiction to review the decision of the military board in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided for in such chapter.

RESTORATION OF CITIZENSHIP

SEC. 7. Upon petition to any district court of the United States, the United States citizenship of any former citizen who states that he renounced such citizenship solely or partly because of disapproval of involvement of the United States in Indochina shall be fully and unconditionally restored.

SUITS IN THE DISTRICT COURTS

SEC. 8. (a) The district courts of the United States shall have jurisdiction without regard to the amount in controversy to hear actions brought to redress the deprivation of rights granted by section 3 of this Act, and to grant such legal and equitable relief as may be appropriate.

(b) Notwithstanding the provisions of section 2283 of title 28, United States Code, or any successor provision thereto, a district court hearing an action brought pursuant to subsection (a) of this section may grant injunctive relief staying proceedings in a State court.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY OF PROVISIONS

SEC. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or to other circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 11. Sections 4, 6, 7 and 8 of this Act shall take effect upon the date of cessation of United States military operations in or over South Vietnam, North Vietnam, Cambodia, Laos, and Thailand which date shall be proclaimed by the President and shall be not later than three months after the date of enactment of this Act.

RESTORATION OF CIVIL LIBERTIES—A POSITION PAPER

Written as a reply to the so-called "amnesty issue" by a collective of U.S. war resisters in Canada representing individuals and the major aid centers throughout Canada.

PART I—NIXON'S WAR, A NEW ESCALATION

Death, injury, destruction and determination by the people of Indochina to decide for themselves their own future—these are perhaps the only constants in war-ravaged Southeast Asia.

American intervention into the internal struggles has taken on three basic characterizations depending mainly on the political goals set in Washington and technology available.

The first two forms of involvement by the United States government are outlined in detail in the Pentagon Papers as published by the New York Times and other North American newspapers.

Essentially, the first type of U.S. involvement goes through 1964 during which time a succession of U.S. presidents attempted to impose American political goals onto South Vietnam via indirect political and covert means avoiding the prospect of a full-scale Asian ground war.

When that failed, President Lyndon Johnson brought the U.S. into its second phase of involvement in 1965—full-scale ground warfare using "conventional" weaponry, air and naval forces.

That also failed, and Johnson quit, unable to impose his will on Vietnam. President Nixon, however, under the guise of "winding down the war," has ushered America into its third form of war, a war of technology which is not only as deadly as Johnson's war, but is escalated into Laos, Cambodia, and Thailand in addition to the re-escalation into North Vietnam. Apparently the aim of U.S. foreign policy is to control all of Indochina, not just Vietnam.

What Nixon has done that Johnson could not do is to introduce a refined computer technology and automatic remote-controlled warfare most of which was unavailable to Johnson. The U.S. government can now kill as many or more Indochinese as was done during the Johnson years without having to send American troops into the field.

A comparison of the war between the Nixon and Johnson years shows the nature of escalation during the Nixon administration with automated replacement of troops by computers and the change to technological from conventional in war characterization.

The United States began bombing North Vietnam steadily in March, 1965, and by the time Johnson's announcement of the end of the bombing of the North in November, 1968, the Pentagon says about one million tons of bombs were dropped on the North Vietnamese.

The Pentagon says about 115,000 missions were flown during this time. Admiral Sharp, writing his final report on the war from 1964 to 1968, said "up to 1,600 tons of ordnance were dropped each week" on North Vietnam.

The Associated Press reported in November, 1968, that 2,825, 824 tons of bombs were dropped on the North and the South during the same period—leaving the conclusion that more than 1.8 million tons were dropped on the South.

About 120,000 tons of this was defoliant, agent orange, according to Dr. E. W. Pfeiffer, a zoology professor at the University of Montana. Agent orange, contains a chemical, 2,4,5-t, which causes the same kind of birth defects as thalidomide, Dr. Pfeiffer has said in numerous publications.

An associate of Dr. Pfeiffer's, Dr. Arthur Westing, chairman of the biology department of Windham College in Putney, Vt., reports that at least five million acres of land in South Vietnam, about 12 per cent of the South's land surface, has been hit with some form of defoliant. The National Liberation Front says about 44 per cent of the South's land has been sprayed. In addition, Dr. Wosting reported a half million acres of land had been cleared by bulldozers.

In a country whose economy is based on agriculture, the effect has been devastating. Rice and rubber exports, the backbone of South Vietnam's pre-war economy, are virtually ended.

In 1964, the South exported $33 million worth of rice. With the destruction of the countryside and the flight of millions of rural refugees to the cities, by 1969 about $15 million worth of rice had to be imported—much of it from California. Rubber exports dropped to $8 million in 1968 from $43 million in 1961. Total South Vietnamese exports dropped to below $20 million in 1968 from $76 million in 1961.

The human toll in North and South Vietnam during the Johnson years is incalculable. The North has not released figures on its dead or injured. However, Richard Ward, Foreign editor of The Guardian, has said the North Vienamese have told him two-thirds of the victims of U.S. bombing were non-combatants—women and children.

In the South, U.S. military figures would indicate hundreds of thousands of Vietnamese killed up to 1968 and even more Vietnamese injured.

Atrocities abound. In the Winter Soldier Investigation held in Detroit a year ago, scores of honorably discharged U.S. veterans of the Indochina War told of the My Lais they had individually seen or committed. Still other returned GIs have testified about similar atrocities before the U.S. Senate last spring.

With the Johnson decision to escalate the war in 1965 with troops and bombings of the North and South, millions of persons fled the South Vietnam countryside and became urban refugees.

James Clark, a land refugee officer in South Vietnam for the Agency for International Development (AID) prior to his resignation in 1968, has said AID figures show upwards of three million refugees went from rural to urban areas. Other estimates in the western press go upwards from seven million.

Clark quotes Aid figures that 80 per cent of the refugees fled or were sent to strategic hamlets due to ground war, bombing or governmental force. About 90 per cent moved for fear of their personal safety, Clark says AID figures state, and they moved in fear of either the U.S. and its "allies" or the NLF. In other words, the 90 per cent feared for their personal safety and did not move because of anyone's political ideology.

Thus, the characterization of Johnson's war was based upon massive bombings, massive troop deployments (about 525,000 U.S. troops in 1968) and wholesale chemical-biological warfare (CBW).

The brunt of the bombing was in North and South Vietnam, with troop actions mainly in the South. There seems to have been only a limited use of CBW and U.S. troops outside of Vietnam during the Johnson years, according to the Pentagon Papers published last summer.

The New York Times version of the Pentagon Papers indicates Johnson felt further troop escalations would cause a domestic crisis in the U.S. and he held back, eventually stopping the bombing of the North.

Johnson's ability in escalating the war was to a large degree limited by the war technology of his day.

However, the character of the American side of the war has changed. No longer are more than a half million U.S. troops necessary in Indochina for the war to be executed.

Quietly at first but today evident is the new technology of computerized warfare which became available and is being used.

Hearings before the U.S. Senate Armed Services Committee regarding the electronic battlefield released in Jan., 1971, show the U.S. not only has the capability, but is putting into use electronic sensors which can smell people and hear their voices and footsteps.

This data is then relayed automatically back to a computer which locates the persons on a computerized map flashed on a TV screen, testimony indicated.

An assessment officer pushes the button, and an airplane is ordered by the computer into action and guided by the computer into the area where the computer automatically drops the bombs. The bombs are frequently laser-guided bombs, which the U.S. Department of Defense says are 10 times more accurate than the bombs used in LBJ's days.

The hearings showed no U.S. or South Vietnamese troops are necessary in the area. The Electronic sensors and computer locate and kill the "enemy" automatically.

The hearings revealed almost all U.S. ground units were "flying sensors" to detect the "enemy" a year ago. In addition, the testimony pointed out the U.S. government has a central sensor training school in South Vietnam to train the South Vietnamese in computerized warfare, and that as of the hearings a year ago, the South Vietnamese army was taking over something in excess of 47 percent of the ground sensor work.

Nixon's Vietnamization of the war includes giving the South Vietnamese government computer warfare "Made in U.S.A."

The "automated battlefield," as the military calls it, is a development of the Nixon years. Electronic ground sensors were first used in South Vietnam in the late summer of 1968, but according to the Senate hearings sensors had not been introduced into a computerized system at that time.

In July, 1969, the U.S. Army was authorized by the government to set up Surveillance Target Acquisition and Night Observation (STANO) to plan, test, and put into operation a totally computerized electronic battlefield.

By October, 1969, Gen. William Westmoreland, chairman of the joint chiefs of staff, was calling it the "battlefield of the future."

Apparently recognizing the futility of American ground troops in Southeast Asia, Westmoreland told the U.S. Army Association in a speech on Oct. 14, 1969: "In Vietnam where artillery and tactical air forces inflict over two-thirds of the enemy casualties, firepower is responsive as never before. It (computerized warfare) can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not."

Going on to describe the "battlefield of the future" as being almost completely automated with the use of electronic sensors and computers, he said that "the need for large forces to fix the opposition will be less important."

This is exactly what the present administration appears to have done. Under the guise of "winding down the war," Nixon has reduced curent American troop levels to about 159,000 while beefing up computerized warfare.

It may be no coincidence that Nixon started cutting back troops in the summer of 1969 when computerized warfare was just beginning, and that his "phased withdrawal plan" neatly coincides with a commensurate development of the automated battlefield.

The computer scheme is not yet a total operational system, according to the hearings before the Senate, but neither have American troops pulled out of Indochina completely nor is there any firm date set by the Nixon administration for a complete pull-out.

Apparently, with the blessing of U.S. government leaders, the Pentagon has authorized "the highest industrial priority" for development of computerized warfare, which means any Pentagon group or private company working on the automated battlefield is first in line for any resources it needs, according to the senate hearings.

The idea of developing new war technology for Southeast Asia is not a new one. In 1963, General Maxwell Taylor told a U.S. House Subcommittee on Appropriations that South Vietnam "has been a challenge not just for the armed services, but for several of the agencies of government, as many of them are involved in one way or another in South Vietnam."

"On the military side, however," he continued, "we have recognized the importance of the area as a laboratory."

The notion of Vietnam as a military laboratory was further expanded by Gen. Westmoreland in the above-quoted speech in 1969 when he said the Vietnam laboratory has produced a "quiet revolution in ground warfare—tactics, techniques, and technology" that will "influence the future directions of our Army both in fundamental concepts of organization and development of equipment."

Westmoreland gave a clear outline of the nature of the civilian involvement in the laboratory of Indochina when he credited the logical-advances to military-industrial-labor-academic-scientific co-operation." Far more sectors of society than the military have a vested interest in this war technology.

The Senate hearings revealed the military-industrial complex has been pushing so hard for computer warfare that the normal time-lag from research and development to implementation has been reduced to 15–21 months from five to seven years. The U.S. government obviously wants this technology for the Indochina War and not some future conflict.

As of those hearings a year ago, $1.6 billion had been spent on automated battlefield development with estimates ranging up to $4 billion to be spent for research and development. There seems to be no indication how much implementation and installation has cost or might yet cost, but computers and B-52 bombers are expensive.

Currently day-to-day operations by U.S. troops in Vietnam are being planned by a Seek Data computer system in Saigon, which reduces planning for daily operations to two hours from two days. That part of the war is run by a machine right now.

The senate hearings indicated computerized warfare has already been used experimentally in Laos and Cambodia, a clear indication of what the government plans to do with its new technology.

With the development of computerized warfare has come an escalation in the technology of bombs used in association with the automated battlefield.

The old standby bombs which simply explode when hitting the ground are still used, but the Senate hearings showed the military's arsenal of anti-personnel weapons designed for automatic useage have been expanded tremendously.

The new weapons described mainly are designed to maim, said the hearings, but a direct hit could kill. One such bomb hits and sends out a series of smaller bomblets attached on strings about 60 yards long (the size of a rice paddy). The strings are trip wires which when hit by a human foot explode the bomblet into hundreds of pieces of shrapnel designed not to kill but to injure.

With computerized warfare, the Nixon administration has executed a technological escalation of the war, yet more conventional methods of escalation have not been ignored.

By early 1970, the average bombing tonnage dropped by U.S. aircraft over South Vietnam averaged about 100,000 tons per month, according to an article by Derek Shoarer in the May 30, 1970 issue of New Republic.

A lower figure of about 70,000 tons per month in Indochina was reported in 1971 in a study done at Cornell University by Professor Raphael Littauer of the Center for International Studies. The Cornell study says Nixon plans to continue the air war in Indochina throughout 1972 at a cost of between $1.2 billion and $4 billion a year.

The two-month American invasion of Cambodia in spring, 1970, was followed by an escalation of bombing to about 90,000 tons per year in Cambodia, according to the Cornell study.

Bombing of Laos began in 1968 according to the Royal Laotian Government, but it was escalated to a level of about 400,000 tons per year, the Cornell study says. In addition, with U.S. support, the South Vietnamese government invaded Laos a year ago with 20,000 troops.

Thailand has now become a major staging area for U.S. air strikes throughout Southeast Asia as well as the largest centre in Indochina for CIA activities. Western press reports indicate tens of thousands of CIA mercenaries are in training for or operating in covert operations—far in excess of the few thousands CIA mercenaries the Pentagon Papers attribute to the Kennedy-Johnson years.

According to the June 18, 1970 issue of the New York Review of Books, 20,000 to 27,000 bombing sorties monthly were sent into Laos and the Ho Chi Minh trail during Nixon's first year and a half in office, and that was seven times higher than LBJ's 1968 levels.

This massive escalation of the war into three other countries not previously invaded by U.S. forces or their south Vietnamese "allies," has resulted in the U.S. unleashing about three million tons of bombs on four countries in Indochina, according to the Cornell study, which said it would be at least as much tonnage as Johnson unleashed.

The Cornell figures would probably be low because the study was completed before Nixon re-escalated the air war into North Vietnam at the end of December, 1971. Western press reports quoted U.S. military spokesmen saying 1,000 American sorties

were flown over North Vietnam in the five-day blitz which matched Johnson's highest bombing levels of the North.

American technological planners have not forgotten escalation in conventional weaponry, either. The recently developed concussion bomb, which Dr. Pfeiffer found flattens everything in an area the size of two football fields and kills everything for a square mile, has been used 150 times in Vietnam, Cambodia and Laos to clear areas for helicopters to land.

Defoliation, which during the Johnson years appeared to be limited to Vietnam, was escalated in April and May, 1969 in spraying incidents in Laos and Cambodia involving hundreds of thousands of acres, according to Dr. Pfeiffer.

Defoliation and associated birth defects rose to the point in 1969 that by the end of that year, the Saigon government classified as "secret" the number of birth defects in the country.

By April, 1970, the Department of Defense announced the U.S. government would not use any more defoliants in Vietnam. This was done due to U.S. civilians protesting birth defects from defoliants. However, part of Nixon's Vietnamization program seems to be to get the South Vietnamese to do everything including defoliate.

Doug Hostetter, of Harrisonburg, Va., and a graduate student in sociology at the New School of Social Research in New York City, reports that by December, 1970, the U.S. was supplying agent orange, the thalidomide-like defoliant, to the Saigon air force which would get an American pilot to fly the Vietnamese C123 plane on defoliation missions.

In order to reduce the number of refugees, the Nixon administration appears to be using a statistical merry-go-round to make things to look better.

John Hannah, head of AID, told Senator Edward Kennedy's Senate Judiciary Subcommittee on Refugees in June, 1969 that South Vietnamese refugees in government camps were administratively reclassified as "resettled" in the refugee camps after being paid a lump sum of money. He said no attempt was made to either train them for employment in an urban area or return them to their native countryside.

By the end of 1968, the Royal Laotian Government reported about 150,000 persons had become refugees because of American bombing. With the U.S. escalation of the war into Laos, one can only conclude that there are even more refugees today in Laos.

Even by conventional standards of LBJ's day, Nixon has escalated the war beyond what Johnson dared to do: invasions of Laos and Cambodia, Thailand's staging arena and the re-opening of the bombing of the North prove that.

Yet the biggest myth of the Nixon administration is "winding down the war." Once again, the American people have been given a lie by their president; and they are believing it, or at least that belief seems to be what some media outlets would have us think.

Nixon is not winding down the war. The most inhuman escalation of death and destruction goes on behind Nixon's curtains of troop withdrawals.

Troops are not needed for computerized warfare. The Pentagon makes no secret of that, yet people still cling to the deception that fewer American deaths mean the war is ending

The war is not ending. Ask the families of the dead Indochinese or ask the maimed from Southeast Asia. The incredible arrogance of the American government once again is shown when it can claim a war is ending when only Asians are being killed and not Americans. Nixon has not fooled us.

Nixon can cut draft call-ups because troops are not needed, but he has yet to announce any cancellation of computer call-ups. We said "No" to the war once, we say "No!" to the war again.

As long as America supplies the means of war to the South Vietnamese government, whether it be half a million troops or computer links, it is still an American war.

PART II—WHAT A GENUINE END TO THE WAR WOULD CONSIST OF

With the United States government already in the process of escalating war to even more insane levels of technology, the naive and ludicrous nature of various "amnesty" proposals put forth by the U.S. political leaders becomes glaringly evident.

The "amnesty issue" cannot be allowed to obscure the grave situation of an escalated war. "Amnesty" is being used among many other things to hide the real actions in Indochina.

Troop withdrawals are simply another ploy to cover up the truth. Nixon has been forced to withdraw troops because of massive popular pressure. Now he is trying to convince people this means the war is "winding down" when in fact massive troops are not needed to execute computerized detection and automated bombing runs.

A restoration of our civil liberties would be an entirely valid issue in itself if the Indochina War were actually ending, but the issue used as a smoke-screen to mask a technological monstrosity serves only Nixon's purposes in covering up the war. The issue of a further escalation of the war takes precedence.

For the war to be genuinely ending, we would look for certain clear-cut indicators pointing to an end.

Specifically, a restoration of civil liberties would make sense in conjunction with an immediate unilateral cease-fire by the United States, the initiation of a *total* withdrawal of *all* United States involvement in Indochina and a recognition by the U.S. of the right of the Indochinese peoples to self-determination and indigenous national institutions.

A withdrawal must include not only the conventional support of the Johnson years, but a withdrawal of the technological support Nixon has created in addition to the indirect support of the Indochinese regimes by U.S. money and CIA involvement.

United States troops, support troops, associated military personnel and advisors, war materials, weaponry, CBW agents, computers, computer link-ups with the U.S., associated computer hardware and software, CIA money and all American civilian support either from the private or public sector must be taken out of all the Indochinese countries of Vietnam, Laos, Cambodia and Thailand for a full American withdrawal to be complete.

In other words, the war must be truly over and the U.S. and its influence removed before the Indochinese people will have the ability to choose their own destiny. In Cambodia, for instance, there must be a return to a neutral coalition government such as that which existed prior to the Lon Nol regime.

In South Vietnam, it would mean replacing the Thieu-Ky regime with a neutral coalition government to oversee the general elections prescribed in the 1954 Geneva accords, freeing of all political detainees and an overall return to the provisions of the 1954 Geneva accords as they apply not only to Vietnam but to all of Indochina.

With an end to the war and the establishment of a coalition government, the United States could enter into negotiations with North Vietnam for the release of prisoners of war under mutually agreeable terms.

An international tribunal must be established representing the Indochinese peoples and non-governmental representatives of the peoples of other countries to try the United States government leaders for violations of international law stemming from the American involvement in Indochina. American government leaders and war planners must stand trial as the aggressor.

America's unilateral intervention into Indochina violates the United Nations Charter, and no American law gives any person or branch of the U.S. Government the right to violate the U.N. Charter.

The U.S. Congress never declared war, as prescribed by the U.S. Constitution, and the U.S. violated the 1954 Geneva accords on Indochina as well as the earlier Geneva accords barring chemical biological warfare.

In addition, the wholesale death, injury and destruction wrought upon the civilian populations of Indochina violates almost every known principle of international law governing warfare, including the principles the U.S. help lay down in Nuremburg.

The United States government pay reparations to the Indochinese peoples.

For the hundreds of thousands dead and disabled. Indochinese, there are no reparations which could ever right the wrong. However, for whatever can be salvaged from the destruction of Southeast Asia to enable the Indochinese to rebuild new countries, the U.S. must pay.

The U.S. cannot be allowed to administer reparations, because of its past history in Indochina, so much reparations would have to be funneled through some agency of the above-mentioned international tribunal would see fit.

PART III—A VALID RESTORATION OF CIVIL LIBERTIES, NOT "AMNESTY"

The Nixon administration appears to be making every effort to orchestrate public opinion into the belief that the war is ending. The emergence of the so-called "amnesty" issue in the United States only reinforces this miscarriage of the truth.

We refuse to be part of Nixon's lies. The war is not only continuing but it is being escalated to points even Lyndon Johnson could not or dared not attempt. A cut-back of U.S. troops and U.S. casualities does not mean an end to the war. Instead, it has signalled a new form of technological war just as deadly and more expansive than conventional armies were previously capable of.

It seems that some well-meaning U.S. political leaders, in proposing their version of an "amnesty," have been deceived by the Nixon mythology. We ask them to stop. Don't be sucked in by a political football in a presidential election year. The war has been escalated again.

The irony of this escalating war is that there has developed in America a trend to talk about "amnesty" for war resisters. We want the war to be genuinely ending so that the issue of restoration of our civil liberties is not used as a pawn in a political game. Escalating is not ending.

First, we, as U.S. war resisters in Canada, have no interest in what is now being called "amnesty" in the States. "Amnesty" implies forgiveness, but for what are we to be forgiven? We refused to commit the crime.

Second, the current "amnesty" proposals do not include deserters from the armed forces. Using that kind of logic, the conclusion would have to be drawn that saying "No" to the Indochinese War before being drafted is acceptable, but after taking one step forward, saying "No" is criminal. We do not need that kind of existential absurdity, either.

All deserters must be included in any restoration of civil liberties.

Deserters, generally, are from working- or lower-class backgrounds, and are the first to get drafted and are the most likely to have received orders to go to Indochina. These are the people from the U.S. who have borne the brunt of Washington's war policies.

Deserters also have the more difficult adjustment to make to Canadian society since most have a high school or less education with only minimal job skills, thus giving them limited ability to integrate into the contracted Canadian job market.

Draft dodgers, on the other hand, generally come from middle class backgrounds, have carried a student deferment to enable them to get an education while temporarily fending off the draft and usually arrive in Canada with enough college and/or work skills to enable them to make a relatively rapid adjustment to Canadian society and the labor market.

In terms of social class, deserters have the justifiable claim to a full restoration of civil liberties as they have carried the worst part of the load.

Third, current "amnesty" talk from the States also seems to incorporate a concept of "alternate service." This we also reject. "Alternate service", such as the three years suggested by Senator Taft, is punitive.

Since we refused to commit the crime, why must we be punished? Are not the criminals those who perpetrated the crime called the Indochinese War.

Lastly, "amnesty", as currently proposed, we reject. What we are talking about is a totally non-punitive restoration of complete civil liberties for all persons charged, persons who might be charged, and/or persons convicted under any American municipal, state, federal and/or military law due to actions relating directly or indirectly to the Indochinese War.

This restoration must include that for the above persons:

If charges are contemplated, the charges are not to be laid;

If there are any charges laid, they be dropped;

If there are any convictions, their records be expunged;

If they are in jail, they be set free;

If there is a discharge from the armed forces other than honorable, it be made honorable;

No discrimination is to be made based on military experience or the lack thereof and all questions relating to the military be removed from all public and private records and forms;

If they are underground, whether charged or not, they be alowed to surface and resume their normal lives;

If they are abroad, they be allowed to return, if they so choose.

The restoration we talk of includes us, but it also includes hundreds of thousands of others like us who said "No" in their own way but did not choose to come to Canada. They, too, deserve a full restoration of their rights.

This is designed to provide a full restoration of all rights in a non-punitive fashion to all persons whose lives have been disrupted by the Indochina conflict. Anything less than that is a form of tokenism which we will not accept.

STATEMENT ON AMNESTY

PREPARED BY REPRESENTATIVES OF:

American Exile Counseling Center, Montreal, Quebec

American Red Patriots, Toronto, Ontario, Canada

American Refugee Service, Montreal, Quebec

AMEX-Canada Magazine, Toronto, Ontario, Canada

Cabal Newspaper, Toronto, Ontario, Canada.

Fort Devens United Front, Fort Devens, Massachusetts, U.S.A.

Guerrilla Newspaper, Toronto, Ontario, Canada

Montreal Counsel to Aid War Objectors, Montreal, Quebec

Nova Scotia Committee to Aid American War Objectors, Halifax, Nova Scotia, Canada

Toronto Anti-Draft Project, Toronto, Ontario, Canada

Vancouver Committee to Aid American War Objectors, Vancouver, British Columbia, Canada

Vietnam Veterans Against the War, Inc., New York, New York, U.S.A.

ON MARCH 25, 1972, TORONTO, ONTARIO, CANADA

The question of amnesty must be considered inseparable from that of a total and rapid American withdrawal of all aggressive forces involved in the war in Indochina. But the amnesty issue cannot be allowed to obscure the fact of an escalated war—escalated vertically into the air with massive bombing and technologically with the use of computerized warfare—which is so obvious as to expose the United States Government's "gradual withdrawal" for the brutal lie that it is.

In an election year, we reject this kind of political evasion of the main issue before the American people—an escalated war, not a war allegedly "ending."

President Nixon's troop withdrawals and lower casualty figures among U.S. troops are only another carefully hung cloak to cover up the truth of what his administration has done. Nixon has been forced to withdraw troops because of massive popular pressure, the refusal of U.S. troops to fight, and the resistance of the Vietnamese, Laotians and Cambodians.

Now he is trying to convince the peoples of the world that this means the war is ending when in fact massive troops are not needed to execute electronic sensor detection and automated bombing runs.

For a genuine end to the war we call for the accession to the peace proposals of the Democratic Repuolic of (North) Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam, the Lao Patriotic Front and the National United Front of Cambodia; that is, the initiation of a total ceasefire and withdrawal of all U.S. conventional and computerized involvement in Indochina, a recognition by the U.S. Government of the right of the Indochinese to self-determination, and a return to the Geneva accords of 1954 for Vietnam, and 1962 for Laos.

Some "amnesty" proposals in the U.S. must be rejected because they serve to mask the U.S. escalation of the war, they do not include the same provisions for deserters from the armed forces as they do for draft resisters, they have punitive conditions called "alternative service", and they imply guilt on our part when the crimes against the people of Indochina, the United States, and the world were committed by U.S. imperialism.

What we are talking about is a totally non-punitive, unconditional and universal amnesty for all persons charged, persons who might be charged, and/or persons convicted under any U.S. municipal, state, federal and/or military law due to actions relating directly or indirectly to opposition to the U.S. war of aggression against the peoples of Vietnam, Laos and Cambodia.

This must include for these persons that: if charges are contemplated, the charges are not laid; if charges are laid, they be dropped; if there are any convictions, their records be expunged; if they are in jail, they be set free; all discharges—past, present and future—from the armed forces be classified as general; all questions relating to the military be removed from all records and forms in the public and private sectors; if they are underground, they be allowed to surface and resume their normal lives; if they are abroad, they be allowed to return.

The U.S. Government must bear responsibility for the loss of life or injuries to all victims during the war in Indochina; that is, all possible retribution to the families of those lost, and free medical and psychiatric care, and drug rehabilitation.

This racist war has also caused an increase of racist repression against non-white peoples who have never had full citizenship in the United States. A just amnesty must involve an end to this repression and a freeing of all political prisoners.

The perpetration of this aggressive war by the United States has violated the honor that should surround service to one's country, and perverted the values of our society. A total end to the war, and a universal, unconditional amnesty are part of the struggle for the restructuring of our society.

STATEMENT BY TIMOTHY J. MALONEY, MSW, FEBRUARY 29, 1972

The last time I arrived in Washington, D.C., I was proud to be a U.S. citizen and anxious to serve my country. It was 1964 and I was accepting an appointment with the Federal Bureau of Investigation as a file clerk in the Justice Building. Five years later, in February of 1969, I discarded a Presidential order that instructed me to report for induction into the United States Army. At that time my wife and I were living in Canada where I was assisting war objectors as a social worker and attending graduate school.

Today I am again in Washington, D.C., not proud this time of being a U.S. citizen but willing to give you my views on the amnesty issue that has been raised by you and your colleagues. In doing so, I pray that you, who are leaders in this country, may see a way of reconciling the tragic wrongs that have alienated thousands of people like myself and have created grievous differences within the country that have torn asunder the American Dream.

While many tragic wrongs have been committed and are being perpetuated they all have one common denominator—the Indochinese War. Before any substantive reconciliation of the many wrongs can occur there has to be a genuine U.S. commitment to ending the war. Yet, the issue of granting an amnesty to some of the victims of the war has been raised and it would be ludicrous not to discuss it. If discussion does no more than kill the inept bills of Senator Taft and Representative Koch it will have been worthwhile. Though, to stop there without constructively dealing with the issue only fosters more frustration that has been so characteristic of the entire Vietnam-Indochinese experience. *Newsweek's* recent Gallop Poll disclosed that 71% of the people interviewed favored some form of amnesty. To ignore that, to be unresponsive to the will of the people, or to consider solutions such as Representative Hébert's "I would send them out on a ship like a man without a country" is characteristic of much government policy and attitude, but hopefully a change is in sight for the seventies.

If there is a sincere commitment on the part of government to deal realistically with developing an amnesty proposal that will be beneficial for the nation and the victims, i.e., some of the 354 thousand soldiers classified as deserters since 1967 and the thousands of draft evaders, the government will have to have a thorough understanding of the phenomenon. To date, most elected representatives have illustrated through their statements and bills that they have an appalling ignorance of the phenomenon and the possible encompassing, constructive solutions.

In Canada the exile community has viewed the development and discussion of the amnesty issue in the United States with deep concern. There is a wide consensus, as was illustrated at a National Press Conference in Toronto on January 17, 1972, that the word amnesty itself is inherently problematic. It implies forgiveness, and the exile community wonders what they are to be forgiven for—they refused to commit the crime! There is also concern that the present intensity of discussion over amnesty in the United States will end after the Presidential election. The exiles see themselves being used as pawns

in a political game. They see the issue being used by some politicians in an attempt to relieve American war guilt, to buy the votes of the newly enfranchised youth, to give the false impression that the war is winding down, etc.

They see the American news media portraying the exile community as being composed of sad, lonely, ill-begotten, misguided youth who made a mistake and are crying at the border to return; and that, the United States, being all-powerful and forgiving, is now in a position to show its paternal concern for its erring sons. They resent the fact that some people may be using them for personal gain and that others are definitely presenting an erroneous portrayal of them. Also, they fear that in the process of being used they may be hurt, i.e., that one of the current amnesty proposals might be passed. Both Senator Taft's and Representative Koch's proposals attach a punitive string called alternative service. Plus, both proposals exclude deserters, who comprise the majority of the exile community in Canada. I have not yet met a war objector in Canada who accepts either of the proposals, nor do I or anyone else I have spoken with see justice in them.

What the exile community would like is a complete totally non-punitive restoration of their civil liberties. That would turn the amnesty issue right side up by removing the indignity of having to accept forgiveness and punitive service. Also, it would apply to everyone and allow each individual maximum freedom in deciding upon whether to stay in Canada or return to the country which had no room for him.

Since the majority of men in exile and prison are deserters any substantive "amnesty proposal" must incorporate provisions that will enable them to easily regain their civil liberties. None of the current proposals or suggested proposals to date allow for this. Suggesting that each deserter be judged individually is ludicrous, if not mechanically impractical, due to the sheer numbers involved. Surely the 1947 Truman amnesty illustrates the injustices of establishing criteria and attempting to judge thousands of men individually. Yet, there appears to be a gross misconception that operates on the premise that deserters have less morality and that their motives are less genuine and thus more suspect than the motives of their civilian peers. While a draft evader may have had a premature morality due to more education and social class benefits, the deserter's decision to leave the military and the United States is often a more difficult individual decision. His reasons for leaving, may, in fact, be based on a greater struggle with his conscience. His actual decision to leave is difficult as he cannot reflect upon his future from a relative position of ease and he is in a hostile environment where he can obtain very little support. His military experience, contact with returning veterans, and concurrent mental agony is often his only education, but an extremely valid one that helps him decide upon his future. When he makes his decision to leave based on such a gut level education I can only respect, not question, his motives.

A STATEMENT BY GEORGE P. BARBOUR, JR., LEGISLATIVE REPRESENTATIVE FOR THE NATIONAL COMMITTEE FOR AMNESTY NOW, IN SUPPORT OF CONGRESSWOMAN BELLA ABZUG'S BILL ON AMNESTY

The National Committee for Amnesty Now supports the bill introduced into Congress today by Congresswoman Bella Abzug. We believe that amnesty is an essential ingredient in the reconciliation of the young generation of this country that has had to bear the brunt of the war in Southeast Asia. Amnesty Now supports the important features of this bill and strongly applauds the inclusion of not only draft resisters but military deserters and those that suffer legal and social disabilities from having received less-than-honorable discharges. The inclusiveness of this bill insures that racism and petty class distinction will not be present in a general amnesty.

The unconditional and non-punitive nature of this amnesty is also most welcomed. It cannot possibly serve the national interest to exact punishment or additional servitude from those that have suffered so dramatically because of our involvement in Southeast Asia.

The automatic features of this general amnesty will go a long way in insuring that those covered by the amnesty will be dealt with in an equitable manner.

This bill is a welcomed alternative to the Taft and Koch bills. What should follow now is a national discussion of this issue on every political stump in the country. This bill provides the needed focus.

Amnesty Now will martial the support of its membership behind any bill that contains the breadth, non-punitive, automatic features and timeliness that are exhibited in this proposed legislation. In addition to supporting legislation, Amnesty Now is working to insure that all major presidential candidates are on record in support of amnesty that includes not only draft resisters, but military deserters and those with less than honorable discharges. We have borrowed as our national statement of purpose a slogan that was once used by Richard Nixon but quickly discarded once he was safely in office: "Bring Us Together." We view amnesty as an essential ingredient in realizing that goal.

TESTIMONY OF DAVID HARRIS

As I understand it, you gentlemen are considering the question of amnesty.

If amnesty were granted, I would be subject to it. In January of 1968 I refused to submit to induction into the United States Armed Forces. My refusal bought me a sentence of thirty six months in Federal Prison. I was released from the Federal Correctional Institution at La Tuna, Texas in March of 1971 after serving twenty months of my sentence. I am presently under the supervision of the United States Board of Parole and will remain so until July of this year when my original sentence expires.

My own history makes amnesty a pressing question. I am now a convict. I have no rights or civil liberties as they are commonly understood, I have a parole officer instead. But I didn't start out as a convict. I started out as a high school football player who believed everything he was taught in all his classes on American government. I believed in liberty and justice for all. I believed in peace and democracy and freedom and all the virtues the American state recites in its own honor. I believed in them all so hard that I discovered they didn't exist. It's hard to say when that discovery began, but it's easy for me to remember when it became obvious. It was then that I decided to be a convict.

I decided to be a convict because I believe in the peace and justice and freedom and democracy I'd heard so many people talk about. I decided to break the law because the law obviously stood between me and those things I'd learned to want. Before you gentlemen decide to give or not give amnesty to criminals such as myself, you should understand why we became criminals in the first place. I can't speak for the thousands who now live outside the law, but I can speak for myself.

I broke the law for three reasons.

First, the law defined me and all the people I knew as pieces of property to be owned and manipulated however the government sees fit. We aren't citizens making the decisions citizens make. We are chattels who receive orders. The law I violated makes all of us pawns whose lives and deaths aren't even our own. Terms such as those, no matter how comfortable they are made, are unacceptable to people whose freedom matters to them.

I didn't make the law I violated. Neither did any of the people I know or see every day. The law that I was punished for breaking was a law made two thousands miles away by men with power such as yourselves. And you are a very few men. The rest of us live with little or no control over the situations we find ourselves in. What we live with are the embodied interests of a few people who are allowed to sit on the top and look down while the rest of us must squat on our haunches and look up. To submit to those interests and the power they exercise is to destroy the democracy the law claims to defend. Democracy, it seems to me, is a practice. And if it isn't a practice, it's nothing. The law I violated is a witness to its absence.

But the law I violated isn't an abstraction, as we all know. The law was made to serve a policy. And it was that policy that made me into a convict. We are all living in an empire, a society that has attempted to extend its control over as many people as it possibly can. It, like all empires before it, has accomplished its ends in a very simple fashion. It destroys whatever opposes it. That policy invaded the subcontinent of Southeast Asia determined to dictate the terms that the Vietnamese, the Lao, the Thai and the Khmer people must live under. It meets the attempt of those people to control their own fates with battalions of marines and enough raw explosives to turn all of Indochina into barren craters and graveyards. The policy pursued itself without mercy. It sent Americans five thousand miles away to deny an entire subcontinent of Asians their right to live and exist as human beings. Any one who respects his own liberty and the liberty of others has no choice but to refuse to be used for such slavery.

For acting upon all those reasons, I became a convict. And there are more pleasant occupations. For twenty months I lived inside the operation of American justice. I learned to live inside bars and cages, I learned to exercise my freedom in very small and very dank places. I watched the police beat, extort, control and deny myself and all my fellow convicts. I learned to watch my son grow once a month for eight hours in a prison visiting yard under the eyes of the Department of Justice. I learned to live without the simple rights that were supposed to be inalienable in my birthright. And I learned to wait for doors to open and lights to come on and for the screaming late at night to stop. And I don't regret it. Given a choice between being a butcher and being a convict, I will choose convict every time.

And now you gentlemen are considering giving amnesty to people such as myself. That means a lot. It means that thousands of young men like myself can walk out of their cell blocks and dungeons, return from their exile and their hiding places and walk on the streets like men are supposed to. I obviously have no objection to giving us amnesty. Of course it should be given. None of us should have ever been made criminals in the first place.

But I see some dangers in you gentlemen granting amnesty.

The first is that amnesty is traditionally considered an act of forgiveness. And I for one don't want to be forgiven. I don't think I did anything wrong. The wrong rests with the law and the twelve months on a maximum security cell block. There were two others in for offenses similar to mine. One burned draft files and the other refused induction. We used to talk about the possibility you men are discussing. And the conclusion we reached represents at least my feelings. We decided that we wouldn't accept a pardon but that we would take an apology.

The second is that I sense you gentlemen find amnesty an acceptable solution for people such as myself that have clear explanations for their actions and a constituency that you want to appease. But that you aren't nearly as inclined to give it to the nineteen year olds that deserted from the army because they were in love with the Chevrolet they left behind in Detroit. I think amnesty should be given to everyone or not at all.

And the last is that I believe in giving things to those who need them most. Right now the people of Southeast Asia live under a death sentence. The policy that provoked my disobedience still flourishes. It now uses machines instead of marines but it does the same thing. It is now massacreing an entire civilization from thirty thousand feet in the air. If amnesty is given, give it to Southeast Asia first.

And the next day, after Southeast Asia has been spared from death by jellied gasoline and fragmentation bomb, release the rest of us from all the cages we've been put in and let all of us set making the nice words we recite into realities that live and breathe out where people live and not just in the documents we left behind two hundred years ago.

STATEMENT OF MRS. VALERIE M. KUSHNER, FEBRUARY 28, 1972

Senator Kennedy, Members of the Committee, I greatly appreciate the opportunity you have given me today to testify before this body on the question of amnesty. I am not directly or by personal knowledge involved in the problems of those young Americans, who for a variety of reasons, decided not to serve in Vietnam.

For I come to you as the wife of a man who voluntarily enlisted in the Army in 1966, who in 1967 chose to serve in Vietnam, and who has spent the last four years as a prisoner of war. But there is something to be said for the platitude which insists that the best teacher of compassion is personal grief.

The Americans who have been imprisoned by the enemy in Indochina and the draft dodgers and deserters share a certain area in common. Most noticeably, they are all unwilling exiles. There is not one among them who wanted to be presented with the choices which had to be made. In all cases, families have been separated and suffering has occurred. The lives of the men have been abruptly changed, and in many cases, rendered non-productive. I am not here to debate the wisdom of decisions already made, but rather to encourage an attitude of tolerance toward the men who made them. As a country we are all so young and prone to error.

I would ask you to open your hearts to the words of Ecclesiastes "To everything there is a season, and a time to every purpose under the heaven: . . . a time to kill, and a time to heal; a time to break down, and a time to build up;". We have had our time of killing and now we must prepare ourselves for the time of healing. We cannot expect to make whole the body America if we amputate from her flesh so many of her sons.

The last decade has seen a tragic breakdown in many of our societal structures. If we are to begin the task of building up, we cannot deny ourselves the contribution of all who would participate.

The vast majority of the exiles still consider themselves to be Americans. Several years residency in Montreal should not involve loss of citizenship any more than the same period of time spent in the "Hanoi Hilton". The refugees wish, as does my husband, the soonest possible return to the land which nurtured them and the memories of which sustain them in exile.

I've heard it said that no amnesty can be given until the prisoners of war have been repatriated. I agree that neither will come to pass until first this terrible war is ended. But just as the Pentagon has formulated contingency plans for the return of the POW's Congress must give thought to preparing the structure by which amnesty will be granted.

I can only hope that such a plan will not seek punishment or retribution, but has as its guide, compassion. For compassion is the most soothing balm for healing and the strongest bond for building up

Finally, it has been said that the young men who chose exile in other lands have betrayed their heritage and rights as Americans. I can only remind you of a passage by Stephen Vincent Benet. It is a favorite of my husband's and one he marked long ago.

"Remember that when you say,
'I will have none of this exile and this stranger
For his face is not like my face and his speech is strange',
'You have denied America with that word.' "

Gentlemen, the question before you should not be whether or not these young men who departed from the majority have betrayed America. In all humility, we must ask ourselves, "Will America, by refusing amnesty, betray itself."

GROUP OF CLERGY SUPPORTS AMNESTY FOR EVERYONE BUT WAR CRIMINALS

(By Ronald Taylor)

An interdenominational group of clergymen yesterday called for a sweeping general amnesty that would pardon all but those convicted of violent war crimes from legal jeopardy as a result of their opposition to the Vietnam war.

Draft resisters, deserters, Vietnam veterans with less than honorable discharges and those convicted or facing prosecution for acts of war resistance would be subject to the amnesty.

The action capped a two-day Interreligious Conference on Amnesty held at the Lutheran Church of the Reformation, 222 East Capitol St. The four-page statement was addressed to the "Religious community of America."

The meeting was sponsored by the National Council of Churches of Christ. Among the participants were the Rev. Dr. John C. Bennett, president emeritus of the Union Theological Seminary; Rabbi Abraham Heschel, of the Jewish Theological Seminary, and Bishop John J. Dougherty, bishop of the Roman Catholic Diocese of Newark, N.J.

Conference officials said yesterday's action will be followed by what they called an "educational effort" within the sects of the conference participants. They voiced the hope that efforts would spur a national movement toward amnesty.

"The conference feels that the first step (toward a general amnesty) must be a religious step," remarked Dr. Robert V. Moss, president of the United Church of Christ.

"Church support of amnesty is intimately linked to (commitment) of securing justice to the human family," Bishop Dougherty added.

The conference, in its statement, labeled amnesty a "blessed act of oblivion" and concluded that it would "demonstrate that America is still capable of a communal moral act.

"It would be bitterly ironic if we were to make peace with the peoples of China and Southeast Asia but persisted in vindictiveness toward those of the young generation who refused to share in the brutalities and restruction of the war," it read.

According to Justice Department estimates, there are 4,200 fugitives from draft evasion prosecution, 2,300 of them now living in Canada. In addition, Pentagon estimates put the number of military deserters at 30,000, and 2,300 of them have been identified as exiles in foreign countries.

The group also called on the Nixon administration to end the war and spoke of the need for amnesty at the war's conclusion:

"Proposals for amnesty have come from those who favor and those who oppose the war because both recognize a crisis of conscience caused by this war (which is) unparalleled in this nation's history."

COLUMBIA UNIVERSITY,
New York, N.Y., March 25, 1972.

HON. BELLA S. ABZUG,
Longworth Office Building,
Washington, D.C.

MY DEAR CONGRESSWOMAN: Yesterday Jim Crawford of your office phoned to tell me you will introduce, next Wednesday, the amnesty bill you sent me for comment a week or so ago. He also extended to me your most gracious invitation to be present at a press conference you will have at 10 a.m. Wednesday to announce the event.

Were it possible for me to be there, I would. To me, your bill exemplifies the highest principles of statesmanship. It undertakes to identify and serve the enlightened self-interest of the whole American people—which, in my opinion, requires the speedy termination not only of the war in Southeast Asia but also of its destructive consequences here in the United States—and it offers a sound institutional mechanism for achieving that end. And the bill is timely, in that it lays bare the basic issues soon enough to stimulate public debate and crystallization of opinion in time for effective expression at the polls in November. It would be an honor to be present at the formal inauguration of such an enterprise.

What makes it impossible is that I have two classes to teach next Wednesday, one of them at 11 a.m. My presence in Washington would require postponement of that class. In my entire teaching career I have missed only one of my classes, so far as I can recall—because I had to argue, in Washington, a case I had undertaken before leaving law practice for teaching in 1963. Even laryngitis and three degrees of fever have not kept me from meeting my classes. I mention this so you will understand the seriousness with such which I accept my primary obligation to the Law School and my students.

Of course I stand ready to assist your amnesty efforts in any way I can, and hope you will call on me if you think I can be of service.

Respectfully yours,

LOUIS LUSKY,
Professor of Law.

[From the Washington Post, Jan. 9, 1972]

AMNESTY: WHAT SORT WILL BIND OUR WOUNDS?

(By Louis Lusky)

The writer is professor of constitutional law at Columbia University Law School where his seminar is currently drafting an amnesty bill.

Mr. Justice Holmes once remarked that the most important thing is to get on to the next thing. From our earliest days we have done it, after every divisive conflict. From the Shays and Whisky rebellions in the 18th Century, through the Civil War, down to the Korean conflict, the ending of hostilities has always been followed by amnesty in one form or another.

President Nixon, in a Jan. 2 television interview, said—with a later qualification—that "we always, under our system, provide amnesty. You remember Abraham Lincoln in the last year—the last days, as a matter of fact—of the Civil War, just before his death, decided to give amnesty to anyone who had deserted, if he would come back and rejoin his unit and serve out his period of time." He added that he "would be very liberal with regard to amnesty."

XUM

Clearly, amnesty for Vietnam war resisters is an idea whose time has come. As the war grinds toward a halt, we must turn to the task of binding wounds, whether we be military veterans or jailed objectors, supporters of Calley or of the Berrigans. What is important now is that Americans sort out their feelings about what form amnesty should take.

Public debate has already started, and the coming months will see it proliferate. The formulation of positions began more than a year ago when the American Civil Liberties Union recommended broad amnesty for draft violators, exiles and military offenders. Last March, Rep. Edward I. Koch (D-N.Y.) introduced a bill to give relief to conscientious objectors to particular wars. Sen. George S. McGovern (D-S.D.) has declared amnesty to be part of his program in seeking his party's presidential nomination. Last month, Sen. Robert Taft Jr. (R-Ohio) proposed a broader bill, and Rep. Koch is said to be ready to introduce the Taft bill in the House, along with another that would further extend the coverage.

THE POLITICAL REALITIES

What action do we want ultimately to emerge? This, of course, does not mean "what we wished had happened." Politics does not concern itself with trying to lure back the moving finger. Many Americans wish that the Southeast Asia war had never happened. But it did, and we must deal with facts as they now are—and as they may be in the future. Objectors by the tens of thousands have broken the law in their opposition to the war. Some have avoided prosecution by self-exile, some are serving sentences, some have completed their sentences but bear the stigma of criminal status—and, as exconvicts, may face the loss or impairment of such rights as eligibility for public employment and admission to the bar.

The primary political reality, for the time being, was noted by President Nixon: So long as Americans are fighting in Southeast Asia, and probably so long as American prisoners of war are held there, amnesty is virtually impossible. The exception might be clemency for those convicted because their cases were decided before later decisions narrowed the reach of the law. For example, draft refusers punished for conscientious but nonreligious refusal before the Supreme Court ruled in 1970 that such objection should be recognized might win amnesty now. But this is a relatively small group, and they may well be able to wipe out their criminal status through habeas corpus or some other post-conviction remedy even before amnesty is forthcoming.

Granted, however, that amnesty will not materialize until the war is virtually ended, it does not follow that significant congressional action at present is impossible or even premature. Within the foregoing restrictions, there is a considerable range of possibilities for useful legislation, and the range will widen as the end of the war is approached and accomplished.

How soon the widening will come, or how far it extends, will depend largely on the way the war ends. Should it cease at a defined moment—whether by presidential or congressional action—amnesty is likely to be broader and quicker. Should the war trail off as gradually as it began, with nobody really sure whether there is still a war, amnesty will be meager and slow.

THE ULTIMATE JUDGMENT

Still more fundamentally, the extent of amnesty will depend on the ultimate judgment of Americans on the war itself. Public opinion today still favors the ending of the war. But it is not so clear how many would go farther and say that the whole war has been wrong, and how many would say only that, right or wrong, it has been a frightful and divisive experience that we should thrust into history as soon as possible.

If it turns out that most Americans believe the war to have been basically wrong, amnesty promises to be broad. The central judgment then is likely to be that every American should be relieved of all legal disadvantage he would not have suffered if the war had never begun. That implies not only remission of criminal penalties, but erasure of criminal status for every offender whose crime would not have been committed but for the war.

There might however, be some qualifications. It would not be illogical—though it would be administratively difficult—to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate against the inarticulate ghetto dweller who, without seeking any particular religious or philosophical justification, simply repudiated the obligation to fight in a white man's war.)

Neither would it be illogical—though, again, it would be administratively difficult—to deny full clemency to those whose offenses have been "violent"—this is not an easy term to define: Does it include sit-ins? Scrambling draft board records?—and who, such acts as arson and assault, became menaces to their neighbors. Even with these limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been convicted for some violence or near-violence, though the great majority have done no more than engage in illegal demonstrations).

CONGRESSIONAL ACTION

But even if the exact shape and timing of the ultimate amnesty is not now knowable, it is not too soon for congressional action. Though clemency for federal offenses is an executive function (Article II, Section 2 of the Constitution gives pardoning power to the President), the moral support of Congress may be important. Because of the divisiveness of this long war, the act of clemency will require political courage (particularly if it is relatively quick and relatively broad.) The least Congress can and should do is to affirm by concurrent resolution its support for such amnesty as the President may see fit to grant.

But Congress can and should go further. In 1896, the Supreme Court declared that Congress, too, has amnesty power. On this basis, Congress could assume more of the political responsibility by enacting its own amnesty grant, effective upon the cessation of hostilities and the release of war prisoners. Any constitutional doubt could be avoided by providing that the statute be ineffective unless the President, by signing the bill or by a later public proclamation, had manifested his approval.

In addition, there are some acts of clemency that the President cannot perform without congressional authorization. He probably lacks power to restore citizenship that has been renounced as a protest against the war; Congress, possessing the power to naturalize, could restore it. Nor can the President grant amnesty to offenders against state law, such as illegal demonstrators.

AMNESTY BY THE STATES

There may be some doubt whether state offenses can constitutionally be pardoned even by joint action of Congress and the President. Possibly a conatitutional amendment would be necessary. An amnesty amendment would not be unprecedented; Section 3 of the Fourteenth Amendment, adopted in 1868, authorized Congress to lift the political disabilities that the section legitimated for ex-rebels. But in my opinion a new amendment is not needed because another provision of the Fourteenth gives Congress the power to pardon state law offenses in the present circumstances.

Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a "privilege and immunity" of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might stipulate or empower the President to impose.

Even in advance of federal action, state governors could grant amnesty for state offenses. A federal signal in any form, however, would provide much-needed political support and encouragement and lead the nation toward clearing the social debris of the war and turning tragedies into bygones.

[From the National Observer, Mar. 11, 1972]

AMNESTY FOR WHOM AND HOW MUCH?

(By Louis Lusky)

"Why should we forgive these traitors and cowards, pardon their crimes, welcome them back from Canada and Sweden?"

The question is asked whenever amnesty for war resisters is debated. There are myriad variations on this same theme; sometimes the bluntness is softened, sometimes the rightness or wrongness of the war is acknowledged to be relevant, sometimes distinctions are recognized between those who have fled and those who have submitted to punishment. But the core of the question is constant. It always starts with "Why" and it always is premised on the following assumptions:

(1) That those who have broken the law to show their opposition to the war in Southeast Asia are "traitors" (meaning "disloyal" rather than actually guilty of treason as defined by Article III, Section 3 of the U.S. Constitution).

(2) That those who have broken or evaded the law in order to avoid service in the war are also cowards.

(3) That the society can well do without these people if they choose to leave or stay away, and can well relegate them to the status of fugitives, convicts, or ex-convicts if they elect to return or remain.

(4) That the only real problem is how to be fair to these law violators (and their families)—the remaining 200,000,000 or so of us having nothing to worry about except the general ethical responsibility to let the punishment fit the crime.

(5) That the "we" (Why should *we* forgive) does not include the law violators, but includes only the great law-abiding majority who have made laws and have at least acquiesced in the war.

Believing that each of these assumptions is fallacious, I shall try to show that the dominant concern for amnesty is a concern for the welfare of society as a whole and that preposession with the problem of fairness to the violators involves a sad distraction from the main point. Secondarily, I shall mention a few undisputed facts that, in my opinion, cast serious doubt on the accuracy of the first three of the five listed assumptions—facts that suggest that amnesty may be called for even if we disregard the needs of the larger society and seek nothing but fairness to the law violators. In addition, I shall very briefly describe the legal tools that are available to do whatever the American people ultimately say they want done—as they may say at the polls this November.

First, let us examine the root question, the starting point for appraisal of any proposal for public action: Whose ox is being gored? The fourth and fifth of our five propositions both say, in different ways, that fairness to the lawbreakers is our only concern. I submit that, though by no means unimportant, it should not be even our primary concern. I say that our primary concern is to thrust this long and divisive war into history as completely and rapidly as we can, to let time get on with its healing, to cleanse our society of a continuing legal fallout whose half life is measurable in decades, and—without denying ourselves the honor of mourning the dead, supporting the crippled, and comforting the bereaved—to turn our minds and hearts to the future.

LESSONS CAN BE LEARNED

Dirty and frightful as the war experience has been, lessons can be learned from it that may help us deal with future challenges in a manner more humane, more effective, and less expensive: The war has demonstrated that a society such as ours, in which the people have the ultimate power of decision (however long the exercise of that power may be delayed), will tear itself apart if led into a war whose necessity cannot be made clear to all or nearly all of the people. The war has also done much to liberate us from the fiction, so carefully nurtured by Sen. Joseph McCarthy and his latter-day disciples, that communism is a unitary, monolithic phenomenon comparable to a killing disease—leprosy, say, or tuberculosis—which we are honor bound to fight wherever we find it, and which we can effectively handle with the same sovereign remedies wherever and whenever it shows itself. The war has done a great deal to dispel the dogma that our nation (militarily encumbered, as it is, by its dependence on cousent and its humanitarian ideals) can lick anyone we elect to fight, and the still more dangerous dogma that a "white" nation can lick a "nonwhite" nation in any fair and equal combat. The war has also reminded us, as we have not been reminded since the Great Depression, that our liberties are fragile—lovely flowers that flourish and blossom only in the sunlight of common consent—and that our society can remain open only if the policies of our Government command the support, or at least the acquiescence of nearly everybody (not just a 51 per cent majority).

All these lessons, and others too, will serve us well when we grapple with the problems of today and tomorrow, if only we can allow ourselves to learn. But our ability to understand and profit from the dearly bought experience is, and will remain, gravely impaired so long as the legal debris of the Southeast Asia war remains to distract us, so long as our eyes are blinded by the ashes of dead issues.

What is this legal debris? Let us suppose that tomorrow morning the fighting ends and all war prisoners are sent home. (For years we have been told that the war's end is imminent; and it is a good bet that it will in fact end, or practically end, no later than a few weeks before the November election.) What, then, will our situation be? At that time we shall have terminated the war in its international aspect only. On the domestic side, these quite substantial vestiges will remain—and, barring amnesty, will remain for years and decades to come:

(1) Tens of thousands of objectors to the war have broken the criminal law and, if not already prosecuted, are subject to prosecution. Numerically, the largest groups are draft refusers (or evaders) and participants in illegal demonstrations. The great majority have engaged in no act that has involved or threatened injury to any person, or substantial damage to (or theft of) any property; but some few have committed assault, arson, burglary, and perhaps worse.

(2) Some of these people have exiled themselves in Canada, Sweden, and other foreign countries. Others, who have not fled, either (a) have been convicted and have completed their sentences, or (b) are presently being prosecuted, or (c) are subject to prosecution.

(3) This last group—those who are subject to prosecution but have not yet been arrested or indicted—is by far the largest. The war's end may lead most prosecutors to ignore them in favor of more dangerous offenders. Even so, however, each of them (and probably his spouse and close associates) will know that prosecution may ensue—at any time before the applicable statute of limitations has run (and some of them run a long time)—if anything is said, published, or done that awakes the prosecutor's unfavorable attention. The violator will in effect be a probationer, and as such he will have reason to keep his mouth shut on controversial issues. His one venture in political expression—opposition to the war by illegal means—may prove to be his last.

(4) Almost without exception, these violators believe—perhaps rightly, perhaps not—that they have served rather than harmed the United States by revealing, through their law-breaking or self-exile, the depth of their own conviction that the war has been wrong, helping to speed the general realization (which all agree has now come) that the war must be ended. Millions of others share that belief, and will continue to proclaim the injustice of continued punishment, prosecution, or de facto probation. To that extent—and it is a large extent—the divisive effect of the war will be prolonged.

(5) The rankle will not die away as soon as prosecutions are ended and sentences served. The stigma of criminal status—the status of the ex-convict—will still rest on those who have suffered it. The status carries with it various political and civil disabilities, heavier in some states than in others: disability to vote, to hold public office, to obtain public employment; ineligibility for admission to the professions such as law, medicine, and teaching, or for admission to other licensed callings such as taxi driving and liquor retailing; and so on.

(6) The law violators are numerous enough, and are sufficiently dispersed geographically, to spread these effects throughout the land. The problem is thus a national one, and—arising as it does from a national war, involving as it does our national political health—it can only be dealt with effectively and uniformly through Federal action.

These are the conditions that will face us when the war is over. But should we postpone until then our consideration of the problem? I do recognize the accuracy of President Nixon's prediction that amnesty—though it will surely come, as he says, just as it has come (in one form or another and not always under the name of amnesty) after every divisive rebellion or foreign war—will be delayed until our prisoners are back home and American servicemen (except perhaps for volunteers) no longer fight in Southeast Asia. It does not follow, however, that we ought to wait until then to lay the political groundwork. It is not too soon to initiate public debate on the scope and timing of the amnesty—the amnesty that history and the President say is inevitable, and which the President, on Jan. 2, declared he would be "very liberal" in granting when the time comes. There are enough months left before the November election for public opinion to crystallize, for candidates to be queried on their amnesty views, and thus for the people's will to be expressed at the polls.

Nor is it too soon to lay the legal groundwork. It is true as President Nixon has reminded us, that clemency for Federal offenses is an executive function. Article II, Section 2 of the Constitution gives pardoning power to the President. But Congress also has a part to play.

At a minimum, Congress can and should shoulder part of the political responsibility—for amnesty, particularly if relatively quick and broad, will require political courage of a high order; this long war has been divisive—by a concurrent resolution affirming congressional approval and support of whatever amnesty it thinks the public interest demands. That is the least that Congress can do, or at any rate it is the least that I think Congress *should* do.

There is explicit, though not indisputable, authority that says Congress itself has the power to grant amnesty. The Supreme Court has so declared on more than one occasion, though always in cases that involved other issues and did not squarely present the question of congressional amnesty power. An amnesty statute would constitute an assumption of full political responsibility by Congress. It would also constitute the most authoritative expression of the will of the American people, a consideration the importance of which will be explained in a moment.

To avoid any lingering Constitutional doubt (and to avoid the wrangling of Constitutional experts that delayed enactment of the 1964 Civil Rights Act), the effectiveness of the statute might be made conditional upon affirmative Presidential action. That is to say, the bill might stipulate that it would become law only if the President signed it, or approved it by later public proclamation—not if he simply failed to sign it (which ordinarily allows a bill to become law) or vetoed it (unless it were then enacted over his veto and he or his successor later approved it by proclamation). Politically, such a limitation is of small importance in view of the unlikelihood that the bill would pass at all without support from the White House.

It may be said that such a concurrent resolution or statute would be premature at the present time because the war is still being fought. Perhaps this is so, although the objection might be at least partially obviated by a provision delaying the effective date until the President proclaimed that hostilities had ended or been reduced to such a level as to justify the effectuation of amnesty.

But let us assume that specific amnesty action is deemed to be premature for the time being. There is still grist for the congressional mill. It is certainly not too soon to provide the President with all the authority he needs for full and effective amnesty, even though he may not exercise it for a while. Congress has followed this course before. For example, the President was vested with authority to fix prices, wages, and rents long before he saw fit to exercise it. When the time did come, he was in a position to act without delay for congressional action.

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PRESIDENTIAL POWER LIMITED

True it is that the President already has plenary power to grant clemency to Federal offenders, both military and civilian. True it is that such clemency can take the form of full pardon (with erasure of guilt—as is done in cases of mistaken identity), or remission or reduction of punishment. True it is that reasonable conditions—perhaps an oath of allegiance, as after the Civil War; perhaps alternative public service, as proposed by Senator Taft and others—can be attached. There are, however, certain things that the President probably lacks power to do without congressional authorization. He probably lacks power to restore the citizenship of those who have relinquished it in protest against the war; it is Congress that possesses the naturalization power. And he surely lacks power to grant clemency to the many violators of state law, a category that includes most of the illegal demonstrators.

As a matter of fact, some Constitutional lawyers may well say that this latter group cannot be granted clemency even by Congress and the President acting in concert. They may say that the power resides only in the respective state governors. My own opinion is otherwise. I believe that Congress has an untried but available Constitutional resource in the "privileges or immunities clause" of the Fourteenth Amendment. As I have written before:

"Section 1, after providing that all persons born or naturalized in the United States and subject to its jurisdiction are its citizens, goes on to provide: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.' The clause has been little used, largely because of a restrictive—and, I believe, erroneous—interpretation by the Supreme Court in 1873 in the Slaughterhouse Cases. But the original purpose of the clause is precisely applicable here. The purpose was to enable Congress, by defining the privileges and immunities of Federal citizenship, to afford protection against hostile state action. The newly freed slaves were, of course, the main subjects of concern, but the clause is not limited to them.

"If Congress believes that our national interest requires the early restoration of domestic harmony and that such harmony will be promoted by amnesty for antiwar demonstrators and others, then Congress has the power to grant them amnesty. What it takes is a declaration by statute that it is a 'privilege and immunity' of United States citizens to gain annulment of convictions and other legal disadvantages suffered by reason of specified acts of opposition to the war. If Congress so provided, the amnesty could be conditioned upon Presidential activation, and it could be made subject to such conditions (for example, an oath of allegiance) as Congress might impose or empower the President to impose."

A JUDGMENT ON THE WAR

It remains to consider how broad the emnesty should be. That depends ultimately upon whether our concern extends to the condition of our whole society, or whether we interest ourselves only in fairness to the violators; and that question is intimately linked with the judgment that the American people make upon the rightness or wrongness of the war itself. If the war is found to have been the basic mistake from which all else flowed, those who opposed it sooner and more vigorously than the rest of us are to be regarded as having performed a service through their illegal acts. They may well have sped the general realization of the war's true character; at any rate, that was their purpose and their hope. This realization has gradually come into focus as we have read the Pentagon Papers, as we have learned the shabby factual basis of the recently repealed 1964 Gulf of Tonkin Resolution (which, in the absence of a formal congressional declaration, is generally taken to mark the beginning of the war). If the violators have served the United States by their submission to punishment or self-exile—acts which, it may be said, have connoted courage much more often than cowardice—amnesty should be broad, quick, and unconditional.

A strong case can be made for the proposition that Americans did pass adverse judgment on the war no less than four years ago. In my opinion the 1968 Presidential election, in which both major candidates won nomination on an end-the-war program—and in which President Lyndon B. Johnson (who indeed had won the 1964 election on a no-war platform) declined to run for the stated reason that he feared his candidacy would hamper his peace-making efforts—was a clear condemnation of the war. If it was, most Americans have said that the war has been a bad one at least since 1968, if not since its beginning.

This November the people will have another opportunity to express themselves, if the issue is adequately framed in the Presidential and congressional races. Should the people reaffirm what I think they said in 1968, it logically follows that every American should be relieved of every legal disadvantage he would not have suffered if the war had never begun (or, at the least, any such disadvantage that he incurred after the 1968 election). That implies not only remission of criminal penalties but erasure of criminal status for every offender whose crime would not have been committed but for the war.

It is desirable that amnesty be granted openly and officially if premised on the wrongness of the war—not bit by bit in the form of quiet military discharges given to deserters, or case-by-case leniency accorded by clemency commissions or parole boards. The candid admission of error is beneficial not only to the individual soul, as the churchmen tell us, but also to the body politic. The French profited from their painful recognition of the wrong done to Captain Dreyfus. The Germans profited from their even more painful recognition of the wickedness of Hitler and his Nazis. We Americans, if we truly believe that the war in Southeast Asia has been a bad mistake, would benefit—both in self-esteem and in our relations with the rest of the world—by making express and official acknowledgement of the error, and doing it sooner rather than later.

Full amnesty might not, however, be thought appropriate in all cases. It would not be illogical, though administratively difficult, to limit clemency to those whose offenses were motivated wholly or partly by conscientious opposition to the war. (To be sure, such a limitation would discriminate in favor of the articulate young men who are capable of explaining their feelings in religio-philosophical lingo; and relatively few of them come from Appalachia or Harlem.) Neither would it be illogical (though, again, administratively difficult) to deny full clemency to those whose offenses have been "violent"—not an easy term to define; does it include sit-ins? the scrambling of draft board records?—and who, by such acts as arson and assault, have revealed themselves as limitations, however, most acts of criminal opposition to the war would be pardoned.

If, on the other hand, it turns out that most Americans can agree only that the war should be put behind us, amnesty will be narrower. There may be liberation of prisoners, but no erasure of the stigma of conviction or restoration of political and civil rights. There may be amnesty for Federal offenders (most of whom are draft refusers) but not for state law violators (most of whom have been prosecuted for some form of violence or near-violence, though the great majority have done no more than block the transport of draftees or engage in other illegal demonstrations).

DANGERS IN UNJUST ACTION

In appraising the desirability of limitations upon amnesty, however, one somber fact must not be ignored. Attica stands as a reminder of the difficulty and human waste involved in punishment of people who believe themselves to have been unjustly convicted, and the primitive crudity of the methods our penologists have thus far devised for dealing with them.

And in deciding whether clemency is due to such offenders as the Berrigans, we should ask ourselves this question: Had John Brown's body *not* lain a-mouldering in the grave when the Civil War ended—if, instead, he had been serving a prison term—would he have been accorded less generosity than Jefferson Davis and Robert E. Lee?

Only a crystal ball could tell us how the amnesty problem will eventually be resolved. Much may depend on *how* the war ends. Should it cease at a defined moment—perhaps with the aid of the United Nations, whose competence in this regard has suddenly increased with the admission of mainland China; perhaps as a result of President Nixon's trip to Peking; perhaps as a result of a congressional act of punctuation—amnesty is likely to be quicker. Should the war trail off as gradually as it began, amnesty may be slow in coming.

But come it will. And it is now time for every American to examine his own thoughts and opinions; to make them known to all who will listen; to call upon candidates for statements of position; and to carry his convictions with him into the voting booth on Nov. 7.

Louis Lusky, who argues here his case for amnesty, is professor of Constitutional law at Columbia University Law School. He has drafted a proposed bill for Congress, drawing on the work of his Legislative Drafting Seminar, that would put his beliefs into the congressional forum. A graduate of Columbia Law School, Prof. Lusky was once law clerk to Supreme Court Justice Harlan F. Stone. He practiced law in Louisville, Ky., for years before joining the Columbia faculty in 1963, and is a former board member of the American Civil Liberties Union.

RECONCILIATION, NOT RETRIBUTION
UNIVERSAL AMNESTY
(By James Reston, Jr.)

Amnesty for Vietnam resisters has suddenly become a live issue. The reasons for that are evident: Nixon says we're in a defensive posture in Vietnam, where our effort can be supported by volunteers; voters are looking to a postwar presidency; the draft calls in the fall and winter have been minimal; and amnesty supporters have been hammering on the point that this is the only logical course to take after an immoral war. There has been national publicity: Mike Wallace badgering families and friends and fellow townspeople of refugees in Canada; *Time* calling for conditional amnesty; *Newsweek* doing a cover story and taking a poll indicating that 63 percent of the American people favor a conditional or general amnesty.

President Nixon, who in November clipped a startling flat "No" to a question of whether he would consider amnesty, vacillated in his recent TV interview with Dan Rather, saying he intended to be liberal with amnesty once the war is over. Senator Muskie is talking vaguely about a "national objective of repatriating these young people under some conditions which we will have to work out," but bases his timing not even on the end of the war, but on the end of the draft. Even Senator McGovern, who was first of the presidential contenders to advocate amnesty, has failed to say specifically whether he favors a universal or a general amnesty law, and if his idea is for general amnesty what conditions he favors. And the astonished refugee community in Canada is complaining that it has been made into a political football.

However, no one has done more to advance amnesty than the most unlikely advocate of all, Senator Robert Taft of Ohio. His Amnesty Act of 1972 will be the focus of the upcoming debate in Congress. At first glance, it would seem splendid that a conservative should be taking the lead, and no doubt Taft's move has created an instant constituency for general amnesty. Unfortunately, his bill avoids the central moral question, what is right and appropriate for the sponsor of an immoral war to do with those in flight from it?

What does Taft's bill say?

The price of repatriation for the evader is to be a three-year service (a) in the Armed Forces—that is to say, a denial of the purpose of exile—or (b) in Vista, VA or Public Health Service hospitals, or other unspecified federal service—a slur against Vista, as if the volunteers were the keepers of the poor, like the hospitals are the keepers of the sick. The alternative federal service is to be performed at the minimum pay grade and without eligibility for normal federal employee benefits. For the resister in jail, a plum is offered: he would be credited with up to two years of prison time to apply to his three-year service obligation. And for the deserter, as if conscientious flight once a person sees the horrors of our military and Vietnam policies from the inside is a higher crime, no provision is made. Taft feels normal military justice should take care of the deserters. Congressman Edward Koch of New York who is the longest-standing advocate of "options" for the exiles has offered a bill similar to Sen. Taft's, with the essential difference of a two-year instead of three-year alternative service. Congressman Koch dispenses with Taft's patronizing rhetoric about the "misguided victims of bad advice and poor judgment" but insists on the term "penalties."

The philosophy of retribution that underlies the Taft and Koch bills is based on two assumptions. First, universal amnesty (no penalty or condition for repatriation) would be unfair or disrespectful to the 55,000 American dead in Vietnam and three million who served there. Second, universal amnesty would wreck the draft and the government would not be able to raise an army through conscription in future wars.

The first of these is the most galling, for it pits victims against victims. It is the Vietnam policy that has made casualties and mercernaries and POWs and jailbirds and legal evaders and exiles of an entire generation of young Americans. They are *all* casualties. But now, one victim, the Vietnam dead or the Vietnam returnee, is used against another, the refugee. Not that we should be surprised. Young soldiers were used against young protesters around public buildings in the mass protests of the late sixties and at Kent State. The POWs are used to justify a residual force of soldiers, which in turn insures the continuing captivity of the POWs. Is it any wonder that the whole idea of national service out of patriotism has been destroyed for a generation?

No one is asking the mass of Vietnam veterans if they want their sacrifices used in this manner. The point is somehow missed that young veterans groups are the most active antiwar element on campuses today, now that the threat of the draft has diminished. More relevant, it has been barely reported that veterans groups have been in the front of the budding amnesty movement. On Christmas eve, the 103rd anniversary of Andrew Johnson's Universal Amnesty Proclamation of 1868, young veterans from New York, Pennsylvania and North Carolina presented petitions for universal amnesty to the White House with nearly 35,000 signatures. Another veteran-sponsored petition for repatriation is circulating in Florida. These are the only popularly based amnesty petitions in circulation.

What motivates the antiwar zeal of these veterans? Their inside knowledge of what our policies have meant to the people of Asia has led to rage over the efforts of the government and the press to sanitize the war news for the American people. They know that while they made a sacrifice of time and even lives, others of their generation made the moral point.

The second argument for repatriation penalties for exiles—that without penalties armies would be difficult to raise in the future—is debateable. It depends on how fresh the memory of Vietnam is. I, for one, hope that the memory of it never fades. For if Lyndon Johnson had thought it doubtful that he could have raised an army for the purpose he used it, his ambitions might have been checked. That he resorted to duplicity as evidenced by the Pentagon Papers, and thereby duped thousands of young Americans to join his army under false pretenses, goes to the special bitterness of the veteran today. The memory of Vietnam might say to another generation that it is a duty of citizenship to decide conscientiously *beforehand* if the way it is asked to fight is just and consistent with basic American principles, and if it is not, to refuse to participate. The organization of the late thirties called "Veterans of Future Wars" might well be reactivated.

The Taft and Koch proposals are for domestic consumption, addressed to the Americans who feel some responsibility for the refugees, but who cannot face up to the bigger responsibility, in the Nuremberg sense, of what we have wrought abroad and at home by this war. The congressional proposals offer amnesty without accepting guilt. If none of the refugees returns to face Taft's harsh music, they can say, "We offered it to the bums, but they wouldn't take it. Tough luck."

If the guilt in Vietnam were conditional, then conditional amnesty, like Truman's after World War II, might be appropriate. But the national guilt is total in Vietnam, and if this country wishes to balance that record with positive acts, it must wipe the slate clean.

Universal amnesty is the only alternative consistent with true reconciliation. But it is also the only option that is likely to get the refugees back in force. They have made it very clear that they will accept no imputation of criminal guilt, and they shouldn't.

Herein lies a curious, but persistent misconception both at home and in Canada: That amnesty implies "forgiveness." In fact, it means "forgetfulness" coming from the Greek "amnestia." The distinction is vital to the refugee, for forgetfulness means the possibility of prosecution is forgotten, an exercise in legal bookkeeping. This concept is affirmed in the case of *US vs. Burdick* (236 US 79) 1915. Burdick was the city editor for *The New York Tribune*. He was brought before a grand jury and asked to answer questions regarding investigations of his paper concerning city frauds. He refused to answer on the grounds of incrimination, whereupon President Wilson granted him a pardon from criminal prosecution. Burdick refused the pardon, stating still that answers might incriminate him. He was thereupon charged with contempt. The issue was whether the acceptance of the presidential pardon implied criminal guilt. In overruling the lower court and setting Burdick free, the Supreme Court stated: "If it be objected that the sensitiveness of Burdick was extreme because his refusal to answer was itself an implication of crime, we answer, not necessarily in fact, not at all in the theory of law. It supposed only a possibility of a charge of crime, and interposed protection against the charge, and reaching beyond it, against furnishing what might be urged or used as evidence to support it."

Thus, amnesty means clearing the books of charges made or anticipated for war resistance, placing the burden on the bookkeeper, not on the accused. As I wrote in these pages last October, the books on war resistance, incarnating the elaborate system of spying on antiwar individuals, should be thrown away altogether anyway, because their existence is a violation of freedom of speech and their effect on intellectual inquiry has been devastating. It is no good to wipe the books clean for dissent in one era, only to begin to fill them again with dissenters from the next.

Taft's proposal or any general amnesty variation, of which there are bound to be many in the upcoming debate, does not meet the moral requirement of this country, nor will it induce the refugees to return. The American public has shown its capacity to evade responsibility in the Mylai case. If it insists on the Taft proposal, and if that becomes law, we will follow the course of the Reconstruction amnesties after the Civil War, finding out as Andrew Johnson did that his three general amnesty proclamations were unworkable and inappropriate to the overriding need: to bind the wounds of the country. He found that only universal amnesty would meet that need, but it took him three years.

[From the Washington Post, Feb. 21, 1972]

MANY U.S. EXILES PREFER CANADA
(By Anthony Astrachan)

TORONTO.—Most of the Americans who fled to Canada to avoid serving in the Vietnam war reject the idea of conditional amnesty, according to recognized spokesmen and individual exiles interviewed here.

The exiles also challenge the view of them that they believe the American establishment holds—of lonely, tearful waifs dreaming of the day they can once again set foot on American soil.

They are in no hurry to return home, the exiles insist—not only because the current amnesty proposals are unacceptable, but also because many of them reject the whole U.S. system, not just the Vietnam war.

Many of this group prefer Canada as a society with fewer urban and racial tensions than the United States.

"We have discovered a country where there is more sanity than in the United States," said Richard Burroughs, originally of El Paso, Texas, and now a counselor at the Toronto Anti-Draft Program.

RETURN TO VISIT

Burroughs said he assumed that 90 per cent of the exiles would like to go back to the United States to visit, but only to visit.

Mickey Bickell, 26, of Clearwater, Fla., cautioned that despite the talk of staying here at least half of the exiles would go back if they had the chance.

But the only chance they would recognize, most exiles interviewed agreed, would be an unconditional amnesty covering draft dodgers and deserters alike.

The amnesty proposals made by Sen. Robert A. Taft Jr. (R-Ohio) and Rep. Edward I. Koch (D-N.Y.) cover only draft dodgers. They would impose the condition of some "alternative service" to make up for the military commitments that the exiles skipped. In the exiles' eyes, this is punishment instead of recognition of their early awareness of the wrongness of the war an awareness they believe much of America has come to share.

OPEN LETTERS

"We have done nothing wrong," Bickell and other exiles insisted. They echoed open letters written by exile Jack Colhoun to Koch

XUM

XUM

and Sen. George McGovern (D-S.D.), published here in an exile magazine and reprinted by The Toronto Star.

"To us, the 'crime' of not participating in such a war pales beside that which our government asked us to commit in the name of democratic citizenship," Colhoun wrote. "After the Calley trial and the Pentagon Papers, it should be clear to all that we have been honorably vindicated."

Many exiles see the distinction between draft dodgers and deserters as an attempt at class warfare or a middle-class cop-out, rather than a legalism.

Most draft dodgers are middle-class, well educated, articulate about their opposition to the war, and often backed emotionally and financially by their parents. Deserters tend to be younger, poorer, less well educated, more often rootless—and to have reasoned less about their feeling up to the moment when they finally acted.

Burroughs' wife, Naomi Wall, who grew up in the Riggs Park area of Washington in the 1950s and has been working in the anti-war movement here since 1966, saw important differences in deserter motivations that might affect their responses to amnesty.

MIDDLE AMERICANS

Some, she said, are typical Middle Americans who went into service willingly and then rejected the war and the American system. Others went into service knowing that they opposed the war but trying to fulfill their obligations without being touched. When the war finally got to them, they deserted. Still others were virtually forced to enlist by being given a choice between military service and a jail sentence when convicted of minor felonies.

Men in all categories may desert because they suddenly see a wrong in the army, or because they can't handle the discipline, rather than because of specific opposition to the Vietnam war.

Dodgers and deserters sometimes feud. Burroughs said the exile experience does not bridge the class gap for most.

The amnesty movement in the United States puts the total of draft dodgers and deserters at 70,000 to 100,000, with the number in exile in Canada ranging from 40,000 to 70,000. In December, the Pentagon listed 35,259 deserters still at large. Exiles here say the two categories number 70,000 to 100,000 in Canada alone, with as many more underground in the States and 2,000 or 3,000 scattered in other countries. There are about 30,000 such exiles in Toronto.

The number entering Canada was about 80 a week in January, according to exile sources—80 per cent of them deserters. In the early years of war resistance, draft dodgers predominated.

Counseling groups like the Toronto Anti-Draft Program in many Canadian cities have been trying to discourage dodgers and deserters from coming here because Canada's high unemployment (7.7 per cent in January) makes jobs hard to find.

JOBS NEEDED

Even Canadians who welcome antiwar exiles as a matter of principle naturally prefer to give jobs to Canadians, Burroughs said. Businessmen who went out of their way to help exiles before unemployment started climbing two years ago now can't hire any. A Harris Poll recently showed that only 15 per cent of Canadians favored the continuing arrival of draft dodgers and deserters, compared to 60 per cent four years ago.

Dale Ackerman, 25, of Pontiac, Mich., insisted nonetheless that every exile he knew either had a job or preferred not to work. Ackerman was one of several who said exiles do not live or function as a group, even though most read Amex-Canada, a magazine that claims to speak to and for them as a group.

Ackerman, who came to Canada in 1968, and took a master's degree in social work at Ontario's Waterloo Lutheran University, is now a social worker at St. Michael's Hospital here. He estimated that 70 per cent of his friends in Canada were not American.

Ackerman was one of several exiles who emphasized the warmth of the Canadian welcome. He said a small percentage of the Canadians he met either could not understand why he would have left the United States because they think it's "such a great place," didn't like exiles because growing Canadian nationalism resents American cultural influence and economic dominance. Most Canadians just said "Welcome aboard."

Many exiles appreciate Canada for more than its comparative peacefulness.

"The possibilities for alternatives are much greater here," Naomi Wall stressed. Day-care centers are flourishing with government help, and Toronto last year gave $54,000 for a free school experiment.

MEDICAL CARE

Bickell mentioned Canadian Medicare, which provided his 16-month-old son with four weeks of hospital care, including treatment by three specialists, for a total cost of $30.

These attractions are among the things that make many exiles want to stay in Canada regardless of the final amnesty terms. Montreal exiles are more ambivalent, because they find it hard to function in French, and Quebec nationalism gives the city more tensions than English-speaking Canada. But many blacks prefer Quebec. One called it the place with the least racial prejudice of all he had ever seen.

Negative Canadian reactions range from intellectual nationalists who regard the exiles as patronizing or as antinationalist to the Canadian Legion, the country's equivalent in origin and in outlook of the American Legion.

Sometimes even sympathizers like The Toronto Star get fed up. Two years ago, it attributed five priorities to Amex-Canada: "1. Aid the revolution in the United States. 2. Aid the draft dodgers and deserters coming to Canada. 3. Screw capitalism. 4. Screw democracy. 5. Try and fit into Canadian life.

"Unless the exiles put 5 first, they risk arousing growing hostility and suspicion among ordinary Canadians," The Star editorialized. "That could end in disaster not only to themselves but to a much larger number of American immigrants who only want to make their homes in Canada and fit into Canadian life."

LAW-ABIDING

Just as common, however, is a comment like that of a Toronto newspaper reporter specializing in the drug scene and the youth subculture. He said the exiles are the most law-abiding people in Canada because of their fear of being deported to the United States.

"They don't even hitch-hike on forbidden freeways the way Canadian kids do," he noted. He added that some of the exiles do use drugs (though there is comparatively little heroin traffic here), but the percentage of users who sell drugs is much smaller than among Canadian users.

The Royal Canadian Mounted Police sometimes seems to "hassle" exiles, either on its own or in cooperation with the FBI. A deserter who asked not to be identified said that he was kidnapped on a Toronto street in December, 1969, by plainclothesmen who refused to identify themselves, and driven back across the border into upper New York State. He asked to use the toilet in a drive-in, and escaped by hitting the man who accompanied him with his heavy winter boot—"the army taught me where to hit him," the deserter said with a grin.

He persuaded two Americans about to leave the drive-in to take him back to the border, where a Canadian family drove him across as one of its members. The deserter assumed his abductors were FBI, possibly motivated by the fact that he had a top-secret clearance when he deserted. If such a case were documented in the Canadian press, as two similar ones have been, it would probably provoke an outburst of pro-exile nationalist feeling.

SYMPATHETIC AUTHORITIES

Sometimes the authorities are more sympathetic. Robert Alar, 20, a Marine Corps deserter, was ordered deported for entering Canada illegally. He was allowed to leave "voluntarily" Feb. 16 instead of being turned over to U.S. authorities. He flew to Syracuse and later told Canadian newsmen by phone that he had passed U.S. Immigration undetected and gone underground.

[From the N.Y. Times, Jan. 23, 1972]

AMNESTY OR PUNISHMENT?

TO THE EDITOR:

Senator Taft's bill of amnesty for young Americans imprisoned by the Nixon and Johnson Administrations is useful in directing attention to a vital problem, but it is based on a false assumption. It fails to lighten the burdens imposed by their elders; it adds new punishment and servitude.

The Senator mistakenly assigns guilt and debt because thousands refused to participate in the tragic, murderous and insane policies initiated by Washington, the power structure, the millions of citizens unwittingly taken in by the Government's deceptions.

The Puritan strain in America lingers on—punishment for failure to conform.

All alternative might free us all: Allow those out of the country who wish to return to do so. (Many of the best will not.) Assist, with public funds, all of them to find useful and agreeable work serving their own and the community's interests as full citizens.

We have all suffered uselessly long enough as a result of our actions in Asia. The suffering heaped upon Asians is incalculable. With time, the massive tragedy will become clearer for those who sense reality. The courage and heroism of those who refused to participate in the national blindness will surface. They have already paid the terrible price of prison, family dismemberment, humiliation and exile.

All Americans owe them a debt. That debt is owed, as well, to the men forced to go to Asia to do the killing as a result of the hard-hearted policies of President, politicians and citizens.

When Senator Taft and other leaders understand the true nature of their creation, the lost limbs, burned flesh, missing kin, desolate earth, there will be no room for self-righteousness. A normal man would feel shame, remorse, wish for forgiveness.

Americans will become free when we free ourselves from our own self-deceptions and those imposed by Washington. If we become so blessed we won't need to impose the worst of ourselves on others according to our limited vision of what life should be. Such freedom brings with it the freedom from imposition by others with their guns and bombs. When we are going to practice democracy more and talk about it less?

ALLAN GELBIN.

[From the Los Angeles Times, Jan. 3, 1972]

AMNESTY FOR THOSE WHO SAID, "NO"—AS A SIGN OF NATIONAL REPENTANCE

(By D. J. R. Bruckner)

NEW YORK.—The political leaders of the nation should give more consideration to the question of a total amnesty for draft resisters and military deserters than Mr. Nixon's one-word given at a press conference last Nov. 12: "No."

No one knows exactly how many people are eligible now for prosecution for evading or resisting the draft, or for deserting the armed forces, or exactly how many have fled the country; no one knows exactly how many have simply failed to register for the draft. Perhaps, if the war in Southeast Asia is ever over, those immense computers which are game-planning our bombing of the subcontinent can be used to give us an accurate notion of how many would benefit from an amnesty.

The usual estimate is that up to 70,000 men have fled the country to avoid the draft. The desertion rate during this war is double that of World War II. The Pentagon estimates there are more than 35,000 deserters at large. In 1971 the government obtained more than 4,500 indictments against men refusing to be drafted; this is the most intensive campaign of prosecution for this offense since 1944. There are federal fugitive warrants outstanding on 4,000 draft evaders. This situation has developed in spite of the fact that rules defining legitimate conscientious objection have been liberalized considerably; in the last four years 183,000 men have been excused from service as conscientious objectors.

You can understand why the government might hesitate about granting an amnesty. The total of American dead keeps inching up; millions of men have served in the war, and hundreds of thousands were wounded.

POLL SHOWED MOST AMERICANS OPPOSE USE OF U.S. BOMBERS

But there are other figures to consider. A Harris poll last fall showed that most Americans oppose the use of U.S. bombers and helicopters to support the South Vietnamese army after our withdrawal, under any conditions. For several years, polls have indicated that most Americans want us to get out of this war now. One poll found that 65% of the American people think the war is immoral.

At least 450,000 Asian civilians have died in this conflict; more than 1 million have been wounded, and 10 million turned into refugees. The United States has dropped 6 million tons of bombs on the four tiny countries caught up in this war, three times the total tonnage used in World War II. We have developed dozens of new, torturous antipersonnel bombs which are dropped daily on civilians.

There must be millions of Americans who would sympathize with, or even confirm, the judgment Sen. George S. McGovern (D-S.D.) expressed recently in Los Angeles, that "except for Adolf Hitler's extermination of the Jewish people, the American bombardment of defenseless peasants in Indochina is the most barbaric act of modern times."

Anyway, we can see that many men might have the deepest painful and noble reasons for refusing to fight in this war. The foundation of this society is the willingness of the individual to take a personal moral stand when he is asked to become an instrument of policy; inevitably, many individuals must make judgments against one policy or another. And in the case of this war, people who have cried out in anguish against its immorality have included members of Congress, local officials, bishops, businessmen, former high-ranking military officers, teachers, ministers—all of them people who might reasonably be expected to have a strong influence on the decisions of young men facing the draft.

The President's simple "No" to the question of amnesty may only reflect a political estimate; the war itself reflects political judgments. But it might involve a terrible implication, that, in the eyes of the government, there is no moral basis for avoiding or resisting the draft.

QUESTION MUST BE VIEWED WITH MY LAI MASSACRE IN MIND

You have to look at this question in light of the fact that only one man was convicted of a crime in connection with the My Lai massacre, that that man's original sentence has been reduced, and that the President has proclaimed he will review even that reduced sentence. And you have to look at it in the light of a careful nationwide survey done by three Harvard University researchers in which half the people questioned said they themselves would follow orders and shoot civilians and children in a My Lai situation. In the same survey (this is a terrifying discovery) two-thirds of the respondents said they thought most Americans would follow orders and shoot.

We ought to remember that a majority in Germany supported Hitler, too, and his methods, and that Germany, too, produced flights of exiles, many of them acknowledged throughout the world to be Germany's best people.

The disposition of the status of the draft evaders and resisters is not a matter of simple balances; it is not a question of being unfair to the men who have served. The equity question involved in these cases is a moral question, involving the decency and indeed the future of the people of this nation. Even at the basest level of consideration, we must recognize that the men who have resisted have mostly lived in hiding, in fear, or in exile for a number of years. That is a terrible price to pay for saying "No" to this government, this pitiful helpless giant that is using the human population of Southeast Asia as an enormous laboratory of technological warfare.

McGovern's amnesty proposal would get a better reception if the American people, not their President, were responding to it. We all know, if the President does not, that we need healing. we need to rediscover our independence and our personal moral purposes. We need to flush out and honestly investigate the atrocities committed in this war; we need to bring the men who have fought it, at a terrible moral cost to themselves, back into this country with every help we can give for as long as it is needed. We need to bring back home, without fear or vengeance, the men who refused to do what never should have been done by anyone; their return would be a pledge of our resolve that it will never be done again.

STATEMENT ON AMNESTY—ADOPTED BY THE ECUMENICAL WITNESS, KANSAS CITY, JAN. 13–16

The religious community of the United States, as represented by the Ecumenical Witness, aware that the War in Indochina must be brought to an immediate end, urges the implementation thereupon of a broad, general and plenary amnesty, without any qualifications or conditions, to all those men and women who have been prosecuted or will face possible prosecution by civilian or military courts for any alleged offenses arising out of the War, as well as the meeting of our social responsibility to those who might refuse amnesty, to the civilian members of the resistance, and to those who have served in the military. We urge this amnesty in order to overcome the paralyzing divisiveness of the War on our society and in order to mitigate as far as possible the tragic consequences to the War upon that generation that has been called upon to bear the heaviest existential burden of this war.

We believe that amnesty will be one step toward the reconciliation of the society, but we do not believe that amnesty itself will constitute atonement of the society's responsibility for the War nor will it be in the nature of forgiveness for any offenses, but rather an effort to give ourselves the benefit of moral courage and idealism of the men and women of the young generation. We call upon the religious community further to cooperate with other groups in the society pursuing this objective and to implement this commitment by appropriate educational and other supportive action within their own constituencies.

NATIONAL POW/MIA WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, the week of March 26 to April 1 has been appropriately and properly designated National POW/MIA Week. However, like all such observances it carries with it the inherent shortcoming that by concentrating our interest and concern during these 7 days we run the danger of tending to forget for the rest of the year.

In reality, of course, this week and its various special observance programs is the least we can do on behalf of our men held prisoner or missing in Southeast Asia. But for the prisoners and missing and their families there is no such thing as a mere week. For them it has been an eternity of days endlessly extending into years—in some cases, more than 7 years.

This is a tragic situation—a horrendous testament of man's inhumanity to man. It was, of course, this very tragedy which the Geneva Conventions for the Protection of War Victims was intended to minimize.

The history of modern warfare reveals two seemingly paradoxical trends. On the one hand, weapons have become vastly more sophisticated, fearsome, and destructive. On the other, there have been concerted efforts to make warfare as humane as possible for those taking no part in the conflict, including members of the Armed Forces who are sick, wounded, captured, or who surrender.

A series of agreements, stretching back for more than 100 years, sought to protect prisoners of war. From an initial prohibition against the slaughter of captives, mankind has moved to describe the rights and privileges of those held captive and to set down the obligations of their captors.

The culmination of this trend was the Geneva Conventions of 1949. Of the four treaties signed by 61 nations on August 12, 1949, perhaps the most important and certainly the most relevant at this time is the Geneva Convention relative to the treatment of prisoners of war. Today 123 nations accept the Geneva Convention, including all nations participating in the hostilities in Southeast Asia on both sides.

Since North Vietnam is a signatory to the Geneva Convention on Prisoners of War, the treatment of prisoners ostensibly should be no issue. Unfortunately, it is an issue because the North Vietnamese have refused to abide by the provisions of the convention and have been guilty of inhumane treatment of the American servicemen they hold captive.

The full nature of Hanoi's unjustifiable and illegal acts against American prisoners should be understood by all

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Americans. In an effort to focus attention on the problem this special week of observance is therefore fitting and appropriate.

It is my sincere hope that every American—indeed, the entire world—will take this opportunity to become familiar with the provisions of the Geneva Convention on Prisoners of War, and will match the wretched performance of North Vietnam against the obligations which it accepted in acceding to the treaty. The result must certainly be to banish any apathy about the plight of U.S. prisoners and those listed as missing and to generate a thunderous protest against Hanoi's inhumane conduct.

If the National POW/MIA Week observance can achieve this productive end it will go far toward accomplishing what all decent people seek—the humane treatment and prompt release of our prisoners and a full and accurate accounting of those listed as missing.

On this occasion, Mr. Speaker, we again call upon Hanoi and the Vietcong to abide by the Geneva Convention by releasing the sick and wounded prisoners, account for all the missing in action incarcerated in the prisons in North Vietnam, South Vietnam, Laos and Cambodia. Further, not only agree to inspection of their POW camps by an international body but to also sincerely negotiate for the exchange and release of the prisoners of war.

THE TIMES DEMAND ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BYRNE) is recognized for 10 minutes.

Mr. BYRNE of Pennsylvania. Mr. Speaker, I take the floor today because I cannot remain silent in the face of what I consider major crimes being perpetrated against the American people by the Nixon administration.

"Crimes?" one might query. And I must reply, "Crimes, indeed." Crimes when honest, hard-working citizens can no longer fulfill the basic family needs because their hard earned wages are snatched from them by oppressive tax laws designed to help the rich and large corporations. Crimes when elderly people on fixed pensions and income literally are hungry because the true value of their meager funds is decimated by an administration oriented to big business.

Crimes when our cities are dying; housing, their arteries, crumbling before our very eyes. Crimes, indeed, when our schools decay and our children are pushed through them without concern for the quality of education they receive.

Mr. Speaker, I consider the administration's so-called fight against inflation a farce, and I heartily commend those labor leaders who withdrew their presence from the charade of a wage board. Just how stupid does the Nixon administration think the people of the United States are?

What has phase II accomplished? We need only visit the supermarket, or look at the withholding slip, or require any facet of the myriad of services that normal people need.

Business, Blue Cross, the telephone companies—they keep getting increases from the Nixon administration, but the workingman's wages are contained.

I certainly am not antibusiness; I recognize fully that our economy demands healthy business; but neither can we survive long as a nation of equals when one segment of the population carries the burden and another reaps the profits.

Taxation is another example. Take income tax. I fear we have created here a Frankenstein monster which could engulf the entire Nation, using its powers never sympathetically and often autocratically. We have created a supergovernment which is costing us billions; we have made the income tax laws so complicated and contradictory that the citizen can no longer deal with his Government directly; we have allowed so many technicalities that there is not a single American citizen who is not subject to harassment by the IRS.

And what is happening to big business while the workingman is paying an inordinate portion of his earnings to the Federal coffers?

Here is what is happening: The 10 largest oil companies in the United States with a net income of $8.85 billion—yes, that is net and that is billion—paid an average corporate income tax of 8.7 percent. That was the average—Gulf Oil—for example, with net earnings of $990,197,000, paid only 1.2 percent in Federal taxes.

And while this is going on, persons with annual incomes of under $3,000 paid taxes of 14.1 percent.

The Tax Reform Act of 1969 was designed to insure that the big boys paid some share of the taxes, or at least some taxes. In that year, 301 persons with annual incomes of more than $200,000 paid absolutely nothing. Two years after this "reform," 112 persons with incomes of more than $200,000 a year still paid nothing.

Obviously action is needed.

But what is not needed is to tax the low- and moderate-income people again—whether you call it more income tax or whether you call it "value-added tax," which the President has termed his proposal for a national sales tax.

What we do need is to close the loopholes. If these loopholes were indeed closed at the same 1972 tax rate, we would be getting another $77 billion into the Treasury.

The administration has certainly shown no leadership toward tax reform. Therefore, it is incumbent upon the Congress to lead the way, and disregard the vetoes.

I think the people of the United States must take a sober, clear look at the state of this Nation before casting their votes this fall. Remember, we are not voting for the remainder of the year—we are voting on the course this Nation should take for the next 4 years.

We must keep this Government from becoming "of the corporations, by the corporations, and for the corporations."

"U.S.A. AND THE SOVIET MYTH" ON CULTURAL AND POLITICO-ECONOMIC FREEDOM IN THE U.S.S.R.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 30 minutes.

Mr. DERWINSKI. Mr. Speaker, a member of our Members and colleagues in the other Chamber have spoken out against the wave of repressions taking place in Ukraine. As I have so often in the past, I raise my voice in unison with my colleagues and urge that appropriate steps be taken to seek the cessation of Moscow's repressive measures in Ukraine. One concrete step would be a favorable consideration of House Concurrent Resolution 555, which seeks the resurrection of the Ukranian Orthodox and Catholic Churches in Ukraine.

To gain perspective and an insight into these current repressions, I also urge our colleagues to read the institutional account for such developments in the work by Dr. Lev E. Dobriansky, professor of economics at Georgetown University, titled "U.S.A. and The Soviet Myth." The work has received numerous favorable reviews both here and abroad. As further examples, I turn your attention to the review in the current ABN correspondence, a worldwide periodical published in Munich and one in the Book Exchange of London. A careful reading of this work provides a solid framework for understanding the following editorial in America of February 24, the communications by the Ukrainian Congress Committee of America to President Nixon and Ambassador Bush, and the appeals of that committee to fellow Americans:

BOOK REVIEWS

Lev E. Dobriansky: "U.S.A. and the Soviet Myth." Introduction by William G. Bray, M. C. Published by The Devin-Adair Company, 1 Park Ave., Old Greenwich, Conn., 06870. 274 pp. Price $6.50

The author of this book, Dr. Lev E. Dobriansky, Professor of Economics at Georgetown University, with a Ph. D. from New York University, is one of the leading experts on Eastern Europe in the U.S.A. He is President of the Ukrainian Congress Committee of America and strategy staff member of the American Security Council. His book, "U.S.A. and the Soviet Myth" is dedicated to the memory of Dr. Roman Smal-Stocki (1893–1969), Patriot, Scholar, Christian and Friend of all the Captive Nations.

In this book, Prof. Dobriansky disproves errors and illusions about the USSR, so widespread in the U.S.A. and in other countries of the free world, points out the facts and problems, drawing attention to their interrelation and significance, clears up misunderstandings and suggests possible solutions. The author informs his readers about the Russian and the non-Russian revolutions on the territory of the former tsarist empire and suggests that the Russian Bolshevik Revolution, or more precisely, the Russian Bolshevik coup d'etat served the purpose of restoration and modernization of the already disintegrated Russian empire. He brings out in this study convincing evidence for the fact that the USSR is the forcibly restored Russian empire in modern form.

Prof. Dobriansky also acquaints the readers of his book with the strivings for independence of people subjugated by Russia and Communism. He draws attention to the resistance of these peoples and throws light upon the world political significance of their revolutionary liberation struggle.

Special attention is accorded by Prof. Dobriansky in his book to the Ukrainian question, for Ukraine is not only the largest subjugated nation in the USSR, but in the Russian Bolshevik sphere of power generally.

Prof. Dobriansky's work, "U.S.A. and the Soviet Myth" is an interesting and topical book with very convincing and impressive argumentation. It is written in a light, generally accessible style. The book also contains an ample bibliography on the problems connected with this broad subject.

Dr. C. E. POKORNY.

[From the Book Exchange, November 1971]

U.S.A. AND THE SOVIET MYTH

"U.S.A. and the Soviet Myth." By Lev E. Dobriansky. Introduction by William G. Bray. M.C. (The Devin-Adair Company, One Park Avenue, Old Greenwich, Conn., 06870, U.S.A. 8 by 5¼ ins. 288 pp. Cl. Col'd illus'd d.w. $6.50)

This book offers a thoughtful analysis of the dangers inherent in the current American thinking about the Soviet Union. One important point the author stresses is that there are not 200 million Russians in the world, let alone in Russia—for of the total population claimed, 125 million Non-Russian people live in the USSR. Dr. Dobriansky suggests that the Soviet Union is, in fact, a much weaker nation than Americans believe it to be, and that the American government should call the Russians bluff after a thorough reappraisal of Russia's potential as an enemy. The book touches on many controversial matters concerned with American policies towards Russia, and its author's clear thinking and plain speaking will be valued by the American citizen wishing to understand the real facts.

[From America, Philadelphia, Pa., Feb. 24, 1972]

PROTEST THE SOVIET PERSECUTIONS IN UKRAINE

PROTEST THE VIOLATION OF HUMAN RIGHTS IN THE SOVIET UNION—AMNESTY FOR UNJUST INCARCERATION OF UKRAINIAN INTELLECTUALS

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." (Universal Declaration of Human Rights, Article 19.)

Through the judicial process known as the "kangaroo court" hundreds of writers, students and professionals have been sentenced by the Soviet regime and deported to Russia, where they serve long terms in concentration camps in Mordovia and Vladimir prisons. The accusation against Ukrainian intellectuals was the reading of books published in the West, or "Samizdat" publications, writing pamphlets on Russification, national discrimination and injustice in Ukraine, or signing petitions to the Soviet authorities demanding the rights of independence for the Ukrainian people guaranteed by the Soviet constitution and the Universal Declaration of Human Rights. Some were arrested only for the desire to emigrate to Israel.

DEMAND AMNESTY FOR UKRAINIAN WRITERS

Svyatoslav Karavansky—poet, translator, literary critic; born 1920, sentenced to 25 years in 1944, freed in 1960, rearrested in 1965, resentenced to 4 years hard labor in 1966, and to 5 years in 1970.

Valentyn Moroz—history lecturer at the Ivano-Frankivsk Pedagogical Institute, author of several essays; born 1936, sentenced to 4 years in 1966, 9 years of imprisonment and 5 years of exile in 1970.

Zenon Krasivsky—poet, writer and author of the novel "Balda"; born 1939, sentenced to 12 years in 1967.

Ivan Sokulsky—poet and student of Dnipropetrovsk University; born 1940 and sentenced to 4½ years hard labor in 1969.

Mykola Kulchynsky—poet and student of Dnipropetrovsk University; born 1947, sentenced to 4½ years hard labor in 1969.

DEMAND AMNESTY FOR UKRAINIAN LAWYERS

Dr. Volodymyr Horbovy—graduate of Prague University; born 1899, sentenced to 25 years hard labor in 1948.

Lev Lukyanenko—lawyer, graduate of the Lomonosov University Law School (Moscow) in 1957; born 1927, sentenced to death, commuted to 15 years in 1961.

Ivan Kandyba—gradaute of the University of Lviv Law School in 1953; born 1930, sentenced to 15 years hard labor in 1961.

DEMAND AMNESTY FOR UKRAINIAN PROFESSIONALS—SENTENCED IN 1967

Dmytro Kvetsko—university graduate; born 1937, sentenced to 15 years hard labor and 5 years exile.

Vasyl Dyak—university graduate; sentenced to 12 years and years exile.

Ivan Hubka—economist; sentenced to 6 years and 5 years exile.

Yaroslav Lesiv—teacher; born 1945, sentenced to 6 years and 5 years exile.

Myron Melen—musician; sentenced to 6 years and 5 years exile.

Mykola Kots—lecturer; born 1931 sentenced to 7 years and 5 years exile.

SENTENCED IN 1969

Arkady Levin—engineer; born 1933, sentenced to 3 years hard labor.

Raisa Bekdualiyeva—teacher; born 1925, sentenced to 3 years in 1969.

Volodymyr Ponomaryov—engineer; born 1933, sentenced to 3 years.

Vladyslav Nedobora—engineer; born 1933, sentenced to 3 years.

Hendrich Altunyan—engineer; sentenced to 3 years.

DEMAND AMNESTY FOR UKRAINIAN STUDENTS

Yosyp Teren—student of Uzhorod High School; born 1944, sentenced to 8 years in 1968.

A. Nazarenko—student of the Kiev University; sentenced to 5 years hard labor.

Oleh Bakhtiyarov—student of the Kiev Medical Institute; born 1947, sentenced to 5 years in 1969.

Demand the return of Ukrainian political prisoners from Russia to Ukraine!

Demand amnesty for Ukrainian political prisoners and justice for every citizen in the Soviet Union!

(SMOLOSKYP, Organization for the Struggle and Defense of Human Rights in Ukraine).

UKRAINIAN CONGRESS COMMITTEE OF AMERICA, INC.,
New York, N.Y., January 26, 1972.

Hon. RICHARD M. NIXON,
President, the White House, Washington, D.C.

DEAR MR. PRESIDENT: We are submitting this urgent appeal to you on behalf of the entire membership of the Ukrainian Congress Committee of America, representing over two million Americans of Ukrainian descent, in a matter which is of great concern to them, and which is also the concern of our government and all civilized mankind.

The reason for this appeal is the wave of new arrests of Ukrainian intellectuals and other Ukrainian patriots by the Soviet government in Ukraine in the last few weeks.

We appeal to you, Mr. President, to use the power and influence of your high office to intercede with the government of the Ukrainian SSR and that of the USSR to cease the persecution of the intellectual elite of the Ukraine. We appeal to you to uphold the principle of human rights which is being violated flagrantly by the Soviet government in Ukraine.

Persecution and oppression of the Ukrainian people have always been part and parcel of the Russian Communist rule in Ukraine. But since 1965, the Kremlin and its satraps in Ukraine have stepped up arrests of Ukrainian intellectuals—professors, writers, poets, artists, literary critics, musicians, dramatists, researchers, scholars and students—all of whom were tried under Art. 62 of the Criminal Code of the Ukrainian SSR ("anti-Soviet propaganda and agitation") and sentenced to several years at hard labor.

In this wave of terror and intimidation over 200 Ukrainian intellectuals have been incarcerated and sent to jails, labor camps or psychiatric asylums.

The overwhelming majority of these victims are young men and women, most of them products of the Soviet regime. They committed no crimes against the Soviet state, nor did they advocate any terroristic acts against the Soviet leadership. But they had discussed among themselves ways and means of legally resisting the forcible Russification and the destruction of Ukrainian culture; they were concerned deeply because the Soviet Russian government has been trying to eradicate Ukrainian national consciousness which even Stalin with his massive deportations and brutal executions failed to do. They denounced the persecution of national minorities in Ukraine, such as Jews, Tartars, Kalmyks and others, and they protested against the deportation of natives not only from Ukraine, but from Byelorussia, Estonia, Latvia and Lithuania, and other non-Russian republics of the USSR.

Among "proscribed" literature found on some of the Ukrainian intellectuals were such "dangerous" documents as the address of the late President Dwight D. Eisenhower, delivered at the unveiling of the Shevchenko monument in Washington, D.C., on June 27, 1964, and the encyclical, *Pacem in Terris*, issued by the late Pope John XXIII in 1963, and books which the Kremlin considers dangerous to its domination in Ukraine.

Some cases of those arrested are worthy of world notice:

Mykhailo Soroka, a teacher, was arrested in 1940 under suspicion of belonging to a "subversive" organization and was sentenced to eight and then to 25 years at hard labor; he died in the summer of 1971.

Svyatoslav Y. Karavansky, poet and journalist, was sentenced in 1944 to 25 years, but was released in 1960, and then again arrested and sentenced, without benefit of a jury, by Prosecutor General of the USSR Roman Rudenko, to eight years at hard labor; his wife, Nina Strokata-Karavanska, was also arrested recently for refusing to divorce and denounce her husband. She is a microbiologist at the Medical Institute in Odessa.

Another case of "Soviet justice" is that of Valentyn Moroz, a young Ukrainian historian. Arrested in 1965, he spent four years in prison and was released in 1969. But in the summer of 1970 he was arrested again and on September 20, 1970, he was sentenced at a trial *in camera* to nine years at hard labor.

Also, on November 28, 1970 Allan Horska, outstanding Ukrainian artist, was murdered mysteriously near Kiev.

In January, 1969 the Soviet secret police arrested the Most Reverend Vasyl Welychkovsky, Archbishop of the Ukrainian Catholic Church, on his way to confess a sick person. He was sentenced to three years at hard labor, and is reported to be in a jail for common criminals in a prison in the Donbas area of Ukraine.

In the last two weeks, Soviet authorities have resumed their arrests of noted Ukrainian intellectuals, some of whom had been arrested previously and tried. Among them were Vyacheslav Chornovil, Ukrainian journalist. In 1967 he was sentenced to eighteen

months at hard labor for compiling an underground account of secret police methods used in arresting and trying some 200 Ukrainian intellectuals. (His account was published by McGraw-Hill Co. as *The Chornovil Papers.*) Others who were reported arrested in Kiev were Ivan Svitlychny and Ivan Dzyuba, both outstanding Ukrainian literary critics; Mr. Dzyuba's book, *Internationalism or Russification?*, was published in England two years ago. Seven other Ukrainian intellectuals were arrested in Lviv, Western Ukraine (cf. *The New York Times,* January 15 and 19, 1972).

These are but a few most notable cases of Ukrainian victims of the Soviet regime who gained some international prominence. Unlike the trials of Russian dissidents in Moscow and Leningrad to which Western reporters are admitted, the trials of Ukrainians are held behind closed doors, from which even the closest relatives of the arrested are excluded.

Mr. President! We are appealing earnestly to you to take into consideration our plea to help those who are unjustly persecuted and harassed. We know that you have a grave and responsible task of steering the ship of state. We also are fully aware of your forthcoming trips to foreign capitals, and we do not want, by any means, to prejudice the success of your undertakings.

But as a champion of universal human rights, you will serve your country and humanity universally when you make the Soviet government realize that its continuous persecution of the 46-million Ukrainians is not in consonance with the Soviet constitution and professed adherence to the principles of human rights, but that it reveals an inherent weakness of the Soviet regime and, as a consequence, it mars the Soviet image abroad as a progressive, enlightened and civilized power.

Also, Mr. President, we know that under pressure of international opinion, the Soviet government has been allowing many Jews to emigrate to Israel, and we trust that your intervention may help in the discontinuance by the Soviets of their discriminatory and oppressive policies towards the Ukrainians.

Therefore, we ask you, Mr. President, to do two things:

1) Communicate your grave concern about the persecution of Ukrainians and other peoples in the USSR to the Soviet government at your earliest convenience, indicating that these oppressive policies which the Kremlin has been using in Ukraine are hardly conducive to peaceful coexistence and a good relationship between the United States and the USSR;

2 Instruct our Ambassador to the United Nations, the Hon. George Bush, to look into the problem of this violation of human rights by the Soviet government in Ukraine, and to bring this urgent matter for prompt discussion before the court of world opinion at the U.N. Commission on Human Rights.

Sincerely yours,

EXECUTIVE BOARD: UKRAINIAN CONGRESS COMMITTEE OF AMERICA,

LEV E. DOBRIANSKY,
President.

JOSEPH LESAWYER,
Executive Vice President.

IVAN BAZARKO,
Administrative Director.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA, INC.,
New York, N.Y., February 8, 1972.

Hon. GEORGE BUSH,
U.S. Representative to the United Nations, U.S. Mission to U.N., United Nations Plaza, United Nations, N.Y.

DEAR MR.. AMBASSADOR: We have the honor to address this Memorandum to you on behalf of the Ukrainian Congress Committee of America, representing over two million American citizens of Ukrainian ancestry, on a matter which is of grave concern to us. This relates to renewed arrests and persecution by the Soviet government of Ukrainian intellectuals and other patriotic Ukrainians. We appeal to you to bring this matter to the attention of the U.N. Commission on Human Rights for proper action in the United Nations.

The news from Ukraine, which has been systematic and reliable, carries reports of continued arrests of Ukrainians by the Soviet secret police. Only a few days ago, concurrent with the expulsion from the Soviet Union of Congressman James H. Scheuer, Democrat from the Bronx, the international media, such as Reuters and The New York Times (January 15 and 19, 1972), reported the arrest of 19 Ukrainian intellectuals (12 in Kiev and 7 in Lviv) on suspicion of engaging in "anti-Soviet propaganda and activity," a criminal undertaking under Art. 62 of the Criminal Code of the Ukrainian SSR. Arrests and trials of Russians and Jews have been going on, as you know, in Moscow and Leningrad, as well as trials of nationals of the Baltic States.

In contrast to trials in Russia, which are accessible to Western journalists, political trials in Ukraine are held *in camera,* very often excluding family members of the defendants.

Political oppression in Ukraine by the Soviet government is not a novel development, except that the purpose of Soviet persecution in Ukraine is not only to suppress any opposition and dissidence to the current regime, but to suppress and eradicate, if possible, the very essence of Ukrainian consciousness, Ukrainian culture and the traditional Ukrainian heritage.

The Soviet government and the government of the Ukrainian SSR are signatories to the *Universal Declaration of Human Rights,* adopted on December 10, 1948, and they make much of this fact in their massive propaganda drives outside the Soviet Union.

The essence of human rights lies in the fact that man is entitled to enjoy material and cultural values and that each person should be guaranteed rights and liberties proper to all spheres of social life.

It is to be recalled that the Soviet government has circumvented these lofty principles of the U.N. Declaration of Human Rights and has been bent on destroying all vestiges of human rights in Ukraine. Beginning in 1965, the Kremlin has proceeded to repress a great number of Ukrainian intellectuals, which constitutes a veritable *pogrom* of Ukrainian culture. Over 200 Ukrainian professors, literary critics, journalists, educators, dramatists, artists, researchers and students were arrested and tried in secret trials; many of them have been sentenced to several years at hard labor, and some of them have been placed in psychiatric institutions under guard of the KGB secret police.

None of these arrested had been engaged in what we could call "sedition activities" and none of them had any contacts with people of anti-Soviet orientation abroad. On the contrary, most of them were young men and women, products of the Soviet system.

CASES TO BE INVESTIGATED INTERNATIONALLY

Most of these Ukrainian intellectuals have been accused of glorifying the Ukrainian past, reading pre-revolutionary books on Ukrainian history, and copying and disseminating secretly speeches of Western leaders, for example, the encyclical of the late Pope John XXIII, *Pacem in Terris* (Peace on Earth), and the address of the late President Dwight D. Eisenhower, which he delivered at the unveiling of the Taras Shevchenko monument on June 27, 1964, in Washington, D.C. They discussed among themselves and their friends ways and means of *legally* resisting the forcible Russification of Ukraine and the continued destruction of its culture. Some of them protested against the unbridled persecution of national minorities, notably, the Jews; they accused the Soviet government of inhuman deportation of the Baltic people and the "liquidation" of such ethnic groups as the Crimean Tartars, Volga Germans, Chechen-Ingush and Karachais.

A few cases in point will suffice to illustrate the depth of Soviet oppression in Ukraine:

1) Mykhailo Soroka, a teacher, was arrested in 1940 and sentenced to eight years; released in 1948, he was re-arrested, and in 1952 was sentenced to 25 years at hard labor for unspecified "subversive" activities; he died in the summer of 1971 in a Soviet prison;

2) Svyatoslav Y. Karavansky, poet and journalist, and translator of English classics into Ukrainian; arrested in 1944, he was sentenced to 25 years at hard labor; released in 1960, he was arrested again in 1965 and sentenced without benefit of jury by Roman Rudenko, Prosecutor General of the USSR, to eight years and seven months at hard labor (cf. Karavansky's petition in defense of Jews and other minorities, The New Leader, January 15, 1968). His wife, Nina Strokata-Karavansky, a microbiologist at the Medical Institute in Odessa, was arrested in the fall of 1971 for refusing to denounce and divorce her husband.

3) Valentyn Moroz, a young Ukrainian historian, was arrested in 1965 and sentenced to four years at hard labor. Released in 1969, he was arrested again in 1970 and sentenced on September 20, 1970 to nine years at hard labor, for writing critical articles and brochures on the Russification of Ukraine by the Soviet government.

4) Archbishop Vasyl Welychkovsky, highest prelate of the Ukrainian Catholic Church in Ukraine, was arrested in January, 1969 when he was going to confess a sick person; in the fall of the same year he was sentenced to three years at hard labor. He was reported in December, 1971 to be in a jail with common criminals in a prison in the Donbas area of Ukraine, suffering from ill health, abuse and chincanery.

5) Alla Horska, a young Ukrainian woman artist and a member of the Kiev Art Institute, was murdered on November 28, 1970 near Kiev under mysterious circumstances. In her home she often hosted many known Ukrainian intellectual dissidents, and according to No. 4 of the underground Ukrainian Herald, she was murdered on orders of the KGB, the Soviet secret police.

6) Eugene Sverstiuk, literary critic and author of Sobor u ry shtovanni (The Cathedral in Scaffolding), was also arrested.

As reported by The New York Times (January 15 and 19, 1972), 19 outstanding Ukrainian intellectuals were arrested in Kiev and Lviv last month. Among them was Vyacheslav Chornovil, Ukrainian TV journalist; he was arrested and sentenced to 18 months at hard labor in 1967 for compiling an underground account of secret police methods used in rounding up about 200 Ukrainian intellectuals in 1965–66. (His account, entitled The Chornovil Papers, was published four years ago by the McGraw-Hill Company.)

Ivan Dzyuba, an outstanding Ukrainian literary critic, also is reported arrested; his book, Internationalism or Russification?, was published in English three years ago by a publisher in London.

Reported arrested also was another outstanding Ukrainian literary figure, Ivan Svitlychny, who has advocated the application of human rights to Ukrainians and other peoples in the Soviet Union.

As you well know, all these practices by the Soviet government constitute flagrant violations of Arts. 18 and 19 of the U.N. Declaration of Human Rights and of the Soviet constitution.

Therefore, we appeal to you, Mr. Ambassador, for your help and intervention in this matter. The Soviet Union is by no means immune to the voice of international opinion. Under pressure of international criticism, the Kremlin has allowed many Jews to emigrate from the USSR. We are strongly convinced that if the U.S. Delegation to the U.N. Human Rights Commission would raise the matter of persecution and oppression in Ukraine, many delegates on the Human Rights Commission would support the position of the United States.

Recently, during the visit of Soviet Prime Minister Alexei Kosygin to Canada, Prime Minister Pierre E. Trudeau pleaded with his guest, strictly on a humanitarian basis, to release Ukrainian intellectuals from prison and to allow the reunion of some Ukrainian families with those who are in Canada.

We aurge you, Mr. Ambassador, to please communicate this Memorandum to other high officials in our government and to raise your voice in defense of the persecuted and oppressed Ukrainians. By doing so, the United States Government will demonstrate its sincere and principled concern for human rights and justice for all peoples throughout the world.

Respectfully yours,

EXECUTIVE BOARD, UKRAINIAN CONGRESS COMMITTEE OF AMERICA,
LEV E. DOBRIANSKY,
President.
JOSEPH LESAWYER,
Executive Vice President.
IVAN BAZAAKO,
Administrative Director.

FREEDOM FOR UKRAINIAN INTELLECTUALS!

Fellow Americans! Friends of Freedom! We, members of the Ukrainian Congress Committee of America, an American organization speaking for over 2 million Americans of Ukrainian descent, appeal to you to join us in protest against the brutal violation of human rights by the Soviet government human rights by the Soviet government in Ukraine!

There are over 47 million Ukrainians in Ukraine who are living under a puppet regime known as the "Ukrainian Soviet Socialist Republic," in which only the stooges of Moscow exercise power in the name of the Communist Party.

Ukrainians are overwhelmingly anti-Communist in their spirit of independence and love of genuine freedom; they have never reconciled themselves to the oppressive and tyrannical government imposed upon them by the alien power of Moscow!

VIOLATION OF HUMAN RIGHTS!

Persecution and oppression of the Ukrainian people were always part of the Soviet rule in Ukraine, but since 1965 the Soviet government has made vast and extensive arrests of Ukrainian intellectuals for their defense of human rights and for love of their own language, history and literature.

In January, 1972, over 100 Ukrainian intellectuals were arrested in such Ukrainian cities, as Kiev, Lviv, Odessa, Kharkiv, Dniepropetrovsk, Ternopil, Ivano-Frankivsk, and others.

Among them are such known Ukrainian-intellectuals as Ivan Svitlychny, Vyacheslav Chornovil, Ivan Dzyuba, Eugene Sverstiuk, scholar Prof. L. Plushch, poetess Irena Stasiv, artist Stephania Shabatura, and others whose names were not revealed.

VICTIMS OF SOVIET TERROR!

Among those arrested are Ukrainian writers, literary critics, journalists, professors, artists, painters, students and scientific workers, as well as laborers and representatives of all other strata of society in Ukraine!

Arrests are made on suspicion of "disseminating anti-Soviet propaganda and agitation," but, in fact, those arrested are mainly leading members of the Ukrainian cultural elite, who staunchly oppose the Russification of Ukraine!

TRAMPLE U.N. UNIVERSAL DECLARATION OF HUMAN RIGHTS

Both the government of the USSR and that of the Ukrainian SSR are signatories to the Universal Declaration of Human Rights, adopted in December 10, 1948 by the U.N. General Assembly, and both of them make a big noise about this in massive propaganda drives abroad.

Art. 18 of the Declaration reads:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship of observance.

Art. 19 reads:

"Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

All these and other provisions are crassly violated by the Soviet government and its subservient lackeys in Kiev.

For instance, Valentyn Moroz, 36-year-old Ukrainian historian, was sentenced to 9 years at hard labor for writing A Chronicle of Resistance in Ukraine, describing the destruction of Ukrainian churches by the Soviet government. Svyatoslav Karavansky, sentenced to 25 years at hard labor for sending petitions in defense of the non-Russian nations, and the Jewish minority in the USSR, Alla Horska, a painter, was murdered by the KGB near Kiev.

Unlike in Russia proper where anti-Soviet dissidents are tried publicly, political trials in Ukraine are held in camera, that is, behind closed doors! Some Ukrainian writers have been arrested for circulating copies of the address by the late President Dwight L. Eisenhower, delivered at the unveiling of the Shevchenko monument on June 27, 1964 in Washington, D.C., and for distributing copies of the encyclical, Pacem in Terris, issued by the late Pope John XXIII in 1963.

FELLOW AMERICANS!

The United States is under an agreement with the USSR regarding "cultural exchanges," and we allow here various teams of Soviet scientists, dance and choral ensembles, students, and some Soviet writers and poets, such as the hypocritical Yevgeniy Yevtushenko who, as instruments of the Soviet totalitarian government, eulogize the Soviet system and its alleged cultural and technological "progress" and "freedom."

But, at the same time, the same Soviet government is engaged in the wholesale cultural genocide and ruthless persecution of Catholicism, Orthodoxy and Judaism in Ukraine.

POSITION OF U.S. GOVERNMENT

In his letter, dated February 22, 1972, the Hon. George Bush, U.S. Representative to the U.N., wrote to the Ukrainian Congress Committee of America:

". . . I think that the U.S. Government has clearly shown its disapproval of the persecution going on in the Ukraine. We have considered the activities of the Soviet Government, including the current wave of arrests, contrary to the Universal Declaration of Human Rights and to the Soviet constitution. . . . For our part, members of the U.S. Delegation have frequently raised this issue (in the United Nations) and we shall continue to make our position clear as appropriate occasions arise. . . . We do indeed support the just attempts of the Ukrainian people to secure their legitimate rights. . . ."

FELLOW AMERICANS!

As we know, the spotlight of world media has kept Alexander Solzhenitsyn, great Russian writer, free thus far. Also, under the impact of international public opinion, the Kremlin has allowed many Jews to emigrate from the USSR!

Therefore, we ask you to voice your protest against the barbarous persecution of Ukrainian intellectuals and other patriots in Ukraine!

Join us by protesting through your Senators and Congressmen, and let President Nixon know how you feel about the oppression and persecution in Ukraine!

Support us through the American press and the mass communication media, and stand up in defense of the captive but brave Ukrainian people, because their cause of freedom is also the concern of Free America.

UKRAINIAN CONGRESS COMMITTEE OF AMERICA.

Mr. Speaker, Harry Homewood, a well-known news analyst for WAIT Radio, editorialized on Radio Free Europe and Radio Liberty, a subject over which I have been very concerned, in the Suburbanite Economist of Wednesday, March 22. Since these two stations have received a temporary reprieve, but do require further funding, I trust that this objective commentary will receive the attention of the Members.

HARRY HOMEWOOD COMMENTS

The money to finance Radio Free Europe and Radio Liberty is being cut off. The two radio stations beam their broadcasts at the Communist nations of Eastern Europe and at the Soviet Union. They ran into trouble last year when Sen. Clifford P. Case (R.-N.J.) revealed that both radio stations had been secretly financed for more than 20 years by the Central Intelligence Agency, at a total cost of something more than $456,000,000. The Congress then voted to stop the CIA funding of the two stations.

President Nixon would like to see the two radio stations keep broadcasting and has said so. The President has sent a bill to the Congress calling for direct Congressional financing with a non-profit organization to be created—free of government influence—to oversee and evaluate the operations of the two stations. Sen. J. William Fulbright (D.-Ark.), who is the chairman of the Senate foreign relations committee, wants the radio stations to stop operating. Sen. Fulbright says they are relics of the Cold war.

There is not much doubt that it was a grave error to allow the CIA to finance both radio stations and to do it secretly. And it was wrong to maintain the fiction that Radio Free Europe drew its operating funds from the public by means of yearly appeals. The plain fact of the matter was that in nearly 20 years of public appeals Radio Free Europe managed to raise only $46,000,000. The CIA, meanwhile, gave Radio Free Europe more than $300,000,000 to keep it operating.

Nevertheless, both stations have done excellent work. Radio Free Europe broadcasts to Poland, Czechoslovakia, Hungary, Rumania and Bulgaria in the languages of each nation. Radio Liberty beams its programs directly at the Soviet Union in Russian and other Soviet languages. Both stations have tried to provide a "free press," a medium of communication to provide news that could not be obtained within the Communist nations. The fact that the Soviet Union has for years tried to get both stations shut down and has threatened West Germany (where one of the transmitters for Radio Free Europe is located) with diplomatic reprisals if it allowed the transmitter to operate, seems to be proof of the effectiveness of both stations. Further, experts on the Soviet nations have given both stations high marks for their professionalism and their effectiveness.

Despite the taint of CIA funding (which might be thought to destroy the stations'

XUM

credibility) both are believed. One reason for this is that both have broadcast the facts on racial and campus disturbances in the United States. That brought fire from a number of Congressmen who did not believe that the United States should wash the dirty linen over the airwaves to Communist nations—but it also established the credibility of the news about Communist nations that was broadcast by the stations.

Radio Free Europe and Radio Liberty will both die unless the Congress acts favorably on President Nixon's legislation to keep them alive. In view of the good work both stations have done—and are doing—their death would be premature.

Mr. Speaker, radio station WIND, Chicago, has a very spirited pattern of editorial comments. In a brief, but penetrating, commentary broadcast on Wednesday, March 22, they editorialize on the plight of senior citizens in, I believe, a very effective fashion:

SENIOR CITIZEN

One of the tragedies of modern society is the plight of many senior citizens. Today's tax climate hits everybody, but it strikes a serious blow at those on fixed incomes.

It is one thing to afford the rising costs of living, including taxes, when a family is supported by a regular income. But it is still another to try to meet those demands off an income based on social security, even if it is buttressed by a pre-inflation pension plan.

Senior citizens are penalized in many ways. Often their needs, particularly for medical care, rise sharply at the very time when they can least afford them. Many industrial fringe benefits end with retirement, but the needs continue.

Possibly, the ultimate blow comes when persons have spent their lifetime around a community only to find, in retirement, they can no longer afford to live there. That's got to come pretty close to turning the American dream into a bitter satire.

Some relief may be in the offing. There is a proposal to increase social security benefits. There is legislation in Springfield to provide tax relief for homeowners and renters alike who are over 65 and on relatively limited income.

These are all steps in the right direction, and they deserve the support of everybody, regardless of age.

SOVIET GENOCIDE IN KATYN FOREST

Mr Speaker, lest we forget the history of the Soviet Union and its conduct of international affairs, I direct the attention of the Members to a tragic page of World War I history.

We all remember the genocide as practiced by the Nazis, who were in power in Germany from 1933 to 1945. Half of this 12-year period was taken up by World War II, during which they overran a large part of Europe, but we should continue to be aware of genocide as practiced by the Communists, who assumed power in Russia in 1917 and are still in the saddle. They, too, took over a large part of Europe, which they still control.

The Nazis committed many terrible crimes during the years they ruled Germany and dominated other nations. Had they continued in power they would have committed many more crimes. Fortunately, they were eventually defeated and the hellishness of Nazism is a thing of the past. Ironically, in defeating one form of totalitarianism we strengthened another. Communism is more firmly in power in Eastern Europe than it was before World War II.

One of the reasons it has become intrenched in Russia and its satellite nations is its ruthlessness. Large-scale purges, mass starvation, and wholesale deportations are some of the means it has used to strengthen and extend its power. It has even used population control to prevent a new generation of leaders from being born.

World War II began when the Nazis and their Communist bedfellows invaded Poland during September 1939. Poland fell after putting up a heroic resistance and its territory was divided between Nazi Germany and the Soviet Union. Thousands of Polish army officers, professional men, and intellectual leaders were killed by the Nazis. But, for reasons of their own, mass murders of Poles were perpetrated by the Soviets.

After the conquest of Poland, a quarter of a million Polish officers and soldiers were incarcerated in 100 Soviet prison camps. Approximately 15,000 officers, including 12 generals, 250 colonels, 500 majors, 2,000 captains, more than 5,000 young lieutenants, and 7,000 selected noncommissioned technicians, were sent to three prison camps. Camp Ostashkov contained 6,900 Polish officers, Camp Kozielsk 4,500, and Camp Starobielsk 3,920.

These three special camps were transferred from the jurisdiction of the Red army and placed under the control of the vicious Lavrenty P. Beria and his Soviet secret police. It is a remarkable tribute to the loyalty of these more than 15,000 Polish officers that only 20 of them yielded after 5 months of intensive brainwashing by the Communists and became candidates for the roles of betrayers of their homeland. Those who withstood the pressures of Communist indoctrination were to pay for their devotion to a free Poland with their lives.

In March 1940, Beria received an order from Josef Stalin to secretly exterminate the Polish officers who had stubbornly refused to sell out their country. Beria had the officers transferred during the period from April 3 to May 12 to Katyn Forest, a point about 550 miles southwest of Moscow.

Each of the 15,000 men was shot through the back of his head with a pistol, many having their hands tied behind their backs. They were buried in seven mass graves, each being 50 yards long and 30 yards wide. One excavation was filled with the corpses of two generals, 12 colonels, 50 lieutenant colonels, 165 majors, 440 captains, 542 first lieutenants, 930 second lieutenants, and 146 military physicians. This constituted the greatest single mass execution of prisoners during all of World War II.

Following the wholesale murders and interments, the area was replanted with pine and spruce trees. With the passage of time all traces of this heinous crime would be obliterated, or so the practitioners of genocide assumed. Things were to work out differently, however.

The allies of 1939 had become the enemies of 1941. Hitler's armies invaded Russia during the latter year and occupied the area where the mass murders had been committeed. On April 13, 1943, the German radio announced that several mass graves had been discovered under some small trees in the Katyn Forest. Following the identification of 155 corpses through personal effects found with the clothing, the German Army commander asked neutrals to witness the exhumation. The Moscow radio charged that the Nazis had murdered the Poles.

On April 30 a group of scientists of forensic and criminal medicine assembled at Katyn. These men came from Belgium, Italy, the Netherlands, Switzerland, and the Balkan and Scandinavian countries. While members of the Polish Red Cross were present, the International Red Cross could not, under its charter, send investigators unless both Germany and the Soviet Union requested it to. The Kremlin refused to consent.

Two American officers, Lt. Col. Donald Stewart and Maj. John H. Van Vliet, who were prisoners of war held by the Nazis, joined the observers. The witnesses were flown to the scene by the Germans.

After examining 982 bodies, of whom 70 percent were identifiable, the witnesses agreed that the dead men had been Polish officers who had been murdered and buried 3 years before, prior to the occupation of the area by the Nazi army. The Germans located seven mass graves in all and had opened three of them by September 1943, when Soviet forces retook the Katyn Forest area.

On May 11, 1950, Van Vliet, who had risen to the rank of lieutenant colonel, wrote his impressions of the investigation:

We followed our guide right down into each grave, stepping on bodies that were piled like cord wood, face down usually, to a depth of about five to seven bodies, covered with about five feet of earth. . . . All bodies have a bullet hole in the back of the head with the exit wound of the bullet being in the forehead or upper front part of the skull . . . German photographers . . . took both still and motion pictures of our party while we inspected the graves. Copies of the still pictures were later given us.

Van Vliet continued:

I hated the Germans. I did not want to believe them . . . I tried every way to convince myself that the Germans had done it . . . We pursued every line of attack to weaken the German story . . . It was only with great reluctance that I decided finally that . . . for once the Germans were not lying; that the facts were as claimed by the Germans. I believe that the Russians did it. The rest of the group that visited the site stated to me that they believed that the Russians did it.

On October 11, 1951, Colonel Stewart appeared before the select committee of the House of Representatives that was investigating the Katyn Forest massacre. He estimated that 10,000 corpses, all Poles, had been found in the three mass graves that the Germans had opened.

Stewart testified:

I left Katyn convinced that the Russians had executed these men. That massacre just could not have been falsified or planted . . . We did not like the Germans. But these men had been executed by the Russians!

He continued:

I can never forget those men were killed by the Russians while they were prisoners of the Russians.

Mr. Speaker, eventually, most of the individuals who perpetrated crimes of genocide during the Nazi period were brought to justice. This was not the case with the Communists who murdered Polish officers in Katyn Forest. I have no doubt that justice will one day be served in the ultimate restoration of freedom to Poland since it was in the cause of our country's struggle for survival that these men died.

Mr. Speaker, yesterday, the Chicago Tribune carried a front page story by James Yuenger, chief of the Moscow Bureau, reporting on the petition by Lithuanian Catholics protesting the religious persecution to which they are subject.

This is another dramatic report on conditions in the Soviet Union, and it certainly demonstrates that communism does not mellow. The dictatorship there is determined to wipe out religion, religious beliefs, and the national spirit of the non-Russian captives within the U.S.S.R.:

ABOUT 17,000 LITHUANIAN CATHOLICS HIT RUSS

(By James Yuenger)

Moscow, March 27.—More than 17,000 Lithuanian Catholics have signed a bitterly worded petition to Communist Party Chief Leonid Brezhnev demanding an end to religious suppression.

The petition was signed by 17,054 individuals during last December and January. It is the most massive protest of its kind ever known to have emerged from Lithuania, where most of the U.S.S.R.'s estimated 3 million Catholics live.

SENT TO U.N.

The inch-thick document is a packet of 123 identically worded petitions. It was sent to United Nations Secretary General Kurt Waldheim, who was asked to forward it to Brezhnev.

The signers asserted that earlier petitions protesting official inhibition of their religious practices had gone unanswered, except in the form of "intensified repression."

Threats and arrests by Soviet Militia and Secret Police prevented the Lithuanians from gathering even more signatures and prompted them to seek U.N. help in getting their message to the Kremlin, they said.

"Freedom of conscience is still absent for the believers among our people, and the Church is still subjected to persecution," they told Brezhnev.

TELLS OF EXILES

The petition said that two Lithuanian bishops had been sent into unlimited exile without trials "altho they committed no crime." The two were identified as Julionas Steponavicius and Vincentas Sladkevicius.

Also noted were the one-year prison terms handed out last November to two priests, Juozas Zdebskis and P. Bubnis, for preparing children for their first communion at the request of their parents.

Father Zdebskis' mother charged that he was beaten so badly in prison before his trial that he was unrecognizable.

The petition complained of a shortage of priests, saying that even invalid and elderly priests were forced to work. This was attributed to Communist control of the sole remaining seminary in Lithuania, at Kaunas, which no more than 10 students are allowed to enter each year.

TEACHER DENIED WORK

It said a teacher in the Vilkavisskis district, one O. Briliene, was fired for being a practicing Catholic and since has been refused any kind of work, even menial.

"The authorities do not allow believers, even at their own expense, to restore burnt-out churches, for example, in Batakiai Gaure and Sangruda parishes," the petition said.

"Believers must obtain from the authorities, with great difficulty, permission to conduct services anywhere in a home, but in no case is it permitted to set up even a clock-tower in a former churchyard. At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church had stood."

The petitioners charged that religious persecution goes unpunished, in direct violation of Lithuania's Constitution. It also notes that the Soviet Constitution guarantees freedom of religion. [Russian authorities insist that such freedom exists.]

"By contrast, atheism is forcibly inculcated in Lithuania's Soviet schools, the petition said. "The faithful children of Catholics are made to speak, write, and act against their conscience."

[Sources reported about 10 children were called as witnesses at Father Zdebskis' trial. Several of them wept openly on the stand or remained silent under question.]

LIFE CALLED WORSE

The plea to Brezhnev also charged that the quality of life in Lithuania has worsened noticeably since the country was annexed by U.S.S.R. in 1940.

"This present memorandum is the outgrowth of a national calamity: in the years of Soviet power in Lithuania, such vices as juvenile crime, alcoholism, and suicide have grown tenfold, and divorces and abortions have taken on threatening proportions as well," it said.

"The further we are removed from the Christian past, the clearer become the terrible consequences of forcible atheistic upbringing and the more widespread becomes an inhuman way of life deprived of God and Religion."

The signers said the petition was gathered despite a concerted campaign by the authorities to stop it. Several collectors were detained and lists of names were confiscated.

The petitioners said they will address themselves to the Pope in Rome or the U.N. rather than the Soviet government if the official attitude persists.

It is little short of amazing that the effort was as sucessful as it was and that the petition was forwarded to Moscow for inspection by Western newsmen before being sent out of the country. [It is expected to arrive in New York soon.]

Mr. Speaker, in the midst of the rhetoric from news writers and "informed" political commentators who have for months been instructing all who would listen that the Vice President of the United States no longer commands enough respect or friends to warrant his renomination, two very interesting events have come to pass.

First while there has been little attention paid to the Republican vice presidential vote in the New Hampshire primary, it does not mean what happened is not important. To the contrary, the write-in vote that Vice President SPIRO AGNEW received ought to go a long way in informing this Nation just how much respect and how many friends the Vice President has. Never before in New Hampshire history has a write-in received so many votes. The AGNEW name was written in by more than 40,000 people—a larger vote than any Democratic presidential candidate listed on the ballot. Seventy-five percent of all those who voted for a Vice President wrote in SPIRO AGNEW, even though another candidate for Vice President was listed on the ballot.

Second, some have contended that the Vice President's popularity is not what it once was, and that he is a victim of falling popularity. Unfortunately, for those who would like to believe that, the recent Harris survey statistically demonstrates that it is simply not the case. The survey proves that the Vice President is the overwhelming choice of Republicans and independents, and that sentiment is growing.

The political facts of life are, of course, that President Nixon will decide who his running mate will be, and this will be duly approved by the Republican National Convention. Within the administration, Mr. AGNEW's ability, loyalty to the President, and his numerous accomplishments are greatly admired and respected.

Ultimately then, it is the voting citizens of the United States who will determine who will serve them in the offices of President and Vice President for the next 4 years. It is my opinion that the "silent majority" will prove to be strong supporters of Vice President AGNEW.

Mr. Speaker, I insert the Willard Edwards, Chicago Tribune report on the New Hampshire primary and the most recent Harris survey in the RECORD:

AGNEW'S WRITE-IN

(By Willard Edwards)

WASHINGTON.—The extraordinary write-in vote given Vice President Agnew in New Hampshire—the largest in history—has temporarily brought to a halt a quiet undercover campaign to keep him off the ticket as President Nixon's running mate.

Although Agnew disavowed the write-in effort organized in his behalf, 70 percent of Republicans indicating a preference for Vice President named him as their choice.

His vote total exceeded the previous write-in record compiled in the state by Lyndon B. Johnson in 1964 and was double the Vice Presidential vote for Richard Nixon in 1956, which made his place on the ticket secure.

Moreover, 5 percent of Democrats voting for Vice President picked Agnew for the No. 2 spot. His vote total exceeded the total given Sen. Muskie, winner of the Democratic Presidential primary.

These results were studied in dismay by a group of "progressive" Republican senators and a number of wealthy Republicans who help fill GOP coffers in campaign years. They have been meeting quietly in New York and Washington and discussing methods to keep the Republican Party from swinging to the right in the 1972 campaign.

In pursuit of this goal, they hoped to convince Nixon that he should replace Agnew.

Their first session, organized by Sen. Jacob Javits (R., N.Y.), attracted a number of GOP senators who classify themselves as "moderates" and such business and financial world figures as Walter Thayer, former president of the now-defunct New York Herald Tribune.

All are politically shrewd, and they decided that an open "Dump Agnew" drive would be suicidal and only solidify the Vice President's position on the ticket.

They are happy with Nixon, whom they regard as a former conservative now recruited to their "progressive" stand, but they are concerned with Agnew's conservative positions and regard him as a drag on the ticket.

The strategy adopted at these meetings was to delegate the job of denigrating Agnew to the businessmen who would talk to the President, delicately hinting that their party donations might be diminished if Agnew remained on the ticket.

Agnew would be acceptable, they agreed, only if he could be restrained in the future from the militantly conservative positions he has taken in the past.

XUM

The write-in vote for Agnew in the New Hampshire primary—an unusual demonstration of strength for an unsanctioned candidacy—has admittedly stalled the Javits group in its move to undermine Agnew.

The "drag on the ticket" argument they agreed, would no longer be convincing, especially with a President whose most recently announced position has been that he would be highly unlikely to break up a winning team. New Hampshire made Agnew look like a winner—a partner who could more than pull his weight in the campaign.

Agnew declined comment except to express his gratification at the vote given him and his appreciation of the campaign waged in his behalf by Peter Booras, a greeting card manfacturer from Keene, N.H., whom he has never met.

Perhaps the most important aspect of the New Hampshire vote for Agnew is its impact on the Vice President himself.

According to those who have talked with him privately, he has not been eager to serve four more years in a post which he often found frustrating. Only a hint from Nixon would be needed to secure his voluntary withdrawal.

Now, he can't ignore and cannot help find heartening a 70 percent vote of approval in a primary where his candidacy was advanced without his consent.

THE HARRIS SURVEY—AGNEW GAINS AS TOP CHOICE FOR VICE PRESIDENT

(By Louis Harris)

Vice President Spiro Agnew has gained substantially as the top choice of Republican voters to be renominated with President Nixon at the GOP National Convention in San Diego in August. Agnew receives 49 per cent of the preference votes of rank-and-file Republicans, more than the combined total for the other men tested against him: Treasury Secretary John Connally (17 per cent), Gov. Ronald Reagan (14 per cent), Gov. Nelson Rockefeller (6 per cent), and Sen. Edward Brooke (5 per cent).

In a similar test last August, Agnew led the field with 37 per cent as the first choice of Republican voters to be Mr. Nixon's running mate. Since then, of course, the President said in a January interview that he had no plans to replace Agnew on the ticket. And the survey also indicates that the Vice President is not presently viewed by voters as being as much of an extremist as he was a year or two ago.

In mid-February, a cross section of 633 enrolled Republicans and 344 independents across the country were asked:

"Which one person on this list would be your first choice for the Republican nomination for Vice President in 1972?"

[In percent]

	Republican and independent	Republican	Independent
Vice President Agnew:			
February 1972	42	49	27
August 1971	32	37	22
Treasury Secretary Connally:			
February	16	17	13
August	20	19	22
Governor Reagan:			
February	13	14	12
August	17	20	15
Governor Rockefeller:			
February	8	6	14
August	13	12	19
Senator Brooke: [1]			
February	8	5	13
None or not sure:			
February	13	9	21
August	18	18	22

[1] Not asked about in August.

Among independents, the Vice President is not as strong as among fellow Republicans. But he still easily leads any of the more prominently mentioned alternatives to him for the No. 2 spot on the ticket.

In the way he is perceived by voters, Agnew now appears to be coming back to the ideological profile he possessed in 1968. Periodically, the Harris Survey has asked voters:

"How would you describe the political philosphy of Vice President Spiro Agnew—conservative, middle-of-the-road, liberal, or radical?"

[In percent]

	1972	1970	1968
Conservative	36	23	21
Middle-of-the-road	20	19	18
Liberal	9	8	6
Radical	12	21	4
Not sure	23	29	51

Two years ago, 21 per cent of the voters judged the Vice President had become "radical" in his political positions. He did not do notably well for candidates he campaigned for in the 1970 off-year elections. Now the number who feel he is a "radical" has shrunk almost in half. The majority rate him conservative to moderate.

IN REGARD TO BEEF PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 5 minutes.

Mr. SHOUP. Mr. Speaker, one of the paramount issues during these past few weeks is that of the price of food. Everybody is complaining about the increase in grocery store prices, especially that of beef. The American consumer is rising up, it would appear, in frustration, in anger, over what he has to pay for his food. There is currently a move afoot to repeal the beef import quota laws, by some urban Congressmen, a move that would be totally ineffective in dropping the price of meat to the consumer. Many Americans are complaining about beef prices, and I would like to very clearly show to the Members of this body where all of this increase is being generated. I have heard many people condemn beef growers, a condemnation totally erroneous. The following information should clarify where those Congressmen who would lower beef prices should concentrate all of their energy.

The latest available figures from the Department of Agriculture reflect a wide gap in what everyone else in America is making and the amount of return farmers receive for their labor. Farmers are in fact working for 25 percent less than the rest of us. The average disposable income is only three-quarters that of the average nonfarmworker group. Between 1951 and 1971 the prices for food products in America went up 6 percent, substantially below the average cost-of-living increase. In fact while farmers were holding the line on their price demands, the average wage rate in nonfarm fields went up more than 6 percent every single year. While farm prices increased 6 percent over 20 years, everything else in America increased 130 percent over the same period. Yet the biggest argument for increased wages, and one which organized labor continually uses to demand higher and higher wages in industry, and justifiably so, is increased productivity. Well, since 1965 American farmers and ranchers have increased farm output per man-hour 26 percent, while off-farm output in this country only went up 8 percent. If collective bargaining was the vehicle for determining the amount of money paid to the farmer, as it is in many other sectors of the economy, Americans would be paying at least 300 percent more for food than we are.

One of the most interesting things is that the amount of money being paid to the farmers and ranchers for their beef in Iowa was 75 cents cheaper per hundredweight last week, March 24, 1972, than carcass beef was selling for in Iowa on August 13, 1971, just before the wage-price freeze began. In the case of carcass beef, the wage-price freeze did not just hold the line, the line actually sank. Currently cattle prices for the man who raises beef have only regained their price levels of 1952. That has happened over a 20-year period when the average wage in America increased 230 percent—when money for wage supplements and fringe benefits demanded by organized labor increased 700 percent and dividends to stock market investors jumped up 300 percent. All of that while farm prices barely budged, moving up only 6 percent total for the 20 years. Frankly it is about time cattle prices moved up. Obviously those Members of this body who are talking so long and hard about keeping a lid on farm prices simply do not know what they are talking about. The farmer's share of the food dollar has decreased from 49 to 38 percent since 1951. If that kind of loss were incurred in industry, plants would shut down. If that kind of loss were incurred in labor agreements, we would be ravaged by strikes in every sector of the country's economy. In just the baking of bread, the middle man causes the markup. The farmer is getting about 4 cents per pound of bread, the baker nearly 15 cents and the retailer just over a nickel. The big increase in cost is not with the farmer, it is with the people between the farmer's gate and the consumer's table.

The American farmer is not making the huge sums of money some would have us think he is making. Over the last 20 years the average farmer has seen the cost of machinery nearly double and the general cost of prices he must pay for general equipment, seed and other incidental costs jump 50 percent. Meantime his price to the wholesaler who buys his products has only gone up 6 percent, leaving the American farmer nearly 50 percent behind. Most farmers are mortgaged to the hilt, continually having to borrow money just to stay even. At the current rate of economic skidding that they are feeling, it would not be 20 years before there just is not anybody left to grow the vast quantities of foodstuffs this Nation needs to exist. The American farmer is very near to going the way of the American buffalo.

Food prices have gone up, and gone up dramatically in this country at the grocery store, not because of the insatiable greed of the farmer, as some would have us believe, but because of increases in other areas, specifically the middle

men handling the raw products from the farm. The average wage rates per hour of production workers in manufacturing are 2.3 times higher now than 20 years ago. They were $1.56 per hour in 1951, but now the hourly wage has increased to $3.57. Food marketing employees wages are up 2.5 times, from a 1951 hourly wage of $1.31 to a current average of $3.24.

When we look at the entire picture, rather than from some narrow viewpoint through rose-tinted glasses, we find that the increase in food prices has nothing to do with the farmer, but with the middlemen.

Farm prices for food products are up just 6 percent in 20 years. Over that same period of time wholesale prices have jumped 20 percent and retail prices 43 percent. While the cost of food to the consumer has gone up 69 percent in the last 20 years, only 6 percent of that is attributable to the farmer.

One of the contributing factors to the misinformation which is going around blaming the farmer for something that is not his fault, is blatantly false or misleading advertising by certain food stores. Secretary of Agriculture Butz pointed that out in a dramatic example. One food chain in Washington, D.C. took out full page advertisements in newspapers last week—March 20–26—urging people to eat less meat. They suggested instead, that people eat fish, all on the inference that fish is a less inflated buy than meat. The contrary is true. The fact of the matter is that since 1967 fish prices have increased more than beef. At any rate the consumer is being misled by those full page ads. According to the advertisements meat prices from suppliers to the food chain had skyrocketed. Yet wholesale prices for Iowa beef carcasses are actually lower now than they were 7 months ago. Currently carcass beef is selling wholesale for 1 percent less than it was when the wage-price freeze went into effect.

A compounding factor to public, and congressional misunderstanding over the food price controversy, is simply bad, or negligent reporting by some, though certainly a minority of news people. The public ought to take a fair and honest look at what has been going on, but frankly, they are not getting accurate, unbiased, factual information.

After the Secretary of Agriculture told Texas cattlemen recently that strong, stable cattle prices are needed to insure expanded production of beef, which incidentally would help to lower the price to the consumer, a Washington newspaper story completely mislead the public. Its headline read, "Butz praises soaring meat prices." Obviously some headline writer who simply does not know anything about farm gate prices and their relationship to consumer prices wrote a headline that was not factual. Secretary Butz praised stable, strong prices to the farmer, not soaring, inflated markups by wholesalers and retailers who take out full page advertisements trying to foist off the blame for high food prices on everybody else.

Recently the dockworkers on the west coast settled their strike with a contract calling for some 26-percent increase in wages and fringe benefits. The pay board rolled that increase back to within their guidelines of 5.5 percent per year. Yet, while it is considered acceptable for the industrial workers of this country to get 5.5 percent more a year in wages, it is considered inflationary for American farmers to get 6 percent in 20 years. Productivity of industrial workers has gone up 8 percent since 1965; farm productivity has jumped 26 percent. But are farmers being justly compensated for their increased productivity, often a valid point in labor negotiations? No; and they have not been justly compensated for that in 20 years.

The curious thing about inflation is where it is generated most profoundly. Getting back to that Washington, D.C., newspaper that said Secretary Butz was all for "soaring meat prices" when in fact he was not. That paper has seen some interesting price hikes of its own. Secretary Butz, in a wry observation, pointed out that that newspaper Sunday edition now costs 40 cents, where it only cost 10 cents 20 years ago. While you could buy a page of their advertising space for about $1,300 20 years ago, now you have to pay $3,000 a page. Obviously people in glass houses should not throw stones. What is undue inflation and what is a justifiable price increase just depends on who is looking at it, or who is writing about it in the newspaper.

There is no question that if you demand services of some nature, whether it be the services of a carpenter or the services of a farmer, you are going to have to pay for those services. Farm production, as I pointed out earlier, is way up; so is the cost of operating a farm; so are farm real estate taxes. Yet farmers are spending 10 hours a day, 7 days a week just to earn 25 percent less than if they were average nonfarmworkers. In every other sector of the economy the 10-hour, 7-day workweek has been gone for years, but not on the farm. Down on the farm they have to work that long and that hard just to keep the kids in shoes, much less afford a house in the suburbs with two cars, like many other nonfarmworkers.

When we go into the supermarket for meat, we look for texture, low fat content, the lowest price possible. We do not give one thought to whether the meat is even safe enough to eat. We have the best meat production and packing facilities in the world and we take all that for granted. Well, somebody has to pay for those butchers who get over $4 an hour, those store employees who stock the shelves and check you through the cash register. Nothing is free. In many countries the biggest concern when buying meat is whether it is even safe enough to eat, and you cannot really be sure it is until you either die of food poisoning or live through it for another day of buying meat at an open-air market complete with an overwhelming fly population.

There are some Members of Congress who would like to remove the import quotas on foreign beef. But importing that beef would not decrease the price, because American packers and shippers, and shelve stockers, and checkout personnel, and butchers, and everybody else will still have to process that meat from the dead carcass to the package of hamburger. And the meat processors will not begin to import enough foreign meat to affect the meat market, because if the price drops, so does their markup margin, something no smart businessman would begin to advocate.

It would be wrong to say any one group is at fault for higher food prices. Higher outlays for supermarket facilities, higher labor costs at packinghouses and food processing plants, higher costs of transportation and handling, higher taxes, higher pay for store employees, all contribute substantially to the higher cost of meat along with everything else. The reason there is so much uproar about the cost of meat is that it is just catching up with everything else. Rather than take advantage of the need for food and raising his prices in the past, the American farmer has kept his prices down, down too far.

The place to look for the reason of higher food prices, and I cannot underscore this more, is that great void between the farmer's gate and the consumer's table; a great void where many people handle the food, and each must be paid. A great void where the price is raised every step of the way to pay those wages of handling and to build those shiny new supermarkets we all like so well. That is where it is costing more.

The simple facts show that in the last 20 years the farmer has not even stayed even with the cost of living in this country; rather he has slipped precariously near to extinction as we know him. There will be special hearings on the cost of food April 12 before the Price Commission. I am confident they will put the blame squarely where it belongs in this emotional controversy. The solution to holding the line on food prices is not going to be found by importing poorer grade, poorly inspected, foreign carcass meat that the food processors and retail outlets are going to have to handle just as many times, and thus charge just as much for anyway. The solution is not to be found in damning the American farmer who has done more to combat inflation in this country than anyone else in the last 20 years. The solution, my friends, is to be found where the solution to all of our inflation problems are to be found—with the continual demand from every sector, from every member of society, to continually have more and more money to spend more and more places on more and more junk we do not need. The solution is for all of us to stop saying that inflationary controls are fine for the other guy but not for me, and realize that we all are in this ball game together. Regardless of what some recent grandstand plays have indicated, we cannot pick up our ball and go home if we do not like having to sacrifice as much as the next guy.

If you want to stop the increasing cost of meat, find a way to control the cost of processing it, not growing it. It is the best buy there is at the farm gate.

The American farmer should be patted on the back for his production and low rate of return, rather than being condemned by those who are incredibly naive though tremendously outspoken. He should be championed rather than being chastized by an uninformed public being

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kept that way by irresponsible analysis of the situation and blatantly false advertising.

ON THE REGULATION OF MEDICAL DEVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I introduced today legislation which would prevent the marketing of potentially dangerous medical devices by giving the Food and Drug Administration mandatory power—which it does not now have—to recall defective instruments and require that the devices be precleared by the Federal Government before they may be marketed. This measure is known as the Medical Device Safety Act of 1972.

Unsafe and defective electrical equipment is causing an estimated 1,200 hospital electrocutions yearly and countless cases of accidental injuries. It is shocking and hard to believe that the law does not require the FDA to approve medical devices that are used to diagnose, cure, treat, and prevent diseases.

I do not want to alarm anyone, but some manufacturers are callously disregarding the public interest. For instance, a New York hospital has reported that 40 percent of incoming instruments are defective and a survey suggests that of 1,500 devices tested, 1,200 had unfavorable or untoward reactions.

My bill, known as the Medical Device Safety Act of 1972, would amend the Federal Food, Drug, and Cosmetic Act to regulate carefully defined categories of medical instruments so they would not be confused with some loose definitions of drugs. Since there are presently no standards for devices, the FDA would also be empowered to create and enforce standards after consulting with other Federal agencies and experienced technicians and doctors.

The bill also contains a "state of the art" clause, allowing the FDA to withdraw approval of a device if new research proves it to be harmful or ineffective. But the bill's critical provision is the creation of a premarket clearance procedure.

Only after a device is marketed and proven dangerous to people's health can the FDA now attempt to have it removed. This procedure is a joke. First, the FDA usually spends several months finding out about a problem—if they ever do. Then the manufacturers can only be asked to recall a device voluntarily. The FDA can at that point ask the court for an injunction, which manufacturers usually appeal. This process can take up to 5 years, during which time the producers continue to sell the device. For instance, a Philadelphia researcher has concluded that a resuscitator used for emergency first-aid to counter heart failure, smoke inhalation and drowning failed to provide respiratory support for victims. Yet the manufacturer refused to recall the product from the market, even though using the device involved a possibly serious hazard.

Ingenious new breakthroughs in medical technology are helping to save and cure many medical patients, but unfortunately, too many manufacturers are producing unsafe and unreliable instruments. Improper design, high electrical leakage from equipment, shoddy cables, and poor assembly of parts are a few of the frequent complaints.

Unfortunately, Mr. Speaker, I am not talking about isolated instances of a lapse in a piece of equipment's performance. Hospitals and doctors are reluctant to discuss it publicly, but the complaints are mounting of faulty anesthesia devices, heart valves, catheters, contact lenses, X-rays, radiation, plastics, prostheses, IUD's, and cardiovascular apparatuses, to cite a few. These reports have been gathered from independent surveys made by hospitals, doctors, and reports reaching the Food and Drug Administration. For instance, there are reports of artificial heart valves with surface defects that can cause fatal blood clots; artificial kidney machines discharging water intravenously which could endanger patient's lives, and hip prostheses mechanically disrupted, thereby causing severe tissue injury.

It is certain new electronic devices, however, that are causing the real danger—electrocution. For instance, there are defibrillators which have tendencies to discharge high voltage into a patient's heart before a surgeon calls for an electrical charge. In such circumstances, it is difficult to determine whether the patient's heart failed or whether he was killed by the electrical jolt. Some doctors suggest that cheap molded plastic plugs on machinery or poor maintenance could cause such a malfunction.

Mr. Speaker, there can be no further delay on this issue. Medical devices must be regulated and controlled, and to this end, I recommend swift passage of the Medical Device Safety Act of 1972, which reads as follows:

H.R. 13793

A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Device Safety Act of 1972."

TITLE I—AUTHORITY TO ESTABLISH STANDARDS

SEC. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is amended by adding at the end thereof the following new section:

"STANDARDS FOR MEDICAL DEVICES

"Authority To Set Standards

"SEC. 513. (a) Whenever in the judgment of the Secretary such action will protect the public health and safety, he may by regulation establish for any device (including any type or class of device), a reasonable standard relating to the composition, the properties, or the performance of the device or devices involved (or relating to two or more of such factors) and that such standard be based on the present state of the art and that approval by the Secretary does not necessarily constitute an infinite time approval should the present state of the art change sufficiently to require a review of the safety and efficacy aspects of the device in order to protect the public.

"Weight Given Other Standards—Consultation With Interested Groups

"(b) In the development and consideration of proposals for the issuance of standards under this section, and in particular prior to the commencement of formal proceedings on his own initiative pursuant to subsection (c), the Secretary shall to the optimum extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting or other nationally or internationally recognized standard-setting agencies or organizations, and invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations that in his judgment can make a significant contribution to such development.

"Procedure for Issuance, Amendment, or Repeal of Standards

"(c) The provisions of section 701 (e), (f), and (g) of this Act shall, subject to the provisions of subsection (d) of this section, apply to and in all respects govern proceedings for the issuance, amendment, or repeal of regulations under subsection (a) of this section (including judicial review of the Secretary's action in such proceedings). The Secretary may suspend the running of any applicable time limit under section 701(e) pending receipt of the report of an advisory committee under subsection (d) of this section and consideration of the committee's report by the Secretary.

"Referral to Independent Joint Advisory Committee

"(d)(1) In any proceeding for the issuance, amendment, or repeal of a regulation establishing a standard under this section, whether commenced by a proposal of the Secretary on his own initiative or by a proposal contained in a petition, the petitioner, or any other person who will be adversely affected by such proposal or by the Secretary's order issued in accordance with paragraph (1) of section 701(e) if placed in effect, may request, within the time specified in this subsection, that the petition or order thereon, or the Secretary's proposal, be referred to a joint advisory committee of experts for a report and recommendations with respect to any matter involved in such proposal or order that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint such a joint advisory committee and shall refer to it, together with all the data before him, the matter so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d), of section 706. A person who has filed a petition or who has requested the referral of a matter to a joint advisory committee pursuant to this subsection, as well as representatives of the Department, shall have the right to consult with such joint advisory committee in connection with the matter referred to it. The request for referral under this subsection, or the Secretary's referral on his own initiative, may be made at any time before, or within thirty days after, publication of an order of the Secretary acting upon the petition or proposal.

"(2) The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsection (b)(5)(D) of section 706 as amended.

"(3) Where such a matter is referred of an expert joint advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of joint advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations."

CONFORMING AMENDMENTS

SEC. 102. Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e) If it is, or purports to be or is represented as, a device of a type or class with respect to which, or with respect to any component, part, or accessory of which, a standard established under section 513 is in effect, unless such device, or such component, part, or accessory, is in all respects in conformity with such standards."

TITLE II—PREMARKET CLEARANCE OF CERTAIN MEDICAL DEVICES

SEC. 201. (a) Section 501 of such Act, as amended by section 102 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) it is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe, unreliable, or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by section 101 of this Act, is further amended by adding at the end thereof a new section as follows:

"PREMARKET CLEARANCE FOR CERTAIN MEDICAL DEVICES

"When Premarket Clearance Is Required

"SEC. 514. (a) A device shall, with respect to any particular use or intended use thereof, be deemed unsafe, unreliable, or ineffective for the purpose of the application of section 501(f) if—

"(1) its composition, construction, or properties are such that such device is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such device, to be safe, reliable, and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and

"(2) such device (A) is intended to be secured or otherwise placed, in whole or in part, within the human body or into a body cavity, or directly in contact with mucous membrane, and is intended to be left in the body or such cavity, or in such direct contact, permanently, indefinitely, or for a substantial period or periods (as determined in accordance with regulations issued after notice and opportunity to present views), or (B) is intended to be used for subjecting the human body to ionizing radiation, electromagnetic, electric, or magnetic energy (including, but not limited to, diathermy, laser, defibrillator, and electroshock instrumentation), or heat, cold, or physical or ultrasonic energy, or is intended for physical or radio or electronic or electric communication in either direction with any part of the human body or with a device placed within or connected with the human body, or (C) is a device which the Secretary, by special order made on the basis of a finding (for reasons stated in the order) that there is probable cause to believe that the device is not effective for its use or intended use, or that it is not safe for use or not reliable, under the conditions prescribed, recommended, or suggested in its labeling, has declared to be subject to the requirements of this subsection with respect to such use or intended use,

unless either—

"(3) an application with respect to such device has been filed pursuant to subsection (b) and there is in effect an approval of such application by the Secretary under this section.

"(4) such device is exempted by or pursuant to subsection (j), (k), or (l) of this section, or

"(5) such device is intended solely (A) for use in the cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure of any function of the body of such animals.

The Secretary shall, by regulation issued or amended from time to time under the authority of this sentence, insofar as practicable promulgate and keep current a list or lists of devices, and of the particular uses (or conditions of use) thereof, which he finds are generally recognized, among experts qualified by scientific training and experience to evaluate the safety, reliability, and effectiveness of such devices, to be safe, reliable, and effective for use (under the conditions, if any, referred to in such list or lists), and the inclusion, while in effect, of a device in such a list shall, in any proceeding under this Act, be conclusive evidence against the United States of the facts stated in that list with respect to such device.

"Application for Clearance

"(b) Any person may file with the Secretary an application for determination by the Secretary of the safety, reliability, and effectiveness of any device to which paragraphs (1) and (2) of subsection (a) apply. Such persons shall submit to the Secretary as a part of the application (1) full reports of all information published, or otherwise available to the applicant, concerning investigations which have been made to show whether or not such device is safe, reliable, and effective for use; (2) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (3) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (4) an identifying reference to any standard, applicable to such device, which is in effect pursuant to section 513, and adequate information to show that such device fully meets such standards; (5) such samples of such device and of the articles used as components thereof as the Secretary may require; (6) specimens of the labeling proposed to be used for such device and (7) such other information, relevant to the subject matter of the application, as the Secretary may require.

"Time for Initial Consideration of Application

"(c) Within one hundred and eighty days after the filing of an application under subsection (b), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he then finds that none of the grounds for denying approval specified in subsection (d) applies, or

"(2) give the applicant notice of an opportunity for a hearing before the Secretary to be held under subsection (d) on the question whether such application is approvable.

The Secretary may suspend the running of the applicable time limit under this subsection pending receipt of the report of an advisory committee under subsection (h) and the period allowed to the Secretary for consideration of the report thereafter.

"Bases for Approval or Disapproval; Opportunity for Hearing

"(d)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds, after due notice to the applicant and opportunity for a hearing to the applicant, that—

"(A) such device is not shown to be safe and reliable for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(D) based on a fair evaluation on all material facts, such labeling is false or misleading in any particular;

he shall issue an order denying approval of the application. If, after such notice and opportunity for hearing, the Secretary finds that clauses (A) through (D) of this subsection do not apply, he shall issue an order approving the application.

"(2) As used in this subsection and subsection (e), the term 'substantial evidence' means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety, reliability, and effectiveness shall be determined in the light of such intended use.

"Withdrawal of Approval

"(e)(1) The Secretary may, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe or unreliable for use under the conditions of use upon the basis of which the application was approved; or (ii) on the basis of evidence of clinical experience, not contained in such application or not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not then shown to be safe or reliable for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (b) contains an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records, or to make required reports, in accordance with an applicable regulation or order under subsection (a) of section 515, or that the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection;

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"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(F) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may suspend the approval of such application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this paragraph to suspend the approval of an application shall not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(f) Whenever the Secretary finds that the facts so require, he shall revoke any previous order under subsection (d) or (e) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(g) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(h)(1) In the application filed by the applicant under subsection (b), or at any time prior to the expiration of the time for action by the Secretary under clause (1) or (2) of subsection (c), or within such reasonable period after notice of opportunity for a hearing to be held under subsection (d) or (e) as may be specified by the Secretary in such notice, the applicant may request that such application or the Secretary's action thereon, or the matter or matters with respect to which notice of opportunity for hearing is given, be referred to an advisory committee of experts for a report and recommendations with respect to any question therein involved that requires the exercise of scientific judgment. Upon such request, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof, and for a report and recommendations thereon, in accordance with the applicable provisions of paragraph (5)(C)(ii) of subsection (b), and subject to paragraph (2) of subsection (d) of section 706. The applicant, as well as representatives of the Department, shall have the right to consult with such advisory committee in connection with the question referred to it.

"(2) The appointment, compensation, staffing, and procedure of such advisory committee shall be in accordance with subsection (b)(5)(D) of section 706.

"(3) Paragraph (3) of section 513(d) shall also apply in the case of a referral to an advisory committee under this subsection.

"Judicial Review

"(i) The applicant may, by appeal, obtain judicial review of a final order of the Secretary denying, or withdrawing approval of, an application filed under subsection (b) of this section. The provisions of subsection (h) of section 505 of this Act shall govern any such appeal.

"Exemption for Investigational Use

"(j)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective.

"(2) Subject to the provisions of paragraph (3), there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in a hospital, laboratory, clinic, or other appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety, reliability, and effectiveness of such device.

"(3)(A) The Secretary shall promulgate regulations relating to the application of the exemption referred to in paragraph (2) to any device that is intended for use in the clinical testing thereof upon humans by separate groups of investigators under essentially the same protocol, in developing data required to support an application under subsection (b).

"(B) Such regulations may provide for conditioning the exemption in the case of investigations intended for such use, upon—

"(i) the submission to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of an adequate plan for the investigation, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed investigation.

"(ii) the manufacturer, or the sponsor of the investigation, of a device to be distributed to investigators for such testing obtaining a signed agreement from each of such investigators that humans upon whom the device is to be used will be under his personal supervision or under the supervision of investigators responsible to him;

"(iii) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety, reliability, and effectiveness of the device in the event of the filing of an application pursuant to subsection (b), but nothing in this clause or in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices; and

"(iv) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

"(C) Such regulations shall also condition such exemption upon the manufacturer, or the sponsor of the investigation, of the device requiring that investigators using the device for the purpose described in subparagraph (A) certify to such manufacturer or sponsor that they—

"(i) will inform individuals upon whom such device or any controls in connection therewith are used, or the representatives of such individuals, that the device is being used for investigational purposes, and

"(ii) will obtain the consent of such individuals or representatives,

except where they deem it not feasible or, in their professional judgment, contrary to the best interest of such individuals.

"(D) Such regulations shall provide—

"(i) that whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans as described in subparagraph (A) of this paragraph, and that such device is subject to the foregoing subsections of this section and fails to meet the conditions for exemption for investigational use of the device, he shall notify the sponsor of the Secretary's determination and the reasons therefor and that the exemption will not apply with respect to such investigational use until such failure is corrected, and

"(ii) that in determining whether subparagraph (A) of this paragraph (3) is applicable and, if so, in determining compliance with the conditions of exemption, including the adequacy of the plan of investigation submitted to the Secretary, or upon application for reconsideration of his determination with respect to any such matter, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Exemptions for Devices Complying With or in Anticipation of Standards, Custom-Made Prescription Devices, and Devices Made to Specifications of Licensed Practitioners for Use in Their Practice

"(k) In addition to the devices exempted by subsection (j) the Secretary shall, by or pursuant to regulation, exempt the following devices, with respect to any particular use or intended use thereof, from the requirement of approval under this section:

"(1) Any device which, with respect to such use fully conforms to an applicable standard in effect pursuant to section 513, or pursuant to section 358 of the Public Health Service Act, to the extent that the Secretary finds that the standard provides assurance that the device will be safe, reliable, and effective for such use.

"(2) Any device of a type or class with respect to which there is in effect a notice by the Secretary, published in the Federal Register, that in his judgment the establishment, within a reasonable time, of a standard that would adequately meet the requirements of public health and safety with respect to such use of the device (without subjecting such device to the requirement of approval under the foregoing subsections of this section) appears to be feasible; that he intends to propose the establishment of such a standard; and that the nonapplication of the foregoing subsections of this section to such type or class of device with respect to such use pending the establishment of such standard would involve no undue risk from the standpoint of the protection of the public health and safety.

"(3) Any device made to the lawful order, and in accordance with specifications, of a practitioner licensed by law to use or prescribe the use of the device if—

"(A) a device meeting such specifications is not generally available in finished form for purchase or for dispensing upon prescription and is not stocked, or offered through a catalog or advertising or other commercial channels, by the maker or processor thereof, and either

"(B)(i) such device is intended for the use of a patient, named in such order, of such practitioner, or (ii) such device is intended solely for use by such practitioner, or by persons under his professional supervision, in the course of his professional practice.

"Other Exemptions

"(l)(1) The Secretary shall also by regulation exempt from the requirements imposed by or pursuant to the provisions of this section preceding subsection (j), or from one or more of such requirements, devices licensed by the Atomic Energy Commission under the Atomic Energy Act of 1954 to the extent he finds it to be appropriate to avoid duplication of regulatory controls or procedures and to be consistent with the purposes of this Act.

"(2) The Secretary shall further, by or pursuant to regulation, exempt from such requirements, or from one or more of such requirements, devices with respect to which in his judgment the application of such requirements is not necessary for the protection of the public health, either because of the small number of devices involved, the negligible significance of the device from the standpoint of the protection of the public health and safety, or for other reasons."

PROHIBITED ACTS

SEC. 202. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "507 (d) or (g)", and (2) by inserting "514(j), or 515," after "512(j), (l), or (m).".

(b) Paragraph (j) of section 301 of such Act is amended by inserting "514," immediately after "512,".

(c) Paragraph (l) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE III—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. 301. Section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351), as amended by sections 102 and 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to assure that such device is safe and reliable and has the properties and performance characteristics which it purports or is represented to possess and othewise meets the requirements of this Act."

TITLE IV—RECORDS AND REPORTS: INSPECTION AND REGISTRATION OF ESTABLISHMENTS

SEC. 401. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. V) is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICE EFFECTS AND EXPERIENCE

"SEC. 515. (a)(1) Every person engaged in manufacturing or processing, or in distributing, a device that is subject to a standard in effect under section 513, or with respect to which there is in effect an approval of an application filed under section 514(b), shall establish and maintain such records, and relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety, reliability, or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. Regulations and orders prescribed under the authority of this subsection shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever the Secretary deems it appropriate, for the examination, upon request by the persons to whom such regulations or orders are applicable, or similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs or devices, upon prescriptions of practitioners licensed to prescribe such drugs or devices, to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(3) persons who manufacture or process devices solely for use in research or teaching and not for sale;

"(4) any person, with respect to any device—

"(A) which (and the components of which) have not been in interstate commerce, and

"(B) which are not introduced or intended for introduction into interstate commerce; or

"(5) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this subsection."

INSPECTION RELATING TO DEVICES

SEC. 402. (a) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374) is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drug, and devices," (3) by striking out "or section 507 (d) or (g)" and inserting in lieu thereof ", section 507 (d) or (g), section 514(j), or section 515", and (4) by inserting "or devices" after other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 515" after "section 505(j)".

(c)(1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacture or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS

SEC. 403. (a) Section 510 of such Act (21 U.S.C. 360) is amended as follows:

(1) The section heading is amended by inserting "OF DRUGS AND DEVICES" after "PRODUCERS".

(2) Subsection (a)(1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) The first sentence of subsection (b) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(4) The first sentence of subsection (c) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or of any device" after "drug".

(5)(A) The first sentence of paragraph (1) of subsection (d) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such paragraph is amended by inserting "or any device" after "drug".

(B) Paragraph (2) of such subsection (d) is amended by inserting "or any device" after "drug".

(6) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(7) The first sentence of subsection (i) is amended by inserting ", or of a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "or devices" after "drugs".

(b) The second sentence of section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting "or devices" after "drugs" both times such words appear.

(c) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE V—DEFINITIONS

SEC. 501. Section 201(g) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(g) The term 'drug' means (1) those articles which have been investigated for their pharmacological activity and which are recognized, accepted, and used by virtue of this pharmacological activity in the (A) diagnosis, treatment, mitigation, prevention, or cure of disease in man or other animals, and (B) articles intended because of their pharmacological activity to affect the structure or function of the body of man or other animals, and (C) articles intended for use as a component of any article specified in clause (A), (B), or (C); but does not include devices or their components, parts, or accessories; and (2) those articles recognized by virtue of their pharmacological activity in the official United States Pharmacopeia, official Homopathic Pharmacopeia of the United States, official National Formulary, official National Compendium, or any supplement to any of them."

SEC. 502. (a) Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following subsection (h) after subsection (g):

"(h) The term 'pharmacological activity' is defined as the action and fate of drugs in man or other animals, including their use in medicine (therapeutics) and their poisonous effects (toxicity)."

(b) Subsections (h) through (x) are redesignated as (i) through (y), respectively.

SEC. 503. Section 201(h) of the Federal Food, Drug, and Cosmetic Act is amended to read as follows:

"(h) The term 'device' means those articles which are instruments, apparatus, and contrivances including their components parts, and accessories lacking pharmacological activity, which because of their physical

or mechanical characteristics are (1) (A) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (B) to effect the structure or any function of the body of man or other animals, and (2) are recognized in the official United States Pharmacopeia, official National Formulary, official Government Compendium, or any supplement to any of them, but does not include those items that are drugs."

TITLE VI—GENERAL PROVISIONS

ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 601. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES AND EXPERTS

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department (in addition to the ad hoc advisory committees that may from time to time be appointed under sections 513 and 514) an Advisory Council on Devices consisting of members appointed by the Secretary without regard to the civil service and classification laws. Such members shall consist of persons chosen with a view to their special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, and members of the general public.

"(b) The Secretary may also from time to time appoint, without regard to the civil service and classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) In order to facilitate the carrying out of this Act, the Secretary may employ experts and consultants, as authorized by title 5, United States Code, section 3109.

"(d) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, and experts or consultants employed pursuant to subsection (c) shall, while so employed, be compensated at rates fixed by the Secretary but not in excess of $100 per day (or, if higher at the time of such service, the rate established for grade GS-18 of the General Schedule), including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

SEC. 602. Section 706(b)(5)(D) of such Act is amended by inserting "and National Academy of Engineering" after "National Academy of Sciences" each place it appears.

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

SEC. 603. (a) Except as provided in subsections (b), (c), and (d) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Except as provided in subsection (c) of this section, paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 201(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 201(b) of this Act.

(c)(1) Where, on the day immediately prior to the date of enactment of this Act, a device was in use in the cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, such paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in this subsection) or, if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under such section 514 of such Act.

(2) For the purposes of this subsection, the term "closing date" means the first day of the thirty-first calendar month which begins after the month in which this Act is enacted, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month in which this Act is enacted) as he determines is necessary to permit completion, in good faith and as soon as reasonably practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement.

(d) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 403 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1972. Such registration, if made within such period and effected in 1973, shall also be deemed to be in compliance with such subsection for that calendar year.

URGENTLY NEEDED FOR WAR ON DRUGS: COMPLETE EXPLANATION OF PAST AND PRESENT ROLE OF RED CHINA IN ILLICIT DRUG TRAFFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 60 minutes.

Mr. ASHBROOK. Mr. Speaker, most Americans agree that the drug problem is one of the most urgent and difficult challenges to face us in this era. Domestically, the administration has announced that it will make it a number one priority item on its agenda. We have a right to ask if everything is being done that is within the power of the administration to fight this problem, particularly the hard drug, heroin, aspects of the dilemma. I think not. In fact, I believe there is a conscious effort to cover up Red China's nefarious part in the international illicit drug traffic. The Nixon administration is engaging in managed news to cover up the Communists' complicity in hard drug traffic.

One of the unfortunate aspects of governmental policy is that sometimes the policy is so politically important that the facts are altered to fit the program. This is often done in announcing economic policies, poverty programs or defense commitments. It is clear that the Nixon administration wants to work for peace. It makes peace more palatable if you downplay the actual intentions of an enemy or diminish it actual military threat to us. This fits peace policies better. If you want to cozy up to Red China. There is more public receptivity if you say that Red China has stopped its old ways. It no longer exterminates 20 or 30 million people and it no longer traffics in hard drugs. The facts show otherwise, particularly in the latter category.

When the President journeyed to Red China many of us who had observed the Red Chinese participation in the opium traffic hoped that at least Mr. Nixon would pressure the Red bandits to stop this illicit contribution to world misery. Communism and misery go hand in hand and it was probably a bit optimistic to expect that they would take this decent step. It now appears that Mr. Nixon never even broached the subject, the illicit drug trade, to Mao or Chou. Henry Kissinger vetoed bringing up the issue because it would have been too explosive at the initial meeting. So committed was our President to the public relations aspects of his China trip that this fundamental issue was left off the agenda. The Communists won once more and American interests were subordinated to the personal whims of the Presidential advisers who are more interested in elections than the welfare of our country.

Syndicated Columnist Paul Scott accurately hits the target in a recent column. He wrote, in part:

Discussion of the heroin issue with the Chinese Communists also would contradict the official Nixon Administration position that "there is no hard evidence that the Chinese Communist government is involved in the covert drug traffic from the Asian mainland."

This "fig leaf" policy, as it is refererd to within the American intelligence community, was adopted by the White House as part of the new Nixon policy toward accommodating Red China as a part of a new global balance of power strategy.

TO STAY IN EFFECT

Under this preconceived policy, government officials must not reveal any information of heroin traffic from China or the direct involvement of the Peking government.

This "fig leaf" policy is to remain in effect until a high-level policy decision is made by President Nixon and his advisers on what the U.S. should or can do, if anything, about this illegal heroin traffic.

Since the President's major foreign policy objective is to improve relations with Communist China, it is very doubtful that he will make any decision that might cause public embarrassment to the Peking government at this time.

It is this box that the President has worked himself into that is causing deep concern among government intelligence-security officials who see the heroin threat from China growing as contacts between the U.S. and the mainland expand.

Mr. Speaker, this analysis of the unfortunate situation is totally accurate and is one more indication how foreign policy considerations outweigh all other aspects of policy. American interests are subordinated time and time again—in trade, in the monetary field, in the military, in security—to the judgments of those who view themselves as experts in the diplomatic field and in foreign policy. This is one more area where we need a reversal of policy. American interests must come first, foreign considerations second. We are now fighting a paper tiger war against hard drugs because we have granted a special dispensation to the world's worst offender in the hard drug market, Communist China. Before considering other aspects of the war on drugs, I refer to an extensive article on the past and present involvement of the Red Chinese in the drug traffic which I inserted in the CONGRESSIONAL RECORD of October 13, 1971. Written by Mr. DeWitt S. Copp, a Washington-based free-lance writer and an expert on national affairs and the China area, the article begins with this statement:

A shocking British government document has come into this reporter's hands; it is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium. According to the British, as of two years ago the total illegal world production of the drug from which heroin is derived was "5,000 tons, 1,000 tons coming from the Middle East and minor producers," the remaining "4,000 tons" emanating from "Southeast Asia (including Burma, Thailand, and Laos)" and the "Chinese People's Republic." Of this amount, the official British estimates is *"3,500 tons" coming from Red China!*

The confidential document goes on to point out that all opium grown in Red China is illicit, that the average yield of opium per hectare of poppy field is seven kilos and that the total area under cultivation is estimated at a half-million hectares or 200,000 acres. The poppy-growing provinces are listed as Yunnan—where production is figured at 1,000 tons, Szechwan, Kwangsi, Kwangtung, Hopei and Honan. The annual revenue to Peking is placed at a half-billion U.S. dollars.

THE DOMESTIC WAR

On March 20 of this year President Nixon made a quick trip to New York City to inspect the first of nine planned regional offices of the Justice Department's new offices of Drug Abuse Law Enforcement. A UPI dispatch of that date, reporting on the President's visit, stated in part:

NEW YORK.—Vowing "no sympathy whatever" for the drug pusher, President Nixon called today for tougher law enforcement and harsher court penalties to help sweep narcotics from the Nation's streets.

"There isn't a penalty that is too great for drug traffickers who prey upon youth, the President declared. That is "the most reprehensible of all crimes. It is worse than a crime like murder, a crime like robbery, a crime like burglary."

"For those who traffic in drugs, those who make hundreds of thousands of dollars . . . and thereby destroy the lives of young people throughout this country, there should be no sympathy whatsoever and no limit insofar as the criminal penalties are concerned."

I would be congratulating President Nixon for his announced strong stand if the facts did not undercut all he is saying. If he really did what he said in New York, he would apply the "no sympathy whatever" policy to the Red China drug lords. It is easy to make the street pusher a target but the Government gives the green light to Red China and, in fact, protects them by managed news to deny their part in the international hard drug traffic.

Concerning the domestic drug abuse problem in Turkey and Red China, President Nixon, as reported in another UPI dispatch on his New York visit, stressed the need for tough enforcement:

Nixon spoke approvingly of the Government action which he said has eliminated the use of opium and other narcotics in Turkey and China. He credited tough law enforcement programs in both nations.

"Are the penalties adequate?" Nixon asked the gathered narcotics law enforcement officials. "Should there be more?"

Robert Morse, U.S. Attorney for the eastern district of New York assured Nixon that under present laws the penalties are enough.

But the President insisted that he wanted to know the attitude of the enforcement officers "in the trenches."

"No heroin is produced in the United States but more heroin is used in the United States than anywhere in the world," Nixon said.

"The Turks produced a lot of it but they don't use it," he said. "They don't use it because the government is very, very tough."

Nixon noted that during his trip to China last month Chinese officials told him they have eradicated the opium addiction problem forced on China in the last century by European nations.

"In a totalitarian country where they can have complete control and the penalties can be the highest, there can be an all-out effort . . . and absolute prohibition," Nixon said.

Although the President addressed himself to the subject of drug abuse domestically in Red China, no mention was made, as far as I can ascertain, of the very controversial issue of the exportation of drugs by the Red Chinese to other countries for illicit use. That the subject of the exportation of drugs for illicit use is a matter of confusion can be ascertained by reviewing conflicting statements of U.S. departments and agencies alone. A clear pattern of news management and coverup emerges when the matter is studied in detail.

Consider the responses of Nelson Gross, senior adviser to the Secretary of State and Coordinator for International Narcotics Matters, at a news conference on December 28, 1971, which text appeared in the Department of State Bulletin of February 7, 1972:

Q. I see. Do you have any evidence pro or con that any of the opium comes from China?

A. We have no evidence that any opium is coming from China at all. In fact, we have even had reports that some has moved up from Burma across the border into China. I might say here that the Chinese and our own government have had virtually an identity of interest and an identity of policy for a century. We have consistently been with the Chinese Government over the years in trying to eradicate not only production but obviously trafficking and use of opium and derivatives.

Q. How would you know if it were coming from China or not?

A. Well our intelligence sources indicate that it is coming from those areas (indicating "golden triangle" area on map). There is more than enough supply in those areas to account for all of the material which comes either into Southeast Asia, into victim areas—South Viet-Nam or the United States. We have no reports—and we would tell from those who might be arrested as to where they were acquiring the material—we have no report of any coming from China.

Now compare Mr. Gross' statement that "we have no evidence that any opium is coming from China at all" with this excerpt from the justification statement of the Bureau of Narcotics and Dangerous Drugs—BNDD) on March 10, 1970, before Congressman ROONEY'S Appropriations Subcommittee on Departments of State, Justice, and Commerce, the Judiciary and Related Agencies: when referring to BNDD's overseas operations which are divided into three regions:

The third Region is in Asia with a Regional Office in Bangkok and District Offices in Seoul, Hong Kong and Singapore. The countries of Burma, Thailand, Laos, and China (Yunan Province) are sources of opium which moves to Bangkok, Macao, and Hong Kong to be made into heroin which enters the West Coast of the United States."

BNDD refutes Mr. GROSS' "no evidence" statement even more emphatically in its Fact Sheet 2—"Illegal Traffic in Narcotics and Dangerous Drugs":

There are two main currents of illicit traffic in opium and the opiates. One begins in the Middle East and ends in North America. The other pattern is from Southeast Asia directed to Hong Kong, Japan, China (Taiwan), and the west coast of America. . . . In the Far East, opium is cultivated in *vast quantities in the Yunnan Province of China* and the Shan and Kachin States in Burma. Although much is consumed by opium smokers in the region, considerable amounts of the drug find their way to the United States. . . . (Emphasis added.)

The involvement of Yunnan Province in Red China's illicit drug traffic comes as no surprise to anyone familiar with the work of former Commissioner Harry Jacob Anslinger, the U.S. Commissioner of Narcotics for many years until his retirement in 1953, and 1954 Anslinger remarks inserted by Congressman JOHN SCHMITZ on August 4, 1962. (*See* CONGRESSIONAL RECORD.)

As the U.S. representative to the United Nation's Commission on Narcotic Drugs, Mr. Anslinger had many occasions to warn the free nations of Red China's illicit narcotics trade. Here are several excerpts from his remarks before the U.N. Commission, in April 1955, concerning the now familiar Yunnan Province:

"At the end of 1953 a group of smugglers, including an official of the Bank of Canton, smuggling 23 pounds of heroin and morphine from Yunnan to Chiengrai to Bangkok and thence to another transhipment point. . . .

"Despite the efforts of the Burmese Government to control the illicit traffic in narcotics, hundreds of tons of cleaned and packaged opium in 1-kilogram units are brought into Burma each year from Yunnan Province. . . .

"The hub of the traffic on the Yunnan side of the border is Tengyueh. Along the border are found trucks, military vehicles, carts, mules and pack trains used for the transporting of opium. . . ."

Several months before his retirement in 1962, Commissioner Anslinger further illustrated the extent to which Yunnan contributed to the Red Chinese dope traffic. The following is from the Report

of the Seventeenth Session (1962) of the U.N.'s Commission on Narcotic Drugs:

92. With reference to the question of the origin of opium in the Burma-mainland China-Laos-Thailand border areas, information was reported by the representative of the United States concerning investigations carried out in recent months in co-operation with control authorities in the Far East. Three witnesses, former inhabitants of Yunnan province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma. One witness had himself been a cultivator, and in 1953 and 1956 he had also, with his mules, joined caravans transporting opium to the Shan frontier, where he assisted in its transhipment into trucks for transport to a trading company at Kentung, Burma. Two caravans, of 108 and 82 mules, had transported over 4 and 3 tons respectively, two sealed tins of 20 kg being carried by each mule. The cultivator estimated that some 6 tons of opium had been produced annually in the area where he lived, and that the total production of the region in 1961 had been of the order of 1,000 tons.

A POLICY SWITCH?

In view of the evidence as presented by sources mentioned above regarding opium coming out of Red China, it might have been prudent for Mr. Gross to have checked with his own State Department colleagues before exposing himself to the press on the thorny Red Chinese drug issue. For instance, on October 27, 1971, Mr. Louis J. Link, Chief of the Public Inquiries Division of the State Department, in a written reply to an inquiry on the Red Chinese international drug traffic, gave a more sophisticated reply. His reply in part stated:

Over the last several years news stories have from time to time purported to give details of alleged dealings by Communist China in the international drug traffic. Some of these stories have achieved widespread credence and have been cited in support of the view that Peking is so implacable in its hostility toward the United States as to rule out all possibility of a improvement in our relations.

The US Government has been concerned by these stories and has made every effort to investigate their authenticity. These investigations have determined that there is no reliable evidence that the Communist Chinese have ever engaged in or sanctioned the illicit export of opium or its derivatives. Nor is there any evidence of that country exercising any control over or participating in the Southeast Asian opium trade. From our investigations it appears that the drug traffic in Southeast Asia is carried on by individuals, some of them ethnically Chinese, who are inspired by motives of financial gain rather than political considerations.

In comparing the Gross statement with that of Mr. Link, it can be seen that Mr. Link was not boobytrapped into stating that there is no evidence that opium is now coming out of Red China. Mr. Link is vulnerable, though, in the light of past official U.S. statements, in stating that:

There is no reliable evidence that the Communist Chinese *have ever* engaged in or sanctioned the illicit export of opium or its derivatives" (emphasis added).

Here again we are indebted to Mr. Anslinger for his remarks of April 15, 1953 before the U.N. Commission on Narcotic Drugs to prove that the Red Chinese Government did in fact, engage in and sanction the illicit export of opium and its derivatives:

When the Communists occupied the whole of China, opium-smoking was prohibted in the land by order of the Communist Administrative Department, but it soon became known that traffic in narcotics would be permitted if it was contrived behind the scenes so those who wished to export opium applied to the government organization controlling special items and received licenses to export opium which amounted to a license to buy and sell opium and heroin.

Tientsin and Canton are the chief opium and heroin export centers in China.

Within the Communist government there is the Opium Prohibition Bureau of the People's Government. Within this Bureau the responsible persons are: Po I Po, Chief of the Finance Division; Yie Chih Chuang, Chief of the Trade Division; and Wang Feng Chi, who as Chief of the Hwapei Opium Prohibition Bureau is the actual person in charge.

The Opium Prohibition Bureau amounts to a government monopoly which, in the Tientsin district, is known as the Yuta Concern which is located at 5, Aomen-lu, 10 Ward, Tientsin. Wang Tsu Chen is the head of this concern, Li Tsu Feng is the managing director, and Sung Han Chen is an active partner. Wang is a native of Nanking and was formerly a bandit; Li is a leader of bandits of the Tseng Jen Wang clique; and Sung is a famous opium dealer in Tientsin.

The opium business in the Canton district is monopolized by the South China Trade Bureau under the name of "Lin Chi Hang." Wang Jui Feng, a senior Communist leader, is in charge.

In Hankow stockpiling and transportation are carried out by the Hankow Agency of the Central and Southern District Tobacco Bureau. The person in charge is Lo Wen, Chief of the Accounting Department of the Central and Southern Army District.

Mr. Anslinger then proceeded to cover other areas of China, giving the names of the individuals and offices involved—all approved by the Red Chinese Government for the export of opium and its derivatives to the outside world:

The opium stored in the Shihkiachwang Warehouse, with Kuo Hua Yuen in charge, includes the stockpile of opium which was accumulated before the Communists took charge of the government.

The person in charge of the Northern Shensi Warehouse is Kung Liang who is responsible for the planting, harvesting, and processing of opium in the northern Shensi district.

The Jehol Agency, the original name was the Jehol Agency of the Central Tobacco Bureau Superintendent's Office, is headed by Wu Chih Ho who is in charge of the seeding, harvesting, and processing of opium in the Jehol district.

In Shanghai opium transactions are prohibited, but Chu Yu Lung, who is a public security officer, of the Shanghai district is in charge of the liaison office. His principal job is to negotiate with buyers of opium.

Further looking in the Red Chinese Government to opium exportation, the former narcotics commissioner outlined the coordination of the narcotics people with other agencies:

The traffic in narcotics is closely related to other organs of the Communist government. For example, there is a close relation with the People's Bank of China and the Bank of China both of which have local branches throughout the country with special counters to handle loans, extend credit, and handle mortgages for opium. The transportation of opium is guarded by the armed forces. These agencies along with the Tobacco Monopoly are also the organs for handling the transactions in opium. The responsible persons of the Tobacco Monopoly in the various districts have close connections with the big opium dealers. They employ the names of recognized firms for their export business and conduct narcotic transactions under the protection and cover of various subterfuges.

For further proof on this theme, these remarks of Mr. Anslinger appear in full in the valuable insertion in the CONGRESSIONAL RECORD, volume 117, part 22, page 29695, mentioned above.

A WHITE HOUSE MEMO

A memo dated February 15, 1972, was sent by one of my Republican colleagues to members of the Task Force on Drug Abuse of the House Republican Research Committee. It was entitled "Alleged Involvement of the People's Republic of China in Illicit Drug Traffic." The memo, which was confirmed as a White House memo by my colleague, was, interestingly enough, on plain white paper with no heading, no agency identification, no attribution—a real "backgrounder." It was real propaganda, too. If you think the statements of Messrs. Gross and Link are misleading the American public, read the White House memo which is inserted at this point. It is an example of managed news at its worst:

ALLEGED INVOLVEMENT OF THE PEOPLE'S REPUBLIC OF CHINA IN ILLICIT DRUG TRAFFIC

Since the early 1950's there has been a persistent propaganda campaign designed to convince the American public that the People's Republic of China is producing thousands of tons of opium annually and is actively engaged in the illicit export of opium and its derivatives to the United States and other Free World countries. This campaign is being promoted in this country by a number of groups who have consistently supported the Republic of China and have opposed *de facto* or *de jure* recognition of the People's Republic of China; and at least to some extent by the Government of the Republic of China. In the latter connection, an anti-Communist exhibit in Taipei in September, 1971, in which eight Republic of China agencies participated, featured charges that the People's Republic of China was smuggling at least ten thousand tons of narcotics into Free World countries annually, and branded the Peking government as the "world's number one drug pusher."

Most of the propaganda leaflets which are being circulated "document" their charges against the People's Republic of China by quoting remarks allegedly made by Chou En-lai on June 23, 1965, in a conversation with Nasser. Speaking of the demoralization of American troops in Viet-Nam Chou is alleged to have said ". . . some of them are trying opium and we are helping them. We are planting the best kinds of opium especially for the American soldiers in Viet-Nam. . . . Do you remember when the West pushed opium on us? They fought us with opium. And we are going to fight them with their own weapon. We are going to use their own method against them. We want them to have a big army in Viet-Nam which will be hostage to us and we want to demoralize them. The effect which this demoralization is going to have on the United States will be far greater than anyone realizes."

It should be noted that while the Chou-Nasser conversation reportedly took place in June, 1965, it was not until mid-1970 that drug abuse among U.S. servicemen in Viet-Nam reached serious proportions. Moreover, no evidence has yet been produced to indicate any attempt on the part of Peking to introduce opium or heroin into Viet-Nam.

The following appraisal of the allegations of Chinese Communist opium production and trafficking is based upon current information. This appraisal is as follows:

1. The government of the People's Republic of China (PRC) has for years officially forbidden the private production, consumption, and distribution of opium or its derivatives. There is no reliable evidence that the PRC has either engaged in or sanctioned the illicit export of opium or it derivatives to the Free World nor are there any indications of PRC control over the opium trade of Southeast Asia and adjacent markets.

2. In the latter connection, Parish authorities in Hong Kong have consistently denied the existence of illicit drug traffic from Mainland China. They have, however, identified other sources in Southeast Asia for opium and its derivatives which have entered Hong Kong by sea.

3. Stringent controls over opium poppy production and use were adopted at the 21st session of the State Administrative Council of the PRC on February 24, 1950. Basically the statute prohibited the private importation, processing, and sale of opium and other narcotics. However, government-controlled production continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. The tight political control exercised by the government over its citizens has probably made the enforcement of these laws quite effective in most areas of the country.

4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

WHY THE RED CHINA COVERUP?

The very first sentence of the memo logically raises the question: Does the "persistent propaganda campaign" of the early 1950's include the overwhelming factual statements of the U.S. Commissioner of the Bureau of Narcotics and our narcotics representative to the United Nations, Mr. Anslinger? Does this campaign also include reports by the governments of Burma, Thailand, Japan and South Korea? In June, 1955, Mr. Anslinger appeared before a subcommittee of the Senate Judiciary Committee and testified on the illicit narcotics traffic. Here is an excerpt from that testimony:

Senator DANIEL. Mr. Commissioner, we are, of course, going into the sources of supply of heroin and other drugs that are coming into the country later in your testimony or whenever you desire to do so. But while you are on the subject here about Red China, you testified before our Internal Security Committee already this year that actually the manufacture of the drug is being encouraged in Communist China in violation of their own laws. Is that the true picture, even up to date?

Mr. ANSLINGER. Up to date and continuing. Now, on behalf of the United States I have made four statements at the United Nations, well documented, in relation to the traffic out of Communist China. At the last session, which just wound up here the 12th of May, 2 weeks ago, I made this statement which I will submit for the record as to the illicit traffic in the Far East.

Now, this was not only supported by the delegate of Nationalist China, but he had at his command probably much better information than we have because of his contacts on the Chinese mainland.

Now, the Polish delegate and the Russian delegate said that these charges were fantastic, as they have before. Of course, coming out of Peiping you get these news releases that this is pure slander, and so on. However, in rebuttal I was able to produce the reports of the Government of Burma, which showed that they had made 500 seizures of opium across the Burma border, which is right on the border of Yunnan, and had also made many seizures of crude morphine. Crude morphine is the drug from which heroin is obtained.

The Government of Thailand also made a report showing that the source was Red China. Then we go on to Hong Kong, and, of course, the traffic flows through Hong Kong, although the British authorities have done a great deal in suppressing the traffic.

Then the Japanese report and the reports from South Korea—and in rebuttal I confronted them with all this information. Of course, I did get a reply to that because that was also documentation in addition to this report I would like to submit for the record.

It is indeed ironic that, if the White House memo had been written at the time of the above-mentioned debate in the U.N., the United States would have been supporting the Russian and Polish delegates and the charges of slander by the Red Chinese.

Priorities at this time do not permit an exhaustive review of the memo, but information presented above is, I believe, sufficient to label the memo as grossly misleading. Item No. 1 of the appraisal makes the same claim that Mr. Link advanced, namely, that Red China has neither engaged in nor sanctioned the illicit export of opium or its derivatives to the Free World, which assertion was dealt with above. The claim that the Chinese people are forbidden to produce opium for their own consumption is of course true as indicated above, but the production of opium by the Red Chinese for illicit export is a long established policy which, of course, they deny.

Item No. 3 of the appraisal states that government-controlled production of opium continues and is reflected in the small quantities of raw opium and poppy husks which are legally exported from time to time. Read again the above statement by the Bureau of Narcotics and Dangerous Drugs concerning the illicit traffic in opium and the reference to the "vast quantities in the Yunnan Province of China," which along with the output from the Shan and Kachin States in Burma "find their way to the United States," as the BNDD put it, in "considerable amounts."

Item No. 4 of the White House memo raises some very interesting points. For ease in reference, Item No. 4 reads as follows:

4. Though control over production and trade in the southern border areas of the PRC, particularly Yunnan Province, has been more difficult, there is no confirmed evidence that the PRC is illicitly exporting opium or its derivatives across its borders. Despite occasional reports indicating cross-border movement of opiates between China and Southeast Asia the relatively rigid governmental controls in effect in Mainland China would seem to preclude any significant illicit cross-border movements.

Here at last we have some degree of consistency between two Administration sources. The memo does indicate that there is evidence that there has been "cross-border movement of opiates between China and Southeast Asia. This, of course, confirms, to some extent, the BNDD claims that illicit opiate shipments have come from Yunnan Province. However, the White House memo puts the responsibility for such shipments on individual Chinese efforts which, they infer, violate Red Chinese Government regulations. Information presented above shows that such individual efforts would violate Government regulations only if such traffic were for domestic consumption in China, whereas illicit export is approved and encouraged by the Government of Red China.

THE QUESTION OF EVIDENCE

The Baltimore Sun of March 7, 1972, carried a story from Vientiane, Laos, by Michael Parks with the caption "CIA Reporting Shifting Attention in Laos From Communists to Opium." The first two paragraphs read:

American intelligence agents here are turning their attention from Communists to drug runners, according to informed sources.

The United States Central Intelligence Agency has been given a top-priority assignment, American officials say, of discovering the routes used to smuggle opium from northern Burma through Laos to Thailand and pinpointing opium refineries in the area.

Later in the article this statement appears:

Other intelligence sources report, however, that some of the small guerrilla teams that used to probe China's Yunnan province for the Central Intelligence Agency have been shifted to tracking and occasionally attacking the opium caravans.

If the above account is true, it would indicate that, in this instance at least, Red Chinese operations are being deemphasized.

Another item, this from the New York Times and datelined July 28, 1971, from Washington, reads: "U.S. Spy Flights Over China Ended To Avoid Incident." The first two paragraphs read:

Administration officials said today that the United States had suspended flights over Communist China by manned SR–71 spy planes and unmanned reconnaissance drones to avoid any incident that might interfere with President Nixon's forthcoming visit to Peking.

But, it was reported, American reconnaissance satellites will continue missions over China. Such missions are considered relatively unprovocative since they are well above the airspace of China.

The article goes on to say that the bulk of photographic reconnaissance is done by spy satellites operating at an altitude of about 100 miles. The spy satellites, however, can spot aircraft on the ground but are not adequate to discern smaller details of the object. This assignment is left to the SR–71 plane flying at approximately 80,000 feet and equipped to photograph small details.

XUM

With reference to the above, some interesting testimony on the surveillance of poppyfields as one device for policing a worldwide opium cultivation ban was given in August, 1971, before the House select committee on crime by Dr. Walter F. Yondorf of the Mitre Corp., a research and development think-tank with heavy experience in space and defense. In answer to a question Dr. Yondorf stated:

I would suggest that sensing from satellites would require much more development. It is easier with our present technology to identify poppyfields with airborne sensing equipment; that is, with minor adaptations of sensor equipment now existing on aircraft.

It would appear from the foregoing that we have relinquished our capability of photographing poppyfields in Yunnan Province, for instance, by means of aircraft overflights while retaining the spy satellite program which, according to Dr. Yondorf, is inadequate to identify poppyfields.

The foregoing two examples of the administration's dropping two possible means of securing information on opium production in Southwest China poses the question as to just how serious are we about gathering evidence on the Red Chinese drug traffic. Have we, for instance, checked with the Nationalist Chinese for possible defectors from Mainland China who had knowledge of the opium traffic, as Mr. Anslinger obviously did in the 1950's? Here again is one reference from an excerpt mentioned above:

Three witnesses, former inhabitants of Yunnan Province in mainland China, had made detailed statements to United States Treasury Department officials on the cultivation of opium in Yunnan and its export from there to the Shan States in Burma."

Another question is whether the administration people have checked the claims of the Nationalist Chinese that numerous opium plantations exist on the mainland, the locations and acreages of which the Nationalist Government list in their publications.

Have we, for instance, put to use the airborne sensing equipment mentioned above by Dr. Yondorf to photograph the plantations, thereby possibly confirming or refuting the Nationalist claims?

In the foregoing remarks I have tried to bring to light some aspects, past and present, of the Red Chinese drug traffic and how the administration has handled this very vital issue. Whether one agrees with me that this is a case of managed news and administrative coverup, it must be admitted that the American public is not receiving a straightforward, consistent explanation of the past and present history of Red China in the illicit drug traffic.

It is impossible to wage an all-out war on hard drugs if the administration continues in its policy of covering up the "Red Connection" in the world illicit drug market. Again we see foreign policy interests, in this case good relations with Red China, overruling a vital issue of national interest, namely, the protection of the American people from the scourge of drug addiction. American self-interest demands that the administration be open and candid in this vital area. The record should be set clear and the true position of the Red Chinese should be explained to the American people.

At this point I am inserting in the RECORD two recent accounts dealing with the Red China's illicit drug trade. The first item is by George Putnam, veteran West Coast newsman, whose investigative reporting has been widely appreciated in his area. The second item is from the pen of Allan C. Brownfeld, lawyer, lecturer and writer, who recently returned from the Far East.

NEW EVIDENCE OF NARCOTICS FROM RED CHINA
(By George Putnam)

Recently, a shocking British government document came into the hands of Washington based author and correspondent Dewitt S. Copp. It is Great Britain's 1969 estimates of the contribution Communist China makes to the world's illicit production of opium.

According to the British in this report, as of two years ago, the total illegal world production of the drug from which heroin is derived was five thousand tons. One thousand tons coming from the Middle East and minor producers—the remaining four thousand tons emanating from Southeast Asia. And of the four thousand tons, the British estimate thirty-five hundred tons come from Red China. Now this makes Red China the world's number one dope peddler.

The confidential document points out that all opium grown in Red China is illicit, and the total area under cultivation is estimated at 200,000 acres. The poppy growing provinces are listed as Yunan, where production is figured at one thousand tons, Szechwan, Kwangsi, Kwangtung, Hopei, and Honan. The annual revenue to the Red Chinese—a half billion dollars. I said, a half billion dollars!

Yet, reporter Dewitt Copp's effort to gain information on Peking's role in this most vicious of all traffic has been met at the U.S. Bureau of Narcotics by inconclusive, evasive replies. And when the U.N. Narcotics Commission was approached, the answer was equally evasive.

But these facts are known—in 1949–1950, the U.N. Narcotics Commission noted that Chinese authorities were marketing large quantities of opium abroad, much of it smuggled into Burma. Earlier, Great Britain informed the Commission that Peking representatives offered to sell 500 tons of opium to a British firm in Hong Kong.

When that offer was declined, an attempt was then made to sell three hundred tons of opium to the United States in exchange for cotton.

During the Korean war, much evidence showed that Peking was intent upon injecting the drug habit upon our GI's.

In 1950, U.N. forces in North Korea discovered three hundred boxes of opium which originated in Red China.

In 1952, another seizure was made, amounting to six thousand pounds.

In 1954, Dr. Harry Anslinger, the former Director of the U.S. Narcotics Bureau, and a member of the U.N. Commission, charged that Red China was spreading narcotics addiction to obtain funds for political purposes. And said Anslinger, "This is the practice of the entire Red Chinese regime, and the United States is the key target of illicit traffic from Red China."

Said Harry Anslinger, "Trafficking in narcotics for monetary gain and to undermine and to demoralize free people has been a policy of the Communists in China from the beginning.

In 1963, U.S. Narcotics Commissioner Henry Giordano charged, "The Red Chinese are extensively engaged in Drug traffic."

Th following year, the Chairman of the Japanese National Committee for Struggle Against Drug Addiction stated, "Peking has become the world's principal producer of opium popples which yield opium, morphine, and heroin." He estimated that Red China was realizing 170 million dollars annually by smuggling narcotics to Japan, Southeast Asia, and to the United States."

September thirteenth, 1964, Moscow—this is Moscow speaking now, via PRAVDA, accused Communist China of being a major supplier of illegal drugs. And PRAVDA said, "The drugs yielded five hundred million dollars annually to the Red Chinese leaders and has become one of the main sources of convertible currency for the leadership of the Chinese Communist Party."

And the Prime Minister of Thailand accused Peking of flooding that nation with narcotics.

In Hong Kong, a doctor at the anti-narcotics center stated, "There are upwards of a half million addicts in the British Colony supplied with narcotics flowing out of Communist China."

Well, my friend, it is interesting to note that until five years ago, there was a clear official record from a variety of sources and nations pointing to Red China as the world's leading dope peddler. And then, as the drug problem exploded with more and more addicts, less and less was heard about the Red Chinese part in this vicious traffic. Officially, the major sources of opium growing were reported to be Turkey and that area of Southeast Asia referred to as the "Golden Triangle." In other words, Burma, Laos, and Thailand.

It is interesting to note that this vast area bordering on China is bandit controlled, and thus serves as a cover for Red China's opium and heroin exports. The heroin is produced in government owned, government controlled factories in Communist China, and then transported to agents in the Golden Triangle for delivery to seaports, airports, and couriers who are on diplomatic missions.

How curious it is that this confidential British document claims that thirty-five hundred tons come from Red China, while American officials make no reference to illicit supplies from Red China—not at all!

Peking is now seated in the United Nations. The President is planning to journey to Communist China. The drug traffic remains one of our most serious American problems. In the past, heroin has been discovered aboard ships and planes in cargo sealed in automobiles, in luggage, strapped to the bodies of travelers.

But now that Red China has moved into a new area of acceptability, of respectability, will it be carried into this country by Red Chinese diplomats—Communists with immunity—in their diplomatic pouches?

Ten p.m. news report, KTTV, Channel 11, October 28, 1971.

[From Roll Call, Feb. 24, 1972]

COMMUNIST CHINA AND NARCOTICS
(By Allan C. Brownfeld)

As President Nixon meets in Peking with Communist Chinese leaders there is one subject which does not appear to be on the agenda, but which many concerned observers, both in this country and abroad, would like to see discussed. That subject is the question of Communist China's involvement in the world-wide traffic in narcotics and dangerous drugs.

Speaking to a small group of legislative aides on Capitol Hill, A. H. Stanton Candlin, a British narcotics expert who has spent many years in the Far East, declared this month that "When President Nixon goes to see Chou En-Lai he is seeing the biggest drug pusher in the world, with 80,000 acres under cultivation."

This idea is neither new nor novel. According to Mohammed Hassanein Heikal, editor of Cairo's semi-official *Al Ahram* newspaper and a confidant of the late Egyptian President Nasser, Premier Chou En-Lai told Nasser in 1965 that Communist China planted opium in Vietnam, hoping to demoralize U.S. troops there with drugs.

Even a brief review of the facts with regard to narcotics addiction now afflicting American servicemen in Vietnam leaves open the question of where the massive amounts of heroin, not to mention marijuana and other drugs, are coming from.

This writer recently discussed that question while in the Far East. American officials in Hong Kong and elsewhere in that area declared without a doubt that "Communist China is not responsible for narcotics." They were, however, the only ones to say this. Americans outside of the government, and officials of other governments expressed the view that Communist China was deeply involved. They pointed out that the answers received from American officials were "political" answers, meant not to damage the President's efforts at "reconciliation" with the Communist Chinese.

U.S. spokesmen, up to the highest level, have consistently asserted that 80% of the heroin brought into the United States is manufactured from Turkish opium. Originally, the Bureau of Narcotics and Dangerous Drugs calculated this figure not just for Turkish opium, but for Middle Eastern and especially Iranium opium. Iran remained a major opium producer and purveyor long after 1955, when it prohibited the planting of poppy. Cultivation was again authorized in 1969.

Turkish authorities have been restricting poppy cultivation from 21 to 9 provinces, with most of the planting restricted to four. As of June, 1971, all cultivation was prohibited. Production itself was curtailed long before 1971. During this same period, heroin consumption in the U.S. and elsewhere went up dramatically. With a dynamic growth of consumption in the U.S. and elsewhere, and a concurrent reduction in the output of Turkish opium, the contribution of Turkey to the American heroin market cannot possibly have remained static at the 80% level.

There is some undisputed history with regard to the past involvement of the Communist Chinese in opium and heroin production. In the course of the long march from southern China to the Yenan caves in Shensi, some 400,000 Communists were forced into a mountainous region which lacked agricultural and other income-producing resources. The Communists turned to the cultivation of opium as the most expeditious means of survival and of financing the "protracted struggle."

They began to market their product by 1938–39, and they were helped in their efforts by the Japanese who rescinded the prohibition on opium smoking that had been imposed by the Chinese Nationalist Government. The Japanese were anxious to stimulate opium consumption among the Chinese and the Communists were eager to trade opium for metals, including gold, and they reportedly also used opium as a bank reserve.

According to Mr. Stanton Candlin, the Chinese Communists are now using a policy of "psychochemical warfare," first used by the Japanese on the Chinese themselves in the 1920s and 1930s. The Japanese established brothels and spread morphine. It was done by intelligence services of the army and the Chinese method being used today "can be traced to the Japanese. They saw it done to themselves and they are improving on it." Much of this material is set forth in the volume, Traffic In Narcotics by Henry Anslinger, former U.S. Narcotics Chief.

In 1950, after the Chinese Communists established control of the Mainland, Mao forbade opium smoking in China and a few opium growers were executed with great publicity. Yet shortly thereafter, Commissioner Anslinger placed an American complaint before the United Nations to the effect that the Communist Chinese were smuggling narcotics into Japan. His evidence was overwhelming and proved that during the early 1950s China was heavily engaged in the illicit drug trade. Mr. Anslinger testified in 1955 before the Senate Judiciary Committee. He declared that Red China "had singled out the United States as a primary target for its illicit traffic in opium and heroin."

In a speech of September 21, 1961, Rep. Francis E. Walter (D-Pa.) referred to Communist Chinese "dope warfare" against American and United Nations troops during the Korean War. He added that many of the narcotics were peddled "at bargain prices by young women pushers near all military installations in Korea." He stressed that the products were of high quality and reported that during 1952 the Japanese police arrested over 2,000 pushers near American installations. He stated that opiates were coming into Hong Kong, Burma, and Thailand from the North, and he quoted the U.N. Commission on Narcotics Drugs as the source of this information. During the Korean War, U.S. troops found an opium processing plant in Pyongyang which was producing prepared opium and morphine.

Heroine addiction among American troops in Vietnam steadily rose toward epidemic proportion beginning in December, 1969. It has also been stated that a heavy heroin influx followed shortly after the Cambodian invasion in the spring of 1970. This influx was estimated from service deaths resulting from drug overdoses by Assistant District Attorney John Steinberg of Philadelphia who investigated the Vietnam drug scene in the fall of 1970 as a special consultant to the Senate Subcommittee to Investigate Juvenile Delinquency. Shortly after the Cambodian operation "large quantities of heroin began arriving in Vietnam . . . uniform packaging and refining indicated a single highly organized source."

Reviewing the available information, Professor Stefan T. Possony, Senior Fellow at the Hoover Institution of Stanford University, stated that "I am satisfied that while much detail remains hidden and statistical accuracy is not attainable, the overall story has emerged rather clearly. The various sources have—on the whole—been mutually confirmatory. The sources do reveal a cleavage of opinion on the role of Maoist China, but I believe this difference can be resolved. I also want to record that denials of Chinese Communist involvement which I have seen were in the nature of flat assertions and were never accompanied by analysis.

Professor Possony notes that "In terms of production, the Chinese Communists have the capacity of replacing suppliers like Turkey who may go out of business. They are also able to satisfy a larger market and/or growing market demands." It is high time that this question was discussed openly.

TO AMEND THE INTERNAL REVENUE CODE OF 1954

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 15 minutes.

Mr. WILLIAMS. Mr. Speaker, today, in a strong showing of bipartisan support, I am joined by 16 members of the Pennsylvania delegation from both sides of the aisle in introducing a bill which will amend the Internal Revenue Code of 1954. The purpose of this bill is to give a tax incentive to companies to promote the construction of any power-producing facility that uses waste products to generate power. This will contribute to conserving our dwindling supply of fuel and also to cut down on the pollution of our environment. For many years we have all been guilty of the systematic poisoning of the environment of our planet, and I am deeply concerned with all phases of this problem. I am also concerned about our critically declining reserves of premium types of fuels, particularly natural gas and oil.

As an example of the type of facility which my bill would encourage, we should consider the incinerator plant at Hogdalen, just outside of Stockholm, Sweden. This plant consumes the domestic and commercial refuse from the Stockholm area and uses the heat energy to produce electrical power. The ultimate electrical output of the plant is approximately 25,000 kilowatts, which is enough power to satisfy the needs of nearly 25,000 people.

The continuance of our society and our economy is heavily based on our ability to produce power and our ability to use available energy resources effectively and efficiently. The technological achievements of our power industry are the most advanced in the world and, yet, I believe we have overly concentrated our efforts on producing power abundantly and inexpensively. We now must concentrate our efforts on technological solutions to producing power from otherwise little-tapped energy sources at the same time we seek to conserve fuel. We must find all available means of reducing the pollution of our environment.

Today, we are facing problems of disposing of millions of tons of waste materials and, yet, these materials have energy content. Incineration is an acceptable solution, provided equipment used has all the benefits of the latest improvements. I ask simply, why not combine the incineration plants with the production of power—it would seem to make a great deal of sense.

Major metropolitan centers in this country are, today, facing a critical shortage of natural gas. Even in the Washington area, new housing developments which are nearing completion are being told that it will be impossible to supply them with natural gas. Just a few short years ago, while these developments were in the planning stage, commitments were made to provide gas, but now demand has far outstripped supply. We are faced with a situation where there is insufficient gas for cooking and heating needs for our rapidly expanding population. New housing is being planned with more and more substitution of electrical appliances to make up for this deficiency, but we already know that our electrical energy generating capacity cannot always meet our power demands. In summer time, we will be faced with the possibility of brownouts, or blackouts, and the possible need to face restrictions on the hours in which air-conditioning units may be operated. We must find new sources of electrical energy.

I believe a large portion of our electrical power requirements can be generated with clean combustion of otherwise disposed materials. Why cannot we provide the industry with some incentive to develop and install the most advanced systems available? They can do it. They

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merely need the proper direction and encouragement that we in the Federal Government can provide through an effective tax incentive program.

Today, we are consuming a staggering amount of energy. Without going into technical definitions, we may state that the consumption is fairly evenly divided amongst four uses: First, electrical power production; second, is energy for household and commercial use; third, is for transportation; and fourth, is for industry. What boggles the imagination is that only about half the potential energy that can be produced is used. The other half goes into our environment as some form of waste product. It is obvious that much of the energy we throw away could be put to use. If we were to combine various systems and get greater benefit from our fuels, the result would be less pollution. My bill would encourage and stimulate the industry to combine more effectively the various energy systems in order to accomplish the combined goal of conservation of fuels and the reduction of pollution.

There are those who say stop building power plants and preserve our ecology. Unfortunately, I do not believe it is possible to support a 20th century population with 19th century technology. Rather, I believe that it is going to take the advancement of the 20th century technology to carry us into the 21st century.

I feel that properly directed, we can continue to have an abundant power supply and a cleaner environment while preserving our precious fuel reserves until technology finds some workable means to tap some of the more technologically advanced energy stores.

HON. F. BRADFORD MORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, all of us in the Congress and across the Nation share in the enthusiastic reception given the appointment of our distinguished colleague, F. BRADFORD MORSE, as Under Secretary General of the United Nations.

Mr. MORSE's exceptional service in the field of international relations is well known here and abroad, not only through his work on the House Committee on Foreign Affairs, but also as the principal architect of the Grid plan for deescalating U.S. involvement in Vietnam, which led to negotiations in the spring of 1968. He has brought distinction to this body as chairman of the Members of Congress for Peace Through Law, as delegate to the Interparliamentary Union, as official U.S. observer at the Council of Europe and the Latin American Parliament, and as congressional adviser to countless international conferences.

He is highly respected for these activities. But I wish to emphasize also that the imagination and maturity our colleague has displayed in the field of foreign affairs is matched by his grasp of national issues during one of the most challenging decades in our history. His understanding of the impact of drastic technological and social change is reflected in his unflagging support of sound domestic legislation.

We will greatly miss our esteemed colleague. But we know that he will bring fresh vigor to the important work of the United Nations, and we wish him well.

PROUD BIRMINGHAM STEERING INTO MAINSTREAM, U.S.A.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

Mr. BUCHANAN. Mr. Speaker, I have addressed this body on many occasions to outline the progress made in the city of Birmingham, which it is my privilege to represent in the Congress.

In my judgment, Birmingham is giving every evidence that its second century, which it is beginning this year, will even overshadow the city's first 100 years.

Our city is changing daily in every respect, from the shape of its skyline to the attitudes of its people. In this connection, I would commend to the attention of my colleagues an article which appeared in Tuesday's New York Times by Roy Reed entitled "Proud Birmingham Steers Into Mainstream, U.S.A."

I include herewith a copy of this article so that my colleagues can see that I am not the only one impressed with the magic city of Birmingham, Ala.:

PROUD BIRMINGHAM STEERS INTO MAINSTREAM, U.S.A.

(By Roy Reed)

BIRMINGHAM, ALA.—As it begins its second century, Birmingham has finally become sufficiently Americanized that Northerners who move here feel right at home. Some like it so well they refuse to leave.

"I've been here two and a half years and I wouldn't trade it for New York," John Woods, president of the First National Bank, said recently. He was an executive on the Chemical Bank of New York before moving here.

"We love it here," said Jane Lysinger, who moved here six years ago from Boston. Her husband, William R., recently turned down a transfer to his insurance company's home office at Hartford.

"About 50 per cent of the people we know here are from other places and they all feel the same way," she said.

SOME REMAIN UNSATISFIED

Some might find it hard to believe Mr. Woods and Mrs. Lysinger were speaking of "Bombingham," the police dog capital of the nation, the place that the Rev. Dr. Martin Luther King Jr. once called "the most segregated city in America," the city that 10 years ago was so ill-regarded that its businessmen and civic leaders were frequently snubbed when they went to other cities.

But it is true—Birmingham has changed. Just how much is not easy to measure; and some say that whatever the change, it is not enough, that some of the old rigidities of race, power and thought are still intact.

There are those here, too, who believe that this maligned city was never as different from the rest of the country as the country once thought. A nation that has accommodated the assassinations in Dallas, Memphis and Los Angeles and the mass killings in Detroit, Watts, Mylai and Attica, they say, has lost its right to feel superior to Birmingham.

"Except for the four girls being killed, Birmingham's trouble in 1962 was minor," Mayor George G. Seibels Jr. said the other day. "But that's history. What we're worried about now is where we're going."

Where Birmingham and its suburbs (population 731,668) seem to be going is straight into mainstream America.

Blacks are participating in city politics and most of the city's white political leaders are now considered racially progressive.

The downtown skyline is rising and sparkling. Beauty and equality are becoming more important.

A new spirit can be felt, partly because of newcomers who are slowly beginning to dilute the steel industry's power here. Other industries are moving in.

A MAJOR MEDICAL CENTER

The city is rapidly becoming a major medical center and, if the present trend continues, it could also become one of the South's leading centers of higher education.

Birmingham even has an expressway, at last. The first leg of $422 million worth of interstate highways for the metropolitan area was opened in 1970, years after other cities of similar size were crisscrossed with expressways.

As if to certify that Birmingham was finally catching up with the country, the national Municipal League and Look Magazine, just before the magazine went out of business, presented the city with an "All America City" award last year.

The most obvious change here during the last 10 years has been in racial matters.

The second black man was elected to the City Council last fall. Dr. Richard Arrington, a biochemist, won in a city-wide race although nearly 60 per cent of the city is white. He estimates that 8,000 of his 29,000 votes came from whites.

Elected with him were two white liberals, David Vann, a lawyer who was once a law clerk for the late Justice Hugo Black of the Supreme Court, and Angie Grooms Proctor, the daughter of a Federal judge who has written a number of anti-segregation school decisions. With a white moderate and a Negro already on the council, the city's governing body now has a 5-to-4 moderate-liberal majority.

One of the new council's first acts was to appoint the city's first black judge, Peter A. Hall, a long time civil rights lawyer. There was virtually no adverse public reaction.

Mayor Seibels, a Republican, was re-elected last fall with black support. He has tried, with more enthusiasm than success, to hire additional black policemen. Police Chief Jamie Moore, said to be an obstacle to the hiring of more blacks, resigned a few days ago.

After a series of black complaints against the police two years ago, the city's white leaders agreed to serious talks on a broad range of black grievances. Twenty-seven black and white leaders joined in a no-holds-barred discussion group called the community affairs committee. It still meets for breakfast every Monday.

One of the main changes the committee gets credit for is quietly doing away with the old separate lines of progression for black and white workers in the steel mills.

As in other southern cities, the young seem less concerned than their elders with racial differences. The students of the University of Alabama in Birmingham, which is 10 per cent black, recently elected a black student president.

Physically, Birmingham has never been beautiful except in pockets of rich, exclusive residential areas. It was gourged out of the mountains as a mining, smelter and railroad town and the scars have never quite healed.

The most distinguishing thing about the city in the past was the smoke from steel mills. It hung over the valley and darkened the uninspired squares of houses and low brick commercial buildings. The downtown area was laid out on a perfect grid, emphasizing its plainness.

No one seemed interested in building new buildings. During the late nineteen-fifties and early nineteen-sixties, the city went through an economic depression as the steel mills began to automate and lay off workers.

Now the look and smell of the place are changing. Twenty-three industrial plants were closed during a period of especially bad air pollution last fall. The big steel companies have since announced ambitious and expensive pollution abatement programs.

A building boom is under way. A convention hall that is the first part of a $35-million civic center has been finished, and two 30-story office buildings are being opened this winter. They are the tallest buildings in town, rising, almost as high as the big statue of Vulcan, the god of fire and metal-working, which looks down on the city from the top of Red Mountain.

It is reported that 180 companies looked at Birmingham last year and 25 decided to move or build branches here. Building permits show that the value of construction in the city increased from $52-million in 1968 to $110-million in 1971.

Plans for several million dollars worth of new hotels have been announced in recent months. The city's most famous old hotel, the Tutwiler, which once refused a room to the late Ralph Bunche, is bankrupt.

Perhaps the depth of the new pride here can be gauged more accurately in smaller projects designed mainly to make the city more livable.

For example, the city will spend $40,000 this spring to spruce up Kelly Ingram Park, the scene of most of the racial violence in the city in 1963.

The arts are increasingly well supported, too. The well-to-do now compete for $135 tickets to the annual Galaxy Ball to help maintain the Birmingham Symphony. And one day recently, the city art museum was showing paintings by Thomas Eakins, Andrew Wyeth and Winslow Homer.

One of the most far reaching changes of the last decade, one already affecting almost every facet of the community from economics to taste, has been a phenomenal enlargement of the University of Alabama in Birmingham.

Dr. Joseph F. Volker, the school's president, remarked recently that Birmingham was once the only major Southern city without a university.

The university in Birmingham, once a few branches of the main campus at Tuscaloosa, was made autonomous in the mid-nineteen-sixties. It now has 8,000 students, 5,000 employes (second only to U.S. Steel's 12,000) and a budget of $68-million.

The University Medical Center, surrounded by private and semi-private clinics and hospitals, has become one of the nation's best known. It is especially well regarded for studies and treatment of the heart.

And on some 54 blocks obtained through urban renewal, the university is building $41-million worth of new facilities.

Some believe that Birmingham will eventually be known as an educational and medical center rather than as a steel town. In all, there are seven institutions of higher learning here, and they are growing and attracting out-of-state professionals who would not have given a thought to Birmingham 10 years ago.

A few years ago, Birmingham hired an out-of-state public relations firm to change its image. There now appears to be some danger that the city's leaders have swallowed their own propaganda.

During conversations recently with a large number of prominent citizens, only one white man, the Mayor, seemed really worried about the city's remaining problems.

The growing self-satisfaction here is illustrated by an apparent belief among most whites that Birmingham has practically solved its race problem.

Emory Jackson, managing editor of The Birmingham World, a black newspaper, said: "Going from zero to where we are, it looks good. But when you measure in terms of where we ought to be, it doesn't look so good."

For example, few whites seem to be aware that many blacks are still dissatisfied with the progress of school desegregation. After years of pressure from the Federal courts, the students of Birmingham—like those, of many other larger cities—still live and attend classes largely in racial isolation.

The American Friends Service Committee says that 56 per cent of the city's 89 schools are more than 90 per cent black or white. It says the school board, which has one black member, continues to build schools in racially isolated places that will almost guarantee their being segregated.

The suburbs here become whiter each year. Birmingham lost 40,000 persons during the nineteen-sixties (down to 300,000) and most of them were whites moving to the suburbs.

The leadership euphoria extends beyond race. The same white leaders who believe that the race problem is substantially solved seem to be unquestioningly committed to more skyscrapers and freeways, even though urban thinkers in cities that have plenty of both have begun to question the value of massive office buildings that attract more people to congested areas and of automobile facilities that subtract money from mass transit.

And only a few here are yet willing to assert themselves publicly against the absentee-owned steel companies, most of which have headquarters in the North.

Charles Morgan Jr., southern director of the American Civil Liberties Union, who was hounded out of Birmingham, where he grew up, several years ago because of his liberal racial utterances, told an audience of fellow Birminghamians recently, "We were a province of steel and to a large degree still are. Steel still has tremendous power in this city."

One way the industry has exercised its power over the years has been to keep the city's boundaries from expanding. The steel companies own large tracts of land that would be taxed more heavily if they were annexed to the city.

The most recent annexation attempt was defeated last year. Some leading citizens say that once again the steel interests were instrumental in the defeat. However, it may be noteworthy that steel's influence was wielded quietly. In the past, the industry campaigned openly; once a major company threatened to close if the city annexed its property.

Optimism flourishes now in spite of the problems here. Mrs. David Roberts 3d, a liberal leader who has been appointed by Gov. George C. Wallace to head the Alabama State Council on the Arts, talked recently of the changes she has seen.

She has not received a threatening telephone call for several years, she said, and Mr. Wallace, who once had little use for Birmingham and its cultural leaders, has now publicly proclaimed it "the queen city of Alabama."

NEED TO END THE DRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 10 minutes.

Mr. ESCH. Mr. Speaker, the draft has been one of the most controversial and far-reaching issues to come before the Congress over the past few years. Although there is no specific legislation pending before us on the Selective Service at the present time, I strongly believe that we should analyze just where we stand now and where we are going so that when it comes before the Congress next year we will be fully prepared to take intelligent and forceful action.

The Congress made a commitment last year to move toward a volunteer army. I feel very strongly that we must keep that commitment and end the draft before June of 1973. With that thought in mind, I want to review the past decade, our present situation, and urge action for the future.

The debate on the future of the armed services has been far-reaching. Those of us who have argued for the volunteer concept contend that the draft is unfair; that it is disruptive of the lives of young men whose plans are held in abeyance while the system decides whether or not they will serve in their country's military forces; that it is, in fact, contrary to the concepts of a democracy and individualism on which this Nation was founded. Those who favor maintaining the present selective service system question the workability of the volunteer system. Some claim that men would not enlist; others argue that a volunteer military would lead to a separate military caste in our society; still others raise the fear that a volunteer army would lead to easier involvement in wars.

When I came to Congress in 1967, one of the first major issues to reach the House of Representatives was the extension of the draft for 4 years. At that time, there were only a few of us who were fighting for the volunteer military. The Johnson administration was strongly opposed to the concept of a volunteer army and they vehemently opposed us in the debate. The leaders in the House were so adamantly against it that they refused to hold a record vote on the question. We were soundly defeated at every turn.

This being the case, we increased our efforts to inform the public about the issues and to enlist their support for our cause. In 1968, for instance, I was a contributor to the book, "How To End the Draft: The Case for an All-Volunteer Army." I wrote an extensive defense of the volunteer military which was widely used as an information guide for high school debate teams. Many others, in Congress and out, joined me in writing articles, speaking before civic groups, and arguing against the draft.

By the end of 1968, the draft had become a major national issue. Shortly after President Nixon was inaugurated, he named a high-level commission to study the draft and the alternative of establishing an all-volunteer military. The Commission was headed by the distinguished former Secretary of Defense, Thomas Gates, and included as its youngest member a former member of my congressional staff. The Gates Commission undertook an exhaustive study of the Selective Service System and military manpower policy.

The report provided us with the ammunition we needed to prove our case. It unanimously recommended that we move to an all-volunteer Army through a system of improved personnel policies and

greatly increased pay, especially in the lower ranks.

Many of those personnel changes have already taken place. Efforts are being made to make the barracks more homelike. Harassment during boot camp has been reduced or eliminated in many situations. At Fort Ord is has been entirely replaced by an experimental program of merit points. KP and other nonmilitary jobs which used to plague the new recruit are being shifted to civilian employees. New regulations allow haircuts which more closely approximate those in vogue in civilian society. Recruits can now frequently choose their initial posts. Finally, efforts are being made to match civilian skills with military jobs.

With the Selective Service Amendments of 1971, the financial incentives recommended by the Gates Commission were also instituted through major pay increases for members of the armed services. These raises concentrated on increasing the basic pay of recruits and other short-term servicemen. While they added more than $3 billion to our defense budget, I am convinced the increases were warranted and necessary. Before the increase, recruits and draftees were making only $2,888 a year—far below the federally established poverty level. We were asking the young men who serve in the military not only to give the Nation their time and their lives, but to make tremendous financial sacrifices as well. In essence, we were extracting an extra tax-in-kind from these young men instead of spreading the financial burdens of our defense over the population as a whole. The pay increase went a long way toward making service in the military more than mere servitude.

Since making the personnel and pay changes recommended by the Gates Commission, events have proven how right we were in arguing that a volunteer military could work. In the months since the passage of the Selective Service Act of 1971, there have been only 2 months of draft calls—for a total of less than 17,000 versus 133,444 in the same period just 1 year ago. Enlistments were up despite the low draft calls and the fact that the draft was actually suspended during much of that period. Skeptics who used to argue that enlistments were only inspired by the fear of being drafted have been shown to be wrong.

Having been confounded on their "practicability" argument, our opponents now base their opposition on the argument that a volunteer army might lead to domination of our foreign policy by the military. They contend that without the draft and the consequent concern of people for the lives of their sons, the military could more easily involve this Nation in war. Yet it is difficult to imagine us drifting into a war more easily than we did under President Johnson with the draft in full force. Indeed, I believe it can be demonstrated that the readily available manpower allowed the President to expand the war without recourse to Congress. Had it been necessary for him to come to Congress to ask for greatly increased appropriations for recruitment or new authorization to draft men into the military, the question of our involvement in a massive ground war would have been publicly debated. Rather than serving as a deterrent to war, the draft actually made it possible. The volunteer military with a standby draft which could be activated only by a vote of Congress would prevent such undebated involvement in massive troop buildups.

There has already been a major benefit from the reduction of draft calls and from the institution of national uniform random call which puts the draft on as equitable a basis as possible. Young men now have a reasonable chance to plan their lives and their futures without the question of the draft hanging over their heads for 7 years. It is no longer necessary to find majors which are popular with draft boards. If students are not doing well in their major or in a given school, they do not need to feel the draft breathing down their necks because they are not "maintaining normal progress." In short, they can plan their schooling and make such important decisions as marriage, buying a home, or starting a family with little consideration of the draft entering their thoughts. Hopefully, that consideration will soon be eliminated altogether.

Mr. Speaker, we are quickly approaching the time when the abolition of the draft will result in the elimination of one of the greatest detriments to freedom in this Nation. Although the draft has been held constitutional on a number of occasions, it is clearly in opposition to the ideals of a free society in which individuals are allowed to determine the course of their lives with minimal governmental interference.

I believe the events of the past few months have provided proof that the volunteer military can work. However, it is now up to us to see that it will work—that we will in fact end the draft and not let it continue past its present expiration date.

I urge all Members of Congress and all candidates for congressional seats to join me in making a public commitment, now, that they will not vote to extend the draft past the expiration date of June 1973 for any reason. That firm public commitment on the part of the Congress will go a long way toward encouraging those in the military who are pushing for progessive personnel policies.

Second, we as a Congress and the people as a whole, must be willing to accept the $4 billion in additional costs which are necessary to maintain a volunteer military. It is, of course, important to keep our military expenditures to a minimum—but I do not believe that cuts should be made at the expense of draft age young men in our Nation. We have a commitment to volunteerism. We have recognized that it is an important and worthwhile goal for the Nation. We must now be willing to pay for it. I believe those costs can and should be met.

Third, we must begin to consider now the complications which are foreseeable with relation to our reserve forces and the National Guard. Those questions received little debate during past congressional consideration of draft reform. It is now obvious that they will be seriously affected by the end of the draft. I urge the Congress to begin hearings now on the need for these reserve forces, their training and employment and their recruitment policies. It seems clear that major changes are going to be necessary to make them more relevant to their new military missions as well as more attractive to volunteers. If we delay action on this important question until next year, it will serve as a significant deterrent to strong action to end the draft.

We must continually review military personnel and recruitment policies to insure that the goals of volunteerism are being carried out. The top leadership in the Department of Defense, the administration, and the Congress, are committed to volunteerism. There is some doubt as to whether that commitment extends down into the ranks of the military where the policy can be made or broken. We must maintain vigilance to assure that our will is carried out.

Mr. Speaker, the end of the draft will be a symbol to all America, both the young and the old, that change can come through the system. It will show that the system can be responsive. It will enhance our national ideals of democracy and individual freedom.

EIGHTIETH BIRTHDAY OF JOSEPH CARDINAL MINDSZENTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, today is the 80th birthday of Joseph Cardinal Mindszenty and I know I speak for all our colleagues when I extend congratulations and best wishes to this great religious leader and champion of freedom for the Hungarian people.

President Nixon has also sent birthday wishes to the cardinal in a telegram which reads:

> It is a pleasure for me to extend to you congratulations and best wishes on the occasion of your 80th birthday.
>
> May your celebration on this significant anniversary find you in good health.

Although this is a day of celebration for the cardinal I am sure that it is tempered by his sorrow at not being able to join his people. He has spent his last 16 birthdays separated from the Hungarian people—15 of those years in the U.S. Embassy in Budapest where he sought sanctuary on November 4, 1956, and this one in Austria where he is now living in exile.

I pray that the day will soon come when he will be able to return to his native land. Until that day, let us remind the world that we have not forgotten him or the people of Hungary.

INVESTIGATION INTO THE OPERATION OF THE POSTAL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, in early 1971 I became interested in acquiring information concerning the U.S. Postal Service's announced plans for a bulk mail facility to be situated in the Midsouth. I learned that this facility was planned for location in the general area which includes east-central Arkansas, northwest Mississippi, and southwest Tennessee.

Thus began my investigation into the operation of the Postal Service.

My principal interests were two. First, I wanted to help insure that the taxpayers who financed such facilities got the full value for their dollars, both in the short- and long-term analysis. Second, and equally important, I wanted to help insure compliance with the intent of Congress to establish for the Nation a balanced growth policy which enhances the national environment by encouraging development in areas which are not already overburdened by population.

The search for information which I have conducted has convinced me that neither interest has been protected.

In line with my concern in this matter, I urged the Postal Service to consider sites in Crittenden County, Ark., which provide excellent access to transportation networks, which had unemployment rates higher than the national annual average in both 1969 and 1970, and where the added vehicular traffic would not create serious problems.

In addition, I requested specific data about the number of persons to be employed in the facility, the cost of the facility's construction, expected site costs, and building specifications. The inquiries were made through telephone calls and written correspondence.

It was not until March 21, 9 days ago, that the unequivocal answers from the Postal Service began being received by my office. While I had been told earlier that a preferred site in Memphis, Tenn., had been pinpointed, I did not learn of negotiations to buy it until a Postal Service news release surfaced in a Memphis newspaper.

The news story said the site had been purchased. But, the officials of the Postal Service tell me that that is not quite true. An option on the land has been taken. My request for a copy of the option has been rejected by the Postal Service.

I have been told, though, by officials of the Postal Service, that the site cost —which is described as a "rolling cost" that could increase or decrease during completion of procedures for acquiring the site—is $3.55 million. That price, I am told includes site preparation costs. And by simple division, it means that the taxpayers are being committed to pour more than $62,000 per acre into the purchase of the bulk mail center site in Memphis.

In addition, the Postal Service officials tell me that the facility will cost $20 million to build. That is a cost which I understand would be the same regardless of where the facility is built.

It is my understanding that the Postal Service expects to employ 620 persons in the facility. This does not include the personnel handling vehicles used for moving the bulk mail. These persons, I am told, are contract employees and therefore are not included in the facility's labor force. But, the vehicles which they will be using will certainly add significantly to the congestion already existing in the streets and expressway serving the general area of the site.

Postal Service officials tell me that they expect a minimum of 110 trucks and a maximum of 230 to be used at the facility daily.

As I indicated early in this speech, my interests in the bulk mail facility matter have been twofold. To see that the taxpayer's money is used with the goal of achieving the fullest value and, to see that the congressional intent of developing a truly balanced national growth policy is complied with.

Information currently available to me persuades me that the fiscal and environmental interests of the people of Memphis, the Midsouth and the Nation are being violated by the plan to establish the bulk mail center at the designated Memphis location.

I have also developed a third concern. I find it absolutely incredible that an agency of the executive branch, an agency established expressly for the purpose of carrying out congressional intent, should be found so reluctant to provide Members of the Congress with information concerning the Agency's activities. For months on end my inquiries for specific information were answered with general responses.

I was originally told that the U.S. Corps of Engineers, which handles site studies for the Postal Service, would make a detailed report on the bulk mail center site search. Then my office was told, on March 21, that no such data was available outside the general, brief responses I had already been given. Then, after insisting that there must be documentation of the search available, I received slightly more detail on a site which was considered in Crittenden County rather than the copy of the Corps of Engineers' report which I had requested.

I might point out here, that all too often the information which I have received from the Postal Service on this matter has come through the confrontation route. My office would request data. We would either be told it was not available or be given the barest details and only receive fuller information when we made it known that we were already in possession of more information than the Postal Service was doling out.

In my search for information on this matter, I have been told repeatedly that transportation costs in operation of the bulk mail facility are a major consideration in the site selection. It would seem that despite all the rhetoric of the administration, the decision boils down to initial dollars and cents—and, the environment and long-range public interest be damned.

The site costs, the construction bill, the transportation expenses—taken together, these are hardly going to add up to the total bill for locating a bulk mail facility in Metropolitan Memphis—or any other metropolitan city. The total bill must surely include those public service costs which inevitably evolve from creating a situation which encourages more human and vehicular congestion in a municipality which already finds its agencies struggling with transportation problems, housing problems, social welfare problems.

The reluctance and incompletion with which the postal officials have met my inquiries can lead only to one conclusion. For some reason, this Federal agency in the executive branch is jittery about the public and congressional reaction to the kind of short-sighted logic which has been employed in locating this bulk mail facility.

If the taxpayer does not have the right to full and complete information on the manner in which a public agency will spend tax money, who does? If the Congress does not have the right to full and complete information on this matter, then who does?

This is a new agency. It is in its trial period. There appears to be an obvious need for close oversight from the Congress to insure that there is strict adherence to the intent with which the Postal Service was established. I would urge my colleagues to give careful attention to the activities of the U.S. Postal Service to see that the objectives established by the Congress are accomplished.

IRISH-ITALIAN IMMIGRATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, since the House approved H.R. 9615, the so-called Irish-Italian immigration bill on Thursday, March 16, I have heard from countless persons commending the committee for bringing this measure to the House. All of the persons who spoke to me expressed their concern for the families that have been separated and for the young new seed immigrant who is unable to compete for an immigrant visa as a result of the 1965 amendments to the Immigration and Nationality Act.

Although no one expressed any fear that the aliens who might benefit from this act would have an effect on our high rate of unemployment, I would like the legislative history to show that this temporary legislation, H.R. 9615, was not intended to be a predicate for future legislation which would eliminate the labor certification as a condition for admission to the United States.

U.S. labor must be protected from an onslaught of foreign workers who would displace American workers, depress wages, or in other ways adversely affect labor conditions. Likewise, the labor certification procedures must be administered in a uniform, fair, and reasonable manner.

TAX REFORM NEEDED NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, some sage analyist recently was quoted as saying, in effect, that tax reform is an idea

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whose time may be nearer than many think.

I agree. The time for tax reform is now. And I have written the chairman of our House Ways and Means Committee urging that, despite the press of business, the committee begin hearings on this matter within the next 60 days.

We recognized with passage of the Tax Reform Act of 1969 that our business was not completed. The administration seemingly concurred and, in cooperative spirit, promised to forward to the Congress and our Ways and Means Committee its recommendations on reform of estate and gift taxes.

Mr. Speaker, that was more than 2 years ago and those recommendations are still awaited.

When this body recently considered an increase of the debt limit Mr. MILLS announced that he was writing the President asking for the administration's recommendations for tax reform.

Those recommendations are still awaited.

While I have no first hand information on the subject it is obvious from what is speculated in the press, from recent remarks on the subject by the Secretary of the Treasury and by inaction on promises made by and request made to the administration regarding the matter, that the administration simply has no stomach for tax reform.

I fail to understand this because millions of overtaxed Americans are crying for consideration and we definitely need the support and influence of the administration to pass new tax reform legislation.

I will not attempt to spell out here the impressive list of inequities in our present tax laws which cost the Treasury billions of dollars each year.

This has been done by my colleague from Ohio (Mr. VANIK) in remarks made on this floor on March 15 and March 21 of this year.

However, there are some pertinent facts which should be pointed up.

The established rate of corporate taxation is 48 percent, yet a recent study of 60 of the top 500 corporations in America revealed that 17 were paying less, some far less than the 48-percent rate.

The Treasury might pick up an additional $3 billion by fully taxing capital gains on property bequeathed at the owners' death.

The Treasury could gain an estimated $2 billion by ending the accelerated depreciation rules put into effect by the administration last year.

These are just a few of the areas that demand examination.

But what is most disturbing to the average taxpayer is the seeming inequity in our tax laws. There are all varieties of legal escapes available to the wealthy individual and corporation to evade taxation to maintain current and produce future income. But these are not available to the workingman. He cannot income average, depreciate assets, employ the investment credit, write off income on tax-free bonds, or employ any of a number of tax advantages available.

He becomes particularly restive when he reads of recent studies such as that compiled by the Brookings Institute concerning the effective as opposed to the scheduled individual income tax rates. The legal rate in our tax laws runs from 14 to 70 percent. But the actual rate, according to the study, was only about 32 percent for those families with a million dollars or more annual income while families with incomes running from $50,000 to $100,000 paid at a real rate of 25 percent when the scheduled rate is much higher.

The average American taxpayer carries about 80 percent of the tax load. Generally he does so without complaint under the belief that it is his right and duty to support his country in this manner.

But today he is growing more and more aware that he is paying more and more in total taxes, while his dollar is buying less and less and the more economically fortunate are not paying their fair share as he sees it.

He resents this and is not to be blamed. But more than resentment is being expressed today by these Americans. They are also voicing the demand that something be done about the problem and they are looking with concern and expectation to the Congress to get on with the job.

There is a growing movement in the country for tax reform and, I am pleased to note, there is rising support within this body for action. At the same time the view is held by some today that 1973 will be the year when Congress will act. I see no reason for such delay. If tax reform is needed next year then it is needed now and we should be about it.

REMARKS ON FINAL ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED TRANS-ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, earlier this month the Interior Department issued its final environmental impact statement on the proposed trans-Alaska pipeline. The impact statement consisted of a six-volume environmental study and a three-volume economic study.

I have read much of the study since its issuance. My reactions are mixed. The six-volume environmental study is clearly superior in many respects to a draft environmental study published early last year. However, the final impact statement still appears uneven, and some parts are still imbued with advocacy. Far more will be said on the environmental aspects of this study in the coming weeks by myself and many others.

I would like to address my remarks today primarily to the three-volume economic study of the trans-Alaska pipeline and the alternatives to it. This study can be categorized only as pseudo-economics, a sham and a hoax. Unfortunately, much of the press has been misinterpreting even the distorted and inaccurate conclusions reached by this so-called economic study by saying that it concludes that the trans-Alaska pipeline would be economically superior to a trans-Canadian pipeline, which would terminate in the Midwest. That is simply wrong. The study clearly states that an oil pipeline through the Mackenzie Valley of Canada would be an "equally efficient alternative" (p. 1, vol. 1 of the Economic Study).

In fact, a Canadian pipeline terminating in the Midwest would be far superior economically to a trans-Alaska route for various reasons, including the fact that the present price of oil in the Midwest is considerably higher than on the west coast, where oil from the trans-Alaska pipeline would wind up.

Incredibly, the Interior study's conclusion that both lines would be "equally efficient" ignores the fact that tremendous savings will result from building an oil line parallel to the trans-Canadian gas line. "A trans-Alaska-Canada gas pipeline transportation system is almost certain to be established if the Prudhoe oil is extracted and transported," the study states on page 317 of volume 1 of Environmental Study. This is hardly a revelation since even the oil companies with large interests in Alaskan oil have admitted in the past that the only practical means for getting the Prudhoe Bay natural gas to market was via a trans-Canadian pipeline terminating in the Midwest. But, in the economic study, the Interior Department admits that it did not consider the economies that would result from building an oil pipeline through this same corridor. On page C-23 of volume 1 of the economic study, it states:

> It is probable that economies of transportation cost and environmental impact will result from moving oil and gas through a common corridor (possibly, but not necessarily through the same pipe or concentric pipes). The extent of such economies is not estimated in the present analysis.

This gross omission makes the study's conclusion that the Mackenzie Valley oil route through Canada would be only economically equal to the trans-Alaska pipeline totally ridiculous.

Moreover, it is clear that the economic data used in the Interior study was directly supplied by Alyeska—the pipeline company that wants to build the trans-Alaska pipeline.

As you know, Mr. Speaker, a consortium of seven oil companies has applied to the Interior Department for a permit to build a 780-mile hot oil pipeline from Alaska's North Slope to the southern ice-free port of Valdez, where the oil will then be shipped by tanker primarily to west coast ports.

Because it is considered economically infeasible to liquify natural gas so that it can be shipped by tanker, it is generally admitted that a natural gas pipeline across Canada will have to be built to transport the huge amounts of gas reserves in the North Slope. I, along with many environmental groups, have argued that a Canadian pipeline route to the Midwest would involve far less environmental risk than the trans-Alaskan pipeline route, primarily because such a route would avoid the use of tankers and would not run through the worst earthquake zones in North America as would the trans-Alaska route. The Interior Department Environmental impact study gives strong support to our assertions.

Unfortunately, Secretary of Interior Rogers C. B. Morton is still maintaining that the Interior Department cannot seriously consider a Canadian route until it receives an application to build one. This is pure baloney. The reason the Interior Department has not received an application to build the Mackenzie Valley route pipeline—the most prominently mentioned Canadian route—is for the very simple and obvious reason that the same oil companies which dominate the Alyeska—trans-Alaska pipeline—consortium also dominate the Mackenzie Valley pipeline company. They are hardly likely to submit an application in competition with themselves. Mr. Morton knows this as well as I do. But, if the application for the trans-Alaska pipeline is rejected, we will see an application for a trans-Canadian pipeline so quickly it will make the Secretary's head spin.

I am sad to say that I strongly suspect that a decision to give the trans-Alaska pipeline a go-ahead was made long ago. The major oil companies which dominate both the Alaska and Canadian pipeline companies want to go through Alaska. Their concern is, quite naturally, for their own profits. The Interior Department's concern should be to find the route that makes the most economic and environmental sense for the United States. Unfortunately, this does not appear to be the case. The only circumstance under which I can see the administration deciding against the Alaska pipeline is if the White House feels that approving it would hurt Mr. Nixon, politically.

THE INDEFENSIBLE AIR WAR IN INDOCHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, I find myself more appalled every day at the escalation of the air war conducted by the Nixon administration. The Defense Department admits the current average number of sorties—one flight by one plane—by American war planes in Indochina is 10,500 a month.

Until the recent past President Nixon frequently referred to the bloodbath which he alleged the North Vietnamese would conduct if they could achieve a military victory in South Vietnam. The hideous and indefensible air war which now goes on every single day suggests that it is the American military in Indochina which is carrying on the bloodbath.

In early 1971 President Nixon said:

> I will not place any limits on the use of air power.

The air war was the primary cause of the deaths of 114,734 Vietnamese soldiers in the first 11 months of 1971. These figures, from the very reliable Washington Newsletter of the Friends Committee on National Legislation, bring the total number of deaths conceded by the Department of Defense to 715,000 Vietnamese soldiers. Any estimate of civilian deaths is only speculation but a total of 3 million might not be too high.

Before I go into some of the hideous things that have been done in the escalated air war in the past few months it is necessary to review the painful facts about the disasters caused in the earlier phases of the war by U.S. military power in Indochina.

THE MASSACRES OF 1965–71

The cost to the United States for the war in Vietnam in the years 1965 through 1971 was at least $120 billion. This comes out to about $600 for every single person in the United States. The tax structure continues to force every American to commit crimes condemned and punished at Nuremberg.

The cost to the American public may well be $50 billion more than the $120 billion already expended when the educational and medical benefits to the 2.4 million soldiers who went from the United States to Vietnam have finally been calculated and paid for.

At least 200,000 orphans have been created in South Vietnam along with at least 400,000 widows. These are but a few of those who have been victimized in a war in which one in 15 Vietnamese citizens has been killed, one in every seven wounded and one in every four turned into a refugee. When one considers that the two Vietnams have a total population of about 35 million people the total cost in human life and human suffering is beyond calculation and comprehension.

One-seventh of the total land of Vietnam has been destroyed by chemical herbicides. During the years 1965–70 some 23 billion pounds of explosives have been dropped onto the soil of Indochina—an area about the size of Texas.

As a result of the saturation bombing at least 10 million craters with a diameter of 40 feet and a depth 20 feet have been created. These craters, now filled with poison-laden water, are the results of an average frequency of B–52 bombers dropping their payload every 90 minutes of every day since 1965.

The Department of Defense—DOD—admits that 1 or 2 percent of the 108 500-pound bombs dropped by each B–52 do not detonate. As a result some 300,000 unexploded bombs remain on the ground in Vietnam where they constitute a major problem for the farmers who desire to resettle their devastated farmlands.

A bulldozing operation designed as an antiambush device has scraped bare sections of South Vietnam the size of Rhode Island. Forests have been turned into useless bamboo jungles as a result of land-clearing operations calculated to deprive the Vietcong of any place for regrouping.

Since Mr. Nixon took office the average number of civilians killed, wounded and left homeless in Indochina has gone up to 130,000 per month. During the Johnson years of 1964 to 1968 the number of these civilians ran at an average of 95,000 per month.

George Orwell grimly predicted all of this in his book "1984" when he wrote that some political actions are too brutal to face without flinching. Orwell wrote that:

> Defenseless villages are bombarded from the air, the inhabitants driven out into the countryside, the huts set on fire with incendiary bullets and this is called pacification.

Orwell goes on to describe the events in "1984" which, however, have happened in Indochina in 1972. He notes that—

> Millions of peasants are robbed of their farms and sent trudging along the roads with no more than they can carry and this is called "transfer of population."

THE AUTOMATED BATTLEFIELDS AND THE AIR WAR

As hideous as past American military conduct in Vietnam has been the present automated battlefield and the brutal air war exceed in savagery anything done by the United States in Vietnam or in all probability anything done by any nation in any war in all of history.

At this time some 73,000 air personnel—45,000 of whom live outside of Indochina—operate off of aircraft carriers in the South China Sea. These individuals operate an electronic battlefield which is automated, computerized, and designed to give allweather and day-night capability.

Before May 1, 1972, the number of U.S. airmen outside of Indochina will be greater in number than the American forces on the ground in Vietnam. If the defense of the Pentagon is that the massive bombing continues to protect the remaining American troops in South Vietnam the obvious untruth of this assertion should be clear.

The South Vietnamese air force has now become the sixth largest in the world. It is becoming ever more clear that the President and the Pentagon expect to continue the bombing on an indefinite basis. It does not bother our military authorities apparently that 22 tons of bombs have now been dropped for every square mile in Vietnam or that 250 pounds of explosives have been rained on every man, woman, and child in Vietnam.

The majority of all of this bombing has been done during the 39 months of the Nixon administration. A total of 61,000 tons was dropped in December 1971.

The full impact of this continued bombing may be made dramatic by the simple assertion that every month the United States drops two and one-half times the amount of explosives which this nation used at Hiroshima.

Aircraft in eight different categories continue to execute the first automated, anonymous, and secret war in American history. In all four countries of Indochina air-dropped devices detect vibrations of people. The signals from these devices are relayed to a central computer in Thailand where the responses of the various sensors are correlated and the decision to strike a particular region is made. No one sees the victims. No one knows the extent of their injuries or whether any medical care is available. But the central point of the air war is to injure while not necessarily killing individual persons.

Some 50 percent of all of the bombs now dropped in Indochina are antiper-

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sonnel weapons. These bombs are not designed to strike any military objective nor are they sent out against any military target. These bombs are designed exclusively to injure human beings.

American airmen drop pineapple bomblets which contain 2,500 steel pellets. These sharp instruments go out in a horizontal pattern and wound the bodies of any person they strike.

Military personnel also drop flechettes. These devices contain several hundred 1-inch barbed nails. These nails enter the body of human beings shredding the muscles and organs and are difficult to remove by surgery.

Military personnel also utilize incendiary bombs, napalm, magnesium, and white phosphorus.

All of these antipersonnel weapons are made by some of the most famous corporations in America. The officials of these corporations have undeniable knowledge that the only possible objective of the weapons which they manufacture is to injure unseen and unwarned civilians whose presence in a particular place, whether related to warlike activities or not, is reported by the sensor to the computer in Thailand and is thus made vulnerable to a bombardment by B–52's 7 miles above the ground.

The cruel details of the air war are revealed in a handbook prepared by Project Air War and the Indochina Resource Center. This document entitled "Air War: The Third Indochina War," can be purchased for $1.50 from the Indochina Resource Center, 1322 18th Street NW., Washington, D.C. This document has been placed in the CONGRESSIONAL RECORD by Senator MIKE GRAVEL on Thursday, March 23, 1972, at page 9813.

The air war is a form of the "enclave" theory. The United States is now raining terror from aircraft carriers at sea upon four nations from which the United States is gradually withdrawing its ground troops.

It seems clear that the automated, computerized, and clandestine air war carried on by the United States against the 50 million people of the four nations of Indochina is unprecedented in its hideousness in all of human history. It is clearly in violation of international law since The Hague Convention in article 25 condemns "the attack or bombardment by whatever means, of towns, villages, dwellings or buildings which are undefended."

Since the average monthly number of sorties comes to 10,500 the average daily number of aircraft that drop bombs is about 30. It is estimated that at least 300 Asians are killed each day by explosives unloaded by American war planes.

How long will the Pentagon and the President continue this assault? They have given absolutely no indication that they will diminish this savagery in order to negotiate. Indeed, President Nixon on March 23, 1972, personally broke off all talks with the North Vietnamese in Paris.

How much longer will the American people tolerate a policy of this administration which, according to its own testimony, requires the invasion of two neutral countries, and the bombing of four nations in order to withdraw from one country?

The overwhelming majority of the American people agree with Senator GEORGE MCGOVERN who said that—

> The war in Indochina is the greatest military, political, economic and moral blunder in our national history.

There is reason to think that at least another 114,000 Vietnamese people will be killed by American bombs during 1972.

Unless the Congress and the people of America find a way to expose the electronic battlefield, the air war in Indochina will continue to escalate. That war is not winding down but is in many ways worse than ever before.

Hundreds of thousands of Indochinese peasants are at this very moment huddling together in caves, holes, trenches, and tunnels as each day 30 or more B–52's each drop 108 500-pound bombs on undefended villages.

What can half of humanity that lives in Asia think of this kind of conduct carried out by the most affluent nation of the earth using the world's most advanced technology to rain further terror on the most devastated and bombed people in the entire history of mankind?

On December 16, 1971 Air Force Secretary Robert C. Seamans, speaking in reference to the air war in Indochina, claimed that:

> No matter how you look at the air activity of the U.S. over there, the trend is definitely downward.

Since that appraisal of the Secretary of the Air Force President Nixon and the Department of Defense have sharply increased the tonnage of bombs. During February of 1972 67,536 tons of bombs were dropped on all of Indochina—a 35-percent increase over the figures for the latter part of 1971 and higher than the monthly average for all of 1971.

On March 23, 1972, I filed legislation to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia and Laos. That bill (H.R. 14056) provides that no funds may be utilized to conduct offshore naval bombardment or to bomb by the use of napalm, incendiary devices or chemical agents or to attack in any way by air anywhere within the four nations of Indochina.

The bill provides for the withdrawal of American troops subject to arrangements being made for the release and repatriation of American prisoners of war.

It is to be hoped that this bill can be enacted within the immediate future so that the United States of America can stop carrying on the first automated and computerized air war ever conducted by any nation at any time in all of human history.

JOBS FOR THE INNER CITY YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BOGGS) is recognized for 15 minutes.

Mr. BOGGS. Mr. Speaker, for the past four summers America's inner city youth have been provided with recreation and job opportunities through the Recreation Support program and the Neighborhood Youth Corps. These programs enable youngsters from underprivileged families to productively spend their summer months learning valuable skills and enjoying meaningful recreation experiences, often for the first time in their lives. Each year these programs have been crash funded through a supplemental budget request of the Department of Labor. These requests have been, without exception, grossly inadequate to service the demand in our metropolitan areas. To compound this problem, the moneys appropriated for the Neighborhood Youth Corps-Recreation Support Programs have usually been provided for local use no more than 3 weeks prior to the programs' starting dates. This has made it virtually impossible for local administrators to properly implement the programs.

In the summer of 1971, my city of New Orleans requested 5,000 summer Neighborhood Youth Corps job slots. We received only 1,914 slots. This insufficient service allotment becomes even more inadequate when you consider that an estimated 10,000 of New Orleans youth qualified for this program last summer.

In recent months there has been a strong effort in the House, initiated by my friend and colleague the Honorable DAN ROSTENKOWSKI, to secure additional and early funding for these important summer recreation programs. Mr. ROSTENKOWSKI deserves high praise for his diligent work with these programs. I understand that as a result of his efforts more than 50 House Members have petitioned the House Appropriations Committee urging them to raise the funding level for NYC–RSP.

In connection with these programs, Mr. Speaker, I would like, at this time, to submit a statement which was presented to the Legal Action Committee of the U.S. Conference of Mayors by the Honorable Moon Landrieu of New Orleans, on March 23, 1972, in Newark, N.J. Mayor Landrieu's testimony before the committee points out the desperate need for increased funding for NYC–RSP, not only in New Orleans, but throughout the Nation as well.

The testimony follows:

STATEMENT OF MAYOR MOON LANDRIEU

Summer Youth Programs to provide opportunities for our cities' young people are vital; at a time when general unemployment is high, jobs for youth are even more scarce. For many urban youth, summer jobs are absolutely vital to provide them the basic necessities. We, as Mayors of our cities, find the alarmingly high rate of youth unemployment appalling. We refuse to accept an unemployment rate of 18.8% of all youth now residing in our urban poverty areas. Neither can we accept a 30% unemployment rate for our cities' black and Spanish youth. Jobs must be made available and the Federal Government is simply not meeting this critical need.

A U.S. Conference of Mayors needs survey indicates the cities can effectively utilize nearly a million youth jobs in the summer now fast approaching. This survey was not conducted to determine the *overall* need. That figure would be even higher than the figure represented in the Conference of Mayors' survey. The needs survey is not "pie in the sky" figures. It is one which reflects the number of jobs cities can *effectively utilize*. In addition to jobs, supplemental recreation and transportation funds are essential to provide a successful summer youth program.

For summer 1972, our survey indicates the total number of summer jobs needed is 947,928, costing $444 million. Unfortunately, the current Administration budget request only calls for $164 million. While the Administration is requesting $95 million in supplemental funds, there is still a major gap in the amount requested and the amount our Nation's cities must have for the summer of '72.

For the Summer Lunch Program—food for the children—we will need $52.5 million and our estimates show that only $13 million will be available. Last year we fought to expand the summer portion of the Special Food Service Program. The Congress gave the Administration the authority to spend funds from the Special Section 32 Fund up to $135 million, and information indicates that, because of the surtax, there is within Section 32 funds over $600 million. Our cities' children are without adequate diets; our cities' children are hungry. We joined with members of Congress last year to obtain autnority to release funds to feed hungry children. The President's Office of Management and Budget refuses to release these funds. We deplore this action and urge the Administration to recognize that there is no higher priority than assuring that thousands of children within our Nation's cities are not without such a basic necessity as food.

As we indicated last month, we are opposed to the arbitrary guidelines that hamper the effective implementation of the Summer Food Program. We urge the Department of Agriculture to rectify these guidelines immediately so that we can, without additional burden, go forward with a Summer Food Program.

Gentlemen, this morning we are talking about basic necessities. We are discussing today for the urban youth of this Nation essentials that many citizens of this country take for granted. We are talking about food and jobs. On behalf of the thousands of urban children of all ages who face the summer of '72 without adequate diets, without sufficient food and without jobs, we urge the Congress and the Administration once again not to turn their backs on this critical problem.

It must be said that today we have leaders within the Congress who are now involved in this effort. Senator Jacob Javits of New York and Senator Clifford Case of this State have been in the forefront for summer jobs; we heartily commend them for their efforts. In addition, Congressman Dan Rostenkowski has lent his efforts on the House side, and we commend his initiative in this critical area.

As Mayor Gibson of Newark has said so many times, "The greatest natural resource of our Nation is our people". Today we are talking about the future and hope of America: its young people. We, the Nation's Mayors, ask the Federal Government to join with us, throughout America, to make the summer of '72 one with much less hunger than in previous years, with far less idleness and frustration than many youth have experienced recently. With hunger, idleness, and frustration, only the worst will result. We urge action now. In April Congress will have a second opportunity to provide supplemental funds for these programs. We pledge our determined efforts to fund fully these vital programs. We must have the support of the Administration and the Congress in this effort.

WILL UNDERWORLD PROFIT FROM ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, the recent dialog surrounding the planned trans-Alaska pipeline has centered around the environmental effects that the project will or may have.

Little has been said about another type of pollution that may surround the multi-million-dollar pipeline preparations—the prospect of extensive land speculation with polluted money.

An excellent article, appearing in the Los Angeles Times on December 6, 1971, documents the possibility that underworld financing and prior knowledge of the pipeline route will almost assuredly turn a large profit for someone.

Mr. Speaker, I insert the article, written by Times staff writer Al Delugach, at this point in the RECORD:

ALASKA MYSTERY—WHO FINANCED BIG LAND DEALS?

(By Al Delugach)

VALDEZ, ALASKA.—Philip J. Matthew of Los Angeles went on an Alaskan land buying spree three years ago. A short time later the route of the trans-Alaska oil pipeline was announced.

The bulk of some 200 parcels of land Matthew had bought in central and southern Alaska turned out to be along the pipeline route.

And here in Valdez, selected over three other cities as terminus of the pipeline, Matthews had acquired much of the town's undeveloped land, including a waterfront site for possible docking facilities.

The pipeline, yet to be constructed, is to bring oil out of Prudhoe Bay on the North Slope. In 1968 drillers struck what is believed to be the biggest oil find in North America.

VALUE OF $1 MILLION CLAIMED

The land—totaling about 500 acres—was purchased for an estimated $300,000. Conservative estimates place its value today at more than $600,000. Matthew, himself, has said that it is worth $1 million.

Who is Philip J. Matthew?

The same question has been asked by the federal government and by people in Alaska. Still a question is who may be associated with him in his Alaskan land deals.

While he has remained out of the news, Matthew, who is 49, had a meteoric rise in the world of finance about 10 years ago. His ventures included savings and loan associations in Los Angeles, Baltimore and Honolulu.

Key financing was provided through a little known but rich Caribbean entity called the Bank of World Commerce, Ltd., Nassau, Bahamas.

The list of his associates at that time included:

Clifford A. Jones, former Nevada lieutenant governor, friend of Bobby Baker and one-time casino owner in Las Vegas and the Caribbean.

Edward A. Levinson, a big-time Las Vegas gambler who was fined in a gambling profits "skimming" case involving the Fremont Hotel.

Meyer (Mike) Singer, now dead, an ex-Teamsters official widely considered as the West Coast representative of James R. Hoffa.

NO INDICTMENTS RETURNED

Alvin Malnik, Miami lawyer, a key figure in the 1966 federal grand jury investigation of suspected underworld involvement in the multi-million-dollar stock promotion of Scopitone, a movie-jukebox invention. People from coast-to-coast were subpoenaed as witnesses. No indictments were returned.

Other assorted Las Vegas gamblers, including Irving (Niggy) Devine, G. C. Blaine, Charles Turner, Ben Sieglebaum and Charles (Kewpie) Rich, as well as James (Jake) Gottlieb, casino owner and friend of Hoffa.

None of these names appears in the public record as being associated with the Alaskan ventures.

Nor is there any public record on who owns the more than 600,000 shares of stock issued in Matthew's firm—Financial Land Investment Corp.—in whose name the Valdez properties are held.

Records he has filed in Juneau show the corporation was incorporated in Delaware in February, 1969, the month he bought the Valdez properties. He is listed as president and treasurer. The vice president is a retired Los Angeles intelligence agent for the Internal Revenue Service, Walter E. Schlick.

The corporation secretary is Eugene Hettleman, a lawyer of Baltimore, which is listed as the corporation's principal place of business. Directors are Matthew, his wife Elayne and Hettleman.

One year after Matthew bought the Valdez land, Mel Personett, then Alaska commissioner of public safety, appeared before the state Senate Judiciary Committee.

While answering questions about Alaskan law enforcement problems, he voiced concern about the entry of associates of organized crime figures into legitimate business.

Personett then told of a man operating in the Valdez area who he said had associates who are underworld figures or who associate with them. Under further questioning, Personett named Matthew as the man he was talking about.

WITNESS CRITICIZED

Several senators at the hearing criticized Personett for naming in public hearing a man who had not been charged with any crime in Alaska.

Sen. Terry Miller (R-Fairbanks), who was committee chairman and now is Senate majority leader, says he later wrote a letter to Matthew inviting him to appear before the committee "in case he wanted to rebut anything anybody said about him at the hearing." Matthew didn't answer the letter, Miller says.

The subject was not pursued. "We felt the least said the better for everybody," says Miller. Personett was replaced as department head when a Democratic administration was elected last year.

INTERVIEW DENIED

Matthew, a wiry man with a moustache who wears lumberjack shirts at his handsome home in Tarzana, doesn't care to answer questions about his Alaska activities or associates.

Several weeks ago, in declining an interview, he said deprecatingly: "We don't have very much up there now."

After a review of his holdings in public records in Alaska, a reporter again sought to talk to Matthew.

"Write what you want," he snapped. "I have nothing to say."

Matthew is known by acquaintances in Alaska to have a more expansive side. They have heard him talk of his bank in the Bahamas, the savings and loan associations, the right hand man who is an ex-IRS agent. Matthew showed up at the state land office in Anchorage in January, 1969, and proceeded to snap up most of the nonhomestead land available for sale by the state.

Contrary to an impression widely held by outsiders, Alaska is not a place where unlimited land is available for purchase. The federal government still owns most of it, and the state presently has a "minuscule" amount for sale to the public.

Matthew appeared to have considerable financial resources, and thus attracted unusual interest in the land office.

Although nearly three years have gone by, a veteran state employee clearly recalled Matthew's wholesale land purchases. In two visits

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about a week apart, she said, he bought in his and his wife's name almost all the residential and commercial lots available in a number of scattered cities and towns in central and southern Alaska.

CHECKS FOR 10 PERCENT

He put up cashier's checks for the 10% down payment (balance payable at 10% a year) on each parcel. The sales prices totaled $175,000.

This was before even the tentative pipeline route was generally known. The state land on sale over the counter on a first-come-first-serve basis was considered cheap by experts.

Then Matthew turned up in the southern port of Valdez (pop. 1,008) on Prince William Sound. Making friends with the city administration at the time, he bought up much of the remaining property in the new townsite (adjacent to the one destroyed by the 1964 earthquake).

When the oil industry filed its proposed pipeline route several months later, the terminus selected was Valdez.

A land developer recently recalled meeting Matthew in Valdez in February, 1969.

"I had figured out the pipeline had to end there," Jerry McCutcheon said.

How had Matthew figured it out? He was accompanied by a financial writer, the developer recalls. Matthew may have found out some information about the pipeline route from this man, who presumably learned it from his sources, McCutcheon theorizes.

Even now Matthew's name is little known in Alaska except in Valdez, where he visits a couple of times a year.

HELPED TEAM

He has the image here of an outsider with money to invest, a high pressure style and a lot of business savvy.

His admirers, generally the town's old establishment, recall that Matthew once laid out $500 to help send a boy's basketball team to a distant playoff game.

"I don't know who his backers are—that's his business," says Ed Walker, a motel man who was on the Valdez city council that cooperated with Matthew after his arrival.

It is the attitude Alaskans have traditionally taken. There is a widely observed convention that one does not nose into a newcomer's life prior to his arrival in what is aptly called the nation's Last Frontier.

Matthew's name is no better known in Los Angeles than in Alaska, though it is there he lives.

He resigned from the California Department of Savings and Loan in the late 1950s to go to work for Empire Savings and Loan in the San Fernando Valley, where he became executive vice president.

In 1961 Matthew emerged as a business investor on his own—to the tune of hundreds of thousands of dollars. One of his first associates was an old acquaintance, Teamster business agent Singer.

This was followed by a surge of well-financed business ventures that kept them busy on a circuit that included Honolulu, Los Angeles, Las Vegas and Miami.

Key to the ventures was the formation in June, 1961, of the Bank of World Commerce at Nassau with Miami lawyer Alvin Malnik.

Matthew, who had also formed a Bahamian bank for his former S&L employer, was the biggest shareholder in Bank of World Commerce with a listed investment of $230,000. Jones, Levinson and Devine, were among the early investors.

LANSKY ASSOCIATE

Another, who became president, was John Pullman. He is known to federal investigators as a long-time associate of gambling kingpin Meyer Lansky. Pullman is said by government sources to have been a courier between Las Vegas and Switzerland and in recent years has handled investments for American organized crime figures in Swiss banks.

The Bank of World Commerce, whose address was reportedly only an office with one employe, has been described by government sources as organized to finance a financial empire.

One of the bank's first acts, under directors that included Matthew and Malnik, was to make an unsecured loan of $250,000 to Allied Empire, Inc., Beverly Hills. Matthew and Singer, having bought about 19% of Allied's stock in the several months preceding, were turning the former television cartoon producing firm into an S&L holding company.

Matthew, who had become Allied's president, used the $250,000 toward purchase of San Gorgonio S&L, in Banning, for $1.5 million.

The $250,000 loan was just for openers for the Bank of World Commerce, which lent a lot more to Allied. Between July, 1961, and September, 1962, the average unpaid balance on the loans reportedly ranged from $250,000 to $750,000.

A sidelight on the Allied venture was that Hoffa and his daughter reportedly got in on the ground floor of a tremendous market rise in Allied's stock.

About June 1, 1961, the Hoffas bought 1,100 shares at prices ranging from $4.75 to $6.75 per share and sold 600 shares six months later at $50.50 to $53.50 per share. At its peak, Nov. 24, 1961, Allied's stock hit $76 per share.

HONOLULU VENTURE

Busy as they were, Matthew and Singer found time in September, 1961, to launch the Waikiki Savings and Loan Assn. in Honolulu.

Matthew was the biggest original shareholder of record, as well as president. Other original subscribers included Levinson, Devine and other Las Vegas gamblers, as well as Jones and Pullman.

A later investor was Robert (Bobby) Baker, once secretary to the Senate Democratic majority. Baker, who was sold 2,500 shares by Matthew, later went to prison for his role in financial scandals unrelated to the Hawaiian venture.

(It was disclosed in 1963 that Baker endorsed Jones and Levinson for gambling casino concessions in hotels of a Pan American World Airways, subsidiary in the Caribbean. Baker was quoted as saying he was doing a political favor.)

ISLAND PLANTATION

By December, 1961, Matthew was spearheading a takeover attempt on the big Ewa Plantation in Honolulu through his bases in Waikiki S&L, Allied Empire and the Bank of World Commerce.

The attempt was beaten down by major Hawaiian interests. But the price of Ewa stock was driven up in the process—greatly enhancing the value of the minority holdings.

Matthew's base at Allied Empire crumbled in January, 1963, when he resigned as president. Minority stockholders reportedly forced a change in management.

A long legal battle began between Matthew and his successor at the helm of Allied, Philip Nasser. While maintaining his family residence in Tarzana, Matthew spent the next couple of years in Israel.

Matthew and Nasser accused one another of fraud in civil suits which dragged out for years.

Nasser tried to attach Matthew's 43,476 shares in Allied Empire, which had changed its name to Riverside Financial Corp. But, in a key ruling, the Los Angeles Superior Court held that Matthew had previously transferred his interest in the stock to Clifford Jones on behalf of some 40 persons.

GAP IN RECORD

These included gamblers Levinson, Devine, Blaine, Turner, Siegelbaum and Rich, as well as Gottlieb.

There is a gap in the public record as to Matthew's business activities in the two or three years preceding his arrival in Alaska in January, 1969.

In Valdez he found a city administration receptive to selling him commercial and residential tracts remaining for development.

The present city manager, however, views as a mistake the leniency toward Matthew and a few others who signed up as "developers" under an urban redevelopment program for the land in the new townsite.

By promising to develop the property in specified ways, Matthew and the others got lots for as low as $400. Such lots would cost perhaps 10 times the amount they paid if bought in another Alaskan city.

The new city council in Valdez has recently begun legal action to declare some of the development contracts in default.

Matthew avoided the situation by selling back to the city about 50% of his holdings after a dispute over which side was responsible for failure to develop the land.

Matthew has not built anything whatever on any of his Valdez properties, says city manager Herbert Lehfeldt, former Southern Californian who was city manager of Bell Gardens and Palmdale in the 1960s.

For many months, he said, the previous council granted one time extension after another to the developers.

"The council never forced the issue until now," added Lehfeldt. "We've got to break it open. People who move to and want to build a house in Valdez can't even buy a piece of land here.

"The city is strangling as a result of these redevelopment contracts."

In addition to the purchases from the city, Matthew bought a seafood processing plant in Valdez in 1969 from the Small Business Administration.

An SBA official in Anchorage refused to give the figures, commenting that "the media has not always been kind to the SBA."

However, it is reported by others familiar with the deal that Matthew bought the plant from the SBA for about half the original cost—and on easy terms—after the SBA's original deal went sour.

The federal agency had foreclosed in 1967 a loan reported at around $100,000 to a local group in Valdez. Last spring, Matthew finally was able to lease the plant to a major seafood processor.

Matthew writes long and frequent letters to city and state officials and to the local newspaper to air his grievances.

One is the city's refusal to sell him some land near the seafood plant which he said he was promised and which the processor needs.

Another is rejection of his $100,000 bid for a tract that was sold for half that amount to a Montana developer.

In contracts to the earlier honeymoon mood, Matthew and the attorney for his corporation have threatened to sue the city.

The new city council and Lehfeldt have established the policy of dealing firmly with Matthew.

Lehfeldt described the attitude previously as one in which councilmen were "overpowered and perhaps a little frightened" at Matthew's high-powered style.

A long Matthew letter of complaint directed to Lehfeldt and the council last Aug. 30 concluded with this typical flourish:

"I refuse to believe that the answer lies in going back in history and not having law and order in the City of Valdez. Maybe 100 years ago there was not law and order in Alaska or the Far West. But we are civilized today and we should be thankful for that.

"We cannot advise our children to live the golden rule and then act in hypocritical fashion by breaking the law just because we are mature in age . . . Will the City of Valdez act in a just and honorable way in its dealings with redevelopers, regardless of whether they are so-called outsiders or not?"

LEGISLATION TO REPEAL THE MEAT QUOTA LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Speaker, today, I am joining with my distinguished colleague from Ohio (Mr. VANIK) and other Members, in introducing legislation which would repeal the Meat Import Quota Law of 1964. This repeal is urgent if we are to restore sanity and reasonableness to the cost of meat and meat products.

In 1964, Congress responded properly to a serious, but temporary decline in cattle prices by enacting the quota restriction. Now, the emergency situation has shifted to America's consumers who are forced to pay outrageously high prices for beef; and Congress must respond as quickly to the plight of consumers as it did to the plight of farmers 8 years ago.

I think we can all agree that retail meat prices are simply far too high. Why they are to high is something we must find out so that we can adopt an overall governmental policy which will result in fair prices to cattlemen and reasonable prices to consumers. In the interim, there is something Congress can do quickly to help lower the cost of meat—particularly hamburgers, hot dogs, and cold cuts. Congress can and must repeal the quota law on the importation of lean beef from foreign nations.

Not only will this repeal result in lower meat prices, it will also strike a blow against the entire inflation problem.

I must express shock and dismay over the fact that the Secretary of Agriculture is now waging war against the American consumer's food pocketbook in the face of a seriously inflationary economy, high taxes, and wide-spread unemployment. His unbridled enthusiasm for soaring meat prices demonstrates his lack of sensitivity to the plight of the buying public and calls into question the legitimacy of the hidden procedures based on which quotas are established.

Nor am I impressed by the activities and attitude of the Secretary of the Treasury with respect to high food costs. By merely blaming the chainstores, he demonstrates an unwillingness to examine the across-the-board reasons for high prices. We will never have a responsible food price policy in the country so long as the President permits his Cabinet officers to choose up sides in this unfortunate struggle between producers and consumers.

Again, Mr. Speaker, Congress must take this vital first step of repealing the meat quota law. I urge my colleagues to join in this effort.

REPORT TO THE RESIDENTS OF THE NEW FOURTH CONGRESSIONAL DISTRICT OF WEST VIRGINIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. KEE) is recognized for 15 minutes.

Mr. KEE. Mr. Speaker, I have asked for this time to include in the CONGRESSIONAL RECORD a brief preliminary official report on my services to date in the 92d Congress to the residents of the new Fourth Congressional District of West Virginia.

While the 92d Congress is extraordinarily diligent and hard working, we do have a great amount of important business yet to be considered.

Today, I was especially pleased that the House of Representatives passed the Federal Water Pollution Control Act Amendments of 1972, which I deem to be one of the most vital national issues to be considered during the current Congress.

As a member of the Committee on Public Works, and the Committee on Interior and Insular Affairs of the House of Representatives, I have been extremely fortunate to be assigned to seven subcommittees, which are vital to the future of southern West Virginia, our State, and our Nation.

With reference to the Committee on Public Works, I am a member of the Flood Control and Internal Development Subcommittee; Subcommittee on Public Buildings and Grounds; Special Subcommittee on Economic Development Programs, and I have the responsibility of serving as the chairman of the Conservation and Watershed Development Subcommittee.

On the Interior and Insular Affairs Committee, I continue to serve on the Subcommittee on Mines and Mining; Public Lands; and the Environment.

With reference to the Flood Control and Internal Development Subcommittee, it was my privilege in 1965 to change the name of the Justice Reservoir in Wyoming County to the R. D. Bailey Reservoir, in memory of the beloved late Judge R. D. Bailey. While I have continued to work with the Corps of Engineers and the Appropriations Committee of the House of Representatives, to obtain the maximum appropriations possible each year for the completion of the R. D. Bailey Lake, this $108 million project will provide adequate flood protection from Baileysville downstream to the Ohio River in the city of Huntington.

As the chairman of the Subcommittee on Conservation and Watershed Development, we have made preliminary investigations of the Buffalo Creek disaster and we are in the process of determining the actual cause of this tragedy. The Public Works Committee will take a close view of all such water retaining structures in an effort to prevent reoccurrence of such a needless loss of lives and property throughout southern West Virginia and the entire Appalachian region. As a matter of fact, I have called a preliminary bill which will be referred to the Subcommittee on Conservation and Watershed Development to greatly expand the role played by the Soil Conservation Service in constructing adequate watersheds wherever justified and requested by local residents in various areas.

It was my privilege to originally cosponsor the Appalachian Regional Development Act, which provides financial assistance for the construction of the Appalachian Development Highway System, vocational education facilities, airport facilities, access roads, housing, land treatment, erosion control measures, and additional medical services and facilities, such as the Southern West Virginia Regional Health Council and financing for the continued operation of the Appalachian Regional Hospitals, reclamation of land damaged by past mining practices, comprehensive water resources survey, sewage treatment facilities, plus supplemental grant in aid to acquire land for construction of public facilities.

It was also my privilege to be the original cosponsor of the Public Works and Economic Development Act, under which the new community hospital at Princeton—Mercer County—and the Hinton Hospitals—Summers County—obtained necessary financing for these medical facilities which are now in existence.

In addition, the Economic Development Administration has assisted local communities in financing adequate water and sewage disposal plants.

Congress does not actually build roads. The Subcommittee on Roads of the House Public Works Committee authorizes the Federal funds for the construction of highways and the responsibility for determining the actual location of these improved highways lies with the State department of highways which initiates the request for Federal funds.

As a matter of fact, the House Public Works Committee approved and the Congress passed my recommendation to include the West Virginia Turnpike as a part of the Interstate Highway System.

I recommended that U.S. Highway 52, between Bluefield and Huntington, be designated as part of the Interstate Highway System and to be upgraded to a four-lane highway, hopefully that the West Virginia Department of Highways would request such improvements.

I also recommended that West Virginia Route 10 from Princeton to Huntington be upgraded to a modern multi- or four-lane highway since both of these highways are essential to the opening up of our beautiful scenery in West Virginia.

In 1965, my amendment authorizing the construction of the Panther Creek Lake was adopted and, in addition, the Congress has authorized additional flood proofing and flood protection downstream for the communities of Matewan and Williamson. The flood wall to protect the Williamson Appalachian Regional Hospital from floods in South Williamson has been constructed.

The various projects which I have worked on in conjunction with responsible local citizens are too numerous to mention in this report. Many of these have been completed and others are on the way for final approval and financing.

With reference to pneumoconiosis, more popularly referred to as black lung, the facts are that as of December 31, 1971, 28,700 of 49,000 West Virginians currently receiving benefits are located in the new Fourth Congressional District of West Virginia. These figures have been officially presented to me by the Social Security Administration and this confirms the fact that approximately 60 percent of the total current beneficiaries for the State of West Virginia are from

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within the new Fourth Congressional District.

As a matter of fact, I introduced the very first bill in the U.S. Congress, H.R. 9850, on April 2, 1969, designed to provide Federal payments to those coal miners suffering from this dreadful disease, as well as their widows and children.

Under House Joint Resolution 748, which passed the House on July 19, 1971, authorizing the establishment of new medical schools, I immediately recommended that Marshall University be designated as the new medical school in conjunction with the Veterans' Administration in Huntington. This legislation is currently under consideration in the U.S. Senate and it is my hope that it will be signed by the President this year in order that facilities will be available to train additional physicians and nurses.

With reference to airports, improvements are underway for Kee Field, Wyoming County; Mercer County Airport; Raleigh County Airport; as well as substantial improvements at the Tri-State Airport which is located in Wayne County near the city of Huntington; Mingo County Airport, plus a planning program for a Logan County Airport.

During the latter part of May or early June, I will submit a more detailed account of my stewardship as your Representative in the U.S. House of Representatives.

In conclusion, my invitation continues to be extended to all constituents to advise me concerning any matter on which you feel I may be helpful. Your comments and suggestions are always welcome and I value your views on proposed legislation or any other matter involving the Federal Government where I may have the opportunity to be helpful.

My Washington address is 215 Cannon House Office Building, U.S. House of Representatives, Washington, D.C. 20515, Telephone: Area Code 202—225–2176.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS CONCERNING THE PRESIDENT'S MESSAGE TO CONGRESS AND PROPOSED LEGISLATION ON BUSING AND EQUAL EDUCATIONAL OPPORTUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS), is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, the U.S. Civil Rights Commission has today released a statement concerning the President's recent message on busing and equal educational opportunity.

Members of the Commission, which is chaired by the Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame, are: Stephen Horn, president, California State College, Long Beach; Mrs. Frankie Muse Freeman, an attorney from St. Louis, Mo.; Manuel Ruiz, an attorney from Los Angeles; Maurice B. Mitchell, chancellor of the University of Denver; and Robert S. Rankin, professor emeritus, Duke University.

Because of the importance of the issues discussed by the Commission, I ask permission to insert this statement in the RECORD at this point.

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS

On March 17, 1972, the President sent to Congress a message and proposed legislation dealing with the most deeply felt and most divisive domestic issue troubling the American people today. The issue is commonly characterizes as "busing" but it involves far more fundamental questions. It involves questions concerning the kind of education we want our children to have, the firmness of our resolve to redeem the Nation's pledge of equal rights for all, and, in the final analysis, the kind of society we want our children to inherit.

The Commission has serious disagreement with the proposed legislation. We believe that it can have no other effect than to roll back the desegregation advances made so slowly and so painfully over the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal." This proposed legislation is retrogressive on several counts:

It seeks to alter the substantive standards by which the illegality of school segregation could or should be judged and found wanting.

It seeks to hinder the capacity of the courts to provide relief to those whose constitutional right to a desegregated education has been violated.

It seeks to curb the Executive Branch as an active participant in the effort to desegregate the schools.

It seeks to enshrine the neighborhood school as a fundamental cornerstone of educational policy when, in light of pervasive patterns of neighborhood segregation, this can only have the effect of perpetuating segregated schools.

It would accept the inevitability of the continuation of school segregation and seek to create equal educational opportunity by equalizing racially separate schools, in other words, a reversion to the doctrine and practice of "separate but equal."

These and other provisions in the legislation would render lifeless many of the legal principles established in the Supreme Court's classic Brown decision.

Although the Commission has serious disagreement with the President's premises and recommendations for legislation, we believe that it is not only right and proper, but essential, for the President to address this issue. The Commission is mandated by law to advise both the President and the Congress on these matters, and we speak out with the hope that we may contribute to constructive debate and to successful resolution of the difficult problems involved.

What has divided the Nation on school busing is not so much sharp disagreement on the merits, but confusion as to what the issues really are. Public discussion has not served to illuminate these issues. The complex matter of overcoming in a few years the inequities of the long past through the medium of desegregated schools has been reduced to the question of whether one is for or against busing.

In his message, the President has recognized the need to address these important issues rationally and analytically. In addition, the President has sought to quiet the fear that his legislation placing curbs on busing will mark an end to the effort to achieve equal rights and even undo the advances made in the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal."

Despite the President's assurances, we fear that this legislation will nonetheless have that result. It focuses on the wrong issue—busing—and in so doing will make rational debate over the true issues of school desegregation and quality education much more difficult. Further, if enacted, it would mark a major governmental retreat in the area that has been at the heart of the struggle for equal rights. Retreats in other areas might well follow.

In its fifteen-year history, the Commission has been continuously studying the problems of achieving quality, desegregated education. We have issued numerous reports dealing with various aspects of the problem North and South, and exploring ways in which it can be successfully resolved. We issue this statement out of our present concern that progress in school desegregation not be halted and not be diluted.

LEGAL BACKGROUND

In 1954, the Supreme Court in Brown v. Board of Education of Topeka established that officially sanctioned segregation in public schools violates the 14th Amendment. Most clearly this holding applied to those States in which segregation was expressly required or authorized by law. In recent years, this principle of law has been applied as well to Northern school districts where the courts have concluded that official policies and actions have just as effectively resulted in racial isolation in the schools.

In the 18 years since Brown, not only have the courts continued to interpret what constitutes illegal segregation, but the courts and other agencies of government have been seeking to devise effective remedies for achieving full school integration.

Throughout the late 1950's and 1960's, many school districts adopted a variety of plans which produced little integration—in fact, less than 3 percent in 10 years. In 1968, the Supreme Court made clear that Brown requires the actual abolition of dual school systems—so that there no longer are "white schools" or "black schools," but simply schools.

The loss of time, the loss of opportunity for a generation of our children has been discouraging. But remedies have been developed. A variety of techniques for achieving desegregation have been applied successfully, including the use of attendance zones, pairing of schools, construction of new facilities, such as education parks, and, as a last resort, busing.

The appropriateness of these remedies was fully dealt with last April by the Supreme Court in Swann v. Charlotte-Mecklenburg. In that case, the Court recognized the validity and necessity of each of these remedies—including busing—which courts, with the guidance of Federal, State and local officials, had concluded were the proper means for achieving desegregation and fulfilling the promise of the Brown decision.

It is against the background of this history that the legislation proposed by the President must be viewed.

CURB ON THE COURTS

As the President points out, all three branches of the Federal Government have participated in the effort to end the system of State-imposed segregation in the public schools. As he also points out, however, they have been unequal partners. The courts have carried the heaviest share of the burden. During the ten years following the 1954 Brown decision, the courts labored virtually alone with little if any backing from the executive and legislative branches. The pace of desegregation was painfully slow, in contrast to the court's injunction of "all deliberate speed."

It was not until a decade later that Congress, through enactment of the Civil Rights Act of 1964, and the Executive Branch, through enforcement of Title VI of that law, joined the battle. In recent years the courts again have had to carry the main burden, but the dramatic increase in the pace of desegregation since 1964 demonstrates the impact that all three branches, working together, can have.

The appropriateness of these remedies was the courts has been unfair. Further, the case-by-case approach, which is inherent in the judicial process, is not the most effective way to deal with a problem of national scope and concern. The limited range of remedies available to courts further limits their capacity to meet the problem. Congress, with its power to enact new programs and to appropriate funds, and the Executive Branch, with its power of flexible administration, are necessary partners. Thus we agree with the President when he urges that Congress accept additional responsibility and use its authority under the 14th Amendment for purposes of joining the effort to desegregate the schools.

The courts need support and assistance. However, the legislation proposed by the President would curb, not help, them. It would seek to limit the remedies available to the courts by restricting and, in some cases, removing, their power to order transportation of students. It would also blunt the force of the Executive Branch through similar restrictions. The proposed "Student Transportation Moratorium Act of 1972" would bar, until July 1, 1973 or until appropriate legislation is enacted by Congress, all new busing order, despite the unmistakably clear and strong mandate of the Supreme Court that further delay in carrying out the requirements of Brown is not acceptable. As the Court has said:

"The burden on a school board today is to come forth with a plan that promises realistically to work, and promises realistically to work now."

The proposed "Equal Educational Opportunities Act of 1972" also would place severe curbs on the power of the courts and the Executive Branch to remedy constitutional violations. It would generally prohibit the ordering of desegregation plans that involve an increase in the amount of transportation. For elementary school students, this prohibition would be absolute. It should be stressed that this anti-busing proposal, unlike the one in the "Moratorium" bill, would be permanent. Thus the power of Federal Courts to provide relief to those whose constitutional rights have been violated would be impaired—indefinitely. Further, existing court orders or desegregation plans under Title VI of the Civil Rights Act of 1964 could be reopened and changed.

The legislation also would seek to alter the standard by which courts judge constitutional rights and remedies. Provisions of the bill, such as those emphasizing the appropriateness of neighborhood school assignment and the inviolability of school district lines, would not only impair the courts' power to provide remedies, but also, by seeking to lower the standard of constitutionality, would intrude on the traditional prerogative of the courts. Thus this proposed legislation raises serious constitutional questions concerning separation of powers.

The Commission urges that Congress fully examine these questions, especially those concerning constitutionality, before acting. The courts are the final judges on issues of constitutionality, but Congress has its own heavy responsibility to assure that legislation it enacts is authorized under the Constitution. The Commission believes that the anti-busing provisions in this legislation not only would impede desegregation efforts, but would also undermine the integrity of our Federal judiciary.

Ours is the longest enduring Constitution in the world today precisely because the founding fathers wisely balanced the powers to preserve constitutional and equal rights for all citizens. To tamper with this balance is a threat to the Nation and its future life and health which far transcends the issue of busing.

NEIGHBORHOOD SCHOOLS

What Americans must keep in mind, in the furor over the busing debate, is that to restrict busing in most communities is simply to restrict desegregation. This is so because of the segregated neighborhoods that exist from coast to coast, North and South. It is so because even with a concerted effort to eliminate well-entrenched patterns of housing segregation, it would take generations to undo or even significantly alter them and thus to alter the educational opportunity of the children who live in segregated neighborhoods near inferior, segregated neighborhood schools. What you really say to these children when you say "no busing" is "stay in your place and attend your inferior schools." This will, in reality, cost us another whole generation of badly educated minority children, denied their constitutional rights to equal educational opportunity. No amount of talk about new expenditures to create what, in fact, is a reversion to the unconstitutional and bankrupt policy of "separate but equal" will long delude minority parents or even minority students.

This is not to say, however, that busing is the only means of achieving desegregation. In many towns and cities, busing is not necessary and desegregation can be achieved within the confines of neighborhood school attendance. Great progress can be made through the use of such techniques as redrawing school attendance lines, pairing schools, and creating central schools.

But in many cases these techniques, no matter how skillfully and conscientiously applied, cannot bring about desegregation without busing. That is because very often school attendance areas must be enlarged in order to accomplish desegregation, and some pupils would be too far away from school to walk. In these instances, some pupils have to be transported to school. Sincere and dedicated school officials, school boards and courts across the Nation have sought ways to desegregate schools in a number of cities without busing and have had to conclude, finally, that in some cases there is no other way.

To be sure, busing for desegregation purposes can be inconvenient—but no more so than busing for a number of other educational purposes. The key question is the value we place—for the sake of our children and our society—upon having quality, integrated education. The Commission is convinced that the relatively small amount of busing that is conducted for desegregation purposes is not only justified, but is necessary. The Supreme Court recognized this fact in the Swann case.

The Supreme Court, in Swann, did not ignore the worries of parents about "excessive" busing. The Court said that children should not be bused if the time or distance would endanger either the child's health or education, and that seems a reasonable standard to this Commission. None is endorsing the busing of any child to an inferior school, although just this happened to many past generations of minority children. The fears and concerns about busing, and the extent and inconvenience of it, have been greatly overstated in the course of the debate now sweeping the Nation. Regretfully, too many leaders have been speaking to the base prejudices of the American people rather than to their inherent sense of justice and idealism.

What are the plain facts about busing? Every day nearly 20 million school children go to and from school by bus and their parents seldom complain about inconvenience. Some parents prefer to have their children go to school by bus rather than brave dangerous traffic on foot. Some school boards provide buses for handicapped and gifted children, so that they can attend special schools away from their neighborhoods. Rural areas have virtually abandoned the once-familiar one-room school in favor of modern consolidated schools reached by bus. School districts often take pride in providing transportation for these purposes, sometimes at great cost, knowing that the improved education that awaits the children at the end of the bus ride is what really matters and this is well worth the inconvenience. Only when busing occurs for the purpose of desegregation are objections raised. Some would have us believe that for this purpose, busing is not an inconvenience, but an absolute evil.

The neighborhood school represents, in a sense, the opposite side of the coin of busing. That is, just as the fifty-year old practice of busing represents an inconvenience, not an absolute evil, neighborhood schools represent a convenience, not an absolute good.

As noted, neighborhood schools have been abandoned by the thousands in rural areas in favor of larger consolidated schools commonly reached by bus. The trend of modern educational thought generally is away from the neighborhood school and toward the larger central units that can provide facilities, teachers, services and curriculum not financially feasible in smaller neighborhood schools.

Neighborhood schools realistically should be viewed as only one of several forms of school units, and not as the foundation upon which our entire system of public education should rest. In plain fact, it does not. Therefore it would be a serious mistake for the proposed "Equal Education Opportunities Act" to elevate the neighborhood school concept to the position of a new national policy and purpose. To do so would not only undermine desegregation; it would discourage the efforts of educators seeking to improve the organization of their school system toward providing quality education for every pupil.

EQUAL EDUCATION

The cornerstone of the proposed "Equal Educational Opportunities Act" is the declaration of national policy that:

"All children enrolled in public schools are entitled to equal education opportunity, without regard to race, color, and national origin."

The substantive provisions of the bill, however, seek to carry out this policy at the same time curtailing efforts to desegregate the schools. Indeed the President's message, as well as the legislation, accept the inevitability of continued school segregation and seek other means—the channeling of money into ghetto schools—to achieve equality of educational opportunity.

The essence of the President's proposal is that infusion of money can make racially isolated schools equal and he would allocate up to $2.5 billion in previously requested funds to this purpose. The Commission doubts the value of this approach. In fact, it has not worked even with a larger per student allotment in the schools of Washington, D.C.

In seeking to achieve equal educational opportunity by equalizing segregated facilities, the legislation returns to the tradition of the discarded "separate but equal" rule of Plessy v. Ferguson, which the Brown decision expressly overturned as unconstitutional.

But even if true equality could be achieved under segregated conditions, there is little reason to believe that the expenditures contemplated would accomplish this result. A recent report prepared by Mosteller and Moynihan of Harvard University has reaffirmed that the least promising way to improve education in ghetto schools is through the expenditure of additional funds. Many studies, including the Commission's own, have concluded that amounts far in excess

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of those presently contemplated would be necessary before compensatory programs in ghetto schools would in fact "compensate" in any significant degree.

Is pupil integration any more likely than increased expenditures to achieve our goals? A basic finding of the 1966 Office of Education study, "Equality of Educational Opportunity," (the Coleman Report) was that a child's own family background was by far the most important influence on his school achievement and later life experience. Some have concluded from this finding that the schools are virtually powerless as a positive influence on our children, and that the effort, instead, must be in the area of jobs and income.

We believe there are severe fallacies in this reasoning. First, the reasoning assumes incorrectly that there is only one road to the achievement of equality for minorities. In fact, efforts must be made across the board—in jobs, in housing, and in education—if that goal is to be realized. Experience has taught us that none can be ignored, that there is no quick or simple cure to the social and economic injustices which have been allowed to grow and fester for decades.

Second, this reasoning would lead us to write off at least one more generation of children, knowingly abandoning efforts to help them develop into productive participants in American society and condeming them to lives of inequality.

Third, the conclusion that the schools are powerless to increase and improve their impact on the young is wrong. As the Office of Education study found, as the Commission on Civil Rights' own study, "Racial Isolation in the Public Schools," later confirmed, and as the Harvard University report recently has reaffirmed, the social and economic backgrounds of a child's classmates bear very significantly on his or her achievement in school. It therefore does matter greatly that disadvantaged children not be educated in isolation.

But schools play a much more important function than merely providing children with the technical tools necessary to perform well on achievement tests. It is a function which one commentator has described as "to prepare people not just to earn a living but also to live a life—a creative, humane, and sensitive life." In short, the true measure of how well schools are performing cannot be gained solely by reference to test results. Two years ago, the President underscored the uniqueness of the school as an institution of society:

"It is a place not only of learning but also of living—where a child's friendships center, where he learns to measure himself against others, to share, to compete, to cooperate."

It should also be a place where a child is not isolated in inferior surroundings as part of an unwanted class or race and thus told from the beginning of the process that he is inferior.

The school is the most important public institution bearing on a child's development as an informed, educated person and as a human being with hope for the future. It represents the single most important opportunity afforded to society to interrupt the endless cycle of poverty and, above all, to heal the great social divisions that trouble the Nation. For children of white, affluent society, as well as for minorities, integrated education is essential if they are to thrive in the multi-racial world they will enter and help redeem America's promise, which school children each day are asked to recite and believe in—"One Nation, under God, indivisible, with liberty and justice for all." The Commission believes it would be a serious mistake for Congress to enact legislation—especially legislation entitled "Equal Educational Opportunities Act"—that accepts the inevitability of school segregation, with its demonstrated denial of equal educational opportunity.

Two years ago, the President emphasized the close tie between quality education and desegregation: "Quality is what education is all about; desegregation is vital to that quality."

In that statement the President took a position with which we concurred then and concur now. It is a stand that is just as correct and essential today as it was two years ago. It is a stand from which the President, Congress, American education and the Nation should not retreat.

CONCLUSION

The Commission has discussed its reservations about the proposed legislation mainly in terms of its effect in slowing down progress in school desegregation. Our concerns, however, are much deeper.

Since the Supreme Court decision in the Gaines case in 1937, requiring the admission of a black man to the law school of the University of Missouri, there has been a slow but steady and progressive attack on segregation and discrimination in this Nation. Executive Orders of Presidents beginning in 1941, acts of Congress beginning in 1957, along with other decisions of the courts, have all been directed toward the creation of legally supported standards of behavior that would lead the Nation toward human cohesiveness and racial equality.

Now for the first time in 35 years we are faced with a series of legislative proposals including an amendment to the Constitution that lead us back along a road that this Nation should never see again. These proposals require the Nation to turn its face away from finding solutions to the difficult task of seeking effective ways of implementing the decisions of the courts and the civil rights laws enacted by the Congress. We must now defend the results of 30 years of effort that we thought were fast becoming an accepted part of American manners and morals.

Our fear is that what appears to be an assault on school desegregation, will in fact have the effect of providing solace, comfort, and support to those who opposed all civil rights advances in the past and who may now attempt to roll back the progress made in other areas.

We are also greatly troubled that millions of American citizens of minority group background may well conclude that the laws and court decisions that had begun to generate hope and faith in America's commitment to a desegregated society, with equality and justice for all, was never a true commitment, but only a device designed to muffle the voices of discontent and frustration.

Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

THE FARMER IS NOT TO BLAME FOR RISING FOOD PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, in recent weeks, we have seen mounting criticism of farmers, and more specifically cattlemen, because of increases in food and meat prices.

It is true that prices have risen. But, does it necessarily follow that the farmer and cattlemen are to blame? I think not, as an examination of all of the facts tends to demonstrate that current food and meat prices are not out of line and in fact are real bargains. Furthermore, in the last 20 years, farmers' prices for food products have gone up only 6 percent, and the current beef prices received by the American cattlemen are just now back up to a level of 20 years ago. It is interesting to note that in the same 20-year period, moncy paid the wage earners increased 340 percent, business and professional incomes advanced 200 percent, and dividends rose 300 percent.

Notwithstanding the fact that the increased food prices being paid by the American consumer are obviously going into the pockets of the middlemen and the retailers, criticism of the farmers continues to mount and is approaching the point of the absurd. The latest example of this came from the Chairman of the Price Commission, C. Jackson Grayson, who recently criticized the Secretary of Agriculture's explanation of higher farm prices as being "damaging to the stabilization program," and who announced that hearings will be conducted by the Price Commission concerning farm prices.

I welcome these hearings, Mr. Speaker, for I am confident that enough facts will be brought out to prove to Mr. Grayson that Secretary Butz' points were well made, and that farm prices have fallen far behind the national average.

In the same 20-year period which I have mentioned, farmers today are paying 2.3 times higher wages for help than they did in 1952; farm machinery prices are nearly twice as high; production expenditures have doubled; and farmers' debts have increased five times. During this period the farmers' prices at the farm gate have risen all of 6 percent.

Why then do we hear so much criticism against the farmer? The only reason I can determine is because retail food prices in stores have gone up 43 percent.

The public is angry, but its anger is misdirected against the farmer and cattleman. The 43 percent increase in retail food prices has gone into increased freight rates; container costs; added services and conveniences built into frozen, precooked, premixed, prepeeled, and prepared foods; and higher wages up and down the line.

I am sure that Mr. Grayson was not aware of these facts when he criticized the Secretary of Agriculture, but I know that he will diligently research the record, and will uncover these additional facts.

Though people are complaining about the price of beef, they do not realize that the price per hundredweight is actually lower today than it was 20 years ago. The reason why this is all possible is the fact that farmers' productivity per man-hour is 3.3 times more than it was 20 years ago. Our Nation's farmers are producing two and one-half times as much beef as 20 years ago, and four times as much choice beef. The American consumer is eating twice as much beef per person as 20 years ago, and this is notwithstanding the fact that the farmers' prices increased only 6 percent in the last 20 years.

I was somewhat astonished to read public statements by so-called consumer experts and by some of my Eastern colleagues in the Congress who are urging people to eat less meat. The consumer expert for a food chain in the Washington, D.C., area stated recently that people should eat less meat because the store's meat prices from their suppliers had "skyrocketed." Mr. Speaker, I am genuinely intrigued by this allegation, as the truth of the matter is that wholesale prices for Iowa beef carcasses are today 1 percent less than last August 13 before the freeze went into effect. She would also be interested to know that farmers' cattle prices are 4½ percent less than a month ago, and hog prices are 8 percent less than a month ago.

It is apparent that many of these so-called consumer experts have not the slightest conception of the farmer's position in the marketplace, and that they have even less of an understanding of the fact that retail food costs are increasing because of the processing and distribution costs. Once these costs are up, they harden and stay up. Conversely, the prices of farm products are soft costs in that they fluctuate from month to month but do not harden.

In summary, I believe it is significant to note that today's producers of beef earn about 3 percent return on their investment, compared with the average return on investment for industry of 12 percent. I am quite confident that an examination of the financial records of the food chain which took out the advertisement urging people to eat less meat would reveal that their profit margin in the same period would be considerably greater than 3 percent.

With these facts in mind, we can appreciate that, compared to the rise in the costs of living generally, beef is a real bargain. I am confident that the facts which will be uncovered at Mr. Grayson's hearing will document this, as well as the fact that farm prices are currently exempt from controls for the sound reason that they are subject to severe price competition. As the foregoing facts indicate, this competition is far more effective and beneficial to consumers than that imposed on other businesses by the Government.

So, Mr. Speaker, I suggest that all of these points should be dispassionately considered by the Price Commission, and that the Commission should thereafter report to the American public—in nonemotional language—that the public can harbor no complaints against the farmer and cattlemen. Rather, they are really in their debt for a job well done for a long time.

CONCURRENT RESOLUTION OF THE NEW YORK STATE LEGISLATURE ON THE PLIGHT OF SOVIET JEWS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I should like to place in the RECORD a concurrent resolution of the Senate and the assembly of the State of New York memoralizing the President of the United States and the Congress to encourage the Government of the Soviet Union to end its persecution of the Soviet Jews and other minorities and to permit the free exercise of religion and emigration.

It would be redundant for me to repeat any of the statements made in the resolution which so accurately depict the persecution by the Soviet Union of its Jewish citizens.

The Members of this Congress have heretofore demonstrated their support for these Soviet Jews and the administration, to its credit, has done the same by granting what is tantamount to refugee status to every Soviet Jew permitted to leave the Soviet Union. The Attorney General's commitment on that subject, which permits every such Soviet Jew to enter the United States without regard to quota restrictions, has been hailed as one of the great humanitarian actions of this administration.

I believe it would strengthen the President's position if the Members of this House were to urge him by letter to exert his influence when he meets with Soviet officials on May 22 to persuade them to end the persecution of the Jews and other minorities in the U.S.S.R.; permit the free exercise of religion by all; and allow these Soviet citizens desiring to emigrate to a country of their choice willing to receive them, to do so.

The resolution follows:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY OF THE STATE OF NEW YORK MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS TO ENCOURAGE THE GOVERNMENT OF THE SOVIET UNION TO END ITS PERSECUTION OF SOVIET JEWS AND OTHER MINORITY AND TO PERMIT FREE EXERCISE OF RELIGION AND EMIGATION

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now, therefore, be it

Resolved (if the Assembly concur), That the Legislature of the State of New York memorialize the President of the United States to exert his influence during his upcoming trip to the Soviet Union to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York, in the interest of justice and humanity, memorialize the President of the United States to call upon the Soviet government to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved (if the Assembly concur), That the Legislature of the State of New York petition the United States government to use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

Resolved (if the Assembly concur), That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, *and to each member of the Congress of the United States from the State of New York.*

TAX EQUITY FOR SINGLE TAXPAYERS AND MARRIED PERSONS FILING SEPARATELY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on April 10 the Ways and Means Committee will consider legislation to correct the problems of inequitable tax treatment of single persons and married persons where both the husband and wife are working. On the first day of this Congress I introduced H.R. 850 to remove the tax inequities affecting unmarried taxpayers. Today, I have revised H.R. 850 through the introduction of H.R. 14193 to take care of the problem of higher taxes that married persons filing separately are now confronting in paying their 1971 tax bill.

Over 30 million unmarried taxpayers will be penalized this year because of their marital status. They will be taxed at a rate that is up to 20 percent more than that applied to married taxpayers filing joint returns. An additional and equally serious inequity exists for married people, both of whom work; if these people file separately for taxable year 1971 their taxes will be even higher than those of single taxpayers. I have received many letters from constituents suggesting that our tax structure now encourages divorce and relationships without marriage. My own view is that these higher rates for married persons filing separately are a result of the mistaken belief by many that salaried work by a wife is a luxury. While it may be true that some family incomes are substantially increased because of a wife's work, the greater majority of working women come from lower and middle income families and they are working to meet today's high cost of living. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

H.R. 850, as amended, would eliminate these rate inequities by simply establishing a uniform rate structure for all taxpayers. This means that all earned income would be taxed at the same graduated rate, regardless of one's marital status.

I believe that taxes should reflect differences in a taxpayer's responsibilities

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for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilites in supporting six dependents as opposed to, say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can most effectively be reflected through an adequate dependent exemption. I have introduced legislation to increase the personal exemption and the exemptions for dependents to $1,200.

It is important that the Congress act this year to remove these inequities; the distinguished chairman, Mr. MILLS of Arkansas and his colleagues on the Ways and Means Committee are to be commended for their initiative in taking up this matter.

COMMENTS ON SECTION 202(B)(2) OF H.R. 11896

(Mr. GROVER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, some question has arisen as to the committee's intent in using the phrase "injected into" in section 202(b)(2) of H.R. 11896, the Federal Water Pollution Control Act Amendments of 1972, and for purposes of legislative history, I would like to discuss its meaning in the context of the bill.

Paragraph (2) is concerned with situations where drinking water shortages may force added treatment of the effluent from a treatment plant so that it may be returned to the ground in order to recharge the fresh water supply. Such recharge would prevent the loss of valuable drinking water which would otherwise be disposed of into the navigable waters through the use of a sewer outfall.

"Injected into" is a term of art, and is not limited to use of so-called injection wells, or any other specific method of recharge. In this context the phrase means any method which will result in the treated effluent being returned to the ground water consistent with acceptable technological standards.

A reading of the committee report on the bill confirms this interpretation. House Report 92-911, pages 89-90, 99. The report speaks in terms of recharge, which, as suggested above, encompasses all methods of returning the effluent to the water supply.

Such interpretation makes good sense. It allows for maximum flexibility, and does not lock any project into a specific method which would preclude the development of a better, and less expensive approach in the future.

Such flexibility and upgrading of treatment methods, through technological advances, is precisely the kind of development we are trying to encourage in H.R. 11896.

COSTS OF ACHIEVING ZERO DISCHARGE BY 1981 AND 1985

(Mr. GROVER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROVER. Mr. Speaker, a great deal has been said about the costs of achieving the "Zero Discharge" goal by 1981 by industries, and by 1985 by municipalities. We have heard one estimate after another, and each has been attacked or supported, depending upon where one stands.

One of the most recent cost estimates, although of a very limited nature, has been cited as proving pollution abatement would not cost so much after all, that it is within our means. This is the report entitled "The Economic Impact of Pollution Control," prepared by consulting firms for the executive branch of the Government. But a most significant part of that report, which failed to get into the headlines, was that this study related only to present water quality standards, and that it has no relationship whatsoever to any pending legislation. It certainly did not relate to zero discharge.

It is not my purpose to attack or support any estimate that has been made. Rather, I think we in Congress should agree that we really do not know the answer, and then do the best we can to see the most definitive, sophisticated, and scientific information as possible before we enact legislation that would set up on a course which could result in enormously wasteful expenditures without comparable benefits before the course could be redirected.

New York's present water quality standards and policies require that its waters be suitable for recreation, with the exception of four shipping harbors. Even now, boating is a perfectly safe recreational use in our harbors, providing a pleasure craft is not run down by a commercial vessel. It will cost an additional $5 billion to achieve New York's standards, largely by 1976, but it can be achieved only if adequate funds are available. This will be a heavy burden on New York State taxpayers. Should not they be told what it will cost them to go to a pre-Christopher Columbus water quality standard for its waters, particularly in its commercial shipping areas, since there may not be a comparable benefit to man and the ecology? I think they should.

We have one major example of higher costs to achieve a high degree of removal right here in our own backyard—the Blue Plains sewage treatment facility, which serves much of the Washington, D.C., area. The official estimate for increasing the capacity from its present 240 million gallons a day to 309 million gallons a day, and to provide a high degree of secondary treatment of 90 percent removal, was $80 million. However, the decision was made to increase the level of treatment to 97 to 98 percent removal; this decision increased the cost to $360 million, but no more than 309 million gallons a day is to be treated.

An even more dramatic example of higher costs was given by Governor Rockefeller last July 28 before the House Public Works Committee. The 1967 estimated cost for primary treatment at the North River plant serving 1 million people in New York City was $42.5 million; following an enforcement conference a minimum of secondary treatment was required, and the cost was escalated to $220 million. There was another enforcement conference calling for a higher degree of secondary treatment, and, the cost was escalated to $395 million. Due to a number of factors, especially including inflation because of time delays, the cost of the project now is estimated at $765 million. Mr. Speaker, I insert in the RECORD an excerpt from Governor Rockefeller's testimony, which provides further details of the escalated costs at the North River plant:

Perhaps the most dramatic example of what has happened to treatment plant costs and why states and localities must have more Federal aid is the mammoth North River project in New York City.

This plant, which will serve over one million people living on Manhattan, was estimated in 1957 to cost $42.5-million. With the completion of detailed design in 1962, the cost was revised upward to $100-million which the City was unable to finance. However, planning for the project resumed with passage of the State's Pure Waters Bond Issue in 1965, which guaranteed the City 60 per cent of costs between State aid and State pre-financing of Federal aid.

Following the agreements reached at the Federal-State Lower Hundon River Enforcement Conference for a minimum a secondary treatment, the cost of the North River project was estimated at $220-million. This price allowed for, but did not include, the cost of park on top of the plant which had been added as a community amenity.

Following the upgrading of the requirements to an even higher degree of secondary treatment at a second Federal-State conference, the cost estimate was raised to $395-million, of which $133-million is firm and under construction.

At the end of June 1971, bids were received for the substructure of the main plant, a $97-million project not yet under contract. The low bid, however, was $228-million. The total cost, therefore, may escalate from $305-million to $600-million or more, from an initial estimate 14 years ago of $42.5-million.

Mr. Speaker, if we are to start on the road to zero discharge now, why not use these known yardsticks of the costs involved and the benefits to be gained, and simultaneously authorize the money to pay for it? If we do not we are fooling the American people, and no wonder they are losing faith in their governments.

Last November the Council on Environmental Quality estimated that it would cost $316.5 billion to carry out the zero discharge policy in the Nation. This estimate included only municipal and industrial facilities. It did not include treatment of urban storm drain water, which is a requirement under the Senate bill. Neither did the estimate include land acquisition or the costs of relocating thousands of families, so that their land could be used to dispose of the treated sewage. Nor did the estimate include the cost of building holding basins for storm water.

A month later Governor Rockefeller testified again before the Public Works Committee. He said it would cost $239 billion to carry out zero discharge in New York State alone.

NEW YORK STATE

A. CONSTRUCTION COSTS

[Costs of achieving differing levels of abatements for its 1-year and 5-year programs, as required in S. 2770]

I. MUNICIPAL TREATMENT PLANTS

[Including interceptors, pump stations, and related facilities eligible for grants under present programs, the costs for which would increase through growth or inflationary factors]

[In billions of-dollars]

Level of removal	Present facilities (2.5 b.g.d.[1]) Additional	Present facilities (2.5 b.g.d.[1]) Cumulative	Future facilities[2] (1 b.g.d.) Additional	Future facilities[2] (1 b.g.d.) Cumulative	Total (3.5 b.g.d.) Additional	Total (3.5 b.g.d.) Cumulative
100 percent	$4.3	$5.2	$1.7	$6.0	$6.0	$11.2
Tertiary 90 to 99 percent	.9	.9	.4	4.7	1.3	5.8
Secondary 85 to 90 percent (present)	0	0	4.3	4.3	4.3	4.3

II. STORM WATER

[To provide treatment capacity to handle about 86.5 b.g.d.t. This does not mean it would rain this much each day, but even though the equipment would be idle much of the time, we would have to be prepared for this capacity]

100 percent	0	0	$65.0	$150.0	$65.0	$150.0
Tertiary	0	0	32.0	95.0	32.0	95.0
Secondary	0	0	63.0	63.0	63.0	63.0

[1] Billion gallons per day.
[2] 1-year; 5-year lists (does not include replacement costs).

III. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1.0 b.g.d.[1]
100 percent	.93	1.40	2.33
Tertiary	.45	.67	1.02
Secondary	0	.48	.48

[1] Billion gallons per day.

IV. POWERPLANTS—COOLING WATER

Level of removal	Present facilities (10 b.g.d.[1]) cumulative	Future facilities (30 b.g.d.[1]) cumulative	Total (40 b.g.d.[1]) cumulative
100 percent	$0.5	$1.5	$2.0
None	0	0	0

[1] Billion gallons per day.

V. SEPARATION OF COMBINED STORM AND SANITARY SEWERS

	1969 dollars[1]	1971 dollars
National	$48	$61
New York State	13	16

[1] American Public Works Committee report estimated total separation would cost about $48,000,000,000 ($30,000,000,000 public, $18,000,000,000 private).

VI. SUMMARY OF COSTS OF 100 PERCENT REMOVAL ("NO DISCHARGE")

	Amount
1. Municipal plants	$11.20
2. Industry	2.33
3. Powerplants: Cooling water	2.00
Subtotal	15.53
4. Storm water	150.00
5. Separation of combined storm/sanitary sewers	16.00
Total	181.53

Note: Estimates based on 1971 dollars. If consideration were given to "normal" economic growth of 5 to 6 percent a year (which is regarded as noninflationary), or to the current rate of inflation in construction costs (now at the rate of about 1½ percent per month), the figures would be a great deal higher.

B. ANNUAL OPERATION AND MAINTENANCE COSTS

I. MUNICIPAL TREATMENT PLANTS

[Millions of dollars (all 1971 dollars)]

Degree of removal	Existing facilities (2.5 b.g.d.[1]) Additional	Existing facilities (2.5 b.g.d.[1]) Cumulative	Future facilities (1 b.g.d.[1]) Additional	Future facilities (1 b.g.d.[1]) Cumulative	Total (3 b.g.d.[1]) Additional	Total (3 b.g.d.[1]) Cumulative
100 percent	$242	$472	$97	$189	$339	$661
Tertiary	195	230	49	92	234	322
Secondary (present)	[2] 45	[2] 45	43	43	88	88

[1] Billion gallons per day.
[2] Many existing facilities provide less than secondary treatment; thus, operation and maintenance costs are low.

II. INDUSTRIAL

	Volume: 0.4 b.g.d.[1]	Volume: 0.6 b.g.d.[1]	Volume: 1 b.g.d.[1]
100 percent	$76	$114	$190
Tertiary	37	55	92
Secondary	17	26	43

III. POWERPLANTS—COOLING WATER

	Volume: 10 b.g.d.[1]	Volume: 30 b.g.d.[1]	Volume: 40 b.g.d.[1]
100 percent	$30	$70	$100
None	0	0	0

[1] Billion gallons per day.

IV. STORM WATER RUNOFF IN URBAN AREAS

[10 percent of New York's land area; assuming all storm and sanitary sewers are separated]

100 percent	$0	$1,350	$1,350
Tertiary	0	658	658
Secondary	0	309	309

Note: Yearly volume: 2,610 billion gallons per year. Daily rate: 86.5 billion gallons per day. Assumption: 30 days of rain each year (i.e., 2,610 billion gallons per year divided by 86.5 billion gallons per day equal 30). 75 percent of rain now runs off to streams; 25 percent soaks into ground. Capital cost for construction of a 1,000,000-gallon-per-day treatment facility for storm water is the same as for treatment of municipal waste. However, O. & M. costs, based on 30 days a year that the plants would operate, would be much lower for storm water.

C. WORK SHEET

Construction Costs: 1-year; 5-year programs for municipal treatment plants. Replacement costs not estimated.

Operation and maintenance: Costs projected over 20 and 25 years.

O. & M. figures from administration showed costs over 20 to 25 years; the paper did not include storm water costs.

	In billions
20 years:	
Municipal—$0.661×20	$13.22
Industrial—$.190×20	3.80
Power plants, cooling water—$1×20	2.0
Storm water—$1,350×20	27.0
Total O. & M., 20 years	46.02
Construction costs (see paper A)	181.53
Total	$227.55
25 years:	
Municipal—$0.661×25	15.525
Industrial—$0.190×25	4.750
Powerplants, cooling water $1×25	2.5
Storm Water—$1,350×25	33.750
Total O. & M., 25 years	57.525
Construction costs (see paper A)	181.53
Total	239.055

V. SUMMARY OF O. & M. COSTS OF 100-PERCENT REMOVAL

[In billions of dollars]

	Annual	X 20 years	X 25 years
Municipal	$0.661	$13.22	$15.525
Industrial	.190	3.80	4.750
Powerplants/cooling water	.100	2.0	2.50
Storm water	1.350	27.0	33.750
Total	2.301	46.02	57.525

He extrapolated this across the Nation, and estimated it would cost between $2 and $3 trillion to carry out zero discharge nationwide.

Governor Rockefeller's estimate was based on demonstrated experience in New York, and no State has more professional competency to deal with the problem of estimating costs for even a slightly higher degree of treatment. The State's estimates must be within the "ball park," since the State has had to commit its own funds to pay for the treatment—only $210 million of the costs are being paid by the Federal Government for all New York's projects approved through June 30, 1971, compared to the State commitment of about $1½ billion.

There were several key omissions in the Governor's estimate, however, just as there were in CEQ's. Although the Governor dealt with the treatment of storm water, he did not estimate how much it would cost to acquire the three northern counties in New Jersey on which to dispose of the wastes of New York City. He did not say how much it might cost to relocate the families that live in those three counties. He did not say how much it would cost to build a holding basin for storm water, which might be the size of Long Island Sound.

Those three northern counties in New Jersey would be inadequate for New York City's wastes unless the effluent were treated to a very high quality prior to spraying it on the land. Otherwise, those three counties would be incapable within a very short time of absorbing the city's wastes, and we would be left with a poisoning of the land and an odor pollution of the environment beyond anyone's imagination.

Over 5,000 square miles would be required for all the wastes in the State, even if all discharges were treated to zero. Since New York has approximately 10 percent of the pollution in the Nation, 50,000 square miles would be required. That is more land than is in New York, which has 47,000 square miles.

If land, holding basins, and relocation of families had been included in Governor Rockefeller's estimate, the costs surely would have to be doubled, and the national cost would zoom to $5 trillion.

It would cost an estimated $5 billion to finish the job of meeting present water quality standards in New York State; these standards call for recreational quality water in most cases. It may cost $500 billion to achieve zero discharge in New York State. This is a vast difference, and for what purpose?

We should find out with such as the detailed Academies of Science and Engineering costs and benefits study provided in the committee bill and specific determination of direction by the Congress based on facts rather than emotional rhetoric. Otherwise both the environment and the economy may suffer from our ecological impetuosity.

NO TOLERANCE FOR FILTH

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, the Food and Drug Administration released the text which appears below, of its "defect level in foods" or standards which sanction the presence of contaminants in our food. I was shocked and dismayed to learn that the FDA is in the business of allowing such foreign matter in our food—and has been since about 1910—and that it has taken this long for the facts to come out into the open. This information should have been made public long ago. Also, I share the concern of consumers who now know they can never be sure they are buying pure food. Maybe the FDA will tolerate these filth levels, but I doubt that the American consumer will or should.

Unfortunately, the issue of food contamination is not simply a matter of esthetics, as some portray it, but is a matter of health. In a study of contamination of black pepper, which appears below, originally published in 1967 in Applied Microbiology, Dr. C. M. Christensen, of the University of Minnesota, revealed that such extraneous matter present in pepper produces dangerous toxins which may be hazardous to humans.

Although the FDA claims to upgrade its allowances as technology progresses, I have ascertained that there has never been a wholesale review of the "defect level" policy and many allowances have apparently remained unaltered on the books for decades. Rather than meekly accepting the word of manufacturers who claim they cannot eliminate filth, the FDA should see to it that the processing and storage of foods result in as pure products as are technologically possible. And rather than setting permissible levels, the FDA should regard any "defect" as a signal that something more must be done to assure wholesome food.

As I see it, these defect levels run counter to the very heart of the Federal food laws which prohibit the sale of adulterated and misbranded foods. Several weeks ago, I called upon the House Public Health Subcommittee to conduct an investigation of the food industry based on evidence that unwholesome and contaminated food was being sold to American consumers. These "defect action levels" dramatically emphasize the need for Congress to investigate quality of food production in the United States.

The following is the text of the FDA's "Defect Action Levels":

FOOD AND DRUG ADMINISTRATION—DEFECT ACTION LEVELS

Current Levels for Natural Or Unavoidable Defects in Food For Human Use That Present No Health Hazard:

PRODUCT AND DEFECT ACTION LEVEL

Chocolate and Chocolate Products:

Chocolate and Chocolate Liquor: Average of 150 insect fragments per subdivisions of 225 grams or 250 insect fragments in any one subdivision of 225 grams. Average of 4 rodent hairs per subdivisions of 225 grams or 8 rodent hairs in any one subdivision of 225 grams. Shell, in excess of 2% alkali-free nibs.

Cocoa Powder, Press Cake: Average of 150 insect fragments per subdivisions of 100 grams or 250 insect fragments in any one subdivision of 100 grams. Average of 4 rodent hairs per subdivision of 100 grams or 8 rodent hairs in any one subdivision of 100 grams. Shell in excess of 2% alkali-free nibs.

Cocoa Beans: 4% show mold or 4% insect infested or damaged or total of 6% show mold and insect infested.

Coffee Beans: 10% or more by count are insect infested, insect damaged or show mold.

Eggs & Frozen Egg Products:

Dried Whole Eggs, Dried Egg Yolks: Decomposed as determined by direct microscopic count of 100,000,000 bacteria per gram.

Frozen Eggs and Other Frozen Egg Products: Two cans contain decomposed eggs; and subsamples examined from cans classed as decomposed have counts of 5,000,000 bacteria per gram.

Fish, Shellfish, and Seafood:

Blue Fin and Other Fresh Water Herring:

Fish averaging 1 lb. or less: 60 cysts per 100 fish provided that 20% of the fish examined are affected.

Fish averaging over 1 lb.: 60 cysts per 100 lbs. of fish, provided that 20% of the fish examined are affected.

Rose Fish (Red Fish and Ocean Perch): 3% by count of the fillets examined contains one or more copepods.

Fresh and frozen fish: 1. 5% by count of fish or fillets in sample (but no less than 5) show class 3 decomposition over at least 25% of their areas; or,

2. 20% of the fish or fillets in the sample (but not less than 5) show class 2 decomposition over at least 25% of their areas; or

Fresh and frozen fish, as listed, Tullibees,

3. The percentage of fish or fillets showing class 2 decomposition as above, plus 4 times the percentage of those showing class 3 decomposition as above, equals at least 20 and there are at least 5 decomposed fish or fillets in the sample.

Definition of classes of Decomposition: Class 1—no odor of decomposition; Class 2—slight odor of decomposition; and Class 3—definite odor of decomposition.

Ciscoes, Inconnus, Chubs and White Fish: 50 cysts per 100 pounds (whole fish or fillets), provided that 20% of fish examined are infested.

Flours and Cornmeals:

Corn Meal: 1. 20% of the subdivisions contain over 100 insect fragments per 50 grams or 2 insects of equivalent per 50 grams and an additional 20% of the subs show over 25 insect fragments per 50 grams or one insect or equivalent per 50 grams; or

2. 20% of the subs contains over 5 rodent pellet fragments per 50 grams and an additional 20% of these subs contain over 2 rodent pellet fragments or detached rodent hairs per 50 grams.

Fruit:

Apricots (canned): Average is 2% or more by count insect infested or insect damaged.

Caneberries (canned and frozen) (blackberries, raspberries, etc.): Frozen black raspberries: microscopic mold count average exceeding 60%. Insects: Canned or frozen caneberries (blackberries, raspberries, etc.) average of 4 larvae per 500 grams or average of 10 larvae and insects per 500 grams (excluding thrips, aphids, and mites).

Cherries brined, fresh canned and frozen:

1. Brined and Maraschino—average of 5% rejects due to larvae.

2. Fresh, canned or frozen—average of 10% rejects due to rot.

3. Fresh, canned or frozen—average of 4% insect infested cherries.

Citrus fruit juices, canned: Microscopic mold count average exceeding 15%. Drosophila and other fly eggs—10 per 250 ml. Drosophila larvae—2 per 250 ml.

Currants: Average of 5% by count have larvae.

Figs: More than 10% by count insect infested and/or show mold and/or dirty fruits or pieces of fruit.

Lingon Berries (canned): 3 or more larvae per lb.

Multer Berries (canned): Average of 40 thrips/No. 2 can.

Olives: Pitted: average of 1.3% by count of olives with pit fragments 2 mm. or longer measured in the longest dimension, exclusive of whole pits.

Salad olives: average of 1.3 pit fragments per 300 grams, including whole pits and fragments 2 mm. or longer measured in the longest dimension.

Salt cured olives: Insect: average of 15% by count of olives with 10 scale insects each; or, average of 25% by count of olives show mold.

Imported Black or Green: average of 10% by count wormy or worm-cut.

Salad Type: Average of 12% by weight insect infested and/or insect damaged due to the olive fruit fly.

Peaches: Average of 5% wormy or moldy fruit by count or 4% if larva or equivalent is found in 20% of the cans.

Pineapples (canned, crushed): Microscopic mold count average exceeding 30%.

Plums (canned): 5% by count of plums with rot spots larger than the area of a circle 12 mm. in diameter.

Prunes, dried: 10% by count insect infested and/or show mold and or dirty fruits or pieces of fruit.

Pitted Prunes: average of 3% (by count) prunes with whole pits and/or pit fragments 2 mm. or longer; and four or more of the 10 subs examined exceed 3% prunes (by count) with whole pits and/or pit fragments 2 mm. or longer.

Raisins: Mold: natural raisins average more than 5% by count that show mold.

Sand: average is more than 40 milligrams of sand and grit per 100 grams of natural or Golden Bleached raisins.

10 or more insects or equivalent and 35 or more drosophila eggs per 8 ounces of Golden Bleached raisins.

Strawberries: Microscopic mold count average exceeding 55% and the mold count of ½ or more of the subsamples is more than 65%.

Grains:

Popcorn: 1. One rodent pellet in one or more subs upon examination of 10/225 gram subs or 6/10 oz. consumer size packages and one rodent hair in other subs; or

2. Examination shows two rodent hairs per pound and rodent hairs in more than half the subs; or

3. Examination shows 20 gnawed grains per pound, provided that rodent hairs are found in more than half the subs;

4. Examination shows field corn in the popcorn exceeds 5% by weight.

Wheat: One rodent pellet per pint. 1% by weight of insect damaged kernels.

Jams, Jellies, Fruit Butters and Fig Paste:

Apple Butter: Microscopic mold count average exceeding 12% Rodent: average of more than 8 rodent hairs per 100 grams of apple butter.

Insects: average of more than 5 insects or insect parts (not counting mites, aphids, thrips, scales) per 100 grams of apple butter.

Black Cherry Jam: Microscopic mold count exceeding 50% in the average of the subs.

Black Currant Jam: Microscopic mold count exceeding 75% in the average of the subs.

Fig Paste: Over 13 insect parts per 100 grams of fig paste in each of 2 or more subsamples.

Miscellaneous:

Corn Husks (for tamales): Over 5% by weight of the corn husks examined are insect infested (including insect damaged) or moldy.

Nuts:

Tree Nuts: Nuts in Shell and Shelled Nuts.

Reject nuts (rancid, moldy, gummy & shriveled or empty shells) determined by microscopic examination in excess of the following limits:

Unshelled percent—Almonds 5%, Brazils 10%, Green Chestnuts 15%, Baked Chestnuts 10%, Filberts 10%, Pecans 10%, Pistachios 10%, Walnuts 10%, Lichee Nuts 15%, and Pili Nuts 15%.

Shelled percent—Almonds 5%, Brazils 5%, Cashews 5%, Dried Chestnuts 5%, Filberts 5%, Pecans 5%, Pistachios 5%, Walnuts 5%, and Pili Nuts 10%.

Mixed Nuts in Shell—The percent of reject nuts for any one variety exceeds the above percentage for the same variety. The above limits apply for orchard type insect infestation.

Peanuts and Peanut Products:

Peanuts, shelled and unshelled: *Unshelled:* average more than 10% deteriorated or unsound nuts.

Shelled: average more than 5% deteriorated or unsound nuts.

The shelled peanuts contain an average of 20 or more insects or equivalent per whole bag sifting (100-pound bag basis).

Peanut Butter: Average of 50 insect fragments per 100 grams; or, average of 2 rodent hairs per 100 grams. Grit: gritty to the taste and the water-insoluble inorganic residue is more than 35 milligrams per 100 grams.

Spices:

Allspice: Average of more than 5% moldy berries by weight.

Bay (laurel) Leaves: Average more than 5% moldy pieces by weight; or average more than 5% insect infested pieces by weight; or average of 1 milligrams excreta per pound after processing.

Capsicum: *Capsicum Pods:* average of more than 3% insect infested and/or moldy pods by weight; or average of more than 1 milligram of excreta per pound.

Capsicum Powder: Microscopic mold count average exceeding 20%; or average of more than 50 insect fragments per 25 grams; average of more than 6 rodent hairs per 25 grams.

Cassia or Cinnamon (Whole): Averages 5% or more moldy pieces by weight; or averages 5% or more insect infested pieces by weight; or average of more than 1 milligram of excreta per pound.

Cloves: Average of more than 5% stems by weight.

Condimental Seeds other than Fennel Seeds and Sesame Seeds: Average of more than 3 milligrams of excreta per pound.

Cumin Seed: Average of more than 9.5% ash and/or more than 1.5% acid insoluble ash.

Curry Powder: Average of more than 100 insect fragments per 25 grams or average of more than 8 rodent hairs per 25 grams.

Fennel Seed: 20% or more of subsamples contains excreta and/or insects or average of more than 3 milligrams of excreta per pound.

Ginger (Whole): Averages more than 3% moldy and/or insect infested pieces by weight; or average of more than 3 milligrams of excreta per pound.

Hops: Average of more than 2500 aphids per 10 grams.

Leafy Spices, other than Bay Leaves: Averages more than 5% insect infested and/or moldy pieces by weight; or average of 1 milligram of excreta per pound after processing.

Mace: Average more than 3% insect infested and/or moldy pieces by weight—or average of more than 3 milligrams of excreta per pound; or average of more than 1.5% foreign matter through a 20-mesh sieve.

Nutmegs: Average more than 10% insect infested and/or pieces showing mold by count.

Whole Pepper, Black: Averages more than 1% insect infested and/or moldy pieces by weight; or average of more than 1 milligram of excreta per pound. Average of more than 1% pickings and siftings by weight.

Sesame Seeds: Average of more than 5% insect infested or decomposed seeds by weight; or average of more than 5 milligrams of excreta per pound; or average of more than 0.5% foreign matter by weight.

Vegetables:

Asparagus, Canned or Frozen: 15% of spears by count are infested with 6 attached asparagus beetle eggs or egg sacs.

Beets, Canned: Pieces with dry rot exceed 5% by weight in the average of the subs.

Broccoli: Over 80 aphids or thrips/100 grams in the average of all subs examined.

Brussel Sprouts (frozen): Average is more than 40 aphids and/or thrips per 100 grams.

Corn (Sweet, canned): Examination of 24 pounds (24 No. 303 cans or the equivalent) shows the following: two 3 mm or longer larvae, cast skins, larval or cast skin fragments of corn ear worm or corn borer, *and* aggregate length of such larvae, cast skins, larval or cast skin fragments exceeds 12 mm.

Greens Canned: Average of more than 10% of leaves by count or weight show mildew over ½" in diameter.

Mushrooms, canned: 1. Average of over 20 larvae per 100 grams of drained mushrooms and proportionate liquid; or average of over five 2 mm. or longer larvae per 100 grams of drained mushrooms and proportionate liquid.

2. Mites—average of 75 mites per 100 grams drained mushrooms and proportionate liquid.

3. Decomposition—average of over 10% decomposed mushrooms.

Peas, Black-Eyed, Canned (cowpeas, field peas): Average of 5 cowpea curculio larvae or the equivalent per No. 2 can.

Peas, Black-Eyed, Dried (cowpeas, field peas): Average 10% or more by count insect damage.

Peas and Beans—Dried: Average more than 5% by count insect infested and/or insect damaged by storage insects.

Spinach, canned or frozen: Canned only: average of more than 60 aphids per 100 grams of drained spinach, and 25% of the subsamples contain more than 100 aphids per 100 grams of drained spinach; or 2 spinach worms (caterpillars) of 5 mm. in length are present in 12 No. 2 cans.

Canned or Frozen: if spinach leaf miners average over 9/100 grams with more than half the larvae over two mm. in length. Average of more than 10% leaves by count or weight show mildew over ½" in diameter.

Tomatoes and Tomato Products:

Canned Tomatoes: 10 fruit fly eggs per 500 grams or 5 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Juice: 10 fruit fly eggs per 100 grams or 5 fruit fly eggs and 1 larva per 100 grams, or 2 larvae per 100 grams.

Tomato Puree: 20 fruit fly eggs per 100 grams or 10 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Paste, Pizza and Other Sauces: 30 fruit fly eggs per 100 grams, or 15 fruit fly eggs and 1 larvae per 100 grams, or 2 larvae per 100 grams.

Tomato Catsup: Microscopic mold count average exceeding 30%.

Tomato Juice: Microscopic mold count average exceeding 20%.

Tomato Paste or Puree: Microscopic mold count average exceeding 40%.

Tomato Sauce (Undiluted): Microscopic mold count average exceeding 40%.

Canned Tomatoes, with or without added tomato juice: Microscopic mold count average of the drained juice exceeding 15%.

Canned Tomatoes Packed in Tomato Puree: Microscopic mold count average of the drained packing media exceeding 25%.

Pizza Sauce (Based on 6% Total Tomato Solids after Pulping): Microscopic mold count average exceeding 30%.

Tomato Soup and Other Tomato Products: Microscopic mold count average exceeding 40%.

The following is the text of Dr. Christensen's article:

Microflora of Black and Red Pepper

(By C. M. Christensen, H. A. Fanse, G. H. Nelson, Fern Bates, and C. J. Mirocha, Department of Plant Pathology, and College of Veterinary Medicine, University of Minnesota, St. Paul, Minn.)

(Received for publication December 23, 1966)

Dilution cultures of 30 samples of ground black pepper yielded an average of 39,000 colonies of fungi per g, with a range of 1,700 to 310,000 per g. Total numbers of colonies of bacteria from 11 samples averaged 194,000,000 per g, with a range from 8,300,000 to 704,000,000 per g. A variety of fungi grew from nearly all surface-disinfected whole peppercorns that were cultured. Thirteen samples of ground red pepper from the United States yielded an average of 1,600 colonies of storage fungi per g and an equal number of other fungi; five samples from India yielded an average of 78,900 colonies of storage fungi per g and 169,400 colonies of other fungi per g. Among the fungi from both black and red pepper were *Aspergillus flavus* and *A. ochraceus*, some isolates of which, when grown for 8 to 10 days on moist autoclaved corn and fed to white rats or to 2-day-old Pekin ducklings, were rapidly lethal to them. Aflatoxin B_1 was isolated from one of the samples of corn which *A. flavus* from black pepper was grown. Among the bacteria isolated from ground black pepper were *Escherichia coli*, *E. freudii*, *Serratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylococcus* sp., and *Streptococcus* sp. No cultures of *Shigella* or *Salmonella* were found.

Black pepper is the fruit of *Piper nigrum* L., and is produced chiefly in India and Indonesia; white pepper consists of seeds of the same plant, divested of the tissues that make up the fleshy outer portion of the fresh fruits. Red peppers are the fruit of several species of *Capsicum*, cultivated in many countries. These spices do not undergo any processing, other than drying and grinding, before being added to foods. Over the past 15 years, one of us (C. M. Christensen) has repeatedly cultured various food products to determine the numbers and kinds of fungi present in them. Samples of whole or ground black pepper from various sources usually were included among these, and every sample of black pepper so cultured yielded large numbers of colonies of several species of *Aspergillus*. The *A. glaucus* and *A. restrictus* groups predominated in most samples, but occasionally rather large numbers of colonies of *A. flavus* and *A. ochraceus* were found. In view of the present interest in some of these fungi as possible producers of toxins, a more thorough investigation of the microflora of black and red pepper was thought to be of interest, and the present paper summarizes the results to date.

Materials and Methods

Number and source of samples. A total of 55 samples of black pepper were cultured, 50 of ground black pepper and 5 of whole peppercorns. A few samples of whole and ground white pepper were included. Of the 55 samples of black pepper, 30 were bought in stores in or near St. Paul, and comprised 8 brands; 4 came from homes; 3 from passenger planes of different airlines; 1 from a U.S. Navy supply ship; and the rest from restaurants and clubs in Minnesota, Massachusetts, New York, Maryland, and Washington, D.C., in the U.S.; and from London, England; Warsaw, Poland; and New Delhi, India. Nineteen samples of red pepper were cultured; 13 were bought in stores in St. Paul, and were presumably from fruits grown in this country; the other 6 were from India.

Microscopic examination. Whole peppercorns, usually 100 of each sample, were sectioned, and the cavities within the outer rind and within the seed were examined for mycelium, sporophores, or decayed tissues.

Culture media and methods. Several culture media were tested, as described below. Whole peppercorns, usually 100 to 200 of each sample, were cultured with and without previous surface disinfection (surface disinfection consisted of shaking the kernels for 1 min in 2% NaClO, followed by a sterile water rinse). The samples of ground pepper were cultured by various means. If only a small amount of pepper was available, as was true of many of the samples collected in restaurants and planes, or obtained from homes, portions of 10 mg each were weighed out on sterile metal foil and scattered on each of two or more culture dishes. Where larger amounts were available, as with the samples bought in stores, dilution cultures were made as follows: for fungi, 100 mg of ground pepper was suspended in 50 ml of 0.12% solution of sterile agar in water contained in milk dilution bottles; the dilute agar solution kept the particles suspended uniformly. Each bottle was shaken briskly 100 times; then two or more portions of 1 ml each were put in sterile petri dishes, melted agar cooled to 50 to 52 C was added, the contents were swirled to suspend the material uniformly, and the agar was allowed to harden. Alternatively, 1-ml portions were pipetted onto the surface of the agar in each of two or more replicate dishes. Some of the lots of pepper, in which the first tests had revealed large numbers of colonies of fungi per gram, were cultured repeatedly, at different dilutions up to 1:5,000, with 4 to 10 plates per dilution. To determine the total number of colonies of bacteria per gram, 1 g of ground pepper was comminuted in 500 ml of the suspension medium in a blender for 1.5 min, and 5 ml of the resulting suspension was placed in 500 ml of suspension medium and shaken 100 times; 5 ml of this was placed in 500 ml of the suspension medium and similarly shaken. Portions of 1 ml of each of the second and third suspensions were pipetted into each of four dishes, and tryptone-glucose-yeast-agar (1) cooled to 50 C was added. The dishes were swirled to distribute the suspension uniformly and were incubated at 30 C. Colonies were counted after 24 and 48 hr. Controls consisted of autoclaved ground pepper or autoclaved sand, cultured by all of the above methods. All dilutions and cultures were made in a sterile air hood. No colonies of fungi and very few colonies of bacteria developed in any of the control cultures.

Results

Microscopic examination. Some kernels of almost every lot of black pepper had relatively conspicuous mycelium or sporophores in cavities of the outer rind, and masses of mycelium were present in at least a few kernels of all of the several samples of whole white pepper examined. One sample of whole white pepper yielded almost no fungi from surface-disinfected seeds, but a mass of mycelium occupied the center of approximately 5% of the split seeds. The central portion of the seeds of a small percentage of both black and white pepper kernels of every sample was discolored and soft, presumably as a result of decay. In one sample of whole black pepper from a local store, *an animal dropping, presumably that of a rodent*, was found, of about the same size as the peppercorns; in another sample, most of the central portion of one seed had been *consumed by an insect and the resulting cavity was partly filled with insect excretia*. Peppercorns presumably hollowed out by insects are shown in Fig. 1 (not reproduced).

Protozoa. About 50 kernels of each of the five samples of whole black pepper were put in sterile distilled water in petri dishes, incubated at 25 C, and examined daily. Within 3 days, large ciliated protozoa were numerous in three of the samples, especially in the one from New Delhi, India, that had been harvested only a few months before it was cultured. The protozoa were similar in appearance to those isolated from "weathered" (fungus stained) barley (6), but were not identified.

Culture media for fungi. Numbers of colonies of fungi per gram cultured from one sample of ground black pepper on four agar media are given in Table 1. The largest numbers of colonies were obtained on media containing 6% NaCl. Other media tested were acid potato-dextrose-agra (PDA) with 0, 6, and 10% NaCl, and 2% malt extract-agar with 6 and 10% NaCl. Media with high osmotic pressure have long been used to detect osmophilic fungi in stored grains and other materials (3, 4, 8). Some samples of ground pepper yielded larger nuumbers of colonies of the *A. glaucus* and *A. restrictus* groups when cultured on media with 10% NaCl than on those with 6% NaCl, but many fewer colonies of the *A. flavus* and *A. ochraceus* groups. The medium designated T6A (Difco powdered Tomato Juice Agar, 25 g; agar, 15 g; NaCl, technical grade, 60 g; distilled water, 900 g; plus 30 ppm of chlortetracycline added just before the agar was poured into plates usually yielded a larger number of colonies of more species of fungi than any of the others tested, and so was used as the standard throughout the subsequent work.

TABLE 1. INFLUENCE OF THE MEDIUM ON THE NUMBER OF COLONIES OF ASPERGILLUS GLAUCUS AND A. FLAVUS CULTURED FROM 1 SAMPLE OF BLACK PEPPER

Medium [1]	Colonies per g. A. glaucus	Colonies per g. A. flavus
Cz3	100	500
Cz6A	1,000	250
Cz6	3,000	800
T6A	5,000	650

[1] Cz3 = Czapek's agar with 3 percent sucrose; Cz6A = Czapek's agar with 3 percent sucrose, 6 percent NaCl, and 30 p.p.m. of chlortetracycline; Cz6-Czapek's agar with 3 percent sucrose and 6 percent NaCl; T6A = Difco powdered tomato juice agar, 25 g; Difco agar, 15 g; NaCl, technical grade, 60 g; and distilled water, 900 g; 30 p.p.m. of chlortetracycline was added just before the agar was poured into petri dishes.

TABLE 2.—FUNGI ISOLATED FROM SURFACE-DISINFECTED WHOLE PEPPERCORNS

Sample No.	Percentage of surface-disinfected peppercorns yielding — A. glaucus	A. dacus	A. ochraceus	A. niger	Sporendonema
1	100	5	31	0	30
2	100	4	11	0	0
3	100	2	5	5	25
4	100	11	13	6	0
8	100	54	84	8	50

[1] Scopulariopsis from 10 percent of surface-disinfected peppercorns.
[2] Plus Scopulariopsis from 20 percent of surface-disinfected peppercorns.

Fungi isolated from whole peppercorns. All whole peppercorns cultured without surface disinfection yielded a heavy growth of fungi, principally *Aspergillus* and *Sporendonema*, from all over their surfaces. The fungi cultured from surface-disinfected peppercorns are listed in Table 2. Cereal grains are not invaded by storage fungi to any significant degree before harvest (10, 11), and the nature of the pepper fruit, with a pulpy flesh and heavy skin, makes it highly probable that it, also, is not invaded by storage fungi before harvest. It seems likely that the samples tested were, subsequent to harvest, exposed to conditions that permitted moderate to heavy invasion by storage and decay fungi. We have encountered *Sporendonema* (in several of our published reports misidentified as *Geotrichum*) in many lots of grains that had undergone deterioration in storage (2), and we consider that its presence in large numbers in such grains is circumstantial evidence that some spoilage has occurred. *Scopulariopsis* (Table 2) is described (9) as ". . . abundant in nature, especially upon vegetation in the later stages of decay . . .," further evidence that some lots of peppercorns may have undergone decay.

Fungi isolated from ground pepper. Numbers of colonies of fungi per gram of black pepper were determined in the 30 samples of which sufficient amounts were available for repeated tests. The average number of colonies per gram in these 30 samples was 39,000 (range, 1,700 to 310,000). Ten of the samples contained more than 10,000 colonies per g and five had more than 100,000 per g. The *A. glaucus* and *A. restrictus* groups predominated in nearly all samples, but relatively large numbers of colonies of *A. flavus* and *A. ochraceus* were obtained from some samples. The sample from which the largest number of colonies of *A. flavus* was cultured (20,000 per g) was a lot of 5 lb. bought through the University Food Stores; this same sample was one of the five that yielded more than 100,000 total colonies of fungi per g. Of the other four which yielded such high numbers of colonies per gram, two were 2-oz. tins bought in local stores and sealed until opened in the laboratory (both were of the same brand but were bought in different stores and at different times), one came from the dining room of an armed services officers' club in Washington, D.C., and the other was from a plane of an international airline. *A. niger* was moderately abundant in a few samples, whereas *A. candidus* and *Penicillium* were uncommon.

The numbers of colonies of fungi per gram were also determined in 19 samples of red pepper.

13 from the United States and 6 from India. The fungi isolated were classified into two groups: storage fungi (*A. glaucus, A. candidus, A. flavus*, and *A. ochraceus*) and other fungi (mainly *A. niger, Penicillium* spp., and *Rhizopus* spp.). The samples from the United States averaged 1,600 colonies of each type per g. With the samples from India, the average number of colonies per gram was 78,900 for the storage fungi and 169,400 for the other fungi. Two of the samples of red pepper from India yielded slightly more than 200,000 colonies of *A. flavus* per g.

Portions of 10 mg each of a number of samples of ground black and red pepper were scattered directly on the surface of T6A agar in petri dishes, which were then incubated at 25 to 30 C for 20 hr and examined microscopically through the bottom of the unopened dishes. From many particles of some samples, masses of hyphae had grown out in that short time, as shown in Fig. 2. Many individual germinating spores were observed also, but these had given rise to only one or two relatively short germ tubes with a few hyphal branches; it seems probable that the masses of hyphae arose either from a relatively large number of spores or from clumps of mycelium. This is circumstantial evidence that the pepper had been invaded by the fungi, not merely contaminated by airborne spores from some other source.

Bacteria. Total numbers of bacteria were determined in 11 samples of black pepper; the average was 194,000,000 per g with a range from 8,300,000 to 704,000,000 per g. (the latter from the sample of 5 lb of black pepper mentioned above.) Portions of six samples of black pepper were combined and cultured to determine the presence of various kinds of bacteria; the following were identified: *Escherichia coli, E. freundii, Serrratia* sp., *Klebsiella* sp., *Bacillus* sp., *Staphylo coccus* sp., and *Streptococcus* sp. Although media and techniques designed for their detection were used, no *Shigella* or *Salmonella* were found.

Toxicity tests. Ten isolates of *A. flavus* were selected from dilution cultures of each of two samples of black pepper bought in local stores; both samples had yielded more than 100,000 colonies of fungi per g including up to 15,000 colonies of *A. flavus* per gram. Each isolate was inoculated into autoclaved moist corn and incubated for 8 days at 25 C; then the corn was dried and each sample was fed to four 2-day-old Pekin ducklings as the sole ration. Six of the 10 isolates from one sample of pepper, and 1 of 10 from the other resulted in death, in from 1 to 4 days, of all four ducklings to which each was fed. Five isolates of *A. flavus* from one sample of red pepper were similarly grown, and fed to two 21-day-old white rats as their sole ration; three of these resulted in death, in 6 to 7 days, of both of the rats to which each was fed. Ten isolates of *A. ochraceus* from the same sample of red pepper were similarly grown and each was fed to a pair of rats; eight of these resulted in death, in from 4 to 10 days, of both members of the pair to which they were fed, and the remaining two isolates resulted in death of one member of each pair, in 6 to 9 days. In all cases of death, symptoms included subdural hemorrhages, hemorrhage into the gastrointestinal lumen, and hemoglobinuria.

Aflatoxin determination. The corn samples inoculated with *A. flavus* as described above were pooled and analyzed according to the method developed by the Food and Drug Administration (7) for determining the presence of aflatoxin B_1 in an attempt to identify the lethal factor responsible for the death of the Pekin ducklings.

Thin layer chromatography of the extract revealed the presence of a chemical constituent which had the same R_F value as aflatoxin B_1. The identity was based on comparing the migration distance of the unknown compound with and without an internal standard. The chemical constituents suspected of being aflatoxin B_1 on the chromatograph were eluted off with ethyl alcohol, and the ultraviolet absorption maxima were compared with that of the aflatoxin standard. The absorption characteristics were found to be identical. The extract was also incorporated into clean corn and fed to four Pekin ducklings; death resulted after 3 days. *All three tests substantiated the presence of aflatoxin in the corn on which the A. flavus isolates had grown.*

One isolate of *A. flavus* found to be toxic in the feeding tests above was tested for its ability to produce aflatoxin in the liquid YES medium (5) containing 10% sucrose. Cultures of this isolate were grown for 5 and 7 days at room temperature and then were extracted with chloroform. The chloroform was concentrated on a flash evaporator, and the constituents of the concentrate were separated by thin-layer chromatography. The extracts of both the 5- and 7-day cultures contained compounds with R_F values identical with that of aflatoxin B_1. These compounds were eluted off the chromatography plates with ethyl alcohol; their ultraviolet absorption spectrum was compared with that of aflatoxin B_1 and was found to be different. The absorption maximum at 360 mμ was lacking, and the 265-mμ band shifted to 270 mμ. Other tests in our laboratory have shown that aflatoxin B_1 can break down when subjected to ultraviolet irradiation or column chromatography on silica gel with absorption changes similar to those found in the culture filtrate above. The data obtained showing the liability of aflatoxin B_1 on chromatography columns suggest that the metabolite obtained from the culture filtrate was a breakdown intermediate of aflatoxin B_1.

The extract of the filtrate from the 5-day-old cultures was incorporated into corn and fed to four Pekin ducklings, all of which died within 2 days. These results support the conclusion that the chemical constituents of the culture filtrate of *A. flavus* having the R_F value identical to that of aflatoxin B_1 was a closely related derivative of the latter.

Discussion

The results here reported constitute a preliminary survey of the microflora of black and red peppers. All of the samples of black pepper, and all of the samples of red pepper that came from India, were heavily invaded or contaminated with both fungi and bacteria. The fungi comprised mainly species of *Aspergillus*, including *A. flavus* and *A. ochraceus*. Several isolates of both of these group species, from samples in which one or both were abundant, when grown in moist autoclaved corn for 7 to 10 days and fed to ducklings or rats, resulted in rapid death of the test animals. Whether these spices, which may contain up to several hundred thousand fungus spores per gram, including some potentially toxic species, and up to several hundred million bacteria per gram, including *E. coli*, ever constitute a hazard to the health of those who consume them, is a question that eventually must be answered, and it is expected that our work with these products will continue. In any case, the results indicate that many samples of black and red peppers that originate in the tropics, although "pure" in the sense that they are not grossly adulterated with foreign matter, are far from pure microbiologically.

Literature Cited

1. American Association of Cereal Chemists. 1962. Cereal laboratory methods, 7th ed. American Association of Cereal Chemists, St. Paul, Minn.

2. Christensen, C. M., and H. H. Kaufmann. 1965. Deterioration of stored grains by fungi. Ann. Rev. Phytopathol 3:69–84.

3. Christensen, C. M., and P. Linko. 1963. Moisture contents of hard red winter wheat as determined by meters and by oven drying, and influence of small differences in moisture content upon subsequent deterioration in storage. Cereal Chem. 40:129–137.

4. Christensen, C. M., G. C. Papavizas, and C. R. Benjamin. 1959. A new halophilic species of Eurotium. Mycologia 51:636, 640.

5. Davis, N. D., U. L. Diener, and D. W. Eldridge. 1966. Production of aflatoxins B_1 and G_1 by *Aspergillus flavus* in a semisynthetic medium. Appl. Microbiol. 14:378–380.

6. Kotheimer, J. B., and C. M. Christensen. 1961. Microflora of barley kernels. Wallerstein Lab. Commun. 24:21–27.

7. Nesheim, S. D. Banes, L. Stoloff, and A. D. Campbell. 1964. Note on aflatoxin analysis in peanuts and peanut products. Assoc. Offic. Analytical Chemists 47:586.

8. Raper, K. B., and D. I. Fennell. 1965. The genus Aspergillus. The Williams & Wilkins Co., Baltimore.

9. Thom, C. 1930. The penicillia. The Williams & Wilkins Co., Baltimore.

10. Tuite, J. F. 1961. Low incidence of storage molds in freshly harvested seed of soft red winter wheat. Plant Disease Reptr. 43:470.

11. Tuite, J. F., and C. M. Christensen. 1957. Grain storage studies 23. Time of invasion of wheat seed by various species of Aspergillus responsible for deterioration of stored grain, and source of inoculum of these fungi. Phytopathology 47:265 268.

STATEMENT OF JONATHAN BINGHAM FOR THE BODY OF THE RECORD UPGRADING NURSING AND LONG-TERM CARE FOR THE ELDERLY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing today a package of bills which

are aimed at providing a comprehensive solution to the problems of nursing and long-term care for America's elderly citizens. The measures are similar to ones introduced in the Senate by Mr. Moss of Utah. Among other things, they would expand medicare coverage to include nursing home services, encourage strict compliance with Federal standards for nursing homes, and develop new programs to insure better health and long-term care.

The present nursing home system has perpetuated substandard care for many of the 1-million residents of such homes, and has failed to minimize suffering and to enhance the lives of the elderly. I believe the Congress must fashion a creative attack on the root causes of poor care and neglect of the elderly, which include indecisive Federal leadership, lax compliance with proper health and safety standards, and inadequate delivery of proper medical care.

The five proposals I am introducing today would deal directly with these basic problems in several ways. They would:

First, commit the Federal Government to supporting proper long-term care for the elderly.

Presently, only a small minority of elderly qualify for long-term, post-hospital care. But under my legislation, the cost of 365 days a year in a skilled nursing home would be covered by medicare, and home health care and private duty nursing services would be covered by medicaid. Furthermore, the legislation would encourage development of alternative long-term care programs. For example, certain families would be subsidized to care for their elderly at home. Other senior citizens would be encouraged to attend "senior citizen day care centers" which would assist the elderly during the day, thus freeing relatives to work and eliminating much of the premature institutionalization we have today. In addition, new "campuses for the elderly" with many facilities, from nursing homes to community centers and residential dwellings, would be built to provide a new way of life for the elderly.

Second, require greater compliance with Federal safety standards and expand public awareness of health and safety standards at nursing homes.

Last year, the General Accounting Office revealed that 50 percent of the nursing homes in New York, Michigan, and Oklahoma, did not meet minimum Federal fire safety standards. My legislation would make it mandatory for all homes receiving Federal assistance to comply with the life safety code of the National Fire Protection Association. Further, the bills would require full disclosure of nursing home licensing, certification, and inspection records to provide reliable information to consumers about homes and stimulate administrative action to upgrade substandard homes.

Third, stimulate scientific research into the medical problems of aging and expand the number of trained personnel caring for the elderly.

Few of our Nation's medical schools emphasize the specialty of geriatrics—the branch of medicine dealing with the health problems of aging. Further, as Senator Moss' Subcommittee on Long-Term Care discovered, the practice of medicine at nursing homes is substandard, with doctors conducting it almost entirely by telephone. My bills would encourage new interest in the medical problems of the elderly by creating a National Institute of Geriatrics in the Public Health Service and establishing departments of geriatrics in our Nation's medical schools. Additionally, approximately five times as many trained nurses work in hospitals as in nursing homes. The bulk of the staff is overworked and the turnover rate runs as high as 75 percent per year. To help increase skilled staff, I propose training veterans and others to serve as medical assistants and paraprofessional aides.

Mr. Speaker, only a massive Federal effort directed at the causes of neglect and poor care of the elderly can permit all Americans to age with reasonable dignity, comfort, and security. We must insure that life in nursing homes is not marred by loneliness, despair, and inadequate or irresponsible care. Our Nation has shamefully cast elder Americans aside as if aging were a crime. To permit aging with grace and proper care must be our goal for the coming years.

CONFLICTS ON CONTRACT AWARDS

(Mr. GREEN of Pennsylvania asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GREEN of Pennsylvania. Mr. Speaker, let me get right to the point. I would like to see this House or the Senate committee which is looking into the affairs of IT&T take a hard look at the Treasury Department to determine whether any conflicts exist there on contract awards. I will say at the outset that I have no proof, but some companies are given such preferential treatment that one must wonder whether Treasury Department officers have been in the employ of these companies in the past or whether contributions have been made by the company officials to the campaign. A look at the record is in order. I suppose every administration helps its friends but it become unconscionable when that help actually hurts this country, its economy, its industry, and its labor force.

Over the past few months, there has been some very strange shenanigans taking place at the Treasury Department and the Bureau of Engraving with respect to an invitation to bid on certain presses to be utilized in printing U.S. stamps.

The invitation to bid was issued to the Crown, Cork & Seal Co., of Philadelphia, on May 3, 1971, by the Bureau of Engraving.

However, the specifications for the presses were loosely drawn, and it was necessary for Crown personnel to meet with Mr. John Seymour, the Bureau's chief engineer, on three different occasions in order to get the specifications narrowed. During these meetings, it was obvious that the specifications were drawn on the basis of presses manufactured by a foreign company—the DeGlori organization of Germany. Nevertheless, Crown personnel worked diligently with the Bureau to clarify the specifications, and assured Mr. Seymour that Crown could, and would, fully comply with them.

The bids were first opened on June 22, 1971, and Crown's was higher than the foreign manufacturer's bid by $1.4 million. Bureau personnel admitted that this high bid resulted from excessively broad specifications, and that it was rejected because it envisioned a "Cadillac" rather than a "Ford." Crown personnel were not informed that the company's bid did not conform to specifications. The foreign competitor's bid was also rejected, however, because it contained an open escalation clause which violated Federal Procurement Regulations.

On June 31, 1971, Crown was invited to negotiate the bid. On August 4, 1971, a meeting was held with Mr. Conlon of the Bureau at which broad public policy questions regarding domestic employment needs, the balance of payments situation, and the Bureau's need for domestic supplies were discussed.

The negotiation meetings took place on August 17, and Crown was informed for the first time of its need for an "automatic transfer press" and of the Bureau's beliefs that such a press was not available from U.S. sources and that Crown could not obtain one from the foreign market. Crown indicated that, although it had no design for, and did not manufacture, such a press, it would develop or procure one from American sources. Also at this meeting, Bureau personnel mentioned "standard related attachments" for the first time, but refused to indicate what such "attachments" included, despite inquiries by Crown.

On September 2, 1971, Crown's engineer informed Dr. Seymour that it had made arrangements to subcontract the required Automatic Transfer Press to the General Electric Co.

On September 7, 1971, Crown submitted its new bid which, due to price differentials allowed under the Buy America Act and regulations regarding manufacturers in areas of substantial unemployment, was below the foreign competitor's bid by approximately $250,000. Later, the foreign company, through some unexplained maneuver, unilaterally reduced its price so that it was $9,000 below Crown's.

Subsequently, Crown personnel called the Bureau daily for 2 months to inquire about the bid's status. The Bureau refused to respond until November 3 when it informed Crown that, because of price and because of "noncompliance with certain technical aspects," its bid was rejected, and that the contract was awarded to the foreign company.

Crown filed a protest with the Comptroller General on November 11, 1971. It also urged the Treasury Department to exercise its discretion and set aside the award for reasons of announced U.S. policy to buy American, to reduce unemployment, and to surtax imports.

On November 17, 1971, Mr. John F. Connelly, Crown's esteemed chairman of the board, was advised in a telephone

conversation with William L. Dickey, Deputy Assistant Secretary of the Treasury for Enforcement, Tariff, and Trade Affairs, and Operations, that the award had been postponed pending investigation. However, on December 16, Crown's attorney was informed by Roy T. Englert, deputy general counsel, Treasury Department, that the award had, in fact, never been set aside, but that, rather, it had been in full force since originally made on November 3, 1971.

In the meantime, Crown had been trying, in vain, to learn what "technical objections" existed to its bid. However, a meeting with Bureau personnel did not take place until December 23, 1971, at which time Crown was first presented a letter setting forth the objections. Crown personnel were accorded no time to study the objections, and were forced to respond to them hastily.

Mr. Connelly protested vigorously to Secretary of the Treasury John B. Connally on January 10, 1972, to no avail.

How the Treasury Department can, in good conscience, seek to have this award upheld is beyond me. The foregoing chain of events reveals a number of improprieties. First, the Bureau of Engraving's specifications were, by its own admission, unclear and overbroad, and this caused an erroneous initial bid. Also, they were drawn with foreign manufacturers in mind. Second, the Bureau misled Crown into believing that its initial bid was rejected only because of price differential. Third, the Bureau delayed telling Crown of the "automatic transfer press" requirement, and it refused to make itself clear as to what was meant by "standard related attachments." Fourth, when it realized that Crown had underbid the foreign company, the Bureau permitted the foreign company to alter its bid without explanation. Fifth, the Bureau unduly delayed making a decision, and it refused to advise Crown of the bid's status. Sixth, the Bureau refused to explain its "technical objections." Seventh, when the Bureau finally did decide to explain these objections, it did not premit ample time for response thereto. Eighth, the Department of Treasury lied about the award's postponement.

And these improprieties are compounded by the fact that the Bureau and Department ignored the policy considerations involved. Indeed, it would seem that there was a bias in favor of the foreign company and that such bias was, and continues to be, paramount to the public interest. Had Crown been awarded this contract, 300 jobs would have been created in the Baltimore area, and many more would have resulted from the subcontract with General Electric. Also, the Bureau would have attained a domestic supplier for its needs, and more money would have been added to the American, Philadelphia, and Baltimore economies. All of this notwithstanding, the contract was awarded to a foreign competitor.

At this point, Mr. Speaker, I am inserting Mr. John F. Connally's letter to the Secretary of the Treasury. This letter clearly amplifies the outrage that has taken place in this case.

CROWN CORK & SEAL CO., INC.,
Philadelphia, Pa., January 10, 1972.

Re: The Bureau of Engraving and Printing Solicitation No. 93.

Hon. JOHN B. CONNALLY,
The Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. CONNALLY: On September 7, 1971, we submitted our proposal of $3,257,000 to build printing presses to print American stamps in accordance with the specifications furnished by the Bureau of Engraving and Printing (BEP).

We were informed by BEP that this would be a competitive bid and that our manufacturing facility in Baltimore, Maryland, would have to be inspected and approved by the BEP before the final award.

Thereafter, nearly every day some member of our organization contacted various personnel of the Bureau of Engraving to inquire if any additional help or information might be needed, or if any deficiency existed in our proposal. We also inquired when the Bureau would make the inspection of our Baltimore Plant which they had emphasized was very necessary before reaching a final decision.

We were shocked to receive a letter on November 3, stating that the order was awarded to a German company because their bid was $9,000 lower than ours, and further, for alleged non-compliance with certain undefined technical aspects.

Never once during the time between September 7 and November 3, nearly two months, in spite of our numerous inquiries, was any mention ever made of any deficiency nor was any attempt made by the Bureau's personnel to clarify our proposal, if any clarification was necessary.

Immediately after receiving the Bureau's letter of November 3, which is enclosed, a formal protest was made to The Honorable Elmer B. Staats, the Comptroller General of the United States, and the Bureau of Engraving and Printing was advised at the same time.

To avoid loss of time, we protested in your absence directly to the Under Secretary of the Treasury, Dr. Charls Walker, stating that the award to the German company was contrary to the expressed policy of President Nixon to buy American, to reduce unemployment, that it was obviously contrary to the purpose of surtax against imports. It was also in opposition to your own efforts to reverse the balance of payments situation and stop the flow of money out of the country.

We repeatedly asked that until a proper investigation could be made that the Bureau of Engraving be asked not to place the formal order with the German company and, if commitments had been made, to put a hold on the order and prevent any work being started.

Shortly after filing the protest, I was personally informed by telephone by Mr. William L. Dickey, Deputy Assistant Secretary of the Treasury, that a hold on the order was in effect. There is no reason for any misunderstanding over this for we had asked that the order be held up. The call was made by him and when he made the statement I expressed surprise and delight, and asked if he was sure there was a hold on the order. He assured me that there was.

At the time of the telephone call, two men were in my office, Mr. Matthew McCloskey and Mr. Richard Krzyzanowski. Both heard my part of the conversation. I made a memo of the conversation and advised our supporters accordingly. I am stressing this matter since later we were advised that the award to the German company was never held up.

We were encouraged in our efforts by the support of the Office of the Vice President of the U.S.A., Senator Hugh Scott, Senator Beall, Senator Mathias, Governor Mandel of Maryland and various congressmen.

We made many attempts to arrange a conference with members of your staff. Our efforts were completely futile. Finally a meeting was arranged on December 15, 1971 by Mr. James W. Riddell, our attorney. This meeting was attended by: Dr. Charles Walker, Under Secretary of the Treasury; Eugene Rossides, Assistant Secretary of the Treasury; Kenneth Davis of Senator Scott's office; David Markey of Senator Beall's office; and representatives of Crown Cork & Seal Company, Inc.

At the meeting, we presented to Dr. Walker the evidence of our technological competence to meet the requirements of the Bureau and he appeared favorably impressed. He suggested that we immediately send a letter to Mr. Conlon, Director of the BEP requesting a meeting to discuss the alleged technical aspects not complied with. A letter requesting such a meeting was sent that same day, Wednesday, December 15. Because of the critical aspect of time, we telephoned the BEP several times each day on Thursday, the 16th, Friday, the 17th, Saturday, the 18th, Monday, the 20th and Tuesday, the 21st, but each time we were advised that Mr. Conlon was not available.

Late Tuesday afternoon, December 21, Senator Hugh Scott called and said he had also tried to get Mr. Conlon and was advised he was not available and stated he would insist that the meeting suggested by Dr. Charles Walker be arranged.

At 9:20 that night (Tuesday, December 21), Senator Scott called me at home and advised that he had scheduled a meeting for 10:00 A.M. on Thursday, December 23, and that a letter outlining alleged deficiencies would be delivered to us the following morning.

I learned that Mr. Laverne Butcher, Vice President of Crown, at about 6:45 P.M. on the 21st had received a call from Mr. Conlon advising of the meeting, which was apparently forced on the Bureau through Senator Scott's intervention.

We attended the meeting on Thursday, December 23, unprepared because we had not received the letter from BEP. We were then handed a letter dated December 22, a copy of which is attached, with a casual explanation that there had been some problems in getting it typed. We asked for a caucus to read the letter. Normally we would have asked for a postponement in order to study the letter and to present our reply, but because of the many previous delays and the Christmas season being on hand, we feared further delay, so we returned to the meeting.

Mr. Conlon, Director of the BEP, very eloquently defended the actions of the Bureau but the more he explained, the more obvious it became that it is not a technical deficiency at the base of this problem, but uncalled for, unfair favoritism towards the German company with a total lack of consideration on their part for Crown or for any other American company.

His letter is filled with comments and questions that should have been asked of any prospective bidder prior to a decision. Each and every item could have been adequately answered. His letter even claims that we submitted a new offer on August 17, and then withdrew it. Mr. Conlon admitted that he was in error and that this did not occur, yet he made it seem important by including it in his letter. Why?

Mr. Conlon made numerous references about wanting twentieth century equipment. We made what we considered a very good suggestion that they combine the ink drier for both the letter and offset printing, which would save considerable money to the Government. Mr. Conlon and his associates rejected this suggestion. This is their right and we accepted their decision and

included their system in our proposal, but Mr. Conlon and his associates will *like* to see the day that this fine feature will exist in future equipment. How in the world can this good practical suggestion be called a major deficiency?

Let me give another example dealing with the automatic transfer press:

Mr. Conlon stated that BEP specifications in this matter are such that no U.S. company could manufacture this component. To obtain the Bureau's contract, we told the BEP that we would develop this component or could procure it from a U.S. source. BEP was informed that we contacted the General Electric Company, and we assured the BEP that it would be ready prior to the delivery of the presses. Instead of giving an opportunity to a U.S. company, Mr. Conlon chose to procure it from abroad, and fitted his specifications to that very purpose.

Mr. Conlon on Page 3, Paragraph 2 of his letter writes: "Since that time (November 3, 1971) until receipt of your letter of December 15 we have received no request from Crown Cork & Seal for discussion of the deficiencies identified in your proposal." How can this statement be made in the light of our official protest to the Controller General of the United States, to the BEP and to the Treasury Department? It was not until the meeting was forced on the BFP that we succeeded in learning anything about so-called deficiencies.

We charge that the attitude of the BEP is full of bias and prejudice in favor of this particular German company and feel that if Crown had been given a fair opportunity, this problem would not exist.

We think it is now time to make the following statements:

1. Crown is confident of its ability and does have the technical know-how to build this equipment in accordance with the specifications of the BEP, and has included into its bid all the items contained in the specifications.

2. It is our opinion that if Crown had not bid then the BEP, through lack of competition, would have had to pay a higher price to the German company.

3. That in the future if Crown, as the only American manufacturer, is excluded or withdraws, the BEP will be wholly dependent on a single foreign source of supply and will find themselves in a noncompetitive position.

4. That $9,000 is a ridiculously low sum to save in comparison to the corporate taxes that Crown will pay to the U.S. Treasury in building this and future equipment.

5. That $9,000 is a ridiculously low sum to save in comparison to the income taxes that the United States will receive from the wages of the men and women employed in manufacturing this equipment.

6. That this machinery will be built in Baltimore, an area of persistent and substantial unemployment, and more than 300 members of the International Association of Machinists will be employed.

7. That Crown has been since 1892 a builder of very precise equipment and has a splendid engineering department to design and build special equipment.

8. We invite you to visit and inspect our machine plant and engineering department in Baltimore.

9. It was specifically to expand our efforts on a worldwide basis that we purchased the most highly respected printing press manufacturer in the world—R. Hoe Company. This company has for many years built printing presses for printing and decoration on metal, an art that is far more difficult than printing on paper.

10. Later we augmented our organization by buying the Huck Company, a splendid organization with many fine engineers of great experience. This organization was headed by W. F. Huck, a brilliant, imaginative genius.

11. Our sales analysis indicates that there is a need for more than $100,000,000 worth of printing equipment throughout the world, not including the U.S.A., and we hope to get a good share of it. We have the ability to properly solicit this business because we successfully operate wholly-owned subsidiaries in the following countries: Angola, Argentina, Belgium, Brazil, Canada, Chile, Colombia, Congo, Costa Rica, Ecuador, Ethiopia, France, Great Britain, Indonesia, Ireland, Italy, Kenya, Malaysia, Mexico, Mozambique, Morocco, Netherlands, Nigeria, Peru, Portugal, Puerto Rico, Rhodesia, Singapore, South Africa, Spain, Thailand, Trinidad and Tobago, West Germany and Zambia. All of these subsidiaries are well established, profitable, and are headed by prominent nationals of the respective countries.

12. It is our desire to build the best equipment for the U.S. Government for that honor would allow us to better solicit and deserve similar business from other governments and industry in these countries.

Mr. Connally, in support of your own policies to aid American industry, to give employment to many people, to gain on your own balance of payments program, the Bureau of Engraving and Printing must be made to conform to the policies of the United States Government as decreed by President Nixon.

Therefore, we ask that you cancel the order placed unfairly with the German company even if it is necessary to pay a cancellation charge and award the order to Crown Cork & Seal Company, Inc.

Sincerely yours,

JOHN F. CONNELLY.

Mr. Speaker, we in the Congress cannot let questionable and harmful practices such as this continue. Such injustices—such disregard for the public interest—must not go unchecked. Many Members of Congress and many Senators have urged correction, but their efforts have been ignored. There is something wrong here. Anyone can see that American employees have lost jobs and that American industry has lost a contract. I hope this House or some public-spirited reporter will dig out the truth.

CORPORATE FREELOADERS

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, in recent days I have endeavored to direct attention to the sharply reduced contribution of American corporations to the support of our Government. The "revenue giveaway act of 1971," the administration's accelerated asset depreciation range, and the flood of tax-break decisions being machined out by the Treasury Department are depleting the Treasury at a shocking rate. Under these circumstances, the American corporation is no longer a partner—it is becoming a freeloader—shifting the obligation of supporting the Government onto the shoulders of the individual taxpayer.

In fiscal 1970 corporate refunds totaled $2,208 million. In fiscal 1971 corporate refunds rose to $3,535 million.

With the new giveaway programs of last year, I estimate that the corporate income taxes refunded by June 30, 1972, will approach the $5 billion mark.

It is utterly impossible to restore solvency in our Government accounts—it is utterly unlikely that we will be able to reduce the Federal deficit—with these tremendous escalating revenue losses which will compel higher individual taxes next year.

USE OF USIA MATERIALS

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, from this morning's press reports it appears that use of a USIA film on Czechoslovakia in a television program prepared for use in New York was a deliberate violation of congressional intent that USIA materials prepared for use overseas not be distributed within the United States.

From the context in which the film was reportedly used it is hard to escape the conclusion that the film's use in this instance was exactly the kind of partisan political abuse the Congress and previous administrations wanted to avoid.

In showing its contempt for congressional intent, the USIA has strengthened rather than weakened the position of those who believe that the time of the agency's usefulness has passed. As a long time backer of the USIA, I am greatly disturbed at the effect the agency's own action is likely to have on its ability to carry on its worthwhile functions in the future.

Another disturbing aspect of this morning's press accounts is a quote attributed to a high USIA official appearing on the same program which purportedly describes the chairman of the Senate Foreign Relations views of the USIA as "very naive and stupid."

Mr. Speaker, This gratuitous insult of one of America's foremost foreign policy thinkers serves no useful purpose. If any agency should support the concept of the need for a wide range of views, it is the USIA. On many issues Senator FULBRIGHT and I have widely divergent views but clearly our Nation profits from the clash of differing ideas and concepts.

I hope that the USIA will offer its apologies to the Senator and that they will in the future fully comply with current congressional policy that USIA materials not be distributed within the United States.

ROMNEY'S CANDID STATEMENT ON HOUSING MESS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the Government Operations Subcommittee on Legal and Monetary Affairs, which I have the privilege to chair, has in recent months conducted hearings on the increasing rate of foreclosures on FHA-insured properties in Detroit, Mich., and the subsequent acquisition of these properties by the Department of Housing and Urban Development.

The statistics reported to the subcommittee are staggering. We received testimony which revealed that thousands of homes are being abandoned by their owners and acquired by HUD and that the FHA insurance fund stands to lose up to $200 million in Detroit alone.

The subcommittee also received testimony which indicated that speculators in Detroit were, as late as last month, making profits of 70 percent or more on properties held as little as 50 days. In many cases these speculators made cosmetic repairs and sold the houses to poor people, who too late discovered that their new homes had major structural defects.

Recently HUD Secretary George Romney has taken several actions which point to his awareness of the magnitude of the problem which exists in Detroit and elsewhere:

First, a special task force has been formed in an attempt to put a stop to the exploitation of FHA programs by unscrupulous speculators. Among the members of that task force are the director of the HUD area office in Detroit, the U.S. attorney for southeastern Michigan, agents of the Federal Bureau of Investigation and the Internal Revenue Service, and the Michigan State Attorney General.

Second, over a dozen brokers have been removed from the HUD list of approved real estate brokers and two mortgage bankers have been suspended from doing business with the Department for 30 days.

Third, HUD has issued new regulations designed to curb excessive speculator profits on the sale of inner city properties.

Fourth, the Secretary has assigned a task force of HUD auditors to the Detroit HUD office to analyze transactions involving 5,000 Detroit homes sold with FHA-insured mortgages.

Fifth, the Secretary has rehired Lawrence Katz, the former FHA Director in Milwaukee, who testified before the Legal and Monetary Affairs Subcommittee in February regarding the successful low-income housing programs in that city.

Yesterday the New York Times carried a report of Secretary Romney's address to the Detroit Economic Club on Monday, March 27. The Secretary's remarks are exceptionally candid: he deals directly with the problems of incompetence, favoritism, bribes, fraud and "legal" profiteering which have plagued HUD's low-income housing programs. I am submitting the New York Times account of his speech for the RECORD and recommend it for consideration by my colleagues.

I observe that the Secretary states that:

> The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas . . . "We don't have one," he said.

If this is true, the House should take it into consideration before passing the President's urban special revenue sharing proposals, which will turn over to these "unconcerned" cities several billion dollars in Federal money which should be used to save residential areas. The Congress must determine that these cities have the will and the capacity to spend shared revenue on their own in a way which will lead to true urban development.

Mr. Romney also mentions the referral by his Department of over 400 cases to the FBI and the Department of Justice. In Detroit, subsequent to our subcommittee's hearings, the Justice Department has assigned several additional assistant U.S. attorneys to deal with FHA frauds. I hope this same action will be taken where needed in other cities.

The Legal and Monetary Affairs Subcommittee is at the present time preparing a report on its findings in Detroit. At the same time we shall be continuing our investigation in other cities. We shall be endeavoring to determine whether profiteering, large-scale foreclosures, and abandonment of housing are confined to the central cities or whether these problems can affect noncentral city areas where there has been extensive, HUD-supported, new construction.

The extent of the problems in HUD's mortgage insurance programs is not yet known, but the implications of what is known are grave. I urge my colleagues to read the attached article.

ROMNEY SAYS HIS AGENCY CAN'T SOLVE HOUSING PROBLEM; CONCEDES ERRORS

(By Jerry M. Flint)

DETROIT, March 27.—The Federal Government cannot and will not solve the massive housing deterioration going on in the central cities, George Romney, Secretary of Housing and Urban Development, said today.

Mr. Romney acknowledged that his agency's policies increased the blight and said that the department would cooperate with state, local and private groups working on the problem.

However, he emphasized that Washington did not have the answers and charged that the cities themselves did not care. The nation "needs one example" of a city concerned about saving its residential areas as well as its downtown business areas, he shouted in a speech at the Economic Club of Detroit. "We don't have one," he said.

A MAJOR SCANDAL

The policies in Detroit of the Federal Housing Authority, which is part of HUD, have turned into a major scandal that could cost the Government $100-million and possibly much more.

Under the guise of programs to help the poor buy their own homes, thousands of welfare residents were pushed into old or dilapidated dwellings. Real estate speculators roamed old neighborhoods buying up houses for a few thousand dollars each, getting them appraised by F.H.A. appraisers at double, triple or quadruple the purchase prices, then selling them to the poor, including thousands of welfare recipients who could not keep them up.

To date about 6,500 homes under these programs have been foreclosed in Detroit, and 750 to 1,000 more are foreclosed every month. The total could surpass 20,000, about 7 or 8 per cent of the homes in the city. The abandoned houses, in turn, help to blight entire blocks and neighborhoods.

"It was a mistake, in part, not to realize the F.H.A. lack of preparation for its role in central cities and their exposure to speculators and fastbuck artists," Mr. Romney said. "And there is no city where there are more of them than in Detroit. I think they got their training in the used car business."

Mr. Romney once headed the American Motors Corporation here.

CHARGED WITH ARSON

In Detroit in recent weeks in the continuing investigation of the housing scandal, a former F.H.A. appraiser has been charged with arson, burning inner city homes he had bought as a real estate speculator, and another F.H.A. appraiser admitted in court he did not know that homes had to conform with the local building codes before they could qualify for a Government-insured mortgage.

In other cases, real estate men have been indicted or blacklisted by the F.H.A. for making false statements about potential buyers and the properties in F.H.A. mortgage applications.

"We have made mistakes in the design and administration of the programs that were proposed to alleviate this human suffering," Mr. Romney said. "I acknowledge with deep regret the things that have gone wrong with our housing subsidy program.

"I am angered and determined to eliminate incompetence, conflict of interest, favoritism, graft, bribes, fraud, shoddy workmanship and forms of 'legal' profiteering that take advantage of technicalities to defraud the home buyer and the tax paying public.

"Across the country we have referred over 400 cases to the F.B.I. and Department of Justice in the last year and a half."

He said that the Government had moved to curb the speculation, but he made clear that he had no answers on how to repair the damage already done. One key, he said, is getting private developers involved.

"The widespread abandonment of the central city, except for the downtown business districts, by private investors and private leadership is continuing, Mr. Romney said.

"Indeed, there are several major cities in this country, including Detroit, where there is hardly any purely private money for mortgages in most of the central city."

DOMINANT USE AND ITS RELATION TO PUBLIC LAND USE PLANNING

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, perhaps no recommendation of the Public Land Law Review Commission has generated more comment than:

> Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses.

This recommendation, contained in the chapter on Planning Future Public Land Use and appearing on page 48 of the Commission report, "One Third of the Nation's Land," is, in turn, a part of the overall admonition to manage public lands generally according to principles of multiple use and sustained yield.

Addressing a society of American Foresters meeting in Milwaukee, Wis., recently, Perry R. Hagenstein analysed, in as clear a manner as I have seen, the concept of dominant use and the manner in which the Commission approached its treatment of land use conflicts. Dr. Hagenstein, now executive director of the New England Natural Resources Center, was assistant chief of the Resources and Evaluation Group of the Commission staff, and as such had an opportunity to observe development of the Public Land Law Review Commission recommendation.

Because of the widespread comment on dominant use—and, in my opinion, the widespread failure to understand the concept as the Commission understood it—I commend Dr. Hagenstein's remarks to you and offer them for the RECORD:

THE PUBLIC LAND LAW REVIEW COMMISSION AND ITS APPROACH TO LAND USE CONFLICTS

(By Perry R. Hagenstein*)

It is not surprising that the Public Land Law Review Commission spent much of its effort on the problem of resolving use conflicts on public lands. This, after all, was the issue that precipitated the establishment of this temporary study commission.

Congress had shown interest for some years in a review of the status of the remaining unreserved public domain lands. But it was not until the Wilderness Areas Preservation bill generated wide support in 1962 that one Congressman was able to transform his interest in the problem of resolving conflicts in uses of public lands to the establishment of a commission to review this problem.

Congressman Wayne Aspinall of Colorado, then, as now, Chairman of the House Interior and Insular Affairs Committee, wrote to President Kennedy. He offered his efforts on behalf of the wilderness bill in return for Presidential support for a review of public land policies. The problem with the wilderness bill, as he viewed it, was that yet another portion of the public lands was to be set aside for a particular use without simultaneous consideration of all of the other many needs that the public lands help meet. Some new policy guidelines were needed if the public lands were to provide an appropriate share of the various demands being placed on them by the citizens of the country.

You all know at least something of the results of this effort. The Public Land Law Review Commission made its report to the President and the Congress in June, 1970. Among its 137 major recommendations was one that said, "Management of public lands should recognize the highest and best use of particular areas of land as dominant over other authorized uses." The Commission saw the concept of zoning public lands for dominant uses as the best administrative means of resolving land use conflicts.

The storm of protest on release of the Commission's report was immediate. Within hours after the release of the report, it had been announced that the report and its dominant use recommendation were all part of a plot by the timber industry to resurrect the worst features of the proposed National Timber Supply Act, which had only recently been defeated in the House of Representatives.

The "quick-to-draw" conservationists saw the notion of zoning lands for dominant use as a means of giving permanent status to the "defacto" priorities that have been given through administrative action, and with some statutory support, to timber production and other economic uses of public lands. They saw the Bitterroot National Forest as the prime example of what would happen to all public forest lands if this purported scheme of the western user interests were to be implemented.

The professional land managers in the public land agencies were less quick in their denunciations of "dominant use". They realized that the Commission recommendation came very close indeed to what they were already doing. We had all learned in forestry school that land management involved drawing lines on maps and identifying this area for this use and that area for that use. And this is just what most land managers were doing, at least informally. But the land management agencies in the end added their voices to the criticism of dominant use. They argued that their managerial responsibilities would somehow be jeopardized if Congress would direct them to use any particular means of classifying public lands.

Perhaps lying behind this concern was the usual fear of the land management agency that the extent of its domain will somehow be reduced. To some, the classification of some national forest lands for recreation purposes suggests that the lands should be transferred to the Park Service, which is sometimes thought of as "the" Federal recreation agency. The notion that this could be done for every tract of land used for recreation would, of course, create an administrative monstrosity, and the Public Land Law Review Commission refused to be drawn into support of it. Nevertheless, a good part of the opposition of the land management agencies to dominant use zoning is probably based on fears of losing control over some lands.

But very little of the criticism of the Commission's dominant use recommendation has focused on the important question: Is this indeed the best means of resolving conflicts among various possible uses of the public lands? And if not, what alternative means are there? The Public Land Law Review Commission reached its dominant use recommendation only after considerable study and after rejecting the alternatives that it considered.

The Wilderness Act itself offers one way of resolving conflicts among possible uses of a parcel of land. This Act turns the job of defining uses of particular areas of land over to the Congress. Indeed, the Public Land Law Review Commission was inclined to go this route for many major land use decisions. The Wilderness Act, which was the last major piece of public land legislation prior to the Commission's report, says that Congress will be responsible for establishing wilderness areas, and for the determination of their boundaries. And, of course, once a wilderness area has been established, the Act resolves conflicts among possible uses by defining those that are incompatible.

Not only did the Public Land Law Review Commission agree with the Wilderness Act concept of having the Congress be clearly responsible for setting aside public lands for wilderness areas, parks, and wildlife refuges, but it also sought to broaden further the Congressional role in deciding uses of parcels of public lands. Some of the Congressional members of the Commission were unhappy with the way the Bureau of Land Management and, to a lesser extent, the Forest Service had used classification authority to limit economic and private uses of public lands. Some thought was actually given to reserving all withdrawal and classification authority to the Congress. But it soon became evident that Congress could not resolve all conflicts among uses of public lands, if for no other reason that the job is too big. There are too many decisions that have to be made.

Having rejected the notion of Congress being the immediate problem solver for all public land use conflicts, the Commission looked for a means to provide some form of Congressional guidance for the decisions that would have to be left to land management agencies. Now, what were the kinds of problems it saw in the existing process whereby the Federal agencies decide on the uses to which a parcel of public lands will be put?

First of all, the Commission saw what it believed to be a lack of consistency among public land decisions. While recognizing that the public lands present a vast range of conditions and possible choices to the land manager, the Commission could find no clear rationale guiding these choices. Especially the Congressional members of the Commission saw the lack of direction in the Multiple Use and Sustained Yield Act of 1960 as the problem. Inconsistent decisions had their root in a lack of clear Congressional direction. The heat generated by conflicting interests over decisions made by the land management agencies under their broad management authorities was making life uncomfortable for Congressmen from public land districts. Perhaps clearer Congressional direction was the answer.

Second, the Commission saw that some of the problems were created by a lack of assurance that the land management agencies would stand with the decisions they made. A timber firm complained that it had put in a new plant in response to a significant increase in allowable cut on the adjacent national forest. Right in the middle of a 10 year plan, its investment was jeopardized when the allowable cut was reduced to previous levels.

The cutback was attributed to pressures from wilderness and other recreation users. On the other side, the Commission saw the need for protecting endangered species of wildlife, such as has been done by the Forest Service for the Kirtland Warbler in upper Michigan and the California Condor, both on national forest lands. The Commission saw that Congressional recognition of the need for protection of this kind would help to assure that it be used elsewhere in the country and that it be used to protect recreation, watershed, and environmental values as well. But it also saw that effective protection of these values required a commitment that would not be reversed whenever there were pressures for competing uses.

Third, the Commission saw a need to clarify land use for the public. What constitutes multiple use management for the professional and expert viewer can simply be multiple confusion for the citizen trying to get away from urban pressures for a week in the wilds. Many from urban areas have grown to expect at least a degree of pattern and repetition in land uses. A clearcut area astride a hiking trail can well lead the casual visitor to charges of bad faith on the part of a public agency managing multiple use lands. Even the regular user of public lands, whether his use is for enjoyment or profit, can become confused when restrictions on his use, in the name of multiple use, are not set out until his use has been initiated.

What the Commission was after here was some means of assuring that the land management agencies would be "fair" in their dealing with the individual citizen. Fairness to the citizen—whether he be a casual visitor from the city, to whom fairness may simply mean understandability, or a rancher grazing cattle on the public lands every day of the year, to whom fairness may mean a degree of certainty in his use—was more important to the Commission than the more convenience of the public land manager.

These were some major concerns over the manner in which conflicts among land uses are now resolved. Given such concerns, what sort of methods might be used to make better land use decisions—methods that would meet the Commission's objective of providing greater Congressional direction and backup to decisions that must necessarily be made by the land management agencies? Several possibilities were considered by the Commission.

One method that had a ring of plausibility to it was to establish statutory priorities among various land uses. State laws in the West, with which most Commission members were familiar, establish priorities among kinds of water use. Irrigation of agricultural crops, for example, has priority over industrial use, and conflicts among competing users are resolved on this basis. Couldn't some such system be devised for uses of public lands wherein Congress would identify certain uses that would take priority over other uses whenever conflicts arise?

The fact is, of course, that the Mining Law of 1872 already provides such a priority for hardrock minerals on public domain lands. This law takes the decisions to develop minerals away from the land management agencies and gives it to the prospector, who decides where he will go and what he will develop. But it is for this very reason that the Mining Law has come under fire not only from the conservationists, but from many who are concerned with the problem of allocating limited public lands to a number of legitimate and important uses. The priority afforded development of hardrock minerals over all other uses of public lands creates unnecessary conflicts and defeats land management and rational decision-making. Minerals, whatever the degree of their importance to the industry, simply don't deserve priority over all other uses of public lands in all circumstances. And this, of course, is the criticism of any general priorities among uses, especially if established in statutes for the Nation at large. This was recognized by the Public Land Law Review Commission and it rejected generally applicable priorities among uses as a means of resolving land use conflicts.

The Commission turned to a second possible approach. Some had argued before the Commission that it should establish a particular objective as having priority over all other objectives that might be served by the public lands. Some saw enhancement of environmental quality as the major objective to be served. They suggested that management choices should always be resolved in favor of the alternative that was best from an environmental viewpoint. This idea had an appealing political ring to it because of the current concern with environmental quality.

Still others, however, had recommended that the Commission place greater emphasis on economic stability, especially in public land areas, as the major objective of public land management. The public lands, in fact, are the source of the resources that support numerous towns in the West. Thousands of people are directly dependent on the public lands for employment and income. This idea, too, had an appealing political ring to those representing public land districts. Here, it was argued, was an objective that could be favored over all others when choices had to be made among alternative uses of public lands. The use that would contribute most to employment and income in a localized area would be given preference over alternative uses whenever a choice had to be made.

This was a somewhat different means of resolving conflicts by setting priorities. Congress would declare which objective it believed could best be served by the public lands. But the Public Land Law Review Commission eased away from supporting this concept. Conditions surrounding public land decisions vary widely. In one place, continuing support of employment in an impacted town may be an overriding objective at times. Or in another, protecting a feature of the natural environment may be of overriding importance. A recommendation that an environmental objective, or any other objective, should automatically be considered most important in all cases simply was inconsistent with the variety in public lands and their uses.

Having rejected two plausible ideas—the first to establish priorities among possible uses of public lands and the second to establish priorities among the objectives to be served by the public lands—the Commission turned to the planning process as the key to resolving land use conflicts. It saw the planning process as the only solution that would recognize the great variation in public lands and conditions.

And this is where "dominant use" came in. The result of the planning process would be a zoning of public lands to recognize that in one area timber may be the dominant use, while in another area recreation, or protection of a wildife species, or protection of a frail watershed may be the dominant use. And once an area had been planned and zoned for dominant use, the management agency would recognize this use as having priority over other uses until such time as the whole planning process would be repeated. Priorities would be established, but on a case by case basis that would involve consideration of the demands being placed on the specific parcel of land and on the ability of the land to meet various demands.

Perhaps the Commission was guilty of naivete in reaching this recommendation. However, it had some acceptable models to follow. The land management agencies already use a form of land use zoning, albeit on a relatively informal basis. And local governments have long used zoning to maintain a degree of compatibility between industrial, commercial, and residential uses of land. The argument that the typical frequent changes in local zoning indicate that the concept is inferior can be countered with the argument that the process used by local governments may be more at fault than the concept of zoning itself. If the process of planning and gaining public acceptance of the zoning decisions were improved, changes in zoning may be less frequent.

Perhaps the Commission was guilty of viewing public lands too simply. But here, too, it had models to follow. In the spring, the farmer decides to grow corn in one field and hay in another. This is not only useful in deciding on the kinds of fertilizer and equipment and the amount of effort that will be needed during the summer, but it also clarifies decisions on where the cows will go. Similarly, classification of public lands may improve the present methods of spending public funds and, at the same time, help the public to understand that multiple use does not mean all uses everywhere at all times, or that a particular kind of use should have a claim to all public lands.

In sum, the Public Land Law Review Commission's recommendation that the public lands be classified on an area by area basis for dominant uses was responsive to what it saw as three critical problems in present methods of resolving land use conflicts. It believed that an improved planning process leading to dominant use classifications would bring order out of chaos, would provide assurance that commitments of the Federal government would be met, and would enable the public to comprehend the management of its lands. The alternative means of conflict resolution that were considered failed to gain solid support within the Commission because they were too simple to cope with the vast differences in land and conditions from one area to another.

Sharp criticism of the "dominant use" recommendation in the past 21 months may already have doomed it to oblivion, at least as far as gaining statutory recognition is concerned. But the problems that the Commission sought to correct with its recommendation have not gone away. And the public dialogue over dominant use has not yet produced a viable alternative to cope with the problems that concerned the Commission. Controversy is fun and often constructive. Let us hope that the present controversy over dominant use not continue to be bogged down in theological references to multiple use, but rather lead to better means of resolving land use conflicts.

*Executive Director, New England Natural Resources Center, Boston, Massachusetts. Formerly, Senior Policy Analyst, Public Land Law Review Commission, Washington, D.C. Paper Presented at the Spring Meeting, Wisconsin-Michigan Section, Society of American Foresters, March 16, 1972. Milwaukee, Wisconsin.

THE BILL TO ELIMINATE THE HOUSE LIBRARY

(Mr. ROUSH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSH. Mr. Speaker, today I am introducing a bill to abolish the "House Library," the library located on the lower level of the Cannon House Office Building. It has nine employees, yet withdrawals from the library last year—as of February 18, 1972—were only 1,170, which certainly is not a significant number. The services of the library are completely duplicated by services of the Library of Congress. Last year we were asked to appropriate $25,000 to climatize the area where books were stored because present conditions literally were causing books to self-destruct through spontaneous combustion. We spend $103,388 currently per year for salaries. I strongly believe these are expenditures we can do without.

This year the Legislative Subcommittee of the Appropriations Committee, of which I am a member, expressed the will to phase out this library by the end of fiscal year 1973. This would be done by imposing a limitation on appropriated funds. My bill will repeal those sections of the law authorizing the operation of the library, thus giving certainty to the phasing out. The saving will amount to thousands of dollars beyond the $103,388 saved in salaries in that no longer would documents, volumes, reports, books, and the like have to be furnished to, or cared for in, this seldom-used library.

ECONOMIC SQUEEZE ON THE FARMER

(Mr. GOODLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, it is easy to understand why many consumers in our society think that the American farmer is doing alright for himself, because food items at the store carry price tags that are anything but low.

The truth of the matter, however, is that where returns on food to the farmer are concerned, he is low man on the economic totem pole. Over the last 20 years, for instance, while consumer's food prices, over the counter, have jumped up 43 percent, prices down on the farm have inched up only 6 percent. At the same time, the farmers' share of the consumer's food dollar has dwindled from 49 cents to 38 cents.

It is what happens to food items after they leave the farmer's gate that causes them to carry a price tag which offers little comfort to the consumer. As these food items head for market, they take on a magnetic quality as far as costs are concerned, drawing them from every angle. There are costs for freight, for containers, for added services and conveniences, for labor, and for wide variety of other concepts related to the food items as they travel from the farmer's field to the consumer's table.

Unfortunate for the farmer, a good part of these costs are the "sticky variety," particularly those for processing and distribution. These costs stay put. On the other hand, costs of food are slippery, providing the consumer with up and down price benefits and the farmer with considerable uncertainty. Right

now, for instance, cattle prices for the farmer are 4½ percent less than they were a month ago, and prices for hogs are 8 percent less than 4 weeks ago.

The farmer is caught in a severe economic squeeze, because as he gets a relatively low price for the commodities he sells, he pays a high price for the goods he buys.

The inflation impact hits him harder than it does almost anyone else in the society, and the too bad part about it all is that he does proportionately more than anyone else to counter inflation. This is so because the farmer constantly is increasing his production, and increased productivity is the best offset to inflation.

Proof of this increased productivity can be found in the fact that the productivity of farmers today is 3.3 times as great as it was 20 years ago, something like twice the rate of productivity growth in the manufacturing industries. Still, farmers are working for one-fourth less than the rest of the workers in the economy, making their disposable income only three-fourths of the average for nonfarm people. This is contrary to the doctrine of the free enterprise system, which is supposed to reward productivity. It works in reverse for the farmer, punishing him for his productive proficiency.

Nonfarmers have another advantage, for even though food prices are rising in the stores, they are paying less than they did 20 years ago for food. They will spend $15.60 per $100 for food this year, after taxes, while 20 years ago they spent $23 per $100. Today food takes about 15.5 percent of the budget as compared with 23 percent in 1952.

The consumer should gain a consciousness of his good fortune, remembering, at the same time, that even though food prices at the store might go up, this does not connote a gain for the farmers. Under the strange economics that attend the farmer's circumstances, it could very well be true that the farmer's share of the consumer's dollar is going down.

SCHOOL BUSING

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, members of the Education and Labor Committee have had the benefit of hearing Secretary Richardson of the Department of Health, Education, and Welfare try to explain, as best he could, the legislative proposals on school busing which the President delivered to the Nation in his television address on March 16. I must confess that I was quite disappointed by the presentation made by the Secretary, and, particularly, with his response to my questions on the legal issues which the President's proposals raise. I think the source of my disappointment will be made abundantly clear when one examines the transcript of the White House administrative aides, including Secretary Richardson. The purpose of that press conference was to respond to questions raised by the press concerning the President's proposed Bus Moratorium Act and the companion equal educational opportunities amendment. Quite frankly, that press conference raised more questions than it answered. If there is any doubt whatsoever on this score, I am pleased to set forth herewith for the benefit of my colleagues and the public, the complete transcript of the White House press conference and my own commentary on that conference.

REMARKS BY CONGRESSMAN FRANK THOMPSON, JR., OF NEW JERSEY

BUSING: PRESIDENT NIXON'S PROPOSED STUDENT TRANSPORTATION MORATORIUM ACT

On March 16, 1972 President Nixon told the nation in a prime time television address that he was opposed to busing, and would send to Congress two bills: *The Student Transportation Moratorium Act*, which would prohibit the courts from ordering the busing of any children up to the sixth grade, and make busing the lowest priority of remedies for children in junior high-school and above; and the *Equal Educational Opportunities Act*, which the President said would guarantee all students the right to a decent education.

On March 17, a number of high ranking Administration officials held a White House press conference to answer questions on the two proposed bills.

Administrative officials at the Press Conference included *John D. Ehrlichman*, Assistant to the President; *George P. Shultz*, the Director of the Office of Management and Budget; *Elliot L. Richardson*, the Secretary of HEW; *Richard Kleindienst*, the Acting Attorney General; *Wilmot Hastings*, General Counsel of the HEW; and others. It was truly a high-ranking and policy making group of administrative spokesmen.

On March 18, Presidential Counsel Clark MacGregor sent me a copy of the transcript of the press conference with the assurance that "the answers provided by Messrs. Richardson, Kleindienst, Ehrlichman, and Shultz" would be of assistance to me as I prepare to consider these two new legislative proposals.

The transcript of the press conference is of assistance to me, but not in the way intended by Mr. MacGregor. It makes it clear that I must oppose the bills, and for several reasons.

1. The bus moratorium bill has no factual foundation, and is designed solely to appeal to popular prejudices.

If there is a case to be made against busing, it was not made by the President. To the contrary, the press conference discloses quite clearly that the President had no interest in the facts, but intended solely to cater to what he believed to be the popular passions of the moment.

Mr. Ehrlichman announced that "This legislation is a culmination of many months of study"; and a reporter asked, quite naturally, "how much busing is going on now for the purpose of desegregation?" The answer from the Administration was:

"We don't have any breakdown. . . . We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to."

There was some follow up on this question, and Secretary Richardson answered that "the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing."

The question came up again, and a reporter asked how many school districts would be affected by the proposed legislation. The answer of Mr. Ehrlichman was that:

"I do not think any of us are equipped to answer, because *there has been no analysis done that I know of* on the number of districts that would achieve the norms proposed here in terms of transportation." (emphasis added)

A reporter then asked why, "since we do not even know the extent of busing involved in the desegregation process," did the President ask for a moratorium. The answer of Mr. Ehrlichman is at best both cynical and opportunistic:

"I think you have to come from some other planet not to be able to answer that question . . . This is the front burner issue in most local communities . . . That is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion."

In short, the President did not have any facts on which to buttress the need or desirability of his proposed legislation. He was not interested in the facts. Facts, in the words of his top aides are nothing but "statistical evasions." The issue is a "front burner", so the President wants a bill.

Mr. Ehrlichman terminated the press conference with these remarkable comments:

"You hear talk about moral leadership; I suggest to you this is moral leadership personified."

II. THE EQUAL EDUCATIONAL OPPORTUNITIES BILL IS A PROMISE BROKEN

The President proposed two bills. The first, the Student Transportation Moratorium Act, is designed to prevent the busing of students from the inner city schools to the better schools in the suburbs, and from the suburbs to the inferior inner city schools. The second bill, the Equal Educational Opportunities Act, is designed to improve the educational opportunities for those who henceforth must attend the inner city inferior schools. We were told by the President on television that this would be achieved by a large outlay of capital and operating funds.

Mr. Shultz said in opening the press conference, that the "effort here is to provide additional funds in schools where you find a high proportion of low-income students." That which followed grew "curioser and curioser."

First, Secretary Richardson said that the recent studies showed that "spending a small amount of money has comparatively little, if any, noticeable effect;" and Mr. Ehrlichman said that "a larger amount of money is going to make a difference."

Second, the Administration spokesmen said they were not going to ask for any new monies from Congress, that they intended to utilize the 2.5 billion that "has been planned, if not enacted" under two other bills; Title 1 of the Primary and Secondary School Act, and the Emergency School Assistance Program. Mr. Shultz was asked if the Administration had any plans for asking Congress for new and additional money, and answered no. He said "I think one has to take these things a step at a time."

Third, when asked how the Administration expected to do a better job with the same amount of money, Mr. Richardson said they would "target the money more sharply on the need of poor children, and particularly concentrations of poor children."

Fourth, since the same amount of money would be targeted differently, a reporter asked "Who loses? Where is it coming away from?" Mr. Hastings, General Counsel of HEW, gave a most peculiar answer which in effect adds up to "nobody." Here is what he said:

"Substantially the same districts, with some additions, will be eligible under the new program, as in the old. . . . In terms of the children, the change really is the way the money is used in the District itself . . . the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services

such as nutrition and health care for the kids. It cannot be spent on overhead, general administrative costs and the like. . . . I do not think there is a substantial change in the districts affected or eligible. . . .

To summarize the press conference as I read it, the Administration admits that existing monies are spread too thin to make any difference; they are not asking for any additional money; they intend to put the same amount of money in the same school districts for use for the same children; and this program they glory with the title of an Equal Educational Opportunities Act.

III. THE PRESIDENT'S PROPOSALS DO NOTHING LESS THAN TURN THE CLOCK BACK TO THE SEPARATE BUT EQUAL DOCTRINE OF PLESSY V. FERGUSON

If, as all must admit, there now exists schools which are exclusively or predominately white, and schools which are exclusively or predominately black; and if the only way to achieve desegregation is to bus the children back and forth; and if the President prohibits busing; what is this but a proposal to turn the clock back to the separate but equal (unequal is a more appropriate description) doctrine repudiated in the 1954 Brown and subsequent Supreme Court decisions; including the most recent 1971 decision of *Swann* v. *Charlotte-Mechlinburg School District?*

This thought occurred to several reporters. One asked this question: "The Court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?"

Mr. Morgan gave a peculiar answer. He replied that "We are not in any way attacking the constitutional right", but, merely seeking "to define the limitations on the remedy."

This answer is not adequate. Every first year law student knows that a right without a remedy is no right at all.

A second reporter asked the question more directly. He referred to "the net effect of these two bills" and asked: "Why is this not a return to separate but equal, if the moratorium on busing stops future busing plans and the financing of inner city schools encourages and develops those schools." Mr. Kleindienst took this one on. He pointed out that a "whereas" type clause in one of the proposed bills "prohibits the maintenance or establishment or re-establishment of a dual school system."

This answer is not adequate either. Every first year legislator knows that a whereas clause is a pretty empty thing when the substantive clauses go in an opposite direction.

A third reporter asked a follow-up question:

"You have said that the thrust of this legislation is to shift the focus away from transportation as a remedy to alternative remedies. How would you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together."

Dr. Shultz handled this one: *"There is no necessary reason why one must desegregate everything."*

The Administration not only wants to take away the only practical remedy in many situations to end the unconstitutional segregation practices in education, it also wants to roll back the clock and undo the integration of schools where it has been achieved: often at a bitter price.

Mr. Ehrlichman in his opening remarks pointed out that "once this legislation passes," the integration gains of the past can be nullified. He said: "on the motion of local education agencies existing court orders could be reopened if they go further than what is provided for in this legislation."

Mr. Kleindienst then added that if such motions are made, the Department of Justice would intervene in the court proceedings on the side of segregated education.

Mr. Hastings of the HEW pointed out that school districts which had desegregated voluntarily, without court order, could now come in and ask the HEW for a modification of plans. "The procedure", he said, "would simply be an application by the school district to HEW to reopen this Plan."

In short, the President proposes not simply a "moratorium" on future busing, he proposes the nullification of the gains made since 1954—with the Department of Justice lawyers leading the way backward to *Plessy.*

IV. THE PROPOSED BILLS THREATEN THE "SEPARATION POWERS" DOCTRINE AND THE INDEPENDENCE OF A FREE JUDICIAL SYSTEM

What we have here is the President asking Congress to deprive the Judiciary of a remedial tool which the courts have found to be essential for the vindication of rights guaranteed by the Fourteenth Amendment.

This raises legitimate questions, and, one reporter asked this way:

"I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation."

Mr. Kleindienst answered. He said first,

"I think there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th Amendment and also in Article III of the Constitution."

I would like to interject here that Section 5 of the 14th Amendment authorizes Congress *"to enforce"* the earlier substantive provisions of the 14th Amendment, and does not authorize the Congress "to deny" the equal protection rights guaranteed by the Amendment.

In regard to Article III, I assume Mr. Kleindienst has reference to section I thereof, which provides that "The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Perhaps Mr. Kleindienst is suggesting that the power in Congress "to ordain and establish" courts inferior to the Supreme Court carries with it the implication that Congress can deprive courts, already established, of the power to remedy the denial of rights guaranteed elsewhere in the Constitution. He did not explicate, so I do not understand the implications of his oblique reference to Article III.

In any event, Mr. Kleindienst said at the press conference that "many constitutional lawyers have been consulted with respect to this." This comment drew the following question:

"Is there a precedent in case law for this kind of action?" Here is the full and complete answer:

"Mr. Kleindienst: The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a precedent, and that I think, is what permits constitutional lawyers to say that Congress has that power.

"There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent." (emphasis added)

Frankly, I do not understand what Mr. Kleindienst is saying. But I do know that the Administration is the proponent of these bills; and I need more convincing before I will gang up with the President against the courts—and thereby erode the separation of powers doctrine, the checks and balances which have preserved the inter-dependence of the Executive, the Legislative, the Judiciary branches of our government since the Philadelphia constitutional convention whose 200th anniversary we are about to celebrate and enjoy.

THE WHITE HOUSE PRESS CONFERENCE OF MARCH 17, 1972

John D. Ehrlichman, Assistant to the President for Domestic Affairs, George P. Schultz, Director, Office of Management and Budget, Elliot L. Richardson, Secretary of Health, Education, and Welfare, Richard G. Kleindienst, Acting Attorney General.

The panel: Wilmot Hastings, General Counsel, HEW, Daniel J. McAuliffe, Deputy Assistant Attorney General, Justice, Paul O'Neill, Assistant Director, Office of Management and Budget, Kenneth W. Dam, Assistant Director, Office of Management and Budget, Edward L. Morgan, Assistant Director, Domestic Council.

Mr. ZIEGLER. The Leadership meeting this morning lasted close to two hours. I will allow John Ehrlichman to give you a rundown on that.

The way we will proceed here today is that what Mr. Ehrlichman and the members of the Cabinet say, and the panel, is for direct quotation. You can either quote the individual directly or, if you prefer, in the technical responses you can simply say "Administration officials said," and quote directly. You are free to use the name, or "Administration officials."

In order to proceed with what, as I think you have noted, is a highly technical matter, if you would address your questions to John Ehrlichman, then John will call on the expert on the panel to respond to your question.

With that, I will let you hear from John Ehrlichman.

Mr. EHRLICHMAN. Good morning. I am sorry Ron set those ground rules. We have been noticing all the fun that the fellows at the NSC have been having with these kinds of briefings, and had figured out a way of assuring anonymity of the briefers.

We thought that we would take your question and I would designate somebody on the panel to answer, and then we would take a written ballot up here and the ground rule would be that you could report that "Five out of eight Administration Officials believe."—(Laughter)—but he has blown that now.

I might just tell you that we have come from a very productive meeting which the President had with the bipartisan leadership which ran a little overtime. I apologize for keeping you waiting.

The discussion got into the parliamentary situation which involves a conference on the higher education bill. As you know, there are some busing amendments pending in that conference under instruction to conferees on the House side. There were several of the conferees there, so there was quite a bit of colloquy in the meeting about how the President's proposal, and particularly the moratorium proposal, but also the basic statute, would affect that conference, and what relation the conference might have to the possible early action on the moratorium proposal.

Certainly there were no commitments asked or given, but it was an interesting and I think worthwhile session on that aspect of the problem.

I believe the best way for us to proceed would be for you to hear briefly from George Shultz, the Chairman of the Cabinet Committee which you see here, to give you a brief overview. I know you have had access now to the Message and the Fact Sheet. I think it would be useful for you to hear briefly from George, and then we will move right to your questions.

Dr. SHULTZ: Let me make two background-type comments before discussing the content of the proposal.

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The first is that in undertaking to help the President develop these proposals, the Cabinet Committee has talked with a very wide variety of people, with many differing points of view, on this subject. Of course, we have been working on the subject for years in one sense, and in another sense we have been charged in the last couple of months with an intensive effort, particularly on this.

We have talked to Senators and Congressmen with varying persuasions as to their views about this range of subjects. We have talked with a large number of civil rights leaders, constitutional lawyers, with people who are knowledgeable in the education field about some of the programmatic aspects of this. We have talked with the co-chairman of the Southern committees we have put together and have had in operation for approximately two years.

So there has been an effort for wide consultation so that we would hear a variety of views and have as many ideas in the pot, so to speak, as we possibly could.

The second thing that I would call your attention to before discussing the substance of the legislation is the findings that you see in the Equal Educational Opportunities Act. Here, I think, you see the effort to shift the discussion and shift the emphasis away from transportation and onto education.

But first, this Act sets forth directly the opposition to the dual school system. That is a finding that the dual school system is wrong and should end.

Second, as we think of the dual school system in its sort of formal historical sense, I think it is a fair statement that it has been virtually abolished. A tremendous amount has happened, and particularly in the last two years or so. So there has been a tremendous amount done and accomplished and behind us, so to speak.

Third, this has been attended by a great deal of reorganization and considerable additional busing, and there is in prospect a considerable amount more, although who would know how much more, depending upon what happens to some of the lower court orders that have been emerging.

Then I think it is important to see the costs involved here. There are large dollar costs involved in busing. The dollars could otherwise be used for educational purposes, and there are problems in health and safety, and these are especially important for those in the sixth grade or less.

I know you are familiar with it, but it is perhaps instructive to read from the Supreme Court's Swann decision:

"An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. It hardly needs stating that the limits on time and travel will vary with many factors, but probably with none more than the age of the students."

Now, finally, in the set of findings that are proposed, again a quotation from the court decision as picked up, the finding is that through the process of case law that has treated this subject, what we have is a situation where we are both incomplete and imperfect. So in this legislation there is an effort to set forward national standards to codify, to add, to strengthen and to set forward a situation that can apply across the country as a statutory matter the same way in every part of the country. So I think that bit of background on the findings is extremely important.

There are two measures proposed, as you know. The first is the moratorium on the implementation of new busing orders. This is a flat moratorium. In a sense, it is analogous to the idea of the wage-price freeze; that you have just stopped the situation as it now is. You do that while the Congress considers a substantive move to replace the present incomplete and imperfect situation with one that codifies and puts forward in statute a new set of policies. So the moratorium is a flat moratorium designed to give the Congress time to act on this subject more generally.

Turning to the substantive legislation, the Equal Educational Opportunities Act, we have in a sense three main parts. The first part is programmatic and is directed to the problem of equal educational opportunity. It is not a racial matter, but a matter that cuts across race, and the effort here is to provide additional funds in schools where you find a high proportion of low-income students.

There has been a good deal of research on this subject, the Coleman report and some subsequent reports, and the suggestion is that if you add a little bit of money, you don't necessarily achieve very much. On the other hand, there is a body of research that shows that if you can add a critical mass, if you can add a large sum of money, you can accomplish quite a lot.

So the effort here is, through a combination of more directed funds from Title I of the Elementary and Secondary Education Act, and the use of the Emergency School Aid Act funds that are now in conference, to provide that critical mass in a compensatory package.

So in a programmatic sense, there is an effort here to improve the quality of education, particularly in schools where you find a preponderance of low-income students. At the same time, there is an incentive for voluntary desegregation in that a student who is in the majority in his or her school can transfer to a school where he or she is in the minority, and the compensatory money, if this is a low-income student, goes with the student, making, in a sense, this choice an effective choice. So there is a programmatic part here that is an effort to move strongly toward more equal educational opportunity.

Second, there is an affirmative statement of rights. This, again, let me remind you, is a national proposition. It goes across the board in all schools, an affirmative statement of rights and specified terms that the statute prohibits a denial of specific things insofar as equal educational opportunity is concerned: deliberate segregation; discrimination as to faculty and staff; failure to eliminate the vestiges of the dual school system; transfers that increase segregation; failure to take action that overcomes language barriers, and here we had in mind particularly the Spanish-speaking. So there is an affirmative statement of rights. It is national compliance, across the board.

Then the third main section has to do with remedies. Where the court finds there is a violation of the 14th Amendment and looks at remedies, the court is faced in this statute with a codification of things that have been used, some additions, some additional money put behind these remedies, and the remedies are rank order, all remedies which have precedence over busing.

The court is instructed to take the first, or the first combination of these remedies, that will handle the problem. The court is then in a position, if it finds that there is no complete and suitable remedy in this list, then the question of additional transportation comes up.

Here, following the Swann language, a distinction is made as to age. Insofar as children in the sixth grade or below are concerned, no additional busing beyond what that district is presently, currently, doing is available to the court as a remedy.

For students above the sixth grade, busing is a last resort type of remedy, to be used as a temporary measure; that is, it is desirable and required to have some kind of a plan that will reconstruct the situation over a period of time, some way the construction of a new school, or something of that kind, that will permit the amount of busing to be reduced, and perhaps reduced to a level that was in effect prior to the court order. So there is a temporary quality to the busing in that case.

Now, insofar as the desegregation orders are concerned, the statute also envisages that if a district is found in violation of the 14th Amendment and an order is put into effect, and the order presumably is going to cure the problem, it is possible for the district to pass through the period of court-ordered operation and, so to speak, cleanse itself. So if you have an extensive busing order, a time limit of five years' duration is placed on that business order itself, and ten years on the desegregation order more generally.

At the end of that period, if there is no subsequent violation, the district is cleansed and it operates on its own motion. The court order ceases to have effect.

Further, finally, in the interest again of treating this problem on a national basis, of treating school systems all over the country the same way, once this legislation passes, then we would foresee the possibility provided for in the legislation that on the motion of local education agencies, existing court orders could be reopened if they go further than what is provided for in this legislation, and a court order consistent with this legislation could be entered.

That, I think, is an overall summary. There are many other aspects that will be foreseen.

Let me ask first if Secretary Richardson or Mr. Kleindienst have anything they want to add.

Secretary RICHARDSON. No, thank you, George. I think we can proceed directly to the questions.

Mr. EHRLICHMAN. Let me just introduce the group at the other table. That is a majority of the working group which has been working with the Cabinet Committee on this problem.

From your right to your left, Will Hastings of the Department of Health, Education, and Welfare; Ed Morgan of the White House staff, Assistant Director of the Domestic Council staff; Dan McAuliffe from the Department of Justice; Ken Dam, an Assistant Director of the Office of Management and Budget; and Paul O'Neill, an Assistant Director of the Office of Management and Budget.

I will start with Mr. Cormier for the first question. If you do not have anything, we will go to someone else.

Mr. CORMIER. Feel free.

Q. How about the parliamentary situation in the House?

Mr. ERLICHMAN. Nothing was determined this morning with regard to that parliamentary situation. The members, particularly those who attended who were conferees, agreed that they would immediately get together and begin to talk about the conference situation in light of the President's proposals.

The feeling was that that would not necessarily forestall consideration of the legislation by the principal bodies during the time that the conferees were seeing whether or not the moratorium on busing and the more basic legislation could be introduced in some germane fashion to the deliberation of the conference, so it is still an open proposition.

Q. Where and when does the Justice Department plan to intervene, particularly inviting your attention to Detroit, San Francisco, San Antonio and Richmond?

Mr. KLEINDIENST. Every open case that exists with respect to this subject matter will be reviewed immediately by the Department of Justice on a case-by-case basis, to make a determination in two parts: (1) whether to intervene now before the passage of the moratorium legislation in an effort

to induce the court to stay any other action until the Congress passes the moratorium legislation; and then after the Congress has passed the moratorium legislation, to again intervene if any Federal District Judge should make a determination that the moratorium legislation is inapplicable or unconstitutional, and to appear before that court and take it on appeal, if necessary, to stay any order of a Federal District Judge after the passage of moratorium legislation.

With respect to just exactly what case or cases we will intervene in, that has not been finally determined, because the basic decision really will be whether or not a particular Federal District Judge is having an order implemented regarding transportation right now, or is about to.

I would feel, however, that as of right now, it is almost certain that we would intervene in the Richmond case and the Denver case.

Q. What about the cases on appeal?

Mr. KLEINDIENST. The intervention would be at all levels of the court.

Mr. EHRLICHMAN. Could I make a general comment that might forestall some questions? Every bureau will get an inquiry, "How does the President's legislation affect such-and-such a place," and every Congressman will get those kinds of inquiries.

The legislation was not drafted with any particular locality or pending case in mind. The effort here was to get a legislative approach that would be non-regional and non-local in effect, but would apply nationally. As a result, there has not been any staff analysis of the effect of the legislation on any particular case or region of the country, or pending piece of litigation, so we are just not in a position to answer those kinds of questions at this time.

I have no doubt that as we proceed, there will be announcements from time to time from the various departments about specific, pending cases. But questions of that type today would be premature.

Q. Mr. Richardson, isn't this going to dilute the funds available for Title I? Has there been a change of focus? Title I has been criticized for spreading money too thin. You are going to give a little more money for a lot more district. Isn't that going to dilute it further?

Secretary RICHARDSON. No. The thrust is in an opposite direction. We have already, through our comparability regulations, sought to target the money more sharply on the need of poor children, and particularly concentrations of poor children.

These regulations, as most of you know, say, in effect, that the money spent under Title I must be over and above the money otherwise spent for all children in the district. The McElroy Commission further recommended that there be a concentration within schools in a district, and we would seek to encourage this.

Without going into an elaborate detail on this, we figure that we can, through the combination of Title I funds, without diverting them from anyplace where they are being used now, and the combination of Emergency School Assistance funds, achieve the critical mass that Mr. Shultz referred to of approximately $300 per child, plus an additional amount of up to $100 in the schools which have the highest concentrations of disadvantaged children.

Q. It seems that you have not just a moratorium, but a rollback. This section which says that court cases and Title VI plans may be reopened seems to be inviting a host of new litigation. I would like to get Secretary Richardson's comment.

Mr. EHRLICHMAN. Let me touch on that first, if I may, and then I will pass it to him.

It is a question of rollback from what? This is the first time that there will have been legislation establishing a national public policy or a national standard. You had different levels and highly fragmented patterns up until now. That section has been designed to attempt to effect a national norm or a national standard.

Obviously, if there are some court decrees that have been more extreme than that, then equity would require that those districts be entitled to make a showing and to be brought to whatever the norm is which the Congress determines to be public policy in the country.

Now I will pass it to Secretary Richardson.

Secretary RICHARDSON. I will make two supplementary points: One, the provision for reopening proceedings is not in the moratorium statute which, as you have heard, establishes a freeze applicable to new busing orders, but does not provide for the reopening of any order that is already in effect.

The section you are referring to is in the substantive legislation which has been designed to establish uniform standards. There would be no reopening proceedings in any case except to the extent that a busing order exceeded the limits established here, so that the great bulk of all desegregation plans that are now in effect would not be touched.

It would be only those where the standards applied exceeded the uniform standards established in the legislation, and then, of course, only on motion of the district itself.

Q. The President said last night that the proposals he was making in the big piece of legislation would encourage desegregation, and yet, other than transfers, voluntary transfers from one school to the other, I don't see anything that encourages that.

Secretary RICHARDSON. There would be a priority in the allocation of funds, and the combination, particularly under the Emergency School Assistance Act, for school systems that are desegregated.

To that extent, we would be carrying out the basic legislation that was proposed by the President in 1970.

Mr. EHRLICHMAN. More than that, there is a grant of rights which, for the first time, would apply not just to de jure situations, but also to de facto situations. This would be the first piece of legislation moving into that area.

Q. How much busing is going on now for the purposes of desegregation, and how do you define massive busing?

Mr. HASTINGS. As to the first question, we don't have any breakdown. Even in court ordered districts, the court has to deal with the transportation pattern of the district as a whole. Some of the busing in court-ordered districts just gets kids to the same school that they would have gone to otherwise. Some of it is for the purpose of desegregation. We have no data on miles, distance, or times, the breakdown, or what the relative amount of desegregation busing and non-desegregation busing amounts to.

On the second question, "massive" is not defined term. We have not used it. It is a descriptive term to describe that range of cases which seems to us to have exceeded the requirements that the Supreme Court laid down in *Swann*. But it is not intended to be a term of art.

Q. I wonder if somebody would address himself to the overall question of constitutionality and particularly the constitutionality of the moratorium legislation.

Mr. KLEINDIENST. What you have here with respect to the moratorium legislation would be the act of the Congress and with respect to the courts dealing with the question of remedies.

I think that there can be no legitimate doubt whatsoever that, as a result of the power conferred upon the Congress in Section 5 of the 14th amendment and also in Article III of the Constitution, in a comprehensive package like this, where the aim of the Congress would be to come up with comprehensive national policy legislation, it has the power to, in effect, declare a moratorium on Federal courts with respect to the use of remedies for a period of time to permit to engage in the enactment of such legislation.

Many constitutional lawyers have been consulted with respect to this. The opinion of all that I know, when they combine the Student Transportation Moratorium Act and the substantive legislation, is certainly that it has the power.

Some even would suggest that the Congress would have the power to bring about the moratorium in terms of a denial of the remedy, even if it wasn't apparent or a matter of stated policy that they were engaged in the study of substantive legislation.

One thing that you want to notice is that the two acts tie themselves together by mutual reference.

Q. Is there a precedent in case law for this kind of action?

Mr. KLEINDIENST. The Congress has dealt with the question of remedy in the courts going clear back to 1793 in one way or another. So, to that extent, there is a pecedent, and that, I think, is what permits constitutional lawyers to say that Congress has that power.

There is no precedent in exactly this kind of situation, but the Congress, for instance, in the National Labor Relations Act, determined a national policy that was to apply between employees and employers in representation. That, again, is a question of remedy. The Supreme Court has said what the remedy would be under certain circumstances. So, constitutionally, I think there is ample precedent.

Mr. EHRLICHMAN. It might be of interest to you to know the process that was followed in determining questions of this kind. This legislation is a culmination of many months of study, a part of which was, of course, an analysis by the Department of Justice and its people of the legal questions involved.

The Cabinet Committee also had the services and the talents of eminent constitutional authorities and practicing counsel from the outside and delved deeply into the questions of the legality and the constitutionality of various alternatives, not just those that are being presented in the legislation, but quite a wide range of possible approaches to the various problems that are addressed by the President's message.

So Mr. Kleindienst and others are drawing upon a body of legal opinion that is broader than might have been referred to in the ordinary situation.

Q. The President believes that a constitutional amendment would take too long. At the same time, he says it deserves careful consideration by Congress. Can you tell us anything more about whether the President considers in the long run a constitutional amendment to be a proper remedy here?

Mr. EHRLICHMAN. I might just tell you what he told the leaders this morning, in substance. In this instance it is not even a paraphrase, but I will try to give you the substance of it. He readdressed the subject very much as he did in his brief remarks on television last night and said he should not be understood to be discouraging the congressional inquiry that is presently underway on the subject of a constitutional amendment.

He was asked a question which got to the matter of what would be his position in the event that the legislation were held unconstitutional. The President said, under those circumstances, it appeared to him that a constitutional amendment would be the only alternative.

I believe that probably answers the thrust of your question. There was some other colloquy about congressional feasibility. But the passage of the constitutional amend-

ment, and so on, would not be outside of the parameters of the questions laid down here.

Q. Isn't this a change in the Administration's position? It seemed like the President, for the last several years, has been saying we don't know what works; we will hold up and do research to find out what really is equal edudcational opportunity.

Number one, that seems to be changed; is it? Number two, what is the critical mass they are talking about? It seems like the new Coleman and the President's Commission on School Finance said that money doesn't really make a difference. What research do you have that contradicts that?

Mr. EHRLICHMAN. The critical mass always used to be the White House press corps. (Laughter.)

I will call now on Secretary Richardson.

Secretary RICHARDSON. I would say that what you see reflected here is a shift of emphasis, but not a radical shift. We have given a good deal of thought to the effectiveness of Title I. We have conducted a number of audits. There have been studies of impact of Title I. The weight of the evidence is in favor, we think, of the proposition that spending a small amount of money has comparatively little, if any, noticeable effect. But, if you spend, as has been referred to here, a critical mass to reach a given threshhold, it can and does.

This is on of the reasons why, as a result of these evaluations, we propose and are now enforcing the comparability requirements. Probably the most significant test on this score and one on which we are relying considerably, is one of the sample of 10,000 disadvantaged pupils in California which is referred to on Page 13 of the President's message along with references also to similar studies in Connecticut and Florida. We can give you more detail on that. I have a summary of these and other studies.

The legislation we already had, though, that speaks for Title I. The Emergency School Aid legislation was proposed by the President in 1970 and the very large proportion of the funds that were requested under that legislation were always conceived to be funds needed to assist children in catching up when they were transferred from a school subject to economic or other isolation or another school as part of the desegragation process. So, what we are doing here is to say we will use the funds for that purpose where a system is desegregated, but we will also seek to provide that kind of concentrated impact, even where children are remaining in a school where there is a large number of disadvantaged children.

Mr. EHRLICHMAN. Do you want to follow up on that?

Q. But this critical mass is saying a larger amount of money is going to make a difference. But this is the same amount of money we have had for the past few years. It is not new money, so how will it make the difference?

Secretary RICHARDSON. The answer to that it is the exceptional school system that has concentrated its Title I money enough to achieve this impact. We have been trying to bring about greater concentrations through the comparability legislation, but our audits show that the money has been dispersed too widely. So, in effect what we are trying to do is to accomplish more of what has been done in a comparatively few systems.

Dr. SHULTZ. I would like to comment on that question. In addition to what Secretary Richardson has just said, the Emergency School Aid money has been proposed for two years, but it has not been available. It has not been there to be used. So, assuming that we get this, that will be new money that we have not really had before. We had a small amount, I think $75 million per year, that was available under special arrangement. But this would be new money, if we get it.

Secondly, it is proposed here that the concept be shifted from the emergency concept where we were talking about $1.5 billion; $500 million the first year and $1 billion the second year, and then it would end, to one in which this is funded at the level of $1 billion per year out into the future. So that is also new money involved.

Mr. EHRLICHMAN. I think that is a very important point. The $1.5 billion was a one-shot deal. This is a proposal for the $1 billion level to be carried on annually in support of this program as long as the problem persists.

Q. Can we assume that your Justice Department interventions will be limited to cases that involve metro area cross-jurisdiction type of busing or desegregation and/or cases that involve de facto segregation?

Mr. KLEINDIENST. Well, I don't think you could make any assumption with respect to our intervention except for the fact that the decision will be made to go into any particular kind of situation that was open before the moratorium bill is passed to request the judge to hold everything until the Congress at least does that and then after the moratorium bill is passed, regardless of the kind of situation, if it is opened, to ask the court not to invoke any remedy until the Congress has had a chance to pass on this legislation.

Q How are you going to prevent school districts from strengthening their opposition or resistance to existing court orders on the hopes that the Justice Department would come in on their side?

Mr. KLEINDIENST. The moratorium bill applies only to new or additional court orders. It has nothing to do with court orders that are now in operation and in existence. The Department of Justice, I believe, would have a concern about an attempt by any school district to openly violate a valid, existing, current court order. That would be just an enforcement function of the Department of Justice.

But our aim with respect to intervention would be to use intervention by the Department of Justice as a means by which this step forward would be accomplished so that the Congress of the United States can declare a national policy with respect to education and get away from a situation where some 400 Federal district judges in effect have been legislating without any uniformity and without having a set of groundrules that are applicable around the country.

Mr. EHRLICHMAN. Secretary Richardson has an unavoidable commitment on the Hill. We will take one more question addressed to him, and then we will have Mr. Hastings move over here and be his alter ego.

Q. I would like to refer to the remark that the great bulk of the district court ordered busing would not be touched on in this situation. It seems to me it is a ban on all busing below the 6th grade. If that became the law, why would it not affect other districts?

Mr. EHRLICHMAN. Let me see if I can repeat the question. It is: How can you say that all busing would not be affected?

Q. He said the great bulk of the districts would not be touched.

Mr. EHALICHMAN. The great bulk of the districts would not be touched when the permissible busing level in the legislation begins in the 7th grade and goes up.

Secretary RICHARDSON. The answer to that is that the great majority of all desegregation plans, whether court ordered or negotiated under HEW under Title VI, has not required increased busing. The limitation in this legislation for grades one through six says, in effect, that you cannot increase the average amount of busing overall within the system. Many school systems have more busing because they bus white children past the black school or black children past the white school before their desegregation plans than they did now.

Further, it was not the policy of HEW or the Justice Department in the enforcement of desegregation before Swann and Mobile to require noncontiguous zoning and pairing, which in turn leads to transportation, because the courts had not gone that far.

We enforced the law as it stood; that is, what the courts said the Constitution required.

So the substantial extent of the problem we deal with here is a problem that is post-Swann in the district courts, particularly, may have gone beyond Swann in the requirement of busing.

So this is basically why there are a relative few—I don't know how many, but not many—pre-Swann cases that would be affected.

Mr. EHRLICHMAN. I think there may be some confusion about this reopening provision. I wonder if I could address that, perhaps, ancillary to this question.

You get cases in which the court order involves a remedy in excess of what the Congress ultimately adopts as the permissible remedies in the statute. Those districts are entitled, where they are under a court order or under a Title VI HEW plan, to come in and petition to reopen those cases to have their remedies reduced to the level of whatever the Congress decides is the public policy in the area.

Q. I am sorry I did not get this question in before Secretary Richardson left. I would like to know why, since we speak of the quality of education, the Commissioner of Education is not here today.

I have another question, That is just one.

The other one is this: At page 6, Section 402, if I read it correctly—and I am probably reading it wrong—it looks as if you are going to go back and have just what you are starting out not to have: You are going to have every court, department or agency in the United States telling you specifically how to run your neighoorhood schools.

Mr. EHRLICHMAN. Mr. Hastings.

Mr. HASTINGS. As to the absence of the Commissioner of Education, I can only say the Secretary is under the impression that he is the Chief Executive Officer of the Department. That is an impression that may not be shared universally in town, but he has made efforts to believe he can represent the Department adequately, not meaning to denigrate the Commissioner.

Q. It is not that. The point is that he has to represent Social Security and NIH and a few other things. We are talking about quality of education here, and some of these questions you did not answer.

Mr. HASTINGS. The question is on page 6 of which piece of paper?

Mr. EHRLICHMAN. It is the basic bill, Section 402. This is the hierarchy of remedies.

Mr. HASTINGS. The sole purpose of Section 402 is a direction to the courts and the Federal agencies, both Justice and HEW, in formulating a remedy for whatever wrong may be covered by the bill, they are to do only that amount of remedial requirement which is necessary to remedy the specific wrong.

For example, if there is a deficiency in the language programs so the Mexican-American children are not able to adequately participate, it is obvious that a busing remedy for that is a remedy which is excessive to the need. That is its only purpose. It is simply a mandate to limit the remedy to the wrong.

Mr. EHRLICHMAN. The way Section 402 works, the district judge starts with number one. If that applies, then that is the one he applies. If that will not work to solve the situation, then he goes to number two, or a combination of one and two. Only if those two will not solve the problem, then he will go to number three, and so on down the list of priorities.

As you see, busing is in the next section

and says only after he has exhausted the alternatives may he move to transportation, and then only on a temporary basis.

Q. What, under your bill, will constitute desegregation? When will it be accomplished? When will you have eliminated the vestiges of a dual system. I notice you do not say "last vestiges."

Mr. EHRLICHMAN. Would anyone like to take that?

Mr. MORGAN. I don't think we interpret "last vestiges" to mean anything but a semantic difference. The remedy for a violation of a desegregation order lasts for a particular period of time, five or ten years. If subsequent to that there is another violation, obviously another action can be brought.

Q. What am I getting around to is racial balance. "Last vestiges," as some lawyers contend means you must have acquired racial balance. At what point have you eliminated the vestiges of a dual system?

Mr. MORGAN. This bill specifically provides you do not have to achieve racial balance.

Q. I know that, but where above that have you achieved it over the nation?

Mr. MORGAN. Once the court found under the Act the remedy fashioned particularly meets the violation, you have accomplished it.

Q. On the reopening question, just for illustrative purposes, could we discuss Charlotte-Mecklenburg? That order went into effect at the beginning of the '70–'71 school year, if there is a reopening there, what would be the level of busing that would be the standard upon which the court would have to fashion a new decree?

Mr. EHRLICHMAN. We don't know that yet, because the Congress has not yet acted. If the Congress adopts the remedies set forth in the President's proposal, then this standard would apply and the judge would be bound by the provisions of this statute.

Q. Do I understand that the standard in the statute would, in the Charlotte-Mecklenburg case, by the amount of busing done in '69–'70; in other words, the preceding year?

Mr. EHRLICHMAN. The statute will speak for itself. I should not be expected to comment on Charlotte-Mecklenburg or Overshoe, Ohio. The provisions with regard to transportation would say to the judge, "If this were adopted, kindergarten through sixth grade, you don't go beyond the quantum in the previous year," and so on, on through. That is the general intent of the statute.

Q. In the event that a district seeks to reopen the Title VI desegregation plan, can you tell me what the procedure would be for it to reopen this plan and whether the plan would remain in effect while the department was considering whether or not they were entitled to have it reopened?

Mr. HASTINGS. The procedure would simply be an application by the school district to HEW to reopen this plan. During the negotiating process, the plan would stay in effect until modified.

Mr. EHRLICHMAN. I have another problem. I have another escapist here. Let me direct your attention to Mr. Kleindienst and take two more questions for him.

Q. Mr. Kleindienst said earlier that it was almost certain that the Justice Department would intervene in the Richmond and Denver cases. Would that happen before Congress acted, probably?

Mr. KLEINDIENST. Yes. Those would be two cases, in all probability, that we would intervene immediately, prior to the adoption of the moratorium bill, and there might be others.

Q. Mr. Kleindienst, the net effect of these two bills—this is a broad-type question. Why is this not a return to separate but equal, if the moratorium on busing stops future plans and the financing of inner city schools encourages and develops those schools?

Mr. KLEINDIENST. There are two answers to that question. One, as Mr. Shultz pointed out, in the substantive legislaion it prohibits the maintenance or establishment or re-establishment of a dual school system as a matter of national policy.

Q. Not re-establishment, but perpetuating the ones that exist.

Mr. KLEINDIENST. There is a prohibition, as a matter of natural policy, of a dual school system based upon race, color or national origin.

Secondly, the answer to the question is that what you are going to do here is to have a national policy which, as it affects the schools, you are going to eliminate transportation to achieve a racial balance or a particular ratio, and you are going to put the emphasis, as a matter of national policy, South, North, East and West, on quality of education.

So instead of going back to anything it really provides a means by which this country can go forward with respect to a very essential aspect of our national society.

Mr. EHRLICHMAN. Could I add something? I think the question is a very good one, because it points up the whole thrust of this legislation.

The question argues that the only way that you will avoid segregation is by transportation. The whole thrust of this legislation is toward other devices to do the same thing, other and better devices. It allows for transportation under certain circumstances, but only if it is temporary and only if the district undertakes, during that time, to move to other devices.

So it is a little bit like having a good eye, and you favor the bad eye by using the good eye a lot, so you have a crutch. We have gotten into that kind of a crutch syndrome on busing here, so we have not listed those other tools in that section.

Q. What are these other court decisions that have exceeded the mandates of the Supreme Court, the lower court decisions?

Mr. EHRLICHMAN. One that would certainly come to mind would be Richmond. I will pass that to the right-hand table here.

Mr. MORGAN. I assume you mean cases that have resulted in racial balance.

Q. Yes.

Mr. MORGAN. Cases which come to mind immediately would be Muscogee County, Columbus, Georgia; Winston-Salem, North Carolina, in which, immediately after that case, the Chief Justice released the memorandum applying to the Swann case. Others I can think of would be Augusta, Savannah, San Francisco, Tampa, Florida, and there are a couple more.

Q. I would like to ask if at any point there was any consideration of a more radical approach, of a rollback on busing completely, and how will this appease the anti-busing advocates who made this a big problem?

Mr. EHRLICHMAN. I would not open up the various options that were considered and set aside. I think that is destructive of the decisional system that we follow. I cannot answer the question as to what the attitude would be on the part of people who might take a more extreme view one way or the other.

I take it that at both ends of the spectrum, they are not going to agree with us. The basis on which this pattern was selected was that it did offer an opportunity for immediate action, it offered a very high possibility of success in the two goals of eliminating this heavy reliance on transportation, and effecting an improvement in the education system and the results for the children.

So that is how it was arrived at, rather than along the lines of any particular alignment.

Q. This is a constitutional question. Do I understand correctly—maybe Mr. Morgan can answer this—do I understand correctly that this bill is a codification of Swann? You are not rolling back anything that the court declared in Swann?

Mr. MORGAN. The substantive legislation sets forth many of those remedies using various cases, but puts them in a ranking and then deals with busing by setting certain limitations which the Congress can do under section 5 of the 14th Amendment as far as remedies are concerned. It is not denying any constitutional rights.

Q. The court has set a standard under Swann which it deems to be constitutional. Now, are you saying that what Congress should ordain is something less than what Swann declared? Would it be constitutional then?

Mr. MORGAN. We are saying that Congress has the power, under the substantive legislation, to define the limitations on the remedy. We are not in any way attacking the constitutional right.

Q. I wonder if you would go over a little more thoroughly the earlier comment you made that a district is cleansed after a certain period of operating a desegregated school system. What does that mean?

Mr. EHRLICHMAN. What do we mean when we say a district is cleansed after the running of a five- or ten-year period? Ed, do you want to take that?

Mr. MORGAN. The intent of that is to say that the courts are not required to run the school system in perpetuity. After they have had that five- or ten-year period, factors may have changed and they could use some of these other remedies, where there could be construction, and they could be deemed to comply, and they should go on out of that court order. There should be a time that it ends, as the Swann case clearly points out.

Q. Does that mean that a district which a few years ago desegregated under court order that comes out of that a year hence, that they could then go back to a neighborhood school system?

Mr. EHRLICHMAN: It is hard to argue a hypothetical case with one dimension. Let me try to put the answer differently. When you get into one of these cases, very often the court retains jurisdiction, but he has entered an order and there is an ongoing plan in execution.

We have seen locally here how simply on application of one of the parties the case is reopened and there is additional judicial intervention in the operation of the school district.

Now, under our judicial system, technically that could go on indefinitely. The purpose here is to bring about a cessation of that judge's jurisdiction in that case at some terminal date. That is not to say that—and the statute clearly provides—if there are, in fact, substantial violations of the Constitution or statutes, then an action can be again sustained for the correction of those violations.

But it is simply to avoid the more or less inadvertent perpetuity that takes places in these cases, because the existing law is all case law; it is not statutory. So any time you draw a statute on the subject, you try to define the terminal limit. That is what that does.

Q. If this legislation is approved, does it eradicate the distinction between de facto and de jure segregation so that segregation in the North is now as liable to solution as segregation in the South was?

Mr. EHRLICHMAN. The question is, does this statute, if adopted, forever more eliminate the distinction between de facto and de jure, North and South?

Mr. DAM. The statute does not attempt to deal with that distinction. The statute does contain certain prohibitions which are defined, and in particular with respect to language barriers, it might be said to deal with something that has been formerly referred to as being in the de facto area. However, whatever the theory of the court might be with respect to a violation, the remedy section applies. You go through the heirarchy of remedies, and so forth.

Q. What do you mean by that answer?

Here it says under equal educational opportunities that students should not be deliberately desegregated either among or in public schools, "Deliberately" in the South means by State law, and that is not true in the North. If this legislation is passed, does "deliberately" mean "deliberately" by housing patterns or by law? Is the North now liable to solutions the same way the South has been?

Mr. MORGAN. The answer to that is yes.

Q. Mr. Hastings, a follow-on to this question. In point of fact, this legislation, aside from upgrading the intent of it being to upgrade schools and pour more money into poverty area schools when it is needed, in point of fact this legislation does not touch de facto segregation in big Northern cities, where there isn't any busing anyway, so you don't have any desegregation in big Northern cities where the poverty area is so great there isn't any busing.

This does not touch those areas as far as desegregation in concerned; isn't that right?

Mr. HASTINGS. This programmatic part of the statute preserves the fundamental purposes of the President's 1970 desegregation emergency school bill. One of its purposes was to encourage voluntary desegregation by the North by providing financial incentives.

In terms of the program, Secretary Richardson said there will remain one of the priority categories: The districts eligible for the compensatory education portion will be those districts which are voluntarily desegregating.

Q. Could we have a translation of that?

Dr. SHULTZ. The Emergency School Aid legislation, as it would be used in this context, would permit money to flow to schools with a heavy proportion of low-income students, whether those schools were desegregated or not. There is, in a sense, a priority of purposes established so that you use the money first for the desegregation purposes.

But the notion is that where you find schools, regardless of what racial composition there is in the schools, where you find schools with a heavy concentration, 30 percent or more with a formula for how it would work beyond that, then you supplement the education budget of that school through the Emergency School Aid fund. So there would be money flowing to these areas that are low income and exist in an area where desegregation is not going to help them much.

Q. Is there a target date set for upgrading the quality of the inner city schools to the point where they are at the level of the suburban schools, and if so, is there any possible projection that goes beyond the $2.5 billion?

Dr. SHULTZ. Let me comment this way: I think one has to take these things a step at a time. Let us see what we can achieve, building on this experimental and demonstration work through this kind of concentration and critical mass approach.

Now, the subject of equality of educational opportunity, in terms of its concept and in terms of the money involved, goes even beyond and broader than this, and as the President said in his State of the Union message, and as there has been considerable discussion following the Serrano case and others, there is a big area of work to be done and addressed that is over and above this, and certainly we need to be bearing down on that subject.

Q. Could we follow up on this de facto? I believe, Mr. Ehrlichman—I have my notes something to the effect—you said there is in this a grant of rights which would apply not just to de jure but also to de facto segregation. Where in Title II, section 201, is there a grant of rights that would apply to the de facto situation?

Mr. EHRLICHMAN. Well, the thing I said I took off of your Fact Sheet, page 2, at the bottom, (B), and you will find there a summary of what I said: that the denials of equal educational opportunity are applicable to all schools, nationwide. It does not just apply to those schools that are found to be in a de jure situation. That is the thrust of what I was trying to say.

I don't know if that answers your question or not.

Q. Is there in 201 something that speaks to that?

Mr. EHRLICHMAN. It says all schools. It doesn't make a distinction that it has to be through the de jure pattern. I think that is the sense that I wanted to get across to you. You don't have to have a de jure finding for that to apply.

Q. But you do have to have a deliberate activity, a racially motivated act by a public entity?

Mr. EHRLICHMAN. That depends on how you read it.

Dr. SHULTZ. If a non-lawyer could get into that, I had the impression that if you had deliberate segregation by an educational agency, that that is de jure segregation. That is a way of defining that word. So you are talking about that, but this is something that is put forward as a national, codified standard.

Mr. EHRLICHMAN. There is no animus required. Some of these are put in the area of simply failure to act, as in the racial barrier situation. So I think it pushes out and gives leadership in some new direction on educational rights.

Q. John, what proportion of educationally deprived students in Title I districts will be able to be covered under the $300 critical mass approach with whatever extra money you have? Obviously you are not talking about an overall program, but an experimental program.

Mr. O'NEILL. Our estimates are that there are about 7 million children attending schools that have concentrations of lower income children exceeding 30 percent, and something over half of those 7 million, in fact, meet the low-income family definition.

Q. Would you be able to cover all those with the extra money at $300 a pupil?

Mr. O'NEILL. Yes, our estimates show that we would be able to supplement the money now present with those schools in Title I with the new dimension added to the ESA program to achieve $300 per child, and in those schools where there is a very significant concentration, we would be able to reach it by $400 per student.

Mr. EHRLICHMAN. It is not a demonstration concept, either.

Q. Is there anything in this that gives relief to a local school district that is under State mandate, that is under orders to bus children for purely racial purposes?

Mr. EHRLICHMAN. No.

Q. What is the net effect of all that? Are we going to see, after it goes into effect, more desegregation or less than we have now?

Dr. SHULTZ. I would expect and hope that one effect would be less prospective busing, so that would be one effect.

Second, in the process of desegregation, the courts would be looking at these other remedies, and we would have in many ways a more imaginative approach to how to do this. John, I think, was saying earlier that the busing should be a last resort, not a first resort, in the sense that it is too easy a thing to turn to.

Third, I would hope that we would get out of this an improved quality of education over a broad base, as well as a greater measure of equality of educational opportunity. So I think these are, if you want a sort of net assessment, the way I would sum up.

Mr. EHRLICHMAN. I realize some of you have deadlines and we will only take three more questions.

Q. I have two questions.

Mr. EHRLICHMAN. Well, there goes two of them.

Q. The $2.5 billion is really deploying money that has been planned, if not enacted, and we know, from your description, who is going to benefit from the redeployment. The question is: Who loses? Where is it coming away from? This money was going to be spent.

The second question is: Earlier Mr. Richardson said that the great bulk of places where there has been desegregation will not be affected, and then it subsequently developed that he was not talking about or limiting his statement to busing.

Would it be a fair statement that three-fourths of the places where there has been enforced busing, and all places where there has been busing with noncontiguous zones, would be rolled back?

Mr. EHRLICHMAN. I do not think any of us are equipped to answer the second part of that, because there has been no analysis done that I know of on the number of districts that would achieve the norms proposed here in terms of transportation.

I think it is fair to say that most of them would be affected in terms of elementary school; that is, kindergarten through sixth grade; but that is obvious on the face of it.

Now, on the first part of your question as to where did the money come from, or who lost it. Will, can you answer that?

Mr. HASTINGS. I can take a start at it.

Substantially the same districts, with some additions, will be eligible under the new program, as in the old. The additional districts will be those with high concentrations of poor children who cannot be reached by traditional desegregation processes.

In terms of the children, the change really is the way the money is used in the district itself. One of the points that has not come out so far is that the concentration of resources under this combined program must go to the basic learning programs in the schoolhouse; you know, the reading, writing and arithmetic programs, plus supplementary special services such as nutrition and health care for the kids.

It cannot be spent on overhead, general administrative costs and the like. So it is a redeployment in terms of the kinds of programs for the children. I do not think there is a substantial change in the districts affected or eligible other than the classic cases I cited in the first part of my answer.

Dr. SHULTZ. I just want to add one point: Remember that this legislation was proposed first two years ago, and a tremendous amount of desegregation has been accomplished during that period. If we had had the money two years ago, I think the people who have been going through this process could have been much better off. We would have been able to help them more effectively.

At the same time, there is a lot of water that has passed under the bridge, so I think the need there is a little bit less.

Q. If, as the experts have testified here, we do not even know the extent of busing involved in the desegregation process, then what is the hard evidence that supports a Presidential call for a moratorium on busing?

Mr. EHRLICHMAN. I think you have to come from some other planet not to be able to answer that question. Every place that you go around this country, as a number of us have and as the Cabinet Committee, particularly, has in its inquiries on this thing, this is the front burner issue in most local communities. The people there, who are the ultimate consumers, so to speak, the parents and those associated with the parents, the community leaders, the church leaders, all kinds of people in those communities, the newspaper people, push that issue right up front and say, "This is the most pressing problem, the most divisive problem and the most troublesome social situation we have in this community at this time."

Now, that is the evidence. It carries by such a preponderance that it cannot just be swept under the rug by some sort of statistical evasion.

Q. You have said that the thrust of this legislation is to shift the focus away from transportation as a remedy to alternative remedies. How do you implement these alternative remedies without some form of transportation, since the facts of life are that blacks and whites don't live together. They live in different parts of the cities.

Mr. EHRLICHMAN. Who wants to handle that?

Dr. SHULTZ. The living arrangements vary a great deal around the country by city size and parts of the country. There is no necessary reason why one must desegregate everything. What we are talking about is a situation where you have deliberate segregation and court orders are being sought and given to overcome that, and then what are the remedies that are used.

That is the problem that is addressed here, as well as, of course, on a broader basis, following an earlier question, the improvement of educational opportunity more generally.

Q. Isn't the effect of your answer to exclude de facto legislation and to say there is nothing we can do about it? Aren't you limiting this solution you propose in your answer to de jure segregation?

Dr. SHULTZ. Depending on how one may define this, certainly in this legislation the educational problems of students who are economically deprived and racially isolated are treated. An effort is made to do that.

But beyond that, in terms of the definitions of the de jure and de facto segregation, there has not been anything additional laid down here to treat on that problem.

Mr. EHRLICHMAN. I think your question implies an either/or choice. I think if you listened to the President last night—and he repeated it this morning with the leadership—he is most concerned about the capacity of our educational system to transport anywhere like a majority of students in highly impacted, disadvantaged areas.

It is the conclusion of this working group, after a tremendous amount of study, that if you set about to do it you would be years and years and years perfecting some kind of a transportation system that would make up for the inadequacy of educational opportunity in these core cities.

We are just skimming the top, really, of the kids in South Chicago or some of these other heavily impacted, disadvantaged areas. As long as we rely on transportation and say that is the only answer, and if you downplay transportation and you are not going for a solution to the problem, we are never going to solve the problem.

This is an effort to strengthen an attack on the problem through other resources, the handling of other resources and the use of other devices. I think it is a statement of conviction on the President's part that transportation simply is never going to solve the problem. It hasn't demonstrated it has come close to solving the problem. It has simply proved to be a very difficult and divisive additional social problem that has presented itself.

You hear talk about moral leadership. I suggest to you this is moral leadership personified. The President has suggested that we vigorously attack the problem and that we do it in some way that has some chance of success instead of a way that has proved itself to be totally unsuccessful.

With that I will conclude.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, the March 21 primary elections in Illinois caused me to be necessarily absent for a number of rollcall votes. Had I been present, I would have voted as follows:

Aye on roll 80, final passage of H.R. 8395 extending the Vocational Rehabilitation Act;

Aye on roll 81, final passage of H.R. 11948, authorizing appropriations for U.S. participation in the Hague Conference on Private International Law;

Aye on roll 82, final passage of H.R. 4174, amending the Uniform Time Act;

Aye on roll 84, final passage of H.R. 13120, increasing the par value of gold to $38 per ounce;

Aye on roll 87, final passage of H.R. 13592, the National Sickle Cell Anemia Prevention Act;

Aye on roll 89, final passage of H.R. 13955, legislative branch appropriations for fiscal year 1973.

DISTRIBUTIVE WORKERS OF AMERICA REACHES WAGE SETTLEMENT; IGNORES COUNCIL'S ERRONEOUS INTERPRETATION

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, in enacting the Economic Stabilization Act Amendments of 1971, Congress included a specific exemption for "substandard earnings." This exemption, section 203(d) of the act provides:

Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The legislative history of this provision makes it quite clear that the intent of Congress was to define "substandard earnings," and "working poor," to mean a level of income of $6,960 annually, or approximately $3.35 an hour.

My bill H.R. 11406, was the origin of the language of this amendment. With respect to this language, the House Banking and Currency Committee report stated:

It is the intention of the Committee that this exemption from control apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing, and shelter and similar necessities. (Report No. 92-14, p. 5)

Based on 1969 data—which are, of course, now subject to upward correction due to inflation—the Bureau of Labor Statistics 1970 cost estimate for an urban family of four at a lower level is $6,960 annually.

However, in flagrant disregard of this clear legislative history, the Cost of Living Council on January 29, 1972, decreed that only workers earning up to $1.90 an hour—$3,968 annually—will be exempted from wage controls.

The outrageous nature of this decision is highlighted by the fact that it was reached in the face of a unanimous opinion by the Pay Board on January 19, 1972, that the figure of $1.90 an hour was so low as to violate congressional intent. Early in January of this year the Cost of Living Council had submitted the $1.90 figure to the Pay Board and asked for the Board's views on this figure. In rejecting this figure unanimously the Pay Board adopted the following resolution:

It is the sense of the Pay Board that the $1.90 figure recommended by the Cost of Living Council is inconsistent with the purposes of the Amendments of the Economic Stabilization Act and supporting analysis.

This unconscionable decision by the Cost of Living Council will work an egregious and unacceptable hardship upon the millions of hard-working men and women in this country who try to support themselves and their families on wages of less than $7,000 a year. This ruling will deny them raises they have earned, deserve, and expect.

This decision is being challenged in the courts, and I have filed an amicus curiae brief in that action. It is also being challenged in the bargaining sessions and on the picket lines by at least one union: District 65, Distributive Workers of America.

Called the conscience of the union movement by the late Reverend Martin Luther King, Jr., District 65 has chosen to follow the clearly expressed intent of Congress and ignore the inconsistent ruling of the Cost of Living Council. On Friday, February 4, District 65 called strikes in the following establishments: Modern Miltex, 280 East 134th Street, Bronx; DeLuxe Label, 23 East 21st Street, Manhattan; Rebuilt Auto, 147 Classon Avenue, Brooklyn; Ribbon Narrow, 65 Bleecker Street, Manhattan; Page Studio, 72 Madison Avenue, Manhattan; Atlantic Foam, 330 Morgan Avenue, Brooklyn. The workers in these places of business earn below $7,000 annually.

Settlements have been reached with the following five firms: Modern Miltex, DeLuxe Label, Rebuilt Auto, Ribbon Narrow, Atlantic Foam. The settlements are approximately double the 5.5-percent guideline set by the Pay Board.

More recently, District 65 has called strikes and reached settlements with H. Levey, 418 Broome Street, Manhattan, and Alfred Dunhill, 11 East 26th Street, Manhattan. Again the average increases were 10 percent.

District 65 has not submitted, and does not intend to submit, these agreements to the Pay Board for approval. It is the position of District 65, and I agree with it, that settlements such as these are sanctioned by the working-poor exemption passed by the Congress, the arbitrary ruling of the Cost of Living Council notwithstanding. Therefore, no approval from the Pay Board is required. District 65 has sent a letter communicating its actions and the reasons to each of the members of the Cost of Living Council and the Pay Board as well as to the Director of the Internal Revenue Service, and to the members of the Banking

and Currency Committee of the House and the Finance Committee of the Senate.

I commend the members of District 65 and its president, David Livingston, for their forthright and courageous response to this situation.

UNITED FARM WORKERS—A PLACE UNDER THE SUN?

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, I was pleased to join today with the Black Caucus in full support of the United Farm Workers' stand against the court injunctions sought by the National Labor Relations Board.

In the past there has been widespread support for the boycotts of grapes and lettuce. However, now the issue takes on a new and more saddening dimension.

Although for 37 years farm labor has been outside the jurisdiction of the National Labor Relations Act, the United Farm Workers have suddenly been placed on the altar by a consortium, including the National Labor Relations Board, the Free Marketing Council, and the American Farm Bureau Federation.

The United Farm Workers have been attempting for years to raise themselves from the hardships and discrimination that still pervade their daily lives. Never given any of the benefits or protection of the National Labor Relations Act, they are now facing injunctions sought by the National Labor Relations Board and their newly appointed General Council, Peter Nash. The Black Caucus called the move "morally reprehensible and legally tenuous."

The justification for all this is an awkward juxtaposition of facts and figures. The National Labor Relations Board contends that the United Farm Workers Union contains a handful of statutory workers employed in commercial packing sheds, thereby making the whole union subject to the punitive aspects, dealing with secondary boycotting, of the National Labor Relations Act. It is unfortunate that the United Farm Workers are being placed on the altar, so that the administration's ties with the Free Marketing Council may be maintained.

In seeking this injunction against a union of farm workers, the National Labor Relations Board is violating Public Law 92–80, which prohibits expenditure of National Labor Relations Board funds for this purpose.

Court injunctions have been filed in 10 States and the District of Columbia, and the issue will not subside until the duality in it subsides.

And this is exactly what must be clarified. The National Labor Relations Board was originally created to provide for the fair and equal treatment of management and labor. When the wineries and agribusiness interests recently sought help in ending the boycott, management became the key object of its protectionary powers. The disparity is painful to everyone but a few.

In order to try and remedy the situation, I have written the Chairman of the National Labor Relations Board and urged him to reexamine his agency's position in this matter.

HURRY UP WITH THE TAX PROPOSALS, MR. PRESIDENT

(Mr. ABOUREZK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ABOUREZK. Mr. Speaker, the voters have focused their attention on the economy this year.

They are not just worried about the immediate problems at hand—how we get out of this post-depression recession, or whatever you call it.

They are looking deeper than that this year. They are looking at the basic questions.

They are looking at who owns America's wealth. They are asking if the extreme concentration of economic power in the hands of a few is a good thing.

And they are looking at the consequences of that concentration. Under special scrutiny is who pays how much taxes and why.

And they are finding out that our tax laws are severely distorted in favor of the rich and powerful. They figure quite correctly that favoritism accelerates the concentration of wealth and power into the hands of a few.

They know the simple facts of power. They know that power follows money. They know that the very workability of democracy is threatened.

Moreover, they know that they are paying far more than their fair share. They know that, in effect, they are being soaked. And they understand the vicious irony of that soaking. They know it erodes their own grasp on the process that makes the decisions in this country. They pay most of the bills but make fewer and fewer of the decisions.

They are getting wise to what has been going on. And they are angry about it.

They are angry, because they are learning—

That one in 20 millionaires paid zero taxes in 1970.

That 112 people with incomes over $200,000 paid zero income taxes that same year.

That J. Paul Getty, the oil billionaire with a daily income of $300,000 saves $70 million a year thanks to tax loopholes.

That the average working family and the big oil companies pay almost identical tax rates on their net incomes, thanks to oil loopholes.

The average American gets stuck with unfairly high taxes, while clamps are put on their wages, while prices climb up the ladder, dragging regressive sales taxes up with them.

So far the guts of our national economic policy has amounted to huge and expensive "incentives" to big business—through excise taxes, import quotas, accelerated depreciation, and dubiously effective price "controls."

It seems obvious that if we want to put more money into the average guy's pocket, at a time when that is what the economy so desperately needs, the thing to do is decrease his taxes.

I can point to $77 billion worth of loopholes that will do just that.

It will be interesting to see how close the administration's promised tax reform package comes to those goals.

But we would not be able to see anything, and we would not be able to legislate anything, until the White House gets its recommendations up here.

Mr. Speaker, if there is to be tax reform this year we have to get moving on hearings and a bill. We cannot wait much longer.

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, as we continue to consider the problems of our environment and seek solutions to these questions, I would like to call to the attention of my colleagues the following two talks delivered by Prof. Peter F. Drucker during the Claremont College's annual lecture series April 13-14, 1971.

Professor Drucker is a world-reowned economist and among the first teachers to offer courses in the protection of our environment—long before it was fashionable to do so.

It is because of this long-standing interest and study of the problems of our environment that Professor Drucker is so uniquely qualified to offer his observations on the subject of politics and economics of the environment.

I hope that the Members of the House will find his remarks as interesting as I did and perhaps agree with me that Professor Drucker offers a new perspective from which to view the important issue of protecting our environment:

POLITICS AND ECONOMICS OF THE ENVIRONMENT

(By Peter F. Drucker)

WHY WE ARE NOT MAKING MUCH PROGRESS

I am a very old environmentalist. Way back, around 1947 or 1948, when I taught at a small women's college in Vermont I offered what was perhaps the first course in the environment. I did not get a single student then for such a course; nor could I find any reading matter. It seemed a very strange and wildly reactionary notion at that time that we have to make sure of not destroying too much of the natural inheritance of man.

Having been concerned with ecology for a long time, I should be exceedingly pleased by the sudden rush of interest in the environment—to the point where one cannot open any magazine without finding an article on ecology in it. And in a way I am, of course, grateful. It is very nice to see that one was not entirely wrong a long time back. But I am also rather perturbed. I see an enormous amount of busyness and an enormous amount of headlines and an enormous amount of rhetoric, but the only thing I don't see are results. Maybe I demand too much. But I do not see much progress. I see a lot of money being spent. But I have long ago learned that one does not equate the size of a budget with accomplishment. Money is no substitute for thinking; indeed to substitute money for thinking always does damage. I see a lot of bills being passed, a lot of conditions being deplored; yet I don't see us making much progress in learning how to manage the environment to make this country and this planet liveable for human beings.

And so I have been asking myself just these last few years not only what should be done but also what should *not* be done. Why are we making so little progress despite all the tremendous emotion and stir? For at best things are no longer rapidly getting worse. What is it then that deprives us of results in something that is overdue, in something that needs to be done, and in something that has so much public support?

The first thing to say is that most of the present advocates of the environment suffer from three major misunderstandings which inhibit results. The first misunderstanding, and the one that bothers me the most is that we think that one can live in a riskless universe, that one can somehow deprive human action of risk. To believe that one can be safe is a sheer delusion. The real challenge in the environmental situation is to think through what risks to afford and what risks are not permissible and where to draw the line, and what price to pay for what degree of insurance. That is taboo and anathema to the mood of today. Yet the whole history of the human race proves that one always pays a price and that the decision is how much to pay. One takes risks, and the crucial decision is what risks are intelligent and prudent risks. The moment you want to be riskless, you are endangered and you are vulnerable to the wrong catastrophies.

We are, for instance, not thinking through the risk we are taking in not building enough electric power. Yet the entire environmental technology is a power technology. Everything we need to do to clean up the environment raises the energy needs by several orders of magnitude. To be sure, building electric power stations has its problems. But by not building them we are just laying ourselves open to catastrophic dangers not very far out.

The second misunderstanding is that somehow profits can pay the costs of managing the environment. Yet we have known for a long time that there is no such thing as profit anyhow; that's an accounting delusion. There are only the costs of the past and the costs of the future. What we call profit is the capital needed to create additional or better jobs—and never was that need greater than it is today. All of us here today are conscious of the financial needs of higher education. But the greatest need of higher education is for capital to create the jobs for all those young hopefuls that graduate. In the next ten years we will need each year 400,000 more jobs for college graduates than we needed in the sixties. Yet in the next ten years the largest single job opportunity of the last decade will not be around: jobs for women as teachers. There are not going to be many—not because of Governor Reagan, (unless you hold him responsible for the entire birth rate of California and not even his closest friends have claimed that much for him), but because of the very sharp drop in the birth rate from '60 to '67, the sharpest drop in the history of population. At the same time teachers in 1955 or 1960 were one of the oldest age groups in the American working population with an average age of 57—older than corporation vice presidents. Today they are one of the youngest. For the last time we hired teachers before was in the 1920s when the high schools exploded. As a result, of the teachers who taught in our elementary and secondary schools fifteen years ago, only a handful are still teaching today. The great majority have retired or died. Anyone who had children in the schools in the '50s can check this. All he has to do is to find out how many of the teachers who taught his children in the fourth grade are still teaching. They are practically all gone. But in 1955, parents who still lived in the neighborhood in which they themselves had grown up, often still had their own old teachers teaching their children. As a result of this generation shift, the teacher population today is very young and is not going to retire or die fast. There are not going to be many teaching jobs the next ten years. The women college graduates will therefore compete in the same labor market as the men, which was not true during the last fifteen years.

There is, therefore, going to be a tremendous need to create jobs for at least twice as many highly schooled (I won't say educated—that remains to be seen) youngsters. Each job will require about twenty to thirty to fifty thousand dollars of capital: that is the ante today. Existing profits are already inadequate for that need so that we start out with a deficit if we want to find jobs, particularly for the highly educated. The profits are not there to begin with. Although profits are at best four and a half to five percent of total gross national product; and the minimal environmental bill is likely to be twenty-five percent or more. So it is a gross misunderstanding that profits can take care of the environmental bill. The consumer will have to pay it, as in the end he pays for everything, whether through taxes or in the supermarket. As long as we believe that profits can take care of the environment bill, we will not be going any place.

Finally there is the misunderstanding that it is "greed" that explains the environmental crisis. No, it is largely the desire not to see two out of three children die before they reach age five; to have enough to eat for the poor and to have access to job and opportunity. *The environment is a problem of success.*

These are the hardest problems. They do not yield to attack by morality; they have nothing to do with it.

We have succeeded in doing things that I don't think anybody would consider the wrong things. And that now presents a massive problem of a different kind. Incidentally, nobody foresaw it: perhaps we ought to be able to foresee technology—but so far no one has been able to do it. When DDT was developed there was not a single one amongst the scientists and the physicians who even faintly foresaw that it could be used for anything but to keep troops free from malaria and typhus. Some laymen wondered whether it could not also be used for civilians but were told that it would be much too expensive. No one, whether scientist or layman, foresaw that it would be used for crops—and no scientist had anything to do with it. Farmers discovered that you can spray DDT and keep the boll weevil under control.

No scientist or technologist at the time foresaw that the American and Japanese armies would export the screen window to the four corners of the earth, which is the real secret of the "population explosion." Between sixty and eighty percent of the increased birth rate in the tropical countries is the result of the screen window; and that's hardly sensational technology, by the way. The screen window explains in large part why babies no longer die of fly-borne diarrhea before they reach the age of two.

One cannot prophesy. One can only say that success always creates problems; one just doesn't run out of problems. But they are still problems of success—of very great and hard-won success.

Another major reason why we are NOT making much progress in our fight to save the environment is that we go about the job by trying to punish instead of by trying to create incentives. If there is one thing we know it is that punishments do not work but incentives do.

We are trying to pretend that the environment can be handled by becoming again children of nature. (You know children of nature today play electronic guitars. Everytime I hear an anti-technology ballad sung on an electronic guitar with the latest amplifiers. I kind of wonder.) My generation (including myself) did that too, in the '20s. Yet we did not end up anti-technologically, we ended up with the atom bomb. Perhaps if we had learned more about technology instead of singing romantic "blood and soil" ballads we would have done better.

The environment is probably the toughest technological challenge we have faced. Nobody need apply who is not absolutely first rate in science and technology and systems work analysis. Folk singers are not going to solve the environmental crisis. They could not even build a sewage treatment plant. (This is the time, by the way, when one tells a youngster not to fall for the nonsense that we do not need engineers. This is the time to go in for engineering. Eight years from now we will need them badly and are going to be very short of trained technologists.)

But perhaps the greatest single problem we face is that nobody is willing to set priorities in the attack on the crisis of the environment. Nobody is willing to say: there are fifty million jobs to be done yet nobody can do more than one at a time and that is usually hard enough. What are the things we do first, the things to commit ourselves to, the things to work on until they are licked? Instead, we run off in all directions.

In preparation for this lecture I took the telephone and called up a friend at the Library of Congress and asked: how many environmental bills have Congress and the states passed by now. I expected him to say sixty. But his answer was: 344. I said, "Are they all funded?" "Yes," he said, "they are all in some budget." I asked, "Are they all staffed?" and he said, "Don't ask silly questions."

We are running off in all directions. Everybody with a little hatchet and a spray gun is attacking huge problems. As a result we get lots of headlines. And that's all we get. And lots of ulcers, and that's all we get. But we get no results.

I am not saying that I know what the priorities are, though of course I know what *my* priorities would be. *My* list is not terribly important; but *a* list is important. My list, by the way, would be clean air first and clean water next and then the problem of thermal pollution in generating electric power for which we have no technology so far. Finally, I would put the food problem; for we are caught in a dilemma between having millions of children die as a result of a sharp drop in crops yields if we stop using herbicides and pesticides, and doing inevitable ecological and biological damage because the pesticides and herbicides are too potent. In the long run this may be the most tragic problem we face. But so far few people are even working on the problem.

This would be *my* list. But what matters is that we settle on a list and then organize very scarce resources for work. It is not money that is scarce—it never is. But good people who can really come to grips with enormous tasks like the environment one are very scarce. Instead of concentrating on a few big tasks, everybody rushes off every morning in a new direction. The right thing to do is to say instead: Here are our priorities. They are either—like air and water—the problems we understand, at least to the point where we know where to start, or, like electric energy and food production, they are problems where we do not know the answers

but know that we need answers urgently so that we can do the environmental jobs. Let's forget in the meantime about all the other things or let's relegate them to the Sunday supplement where they are forgotten by Tuesday afternoon.

The lack of priorities is perhaps the most serious matter today. As a result everybody is excited about the environment. But nobody is willing to develop any commitment, any policy or any real attempt to do something effective except to be self-righteous. We have to think through what the priorities are for this country.

Then we have to think through how to carry them out in such a way that the necessary and badly needed and highly conservative concern for the environment does not degenerate into the real sin of conservatism, namely into a war of the rich against the poor, either at home or abroad. The poor always suffer the most when things become more expensive. Then the one who has the least gets less. There is no way out of this if costs go up. That the black community considers the environmental excitement an attack on it is no accident; the black poor are right. When they think that the white kids on campus who are now all in favor of "earth" are in effect deserting civil rights, they are right. When air is no longer free so that you have to pay for it, it makes everything more expensive. When water is no longer free because you have to pay for keeping it clean, it makes everything more expensive.

There is, therefore, a real problem: how to do the environmental job without depriving the poor. Within our country the poor, despite the headlines and despite the terrific social problems, are not the major economic problem—frankly there are not enough of them. But two-thirds of the outside world is poor. Suddenly to demand of developing countries that they preserve the environment means in effect that the South American countries and the Southeast Asian countries cannot develop and will not be allowed to develop by the already rich nations. We have to find a resolution of this conflict, and it is a genuine conflict.

We also have to reconcile the needs of the environment and the need for jobs. Twenty years ago, up in northern New England, where the old paper mill is the main stay of the small town, everybody in the town was willing—indeed eager—to suffer the smell for the sake of the jobs. Today perhaps the decision is not so clear-cut. Tomorrow it is going to be clear-cut again—and again the vote will be for the jobs. There is going to be no labor shortage the next ten years because the babies born during the baby boom are now reaching the labor market. From now on for the next ten years there will be fifty percent more job-seekers on the labor market each year than we have had the last fifteen years. So there is going to be no shortage of people. Then people will again think of jobs. We are on a collision course between environment and jobs, and I do not think we can afford it. We will have to think through what risks we are willing to take to maintain jobs for people who otherwise would not have any. For those people in Ticonderoga, north of Albany, New York, there are no other jobs, nor are there in Maine or in West Virginia.

We will also have to think through how we can have an environmental policy that does not become international economic warfare. There are already plenty of signs that pollution is becoming a trade weapon. The people in Milan, Italy, have about the worst pollution of any place in the world, rivaled only by Moscow and Tokyo. Yet the people there are not yet willing to do anything about pollution simply because they are still job-focused and production- and export-focused. The French on the Upper Rhine—which is a depressed area—are not willing to do anything to prevent the potash from the tailings of the almost worked out mines to be dumped into the river. It flows anyhow within a few miles out of France into Germany—so let the Germans worry. In many parts of the world the environmental job cannot be done nationally altogether. The Scandinavians cannot control their air; it blows in from England. And the English see little reason why they should do anything about air pollution. Maybe we will have to start with a unilateral American law that forbids importation into this country goods produced below American pollution standards. This would be in violation of every single trade treaty we have, but we may have to risk it. (Such an approach would be equivalent to the old Child Labor amendment to the Constitution almost forty years ago.) The worst thing that would happen to us would be for pollution to become a weapon in what is a very competitive world trade.

No one knows how much money we are spending today on the environment. But the amount is high—up in the billions and going up rapidly. If there are no results in a few years, we are going to get a terrific backlash and a terrific disillusionment. Many people who are now wildly excited about ecology will then say, "It's only a political racket after all." Then I think the ecology would be in for a very rocky time, and we have enough difficulties without inventing unnecessary ones.

So I think we need to ask questions. We need to accept the fact that managing the environment is not an easy job and that it is a new one; we never had to think through such risks and trade-offs before. We never had to balance condemning millions of babies to die against the environmental hazard of pesticides; we have to think it through now whether we like it or not. We have to accept the fact that these are now our decisions. We have to accept the fact that the bill for the environment cannot be defrayed out of the surplus of the economy but has to come out of the economic substance. We have to think through how can we do the job in such a way that there is minimum danger, minimum damage to the poor, minimum damage to jobs—particularly for unskilled and semi-skilled people, and minimum damage for the developing economies, which are now hit with a demand which today's developed countries did not have to meet. And we have to think through our priorities.

In the last few years we have had a very good time in the environment. Everybody has been making speeches. Everybody has been feeling wonderful about bemoaning the sad state of the world. It is not only in the Victorian novel that a good cry is the most satisfying human experience; it is even truer in politics. Everybody has been telling the other fellow: unless you reform there will be doomsday. And nobody has asked: and what do I have to do? Nobody has asked: what is the job? Nobody has said, there are tasks to be done. What are they? How can we really define them and come to grips with them? We have been having a wonderful bull session. Now the party is over. The work day is ahead of us. All right, we'll have a hangover, but after that let's go to work.

DO'S AND DON'TS FOR ACTIVISTS

Ever since I agreed to speak here today some eight months ago, I have been a little worried about one word in my title: the word "activist." An activist, the dictionary tells me, is somebody who is in favor of action. And so we all are, and it is badly needed. But I do not think that acting is what we are primarily interested in: we are primarily interested in results. You cannot have results without action and, in fact, without a tremendous amount of hard and sustained work. But it does not follow that you get results because you are active. All you might get is busyness, and I am not in the least interested in busyness. I see too much of it in all institutions and everyplace. So I have been trying to find a better word than "activist," and I haven't found one, because there is none in the dictionary for someone who wants results as I do.

But what I would like to talk about today is not how one gets busy but what one has to do to get results and what one better not do if one wants results. If you want headlines and a good feeling and love-ins, you don't need me. Results are something different, and I want to talk today about how one organizes and what one does and what one does not do if one wants results in the environment.

You will look at me and will say: What warrant do you have to set yourself up as an "expert"? What results have you got? Well my results are not very impressive. What I can claim is a long record of busyness, because I began to be concerned with the environment a long time ago, when very few other people were, twenty-five years ago or so. I have the dubious distinction of having offered the first course in the environment ever offered in an American college, way back in '47. And I said "offered" because I did not teach it; not one student had the slightest interest in it. Now I am no longer all by myself in a corner trying to get other people interested in the environment—as a matter of fact, I find myself rather crowded in that corner. Now I am beginning to hope for results. But what is needed to get results?

So far the record is not very impressive. We have passed an enormous number of laws. We are spending very large sums of money. We are getting very excited. But the results are not there. Nor are we moving towards them at anything resembling even a deliberate crawl.

And so what are the *do's* and *don't* for people who are concerned enough with the environment to want some results? What do we need to know and what do we need to do so that all this energy has a chance to produce results? Nobody, let me say, can ever guarantee results. Results are not that easy and not that predictable. But if you do the wrong things, nonresults can be guaranteed.

II

One of the first things to say is that the belief abroad today that action on the environment requires a turning away from technology is not very intelligent. A good many young men have come to me and said: I am very much concerned with the environment, what shall I do? My answer is: Get yourself first a good engineering degree or a chemistry degree or a systems-analysis degree or learn how one puts technical and scientific skills together for performance, which is a management function. For every single environmental task ahead of us requires technology and above all systematic and purposeful direction of technology almost beyond anything we have ever seen. Not one of these tasks will yield to purity of heart. They will only yield to high technology. Every one of them requires both new technology and the organization of a lot of existing technology for new uses which is often harder than to develop new technology. The first do for activists is to learn how to use technology as their tool. (This, by the way, was the reason why I became interested in technology twenty-five years ago. Even then it was clear that environmental tasks, though not themselves primarily the result of technology but more often caused by crowding large numbers of people in small space, require more, better and more intelligent technology.) A turning away from technology can only worsen the environmental crisis. It is a poor carpenter who blames his tools; it is a poor environmentalist who blames technology.

But we have to learn how to use it. This will not be easy. You have in this college community some of the most distinguished students of the history of technology in the whole world. Indeed, The Claremont Colleges have become one of the largest centers in this field. If you go to these very knowledgeable people and ask them how one uses technology, they will tell you that we have never done the job. But we do know enough about the dynamics of technology to know that it can be done.

It cannot be done, however, by predicting the impacts of technology. This is an idle hope. Nobody has been able to do it, partly because prediction is altogether not given to human beings and partly because technology doesn't work that way.

Thirty years ago American troops fighting in tropical areas took a frightful malaria and typhus toll. So the scientists were called in to find something to keep the mosquitos away or to kill them. There was not a single one among those top-flight scientific, medical and technological brains who then could have foreseen that DDT would ever be used for anything but to keep soldiers free from flies and lice. That it could be used to protect babies against malaria nobody saw. And certainly no one could have foreseen that it would be used for farm crops. Farmers developed that use by themselves without benefit of scientists.

Nobody in 1943 or even 1950 could have foreseen that something so harmless and so innocuous and so old-fashioned as the American window screen (invented by some obscure and unknown inventor someplace on the old Yellow Fever coast, maybe in South Carolina, around 1870) would result in a "population explosion" around the world. The window screen is responsible for the largest part of the population growth in the poor countries by cutting sharply the mortality of babies in the first two years of their life. Who could have possibly predicted this or foreseen it? And if you had foreseen it, would you have done anything about it? Or would you have said this is the greatest boon, this is what we have been working and praying for, to keep a few more children alive, where only one out of every six survived the first years in most parts of the tropical world?

You cannot anticipate the impact of technology. You have to be ready to deal with it when you begin to understand its impact and not till then. And that requires far more intelligence about technology than we have ever had. And so the first do for anybody concerned with the environment is to learn enough technology to be able to say: This is our tool. How do we use it? What do we demand of it? What do we have to know before we can purposefully and intelligently apply it?

III

The second thing is to know what enemies not to make. Activists should be concerned more with the enemies they make than with the friends they make. The enemies are their real problem. It is the death of any cause to make the wrong enemies, that is to alienate the people whose support the cause needs. If one makes the wrong friends—all right, they pay their dues, they vote and that's all right. But no cause can afford to lose the people whose support is crucial. Yet this is precisely what the environmental cause is in the process of doing.

The environmental crusade today is in danger of becoming a crusade of the rich against the poor and of the people who have good jobs against the ones who have marginal jobs. That is going to destroy it. In very lush, inflationary, boom times, such as we have had in this country, one may be able to forget this—except that in three-fourths of the world a great majority of the people are terribly poor even in boom times. Even in our country, one-third of the minority groups are terribly poor even in boom times. But the way we now go about the fight for the environment will make things expensive and will at the same time make it increasingly difficult for people with marginal skills to have jobs.

The standard answer today is that we will pay the environmental bill out of profits. Yet in this very rich country profits are less than five percent of the total national product, and the lowest estimate of the cost even of minor environmental abatement is something like fifteen or twenty percent.

But also if I were 21 today and looked ahead a couple of years, I would worry about the adequacy of profits in this economy. I may not be terribly smart but I can look at population statistics. They would tell me that in the next few years the number of well-educated people entering the labor market will roughly double. It is only now that the two combined effects of the very sharp baby boom of the late '40s and early '50s and of the very sharp increase of going to college are beginning to have an impact on the work force. The next few years we are going to have twice, roughly, the number of highly schooled people than we had in the '60s leaving college. The number of people who can retire on their parents' income is, thank God, very small. Most of the graduates will have to earn a living. Most of them will want a living with very high luxuries, such as health care, education for their children, decent housing and a decent environment—all of these unheard of luxuries in the history of the world. Tomorrow's graduates will expect a fabulous standard of living even if they think that they are "beyond materialism." And that means that they will have to have good jobs. And the minimum you need today to create a job, and not a good one, for an educated person is a capital investment of about thirty thousand dollars per job. In the school system it is higher. In the hospital it is much higher.

Any freshman-course economics student has learned that there are only two sources for this capital investment: savings and profits. And so the demand on profit is going to be very high. In fact, profits may be inadequate to the economic burden of creating the jobs for these very large numbers of very highly educated and potentially very productive people.

The answer "profit" to the environmental crisis is a silly answer. The costs will have to be passed on in the form of higher prices or higher taxes or both.

This means that the poor stand to suffer. There is no way in which the burden of increasing costs can be spread equally. And even if you spread it equally, the poor have much less capacity to bear it. Inflation—the politically easiest way—hurts the poor far more than the rich. That is why, if I may say so, I have never shared the belief of my colleagues in economics, that a little inflation is good for the society. The poor and the old immediately suffer. Rising costs are not good for the poor; and two-thirds of the world is poor, and not rich.

The same holds true for jobs. We will have to face the difficult decision whether we insist on stopping the pollution of a stream if it means closing down a marginal mill in Northern Michigan that only keeps open because it is the only source of employment in a town of 28,000 people. The nearest other city is forty or fifty miles away. And the 1,800 or 2,000 jobs in the paper mill are the only local jobs. Are we going to keep the mill open? Or are we going to close it down and throw people out of work? That decision is already upon us.

On an international scale this decision will be even more serious. Insistence on high environmental standards may make it impossible for the underdeveloped countries to develop. It not only raises their costs too high, it raises the skill demands too.

And so the second *do* is to learn to make management of the environment at least neutral to the poor and to the marginally employed rather than a threat to them. There are not many black students in this hall today, for good reasons. They, to a man, consider the environmental campaign directed against them. They are right today. It not only concerns itself with things that in their priorities come far down the line. They see in it primarily a campaign of the whites, who have made it, against the blacks. Outside of this country—in South America or Africa or Southeast Asia—this is so obvious to everybody that it is not even being discussed. For the poor people of the world "ecology" is a white man's slogan for keeping down the colored races. And they are right today. The way we are going, this is exactly what it is.

If we are not going to learn that it is our job as activists to make these people and these groups our friends, our supporters, our co-workers—if we cannot make ecology at least neutral to them, let alone attractive to them—we are not going to get anywhere.

We speak about "the year 2000" and we are worried about it. But to talk to someone who doesn't know where the next meal is going to come from about "the year 2000" means to be perfectly willing to let him starve today and tomorrow. He is not going to be enchanted. You may be quite right in saying, "But you are short-sighted." He will come back and say, "On my standard of living that is all I can afford to be. To be long-sighted requires a full stomach and I don't have it."

So the thing that worries me, and very much, is the total disregard in our present campaign of the fundamental economics of the whole enterprise and of the need to make it attractive, to make it conducive to the improvement of the poor, the developing nations, the minority groups, and the marginally employed. If we don't think this through—and it is not going to be easy—we are going to run into a rejection of our very badly needed concern with the environment beyond anything we can yet imagine. The signs are already there and they are very powerful and I am scared stiff, frankly.

IV

The third thing that one can say is that managing the environment is work and tough work and difficult work. Nobody has ever obtained results in work by trying to do fifty-nine things at the same time. One gets results by concentration, not by splinteration. One get results by doing one thing and doing it till it is finished. And whether it is a term paper you have to write or whether it is cleaning up the environment makes no difference except that it takes longer to clean up the environment and it's harder work. Yet today we are splintering ourselves very badly.

The first rule if you want to get results is to sit down and say, "what do I do first?" And then, if anybody comes to you and says, "Here is something else that needs being done," you say, "Go away, I am busy, don't bother me. Tomorrow morning when I have this finished, yes. But in the meantime I am going to do what I have started to do." Sure, if there is a fire next door, one puts down what one does and goes to stand in the bucket brigade. But short of imminent disaster, one sticks with the one priority job. It even pays to be inflexible; it is incredible how much monomaniacs who are inflexible achieve compared to the rest of us who are reasonable and rational.

No one achieves anything by doing a little bit of everything. Yet this has been the aim of our public policies these last twenty years. It has been the real problem of the poverty program. We have scores of programs and as a result not one of them is getting anywhere. The reason is not that we do not spend enough money. The reason is that there are only so many good people who can do the job. And if you splinter them among fifty-

nine projects, there is not one project that is staffed with people who know how one gets results. And so nobody gets any and everybody is frustrated. The more money we spend, the less we get because the more splintering we get. But we have been guilty of this in our public policy, and not in the poverty program only.

To fritter away one's energies is the classic mistake of the rich. It is the reason why the rich have never been able to hold power very long. They always think that anyone can buy results and that they have so much money that they can buy a great many accomplishments. As a result they never achieve very much.

The first thing to do in a serious matter is to say, "What are the proper priorities?" One sets priorities by a very simple scheme. One says, "Where are big problems that we know how to solve? And where are really big ones that we can't solve yet but know we will have to tackle? Nothing else will we even look at."

The most important thing in any major effort is to be able to show results that matter. Otherwise the whole effort loses belief and support and credibility. People have to see results after a time. They are right, incidentally. If you tell them to wait twenty years, they are going to say, "Well I won't be here in twenty years. We have to see results. We have to see that effort and hard work and money and people accomplish things." Otherwise this becomes simply another game. And people are very tired of games. There are far too many around. And this isn't the best game in town anyhow. There are many others where there is far less effort and one gets action.

So, what the priorities? We can clean up the air—not today, but within ten years. We can clean up water—not today, but in ten years. Internationally it may take longer; and the worst air and water pollution is not this country. This country is after all amazingly clean. You wouldn't think so looking at the Los Angeles smog. But look at Milano in Italy or Tokyo or Moscow or Dusseldorf, and air pollution is much worse. And our water supply, bad though it is, compared to that of Western Europe, is in pristine state practically—or compared to Japan or compared to the Soviet Union, incidentally. In the Baltic, for instance, you can't swim within 50 miles of Stockholm, not because of the Stockholm sewage but because of the Leningrad sewage that comes across the Baltic. You can still swim within 20 or 30 miles of Los Angeles. So internationally it may take longer.

But we know in respect to water and air how to do eighty percent of what needs to be done. It will take an enormous amount of work, but it can be done.

Then one asks, What do we need to learn? We need to know, and soon, how to produce electric energy without thermal pollution. Every single ecological task requires an enormous increase in electric power. To clean up air and water we will have to increase the energy production in this country probably five fold by 1985, which is about twice as fast as ever in the past. In the world we may need an eight- to ten-fold increase. We do not know how to do this without creating a lot of heat. And we do not really know how to convert that heat into productive energy.

Clearly the only way we can solve the problem is to make the heat cool itself off by doing work such as, e.g. punch "heat holes" through the inversion layer of cold air above Los Angeles for the smog to escape. Electric energy, in other words, would be a research priority. But in the meantime we will have to build power stations, taking the risk of thermal pollution, because otherwise we can't do anything.

The greatest obstacle to any effective attack on the environment today may therefore well be the opposition to electric power stations, which will simply make environmental work totally impossible. I am all in favor of putting them pretty far out. But I am all in favor of having them fast because we need them. Cleaning up a smoke stack means primarily putting an enormous amount of electric energy into it. Cleaning sewage is primarily a job of putting fabulous amounts of electric energy into the waste products, and so on. Without new supplies of electric energy people will soon say: First we need heat and we need light before we clean up other people's garbage. Without new sources of energy we will, within ten years, close down practically all our anti-pollution plants for lack of power, both on the East Coast and the West Coast. Yet by 1980, we ought to be able to build a power station with either none or with a minimum of thermal pollution.

I have another research priority. It requires entirely different people. So I can afford to add it to my list. We need to learn to make it possible to raise the crops for a rapidly growing world population, mostly of young people under 15, without, at the same time, doing ecological damage with the pesticides and herbicides we have now. This is also probably a ten-year research priority. In the meantime, I think we better grow the food; I do not think we can risk having million of babies die. Oh, maybe we can risk it, but frankly, I would rather kill off condors than babies. I may be old fashioned in my preferences, but still I think that is what most people would stick up for. And it is the choice before us just now.

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So these are my *do's* and my *don'ts*. Perhaps what I am trying to say is that we have so far looked upon the environment as something to get excited about. I got excited about 25 years ago and ran around and shouted. I have, therefore, had time to realize that this doesn't produce results. We are starting very late. But if you start very late and you know that the job is very tough, there is only one conclusion: stop being excited and instead go to work twice as hard and twice as purposefully. So far we are passing laws, appropriating money and generating headlines. But we are not doing much work.

My conclusion would be that the time has come for those who are really concerned with the environment—and not just concerned with the excitement about the environment—to say, "What do we do?" rather than, "What do we say?"

If you ask me, are we facing the imminent doom about which you can read in every Sunday supplement these days, the answer is probably "not yet." But it is pretty late. There are real dangers. The environmental crisis is a result of success in grappling with the old enemies of mankind, above all in grappling with the oldest enemy, the angel of death for small children. But problems of success are always big jobs.

We better go to work, rather than being satisfied with proclamations.

We better demand results rather than good intentions.

We better demand a plan and a thought-through program, rather than good vibrations which are not particularly useful in this enterprise.

We better insist on concentration and work rather than permit rushing around.

For an old ecologist, it is wonderful not to feel totally alone any more as I have felt for a long time, and to see all those friends and all the people who share my concern. It is wonderful to see all the people who are in effect truly conservative—for there is no more conservative cause in the most profound sense of the word than the maintenance of the balance between man and his environment and between man and man and between man and his values.

But as an old ecologist I am also getting impatient. It's been a long time. If we don't convert all this heat into light and all this excitement into work, we will, I am afraid, be badly frustrated and soon give up on the environment. Excitement cannot be sustained unless there are results.

And so what I am concerned with is not activity but results. What I am concerned with is not what is wrong with the world but what do we have to do to put it right.

PANAMA CANAL: TIME TO END DIPLOMATIC FUTILITY AND TO FOCUS ON MAJOR MODERNIZATION

(Mr. FLOOD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLOOD. Mr. Speaker, as all Members of the Congress who have followed my addresses on interoceanic canal problems know, I have devoted much effort and time to the study of the subject. The more that I have reflected upon it the more I have been impressed by the profound significance of General MacArthur's statement in his immortal address to the Congress on April 19, 1951, when he warned that the Communist threat is a global one, that its successful advance in one sector threatens the destruction of every other, and that to consider the problems of one oblivious to those of another is but to count disaster for the whole.

Since that time Communist power has been greatly extended. The Caribbean has become a vast area for penetration and conquest with wresting control of the Panama Canal from the United States as a prime Soviet objective. Unfortunately, in consequence of State Department pressures, the leadership in our Government has played into the hands of the common enemy under circumstances that arouse grave concern.

The duly elected constitutitonal government of Panama, inaugurated on October 1, 1968, won its election on a platform that did not call for surrender of U.S. sovereignty over the Canal Zone or was otherwise hostile to the United States. Its leaders well understood that the security of the Western Hemisphere depends upon the continued and unweakened U.S. presence on the isthmus.

After only 10 days in office that government was overthrown by a military coup d'etat, the National Assembly of Panama liquidated, a leftist oriented military revolutionary regime installed, and it has been continued in power by force of arms and a national censorship of the press.

Recognizing by the U.S. Government soon after the coup d'etat, the revolutionary government of Panama secured a resumption in June 1971 of negotiations for new canal treaties and has subsequently conducted a campaign of hostile propaganda against the United States that has never been equaled.

In the midst of this vituperative deluge, the House Subcommittee on the Panama Canal under the able leadership of its chairman, my distinguished colleague from New York (Mr. MURPHY), on November 29 started the most comprehensive inquiry into Isthmian Canal policy questions since 1906. This inquiry included an official visit by the subcommittee in the Canal Zone from February 18 to 24, 1972, and this in spite of determined opposition from the State Department and threats of violence on the part of Panamanian strongman and dictator, Gen. Omar Torrijos.

Refusing to be intimidated by either State Department functionaries or Panamanian pro-Red leaders, the subcommittee arrived on the isthmus following a tidal wave of anti-American propaganda and performed its duties without incident. In fact, it found the Panamanian people at large pleasant and cordial.

Although Chairman MURPHY held well-attended press conferences, there was a complete blackout of publicity in the controlled press of Panama with the result that the ordinary man in the street did not even know that the subcommittee was on the isthmus. So far as has been ascertained there was a similar blackout in the press of the United States. Such ignoring by the mass news media of these important hearings cannot be explained solely because of the Nixon-Mao conversations in China at the same time, which did receive massive coverage in both mainland China and the United States.

Another, and more disturbing, aspect of the congressional visitation was the reluctance of our citizens in the Canal Zone, apparently intimidated, to testify concerning matters of which they had special knowledge gained from experience and observations over long periods of time. Whether this reluctance was induced by fear of official reprisals from our own Government or by threats of physical injury from Panamanian extremists I do not know. In either case, the situation is probably rooted in the same cause—the international forces bent upon driving the United States from the isthmus and our timid State Department.

Another angle in the canal situation recently encountered on the isthmus was the deep contempt openly expressed by revolutionary Panamanians for the United States. A typical current comment to North Americans relative to present treaty negotiations was:

> If the United States does not meet our aspirations for complete sovereignty over the Canal Zone, our Revolutionary Government will stage demonstrations and then your government will accommodate so as not to hurt its world image.

There you have the key demonstration to bring about accommodation.

In a press conference on March 9, 1972, after return from the Isthmus, Chairman MURPHY reported some of the results of his recent visit to the Canal Zone, certain highlights of which I now summarize:

First, that the situation on the Isthmus is a "time-bomb" that unless defused will explode and overshadow in Latin America the President's recent conversations in China.

Second, that the treaty talks seem to have reached an impasse with Foreign Minister Juan Antonio Tack, Jorge Illueca, and Gallileo Solis urging General Torrijos to hold out for more concessions even at the risk of violence.

Third, that U.S. negotiators seem to be wavering from their December 1971 position that control and defense of the canal are nonnegotiable.

Fourth, that most difficulties on the Isthmus could be handled without any new treaty.

Fifth, that our Government has failed to reply to false charges against the United States.

Sixth, that U.S. citizens in the Canal Zone oppose surrender of the Canal Zone and its civil government to Panama as reportedly provided in the proposed treaties.

Mr. Speaker, here I would say again what I have often stated on previous occasions. The Panama Canal enterprise is not a mere shopping center that can be placed on the auction block of pusillanimous appeasement diplomacy but a geographical crossroads for interoceanic commerce and hemispheric security. It is not a spot on the periphery of our defense system like Okinawa but a military center of supreme value—indeed an indispensable one for Western defense. In a legal sense, the Canal Zone and Panama Canal are territory and property of the United States that form a part of our coast line. As such it should remain until the time comes for the return of the vast Southwest, and California to Mexico, the Pacific Northwest to Great Britain, and Alaska to the U.S.S.R. The defense of the canal is just as much the responsibility of the Armed Forces of the United States as is the protection of San Francisco or Chesapeake Bays, and responsible officials in the executive department should be made to understand these elemental facts.

At this point, Mr. Speaker, it is pertinent to explain that State Department involvement in Panama Canal policy determination did not become institutionalized until 1952 when an Assistant Secretary of State was made a member of the Board of Directors of the Panama Canal Co. Since that time submission to political blackmail at Panama has become a habit. It is indeed fortunate that the State Department had only a slight part in Isthmian canal policy determination during the construction era—1904–14—for if it had had then the authority that it has assumed today I do not see how the canal could have been built.

Another point that I wish to stress is that despite the specific provisions of article IV, section 3, clause 2 of the U.S. Constitution vesting the power to dispose of territory and other property of the United States in the Congress—House and Senate—our negotiators have been attempting to usurp authority by negotiating the nonnegotiable constitutionally acquired domain and property of the United States. The Congress has blocked such efforts before and it can do so again.

My correspondence on canal matters has been extensive and includes reports from persons who are well informed. The following facts gleaned from various sources are most significant:

First, about November 1, 1971, there was a meeting at Antilla, Cuba, attended by Soviet Premier Kosygin, Fidel Castro, and General Torrijos, in which the last sought financial and military aid to enable him to start action in the Canal Zone against the United States.

Second, Foreign Minister Gonzalo Facio, of Costa Rica, and General Torrijos, of Panama, are now collaborating in order to strengthen the ties of these two countries with the U.S.S.R.

Third, one of the top KGB agents of the U.S.S.R., Vicktor Nilolayevich Menikof, is now in Panama in close contact with its revolutionary government.

Fourth, the first major move planned in this collaboration will be a U.S.S.R. embassy in Costa Rica, which would facilitate the sending into Panama of KGB agents and other Soviet technicians.

Fifth, such agents will penetrate Colombia from Panama with the idea of producing the spark for creating a Chile-Panama-Cuba axis, highly dangerous to hemispheric security.

Sixth, U.S.S.R. operatives are now in the University of Panama and other government agencies.

Seventh, Panamanian Communist Party leaders have visited Moscow and Castro has visited Chile.

Eighth, dispatches from Taiwan on February 28, 1972, indicate that the Nixon-Mao talks in Peking have stimulated increased U.S.S.R. activities in Central and other parts of Latin America and that new efforts are being made to woo Japan into an economic alliance with Moscow for Isthmian Canal purposes.

Ninth, in the March 1972 issue of an important professional magazine of the Armed Forces is an article calling for an accommodation with Red Cuba.

Tenth, the latest reports now surfacing are that the executive branch of our Government, after the elections, is planning for a meeting with Fidel Castro, with the early surrender of our Guantanamo Naval Base clearly implied.

Two of our Presidents have supported policies for the cession of U.S. sovereignty over the Canal Zone to Panama. Now it seems that preparations are underway to give up our naval base in Cuba.

These moves are not isolated events but related parts in a worldwide program of surrender, which cannot fail to undermine our efforts for the defense of Europe against inundation by the hordes of Asia with ultimate danger to our own security.

As regards the Panama Canal it cannot be too often emphasized that it is the keystone of hemispheric security and no amount of diplomatic sophistry or legislative evasion can alter this fact. This condition of affairs has been largely induced by the weak and vascillating policies of our own Government. Of one matter, I am certain and that is they do not have the approval of the people of our country, who are far ahead of their Government in appraising the realities involved.

While the canal subject is an immensely complicated one it has been

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clarified and is now far better understood. There are only two issues: first, the transcendent question of continuing the indispensable U.S. sovereignty over the Canal Zone and the canal in perpetuity; and second, the major modernization of the existing Panama Canal. All other issues, however important, are irrelevant and only serve to confuse the true ones, which have been before the Congress for many years.

On September 22 and 23, 1971, the House Subcommittee on Inter-American Affairs conducted public hearings for Members of the Congress. All of the witnesses, except one Member of the Senate, strongly opposed any surrender at Panama and urged adoption of the pending Panama Canal sovereignty resolutions.

Mr. Speaker, though these hearings were published and given wide circulation, this subcommittee has not yet made any report. Until that is done the House will not have an opportunity to vote on this vital measure.

The Soviet presence and activities on the isthmus and in the Caribbean area are the strongest reasons for prompt action on the pending measures and for the continued undiluted possession of the Canal Zone territory by the United States.

We cannot operate and defend the canal in effective manner with any less territory than that now in the Canal Zone. In fact, the zone territory should be extended to include the entire watershed of the Chagres River.

Meanwhile, under presidential orders, U.S. canal treaty negotiators continue their futile efforts to cede U.S. sovereign control over the indispensable protective strip of the Canal Zone to Panama. Certainly, Mr. Speaker, the time has come to stop the current exercise in diplomatic sterility. As previously stated, the Congress, which includes the House, has the power to do so; and it bears the ultimate responsibility in the premises. When the current diplomatic confusions are cleared away, the responsible engineering planners for the Panama Canal will be free from uncertainty and thus able to focus on the major engineering project of modernizing the existing Panama Canal to provide the best conditions for the transit of vessels at the least cost and without treaty involvement. Moreover, such project would preserve and aid the economy of Panama.

As I have stated on other occasions the Caribbean is our fourth front in the defense of the United States and the Panama Canal is the prime Soviet objective for the conquest of that strategic area. The issue is not U.S. sovereignty over the Canal Zone versus Panamanian but continued undiluted U.S. sovereignty over it versus U.S.S.R. domination; and this is the challenge that the Congress must meet.

Because of their special interest I quote some of the documentation upon which my remarks are based:

KOSYGIN—CASTRO—TORRIJOS

(By Julio Argain, Reporter for "El Colombiano")

The information we received plainly states: "During Soviet Communist leader Kosygin's stay in Cuba, Omar Torrijos, the Panamanian dictator, traveled to Cuba for a meeting in Antilla, Province of Oriente, with Kosygin and Fidel Castro, in which he asked for Soviet financial and military help so that he could start action against the United States in the Canal Zone."

We could still add a few interesting details to this news but we prefer to wait for a more appropriate opportunity. For example, an article published by the "Washington Post" one of the most famous U.S. papers, by no means sensationalist and following a line of absolute objectivity, which refers to the situation in the Canal Zone. In this article the problem is discussed in all its complexities.

There is one obvious fact in this matter: there are no negotiations pertaining to the Canal but attempts to establish bases for negotiating a new treaty and all the issues presented by the Panamanian representatives in the first phase of proceedings for a future understanding will not lead to any results as long as the U.S. does not deal with a constitutional and "freely elected" government. On this matter complete agreements exist between the White House, the State Department, the Pentagon and Congress because they know that a treaty signed in any other form would not be of any value once an authentically Republican and representative government is reestablished in the Isthmus. As a result, the petitions of the present de facto government have been rejected without any major consideration.

This, without any doubt, led to the meeting in Antilla which could not have had a better god-father than Fidel Castro who has always repeated his willingness to help all Latin American agitations including an armed showdown in an effort to eliminate U.S. influence in the Hemisphere an action that would receive a less alarming denomination, namely, "nationalism."

As of now, we do not know what answer Soviet leader Kosygin may have given in connection with the pleas made to him although it may well have been in line with the Kremlin's well-known policy in similar cases: enthusiastic promises that the matter would be studied by agents sent by Moscow who, first of all, would stir up popular agitation something for which they had been trained.

[Source: La Patria, Feb. 1, 1971]

TOP SECRET

We have received numerous letters from our readers and even calls from cable agency correspondents looking into the confidential reports we are publishing in Top Secret. Some insist on knowing the veracity of the same. Others doubt that we of a small newspaper possess such reports. To one and the other we say that so far they all have been confirmed and that our sources come from unquestionable credit [sic]. Here are some others:

The secret meetings that Castro held in Chile with Cubans and Chileans who were indoctrinated in "special camps" for several years in Cuba are now paying off. Many of "those Chileans" today belong to Allende's Armed Forces. And 30 days after Castro's return, a Chilean military delegation visited Cuba, was exhibited to the public one or two days, and then right away proceeded to "strategy meetings in the naval as well as the aviation sector of the Island. Topic: Preparation of the "maritime offensive" plan agreed upon by Castro and Allende. This report would be lacking in importance—for several years everything has been directed toward subversive activities—if other details were not known.

While the Soviet Union is holding talks—negotiations—with the U.S.A., its subversion technicians are taking advance steps. In an official bulletin of the Secretary of Commerce in Mexico, Latin American Section, this notice appeared: the "USSR has signed an agreement with Chile for the *construction and readaptation of one or more fishing ports in Chile.*" Also "the training of technicians for the maintenance of these ports." This assistance, in men and money, will provide the Russians with other bases in America for provisioning its war units and for the entry and departure of ships with men and weapons in order to deploy them over the Continent as well as Cuba's ports, among these that of Havana, Cienfuegos, and others. The personnel in Cuba is directed by Commander Emilio Aragonés although their main leader is Captain Angel Alvárez Lombardia, expert in the preparation and sending of subversive units to Africa and various zones of Latin America.

The soldiers who came to Cuba from Chile were received by Commandante Raul Castro, but the main character was the Russian Ambassador to Cuba. In the Castroite circles three principal objectives were learned of to carry out the plan by means of the fishing ports in Cuba and Chile. Iquique, a port to the north of Chile, will be the base of embarkation and disembarkation. And the main "touch" points will be Peru (?) [sic—question mark in original], Panama, and the borders between Uruguay and Brazil. Peru's is mentioned only because until now it was considered a "friendly" country, but Castro pointed out in meetings with the Cuban communist Politburo that he distrusted Peru and that without the Peruvian mountains his program couldn't be completed. The negotiations with Panama have progressed a great deal. Guido Garcia Inclán, Castro's official spokesman, indicated during a radio commentary a few hours ago that "in less than three months Torrijo would renew diplomatic relations with Cuba." In the beginning Castro accused Torrijo of being a "puppet" of the State Department, [the following five lines are crosed out—Trans.]. The front sight with Panama is the Canal and because of this they will penetrate through Colombia and Costa Rica in order to produce the spark that will give the Canal to the communists, thereby creating the Chile-Panama-Cuba axis, highly dangerous to the United States' defenses.

And the plans for the borders between Uruguay and Brazil constitute one of Castro's old dreams, [which was] lost when Gaulart was overthrown, of taking over the small country and the Brazilian jungles. These reports, gathered from sound sources within official Castro circles are already working and in a short time the United States and the peace and tranquility of the rest of the continent will be suffering from their results.

[From the Washington News-Intelligence Syndicate]

THE SCOTT REPORT

(By Paul Scott)

TAIPEI, TAIWAN, February 28.—Sometimes one must travel half way around the world to uncover the big news in his own backyard.

American military officers here are studying a sensational intelligence report from Washington revealing that Soviet leaders were busy trying to increase their influence and power in the Caribbean and Central America while President Nixon was in Peking wooing Red Chinese leaders.

The bold Kremlin maneuver, which hit the American military community in the Far East like a bombshell, involves a secret Soviet-Japanese joint proposal to build a new sea-level canal across Panama.

The Soviet-Japanese proposal is now under study by the left-leaning government of Omar Torrijos, who once was a member of the People's party a front for the Communist party in Panama. The move also has thrown another road-block into the long stalled U.S.-Panama negotiations for a new canal treaty.

Although Panama is nearly 7,000 miles from this strategic island-nation located 100 miles off the Coast of China, the Soviet-Japanese ploy has tremendous military significance for this area of the world as it has for the U.S.

The proposal demonstrates the determination of the Russians to control or influence the control of all the connecting waterways, canals, and straits in the world as part of the Kremlin's grand design to rule the seven seas.

The Soviet maneuver also pinpoints the new effort of Russian leaders to woo Japan into an economic alliance designed to help Moscow gain a foothold in Central and Latin America—now being eyed as new markets by Japanese businessmen.

In strategic importance, the Soviet-Japanese proposal was described by one high-ranking American military officer in the Far East as "more significant than the Russian's Aswan dam project in Egypt."

That $800,000,000 project, which the U.S. refused to finance, was followed by massive Soviet arms shipments to Egypt and the granting of air and naval facilities along the Mediterranean and Red Sea to Russia.

STRATEGIC ISLAND CONCEPT

The Soviet role in the Panama Canal proposal is viewed here as another striking example of the Kremlin's "strategic island" policy at work.

It also indicates how the Soviets hope to take advantage of President Nixon's trip to Peking to attract Japan into a new relationship. By going all out in his wooing of Peking, the President has touched off a chain reaction that is pushing Japan closer to Russia as the leadership in Tokyo tries to find ways to counter the new U.S.-Peking ties.

In joining with Russia to propose the building of a new Panama Canal, the Japanese see a way to put to work some of the $18 billion in American dollars now held by that government. The canal would be financed by low-interest rate loans from the Japanese and the World Bank.

The proposed new super-size Canal also would permit the giant oil tankers, which the Japanese are now building, to cut off thousands of miles in carrying oil to Japan from Latin America and the North Coast of Africa.

Since Japan imports more than 85 percent of its oil from the Middle East, the shorter haul could mean savings of billions of dollars in transportation costs over a decade.

In addition, to increasing Soviet influence in Central and Latin America, military officers here warn that the new canal could lead to the establishment of Soviet bases near the soft underbelly of the U.S..

Presently, in the Pacific, Russia has over 50 major combatant ships and more than 100 submarines, many of them missile-equipped. The new king-size Panama Canal would permit the Soviets to move this fleet or parts of it from the Pacific to the Atlantic ocean at any time.

LAYING THE GROUND WORK

The ground work for the Soviet-Japanese proposal was laid when Soviet Foreign Minister Gromyko visited Japan earlier in the month.

The Gromyko trip was sparked by President Nixon's visit to Peking . . . First contact with Panama was made by Soviet Premier Kosygin when he met secretly with Panama officials in Havana during his visit with Fidel Castro.

Japanese officials, who are involved in negotiations for the building of a huge new international port here, say privately they expect Russia to join with Japanese businessmen in numerous joint ventures throughout the world.

Since the Nixon Administration is encouraging American businessmen to become involved in joint ventures with Soviet bloc nations, these Japanese see nothing wrong in their working with the Soviets—even if the projects have military and strategic implications. There are no Soviet help involved in the Taiwan project.

Soviet officials are known to be interested in obtaining naval fueling and repair facilities in this area of the world. Through third parties they have expressed an interest in using facilities in the new international port scheduled to be ready within five years.

What flows during the next few months from the new balance of power game being played by the U.S. and Russia in Peking and Panama will have a lot to do with the response that Taiwan will give to the Russians.

That is the changing world that President Nixon has created by going to Peking and toasting those that would destroy the American way of life which has helped bring and keep freedom and prosperity here.

LOS ANGELES, CALIF., *March 8, 1972.*

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN FLOOD: I am enclosing a copy of a letter that I sent to Mr. Paul Scott concerning his expose on Torrijos and his conspiracy with the USSR and Japan to construct a new sea-level canal in Panama that would endanger all of this Western hemisphere.

The irony of all of this is that the USSR not only do they plan to construct the new canal with American dollars that the Japanese hold but they plan to use Route 10 that was determined by the 21 million dollar report that was submitted to President Nixon on December 1st, 1970.

As the USSR have kept Torrijos in power ever since his treasonous overthrow of President Arnulfo Arias on October 11th, 1968, what will happen to the $5 billion dollar investment that the U.S. have in the present canal in the event the USSR and Japan go ahead with their proposed sea-level canal?

There have been several attempts by the people of Panama to overthrow Torrijos. The whole country is praying that the next attempt will be successful as they know that with the return of President Arias, that the would not ask for the surrender of the U.S. sovereignty of the Zone as he has always been aware that the U.S. maintains the sovereignty to insure the security of the canal and this Western hemisphere.

With my warmest regards and admiration.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIFORNIA,
March 8, 1972.

Mr. PAUL SCOTT,
Washington, D.C.

DEAR MR. SCOTT: Just a short note to say how so very much I appreciated your column of the 5th concerning the Soviet-Japanese project to build a new sea-level canal in Panama. It was very well written and is the first time that a syndicated columnist has publicized this alliance between the USSR, Japan, and Torrijos.

For the past two years I have been informing Congress, the Executive Branch, the State Department, and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted 8 of my letters into the Record about the leftist military (only 8 officers including Torrijos and Dario Souza, the secretary-general of the People's Party are running the country) and their close ties with the USSR and Cuba.

Concerning the trip to Cuba where Torrijos met with Kosygin and Castro, this was on November 1st of last year in the city of Antilla, Province of Oriente. With Torrijos were Tack and Romulo Betancourt. Juan Antonio Tack, the Foreign Minister, is a member of the People's Party, very anti-American, and along with Betancourt, the former Secretary General of the People's Party and now the head of the University, they are in a conspiracy with the USSR to gain control over the U.S. sovereignty of the Canal Zone. Concerning the role that Costa Rica is now playing in this conspiracy with the help of Gonzalo Facio, the Foreign Minister of Costa Rica, I am enclosing a copy of a letter that I sent to Congressman Flood.

I am also enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson, Chief negotiator. In it I described the expose by the La Hora newspaper in Panama of Torrijos.

As I explained to Ambassador Anderson, this exposé is actually preparing the Panameños for the return of President Arnulfo Arias and his constitutional government. In a recent secret poll taken in Colon, David, and Panama City, close to 100% of the people were in favor of restoring their constitutional government of President Arias so that all civil liberties and normal functions of government would be restored. Since Torrijos took over the government by gunpoint on October 11th, 1968 there have been several attempts to overthrow this leftist regime but as Torrijos and his top officers control all the arms of the country, this has been difficult to do. However, at this very minute in Panama there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes some sort of a formal pact with Japan and the USSR over a new sea-level canal.

Concerning President Arias, the most popular Panameño in Panama's history, you will be interested in reading the letter that I sent to Mr. Harold Lord Varney. President of the Pan American Policy of New York, that Congressman Flood inserted into the Record. In my letter to Mr. Varney I explained how President Arias has fought and exposed the Reds in the Isthmus and because of that he has been the target of the Reds since the early forties. No other Latin American President has ever fought or exposed the Communists as much as President Arias. Back in the early forties his was the only "lone voice" that told the world that the USSR were first after his country and then would start their "cold war" battle for control over the U.S. sovereignty of the Canal Zone. That was 30 years ago and today we have the leftist Torrijos working in conjunction with the People's Party of Panama, ruling Panama by gunpoint and demanding and threatening the U.S. for control over the Zone. In 1963, President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism." That statement was 8 years ago and today agents of Castro and Soviet technicians are in Panama working closely with Torrijos in their conspiracy to gain control over the sovereignty of the Zone.

I am also enclosing a copy of a letter that I sent to Ambassador David Ward of the negotiations. This letter explained President Arias' viewpoints concerning the sovereignty of the Zone and the military bases. President Arias has always been aware that the U.S. maintains the sovereignty of the Zone to insure the security of the Canal and this Western hemisphere.

With my warmest regards and thanks.

Cordially,

PHILLIP HARMAN.

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LOS ANGELES, CALIF., *March 9, 1972.*

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN FLOOD: From time to time you have mentioned in your speeches before the House that only a handful of daily newspapers have given coverage to what is actually happening in Panama and the Miami Herald is one of them.

I thought you would be interested in a letter than I sent to Mr. Don Bohning, the Latin America Editor of the Miami Herald. Mr. Bohning, as you know, for a number of years has covered the happenings in Panama and has endeavored to report the situation as he sees it. I for one have appreciated reading his articles about the leftist military dictatorship in Panama and the many hundreds of Panamenos who are in exile in Miami share my view.

Concerning the news media, it seems that Torrijos is now being "shielded" from the foreign press by a well known Communist whose name is Jorge Carrasco who was placed in that position by Tack. Speaking about Torrijos, he has not been seen for the past 2 weeks. In fact, when Somoza visited Panama recently, he wasn't around.

With my warmest regards and admiration.

Cordially,

PHILLIP HARMAN.

LOS ANGELES, CALIF., *March 9, 1972.*

Mr. DON BOHNING,
Miami Herald Latin America Editor,
The Miami Herald,
Miami, Fla.

DEAR MR. BOHNING: President Arnulfo Arias so very kindly sent me from Miami your 2 columns of February 27th and 28th that were filed from Panama. They were extremely interesting and very well written.

For the past two years I have been devoting my time and efforts by informing Congress, both the Senate and the House, the Executive Branch, the State Department and others about the leftist military regime in Panama. You will be interested in reading the enclosed January 18th speech of Congressman Flood in which he inserted into the Record 8 of my letters about the leftist military and their close ties with the USSR and Cuba.

May we discuss your column of February 27th concerning the treaty situation. In my letter that I sent to Mr. Harold Lord Varney, President of the Pan American Policy of New York, that Congressman Flood inserted into the Record, I told Mr. Varney that President Nixon would not submit a treaty or treaties to the Senate for Advice and Consent for 3 reasons; namely, the House of Representatives are again against any new treaty, the present government in Panama is leftist, and the present government in Panama is non-constitutional. Furthermore, there are no procedures for ratification as the constitution of Panama clearly states that a treaty has to be signed by a constitutional president and ratified by the National Assembly.

Last October I notified Congress that on September 21st at the Presidential Palace in Panama, a secret meeting was held by Torrijos, Lakas, Sucre, Manfredo, Guevara, and others. It was revealed at that time that an agreement was made between the U.S. and Panama that Panama would ratify the treaty first and this had to be done before December 31st, 1971. As you know no ratification took place in Panama for two reasons:

1. There are no constitutional procedures for ratification being a non-constitutional government.

2. Torrijos had already made a verbal agreement with the USSR and Japan to construct a new sea-level canal in Panama.

Concerning the verbal agreement, last August Torrijos had met with representatives from the Mitsui interests of Tokyo concerning the financing of a new sea-level canal and also to obtain a concession for the development of copper deposits in Panama. If you recall, Torrijos did release a statement that the Japanese and "others" were interested in financing a new sea-level canal.

On November 1st of last year, only 5 weeks after the secret meeting at the Presidential Palace in Panama, Torrijos met with Kosygin and Castro at Antilla in Cuba which is in the Province of Oriente. With Torrijos were Tack and Betancourt. Do not forget that Betancourt was formerly the Secretary-General of the People's Party. At this secret meeting at Antilla, an agreement was formulated with Torrijos pertaining to a new canal whereby the USSR would furnish the technical knowledge for the construction and the Japanese would do the financing with American dollars they hold. Also, at this meeting it was agreed upon that Torrijos and Tack would keep on their hard line strategy against the U.S. by demanding and threatening for the surrender of the U.S. sovereignty of the Canal Zone and the closing of the 11 military bases and all training establishments.

Pertaining to this secret agreement that Torrijos has with the USSR and Japan, the Department of State has been aware of it and that explains the request by David M. Abshire of the State Department when he asked Congressman John Murphy not to go to Panama to further hold his hearings. That also explains the reason why the press in Panama did not inform the public about Murphy's presence in Panama. Can you imagine the Panameños' anger if they knew that Torrijos had made an agreement with the USSR and Japan for a new canal? They have tolerated the presence in Panama of the many Soviet advisers and technicians that are now seen in Panama because they are helpless to protest, but the Panameño in the street know if the USSR builds a canal in their country what would happen to their income and livelihood that comes from the $160 million yearly that they receive in fringe benefits from the Canal Zone.

As to the reason why the Department of State hasn't released this conspiracy between Torrijos and the USSR for a new canal in Panama, is because the adverse publicity it would create in the U.S. as to what would happen to the $5 billion investment that the U.S. have in the present canal. On November 8th, I informed all the members of the Senate Foreign Relations Committee as well as the House Subcomittee on Inter-American Affairs and the Subcommittee on Panama Canal as well as others in the Executive Branch and in the State Department about Torrijos flight to Cuba where he met with Castro and Kosygin.

The irony of this conspiracy between the USSR, Japan, and Torrijos is that the canal would be financed by American dollars that the Japanese hold and they plan to use Route 10 that was determined by the $21 million dollar interoceanic report that was submitted to President Nixon on December 1st, 1970.

If you did not see Paul Scott's exposé of this new sea-level canal on March 5th, I am enclosing a copy of it along with my comment. Copies of his column were sent to the Senate and the House, the Executive Branch, The White House, and others. This is the first time that this has been exposed in a nationwide syndicated column.

Your column of February 27th also mentioned about Ambassador Ward's statement that the bases were nonnegotiable. I am enclosing a copy of a letter that I sent to Mr. Ward on February 28th concerning President Arias and his viewpoints pertaining to the bases. As I told Mr. Ward, President Arias has always been aware that the U.S. maintains the U.S. sovereignty of the Zone to insure the security of the canal and this Western hemisphere.

To further look into the conspiracy between the USSR and Torrijos to gain control over the U.S. sovereignty of the Zone which would mean the closing of military bases and training establishments as part of the agreement that was made between Kosygin and Torrijos, we have to look also to Costa Rica and the part they are playing in this conspiracy. I am enclosing a copy of a letter that I sent to Congressman Flood about it. On October 20th, 1968, just 9 days after the overthrow of President Arias, the USSR approached Costa Rica concerning reactivating the Embassy they had back in the late forties and early fifties. It seemed strange that immediately after the overthrow of President Arias, the most popular Panameño in Panama's history, that the USSR wanted to open an Embassy in San Jose. However, they had to wait until Gonzalo Facio came to power (not Figueres) and Figueres made him the Foreign Minister. Facio and Tack are the closest of friends and as soon as Facio came to power as the Foreign Minister, he joined Tack in their anti-American attack and campaign for the surrender of the sovereignty of the Canal Zone.

If you recall last year Figueres accused the U.S. and the CIA of interfering in his government because of his intention to open diplomatic relations with the Soviets. His excuse for opening relations was the weakest in the world when he said that the USSR was willing to buy their excess coffee but Facio's trip to Moscow last August was of a different story. The primary reason and only reason for the USSR Embassy in Costa Rica was the easy access to Panama for the KGB agents to come and go as they please. The same procedure happened with Nasser and the Suez . . . the easy access of KGB agents to move freely and easily. As I told Congressman Flood, Panama City has in its midst at this moment, one of the top KGB agents by the name of Vic Menikof. Few people know who he is or what he does. Mexico had expelled him in 1969.

I am only bringing up the case of Costa Rica to show you to what extent the USSR is going to in their endeavor to gain control over the Zone through the help of Torrijos, Tack, Betancourt, and others in their objective of controlling all the waterways of the world.

May I also discuss your column of February 28th that pertains to the new constitution? First we have to look to the 1,400,000 Panameños who deplore this dictatorship and what they did to their country. The only people that would recognize a de facto constitution that is now being drawn up are the 9 individuals that are running and controlling the country that I described in my letter to Secretary Abshire on December 11th, 1971.

Your mention of the puppet President Lakas and how and why he was appointed is not widely known in the United States. Lakas is the owner of 2 houses of prostitution called Hotel Ideal and Hotel Llave de Oro. The military participates with Lakas in the operation of this business. Beside being in business with the military, the military thought it would be to their advantage to appoint Lakas because of his Greek background and this would give them closer ties with the military of Greece. Only last summer Torrijos sent Lakas to Greece to meet with the Junta to discuss and be advised of how to further strengthen their power and consolidate their position over the Panameños.

Concerning the disappearance of Father Gallego which was widely publicized in the United States, the murder of Sammy Boyd has never been mentioned in the U.S. news media. His death on May 9th, 1970, which was called "accidental" will not be forgotten when the constitutional government is restored. As you know Sammy Boyd was Panama's most prominent industrialist and was the son of former President Augusto Boyd.

Your mention about the military courting the students is an interesting one. I am enclosing a statement they made on October 14th, 1968 condemning the military. This statement was inserted into President Arias' report to the OEA on October 29th, 1968. The Communist that was hired by Torrijos to court the students is a most dangerous person. His name is Carlos Calzadilla and has been with the Communist Party since the early forties. In 1947 he led a movement against the Filos-Hines agreement on military bases. But actually the Panamanian student is too intelligent to fall for the tricks of the military. They will go along pretending and tolerating the dictatorship government as to oppose it would mean being jailed and other reprisals. But the release they made on October 14th, 1968 still stands today in their thinking. They will never forgive the military for committing treason against their country and depriving the people of all civil liberties. They know who Romulo Betancourt (now the head of the University) and Carlos Calzadilla are and who they represent. They also know if the U.S. ceded the sovereignty of the Zone then the U.S. would not have the legality to repel a threat to the Canal unless the sovereignty is maintained by the United States. They know if the sovereignty is ceded what would happen to the $160 million dollars yearly in fringe benefits they receive from the United States.

An interesting comment in your column of February 28th was the fiscal picture in Panama. Marco Robles had left the treasury depleted and with the public debt of the government close to $325 million, President Arias will be assuming his presidency again with a bankrupt country. Fortunately, for President Arias, he has all of Congress behind him and they will come to his aid economically and otherwise. You will be interested to know that the present financial crisis in Panama is caused by 4 factors:

1. Uncollateral loans of government funds to officers, relatives, and close business friends of the military.

2. Privately borrowed short term loans from international banks at high interest rates.

3. Lack of qualified personnel.

4. Responsible and knowledgeable Panamanians' refusal to accept fiscal positions with the military.

Concerning this financial crisis, I recently told Mr. Henry Kearns, Chairman and President of the Export-Import Bank of the United States, "However, we must remember that Fidel Castro defaulted on all of his international fiscal obligations. Only last September Chile had suggested to suspend their payments of foreign debts for a period of ten years. It is with this thought in mind that Panama, who is being steered by Communist Agents, may very well default on their fiscal obligations when the time becomes appropriate."

There is a paradox in the 1972 budget of $240.9 million of which $174 million represents direct government investment in public projects, an increase of 44% over the previous year. The paradox concerns the military decree starting in January that all employers pay an extra month's salary of which ½ goes to each worker. Because of this new decree, the construction industry is reeling and construction costs have jumped about 25% since last year.

Concerning the *lack of safeguards* such as any constitutional government has, I have for the past two years been informing the U.S. lending agencies; such as, the World Bank, the Inter-American Development Bank, and the U.S. Export-Import Bank about the lack of safeguards and public accounting with the military of Panama. An interesting legal question will no doubt come up when President Arias returns as to the legality of making financial loans to a non-constitutional government *whose funds cannot be accounted for* when the constitutional government is restored.

As President Arias is the only Panameño that has ever won 4 elections (the Reds in conjunction with the military did not let him assume the presidency in 1964 although the foreign newsmen that covered the elections all agreed that President Arias had received the majority of the votes) you will be interested in the role that President Arias played in exposing the USSR and their objectives in gaining control from within of his country. In my letter to Mr. Varney, I explained how President Arias fought and exposed the USSR ever since the early forties and because of that the USSR has defamed and slandered his name both in the U.S. and abroad. Today we have the leftist Torrijos working in conjunction with the People's Party, ruling Panama by gunpoint and demanding and threatening for the surrender of the U.S. sovereignty of the Zone and at the same time making a secret pact to build a new sea-level canal with the USSR and Japan.

In 1963 President Arias told Dr. Octavio Fabrega, the 1955 Panamanian treaty negotiator and former Foreign Minister, that the canal issue is "fallacious" and that "anti-Yankee campaigns opens the door to subversive agents of Castro Communism and Soviet imperialism."

That statement was made over 8 years ago and today agents of Castro and Soviet advisers are now in Panama working closely with Torrijos, Tack, Betancourt, and others in their conspiracy to gain control over the U.S. sovereignty of the Zone.

No doubt you read about the La Hora attack on Torrijos on January 29th. I am enclosing a copy of a letter that I sent to Ambassador Robert B. Anderson of the treaty negotiations about this exposé which is actually preparing the Panameños for the return of President Arias and his cabinet. Since this exposé on Torrijos, I have heard that de la Ossa and Manfredo were leaving Washington and that Lakas wants out of the presidency. Also, it has been rumored that Aquilino Boyd, now the Ambassador to the United Nations, will replace de la Ossa as Ambassador to the United States. Boyd, if you recall, was formerly the Foreign Minister under President de la Guardia and in 1960 demanded 50% of the tolls of the Canal.

Concerning this exposé on Torrijos on January 29th, I am enclosing a copy of Congressman Flood's speech on February 23rd about the La Hora article. In this speech, he says "In such event imagine the ridiculous position in which our Government would find itself, for the last constitutional president of Panama never used the canal issue for election purposes and never demanded surrender of U.S. sovereignty over the Canal Zone." As I have told Congress many times, President Arias has never used the canal issue for election purposes nor has he ever asked for the return of the sovereignty of the Zone or the closing of any of the 11 military bases and training establishments such as Torrijos is now demanding.

Since this drastic attack on Torrijos, there is a very strong movement underfoot to restore President Arias and his cabinet before Torrijos makes a formal pact with the USSR and Japan to construct a new sea-level canal. As you were recently in Panama, you know very well that on the surface, business is conducted as usual and everything seems to be normal but underneath the surface are 1,400,000 Panameños who deplore the treasonous act the military committed against their country and they are doing everything in their power at this very minute, to restore President Arias and his constitutional government.

With my warmest regards.

Cordially,

PHILLIP HARMAN.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATHIAS of California (at the request of Mr. GERALD R. FORD), from April 10 through 15, on account of official business.

Mr. MAILLIARD (at the request of Mr. GERALD R. FORD), for the week of April 10, on account of official business.

Mr. CHAPPELL (at the request of Mr. O'NEILL) for today, on account of official business.

Mr. PRYOR of Arkansas (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. PATMAN (at the request of Mr. O'NEILL) for today, on account of official business.

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. MICHEL (at the request of Mr. GERALD R. FORD), for the week of April 10, on account of official business.

Mr. SAYLOR (at the request of Mr. GERALD R. FORD), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ZABLOCKI, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. BYRNE of Pennsylvania, for 10 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. HILLIS) and to revise and extend their remarks and include extraneous matter:)

Mr. DERWINSKI, for 30 minutes, today.
Mr. SHOUP, for 15 minutes, today.
Mr. HALPERN, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. ASHBROOK, for 60 minutes, today.
Mr. WILLIAMS, for 15 minutes, today.
Mr. CONTE, for 60 minutes, on April 18.
Mr. MCDADE, for 5 minutes, today.
Mr. BUCHANAN, for 5 minutes, today.
Mr. ESCH, for 10 minutes, today.
Mr. HOGAN, for 5 minutes, today.
Mr. HANSEN of Idaho, for 10 minutes, today.

(The following Members (at the request of Mr. MCKAY), to revise and extend their remarks and include extraneous matter:)

Mr. ALEXANDER, for 30 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. FULTON, for 10 minutes, today.
Mr. ASPIN, for 10 minutes, today.
Mr. MURPHY of New York, for 5 minutes, today.
Mr. DRINAN, for 15 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.
Mr. BOGGS, for 15 minutes, today.

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Mr. DANIELSON, for 10 minutes, today.
Mr. ROSENTHAL, for 5 minutes, today.
Mr. PATTEN, for 60 minutes, today.
Mr. KEE, for 15 minutes, today.
Mr. HELSTOSKI, for 10 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL and to include extraneous matter in Committee of the Whole on H.R. 11896.

Mr. ZABLOCKI in two instances and to include extraneous matter.

Mr. EVINS of Tennessee, to revise and extend his remarks before the vote on the Mahon amendment.

Mr. GUBSER, to revise and extend his remarks after disposition of the William D. Ford amendment.

Mr. CRANE to extend his remarks during consideration of H.R. 11896, today.

Mr. MIKVA to extend his remarks in the permanent RECORD during debate on H.R. 12410, on March 13, 1972.

(The following Members (at the request of Mr. HILLIS) and to include extraneous matter:)

Mr. LANDGREBE in five instances.
Mr. MCKINNEY.
Mr. LUJAN.
Mr. WYMAN in two instances.
Mr. HUNT in two instances.
Mr. PELLY.
Mr. COUGHLIN.
Mr. DERWINSKI in 10 instances.
Mr. FORSYTHE.
Mr. SHRIVER.
Mr. BRAY in two instances.
Mr. SHOUP.
Mr. TEAGUE of California in two instances.
Mr. WHALEN in two instance.
Mr. HALPERN in three instances.
Mr. SCHMITZ in two instances.
Mr. GUDE in seven instances.
Mr. KEMP in three instances.
Mr. QUIE in two instances.
Mr. WINN.
Mr. HOSMER in four instances.
Mr. ASHBROOK in two instances.
Mr. KYL.
Mr. MYERS in two instances.
Mr. KING in three instances.
Mr. CLANCY.
Mr. BELL in two instances.
Mr. ROUSSELOT.
Mr. MCCOLLISTER in three instances.
Mr. DUNCAN in two instances.
Mr. SCHWENGEL in four instances.
Mr. FRELINGHUYSEN.
Mr. MCCLOSKEY.
Mr. MCDONALD of Michigan.
Mr. PRICE of Texas.

(The following Members (at the request of Mr. MCKAY) and to include extraneous matter:)

Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. ROGERS in five instances.
Mr. KLUCZYNSKI in two instances.
Mr. STEED in two instances.
Mr. PRYOR of Arkansas in two instances.
Mr. RODINO in three instances.
Mr. TEAGUE of Texas in six instances.
Mr. HUNGATE in two instances.
Mr. DRINAN in two instances.
Mr. NICHOLS.
Mr. RYAN in three instances.
Mr. BOLLING.
Mr. SYMINGTON.
Mr. BINGHAM in six instances.
Mr. DINGELL in two instances.
Mr. JAMES V. STANTON.
Mr. HARRINGTON in four instances.
Mr. WILLIAM D. FORD in two instances.
Mr. HANNA in two instances.
Mr. WALDIE in six instances.
Mr. ANDERSON of California in five instances.
Mr. ROYBAL in three instances.
Mr. O'NEILL.
Mr. ECKHARDT.
Mr. FUQUA.
Mrs. GRIFFITHS in two instances.
Mr. FLOOD.
Mr. RANGEL.
Mr. EVINS of Tennessee in two instances.
Mr. GALLAGHER in three instances.
Mr. BRASCO in two instances.
Mr. MCMILLAN.
Mr. DULSKI.
Mr. WRIGHT.
Mr. GALIFIANAKIS.
Mr. HELSTOSKI.
Mr. BENNETT in two instances.
Mr. FULTON.
Mr. CULVER in three instances.
Mr. MONAGAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1973. An act to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

ADJOURNMENT

Mr. MCKAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. STRATTON). In accordance with House Concurrent Resolution 573 of the 92d Congress, the Chair declares the House adjourned until 12 o'clock noon, on Monday, April 10, 1972.

Thereupon (at 4 o'clock and 48 minutes p.m.), pursuant to House Concurrent Resolution 573, the House adjourned until Monday, April 10, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1798. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1972 (H. Doc. No. 92-271); to the Committee on Appropriations and ordered to be printed.

1799. A communication from the President of the United States, transmitting amendments to the requests for appropriations for fiscal years 1972 and 1973 (H. Doc. No. 92-272); to the Committee on Appropriations and ordered to be printed.

1801. A letter from the General Counsel of the Department of Defense, transmitting proposed amendments to H.R. 12604, increasing the authorization for certain appropriations to the Department of Defense, pursuant to section 412(b) of Public Law 86-149, as amended; to the Committee on Armed Services.

1802. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report on the adequacy of pay and allowances of the uniformed services, pursuant to 37 U.S.C. 1008(a); to the Committee on Armed Services.

1803. A letter from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend the act of September 26, 1966, Public Law 89-606, to extend for 4 years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes; to the Committee on Armed Services.

1804. A letter from the Chief, Plans Group, Office of Legislative Liaison, Department of the Air Force, transmitting a report on recent decisions made to upgrade the capability of Air National Guard and Air Force Reserve units; to the Committee on Armed Services.

1805. A letter from the Acting Attorney General, transmitting a draft of proposed legislation to remove the limitation on payments for consultant services in the Community Relations Service; to the Committee on the Judiciary.

1806. A letter from the Secretary of the Treasury, transmitting a report of Treasury Department activities under the act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel, pursuant to section 27 of the act (46 U.S.C. 883); to the Committee on Merchant Marine and Fisheries.

RECEIVED FROM THE COMPTROLLER GENERAL

1800. A letter from the Deputy Comptroller General of the United States, transmitting a report of a followup review of civilian health and war-related casualty program of the Agency for International Development in Laos; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5199. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets Nos. 255, 256, 124-C, D, E, and F, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Indians in the Commissioner's docket No. 251-A, and for other purposes; with amendments (Rept. No. 92-962). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7093. A bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma; with amendments (Rept. No. 92-963). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 12404. A bill to amend section 5 of the act of September 21, 1968 (82 Stat. 860), relating to preparation of a roll of persons of California Indian descent and the distribution of certain funds (Rept. No. 92-964). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 9520. A bill to amend section 101(1)(2) of the Tax Reform Act of 1969; with amendments (Rept. 92-965). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on S. 3054. (Rept. No. 92-966). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABOUREZK:

H.R. 14174. A bill to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income; to the Committee on Ways and Means.

By Mrs. ABZUG (for herself, Mr. CONYERS, Mr. DELLUMS, and Mr. RYAN):

H.R. 14175. A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes; to the Committee on the Judiciary.

By Mr. BADILLO (for himself and Mr. BURTON):

H.R. 14176. A bill to establish comprehensive and developmental child care services in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. BINGHAM:

H.R. 14177. A bill to amend section 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes; to the Committee on Banking and Currency.

H.R. 14178. A bill to amend the Social Security Act to provide nursing care and day care services under part B of title XVIII, to provide home health care and private-duty nursing services under title XIX, to extend fire and safety standards to intermediate-care facilities, to establish an experimental program to provide in-home care for the elderly, to expand public disclosure requirements, and for other purposes; to the Committee on Ways and Means.

By Mr. BOLAND:

H.R. 14179. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. BROWN of Ohio:

H.R. 14180. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials and elected town and township officials; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 14181. A bill to establish a National Corrections Academy for the purpose of providing Federal, State, and local corrections personnel with vocational training and continuing education and guidance on methods of treatment and rehabilitation of criminal offenders; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. CAREY of New York, Mrs. CHISHOLM, Mr. ECKHARDT, Mr. FRASER, Mr. GREEN of Pennsylvania, Mr. LINK, Mr. METCALFE, and Mrs. MINK):

H.R. 14182. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H.R. 14183. A bill to provide for conditional confirmation and authorization for withdrawal of confirmation of judges; to the Committee on the Judiciary.

By Mr. FREY (for himself, Mr. KEITH, Mr. BLACKBURN, Mr. DEVINE, Mr. HOSMER, Mr. DUNCAN, Mr. CHARLES H. WILSON, Mr. PODELL, Mr. KING, Mr. EILBERG, Mr. ARCHER, Mr. GRIFFIN, Mr. YATRON, Mr. WARE, Mr. KEATING, Mr. LLOYD, Mr. YOUNG of Florida, Mr. DERWINSKI, Mr. WINN, Mr. SCHMITZ, Mr. FORSYTHE, Mr. HORTON, Mr. RHODES, Mr. COLLINS of Texas, and Mr. MCCLORY):

H.R. 14184. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FREY (for himself, Mr. BELL, Mr. VEYSEY, Mr. SHOUP, and Mr. CLEVELAND):

H.R. 14185. A bill to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON:

H.R. 14186. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

By Mr. GIBBONS:

H.R. 14187. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN:

H.R. 14188. A bill to make a supplemental appropriation for the fiscal year ending June 30, 1973, for the Bureau of Customs, to enable it to acquire narcotic drug detecting equipment and to employ personnel to operate such equipment; to the Committee on Appropriations.

H.R. 14189. A bill to permit the use of members of the Ready Reserve of the Army by the Bureau of Customs of the Department of the Treasury in programs to prevent the illegal entry of narcotic drugs into the United States; to the Committee on Armed Services.

H.R. 14190. A bill to ban further sale of the drug imipramine, also known as Tofranil, pending the completion of studies on its use in pregnant women; to the Committee on Interstate and Foreign Commerce.

H.R. 14191. A bill to amend the Narcotic Addict Rehabilitation Act of 1966 to broaden the scope of its programs for prisoners in such a way as to include various categories of prisoners not now eligible for such treatment; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 14192. A bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns shall be taxed at the same income tax rates as unmarried individuals; to the Committee on Ways and Means.

H.R. 14193. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. MCCORMACK:

H.R. 14194. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 14195. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of California:

H.R. 14196. A bill to amend the National Science Foundation Act of 1950 so as to provide for a program relating to earthquakes; to the Committee on Science and Astronautics.

By Mr. MIZELL (for himself, Mr. ANDREWS, Mr. BEVILL, Mr. BROYHILL of North Carolina, Mr. CARTER, Mr. CLEVELAND, Mr. FLOWERS, Mr. GRAY, Mr. KEMP, Mr. KING, Mr. KYROS, Mr. MONTGOMERY, and Mr. THONE):

H.R. 14197. A bill to amend the Public Works and Economic Development Act of 1965 to extend its coverage with respect to the economic development of rural America; to the Committee on Public Works.

By Mr. PEYSER:

H.R. 14198. A bill to amend the Elementary and Secondary Education Act to insure greater safety for students in getting to and from school; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. STAGGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. CARTER, Mr. HASTINGS, Mr. JARMAN, Mr. MOSS, Mr. VAN DEERLIN, Mr. PICKLE, Mr. ROONEY of Pennsylvania, Mr. MURPHY of New York, Mr. ADAMS, Mr. BLANTON, Mr. TIERNAN, Mr. PODELL, Mr. CARNEY, Mr. BYRON, Mr. KUYKENDALL, Mr. SKUBITZ, Mr. THOMPSON of Georgia, and Mr. FREY):

H.R. 14199. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. BROOKS, Mr. FOUNTAIN, Mr. FASCELL, Mr. REUSS, Mr. MONAGAN, Mr. MOORHEAD, Mr. GALLAGHER, Mr. RANDALL, Mr. WRIGHT, Mr. FUQUA, Mr. ALEXANDER, and Mrs. ABZUG):

H.R. 14200. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROGERS (for himself, Mr. BENNETT, Mr. BLATNIK, Mr. BOLAND, Mr. DOWNING, Mr. EDMONDSON, Mr. FULTON, Mr. GALIFIANAKIS, Mr. GIAIMO, Mrs. GRIFFITHS, Mr. HAYS, Mr. MADDEN, Mr. NICHOLS, Mr. O'NEILL, Mr. PERKINS, Mr. PRICE of Illinois, Mr. PRYOR of Arkansas, Mr. SHIPLEY, Mr. SIKES, Mr. SMITH of Iowa, Mr. JAMES V. STANTON, Mr. VANIK, and Mr. CHARLES H. WILSON):

H.R. 14201. A bill to establish a Department of Health; to the Committee on Government Operations.

By Mr. ROSENTHAL (for himself, Mr. CAREY of New York, Mr. CORMAN, Mr. GREEN of Pennsylvania, Mr. ANDERSON of California, Mr. BINGHAM, Mr. BOLAND, Mrs. CHISHOLM, Mr. CLAY, Mr. COTTER, Mr. DIGGS, Mr. DOW, Mr.

ECKHARDT, Mr. GALLAGHER, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. MIKVA, Mr. MINISH, Mr. MINSHALL, Mr. MITCHELL, Mr. MOORHEAD, Mr. MORSE, Mr. MOSS, Mr. O'HARA, and Mr. REES):

H.R. 14202. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ROUSH (for himself and Mr. RHODES):

H.R. 14203. A bill to abolish the library of the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. ROY:

H.R. 14204. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary and secondary education of dependents; to the Committee on Ways and Means.

Mr. SCOTT (for himself, Mr. WHITEHURST, Mr. WAMPLER, and Mr. ABBITT):

H.R. 14205. A bill to provide for the establishment of the Great Dismal Swamp National Monument in the States of Virginia and North Carolina; to the Committee on Interior and Insular Affairs.

By Mr. SHIPLEY:

H.R. 14206. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 14207. A bill to provide for a study of the most desirable and feasible means of transporting visitors within certain portions of Glacier National Park, Mont., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SHOUP (for himself, Mr. ALEXANDER, Mr. ANDREWS, Mr. BEVILL, Mr. BLACKBURN, Mr. CLEVELAND, Mr. COLLINS of Texas, Mr. DANIEL of Virginia, Mr. DEVINE, Mr. DUNCAN, Mr. FISHER, Mr. FLYNT, Mr. GRIFFIN, Mr. HANSEN of Idaho, Mr. HILLIS, Mr. HARSHA, Mr. HOSMER, Mr. KEMP, Mr. KUYKENDALL, Mr. LLOYD, Mr. MCCLURE, Mr. MCDONALD of Michigan, Mr. MCEWEN, Mr. O'KONSKI, and Mr. SCOTT):

H.R. 14208. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain record-keeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP (for himself, Mr. SEBELIUS, Mr. TAYLOR, and Mr. YOUNG of Florida):

H.R. 14209. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalities in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain record-keeping provisions with respect to ammunition; to the Committee on the Judiciary.

By Mr. SHOUP:

H.R. 14210. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 14211. A bill to provide compensation for the injury, illness, disability, or death of employees in agriculture, and for other purposes; to the Committee on Education and Labor.

H.R. 14212. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for the disability of the taxpayer or his spouse; to the Committee on Ways and Means.

By Mr. TALCOTT:

H.R. 14213. A bill to repeal the lowest unit rate provision of section 315(b) of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMPSON of Georgia:

H.R. 14214. A bill to amend the Tennessee Valley Authority Act of 1933, to require payment of certain county taxes, and for other purposes; to the Committee on Public Works.

By Mr. THOMSON of Wisconsin:

H.R. 14215. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. VEYSEY (for himself, Mr. ALEXANDER, Mr. BAKER, Mr. BROYHILL of North Carolina, Mr. GERALD R. FORD, Mr. KING, Mr. KOCH, Mr. SEIBERLING, and Mr. CHARLES H. WILSON):

H.R. 14216. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 14217. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself, Mr. COUGHLIN, Mr. ESHLEMAN, Mr. JOHNSON of Pennsylvania, Mr. SAYLOR, Mr. SCHNEEBELI, Mr. WARE, Mr. WHALLEY, Mr. BARRETT, Mr. BYRNE of Pennsylvania, Mr. CLARK, Mr. DENT, Mr. EILBERG, Mr. MOORHEAD, Mr. NIX, Mr. VIGORITO, and Mr. YATRON):

H.R. 14218. A bill to amend section 167 of the Internal Revenue Code of 1954 to provide a special allowance for depreciation with respect to certain byproduct and waste energy conversion facilities; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 14219. A bill to amend title II of the Social Security Act to increase to $3,000 the annual amount individuals are permitted to earn without suffering deduction from the monthly insurance benefits payable to them under such title; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14220. A bill to amend the Interstate Commerce Act, as amended, with respect to school bus safety; to the Committee on Interstate and Foreign Commerce.

H.R. 14221. A bill to transfer to the Secretary of State all functions, powers, and duties of the Attorney General under chapter 7 of title II of the Immigration and Nationality Act, relating to the registration of aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. ZWACH (for himself and Mr. LINK):

H.R. 14222. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to establish an upland game conservation program; to the Committee on Agriculture.

By Mr. ASPINALL (for himself, Mr. MCKAY, Mr. RUNNELS, Mr. STEIGER of Arizona, Mr. RHODES, Mr. LLOYD, and Mr. UDALL):

H.R. 14223. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Four Corners Area program; to the Committee on Agriculture.

By Mr. BINGHAM:

H.R. 14224. A bill to authorize the Secretary of Health, Education, and Welfare to encourage and assist in the development on a demonstration basis of several carefully planned projects to meet the special health care and related needs of elderly persons in a campus-type setting; to the Committee on Banking and Currency.

H.R. 14225. A bill to provide homemaker services to elderly individuals in need thereof; to the Committee on Education and Labor.

H.R. 14226. A bill to amend the Public Health Service Act to provide for grants for establishment and operation of departments of geriatrics, programs for training physicians' assistants and medical assistants, and to establish a National Institute of Gerontology; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER:

H.R. 14227. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes; to the Committee on the Judiciary.

By Mr. DENT:

H.R. 14228. A bill to provide that foreign made products be labeled to show the country of origin, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GREEN of Pennsylvania:

H.R. 14229. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 14230. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 14231. A bill to provide price support for milk not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. HASTINGS:

H.R. 14232. A bill to amend section 103 of title 23 of the United States Code relating to additional mileage for the Interstate System; to the Committee on Public Works.

By Mrs. HICKS of Massachusetts:

H.R. 14233. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

H.R. 14234. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

By Mr. MAYNE:

H.R. 14235. A bill to amend the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

By Mr. MOORHEAD:

H.R. 14236. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. MURPHY of New York (for himself, Mr. BYRNE of Pennsylvania, Mr. BRAY, Mr. JAMES V. STANTON, Mr. METCALFE, Mr. GROVER, Mr. ROGERS, Mr. GARMATZ, Mr. JONES of North Carolina, Mrs. SULLIVAN, and Mr. STUBBLEFIELD):

H.R. 14237. A bill to amend 5 U.S.C. 8335 to reduce the mandatory retirement age for non-U.S. citizen employees of the Panama Canal Company or the Canal Zone Government employed on the Isthmus of Panama to 62 years of age; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Texas:

H.R. 14238. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. RANGEL:

H.R. 14239. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, relating to law enforcement assistance, to provide certain requirements and procedures to assure nondiscrimination in State law enforcement assistance planning agencies and other agencies receiving enforcement assistance funds, and for other purposes; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 14240. A bill to amend the Small Business Investment Act of 1958, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROE:

H.R. 14241. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder, to increase the amount of earnings counted for benefit and tax purposes, and to make appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 14242. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial, who have not been tried for such offenses, and who are no longer subject to trial by court-martial; to the Committee on the Judiciary.

By Mr. SYMINGTON (for himself, Mr. ANDERSON of Illinois, Mr. ANDERSON of Tennessee, Mr. ASHLEY, Mr. BADILLO, Mr. BEGICH, Mr. BINGHAM, Mr. BOLLING, Mrs. CHISHOLM, Mr. CLAY, Mr. COUGHLIN, Mr. DINGELL, Mr. DULSKI, Mr. EDMONDSON, Mr. EDWARDS of California, Mr. EDWARDS of Louisiana, Mr. EILBERG, Mr. WILLIAM D. FORD, Mr. HALPERN, Mr. HANSEN of Idaho, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HILLIS, Mr. MCCLOSKEY, and Mr. MCCORMACK):

H.R. 14243. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. SYMINGTON (for himself, Mr. MADDEN, Mr. MANN, Mr. MATSUNAGA, Mr. MIKVA, Mr. MOORHEAD, Mr. MORSE, Mr. OBEY, Mr. PIKE, Mr. PRICE of Illinois, Mr. REES, Mr. REUSS, Mr. RODINO, Mr. ROY, Mr. RYAN, Mr. ST GERMAIN, Mr. SARBANES, Mr. SCHEUER, Mr. SCHWENGEL, Mr. SEIBERLING, Mr. SHRIVER, Mr. STOKES, Mr. THONE, Mr. TIERNAN, and Mr. CHARLES H. WILSON):

H.R. 14244. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (by request) (for himself and Mr. KYROS):

H.R. 14245. A bill to amend title 38 of the United States Code to provide an annual clothing allowance to certain veterans who, because of a service-connected disability, wear a prosthetic appliance or appliances which tends to wear out or tear their clothing; to the Committee on Veterans' Affairs.

H.R. 14246. A bill to amend chapter 15, title 38, United States Code, to provide for the continuation of aid and attendance allowance to certain veterans and to increase the pension payable to a veteran at age 72; to the Committee on Veterans' Affairs.

By Mr. VANIK (for himself, Mr. REID, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHEUER, Mr. SEIBERLING, Mr. JAMES V. STANTON, Mr. TIERNAN, Mr. THOMPSON of New Jersey, and Mr. WOLFF):

H.R. 14247. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.J. Res. 1136. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H.J. Res. 1137. Joint resolution to authorize the President to proclaim the 22d day of April of each year as "Queen Isabella Day"; to the Committee on the Judiciary.

By Mr. CORMAN (for himself, Mr. MOSS, Mr. BURTON, Mr. DANIELSON, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HAWKINS, Mr. LEGGETT, Mr. REES, Mr. ROYBAL, and Mr. WALDIE):

H.J. Res. 1138. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. DIGGS (for himself, Mr. BADILLO, Mr. BINGHAM, Mr. BURTON, Mrs. CHISHOLM, Mr. CLAY, Mr. COLLINS of Illinois, Mr. CONYERS, Mr. DELLUMS, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FRASER, Mr. HAWKINS, Mr. HALPERN, Mr. KOCH, Mr. METCALFE, Mr. MIKVA, Mr. MITCHELL, Mr. NIX, Mr. RANGEL, Mr. ROSENTHAL, Mr. RYAN, Mr. SCHEUER, and Mr. STOKES):

H.J. Res. 1139. Joint resolution to protect U.S. domestic and foreign policy interests by making fair employment practices in the South African enterprises of U.S. firms a criteria for eligibility for Government contracts; to the Committee on the Judiciary.

By Mr. EDMONDSON:

H.J. Res. 1140. Joint resolution proposing an amendment to the Constitution of the United States providing authorization for the reconfirmation of Federal judges during every 10th year of service; to the Committee on the Judiciary.

By Mr. HANLEY:

H.J. Res. 1141. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. HANNA:

H.J. Res. 1142. Joint resolution to improve the foreign relations of the United States and enhance the prospects of peace; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. MORSE, Mr. BINGHAM, Mr. PEPPER, Mr. BADILLO, Mr. CAREY of New York, Mr. DELLUMS, Mr. DERWINSKI, Mr. DIGGS, Mr. DRINAN, Mr. EILBERG, Mr. FORSYTHE, Mr. FRENZEL, Mr. GARMATZ, Mr. GIBBONS, Mr. GUDE, Mr. HALPERN, Mr. HANSEN of Idaho, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HICKS of Washington, Mr. HORTON, Mr. KEITH, Mr. LEGGETT, and Mr. LLOYD):

H.J. Res. 1143. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. MAILLIARD (for himself, Mr. MORSE, Mr. BINGHAM, Mr. PEPPER, Mr. MAZZOLI, Mr. MEEDS, Mr. MILLER of California, Mrs. MINK, Mr. MOORHEAD, Mr. MOSHER, Mr. MOSS, Mr. PODELL, Mr. RANGEL, Mr. RODINO, Mr. ROY, Mr. RYAN, Mr. SCHEUER, Mr. SEIBERLING, Mr. SYMINGTON, Mr. VANDER JAGT, and Mr. WARE):

H.J. Res. 1144. Joint resolution establishing a commission on U.S. participation in the United Nations; to the Committee on Foreign Affairs.

By Mr. PRYOR of Arkansas (for himself, Mrs. ABZUG, Mr. ASPIN, Mr. BEGICH, Mr. BELL, Mr. BLACKBURN, Mr. BRASCO, Mr. BUCHANAN, Mr. BURTON, Mrs. CHISHOLM, Mr. COLLINS of Illinois, Mr. COTTER, Mr. DANIELSON, Mr. DUNCAN, Mr. EILBERG, Mr. FINDLEY, Mr. GERALD R. FORD, Mr. WILLIAM D. FORD, Mr. FORSYTHE, Mr. GARMATZ, Mrs. GRASSO, Mr. GUDE, Mr. HAMILTON, Mr. HAMMERSCHMIDT, and Mr. HARRINGTON):

H.J. Res. 1145. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. PRYOR of Arkansas (for himself, Mr. HATHAWAY, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. KEMP, Mr. KUYKENDALL, Mr. KYROS, Mr. LENT, Mr. LINK, Mr. LONG of Maryland, Mr. MCCLURE, Mr. MATSUNAGA, Mr. MELCHER, Mr. MORSE, Mr. PODELL, Mr. ROSENTHAL, Mr. RUPPE, Mr. RYAN, Mr. SARBANES, Mr. STOKES, Mr. SYMINGTON, Mr. VEYSEY, Mr. WHALEN, Mr. WINN, and Mr. YOUNG of Florida):

H.J. Res. 1146. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month"; to the Committee on the Judiciary.

By Mr. SIKES (for himself, Mr. FASCELL, Mr. BENNETT, and Mrs. GRASSO):

H.J. Res. 1147. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. HALPERN:

H. Con. Res. 574. Concurrent resolution expressing the sense of Congress that the President should instruct certain information agencies to provide information about the problems of heroin addiction in the United States to countries producing, processing, or trafficking in, opium; to the Committee on Foreign Affairs.

By Mr. KING:

H. Con. Res. 575. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction, or, being a member of the Armed Forces, fled to a foreign country to avoid further military service; to the Committee on Armed Services

By Mr. SIKES (for himself and Mr. BENNETT):

H. Con. Res. 576. Concurrent resolution relating to the 25th Congress of the Interallied Confederation of Reserve Officers to be held in Washington, D.C., the week of August 7, 1972; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CASEY of Texas:

H.R. 14248. A bill for the relief of Rajinder N. Dewan; to the Committee on Post Office and Civil Service.

By Mr. GREEN of Pennsylvania:
H.R. 14249. A bill for the relief of Pfc. James Watson, Jr., U.S. Marine Corps Reserve; to the Committee on the Judiciary.
By Mr. NIX:
H.R. 14250. A bill for the relief of Donald Hercules Hurdle; to the Committee on the Judiciary.
By Mr. MURPHY of New York:
H.R. 14251. A bill for the relief of Dr. Kai Ming Chen and his wife, Dr. Lilliam Chen; to the Committee on the Judiciary.
H.R. 14252. A bill for the relief of Dr. Dolores A. Y. Loew; to the Committee on the Judiciary.
By Mr. O'NEILL:
H.R. 14253. A bill for the relief of Alvaro and Berta Rios and their minor children; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

205. The SPEAKER presented a petition of employees in the offices of Representative JOHN E. MOSS and other Members of the House of Representatives, relative to a boycott of eating facilities in the House Office Buildings, which was referred to the Committee on House Administration.

SENATE—*Wednesday, March 29, 1972*

The Senate met at 11 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord, make us instruments of Thy peace; where there is hatred, let us sow love; where there is injury, pardon; where there is discord, union; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. For Thy mercy and for Thy truth's sake, Amen.—ST. FRANCIS OF ASSISI, 12th century.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 29, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 571), providing for an adjournment of the House from March 29, 1972, until April 10, 1972, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 9526) to authorize certain naval vessel loans, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEVENSON).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 28, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from Connecticut is recognized.

(The remarks of Mr. RIBICOFF on the introduction of S. 3432 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT OF THE TWO HOUSES FOR EASTER

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 571.

The Presiding Officer laid before the Senate House Concurrent Resolution 571, which was read as follows:

H. CON. RES. 571

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider it.

Mr. MANSFIELD. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 1, line 4, strike out "1972." and insert "1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972."

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 571), as amended, was agreed to, as follows:

H. CON. RES. 571

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 29, 1972, it stand adjourned until 12 o'clock meridian, Monday, April 10, 1972, and that when the Senate adjourns on Thursday, March 30, 1972, it stand adjourned until 12 o'clock meridian, Tuesday, April 4, 1972.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAKE THE DEPARTMENT OF JUSTICE OUT OF PARTISAN POLITICS

Mr. ROTH. Mr. President, the very cornerstone of the American form of government is respect for the law by the citizens of this country. Anything that erodes public confidence in the law or the administration of justice under the law weakens the basis of our democracy.

Just as we must always be on guard against possible corruption of the judicial system, so, too, must we be constantly alert to the danger that political pressures may influence either judicial decisions or the administration of justice in the executive branch of the Government.

The continuing investigation by the Senate Committee on the Judiciary into the International Telephone and Telegraph case has brought to our attention once again the serious problems that are presented when it is alleged that the administration of our laws may be influenced by political considerations.

While it is certainly important that we discover whether such allegations are based on fact, a matter of even greater importance, it seems to me, is the question of whether a situation should be permitted to exist which could give rise to such allegations.

Last week I expressed my thoughts on this matter in a letter to Acting Attorney General Richard G. Kleindienst. In my letter I stated:

It is my deeply held conviction that a new policy is called for, one in which the Attorney General makes abundantly clear that neither he nor officials of his department will in any way be involved in partisan politics.

My letter continues:

I strongly urge you to make your position clear on this point, not only because it would greatly assist the Senate in the confirmation process, but because it would go a long way toward removing the Department of Justice completely from the arena of politics.

Mr. President, I ask unanimous consent that my letter to Mr. Kleindienst, dated March 24, 1972, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 24, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. KLEINDIENST: Among the matters of gravest concern to the American people today continues to be the question of law and order; the safety of our citizens in their homes and on the streets, the protection of their families and property from harm or destruction, and the swift and fair administration of justice once an offender is apprehended.

This concern, I think, is deeply rooted in respect for the rule of law, a respect that is shared by the vast majority of American citizens. It is this respect for the rule of law and the fervent desire on the part of Americans to see the law upheld that forms one of the basic cornerstones of our democratic system. That foundation of democracy cannot remain strong if respect for the administration of justice under the law is eroded.

Inherent in any administration of justice that seeks to command the respect of our citizens is the absolute imperative that justice be meted out without favor. Short of outright corruption of the judicial system or malfeasance in office on the part of members of either the Judicial Branch of the government or the administrators of our laws, political favoritism would rank at about the top of the list of those things which would bring the integrity of the system into serious doubt.

I am greatly concerned at this point that the just administration of our laws be carried out without the taint of political favor or even the appearance of such favoritism. It is not difficult to see how an appearance of favoritism may be created even though none actually exists if Justice Department officials are known to be involved in partisan political activity.

On March 15, 1972, the New York Times carried a lead editorial, two paragraphs of which I would like to quote at this point:

"The politicizing of the Justice Department has been a dismal trend, engaged in by both parties for more than a generation. It is precisely because this course has been unchallenged by the Democrats and Republicans alike that sometimes even the most important officials become morally blind to its consequences.

"The result is a contagion of cynicism about the system and its institutions. When Government creates conditions which make it easy to abuse power, its citizens begin to condone corruption as a way of life. Such attitudes, particularly when they involve the Justice Department, subvert faith in Government by law."

It is not my purpose here to suggest any wrong-doing in the past on the part of officials of the Department of Justice, except to say that it is common knowledge that past Attorneys General have frequently served as top political advisers to the administrations of which they have been a part. The fact that this has occured under both Democratic and Republican administrations does not alter the fact that it is an unhealthy practice.

It is my deeply held conviction that a new policy is called for, one in which the Attorney General makes abundantly clear that neither he nor officials of his department will in any way be involved in partisan politics.

I strongly urge you to make your position clear on this point, not only because it would greatly assist the Senate in the confirmation process, but because it would go a long way toward removing the Department of Justice completely from the arena of politics. To the extent that that has been achieved, I believe that greater public respect for the integrity, not only of the present Administration, but for the American democratic system of government itself, will swiftly follow.

I would appreciate your prompt response to this request for clarification of your position on the question of political involvement by Justice Department officials.

Sincerely,

WILLIAM V. ROTH, JR.,
U.S. Senate.

Mr. STEVENS. Mr. President, the hearings before the Judiciary Committee on the qualifications of Mr. Richard Kleindienst to hold the office of Attorney General have gone far afield.

What we are now witnessing is a fishing expedition seemingly motivated by an attempt to make a political advantage of these hearings.

The integrity of Mr. Kleindienst is not really the subject of the testimony being given.

As a matter of fact, I have known Dick Kleindienst since 1947 when we began law school together and our paths have crossed often during the intervening years. As a result of this association over a period of 25 years, I believe him to be a person of ability and integrity. It is my intention to vote for his confirmation as Attorney General and I ask the Judiciary Committee to end these hearings and permit this body to get on with the more serious business which we must complete before we recess for this year's conventions.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

(The remarks that Mr. JAVITS made at this point on the introduction of S. 3433 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

THE CRISIS OF PROTECTIONISM

Mr. JAVITS. Mr. President, there is great interest in the country respecting the crisis of protectionism in the United States as epitomized by the so-called Burke-Hartke bill which proposes to set quotas on practically all imports, as well as legislate sweeping and harsh tax changes on foreign subsidiaries of American corporations.

In that connection there is much to do to help workers and businesses who may be adversely affected by the heavy impact of imports concentrated in certain product lines. I have sought to find out from the Secretaries of Labor and Commerce what we are doing and could better do in our adjustment assistance program. I found out that these programs are totally inadequate. The help, if and when it does arrive, arrives years after the funeral. The fault in these programs lies more in the inadequacies of present laws, than in the adequacy in the administration of present laws—although this administration leaves much to be desired.

Mr. President, I am deeply interested in liberal trade as being essential to the continued prosperity of the free world and to the peace and future of our Nation. Similarly it is inexcusable for a mature and rich nation such as the United States not to have an adequate, and effective assistance program to workers and businesses who are very materially affected by a sudden descent upon them of imports. Other nations are far in advance to the United States in this area.

I have now received from the Secretaries of Labor and Commerce their analysis of what is wrong and how limited this assistance is. I ask unanimous consent that their letters be printed in the RECORD, and I shall do my utmost as we consider trade matters to change radically the approach to adjustment assistance so that instead of putting a very small amount of money in long after the fact, which is really quite ineffective, we try to find a truly effective way in which to help American workers and businesses which suffer serious injury respecting imports without thwarting or destroying the international economic policy of the United States that is so indispensable to the peace and prosperity of our country.

Our Nation's adjustment assistance programs must be reformed and strengthened. To be successful in the future, they must be based on practical criteria and they must successfully blend federally assisted R. & D. programs, selected provision of loan guarantee programs, selected use of tax incentives, selected provision of direct loans and better informational and evaluation systems.

I am pleased that the Secretaries of Commerce and Labor have assured me that a major interagency review of the whole program of adjustment assistance is underway with an eye toward submit-

ting new legislative proposals and reforming and expediting the system.

While the Congress and the Federal Government must concern themselves, more adequately, with the human problems caused by jobs that have been lost because of imports, we must also better protect those jobs that are threatened by a sudden increase in imports over a short period of time or that result from unfair foreign competitive conditions. However, we must do this without overturning and totally disrupting the international economic system as some legislative proposals would do. Toward this former end, we must enforce more conscientiously the laws, regulations, and international codes already on the books—the antidumping and countervailing duty laws and the articles of the GATT. We must rethink the function and trigger mechanism of the escape clause—at present there is little escape from serious injury from imports in the escape clause. One necessary change clearly is making injury a separate matter from past tariff concessions. We must also put into effect a functionary early warning system to insure that our Nation, or a State, or a community does not wake up one day to find that an essential industry is no more because of the sudden impact of imports.

There must be a beginning point and pending the passage of new legislation this beginning point could be in the area of adjustment assistance, although new legislative authority is also needed here if an effective program is to be mounted.

It is in this spirit that I wrote to the Secretaries of Commerce and Labor and in which I ask that my letter to them and their replies be printed in the CONGRESSIONAL RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 20, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I am happy to respond to the questions in your letter of February 22. My answers are enclosed. I agree that this material should be incorporated into my JEC testimony.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

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1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

In answering this and the subsequent questions, I shall confine my remarks to the worker side of the Trade Adjustment Assistance Program. I understand an identical set of questions has been presented to the Department of Commerce and I am sure that they can provide more accurate information on firm assistance.

There is little substantive overlap in the roles of the Tariff Commission and the Department of Labor. I believe the appropriateness of the Department of Labor's role in the Trade Adjustment Assistance Program will be clear from the following. There are two ways in which a group of workers can become eligible for trade adjustment assistance. The first is by petitioning the Tariff Commission directly. If the Tariff Commission makes an affirmative finding, the Department has relatively simple but necessary functions to perform. It must establish an impact date (the date beyond which imports can be considered the major factor causing unemployment or underemployment), it must define the adversely affected group; and finally, the Department must supervise the delivery of assistance.

Workers can also become eligible as a result of an industry petition. After an affirmative finding by the Tariff Commission, the President can (1) approve escape clause relief, (2) grant permission to workers within the industry to apply for adjustment assistance, (3) grant permission for firms in the industry to apply for adjustment assistance, or (4) provide for any combination of the first three forms of relief. If permission is given to groups of workers to apply for adjustment assistance, it is the responsibility of the Department of Labor, in addition to the roles noted above, to determine whether injury to a specific group from the industry is caused by increased imports.

Under the present statute these functions are necessary and are performed appropriately and efficiently by the Department of Labor. There are, however, certain inadequacies in the present law. The President's Trade Bill of 1969 tried to address some of these inadequacies, specifically the overly stringent eligibility requirements and the role of the Tariff Commission. Suggested changes have also been recommended in the July 1971 report of the President's Commission in International Investment and Trade Policy (the William's Commission). At the present time there is a Council on International Economic Policy Task Force, chaired by Under Secretary of Labor Silberman, studying the entire issue of adjustment assistance. About one-half of the Task Force's work has been completed. When their recommendations are presented, we will be in a much better position to propose remedies to the inadequacies of the present law. More importantly, we will understand more fully how trade adjustment assistance relates to U.S. trade policy and to domestic economic policy.

2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

The Department of Labor can set an impact date and determine the affected group generally within 30 days in cases approved by the Tariff Commission. Somewhat more time is required to process a worker request for assistance following a successful industry petition. At present, the Department of Labor requires 60 days to gather the necessary information. Certifications are generally issued within 10–14 days following the completion of an investigation. In several instances investigation and certification have been completed within a 60 day period.

These are fairly simple procedures and we have learned to handle them expeditiously. However, there are other steps in the process of obtaining adjustment assistance where regrettable delays do occur. I will discuss these in greater detail under question 4.

3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

As of March 1, 1972, there had been 136 cases in which worker groups filed for assistance under the Trade Expansion Act of 1962. Assistance was granted in 56 of these cases. It is useful to break down these totals in accordance with the distinction I made earlier. Direct petitioning of the Tariff Commission accounted for 123 of the cases and 44 of the approvals. Application by workers to the Department of Labor on the basis of a successful industry petition accounted for 13 cases and 12 approvals.

4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

In the 56 groups approved for assistance, there were 24,000 who could potentially receive assistance. Approximately 15,000 of these have received assistance. The remaining 9,000 either had no need for assistance or failed to apply for it.

The available information does not permit us to calculate an average time lapse between application to either the Tariff Commission or the Department of Labor for assistance and the initiation of assistance. We know that the time period is too long and and we are making diligent efforts to correct this problem. The two major delays occur (1) from the injury to the filing of an acceptable petition and (2) from the setting of an impact date by the Department of Labor to the actual delivery of assistance.

The Tariff Commission and the Department of Labor have been discussing ways of reducing the first delay. The Department of Labor has already begun to encourage likely applicants to file and has provided technical assistance to insure that a suitable petition is submitted. The Tariff Commission is considering reducing the information required in petitions and issuing a standard form.

Lack of familiarity with the program on the part of the State agencies which must administer it has been the most important cause of the delay in initiating payment. The Department of Labor has just completed an internal review designed to find ways to overcome this problem. The results of that study combined with more experience by the State agencies should lessen this delay.

5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Since the first affirmative Tariff Commission finding was issued in November 1969, we need only consider the fiscal years, 1970, 1971, and 1972. The following table provides the data you requested.

[All figures in thousands of dollars]

Fiscal year	Total	Cash readjustment allowances	Training	Relocation	Administration costs
1970	2,886	2,830			56
1971	19,393	18,026	941	1	425
1972	15,537	13,803	710	4	1,020
Total	37,816	34,659	1,651	5	1,501

[1] Estimated through December 1971.

U.S. DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 27, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This is in response to your letter of February 24, 1972, concerning the trade adjustment assistance program. I understand a similar letter has been sent to the Secretary of Labor and that he is communicating with you directly regarding the adjustment assistance program as it relates to workers. In it you asked several specific questions, and I have tried to answer each of them in this letter.

Your first question pertains to possible inadequacies in the current provisions of the Trade Expansion Act (TEA) that apply to trade adjustment assistance. In my view this question gets at the heart of problems that have been encountered with this program. As you point out, the entire program is under review both on an interagency and intra-departmental basis. Before this review is complete I hesitate to make piecemeal recommendations on possible changes in the statute. However, it is my personal feeling that there are some major deficiencies in the law. For example:

(a) Injury criteria are too stringent, especially the criterion limiting the availability of assistance to those cases in which injury has already occurred and in which the injury is a result "in major part" of prior trade concessions.

(b) The TEA does not provide for methods of response to import problems that would constitute a genuine adjustment assistance program for *an industry as a whole apart* from escape-clause relief.

In addition, as I pointed out in my report "The United States in a Changing World Economy," the adjustment process takes time even when accelerated by a good program of assistance. Recently some economic changes associated with increased imports have occurred very fast. When increasing imports have the potential to bring change faster than the adjustment system can cope with it—and thus to bring hardship—some have suggested that temporary orderly marketing mechanisms should be available. I believe we should explore the possibility of developing criteria for invoking such mechanisms, and see how these criteria can be internationalized so that such *temporary* protection could be available in all countries on an equitable basis.

You also asked whether the TEA provision requiring a Commerce certification of eligibility after the Tariff Commission or the President has already made such a determination is "an anachronism that serves no useful purpose." There are two situations in the certification process that relate to your question.

First, there is no finding of injury or threat of injury to any particular *firm* in cases where the Tariff Commission finds injury with respect to an *industry* and the President authorizes firms within the industry to request certification of eligibility to apply for adjustment assistance. Accordingly, the Department of Commerce must make a thorough investigation of the facts pertinent to each applicant firm, before determining whether the firm is eligible to apply for adjustment assistance.

A second situation is one in which the certification of eligibility to apply follows a Tariff Commission determination of injury upon petition of a particular firm. It can be argued with some justification in this situation that the Department's certification of eligibility to apply is largely *pro forma.* We have recognized this. On February 18, we published in the Federal Register proposed new regulations for the adjustment assistance program, a copy of which is enclosed. Section 500.23 of these proposed regulations is specifically designed to facilitate prompt certification of eligibility for individual firms that have already been the subject of an affirmative injury finding by the Tariff Commission. You will note that the extent of our review in such cases is limited to obtaining adequate assurance that no material facts were omitted from the firm's presentation before the Tariff Commission and that there has been no significant change in economic circumstances affecting the firm since that time. Of course, the statutory requirement of the TEA must be satisfied before we are justified in spending government monies on adjustment assistance.

Again, my personal view is that a strong case can be made for changing the concept and approach to adjustment assistance from one of adjudication to one of program management by an Executive Department. Under the program management approach, the particular agency involved would administer adjustment assistance from beginning to end. This would permit us to get a much faster jump on the problems.

Your second question relates to the time taken to process cases. As I pointed out, the time lapse between application by a firm for eligibility to apply for adjustment assistance and the certification of such eligibility depends on whether the case stems from an injury determination with respect to the particular firms or with respect to the whole industry. In an individual firm case, an application to this Department for certification of eligibility to apply will be processed promptly, generally within 20 days. We have had one case, however, where certification was delayed until allegations of impropriety with respect to the Tariff Commission proceedings could be reviewed by the Department of Justice.

In cases where the Tariff Commission has made an injury finding as to the whole industry, the time involved is much longer. In these cases, apart from the fact that recourse to adjustment assistance is contingent upon an intervening decision by the President that such form of relief shall be available, the findings of the Commission with respect to the industry are not necessarily illustrative of the situation with respect to a particular firm. We must, therefore, determine whether the firm has been injured by the imports which the Tariff Commission found were injuring the industry. The length of time required for such an investigation depends on many factors, including the size of the firm, the diversity of its product line, the adequacy of its record keeping and the adequacy of the data submitted by the firm to the Department. One such investigation took as long as ten months, while another was completed within two months. Most cases more closely approximate the latter than the former in the amount of time spent on the investigation. As you know, although the trade adjustment assistance program was established in 1962, our experience with processing adjustment assistance cases only began in 1970, following the first affirmative finding by the Tariff Commission. We are now at the point where each case no longer involves entirely new policy considerations and I expect the time lapse between receipt of an application for certification of eligibility to apply and the granting of assistance to be even further reduced as we gain more experience.

With respect to your request for information on the total number of firms certified as eligible to apply for adjustment assistance, 20 firms have applied to date for certification of eligibility. Of these 20 firms, 18 have been certified eligible; one has been denied certification and one application is currently pending.

As to the data requested concerning recipients of adjustment assistance to date, please see the attached table. The time period between certification of eligibility to apply and certification of the firm's adjustment assistance proposal is set forth on this table as well.

You have requested information on the nature, scale and level of adjustment assistance over the past five fiscal years. For the reason explained above, no adjustment assistance was provided until Fiscal Year 1971, when two proposals were certified and financial assistance provided through the Small Business Administration. In Fiscal Year 1972, to date, we have committed $4,672,000 in financial assistance from our own appropriation. With respect to technical assistance, we committed $195,611 in Fiscal Year 1971 and $138,000 so far in Fiscal Year 1972. Total tax assistance certified to date (all in Fiscal Year 1972) amounted to $390,000.

Finally, you asked about the study undertaken by an interagency task force on adjustment assistance. As you know, this task force was established by the Council on International Economic Policy to develop recommendations for a more comprehensive and effective adjustment assistance program. It is still in draft form and has not yet been submitted to the Council. Accordingly, I cannot specifically respond to your inquiry as to the content and timing of possible legislative recommendations until the Council has had an opportunity to consider the findings and conclusions of the task force. The decision whether to make this report available to the Congress will presumably be made by the Council after it has completed its review.

I hope I have answered your questions. In closing, let me say that I believe there is much we can do to broaden both the concept and delivery of trade adjustment assistance. For example, we are now moving ahead in the Commerce Department to give close and expedited attention to the following possibilities:

(a) An early action mechanism designed to spot potential import-impact problems and to help industries and firms take prompt and responsive steps before a critical point of economic detriment is reached.

(b) Techniques and forms of assistance that could be made available on an industry-wide basis (e.g., funding for R&D projects of general application to the industry). This approach, in my view, would provide a broader-gauged response to adjustment assistance problems than that of dealing primarily with individual firm cases, as has been the approach to date under the TEA.

(c) Some form of adjustment assistance to communities economically dependent upon firms that are heavily impacted by import competition.

I appreciate your interest in the trade adjustment assistance program and intend to give it considerable attention in the coming months. Should you or your staff have further questions or useful information about adjustment assistance, please get in touch with me. I hope to continue to strengthen the program, and look forward to working with you toward that end.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce.

Enclosures.

Company and industry	Amount of assistance	Certification of eligibility	Proposal submitted	Proposal certified	Assistance provided
Emil J. Paidar Co., Chicago, Ill.: Barber chairs	$2,500,000	July 20, 1971	July 29, 1970	Aug. 20, 1970	Sept. 20, 1970
Benson Shoe Co., Lynn, Mass.: Nonrubber footwear	1,700,000	July 21, 1970	Oct. 7, 1970	Nov. 19, 1970	Jan. 7, 1971
Louis Shoe Co., Amesbury, Mass.: Nonrubber footwear	747,000	May 4, 1971	Sept. 8, 1971	Oct. 19, 1971	[1] Jan. 20, 1972
ASG Industries, Kingsport, Tenn.: Sheet glass	4,000,000	Sept. 22, 1970	June 4, 1971	Dec. 7, 1971	
The Arista Co., Winston-Salem, N.C.: Textiles/data processing	160,000	Dec. 28, 1971	Feb. 2, 1971	Jan. 11, 1972	
H. H. Scott, Inc., Maynard, Mass.: Consumer electronics	230,000	Mar. 18, 1971	Sept. 21, 1971	Dec. 23, 1971	
Estey Piano Corp., Union, N.J.: Piano	[2] 100,000	June 5, 1970	February 1971	Mar. 4, 1971	
Bel-Tronics Corp., Addison, Ill.: Electronic components	712,000	June 17, 1971	Oct. 25, 1971	Mar. 3 1972	

[1] 2d disbursement.

[2] Approximate amount of technical assistance provided to date. Final amount of other assistance not yet determined.

UNITED STATES SENATE,
Washington, D.C. February 22, 1972.

Hon. JAMES HODGSON,
The Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am sorry that the press of floor business did not allow me to hear all of your testimony before the Joint Economic Committee on February 17. As you know, I asked for and received unanimous consent of the Committee to insert questions and answers into the record. I would appreciate your response to the following questions.

As you know, the Congress and the country have been very much disappointed by the programs of adjustment assistance carried out by this Administration and previous administrations. I have the following questions in this regard:

1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Finally, it is my understanding that an Inter-Departmental Task Force under the leadership of Undersecretary Silverman has just completed a major study of adjustment assistance. My question is whether this study with the option it puts forward will be made available to the Congress? Also whether and when the Administration will come forward with legislative recommendations based on this study?

With best wishes,
Sincerely,

JACOB K. JAVITS.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON PLANNED ACTIONS IN THE NASA FISCAL YEAR 1972 PROGRAM

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on planned actions in the NASA fiscal year 1972 program (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT ON REVIEW OF ADEQUACY OF PAY AND ALLOWANCES FOR MEMBERS OF THE UNIFORMED SERVICES

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report on review of adequacy of pay and allowances for members of the uniformed services (with an accompanying report); to the Committee on Armed Services.

PROPOSED TRANSFER OF SUBMARINE

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, on the proposed transfer of the submarine USS *Torsk* (AGSS–423 to the Maryland Naval Militia; to the Committee on Armed Services.

REPORT ON RESERVE FORCES

A letter from the Secretary of Defense, transmitting, pursuant to law, a report on Reserve Forces, for the fiscal year 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED ASSIGNMENT OF CERTAIN MEMBERS OF THE ARMED FORCES

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, and the Military Selective Service Act, to permit the oversea assignment of members of the Armed Forces who have completed basic training and who have been awarded a military specialty (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO NUMBER OF LIMITED DUTY OFFICERS

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit the Secretary of the Navy to establish annually the total number of limited duty officers permitted on the active list of the Navy and Marine Corps, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT ON DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installation and Logistics), transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms, for July–December 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED AMENDMENT OF NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes (with accompanying papers); to the Committee on Commerce.

REPORT OF SOCIAL SECURITY ADMINISTRATION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Social Security Administration, for the fiscal year 1971 (with an accompanying report); to the Committee on Finance.

REPORT OF U.S. TARIFF COMMISSION

A letter from the Chairman, U.S. Tariff Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Collection of Child Support Under the Program of Aid to Families With Dependent Children," Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated March 13, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report entitled "Follow-Up Review of Civilian Health and War-Related Casualty Program in Laos (B–133001, dated March 13, 1972) (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Most Veterans Not Completing Correspondence Courses—More Guidance Needed From the Veterans' Administration," Veterans' Administration, dated March 22, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Water Pollution Abatement Program: Assessment of Federal and State Enforcement Efforts," Environmental Protection Agency, dated March 23, 1972 (with an accompanying report); to the Committee on Government Operations.

PROPOSED AMENDMENT TO CONCESSION CONTRACT IN CERTAIN AREAS

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to the concession contract in Zion, Bryce Canyon, and Grand Canyon (North Rim) National Parks, and Cedar Breaks National Monument (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE

A letter from the Chairman, National Commission on Marihuana and Drug Abuse, transmitting, pursuant to law, a report entitled "Marihuana: A Signal of Misunderstanding" (with an accompanying report); to the Committee on the Judiciary.

REPORT ON FEDERAL SUPPORT TO UNIVERSITIES, COLLEGES, AND SELECTED NONPROFIT INSTITUTIONS

A letter from the Director, National Science Foundation, transmitting, pursuant to law, a report on Federal support to universities, colleges, and selected nonprofit institutions, for the fiscal year 1970 (with accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED DISASTER RELIEF ACT AMENDMENTS OF 1972

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a draft of proposed legislation to amend the Disaster Relief Act of 1970 (with accompanying papers); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD (for Mr. BURDICK), from the Committee on Interior and Insular Affairs, without amendment:

S. 3284. A bill to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior (Rept. No. 92–726).

By Mr. MANSFIELD (for Mr. ANDERSON), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973 (Rept. No. 92–727).

EXECUTIVE REPORTS OF COMMITTEES

Mr. SYMINGTON. Mr. President, as in executive session, from the Committee on Armed Services I favorably report the nominations of five flag and general officers in the Navy, Air Force, and Marine Corps, and one lieutenant colonel in the Marine Corps and ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Gen. Bruce K. Holloway (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list, in the grade of general;

Rear Adm. Merlin H. Staring, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy, with the rank of rear admiral;

Maj. Gen. George C. Axtell, U.S. Marine Corps, for commands and other duties determined by the President, for appointment to the grade of lieutenant general while so serving;

Maj. Dale L. Harpham, U.S. Marine Corps, for appointment to the grade of lieutenant colonel;

Vice Adm. Noel A. M. Gayler, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of admiral while so serving; and

Lt. Gen. John W. Vogt, Jr. (major general, Regular Air Force) U.S. Air Force, to be assigned to a position of importance and responsibility requiring the rank of general.

Mr. SYMINGTON. Mr. President, in addition I favorably report 3,249 nominations in the Army, Navy, and Air Force.

Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Joseph F. Short, and sundry other persons, for appointment in the Regular Army of the United States;

Chester A. Hanson, and sundry other officers, for promotion in the regular Army of the United States;

James M. Jackson, and sundry other officers, for promotion in the Reserve of the Army of the United States;

Robert R. Groom (civilian college graduate), for assignment in the U.S. Navy;

William T. Bell, and sundry other Naval Reserve officers, for assignment in the U.S. Navy; and

Ronald B. Appel, Jr., and sundry other Air National Guard officers, for promotion in the Reserve of the Air Force.

EXTENSION OF TIME FOR FILING A REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), I ask unanimous consent that the Committee on Agriculture and Forestry be granted an extension of time until April 15 to file a report required by section 3 of Senate Resolution 76.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF (for himself, Mr. KENNEDY, Mr. MAGNUSON, Mr. NELSON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHILES, Mr. STEVENSON, Mr. CRANSTON, Mr. HARTKE, Mr. PELL, Mr. MCGOVERN, Mr. PASTORE, Mr. BAYH, Mr. WILLIAMS, Mr. MUSKIE, Mr. MCGEE, Mr. TUNNEY, Mr. HART, Mr. TALMADGE, Mr. JACKSON, Mr. MCINTYRE, Mr. EAGLETON, and Mr. HARRIS):

S. 3432. A bill to establish a Department of Health. Referred, by unanimous consent, simultaneously to the Committee on Government Operations and the Committee on Labor and Public Welfare; and, when reported by one committee, to be referred to the other.

By Mr. JAVITS:

S. 3433. A bill to amend the Interstate Commerce Act, as amended, with respect to school bus safety. Referred to the Committee on Commerce.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 3434. A bill to provide for the temporary duty-free importation of logwood extract. Referred to the Committee on Finance.

By Mr. GAMBRELL:

S. 3435. A bill to impose a moratorium on involuntary student transportation until a uniform plan of racial desegregation shall have been implemented throughout the country. Referred to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. ALLOTT, Mr. DOMINICK, and Mr. FANNIN):

S. 3436. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a four corners area program. Referred to the Committee on Agriculture and Forestry.

By Mr. PEARSON:

S. 3437. A bill to authorize the Secretary of Housing and Urban Development to provide assistance to State and local governments to encourage the repair and improvement of substandard housing. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENS:

S. 3438. A bill to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

By Mr. STEVENSON:

S. 3439. A bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BUCKLEY (for himself, Mr. BOGGS, and Mr. JAVITS):

S. 3440. A bill to terminate the obligation of States to return funds deposited with them pursuant to the U.S. Deposit Fund Act of 1836. Referred to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3441. A bill to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3442. A bill to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (for himself, Mr. KENNEDY, Mr. MAGNUSON, Mr. NELSON, Mr. HUMPHREY, Mr. MONDALE, Mr. CHILES, Mr. STEVENSON, Mr. CRANSTON, Mr. HARTKE, Mr. PELL, Mr. MCGOVERN, Mr. PASTORE, Mr. BAYH, Mr. WILLIAMS, Mr. MUSKIE, Mr. MCGEE, Mr. TUNNEY, Mr. HART, Mr. TALMADGE, Mr. JACKSON, Mr. MCINTYRE, Mr. EAGLETON, and Mr. HARRIS):

S. 3432. A bill to establish a Department of Health. Referred, by unanimous consent, simultaneously to the Committee on Government Operations and the Committee on Labor and Public Welfare; and, when reported by one committee, to be referred to the other.

ESTABLISHMENT OF A DEPARTMENT OF HEALTH

Mr. RIBICOFF. Mr. President, today I am introducing, with Senator KENNEDY and 22 other Senators, legislation to create a separate cabinet-level Department of Health and establish coordinated long-term planning of Federal health policy. The new department would assume all the health responsibilities of the present Department of Health, Education, and Welfare as well as other health programs now scattered among 23 Federal departments and agencies.

Since its establishment by President Eisenhower in 1953, the Department of Health, Education, and Welfare has grown into a bureaucracy of 108,000 employees with an overall budget of nearly $79 billion, one-third of the entire Federal budget. Over 250 categorical grant programs are operated by the Department including 40 separate Federal health-grant programs. HEW will spend over $18 billion in fiscal 1973 on medical and health-related activities.

There is no indication that HEW's growth is slowing. The Department's budget is rising at an annual rate of 14 percent—nearly twice the average rate of increase in the total Federal budget.

HEW, as presently structured, is unwieldy, unmanageable and therefore unresponsive to both the executive and the legislative branches. No Secretary can know what is going on in such a huge department, much less maintain control of the operation and policymaking apparatus of such a bureaucracy.

As a former Secretary of Health, Education, and Welfare, I am convinced that health policy can be more rationally developed and the health programs of our Nation better handled if they are placed under the jurisdiction of one agency of manageable size, a Department of Health. At present a sizable portion of the $25 billion we are spend-

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ing througout the Federal Government for medical and health-related activities is being lost through inefficiency, lack of coordination and overlapping of programs.

As a result of the scattering of programs and the lack of a centralized health-policy mechanism, the only plan in the Federal Government where health priorities can be set is in the Office of Management and Budget when the budget is being developed. Major policy decisions affecting the Federal Government's health policy should be made by experts in the health field, not by OMB employees who cannot be expected to formulate national health priorities, much less understand the intricacies and interrelationships of the myriad health programs now in existence.

The problem is going to get worse before it gets better. It is only a matter of time before we enact a program of national health insurance which will expand the Federal role in health substantially, no matter what bill is passed. We must reshape our existing institutions if this new program is to be administered properly.

The lack of coordination of medical programs at the Federal level has concerned me for some time. In 1968 my Government Operations Subcommittee on Executive Reorganization held hearings on the Federal role in health.

The subcommittee found that Federal health programs are run by a cumbersome, disjointed bureaucracy with agencies, whose priorities are not related to health, making decisions that affect the health of the population. Interagency coordination was found to be a hit-and-miss proposition. Most agencies have little understanding of similar programs in other agencies or act as if they are unaware that such programs exist.

One of the most basic findings of the subcommittee was that there is no national health policy to guide Federal health programs and expenditures. No central body or group exists within the executive branch that is responsible for developing Federal health policy and evaluating Federal performance in light of that policy.

HEW's response to my 1968 letter of inquiry regarding implementation and formulation of national health policy supported the subcommittee's findings by noting:

> Up to and including the present (1968) there has never been a formulation of national health policy, as such. In addition, no specific mechanism has been set up to carry out this function. As a consequence, the national health policy is a more or less amorphous set of health goals, which are derived by various means and groups within the Federal structure.

The situation has changed little since that time.

President Nixon has recognized the need to reorganize the Department of Health, Education, and Welfare as part of a major restructuring of the executive branch. His proposals deserve our careful examination since such far-reaching and long-term recommendations do not come before us very often.

Under the President's proposals, however, HEW would expand into an even larger agency, the Department of Human Resources. This Department would add many programs from the Departments of Labor, Agriculture, Housing, and Urban Development, and OEO to the already over extended Department of Health, Education, and Welfare.

I believe we should examine alternatives to the President's reorganization proposal. In that spirit, I introduced legislation in April 1971, to create a separate Department of Education. Today, in the same spirit, I am introducing a bill to create a Department of Health.

This bill is not complicated. First, it establishes a separate Department of Health to serve as a focal point within the Federal Government for defining health policy and administering Federal health programs.

The new Cabinet-level department would be administered by a Secretary of Health appointed by the President, with the advice and consent of the Senate.

The Secretary would be responsible for all health programs now administered by the Secretary of Health, Education, and Welfare, including medicare and medicaid, and any new program of national health insurance.

In addition the President would be empowered to transfer additional functions to the new Department within 180 days if the Director of the Office of Management and Budget determines that the function relates to health matters.

This legislation would also establish a 19-member National Advisory Commission on Health Planning, composed of persons qualified to assess the health programs of the United States including practicing physicians, scientists, medical experts and consumers. Nine members would be appointed by the President, five members by the President pro tempore of the Senate and five members by the Speaker of the House.

The Commission would be directed to conduct a study of the various programs and activities of the Department of Health and submit a study to the President and Congress within a year with recommendations for an effective structure for the Department.

More significantly the Commission would conduct a yearlong study of the various health-related programs of each agency of the Federal Government outside HEW and would submit an evaluation of these programs and recommendations regarding which programs should be transferred to the new Department.

In addition to these studies, the Commission would conduct a 2-year study and submit to Congress and the President a detailed national health plan for meeting current and future health needs for the United States for the next 10 years.

This national health goals plan would be the first attempt made by the Federal Government to coordinate and plan in order to meet the health care needs of the Nation. It is an indispensable first step toward enactment of a major national health insurance plan.

The national health goals plan would set forth national goals and priorities for making comprehensive health care and treatment available at reasonable cost to every person in the United States. The plan would provide for the effective coordination and application of all health-related activities at the regional, State, and local levels and provide for encouraging cooperative efforts among governmental and nongovernmental agencies concerned with health services, facilities, and manpower.

An appropriation of $5 million would be authorized for the Commission to carry out its functions.

The uncertain status of health in the Federal Government must be ended. Responsibilities should be focused in one department and health policy must be developed and coordinated by those who are knowledgeable in the health field. This legislation will move us toward that goal.

I ask unanimous consent that the bill be simultaneously referred to the Committee on Government Operations and the Committee on Labor and Public Welfare and that when it is reported by one committee it be referred to the other.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am delighted today to be joining with my colleague from Connecticut, Senator ABE RIBICOFF, the chairman of the Executive Reorganization Subcommittee of the Committee on Government Operations, in introducing what we believe to be extremely significant legislation. This bill which creates a Department of Health as a Cabinet level Department of the Government is long overdue. The simple fact of the matter is that the Department of Health, Education, and Welfare, which has grown so big and has had so many burdens placed upon it that it cannot operate effectively. HEW now has more than 100,000 employees, and of those, almost 60,000 are in one way or another involved in health programs. And of the enormous budget for the Department, which this year for the first time will exceed the budget of the Department of Defense, almost $20 billion is devoted to health programs.

Regrettably, these people and those programs are scattered widely throughout the Department making it impossible for there to be any coherent health planning and programing in respect to the Federal Government's efforts to improve the health of the American people. For example, the Social Security Administration located in Baltimore, Md., is principally responsible for the medicare program. Its companion, though, the medicaid program, is administered by the social and rehabilitation service in Washington, D.C., an aspect of the welfare program. In addition, the programs which are principally intended to improve the organization and delivery of health care are administered by the Health Services and Mental Health Administration, located in Rockville, Md. It is clear to me that this sort of functional and geographic diffusion is a major obstacle to effective planning and programing for health. All of us would agree, I think, that it is essential that the programs of the Federal Government which finance health care, such as medicare and medicaid, be closely related to the programs which are intended to improve the health care infrastructure. Unfortunately, the organizational stress within the existing Department of Health, Education, and Welfare makes this sort of effective coordination extremely difficult if not impossible. And in the face of this difficult situation it is important to note that tinkering will not work.

There have been many recent reorganizations and reshufflings of the health functions of HEW with little or no discernible improvement in planning and coordination. The health functions of the Department were reorganized in 1967, reshuffled again in 1968, and have been again rearranged in 1971.

Perhaps the principal effect of these reorganizations has been to lower both morale and efficiency of those who are attempting to do their best under very difficult circumstances.

The fact of the matter is, Mr. President, that this country is on the threshold of striking down the barriers which prevent millions of Americans from receiving the kind of health care they deserve. And when those barriers are struck down, inevitably the Federal Government will have a substantially larger role to play in assuring high quality health care to all Americans.

It is prudent, therefore, that there be created in the Federal Government an effective management structure which will be able to carry out this very important enhanced role. I believe the Department of Health will measure up to that task.

Mr. President, health will soon become the second largest industry in the Nation. As we know too well, health-care costs are soaring at a rate which is twice that of the Consumer Index. And the American people now expend almost $75 billion a year for health, of which 40 percent is expended on their behalf by the Federal Government. Health-care costs in this country have increased six-fold in the last two decades.

In addition to the skyrocketing costs of health care there are serious problems in the quality of care which is rendered. There is not enough health manpower for the Nation.

And the manpower that we do have is unevenly and inequitably distributed. And there is no overall coherent health plan for the Nation. Instead, HEW has been forced to respond to crises rather than to take the initiative in meeting the health-care needs of the American people. What was a rational grouping of domestic functions for the Nation in 1953 is not a rational grouping of functions as this Nation approaches its 200th anniversary.

It is not in the interest of this Nation to have one single member of the President's Cabinet charged with the responsibilities of playing off enormous welfare needs against mounting concern in respect to the need for high-quality education, against the storm or protest which is building in respect to the unmet health needs of the American people. Under those circumstances, Mr. President, no single individual, regardless of his competence, can afford to play the kind of leadership role which is necessary in each of these vital domestic areas.

America needs a member of the President's Cabinet who can and will speak for health and for health alone.

By Mr. JAVITS:

S. 3433. A bill to amend the Interstate Commerce Act, as amended, with respect to schoolbus safety. Referred to the Committee on Commerce.

SCHOOL BUS SAFETY ACT OF 1972

Mr. JAVITS. Mr. President, I introduce for appropriate reference the School Bus Safety Act of 1972. The bill is being cosponsored in the House by Representative JOHN W. WYDLER of New York.

This measure amends the Interstate Commerce Act to strengthen the enforcement powers of the Bureau of Motor Carrier Safety by enabling the Bureau to exercise regulatory jurisdiction over certain schoolbus operations which are now exempt because they are conducted by private carriers or conducted by agencies and instrumentalities of government, such as local educational agencies. While the bill is directed at so-called "interstate operations," the Department of Transportation indicated that in cases where some buses in a school system are utilized for interstate transportation—such as study trips or trips to athletic events or historical sites—then all the schoolbuses of the school district would come under the the reach of the law.

The bill is the product of study I first undertook some time ago with local and State school officials, professionals in the field of safety and pupil transportation, and officials and professional staff of the Department of Transportation. It follows recommendations made by the National Transportation Safety Board in its report on the 1970 fatal bus crash involving a tour group from the Hillel Country Day School at Lawrence, Long Island, N.Y.

The tragic schoolbus accident last week in Congers, N.Y., in which four students were killed and more than 40 injured, dramatizes the increasing public concern for the safety of the almost 20 million young people who each day travel in some 285,000 buses to and from school. The National Transportation Safety Board has informed me that it will be undertaking a major investigation of the Congers accident, probing all aspects of this incident, in order to determine probable cause, and will then make recommendations based on its findings to appropriate local, State, and Federal authorities and to the industry. But the Board's jurisdiction goes no further than making recommendations—and its probe may take as long as a year. This bill is meant to correct some of these deficiencies in the law.

Specifically, the bill would:

Authorize the Secretary of Transportation to establish reasonable requirements to promote safety of operation of schoolbuses including qualifications of drivers, maximum hours of service, and standards of equipment. In administering and enforcing regulations to promote schoolbus safety, the Secretary would be authorized to use the administrative powers that he now exercises in the administration of the Department of Transportation's motor safety program, such as record inspection, issuance of administrative subpenas, and inspection of motor vehicles.

Give the Secretary enforcement powers.

Give the Secretary power to issue a cease-and-desist order directing the carrier to immediately stop his schoolbus operations for up to 60 days in a case where a motor carrier's school bus operations create an unreasonable risk of accident, injury, death, or property damage, and when he finds that application of other available sanctions would be impracticable, unduly time consuming or inadequate to protect the public health and safety.

For 1970, the most recent data available indicate that there were 42,000 schoolbus accidents, killing 140 persons and injuring 5,400. This involves 2.2 billion miles of travel during that year. While this record for safety is considered superior to the safety record in other areas, the fact remains that it is still much too high. The safety and well-being of children merit every action that can be undertaken. The bitter lessons learned from the tragic deaths and injuries in the accidents involving the children from Congers, in Rockland County, last week and the children from the Lawrence, Long Island, Hillel Country Day School 2 years ago must be used to avert such tragedies in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Bus Safety Act of 1972".

SEC. 2. Part II of the Interstate Commerce Act, as amended (49 U.S.C. 301 *et seq.*), is amended by adding a new section 204b, reading as follows:

"SEC. 204b. It shall be the duty of the Secretary of Transportation, in carrying out the functions, powers, and duties transferred by section 6(e) of the Department of Transportation Act (80 Stat. 931, 939–940), to establish reasonable requirements to promote safety of operation of motor vehicles used to transport children to or from school or school-related activities and to that end to prescribe qualifications of drivers and maximum hours of service and standards of equipment for motor carriers (including private carriers and agencies or instrumentalities of Federal, State, and local governments) engaged in transporting children to or from school or school-related activities. In the event such requirements are established, the term "motor carrier" includes all persons (including private carriers and agencies or instrumentalities of Federal, State, or local governments) engaged in transporting children to or from school or school-related activities. In the administration and enforcement of this section, the Secretary is au-

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thorized to employ all administrative powers transferred to him by section 6(f) of the Department of Transportation Act (80 Stat. 931, 940)."

SEC. 3. Section 222 of Part II of the Interstate Commerce Act, as amended (49 U.S.C. 322), is amended as follows:

(1) by redesignating subsection (a) as paragraph (1) of such subsection and adding a new paragraph (2), reading as follows:

"(2) Any person who knowingly commits an act in violation of any requirement, rule, regulation, or order promulgated by the Secretary of Transportation under section 204b of this part shall be fined not less than $250 nor more than $1,000 for the first offense and not less than $500 nor more than $2,000 for any subsequent offense. Each day of violation shall constitute a separate offense.";

(2) by redesignating subsection (h) as paragraph (1) of such subsection and adding a new paragraph (2), reading as follows:

"(2) Any motor carrier, or other person who violates any requirement, rule, regulation, or order of the Secretary of Transportation described in subsection 222(h)(1) or promulgated under section 204b of this part shall be subject to the penalties specified in subsection 222(h)(1)."; and

(3) by adding a new subsection (1), reading as follows:

"(1) In the administration of section 204b of this part, the Secretary of Transportation may order any motor carrier to cease and desist from engaging in all or a specified portion of its operation of motor vehicles used to transport children to or from school or school-related activities for not more than sixty days when the Secretary, for good cause, finds that the carrier's operations will create an unreasonable risk of accident, injury, or death to persons or damage to property. Before issuing a cease and desist order authorized by this subsection, the Secretary shall (1) determine that the application of other available sanctions would be impracticable, unduly time-consuming, or inadequate to protect the public health and safety; and (2) give the carrier written notice of his intention to issue a cease-and-desist order, identifying the portion of the carrier's operations that would be affected by the order and setting forth reasons why he intends to issue it. If the carrier is operating under a certificate or permit issued by the Commission with respect to operations covered by a cease-and-desist order, the Commission may, upon petition of the Secretary and after notice and hearing, revoke or further suspend the carrier's operating authority in whole or in part upon determining that revocation or further suspension will protect the public safety. An order of the Secretary issued under this subsection is reviewable in accordance with chapter 7 of title 5, United States Code. The provisions of title 28, United States Code, respecting three-judge district courts, do not apply to a proceeding to review an order of the Secretary issued under this subsection."

By Mr. GAMBRELL:

S. 3435. A bill to impose a moratorium on involuntary student transportation until a uniform plan of racial desegregation shall have been implemented throughout the country. Referred to the Committee on the Judiciary.

Mr. GAMBRELL. Mr. President, I am introducing a bill today which I hope will serve as a substitute for the busing moratorium which President Nixon proposed last week. I described this bill earlier today in testimony before the Education Subcommittee of the Committee on Labor and Public Welfare, and I ask unanimous consent that my opening statement with its exhibits to the Education Subcommittee, as well as the text of my bill itself, be printed in the RECORD at this point.

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 3435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Desegregation and Student Transportation Moratorium Act of 1972".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that:

(1) The provision of equal educational opportunity to all students of a local educational agency requires racial desegregation.

(2) School desegregation should be required equally and uniformly in every section of the United States.

(3) For the purpose of desegregation, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students.

(4) In many cases these reorganizations, with attendant increases in student transportation, have caused substantial hardship to the children thereby affected, have impinged on the educational process in which they are involved, and have required increases in student transportation often in excess of that necessary to accomplish desegregation.

(5) At the same time that extensive transportation of school children and other extreme and disruptive remedies are being required in some local educational agencies for the purpose of desegregation, many local educational agencies throughout the country have not undertaken any effective efforts to desegregate.

(6) This inequity in the application and enforcement of desegregation remedies obstructs the nationally accepted goal of equal educational opportunities without regard to race, color, or national origin.

(7) The Congress is presently considering legislation to achieve the goal of equal educational opportunity for all citizens.

(8) A moratorium on the involuntary transportation of school children will permit an orderly legislative settlement of the question of providing equal educational opportunity on a uniform basis throughout the country.

(b) It is, therefore, the purpose of this Act to impose a moratorium on the effectiveness of Federal court orders that require local educational agencies to transport students, and on the involuntary implementation of certain desegregation plans under Title VI of the Civil Rights Act of 1964 until racial desegregation is uniformly applied and enforced or until such earlier date as there shall be adopted a uniform plan to provide equal educational opportunities throughout the country.

SEC. 3. (a) Notwithstanding any other law or provision of law, the effectiveness of any order of a court of the United States and the implementation of any desegregation plan submitted by a local educational agency to a department or agency of the United States pursuant to Title VI of the Civil Rights Act of 1964, to the extent such order or such plan requires for any period subsequent to December 31, 1970, directly or indirectly, a local educational agency to transport students in order to overcome racial imbalance or to carry out a plan of racial desegregation, shall be postponed until plans providing for the racial desegregation of schools as provided in subsection (b) of this section, or reports of the absence of racial discrimination as described in subsection (b) of this section, shall have been adopted uniformly throughout the United States by the appropriate local educational agencies thereof.

(b) Plans providing for the racial desegregation of schools shall provide for the elimination of:

(1) any deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools.

(2) the assignment by an educational agency of a student to a school, other than the one closest to his place of residence within the school district in which he resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his place of residence within the school district of such agency providing the appropriate grade level and type of education for such student.

(3) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff.

(4) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency.

(5) language barriers that impede equal participation by the students of a local educational agency in its instructional programs.

(6) the provision of inferior schools among communities in accordance with racial predominance.

(7) any unequal allocation of school facilities and resources among communities within a local educational agency in accordance with racial predominance, except for the purpose of equalizing educational facilities.

(8) prohibitions against volitional student transfers from schools in which a majority of the students are of their race, color, or national origin to schools in which a minority of the students are of their race, color or national origin.

(c)(7) A plan or report shall not be deemed to have been adopted for the purpose of subsection (a) of this section until such plan or report, approved by the appropriate local educational agency after public hearing, has been submitted by an appropriate official of such agency to the Secretary of Health, Education, and Welfare, and the Secretary has not interposed an objection within sixty days after such submission. The Secretary shall interpose an objection to any report which he finds to be inaccurate in any substantial respect and shall object to any plan which he finds to be substantially deficient in the elimination of racial discrimination as described in subsection (b) of this section. *Provided*, that any such plan or report, whether or not submitted to the Secretary, shall be deemed to have been adopted for the purpose of this section if the Federal district court having jurisdiction of such agency shall have approved the substance of such plan or the truth of such report, and has found such plan or report to be in accordance with the Constitution of the United States.

(2) Plans shall not be deemed to have been uniformly adopted throughout the United States for the purpose of subsection (a) of this section until—

(A) such plans have been adopted in school systems containing not less than 75 per centum of the school population in public school systems which have total minority student population greater than 10 per centum, or

(B) such plans are in effect in not less than seventy-five of the one hundred most populous school systems in the United States (1) which have total minority student population greater than 10 per centum or (2) which had a greater percentage of minority students in 1971 attending schools in which minority students were in the majority than in 1968, and such plans are in effect in 75 per centum of the States of the United States having a minority public school student population greater than 10 per centum.

(d) Nothing in this Act shall prohibit an educational agency from proposing, adopting, requiring, or implementing any desegregation plan, otherwise lawful, that exceeds the limitations specified in subsection (a) of this section, nor shall any court of the United States or department or agency of the Federal Government be prohibited from approving implementation of a plan that exceeds the limitations specified in subsection (a) of this section if the plan is voluntarily proposed by the appropriate educational agency.

(e) A local educational agency shall be deemed to transport a student if it pays any part of the cost of such student's transportation, or otherwise provides such transportation.

STATEMENT BY HON. DAVID H. GAMBRELL BEFORE THE EDUCATION SUBCOMMITTEE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. Chairman and members of the Committee, I wish to express my appreciation for the opportunity of presenting to you today my views on the subjects of school busing and equal educational opportunities, with particular reference to the proposals recently presented to the Congress by President Nixon.

As each of you know, I have a vital interest in the subject as a Senator from Georgia, where virtually every school system is operating under some form of court ordered or approved desegregation plan, where virtually every school system has for several years been under careful scrutiny by the Department of HEW for compliance with departmental desegregation policies, where in many cases federal funding has been delayed or denied for actual and alleged violations of federal guide lines, and where the application of spectacular desegregation remedies has resulted in educational chaos and in a massive readjustment of our educational systems.

Every one of our major cities is under some form of actual or threatened massive forced busing plan but other unique remedies have been experimented with and applied, including adjusted grading, pairing, zoning, consolidation of schools, teacher transfers, promotion and demotion of officials, school name change (along with changes of athletic team names, slogans and pep songs), and the actual closing and abandonment of school buildings. This has led to teacher resignations, withdrawal of students, a rise in private school attendance, loss of support for public education, school boycotts and other problems.

But aside from my capacity as a representative of a state which has had this chaotic adjustment thrust upon its educational system, I can address these matters as a citizen and parent who has personally lived through the trials and traumas of the school desegregation and civil rights struggles, on the ground, in the South, since 1954, face to face. Few members of the Senate can approach the matter from this point of view. And to the best of my knowledge, while the busing issue has been mounting to white heat during the past year, no parent who has had any firsthand experience with forced busing or the impact of school desegregation has been heard from by a Senate Committee.

It is not my purpose today, however, to recount my own experience with this subject during the past eighteen years. I will say that, although faced with enormous problems of readjustment, many developments have taken place in my state which give me pride and renewed faith and confidence in the capacity of Georgia people to accept social change, and to live with the attendant adversity.

For present purposes, it will be sufficient to say that the experiences which I have had and those experienced by thousands of families like mine, are what have precipitated the legislative proposals which bring up together today.

May I begin my comments by saying that I favor equal educational opportunities in community schools free of racial discrimination.

The implementation of this goal should be the subject of our discussion here today. However, against the background of the forced busing crisis, and in the midst of an election year, the atmosphere for the consideration of improved educational opportunities is hardly the best.

Unfortunately, for many months during the rising intensity of this crisis, the leadership in both Houses of Congress made every effort to avoid a free and open discussion of these questions. The issue had to be brought out in the open through floor amendments to the Higher Education Bill.

Without hearings in either the House or Senate, without leadership from the White House, and pursuant to an effort to waffle on the entire subject, amendments to the Higher Education Bill were debated and adopted, and now reside in the Conference Committee on that bill.

Now, the introduction by President Nixon of new anti-busing proposals, accompanied by a plan for equal educational opportunities, reopens the entire question for further consideration.

But regardless of how the question got here, it is important that we try to focus on equal educational opportunities, and the proposal which I am offering today is an effort to create a public and legislative atmosphere in which the question of equal educational opportunities can be considered free of the discord, partisanship and antagonisms surrounding the busing question.

It will come as no surprise to members of this Committee for me to state that I am opposed to forced school busing to achieve integration, as ordered by federal courts and the Department of Health, Education, and Welfare. In this, I am certainly not unique, as in every poll, referendum and election in which the busing issue has been raised, the American people, North and South, black and white, have expressed overwhelming opposition to it. Even those who have not experienced it are opposed to it.

This practice cannot be terminated any too soon to suit me. But in addition to its inherent unwisdom, forced busing as an issue is obstructing and obscuring efforts to achieve the ends of equal educational opportunities for all. Thus the proposal which I am offering today, a nationally uniform moratorium on forced busing, while it goes primarily to the busing question, is intended to make reasonable and deliberate consideration of the equal educational opportunities proposals possible.

In my opinion, it would be unwise to be in a rush toward a permanent solution of the question of equal educational opportunities. Frankly, aside from the busing question, I feel that well meaning but misguided persons will seek to relieve their guilt feelings about school segregation and racial isolation by recommending massive spending programs which will result in massive waste of hard-earned taxpayer dollars on ill-conceived educational schemes.

I certainly do not claim to be an expert on the subject of education myself. In fact, I will not here today offer suggestions to this Committee on methods, techniques, and funding requirements for compensatory and remedial education such as those proposed in President Nixon's Equal Educational Opportunities Bill. These are some of the subjects which I would like to see the Committee approach with extreme care and deliberation.

In particular, I would hope that the Committee in considering the possible use of forced busing as an equal education technique will give weight to overwhelming public opinion against it.

Contrary to what has seemed to be accepted dogma for educational authorities, and for judicial decisions, there is a growing body of opinion which questions whether busing for integration purposes is good for public education.

Among the authorities which have developed recently which question the value of artificially integrated educational systems are the following, which I offer for inclusion in the record:

1. Two Columns by William Raspberry, noted Black columnist, published in the Washington Post on January 26 and February 16, 1972. (Exhibit 1.)

2. An article by Nathan Glazer, "Is Busing Necessary?", along with the accompanying essay by Norman Podhoretz, "School Integration and Liberal Opinion", which appeared in the March, 1972 issue of Commentary magazine. (Exhibit 2.)

3. The decision of the United States District Court for the Northern District of Georgia, Atlanta Division, in the case of Vivian Calhoun vs Ed. S. Cook et al, in which the District Court in Atlanta accepted the recommendation of the Atlanta School Board that forced busing would not aid desegregation of the Atlanta schools, and in fact, would have a negative effect on the whole Atlanta community. (Exhibit 3.)

In addition, I recommend that consideration be given to the recently published report "On Equality of Educational Opportunity", a compilation of papers from the Harvard University Faculty Seminar on "The Coleman Report" edited by Frederick Mosteller and Daniel P. Moynihan.

A deliberate approach to the solution of the equal education problem would also afford the Committee an opportunity to hear from witnesses who have been in the field during the past eighteen years. One of these might be Dr. Benjamin Mays, President of Morehouse College in Atlanta, preacher of the funeral of Dr. Martin Luther King, Jr., who has been President of the Atlanta Board of Education during the past two years. It was this Board, with Dr. Mays as President and two other Blacks as members, which recommended against forced busing for integration purposes in the Atlanta School System. As indicated, the federal court in Atlanta adopted this recommendation.

Further, the Committee might wish to visit in person in places where various desegregation techniques, including forced busing, have been implemented, to hear from parents and teachers, and to witness various programs of emergency and other forms of desegregation relief.

Such an investigation of this entire subject should lead the Committee to a much sounder permanent program of improved and equal educational opportunities. And I think that the Committee will also conclude that forced busing for integration purposes has not, and will not serve the goals which its sponsors apparently think it will serve. In my opinion, forced busing does not serve the goal of racial justice, it does not serve the goal of quality education, it does not serve the goal of strengthening the concepts of family and community that are already buckling and decaying under the pressure of social change. And it does not serve the goal of social mobility for economic and racial minorities.

It serves only the goal of those well intentioned, but unresponsive social planners who

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confuse motion with progress, and speed with direction.

Busing has been no more than a temporary "cause" for those who want to do something, even if it is wrong. In the process, the country has again made the South, the Blacks, the poor and the children, the guinea pigs for social experimentation, while the established and the rich keep the social barriers in tact. In other words, it is another instance where hardworking, taxpaying Americans, black and white, in the South and elsewhere, are made to bear the brunt of another innovation of the grand planners in Washington. And when they have protested this abuse, they are labeled racists. Is it any wonder that so many Americans are angry today?

This brings me to the crux of my comments on the subject before us today. I think the basic fault in the school busing and quality education legislation proposed by President Nixon is its failure to guarantee that school desegregation will hereafter be uniformly applied and enforced in all sections and to all persons within the United States.

In my judgment, the lack of uniformity in the present system of court ordered school desegregation is largely responsible for the delays which have been experienced, and for the intense controversy which has resulted from court orders in this field.

The substitute legislation which I proposed in place of President Nixon's plan would require uniform application and enforcement of school desegregation and educational opportunity laws.

The concept of equal protection of the laws has within it not only the consideration of equal justice among all citizens, but also indulges the practical consideration of encouraging public support for laws which are fairly applied and enforced. Laws which have unequal application, or are unequally enforced, become the subject of controversy. Even where there might be acceptance of the principle of such laws, there will be complaints because of the discrimination in application or enforcement.

In the case of forced busing, through court and departmental orders, it is virtually impossible to develop anything but a patchwork system of desegregation enforcement. In the first place, there is no enforcement in areas where the opportunity has not been taken or afforded to institute litigation or administrative proceedings. Even among communities under court enforcement, there can be a wide range of remedies applied with resultant dissatisfaction. I find it difficult to explain to Georgia citizens in Augusta, Savannah, Macon and Columbus why there is no busing in Atlanta.

Even more so, is the difficulty of justifying to thousands of citizens under busing requirements why other segregated communities throughout the country not only have no busing, but in fact have no desegregation procedures whatsoever in effect. And I might add that an explanation of this in Latin—such as "de-facto de-jure"—does not make the justification any more palatible.

This situation is not only unfair and provocative, it has a tendency to undermine public confidence in our federal court system. To me it is intolerable that our courts should any longer be placed in the position of administering school systems in this controversial arena, when the problem is clearly one in which the legislative branch can and should act to relieve the courts.

Evidence of the decline of public confidence in the courts is found in rising sentiment for proposals to amend the Constitution, not only to eliminate forced busing, but to change the process by which Federal Judges are selected.

In my opinion, the sooner Congress steps in and relieves the courts of further policy making authority in the area of school desegregation, the better it will be.

Based on all these considerations, I am introducing a bill today, which I hope will serve as a substitute for President Nixon's busing moratorium. I now offer a copy of my bill for inclusion in the record of these proceedings.

In substance, the bill will implement a program which I recommended to the President's Cabinet Committee consisting of former Attorney General Mitchell, Budget Director Schultz, and HEW Secretary Richardson, shortly after that Committee was constituted at a meeting at the White House held in late February.

A statement which I made on the Senate Floor on February 29, 1972, outlining this program, is offered for inclusion in the record. (Exhibit 4.)

My plan provides for basic uniformity in application and enforcement of desegregation, without forced busing. This will permit uniformity to be achieved in an atmosphere free of emotionalism and rhetoric. The uniformity may be achieved through court decisions, but more hopefully through legislation seeking more equal education than mere desegregation can provide.

The principal difference between the plan which I proposed to the President's Cabinet Committee, and the one which the President has now offered, is that the President's plan fails to assure uniform enforcement of the equal education plan throughout the country, and, under its proposed moratorium, positively discriminates against communities and school systems in which massive forced busing programs are now underway. My proposal would have a moratorium equally applicable to all, and would assure uniform desegregation enforcement in the future.

As many of you know, I previously made an effort to have a plan of this type adopted. Following the voting on the so-called Griffin Amendment, I offered and called up an amendment seeking a complete moratorium on forced busing until a uniform policy of desegregation could be adopted and implemented. Debate on this amendment was limited to forty minutes, and I do not think that members of the Senate ever fully understood what was proposed. In fact, seventeen Republicans who voted for the Griffin Amendment, which was a complete bar to forced busing, voted against my amendment which was only a moratorium. Those votes, along with two Democratic votes in support of my amendment by Senators who had opposed the Griffin Amendment, would have assured passage of my proposal.

The failure of this amendment under those circumstances raised a serious question in my mind as to the desire of the Administration to solve the busing crisis, free of political considerations, and also causes me to doubt the sincerity of many Democratic members who advocate equal protection of the law, but do not support equal enforcement policies when they have an opportunity to do so.

The bill which I now offer follows substantially the same plan as the amendment which I offered during the debate on the Higher Education Bill. It prohibits the use of forced school busing in some parts of the country when no steps toward desegregation have been taken in most of the country's school systems.

In view of what I have said, it should go without further elaboration that I would bitterly oppose President Nixon's moratorium plan in its present form. If the moratorium can be extended, as I suggested to the Cabinet Committee, to cover all school systems now under massive busing orders, and to last until a nationally uniform school desegregation policy can be adopted and implemented, then I would support it.

But if equal protection of the law cannot be made a part of the plan, then I would just as soon have no moratorium at all. If school busing is wrong, or being questionably applied, then those who have already suffered under it should be the first to be excused. The President's moratorium to me is like coming out against capital punishment for those hereafter convicted, but letting the death sentence be executed on those waiting on death row. No fairminded person would support such a plan.

Finally, I would like to emphasize that it is my desire, and that of the people I represent, to approach this matter with positive solutions, rather than with negative objections. Commonsense will tell you that workable solutions to these very difficult problems can only be arrived at if all Americans believe that they are being treated fairly. The objectives of school desegregation and equal educational opportunity will be much better served, and more rapidly achieved, if equal protection of the law is built into the application, as well as into the concept of the program.

EXHIBIT 1

[From the Washington Post, Jan. 26, 1972]

SCHOOL CHANGES ARE LATE

(By William Raspberry)

America can never seem to figure out what to do about its poor and its black citizens.

It forces them into concentrations, whether through economics, commercial manipulation or outright segregation. And then it announces that it would be possible to deal with their problems if only the people were not so concentrated.

Even when some reasonably logical solution does suggest itself, it is almost an article of American faith that no attempt will be made to implement it until it is too late for it to be effective.

We try scattered-site public housing (or cash housing subsidies) as an alternative to public housing concentration camps, but only after the problem has grown so large that there aren't enough sites left in which to scatter the poor.

We decide to move against crime and narcotics in the ghettos only after they have become virtually intractable (and after they have become a problem for the nonblack and nonpoor).

And particularly have we moved too late in public education.

When some basic education would have been a desirable thing for blacks, white Americans made it illegal to teach blacks to read and write.

When blacks would have been ecstatic over really good segregated schools, they got schools that were separate but awful.

Local authorities are now willing to desegregate their schools, but only after the courts have said desegregation isn't enough: You have to integrate.

Always one step behind. It would be almost laughable except for the fact that the problems keep growing worse. Remedies that would have worked a few years ago become inadequate when they are applied too late. And we've finally reached the point where no one, white or black, has any clear idea of what will work now.

Virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas.

I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the same time, let us end the humiliation of chasing after rich white children.

And it is humiliating. For one thing it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that.

Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seatmates happen to be.

We started off chasing after white people because that was (we thought) the sure way to get the resources we needed. Now some of us are continuing the chase although we've forgotten why it started.

As provocative as Judge Merhidge's Richmond decree was, I would have preferred a ruling that said not that pupils must be bused without regard to city boundary lines but that school money and resources must no longer stop at those boundaries.

It may still come to that. If the current trend continues, there will likely be an end to property taxes as the chief means of financing schools, and one result will be that all schools within a state will be on equal footing, no matter whether they are in rich neighborhoods or poor.

When the white and the rich discover that they cannot finance good public schools for their own children and lousy ones for the rest, we will see the beginning of equality in public education or we will see the end of public education.

EXHIBIT 2

[From the Washington Post, Feb. 16, 1972]

MASSIVE BUSING: A WASTE

(By William Raspberry)

If this weren't an election year, it just might be possible to do something rational about school integration and busing.

But not only it is an election year; it is also a year in which all sorts of people, in all parts of the country and of all political persuasions are expressing their strong misgivings about the prospects of massive busing for the purpose of racial integration of public schools.

And with that kind of mandate, you can count on the politicians to see their duty—and overdo it. Already presidential candidate Jackson is pushing "freedom of choice." Haven't we heard that one before?

Others are talking up constitutional amendment.

It's a bit of an embarrassment, all things considered, but I happen to agree with Vice President Agnew on this one. I agree with him that massive busing solely for purposes of racial integration is a waste. And I agree with his opposition to a constitutional amendment as the way to end the waste.

The artificial separation of people, in schools or out, based on their race is wrong. It is, for one thing, psychologically destructive of the minority members who are separated out.

But to send black children chasing to hell and gone behind white children is also wrong and psychologically destructive. It reinforces in white children whatever racial superiority feelings they may harbor, and it says to black children that they are somehow improved by the presence of white schoolmates.

My favorite nightmare is all of the white people in the country moving to Alaska, and all the black children in the country following them in an endless line of buses.

Integration is a noble goal. But there comes a time when thoughtful men wonder with Joseph Alsop: "Is it really worth it?"

If white people, either because they wish to avoid contact with black people or for any other reason, choose to move far from where most black people live, how can it make sense—in terms of education or common sense—to send black kids chasing after them?

At some point, it becomes obvious that there must be a cheaper way to achieve the goal which is the education of our children.

But even the goal gets confused. Some of the advocates of massive busing, it seems to me, are being guided by the wrong ideal.

They start off with the assumption that in melting-pot America, racial integration is a good thing. But they take the melting pot metaphor altogether too literally, and it becomes their goal to make every classroom of every school (and every block of every neighborhood) an accurate cross-section of the makeup of the total population.

They would like to put us all into that metaphorical melting pot and ladle out enough portions of homogenized American to fill every schoolroom, workroom and living room in the country.

Well, what's so ideal about mathematically precise distribution of human beings? What's so inherently evil about a block in which all the homeowners (or a classroom in which all the pupils) happen to be black? Or white?

This is no brief for a return to the lie of separate but equal. It is an appeal for national priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better is it to say: You must attend this school because it is integrated and we need you for racial balance?

The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision, unfortunately, is not the way to achieve that idea.

But no constitutional amendments, please. The effort that route would require would be bound to make too many of us feel that we were solving the problem of education in a pluralistic society. It would in fact solve nothing at all, except to return us to where we were the day before yesterday.

The Vice President was right again when he said:

"I think that there is almost a Pavlovian reaction. Whenever a subject become highly controversial, you must turn to a constitutional amendment. I think these things are capable of being handled within the normal statutory framework and constitutional framework of our existing Constitution."

But only if we deal with the situation and stop looking for new ways to run.

IS BUSING NECESSARY?

(By Nathan Glazer)

It is the fate of any social reform in the United States—perhaps anywhere—that, instituted by enthusiasts, men of vision, politicians, statesmen, it is soon put into the keeping of full-time professionals. This has two consequences. On the one hand, the job is done well. The enthusiasts move on to new causes while the professionals continue working in the area of reform left behind by public attention. But there is a second consequence. The professionals, concentrating exclusively on their area of reform, may become more and more remote from public opinion, and indeed from common sense. They end up at a point that seems perfectly logical and necessary to them—but which seems perfectly outrageous to almost everyone else. This is the story of school desegregation in the United States.

For ten years after the 1954 Supreme Court decision in *Brown*, little was done to desegregate the schools of the South. But professionals were at work on the problem. The NAACP Legal Defense Fund continued to bring case after case into court to circumvent the endless forms of resistance to a full and complete desegregation of the dual school systems of the South. The federal courts, having started on this journey in 1954, became educated in all the techniques of subterfuge and evasion, and in their methodical way struck them down one by one. The federal executive establishment, reluctant to enter the battle of school desegregation, became more and more involved.

The critical moment came with the passage of the Civil Rights Act in 1964, in the wake of the assassination of a President and the exposure on television of the violent lengths to which Southern government would go in denying constitutional rights to Negroes. Under Title IV of the Civil Rights Act, the Department of Justice could bring suits against school districts maintaining segregation. Under Title VI, no federal funds under any program were to go to districts that practiced segregation. With the passage of the Elementary and Secondary Education Act in 1965, which made large federal funds available to schools, the club of federal withdrawal of funds became effective. In the Department of Justice and in the Department of Health, Education and Welfare, bureaucracies rapidly grew up to enforce the law. Desegregation no longer progressed painfully from test case to test case, endlessly appealed. It moved rapidly as every school district in the South was required to comply with federal requirements. HEW's guidelines for compliance steadily tightened, as the South roared and the North remained relatively indifferent. The Department of Justice, HEW, and the federal courts moved in tandem. What the courts declared was segregation became what HEW declared was segregation. After 1969, when the Supreme Court ordered, against the new administration's opposition, the immediate implementation of desegregation plans in Mississippi, no further delay was to be allowed.

The federal government and its agencies were under continual attack by the civil-rights organizations for an attitude of moderation in the enforcement of both court orders and legal requirements. Nevertheless, as compared with the rate of change in the years 1954 to 1964, the years since 1964 have seen an astonishing speeding-up in the process of desegregating the schools of the South.

Writing during the Presidential campaign of 1968, Gary Orfield, in his massive study, *The Reconstruction of Southern Education*, stated:

"To understand the magnitude of the social transformation in the South since 1964, that portrait of hate [of black students walking into Little Rock High School under the protection of paratroopers' bayonets] must be compared to a new image of tense but peaceful change. Even in the stagnant red clay counties in rural backwaters, where racial attitudes have not changed much for a century, dozens or even hundreds of black children have recently crossed rigid caste lines to enter white schools. Counties with well-attended Ku Klux Klan cross-burning have seen the novel and amazing spectacle of Negro teachers instructing white classes. It has been a social transmutation more profound and rapid than any other in peacetime American history.

"This is a revolution whose manifesto is a court decision and whose heroes are bureaucrats, judges, and civil-rights lawyers. . . ."

Mr. Orfield thought it was all coming to an end. With Nixon attacking the guidelines that had brought such progress, and with the civil-rights coalition coming apart in the fires of the cities of the North, Mr. Orfield wrote, "A clear electoral verdict against racial reconciliation [that is, the election of Mr. Nixon] could mean that the episode of the school guidelines may recede into history of an interesting but futile experiment." Mr. Orfield underestimated the bureaucrats, the courts, and the overall American commitment to the desegregation of Southern schools. While Mr. Nixon's appointees were suffering the same abuse as Mr. Johnson's before them for insufficient zeal, the desegregation of the racially divided school systems of the South proceeded. Thus the Director of the HEW Office of Civil Rights, J. Stanley Pottinger, could summarize some of the key statistics as of 1970 in the following terms:

"When school opened in the fall of 1968, only 18 per cent of the 2.9 million Negro

children in the Southern states attended schools which were predominantly white in their student enrollments. In the fall of 1970, that figure had more than doubled to 39 per cent . . . [and] the percentage of Negroes attending 100 per-cent black schools dropped . . . from 68 per cent to 14 per cent. In 1968, almost no districts composed of majority Negro (and other minority) children were the subject of federal enforcement action. It was thought . . . that the limited resources of government ought to be focused primarily on the districts which had a majority of white pupils, where the greatest educational gains might be made, and where actual desegregation was not as likely to induce white pupils to flee the system. . . . 40 per cent of all the Negro children in the South live in [such] systems. . . . Obviously, the greater the amount of desegregation in majority black districts, the fewer will be the number of black children . . . who will be counted as "desegregated" under a standard which measures only those minority children who attend majority white schools.

"In order to account for this recent anomaly, HEW has begun to extract from its figures the number of minority children who live in mostly white districts and who attend mostly white schools. Last year, approximately 54 per cent of the Negro children in the South who live in such districts attended majority white schools. Conversely, nearly 40 per cent of the 2.3 million white children who live in mostly black (or minority) districts now attend mostly black (or minority) schools."[1]

There has been further progress since, and if one uses as the measure the number of blacks going to schools with a majority of white children, the South is now considerably more integrated than the North.

Yet the desegregation of schools is once again the most divisive of American domestic issues. Two large points of view can be discerned as to how this has happened. To the reformers and professionals who have fought this hard fight—the civil-rights lawyers, the civil-rights organizations, the government officials, the judges—the fight is far from over, and even to review the statistics of change may seem an act of treason in the war against evil. Indeed, if one is to take committed supporters of civil rights at their word, there is nothing to celebrate. A year ago the Civil Rights Commission, the independent agency created by the Civil Rights Act of 1957 to review the state of civil rights, attacked the government in a massive report on the civil rights enforcement efforts. "Measured by a realistic standard of results, progress in ending inequity has been disappointing. . . . In many areas in which civil rights laws afford pervasive legal protection—education, employment, housing—discrimination persists, and the goal of equal opportunity is far from achievement." And the report sums up the gloomy picture of Southern school segregation, 16 years after *Brown:* "Despite some progress in Southern school desegregation . . . a substantial majority of black school children in the South still attend segregated schools."[2] Presumably, then, when a majority of Negro children attended schools in which whites were the majority, success by one measure should have been reported. But in its follow-up report one year later, this measure of success in Southern school desegregation was not even mentioned. The civil-rights enforcement effort in elementary and secondary schools, given a low "marginal" score for November 1970 (out of four possibilities," "poor," "marginal," "adequate," and "good"), is shown as having regressed to an even *lower* "marginal" score by May 1971, after HEW's most successful year in advancing school integration!

But from the point of view of civil-rights advocates, desegregation as such in the South is receding as a focus of attention. A second generation of problems has come increasingly to the fore: dismissal or demotion of black school principals and teachers as integration progresses and their jobs are to be given to whites; expulsions of black students for disciplinary reasons; the use of provactive symbols (the Confederate flag, the singing of "Dixie"); segregation within individual schools based on tests and ability grouping; and the rise of private schools in which whites can escape desegregation.

But alongside these new issues, there is the reality that the blacks of the North and West are also segregated, not to mention the Puerto Ricans, Mexican Americans, and others. The civil-rights movement sees that minorities are concentrated in schools that may be all or largely minority, sees an enormous agenda of desegregation before it, and cannot pause to consider a success which is already in its mind paltry and inconclusive. The struggle must still be fought, as bitterly as ever.

There is a second point of view as to why desegregation, despite its apparent success, is no success. This is the Southern point of view, and now increasingly the Northern point of view. It argues that a legitimate, moral, and Constitutional effort to eliminate the unconstitutional separation of the races (most Southerners now agree with this judgment of *Brown*), has been turned into something else—an intrusive, costly, painful, and futile effort to regroup the races in education by elaborate transportation schemes. The Southern Congressmen who for so long tried to get others to listen to their complaints now watch with grim satisfaction the agonies of Northern Congressmen faced with the crisis of mandatory, court-imposed transportation for desegregation. On the night of November 4, 1971, as a desperate House passed amendment after amendment in a futile effort to stop busing. Congressman Edwards of Alabama said:

"Mr. Chairman, this will come as a shock to some of my colleagues. I am opposing this amendment. I will tell you why. I look at it from a rather cold standpoint. We are busing all over the First District of Alabama, as far as you can imagine. Buses are everywhere . . . people say to me, 'How in the world are we ever going to stop this madness?' I say, 'It will stop the day it starts taking place across the country, in the North, in the East, in the West, and yes, even in Michigan.' "

And indeed, one of the amendments had been offered by Michigan Congressmen, longtime supporters of desegregation, because what had been decreed for Charlotte, North Carolina, Mobile, Alabama, and endless other Southern cities was now on the way to becoming law in Detroit and its suburbs.

As a massive wave of antagonism to transportation for desegregation sweeps the country, the liberal Congressmen and Democratic Presidential aspirants who have for so long fought for desegregation ask themselves whether there is any third point of view: whether they must join with the activists who say that the struggle is endless and they must not flag, even now; or whether they must join with the Southerners. To stand with the courts in their latest decisions is, for liberal Congressmen, political suicide. A Gallup survey last October revealed that 76 per cent of respondents opposed busing, almost as many in the East (71 per cent), Midwest (77 per cent), and West (72 per cent), as in the South (82 per cent); a majority of Muskie supporters (65 per cent) as well as a majority of Nixon supporters (85 per cent). Even more blacks opposed busing than support it (47 to 45 per cent). But if to stand with the further extension to all the Northern cities and suburbs of transportation for desegregation is suicide, how can the liberal Congressmen join with the South and with what they view as Northern bigotry in opposing busing? Is there a third position, something which responds to the wave of frustration at court orders, and which does not mean the abandonment of hope for an integrated society?

How have we come from a great national effort to repair a monstrous wrong to a situation in which the sense of right of great majorities is offended by policies which seem continuous with that once noble effort? In order to answer this question, it is necessary to be clear on how the Southern issue became a national issue.

After the passage of the Civil Rights Act of 1964, the first attempt of the South to respond to the massive federal effort to impose desegregation upon it was "freedom of choice." There still existed the black schools and the white schools of a dual school system. But now whites could go to black schools (none did) and the blacks could go to white schools (few dared). It was perfectly clear that throughout the South "freedom of choice" was a means of maintaining the dual school system. In 1966 HEW began the process of demanding statistical proof that substantially more blacks were going to school with whites each year. The screw was tightened regularly, by the courts and HEW, and finally, in 1968, the Supreme Court gave the *coup de grâce*, insisting that dual school systems be eliminated completely. There must henceforth be no identifiable black schools and white schools, only schools.

But one major issue remained as far as statistical desegregation was concerned: the large cities of the South. For the fact was that the degree of segregation in the big-city Southern schools was by now no longer simply attributable to the dual school systems they, too, had once maintained; in some instances, indeed, these schools had even been "satisfactorily" (by some federal or court standard) desegregated years before. What did it mean to say that their dual school systems must also be dismantled "forthwith"?

Contrast, as a concrete instance, the case of rural New Kent County in Virginia, where the Supreme Court declared in 1968 that "freedom of choice" would not be accepted as a means of desegregating a dual school system. Blacks and whites lived throughout the country. There were two schools, the historic black school and the historic white school. Under "freedom of choice," some blacks attended the white school, and no whites attended the black school. There was a simple solution to desegregation, here and throughout the rural and small-town South, and the Supreme Court insisted in 1968, fourteen years after *Brown*, that the school systems adopt it: to draw a line which simply made two school districts, one for the former black school, and one for the former white school, and to require all children in one district, white and black, to attend the former black school, and all children in the other, white and black, to attend the former white school.

But what now of Charlotte, Mobile, Nashville, and Norfolk? To draw geographical lines around the schools of these cities, which had been done, meant that many white schools remained all white, and many black schools remained all black. Some schools that had been "desegregated" in the past—that is, had experienced some mix of black and white—had already become "resegregated"—that is, largely black or all black as a result of population movements rather than any official action.

If there were to be no black schools and no white schools in the city, one thing at least was necessary; massive transportation of the children to achieve a proper mix. There was no solution in the form of geographical zoning.

But if this was the case, in what way was their situation different from that of Northern cities? In only one respect: the Southern cities had once had dual school systems, and the Northern cities had not. (Even this was not necessarily a decisive difference, for cities outside the Old South had also maintained dual systems until 1954. Indiana had a law permitting them until the late 1940's, and other cities had maintained dual systems somewhat earlier.) Almost everything else was the same. The dynamics of population change were the same. Blacks moved into the central city, whites moved out to the suburbs. Blacks were concentrated in certain areas, owing to a mixture of formal or informal residential discrimination, past or present, economic incapacity, and taste, and these areas of black population became larger and larger, making full desegregation by contiguous geographical zoning impossible. Even the political structures of Southern and Northern cities were becoming more alike. Southern blacks were voting, liberal candidates appealed to them, Southern blacks sat on city councils and school boards. If one required the full desegregation of Southern cities by busing, then why should not one require the full desegregation of Northern cities by busing?

Busing has often been denounced as a false issue. Until busing was decreed for the desegregation of Southern cities, it was. As has been pointed out again and again, buses in the South regularly carried black children past white school to black schools, and white children past black schools to white schools. When "freedom of choice" failed to achieve desegregation and geographical zoning was imposed, busing sometimes actually declined. In any case, when the school systems were no longer allowed to have buses for blacks and buses for whites, certainly the busing system became more efficient. After 1970, busing for desegregation replaced the busing for segregation.

But this was not true when busing came to Charlotte, North Carolina, and many other cities of the South, in 1971, after the key Supreme Court decision in *Swann* v. *Charlotte-Mecklenburg County Board of Education*. The City of Charlotte is 64 square miles, larger than Washington, D.C., but it is a part of Mecklenburg County, with which it forms a single school district of 550 square miles, which is almost twice the size of New York City. Many other Southern cities (Mobile, Nashville, Tampa) also form part of exceptionally large school districts. While 29 per cent of the schoolchildren of Mecklenburg County are black, almost all live in Charlotte. Owing to the size of the county, 24,000 of 84,500 children were bused, for the purpose of getting children to schools beyond walking distance. School zones were formed geographically, and the issue was, could all-black and all-white schools exist in Mecklenburg County, if a principle of neighborhood school districting meant they would be so constituted?

The Supreme Court ruled they could not, and transportation could be used to eliminate black and white schools. The Court did not argue that there was a segregative intent in the creation of geographical zones—or that there was not—and referred to only one piece of evidence suggesting an effort to maintain segregation, free transfer. There are situations in which free transfer is used by white children to get out of mostly black schools, but if this had been the problem, the Court could have required a majority-to-minority transfer only (in which one can only transfer from a school in which one's race is a majority, and to a school in which one's race is a minority), as is often stipulated in desegregated plans. Instead the Court approved a plan which involved the busing of some 20,000 additional children, some for distances of up to 15 miles, from the center of the city to the outer limits of the county, and vice versa.

Two implications of the decision remain uncertain but they may lead to a reorganization of all American education. If Charlotte, because it is part of the school district of Mecklenburg County, can be totally desegregated with each school having a roughly 71–29 white-black proportion, should not city boundaries be disregarded in other places and larger school districts of the Mecklenburg County scale be created wherever such action would make integration possible? A district judge has already answered this question in the affirmative for Richmond, Virginia.

But the second implication is: If Charlotte is—except for the background of a dual school system—socially similar to many Northern cities, and if radical measures can be prescribed to change the pattern that exists in Charlotte, should they not also be prescribed in the North? And to that question also a federal judge, ruling in a San Francisco case, has returned an affirmative answer.

San Francisco has a larger measure of integration probably than most Northern cities. Nevertheless *de facto* segregation—the segregation arising not from formal decisions to divide the races as in the South, but from other causes, presumed to be social and demographic—has long been an issue in San Francisco. In 1962, the NAACP filed suit against the school board, charging it with, "affording, operating, and maintaining a racially segregated school system within the San Francisco Unified School District, contrary to and in violation of the equal protection and due process clause of the Fourteenth Amendment of the Constitution of the United States." As John Kaplan has written:

"The history of this suit is a short and strange one. The Board of Education retained for its defense a distinguished local attorney, Joseph Alioto [now the mayor], who was primarily an anti-trust specialist. Alioto started discovery proceedings and the heart seemed to go out of the plaintiffs.

"In any case, after admitting in depositions that the Board had no intention to produce a condition of racial imbalance; that it took no steps to bring about such a condition; that its lines were not drawn for the purpose of creating or maintaining racial imbalance; that there was no gerrymandering; and finally that the Board was under no obligation to relieve the situation by transporting students from their neighborhoods to other districts, the plaintiffs' attorney allowed the suit to be dismissed for want of prosecution on December 2, 1964."

It was assumed that this disposed of the legal issue. Meanwhile the San Francisco school system continued to struggle with the problem. After a long series of censuses, disputes, and studies, the school board proposed to set up two new integrated complexes, using transportation to integrate, one North and one South of Golden Gate Park. They were to open in 1970. When, however, one was postponed because of money problems, suit was brought once again by integration-minded parents, this time charging *de jure* segregation on the ground that the school board's failure to implement the two integrated school complexes amounted to an official act maintaining the schools in their presently segregated state.

Judge Stanley Weigel, before whom the matter was argued, very sensibly decided to wait for the Supreme Court's ruling in the Charlotte-Mecklenburg County case which, he and many others thought, might once and for all settle the question of whether *de facto* segregation was no less unconstitutional than *de jure* segregation. Although one may doubt from certain passages in the Charlotte-Mecklenburg decision that the Supreme Court did indeed mean to outlaw *de facto* segregation, Judge Weigel seems to have decided that it did. "The law is settled," he declared, "that school authorities violate the constitutional rights of children by establishing school attendance boundary lines knowing that the result is to continue or increase substantial racial imbalance."

But in ordering the desegregation of the San Francisco schools by transportation, Judge Weigel did not simply rest the matter on *de facto* segregation; he also listed acts of commission and omission which he believed amounted to *de jure* school segregation.

Now one can well imagine that a school board which does not or did not recently operate under state laws that required or permitted segregation could nevertheless through covert acts—which are equally acts under state authority—foster segregation. It could, for example, change school-zone lines, so as to confine black children in one school and permit white children to go to another school. It could build schools and expand them so that they served an all-black or all-white population. It could permit a transfer policy whereby white children could escape from black schools while blacks could not. It could assign black teachers to black schools and white teachers to white schools.

Judge Weigel charged all these things. The record—a record made by a liberal school board, appointed by a liberal mayor, in a liberal city, with a black president of the school board—does not, in this layman's opinion, bear him out, unless one is to argue that any action of a school board in construction policy or zone-setting or teacher assignment that precedes a situation in which there are some almost all-black schools (there were no all-black schools in San Francisco) and some almost all-white schools (there were no all-white schools in San Francisco) can be considered *de jure* segregation.

Under Judge Weigel's interpretation, there is no such thing as *de facto* segregation. All racial imbalance is the result of state actions, either taken or not taken. If not taken, they should have been taken. *De facto* disappears as a category requiring any less action than *de jure*.

This is the position of many lawyers who are arguing these varied cases. I have described the San Francisco case because it led to a legal order requiring desegregation by transportation of the largest Northern or Western system so far affected by such an order. But massive desegregation had also been required by a district judge in Denver, who had then had his judgment limited by the Circuit Court of Appeals. Is it this Denver case that will become the first case on Northern or Western *de facto* school segregation—if we still allow the term some meaning—to be heard by the Supreme Court. What the Supreme Court will have to decide is whether the historical difference between Charlotte and Denver permits Denver or any other city to do any less than Charlotte has been required to do in order to integrate its schools.

Simultaneously, Detroit and the surrounding counties and the state of Michigan are under court order to come up with a plan that permits the desegregation of the school children of Detroit by busing to the neighboring suburbs, and a federal judge is moving toward the same result in Indianapolis. If the Supreme Court should uphold the district judge's ruling in the Richmond case, it will then similarly have to decide whether anything in the history or practices of Detroit and Indianapolis justifies ordering less in those cities than has been ordered in the city of Richmond.

The hardy band of civil-rights lawyers now glimpses—or glimpsed, before the two latest appointments to the Supreme Court—a complete victory, based on the idea that there is no difference between *de facto* and *de jure* segregation, an idea which is itself based on the larger idea that there is no difference between North and South. What is imposed on the South must be imposed on the North. As Ramsey Clark, a former Attorney-General

Footnotes at end of article.

of the United States, puts it, echoing a widely shared view:

"In fact, there is no *de facto* segregation. All segregation reflects some past actions of our governments. The FHA itself required racially restrictive covenants until 1948. But, that aside, the consequences of segregated schooling are the same whatever the cause. Segregated schools are inherently unequal however they come to be and the law must prohibit them whatever the reason for their existence."

In other words, whatever exists is the result of state action. If what exists is wrong, state action must undo it. If segregated schools were not made so by official decisions directly affecting the schools, then they were made so by other official decisions—Clark, for example, points to an FHA policy in effect until 1948—that encouraged residential segregation. Behind this argument rests the assumption, now part of the liberal creed, that racism in the North is different, if at all, from racism in the South only in being more hypocritical. All segregation arises from the same evil causes, and all segregation must be struck down. This is the position that many federal judges are now taking in the North—even if, as Judge Weigel did, they try to protect themselves by pointing to *some* action by the school board that they think might make the situation *de jure* in the earlier sense as well.

II

I believe that three questions are critical here. First, do basic human rights, as guaranteed by the Constitution, require that the student population of every school be racially balanced according to some specified proportion, and that no school be permitted a black majority? Second, whether or not this is required by the Constitution, is it the only way to improve the education of black children? Third, whether or not this is required by the Constitution, and whether or not it improves the education of black children, is it the only way to improve relations between the races?

These questions are in practice closely linked. What the Court decides is constitutional is very much affected by what it thinks is good for the nation. If it thinks that the education of black children can only be improved in schools with black minorities, it will be very much inclined to see situations in which there are schools with black majorities as unconstitutional. If it thinks race relations can only be improved if all children attend schools which are racially balanced, it will be inclined to find constitutional a requirement to have racial balance.

This is not to say that the courts do not need authority in the Constitution for what they decide. But this authority is broad indeed and it depends on a doctrine of judicial restraint—which has not been characteristic of the Supreme Court and subordinate federal courts in recent years—to limit judges in demanding what they think is right as well as what they believe to be within the Constitution. Indeed, is was in part because the Supreme Court believed that Negro children *were* being deprived educationally that it ruled as it did in *Brown*. They were being deprived because the schools were very far from "separate and equal." But even if they were "equal," their being "separate" would have been sufficient to make them unconstitutional: "To separate them from others of similar age and qualifications simply because of their race generates a feeling of inferiority as to their race and status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

While much has been made of the point that the Court ruled as it did because of the evidence and views of social scientists as to the effects of segregation on the capacity of black children to learn, the fact is that the basis of the decision was that distinctions by race had no place in American law and public practice, neither in the schools, nor, as subsequent rulings asserted, in any other area, whether in waiting rooms or golf courses. This was clearly a matter of the "equal protection of the laws." It was more problematic as to what should be done to insure the "equal protection of the laws" when such protection had been denied for so long by dual school systems. But remedies were eventually agreed upon, and the Court has continued to rule unanimously—as it did in *Brown*—on these remedies down through *Swann* v. *Charlotte-Mecklenburg Board of Education*.

Inevitably, however, the resulting increase in the freedom of black children—the freedom to attend the schools they wished—entailed a restriction on the freedom of others. In "freedom of choice," the freedom of white children was in no way limited. In geographical zoning to achieve integration, it was limited, but no more than that of black children. But in busing to distant schools, white children were in effect being conscripted to create an environment which, it had been decided, was required to provide equality of educational opportunity for black children. It was perhaps one thing to do this when the whites in question were the children or grandchildren of those who had deprived black children of their freedom in the past. But when a district judge in San Francisco ruled that not only white children but Chinese children and Spanish-speaking children must be conscripted to create an environment which, be believed, would provide equality of educational opportunity for black children, there was good reason for wondering whether "equal protection of the laws" was once again being violated, this time from the other side.

We are engaged here in a great enterprise to determine what the "equal protection of laws" should concretely mean in a multi-racial and multi-ethnic society, and one in which various groups have suffered differing measures of deprivation. The blacks have certainly suffered the most, but the Chinese have suffered too, as have the Spanish-speaking groups, and some of the white ethnic groups. Is it "equal protection of the laws" to prevent Chinese-American children from attending nearby schools in their own community, conveniently adjacent to the afternoon schools they also attend? Is it "equal protection of the laws" to keep Spanish-speaking children from attending school in which their numerical dominance has led to bilingual classes and specially trained teachers? Can the Constitution possibly mean that?

One understands that the people do not vote on what the Constitution means. The judges decide. But it is one thing for the Constitution to say that, despite how the majority feels, it must allow black children into the public schools of their choice; and it is quite another for the Constitution to say, in the words of its interpreters, that some children, owing to their race or ethnic group alone, may not be allowed to attend the schools of their choice, even if their choice has nothing to do with the desire to discriminate racially. When, starting with the first proposition, one ends up with the second, as one has in San Francisco, one wonders if the Constitution can possibly have been interpreted correctly.

Again and again, reading the briefs and the transcripts and the analyses, one finds the words "escape" and "flee." The whites must not escape. They must not flee. Constitutional law often moves through strange and circuitous paths but perhaps the strangest yet has been the one whereby beginning with an effort to expand freedom—no Negro child shall be excluded from any public school because of his race—the law has ended up with as drastic a restriction of freedom as we have seen in this country in recent years. No child, of any race or group, may "escape" or "flee" the experience of integration. No school district may facilitate such an escape. Nor may it even (in the District decision) fail to take action to close the loopholes permitting anyone to escape.

Let me suggest that, even though the civil-rights lawyers may feel that in advocating measures like these they are in the direct line of *Brown*, something very peculiar has happened when the main import of an argument changes from an effort to expand freedom to an effort to restrict freedom. Admittedly the first effort concerned the freedom of blacks, the second in large measure concerns the freedom of whites (but not entirely, as we have seen from the many instances in the South where the blacks have resisted the elimination of black schools, and in the North where they have fought for community-controlled schools). Nevertheless, the tone of civil-rights cases has turned from one in which the main note is the expansion of freedom, into one in which the main note is the imposition of restrictions. It is ironic to read in Judge Stanley Weigel's decision, following which every child in the San Francisco elementary schools was placed in one of four ethnic or racial categories and made subject to transportation to provide an average mix of each in every school, an approving quotation from Judge Skelly Wright:

"The problem of changing a people's mores, particularly those with an emotional overlay, is not to be taken lightly. It is a problem which will require the utmost patience, understanding, generosity, and forbearance from all of us, of whatever race. But the principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God."

That was the language of 1956. One finds very little "patience, understanding," etc., in Judge Weigel's own decision, which required the San Francisco School District to prepare a plan to meet the following objectives:

Full integration of all public elementary schools so that the ratio of black children to white children will then be and thereafter continue to be substantially the same in each school. To accomplish these objectives the plans may include:

(a) Use of non-discriminatory busing if, as appears now to be clear, at least some busing will be necessary for compliance with the law.

(b) Changing attendance zones wherever necessary to head off racial segregation.

According to Judge Weigel, the law even requires:

"Avoidance of the use of tracking systems or other educational techniques or innovations without provision for safeguard against racial segregation as a consequence."

Can all this be in the Constitution too?

A second issue that would seem to have some constitutional bearing is whether those who are to provide the children for a minority black environment are being conscripted only on the basis of income. The prosperous and the rich can avail themselves of private schooling, or they can "flee" to the suburbs. And if the Richmond and Detroit rulings should be sustained, making it impossible to "escape" by going to the suburbs, the class character of the decisions would become even more pronounced. For while many working class and lower-middle class people can afford to live in suburbs, very few can afford the costs of private education.

Some observers have pointed out that leading advocates of transportation for integration—journalists, political figures, and judges—themselves send their children to private schools which escape the consequences of these legal decisions. But even without being *ad hominem*, one may raise a moral question: If the judges who are imposing such decisions, the lawyers who argue for them (including brilliant young lawyers from the best law schools employed by federal poverty funds to do the arguing), would not themselves send their children to the schools their decisions bring into being, how can they insist that others poorer and less mobile than they are do so? Clearly those not subject to a certain condition are insisting that others submit themselves to it, which offends the basic rule of morality in both the Jewish and Christian traditions. I assume there must be a place for this rule in the Constitution.

A key constitutional question with which the Supreme Court will now finally have to deal is whether *de facto* segregation is really different from *de jure* segregation, and if so, whether lesser remedies can be required to eradicate it.

Is there really a meaningful difference between a 100 per-cent black school under a law that prohibits blacks from going to school with whites, and a 100 per-cent black school that is created by residential segregation? The question has become even subtler: Is there a difference between a majority black school in a city which once had *de jure* segregation, and such a school in a city which did not? I believe that the answer to the second question is no. But in the first case the distinction was meaningful when the Supreme Court handed down *Brown* and is meaningful today. In the *de facto* situation, to begin with, not all schools are 100 per cent segregated. Indeed, none may be. A child's observation alone may demonstrate that there are many opportunities to attend integrated schools. The family may have an opportunity to move, the city may have open enrollment, it may have a voluntary city-to-suburb busing program. The child may conclude that if one's parents wished, one could attend another school, or that one could if one lived in another neighborhood—not all are inaccessible economically or because of discrimination—or could conclude that the presence of a few whites indicated that the school was not segregated.

Admittedly social perception is a complicated thing. The child in a 100 per-cent black school as a result of residential concentration and strict zoning may see his situation as identical to that of a child in a 100 per-cent black school because of state law requiring separation of the races. But the fact is that a black child in a school more than 47 per-cent black (the San Francisco definition of "segregation") may also see himself as unfairly deprived. Or any black child at all, in view of his history, and the currently prevailing interpretation of his position, even if he is the only black child in a white school, may so conclude. Perception is not only based on reality, a reality which to me makes the *de facto* segregated school a very different thing from the *de jure* segregated school. Perception can turn the lovely campuses of the West Coast into "jails" which confine young people, and can turn those incarcerated by courts for any crime into political prisoners. If we feel a perception is wrong, one of our duties is to try to correct it, rather than to assume that the perception of being a victim must alone dictate the action to be taken. False perceptions are to be responded to sympathetically, but not as if they were true.

If one finds segregation of apparently *de facto* origin, what is the proper remedy?

In some cases, one can show that it is not really *de facto* by pointing to actions that the school board took with a segregatory intent—for example, changing a school-zone line when blacks moved into an area to keep a school all or mostly black or another one all or mostly white. I do not think this was demonstrated in the case of San Francisco, but it was the crucial issue in the first Northern school desegregation case, that of New Rochelle, which was never reviewed by the Supreme Court, and in Pontiac, Michigan, and for some schools in Denver. In districts with a hundred or more schools and a long history, with perhaps scores of school-zone lines changed every year, it would be unlikely if one could not come up with some cases that seemed to show this. Sometimes it was done under pressure of local white parents. Finding this, a court might require something as simple as that the zone line be changed back (this, of course, by the time it came to court would hardly matter since the black residential area would almost certainly have expanded and both zone lines would probably be irrelevant). Or it might require that no zone line be set in the future which had the effect of maintaining segregation. Or that no parental wishes of this sort be taken into account. In cases where segregatory zone lines were commonly or regularly set (Pontiac) more radical relief would be more appropriate.

But there is a basic and troubling question here. School boards are either elected, or appointed by elected officials. They are thus directly or indirectly responsible to citizens. One can well understand the constitutional doctrine which asserts that no elected or appointed board, no governmental official, may deny constitutional rights—e.g., allowing a Communist to speak in a school building—regardless of the wishes of its constituency. But in the case of schooling and school-zone boundary-setting, a host of issues is involved: convenience of access, quality of building, assumed quality of teaching staff, racial composition of students, etc. A board is subject to a hundred influences in making such a decision. It is not as simple a matter as proving this Communist was not allowed to speak because of mass pressure. Nor is the motivation of parents and boards ever unmixed.

In Boston the school board opened a new school in a black section. It tried to save the state aid that would be lost if it did not take some action to desegregate, and it zoned children living at some distance away into the new school. The white parents protested and eventually the board succumbed to their pressure and allowed them to send their children to their old nearby schools. To the minds of most enforcers of school desegregation, state and national, the board condemned itself for a segregatory act. One of the things the boycotting parents said was that they were afraid their children would get beaten up going through the area they had to traverse in order to get to school. Who is to say that this was pure fantasy, in the conditions of the modern city, and that what the white parents really meant was that they did not want their children to go to a mostly black school? It is this kind of determination on the intent and effect of hundreds of school-board decisions that judges are now required to make. When one read cases such as those in Indianapolis, Detroit, and elsewhere, the mind reels with the complexity of numerous school-zoning and construction decisions. Briefs, hearing transcripts, exhibits run to thousands of pages. And at least one conclusion that this reader comes to is that no judge can or ought to have to make decisions on such issues, and the chances are that whatever decision he makes will be based on inadequately analyzed information.

Is it the law—and, not being a lawyer, I do not know—that if a segregatory intent plays *any* part in school decisions, then *every* measure of relief, no matter how extensive is justified? If so, from a non-legal point of view it seems odd that one uncertain act with an uncertain effect on the social and racial patterns of an entire city should justify massive measures to reconstruct a school system.

Perhaps the most serious constitutional issue in a line of cases erasing the distinction between *de jure* and *de facto* segregation and also erasing the political boundaries between school districts in order to achieve a racial balance in which every black student is in a minority in every school (and presumably, as the cases develop, every Spanish-speaking student, and so on), is that all this makes impossible one kind of organization that a democratic society may wish to choose for its schools: the kind of organization in which the schools are the expression of a geographically defined community of small scale and regulated in accordance with the democratically expressed views of that community. This is the point Alexander Bickel has argued so forcefully. We have had a good deal of discussion in recent years of "decentralization," "community control," and "parental control" of schools. There were reasons for "community control" long before the issue exploded in New York in the late 1960's, and there were reasons for "parental control" long before the educational voucher scheme was proposed. Now the new line of cases makes the school ever more distant from the parents who send their children to it.

While busing schemes vary, in some, children from a number of different areas are sent to a single school and children from one area are sent to a number of schools. It becomes hard for parental or community concerns to be exercised on the particular school to which one's children go. Thus, in San Francisco, in the Mission district, owing to the effective work of the Mission Coalition (an Alinsky-style community organization), the local community has considerable influence on public programs in the area. With a wide base of membership, this organization can help determine what is most effective in the local schools. But if it wants to create an atmosphere in the school best suited to the education of Spanish-speaking children, what sense does this make when the schools are filled with children from distant areas? And how can it influence the education the Mission children receive in the distant schools to which many of them are now sent?

In effect, the new line of cases gives enormous control to central school bureaucracies, who will make decisions subject only to the courts and the federal government on the one hand, and the mass opinion of a large area dominated by the inevitable slogans which can create majorities on the other. Clearly this is one way of reducing the influence of people over their own environment and their own fate. I believe indeed that the worst effect of the current crisis is that people already reduced to frustration by their inability to affect a complex society and a government moving in ways many of them find incomprehensible and undesirable, must now see one of the last areas of local influence taken from them in order to achieve a single goal, that of racial balance.

The one reason for community control that has recently been considered most persuasive is that the inadequate education of black children may be improved under a greater measure of black community control. This may or may not be the case, but I believe that all people, black and white, have the right to control as much of their lives as is possible in a complex society, and the schools are very likely the only major function of government which would not suffer—and might even benefit—from a greater measure of local control. In education, there are few "economies of scale." It has always seemed fantastic that educators, in proposing "complexes" for 20,000 elementary-school children for purposes of desegregation, could also argue that schools of that size would also be more "efficient." Interestingly, lawyers and judges, in their effort to find *de jure* segregatory intent in the acts of Northern school boards, will sometimes claim that schools were deliberately made small to lessen the chances of integration. Thus in Detroit, one

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charge against the school board, accepted by Judge Roth, was that the board built small schools of 300 in order to contain the population and make desegregation more difficult. Paul Goodman and many others would argue that even schools of 300 are probably too large. In San Francisco, on the other hand, the argument was that schools were expanded to "contain" the black and white population. The Detroit judge, it seems, would have preferred the large San Francisco schools, and the San Francisco judge would have preferred the small Detroit schools, if one takes their arguments at face value. But one may be allowed to suspect that if the situations had been reversed, they would still both have found *"de jure"* segregation in their respective cities.

One consequence of this transfer of ports for racial balance is that there is no local pressure to build a school to serve a local population, since one cannot know what the effect of any local school will be. Thus all decisions on school building revert to the hands of the central school authorities, only affected, as I have already pointed out, by judges and the federal government on the one hand, and a mass opinion unrelated to local district needs on the other. I am skeptical as to whether this will improve school-construction policies. Federal civil-rights agencies and judges have not as yet shown themselves very perceptive in their criticism of local school-construction policies. One piece of evidence of *de jure* segregation, cited oy the San Francisco judge, was the building of a new school in Hunter's Point, a black area. The school authorities had resisted building there. The local people insisted on a new school. Just about everyone who supports desegregation in San Francisco supported the local people, even though they knew that the school would be segregated. The local NAACP also supported the building of the new school. The judge, in his decision, cited the building of this school as a sign of the "segregatory" policies of the San Francisco school authorities. To the judge, the black people of Hunter's Point were being "contained," when they should have been sent off elsewhere, leaving their own area devoid of schools (or perhaps any other facilities). But for the people of the area who demanded the school, they were being served. That their school would be, to a federal judge's mind, "segregated" did not seem to them a good reason for all city facilities to be built only in white or Spanish-speaking or Chinese areas.

The attempts of judges and civil-rights lawyers to argue that this or that school was built to be "segregated" for whites or blacks is in any case often naive. The dynamics of population movements in the cities have been too rapid (the black population of San Francisco increased from 5,000 in 1940 to 96,000 in 1970) and the process of school-building too slow, for any such intention to be easily demonstrated or realized in Northern cities. One of the schools cited in the San Francisco case as "segregated" blacks (64 per-cent black in 1964), had been cited as recently as 1967 in the Civil Rights Commission's report on *Racial Isolation in the Public Schools* as having been built in order to foster the "segregation" of white, since it had opened in 1954 with a student body that was almost all white. Presumably, at least for the intervening period, it must have been integrated.

The crucial point is: Do federal courts have the right to impose a school policy that would deprive local communities and groups, white and black, of power over their schools? Some of them seem quite sure that they do. Judge Roth in Detroit is critical of the blacks of that city for contributing to what he considers "segregation" by demanding black principals and teachers:

"In the most realistic sense, if fault or blame is to be found it is that of the community as a whole, including of course the black components. We need not minimize the effect of the actions of federal, state, and local governmental officers and agencies . . . to observe that blacks, like ethnic groups in the past, have tended to separate from the larger group and associate together. The ghetto is a place of confinement and a place of refuge. There is enough blame for everyone to share."

We would all agree with Judge Roth that the ghetto must not be a place of confinement and that everything possible must be done to make it as easy for blacks to live where they wish as it is for anyone else. But why should it be the duty or the right of the federal government and the federal judiciary to destroy the ghetto as a place of refuge if that is what some blacks want? Judge Roth is trying to read into the Constitution the crude Americanizing and homogenizing which is certainly one part of the American experience, but which is just as certainly not the main way we in this country have responded to the facts of a multi-ethnic society. The doctrines to which Judge Roth lends his authority would deny not only to blacks, but to any other group, a right of refuge which is quite properly theirs in a multi-ethnic society built on democratic and pluralist principles.

I do not speak here of limiting what communities may freely choose to do in order to integrate their schools. I speak only of the judicial insistence that they must do certain things. Much busing for desegregation is engaged in by school boards independently of court decisions, because the board feels this is good for education; or because it is under pressure from blacks and white liberal citizens who demand such measures; or because it is required or is under pressure to do so from state education authorities—who, in the major Northern and Western states, and in particular in Massachusetts, New York, Pennsylvania, and California, require local school districts to eliminate racial imbalance defined in various ways. More than 50 percent black is racial imbalance in Massachusetts, and 15 percent more or less of each group in each school than the proportion of that group in the entire district is racial imbalance in California. (It was on the basis of the 15 percent rule that more than 47 percent black was considered segregated in San Francisco, for the proportion of black students in the schools was 32 per cent.) Thus, the City of Berkeley has been transporting its children to achieve integration for three years now, without any court or federal action. Riverside has done the same. Many cities have implemented, independently of court action, some degree of transportation for integration. Many of these actions have been attacked in the courts from the other side—that is, by white parents charging that for racial reasons alone they were being assigned to schools far from their homes. All these challenges have been struck down in the courts, in spite of state laws (such as New York's) which declare transportation for desegregation illegal. Interestingly enough, while the San Francisco school board was under attack from one side for having failed to implement one of its integration-through-busing school complexes, it was under attack from the other side for having implemented the one it had. It was of course the first of the two attacks that was supported by the district judge.

It is not this kind of action-to-integrate—undertaken by elected school boards, or by school boards appointed by elected officials, for educational or political reasons—that is under discussion here. Unless a political decision is clearly unconstitutional it should stand. Indeed, it is very likely that decisions to achieve racial balance taken by school boards not under judicial or federal order but because the political forces in that district demand it, have better effects than those undertaken under court order by resentful school administrations. In the first case, the methods of reducing racial imbalance have been worked out through the processes of political give-and-take, the community and teachers and administrators have been prepared for the change by the political process, the parents who oppose it have lost in what they themselves consider a fair fight. The characteristics of judge-imposed decisions are quite different.

III

There is, then, considerable room for doubt as to whether the Constitution actually mandates a system whereby every school shall have a black minority and no school shall have a black majority. Nevertheless present-day judges, with whom the doctrine of judicial restraint is not especially popular, seem able to find constitutional warrant for whatever policies they feel are best for the society. And so we come to the other crucial questions raised by the new line of cases: Is school desegregation the only way to improve the education of black children and/or the relations between the races?

Without rehearsing the terrible facts in detail, we know that blacks finish high school in the North three or more years behind whites in achievement. We also know with fair confidence that this huge gap is not caused by differential expenditures of money. Just about as much is spent on predominantly black schools outside the South as on predominantly white ones. Classes in black schools will often be smaller than classes in white ones—because the black schools tend to be located in old areas with many school buildings, while white schools tend to be in newer areas with fewer and more crowded school buildings. Blacks will often have more professional personnel assigned, owing to various federal and other programs. There are, to be sure, lower teacher salaries in the predominantly black schools, because they usually have younger teachers with less seniority and fewer degrees. Anyone who believes this is a serious disadvantage for a teacher has a faith in experience and degreas which is justified by no known evidence (It is quite true that the big cities spend much less on their schools, white and black, than the surrounding suburban areas, wnich are almost entirely white. Regardless of the fact that spending more is unlikely to do much to improve education—it tends mostly to improve teachers' salaries and fringe benefits—it is quite unconscionable that more public money should be spent on the education of those from prosperous backgrounds than on those from poorer families. But this is quite separate from the issue of whether within present school districts less is spent on the education of black children, and whether spending more would reduce the gap in achievement.)

If money is not the decisive element in the gap between white and black, what is? In 1966 the Coleman report on *Equality of Educational Opportunity* reviewed the achieveemnt of hundreds of thousands of American school children, black and white, and related it to social and economic background, to various factors within the schools, and to integration. In 1967, another study *Racial Isolation in the Public Schools*, analyzed the effects of compensatory-education programs and reviewed the data on integration. Both studies—as well as subsequent experience and research—suggested that if anything could be counted on to affect the education of black children, it was integration. However, the operative element was not race but social class. The conclusion of the Coleman report still seems the best statement of the case.

"The apparent beneficial effect of a student body with a high proportion of white students comes not from racial composition per se, but from the better educational background and higher educational aspirations that are, on the average, found among white students."

On the other hand, if such integration did have an effect, it was not very great. The most intense reanalysis of Coleman's data[3] concludes:

"Our findings on the school racial composition issue, then, are mixed. . . . the initial *Equality of Educational Opportunity* survey overstressed the impact of school social class. . . . When the issue is probed at grade 6, a small independent effect of schools' racial composition appeared, but its significance for educational policy seems slight."

The study of these issues has reached a Talmudic complexity. The finding that integration of different socioeconomic groups favors the achievement of lower socioeconomic groups apparently stands up, but the effect is not large. One thing, however, does seem clear: integrating the hapless and generally lower-income whites of the central city with lower-income blacks, particularly under conditions of resentment and conflict, as in San Francisco, is likely to achieve nothing, in educational terms.

In San Francisco, the number of children enrolled in elementary schools dropped 6,519 against a projected drop of 1,508 (a 13 percent decline against a projected 3 percent decline) in response to Judge Weigel's decision. The junior-high-school enrollment, not yet subjected to full-scale busing, declined only 1 percent, and high-school enrollment remained the same. In Pasadena, California, there was a 22 percent drop in the number of white students in the school system between 1969—before court-imposed busing—and 1971. In Norfolk, Virginia, court-imposed busing brought a drop of 20 percent. If, as seems probable, it is the somewhat better-off and more mobile who leave the public-school system when busing is imposed, the effect on the achievement of black children is further reduced.

It is in response to such facts as these and in the light of such findings as Coleman's that judges in Detroit and Indianapolis and elsewhere now call for combining the central city and the suburb into unified school districts. But if this elaborate reorganization of the schools is being undertaken so that the presumed achievement-raising effect of socioeconomic integration may occur, we are likely to be cruelly disappointed. There is little if any encouragement to be derived from studies, published and unpublished, of voluntary busing programs even though such busing takes place under the most favorable circumstances (with motivated volunteers, from motivated families, and with schools acting freely and enthusiastically). Indeed, much integration through transportation has been so disappointing in terms of raising achievement that it may well lead to a revaluation of the earlier research whose somewhat tenuous results raised what begin to look like false hopes as to the educational effects of socioeconomic integration.

IV

There is yet a final argument. One will hear it in Berkeley, which underwent full desegregation by busing three years ago, and which has seen no particular reduction of the white-black achievement gap. The argument is that school integration will improve relations between the races and that in view of the extremity of interracial tensions in this country, anything that improves these relations must be done. In Berkeley, a liberal community with an elected school board which voluntarily introduced transportation for racial balance and was not turned out for doing so, one can perhaps make this argument. But race relations are not ideal even in Berkeley, as Senator Mondale's committee discovered last year when it conducted hearings there on the most successful American case of racial balance through transportation.

The Mondale committee discovered, for example, that after the schools were fully integrated, a special program for blacks—Black House—was established at the high-school level from which non-black students and teachers were excluded. (Berkeley High School, the only one in the city, has always been integrated.) The committee discovered, when it spoke to students—selected, one assumes, by the school authorities because they would give the best picture of integration—that students of different groups had little to do with one another. The black president of the senior class said: ". . . the only true existence of integration of Berkeley High is in the hallways when the bell rang everybody, you know, pass [sic] through the hallways, that is the only time I see true integration in Berkeley High." Senator Brooke probed deeper. Since the young man was black and a majority of his classmates were white, had they not voted for him? "The whites didn't even participate in voting . . . They felt the student government was a farce." (The opposing candidate was also black.) What about social activities? "Like we have dances, if there is a good turnout you see two or three whites at the dances . . ." Intramural sports? "The basketball team is pretty integrated, the crew team is mainly white, soccer team mainly white, tennis team mainly white." Did this mean, Senator Brooke asked, "that blacks don't go out for these teams that are whites and whites don't go out for those teams that are all black?" The class president guessed that "whites like to play tennis and blacks like to play basketball better." Still, he did think integration was a good idea, as did a Japanese girl who told the Senators: "I think like the Asian kids at Berkeley High go around with Asian kids."

A Chicano student testified:

"I thing the integration plan is working, started to work in junior high, it is different levels, the sixth graders go up to seventh grade now. I think now the Chicanos and blacks, they do hang around in groups. Usually some don't. I admit, like I myself hang around with all Chicanos but I am not prejudiced. I do it because I grew up with them, because they were my school buddies when there were segregated schools."

A black girl in elementary school said: "About integration, I don't think it is too integrated, but it is pretty well integrated. I have a lot of white friends. . . ." She lives in an integrated neighborhood. A white girl from the high school testified:

"Integration, ideally, as far as I can see it isn't working. I mean like as far as everybody doing things together . . . I have one class where there are only two whites in it, I being one of them, you know, like I don't have any problems there, but outside . . . [with other blacks] we just do different things. I am not interested in games. I couldn't care less. I don't know anything about Berkeley as far as the athletics go. . . . I wear very short skirts and walking down the halls I get hassled enough by all the black Dukes, you know. . . ."

Senator Brooke was surprised she wasn't hassled by the white boys too and suggested that they might use a different technique.

This is about the most positive report one can make on school integration. Why should anyone be surprised? There is a good deal of hanging around in groups, and there is some contact across racial lines, but the groups seem to have different interests and different social styles. The younger children have more in common than the older ones. It would be hard to say whether this commonality of interest will continue through high school—a popular Berkeley theory—or whether differences will assert themselves as the children grow older even though they were exposed to integration earlier than those now in high school. In other communities which have been studied, black children who are bused tend to become more anti-white than those who are not bused. One can think of a number of reasons for this.

If, then, the judges are moving toward a forcible reorganization of American education because they believe this will improve relations between the races, they are acting neither on evidence nor on experience but on faith. And in so acting on faith they are pushing against many legitimate interests: the interest in using tax money for education rather than transportation; the interest of the working and lower-middle classes in attending schools near their homes; the interest of all groups, including black groups, in developing some measure of control over the institutions which affect their lives; the interest of all people in retaining freedom of choice wherever this is possible.

There is unfortunately a widespread feeling, strong among liberals who have fought so long against the evil of racial segregation, that to stop now—before busing and expanded school districts are imposed on every city in the country—would be to betray the struggle for an integrated society. They are quite wrong. They have been misled by the professionals and specialists—in this instance, the government officials, the civil-rights lawyers, and the judges—as to what integration truly demands, and how it is coming about. Professionals and specialists inevitably overreach themselves, and there is no exception here.

It would be a terrible error to consider opposition to the recent judicial decisions on school integration as a betrayal of the promise of *Brown*. The promise of *Brown* is being realized. Black children may not be denied admittance to any school on account of their race (except for the cases in which courts and federal officials insist that they are to be denied admittance to schools with a black majority simply because they are black). The school systems of the South are desegregated. But more than that, integration in general has made enormous advances since 1954. It has been advanced by the hundreds of thousands of blacks in Northern and Western colleges. It has been advanced by the hundreds of thousands of blacks who have moved into professional and white-collar jobs in government, in the universities, in the school systems, in business. It has been advanced by the steady rise in black income which offers many blacks the opportunity to live in integrated areas. Most significantly, it has been advanced because millions of blacks now vote—in the South as well as the North—and because hundreds of blacks have been elected to school committees, city councils, state legislature, the Congress. This is what is creating an integrated society in the United States.

We are far from this necessary and desirable goal. It would be a tragedy if the progress we made in achieving integration in the 1960's were not continued through the 70's. We can now foresee within a reasonable time the closing of many gaps between white and black. But I doubt that mandatory transportation of schoolchildren for integration will advance this process.

For, so far as the schools in particular are concerned, the increase in black political power means that blacks—like all other groups—can now negotiate, on the basis of their own power, and to the extent of their own power, over what kind of school systems should exist, and involving what measure of transportation and racial balance. In the varied settings of American life there will be many different answers to these questions. What Berkeley has done is not what New York City has done, and there is no reason

Footnotes at end of article.

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why it should be. But everywhere black political power is present and contributing to the development of solutions.

There is a third path for liberals now agonized between the steady imposition of racial and ethnic group quotas on every school in the country—a path of pointlessly expensive and destructive homogenization—and surrender to the South. It is a perfectly sound American path, one which assumes that groups are different and will have their own interests and orientations, but which insists that no one be penalized because of group membership, and that a common base of experience be demanded of all Americans. It is the path that made possible the growth of the parochial schools, not as a challenge to a common American society, but as one variant within it. It is a path that, to my mind, legitimizes such developments as community control of schools and educational vouchers permitting the free choice of schools. There are as many problems in working out the details of this path as of the other two, but it has one thing to commend it as against the other two: it expands individual freedom, rather than restricts it.

One understands that the Constitution sets limits to the process of negotiation and bargaining even in a multi-racial and multi-ethnic setting. But the judges have gone far beyond what the Constitution can reasonably be thought to allow or require in the operation of this complex process. The judges should now stand back, and allow the forces of political democracy in a pluralist society to do their proper work.

FOOTNOTES

[1] In *Inequality in Education*, Center for Law and Education, Harvard University, Aug. 3, 1971.

[2] *Federal Civil Rights Enforcement Effort*, 1970, p. 14.

[3] David K. Cohen, Thomas F. Pettigrew, and Robert S. Riley "Race and the Outcomes of Schooling," in Frederick Mosteller and Daniel P. Moynihan, eds., *On Equality of Educational Opportunity*, Random House, 546 pp., $15.00.

SCHOOL INTEGRATION AND LIBERAL OPINION

(By Norman Podhoretz)

If Nathan Glazer is right—and I find his arguments entirely convincing—no benefit will accrue to anyone, whether white or black, from the requirement now apparently being established by the courts that no American public school shall have a black majority and that the student population of every school shall be racially balanced as far as possible in accordance with a specific mix. It used to be thought that the academic performance of black children would improve in integrated schools, but there is, as Mr. Glazer demonstrates, no evidence to confirm this idea. What the evidence actually suggests is that integration has little or no effect on academic performance, neither helping the blacks, as so many had hoped, nor hurting the whites, as so many had feared.

It also used to be thought that relations between the races would improve as a result of school integration, but here the evidence is if anything less encouraging than in the case of academic performance. I myself attended integrated schools as a child, and nearly ten years ago, I attempted in an essay called "My Negro Problem—and Ours" to show that such schools bore not the slightest resemblance to the rosy fantasies being scattered about in those days by the prevailing winds of liberal opinion. Liberal opinion said that sending white children and black children to school together would lead to greater mutual understanding and respect; I said that in my own experience it had led to violence and greater animosity. The studies Mr. Glazer cites of integrated schools of more recent vintage tend to prove that the experience of the integrated schools of the 30's and 40's was a more reliable guide to the future than the generous expectations of liberal opinion. At best relations between the races continue to remain cool in integrated schools, and often enough they are exacerbated to an intolerable, and to me altogther familiar, degree.

If, then, no good is likely to come of it, why should we persist in forcibly integrating the schools? The question becomes even more difficult to answer when we consider how vast, even among liberals and even among blacks, the opposition has grown to the measures which must now be adopted if school integration is to proceed—measures which have found their definitive political summation in the great symbol of busing. In effect the country is being ordered against its own wishes to undergo a major reorganization without being given a reasonable assurance that some good will thereby be served, either immediate or ultimate, short-run or long. But if it is all to be for nothing, and if no one wants to do it, why should it be done at all?

Because, answer the activists and the bureaucrats and the lawyers and the judges, it is the law and the law must be obeyed. And indeed they are right, the law must be obeyed—if indeed it *is* the law that racial concentrations in the schools may not exist even if they arise from causes other than legal measures designed to bring them about. We already know for certain that legally sanctioned (or "*de jure*") segregation of any kind, overt or covert, in the schools and out, is against the law of the land. No one any longer questions this, not even in the South. But until the Supreme Court settles the issues involved in busing and redistricting, we will not know for certain whether "*de facto*" separation in the schools is also against the law of the land. And even then, if the Supreme Court should declare that it is, given the huge numbers of people who do not agree, redress from what they may decide is judicial tyranny parading as constitutional warrant is likely to be sought in legislative action and perhaps in constitutional amendment.

Hopefully it will never come to that. Hopefully in the end the country will avert the major constitutional crisis which seems to threaten it now. Hopefully good sense will prevail—the good sense which leads so many people, often uneasily because they are liberals and well-intentioned and influenced by an irrational dogma, to wonder nevertheless why a specified racial balance must be imposed on the schools at such great cost in money and bitterness and anxiety when the strongest of probabilities is that doing so will neither overcome educational deficiency nor enhance the relations of the races.

EXHIBIT 3

[United States District Court, Northern District of Georgia, Atlanta Division]

Vivian Calhoun, et al., Plaintiffs v. *Ed. S. Cook, et al.*, Defendants.

This case is on remand from the Fifth Circuit with directions to require implementation of a pupil assignment plan in compliance with the principles of *Swann* v. *Charlotte-Mecklenburg Board of Education*. Specifically, it directs only two changes: (1) The provision for majority-to-minority transfer with transportation and space being guaranteed under the option and (2) The filing of semi-annual reports. After hearing on remand the court finds the following:

This case is now in its thirteenth year before this court, having been filed in 1958, Atlanta in 1961–62 was one of the first major southern cities officially abandoning the dual school system. In its court experience, the original desegregation order was one of the few unappealed and assented to. Periodically as each new specific to *Brown* v. *Topeka* was belatedly developed by the higher courts, the School Board has been returned to court and given new directions under such landmark cases as Jefferson, Green, Singleton, Montgomery County, and Orange County. Each has been accepted and promptly implemented. In the interim, the system voluntarily accelerated from the early concept of grade-by-grade annual integration to system-wide integration; it voluntarily and studiously located new schools and rezoned so as to maximize integration; it voluntarily liberalized its pupil-transfer plan; and in various ways increased responsibility for its black teaching personnel, principals, and area superintendents. Through court order, it has advanced from the initial requirement of two teachers of opposite race to each school to a computerized mathematical distribution of its faculty by race throughout the city; and from historical and traditional attendance zones to a court-supervised optimum Orange County plan. No one has successfully challenged the good faith of its elected Board of Education, the appointed Superintendent, Dr. John W. Letson, or of its administrative personnel throughout this uncertain decade. Its efforts were early described as "commendable" by the Supreme Court. Each change has produced convulsive implosions within the system and what has now become the annual agony of Atlanta has caused significant change in the character of the system, both physically and psychologically.

When this suit began, Atlanta had a pupil ratio of 70 per cent white and 30 per cent black and a predominantly white faculty; today, its racial complexion has reversed to 70 per cent black and 30 per cent white and its 4,800 teachers are 60 per cent black and 40 per cent white. From an enrollment of 115,000 students it has dropped to 100,000 in the school year 1970–71, during which it lost 7,000 whites and gained 1,000 blacks. The system itself covers an area approximately 16 miles long and 14 miles wide lying in Fulton and a portion of DeKalb counties. The Atlanta City School System is a so-called "independent system" in that it is separately organized and operated from the county systems, each receiving direct grants from the state, supplemented by local tax funds. It is one of the 31 remaining independent city systems within the state. As such, it receives no state funds for transportation. It has never transported students, owns no buses, and there is no school "busing" available. Based on information furnished by each principal as to location and times, the private Atlanta Transit System arranges routes to accommodate students at reduced fare provided by each student individually. The system presently maintains 123 elementary-primary schools and 29 secondary schools, with two units to be opened this coming year.

The white students remaining are concentrated at the extreme northern and southern ends of the district, while the vast middle is a broad belt of industry and high-density solid black housing. The line between these areas is steadily creeping towards the ends with increased black housing and diminished white housing. Since 1961, it has annually achieved substantial temporary integration by the establishment or construction of "line schools." However, 34 of those schools have gone from all-white to 90 per cent or more black during the period. This "tipping process" is so rapid that it sometimes occurs by the time a facility deliberately located to increase integration can be completed and occupied. Seldom does it last longer than two years. Since official desegregation in 1961, 24 new schools have been constructed, several of which have been especially built to serve federal housing developments in the inner city. Others were appropriated for such purposes. In spite of official laws and directives

to the contrary, the bulk of such developments have been operated as all-black since inception. As a natural consequence, 29 schools provided for such "controlled situations" are substantially black. Enforcement of fair housing legislation under Jones v. Alfred H. Mayer Co., and Title VIII of the Civil Rights Act of 1968 will automatically integrate these zones.

The cause of such frustrating results lies in factors completely beyond the control of school authorities. Segregated housing, whether impelled by school changes or not, remains the unconquerable foe of the racial ideal of integrated public schools in the cities. The white flight to the suburbs and private schools continues. As far back as 1957, in an offshoot of this case involving the proposed construction of an all-black school in the heart of the black belt, the problem was accurately characterized by plaintiffs witnesses and the court as de facto rather than de jure. Griggs v. Cook. The problem is no longer how to achieve integration, but how to prevent resegregation. Only last year, the parties and Judge Hooper for this court exhaustingly investigated possible remedies for over seven weeks of tidal, culminating in the orders involved in this appeal and remand. Some of the fruits of those "best efforts" have already slightly soured in the face of evolutional de facto changes. Through it all, the Atlanta system has maintained a traditional position of leadership in the public schools. It remains at the top of the state in pay scale, curriculum development, and innovative efforts in quality education.

HISTORY

In this litigation, the longtime standard of measurement has been the classification of schools in excess of 9 pct-10 pct enrollment by race as "integrated". Presently, 33 elementary schools and 13 secondary schools meet this test in that they have integration in excess of 10 pct. (many at 50–60) of the minority race at such schools. Of the remainder of 101, all but 45 have either completely resegregated, serve special controlled housing situations, or have been built since official desegregation as previously discussed. Of some 46 schools in neither category, the information furnished the court reveals substantially the following.

24 have integration of less than 10 pct. (ranging from 1 pct-7 pct black and 1 pct-5 pct white);

7 have only token integration (less than 10 students of the opposite race, ranging from 1–4 blacks and 3–9 whites;

15 are either all-black or all-white.

The closest schools with a majority of the opposite race are located as follows:

THE PRESENT SITUATION

Less than ¾ mile—1
¾ mile to 1½ miles—5
1½ miles to 2 miles—11
2 miles to 8½ miles—29

These distances are calculated in straight lines without regard to traffic patterns, transportation barriers, etc. In many instances, there is an intervening interstate highway, railroad, or similar artificial barrier.

Last year, 1140 students took advantage of the unlimited transfer option in effect. (Under the old freedom-of-choice provisions, an unusually large number of blacks by-passed closer white and black schools to attend a "prestige" black school; and white students by-passed closer white and Negro schools to attend a "prestige" white school.) There is, in fact, no serious problem of overcrowding at any facility. Annual zone changes and excellent modern portable classrooms are used to take care of increasing enrollments in either white or black schools. There are, proportionately, as many vacant classrooma at black schools as at white. The court is convinced that no device of packing is being used to preserve segregation. To the contrary, crowding at one school has been used to increase integration at another school. The Board assures the court there will be no problem of overcrowding at any school during 1971–72.

When the remand issued, the Board promptly agreed to the specifics required therein by formulating plans with the Atlanta Transit System to afford transportation by direct grants to the students taking advantage of the majority-to-minority transfer option. Prior thereto and following the issuance of Swann, it formed administrative task forces to study the possibilities of increasing integration by pairing, rezoning again, etc. All of those efforts have been reviewed by the court and representatives of the plaintiffs. Pairing or additional zone changes along the line either produce substantial hardship and * * * increases in travel time for the children involved or seriously imperils existing integration at one of the schools involved. In either event, the end result at best would accomplish only a temporary change soon to be wiped out in the historical pattern already established.

With the exception of an innovation in the transfer system, no single measure appears hopeful under the circumstances. There is evidence in the prior record that Atlanta has encouraged maximum majority-to-minority transfers on an individual basis. The court reasons that if such transfers could be effected on a bus-load basis, the prospects can be enhanced. The Atlanta Transit System is in dire straits itself. However, it has agreed to allow the Board to utilize the same total number of busses previously employed on an individual pick-up route basis for "group transfers." Thus, if a bus-load group of students in one area opt for a transfer to a particular school of the opposite race in another area, they can be transported at the same time in the same bus rather than individually along with the general public. The attached order so provides.

Additionally, the Board has agreed to make special efforts in the black area to encourage such group transfers through its area superintendents and other personnel stationed there. Already, it has given wide-publicity to the new transfer option through local newspapers, television, and radio. Over 100,000 bulletins have been placed in the neighborhood schools and a teacher is on duty to explain the plan to all interested parties. A central information center with a publicized telephone number has been established to impart the details to anyone inquiring. Each pupil may readily apply for the new transfer at the school he last attended on a quarterly basis on or before two days before the quarter opening.

CONCLUSIONS

Other than the above, it is apparent that the only device which could effect any significant change is mass-busing in an endeavor to achieve a 30 pct-70 pct ratio throughout the system. As seen, distances alone would require 40 minutes or more for each child transported and all of this would have to be achieved by a system which has no buses, no drivers, and no funds with which to acquire and operate them. The pairing of noncontiguous attendance zones is, under urban circumstances where a half-mile for a school child is a long distance to walk, but another term for bussing. The court has considered the possibility of requiring the transportation of black students from the center to the white ends. This move is opposed by a large group of blacks except on a voluntary basis as described. On the facts alone, the court concludes that wholesale bussing is neither "reasonable, feasible, or workable."

Of paramount significance, however, is the obvious result. Atlanta now stands on the brink of becoming an all-black city. A fruit-basket turnover through bussing to create a 30 percent white-70 percent black uniformity throughout the system would unquestionably cause such a result in a few months time. Intelligent black and white leadership in the community realizes and fears it. Responsible citizens both in and out of the school system are deeply concerned with preservation of the biracial identity of the city. Without it, the ultimate goal of equality in all its aspects is doomed and Atlanta's position of leadership is severely threatened.

The Atlanta School Board is made up of ten members, three of whom are black. Its chairman is Dr. Benjamin Mays, a respected black educator and civil rights leader. The Board deems it unrealistic to go further than stated and unwise to do so. The Biracial Committee appointed by this court is composed of ten outstanding civil and business leaders, five of each race. Its chairman is Mr. Lyndon Wade, the black Executive Secretary of the Urban League. A majority of 9 of its members have furnished the court with a resolution praising the Board's efforts and recommending no further action. (The tenth member was out of the city for an extended absence.) Short of mass busing, the plaintiffs whose counsel and advisors have vast experience in such matters can offer no other alternatives. The Department of Health, Education and Welfare has long ago approved the present plans.

The remedy of mass busing under these circumstances is rejected. Nor is it deemed required under Swann. "An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

The time and distance which would be involved is impractical, particularly for children in the primary and elementary grades. If the premise of Brown is correct and education in an all-black system is injurious, then certainly the results here would impinge the educational process for the children remaining. At least now there is complete integration administratively and substantial integration in pupil assignment. In a similar situation (Memphis), the Sixth Circuit in its post-Swann remand, indicated that the "extensive transportation of pupils to schools all over the city, regardless of distances involved in order to establish a fixed ratio in each school" is not required; and seemingly recommends that the trial court review all of those other devices already considered in Atlanta.

Swann holds that once de jure status is removed that a school district is not required to reintegrate continually due to de factc changes. "Neither school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action is eliminated from the system." On this basis, there is considerable merit to the position that this case ought to be dismissed forthwith. Atlanta's de jure status has long since been removed by Board action and by successive court decrees. Its present problems are entirely de facto. There is absolutely no evidence of any affirmative action by the board to increase segregation. To the contrary, all official action for many years has been to promote integregation. It appears to be a unitary system "within which no person is to be effectively excluded from any school because of race or color." On such basis, Atlanta is entitled to a dismissal

However, should Swann be considered as a starting point for such a goal, the present facts qualify. In essence, Swann holds that the essentials of any unitary system are the elimination of invidious racial distinctions in regard to (1) transportation, (2) faculty and supporting personnel, (3) extracurricular activities, (4) construction and site selection, and the presence of an (5) op-

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tional majority-to-minority transfer provision. To the extent that they apply, Atlanta has had such essentials for some time. With this order, the payment of public transportation and space guarantee has been added to the transfer provision. On pupil assignment, the Court, sitting in equity, may utilize any number of devices to achieve a "realistic and workable" plan for the district. All of the devices named, with the exception of mass busing, have been considered by the Board and the Court and optimum results obtained. Insofar as one-race schools are concerned, the Board has satisfied its burden of showing that "their racial composition is not the result of present or past discriminatory action on their part."

As seen, on a school-by-school basis there is existing integration of some kind or there is a purely de facto situation occurring since official desegregation in all but 15 all-black or all-white schools, or less than 10 pct. of the total facilities in operation. Accordingly, upon implementation of the attached order, the system will be judicially declared unitary and a dismissal will be directed on January 1, 1972, the court retaining the inherent jurisdiction to deal with future problems. (In this respect, it should be made clear that for the present, the Singleton-type faculty assignment ordered by the court on March 20, 1970, calls for an annual adjustment. See Carter v. West Feliciana Parish School Board, 432 F. 2d 875 (5th Cir. 1970). Implicit in the attached order is the admonition that it be so administered until further direction is received.) But, in the absence of a showing that either the school authorities or some other agency of the State has deliberately attempted to fix or alter demographic patterns to affect the racial composition of the schools, further intervention by a district court should not be necessary.

COMMENT

Looking ahead, the court is compelled to note that the critical point for public education in the City of Atlanta and its environs has been reached. The situation calls for a sweeping examination of its relationship to housing, planning, finances, rapid transit and all the other external factors which vitally affect its role in the community. Apparently, no serious effort has been expended on the question of consolidation of the Atlanta system with the Fulton County system. In terms of efficiency, taxes and quality education, such consolidation normally produce long-range improvements. In terms of the current problem, such consolidation might well produce partial, even though not perfect solutions. Certainly for many reasons connected and unconnected with this case, this one aspect ought to be studied without delay. In any such investigation, the proper vehicle should be community-wide, crossing lines of industry, government, and transportation as well as education. While the School Board should certainly participate, it cannot function successfully alone. A special Mayor's Committee of both races might be appropriate. The existing Biracial Committee might well be expanded to 20–30 members to undertake such a task. If so, the court would gladly entertain a motion by any party or the committee itself to add sufficient members to represent the other community aspects involved. Short of such critical reevaluation, the Atlanta system faces a difficult task in merely "hanging on" to its present position, awaiting the uncertain reversal of white flight from its limits.

It is so ordered.

This the 28 day of July, 1971.

SIDNEY O. SMITH, JR.,
U.S. District Judge.
ALBERT J. HENDERSON, JR.,
U.S. District Judge

TEXT OF THE COURT ORDER

[United States District Court, Northern District of Georgia, Atlanta Division]

Vivian Calhoun, et al., Plaintiffs vs. Ed S. Cook, et al., Defendants.

Upon consideration of this case under the remand of the Fifth Circuit, the defendant is ordered and directed as follows:

1. To abide by the previous decrees of this court regarding faculty and pupil assignment in the Atlanta public schools and specifically the orders of February 9, 1970; March 20, 1970; and August 31, 1970.

2. To provide for majority-to-minority transfers by application at the school last attended or at the central office each quarter of the school year at any time on or before the second day prior to the beginning of each quarter with space to be guaranteed each applicant at the school of his choice.

3. To provide for transportation for majority-to-minority transfers on the following basis:

(a) Where a sufficient number of students from a given community, zone, or point of origin will be traveling to a single destination, transportation will be provided by direct-billing contract with the Atlanta Transit System or some other carrier.

(b) Where the number of children moving to a given destination school is smaller than a bus load, transportation will be provided in the form of special bus tokens, distributed directly to the pupil involved on a weekly basis, to be used on regular Atlanta Transit System routes.

4. To furnish to the court and to the Biracial Committee through its chairman, reports on at least a semi-annual basis by October 1st and February 1st of each year containing the date set out in Appendix "B" of the district court order approved in United States v. Hindus County School Board, 433 F. 2d 611 (5th Cir. 1970). If such data is presently available in the existing monthly-quarterly reports published, such reports may be furnished in lieu of a special report.

5. To consult with the Biracial Committee, in its advisory capacity, in the areas of the promulgation and maintenance of school zone lines, in the selection of sites for new schools, in student transfer and school transportation policies, together with such additional matters as may be assigned to the Biracial Committee by the School Board for consultation and advice.

To the extent stated herein, relief is granted; otherwise, it is denied. The motion by plaintiffs to hire a professional consultant at the expense of defendant is rejected. Considering the experience of the parties and the court in these matters, and the obvious factual situation, such expense is deemed unnecessary. Moreover, such action would delay these proceedings several more weeks up to the projected opening of school.

It is so ordered.

This the 28th day of July, 1971.

SIDNEY O. SMITH, JR.,
U.S. District Judge.
ALBERT J. HENDERSON, JR.,
U.S. District Judge.

Mr. GAMBRELL. Mr. President, President Nixon recently held a meeting at the White House with several Members of Congress concerning the question of forced busing. After the meeting, President Nixon announced his opposition to forced busing, but offered no plan to put a stop to this outrageous practice. Instead, the President appointed a Cabinet committee to inquire into the matter.

Several days after this meeting, I was consulted by representatives of the Cabinet committee, and after a lengthy discussion, I proposed to them a four-point plan for dealing rapidly with the busing crisis.

As yet, President Nixon has not announced any plan on this subject. The issue is to be voted on today and the time for action has arrived.

For the third time, since September of last year, I call upon the President to act decisively. I repeat the four-point plan which I suggested to his representatives last week.

They are as follows:

First. That there be an immediate legislative roll-back moratorium on forced school busing for integration purposes. This means that until a permanent solution to the matter can be arrived at there would be no more busing required by Federal courts or the Department of HEW, that busing heretofore required would be terminated, and that this would be accomplished through legislation rather than by waiting for this to be done through executive or judicial action.

Second. That the President, through the Justice Department, seek a prompt and comprehensive judicial determination of the constitutional issues involved in the busing controversy.

Third. That immediate congressional consideration be given to a permanent constitutional and legislative solution which will preserve community public schools, free of racial discrimination.

Fourth. That any Federal desegregation remedies hereafter adopted shall be uniformly applied in all regions of the country.

Mr. President, the so-called Griffin amendment furnishes an opportunity to proceed in accordance with this four-point plan. I, therefore, urge the President to give an endorsement to the Griffin amendment and that the Senate act favorably on that amendment when the opportunity for voting arises at 12 o'clock today.

By Mr. MOSS (for himself, Mr. ALLOTT, Mr. DOMINICK, and Mr. FANNIN):

S. 3436. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to provide for a Four Corners area program. Referred to the Committee on Agriculture and Forestry.

LAND POLLUTION IN FOUR CORNERS STATES

Mr. MOSS. Mr. President, I am today introducing, for myself and Senator FANNIN, a bill designed to curb land pollution in the Four Corners States—that is the States of Utah, Colorado, New Mexico, and Arizona.

The bill is patterned after the program which has been in successful operation in the Great Plains States for a number of years. It would authorize the Secretary of Agriculture to enter into cost-sharing contracts with individual land owners and operators to adopt cropping and range management systems, and to install soil and water conservation measures which would help prevent erosion, reduce sediment and salinity in streams and ponds, and control other pollutants, including animal wastes.

All lands under cultivation would be eligible for contract, including Indian lands. The Federal share could be up to 90 percent of the total cost. The technical services of the Soil Conservation Service would be utilized in effectuating the program.

A companion bill is being introduced in the House of Representatives today by Congressman WAYNE ASPINALL of Colorado, with a number of cosponsors from the Four Corners States.

By Mr. PEARSON:

S. 3437. A bill to authorize the Secretary of Housing and Urban Development to provide assistance to State and local governments to encourage the repair and improvement of substandard housing. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PEARSON. Mr. President, millions of Americans live in substandard housing. Almost 5 million American homes lack plumbing facilities, others have deficient roofs, unsafe wiring, or other unsatisfactory conditions. While many believe these homes are only in urban slums, they are not. Over 3 million of a total of 4.7 million substandard housing units are in rural America.

While Federal, State, and local governments have programs designed to encourage home improvements, the property tax structure in our States discourages many homeowners from repairing and renovating their homes. If an individual improves his home, he is faced with the fact that property taxes will increase. For many poor families, this increase in the already burdensome property tax added to the cost of home repairs puts badly needed home improvements out of reach.

The bill I introduce today would alleviate this added property tax burden and enable many Americans to improve their homes.

The legislation would provide the Secretary of HUD the authority to give assistance to State and local governments which agreed to forgo, for a time, increased property taxes on homes which are improved to meet criteria established for standard housing. This does not require the State and local governments to pay any money, it merely asks that they forgo tax increases based on the home improvements for a period not to exceed 10 years.

The Federal Government would agree to pay 75 percent of the increased assessed value of the home resulting from improvements which raise the structure from below standard to standard as defined by the Secretary of the Department of Housing and Urban Development. The Secretary would be empowered to establish such regulations as necessary to insure that the Federal Government pays for only those improvements which raise housing from below standard to the standard level.

This bill will provide no bonanza for unscrupulous slumlords, it simply removes a barrier to the improvement of homes, many of which are owned by poor families in rural areas of our Nation. It does so without undue burden on the local, State, or Federal Government. The Library of Congress has estimated the initial Federal subsidies would be approximately $8 million. While this is not a large sum for a government, on an individual homeowner basis, it has been a formidable obstacle to home improvements.

Mr. President, we are working on a number of ways to lower property taxes. Through this bill, we can alleviate one of the most undesirable effects of the property tax, and do so for a relatively small sum.

Every family in America should have a decent home. This bill will remove a barrier to improved housing throughout the United States.

By Mr. STEVENS:

S. 3438. A bill to amend section 607(k)(8) of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I introduce a bill amending portions of the Merchant Marine Act, 1970.

The purpose of the bill is to clarify an ambiguity which could have the unfortunate effect of denying the citizens of Alaska the full benefit of certain provisions of the Merchant Marine Act, 1970. As Senators will recall, in the 91st Congress we enacted a historic new maritime program to revitalize our merchant marine. The Merchant Marine Act, 1970, amended the Merchant Marine Act, 1936, to, among other things, extend the coverage of certain tax deferral privileges previously available only to one small segment of our fleet.

The act also recognized the unique dependence of the citizens of Alaska Hawaii, Puerto Rico, and the noncontiguous territories and possessions on marine transport, and provided tax incentives in order to effectively decrease the cost of building vessels for these trades, and thus the cost of marine transportation. This provision was intended to provide long overdue relief to the people of our noncontiguous States and territories. Unfortunately, the definition of "noncontiguous" trade in section 607(k)(8) is ambiguous with respect to whether incidental intrastate carriage between ports in Alaska would qualify for this benefit, even though it clearly provides that similar carriage between the islands of Hawaii does. Also, the privileges apply to similar carriage on the Great Lakes. Given the clear public policy of these provisions of the act, it seems to me that incidental intrastate carriage between ports in Alaska could be permitted by administrative interpretation. However, there has been an understandable reluctance to so interpret the literal words of section 607(k)(8), even though such an interpretation would be clearly consistent with the objectives of the act. Consequently, I am introducing this legislation to clarify the situation.

The bill would amend the Merchant Marine Act, 1936, in order to clarify the meaning of the term "noncontiguous trade", as it is used in section 607(k)(8), so that trade between points which are wholly within an offshore state or possession can qualify as a permissible trade in which to operate vessels which are built with capital construction funds. Enactment of this bill will enable offshore operators of vessels built with such funds to fully deploy these vessels in the most efficient manner without contravening the act.

Section 607(a) of the Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970, allows a shipping company to establish a capital construction fund consisting primarily of tax-deferred earnings for the purpose of constructing or reconstructing "qualified vessels". In order to be considered "qualified", a vessel must be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States—Section 607(k)(2). If a vessel built or purchased with capital construction funds is operated outside one of the enumerated trades, substantial penalties would ensue.

"Noncontiguous trade" is presently defined in Section 607(k)(8) to mean:

"(i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii.

As now structured, this definition of "noncontiguous trade" is susceptible to uncertainty regarding the status of ocean shipping wholly within Alaska, Puerto Rico, or the insular territories and possessions of the United States.

Although trade between the islands of Hawaii is clearly noncontiguous—clause (iii) of section 607(k)(8)—it is not altogether clear that trade between coastal points in Alaska, for instance, can similarly be regarded as "noncontiguous trade" as that term is presently defined. Alaska's singular reliance on water transportation and its need to obtain such transportation as economically as possible dictate that section 607(k)(8) be amended to explicitly include intra-Alaska coastal trade within the meaning of "noncontiguous trade."

For example, a few carriers—mostly tug and barge operators—serve the offshore domestic trade between the contiguous 48 States and Alaska. In the course of a voyage between, say, Seattle and Alaska, cargo may be carried to a number of Alaskan ports. In serving these ports, incidental cargoes may also be carried from one Alaskan port to another Alaskan port. From the carrier's point of view, the carriage of these incidental intrastate cargoes represents the most efficient use of its equipment. Although these cargoes are minor in volume compared to the major interstate trade, they are also very important to Alaska shippers since there is no regular privately owned service operating only between ports in Alaska. The interstate movement is clearly within the scope of section 607(k)(8), but the incidental intrastate movement is arguably outside the definition of "noncontiguous trade."

If this intrastate movement is not considered to be "noncontiguous trade," a carrier could not in good faith contract with the Secretary of Commerce for the

construction of vessels which would be regularly used in such a trade, albeit incidentally. If Alaskan operators, for example, were forced to abandon incidental intrastate carriage in order to benefit from the capital construction fund program, the intrastate shippers dependent on water transportation would obviously be injured; and since there would be an irreplaceable loss of freight from this movement, the interstate shipper might have to pay increased rates in order to offset the loss of intrastate revenue. The proposed amendment would relieve the carrier from having to choose between the benefits of the act and the efficient use of its equipment.

Another compelling reason for specifically including intra-Alaska—also intra-Puerto Rico, intra-Guam, and so forth—trade within the scope of the act arises from Congress inclusion of interisland Hawaiian trade—wholly intrastate—in the definition of "noncontiguous trade." It was apparently recognized that Hawaii's dependence on ocean shipping, even for intrastate movement, dictated that Hawaiian carriers, shippers, and consumers should benefit from the construction of water transport equipment with capital construction funds. The conditions which impelled Congress to extend the benefits of the act to the interisland Hawaiian trade are equally present in the case of Alaska and the insular territories. For instance, there are 6,640 miles of general coastline in Alaska and 33,904 miles of coastline if all of its islands are included.

There are more islands in Alaska than in any other State. Alaska and the insular territories are just as heavily dependent on water transportation as is Hawaii. The legislative history of the Merchant Marine Act of 1970 sheds no light on the omission of the intra-Alaska trade as opposed to the inclusion of the interisland Hawaiian trade. The failure to include Alaska and the other offshore territories and possessions may well have been a legislative oversight which should be corrected by the adoption of the proposed amendment. This amendment would assure Alaskan citizens the same treatment that the act confers upon Hawaiian citizens. The benefits of the act, in terms of better, more efficient, and more modern water transportation service in intrastate trade should accrue not only to Hawaii but to Alaska as well. At the same time, Puerto Rico and other insular territories and possessions of the United States should be accorded the same treatment.

A third and equally important reason is to encourage the growth of the boatbuilding trade in Alaska. With its wealth of natural materials, particularly timber, so close to so many potential customers, Alaska is a State particularly advantageously situated for the development of a boatbuilding industry. The largest accessible stands of good lumber are in southeastern Alaska, close to many potential customers. This bill will incidentally encourage the growth of the shipbulding industry in Alaska. Of course, it will also encourage the domestic Alaska shipping industry which is, as I have indicated, still, like Alaska shipyards, relatively small and in need of assistance.

The proposed amendment accomplishes the objectives set forth above. In addition, the wording of the amendment also encompasses the meaning of original clause (ii) to section 607(k)(8): "trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions."

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 607(k)(8) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(k)(8)), is amended by striking that entire portion of Section 607(k)(8) which follows the lower case Roman numeral "(ii)", and inserting in lieu thereof, "trade from any point in Alaska, Hawaii, Puerto Rico and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico and such territories and possessions."

By Mr. STEVENSON:

S. 3439. A bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. STEVENSON. Mr. President, today I am introducing legislation to broaden the protection available to federally insured homebuyers who are the innocent victims of local HUD mismanagement and unscrupulous real estate brokers.

On Saturday, March 18, I had the opportunity to examine several homes in Chicago recently purchased with FHA mortgages. They were in a deteriorating condition, some with serious structural defects even though they were purchased following inspection by HUD within the past year.

According to HUD regulations, FHA appraisers may not approve a house for an FHA mortgage unless it meets HUD's minimum property standards.

From what I saw in Chicago, and the case histories I have received in my mail, it is apparent that these directives are being ignored in the administration of the FHA programs.

Some of the homeowners with whom I met are now entitled under the law to reimbursement for repairs of structural defects not ordered repaired by FHA inspectors. Yet, in cities like Chicago and New York, owners of homes like these have not received 1 cent under laws passed by Congress in 1970 to provide them with reimbursement for repairs. We must find out why HUD cannot properly administer its own programs, and I have today sent a letter to Secretary Romney raising this question.

But a great many homeowners who are the victims of inadequate HUD inspections and unscrupulous real estate brokers are not entitled to even this kind of reimbursement for repairs. Section 203(b) is HUD's basic unsubsidized insurance program for single family homes. Ninety percent of all HUD insurance has been written under the 203 program, yet purchases of existing 203 homes, 70 percent of all HUD transactions in Chicago last year, are not entitled to reimbursement for repairs of structural defects overlooked by FHA appraisers.

Such reimbursement rights now belong to owners of new federally insured housing as well as existing section 235 homes, HUD's interest subsidy program for low- and moderate-income families. Last month the Senate passed and sent to the House legislation extending this coverage to owners of 221(d)(2) housing, HUD's unsubsidized insurance program for low- and moderate-income families. The legislation I introduce today will amend section 518(b) of the National Housing Act to extend such benefits to the great number of purchasers of existing housing under HUD's section 203 mortgage program.

Prior to my Chicago visit, I did not realize how badly section 203(b) housing needed this coverage. Several of the recently purchased homes I saw were purchased with FHA section 203(b) mortgages. Those homeowners, victimized by FHA's faulty appraisal and inspection practices, have no legal recourse and must personally pay for FHA's mistakes. This legislation would provide section 203 purchasers who bought their homes within 2 years of the bill's final passage with reimbursement rights for repairs of structural defects in existence at the time the owner received his mortgage.

There is no simple answer to the housing crisis. But we must begin by giving all federally insured homebuyers the same opportunity for reimbursement for defects ignored by HUD's appraisers and in violation of its own minimum property standards.

Such relief for those who have already been wronged is a stopgap measure at best. The legislation which the Senate passed last month with regard to 221(d)(2) protection and the legislation I introduce today are needed because HUD is not administering its programs at the local level according to the law, but rather, to be charitable, in ignorance of it. That is a real problem, and the one to which this Congress should address itself.

By Mr. BUCKLEY (for himself, Mr. BOGGS, and Mr. JAVITS):

S. 3440. A bill to terminate the obligation of States to return funds deposited with them pursuant to the U.S. Deposit Fund Act of 1836. Referred to the Committee on Finance.

Mr. BUCKLEY. Mr. President, during the administration of President Jackson, an embarrassment of riches in the Federal Treasury resulted in the passage of the U.S. Deposit Fund Act of 1836, under which surplus funds existent at that time—$28.1 million—were distributed proportionately among the States then in the Union. There were no conditions pertaining to the use of these funds. The only proviso was that the moneys had to be returned to the Treasury on demand.

After 136 years, during which no money has been returned and none has been recalled, it would seem inappropriate to expect the States to repay. Although New York and Delaware held these funds in trust until very recently, other States have long since spent or lost track of them.

I am, therefore, sending to the desk, for proper referral, a bill which would cancel the obligation of the States to return these funds to the Federal Treasury. This will formalize the status quo, and cleanup the books of the affected States.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3441. A bill to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act. Referred to the Committee on Labor and Public Welfare.

PUBLIC HEALTH SERVICE TRAINING ACT OF 1972

Mr. KENNEDY. Mr. President, I am introducing legislation today to extend sections 306 and 309 of the Public Health Service Act, which provide stipends for graduate training in public health and grants to schools of public health.

One of the most important elements in providing for health resources in this country is the comprehensive graduate public health education conducted by the 17 schools of public health in 14 States and Puerto Rico. The graduate schools of public health constitutes the key source of comprehensively trained professional personnel for leadership in voluntary health agencies and in public health systems at the local, State, and Federal levels.

Public health evolved from the early combination of medical science and engineering for the control of environmental hazards to man's health. It has grown to embrace various facets of the biological, physical, and social sciences as community aspects of health problems have become more complex and demanding.

Public health now depends upon the skills and knowledge of members of several professions. The role of the graduate schools of public health today is to prepare individuals who will be concerned with health problems which lie outside the scope of any single discipline.

In the graduate schools of public health, one finds faculties, students, and special curriculums representative of the several disciplines and sciences relevant to the solution of State health problems. Not only are physicians, dentists, nurses, and other basically trained health professionals involved, but also engineers, economists, statisticians, administrators, lawyers, urban planners, and other experts representing the natural and social sciences.

As sources of comprehensively trained public health manpower, the graduate schools of public health are indispensable to the Nation. They provide an excellent mechanism for development of the brain power now urgently needed in devising and applying effective techniques for the prevention of disease and the provision of medical care for the population as a whole. The planning of satisfactory health services is difficult and changing circumstances call for a new kind of expert—an expert who can adapt well-established principles to local situations and an expert who has a spark of innovation—the capacity to find solutions to problems never before encountered. Such individuals are most likely to emerge from the motivated, young physicans—and advanced degree holders from other professions—who elect careers in public health and who obtain the comprehensive preparation provided by the graduate schools of public health.

Federal sharing in the cost of comprehensive public health training in university graduate schools of public health is essential because of their national character and function. Students in the 17 schools in 14 States are predominantly from out-of-State, the majority of them sponsored in part by the Federal Government. Only 25 percent of the graduates work in the States where they attended the school of public health. To the extent that the schools bear the cost of training federally sponsored students, such institutions are subsidizing training for Federal service. Nearly all of the graduates enter public service.

The impressive increases in enrollment in schools of public health in recent years are due not only to Federal funds for physical facilities and projects and formula grants for teaching, but also to the availability of public health traineeships providing tuition and living stipends to graduate students in public health. Despite growing interest in community aspects of medicine, there is evidence that relatively few would take graduate training for public health careers if traineeships were not available.

Only 25 percent of the 1,800 students currently holding traineeships would have enrolled without such financial assistance, according to a recent survey. An overwhelming proportion—97 percent—are preparing for public service, rather than the more remunerative private practice of medicine.

The typical student, requiring a traineeship for graduate public health education, is already heavily in debt for college and medical education, has a dependent family and foresees the relatively modest salaries in public and private health agencies.

Reduction in traineeship funds, or shift to loan arrangements, would halt the upward trend in enrollments made possible in recent years by expansion of classroom space in schools of public health.

Traineeships are indispensable to provide for well-trained public health professionals who shall increasingly play a critical role in the complex and evolving transformations of our health care system. I am recommending increased levels of authorizations to insure that qualified individuals may be provided public health traineeships to meet our increasing health care needs.

During the Eisenhower administration, Congress recognized the national contributions of the graduate schools of public health and the Federal responsibility to them. The Hill-Rhodes Act of 1958 was sponsored in the House by Congressman George M. Rhodes and cosponsored in the Senate by Senators Lister Hill, John F. Kennedy, Pat McNamara, Irving Ives, and JOHN SHERMAN COOPER. It passed both legislative branches unanimously and was signed into law by President Eisenhower. The Hill-Rhodes program, which has been continued with bipartisan congressional support, provides formula grants "for comprehensive professional training in accredited schools of public health"—giving "primary consideration to the number of federally sponsored students attending each school in the allocation of the funds." Under the formula, one-third of each annual appropriation is allocated equally among the schools; two-thirds is allocated in proportion to the number of federally sponsored students in the respective schools.

Hill-Rhodes funds have met less than one-sixth of the schools' total costs for teaching and basic operations. Hill-Rhodes grants have not kept pace with the increases in teaching costs and student enrollments, including the enrollment of federally sponsored students.

Nevertheless, this unrestricted Federal money for teaching purposes has been of tremendous assistance in: supplementing other funds for faculty salaries; providing seed money for new developments in the teaching program; filling gaps appearing unexpectedly in the teaching budget; and fully supporting some teaching activities otherwise impossible to conduct.

In return for the Federal investment, the results have indeed been remarkable in terms of gains made in public health in comparison to the decade prior to Hill-Rhodes funding. Some of the striking results include: An 82-percent increase in the number of students enrolled; a 59-percent increase in the number of graduate degrees awarded; 525 new faculty positions; a 300-percent increase in federally sponsored students; and an increase from 11 to 17 in the number of schools of public health.

Mr. President, it is imperative we maintain a strong Federal commitment to our schools of public health. They have been of key importance in providing our Nation with public health professionals. This bill authorizes continued support for training health professionals and in fostering creative techniques and approaches to public health programs.

I recognize the many valuable contributions of our schools of public health. I look forward to their dynamic leadership in providing personnel and programs to meet the many problems of our present health care system.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. That section 306(a) of the Public Health Service Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships

for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; $34,000,000 for the fiscal year ending June 30, 1977; and $38,000,000 for the fiscal year ending June 30, 1978."

SEC. 2. Section 309(a) of such Act is amended to read as follows:

"SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; $20,000,000 for the fiscal year ending June 30, 1977; and $22,000,000 for the fiscal year ending June 30, 1978."

SEC. 3. (a) Section 309(c) of such Act is amended to read as follows:

"(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"(1) comprehensive and multidisciplinary training in the field of public health; and

"(2) specialized consultive services and technical assistance in the field of public health."

(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"(e) In awarding grants made under subsection (c), the Secretary shall give consideration to the relative number of students enrolled in such schools for an academic year. In computing the number of students so enrolled, the Secretary shall include part-time students on the basis of the number of credit hours being taken by part-time students in such program divided by the minimum number of credit hours any student would be required to take in an academic year to be classified as a full-time student.

"(f)(1) There are authorized to be appropriated for carrying out the purposes of subsection (c)(1), $15,000,000 for the fiscal year ending June 30, 1973; $17,500,000 for the fiscal year ending June 30, 1974; $20,000,000 for the fiscal year ending June 30, 1975; $22,500,000 for the fiscal year ending June 30, 1976; $25,000,000 for the fiscal year ending June 30, 1977; and $27,500,000 for the fiscal year ending June 30, 1978.

"(2) There are authorized to be appropriated for carrying out the purposes of subsection (c)(2) $6,000,000 for the fiscal year ending June 30, 1973; $7,000,000 for the fiscal year ending June 30, 1974; $8,000,000 for the fiscal year ending June 30, 1975; $9,000,000 for the fiscal year ending June 30, 1976; $10,000,000 for the fiscal year ending June 30, 1977; and $11,000,000 for the fiscal year ending June 30, 1978."

A SECTION-BY-SECTION ANALYSIS OF A BILL EXTENDING THE TRAINEESHIP PROGRAM FOR PROFESSIONAL PUBLIC HEALTH PERSONNEL, AND PROJECT GRANTS FOR GRADUATE TRAINING IN PUBLIC HEALTH UNDER THE PUBLIC HEALTH SERVICE ACT

Section 1 amends section 306 of the Public Health Service Act to re-authorize and extend traineeships for graduate and specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel. For such grants, there are authorized to be appropriated $16 million for the fiscal year ending June 30, 1972; $18 million for the fiscal year ending June 30, 1973; $22 million for the fiscal year ending June 30, 1974; $26 million for the fiscal year ending June 30, 1975; $30 million for the fiscal year ending June 30, 1976; $34 million for the fiscal year ending June 30, 1977; and $38 million for the fiscal year ending June 30, 1978.

Section 2 amends section 309(a) of the Public Health Service Act to re-authorize and extend project grants to schools of public health and to other public and nonprofit private institutions providing graduate or specialized training in public health. For such grants, there are authorized to be appropriated $15 million for the fiscal year ending June 30, 1972; $16 million for the fiscal year ending June 30, 1973; $17 million for the fiscal year ending June 30, 1974; $18 million for the fiscal year ending June 30, 1975; $19 million for the fiscal year ending June 30, 1976; $20 million for the fiscal year ending June 30, 1977; and $21 million for the fiscal year ending June 30, 1978.

Section 3(a) replaces section 309(c) of the Public Health Service Act with a new section 309(c). It re-authorizes and extends through fiscal year 1978 grants to public and nonprofit schools of public health to provide assistance for (1) comprehensive multidisciplinary training in the field of public health; and (2) specialized consultant services and technical assistance in the field of public health.

Section 3(b) adds new subsections (d), (e) and (f) to section 309 of the Public Health Service Act. Subsection (d) authorizes the Secretary to prescribe by regulation terms and conditions as he deems necessary for making grants under subsection (c). Subsection (e) provides that the Secretary, in awarding grants under subsection (c), shall give consideration to the number of full and part-time students in such programs. When computing the number of such student enrollees for grant purposes, part-time students shall be included on the basis of credit hours needed to be classified as full time students. Subsection (f) authorizes to be appropriated: (1) for comprehensive and multidisciplinary training in the field of health: $15 million for the fiscal year ending June 30, 1973; $17.5 million for the fiscal year ending June 30, 1974; $20 million for the fiscal year ending June 30, 1975; $22.5 million for the fiscal year ending June 30, 1976; $25 million for the fiscal year ending June 30, 1977; and $27.5 million for the fiscal year ending June 30, 1978. (2) for specialized consultative services and technical assistance in the field of public health: $6 million for the fiscal year ending June 30, 1973; $7 million for the fiscal year ending June 30, 1974; $8 million for the fiscal year ending June 30, 1975; $9 million for the fiscal year ending June 30, 1976; $10 million for the fiscal year ending June 30, 1977; and $11 million for the fiscal year ending June 30, 1978.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, Mr. WILLIAMS, Mr. EAGLETON, and Mr. PELL):

S. 3442. A bill to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMMUNICABLE DISEASE CONTROL AND VACCINATION ASSISTANCE ACT OF 1972

Mr. KENNEDY. Mr. President, I am introducing today an extension of the legislative authority for section 317 of the Public Health Service Act, the Communicable Disease Control and Vaccination Assistance Act. The 91st Congress passed the Communicable Disease Control Amendments of 1970 by an overwhelming vote. Public Law 91-464 amended section 317 of the Public Health Service Act authorizing grants for communicable disease control and vaccination assistance. The act provided appropriation authorizations ceilings at $75 million for fiscal year 1971 and $90 million for fiscal year 1972. The passage of this legislation was an expression of congressional concern over the toll being taken in this country by diseases which can be prevented or controlled. The legislation was supported by the National Tuberculosis and Respiratory Diseases Association, the National Foundation—March of Dimes, the American Social Health Association, and the Association of State and Territorial Health Officers. However, the administration and the Department of Health, Education, and Welfare specifically opposed the communicable disease control amendments.

Regrettably, the legislation has never been fully implemented, and the administration in the past has not requested appropriations under this authority. In fiscal year 1971, the Congress took the initiative and appropriated $2 million under the authority of section 317, to provide transitional funding for the phaseout of the tuberculosis control project grant program. In fiscal year 1972, again under section 317, Congress added $20 million to the administration's appropriation request. This action was taken in an effort to stem the current dramatic increase in the incidence of both venereal diseases and measles in this country. For fiscal 1973 the administration has requested a total of $14½ million for vaccination assistance programs. The request for the rubella vaccination program is $10 million, which represents a reduction of $3 million from fiscal 1972. The remaining $4½ million requested is to provide assistance for all the other immunization programs. The administration's appropriation request clearly fails to meet the critical program needs to provide effective immunization programs for the children of our Nation.

Since the expiration of the Vaccination Assistance Act in 1968, immunization levels in this country against measles, poliomyelitis, diphtheria, pertussis, and tetanus have declined. Much of the progress made in the nationwide program against measles has been lost, and reported cases of measles are now at the highest level since 1966. Approximately 75,000 cases were reported in 1971, up from approximately 47,000 in 1970. There is strong evidence to indicate the number of reported cases represents 10 percent of the actual total of measles infections. The increase in the number of cases is most disturbing when there is available an effective vaccine to prevent measles and the often serious medical complications which result therefrom. Measles is not always a benign infectious process, but may cause middle ear infections and encephalitis, one of the most serious complications, resulting in mental retardation. Immunizations are estimated to have prevented 9.7 million measles infections, including 3,250 cases of mental retardation. Furthermore, the cost benefits to society are incalculable, reducing absences from school because of illness, and hospitalizations for treatment of serious medical complications. Immunization of all schoolchildren would eliminate epidemics of measles and immunization at 1 year of age would eradicate the disease completely. Yet, the U.S. survey demonstrates that less than two-thirds of our children are immunized against measles. Overall, the percentage is 57.2 percent for children 1 to 4 years old and 62.8 percent of children 5 to 9 years old. A consistent Federal effort to support and maintain immunization programs for measles is essential to prevent outbreaks of infection. The national program unfortunately at present operates in response to epidemics.

The cost of rubella and the toll to human life is even greater than measles. Its disastrous effect on the unborn child has been well demonstrated. In the most recent epidemic in 1964 and 1965, there were approximately 10 million cases, resulting in 15,000 to 20,000 miscarriages or stillbirths, and 20,000 children born with defects. Birth defects include deafness, blindness, mental retardation, and heart malformation. The Federal effort focusing on rubella immunizations has been well organized and successful. However, if support now falters or is significantly diminished, it is inevitable that a resurgence of infections will develop as in the case of measles.

This past summer the U.S. Public Health Service expressed its concern over the possibility of poliomyelitis outbreaks. The HEW response was to transfer funds from the rubella immunization program to deal with this potential disaster. The U.S. Immunization Survey has shown a declining proportion of children protected against polio. Only two-thirds of our children between 1 and 4 years of age are immunized. In 1965, 73.9 percent were immunized in contrast to 1971, where 67.3 percent are immunized. There is a real immunization gap and a serious possibility of localized epidemics of polio. It is folly to continue to respond to crises by diverting funds from one program to another in response to infection outbreaks.

The venereal disease problem in the United States is shocking. Gonorrhea, which has been on the increase for many years, is now virtually out of control with more than 600,000 cases reported during 1971. Optimism engendered by a 4-year decline in the incidence of syphilis during the 1960's has dissipated as syphilis has once again established an upward trend in this country. We simply must provide resources for programs to reduce these insidious infections which can be easily and effectively diagnosed and treated.

Tuberculosis, the No. 1 killer among the communicable diseases, is showing renewed strength. In 1969, at the height of a special tuberculosis control program, new cases of tuberculosis were reduced by 8.2 percent. In 1970, the rate of reduction had slowed to 5.1 percent, with an increase of 2.1 percent among our black population.

RH disease continues unhampered, bringing suffering to an estimated 27,000 families each year. Hemolytic disease due to RH incompatibility can mean, for an unborn baby, death before birth, or side effects such as jaundice or severe anemia. Because we are not making effective use of preventive measures, there continues to be human disability and suffering. For fiscal 1973 the administration has requested a mere $500,000 for control in this area.

Reported outbreaks of diphtheria highlight the sporatic Federal effort. Diptheria has averaged approximately 200 reported cases a year. Yet in 1970 there were 435 cases, with approximately 12 local outbreaks. Ten percent of diptheria cases are fatal. Despite the scientific knowledge and the effectiveness of immunization there has been a failure to apply consistent programs for eradication of the disease.

Immunizations are the most effective preventive medicine tool currently available. This can be demonstrated by several parameters including cost benefit financial ratios, reducing human suffering and medical disability, protection of the most vulnerable population—our children, and effectiveness in preventing disease. We should be able to design relatively simple, but effective systems to reach 100 percent of the population. Yet we are not now effectively or comprehensively protecting American children with our available vaccines. We have the vaccines available to protect every child in our Nation against well-known, crippling and disabling diseases. Unfortunately, the administration fails to recognize the need for a long-term Federal commitment to coordinate and plan control of these diseases.

It is clear that Congress must continue to take the lead in providing impetus for such a commitment. Special emphasis, special mechanisms, and special authorities must focus on the control and eradication of communicable diseases. We must strive for such a goal in this decade.

Mr. President, there is a vast unmet need in respect to dealing effectively with these communicable diseases, and the bill that I introduce today is one which is intended to meet that need. I am dismayed that the administration has yet to send to the Congress its recommendation for the extension of this expiring legislative authority.

There is no statement by the administration for the need to extend this authority in the State of the Union message. And there is no evidence of the administration's concern for these programs in the recently delivered Presidential health message.

Given the fact that this important legislation will expire within 3 months, I intend to do all that I can to insure swift and effective action in the Congress regarding communicable disease programs. The Senate Health Subcommittee to which this bill will be referred will hold hearings with a view toward reporting the bill back to the Senate. I might also note, Mr. President, that the ranking minority member of the Senate Labor Committee, the distinguished senior Senator from New York (Mr. JAVITS) has also introduced a bill of which I am cosponsor to specifically deal with the growing problem of venereal disease. I am sure that the hearings my subcommittee will hold will include a consideration of Senator JAVITS' bill with a view toward the amalgamation of its principal features into this whole legislative extension that I am introducing today.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Sec. 1, That this Act may be cited as the "Communicable Disease Control Amendments Act of 1972".

SEC. 2. (a) Section 317(a) of the Public Health Service Act is amended to read as follows: "There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1972; $90,000,000 for the fiscal year ending June 30, 1973, and each of the next four succeeding fiscal years to enable the Secretary to make grants to States, and in consultation with the State health authority to agencies and political subdivision of the States, under this subsection. In the awarding of such grants, the Secretary shall give consideration to the relative extent of the problems relating to one or more of the diseases referred to in subsection (b)(1) and to the design of the public health program to assure effective performance in preventing and controlling such disease. Such grants may be used for meeting the cost of communicable disease control programs and their attendant laboratory services, including the cost of studies to determine the communicable disease control needs of the communities and the best means of meeting such needs.

(b)(1) Subsection (b) of such section is amended by striking out the word "subsection" and inserting in lieu thereof "section".

(2) Subsection (b)(1) of such section is amended by striking out the phrase "on the recommendation of the National Advisory Health Council".

(c) Such section, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary is authorized to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations and institutions for the purpose of making the citizens of the United States aware of the consequences of the diseases described in subsection (b)(1) and the programs available which will avert such consequences.

(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for the fiscal year end-

ing June 30, 1973, and each of the next four succeeding fiscal years."

SECTION-BY-SECTION ANALYSIS OF THE COMMUNICABLE DISEASE CONTROL AMENDMENTS ACT

Section 1 states that the short title of this Act is "The Communicable Disease Control Amendments Act of 1972."

Section 2(a) replaces section 317(a) of the Public Health Service Act with a new section 317(a). It re-authorizes and extends through fiscal year 1977 grants for communicable disease control. It authorizes the Secretary to make grants for such purposes to states and the agencies and political subdivisions of the states. It directs the Secretary to consult with state health authorities in awarding such grants to agencies and political subdivisions of the states. When awarding such grants, the Secretary shall give consideration to the relative extent of the problems relating to the diseases outlined in subsection (b) (1) of this act and to the design of public health programs. Grants will be used to meet costs of control programs and attendant laboratory services. For such grants, there are authorized to be appropriated $90 million for the fiscal year ending June 30, 1973; $90 million for the fiscal year ending June 30, 1974; $90 million for the fiscal year ending June 30, 1975; $90 million for the fiscal year ending June 30, 1976; and $90 million for the fiscal year ending June 30, 1977.

Section 2(b)(1) is a technical amendment to section 317(a) of the Public Health Service Act.

Section 2(b) (2) removes the restriction that requires the Secretary to determine which communicable disease control programs are necessary on the recommendation of the National Advisory Health Council.

Section 2(c) creates a new subsection (h) to section 317 of the Public Health Service Act authorizing the Secretary to enter into contracts with private and nonprofit agencies and organizations for public education on the consequences of communicable disease infections and availability of programs for immunization against such infections. For such grants there are authorized to be appropriated: $5 million for the fiscal year ending June 30, 1973; $5 million for the fiscal year ending June 30, 1974; $5 million for the fiscal year ending June 30, 1975; $5 million for the fiscal year ending June 30, 1976; and $5 million for the fiscal year ending June 30, 1977.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2956

At the request of Mr. JAVITS, the Senator from Ohio (Mr. SAXBE), and the Senator from Oregon (Mr. HATFIELD), were added as cosponsors of S. 2956, the War Powers Act.

S. 3327

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 3327, the "Health Maintenance Organization and Resources Development Act of 1972."

S. 3380

At the request of Mr. Moss, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3380, a bill to permit immediate retirement of certain Federal employees.

SENATE CONCURRENT RESOLUTION 73—SUBMISSION OF A CONCURRENT RESOLUTION OF WELCOME TO INTERALLIED CONFEDERATION OF RESERVE OFFICERS MEETING IN WASHINGTON, AUGUST 7–13, 1972

(Referred to the Committee on Foreign Relations.)

Mr. THURMOND. Mr. President, among many of the outstanding services rendered by the Reserve Officers Association of the United States in support of the national security of this country is the participation of its membership in the Interallied Confederation of Reserve Officers.

This organization, which is headquartered in Europe, is made up of officers from the various military services of those nations which are members of the North Atlantic Treaty Organization. Some 19 nations have officers which participate in this confederation and meet annually, usually in the capital city of one of the NATO European partners.

On August 7–13, 1972, the Interallied Confederation of Reserve Officers will observe its 25th anniversary and in so doing will stage its first meeting in this country. Washington, D.C., will be the site of this session at which the officers of these various nations will visit us in the uniform of their respective countries.

The Reserve Officers Association of the United States and the Department of Defense will serve as joint hosts with the Department of State and other governmental agencies participating.

Mr. President, this organization was founded in November of 1948 at Brussels by the Reserve Officers Associations of Belgium, France, and the Netherlands. It had an original membership of approximately 120,000 reserve officers of all the military branches. The abbreviation of the group, CIOR, derives from the original French, "Confederation Interalliee des Officiers de Reserve."

This organization has made an outstanding contribution toward the defense of free world nations and has carried out well its objectives. Its principal objectives include:

First. To contribute to the strengthening of the defense of the signatory countries of the North Atlantic Treaty;

Second. To establish closer relations among reserve officers of the countries of the Atlantic Alliance, in order that these officers may better know and understand each other; and

Third. To support the policies of the Atlantic Alliance and to fully cooperate with this organization in carrying out its objectives.

Mr. President, I send to the desk a concurrent resolution which acknowledges the meeting of this group in August and which commends the joint effort of the Reserve Officers Association and the Department of Defense in hosting this meeting.

The resolution reads as follows:

Whereas the Interallied Confederation of Reserve Officers (ICRO), an association of reserve officers from twelve of the nations comprising the North Atlantic Treaty Organization, will hold its XXVth Congress at Washington, D.C. August 7 through August 13, 1972; and

Whereas the Reserve Officers Association of the United States and the Department of Defense will serve as joint hosts to such XXVth Congress; and

Whereas the United States, through the Department of Defense, will conduct military competitions in conjunction with and as a constituent part of such XXVth Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States extends to the Interallied Confederation of Reserve Officers a cordial welcome to the United States on the occasion of the XXVth Congress of that organization to be held in Washington, D.C. August 7 through August 13, 1972, and commends the joint effort of the Reserve Officers Association of the United States and the Department of Defense in hosting the XXVth Congress of that organization, and urges all departments and agencies of the Government to cooperate with and assist the Interallied Confederation of Reserve Officers in carrying out its activities and programs during the period referred to above.

ADDITIONAL COSPONSOR OF A RESOLUTION

At the request of Mr. STEVENS, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Resolution 275, authorizing Senators to hire interns.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1090

(Ordered to be printed and referred to the Committee on Finance.)

Mr. EAGLETON. Mr. President, I am submitting today an amendment to H.R. 1, the Social Security Amendments of 1972, to provide for the disregarding of property tax rebates in computing income for purposes of the proposed adult assistance program embodied in title III of H.R. 1 and of the existing programs of old age assistance, aid to the blind, and aid to the permanently and totally disabled.

At least eight States—Wisconsin, Minnesota, California, Vermont, Kansas, Colorado, Maine, and Pennsylvania—now have in effect a form of property tax relief for the elderly known as the "circuit-breaker." Under the circuit-breaker system, low-income elderly households receive State income tax credits or, where there is little or no income tax liability, cash rebates for that portion of their residential property taxes defined as excessive. In three States—California, Maine, and Pennsylvania—all relief is provided in the form of cash rebates.

The Advisory Commission on Intergovernmental Relations has recommended the circuit-breaker plan as "providing significant relief at modest cost to those who need it most." A number of other States, including Missouri, are considering this form of property tax relief for their senior citizens.

Under present Federal law and under the proposed adult assistance program, a cash rebate of this type would apparently have to be taken into account in determining the need for assistance of an aged, blind, or disabled individual.

With regard to the proposed new program, section 2012(b)(2)(A) of H.R. 1 provides for the exclusion of unearned income which is received infrequently or irregularly if such income does not exceed $60 in a quarter. However, under existing State circuit breaker laws, households with the lowest incomes may receive cash rebates of as much as $200.

Current Federal law governing assistance to the aged, blind, and disabled does not provide for any disregarding of infrequently or irregularly received income. For instance, when Congress provides a social security benefit increase which involves a lump-sum retroactive payment, the law must also include a provision giving the States permission to disregard that retroactive payment in determining need for public assistance.

The result is that many of those elderly homeowners who receive old age assistance would be unable to benefit from a property tax rebate because their grants would be reduced by the amount of the rebate.

The chairman of the California Senate Committee on Health and Welfare has stated, in a letter to the chairman of the Senate Finance Committee, that the absence of a disregard provision in Federal law has rendered California's senior citizens property tax assistance law ineffective in helping those elderly homeowners who need it most.

Mr. President, my amendment would include specific language in titles I, X, XIV, and XVI and the proposed title XX of the Social Security Act providing for the disregarding of any amounts received from a State or political subdivision as a rebate of real property taxes in determining the need for assistance of any aged, blind, or disabled individual.

The senior citizens of this Nation desperately need relief from the burden of property taxes. The effect of my amendment will be to make certain that those elderly persons who are in the greatest need can receive the benefit of State property tax relief laws.

ANNOUNCEMENT BY THE COMMITTEE ON COMMERCE

Mr. MANSFIELD. Mr. President, on behalf of the chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that an announcement by the committee be printed at this point in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

AMENDMENT FROM THE SENATE COMMITTEE ON COMMERCE

Chairman Warren G. Magnuson (D-Wash.) today requested all persons interested in S. 2020 and H.R. 1074, bills to amend section 220(b) of the Interstate Commerce Act to permit motor carriers to make annual reports on the basis of a thirteen-period accounting year, to file their comments with the Committee by April 15, 1972. H.R. 1074 passed the House of Representatives on August 2, 1971. After reviewing the comments of interested persons, the Committee may proceed to take up the bills in executive session if it appears that hearings on the measures are not warranted.

For further information on this matter, please contact John M. Cary, Staff Counsel, Senate Commerce Committee, 5202 New Senate Office Building, Washington, D.C. 20510, telephone (202) 225-9351.

NOTICE OF HEARING ON JUDICIAL DISQUALIFICATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the chairman of the Judiciary Committee's Subcommittee on Improvement in Judicial Machinery (Mr. BURDICK), I wish to announce the continuation of hearings on S. 1553 and S. 1886 which seek to amend existing law—28 U.S.C. 455—relating to the circumstances under which a Federal judge should disqualify himself from participation in a case because of his interest in or connection with the matter in controversy.

The hearing will be held on Thursday, April 13, 1972, beginning at 10 a.m., in room 2228, New Senate Office Building.

The scheduled witnesses are Judge Roger Traynor and Prof. E. Wayne Thode, chairman and reporter, respectively, of the ABA Special Committee on Standards of Judicial Conduct.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvement in Judicial Machinery, 6306 New Senate Office Building.

ANNOUNCEMENT OF HEARINGS RELATING TO VIETNAM ORPHANS

Mr. SPONG. Mr. President, on behalf of the Senator from Arkansas (Mr. FULBRIGHT), I wish to announce that the Committee on Foreign Relations has scheduled a public hearing on S. 2497, relating to Vietnam orphans, on Wednesday, April 5, begininng at 10 a.m. in room 4221 of the New Senate Office Building.

Persons interested in testifying on this bill should communicate with the chief clerk of the committee.

NOTICE OF HEARINGS ON REVISION OF FEDERAL COURT APPELLATE SYSTEM

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished junior Senator from North Dakota (Mr. BURDICK), I wish to announce that open public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery on Senate Joint Resolution 122, a joint resolution to create a commission to study and recommend a revision of the appellate system of the Federal courts. Hearings will be held on April 11, 1972, in room 6202, New Senate Office Building and on April 12, 1972, in room 457, Old Senate Office Building. The hour is 10 a.m. on both days.

The Judicial Conference of the United States has recommended that the several circuits be geographically realined. Legal scholars have questioned whether this is anything but a short-term remedy and have pointed out that the problems of our circuit courts, brought on by increased caseloads, are in need of long-term solutions. At these hearings, we will be privileged to hear from the chief judges of the busiest circuit courts, from the Director of the Federal Judicial Center and from legal scholars.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building.

ADDITIONAL STATEMENTS

THE FEDERAL TRIAL EXAMINERS CONFERENCE, WAKE FOREST UNIVERSITY, GEORGE WASHINGTON UNIVERSITY, AND THE NATIONAL NEWSPAPER ASSOCIATION HONOR SENATOR ERVIN

Mr. MANSFIELD. Mr. President, during the recent past the Federal Trial Examiners Conference, Wake Forest University, George Washington University, and the National Newspaper Association have honored our colleague, Senator SAM J. ERVIN, Jr., of North Carolina.

On May 15, 1971, the Federal Trial Examiners Conference presented its Award of Merit to the Honorable SAM J. ERVIN, Jr., U.S. Senator, in recognition of his outstanding contributions to constitutional liberties and due process of laws.

As its commencement in June 1971, Wake Forest University conferred upon Senator ERVIN the honorable degree of doctor of laws under a citation reading as follows:

SAMUEL JAMES ERVIN, JR.

The senior senator from North Carolina resists the conventional labels of politics. For most of his 17 years in Washington he has been carelessly typed by national observers as the conservative Southern Democrat *par excellence*—eloquent and wise and shrewdly effective but steadfastly oriented toward a glorious past. Less often noticed have been his persistent efforts in behalf of individual liberty, whether in support of the Supreme Court's decision against required prayer in the public schools or in opposition to the so-called "no knock" provisions of the 1970 District of Columbia crime bill. In recent months he has been a conspicuous critic of government surveillance of the lives of individual citizens.

To understand these seeming contradictions in Sam Ervin, we need recognize only his abiding commitment to the Constitution of the United States as the supreme law of this Nation. Both his respect for continuity and tradition and his defense of the freedom of the individual derive from this commitment. As the poet Wordsworth said of another eminent constitutionalist, Edmund Burke, he "explodes upstart theory" and "the majesty proclaims of Institutes and Laws, hallowed by time."

This judicious North Carolinan—a native of Morganton, a graduate of the University at Chapel Hill, a former state representative and Superior Court and Supreme Court judge—United States Senator Sam J. Ervin,

Jr., is presented for the degree of Doctor of Laws.

At its winter convocation held in Constitution Hall, Washington, D.C., on February 21, 1972, George Washington University conferred upon Senator ERVIN, who made the convocation address on "Freedom," the honorary degree of doctor of laws under the following citation:

SAMUEL JAMES ERVIN, JR.

Senator Ervin, you have been a bulwark for the protection of our constitutional liberties all through your long and distinguished career. You are the conscience of the Congress in the protection of individual liberties against all transgressions. The American people have been educated in the intricacies of our constitutional order through your Committees on Constitutional Rights and Separation of Powers. As a dedicated public servant and a distinguished scholar, you are in the forefront of modern American statesmen. As a symbol of your unremitting efforts to further the cause of individual human dignity, it is indeed appropriate that The George Washington University confer upon you the degree of Doctor of Laws.

LLOYD H. ELLIOTT,
President.

The program of the winter convocation of George Washington University contained the following summary of Senator ERVIN's career:

Samuel James Ervin, Jr., senior United States Senator from North Carolina, received the degrees of Bachelor of Arts from the University of North Carolina in 1917 and Bachelor of Laws from Harvard University in 1922. He has received honorary degrees from the University of North Carolina, Western Carolina University, Suffolk University, and Wake Forest University.

Senator Ervin served as a Private in the First Division, American Expeditionary Forces, during the First World War. He was twice wounded in battle and twice cited for gallantry in action. He was awarded the French Fourragere, the Purple Heart with Oak Leaf Cluster, the Silver Star, and the Distinguished Service Cross.

Senator Ervin has practiced law since 1919 except during his periods of service on the bench and in Congress. He was a judge on the Burke County Criminal Court from 1935 to 1937, a judge on the North Carolina Superior Court from 1937 to 1943, and Associate Justice of the North Carolina Supreme Court from 1948 to 1954. Since 1954, he has been United States Senator from North Carolina, and he is now the second ranking Democrat on the Senate Judiciary Committee. He served in the North Carolina Legislature during 1923, 1925, and 1931, and as Representative from the Tenth District of North Carolina in the 79th Congress, 1946–1947.

Senator Ervin has been an assiduous protector of individual rights and liberties. As Chairman of the Senate Subcommittees on Separation of Powers and on Constitutional Rights, he has been instrumental in educating the American people to some of the dangers of an increasingly mechanized society and to the steady increase of power in the Executive Branch. In addition, he is a frequent lecturer on constitutional matters—many consider him to be the leading constitutional lawyer in the Congress—and has argued (and won) important cases before the United States Supreme Court. Human freedom has no stronger advocate than Senator Ervin."

On March 16, 1972, in a ceremony in Washington, D.C., the National Newspaper Association conferred upon Senator ERVIN its Award of Merit on an engraved plaque reading as follows:

National Newspaper Association. 1972. Award of Merit to a great American. Presented to The Honorable Sam J. Ervin, Jr., in recognition of his efforts to articulate the true meaning and significance of the United States Constitution, especially in First Amendment rights, for the American people. By the President of the National Newspaper Association.

CLARENCE MITCHELL'S COMMENTS ON EQUAL EDUCATIONAL OPPORTUNITIES LEGISLATION

Mr. DOMINICK. Mr. President, yesterday before the Education Subcommittee, my old and respected friend, Clarence Mitchell, director of the Washington Bureau of the NAACP, made some intemperate and, I believe, irresponsible comments concerning President Nixon's equal educational opportunities legislation, which incorporates rules on forced busing.

In choosing the road of inflammatory rhetoric rather than the road of reasoned criticism, Mr. Mitchell served to confirm President Nixon's concern that a fair, objective resolution of the busing dilemma will be difficult to achieve during the present period of imminent pressure and rampant emotionalism. In utilizing the hearing as a rhetorical soapbox, Mr. Mitchell either overlooked or chose to ignore the substance of the Equal Educational Opportunities Act. In so doing, the basic guarantees of the bill were not discussed—basic guarantees, such as those contained in section 2(a)(1) and section 201. Section 2(a)(1):

Declares it to be the policy of the United States that all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, or national origin.

Section 201 gives legal life to that declaration by defining national standards to guide our courts so that—

No state shall deny equal educational opportunity to an individual on account of his race, color or national origin. . . .

Unfortunately, Mr. Mitchell thought such guarantees unworthy of mention.

Mr. President, the essence of what President Nixon is seeking to accomplish with his busing package is perhaps best exemplified by a recent—February 25, 1972—Gallup poll conducted for Newsweek magazine. It concludes that while 66 percent of those polled believe that schools, north and south, should be desegregated, 69 percent oppose compulsory busing in order to achieve that desegregation. In explaining this result, the poll states:

In summary, most whites draw a distinction between the issues of school desegregation and compulsory busing. The principle of desegregation has been accepted in all walks of life, and is not a regional issue any more. Busing as a technique to achieve desegregation is another matter. Primarily because of commitment to the concept of the neighborhood school, most whites oppose busing. Again, this is not a regional issue, with strong opposition in all regions and in all walks of life. Finally, opinion is so strong on this issue that the weight of opinion favors constitutional action to prevent busing.

Mr. President, I ask unanimous consent that the 3-page summary of the February 25 Gallup Organization, Inc.'s public opinion survey be included in the RECORD at this point.

Mr. President, despite such emotional barrages as the Education Subcommittee suffered from yesterday, I believe, perhaps naively, a rational, objective discussion of the merits of the President's busing plan is possible. At least, I refuse to give up on such possibilities at this early date.

Toward this end, Mr. President, I present two objective facts which I believe will restore our perspective of the position of the blacks on the busing issue. Two respected and representative black organizations—the Congress of Racial Equality and the Black Congress—have already rejected the concept of forced busing. Recently in Gary, Ind., 3,009 delegates from all parts of the Nation voted on and passed a Black Congress resolution which, as reported in the March 27 issue of Time magazine, stated:

We condemn racial integration of schools as a bankrupt and suicidal method of desegregating the schools based on the false notion that black children are unable to learn unless they are in the same setting as white children. As an alternative to busing black children to achieve racial balance, we demand quality education in the black community through the control of our school districts and an equal share of the money.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF GALLUP POLL

A clear majority of 66 per cent take the position that schools, north and south, should be desegregated so that black and white pupils can attend the same school. Among southern white, 58 per cent hold this view, while 68 per cent of whites outside the south do so. The principle of school desegregation therefore, has been accepted in all regions of the country. Also, in white households with any children under 18, that is, those most directly concerned, 70 per cent favor desegregation.

Nevertheless, a comparable majority of 69 per cent oppose compulsory busing in order to achieve school desegregation. While the number of blacks interviewed is too small to be projected with statistical reliability, the indications are that a sizable proportion of blacks oppose busing. Northern and southern whites are equally opposed to busing—68 per cent and 74 per cent respectively. There is little difference among whites by age, sex, education, or presence of children under 18 in the proportion who oppose busing.

When asked why they oppose busing, three-fifths of those in opposition (or 42 per cent of all those interviewed) said that children shouldn't have to leave the neighborhood. A handful (3 per cent of all those interviewed) gave opposition to integration as their reason.

Those who favor busing most often gave as their reasons "better/equal education" and "only way to solve race problem".

Opinion regarding busing is, on the testimony of those interviewed, stable. Among both those who oppose and favor busing, the predominant response is that their current view does not represent a change in mind from what they believed in the past.

ATTITUDE TOWARD BUSING

[In percent]

	Favor	Oppose	No opinion	Total
Change in opinion	4	8	2	14
No change	14	59	5	78
Don't remember	2	2	4	8
Total	20	69	11	100

Among those who have changed their mind, a majority now oppose busing:

Those who have changed their mind

	Percent
Now favors busing	29
Now opposes busing	59
Now has no opinion	12
Total	100

Among those who have not changed their mind, the predominant position is opposition to busing.

Those who have not changed their mind

	Percent
Now favors busing	18
Now opposes busing	75
Now has no opinion	7
Total	100

Public opinion is divided concerning a constitutional amendment against busing, though the weight of opinion supports such a prohibition. Forty-six per cent are against busing and are in favor of constitutional ban. Thirty-five per cent either favor busing or else oppose the passage of a constitutional ban even though they also oppose busing:

ATTITUDE TOWARD CONSTITUTIONAL PROHIBITION

[In percent]

	All adults	All whites
Opposes busing and favors amendment	46	49
Opposes busing and opposes amendment	15	15
Favors busing	20	17
Total opposes amendment or favors busing	35	32
No opinion on busing and/or amendment	19	19
Total	100	100

Support for a constitutional prohibition against busing is about the same among southern whites (48%) as among whites living outside the south (45%). Among whites, support for constitutional prohibition tends to be greater among men (54%), those 18–39 years (51%), and those who live in households with children under 18 (48%).

At present, 3 per cent of all those interviewed have children who are being bused away from their local school in order to achieve racial balance in schools. Two per cent of whites outside the south, and 4 per cent of southern whites report that they have children who are being bused for this purpose. Thus, for most whites, busing is an issue that raises concern over the future rather than about present conditions.

In summary, most whites draw a distinction between the issues of school desegregation and compulsory busing. The principle of desegregation has been accepted in all walks of life, and is not a regional issue any more. Busing as a technique to achieve desegregation is another matter. Primarily because of commitment to the concept of the neighborhood school, most whites oppose busing. Again, this is not a regional issue, with strong opposition in all regions and in all walks of life. Finally, opinion is so strong on this issue that the weight of opinion favors constitutional action to prevent busing.

THE VALUE OF GRADES

Mr. ROBERT C. BYRD. Mr. President, over the past several years, there has been a growing trend in educational circles to do away with—or to diminish the importance of—grades for elementary and secondary school students. Instead of an A-through-F-system, or a numerical system, we now find many schools judging a student's work on a system of "pass" or "fail," or "satisfactory" or "unsatisfactory."

The abolishment of grades has resulted in controversy wherever it has occurred, and I find myself in agreement with those educators who oppose gradeless systems as being unrealistic in our society.

To be sure, all students are, or should be, disappointed by poor grades, and some could even suffer psychological damage as a result of repeated failures in school work. But doing away with grades does not change the competitive nature of the society for which these students are supposedly being prepared. Doing away with grades does not avert disappointment, or even traumas; it only postpones them.

There must be some tangible system for judging the work of a student—teachers and parents need this. And there must be some system whereby students can compare their work with that of their peers. I do not believe that a "pass-fail" or a "satisfactory-unsatisfactory" system offers the necessary measuring stick. Until some new system is proved better, I will support alphabetical and numerical systems of grading students.

So will many of the educators in our country. Ray H. Watson, a school principal in Wirt County, W. Va., is an example of such an educator.

Writing in the Wirt County Journal of February 3, Mr. Watson stated that school grades are "emblematic of life—our rewards are hard to come by, and the common denominator for success is hard work and ambition. The sooner we learn this, the more lasting it becomes."

Mr. Watson posed the rhetorical question:

Why do some students make good grades and others make poor grades?

He said the answer is simple:

One person merely works harder at what he tries.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRADES

(By Ray H. Watson)

As long as there are schools, some one will insist that a continuous evaluation of students exist. We know this more readily by grades that are reported on the ever present proverbial report card. This has long been the instrument used for the school to keep parents informed of the progress of their children.

There is a lot of criticism of grades from educators all over the country—but they still persist, and as long as parents want to know how their child is doing, and students want to know how they compare to the other students, and employers insist on knowing about their academic background, there will always be some form of evaluation. True, the symbols may change, but the grades will still be represented.

We must face a fact—that grades are an indication of something. We can ascertain the academic proficiency of students in specific fields or compare them with their peers throughout the nation and predict their probability of success in certain areas.

Why do some students make good grades, and others make poor grades?

I also might ask why is one person a better worker than another?—more honest?—or more healthy?—or even more prosperous?

Actually, in most cases, the answer is very simple—one person merely works harder at what he tries.

What are the causes of poor grades?

If I had to select one paramount reason that would cover most of our situations, I would say "Poor Attitude." Some children simply do not like school, are not interested in studies, and are convinced that they do not need school. This student also constitutes our biggest disciplinary problem. Ninety per cent of these students, with the proper approach, could achieve a higher academic grade. Usually they not only have problems at school but also at home, and they are not able to solve these problems.

There are a few students who are not mentally able to achieve normal academic progress. But as a rule, most students with the right attitude, consistent school attendance, and hard work, can make passing grades.

Too many students miss school with the approval of their parents. They certainly cannot achieve if they are home. Once they start missing, it becomes easier to miss as the year goes along.

I think we all must work harder to help these kids along. The student has a responsibility to himself to prepare for his future. The parent must see that he is in school, does his home work, and maintains good conduct. The teacher must also know his student—what his potential is, and part of his problems—and should make every effort to present his material in an effective and interesting manner.

As long as grades are with us, they will continue to be elusive to certain students, and an item of comfort for others. We find this rather emblematic of life—our rewards are hard to come by, and the common denominator for success is hard work and ambition. The sooner we learn this, the more lasting it becomes.

INTERNATIONAL MONETARY SYSTEM

Mr. JAVITS. Mr. President, in an important policy statement which was released today, the prestigious Atlantic Council said that it was urgent that "visible multilateral negotiations" be initiated at the earliest possible time to restructure and modernize the international monetary system.

I note that this recommendation is totally in keeping with the spirit of the communique which was issued on behalf of the group of 10 nations when the interim Smithsonian agreement was successfully concluded on December 18. This communique stated, in part:

The Ministers and Governors agreed that discussions should be promptly undertaken, particularly in the framework of the IMF, to consider reform of the international monetary system over the longer term.

I note the Council's comment that:

As a practical matter it is wholly appropriate for the United States to take the lead in initiating the negotiations leading to an improved system. The U.S. has a particular responsibility in the system and a strong incentive to move further.

I think that the history of negotiations in the international economic area—and this includes both trade and monetary negotiations—does make it clear that without a strong U.S. leadership position commensurate with the U.S. position in the world, negotiations are not likely to progress satisfactorily.

I invite the attention of Senators and the administration to this statement, which is worthy of close attention. I ask unanimous consent that it be printed in the RECORD at this point along with the impressive list of the committee members who concur in the statement. The list includes a former Treasury Secretary, the former Chairman of the Federal Reserve System, and other distinguished authorities in the field of international finance.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

LIST OF COMMITTEE MEMBERS

Chairman: Hon. Henry H. Fowler, Partner, Goldman, Sachs & Co.; Former Secretary of Treasury; Vice-Chairman, Atlantic Council.

Rapporteur: Dr. Sidney E. Rolfe, International Economist; Director, Atlantic Council.

Mr. Edward Bernstein: President, EMB, Ltd.; Formerly Executive Secretary and Chief Technical Advisor to Bretton Woods.

Hon. Percival F. Brundage: Former Director of the Budget; Director, Atlantic Council.

Hon. W. Randolph Burgess: Former Under Secretary of the Treasury; Ambassador to NATO and OEEC; Chairman, Atlantic Council.

Mr. Emilio Collado: Executive Vice President, Standard Oil (N.J.); Director, Atlantic.

Hon. Frederick L. Deming: President, Independent Bancorporation; Former Under Secretary of Treasury; Director, Atlantic Council.

Hon. Wm. McChesney Martin: Former Chairman, Board of Governors of the Federal Reserve; Director, Atlantic Council.

Mr. Judd Polk: Economist, Director, Program & Studies, U.S. Council of the International Chamber of Commerce.

Hon. Eugene V. Rostow: Professor, Yale Law School; Former Under Secretary, State; Vice Chairman, Atlantic Council.

Mr. L.R.W. Soutendijk: Manager, Brown Brothers, Harriman and Company.

STATEMENT ATLANTIC COUNCIL MONETARY COMMITTEE

In the view of this Committee it is urgent that multilateral negotiations be started at the earliest possible time to restructure and modernize the international monetary system, and to revitalize the system of international economic cooperation among the nations.

The Committee welcomed the statement of Secretary Connally of March 15th, announcing the beginning of conferences looking toward selection of the forum for the negotiations as a further step in the right direction.

A suitable basis for the negotiations was set forth in the communique of December 18, 1971 accompanying the agreement of the Group of Ten nations for a new pattern of exchange rates. This agreement was an important first step toward the restoration of the world's monetary system, but only a first step. It halted what could have begun a march toward exchange controls and sharply reduced levels of international trade and investment. But much remains to be done.

The Group of Ten explicitly recognized that new exchange rates and temporary wider bands would not be sufficient to solve the problem. The final paragraph of the communique of the December 18 meeting sets forth an admirably succinct but ordered agenda for the subsequent steps. It directs attention to the question of insuring the proper degree of convertibility of currencies in the system and thus defending stable exchange rates.

It calls for examination of the proper role of gold, of reserve currencies, Special Drawing Rights, the appropriate volume of liquidity, and for methods to establish a suitable degree of flexibility of exchange rates. Finally, attention is to be paid to the movement of liquid capital.

In the months since December 18 the continued dollar deficit has given rise to disappointment, and even some new movement towards exchange controls. There is criticism abroad of American fiscal and monetary policy. The dollar continues weak on international markets. The hoped for substantial reflow of short-term funds into the U.S. has not taken place. Some of the long term flows into the U.S. which might have helped the U.S. balance of payments and had been expected, have not materialized. There are fears expressed abroad that the dollar devaluation might not have been sufficient. The rising price of gold may reflect this fear. Dissatisfaction has been expressed because of the continuing inconvertibility of the dollar into any reserve asset.

To a considerable extent, the new developing fears about the dollar are as exaggerated as were the hopes for a quick reversal of the situation after the Smithsonian statement. Devaluations which have achieved good results, for example in England and France, did so only after a considerable time lag. The same course of events might be expected for the recent realignment of the dollar with certain other currencies, which primarily affects the trade balance. The fact that the U.S. economy is now expanding, to a greater extent than those of some of its trading partners, may further delay the salutary trade effects of the devaluation. As part of this conjecture the relatively lower level of U.S. interest rates, as compared to those of some of the other major countries, has also tended to delay the reflow of capital into the U.S.

As a practical matter it is wholly appropriate for the U.S. to take the lead in initiating the negotiations leading to an improved system. The U.S. has a particular responsibility in the system and a strong incentive to move further. The American dollar is still at the core of the world monetary system. A major part of the world's business is done in dollars and this will continue to be so even if new monetary devices take the place of the dollar as a reserve currency.

FUTURE NEGOTIATIONS

The negotiations leading to a revised international monetary system (advocated in this statement) should be visibly undertaken. They should meet the public eye sufficiently to reassure those engaged in international trade and capital movements that fundamental solutions are indeed on the way. All concerned with international trade and investment should be given cause to feel that the current opportunity to modernize the system is being grasped firmly. The elements of a negotiatory apparatus already exist in the IMF, the Group of Ten or other relevant multilateral bodies. The will to seek solutions by prompt utilization of this machinery must be backed by the positive political leadership of the leading countries, including the U.S.

As the ultimate solutions are complex and technical and must be the result of negotiatory processes, it would be presumptuous to attempt to define here the precise nature of those solutions. Yet there has been sufficient exchange of ideas and agreement among experts and practitioners in all of the developed countries so that at least a broad outline of the future monetary system can be discerned.

Clearly a new internationally created and accepted reserve unit to supplement and perhaps eventually replace the reserve currencies and gold will need to be established. Whether that new reserve will be Special Drawing Rights (SDRs), which are already in place and functioning, or an alternative reserve or composite reserve unit upon which reasonable men can agree, is an important detail but one which need not delay negotiations. The principle is clear. The way to start the clarification of detail is to start negotiating.

The establishment of such an international reserve unit would provide the world's monetary system with the needed common denominator (numeraire) for currencies. It would also give all currencies, including the dollar, the flexibility in future to revalue or devalue in terms of this reserve as may be required. Further, it would provide a sound basis for refunding the overhanging balances of dollars in excess of those needed by central banks for stabilizing established currency relationships in foreign exchange markets.

There is also a broad consensus not only among scholars, but among central bankers and finance ministers, as evidenced by agreements to date, with respect to the need for some increased flexibility in the fixing of relative currency values. The temporary institution of wider bands in the December 18 agreement is itself evidence of this consensus. Moreover, there is consensus that there should be smaller and more frequent changes in parities when the need for these is clearly evident. It is a matter for negotiations as to how the needed changes should be activated; whether on the initiative of the IMF, or triggered by changes in reserve position, or by alternative techniques. The fact is that both deficit and surplus countries must be more willing, and must be persuaded or required, to make timely changes to prevent impending crises, large capital flows in anticipation of parity changes, and finally the traumatic decision to change a parity long after the change is due.

Consensus has already developed that improved economic cooperation among central banks and treasuries is essential to minimize the damaging consequences of short term capital ("hot money") flows. The question of dealing with such capital flows therefore should also be part of the negotiations, as the Smithsonian communique indicated.

ON INFLATION AND TRADE

The principal purpose of the currency realignments of December 18 was to restore a surplus in the U.S. trade balance, and thereby confidence in the dollar abroad. But clearly the realignments alone cannot accomplish this purpose. The control of domestic inflation is the key to a sustained improvement in the trade balance, and to confidence. As The Williams Commission Report states the case:

"Thus in large part, confidence in the dollar must be viewed as a reflection of U.S. domestic economic developments and the ability of our country to manage its own economy."

The strength of the dollar is based on the strength of the American economy. Confidence in the dollar requires not only a properly functioning international monetary system, but also domestic policies which should assure a reasonable measure of price stability, of increasing productivity and a high level of employment in the U.S. Only by these means can American costs and prices be kept internationally competitive, the new parity maintained, and the U.S. restore its balance of payments on trade to a healthy level.

Some progress toward the reduction of American inflation has already taken place. With the 'bulge' of Vietnam spending reduced this is to be expected. In addition, the price and wage control actions taken by the government to break inflationary psychology and the cost-push cycle have been significantly effective.

Since the introduction of controls the American inflation appears to have proceeded at a lower rate than that of our principal foreign competitors. Consequently American costs and prices are rising less and this pattern, if sufficiently maintained, should eventually sustain improvements in the American trade balance.

An effective and sustained attack on domestic inflation in the U.S. is essential. This attack will require firm unwavering direction in the Executive branch, and a solid bipartisan support in Congress. It will require determination not just for a season or two but so long as the danger of inflation lasts.

Inflationary psychology is not the sole province of speculators or those who seek anticipatory wage relief. It has become deeply embedded in our society and must be offset by some vigorous reassertions of basic truths. The battle against inflation requires the understanding and support of the people generally. The message must be driven home that when wage increases averaged throughout the economic exceed national increases in productivity, inflation is the inevitable result. An increase in productivity requires, in turn, cooperation to provide and utilize the most efficient machinery, methods of operation and quality of performance in industry.

Continued trade liberalization is an essential concomitant to international monetary reform and the fight against inflation if the world economy is to grow and not falter in the years ahead. Negotiations to resolve certain immediate obstructions have taken place in 1971 and will continue this year. While the results are described as mixed, some trade liberalization steps of immediate and tangible value to the U.S. have resulted. Comprehensive trade negotiations with Japan and Western Europe to remove some of the heretofore major barriers are to commence in 1973. The efforts at trade liberalization must be supported, and encouraged.

In the midst of the battle against inflation and some visible progress toward victory, the announcement of budget deficits of almost $39 billion this fiscal year and some $25½ billion next year has been a setback to expectations, both here and abroad, giving rise to fears of increased inflation in future.

These fears we believe may well be exaggerated. In fact it is impossible to predict the inflationary impact of a large budget deficit when the autonomous factors in the economy are weak, as they have been. The large increase in domestic savings, and the continued demand for imports, have both lessened domestic spending. Nevertheless, there is a fundamental and continuing need for fiscal responsibility. The inevitable election year pressure for spending a little more for this or that must be successfully resisted. It is essential to hold down, to reduce rather than increase specific appropriations, to choose between relative priorities, and to reject or postpone the less essential ones. An effective legislated ceiling on expenditures would give confidence through this period that these objectives will be achieved.

Budget deficits need not automatically make for a weaker position for the dollar abroad. That they do so reflects the generally uncertain condition of the international monetary order. But with proper exchange rates and an improved pattern in the balance of international payments, there is adequate room for monetary and fiscal policy to be adjusted to domestic needs, avoiding the extremes of policy that cause massive short term capital flows.

There is a natural tendency for significant international accomplishments to be followed by a period of complacency with a turning to other matters which assume a higher priority in the national agenda. There is also a tendency, particularly in an election year, to subordinate cooperation to potential competition. In our opinion the United States must avoid these two tendencies in 1972 if the international monetary system is to be preserved and improved in a timely fashion and perform its function adequately.

This paper urges a renewed sense of cooperation between the Congress and the Administration to restore domestic economic and financial stability, and, with respect to the problems of the international monetary order, to ensure the resumption of international initiatives. Unless we turn our attention to these matters again promptly and constructively, we may well find ourselves moving toward the type of crisis which was so narrowly avoided in the Fall of 1971.

SENATOR ERVIN FIXES HIS EYE ON BIG BROTHER

Mr. ALLEN. Mr. President, the February 1972 issue of the magazine "We The People of North Carolina" carried an article on Senator SAM J. ERVIN, JR., entitled "Morganton's First Citizen Fixes His Eye on Big Brother."

I ask unanimous consent that a copy of this article be printed at this point in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORGANTON'S FIRST CITIZEN FIXES HIS EYE ON BIG BROTHER

Not many New York and Washington journalists could tell you anything about the town of Morganton, North Carolina. But all of them know Morganton's most famous citizen, the Senior Senator from North Carolina.

Senator Sam J. Ervin, Jr., relaxed one mid-January afternoon during the Congressional recess in his home town law office. He was being interviewed by a reporter. His secretary, Miss Mary McBride, was out to lunch. The Senator himself had answered the reporter's knock on the door. The phone rang; the Senator answered. It was a New York journalist calling about Ervin's hearings last year into the U.S. Army's alleged spying activities upon civilians.

"The Army has no business acting as a national detective agency," said the Senator conversationally into the telephone. "Actually there was a law passed back in the last century forbidding United States Marshals from using the Army as a *posse comitatus*. I think that could be applied to what the Army's trying to do now."

Having satisfied the caller's queries, the Senator turned back to his interviewer: *"Posse comitatus?* Well, back during the frontier days the U.S. Marshals would often use the Army as a posse to run down fugitives. It was a clear violation of the Army's constitutional duties and Congress finally passed legislation to prohibit it. Except in times of martial law the military has no legal jurisdiction over civilians. But it seems to me the Army may have forgotten that."

The mountain of testimony gathered by Senator Ervin's Constitutional Rights Subcommittee last year on military surveillance of civilians is the latest activity by Morganton's number one resident aimed at the protection of the individual against government snooping into and regulation of his private life. Within the past year or so Senator Ervin has become a figure of national—if sometimes grudging—admiration within the pages of liberal journals which once regarded him merely as a portly Southern segregationist who draped a racist social philosophy in 19th Century constitutional constructions and a steady flow of country anecdotes.

Without having changed his basic constitutional views one jot or title, and still always at the ready with a funny story from his days as a Burke County lawyer, Senator Sam today enjoys a new respect from a socio-political faction which only recently viewed him as little more than a scholarly Southern bigot.

As Author Alexander Bickel put it in an admiring article for *The New Republic*, Senator Ervin has gained "an entirely new constituency." Contrary to the usual rule of politics, the gain appears to have been registered with little attrition among the old constituency which has kept Sam Ervin in the U. S. Senate since 1954.

During the week preceding this interview the Senator was seen and heard throughout a national television network documentary dealing with the national government's encroachment upon individual liberties. A feature-length and largely complimentary article on Ervin by Robert Sherrill was carried in the February *Playboy* Magazine which appeared on the newsstands a couple of days before the Morganton interview took place. Senator Sam hadn't seen the issue until the reporter brought him a copy; the carryover section of the article was incongruously sandwiched between color cartoons of copulating couples. Not the most dignified sort of environment for a serious article about Senator Ervin and his work, but *Playboy* has a wide readership for its serious words as well as its sexy graphics. Remarked the Senator as he leafed through the publication: "I can see why this magazine makes money while a lot of others have gone bankrupt."

The emergence of Senator Ervin as a champion of the individual's constitutionally-guaranteed liberties against governmental encroachment is explained in terms of his discoveries that 1984 may be nearer than we think. In George Orwell's stark novel of governmental tyranny to the fullest power, the rulers were collectively known as Big Brother and each and every subject of the mythical nation was constantly reminded that "Big Brother is watching you." Ervin believes that a Big Brother complex began to develop within the executive branch of the Federal Government during the 1960's. And he, as Chairman of the Senate Constitutional Rights Subcommittee, is keeping his own eye firmly fixed upon Big Brother.

Although Sam Ervin's role as a dogged protector of the individual's right to freedom from unwarranted government snooping into his private affairs and control of his actions began drawing national attention within the past year or 18 months, it is a role he has been playing in the Senate for a number of years. He strenuously opposed much of the civil rights legislation which paraded through Congress during the early years of the Johnson Administration on grounds that, however desirable it might be in terms of minority group opportunities, it was not sanctioned by the Constitution.

Then he started applying the same constitutional yardstick to other groups and individuals who had not benefitted from any Great Society legislation: military personnel, Indians living on reservations, persons confined to mental hospitals in the District of Columbia. In each of those cases he authored and sponsored legislation designed to enforce their constitutional guarantees under the Bill of Rights. The Military Justice Act which he sponsored in 1968, and the Bail Reform Act which he had authored in 1966, were hailed as the most significant legal reforms in these fields since the nation's founding.

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"It just occurred to me that certain other people besides blacks needed their rights protected," the Senator remembers. His yardstick of constitutional consistency caused him to join the opposition to the Nixon Administration's preventive detention and "no-knock" crime control legislation which he saw as dangerous assaults upon the guarantees of the Constitution's Fourth and Fifth Amendments. "Back where I was practicing law for a living I objected to the sheriff's breaking down a man's door looking for moonshine whiskey," Ervin observed. "And I don't like it now when Federal agents can forcibly enter a person's dwelling without warning. It violates the man's rights and it's dangerous to the agents making entry."

That same Ervin consistency saw him standing up last fall as a champion of the constitutional free press guarantees. An oft-battered target of press criticism himself, Ervin opposed efforts by the Nixon Administration to prohibit publication of the Pentagon Papers. Much as he disliked and disagreed with some material published and broadcast in the news media, the Senator told his subcommittee last October that misinformation or biased reporting "is nowhere near as dangerous as leaving to a few government officials the power to decide what can be discussed and what cannot; and when ultimate truth has been discovered and what it is."

The emergence of Sam Ervin as a national figure really began after he concentrated the attention of his subcommittee upon complaints by Federal employees about what their superiors were requiring them to say and do; and upon testimony showing that the Army was assigning intelligence agents to investigation and surveillance of civilians, many of them nationally prominent people.

"All the government should expect of its employees is honest and efficient service," the Senator commented. "Government has no right to do such things as tell employees to make talks in favor of certain policies, to promote the United Nations, to give a certain amount to the United Fund, to pressure local government into passing open occupancy laws." Bills by Ervin to prohibit these practices have passed the Senate on three occasions, but have been persistently blocked in the House.

The Army has said it no longer watches civilians but the Senator is dubious. "Neither Congress nor the public knows the full story of military surveillance and the compiling of dossiers on civilians," he said recently. "We badly need legislation to prevent future abuse of the Army's power to investigate law-abiding citizens and to control the rapid development of large computer data systems in the Federal Government which may affect the rights of citizens who deal with the government."

The essence of Big Brother could one day reside in governmental computer banks unless effective checks are imposed, the Senator believes. "Computers are essential to our society, of course. But the computer can be the most dangerous threat to freedom in our history if improperly used. The trouble with storing raw information in computers on thousands of people is that a computer can't make moral judgments. If you put garbage into a computer you get garbage out of it." So stated Senator Sam Ervin who has spent many a thoughtful hour studying the implications of electronic data processing.

Still a strong law and order man, this former Associate Justice of the North Carolina Supreme Court has sponsored legislation which would require prompt trials of defendants in Federal courts—a measure which he feels would be far more effective in combating crime than preventive detention or no-knock authority. "If every defendant in a Federal court knew he would have a speedy trial and would be punished if found guilty, I think we might see a reduction in the crime rate," Ervin observed. "The only effective way to enforce laws that I know of is to punish the people found guilty of violating them."

Even the government's long-standing anti-tobacco campaign falls by Ervin's standards into the category of unwarranted interference with individual and corporate rights. He regards the government's public attacks against tobacco as propaganda unsupported by scientific fact and the prohibitions against cigarette broadcast advertising as an erosion of press freedoms. Needless to say, this stand falls to earn him many good marks in the national press.

Nor do the Senator's continuing and vehement campaigns against habitual Federal fiscal deficits earn him many compliments in the public prints, although he regards government's casual attitude toward balanced budgets and public debt as large a threat to the nation's future as the threat of Big Brother.

"It seems to me that the leaders in Congress and the Executive Branch are taking the attitude that King Louis IV took in France in the 18th Century, knowing the country was in trouble and a revolution might result. He used to say, 'after me, the deluge.' And it seems to me that too many people in our government these days are taking the same cynical attitude toward our own future as a nation."

At age 75 the Senior Senator finds himself in wide demand as a speaker, with many of the invitations coming from college campuses. He fills as many as he can, wishes he could do more of it. But keeping an eye on Big Brother becomes ever more demanding as new evidences are uncovered by his subcommittee. The Senator's stand for the Constitution transcends partisan politics and ideology; both the Johnson and Nixon Administrations have felt his mild blue eyes boring in.

"I'm a great believer in the Hyde Park tradition in London," said Sam Ervin at his Morganton office. "Everyone should be allowed to mount his own soap box and say whatever he wants to about any subject, so long as it doesn't do harm to someone else. If we allow the government to take the Bill of Rights away from us, then we've moved into 1984."

Is there really so much danger to American freedom from its government? There are those who regard the governmental policies and actions criticized by Senator Ervin as necessary and desirable in a time of unrest and crime and cries of revolution. The Senator disagrees.

"I think it's true that a lot of people in government and outside have become afraid of freedom, believing it can be the cause of our own destruction," he asserted. "I think they're wrong. You can't turn liberty on and off like an electric lamp. Once you turn it off you may find that it can never be turned on again."

POULTRY: A GOOD BUY

Mr. ROTH. Mr. President, in the continuing battle against inflation, a great deal of attention has been directed in recent weeks to increases in the cost of food; and rightly so, for unlike other commodities, grocery items must be purchased on a regular basis. The consumer can put off buying a new car if prices are too high, or make do with the dining room furniture a little longer if prices are not right, or even do without a new suit right now if necessary; but grocery buying is generally a weekly business and the housewife knows when she reaches the end of the checkout line at the supermarket how far her grocery dollar has gone this week as compared to last week.

It is hard to believe that in this day of rising prices there is something which is actually cheaper today than it was 20 years ago—but that is true of chicken. Thanks to improved breeding and production, chicken has become the best meat buy on the market. Whole broiler-fryers which were selling for 60 cents a pound in 1953 are available today at about half the price. No other meat-type food can point to such a good record of price reduction.

Today in the Washington metropolitan area, a meal for a family of four using regular hamburger at 75 cents per pound and one-half pound per person would cost $1.50. But the same family of four could enjoy whole roasting chicken at a cost of only 78 cents. That's based on a half-pound serving per person with chicken selling for 39 cents per pound.

Choice prime rib of beef, at $1.29 per pound, would cost $5.16 for a one-pound serving for a family of four. But half-pound servings of turkey, selling for 59 cents per pound, would cost only $1.18 for a family of four.

I mentioned earlier that chicken is now selling at about half what it was selling for in 1953. But a comparison of the average U.S. retail prices of beef and frying chickens between August, 1971, and February, 1972, gives further evidence of the current economical benefits to be derived from the increased consumption of chicken. Using 1967 as a base year of 100, frying chickens decreased in price from a level of 111.7 in August 1971 to a level of 110.1 last February. The price of beef, on the other hand, was at an August 1971 level of 126.8. This figure increased to a level of 136.1 7 months later.

The value of poultry, however, is not only found in its low cost. More importantly, chicken, for instance, has proven to be the cheapest source of protein currently on the market, with the amino acids essential to growth and health. Weight watchers can be particularly fond of chicken because an average serving contains fewer calories than most other meats. Poultry provides many essential vitamins and nutrients including iron, thiamine, riboflavin, and niacin.

With today's modern production, processing, and marketing methods, chicken is available the year around—for roasting, broiling, frying, stewing, or making soups, salads, or a myriad of delightful dishes. Packaged, cut-up chicken, heat-and-serve chicken, and chicken rolls, or bars, make poultry among the most versatile and easy-to-prepare meals one can serve.

Because of seasonal production and limited supplies, "chicken on Sundays" was a common phrase which I readily recall from my boyhood days. But those days are past—today's consumers have a delectable variety of poultry products to serve any day of the week throughout the year.

Of course, I take considerable pride in the broiler-fryer chickens produced throughout the Del-Mar-Va peninsula. Well over 500 million pounds of broilers were produced in Delaware alone in 1971. This number of broilers produced placed my home State eighth in the country in total production. Considering Delaware's size, I believe it fair to say that the State of Delaware contains the greatest concentration of broiler-growing in the country.

Those responsible for broiler-production in Delaware can justifiably boast of a well-integrated system. Our farmers raise their own stock, do their own hatching, and provide their own feed mills. Processing plants are located throughout the heart of the "Blue Hen State" in Blades, Felton, Georgetown, Laurel, Milford, Milton, and Selbyville.

At these processing plants, the poultry undergoes a rigid inspection whereby the birds must meet both State and Federal requirements of fitness. The processing plants themselves must meet strict requirements of cleanliness; they must have adequate equipment and personnel to perform at a high standard. Inspectors—either doctors of veterinary medicine or trained specialists under a veterinarian's supervision—keep constant watch over the plant, the processing operation and every chicken produced at that location. Birds found unfit for eating are removed immediately from the processing line and condemned for use as human food. Inspectors also make sure that the products are not adulterated and are truthfully labeled.

All of these precautions are taken to insure that only the highest quality poultry is placed on the market by the Delaware farmer. In a State where broiler sales account for over 50 percent of a farmer's cash sales, the men and women of the broiler industry are especially concerned with the maintenance of high-quality standards.

Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, recently reiterated the firm intention of the President to halt spiraling food costs. I am pleased to join President Nixon and the Cost of Living Council in urging all businessmen concerned with the production and retailing of food to narrow their wide margins of profit which are severely causing strain on the family budget.

I also encourage all Americans to take advantage of the economical and nutritional benefits of poultry products. We in Delware are aware of the significant contributions being made to both the American economy and the American diet by the poultry farmer and producer. I salute their efforts and commend their products to all consumers.

FAST DISAPPEARING OCEAN MAMMALS

Mr. BENTSEN. Mr. President, more than two dozen bills and resolutions have been introduced in the 92d Congress aimed at the protection of our fast disappearing ocean mammals. I am pleased to be a cosponsor of S. 2579, which bans nearly all killing of ocean mammals and the importation of their products. Indiscriminate killing of these mammals over the years has resulted in several species being placed on the endangered species list by the U.S. Department of the Interior. The need for adequate protection of these creatures is obvious, and I hope the U.S. Congress will see fit to take prompt action to provide it for them.

Other countries as well are becoming increasingly concerned with the need to protect our disappearing wildlife. I particularly wish to commend President Luis Echeverria Alvarez of Mexico for his recent initiative in creating a sanctuary for whales, virtually the first of its kind in the world. This sanctuary is in Scammons Lagoon, an intricate waterway in the territory of Baja, Calif.; covering 250 square miles it is the prime breeding and calving ground for the gray whale. This rare mammal makes an annual round trip of 8,000 miles from its feeding grounds near the Bering Straits to the coasts of southern California and Baja, Calif., in the lagoons and estuaries of which it multiplies.

I hope that this imaginative approach to protecting our wildlife will serve as an example to the rest of the world of what a government can do to preserve these mammals which can never be replaced.

DEVELOPMENTS IN RECYCLING

Mr. MOSS. Mr. President, there is a growing awareness in the public and industry that we must come up with new, imaginative ways to solve the solid waste problem now pressing in upon us. This is a time for action, and a time for the experimentation in new processes, new materials, and new governmental policies.

The Washington Post of Sunday, March 26, 1972, contained an article by Joseph D. Whitaker that tells the story of "super-sludge" as a new material to be used for the surfacing of roadways and runways at airports. This sludge material is composed of recycled waste products, such as fly ash, crushed bottles, old rubber tires, and similar refuse.

Dulles International Airport will have a chance to display runways composed of this "super-sludge" at Transpo 1972—the U.S. International Transportation Exhibition. The Federal Highway Administration has given a grant making this possible, and should be commended for its help. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE $700,000 PAVING PROJECT—DULLES' "SUPER-SLUDGE" LOTS

(By Joseph D. Whitaker)

They're paving some roads and parking lots at Dulles International Airport with waste materials such as fly ash, old rubber tires, burned garbage and old crushed bottles. About 120 acres will be covered with various mixtures for the U.S. International Transportation Exhibition—Transpo '72—that will open May 27.

The $700,000 experimental project sponsored by the Federal Highway Administration is designed to show that low-cost industrial and domestic wastes can successfully be substituted for more costly conventional road-building materials.

The idea comes at a time when increasing amounts of waste matter must be disposed of and some traditional sources of road building material—rock quarries and river dredgings—are under attack by environmentalists.

Fly-ash, calcium sulphate, carbonates and lime are being mixed in a huge silo to create a grayish, pasty sludge to be used to pave most of the parking areas. Eventually more than 100,000 tons of the material is to be used.

Over the last three months, huge stockpiles of the material used in the "super-sludge" mix have been stored at the Transpo '72 site.

Fly-ash, produced by coalfired power stations, is being supplied by the Potomac Electric and Power Company from plants in Dickerson, Md. Truckloads of sulphates—a byproduct of steel production—are being brought in from steel mills in Paulsboro, N.J. Iron mines in Millsville, W. Va., are providing another waste material, carbonates.

"People have been talking about ecology, pollution control and waste disposal," said Chester C. Spurgeon, managing director of Transpo '72. "But this could be the answer to some of their questions."

The use of "super-sludge" as a regular replacement for conventional soil cement could revolutionize the building of roads by making the process more economical, according to W. S. Mendenhall, FHA chief of research and development demonstration projects division.

"Most of the waste materials we are using present costly disposal problems for the factory that produces them," Mendenhall said. "If such materials could be used on a large scale to build roads, the materials could be obtained at no cost. This would solve problems for both the highway builder and the owner of the factory."

In the Transpo '72 project, Mendenhall said both the sludge and conventional materials would cost about the same to use—about 98 cents a square yard—because the wastes have to be shipped in. The use of waste materials would be more feasible in areas where the materials are easier to be obtained, he said.

Once "super-sludge" is poured in a thickness of about 5 inches it quickly stabilizes. From then on it becomes stronger and stronger, similar to concrete used to build roads in ancient Rome, Mendenhall said.

Roadways leading to and around the general parking areas will be coated with a 2-inch layer of asphalt on top of the sludge base.

On one stretch of road, workmen will mix such items as crushed disposable glass bottles, shredded car tires, and ground burned garbage in with the other sludge ingredients. Each item will go into a separate mixture and will be poured on a different length of the road to test its durability.

The firm which developed the "super-sludge" concept, G. and W. H. Corson, of Plymouth Meeting, Pa., also is experimenting with the use of the material in concrete-type blocks that could some day be used to build houses, Mendenhall said.

MARINE MAMMALS

Mr. STEVENS. Mr. President, many of the bills under consideration by this body for the protection of ocean mammals seek a 5-year moratorium on most killing of ocean mammals and on the importation of their products. While it is the contention of most Alaskans that this ban would lead to the extermination of the culture of the Alaskan Eskimo and total loss of his economic base in the villages, it is still incumbent upon this body to make a decision after a careful study of all arguments. I therefore ask unanimous consent that an article published in the Congressional Quarterly of March 18 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

XUM

MARINE MAMMALS: HOUSE APPROVES 5-YEAR BAN ON KILLING

The House March 9, by a 362–10 roll-call vote, passed a bill (HR 10420), the Marine Mammal Protection Act, providing for a five-year moratorium on most killing of ocean mammals and on the importation of their products.

HR 10420 would apply to seals, sea lions, whales, porpoises, dolphins, sea otters, manatees, walruses and polar bears.

The bill also would establish a three-member Marine Mammal Commission to review, study and make recommendations for the conservation and management of ocean mammals. A permit system would be set up under the secretaries of commerce and interior.

An exception to the moratorium was granted to the tuna fishing industry, which could be given a general permit authorizing the killing of porpoises and dolphins incident to fishing operations.

Another exception would allow the capture of ocean mammals for public display in zoos or commercial marine exhibits and for scientific research purposes.

The five-year moratorium and the exceptions to it were included in one of the two amendments approved during floor debate. The other amendment would remove from the Marine Mammal Commission authority to issue permits allowing capture of mammals for display and scientific research.

Six amendments were rejected on the floor, including a proposal to transfer all authority for marine mammal protection to the Department of the Interior. Also rejected were two amendments to prohibit the killing of porpoises and dolphins incidental to tuna fishing operations after specified dates.

REFERENCES

Sea mammals fact sheet, Weekly Report p. 237, previous action, 1971 Weekly Report p. 2604.

BACKGROUND

The House Dec. 6, 1971, had refused to pass HR 10420 under suspension of the rules. Although the bill received a 199–150 majority, it was 34 votes short of the two-thirds majority required to pass a bill under suspension.

The bill was reported (H. Rept. 92–707) by the House Merchant Marine and Fisheries Committee Dec. 4. The committee held four days of hearings on ocean mammals in September 1971.

As reported by committee and turned down by the House, HR 10420 would have prohibited the granting of permits for only 60 days after enactment of the measure, rather than for the five-year period agreed to March 9.

FLOOR DEBATE

During general debate, support for the bill in the form originally reported Dec. 4 was expressed by Edward A. Garmatz (D Md.), chairman of the Merchant Marine and Fisheries Committee.

Garmatz said the bill should have been passed when it came to the floor in November 1971. "Unfortunately," he said, "the opposition to our committee's ocean mammal bill was neither normal nor rational, and it certainly was not healthy. . . . The primary opponents to this bill are not really conservationists—they are more properly referred to as 'protectionists'—and their basic position seems to be that man should leave all animals alone."

John D. Dingell (D Mich.), chairman of the Fisheries and Wildlife Conservation Subcommittee, said the central issue in the controversy was what was "best for the animals themselves"—which was "enlightened, effective management."

"Before issuing any permit for the taking of a marine mammal, the secretary must first have it proven to his satisfaction that any taking is consistent with the purposes and policies of this act," he said. "I simply do not believe that any administrator, forced to operate in that kind of goldfish bowl, can abuse the discretion that the committee has given him."

But several other members spoke in opposition to various aspects of the bill. Nick Begich (D Alaska) criticized a provision which would allow Indians, Aleuts and Eskimos to kill marine mammals for subsistence purposes, and in accordance with traditional customs, if not done primarily for commercial sale.

J. Herbert Burke (R Fla.) said the bill did not go far enough: "I feel that this measure, in its present form, will do about as much good as a band-aid on a cancer. Man's impact upon marine mammals has ranged from what might be termed malign neglect to virtual genocide. . . . All in all, the committee-approved bill is about what the commercial fishing industry and the hunters wanted."

Moratorium. An amendment was offered by Morris K. Udall (D Ariz.) to impose a five-year moratorium on the killing of ocean mammals, with some exceptions.

"We know next to nothing about the marine mammals of the world," Udall said. "The moratorium would allow us a minimal period during which we could get to really know these strange and fascinating aquatic neighbors and head off the irreparable tragedy of extinction—a tragedy some believe would be the inevitable result of present policies."

In addition to granting exceptions for tuna fishing, public display and scientific research, the Udall amendment authorized issuance of permits for the killing of Alaskan fur seals in the Pribiloff Islands, a harvest which is administered by the U.S. Commerce Department.

Also, the Udall amendment authorized importation of the skins of weaned seals for processing by firms in the United States if the skins were exported within two years. Udall pointed out that the Fouke Company of Greenville, S.C., which processes the skins of South African seals, "would be driven out of business absent limited relief from the provisions of this amendment." The Fouke Co. also had an exclusive contract with the federal government to process and sell Alaskan fur seal skins. The Udall amendment was adopted by voice vote.

PERMIT AUTHORITY

Before adopting the Udall amendment, modifications were introduced by Thomas M. Pelly (R Wash.) and by Begich. The first was adopted, the second rejected.

Pelly's amendment would take away from the Marine Mammal Commission authority to approve issuance of permits for capture of mammals for display or research. Pelly said this part of the Udall amendment "would completely vest issuance authority in an organization which is independent and completely nonaccountable to any administrative department of the federal government."

Udall accepted the amendment, which was adopted by voice vote.

ALASKAN NATIVES

Begich's amendment to the Udall amendment would have allowed Indians, Aleuts and Eskimos to kill marine mammals for production of traditional native arts and crafts for commercial sale.

Udall agreed to accept the amendment, but Dingell opposed it on the basis that the committee had not seen it in advance. Dingell also said that the Alaska Native Claims Act (HR 10367–PL 92–203) provided sufficient benefits for the state's native citizens.

Begich: "The arts and crafts industry of Alaska's natives, modest in size and in environmental impact, is the best and most appropriate cultural response to the cash economy brought to them courtesy of the white man . . . It is that part of subsistence hunting that must now be done in order to pay taxes to buy fuel oil and to pay rents. To call it 'commercial' in the harsh sense fails to understand."

Dingell: "We have tried to consider their cash needs by giving them $1-billion. . . . With the oil royalties and everything else we gave them, we have many instant millionaires in Alaska now, and I think perhaps they can give up the wholesale carving of walrus tusks. I think we have given them enough."

The Begich amendment was rejected by voice vote.

INTERIOR DEPARTMENT

Mario Biaggi (D N.Y.) offered an amendment to transfer all authority for marine mammal protection from the Department of Commerce to the Department of the Interior. Biaggi said "the Department of Commerce is charged with promoting fisheries interests. It will be most difficult for the department . . . to encourage the tuna fish industry, for example, while it must pressure the tuna fish industry to stop taking porpoises and dolphins."

Dingell said he personally was in agreement with the amendment but had to oppose it because it had been considered by the subcommittee and rejected.

The Biaggi amendment was opposed by Alton Lennon (D N.C.) who said that the National Oceanic and Atmospheric Administration, part of the Commerce Department, should continue to have the authority to look after the interests of whales, porpoises, dolphins, seals and sea lions. "Does it not make more sense . . . that the agency which is funded and created by Congress to regulate the affairs relating to the oceans should have jurisdiction over matters which are in the oceans?" Lennon asked.

Pelly also opposed the amendment on the grounds that the jurisdictional split should be maintained pending the creation of a Department of Natural Resources which had been proposed by President Nixon.

The Biaggi amendment was rejected by a 20–35 standing vote.

TUNA FISHING

Ogden R. Reid (R N.Y.) offered an amendment to prohibit after one year the use of any commercial fishing methods which killed or injured ocean mammals. Reid described how porpoises and dolphins often became entangled in the mesh of tuna nets and drowned. "I feel that the choice we have before us today is whether we are going to insist that the incidental killing of 200,000 to 400,000 porpoises per year is halted by a flat ban, or whether we are to condone the decimation of porpoises. . . . By choosing the former, we would be insisting that fishing technology come up with appropriate devices, acoustics and nets to ensure that this incidental slaughter is halted."

But Pelly opposed the amendment on the grounds that it "would have the net effect of completely destroying this country's commercial fishing industry." Pelly said: "The biological fact that the proposed amendment cannot escape is that it is not possible for a law to separate tuna from porpoise. The adoption of this amendment would result in the demise of a domestic tuna fleet which provides over 40 percent of the tuna annually processed for the U.S. market."

The Reid amendment was rejected by a 17–47 standing vote.

Biaggi offered a similar amendment which would prohibit the injury or killing of porpoises and dolphins two years after the bill went into effect, but would allow the fishing industry to seek annual delays of the ban for up to three years. The amendment also provided that regulations would be issued and federal inspectors appointed to enforce them.

But Dingell and Pelly opposed the amendment and it was rejected by voice vote.

PENALTIES

Bob Eckhardt (D Texas) offered an amendment to remove the penalties of seizure and forfeiture of vessels and equipment belonging to violators of the act. "We have a $10,000 fine for even an unintentional violation," Eckhardt said. "We have a provision for a $20,000 fine for a knowing violation. It seems to me that the additional penalty of forfeiture is unnecessary and extreme."

But Dingell argued that the forfeiture, under standard admiralty law, would not occur until after conviction.

The Eckhardt amendment was rejected by a 15–37 standing vote.

PROVISIONS

As passed by the House, HR 10420:

Title I

Declared the finding of Congress that certain marine mammals were in danger because of man's activities and that they should be protected and managed with the primary objective of maintaining the stability of the marine ecosystem and the secondary objective of maintaining an optimum sustained yield.

Prohibited killing of marine mammals on the high seas by U.S. citizens and any killing on U.S. lands or waters except as provided by international treaty.

Prohibited most possession, transportation or sale of marine mammals or their products.

Prohibited most importation of marine mammals and their products or fish caught in a manner injurious to marine mammals.

Directed the secretaries of commerce and interior to set limits on the number, kind, location, age and sex of marine mammals that could be taken, after considering population levels, international treaties, the marine ecosystem, fisheries resources and economic and technological feasibility.

Required that limitations established by the secretaries be published after opportunity for public hearings, and that they include public statements on existing population levels, expected impact of limitations and all research studies.

Authorized the issuance of permits which specified the number and kind of animals to be taken, the location and manner of taking and the permit's valid time period.

Required the secretaries to specify methods of capture, care and transportation of marine mammals taken for display or scientific research.

Directed the publication of permit applications in the *Federal Register* for comment within 30 days.

Required permit applications to prove that their taking of marine mammals would be consistent with the purposes of the legislation.

Authorized the secretary to grant public hearings on permit applications.

Authorized those opposed to permits that were issued to file petitions for review in U.S. district courts.

Established a five-year moratorium on permit issuance, with exceptions for public display, scientific research, commercial fishing, Alaskan fur sealing and weaned seal skin processing.

Set civil penalties of up to $10,000 per violation and criminal penalties of up to $20,000 or one year in prison or both, and offered rewards of up to $2,500.

Authorized seizure and forfeiture of vessels and equipment used in violation of the legislation.

Directed the secretaries of commerce and interior to enforce the measure with the help of other federal or state agencies or employees.

Granted exceptions for the taking of marine mammals by Indians, Aleuts or Eskimos if primarily for subsistence purposes and not for commercial sale.

Encouraged the secretary of state to seek international agreements for marine mammal protection and an international meeting before July 1, 1973, and to report to Congress within a year of the bill's enactment.

Forbade states to adopt their own marine mammal laws or regulations, except through cooperative agreements with the federal government.

Authorized the issuance of research grants to federal or state agencies, public or private institutions or others, and authorized the appropriation of up to $1-million per year for five years.

Authorized the appropriation of $1.5-million for each of five years for the Commerce Department, $700,000 for the first year for the Interior Department and $525,000 for each of four years thereafter.

Title II

Established a three-member Marine Mammal Commission to be appointed by the President.

Prescribed the duties of the commission to review and study all U.S. activities, existing laws, international treaties, population levels and management methods relating to marine mammals and to make recommendations for their protection and conservation.

Authorized the commission to establish a nine-member Committee of Scientific Advisers or Marine Mammals.

Required the commission to make annual reports to Congress.

Authorized the appropriation of up to $1-million per year for five years for the commission, with not less than three-fourths to be expended on research studies.

AMENDMENTS ACCEPTED

Thomas M. Pelly (R. Wash.)—Amendment to Udall amendment (*below*)—Remove from the Marine Mammal Commission authority to approve permit issuance for capture for display or scientific research, and give authority to the secretaries of commerce and interior to issue permits. Voice vote.

Morris K. Udall (D. Ariz.)—As modified by Pelly amendment (*above*)—Establish a five year moratorium on the killing or capture of ocean mammals and on the importation of their products, with certain exceptions. Voice.

AMENDMENTS REJECTED

Nick Begich (D. Alaska)—Amendments to adopted Udall amendment (*above*)—Allow the taking of marine mammals by Indians, Aleuts or Eskimos for use in production of native arts and crafts for commercial sale. Voice.

Mario Biaggi (D. N.Y.)—Transfer all authority for marine mammal protection from the Department of Commerce to the Department of the Interior. Standing vote, 20–35.

Ogden R. Reid (R N.Y.)—Prohibit the killing of porpoises and dolphins incidental to tuna fishing operations one year after the bill went into effect. Standing 17–47.

Biaggi—Prohibit the killing of porpoises and dolphins incidental to tuna fishing operations after two years, but allow industry to seek annual delays of the prohibition for up to three years. Voice.

Bob Eckhardt (D Texas)—Delete language authorizing the seizure or forfeiture of vessels and equipment engaged in unlawful taking of marine mammals. Standing, 15–37.

H. R. Gross (R, Iowa)—Delete Title II establishing a Marine Mammal Commission and a Committee of Scientific Advisers on Marine Mammals. Standing, 13–39.

FEDERAL JURORS

The House March 6, by a 316–27 roll-call vote, passed under suspension of the rules a bill (HR 2589) requiring that questions of race and occupation be answered by persons filling out federal juror's qualification forms.

(*Roll call: Vote 36, Weekly Report p. 570*)

A two-thirds majority vote (230 in this case) is required to pass a bill under suspension of the rules.

The purpose of the bill was to assure nondiscrimination in jury selection.

REFERENCE

House hearings, 1971 Weekly Report p. 2394

HOUSE ACTION

The Judiciary Committee unanimously reported the bill Feb. 29 (H Rept 92–870).

There was no floor debate on the bill. Richard H. Poff (R Va.), a Judiciary Committee member, said the fact that persons filling out the form had the option, under the Jury Selection and Service Act of 1968, of not stating their race and occupation meant it was difficult to guarantee that juries would represent a fair cross section of the population—as required by the 1968 act.

The bill had the backing of the Justice Department, Civil Rights Commission and Administrative Office of the U.S. Courts.

Robert McClory (R Ill.) assured members that the new information required by HR 2589 was needed solely to enforce nondiscrimination in jury selection.

THE BRITISH PROPOSALS FOR NORTHERN IRELAND

Mr. RIBICOFF. Mr. President, last Friday Prime Minister Heath of Great Britain announced in the House of Commons that the British Government would be assuming all legislative and executive powers for Northern Ireland for a 1-year period. As one deeply concerned over the continuing tragedy in Ulster, I welcome this long-awaited British initiative. I hope it will put an end to the mounting violence and killing there. But in the long run these proposals are inadequate. I agree with Mr. Heath's statement that these proposals "do not in themselves constitute a lasting solution to the problems of Northern Ireland."

As soon as word of the new British proposals was reported in the media, I joined with the Senator from Massachusetts (Mr. KENNEDY), an original cosponsor of Senate Resolution 180, and Representative CAREY, who submitted a similar resolution in the other body, in issuing a statement.

I ask unanimous consent to have printed in the RECORD the text of our statement; the British Information Service's text of Mr. Heath's announcement, and my own testimony and that of Senator EDWARD KENNEDY on Northern Ireland before the House Foreign Affairs Committee on February 28, 1972.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATOR ABE RIBICOFF, SENATOR EDWARD M. KENNEDY, AND CONGRESSMAN HUGH CAREY REGARDING THE NEW BRITISH PROPOSALS FOR NORTHERN IRELAND

We are gratified over reports that the British Government has finally indicated it would take some positive action with regard to Northern Ireland. This follows a long period of delay during which there was a tragic escalation of the death and destruction.

In suspending the Stormont Parliament and taking over direct rule, including the function of security, and in proposing to phase out the interment policy, Prime Minister Heath is following two of the recommendations set forth in our Senate Resolution 180 introduced last October.

XUM

We welcome these proposed actions by the government of the United Kingdom. But more remains to be done if the violence and injustice in Ulster are to end.

The announced "phasing out" of internment should be accomplished without delay and the 800 men held without trial and without charges against them should be released as soon as possible.

We hope that the measures announced will be a prelude to carrying out the other four points in our Resolution.

"Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination;

"Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment and voting rights;

"Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties; and

"Convening of all interested parties for the purpose of accomplishing the unification of Ireland."

We are especially heartened by the apparent determination of Prime Minister Heath to press ahead with this important new initiative, in the face of what seems to be the utterly intransigent position of Prime Minister Faulkner and his government. Now, at last, Britain has resolved to move forward, and Prime Minister Heath has our hopes and prayers that the new policy will bring an end to the killing and violence.

TESTIMONY OF MR. HEATH

With permission, Mr. Speaker, I will now make a statement about Northern Ireland.

This House has debated the affairs of Northern Ireland on many occasions in recent months. All of us in this House deplore the grievous suffering inflicted upon its innocent people by the continuing campaign of lawless terrorism and we admire the steadfastness with which they have attempted to sustain the life of the province.

Throughout this period Her Majesty's Government have maintained close consultation with the Northern Ireland Government. We have made repeated attempts with all concerned to find an agreed solution to the problems of Northern Ireland.

At a meeting which my Rt. Hon. Friends, the Home Secretary, the Lord President, the Defense Secretary and I had with the Prime Minister and the Deputy Prime Minister of Northern Ireland on March 22, we made it plain that in the British Government's view new and more radical measures were necessary if there was to be any prospect of breaking out of this deadlock.

We made three main proposals.

First, in the hope of taking the border out of the day-to-day political scene, and as a reassurance that there would be no change in the border without the consent of a majority of the people of Northern Ireland, we proposed periodic plebiscites on this issue.

Second, we proposed that a start should be made on phasing out internment.

Third, we were concerned about the present division of responsibility for law and order between Belfast and Westminster, whereby control remains largely with the Northern Ireland Government while operational responsibility rests mainly with the British Army and therefore with the United Kingdom Government. This responsibility is not merely domestic, it is a matter of international concern as well.

We were also well aware that the control of law and order was a decisive issue in Northern Ireland, and we thought that there would be advantage in seeking to take it out of domestic politics in Northern Ireland, at any rate for a time. We therefore told the Prime Minister and Deputy Prime Minister of Northern Ireland that we had reached the conclusion that responsibility for law and order in Northern Ireland should be transferred to Westminster.

The first two of our proposals were in principle acceptable to the Northern Ireland Government. But Mr. Faulkner told us that his Government could not accept proposals for the transfer of responsibility for law and order from Stormont to Westminster. At a further meeting yesterday evening he confirmed, after having consulted his Cabinet, that this was their unanimous view, and that if any such proposal were implemented, it would entail the resignation of the Northern Ireland Government.

The United Kingdom Government remain of the view that the transfer of this responsibility to Westminster is an indispensable condition for progress in finding a political solution in Northern Ireland. The Northern Ireland Government's decision therefore leaves them with no alternative to assuming full and direct responsibility for the administration of Northern Ireland, until a political solution to the problems of the province can be worked out in consultation with all those concerned.

Parliament will therefore be invited to pass before Easter a measure transferring all legislative and executive powers now vested in the Northern Ireland Parliament and Government to the United Kingdom Parliament and a United Kingdom Minister. This provision will expire after one year unless this Parliament resolves otherwise. The Parliament of Northern Ireland would stand prorogued but would not be dissolved.

The present Prime Minister of Northern Ireland has agreed to continue in office until this legislation is passed.

The increased burden which this transfer of responsibilities will entail means that it will no longer be possible for my Rt. Hon. Friend the Home Secretary to discharge these duties in addition to his many other responsibilities. A new office of Secretary of State for Northern Ireland is therefore being created. My Rt. Hon. Friend the Lord President is to be appointed to this office, together with the necessary junior Ministers. He will be empowered by the new legislation to appoint a Commission of persons resident in Northern Ireland to advise and assist him in the discharge of his duties. It will be our objective to invite to serve on this Commission a body of persons fully representative of opinion in Northern Ireland.

Her Majesty's Government, having assumed direct responsibility for law and order in Northern Ireland, will be no less concerned than the Government at Stormont has been to overcome terrorism and bring violence to an end. We shall do all we can to protect life and property in a part of the United Kingdom which is no less our responsibility than any other area of Great Britain.

As long as active terrorism persists and bombings and shootings continue, and until respect for law and a normal situation of order have been restored throughout the province, we must retain the power to arrest and intern those who there is good reason to believe are actively involved in terrorism and violence.

But a reduction of tension is the essential first step in the process of reconciliation. We believe that that requires that we should make a start in the process of bringing internment to an end.

We intend within the next few weeks to set free, subject to safeguards where appropriate, those internees whose release is no longer thought likely to involve an unacceptable risk to security. The Secretary of State for Northern Ireland will establish a procedure to review each case personally.

If the measures which we have taken lead to a reduction in terrorist activity, it will be possible to consider further releases, but this must depend on a clearly established improvement in the security situation.

Thus in the matter of internment, as in the next matter to which I shall refer, we are giving effect to a proposal which we put to the Northern Ireland Government and which in principle they accepted.

This Government, and its predecessors, have given solemn and repeated assurances that the position of Northern Ireland as part of the United Kingdom will not be changed without the consent of the people of Northern Ireland. We have decided that it would be appropriate to arrange for the views of the people of Northern Ireland to be made known on this question from time to time. We therefore propose in due course to invite Parliament to provide for a system of regular plebiscites in Northern Ireland about the border, the first to be held as soon as practicable in the near future and others at intervals of a substantial period of years thereafter.

These plebiscites will be in addition to, and not in substitution for, the provisions in the Ireland Act, 1949, which require the consent of the Northern Ireland Parliament to any change in the border. This position is not prejudiced by the temporary prorogation of that Parliament.

We hope that this arrangement, while leaving open the possibility of a change in the status of the province if the majority so wish, will both confirm that no such change will be made without their consent, and provide, in the intervals between plebiscites, a greater measure of stability in the political life of Northern Ireland.

These are our immediate proposals. But they do not in themselves constitute a lasting solution for the problems of Northern Ireland. We remain determined to find means of ensuring for the minority as well as the majority community an active, permanent and guaranteed role in the life and public affairs of the province.

Our immediate proposals are put forward in an endeavor so to change the climate of political opinion in Northern Ireland that discussions can be resumed in an effort to reach agreement on a new way forward to this end. It is our intention, as soon as circumstances permit, to promote the necessary consultations about the future structure of government in Northern Ireland.

Meanwhile Her Majesty's Government will continue to give high priority to the rehabilitation of the economic life of the province.

"I would like to pay tribute to the determination with which the Prime Minister of Northern Ireland and his Government have sought to overcome the difficulties which have beset the province, and the House will wish to acknowledge the spirit in which he has agreed to remain in office until our legislation has been enacted. We greatly regret that we were unable in the end to reach agreement with him. In the last resort, however, responsibility rests with the United Kingdom Government and Parliament, and Her Majesty's Government would be abdicating that responsibility if in this critical situation we did not take the action which we beleved to be right."

STATEMENT BY SENATOR ABE RIBICOFF

I am pleased to appear before this Committee today, on which I served during my years in the House of Representatives. I would like to commend you, Mr. Chairman, for having the wisdom and compassion to conduct hearings on the tragic situation in Northern Ireland—an issue which has been very much neglected by this country's leaders.

Last October 20, I introduced Senate Resolution 180, with the cosponsorship of Senator Edward Kennedy, who is with me here today. On the same day this resolution was introduced in the House by Congressman Hugh Carey of New York as H. Res. 653. More than 50 House members have cosponsored this Resolution.

Introduction of our resolution created quite a stir. Much of the editorial criticism did not deal with the substance of this legislation, but with the propriety and motives of the United States Senators speaking out forcefully on this issue. This genuinely puzzles and disturbs me.

If it is proper for American public officials to denounce discrimination against blacks in South Africa or the massacre of Bengalis in East Pakistan, or the mistreatment of Jews in the Soviet Union, what is so surprising if a United States Senator speaks out against the repression and discrimination which has taken place and is still taking place each day in Northern Ireland and which has resulted in the deaths of hundreds of people?

Decent men everywhere must protest bigotry and discrimination wherever it exists. The evils of racial and religious intolerance are just as abhorrent whether practiced in Pretoria, Leningrad, or in Belfast.

No nation should be immune from criticism by the world community for acts committed on its behalf. While I can appreciate Great Britain's dilemma in dealing with the problems of Northern Ireland, the pacification tactics now being used in Northern Ireland, the loss of civil liberties, and detention without trial only aggravate an already difficult situation.

The Vietnamization of Ulster by British troops is not the solution to the festering problems of Northern Ireland. Last November I warned that Ulster could become Britain's Vietnam. The bloody events in Londonderry have unfortunately borne out this dire prediction.

The time is now long past when promises of reforms, and half-way measures, are sufficient. More of the same can only guarantee future conflict and tragedy. Britain must face up to the sad realities it has helped create by its decades of neglect.

In introducing Senate Resolution 180, I tried to address myself to the basic unresolved issues as I aaw them, and urged our government to press their implementation.

These are the actions called for in the Resolution:

1. Termination of the current interment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland, and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purposes of accomplishing the unification of Ireland.

Since introduction of this resolution, the leader of the British Labor Party, Harold Wilson, has called for talks on unification. Dissolution of the Stormont Parliament is now being considered a distinct possibility. What seemed to some critics as extreme last October, does not seem so unreasonable today. But perhaps the most revealing evidence as to the distance covered since October in validating the actions called for in S. Res. 180, was the secret peace efforts by Dr. John O'Connell, a member of the Irish Parliament. I am sure you will hear more about this attempt in the course of these hearings, but from the information available to me, it appears that tacit agreement was reached late last month between Catholic and Protestant leadership groups to arrange a ceasefire based on the following points:

1. Amnesty for all political prisoners.
2. The end of internment.
3. The immediate withdrawal of the British Army to barracks.
4. The complete restructuring of the Stormont government along democratic lines.
5. A declaration of intent by the British on the future of Ireland.

The British Home Office rejected this peace package—and two days later thirteen men lay dead in the streets of Londonderry.

I called attention to this matter in the Senate on February 22 when I inserted a column that appeared in the New York Post on this abortive peace effort.

What is needed is more courage by all parties concerned to face up to the underlying causes of the violence. Writing in the *New Statesman* a few months ago, Paul Johnson summed up Britain's choice this way: "In Ireland over the centuries we have tried every possible formula: direct rule, indirect rule, genocide, apartheid, puppet parliaments, real parliaments, martial law, civil law, colonization, land reform, partition. Nothing has worked. The only solution we have not tried is absolute and unconditional withdrawal."

Now is the time for boldness, rather than timidity on the part of the British government—and bold, rather than timid solutions.

It seems clear that as long as Britain refuses to face the facts when it comes to Northern Ireland, there will never be peace. The British genius for politics seems to disappear when it comes to Ireland.

In their hearts most Britons know that the Six Counties of Northern Ireland are not part of Britain. Although their present leadership is not yet ready to accept this fact, they too must eventually yield to the compelling conclusion that peace cannot be enforced by British bayonets. Nor can Britain continue to claim any moral justification for its actions as long as men are imprisoned without trial, and people shot down in the streets.

Senate Resolution 180 points the way toward policies the United States should support at the highest levels to bring justice and peace to Northern Ireland. This resolution does not presume to dictate a solution. But it does express the dimensions of the problem and sets the conditions for a long-term settlement consistent with the realities of the situation.

The hearings beginning today can make a great contribution toward illuminating this entire subject. This is a subject of great interest and concern to many Americans, and I hope it will prick the consciences of many more. No simple solutions exist for a problem as difficult as this one. But, by asking hard questions and seeking greater knowledge, this Committee can make a valuable contribution to the quest for a new future for all the people of Northern Ireland.

TESTIMONY OF SENATOR EDWARD M. KENNEDY

Mr. Chairman, I am honored to have the opportunity to appear before you and the other members of the Subcommittee this morning as you begin these important hearings on the crisis in Northern Ireland.

The long and tragic Irish history is familiar to almost all Americans. For centuries, going back even beyond the settlement of the American colonies, Ireland has endured killing and violence, religious conflict and civil war. For hundreds of years, Ireland has seemed an incurable and interminable plague on Britain, destined to bring constant turmoil to unending generations of British and Irish people and their leaders.

We know that our own century has seen its full share of the terrible death and destruction brought by Britain's inability to deal fairly and justly with the people of Ireland. Half a century ago, the world witnessed the traumatic upheaval and bloodshed that gave birth to the cruel experiment of partition. Now, a new chapter of violence and terror is being written in the history of Ireland, written on the front pages of every newspaper in the world, written in the blood of a new generation of Irish men and women and children. And once again, the people of Ireland are back at the forefront of history's greatest movement. They have joined the search in earnest for the only goal that really matters to people on earth, the search for which countless millions have died since history began, the search for human freedom and for liberty under God.

There are those who say that America should stand silent now in the face of the daily killing and brutality that is taking place in Northern Ireland, just as America stood silent over Bangladesh in the face of weeks and months of some of the worst cruelty and repression in the history of the world.

I do not agree, and I do not think that most Americans agree. Our duty, our heritage, as citizens in a nation that has been the star of liberty in the world for two centuries, require us to speak out. Were I neither Catholic nor of Irish heritage, I would feel compelled to protest against the killing and violence in Northern Ireland, just as I have protested at other times in my years in the Senate against the killing and violence in other parts of the world, in areas like Vietnam, Biafra, the Middle East, and Bangladesh.

The rising concern in Congress and the nation today over the violence in Ulster is a bright new chapter in the long and distinguished record of America's concern for human rights and equal justice in Ireland. Two hundred years ago, the Irish played a major role in securing the independence of the American colonies, a role acknowledged often by George Washington and our other great early patriots. And so, it was natural, during the following century, that the Irish struggle for their own self-government attracted wide sympathy and support in the new American nation.

Throughout our history, and especially in periods of intensifying violence in Ireland, Resolutions have been introduced in both Houses of Congress supporting the cause of Irish freedom. The platforms of both the Democratic and Republican parties in 1888 gave strong encouragement to the historic Home Rule campaign for Ireland led by Gladstone and Parnell at the time. Later, in the violence surrounding the Easter Rebellion in 1916 and the subsequent guerrilla war, Congress led the way in urging Woodrow Wilson to use the good offices of the United States to ease the crisis. Responding to the view of Congress and an American public outraged by the violence and brutality of that day, President Wilson took frequent and substantial steps to urge the Government of Britain to end the violence and achieve a peaceful settlement.

Perhaps the high water mark of American concern in the Twenties was the formation of the prestigious Committee of One Hundred Fifty on Conditions in Ireland, a private group of distinguished Americans established by the New York *Nation* to investigate the situation in Ireland at the height of the violence fifty years ago. From its members, the Committee elected a smaller Commission to conduct a public inquiry, led by Jane Addams, the famous sociologist of Hull House in Chicago, Senator George Norris of Nebraska, and Senator David Walsh of Massachusetts, a man whose Senate seat I hold today.

The Commission held 14 days of public hearings in Washington in the winter of 1920–21. It heard 41 witnesses, almost half of whom had come from Ireland to tell first hand about the violence and repression. The hearings and the Commission's subsequent report had enormous impact in mobilizing American public opinion. The vivid descriptions of cruelty and violence brought home to people throughout the country the awful horror of events in Ireland, and were an im-

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portant influence leading toward the subsequent settlement of the conflict. As the Manchester Guardian commented in England at the time:

"One can only read the report with a kind of helpless rage. A few leaders in Britain have landed us in the dock, without a defense, before the conscience of mankind."

And so, these committee hearings today follow in a long line of important precedents demonstrating the concern of Congress and the nation for the cause of Irish freedom. The United States has a role to play, and I commend the members of this Subcommittee for acting now to bring the situation in Northern Ireland to the attention of the American people.

In light of these important precedents, it is fair to ask, why is the Administration still so silent over Ulster? Why does it abdicate its responsibility to let the official voice of America speak out to end the killing? A few weeks ago, in the controversy over Britain's base on Malta, America was not so silent. We did not hesitate to intervene. The Administration was quick to prod the British then, when a few square miles of an obsolete island base of no military significance were at stake. Why is it so slow to act on Ulster now, where basic human rights and the lives of innocent people are in the balance?

Indeed, if one is needed, the Administration could easily find a military rationale for action on the Ulster issue. We have a Naval Communications Station in Northern Ireland today that employs 300 U.S. Navy personnel and 150 Ulster citizens. It is located on the outskirts of Londonderry, near the Bogside, so that the potential for its disruption by the violence is all too clear. In addition, the 14,000 British troops now tied down in Ulster could be of obvious value in our effort to reduce American troops in NATO through replacement by European forces.

Moreover, as Dr. Patrick Hillery succinctly put it on his recent visit to Washington, there could be no more gross intervention in the affairs of Ireland than the presence of British troops in Ulster. And, as we know, Britain has never been reticent to intervene on American issues. Indeed, the United States today would be partitioned into separate nations, North and South, if Britain had had her way in our Civil War a century ago.

More important on the issue of intervention, Ulster cannot fairly be called the internal affair of Britain. Not a day goes by without new evidence of the deep involvement of the Republic of Ireland in the crisis—a separate and independent nation whose affairs and future are intimately bound up with the solution of the Ulster issue. We sent the aircraft carrier *Enterprise* to the Indian Ocean last December, and we intervened in other ways to try to tilt the balance between India and Pakistan, two nations with whom we have had long and friendly ties. But by some cruel irony today, we are unwilling even to make our good offices available to mediate a crisis over Ulster that involves two of our closest friends, Britain and Ireland.

In sum, America can play a useful and entirely proper role on Ulster, if only we have leaders with the compassion to act and the wisdom to see the way. There is ample precedent in history, law and logic for us to make our good offices available, and I hope that we shall be equal to the task.

That is why I welcome these hearings today. It is long past time for the Congress of the United States to go on record again, to take our stand on Ulster, to lend our voice to the effort to rally the conscience of the world to the cause of peace and liberty. And so I hope that this committee will consider the proposals before it fully, and report a measure that can bring a new call for reason and compassion on the Irish issue, and thereby move us farther along the road to peace.

The measure that I favor is Senate Resolution 180, which I cosponsored with Senator Abe Ribicoff of Connecticut in the Senate last October, and which Congressman Hugh Carey of New York introduced on the same day in the House. Briefly, our Resolution contains a number of principal provisions that I believe deserve immediate implementation.

AN END TO INTERNMENT

First, there must be an end to the cruel and repressive policy of internment. More than six months have passed since internment was adopted, and the soaring daily toll of bloodshed, bullets, and bombing in Ulster is a continuing awful reminder of how wrong that policy was at its inception, how wrong it is today, and how wrong it would be to allow it to continue.

The daily headlines tell us that Britain has done to Ulster, but we are only just beginning to realize what Ulster has done to Britain. It is fair to say, I think, that the launching of internment has brought British justice to her knees. Only last Wednesday, we witnessed the sordid spectacle of the British Parliament in London, sitting in the darkest hours of the night, steamrollered into rushing midnight legislation into law to reverse a decision by the High Court of Northern Ireland earlier that day, holding that British troops in Ulster had exceeded their authority under the constitution in carrying out their arrest, internment, and other orders.

Day after day, week after week, month after month, the nation that gave Magna Carta and Habeas Corpus and Due Process to the world imprisons hundreds of innocent citizens of Northern Ireland, without warrant, charge or trial, often on evidence of the rankest hearsay and deception, on grounds so spurious, so obsolete, and so discriminatory against the religious minority that they would be laughable, if the results were not so calamitous for the peace and people of Northern Ireland.

The notion of detention without trial is an abomination to democratic nations throughout the world, and it ought to be anathema to the British Government. Of all the great traditions of American liberty, we are proudest, perhaps, of the tradition of Anglo-Saxon law and justice, handed down to us from the pillars of British jurisprudence. And yet, by an historic irony, a far less drastic policy of preventive detention in the United States was instituted in the District of Columbia in recent years, but only after months of bitter debate in Congress, and then only with safeguards to prevent the worst abuses. By contrast, Britain's far more outrageous internment policy in Ulster was launched in the dead of night last August, without advance debate in Parliament, a quid pro quo, they say, for Brian Faulkner's agreement to ban the Orange marches. The decision was made without any notice at all, except the knock on the door in the dead of night in hundreds of Ulster homes, with the victims chosen as though by some cruel and irrational lottery and hauled away to places of detention that bore the hallmarks of concentration camps.

The Protestants in Northern Ireland are fond of saying that Belfast is as British as Birmingham or Bristol, but does anyone doubt that if they tried to launch internment in Britain today, the Government itself would fall?

And then, compounding the crime of internment, we saw the early reports of how the prisoners were treated in the camps. We read the reports of torture in the camps with horror, as they described the efforts of British intelligence to learn the secrets of the IPA by methods no civilized people can countenance.

On the heels of the first reports of torture we heard the outraged British denials. But many of the worst fears were confirmed in all but name by the report of the Compton Inquiry. Yes, said the Compton report, the prisoners were deprived of food and sleep. Yes, said the Report, the prisoners were spread-eagled against a wall for up to 48 hours at a time. Yes, the prisoners were shrouded in heavy black hoods, to induce a sense of desperate isolation. Yes, they were forced to suffer through the intense loud hissing noise of machines designed to surpass human endurance.

Again and again, the Compton Report found the immoral and inhuman facts of torture. Yet, it whitewashed their meaning by Alice-in-Wonderland logic, by obscure and hypocritical phrases that denied brutality and spoke only of "ill treatment" and "deep interrogation," and by rhetoric that sought to justify obviously barbarous means by resort to a higher end.

Over forty years ago, the distinguished American jurist, Louis Brandeis, dealt with the heart of the Compton argument in these words:

"Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution."

A generation later, in one of the great passages of British law, Lord Atkin stated the relevant principle clearly in his famous opinion in *Liversidge* v. *Anderson*, in words directly applicable to the logic of the Compton Report and its attempt to blur the difference between torture and "ill treatment":

"I know of only one authority," said Lord Atkin, "which might justify the suggested method of construction: 'When I use a word,' Humpty Dumpty said in a rather scornful tone, 'It means just what I choose it to mean, neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.' 'The question is,' said Humpty Dumpty, 'which is to be master—that's all.'"

No nation that calls itself a democracy can justify a policy of internment for its citizens. And so the first step I urge Britain to take at once on Ulster is to end the police state policy of internment, and thereby bring back to Ulster the evenhanded justice for which Britain has always been renowned.

WITHDRAWAL OF BRITISH TROOPS

The second major element of our Congressional Resolution is the call for the withdrawal of British forces from Northern Ireland, and the institution of appropriate procedures for law enforcement and criminal justice under local control acceptable to all the parties.

This provision of our Resolution produced substantial controversy when we introduced it last October. But today, as the unending killing and violence continue, it is also a provision that, I feel, has been vindicated by subsequent events. At Londonderry on Bloody Sunday last month, thirteen Ulster Catholics, participants in a civil rights demonstration, were killed by gunfire from a battalion of British paratroops. In light of that appalling massacre, can anyone now deny that the presence of British troops in Ulster is compounding the violence instead of contributing to peace?

To be sure, when the troops arrived in 1969, they were welcomed as protectors by the Catholic minority in many parts of Northern Ireland. But in 1972 the affection has turned to hate, the protection has turned to violence. The British army has now become the ominous representative of Unionist tyranny, the symbol of Protestant supremacy and oppression in Ulster.

As we know from first hand experience in the United States, military forces are not trained police. They do not know how to keep the peace on a continuing daily basis. Inevitably, their presence becomes a constant irritant to the local population. On several tragic occasions in the Sixties, President Johnson was obliged to order Federal troops into American cities to maintain law and order. But always, whether in Detroit or Baltimore, in Chicago or Washington, D.C., the troops were deployed to deal with a sudden crisis, and they were removed as soon as the emergency was over and the local peace had been restored.

Today, the British troops in Ulster have become an army of occupation instead of a peace-keeping force, and the explanation is not far to seek. For months, the Army weapons searches were aimed at the Catholic homes, but they never searched the Protestants. The Army helps to maintain the internment policy, but of the hundreds who have been detained, there has never been a Protestant.

In short, thanks in large part to the British military presence, life for the minority in Ulster today is one long nightmare of sudden arrest, of house-to-house searches, doors broken down, and furniture smashed. It is a life of the smell of riot gas in the air, bruises from military batons, and wounds from rubber bullets or more deadly bullets. It is a life of barbed wire roadblocks in the alleys and armored Saracens racing through the streets. In the midst of all the terror, it is small wonder that the question they ask in Ulster today is one that cries, "Is there a life before death?"

If any hope at all remained that the Catholic population in Northern Ireland had not yet turned irrevocably against the British troops, if any hope remained that the Army might again become a helpful presence in Ulster, that hope was destroyed by the escalating military violence that culminated in the wanton killings of Bloody Sunday at Londonderry—killings that recalled other cruel and bloody days in British history, like the massacres in the Gordon Riots, and at Amritstar and Peterloo and Dublin.

And now, just as the injustice of internment was compounded by the torture of the men imprisoned, so the slaughter at Londonderry is being compounded by the arbitrary limits on the scope of the inquiry being carried out by Lord Widgery. Just as Ulster is Britain's Vietnam, so Londonderry is Britain's My Lai, and the killings on Bloody Sunday deserve the widest and fullest investigation, in an inquiry capable of insuring that such a tragedy will not recur.

Cardinal Conway's medical observer at the post-mortems on the victims has already reported that many of those who died were shot in the back while running away. We also know, for example, that long before the events of Bloody Sunday, the paratroops had earned a reputation for unnecessary brutality in troubled Catholic areas. Calls were raised, even by other Army units in Ulster, to withdraw the Parachute Regiment before a tragedy occurred.

Now, the tragedy has happened, and the people deserve to know the facts through a full and fair investigation. Yet, the inquiry by Lord Widgery has the hallmarks of our own narrow and ineffective investigation of My Lai. It is limited in time to the few moments between the beginning of the violence at the demonstration and the end of the shooting by the troops. It is limited in space to the streets of the Bogside, where the killings took place. Just as at My Lai, there will perhaps be microscopic scrutiny of the soldiers at the scene, but the generals will go free.

Such limits can insure only one result—that Lord Widgery's report will not and cannot be the full account. And so, I hope that, while time remains, Britain may yet act to expand the scope of the inquiry, so that at last, in this tragic new chapter in the history of Irish bloodshed, the people will know that justice has been done.

The events of Bloody Sunday were a watershed for many who have now begun to advocate the withdrawal of British troops as an essential step toward restoring peace in Ulster. Dr. Conor Cruise O'Brien, for example, whose views against troop withdrawal were widely quoted when we introduced our Congressional Resolution last fall, is now a convert to the cause of such withdrawal.

Yet, just as the British Government blindly argues that it cannot end internment because it would mean the return of the gunmen to the streets, so the Government also argues that it cannot withdraw the troops because of the bloodbath that would follow. And so, for months, we have had a policy that condemns hundreds of innocent men and women and children to die in the streets of Londonderry and Belfast and the other cities, towns and villages of Northern Ireland, because the Governments in London and Belfast fear that even more may die in the future if the policy is changed. In other words, to prevent some very hypothetical bloodbaths of tomorrow, the leaders of Britain and Northern Ireland seek to justify the very real bloodbaths of today.

I believe that policy is wrong, and that the withdrawal of troops from Ulster is the most important single step that can now be taken by Britain to reverse the failure of its Ulster policy. It is the most realistic step that can be taken to put Ulster on the road to peace and a solution to the crisis. Only by removing the cruel and constant and continuing irritation of British troops can we buy the time we need to do all the other things that must be done to extinguish the flames of hate and terror in Northern Ireland.

As our Congressional Resolution makes clear, the withdrawal of British troops does not mean that the people of Ulster will be without adequate procedures for the enforcement of law and order and the administration of criminal justice. I believe that entirely appropriate manpower and machinery to keep the peace can be established by the local population, with representation and procedures that are fair to the Protestant majority and the Catholic minority alike.

Our resolution would also be entirely consistent with the use of other peacekeeping methods, such as an international peace force under the auspices of the United Nations. The essential point is that some alternative must be found, and found now, to the presence of British troops if there is to be any hope of an early end to the killing and violence. As British history in general, and the history of Britain in Ireland in particular, make clear, no amount of outside force can keep the peace for long in Ulster, if the forces of law and order are too closely identified with brutality and oppression in the eyes of a significant part of the population. The bloody impasse in Northern Ireland today can be broken only by a clear commitment to British troop withdrawal, and that, I hope, will be the essence of whatever new initiative that Britain is rumored to be planning.

One more point should be made on the question of troop withdrawal. For nearly a hundred years, ever since Lord Randolph Churchill played the abominable Orange Card against Gladstone in the nineteenth century, British policy toward Ireland has been paralyzed by fear that the Protestants of Ulster will fight to the death to preserve their British tie. Whatever the reality of such fears a hundred years ago—or even at the time of the Home Rule debate before World War I or the partition in the Twenties—I believe those fears are a myth today, and the lesson of recent Ulster history tells us why.

We know that the extremists of the IRA failed to capture the hearts and minds of the Catholic minority in their brutal campaign of 1955–62. They have succeeded now, but only because the peculiar blindness of the Ulster Protestant leadership makes it totally resistant to the movement for civil rights and the demands of the Catholic minority for legitimate reforms. If the Catholics of the Republic of Ireland demonstrate their willingness and ability to protect the political, economic, and social rights of the Ulster Protestants in a united Ireland, the extremists on the Protestant side in the North will never succeed in any campaign of violence designed to play the Orange Card today.

Thanks to the impetus of their new membership in the Common Market, basic change is already well under way for both Britain and Ireland in modern Europe. That is why I strongly hope that the Republic of Ireland will now begin the process, as Prime Minister Lynch has so eloquently suggested, for genuine constitutional reform on all the great issues that divide the North and South, so that Protestants and Catholics alike may see the most rapid and dramatic progress possible toward the reconciliation we know must come.

In sum, I do not believe that the majority of Ulster Protestants are prepared to plunge their homeland into civil war to preserve the British tie. Ulster is not about to commit suicide when the British troops withdraw, and the sooner Britain learns that lesson, the sooner there will be peace in Ireland.

DISSOLUTION OF STORMONT

The third major aspect of our Congressional Resolution is the call for the dissolution of Stormont, the Parliament of Northern Island, and the institution of direct rule of Ulster from Westminster, the Parliament of Great Britain. So long as Ulster is ruled by Britain, it makes no sense to interpose the additional layer of Stormont between the people and their government. No other part of Great Britain lives today under this sort of arbitrary constitutional device, and there is no reason why the people of Ulster must endure it.

Moreover, apart from the presence of British troops, there is no more obvious symbol of the half century of massive tyranny and injustice in Ulster than the Parliament at Stormont. Throughout its history, the paramount function of Stormont has been as a tool for the oppression of the minority. In recent months, since the beginning of internment, Stormont has failed to function as an effective legislature, because the representatives of the minority have refused to participate any longer in the parliamentary charade the Unionists wish to play. Stormont is now defunct in all but name, and it is time for Britain to deliver the coup de grace. And when that happens, all the people of Ulster, Protestant and Catholic alike, will be closer to the peace they want.

UNIFICATION OF IRELAND

The fourth major aspect of our Congressional Resolution is the call for a conference of all the parties to prepare the way for the unification of Ireland. For countless generations, Irish martyrs have spilled their blood for the cause of freedom for all of Ireland, and the momentum for unification now is much too great to be denied. The other reforms I have urged are important short-run steps, but unification is the only step that can secure the permanent peace that Ireland has sought throughout her history.

The Prime Minister complains about Amer-

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lican misunderstanding of Britain over Ireland. In a weekend interview, he says that unity for Ireland has no more historical or logical justification than the absorption of Portugal by Spain. Surely, that comment shows where the misunderstanding really lies. It is a gratuitous insult to millions of Irish, Spanish, and Portuguese people alike, a remark that shows a surprising lack of history and logic in a leader of Great Britain.

There are those who say that some middle ground for Ulster is still a possibility, that unification is not the only road to peace. The rumored new British initiative, they say, may propose a reconstituted Stormont, with fresh and more effective assurances of adequate representation for the minority.

To me, such proposals would be just another example of years of British blindness and delay toward Ulster. With Ireland exhausted by civil war in the 1920's, partition worked for forty years, but it cannot work today. Perhaps, even a few years ago, in the early period of the civil rights movement of the Sixties, political and social and economic reforms in Ulster and a new approach to Stormont might have kept the peace, and enabled the majority and minority to live together as part of the United Kingdom.

But such steps today would just be more of the "too little and too late" approach that Britain has taken toward Northern Ireland throughout the present crisis. It is not enough to end internment, to withdraw the troops, to reconstitute Stormont and the Cabinet, to offer massive economic aid, or to adopt all the other reforms proposed in years gone by. It is not enough even to redraw the Ulster boundary, as some have proposed in recent weeks in a desperate and doomed attempt to find a formula that will keep some corner of Ulster forever British.

No, the goal of unification is now too close for Ireland to turn back. There must be a commitment to unification, to an end to British rule in Ireland, to an end to the unnatural partition that Britain forced on Ireland in the 1920's. If the Ian Paisley is willing to contemplate a united Ireland, can the rest of Ulster be far behind?

Given the history of partition, the resort today to the Atlee Declaration and the talk of a plebiscite on self-determination for Ulster, is a travesty of a noble principle. If there is to be self-determination for Ulster, then why not self-determination for Londonderry and County Tyrone?

We know the calculated and cynical gerrymander that produced Ulster fifty years ago. The only self-determination applicable today is self-determination for all of Ireland, not just for the uncouth entity that Britain spawned in the 1920's. Half a century is not enough to stamp the Ulster State with any acceptable seal of legitimacy in the eyes of those who truly believe in self-determination, unless there is full agreement by both the minority that is Catholic and the majority that is Protestant.

In closing, let me affirm again my view that I condemn the terrible violence and brutality in Northern Ireland. I condemn the violence of the IRA. I condemn the violence of the British troops. I condemn the ominous new violence at Aldershot last week and the murderous assault on John Taylor, just as I condemn the wanton killings on Bloody Sunday. I share the words of Cardinal Conway, who spoke so eloquently on this central issue in his Christmas message last year:

"To kill a man deliberately—to snuff out an innocent life—is a terrible deed. The person who can do it is already less than a man; some part of his human nature has been frozen to death. And this is true, no matter who does it, no matter what side he is on."

But I also recognize that neither urgent protests against the violence nor the use of overwhelming military force to contain it is enough alone to end the crisis. So long as Britain pursues the phantom of military victory over the IRA in Ulster, the violence will continue, and the search for peace will be in vain. Fifty thousand Americans died before we learned that tragic lesson in Vietnam, and there can be no excuse for Britain to have to learn that lesson now in Ulster.

In my testimony today, I have attempted to state the principles I believe we must pursue to end the violence in Northern Ireland. I urge the Committee, the Congress and the nation to join the cause of peace in Ulster, the cause of Irish unity, the cause of justice and freedom. It is time for the Administration to end its policy of silence. It is time to speak out against the rising toll of death and violence in Northern Ireland. It is time to do all we can to help the victims of the tragedy, and to make our good offices available to mediate the crisis.

We know the unconscionable price America paid for its months of silence over the brutality in Bangladesh. Now, we have an opportunity to resume our moral leadership in the world, and to encourage men of good will everywhere in their efforts to bring a new and more lasting peace to all the people of Ireland.

The eloquent words of Padraig Pearse are as relevant today as when he spoke them at an Irish hero's grave over half a century ago:

"Life springs from death," he said, "and from the graves of patriot men and women spring living nations. . . . They think that they have pacified Ireland. . . . They think that they have provided against everything; but the fools, the fools, the fools! . . . While Ireland holds these graves, Ireland unfree shall never be at peace."

ZONE OF PEACE IN SOUTHEAST ASIA

Mr. ROTH. Mr. President, in a recent speech I called the attention of the Senate to the proposal of the members of the Association of Southeast Asian Nations—ASEAN—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—to create a zone of peace, freedom, and neutrality in Southeast Asia. I emphasized that the effective establishment of a neutralized Southeast Asia would require the adherence of all the larger countries, and especially that of China and Japan. It was, therefore, with considerable interest that I learned of a recent editorial in Sankei, a Japanese newspaper, which commented upon some of Japan's moves on this same subject and referred to the ASEAN proposal. Sankei pointed out that at a recent session of the Geneva Disarmament Conference, Japan, for the first time, has expressed its willingness to cooperate in a regional disarmament program in Asia. The newspaper urged that Japan "establish its own long-range vision on Asian peace, as a promoter of the concept of regional disarmament." At the same time, Sankei referred to some of the many difficulties associated with the concept of regional disarmament and concluded by urging that Japan's policies be guided by clear notions of how its own security is to be best insured.

Mr. President, I ask unanimous consent that a translation of the Sankei article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REGIONAL DISARMAMENT OF ASIA AND JAPAN

At the Geneva Disarmament Conference, Ambassador NISHIBORI clarified that Japan is ready to co-operate positively in the realization of regional disarmament of Asia. Of course, the Foreign Ministry is taking the attitude of studying a concrete concept for regional disarmament of Asia after watching various countries' reactions. It is not that his speech will cause Asia to move toward regional disarmament even immediately.

However, the said speech is very significant in that Japan has shown positive interest in the promotion of regional disarmament of Asia for the first time, amid the fluid Asian situation following the Sino-US summit talks. At the same time, it can be evaluated as having further expanded the scope of Japan's multilateral, autonomous peace diplomacy toward Asia.

As to regional disarmament, the Central and South America Non-Nuclear Zone Treaty was already concluded, and the Resolution for the Non-Nuclearization of Africa was also approved in the UN. In Asia, there were such conspicuous moves as the adoption of the "Southeast Asia Neutralization Declaration" by the five ASEAN countries in the fall of last year.

Moves toward regional disarmament have risen in this way because "various valley countries" resisting the big-power diplomacy by the United States and the Soviet Union are trying to explore their own security through regional co-operation. What deserves special attention in the moves toward regional disarmament of Asia is that with the opening of the tri-polar age, symbolized by the Sino-US summit talks, there is the growing recognition among the medium and small countries in Asia that the establishment of a neutral zone not belonging to any camp is the only way to survive the tri-polar age.

The Sino-US Joint Communique stated that "neither the United States nor China will seek hegemony over Asia and the Pacific," and thus clarified their attitude of respecting the autonomy of the countries in these areas. In this sense, it can be said that regional disarmament of Asia is aimed in the correct direction, from a long-range point of view. Therefore, the fact that Japan has clarified its co-operation in the realization of the said concept at this time will cause arguments on regional disarmament of Asia to become vigorous.

However, the problem is that the Asian situation is extremely fluid, involving many obstacles to regional disarmament's beginning to move in a concrete form. Europe is steadily beginning to move toward realizing the concept for the security of all Europe, and this is backed by the stabilization of Soviet-German relations. In the case of Asia, however, such after-effects of the cold war as the confrontation between North and South Korea and the Indo-China situation are continuing. There is also the problem of Soviet-Chinese confrontation, and there is not a little room for doubt as to how effective regional disarmament can be at the present stage. The reason is that for the realization of this disarmament, it is necessary for relations among the US, the Soviet Union, and China to become finally stabilized, and for the Asian nations to obtain support and guarantee from these three countries.

Therefore, the future is full of difficulties. There is extremely difficult work on how effectively the Asian countries' desire for autonomous regional disarmament should be fitted to and co-ordinated with the Soviet Asian collective security concept, China's East Asia non-nuclear zone concept, and the Nixon Doctrine, which all involve their respective expectations. Careful watch according to a change in the situation and efforts for many hours of accumulation are probably necessary.

For this purpose, however, it is pre-requisite for Japan to establish its own long-range vision on Asian peace, as a promoter of the concept for regional disarmament of Asia. At the same time, a definite direction must be determined also as to what Japan's security should be.

SMALLPOX

Mr. HUGHES. Mr. President, with all the health problems in the world today, it is a pleasure to note that progress is being made in some areas.

As chairman of the Special Subcommittee on International Health, Education and Labor Programs of the Committee on Labor and Public Welfare, I was pleased to read a recent article in the Medical Tribune on the subject of smallpox eradication. According to the article, smallpox has been completely eliminated from the Western Hemisphere and prospects look good for worldwide elimination of this dread disease within the next few years.

This progress is the result of an intensive, multilateral program of the World Health Organization, financed in part by U.S. funds. I believe there is a need to learn more about the international health programs supported by the United States, so that we can concentrate our resources on projects with the best chances for success.

I ask unanimous consent that the Medical Tribune article referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO OFFICIALS SEE AMERICAS COMPLETELY CLEAR OF SMALLPOX

GENEVA.—World Health Organization experts are confident that smallpox has been cleared once and for all from the Americas, following the elimination of remaining pockets of the disease in Brazil.

In spite of an intensive search for isolated pockets of smallpox in Brazil, none have been found or reported for the past eight months.

In fact, WHO's world-wide eradication program is showing such remarkable success—after five years prevalence is down from an estimated 2,500,000 to 50,000 reported cases—that the program's director, Dr. Donald A. Henderson, predicts that smallpox will cease to exist within the next five years.

The WHO staff man is firmly of the opinion that eradication is both technically and operationally feasible.

"Within two years we should have smallpox down to a few limited areas, and if at that time we are able to mobilize our existing resources, then we should very soon thereafter be able to clear the remaining foci," Dr. Henderson said.

No therapy exists for smallpox, Dr. Henderson pointed out. "Between 15 and 30 per cent of those acquiring variola major die; of those acquiring intermediate forms as found in Africa, about 10 per cent die; and of those with variola minor, about 1 per cent," Dr. Henderson commented.

The intensified WHO effort against smallpox was begun in 1967. In that year 42 countries reported 131,000 cases of the disease, although later WHO surveys indicated that, because of poor reporting, the actual figure was probably in the region of at least 2,500,000.

ENDEMIC IN 30 COUNTRIES

At that time, the disease was endemic in 30 countries in Africa (most countries south of the Sahara) Asia (Afghanistan, India, Indonesia, Nepal, and Pakistan), and South America (Brazil).

Approximately $15,000,000 to $20,000,000 is now spent every year on the program, of which $3,000,000 is provided directly from the WHO regular budget and a further $4,000,000 to $6,000,000 is contributed by governments (mainly the United States and the Soviet Union) and other sources.

"The amount contributed by governments of countries where smallpox is still endemic varies considerably," Dr. Henderson commented. "India, for example, pays the majority of the cost of this program, whereas the Ethiopian program is almost entirely financed by outside sources."

Around 200,000 vaccinations are carried out each year at an estimated over-all cost of 5 to 10 cents per vaccination performed.

A feature of the WHO strategy has been the increasing tendency to de-emphasize mass vaccination, because it has been demonstrably ineffective.

"In Central Java . . . a survey slowed more than 92 per cent (of the population) with vaccination scars. At the same time over 1,600 cases were occurring. More than 90 percent of these cases had never been vaccinated.

"At the same time, Ceylon was free of smallpox with less than half of the population vaccinated. The difference quite simply was that smallpox in Ceylon prompted immediate field investigation and intensive containment activities. In Indonesia the program had been one of indiscriminate vaccination and yet more indiscriminate vaccination," Dr. Henderson commented.

Thus, a key element in the WHO program has been the establishment of national surveillance teams to investigate and contain outbreaks and to search for cases.

"It is worth remarking that, to date, when a surveillance program has been established in a state or country, transmission has usually been interrupted within 12 months—at most within 24 months," Dr. Henderson said.

Vaccination techniques have also developed. "Late in 1967 we began to experiment with the forked or bifurcated needle, and this proved to be as revolutionary a device as the safety pin in its day," Dr. Henderson said.

The bifurcated needles are now in use throughout the endemic countries and are replacing the jet injector, which although highly effective was a constant headache in terms of maintenance, repair, and spare parts, said Dr. Henderson.

DEVELOPMENT BROUGHT RESULTS

These developments, together with the establishment of production facilities for an assured supply of potent, freeze-dried vaccine, soon brought results and by 1970 the number of reported cases was down to a record low.

Reported cases last year were higher than in 1970 and reached a total of about 50,000 by the end of December. "However, more than 50 per cent of this total was accounted for by Ethiopia, where in the past reporting has been poor and the WHO-assisted program is at an early stage," Dr. Henderson said.

Elsewhere, there has been a 25 per cent decline in the incidence of the disease since 1970.

"Only 17 countries have reported smallpox cases last year, and endemic transmission was confined to six," Dr. Henderson noted. Of these, West Pakistan, India, Ethiopia, and Sudan are the main problem areas, he added.

These trends are reflected in the decisions of the British and U.S. governments to cease recommending routine smallpox vaccination for children. "However, the world situation is such that WHO does not yet recommend that similar action be taken by all non-endemic countries," Dr. Henderson told MEDICAL TRIBUNE.

TRIAL OF SIMAS KUDIRKA, LITHUANIAN SEAMAN

Mr. PERCY. Mr. President, on March 22, 1972, the Chicago Tribune published an important editorial commenting on the trial of Lithuanian seaman Simas Kudirka who sought asylum on a U.S. Coast Guard cutter in November 1970. In the editorial, the details of Kudirka's trial are explored, including Kudirka's reported comments about excesses committed against the Lithuanian people since their country was seized by the Soviet Union in 1940.

I commend the editors of the Chicago Tribune for helping to keep alive public concern for Simas Kudirka. Only if the press and public officials continue to focus national and international attention on Kudirka's plight will he have any hope for ultimate freedom.

Mr. President, I ask unanimous consent that the Chicago Tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KUDIRKA'S "TRIAL"

Some time ago it was tersely reported that Simas Kudirka, the Lithuanian seaman who on Nov. 23, 1970, vainly sought asylum on the U.S. Coast Guard cutter "Vigilant", had been sentenced to 10 years' imprisonment. Further details concerning Kudirka's "trial" are offered in the newsletter issued from Searcy, Ark., by Dr. George S. Benson, who gives as his source the Assembly of Captive European Nations.

According to this account, Kudirka's trial before "the Supreme Court of the Lithuanian Republic" was conducted in almost total secrecy, before only a few functionaries, policemen, and Kudirka's wife. The defendant rejected the services of a court-appointed defense lawyer, saying that if the lawyer attempted an honest defense he could only get himself in trouble, and that if he proposed just to second the prosecutor, one prosecutor was enough. Kudirka conducted his own defense, speaking for four hours.

The charge was "high treason." A draconian Soviet statute includes attempting to leave the country without permission in its definition of that capital offense. But Kudirka said, "I consider myself completely innocent." He pointed out that the Soviet constitution [which reads quite well in many respects] does not make desire to leave the country a criminal offense.

Kudirka is reported to have recited to the court many injustices and atrocities Lithuanians have witnessed since the Red Army occupied their country in 1940. "I wanted to flee from the scene," he said, where not a week passed without bodies of nationalist partisans being stacked in town marketplaces, where always there was a "total lack of rights."

Kudirka evidently turned his defense into an eloquent and courageous attack on his judges and the system they represent.

It is a question if 10 years in a slave labor camp is a more lenient sentence than summary execution. Yet, thanks to the resourcefulness of the anti-Soviet underground, we may hope to hear of Simas Kudirka again.

GUNS AND BUTTER?

Mr. EAGLETON. Mr. President, I invite the attention of Senators to an excellent article written by Mr. Steve Weber, of the Kansas City Star. The article, taken from a lecture by Mr.

Weber, entitled "Guns and/or Butter: What Price National Security?" discusses the effect that massive spending on defense has had on our economy.

In a particularly insightful section on our balance of trade problem, Mr. Weber states:

The booming economy (booming, bear in mind, because of all the new defense spending) was attracting more and more imports. Why? Because making bullets is not making stereo sets or tape recorders. A booming economy means more demand for consumer products because the people have more money to spend on them. Enter the Japanese and Germans and others, who were pleased to oblige us. Exit the dollar.

The end of Mr. Weber's article contains a fictional colloquy between General X and Senator Y which is meant to portray the ease with which defense budgets are pushed through Congress without careful scrutiny. I am pleased to inform Mr. Weber that this is no longer the case.

The distinguished chairman of the Armed Services Committee (Mr. STENNIS) has characterized his term as chairman by a tough, second-look approach to defense projects. Senator STENNIS has shown a keen understanding of the economic problems which face this Nation and has insisted that the American people get a full dollar's worth of security for every dollar spent on defense.

Mr. President, I ask unanimous consent that the article published in the Kansas City Star of March 19, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SECURITY COSTS OVERWHELM ECONOMY

Steve Weber, assistant financial editor of The Star, spoke before the International Relations Council last week as part of their Great Decision lecture series. His topic was "Guns and/or Butter: What Price National Security?" The following is excerpted from that talk.

It now appears 1972 will mark an end to direct U.S. troops involvement in Vietnam. There has been enough hand-wringing done over Vietnam to do any more, except for the fact that Vietnam happened—in fact it's still happening—so it should not be put out of our minds until it teaches us some lessons.

To a large degree Vietnam is at fault for the economic problems of the last few years. The guns and butter policy of Lyndon Johnson fueled inflation at the worst possible time: When the war-geared economy should have been cooled off gradually it was heated up.

The effects of this and of the resulting inflation are history: Nearly everything the Nixon administration has tried, done, or undone regarding the economy has been geared to slow inflation. The recession and stock market nosedive of 1969–70 and part of '71 were the results of an attempt to slow inflation.

While dollars were flowing out of the U.S. into Vietnam, it became evident our balance of payments shortcomings were approaching a crisis stage.

To understand the Johnson administration's guns-and-butter policy—and what hangover effects it has had—and still has—on the economy, one should look at what transpired during the Vietnam build-up period from 1965 to 1968. The policies led to a situation which caused Philip Sporn, a member of the Committee for Economic Development (CED), to remark: "Even at the present level of expenditure for guns, the country is over-buttered."

In 1965 the defense build-up immediately accentuated inflationary tendencies: Total purchases that year rose $47 billion, while defense purchases declined $1.5 billion. The next year total purchases rose $61 billion, defense purchases $9 billion. When this inflationary evidence was felt, late in 1966 the Federal Reserve moved to halt the rise in the money supply. The tax credit for new investment was suspended, but at the first signs that inflation was abating, the government relaxed its anti-inflationary measures.

In the 1966–67 period, the prime factor in the rise of inflation was the jump in the unit labor cost—with a slowdown in the growth of output per man hour. As defense dollar needs grew nondefense dollar demands became strained. It should have been a problem of priorities—which program should have its funds cut. But such action is not politically popular and the government made no effort to restrain nondefense spending.

ENTER THE IMPORTS

Meanwhile, the booming economy (booming, bear in mind, because of all the new defense spending) was attracting more and more imports. Why? Because making bullets is not making stereo sets or tape recorders. A booming economy means more demand for consumer products because the people have more money to spend on them. Enter the Japanese and Germans and others, who were pleased to oblige us. Exit the dollar.

By 1966 the pressure of investment demand had grown—but not the supply of available savings . . . this, of course, forced interest rates up. As usual in a time of raising interest rates, mortgage lending was hit first, which in turn damaged the residential construction industry.

Of this period the CED, in a policy statement, commented: "The consequences of policy actions and inactions of the Vietnam build-up period through 1967 were serious. There was an upsurge of inflation and a concentration of the real impact of the military buildup on fixed investment, especially housing, and on net exports."

Despite a brief inflow of foreign funds in reaction to the higher interest rates which were being paid in the U.S., the balance of payments situation grew worse. Direct foreign exchange costs of Vietnam rose by more than $500 million in 1967 as the total went above $2 billion. Even the tourist-travel deficit rose by $200 million.

What lessons should have been learned from this?

1. The government was unable to see how significant the Vietnam build-up would be. A problem here was that the possibilities concerning the war's scope that existed in the minds of the war's managers were not always made clear to managers of official economic policy.

2. In the period from 1965 to 1967 the government tended to be excessively tolerant of the risks of inflation as compared with the risks of unemployment. This was a passive policy, a shrinking of decisionmaking. An old rule-of-thumb was used here: Inflated dollars don't vote; people do.

3. A tax hike, which might have eased the inflationary results of rising government spending, is politically deadly, and was not acted upon.

What policy changes should be made to avoid the difficulties engendered by Vietnam: For one, the government should have a longer-run view of inflation, that is, act according to a more deliberate policy rather than continually adjusting to the crisis-of-the-moment.

More and better information is needed about what the most probable size of the defense program should be. Also a more sophisticated approach in analyzing the budget, which would separate changes in the level of economic activity from those which result from policy decisions, would be useful.

Tax and spending decisions in Congress are fragmented into different committees. The machinery of Congress should be more co-ordinated in this regard.

FUTURE BUDGETS

Looking ahead to a period of peace, where do we see the military budget going? After all, roughly half the federal budget and 10 per cent of the total economic product has gone for defense—but never has more than half of the military budget gone into the cost of the Vietnam War.

In reality more military spending is in the offing . . . which resurrects the political question of how much defense we need.

But there is more to the cost problem than new missiles and new submarines. The cost of present programs—and the way the contracts have been awarded—should be looked at closely.

In 1968, according to Congressional statistics, 60 per cent of all defense contracts were with firms that were the sole source of supply for their particular goods or service. Only 11.5 per cent of defense contracts with private firms came through competitive bidding.

In Congressional hearings two years ago, John Kenneth Galbraith said, regarding defense contracts, "Opposition of interest between buyer and seller disappears. The buyer is as interested in the survival and well-being of the seller as is the seller himself. The situation, if I may be permitted to coin a word, is cozy."

The reliance on government spending, as a whole, can be noted for its effects on the economy. Figures in an analysis written by Paul N. Gershon, a regional analyst for E. F. Hutton & Co. here, show that in a 1970 breakdown of all industry groups, the government rate of inflation was 10.3 per cent. The government impact on the total was 23 per cent. The government's figures were the highest in both categories of all industrial groups.

A Kansas City businessman, Jack H. Whitaker, vice-president of administration for Whitaker Cable Co., last week attended a two-day seminar in Washington entitled "National Priorities and the Federal Economic program."

QUESTION OF CHOICE

Whitaker said in an interview that an overriding theme of the conference was that "we are not a nation of unlimited wealth . . . that certain choices must be made. We must indulge in more comprehensive, less secretive long-range planning." He also noted that there was a feeling among those attending that "the public is disappointed there hasn't been the so-called promised 'peace dividend.'" There was talk that this peace dividend, the funds freed from the war's use, would amount to $30 billion.

Two publications Whitaker brought back with him struck responsive chords. The first was an article by Thomas J. Watson, former chairman of IBM, which appeared in I. F. Stone's Bi-Weekly. In it he stated:

"Ten years back, in the twilight years of the Eisenhower era, I served with some very distinguished Americans on a committee called the Commission on National Goals . . . Our job, back in the late 1950s was to suggest goals for our country in the 1960s, and two things surprised me at the time. First, was the realization that this country had no very specific goals set down on paper; and second was the realization that no matter what goals we chose, there was practically no mechanism in government to methodically implement them—and there isn't now . . . As an institution begins to grow it must change the way it manages its affairs. This is true in business and it is no less true in government . . ."

The other publication was a copy of a letter which was sent to one of the coordinators of the conference. It read, in part:

"We are spending more than need be for national security and we know not what it is. In spite of the billions we have spent for this big insurance policy, there is a less secure feeling in the country today than at any time since World War II. There are many more strategic weapon systems for each job than are needed. I share your concern in these matters. . . ."

The letter was signed: "Gene LaRocque, Rear Admiral, U.S Navy."

When criticism is made that millions of dollars are tied up in missile silos, unavailable for public use, military spokesmen say "good, aren't we all glad they're not being used." In this sense a weapon's idleness is a testimony of its effectiveness.

But that's not the whole picture. Defense expenditures by their very nature are inflationary. They do not add anything to our consumable output. Consumable goods or services create income. Missiles, after they are built, create little.

NONCONSUMIABLES

Why is defense spending so inflationary? Because defense contractors produce stuff nobody can buy—like missiles. People make money building missiles, but these people who make missiles have no more goods or services available to them on which they can spend their earnings.

With more money to be spent—and no more goods and services available—people are, in fact, bidding up the prices of the existing goods and services. This is a key part of inflation.

Resources are scarce—and will continue to be so. Every dollar used for defense is a dollar not used for something else.

One other point: Defense money doesn't have to be justified like, say, welfare money. Gen. X says the country needs a billion dollars for development of a new submarine.

A critic asks: Why? Why do we need it and why will it cost so much? Gen. X answers: "According to the most reliable sources and figures, we need it and it will cost a billion dollars."

The critic replies: "Based on what information? Tell me."

"Sorry," Gen. X responds. "I can't. The information is top secret."

Industry has backed Gen. X . . . and so has Sen. Y whose state houses the factory that builds the new submarine . . . and Mr. Z, who owns the factory. Even if taxpayers agree with Gen. X that we need the submarine, they might put pressure on all vested interests to watch their costs and indulge in a little free enterprise competition to maybe lower some costs. That's just good business.

Four recommendations suggested by Charles L. Shultze, senior fellow of the Brookings Institution, bear looking at. He recommended that the State Department submit to Congress a posture statement which would outline overseas commitments, their status changes, and their contributions (or lack of them) to the nation's vital interests.

This paper should relate to the Defense Department posture statement which is delivered to Congress annually. Secondly, the Defense Department should present and keep current a 5-year projection of budgetary requirements. Defense should also provide more cost data on its projects. Lastly, the two posture statements of the State and Defense departments should be weighed against broad national priorities.

DEMILITARIZE THE FEDERAL BUDGET

Dr. Seymour Melman, professor of industrial engineering at Columbia University, director of the Center for Manpower Studies, George Washington University, and the author of many publications on the subject of defense spending, noted in a speech before a House of Representatives committee:

"There would be no problem of paying for reordered national priorities if there were not a military budget and other war costs, past and present, that account for 64 per cent of the 1972 tax dollar.

"Since the Second World War the military burden has totaled over $1.1 trillion, more than the value of all residential and business structures in the U.S. Having forgone the productive use of such immense resources, it is no mystery that such deterioration is visible around us and that inflation, underemployment and fiscal weakness have become the ills of the American economy. This decay in American life cannot be remedied except by demilitarization—first of the federal budget. The Nixon administration proposes a 1972 budget of $79.2 billion for the Department of Defense. I suggest that the military security of the United States can be competently served with armed forces costing two-thirds less, between $25–29 billion.

"The difference, approximately $50 billion per year, is what is needed to start restoring the United States economically and morally.

"A defense budget should be adequate to pay for the men and equipment needed to implement a particular military security policy is the heart of the matter. How much is enough is defined by enough for what? If what is wanted is the capability to try to overwhelm opponents in deliberately run nuclear wars, then recent U.S. military budgets and forces are barely adequate, or too low. On the other hand if the preferred security policy is aimed basically at defense—defined as nuclear deterrence, competence to guard the United States and the capacity to contribute to international peacekeeping—then the present U.S. military establishment and its costs are extravagant. At present, the Nixon administration's policies call for capability to fight a nuclear war and two other wars at the same time . . ."

In his book entitled "Pentagon Capitalism: The Political Economy of War," Melman observed:

"In an industrial economy, two classes of technical activity limit the current and future quality of the industrial system. The first is the scale and quality of research and development; the second is the quality of the physical plant used for production. The physical plant fairly well determines the productivity of both capital and labor, and research and development affect the development of productivity and product innovation.

"In November, 1968, the McGraw-Hill Company completed its regular five-year inventory of metalworking machinery in U.S. industry; it disclosed that 64 per cent of the metalworking machine tools used in U.S. industry were ten years old or older. The age of this industrial equipment (drills, lathes, etc.) marks the United States' machine tool stock as the oldest among all major industrial nations, and it marks the continuation of a deterioration process that began with the end of the Second World War. This deterioration at the base of the industrial system certifies to the continuous debilitating and depleting effect that the military use of capital and research and development talent has had on American industry. The machine tool industry is merely one of the American civilian industries with modest research and development programs (excepting a literal handful of the very largest firms) and with unstable, hence inefficient, production systems.

"The aging stock of machine tools constrains productive growth within the entire industrial system, because all metalworking industries utilize machine tools to a greater or lesser degree. While the United States carries out research and development (R&D) programs on a scale unmatched by any other country, it is important to evaluate this activity in terms of the concentration points of the R&D effort, as well as the size of the U.S. population and the scale of its economy. Thus, in November, 1967, the International Organization for Economic Co-operation and Development (based in Paris) found that the United States had 700,000 scientists, engineers, and technicians working in research and development. However, 63 per cent of this activity was on behalf of the military. Thus, approximately 259,000 R&D personnel were estimated to be engaged in civilian work. This compares most unfavorably with the western European research and development staff which totals 466,000, an overwhelming part of which is engaged in civilian research and development."

GUIDELINES FOR ALASKA REGIONAL CORPORATIONS

Mr. STEVENS. Mr. President, I recently have been advised by the Assistant Secretary of the Interior, Mr. Harrison Loesch, that the Interior Department, has formulated its guidelines for the Regional Corporations authorized by the Alaska Native Lands Claims Settlement Act.

In 1971, Congress took a historic step by its passage of this act to settle the outstanding claims of the Alaska Natives. The act authorized the creation of 12 Alaska Native Regional Corporations which will implement the settlement provisions set forth.

Mr. President, the promulgation of these guidelines will permit Native associations to take immediate steps toward incorporation. This process is an urgent necessity in order for these associations to qualify for interim financing from private sources.

Mr. President, I ask unanimous consent that the "Guidelines for Articles of Incorporation and Bylaws of Regional Corporations" be printed in the RECORD.

There being no objection, the guidelines were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Feb. 22, 1972.

ORGANIZATION OF REGIONAL CORPORATIONS UNDER ALASKA NATIVE CLAIMS SETTLEMENT ACT

Attached for your information is a copy of the Department's "Guidelines for Articles of Incorporation and Bylaws of Regional Corporations."

Triplicate originals of the Articles of Incorporation and Bylaws, together with the statements required by the guidelines, should be submitted to this office for approval under Section 7(e) of the act. Secretarial approval will be endorsed on each set of Articles and Bylaws and two will be returned to you for filing with state authorities.

Of course, both this office and the Solicitor's Office are available to discuss incorporation problems at any time.

HARRISON LOESCH,
Assistant Secretary, Public Land Management.

GUIDELINES FOR ARTICLES OF INCORPORATION AND BYLAWS OF REGIONAL CORPORATIONS

Section 7(e) of the Alaska Native Claims Settlement Act provides for Secretarial approval of the original articles of incorporation and bylaws for each regional corporation. In order to facilitate the work of the incorporators and their attorneys, the Department has prepared these guidelines or criteria for use in reviewing the proposed articles and bylaws.

These guidelines reflect the Department's announced policies:

(a) That the organization and operation of the regional corporations should be left, to the greatest extent possible, to its owners—the stockholders;

(b) That the regional corporations should be organized as soon as possible, to enable them to timely meet their obligations under the act; and

(c) That until the enrollment process is completed and the stockholders are fully identified, the regional corporations should have limited authority.

Because each region may experience unique organizational problems, these guidelines are not inflexible. Variances will be considered where any guideline is considered inappropriate.

Except where the act specifically requires that a particular provision be inserted in the articles, it may be inserted in the bylaws, when appropriate and if accompanied by a provision that the particular bylaw may not be amended during the regional corporation's first five years without the approval of the Secretary.

I. GENERAL

As provided in Section 7(d) of the act, the articles must contain those provisions necessary to carry out the terms of the act. Unless otherwise limited by the act or by the articles and bylaws approved by the Department, each regional corporation should have all the powers of an Alaska business corporation.

Approval of articles and bylaws will be withheld if inequities among Native individuals or groups of Native individuals would be created.

II. INCORPORATORS

The incorporators should be named by the Native associations listed in Section 7(a) of the act. A statement should be submitted to the Secretary identifying the residence of each incorporator, his position, if any, with the association, and the manner by which the incorporators were selected.

III. DIRECTORS

A. A statement should be submitted to the Secretary identifying the residence of each member of the initial board of directors, his position, if any, with the association, and the manner by which the initial directors were selected.

B. The terms of the members of the initial board of directors should be one year. In any election conducted prior to completion of the roll, the terms of the directors should also be one year. In board elections conducted after completion of the roll, the terms shall be as fixed in the articles.

IV. VOTING

A. In board elections conducted prior to completion of the roll, Natives enrolled of record on the first day of the month preceding the election should have the right to vote.

B. Voting proxies should be in writing and limited to a period of not more than 11 months. Until after the first board election following completion of the roll, proxies may be given only to Natives enrolled in the same region.

C. Cumulative voting should be allowed in all board elections.

V. POWERS

A. Unless otherwise limited by the act or by the articles and bylaws approved by the Secretary, each regional corporation should have all the powers of an Alaska business corporation.

B. Prior to completion of the roll and election of the first board of directors thereafter, the powers of the regional corporation will be limited as follows:

(1) *Borrowing Funds:* Limited to a ceiling authorization set forth in the articles, except that additional funds could be borrowed with the approval of the Secretary. A statement justifying the proposed ceiling authorization shall be submitted to the Secretary together with the proposed articles and bylaws.

(2) *Spending or Committing Funds:* Limited to: (a) a ceiling authorization set forth in the articles; (b) a period of time not to exceed one year, and (c) organizational purposes and to assemble and analyze data pertinent to land selections and related responsibilities. Funds may be spent or committed in excess of the ceiling authorization, beyond a one year period, or for other purposes only with the approval of the Secretary.

(3) *Investment of Funds Distributed Under Act:* Limited to periods not to exceed one year, except that longer term investments may be made with the approval of the Secretary.

(4) *Land Selections:* May not be made.

VI. APPROVAL OF ARTICLES OF INCORPORATION OF VILLAGE CORPORATIONS

A. Regional corporation should withhold approval of articles of incorporation of village corporations if inequities among Native individuals would be created.

B. Approval of articles of village corporations should be withheld unless they contain a provision prohibiting the selection of lands by the village corporations prior to completion of the roll and election of the first village board of directors thereafter.

THE PRESIDENT'S MESSAGE ON AGING

Mr. MOSS. Mr. President, I waited with great anticipation on Thursday last when I heard that President Nixon's long-heralded Message on Aging was being released.

With all the momentum following a truly historic White House Conference on Aging and given the peculiar pressures of a presidential election year I fully expected, and even hoped, for another of the now-famous Nixon reversals. Having read the full text of the Nixon message I am greatly discouraged and disappointed. Much to my chagrin I must today report that the Nixon Message on Aging ignores the substantive resolutions of the White House Conference on Aging and continues the administration's policy of neglect and indifference to the needs of older Americans.

The President, it seems, is willing to make a political issue out of the devastating problems that confront the elderly. The speech gives the impression that the administration is doing much while in reality it is doing little. The Presidential message is high in platitudes and low on substance; it promises much of what Congress already is providing. All in all, it is a most unpalatable pablum.

These are harsh words, but I have measured them carefully, and I invite anyone to journey with me through the never-never land of this message on aging to measure the validity of my conclusions.

The Presidential message notes that the Federal Government will spend $50 billion in fiscal year 1973 for the elderly. The use of this figure is most unfortunate. It gives the impression to seniors that there is a sizable amount of money budgeted for their needs. It simply is not true. We are provided with no exact breakdown of this $50 billion figure but most experts agree that it include payments due from the social security trust fund.

In related point the administration cites funding for the Older Americans Act, with announced dramatic increase in these funds during the Nixon administration. The facts are that the Older Americans Act had been funded at the $32 million level and the Nixon administration last year requested only $29.5 million and then, only after the chairman of the Senate Committee on Aging, Senator CHURCH, called special hearings on this subject was the amount finally raised by the Congress to $100 million and reluctantly accepted by the administration.

Following is a point by point recitation of the major problems confronting the elderly from the President's message, followed by the solutions proposed by the White House, and my comments thereon.

INADEQUATE RETIREMENT INCOME (THE CENTRAL PROBLEM)

The President said:

Perhaps the most striking change in the lives of most Americans is the sudden loss of earned income which comes with retirement.

The President apparently was unwilling to take any new initiatives despite the recommendations of the White House Conference. He was content with a recitation of the proposals in H.R. 1. They are:

A 5-percent social security increase;

Tying future increases to the cost of living; and

Raising the amount that a senior can earn, without loss of part of his social security check, from $1,680 a year to $2,000.

Significantly, there was no mention of the proposed 20 percent increase in social security benefits which the chairman of the House Ways and Means Committee has promised and says can be provided primarily out of excess social security trust funds. Unless our Government agrees to this significant increase before tying future increases to the cost of living we will perpetuate forever the current fact which is that the elderly constitute the floor of our economy. It is startling to remember that one out of four seniors has income placing him below the poverty line.

But in addition we must raise it to at least $210 to $300 per month, the amount that a senior can earn without forfeiting part of his social security check. To do less will also perpetuate the present reality that social security constitutes a disincentive to work. Curiously, Mr. Nixon has taken a strong stand on this disincentive to work in other contexts, why not in this one?

ESCALATING REAL ESTATE TAXES (PROBLEM NO. 2)

The President said:

The heavy and growing burden of property taxes constitutes one of the most serious of all income-related problems.

The President promises:

To continue his investigation of alternative methods of financing public education and to work for his revenue-sharing bills.

Not long ago, I introduced and had printed in the RECORD my bill S. 3088, which is far from perfect but attempts to deal with the problem of escalating real estate taxes. In introducing that bill I pointed out that in some instances we have learned that property taxes consume as much as 50 percent of the total incomes of some seniors. That situation is intolerable. It will not wait several years for study and more delay and recitation of good will from the White House. It is noteworthy that the Senator from Maine (Mr. MUSKIE), the Senator from Maryland (Mr. MATHIAS), and several other Members of Congress have introduced bills designed to provide our older citizens with some relief. It is regrettable that the President did not endorse any of these proposals or offer his own proposal.

CONSUMER PROBLEMS AND THE ELDERLY

The President said:

It is estimated that the elderly spend over $60 billion yearly for goods and services—our economy should be responsive to the needs of older consumers.

The President proposes:

Simply enactment of the "several pieces of administrative sponsored consumer legislation" designed to reduce dangers which are especially acute for older consumers.

The reality is that the administration has consistently opposed progressive consumer legislation and offers its own legislation only after it receives the impression that congressional passage appears likely. Administration proposals, without exception, seek to weaken congressional proposals designed to protect the consumers.

HUNGER AND MALNUTRITION

The President said:

The thought that any older American—may suffer from hunger and malnutrition is intolerable.

The President's Program:

He notes the great progress inherent in the passage of S. 1163, Senator KENNEDY's nutrition bill to provide meals in group settings and delivered meals for those confined to their homes. His speech gives the impression that the administration supported this proposal from the beginning.

The reality:

The administration had consistently opposed the Kennedy bill and had a change in heart only after the bill had cleared the Senate 87 to 0.

HOUSING

The President said:

The Administration has also worked hard to respond to the very special housing needs of older Americans.

The President's program:

A promise of 66,000 units for the elderly during this fiscal year and 82,000 units next year.

The Congress last year earmarked $35 million for housing for the elderly; HUD's impoundment of funds resulted in only half that amount being used.

By whatever measure, the President's program will not provide, nor does it claim to provide, a minimum of 120,000 housing units for the elderly which is the need fixed by the White House Conference on Aging.

Nor has the administration seen fit to endorse an Assistant Secretary of Housing for the Elderly. This is another resolution of the White House Conference and the office is established in the Housing bill passed by the Senate.

Nor has the administration elected to accept the resolution of the White House Conference on Aging to resurrect the section 202 program which provided direct loans to nonprofit sponsors who desired to build housing for the elderly. The Senate-passed bill includes a $100 million increase in the authorization for 202 housing, the most successful of our housing for the elderly programs. Section 202 ran 10 years without a failure and provided 45,000 units specifically designed for the elderly. It provided much more than housing—it provided services and a way of life.

It is worth stating again that this program was phased out in favor of a more expensive and less efficient program, section 236, which uses the interest subsidy mechanism. These subsidy programs are under attack at present because of their extreme cost to the Government. A $3 million project costs the Government $8 million in interest alone over the 40-year life of the mortgage. A recent HUD audit is sharply critical of interest subsidy in sections 235 and 236; other independent studies by Harvard and MIT for the Housing Banking Committee are also critical but the administration proudly enumerates that about 600,000 subsidized units will have been built in this fiscal year.

HEALTH PROBLEMS AND THE ELDERLY

The President said:

Growing old means poor health and declining income. Older Americans find that they must pay their highest medical bills at the time when they are least able to afford them. Seniors pay $861 per capita for health care while those of us younger than 65 pay about $250. Medicare—

Noted the President—

only covers 42 percent of their health needs but 40 percent of Medicaid—

I add a hyphen and the word "welfare"—

expenditures go to the support of health costs of the elderly.

The President's program:

Lifting the $5.60 a month premium that seniors must pay to receive coverage under part B of medicare. The reality:

At the same time that the administration proposed the lifting of the part B premium it has proposed higher coinsurance and deductibles under medicare which ultimately restricts medicare coverage. The administration, it seems, gives with one hand and takes away with the other. If that is not enough there was no mention of the need to expand the scope of medicare to cover prescription drugs, eyeglasses, hearing aids, or dental care.

INFLATION

The President said:

Because older Americans are dependent on relatively fixed incomes, they are uniquely victimized by the ravages of inflation.

The administration program:

The so-called new economic policy with its selected wage and price controls.

The reality:

A quick glance at the consumer price index will indicate how well phase II is working. The price of food and particularly meat is now sky-high. Consumer dissatisfaction is high and small wonder. Another pillar in the administration's game plan is to reduce Government spending—so it says on page 12 of the President's speech. There is a curious inconsistency here with page 2 of the text which refers to the $50 billion that presumably will be spent for the elderly this year and the suggestion that this is a 150-percent increase in spending for the elderly.

So it should be clear why I say that the President's message is disappointing. The White House it seems has chosen to follow rather than to lead. But even more disappointing the White House apparently is content with tokenism. It courts the elderly voter with an impression that it is taking action to meet his needs. But it does so as cautiously and inexpensively as possible.

To this point I have scrupulously avoided any comments about the President's eight-point plan to eradicate substandard nursing homes. Earlier, I promised that I will give HEW a chance before becoming unduly critical. Even so a few things must be said.

First, I do not see the substantial progress in improving nursing homes that the President sees. Progress in implementing the President's eight point plan has been anything but spectacular and much less than comprehensive.

Second, Secretary Richardson's December announcement that HEW would withhold funds from 38 States unless they had complied with Federal standards to bring their inspection procedures up to date by February 1 has all the earmarks of a publicity gimmick.

All States but one are said to have complied. What was required for compliance, I asked?

The States simply had to address a letter to the Secretary noting their intention to comply and to bring their procedures up to date.

The word "procedures" relates essentially to the flow of paper through the States' health and welfare departments. The new deadline of July 1 simply means that by then the States must have their paperwork in order. They must ascertain that all the nursing homes have transfer agreements, that Federal standards are used in certification, and that there is communication between HEW and the State health and welfare departments.

The essential question seem to be: When will the Federal and State Governments get down to the specifics of looking at patient care or only compliance of a nursing home with an amorphous set of paper requirements?

I suggest that it is important to measure capability. It is important to ask a nursing home if it has job descriptions and transfer agreements with a local hospital. But it is infinitely more important to go beyond capability to measure the type of care actually given. That entails looking at patients rather than pa-

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per; looking for bedsores and errors in medication rather than errors in accounting.

Another item which has become a pet peeve of mine is that, while the administration speaks in terms of helping nursing homes to upgrade rather than closing them outright, I see no major effort from HEW to help nursing homes improve.

Other than the bill I introduced this session which would provide loans for the purchase of fire safety equipment, I see few efforts to help the nursing homes meet higher standards. The administration for example might propose a broad program for the repair and rehabilitation of nursing homes. In-service training programs could be offered for aides and orderlies on the local level.

There is much that can and must be done in this field. One thing appears to be essential to any improvement and that is greater involvement of physicians in long-term care. Few if any medical schools currently offer geriatrics as a specialty nor offer programs whereby interns can work in nursing homes. Here too, leadership is necessary from the administration.

That leadership as of now is not forthcoming.

The President's message is far from "good news for older Americans." I hope that the major senior citizen organizations will analyze the reality of this message for their membership. The 20 million older Americans deserve a better break from their Government. They could use another of the famous Nixon reversals.

REVENUE SHARING

Mr. FANNIN. Mr. President, the House Committee on Ways and Means has been considering legislation on revenue sharing. If such legislation is ultimately adopted it will mark an important milestone in the effort to rejuvenate the Federal-State partnership.

Enactment will mean the realization of one of President Nixon's major objectives. States will regain their position of leadership and the people will be given the opportunity to determine their priorities.

Mr. President, a good article on the subject of revenue sharing appears in the National Review of March 31. It was written by James A. Maxwell, a former teacher of finance at Clark University. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YES, TO REVENUE SHARING

(By James A. Maxwell)

In the July 13, 1971 issue of the National Review, William G. Fredericks opposes revenue sharing on several grounds, two of which are that its adoption would 1) erode federalism by accelerating federal dominance over state and local governments, and 2) violate the principle of financial responsibility which holds that governmental decisions to spend should be matched with decisions to raise the necessary revenue.

Surely it is paradoxical to find that proponents of revenue sharing, from Walter Heller to President Nixon, declare their main aim is to strengthen federalism by reinvigorating state and local governments. President Nixon in his 1971 State of the Union Message said:

"The time has come for a new partnership in which we entrust the states and localities with a larger share of the nation's responsibilities, and in which we share our federal revenues with them so that they can meet those responsibilities. To achieve this goal, I propose to the Congress tonight that we enact a plan of revenue sharing. . . ."

Since the United States has no experience with general revenue sharing, appeal to historical evidence is not possible. Two other federal nations, however, have had experience. Canada started with general revenue sharing in 1867, and Australia, in 1900. In both nations fears were expressed at the outset (and for years after) which are now echoed in the United States. The Prime Minister of Canada, Sir Wilfred Laurier, said in 1905: "It is a sound principle of finance and a still sounder principle of government, that those who have the duty of expending the revenue of a country should also be saddled with the responsibility of levying and raising it." The Commonwealth Treasurer of Australia, Earle Page, said in 1927: "The government considers that the vicious principle of one authority raising taxation for another authority to spend should be terminated at the earliest possible date." Nowadays not even an echo of such verbiage can be heard. The system of revenue sharing (unconditional grants) is acknowledged by all political parties to be a force that strengthens federalism. The old adage that he who pays the piper calls the tune is recognized to be irrelevant; the old dispute looks like a fossil of history. And yet in the United States the old dispute has shown an unexpected capacity to promote controversy.

The experience of Canada and Australia has significance for the United States because these two countries are "natural" federalisms. They are large and diverse nations in which some *variation* in the type and level of many civilian governmental services, especially those provided directly to individual citizens, is in the national interest. Federal administration would be both inflexible and wasteful in the face of diverse needs. Reservations concerning details aside, the main thrust of general revenue sharing is in the direction of decentralization.

In 1971 President Nixon proposed not only *general* revenue sharing, but also *special* revenue sharing by which he meant consolidation of some 130 categorical grants into six groups: law enforcement, manpower training, urban community development, rural community development, education and transportation. Very many congressional leaders (including Representatives Wilbur Mills and John Byrnes of the Ways and Means Committee) have in *principle* endorsed special revenue sharing and then qualified their endorsements by criticizing the make-up or composition of the six groups. This attitude will, almost surely, be fatal to congressional action because it will be utilized by pressure groups to support and protect narrow categorical grants.

In Canada and Australia categorical grants have been viewed with suspicion as biased toward centralization.

In a federalism, functions of government and sources of revenue are divided between the Federal Government on the one hand, and state and local governments on the other. This division allows the Federal Government to handle its functions *uniformly* over the nation; it leaves the states free to handle their functions with considerable *variation* from state to state according to differences in citizen needs and preferences. Similarly, each level of government is free to construct and adapt its own revenue system. If the division of functions and revenues, federal and state-local, is satisfactory, the federalism will be fortunate. "Dual" federalism will work, and each level will find that its ability to handle its set of functions coincides with its ability to collect the needed revenues. Inevitably, however, the division will get out of date. An imbalance will develop between the situation of the Federal Government and that of all the states. This will be tolerable when the recognized governmental functions are neither numerous nor expensive, and when, as a result, every level of government has some acceptable sources of revenue open to it. But when, as now, extensive and expensive programs are in operation, and when, especially at the state-local level, elastic and equitable revenues are hard to find, the federalism is in trouble.

The trouble is compounded by the unequal fiscal strength of the states because then the imbalance has a differential impact. Governments in poor states cannot, with equal effort, provide levels of service equal to those of the rich states. For some services, as will be discussed, an appropriate remedy is to be found in the conditional grant; for others, however, the appropriate remedy is revenue sharing.

Three remedies for imbalance are available: 1) Federal responsibilities can be increased by direct takeover of services previously in state-local hands. This is centralization, an unacceptable remedy to me and to Mr. Fredericks which will not be considered here. 2) Tax sources can be moved from the federal to the state-local level. 3) Federal grants-in-aid, conditional and unconditional, can be utilized.

TAXES AND CREDITS

Little doubt can exist that the Federal Government is a better tax-collector of most taxes than are state and local governments. Most certainly it is a better collector of income tax. And yet the opinion persists (Mr. Fredericks is a believer) that a tax credit against the federal individual income tax would be a more satisfactory form of financial relief to state and local governments than revenue sharing. The most serious in a long series of proposals is that of Rep. John W. Byrnes, ranking Republican on the House Ways and Means Committee. By his bill (HR 8193) individuals would be allowed to credit against their federal liability up to 20 per cent of their payments of state-local income tax. For states *with* income taxes the first effect of such a credit would be to reduce the federal liability for individuals. If, for example, the federal tax of John Doe in New York was $1,000 and the state tax $100—a total of $1,100—the 20 per cent credit would reduce his federal tax to $980 and his total income tax to $1,080. In order to gain revenue the state would have to increase its tax. An increase of the state tax on John Doe from $100 to $120 would leave his total tax unchanged at $1,100.

The nine or ten states *without* income taxes would have to enact them in order to gain a credit. Some of them could not act without a constitutional amendment (which would be slow); some might inveigh against federal coercion; some might hail the credit as a bonanza, costless in the aggregate to their taxpayers, since the amount of the new state tax would be matched by the reduced amount of federal tax liabilities. *Pace* all these incertitudes, as well as other more technical flaws which cannot be exposed here. The issue on which to focus is: What would the Byrnes (or any similar) credit do, financially, for state and local governments which now have income taxes?

If all of them picked up fully the 20 per cent credit, their revenue gain in 1970 would have been $2.5 billion. The gains, however, are very unequal. States which are strong users of individual income taxation, e.g., New York and Hawaii, would have gained $38.60 and $33.20 per capita; states which are weak users, e.g., Mississippi and Maine, would have gained $4.66 and $4.84 per capita. But what if Mississippi made an income-tax effort equal to that of New York (effort being measured as state-local collections as a per cent of state personal income)? New York in 1970 raised $137 per capita; Mississippi, with similar effort, would have raised $77 per capita for which its tax credit would have been $15.60 per capita (compared to a credit of $38.60 per capita for New York). If Mississippi tried to raise as much per capita as New York through state-local individual income taxation, it would have to make an income-tax effort greater by 80 per cent.

The conclusion to be drawn is simple and obvious. An income-tax credit, whatever its merits, would do little for governments in "poor" states. The gap in financial strength between them and the richer states would be widened. The credit is *not*, therefore, an alternative or substitute for revenue sharing.

PERMANENT GRANTS?

The Federal Government has been a prolific donor of categorical grants. In a dynamic federalism which, over time, becomes economically integrated, services once wholly of state concern take on some national characteristics and justify federal intervention. Conditional grants offered a method by which provision of such services is left in the hands of state-local governments, and yet these governments are induced to lift the quantity and improve the quality of the provision.

At present the opinion is widespread that categorical grants have been overutilized: the amount spent on them rose from $7.9 billion in 1950 to $24.4 billion in 1970, and the number grew from 160 to more than five hundred. Growth in their complexity, while not quantifiable, has surely outpaced the growth in numbers. A formidable information gap has been created because state and local officials cannot know what is available; "gamesmanship" has been stimulated, and this enables the alert rather than the deserving government to secure federal money. The Federal Government, misled by its superior fiscal power and by a centralist bias, has substituted its preferences for those of the states. It has distorted the pattern of state-local spending by imposing controls that were too detailed and also inappropriate to the diversity of state-local needs. Expanded use of categorical grants is not, therefore, an acceptable remedy for the fiscal imbalance of the American federalism, and yet pressure for expansion will be unremitting until it is relieved by revenue sharing.

Numerous state and local services in which there is no significant national interest do not receive federal grants and this is as it should be, since federal conditions and rules with respect to them would be worse than useless. Federal rules must be *uniform* across the nation in an effort to establish minimum standards of performance. The Federal Government cannot devise and apply *different* standards from state to state, and yet, for many services, different standards are appropriate. Diversity in performance is necessary because needs are diverse.

Those services which do not, and should not, receive conditional grants are, let it be emphasized, important to state and local governments. When the level and the quality of performance are low—as is surely the case in some states simply because of fiscal poverty—the remedy is to be found in revenue sharing by which grants without strings are distributed to state and local governments on a basis which is somewhat revenue equalizing. That is, the amounts allotted to a poor state ought to be in excess of federal revenue collection from it to finance the grant, and, conversely, the amount allotted to a rich state ought to be less. How much revenue equalization should be provided is an intricate and controversial question concerning which reasonable men will differ. The scheme recommended by the Administration—allocation by states mainly on the basis of population so that the per capita grant of each state is equal—is somewhat equalizing because the revenue for the grant, raised by a progressive federal tax system, comes disproportionately from rich states. When the Federal Government collects $1 in taxes from the average resident of the nation, it collects more than this—approximately $1.48—from the average resident of Connecticut, and less than this—approximately 46 cents—from the average resident of Mississippi. Allocation of the grant on the basis of population has also the merit of objectivity; the share of the aggregate grant for each state is determinate.

A feature of the Administration scheme which draws the fire of Mr. Fredericks is that the money for revenue sharing is to be provided through a "permanent appropriation." This will, he declares, limit congressional discretion with respect to annual budgeting and "result in permanent diminution of the Congress' role as a counterbalance to the Executive." The clause quoted has a touch of hysteria. The intent of a "permanent appropriation" is to give some automaticity to annual provision of the grants: The Treasury Department would not have to go annually to the Office of Management and Budget asking for an appropriation for revenue sharing, and OMB, in turn, would not have to go to the Appropriations committees. Surely it is reasonable that the fifty states and thousands of local governments be given assurance of provision of their annual grants. But any Administration can recommend, and any Congress can enact, legislation modifying or repealing revenue sharing; no Congress can bind a later Congress.

The most plausible criticism of revenue sharing is that it infringes the principle of financial responsibility. The principle, strictly applied, would not tolerate any intergovernmental transfers, federal to state and state to localities. But if, as is inevitable, an imbalance exists, must not the principle of financial responsibility be compromised?

In the area of public finance this is standard practice because its principles are relative and overlapping. Each principle must be applied with due consideration of how to accommodate it with other principles. The principle of equity in taxation will, for instance, sometimes yield to administrative feasibility and to revenue productivity; revenue productivity will, at some point, yield to equity and convenience. Conflicts arise, similarly, with respect to the principle of financial responsibility. If, as it dictates, each level of government should finance itself, either the amount or the quality of services provided by poor governments will suffer. The principle of horizontal equity, which declares that equals should be treated equally by government, is violated. Revenue sharing offers a way to reconcile and compromise this conflict between horizontal equity and financial responsibility.

"COOPERATIVE FEDERALISM"

What is the *extent* of the breach of financial responsibility which is contemplated? The Administration bill proposed for 1971–72 general revenue sharing amounted to $5 billion. In that year state and local governments would be spending approximately $160 billion, of which 85 percent would come from their own sources of revenue and 15 per cent as intergovernmental revenue. Revenue from own sources has, recently, increased by $8 billion yearly.

Is it plausible to argue that the addition of $5 billion through revenue sharing would change either the method or the quality of budgeting appraisals by state and local officials? Conscious as they are of numerous unmet demands for expenditure, they would allocate the $5 billion provided as an unconditional grant by the techniques used to make other budgetary decisions. To assert this is not to deny that if all or much of the revenue of state and local governments came as unconditional grants, so that little or no tax discipline accompanied their spending decisions, state and local financial responsibility would be impaired. But no such situation is created by unconditional grants which, at the outset, would add 3.1 per cent to total state-local revenue.

The objection may be raised that a grant of $5 billion would be a foot in the door. Is there reason to expect that this type of grant would get out of control? Unconditional grants, in the mind of Congress, will be alternatives to larger direct federal expenditure or to reduction of federal taxes, and the kudos to be gained from these alternatives will usually be more apparent than from expansion of unconditional grants.

State-local governments will, to be sure, *request* larger grants. But their political power in Washington has been principally negative. They muster a sturdy opposition to measures they dislike; they have not been effective proponents, and it is hard to see how establishment of an unconditional grant would alter their political leverage. Care should, of course, be taken in the design of the grant. If state-local governments could add to their spending in full confidence that this would augment their grants, fiscal irresponsibility would be manifest. But a grant design, such as that proposed by the Administration, is insulated from any such temptation, since both its annual aggregate amount and its distribution among the states are determined by a formula.

A federalist in the 1970s is plagued with anxiety concerning the problems of American federalism. History will inform him that the course of federalism has seldom run smooth, and that, periodically, for more than 180 years, similar worries have been endemic. While this information will be a consolation, it should not be a sedative. It would be rash to allow beliefs—not to say dogmas—rooted in past experience to retard search for ways by which American federalism can be strengthened. The search should be for improved techniques of federal-state-local fiscal cooperation.

The old concept of separation of governmental functions, federal and state-local, should be replaced by the concept of cooperative federalism. Sometimes the Federal Government, through the conditional grant, will stimulate and coordinate performance of services at the state-local level. This valuable device should not, however, be overapplied, as it has been in the United States in recent years. A corrective move would be provision of unconditional grants, allocated by a formula favorable to the poorer states. For a very considerable range of state-local services, differences in preferences should be respected, and, within limits, expression of these diverse preferences should not be impeded by differences in fiscal strength. Such differences should be reduced through grants which are distributed without reference to the purposes for which they may be spent.

THE EFFECTIVENESS OF PHASE II?

Mr. EAGLETON. Mr. President, I receive correspondence from my constituents every day commenting on their personal experience with the ineffectiveness of the Phase II controls. Some citizens, however, do more than write letters. There are groups in Missouri, as I know there are in all other States, which have formed to help monitor violations of Phase II guidelines. Such a group is the St. Louis Price and Rent Compliance Committee.

Only 3,000 Internal Revenue Service personnel have been allocated to play the watchdog role over this vast and com-

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plex economy of ours. I applaud the citizen groups which have aided this effort. Moreover, I think it may be helpful to note the observations of these groups now that we have passed the 4-month mark of Phase II.

Mr. President, I ask unanimous consent that a letter sent to me from the St. Louis Price and Rent Compliance Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ST. LOUIS, MO.,
March 14, 1972.

Hon. THOMAS F. EAGLETON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EAGLETON: After four months of intensive and often exasperating effort to assist the Federal Government in enforcing price and rent controls of Phase II, the St. Louis Price and Rent Compliance Committee has concluded unanimously. . . .

1. The control mechanics for Phase II are so thoroughly loopholed that there are, in effect, no controls at all—

2. The Internal Revenue Service is and has been totally ineffective in performing its designated enforcement functions, and

3. If, and we consider it unlikely, Phase II has brought any relief to consumer food budgets, that relief has been obliterated in whole or in part by the runaway price of meats.

Aware that the regulations originally drafted by the Cost-of-Living Council were so complicated and abtruse that the consumer was excluded as an effective monitor of pricing, our committee encouraged the public through news media and extensive pamphleting to direct suspected violations of Phase II price and rent controls through two offices it established in St. Louis.

By January 11, 1972, the date the Cost-of-Living Council declared the results of such investigations were to be made public, our committee had processed and filed a large number of complaints with the Internal Revenue Service. These complaints concerned suspected violations in food, drugs, clothing, rents and hardware.

Enclosed you will find copies of our complaints and the answers of I.R.S. The results of the I.R.S. investigations are written on the lower left hand side of each page. We feel the large number of increases that were allowed based on "increased cost" at the point where products are unregulated needs further investigation.

The three labor bodies, The Greater St. Louis Labor Council, AFL–CIO, the Teamsters Union and the United Auto Workers, which have staffed and funded this committee take affront when their efforts to assist in making President Nixon's economic program effective, are treated with disdainful disregard by the federal agency designated to enforce an area of that program.

Our committee has been dismayed at the impudence food retailers have demonstrated in increasing their prices since the beginning of Phase II.

We have worked closely with Housewives Elect Lower Prices (HELP), which as you were earlier informed, conducted surveys to assess the impact of Phase II on food prices. Our own research in this area supports that group's graphic indictment that Phase II has been totally unsuccessful in inhibiting food prices increases.

HELP's survey of 40 items, including meats, produce, dairy and staple products reveals food prices rose 3.59 percent between Nov. 12–13, 1971 and Jan. 28–29, 1972.

While these surveys indicate Phase II has brought no relief to the consumer in food purchases, the unregulated price of meat alone, certainly would have obliterated "any possible" gains to the consumer in controlled items.

Meat prices rose during this period by 9.05 percent, and since estimates of the share of meat purchases in the average consumer food budget amount to 25%, this proves any relief consumers could have received from controlled items, have been smothered by meat.

The price of meat, as you are probably aware, has risen so drastically during Phase II, that many consumers, particularly those doomed to a life on low income, have had to switch to some substitute in order to provide their families with minimum protein requirements.

In light of the above, we encourage you to consider a Congressional Investigation of . . .

1. The effectiveness of Phase II in curbing inflationary price increases . . . .

2. The effectiveness of the Internal Revenue Service as the enforcement agency for Phase II price and rent controls, and

3. The cause and effect of runaway inflation in meat prices.

We encourage investigation of these matters, of course, with the hope they will lead to corrective legislation.

We also ask that you give this committee an opportunity to further expand on these matters, and suggest a meeting with you and other Senate and Congressional representatives of Metropolitan St. Louis during the Easter recess of Congress. With personal regards, we are

Sincerely,

HAROLD J. GIBBONS,
President, Teamsters Joint Council No. 13.

KENNETH WORLEY,
Director, United Auto Workers, Region V.

OSCAR A. EHRHARDT,
President, St. Louis Labor Council, AFL–CIO.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that according to current Census Bureau approximations, the total population of the United States as of April 1 will be 208,968,538. This represents an increase of 115,694 since the first of March, roughly the size of Albany, N.Y. It also represents an addition of 1,916,524 since April 1 of last year, an increase which is equivalent to three new Bostons.

RECYCLING—ADDRESS BY SENATOR MOSS BEFORE NATIONAL ASSOCIATION OF SECONDARY MATERIALS INDUSTRIES

Mr. EAGLETON. Mr. President, the National Association of Secondary Materials Industries held their annual convention in Los Angeles March 17. The keynote address was given by Senator FRANK E. MOSS, who chose the subject "Recycle or Perish: The Challenge to Business and Mankind."

The speech zeroes in on the central problem now facing the country regarding solid waste: In spite of the public attention and the extensive rhetoric given the subject, we have not adopted policies that encourage business to attack this problem. Our governmental policies actually hamstring the recycling of products by, for example, imposing higher rate charges on the shipping of such material and by providing tax preferences for the use of virgin resources.

I commend the reading of this speech to Senators and to the public at large.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

RECYCLE OR PERISH: THE CHALLENGE TO BUSINESS AND MANKIND

It is a great pleasure and a great honor to be with you this morning. I have chosen as the subject of my talk: "Recycle or Perish: The Challenge to Business and Mankind."

I am very much encouraged by all of the attention which is being paid to recycling these days. In fact, there are times when I would like to have a bit of recycling myself—particularly after weeks like this last one in the United States Senate. On Tuesday, we took eight roll call votes just trying to adjourn for the day.

The late Adlai Stevenson, who always managed to say something better than anybody else, once warned us:

"We travel together, passengers on a little space ship dependent upon its vulnerable supplies of air and soil . . . preserved from annihilation only by the care, the work, and the love we give our fragile craft."

This warning is enormously relevant for our present generation. For we have wrought more change in our environment than all other generations in the history of the world.

Someone must pull us out of the mire which we have created. All of us look to you for substantial help. In many ways the work your companies are doing epitomize the philosophy which will preserve the earth. You have discovered that the residue from our affluent society is not a solid waste, but a wasted solid. You may call yourself a "secondary" industry, but in my mind you are "primary"—up front and center—in this fight.

America has been described as a nation, knee-deep in garbage, firing rockets to the moon. Unless we turn to you and your services, we will choke on our own debris. You were recycling our wastes decades before the term "recycle" earned a spot in the dictionary—now you belong to an "in" profession.

So, this ought to be a smiling crowd with pockets bulging from profits created by the sweeping ecology movement of today. After all, the first Earth Day was almost two years ago. Since that time, thousands of words have been written and spoken, hundreds of protest miles have been marched, Congress has passed sweeping new legislation, and almost everyone has accepted the need for ecological balance in our life-style.

Many of you *are* succeeding as recyclers. But you succeed by meeting the laws of supply and demand; by dealing with the economic realities of day to day business existence. Unfortunately the ecology movement has not produced a huge bounty for the recycling industry. The figures, in fact, produce shock and disillusionment.

Paper is one half of the municipal solid waste problem. We should expect, then, that the amount of recovered and recycled paper would have increased significantly in the last few years. The facts, however, do not bear out this expectation. The paperboard industry, the largest user of recycled paper, has in recent years reduced its use of recycled paper in percentage terms. In ten years, the amount of recycled paper used by the paperboard industry has slumped from 42% to 28%.

Cheap, easy, quick transportation is vital for the recycling businesses. But has environmental awareness led to favorable freight rates? Definitely not. In the past twelve years, the railroads have *increased* preferential treatment of virgin materials, but ignored recycled materials. In 1960, recycled materials had to pay 13.9¢ per hundred weight *more* than virgin products. By 1971, through a series of definite and regular steps, the difference paid for recycled materials over virgin materials had actually increased to 18.6¢ per hundred weight.

Nor has the environmental movement had any substantial impact on some of the other crucial economic factors that are the lifeblood of your efforts. Many of the crucial indicators measuring the health and well-being of the recycling industry are moving in the wrong direction. This is a bitter pill to swallow during a period when we hear constantly that we are beginning to make progress.

Can the secondary materials industries survive? If you cannot, then our spaceship earth cannot. You are a barometer of the sanity of mankind.

This morning I would like to discuss some of the prospects for your success and for the survival of man. I would like to talk specifically, and I would like to talk generally.

No other forum provides the opportunity for this as well as your convention. There are tremendous philosophical questions to be discussed, and there are detailed steps that must be taken to carry out any philosophical changes. The two must be discussed together.

Barry Commoner, one of this country's leading ecologists, has pointed out that "nothing can survive on this planet unless it is a cooperative part of a larger, global whole." He points out that life as it first came to being on this earth, was initially following a self-destructive course. The first organisms known in history consumed their own nutritive base. They were headed for destruction as soon as their supply ran out. The waste products were useless to these first organisms.

Perhaps the first great step in evolution occurred when new life forms sprang into being that converted these wastes into useful new organic materials. The first recycling had begun.

Mankind must now socially engineer another crucial step in the work of evolution. We know the dimensions of the problems now facing man. The explosion of the environmental movement into the public consciousness is the result of a creditable forecast of catastrophe if we continue on our present course.

Yet we do not seem to be making adjustments fast enough. To be sure, there are hopeful signs. There are imaginative pieces of environmental legislation tucked away in virtually every committee of Congress these days. But that is just the problem: they remain tucked away. We have not moved very far to halt our burial in waste.

You can be the ones to help turn us from the path of resource exhaustion toward a continuous cycle of use and re-use.

Some may consider this suggestion as unrealistic. They will point out that until our population growth is controlled we are going to "self destruct" our own space capsule—the earth on which we live.

Now, it is true that population growth must eventually be stabilized. But population stabilization alone will not stop the kind of massive technological pollution that has grown so rapidly in this country since World War II.

Why have I selected World War II as a beginning? Because that point serves as a watershed in history. Most of the non-degradable products now threatening to suffocate our landscape were developed and put into production after World War II.

The amount of pollution produced per person since World War II has grown seven fold! Over that same time period population has grown less than 50 percent, and income has grown about 50 percent. So you see that the technological problem is the most paramount aspect of the post-world War II environmental crisis.

It is the kind of products we buy, rather than the amount we buy or the number of people buying, that has caused most of our recent pollution. Do you remember when Premier Khrushchev toured the United States with President Eisenhower? He was fascinated with the wide variety of individual packets, fancy packaging, plastic containers, and innumerable non-degradable gadgets. At that time we were proud. But we now recognize that such packaging is a mixed blessing. It brings grave consequences for the ecological and resource balance of this planet.

Let's look at the increased consumption of beer bottles from 1950 to 1967. The total consumption of non-returnable beer bottles grew rapidly in this period. In fact, it jumped 595 percent. Now you might think by this figure that we had become a nation of alcoholics in a short period of seventeen years! But the actual *consumption* of beer, increased by only 37 percent. Population increased almost 30 percent during the same period.

So it is obvious that the actual consumption of beer grew only slightly. But the environmental impact of the container for that beer increased by 408 percent! It was not increased affluence or population growth that caused this jump. It was the development of a new product by our scientific technological society.

Current estimates of scientists are that population growth accounts for approximately 18% of the pollution increase since 1946. Increased wealth accounts for another 5 percent, except in the area of passenger travel where it rises to 40 percent.

The rest of the pollution increase, the overwhelming part, comes from the introduction of nonrecycled products that are built on a new technological base.

Why have we reached this position?

For decades we have used an incomplete accounting system in our economy. We have said that there is a category of "free goods" available for the taking. But now we must move from a "frontier economy" to the thriftiness of a spaceship system. In the frontier, resources were there for the taking, and we took and we dumped our wastes. But in a moon capsule, there is no room for a city dump.

The plastics industry did not have to include in its cost sheet the tremendous expenditures of solid waste disposal. Business that relied on the depletion of scarce resources, whether biological or mineral, did not see that they were borrowing from nature. Society will have to repay the interest and the principal at a later date.

This "cowboy economy" attitude blocks the development of secondary materials industries. How can anyone expect you to compete when tax policies encourage paper companies to manufacture with virgin timber instead of recycled paper products?

Hearings during the tax reform efforts of 1969 revealed that paper companies, on the average, paid 5 percent less in taxes than other manufacturing industries.

The rhetoric of the ecology movement has yet to reach the realities of the marketplace. When tax policies encourage this kind of activity, it is little wonder that the share of the market received by recycled paper has declined.

The profit and investment cycle presents another thorny problem. To make a living, a farmer is forced to invest in so much nitrogen that it ensures pollution. Investment in fertilizers and pesticides yields a much better return than investment in farm labor and machinery. Under our present system, it actually pays to kill the goose as long as the golden eggs brings enough money to buy another goose.

There is a direct conflict of interest here, and let no one deceive you about that. Your own executive vice president, Mr. M. J. Mighdoll, eloquently has testified before Congress about the direct confrontation of interests that occurs when we discuss recycling. He told one Senate subcommittee that (and I quote) "advocates of status quo policies are really suggesting that we do not disturb their present business and marketing orientations. Can our Nation afford such vested-interest thinking?" (close quote)

When we attempt to change basic attitudes—when we attempt to redirect a portion of our economic theory—when we say that every new product coming down the pike is not necessarily beneficial—then we run head on into interests that will be angry. They will fight us every inch of the way.

New York City recently attempted to use a new law passed by the State legislature allowing taxes on different packaging products. The city council was crushed by heavy pressures from members of the container industry opposing these new changes. These opponents killed most of what had been proposed.

Now, I understand why people don't want to pay additional fees. But I also understand that as a nation and as a species desiring to remain on this globe, we must unite and persist until such costs are accounted for.

I think it helps to discuss these problems. But I also believe we must face up to the need for creating solutions.

The first solution issue is basic to a democratic form of government. We have not yet broken the "attitude barrier". In spite of all the debate, discussion and speeches, we are still not getting through.

The General Services Administration of the Federal Government has only slowly and reluctantly published new guidelines for the use and recycled materials in paperboard products. I applaud this action, but I believe that the percentage amount of post-consumer waste materials could be doubled in the re-constituted materials with little or no effect on the quality of the product.

Even in my own domain, the United States Senate, we have a great distance to go. I have a bill that would require the use of recycled paper in the printing of the CONGRESSIONAL RECORD. I have another bill that would make it possible for senate offices to requisition recycled paper. Amazingly, senate offices do not now use recycled paper. These bills still await action by the rules committee.

As an attempt to help this effort get moving, I asked the senate stationery store to stock some recycled paper. I use that paper for constituent mail and also use recycled paper in my newsletters.

What about other senate offices? The experiment was a flop! Why? Because attitudes have to be changed, and because the price of the recycled paper is higher than that of the virgin stock. At least this is what the supply operators have told me. Orders have to specify recycled paper, and few offices have bothered.

This is only one small example, but it shows the shape of our battleground. Segregation of recycled materials must end. Second-class treatment must end. And we must make recycled materials the easiest and cheapest to obtain, not the hardest.

Your own association has recently called for a revision of tax laws so that recycled materials might get at least the same treatment as virgin resource materials.

I believe that you have been modest in your request. I can see no reason why recycled materials should not be given an actual advantage. Even with a definite advantage, the inertia of the present system is likely to continue. You have found that

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political speeches do not translate into profits. Until we actually gain the tax incentives necessary, the virgin resources industries may always have a preference advantage. Society cannot tolerate this for long without reaching the point of no return.

Another word about the population explosion. Population growth must be stabilized. The recent report of the president's commission will do much to stimulate discussion on this topic. But an approach based solely on population control when resources are still sufficient to support the population is, in the words of one observer, "equivalent to attempting to save a leaking ship by lightening the load and forcing passengers overboard. One is constrained to ask: Isn't there something radically wrong with the ship?"

We can repair the ship significantly by encouraging the kind of work that you and your industries do. We do not yet have to require that the passengers go overboard.

All too often we face old attitudes when we introduce new solutions. When a new product is introduced, we ask few questions. But what happens when we introduce an idea for controlling the side effects of that product? Opponents delay and delay. I say it is time to thrust forward with some changes in federal government purchasing policies, tax policies, and with I.C.C. freight charge policies. The first efforts may need refinement. But we must get on with the job.

There is hope. There is room for optimism. More voices are heard, more proposals are brought forward, and more attention is focused on the "new evolution" that your activities provide. Remember, we are calling for a change in the course of history, and such things do not occur overnight.

I am confident that if we maintain a united effort, your hopes and my hopes will not simply become more effluent under the bridge. I am optimistic. I suffer no illusion that changing the direction of product uses will be easy. It is a difficult endeavor. But we must remember that our country has focused on this issue with an explosion of interest that has surprised virtually everyone. If we can maintain this momentum we will surely learn to recycle our resources, control our technology, and preserve this small but fragile space ship—this wonderful earth.

We have talked long enough. It is time for action, and I would like to close with a story that makes this point very well. It is about a family that spent a summer visiting their grandmother in the South. As part of the summer's activities, the girls went with their grandmother to a summer bible school.

Now, one part of the summer program was the completion of a weaving project, and this was the girls' favorite activity. But as the summer wore on, the girls began to fret and worry. Finally one of them couldn't hold it in any more, and turned to her grandmother and said: "If we don't cut out some of this singing and preaching and praying, we ain't never gonna finish this basket!"

We have preached and prayed long enough on the recycling issue. Now we need "to finish the basket." Thank you.

PAUL DOUGLAS AT 80

Mr. PERCY. Mr. President, I invite the attention of Senators to the 80th birthday on Sunday of a good friend of the Senate, Paul Douglas, who served in this body for 18 years.

At age 80, Senator Douglas remains as alert and interested in the world around him as he always was. He is looking forward to the publication of his autobiography in April; he retains his interest in the causes which he championed here in the Senate—national defense, civil rights, consumer protection, and care for the elderly. He was a dedicated servant of the people of Illinois, but his concern for people's well-being went far beyond the borders of our State.

Mr. President, I have never known a more honorable man than Paul Douglas. I was once involved in a political campaign with him, and I can assure you that no one could have had either a more formidable or a more decent opponent. This year, as I face a campaign for reelection, I have expressed publicly the hope that this year's senatorial race in Illinois can be conducted with the same dignity and desire for public edification that I believe marked the 1966 campaign.

Many years ago, Paul Douglas was my professor at the University of Chicago. I enjoyed his thoughtful presentations in the classroom, but I must confess I had no idea then that Paul Douglas would be teaching me all the rest of my life. Through the years he has been a teacher to me in many ways—first on the campus, but, even more important, he has been an example of a man called to public service by the highest goals, a man who has lived his life with integrity, a man whose genuine interest in the well-being of others is his guiding principle.

I congratulate Paul Douglas on the occasion of his 80th birthday and I join all my colleagues in wishing him and his distinguished wife many more years of good health and happiness.

Mr. President, I ask unanimous consent that two articles about Senator Douglas, published in the Washington Post and the Chicago Sun-Times, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 1972]

PAUL DOUGLAS: REFORMER AT 80

(By Jean M. White)

A touch of mellowness, perhaps, that comes with the years, but the eyes are the same—the blue, piercing eyes that fixed evasive Senate witnesses; the same great shock of white hair; the same resonant voice that reached into the Senate galleries; the same mind—quick, lively, searching.

And still that same passionate concern for social Justice and the righteous indignation at wrongs and chicanery.

"I say it because it is true," former Sen. Paul H. Douglas snapped tartly after he was gently reminded that perhaps an interview on the eve of his 80th birthday was not the time to recall bitter fights with two former colleagues over civil rights and reapportionment.

Sen. Douglas will be 80 today. It is a landmark in any man's life, but his birthday also is a landmark for the American liberal conscience.

Unlike Miniver Cheever, Paul Douglas was born too early, not too late. There were long, lonely years when he was a crusader for causes then unpopular to advocate, causes that come to be accepted in legislation touching the lives of every American—social security, tax reform, truth-in-lending, aid to education, area redevelopment, housing, minimum wage, and, above all and always, civil rights and liberties.

Fortunately, for us and the Senator, he has lived long enough to become a prophet with honor.

Today a small circle of old friends will gather at the cheerful home at 2909 Davenport St. NW to share the 80th birthday with Sen. Douglas and his wife. Later will come a "queen's birthday" celebration in June when the sun warms the patio in the back.

A stroke 2½ years ago has left Sen. Douglas confined in a wheelchair, but only physically. The confinement does not extend to his mind or conscience.

The former Democratic senator from Illinois still percolates with stimulating ideas and questions, gets outraged at injustice ("I never knew a man who could get so outraged," a retired Senate reporter recalls), and talks vigorously about present problems and future needs—urban ills, federal-state-city relations, congressional reform. His wife, Emily Taft Douglas, a handsome, gracious woman, herself a former congresswoman, arranges the late-afternoon discussions that keep her husband in touch from his wheelchair.

Once the 80th birthday is out of the way, there are busy months ahead for Paul and Emily Douglas: Publication in mid-April of his 670-page autobiography, dedication of the Paul H. and Emily Taft Douglas Library building at Chicago State University, and then perhaps a sentimental Journey back to to the Indiana Dunes country, that wild area along Lake Michigan where the Douglas family spent its summers, later to be saved by the senator as a national lakeshore park.

The autobiography—revised in longhand on yellow legal pads after the senator suffered his stroke in August, 1969—bears an apt title: "In the Fullness of Time: The Memoirs of Paul H. Douglas."

The memoirs of Paul Douglas should make quite a story as a reflection of American politics and life in the first seven decades of the 20th century.

It is the story of a professor in politics, a distinguished economist-scholar (the Cobb-Douglas Function, see economics textbooks) who ventured into the harsh reality of everyday politics as a city alderman from Chicago's South Side and specialized in problems of garbage collection.

It is the story of the 50-year-old patriot who, defeated in his first run for the Senate, enlisted the next day as a Marine private, won the bronze star and two purple hearts in landings in Okinawa and Peleliu and was left with a withered left arm from his war wounds. It is the story of the Democratic senator from Illinois, elected on his second try in 1948, who became the liberal goad of the Senate, always in the forefront of the fight for social advances in the crucial years of the 1950s and 1960s.

And it also will be the story of Paul and Emily Douglas, two people who share deep affection for each other and politics.

"I was the only man who ever succeeded my wife in Congress," Sen. Douglas likes to point out.

"Paul, why don't you say I was the only woman who ever preceded her husband in Congress. It's women's lib these days," Mrs. Douglas corrected her husband the other day.

Emily Taft Douglas, a former actress, served as congresswoman-at-large from Illinois with the same constituency her husband was to represent when he was elected senator in 1948.

Rugged, slouch-shouldered and bespectacled, the economics professor came to Washington and soon plunged into the midst of the early battles for social and reform legislation that came out of Congress in the following two decades. But he was too much of a maverick ever to become part of the Senate's inner circle. Douglas has a dramatic flair, which he employed effectively to focus attention on the causes he was championing.

There was a time that he wanted to take a hatchet and scalpel on the Senate floor to demonstrate the difference between hacking and surgically pruning a budget.

"His staff talked him out of that one," recalls Howard Shuman, who was the senator's administrative aide for 14 years and now holds the same post with Sen. William Proxmire (D-Wis.).

"But he did go on the floor with a huge magnifying glass once. The public works bill was up for vote, and projects are sacrosanct to senators. Anyway, the senator came into the chamber carrying a magnifying glass and a large map. It seems there was a river—in New England, I think—mentioned for an appropriation and the senator couldn't find it on the map."

Shuman remembers Douglas as "an absolutely honest man," even to avoiding the phone calls that can swamp a senator's time.

"When he couldn't take a phone call, before he would have his secretary say he was out of the office, he would open the door and step out into the hall. I've seen him do it numerous times."

Once William McChesney Martin, disturbed over remarks attributed to Douglas in criticism of Martin's fiscal policies, came up to the Hill to check with the senator personally.

The senator told him: "I honestly don't remember saying that. But I've thought it a number of times so I suppose I could have said it."

But the senatorial career of Paul Douglas has more substance than a collection of lively anecdotes. It is a career threaded with landmark legislation on the big issues that the nation faced in the 1950s and 1960s. Perhaps the most dramatic was the long fight for civil rights, crowned by the sweeping Civil Rights Act of 1964.

"As for 1964, that was done years earlier—that was done in the hard years when we could get only 20 votes or so," Douglas points out "What was heresy then, the nation has accepted, intellectually at least. Now remains the pain of working it out."

Despite the acrimonious legislative fights and his lonely crusades, Paul Douglas does not look back in anger or bitterness today.

"If he was righteous in causes, he was never selfrighteous about people," Shuman says.

And the senator still has the buoying hope that sustains reformers.

"Well, I'm not a pessimist," he said the other day. "It's a great source of relief in bowing out of politics to see new men and good people coming up."

In the Senate, he points to such men as Proxmire, Alan Cranston of California, Adlai Stevenson III (whose father ran for governor of Illinois on the same ticket with Douglas), Walter Mondale of Minnesota. And Douglas always remembers Sen. Hubert H. Humphrey, who fought by his side in many of the old battles.

Among the governors, Douglas singles out Florida's Reubin Askew and Ohio's John J. Gilligan as "absolutely fine men."

Douglas also sees promise in the young people. "We had a bad convention in 1968. But I see healthy signs with the younger people working in politics, social causes, environment."

If some of the Douglas causes have come in the fullness of time, there are those still being fought: cloture in the Senate, the family allowance (Douglas proposed this idea as a young economist in 1925), pollution, consumer protection, the vanishing wilderness of areas like the Indiana Dunes, disclosure of campaign financing, tax reforms.

When he talks of tax loopholes today, there are flashes of the old Douglas indignation.

"I think they say we—Lister Hill of Alabama was with me—have saved the nation 84 billion up to now in blocking a clause that would have allowed offshore drilling in the open ocean to take oil," the senator points out.

In 1967, at 75, when he was no longer a senator but a private citizen, Douglas journeyed to Colorado to inspect the oil shale deposits there.

The year before, defeated in his try for a fourth term in the Senate, Douglas had made a graceful exit, giving a final accounting of his assets and income and thanking the voters who had kept him in office 18 years. It took two farewell parties for all his friends and admirers to pay tribute.

In that race, Douglas campaigned with his usual vigor. But there was his age—he was 74 and his challenger, Charles H. Percy, was 47, with the attractive face of new Republican liberalism. There was the race backlash. And there was the deteriorating war in Vietnam, in which Douglas had been a firm supporter of the Johnson administration.

A pacifist in World War I from his Quaker upbringing, Douglas had gone to Europe in the 1930s and was in Italy when Mussolini sent his legions into Ethiopia. He warned of appeasement of Hitler. During World War II, he was an enlistee in the Marine Corps, accepting a commission only to get into battle when he saw they were not going to send 50-year-old riflemen overseas for combat.

He still believes in collective security, of "keeping our guard up while exploring the possibilities for peace."

After his 1964 defeat, Douglas went back to work in a double harness. He returned to teaching and served as head of the National Commission on Urban Problems, making a study at the time the incendiary cities were flaring up in riots and racial turmoil.

Soon after the Commission on Urban Problems made its report, the stroke hit the senator's right side. His recovery was complicated by his war disabled left arm and a fall abetted by a football knee (Douglas played center on the Bowdoin College team while winning a Phi Beta Kappa key.).

In 1969, he returned a $5,000 check that went with an AFL–CIO award. While in the Senate, Douglas had set a $2.50 limit on the value of any gifts he would accept, and he is a man who holds firm to a principle.

If the "18 most stimulating years of my life" were spent in the Senate, Douglas also had several decades of achievement before he entered the Senate at 56.

As a distinguished economist, his applied work on the theory of wages and production is one of the bedrocks of contemporary economic analysis. The Cobb-Douglas Function—a mathematical formula set forth in the 1920s—is discussed at length in the recent Nobel Prize-winning work of Prof. Paul A. Samuelson.

"I once was an economist," the senator says now with a rueful smile. "They are now feeding information into the computers at Brookings Institution and coming out with figures to support the formula."

Born in Salem, Maine, March 26, 1892—the New England twang has been leveled a bit by the Midwest plains—Douglas remembers when mill workers in Newport, Maine, were told not to vote for Bryant and the factory whistles sounded for 24 hours when McKinley was elected.

"And I grew up feeling it was . . . well, improper," he once told an interviewer.

He was a friend of Jane Addams and Clarence Darrow. He helped organize the steel workers. Even before entering politics as a Chicago city alderman in 1939, he was one of the earliest advocates of old-age pensions and unemployment insurance in the 1920s and 1930s, working with then New York Gov. Franklin D. Roosevelt and Pennsylvania Gov. Gifford Pinchot.

Now, the autobiography finished, there will be two labors of love for the 80-year-old economist and former senator.

First, another look at the theory of wages and productivity as a statistical study. Then a study of the last days, the winter years of genius, in the lives of Beethoven, Shakespeare, Michelangelo, and Titian.

"A fine subject for a crippled politician," Douglas observes.

It will be a fine subject for the senator who brought a graceful touch of erudition and scholarship to the Senate. In Douglas' former office, Suite 109 in the Old Senate Office Building, photographs of live politicians never were hung. Instead, there were studies of Michelangelo's majestic brooding figures for the tombs of the Medici and Titian reproductions.

As a campaigner, Douglas was known to quote John Stuart Mill or "Spoon River Anthology" poetry to voters at the factory gate.

The other day, on the eve of her husband's 80th birthday, Emily Taft Douglas looked fondly, but objectively, at her husband and said:

"He's a much handsomer man than the man I married. He doesn't wear glasses any more. They say we make our own faces. It is a good man that makes a good face."

[From the Chicago Sun-Times]

ILLINOIS WARRIOR REFLECTS AT AGE 80

(By Tom Littlewood)

The white-haired man with cool lucid blue eyes that have seen much of this century's pain and conflict leaned forward in his wheelchair, resting his war-crippled left arm and his disabled right leg.

"I've become interested in something that the economists and the politicians would both think very foolish: The last phase of genius.

"I've taken the bits of sculpture of Michaelangelo, his Pietas . . . he did three of them, progressively more appealing; the last paintings of Titian; the last plays of Shakespeare, notably The Tempest; and the last quartets of Beethoven and I've studied them and enjoyed them and they have meant a great deal to me. And I think they emphasize reconciliation and love. These men in the final years of their life wished to get away from pain and contest and conflict, and to accept life, and in accepting life, conquer life."

MILESTONE PASSED

In the last phase of his own individual genius, Paul Howard Douglas, noble, proud, and wise warrior of Illinois, is 80 years old today.

About a dozen close friends have been invited to a birthday dinner at the Douglas home, where the retired Democratic senator is confined most of the time in a wheelchair. In October, while convalescing from a stroke, he fell and injured his right thigh, rendering him immobile. He walks only with the aid of a walker.

Before his defeat by Republican Sen. Charles H. Percy, six years ago after 18 years in the Senate, this professor-turned politician, fought valiant and often lonely battles in behalf of issues that were on or just over the horizon: For civil rights, consumer protection, equal representation in legislative bodies, removing income tax escape holes, social integration of the suburbs, environmental protection, medical care for the aged, human renewal of the cities, and against military waste and the evils of campaign fund-raising.

His memoirs, entitled "In the Fullness of Time," are to be published by Harcourt, Brace, and Jovanovich on April 15—another highlight in the career of this economist, alderman, senator, and combat Marine veteran of World War II who was twice wounded—at Pelelieu and on Okinawa.

A MORAL ENIGMA

Throughout his long public career, doctrinaire liberals were troubled by a moral enigma that they attributed to Douglas, because of his avid anti-communism, support of the Vietnam war, and advocacy of military strength.

Obviously, such a man must have many emotional feelings about President Nixon's epochal journey to Peking. He does:

"A Democratic president could never have done it. He would be attacked by the Republicans as a traitor. Apparently only the people who don't believe in what they are doing can

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afford to do it. That's quite a comment on the American public.

"While I cannot forget Nixon's behavior at the time of Jerry Voorhis and Helen Gahagan Douglas, which was really bad, I think there's a lot of good in Nixon that's struggling to come out, as well as crafty politics.

NIXON GIVEN CREDIT

"Now I'm going to take Nixon on his own terms and give him credit for it. I hope it turns out well, but there's danger in it because neither the Chinese nor the Russians have given up their belief in armed revolution."

As to his own support of the Vietnam war policies of prior administrations, Douglas said he had no regrets but did not condemn Nixon for attempting to disengage American forces.

"I suppose you can't support a colonial war for more than seven years. That was the period of the American Revolution. I have always believed in collective security. I'm not a pacifist. You've got to have force as police. I think we were moving for good motives (in Indochina), but war is a terrible thing and it may be that it swallows up everyone who goes into it."

He is encouraged by the social consciousness of the young, and believes that the rejection of integration as a goal by many young black leaders is only a temporary phenomenon.

His son John is working for Sen. George McGovern's presidential campaign, and his longtime political associate in Illinois Angelo Geoceris, is Sen. Edmund Muskie's State campaign manager. But Douglas is still eagerly for Sen. Hubert H. Humphrey, D-Minn., for president.

Since his fall in October, Douglas is not often able to leave the house. But his doctor has given the go-ahead for the Douglases to fly to Chicago June 11 for the dedication of the Paul and Emily Douglas Library at Chicago State University.

PLAZA DE LA RAZA

Mr. TUNNEY. Mr. President, a group of dedicated and determined people from the Chicano community in Los Angeles is responding to the cultural and educational needs of the Spanish speaking. By fostering the appreciation and continuing the development of their culture, they are providing an invaluable asset not only to southern California, but also to the entire country. I wish to share briefly with my colleagues the background and a progress report of this community commitment which surely merits our support and approval.

Plaza de la Raza, located in the heart of the Los Angeles Chicano barrio, is a "park for the people" where the culture of the Spanish-speaking world, with special emphasis on the Mexican heritage, can be viewed, performed, studied, developed, and appreciated. When fully realized, Plaza de la Raza, Inc., would manage and operate the development as a nonprofit educational institution for all the people.

Although Spanish is second only to English among the languages spoken in the United States, and the Spanish-speaking minority is the second largest in our country, with some concentration in the Southwest, nowhere in this country does there exist anything comparable to the Plaza de la Raza concept. Not only the majority of the American people, but also this great minority group, is deprived of the cultural enrichment to be gained from such an achievement. In a multicultural society, such as ours, we must make efforts to know the people who live in this country if we are to understand, trust, and appreciate each other. In this park, amidst the trees and shrubs, Chicanos would have the opportunity to continue developing a sense of dignity and pride in their heritage; here the formerly unaware majority could receive an undistorted image of the people it has been led to see only in the stereotypes of the movies or the commercial tourist traps. The Chicano community will no longer accept the inferior status to which it has been assigned. Plaza de la Raza provides a tremendous and constructive opportunity for all people of goodwill to build bridges of understanding and mutual appreciation.

There has been a need and a yearning for many years in the Mexican-American community of southern California for a focal point where its culture and art—and its voice—could be expressed.

Plaza de la Raza, located in Lincoln Park, is designed to be that focal point for all those with a Spanish language heritage in the southern California area.

Lincoln Park has for many years fulfilled to some degree the need for a central point of reference for the Los Angeles Chicano community.

Lincoln Park, a 50-acre plot of green lawns and trees, lies about 3 miles east of the Los Angeles Civic Center and has a rich background of public use dating back almost to World War I. In the 1920's, 1930's, and 1940's, it was visited by millions, and additional millions viewed it frequently as they rode by it on their way between Pasadena and Mount Lowe in the big red cars of the Pacific Electric Railway.

In those decades not only the Mexican-American families found delight in visiting the park, but everyone considered it a favorite recreational spot. It was the site of an alligator farm, ostrich farm, and the Selig Zoo, forerunner of the Los Angeles Zoo, now located in Griffith Park. The father of actor Anthony Quinn worked there. As a young boy, Anthony Quinn often played in the park. Today he is one of many noted personalities who are padrinos of the plaza.

The main patriotic Mexican celebrations—the 16th of September, marking Mexican independence won in 1810, and Cinco de Mayo, observing the defeat of the French under Maximilian in 1862—have been celebrated in Lincoln Park for decades. It still is the favorite locale for these celebrations today. At the western end of the park stands a towering statue of Hidalgo, the leader of Mexico's fight for independence from Spain.

Lincoln Park, under administration of the parks and recreation department of the city of Los Angeles, remained a very popular place after World War II and became more and more the favorite park of Mexican-American families. However, the boathouse was used less and less and fell into disrepair. In the 1960's the boathouse was boarded up and the lake became fouled by debris. In effect, it became a big duck pond.

In October of 1969, the parks department decided to tear down the boathouse although there were other buildings in the park which could be restored to house the staffs and facilities for a sound program of recreational activities, including a gymnasium, offices, all-purpose rooms, and a picnic pavillion.

The Chicano community raised objections at once. The parks department delayed its published intentions to demolish the boathouse, and granted time for proposals to be submitted for alternative plans.

From the very beginning the idea of a community cultural center for La Raza has brought a very favorable response from the local press, radio, and television.

Ruben Salazar, award-winning journalist who was killed in the Chicano moratorium disturbance of August 29, 1970, wrote in the Los Angeles Times early in 1970 of the need for just such a center as Plaza de la Raza. He subsequently became one of the first members of Plaza's board of directors and was very active in the cultural center's behalf until his untimely death.

As Plaza de la Raza and its aims became known, the art community began to take an active interest which has culminated in several significant events.

Individuals, groups, and various leaders in the Chicano community began meeting to discuss the problem. Perhaps the most instrumental organization in bringing various interests together and helping them to finally arrive at a concrete plan of action was the East Los Angeles Community Union—TELACU.

Early in 1970 the community's plan for a cultural center in Lincoln Park won approval of the parks department. The department suggested that land around the boathouse be leased for the new project. In May of 1970 Plaza de la Raza was incorporated as a nonprofit California corporation and work on the lease began. Offices were established at the Lincoln Heights Neighborhood Center with a staff headed by Coordinator Frank S. Lopez.

The Los Angeles City Council voted 15 to 0 to authorize the parks department to negotiate a lease with Plaza de la Raza, Inc., and allocated $110,000 for the new plaza, to be given after the backers had raised the first $110,000 by their own efforts.

In February of 1970 the backers of the project stepped up their organizational efforts, electing President Ed Bonilla and a 15-man board of directors.

The fledgling organization enlisted the support of a distinguished list of "padrinos"—sponsors—and began making plans for a fundraising drive, starting with a program in the East Los Angeles area for donations of green and blue trading stamp books.

At this time the model cities program was established in the northeast area of Los Angeles, into which Lincoln Park falls. Plaza de la Raza began negotiating a proposal for model cities funds. Proceedings led to the signing of a contract amounting to $147,000, providing moneys for first phase building, matching those of the city, as well as operating funds for 1 year. The project was approved by the city council in June 1971 and both model cities money and the allocated $110,000 from the city were released.

Once the first phase funding was approved by the city council the final negotiations went ahead on the lease. In August 1971 the 25-year, $1-a-year lease agreement was approved by the city council and became effective 1 month later.

In October 1971 the architect's contract was approved and signed by the mayor and the way was cleared for actual construction on the boathouse to begin.

In July of 1970 the Los Angeles County Art Museum cohosted with Plaza de la Raza a highly successful showing of the Proctor Stafford collection of pre-Columbian art and an indigenous dance recital. Cooperating with the art museum and plaza in the showing which drew over a thousand people were the Mechicano Art Center—a group of Chicano artists—and the Congress of Mexican-American Unity, the largest umbrella organization in the Chicano community, representing some 300 community groups.

Shortly after the pre-Columbian art showing, Plaza de la Raza and the Mechicano Art Center began preliminary discussions with the Southern California Art Dealers Association for planning and holding a fundraising event in March 1971. The coordinator of Plaza de la Raza and representatives of the art dealers association visited Mexico in January 1971, to solicit an art work as a "centerpiece" for the March event.

The result was an original work by the world famous Mexican muralist, David Alfaro Siqueiros. Titled "Heroic Voice of our Democracy", the work is a portrait of Ruben Salazar superimposed on a portion of an existing Siqueiros mural, "Nueva Democracia."

Plaza de la Raza, the art dealers association, and Mechicano Art Center jointly produced a very successful "Paseo del Arte"—art walk—on March 28, 1971. Held at member galleries along La Clenega Boulevard and Melrose Place in West Los Angeles, the "Paseo del Arte" featured a juried show of works by Mexican-American artists, a children's art exhibit, an art presentation presented by the Los Angeles Junior Arts Center at Barnsdall Park, and dance performances by the Lincoln High School Ballet Folklorico.

Where 2,000 people were expected, 5,000 attended. Winners in the art competition were awarded prizes by such notable show business personalities as Margo and Eddie Albert, Sam Jaffee, Vincent Price, Edward G. Robinson, Karl Malden, and others, all padrinos of Plaza de la Raza. Plaza realized nearly $15,000 and an inestimable amount of shared understanding between cultures.

When Plaza de la Raza was founded it was felt then that construction would take some years to complete. Yet it was also felt that Plaza activities need not and must not be delayed until that time.

So, with this in mind in the summer of 1971 Plaza da la Raza launched a project which it saw as both a community service and an opportunity to acquaint the people more deeply with the work of plaza. This was called Plaza de los Ninos. Throughout the summer it provided on Saturday mornings bilingual, bicultural art-play experience for children of the community between the ages of 3 and 9.

Teachers, parents musicians, artists, dancers, and noted show business personalities, gave of their talents to the children every Saturday. And the children responded with an outpouring of their own talent and enthusiasm. Contributions of refreshments and supplies were readily given for 9 weeks. Each Saturday saw at least 200 children and 50 adults participating.

In August the summer program ended. However, Plaza de los Ninos did not end in the hearts and minds of those parents whose children had participated. Sharing Margo Albert's enthusiasm, the parents put together a program of continuing Plaza de los Ninos on a year-round basis and began seeking funds.

The directors, officers, sponsors, and friends of the plaza hope that some day, in the very near future, their project will include a university of the arts, which would be a major educational institution specializing in Chicano culture. Meanwhile, its facilities will be made available to boards of education and educators everywhere on a cooperative basis.

Mr. President, we are all aware of the fact that our society includes a very substantial number of people who share the Spanish-language heritage. Indeed, many were in the Southwest to welcome our forefathers when they came to the Southwest.

Is it not logical and does it not make good sense that we should know a great deal more about such a large percentage of our citizens, our fellow workers, and our friends?

The fact of life is that a great many other cultures are part and parcel of our daily living. Our society in the United States is a multicultural one. One which can only be appreciated when we are given the opportunity of seeing each on its own merit and by its own worth.

Plaza de la Raza can help us to focus on a view which widens our appreciation and of the rich traditions and many contributions of this country's Spanish speaking citizens.

Plaza de la Raza is offering the opportunity to all of us to learn more about the second largest ethnic minority in the United States. It will encourage further achievement and contributions by Chicanos.

It will provide for the development of talent, talent that is badly needed to address itself to the many problems with which we are faced today.

It will provide for education, education which could help begin to reverse the tragedies mentioned by a Chicano in his poem, part of which tells us:

"... remember that chicanito
flunking math and english
he is the picasso
of your western states
but he will die
with one thousand masterpieces
hanging only from his mind.

Mr. President, allow me to conclude by congratulating the efforts of the people who have helped to begin making the dream of Plaza de la Raza a reality, a reality I hope will soon materialize fully. Support for Plaza de la Raza is still needed and, of course, would be greatly appreciated. The development and the success of this worthwhile task is terribly needed not only in the barrios but also in our country.

DEATH OF GEN. FRANK FRASER

Mr. FANNIN. Mr. President, last week Arizona and the Nation suffered the loss of a fine gentleman and a great soldier. Gen. Frank Fraser died in Sun City at the age of 76.

It was my privilege to know General Fraser; he served as adjutant general of the Arizona National Guard during the time that I was Governor of the State. His illustrious military career stretched from action against Pancho Villa to World War I and World War II and included leadership in the National Guard before retirement.

Mr. President, the Arizona Republic yesterday published an editorial listing some of the many achievements of General Fraser. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A VANISHING BREED

Frank Fraser belonged to that vanishing generation of Americans who fought two world wars and survived the worst economic depression in world history. His death in Sun City last Friday, at the age of 76, wrote finis to an illustrious military career.

Fraser was only 16 years old when he joined the National Guard in the state of Washington. He fought in the Mexican campaign against Pancho Villa, then went to France and saw action in such storied battles of World War I as Chateau Thierry and St. Mihiel.

Returning to civilian life, he tried his hand at cotton farming in Arizona, went into contracting for state highways, and became a cost accountant for the Kennecott Copper Corp. mine at Ray. But his heart was in the military and he remained with the Arizona National Guard during the years between wars.

Shipped overseas again in 1942, he served under Generals Patton, Bradley, and Eisenhower. After the war he was appointed military governor of Luxembourg.

Back in Phoenix again Fraser succeeded Lt. Gen. Alexander M. Tuthill as adjutant general of the Arizona National Guard. He presided over the guard's growth, and dedicated many of the new armories that sprang up around the state. In 1964 he retired, a three-star general with 49 years of service under his belt and probably more medals than any other Arizonan has ever won.

Americans have a way of ignoring their soldiers between wars. But there always has been a hard, lean corps of professional warriors who were willing to keep a military force in being despite peace-time cuts in appropriations and in the face of public hostility.

Frank Fraser belonged to that select group of Americans. He and his kind seldom receive the praise due them—but, then, they never expect it. Honor, duty, country—these are more than words in dictionaries to men like General Fraser.

XUM

OPERATION OF MOTOR VESSEL "WICKERSHAM"

Mr. STEVENS. Mr. President, the Senate and House have recently passed H.R. 10834, an act which authorizes the State of Alaska to operate the MV *Wickersham* between ports in Alaska and ports in the State of Washington until a replacement vessel can be built. The bill is of great concern to the people of Alaska and also to the people of Seattle.

Because the bill will have such a beneficial effect upon the Port of Seattle, the Port of Seattle Commission has in resolution form expressed its appreciation to the Governor and the people of the State of Alaska, the Alaska and Washington delegations in Congress, and to the chairman of the House Merchant Marine and Fishery Committee and the chairman of the Senate Commerce Committee.

Because the bill is so important to this area of our Pacific Northwest, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

PORT OF SEATTLE COMMISSION RESOLUTION RE "WICKERSHAM" WAIVER BILL

Whereas the Congress of the United States of America has affirmatively passed the Wickersham Waiver bill allowing for the transportation of passengers and their vehicles between Alaska ports and, also, between the Port of Seattle and Alaska aboard the Norwegian built M/V *Wickersham;* and

Whereas until such time as the replacement vessel is completed and delivered, the *Wickersham* will be able to work to the full capacity for which she is capable; and

Whereas the contemplated increased utilization of this vessel will also result in vitally needed additional commerce in the movement of people and vehicles between the Alaskan ports and

Now, therefore, be it resolved that the Port of Seattle Commission meeting in regular session on March 14, 1972 hereby expresses its appreciation to the Governor and people of Alaska, the Alaska and Washington delegations in Congress and to the Chairman of the Merchant Marine and Fisheries Committees of the Senate and House for the successful passage of the Wickersham Waiver which will mean so much to the continuing exchange of people between our two states, and furthermore

Be it resolved that copies of this resolution shall be furnished to the Governors of Alaska and Washington, the President and Speaker of the Alaska legislature, the Alaska and Washington delegations to Congress and the Chairmen of the Merchant Marine and Fisheries Committees of the House and Senate of the United States Congress.

REMARKS BY DR. BRYAN KEISLER TO THE SALUDA BARRACKS 1773 AND THE AUXILIARY

Mr. THURMOND. Mr. President, On February 20, 1972, Dr. Bryan Keisler, a veteran of both World Wars, addressed members of the Saluda Barracks 1773 and the auxiliary in Saluda, S.C. This organization is composed of veterans of World War I, Inc., and the meeting was held in memory of those members who have since passed on.

Dr. Keisler was pastor of the Lutheran Church of the Redeemer in Newberry, S.C., serving in that capacity longer than any other man.

His remarks are a reminder to us that true strength and true greatness can be rooted only in the Creator. He warns that many nations have fallen when they sought to replace Him with gods of their own.

These words of wisdom are applicable to our time and our country today. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS MADE AT A MEETING OF THE SALUDA BARRACKS 1773 AND THE AUXILIARY

On such occasion one is naturally reminded of the words of Abraham Lincoln when, at the dedication of the Gettysburg National Cemetery, he said, as you will readily recall, "The world will little note nor long remember what we say here; but it can never forget what they did here." But Lincoln's innate modesty and humility made him, in that remark, not only a minor but a false prophet. For while the world has indeed long remembered, and will long remember, what "they" (the "honored dead") did there, it has also assigned immortality to those noble words from the heart and the lips of one of America's greatest souls of all time.

And the world dare never forget what the American soldiers have done there—not only there at Gettysburg, but also there on the bloody battlefields of Europe, of Africa, of Asia, of the Pacific and elsewhere. There they offered their all, and thousands give their all, in the fight for freedom, for protection against the tyrants and war lords, against autocracy and aggressiveness.

We would not in any sense nor to any degree minimize the importance of any of the wars in which the United States has been engaged, but the organizations under whose auspices we are here at this time are particularly dedicated to the perpetuation of the memory of veterans of World War I, and to the high principles for which that great war was fought. Two things especially are significant about that war. In the first place, it was the first major war in which American soldiers fought on foreign soil, and, in the second place, largely under the influence of the idealist President Woodrow Wilson, it was a mighty struggle in behalf of idealism. "To make the world safe for democracy" was not only its slogan, but its worthy and sole objective.

In that struggle, as well as in all others, thousands upon thousands were crippled and maimed and killed. Heroes they were, whether still living or long dead. And we are reminded of the words of the 3rd stanza of *America the Beautiful:*

"O beautiful for heroes proved
In liberating strife;
Who more than self their country loved,
And mercy more than life!
America! America!
May God thy gold refine
Till all success be nobleness
And every gain divine."

Being a minister as I am, you will not be surprised if I interject a spiritual note. The holy Scriptures declare, "Blessed is the nation whose God is the Lord." Like Israel of old, in her weaker moments, so nations of any and all time and of all sizes, may be tempted to make other gods for themselves, and try earnestly, but vainly, to substitute them for the true and eternal God. And those other gods may take almost any imaginable form. Particularly are nations tempted to worship at the shrine of pleasure, or riches or power. And perhaps the god of power is the greatest tempter of all. Hence let Rudyard Kipling speak to us in his *Recessional* when he says,

"If, drunk with sight of power, we loose
Wild tongues that have not Thee in awe,
Such boasting as the Gentiles use,

Or lesser breeds without the Law—
Lord God of Hosts, be with us yet,

Lest we forget—lest we forget."

Yea, verily, "Blessed is the nation whose God is the Lord". In one of his poems, Alexander Blackburn asks, *"What Makes a Nation Great?"*, and then answers his own query as follows:

"Not serried ranks with flags unfurled,
Nor armoured ships that gird the world,
Not hoarded wealth not busy mills,
Not cattle on a thousand hills,
Not sages wise, nor schools nor laws,
Nor boasted deeds in freedom's cause—
All these may be, and yet the state
In the eye of God be far from great.

The land is great which knows the Lord,
Whose songs are guided by His Word;
Where justice rules 'twixt man and man,
Where love controls in art and plan;
Where, breathing in his native air,
Each soul finds joy in praise and prayer—
Thus may our country, good and great,
Be God's delight—man's best estate."

Perhaps as a nation we would not be bold enough to claim to have arrived, nor perhaps as a state, nor a county, nor a community. The battle still rages. The forces on the side of righteousness may be many and great. But they are still inadequate, and will be so until all have cast their lots on that side.

Those whose memories we cherish in tender affection—those whose memories we would honor, have fought a good fight. The time of their departure came when He Who does all things well said, "It is enough." For them the bugle has sounded. It blew Taps. That same bugle is still sounding forth. But for you and me it is blowing Reveille—Awake, arise. It is time to go to work.

While such is never inappropriate, it would appear especially appropriate to pray the prayer of Josiah Gilbert Holland when he said,

"God give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demogogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty, and in private thinking."

Thank God for all those of such calibre with whom the world is blessed. Noble souls they are, true servants of mankind and of the God of the universe. And in their ranks there is a place for you and me.

Referring to one of the earliest men of the Old Testament the Epistle to the Hebrews says, "Who being dead, yet speaketh". Listen attentively, not only with your ears, but also with your hearts and souls. Do you not hear that great chorus of voices from the beyond earnestly enjoining upon us courage, devotion to God and country, honor integrity?

WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION

Mr. PERCY. Mr. President, this is the week of concern for American prisoners of war and those missing in action. While I cannot overemphasize the importance of this week, I must also say that the plight of the prisoners must be of concern to us every single day until all of them are returned home safely.

There is no issue that is of greater concern to me than the release of our prisoners; we must be unyielding in our efforts toward this end.

Often I receive letters from constituents whose loved ones are being held captive. I know the anguish they suffer and I know that they expect the Government to continue to press for the release of these men.

Our hearts go out to these families as we rededicate ourselves to achieving what they have a right to expect—the safe return of the POW's.

Mr. President, I know that all Americans are united today in prayer for the release of these men. We as elected representatives of the people should be united in our own determination to exhaust every effort to secure their release.

STATE OF REFORM IN HIGHER EDUCATION

Mr. FANNIN. Mr. President, Alan Pifer, the president of the Carnegie Corp., has eloquently discussed the state of reform in higher education in his annual report to the Carnegie board of trustees. In his address Mr. Pifer clearly recognizes the task ahead of colleges and universities to meet the demands for reform and change. It will be a difficult time, not necessarily because of the nature of the demands, but because the response will determine the role and educational objectives of these vital institutions. There is no doubt that our institutions of higher learning perform an important function; a function which has significant implications for our economic and social values.

Reform, then, must not be capricious or arbitrary for what ultimately comes to pass will have important and far reaching consequences for years to come.

Mr. President, I ask unanimous consent that Mr. Pifer's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE RESPONSIBILITY FOR REFORM IN HIGHER EDUCATION

It will be many years before we begin to understand fully the turbulence of our times. Whether this turbulence, and our uncertainty about its meaning, reflect primarily the trauma of withdrawal from an unpopular and mistaken war coinciding with the strains of a national effort to right three centuries of wrong against American minorities, or whether it signifies the onset perhaps of a fundamental cultural and social transformation, we simply cannot now know. And whether this great change, if it is to come, will ultimately prove beneficial or harmful to the nation, we also have little way of predicting.

Whatever the turbulence may indicate, the disequilibrium it is causing in our national life has brought on a healthy mood of skepticism about the operation of some of our major governmental, social, and economic institutions—institutions as varied as the federal regulatory agencies, the health system, and giant industrial corporations. Searching questions are being raised: Are these institutions serving the best interests of the people? Are they adequately accountable? Have they kept in step with the needs of the times?

Many people would agree that, among the major institutions of the society, none is riper for objective reappraisal than higher education. Indeed, it is now the subject of intensive study and debate—on individual campuses, in legislative and executive bodies, and by national commissions, including the Carnegie Commission on Higher Education. At no time in its 335-year history has American higher education come under such critical scrutiny.

Ironically, the new skepticism about higher education comes close on the heels of two decades of astonishing development which had brought it to a point where it was enrolling eight and a half million students while serving the needs of the nation in a wide variety of other ways. Only a short time ago this extraordinary enterprise seemed to many to be rapidly approaching an apogee of success unparalleled in this or any other country.

Certain simplistic charges against higher education have become familiar to the point of staleness. It is accused by radicals of complicity with the political, military, and industrial forces that have "conspired" to create an "oppressive society" and to involve the nation in an "unjust and immoral war." These critics also believe higher education serves primarily to further entrench the dominant classes in American life and to frustrate the kinds of revolutionary social change they regard as desirable.

Conservatives, on the other hand, argue that higher education, through an abdication of responsibility, has played a major part in helping to subvert the very values on which this country was built. It has, they believe, provided a home for the growth of a new youth culture founded on the use of drugs, permissive sexual relationships, and radical political notions and has turned out a product largely unfitted to contribute constructively to our national life.

Finally, there are large numbers of people, of all political persuasions, who believe that higher education has seriously neglected its teaching mission, the very purpose for which it principally exists.

These and other charges, leveled sometimes at something referred to loosely as "the system" or "the university," sometimes at the faculty, and usually at harassed administrators, have filled the air. Much of this criticism is superficial and based on limited evidence. The prescriptions for reform it generates are usually naive or simply punitive and generally have little practical value.

The desire for reform today, however, is by no means a monopoly of extremists, know-nothings, and political opportunists. There is a growing body of responsible, well-informed people, both on and off the campus, who believe the time has come for substantial changes in higher education. Among these people there is now a questioning of once sacrosanct practices, a new willingness to experiment, a new interest in the needs of students, and a new concern for those who have been denied access to higher education or have not been reached by the conventional system. Whether this new mood has been brought on solely by the successive shocks caused by student unrest, declining public confidence, and financial crisis, or whether it reflects some deeper dissatisfaction with what we have wrought in American higher education is not altogether clear. But whatever the cause, it is apparent that the disposition for reform is quite powerful.

People of this outlook are deeply troubled by the breakdown of the traditional consensus which for so long made the campus a readily manageable community. They are disturbed by such developments as the growing unionization of faculty and the tendency for the concept of "rights" to take precedence over other considerations in governance. They are concerned that the explosive growth of higher education in recent years and the proliferation of functions it performs seem to have destroyed any common sense of purpose within the enterprise. Finally, they are increasingly uneasy about the curriculum, wondering whether either the liberal arts as taught or the vocational training given is appropriate to the needs of today's students.

As those responsible for the destinies of particular institutions or groups of institutions face the question of reform, they quite naturally look first to what can be done on their own campuses. They take steps to enlarge student participation in decision making, to increase student contact with faculty through smaller instructional units, to allow periods of off-campus work and study, to improve management practices, to eliminate less important activities, and so on. In short, they do the kinds of things that lie within the power of governing boards, administrators, faculty, and students, working cooperatively, to do.

To call this kind of reform simply tinkering or minor repair work would be unfair, for it can affect an institution in quite fundamental ways. Nevertheless, it falls far short of what is required, because the root of the malaise presently afflicting higher education is to be found not so much in the practices and programs of individual institutions, important as it is that these be improved, as in the nature of the relationship which has developed between higher eduction and society. As this relationship has deepened and broadened over recent decades in response to vast changes in American life, the pressures on higher education have been raised to an intolerable level, and expectations of it have been created that cannot possibly be fully satisfied. It is, therefore, to the basic nature of the relationship between higher education and society that reform of a fundamental character must be directed. Such reform will require the participation not only of those groups or "estates" which make up the campus community, but of external agencies as well—government, industry, parents, and, indeed, the public at large.

THE FUNCTIONS OF HIGHER EDUCATION

The most illuminating approach to an understanding of the present nexus between higher education and American life is simply a description of the functions which our universities, four-year colleges, and community colleges, taken together, actually perform. Generally, these are expressed as "teaching, research, and service," but this traditional triad seems to obscure more than it reveals. A listing of the true range of functions yields a startling picture of an enterprise with a very broad range of purposes, all of which are somehow interrelated and yet many of which also seem to be mutually contradictory. Some of these purposes are well known to the public; others are only vaguely comprehended.

The many functions performed by higher education collectively are, of course, found in individual institutions in widely varying degree. No one would claim that the University of Minnesota, the Massachusetts Institute of Technology, Fresno State College, Amherst College, Tuskegee Institute, and Miami Dade Junior College are alike. Differentiation of function among institutions is an important aspect of our higher educational system. Nevertheless, a categorization of functions—of which it is possible to name at least thirteen—yields a composite picture of the total role of higher education in our society that cannot be grasped through analysis of the purposes served by any single institution.

Virtually every American college or junior college devotes some portion of its energy and resources to the *liberal education* of its students. There has always been argument about the precise definition of this concept. Most people would agree, however, that it involves gaining a basic knowledge of man

and his societies and the physical world, mastering the language and mathematical skills to reason and express thoughts clearly and logically, and acquiring such habits of mind as intellectual curiosity, the capacity to think critically, and the ability to weigh evidence objectively. There would be less agreement today that the inculcation of any articular set of values constitutes an integral part of liberal education. Few, however, would dispute that the concept does at least include some acquaintance with the principal value systems by which man throughout the ages has attempted to steer his path to some higher destiny.

Collectively, American universities, colleges, and two-year institutions prepare young people for an extraordinary range of professions, subprofessions, and occupations. Some of this training takes place in graduate professional schools, but much of it is at the undergraduate level or in two-year institutions. Although in most instances the credential awarded does not actually constitute a license to practice, the granting of such a license is dependent upon completion of the appropriate training. *De facto*, therefore, higher education not only conducts a vast system of *professional and occupational training* but also serves as a *sorting and selecting mechanism* to route the nation's youth into employment.

Although there are many inefficiencies in the way these two functions are carried out, the contribution higher education makes to our national life in performing them is indisputable. So varied and extensive are these training and sorting activities, the public tends to take them for granted and hence does not fully appreciate their enormous value.

In the United States we place primary reliance on higher educational institutions for the *discovery of new knowledge*. Research is also performed in industry, in independent institutes, and in government installations. Much, however, of the research that ultimately proves to be of greatest value, being unrelated at the time it is done to a recognizably useful product, would never be undertaken except in an academic environment. The significance of university-based research to the nation's economy, to its security, and to the quality of life of its people is incalculable. Not always appreciated, it is one of the great bargains Americans get when their tax dollars are used for the support of higher education.

Beyond the functions they perform in imparting the principal elements of liberal and vocational and professional education to large numbers of young people entering adulthood, and in the discovery of new knowledge, our colleges and universities have a special responsibility for the conservation, and transmission from generation to generation, of existing knowledge in its more complex or abstruse forms. In meeting this responsibility, they serve an indispensable purpose as *custodians of our cultural heritage*. It is to maintain the enormous accumulated store of humanistic and scientific knowledge which mankind now possesses that large sums of money are spent on faculty with highly specialized training and on great libraries, laboratories, and teaching museums. Without this investment we would constantly be engaged in a fruitless rediscovery of old knowledge. Cut off from our history, we would lack that sense of perspective about ourselves and our current social institutions so fundamental to enlightened judgment.

Many colleges and universities also sponsor a variety of cultural events which are available to the public as well as to the campus community. This activity is a logical extension of their role as custodians of our cultural heritage.

One of the less understood and appreciated but more important functions of higher education is its responsibility to provide a protected environment for detached, impartial *criticism of the larger society* based on knowledge derived from disinterested study and research. This is a role which other institutions, such as the press, also play, but the resources possessed by higher education to seek truth and express it extend far beyond the capabilities of other institutions. The need to safeguard this function is the basic reason why higher educational institutions, as institutions, must not take partisan positions or engage in partisan activities. So complex are the pressures on urban-centered universities today and so intensely felt the great moral issues of our times, it would be naive to suppose that this proscription can be absolute. But if institutions systematically or aggressively violate the position of neutrality that society accords them, they will not only forfeit one of their principal claims to support but will also jeopardize one of their chief values to society.

A peculiarly American function of our system of higher education is the role it plays in providing the *administrative base for public service programs* of an operational or research nature. These programs are found in fields such as health care, defense, foreign assistance, agriculture, and community service and are generally externally financed. Although they frequently make some contribution to the educational program on campus, their existence is also defended in many instances on the grounds that higher educational institutions have a responsibility for public service irrespective of any direct educational benefits involved. Despite the intrinsic value of many of these programs to external communities and to relationships with those communities, many institutions are coming to see that public service activities of this kind may be in partial conflict with the central functions of teaching and research.

Closely associated with the previous function is the service higher education performs in providing the logistical base for a *pool of specialized talent* which it makes quite freely available to external agencies such as government and industry. Outside consulting by faculty members, especially those serving in graduate professional schools, is an activity that has grown substantially and for some individuals provides a significant part of their income. From the point of view of the user agencies, having such a talent pool available is a distinct bargain, because the consulting fee paid to a faculty member is insignificant compared with the cost to his institution of maintaining his logistical base. It is certainly one of the hidden benefits to the nation for its support of higher education.

Nevertheless, faculty consulting has its severe critics. A great many students and some administrators feel that it causes a high rate of absenteeism among leading faculty members and conflicts with their primary responsibility for teaching and research.

Traditionally, higher education in the United States, as in many other countries, provided a means for the particularly ambitious and able person of middle or working class background to gain entry into a small elite at the top of the society, an elite which enjoyed considerable social prestige. As the proportion, however, of the eighteen to twenty-one year old age group enrolled in higher education steadily expanded—from 5 percent in 1910 to nearly 50 percent today—"going to college" gradually began to serve a different purpose. Today, for most Americans, it is virtually a prerequisite for entry into the middle class, or for remaining in it, if one is already there. Unquestionably this *class certification* function benefits minorities, the poor, and the lowly born in aiding them to enter the mainstream of American life. Nonetheless, it is intrinsically undemocratic and is probably what lies at the bottom of some of the current hostility to higher education.

Increasingly, a major function of higher education in this country is simply to serve as a form of occupation for an ever-growing proportion of youth during the transitional years from adolescence into adulthood—a kind of *way station* on the trail of life. Many young people seem to be at college for no better reason than want of an acceptable alternative. If there were anything but dead-end jobs available for them, or even jobs at all, or if there were interesting, productive forms of national service widely available, they might well prefer these alternatives. Lacking them, they drift into higher education.

This custodial function is clearly at odds with many of higher education's other functions. It consumes scarce resources, creates institutions of a size so massive they are virtually unmanageable, and creates conditions on campus which impede the progress of serious students. Nevertheless, the reluctant student with low motivation may gain considerable benefit from the experience, and perhaps society does too. A recent Carnegie Commission study, based on an analysis of data collected by social scientists over several decades, shows that people who have attended college are more tolerant in their attitudes toward other individuals and groups, more satisfied with their jobs, better paid and less subject to unemployment, more thoughtful and deliberate in their consumer expenditures, more likely to vote and to participate generally in community activities, and more informed about community, national, and world affairs. These are real benefits.

Although higher education has for many years, through its general extension programs and through part-time and evening study, offered *educational opportunities to adults*, this has certainly not been one of its most central functions. Nor have these activities enjoyed the prestige of undergraduate and graduate study by "regular" students. Attitudes are changing, however, both on and off the campus, and it now seems likely that the function of serving adults will assume much greater importance at a variety of institutions. It also seems likely that there will be a steadily growing demand by adults for the programs offered.

The provision of external degrees on a wide scale and lifelong entitlement to periods of study in a college or university are two new developments that may become quite general. Meeting the educational needs of adults is by no means inappropriate as a function of higher education, provided the activity is taken seriously and done well. Indeed, it may in the future be one of higher education's most important functions and one of the ways it brings greatest benefit to the nation.

In recent years most higher educational institutions have been obliged to offer work in two areas of liberal education, English and mathematics, that is frankly *remedial* and sometimes hardly even of secondary school level. A large part of this new function is associated with the extension of higher educational opportunity to able students with severely disadvantaged educational backgrounds. While this is a wholly laudable and defensible objective in today's circumstances, there can be little doubt the activity involved tends to be a drag on institutions and diminish their capacity to do genuine, college-level work.

A function of higher education which few of those who administer it care to recognize publicly is the role it has come to have as a major *purveyor of commercialized entertainment*, principally through its football and basketball teams. Not only are intercollegiate contests in these sports themselves of wide public interest, being watched by millions on television, but college teams to a large degree serve as the training ground for professional teams. Not unsurprisingly, the enormous commercial importance of college sports leads to intense pressures toward their professionalization pressures that are almost irresistible. Sometimes the resulting situation is rationalized on the grounds that having good teams helps maintain campus morale, gain legislative appropriations, win the support of alumni, or even earn income for the support of other sports which do not have wide public appeal.

Substantial numbers of students are, however, beginning to question not only the ethics but also the appropriateness to higher education of "big time" college athletics. There seems to be a growing sensitivity about the exploitation of student athletes which may be involved and a new awareness that the values underlying this activity are probably inconsistent with the values of an academic institution. Organized athletics, of course, does have a legitimate place on the campus. It is the perversion of it that has become increasingly troublesome.

Among these thirteen functions, several go back to the beginnings of higher education in this country (and well before that elsewhere), several date from the latter half of the last century, and several are quite new, or are older functions that have acquired such changed meaning in recent years as to have become virtually new. These new and refurbished functions both reflect and have contributed to significant new developments in American life—development such as urbanization, population growth, affluence, scientific and technological advance, the communications revolution, ever-increasing specialization of knowledge, and the commitment to equal opportunity. Our colleges and universities have not stood apart from the transformation of the society brought on by these phenomena. They have helped cause it, and they have, in turn, been profoundly affected by it.

In the American context this interpenetration of campus and society seemed perfectly natural. Our instinct, time and again, was to turn to higher education whenever there was a new job to be done, and as a consequence both the functions of higher education and the varied activities these functions tended to spawn steadily multiplied, with little thought on anyone's part of the consequences, or of the alternatives.

In view of the formidable burden the nation has placed on its higher educational system, the astounding fact is how well it has succeeded, not how badly it has failed. It has performed its traditional functions well, on balance, and in some cases with high distinction. It has adjusted to the pressures of mass participation in a remarkable manner. It has provided a great range of services to the larger society, on the whole competently and at reasonable cost. The anomaly—the paradox—of the present situation is that a national institution which has risen magnificently to the challenges with which it has been confronted is now, by common agreement, in dire need of reform!

APPROACHES TO REFORM

There would seem to be three possible approaches to reform. The first is to retain the system of higher education essentially as it is but make such changes as are necessary on particular campuses to alleviate the worst strains resulting from the attempt to discharge partially incompatible functions. This involves transferring some activities to institutions where they can be more appropriately performed and curtailing or eliminating others. It is a process of moving toward greater differentiation of functions among different types of institutions and rationalization of activities within institutions. This approach has much to be said for it, and it is already well under way. But necessary as it is, it is likely to fall considerably short of what is required for the fundamental reform of higher education.

A second approach, which has its advocates in the academy, entails unilateral action by higher education to reduce its range of functions and activities sharply, thereby "purging" itself and reverting to the only "proper" pursuits—teaching and scholarly research. This approach makes for some good rhetoric, but it runs so contrary to the American concept of the role of higher education in society, especially public higher education, as to be quite unrealistic and impractical as a way of reforming the *system*, however attractive it may be to an occasional individual institution.

A third approach, and the one that seems now to be needed, assumes that all or nearly all of the present functions of higher education are likely to be continued but that substantial modifications should be made in the nature of the burden that performing these functions throws on higher education. This approach recognizes that the decisions made by governmental and other external agencies acting for the larger society, as to what to ask of the campus are as important to reform as anything done on campus. It suggests a need to find alternative ways of accomplishing some of the tasks higher education now performs. It implies major changes in the structure of the higher educational system and very possibly the invention of some alternative kinds of social institutions.

This approach will not entirely eliminate the present confusion of purposes in higher education, because the roles we assign to it in this country will continue to be numerous and varied. If energetically pursued, however, such an approach should at least reduce the pressures on higher education to a manageable level and allow it to concentrate more, and with easier conscience, on its most central functions.

REDUCING THE BURDEN

Many of the kinds of specific measures that might be taken to lighten the burden on higher education have already been widely discussed. A substantial structural change proposed by the Carnegie Commission on Higher Education would be the reduction by a year of the normal undergraduate course. Such a step would recognize the better preparation and greater maturity of many college entrants today. It could also provide, without further capital investment, some of the additional capacity that must be found in the coming decade for expanding enrollments. Finally, it would reduce the cost of a college education to society and to the individual and enable higher education to use its limited resources to benefit more people.

A second measure, which has not been widely discussed, would be to cull out of higher education an extensive array of vocational courses it now offers to prepare students for medium-level occupations and subprofessions. While such a step might have great merit, it would necessitate the development of a network of new institutions for "further education" with their programs closely tied in, perhaps on a "sandwich" basis, to a variety of manufacturing and service industries. It might also imply the further development of educational activities within industry.

This course would immediately raise a major question about the role of junior and community colleges. At the moment they are considered part of higher education. Should they be, or should we move in the direction of splitting postsecondary education into "further" and "higher" education and make the two-year college part of the former and almost entirely vocational in character? There would be many advantages to so doing but also some distinct disadvantages. One would be the danger, so well illustrated in Britain, of creating a set of institutions which enjoyed a level of prestige so much lower than that accorded academic institutions as to be socially deeply divisive. Another would be destruction of the very important concept of wide availability of a full range of postsecondary education, including the liberal arts, close to home and at minimal cost.

A third way of reducing the responsibilities now placed on higher education would be to transfer some of the research now done in universities to independent research institutes, or government installations, especially where the research of a type deemed less appropriate for an academic institution. In some cases new nonprofit institutes might have to be created for the purpose. This is the course currently being followed by one leading university, which is transferring to a new organization being set up for the purpose defense-related research and development programs running to many millions of dollars annually. While a step such as this can relieve an institution of a responsibility that has become awkward or burdensome to it, the costs in terms of overhead payments forfeited, in jeopardy to the quality of the research program, or in opportunities for graduate students foregone may be considerable.

In another area of functions, there is little question that some universities have made unwise decisions in agreeing to provide the administrative base for public service programs of a largely operational nature. Sometimes the administration of such a program is defensible as a research enterprise in itself, because it offers a practical milieu for student training, or simply because it is unavoidable as part of an institution's responsibility to the neighborhood in which it is situated. Nevertheless, academic institutions are not, on balance, well equipped to run large programs for the provision of services to the public, and unless there are powerful reasons for doing so, they could well leave the responsibility to others.

There is also reason to believe that the function performed by higher education of providing a talent pool for other institutions, principally government and industry, puts more of a burden on it than is generally recognized. Without by any means abolishing the function, universities could particularly at this time of faculty surplus, tighten up the administration of it so that it might better serve their interests.

Unquestionably the most important way that society could lighten the burden on higher education would be to find ways to relieve it of responsibility for the substantial numbers of young people who become students only because they feel they must avoid the stigma of *not* having attended college, or see no other way to spend the threshold years of adulthood that holds out any kind of promise to them.

This opens up the hard question of alternatives to higher education. What, indeed, can hundreds of thousands of eighteen to twenty-one year olds living in a highly urbanized, highly industrialized society do with their time? What kinds of maturing experiences can they have that will be constructive for the nation and for them, that will be sufficiently interesting to hold their attention, and will enable them to support themselves modestly, or at least contribute to their own support?

It is frequently suggested that the reluctant student would be better off out in the real world earning his living. But is this really possible? There are currently nearly fifteen million men and women in the eighteen to twenty-one age group, a number destined to rise to about seventeen million over the coming decade before beginning to decline gradually. Among the approximately nine million of this group in the labor force, which includes about two million also enrolled full- or part-time in higher education, the number unemployed is substantial. It is already well over a million and may well go higher. Furthermore, among those who are employed full-time, a great many hold jobs

which offer little opportunity for the development of skills of more than a rudimentary kind.

The prospect, then, if hundreds of thousands of young men and women who are now, rather unwillingly, enrolled in higher education were to seek full-time employment instead, is that they would simply swell the ranks of the unemployed, or of those employed in dead-end jobs, with all the negative social consequences that would entail.

There has also been a good deal of talk about national service programs for young people. Of these, the program most capable of absorbing additional young people in large numbers is military service. Such a course, however, whatever its merits or faults, would be widely unpopular, especially with the young people themselves. Nonmilitary service programs such as the Peace Corps and VISTA have been successful, but have obvious limitations in their capacity to absorb large numbers. Participation in them also requires a level of maturity which is by no means characteristic of all young people under twenty-one.

Moreover, there is the question of cost, a question which those who express concern over the tax burden of higher education would do well to remember. While the average annual real cost of having a student in college at the undergraduate level, including educational and general costs and board and lodging, is now more than $4000 (perhaps $6000 if foregone earnings are included), the cost of having the same person serve as a recruit in military service is $7500, as a Peace Corps volunteer nearly $10,000, and as a VISTA volunteer $7800. It should also be remembered that of the total annual expenditure on higher education only half comes from public tax sources, whereas in military and other national service programs the *entire* burden falls on the taxpayer.

A central task, then, if higher education is to be reformed through reduction of the pressures on it, is the invention of viable alternatives for some young people, alternatives that are at least as productive to society, as useful to the individual, and no more costly than going to college. This is no small assignment. It means the investment of huge sums of money to create new jobs with the potential for useful learning and personal satisfaction to those who hold them. It means the invention and financing of new low cost forms of national service. And perhaps it means some new ideas that no one has as yet even thought of.

If really viable alternatives can be invented and they prove attractive to some of our youth, not only will the burden on higher education be lightened but the role it plays in providing virtually the only means of social certification for middle class status in American life may also be diminished. Helpful in this regard also will be the many new nontraditional degree programs that are springing up today. To the person who decides to forego college immediately after high school they offer a second chance for higher education and the earning of a degree at a later date.

THE NEED FOR LEADERSHIP

In summary, it is apparent that the higher educational system in this country performs a very wide range of functions which collectively, have enormous economic and social value. It is also obvious, both in relation to this value and to economic and social costs of alternative ways for young people to occupy their time, that public expenditure on higher education is a national bargain and not the extravagance many people believe it to be. Finally, it is clear that reform, given the nature of the present national dependence on higher education, will have to involve the entire society and will entail the invention of ways to relieve higher education of some of its burdens and to lighten others. An understanding and acceptance of these three propositions would seem to be necessary to any concerted movement toward fundamental reform.

Although the national debate over the financing of higher education which has been taking place in the Congress, in state legislatures, and in the mind of the public is, understandably, focused on the question of institutional survival, one would like to see it enlarged to include the subject of reform—reform as delineated by the three propositions noted above. Reform and finance are inextricably linked. There can be no real reform which does not involve the major sources of finance, and, at bottom, it is unrealistic to debate the level of support for higher education without coming to grips with the question of what we expect of it.

Ultimately, there must and will be many parties to the debate on reform—the federal and state governments, private industry, private givers, the public and, not the least, the higher educational community itself. The debate, if it is to be constructive and result in measures that will be beneficial both to the campus and to the nation, will require informed, farsighted, and objective leadership. It is much in the interests of higher education not to let leadership of the reform movement pass by default to others but to assume this role itself. Higher education can do this, however, only by convincing the public that it can put the general interests of the nation ahead of its own special interests, and in the present climate this will not be easy. Developing a national capacity to lead reform is unquestionably one of the greatest challenges facing the higher educational community today.

MEDICAL CARE AS A RIGHT

Mr. SAXBE. Mr. President, my good friend, the distinguished Senator from Alabama (Mr. ALLEN) placed in the RECORD an article entitled "Medical Care as a Right: A Refutation," written by Robert M. Sade, M.D., and published in the New England Journal of Medicine of Dec. 2, 1971. The article provides a rather penetrating insight into the callous opposition by some members of the medical profession to the discussion and planning of national health care legislation.

Dr. Sade states, in part:

From man's primary right—the right to his own life—derive all others, including the rights to select and pursue his own values, and to dispose of these values, once gained, without coercion. The choice of the conditions under which a physician's services are rendered belongs to the physician as a consequence of his right to support his own life.

If medical care, which includes physician's services, is considered the right of the patient, that right should properly be protected by government law. Since the ultimate authority of all law is force of arms, the physician's professional judgment—that is, his mind—is controlled through threat of violence by the state. Force is the antithesis of mind, and man cannot survive qua man without the free use of his mind. Thus, since the concept of medical care as the right of the patient entails the use or threat of violence against physicians, that concept is anti-mind-therefore, anti-life, and, therefore, immoral.

In the New England Journal of Medicine for March 2, 1972, F. J. Ingelfinger, M.D., states:

The protests [to this article] were anticipated. But not forseen were the volume and the intensity of the positive response to the Sade doctrine.

If the number of those who agree with Sade is as large as the positive response to his article suggests, then he has identified a major but rarely emphasized ingredient in our much lamented health care crisis—namely, the huge ideologic gap that separates society and its leaders on one hand from large segments of the medical profession on the other. . . . Without some ideologic as well as practical rapproachement, progress toward a generally satisfactory health system will be infinitely slow and painful.

Mr. President, I have been an outspoken critic of our medical health care delivery system and have introduced S. 2827, the Medical Resources Development Act of 1971, and cosponsored S. 3, the Health Security Act, in an effort to remedy this crisis.

I agree with Doctor Ingelfinger that we in government must reach an accommodation with the medical profession in order to make any health care legislation work. However, I can see no accommodation with those who believe that there is no right to medical care.

My son, Dr. William Bart Saxbe, Jr., a 4th-year resident in surgery at Peter Bent Brigham, where Doctor Sade is also a resident, discussed this issue in a speech delivered to the Boston Surgical Society on March 13 of this year:

The second old point of contention is whether or not the patient has a "right" to medical care. Many of you may have read the recent *New England Journal* article by a fellow resident at my hospital which held that the patient couldn't have a right to medical care because the doctor had a higher right, which was not to have to treat anybody he didn't want to. He explained it in technical philosophical terms and referred to Locke and Hobbs, but it still seemed to me he had his priorities reversed. More importantly, I don't think the general public is going to go for his thesis.

I don't know much about philosophy, and I may not be able to tell a right when I see one, but I think I can tell a wrong. I think it is wrong when a person's medical care and, by extension, his health and his life, should depend on whether he is white, red, blue or green—where he lives—how much he can pay—or who he knows.

John Kennedy's little statement that "life is unfair" is really true. But Kennedy didn't say that in a fatalistic sense—he took it as a challenge, and he himself tried to make things more fair. In the areas of medicine and surgery, I think we can afford to make life fairer for our fellow-countrymen. I think the public is going to demand it, and I think they are entitled to it.

Mr. President, I find it amusing to hear laissez faire arguments on behalf of any profession or business that is the recipient of so much Federal aid. Having served for 2 years on the Health Subcommittee in this body, I am aware of the large amounts of money spent by our Government for the construction of medical facilities, for scholarships given to those deserving assistance in their medical education, and for medical research. The right to medical care is as essential to the right to live as a doctor's right to practice medicine is to the right to live. This has been recognized by the Government and the taxpayer in the public financing of our medical facilities.

Man's right to live is no more a defense to his callous refusal to provide medical care to others who also deserve that same right than it is a defense to his enslavement of others which we long ago forbade by the 13th amendment to the U.S. Constitution.

The State derives its authority not only from the actual or implied use of force but also the consensus of the governed based upon the morality of their government. Therefore, when Doctor Sade states:

In a just society with a moral government, it is clear that the only "right" to the bread belongs to the baker.

He is wrong if the baker is the single source of food for that society. The baker deserves just compensation for his bread but clearly does not have the right to starve society. I believe that this is what Victor Hugo was trying to tell us in Les Miserables when Jean Valjean was hounded his entire life for stealing a loaf because he was hungry.

I ask unanimous consent that the speech of William B. Saxbe, Jr., M.D., delivered to the Boston Surgical Society on March 13, 1972, and the letter to the editor in the March 2, 1972, issue of the New England Journal of Medicine be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

AMERICAN SURGERY AND THE PUBLIC INTEREST

(*Speech of William Bart Saxbe Jr., M.D.*)

Good evening! It's a pleasure to be here. I believe that the reason I have been asked to share the podium with such distinguished speakers is not because I am an expert or an authority on the topics they have discussed, but in the hope that I can represent some of the views of the next generation of surgeons. Clearly, I can't give a collective opinion or reflect all the views of my contemporaries, but I will try to be fair and frank. As you know, it's not just what you say, but how you say it (SLIDE—"John Knowles raps health care" headline)—and who you say it, to.

Now, one of the nicest things about medicine in general and surgery in particular is that the practitioner is his own boss: I'm sure that this is one of the major attractions which brought many of us into the field. Beyond being pleasant, the advantages of this independence are the doctor can create most of the conditions of his own life, and that his lot rises or falls depending on his own performance. There are advantages for his patients as well, in that the doctor is free to innovate, to treat special problems in special ways; and that there are no specified or implied limits to his interest or initiative.

Unfortunately, the doctor's independence brings some disadvantages as well, and it is about the problems springing from those disadvantages that I plan to speak tonight. The most important disadvantages are a lack of accountability and a lack of effective coordination. There are two basic sets of problems involved in the present-day medical "crisis": those related to the performance of the individual practitioner, and those related to the performance of the profession as a whole. I'm not going to talk about the former: while there are real problems of individual performance, it is our problems of collective performance which are more serious. Most attacks on our system of medical care are not on care given by individual physicians but on the overall organization of the profession.

Let me tell you what I mean. There are areas which reasonably should be the responsibility of the profession which end up being the responsibility of no one in particular. Such areas are, for example, the availability of care—the fact that certain people in certain places at certain times can't get a doctor who treats what they have. "Distribution of medical manpower" is part of this. A second problem is the general cost of care—the fact that some people can't afford to pay—with or without insurance—for the kind of care they need. A third is the responsibility for assuring high standards of training and practice—with the obligation to act when those standards are not met. And so on. Clearly, there are problems which most of us will agree fall into the province of the profession—yet there is no one or no group in particular we can blame for not dealing with them. John Knowles and Ted Kennedy can find fault with a surgeon who takes out every tonsil he sees, but they can't really accuse him of personal malfeasance if a group of people on the other side of town can't get a doctor at night.

These larger problems—the logistics, cost, and overall quality of care—are not the problems the practitioner is used to dealing with. He is not used to thinking in these terms, and he frequently misinterpreta outside criticism of the profession as criticism of his practice. That's not to say that he should be satisfied that he has done all he can just by taking care of those who come through his office door. It is no longer true that, if every member of the profession is doing a good job, that the profession is doing a good job. Let me say that again, because it's my principal theme: It's no longer true that, if every member of the profession is doing a good job, that the profession as a whole is doing a good job. In a way, it's analogous to the dilemma of the liberal in the racial crisis: it's not enough for us to treat every black we meet with scrupulous fairness, because the system is already stacked against him.

The reason the government is going to get involved in medicine is not the way doctors treat the patients they see, but the way they don't treat the patients they don't see.

Well, if you will grant me that we do have problems with the availability, quality and cost of medical care—and I don't plan to go any further into the details—you will, I hope, agree that somebody must confront them. The public is going to insist that they—the problems—be dealt with.

Who is going to do it? Well, really there are only two alternatives: the profession or the government. I have grave reservations about the ability of the profession to do this, because it is outside its past experience to handle problems of this sort, and the work will demand a coordination and organization the profession has never had. I'm not sure the American Medical Association will be able to do anything but mount a rear-guard action; I'm afraid that most Americans believe that the AMA is more interested in staving off unwelcome solutions to the health crisis than in dealing with the crisis itself.

Maybe the Congress and the President—this one or the next—will agree on some sort of national health plan. My predecessors on the program are far more able to tell you about that than I am. Or, conceivably, the profession itself will come to grips with its deficiencies in such a way that outside help would be unnecessary. I would like to think that this is possible, but I'm not optimistic.

In either case, we have a lot of homework to do. The day of judgment is at hand, and we must be ready for it. Here, I'm happy to say that there is a dedicated group hard at work—the SOSSUS group: the Study on Surgical Services for the United States, formed by the American College of Surgeons and the American Surgical Association. This is an intensive and extensive self-examination, the goals of which are to assess the true state of American surgery and American surgeons, to illuminate areas where improvement is needed, to gauge the needs of the future, to make these findings known to health planners, and to take the part of the profession in the discussion and planning of national health programs. This is a tremendous responsibility, and the entire undertaking will stand or fall depending on the cooperation of thousands of individual surgeons across the country. Let me give you a few examples of some of the information already in hand. I am indebted to Dr. Francis D. Moore, who is the chairman of the SOSSUS Subcommittee on Manpower, for these slides.

Slide: Rates of selected operations in different areas of Kansas

Slide: Best estimates of present surgical manpower

Slide: The 50 commonest operations in the United States

Dr. Moore has written a brief summary of his subcommittee's work to date which appears in the latest issue of the Bulletin of the American College of Surgeons. One of his points in the article is that we need the help of epidemiologists and social scientists to complete and interpret these studies. We've been pretty wary of these people in the past, particularly when we hear the jargon about the "delivery of medical care"—as if we could have 2 quarts left at the doorstep every morning—or when the concerned physician and the sick patient are transmuted into the "provider" and the "consumer". Nevertheless, there is an established and growing body of wisdom which deals with the broader aspects of health care which surgeons will have to tap.

Now, I started off by telling you about the advantages of being your own boss, and I've probably convinced some of you that you're going to be assigned to a work brigade! I don't really think that's the case. I predict an evolution rather than a revolution in the orientation of the profession, the structuring of the individual surgeon's practice, and their relationship to the government. It will be an uniquely American system, with a different set of pluses and minuses than England, Sweden, Canada, Russia, or Madagascar. I think that what changes we will get will come gently and by stages. I think we can get into bad trouble only by denying that there *are* any problems or by failing to help in solving them.

Finally, I'd like to look at two old clichés which provoke an emotional reaction whenever they're brought up. The first is "fee for service".

"Fee for service" is always good for an argument because it means different things to different people. To the surgeon it means that he gets paid for what he does. To the patient and the general public, however, it may mean that you don't get the service unless you come up with the fee—no tickee, no washee. There are really two meanings, expressed here as—"The doctor earns according to his work", "The patient pays according to his illness."

Most of us would agree that the first part is just—that the surgeon's reward should be commensurate with his time and skill. However, I feel uncomfortable with the logical conclusion of the second—that a catastrophic illness for a patient should be a financial catastrophe as well. So the next time you hear "fee for service" bandied about, be sure to find out what the speaker has in mind.

The second old point of contention is whether or not the patient has a "right" to medical care. Many of you may have read the recent New England Journal article by a fellow resident at my hospital which held that the patient couldn't have a right to medical care because the doctor had a higher right, which was not to have to treat anybody he didn't want to. He explained it in technical philosophical terms and referred to Locke and Hobbs, but it still seemed to me he had his priorities reversed. More importantly, I don't think the general public is going to go for his thesis.

I don't know much about philosophy, and I may not be able to tell a right when I see one, but I think I can tell a wrong. I think it is wrong when a person's medical care and, by extension, his health and his life, should

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depend on whether he is white, red, blue or green—where he lives—how much he can pay—or who he knows.

John Kennedy's little statement that "life is unfair" is really true. But Kennedy didn't say that in a fatalistic sense—he took it as a challenge, and he himself tried to make things more fair. In the areas of medicine and surgery, I think *we* can afford to make life fairer for our fellow-countrymen. I think the public is going to demand it, and I think they are entitled to it.

Thank you.

RIGHTS OF AUTHORS AND OF PATIENTS

WHAT'S a journal—almost any kind of journal—for? To offer its readers new information, new ideas, a different way of looking at things. Even a review article, if well done, permits new understanding of not so new facts. But to what avail is the article that merely restates that which the reader already knows or believes? The reader may feel gratified to see his own convictions endorsed, but the fare he has consumed is noncaloric: he has gorged himself on a psychologic pacifier. By the same token, the editor whose publication merely reflects the dominant ethos of the day, or the bias of a particular group, is providing intellectual sustenance of a low order. His journal becomes a me-tooer or a propaganda sheet.

What are the benefits, then, of publishing one more article pointing to areas of scandalous starvation, demanding more and ever more doctors, or asserting that everyone should have equal access to health care? Far better, and desperately needed now, are workable solutions to such well publicized needs. Alternatively, their premises may be challenged. Perhaps more doctors are not the best answer to the dissatisfactions with our present system of tending health. And if a bold soul wishes to question the concept that everyone has a right to health care, let us hear him. Even those of us who think him misguided may be prodded into sharpening the logic of our own convictions. Or he may be "hoist with his own petard." Above all, however, let us, editors and readers, not indulge in that insidious form of brain-washing which consists of denying space to him whose ideas conflict with ours.

Such are some of the reasons why the *Journal* published the article by Robert M. Sade, even though I personally believe the Ayn Rand brand of objectivism and libertarianism morally unacceptable, pragmatically unworkable and, with respect to medicine, totally contrary to what we doctors profess. Other protests are recorded in this week's correspondence section.

The protests were anticipated. But not foreseen were the volume and the intensity of the positive response to the Sade doctrine. Within three weeks he had received 200 commendatory letters and over 1000 reprint requests. At least seven groups (including a state medical journal, two county medical societies and the officers of a state medical society) have requested permission to reprint the article. What does this mean? Dr. Sade has obviously tapped a strong undercurrent of medical opinion that not only opposes but resents the doctrine of health care as a right.

A few years ago, when he was president of the AMA, Dr. Milford Rouse was roundly clobbered for suggesting that health care was a privilege rather than a right. Rouse had few defenders, either then or since. It seemed as if those who espoused similar views had become extinct, that the principle of inherent right to health care had become as accepted in the United States as that of free speech. But, as Sade has shown, the opposition is not dead. Its members have merely been inarticulate, waiting for someone to speak their mind.

If the number of those who agree with Sade is as large as the positive response to his article suggests, then he has identified a major but rarely emphasized ingredient in our much lamented health-care crisis—namely, the huge ideologic gap that separates society and its leaders on one hand from large segments of the medical profession on the other. Must not this gap be bridged before effective planning for, and implementation of health maintenance and illness care can be realized? Why argue about such technical matters as methods of payment, details of quality review, and duties of paramedical personnel before more agreement is achieved on basic issues? A progressive and aggressive medical leadership is needed to persuade the vast majority of the medical profession that any person within the United States has as much right to health care as he does to adequate transportation, postal service and fire protection. But the bridge must also extend from the other side of the gap. Society and its political leaders must recognize that medical care is much more complex than building roads, delivering mail or putting out fires. Thus, should the necessary medical leadership develop, government must accept its credentials and respond to its recommendations. Without some ideologic as well as practical rapproachement, progress toward a generally satisfactory health-care system will be infinitely slow and painful.

MEDICAL CARE AS A RIGHT

To the Editor: Please accept my thanks and congratulations for presenting the first instance (which I have seen) of "the other side" of the question of socialized medicine: "Medical Care as a Right" by Robert M. Sade. It is appropriate that the fight to free the practice of medicine should begin in the cradle of liberty in Massachusetts.

TOM ROE, M.D.

SAVANNAH, TENN.

To the Editor: The concept of medical care expressed by Robert M. Sade in his article, "Medical Care as a Right: A Refutation," is certainly correct, and frequent public expressions along this line at this time in history are badly needed. Also needed is the courage of the AMA to adopt this concept as official policy.

Last year, I wrote a resolution defining medical care as a human need rather than a right. This was eventually introduced to the House of Delegates of the AMA by the Kansas Delegation, but it was defeated in committee. This was accomplished largely through the efforts of the Speaker of the House, who seemed to be inspired by fear of an adverse reaction by the press if the measure passed.

To understand his actions, it is helpful to distinguish between a politician and a statesman. A politician is one who would be willing to do anything, including selling the medical profession into bondage, to be reelected. A statesman is one who will preserve moral government, and in so doing acts in the best interests of the citizens. It may be noted that there are politicians in medical societies, as well as politicians in government. We deserve more statesmen in both.

We surely need not fear the attitude of the press for taking a stand on what we believe to be true. But we do need to fear acquiescence to misguided leaders in our profession and in government whose dominant interests seem to be preservation of an image or remaining in office.

This well written authentically documented article contains a message that should be widely disseminated. I see a ray of hope when this type of opinion can be found in the pages of such a distinguished publication as the New England Journal of Medicine.

RALPH HALE, M.D.,
American College of Allergists.

WICHITA, KANS.

To the Editor: It is ironic indeed that the article by Dr. Sade carried in the *Journal* of December 2, 1971, attempts to refute the notion that medical care is a right from an atheistic point of view. Far more telling arguments can be marshaled against medical care as a right from a Christian Theistic position. The irony is heightened when the author seeks justification for his philosophic position as being valid on the basis of the philosophy underlying the American Revolution and our resulting form of government. Nothing can be found in the ideas of the Founders that would support Dr. Sade's philosophy. Dr. Sade uses words and concepts such as "morality," "rights" and "government" in a way that is totally foreign to the thinking of the American colonists. They would not have agreed with his contention that "The moral foundation of the rights of man begins with the fact that he is a living creature: he has the right to his own life."

I am in complete agreement with the conclusion that government interference in the free-market delivery of medical care will destroy quality medical care for all, just as such interference has destroyed quality medical care in every country where it has been tried. Dr. Sade's philosophy will not turn us back from our present coercive society.

I believe that there is a great danger in coming to the right conclusions for the wrong reasons. Dr. Sade's reasoning, which brings him to detest compulsion from government, is built on shifting sand. Historically, this point has been proved since an insistence on man as supremely sovereign has led to totalitarianism, either directly or by way of anarchy. This historical lesson was clearly recognized by the 18th-century Americans but has been all but obliterated in the 20th century owing to the humanism of the age.

America is now operating a fascist economy and our head-long rush toward total fascism (government control of the market without owning the means of production, and in view of the situation at Penn Central and Lockheed, even that condition may not be true for very much longer) will not even be slowed by Dr. Sade's philosophy.

Only a return to the reasoned Christian Theism that founded this country will reestablish the conditions of personal and social life that will allow individual free enterprise to flourish in a truly pluralistic society as well as protecting the principles of Liberty and Property. Medicine's plight is part of the whole philosophical sickness from which America is dying. She will not recover under Dr. Sade's "nonsystem."

COLLIN E. COOPER, M.D.

LA CANADA, CALIF.

To the Editor: To anyone concerned with this society's headlong ruah into the New Dark Age, the essay by Dr. Sade (December 2, 1971) is a thoughtful, concise statement of the most important issue of our time: the abrogation of individual rights. The society that fosters the notion that its members have a right to health care, or to the minds and services of any person or group, will have no compunctions about forcing individuals or groups to provide those services. The final inversion will be for government to assume control over professional education. Those with certain aptitudes, as established and judged by the state, will be given the "free choice" of entering designated "needy professions of low personnel density" or receiving no higher education at all. Specialist training and physician placement will be determined by a population-profession ratio determined by some bureaucratic "boffin" (scientific or technical expert) whose main concern is control of his peers rather than care of people. The wishes and aspirations of the individual will be dismissed as irrelevant—as indeed they are in a controlled society. As the quality of medical care declines, those in authority will place the blame upon their victims, the practicing doctors. The laymen will be told that avarice and greed and lack of altruistic motivation on the part of doctors are responsible for the slow disintegration of medicine. Governments are not interested in quality, for excellence cannot be controlled. The goal is a standard level of mediocrity. Only doctors who regard themselves as chattels of society can find any comfort in these certainties. There will be little or no protest from the other professions, or from anyone else. People whose minds have been numbered by those modern comprachicos, the educators, who believe moral values are relative and negotiable, that the state has a valid claim to the lives of its citizens, that government by extortion is justified, that the "rights of society" are in some indefinable manner greater than the rights of an individual, will not balk at the total subjugation of the medical profession. A society that has meekly acquiesced in the military draft, compulsory arbitration, compulsory unionism and wage and price controls, and has accepted the notion that any demand, no matter how whimsical or irrational, that is put forward under the aegis of "social action" constitutes a right, is philosophically bankrupt. The psychologic cripples in medicine and government who seek control of our or any other profession can succeed only by achieving control over individuals. Once the right of a single man to his own life and the product of his own mind is abrogated, all men shortly find themselves pawns of the state to be manipulated or sacrificed as the exigencies of the moment demand. Every Utopia is built of the bricks of "controlled freedom" held together by the blood of free men, and is dedicated to the obscenity: "from each according to his ability, to each according to his need."

If anyone thinks the foregoing is simplistic alarmism, let him contemplate the recent activities of the governments of British Columbia and Quebec. In the former province, an attempt is being made to seize control of hospital accreditation committees with the express purpose of deciding who can go where and do what. Dr. Sade has described what happened in Quebec. He did not mention the "regionalization boards," committees of anyone at all preferably containing no practicing doctors, that purport to define the medical needs of a given area, and to direct the placement of suitable "personnel."

It is time for responsible and honest men in and out of medicine to wake up and appreciate the extent of the assault being directed at our professional and personal freedom.

A. L. AMACHER, M.D., F.R.C.S. (C),
Victoria Hospital.

LONDON, ONTARIO, CANADA

To the Editor: If Dr. Sade had not mentioned the repressive way in which Medical Care was introduced in Quebec in his paper entitled "Medical Care as a Right: A refutation," I probably would not have answered him.

The great majority of doctors in Quebec were in favor of Medical Care. However, the Quebec Federation of Medical Specialists fought the government on two issues. The first, and most important, issue was the right of the medical profession to retain full control of the Medical Art. The syndicate won. On the second issue, the specialists wanted full reimbursement of their fees, whether they opted in or opted out of the plan. The syndicate lost, and the medical specialists went on strike.

As for the bill 41, which was introduced to force the doctors back to work, one must put it back into its proper perspective. It was supported by all members of parliament at a time of turmoil during the October, 1970, crisis, five days after Labor Minister Laporte had been murdered by F.I.Q. agents and while Canada was under the war act. It is certain that bill 41 was tough, but many doctors left the province at a critical time. In any event, no doctors went to prison, even if some of them remained outside the province.

Today, Medical Care provides health services to all residents of the province. The patients are free to choose their own doctor, and all expenses are paid by the government. The scheme is working well, and I personally see no difference in practicing medicine in the Province today as compared to what it was before the introduction of Medical Care.

Sixty doctors have opted out of a total number of 8500. We are ahead of you in this field, and I am proud of it.

BERNARD LONGPRÉ, M.D.,
Centre Hospitalier universitaire.

SHERBROOKE, QUEBEC, CANADA.

To the Editor: I read with interest Dr. Sade's recent article entitled "Medical Care as a Right: A refutation." At a time when many aspects of our lives seem to be controlled by large, impersonal forces beyond our influence. I am certainly sympathetic and agree with Dr. Sade's deep concern for the freedom of the individual to direct his life as he chooses. However, we live in complex times. It is no longer possible—if it in fact ever was—to pursue one set of rights or interest to their logical conclusions while disregarding the consequences that this may have for those who are affected by our actions.

Today's physician, regardless of his form of practice, is not a rugged individualist who has "made it" on his own. On the contrary, society has provided a helping hand every step of the way. No medical student or physician during his period of postgraduate training completely supports his own educational procesa. Public funds are utilized in the support of his education either as direct subsidies or as part of grants from government, foundations and voluntary health agencies. Public monies also fund the research that improves the state of the physician's art, helps to build the hospital where he works and as often as not pays the fees of his patients.

Our society has come to consider health care more a matter of public interest and safety than a straightforward marketing of services. Clearly, the consumers of health care are no longer prepared to step aside and allow the physician to continue to act as an individual entrepreneur with no regard for the effects of his actions on the society around him. The consumers' perceived right to health and to life itself are no less strongly held than the perceived right of the physician to regulate his delivery of services.

This is not a win-or-lose situation. The consumer will not accept a "public-be damned attitude," and the physician will not and should not work on demand. As an intelligent community of professionals we must work with those who represent the public interest to develop new methods of attaining a relation between the physician and the consumer that maximizes the rights and interests of all concerned.

STANLEY S. BERGEN, JR., M.D.,
College of Medicine and Dentistry of New Jersey.

NEWARK, N.J.

To the Editor: It is very difficult for me to believe that Dr. Sade is serious in presenting the arguments outlined in his recent article in the New England Journal of Medicine (December 2, 1971). The sophistry and the calloused disregard for human interaction based upon trust and compassion are almost unbelievably crass. And yet courtesy dictates that I must assume that both he and the Journal were serious in publishing the article.

I cannot imagine readily any more effective way of demeaning the skills of a physician than by equating them with a commodity that can be bartered; bought, sold, promoted or withheld from the "market" at the sole discretion of the "owner." What bargaining power does the Roxbury mother have when she brings her acutely ill child to the Children's Medical Center for care? I suggest that she has none except that dependent upon the compassion of the institution and the weight of public opinion. What bargaining power do the victims of a highway accident have, incapacitated far from home, in obtaining and evaluating the medical care that will restore them to health? I suggest that they are in no position whatsoever to bargain for anything—and certainly not to make well informed choices between alternative "products."

Perhaps Dr. Sade is satisfied to be a shopkeeper, trapped into bartering his services according to the laws of supply and demand. Although I realize the economic pressures under which physicians provide their services, personally, I refuse to submit to this indignity.

Although I respect Dr. Sade's sincerity, I regret his insensitivity to the real problems of the 1970's. I hope the vigor of response to his article demonstrates that I am not alone in this reaction.

ROBERT W. GAGE, M.D.,
University of Massachusetts.

AMHERST, MASS.

To the Editor: The article by Dr. Robert Sade, "Medical Care as a Right: A refutation" (N Engl J Med December 2, 1971), itself deserves to be refuted. Dr. Sade considers the concept of medical care as a right to be immoral because it requires governmental involvement in medical-care provision. In his view, medical care is properly a matter of self-determined action by free individuals: the seeking of services by patients; the providing of services by physicians. Governmental involvement is coercive and violates the free society of physicians and patients.

The trouble with this libertarian concept of medical-care provision is that it is almost totally unreal. Medical care may have been purely a matter of freely contracting individuals in the days of Locke and Burke, to whom Dr. Sade refers. It is certainly no longer that today. A variety of corporate bodies play major parts on the medical-care scene—hospital boards, hospital staffs, medical societies, specialty boards, accrediting bodies, insurance companies, labor unions, businesses, health and welfare funds, citizens' organizations. Can anyone pretend that medical care in the United States is not powerfully influenced by organizations like these? Do physicians and patients really function solely as autonomous individuals?

At the clinical level, transactions between physician and patient are still, and should remain, a matter of individual determination. However, the organizational and financial framework in which they take place are determined by a host of groups—groups that are mostly nongovernmental but impose major constraints on individuals nevertheless. This private structure of medical care has failed to serve satisfactorily an increasing number of citizens. That is why government involvement has grown. Dr. Sade may believe that government's only proper function is to provide people with physical security. For many of us, however, government is much more: it is the mechanism through which people may deal collectively with their problems in the most just and equitable manner.

DAVID SAVITZ, M.D.,
Reynolds Memorial Hospital.

WINSTON-SALEM, N.C.

To the Editor: In his recent article (N Engl J Med 285: 1288–1292, 1971) Dr. Sade has provided a thought-provoking analogy to

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illuminate the complex social issues confronting American medicine: medical care is to the physician as bread is to the baker. Unfortunately, he has failed to make the comparison truly relevant by completing it as follows:

There is no food in the community other than bread.

Anyone not a state-licensed baker who dares bake or sell bread is liable to fine or imprisonment.

The bakers have conspired with the government to ensure that there is not enough bread for the populace.

The training of the great majority of bakers, as well as their bakeries, is heavily subsidized by the people through taxation (i.e., the forcible appropriation of the goods of the people by the State).

With the analogy more complete, consider the baker who refuses to give bread to a hungry citizen. Is it not the baker who is guilty of violence? Cannot the society that educates him, protects him from competition, and guarantees his prestige and affluence, require at least that he make his wares available to all comers?

FRANCIS P. LEBUFFE, M.D.,
New York Hospital.
NEW YORK, N.Y.

To the Editor: I was surprised and dismayed to read the special article "Medical Care as a Right: A Refutation" by Dr. Robert M. Sade in the *Journal*.

The article reveals clearly that Dr. Sade is fighting valiantly in a war that his side lost a long time ago. He says, "The only proper function of government: to provide for the defense of individuals against those who would take their lives or property by force." Should public schools, including most of our medical schools be closed? Should health departments, government-owned utilities and highways be abandoned? Or does he think all government functions except the police and armed forces should be turned over to private enterprise?

Whether an individual is a baker or a physician, the product or service provided by his labor is *not* his to do with as he pleases. Whether we like it or not there must be restrictions if we are to have a stable just society.

Dr. Sade states that medicine as a profession is moribund in Sweden and uses a quotation from Dr. Werkö's article to support this allegation. Dr. Werkö's article gave a very good description of the Swedish medical system and its problems particularly from the point of view of the hospital-based specialist, but it did not even suggest that the Swedish medical profession was moribund.

My own observation of the Swedish medical system showed that all Swedish citizens have access to good medical care without severe financial strain. I dislike much in their system, but they have accomplished this and we have not. The medical facilities and the medicine practiced in Sweden are excellent.

Dr. Sade says that we should not help design a national health system. If we want to practice good medicine in the future, we had better help design it. Swedish physicians have said that if they had participated fully in the development of their national medical-care system from the first, instead of resisting it, the physicians there would now have things more to their liking.

The South continued to fight the Civil War long after it lost, with resulting bitterness and slowed progress that has not yet been completely overcome. Will the medical profession continue to battle against a coordinated comprehensive health-care system now that the question is decided? The "reconstruction period" will be rough if we are victims instead of participants.

JAMES H. SANDERS, Jr., M.D.
BREVARD, N.C.

To the Editor: Dr. Sade's article in the December 2, 1971, issue, entitled "Medical Care as a Right: A refutation," is an embodiment of 16th-century thinking that truly antedates John Locke's and Edmund Burke's concept of natural rights, which he alludes to. The pursuit of his reasoning leads to several additional "corollary fallacies" that he seems to have overlooked. I would suggest the following:

The requirement of state or federal licensure for physicians guarantees that only properly trained and competent physicians will dispense medical care to the populace. The continually changing thoughts, opinions and clinical approaches of the medical profession indicates the elusive nature of "truth" in the field of medicine. Who is to say what is proper training and what is competence? Why shouldn't anyone who wishes to practice medicine be permitted to do so? Such laws only restrict the rights and throttle the minds of these people, and they do so by "violence or the threat of violence" by the State.

The practice of quackery, witchdoctory, acupuncture and chiropractic must be regulated and appropriately restricted by government agencies. Clearly this restricts the rights of these individuals to support themselves, and because such regulations can only be supported by "violence, or the threat of violence," "it is anti-life, and therefore immoral" (to quote from Dr. Sade).

From here to its reductio ad absurdum is all too obvious.

Of course medical care is a right! Its delivery is not a right, but a privilege. These are pragmatic truths in our "advanced" civilization that no amount of intellectual calisthenics can alter.

DAVID SHANDER, M.D.
DENVER, COL.

To the Editor: There are few heroes and supermen in the medical world; one only has to read Dr. Sade's special article entitled: "Medical Care as a Right" and on the same day, Jack Anderson's syndicated column on the "Neglect of the Aged" to fathom the chasm between theories and reality.

Dr. Sade's tight reasoning along the thoughts of Ayn Rand is appealing and, God permit, the business of medicine could be conducted along such moral paths. But, most of us being human and not elite superheroes, somehow, the day-to-day grind of living gives birth to fantastic inequities, simply by means of most of us not being faced with the problems every day.

"Problems such as high cost, few doctors, low quality of available care in economically depressed areas" are real, will continue to rise in spite of easy philosophical denials and eventually will engulf those who persist in seeing themselves as victims, though nobly refusing their sanction.

You must give your baker, Dr. Sade, the attributes of sanctity along with the overpowering rights to the products of his work, because if he ever uses his bread to tyrannize the very life of others, all your beautiful Ayn Randish argument becomes vicious.

The right to medical care follows directly from the right to live: when a society is embryonic, so are the organs to dispense services. But in America today, I see it as a direct responsibility of our society to organize systems to provide for it, and not by victims, but by willing providers. This is what medicine is all about.

JEAN-GUY FECTEAU, M.D.
SACRAMENTO, CALIF.

To the Editor: If I understand Dr. Sade (N Engl J. Med 285:1288, 1971), his logic goes something like this: a doctor's ability to earn a living is defined solely by his own "thought and effort": furthermore, doctors must be allowed to earn this living at all cost; therefore, doctors must be allowed to earn this living in any way they choose, without "outside" interference from well meaning but morally myopic patients and politicians.

Terrific! Now I can forget about all the dumb people who paid millions in taxes to help build my medical school and finance my education: now I can forget about poor city and farm folk whom I need not worry about serving any more, and now I can forget about peers and professors "immorally" persecuting me with obnoxious reviews and re-examinations. Best of all, I can forget about the nondollar "relationship" part of the doctor-patient relationship. After all, anyone bothering me on the telephone about warts or worries when I could be seeing another paying patient is wasting my time and his.

Yet, I sometimes do feel the prick of an obligation toward those who put me in the position of maximizing the gains of my "thought and effort." Sometimes, I do believe that not everyone is in the position of being able to put dollars down for my professional services, let alone being in a posh enough suburban location to get them. Sometimes, I do think that we doctors and future doctors are going to use our "thought and effort" to earn a living by manipulating our patients' market demand for medical services far more than we like to admit.[1] Sometimes, I do regard our medical profession's history of building a "rigid, self-perpetuating mystique about its knowledge, its jurisdiction, its practices, its prerogatives, and its mission"[2] as introducing an inequality into Dr. Sade's moral equations. Worst of all, sometimes I get the uncomfortable feeling that those I will serve should have some say so about how I serve them.

Silly thoughts, I know. Immoral, even. So let us put them aside and instead take up the heroic struggle of Quebec's courageous defenders of professional integrity. Let us unite and fight the repressive, evil patient-bureaucrat-politician complex until we have shed our last green drop.

JEFF BROWN, M.P.H.,
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STANFORD, CALIF.

To the Editor: Dr. Sade's defense of a racist and discriminatory American health system is but a natural consequence of his support for the American economic system. He asserts that "The right to private property . . . is essential and indispensable to maintaining free men in a free society." The "freedoms" and "rights" to which he refers are bourgeois freedoms and rights—they are reserved principally for America's ruling class. That such a ruling class exists is easily demonstrable. From the Wall Street Journal we learn that the 200 largest corporations in America own 40 per cent of this country. From the FCC we learn that 90 per cent of all campaign funds come from approximately 1 per cent of the people. American imperialism abroad is but a logical extension of domestic imperialism; the ruling class in America owns 40 per cent of the world's natural resources.

Dr. Sade is under the illusion that the American worker has control over his or her life. In reality, the American worker (assuming that he or she is fortunate enough to be able to find a job) has little control over where, when or how he or she works and has no influence at all over what is produced, why it is produced, for whom it is produced, or what is done with the products of labor. Rather, it is the capitalist class and its

[1] Brown J: Diagnosing and Rehabilitating the Medical Marketplace: Bennett essay on the business and politics of medical care in America. Berkeley, University of California Archives, May, 1971.

[2] Freidson E: Profession of Medicine: A study of the sociology of applied knowledge. New York, Dodd, Mead, and Company, 1970, p. 374.

various appendages that makes these crucial decisions owing to the fact that this class owns and controls the means of production and, consequently, the working class.

"Free enterprise," then, means the freedom for the ruling class freely to oppress and exploit the working class with relative impunity. Profit motive, and the demands of the market place predominate; human needs are important only so far as they may contribute to the maintenance of the status quo. It is upon the economic base of corporate capitalism that the various supra-structures are built, the medical-care system included. It should therefore come as no surprise that medical care in America is reserved primarily for those who have enough money to pay its exorbitant costs.

Thus, it is no coincidence that in the richest country in the world, over 60 million people live in poverty or deprivation (as defined by the United States Government). It is no coincidence that America ranks 15th in the world infant mortality rates, and that four times as many black women die at childbirth as white women.

Dr. Sade's defense of the present American medical system is a defense of racism, inequality and oppression. The end of such a system will come with the end of corporate capitalism, and only then will the full potential of man and womankind, as well as the full potential of medicine as a liberating and creative force, be realized.

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Case Western Reserve University Medical School.
CLEVELAND, OHIO.

To the Editor: I should like to take exception to one comment of Dr. R. M. Sade in his article, "Medical Care as a Right: A refutation," in the December 2, 1971, issue. Although he states many valid points, his comment concerning "apathetic internists," "apathetic surgeons" and "apathetic gynecologists" implies that all physicians currently employed by or in government institutions fall into that category.

This is untrue and one of his fallacies. These physicians are as dedicated as any of their colleagues. These doctors, or at least the majority of those that I have worked with or known, have no less self-esteem, integrity and competence than those in private practice or other endeavor not under government supervision. The one difference perhaps that he may accede to is the fact that these physicians chose to do the work they are doing rather than having been forced to do so.

F. W. HENDERSON, M.D.,
Veterans Administration Hospital.
LAKE CITY, FLA.

SADE ON THE RIGHT: A REFUTATION

To the Editor:

Bread is life. And the price is right—
for the Baker King. What's more, he bakes
the kind he likes—and bids the rest eat cake.

The hungry line outside his door
can wait. "No help needed, Mr. Kennedy,"
Too many bakers spoil . . .
the spoils.

It's late. And while the leavened coffers rise,
with a golden glow that fills his eyes,
he does not see those hungry guys
turn toward a different bakery.

J. DENNIS MULL, M.D.
COHASSET, MASS.

To the Editor: I must protest the inclusion in the New England Journal of Medicine of such a Special Article as "Medical Care as a Right: A refutation" by Dr. R. M. Sade. This type of article, shot through with conscienceless sophistry and self-righteous moralism, will ill serve medicine's cause in the current social debate over how the sick poor are to be served in the wealthiest nation on earth. The superficiality of offering a solution in semantics to one of the most pressing social problems of the day not only is irritating in its irrelevance but reflects all too clearly a deep-seated and mistaken attitude on the part of too many members of the profession that the problem can be made to "go away" if denied.

The article is undeserving of publication but if it were found where expected, in a Birchest tract, one could almost dismiss it with a shrug of disdain. To find it, however, as a Special Article in one of the world's most respected journals does nothing less than impugn the social conscience of the editor who chose to print it.

The *Journal's* sponsorship of such precious ratiocination is to be deplored.

JOHN T. ALEXANDER, M.D.
HUNTINGTON, N.Y.

JOHNS HOPKINS UNIVERSITY
SCHOOL OF HYGIENE AND PUBLIC HEALTH

To the Editor: On first reading Dr. Sade's lonely diatribe favoring resolution of man's congenital schizophrenia in favor of the individual's freedom from group restraint (N Engl J Med December 2, 1971), I was a bit aghast that so erudite a journal would give all that space to so naive an economic analysis, with its bare-bones example of the baker and *his* loaf of bread. And then a colleague suggested that perhaps the editor was handing the author the free end of a rope, the bitter end of which was a noose-knot.

If a man is a social animal, isn't the product of man a social product? But then Aristotle isn't always right. Sometimes he is even amoral.

ROBERT D. WRIGHT, M.D
BALTIMORE, MD.

The above letters were referred to the author of the article in question, who offers the following reply:

To the Editor: Because of limited rebuttal space, I include a few general references that provide detailed refutation of those objections to my argument that are not discussed here.[1-3] I urge the objectors who have obviously not done so to read the references appended to my original article.

Wishful thinking and a conciliatory attitude cannot change the fact that all legislation is ultimately dependent upon the threat of physical violence. Initiation of the use of force in the name of the public good, social welfare, the state, the king and so forth is the great destroyer of civilized society. The consequence of the destruction of the free interaction of physicians with their patients and society as a whole will be the disintegration of quality in American medical care. Nonparticipation remains the most effective and moral method to avoid professional self-immolation.

An open marketplace is not "demeaning," and can be threatening only to one who has something to hide in the quality of his product or service. There is no higher mark of respect for one's fellow than to trade with him openly and freely, value for value. For physicians, the value received need not always be money: American physicians traditionally have often accepted as fair exchange for their services the intangible value of their patient's appreciative "Thank you." But when the relation between men is altered by the intrusion of a legislative gun, benevolence disappears, and fear becomes the currency of exchange. One wonders who really projects a "calloused disregard for human interaction based upon trust and compassion," the man who wishes to trade voluntarily with others to their mutual benefit with mutual respect, or the man who thinks it necessary and proper to deal with other men in terms of whose legislative power is greater.

It is certainly true that there are many "groups that are nongovernmental but impose major constraints on individuals nonetheless." However, one cannot fail to recognize the elementary difference between those groups and the government: the first cannot use force to settle a disagreement; the second can and does. Hospital boards, medical societies, insurance companies and the rest have a very important role in the care of patients and in the professional lives of physicians, but they cannot *force* either patients or physicians to do anything, except by voluntary contract.

By the same token, the patient does indeed have just as much a right to his own life as the physician has to his, but both rights end where the other's physical integrity begins. The "right" of a patient or his agent to force a physician to take care of his medical needs has the same moral basis as the "right" of Nazi physicians to force concentration-camp "patients" to lie down on their operating tables. Those "rights" are exactly reciprocal and equally nonexistent.

The argument that society has paid part of the educational costs of the physician and therefore has the right to force him to practice on the terms that it dictates reveals a totalitarian mentality. Nearly everyone in the country has had at least some of his education subsidized by the state; therefore, the argument logically concludes, the state has the right to direct the lives of all its citizens. A very neat package, indeed.

Finally, it cannot be emphasized enough that in the attempt to solve medical-care problems by legislative fiat, American political freedom is being sacrificed to a system that has failed to achieve its own goals wherever it has been tried.[4]

I thank Drs. Amacher, Roe and Hale for their comments.

BOSTON, MASS. ROBERT M. SADE, M.D.

[1] Rand A: Capitalism: The unknown ideal. New York, New American Library, Inc, 1967

[2] Von Mises L: Socialism: An economic and sociological analysis. New Haven, Yale University Press, 1951

[3] Rand A: Atlas Shrugged. New York, Random House, 1957

[4] Lynch MJ, Raphael SS: Medicine and the State. Springfield, Illinois, Charles C. Thomas, 1963

RETIREMENT OF TWO LOYAL AND EFFICIENT OFFICIALS OF THE PANAMA CANAL

Mr. THURMOND. Mr. President, it has long been recognized that an official position with the Panama Canal enterprise is a sacred trust. Citizens of the United States serving in important capacities in relation to the maintenance and operation of the canal have had grave responsibilities requiring the performance of indispensable and efficient services. They have earned the everlasting gratitude of the people of our country as well of the users of the great isthmian waterway.

Recently, after long periods of service with the Panama Canal, two of its most efficient and capable officials retired: William Merrill Whitman, Secretary of the Panama Canal Company, after 32 years of service, the first 12 in the Canal Zone and the last 20 in Washington, D.C.; and Paul M. Runnestrand, Executive Secretary of the Canal Zone Government Panama Canal Company, since 1956, after a total service of 31 years, all of them on the isthmus.

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Both of these positions required the incumbents to be outstanding persons of high order of ability with complete loyalty to the United States.

The stories of the retirements of Messrs. Whitman and Runnestrand were published in the March 10 and 17, 1972, issues of the Spillway, respectively. I would like to state, for the benefit of those who have not seen the original publications, that the second article concerning Mr. Runnestrand also carries a picture showing Under Secretary of the Army Kenneth E. BeLieu presenting Mr. Whitman with a resolution of the Board of Directors of the Panama Canal Company, expressing its appreciation for his long and outstanding services as Secretary of the Company.

Mr. President, because the high standards of performance by both Mr. Whitman and Mr. Runnestrand should serve as models for emulation by those who follow, I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[Panama Canal Spillway, Mar. 10, 1972]

W. MERRILL WHITMAN CLOSES PC CAREER

W. Merrill Whitman who as Secretary of the Panama Canal Company and Assistant to the Governor has for the past 20 years been in charge of Canal affairs in the United States, retired recently after serving the Canal organization for 32 years.

A native of Nebraska, Whitman began his Canal career in 1940 as an associate attorney in the Office of the General Counsel. He received his law degree "cum laude" in 1935 from Nebraska's University College of Law and also attended Northwestern University Law School in Chicago and did graduate work in law at Georgetown University in Washington.

Prior to joining the Canal organization, Whitman was a legal editor for the West Publishing Co. in St. Paul, Minn.

After serving for 2 years as an attorney for the Canal, Whitman was made Assistant General Counsel, remaining in that position until 1948 when he became the Canal's attorney in Washington. In 1952, he became assistant Chief of the Washington Office and in July of that year was named the first Secretary of the Panama Canal organization.

Whitman was secretary of the Goethals Memorial Commission from 1948–54. He has written two books on legal subjects, one on Federal criminal procedure and the other on admiralty law.

As Secretary of the Panama Canal Company, Whitman has been responsible for recording proceedings of the Board of Directors meetings and has served as advisor to the board and the Governor-President on Panama Canal Company and Canal Zone Government matters.

He has acted as a clearing house for matters pending before the Board of Directors, appeared before Congressional committees, discussed Canal Zone affairs with the State Department, military officers and other U.S. Government officials. It has been his duty to analyze effects of proposed legislation on the Canal organization and to answer requests from Congressmen for data on the Canal and Canal Zone.

The Whitmans make their home in Kensington, Md.

PAUL M. RUNNESTRAND TO RETIRE TO FLORIDA

Paul M. Runnestrand, who has been connected with the Panama Canal since 1941 and has held one of its top positions as Executive Secretary since 1956, is retiring this month and will make his home in Florida.

As fourth in the line of men to hold the title of Executive Secretary which has been in existence since the Panama Canal opened to traffic, he has seen more changes in the Canal organization than any of this predecessors.

C. A. McIlvaine, the first Executive Secretary started work with the Canal during construction days and was followed by Frank Wang and Eugene Lombard, both well known on the Isthmus.

ASSISTANT TO PRESIDENT

In addition to his title of Executive Secretary, Runnestrand also performed the duties of Executive Assistant to the President of the Panama Canal Company. With the dual title and duties, Runnestrand has been one of the Governor's top advisers in both Company and Government affairs.

As Executive Secretary he has been liaison officer and responsible staff representative of the Office of the Governor-President on policy matters concerning the Government of Panama, diplomatic and consular missions and private commercial and non-commercial interests in the Republic of Panama and the Canal Zone.

Some of his duties include policies and regulations concerning contracts and control, Canal Zone purchase privileges, eligibility to engage in business in the Zone and the eligibility of persons to enter, reside or remain in the Zone. He also represents the Office of the Governor in policy matters and as Executive Secretary, is custodian of the Canal Zone Seal.

BORN IN MINNESOTA

A native of Minnesota, Runnestrand was graduated from the University of Minnesota with a bachelor of law degree in 1938. He was employed as law editor of the West Publishing Co. in St. Paul before coming to the Canal Zone in 1941 as an Associate Attorney in the General Counsel's Office.

He was promoted to Assistant General Counsel in 1948 and in 1953 was transferred to Washington, D.C., as Attorney and Assistant Secretary of the Panama Canal Company. He returned to the Canal Zone as Executive Secretary in 1956.

In addition to his two jobs with the Canal organization. Runnestrand has taken an active part in civic and social affairs in the Canal Zone. He has been executive director of the Canal Zone United Fund; member of the Canal Zone Executive Boards of Red Cross, Boy Scouts, Cancer Committee, Balboa YMCA; a member and past president of the Canal Zone Amateur Radio Association, and currently president of both the Canal Zone Bar Association, and the Federal Bar Association.

EXTENSIVE STUDIES

He attended the Foreign Service Institute Spanish Language Course in Mexico City; the Brookings Institution Second General Management Conference for Federal Executives in Williamsburg, Va.; and the Federal Executive Institute in Charlottesville, Va. He has been admitted to the Bar of the U.S. Supreme Court, the Minnesota Supreme Court, the U.S. District Court in the Canal Zone and the U.S. Court of Appeals, Fifth Circuit.

In 1967 he received the Outstanding Civilian Service Medal, one of the highest awards given by the U.S. Department of the Army to civilians for his outstanding service with the Canal organization and for dedicated support of the U.S. Government programs which the Secretary of the Army said had contributed significantly to United States-Panama relations and was in keeping with the highest traditions of the public service.

For his work in Scouting, Runnestrand received from the Canal Zone Council, Boy Scouts of America, La Orden del Espiritu de las Buenas Obras.

CITED BY JWB

On the eve of his departure from the Canal Zone, Runnestrand received a special testimonial plaque from the Board of Directors of the National Jewish Welfare Board for "his many years of leadership in the Isthmian Community and for his devoted service to the military and civilian residents of the Canal Zone."

The plaque was presented in a special ceremony by Rabbi Nathan Witkin, former Jewish Auxiliary Chaplain of the Southern Command and head of the Jewish Welfare Board.

In the second annual Public Service Award ceremony last month, Gov. David S. Parker presented a gold medallion and an Honorary Public Service Award to Runnestrand for his outstanding contribution to the Isthmian community as the first and only executive director of the Canal Zone United Fund and for his invaluable contributions to the many charitable and community projects in which he has been active. The award was accepted by Mrs. Runnestrand for her husband who was away on business.

Accompanied by his wife, Betty Runnestrand will leave the Isthmus at the end of March and plans to live in Winter Park, Fla., where they are building a new home. They will be joined at the end of this school year by their son, Eric, who is a student at the Canal Zone Junior College. Their daughter, Sarah lives with her husband in Princeton, N.J.

THE CHILDREN OF VIETNAM

Mr. KENNEDY. Mr. President, it is difficult at any time to stop and contemplate the suffering of children. But the time is long overdue for all of us to pause and open our eyes to the plight of the children of Vietnam and all of Indochina. Children are suffering and we are contributing to their condition.

Negotiations have broken down in Paris and a senseless war continues. And more children become orphans. More children are put in institutions. And more young people are forced into the streets. As we continue to fuel this war, we must finally reckon with this toll of the war—this human toll as seen in the faces of the children of Vietnam.

For years, this problem of children, the most pitiful of war victims, has gone unattended. As early as 1965, witnesses came before the Judiciary Subcommittee on Refugees—which I serve as chairman—and told us of the need for child welfare programs, for trained personnel, for a long range plan to meet the escalating needs of the children. In 1966 these needs were again cited. Token efforts were underway to meet these needs—but these efforts were not enough. In 1967, at the urging of the subcommittee, an aid-funded task force traveled to Vietnam to make program recommendations in the field of social welfare. The task force report outlined some immediate steps that could be taken, and some longer range plans as well. But this report, like so many others, was quickly filed and ignored. Since then the cries of the children and the appeals of humanitarians have all but fallen on deaf ears. In fact, in 1970, the social welfare component of our Embassy in Saigon was eliminated.

Mr. President, in early 1970 there were some 258,000 officially registered war orphans. Today that number stands at more than 410,000. Several thousand are fathered by Americans. What is the fate of these children—and the tens of thousands unaccounted for—and the tens of thousands more who make up nearly 50 percent of Vietnam's refugees?

The availability of even a simple child welfare system could have made a difference for many of them. A trained social worker available at the maternity hospital might have dissuaded a mother from abandoning her child. Perhaps the existence of more day care centers would have enabled parents to keep their children. Perhaps a better medical system with more trained personnel could have prevented the spread of infectious diseases. Perhaps if there were a vocational training center, a teenage child would not end up in gangs, or a young girl in prostitution.

Fortunately, there have been those more mindful of these children's cries than our Government. Various voluntary agencies—including indigenous Vietnamese—have done commendable work. But they are forced to operate with dwindling resources and limited personnel. The response of the Government of South Vietnam has been slow, but as the years passed they too have recognized the needs and tried to answer the cries of the children.

In October of last year—nearly 6 months ago—the South Vietnamese Government drew up a new and expanded child welfare program and submitted a request for assistance to our Government. The program provides for the support of private sector welfare services, the strengthening of existing Government operated programs, and the creation of a high-level commission to design a long range program for child welfare.

In assisting the private sector through voluntary agencies, the plan covers day-care centers, foster care, nutrition and school feeding programs, assistance to low-income urban families, and the training of child welfare personnel. In strengthening existing Government programs, the plan would increase support to Government operated day-care centers and orphanges, would provide more adequate assistance to the growing number of war widows, and would establish a program to prevent the abandonment of newborn babies. The plan also proposes that the President of Vietnam appoint a high-level commission of public and private child welfare specialists to assist the Ministry of Social Welfare in designing a long-range child welfare program for Vietnam.

This plan is in keeping with the Government of South Vietnam's conviction that the best solution is to leave the children within a Vietnamese home whenever possible. The plan follows many of the suggestions outlined in AID's social welfare task force report of 1967.

Mr. President, the initial cost of the expanded child welfare program is modest—by the official exchange rate, little more than $4 million in counterpart funds for 1972. This is a sum spent four times over in a week for our military effort in Vietnam.

But what has been the response of our Government to this reasonable proposal by the South Vietnam Government? It can be summarized in one word—silence.

I am appalled by our Government's insensitivity. I am shocked by what appears to be a callous disregard for the children of Vietnam. It seems painfully ironic that for years our Nation has fed a military machine in that country—sending thousands of our finest young men and countless millions in bombs and arms. Yet when we have the opportunity now to help this country find a way to relieve the plight of the most pitiful war victims, we stand idle. In terms of our own objectives in Vietnam, the low priority we still give to social welfare is folly. In terms of America's complicity in the havoc of the war it is unconscionable.

Mr. President, we have a continuing responsibility to the people of Vietnam. We cannot wash our hands of their tragic plight simply because the last American soldiers are leaving their shores.

But the record is becoming clearer every day that the administration is establishing a national policy of walking away from our humanitarian responsibilities to the people of Vietnam. A short time ago a General Accounting Office report to the Subcommittee on Refugees outlined how the administration's policy was sabotaging programs dealing with civilian war casualties and health care. Today we learn the administration's policy is sabotaging needed programs for the children of Vietnam.

For the immediate future we should at least maintain if not increase, our contributions to those humanitarian programs we have helped to build and support for the benefit of the Vietnamese people. Our Government apparently has no qualms about pouring large sums of money into building up police forces in Vietnam. But what about an effective program of prosthetic devices for the lame? What about medical supplies for the sick and wounded? What about the care of orphans and the American fathered children and the millions of others in distress?

For the longer run, we should be thinking ahead to the time when the guns and bombs are finally stilled, and a full-fledged international humanitarian effort can begin throughout all of Indochina—an effort we should help get underway and generously support.

A good place to begin a policy of humanitarian concern is with the children. And so I strongly urge—what I know is shared by many Americans—that our Government favorably respond to Saigon's expanded program proposed for child welfare. The time for this decision is long overdue.

Mr. President, in 1965, at the beginning of our massive involvement in Vietnam, a child was born. Today that child is at least 7 years old. This child may be one of the more than 700,000 orphans in Vietnam. Must this child reach adulthood before our country sees the suffering, and answers the cries for help?

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of Saigon's proposal for an expanded child welfare program. The summary was provided by the Agency for International Development.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Summary of new and expanded child welfare programs, Oct. 26, 1971

[Cost estimates in millions of Vietnamese dollars]

MSW support of private sector child welfare services	150
Day Care	50
Improve existing day care centers, establish additional centers, new program of home day care services (MSW grants to foreign and Vietnamese VolAgs).	
Foster care for homeless children	12
Subsidies to foster families to care for homeless children, particularly in highland areas (initially through private agencies).	
Nutrition	50
MSW subsidies for school feeding programs and village level nutrition projects of VolAgs aimed primarily at children. Increase number of public elementary school children receiving nutrition supplements from 10,000 in 1971 to 300,000 in 1972. Train and assign additional 50 nutrition education workers to work with mothers and children primarily in Montagnard hamlets.	
Assistance to low-income urban families to enable their children to enter and remain in elementary school	25
MSW assistance to needy families in the amount of VN$200 per month to enable them to send their children to school (pilot experimental program).	
Training of child welfare personnel	15
Train 2 additional child welfare mobile teams of 3 workers each to train day care and orphanage personnel at Provincial level. Expand training of institutional child care workers.	
Strengthening existing MSW programs	380
Increase MSW support for child welfare institutions	65
Day care centers	22
MSW presently subsidizes day care centers at the rate of VN $200 per child/month. In order to enable low income mothers to utilize this service without having to pay additional fees, this subsidy is to be increased to VN $400 per child/month with half of the increase financed from additional AAC funds.	
Orphanages	43
MSW presently subsidizes orphanages at the rate of VN $600 per child/month. To replace the support orphanages have received in the past from US soldiers, this subsidy is to be increased to VN $1000 per child/month, with half of the increase to be financed from additional AAC funds.	
Assistance to War Widows and Children with Special Needs	315
Special assistance to civilian war widows	285
MSW proposes to register and issue to civilian war widows "widows cards" which would entitle them to benefits similar to those available to military war widows (i.e. reduced fees for medical care, free transportation, reduced rates at low cost restaurants, incentives to start home businesses etc.) To administer this program, MSW would need to employ 65 additional social workers and social welfare cadre.	
Prevention of abandonment of newborn babies	30

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MSW proposes to place specially trained social workers in maternity hospitals to administer a program of short-term emergency assistance to mothers who, because of economic need, might abandon their new-born babies or place them in orphanages.

Child Welfare Commission 15

MSW intends to ask the President of Vietnam to appoint a high-level Commission composed of leaders of public and private child welfare agencies in Vietnam and the U.S. to assist the Ministry in designing a long-range child welfare program for Vietnam. The amount of VN $15 million would be required for staff salaries, consultants, travel expenses etc.

Grand total 547

Source: Saigon 16847.

THOUGHTS OF A BROTHER OF A PRISONER OF NORTH VIETNAM

Mr. MILLER. Mr. President, a member of the staff of Westmar College, LeMars, Iowa, has a brother who became a prisoner of war during the Tet offensive of 1968 while serving in the Hue area of South Vietnam.

He has written some thoughts which incorporate extracts of letters from his brother, written prior to the Tet offensive, and the philosophy of one who wonders whether his only brother is still alive.

I ask unanimous consent that this impressive essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

ESSAY

My name is George Gostas. I am Cataloging Librarian at Westmar College Library in Le Mars, Iowa, 51031. My job is to prepare cards for the card catalog. Attached to the cabinets are small brass plates which read, "In loving memory of 1st Lt. Corbin C. Tindall '64, 1942–1969." The card cases were a gift from the family of a young man killed in Vietnam. The plates remind me that a terrible war is going on; part of the world is on fire. And brave, good, young American men are dying in that war. The plates remind me also that my brother is a Prisoner of War.

My brother was born in 1938. He has a wife and 3 children, the youngest of whom he has never seen as he was born while Ted was in Vietnam. He had been 11 months at the old cultural city of Hue when the famous Tet Offensive of February 1968 broke out. Hue was hardest hit of any of the cities of Vietnam. It took 22 days and many lives to recapture it from the Viet Cong. There were hundreds of thousands of refugees, and even 200 civilians marked for death by the Viet Cong were buried alive. My brother was first listed missing in action Feb. 3. 3 weeks later 2 prisoners escaped from one of the camps, memorizing the names of others with them. They reported Ted alive but wounded. He was doing well but they did not know how long his health would hold up under the camp conditions. All this was over 3 years ago. My brother has never written. Letters sent to him in care of the Viet Cong in France or Algeria simply vanish from sight. We do not know if any have been delivered. A Christmas package came back from Cambodia marked "refused."

My brother lives in my heart. I have letters and memories of him. At the time of his capture, the people in this area and I were helping him collect soap for orphans at Hue. The soap was delivered in Hue by his friends. He was cultured, articulate, with an I.Q. rated as genius. Faculty at the University of Wyoming, which he attended, spoke of hanging one of his efforts in the offices of the English Department. In October of 1967 he wrote to me: "There is a novel here in Hue and I will be its author. It will be my first work. . . . If God allows, I will return home and do what must be done by saying what must be said. This war is confusing not only to people where you are but to many people here as well. But the greatest theme here is tolerance and patience and love. To feel prejudice and watch it melt from solid steel in compassion, that is the theme of life and the substance of the dreams of God. To hate and feel deeply and learn understanding and trust. . . ." He wrote his book but, presumably, the Viet Cong have it.

Some of the things written by Ted were very terrible and detailed war in all its hellish brutality. In his words, "Death has stepped closer to Hue. The VC killed marines (near) here and one of the boys had six days before rotation. Oh, well, it is all in a day's dollar . . . Write about man's inhumanity to man. I can't write it because I am too bitter . . . Bleed not for me. Bleed for life and all its meaningless meanings . . . Let there be light, intense and burning . . . The mortars come and blast away flesh . . . eat life or it will eat you . . . dead bodies." And again he wrote: ". . . six months already. I think I went completely insane the first 3 months and now my sanity is gradually returning . . . I feel so sorry for the poor guys who are just getting off the plane in Saigon. If I had a year to do I would blow my brains out. One boss of another agency here did just that in Saigon circa 2 months ago. Just stuck a .38 in his mouth, pulled the trigger, and blew his brains all over the bedroom. What a silly thing is suicide. There is so much in this world that is beautiful and good and so little that is really bad. . . ."

But my brother also showed humanity and goodness at its best. He wrote: "Do the best you can on the soap . . . George, even if the entire U.S. sent soap and toys and hope over here, there would be room for more. So, don't worry about the project being small. Who cares how small it is? Can it be smaller than the face of an orphan with blood on his cheek, rubbing the scratch with dirty fingers? Can it be smaller than the outstretched hands of a little girl saying, "Give me." Can it be smaller than a little plastic car from a box of tea and rice candy that received a smile and a cry of joy larger than the whole world? If it can be smaller than that, it is still worthwhile. The job to be done in Vietnam is bigger than the biggest project and, therefore, must be accomplished through many smaller ones."

Ted wrote: "The war is not far away from you in Vietnam. You either hear about it, see what it has done, read up on it, or, if you are not lucky—live it!. . . Your questions, your petitions, your doubt, and your problems somehow lose all meaning over here. All one remembers when one is in Vietnam is how the grass looks back home, his wife, how the children sound when they laugh, and how strange it is that one never really, really, appreciates anything until it is denied. And that is the secret of freedom. Have it and you are unaware that it is there; lose it and you are lost—confused—and finished . . ."

Every American has his own view on the war. My brother had his; you have yours; I have mine. In my opinion, the best way to stop war is to stop the causes of war. I feel my brother was trying to help buy us time to work on the problems that cause war, such as poverty, ignorance, hunger, economic and political instability. We need global thinking on an international basis. We should work to make the United Nations more effective. In the meantime, the Four Horsemen graze their horses at our own back yard and wait. My brother's viewpoint was more of a national one. He loved America and was willing to die on her behalf. He wrote: "Don't be afraid to wave our flag either. It is a beautiful one to wave. And all those stars are bright ones, full of hope and love of man." Ted was my only brother and my closest and dearest friend. I read much on Vietnam. It makes me feel closer to him in his hour of need.

I recommend to you the Reader's Digest for April 1971 for its article "Inside the Prisons of Hanoi" and that of May, 1971 for its article "Our Missing Men . . ." which contains a picture of my brother, Major Theodore William Gostas. Read also *Village in Vietnam* by Gerald Cannon Hickey (Yale University Press, 1964) and *Vietnam; the Unheard Voices* by Don Luce (Cornell University Press, 1969). But read first on your list the fine book by Philippa Schuyler called *Good Men Die* (Twin Circle Publishing Co., 86 Riverside Drive in New York City, 1969). A genius, she went to Vietnam to play piano for troops (she played in 78 countries) and to write this book. She spoke English, Italian, French, Portuguese, Arabic, Spanish and several African dialects. She was the only child of a gifted Negro and a brilliant white woman. She died in Vietnam at the age of 35, while trying to help the orphans at Hue after finishing her book. Her book is of the greatest interest to me because it deals at length with Hue at the time my brother was working there and with the Army service with which he was involved.

We must see my brother's problem in good perspective. Over the Labor Day weekend in 1966, 29 servicemen were killed in Vietnam while 614 Americans were killed on our highways. We have lost on our own streets and highways nearly three times as many Americans as we have lost on all our wars put together. Some scientists think the best population for the planet earth may be as low as 1 billion people. We now have over 3 billion and are rushing forward at the rate of 180,000 new people a day, a new Chicago every month, a new U.S. every 3 years. The problems that demand our attention are many and critical. The time, energy and attention that can be given to the less than 2,000 men who are Prisoners of War is strictly limited. What can be done for them? There is a picture by Peter Breughel showing the fall of Icarus into the sea before an indifferent audience. The picture bears the motto, "Not a plow is stilled because a man dies." Won't you still your plow to do this: Once each 6 months write a letter to the Viet Cong asking for humane treatment for our men.

At best, I hope for a full prisoner exchange. At least, I hope to learn if my brother is dead or alive. For now, I go about my business, see the brass plates on our catalog cases, think of my brother. Callimachus the Greek wrote of old: "They told me, Heraclitus, they told me you were dead. They brought me bitter news to hear and bitter tears to shed. I wept as I remembered how often you and I had tired the sun with talking and sent him down the sky. And now that thou art lying, my dear old Carian guest. A handful of gray ashes, long, long ago at rest, Still are thy pleasant voices, thy nightingales, awake; For Death, he taketh all away, but them he cannot take." What more is there to be said? Asia keeps her exotic mysteries locked up within her. What has concluded that we may conclude anything about it? But in helping others we are really helping ourselves and all men. As Donne said: "No man is an island, intire of itself; never send to know for whom the bell tolls; it tolls for thee."

SOVIET MISSILE PERIL

Mr. BUCKLEY. Mr. President, a dispatch in the New York Times of March 22, 1972, concerning the testimony of Dr. John S. Foster, Jr., Director of Defense Research and Engineering before the Senate Armed Services Committee, deserves comment because of the misleading headline on the dispatch.

The story headline read "Soviet Missile Peril Now Found Unlikely by the U.S. Until the 1980's." This headline grossly distorts the burden of Dr. Foster's remarks, and I, therefore, believe that the record must be set straight.

I quote, in full, the portion of Dr. Foster's testmony related to the headline in point:

Analysis of the latest projections concerning Soviet missile growth rates and accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened. In cases where small growth is assumed, Minuteman forces do not appear to be threatened until the early 1980s or beyond. For middle range assumptions, Minuteman could have less survivors in 1980 or before. If the most severe of the postulated SS–9 and SS–11 type missile forces were directed at Minuteman, the Minuteman force (assuming that the silos are undefended, but are upgraded in hardness) could be drawn down as early as the mid-1970's. Prudence requires that we take the more pessimistic projections seriously.

There are considerable grounds for believing that it would not be prudent to assume, contrary to what is suggested by the New York Times headline, that the Soviets will hereafter follow a policy of slow growth for their strategic forces, and that they will not achieve a counterforce capability well in advance of the 1980's.

First, the Soviets have not in fact been following a policy of slow growth for their strategic forces. The authoritative British defense review, the International Institute for Strategic Studies' "Military Balance, 1971–72," shows that, since the Soviets agreed to meet with the United States to discuss limitations on strategic arms in early 1968, the Soviet Union has doubled their ICBM force and more than tripled their submarine-launched ballistic missile force.

Second, it would be imprudent to assume that the Soviet Union is necessarily more retarded in scientific matters than we are in view of the fact that all available evidence suggests a more vigorous military research and development program than our own. We are already building guidance and control systems for our Minuteman and Poseidon that could, if applied to the much larger Soviet SS–9 and SS–11 warheads, pose the kind of threat to our Minuteman forces by the mid-1970s which is suggested in Dr. Foster's remarks.

More recent evidence brought to light since Dr. Foster testified tends to underscore Dr. Foster's warning about taking Soviet efforts to improve their forces seriously. According to a New York Times dispatch of March 28, 1972, the Soviet Union will "imminently" begin a test program for a new series of ICBM for deployment in some 90 to 100 silos already available for the purpose.

Inasmuch as the Soviet strategic weapons buildup has already gone far beyond the requirements for simple deterrence, we must assume that the Soviets would attempt to use these forces to support their diplomacy, which means that we must assume that they are moving to achieve a position of superiority which could dramatically curtail an American President's options in future diplomatic confrontations with the Soviet Union, whether they take place in the Middle East, or in Europe, or even in the Caribbean.

I ask unanimous consent that Dr. Foster's complete testimony and related articles from the New York Times be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT BY THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, DR. JOHN S. FOSTER, JR., ON THE SAFEGUARD SITE DEFENSE OF MINUTEMAN

BACKGROUND

The Safeguard system deployment is a phased program which emphasizes the defense of our land-based deterrent, and maintains the option to deploy a light area defense. It has no sites planned for deployment in or near large cities except for Washington, D.C. On March 14, 1969, President Nixon established the objectives for Safeguard:

Protection of our land-based retaliatory forces against direct attack by the Soviet Union.

Defense of the American people against the kind of nuclear attack which the Peoples Republic of China is likely to be able to mount within the decade.

Protection against the possibility of accidental attacks from any source.

He further elaborated:

"We will provide for local defense of selected Minuteman missile sites and an area defense designed to protect our bomber bases and our command and control authorities."

"By approving this system, it is possible to reduce U.S. fatalities to a minimum level in the event of a Chinese nuclear attack in the 1970's or in an accidental attack from any source."

The President also stated on March 14, 1969, "This program will be reviewed annually from the point of view of (a) technical developments, (b) the threat, and (c) the diplomatic context including any talks on arms limitations." He further stated that "each phase will be reviewed to insure that we are doing as much as necessary, but no more than required by the threat existing at that time."

In the FY 70 budget, following the Safeguard decision, the President proposed to move forward with the deployment of an initial phase consisting of sites at two Minuteman Wings, one near Grand Forks Air Force Base, North Dakota, and one near Malmstrom Air Force Base, Montana. Congress approved this proposal.

The Administration's FY 71 proposal, following the second annual review, was to go forward with both the Grand Forks and Malmstrom sites; commence deployment at one additional site in the Minuteman field near Whiteman Air Force Base, Missouri; provide for additional Sprints at the Grand Forks and Malmstrom complexes; and undertake advanced preparation for deployment at five other sites. Congress approved this proposal, except that authorization for advanced preparation was limited to a single site near Warren Air Force Base, Wyoming.

In the FY 72 budget request, following the third annual Safeguard review, the President's proposal recommended continued deployment at Grand Forks and Malmstrom, initiation of construction at Whiteman and authorization for deployment of a fourth site at either Warren or in the Washington, D.C. area. Congressional action on the FY 72 request approved the continued deployment at Grand Forks and Malmstrom, but withdrew authorization for construction at the Whiteman site, thereby limiting deployment strom sites; activity at the Whiteman and Warren sites was limited to advanced preparation only; and consideration of pre-deployment activities in the Washington, D.C. area in FY 72 was eliminated. This action was based in part on the fact that delay in the start of the Malmstrom site construction influenced the decision to delay construction at the Whiteman site.

This year we are presenting the fourth annual review of the Safeguard program in keeping with the President's March 14, 1969, statement. A complete and comprehensive review has been conducted in accordance with his commitment. Because of its close relationship, the Site Defense of Minuteman program (formerly called Hardsite Defense) will also be treated as an integral part of the Safeguard discussion.

Summary of review

Principal findings of the review relative to the FY 73 budget submission are summarized below:

The technical progress on Safeguard over the past year has been outstanding and there are no technical problems which would affect a decision to proceed with the Safeguard deployment in FY 73.

Construction at the Grand Forks Safeguard site is on schedule and about 80% complete. Construction at Malmstrom was delayed by 11 months by labor problems with an attendant delay in site readiness (early 1976): Construction at Malmstrom has been restarted.

All of Safeguard ground equipment for Grand Forks and Malmstrom is under contract and procurement of equipment has been initiated for the Whiteman site.

The Soviet threat has continued to evolve both numerically and technologically over the past year. The Soviets have initiated construction of new silo designs which imply that new or modified missiles may be deployed. The production of the Y-class ballistic missile launching submarine continues at a high rate and a new, longer range SLBM is rapidly approaching an end to its development cycle. Its platform, however, has not yet been identified.

The People's Republic of China (PRC) has continued to develop its nuclear capabilities. There is evidence that the PRC initiated flight testing of a possible ICBM in 1971.

SALT negotiations continue. We cannot at this time be certain, however, that a SALT agreement will be reached or, if so, what the exact provisions of the agreement will be. The measured, phased Safeguard program continues to support both the flexibility and the strength of the President's SALT negotiating position.

Thus, since (a) successful technical progress has been made on Safeguard, (b) the Soviet threat has continued to grow, and (c) we have not yet reached a SALT agreement, we are requesting authority in FY 73 to proceed with Safeguard deployment at four Minuteman sites. We are also requesting authority to initiate advanced preparation for Safeguard deployment at the NCA (Washington, D.C.). Our long term plan, in the absence of a SALT agreement, continues the option for full Safeguard deployment at 12 sites.

Finally, we believe that it is essential to maintain a vigorous ABM R&D program. We are, therefore: (a) continuing the Site Defense of Minuteman (formerly Hardsite Defense) prototype demonstration program to develop additional defense capabilities of Minuteman should they be required later, and (b) continuing the area defense R&D program leading to the capability should it later be required to expand defense of our strategic retaliatory forces, to include both our ground-based alert bombers and com-

mand and control centers, improved NCA defense and light, nationwide area defense. We feel that continuing pursuit of all of the above programs is important to our national security.

Threat

The Secretary of Defense in his Annual Defense Department Report has, in some detail, spelled out the general nature of the present strategic threat. However, in terms of ABM development and deployment decisions, it is necessary to estimate the threat development in the future. For this reason, the threat analysis of interest to ABM issues is necessarily somewhat speculative. Furthermore, judgmental differences can significantly alter the conclusions as to the rate at which our ABM developments or deployments must be pursued.

Long term threat projections must consider threat quality as well as quantity. Indeed, over the long spans of time for development and deployment of a system, enemy programs to develop a responsive threat to our ABM capabilities such as penetration aids may be started and deployed in parallel with our ABM development and deployment cycle. What is done in this situation is to assume, for instance, that the Soviets with their major resources might be able to develop the type of response to our ABM capabilities that we, ourselves, have been able to develop or demonstrate within the U.S. advanced reentry technology programs.

Proceeding in this way has, historically, allowed the U.S. ABM programs to be conducted in a manner so that they are in large measure insensitive to potential major changes in the Soviet threat quality. This is also a clear example of a major benefit derived from having a vigorous R&D program. This technique of using the advanced U.S. technology as the basis for projections of the best the Soviets could do is vital given the long lead times involved. Without this lead in penetration technology, the entire problem of ABM might well be unmanageable. At any point in time, however, we estimate the threat based on our best intelligence information and time phase our programs accordingly.

Given the above approaches to cope with potential improvements in Soviet penetration technology, the prime problem is how to be responsive be increased in the Soviet threat quantity. As mentioned earlier, this is primarily an issue of estimating the rate of Soviet force changes versus the required offsetting U.S. deployment rates. As discussed elsewhere, this is a very significant part of the annual review process. The DoD approach is and must be based on how early or how rapid the Soviet threat could change. Many if not a majority of the dissenting opinions on the need to defend our retaliatory forces are based on judgments that the Soviets will make changes more slowly, if at all.

This critical viewpoint difference surrounds the decisions that must be made on how rapid Safeguard should be expanded to provide Minuteman protection. The following threat sections treat in increased detail the threat changes that have occurred over the last year that form a major part of the annual review process:

U.S.S.R. ICBM'S

Deployment of the SS–11 in standard silos has probably ceased. Although SS–9 deployment has been irregular, there are indications that further SS–9 silo construction has stopped. However, during the course of the last year, we detected almost 100 new silos that differ from previously deployed Soviet ICBM silos. It may be that a higher level of hardness is intended and/or that a new or modified missile may be deployed.

Tests of modifications to the SS–11 and SS–13 have continued during the last year. Data acquired earlier from SS–9 tests suggests to some analysts an independent targeting capability. We have not as yet identified achievement of accuracies consistent with high probability of kill against hard targets for these reentry vehicles. There have been no tests of this system since late 1970, suggesting that the Soviets may have canceled or curtailed the SS–9 triplet program, possibly in favor of the new missile noted above.

Analysis of the latest projections concerning Soviet missile growth rates and accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened. In cases where small Soviet growth is assumed, Minuteman forces do not appear threatened until the early 1980's or beyond. For middle range assumptions, Minuteman could have less survivors in 1980 or before. If the most severe of the postulated SS–9 and SS–11 type missile forces were directed at Minuteman, the Minuteman force (assuming that the silos are undefended, but are upgraded in hardness) could be drawn down as early as the mid-70's. Prudence requires that we take the more pessimistic projections seriously.

Tests of modified versions of the SS–11 have been under way for some time. The new payloads may represent an attempt to improve penetration capability against active defenses, but the payload-accuracy combination of currently deployed systems is estimated to be inadequate at this time for an effective hard target attack.

U.S.S.R. SLBM'S

The operational Y-class force could reach over 40 units by the end of 1973. If production continues at the present rate—and there is no indication of slackening—the operational force could reach over 50 units by 1975. The present Soviet operational Y-class force is sufficient to threaten that portion of the SAC bomber force which is on normal alert at coastal bases.

Testing of a new long range SLBM continued in 1971. The intended platform for its deployment is unknown.

Peoples Republic of China (PRC)

The PRC continues to press toward an ICBM capability. There is some evidence that the Chinese may have initiated flight testing of an ICBM in 1971 and they may be in the first stages of developing an SLBM capability. A Chinese ICBM force of 10–20 silo launchers may be possible by 1976.

The Chinese conducted a nuclear test in 1971 which would allow them to refine and expand their thermonuclear weapons capability.

Diplomatic context

As the President stated in his foreign policy report to Congress on February 9, 1972, we may soon complete a SALT agreement with the USSR. The President also said:

"From the beginning SALT negotiations, it has been implicit that we would be willing to forego extensive ABM protection in return for the greater stability offered by an equitable limit on both offensive and defensive strategic forces. In deploying Safeguard, we have taken only those steps that are essential while preserving the option for an agreement on ABM limitations. These actions have given the Soviet Union an incentive for concluding an agreement controlling defensive deployments. Our future actions will continue to reflect progress made in SALT."

"In our decisions on deployments of strategic systems, on qualitative improvements and on SALT, our objective has been to act with restraint while preserving the security of the United States and its allies. Our present strategic forces are sufficient and we are moving toward an agreement which should stabilize the strategic balance and foreclose future rounds of arms competition. If, however, important systems are not constrained by agreements and the Soviet Union continues to build up its strategic forces, I will continue to take actions necessary to protect the national security."

Presently the focus of the SALT negotiation is being directed towards obtaining an initial agreement covering ABM systems, together with some limitation on offensive missile systems. We are hopeful that a SAL agreement can be reached soon. However, we cannot be certain of this, nor can we be sure of the exact provisions of such an agreement. Meanwhile, the Safeguard program now proposed enhances the probability of success in SALT.

The need to continue ABM R&D stems from at least three reasons:

We must hedge a requirement to protect our land-based retaliatory forces with ABM defenses in the event that such a defense becomes necessary.

We must be able to insure adequate penetration of our own offensive missile systems. U.S. ABM development efforts can provide background and knowledge which will help us understand the full implication of Soviet ABM activities.

We must be able to meet a possible requirement to deploy a nationwide area defense at some time in the future if there should be no SAL agreement prohibiting it. Such a defense is necessary if we are to satisfy the President's objectives to defend against a possible Chinese attack or accidental attacks from any source. The President has indicated that we would be willing to forego extensive ABM protection in return for the greater stability offered by an equitable limit on both offensive and defensive strategic forces. Meanwhile, we plan to continue development effort on improved light area defense components.

Safeguard progress

The research and development portion of the Safeguard program is progressing satisfactorily. The prototype Missile Site Radar (MSR) located at the Kwajalein Missile Range began radiating power in September 1968 and has been operating since that time. It has met or bettered all of its design objectives and no serious deficiencies have been found. Beginning in March 1969, check-out of the MSR data processing system was initiated and successful operation of four data processing units working in parallel has since been achieved. MSR software for the first part of the system test program has been completed and installed. Beginning in July 1969, tracking of local targets was accomplished with the initial software and, in December, 1969, two ICBMs launched from Vandenberg AFB, California, were successfully tracked.

The Perimeter Acquisition Radars (PAR) are under fabrication and the first installation will be at Grand Forks (the first Safeguard operational site). The Air Force FPS–85, a radar based on similar technology, has been operating since January 1969 at Eglin AFB in Florida. A limited engineering development model of the PAR was constructed at the Syracuse, New York, General Electric Plant during 1969 and has been undergoing test. No serious technical problems in this development have been encountered, and there is high confidence of meeting the presently scheduled date for the first PAR site.

The Safeguard system test program began at Meck Island in the spring of 1970 and 23 tests have been conducted to date. Of these, 19 have been completely successful, two partially successful, and two unsuccessful.

The first phase of the system test program contained 16 tests and was completed in the fall of 1971. This phase verified basic system design concepts and demonstrated system level integration of hardware subsystems while evaluating software programs to be used in later testing. The series included three successful Spartan intercepts of target reentry vehicles launched by ICBMs from California. In one of these three tests, two

Spartan missiles were launched a few seconds apart and simultaneously guided by the MSR, one to intercept the incoming reentry vehicle and one to intercept a space point. Sprint interceptors successfully intercepted target reentry vehicles launched by ICBMs from California in three tests in this series, one of which involved two Sprint missiles launched a few seconds apart and guided to successful intercepts of a single target reentry vehicle. Also, during this series of tests, Sprint successfully intercepted a target reentry vehicle launched by a Polaris missile ship located north of Meck Island.

The second phase of the Safeguard system test program began in the fall of 1971. This series of tests is being conducted with an advanced data processing program which contains more technical elements than the previous one. Tests in this series are designed to evaluate the integrated system using more complex intercept geometries which stress specific system functions. Seven tests, all of which were successful, have been conducted thus far in this series. These tests have included one Spartan and one Sprint intercept of target reentry vehicles launched by ICBMs from California, and one Spartan and two Sprint intercepts of target reentry vehicles launched by Polaris missiles. In all of these intercepts, the Spartan and Sprint interceptors do not carry any type of explosive warhead. The success or failure of the intercepts is verified by electronic means.

Command and control requirements for the interface with the Air Force Minuteman equipment have been defined, and a study of the integration of Safeguard with Continental Air Defense Command has been completed. No significant problems have been encountered.

There are no technical problems that would affect a decision to continue with the Safeguard deployment.

Construction on the first two Safeguard sites at Grand Forks and Malmstrom Air Force Base is now proceeding. Construction for Grand Forks currently is about 80% complete and about 5–10% complete for Malmstrom. A labor contract problem caused a delay in the Malmstrom site schedule of about 11 months. At Malmstrom, a contract has been signed and the local labor authorities are providing manpower to support construction.

All ground equipment for Grand Forks and Malmstrom is under procurement contract. Production of the operational Spartan and Sprint missiles to be deployed at the first two sites is under way. Procurement has been initiated for the Whiteman AFB site.

Proposed fiscal year 1973 program

Safeguard Deployment

In the absence of a SAL agreement, we propose to proceed with our previously planned defense of strategic retaliatory forces at four Minuteman sites by continuing our ongoing construction and installation programs at Grand Forks and Malmstrom, and proceeding with construction and procurement for the Whiteman and Warren sites. This program would be completed in late 1977.

We also propose to initiate advanced preparations for defense of the NCA at Washington, D.C. By starting this now, we can have a defense by early 1979. This will provide substantial protection of our NCA and its attendant command/control against a small or accidental attack, or afford additional valuable time for decision-making in the event of an attack on Washington. In particular, this deployment will counter SLBMs launched from submarines off our coast with very short times of flight. More specifically, such defense will discourage what otherwise could result in a situation whereby the NCA could be destroyed in a surprise attack, perhaps with a small expenditure of enemy resources; e.g., the missile from one Y-class submarine.

The Safeguard program plan for the longer term is to continue the measures deployment with additional sites as may be appropriate leading to the full 12-site deployment in support of the President's objectives for ABM defense. It has the necessary flexibility to be compatible with our nation's SALT efforts.

ABM R&D

With continued qualitative improvements in Soviet ICBMs even if there were no increases in the number of deployed Soviet ICBMs, the threat to Minuteman in the last half of the 1970s might grow to a level beyond the capabilities of the four site Safeguard defense of Minuteman. For this reason, the Site Defense of Minuteman (SDM) prototype demonstration program was started. The site Defense of Minuteman will be designed to protect Minuteman against a USSR attack which is more severe in numbers and sophistication than Safeguard is designed to handle. If deployed, it would augment Safeguard should a future threat make that advisable. The Deputy Secretary of Defense, on 14 January 1971, directed the Army to plan and carry out a prototype demonstration program. We consider that this program, designed to provide continuing effective defense of Minuteman, is a stabilizing influence in our relations with the Soviet Union.

The Secretary of the Army assigned the SDM mission to the Safeguard System Manager. An Army organization has been established and a System Engineering and Technical Assistance Contractor has been competitively selected. The program is on schedule. Three competitive contracts were awarded in June 1971 for prototype demonstration program proposals which were submitted on 30 November 1971. These proposals were evaluated by formal source selection procedures and a prime contract for the execution of the SDM prototype demonstration program was awarded on February 28, 1972. McDonnell Douglas Astronautics Company was awarded an initial funding of $10,000,000 for the first five months of a 60-month cost-plus-incentive-fee conrtact in the amount of $382,000,000. The entire demonstration program may cost some $700–$800 million, including funds for modified Sprint missiles which will be furnished by the government and including the System Engineering and Technical Assistance Contractor effort which are not included under the prime contract.

We propose a FY 73 SDM program funded at $80M in RDT&E funds plus $20M in construction for RDT&E facilities that would provide a prototype demonstration program which could be modified later if necessary to permit an initial deployment of the system in late seventies time frame. The SDM program will be continually evaluated as it progresses, taking into account threat developments, SALT, and other variables and uncertainties.

Our over-all FY 73 ABM program also includes continuation of area defense research and development leading to the capability to provide bomber defense as part of the Safeguard deployment, an improved NCA defense and an advanced nationwide area defense against light attacks. New funds for area defense are not requested as part of the Safeguard FY 73 program since adequate prior year funds are available. In addition, advanced area defense technology will be pursued in the Advanced Ballistic Missile Defense program.

Program cost and schedule

The deployment schedule for the proposed Safeguard program is shown below:

October 1974, Grand Forks.
Early 1976, Malmstrom.
Early 1977, Whiteman.
Late 1977, Warren.
Early 1979, Initial [1] NCA Defense.

Under the proposed program, the earliest Site Defense of Minuteman deployment, if found necessary, would be in the late seventies time frame. Substantial deployments could be available soon thereafter. The Safeguard and Site Defense of Minuteman funding requirements are as follows:

SAFEGUARD PROGRAM

[Total obligational authority in millions]

	Fiscal year—		
	1971	1972	1973
Weapon system acquisition cost:			
RDT & E	364.0	358.0	340.5
Army:			
Missile procurement	648.2	639.0	753.0
Other procurement	2.8	1.0	1.4
Military construction	357.0	119.0	390.0
Total	1,372.0	1,117.0	1,484.9
Site defense of Minuteman:			
RDT & E	25.0	60.0	80.1
Military construction, Army			20.4
Total	25.0	60.0	100.5

SUMMARY

Summarizing, we propose to:

1. Keep our program compatible with SALT.
2. Proceed with the planned Safeguard deployment at the four Minuteman sites.
3. Initiate advanced preparation for Safeguard defense of the NCA at Washington, D.C.
4. Plan for the longer term to continue Safeguard deployment leading to 12 sites.
5. Continue with the Site Defense of Minuteman prototype development program.
6. Continue with area defense research and development. This over-all AM program would:

Enhance probability for success of SALT.

Provide a start toward a level of protection, dependent upon the nature and severity of the attack, for Minuteman, and command and control centers in the central United States (Omaha and Colorado Springs) at the earliest possible time, and a base for defense of inland bomber bases with improved area defense components.

Provide a defense of the NCA against small attacks or accidental launches, and the means of affording added valuable time for decision-making in the event of a mass attack on Washington, D.C.

Provide the base for augmenting Safeguard defense of Minuteman sites in the future with SDM if threat developments warrant it.

Provide the base for introducing advanced nationwide area defense which could be available at a later time.

[From the New York Times, Mar. 22, 1972]

SOVIET MISSILE PERIL NOW FOUND UNLIKELY BY UNITED STATES TILL 1980'S

(By William Beecher)

WASHINGTON, March 21—The Defense Department, which in the past has justified requests for a missile defense system by Russia's projected ability to destroy a large part of America's Minuteman missile force by the mid-nineteen-seventies, now estimates that this threat may not materialize until the nineteen-eighties.

The new analysis was revealed in testi-

[1] The initial defense of the NCA, Washington, D.C., is the same as would be provided in the 12-site Safeguard deployment and consists of a single MSR and Sprint interceptors.

mony today by Dr. John S. Foster Jr., before the Senate Armed Services Committee. It stems from the conclusion of the American intelligence community that Soviet tests of a three-part warhead for its giant SS-9 intercontinental ballistic missile have failed to demonstrate enough accuracy to seek out and destroy three separate Minutemen in their steel and concrete silos.

Dr. Foster, who is the Pentagon's director of defense research and engineering, said that Russia "may have canceled or curtailed the SS-9 triplet program."

Since there have been no tests of the multiple warhead since late in 1970, he said, some analysts have concluded that the Russians may intend to seek such a missile-kill capability in improved new missiles for which nearly 100 silos have been under construction since then.

Despite what appeared to be evidence of a less immediate threat, Dr. Foster said that the Nixon Administration still wanted to continue with the Safeguard missile defense system.

The Administration requested in the new defense budget about $1.5-billion to continue construction of defenses around two Minuteman complexes, to start construction at two more and to do preliminary work on a missile defense around Washington.

Dr. Foster's rationale for expanding the Safeguard program was based on two primary elements—a desire to continue pressure on the Soviet Union to conclude a strategic arms limitation agreement, and a hedge against achievement by the Russians of the ability to destroy a substantial part of the Minuteman force in the mid-to-late-nineteen-seventies, when the missile defense would be operational.

While noting the Administration's hope that an initial agreement limiting defensive and some offensive missiles can be achieved soon, Dr. Foster said: "We cannot be certain of this, nor can we be sure of the exact provisions of such an agreement. Meanwhile, the Safeguard program now proposed enhances the probability of success" in arms control talks. The arms talks between the United States and the Soviet Union are to resume Tuesday in Helsinki, Finland.

Other officials privately estimate that an initial agreement will probably be announced at the time of President Nixon's visit to the Soviet Union in May. Since the final shape of an agreement has not been worked out, they say, the Administration wants Congressional approval for an expanded defensive system to apply pressure on Soviet negotiators to accede to some American demands. They declined to go into specifics.

In his testimony today, Dr. Foster said: "Analysis of the latest projections concerning Soviet missiles growth rates and the accuracy improvements indicate considerable variation in the time period in which our Minuteman forces would be seriously threatened."

One analysis, he said, assuming a slow Soviet multiple-warhead development effort, suggested that the Minutemen would not be seriously jeopardized "until the early nineteen-eighties or beyond."

A second set of assumptions moves the point of jeopardy to about 1980, or slightly before, he said.

A third approach, assuming a high priority effort, would threaten survival of the Minutemen in a first strike "as early as the mid-seventies," he declared, adding: "Prudence requires that we take the more pessimistic projections seriously."

In the past, when the Russians were rapidly building up their force of SS-9's and testing three-part warheads of about five megatons each, Administration officials warned that, if the Russians perfected accurate multiple warheads, a force of 420 SS-9's could destroy about 90 per cent of America's 1,000 Minuteman missiles.

But the Soviet Union halted the SS-9 building program at about 300. And although some defense analysts insist that each part of the SS-9 multiple warhead can be controlled to a limited extent, most of them now concede that the control and dispersion of the existing system does not appear sufficient to go after three separate Minutemen effectively.

Within the Administration, the current argument is whether the Russians intend to try to develop a better multiple warhead for its existing missiles, or wait to deploy an improved system in the nearly 100 large silos constructed at several sites in the Soviet Union.

Tests of the missile for the new silos is expected soon, defense analysts say.

Well-placed Administration sources suggest that the United States and the Soviet Union may agree to limit anti-ballistic missiles to 200 in each country. They would also opt to halt temporary new construction of land-based missiles and conceivably sea-based missiles, pending negotiation of a comprehensive agreement at Helsinki.

The missile defense agreement would lapse after a specified time, they add, unless a more comprehensive agreement was achieved. Continued development of missile defenses, which the Russians do not want to see expanded in the United States, might keep pressure on the Soviet Union to conclude the more comprehensive agreement, these officials argue.

[From the New York Times, Mar. 28, 1972]

LAIRD PREDICTS SOVIET WILL START TESTS ON NEW ICBM'S SOON

(By William Beecher)

FORT HOOD, TEX., March 27.—Secretary of Defense Melvin R. Laird predicted today that the Soviet Union would soon start test firings of new intercontinental ballistic missiles.

Such tests would dispell the mystery surrounding some 90 to 100 large missile silos, the first of which the Russians began building in late 1970.

Defense officials and other Administration aides have speculated that the silos are designed for either advanced versions of the existing SS-9 and SS-11 I.C.B.M.'s or for entirely new missiles.

Mr. Laird was asked at a news conference here what significance he attached to the fact that the Russians apparently had stopped construction of older types of missiles and had not dug any additional large new silos for several months. He replied that from time to time the Russians had halted "new starts" on missile silos for periods of 9 to 14 months while completing work on construction already under way.

PEAKS AND VALLEYS

He said there had been numerous "peaks and valleys" in the Russian missile build-up and suggested that there was no special significance in the present valley.

Asked whether the Soviets would test "fairly soon" the missiles expected to be installed in the large new silos, he declared: "The answer to that is yes."

Asked to elucidate, he said: "No."

It is known that intelligence analysts in Washington estimate that the Russians are prepared for test launchings "imminently" from the missile test center at Tyuratam.

PATTERN IS FAMILIAR

At the time the new-design silos first were spotted at several operational missile complexes in the Soviet Union, similar new silos were reported being built at Tyuratam.

Analysts pointed out that such a pattern was familiar. They said in the case of two previous missile programs, those of the SS-11 and SS-9, the Russians built new operational silos and new test silos at the same time. Then, after a number of test launches from Tyuratam, they quickly deployed the new missiles, thus saving time.

Mr. Laird flew to Fort Hood today to witness the largest military training exercises to be held in the United States since 1965. More than 23,000 troops are taking part in the exercise, called Gallant Hand 72. It includes Army Air Force and reserve units.

ADMINISTRATION ATTACK ON FARMWORKERS

Mr. KENNEDY. Mr. President, I am disturbed by the recent actions of the National Labor Relations Board which represent a direct attack on the existence of the United Farm Workers Union, AFL–CIO.

What is most distressing, apart from the questions of violations of existing congressional law, is that the action represents the Federal Government's intercession on the part of corporate agriculture to deal a heavy blow at the one organization which has dedicated itself to improving the wages and living conditions of the Nation's farmworkers.

When we consider that agricultural workers are partially excluded from the minimum wage law, from the social security system, and from child labor laws as well as from the protections of the National Labor Relations Act, then it becomes flagrantly unjust to use the punitive provisions of that act against the union representing farmworkers.

When one views the recent spate of restrictive legislation filed by grower representatives in various States across the country and the combined activity of growers, shippers, and chain stores to kill the union, then it becomes particularly disturbing that the NLRB has reversed its long-held position in a way that lends support to those forces.

When one views the condition of the migrant workers and the seasonal farmworkers in this Nation over the past several decades, it is clear that the advent of the United Farm Workers Union has meant a new opportunity for workers who traditionally have been excluded from the protections of the law.

Now that the union has made major strides forward in California, in Florida, and in other States, we find the Federal Government's first act of intervention to be an effort to hamstring the union.

There also is a separate issue which is involved. Traditionally, there has been a vigorous opposition to the consideration of farmworkers under the NRLB on the part of the Congress. This has been manifest in the law itself as well as the rider which has been attached to appropriation bills every year since 1946.

Therefore, it is questionable whether the investigations conducted by the NLRB properly can be carried out since in large part they concern a union whose overwhelming membership is comprised of agricultural workers.

For that reason, several colleagues and I have sent a letter to the Comptroller General asking for his opinion of the propriety of expenditures of funds by the NLRB.

But beyond the issue of the legality of the NLRB's current activities in this area, there is a much more important policy question. That relates to whether

the Nixon administration, despite its repeated assertions of concern for the interests of the Mexican-American community, in fact, has decided to use Federal agencies to harass the efforts of the farmworker to organize and acquire for himself decent wages and decent working conditions.

Mr. President, I ask unanimous consent to have printed in the RECORD several articles on this subject.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

WASHINGTON CONNECTIONS

(By James A. Wechsler)

While the headlines focus on evidence of the Nixon Administration's sympathetic intimacy with the rules of ITT, powerful agricultural interests have quietly won a key round in Washington in their long fight to cripple and ultimately destroy Cesar Chavez' United Farm Workers Union.

Over the telephone from California yesterday, the perennially embattled Chavez described recent moves by Peter Nash, Mr. Nixon's appointee as general counsel of the National Labor Relations Board, as "a clear Republican maneuver to put the union out of business."

Anyone who has watched Chavez during his long, valorous effort to organize people long consigned to the nation's lower depths knows he is not a doomsayer who lightly cries havoc. And the circumstances that produced this plea for public concern amply warrant his tone of urgency.

Stated simply, NLRB counsel Nash has authorized the West Coast regional office to seek an injunction against the use of the national boycott weapon in its organizing drives. If the injunction is granted, it would set the stage for administrative proceeding that could last one or two years. It could eventually open the way for damage suits that could bankrupt a union that has never wallowed in opulence.

The issue is not a new one; what is new is the NLRB counsel's open alliance with the growers, the repudiation of earlier positions and the adoption of a stand that is clearly inequitable.

Agricultural workers have never enjoyed the protection of the Labor Relations Act. Neither, however, have they been subject to the restrictions on secondary boycotts that were inserted in the statute when the Taft-Hartley amendments were enacted in 1947. In the past, attempts to invoke these punitive provisions have been turned aside on the simple and obviously just ground that employes denied the benefits of a law should not be vulnerable to its penalties.

But under the ingenious—and insidious—doctrine now being evolved by the Nixon-era NLRB, what can only be described as unequal justice would prevail. The move against the union is based on the claim that a few of its 50,000 members—admittedly a handful at most—are actually "non-agricultural" employes because they work in packing sheds. Therefore it is being argued that the organization itself loses its immunity from the restrictive clauses of the law.

At the same time it is now the government's contention that the union still has no claim to the protections of the act because their rights "flow to the employes" rather than their union, and agricultural workers are specifically excluded from the collective bargaining safeguards embodied in the NLRB.

It is hard to imagine any construction of the statute more flagrantly loaded on the side of special interests and more crudely designed to break a union that has faced—and survived—so much primitive harassment.

Chavez has often pointed out that nationwide boycott campaigns against anti-union growers and those who use their products—such as wine companies—have been a crucial source of strength. The nature of agricultural employment and the lack of protection against anti-union conspiracies involving growers and local officials create overwhelming obstacles to usual techniques of union organization. But Chavez, waging a passionate moral crusade, has succeeded in using such boycotts as an effective countermeasure. The grape boycott was the most celebrated; a similar program is aimed at lettuce growers.

"Now they propose to use the same law that has never given us any protection to take away our great source of strength," Chevez said yesterday.

"The boycott has been so important to us in maintaining our nonviolence pledge. Where do we go if they prevent us from appealing for peaceful public support in the form of boycotts?"

Chavez' hope now is that the manifest inequity of the NLRB move will produce a wide public outcry aimed at the campaign-conscious Republican National Committee and that prominent Senators will take up the union's cause.

Beyond all the technical legal formulas being devised by NLRB attorneys, elementary justice is Chavez' most compelling plea. Rarely has a selfless union leadership done so much with such limited resources for people who had been victimized so long; to invoke one-sided law against it now is a throwback to the spirit of pre-Wagner Act times.

In the present setting, this conflict can have large political overtones. For, regardless of where the ITT inquiry finally leads, enough is already on the record to dramatize the easy access of corporate power to the Administration's high echelons. The Chavez story has even sharper symbolism; the growers have finally secured the breakthrough that an earlier NLRB resisted: the most defenseless of the underprivileged are the prospective victims. This battle has just begun and it will surely underline the issue of whose doors are open to whom in Washington.

NIXON AND THE TACO-TAKEOVER

(By Nicholas von Hoffman)

The press is out of control again, trying to sell papers and make Nixon look bad like he's not against conglomerates. It's Jack Anderson, a known and self-confessed liberal, who's behind it, but, as usual, that's being kept from the people, who are being told many disrespectful stories about angina pectoris and the shredding machine. To listen to them, you'd think the government was nothing but grossed out liars and tacky bag men.

What you're not being told is how Nixon is fighting to keep the Mexicans from taking over and running a conspiracy on us to raise the price of food. That would be Cesar Chavez and his conglomerate, which also goes by the name of the United Farm Workers and has already driven the price of lettuce so high that many restaurants have put Ceasar salad on the menu to explain why.

But President Nixon has put Peter Nash in as general counsel of the National Labor Relations Board to stop the taco-takeover from paralyzing our economy. He's going into court in a few days to get an injunction that will forbid the Farm Workers from picketing or boycotting any more supermarkets. That should smash the union and bring down the price of table wine.

Always before it has been that agricultural workers were not covered by the National Labor Relations Board. That has helped prevent Chavez from getting a worker monopoly because it meant no Board-supervised elections for union representation, no protection from being fired for union activity, no nothing. Even so that Chavez, who's one smart frijole, was spreading out his monopoly power from the grapes to the cucumbers to the lettuce and the artichokes.

Now comes Peter Nash. He claims that somewhere between 30 and 300 (the number is in dispute) of Chavez' 78,000 dues-paying members aren't agricultural workers, but are industrial workers who fall under the jurisdiction of the National Labor Relations Board. Unions under the board's purview may not legally engage in secondary boycotts. Hence, the application for the injunction.

Ah, but get the neatness of this. This doesn't mean Chavez and the union will get any of the benefits that flow from coming under the board. They still won't have supervised elections or any of the other protections against employer unfair labor practices. No, they get only the disabilities and none of the advantages.

In the face of this, how can Anderson and those others say Nixon is soft on conglomerates? If there were any doubt, Chavez and the Farm Workers wouldn't be so worried about this. They know the government isn't kidding in its promise to smash excessive concentrations of economic power; they know that Washington isn't going to sit idly by while Chavez dominates the whole world enchilada and mole market.

Nor is there any backroom dealing on this one. No settling out of court. They're going to get that injunction and that will wipe Chavez out. It's his only weapon against agribusinessmen who only ask to be allowed to operate in a subsidy-free, open and competitive market.

If these Anderson charges were true, don't you think he'd have gotten the government to lay off? As a big-time conglomerator he'd have had the President get on the television and make an appeal to the courts not to grant the injunction, but to hold up until Congress could pass a constitutional amendment. Well, that kind of thing won't work in this White House where every hound's tooth sparkles cleanly in the sun.

Or, he could have gone the consent decree route. Like he could have gotten some asthmatic man to go to the Kentucky Derby with the Attorney General and seal the deal at the finish line. The government lays off the wetback Fruit and Vegetable trust and they get all the beans they can eat in San Diego this summer. If anybody asks any questions the asthmatic man will grab his chest and yell heart attack.

If not that, then Chavez could have sent somebody in to see Peter Flanigan. He's the guy from Dillon, Read, the fancy New York bankers. They're always in Washington. C. Douglas Dillon, Michael Forrestal, William H. Draper and Paul Nitze, all from Flanigan's company, have served in the topmost jobs through the Eisenhower, Kennedy and Johnson administrations. That Flanigan ought to be a guy who has the influence to swing a deal and write up a memo on it with disappearing ink.

Chavez wouldn't have dared try it. He knows that stuff Anderson writes is only good for smoking. If he'd tried to pull that on Flanigan, that Mexican monopolist would have got it from the Justice Department like the rest of those money bagging, golf playing, yacht sailing, campaign contributing breakfast worshippers when they get out of line. The law's the law with Nixon and that Mex had better know it.

CONSERVATIVE GROUPS MOUNT CAMPAIGN AGAINST CHAVEZ UNION

(By Steven V. Roberts)

KEENE, CALIF., March 25.—Less than two years after it won landmark contracts in the California grape industry, the United Farm Workers is under fierce attack, and its leaders are fighting for survival.

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A well-organized, well-financed campaign has been mounted against the union by a loose coalition that includes the American Farm Bureau Federation, large corporate growers and shippers, right-to-work committees—and a variety of other conservative organizations.

The main target is the boycott, the weapon the farm workers union used successfully against the grape growers for three years ending in 1970 and is now employing against iceberg lettuce harvested by Mexican workers and against nine California wineries.

"They are using everything to hit us over the head," said Cesar Chavez, the union's director, whose headquarters are now in this mountain hamlet about 30 miles east of Bakersfield. "The right wing is spending a tremendous amount of money against us. They want to stop the boycott. They know it's the only way we can organize and they will do anything to take it away from us."

BOYCOTT A KEY WEAPON

The United Farm Workers is the first union to organize America's migrant agricultural laborers, and Mr. Chavez has gained an almost saintly reputation among workers for his leadership of La Causa, Spanish for "the movement." The boycott has been indispensable in that organizing campaign, because the migrants are too poor and too transient to conduct an effective strike.

To the union's opponents, however, the boycott is a "vicious weapon" and Mr. Chavez is a dangerous and power-hungry man. As the Free Marketing Council, an organization of growers, shippers, and chain stores, put it recently:

"Forces of coercion threatening a massive take-over of the nation's food supply in the field must be brought under control through state and Federal legislation."

These attacks are growing at a time when the union has scored several notable success. In recent weeks the farm workers have won two major contracts in the Florida citrus industry, their first victories outside California and Arizona. In addition, the American Federation of Labor and Congress of Industrial Organizations upgraded the farm workers from "organizing committees" to a full-scale union.

NLRB SEEKS CURB

The most immediate threat to the union is a petition filed in Federal Court by the general counsel of the National Labor Relation Board. That petition asked the court to enjoin the farm workers from conducting boycotts, which are prohibited by the National Labor Relations Act. Arguments will be heard in Fresno on April 6.

The case presents a complex legal problem, since farm workers have always been explicitly excluded by the act.

However, the Free Marketing Council and other groups have charged that the union represents some workers who help pack produce for shipment. These workers are covered by the act, and thus the union should be subject to its restrictions, the complaints contend.

Korbel, one of the nine wineries now being boycotted, has also asserted that the union wanted to represent workers who were not agricultural laborers.

The requested injunction would stop boycotts until the labor board judges the case on its merits, a process that could take a year.

The farm workers reply that the workers in question account for one-tenth of 1 per cent of their total membership working under contract, which is about 60,000 workers. Moreover, they contend, the N.L.R.B. has consistently ruled in the past that farm workers were not covered by the board.

The difference, they say, is that until last August, the general counsel of the N.L.R.B. was Arnold Ordman, a Democrat first appointed by President Kennedy. When his term expired, the Nixon Administration replaced him with Peter G. Nash, a 35-year-old Republican from Rochester.

The N.L.R.B. decision to pursue the case, the union stated last week, was a "purely political" one "made at the highest level" of the Republican party. "It is nothing less than an effort to destroy our union," the statement said.

Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches, and finances other growers, the union said.

CITED BY LIFE MAGAZINE

Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

A spokesman for the N.L.R.B. called the union charges "bull" and added: "The only question is whether the evidence indicated there was a violation, and the general counsel concluded there was."

According to well-informed sources, however, there was some disagreement among the board's staff over whether to authorize the complaints against the farm workers.

One staff member expressed sympathy for the union and said it would be "very unfair" to subject the farm workers to the limits of the law, without the advantages. But that is what would happen if the complaints are upheld, he said.

The union has also been besieged on the legislative front. Lobbyists in about 15 states, often led by the Farm Bureau, have pushed for laws that would prohibit boycotts by farm workers. Usually the bills also contain clauses that would require elections before union recognition and hinder strikes at harvest time.

ADOPTED IN TWO STATES

Such laws have already been adopted in Idaho and Kansas. One passed the Oregon legislature last year but was vetoed by Gov. Tom McCall. A similar bill was killed in the California Legislature, but a campaign is starting here to place an initiative on the November ballot.

Just last week, a bill was introduced in Congress that would create an Agriculture Labor Relations Board. Its provisions are similar to the National Labor Act, but it would allow growers to demand arbitration if farm workers struck, and impose a 40-day waiting period.

Historically, farmers have opposed placing workers under Federal legislation, but when the grape boycott proved so successful, they changed their position. In its early years, the union wanted legal protection. Now it feels that any legislation would be so restrictive that it could not organize effectively, and it would do better outside the law.

The third arena of conflict is the lettuce fields of the Salinas Valley, the "salad bowl" of America. In 1970, after the grape victory, Mr. Chavez announced that Salinas would be his next target. Almost immediately, most of the growers signed contracts with the International Brotherhood of Teamsters as a way of warding off Mr. Chavez.

CONTRACT DENOUNCED

The farm workers denounced the contracts as "sweetheart" deals and struck the lettuce fields in August. A month later a boycott started and four large growers signed with the Chavez union, but the rest held fast.

Last March, the teamsters agreed to give up their contracts with the farm laborers. Mr. Chavez opened negotiations with the Salinas growers and imposed a moratorium on the strike and boycott. But after six months of no progress, the talks collapsed in November.

Last week, Mr. Chavez declared that the boycott would resume, and a new strike against the Salinas growers was imminent. The mood here in Keene is that the campaign will be a long and costly one. The lettuce growers are larger, wealthier and "more savvy" than the grape growers, according to Marshall Ganz, the Harvard graduate who directs boycott activities.

The union has already dispatched 200 organizers around the country to resurrect the boycott machinery.

The whole idea of a consumer boycott has lost some "freshness since the grape campaign," Mr. Ganz conceded. "But the American public is better educated about farm workers, and that's all helpful," he said.

"Lettuce is a tricky problem," Mr. Ganz added. "You can eat it in a sandwich or a salad and you don't think about it. It will take a lot of public education. Grapes became very stigmatized during the boycott—lettuce has to become a similar kind of symbol."

The tactics will again be grass-roots organizing among anyone who will listen: housewives, students, labor unions, civic groups. There will also be the publicity from a dramatic strike. As Mr. Ganz put it:

"The grape boycott never depended on the romance of it, but on grinding work. There is no substitute for that kind of commitment, and it's something the growers can't buy with money. It's a classic confrontation between money power and people power."

SENATOR PEARSON'S LEADERSHIP IN AVIATION

Mr. GRIFFIN. Mr. President, the distinguished senior Senator from Kansas (Mr. PEARSON), in a decade of service on the Commerce Committee, has become an acknowledged leader in the field of aviation. As ranking minority member on the Aviation Subcommittee, Senator PEARSON has worked to promote a viable system of airports and airway facilities that will serve the needs of aviation in the coming decades.

Senator PEARSON was an original sponsor of the Airport and Airway Development Act of 1970, and this landmark legislation already has been the statutory basis for assistance to hundreds of communities throughout the Nation. The act is structured to achieve a balance: Sufficient resources are committed to airport development as airway facilities are extended and modernized to promote safety in flying.

But Senator PEARSON's efforts have not been limited to Federal assistance in airport and airway development.

The air transportation system serving rural America has long been recognized as inadequate to meet the legitimate needs of citizens living there. To promote better local air service, Senator PEARSON has drafted and introduced the Limited Air Carrier Act, a bill which would provide for certification of commuter air carriers. This legislation could be the answer to the problems which small communities now confront. Many of these communities have seen their air service deteriorate in past years as Federal subsidies to the local service carriers have increased. Other small communities have lost service altogether, or never have been eligible for scheduled services from a certificated air carrier.

Hearings on Senator PEARSON's proposal will begin April 10, and I feel these hearings will launch a new effort to guarantee a viable system of air transportation throughout rural America.

Mr. President, the Wichita Eagle recently published an editorial commenting on our colleague's leadership in matters affecting aviation.

The Eagle has properly recognized the devotion to improvements in the field of aviation which Senator PEARSON has demonstrated over the years of his service in the Senate. I ask unanimous consent the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PEARSON WORKS FOR AIRPORT DEVELOPMENT

James B. Pearson, senior senator from Kansas and long a friend of aviation, takes his job as self-appointed watchdog of the Airport-Airway Act of 1970 seriously.

Sen. Pearson was one of the three original sponsors of the legislation to establish a trust fund through aviation fuel taxes, an extra tax on airline tickets, annual registration fees for aircraft and an air cargo tax.

Just one year ago this month Sen. Pearson charged that the executive branch of the federal government was raiding the fund by attempting to pay salaries and operating expenses of the Federal Aviation Administration from the money collected.

He succeeded in amending the Airport-Airways Bill to protect the trust fund assets. The amendment, signed by President Nixon Nov. 29, 1971, provides that not less than $280 million be spent each year for airport development projects, not less than $250 million for air navigation system expansion and improvements with additional monies for general aviation facilities, research and development.

Last week Sen. Pearson, the ranking Republican on the Senate Aviation subcommittee, again introduced bills to improve the effectiveness of the Airport-Airways Act.

One bill would make about 90 airfields designated as military-civil joint use facilities eligible for airport development assistance grants under local sponsorship. These airports were eligible for federal grants under the old Federal Airport Act and through an oversight were neglected in the 1970 act.

Of the two airports coded for military-civil use in Kansas only Sherman Army Air Field at Fort Leavenworth is open to civilian pilots. Local sponsors could apply for matching funds to improve the airport.

McConnell Air Force Base has a 'letter of agreement' with the Boeing Company which allows aircraft, on company business, to land at the military field for a fee. It is not open to general aviation.

The bill, if passed, will insure that benefits from the Airport-Airways trust fund are available to all users of the civil aviation system.

Another bill would exempt owners of aircraft used exclusively for agricultural operations from paying the aircraft use tax and would provide for a refund of the seven cents per gallon fuel tax to the agricultural aircraft operator with the consent of the farmer buying the service.

Kansas has 112 registered aerial applicators in the state who would be affected by the bill. The operators should not be required to pay a user tax that provides little direct benefit to them.

THE ICC AND ECOLOGY

Mr. TAFT. Mr. President, in the March 1972 issue of Traffic Management, the associate editor, Lawrence M. Lesser, has written an article entitled, "Freight Rates and the Environment: A New Dilemma." This article points out how ICC rate policies discourage recycling and run counter to the objectives which we are attempting to seek on the environmental front. Because this is a subject of critical importance and because it reminds us once again of the great need for rail rate reform, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREIGHT RATES AND THE ENVIRONMENT: A NEW DILEMMA

(By Lawrence M. Lesser)

"We now have the technology to recycle much of the material that is treated as waste and thereby return it to useful purposes; however, market and other incentives in recent years have tended to work against recycling."—1971 Report of the President's Council on the Environment.

A major battle is shaping up among shippers, the railroads and the federal government over constantly rising freight rates for the movement of the nation's solid waste material, such as junked automobiles, refrigerators, washing machines, and soft drink and beer cans.

The fight pits shippers, environmentalists and two government agencies on one side versus the railroads and a third federal agency on the other.

One of the most important determinants of how much solid waste littering the nation can be economically reclaimed is the transportation rate level. Rail freight rates have risen 31% in five years and pose a sizable obstacle to the elimination of land pollution.

The President's Council on Environmental Quality and the Environmental Protection Agency both have recognized this problem and have asked the Interstate Commerce Commission to eliminate what they claim is discrimination against the movement of solid waste. So far, their pleas have fallen on deaf ears.

Last November, M. J. Mighdoll, executive vice president of the National Association of Secondary Material Industries (NASMI), whose over 700 members have an $8 billion combined annual sales volume, told the Congressional Joint Economic Committee's fiscal policy subcommittee that many freight rates for recycled materials are as much as 50% higher than for their virgin counterparts. Said Mr. Mighdoll:

"In addition to establishing inequitable rates which directly produce a market imbalance to the disadvantage of recycled materials, many rates on low-value commodities are not established with any relevancy to the nature or value of the material. This is significant since a large proportion of solid waste is comprised of low-value materials.

"We have numerous examples of recoverable and reusable materials which defy economic recycling inasmuch as the cost of collecting and transporting the material alone exceed the potential market value of the material at the consumer delivery point."

Figures assembled by NASMI show that it costs $2.59 per ton to ship pulpwood—the virgin counterpart of waste paper—from Roanoke, Va. to Roanoke Rapids, N.C. by rail—a distance of 205 miles—but $5.40 per ton to ship waste paper over the same route. The rate on copper ore from Los Angeles to Tacoma, Wash. is $17.05 per ton, but it costs $26.80 per ton to ship copper scrap between the same points.

Likewise, a recent study by Battelle Columbus Laboratories found that rail freight rates on iron and steel scrap average $1.49 per ton higher than rates on iron ore. Similar rate disparities exist for numerous other types of waste traffic as well.

Each percentage rail rate increase approved by the ICC just widens the gap further and throws a monkey wrench into private industry's efforts to clean up the environment.

The railroads, however, do not see it that way. They cite pressing revenue needs and claim that any possible adverse environmental impact will come only if they are unable to provide adequate service and rail traffic is forced to move by truck.

"From a pollution standpoint," argues Charles L. Smith, chairman, Traffic Executives Association-Eastern Railroads, "the motor carriers contribute a great deal more per ton of freight to the pollution problem than a 100-car freight train pulled by a diesel engine. That 100-car freight train would represent 150 or 200 motor trucks."

Waste material traffic, particularly iron and steel scrap, represents an important source of revenue to the railroads. Each year, steel mills purchase some 30 million tons of iron and steel scrap, all of which moves by rail. In 1970, this traffic brought the railroads $136 million in revenue—$6.8 million more than in 1969—even though they carried 1.6 million tons less.

The scrap-iron shippers, although sympathetic to the carriers' revenue needs, charge that the rail rates discriminate against steel scrap in favor of iron ore. They further argue that since scrap iron is the only direct competitor of iron ore as an input to steel production, equitable rate relationships should be maintained to encourage scrap recycling rather than exploitation of a limited domestic natural resource. If the rail rates are too high, they point out, scrap metal won't move due to high prices.

The railroads, however, do not admit to any discrimination against scrap iron. "I don't know what they mean by that," says Mr. Smith. "We just set rates on scrap iron, period."

Whatever rate disparities exist, Mr. Smith explains, are justified by different facts and circumstances surrounding the movement of each commodity—namely, different weight loadings (iron ore loads heavier per car) and different distances transported (iron and steel scrap generally travels further). He argues that there is no connection between scrap prices, freight rate levels and environmental impact.

Thomas Willson, vice president of the American Iron and Steel Institute, the basic steel producer trade association, disagrees sharply with the railroads' assessment of the situation. "The scrap metal guys have to pay a tremendous premium," he says. "Recycling won't ever be strongly accelerated until these tariffs are changed."

So far, the ICC has sided with the railroads. In authorizing a 20% general rate increase in the combined Ex Parte 265 and 267 proceeding last March 23, the Commission did order a token hold-down on 3% on materials used in recycling, but it also adopted the rail position, with Commissioners Dale Hardin and W. Donald Brewer dissenting, that there is "little if any correlation" between rates and the market for iron and steel scrap. Said the majority:

"We are not persuaded that rail freight rates on scrap have any material impact on the decisions which result in removal of wrecked automobiles and other scrap metals pursuant to antipollution measures."

The Commission also refused to accept the position of the Institute of Scrap Iron and Steel (ISIS), a trade association of 1,300 scrap processors, that scrap iron and iron ore compete to the extent they require similar rate treatment. Instead, it found that the proposed rate increase on iron and steel scrap would not be "detrimental" to the nation's antipollution program because of any resulting advantage to the movement of iron ore.

Eight months later, however, in apparent contradiction to its earlier decision, the ICC acted to *actively encourage motor carriage* of waste products. In Ex Parte MC-85, "Transportation of 'Waste' Products for Reuse and

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Recycling," the Commission ruled that for-hire motor carriers wishing to transport recycled material to be used in a "recognized pollution control program" will no longer have to pay expensive filing fees and go through lengthy hearings to get ICC certification.

This action represents a landmark Commission decision in the area of environmental protection. Taken as a whole, however, the ICC's environmental actions to date puzzle some observers, such as Commissioner Hardin. He says:

"It appears to me inconsistent, on the one hand, to seek to encourage motor transportation of waste products and, on the other, to approve rail rate increases which may have the effect of embargoing rail transportation of these low-value commodities."

The Commission also was taken to task recently by a group of George Washington University law students who urged the ICC not to approve further rail rate increases—and to roll back two previous ones—until the railroads bring their freight tariffs into conformance with environmental regulations.

In its Ex Parte 265 and 267 decision, the Commission brushed aside the scrap metal shippers and environmentalists by suggesting that if they wished to further pursue the inequity in freight rates, they could do so at a later date in Ex Parte 270, the ICC's broad investigation of the railroad rate structure. However, in an Oct. 6, 1971 reply to a query from Congressman John Dingle (D.-Mich.), ICC Chairman George Stafford stated:

"This Commission has no authority to exercise specific planning functions with regard to the environment . . . We are anxious to participate in implementing the spirit of the declaration of national environmental policy. However, in view of past litigation regarding the matter of scrap materials in Ex Parte 265 and 267, in the pending proceeding Ex Parte No. 270, it would be unwise in my opinion to invest any more of our limited resources at this time on this particular issue."

The above letter notwithstanding, high-level Commission sources admit the agency may have to construe its environmental responsibilities under existing law more broadly in the future or risk being taken to court by shippers and/or environmentalists.

These sources also concede the agency may even have to hire its own environmental experts and set up an office of environmental impact. "After all," one commissioner admitted to Traffic Management, "we're not environmental experts."

A federal district court has already bounced one ICC decision back to the agency because it failed to prepare an acceptable environmental impact statement as is now required by law.

The environmental issue clearly has the ICC in a bind. On the one hand, it must look after the railroads' very real revenue needs; on the other, it must comply with the intent of Congress, as stated in the National Environmental Policy Act of 1969. That statute requires all federal agencies to examine the environmental impact of all major proceedings.

Commissioner Brewer spoke of the dilemma facing the ICC in a recent speech before the annual convention of the Institute of Scrap Iron and Steel in Washington, D.C. Mr. Brewer said:

"While we on the ICC must be aware of the need to transport your products at a profit, we must also recognize our responsibility in maintaining a viable, economical and healthy transportation system.

"Even though the scrap industry is surely on the side of the angels when we talk of conservation and recycling, your industry still must be realistic in dealing with the carriers on whom you must rely. The carriers are in business to make money just as you are. In order to remain viable, they must return a profit."

The scrap shippers, for their part, recognize the railroads' revenue needs. Says Dr. Herschel Cutler, executive director of the Institute of Scrap Iron and Steel:

"We have repeatedly said the railroads are entitled to rate increases. Our only objection is to the disproportionate impact of their proposals."

Shippers of metallic scrap must rely totally on the railroads to move their traffic, since most steel mills will not accept inbound motor shipments to their plants.

Looking down the road a bit, it becomes readily apparent that increased collection, redistribution and recycling of the solid waste that covers America today will depend greatly upon the availability of adequate and efficient transportation. Vast amounts of additional transport capacity will be required in the years ahead to ensure that industrial waste materials suitable for reuse find their way back to the steel mill, the paper mill and the glass factory.

Reclamation of the nation's solid wastes for recycling introduces a completely new distribution channel to the industrial production system. It also has brought a brand new transportation problem—one that must be solved if the national goal of cleaning up the environment is ever to be achieved.

JERSEY CITY COUNCIL RESOLUTION ON NORTHERN IRELAND

Mr. KENNEDY. Mr. President, last month the Jersey City Council unanimously approved a resolution in support of Senate Resolution 180, the resolution on Northern Ireland that the Senator from Connecticut (Mr. RIBICOFF) and I have submitted. In its action, the council urged the legislature of New Jersey to go on record in favor of our resolution.

The terms of the resolution approved by the council are identical to those in our Senate Resolution. I am gratified with this fresh evidence of support for our position, I ask unanimous consent that the text of the Jersey City Council Resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, FEBRUARY 15, 1972

The members of the Jersey City Council urge that the Legislature of New Jersey go on record in support of the Senators E. Kennedy and A. Ribicoff's Resolution 180 (Northern Ireland Bill).

The Council as a Whole offered, and moved adoption of the following resolution:

Resolved, That the Senate of the United States expresses its deepest concern over the present situation in Northern Ireland, and in accord with fundamental concepts of non-discrimination, fairness, democracy, self-determination and justice, requests the Government of the United States at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and the simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland, and the termination of all political, social, economic and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968, including reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purposes of accomplishing the unification of Ireland.

POPULATION LIMITATION

Mr. PACKWOOD. Mr. President, one thread underlining the entire report of the Commission on Population Growth and the American Future, on which I served, was the emphasis on voluntarism and the rejection of compulsion in all matters concerning population and childbearing. The voluntary approach is one which I have consistently endorsed and stressed in all discussions on the population issue.

Two recent statements on this same question have recently been published by the highly respected Population Reference Bureau. The first statement was written by Mrs. Harriet Pilpel and is entitled "Limiting Population: The Voluntary Approach." The second article in response to the first is by Michael Brewer, and is entitled "Voluntarism and Coercion: The Ground Between."

These two statements bring out some of the explicit and implicit aspects of voluntarism against compulsion. I commend them to Senators and ask unanimous consent that they be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

[From Population Profile, November 1971]

LIMITING POPULATION: THE VOLUNTARY APPROACH

(By Harriet F. Pilpel)

The history of man has been marked by an overriding dream and ambition to become master of both his natural and social environment. On the natural environment side there has been the desire to fly, to reach the moon, to live forever, to be able to create new human beings at will. On the social side, there has been the desire to be both free and safe, to live in a peaceful world in which needs, spiritual and physical, will be met rather than the subject of an unending struggle.

To a startling extent some of these age-old yearnings have been fulfilled in the last decade or so. Flying we have been doing for some time and we have now set foot on the moon. We have not mastered the secret of how to live forever, but there is a lot of talk about "freezing" people for revival in future years. And while we have not yet achieved test tube babies, we are technically able to control human reproduction by means of contraception, sterilization and safe abortions.

The problems in this area today inhere not in our ability to control, but in our failure thus far to develop social mechanisms and patterns of behavior which will utilize our technical ability to improve the quality of human life rather than destroy it.

By and large we have not developed such mechanisms and patterns. We can fly to the moon but we have not yet figured out a way of handling air pollution, noise problems and in-the-air and on-the-ground congestion caused by those wonderful flying machines which, with television, have put us all together in a "global village."

Nowhere is the contrast more evident between what we can do to control the forces of nature, and what we do to make such control work for us positively as human beings, than in the field of human reproduction.

Granted, you may say, but how is this a civil liberties question? The answer is that the right to decide whether and when to have a child is a basic civil liberty, and by the free exercise of that right we determine the constituency and quality of the world of the future.

However, and as is the case with all constitutional rights, this right is not absolute. Unless we meet problems of overpopulation with its resultant pollution, etc., head on, this right of each person may conflict with the right of society as a whole to restrict its free exercise for the benefit of the many.

I submit this time of crisis has not yet come and that it may never come. I am convinced that if we really make freedom of choice possible with respect to human reproduction, there will be no need to resort to compulsion.

LEGAL DECISIONS

It was a scant six years ago that the U.S. Supreme Court first acknowledged the existence of a constitutional right to decide whether and when to have a child, in the case of *Griswold* v. *Connecticut*, invalidating the Connecticut law which forbade the use of contraceptives in that state.

Prior to that time, the Court had enunciated the general principles of "the right to be let alone" in a number of cases involving other aspects of human freedom which seemed to many of us to compel the declaration of such a right in connection with the all-important matter of our reproducing ourselves. However, such a right in this context had never been spelled out in so many words.

Since *Griswold* the right of freedom of choice in matters of human reproduction has been given greater definition by the U.S. Supreme Court, by other courts and by the United Nations.

The Supreme Court of California, in the now-famous *Belous* case, based its decision that the "old" California antiabortion statute was unconstitutional on several grounds—one of them being that it was an unconstitutional abridgement of the women's right "to choose to bear children" which "fundamental" right that court said "follows from the Supreme Court's and this court's repeated acknowledgement of a 'right of privacy' or 'liberty' in matters related to marriage, family and sex."

Similarly, the Federal District Court for the District of Columbia in the equally famous *Vuitch* case stated:

"There has been, moreover, an increasing indication in decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy."

When the *Vuitch* case reached the U.S. Supreme Court, the Court did not pass upon the basic question whether there is a constitutional right to decide whether or not to have a child. That question may be decided in two other cases, one from Texas and one from Georgia, currently before the U.S. Supreme Court.

Court challenges to abortion laws are pending or contemplated in many other states. In New York, while a case was pending on the question of the validity of a law prohibiting abortion except where a physician had a good faith belief that it is necessary to save the life of his patient, the New York State legislature repealed the old law and made abortion a matter for decision by a woman and her physician. Seventeen states have modified their abortion laws. Three—Hawaii, Washington and Alaska—like New York, have virtually repealed their old laws; 12 have modeled their laws on the American Law Institute formula of permitting abortion not only to save life but also to protect physical and mental health, to avert the birth of defective offspring, and in cases of rape and incest. (Mississippi's only additional ground is rape.) Many other states are considering legislation to repeal or substantially reform their abortion laws.

Notwithstanding, however, this accelerating trend in the direction of making freedom of choice available, the laws and official and professional attitudes today applicable to human reproduction in the United States, viewed against the realities of today's world, add up to a crazy-quilt pattern with overtones seriously threatening to civil liberties. For example, even the repeal states, except New York, impose residence requirements for abortion.

On the one hand, we have the population explosion or, if we want to broaden our view, the threat of ecological crisis. The fact that such a threat must be dealt with hardly needs substantiation at this point. On the other side of the coin, we see that countless millions of people are still not given the opportunity to decide whether they want to limit their reproduction.

While the recent statutes and the cases holding various antiabortion laws unconstitutional seem to indicate a trend, abortion—which unfortunately remains the number one method of birth control in the world today—is still illegal in a majority of states, except to save life (whatever that means). It is also illegal in many other nations whose population problems seem already to be critical.

MORE RESEARCH NEEDED

Relatively piddling amounts of money are spent for research in the field of human reproduction, including the search for new and more effective contraceptives. Little is done to assure the delivery of the contraceptives we now could have available to all; it is estimated that even in the United States, something like four and one-half million low-income women are without effective access to contraceptives. And the general apprehensiveness of the medical profession about malpractice suits, although without realistic basis in this area, inhibits the making available of voluntary sterilization.

Moreover, we have laws based on outworn notions of morality (outworn in the sense that they bear no relation to the conduct of today's youth and many, if not most, of today's adults, at least in the Western world). We have laws which intimidate those who would make contraception and abortion services accessible to our youth. Our youth account for 40 percent of all illegitimate (and, therefore, mostly unwanted) births in the United States. And who knows how many young people are among the estimated one million women who each year get abortions, most of them illegal?

While the logical answer to all these problems would be to provide safe methods of contraception and voluntary sterilizations and abortions to women who want them, i.e. to guarantee to all women the freedom to decide whether or not to bear children, greater freedom is—unfortunately—not the only solution that has been suggested. Although neither voluntary birth control nor voluntary abortion nor voluntary sterilization has ever been made available to large segments of our people, we begin to hear voices demanding compulsory birth control and compulsory sterilization in the face of the population crisis on one side and burgeoning birth rates on the other. Little has been said so far about compulsory abortion because even the most myopic among us readily perceive that there is no point in making abortion compulsory when it is not yet even optional in most states.

Yet many people are advocating tax "disincentives," reduction in welfare payments, penalty taxes, making excess childbearing a crime and, most frighteningly, compulsory sterilization.

CIVIL OBLIGATION

In the face of such threats, civil libertarians have an obligation to make their own appraisal of the situation.

No constitutionally guaranteed personal liberty is absolute—or as Mr. Justice Holmes put it, freedom of speech does not embrace the right to call "fire" in a crowded theatre unless there is a fire. The question in the "population" area today is whether there is a fire—and if so what constitutional means there may be for putting it out.

It is well settled that "where there is a significant encroachment upon personal liberty, the state may prevail only upon showing a subordinating interest which is compelling," according to a 1960 Supreme Court ruling, *Bates* v. *Little Rock*. Moreover, even if there is a "subordinating" and "compelling" interest, a valid "governmental purpose" may not be achieved by means which "sweep unnecessarily broadly and thereby invade the area of protected freedom," says a 1964 decision of the same court, *NAACP* v. *Alabama*.

In the light of the known facts, population limitation may be—or may become shortly—a "compelling" necessity in the United States, as it may already be in other nations. The question then arises: What rational means which do not "sweep unnecessarily broadly" may government adopt to meet the actual or threatened crisis?

Many of those who address this basic question today come up right away with the answer that some degree of governmental coercion is immediately called for. All "population control" measures rest on the premise that freedom of choice in matters of human reproduction is a luxury we can no longer afford.

It seems to me that it is up to civil libertarians to point out, to the contrary, that freedom of choice in his area is a "luxury" we have never had—that indeed it is not a luxury but a right, first declared unequivocally only six years ago in the *Griswold* case and by no means yet implemented.

GIVE VOLUNTARISM A CHANCE

In other words, from the civil liberties standpoint we should continue to work to make freedom of choice possible and not countenance its abandonment in favor of coercion and compulsion until and unless we have first really tried it and found out it doesn't work—something we have never done.

This conclusion is inevitable if we consider the question against its own background in the United States. Many of the anti abortion laws have been on our statute books for over a century. Even if they are repealed en masse or declared unconstitutional, we will have only taken the first step along the road to implementing freedom of choice as to abortion—for our doctors are already overburdened and our hospitals crowded and neither doctors nor hospitals are experienced in setting up abortion delivery systems.

However, new techniques of abortion (such as the vacuum aspiration method and the new abortifacient pills and injections still in the experimental stage) do not require overnight hospitalization and even with the conventional older methods, one million—more or less—"illegal" abortions in the United States annually have been done on an outpatient basis, of course. Moreover, some of the new procedures may not have to be done by physicians but may eventually be applied by paramedical personnel under medical supervision.

While the day seems to be coming when abortion on request will not only be legal in all 50 states but will also be practically and economically available, that day has by no means arrived. It would be well if those who are calling out for coercive control measures

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concentrated their energies on establishing a right to abortion including the means of exercising that right.

Nor have we freedom of choice in the contraceptive area. This is partly for technological reasons: We have not yet developed a thoroughly acceptable contraceptive. What has appeared to be the most nearly acceptable, the pill, was so strenuously attacked by some spokesmen at the Senate hearings presided over by Senator Gaylord Nelson that despite the fact that no new or more alarming data emerged from the hearings, many women have abandoned its use and many others have decided not to use it. The IUD and the vaginal diaphragm appear to be the best two remaining methods, but both have a larger failure rate and in any event are not psychologically or physiologically useable by a not inconsiderable number of women. So again, if the "controllers" would concentrate more of their fire on getting more funds for more research, they might accomplish more in the way of reducing the birth rate than they do by threatening or contemplating coercive measures.

Freedom of choice is hampered, also, by legal obstacles. At least two large states—Massachusetts and Wisconsin—continue to limit the distribution of contraceptive supplies to married persons, and in Massachusetts even the married may buy contraceptives only on a doctor's prescription. (The validity of the Massachusetts law is now before the U.S. Supreme Court for decision.)

The law as to minors' getting contraceptives are unclear and restrictive. Yet despite official restraints on voluntary contraception, a recent article in the American Bar Association Journal urged compulsory contraception in the form of IUD's for sexually active teenagers. Aside from the fact that the law needs considerable clarification in order for teenagers in most states to obtain contraceptives on a voluntary basis, and aside from the frightening curtailment of personal liberty which would be involved, a further objection to this rather "unusual" recommendation is that the authors do not go into the question as to how this requirement is to be enforced. Assuming you can threaten a teenage girl with sufficiently unpleasant alternatives (presumably detention) so that she does go to a doctor to have an IUD inserted, how do you compel her to keep it there?

BIRTH CONTROL PROGRAMS

Many states have not adopted realistic birth control programs; and while the federal government has to some extent made up the slack, the amounts appropriated for services are small compared to what could be utilized.

To say to the four to five million women in the United States who have never had the chance to practice voluntary family planning that the time has now come when they must by government flat use birth control would be absurd—and in my opinion unconstitutional.

The studies of Jaffe and Polgar show that desired family size among the poor and indigent is smaller than the size preferred by the upper and middle income groups.

The recent investigation by Professor Westoff et al. indicates that some 20 percent of all the children born in the United States annually are unwanted. And, as is to be expected in the light of the lack of access by many of the poor to birth control information and services, the poor have more unwanted children than the rich.

The story is similar with regard to sterilization. It is true that except in Utah (Connecticut has recently changed its law), voluntary sterilization for any and all reasons is entirely legal in the United States. But the fact that it is legal has not meant that it has been available. Far from it. The hospital and medical professions have imposed strict limitations on its availability. The Catholic hospitals, which serve substantial parts of our population, won't perform sterilizations at all (or prescribe contraceptives or perform abortions) despite their quasi-public status as tax exempt institutions. Most other hospitals, if they perform voluntary sterilizations at all, have set up sterilization committees which significantly limit the availability of voluntary sterilization to both men and women.

We see here the same paradox: calls for the imposition of compulsory sterilization without first making sterilization available on a voluntary basis—especially for those who cannot afford substantial physician's hospital fees. Although it is estimated that there are about 750,000 or more voluntary sterilization operations performed in the United States every year, this is probably a small proportion of those that would be done if this alternative really existed for millions of our citizens.

"YOU MUST—YOU CAN'T"

It is always easier to insist that "there ought to be a law" and to think you've solved the problem with a "you must" or "you can't" than to eschew coercion and go through the tedium of adopting practical programs to change what is (which means you first have to find out what is) to what should be.

It is for civil libertarians to recognize what needs to be done to avert a totalitarian pattern of laws as to human reproduction. Unless and until it is clear that voluntary measures, legally and factually available (which they never have been), won't and can't eliminate the threat of overpopulation, government coercion and compulsion are contraindicated.

It is for civil libertarians to acknowledge that while the state must more and more assume the responsibility for the physical and material well-being of its citizens because our interdependent mass production economy demands this as the price of its functioning and our survival, the state must stay out of the moral and spiritual aspects of their lives. What a man thinks, feels and believes should be of no concern to the state, nor should what he does in his private life, except when he harms others. (This view is the converse of the traditional—and outmoded—view of the role of the state as keeper of men's morals with no responsibility for the collective conditions of physical life, including the basic necessities of physical survival.)

If this distinction is carried over into the field of human reproduction, the way of the civil libertarian is clear. Yes, indeed, the state should act to make real freedom of choice possible. It should do everything from repealing repressive laws, to encouraging research in contraceptive and abortifacient technology, to ensuring effective delivery of services on a voluntary basis to all segments of our population, to waging educational campaigns.

If we pursue these objectives, we should be able to take a long step in the direction of solving the population problem without resorting to compulsory measures which would strike at the roots of one of our basic freedoms: the right of free choice in matters of human reproduction—no less basic because it has so recently been recognized and acknowledged.

VOLUNTARISM AND COERCION: THE GROUND BETWEEN

(By Michael G. Brewer)

Two basic questions underlie discussions of population growth in the United States: how serious and urgent the problem is and what should be done about it. The answers tend to be connected. The more urgent the problem appears, the more radical the solutions proposed are likely to be.

Nevertheless, it is possible, and even rational, to assign great importance to the reduction of fertility and still oppose drastic measures to achieve that goal. The author of the preceding article clearly believes that reducing fertility is an important social goal. At the same time, she builds a strong case that would permit individuals to reduce fertility voluntarily, without coercion.

The line between voluntarism and coercion, however, is not always clear.

The essence of voluntarism is a decentralized decision system—one in which choices among available options are made by individuals. Such a system can prove unsatisfactory. Decentralized decisions can yield results which are far from socially ideal, in a "tyranny of small decisions." One example of such a failure would be private discretion in the use of common property resources, which often leads to overuse, despoliation, and possibly destruction. Such institutional deficiencies have been noted in discussions about air and water pollution and other environmental problems, and sometimes have been referred to as "the Tragedy of the Commons."

When the pursuit by individuals of their separate interests leads to substantial social losses, one possible solution is to modify the ground rules under which individual decisions are made, to increase the compatibility between enhancement of individual welfare and the welfare of the society at large. Modifications of this sort can consist of removing subsidies that stimulate socially detrimental behavior, or placing legal constraints on individual choice.

Regarding the dynamics of U.S. population, there are opportunities for both kinds of modification of the ground rules. Major public subsidies are provided for the bearing and rearing of children in the United States, of which free public education probably is the most significant. Not only does society pick up the bill for certain costs; it also positively rewards parents through devices such as income tax deductions for dependent children.

Of course there also are institutions that obstruct population growth. These tend to be more recent phenomena, associated with a growing recognition of the social costs which result from rapid growth. The understanding that congestion, environmental pressure and increasing costs of extending public services are all concomitants of a rapidly growing population has not yet led to clear prohibitions concerning parents' decisions to have children. On the other hand, certain communities have begun to impose constraints on land use, through zoning and other regulations, which, it could be argued, have a limiting effect on population growth in particular communities.

THREE KINDS OF CONSTRAINTS

The immediate discussion, however, is concerned with other types of infringements on freedom of individual choice. Pilpel is concerned with the limited range of possibilities available to parents or potential parents interested in family planning. Basically there are options involving contraception, sterilization and/or abortion. At least three categories of limitation of options can be identified:

Constraints imposed on choices which have low probability of harming the individual or his society.

Limitations imposed because of uncertainty about possible harmful consequences.

Constraints imposed because the options themselves are not yet fully devised or developed, and consequently are not available for individual use.

Any society imposing the first type of limitation is open to the indictment of depriving the individual of his freedom. Efforts to facilitate family planning in the United States are severely limited by existing state and federal laws. The Comstock laws prohibiting the mailing of contraceptive information and devices, which were not repealed until January 1971, are a prime illustration of morally sanctimonious behavior by government that resulted in depriving individuals of reasonably effective and safe options for family planning.

Constraints of the second type have posed continuing problems to our society. What is the right of the individual to jeopardize his own safety? Sharp debate on issues of this sort is frequent. The automobile industry, for example, is sometimes accused of arguing that inexpensive transportation is more than adequate compensation for the lack of safety features, which suggests that limitations should not be placed on a product on the grounds of possible danger to individual users. The consumer movement, on the other hand, which urges that various foods be taken off the store shelves because of questionable nutritional values or because of possibly harmful additives, implies that variety and taste should be subordinate to safety.

In the population area the argument has surfaced with respect to birth control pills. The powerful drugs used to control ovulation were found to have a number of undesirable, and for some women dangerous, side effects. These were well publicized in a series of U.S. Senate hearings, stimulating controversy between groups that usually are on the same side. Family planning advocates objected to the hearings, which apparently had a negative effect on acceptance of the drug, arguing that pregnancy was a great deal more dangerous than the relatively rare side effects of the pill. Drug safety proponents countered, pointing out that pregnancy was not the only alternative to using the pill, and urged accelerated research to develop safer contraceptive devices that would be equally convenient. The upshot of the controversy was the inclusion of a warning of possible side effects of oral contraceptives to be included in each prescription, leaving the question of safety up to the individual.

Constraints on individual freedom that result because society has not yet developed options, procedures or devices which permit the individual to achieve the results he desires, pose an interesting issue. Clearly, individual voluntarism is precluded if there is no way in which the choices can be made on a decentralized, individual basis. The case is well put by Pilpel: The absence of a readily available, effective contraceptive technology, and adequate information about it, prevents society and its individual members from approaching population control on a voluntaristic basis.

On the other hand, it could be argued that voluntarism can never be given a chance in the sense that all restraints, both explicit and implicit, on the free exercise of individual choice in childbearing would be removed. There will always be forces, economic, social and legal, which influence prospective parents in one direction or the other.

A QUESTION OF EMPHASIS

The question then comes down to a choice of emphasis in removing restraints from parental choice: Should first priority be given to extending contraceptive technology and removing legal restraints on its use, as Pilpel argues, or should extending information about the pros and cons of contraception receive equal attention? It is obvious that when a new contraceptive is developed, information about it and its performance must be made public if that device is to constitute a real alternative to the potential user. However, should not the information also be available on the consequences of failing to use that device or some other contraceptive technique? Full population "literacy", it can be argued, must exist in any society which pursues voluntary family planning. In that case, there is evidence that the United States is a long way from being able to support a voluntaristic approach. This evidence, which has been developed through recently conducted surveys, admittedly of limited scope, documents widespread misunderstanding of population dynamics in the United States. If this is so, and individuals cannot accurately associate the future social consequences of procreative choices they may make on an individual basis, then they can hardly be said to understand all of the alternatives available to them—including the alternative of using no protection against pregnancy.

All of this suggests that the demarcation between voluntary and non-voluntary means of birth control is blurred. Nevertheless, it is possible to make a case for non-coercive means of effectively limiting population growth in the United States. The basic argument is simple—coercion inevitably engenders hostility and resistance, which tend to grow in a cumulative fashion over time. Eventually, some threshold is passed and resistance is sufficient to interrupt, and possibly frustrate, the measures being pursued. In short, coercion is not a dependable method, and non-coercive approaches can be preferred in terms of their relative efficacy.

Accepting a somewhat blurred line between coercion and voluntarism, and acknowledging that the technological and informational conditions required for full voluntarism are unlikely to be met, how do we proceed from where we are? What are the criteria that can help us convert a growing public concern with population growth into programs and processes which respect individual freedom and acknowledge the advantage of decentralized decisions?

Perhaps the most important factor which would make possible voluntary reduction of population growth would be a habit of thought which recognizes the future social consequences of individual procreative behavior. This is not an area of thought and speculation to which we are accustomed. Individuals may have planned their families intelligently and accurately, but there is not yet clear recognition of the relation between individual behavior and demographic change. Until such a habit of thinking about population is acquired, there will be a tendency to consider demographic phenomena as situations unto themselves, separate and apart from the social conditions within which they occur and to which they contribute.

POPULATION EDUCATION

This is an objective that can be achieved only by the profoundest type of education in population affairs: an education whose domain is not only the provision of accurate, scientific information regarding birth control possibilities, but which also instills in each individual an acknowledged responsibility to think about the population component of social situations. At the present time, population education in the United States is in its infancy, although those involved in it are extremely active.

Population education efforts should be aimed primarily at the schools. But public discussion of the facts of population growth, of the various proposals and programs that might be employed to reduce fertility, and of the economic effects implied by lower growth rates, is no less important. Public enthusiasm with population education is increasing, but public opinion also is notoriously erratic, often losing interest only a short time after enthusiastically embracing an idea. If population is to be a permanent subject of education, it is necessary during the period of acceptance to establish arrangements which will continue to have influence over a longer period of time.

Another front on which action can be taken refers to the number of institutions and public policies which implicitly favor families of particular size. A good deal of discussion has focused upon the extent to which the social and economic fabric of American society contains pronatalist sanctions. In addition to income tax deductions and free public education, there are implicit sanctions, such as a common terminology which refers to childlessness with disparaging implications, and social norms which deprive women of social roles other than that of wife and mother. To what extent do these constitute coercive measures? They clearly have received social approval and broad compliance in the past, and perhaps we view freedom as opportunity by the individual to select from among alternatives against this kind of social norm or base-line. This is more than a matter of semantics; it comes to the very heart of the issue of individual coercion.

One can distinguish between invoking new measures that modify the socially approved incentive system from those that invoke prohibitions on one's range of choice. While the line between them may at times be blurred—for example, the costs of certain options may be beyond the capacity of the particular individual to bear, and thus his range of choice is narrowed—they are discernibly different types of measures.

What is the critical element that makes a change in society's rules compulsory? It could be the abruptness with which the decision is made, or the legal and political jurisdictions under which it claims authenticity and authority, or perhaps both. The point remains that usually it is possible to differentiate between overt coercion, which substantially reduces the options which an individual can choose, and pressures which modify the terms of choice. Overt coercion is not only questionable from a practical standpoint—because of resistance which can be counted on to develop—but also on ethical grounds.

Historical failure has largely discredited two traditional ends which have been used to validate coercion—the aim of preparing for a coming social revolution, or the aim of preserving the state. The result has been an abhorrence of any measures that seriously impinge upon an individual's freedom. On the other hand, the technological, organizational and demographic conditions of human existence change, sometimes jeopardizing society unless its social ground rules are modified. This is, indeed, the basic premise of democracy, and it was the anticipation of precisely this process of adjustment over time which occasioned the meticulous debate and craftsmanship reflected in and required by American constitutional governance.

READINGS IN POPULATION

Davis, Wayne H. *Readings in Human Population Ecology*, Englewood Cliffs, New Jersey Prentice-Hall, Inc., 1971. 259 pp. $7.95. Thirty-one papers by noted demographers and social scientists selected to present a wide and balanced discussion of controversial population questions.

Detwyler, Thomas R. *Man's Impact on Environment*. New York: McGraw-Hill Book Co., 1971. 731 pp. $5.95. In textbook format, 52 environmental scholars examine man's biological impact on the world's ecological balance in such problem areas as air and water pollution, soil erosion, destruction of plant and wildlife. Includes a glossary of environmental terms.

Field, Frederick V., General Editor. *An Economic Survey of the Pacific Area: Population and Land Utilization, Part I*. Karl J. Pelzer, New York: Russell and Russell, 1971. 215 pp. Price Not Stated. One of a group of monographs which seeks to update and collate data from the 1934 study of the Institute of Pacific Relations entitled *Economic Handbook of the Pacific Area*. The reissue treats population dynamics in addition to environmental problems, internal and international trade, transportation, commodity production and the effects of industrialization on the area.

XUM

Harrison, Gordon. *Earthkeeping.* Boston: Houghton Mifflin Co., 1971. 276 pp. $5.95. This book blames environmental decay on economic political and value systems rather than on such factors as population and technology and concludes with a cautiously optimistic note for the future.

Harte, John and Robert H. Socolow, Eds. *Patient Earth.* New York: Holt, Rinehart and Winston, Inc., 1971. 364 pp. $7.95. Thirteen essays by concerned demographers, environmentalists and economic and resource specialists present an action-oriented, case-history approach to the solution of U.S. problems in urban blight, population control, resource management, ecological effects of military programs and alternative land uses.

Hindell, Keith and Madeleine Simms. *Abortion Law Reformed.* New York: Humanities Press, 1971. 269 pp. $10.00. A documented history of the thirty-year movement to repeal Britain's 100-year-old abortion law, and an evaluation of the problems and abuses of the liberalized law.

Keyfitz, Nathan and Wilhelm Flieger. *Population: Facts and Methods of Demography.* San Francisco: W. H. Freeman and Co., 1971. 613 pp. $13.50. A volume of recent statistical tables and computer printouts, with mathematical models used to examine observed and projected populations, age structure, vital rates, age-specific death rates, life tables, and fertility measures as gathered by statistical agencies in 70 countries throughout the world.

Meijer, M. J. *Marriage Law and Policy in the Chinese People's Republic.* New York: Oxford University Press on behalf of Hong Kong University Press, 1971. 269 pp. $16.75. A historical review of traditional family values tracing changes in official attitudes in the twentieth century, and contrasting National Government marriage legislation with the application of the 1950 Communist Marriage Law as an instrument for social change.

Nagi, Mostafa H. *Labor Force and Employment in Egypt: A Demographic and Socioeconomic Analysis.* New York: Praeger Publishers, 1971. 285 pp. $16.50. A study of the impact of population trends since World War II on the size and composition of the labor force in Egypt, with suggestions for techniques to measure unemployment and underemployment in developing countries.

National Academy of Sciences, Study Committee of the Office of the Foreign Secretary. *Rapid Population Growth: Consequences and Policy Implications.* Baltimore: The Johns Hopkins Press, 1971. 696 pp. $20.00. A two-part study offering an analysis of population growth and related problems with recommendations for effective population control through voluntary means, followed by seventeen technical papers on the social, educational, political and environmental aspects of population dynamics.

Pohlman, Edward. *How to Kill Population.* Philadelphia: The Westminster Press, 1971. 169 pp. $2.65. An overview of some of the major ways being considered today to end the population problem, including economic incentives and psychological motivation, taking social and cultural values into account.

Ryder, Norman B. and Charles F. Westoff. *Reproduction in the United States, 1965.* Princeton University Press, 1971. 419 pp. $13.50. Report of findings from the third National Fertility Study of 5,600 married women under age 55. Subjects surveyed include wanted and unwanted births, contraceptive use and effectiveness, abortion and subfecundity in relation to socioeconomic, religious and racial fertility differences.

Schwartz, Eugene S. *Overskill.* Chicago: Quadrangle Books, 1971. 338 pp. $8.95. The book argues against the thesis that science and technology are the panaceas for man's human and environmental dilemmas, and suggests that many problems arise and intensify with technological advance.

SOUTH CAROLINA FARM FAMILY OF THE YEAR 1971

Mr. THURMOND. Mr. President, the Charles A. Copeland family of Gaffney, S.C., has recently been honored as South Carolina's Farm Family of the Year 1971. This award is given annually by the Farmers Home Administration. It is truly a "family affair" as judges consider the interests and activities of all members of the family.

The Copelands bought their farm in 1955 when it consisted of 200 acres and a farmhouse. Today the farm has been enlarged to 505 acres and the house reflects the great improvements and personal care invested in it by this outstanding family.

On March 15 of this year, my wife, accompanied by Mrs. Julie Eisenhower, visited the Copelands, and they were highly impressed with the farm and with the obvious motivation of this family.

Mr. President, a feature story about the Copelands was published in The State newspaper, of Columbia, S.C., on March 12, 1972. The story, written by Miss Linda Caughman, a State staff writer, gives a detailed account of the family's accomplishments. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENTIRE FAMILY HONORED BY FARM AWARD

(By Linda Caughman)

GAFFNEY.—A brand new sign hangs from the lamp post in front of the Charles A. Copelands' spacious two-story white farm house.

"South Carolina Farm Family of Year 1971"—the sign proclaims to passersby.

Mr. and Mrs. Copeland and their three children were recently named the state's Farm Family of the Year by the Farmers Home Administration. After they found out Dec. 2 that their family had been chosen for the award, the Copelands had the sign made and erected but kept it covered until the recognition was made public Jan. 13.

The Copelands have a 19-year-old daughter, Carroll, a Winthrop College freshman; a 17-year-old son, Mitch, a senior this year at Gaffney High School; and a 15-year-old son, Alex, who is in the ninth grade at East Junior High School.

The family's dog, Bandit, has been dubbed "Farm Dog of the Year" by Alex.

According to Mrs. Copeland, the judges "looked at the whole family." The children's accomplishments in the 4–H Club and other organizations connected with farm life probably helped convince the judges that the Copeland's farm is a "family affair," as Mr. Copeland described it.

A closed-in back porch has its walls covered with family pictures, certificates, awards and memorabilia of the family's life on the farm. The center hall is a gallery with pictures ranging from ancestors' portraits to recent photographs of the "Farm Family of the Year."

Carroll, who was active in 4–H Club for seven years, had a Grand Champion at the Blue Ridge Stock Show in Spartanburg in 1966 and a reserve champion in 1967 and 1968. According to her father, she was the youngest person at 12 years old and the first from Cherokee County to ever have a Grand Champion. Carroll was also a member of the Junior Angus Association.

Cows are not the only animals Carroll enjoys. Mr. Copeland said that his daughter "used to ride before she could walk." The 19-year-old has a Tennessee Walking Horse named Judy. Her interest in animals continues as she is majoring in biology at college.

The Copelands' older son Mitch hasn't made up his mind yet about what he plans to major in next year at Clemson University, but he is thinking about agricultural or textile engineering.

Active in 4–H Club for six years, Mitch started growing his own crop three years ago. "The judges couldn't believe that Mitch had been renting land and getting price support checks directly from the government," his proud father said.

Recently Mitch and his father finished a second story room so that Mitch could have his own bedroom. Mitch bought bedroom furniture with money he earned from his crops.

Alex, a 4–H Club member for four years, is now learning to drive a tractor and will have his own crop for the first time this year. According to the younger brother, one of the best things about living in the country is that "you don't have to go riding around trying to find a place to hunt."

Mr. and Mrs. Copeland, who grew up as neighbors in town, agreed that they "wouldn't move back into town for anything."

The couple related how a city-reared pair took the unlikely course of moving to a farm. Mr. Copeland attended Clemson University for three years, majoring in industrial education, until "the Army caught the whole class." After receiving a purple heart during World War II, he returned to Gaffney and went in business with his father in a farm supply store.

"I kept a few cows. Then a friend asked me if I would be interested in going into partnership with him in registered Hereford cattle. So we stayed there over four years until we found this farm for sale," Mr. Copeland said.

The farm which the Copelands bought in 1955 consisted of 200 acres with a two-story house built in 1923. The house, although well built, was just a shell. "It took all winter to fix it. The house didn't have any plumbing except a cold water faucet in the kitchen. The bathroom had no fixtures. We had to put in ceilings. The kitchen was the pantry, and the den was the kitchen. In the 12 rooms there were only one or two electrical receptacles. The walls had never been painted," Mr. Copeland said.

Since 1955, the Copelands have enlarged their farm to 505 acres with 300 acres in cultivation, 70 in pasture and 100 in improved woods for timber. They now own 3 ponds and 70 head of livestock. Their crops last year were 97 acres of cotton, 40 acres of soybeans, 72 acres of wheat, oats, and barley and 10 acres of corn.

The farmer was the first and only person in Cherokee County in 1957 to officially raise over 100 bushels of corn per acre with 133 bushels of corn.

"I've had the first cotton bloom and the first open boll in the county every year since 1966," Mr. Copeland said.

The Copelands also have a vegetable garden, which provides more than the family needs. "We freeze a good bit of meat, vegetables and fruits," Mrs. Copeland said.

This farmer's wife is far from being the typical farmer's wife of the olden days. Mrs. Copeland, who was graduated from Limestone College and received a masters degree from Converse College, is head of the science department at East Junior High in Gaffney.

Smiling at the common misconception that farmers' wives help with the plowing and other heavy farm chores, Mrs. Copeland said, "I usually do all the washing and cleaning up on Saturday. I do a lot of sewing, but I usually do that at night."

The Copelands could think of only one drawback to living on a farm. "You have to use a lot more gas," Mrs. Copeland said.

"We just take advantage of it and don't let farming take advantage of us. First we try to keep up. Another way is we use big machinery," said Mr. Copeland, recalling that the first year they plowed cotton with a mule.

"We're hoping to win the national award, but it will take some doing," Mrs. Copeland added.

OUR CITIES

Mr. TAFT. Mr. President, many of our cities have become so large that people feel remote and cut off from their Government. People in various neighborhoods feel that they do not have the power to control the quality of life in those neighborhoods.

On January 19, 1972, I addressed the Senate on some of the problems affecting our cities. In that speech I suggested that we should question whether or not some of our cities are too large to be properly administered. I noted the decentralization of Greater London, and suggested that through this device the Government can be more responsive to neighborhood needs than large municipal governments, such as New York and Los Angeles.

If our neighborhoods are to develop the capacity for self-renewal in our larger cities, we should have neighborhood control over parks, zoning, recreation programs and other municipal functions which can be administered on a neighborhood basis.

The New York Times of March 23, 1972, contains an article entitled, "London Finds That Decentralization Works," by Bernard Weintraub. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LONDON FINDS THAT DECENTRALIZATION WORKS

(By Bernard Weintraub)

LONDON.—Seven years ago, the 2,000-year-old City of London decentralized its government and divided itself—in a spurt of quiet but radical change—into 33 separate "Londons."

The far-reaching program reorganized a sprawling city of 90 local authorities and overlapping county councils, county borough councils and urban and rural district councils.

Now, a New York State commission's report recommends a government overhaul of New York City and cites the system in London as an example of how decentralization can work. London was decentralized into 33 borough councils, whose powers range from control of child welfare and health services to pollution control, street cleaning and garbage collection. Working beside the London boroughs is the Greater London Council, over-all planning authority for the city.

"Most of London's government is in the hands of the boroughs," said A. G. Dawtry, the town clerk and chief executive of Westminster, the wealthiest borough in the city. "We've made London as local as we can."

A STRATEGIC AUTHORITY

A. W. Petersen, director general of the Greater London Council, said:

"The value of this system is that there does exist a strategic authority to look at the planning of the entire city. At the same time there are the boroughs who are able to deal with personal services because they are, quite simply, closer to the people. Oh, there are some areas of conflict between the boroughs and the Greater London Council, but it all seems to work remarkably well."

Although overlapping and confusion remain, the decentralization of London has worked relatively smoothly. The 610-square mile city, with a population of 7.5 million, is cleaner, calmer and safer than most large cities in the world.

"The system we have has a certain duality of control," said John P. Millife, a senior planner at the Greater London Council. "There are some fuzzy, uncertain areas where powers are divided between the boroughs and the central council. But it all seems to work because there's an element of compromise, settling things out, that's peculiarly English. I'm not sure it wouldn't work as well anywhere else."

NO "MAYOR" OF LONDON

Under the current setup, which was drawn up in the London Government Act in 1963, the Greater London Council manages and runs the city like a regional government. Administering the city is not left in the hands of a single man, like Mayor Lindsay, but to 116 unpaid councillors, of whom 100 are elected every three years. The remaining 16 are appointed by the Conservative and Labor parties. The Council now has 76 Tory and 40 Labor members.

As the over-all planning body for the city, many duties of the Council are sharply defined. It is responsible for the highways and main roads in London, the court and judicial services, transportation, and fire and ambulance services.

The local boroughs, who also hold elections every three years to elect borough councillors, are responsible for health centers and clinics, consumer protection including food and drugs, working conditions in shops and offices, street cleaning, libraries and swimming pools.

There are, however, several key areas of "shared responsibility" that have resulted in confusion and disagreement.

The Council is responsible for the 570 miles of metropolitan roads, while the boroughs oversee the 7,100 miles of local roads. Disagreements constantly arise over where local roads end and main roads begin.

SPLIT SCHOOL AUTHORITY

The boroughs are responsible for refuse collection, while the Council is responsible for its disposal.

Education in the Central London area is under the aegis of the Inner London Education Authority, a special committee of the Council. On the other hand, the 20 outer London Borough councils are responsible for education in their area.

The boroughs are the prime housing authorities. They built a total of 23,142 dwellings last year, compared with the Council's 4,984 apartments. Within the delicate housing area, there may, however, be uncertainty and disagreement.

"London boroughs are autonomous in their own right, but the G.L.C. has strategic powers and can declare a site a comprehensive development area," said Henri James, the London-born spokesman for the Greater London Council. "There may be fundamental differences because the local borough may not want the construction there."

Mr. Jaume and several other officials said that an incident could develop in London similar to the recent dispute in Forest Hills, Queens, where middle-income residents angrily opposed a low-income project. It could especially arise in suburban boroughs such as Bromley or Croydon where the council is considering new housing, and residents have made clear that they are against it.

THE LONDON METHOD

Unlike the case in New York City, such a dispute is ironed out in a single way. An independent inquiry is set up, with all sides stating their case. Then a final decision is made by a Government Cabinet minister, the Secretary of State for the Environment, now Peter Walker, who oversees transport and local development.

"If the boroughs and the G.L.C. cannot resolve their conflict on the political level, then it's resolved by the central government," said Mr. Dawrty, the Westminster chief executive who extensively briefed Governor Rockefeller and Mayor Lindsay when the two made separate visits to London last year.

"The relationship between the central and local government is far closer here than in New York and there doesn't seem to be that city, state and Federal Government overlap," he went on. "In the matter of welfare, for example, and the payment of money to poor families, this is strictly a national responsibility, not a local one. We don't have that kind of financial problem in London."

The powers of London's boroughs is underlined by the number of employes working for them (230,000 compared with the council's 36,000) as well as their broad ability to levy taxes. London's taxes are based on rates or property assessment.

SUPPORTING THE COUNCIL

"The money needed by local authorities is raised by this tax," said Mr. Jaume. "In areas such as Westminster your rates would probably be double what they would be for an equivalent flat or house in outer London."

Together with local expenses, the boroughs also support the council, which makes an annual "precept," or demand, for funds. The council now spends annually the equivalent of about $1.04-billion. The boroughs spend the equivalent of $2.288-billion a year.

In addition, the five wealthiest London boroughs—Westminster, Kensington and Chelsea, Camden, the City of London (the business quarter) and Ealing—grant the equivalent of $44.2-million to the poorer boroughs.

"It's a rob-the-rich, pay-the-poor scheme," said Lou Sherman, a London taxi driver who is chairman of the London Boroughs Association.

He added: "The kind of formula and the system we've worked out is fraught with problems. The boroughs in Inner London, for example, are opposed to the new motorways that the K.L.C. wants to build. The outer boroughs, the conservative ones, are not quite so interested in new housing. There are frictions, but they're settled."

Each borough, which generally has a population between 220,000 and 250,000, elects 70 unpaid councilmen. Usually they meet as a unit one evening every six weeks. On other evenings they serve on committees dealing with health, social services, refuse collections and other borough responsibility.

"The citizen in each borough feels a very close link to what's going on and feels that he's in some control," said Mr. Dawtry. "This large number of councilmen, 70, represents wards and does casework. If a citizen has a grievance, he can talk to the councilman or go to City Hall, where the decisions are made. It's not quite like that in New York."

Another key difference was outlined by Ronald Stillwell the deputy executive of Kensington and Chelsea. "New York's elected representatives tend to get more involved in administration, the day-to-day job," he observed. "We take the view that elected representatives are there to determine policy. Having decided the policy, they turn it over to the administration to implement it. In other words, you don't keep a dog and bark.

"Here the administration doesn't come and go with the party in power. Things remain the same here."

XUM

PRINCE BERNHARD ON MAN AND THE NATURAL WORLD

Mr. MATHIAS. Mr. President, the Prince of the Netherlands, whose white boutonniere, became a symbol of resistance to Nazi oppression, has always been a man able to recognize a danger and willing to sound the call to arms against it. Prince Bernhard has now called our attention to a danger far from both his shores and ours, but a danger in which we share a common interest; the danger to the natural world. The rapid reduction of wild Africa to civilization is creating changes in nature that cannot be accepted complacently by concerned men anywhere. But he has stated the case eloquently himself. I ask unanimous consent to have printed in the RECORD Prince Bernhard's remarks in Morges, Switzerland, as reported in last Sunday's New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAN AND THE NATURAL WORLD

(By Prince Bernhard)

MORGES, SWITZERLAND.—Our world today stands in grave danger of losing many animals and plants which have given joy to countless generations. They need not be lost if we manage our affairs properly, for it is man's own interest to see that the natural world, which is the root of his own existence, survives for his children and their successors.

My eyes were opened over three visits to the Lake Manyara area of Tanzania. On our first visit to this beautiful area we were surrounded by thousands of antelope, zebra, wildebeest, and many other species. The next year there were noticeably fewer, and on our third visit they had become so few that we could easily count them. Seeing this decline, and the development of agriculture around Lake Manyara, made me realize how rapidly man was destroying something that I felt must be preserved. Meeting this challenge has become one of my principal preoccupations, and it is why I am proud to be president of the World Wildlife Fund.

The fund is only 10 years old, but we feel that we have already made our mark helping to save both living species and the wilderness areas which are their home, and which are so threatened by man's population explosion and the technological revolution. To the end of 1971 the World Wildlife Fund had contributed $7.3 million to 550 projects in 60 countries. This effort stimulated governments and authorities to contribute an equal amount to this great task.

The prestige achieved by the World Wildlife Fund has enabled it to use its influence to promote the launching of national conservation programs in several countries, and to inspire second thoughts about development proposals which could have endangered wild nature and would often have been of less economic benefit in the long run.

We believe we have improved the prospects for survival of critically endangered species such as the orangutan, the Arabian oryx, the Javan rhinoceros, the Hawaiian goose, the aye-aye, the white-winged wood duck, Morelet's crocodile, and the marine turtles, to mention a few.

Natural areas have been purchased and rented, or the authorities persuaded to protect them all over the world. In the United States the rich New Jersey wetlands have been purchased so that they will remain a haven for bird and water life, and provide a satisfying and restoring glimpse of wild nature for our urban humans. Just recently the World Wildlife Fund contributed $190,000 toward the purchase by the French Government of land in the Camargue, the Mediterranean delta of the Rhone, which will be preserved as one of Europe's richest nature reserves.

The famous national parks of Kenya, Tanzania, Uganda, Congo, Zambia and Ethiopia have received grants, and we have supported eight projects in Madagascar, which is a unique biological area with distinctive plant and animal life. Cousin Island in the Seychelles has been purchased to save its rich bird life.

This is just the briefest of glances at some of the things we have done.

"So what?" you might say. "Does this mean anything in terms of human existence?"

We believe it has a great deal to do with human beings.

The life we know today evolved over millennia through the complex interplay of natural forces. They form a web, some obviously supporting others—others not so obviously doing so. Man has been able to control much of nature and other life, but he has not risen above dependence on them. Crops and domestic animals, and many of our medicines, are direct products of the natural world.

I personally believe we have only scratched the surface in finding natural medicines. Even products like petroleum, which we now see as much as a threat as a blessing, come from natural processes. Oxygen comes from photosynthesis in the seas and plants. Soil is enriched by natural waste as it recycles it. Plants feed the animals we eat.

The species and land the World Wildlife Fund has saved are perhaps insignificant strands. But there is nothing insignificant about the fact that over 900 species of animals and 20,000 plants are in danger of extinction. This is the time to be concerned—man is in danger of losing vital supports for his own life.

We have chosen the natural world as our special sphere of activity, but we give our support to those tackling other environmental problems, of which the human population explosion is the real root. The World Wildlife Fund has directly called on all heads of government to stabilize their populations as soon as possible. Within this century—only 30 years to go—today's four billion people will become six billion, with all the consequences of pressure on land for food and other resources. Either we bring this under control or there will be disaster—almost certainly within the lifetime of our children and grandchildren.

ADJUSTMENT ASSISTANCE

Mr. JAVITS. Mr. President, I have been increasingly concerned about the gross inadequacy of the adjustment assistance programs of the U.S. Government. The high promise of the Trade Expansion Act as regards adjustment assistance programs has never been fulfilled; in fact, the record to date could lead to the judgment that this promise has been betrayed.

A very small amount of money has been authorized for adjustment assistance programs over the past 10 years; and in reviewing this sorrowful record, I accept as just the contention of the labor movement that today's concept and approach to adjustment assistance results in this being "burial assistance"—which in most cases arrives years after the funeral. A priority item on the agenda of the administration and of Congress must be the strengthening and reform of these adjustment assistance programs.

Toward promoting this end, I wrote to the Secretary of Commerce and the Secretary of Labor on February 22 and February 24 asking specific questions concerning the adequacy of the laws that at present govern the granting of adjustment assistance and the record of administration of these programs. I have now received replies from both Secretary Hodgson and Secretary Peterson. I ask unanimous consent that my letter to these members of the Cabinet and their replies be printed in the RECORD at this point along with their replies.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 22, 1972.

Hon. JAMES HODGSON,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I am sorry that the press of floor business did not allow me to hear all of your testimony before the Joint Economic Committee on February 17. As you know, I asked for and received unanimous consent of the Committee to insert questions and answers into the record. I would appreciate your response to the following questions.

As you know, the Congress and the country have been very much disappointed by the programs of adjustment assistance carried out by this Administration and previous administrations. I have the following questions in this regard:

(1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a Tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

(2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

(3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

(4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

(5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Finally, it is my understanding that an Inter-Departmental Task Force under the leadership of Undersecretary Silverman has just completed a major study on adjustment assistance. My question is whether this study with the option it puts forward will be made available to the Congress? Also whether and when the Administration will come forward with legislative recommendations based on this study?

With best wishes,
Sincerely,

JACOB K. JAVITS.

U.S. DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 27, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: This is in response to your letter of February 24, 1972, concerning the trade adjustment assistance program. I understand a similar letter has been sent to the Secretary of Labor and that he is communicating with you directly regarding the adjustment assistance program as it relates to workers. In it you asked several specific questions, and I have tried to answer each of them in this letter.

Your first question pertains to possible inadequacies in the current provisions of the Trade Expansion Act (TEA) that apply to trade adjustment assistance. In my view this question gets at the heart of problems that have been encountered with this program. As you point out, the entire program is under review both on an interagency and intradepartmental basis. Before this review is complete I hesitate to make piecemeal recommendations on possible changes in the statute. However, it is my personal feeling that there are some major deficiencies in the law. For example:

(a) Injury criteria are too stringent, especially the criterion limiting the availability of assistance to those cases in which injury has already occurred and in which the injury is a result "in major part" of prior trade concessions.

(b) The TEA does not provide for methods of response to import problems that would constitute a genuine adjustment assistance program for *an industry as a whole apart* from escape-clause relief.

In addition, as I pointed out in my report "The United States in a Changing World Economy," the adjustment process takes time even when accelerated by a good program of assistance. Recently some economic changes associated with increased imports have occurred very fast. When increasing imports have the potential to bring change faster than the adjustment system can cope with it—and thus to bring hardship—some have suggested that temporary orderly marketing mechanisms should be available. I believe we should explore the possibility of developing criteria for invoking such mechanisms, and see how these criteria can be internationalized so that such *temporary* protection could be available in all countries on an equitable basis.

You also asked whether the TEA provision requiring a Commerce certification of eligibility after the Tariff Commission or the President has already made such a determination is "an anachronism that serves no useful purpose." There are two situations in the certification process that relate to your question.

First, there is no finding of injury or threat of injury to any particular *firm* in cases where the Tariff Commission finds injury with respect to an *industry* and the President authorizes firms within the industry to request certification of eligibility to apply for adjustment assistance. Accordingly, the Department of Commerce must make a thorough investigation of the facts pertinent to each applicant firm, before determining whether the firm is eligible to apply for adjustment assistance.

A second situation is one in which the certification of eligibility to apply follows a Tariff Commission determination of injury upon petition of a particular firm. It can be argued with some justification in this situation that the Department's certification of eligibility to apply is largely pro forma. We have recognized this. On February 18, we published in the Federal Register proposed new regulations for the adjustment assistance program, a copy of which is enclosed. Section 500.23 of these proposed regulations is specifically designed to facilitate prompt certification of eligibility for individual firms that have already been the subject of an affirmative injury finding by the Tariff Commission. You will note that the extent of our review in such cases is limited to obtaining adequate assurances that no material facts were omitted from the firm's presentation before the Tariff Commission and that there has been no significant change in economic circumstances affecting the firm since that time. Of course, the statutory requirement of the TEA must be satisfied before we are justified in spending government monies on adjustment assistance. Again, my personal view is that a strong case can be made for changing the concept and approach to adjustment assistance from one of adjudication to one of program management by an Executive Department. Under the program management approach, the particular agency involved would administer adjustment assistance from beginning to end. This would permit us to get a much faster jump on the problems.

Your second question relates to the time taken to process cases. As I pointed out, the time lapse between application by a firm for eligibility to apply for adjustment assistance and the certification of such eligibility depends on whether the case stems from an injury determination with respect to the particular firm or with respect to the whole industry. In an individual firm case, an application to this Department for certification of eligibility to apply will be processed promptly, generally within 20 days. We have had one case, however, where certification was delayed until allegations of impropriety with respect to the Tariff Commission proceedings could be reviewed by the Department of Justice.

In cases where the Tariff Commission has made an injury finding as to the whole industry, the time involved is much longer. In these cases, apart from the fact that recourse to adjustment assistance is contingent upon an intervening decision by the President that such form of relief shall be available, the findings of the Commission with respect to the industry are not necessarily illustrative of the situation with respect to a particular firm. We must, therefore, determine whether the firm has been injured by the imports which the Tariff Commission found were injuring the industry. The length of time required for such an investigation depends on many factors, including the size of the firm, the diversity of its product line, the adequacy of its record keeping and the adequacy of the data submitted by the firm to the Department. One such investigation took as long as ten months, while another was completed within two months. Most cases more closely approximate the latter than the former in the amount of time spent on the investigation. As you know, although the trade adjustment assistance program was established in 1962, our experience with processing adjustment assistance cases only began in 1970, following the first affirmative finding by the Tariff Commission. We are now at the point where each case no longer involves entirely new policy considerations and I expect the time lapse between receipt of an application for certification of eligibility to apply and the granting of assistance to be even further reduced as we gain more experience.

With respect to your request for information on the total number of firms certified as eligible to apply for adjustment assistance, 20 firms have applied to date for certification of eligibility. Of these 20 firms, 18 have been certified eligible; one has been denied certification and one application is currently pending.

As to the data requested concerning recipients of adjustment assistance to date, please see the attached table. The time period between certification of eligibility to apply and certification of the firm's adjustment assistance proposal is set forth on this table as well.

You have requested information on the nature, scale and level of adjustment assistance over the past five fiscal years. For the reason explained above, no adjustment assistance was provided until Fiscal Year 1971, when two proposals were certified and financial assistance provided through the Small Business Administration. In Fiscal Year 1972, to date, we have committed $4,672,000 in financial assistance from our own appropriation. With respect to technical assistance, we committed $195,611 in Fiscal Year 1971 and $138,000 so far in Fiscal Year 1972. Total tax assistance certified to date (all in Fiscal Year 1972) amounted to $390,000.

Finally, you asked about the study undertaken by an interagency task force on adjustment assistance. As you know, this task force was established by the Council on International Economic Policy to develop recommendations for a more comprehensive and effective adjustment assistance program. It is still in draft form and has not yet been submitted to the Council. Accordingly, I cannot specifically respond to your inquiry as to the content and timing of possible legislative recommendations until the Council has had an opportunity to consider the findings and conclusions of the task force. The decision whether to make this report available to the Congress will presumably be made by the Council after it has completed its review.

I hope I have answered your questions. In closing, let me say that I believe there is much we can do to broaden both the concept and delivery of trade adjustment assistance. For example, we are now moving ahead in the Commerce Department to give close and expedited attention to the following possibilities:

(a) An early action mechanism designed to spot potential import-impact problems and to help industries and firms take prompt and responsive steps before a critical point of economic detriment is reached.

(b) Techniques and forms of assistance that could be made available on an industry-wide basis (e.g., funding for R&D projects of general application to the industry). This approach, in my view, would provide a broader-gauged response to adjustment assistance problems than that of dealing primarily with individual firm cases, as has been the approach to date under the TEA.

(c) Some form of adjustment assistance to communities economically dependent upon firms that are heavily impacted by import competition.

I appreciate your interest in the trade adjustment assistance program and intend to give it considerable attention in the coming months. Should you or your staff have further questions or useful information about adjustment assistance, please get in touch with me. I hope to continue to strengthen the program, and look forward to working with you toward that end.

Sincerely,

———,
Secretary of Commerce.

Company	Industry	Amount of assistance	Certification of eligibility	Proposal submitted	Proposal certified	Assistance provided
Emil J. Paidar Co., Chicago, Ill	Barber chairs	$2,500,000	July 20, 1971	July 29, 1970	Aug. 20, 1970	Sept. 20, 1970
Benson Shoe Co., Lynn, Mass	Nonrubber footwear	1,700,000	July 21, 1970	Oct. 7, 1970	Nov. 19, 1970	Jan. 7, 1971
Louis Shoe Co., Amesbury, Mass	do	747,000	May 4, 1971	Sept. 8, 1971	Oct. 19, 1971	[1] Jan. 20, 1972
ASG Industries, Kingsport, Tenn	Sheet glass	4,000,000	Sept. 22, 1970	June 4, 1971	Dec. 7, 1971	
The Arista Co., Winston-Salem, N.C	Textiles/data processing	160,000	Dec. 28, 1971	Feb. 2, 1971	Jan. 11, 1972	
H. H. Scott, Inc., Maynard, Mass	Consumer electronics	230,000	Mar. 18, 1971	Sept. 21, 1971	Dec. 23, 1971	
Estey Piano Corp., Union, N.J	Piano	[2] 100,000	June 5, 1970	February 1971	Mar. 4, 1971	
Bel-Tronics Corp., Addison, Ill	Electronic components	712,000	June 17, 1971	Oct. 25, 1971	Mar. 3, 1972	

[1] 2d disbursement.

[2] Approximate amount of technical assistance provided to date. Final amount of other assistance not yet determined.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 20, 1972.

Hon. JACOB K. JAVITS,
U.S. Senate
Washington, D.C.

DEAR SENATOR JAVITS: I am happy to respond to the questions in your letter of February 22. My answers are enclosed. I agree that this material should be incorporated into my JEC testimony.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

ANSWERS

(1) Are there any inadequacies in existing law which deter an effective program of adjustment assistance? For example, is the law that requires the Secretary of Commerce and the Secretary of Labor to certify eligibility to apply for adjustment assistance after there already has been a tariff Commission and/or Presidential determination of injury an anachronism which serves no useful purpose? Are there other examples of inadequacies of law which should be corrected?

In answering this and the subsequent questions, I shall confine my remarks to the worker side of the Trade Adjustment Assistance Program. I understand an identical set of questions has been presented to the Department of Commerce and I am sure that they can provide more accurate information on firm assistance.

There is little substantive overlap in the roles of the Tariff Commission and the Department of Labor. I believe the appropriateness of the Department of Labor's role in the Trade Adjustment Assistance Program will be clear from the following. There are two ways in which a group of workers can become eligible for trade adjustment assistance. The first is by petitioning the Tariff Commission directly. If the Tariff Commission makes an affirmative finding, the Department has relatively simple but necessary functions to perform. It must establish an impact date (the date beyond which imports can be considered the major factor causing unemployment or underemployment), it must define the adversely affected group; and finally, the Department must supervise the delivery of assistance.

Workers can also become eligible as a result of an industry petition. After an affirmative finding by the Tariff Commission, the President can (1) approve escape clause relief, (2) grant permission to workers within the industry to apply for adjustment assistance, (3) grant permission for firms in the industry to apply for adjustment assistance, or (4) provide for any combination of the first three forms of relief. If permission is given to groups of workers to apply for adjustment assistance, it is the responsibility of the Department of Labor, in addition to the roles noted above, to determine whether injury to a specific group from the industry is caused by increased imports.

Under the present statute these functions are necessary and are performed appropriately and efficiently by the Department of Labor. There are, however, certain inadequacies in the present law. The President's Trade Bill of 1969 tries to address some of these inadequacies, specifically the overly stringent eligibility requirements and the role of the Tariff Commission. Suggested changes have also been recommended in the July 1971 report of the President's Commission on International Investment and Trade Policy (the Williams' Commission). At the present time there is a Council on International Economic Policy Task Force, chaired by Under Secretary of Labor Silberman, studying the entire issue of adjustment assistance. About one-half of the Task Force's work has been completed. When their recommendations are presented, we will be in a much better position to propose remedies to the inadequacies of the present law. More importantly, we will understand more fully how trade adjustment assistance relates to U.S. trade policy and to domestic economic policy.

(2) What is the time lapse between the application of firms or workers for eligibility to apply for adjustment assistance and the granting of such eligibility? For example, a constituent firm has indicated to me that after a 3–1 Tariff Commission vote in their favor, it took two months merely to receive certification that they were eligible to apply. How many cases are like this where bureaucratic delays prevent a meaningful and prompt program of adjustment assistance?

The Department of Labor can set an impact date and determine the affected group generally within 30 days in cases approved by the Tariff Commission. Somewhat more time is required to process a worker request for assistance following a successful industry petition. At present, the Department of Labor requires 60 days to gather the necessary information. Certifications are generally issued within 10–14 days following the completion of an investigation. In several instances investigation and certification have been completed within a 60 day period.

These are fairly simple procedures and we have learned to handle them expeditiously. However, there are other steps in the process of obtaining adjustment assistance where regrettable delays do occur. I will discuss these in greater detail under question 4.

(3) Of the firms and workers which have applied for certification of eligibility, how many have received such certification?

As of March 1, 1972, there had been 136 cases in which worker groups filed for assistance under the Trade Expansion Act of 1962. Assistance was granted in 56 of these cases. It is useful to break down these totals in accordance with the distinction I made earlier. Direct petitioning of the Tariff Commission accounted for 123 of the cases and 44 of the approvals. Application by workers to the Department of Labor on the basis of a successful industry petition accounted for 13 cases and 12 approvals.

(4) Of those receiving certification of eligibility to apply, how many received adjustment assistance? And of those receiving adjustment assistance, what was the time period between their application for eligibility and the granting of adjustment assistance?

In the 56 groups approved for assistance, there were 24,000 who could potentially receive assistance. Approximately 15,000 of these have received assistance. The remaining 9,000 either had no need for assistance or failed to apply for it.

The available information does not permit us to calculate an average time lapse between application to either the Tariff Commission or the Department of Labor for assistance and the initiation of assistance. We know that the time period is too long and we are making diligent efforts to correct this problem. The two major delays occur (1) from the injury to the filing of an acceptable petition and (2) from the setting of an impact date by the Department of Labor to the actual delivery of assistance.

The Tariff Commission and the Department of Labor have been discussing ways of reducing the first delay. The Department of Labor has already begun to encourage likely applicants to file and has provided technical assistance to insure that a suitable petition is submitted. The Tariff Commission is considering reducing the information required in petitions and issuing a standard form.

Lack of familiarity with the program on the part of the State agencies which must administer it has been the most important cause of the delay in initiating payment. The Department of Labor has just completed an internal review designed to find ways to overcome this problem. The results of that study combined with more experience by the State agencies should lessen this delay.

(5) Could you also inform the Committee of the nature, scale and level of adjustment assistance over the past five fiscal years on an FY year by FY year basis?

Since the first affirmative Tariff Commission finding was issued in November 1969, we need only consider the fiscal years, 1970, 1971, and 1972. The following table provides the data you requested.

[All figures in thousands of dollars]

Fiscal year	Total	Cash readjustment allowances	Training	Relocation	Administration costs
1970	2,886	2,830			56
1971	19,393	18,026	941	1	425
1972 [1]	15,537	13,803	710	4	1,020
Total	37,816	34,659	1,651	5	1,501

[1] Estimated through December 1971.

THE JUDICIARY COMMITTEE HEARINGS

Mr. TAFT. Mr. President, fascinating though the inner workings of Washington scoop specialists and international conglomerates and their twilight operators may be, the Senate Judiciary Committee, and thereby the Senate, is being misused in the hearings before the Judiciary Committee. The fact that the misuse is at the hands of some Members of the Senate who have yielded to the temptation to try to build press and political capital should not be allowed further to obscure the important question for the committee and the issue before the Senate.

That question, and it is the sole question, relates to the confirmation of the nomination of Richard Kleindienst as Attorney General. In turn, the only issue raised by the Judiciary Committee hearings connected to that question relates to the soundness of the Government's antitrust settlement with I.T. & T. As to that settlement, Solicitor General Erwin Griswold, former dean of the Harvard Law School, a man of unquestioned integrity and legal judgment has called the antitrust case settlement "an extremely favorable one" to the Government. It stopped in its tracks the rapid and rapacious growth of a company that had mushroomed enormously, unchecked by two prior administrations. It is interesting that at the time of the announcement of the settlement, the stock market and the ITT stockholders did not view this situation any differently. The stock dropped 12 points in the 2 days following the announcement.

Other expert witnesses have concurred with Dean Griswold's and Judge McLaren's assessment that the Government made a tough, hard agreement better than any it could have obtained had it taken the case to the Supreme Court. In any event, the intangible assessment of the settlement is a question which seems most unlikely to be changed in the minds of many by further witnesses and hearings before the Judiciary Committee. Being a question of economic and political nature, if there is to be further question or debate upon it for public consideration, this should occur upon the floor of the Senate—where all sides may be fully and fairly presented. To continue unchecked the pillorying of witnesses before the committee with inept questionings, deep in a morass of hearsay, cannot contribute one whit to a sound judgment on the settlement.

The sideshow that has been continuing in the committee, without the proper restraints or protections which would be afforded by a court of law, is reflecting unfairly, and without chance for defense, upon the integrity of a number of people. We have now even seen a possible endangering of the health and life of one witness.

Mrs. Beard has now testified under oath that the memorandum ascribed to her is a forgery. She has indicated that she has no knowledge as to "who did prepare it, who forged my initial to it, and how it got into Jack Anderson's hands or why. But, I repeat, I do know it is not my memo and is a hoax." Expert opinion using advance techniques which uncovered the Clifford Irving-Howard Hughes hoax, clearly substantiate that the memorandum is a fraud. Susan Lichtman, Mrs. Beard's secretary, has sworn that she does not "recognize it as a memorandum which I typed." ITT Vice President Merriam testified under oath that he never received the memorandum. Mr. Merriam, former Attorney General Mitchell, Judge McLaren, Attorney General-designate Kleindienst and others have all testified that Jack Anderson's inferred connection between the settlement and the proposed contribution to the San Diego Convention Bureau is a total fabrication. No contrary evidence whatsoever has been forthcoming.

Why, in the face of this state of the evidence, is this hearing continuing? Sadly, the only conclusion must be that political motivations are concerned. If there is a genuine feeling and desire to investigate the operations of the international conglomerate or the activities of large hotel corporations in connection with conventions, then this should be the subject of some other committee hearings, operating, hopefully, in a less sensation-oriented and more productive and careful way. It is time to bring a close to a course that has raised by innuendo and without forum for rebuttal questions of integrity relating to the entire structure of Government. Continuing on this course can only damage all concerned, including the Senate and the governmental institutions of the entire Nation—without justification for doing so.

It is time to say "Begone with your scandal-mongering." The Senate and its committees is no place for it. There is too much important business.

BREACHES OF THE LAWS OF WAR

Mr. JAVITS. Mr. President, in letters to the President and Vice President of the United States, the Association of the Bar of the city of New York, speaking through its president, Bernard Botein, proposed the appointment of a National Commission to conduct an inquiry and make a public report concerning American observance of the laws of war in Indochina and the adequacy of existing rules as applied to contemporary conflict and weaponry.

Because of the importance of this issue and its wide ranging effects I believe that the Senate and the public should be aware of the activities of the Association of the Bar in this area. I ask unanimous consent that letters to the President and Vice President and an answer from a counsel to the President on this subject be placed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE ASSOCIATION OF THE BAR,
OF THE CITY OF NEW YORK,
New York, January 12, 1972.

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As members of the Legal profession, dedicated to the rule of law, we are concerned with observance of law in international matters, as well as in domestic affairs. We therefore are deeply troubled by compelling evidence that serious breaches of the laws of war have been committed by all parties in the conduct of military operations in Indochina. We deplore all such violations, by whomever committed, and consider that measures must be taken and institutions established to assure the fullest possible compliance with the laws of war on the part of all belligerents in present and future conflicts. We believe that, for its part, the United States should demonstrate its determination to that end.

Under international law governing the conduct of warfare, including treaties and conventions to which the United States is a party, the United States Government is obliged to prevent the commission of war crimes, to investigate suspected violations, and, upon determination that any such crimes have been committed, to assure appropriate punishment. As citizens and lawyers, we are deeply concerned that there may have been failures in fulfilling those obligations by United States authorities and courts.

Doubts exist concerning the compatibility of certain policies of the United States with the laws of war and the adequacy of governmental processes for assuring compliance with such laws. Moreover, there is a serious question whether all levels of civilian and military participants have received adequate education, indoctrination and guidance in regard to our responsibilities under the rules of warfare.

The American system of justice holds that no one is above the law. Public faith in that system requires just and rigorous implementation of the law, under even the most difficult circumstances. Our abiding belief in that system impels The Association of the Bar of the City of New York now respectfully to propose the appointment of a National Commission to help assure for the future the more effective enforcement and observance of the laws of war.

Such a Commission would conduct an inquiry and make a public report of its findings and conclusions concerning both the observance of the laws of war in the conduct of the war in Indochina and the adequacy of existing standards in the laws of war to contemporary conditions of weaponry and type of conflict as illuminated by the war in Indochina. Such an undertaking would be in keeping with our nation's and our military leaders' historic contribution to the evolution of the laws of war. The United States during the Civil War took the lead in reducing the laws of war to systematic written form, and United States civilian and military authorities have played a central role in the subsequent development of the laws of war.

The purpose of the Commission should not be to accumulate evidence for war crimes trials. However, an important objective would be to study and appraise the system of military justice and to suggest reforms in education concerning, and enforcement of, the laws of war.

The Commission should be empowered to conduct an inquiry and to issue a public report on the following matters:

I Governing United States policy guidelines and directives, and, in their light, the compatibility with the laws of warfare of such measures as:

(a) free-fire and free-strike zones, aerial bombardment and the use of massive fire power generally;

(b) enforced movement of civilian populations and the quality of protection and care of refugees;

(c) use of biological, herbicidal and other weaponry to inflict environmental and ecological damage;

(d) treatment and interrogation of prisoners of war and civilians suspected of collaboration.

II Methods of supervising the implementation of such guidelines and directives and the effectiveness of such supervision.

III Nature and quality of education and indoctrination, at all levels of civilian and military participation, with regard to the laws of war and their observance.

IV The processes of military justice in dealing with the investigation, prosecution and punishment of suspected war crimes.

V The adequacy of existing standards under the laws of war to contemporary conditions of weaponry and type of conflict.

VI The adequacy of existing methods for assuring universal observance of the laws of war and the potential role of international commissions or tribunals in considering adequacy of existing standards under the laws of war, as well as in assuring observances by all parties to present or future international conflicts.

The Commission should be appropriately composed of jurists, Congressmen, public figures, members of the armed services and others, so that it would have a balance of members with both expert and general knowledge, and so that its work, reports and recommendations would elicit widespread public confidence and support.

The Association of the Bar of the City of New York has a deep and continuing interest in these problems.

Respectfully yours,

——.

THE WHITE HOUSE,
Washington, February 15, 1972.

DEAR MR. BOTEIN: I have been asked to respond to your letters of January 12, 1972, to the President and the Vice President forwarding a proposal approved by the Executive Committee of the Association of the Bar of the City of New York for the establishment of a National Commission of inquiry on the observance of the laws of war in Indochina.

As outlined in your letter, the scope of the inquiry conducted by the proposed National Commission would also include such problems as the adequacy of existing standards in the laws of war, the validity of United States policy guidelines and directives governing our operations in Indochina, the nature and quality of education and indoctrination with regard to the laws of war and their observance, and an appraisal of the system of military justice. The Association's proposal also contemplates that the Commission would issue a public report on those matters.

The issues raised by your letter are unquestionably important ones, and the concern expressed by your Association is fully shared by this Administration. Indeed, extensive consideration was given by the Administration last year to the question of whether this Administration should itself propose the establishment of such a National Commission, comprising members of the public, Congress, and the Executive Branch, or, alternatively, whether such a Commission within the Executive Branch should be appointed. It was finally concluded by the Administration that neither alternative should be adopted for the time being.

In essence, there were two basic considerations which compelled that conclusion. First, it was believed that the divisiveness of the American public already engendered by conflicting views with respect to the Indochina war in general, and to the processes of military justice in dealing with such unfortunate incidents as the one at My Lai, would be further intensified were a public inquiry to be conducted while hostilities were still in progress in Indochina. Second, the Rules of Engagement governing our military operations in Indochina are, for obvious reasons, classified. Since knowledge of the limitations imposed by the rules on United States and United States supported operations could be of substantial value to hostile forces in Indochina, those rules could not for the time being be made available for the purposes of a public inquiry. Similarly, if such an inquiry were to be conducted solely by the Executive Branch on a classified basis, the Executive Branch Commission could not issue a public report disclosing that security information while military operations continued.

It should not be inferred from the foregoing, however, that we have taken no affirmative action as to these matters. The applicable policy guidelines and directives dealing with the specifics referred to in your letter are the subject of continuing review and of modification when required. Similarly, while we believe that our education and indoctrination programs are far superior to those of most other nations, they can be, and are being, improved. Further, the Department of Defense is committed to thoroughly investigating all allegations of possible war crimes in Indochina which are brought to its attention.

Finally, as you undoubtedly know, the Executive Branch has taken an active role in the current international negotiations sponsored by the International Committee of the Red Cross which look toward the conclusion of new agreements reaffirming and developing international humanitarian law applicable in armed conflicts. We anticipate that the outcome of these international conferences will to a large extent contribute to the further evolution of the laws of war sought by the action recommended by the Association of the Bar of the City of New York.

The interest expressed by your Bar Association in these problems is greatly appreciated.

Sincerely yours,

JOHN W. DEAN III,
Counsel to the President.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,
New York, N.Y., March 17, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate, New Senate Office Building, Washington, D.C.

DEAR MR. PRESIDENT: You will recall that in identical letters dated January 12, 1972, addressed to the President of the United States, to you in your capacity of Vice President and to the Speaker of the House, The Association of the Bar of the City of New York has proposed the appointment of a National Commission to help assure for the future the more effective enforcement and observance of the laws of war.

Such Commission, in our view, should be empowered to conduct an inquiry and to issue a public report in regard to such matters as United States guidelines and directives covering obligations under the laws of war, methods of supervising their implementation, education and indoctrination of all military and civilian levels regarding such laws, adequacy of the processes of military justice in dealing with suspected war crimes and the adequacy of existing standards under the laws of war to contemporary conditions of weaponry and type of conflict.

A copy of our letters of January 12, 1972 is enclosed for your convenience.

The Association has received a reply dated February 15, 1972 from Mr. John W. Dean, III, Counsel to the President, a copy of which is transmitted herewith. It will be noted that, for reasons set out in that letter, the Administration has declined to act upon the proposal of the Association.

The Association, nevertheless, adheres to the view that the issues involved are of sufficiently grave public concern to call for action along the lines of our proposal. We are convinced that such action would help unite and inform public opinion and that it would not require access to properly classifiable information.

The Association, in collaboration with other legal and civic organizations, accordingly, is considering the feasibility of itself proceeding with such an inquiry. We believe, however, that it could be most effectively conducted by an official body, empowered to hold hearings and to make studies and reports appropriate to the nature of the problem.

Despite the negative conclusion of the Administration, the Association renews its recommendation that the Congress make provision for the conduct of such an inquiry. Such action, in our view, involves matters clearly within the proper scope and interest of the Congress, both in aid of legislation which might be suggested by such an inquiry, and the improvement of Congressional-Executive relationships designed to assure respect for and compliance with these momentous legal and moral obligations.

We renew our assurance of the deep and continuing interest of The Association of the Bar of the City of New York in these problems and urge your prompt and favorable consideration of our proposals.

Sincerely yours,

BERNARD BOTEIN.

CONCLUSION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EXTENSION OF AUTHORITY CONFERRED BY THE EXPORT ADMINISTRATION ACT OF 1965

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 671, Senate Joint Resolution 218.

The PRESIDING OFFICER (Mr. MANSFIELD). The clerk will report the measure.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 218) to extend the authority conferred by the Export Administration Act of 1969.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the joint resolution.

Mr. STEVENSON. Mr. President, the authority conferred by the Export Administration Act expires May 1, 1972. This resolution simply extends that authority for a period of 3 months, to August 1, 1972. Before that latter date, the Senate Committee on Banking, Housing and Urban Affairs will give serious consideration to the whole subject of export controls and will by that date report out a bill.

This bill, as I say, would simply extend the Export Administration Act of 1969 to August 1, 1972.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. JAVITS. Mr. President, I hope very much that the Senate will pass this measure. It is a brief extension, but it is very important as it encompasses the period during which the President will go to the Soviet Union.

In reviewing our relations with mainland China and the Soviet Union we find that they are heavily based upon the issue of trade. Trade liberalization has taken place and can take place to a greater extent, if desirable and necessary. Expanded trade and commercial relations can be a major privilege.

I hope very much that the passage of this extension measure will signal our accord with the President that this is one of the highest priority subjects to be discussed on his visit to the Soviet Union. It is an area where future significant progress can and should be made as negotiations continue.

No one wants our guard relaxed in terms of strategic items. However, there are three lists: One, strategic items; another, nonstrategic items; and another that is in between. A review of lists is probably long overdue.

The Congress and the administration have already shown by the recent waiver of the President, whereby the private investment guarantees and programs of the OPIC are now operating in Yugoslavia and Rumania, that we clearly welcome some fruitful way, without being euphoric about it, of expanding the trade and investment possibilities between our country and the countries of Eastern Europe. There is also the positive movement in respect to MFN for Rumania. Similar opportunity could exist over time with the Soviet Union and the People's Republic of China.

Let us remember that the greatest opportunity for the expansion of trade in a way which is constructive in itself but also to other issues exists in areas of the world where there is very little trade. That includes the Communist countries and vast areas of the lesser developed countries.

For all of these reasons, and especially because it will show a sense of unity with the President in this particular matter of expanding trade, securely and wisely I add immediately, I very much hope the bill passes.

AMENDMENT NO. 1076

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The amendment will be stated.

The legislative clerk read as follows:

On page 1, after line 5, insert the following:

SEC. 2. Section 2 of the Export Administration Act of 1969 (50 U.S.C. App. 2401) is amended by adding the following finding of Congress as subsection (5):

"(5) The application of United States export controls to commodities which are available without restriction from industries in countries with which the United States has defense treaty commitments or are utilized almost exclusively in nonstrategic production unnecessarily handicaps United States industry in competing for export sales."

SEC. 3. Section 3 of such Act is amended by adding the following declaration of policy by Congress as subsection (6) thereof:

"(6) It is the policy of Congress that the appropriateness of subjecting, or continuing to subject, particular commodities to United States export controls should be determined after review and consultation by and between representatives of interested United States governmental agencies and qualified experts from private industry."

SEC. 4. Section 4(a) of such Act is amended by adding the following as subsection (3) thereof:

"(3) Upon the enactment of this subsection, the Secretary of Commerce shall undertake, with the cooperation of other interested United States agencies, an immediate investigation to determine which commodities should no longer be subject to United States export controls. In making this determination, the Secretary of Commerce shall no longer apply United States export controls to commodities which are available without restriction from sources outside the United States in significant quantities of quality comparable to that of such commodities produced in the United States: *Provided*, That such export controls may continue to be applied upon presentation to the Secretary of clear and convincing evidence demonstrating that the absence of such controls would constitute a threat to United States national security. The Secretary of Commerce shall give priority in such investigation to determining whether United States export controls should continue to apply to commodities for which there is a significant potential export market. The Secretary of Commerce shall complete such investigation by December 31, 1972, and shall submit by that date a special report to the Congress specifying those commodities for which United States export controls have been removed pursuant to such investigation. Such report shall also specify those commodities which remain subject to export controls greater than those applied by nations with which the United States has defense treaty commitments and the reasons for retaining any such controls."

SEC. 5. Section 5 of such Act is amended by adding the following as subsection (c) thereof:

"(c) To effectuate the policy of section 3(6) of this Act, the Secretary of Commerce shall appoint Joint Technical Advisory Committees composed of representatives from interested United States governmental agencies and experts from private industry. Such Committees shall be appointed for each of the groups of products subject to United States export controls and shall be convened for their first meetings not later than sixty days after this Act takes effect. The Joint Technical Committees shall meet regularly to advise and assist the Secretary of Commerce on action for the purpose of carrying out the policies set forth in section 3 of this Act and shall be consulted with respect to the level of United States export controls applicable to all commodities, including those whose export is subject to multilateral controls undertaken in cooperation with nations with which the United States has defense treaty commitments. Such Committees shall be consulted and kept fully informed of progress with respect to the export control investigation required by section 4(a)(3) of this Act."

Mr. TAFT. Mr. President, this amendment would amend the Export Administration Act to require prompt decontrol of the unilateral U.S. export controls which are not necessary to protect our national security.

Mr. President, I feel strongly, with the concurrence of the Senator from Illinois and the Senator from New York, that it is necessary to extend this authority. I feel, however, that we ought to recognize that it is extremely important at an early date to take a new look at this entire area.

The testimony in the hearings before the Committee on Banking, Housing and Urban Affairs on this subject was full of evidence concerning the fact that the United States, in effect, is handicapping itself by continuing the present system of export controls which control many items which are not of strategic value and not covered by the COCOM list.

Even within the COCOM list there is a lot of question whether other major industrial competitors of ours, with relation to items that are not of high priority from the standpoint of national defense, are not circumventing the import of items on the COCOM list.

Upon the enactment of the amendment, the Commerce Department would head up a study to determine which commodities should be at least partially decontrolled. Commodities for which there is a significant potential export market would be given priority in the review process. Unless clear and convincing evidence is presented that the absence of export controls on a commodity in question would constitute a threat to the national security, commodities which are available without restriction from sources outside the United States would be decontrolled. Such decontrol would take place by the end of this year. At that time the Secretary of Commerce would be required to give reasons for retaining unilateral controls on any specific item.

My amendment also provides for the establishment of Government-industry joint technical advisory committees. These committees would be consulted and informed with respect to the level of U.S. export controls, including those controls which are imposed internationally under the coordinating committee, or COCOM, agreement.

In the 1969 committee report on the Export Administration Act, the Senate Banking and Currency Committee stated its belief that—

It is desirable that this Nation do everything it can to increase its exports. The Committee believes that any restriction of exports is unwarranted if it does not serve some positive function.

It could not have been made clearer that the committee desired the decontrol of U.S. exports to the maximum extent possible. Yet the information which was brought forward in the recent Banking Committee hearings has convinced me that our Government is, in some ways, dragging its feet in the area of export decontrol.

There can be no doubt that some progress has been made since the enactment of the 1969 act. But our list of unilaterally controlled commodities remains far longer than the list of any other COCOM country. In addition, American businesses must face a more expensive and drawn out export licensing process than their foreign competitors.

The excessively long list of unilaterally controlled commodities results both from insufficient decontrol of items which are available from foreign sources, and from an overly restrictive interpretation of what must be controlled in the interest of national security.

The 1969 committee report on the Export Administration Act stated that—

For the U.S. to attempt to unilaterally control the export of goods which are freely available from other sources is both futile and useless.

In accord with this policy, more than a year ago the Office of Export Control initiated a review of licensing requirements for machine tools. Because the machine tool industry was encouraged to believe that nonstrategic machine tools which are readily available from foreign sources would be decontrolled, they cooperated by providing extensive data. The industry studies showed that many nonstrategic items were readily available from European and Japanese sources. These were not high technology items, but common machine tools such as lathes. Yet, in the period of almost 1 year since the last of these reports was submitted, not a single machine tool has been decontrolled.

The machine tools subject to U.S. uni-

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lateral controls include virtually all machines not on the COCOM list. They are, however, available without licenses from our Western European and Japanese competitors. Indeed, other governments positively encourage such shipments in many cases. Some of them provide generous financing to foster sales in the U.S.S.R. and Eastern Europe. This situation makes our Government's refusal to decontrol machine tools all the more damaging to domestic producers.

We have seen some indications in the news this week of an upturn in machine tools, but that is only from the very bottom level and it is no indication of the severe stress to which this vital industry is being subjected.

The provision of the current law for denying export of commodities deemed to have "significant military applicability" or strategic value is absolutely essential to our national security. At present, however, many commercial-grade computers and types of electronic equipment are denied export licenses because one or more agencies of the Government consider them to have a potential for military use even though these items are intended for commercial or nonmilitary scientific application. In my opinion, it is questionable that any nation would import such equipment for the sole purpose of achieving military or strategic advantage and at the same time be forced to rely on U.S. manufacturers for the spare parts, maintenance, and services which would be necessary to maintain such an advantage. The Government should consider decontrolling such items.

The time delays which would be serious in any commercial transaction are especially serious in dealing with the Russian and Eastern European markets, because U.S. suppliers already face several built-in disadvantages. These disadvantages include a lack of familiarity with the market; remoteness, and thus the fact that long shipping intervals are required; the relative lack of hard currency; and the unwillingness or inability of the United States to accept merchandise from the U.S.S.R. and Eastern Europe in payment for U.S. goods. Coupled with these disadvantages, delays in the processing of export licensing can mean the loss of millions of dollars' worth of business to foreign competitors.

Nevertheless, some export license applications have languished for months, for more than a year. The Government debated whether to allow U.S. participation in Russian truck plants. Even where there is no major political issue raised by an application, it can take months to secure a license for equipment subject to unilateral controls. The licensing process is expensive and frustrating, particularly for the small company not familiar with current practices and procedures.

I realize that part of the reason for this problem is that the Office of Export Control is understaffed and underfunded. I hope that the Commerce Department will shift its priorities to remedy the situation, and that Secretary Peterson will take whatever other steps he thinks will expedite the processing of licensing applications. I believe that the most effective answer to the problem, however, is to remove the controls completely for all commodities except those where control is clearly necessary and wise or pursuant to controls.

I am proposing the establishment of Government-industry joint technical advisory committees for several reasons. Most importantly, to administer export controls properly, our Government needs to use the technical expertise which only representatives of the industries affected can provide. The Office of Export Control and the Interagency Coordinating Committee are responsible for applying export controls to all kinds of commodities. These Government officials are necessarily generalists, and it is impossible for them to become familiar with the intricacies of each product which must be regulated. Yet that is exactly what is necessary to give the definitions of items on the export control list the needed precision and uniformity. The formulation of such a definition cannot merely be considered as bureaucratic categorizing. It is an important business decision, and the Government officials who must make it should have the full benefit of industry experts' advice.

The joint technical advisory committees would also serve to increase industry's awareness of developments in export control, and the Government's awarness of business developments. Several industry representatives expressed the belief in testimony that the Government needs to improve its efforts to keep them informed. For example, one witness said that his industry could not come across such vital information as who the U.S. negotiators at the COCOM are or what their instructions are. There is also room for improving the flow of information to industries with regard to the status of their applications for export licenses while they are being processed. On the other hand, through the committees, the business community would be able to contribute more up-to-date information as to the status of U.S. technology and actual commercial conditions in the countries subject to controls.

In addition to the measures to facilitate East-West trade which are required by my amendment, there are several other steps which I believe our Government should take. If there was one salient fact which was revealed in our subcommittee's recent hearings, it was the outdatedness and restrictiveness of the COCOM controls. I would like to see the United States take the initiative in rationalizing the COCOM list and the administration of the COCOM controls. The United States should suggest to the COCOM which items on the list are not of strategic significance to the member countries. We should also initiate an effort to develop criteria for the granting of exceptions to the COCOM controls. These criteria should be uniformly followed by all COCOM members, including the United States. This would remedy the present situation, where it is much more difficult for an American industry to persuade its Government to fight for an exception than it is for foreign competitors to do so. We should also take advantage of the new joint technical advisory committees to help COCOM bring its commodity definitions up to date and make them more exact.

Our Government should make an effort to reduce the risk which industries must incur when they do business in Eastern Europe and the U.S.S.R. The President should authorize the Export-Import Bank to provide insurance against the nonrenewal or cancellation of an export license before the export transaction is completed. Since nonrenewal or revocation may be due to circumstances beyond the manufacturers' control, such as a change in foreign relations, it is appropriate that the Government extend this insurance. Such insurance is already provided for exports to Rumania and Yugoslavia. There would seem to be no reason why it should not be extended to other Communist countries.

The business risk involved in licensing can be lessened still further if the initial validity of a license is lengthened from the present period of 1 year. A license should ordinarily be good from the time of approval until the completion of the export transaction. In addition, the Government should enlarge the scope of export licenses to include authority to export replacement parts that may be required in the normal course of a machine's life. This would reduce the risk to the importer of buying American goods. It would also prevent situations where the importer must conclude that American sellers have cajoled him into buying a machine which he cannot service, and which is therefore useless to him.

From both an economic and a political standpoint, it is imperative that Congress and the administration act immediately to enlarge their opportunities for doing business with the eastern European countries. In purely economic terms, the opportunities are great and the domestic needs are great.

I received a report only today containing statistics, which I am glad to call to the attention of the Senate, showing lagging U.S. trade in Eastern Europe.

In 1970 U.S. exports to Eastern Europe were $350 million. Exports from other Western countries were more than $8 billion.

The U.S. share of the world market was about 16 percent. The U.S. share of the Eastern European market was about 3 percent.

The trend in Eastern European trade since the 1969 act was as follows: U.S. exports to Eastern Europe as a percentage of COCOM exports to Eastern Europe: 1967, 4.35 percent; 1969, 3.92 percent; 1970, 4.89 percent.

In 1971, approximately 4 percent.

For example, the machine tool industry conducted its first industry organized Government-approved trade mission to the U.S.S.R. and Hungary last spring. During these sessions, Soviet officials gave the companies requests for quotations for U.S.-built machine tools that totaled more than $50 million. As a result of the industry's mission to Poland, which has just returned, industry officials expect that more than $50 million in requests will be received by the U.S. machine tool companies who participated in the mission.

These markets are just opening up. If U.S. companies are to participate in them, they must be able to move in now unless U.S. strategic interests are involved.

It is important to the machine tool industry to take advantage of these opportunities to the extent proper by these standards the domestic industry is severely depressed.

Production and new orders for machine tools have declined sharply over the past 5 years. By the end of 1971, backlogs had dropped 66 percent below the 1966 level. Profit margins averaged less than 2 percent of sales in 1971 and they are likely to be even lower this year. Many machine tool companies suffered severe losses in 1971. In addition, I have already pointed out that foreign competitors are more than capable of supplying these new markets. These competitors increasingly have been outselling the U.S. machine tool industry all over the world, where there have been no U.S. unilateral export controls to help them. They will outsell our industry to an even greater extent in Eastern Europe unless we move immediately to facilitate trade by loosening our export controls.

There are also indications that several other industries, such as office equipment and computers, may be in the same position as the machine tool industry.

In addition to these economic advantages, the political advantages of immediate trade liberalization with Eastern Europe and the U.S.S.R. might be considerable. They would to some extent counterbalance and parallel the improved relationship with China which the President has worked so hard to bring about. A clear indication from Congress that trade liberalization is desirable would also give President Nixon more flexibility to deal with the Russians when he goes to Moscow in May. These advantages would be augmented by the good feelings which are bound to result from any improvement in trade relations.

In short, the time is opportune and the need is great. For the sake of both our own industries and of improving international relations, the Government should promptly adopt these suggestions for liberalizing our export control system.

I am aware, of course, that the bill before us does call for an extension of only a 3-month period. I am also aware, as has been pointed out by the Senator from New York, that in going to Moscow this year the President should be given a free hand; but in giving him a free hand to discuss this subject—and I hope it is discussed; I think it is extremely important that it be given high priority in the discussions—I think it is important that there be a recognition of the very strong feeling of the Senate with regard to this matter. I think the position of the committee in this regard was almost a unanimous one.

I, in recognition of the President's position and the delicate nature of the negotiations, am, in a minute, going to ask consent to withdraw the amendment at this time, but only after serving notice that this is the direction we must take. Once the Moscow talks are over with, I hope the Senate will consider this matter with a great deal of dispatch.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. STEVENSON. I want to commend the Senator from Ohio for very convincingly pointing to some of the needed corrections in our export control legislation and the competitive disadvantages which run to the country at times in the administration of the law. The Senator has made a very convincing case, and it is a case with which I am sympathetic.

I have discussed this matter with the chairman of the Senate Subcommittee on International Finance (Mr. MONDALE). I know that he is sympathetic.

It is my understanding that the Senator's amendment, if it is withdrawn, would—and should, in my own judgment—receive very serious consideration by the Senate Committee on Banking, Housing and Urban Affairs, along with the whole subject of export controls in the immediate future, and before the legislation, as amended by this resolution, expires on August 1.

Mr. TAFT. I thank the Senator for his comments.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr JAVITS Mr. President, I would like to join the Senator from Illinois in commending the Senator from Ohio. I think it is a splendid initiative. I recall the days in the House Foreign Affairs Committee—this goes back 15 years or more—when we considered the Battle Act, introduced by Laurie Battle, which put the United States in a position to engage in these controls.

It was then contemplated that we would always give the sharpest review to the whole program. It is only if Congress joints in the initiative that the Executive can take up that initiative, because the Executive alone is reluctant to be identified with anything that conceivably would let the bars down and equip the "enemy" or the potential "enemy" with strategic materials. We all know how such things can be distorted. So the doubt has to be resolved by Congress. By taking the initiative can we say to the Executive that we want to be secure, but we do not want to be fool-safe in terms of this Nation.

So I thoroughly commend the Senator, and hope that his effort will get somewhere, and I shall certainly help him in every way. I am glad, too, that he has seen fit to let this bill go through as it stands.

One final comment, and that is that the Senator's work must be considered, too, with the totality of the work which, if protectionism is to be avoided in this country, will be necessary. First, much more remains to be done to stimulate and encourage exports, building on the impressive efforts to date of the Export-Import Bank and the U.S. Department of Commerce. Still today many American firms are not interested in export trade, because it has not been facilitated. The facilitation of trade of American businesses lags far behind the stimulation of trade by European and Japanese trade ministries often through their diplomatic missions.

Second to be considered is the matter of countervailing duties and antidumping matters, and the prompt and adequate enforcement of these and other laws and regulations already on the books.

Third, the negotiation of nontariff barriers to trade, in the context of major trade negotiations in 1973 encompassing both agricultural and industrial products

Fourth, the very urgent need for international monetary reform, and we are hopefully on the threshold of that.

So I am glad to see the Senator identifying himself with those forward looking forces. I welcome the Senator's intiatives and will certainly do everything I can to make his efforts good.

Mr. TAFT. I appreciate very much the remarks of the distinguished Senator from New York in a field in which he has long been one of the leading spokesmen, and I certainly want to express my concurrence with his concern and his expressions with regard to the necessity of building U.S. trade abroad, not merely with regard to this act and the approach to this act which my amendment would indicate, but also, where we feel that we can do so, in the area of financing, extending the authority of the Export-Import Bank, and in the area of trying to encourage doing something to build up exports while imports continue to come into this country.

The newspapers this morning again pointed out the unfavorable trade balance we have had. The reason is not that we have had an increase in imports which is unjustified. In some instances, there has been unfairness with respect to the positions of the nations involved, but principally it has come about, I think, because we have not used fully the potentials of this country for building markets abroad: and I think some legislation in this area is vital to achieve that purpose.

Mr. President, in the Washington Post of Thursday, March 23, 1972, there appeared an excellent article, written by Dan Morgan, entitled "Western Firms Evade Ban on Strategic Goods for Soviet Bloc," which discusses many of the matters that have been brought to the attention of the Senate in connection with my remarks this morning. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WESTERN FIRMS EVADE BAN ON STRATEGIC GOODS FOR SOVIET BLOC

(By Dan Morgan)

WARSAW.—One of the most mysterious East-West stories today is that of the curious ways in which supposedly secret capitalist technology finds its way into communist factories.

All through the Cold War, NATO and Japan attempted to slow down Soviet military development by drawing up elaborate embargo lists of advanced technological processes and equipment that were considered strategic.

Now the entire system of embargoes seems to be coming apart, under the pressures of Western business competition and some of its own built-in absurdities.

Taking at face value pentagon assertions that Moscow has achieved military parity

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with the West and is nearing technological parity, some businessmen are suggesting that the whole system be scrapped or at least drastically revised.

That would certainly be a good thing for the 100 million East Europeans outside the Soviet Union, who would benefit materially. President Nixon's decision last year to authorize the sale of advanced oil refining equipment for the Polish chemical works at Plock, for example, will be a boon to the country's motorists.

It may be questionable how much the erosion of the embargo system really threatens the security of the United States.

It has long been rumored that the Soviet space program employs IBM and Universal computers—without, of course, the approval of Washington.

What is known for sure is that West European and Japanese companies have been using all sorts of means to circumvent the embargo and sell their most advanced know-how and machines to Eastern Europe.

This is becoming more visible as American businessmen, encouraged by the Administration's more lenient trade policies, begin to test the water in Eastern Europe.

One American businessman who was visiting Warsaw last week told of seeing embargoed British equipment in one East European plant he visited .

In other cases, he said, British companies have fooled the international board that administers the embargo by listing the proposed equipment under a harmless-sounding name different from the one on the prohibited register. Thus, a reactor part could become a "heating element."

The international board is known as COCOM, for Coordinating Committee, which has members from the NATO countries—including France, but not Iceland—and Japan. U.S. participation was authorized by the Mutual Defense Assistance Control Act of 1951.

COCOM, which is now meeting in Paris, must pass on exports before the home government issues export licenses. But some businessmen feel COCOM lacks the expertise to decide whether a given item falls under the embargoed category.

Japan, which supports its domestic industry to the hilt, pays almost no attention to the embargo.

However, the United States maintains a prohibited list longer than CO–COM'S and more secret. U.S. businessmen asking to see what actually is embargoed have been turned down and referred to the British list, which is accessible.

A number of companies have managed to get around the embargo by selling to countries such as Yugoslavia, that are not covered. The equipment is then reexported into the Soviet Union. Through this method, some highly advanced computer technology has reached the embargoes area.

U.S. businessmen also say that France has been a major violator of the technology freeze-out. At least one French company was punished with a one-year ban on U.S. imports for violation of NATO rules.

American firms with subsidiaries in Western Europe use their subsidiaries to overcome the longer, American embargo list. Through the subsidiary means, large quantities of high-grade American electronics equipment were rushed into Czechoslovakia during the economic relaxation of 1968. The various ruses have masked the full extent of East-West trade.

Nevertheless, there is little doubt that the American restrictions have a drawback to development in Eastern Europe. Yet they have had no effect on Communist policy toward the west.

Poland is an excellent example of how the American technological lock has been applied

In three key areas—catalytic cracking for oil refining, semi-conductors for computers and tape copying devices for television—the Poles have been trying to acquire technology that only the United States has.

Development of advanced computers in the Communist bloc has been limited by deficiencies in producing integrated circuits.

In the other two areas, the U.S. has finally relaxed restrictions to enable an American firm to sell the Plock refinery a catalytic cracker for making high-octane gasoline. And it has authorized the California-based Ampex corporation to sell the Polish television enterprise $1 million in tape copying equipment. Apparently, a good system for using tapes, rather than films, to copy television programs is unavailable in the Soviet bloc. The Ampex technique eliminates laborious cutting and splicing of film and will streamline the entire Polish television network.

Symbolically, the American cracker in Plock will be adjacent to an inferior Soviet model. Twelve American technicians will be at the refinery for two years and housing for the families is already being sought.

There are arguments on both sides of the strategic lists debate. Pentagon supporters say all high-grade technology has military application, and that the embargoes have cost the Russians precious years of painstaking research.

The counter argument is that technology—particularly in such fields as electronics and computers—is quickly perishable and outdated by the staggering pace of advance in the U.S. The rigid Soviet-bloc economic systems are often too muscle-bound to adapt even what they buy.

Also, by withholding the technology, the U.S. forces the Soviet bloc to develop research and support systems of its own. The Poles claim to have been on the brink of a breakthrough in television copying technology when the U.S. finally authorized the Ampex sale. Moreover, the Poles told the U.S. that they could buy the equipment anyway through other channels—though at three times the price.

Mr. TAFT. Mr. President, I ask unanimous consent that amendment No. 1076, which I have offered, be withdrawn.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Unanimous consent is not required. The amendment is withdrawn.

The joint resolution is open to amendment.

Mr. STEVENSON. Mr. President, I have no knowledge of further amendments to be offered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 218) was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

The joint resolution (S.J. Res. 218) was passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14 of the Export Administration Act of 1969, as amended (Public Law 92–37; 85 Stat. 89), is amended by striking out "May 1, 1972" and inserting "August 1, 1972".

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962—CONFERENCE REPORT

Mr. STEVENSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. NO. 92–725)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following: That (a) section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is amended by striking out "1972" the first time it appears in such section and inserting in lieu thereof "1973".

(b) Section 310 of the Manpower Development and Training Act of 1962 (42 U.S.C. 2620) is further amended by striking out the colon and the following: *"Provided,* That no disbursement of funds shall be made pursuant to the authority conferred under title II of this Act after December 30, 1972".

SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

And the House agree to the same.

GAYLORD NELSON,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
ALAN CRANSTON,
HAROLD E. HUGHES,
ADLAI STEVENSON,
JENNINGS RANDOLPH,
BOB TAFT, JR.,
J. JAVITS,
RICHARD SCHWEIKER,
PETER H. DOMINICK,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

CARL D. PERKINS,
DOMINICK V. DANIELS,
LLOYD MEEDS,
ALBERT H. QUIE,
MARVIN L. ESCH,
Managers on the Part of the House.

Mr. STEVENSON. Mr. President, the conference agreement on S. 3054 simply extends the Manpower Development and Training Act for 1 year—until June 30, 1973. In addition, the prohibition in existing law which provides that funds to carry out contracts entered into prior to such expiration date may not be disbursed later than 6 months after such termination date is deleted by the conference agreement.

The conference agreement also provides that for purposes of Public Law 874, 81st Congress, relating to assistance for schools in federally impacted areas, Federal property transferred to the U.S. Postal Service shall continue to be treated as Federal property for 2 years.

Mr. President, this bill has the unanimous and bipartisan support of all conferees from both the Senate and the House.

It is urgently needed so that on-going programs will not be interrupted. I urge its adoption at this time.

Mr. JAVITS. Mr. President, if the Senator will yield, I think the agreement of the conferees was unanimous, and the extension is certainly needed. I hope the Senate will agree to it.

I was the principal sponsor with Senator NELSON, of S. 3054, the Senate provision. In light of the unlikelihood of getting a new reformed manpower system in place this year, this extension is very desirable. I urge, however, that we press for reform at the earliest opportunity and I introduced yesterday S. 3421, the Community Manpower Training and Employment Act to that end.

The Manpower Development and Training Act of 1962 is one of our principal authorities for job training, upgrading and work experience programs for economically disadvantaged, unemployed and underemployed persons at the present time, benefits to hundreds of thousands of enrollees.

Under its authority such crucial programs as the JOBS program—jobs in the private sector; the Neighborhood Youth Corps summer in-school and out-of-school programs, and other activities, including programs conducted by the States, have been conducted over the years.

It is important that these programs be continued while reform is considered.

The conference report also includes the Senate provision granting a 2-year grace period to school districts which have been receiving Public Law 874 impact aid payments on the basis of workers employed on property which has been transferred to the Postal Service. This is necessary because the change of the Post Office Department to a public corporation affects the eligibility of postal properties under the impact aid programs. Thus some 700 affected school districts are provided a needed phase-out period after Federal activity has ceased.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the joint explanatory statement of the committee of conference be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 3054) to amend the Manpower Development and Training Act of 1962 submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

1. The House-passed amendment would extend the authority conferred under title II of the Manpower Development and Training Act for one year beyond the existing law's expiration date of June 30, 1972, by inserting in lieu thereof the termination date of June 30, 1973.

The Senate-passed bill does not contain the above provision.

The Senate recedes.

2. The House-passed amendment would extend for one year the existing law's provision that no funds to carry out obligations entered into prior to the termination date may be disbursed later than December 30, 1972—six months after the termination date.

The Senate-passed bill would delete this six months limitation altogether.

The House recedes.

3. The Senate-passed bill also contains the following provision, providing that for purposes of Public Law 874, relating to assistance for schools in federally impacted areas, Federal property transferred to the United States Postal Service shall continue to be treated as Federal property for two years.

The House passed H.R. 11809 on December 6, 1971, containing the same language as section 2 of the Senate-passed S. 3054.

The House recedes.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Under the previous order, the Senate will resume the consideration of the unfinished business (S. 2956), which the clerk will state.

The legislative clerk read as follows:

A bill (S 2956) to make rules governing the use of armed forces of the United States in the absence of a declaration of war by the Congress.

PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of this measure I may have present on the floor to assist me two members of my staff, Mr. Charles Warren and Mr. Peter Lakeland.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, I ask unanimous consent that during the consideration of this legislation, I may have present on the floor, from my staff, Mrs. Carolyn Fuller.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. The war powers bill (S. 2956) is one of the most important pieces of legislation in the national security field that has come before the Senate in this century. The bill's various sections are carefully interrelated and interdependent. As the Senator who probably has had the longest experience with the evolution of the bill, I will concentrate my remarks on an explanation of the bill and how it is intended to work, and I shall try to dispel the allegations which have been made against it by the State Department and other critics.

I shall begin by dealing with the constitutionality of S. 2956, as well as its historical background and then proceed to a detailed explanation of the bill.

In this connection we should begin with the words of the Constitution itself because from what many critics of S. 2956 have said, it almost seems as if they have neglected to read what the Constitution in fact does say about the war powers.

WAR POWERS OF CONGRESS

Article I, section 8 of the Constitution enumerates the war powers of Congress. The list of these powers is both detailed and comprehensive:

Provide for the common defense.

To define and punish . . . offences against the law of nations.

To declare war.

To raise and support armies.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia to execute the laws . . . and repeal invasions.

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

The powers of Congress which I have just listed are extensive and specific, but the Founding Fathers went even further to buttress the power of Congress in this field. They did this by concluding article I, section 8 with an all-inclusive power—the "necessary and proper" clause, which empowers Congress:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers vested by this constitution in the government of the United States, or in any department or officer thereof."* (italics added)

THE PRESIDENT AS COMMANDER IN CHIEF

And, compared with the war powers of Congress so specifically enumerated in the Constitution, let us examine the war powers actually granted to the President in the Constitution. These powers at best can be described as sparse and cryptic. Article II, section 1 states:

The executive power shall be vested in a president of the United States of America.

Article II, section 2, states, without further elaboration:

The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

It would be useful at this point to take a look at the "legislative history" of the Commander in Chief concept as it is used in the Constitution. There was no doubt in the minds of the drafters of the Con-

stitution about who would be the first President of the United States. George Washington was elected unanimously to the office less than 2 years after completion of the Constitutional Convention. Twelve years earlier, in June 1775, the Continental Congress had appointed George Washington to be "Commander in Chief" of the colonial forces. Washington held this post as Commander in Chief until his formal resignation and return of his commission in December 1783. He was the only Commander in Chief the United States had ever had when in 1787 the Constitution was drafted and the phrase "Commander in Chief" written into it.

Clearly, the drafters of the Constitution had the experience of the Continental Congress with George Washington in mind when they designated the President as "Commander in Chief" in article II, section 2. Thus, the "legislative history" of the constitutional concept of a Commander in Chief was the relationship of George Washington as colonial Commander in Chief to the Continental Congress.

That relationship is clearly defined in the Commission as Commander in Chief which was given to Washington on June 19, 1775, and which was formally returned by him to the Continental Congress on December 23, 1783.

I would like to quote the final clause of this Commander in Chief's Commission, because it establishes the relationship of the Congress to the Commander in Chief in unmistakable terms:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed."

THE PRESIDENT'S EXPANDING POWERS

I have dwelt at some length on this question of the Congress war powers, and the relationship of those powers to the President's function as Commander in Chief, because critics of the war powers bill so often choose to ignore what the Constitution says. Moreover, out of the sparse and cryptic language of article II, section 2 of the Constitution there has grown up an extraordinarily overblown doctrine of so-called Commander in Chief powers. The outer limits of this doctrine are cited as a barrier against even the exercise by Congress of its own clearly enumerated war powers. For instance, in his testimony before the Senate Foreign Relations Committee, Secretary of State Rogers approvingly quotes the following assertion of the Truman administration:

> The President, as Commander-in-Chief of the Armed Forces of the United States, has full control over the use thereof.

To this ever expanding doctrine of exclusive Commander in Chief power, Secretary Rogers added a new dimension of his own, in telling the Foreign Relations Committee:

> I would think that his powers as Commander-in-Chief would authorize him to take whatever action he felt necessary to try to protect the safety and the lives of our prisoners of war.

Presumably, this could include authority on his own to invade North Vietnam, Laos, Cambodia, and perhaps even the People's Republic of China. I doubt that there are many Americans who would go this far even to agree with Secretary Rogers.

HISTORICAL AND CONSTITUTIONAL PERSPECTIVES OF THE WAR POWERS BILL

The constitutional aspects of the war powers bill were investigated in a most authoritative way in the hearings conducted by the Foreign Relations Committee. The record of those hearings is already coming to be recognized as the most comprehensive and authoritative examination in existence of the constitutional war powers issues. Law schools from all around the Nation are writing in for copies. I commend the hearings to all Senators interested in this subject.

The question has been asked, quite rightly, why—after all these years—do we need a war powers bill now? It is clear that the administration opposes any legislation in the war powers field and is apparently quite happy with the present situation. Secretary Rogers said that the war powers bill: "reflects an approach not consistent with our constitutional tradition." The Secretary further felt that the "respective roles and capabilities" of the Executive and the Congress should be "left to the political process."

It is the failure of this approach which necessitates a war powers bill. The golden days of Senator Vandenberg have been obliterated by the Vietnam war.

The constitutional imbalance, which has reached such dangerous proportions and which is the prime factor behind this bill, is a recent development growing out of the last few decades. The United States emerged from World War II as the dominant world power—a role alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political system. This practice has concentrated the essential war power in the institution of the Presidency and left Congress little more than an appropriations and conformatory role. It has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

Throughout our history it has been recognized that the essential conduct of foreign policy was a prerogative of the President. But until the United States emerged from World War II as the dominant power of the world, the President's foreign policy portfolio fas a relatively modest one, evolving only slowly in our history from the traditions established by President George Washington's admonition to beware of "foreign entanglements."

The Founding Fathers were deeply distrustful of "standing armies." At the time of the ratification of the Constitution, the U.S. Army consisted of a total of 719 officers and men. On the eve of the Civil War it was only 28,000 and in 1890 it was only 38,000. Even in 1915, the Army numbered less than 175,000. However, since 1951 the size of our "standing" armed forces rarely has dipped below 3,000,000 men. These forces under the President's command are equipped with nuclear weapons and submarines, intercontinental missiles, supersonic jets and they are deployed all over the world. A budget of more than $83 billion has been requested to support these forces in fiscal year 1973.

It is the covergence of the President's role of conducting the foreign policy with his role as Commander in Chief of the most potent "standing army" the world has ever seen that has tilted the relationship between the President and Congress so far out of balance in the war powers field. It is this convergence which has created the new situation requiring countervailing action by Congress to restore the constitutional balance.

EXPLANATION OF THE BILL

It is important to note that the provisions of this bill govern the use of the Armed Forces: "In the absence of a declaration of war by the Congress." In this bill we are dealing with undeclared wars—wars which have come to be called presidential wars because the constitutional process of obtaining congressional authorization has been short-circuited.

Undeclared wars are not a new phenomenon in our history. Our Armed Forces have been introduced in hostilities many more times in the absence of a declaration of war than have been pursuant to a declaration of war. The key problem for the Congress and our Nation, particularly in contemporary circumstances, is undeclared war, or presidential war, as epitomized by Vietnam. It is to this urgent, contemporary problem that S. 2956 addresses itself.

Section 1 of the bill contains its short title—the "War Powers Act."

Section 2 is a self-explanatory short statement of "purpose and policy," stressing its intention to "insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Section 3—along with section 5—is the core of the bill. Section 3 consists of four clauses which define the conditions or circumstances under which, in the absence of a congressional declaration of war, the Armed Forces of the United States "may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

The first three categories are codifications of the emergency powers of the President, as intended by the Founding Fathers and as confirmed by subsequent historical practice and judicial precedent. Thus, subsections (1), (2), and (3) of section 3 delineate by statute the implied power of the President in his concurrent role as Commander in Chief.

The authority of Congress to make this statutory delineation is contained in the enumerated war powers of Congress in article I, section 8 of the Constitution, which I cited at the outset. Most importantly, the authority of Congress to make this statutory delineation is contained in the final clause of article I, section 8, granting to Congress the authority:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

REPELLING ARMED ATTACK ON THE UNITED STATES

Subsection (1) of section 3 confirms the emergency authority of the Commander in Chief to:

> Repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack.

It should be noted that this subsection authorizes the President not only to repel an attack upon the United States and to retaliate but also "to forestall the direct and imminent threat of such an attack." The inclusion of these words grants a crucial element of judgment and discretion to the President. While it was thought by some that the power to "forestall" was inherent in the power to "repel," it was decided to expressly include the forestalling power to avoid any ambiguity domestically or in the eyes of any potential aggressor. Its inclusion belies the allegation of critics that the bill is "inflexible."

Nonetheless, while the President clearly must apply his discretion and judgment to the implementation of this authority, it is by no means a "blank check." For the President to take forestalling action, the threat of attack must be "direct and imminent." Moreover, he must justify his judgment on this point under the mandatory reporting provisions contained in section 4. But, and this is the point to be emphasized, the judgment is his.

REPELLING ATTACK ON U.S. ARMED FORCES

Subsection (2) further defines the emergency power of the President:

> To repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack.

The authority contained in this subsection recognizes the right, and duty, of the Commander in Chief to protect his troops. Like subsection (1) it includes the authority to forestall a direct and imminent threat of attack, as well as to repel an attack. Clearly, just as the President would not have to wait until the bombs actually started landing on our soil to act against an attack upon the United States, similarly our forces would not have to wait until enemy bullets and mortars hit before they could react.

Nonetheless, it will be noted that the power to repel attacks upon the Armed Forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate.

There are good reasons for this. First, it should be emphasized that the President could of course take retaliatory action if an attack upon our Armed Forces abroad was integral to an attack upon the United States. And he could do this respecting our NATO forces as part of his forestalling powers relating to an attack upon the United States. Nonetheless, the wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. forces, or attacks resulting from provocative actions by local U.S. commanders. Thus, for instance, an attack upon a Marine Guard at our Embassy in Nepal would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases in Thailand would not trigger an authority to retaliate by launching search and destroy missions into Northern Laos.

PROTECTING U.S. CITIZENS ABROAD

Subsection (3) codfies that the authority of the President to rescue U.S. citizens and nationals abroad—and this would include foreign soil as ships or planes on or over the high seas. By defining the circumstance and procedures to be followed, this subsection is a conscious movement away from some of the excesses of 19th century gunboat diplomacy. The language of this subsection is as follows:

> To protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country.

NATIONAL COMMITMENTS

Subsection (4) is perhaps the most significant part of the bill. For, while subsection (1), (2), and (3) codify emergency powers which are inherent in the independent constitutional authority of the President as Commander in Chief. Section 3(4) deals with the delegation by the Congress of additional authorities which would accrue to the President as a result of statutory action by the Congress and which he does not, or would not, possess in the absence of such statutory action.

The language of section 3(4) reads as follows:

> Pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

The key phrase in this subsection is contained in its initial five words: "Pursuant to specific statutory authorization." The rest of the subsection is an explanation, elaboration and definition of the meaning—for the purposes of the bill—of the words "pursuant to specific statutory authorization," in an important sense, this subsection gives lesiglative effect to Senate Resolution 85, the national commitments resolution adopted by the Senate on June 25, 1969, a vote of 70 to 16 which states:

> That a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment.

The significance of subsection (4) is multiple. First, it establishes a mechanism by which the President and the Congress together can act to meet any contingency which the Nation might face.

There is no way to legislate national wisdom, but subsection (4) does provide important protection to the American people by requiring that the Congress, as well as the President, must participate in the critical decision to authorize the use of the Armed Forces of the United States in hostilities, other than hostilities arising from such "defensive" emergencies as an attack upon the United States, our Armed Forces abroad, or upon U.S. citizens abroad in defined circumstances. It provides as much flexibility in the national security field as the wit and ingenuity of the President and Congress may be jointly capable of constructing.

Subsection (4) places a big responsibility upon the President, as well as the Congress. The initiative in generating "specific statutory authorization" to meet contingencies and developing crises may, in most instances, come from the President. As the conductor of foreign policy, with all the information and intelligence resources at his command, it will be incumbent upon him to present the case to the Congress and the Nation.

There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past 2 decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its markup of the war powers bill, the Foreign Relations Committee considered this experience carefully in approving the lan-

guage of subsection 3(4). The intent of the final clause of subsection (4) is to uphold the validity of three area resolutions currently on the statute books. These are: the Formosa resolution—House Joint Resolution 159 of January 29, 1955; the Middle East resolution—House Joint Resolution 117 of March 9, 1957, as amended; and the Cuban resolution—Senate Joint Resolution 230 of October 3, 1962.

The best known—and most controversial—of the area resolutions, the Tonkin Gulf resolution—House Joint Resolution 1145 of August 10, 1964—was repealed as of January 12, 1971.

The question may be asked: what is to guard against the passage of another resolution of the Tonkin Gulf type?

The answer is that any future area resolutions, to qualify under this bill as a grant of authority to introduce the Armed Forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, must meet certain carefully drawn criteria—as spelled out in the language of subsection (4). The pertinent language is:

> Unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act . . .

In other words, any future area resolution must be a specific grant of authority which would contain a direct reference to the bill now under discussion. The phrase "exempts . . . from compliance with the provisions of this act" is included to insure that the precise intention of the grant of authority is clearly established with reference to the war powers bill. The exemption could of course establish other procedures—or it could reaffirm all, or part, of the provisions of S. 2956. The bill thus allows for as much flexibility with respect to handling of any developing crisis or sudden emergency as the Congress and the President may jointly deem prudent.

Clearly, both the President and the Congress will have much to do, following the passage of this bill. First, Congress will have to review closely the three area resolutions which are left standing by the provision of subsection (4). Legislation to terminate those resolutions has already been introduced.

As a first step in the mental attitude of partnership which will be brought about by this bill, the administration should review the world situation carefully and take the initiative in coming to the Congress with recommendations respecting the existing area resolutions—as well as recommendations for any new ones which the President may feel are needed for our national security.

As regards the three existing area resolutions which continue to qualify under subsection (4), the Nixon administration, in another context, has said it did not rely on the resolutions and has taken the following position:

> As a functional matter, [the area] Resolutions have no continuing significance in the foreign policy formulation process, and it is for Congress to determine whether they should be terminated or simply allowed to fade away.

With the new situation that would follow the adoption of the war powers bill, a new approach would be required of the Executive.

At this point, I should draw attention to the fact that requests for new authority, pursuant to subsection (4), do not qualify for the "congressional priority provisions" contained in section 7. However, it is contemplated that congressional consideration of new subsection (4) grants of authority can generally be undertaken in the absence of an imminent threat or emergency in a deliberative way, including committee hearings. The point here is to obviate a repetition of the unfortunate experience of the Congress with the Tonkin Gulf resolution, which it was later realized went through the Congress without enough inquiry in the respective committees and in the related floor debate, for it was confirmatory not plenary; and more a gesture of solidarity with the President than a decision on war by the Congress.

RENEWING CLOSE CONSULTATION

Not only must the Congress be prepared to play its role in the war powers area with wisdom and foresight—but with great responsibility.

And, an important new responsibility is also placed on the executive branch. Last minute "crunches" can be avoided by a renewal of the earlier practice of continuing close consultation between the executive branch and the relevant committees of Congress. The Executive will be obliged to make the Congress, again, its partner in shaping the broad, basic national security and foreign policy of the Nation well in advance of the exercise of the war power.

CONGRESSIONAL AUTHORITY AND PRESIDENTIAL FLEXIBILITY

Some have argued that seeking congressional authority to use the Armed Forces with respect to developing crisis situations would deprive the President of flexibility—or introduce ambiguity—in the conduct of foreign policy during crisis situations. It is said that the President would have to "telegraph his punches" and thus remove surprise from his diplomatic arsenal.

This charge does not stand up under scrutiny. First, the President would not be compelled or obliged to use the Armed Forces just because the Congress granted him the authority to do so. This could be made clear to the entire world through the public media facilities at the President's command, as well as through the diplomatic channels at his command.

Moreover, it is just not true, as some critics of the bill have alleged, that the passage of this legislation would inhibit the President's capacity to move elements of the fleet anywhere on the high seas. To give a specific example, there is nothing in the bill which would have affected the President's decision to move elements of the 6th Fleet into the eastern Mediterranean during the recent Jordanian crisis. The right of U.S. naval forces to operate freely anywhere in international waters would not be abridged by this bill. Moreover, the capacity of our Armed Forces to rescue U.S. citizens stranded or threatened on the high seas would not be restricted by the bill.

An important provision of subsection (4) is contained in its first qualifying clause (A). As stated in the committee report, the purpose of this clause is to overrule the Orlando against Laird decision of the second circuit court, which held that passage of defense appropriations bills, and extension of the Selective Service Act, constituted implied congressional authorization for the Vietnam war.

TREATIES

One of the most far-reaching aspects of subsection (4) is its provisions respecting treaties. Throughout the past two decades there has been continuing confusion, debate and controversy respecting a crucial phrase that is standard in our Nation's collective and bilateral security treaties; that phrase is that implementation of such treaties, as to involvement of U.S. Forces in hostilities, will be in accordance with the "constitutional processes" of the signatories.

In an important sense, subsection (4) defines "constitutional processes" for the first time, as it relates to treaty implementation by the United States. The definition of "constitutional processes" respecting treaty implementation is both negative and positive.

Subsection (4) makes a finding in law that no U.S. security treaties can be considered self-executing in their own terms. With respect to existing treaties the bill states:

> No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation. . . .

Additionally, the subsection states that authorization for introducing the Armed Forces in hostilities shall not be inferred:

> From any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act.

It is important to bear in mind that these negative findings with respect to treaties must be considered in conjunction with the authority of the President in subsections (1), (2) and (3). The authority contained in those subsections is in no way abridged or diminished by the negative finding on treaties per se.

Moreover, as the language of the subsection makes clear, the bill envisages the adoption of treaty implementation legislation, as deemed appropriate and desirable by the Congress and the President. Such implementing legislation would constitute the authority "pursuant to specific statutory authorization" called for by subsection (4).

There are two principal reasons for including these provisions with respect to our collective and bilateral security treaties. First, is to insure that both Houses of Congress must be affirmatively involved in any decision of the United States to engage in hostilities pursuant to a treaty. Treaties are ratified by and with the consent of the Senate. But the war powers of Congress in article I, section 8 of the Constitution are vested in both Houses of Congress and not in the Senate—and President—alone. A decision to make war must be a national decision. Consequently, to be truly a national decision, and, most importantly, to be consonant with the Constitution it must be a decision involving the President and both Houses of Congress.

Second, the negative findings with respect to treaties is important so as to remove the possibility of a future issue of bitter contention such as arose with respect to the SEATO Treaty and the Vietnam war.

Treaties are not self-executing. They do not contain authority within the meaning of section 3(4) to go to war. Thus, by requiring statutory action, in the form of implementing legislation or an area resolution of the familiar type, the war powers bill performs the important function of defining that elusive and controversial phrase—"constitutional processes"—which is contained in our security treaties.

Subsection (4) contains one additional important provision. It states:

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

As explained in the committee report, the purpose of this provision is "to prevent secret, unauthorized military support activities." Senators conversant with the major debates of the past 5 years will recognize that this provision is designed to prevent a repetition of many of the most controversial and regrettable actions of the past two administrations in Indochina. For, we know that the ever deepening ground combat involvement of the United States in South Vietnam began with the assignment of U.S. "advisers" to accompany South Vietnamese units on combat patrols. Soon, such U.S. advisers were authorized to shoot, first in self-defense, and later, without restriction. And, in Laos, secretly and without congressional authorization, U.S. "advisers"—frequently members of the Armed Forces on "loan" to the CIA—have been deeply engaged in the war in northern Laos.

We now have the anomalous situation in Cambodia where, despite legislative prohibitions against the introduction of U.S. advisers, we find that Cambodian forces are being trained in South Vietnam and then are accompanied back to Cambodia by members of the U.S. Armed Forces who have been training them but who are now designated as members of the military equipment delivery team. So far, I am not aware of any actions by U.S. Forces in Cambodia which would violate the provision of the war powers bill which I am now discussing. However, the press is full of reports that Communist forces are active around Phnom Penh and may soon launch an attack on the capital city itself. In such circumstances, one is concerned whether the so-called military equipment delivery teams, whose members have been training the Cambodians a few miles across the border, are likely to become involved in combat actions of the sort this provision of the war powers bill is designed to prevent unless there is specific statutory authorization to do so.

The situation in Cambodia is, of course, a hypothetical one in the context of this bill which does not apply to the ongoing hostilities in Indochina. Nonetheless, it points up the weakness of some of the previous congressional efforts to achieve similar ad hoc restrictions through what I would call the appropriations route. Here, we find that semantic dexterity on the part of the Pentagon has created a loophole which gets around the best intent of Congress. One can well question the Pentagon's insistence that it is not defying the statutory ban contained in H.R. 19911—the Cooper-Church amendment which states:

> None of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, *or to provide United States advisers to or for Cambodian military forces in Cambodia.*

CONGRESSIONAL AUTHORITY FOR PRESIDENTIAL WARS

The approach taken in the war powers bill reverses the situation by placing the burden on the Executive to come to Congress for specific authority. The sponsors of the bill believe that this provision will provide an important national safeguard against creeping involvement in future Vietnam-style wars. The danger of United States involvement in wars over the next decade at least would appear to be greater as regards small, "limited" brushfire, undeclared wars of obscure beginnings—such as the ones which have wracked Southeast Asia for the past several decades—than the danger of a big conventional war.

The State Department has raised the charge that this provision of S. 2956 would require the disbandment of NATO's unified command. I believe this to be a faulty and distorted reading of the legislation. It is certainly a reading which is in direct contradiction of the legislative purpose of the authors and sponsors of the bill, and in normal operation it contradicts the plain text of the bill. However, should any legitimate doubts persist on this point, following the Senate debate, the Senate could pass a specific statutory authorization for members of the Armed Forces of the United States to continue to participate fully in the NATO unified command. I would be glad to sponsor and introduce myself a joint resolution to this effect, if it should be considered desirable. Hence, it is important that we guard against any weakening of this important provision by irrelevancies which would reopen the flood gate to future Vietnams.

Section 4 of S. 2956 requires the President to report "promptly" in writing to both Houses of Congress any use of the Armed Forces covered by section 3 of the bill. The provisions of this section are clear and simple. In his report to Congress, the President is required to include—

> A full account of the circumstances under which . . . [he has acted], . . . the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act.

In addition, the President is required to make periodic, additional reports so long as the Armed Forces are engaged in circumstances governed by section 3. Such additional reports shall be submitted at least every 6 months.

It will be noted that the President is required to report "promptly." This word has been used in preference to "immediately" or a possible specific time limit such as 24 hours. The important thing is that the report must be prompt but it must also be comprehensive. It might take a few days for the executive branch to assemble all the facts and reports from the field, as well as to assemble the various intelligence reports and, most importantly, to prepare an informed judgment on the "estimated scope of such hostilities."

What we are looking for here is a full and accurate report of events, combined with an authoritative statement by the President of his judgment about the direction in which the situation is likely to develop. The Congress can act intelligently and responsibly only when it has the necessary information at hand. We cannot allow a repetition of the experience we had with respect to the Tonkin Gulf resolution, where we later learned that we were provided with incomplete, even misleading and inaccurate reports of what had actually occurred.

It is important to bear in mind that the reporting requirements of the bill apply independently of the provisions of sections 5, 6 and 7. There are several reasons for this, despite the fact that there inevitably will be a close de facto operational connection between the President's report under section 4 and the subsequent actions of Congress under sections 5, 6, and 7.

First, it should be clear that the President's mandatory report is not to be considered a request for an extension of authority as might be granted subsequently under section 5. Such a request can only be introduced by a Member of Congress.

Second, it is entirely possible that even a majority of the actions taken under the President's direction pursuant to section 3 will be short-lived, one-shot actions completed well within the 30-day time period, and thus requiring no extension in time of the authority spelled out in section 3.

THE 30-DAY AUTHORIZATION PERIOD

The committee report characterizes section 5 as "the heart and core of the bill." Taken in conjunction with section 3, it is just that. It is the crucial embodiment of congressional authority in the war powers field, based on the mandate of Congress enumerated so comprehensively in article I, section 8 of the Constitution. Section 5 rests squarely and securely on the words, meaning and intent of section 8, article I and thus represents, in an historic sense, a restoration of the constitutional balance which has been distorted by the practice of recent decades.

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Section 5 provides that actions taken under the provisions of section 3—

Shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless the continued use thereof in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

Section 5 resolves the modern dilemma of reconciling the need of speedy and emergency action by the President in this age of instantaneous communications and of intercontinental ballistic missiles with the urgent necessity for Congress to exercise its constitutional mandate and duty with respect to the great questions of war and peace.

The choice of 30 days, in a sense, is arbitrary. However, it clearly appears to be an optimal length of time with respect to balancing two vital considerations. First, it is an important objective of this bill to bring the Congress, in the exercise of its constitutional war powers, into any situation involving U.S. forces in hostilities at an early enough moment so that its—Congress—actions can be meaningful and decisive in terms of a national decision respecting the carrying on of war. Second, recognizing the need for emergency action, and the crucial need of Congress to act with sufficient deliberation and to act on the basis of full information, 30 days is a time period which strikes a balance enabling Congress to act meaningfully as well as independently.

It should be noted further, that the 30-day provision can be extended as Congress sees fit—or it can be foreshortened under section 6. The way the bill is constructed, however, the burden for obtaining an extension under section 5 vests on the President. He must obtain specific, affirmative, statutory action by the Congress in this respect. On the other hand, the burden for any effort to foreshorten the 30-day period rests with the Congress, which would have to pass an act or joint resolution to do so. Any such measures to foreshorten the 30-day period would have to reckon with the possibility of a Presidential veto, as his signature is required, unless there is sufficient congressional support to override a veto with a two-thirds majority.

The issue has been raised, quite properly, as to what would happen if our forces were still engaged in hot combat at the end of the 30th day—and there had been no congressional extension of the 30-day time limit.

The answer is that the President, in his capacity as Commander in Chief and in accordance with his duty as Commander in Chief to protect his troops, would not be required or expected to order the troops to lay down their arms.

The President would, however, be under statutory compulsion to begin to disengage in full good faith to meet the 30-day time limit. He would be under the injunction placed upon him by the Constitution, which requires of the President that—

He shall take care that the laws be faithfully executed.

The 30-day provision contained in section 5 thus assumes that the President will act according to law. No other assumption is possible unless we are to discard our whole constitutional system. So long as the President is acting in good faith in acting to disengage, there would be no constitutional confrontation over fighting by our forces after the 30-day period—or any other period established by statute.

Section 6 of the bill establishes that Congress may, through statutory action, foreshorten the 30-day provisions of section 5. Clearly, such action could only happen in most extraordinary circumstances wherein a President might act in blatant opposition to the national will or the national interest.

ANTIFILIBUSTER SAFEGUARD

Section 7 is an important provision of the bill which establishes strict procedures to assure priority congressional action to extend, or foreshorten, the 30-day time period as provided in sections 5 and 6. The provisions of section 7 are included to remove the possibility that action in this regard could be prevented or delayed through filibuster or committee pigeonholing.

It is important to note again that requests for authority under subsection (4) of section 3 would not qualify for the priority consideration procedures established in section 7. In other words, a Presidential request for an area resolution of the type contemplated in section 3, subsection (4) would not trigger the provisions of section 7. Such requests would be considered by Congress under normal procedures. Section 7 would apply only with respect to measures which would extend—or foreshorten—measures already previously made statutory under section 3.

To give an example, the Tonkin Gulf resolution could not have been shoved through the Congress under the priority consideration procedures of section 7. On the other hand, hypothetically, if U.S. Armed Forces were fighting in Mexico, pursuant to specific statutory authorization under section 3, to resist an invasion by the Soviet Union or Cuba, a resolution to extend the 30-day authorization period would qualify for the priority consideration procedures, if sponsored or cosponsored by one-third of the membership of the House in which it was introduced.

Finally, it should be noted that an important measure of flexibility has nonetheless been retained in section 7. Its strict, almost instant, provisions can be modified in any particular instance by a majority vote of the members of the House in which it is being considered. This is the meaning of the phrase—

Unless such House shall otherwise determine by yeas and nays.

The significance of this "escape clause" is that in situations which clearly do not constitute a national emergency, the Congress can proceed as it may decide to, upon majority vote.

Section 8 contains a standard separability clause which simply provides that if any provision of the bill should be held invalid, this would not effect the validity of the rest of the bill.

Section 9 provides that—

This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.

The purpose of this section is very clear and straightforward. The bill is not intended to apply retroactively to the Vietnam war should that war still be in progress when this act becomes effective. I am confident that the wisdom of this decision will be evident to most Senators.

CONCLUSION

The real question—and the State Department admits it—is, independently of Congress, "to what extent the President has the power to use the Armed Forces by virtue of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations." In practice, the question has been answered over the past several decades, in effect, by no limits being placed on this alleged power of the Commander in Chief, so that the President has been able to commit the people to extended war. All he has asked from Congress is that it provide the money and the men he wants to pursue his policies. But this was almost the doctrine of Charles II or Louis XVI—not that any American President so intends it, but he is driven to it by some awful logic if this claim of power by the Executive is acquiesced in by Congress and the Nation as valid under the Constitution. It is not valid if Congress chooses to exercise its power under the "necessary and proper" clause to define by law the President's and its own role in going to war. When the President's authority is so defined, as it will be if this War Powers bill becomes law, then the issue of authority is determined in an authoritative way, and, I have little doubt, will be carried out to the best of his ability in good faith by any American President.

There is no intention or design to deprive the President of authority essential to the security of our country. But the real point we make is, having made that decision, then what? Is that forever? When does it become a matter in which we can join either in dissent or assent?

And when action is taken to repel a sudden attack, to use the words of the Founding Fathers, what is the bracket for that action, and when does it become a war to which the United States is committed, and in which the Congress ought to have a share before we go that route?

That is a very different thing from reacting to a distinct situation as required in the best judgment of the President. But we do not deprive him of the power to implement his best judgment. We do set a bracket. That is 30 days. There is no magic in that figure. The important thing is that at some stage it ceases to be repelling or retaliating against an attack and becomes a basic commitment to war by the United States. That requires the concurrence of Congress. The War Powers Act seeks to insure that there can be no basic commitment to war without the concurrence of Congress, as the Constitution clearly mandates.

May I say that this bill is a composite of wisdom. It has had affirmative and activist contributions in a prime sense by the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Missouri (Mr. EAGLETON), the distinguished Senator from Virginia (Mr. SPONG)—who is now in the Chamber and is floor managing on the part of the majority and has given the bill a remarkable degree of study and attention—by the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Ohio (Mr. TAFT), and other Senators.

They have really devoted themselves to enabling us, as a Senate, to put our best foot forward. Having gone through the preliminary draft and processing, the bill was then subjected to the very fine minds of members of the Committee on Foreign Relations. The ultimate product is the product, of course, of the members of that committee who have worked with us and passed on the draft with the Senators I have already mentioned, and have now brought it to the floor of the Senate.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, before I begin, I should like to commend the Senator from New York for his intiative in this legislation. The Committee on Foreign Relations has had occasion during the past year to consider at least five or six resolutions dealing with the question of the war powers, but it was the Senator from New York who in 1970 introduced the first bill of this nature. In doing so, I think he directed the attention of the Senate and the Nation to the necessity for giving consideration to this very important area of constitutional authority.

The Senator from New York has very ably opened this debate today. Regardless of what type of legislation we end up with in this body, it was he who initiated the collective effort that has resulted in this bill being before the Senate today.

Mr. JAVITS. If the Senator will yield, I thank him for his generosity. Without the gifted intervention of the Senator from Virginia, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. BENTSEN), and others, I could have gotten absolutely nowhere. Also, there was the creative genuis of the Committee on Foreign Relations, of which the Senator from Virginia is a member, in actually putting together the final package. The Senator will recall that the committee made very extensive changes in what I proposed.

Mr. SPONG. I thank the Senator from New York.

Mr. President, I am pleased to be a cosponsor of the war powers legislation currently under consideration in the Senate. I believe it is among the most important legislation to come before the 92d Congress.

Constitutionally, this legislation is necessary in order that we might restore the war power to the shared power status which it was meant to have by the framers of the Constitution. It is necessary to sustain the balance of powers between the legislative and executive branches, which is a foremost principle of our governmental tradition.

Pragmatically, it seems only reasonable that the legislative body should have a major role in determining when to commit troops to conflict on foreign soil. This is especially true in view of the divisiveness which the current conflict in Southeast Asia has engendered. The representative body of this government has a responsibility to participate in future troop deployment decisions in order to seek to avoid in upcoming years unfortunate involvements and the accident of involvement, either of which could divide our people and threaten the stability of our Nation.

Constitutionally, the war power is a shared power.

Article I, section 8 of the Constitution gives to Congress power to provide for the common defense; to declare war; to raise and support—for no more than 2 years at a time—an Army and Navy; to make rules which will regulate and govern the military forces; to provide for calling out the militia to enforce laws, suppress insurrection and repel invasion.

Furthermore, the same article and section grant to Congress the authority to:

Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, "and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

As Prof. Alexander Bickel of the Yale University Law School noted in hearings on war powers legislation, the part of the necessary and proper clause underlined [quoted] above:

Is of the greatest consequence when it comes to issues of foreign policy and of war and peace.

Article II, section 2 describes the President as:

Commander in Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the Federal Government.

Admittedly, the provisions relating to war powers are rather brief in themselves. Thus, it is necessary to review the debates of the Constitutional Convention and subsequent legal interpretations in order to understand more fully the war powers.

As is well known, the original draft submitted to the Constitutional Convention of 1787, consistent with the Articles of Confederation, gave to Congress the power to "make war." James Madison's notes on the debate over this particular clause provide insight into the intent and near unanimity of the framers. In the course of those debates, Charles Pinckney of South Carolina expressed his belief that the Senate would be the ideal depositary of the war power inasmuch as each State had an equal interest in the security of the Nation, and because the Senate was better "acquainted with foreign affairs, and most capable of proper resolutions."

On the other hand, Pierce Butler, also of South Carolina, believed Senate deliberations to be too slow and cumbersome. He preferred vesting the war power in the President, who "will not make war but when the Nation will support it."

As to the extent of authority the President should possess, Mr. Madison and Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make" war, leaving to the Executive the power to repel sudden attacks. Although this change was objected to as providing the President with the authority to commence war, it was agreed to by a vote of 8 to 1.

Later, in 1789, Thomas Jefferson, evidently assured that the warmaking powers of the President had been limited, wrote to Madison:

We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the executive to the legislative body, from those who are to spend to those who are to pay.

The foregoing discussion suggests two things. One, there can be no question that Congress was to have the right to initiate hostilities. Two, there is a distinction between making war and repelling sudden attacks, between offensive and defensive actions.

A careful reading of the Federalist confirms the latter point. Involvement of the Nation in any type of war, other than one of self-defense, was to be solely the responsibility of Congress. If the Nation were suddenly attacked or invaded, the President would respond to repel the attack, but Congress would decide the nature of the action to follow—action which should come only after a collective judgment had been made by those directly elected as representatives of the people.

The constitutional power of the executive to repel sudden attacks without congressional authorization has always been acknowledged by the Court. This power to wage defensive war was expanded in Martin against Mott when Justice Story said:

The power thus confided by Congress to the President, is, doubtless, of a very high and delicate nature. . . . But it is not a power which can be executed without a correspondent responsibility. It is, in its terms, a limited power, confined to cases of actual invasion, *or of imminent danger of invasion*. If it be a limited power, the question arises, by whom is the exigency to be judged of and decided? . . . We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons. We think that this construction necessarily results from the nature of the power itself, and from the manifest object contemplated by the act of Congress. The power itself is to be exercised

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upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union. (Emphasis added.)

The view that once the country is attacked, the President may take action without further authorization from Congress, received approval during the War Between the States when, in the Prize cases, the Supreme Court held valid President Lincoln's proclamation of a blockade of the South. Of the President's powers, the majority opinion said:

He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority.

In United States against Sweeny the Supreme Court said that the purpose of the Commander in Chief clause:

Is evidently to vest in the President the supreme command over all the military forces—such supreme and undivided command as would be necessary to the prosecution of a successful war.

The case most often cited as a restriction upon the President's war powers is Youngstown Sheet & Tube Co. against Sawyer. Justice Jackson said that the President "has no monopoly of 'war powers,' whatever they are." This decision was prompted by President Truman's seizure of the steel plants during the Korean war—an action which the Supreme Court held invalid. It should be noted, however, that this case questioned the President's power over a domestic issue—labor management relations—rather than the conduct of hostilities or the commitment of troops.

A natural corollary of the power to repel invasions is the power to protect against imminent attack. Again, as Professor Bickel noted during committee hearings:

The "sudden attack" concept of the framers of the Constitution denoted a power to act in emergencies in order to *guard against the threat of attack, as well as again the attack itself,* when the threat arises, for example, in such circumstances as those of the Cuban missile crisis of 1962. (Emphasis added.)

A similar corollary is that the President can protect U.S. forces lawfully stationed abroad. In discussing U.S. troops attached to NATO, for example, Professor Bickel said:

I would think that any attack that came which he (the President) considered was in fact or carried the threat of an attack on our forces in Europe—which, I take it, was one of the reasons we have kept forces in Europe, this screen idea that they represent—or any attack that, even without there being forces there, in which he found implicit the threat of an attack on us, he could react to.

Turning to other judicial interpretations of the war powers, one finds that the Supreme Court has not often taken the opportunity to define or limit the warmaking power. There is little disposition by the Court to consider "political questions," and one may safely predict that if balance is to be re-created in in the war-making process, it will be without benefit of judicial guidance.

The Supreme Court, as we know, has denied certiorari in many cases challenging the validity of the war in Vietnam. It left standing a ruling by Chief Justice Burger, then Judge of the Circuit Court of Appeals for the District of Columbia, in which the Court stated:

The fundamental division of authority and power established by the Constitution precludes judges from overseeing the conduct of foreign policy or the use and disposition of military power; these matters are plainly the exclusive province of Congress and the Executive.

There are, however, decisions that should be noted—most of them in the early years of the Nation. In Penhallow against Doane the Supreme Court suggested that the war power was not dependent upon the specific provisions in the Constitution.

In Bas against Tingy, the Court held that Congress could declare war as a public or perfect war or as a limited or imperfect war, a thought expounded a year later in Talbot against Seeman when Chief Justice John Marshall wrote:

The *whole powers* of war being, by the Constitution of the United States, vested in Congress, the *acts of that body alone* can be resorted to as our guides in this inquiry. It is not denied, nor in the course of the argument has it been denied, that *Congress may authorize general hostilities,* in which case the general laws of war apply to our situation; or *partial hostilities,* in which case the laws of war, so far as they actually apply to our situation, must be noticed. (Emphasis added.)

In Little against Barreme, the Court held that President John Adams was limited as Commander in Chief by the restrictions enforced by Congress. The three cases mentioned above all arose as a result of the undeclared naval war with France. In these opinions, the Court observed that Congress was expected to play the predominant role in the initiation and prosecution of war. The opinions complement views of the warmaking powers as expressed by the writings of the Framers of the Constitution.

The few cases concerning the war powers heard in later years have, for the most part, tended to strengthen the hand of the Executive and broaden his powers. A large number of the military actions not involving a formal declaration of war have concerned the protection of the lives and property of citizens of the United States.

In Durand against Hollins, the Court sustained President Pierce's order in 1854 to bombard Greytown, Nicaragua, because of the refusal of local officials to pay reparations for an attack upon the American consul.

In the Slaughter House cases, the Court said in 1873:

Another privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. Of this there can be no doubt, nor that the right depends upon his character as a citizen of the United States.

Other cases have sustained the right of the President to use the Armed Forces abroad for the protection of American lives and property. These precedents probably aided President McKinley in his decision to send troops to China without congressional authorization in the Boxer Rebellion of 1900–01.

It is of interest that President Eisenhower's justification for sending troops to Lebanon in 1958 was his inherent constitutional power to protect American lives and property, rather than the Middle East resolution of 1957. Protection of lives and property was likewise the supposed basis for President Johnson's dispatching of Marines to the Dominican Republic in 1965.

From the foregoing discussion, it is possible to conclude that there are certain prerogatives which constitutionally belong to the Congress and to the President. The Congress has the authority to declare war, to initiate hostilities. The President may act to repel an invasion, to protect against an imminent threat of invasion, to protect U.S. forces stationed abroad, to protect against an imminent attack on those forces and, in certain cases, to protect U.S. citizens abroad and their property. A reaffirmation of these prerogatives is included in the bill, as the Senator from New York (Mr. JAVITS) has explained.

For those who would argue that the President has war powers in addition to those enumerated in the bill, there are generally two bases for such a contention.

One basis is the executive power of the President. Article II, section 1 of the Constitution reads as follows:

The executive power shall be vested in a President of the United States of America.

As astute a scholar as the late Edward S. Corwin has asked whether this represents a grant of power or simply a designation of office, and the question has never been resolved. I would, however, argue that the specific grant of authority to Congress to initiate hostilities abroad would preclude the use of the executive power" argument as a basis for the President's engaging in hostilities, other than those specified in the bill in the absence of congressional authorization.

A second basis which is sometimes utilized by those arguing that the President possesses war powers in excess of those mentioned in the bill is the Supreme Court decisions in United States against Curtiss-Wright Corp., supra. In the Curtiss-Wright case, Professor Bickel correctly summarized the findings for the committee as follows:

The eloquent assertions of independent Presidential power in the "vast external realm," which was Justice Sutherland's phrase, which were largely dicta, were largely restricted to statements that the President alone can "speak or listen as a representative of the Nation;" that he alone negotiates treaties, and that the Senate cannot intrude, although it must give advice and consent ultimately; that the President has "plenary and exclusive power . . . as the sole organ of the federal government in the field of international relations," which in context must be taken as a restatement of his role as chief spokesman and chief listener, especially since the court added that the President's powers "must be exercised in subordination to the applicable provisions of the Constitution;" and that the President, and not Congress, has the better opportunity of knowing the conditions in foreign countries, because the President has his agents, and is better able to maintain secrecy. That was all. *Nothing about powers to go to war, or to use the armed forces without restriction.*

Thus far, I have dealt with very specific situations: Congress declaring war, the President's responding to an attack or to an imminent attack. In reality, however, these situations have occurred infrequently in our history. Congress has declared war only five times. Depending on how they are counted, however, the President has committed U.S. troops to hostilities outside the United States without congressional authorization 100 to 110 times.

As Prof. Henry Steele Commager of Amherst College noted in committee hearings, most of these interventions were of limited character, and almost in every instance Congress was in session and available for consultation. In general, however, Congress has not been consulted, and often not even advised, of actions taken. And, while most of the military interventions undertaken by Presidents have been of limited duration, certain actions of the Vietnam war have not fallen into that category.

Thus, it is important to ask whether the Constitution mandates a role for Congress in the making of decisions to commit military forces absent a declaration of war. I believe that it does.

First, a number of early Supreme Court decisions suggest that there are situations of war in which war has not actually been declared that there can be varying types or degrees of war. Both aspects of this question are discussed in the Eliza case—1800—as indicated by the following quotes, which were included in a legal brief prepared by the staff of the Senator from New York and printed in the hearing record:

Justice WASHINGTON. It may, I believe, be safely laid down, that every contention by force, between two nations, in external matters, under the authority of their respective governments, is not only war, but public war. If it be declared in form, it is called solemn . . . and all the members of the nation declaring war are authorized to commit hostilities against all the members of the other, in every place and under every circumstance . . . But hostilities may subsist between two nations, more confined in its nature and extent; being limited as to places, persons and things; and this is more properly termed imperfect war; because not solemn, and be*cause those who are authorized to commit hostilities act under special authority, and can go no further than to the extent of their commission.*

Justice CHASE. *Congress is empowered to declare a general war,* or *Congress may wage a limited war; limited in place, in objects, and in time.* If a general war is declared, its extent and operations are only restricted and regulated by the *jus belli,* forming a part of the law of nations; but *if a partial war is waged, its extent and operation depend on our municipal laws.*

Justice PATERSON. The United States and the French republic are in a qualified state of hostility . . . *As far as Congress tolerated and authorized the war on our part so far may we proceed in hostile operations.*

Distinctions between different types of war were also mentioned in early cases, Bas against Tingy and Talbot against Seeman, which I discussed earlier.

A particularly significant aspect of these cases is that although they recognized that there were situations of war in which war had not been declared and although they recognized the existence of different types or degrees of war, they did not view as modifying or changing the constitutional power of Congress to declare war.

Second, from a somewhat more practical level, it is difficult, if not impossible, for the Congress to carry out its constitutional mandate to declare war, to determine when U.S. troops shall initiate hostilities abroad, if it does not have some means of influencing the deployment of troops, when hostilities are likely. Actions to deploy troops and position the Army and Navy can—and indeed have—rendered somewhat ineffective the power to declare war. Thus, if Congress is to reactivate its constitutional responsibility in this area, it must adopt the procedures which will give it a role in those circumstances which would necessarily or likely lead to war.

The "necessary and proper" clause as mentioned by both the Senator from New York (Mr. JAVITS) and the Senator from Missouri (Mr. EAGLETON) in their remarks, permits the Congress to enact such legislation. As Prof. Richard B. Morris of Columbia University noted in hearings before the committee:

Since Congress was given, under the Constitution, the right to declare war, it has the right to pass enabling legislation to indicate just what war is.

In other words, Congress has the right to pass legislation which will enable it to carry out its constitutional responsibility.

But the necessary and proper clause goes even further than this. In addition to permitting Congress to make the laws necessary and proper for implementing its own powers, it is authorized to make laws necessary and proper for carrying into execution "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Thus, as William D. Rogers, of the Arnold and Porter law firm, noted in committee hearings, Congress "has had the authority under the necessary and proper clause to lay down legislation with respect to the exercise of the President's Commander in Chief power."

There are Court opinions which would appear to sustain this conclusion. The quotes from the Eliza case mentioned earlier include references to "authorizations" and "extent of commission." The Flying Fish decision, 1804—suggested that the President is limited in the exercise of war powers by the restrictions imposed by Congress. The Prize Cases, 1863—insisted upon congressional authorization as the basis for Presidential war powers. Ex Parte Milligan, 1863—may be interpreted as suggesting that some war powers cannot be granted to the President without congressional authorization.

Furthermore, in the Youngstown Sheet & Tube Co. against Sawyer, 1952—Justice Clark cited the Flying Fish opinion as the basic, general judicial pronouncement on the allocation of powers between Congress and the President. In the Youngstown decision, Justice Clark noted:

(I)n the absence of . . . action by Congress, the President's independent power to act depends upon the gravity of the situation confronting the nation . . . (but) where Congress has laid down specific procedures to deal with the type of crisis confronting the President, he must follow those procedures in meeting the crisis.

Thus, the pending legislation is consistent both with Congress' authority to enact enabling legislation to permit it to carry out its constitutional function to declare war and to prescribe legislative procedures for the Executive department to carry out its constitutional functions. As Professor Morris also noted, "there is a long history of Congress exacting a certain measure of Executive accountability in legislation."

Mr. President, in previous statements on this legislation, I have noted that Congress cannot modify the Constitution by the passage of legislation to redefine the war powers; it cannot by passing a law either add to or diminish the powers which were ascribed either to the President or to Congress by the Constitution.

But Congress can, by the adoption of appropriate legislation, serve notice on the President—any President—that it intends to use the war-making powers which were granted to it by the Constitution. And, Congress can establish the structures which will facilitate legislative-executive exercise of the war powers which each has been granted and legislative-executive cooperation in a field which so deeply affects the future of all the American people.

The U.S. involvement in Korea and in Vietnam has meant the commitment of a quarter to a half million young men to military actions on foreign soil thousands of miles from home. There may, unfortunately, be cases in the future when our servicemen will again have to be committed in that number. But, should those circumstances arise, I believe our Nation would be far better off to have guidelines and a process for deciding whether or not to make such a commitment. I believe our Nation would be far better off to have a decision resulting from deliberations in both the legislative and executive branches of the Government, as envisioned by the authors of the U.S. Constitution.

For these reasons, it would be helpful to have legislation which spells out the constitutional authority of the President alone to act militarily. Certainly, this authority includes the power to repel a sudden or imminent attack on the U.S. and its forces, to carry out certain operations once hostilities are underway and, in most circumstances, to act to protect the lives of American nationals living abroad.

But, I believe that it would also be helpful to specify the role expected—and indeed, constitutionally required—of our representatives in Congress, especially insofar as an initial commitment to hostilities is concerned. And I believe it would be helpful to have a set of procedures for facilitating the exercise by both the executive and legislative branches of the war powers which the Founding Fathers granted to each.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. JAVITS. Mr. President, I wish to thank the Senator very much for this statement. I wish to call to the attention of the Senate the erudition in the

cases, and the applicability of the cases to the constitutional interpretations which we seek in this legislation, the most extraordinary gifted effort which the Senator from Virginia (Mr. SPONG) has made, and which is the subject of the law journal article he wrote. I think it is a major contribution to the debate. It is very much in character with the elevated level which I hope this particular legislation will enjoy throughout its consideration in the Senate.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I suggest to the Senator from Kentucky that the Senator from Wyoming has been waiting to address the Senate. I gather he is under some time pressure, but if he does not intend to speak too long I would suggest that he yield to the Senator from Kentucky for 3 minutes.

Mr. McGEE. Yes, indeed. I am happy to yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I thank the Senator from New York and the Senator from Wyoming for their courtesy. I have filed individual views which were printed in the report of the Committee on Foreign Relations. I ask unanimous consent that my individual views may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COOPER. Mr. President, I rise to congratulate my colleague, the distinguished Senator from New York (Mr. JAVITS) first, for his scholarly and informative speech, sustained by eminent authorities, its good judgment, study, and precision with which all of us have become so familiar, as characteristic of the Senator's work. He engaged in a Herculean task in the development of the bill and it grew from his initiative. It was supported by the distinguished junior Senator from Virginia (Mr. SPONG), whom I also congratulate for his speech and for his contributions, and also the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and others.

However, I think we would all agree that it was the initiative, the continued force and drive, and the direction of the Senator from New York (Mr. JAVITS) which has brought this historic bill before the Senate. I believe the measure will have, and that it should have, full discussion and debate. It is most important that the Congress delineate and codify the separate warmaking power of the President and the Congress, a power which can claim the resources of our country, the material, and more important, the human resources, those who must fight.

Those who testified in the hearings, cited by the Senator from New York, and the references of the Senator from Virginia, to comments made by those who wrote our Constitution, provide an historic and solid base for our work. The experience of past years the ways we have become engaged in wars, also support and sustain the need for the bill which has been laid before the Senate.

I am sure that all of us who have studied the measure and thought about it have some questions, and I know that the distinguished Senator from New York would expect questions and he would want them to be fully considered and debated. I have several questions I wish to note today, and which I will elaborate on later during the debate.

I have raised a question, in my individual views, relating to the 30-day period. It seems to me that if the President acts constitutionally, under the terms of the War Powers Act, and the precedents we have studied and known, in taking action to repel attacks upon our forces or our country, on the first day, and those same circumstances were still in force on the 30th day or thereafter, he could not be deprived or relinquish his constitutional right. He could not do so, because of his constitutional right as defined in this bill and precedents, and also because it would be his duty under the Constitution to protect our country and our forces.

But I do not intend at this time to offer an amendment to strike the 30-day provision, because I think, as the Senator from New York (Mr. JAVITS) has so properly and fairly said, the bill provides ample discretion to the President. While he must address himself to the bill enacted by the Congress and must take it into consideration, I believe that if he finally determines that such action as he may take does not extend beyond what the bill describes as his constitutional power to protect the country, or our forces, he would not be constitutionally precluded.

There are two other portions of the bill about which I have reservations.

One is the section dealing with the assignment of our Armed Forces abroad, particularly with respect to NATO, which I will discuss next week.

Another relates to the treaties to which we have become a signatory since World War II—a large number of them, affecting about 42 countries. I find myself thoroughly in accord with the Senator from New York, on his central proposition that they are not self-executing.

I have argued for years that the "constitutional process" specified in the treaties means the joint action of the President and the Congress and I believe this is required in all cases except those of imminent danger. But if a situation of imminent danger to our forces or our country should occur by an attack on a treaty partner, then I think the President would have the authority through "constitutional processes"—his constitutional power—to take necessary steps to defend our men or our country.

I do not want to delay other speakers. I will speak in more detail on these issues next week. I have wanted to emphasize that the bill is necessary legislation, first, because we should not become engaged in wars unless it is clear that we must go to war to protect our national security, our forces, and our country, particularly when the engagement in any war might lead to the use of nuclear weapons, which would destroy our civilization as we know it.

This is a bill of the greatest importance, and I again want to give my thanks, as one individual Senator, to the great initiative and undertaking of the Senator from New York (Mr. JAVITS) and his colleagues who have worked so wonderfully on this bill.

EXHIBIT 1

INDIVIDUAL VIEWS OF SENATOR JOHN SHERMAN COOPER

I submit by individual views in order to join with others in a deserved tribute to Senator Javits for his leadership and magnificent work in developing and presenting to the Senate the historic legislation embodied in S. 2956. As the Report so properly states, much credit should go to other members of the Senate, whom the Report names, who have submitted bills and their views upon the purpose of S. 2956 "to make rules governing the use of the armed forces of the United States in the absence of a declaration of war by the Congress". And, as the Report states, great credit is due Senators Stennis, Spong, and Eagleton for their active participation with Senator Javits in the final development of the bill.

I desire also to raise some questions about the provisions of the bill and about one theme of the Report, excellent and comprehensive as it is.

Senator Javits and his co-workers have done a remarkable and invaluable work in codifying the constitutional powers of the President and the Congress respecting the engagement of the armed forces of the United States in war. Assisted by the testimony and views of eminent constitutional authorities, S. 2956 may be the most authoritative and incisive delineation of these powers.

Despite my support of the bill, I have difficulty with Sections 5 and 6 which read as follows:

THIRTY-DAY AUTHORIZATION PERIOD

SEC. 5. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless the continued use thereof in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

TERMINATION WITHIN 30-DAY PERIOD

SEC. 6. The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act may be terminated prior to the thirty-day period specified in section 5 of this Act by an Act or joint resolution of Congress.

The Committee Report, quoting the late Justice Robert H. Jackson's concurring opinion in *Youngstown Sheet and Tube Company* v. *Sawyer*, 343, U.S. 579, states there is a "zone of twilight" between the distinct areas of the Presidential and Congressional war powers. I believe this statement, reinforced by many authorities, to be correct and that it is impossible to determine in every case the exact limits of the President's power to engage the armed forces of the United States in hostilities.

For this reason I doubt that the Congress has the authority to limit the exercise of Presidential authority to an exact term, such as the "30 days" prescribed by Sections 5 and 6 of the bill. If the President's exercise of authority is constitutional under Article II, Section 2 of the Constitution, that is—

"The President shall be Commander in Chief of the Army and Navy of the United States and of the Militia of the several States, when called into the actual service of the United States—"

I do not believe S. 2956—a statute—could prevail over his constitutional authority if he should determine that a period of time longer than 30 days would be necessary to carry out his responsibility as Commander-in-Chief of the armed forces of the United States to protect the armed forces, and the security of our country. My study of the powers of the Congress to limit the action of the President of the United States indicates that the denial of funds by the Congress is its only certain power.

On this issue, Professor Alexander Bickel of the Yale University Law School, in his excellent testimony stated:

"I am open to questions, Mr. Chairman, concerning specific provisions in the bills the committee has under consideration. I will say in general only—on the one hand—I don't think the President can be deprived of his power to respond to an imminent threat of attack—as well as to the attack itself—on the United States or on troops of the United States lawfully stationed wherever they may be, nor I believe can he be deprived of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired. In these respects, the Javits and Eagleton bills raise constitutional problems, if one can call them that, which are, however, soluble I believe by simple redrafting. I do think that Congress can govern absolutely, absolutely, the deployment of our forces outside our borders and that Congress should undertake to review and revise present dispositions. In this fashion, the eventuality of an attack or threat of attack against our forces can be indirectly provided for.

"On the other hand, I think that a generalized, prospective delegation by Congress to the President of the power to go to war in aid of our allies pursuant to treaty commitments gives away more of its own power than Congress may constitutionally give away by so broad a delegation—or at any rate, a delegation which it is possible to construe all too broadly. In this respect, I would favor amendment of the Javits bill."

When S. 2956 was under final consideration in the Senate Foreign Relations Committee, it was agreed that members who desired to offer amendments would do so in the Senate when the bill became the pending business. I propose three amendments which I believe would strengthen the purposes its sponsor intended.

The first amendment I suggest is that the language "by statute, or concurrent resolution of both Houses of Congress, specifically authorizing the use of the armed forces of the United States", should be incorporated in Section 3(4). This language supports the National Commitments Resolution, S. Res. 85, which was passed by the Senate on June 25, 1969, by a vote of 78–16, and the purpose of the bill.

The second amendment I propose is based upon the position that the War Powers Act should take force immediately upon enactment. I therefore suggest that Section 9 should be amended to provide only that "This Act shall take effect on the date of its enactment". If the bill states correctly the separate constitutional powers of the Executive and the Congress, it should apply to the hostilities in which the United States is now engaged in Southeast Asia.

The third amendment would propose a procedure by which the Congress would be called into session to consider the use of the armed forces of the United States in hostilities. This procedure would require that the Congress meet promptly to consider situations which involve the use of United States forces in hostilities, or could involve the use of United States forces in hostilities. I have stated above that there is a constitutional question as to whether the Congress can limit action by the Executive to 30 days, or any period of time, except by the denial of funds, but the requirement by law for a prompt meeting and consideration by the Congress of any involvement in hostilities is the power and the duty of the Congress. (A proposed procedure for calling Congress into session in the form of a joint resolution will be found at the conclusion of my individual views.)

Although I question the constitutionality of Sections 5 and 6, S. 2956 would express by legislative enactment the position of the Congress that action beyond 30 days should not be undertaken without resort to the Congress for further authority. It would have the value of inhibiting military action which did not clearly represent the exercise of the constitutional authority of the President.

There is another issue to which I would like to direct attention. Section 3 of the bill states that the bill applies to all treaties "in force at the time of the enactment of this Act". This is of great importance because it is in the provisions of these treaties that the United States is most likely to become involved militarily, not only for the defense and for the security of the United States but for the defense of other countries.

I support this provision, but I consider it important that the words "constitutional processes" used in existing and in any future bilateral or multilateral defense treaties to which the United States may become a party, be interpreted in S. 2956 to affirmatively require that the engagement of United States in hostilities beyond the emergency authority of the Executive shall not be undertaken without the approval of the Congress. This is the purpose of the first amendment which I have discussed above in this statement.

Existing post-World War II defense treaties are under attack today, and I think it proper to recall the background and events under which they were entered into following World War II, and to state that at the time they had practically unanimous support of the Congress, the news media, and the people.

The collapse of the Nazi Germany brought the Soviet armies into Eastern Europe at the close of World War II. The Communist coup in Czechoslovakia in 1948, the fall of Nationalist China, the attack upon South Korea and the possibility of a thrust from Communist China toward Southeast Asia, caused great concern in the United States, Europe and Southeast Asian countries as to their security and led to the negotiation of the treaties. There were 8 of these treaties and they included 43 nations. Among them are NATO, SEATO, ANZUS, Inter-American, and bilateral treaties with Japan, Korea, the Philippines and Nationalist China.

While these treaties differ in certain respects—particularly NATO, which recites that an attack upon a vast area defined by the treaty shall be considered an attack upon all the parties—they are similar in substance. Typical is the language of the SEATO Treaty, which provides in Article I, Section 1, that:

"Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties * * * would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional process."

The term "constitutional processes" is not defined in the treaties. And the reports of the committees and the debates in the Congress on its meaning show disagreement, without definition. It was not settled whether the requirement of "constitutional processes" meant that the President, acting as Commander-in-Chief, could commit the forces of the United States to the military assistance of another treaty party, or meant that the President should consult with the Congress to determine jointly whether the commitment of military forces was essential to the security of the United States as well as that of other parties to the treaty and that the Executive would not commit our forces until the Congress had given its approval, either by a declaration of war or by a joint resolution.

During the Senate's consideration of the Korean Defense treaty in 1954, several Senators, including myself, but particularly Senator John Stennis and former Senator Watkins of Utah, insisted that the proper interpretation of the term "constitutional processes" as used in that treaty required the authorization of the Congress. There was no authoritative answer. I support such an interpretation.

The record of the hearing before the Senate Foreign Relations Committee and the debates in the Senate disclose that all of these treaties were approved by the Senate Foreign Relations Committee and the Senate with little opposition and without precisely determining the interpretation of "constitutional processes" and the commitment of the United States. Resolutions approved by Congress—some implementing certain of these treaties—uniformly provided to the Executive broad powers to involve the armed forces of the United States in hostilities, whether in the administrations of Presidents Truman, Eisenhower, Kennedy or Johnson. President Eisenhower was particularly insistent upon Congressional approval for military movements that might have involved the United States in a war. He was supported by Secretary of State John Foster Dulles who stated, in response to Committee inquiries, that the Executive would seek approval by the Congress for any such involvement. No involvement in war occurred during the Administration of President Eisenhower.

In fact, reservations offered in Committee and on the Senate floor during the consideration of several of these treaties, and amendments offered to Executive resolutions—Formosa, Middle East, Berlin, Cuba and Tonkin Gulf—to prohibit the use of the armed forces of the United States without Congressional approval were consistently opposed and rejected in the Foreign Relations Committee and in the Senate.

I present these facts because I do not concur in one underlying theme of the Committee's report—which was never discussed in Committee and never voted on—that the Executive has taken from the Congress its powers. The record, if studied, discloses that the Congress, particularly since World War II, has not only acceded to but has supported Executive resolutions requesting Congressional authority to use the armed forces of the United States, if necessary, in hostilities.

These are settled facts of history. We can change our course but we cannot revise and rewrite history.

Now the wheel has turned and, for several years, the Senate Foreign Relations Committee, the Senate, and many in the House of Representatives have been seeking to define the Constitutional basis for the appropriate powers of the Executive and the Congress. In this respect, tragic as it has been, the war in Vietnam has had a profound influence.

The "War Powers Act" of Senator Javits and his colleagues is landmark legislation. It will do much to define the situations that could result in the engagement of United States forces in hostilities, and to limit involvement. No one can foresee all the ways in which this country might become involved in war. But this bill is a significant advance, and it serves to emphasize once again that one of the purposes that the framers of the Consttiution had in mind when they constructed the system of checks and balances for the Legislative and Executive branches was to make it difficult for the United States to enter into war. With the advent of the use of nuclear weapons, hostilities could quickly lead to a nuclear exchange—a consequence that can bring an end to civilization as we know it. The War Powers Act, for these reasons, is all the more important as it addresses the necessity to implement the provisions of the Constitution which were written to forestall entry of the United States into war except after full and considered judgment by the Executive and the Congress

and only when vital United States interests are at stake.

JOHN SHERMAN COOPER.

JOINT RESOLUTION

(Regarding the use of the Armed Forces of the United States in hostilities in the absence of a declaration of war by the Congress)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in the absence of a declaration of war by the Congress, the President uses the Armed Forces of the United States in armed hostilities in any foreign country or whenever he believes that circumstances exist that make the use of such Armed Forces in a foreign country imminent, he shall immediately notify the Congress, if the Congress is in session, or shall immediately notify the President pro tempore and the majority and minority leaders of the Senate and the Speaker and the majority and minority leaders of the House of Representatives, if the Congress is not in session, of the use or imminent use of such Armed Forces, as the case may be.

SEC. 2. Whenever the Congress has been notified by the President, or whenever the Congress has been convened under section 3 of this joint resolution after notification to those officers of the Congress referred to in the first section of this joint resolution, both Houses of the Congress shall proceed immediately to the consideration of the question of whether the Congress shall authorize the use of the Armed Forces of the United States and the expenditure of funds for purposes relating to those hostilities or imminent hostilities regarding which the Congress (or its officers) has been notified.

SEC. 3. Whenever the President pro tempore of the Senate and the Speaker of the House of Representatives receive notification from the President under the first section of this joint resolution and the Congress is not in session at the time of such notification, they shall (1) have authority to reconvene the Senate and the House of Representatives, respectively, for consideration of the question referred to in section 2 of this joint resolution, and (2) reconvene such Houses, after notice to all Members of Congress, not later than twenty-four hours after the President has notified the President pro tempore and the Speaker of the House of Representatives under the first section of this joint resolution.

SEC. 4. Sections 2 and 3 of this joint resolution are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (sofar as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. JAVITS. Mr. President, I wish to thank my colleague from Kentucky very much. I know of no man whose approval I would more diligently seek than the Senator from Kentucky.

The Senator from Wyoming is not quite ready. In the meantime, if the Senator from Alabama had some questions to put, he might wish to use this time momentarily.

Mr. ALLEN. Mr. President, I have a series of questions I would like to propound, but the Senator from Wyoming is just outside.

Mr. JAVITS. If the Senator wanted to start asking those questions, we could break off when the Senator from Wyoming entered the Chamber.

Mr. ALLEN. I would rather not.

WAIVING RULE OF GERMANENESS FOR REMAINDER OF DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Pastore rule concerning germaneness be waived for the remainder of the day.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REORGANIZATION OF THE EXECUTIVE BRANCH OF THE FEDERAL GOVERNMENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Government Operations:

To the Congress of the United States:

The sand is running in the glass, and the hour is growing late, for enactment of a critically needed reform, one that merits the very best support which you as legislators for 208 million Americans, and I as their Chief Executive, are able to give it

That reform is reorganization of the executive branch of the Federal Government—the most comprehensive and carefully planned such reorganization since the executive was first constituted in George Washington's administration 183 years ago. Its purpose is to make American government a more effective servant to, and a more responsive instrument of, the American people. Its method is to organize departments around the ends which public policy seeks, rather than (as too often in the past) around the means employed in seeking them.

The broad outlines of the reorganization proposals which I presented to the Congress just over a year ago are now well known. The seven domestic departments which sprang into being under pressure of necessity one at a time since 1849 would be viewed as a single system for the first time, and their functions regrouped accordingly. *The product would be four entirely new, goal-oriented departments concerned with our communities, our earth, our economy, and our potential as individuals—plus a revitalized fifth department concerned with keeping America in food and fiber.*

A Department of Community Development, a Department of Natural Resources, a Department of Economic Affairs, and a Department of Human Resources would be created to replace the present Department of Interior, Commerce, Labor, Health, Education, and Welfare and Housing and Urban Development, and Transportation. And the Department of Agriculture—under our plans as I ordered them revised last fall—would be streamlined to increase its ability to serve the farmer and so to serve us all. Several independent Federal agencies would be drawn into the consolidation process as appropriate. Further management reforms would be instituted *within* the new departments, to provide authority commensurate with responsibility at every level and to make form follow function intelligently.

ELECTING BETTER GOVERNMENT MACHINERY

I do not speak lightly or loosely in characterizing this measure as *critically needed.* To say that we must prepare government to perform satisfactorily in the years ahead is only another way of saying that we must provide for its very survival. *This Republic, soon to begin its third century, will surely grow old unless we take wise and decisive action to keep it young.* "Adapt or die"—the Darwinian choice is ours to make.

Hard evidence of this danger abounds—dismal statistics about the low effectiveness of Federal spending, case upon case of national problems stubbornly resisting national programs. "Most Americans today," as I put it in announcing these executive reorganization proposals in my 1971 State of the Union Message, and again in transmitting the detailed legislation for them, "are simply fed up with government at all levels."

For us here and now to make a strong beginning at making government work better for the ordinary citizen would hearten the Nation immensely; and it would do so honestly, by getting at the real roots of the fed-up feeling. Yet some may question whether this political year is a time when public men can afford to meet public frustrations head on. "Mollifying gestures, yes," they may say in effect, "but fundamental reform, no—at least not in 1972." Our reply should be that this is a most appropriate year to move ahead with reorganization.

For what is it, after all, that the people want and deserve from the public processes of any year, an election year especially? More effective government. One way they seek to get it is by calling the officials who run the government to account at the polls, as is being done in 1972. Another way is by regulating the Federal purse strings through their elected representatives in the Congress, as is also being done in 1972. Yet this necessary periodic scrutiny of men and money alone will not reach the heart of the problem. For it is axiomatic among those who know Washington best that, as I pointed out in my earlier message on this subject, "the major cause of the ineffectiveness of government is not a matter of men or of money (but) principally a matter of machinery." We cannot, therefore, in good conscience hold out to the people the hope that this will be a year of change for the better, if we fail to come to grips with reform of government's jerry-built mechanisms.

Institutional structure here in Washington tends to coast along all too comfortably under the protection of an inertia which does not shield elected officials and public expenditures. These last come up for renewal every one, two, four, or six years; not so the structure, which endures with little or no burden of proof for its own worthiness to continue. Now, though, the structure has been weighed in the balances and found wanting.

In less sweeping reorganizations than the one I am urging, of course, a President can institute changes through plans submitted under the Reorganization Act, whereby the burden of proof rests with defenders of the status quo. However such authority no longer extends to the creation, consolidation, or abolition of executive departments. In any event we would have felt it wise to submit so massive a reform as this one for regular statutory enactment, so as to permit consideration of amendments and to provide time for full hearings and review. *My hope now is that the Congress will honor the best spirit of democratic change by electing now, in this election year, to modernize the executive structure and redeem the flagging public faith in our ability to order our national affairs effectively.*

AN OPPORTUNITY WE MUST NOT LOSE

Considerations of practicality, equally with those of principle, make the present time the best time to move ahead on this reform. The efforts of the past several years have amassed significant momentum toward overcoming the inertia which protects obsolete institutions. My proposals of last March 25 have behind them the weight of two years' exhaustive study and analysis by my Advisory Council on Executive Organization, and behind that the substantially similar recommendations of President Johnson's Task Forces of 1964 and 1967 on Government Organization. Since I laid those proposals before the Congress, the Administration and the Government Operations Committees in both Houses have made further headway on perfecting the reform legislation. A spirit of cooperation has been established; good faith and constructive attitudes have been demonstrated on all sides. We must not let these gains go to waste.

The pace of progress so far has not been disappointing, for no measure this broad and this complex can or should be pushed through the Congress overnight. *What would be deeply disappointing, though—to me, and far more importantly to millions of Americans who deserve better than their government is now organized to give them—is to lose, in this rapidly passing Second Session of the 92nd Congress, our opportunity to record some solid achievement by creating at the very least one, and hopefully two or more, of the four proposed new departments.*

The men and women who begin a new Presidential term and a new Congress next January should not have to start over again on reorganization. They will not have to, if we push ahead now with the realism to see what is wrong with the old structures, the vision to see what benefits new forms can bring, and the courage to take the long step from old to new.

OBSOLETE STRUCTURE: HOW IT HURTS

What is wrong, and what reorganization could do to set it right, is best illustrated with two actual examples. We cannot remind ourselves often enough that this matter of government organization is no mere shuffling of abstract blocks and lines on a wall chart—that it has to do with helping real people, building real communities, husbanding real resources.

The plethora of diverse and fragmented Federal activities aimed at assisting our communities is a glaring case in point. If there is any one social concept which has clearly come of age in recent years, that concept would certainly be the idea of balanced, comprehensively planned community development. Yet where do we find this reflected in government organization? We grope toward it, as with the well-intentioned and (at the time) fairly progressive formation of a Department of Housing and Urban Development; but even that step was premised on an unrealistic, artificial, and harmful distinction between urban and rural communities. In altogether too many instances the dollars and efforts earmarked for communities end up producing more derangement than development.

This is hardly surprising when we consider that:

—A city or town may now seek Federal grants or loans for sewer or sewage treatment facilities from three departments and one independent agency, each with different criteria, different procedures, and a separate bureaucracy.

—Responsibilities for housing assistance are also entrusted to different offices in some of the same departments, and to several other entities as well.

—Highway and mass transit programs have been isolated in a separate department with only partial consideration for what such programs do to our communities, large and small, forcing us to learn the hard way that highways and mass transit must be developed integrally with land use decisions, housing plans, and provisions for other essential community facilities.

Efforts have been made to clarify agency roles on the basis of urban/rural, type of facility, type of applicant, et cetera—but the real need is for unified authority, not artificial jurisdictional clarifications. *In sum, it has become painfully clear that effective integration of all Federal activities relating to community development can be achieved only under a vigorous new Department of Community Development created expressly for that purpose.*

The conservation and development of our rivers offers another pointed example. This important trust, where stakes are high and mistakes irretrievable, has at present so many guardians in Washington that in the crunch it sometimes seems to have none at all. The Department of the Interior, the Department of Agriculture, and the U.S. Army Corps of Engineers, together with several independent agencies, are all empowered to plan river basin development, to build dams and impound water, and to control water use. Elaborate interagency coordination efforts and all good intentions have not prevented waste and error from thriving under this crippling fragmentation of responsibility. Such costly fiascos as the reservoir built by the Bureau of Reclamation for drinking water supply but severely polluted and depleted by conflicting Soil Conservation Service projects upstream have been repeated too frequently. *The answer? A unified Department of Natural Resources, where comprehensive authority to develop and manage water resources would be concentrated under a single departmental secretary.*

Additional examples of dispersed responsibility could be cited in such areas as consumer protection, manpower and job training programs, and economic development activities. In each case, obsolete departmental structures have made it difficult to move forward effectively.

Even the newest of our domestic departments, like Housing and Urban Development and Transportation, now see the challenges of the seventies and beyond outrunning their own relatively narrow mandates. Departmental missions long circumscribed by law or historical development are suddenly outgrown; departmental preoccupations with limited constituencies no longer serve the public interest as reliably as before. Too often the ability of one department to achieve an important goal proves dependent upon the authority and resources of other departments, departments which inevitably attach only secondary importance to that goal. The new Federal commitments undertaken year by year are increasingly difficult to locate in any one department—usually several can claim partial jurisdiction, but none can show full ability to follow through and get the job done.

DECENTRALIZATION AND ACCOUNTABILITY

The solution to this rapidly worsening snarl of problems is regrouping of related programs by major purpose in a smaller number of executive departments. Besides opening the way for sharp improvements in government performance, such a consolidation would make the executive branch more sensitive to national needs and more responsive to the will of the people, in two ways.

First, it would decentralize decisionmaking. Far too many matters must now be handled above the department level by the Executive Office of the President or within the White House itself—not because of the inherent importance of those matters, but because no single department or agency head has broad enough authority to make and enforce decisions on them. But the four new Secretaries created by my reorganization proposal would have such breadth of

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authority. Their resultant ability to conduct domestic policy on the President's behalf should speed, streamline, and strengthen the whole process significantly.

Comparable decentralization could also be achieved within each department. At present, too many questions can be decided only in Washington, because of the multiplicity of field organizations and the limited authority of their regional directors. By enlarging the scope of responsibility of the departmental Secretaries and by giving them the tools they need, we could facilitate broad delegation of authority to appropriate field officials. And this in turn means that citizens across the country would receive faster and better service from their Federal Government.

Secondly, the new alignment of domestic departments would enhance the accountability of Federal officials to the people. It is easy to see how the new Secretaries, each with his or her own broad area of responsibility to discharge, would be useful to the President and the Congress in monitoring compliance with direction and accomplishment of objectives. Once scattered responsibility was concentrated, today's frequently used and often quite accurate excuse, "It was the other fellow's fault," would no longer apply.

More importantly, though, whatever slack and tangle can be taken out of the lines of control *within* the Federal establishment will then result in a tightening of those same lines *between* elected Federal officials and a democratic electorate. Notwithstanding the famous sign on President Truman's desk—"The buck stops here"—there will be no stopping of the buck, no ultimate clarification of blame and credit, and no assurance that voters will get what they contracted for in electing Presidents, Senators, and Congressmen, until the present convoluted and compartmentalized Washington bureaucracy can be found anew and harnessed more directly to the people's purposes.

COOPERATING FOR REFORM

Where, then, does the reform effort stand today? I am pleased to note that the Congress, acting through its Committees on Government Operations, has held extensive hearings on my proposals; that testimony, most of it favorable, has been taken from a broad, bipartisan array of expert witnesses; and that committee work on the House side is nearly complete on the bill to establish a Department of Community Development.

For our part, we in the Administration have continued working to perfect the legislation and the management concepts set forth in my message of March 25, 1971. The Office of Management and Budget has taken the lead in working with Members of the Congress, adopting a flexible and forthcoming approach which has led to refinements in our legislation: one to clarify responsibility for highway safety, another to remove doubts concerning the reform's impact on the Appalachian Regional Commission and the Title V regional planning and development commissions, another to guarantee Community Development participation in airport access and siting decisions, and several more. They have also clarified that the reorganization need not entail any shift in congressional committee jurisdiction.

I am confident that this refinement and clarification process has improved our bills. *I pledge the fullest continuing cooperation of my Administration in seeing that the Congress has what it needs to move forward.*

COMMUNITY DEVELOPMENT AND NATURAL RESOURCES: ACHIEVABLE GOALS FOR 1972

There is still much work to do. For all the excellent hearings conducted to date, action has yet to be completed on any of the departmental bills which were sent to the Congress 370 days ago. Yet their passage by this Congress is still possible—especially for the Departments of Community Development and Natural Resources.

I would call special attention to H.R. 6962, the legislation for a Department of Community Development, which has now undergone 15 days of hearings in the House Government Operations Committee. Prompt, favorable action on this bill would represent a much-needed victory for common sense and the public good. Its defeat or emasculation would serve no interest except entrenched privilege and private advantage, and would cruelly disserve the interest of literally thousands of urban and rural communities with millions of people who are tired of waiting for Washington to get itself together and help them.

I urge all those concerned with the cause of executive reorganization to redouble their efforts to bring H.R. 6962 to my desk for signature during 1972—and, further, to press ahead on enactment of H.R. 6959, the Department of Natural Resources bill, and of legislation for the other two new departments which we need to govern effectively in the seventies.

ORGANIZING TO MEET THE CHALLENGES OF PEACE

Twenty-five years ago, when the United States was realizing that World War II had marked not the end, but only the beginning, of its leadership responsibilities in the world, a reorganization of the executive machinery in the defense area was undertaken. That reform, which created the Department of Defense, marks the only major streamlining of the Cabinet and the only departmental consolidation in our history. The new structure thus established has served America and the free world well in the challenging period since.

Now the time has come to take a similar bold and visionary step on the domestic side of national affairs. The 1960s, troubled, eventful, and full of progress as they were, were only the prelude to a period of still faster change in American life. The peace which we find increasing reason to hope will prevail during the coming generation is already permitting us to turn somewhat from the formerly absorbing necessity to "provide for the common defence," the necessity which motivated the last major executive branch reorganization.

Other great purposes now move to the foreground: "to form a more perfect Union, establish Justice, insure domestic Tranquility. . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity." To serve these purposes, let us act decisively once again, and forge new institutions to serve a new America.

RICHARD NIXON.

THE WHITE HOUSE, *March 29, 1972.*

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. McGEE. Mr. President, I rise at this point on this opening day of the dialogue on the war powers bill to express some misgivings. They are basically misgivings and uncertainties, that in my judgment should give us pause about the speed with which we proceed into some ultimate decision or action in this question. But I could not proceed without saying personally to the Senator from New York and to the Senator from Virginia and other Senators who have joined in the sponsorship of this measure that the Javits bill is clearly on the highest level of any of the proposals we have been kicking around for some time, and that the tone of the conversation on it is at the level that the seriousness of the problem requires. I would simply reserve the right for ultimate judgment, because of my misgivings, and I want to explain those misgivings.

The matter we are concerned with, it seems to me, has a great deal to do with the Founding Fathers and the Constitution, but I think if we stop with the Founding Fathers and the Constitution, we then neglect a stringent measure of what the times now require.

Mr. President, I do not wish that to be misinterpreted as meaning that I am suggesting, therefore, that in the sense of urgency, we suddenly become unconstitutional. What I am saying is that I believe the proper procedure on this matter ought to be to ask ourselves, in 1972 or 1976, What ought a great power like the United States have in its structure, in its mechanism of responsibility in Government, to cope with the responsibilities of a great power in the real world?

I think that ought to be our starting point and we should, for the sake of meaningful dialogue, exclude for the moment what the times so demand and what the procedures of time itself in a nuclear age would permit us in a limited way. Having made those determinations, then we should turn to the processes of the precedents, of the Constitution itself: In what ways, if necessary, do we have to change and restructure that, and so on?

So, what I am saying, in effect, Mr. President, is that we may be holding ourselves unintentionally by starting in 1787 and proceeding down the pathways of history. I made no apology for those pathways—it is a way of life for many of us—but, rather, to ask, given the pace of events and the pressures and the timing of decisionmaking in this world, that many of us still cannot behold with total understanding, whether we are really addressing ourselves to the right question in time.

I repeat, the war powers bill of the Senator from New York, reflecting the deliberations and thoughtfulness of the Senator from Virginia, comes the closest to anything we have had so far come to grips with, but I think it may still fall short.

The bind in which we find ourselves is because of the Constitution. Because that Constitution was written not quite 200 years ago now, by a group of men who would have been the very last ones to assert that they knew for all time to come what the requirements of the future would bring. In fact, one of the early leaders of our Republic, Thomas Jefferson, even argued, in those days, that probably we ought to scrap the Constitution every 20 years and rewrite it in order to keep up with changing events in order to update it with the changing times.

Fortunately, because of the great wisdom of the Fathers, it was possible, through interpretation, court decisions, and limited amendments, to perpetuate a living Constitution instead of a static document of principles. But, having said all that, I think we are up against the real world and its realities that are imposed upon the President, upon a Senator, and upon the articles of the Constitution that prescribe the warmaking powers. We are in this particular difficulty, because the war powers under the Constitution started with the only experience and the only insight that the men of that day could command, and that was in the old-fashioned terms of what war was all about. That was in a time when you dared argue that war was an instrument of national policy; and when you decided on a war, you declared it. And so, for declaring a war, the process in a representative democracy concept, was carefully spelled out.

I would submit that what has wrought the most havoc with our feelings, with our precedents, and with our experience and history, is the emergence of quite another set of circumstances with which we are faced, whether we like it or not—and that is with the advent of nuclear capabilities around the world, we live in a time when man probably never again dare declare war, even though he may be forced, in the real world, to wage one sort of conflict or another.

This is where the Constitution has left us wanting. This is where the lines that had been carefully drawn in advance suddenly disappeared on the horizons of changing times, and where no one can be sure of the intent of the Fathers. And, moreover, it is less important what the Fathers intended at that point, and more important what the times require—now, not yesterday.

So I suggest to the Senator from New York, the Senator from Virginia, and all of those who have given a great deal of thought to this matter, that we might do well to move more slowly than we have been on this question, and dare to examine it carefully, in an imposed vacuum, for the moment, that would divorce our judgment in theory from the past, from the precedent of great court cases, from evolution of the past into the present, for the sake of testing need and for the sake of freeing us from our biases, our prejudices, our habits, and our reflexes, in order to try to make a harsh theoretical decision about what really is required in this latter third of the 20th century; and then, once having reached a delineation of those requirements, that we proceed to examine what is called for in structuring a responsible mechanism and a division of authority to cope with the threats of this day and age.

That is all my plea really is, Mr. President, and it is couched in those terms. The Founding Fathers knew nothing, but declared wars in the strife of Europe. They knew nothing about nuclear capabilities and the wiping out of the time factor in decisionmaking as a consequence; and they knew precious little, I submit further, about the responsibilities of world leadership. They were the architects of a tender new government that turned out to be one of the great experiments in the political science of man. But they could not project that into the realistic world of giants, into a world of 135 sovereign nation states, which, by their own lives and with their own capabilities, were the masters of their own policies and their own decisions, or the lack of such decisions. They could not have envisaged the operations of this simple mechanism in a world that finds most of the nations, with which we must cope in terms of tension and crisis, monolithic powers with an infinite advantage in the decisionmaking process, in some respects, that does not have to meet the conventional tests, at all times, of public opinion, committee sessions, or the extended deliberations of legislative bodies, or of the searching of public souls on a TV screen every night in the living room. These are elements that are with us which complicate the task that rests on the shoulders of every Member of this body now, as we consider how we should proceed from here.

Yesterday I placed in the RECORD a superb think-piece written by Prof. Eugene Rostow of Yale. Professor Rostow and Professor Bickel are great colleagues at that institution. They have some differences over this question, and their differences are on a very high level, and reflect the honest differences of men who have probed the depths of this difficult question. That in itself ought to give us pause about the speed at which we proceed in our quest for solutions on this matter.

Gene Rostow capsulized his thoughts on that particular segment that I included in yesterday's RECORD with the simple phrase that "great court cases do not necessarily make good law." He was trying to suggest that we ought to free ourselves from our inclinations to resort to the guideposts or the measuring sticks of the past in an attempt to arrive at a judgment that is required to be made in the present, but very much for the future.

I would urge that we not dismiss that word of caution too quickly, that we not take it too lightly. As I see the factors which have come to a head at a single moment, that tend to move us in this body to take some kind of action, and we hope wise action, they are several. One of them is the historic and traditional rivalry or jealousy, or whatever you want to call it, between the legislative branch and the executive branch of the Government. This is not new. Congress did not invent it. This generation did not invent it. It is as old as the very first President, the Father of Our Country, and yet it remains as new as today, in the contest currently going on between the Senate of the United States and the executive branch of the Government.

Nor is that partisan, as the contesting over the past decade should well illustrate. But to keep our sense of perspective about the dimensions of the question, it is important that we remind each other that the roots go back to the very founding of the Republic and, in fact, are reflected in some of the limitations written into the document we call the Constitution.

But so has this come to a head because of the events that have flowed very rapidly in the wake of World War II, because it was that war which put us, for the first time in our history, strangely, on the front line of the world in a new role—a role we had accepted as belonging to the British for long periods of recent history, or the French, or the Germans—or the Dutch or the Spanish or the Portuguese before them.

Beginning in 1945, there we were on the front line. No longer did we enjoy the luxury we had enjoyed throughout our history of the shield of the British fleet separating us from the strife of the wars of Europe. No longer did we enjoy the luxury of looking at the strife of Europe and determining which of the two sides, that generally emerged there, we might join, or which side seemed to contain the most of our national self-interest, if any. Once again, at the end of World War II, we emerged as one of two sides, whether we liked it or not.

It is this pressure, the pressure of constant crisis, as one of the giants in the world, as we have emerged in this post-war era, that occasionally panics some in our midst and worries most of us in the current day about how we most wisely must respond, how we dare assume the burdens of our time, how we arraign those along the horizon of priorities in the world around us.

So this, too, is a circumstance that brings it to a head.

Finally, that which I alluded to a moment ago, nuclear power and nuclear capabilities, has torn the calendar to shreds and has nearly invalidated the 24-hour clock. The whole world has been shrunken to the size of an orange, almost literally, because of the impact of man's technological genius or madness, however one wishes to construe it.

These are real-considerations that have brought into focus the attention of this body on this question at this time. But none of those factors has aggravated or compounded it or emotionalized it more than the experiences of the last 6 or 8 years in Southeast Asia. Let us face it: On our committee, in which ultimately has surfaced this very thoughtful piece of legislation, and in this body, in which there has been a great deal of rhetoric about Vietnam, we have climbed

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through the fog of bitterness and disagreement and antipersonalities and all the other human passions that have surfaced amid the frustrations of Southeast Asia to demand that we do something.

Frankly, much of what we are suggesting that we do seems still to have a tinge of trying to prevent Vietnam. For the moment, I care not about the case for or against or about Vietnam; but I am concerned with motivations. I suppose that most of us would wish there never had been one; that somehow it would go away; that perhaps it was a bad dream. But it is there, and it is real. Insofar as some of the motivations that have pressed us toward this as a possible solution have been aimed at preventing Vietnam, I think our own history again would give us cause to reexamine carefully.

We have an understandable penchant, one might say, to spend a great deal of time and energy preventing the latest war. We spend much more time trying to prevent the last war than we spend trying to avoid the next one, and the tragedy of that kind of effort has caught us up more than once.

In my own days on the campuses in the 1930's, how well I recall our great crusading efforts to bring peace to mankind! The idealists were at work. We applauded our Congressmen who were passing the neutrality laws because that meant no war. We applauded legislation in this body in the 1930's that finally pinned the rap of World War I on the bad guys—the international bankers, the munitions makers. We finally found the scapegoat, the enemy, and we passed laws in the 1930's to make sure that we would never go to war again—against Kaiser Wilhelm, in Germany, that is. Every one of these laws was tailored to prevent World War I.

Our efforts to prevent World War I in the neutrality legislation of the 1930's cost us dearly. It meant that we were looking backward, preventing something that could not be redone anyway, while the real forces of war were coming up from the opposite direction, and no one seemed to care—at the very moment in 1939 when a very distinguished member of the committee on which we all serve, the Committee on Foreign Relations, William E. Borah, of Idaho, rose in this Chamber, in the summer of that fateful year, to say:

> I don't trust the administration downtown. Their sources of intelligence are undependable. The administration tells us Europe is going to war, but I have better sources of information. My intelligence assures me there will be no war in Europe. Gentlemen, it is hot here, in Washington. Let us adjourn and go home.

The Senate went home, at the behest of William E. Borah, and Europe went to war. It went to war because, in part the United States had spent a great deal of its energy, of whatever enervation it could manufacture, to prevent a war that had been waged 25 years earlier, and seemed to care next to nothing about the war that at that very moment was already upon mankind, even though some Senators and most people had no inkling of its coming.

A great deal of our effort in the early 1940's and the early 1950's sought to correct some of the mistakes of the past. We tried to rise as a Nation to this frightening new responsibility as the leader of the world. There was great collaboration between the executive and the legislative branches. I think it fair to say that the collaborating process, with constant consultations in most instances, went right down to the troublesome events of probably the summer of 1964 and including the summer of 1964; namely, Tonkin Gulf. But because the events in that part of the world did not go as it appeared they should, the consequences of the decisions made were far less productive, the tragedies were greater, and the bloodshed ran far more deeply than anyone anticipated. An increasing number of Members of this body, for one reason or another, became embittered about the process. It was peculiarly at that moment, if I may say so, Mr. President, that we suddenly discovered the President of the United States had stolen all authority, that the Senate had been robbed of its role.

I would say, in all fairness, as a Member of this body and as a member of the Committee on Foreign Relations, that to the extent the Executive usurped a great deal of the power the bulk of it was usurped only as the Senate went along in consultations or agreed in principle, and that it is only in the hindsight of bitterness that we begin to restructure all of this as a contest for power.

I would hope, for the sake of history, that we in the Senate would be a bit more charitable toward the events of our time in attributing motivation and even in explaining the quest for power.

What this says to me, Mr. President, is that I see in a lot of the motivation—not in this bill as a bill—a culmination of the highest legislative effort to emerge so far from what started at a much lower level in a much more bitter way, to try to come to grips with this problem, and that now there is a disposition to make sure we have no more Vietnams. There is a grim determination to prevent any more Vietnams.

Mr. President, we do the country a disservice and we do ourselves a disservice in those instances where that may remain the motivation because, indeed, there will be no more Vietnams. The next crisis will be different. It will be something else, just as one of the errors made in Southeast Asia was in not putting into practice the mistakes made in Korea which became irrelevant, so efforts to address our legislative endeavors to making impossible another Vietnam not only will miss the point but we may end up missing the impact of the next crisis because we were looking at the wrong place in the wrong way and will emerge unprepared to command a decision, a position on policy, for the new crisis whenever it may come.

I do not pretend to be a prophet. None of us here would be under any illusions about his prophesying capabilities. But I would feel safe in predicting that whatever else, there are going to be more crises of frightening dimensions that will require the test of resolute decisionmaking. Therefore we should be very careful in what we put together to meet that crisis, and that we do it with all of the insight we can command.

My only reservation on the war powers bill of the Senator from New York (Mr. JAVITS) is that we still may not have come far enough with it, that we may not have captured the totality of the real crisis we will have to face in what I have several times referred to as the real world.

We have got to begin, unencumbered, in a theoretical sense, by the dialog of the Founding Fathers, unencumbered by court cases for the moment—I do not throw them out, I merely set them to the side for just a moment—unencumbered by the deep feeling of Vietnam, and unencumbered by the impassioned pressures to do something.

I think it is desperately important that we make haste slowly on this matter, and we take this first step that the Senator from New York has held before us today, and for the next several days, to continue to close in on the requisites of the world around us with the kind of procedures as close as we can to maintain our representative Republic, our representative democracy, for coping with the problems of the world, in a world of monolithic governments for the most part.

It is not only not an easy task, but it has caused men who also have worked deeply on this question and who have reflected for most of a lifetime on it, who have pursued all of the alternatives that have been surfaced in public ways, to start to entertain a genuine doubt as to whether we really have moved far enough in coming to grips with it.

My challenge would be that we dare to start with the assumption that there was no Constitutional Convention of 1787 at the moment; that we are now being called upon to convene one right now, and we will be required to come up with the best that we can in order to provide a mechanism for making policy in the foreign policy area, in a world that is very harsh in the toll it takes of our ideals, of the people that seek a genuinely better world and a more peaceful society.

So, with that, Mr. President, I will conclude these remarks today. I will have more to say at another time on this matter, as we develop the opportunity for a dialog a little further along which, I assume, would come more appropriately next week, after the Easter recess.

It is ironic that this moment we observe every year, in honor of the resurrection of the Prince of Peace, we are trying to come to grips with the realities of war, and with the fear of another war, in the hope that if we are forthright we may be able to forestall it, or ultimately to eliminate it as an instrument of policy.

The distinguished Senator from Kentucky (Mr. COOPER) a moment ago alluded to one of his misgivings, which I also hold serious misgivings, and about which there is a clear difference of interpretation, and that is the consequences of the war powers bill on our commitments—the NATO pact in particular; because I do not suppose any single agreement we have made as a world power is fraught with such implications and holds

so many hopes and yet poses such serious problems in regard to intent as does NATO and the NATO doctrine.

In the course of the hearings before the committee, we spent a great deal of time trying to worry out each of the facets of the NATO Pact, trying to square it as best we could with the language of the pending legislation. One thing we could not write, and one thing very difficult to say in unvarnished rhetoric has to do with intent. So that whenever government understands and believes—and the importance is "believes"—whatever the rhetoric says, there are those who have genuine fears that the mere exercise of going through the present War Powers bill casts a shadow of doubt over the integrity of the commitments of the NATO Pact. Rather than burden myself with the details of NATO, about which I want to talk at another time, I will make it part of my remarks at this time without interruption of a more formal explanation of those matters.

This legislation is potentially devastating for the NATO Alliance because of the many questions it raises and the many questions it fails to answer adequately.

In the first place, there is the situation that could arise if the Soviet Union reimposed a blockade on Berlin and S. 2956 were the law of the land. The augmentation of U.S. forces, such as has taken place during various Berlin crises in the past, would no longer be possible. In addition, the proposed legislation would limit the President's ability to deploy U.S. forces as a show of force or a deterrent action in the event of a threat or use of force by the Warsaw Pact. Thus, for example, during a Soviet buildup declared not to be directed against the United States or U.S. forces if we did not interfere, it would not be possible to augment U.S. forces in Europe under S. 2956 because that could involve an imminent threat of being involved in hostilities. The entire Reforger concept, based on redeployment in time of crises, would become illegal. The Allied Command Europe Mobile Force and the Standing Force Atlantic—both designed to provide for a multinational NATO show of force, if one member of the alliance were threatened—could not count on U.S. participation.

Second, section 3(4) of S. 2956 would prohibit U.S. personnel in the NATO integrated commands from exercising their functions once there was an imminent threat of hostilities or actual hostilities. That section provides that—

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

What that means, in practical terms, is that SACEUR and SACLANT could not assume command of NATO forces in time of crisis or attack before congressional action. Thus the integrated structure of the various NATO headquarters would become inoperative since they are heavily dependent on American participation at all levels. Imagine that in the midst of a buildup against the NATO countries. General Goodpaster were compelled to announce that he and his American officers were unable to carry out their responsibilities to assume a posture of readiness because the Congress had not yet acted.

Moreover, it would seem that if S. 2956 were enacted, the United States could not deploy its forces to assume a posture of readiness against the threat of armed attack upon NATO allies on whose territories U.S. forces are not deployed if the deployment could find our forces imminently involved in hostilities. This would preclude such deployments to Norway, Denmark, France, and most of Turkey and Greece.

It is not difficult to think of other shattering effects this bill would have on the NATO alliance. For example, in the event of an all-out attack by the Soviet Union against NATO, even if our own forces were directly attacked, the bill would not permit the President to take retaliatory action against the Soviet Union. This is so because under subsection (2) of section 3 of the bill, which covers attacks against U.S. Armed Forces, no retaliatory action by the President is permitted. His action would be limited to merely defending against the attack.

These kinds of limitations on the ability of the United States to participate fully and effectively in the NATO Alliance are bound to raise grave questions in the minds of our NATO allies about the steadfastness of the United States as a partner in the Atlantic Alliance. At the same time, and by the same token, there is bound to be raised in the minds of potential enemies doubts as to the ability of the United States to react swiftly in an emergency situation. Either or both of these reactions on the part of friends and enemies is likely to weaken rather than strengthen the fabric of peace in Europe.

In the eastern Mediterranean, the 6th Fleet has from time to time been deployed as a sign of U.S. interest in stabilizing a situation so that a threat of force by other powers not be allowed to decide international disputes.

This ability to use a show of force to keep the peace has been a part of our tradition since the earliest days of the Nation.

But, with Soviet bombers in Egypt and with Soviet combatant ships in the eastern Mediterranean, it takes little imagination to envisage a situation creating an imminent danger of our forces being involved in hostilities if deployed to stabilize the situation in time of crisis. This law would prohibit such a deployment without congressional approval—a requirement involving at least some delay and grave risk of increased rigidity of position on both sides.

Mr. ALLEN. Mr. President, I had hoped to be able to engage in a short colloquy with the distinguished Senator from New York at the conclusion of his remarks. If the Senator from New York would be kind enough to indulge me at this time, I would like to ask him some questions with regard to the bill.

I am sure that all Americans would like to see our country extricated from the war in Southeast Asia. I am sure that all Americans hope that there will not be a repetition of that war anywhere else on the globe.

I commend the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Virginia (Mr. SPONG), the distinguished Senator from Wyoming (Mr. MCGEE), and the distinguished Senator from Kentucky (Mr. COOPER) who have already spoken with regard to the pending bill and have made their contributions to this discussion.

I feel sure that all of us, if we felt that the pending bill would accomplish what it is intended to accomplish, would be for the bill.

The questions I will ask are general in nature. I do not have the privilege of serving on the Foreign Relations Committee. I would like to elicit some information with regard to some of the provisions of the bill. It would seem that section 3 contains the main thrust of the bill, and it would seem to me that the provisions of section 3 are based on the assumption that the President has unlimited powers under the Constitution to use and to deploy the Armed Forces of the United States. It would seem that section 3 does not confer power on the Chief Executive to act in the three areas set out in the bill. But, on the contrary, it merely allows the basic and fundamental power of the Chief Executive to continue to operate in those three fields. And the limitations provided by the bill and by this section come not from the provisions of the first three paragraphs in section 3, but from what the section does not cover. Is that the understanding of the distinguished Senator from New York?

Mr. JAVITS. Mr. President, it is always dangerous to say a blanket "Yes." However, let me say "Yes" at the end of the statement rather than at the beginning, because when one adopts another Senator's views, especially in a matter of this delicacy, it can get distorted.

Mr. President, let me point out first that in the preamble contained on page 7, lines 10 through 19, we acknowledge the power as commander in chief of the Chief Executive to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions.

Therefore, the answer is that in subsections 1 to 3 inclusive we are confirming the implied power which it has come to be recognized that the President has, we believe—and we so state—under the Constitution.

So, four things are established by what I say. First, the power of the President to deploy troops, in the absence of their introduction, in hostilities or in situations where the imminent involvement in hostilities is clearly indicated by the circumstances.

Remember, I said before, and I say again, that is his judgment that we are going on. Even where there are hostilities or situations where he himself judges that hostilities are imminent, he still has the authority to repel armed attacks

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on the United States, take retaliatory action to repel attacks against the Armed Forces, and protect the lives of citizens of the United States wherever they may be.

The change which we make in what is the current claim of the President's powers is to say that we name a time and then say that the continuance of the use of our forces for those purposes ceases to be an action fully within his own exclusive constitutional power and becomes one which is maturing and of a more definitive character.

That is where we have to come in and say it is okay, because we have very important war powers under the constitution, also.

On the first of those four cases I have mentioned, there is no question in this bill about the deployment of troops in the absence of hostilities or the imminent danger of hostilities. Then there are the three cases where we ourselves confirm the implied constitutional power of the Commander in Chief. Then, of course, we interpose ourselves as a Congress and say that when in our judgment a period of time has elapsed that is so long that it has ceased to be an emergency act which we have confirmed and then we hold that it becomes a war question which brings into play our own constitutional war powers. Those powers are not "implied" powers, as the Commander in Chief's powers are. They are specifically enumerated powers listed in article I, section 8.

Mr. ALLEN. Mr. President, is it the understanding of the distinguished Senator from New York that the Congress would have the power, by confirming the President's constitutional authority, to add or detract from those powers?

Mr. JAVITS. In no way, but to delineate, yes.

Mr. ALLEN. Well, what useful purpose does it serve?

Mr. JAVITS Under the necessary and proper clause we define the length of time which we say is a reasonable time to consider his action an emergency action, which we agree he is empowered to take under the Constitution.

At the end of that time, we say it ceases to be within his constitutional power alone. We make that definition based upon a time span, we make it based on our authority under the "necessary and proper" clause, and in the exercise of our own war powers which I called attention to at the outset of my prepared remarks.

Mr. ALLEN. Mr. President, in other words, it is the theory of the bill, according to the distinguished Senator from New York, that the President under the Constitution has only the powers enumerated in the first three subsections of section 3, that many and no more.

Mr. JAVITS. He has that many in our judgment and no more when he is exercising the implied emergency powers of the Commander in Chief. But if he has more, we do not take them away. One of them that he has—which I myself confirmed, and which is not mentioned here because it need not be because no effort is made to interfere with it—is the deployment of United States forces within the United States and around the world in peace situations.

He has that authority and exercises it, and we do not challenge it. Introducing the troops into war gets into another area where Congress has its own powers, which are certainly equal in a constitutional sense.

Mr. ALLEN. Confirmation of that power is not contained in the bill.

Mr. JAVITS. It does not have to be. That is why I was able to answer the question by saying we do not attempt to confirm him in every power he has under the Constitution, only in the ones which this bill deals with.

Mr. ALLEN. In other words, the President has the powers, according to the Senator from New York, enumerated and reserved to him in the first three subsections of section 3, and he may have others.

Mr. JAVITS. That is correct.

Mr. ALLEN. But the bill does not state what he has.

Mr. JAVITS. That is correct. I will give the reason. What we are seeking to meet in this bill is imminent hostilities. We are seeking to deal only with war-making power and nothing else.

Mr. ALLEN. I would like to inquire if it is not dangerous, in the judgment of the distinguished Senator from New York, to seek to enumerate certain powers that the legislation would concede to the President, and withdraw from him or withhold from him other powers where it is difficult to anticipate every situation that might arise in the future.

Mr. JAVITS. We do not precisely for the reason that we only particularize where we feel we have a right to join and where under existing practices there is no regularization as to when and whether we do join. We find it necessary to define certain powers. As we have no need to confirm everything, we have this cover to limit other powers. We do not deal with them all. We make that clear when you combine the preamble with section 3—that is, the preamble in section 2.

Mr. ALLEN. I would like to pose a hypothetical case or two and see how the measure would apply under these powers that are confirmed in the President and the powers that by silence as to them are denied to the President.

I would like to inquire as to a hypothetical case of whether the President would be able to act in the case of the capture of a private American owned oceanliner with 2,000 American civilians as passengers, such vessel being captured by a ship or ships of the Russian fleet. Would the President have the authority to act in such cases and, if so, under what subsection?

Mr. JAVITS. The President would have the right to construe his power to act under paragraph 1 of section 3 "to repel an armed attack upon the United States, its territories and possessions," to include an attack on a U.S. ship the ground that the attack of the ship is an attack on U.S. soil, although it may be on the high seas.

Mr. ALLEN. What about a ship of a foreign registry?

Mr. JAVITS. If it were a ship of a foreign registry, then the President could act under paragraph 3 "to protect while evacuating citizens and nationals of the United States," and so on on the ground that whatever country the ship is registered in was also its soil, and that this paragraph applies because "such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control."

That language is on page 8 of the bill.

Mr. ALLEN. I see that. Would the Senator feel an American citizen on a French liner, to use the language cited, would be evacuated as rapidly as possible from any country?

Mr. JAVITS. I think that if the American citizen were in imminent danger of his life, the concept of getting him out of that danger would constitute a situation, no matter whether he was on land or on a foreign ship at sea. The meaning of the phrase is not the citizen is in a position where he should be and can be evacuated, including from a foreign country, and including a ship of that country which is, for all practical purposes, the soil of that country.

Mr. ALLEN. In other words, a passenger on a French liner would be in the process of being evacuated "as rapidly as possible" from that country?

Mr. JAVITS. My concept is when the U.S. President steps in to protect that citizen, at that point the citizen would be in the process of being evacuated.

Mr. ALLEN. What right does the United States have to step in under the Senator's legislation?

Mr. JAVITS. There are many steps a President could take, especially diplomatic. If the citizen is in danger for his life, the troops might be used under the terms of subsection (3). We stated "to protect while evacuating." In other words, if the citizen is in imminent, mortal danger, what do we do? We try to get him off the ship or in a secure position so that he may come off ultimately, secure in body, and so on. Generally, of course, this would be done by diplomatic means, not by sending in the Marines.

In my judgment that is fully covered here, if drastic, last resort action has to be taken involving use of our Armed Forces. But this is really a rather far-out hypothetical case. There are international conventions about piracies and hijacking at sea, and in the air.

Mr. ALLEN. What about use of the phrase "while evacuating citizens and nationals of the United States, as rapidly as possible"? How would that come in to play? How would that operate?

Mr. JAVITS. I think the concept there is to use the minimum amount of force required for the purpose of evacuation or "rescue". For example, let us say a U.S. crewman is on a foreign ship and there is imminent danger of his being killed, and he was sought to be evacuated. The idea is, first, to give the mandate that he is to be gotten off the ship. It might be necessary to take some far more comprehensive action. But the point is the thrust of the section would be where a citizen of the United States gets in trouble, the first preference would be to evacuate him, whether it is on a ship or in a country, rather than to go in and subjugate that country, using the excuse that the citizen is in danger. The President is certainly not obliged, under subsection (3), to send in the troops. Rather he is authorized to do so in defined situations.

President Johnson sent 20,000 troops into Santo Domingo not many years ago and the cover used there was that he was protecting our nationals. Now, what we would be saying, assuming Congress agreed to this subsection, is that we approve the President going in when his judgment meets the criteria but that the thrust and organization of the enterprise should be to evacuate as rapidly as possible and not to protect them on the spot, so that for practical purposes we are taking possession of the country. We are making a decision where the best interests of the United States are served by evacuating a citizen from a country rather than staying there on the ground and using that as the reason to stay in that country. Perhaps if this had been the law the history in the Santo Domingo situation might have been different.

Maybe you could not take the action and as rapidly as possible. It would include the fact that 20,000 troops would have to stay there because conditions did not permit us to take the action. That is not ruled out by this definition, but the definition puts an obligation on the President that the purpose of his expedition, the one-line directive he gives, is to evacuate U.S. nationals as rapidly as possible, but circumstances may prevent that from being "immediately" and that does not prevent our troops from going there and staying there if there is no other way, but it is not to confirm their presence in that country indefinitely.

Mr. ALLEN. Does not the section, on the contrary, indicate that they have to be in the process of being evacuated to come under the original protection?

Mr. JAVITS. That process can take time, and "as rapidly as possible" could be a relatively long time. What I was pointing out was that we are declaring a policy in respect to rescuing nationals. We cannot deal with the nuts and bolts and tactics of implementation. That is up to the President.

Mr. ALLEN. The Cooper-Church amendments which have been debated here many times in the Senate, were predicated, I believe, on the admitted power of the Congress over the purse. In other words, if the money for maintaining a force on foreign soil were withdrawn from the President, of necessity he would have to withdraw the troops. That is correct, is it not?

Mr. JAVITS. That is correct.

Mr. ALLEN. This legislation would approach the problem from a different angle and would seek to confirm in the President certain enumerated powers and deprive him of certain other powers that he is now exercising, or contending that he can exercise. By "he" of course, I do not mean the present incumbent in the office, but the office of the President. That is correct, is it not?

Mr. JAVITS. That is correct.

Mr. ALLEN. Was not that approach considered and abandoned at the time an effort was made—a successful effort—to adopt the Cooper-Church amendment?

Mr. JAVITS. No. The constitutional theory of all the amendments which have been offered with respect to the Vietnam war that I am aware of was, encompassed in the McGovern-Hatfield and Cooper-Church type, they have related to the appropriations process.

We have found a serious imperfection in that process, and that imperfection is the natural reluctance of the Congress—in which I have joined—to cut all supplies of materials, transportation, and so forth, to troops in the field. In addition, rarely would there be the approach of a vehicle which could be so expertly designed for only that unique purpose. For example, we have over-all appropriations for all troop activities of the United States, and it is extremely difficult to relate what pertains to Vietnam and what does not. So those of us who have asserted this side of the issue have found that it is a blunderbuss approach by Congress, and Congress is reluctant to do so.

Our contention is that it is not necessary to have such a blunderbuss type of approach; that we can design a special means, a special methodology, for the Congress to use in accordance with its constitutional war powers. As a matter of fact, the Senator used very good words in his question when he said it is a power which the President claims to have—he may not have—and that is to stay in Vietnam, or that he does not even need the Gulf of Tonkin Resolution for what this administration has done, and even more strongly for what the Johnson administration did.

If the Senator will indulge me, since I think it is important that an elucidation be given, I should like to read President Lyndon Johnson's words on this very subject——

Mr. ALLEN. Yes.

Mr. JAVITS. Which I think deserve repetition. I say that not invidiously, for I have respect and regard for the President. He held this view as sincerely as I hold mine, but President Johnson said in his news conference of August 18, 1967:

> We stated then, and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing. But we thought it was desirable and we thought if we were going to ask them (Congress) to stay the whole route and if we expected them to be there on the landing we ought to ask them to be there on the takeoff.

This is a very clear statement of Presidential position.

The President claims these powers. We say it is time, therefore, for us to say what we claim, and we do think that does make a very basic legal difference, for this reason, if the Senator from Alabama will indulge me: It is Hornbook law that an unasserted power leaves open to another authority to utilize that power, whereas an asserted power closes that door.

The historic importance of this legislation is that it represents the first time that the Congress will have asserted that power under the Constitution, and not under its right to appropriate or not appropriate and conditions of appropriations.

So I say to the Senator this is a direct exercise of authority by the Congress under its constitutional authority. It is not in any way tied to the appropriation process.

Mr. ALLEN. Speaking of asserting authority, what about the President's assertion and maintenance of his authority to act under his asserted war powers? Would that add any efficacy to his assertion of power?

Mr. JAVITS. Well, it only adds the efficacy that he has more likelihood of asserting it successfully if we have not acted in the field. When we have acted in the field, I do not think the President will make that assertion. I believe the President, like the Congress, will carry out this legislation.

The Senator understands that he can completely frustrate and contravene this legislation if he does not act as we always envisage a president as acting. He could find everything to be a direct and imminent threat to the United States. He could make any kind of finding. To deny that is to have us go on a treadmill. I do not believe any President of the United States would do it. I believe this legislation is entertained seriously in the Congress because we all accept that. We all believe that if we codify the law, as we plan here, and if this becomes the law, the President will obey it. At least, he will make every good faith effort to obey it.

Mr. ALLEN. Even if the President asserted the power to act in the field the Senator would concede to him, that power would last for only 30 days in the absence of a declaration of war. Is that correct?

Mr. JAVITS. In the absence of a congressional resolution, or, of course a declaration of war. In other words, Congress could, by resolution, give him whatever authority Congress wished to give him to carry on. That is expressly provided for in subsection (4) of this document, at page 8, line 24, of the bill:

> Pursuant to specific statutory auhorization . . .

Then we go on to make the various exceptions.

So we accept the fact—and I think the Senator from Wyoming (Mr. McGEE) said that very well—that it is highly unlikely in this modern day that we are going to have a declaration of war. Indeed, it is not just recent. We have had very few declarations of war in our national history.

So we envisage a legislative approach which is not a declaration of war but which will vest power in the President, because we contend in this bill that we

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snare that power, once the President is free to take emergency action; but at a given point, emergency action changes into a state of war, and at that point we assert our authority.

Mr. ALLEN. Section 3, the first line there, makes reference to the President having this authority in the absence of a declaration of war. That would be his initial action following the 30-day period, is that correct?

Mr. JAVITS. Yes; but of course if there is a declaration of war, then you have a totally different situation. The President then is the man who conducts the war, and he has the full authority of a commander in chief in a declared war. This measure is not intended in any way to abort the consequences of a declaration of war. That is why its starts with that exception.

Mr. ALLEN. Does the Senator feel that this legislation would deprive our country of flexibility in time of danger and in time of the necessity to act to protect the national security?

Mr. JAVITS. I do not. I feel, on the contrary—and this perhaps goes somewhat to the argument of the Senator from Wyoming—that we will be on a firmer basis than ever, because one of the things that troubled many in the administration, and has troubled many other Senators, many other legislators, and millions of Americans, was the fact that the divisiveness in our country over the Vietnam war became so evident as to trouble those with whom we were allied. It was that which created the uncertainty in the minds and hearts of many people with whom we were closely allied. And that divisiveness derived from the fact that Vietnam is a Presidential war, not a war of national commitment.

I am making, and those who are joining with me are making, an effort to give a sense of reassurance that, having now codified the alinement of relationships between Congress and the Chief Executive, when the U.S. commits itself it will stand as a unit, and not be subjected to the doubts and challenges to authority which characterize Vietnam.

I would like to point out to the Senator the importance of our continuing the three area resolutions, that is, the Formosa resolution, the Middle East resolution, and the Cuban resolution. The reason that we continued them, notwithstanding the statement of the administration that they do not need them, is, we said, "Sure, you do not need them, perhaps, in your construction of the powers that you think you have, but you certainly do need them if we pass this bill, and we at least want to give you the option of continuing them or telling us that you do not want them for policy reasons."

The minute we say that, we also include the likelihood of additional resolutions.

For example, the administration may decide that it wants to do something in the way of advance authority about the Arab-Israeli impasse, and the merits.

I beg Senators who were here, for example, at the time of the Gulf of Tonkin Resolution—I was, and I participated in it and take full responsibility—to think of the difference in our own thinking, in our own conscience and responsibility, between the President coming in here and saying, "I have acted, and I just want you to back me up," and in two days the thing would whip through here—and the fact that I would know for all practical purposes that I am voting for what is tantamount to a declaration of war, because I would know that it is not just a matter of backing the President when he has already done it, but that I can stop him by refraining from action. It would have taken a lot more soul searching than many of us took at that particular time, and though it is not an excuse, we should have undertaken more soul searching in respect to the Gulf of Tonkin Resolution, though we did not, because that was not the frame of reference in which we were acting.

I submit to the Senator from Alabama that we will have the weight on our shoulders, just as the President has it on his shoulders, and in response to those who say, "Maybe you will not act as quickly, as wisely, or as well," I can only say that in the bloody history of mankind, a lot less of it has been shed when the responsibility is shared than when one man has the complete authority in his own hands.

Mr. ALLEN. The Senator said, in his judgment, in effect, that he felt the President would accept the spirit of the legislation, and would comply with it.

Mr. JAVITS. I do.

Mr. ALLEN. Does the Senator feel, then, that the President would accept the Senate's and the entire Congress interpretation of his powers under the Constitution, if he were advised that the Senate was in error in that construction?

Mr. JAVITS. This is a law, after all. It would have to be passed as a law. It would have to be passed by both Houses and signed by the President. His veto could be overridden. He would have an absolute right to veto. The overriding would take huge majorities in both Chambers.

I believe the process which we have initiated is consistent with a deliberative judgment by all concerned that the time has come to define our respective powers.

As I do not know the final outcome of this bill, nor does the President, that is about the best I can say in answer to that question.

Mr. ALLEN. If the President is going to follow the legislation in letter and in spirit, is there not danger that our potential enemies around the world would make a careful study of the legislation, and they would say, "The President can act in this area, he can act in this area, and he can act in this area, but he cannot act in these other areas as to which the bill is silent?"

We know the propensities of some of our potential enemies to push us just as far as they possibly can, just as far as they feel that they can get by with it. Is there not a danger that this legislation would enable our potential enemies to be able to know just how far they could push us without expecting retaliatory action on the part of the President?

Mr. JAVITS. I do not think so, any more than our potential enemies could anticipate the will and resolution of the American people, which they always have to decide.

After all, suppose our potential enemies decided that because we had the power to cut off money, we suddenly would not appropriate money for a given thing, and they pressed us on that ground. Suppose they thought we were not going to put up any further money for troops in Europe; why should they engage in mutual balanced force reduction? Suppose they did not think we were going to put up any further money for an ABM, why should they worry about whether we have an ABM or not?

The only thing this law does, in my judgment, I do not see that it gives us any disadvantage with them, but I think it gives us a vast advantage with our friends, and that our friends would know absolutely and confidently what they could count on as far as we are concerned.

Second, I think it gives us a big advantage with our own people, and that our own people would feel that our judgment as to war and peace is more likely to be more provident, under this kind of methodology, than, based on the Vietnam experience, it is likely to be without the methodology.

Those are the real issues, and I cannot tell the Senator that some fool in some chancellery will not draw a deduction from this which he should not draw. Neither can I tell the Senator that if we cut $5 billion off the defense appropriation—indeed, the Armed Services Committee itself did that; it made a material cut—some fool in some chancellery will not come to a similar conclusion. I just do not know. It makes him no less a fool if he does.

Another thing I would like to point out to the Senator is that our bill accommodates any resolution that the President would wish to bring us. For example, if the President feels there is any doubt about any particular activity he wishes to engage in of a generic kind, there is no reason why we cannot give him that authority in advance. That is one of the things that is good about this bill, and it does not wait until there is a crisis to act.

That is the significance of the fact that we ourselves have escalated in importance the three area resolutions. The President says he does not need them. We say, "You may need them, and we are giving you a chance to treat them as law," and we give ourselves the same opportunity, because in that area, at least, these are resolutions which we have already undertaken, and which are binding on us with respect to this legislation.

Similarly with respect to some other area resolution of some other type of resolution which the President might wish to have in order to give himself the necessary freedom to act. But the difference between that type of situation and the present situation is that he would know he has to get it from us. So we would join in the decision, and it simply would not be unilateral on his part.

Mr. ALLEN. Since the legislation is predicated, I assume, on the assumption that the President's power as Commander in Chief of the Armed Forces under the Constitution is a limited power and since the legislation confirms certain power in the President under the first three subsections of section 3, would the Senator be kind enough to enumerate some of the powers that are denied to the President under the proposed legislation by its silence?

Mr. JAVITS. The alleged powers which it denies to the President under the proposed legislation is to utilize his power under the Constitution, for example, to repel an attack upon the United States, to extend to the point where he is engaged in a condition of war—to wit, beyond 30 days—and I gave the classic example of Santo Domingo; or to limit his power to rescue nationals of the United States who are endangered in some foreign country, beyond the point where it is a rescue of nationals in order to get them out but becomes an occupation of that country.

We have utilized the 30-day timespan as the best measure of judgment we can make upon those very difficult issues. We thought that quantitative standard was likely to be more effective and wiser than a qualitative standard. So we chose the quantitative—to wit, the 30-day standard—rather than some qualitative definition.

Mr. ALLEN. Actually, then, it is a time limitation of 30 days plus a limitation on the extent of the action that could be taken under the confirmed powers. Is that correct?

Mr. JAVITS. No, I will not accept the latter. It is a time limitation. We believe that the time itself is bound to limit the extent. The bill does not limit the extent.

Mr. ALLEN. Would the Senator say that all there is here, then, is a 30-day limitation?

Mr. JAVITS. Let me finish.

The time limitation we have taken is in lieu of a qualitative limitation—that is, the extent.

So we have accepted a quantitative rather than a qualitative limitation as the best and wisest limitation.

Mr. ALLEN. That just leaves, then, a 30-day limitation on his power to act, does it not?

Mr. JAVITS. It leads to a 30-day limitation on his power to act in given situations, and those given situations are hostilities, imminent danger of hostilities, where they relate to the attack on armed forces, attack on the country, or protection of our nationals.

Mr. ALLEN. I asked the Senator to enumerate powers asserted by the President that would be cut off.

Mr. JAVITS. I have enumerated them. As a matter of fact, no powers asserted by the President are cut off. The powers, I said, are quantitatively limited—if that is a cutoff, which it may very well prove to be.

But no one contends, I hope, that the President has unlimited power. The words "Commander in Chief" mean something. They do not say he is the absolute ruler and dispenser of everything for the American people—their life, their liberty, their property. That is why we have a written Constitution, because the President, as we, has only such power as the Constitution gives him.

Mr. ALLEN. I ask again: Does that not then boil the issue down to a 30-day limitation on his power to act?

Mr. JAVITS. It does not, because it is not a 30-day limitation on all powers that he has. We developed that originally. We have chosen certain areas in which we are legislating, and in those areas the limitation is, in our judgment, designed to effectuate our purpose, which is that where an act which he begins with power to take becomes an act which we believe he does not have the power to take—to wit, to get into a state of war—without our concurrence, then we call for our concurrence. That is the basic concept.

Mr. ALLEN. If the President will have the power to act in these three areas set forth in section 3, in the absence of section 3, how then would the Senate have the power to impose a 30-day limitation on the exercise of that power?

Mr. JAVITS. But he does not have the right, the power—in my judgment and in the judgment of those who are backing this bill—to continue to exercise that authority to the point where it changes into a different kind of authority. In other words, whereas he can repel an attack, he cannot carry on until he is in a state of war. We fix that at 30 days.

The Senator may differ with us, but we say that the quantitative time span of 30 days, for practical purposes, is enough to determine that question and that that is better than a qualitative standard.

Mr. ALLEN. But if his power is unlimited in that area, in the absence of the legislation, and the legislation confirms that power in him, how can it then go a step further and say, "We are confirming this power in you for exercise for a period of 30 days"?

Mr. JAVITS. He does not have an unlimited power, because that power is limited according to the Constitution, too. He is Commander in Chief. He can only repel an attack. An attack can be repelled in 5 minutes or it can be repelled in 20 years, and there have been hundred-year wars in this world.

If we adopted the Senator's theory—at least, the theory implied by this question—the President could carry on a hundred-year war, and we would not have a word to say about it. He has no such power under the Constitution. That is what we say.

So we have tried to get the best standard we could, which is the quantitative standard of a period of time.

Mr. ALLEN. But how could the Senator contend that there is any constitutional basis or reasoning for setting a 30-day period after it has already confirmed this general power in the President?

Mr. JAVITS. The constitutional basis is the power of Congress to make laws necessary and proper about everything in the Constitution, including the President's power as Commander in Chief and including our own war powers. Therefore, his power, once it changes its nature by the fact that you cease to repel an attack and you are in a state of war, is no more unlimited than ours, and we have the authority under the Constitution to define it. That is what we are doing.

In other words, the implication of the question—I do not understand why the Senator feels that should confound me—is that the minute you say he has some power, that this power is unlimited and permanent. I say he does not have any power of such a nature at all. He has the power to repel an attack. That is a limited power, and we can define its limitation to repel an attack, and we say it is 30 days. After that, he is at war, and we want to join in that decision. We say that, and we have that authority to make that finding under the "necessary and proper" clause.

Mr. ALLEN. That is the Senator's understanding and contention, I would say. Is that correct?

Mr. JAVITS. That is correct. That is my understanding and contention.

Mr. ALLEN. I thank the distinguished Senator from New York for clarifying these points for me.

Mr. JAVITS. I thank my colleague.

Mr. BENNETT. Mr. President, today the Senate begins its discussion of the war powers bill. As I understand this legislation, it is to limit the role of the Executive in foreign affairs by subjecting Executive decisions to specific congressional control.

The sponsors of this legislation base their case for a limitation of the Executive "war powers" on their definition of the original intent of the framers of the Constitution for the conduct of foreign affairs. I believe with the certainty that history will support me—that it is extremely difficult to determine just exactly what was in the minds of the framers when the Constitution was written. We know that there was ample discussion of the opposing merits of legislative versus executive control of foreign affairs. We know also that the Constitution in its final version gives both branches a role in the vital decisions of foreign affairs, and that is probably what the framers intended. However, I believe it is abundantly clear that the framers did not intend that Congress be responsible for the daily conduct of foreign affairs. This prerogative was left in the hands of the Executive. Thomas Jefferson expressed this view best. "The transaction of business with foreign nations is executive altogether."

Congress was given the power to declare war, to provide for raising and equipping the Armed Forces, and Congress was given the power of the purse. There is nothing in this delegation of power which would imply that Congress was to be the deciding force in the conduct of all matters of foreign policy.

Since the time these initial decisions were made, our world has been the development of means of warfare and techniques of foreign policy never envisioned by the framers—all dealing with the daily conduct of foreign affairs and all requiring the resources of a strong and flexible Executive. The role of Congress in the conduct of foreign affairs was designed to be minimal and the nature of

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modern warfare and diplomacy has reinforced the Executive role. For Congress to attempt to limit the role of the Executive in responding to the contingencies of our modern world is dangerous and unrealistic.

The sponsors of this legislation advocate the proposition that the Executive has assumed powers and responsibilities not delegated to him by the Constitution and that he has usurped, so to speak, congressional authority, notably the authority to declare war, in the conduct of foreign policy.

Mr. President, I find it difficult to follow this assumption. The Executive has exercised powers given to him as Commander in Chief of the Armed Forces and chief diplomat under the Constitution.

He has used his offices for the conduct of foreign affairs as made necessary by existing conditions in this day and age, conditions which were not foreseen by the founders and which could not be defined by them. I remind my colleagues that no one has taken from Congress its power of the purse—to control the spending of the exective branch and thus express congressional intent. No one has usurped the congressional power to declare war if that is what must be done.

There have been innumerable references in the discussion of this bill to the war in Vietnam and to the Gulf of Tonkin Resolution and the grant of power made therein. The fact remains, however, that Congress had the option to express its dissatisfaction with the executive conduct of the Vietnam conflict at the time the resolution was passed. It chose not to. At this time when the war in Vietnam is fast becoming a thing of the past I think we should be extremely cautious not to let the events and the accusations of the past color our actions to the point where we take excessive action and create a situation which will only cause greater problems in the future. Our concern should be for the future and I do not believe this legislation is necessary and I believe its passage would be a regrettable action.

Congress had its opportunity to provide limitations of this nature when it evaluated the NATO and SEATO treaties, when it passed the Formosa and Middle East Resolutions and it wisely refrained from interfering with the executive's conduct of foreign affairs.

Mr. President, not only is this legislation unnecessary of dubious wisdom, it also could have unforeseen effects upon our international commitments.

This legislation would severely limit the ability of the United States to respond appropriately to attack or threat of attack involving our security interests.

It would set forth its obvious limitations for our potential opponents to see, and finally, it would cause a serious erosion of the credibility of the President of the United States as a leader in the free world in the eyes of our allies.

In the case of NATO the effects of this legislation would be the most critical. It would virtually tie the President's hands from an advance deployment of force or show of force in the face of a belligerent buildup or threat of use of force. Even in the event of actual attack in an area covered by the NATO treaty the President could repel the attack for only 30 days without later congressional authorization.

A particular example of the possible effects of this legislation is Berlin. Berlin has long been and will continue to be a favorite pressure point of our opponents. This legislation would prohibit a U.S. show of force or additional deployment of troops in case of closure or threatened closure of access to Berlin. It would prohibit the use of all tactics we have used in the past in this area.

This is a single example but there are many more which the provisions of this legislation simply do not take into account. The same problems would result from the deployment of naval forces to the Middle East. Our hands would be tied there as well as in Latin America.

If Congress is concerned about its relationship to the Executive in foreign affairs it need only exercise its traditional authority. Permanent legislation which would bind the Executive in his conduct of foreign policy on a day-to-day basis is unwise and unnecessary. I shall cast my vote against this bill unless it is modified by amendment to preserve for the President all flexibility of action necessary to protect the interests of our country in the face of fast-moving events.

Mr. EAGLETON. Mr. President, the most important decision we, as a Nation, can make is the decision to go to war. I ask today that this Congress reassert its constitutional mandate to make this important decision.

It has become easier in this country to go to war than to make peace. This stark reality has not come about because men have erred. It has come about because the institutions established by our Founding Fathers to cope with man's fallibility have been eroded by expediency.

Our Constitution was written by men who had experienced the tyranny of a monarch and who clearly understood the danger of placing ultimate power at the disposal of a single man. The framers sought to create a process by which important decisions would undergo the careful scrutiny of thorough deliberation and collective judgment. They fully expected that the responsibility for committing the nation to war would be shared—and that Congress, the most representative branch of Government, would authorize this important commitment.

We must begin today to restore balance between the executive and legislative branches so that decisions of such consequence as those involving war and peace do not depend upon the wisdom of one man. That is the purpose of the War Powers Act and that is the intent of the Constitution.

Congress was seen by the framers as a deliberate, diverse and accessible body—the very characteristics for which it is most frequently criticized today. These qualities were not considered liabilities, but rather assets in the decisonmaking process. Collective judgment, not efficiency, was seen as the most important ingredient in the solution of the greatest problems that faced our Nation.

It was with these qualities of Congress in mind that Alexander Hamilton, an advocate of centralization and increased Executive power in his time, conceded:

> The superior weight and influence of the legislative body in a free government.

The framers understood that the institutions they had established would be challenged by future events—as they are today. They undoubtedly had this in mind when they gave Congress the residual authority to:

> . . . make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Mr. President, the intricate balance created by our Constitution has been severely upset by the overwhelming predominance of the executive branch. Deliberation and collective judgment have been preempted in favor of efficiency. Congress not only has the authority, it has the obligation to act to protect its role in our system.

Some are concerned that this act will undermine the President in his role as Commander in Chief.

We must remember that our country is a democracy. The President cannot be more committed to a task, nor any wiser, than the people.

The late Adlai Stevenson said:

> The essence of republican government is not command. It is consent.

This act restores consent to the decision to go to war. Its effect will strengthen the President's command, not weaken it.

This bill is the result of months of hearings by the Foreign Relations Committee, extensive public debate, and the scholarly work of this Nation's best qualified constitutional lawyers. It incorporates the work of five separate resolutions, including my own, Senate Joint Resolution 59.

The sponsors of the War Powers Act are joined together in a purpose which transcends partisan and ideological lines.

We have taken great pains to protect the proper constitutional role of the Commander in Chief to defend our Nation and to conduct authorized hostilities to assure our security.

We do not cast blame in the direction of energetic and well-meaning Presidents who have perceived the monumental task before them and have taken prerogatives established by predecessors as their own. It is our purpose to assure that Congress will fulfill its constitutional obligation and regain the mandate to decide why, when, and where this Nation goes to war.

The sponsors of this act do not presume that good faith can be ordered or that correct decisions can be legislated. Our purpose is to impose clear criteria within which men of good faith can and will operate.

A multitude of scenarios have been hypothesized by opponents of this legislation in an attempt to show that it would tie a President's hands. A careful examination shows that this would not happen.

A most common scenario has a friendly nation under attack while the United States stands idly by, helpless to come to its defense.

If no imminent threat to the United States is apparent but there is adequate consensus that we should come to the aid of our friend, Congress will act—and fast enough. If a nation can be overrun in a matter of hours, there is little the United States can do in such a tenuous situation. If, as is normally the case, a hostile action is a gradually accelerating situation, the Congress and the American people will have the time to assess the feasibility and desirability of involving American forces. More important, when the United States does act, it will be with a hand strengthened by consent and unity of purpose.

In addition, although unlikely, it is conceivable that an attack on an ally could constitute an implicit threat to the United States. If this is true, and the President can latter satisfy Congress and the country that it is true, he may commit U.S. forces under the emergency provisions of section 3.

Critics have also charged that the United States will not be able to honor its commitments if S. 2956 is enacted. They base these charges on the fact that section 3(4) specifies that authority to introduce U.S. forces in hostilities cannot be inferred from existent or future treaties.

In my statement before the Foreign Relations Committee, I pointed out that no treaty, including the NATO Treaty, was self-starting—that U.S. forces cannot be committed to hostilities on the authority of a treaty alone. The President and the Senate could never legally authorize such a self-starting mechanism because the Constitution clearly assigns the war powers to the Congress and the President, not to the Senate and the President. The House, which is not constitutionally engaged in the treaty making process, must be a part of the decision to declare war.

Article 11 of the NATO Treaty, perhaps the most tightly worded of U.S. treaty commitments, provides that decisions which would put other provisions into effect are to be made in accordance with the constitutional processes of the signing parties. This type of clause is present in all U.S. treaties. The War Powers Act, therefore, has no effect on any U.S. treaty commitment except to more adequately describe the "constitutional processes" referred to.

Criticism has also been directed at section 5, which states that authorization granted under the emergency provisions of section 3 shall not be sustained beyond 30 days without further approval by Congress. It is said that this section could interfere with the President's Commander in Chief powers if he should decide that more than 30 days are necessary to perform his defensive mission.

If the emergency situation is clearly authorized by the act—and the Constitution—the President should have no problem making his case to Congress within 30 days. Congress is not as susceptible to whim as a single man might be. It therefore would be highly unlikely, if not impossible, that Congress could turn a President down in the face of a real emergency.

If, however, the situation cannot be authorized by section 3 and it becomes obvious by the 29th day that the President has overstepped his authority, Congress could not, under this act, take away the President's right—and responsibility—to defend our forces as they withdraw. Congress would, however, insist that those forces be in the withdrawal stage.

Some of the advocates of war powers legislation have expressed concern that section 3, by allowing an introduction of forces "in situations where imminent involvement in hostilities is clearly indicated," could be construed as allowing a preemptive or first-strike nuclear attack solely on the President's judgment.

U.S. strategic doctrine depends upon second strike deterrence or retaliation in the case of nuclear attack. Even the development of an American first-strike potential is constitutionally questionable and has been considered morally reprehensive. A President could not, therefore—short of a complete breakdown of our system—launch a preemptive nuclear attack, and this bill cannot in any way be interpreted as affecting this policy.

It should also be recognized that, in the final analysis, all any legislation can expect to achieve is to hold a President legally and politically accountable for his actions. The consequences of a nuclear holocaust would make the question of political and legal responsibility moot.

Some have expressed concern with the provision in section 7 which would require that:

> Any bill or resolution authorizing a continuation of the use of U.S. forces in hostilities would, if sponsored or co-sponsored by one third of the Members of the House of Congress in which it is introduced, be considered reported to the floor no later than one day following its introduction . . .

It should be emphasized that this sentence continues with this phraseology:

> unless the Members of such House otherwise determine by yeas and nays.

If more than 1 day of deliberation is required, Congress clearly has the mechanism to provide for it.

Finally, section 9 states that the act will:

> Take effect on the date of enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date . . .

This act, therefore, excludes the hostilities in which we are currently engaged in Vietnam.

We do not attempt by this exclusion to ignore the most important issue of our time, and we cannot. This legislation would not be before this body today if Vietnam had not exposed the breakdown of the process by which we go to war.

This act cannot deny the reality of 55,000 Americans dead and billions of dollars expended in futility. The legacy of Vietnam has been anxiety, doubt, and uncertainty about ourselves and our Nation. These are the consequences of an unpopular war and they provide the backdrop for this legislation.

Our involvement in Vietnam is still the subject of heated debate in this country. It is the emotion of this debate that we wish to avoid, for we seek not personal recriminations but real institutional reform. This reform can only be achieved in an atmosphere free of partisanship and the emotions of the moment.

We look to the future—a future that will see this country enter a war only with the consent of the people.

In the words of Tolstoi:

> War . . . is such a terrible, such an atrocious thing, that no man . . . has the right to assume the responsibility of beginning it.

I urge this body today to return the power to declare war to its constitutionally ordained place within our system—the Congress of the United States.

Mr. President, joining me as one of the sponsors of the War Powers Act is the distinguished Senator from Virginia and my good friend and colleague, BILL SPONG.

A former professor of international law at William and Mary College, Senator SPONG is uniquely qualified for his important role in the war powers debate. As a member of the Foreign Relations Committee, Senator SPONG has been instrumental in bringing this important legislation to the attention of the Congress and the public.

At the outset of this important debate, I wish to commend to the attention of my colleagues an excellent and scholarly article written by Senator SPONG for the fall 1971 edition of the University of Richmond Law Review.

Mr. President, I ask unanimous consent that Senator SPONG's article entitled, "Can Balance Be Restored in the Constitutional War Powers of the President and Congress?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the University of Richmond Law Review, fall 1971]

CAN BALANCE BE RESTORED IN THE CONSTITUTIONAL WAR POWERS OF THE PRESIDENT AND CONGRESS?

(By William B. Spong, Jr.*)

The Cambodian incursion of April, 1970, brought forth renewed observations from constitutional scholars, eminent and amateur, that the war-making power of Congress had been eroded and the checks and balances system for the initiation and conduct of hostilities by American troops, as contemplated by the Founding Fathers, rendered almost inoperative. Debates on the National Commitments Resolution[1] and the Cooper-Church Amendments, as well as events following adoption of these measures, appear to sustain such conclusions. How has this happened? What, if anything, can be done to restore some balance in this crucial area of public policy? Should there be an effort by Congress to re-create such balance, particularly in view of the emergency nature of nuclear and conventional conflict and the changing world in which we live?

What follows is an attempt to provide some answer to these questions. There are excellent recent articles available on the constitutional authority of Congress and the President to commit American forces to foreign combat.[2] The scholarship and objectivity in these works is more appreciated when one considers the present high level of emotion attendant to the United States' prolonged participation in the war in Indochina. The reader will not find herein an

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in depth treatment of the subject of congressional and presidential war powers. Rather, the purpose of this article is to provide a general background against which to weigh the merits of certain suggestions presently before Congress. Readers should be mindful, as is this writer, that the present struggle between the executive and legislative branches of our government over many facets of foreign policy—commitments, treaties, executive agreements and legislative limitations on the Executive—may not be the ideal backdrop for objectivity from one in the eye of the storm. Nevertheless, the mission here is to review and comment with a view toward determining the advisability of action or legislation in prospective rather than to evoke quarrels over past events and present policy.

I. THE CONSTITUTION AND WAR POWERS

What did the Founding Fathers intend to be the respective roles of Congress and the President in regard to war-making?

Article I, section 8 of the Constitution gives to Congress power to provide for the common defense; to declare war; to raise and support (for periods of no more than two years at a time) an Army and Navy; to make rules which will regulate and govern the military forces; to provide for calling out the militia to enforce laws, suppress insurrection, and repel invasion.

Article II, section 2 describes the President as "Commander-in-Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the federal government."

As is well known, the original draft submitted to the Constitutional Convention of 1787, consistent with the Articles of Confederation, gave to Congress the power to "make war." James Madison's notes on the debate over this particular clause provide insight into the intent and near unanimity of the framers. In the course of those debates, Charles Pinckney of South Carolina expressed his belief that the Senate would be the ideal depositary of the war power inasmuch as each state had an equal interest in the security of the nation, and because the Senate was better ". . . acquainted with foreign affairs, and most capable of proper resolutions." [3]

On the other hand, Pierce Butler, also of South Carolina, believed Senate deliberations to be too slow and cumbersome. He preferred vesting the war power in the President, who "will not make war but when the Nation will support it." [4]

As to the extent of authority the President should possess, Mr. Madison and Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make" war, ". . . leaving to the Executive the power to repeal sudden attacks." [5] Although this change was objected to as providing the President with the authority to commence war, it was agreed to by a vote of eight to one.[6]

Alexander Hamilton, recognized as perhaps the leading advocate of a strong Presidency, later undertook to explain the role of the President as Commander-in-Chief in *The Federalist*, when he wrote:

"In this respect his (the President's) authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy; while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies,—all which, by the Constitution under consideration would appertain to the legislature.[7]

Later, in 1801, while attacking Jefferson for his timidity against the Barbary pirates, Hamilton wrote:

"That instrument has only provided affirmatively, that, "The Congress shall have power to declare war"; the plain meaning of which is, that it is the peculiar and exclusive province of Congress, *when the nation is at peace*, to change that state into a state of war; whether from calculations of policy, or from provocations or injuries received; in other words, it belongs to Congress only, *to go to war*. But when a foreign nation declares or openly and avowedly makes war upon the United States, they are then by the very fact *already at war*, and any declaration on the part of Congress is nugatory; it is at least unnecessary." [8]

James Madison, regarded as the father of the Constitution and its most authoritative interpreter, wrote in 1793 of the executive power to make war:

"Every just view that can be taken of this subject, admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the constitution, that the power to declare war, including the power of judging of the causes of war, is *fully* and *exclusively* vested in the legislature; that the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemed requisite and proper. . . ." [9]

Patrick Henry, perhaps the most eloquent of those opposing ratification of the Constitution, was a voice for many who feared assumption by the President of any part of the war-making powers. In the Virginia Convention, Henry presaged with alarm the concept of the President in the field, leading an army into battle.[10]

Thomas Jefferson, evidently assured that the war-making powers of the President had been limited, wrote to Madison in 1789: "We have already given in example one effectual check to the Dog of War by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay." [11]

A careful reading of the ratification debates and the analysis offered by *The Federalist* leads to certain conclusions. First, the framers drew a distinction between offensive and defensive hostilities. Involvement of the nation in any type of war, other than one of self-defense, was to be solely the responsibility of Congress. If the nation were suddenly attacked or invaded, the President would respond to repel the attack, but Congress would decide the nature of the action to follow—action which should come only after a collective judgment had been made by those directly elected as representatives of the people. Second, the President's only role in the war-making process was, as Commander-in-Chief, to direct operations as the executive arm of the Congress. Mindful that a great majority of the colonists had an aversion to standing armies and the power politics of Europe that had allowed sovereigns to go suddenly to war, the framers sought to distinguish between war-conducting and war-making.

Hamilton's criticism of Jefferson's policy toward the Barbary pirates, included in the former's views regarding defensive wars, has been used to justify presidential war-making in later years. But this came ten years after the constitutional debates. There is scant evidence that the Founding Fathers intended to grant any war-making power to the President other than to defend against invasion when Congress was not in session. Nevertheless, in later years the enlarged role of the President as the initiator of foreign policy, an expansion of the concept of the President's defensive powers, the creation of standing armies and a broader interpretation of the Commander-in-Chief clause of the Constitution, have resulted in an inferior role in the war-making process for Congress. This result is contrary to the concept of checks and balances through which the Founding Fathers sought to insure against the growth of disproportionate power in any one of the three branches of government. It is also contrary to public view and expectation that the Constitution assures and requires its elected representatives to have a voice in the initiation of military hostilities abroad.

II. HISTORICAL BACKGROUND OF AN UNBALANCED WAR POWER

To explore the methods by which balance in the war powers between the legislative and executive branches might be restored, one should review the historical background of how it was lost. To facilitate this review, three stages in the country's history might be identified.[12] The first stage is a period from 1776 until the end of the nineteenth century. Despite many minor involvements in which the President employed force abroad, this period should be regarded as one of collaboration between Congress and the President.

After the years during which the earliest Presidents deferred to Congress in the making of war, acceptance of an "act of war" theory, which allowed the President to deploy military forces so long as they were not used to commit "acts of war," represented a slight move toward presidential power. A review of the many occasions during the nineteenth century when Presidents used force abroad supports a general conclusion that the dividing line between legislative and executive authority was flexible enough for the President to use military force in insignificant circumstances, while preserving the role of Congress in decisions of greater gravity.[13]

The second period, which began with this century, is one during which collaboration between the President and Congress became the exception. Presidents seldom consulted Congress before using military forces abroad. On the other hand, Congress rarely gave evidence of willingness to be other than a negative force in the shaping of foreign policy. During the earliest years of this century Presidents Theodore Roosevelt, Taft, and Wilson used armed forces in many parts of Latin America. These actions were in contravention of the "act of war" theory because they were against sovereign states.

The negative influence of Congress was quite evident during the Wilson and Roosevelt Administrations in the years preceding the two World Wars. This period cannot be called one of either presidential or congressional domination. It is marked for its lack of cooperation between the legislative and executive branches.

The third period, which may or may not be drawing to a close, must be associated with the Cold War and the attendant atmosphere of constant crisis. Until recently, Congress—concerned for national security, unsure of its own role and that of the nation in an era of unsurpassed power and commitment abroad, and undoubtedly sensitive to charges of obstruction [14]—has deferred to the presidential use of military forces abroad with or without legislative authority.

The sending of armed forces to Korea in 1950 by President Truman without congressional authorization or consultation is the first instance of a President claiming an inherent power to act "in the broad interest of American foreign policy." [15] This action was not without its congressional defenders.[16]

Soon after the Korean intervention came President Truman's decision in 1951 to send four additional divisions to Europe as a potential deterrent against Russian aggression. Never had a President committed comparable

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military forces to an area not in a state of war. Despite lengthy debate in both Houses, President Truman ultimately deployed the troops as he deemed necessary.[17]

Secretary of State Dean Acheson, expressing the view of the Truman Administration, stated in response to congressional inquiry into the President's proposed deployment of troops: "We are in a position in the world today where the argument as to who has the power to do this, that, or the other thing is not exactly what is called for from America in this very critical hour." [18]

After Korea, there began a decade during which congressional resolutions involving the potential use of military forces abroad were adopted. President Eisenhower, while stating that he had certain inherent powers as Commander-in-Chief to take whatever emergency action was necessary to protect the rights and security of the United States, asked for presidential authority in 1955 to use American armed forces for the protection of Formosa and the Pescadores. The President stated that a suitable congressional resolution would clearly and publicly establish that authority.[19]

Subsequent to the adoption of the Formosa Resolution, the Middle East Resolution of 1957 was adopted during the Eisenhower Administration, the Cuba Resolution of 1962 was adopted during the Kennedy Administration, and the Gulf of Tonkin Resolution of 1964 was adopted during the Johnson Administration. Each of these resolutions, with the exception of the one concerning Cuba,[20] is subject to an interpretation that it concedes inherent war initiating powers to the President as Commander-in-Chief. All were adopted in moments of national urgency when the constitutional questions posed were apparently obscured.[21]

Not only did these resolutions, except for the Cuba Resolution, concede inherent war power to the President, but they granted in advance broad and undefined war-making powers. When President Eisenhower, a year after adoption of the Middle East Resolution, ordered 14,000 American troops to Lebanon, no reference was made to the resolution of the previous year. Similarly, in October of 1962 when the Cuban missile crisis occurred, President Kennedy did not refer to the Cuban Resolution for his authority in establishing a naval quarantine. Unlike the other resolutions, the Tonkin enactment has often been cited as authority for extensive and far-reaching military activity. It has also been represented by former Under Secretary of State Nicholas Katzenbach to be "the functional equivalent" to a declaration of war when combined with the SEATO Treaty.[22]

Both Presidents Johnson and Nixon have, however, asserted inherent powers to act in Vietnam without reliance upon the Tonkin Gulf Resolution. The Nixon Administration so advised the Senate Foreign Relations Committee by letter from the State Department.[23] In reviewing the circumstances of the adoption and language of the resolutions, one has these impressions: (1) none of the Presidents of the post World War II years believed the resolutions were essential for them to have power to commit troops abroad without the consent of Congress; (2) the crisis atmosphere that attended consideration of the resolutions probably inhibited any detailed discussion of the constitutional questions presented; and (3) the spirit of national unity in time of crisis resulted in the adoption by Congress of general words of support that also gave undefined war initiating powers to the President for unlimited periods of time.

President Johnson's view of his war-making power as a constitutional prerogative might best be demonstrated by his sending of American forces into the Dominican Republic on April 28, 1965. Although there was brief consultation with Congress, this was accomplished after the decision had been made,[24] and the troops were dispatched without reference to any congressional act or resolution—as had been done by President Truman in Korea and by President Eisenhower in Lebanon.

Therefore, the evolution of an unbalanced war power unfolds—first, a period of collaboration between Congress and the Executive; then, a period of unilateral presidential action and congressional obstruction from the beginning of this century to World War II and the emergence of the United States as a dominant world power; and, lastly, a period of presidential dominance of the war-making power, exemplified by the "faits accomplis" of Korea, Lebanon, Cuba, Vietnam, Dominican Republic, Cambodia, and Laos.

This last period had its beginning with President Truman's unilateral deployment of troops in Korea without formal congressional consent. Although Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon have sought to give an appearance of consultation or collaboration with hurried crisis meetings and general congressional resolutions, all believed they possessed an inherent power as Commander-in-Chief to deploy armed forces abroad without congressional consent if they deemed it in the national interest. Undoubtedly, all recognized they might receive greater public support with an appearance of collaboration, but were not prepared to show the deference or risk the obstruction that hindered the Wilson and Roosevelt Administrations in the years preceding the two World Wars.

III. ANALYSIS OF PRESIDENTIAL HEGEMONY IN DECISIONS TO EMPLOY THE ARMED FORCES

A. Few formal declarations of war

At the risk of over-simplification there are several observations that might readily be made at this juncture. First, that a formal declaration of war has rarely preceded the initiation of hostilities by American forces. The United States has only declared war five times in its history.[25] So what is presently in need of definition is whether the Constitution mandates a role for Congress in the making of decisions to commit military forces without a declaration of war.

B. Failure of Congress to adapt

A second observation is that Congress has played a major role in the demise of its war powers. The Senate Committee on Foreign Relations painfully stated this:

"The committee is well aware—and has expressed its awareness several times in these pages—that one of the reasons for the flow of the war power out of the hands of Congress and into the hands of the President has been the failure of Congress to adapt its power over the armed forces to the circumstances of the nuclear age. Tacitly acknowledging a lack of confidence in its ability to make that adaptation, Congress has permitted its war power to be transferred to the hands of an executive which, though less susceptible to self-doubt than the Congress, is no less susceptible to error." [26]

In addition to the uncertainty of the nuclear age and the reaction to congressional negativism of the periods prior to the First and Second World Wars, there is legitimacy to the claim that Congress has often preferred to second guess the President. Former Undersecretary of State Nicholas Katzenbach recently referred to this as Monday morning quarterbacking.[27]

However, there have been occasions during debates on foreign policy resolutions when Senators have voiced constitutional objections to language delegating responsibility for the declaration of war to the President. A consistent prophet of what the resultant effect to the war powers might be should this ominous trend continue, was the late Senator Robert A. Taft. It is somewhat ironic that often Senator Taft was in sympathy with the Executive's policy aims, but objected to methods that ignored congressional concurrence. Senator Taft on the subject of the sending of American troops to Iceland by President Franklin Roosevelt in 1941 wrote:

Mr. President, on Monday the President of the United States notified the Senate that forces of the United States Navy had already arrived in Iceland in order to supplement, and eventually to replace, the British forces now stationed there. This action was taken in accordance with an understanding reached by the President with the Prime Minister of Iceland, frankly inspired, however, according to the Prime Minister, by the British Minister to Iceland, who explained to him that British forces in Iceland were required elsewhere, and suggested that he apply to the United States for forces. The Prime Minister stressed the fact that the United States forces must be strong enough to meet every eventuality and the President promised that the Government of the United States would immediately send troops, apparently including the United States Army as well as the Navy, to supplement, and eventually to replace, the British forces now there. Judging from the various press reports, it is likely that 80,000 American boys are in course of being sent to Iceland 2,400 miles from any American territory, and substantially a part of the continent of Europe.

In my opinion, the President has no legal or constitutional right to send American troops to Iceland. It is not an agreeable task for me to question the authority of the President to take any action which he has taken in the name of the Government of the United States but I believe it would be most unfortunate if the Senate of the United States should acquiesce without protest in acts of the President which might nullify for all time the constitutional authority distinctly reserved to Congress to declare war.

It would be a tremendous stretching of the Constitution to say that without authority from Congress the President of the United States can send hundreds of thousands of American soldiers to Europe when a war is raging over that entire Continent, and the presence of American troops would inevitably lead to war. The President cannot make aggressive war. Neither can he intervene in a war between two other nations, because such intervention, even though it does not immediately involve a physical attack on one of the combatants, is clearly the making of war.

"There has been no attack on the United States and no threat of attack. The action of the President is not only beyond the powers which the Constitution has granted to him, but it is a deliberate violation of his pledge to the American people." [28]

It was Senator Taft who questioned the intervention in Korea by President Truman. Senator Taft wrote:

"My conclusion, therefore, is that in the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority obtained." [29]

The high-water mark of congressional resistance during the years since World War II was the "Great Debate" of 1951, following an announcement by President Truman in September of 1950 that he intended to send additional ground troops to Europe as part of a NATO buildup. The debate began with a speech by Senator Taft in the Senate on January 5, 1951, and ended in April with the adoption of a resolution approving what had taken place, but calling for "future congressional approval" if more than four di-

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visions should be sent to Europe.[30] Senator Taft viewed adoption of the resolution as a victory.[31] Others saw it as a draw between the President and Congress.[32] The resolution was never tested and the "Great Debate" in retrospect seems hardly more than a pause in the sequence of events from Korea to Cambodia and Laos during which the power of the President to determine, without congressional authority, the necessity for committing military forces abroad has come to be regarded as almost absolute.

C. Limited judicial guidance

One might ask what judicial interpretations have been placed upon the war powers of Congress and the President under the Constitution. The Supreme Court has not often taken the opportunity to define or limit the war-making power. There is little disposition by the Court to consider "political questions,"[33] and one may safely predict that if balance is to be re-created in the war-making process, it will be without benefit of judicial guidance.

The Supreme Court has denied certiorari in many cases, challenging the validity of the war in Vietnam.[34] It left standing a ruling by Chief Justice Burger, then Judge of the Circuit Court of Appeals for the District of Columbia, in which the Court stated:

"The fundamental division of authority and power established by the Constitution precludes judges from overseeing the conduct of foreign policy or the use and disposition of military power; these matters are plainly the exclusive province of Congress and the Executive."[35]

There are, however, decisions that should be noted—most of them in the early years of the nation. In *Penhallow v. Doane*[36] the Supreme Court suggested that the war power was not dependent upon the specific provisions in the Constitution.

In *Bas v. Tingy*,[37] the Court held that Congress could declare war as a public or perfect war or as a limited or imperfect war, a thought expounded a year later in *Talbot v. Seeman*[38] when Chief Justice John Mitchell wrote:

"The *whole powers* of war being, by the Constitution of the United States, vested in Congress, the *acts of that body alone* can be resorted to as our guides in this inquiry. It is not denied, nor in the course of the argument has it been denied, that *Congress may authorize general hostilities*, in which case the general laws of war apply to our situation: or *partial hostilities*, in which case the laws of war, so far as they actually apply to our situation, must be noticed."[39] (Emphasis added.)

In *Little v. Barreme*,[40] the Court held that President John Adams was limited as Commander-in-Chief by the restrictions enforced by Congress. The three cases mentioned above all arose as a result of the undeclared naval war with France. In these opinions, the Court observed that Congress was expected to play the predominant role in the initiation and prosecution of war. The opinions compliment views of the war-making powers as expressed by the writings of the framers of the Constitution.

The few cases concerning the war powers heard in later years have, for the most part, tended to strengthen the hand of the Executive and broaden his powers. A large number of the military actions not involving a formal declaration of war have concerned the protection of the lives and property of citizens of the United States.

In *Durand v. Hollins*,[41] the Court sustained President Pierce's order in 1854 to bombard Greytown, Nicaragua, because of the refusal of local officials to pay reparations for an attack upon the American consul.[42]

In the *Slaughter House Cases*,[43] the Court said in 1873:

"Another privilege of a citizen of the United States is to demand the care and protection of the Federal government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign government. Of this there can be no doubt, nor that the right depends upon his character as a citizen of the United States." [44]

Other cases have sustained the right of the President to use the armed forces abroad for the protection of American lives and property.[45] These precedents probably aided President McKinley in his decision to send troops to China without congressional authorization in the Boxer Rebellion of 1900–1901.

It is of interest that President Eisenhower's justification for sending troops to Lebanon in 1958 was his inherent constitutional power to protect American lives and property,[46] rather than the Middle East resolution of 1957. Protection of lives and property was likewise the supposed basis for President Johnson's dispatching of Marines to the Dominican Republic in 1965.[48]

The constitutional power of the Executive to repel sudden attacks without congressional authorization has always been acknowledged. This power to wage defensive war was expanded in *Martin v. Mott* [49] when Justice Story said:

"The power thus confided by Congress to the President, is doubtless, of a very high and delicate nature. . . . But it is not a power which can be executed without a correspondent responsibility. It is, in its terms, a limited power, confined to cases of actual invasion, or *of imminent danger of invasion*. If it be a limited power, the question arises, by whom is the exigency to be judged of and decided? . . . We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons. We think that this construction necessarily results from the nature of the power itself, and from the manifest object contemplated by the act of Congress. The power itself is to be exercised upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union.[50] (Emphasis added.)

Earlier reference was made to Alexander Hamilton's view of presidential war powers as expressed in 1801.[51] This expanded view of defensive war was reflected in President Polk's initial instructions to General Taylor, authorizing him to attack first in defense as soon as the Mexicans crossed the Rio Grande and to enter Mexican territory in the pursuit of the invaders.

The Hamilton view that once the country is attacked, the President may take action without further authorization from Congress, received approval during the War Between the States when, in *The Prize Cases*,[52] the Supreme Court held valid President Lincoln's proclamation of a blockade of the South. Of the President's powers, the majority opinion said: "He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority." [53]

In *United States v. Sweeny* [54] the Supreme Court said that the purpose of the Commander-in-Chief clause ". . . is evidently to vest in the President the supreme command over all the military forces—such supreme and undivided command as would be necessary to the prosecution of a successful war." [55]

The case most often cited as a restriction upon the President's war powers is *Youngstown Sheet & Tube Co. v. Sawyer*.[56] Justice Jackson said that the President "has no monopoly of 'war powers,' whatever they are." [57] This decision was prompted by President Truman's seizure of the steel plants during the Korean War—an action which the Supreme Court held invalid. It should be noted, however, that this case questioned the President's power over a domestic issue—labor-management relations—rather than the conduct of hostilities or the commitment of troops.[58]

In addition to the Court decisions that recognized an expanded executive power in the protection of American lives and property, and an expanded definition of defensive war, there also emerged a theory of inherent presidential right under the Constitution to protect national interests.[59] This received judicial recognition in the case of *In re Neagle* [60] inasmuch as the Supreme Court ruled that the power of the President to enforce the laws extends to obligations growing out of America's international relations. But there have been few recent decisions on the constitutional war powers * and almost none involving a confrontation between legislation and presidential action. One concludes that what has come to be regarded as an inherent power is more the result of presidential action and congressional acquiescence than judicial blessing.

D. Nuclear age and the cold war

Unquestionably, the nuclear age and the cold war created a climate of emergency that prompted Presidents to take action without congressional concurrence where earlier Executives may have hesitated. Since the time of entry into Korea, Presidents have moved without congressional authorization, and legal precedents have been cited to support their actions.[61] Those who have evoked the Founding Fathers as the constitutional authority for congressional participation in the war-making process have often been brushed aside.[62]

What relevance has an eighteenth century document drafted in the days of sailing vessels and limited cannon range to an age of instant communication, of nuclear warheads and intercontinental missiles? This question is implicit in the minority views on the National Commitments Resolution filed by Senator Gale McGee, who wrote: "The machinery of policy decisions assembled nearly two centuries ago simply has not been able to keep pace with the changing requirements of present-day realities." [63]

Two foreign policy developments of recent years should be noted. One is the increased use of the executive agreement as a method of making foreign commitments without having a treaty ratified by the Senate. This had its genesis with President Franklin Roosevelt's transfer of fifty destroyers to the British, and began the increased use of commitment by executive agreement. Today there are almost four times as many executive agreements as treaties.[64] Another development was the extensive execution of multilateral treaties and the emergence of the thesis of collective self-defense. During the Truman and Eisenhower Administrations, the United States entered into a series of multilateral and bilateral treaties which sought to encircle and contain the Communist nations.[65] These treaties represented commitments for military assistance all over the world. Although not self-executing, they broadened our commitments to a degree that Presidents had a ready basis for military assistance and, in some instances, for the making of war.[66]

And so, in varying degrees, obsolescence of the formal declaration of war, congressional acquiescence, lack of judicial interpretation of the war powers, and the cold war have all contributed to the atmosphere of a period during which presidential hegemony over the war powers has emerged. Without arguing the merits of troop commitments made by Presidents Truman, Eisenhower, Kennedy, Johnson and Nixon, it can be argued that the public believes there has been far greater congressional participation in the decisions that led to Korea, Lebanon, Vietnam, the Cuban blockade, the Dominican Republic, Cambodia, and Laos, than has actually occurred.[67] If the intent of the Founding Fathers is to be fulfilled and the public's expectations of what the Constitution requires are to be realized, there should be congressional participation in decisions committing the nation to hostilities other than of an emergency nature. How can this be accomplished?

Footnotes at end of article.

IV. CORRECTIVE PROPOSALS ADVANCED BY CONGRESS

A. In general

Suggestions for re-establishment by Congress of a more influential role in the exercise of war powers may be divided into three categories: (a) that future resolutions be deliberated carefully and defined clearly as to the scope of congressional authorization, (b) that there be standard procedures enacted for reporting and consultation between the President and Congress, and (c) that by legislation the circumstances under which the President might initiate hostilities in the absence of a declaration of war be defined by rule

The broad and undefined nature of the powers granted in past resolutions has been noted herein. Recommendations for consideration of future resolutions have been made by the Senate Committee on Foreign Relations. They are as follows:

"(1) Debate the proposed resolution at sufficient length to establish a legislative record showing the intent of Congress;

"(2) Use the words "authorize" or "empower" or such other language as will leave no doubt that Congress alone has the right to authorize the initiation of war and that, in granting the President authority to use the Armed Forces, Congress is granting him power that he would not otherwise have;

"(3) State in the resolution as explicitly as possible under the circumstances the kind of military action that is being authorized and the place and purpose of its use; and

"(4) Put a time limit on the resolution, thereby assuring Congress the opportunity to review its decision and extend or terminate the President's authority to use military force." [68]

There have been numerous proposals for establishing consultation with Congress before forces are deployed. Professor Alfred DeGrazia of New York University proposed that at each session Congress establish a force committee [69] to share with the President the responsibility of determining when armed forces will be used without a declaration of war. Professor Henry Commager recently testified on the war powers before the Senate Committee on Foreign Relations and, among other things, suggested:

". . . that the Senate meet the argument of emergency, hypothetical as it is, by creating a permanent committee, a quorum of whose members would remain permanently in Washington, with authority to require that the President consult with the Senate or the Congress before taking any action that might involve the Nation in armed conflict. Such a committee could be counted on to respond to a genuine emergency just as promptly as would the President, and counted on, too, to present the case for caution. . . .

"that the Senate create a standing committee to consult with the President on all executive agreements, and with authority to designate those of sufficient importance to require submission to the Senate as treaties." [70]

Congressman Frank Horton of New York has introduced legislation that would create a joint committee on national security. This new committee would be designated by Congress as the panel authorized to consult with the President and his national security advisors in situations where congressional powers are involved and where congressional ratification of military actions is required.[71]

Congressman Clement Zablocki of Wisconsin has introduced a resolution which would require the President upon (a) committing military forces to armed conflict, (b) committing military forces equipped for combat, or (c) substantially enlarging military forces already located abroad, to submit a written report to the Speaker of the House and the President of the Senate. The report is to set forth the circumstances necessitating the action; the constitutional, legislative and treaty provisions giving authority for the action; the reasons for not seeking specific prior congressional authorization; the estimated scope of activities and such other information as the President may deem useful to Congress in the fulfillment of its constitutional responsibility.[72]

B. Senate proposals for restoration of a balanced war power

There are three resolutions and a bill presently before the Senate designed to limit or define the President's constitutional war powers. The bill S. 731 was introduced by Senator Jacob Javits.[73] The three resolutions are S.J. Res. 18, introduced by Senator Robert Taft, Jr.; [74] S.J. Res. 59, introduced by Senator Thomas Eagleton,[75] and S.J. Res. 95, introduced by Senator John Stennis.[76]

Should a war powers measure be enacted at this session of Congress, it is likely to be a hybrid of these proposals. If it is the sense of the Senate Foreign Relations Committee that such a measure should be reported, it must be decided whether it is to be in the form of a bill or a resolution. The author is a co-sponsor of the Javits bill, but is unaware of any operative difference between a bill and a joint resolution. Nor is there any difference between their legal force and effect. Each requires the signature of the President, and both are subject to veto by the President.

Each of the four measures defines the circumstances under which the President may or may not commit the armed forces to hostilities. While legislative enactments that seek to interpret the Constitution have traditionally been in the form of a joint resolution rather than a bill, the two forms are now being used interchangeably to the extent that there has ceased to be any operative, or even theoretical, difference between them. Either type of enactment would place the President on notice of the circumstances under which he may expect to be supported by Congress if he initiates hostilities.

The legislation offered by Senators Eagleton, Javits, and Stennis have a common characteristic—a requirement that there be advance congressional authorization for the commitment of the armed forces to hostilities by the President, except in certain designated emergency situations. In any of the defined situations, the President may commit the armed forces to combat for a period not to exceed thirty days unless explicitly authorized by Congress. Senator Taft's resolution, while defining the emergency circumstances under which the President may initiate hostilities without authorization, allows the President to continue using the armed forces until or unless the authorization is terminated by Congress. All four proposals require that the President report to Congress after he has initiated hostilities. All but the Taft resolution require continuing periodic reports. The Taft resolution requires only notification to Congress within twenty-four hours after deployment or commitment to combat.

The Javits bill [77] authorizes the President, in the absence of a declaration of war, to commit the armed forces to hostilities to repel a sudden attack on the United States or its armed forces, to protect the lives and property of United States' nationals abroad, and to comply with a national commitment resulting exclusively from affirmative action taken by Congress as well as the President. Military hostilities initiated for these purposes would be reported promptly to Congress and could not be sustained beyond thirty days unless authorized by Congress. Congress by joint resolution could terminate hostilities in less than thirty days. The bill also contains provisions for the expedition of committee and floor action on any authorization for the continuation or determination of military hostilities. Finally, the Javits bill would exclude from its operation any hostilities already undertaken prior to enactment.

The Eagleton resolution [78] states that the President may commit the armed forces to hostilities to the extent authorized by Congress through a declaration of war, statute, or joint resolution, but states that authorization may not be inferred from legislative enactments, including appropriations bills, which do not specifically include such authorization. It is also specified that no treaty may be construed as authorizing armed action without future congressional authorization. The resolution further authorizes the President, during any authorized hostilities, to enter, invade or intrude upon neutral countries when in hot pursuit of an enemy or when a clear and present danger exists of an imminent attack on United States armed forces by enemy troops located in the neutral country.

Similar to the Javits bill, the Eagleton resolution authorizes the President, in the absence of advance congressional authorization, to commit the armed forces to hostilities in order to repel an attack on the United States or its armed forces. Also, the President is authorized to remove American citizens from any country in which such citizens are being subjected to an imminent threat to their lives. There is no provision in the Eagleton resolution for the protection of the property of American nationals nor is there authorization for military action to comply with a national commitment.

As in the Javits bill, the Eagleton resolution requires that any hostilities undertaken by the President be promptly reported to Congress and that the question of terminating or continuing the hostilities be decided by Congress within thirty days.

Analogously to the Javits bill, the Eagleton resolution excludes from its authority hostilities commenced prior to its enactment and, also, contains provisions for the expedition of legislative action in committee and on the floor. The Eagleton resolution also requires the President to report periodically to Congress on the status of any authorized hostilities as well as the extended scope and length of such hostilities. The Eagleton resolution offers a definition of the term "hostilities."

The Stennis resolution [79] is similar to the Eagleton resolution in many respects. For instance, it also states that authorization may not be inferred from any provision of law, including appropriations bills, but must be specified. As in the Javits and Eagleton proposals, the Stennis resolution would authorize the President to use the armed forces to repel an attack on the United States or its armed forces. The Stennis resolution would also authorize action to protect the United States or its armed forces against the danger of future attacks, and to prevent or defend the United States against an imminent nuclear attack. As found in the Eagleton resolution, there is also a provision to allow the President to take action to evacuate United States citizens from any country in which their lives were in danger.

The Stennis resolution also requires prompt notification to Congress of any military action undertaken and requires further, with provisions for the expedition of committee and floor action, a decision within thirty days by Congress whether the authorization to use the armed forces would be extended or terminated. During hostilities, the President would be expected to report to Congress at least every six months.

While the Javits and Eagleton proposals

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simply exclude any hostilities begun prior to enactment, the Stennis resolution specifically excludes the armed conflict in the Republic of South Vietnam and all military activities carried out against North Vietnam or its allies in North Vietnam, Laos, Cambodia or the waters surrounding the Indochina Peninsula. Finally, the Stennis resolution contains a definition of "armed conflict" closely resembling the Eagleton definition of "hostilities."

The Taft resolution [90] states that armed forces will be committed to combat abroad only with the prior authorization of Congress except in the following circumstances: (1) when the President finds that the territory or armed forces of the United States are under attack or under imminent threat of attack; (2) when he finds that deployment of the armed forces is necessary to fulfill a treaty obligation; or (3) when he finds that deployment is necessary to exercise the inherent right of self defense. In any of the foregoing circumstances, the Taft resolution authorizes the President to commit the armed forces to combat at his sole discretion, but he must notify Congress within twenty-four hours of any military action.

Congress may terminate the authorization to use the armed forces by concurrent resolution. The Taft resolution contains no provision compelling termination of military action after thirty days unless Congress authorizes its continuation.

Unlike the other proposals which exclude the current war in Indochina, the Taft resolution specifically authorizes the continued deployment of armed forces of the United States for such time, and in such a manner, as the President, as Commander-in-Chief, shall deem necessary and appropriate to accomplish a withdrawal of such armed forces and the assumption by the South Vietnamese Army at the earliest feasible date of responsibility for the defense of the territory of South Vietnam.

Since the Taft resolution includes a statement of policy concerning Indochina, the Foreign Relations Committee will have an opportunity to decide whether war powers legislation is a desirable vehicle for congressional expression of what policy in Indochina is, or should be. Many, including the writer, believe that repeal of the Gulf of Tonkin resolution left a vacuum in which there should be a congressional expression. However, prospects for unemotional consideration of war powers legislation would be enhanced if the legislation is limited to future hostilities. Senators Eagleton, Javits, and Stennis all stated this when introducing their respective proposals.

The delineation of circumstances under which, in the absence of a declaration of war, the President may initiate hostilities must not give or take away powers presently acknowledged under judicial interpretation of the Constitution. The Founding Fathers certainly intended for the President to have authority to repel sudden attacks.[91] Early decisions have sustained the President's right to use the armed forces to protect the lives and property of United States nationals abroad.[92] The power to act in anticipation of imminent attack would appear established under interpretation of the war powers.[93]

It has been argued that adoption of Item A(4) of the Javits bill [94] or paragraph 2 of Part I, of the Taft resolution,[95] stating that the President has power to deploy and commit to hostilities the armed forces to fulfill a treaty obligation, would give the President more constitutional authority than he presently possesses.[96] President Truman relied upon America's obligations under the United Nations Charter to send troops to Korea without congressional authorization. The rather oblique reliance upon the SEATO Treaty as a partial basis for our involvement in Indochina has heretofore been noted.[97]

It is agreed that none of the present multilateral treaties are self-executing.[98] An example of questions presented in consideration of these sections is illustrated by commitments in Europe under the NATO Treaty. Should American forces in Europe be attacked, there is no question that the President is empowered to act. However, should one of the NATO allies be attacked, would the President have power to act without congressional approval under the pending legislation? Does he have that power now? While the answers might vary with particular circumstances, the questions go to the merits of these proposals, as well as the credibility of the United States' present policy of "flexible response" in Western Europe.[99]

The questions also relate to Section 1 of the Eagleton resolution, which reads as follows:

"Except as authorized in section 2 or section 3 of this resolution, the President shall not commit the Armed Forces of the United States to hostilities. No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization. It is specifically recognized that such treaties as the Charter of the United Nations, the North Atlantic Treaty, and the Southeast Asia Collective Defense Treaty do not authorize or require the President to commit the Armed Forces of the United States to engage in hostilities without a further authorization from both the Senate and the House of Representatives.[100]"

While this language would appear constitutionally pure and in accordance with the present view of the State Department that the treaties are not self-executing, NATO obligations raise delicate political and legal questions in considering the war powers proposals. Does the Javits bill give more power to the President than he already has under the Constitution and the *Neagle* decision? [91] Conversely, does the Eagleton resolution take anything away from the President?

Section 2 of the Eagleton resolution and Section 3 of the Stennis resolution each specify that authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including appropriations bills, which do not specifically authorize the use of such forces in armed conflict. A section of this type should be included if legislation is enacted. Congress is reluctant to raise the issue of authorization in connection with military appropriations. Once the men are in the field, there is the understandable concern that denial of appropriations would deprive the troops of weapons and supplies needed, but approval of appropriations should not imply authorization to deploy or commit military forests unless specially stated.

The Stennis resolution—Section 2, item (3)—gives the President authority to "prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such an attack is imminent; . . . ." Thus, the question of a preemptive nuclear first strike will be considered as part of these proposals. Does the President already have the power to act without authorization by Congress? Does not the type of weaponry involved and the nature of the decision to be made limit the opportunity for seeking authorization? Does the expanded view of the President's defensive war powers give the President the power to act in anticipatory self-defense? [92] Is this power implicit in Part 1, item (1) of the Taft resolution or Section 2, item (b) of the Eagleton resolution?

Each of the proposals contains a provision requiring prompt notification to Congress of any action taken under the authority spelled out in the bill or resolution. Some require periodic reports to Congress as long as hostilities are in progress. These measures, hopefully, would promote cooperation between the executive and legislative branches. The requirement in the Stennis, Eagleton and Javits proposals that Congress take action within thirty days to authorize or terminate hostilities would assure congressional participation, and place upon Congress the burden of sharing some measure of responsibility for warmaking decisions with a lessened opportunity to second guess.

If a hybrid of the Javits, Eagleton, Taft and Stennis proposals is enacted, there should be included a definition of "hostilities" as in the Eagleton resolution or "armed conflict" as in the Stennis resolution, depending upon the term used in the earlier sections.

Perhaps the most compelling arguments heard against legislation which seeks to codify the war powers, are that the problems of warmaking do not easily lend themselves to an attempt at generalized prospective codification.[93]

For this reason, legislation enacted should not be drafted to anticipate every conceivable type of military situation in which force could be employed, but define only those war powers which the Constitution grants the President. While many believe the sole objective of war power legislation is to limit the President's powers, it has been suggested that any codification of the President's war powers could result in expanding those powers.[94]

Though constitutional objections have been raised, the weight of opinion is that the proposals are constitutional.[95] Also, it is conceded that should war powers legislation be enacted and result in a confrontation between the President and the Congress, there is little chance of judicial interpretation.[96]

In preceding paragraphs, the four legislative proposals presently before the Senate Foreign Relations Committee are reviewed. If a resolution, rather than a bill, is to be enacted, the recitals as set forth in the preamble to the Eagleton resolution reflect an accurate summary of the conclusions reached in preparation of this paper. The Javits bill sets forth with clarity, supported by weight of law, the rules by which the President, as Commander-in-Chief, may use the armed forces in military hostilities without a declaration of war with two possible exceptions. First, it is questionable that the protection of American property is of sufficient cause for emergency action. Second, as heretofore noted, there are questions concerning the power of the President to act alone to comply with existing treaty commitments.[97] Any enactment should include provisions of notification and reporting to Congress and for expedition of congressional authorization or disapproval. Also, any enactment should include sections similar to those in the Stennis and Eagleton resolutions, which: (1) state that authority to use the armed forces is not to be inferred from any provision of law, including appropriations acts, unless specifically authorized; and (2) define the terms "hostilities" or "armed conflict."

The four legislative proposals before the Senate reflect thoughtful consideration of the problems inherent in codification of the war powers. Their introduction has provoked perhaps the most enlightened discussion of constitutional war powers in American history.

Of overriding importance in determining which, if any, of these proposals to enact is whether the enactment would serve long-term national interests. The ultimate objective of any legislative implementation of the Constitution must be protection of the country's well-being, especially when the legislation deals with matters directly affecting national security.

Footnotes at end of article.

V. CONCLUSION

It has been suggested that the way for Congress to resume control over the foreign and war policy of the United States is merely to resume it—that the balance may be restored by affirmative action.[98] What type of action?

It is probable that there will be legislation enacted by Congress concerning the exercise of war powers. Should war powers legislation not be enacted, however, a desirable alternative would be more consultation with Congress by Presidents before troops are committed or hostilities initiated. Secretary of State Rogers' recent testimony before the Senate Committee on Foreign Relations indicated that this cooperation will be forthcoming. The Secretary expressed a willingness to explore ways of helping Congress reenforce its own information capability on issues involving war and peace. He also acknowledged the need for effective consultation between Congress and the President. It is of interest to note that the Secretary could recall only one instance since the end of the Second World War when Congress has participated in the making of a use of force decision.[99]

One may predict that future resolutions authorizing hostilities will not contain openended features but will follow the suggestions of the National Commitments Report.[100]

There have been several suggestions for special or standing committees for the purpose of immediate and constant consultation with the President on the hostile use of military forces.[101] While these suggestions have appeal, it should be possible for consultation to take place with the leadership and committees of Congress as presently constituted. It will, of course, be necessary for the President to be willing to involve Congress in the decision making process.

During the lengthy war powers hearings held last year in the House, and this year in the Senate, there has been almost unanimous support for a reporting requirement. Should proposals which codify the war powers not receive sufficient support, it is probable that a separate resolution or bill will be enacted requiring presidential reports to Congress spelling out details of any troop commitments.[102] As aforestated, the overriding consideration in determining the advisability of enacting more complex war powers legislation is long-term national interests. It has been suggested that, in attempting to codify the war powers, Congress may fall into the old trap of trying to deal with the future by legislating the past. Also, one must ask if Congress is capable of acting with the speed, expertise, wisdom, and secrecy required today of decisions involving the war powers.

Much more is involved than a determination of war power prerogatives under the Constitution. It would hardly serve the long-term interests of the nation if any enactment resulted in a return to the congressional negativism and obstruction of the early years of this century. Nor would long-term interests be served if legislation were enacted that lacked credibility. It is doubtful if the public or the President would accept a measure subject to an interpretation that the President could not act to prevent or defend aganist nuclear attack if there were clear evidence that such an attack was imminent.

Has the world so changed that the intent of the Founding Fathers is no longer viable? If so, what is our course if we are persuaded that presidential hegemony over the war powers is in the national interest and no legislation is desirable? The Constitution can be amended or the present constitutional quandary can continue, in which neither the intent of the Founding Fathers nor public expectation that elected representatives participate in the war-making process are being realized. Another quarter century of presidential hegemony, assuming the unlikely probability of continued congressional acquiescence would, through usage, make clear and constitutional something diametrically opposed to the intent of the Founding Fathers.

Either a Constitutional amendment spelling out Presidential hegemony or continued Congressional acquiescence is ill-advised. If there was cause in the 18th century to fear concentration of the power to make war in the hands of one man, surely more is at stake today.

The effort must be to reinvest Congress with a role in use of force policy without compromising the ability of the President to act absent Congressional concurrence in emergency situations, including imminent nuclear attack. This would require that Congress have a voice in the deployment of troops.

The probability of war is closely related to the deployment of troops. The decisions of the past thirty years that have resulted in the commitment of United States forces—sometimes hostilities—have seldom been made with congressional participation. The deployment of troops often increases the chances for conventional war and conventional war increases the prospect for nuclear reliance.

Would the enactment of war powers legislation, similar to the proposals before the Senate, serve the long-term interests of the nation? There are many factors that lead one to conclude that it would, particularly if the possibilities of obstruction and negativism are reduced by a requirement of immediate consideration and action by Congress, and if the legislation is limited to future hostilities. The nation's interests would be served if congressional action initiated a fourth period of war powers history, an era of greater consultation and collaboration between the President and Congress. National unity is desperately needed in the wake of the long and divisive war that has focused so much attention upon this constitutional dilemma. Moreover, the chances of preventing an unnecessary war seem better if the decision to make was is, as the constitutional framers intended, a responsibility to be shared by Congress and the President.

If Congress will enact a war powers measure that takes into account the national security realities of the age in which we live, while at the same time giving effect to the Founding Fathers' intent, and to the public expectation rooted in their intent, that elected representatives participate in war-making decisions, this will restore balance to the war-making process and very probably serve the long-term best interests of the nation.

FOOTNOTES

* United States Senator from Virginia; Member of the Senate Foreign Relations Committee; Lecturer in International Law, College of William and Mary; LL.B., University of Virginia, 1947.

[1] S. Res. 85, 91st Cong., 1st Sess., 115 CONG. REC. 17245 (1969). This enactment provides that a national commitment exists only when evidenced by prior congressional action.

[2] Moore, *The National Executive and the Use of the Armed Forces Abroad*, 21 NAVAL WAR COLLEGE REV. 28 (1969); Reveley, *Presidential War-making: Constitutional Prerogative or Usurpation?*, 55 VA. L. REV. 1243 (1969); NOTE, *Congress, the President, and the Power to Commit Forces to Combat*, 81 HARV. L. REV. 1771 (1968).

[3] MADISON, NOTES OF THE DEBATES IN THE FEDERAL CONVENTION OF 1787, at 475–76 (1966).

[4] *Id.* at 476.

[5] *Id.*

[6] *Id.*

[7] THE FEDERALIST No. 69, at 417–18 (C. Rossiter ed. 1961) (A. Hamilton).

[8] THE WORKS OF ALEXANDER HAMILTON 249–50 (H. Lodge ed. 1904).

[9] THE WRITINGS OF JAMES MADISON 174 (G. Hunt ed. 1910).

[10] *See* DEBATES AND OTHER PROCEEDINGS OF THE CONVENTION OF VIRGINIA, CONVENED AT RICHMOND, ON MONDAY THE 2ND DAY OF JUNE 1788 (W. Prentis ed. 1789).

[11] 15 THE PAPERS OF THOMAS JEFFERSON 397 (J. Boyd ed. 1955).

[12] SENATE COMM. ON FOREIGN RELATIONS, 91ST CONG., 1ST SESS., REPORT ON NATIONAL COMMITMENTS (Rept. No. 91–129) 11–26 (Comm. Print 1969) [hereinafter cited as 1969 SENATE NATIONAL COMMITMENTS REPORT]; Reveley, *Presidential War-making: Constitutional Prerogative or Usurpation?* 55 VA. L. REV. 1243 (1969).

[13] Russell, The United States and the Power to Use Military Forces Abroad 242–43 (1967) (unpublished thesis in Fletcher School of Law and Diplomacy).

[14] Undoubtedly, Congress became sensitive to charges of lack of vision in foreign policy during the Wilson and Franklin Roosevelt Administrations. President Wilson armed merchant vessels in 1917 for defensive purposes after being denied congressional authority by a filibuster. After the war, the Senate rejected membership in the League of Nations.

Also, there is obliged to have been a later realization of the legal and factual gymnastics President Roosevelt was forced to undertake in the years prior to our entry into World War II. The Neutrality Acts of 1935, 1936, and 1937, forced Roosevelt to act unilaterally in 1940 in the exchange of destroyers for bases with Great Britain, to occupy Greenland and Iceland in 1941, and to provide convoys for supplies to Britain. The convoys led to an undeclared naval war in the Atlantic months before Pearl Harbor.

[15] 23 U.S. DEP'T OF STATE, BULL. No. 578, at 173–77 (1950).

[16] 96 CONG. REC. 9647–49 (1950) (remarks of Senator Douglas).

[17] H.R.J. Res. 9, 82d Cong., 1st Sess. (1951) stipulated that no funds should be appropriated for sending or maintaining troops abroad without the prior consent of Congress.

S. Res. 99, 82d Cong., 1st Sess. (1951) concerned the number of troops which the President might send to Europe. *See* 97 CONG. REC. 3062–104, 3145–94, 3254–83, 3293 (1951).

[18] *Hearings on S. Con. Res. 8 Before the Senate Comms. on Foreign Relations and Armed Services*, 82d Cong., 1st Sess., at 92–93 (1951).

[19] 101 CONG. REC. 601 (1955) (remarks of President Eisenhower).

[20] The original resolution expressed the sense of Congress that the President possessed the authority to deal with Cuba "by whatever means may be necessary, including the use of arms." Senator Richard Russell of Georgia opposed this, stating that the resolution as originally worded made a constitutional assertion that the President had the right to declare war. The resolution as adopted was quite different.

[21] The Gulf of Tonkin Resolution was enacted even though Senator Morse argued eloquently that its passage gave to the President an unconstitutional power—the power to make war without a declaration of war. 110 CONG. REC. 18442–49 (1964) (remarks of Senator Morse).

[22] *Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess., at 82 (1967).

[23] *Hearings on Vietnam Policy Proposals Before the Senate Comm. on Foreign Relations*, 91st Cong., 2d Sess., at 175 (1969).

[24] N.Y. Times, Apr. 29, 1965, § 1, at 1.

[25] The five declarations of war involved the War of 1812, the Mexican War, the Spanish-American War, World War I and World War

II. There have been approximately 150 other military operations involving our armed forces.

[26] 1969 SENATE NATIONAL COMMITMENTS REPORT, *supra* note 12.

[27] Before the Society of Newspaper Editors in Washington, D.C., on April 16, 1971, Mr. Katzenbach said: "I have a feeling that in the area of foreign affairs the majority of Congress would rather call the signals on Monday morning than on Sunday afternoon."

[28] R. TAFT, A FOREIGN POLICY FOR AMERICANS 30–31 (1951).

[29] *Id.* at 33.

[30] S. Res. 99, 82d Cong., 1st Sess., 97 CONG. REC. 3282 (1951).

[31] R. TAFT, *supra* note 28, at 36.

[32] HOUSE COMM. ON FOREIGN AFFAIRS, 91st CONG., 2D SESS., BACKGROUND INFORMATION ON THE USE OF UNITED STATES ARMED FORCES IN FOREIGN COUNTRIES 22 (1970).

[33] For recent treatments of this subject see Tigar, *Judicial Power, the "Political Question Doctrine," and Foreign Relations*, 17 U.C.L.A.L. REV. 1135 (1970); Note, *The Supreme Court as Arbitrator in the Conflict Between Presidential and Congressional War-making Powers*, 50 BOST. U.L. REV. 78 (1970).

[34] Mora v. McNamara, 387 F.2d 862 (D.C. Cir.), *cert. denied*, 389 U.S. 934 (1967); Luftig v. McNamara, 373 F.2d 664 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967); Mitchell v. United States, 369 F.2d 323 (2d Cir. 1966), *cert. denied*, 386 U.S. 972 (1967).

[35] Luftig v. McNamara, 373 F.2d 664, 665–68 (D.C. Cir.), *cert. denied*, 387 U.S. 945 (1967).

[36] 3 U.S. (3 Dall.) 54 (1795).

[37] 4 U.S. (4 Dall.) 37 (1800).

[38] 5 U.S. (1 Cranch) 1 (1801).

[39] *Id.* at 28.

[40] 6 U.S. (2 Cranch) 170 (1804).

[41] 8 F. Cas. 111 (No. 4186) (C.C.S.D.N.Y. 1860).

[42] *See* 7 J. MOORE, A DIGEST OF INTERNATIONAL LAW § 1093, at 112–18, § 1168 (1906).

[43] 83 U.S. (16 Wall.) 36 (1873).

[44] *Id.* at 79.

[45] *In re* Neagle, 135 U.S. 1 (1890); Perrin v. United States, 4 Ct. Cl. 543 (1868), *aff'd*, 79 U.S. (12 Wall.) 315 (1870).

[46] 104 CONG. REC. 13903–04 (1958) (statement of President Eisenhower).

[47] *See* p. 8 *supra*.

[48] *See* p. 9 *supra*.

[49] 25 U.S. (12 Wheat.) 19 (1827).

[50] *Id.* at 29–30.

[51] *See* p. 3 *supra*.

[52] 67 U.S. (2 Black) 635 (1863).

[53] *Id.* at 668.

[54] 157 U.S. 281 (1895).

[55] *Id.* at 284.

[56] 343 U.S. 579 (1952).'

[57] *Id.* at 644 (Jackson, J., concurring).

[58] Concurring opinions relied upon the fact that several laws concerning labor disputes had been enacted by Congress which had the effect of withholding the power of seizure. 343 U.S. 579, 604–09 (Frankfurter, J., concurring), 655–60 (Burton, J., concurring), 662–65 (Clark J., concurring).

[59] U.S. CONST. art. II, §§ 1, 3. *See also* Note, *Congress, the President, and the Power to Commit Forces to Combat*, 81 HARV. L. REV. 1771, 1775–77 (1968).

[60] 135 U.S. 1 (1890).

* *Editor's Note*—This article was completed prior to the publication of the Pentagon Papers by the New York Times and the Washington Post, and the subsequent court test of the injunction obtained by the Government to restrain publication. In the resulting Supreme Court decision of *New York Times Co. v. United States*, 39 U.S.L.W. 4879 (U.S. June 29, 1971), which vacated the injunction, Mr. Justice Douglas, joined by Mr. Justice Black, briefly addressed himself by way of dicta to the balance in war powers dictated by the Constitution:

"The power to wage war is "the power to wage war successfully." See *Hirabayashi v. United States*, 320 U.S. 81, 93. But the war power stems from a declaration of war. The Constitution by Article I, § 8, gives Congress, not the President, power "to declare war." Nowhere are presidential wars authorized. We need not decide therefore what leveling effect the war power of Congress might have. New York Times Co. v. United States, U.S. , (1971)."

[61] U.S. DEP'T OF STATE, *The Loyalty of United States Participation in the Defense of Vietnam*, 54 DEP'T OF STATE BULL. 474 (1966); Address by William H. Rehnquist, "The President's Constitutional Authority to Order the Attack on the Cambodian Sanctuaries," Society of International Law, June 16, 1970; Statement of Secretary of State William P. Rogers, Senate Comm. on Foreign Relations, May 14, 1971.

[62] *See* note 18 *supra*.

[63] 1969 SENATE NATIONAL COMMITMENTS REPORT, *supra* note 12, at 38.

[64] In 1930, the United States concluded 25 treaties and 9 executive agreements. As of January 1, 1969, the United States had a total of 909 treaties and 3,973 executive agreements.

[65] Those treaties were the Rio Treaty, the North Atlantic Treaty, the ANZUS Treaty the SEATO Treaty, and bilateral treaties with the Philippines and the Republic of China on Formosa, Korea and Japan.

[66] *See* note 22 *supra*.

[67] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59 Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess. (1971). Note therein the following testimony and the questions asked the witnesses by the author: Senator Barry Goldwater (April 23, 1971); Mr. George Reedy (April 26, 1971); Secretary of State William Rogers (May 14, 1971).

[68] 1969 SENATE NATIONAL COMMITMENTS REPORT, *supra* note 12, at 33.

[69] *Hearings on Separation of Powers Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 90th Cong., 1st Sess. 163–79 (1967).

[70] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67, at 17 (March 8, 1971).

[71] *Id.* (April 23, 1971).

[72] H.J. Res. 1, 92d Cong., 1st Sess. (1917). *See* appendix 1.

[73] S. 731, 92d Cong., 1st Sess. (1971). *See* appendix 2.

[74] S.J. Res. 18, 92d Cong., 1st Sess. (1971). *See* appendix 3.

[75] S.J. Res. 59, 92d Cong., 1st Sess. (1971). *See* appendix 4.

[76] S.J. Res. 95, 92d Cong., 1st Sess. (1971). *See* appendix 5. Senator Lloyd Bentsen of Texas later introduced a bill similar to the Stennis resolution, and testified on it before the Senate Foreign Relations Committee on July 27, 1971. He delivered his first speech on the Senate floor on his bill on July 28, 1971.

[77] *See* appendix 2.

[78] *See* appendix 4.

[79] *See* appendix 5.

[80] *See* appendix 3.

[81] *See* note 3 *supra*, at 476.

[82] *See* notes 41–45 *supra*.

[83] *See* notes 49, 50 *supra*.

[84] *See* appendix 2.

[85] *See* appendix 3.

[86] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67. See therein Memorandum of Lawyers Comm. on American Policy toward Vietnam.

[87] *See* note 22 *supra*.

[88] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67. See therein testimony of Senator Taft, Senator Goldwater and Secretary of State Rogers.

[89] Briefly, the doctrine of "flexible response" anticipates a conventional response by the NATO alliance to a conventional attack upon a NATO nation that would provide at least a period of two to three days for negotiation and determination of the necessity or advisability of using nuclear weapons.

[90] *See* appendix 4.

[91] *See* notes 59, 60 *supra*.

[92] *See* notes 49–53 *supra*.

[93] *Hearings on Congress, the President, and War Powers Before the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess. (1970). Note therein statements of Dr. Alexander M. Bickel (June 23, 1970) and Dr. W. T. Mallison, Jr. (June 23, 1970). Dr. Bickel later spoke more favorably concerning efforts to codify the war powers, endorsing with reservations the Javits bill. *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67 (March 8, 1971).

[94] *Id.* at 303.

[95] *Id.* at 49–50. See therein statements of Henry S. Commager (March 8, 1971); Richard B. Morris (March 9, 1971); Alfred H. Kelly (March 9, 1971); Alpheus T. Mason (March 25, 1971); Alexander M. Bickel (July 26, 1971); William D. Rogers (July 27, 1971).

[96] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67. Note therein testimony of Senator Goldwater and John N. Moore.

[97] *See* notes 86, 88, 89 *supra*. Also, the argument has been advanced that if a President, as Commander-in-Chief, acts to deploy for combat pursuant to a treaty, this action should be reviewed by Congress and either approved or condemned. The theory is that the Senate, by consenting to a treaty, cannot constitutionally bind the House to render an automatic war decision. *Hearings on Congress, the President, and War Powers, supra* note 93, at 391.

[98] *Hearings on S. 731, S.J. Res. 18, and S.J. Res. 59, supra* note 67, at 48 (testimony of Dr. Alexander M. Bickel).

[99] *Id.* (testimony of Secretary of State William Rogers).

[100] *See* p. 19 *supra*.

[101] *See* notes 68–70 *supra*.

[102] *See* appendix 1.

[Appendix 1, 92d Congress, 1st Session, H.J. Res. 1, in the House of Representatives, January 22, 1971]

Mr. ZABLOCKI introduced the following joint resolution; which was referred to the Committee on Foreign Affairs

JOINT RESOLUTION CONCERNING THE WAR POWERS OF THE CONGRESS AND THE PRESIDENT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and emergency circumstances has the authority to defend the United States and its citizens without specific prior authorization by the Congress.

SEC. 2. It is the sense of Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

SEC. 3. In any case in which the President without specific prior authorization by the Congress—

(1) commits United States military forces to armed conflict;

(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization;

(C) the estimated scope of activities; and

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

SEC. 4. Nothing in this joint resolution is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties.

[Appendix 2, 92d Congress, 1st Session]

S. 731

Mr. JAVITS introduced the following bill; which was referred to the Committee on Foreign Relations

A bill to make rules respecting military hostilities in the absence of a declaration of war

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That use of the Armed Forces of the United States in military hostilities in the absence of a declaration of war be governed by the following rules, to be executed by the President as Commander in Chief:

A. The Armed Forces of the United States, under the President as Commander in Chief, may act—

1. to repel a sudden attack against the United States, its territories, and possessions;

2. to repel an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

3. To protect the lives and property, as may be required, of United States nationals abroad; and

4. to comply with a national commitment resulting exclusively from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment, where immediate military hostilities by the Armed Forces of the United States are required.

B. The initiation of military hostilities under circumstances described in paragraph A, in the absence of a declaration of war, shall be reported promptly to the Congress by the President as Commander in Chief, together with a full account of the circumstances under which such military hostilities were initiated.

C. Such military hostilities, in the absence of a declaration of war, shall not be sustained beyond thirty days from the date of their initiation except as provided in legislation enacted by the Congress to sustain such hostilities beyond thirty days.

D. Authorization to sustain military hostilities in the absence of a declaration of war, as specified in paragraph (A) of this section may be terminated prior to the thirty day period specified in paragraph (C) of this section by joint resolution of Congress.

SEC. 2. (A) Any bill or resolution, authorizing continuance of military hostilities under paragraph C (section 1) of this Act, or of termination under paragraph D (section 1) shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays.

(B) Any bill or resolution reported pursuant to subsection (A) of section 2 shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

SEC. 3. This Act shall not apply to military hostilities already undertaken before the effective date of this Act.

[Appendix 3, 92d Congress, 1st Session, S.J. Res. 18, in the Senate of the United States, January 27 (legislative day, January 26), 1971]

Mr. Taft introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION TO DEFINE THE PRINCIPLES WHICH SHALL GOVERN THE DEPLOYMENT OF THE ARMED FORCES OF THE UNITED STATES BY THE PRESIDENT TO EXPRESS U.S. FOREIGN POLICY OBJECTIVES IN SOUTHEAST ASIA

Whereas wide discussion and differences of opinion have arisen among the members of the body politic with respect to the power of the President as Commander in Chief to deploy the Armed Forces of the United States beyond its territorial limits and to commit such Armed Forces to combat, and

Whereas the Congress has, through acquiescence and overt action, sanctioned on numerous occasions the deployment of the Armed Forces of the United States beyond its territorial limits and commitment of such Armed Forces to combat without prior express authorization of a declaration of war by the Congress, and

Whereas in order to eliminate the confusion caused by the previous acquiescence and overt actions by Congress, there is a need for a clear statement of policy by the Congress as to the foreign policy of the United States in Southeast Asia, the deployment of Armed Forces by the President generally, and specifically their deployment in fulfillment of such foreign policy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

The deployment and commitment to combat of the Armed Forces of the United States in, within the territorial waters of, or over the territory or territorial waters of any other nation is authorized and shall be undertaken only with specific prior authorization of Congress by law; except that the President, as Commander in Chief, is authorized to deploy and commit to combat such Armed Forces at his sole discretion:

(1) When he finds that the territory or the Armed Forces of the United States are under attack or imminent threat of attack; or

(2) When he finds that such deployment is necessary to fulfill a treaty obligation of the United States not qualified by constitutional or treaty contained limitations of conditions; or

(3) When he finds that such deployment is necessary to effectuate a declaration of war acted on by the Congress; or

(4) When he finds that such deployment is necessary to exercise the inherent right of self-defense of the Nation or its nationals pursuant to established principles of international law or article 51 of the Charter of the United Nations.

The President shall notify the Congress within twenty-four hours after any such finding of all action he has taken at his sole discretion pursuant to any such finding. In the event the Congress is not in session, then the President shall convene the Congress in an extraordinary session and so notify the Congress within forty-eight hours after such finding. This authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

PART II

The Congress hereby declares that it is the policy of the United States that each of the several free Southeast and South Asian nations should have the primary responsibility for the defense of its own territorial integrity: *Provided, however*, That it is the policy of the United States where requested and where needed to furnish economic and military material assistance to such nations whose territorial integrity is threatened by armed aggression. The Congress specifically authorizes the continued deployment of the Armed Forces of the United States in the territorial limits of the Republic of South Vietnam for such time and in such manner as the President, as Commander in Chief, shall deem necessary and appropriate to accomplish a responsible and irreversible withdrawal of such Armed Forces of the United States and the assumption by the Armed Forces of the Republic of South Vietnam at the earliest feasible date of the responsibility for the defense of the territorial integrity of the Republic of South Vietnam: *Provided further*, That the Armed Forces of the United States should not be deployed or committed to combat in Indochina in territory other than that of the Republic of South Vietnam, except as provided in part I hereof. This declaration of policy and authorization shall terminate upon the passage of a concurrent resolution to that effect by both Houses of Congress.

[Appendix 4, 92d Congress, 1st Session, S.J. Res. 59, in the Senate of the United States, March 1 (legislative day, February 17), 1971]

Mr. Eagleton introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION REGARDING THE POWERS OF THE CONGRESS AND THE PRESIDENT TO COMMIT THE ARMED FORCES OF THE UNITED STATES TO HOSTILITIES

Whereas the framers of the Constitution of the United States intended the separation of powers doctrine to apply to the initiation of hostilities as a means for insuring collective judgment, whenever possible, before the Armed Forces of the United States were committed to such hostilities; and

Whereas the power to declare war was assigned to the Congress and this power authorizes the Congress to initiate, define, and limit the scope of hostilities involving the Armed Forces of the United States; and

Whereas the power to make rules regulating and governing the Armed Forces of the United States was assigned to the Congress, and this power authorizes the Congress to enact laws respecting the raising and use of such Armed Forces including their deployment in any foreign country; and

Whereas the power to appropriate moneys to support the Armed Forces of the United States was also assigned to the Congress, and this power authorizes the Congress to allocate funds so as to circumscribe the overall scope of hostilities and the uses of the Armed Forces of the United States; and

Whereas the Commander in Chief and Chief Executive powers were assigned to the President and those powers authorize the President to conduct hostilities initiated by the Congress and to respond to, and repel, attacks on the United States (including its territories and possessions), its Armed Forces, and, under certain circumstances to rescue endangered citizens of the United States located in foreign countries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That:

SECTION 1. Except as authorized in section 2 or section 3 of this resolution, the Presi-

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dent shall not commit the Armed Forces of the United States to hostilities. No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization. It is specifically recognized that such treaties as the Charter of the United Nations, the North Atlantic Treaty, and the Southeast Asia Collective Defense Treaty do not authorize or require the President to commit the Armed Forces of the United States to engage in hostilities without a further authorization from both the Senate and the House of Representatives.

SEC. 2. The President may commit the Armed Forces of the United States to hostilities to the extent authorized by Congress through a declaration of war, statute, or joint resolution, but authorization to commit the Armed Forces of the United States to hostilities may not be inferred from legislative enactments, including appropriation bills, which do not specifically include such authorization. The Congress recognizes that during such authorized hostilities against an enemy country or enemy forces, the President's powers as Commander in Chief and Chief Executive provide him with the further authority, regardless of the limitations contained in the specific declaration of war or other authorizing statute or resolution, to order the Armed Forces of the United States to deliberately enter, invade, or intrude upon the territory or airspace of a country with which the United States is not then engaged in hostilities:

(a) when in hot pursuit of fleeing enemy forces who have attacked, or engaged in battle with, the Armed Forces of the United States, and then retreated to the territory or airspace of such country, to the extent necessary to repel such attack or complete such battle, or

(b) when a clear and present danger exists of an imminent attack on the United States or the Armed Forces of the United States by enemy troops located in such country, to the extent necessary to eliminate such danger.

SEC. 3. In the absence of a governing congressional authorization described in section 2, the President may commit the Armed Forces of the United States to hostilities, to the extent reasonably necessary to:

(a) repel an attack on the United States by military forces with whom the United States is not engaged in hostilities at the time of such attack and to eliminate or reduce the effectiveness of any future attacks by such military forces which are committing the attack being repelled; and

(b) repel an attack on the Armed Forces of the United States by military forces with whom the United States is not engaged in hostilities at the time of such attack and concurrently to eliminate or reduce any clear and present danger of future attacks by the military forces which are committing the attack being repelled; and

(c) withdraw citizens of the United States, as rapidly as possible, from any country in which such citizen, there due to their own volition and with the express or tacit consent of the government of such country, are being subjected to an imminent threat to their lives, either sponsored by such government or beyond the power of such government to control: *Provided*, That the President shall make every effort to terminate such a threat without using the Armed Forces of the United States: *And provided further*, That the President shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States.

SEC. 4. The commitment of the Armed Forces of the United States to hostilities pursuant to section 3 of this resolution shall be reported promptly by the President to the Congress, together with a full account of the circumstances under which such hostilities were initiated, the estimated scope of such hostilities, and the consistency of such hostilities, with the provisions of section 3. The question of continuing or terminating any such hostilities shall be decided upon by the Congress as soon as possible and not more than thirty days from the day on which hostilities were initiated, under the following procedures:

(a) any bill or resolution, authorizing the continuance or termination of military hostilities if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, shall be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within three days after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays; and

(b) any bill or resolution reported pursuant to subsection (a) of this section shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

SEC. 5. In any case where the Armed Forces of the United States have been committed to authorized hostilities, the President shall, while such hostilities are in progress, report to the Congress periodically on the status of such hostilities, as well as on the estimated scope and length of such hostilities.

SEC. 6. For purposes of this resolution, the term "hostilities" includes land, air, or naval actions taken by the Armed Forces of the United States against other armed forces or the civilian population of any other nation, the deployment of the Armed Forces of the United States outside of the United States under circumstances where an imminent involvement in combat activities with other armed forces is a reasonable possibility, or the assignment of members of the Armed Forces of the United States to accompany, command, coordinate, or participate, in the movement of regular or irregular armed forces of any foreign country when such foreign armed forces are engaged in any form of combat activities.

SEC. 7. This resolution shall not apply to hostilities commenced before the enactment of the resolution.

[Appendix 5, 92d Congress, 1st Session, S.J. Res. 95, in the Senate of the United States, May 11, 1971]

Mr. Stennis introduced the following joint resolution; which was referred to the Committee on Foreign Relations

JOINT RESOLUTION RELATING TO THE AUTHORITY OF THE PRESIDENT TO USE THE ARMED FORCES OF THE UNITED STATES IN ARMED CONFLICT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That except as provided in sections 2 and 3 of this joint resolution, the President may not use the Armed Forces of the United States in any armed conflict.

SEC. 2. The President may, in the absence of a specific authorization by law as provided in section 3 of this joint resolution, use the Armed Forces of the United States in conflict to the extent reasonably necessary—

"(1) to repel any armed attack on the United States by the forces of any foreign government or power and to take action that will protect the United States against future armed attacks by such foreign government or power;

(2) to repel an armed attack on the Armed Forces of the United States by forces of any foreign government or power and, concurrently, to protect the Armed Forces of the United States against any imminent danger of future attacks by the forces of such foreign government or power;

(3) to prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such attack is imminent; and

(4) to evacuate citizens of the United States from any foreign country in which they are located when such citizens are in such country with the express or tacit consent of the government of such country and their lives are being subjected to an imminent threat by such government or by persons or forces beyond the control of such government.

SEC. 3. The President is authorized to use the Armed Forces of the United States in armed conflict pursuant to a declaration of war or other specific statutory authority, but authority to use the Armed Forces of the United States in armed conflict shall not be inferred from any provision of law, including any provision contained in any appropriation Act, unless such provision specifically authorizes the use of such forces in armed conflict.

SEC. 4. (a) Whenever the Armed Forces of the United States are used in armed conflict under any of the circumstances described in section 2 of this joint resolution, the President shall promptly report that fact to the Congress and shall include in such report a detailed account of the reasons for so using the Armed Forces of the United States, his estimate of the scope of the armed conflict, and the justification for the use of such forces under section 2 of this joint resolution. Upon receiving any such report, the Congress shall decide, within thirty days after the first day on which Armed Forces of the United States were committed to armed conflict, whether the authority to so use the Armed Forces shall be extended or terminated. The following procedures shall be applicable to any such question:

(1) Any bill or resolution, authorizing the continued use of the Armed Forces in armed conflict under authority of section 2 of this joint resolution shall, if cosponsored by one-third or more of the total number of Members of the House of Congress in which such bill or resolution originates, be considered reported to the floor of such House no later than one day following its introduction; unless the Members of such House determine otherwise by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee determine otherwise by yeas and nays.

(2) Any bill or resolution reported pursuant to paragraph (1) of this subsection shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall determine otherwise by yeas and nays.

(b) In no case shall the Armed Forces of the United States be used in any armed conflict under any of the circumstances described in section 2 of this joint resolution for any period exceeding thirty days after the first day on which such forces were first engaged in such conflict unless the Congress has specifically authorized the use of such Armed Forces in such conflict for a longer period.

SEC. 5. Whenever Armed Forces of the United States are engaged in armed conflict in any foreign country, the President shall, so long as such forces continue to be so engaged, report to the Congress periodically on the status of the armed conflict as well as on the scope and expected duration of such conflict, but in no event shall he report to the Congress less often than every six months.

SEC. 6. The provisions of this joint resolution shall not apply to—

(1) the armed conflict in the Republic of South Vietnam in which the Armed Forces of the United States were engaged on the date of enactment of this joint resolution, or

(2) military activities carried out against the military forces of North Vietnam, or against forces allied with North Vietnam, in North Vietnam, Laos, Cambodia, or the waters surrounding the Indochina Peninsula, so long as such military activities are directly related to the conflict referred to in paragraph (1) of above.

SEC. 7. As used in this joint resolution, the term "armed conflict" includes (1) land, air, and naval actions taken by the Armed Forces of the United States against the military forces or civilians of any foreign country or government, (2) the deployment of the Armed Forces of the United States outside of the United States under circumstances that present a reasonable possibility of the use of arms against the military or civilian forces of a foreign country or government, and (3) the assignment of members of the Armed Forces of the United States to accompany, command, coordinate, or participate in the movement of regular or irregular military forces of any foreign country or government when such military forces are engaged in any form of combat activity.

Mr. ROTH. Mr. President, the war powers bill (S. 2956) which we have before us today, reflects a deep and growing concern here in Congress that our constitutional authority over the initiation and conduct of war has been seriously eroded. Since World War II, Presidential predominance in warmaking has become the rule, and congressional participation in decisions to use our Armed Forces has been secondary and, too often, after the fact. Because I share the general concern about this trend and because I would like to see the Congress regain a meaningful role in deciding whether this country is to be at war, I joined last year as a cosponsor of Senate Joint Resolution 95, a measure dealing with the war powers introduced by the distinguished chairman of the Armed Service Committee.

I am, therefore, sympathetic to the objectives of S. 2956. While President Nixon is to be congratulated for the progress he has made in reducing American military involvement overseas, particularly in Southeast Asia, and while he is also to be commended for the steps he has taken to insure that our defense commitments to foreign nations are commensurate with our national interests and our capabilities, it may nevertheless be desirable for Congress, through legislation such as S. 2956, to define more clearly the limits of Presidential and congressional authority to involve our Nation in war.

Thomas Jefferson once wrote that—

War is the moment when the energy of a single hand shows itself in its most seducing form.

Jefferson was referring to the tendency of war to exalt strong, centralized leadership, to place a premium on speed, decisiveness and secrecy, and thereby to foster the expansion of executive power at the expense of that of the legislature. Jefferson's warning about the strains war can put on our democratic institutions is on which we would be unwise to ignore.

At the same time, we must recognize that in an age of nuclear weapons and long-range missiles, swift action may be necessary to protect our Nation from attack. We must also recognize that our ability to avoid wars depends in a very important way on the defense commitments we have extend to other nations. It is these realities of our international position that have contributed to the growth of the President's power. We cannot ignore them in framing legislation on the war powers; otherwise, the legislation we adopt will be irresponsible and ineffectual.

We should be especially careful to examine the practical effects of the war powers bill on our international defense arrangements, particularly those relating to NATO. It has been alleged that if we in Congress adopt the war powers bill, with its requirement for congressional approval each time our Armed Forces are used overseas, we will cast doubt on this country's willingness to back up its treaty commitments with armed force. The implication is that when a decision is needed on whether to use our Armed Forces to assist our allies, Congress will be unable or unwilling to act, or that it will not act swiftly enough to meet the threat. What this argument really suggests is that Congress cannot be trusted to act with wisdom and judgment in these vital matters, and this is a contention I am extremely reluctant to accept.

I hope that during the course of the debate on this measure, the Senate will be able to establish clearly what, if any, limitations S. 2956 would place on our ability to take any action we might reasonably expect to find necessary to uphold our commitments. We should insist that those who claim this bill will undermine our treaty commitments demonstrate—in concrete and realistic terms—exactly how they believe it would do so. Lacking clear and concrete evidence. I see no reason why we should be deterred from acting to insure that Congress is in a better position to exercise its undoubted constitutional responsibilities with regard to the conduct of war.

Mr. President, on the whole, I see much potential benefit in S. 2956. By clearly asserting Congress right to have a say in the use of our troops overseas, it assures that the collective judgment of the President and the Congress will be brought to bear on such vital questions and reduces the likelihood that we will find ourselves entangled in extended military operations we may later regret.

A LETTER FROM SECRETARY ROGERS CONCERNING WAR POWERS BILL

Mr. ALLOTT. Mr. President, prompted by the Secretary of State's cogent and forceful testimony before the Foreign Relations Committee with regard to the war powers bill—its constitutionality, and its prudence—last Thursday I wrote to Mr. Rogers seeking clarification and amplification with regard to various matters.

I am pleased to report that I have a letter from Mr. Rogers in response. I ask unanimous consent that my letter and his be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLOTT. Mr. President, all Senators, regardless of their current disposition with regard to the war powers bill, should be pleased to have at hand the thoughtful comments of this responsible man.

Some Senators have announced support for this bill. Other Senators have announced equally firm opposition to the bill. It should be noted that many of those who have announced support for this bill are not wedded to every clause and comma of this bill. On the contrary, they are only committed to achieving some clarification of the distribution of responsibilities between the legislative and executive branches with regard to the conduct of armed conflict.

And it also should be noted that many of those who are firmly opposed to this bill are not opposed to legislation in this area. On the contrary, those who are opposed believe that some legislation in this field is possible or even desirable. What they object to about this bill, and what accounts for the vigor of their objection, is the belief that the very most grave issues are at stake, and that this particular bill is unwise in terms of these grave issues.

I think it is fair to say that in our free Republic, in this dangerous world, the gravest issues are either those of constitutionality, or those directly affecting national security. Remarkably enough, this bill raises profound issues of both kinds.

It is for this reason that I believe the one thing the Senate must not do is act hastily. We can ill afford to make a mistake which would radiate imperfections into our constitutional law, or into our national security posture.

Indeed, if the bill is as important as its most enthusiastic proponents say it is, then its importance must derive from the very fact that it does touch upon matters fundamental to the orderly process of the Government, and the safety and survival of the Nation. And, on the other hand, if the bill is as ill conceived as its opponents say it is, then that also must be because it touches these vital matters.

Regardless which side is correct, and regardless of which side prevails, one thing is clear. On a matter which arouses such intense feelings, and which, by common consent, is of considerable importance to the Nation, the Senate would ill-serve the people, and would be untrue to its nature, if it did not fully explore all the dimensions of the controversy.

I can see one and only one way to assure that no significant number of Senators will feel that the Senate has acted without proper regard for the gravity of the matter. The solution is to refer this bill to the Judiciary Committee for hearings. The hearings can involve the finest constitutional scholars, whose testimony should resolve the many questions being voiced about the constitutionality of the bill. In addition, these hearings, by their very nature, would shed light on the strategic and military

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implications of the bill. After all, one cannot thoroughly examine the constitutional question of war powers without extending the investigation beyond questions of legal theory and into the complicated considerations of strategic realities, and the problems of military command in this dangerous world.

It is my hope that the Senate, responding to the concerns expressed by the Secretary of State, and mindful of its nature as a deliberative body, will refer this bill to the Judiciary Committee.

EXHIBIT 1

MARCH 23, 1972.

HON. WILLIAM P. ROGERS,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The United States Senate is about to consider S. 2956, the "War Powers Act of 1971".

Not being a member of the Senate's Committee on Foreign Relations, I have not had the experience of participating in the Committee's hearings and deliberations on this proposed legislation. In preparation for the Senate's consideration of this bill, however, I have been reviewing the record of those hearings, and I have been most interested by the thoughtful testimony you gave before the Committee on May 14, 1971, in which you discussed in detail the historical and judicial precedents in this area and the weighty constitutional and foreign policy issues raised by this legislation.

After carefully reviewing your testimony and the remainder of the Committee record, I am concerned to know the full implications of such legislation, which to my mind could raise constitutional questions. I am particularly concerned that this legislation, if it were to become law, could unduly circumscribe the ability of the United States to react in crisis situations as required by our national interest.

I know that you, Mr. Secretary, have personally devoted a great deal of thought to this legislation, and to the important questions it raises. I therefore would very much appreciate hearing your current views on this legislation, and particularly your assessment of the effect its enactment might have with respect to the North Atlantic alliance and the situation in the Eastern Mediterranean. I should appreciate also having the views of Secretary Laird, whose responsibilities would likewise be affected by this proposed legislation.

As always, I appreciate your kind consideration.

Sincerely yours,

GORDON ALLOTT,
U.S. Senator.

THE SECRETARY OF STATE,
Washington, March 24, 1972.

HON. GORDON ALLOTT,
U.S. Senate.

DEAR SENATOR ALLOTT: I deeply appreciate your interest in the difficult questions raised by the war powers legislation currently pending in the Senate (S. 2956), as expressed in your letter to me of March 23, 1972. Secretary Laird will be writing to you separately.

My own views on this legislation, reflected in my testimony before the Senate's Committee on Foreign Relations on May 14, 1971, are that it is unconstitutional and unwise.

A single example clearly demonstrates the unconstitutionality of this legislation. The bill clearly provides that the President may not sustain any military action, including defense of the territory of the United States itself, beyond a period of thirty days, unless Congress expressly acts to authorize a constitution beyond that period. There is no doubt under the Constitution, however, that the President has the authority to defend the territory of the United States with all the resources at his command for whatever period is required. Indeed Senator Cooper, in his individual views set forth in the report of the Committee on Foreign Relations on S. 2956, pointed out that Congress has no authority to limit the exercise of Presidential authority to a specified period. In so doing Senator Cooper noted that doubts were raised on this same point even by the one professor of constitutional law who testified in favor of the bill.

Clearly any legislative attempt to alter our historic constitutional system, particularly in such a critical area, should be cast as an amendment to the Constitution, rather than as a simple statute. Our tripartite form of government, with its system of checks and balances, already allocates "war powers" between the Executive Branch (with the President having the powers of Commander-in-Chief and Chief Executive) and the Congress (which has the power to appropriate funds, the power to raise and support armies and navies, and the power to declare war, as well as others). This allocation of powers is inherent in our constitutional system, which has survived the test of time for nearly two centuries. It is basic to our system, and should be changed, if at all, only by constitutional amendment. An attempt to spell out in detail all of those circumstances in which the President, in the absence of express congressional authorization, would be permitted to use our armed forces, as the War Powers Bill attempts to do, is such a momentous task as to require the most meticulous and thoughtful consideration, as provided in cases of amendment of the Constitution.

I believe the proposed war powers legislation is unwise for many reasons, but particularly because it would, in my opinion, increase the risks of the United States becoming involved in unwanted hostilities rather than decrease such risks. Under our present constitutional system a President necessarily will move with extreme caution before committing our armed forces to a significant military involvement anywhere in the world, carefully assuring himself that there is current congressional support for his action. Historically this has always been so, and it was true when this nation embarked upon large scale involvement in Vietnam, as passage of the Tonkin Gulf Resolution attested. The War Powers Bill, however, grants the President *carte blanche* to commit our armed forces to hostilities in enumerated situations for a period of thirty days. The tendency of this legislation could well be to make future Presidents less cautious, since they would have clear statutory authority to act for at least thirty days and might assume, perhaps correctly, that Congress would be unlikely at the end of this period to order cessation of what may in the meantime have become a major operation.

I note that another unfortunate effect of the bill would be to deprive the President of the ability to make military deployments in furtherance of our foreign policy interests without specific congressional authorization. As I said in my testimony before the Committee on Foreign Relations:

"Moreover, requiring prior congressional authorization for deployment of forces can deprive the President of a valuable instrument of diplomacy which is used most often to calm a crisis rather than inflame it. For example, such a restriction could seriously limit the ability of the President to make a demonstration of force to back up the exercise of our rights and responsibilities in Berlin or to deploy elements of the 6th Fleet in the Mediterranean in connection with the Middle East situation."

Thus if the War Powers Bill were to become law our North Atlantic Treaty allies might well come to question the will and ability of the United States to react in its national interest in a crisis, and doubt might well be cast on our role in the Eastern Mediterranean, where we have striven so hard to help keep the peace.

I wish to make it clear that the Administration is not opposed in principle to congressional action seeking to clarify the exercise of shared war powers by the Legislative and Executive Branches. For example, the Administration has not opposed House Joint Resolution 1, the Joint Resolution concerning the war powers of the Congress and the President, which has passed the House of Representatives and does not present the serious constitutional and other problems posed by S. 2956.

S. 2956, however, in my opinion, would violate the Constitution and, far from preventing future military involvement, would increase the likelihood of such involvement for the reasons stated aoove. Therefore I strongly oppose the enactment of S. 2956.

With best personal regards,

Sincerely,

WILLIAM P. ROGERS.

TIME TO FERRET OUT THE REAL CULPRITS IN THE FOOD COSTS

Mr. CURTIS. Mr. President, Secretary Butz made a statement entitled "Time To Ferret Out the Real Culprits in the Food Costs." It is an excellent statement. It points out that 62 cents out of every food dollar goes to persons other than the farmers who produce the food.

It also points out that in the last 20 years prices for food products at the farm gate have gone up 6 percent while consumers' food prices at the store have gone up 45 percent.

Mr. President, it is very important that we give consideration to these matters. Some individuals who are engaged in the grocery business are misleading the public; they are stating untruths; they are attempting to turn the consuming public against agriculture, and the facts are not well founded. These same people are silent about the other causes of rising food prices.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire statement by Secretary Butz.

There being no objections, the statement was ordered to be printed in the RECORD, as follows:

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

WASHINGTON, March 25.—Secretary of Agriculture Earl L. Butz said today the time has come to ferret out the real culprits in the cost of food and hold them up by the back of the neck for everyone to look at.

"The place to look is in the processing and distribution system between the farmer's gate and the consumer's table. That's where 62 cents out of every food dollar goes—and that's where the bulge in costs has been ballooning," Secretary Butz said.

"President Nixon pointed out on Friday that the spread between farmers and consumers is too wide. And he was correct in pointing out that it is a mistake and totally unfair to make the farmer the scapegoat.

"The simple facts show that in the last 20 years farmers' prices for food products at the farm gate have gone up 6 percent; while consumers' food prices at the store have gone up 43 percent. Meantime, the farmers' share of the consumers' food dollar has shrunk from 49 cents to 38 cents," Secretary Butz pointed out.

Mr. Butz said the increase in food costs is in such things as freight rates; container costs; added services and conveniences built into frozen, pre-cooked, pre-mixed, pre-peeled and prepared foods; more meals eaten out where service and "atmosphere" cost more than the food, and higher wages up and down the line.

"Those costs in processing and distribution are hard costs," Secretary Butz said. "Once these costs go up, they harden and stay up. By contrast, prices of farm products are soft costs—they move up and down from month-to-month, season-to-season and from year-to-year—but they don't harden. For instance, farmers hog prices fell 35 percent in four months time two years ago. And right now, farmers' cattle prices are 4½ percent less than a month ago and hog prices are 8 percent less than a month ago.

"I welcome the public hearings on food costs that the Price Commission will hold on April 12. If farmers were causing the inflationary bulge, I'd run for cover," Mr. Butz said. "Instead, I'm going to stand up and tell the truth about farmers. Any high school student in his first economics course knows that the best counter-move to inflation is to increase productivity. Well, farmers' productivity per man hour is 3.3 times more than it was 20 years ago—and that happens to be twice as fast a rate of productivity increase as in manufacturing industries.

"Farmers are producing 2½ times as much beef as 20 years ago, and four times as much Choice beef. They must be doing a good job—because people are voluntarily eating twice as much beef per person as 20 years ago. Farmers are giving them what they want; farmers are responding magnificently. Yet cattle prices just recently got up to levels of 20 years ago. And those are much cheaper dollars now.

"The public is being fed a lot of malarky about meat prices," Secretary Butz said. "One food chain in the Washington, D.C. area took full-page advertisements in newspapers this week urging people to eat less meat. They advised consumers to eat fish instead. Well, since the government's base period of 1967, fish prices have increased more than beef.

"This food chain said in their full-page ads that meat prices from their suppliers had skyrocketed. Well, we have people at the Department of Agriculture who watch wholesale prices all the time. The truth is that wholesale prices for Iowa beef carcasses are 1 percent less than last August 13 before the wage-price freeze went into effect. Those full page advertisements were signed by the consumer adviser to the president of the food chain. I recommend that she get out of her office and go out into the cooler and talk to the meat buyer," Secretary Butz said.

"In the last day or two, one Eastern Congressman has urged a nation-wide boycott of meat. He said this would force supermarkets to buy less meat from wholesalers, they'd buy less from packers, and packers would buy fewer cattle from farmers. 'Sooner or later, those cows will have to come to market at a lesser price,' the Congressman is quoted as saying.

"I'd like to invite the Congressman to come out into the country with me, and I'll show him that those are fed steers and fed heifers in the feedlots—not cows," Secretary Butz said.

"This is an example of the kind of muddled thinking you get when someone who doesn't know a cow from a fed steer is advising people on their eating habits and is placing the blame for food prices on farmers. Farmers are working for one-fourth less than the rest of the economy—farmers' average disposable income is only three-fourths of the average for non-farm people," Secretary Butz said.

"What the Congressman should be telling people is that between 1951 and 1971, farmer's prices for food products went up a magnificent total of 6 percent—meantime, the nation's wage rates increased an average of more than 6 percent a year for all 20 years, for a total increase of 130 percent.

"That's one reason why, despite rising food costs in stores, food is such a good buy for wage earners. They will spend $15.60 per $100 of after-tax income for food this year—that's for food eaten at home and away from home. Twenty years ago, wage earners spent $23 per $100 of after-tax income for food. If food still cost wage earners the same proportion of their incomes as 20 years ago, they'd spend $286 more per person for food this year," Secretary Butz said.

THE FLANIGAN FACTOR CONTINUED

Mr. EAGLETON. Mr. President, Peter M. Flanigan is President Nixon's "Mr. Fixit" for big business, as Time magazine has dubbed him.

Because his hand can be seen in a number of most interesting Government cave-ins to the wishes of corporate business—such as the Anaconda Copper-EPA case, the Armco Steel-Houston ship channel case, the ITT case and others—I have suggested that Mr. Flanigan be called to testify on his role in these cases before the appropriate committees of Congress.

It has been strongly indicated that if Mr. Flanigan were asked to testify before Congress, the White House would invoke executive privilege to prevent his appearance.

Mr. Flanigan apparently will not talk to the U.S Senate. But there are some persons he can talk to, apparently. According to the New York Times yesterday morning, he talked to about 30 wealthy men at a private dinner in New York sponsored by Dreyfus-Marine Midland, Inc.—which, the Times reported, manages about $10 million in ITT pension funds.

"Mr. Flanigan freely answered questions," the Times story said. Mr. Flanigan discussed a merger of two steel companies, the Times reported a participant at the dinner said.

If Mr. Flanigan can speak at a gathering of fat cats about steel mergers, why cannot he tell Congress—the elected representatives of the people of this Nation—about steel mergers, and about ITT mergers, and about a lot of other things that should be taken out of the back room—or the board room—and put on the public record.

I think he can—and should be required to.

Mr. President, I ask unanimous consent that the article from the New York Times' financial section of March 28, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FLANIGAN OFFERS ANTITRUST VIEWS

(By Michael C. Jensen)

Peter M. Flanigan, the Presidential assistant who played a controversial role in the settlement of an antitrust case involving the International Telephone and Telegraph Corporation, discussed the Administration's antitrust posture last week at a private, off-the-record dinner meeting in New York of money managers and corporate and foundation executives.

The dinner was sponsored by Dreyfus-Marine Midland Inc. (which manages about $10-million in I.T.T. pension funds) and was held in the concern's private dining room.

Mr. Flanigan freely answered questions at the dinner last Tuesday, although his appearance before a Senate committee is in doubt because of Administration resistance. The Judiciary Committee is investigating a possible link between I.T.T.'s contribution to the Republican National Convention and the antitrust settlement.

COMPETITIVE ABILITY

Although the Presidential assistant declined to discuss the I.T.T. case, he reportedly observed that, in setting United States antitrust policy, the ability of domestic concerns to compete abroad must be kept in mind.

One person who attended the dinner said Mr. Flanigan indicated that the Nixon Administration approved a merger of the National Steel Corporation and the Granite City Steel Corporation partly to make the steel companies more competitive with foreign concerns.

Mr. Flanigan denied yesterday in a telephone interview that he had specifically discussed Administration approval of the National-Granite City merger. Rather, he said, he talked more generally about its meeting the criteria for improving international competition.

UNCLEAR ON SPONSOR

Mr. Flanigan said he was unaware that the dinner was sponsored by Dreyfus-Marine Midland and thought when he was invited that it was being held by the Dreyfus Fund, an affiliated entity.

"The reason why I accepted was that it was an opportunity to talk to financial leaders on international trade," he said.

Persons who attended the dinner meeting—the guests totaled about 30—said Mr. Flanigan spoke for 45 minutes and answered questions covering a wide range of subjects.

He reportedly denied any knowledge of the financial arrangements for the Republican convention in San Diego.

The major thrust of Mr. Flanigan's talk, one source said, was international trade.

He explained to the group at the outset why he would not discuss the I.T.T. case. Although he had not yet been invited to appear before the Senate Judiciary Committee, he said, the President might invoke executive privilege to prevent his appearance if he were invited For that reason, Mr. Flanigan continued, he did not want to discuss before a private group what he might decline to discuss before a Senate committee.

Mr. Flanigan's involvement with the I.T.T. case came when he arranged for a New York financial analyst, Richard J. Ramsden, to make an "independent" analysis of the corporation's "hardship" plea regarding its antitrust suit.

U.S. PRISONERS OF WAR AND MISSING IN ACTION

Mr. CURTIS. Mr. President, this week is set aside for us to turn our attention to the prisoners of war and the men missing in action. It is very appropriate that we do this. The war in Vietnam has gone on for so many years that it is hard for us to comprehend the suffering and the anguish of the men who are held prisoner and those who are missing in action who are still alive. It is difficult for us to understand and appreciate the suffering, the heartache, and the sorrow of the families of these men.

Some of these prisoners of war and men missing in action are the fathers of children who are old enough to be in school and yet these men have never seen those children.

I wish that we could perform some

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magic and all the prisoners of war would be back home instantly and all the men who are missing in action could be accounted for, and that they would be alive and well. That is not within our power but I do believe there are some things we must do.

In the first place we must never forget those men. We must never get so involved in our own pleasures, worries, and problems that we fail to remember that those men are enduring what they are called upon to endure because they took up arms for the rest of us. We must not forget about those men just because a number of years go by.

Another thing we must do is to let the world know and particularly our enemies know that we are going to insist that these men be returned, and safely returned, that we are going to insist, regardless of how much time it takes, that those who have violated international treaties in regard to prisoners of war will be punished.

Mr. President, we need to reassure those men and their loved ones that the United States has not abandoned its time-honored principle that whenever it sends its sons into war we have an obligation to afford them all the protection that can possibly be given to them, to see that their lives are saved, and that they are brought back home.

This country can ill afford to abandon its prisoners of war. Aside from the personal injustice that comes to those men and their families, it would be a total mistake for our country. It would represent a loss of character; it would represent a loss in the value that we place upon human life and the value we place upon our fellow man.

Mr. President, I wish I could make some concrete suggestions. I do think it is necessary that we go on exploring every possible avenue to get these prisoners of war back and to force the enemy to account for those missing in action.

I believe that under the leadership of our President everything has been done that could be done. I want to express my gratitude to him for the staunch position he has taken throughout. We must carry on and I hope that the American people will unite in their plans for the return of these men, our prisoners of war, and men missing in action.

TRIBUTE TO SENATORS ON LEGISLATIVE ACHIEVEMENTS

Mr. MANSFIELD. Mr. President, the legislative achievements of the past few days have enabled the Senate to approach an abbreviated Easter recess with a calendar as clear and clean as possible considering this particular stage of the Congress.

A good many Senators are responsible for making possible the efficient manner in which the Senate has been able to address itself to the workload. Indeed, it has been the cooperation of every Member that has enabled such a result. It is, nevertheless, in order to commend the efforts of a few Senators for their strong and able leadership on particular legislative issues during the past few days.

On the question of equal rights for men and women, for example, it was the distinguished Senator from Indiana (Mr. BAYH) who devoted his strong and able advocacy to the task of steering this vital proposal through to successful Senate action. In the process of constitutional reform, it was a vital task—one that deserves the highest commendation of the Senate. Senator BAYH has perisisted in behalf of this important reform for many years. It was that persistence joined by the highest degree of skill and ability that made possible the great success of the equal rights resolution. It adds another outstanding achievement to the record of a Senator who is unsurpassed in his devotion and dedication to necessary constitutional reform.

The same tribute must be accorded the distinguished Senator from Kentucky (Mr. COOK) for his part in assisting the matter of achieving equal rights. His support and assistance were indispensable to this success.

Many other Senators played a part in assuring adoption of the equal rights resolution. But once again must be singled out for praise the contribution of the distinguished Senator from North Carolina (Mr. ERVIN). His opposition was forthright, sincere, and urged with enormous skill. Having participated so directly in so many issues this session, Senator ERVIN has truly made his mark; not only as a skillful and talented advocate, but as a man of enormous energy and endurance. He is to be commended.

Following closely behind the successful consideration of the equal rights amendment last week was the equally successful disposition accorded the equal time waiver. The suspension of section 315 of the Communications Act is an essential ingredient to an equitable presidential election. The distinguished senior Senator from Rhode Island (Mr. PASTORE) deserves the highest commendation for steering this proposal through with dispatch and with full consideration for the views of every Senator. It was only in keeping with the manner he handles all legislative matters to which he devotes his great talents. On the so-called equal time measure, the distinguished senior Senator from Tennessee (Mr. BAKER) is to be commended as well. He sought to amend the proposal, and his views, as always, were urged with strong and sincere advocacy.

There were other measures disposed of prior to today. All were handled efficiently and with splendid cooperation on the part of all members. Not all have been successful. The measure designed to assist the production cost of eggs falls into this category along with the Senate's action yesterday in not agreeing to the cargo preference recommended for the commercial air carriers. It should be said that regardless of the final outcome on these proposals, they were still managed with the greatest efficiency. In this regard, the distinguished senior Senator from Georgia (Mr. TALMADGE) has consistently discharged his responsibilities as chairman of the Committee on Agriculture with the utmost ability. No greater degree of competence or dedication has been brought to the Nation's agricultural community than that brought by HERMAN TALMADGE. His expertise in this area is unsurpassed in this body.

By the same token, the distinguished Senator from Nevada (Mr. CANNON) is unexceeded in his knowledge of the needs of the air transportation industry. His views are always thoughtful and most welcome.

That brings us to today, Mr. President. The items mentioned tell only a part of the story. During the past few weeks, there have been a number of major items disposed of by the Senate—all of which indicates that the Senate is doing its job and that all Members may join in a share of the credit. When we adjourn tomorrow for the brief Easter recess, we do so knowing that so for this session the calendar of business has been addressed with the greatest degree of expedition and efficiency. The leadership is extremely grateful.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business, S. 2956.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the time S. 2956, the unfinished business, is laid before the Senate, the Chair recognize the distinguished junior Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business—which is S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Upon the laying before the Senate of the unfinished business, the Chair will recognize the distinguished junior Senator from Mississippi (Mr. STENNIS).

In all likelihood, there will be no rollcall votes tomorrow. I can foresee none at this time. Debate will continue on the war powers bill throughout the day.

When the Senate adjourns tomorrow for the Easter holiday, the unfinished business will still be before the Senate. That business will be before the Senate when it reconvenes on Tuesday, April 4, 1972, following the Easter adjournment.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 4:05 p.m. the Senate adjourned until tomorrow, March 30, 1972, at 10 a.m.

SENATE—*Thursday, March 30, 1972*

The Senate met at 10 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, as in sacred memory once more we make the pilgrimage to the cross, teach us anew that without the shedding of blood there is no remission of sin and except life be outpoured there is no upward lift for the human race.

May we behold Thy life given for us and by penitence and faith appropriate the forgiveness Thou dost offer and the grace Thou dost impart.

Bring us to the Resurrection morning with new life for new days, with power for daily striving and faith in life eternal.

Through Him who brought salvation and new life. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 30, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 29, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, and in the Navy, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 691, 693, and 694.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE MERCHANT MARINE ACT

The Senate proceeded to consider the bill (S. 2684) to amend section 509 of the Merchant Marine Act, 1936, as amended which had been reported from the Committee on Commerce with an amendment, in line 4, after the word "the", strike out "third" and insert "fourth"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 509 of the Merchant Marine Act, 1936, is amended by inserting in the fourth sentence thereof after the words, "oceangoing barge of more than two thousand five hundred gross tons" a comma and the words, "or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BRANTLEY PROJECT, PECOS RIVER BASIN, N. MEX.

The Senate proceeded to consider the bill (S. 50) to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes, which had been reported from the Committee on Interior and Insular

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Affairs with an amendment, on page 2, line 4, strike out "Dams." and insert "Dams: *Provided*, That the Secretary of the Interior shall operate the existing Alamogordo Dam and Reservoir unit."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Interior is authorized to construct, operate, and maintain the Brantley project, Pecos River Basin, New Mexico, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the provisions of this Act and the plan set out in the report of the Secretary on this project, with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purposes of irrigation, flood control, fish and wildlife and recreation, and for the elimination of the hazards of failure of McMillan and Avalon Dams: *Provided*, That the Secretary of the Interior shall operate the existing Alamogordo Dam and Reservoir unit.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Brantley project shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 3. Nothing in this Act shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Pecos River Compact, 1948, consented to by the Congress in the Act of June 9, 1949 (63 Stat. 159).

SEC. 4. The costs allocated to flood control and the safety of dams purposes of the project shall be nonreimbursable and nonreturnable. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Brantley project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction on the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 6. There is hereby authorized to be appropriated for construction of the Brantley project the sum of $34,785,000 (based upon January 1969 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indices applicable to the types of construction involved and, in addition thereto, sums as may be required for operation and maintenance of the project.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NAVIGABLE WATERS SAFETY AND ENVIRONMENTAL QUALITY ACT OF 1972

The Senate proceeded to consider the bill (H.R. 8140) to promate the safety of ports, harbors, waterfront areas, and navigable waters of the United States, which had been reported from the Committee on Commerce with amendments, on page 1, line 3, after the word "the", strike out "Ports and Waterways Safety Act of 1971" and insert "Navigable Waters Safety and Environmental Quality Act of 1972"; after line 5, insert a new title, as follows:

TITLE I—VESSELS CARRYING CERTAIN CARGOES IN BULK

SEC. 101. Section 391a of title 46, United States Code, is hereby amended to read as follows:

"(1) STATEMENT OF POLICY.—The Congress hereby finds and declares—

"That the carriage by vessels of certain cargoes in bulk creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and of the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems and recreational and scenic values, which waters and resources are hereafter in this section referred to as the 'marine environment'.

"That existing standards for the design, construction, alteration, repair, maintenance, and operation of such vessels must be improved for the adequate protection of the marine environment.

"That it is necesary that there be established for all such vessels documental under the laws of the United States or entering the navigable waters of the United States comprehensive minimum standards of design, construction, alteration, repair, maintenance, and operation to prevent or mitgiate the hazards to life, property, and the marine environment.

"(2) VESSELS INCLUDED.—All vessels, regardless of tonnage, size, or manner of propulson, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, which are documented under the laws of the United States or enter the navigable waters of the United States, except public vessels other than those engaged in commercial service, that shall have on board cargo in bulk which is—

"(A) liquid and inflammable or combustible, or

"(B) oil, of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, or

"(C) designated as a hazardous substance under section 12(a) of the Federal Water Pollution Control Act (33 U.S.C. 1162);

shall be considered steam vessels for the purposes of title 52 of the Revised Statutes and shall be subject to the provisions thereof: *Provided*, That this section shall not apply to vessels having on board the substances set forth in (A), (B), or (C) above only for use as fuel or stores or to vessels carrying such cargo only in drums, barrels, or other packages: And provided further, That nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 30–397 with respect to certain vessels of not more than five hundred gross tons: And provided further, That this section shall not apply to vessels of not more than five hundred gross tons documented in the service of oil exploitation which shall have on board such substances primarily for use as fuel but a portion of which may from time to time be discharged from their fuel tanks at offshore drilling or production facilities.

"(3) RULES AND REGULATIONS.—In order to secure effective provision (A) for vessel safety, and (B) for protection of the marine environment, the Secretary of the department in which the Coast Guard is operating (hereafter 'the Secretary') shall establish for the vessels to which this section applies such additional rules and regulations as may be necessary with respect to the design and construction, alteration, repair, and maintenance of such vessels, including, but not limited to, the superstructures, hulls, places for stowing and carrying such cargo, fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers thereof; and with respect to all materials used in such construction, alteration, or repair; and with respect to the handling and stowage of such cargo, the manner of such handling or stowage, and the machinery and appliances used in such handling and stowage; and with respect to equipment and appliances for life saving, fire protection, and the prevention and mitigation of damage to the marine environment; and with respect to the operation of such vessels; and with respect to the requirements of the manning of such vessels and the duties and qualifications of the officers and crews thereof; and with respect to the inspection of all the foregoing. In establishing such rules and regulations the Secretary may, after hearing as provided in subsection (4), adopt rules of the American Bureau of Shipping or similar American classification society for classed vessels insofar as such rules pertain to the efficiency of hulls and the reliability of machinery of vessels to which this section applies. In establishing such rules and regulations, the Secretary shall give due consideration to the kinds and grades of such cargo permitted to be on board such vessel. In establishing such rules and regulations the Secretary shall, after consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, identify those established for protection of the marine environment and those established for vessel safety.

"(4) ADOPTION OF RULES AND REGULATIONS.—Before any rules or regulations, or any alteration, amendment, or repeal thereof, are approved by the Secretary under the provision of this section, except in an emergency, the Secretary shall (A) consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and other appropriate departments and agencies of the Government, (B) publish proposed rules and regulations, and (C) permit interested persons an opportunity for hearing. In prescribing rules or regulations, the Secretary shall consider, among other things, (i) the need for such rules or regulations, (ii) the extent to which such rules or regulations will contribute to safety or protection of the marine environment, and (iii) the practicability of compliance therewith, including cost and technical feasibility.

"(5) RULES AND REGULATIONS FOR SAFETY; INSPECTION; PERMITS; FOREIGN VESSELS.—No vessel subject to the provisions of this section shall, after the effective date of the rules and regulations for vessel safety established hereunder, have on board such cargo, until a certificate of inspection has been issued to such vessel in accordance with the provisions of title 52 of the Revised Statutes and until a permit has been endorsed on such certificate of inspection by the Secretary, indicating that such vessel is in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder, and showing the kinds and grades of such cargo that such vessel may have on board or transport. Such permit shall not be endorsed by the Secretary on such certificate of inspection until such vessel has been inspected by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder. For the purpose of such inspection approved plans and certificates of class of the American Bureau of Shipping or other recognized classification society for classed vessels may be accepted as evidence of the structural efficiency of the hull and the reliability of the machinery of such classed vessels except as far as existing law places definite responsibility on the Coast Guard. A certificate issued under the provisions of this section shall be valid for a period of time not to exceed the duration of the certifiate of inspection on which such permit is endorsed, and shall be subject to revocation by the Secretary whenever he shall find that the vessel concerned does not comply with the conditions upon which such permit was issued: *Provided*, That rules and regulations for vessel safety established hereunder and the provisions of this subsection shall not apply to vessels of a foreign nation having on board a valid certificate of inspection recognized under law or treaty by the United States: *And provided further*, That no permit shall be issued under the provisions of this section authorizing the presence on board any vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 170 of this title.

"(6) RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENT; INSPECTION; CERTIFICATION.—No vessel subject to the provisions of this section shall, after the effective date of rules and regulations for protection of the marine environment, have on board such cargo, until a certificate of compliance, or an endorsement on the certificate of inspection for domestic vessels, has been issued by the Secretary indicating that such vessel is in compliance with such rules and regulations. Such certificate of compliance or endorsement shall not be issued by the Secretary until such vessel has been inspected by the Secretary and found to be in compliance with the rules and regulations for protection of the marine environment established hereunder. A certificate of compliance or an endorsement issued under this subsection shall be valid for a period specified therein by the Secretary and shall be subject to revocation whenever the Secretary finds that the vessel concerned does not comply with the conditions upon which such certificate or endorsement was issued.

"(7) RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENT RELATING TO VESSEL DESIGN AND CONSTRUCTION, ALTERATION, AND REPAIR; INTERNATIONAL AGREEMENT.—(A) The Secretary shall begin publication as soon as practicable of proposed rules and regulations setting forth minimum standards of design, construction, alteration, and repair of the vessels to which this section applies for the purpose of protecting the marine environment. Such rules and regulations shall, to the extent possible, include but not be limited to standards to improve vessel maneuvering and stopping ability and otherwise reduce the possibility of collision, grounding, or other accident, to reduce cargo loss following collision, grounding, or other accident, and to reduce damage to the marine environment by normal vessel operations such as ballasting and deballasting, cargo handling, and other activities.

"(B) The Secretary shall cause proposed rules and regulations published by him pursuant to subsection (7) (A) to be transmitted to appropriate international forums for consideration as international standards.

"(C) Rules and regulations published pursuant to subsection (7) (A) shall be effective not earlier than January 1, 1974, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In the absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1975, for rules and regulations previously published pursuant to this subsection (7).

"(D) Any rule or regulation for protection of the marine environment promulgated pursuant to this subsection (7) shall be equally applicable to foreign vessels and United States flag vessels operating in the foreign trade. If a treaty, convention, or agreement provides for reciprocity of recognition of certificates or other documents to be issued to vessels by countries party thereto, which evidence compliance with rules and regulations issued pursuant to such treaty, convention, or agreement, the Secretary, in his discretion, may accept such certificates or documents as evidence of compliance with such rules and regulations in lieu of the certificate of compliance otherwise required by subsection (6) of this section.

"(8) SHIPPING DOCUMENTS.—Vessels subject to the provisions of this section shall have on board such shipping documents as may be prescribed by the Secretary indicating the kinds, grades, and approximate quantities of such cargo on board such vessel, the shippers and consignees thereof, and the location of the shipping and destination points.

"(9) OFFICERS; TANKERMEN; CERTIFICATION.—(A) In all cases where the certificate of inspection does not require at least two licensed officers, the Secretary shall enter in the permit issued to any vessel under the provisions of this section the number of the crew required to be certified as tankermen.

"(B) The Secretary shall issue to applicants certificates as tankermen, stating the kinds of cargo the holder of such certificate is, in the judgment of the Secretary, qualified to handle aboard vessels with safety, upon satisfactory proof and examination, in form and manner prescribed by the Secretary, that the applicant is in good physical condition, that such applicant is trained in and capable efficiently to perform the necessary operations aboard vessels having such cargo on board, and that the applicant fulfills the qualifications of tankerman as prescribed by the Secretary under the provisions of this section. Such certificates shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title.

"(10) EFFECTIVE DATE OF RULES AND REGULATIONS.—Except as otherwise provided herein, the rules and regulations to be established pursuant to this section shall become effective ninety days after their promulgation unless the Secretary shall for good cause fix a different time. If the Secretary shall fix an effective date later than ninety days after such promulgation, his determination to fix such a later date shall be accompanied by an explanation of such determination which he shall publish and transmit to the Congress.

"(11) PENALTIES.—(A) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall violate the provisions of this section, or the rules and regulations established hereunder, shall be liable to a civil penalty of not more than $20,000.

"(B) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall knowingly and willfully violate the provisions of this section or the rules and regulations established hereunder, shall be subject to a fine of not less than $1,000 or more than $100,000 or imprisonment for not more than one year, or both.

"(C) Any vessel subject to the provisions of this section, which shall be in violation of this section or the rules and regulations established hereunder, shall be liable and may be proceeded against in the United States district court for any district in which the vessel may be found.

"(12) INJUNCTIVE PROCEEDINGS.—The United States district courts shall have jurisdiction for cause shown to restrain violations of this section or the rules and regulations promulgated hereunder.

"(13) DENIAL OF ENTRY.—The Secretary may, subject to recognized principles of international law, deny entry into the navigable water of the United States to any vessel not in compliance with the provisions of this section or the regulations promulgated thereunder."

SEC. 102. Regulations previously issued under statutory provisions repealed, modified, or amended by this title shall continue in effect as though promulgated under the authority of this title until expressly abrogated, modified, or amended by the Secretary under the regulatory authority of this title. Any proceeding under section 391a of title 46, United States Code, for a violation which occurred before the effective date of this title may be initiated or continued to conclusion as though section 391a of title 46, United States Code, had not been amended hereby."

SEC. 103. The Secretary shall, for a period of ten years following the enactment of this title, make a report to the Congress at the beginning of each regular session, regarding his activities under this title. Such report shall include but not be limited to (A) a description of the rules and regulations prescribed by the Secretary (i) to improve vessel maneuvering and stopping ability and otherwise reduce the risks of collisions, groundings, and other accidents, (ii) to reduce cargo loss in the event of collisions, groundings, and other accidents, and (iii) to reduce damage to the marine environment from the normal operation of the vessels to which this title applies, (B) the progress made with respect to the adoption of international standards for the design, construction, alteration, and repair of vessels to which this title applies for protection of the marine environment, and (C) to the extent that the Secretary finds standards with respect to the design, construction, alteration, and repair of vessels for the purposes set forth in (A) (i), (ii), and (iii) above not possible, an explanation of the reasons therefor.

At the top of page 14, insert:

TITLE II—PORTS AND WATERWAYS SAFETY AND ENVIRONMENTAL QUALITY

At the beginning of line 3, change the section number from "2" to "201"; on page 15, line 24, after the word "substances", insert "(including the substances described in subsections 2 (A), (B), and (C) of section 101 of this Act)"; on page 16, line 2, after the word "to", insert "title II of"; in line 4, after the word "to", where it appears the first time, insert "title II"; at the beginning of line 14, change the section number from "3" to "202"; in line 19, after the word "in", insert "title II of"; in line 24, after the word "to", insert "title II of"; in line 25, after the word "under", insert "title II of"; on page 17, line 5, after the word "by", insert "title II of"; after line 7, insert:

(d) The authority granted to the Secretary under this title shall not be applicable to the Panama Canal and shall not be delegated by the Secretary with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation.

At the beginning of line 13, strike out "(d)" and insert "(e)"; in line 14, after the word "under", insert "title II of";

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on page 18, at the beginning of line 11, change the section number from "4" to "203"; in line 13, after the word "to", where it appears the second time, insert "title II of"; in line 14, after the word "safety", insert "or environmental quality"; at the beginning of line 25, change the section number from "5" to "204"; on page 19, line 1, after the word "implement", insert "title II of"; in line 8, after the word "authorities", insert a comma and "environmental groups,"; at the beginning of line 10, change the section number from "6" to "205"; at the beginning of line 16, change the section number from "7" to "206"; at the beginning of line 17, insert "title II of"; in line 18, after the word "than", strike out "$1,000" and insert "$20,000"; in line 24, after the word "under", insert "title II of"; on page 20, at the beginning of line 3, change the section number from "8" to "207"; in line 4, after the word "under", insert "title II of"; in line 5, after the word "than", strike out "$10,000" and insert "$100,000"; and, in line 6, after the word "than", strike out "ten years and insert "one year.".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act to promote the safety and protect the environmental quality of ports, waterfront areas, and the navigable waters of the United States."

DEFENSE RESEARCH: THE NAMES ARE CHANGED TO PROTECT THE INNOCENT

Mr. MANSFIELD. Mr. President, a very interesting article, entitled "Defense Research: The Names Are Changed To Protect the Innocent," by Deborah Shapley, appears in the February 25, 1972, edition of Science. This article reports on a study at Stanford University with respect to the funding of research at that university by the Department of Defense and the methods used and efforts taken to obscure the nature of the research being conducted.

I think we are past the stage of subterfuge and deception in the area of research sponsored at the university by the Department of Defense. At least I hope so. There is no need for opening a new facet of credibility difficulties with the Government by the type of activity mentioned in this article.

I have written the Secretary of Defense today, asking him to put an end to this practice by requiring at a minimum that the principal investigator conducting the research at the various institutions be required at the least to acquiesce in the relevance of this research as determined by the Department of Defense as required by the so-called Mansfield amendment which is now a part of the permanent law.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENSE RESEARCH: THE NAMES ARE CHANGED TO PROTECT THE INNOCENT

"The influence of the military has skewed the direction of research at Stanford and it is the faculty's responsibility to restore the integrity of the process of discovering truth." So concludes a study by Stanford students of the role of the Department of Defense (DOD) in the university.

Prepared under the auspices of the Stanford Workshop on Political and Social Issues (SWOPSI), the report stirred up some predictable storms when it was released last December.* Although No official action has been taken, the report has provoked a hail of memos among faculty, SWOPSI policymakers, and the student researchers.

What the SWOPSI students had uncovered was a Janus-faced stratagem devised by DOD to protect its university research program. DOD-sponsored research has been a target of criticism at Sanford and other well-known schools for the last several years. But since the 1969 congressional attempt to reduce the dependence of university scientists on DOD, known as the Mansfield amendment, critics have assumed that the issue was dead. SWOPSI, however, found it quite alive.

Under the present system, DOD continues to fund a great deal of basic research, even projects for which military applications are at best remote; DOD can also justify all contracts through an elaborate system of accounting, which ties even the most fundamental work to a specific, military objective; and, finally DOD, as a matter of policy, discourages scientists from stating military uses for their research.

The SWOPSI report listed the 100-odd DOD research contracts at Stanford, which, it said, stood at $14 million in February 1971, or 25 percent of all contracts and grants. The students listed the scientific descriptions of the work, names of the investigators, and the financial histories for almost all the contracts. But most important, they gained access to the statements of military relevance, which DOD draws up in-house, for each research contract at Stanford. These are about a paragraph long, are stored in the Defense Documentation Center (DDC), and are rarely seen even by the scientists whose work is described. Keyed to a series of coded numbers, the statements link the research to specific technical and strategic military needs. The SWOPSI team showed the DDC statements to the Stanford principal investigators, invited their comments, and printed the whole package.

The result is interesting reading. The DDC statements justify the research in one way, and the principal investigators often tell a totally different tale. The military departments stake out whole fields of scientific endeavor as necessary to avert war or minimize its consequences. On the other hand, the professors point out to the SWOPSI students that their work will control pollution, improve traffic on local freeways, and increase love for others. Other frequent justifications are the intellectual challenge of the work and the training of graduate students. One professor even says, "I do not flatter myself that any of my work has ever specifically been applied to anything. . . ."

A contract with R. Pantell in electrical engineering with Office of Naval Research "High-power broadly tunable laser action in the ultraviolet spectrum." (The DDC title is different: "Weaponry—lasers for increased damage effectiveness.") It is described in the DDC statement thus:

"Damage mechanisms allowed by laser weapons is under intense investigation. However, it is known that within a range of frequencies the amount of damage for a given power increases with frequency. The highest frequency, shortest wavelength, is thus desirable. . . ."

However, Pantell stated that the ultraviolet lasers are "sorely needed in the areas of medicine, long distance communication, and high energy physics research. . . . Ultraviolet lasers offer the surgeon the capability to destroy, with great efficiency and pinpoint accuracy, selected areas of diseased tissue in a patient's body. . . . Another anticipated use of these lasers is in long distance (e.g., interplanetary) communication. . . ."

Many of the professors express complete agreement with the DDC statements of their project's applications, and some decline comment. Some praise their sponsors, and one, A. London, in mechanical engineering, comments simply, "What is good for technology is good for the Navy."

However, William E. Spicer, in electrical engineering, reacted violently to the DDC description of his work on amorphous semiconductors, which related them to "improved photocathodes" in "night viewing devices," with the following comment:

"The DDC statement . . . is a misstatement of the facts As can clearly be seen from the proposal . . . absolutely no connection can be made between the studies being done here and 'The ability of their materials to effect the emission of electrons through radiation which is a crucial function of the materials used as photocathodes in night viewing devices.' Whoever wrote this statement was as ignorant of the work involved as he is of the use of the English language."

(Since the report's appearance, Spicer has reconsidered his position. He now maintains, in an addendum to the report, that the DDC statement was "garbled by the computer" and that it is only "very doubtful that our work will contribute to night vision.")

Another approach was taken by some professors who declined to make any connection between their work and the DDC statements of military relevance. George Herrmann has an Air Force grant titled "Dynamic behavior and stability of solids and structures." The DDC statement links the work, among other things, to "weapon delivery and reconnaissance. . . . Also knowledge of landing fields and silo interaction with missiles are of vital importance. . . ." However, Herrmann also remarks, among other comments, that

"As far as I know the justification of the funding agency shift from year to year and are related to various missions. . . . My work is so fundamental and general that it is quite far removed from any type of immediate application, whether military or nonmilitary. . . ."

Another professor, R. N. Bracewell, who performs radio astronomy work funded by the Air Force, says, among his general comments on the merits of advancing astronomy, the following:

"In my opinion, the Air Force does not know what applications my work may have. This opinion is based on conversations with contract monitors, on contracts written before the Mansfield Amendment, and on the performance of civilian panels advisory to military agencies supporting research in astronomy. . . .

"The funding agencies justify particular research projects in different ways according to the background of the inquirer, who may be a layman, a taxpayer, a scientific advisor, an Air Force general, a budget officer, and so on. . . .

The students also found discrepancies in the titles. One contract, carried out by P. G. Zimbardo in psychology, is "Individual and group variables influencing emotional arousal, violence, and behavior." But the DDC title suggested its military relevance: "Personnel technology factors influencing disruptive behavior among military trainees."

The report explains that the discrepancies are due to the Mansfield amendment, passed in 1969. Today, the amendment is worded differently and no longer in force as such. However, for a year, it did bar DOD from funding research that did not have a "direct and apparent relationship to a specific military function or operation." It forced DOD, early in 1970, to make a review of its sponsored research and terminate about $8 million in projects judged to be irrelevant. (This cut was small compared to the $64 million slash that Congress made in the DOD research budget that year.)

But the SWOPSI report found that "the Mansfield amendment . . . did not significantly affect the nature of the work being done at Stanford under DOD sponsorship." The report listed some projects that even the principal investigators said were more useful in the civilian than in the military sphere. For xample, S. J. Kline, describing to SWOPSI uses for the Air Force of his work "Basic structure and stability of turbulent shear flows," estimates the ratio of nonmilitary to military applications to be ten to one or greater."

The report also listed one study of Chinese politics and regionalization in a future, post-Mao period whose primary relevance to DOD's mission might be questioned. An Air Force study, which will not be funded after this year, was a computer analysis of language uses in British Parliamentary speeches and in German Reichstag speeches in the priod before World War I, to test "a lateral pressure model for the path to war." The study has been ongoing since the early 1960's. However, the principal investigator, R. North, commented to SWOPSI of his work, "Most government people either could not or would not understand it."

Finally, the students uncovered an administrative decision, made in the wake of the Mansfield amendment, by which the scientists were relieved of giving their projects military-sounding titles, or writing about potential military applications. The report quotes Secretary of Defense Melvin R. Laird in congressional testimony as having said in March of 1970:

"I am going to recommend that we don't make the university scientists certify that any DOD-supported university research has a defense related outcome. . . . In their project report, in their request for a grant, I considered seriously requiring them to do that . . . [but] I hope we can avoid making it necessary for project applicants . . . to include a statement."

Why is DOD reluctant to require scientists to come forward and state military uses of their work? Laird explained that it might cause DOD to lose top scientific talent and research. In an interview, Edward Reilley, assistant director of Defense Research and Engineering, said it would "advertise" DOD's weaknesses, "we don't believe it's possible for any faculty member to be versed in DOD's needs." As for faculty who seek support from DOD telling their campus constituency that their work has no military uses, Reilley saw no need to "punish" those "few" by requiring a statement. Whether a "few" of the faculty at Stanford need their knuckles rapped, however, is a relatively minor matter. The main point is that DOD now exempts all scientists from grappling with the key moral issue of the uses to which their research results will be put.—DEBORAH SHAPLEY.

DAVID CULTIVATES THE GRASSROOTS

President Nixon's science adviser, Edward E. David, Jr., has been barnstorming the country off and on in recent weeks, conducting a round of briefings for scientists and engineers on federal science policy. The unpublicized colloquies, which have ranged from Washington to Boston to the West Coast, have given David a chance to deliver pep talks on the Administration's R & D budget to a wider cross section of the scientific community than ever before. And a free exchange of views during the briefings is said to have helped him "crystallize his understanding of the community's concerns."

John Lannan, a special assistant to David, said the main objective of the briefings is to sound out the views of scientists and engineers in preparation for the President's upcoming message to Congress on R & D. Lannan said the meetings about a dozen of which have taken place so far, have been "extraordinarily helpful" in illuminating gaps in Administration policies.

Guest lists for the briefings have included leading lights from the major scientific societies, industrial laboratories, and colleges and universities. One group also included about 30 of the 51 state and territorial science advisers. The free-wheeling discussions have ranged from the problems of jobless scientists and retrenchment in industrial research to the difficulties of expanding the role of universities in civilian technology.

"There's nothing very complicated about these meetings," one White House aide said. "David is reaching out to his 'constituency.' They're getting essentially the same briefing with the same charts, that the press got before the '73 budget was released."

Despite an obvious theatrical format, White House sources say that the meetings have enabled the Office of Science and Technology, which David heads, to reach beyond the established science advisory groups and to "make contact with a younger set of guys who haven't had much exposure to the Washington scene. They seem impressed that David is coming to them."

*The report is titled "DOD Sponsored Research at Stanford" and comes in two volumes. Available from SWOPSI, Room 590A, Old Union, Stanford, Calif. 94305 ($8). SWOPSI is an umbrella program which permits students to study a wide variety of topics.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 571) providing for an adjournment of the House from March 29, 1972, until April 10, 1972.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 8787) to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished assistant Republican leader wish to be recognized?

Mr. GRIFFIN. No, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

(The remarks that Mr. COOK made at this point on the introduction of S. 3443 and S. 3444 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, are we still in morning business?

The ACTING PRESIDENT pro tempore. The Senate is still engaged in the transaction of routine morning business.

TOWARD UNIFICATION OF IRELAND

Mr. JAVITS. Mr. President the tragedy in Northern Ireland and its latest development, the decision of Prime Minister Heath to suspend the ruling authority of the Ulster Parliament and to take over direct control of Northern Ireland—deeply concerns all of us in the United States because of the widespread human suffering which has taken place, the ties of millions of Americans to Ireland and our own love for freedom which owes so much to the Irish heritage.

Let us now hope that Prime Minister Heath's action will be a major step toward ending the chaos and violence which has shattered the lives of so many innocent men and women in Northern Ireland.

Let us hope that the Prime Minister has initiated an effort which will lead to a rapid decrease in the level of violence, and—in the long run—to a permanent resolution of the half-century old division between the Irish Republic and the six counties of Northern Ireland.

I recall that I introduced as a Member of the House of Representatives in the

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early 1950's, I believe, the first resolution urging a plebiscite throughout Northern Ireland and the Irish Republic, on the question of unification.

It is now the responsibility of both the Catholics and Protestants—and the IRA—to refrain from violence and to cooperate to restore civil order and the rule of law. That is the fastest way to bring about withdrawal of the British Army presence.

So long as violent extremists—Catholic or Protestant—remain active behind the walls of the ancient city of Derry, on the Falls Road in Belfast, in Armagh, Lurgan, and Dunganon, there is no hope for the land and its people.

It is also the direct responsibility of the British Government to phase out rapidly the policy of arrest without warrant and internment without trial so abhorrent to the civil liberties of the Catholic minority and so totally inconsistent with the principles of Anglo-Saxon common law and international justice.

In the end, the Irish people themselves must settle their own national questions—without outside interference.

But as unification as a solution to the Irish question is considered, it must not be forgotten that there are obligations which rest with equal weight upon the Government of the Irish Republic, as well as upon the temporary government of Ulster.

The Dublin government needs to demonstrate its own willingness to answer many questions as to its own constitution and as to providing a greater degree of religious freedom and civil liberty for all of its people—Protestant as well as Catholic—as well as to eliminate censorship and institute major social reforms.

Ireland—an old but still growing nation—must ease out of a half-century of civil strife and build a stronger and more prosperous society for its own people.

Its task is to draw closer to the European continent politically and economically, to create more employment and a steady rate of national growth.

But, its task is also to be Ireland—to grow and prosper—but to preserve its deep-rooted conviction of the basic goodness of every man, in a country of pastoral serenity and magnificent beauty.

The task facing the British Government is to pave the road to reunification—and its own eventual withdrawal—as it has admirably done in the past in other areas of British influence.

Ireland has paid dearly in the last 50 years of its division, in bitter experiences, in prison sentences, in executions and bombings, in separation and, above all, in the humiliation and loss of dignity of its people.

Mr. President, it is my hope that the action taken by the British Government in seeking an end to the hostilities in Northern Ireland is the first step toward lasting peace and the eventual reunification of the Irish people.

WAR POWERS ACT

Mr. GRIFFIN. Mr. President, there has been some discussion about the possibility of a request whereby the committee amendment to the so-called War Powers Act bill would be adopted by unanimous consent and the bill, as so amended, would then be treated as original text for purposes of further amendment. On behalf of the Senator from Nebraska (Mr. HRUSKA) I wish to indicate that there would be objection to such a request. Since no votes are anticipated today, it does not seem that the point is of any particular significance, at least until next week. As I understand it, when the bill is laid down as the business before the Senate, adoption of the committee amendment would be the pending question.

The ACTING PRESIDENT pro tempore. The Senator is correct.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) laid before the Senate the following letters, which were referred as indicated:

REQUEST FOR INCREASE IN AMOUNTS OF CERTAIN APPROPRIATION ACCOUNTS OF THE DEPARTMENT OF DEFENSE

A letter from the General Counsel of the Department of Defense, reporting, pursuant to law, on a request for increase in amounts of certain appropriation accounts of the Department of Defense (with accompanying papers); to the Committee on Armed Services.

REPORT ON ACTIVITIES RELATING TO TRANSPORTATION OF CARGO BY CERTAIN BARGES

A letter from the Secretary of the Treasury, reporting, pursuant to law, on activities of Public Law 92-163, relating to the transportation of cargo by barges specifically designed for carriage aboard a vessel (with acompanying papers); to the Committee on Commerce.

PROPOSED REMOVAL OF LIMITATION ON PAYMENTS FOR CONSULTANT SERVICES IN THE COMMUNITY RELATIONS SERVICE

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to remove the limitation on payments for consultant services in the Community Relations Service (with an accompanying paper); to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOK:

S. 3443. A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary;

S. 3444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of coal. Referred to the Committee on Finance; and

S. 3445. A bill to protect the public interest in the field of professional team spectator sports; to provide for financial stability among professional sports franchises; to protect the interests of professional athletes; to improve the relationship between professional and amateur sports; and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK:

S. 3443. A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, in the past decade juvenile crime has risen to an unprecedented height in this country. The most recent statistics indicate that in the last 10 years juvenile crime in the 10- to 17-year-old age group has increased by approximately 148 percent. It is obvious therefore that the problem of juvenile delinquency is reaching crisis proportions. As I have stated on several previous occasions, the most logical way to solve a problem of this scope is to attack it at its roots. This means that we as a nation must be willing to commit more of our time, energy, and funds to the prevention of delinquency.

The Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare, the only Federal agency exclusively concerned with delinquency prevention, has adopted this philosophy as a realistic approach to the dilemma of increasing juvenile delinquency in America. As a result of careful study, meetings in various parts of the country with experts in the field, and consultation with representatives of many academic disciplines relative to this problem, YDDPA has developed a national strategy for delinquency prevention.

During the past year, YDDPA has utilized this new national strategy to redirect its program toward the development of coordinated youth service systems outside of the traditional juvenile justice system. As a concept, it is quite simple: To go into an area, determine what public and private services are then available to the youth of that area, and to set up a system whereby these various groups and agencies work closely together in their efforts, cross-referencing young people in need to each other. Twenty-three such systems were funded in fiscal 1972 and are now in various stages of development. These social service systems are located in four different social settings: First, inner city-model city areas; second, greater urban areas; third, suburban areas; and fourth, rural areas. In addition to receiving funds from YDDPA, a number of the systems have received financial support from other Federal, State, and local sources, as well. In short, the development of these coordinated youth service systems is a major milestone in the field of delinquency prevention.

The Youth Development and Delinquency Prevention Administration came into existence by virtue of the Juvenile Delinquency and Control Act of 1968 which expires on June 30 of this year. Therefore, today I am introducing the Juvenile Delinquency Prevention and Control Act Amendments of 1972. This legislation amends the 1968 act by substituting the coordinated youth service system concept for the State agency concept in title I of the original act. It would also extend the 1968 act for another 3 years. There is a vital need to continue the program of delinquency prevention which the Department of Health, Education, and Welfare, through YDDPA, has developed over the last 4 years and especially in the last year. I sincerely hope that Congress will not allow the only Federal program in this most important area of delinquency prevention to lapse.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Delinquency Prevention and Control Act Amendments of 1972".

SEC. 2. Section 2 of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 2. The Congress finds that delinquency among youths has reached a crisis situation which can be met by assisting and coordinating the efforts of public and private agencies engaged in combating the problem, and by increasing the number and improving the quality of the services available for preventing and combating juvenile delinquency. It is, therefore, the purpose of this Act to assist States and local communities in providing diagnosis, treatment, rehabilitative and preventive services to youths who are delinquent or in danger of becoming delinquent, to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, to provide support for development of improved techniques and information services in the field of juvenile delinquency, and to provide support for development of improved techniques and information services in the field of juvenile deliquency, and to provide technical assistance in such field."

SEC. 3. (a) The heading of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"TITLE I—COORDINATED PREVENTIVE AND REHABILITATIVE SERVICES"

(b) The heading for Part A of such title is amended to read as follows:

"PART A—PLANNING AND DEVELOPING COORDINATED SERVICES"

(c) Section 101 of such title is amended to read as follows:

"DEVELOPING PREVENTIVE AND REHABILITATIVE COORDINATED SERVICES

SEC. 101. The Secretary may make grants to, or contracts with, any public or nonprofit agency, organization or institution for establishing or operating programs for the prevention and treatment of juvenile delinquency, which ensure coordinated services. Such grants or contracts may be provided for paying all or part of the cost of establishing or operating coordinated youth services, including the cost of planning such programs, of providing youth services either by contract or through other arrangements, or directly, only for those services which are not being provided in the community and for which payment is not available from other sources."

(d) The heading for section 102 of such title is amended to read as follows:

"PLANNING COORDINATED SERVICES"

(e) Section 113 of such title is amended to read as follows:

"APPLICATIONS

"SEC. 113. (a) Grants under this part may be made only upon application to the Secretary which contains or is accompanied by satisfactory assurances that—

"(1) such applicant agency will provide to the extent feasible for coordinating, on a continuing basis, its operations with the operations of public agencies and private nonprofit organizations furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

"(2) such applicant agency will make reasonable efforts to secure or provide any of such services which are necessary for diagnosing, treating, and rehabilitating youths referred to in section 111 and which are not otherwise being provided in the community, or if being provided are not adequate to meet its needs;

"(3) maximum use will be made under the program or project of other Federal, State, or local resources available for provision of such services;

"(4) public and private agencies and organizations providing the services referred to in paragraph (1) will be consulted in the formulation by the applicant of the project or program, taking into account the services and expertise of such agencies and organizations, and with a view to adapting such services to the better fulfillment of the purposes of this part;

"(5) in developing coordinated youth services, youth and public or private agencies, organizations, or institutions providing youth services within the geographic area to be served by the applicant are given the opportunity to present their views to the applicant with respect to such develoment; and

"(6) the applicant or lead agency is responsible for both accountability for and continuity of services for youth."

(f) Subsection (b) of section 113 of such title is amended (1) by deleting the word "and" after the semicolon in clause (2) thereof, (2) by deleting clause (3) thereof and (3) by adding at the end thereof the following:

"(3) the functions and services included;

"(4) the procedures which will be established for protecting the rights, under Federal, State and local law, of the recipients of youth services, and for ensuring appropriate privacy with respect to records relating to such services, provided to any individual under coordinated youth services developed by the applicant;

"(5) the procedures which will be established for evaluation; and

"(6) the strategy for phasing out support under this Act and the continuance of a proven program through other means."

(g) Section 113 of such title is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part B unless the application therefor has first been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application."

SEC. 4. (a) Section 123 of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended as follows:

(1) Subsection (a) of such section is amended by deleting "a State agency or, in the case of direct grants under section 132, to the Secretary, by a public agency or nonprofit private agency or organization," and inserting in lieu thereof "the Secretary".

(2) Subsection (b) of such section is amended by deleting the semicolon and the word "and" following such semicolon and inserting in lieu thereof a period.

(3) Such section is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part C unless the application therefor has first been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application."

(b) Sections 131, 132, 133 and 134 of title I of such Act are hereby repealed.

(c) The first sentence of section 135 of title I of such Act is amended by deleting "the State agency, or, in the case of grants under section 132,".

(d) Section 402 of title IV of such Act is amended to read as follows:

"SEC. 402. There are authorized to be appropriated for grants and contracts under this Act, to the Department of Health, Education, and Welfare, $75,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years such sums as may be necessary for carrying out this Act."

(e) The first sentence of section 408 of title IV of such Act is amended by deleting "the Secretary" and inserting in lieu thereof "the interdepartmental council".

(f) Section 410 of title IV of such Act is amended (1) by deleting paragraph (2) thereof; (2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and (3) by adding at the end thereof of the following new paragraphs:

"(5) 'Delinquent youth' refers to any youth who has been found by a court to be delinquent, or to be in need of care or supervision.

"(6) 'Youth in danger of becoming delinquent' refers to any youth whose conduct is such as to bring him within the jurisdiction of the juvenile court.

"(7) The term 'Youth Services' means a variety of services or types of care which are necessary components of a comprehensive program for the prevention of juvenile delinquency or for the rehabilitation of delinquent youth including counseling of various types, employment, vocational training, medical and mental health, education, recreational and various types of foster care, which are now being developed or provided by a variety of State and local public and voluntary agencies.

"(8) The term 'coordinated youth services' means a comprehensive service delivery

system, separate from the system of juvenile justice (which encompasses authoritative action by agencies such as the juvenile courts, law enforcement agencies, and detention facilities) for providing youth services through a coalition of public and voluntary agencies, to an individual who is delinquent or in danger of becoming delinquent and to his family in a manner designed to promote accessibility to and effective use of such services with a minimum of duplication."

By Mr. COOK:

S. 3444. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of coal. Referred to the Committee on Finance.

Mr. COOK. Mr. President, I am introducing today the Federal Coal Severance Tax and Revenue Sharing Act of 1972. As the title implies, the bill would impose a Federal severance tax on the extraction of coal and would also allow the States to share in this severance tax.

More specifically, the bill imposes a severance tax on coal on property located within the United States of an amount equal to 4 percent of the gross income from the property derived by the holder of working interest during the taxable period. Because of certain exclusions in the bill it would, in effect, tax the gross value of the coal extracted from the mineral property. Furthermore, it places a minimum tax or floor on an amount equal to a rate of 30 cents per ton to the total number of tons produced and sold.

Mr. President, many coal mining companies have generally opposed State severance taxes on the grounds that if nonuniform taxes were enacted in the various States, those companies in the States which impose a severance tax higher than its neighbor would be at a competitive disadvantage. This bill, by imposing a Federal tax of 4 percent on coal, is a uniform tax which will place all companies and all coal-producing States on an equal footing.

In 1970 the total production of coal amounted to approximately 603 million tons. The gross value for the 1970 production was placed somewhere in the neighborhood of $3.8 billion. In 1971 preliminary figures indicate a production of 560 million tons of coal valued at approximately $3.5 billion. A Federal severance tax imposed upon the 1971 figure would have yielded over $140 million in new revenue. While this figure might seem relatively small in relation to the proposed Federal budget for fiscal 1973 of $246.3 billion, it should be remembered that this is a new tax and would be a substantial amount to those States which receive a Federal tax credit for the imposition of a similar State-imposed severance tax.

This brings up to the second most important feature of this bill, the Federal tax credit. Since the President proposed a revenue sharing plan over a year ago, that concept is now a term of everyday use. The bill provides that any State severance taxes on coal collected by the States will be deducted from the amount levied by the Federal Government. Thus, the bill creates an incentive for State governments to enact their own severance taxes which in turn will create new sources of income for many of our tax-starved States.

Mr. President, I think we are all only too familiar with the need of the States and localities for additional revenues to finance education and other very necessary expenditures. I believe that this legislation is urgently needed, and I strongly encourage the Senate Finance Committee to very carefully study my proposal.

By Mr. COOK:

S. 3445. A bill to protect the public interest in the field of professional team spectator sports; to provide for financial stability among professional sports franchises; to protect the interests of professional athletes; to improve the relationship between professional and amateur sports; and for other purposes. Referred to the Committee on Commerce.

FEDERAL SPORTS ACT OF 1972

Mr. COOK. Mr. President, the professional sports world is in a period of turbulence. Almost daily, sports pages throughout the country report a new controversy involving professional athletes, teams, and leagues. Within the last few months, many events have occurred which have shaken the foundation of professional sports, and have left the American sports fan clinging to fond memories of sports as it was.

Few Americans have escaped the attraction of the sports world. Its drama, heroics, and excitement involve over one-half of the American people every year. Indeed, it has been said that a sports event is a microcosm of life. Each participant begins his quest on an equal basis, each meets many obstacles along the way, and each finally experiences success or failure. The only difference is that the world of sports always provides another chance for success, another hope of victory.

I fondly remember my younger years. I gave my unswerving support and emotion to my favorite players and teams. And I succeeded or failed, lived or died, along with them. Obviously it is true that a sports event is only a transitory moment, and we are always faced with the reality of tomorrow. But sports can give us hope, something to believe in. We can see someone succeed on the athletic field and rededicate ourselves to success in our own fields.

Recent events, however, have made it nearly impossible for the American sports fan to view sports in this manner. The players and teams have become more similiar to road shows than resident companies. The emotional allegiances which have characterized the Amerian sports fan for so many years are dying. We have become a nation of technical sports observers, rather than enthusiastic, vicarious participants. Maybe this is only one symptom of a growing national psychology, But I for one am not prepared to surrender a lifetime love so easily.

The sports world has been beset by a series of easily identifiable problems, all of which have resulted from the mass commercialization of sports. Until recently we have been reluctant to admit that sports is a business, as well as a national recreation form.

Until recently, the world of sports was always different, always sacred. However, with the recent snowball of controversy in the sports world, the time has obviously arrived for a new perspective in the field of sports.

Consider for a moment the recent events that have filled our sports pages: Vida Blue, last year's most valuable player in baseball, may not play a second year due to contract disputes; the Curt Flood challenge of the so-called reserve clause has just been argued before the Supreme Court; the Baseball Players Association has threatened a player strike over benefit disputes; the NBA and ABA are involved in a destructive war over players, and may be destroying professional basketball in the process. The list is endless, and would fill this record. My point, however, is short and direct; namely, that the real victims of these disputes and controversies are the American sports fans. The very people who elevated the world of sports to its lucrative position are now being forgotten in the wake of the exploitive tactics of the sports world figures.

The Congress has considered parts of these problems in the past, and is dealing with other parts at this time. Yet the problems have only multiplied, and the situation has become more desperate. The basketball situation is the most deplorable example of the critical condition of professional sports. Professional basketball teams in both leagues are pirating players, college athletes have been lured by six and seven figure offers into deserting their educational pursuits and their college athletic programs. The Judiciary Committee is currently considering a bill which is designed to alleviate part of this problem. I am a cosponsor of that bill, as are 25 other Senators. However, problems will remain whatever the disposition of that proposal may be. Rights of players and teams must still be preserved in all professional sports. However, the first right to be protected is the right of the sports fan to a stable professional sports system; one upon which he can rely, and one which he can enjoy. We cannot lose sight of the irrefutable fact that unless we insure the continued support of the American people for athletic activities, all the disputes which we are currently experiencing will become moot and irrelevant.

For all of these reasons I am today introducing the Federal Sports Act of 1972. I sincerely believe that this proposal can guarantee a vital and stable professional spectator sports system, while protecting the rights and interests of all of the principal parties.

Briefly, this proposal would establish within the Department of Commerce a commission to be known as the Federal Sports Commission. It would be composed of three commissioners, appointed by the President, and a sports advisory

council, composed of eight members selected by the Commission from among the various interests of the sports world. The Commission's authority would be limited to the promulgation of rules and regulations to resolve certain of the problems now hindering professional sports. In particular, these areas are: television blackouts, drafting procedures, the sale and movement of franchises, and problems involving player contracts.

Support for this concept is definitely widespread. Several weeks ago, Mr. Ralph Nader expressed his opinion that Federal action is needed in the area of player contracts. Howard Cosell, whom I consider to be a far-sighted individual and an intelligent sports commentator and fan, has expressed on several occasions his opinion that a Federal overseeing body was a necessity. My good friend, Senator ERVIN, who has been so deeply involved in the consideration of the basketball merger legislation, has said that if this merger is permitted, Federal oversight would be necessary.

This proposal would provide that oversight, but it would primarily provide a voice for the American sports fan, who by now must feel that he is shooting at moving targets.

I sincerely believe this proposal to be an answer to a most critical problem, and I believe it is necessary to preserve the system of sports which has provided many years of enjoyment and excitement for millions of American people. I therefor submit herewith the Federal Sports Act of 1972.

Mr. President, I ask unanimous consent that the proposed Federal Sports Act of 1972 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act be cited as the "Federal Sports Act of 1972."

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby declares that the public has a right to a stable, financially sound professional sports system, that unstable conditions now exist within professional sports, including the arbitrary sale and transfer of team franchises, the pirating of professional athletes by the various teams and leagues, inequitable arrangements relating to the broadcast of professional sports events on commercial television, inefficient and disruptive mechanisms for bringing amateur athletes into professional sports, and uncertain conditions concerning the forms and provisions of player contracts. It is therefore the purpose of this Act to provide for the establishment of a Federal Sports Commission within the United States Department of Commerce, which shall have the authority to promulgate and enforce rules or other regulations to carry out the purpose of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "professional sports team" means an organization of more than two professional athletes, which is a member organization of a professional sports league,

(2) the term "professional athlete" means an athlete who is remunerated under contract or otherwise by a professional sports team for his athletic performances;

(3) the term "professional sports league" means an association of professional sports teams which provides a competitive schedule for its member teams, and which provides other administrative services for the association, including but not limited to the following associations: The National Football League, the National Basketball Association, the American Basketball Association, the National Hockey League, the National Baseball League, the American Soccer League, and the American Baseball League.

FEDERAL SPORTS COMMISSION

SEC. 4. (a) A Commission is hereby created and established within the Department of Commerce to be known as the Federal Sports Commission (hereinafter referred to as the "Commission") consisting of three Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman shall be the principal executive officer of the Commission and, when so designated, shall act as Chairman until the expiration of his term of office. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) The Commissioners first appointed under this section shall continue in office for terms of three, four and five years, respectively, from the date of enactment of this Act, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of expiration of the term for which his predecessor was appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his prececessor was appointed shall be appointed only for the unexpired term.

(c) Not more than two of the Commissioners shall be appointed from the same political party. No person in the employ of, or holding any official relation to, any professional sports team, professional sports league, player association, or owning stocks or bonds of substantial value in any team, or who is in any other manner pecuniarily interested in any team, shall enter upon the duties of or hold the office of Commissioner. Commissioners shall not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. Two members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually select a Vice Chairman to act in the absence or in the case of the disability of the Chairman or in the case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and may meet and exercise any or all of its powers at any other place. The Commission may, by one or more of its members or by such agents or agency as it may designate, prosecute any inquiry necessary to its function anywhere in the United States. A Commissioner who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Commission in the same matter.

(f) The Commission shall prepare and submit to the President for transmittal to the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include:

(1) a thorough appraisal, including statistical analyses, estimates, and long term projections, of the status of professional sports including, but not limited to, the financial status of teams, the condition of player-team relations, the condition of relations between professional and amateur sports organizations, and status reports on any problems which may be found to exist in the Commission's jurisdiction;

(2) an evaluation of the degree of observance of Federal sports rules and regulations, including a list of enforcement actions, court decisions, and compromises of alleged violations;

(3) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(5) the extent of cooperation between Commission officials and representatives of the various teams, players, leagues, and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of the various teams, players, leagues, and other interested parties; and

(6) an appraisal of the significance and potential effects of any legislation at the state, local or Federal level which relates to the responsibilities of the Commission

(g) That report required by subsection (f) shall contain such recommendations for additional legislation as the Commission deems necessary to remedy problems which relate to professional sports, and the relation between professional and amateur sports.

(h) The Commission shall appoint an Executive Director, a General Counsel, a Director of Information, and such other officers and employees as are necessary in the execution of its functions. Commission employees, other than those specifically enumerated in the preceding sentence, shall be subject to the provisions of Title 5, United States Code, governing appointments in the competitive service.

FEDERAL SPORTS RULES

SEC. 5. The Commission shall have authority to promulgate rules or other regulations which relate to:

(a) the procedures for imposing territorial restrictions on the broadcast of professional sports events on commercial television. (Said rules shall be promulgated only after consultation with the Federal Communications Commission.)

(b) the sale and/or transfer of professional team franchises;

(c) the mechanisms or procedures for transferring amateur athletes into professional sports;

(d) the form of player contracts (but not the terms of those contracts), in order to best assure adequate disclosure of the terms of such contracts to the contracting parties.

FEDERAL SPORTS RULES—PROCEEDINGS BY THE COMMISSION

SEC. 6. (a) Whenever the Commission finds that a rule or other regulation authorized by section 5 is necessary to protect the interests of the public, to prevent the financial failure of professional sports teams, or to protect the rights of professional athletes, the Commission shall commence a proceeding for the development of such a rule or regulation.

(b) A proceeding for the development of such a rule or regulation shall be commenced by the publication of a notice in the Federal Register. The notice shall state

(1) the rule or regulation;

(2) the reason for such rule or regulation; and

(3) the manner and the period within which all interested persons may present their comments on such rule or regulation or the need therefor.

(c) As soon as practicable after the publication of a proposal to promulgate a rule or regulation, the Commission shall, by order published in the Federal Register, act upon such proposed rule or regulation, or withdraw the applicable notice of proceeding. The order shall set forth the rule or regulation, the reasons for the Commission's action (including reasons for the promulgation of a rule or regulation materially different than those set forth in the proposal), and the date or dates upon which such rule or regulation, or portions thereof, shall become effective. Such date or dates shall be established so as to most effectively achieve the purposes of this Act.

(d) The Commission shall not promulgate a sports rule or regulation, unless it determines and includes such determination in the order promulgating such rule or regulation, that its findings show that such rule or regulation (including the effective date thereof) is reasonably necessary to carry out the purposes for which such rule or regulation is authorized by section 5, and that the promulgation of such rule or regulation is in the public interest.

DISPUTES OF FACT

(e) The Commission may conduct a hearing in accordance with such conditions or limitations as it may make applicable thereto, for the purpose of resolving any issue of fact material to any finding required to be made by the Commission under this section.

REVOCATION OR AMENDMENTS OF RULES OR REGULATIONS

SEC. 7. (a) The Commission may revoke, in whole or in part, any rule or regulation, upon the ground that there no longer exists a need therefor or that such rule or regulation is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such rule or regulation or portion thereof to be revoked, a summary of the reasons for its determination that there may no longer be a need therefor or that such rule or regulation or any part thereof may no longer be in the public interest, the manner in which interested persons may examine the information relevant to the Commission's determination, and the period within which all interested persons may present their views in writing, with respect to such revocation. As soon as practical thereafter, the Commission shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Commission's action, and the date or dates upon which such revocation shall become effective.

(b) The requirements of sections 5, 6, and 7 of this Act for the promulgation of a sports rule or regulation shall apply to the promulgation of a material amendment of such a rule or regulation. The Commission may promulgate an amendment of a sports rule or regulation other than a material amendment without regard to sections 5, 6, or 7, but shall comply with the procedures set forth in subsections (a) and (b) of section 6, and shall set forth, in its order promulgating such amendment, such findings as it may deem appropriate in explanation thereof. As used in this subsection, the term "material amendment" means an amendment that would substantially increase the degree of compliance required by a rule or regulation.

JUDICIAL REVIEW

SEC. 8. (a) Any person adversely affected by an order of the Commission pursuant to section 6, or pursuant to section 7, may, at any time after such order is published by the Commission, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of such order. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its order, as provided in section 2112 of title 28 of the United States Code. Such record shall include such order to the Commission and, if issued, held, or obtained in connection therewith, the notice of proceeding published pursuant to subsection (b) of section 6, or section 7; the transcript or summary of any proceedings and the findings arising therefrom; and any other information, including comments of interested persons, required to be considered by the Commission in the promulgation of such order.

(b) Upon the filing of the petition under subsection (a) of this section, the court shall have jurisdiction to review the order of the Commission in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The order of the Commission shall be affirmed if supported by substantial evidence on the record taken as a whole.

(c) The judgment of the Court affirming or setting aside, in whole or in part, any order of the Commission shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in Section 1254 of Title 28 of the United States Code.

SPORTS ADVISORY COUNCIL

SEC. 9 (a) The Commission shall establish a Sports Advisory Council which it may consult before prescribing a sports rule or regulation. The Council shall be appointed by the Commission and shall be composed of eight members, each of whom shall be qualified by training and experience in one or more of the fields within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) two members shall be officials of professional sports leagues;

(2) two members shall be representatives of professional sports team franchises;

(3) two members shall be representatives of professional athlete organizations;

(4) two members shall be selected from among amateur sports organizations, sports writers and broadcasters, and recognized leaders in the fileld of sports.

(b) The Council may propose sports rules and regulations to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(c) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

ADDITIONAL POWERS OF THE COMMISSION

SEC. 10 (a) The Commission, or any two members thereof, as authorized by the Commission, may conduct hearings at its office or otherwise secure data and expressions of opinion pertinent to the jurisdiction of the Commission. The Commission shall publish notice of any proposed hearings in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, professional sports teams, leagues, individuals, and other organizations to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpena or order issued under this subsection, to invoke the aid of any district court of the United States in compliance with such subpena order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraphs (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any district court within the United States within the jurisdiction of which any inquiry is carried on may, upon petition by counsel for the Commission, in case of refusal to obey a subpena or order of the Commission under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) The Commission is authorized to enter into contracts with governmental entities, private organizations or individuals for the conduct of activities authorized by this Act.

(e) The Commission is authorized to establish such policies, criteria, and procedures and to prescribe such rules and regulations as it deems necessary to administration of this Act and its functions hereunder. Unless otherwise specified, the provisions of Title 5, United States Code, Section 553 shall apply to such proceeding.

COOPERATION WITH FEDERAL AGENCIES

SEC. 11. The Commission is authorized to obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to professional sports shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

ENFORCEMENT

Civil Penalties

SEC. 12 (a) Whoever fails to comply with a rule or regulation issued pursuant to Sections 5, 6 and 7, or, in case of commission of any such act by a team, league, or individual, the team, league, or individual, and any individual director, officer, or agent of such team, league, or individual who knowingly committed such act, shall be subject to a civil penalty of not more than $50,000 for each such act.

(b) The Commission may assess and collect any civil penalty incurred under this Act and, in its discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General. Subject to the approval by the Attorney General, the Commission may engage in any proceeding in court for that purpose. In determining the amount of any penalty to be assessed hereunder, or the amount agreed upon in any compromise, consideration shall be given to the appropriateness of such penalty in light of the gravity of the violation and the extent to which the person charged has complied with the provisions of rules or regulations issued pursuant to Sections 5, 6, and 7, or has otherwise attempted to remedy the consequences of the said violation.

Injunctions

(c) Upon application by the Attorney General, the district courts of the United States shall have jurisdiction to enjoin the commission of acts in violation of any rule or regulation issued pursuant to Sections 5, 6, and 7, and to compel the taking of any action required by this Act.

INTERPRETATIONS AND SEPARABILITY

SEC. 13. The provisions of this Act shall be held to be in addition to and not in substitution for or limitation of the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to any other person or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary for the purpose of carrying out the provisions of this Act.

ADDITIONAL COSPONSORS OF A BILL

S. 3393

At the request of Mr. COOK, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 3393, a bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 1091 THROUGH 1097

(Order to be printed and referred to the Committee on Finance.)

H.R. 1 AND ITS IMPACT ON RHODE ISLAND SENIOR CITIZENS

Mr. PELL. Mr. President, the Senate will soon be considering a bill which is important to the Nation and which is of great concern in Rhode Island.

The bill to which I refer is H.R. 1. The changes proposed in this bill for the medicare and medicaid programs will have a direct impact on more than 104,000 senior citizens in my own State of Rhode Island.

To ascertain the feelings of my fellow Rhode Islanders on this measure, I held 2 days of hearings for the Health Subcommittee of the Senate Special Committee on Aging in Rhode Island. Statements were received from 89 persons in Providence and Woonsocket, and the general consensus of my constituents' opinions were cutbacks proposed in the medicare and medicaid programs would not result in any real savings to the Nation's taxpayers, but would result only in increased economic hardship and misery for our already hard-pressed senior citizens.

Arthur F. Hanley, president of Rhode Island Blue Cross and the executive director of Rhode Island Blue Shield, in noting the impact of the H.R. 1 cutbacks on his organization's supplementary coverage for medicare beneficiaries, stated:

> Congress would be taking $1.3 million in buying power from the people of Rhode Island over age 65, many of them living on limited and fixed incomes.

Dr. Mary Mulvey, vice president of the National Council of Senior Citizens, told the Special Committee on Aging:

> The cost of medical care is one of the principal problems that our elderly people face today . . . Medicare was a great advance, but it does not cover 45 percent of our senior citizens' health costs. The financial outlay by senior citizens has been increasing year by year. The Plan A deductible rose from $40 to $60—a fifty percent increase in four years. Out-of-pocket premiums, Part B, increased from $3 a month to $5.60 a month in four years—an 87 percent increase. Older persons who can afford to buy Blue Cross Plan 65 have had their premiums increased by 65 percent.

The cutbacks proposed in H.R. 1 will not only hurt the senior citizens themselves but they will have an impact on the taxpayers of Rhode Island. According to Dr. P. Joseph Pesare, who directs the Rhode Island medicaid program:

> The time is rapidly approaching when Medicare beneficiaries will be priced out of the market in terms of ability to pay deductibles, coinsurance and the premiums.
>
> The increase in the deductible and coinsurance factors as outlined in H.R. 1 will increase Medicaid costs . . .
>
> In the case of Rhode Island, 49.74 percent of the additional expenditures must be met with State funds.

Our present system of medicare for senior citizens has unfortunately become another one of those false hopes of the 1960's that has not materialized.

Senior citizens are now paying, out of their pockets, nearly as much as they paid before medicare was enacted, and nearly one-fourth of the senior citizens in my State are too poor to pay even their own medicare costs.

Senior citizens have found that, instead of the blanket coverage that they had expected from medicare in 1965, medicare is no more than cheesecloth which has been eaten away by false Government economy efforts.

The economic and health protection promised by medicare has been restricted in nearly every conceivable way. There are large deductibles, there is coinsurance, there is the 80-percent coverage of part B benefits, and there are the strict regulations which have nearly nullified extended care benefits for senior citizens. At the time of my Providence hearing there were only 300 Rhode Islanders receiving extended care benefits from medicare.

H.R. 1 now promises to eat away even more holes in health coverage for elderly citizens.

Mr. President, following a period in which more senior citizens were becoming impoverished than were moving out of poverty, it is most distressing to me to see the Senate moving to consider a bill which may place an even greater economic burden on the shoulders of our elderly by further restricting medicare coverage.

It seems to me that now is the time for us to be moving to expand medicare coverage and to make medicare more similar to the national health insurance bills which many of us espouse.

It is for this reason that I am now introducing a number of amendments to H.R. 1 that have been suggested to me by fellow Rhode Islanders.

Mr. President, I have reviewed the 222 pages of the hearings I held in Rhode Island very carefully, and I believe the legislative changes recommended by my fellow Rhode Islanders are meritorious and deserve to be recognized by the Congress.

The thrust of the changes suggested is aimed in the same direction as the suggestions which many of us in the Senate have supported for our overall system of health care. These recommendations emphasize the need for comprehensive health benefits, low-cost health care, and greater accessibility of health care benefits in a nonhospital setting.

The amendments are designed to turn the focus of medicare away from its emphasis on health services in the sterile and costly setting of the hospital to an emphasis on health care services in the warm and friendly atmosphere of the senior citizen's own home. These amendments would achieve that goal, not by costly deductibles which only develop needless redtape and do not discourage hospital care but by making less-expensive alternatives available to the sick elderly citizen.

ELIMINATION OF DEDUCTIBLES AND PREMIUM

Included in H.R. 1 is a provision to increase the deductible for part B, physician services, from $50 to $60. The first amendment I am offering provides for the gradual elimination of that deductible before 1975, instead of an increase.

The second amendment that I am offering requires the elimination of the $60 part A—hospital care, deductible by July of 1973. However, for the sole purpose of computing the part A coinsurance rate, a formula deductible would remain.

Mr. Hanley, who administers the medicare program in Rhode Island, called for these amendments at the Providence hearing:

> We would recommend the elimination of all deductibles with the application of an "across the board" uniform coinsurance. The effect of deductibles and coinsurances, originally intended as incentives for appropriate use of facilities and services, is still unclear and controversial. There is a real danger that they may promote underutilization among the aged. If there is a need for program cost containment, it might be better in the form of coinsurance, but most certainly not a

combination of both deductibles and coinsurance.

It is my own view that deductibles serve only to confuse the elderly, to create needless redtape, and to place greater economic burdens on the shoulders of the poor elderly. Most senior citizens really do not understand the purpose of deductibles, and those that do understand usually are not deterred from seeking hospital care since they usually have no choice in the matter. It is the recommendation of their doctor which is determinative, not whether they have to pay a $60 deductible.

The third amendment I am offering to relieve the economic burden of health costs on our senior citizens is an amendment to eliminate the part B premium for voluntary coverage of physician services. This premium which has increased in 4 years by 87 percent to $5.60 a month is for voluntary coverage selected by about 96 percent of our senior citizens. I see no reason why this optional part of the medicare program should not be made an integral part of the whole program and that the financing of parts A and B be combined. This is a proposal that has been supported by the administration, and I have included it as part of my amendment to eliminate the part B premium.

Presently we have four trust funds operating under the social security program and two of them are for part A and part B of medicare. My amendment would combine those funds and provide for some limited additional funding from general revenues. These general revenue funds are necessary, I believe, from the viewpoint of equity and a fair sharing of the tax burden. Medicare benefits are funded now through a flat-rate tax appended to the social security tax paid by the working public. Since the costs of health benefits being received by our senior citizens far exceed any contributions that they might have made when they were working, the medicare trust funds cannot be seen as a part of a normally understood insurance program right now. Therefore, I believe it would be more equitable if some of the costs of the program were drawn from the graduated income tax structure, which provides us general revenues, rather than solely from the trust funds which are based on a flat-rate tax.

If we move the financing of the medicare program to the more stable foundation that I have suggested, I believe it will then be possible for us to cover more than 45 percent of the average senior citizen's health bill as the program now provides.

In my Rhode Island hearings and in my mail from Rhodes Islanders, I have been struck by the near unanimous feeling that medicare should be amended to include coverage of out-of-hospital drugs, dentures, dental care, eye care, eyeglasses, hearing aids, and chiropractic services. Today I am offering amendments to include these items in a newly structured medicare program.

COVERAGE OF DRUGS, EYEGLASSES, DENTURES, AND HEARING AIDS

The amendment I offer on drug coverage is designed to insure that only safe and effective drugs are made available to those who need them, and to check unnecessary utilization of prescriptions an initial $2 copayment and a subsequent $1 copayment are required.

While I know that there is some concern about the cost impact of prescription drug coverage, I believe my amendment provides the least costly way of providing coverage. The prescription drug coverage I recommend would cost us no more than we now spend for an aircraft carrier.

I think the need for drug coverage was well put by Mr. William Davis who attended the Providence hearing:

Prescription drugs cost, my own and wife, an average of $200 a year. They could cost more in the future.

The majority of the elderly keep alive on pills. It is not asking for too much to convince the Congress that benefits under Medicare should be broadened to include this proposal.

Arthur Hanley of Rhode Island Blue Cross and Blue Shield reaffirmed Mr. Davis's concerns:

We would advocate the inclusion of prescription drugs in the Medicare program. There has been a tendency to dismiss the importance of this area of coverage by citing the fact that acute episodic illness beyond the economic reach of Medicare recipients. Our concern is directed toward the large number of chronically ill persons over age 65 whose prescription drug costs may go as high as $500 to $1000 per year.

The need for coverage of eyeglasses, dentures, and hearing aids was supported by many people, including Mildred A. Dean, president of the Rhode Island Association of Senior Citizens and Senior Citizens Clubs and Ruth M. Person who is an aide in a senior citizens program sponsored by the Providence model cities program.

MORE AVAILABLE NONHOSPITAL CARE

With all the attention that has been given to reducing costs and coverage in the medicare program in recent years, I find it somewhat ironic that no change has been made in the one rquirement which I believe is most responsible for needless costs—that is the requirement that a patient must be in a hospital for at least 3 days before he is eligible for home health benefits or extended care benefits.

The 3-day hospital stay provisions mean a patient must receive the most expensive form of care before he is eligible for less expensive alternatives.

I am offering an amendment to change this requirement to allow home health services and extended care services to be made available to the medicare beneficiary with the 3-day hospital stay if he receives a diagnosis in an outpatient facility indicating that his condition can be best treated in his home or in an extended care facility.

This amendment also increases the number of home health visits which would be permitted under part A to 200 rather than 100. This is to provide a greater incentive to senior citizens to utilize less expensive home health care services.

The merits of this amendment were outlined in the testimony I received from the Visiting Nurse Association, in particular Shirley Whitcomb of the Rhode Island Association of Home Health Agencies.

Speaking of the past experience with the 3-day rule, Miss Whitcomb made this statement:

The 3-day hospitalization as a requirement for Plan A out-of-hospital or 100 percent coverage became a hardship. Many people were not sick enough to require hospitalization. To put them in the hospital in order to fullfill this requirement for Plan A; it was an expensive unnecessary hardship on the hospitals as well as the patients. Many people were so very sick that moving them in the first place and out of their homes ir the second place for the short period of time before death was of no benefit and actually cruel. However, without the 3 days in the hospital, the full coverage of Plan A was denied them.

One of the key focal points of the hearing I held in Woonsocket, R.I., was the nutrition needs of our senior citizens. There was much support for S. 1163, the Elderly Nutrition Act, which the Congress has recently passed, and for the inclusion of nutrition aides in the medicare home health services.

The amendment I am now offering to include nutritionists under the Home Health Services was supported in the statements of Rosalind Loxom, R.D., Nutrition consultant for the Providence Nursing Association, and Natile I. Giglio, chief diet counselor, for the Nutrition Council of Rhode Island.

RETROACTIVE DENIAL OF BENEFITS

In his statement at the Providence hearing Dr. Richard J. Kraemer, chairman of the Committee on Aging of the Rhode Island Medical Society, outlined a problem that represented a real hardship for many senior citizens:

Extended care benefits under Medicare were offered as part of a hospital insurance program as a method of preventing overutilization of high-cost hospital beds. Accordingly, the Social Security Administration has denied eligibility criteria for ECF benefits based on the need for general medical management and skilled nursing care on a continuing basis. Unfortunately, there has been a great deal of confusion in the implementation of the program resulting in some instances in retroactive denial of benefits.

To keep hospital costs down in the medicare program, the Social Security Administration has issued strict regulations to encourage the movement of patients to extended care facilities. This, however, according to Mrs. Anna Gray of the Woonsocket Hospital has represented a "real gamble." Often times no nursing home can be located for the patient and if a nursing home is located the patient sometimes finds that the 100-days coverage he thought he had was a myth since he may find that there has been a retroactive denial of his benefits.

Mr. Alfred Farley of Woonsocket, in speaking about his wife's transfer to a nursing home, made this statement:

I thought that Medicare would cover 100 days stay but this was not true. Five days after my wife was in the nursing home the Social Security Administration informed me through the nursing home administrator that Medicare would no longer cover my wife's stay. My wife stayed another 7 days, and it cost me $140. This is a cost that I thought Medicare would cover and I was disappointed with this action. I think it is unfair.

To correct the possible recurrence of this inequity in the future I am introducing an amendment requiring a certification to be made before the patient is transferred to his home or an extended care facility stating his eligibility for medicare coverage. This presumption of eligibility cannot be changed at all after 5 days of the certification. In no case can benefits be denied before any notice of denial is received.

The last amendment I am offering is an amendment to delete section 232 of H.R. 1 which allows states to set a lower level of reimbursement for services provided poor citizens than the level of reimbursement provided, perhaps, on medicare. This provision would encourage a double standard of medical care which is undesirable and would tend to set back the very progressive effort being made in Rhode Island by the health providers and the State to control costs through prospective contracts rather than through reimbursement formulas.

This amendment deleting section 232 was suggested by the Rhode Island Hospital Association which suggested that not only would section 232 curtail cost incentives and provide a dual class of medicine, but it would be likely that "any underpayment of medicaid beneficiaries would have to be passed on to other patients" including medicare patients.

Mr. President, the amendments I am offering today represent what I believe to be views of my Rhode Island constituents on the health programs covered by the Social Security Act. I look forward to receiving the comments of my colleagues on their willingness to support the amendments I have proposed. I believe the amendments can stand on their merits, and I hope that they would have the support of the Committee on Finance and the Senate as a whole.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF GERONTOLOGY—AMENDMENT

AMENDMENT NO. 1098

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. CRANSTON. Mr. President, I submit for printing today and for referral to the Committee on Labor and Public Welfare, an amendment (No. 1098) I intended to offer to S. 887, a bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Gerontology. My amendment, which I have already discussed with the chairman of the Aging Subcommittee (Mr. EAGLETON), proposes four changes in the bill:

First, charge the Secretary with the responsibility of insuring the education and training of an adequate number of allied health, nursing, and paramedical personnel in the field of health care for the aged;

Second, charge the Institute with the added function of conducting scientific studies to determine and measure the impact on the psychological, psysiological, and sociological aspects of the process of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging;

Third, charge the Secretary, through the Institute and in conjunction with the Bureau of the Census, with the responsibility of conducting periodic surveys and coordinating data gathering relating to the process of the aging, and of gathering and publishing statistical data relating to significant characteristics and status factors of the aging population, including those with respect to population distribution; income distribution levels, and sources; health and health care; nutrition; housing, leisure-time activities; and employment; and

Fourth, charge the Secretary, through the Institute, with the responsibility of carrying out public information and education programs and disseminating the findings of relevant aging research and studies and other information about the process of aging which may assist all Americans in dealing with and understanding the problems and processes associated with growing older.

These amendments would broaden the scope and focus of activites to be carried out by the new Institute and would be consistent with Senator EAGLETON's intention to change its name to the "Institute on Aging."

Mr. President, during the first week in March, as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I had the privilege of chairing, on behalf of Senator EAGLETON, field hearings on S. 887 and related legislation to promote research into the aging process. The hearings were held in San Francisco, Calif., on March 3 and in Los Angeles on March 4.

I was most impressed with the testimony we received, and on the basis of much of that testimony, I have asked Senator EAGLETON to include me as a cosponsor of S. 887, a bill which he introduced in February of last year and which the subcommittee intends to consider in executive session within the next week.

In discussing the bill with Senator EAGLETON, I suggested, and he agreed, that it would be highly desirable to change the name of the Institute to be created by S. 887 to the Institute on Aging rather than the Institute of Gerontology. Such a change would more appropriately describe the broader mission of the Institute to carry out research on the aging process and the studies, data gathering, and public information programs also called for in my amendment.

The first part of the amendment would charge the Secretary with the responsibility in carrying out his health manpower responsibilities, of ensuring the education and training of an adequate supply of nurses, allied health and paramedical health personnel in the field of geriatrics. We need more stress on developing health care personnel specially trained to deal sensitively with the physical and psychological stresses and problems of the elderly. This training function would not necessarily be carried out by the Institute but could be continued with greater stress and visibility within the Bureau of Health Manpower Education.

The second part of my amendment charges the Institute with the function of conducting thorough scientific studies to determine and measure the impact on the psychological, physiological, and sociological aspects of the process of aging made by all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging. During our hearings in California, I requested witnesses to address themselves to such a proposal, and each of those who did cited the need for this function. Witnesses felt, for instance, that giving the Institute such a responsibility would "create a mechanism for coordinating the efforts of these programs and for fostering a prompt exchange of experience and information that would serve to expedite and facilitate the development of needed knowledge about aging and it would also create a healthier interdisciplinary approach to research in all aspects of aging."

The third part of my amendment would charge the Institute, in conjunction with the Bureau of the Census, with the responsibility of coordinating HEW data gathering regarding aging and instituting appropriate programs to gather and disseminate widely statistics on all significant characteristics and status factors of the elderly population: including population distribution; income distribution levels and sources; health and health care; nutrition; continuing education; housing; leisure-time activities; mobility; and employment. We need a central and computerized data bank to establish all of the factors affecting the characteristics of our older citizens. This information is vital to effective decisionmaking in the Congress and the excutive branch regarding governmental programs to assist older Americans and regarding carrying out effective evaluations of those programs.

The fourth part of my amendment would direct the Institute to carry out public information programs to disseminate the findings of Institute and other relevant research and studies and other information about the process of aging which may assist the elderly and near-elderly in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

We need a national education program directed to the people in the fourth and fifth decades of life—who will be elderly in 10 years—to help them prepare for the later years by proper attention to their overall health—dealing with attitudes and behavior in respect to smoking, obesity, accident avoidance, predictive health examinations, and suicide, for example. We also need to develop in the population as a whole a more sympathetic and informed attitude toward our older citizens—their problems and potentialities. Many myths about old age need to be dispelled.

Mr. President, I am most pleased that the Subcommittee on Aging will move

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ahead shortly with S. 887 and my proposed amendments to that bill. The testimony presented to us in California pointed to the marvelous potential for enriching and lengthening the human life span, for enabling each of us to live more creative, productive, and healthful lives. I believe it is time for us to begin to realize this potential now, and I am pleased, as a member of the Subcommittee on Aging, to be able to play a vital part in this exciting endeavor.

Mr. President, I ask unanimous consent that the text of the amendment I am submitting today be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1098

On page 2, line 25, insert "(a)" before "The".

On page 3, line 20, strike out all that appears and insert in lieu thereof the following "institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to ensure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"'(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the physiological, psychological, and sociological aspects of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging.'"

"'(c) The Secretary shall, through the Institute and in conjunction with the Director of the Bureau of the Census in the Department of Commerce, conduct periodic surveys, and coordinate such data gathering as is carried out within the Department of Health, Education and Welfare, relating to the process of aging, to gather and publish statistical data relating, to the maximum possible extent, to all significant characteristics and status factors of the aging population, including those with respect to population distribution; income distribution, levels and sources; health and health care; nutrition; continuing education; mobility; housing; leisure-time activities and employment.

"'(d) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.'"

ANNOUNCEMENT OF HEARINGS ON PEACE CORPS AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. FULBRIGHT), I wish to announce that the Committee on Foreign Relations has scheduled a hearing on fiscal year 1973 authorizations for the Peace Corps on Friday, April 7, 1972, beginning at 10 a.m. in room 4221, New Senate Office Building. Persons interested in testifying should communicate with the chief clerk of the committee without delay.

ADDITIONAL STATEMENTS

HEARINGS OF THE APPROPRIATIONS COMMITTEE ON THE OVERALL FEDERAL BUDGET

Mr. ELLENDER. Mr. President, in early February, it was my privilege to preside as chairman of the Senate Committee on Appropriations over hearings which covered an overall review of the Federal budget. During 4 days of hearings, a day and a half was given to Government witnesses. Only eight requested to be heard, and they were heard. Two and one-half days of the four were allotted to public witnesses, and during this time we heard from 42 different individuals and organizations.

Last year, the Committee on Appropriations held similar hearings, but at that time it took testimony only from governmental witnesses. This year, I felt that the review should be broadened in scope, so I requested that public witnesses be given the opportunity to testify on the Federal budget. I was greatly pleased by the response, not only in the number of witnesses but in the diverse elements of our society that they represented.

I suggested to the committee that hearings on the overall budget be opened to the public for several reasons. First, for some time now I have been concerned that many of our citizens apparently feel that they have no effective access to the Congress concerning the Government's overall spending programs. I have heard many articulate, responsible, and concerned citizens stress over and over their feeling of helplessness. Whether rightly or wrongly, many of these individuals, either speaking as private citizens or as representatives of groups, were convinced that the Government of their country was embarked on misguided courses. These courses were reflected in the national budget which is today more of an economic blueprint for our national activities than it is a simple "budget" or operating plan for our Government in a strict and narrow sense.

I think it can be truly said that much of the current outcry against our national priorities in favor of a change in our "national goals" comes from those opposed to our continued presense in Vietnam and to the current levels of Pentagon spending. Yet there is more to it than this. The budget process in this country is essentially an exercise in secrecies. This does not come about by design or by conspiracy. On the contrary, it is simply a reflection of the way the budget is developed each year before it is presented to the Congress.

Accordingly, I felt it would be appropriate if the Senate Appropriations Committee could take one small step to open up the process. I thought the public should be allowed the opportunity to be heard and should be heard on those directions and courses reflected in the Nation's economic blueprint. I am pleased the committee as a whole accepted my recommendation that the hearings be thrown open to the public. These hearings were very well received and the committee has been complimented time and time again on this initiative.

My second reason in suggesting open hearings on the entire budget was to give the committee members themselves, and indeed the entire Senate and House of Representatives, the opportunity to place things in a better perspective. It is my feeling that too often the Congress operates on the "cubby hole" approach. Of necessity, we must be concerned with our limited areas of expertise and experience. Too often we are forced to rely on governmental witnesses for our opinions and evaluations. Too often we are told things are just as they should be and we have no real recourse but to believe those who are doing the telling.

I believe the committee members should have the opportunity of listening to informed, articulate citizens who believe things are not as they should be and are able to present reasons to back up their thinking. We need not pass on the validity of that thinking or accept either the pros and cons presented to us. I do not propose to do so at this time. But I do think it important that we be reminded that there is a different approach, that there are different values, and that there are other viewpoints that might justifiably be taken into account in the budget process. Perhaps these viewpoints and judgments are given the necessary attention elsewhere in the budget process, perhaps they are not. Frankly, I cannot say at this time, but that is one reason why I desired the Senate Appropriations Committee to take notice of them. I hope that we can gain better attendance from Senators at next year's hearings.

A third reason for the committee's holding open hearings deals with my firmly held belief that the public at large could be better apprised of the implications the budget carries for them. Our national financial figures have reached such a point that they are virtually impossible to understand by the man in the street. A debt of $450 billion becomes an abstract figure. Ancient man looked at the moon, but did not know what it was and did not know that it affected the tides. Modern man looks at the moon, and can appreciate the fact that it is a satellite approximately 239,000 miles away. Yet few of us can appreciate or even understand the distance in light years from the Earth to the nearest star beyond our sun. A light year is an abstract figure. We know only that it is a long way, just as we know that $450-odd billion is a lot of money. We can now appreciate the fact that the sun and moon affect the ocean tides here on Earth. Yet the man in the street does not fully understand the implications of the Federal budget, the Federal debt, and I sometimes doubt that our economic expert advisers do either.

It is my hope that the hearings now on every Senator's desk will let us move at least one step along the way of filling this gap in the public's understanding.

During the course of the hearings, the committee has heard testimony from both governmental and public witnesses, and their testimony covered 850 pages. I urge Senators to peruse these hearings when they have time, and I also suggest that their staffs could analyze the data contained in the hearings for the purpose of summarizing the information that might prove valuable to all Senators as we take up the various appropriation bills during the remainder of this session.

Mr. President, when I came to the Senate 35 years ago, the outlays of the Federal fund budget for the first fiscal year I served totaled $7,733,000,000, and the Nation's public debt amounted to $36,425,000,000. Based on the 1973 budget, the public debt would aggregate $481,878,000,000, and outlays of the Federal fund budget for fiscal year 1973 are estimated at $186,784,000,000. Just to service our present debt will require the payment of interest amounting to almost $22 billion per year, which is almost three times the total outlays of our Government when I first came to the Senate.

Mr. President, our huge debt and the alarming rise in Government spending deeply concern me. I am concerned because I am not confident that we are efficiently and effectively allocating our limited resources to the various functions of our Government. I am concerned that we will saddle our children and our children's children with a debt that our Nation's production base will not permit us to service in future years. I am concerned that our present method of budgetary review is not effective in enabling us to perform the responsible action we are charged with under our Constitution. These and other concerns prompted me to hold the aforementioned hearings on the overall budget review.

Mr. President, while I feel that these hearings were a step in the right direction, I am aware that much more must be done and should be done to assist all of us—the Congress as well as the executive branch—in arriving at a much more effective use of our Nation's resources. Many witnesses who testified before the committee felt that we are allocating too much of these resources to defense. Many of these same witnesses felt that a greater portion of our resources should be allocated to health, education and a myriad of welfare programs.

Some witnesses felt that we are spending too much on space research and they were not pleased with the benefits derived from the costs these programs entailed. Others felt that we are spending more than is necessary in the atomic energy area and they believe that more funds should be spent in the field of coal research.

Six mayors from some of our Nation's largest cities, representing the Conference of Mayors and the National League of Cities, and led by the mayor of my own State of Louisiana's largest city, the mayor of New Orleans, Moon Landrieu, gave eloquent testimony concerning the plight of our cities and what was necessary to restore them to life. I urge Senators to read their statements.

The Director of the Office of Management and Budget, Mr. Shultz, gave the committee a spate of facts and figures on budget outlays. In this connection, for example, he pointed out that civilian and military personnel costs in the fiscal 1973 budget amounted to 57 percent of the total defense budget, leaving only 43 percent of that budget for procurement, construction, and research development, test and evaluation. An interesting statistic related to this same item indicates that $1 billion would have funded the pay and allowances for 219,000 members of our Armed Forces in fiscal year 1964, but this same sum will only fund the pay and allowances for 105,000 personnel in fiscal year 1973, an increase in cost of 109 percent.

Mr. President, I might add that these hearings were directed not only toward the outlays side of the budget, but also to receipts side. Under Secretary Walker was interrogated on the various estimates for receipts contemplated in fiscal year 1973, including the methods employed by the Treasury Department in making determinations concerning receipts.

Mr. President, I could go on for hours about the facts and figures and other budgetary data contained in these hearings, but it would serve no useful purpose. The facts and figures and other valuable information we, in Congress, need are contained in the 850 pages of testimony on each Senator's desk.

I am hopeful that his information, along with the other data that we will receive during the course of our review of the individual agency budgets, will enable us to reach the laudable goal of making a more effective and efficient allocation of our resources. I am hopeful that the hearings will enable all of us to get the "big picture," so to speak, of our Government's operations, as I said earlier. I believe we should begin to think in terms of our overall Federal budget, rather than in terms of the segments for which the various committees of the Congress and the subcommittees of the two Appropriations Committees of both bodies have prime responsibility.

In this connection, Mr. President, I should like to recommend that the time has once again arrived for an extensive review of all ongoing Federal projects for the purpose of eliminating many programs which serve no useful purpose and may have outlived their usefulness. I am cognizant of the huge task such an undertaking would be, but I feel we have the talent available to do the job.

To accomplish this worthy goal, the President—with the assistance of the Congress—should establish a Hoover-type Commission. Further, the congressional committees involved in the Federal budgetary process, namely the House Ways and Means Committee, the Senate Finance Committee, and the Appropriations Committees of the House and Senate, working as a unit, and in conjunction with this Commission, should assist in the undertaking of this mammoth assignment.

Our Nation's survival depends on the recommended aproach being implemented now. Fiscal responsibility cannot wait for the year following an election year.

The time has come when both the President and Congress should put on the mantle of the statesman, and politics must be made subservient to economics. For unless this is done, I fear that our spending for defense and other functions of our Government will be in vain, if in the end our economy collapses.

WHO DISCOVERED AMERICA?

Mr. BUCKLEY. Mr. President, I invite the attention of Senators to some interesting historical data uncovered by Judge William Hughes Mulligan, of the U.S. Court of Appeals for the Second Circuit. As a former dean of the Fordham Law School, now sitting on one of our prestigious appellate courts, Judge Mulligan is widely known for his scholarship and sobriety. Thus his observations delivered in an address before a distinguished audience in New York City on March 17 last should command the special interest of all who seek to know the true facts surrounding the discovery of America.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. WILLIAM HUGHES MULLIGAN, JUDGE, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

A few years ago when I was in Ireland, I visited the ancient port city of Galway, where I was assured by a local that Christopher Columbus had stopped there to bring on board an Irish navigator who actually guided him to the New World. A few months ago I was in the company of the Chief Judge of the Supreme Court of Ireland, a typically urbane, scholarly, and intellectual Irishman not given to the easy acceptance of leprechauns or unfounded legends. I asked him about the story of the Irish navigator, and I was frankly surprised when instead of debunking it, he responded "Oh yes, the story is well authenticated. The man's name was Lynch." With all due respect, I could not accept the story; there was no record that Columbus ever made any such diversion to Galway, pleasant though it might be. It seemed more logical to me that Lynch, great sailor that he must have been, had sailed from Ireland to Portugal and was the navigator from the start.

Becoming more interested, I studied the celebrated work on the subject, Samuel Eliot Morison's "Admiral of the Ocean Sea," and I discovered to my dismay that Lynch's name does not appear on the list of the crew of any of the three vessels. This in turn led me to a somewhat spectacular discovery which I must share with you tonight in the privacy of this room. Morison's book gives a physical description of Columbus which was provided by his own contemporaries—I quote pp 40–41. "He was more than middling tall, aquiline nose, blue eyes, complexion light, and tending to bright red, beard and hair red. When he was angry he would exclaim "May God take you." In matter of religion he was so strict that for fasting and saying all the canonical offices he might have been taken for a member of a religious order." Gentlemen, in all honesty and frankness, how many religious, blue eyed, red faced, red haired Italians have you met in your life?

Friendly Sons and friends, I am not only suggesting but I think the facts clearly establish that in reality Columbus was Lynch—or Lynch was Columbus whichever way you want it. There is even further evidence: Mor-

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ison, who claims that Columbus was born in Genoa, admits that Columbus could not read or write Italian—neither could Lynch. Morison—and we of course could expect no help from Samuel Eliot Morison—further states that Columbus spoke Spanish with a Portuguese accent. Actually, of course, it was Irish he spoke and isn't it a mark of Lynch's great leadership and seamanship that he could make that Mediterranean crew understand his orders even though they were given in Gaelic? Gentlemen, we have convicted men of serious crimes in the federal court on less evidence than we have here, and my court has affirmed them.

Lest our Italian friends take offense, I assure them that I intend no disrespect at all, and on October 12th I will attend the annual Lynch Day Parade, at Lynch Circle and watch with pride as the Knights of Lynch pass by.

THE GENOCIDE CONVENTION: UNJUSTIFIED DELAY

Mr. PROXMIRE. Mr. President, much has already been said in support of the Genocide Convention. In the long years since the treaty's conception distinguished citizens and respected organizations have spoken eloquently on behalf of this humanitarian document. But I would like to call to the attention of my colleagues an article written by former Justice Arthur Goldberg and Prof. Richard Gardner of Columbia which clearly states the case for ratification. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GENOCIDE CONVENTION

(By Arthur J. Goldberg and Richard N. Gardner)

WASHINGTON.—It is now more than twenty-five years since the United Nations approved a convention on the prevention and punishment of the crime of genocide.

Seventy-five countries now have ratified the convention. The United States is the most prominent U.N. member that has not. One reason for our country's failure to ratify—very possibly the principal reason—has been the opposition of the American Bar Association, recorded in a decision of its house of delegates in 1949.

Since then, however, sentiment within the association has changed. At the midyear meeting of the house of delegates in February 1970, a proposal to reverse the 1949 position and to place the American Bar Association on record in favor of the Genocide Convention failed by a vote of 126 to 130.

Still more significant, every section and committee of the association having specialized competence in the subject matter has come out in support of ratification of the convention during the last few years.

Ratification of the Genocide Convention also has been endorsed by a number of past presidents of the association.

However, two members of the association, Eberhard P. Deutsch and Alfred J. Schweppe, appeared on March 10 last year on behalf of the association to testify in opposition to the Genocide Convention in hearings held before a Senate Foreign Relations subcommittee. They presented legal objections that have been raised against the convention.

After considering these arguments, the full Senate Foreign Relations Committee reported favorably on the convention by a vote of 10 to 4 and recommended that the Senate advise and consent to ratification. After carefully reviewing the arguments, the committee concluded:

"We find no substantial merit in the arguments against the convention. Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society."

We believe the report of the Senate Foreign Relations Committee provides an authoritative refutation of the legal arguments opponents of the Genocide Convention have employed to justify their opposition for nearly a quarter of a century.

We also find the objections against ratification of the Genocide Convention to be without substance. The arguments in favor of ratification, on the other hand, seem to us compelling.

Our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles.

We do not say that our adherence to this convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. We believe the same may be true of the Genocide Convention, if we only give it a chance.

The Genocide Convention outlaws action that is repugnant to the American people and to our constitutional philosophy. We should not decline to affirm our support for principles of international law and morality in which we believe. Our country was founded on a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. We believe that concern is very much alive today.

It is inconceivable that we should hesitate any longer in making an international commitment against mass murder.

LINCOLN DAY ADDRESS BY ROBERT H. FINCH, COUNSELOR TO THE PRESIDENT

Mr. CASE. Mr. President, I had the privilege of being present at the Hunterdon County, N.J., Lincoln Day dinner on February 11, 1972.

Robert H. Finch, Counselor to the President, made the principal address at that dinner. He discussed at length the life and times of Lincoln and then extrapolated lessons learned from Lincoln to modern times.

Mr. President, I ask unanimous consent that Mr. Finch's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LINCOLN'S LIVING LEGACY

(By Robert H. Finch)

Lincoln was never a very popular President. He emerged a minority victor from the close and bitter election of 1860, and in the off-year elections in 1862 the Republican Party lost the critical states of New York, Pennsylvania, Indiana, Illinois, and Ohio. In 1864, even as an incumbent and with the seceded Southern States not voting, he only received 55% of the vote, the rest going to his Democratic opponent whose platform was specifically anti-Lincoln and anti-War; a shift of only 2% of the total, just 83,000 votes, could have defeated him.

Newspaper editorials described him as a "half-witted usurper" and a "mole-eyed monster." Democrats compared him to "the original gorilla," and Republicans reviled him as a man "without any spinal column" and "an awful, woeful ass."

Much satirized and criticized in his own time, I suspect that Mr. Lincoln would be amazed and amused by the way he has almost been deified since.

Things changed so fast in America early in the 19th century that it is easy to lose a sense of historical time and perspective. Because Lincoln wore trousers instead of breeches and rode in railroads instead of open carriages, and because we have photographs instead of paintings to see what he looked like—and partly, I suppose, because of Raymond Massey—we sometimes tend to think of Lincoln as being quite contemporary to us. And indeed he is in spirit.

But in fact, when Lincoln was born, in 1809, Thomas Jefferson was still the President of the United States. The country was hardly twenty-five years old, and the daring experiment of seeing just how self-evident it was that the people were capable of governing themselves had hardly even begun. Besides, it was still being overseen by the people who had devised it, and supported by the people who had fought for it.

Jefferson and Adams died hours apart on the 4th of July 1826. Twelve years later, in Springfield in 1838, in his first major speech of which we have any record, the twenty-nine year old Lincoln warned about the danger of "national suicide" unless we honored and maintained the delicate balance which the Founders had devised for ensuring popular, responsible, and responsive government. Twenty-five years later, and just a generation after Jefferson's death, President Lincoln at the outset could only watch while half the nation made just such a determined suicide attempt.

A man of peace to the depths of his being, he believed strongly enough in the principle of popular government to lead his countrymen into the bloodiest civil war in the history of the world to vindicate it. At the beginning of the war, he told his secretary John Hay that, "For my part, I consider the central idea pervading this struggle is for the necessity that is upon us of providing that popular government is not an absurdity. We must settle this question now, whether in a free government the minority have the right to break up the government when they choose. If we fail it will go far to prove the incapability of the people to govern themselves."

For a hundred years after the Civil War, the filling out of our continent and the fulfilling of our role in the world occupied our time and talents. Then a decade ago, things seemed to start going wrong and breaking down. Gaps began to open up through our affluent society: Generation gaps, communication gaps, credibility gaps.

In 1968 when Richard Nixon was elected President, he found himself at the head of a country which almost seemed on the brink of a psychological and social civil war. "Never," he said, "has a nation seemed to have had more . . . and enjoyed it less." In his inaugural address, he took his cue from the sign a young girl held up at one of his railside stops during the campaign: It said: "Bring Us Together."

But looking deeper at America, I think that President Nixon realized that what had really happened was that once again, as in 1861, America had somehow lost the sight . . . or lost the grasp . . . of that essential thing, that essential *idea* which *makes* America what it is.

In growing so big and so great and so rich and so strong . . . America had grown out of touch and out of reach.

It appeared that the people no longer governed here.

Now, gathered as we are to honor Abraham Lincoln, I want to say that in my judgment, the principle for which he stood . . . the principle that the people are capable of governing themselves . . . has *never* been more at risk or more at stake at any time since 1861 than it is now . . . in this year of 1972.

In his first State of the Union message, President Nixon laid this on the line to the Congress. He said, ". . . The further away government is from the people, the stronger government becomes and the weaker people become. And a nation with a strong government and a weak people is an empty shell."

He followed this up with six great goals, each one aimed at redressing the balance of power which had grown away from the people where it belonged. Since Lincoln's time, the President said, we have too often "become a nation of the Government, by the Government, for the Government."

Time after time, in many different forums and places, President Nixon has urged the necessity for bipartisan consideration of these goals because they are necessary *for America*. And America is above any Party.

And time after time he was ignored or rebuffed. Even so strong a critic as James Reston, writing in *The New York Times*, said that:

"For more than a year now, [President Nixon] has sent to Capitol Hill one innovative policy after another: on welfare reform, revenue-sharing reform, government reform, postal reform, manpower reform, Social Security reform, reform of the grants-in-aid system, and many others.

It is not necessary to agree with his proposals in order to concede that, taken together, they add up to a serious and impressive effort to transform the domestic laws of the nation, all the more remarkable coming from a conservative Administration, and that they deserve a more serious and coherent response than they have got so far from the Democratic Party and the Democratic majority in the Federal Congress.

What the Democrats are doing now [Mr. Reston concluded] is merely sniping at the President's programs and often saying some damn silly things in the process."

Once again this year, in his State of the Union message, President Nixon exhorted the Congress to rise above partisan interest . . . to serve the national interest. So far the result has been desultory and disappointing.

But, as you know, this is an election year, and we will be able to take our case to the people of the country. Once again we shall be putting to the proper and ultimate test *Lincoln's* faith and conviction.

Because, as Lincoln asked, "Why should we not have a *patient faith* in the *ultimate wisdom of the people?*"

So tonight we honor Lincoln. Soon we shall have an opportunity which, *fortunately*, is given to few generations: We shall have the opportunity to fight an election campaign for . . . it seems to me . . . little less than the continued survival of the America Lincoln fought and died to leave us. Because the stakes today are little less than whether we will continue to have government *of* the people, *by* the people, and *for* the people in this country in the future.

That is the choice we bring to the American people in 1972, and that is the choice which we must make them understand in the coming campaign.

It is not a "sexy" choice dripping with lots of charisma, and with slogans sprinkled and sparkling all over it. It's not the kind of choice that makes you want to squeal and pull the cuff links out of its sleeves. Because it is a choice with its sleeves rolled up. It's a choice you have to be willing to work hard for, just as Lincoln and hundreds of thousands of Americans were willing to fight and even to die for.

In the one hundred and seven years since Lincoln's death, the face of the American nation has changed beyond all recognition. Except for his own face on the $5 bill, there would be little that he would recognize or remember if he were to return to the America of 1972 for a few hours this evening.

But he *would* be able to take a test of the spirit of the nation, to see if that faith in government of the people, by the people, and for the people was still burning bright in the hearts and minds of America tonight.

And I'm afraid that before very long he would see that many of us have come to a full spiritual circle, and that in many ways we are poised once again as we were in 1861.

But the principle, the idea, is still there. And it is stronger today than it was in Lincoln's day . . . because thanks to him, it has had another one hundred and seven years to prove that it can work.

Lincoln knew that government of the people, by the people, and for the people in America might turn out to be impossible. He saw it for the magnificent gamble it is. But his confidence in its right and wisdom was unshakable.

We of this latest generation of 1972 must draw upon the legacy of Lincoln to disenthrall ourselves from the passions and pressures and preoccupations of the times and of the individual issues of the times, and work for this most basic and vital principle of our nation which now once again, as it did in Lincoln's time, needs to be preserved and protected by thoughtful men and women of every party.

EFFECTIVENESS OF VACCINES

Mr. RIBICOFF. Mr. President, I am today releasing a report prepared at my request by the General Accounting Office concerning the regulation of vaccines by the Division of Biologics Standards in the Department of Health, Education, and Welfare. This report focuses on two major problems: The Division's apparent policy, pursued until 1969, to allow the release of subpotent influenza vaccine and its failure to require that vaccines sold to the public be effective.

Specifically, the report indicates that there are 32 biologic drugs or vaccines on the market today that are ineffective. All of those drugs have been on the market for at least 10 years; some have been sold for decades. DBS has allowed all of them to remain on the market, even though many of them can cause serious side effects.

With respect to influenza vaccine, the report reveals that for a period of at least 3 years, from 1966 through 1968, DBS allowed manufacturers to sell influenza vaccine that did not come close to meeting the announced standard for vaccine potency according to the manufacturers' own tests. A majority of the lots of influenza vaccine submitted for release during this period failed to meet the standard. Nevertheless, the DBS did not reject a single influenza vaccine lot submitted to it during that period. According to statistics of the Center for Disease Control, over 20 million doses of influenza vaccine are sold each year in the United States.

BACKGROUND OF THE REPORT

The report I am releasing today has been in preparation for over 8 months. Last summer, after discussions with Dr. J. Anthony Morris, a microbiologist with the DBS, and James Turner, a consumer advocate with expertise in food and drugs, I asked the GAO to look into the performance of the DBS in a number of important areas. This is the first of GAO's reports in response to that request; a later report will deal with the Division's regulation of adenovirus and pertussis. On October 15, 1971, and again on December 8, I called upon HEW to conduct a full review of the performance of DBS. On those occasions, I released papers prepared by Dr. Morris and Mr. Turner which raised a number of disturbing questions about the quality of our vaccines and the policies of DBS.

Since last summer, impartial GAO investigators have been at work examining the records and documents of the DBS, and talking to the people who have been responsible for vaccine regulation. The entire GAO report is based upon the DBS's own official documents and records, not upon charges made by anyone inside or outside the agency. It was compiled from the recorded, day-to-day observations of those who actually conducted the control operations for the DBS.

The report is an appalling chronicle of omission and bureaucratic failure. It is deeply unsettling that the Government's efforts to protect the health and safety of the public could remain ineffective for so long.

EFFECTIVENESS OF VACCINES

Let me now turn to the substance of the GAO report. With respect to the effectiveness of vaccines, the GAO report reveals that 75 out of 263 biologic products licensed by DBS were not recognized as being effective by most of the medical profession, according to a memorandum by the Director of DBS. The GAO concluded that—

DBS has not required biological products to be effective as a condition of licensing and has not removed ineffective vaccines from interstate commerce.

There are at least 32 vaccines currently on the market that are "generally regarded as ineffective by the medical profession," according to the DBS Director. I am releasing a list of these ineffective products. All of these drugs have been on the market for more than 10 years, some of them for decades. Some of them can cause serious side effects. For example, one such drug, licensed in 1956 for the treatment of "upper respiratory infections, bronchitis, infectious asthma, sinusitis, and throat infections," contains six ineffective organisms. According to the circular on the package there have been, associated with the use of the drug, "reports of children getting systemic reactions: Fever, rash, abdominal cramps, and diarrhea 4 to 8 hours after injection." All this from an ineffective drug.

Or consider the possible side effects noted on the package circular for another ineffective vaccine used for treatment of infections and inflammation of the eye:

Febrile reactions, preceded by chill . . . temperature of 101–104. Fever subsides in a few hours and the patient may be left with

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muscular pains; chilly sensations and malaise may be expected . . . The patient should be kept under close observation through the period of increased temperature, and if excessive fever occurs, it should be combated vigorously.

There are many other examples.

And yet, in all these years, DBS never moved to take a single one of these ineffective drugs off the market, or even to inform the public or the medical profession of their ineffectiveness. In light of this kind of adverse reaction data, it is incredible that DBS could license such biologics as "safe." Since the agency believed that there was no corresponding benefit for the harm suffered by patients, it could have moved to take these drugs off the market under its undoubted authority and responsibility to withhold licenses for drugs which are unsafe. Instead, the DBS maintained that it had no authority to regulate biologics for effectiveness and simply washed its hands of the problem.

LEGAL AUTHORITY TO REGULATE EFFECTIVENESS

According to the DBS, its failure to move against ineffective vaccines was caused by a belief that HEW did not have statutory authority to require that vaccines be effective in use. HEW's General Counsel believed that authority had existed since the Kefauver drug amendments of 1962. Thus, while HEW argued that it had the authority and wanted to delegate it to the DBS for enforcement, DBS argued there was no such authority to delegate and recommended that additional legislation be sought before moving against ineffective biologic drugs.

An exchange of memos within HEW in 1969 illustrates the nature of the regulatory impasse. On February 28, 1969, the HEW General Counsel sent a memorandum to the DBS taking the position that HEW had responsibility to assure that all drugs—including biologics licensed by DBS—were effective and that HEW was prepared to delegate this authority to DBS. On July 30, 1969, the Director of DBS replied, stating that he opposed such a delegation and again urging the Department to seek additional legislation. The Director's opposition to a simple administrative solution was especially perplexing since he knew that there were 75 licensed biologics that were ineffective. In addition, his stated reasons for opposing a simple delegation of existing regulatory authority are disturbing. He wrote:

In view of the continuing undercurrent recommending the combining of the DBS with Food and Drug, we are quite reluctant to request such a delegation (of authority to require biologics to be effective) since it would offer an excellent opportunity of such proponents to renew their efforts in creating one central agency.

In fairness to the DBS, it should be pointed out that it did seek to persuade HEW to seek new legislative authority to regulate biologics for effectiveness. However, the Division refused to initiate or even cooperate in developing any alternative course of action to deal with a serious public health problem. Even worse is the implication of the Director's memorandum of July 30, 1969, that he felt it more important to foreclose any real or imagined infringement on the separateness of his domain than to take the most direct means at hand to protect the public from ineffective, sometimes harmful vaccines.

For 10 years, beginning in 1962, while memos were quietly exchanged within the bureaucracy, nothing was done to protect the public against drugs that were ineffective. The drugs stayed on the market; people continued to get adverse reactions from them. Those drugs are on the market today, 10 years after HEW was given authority to do something about them.

Thirty-nine days after I raised the issue on the floor of the Senate, HEW took its first steps toward a responsible position. A memorandum from HEW General Counsel Wilmot Hastings concluded that the Department did have authority to regulate all vaccines for effectiveness. Furthermore, he stated that the Department's authority would soon be delegated to DBS.

Several months passed. On February 7 high officials of HEW and the National Institutes of Health were shown a draft of the GAO report and were made aware that the information concerning ineffective vaccines would be made public. In announcements in the Federal Register on February 25 and March 15, HEW declared that vaccine manufacturers would finally have to present evidence of the effectiveness of their vaccines or lose their licenses. To date, however, only manufacturers of bacteriological vaccines have been required to come forward with proof of efficacy. No such requirement has apparently been laid down for manufacturers of virus vaccines. I shall continue to monitor the new program closely to assure that hopeful public announcements are followed by decisive regulatory action. The public will benefit from the new policy only if it is rigorously enforced with respect to all vaccines.

INFLUENZA VACCINE POTENCY

One vaccine that should be subjected to close scrutiny in this program is influenza vaccine, the other major subject of the GAO report. The report deals with both efficacy and potency of influenza vaccine. Efficacy refers to a vaccine's ability to cure, combat, or prevent a disorder. Potency refers to a vaccine's ability to produce a certain result in laboratory tests, to show that it contains the proper amounts of antigens. A vaccine may be potent—that is, contain the prescribed amount of antigens—and still not be effective if, for example, the antigens it contains do not protect against disease.

Both the efficacy and the potency of influenza vaccine have been, and continue to be, subject to substantial question. For an extended period prior to 1969, the potency of influenza vaccine went virtually unregulated. The GAO report tells a shocking story about the DBS's abdication of a clear responsibility. The DBS control official for influenza vaccine has stated that, in his opinion, if manufacturers could get away with it, they would sell water as vaccine. The GAO report indicates that, between 1966 and 1968, with respect to influenza vaccines, manufacturers were being allowed to do very nearly that.

The first influenza vaccine was licensed in 1945. As of December 1971 there were outstanding eight licenses to manufacture influenza vaccine, and six companies were actually manufacturing it. In 1970, over 20 million doses of influenza vaccine were sold, making it one of the largest selling vaccines produced in this country.

As interpreted by the Department of Health, Education, and Welfare, the law requires every licensed vaccine to be safe, pure, potent, and effective. In order to determine potency, DBS prepares a reference vaccine containing—according to a prescribed test—a given amount of antigens. Manufacturers must then apply the same test to vaccine lots they submit for release, and their results must show the vaccine to meet a level of antigens content equal to, or at a certain percentage of, the DBS reference vaccine. By regulation (42 CFR 73), a licensed vaccine cannot be released unless the manufacturer's tests show the vaccine to be safe, pure, and potent. The GAO report shows that, with respect to influenza vaccine—at least between 1966 and 1968—this rule was utterly ignored.

In addition to the manufacturer's tests, which are required, DBS may itself require a manufacturer to submit—prior to the release of vaccine to the public—samples of the product lots and the protocols containing the results of the manufacturer's tests. DBS reviews these protocols and may conduct its own tests. DBS may then either release the lots or reject them.

On September 18, 1962, however, in an extraordinary memorandum, DBS severely circumscribed the scope of its own independent testing of influenza vaccine. According to the memorandum, the decision to release a vaccine lot was to be based only on the manufacturer's test results, not upon the DBS test results, even if the two were inconsistent. As explained by DBS officials in 1971:

Lots were released on the basis of satisfactory information furnished by the manufacturers and tests by DBS were a mechanism to be sure that manufacturers could perform the tests and that results were reliable.

As if this abstention from responsibility were not enough, DBS then began to release many lots of influenza vaccine that were subpotent even according to the manufacturer's own test results.

In the years 1966, 1967, and 1968, manufacturers submitted 221 lots of influenza vaccine to DBS for release. According to the manufacturers' own test results, 115 of these 221 lots were subpotent and should have been rejected, even under the standard of the 1962 memorandum. And yet DBS allowed the release of every single one of the 221 lots, including all 115 which even the manufacturers' tests clearly showed to be subpotent.

Not only was subpotent influenza vaccine being released indiscriminately, but in many cases the subpotent vaccine lots which were supposed to be as potent as the DBS reference vaccine fell short by enormous margins. In some cases, influenza vaccine was released that had less than 1 percent of the potency required. In addition, a number of the 106 lots which were potent according to the manufacturer's test were shown to be subpotent by subsequent DBS testing. For example, one manufacturer submitted a lot containing three separate strains of influenza vaccine. According to the manufacturer's test results, the strains were, respectively, 100 percent, 171 percent, and 149 percent as potent as the DBS reference vaccine. DBS tests, conducted on September 13, 1967, showed their respective values to be 0.8 percent, 15 percent, and 12 percent. Incredibly, even this lot was released for sale to the public.

In another instance, the DBS control officer asked one manufacturer to perform tests first on a vaccine known to be that of the manufacturer, and later on a series of unlabeled vaccines, one of which was the same as vaccine that had been tested previously. When the manufacturer knew he was testing his own vaccine, the test results were markedly higher than when the same vaccine was tested as an unknown. Thus there is substantial doubt about how many of the 106 vaccine lots shown to be potent according to the manufacturer's tests did, in fact, meet the unenforced standards.

The GAO report shows that for at least 3 years absolutely anything a manufacturer submitted would be released. Responsibility for this frivolous policy extends to the highest levels of the DBS hierarchy. The ultimate decision to release a vaccine lot is made at a policy-making level, and there is no indication that policymakers were unaware of what they were doing. The fact that vaccine lots had failed manufacturers' tests appeared clearly on the documents on which their decision was supposed to have been based.

DBS has indicated that the reason for its lax attitude toward the results of potency tests was its lack of faith in the potency test used at the time. Some changes have been made since 1968 and manufacturers have stopped submitting vaccine for release that is subpotent according to manufacturers' tests. However, as Morris and Turner have demonstrated, criticism of the inadequate test and efforts by DBS scientists to find improved ways of testing were strongly discouraged by the DBS leadership throughout the 1960's. Even today, doubts remain about the validity of the DBS potency test.

EFFICACY OF INFLUENZA VACCINE

In addition to problems of subpotent influenza vaccine, there remain substantial questions about the vaccine's efficacy. As early as 1962, the Public Health Service's Center for Disease Control estimated that the vaccine was only 20 to 25 percent effective, a level far below that of any other major vaccine. A 1969 study published in the bulletin of the World Health Organization—volume 41, pages 531–535—concluded that—

Optimally constituted influenza vaccines at standard dosage level have little if any effectiveness and that even larger doses of vaccine do not approach the high degrees of effectiveness that have been achieved with other virus vaccines.

The current recommendation by the Public Health Service Advisory Committee on Immunization Practices is that only people who are chronically afflicted with certain diseases should receive the vaccine. Indiscriminate distribution of the vaccine is not only unnecessary, but may make matters worse for the small category of persons whom the vaccine could conceivably help. According to the DBS Director, during the influenza epidemic of 1967–68:

Persons who really didn't need the vaccines were getting them, while persons who did were ignored.

DBS should finally address the problems raised by the influenza vaccine. I am writing to Secretary Richardson to ask specifically that the efficacy of influenza vaccine should be closely examined under the newly announced efficacy program and that alternative methods of preventing influenza be seriously considered. I also look forward to receiving from the Department of Health, Education, and Welfare a copy of the report on DBS Management prepared for the National Institutes of Health by a committee headed by Dr. James Schriver.

VACCINE REGULATION AND CONSUMER PROTECTION

The problems raised by this report, however, have broad implications. The release of this report represents a continuation of efforts of my subcommittee to assure better Federal regulation of foods and drugs. In addition to the investigation of vaccine regulation, my Subcommittee on Executive Reorganization and Government Research, in conjunction with the GAO, is investigating Federal regulation of blood banks and blood products. My subcommittee has worked with the GAO in the preparation of four reports on the Department of Agriculture's inspection of meat and poultry. These reports were critical of the Department's performance in assuring wholesome meat to American consumers. Through the subcommittee, I released a GAO study of the Federal Government's regulation of the tuberculosis control drug, isoniazid. That report found that FDA had ignored its own regulations concerning the experimental use of investigational new drugs on human subjects. In 1971, the subcommittee held hearings on chemical additives in our food supply. Witnesses warned about the danger of chemical food additives and residues of drugs such as DES in the food supply. A committee print concerning Federal regulation of chemical food additives will soon be published.

All these investigations and reports have established the need for comprehensive legislation to protect American consumers. Two bills now pending in my subcommittee would have a major effect on the problems we are continuing to discover in our regulatory agencies. One bill is S. 1177, which I am sponsoring, to establish an independent Consumer Protection Agency. This bill would create an advocate for the interests of consumers who would argue on behalf of consumers at all levels of Federal agency activities. If there had been an independent consumer advocate, I doubt that an agency such as DBS could have continued to allow millions of doses of watered influenza vaccine to be released for public use year after year. I do not believe that worthless vaccines would have remained licensed for decades. I doubt that the kind of timid regulation we have discovered at DBS would have for so long gone unnoticed or that filthy conditions would be allowed to prevail year after year in our meat and poultry plants, or that chemicals which add little or nothing to the nutritional quality or safety of food would be allowed to remain in the food supply. An independent consumer advocate would have an enormous impact on the way Federal agencies deal with the interests of consumers. My subcommittee will soon report out S. 1177 and I intend to see that bill become law.

The other piece of legislation is S. 3419, a bill to establish a single independent agency responsible for regulation of product safety, food, and drugs. The proposed Consumer Safety Agency would perform the functions of HEW's present Food and Drug Administration, but would have a wider range of responsibilities and authorities. One such additional responsibility would be the regulation of vaccines currently performed by the DBS. In holding hearings on S. 3419 my subcommittee will review the performance of the DBS and seek to determine whether the Division's regulatory responsibilities would better be handled in conjunction with the Federal Government's regulation of other drugs. In addition, we shall consider whether additional transfers of authority would improve the quality of consumer protection.

The failures cited in the report I am releasing today are major failures in consumer protection. It would be misleading, however, to focus only on these incidents and ignore the larger problems of bureaucratic regulation. These problems are symptoms of a general disorder.

The real problems lie in a regulatory bureaucracy in which authority is apportioned according to irrational distinctions in which different Federal agencies frustrate each other's policies by pursuing conflicting goals; in which questions are decided not on their merits, but in order to preserve or extend an agency's jurisdiction; in which important regulatory authority is buried between layers of bureaucracy, and decisionmakers lose their visibility and public accountability; in which the only day-to-day influence on regulators from outside the Government comes from representatives of the regulated industry; in which agencies with regulatory responsibilities also view themselves as advocates for a particular interest group; in which regulators move back and forth between jobs in Government and execu-

tive positions in regulated industries; in which important decisions are made without input from a variety of affected interests.

All these problems plague our regulatory programs. We have to do better. We cannot solve all the problems of ineffective Federal regulations in one piece of legislation. But we do have a responsibility to begin. S. 1177 and S. 3419 are important first steps in the right direction.

I ask unanimous consent that the list of the 32 vaccines referred to as not effective by the DBS director and their manufacturers be printed in the RECORD together with the GAO's summary of its review and recommendations.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

VACCINES REFERRED TO AS NOT GENERALLY RECOGNIZED AS EFFECTIVE BY THE DBS DIRECTOR

Product listed in report	Brand name of product listed in report	Manufacturer
1. Product A	Bacterial Vaccine Mixed Respiratory	Hollister-Stier Laboratories.
2. Product B	Respiratory UBA	Eli Lilly & Co.
3. Product C	Staphylococcus-Streptococcus UBA	Do.
4. Product D	Combined Vaccine No. 4 with Catarrhalis.	Do.
5. Product E	Mixed Vaccine No. 4 with H. Influenzae.	Do.
6. Product F	Staphylococcus Vaccine	Do.
7. Product G	Entoral	Do.
8. Product H	Tyrannd H. Antigen	Do.
9. Product I	Vacagen Tablets	Merck, Sharp, & Dohme.
10. Product J	Brucellin Antigen	Do.
11. Product K	Staphylo-Strepto Serobacterin Vaccine	Do.
12. Product L	Catarrhalis Serobacterin Vaccine Mixed.	Do.
13. Product M	Sensitized Bacterial Vaccine H. Influenzae Serobacterin Vaccine Mixed.	Do.
14. Product N	Staphage Lysate Type I	Delmont Laboratories, Inc.
15. Product O	Staphage Lysate, Type III	Do.
16. Product P	Staphage Lysate, Types I and III	Do.
17. Product Q	Catarrhalis Combined Vaccine	Merrell-National Laboratories (Division, Richardson Merrell).
18. Product R	Strepto-Staphylo Vatox	Merrell-National Laboratories.
19. Product S	Staphylococcus Toxoid-Vaccine Vatox	Do.
20. Product T	Respiratory Vatox	Do.
21. Product U	Respiratory B.A.C.	Hoffman Laboratories, Inc.
22. Product V	Gram-Negative B.A.C.	Do.
23. Product W	Pooled Stock B.A.C. No. 1	Do.
24. Product X	Pooled Stock B.A.C. No. 2	Do.
25. Product Y	Staphylococcal B.A.C.	Do.
26. Product Z	Pooled Skin B.A.C.	Do.
27. Product AA	Mixed Infection Phylacogen	Parke, Davis & Co.
28. Product BB	Immunovac Oral Vaccine	Do.
29. Product CC	Immunovac Respiratory Vaccine (Parenteral).	Do.
30. Product DD	Streptococcus Immunogen Arthritis	Do.
31. Product EE	N. Catarrhalis Vaccine (Combined)	Do.
32. Product FF	N. Catarrhalis Vaccine Immunogen (Combined).	Do.

PROBLEMS INVOLVING THE EFFECTIVENESS OF VACCINES

(Comptroller General's report to the Subcommittee on Executive Reorganization and Government Research)

WHY THE REVIEW WAS MADE

The Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, asked the General Accounting Office (GAO) to review selected aspects of Federal control over drugs and biological products (vaccines, serums, etc.). This report, the second report to be issued to the Chairman, is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and use of influenza vaccines.

Background

Pursuant to the Public Health Service Act, biological products must be licensed by the Secretary of the Department of Health, Education, and Welfare (HEW) before they may be transported interstate. To obtain licenses manufacturers must produce products which meet standards of safety, purity, and potency (the ability of products to produce given results). The Division of Biologics Standards (DBS), a division of the National Institutes of Health (NIH), licenses biological products.

FINDINGS AND CONCLUSIONS

Need to remove ineffective products from interstate commerce

Although the Office of the General Counsel of HEW concluded on several occasions that legislative authority existed under the Federal Food, Drug, and Cosmetic Act that could prevent ineffective biological products from being introduced into interstate commerce, DBS disagreed with the Office of the General Counsel. (See p. 11.)

The disagreement apparently was resolved by the Secretary in November 1971. The Secretary stated at that time that DBS, in practice, had been exercising the efficacy authority under the Federal Food, Drug, and Cosmetic Act. Although GAO found no evidence of any ineffective products licensed after 1962, GAO did find the ineffective products licensed prior to 1962 were being marketed. (See p. 13.)

On February 25, 1972, the Secretary took action to require NIH, through an appropriate delegation of authority, to apply the provisions of the Federal Food, Drug, and Cosmetic Act to biological products.

Release of subpotent influenza vaccines

DBS was releasing lots of influenza vaccines even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards. Of 221 lots released during 1966, 1967, and 1968, 130 failed to meet the standards. (See p. 17.)

Subpotent vaccines were released because agency employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to the standards. DBS says that its tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. (See p. 17.)

Effectiveness and use of influenza vaccine

Scientific studies disagree significantly as to the specific degree of effectiveness of the vaccines. In addition, in periods of epidemic, there may be a problem with the vaccines' unavailability to persons in high-risk groups for whom the vaccines are needed, because persons receive the vaccines who do not need them. (See p. 22.)

Several Federal agencies notified their employees of the availability of the vaccines but did not make known the recommendations of the Public Health Service Advisory Committee on Immunization Practices regarding the types of persons that should be inoculated. This committee was established by the Surgeon General to develop recommendations for the use of the principal biological products. (See p. 24.)

RECOMMENDATIONS OR SUGGESTIONS

HEW should:

Require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act.

Monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

Require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

Fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

MATTERS FOR CONSIDERATION BY THE SUBCOMMITTEE

The Subcommittee should consider bringing GAO's recommendations to the attention of the Secretary of HEW so that the recommendations may be implemented.

LAXITY IN REGULATION OF VACCINES POINTS UP NEED FOR CONSUMER ADVOCATE

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. PERCY), I ask unanimous consent to have printed in the RECORD a statement by him and an insertion concerning laxity in the regulation of vaccines.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PERCY

I share with the Senator from Connecticut (Mr. RIBICOFF) a sense of shock and outrage at the callous disregard for the public health and safety shown by the Division of Biologics Standards (DBS) in the National Institutes of Health in permitting diluted flu vaccines, some ineffective and apparently hazardous according to a General Accounting Office audit, to continue to be sold to an unsuspecting public.

Are human lives so cheaply valued by the very agencies of government we have set up to protect us that this kind of laxity in government will be allowed to persist? We now know, based on the GAO report that indiscriminate approval of influenza vaccine by DBS from 1966–68 subjected Americans to over 60 million doses of what may have been worthless prevention—or worse. Since the side effects of the inoculations—including extreme fever, rash, incapacitating diarrhea and cramps—can be severe, I suspect that for thousands, if not millions, of Americans their attempts to protect themselves from illness were actually more harmful than no protection at all.

There is a real question, based on a substantial body of scientific research, whether influenza vaccine offers any real protection even at full strength. Yet in that three-year interval, DBS failed to turn down a single lot of flu vaccine, even though some contained as little as one percent of the required strength. Of 221 lots released during the period, 130 did not meet standards established by the agency itself.

Subpotent vaccines were released for public consumption apparently because DBS officials performing tests and reviewing manufacturers' test results did not adhere to agency potency standards. Officials explain away their conduct by pointing to agency instructions to the effect that the tests are not to be used as a basis for release or rejection of lots, but instead for determining whether manufacturers can perform tests and whether the results of such tests can be relied upon.

This explanation fails to satisfy me. Why have the standard if the agency is not going to follow it? As a matter of fact, the GAO audit indicates that in many instances the manufacturers' own tests could not be relied upon, yet no subsequent action was taken by DBS. I share the view of the Comptroller General that DBS instructions should be revised to provide that vaccines *not* be released if tests by *either* the manufacturers or DBS show the vaccines to be below the required potency.

But even more important is the bureaucratic haggling that underlies this foulup. Over the years, the General Counsel of HEW has concluded that completely clear legislative authority exists under the Food, Drug and Cosmetic Act to prevent *ineffective* biological products (including vaccines, serum, antitoxins, etc.) from being introduced into interstate commerce. But DBS steadfastly repudiated that view in refusing to prevent the marketing of vaccines proven to be ineffective. The dispute apparently was resolved in November 1971 when Secretary Richardson of HEW said that DBS, in practice, was testing vaccines for efficacy. In fact, while GAO in its report found no evidence of ineffective vaccines licensed after 1962, it did find ineffective products licensed prior to that year which were still being marketed. As of February 25, 1972, Secretary Richardson has moved to correct this situation by applying the provisions of the Food, Drug, and Cosmetic Act to all biological products.

The DBS blunder reminds us anew that the American public has been deceived into believing that because an agency of the Federal Government has been set up to afford protection, the public is indeed being protected. But the tragic truth is that just is not so. We have here, instead, a false panacea, and so, a false hope.

But there is a lesson to be drawn. And that is that no more infusion of greater funds or resources or staff will correct the errors of an agency as misdirected as DBS. More than ever, the need is clear for an independent consumer advocacy agency—such as that contemplated in S. 1177 of which I am a principal cosponsor—to look out particularly for public health and safety in the face of bureaucratic lassitude, unconcern, neglect, or perversion of purpose. An advocate for the consumer interest would promptly have become apprised of the existence of millions of subpotent dosages of vaccine and sought a turnaround of policy. Failing in that, an advocate would have assumed responsibility, as DBS did not, for properly informing the public of the lack of protection afforded to it.

As ranking minority member of the Government Operations Committee, which is currently considering the Independent Consumer Protection Agency bill, I am convinced that such an agency will reflect a greater sensitivity to the imperative need of the American consumer to have his interests fairly, effectively and responsibly represented. I will make every effort to see that this legislation is promptly reported to the floor of the Senate and quickly enacted so that we can prevent recurrences of the kind I have described today.

COMPTROLLER GENERAL'S REPORT TO THE SUBCOMMITTEE ON EXECUTIVE REORGANIZATION AND GOVERNMENT RESEARCH COMMITTEE ON GOVERNMENT OPERATIONS U.S. SENATE

(Problems Involving the Effectiveness of Vaccines—National Institutes of Health Department of Health, Education, and Welfare B–164031(2))

WHY THE REVIEW WAS MADE

The Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, asked the General Accounting Office (GAO) to review selected aspects of Federal control over drugs and biological products (vaccines, serums, etc.). This report, the second report to be issued to the Chairman, is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and use of influenza vaccines.

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Require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act.

Monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

Require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

Fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

MATTERS FOR CONSIDERATION BY THE SUBCOMMITTEE

The Subcommittee should consider bringing GAO's recommendations to the attention of the Secretary of HEW so that the recommendations may be implemented.

CHAPTER 1—INTRODUCTION

On June 28, 1971, the Chairman of the Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, United States Senate, requested that we review selected activities of the Food and Drug Administration (FDA) and of the Division of Biologics Standards of the National Institutes of Health, Department of Health, Education, and Welfare. (See app. I.) To comply with the Chairman's request, we agreed to issue three separate reports. The first was issued on October 7, 1971, entitled "Answers to Questions on the Investigational Use of Isoniazid—a Tuberculosis Control Drug."

This report is concerned with (1) whether legislative authority exists to require biological products to be effective in use and (2) the effectiveness, potency, and general use of influenza virus vaccines. We plan to issue a third report on DBS's regulation of adenovirus, influenza, and pertussis vaccines.

HEW'S RESPONSIBILITIES FOR THE REGULATION OF BIOLOGICAL PRODUCTS AND DRUGS

The Secretary of HEW is responsible for the regulation of biological products and drugs through two statutes—section 351 of the Public Health Service Act, as amended (42 U.S.C. 262), and the Federal Food, Drug, and Cosmetic Act of 1938, as amended (21 U.S.C. 301).

Biologics

Section 351 of the Public Health Service Act provides that all biological products[1] and their manufacturers be licensed by the Secretary of HEW before the products can be sold in the District of Columbia or transported interstate. Before the products can be licensed, they must meet standards designed to ensure their continued safety, purity, and

[1] A "biological product" is defined under the Public Health Service Act as "any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analagous product, or arsphenamine or its derivatives (or any other trivalent organic aresnic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man."

potency. The Secretary is authorized to inspect the licensed establishments, as well as any establishments being considered for licensing, to ensure that they conform to the legislation and regulations applicable to the manufacture of biological products. As of May 1971, 263 biological products were licensed and 235 establishments were licensed to manufacture such products.

The responsibility for administering section 351 as been delegated by the Secretary to the Director of NIH. DBS, a division of NIH, is the organizational entity which carries out this responsibility. DBS was appropriated $8.8 million for fiscal year 1971.

The Code of Federal Regulations (42 CFR 73) states that a licensed product may not be released by a manufacturer for sale until the manufacturer has completed tests to determine that the product conforms to the standards applicable to its safety, purity, and potency.

"Safety" is defined in the regulations as the relative freedom from harmful effects to recipients. Closely allied to safety is the requirement for "purity"—the relative freedom from extraneous matter in the finished product. "Potency" is defined as the ability of the product to effect a given result, as indicated by laboratory tests or by adequately controlled clinical data obtained through the administration of the product in the manner intended.

DBS may require a manufacturer to submit, prior to the release of a product to the public, samples of production lots and the related protocols which present the results of the manufacturer's tests. When protocols are required, DBS reviews them and may conduct a series of tests within its own laboratories to verify the results shown. DBS then may either release a lot or reject it when necessary to ensure the safety, purity, or potency of the product.

In 1964 the Surgeon General established the Public Health Service Advisory Committee on Immunization Practices—composed of persons from the fields of public health, medicine, and research—to develop recommendations for the use of the principal biological products in the United States.

Drugs

The Secretary of HEW has delegated his responsibility for administering the Federal Food, Drug, and Cosmetic Act of 1938 to FDA.

Under the provisions of this act, a "drug" is defined as:

"(A) articles recognized in the official United States Pharmacopeia, official Hemeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; and (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (D) articles intended for use as a component of any articles specified in clause (A), (B), or (C); but does not include devices or their components, parts, or accessories."

Section 505(a) of the act requires, among other things, that a manufacturer of new drugs or any other person seeking to distribute drugs file an application—showing that the drug is safe and effective—with FDA and obtain its approval before the products may be introduced into interstate commerce. Section 505(b) requires that FDA approve the drug for both safety and efficacy.

Influenza

Influenza is an infectious disease, lasting from a few days to 2 weeks, which affects the respiratory systems of persons. There are two primary types of influenza—types A and B—each of which has a number of strains. Strains are the different influenza organisms which have been isolated and identified as causing influenza infection. Influenza virus vaccines are biological products designed to combat the particular strain or strains causing the disease.

The first license for the manufacture and use of influenza virus vaccine was issued in 1945. As of December 1971, eight establishments were licensed to manufacture the vaccine and six actually were engaged in producing and marketing the vaccines. From 1966 through 1970 about 112 million doses of the vaccines were distributed in the United States.

Potency standards for influenza virus vaccines

DBS issues annual potency standards to the manufacturers of influenza virus vaccines. For 1966 the standards required that a manufacturer's product be at least equal to the strength of a DBS reference vaccine, except for one strain which had to be five times the strength of the reference vaccine. The reference vaccine is a standardized vaccine sent to the manufacturers by DBS to be used as a basis for comparison with manufacturers' products.

In 1967 a manufacture's vaccine was required to be at least equal to the potency of the reference vaccine. Standards for 1968 required that the potency of all strain components of the vaccine, except one, be equal to or greater than the potency of the reference vaccine. The one exception was for a strain to combat a 1968 epidemic; DBS required that the potency of this strain be at least 75 percent of the reference vaccine.

The standards established by DBS for 1969, 1970, and 1971 required that a manufacturer's product be at least 75, 80, and 85 percent as potent, respectively, as the reference vaccine to be satisfactory for release.

DBS requires that protocols and a sample of a manufacturer's vaccine be submitted to it for review and approval before the vaccine is released to the public.

Tests to determine potency

To determine whether the individual lots of manufacturers' vaccines meet the established potency standards, DBS requires the manufacturers to perform certain laboratory tests on the lots. DBS performs similar tests in its laboratories for selected lots.

During 1966, 1967, and 1968, DBS required the manufacturers to determine the potency of their vaccines by means of mouse potency tests, which involved inoculating one group of mice with the manufacturers' vaccines and another group with the DBS reference vaccine. After inoculation, each group of mice was injected with the influenza virus and the protective ability afforded by each vaccine was compared.

Late in 1968 DBS changed the required test to the chicken cell agglutination (CCA) test, which determined virus concentration by measuring the ability of the virus to clump red blood cells. This ability is proportional to the number of virus particles. The test is performed on both the manufacturers' vaccines and the DBS reference vaccine, and the results are compared to determine whether the manufacturers' vaccines achieve the potency standard established by DBS.

Instructions relating to release of influenza virus vaccines

DBS instructions relating to the release of vaccines are contained in a Viral and Rickettsial Control Test Check List, dated November 1965, which stipulates that final release action is to be based on the recommendations of the responsible DBS test operators in each laboratory performing vaccine testing. The information required for release is (1) the approval of the manufacturer's test results for compliance with the regulations and requirements and (2) the results of DBS confirming tests, if performed.

Other vaccine release instructions are contained in a 1962 DBS memorandum on influenza potency testing. This memorandum states that the release of influenza virus vaccines is to be based on the data submitted by the manufacturers and is not to be based on any tests performed by DBS. The memorandum states also that DBS potency tests are not intended to provide data for either release or rejection of a lot but are to have as their objective "the establishment of demonstrated reproducibility of technical procedures employed by the manufacturer and DBS."

In 1971 DBS clarified the contents of the 1962 memorandum by stating that it released lots on the basis of satisfactory information furnished by the manufacturers and that tests performed by DBS were a mechanism for being sure that the manufacturers could perform tests and that the results of the tests could be relied upon.

CHAPTER 2—NEED FOR ACTION TO REMOVE INEFFECTIVE BIOLOGICAL PRODUCTS FROM INTERSTATE COMMERCE

We believe that there is a need for DBS to (1) require that biological products be effective prior to licensing and (2) take action to remove from interstate commerce those licensed products that are not effective.

We found that 75, or about 28 percent, of the 263 biological products licensed by DBS generally were not recognized—according to the Director of DBS—as being effective by most of the medical profession. All 75 of the products were licensed by DBS prior to the 1962 amendment to the Federal Food, Drug, and Cosmetic Act discussed on page 12.

DBS has not required biological products to be effective as a condition of licensing and has not removed ineffective products from interstate commerce, because it did not believe that legislative authority existed for such actions.

HEW's Office of the General Counsel has expressed its opinion to DBS on several occasions that the Federal Food, Drug, and Cosmetic Act provides authority to require that licensed biologics be effective. DBS, however, has disagreed with the opinion of the Office of the General Counsel and believes that legislation is needed to require biological products to be effective.

As a result of the interest in the efficacy of biological products expressed by the Chairman of the Subcommittee on Executive Reorganization and Government Research of the Senate Committee on Government Operations, the Secretary of HEW advised the Chairman, on November 29, 1971, that legislation requiring biologics to be effective was not needed because sufficient authority existed under the Federal Food, Drug, and Cosmetic Act and that, in practice, DBS had been exercising such authority.

Although the Secretary apparently has resolved the disagreement between the Office of the General Counsel and DBS regarding the authority to require biologics to be effective, it is our opinion that DBS has not been fully exercising this authority.

APPLICABILITY OF EFFICACY PROVISIONS OF FEDERAL FOOD, DRUG, AND COSMETICS ACT TO BIOLOGICAL PRODUCTS

The Federal Food, Drug, and Cosmetic Act requires that the Secretary approve a drug for safety and efficacy before it may be introduced into interstate commerce. The requirement for efficacy was added to the act by an amendment dated October 10, 1962 (76 Stat. 781), and was to be applied to (1) all drugs approved subsequent to October 10, 1962, and (2) any drugs approved during the period June 25, 1938, to October 10, 1962, which generally were not recognized by scientific experts to be effective in use.

According to the Office of the General Counsel, drugs as defined in the act, include biological products and the authority to require biological products to be effective as a condition of licensing can be delegated to NIH by the Secretary.

DBS did not agree with the opinion of the Office of the General Counsel that a delegation of authority from the Secretary would be satisfactory and, from 1964, recommended to the Department that legislation be proposed to the Congress that would require biologics to be effective in use.

On February 28, 1969, for example, the Office of the General Counsel advised the Director of DBS that the Secretary could delegate to NIH the authority to administer, apply, and enforce the efficacy provision of the Federal Food, Drug, and Cosmetic Act with respect to all drugs which are biological products. This authority included (1) refusing to approve an application for the introduction of a drug into interstate commerce if the drug was not effective for use and (2) withdrawing a previous drug approval if the drug was discovered to be not effective in use.

On July 30, 1969, the Director of DBS advised the Director of the Office of Legislation Analyss, NIH, that he disagreed with the opinion of the Office of the General Counsel. He said that, although it might be possible to require that future biological products be effective, he did not believe that it was possible to require products already licensed to meet current concepts of efficacy. Regarding the delegation of the authority of the Federal Food, Drug, and Cosmetic Act, the Director of DBS stated that:

"In view of the continuing undercurrent recommending the combining of the DBS with Food and Drug, we are quite reluctant to request such a delegation since it would offer an excellent opportunity of such proponents to renew their effort in creating one control agency."

Because the Chairman of the Subcommittee on Executive Reorganization and Government Research, Senate Committee on Government Operations, expressed interest in HEW's authority to require biological products to be effective in use, the Secretary requested the views of the Office of the General Counsel.

In a memorandum dated November 23, 1971, the General Counsel concluded that from 1962 HEW had the authority to require that biological products be effective in use but that the authority had not been delegated to DBS. The General Counsel stated that from 1962 DBS did not license any products which were not effective and that DBS therefore acted substantially as though it did have the authority to require that biological products be effective. The General Counsel recommended that the Department delegate to DBS the authority to continue this informal practice.

The General Counsel also advised the Secretary that he was working out the details for the delegation of authority to the Director of NIH. On February 25, 1972, the delegation of authority was effected.

On November 29, 1971, the Secretary forwarded the General Counsel's opinion to the Chairman and stated that sufficient regulatory authority existed under the Federal Food, Drug, and Cosmetic Act to require biologics to be effective and that, in practice, DBS had been exercising such authority.

PRODUCTS NOT GENERALLY RECOGNIZED AS BEING EFFECTIVE

In a memorandum dated November 19, 1969, to the Office of Legislative Analysis, NIH, the Director of DBS stated that there were several biological products which had been licensed for many years but which had been considered as not effective in use by most of the medical profession.

DBS officials provided us with a list of the products referred to by the Director of DBS. The list showed that there were 75 licensed biological products—about 28 percent of the 263 licensed biological products—which generally were recognized as not being effective in use. Because some of the licensed products are produced by more than one manufacturer, a total of 132 licenses—42 of which were issued between June 1938 and October 1962—have been issued for production of the 75 products. According to DBS these licenses are for biological organisms which may be sold to the public individually or combined with other organisms.

DBS provided us also with a list of vaccines being sold to the public that contain one or more of the 75 licensed organisms generally recognized to be not effective in use. The list (see app. II) showed that, as of December 31, 1971, there were 32 such vaccines. Of these 32 vaccines, 16 contained organisms which were licensed after 1938. We noted, however, that one of the 32 vaccines contained a biological organism which was not on the list of 75 organisms supplied to us by DBS.

We noted also that the package circulars for the ineffective vaccines indicated that persons might suffer adverse reactions from the use of the vaccines. For example, one of the vaccines—sold for the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections—is made up of six ineffective organisms which were licensed by DBS in 1956. The package circular, which accompanies the sale of this vaccine, states that, although significant side effects from the vaccine are uncommon, there have been reports of children who have developed systemic reactions—consisting of fever, rash, abdominal cramps, and diarrhea—4 to 8 hours after injection.

The package circular for another of the ineffective vaccines—intended for the treatment of infections and inflammations of the eye by creating a fever in the patient—states that:

"The febrile reaction following intravenously administered • • • [vaccine] usually occurs in four to eight hours and in most cases is not preceded by a chill. The temperature may rise to 101° F. or even 104° F. Fever subsidies in a few hours, and the patient is left with muscular pains. Chilly sensations and malaise may be expected. • • • The patient should be kept under close observation through the period of increased temperature, and if excessive fever occurs, it should be combated vigorously."

CONCLUSIONS

Although the Office of the General Counsel concluded on several occasions that legislative authority existed that could prevent ineffective biological products from being introduced into interstate commerce, DBS disagreed with the conclusion of the Office of the General Counsel.

The disagreement apparently was resolved by the Secretary in November 1971. The Secretary stated at that time that DBS, in practice, had been exercising the efficacy authority contained in the Federal Food, Drug, and Cosmetic Act. Although we found no evidence of any ineffective products licensed after 1962, ineffective biological products licensed prior to 1962 are being marketed.

We noted that the Secretary took action to require NIH, through an appropriate delegation of authority, to aply the provisions of the Federal Food, Drug, and Cosmetic Act to biological products. We believe, however, that, having made this determination, the Secretary also should (1) require NIH to establish milestones to implement this authority and (2) monitor NIH's progress in stopping the marketing of ineffective biological products.

RECOMMENDATIONS TO THE SECRETARY OF HEW

We recommend that, to stop the marketing of ineffective biological products, HEW (1) require NIH to establish milestones to implement the efficacy provisions of the Federal Food, Drug, and Cosmetic Act and (2) monitor NIH's progress in stopping the marketing of biological products determined to be ineffective.

CHAPTER 3—RELEASE OF SUBPOTENT INFLUENZA VIRUS VACCINES

Manufacturers' test results showed that 115 of 221 lots of influenza virus vaccines released by DBS during 1966, 1967, and 1968 failed to meet potency standards established by DBS. In addition, 15 other lots which were released and shown to be potent by the manufacturers' tests were found to be subpotent on the basis of DBS tests. We found no indications that subpotent vaccines were released in 1969 or 1970. Only one subpotent lot, however, was submitted by manufacturers during this period.

It appears that subpotent vaccines were released because DBS employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to potency standards established by DBS.

DBS instructions state that its tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. We believe that the instructions should be revised to provide that vaccines *not* be released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

NEED TO REVISE INSTRUCTIONS

DBS instructions state that final release actions for lots of influenza virus vaccines are to be based on the recommendations of responsible operators in the DBS laboratories which review the manufacturers' test results. The instructions state also, among other things, that the laboratory operators must record any lot which fails to meet the potency standards.

We found, however, that, for lots released on the basis of manufacturers' tests, DBS laboratory operators indicated the failure to meet DBS potency standards for only 25 of the 115 subpotent lots during 1966, 1967, and 1968. In addition, DBS records contained information explaining the release of 35 subpotent lots, which, in our opinion, was questionable; we found no documentation explaining the release of the other lots.

For example, 11 lots were released on the basis of the manufacturers' certifications to the Director of DBS that the vaccines had been manufactured in compliance with the formula issued by DBS. Also another lot was released by the Assistant Director of DBS even though the DBS laboratory operator had noted that the potency of a particular strain was unsatisfactory. The DBS laboratory operator had recommended that this lot be rejected because, according to the manufacturer's tests, one of the component strains was only 45 percent as potent as the reference vaccine.

The Assistant Director released this lot because, in his opinion, it met the minimum potency requirements set forth in section 4.25 of the instructions sent to the manufacturers by DBS. Section 4.25 states that the tests performed by manufacturers must be based on comparisons of their vaccines with the reference vaccine of DBS and that the results of the potency tests must show that the manufacturers' vaccines are at least equal to the reference vaccine.

We found that the DBS laboratory operators recorded as satisfactory 82 of the 115 lots that had potency values which were less than the DBS standards.

For example, one lot released by DBS on January 18, 1966, was designed to combat six strains of influenza. The manufacturer's test showed that one of the six strains was only 19 percent as potent as the reference vaccine and that the other five strains were at least equal to the reference vaccine.

DBS tested the potency of five of the six strains and found the potency of the strain

noted as 19 percent on the manufacturer's tests to be greater than 300 percent of the reference. These same DBS tests indicated, however, that three of the four remaining strains had potency values below 20 percent of the reference vaccine and that the fourth strain had a potency value of approximately 50 percent of the reference vaccine. The laboratory operator recorded that the potency of this lot was satisfactory on the basis of the DBS test, and the lot was released.

In connection with the release of subpotent lots, we have noted that DBS instructions state that DBS tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon.

Variability of test results

DBS tested 78 of 221 lots of vaccines released during 1966, 1967, and 1968. We found that 41 of these lots met the DBS potency standards and that 34 of the 41 were shown to be potent by the manufacturers' tests. The remaining 37 lots tested by DBS did not meet its potency standards. According to the manufacturers' test results, 22 of these lots were subpotent and 15 were potent. We found also that DBS test results varied significantly from the test results of the manufacturers.

For example, a manufacturer's tests for a lot released by DBS on September 13, 1967, showed potent strain values of 100 percent, 171 percent, and 149 percent whereas the DBS tests on the same lot showed subpotent values of 0.8 percent, 15 percent, and 12 percent, respectively.

This lot was released with a notation that potency was satisfactory on the basis of the manufacturer's tests even though (1) the potency standard at that time required these strains to be at least equal to the reference vaccine and (2) the DBS test results differed significantly from those of the manufacturer.

Reliability of mouse potency test

The laboratory chief responsible for potency testing since 1967 advised us that, due to problems with the variability of the results of the mouse potency tests, DBS did not strictly apply its potency standards during 1967 and 1968.

The laboratory chief advised us also that the mouse potency test was considered unreliable, and he furnished us with a 1969 report prepared by officials of DBS that questioned the reliability of the mouse potency test. The report concluded that the CCA test, which was adopted by DBS late in 1968, was a more reliable means for measuring potency. The laboratory chief advised us, however, that he also used the CCA test—at times subsequent to release—to determine the potency of selected influenza vaccine lots, including 55 subpotent lots submitted by the manufacturers during 1966, 1967, and 1968. The results of the CCA tests showed that 48 of the 55 lots still failed to meet the potency standards established by DBS.

The laboratory chief furnished us also with a memorandum dated July 12, 1968, in which he advised the Director of DBS that, with the exception of one manufacturer, the first lots submitted during 1968 showed that nothing was being done to increase the potency of the vaccines. The laboratory chief said in the memorandum that "it would be sad if we allow the manufacturers to make and sell poor influenza vaccines for another season."

CONCLUSIONS

We believe that, because of the significance of the ability of biological products—including vaccines—to effect a given result, it is important that DBS develop standards for the products that are designed to protect the consumer and strictly enforce such standards. We found, however, that DBS was releasing lots of influenza virus vaccines during 1966, 1967 and 1968, even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards. There were no indications that subpotent vaccines were released in 1969 or 1970. Only one subpotent lot, however, was submitted during this period.

It appears that subpotent vaccines were released because DBS employees responsible for performing potency tests and for reviewing the results of tests performed by either the manufacturers or DBS did not adhere to potency standards established by DBS.

A DBS instruction states that DBS potency tests are not to be used as a basis for release or rejection of lots but are to be used to determine whether the manufacturers can perform tests and whether the results of their tests can be relied upon. We believe that this instruction should be revised to provide that a vaccine *not* be released if tests by either the manufacturer or DBS show the vaccine to be subpotent.

RECOMMENDATION TO THE SECRETARY OF HEW

We recommend that HEW require DBS to revise its instructions to provide sufficient controls to preclude vaccines from being released if tests by either the manufacturers or DBS show the vaccines to be subpotent.

CHAPTER 4—PROBLEMS IDENTIFIED WITH EFFICACY AND GENERAL USE OF INFLUENZA VIRSUS VACCINES

We found that the conclusions of scientific studies disagreed significantly as to the specific degree of effectiveness of the influenza virus vaccines. We found also that a number of Federal agencies—in connection with inhouse influenza inoculation programs—had notified their employees of the availability of the vaccines but had not made known the recommendations of the Public Health Service Advisory Committee on Immunization Practices regarding the types of persons that should be inoculated.

EFFICACY OF INFLUENZA VIRUS VACCINES

Information on the effectiveness of influenza virus vaccines is conflicting. DBS officials estimated that influenza virus vaccines were 50 to 60 percent effective, and they provided us with several studies concerning the efficacy of the vaccines. One of the studies, performed by researchers at Mount Sinai School of Medicine, City University of New York, and at the California State Department of Public Health showed that, at one military base, influenza vaccines were 73 percent effective in reducing the number of trainees hospitalized in 1970.

Other reports, however, indicated a lesser degree of effectiveness. For example, a report published in 1964 by officials of the HEW National Communicable Disease Center[1]— which is responsible for coordinating and evaluating a national program for the prevention and control of communicable diseases, such as influenza—stated that 42 million doses of vaccines were distributed in 1962 and that, on the basis of a limited number of studies and preliminary reports, it was believed that the efficacy of the vaccines was 20 to 25 percent at best.

The report concluded that widespread use of influenza vaccines for general population groups could not be justified but that high-risk groups should continue to use the vaccines annually. High-risk groups, at that time were defined as pregnant women, the chronically ill, and older persons.

Another report published in 1969 by officials of the National Communicable Disease Center stated that the results of studies indicated that influenza vaccines at standard dosage levels had little, if any, effectiveness and that even very large doses of the vaccnies did not approach the high degrees of effectiveness which had been achieved with other virus vaccines. The report concluded that attention should be directed toward finding a more effective means of protection against influenza.

A study, published in 1969, of the effectiveness of influenza virus vaccines by officials of the University of Wisconsin Medical School and of the National Communicable Disease Center concluded that inoculation clearly appeared to have no protective or modifying effect on the incidence of illness.

The Director of DBS, in a report published in 1969, also questioned whether the use of influenza virus vaccines had any detectable effect on the influenza epidemics which occurred in 1957 and 1968. The Director pointed out that in August 1968 virologists generally agreed that a significant change had occurred in one particular virus strain and that an epidemic was clearly predictable because available vaccines would provide only limited, if any, protection.

Although all the vaccines which were manufactured to combat the 1968 epidemic were not used, the Director stated that one of the problems in the face of any epidemic was the availability of the vaccines. He stated also that persons who really did not need vaccines received them while others in high-risk groups did not receive them.

Recommendations of the Public Health Service Advisory Committee

The Public Health Service Advisory Committee on Immunization Practices made the following recommendation with regard to the use of influenza virus vaccines during the 1971–72 influenza season.

"Annual vaccination is recommended for persons who have chronic debilitating conditions: 1) congenital and rheumatic heart disease, especially mitral stenosis; 2) cardiovascular disorders, such as arteriosclerotic and hypertensive heart disease, particularly with evidence of cardiac insufficiency; 3) chronic pulmonary diseases, such as asthma, chronic bronchitis, cystic fibrosis, bronchiectasis, emphysema, and advanced tuberculosis; 4) diabetes mellitus and other chronic metabolic disorders."

The committee also stated that:

"Although the value of routinely immunizing all older age persons is less clear, those patients who have incipient or potentially chronic disease, particularly affecting cardiovascular and bronchopulmonary systems, should also be considered for annual immunization."

The committee did not recommend the vaccines for healthy adults and children.

The committee stated that control of epidemic influenza in the general population was not possible through routine vaccinations because influenza vaccines had been variably effective and had offered rather brief periods of protection.

Use of vaccines in Federal agencies

We examined into programs of influenza inoculation at selected Federal agencies to determine their compliance with the recommendations of the Public Health Service Advisory Committee on Immunization Practices. We undertook this examination of the conflicting information on the relative effectiveness of the vaccines and because of the problems with their availability, cited by the Director of DBS, which could be caused by not following the recommendations of the advisory committee.

Under the United States Code (5 U.S.C. 7901), health units of Federal agencies are operated either by the agencies or by a division of the Health Service and Mental Health Administration, HEW.

We selected eight Federal agencies in the Washington area that operated their own health units, to determine whether they had followed the advisory committee recommendations for the 1970–71 influenza season. The recommendations for the 1970–71 season were the same as those for the 1971–72 season.

The Health Service and Mental Health Administration had furnished the medical officers in charge of its health units with a copy of the advisory committee's recommendations and had advised them not to conduct mass influenza immunizations but to make the vaccines available on a request basis only. We noted that about 14 percent of the 140,000 employees served by the health units of the Health Service and Mental Health Administration received the influenza virus vaccines during the 1970–71 influenza season.

Our examination into the eight agencies which operated their own health units showed that (1) the specific recommendations of the advisory committee had not been made known to the employees in most cases and (2) a larger percentage of employees usually received the vaccines than did employees at agencies having health units operated by the Health Service and Mental Health Administration.

The information summarized below is from notices given to the employees of the eight agencies. Also shown for the eight agencies are the number and percentage of employees who received the influenza virus vaccines during the 1970–71 influenza season.

Department or agency	Recommendation to enployees	Employees receiving vaccines	
		Number	Percent
National Aeronautics and Space Administration	Informed employees of vaccines' availability, and through other literature promoted inoculation	1,000	46
Federal Aviation Administration	Urged for all employees interested in this program of preventive medicine	1,407	40
Social Security Administration	Stated that the need for inoculation was a must for everyone having chronic diseases, those over 45 years of age, and pregnant women.	5,000	33
Civil Service Commission	Urged all employees to take advantage of the immunization program, particularly persons having chronic diseases, persons over 65 years of age, pregnant women, and persons responsible for care of the sick.	778	32
U.S. Army, Civilian Employees' Health Service	Stated that the vaccines were not recommended for healthy adults and children but were recommended for persons having chronic debilitating diseases and persons over 45 years of age having incipient or potential chronic diseases.	15,142	26
Department of Agriculture	Advised employees that vaccines would be available to all and stated that persons over 45 years of age and persons having chronic illnesses had the greatest need.	3,395	24
Postal Service	Informed employees only of vaccines' availability	500	24
Congress of the United States	Notice to employees was identical to the advisory committee recommendations	3,814	13

CONCLUSIONS

Our review of scientific studies indicated that the specific degree of effectiveness of influenza virus vaccines was questionable. In addition, in periods of epidemic, there may be a problem with the vaccines' unavailability to persons in high-risk groups for whom the vaccines are needed because, according to the Director of DBS, persons receive the vaccines who do not need them.

We found that several Federal agencies had notified their employees of the availability of the vaccines but had not made known the recommendations of the advisory committee regarding the types of persons that should be inoculated.

Considering the advisory committee's statement that control of epidemic influenza in the general population is not possible through routine vaccinations, we believe that action should be taken by the Secretary to fully inform Federal employees of the limitations and merits of receiving the vaccines and of the annual recommendations of the advisory committee.

RECOMMENDATION TO THE SECRETARY OF HEW

We recommend that HEW fully inform Federal employees of the limitations and merits of receiving influenza virus vaccines and of the annual recommendations of the Public Health Service Advisory Committee on Immunization Practices.

CHAPTER 5—SCOPE OF REVIEW

Our review included interviews with DBS officials and an examination into (1) legislation and congressional hearings applicable to the regulation of biological products, (2) the manufacturers' protocols, DBS test results, DBS instructions, and DBS correspondence with manufacturers that related to the potency of influenza virus vaccines released for sale from 1966 to 1970, and (3) the recommendations of the Public Health Service regarding the use of the influenza virus vaccines. We also interviewed officials of selected agencies concerning their programs for the inoculation of Government employees against influenza.

Our review was made primarily at the offices of DBS in Bethesda, Maryland.

APPENDIX I

U.S. SENATE,
COMMITTEE ON GOVERNMENT RELATIONS,
Washington, D.C., June 28, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office Building, Washington, D.C.

DEAR ELMER: The Public Health Service Act authorizes the Division of Biologics Standards of the National Institute of Health to administer the regulation of biologic products. In the performance of this important function the Division must establish and maintain a high level of testing and inspection of production facilities for biologics produced for sale and shipment in interstate commerce. In addition, the Division has the power to take appropriate action to enforce restrictions on interstate shipments on unlicensed or mislabeled products.

During the past month, members of the staff of the Subcommittee on Executive Reorganization and Government Research and representatives of your office have discussed the regulatory activities of the Division. On the basis of these discussions and other Subcommittee information, it is clear that a review by your office of the regulatory responsibilities of the Division, particularly its activities involving influenza, adenovirus, combined influenza-adenovirus and pertussis vaccines is badly needed.

I therefore request that the General Accounting Office undertake such a study immediately and submit a full report to this Subcommittee at the earliest date possible.

In addition, I have attached a list of questions concerning the Isoniazid TB control drug and the Federal Government's procedures for assuring its safe use, I would like a separate report responding to these questions a well.

In view of the present working relationship between our staffs, further details involving this request can be arranged at the staff level.

Sincerely,

ABE RIBICOFF, *Chairman.*

APPENDIX II

INDICATED USES OF BIOLOGIC PRODUCTS THAT ARE NOT GENERALLY RECOGNIZED AS BEING EFFECTIVE IN USE

1. *Product A*—Aids in the desensitization to common bacterial organisms present in the respiratory system.

2. *Product B*—Intended as a means of developing an immunity to pneumococci, streptococci, hemophilus influenza, neisseria catarrhalis, and staphylococci.

3. *Product C*—Intended for treatment of mixed staphylococcus and streptococcus infections.

4 *Product D*—Intended as a means of developing an immunity to neisseria catarrhalis, klebsiella pneumoniae, diplococcus pneumoniae, streptococci, and staphylococci.

5. *Product E*—Intended as a means of developing an immunity to hemophilus influenzae, neisseria catarrhalis, streptococci, klebsiella pneumoniae, staphylococci, and pneumococci.

6. *Product F*—Intended as a means of developing an immunity to staphylococcus infections.

7. *Product G*—May be useful for increasing resistance to bacterial respiratory infections.

8. *Product H*—May be useful for certain infections and inflammations of the eye.

9. *Product I*—used for active immunization against some of the bacteria that cause secondary infections associated with the common cold.

10. *Product J*—Used in the treatment of brucellosis.

11. *Product K*—Intended as a means of developing an immunity to upper respiratory tract infections due to strains of staphylococci and streptococci.

12. *Product L*—Intended as a means of developing an immunity to species of disease-producing bacteria that commonly cause respiratory tract infections.

13. *Product M*—Intended as a means of developing an immunity to disease-producing bacteria commonly associated with respiratory tract infections.

14. *Product N*—Used in the treatment of infections caused by staphylococcus aureus.

15. *Product O*—Used in the treatment of infections caused by staphylococcus aureus.

16. *Product P*—Used in the treatment of infections caused by staphylococcus aureus.

17. *Product Q*—For prevention of bacterial complication of the common cold and for treatment of chronic rhinitis and sinusitis.

18. *Product R*—Aids in the treatment of various forms of rheumatism, arthritis, myositis, fibrositis, chronic neuritis, and neuralgia.

19. *Product S*—Used in the treatment of subacute or chronic staphylococcal infections, such as acne, pustular dermatoses, furuncles, and blepharitis.

20. *Product T*—For prevention of secondary infections associated with respiratory infections.

21. *Product U*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

22. *Product V*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

23. *Product W*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitis, and throat infections.

24. *Product X*—Used in the treatment of recurrent and chronic bacterial upper respiratory infections, infectious asthma, bronchitis, sinusitus, and throat infections.

25. *Product Y*—Used in the treatment of

[1] Effective June 24, 1970, the National Communicable Disease Center became known as the Center for Disease Control.

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recurrent and chronic staphylococcal infections of the eyes, ears, and nose.

26. *Product Z*—Used in the treatment of recurrent and chronic staphylococcal infections of the skin.

27. *Product AA*—Aids in the treatment of inflammations produced by streptococci, staphylococci, colibacilli, and pneumococci.

28. *Product BB*—Intended for use when it is desired to attempt prophylaxis against staphylococci, neisseria catarrhalis, hemophilus influenzae, klebsiella pneumoniae, corynebacterium diphtheroides, diplococcus pneumoniae, and streptococci.

29. *Product CC*—Used for immunity and treatment of bacterial infections of the respiratory tract and accessory sinuses that are usually associated with acute colds.

30. *Product DD*—Used in the treatment of acute and chronic rheumatic conditions.

31. *Product EE*—Used for immunity and treatment of catarrhal infections of bacterial origin that involve respiratory passages and accessory sinuses.

32. *Product FF*—Used for immunity and treatment of respiratory infections of bacterial origin.

APPENDIX III

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE RESPONSIBLE FOR THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From—	To—
Secretary of Health, Education and Welfare:		
Elliot L. Richardson	June 1970	Present.
Robert H. Finch	January 1969	June 1970.
Wilbur J. Cohen	March 1968	January 1969.
John W. Gardner	August 1965	March 1968.
Assistant Secretary (Health and Scientific Affairs):		
Merlin K. DuVal	July 1971	Present.
Roger O. Egeberg	July 1969	July 1971.
Philip R. Lee	November 1965	February 1969.
Director, National Institutes of Health:		
Robert Q. Marston	September 1968	Present.
James A. Shannon	August 1955	August 1968.
Director, Division of Biologics Standards:		
Roderick Murray	January 1956	Present.

CONSUMER POLICY RESOLUTIONS

Mr. MOSS. Mr. President, almost daily we are confronted with various articles and legislative proposals which try to speak for "the consumer." What is the consumer? Who represents him?

Today the American consumer is an unorganized mass of people, 200 million of them. While no organization can be said to speak for all consumers, there are a number which substantially represent consumer interests in both administrative tribunals and the Halls of Congress.

The Consumer Federation of America is among the foremost consumer organizations operating in the United States today. Made up of a variety of other organizations, the CFA annually sets out policy resolutions which serve as indicators of the consumer's interest and role in American society. I think it would be worthwhile for all of us to review the policy resolutions of the CFA so that we are cognizant of this important voice.

Mr. President, I ask unanimous consent that the policy resolution of the Consumer Federation of America be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

POLICY RESOLUTIONS OF CONSUMER FEDERATION OF AMERICA, ADOPTED JANUARY 29, 1972

PREAMBLE

We believe the consumer has a responsible role in the American economy. To discharge that responsibility he requires more meaningful information and more effective legislation to promote his interests.

Every American is a consumer. His welfare is closely identified with the public interests. His welfare requires a careful balancing of the right in a free economy to earn profits with other rights that affect decisively the quality of life for everyone.

To achieve this balance requires laws that will establish such conditions as will enable all people—especially those whose needs are least adequately met—to function as efficient, responsible citizens.

Moreover, it requires the adequate funding of programs designed to promote consumer protection and understanding and a new sense of commitment by agencies in fairly and openly promulgating regulations which are sensitive to the realization of the full objectives of consumer legislation. It further requires continued legislative oversight not only by the existing congressional committees but by select committees specially responsible for the promotion of the overall protection of consumers.

If, in the final analysis, effective promotion of the public well-being is to be realized it is essential that national priorities be reestablished in the direction of returning to a peace-time economy which makes full and productive use of all human resources.

I. WAGE-PRICE CONTROLS

The Administration's wage-price program to stabilize the economy is a failure, resulting in stringent wage increase restrictions while prices and profits increase virtually without restraint.

Under voluntary compliance, corporate employers—backed by the Pay Board—have resisted reasonable increases in employee income. At the same time, corporations—backed by the Price Commission—have pressured for and received innumerable price and profit increases inflating the cost of living. By imposing wage controls on low income families and allowing price increases, the Pay Board has imprisoned consumers in growing economic impoverishment.

Inflation of consumer prices resumed in December, 1971, approaching 5% per year, with few indications for real relief. Unemployment remains above 6% while wages of unorganized workers and many of the organized are effectively held at or below the Pay Board's 5% guideline despite significantly increased productivity. Responsibility for failure of the economic stabilization program is directly attributable to Administration policies and the execution of Phase II.

1. The program fails to recognize that the central problem is self-determined pricing by that 50 or more highly concentrated industries which dominate the economy. Pricing by those industries has largely been unresponsive to the commands of overcapacity and weak consumer demand.

2. The program ignores government-supported devices for maintaining artificially high and noncompetitive prices such as: retail price fixing of whole milk at the state level and politically-fostered increases in price supports of manufacturing milk and other agricultural commodities; state "fair trade" laws and anti-loss leader laws; suppression of price competition legend drugs; production allowances and import quotas for oil.

3. The program wrongfully exempts from control prices charged by large corporate farms owned by agribusiness conglomerates financially able to withstand the vagaries of crop yields and powerful enough to negotiate high prices on crops produced with underpaid migrant labor.

4. Consumers are systematically excluded from the Price Commission's decision-making processes.

5. Base-price postings, reflecting uncertain relationship to actual ceiling prices, prevent consumer influence on retailers to hold down prices.

6. No effort has been made to organize and instruct consumers for a role in the enforcement mechanism.

7. In the one product line—prescription drugs—for which the posting of base prices would have promoted meaningful price competition, the Price Commission reversed its policy, permitting druggists to escape the obligation to post retail prices. Even those druggists with $200,000 or higher volume are allowed to present consumers with an incomprehensible wholesale catalog.

8. The Price Commission has ignored, and gives no indication of any interest in, price increases achieved covertly through reductions in quality or withdrawal from the market of low-priced lines. Resultant degrading of product quality contributes to further inflation, weakens the marketability of US-made products in world trade, and further jeopardizes international trade.

9. By permitting firms to take a normal mark-up on manufacturers' approved price increases, the Price Commission facilitates pyramiding of original increases as wholesalers and retailers add mark-ups. The result is price inflation by the Commission's own hand.

10. By conducting closed-door decisions, the Price Commission hurts its own credibility.

11. The appearance of personnel shifts and public information policies in the Bureau of Labor Statistics, and unresponsiveness to consumer complaints of price rises by the Internal Revenue Service have: undermined public confidence in the Price Commission, the Consumer Price Index, the Wholesale Price Index, employment rates, and in enforcement of price controls.

CFA vigorously renews recommendations made at the President's request, September 21, 1971:

1. On an equal basis with business, labor and government, consumers be guaranteed the right to participate in machinery established for development and implementation of government policy.

2. Inequitable control of wages must be halted.

3. To restore consumer confidence and stimulate spending, ceilings be established on corporate profits and dividends, with surpluses passed on to low and middle income consumers, that segment of society which will and must spend.

4. Effective curbs be placed on corporate profits to eliminate need for wage restraints in those industries that enjoy increased productivity.

5. A meaningful economic program be established which encompasses: (a) federal action to roll back high interest rates; (b) reduction of the cost of basic energy sources; (c) vigorous enforcement of antitrust laws; and (d) use of federal and state regulatory machinery to stem the increase of prices in "regulated" industries. It must be recognized that governmental action or inaction has provided much, if not most, of the stimulus for higher prices in the market place. Federal fiscal policy has resulted in the highest interest rates in this century. Federal energy policy has given the consumer the highest electric, naural gas, oil and coal prices in history.

Ineffective enforcement of antitrust laws has allowed monopoly and oligopoly industry to administer prices, largely unaffected by normal market factors. Weak, ineffective federal and state regulation has allowed inflationary increases in retail utility and transportation rates. In all these areas, the consumer pays higher direct retail costs for

housing, goods and services and higher indirect costs which are passed along to cover higher manufacturing and distribution expenses caused by the same inflationary forces.

6. To be effective and equitable, meaningful and fair enforcement of price ceilings is essential, and machinery must be established to guard against outright violations, substitution of lesser quality materials without corresponding price reduction, withdrawal of lower priced commodities, and other methods of circumvention of the intent of economic restraints. Any program predicated on voluntary adherence is totally unsatisfactory, since the consumer is unable to insure honesty and compliance in the marketplace without affirmative and open disclosure requirements. To this end, the government must also establish and expeditiously publish, meaningful statistical data assigned to assure compliance and highlight violations. Any statistical base must recognize and compensate for the unfortunate fact that the cost of living index has been at an all-time high.

7. Tax policies associated with an economic program must provide for equitable treatment of consumers. Significant tax reductions spread to all consumers, especially those in lower income brackets, would increase consumer spending and create jobs. Unfair, billion-dollar tax advantages to business, whether through investment tax credits or accelerated depreciation schemes such as the Asset Depreciation Range regulations, merely increase corporate profits, deny increased purchasing power to the consumers most likely to spend increased income, and will not succeed in decreasing unemployment in light of present underutilization of plant capacity. Any benefit bestowed on business must be accompanied by an affirmative action program guaranteeing the creation of new job opportunities, particularly for the hard-core unemployed.

II. COMMUNICATIONS

The consumer has the right to choose from a variety of high quality communication services at a reasonable cost. The consumer is likewise dependent upon adequate, fair reporting and broadcasting of news and programming of specific consumer interest.

1. Public broadcasting. A strong, viable public broadcasting system is essential to serve the educational and informational needs of all Americans. This cannot be accomplished effectively without assured long-range financing. Public broadcasting must be able to tackle controversial issues, both by local stations and on a national basis. Accordingly, CFA supports enactment of appropriations for public broadcasting and urges future development of a fair, independent method of financing.

2. Cable television. Recognizing cable television's immense potential to the US television audience:

CATV services should be designed to serve diverse needs, including education, of the communities in which the systems are located.

Non-profit, public ownership of CATV systems should be encouraged. Other forms of ownership should be subject to profit restrictions, to the end that dividends of ownership be returned to the community.

Programming of CATV systems should be done by entities separate from those which own CATV systems.

The Federal Communications Commission should require that CATV service be made available to every geographical area of a community if it is made available to one area.

Service by a cable system should not be denied to any person because of inability to pay.

Public access channels and free studio and production facilities should be available to citizens on a first-come, first-served, nondiscriminatory basis, and certain channels should be allocated for educational use.

CATV systems should be required to install two-way capability for future expansion, with effective safeguards against invasion of privacy.

3. Consumer reporting and programming.

CFA commends the growing number of broadcasters and publishers who have significantly increased consumer reporting and broadcasting, including accurate reporting of the activities of consumer organizations. We call on additional news media to establish stronger, more effective consumer programs.

CFA supports those who have withstood economic intimidation, condemns those who have submitted to it, and strongly supports those responsible journalists who are fighting to upgrade fair consumer reporting and programming within their media.

4. Domestic satellites. CFA urges establishment of a common-carrier domestic satellite system to provide for relay of communications signals directly into individual community reception centers. A domestic satellite system must provide free access for public television.

5. The postal service. Rates for all classes of postal service must be fully equitable, to the end that first class postage does not subsidize the sending of third class "junk" mail. CFA urges establishment of US Postal Service Procedures whereby citizens may remove their names from junk mailing lists offering merchandise or services from profit-making organizations as defined by the Postal Service.

6. Broadcast License Renewal. CFA opposes legislation amending the Federal Communications Act to give preference in license renewal proceedings to incumbent holders of broadcast licenses, and supports maximum community involvement in review of a licensee's performance every three years.

7. Broadcast self-regulation. Broadcasting self-regulation through radio and television codes has failed to protect the public from a wide array of misleading and deceptive advertising. Codes should be disassociated from the National Association of Broadcasters and governed by an independent body responsive to the public interests. Confidentiality code proceedings involving deceptive advertising should be abolished.

8. Telephone company regulation. Because of the proliferation of telephone rate increases and concurrent reductions in service, more effective regulation of telephone companies is required. CFA commends state and local governments which have defended ratepayers' interest in regulatory proceedings. CFA urges Congress to make available all necessary funds for a Federal Communications Commission probe of the American Telephone and Telegraph Co. commensurate with the scope of the task and the enormity of the consumer's interest.

9. Media advertising. The public must have access to the broadcast media to present counter arguments when commercial advertising raises controversial issues such as matters of environmental protection or nutritional habits, makes claims based on scientific premises currently subject to debate within the scientific community, or is silent on negative aspects of the advertised project. CFA endorses the comments of the FTC and the National Citizens Committee for Broadcasting filed in the FCC's fairness doctrine inquiry as these comments relate to the public's right of access for the presentation of counter-commercials.

III. CONSUMER EDUCATION

1. CFA supports the principle that each State enact a statute requiring consumer education to be offered in grades Kindergarten through 12. Through its consumer education committee, CFA will provide leadership in fostering consumer education by developing a model statute and offering information and consultation to states seeking to establish consumer education programs.

2. We accept the responsibility for stimulating independent and cooperative efforts at local, state, and national levels by all consumer groups, whether voluntary or governmental, and all educational agencies to establish effective plans and programs for consumer education in schools at all levels, including college and continuing education. CFA urges all national, state, and local consumer groups to cooperate with appropriate educational institutions and establishments in development of consumer-oriented seminars, institutes and other education programs.

3. CFA recommends and pledges assistance to local affiliates in establishing periodic surveillance of the price and quality of goods and services offered for sale locally. We encourage and will assist in dissemination of pertinent findings to the consuming public.

4. CFA's consumer education committee urges national, state, and local consumer organizations to designate a consumer education representative for the purpose of supporting and coordinating CFA's program to foster and encourage education programs. We will develop and distribute guidelines for the role of national, state and local consumer organizations in consumer education programs.

5. CFA supports adequate funding by national and state legislative bodies to implement basic continuing and in-service professional teacher consumer education programs.

6. CFA urges retailers to provide point of purchase consumer information.

IV. CREDIT

CFA is most concerned about the escalated interest rates, for these rates have a profound impact on consumer expenditures for goods and services.

It is increasingly clear that the nation's social needs have low priority with commercial banks and the Federal Reserve System. The backlog of desperately needed housing, schools, hospitals, natural resource development, transportation, pollution abatement and public facilities weighs heavily on society. Our failures in these fundamental areas will be gravely aggravated if the interest rate crisis persists. The tools to reverse the upward trend of interest rates exist. CFA calls for their prompt use.

1. The Federal Reserve System and commercial banks exercise the privilage of creating the money of the United States. This power should not be delegated to private interests. We call upon the Federal Reserve System to make certain that the money creating power is at all times employed in the public interest. In this respect we urge revision of the Federal Reserve Act to require the President to appoint at least one consumer representative to the Federal Reserve Board.

2. The ordinary citizens is priced out of the home buying market. Even middle-income families cannot afford 7½% interest that inflates the price of new housing. Lower income wage earners and those living on pensions suffer most. To overcome the high interest rate barrier erected against construction of desperately needed homes, CFA proposes a program similar to Rural Electrification Administration or Federal Housing Administration's 221(h) permitting direct federal lending or federal interest subsidies at interest rates of 1, 2, or 3% per year. Depending on need or circumstances, these loans should be to individuals and public and non-profit private agencies—including public bodies and cooperatives—for construction on a massive scale of homes for middle- and low-income families. Funds loaned under such a program should be considered investments by the federal government and not charges against the current budget.

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3. CFA renews and reaffirms unalterable opposition to the Uniform Consumer Credit Code as proposed by the National Conference of Commissioners on Uniform State laws and urges its defeat. We recognize the urgent need to prepare equitable consumer credit legislation that will adequately protect the consumer, and we pledge to support such efforts.

4. CFA supports legislation to encourage the flow of credit to urban and rural poverty areas to stimulate the rate of economic growth and employment in those areas and to provide residents there with greater access to consumer, business and mortgage credit at reasonable rates.

5. The credit market must operate to meet the full range of consumer credit needs—home mortgage financing, automobile loans, home improvement loans, education loans. Any decline in the prime interest rate should immediately be reflected in interest charges. CFA urges a national commitment to reasonable allocation of credit. Lenders enjoy the privilege of participation in a lucrative field of commerce. That privilage carries with it a responsibility to operate in a quasi-public capacity.

CFA calls on lenders to assume the obligation of assuring an appropriate allocation of credit to serve the full range of needs. If the financial industry fails to meet this responsibility, federal programs—whether direct low interest loans, government insurance of private loans, or industry rationing—must be initiated to meet the dilemma caused by the inelastic availability of credit.

CFA supports in principle Urban Coalition proposals that call for making credit available to the poor on decent terms, including support of credit unions in low-income areas by encouraging government deposits in such credit unions and by providing them security, management, and technical assistance.

6. In view of the critical status of the student loan program, CFA supports without qualification federal legislation to immediately meet the shortcomings of that program.

7. CFA urges vigorous and vigilant enforcement of the federal Consumer Credit Protection Act and urges both government agencies and private bodies to distribute consumer-oriented educational materials that will help consumers use credit wisely.

8. CFA urges that finance charges, wherever required to be expressed in rate form, be expressed only as a single percentage rate, whether periodic or annual percentage rate. We oppose any legislation or trade practice that would permit expression of rates in a step or graduated form or in any other manner other than as a single annual or periodic percentage rate.

9. CFA reaffirms our adherence to the principles set forth in the March 20, 1971 policy statement of CFA's Committee on Consumer Credit Practices and Policies.

V. ENERGY AND NATUAAL RESOUACES

For each $1 of per capita income, consumers today spend an estimated 10c on energy—energy which provides the comfort and productivity essential to improving our standard of living and providing job opportunities. But consumers also pay the upkeep on a system which may be incapable of responding to future economic and environmental needs.

A new national policy on fuels and energy is required to insure an adequate energy supply at reasonable prices, which also insures effective protection of the environment.

Energy is vital to the general welfare and thus affects the public interest. Conservation of land, air, water, and minerals as well as ecological balance involves questions of public stewardship of natural resources. To give consumers the energy and the environment they seek at a fair price, greater public control of fuel and energy policy decisions is essential.

1. The federal government should immediately launch a major energy research and development program comparable in magnitude to the space effort which sent a man to the moon. Such a program must be broadly based and provide for consumer representation. It must include accelerated efforts to solve problems of air pollution, radioactive and solid waste disposal, nuclear power plant safety, water quality, land use, and esthetics, It must develop new and improved methods of recycling, reclamation and energy production techniques. Significant resources should be invested in research and development efforts to seek (A) a "clean up" of existing techniques, and (B) an advanced technology which can increase economic and environmental efficiency. Research activities in the private sector should be supplemented through a program funded and controlled by the federal government. This overall program should be directed to the simultaneous development of a variety of commercially useful systems that will provide consumers with a better choice of energy options for the future.

2 New government policies must be established to avoid waste of natural resources and energy. Congress and the Executive Branch should:

Develop policies providing a more rational location of electric generating stations and routing of transmission lines;

Provide for development of a national power grid and formation of regional bulk power supply facilities;

Promote use of waste heat from industrial plants;

Provide use of present and potential hydroelectric resources in the public interest, including recapture of federally licensed hydroelectric sites when needed in order to obtain full public benefits;

Require correction of strip mining abuses;

Provide improvements in the efficiency of energy-using equipment;

Promote mass transit and internal combustion engine alternatives;

Promote adoption of manufacturing processes and building designs that require a lower expenditure of energy.

3. Immediate action is required to insure that the public interest is protected in the formulation of future fuels and energy policies. Such action should include:

Creation of a single federal agency for coordinating and implementing the fuels and energy policy;

Establishment of public counsels to represent citizens in energy proceedings;

Increased public disclosure of information about activities of corporations in the energy field;

Antitrust and administrative action to preserve interfuel competition and protect consumers by preventing the creation or perpetuation of fuels monopolies;

An independent government investigation and inventory to determine fuel reserves;

Repeal of federal statutes and regulations including oil import quotas which support fuels quota marketing systems;

Preservation of the present system of producing and supplying energy needs through private, public, and cooperative enterprises.

4. Federal lands owned by the citizens of this country account for approximately 50% of our remaining oil and gas, 50% of our coal and uranium, 80% of our oil shale, and 60% of our geothermal resources. Congress should establish a federal energy corporation to help meet the energy needs of the nation through development of resources owned by the people and held in trust by the government, by aiding in advancing technology, by assisting in determining costs of production, by supplying an economic and environmental competitive influence, and by developing a reserve to meet national fuels crises when they arise.

VI. FOOD AND MARKETING

We believe consumers have a right to all information which enables them to choose the best value among food products. Consumers need more specific information about food products to protect their economic interest and safeguard their health.

1. Open dating. The public has a right to know the age and quality conditions of purchased food products. All food products in time lose both quality and nutritional value. Consumers have a right to know the date food products are prepared, the date they are first offered for sale, and/or the last date on which the purchaser can reasonably expect that the quality of the products has not deteriorated. All dates used on food packages should be actual calendar dates (for example, 12–10–71 or December 10, 1971). It should be clearly indicated on the package what the date represents. (For example: packed on 12–10–71; not to be sold after 12–10–71; for best quality use before 12–10–71.) All dates used on food packages should be clear, conspicuous and uniform in style of presentation. Federal and state standards should be set defininng the length of time packaged food products can be legally offered for sale. Federal and state standards should be set for preparing, packing, storing, transporting, displaying, and advertising food products when such conditions significantly relate to maintaining quality. Legislation should provide for adequate enforcement of food standards with suitable penalties against manufacturers, processors, wholesalers, retailers and other handlers, for violations of any federal or state standard. Codes now used by the food industry to conceal the dating of food products should be disclosed to the consuming public.

2. Unit pricing. The public has a right to know the unit price of competing items offered for sale. Standard units of weights and measures are essential to a competitive market system and competitive pricing is threatened by multiple-size, non-standard packages; package sizes frequently disguise rather than disclose weights and volumes.

CFA believes federal legislation should require unit pricing of packaged food products at point of sale and in advertisements. This legislation should establish:

"Unit pricing" as the term used to identify the practice of pricing by units of weight and volume;

Clear, uniform and conspicuous display of unit price information;

CFA believes federal regulatory agencies should then establish:

Specifications for unit price tags or labels, standard units of measure for product categories, and for conveniently located unit price labels;

Mandatory standardized packaging within product lines since Congress has adopted the metric system necessitating package size changes.

Until federal legislation is passed, CFA encourages local and state regulation.

3. Nutrient labeling. The public has a right to know the nutrient values of food offered for sale. Statements of nutrients should appear on labels of packaged foods and in displays of non-packaged foods. This information should include nutrient composition, calories, and the serving basis for these claims. Nutrient information should be stated in easily understood units as a portion of the Recommended Daily Dietary Allowance. Serving size should be defined by both weight and measure. Manufacturers and processors should be responsible for product analyses and for the accuracy of the nutrient claims on the labels. Nutrient information used on the labels should be set by the National Academy of Science-National Research Council. This agency should establish which nutrients are to be listed. Protein claims should be adjusted to reflect relative protein quality. Nutrient information about food products should be clearly, uniformly, and conspicuously displayed for consumers.

4. Ingredient labeling. The public has a right to know all ingredients in a packaged food whether or not a Standard of Identity has been set. If necessary, enabling legislation should be enacted to authorize FDA, FTC, USDA and other appropriate regulatory agencies to require:

Listing common or usual names of all ingredients, including food additives and their functions on labels of all food products, including those with a Standard of Identity;

Listing ingredients by percentages to enable consumers to assess economic value and food quality; and

Identifying food ingredients in terms of source such as "wheat protein-hydrolysate" rather than "protein hydrolysate," "potato starch" rather than "starch," and "peanut oil" rather than "vegetable oil."

5. Consumer participation in decision-making. The public has a right to participate in decisions relating to standards, procedures, and rules used to determine and deliver information to consumers. Prior to the adoption of any standard, procedure, or rule, consumers have a right to review the proposed determination in public hearing.

6. Fish inspection. CFA continues to seek legislation providing continuous, full-time fish and fish product inspection to adequately protect the health and safety of consumers.

7. Meat and poultry inspection. CFA opposes any weakening of the federal meat and poultry inspection laws and their enforcement. CFA supports strengthened inspection by further training and upgrading of federal inspectors and an increase in their numbers. Efforts of states to encroach on federal jurisdiction, thus weakening protection, must be fought vigorously.

8. Grading. CFA urges mandatory quality grading of foods on a uniform, nationwide basis with easily understood grades such as A, B, C, D as a means of aiding the consumer in making choices. A vigorous program of research should be undertaken to assure that grades are based on consumer preferences.

9. Food additives. Use of food additives is increasing. Questions about their safety continue. CFA urges FDA to use the best scientific and technical information in sharply intensifying its review of food additive safety.

10. Chemical and biological additives and residues. Serious health dangers exist in certain chemical and biological residues in food. CFA urges greatly increased emphasis by proper federal and state agencies in monitoring the total food supply for additives and residues such as pesticides and radioactive compounds. These agencies should review the guidelines and tolerances in light of new scientific evidence and take action accordingly.

11. Standards of identity. CFA urges development of more flexible Standards of Identity to encourage improved nutrition without having to demean the product by renaming it or branding it "imitation" or concealing its real identity.

12. Trading stamps. CFA urges prohibition of trading stamps, games and other gimmicks that have unnecessarily but significantly increased the cost of consumer goods.

13. Independent agency. CFA urges establishment of an independent agency to administer all inspection, grading, and consumer protection programs for food presently administered by the Commerce Department, USDA, FDA and FTC (other than FTC's anti-trust activities).

VII. HEALTH, DRUGS AND MEDICAL

1. CFA is convinced that the medical care crisis can be traced directly to the lack of consumer involvement in decision making. We urge immediate reconstitution of governing boards of all non-profit insurance plans, hospitals, and other health care agencies to insure consumer involvement and guarantee majority control to the subscribers of those services and plans.

2. We are deeply concerned over the crisis in health care which worsens everyday and urge Congress to enact a comprehensive national health security plan providing:

An assessment of health care delivery systems:

Establishment of education programs designed to foster good health;

Establishment of necessary preventive and outreach services;

Availability of all physical, mental, social and supportive services necessary to maintain or restore health;

Availability of rehabilitation, health maintenance and long-term care when disability occurs.

We urge Congress to recognize that catastrophic coverage is no substitute for comprehensive health coverage, though the inclusion of a realistic proposal against catastrophic health costs deserves serious consideration as part of a national health security program. Such a health plan must include rigid cost controls on the price of the delivery of medical services and modify the unlimited "fee for service" system.

3. We urge, in response to the critical shortage of physicians, federal assistance to medical schools and economically disadvantaged students to enable them to attend medical schools and appropriate inducements to graduates to locate in areas currently denied adequate medical care.

4. We urge development of community health centers making available the full range of medical services—including prenatal, pediatric, and dental care, as well as nutrition and sanitation education—so that total, effective, health care is assured to the elderly, the poor, and the rural consumer.

5. We urge legislation to eliminate co-insurance and deductible provisions of Medicare and to extend Medicare coverage to outpatients' drugs, eye care and the cost of eye glasses, dental care and the cost of dentures, and hearing aids.

6. We insist that the same nursing home standards be provided under Medicare and Medicaid as were intended by the 1965 amendments to the Social Security Act, which established those programs.

7. We urge CFA members to affiliate with prepaid group practice group health plans.

8. We urge CFA members to insure that all comprehensive health planning commissions meet requirements of law regarding majority consumer representation we urge consumer groups to provide responsible consumers to serve on these commissions. We urge that the Administration provide funds for training consumer representatives serving on health planning commissions.

9. We urge the Secretary of HEW to press for immediate promulgation of regulations directing states to survey unmet medical needs of indigent children, as required in Section 1905(a)9(4)(B) of the Social Security Act, as amended in 1967. Action to protect the health of the nation's children is long overdue.

10. We urge that before any cosmetic is offered for sale or distribution, FDA must be satisfied as to its safety and utility and must approve its label disclosing fully the composition of the cosmetic.

11. We urge licensing of drugs and medicines by generic name on federal, state, and local levels and that such name be included on all prescriptions and prescription labels.

12. We urge immediate enactment of long-delayed legislation establishing a drug compendium.

13. We are distressed by studies documenting price variations up to 1200% for prescriptions of the same drug in the same area. We believe this is due to a host of restrictions and prohibitions placed upon free competition in advertising and sale of prescription drugs by registered pharmacies:

Including prohibitions against advertising of drug prices, against discounts for older people, and against posing of drug prices in stores;

Artificial barriers to entry of discount and chain drug stores into new markets;

Restrictions on ownership of pharmacies;

Prohibitions against pharmacies in supermarkets and general merchandise stores;

Many other devices having no relevance to the public health.

CFA urges affiliates to work for repeal of all such laws and regulations. Recognizing further that restrictions against price competition for prescription drugs originate with state boards of pharmacy and that most such boards are dominated by druggists, CFA recommends inclusion of strong consumer representation on state pharmacy boards.

CFA further urges affiliates to become "friends in court" in suits challenging the constitutionality or validity of laws and regulations which inhibit drug price competition.

14. We urge enactment of legislation forbidding tie-ins between hospitals, nursing homes, and other health care providers and pharmacies. We believe it is unethical for physicians to own stock in drug manufacturing companies, drug marketing and packaging companies and pharmacies.

15. We urge the government to purchase drugs only by generic name.

16. We urge requirements that written information in understandable language be given recipients of all prescriptions explaining uses, directions, precautions and side effects—including possible hazards of mixing prescribed medication with other drugs or foods.

17. We urge a requirement for clear, prominent, expiration date labeling for drug effectiveness of prescriptions and over-the-counters.

18. The name and place of business of the manufacturer should be required on labels of all drug products.

19. Quantities of all active ingredients should be required on labels of all drug products.

20. We urge vigorous regulatory action by the FTC on advertising of over-the-counter drugs containing misleading efficacy claims, promoting insignificant product differentials, and offering drugs for the treatment of every day interpersonal and human problems. We condemn all drug advertising which encourages, through themes or saturation advertising campaigns, pill-popping as a way of life.

21. The one-million Americans in nursing homes financed under Medicare, Medicaid, and other programs should receive the highest standard of health care. Yet deeply distressing evidence mounts that many nursing homes neglect their patients, treat them with indignity, and provide minimal health care. Many state and federal agencies, including HEW and state health and welfare departments, have failed to secure the appropriations required or to exercise the aggressive leadership needed to enforce standards of safety, health, and general welfare for nursing home patients. The result is that too many elderly persons have been neglected and payments for their care misused. This failure of governmental authorities to enforce standards has induced commercial operators, looking for quick returns on their investments, to invade the nursing home field by establishing what amount to chains of motels insufficiently concerned with the health and welfare of residents in their charge and to convert nursing home programs into housing programs, imposing on the elderly a "buyer beware" philosophy.

We urge a substantial increase in direct grants and loans to non-profit and government-operated nursing homes, with an im-

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mediate, short-term goal of providing half the nation's nursing home services. We also urge substantial funds for alternative methods of care—foster homes, sheltered low-cost supervised housing and day-care centers, homemaker and home health aid services. We encourage state and community organizations affiliated with CFA to develop citizen-review teams to visit and inspect nursing homes periodically.

VIII. HOUSING

The high interest policy of this Administration has escalated the cost of homes and apartments beyond the means of the great majority of Americans seeking housing.

The 1968 Housing Act raised the expectations of the American people that under its interest subsidy and rent supplement provisions, massive low- and moderate-income housing programs would be undertaken. This Administration drastically curtailed federal funds for housing and urban development. Miniscule appropriations have been made for interest subsidies and rent supplements to provide housing for families with limited financial means.

We recognize that by failing to meet minimum national housing goals we are requiring millions of Americans to continue living in deplorable housing in urban as well as in rural areas. For tens of millions of Americans to endure the misery of indecent, unsafe, and unsanitary housing is a national disgrace. Numerous Presidential commissions have warned of the dangers that exist in our cities because of decay and uncontrolled blight. In a nation where the gross national product is almost a trillion dollars, it is inexcusable that such inhuman conditions exist and that the Administration does so little to effect improvement.

1. We urge Congress to establish a National Bank for Housing that can, through flexible interest rates and subsidies, provide adequate financing for comprehensive, coordinated programs aimed at producing low- and moderate-cost housing on a massive scale.

2. We urge Congress to abolish unrealistic income restrictions on housing supported directly or indirectly by the federal government.

3. We urge elimination of zoning regulations and building codes that restrict the development of housing for all.

4. We recommend those CFA member organizations, such as the rural electric cooperatives in Wisconsin and Arkansas, which have spearheaded and supported low- and middle-income housing.

5. We urge Congress to require accountability and responsibility from builders and developers who are subsidized by government monies. A home buyer has a right to expect a certain quality of construction at the lowest possible cost to protect his immediate investment and unnecessary costs in the future.

6. We urge Congress to require that topsoils and trees be conserved so that landscaping costs to homeowners can be reduced and needless soil erosion avoided. Such a policy would also enhance the aesthetic value of the area.

7. We urge Congress to provide necessary funds for adequate slum clearance in urban and rural America. We also urge HUD to maintain housing projects standards including construction and maintenance, at a level which will eliminate slum conditions, provide housing based on low- and middle-income family needs and protect dwellers from unreasonable profiteering by project developers.

IX. THE LOW-INCOME CONSUMER

CFA, in its effort to promote the rights of all consumers in harmony with the general welfare, encourages member organizations to include active participation of low-income people. If we are to develop full potential, we must not overlook the masses of poor people discriminated against in the market place. The low-income consumer may be a retiree living on a fixed income, an aid-to-dependent-children mother trying to find shelter for her children, an unskilled worker with a credit problem, a Spanish-speaking migrant who is the victim of the language barrier, a student, or a young adult. These people need assistance, and we need their support. We must join forces.

1. Many low-income consumers are denied easy access to competitively priced goods and services because of the lack of outlets and available credit sources in low-income communities, forcing many poor consumers to trade at high-priced stores which subject them to the evils of "easy" credit and door-to-door sales abuses. We urge local businesses and business organizations to secure establishment of low-priced, competitive businesses in low-income areas. In addition to private efforts, federal and state housing, small business and model cities programs should be required to consider inclusion of such facilities in their plans affecting low-income areas.

2. Low-income consumers have special problems and directly suffer when their problems are not considered by consumer groups and consumer protection councils. They have special economic problems and special health and nutritional needs. We urge all consumer groups to solicit membership among the poor and to develop programs to alleviate their problems. We also urge all public agencies involved in consumer protection and services to insure meaningful participation of low-income consumers in policy and program development and to include representatives of the poor on all citizens advisory groups. We further urge that low-income consumers be included in CFA efforts to expand consumer organizations and that special funds be made available by CFA affiliates, particularly labor, credit unions and cooperatives, to organize low-income consumers.

3. We urge immediate elimination of discriminatory utility practices, including deposit requirements.

4. We urge the enactment of legislation guaranteeing to all consumers adequate insurance coverage at reasonable rates regardless of location. Government subsidies should be available if necessary. We urge that state insurance commissions be responsible for plans that asssure the low-income consumer equitable protection.

5. We urge initiation, both on the national and state level, of a review of banking practices specifically as they relate to low-income groups, and we seek a commitment from the credit industry to establish credit for the poor at reasonable interest rates an on appropriate terms and repayment plans.

6. We urge investigation and correction of discriminatory practices against the poor, including differential mail order catalogs, door-to-door sale frauds, inadequate services, and stores with shoddy merchandise.

7. CFA urges reform and extension of the food stamp, school lunch and breakfast programs. Among changes we seek are provision of free stamps, lunches and breakfasts to all persons with incomes below the poverty level, an increase in the cost per meal available under these programs, a choice by the low-income consumer of participation in the food stamp or commodity distribution programs, relaxation of the onerous and discriminatory food stamp work requirement, and mandatory operation of these programs in all US counties and cities.

8. We urge federal support for innovative community programs to provide low-cost food and homemaker/home-health-aide services for shut-ins, the elderly, and others who have special needs.

9. We urge establishment of preventive health methods to insure good nutrition in all foods including snack foods which should be nutritionally fortified.

10. We urge establishment of locally controlled and locally run consumer organizations in low-income areas. These organizations should handle consumer complaints of members, and when appropriate, engage in direct action, including picketing for redress of consumer grievances.

11. We urge enactment of federal legislation in support of a guaranteed annual income equal to the modest but adequate Family Income Budget, and adjusted to changes in the Consumer Price Index of the Bureau of Labor Statistics.

X. TRANSPORTATION

1. Balanced transportation. CFA supports a balanced transportation system based upon the community design concept embodying land-use studies, housing developments, community facilities, work opportunities, and all other relevant aspects of planning.

Although more than nine-tenths of the US interstate highway program is completed, the transportation crisis grows. A major reallocation of financial resources is indicated. A different set of values must be endorsed to achieve a balanced transportation concept. As an immediate goal, CFA urges application of federal-state resources to create the required balanced system. For support of mass transportation, we suggest utilization of Highway Trust Funds together with funds now allocated Department of Transportation and HUD programs.

2. Public transport. CFA supports the state transit authority concept with broad powers to move effectively in using available financial resources. Public transportation should become a national objective with the highest possible priority, producing a convenient, economical, and ecologically safe and sound system of moving people within cities and in rural areas as well as between cities. Public transportation is a public necessity. As a consequence, it can no longer be assumed that passengers alone should absorb the cost of the transportation system. A public corporation, subsidized by the state and/or political sub-division with access to state funds including highway user funds must be established. The public transit authority should be as flexible and imaginative as each separate set of transportation facts demand. While rapid rail service might be most appropriate in the crowded Northeast corridor, other sections of the nation may have different needs requiring different solutions.

3. Auto and highway safety. CFA again calls for undiminished efforts to improve safety in design of streets, highways and cars that use these facilities. More than 100-million cars now registered cause an annual death toll of 56,000. An additional 4½-million sustain injuries. The economic loss is estimated at more than $16 billion. Automobiles can be built to be safer. Better restraint systems, protective padding, and safe interior design can do much to reduce loss of life and suffering. Exteriors of automobiles can and should be designed to eliminate spear and cleaver protrusions that aggravate injuries in car-pedestrian accidents. Maximum level safety standards for new and used cars should be supported and developed under stringent federal leadership. Insurance carriers must be encouraged to provide lower premiums for vehicles which, because of their design, reduce the incidence of injury and lower repair costs.

4. Auto insurance. We urge again that Congress establish and enforce nationwide, minimum standards of operation for auto insurance companies. Licensed drivers need universal acceptance and protection against arbitrary and capricious policy cancellation victimizing old, young, poor and minority consumers.

Consumers face continued increases in premiums for mandatory auto insurance usually required by state law. The present automobile liability insurance system is slow, expensive, unfair to consumers and accident victims. CFA urges prompt enactment of comprehensive no-fault auto insurance. Group auto insurance should be considered as a means of curbing escalating premiums; CFA urges elimination of state laws prohibiting such cooperative efforts.

5. Charter flights. Consumers need access to all forms of transportation and the right to spend travel dollars as they choose. Several CFA members participate in low-cost educational, cultural, and recreational travel by chartered aircraft. These groups resent roadblocks placed on such travel by restrictive and complex rules of the Civil Aeronautics Board, some foreign governments, and the International Air Transport Association.

CFA asks the CAB to loosen restrictions on travel group charters before taking final action on its proposed new travel group charter concept. We urge adoption of the European plan of inclusive tour charters; we further request the State Department to negotiate agreements with foreign governments that assure charter travelers the same landing and up-lift rights guaranteed to those using scheduled services.

XII. OTHER AREAS OF CONCERN

1. Class action. Since individual redress of a consumer grievance is often unavailable or too expensive to pursue in the courts, it is imperative that consumers and consumer groups have the right, free of triggering devices, to maintain class actions.

2. Independent consumer protection agency. We endorse creation of an independent consumer protection agency with full powers of advocacy and capable of representing consumers before all government agencies and the courts. The new agency must have full powers of investigation, subpoena and intervention in formal and informal proceedings. It must have full access to judicial review and maximum independence from the Executive Branch.

3. Consumer groups. We urge federal legislation to finance creation and continued operation of strong, independent, state and local consumer groups.

4. Corporate responsibility. CFA pledges to work with like-minded groups in a continuing campaign to hold corporations accountable for practices and policies inimical to consumers and the public good and to encourage greater measure of social responsibility in the use of their tremendous power in controlling the social and economic life of the nation.

5. State-local consumer offices. States have jurisdiction in vital areas affecting consumers where consumer exist, CFA vigorously endorses strong state and local consumer offices to represent consumers, backed with effective laws, staff, and budget. We recognize the need for federal-state coordination, commend federal-state cooperation, emphasize effective state and local consumer representation and protection, and commend the President's Special Assistant for Consumer Affairs for establishing an office of federal-state relations to work with state offices and encourage state consumer protection.

6. Funeral industry. CFA recognizes that continuing problems in the funeral industry require united consumer action. The consumer's right to know is denied by the difficulty of comparing prices. The consumer's right to choose is rendered meaningless once he brings the deceased to a funeral home. The buyer is highly vulnerable to customary selling practices that encourage unnecessary expenditures. The consumer's legal and political rights are too often compromised. With few exceptions, state regulatory boards are composed of funeral directors and are without effective consumer representation. The funeral industry maintains a strong lobby, and legislation regulating funeral practice is often designed to promote the interests of the funeral industry at the expense of the public welfare. CFA pledges cooperation in developing group, pre-planned, pre-paid funerals as one means of correcting these abuses.

7. Regulatory appointments. Consumers have a vital stake in the policies and practices of local, state and federal regulatory agencies. Appointments to these agencies fundamentally concern organized consumers. CFA urges the President to consult with national, state and local consumer organizations in regulatory appointments having an impact on the consumer. CFA also urges its affiliate organizations and their members to express this view to the appropriate state and local authorities.

8. Administrative procedures Act. Consumer protection agencies each year change thousands of regulations having impact of law. Most changes are minor. Many have more important consequences than congressional amendments to authorizing legislation. The consumer often does not know that an agency is considering a change in a regulation, and he cannot compete with well-financed, expert trade associations in evaluating this change. CFA urges Congress to reconsider the Administrative Procedures Act, and asks each agency dealing with consumer protection to review its procedures. We urge regular congressional inquiry into consumer involvement in such procedures.

9. Repair services. Every consumer organization involved in considering consumer complaints reports unsatisfactory repair service as a major area of consumer frustration and concern.

Recognizing the prevalence and severity of repairs of automobiles, radio and television, appliance and home repairs as sources of consumer complaints, we urge local, state, and national action:

Registering establishments engaging in repair work and making such establishments responsible for quality of repair and for truth-in-advertising services.

Policing repair establishments to assure that consumers seeking repairs obtain satisfactory service at reasonable costs.

SPECIAL RESOLUTIONS

1. No-fault auto insurance. We endorse and urge prompt enactment of Federal legislation to provide no-fault automobile insurance, as proposed by Senators Hart and Magnuson.

2. Earth week. We endorse the Joint Resolution of Congress designating the third week of April of each year as Earth Week.

3. Truth-in-advertising. We support enactment of the Truth-in-Advertising Bill introduced by Senators Moss and McGovern to require advertisers to make public documentation of claims as to product performance, safety and price comparisons.

4. Children's advertising. We abhor the exploitation of children ad merchandising vehicles through the proliferation of commercial advertising in broadcasting periods during which children constitute the major audience. We support proposals before the Federal Trade Commission and Federal Communications Commission for stringent rules to sharply limit advertisers' access to children's minds.

5. Consumer representation. We urge the enactment of S. 607 to make available funds and expertise to represent the consumer interest in regulatory agency proceedings.

6. Consumer credit. We urge support of the following actions to improve the state of consumer credit:

Sen. William Proxmire's Fair Credit Billing Act.

FTC's proposed trade regulation rule calling for cooling-off period on door-to-door sales.

FTC's proposed trade regulation rule abolishing holder-in-due course.

credit collection practices.

Any investigation, legislative or administrative, directed toward limiting abuses of

The truth-in-saving bill introduced by Rep. William Roy, Senator Vance Hartke et al.

7. FTC effectiveness. At least thirty bills are pending in Congress to prevent the FTC from completing litigation which may save the consumer five percent or more in the cost of national brand name soft drinks. These bills are the result of strong industry lobbying efforts, and at least one of the bills, H.R. 12261, is word-for-word a copy of a bill drafted by an association of bottlers. CFA deplores political interference in the legal regulatory process and strongly urges that Congress reject any action frustrating FTC's ability to perform its essential function of watchdog in the market place.

8. Price competition. CFA applauds FTC's January 24, 1972 complaint against the four largest cereal manufacturers. For many years there has been no price competition in the ready-to-eat breakfast cereal industry due to mergers, false advertising, meaningless proliferation of brand names, substitution of product imitation for product innovation, and control of shelf space by Kellogg, the industry's largest producer. These practices result in no benefits to the consumer, permitting industry giants to charge monopoly prices. It is urgent that FTC expeditiously pursue this matter to a satisfactory end and take decisive action to restore price competition at the retail level. It is equally important that FTC pursue the policy set out in the "cereal" complaint in other concentrated industries, starting with those which impose oligopoly-based overcharges on the consumer. Only in this way will individual consumers enjoy benefits intended under government enforcement of antitrust laws.

9. Legal assistance. We urge Congress and the President to assure continuation of Rural Legal Assistance and Urban Legal Assistance Programs.

10. Poverty programs. We urge Congress and the President to assure continuation of the Office of Economic Opportunity which involves participating of the poor in planning and implementing programs to combat poverty.

11. Insurance abuses. We urge prompt enactment of legislation to curb abuses by insurance companies and lending institutions in the sale, pricing and administration of credit life, accident and sickness insurance.

12. Fish inspection. CFA deplores the fish inspection bill passed by the Senate in December 1971. The measure would lull the consumer into a sense of security without providing protection. We urge the House to pass only legislation providing full time, continuous fish inspection, as provided by Senator Philip Hart's 1970 bill.

13. Mortgage counseling. We urge that Congress appropriate funds for Sec. 237 of the National Housing Act to provide adequate mortgage counseling for low income homeowners, and that in the meantime, state and local consumer organizations provide to the extent possible such counseling on a voluntary basis.

14. AFL–CIO price monitoring watch-dog program. Though a Price Commission has been created by the Administration presumably to control prices and keep inflation within reasonable boundaries, the plain fact is that retail price controls are virtually non-existent. The Price Commission itself contains no consumer voices in its membership.

There have been few meaningful, specific adjudications to control retail prices and those few are not being enforced because the Administration has made it clear that its essential enforcement will be "voluntary."

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It is a matter of record that much of the merchandise exempt from controls has experienced drastic price increases while those items covered by action of the Price Commission are also on the increase. For example: 98 percent of the companies which have asked the Price Commission for increases have been granted their requests.

In light of the absence of serious and meaningful Price Commission controls, it is imperative that consumers undertake price policing activity in their own defense. In recognition of this very distressing situation, the AFL–CIO has organized a Price Monitoring Watch Dog Program which is attempting on the local level to act as a surveillance operation which hopefully may help stem the tide of rising prices. This trade union activity is a most worthy action on behalf of consumers.

Therefore, CFA approves and applauds this action of the AFL–CIO and urges its state and local affiliates to support these efforts of the AFL–CIO Price Monitoring Watch Dog Program which are so clearly in the interest of the American consumer.

15. Medicare. The President promised at the White House Conference on Aging and in his State of the Union Message that he would recommend elimination of the premium payments by beneficiaries to supplementary medical insurance (Part B of Medicare). In order to protect the Social Security Trust Funds and place no additional burden on payroll taxes, CFA urges that all costs of the Part B funds of Medicare be provided in the future from general revenues.

16. Pending legislation. CFA endorses and supports:

The independent consumer protection agency bill pending in the Senate Government Operation's Committee

The truth in food labeling act introduced by Sen. Frank E. Moss (D-Utah) and Sen. Vance Hartke (D-Ind)

The product warranty bill introduced by Sen. Warren Magnuson (D-Wash) and passed by the U.S. Senate

The product safety act now pending in the Senate Commerce Committee

17. Flouridation. We favor the addition of fluoride to community water supplies in localities that do not now have safe and effective levels of fluoridation.

18. Distributorships. We urge that FTC and SEC immediately use their existing authority to protect the public against the multi-level or pyramid form of distributorship plan being sold in most states. We pledge support for comprehensive federal and model state legislation to eliminate these forms of predatory enterprises.

19. Memorial. We pause in the memory of those who served the consumer cause for many years and died this past year. Their leadership meant much not only to CFA but to all consumers. We honor the memory of Robert L. Smith, Morris Kaplan, James Mendenhall, and John Edelman.

20. Appreciation.

CFA authorizes and directs the executive director to extend our thanks and appreciation for the time, effort and resources expended by the Committee on Consumer Credit Practices and Policies in drafting the CFA Policy Statement on Consumer Credit Practices and Policies of March 6, 1971. (Final copy to include list of names of committee.)

We express our appreciation to all program participants, the press, radio, television, the Statler Hilton staff, and all others who contributed to the success of CFA meetings.

We express our appreciation to the member organizations that shared staff with CFA to make Consumer Assembly possible—Cooperative League of USA, National Farmers Union, and National Rural Electric Cooperative Association.

We express our appreciation for the work of the executive director and the staff for their untiring efforts on behalf of CFA.

NECESSARY PERMANENT MILITARY FACILITIES

Mr. COOK. Mr. President, last week, along with the Senator from Tennessee (Mr. BAKER), I visited Fort Campbell, Ky., which is to be the permanent home of the 101st Airborne Division—Airmobile. We were impressed with the leadership that is being exercised but are convinced that there is much that Congress can and must do to provide necessary permanent facilities.

Senators are aware that the demands of the Vietnamese conflict seriously have curtailed the authorization and appropriation of funds for construction throughout the Military Establishment. However, now that the troops are being withdrawn and the selection of permanent homes has been made for those units which are to remain in the inventory, we urge that funds be authorized and appropriated for adequate facilities.

We are proud that Fort Campbell has been selected as the permanent home of the 101st Division. It is even more important that the individual soldier in the division is proud for Fort Campbell. A man who can be proud of his leaders, of the way he lives, of the way he does his job, and of the way his dependents are supported is an individual who can well take pride in being a soldier. From this pride in self it is only a short step to high morale. We have an opportunity here to help the military recapture that part of the pride in being a soldier that may have been lost during the last few troublesome war years. In our visit we reviewed each MCA project requested for Fort Campbell for fiscal year 1973, which includes the expansion of the airfield complex, modernization of the living quarters for enlisted men and officers, and the construction of recreational facilities and a commissary. We found each project to be essential and we urge that each be approved.

In a sense, Congress is on trial here. Congress has limited the extension of the draft and directed the military to develop an all-volunteer force. In return the military has launched a vigorous campaign to achieve this objective. In order to attain any degree of success in recruiting an all-volunteer force, the military must be able to offer the individual modern housing, more privacy, as well as adequate recreational, medical, and commissary facilities for himself and, where authorized, for his dependents. Fort Campbell offers many of these facilities. However, neither the soldier nor his dependents are being supported to the standards guaranteed to him by the recruiter.

The authorization and appropriation of funds for the fiscal year 1973 MCA projects requested for Fort Campbell, as well as for those required for the design of a modern hospital and adequate family housing, would de much to improve the facilities, and we support and urge their approval.

THE FEDERAL GOVERNMENT HAS A RESPONSIBILITY TO PROTECT STATE AND LOCAL GOVERNMENTS AGAINST THE BUSINESS CYCLE

Mr. PROXMIRE. Mr. President, in our recent annual report, the Joint Economic Committee has again recommended that Congress enact legislation which would help State and local governments survive periods of high unemployment. When unemployment is high and personal income growth is reduced, revenues fall off correspondingly at all levels of government. As we all know, Federal revenues in fiscal 1972 will be about $27 billion below what they would have been at full employment. The same thing happens at the State and local level. Precise estimates are lacking, but in calendar 1971, State and local tax revenues may have been about $7 billion below what they would have been at the same tax rates if the unemployment rate had been 4 percent.

The Federal Government can protect itself against this revenue loss. Indeed, the Federal Government's ability to engage in deficit financing helps to stabilize the economy and prevent recessions from becoming worse. State and local governments do not have this ability to finance deficits through borrowing. They must either raise tax rates, cut back on services, or both. Raising taxes and reducing services is precisely the wrong thing to do in a recession. The Federal Government, if it cannot always succeed in maintaining full employment, at least has a responsibility to protect State and local governments from the consequences of our failure to better manage the economy.

This protection can be provided through a system of Federal grants related to the unemployment rate. No grant would be made when the economy was at full employment, but if unemployment rose, the grants would begin and would be adjusted in amount according to the severity of unemployment. This would enable State and local governments to estimate their total revenues on the basis of a full employment economy and to plan their expenditures accordingly. This in turn would protect our citizens against cutbacks in public services and tax increases in time of recession. It would protect our economy against the intensification of a recession caused by the present necessity for State and local governments to make destabilizing tax and expenditure changes.

Of course, there would be many administrative problems to be worked out in order to develop an effective and smoothly functioning program of countercyclical grants. But these problems are not insurmountable. I ask unanimous consent to have printed in the RECORD an article written by Profs. A. Dale Tussing and David Greytak, of Syracuse University, which spells out in some detail one possible scheme for countercyclical grants. I hope the article will provide further discussion of this approach to reducing unemployment and strengthening our economy.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

REVENUE-STABILIZING GRANTS: A PROPOSAL

(By A. Dale Tussing and David Greytak)

FOREWORD

This paper was first presented at the annual Conference on Taxation of the National Tax Association at Kansas City, Missouri, on September 27, 1971. The paper has been accepted for publication in an early issue of *Papers and Proceedings of the National Tax Association*. The ideas it contains are important and timely enough, however, that they deserve to be disseminated now.

A. Dale Tussing is Associate Professor of Economics and David Greytak is Assistant Professor of Economics in the Maxwell School. The research reflected in this paper was supported in part by this Program and also by a grant from the Paul H. Appleby Fund of the Maxwell School. The authors wish to acknowledge the valuable assistance in the research and writing of the paper by Mr. Thomas Carroll, a graduate student in the Economics Department.

GUTHRIE S. BIRKHEAD,
Director.

The purpose of this paper is to propose a scheme for intergovernmental grants or revenue-sharing, to be called Revenue-Stabilizing Grants (RSG's), whose purpose, in brief, is to provide federal transfers to state and local governments during periods of downturn in general economic activity, such as to offset any decline in state and local tax and nontax revenue attributable to the economic decline.

This paper also provides estimates of the dollar amounts involved, and suggests allocational formulae, but these are necessarily preliminary rather than definitive.

As this is written, the Congress has before it the revenue-sharing proposals of President Nixon and others. The present proposal is in no way a substitute for these. The case would be equally strong for the present proposal, we believe, whether the Congress enacts the President's scheme, some other substitute, or none at all.

THE CASE FOR REVENUE-STABILIZING GRANTS

The basic proposal is very simple. Should national unemployment rates exceed a predetermined threshold, such as five percent, for a given period of time, such as three months, the federal government would transfer to states and localities the estimated difference between their actual revenues and the revenues they would have raised at a designated "full-employment" level such as four percent unemployed.

Ways of achieving such a transfer program will be discussed later. In this section, we shall discuss the consequences of successful introduction of an RSG scheme.

It is fairly generally agreed that states and localities should leave countercyclical fiscal policy to the federal government, for a variety of well-known reasons.* It is not the purpose of this proposal that states and localities be made agents of federal anti-recession fiscal policy. On the contrary, it is our purpose to *neutralize* the net influence of states and localities. Presently, their influence is procyclical; because of revenue losses in periods of economic slack, and because of a common requirement for budget balance, these governments are forced to restrict their spending during these periods (or to raise tax rates), thus aggravating any decline. Their spending consequently speeds up in prosperous times, perhaps aggravating inflation. Adoption of some form of RSG would mean that states and localities could budget every year (in terms of estimating revenue) *as if* there were full employment, and could ignore the actual business cycle.

The purpose is not merely to avoid a procyclical influence from state and local governments, the macro effect. It is also to relieve the cyclically-induced pressures on these governments, and to increase the efficiency of their budget processes. If state and local government revenue systems are even moderately sensitive to cyclical influences, induced reductions in their expenditures mean, *ceteris paribus*, a real shift away from state and local expenditures in cyclical downswings. These allocational consequences are presumptively inefficient. They are even more so, if it is true, as is widely believed, that institutional factors (multiplicity of jurisdictions, inelastic revenue systems, interjurisdictional tax competition) hold state and local expenditures below optimal levels anyway.

A device such as the RSG also adds, in effect, another automatic or built-in stabilizer to the Federal fiscal system. Our proposal has some resemblance to proposals made in the past for so-called "formula flexibility," though these have without exception involved tax-rate changes. Tax-rate formula flexibility (or its alternative, limited executive discretion over tax rates) seems more politically and constitutionally sensitive than the technique proposed in this paper. It is regarded as highly unlikely that the Congress will, in the sense implied by tax-rate formula flexibility, cede any of its taxing powers. The chances for the present proposal seem more promising, since it involves grants-in-aid similar to those already used in a variety of programs.

Finally, the scheme proposed here would have an added, though minor, salutary effects. To the extent that states (and even localities shy away from reliance on income-based taxes for raising revenue because they fear the cyclical consequences of using a tax with a high short-run (cyclical) income elasticity, the present scheme overcomes an argument against the use of such taxes. (This is probably not a major reason for reluctance to use such taxes, however.)

DETERMINATION OF AMOUNT AND ALLOCATION AMONG UNITS

Ideally, an RSG system would operate through a series of equations, one for each chosen state or local government unit, each one estimating the full-employment-equivalent revenue yield for that unit, so that comparisons could be made between that estimate and actual revenues. Where national unemployment rates exceeded the chosen threshhold level, *e.g.*, five percent, there would be an automatic federal transfer to that unit. Total RSG payments would merely be the sum of individual payments, estimated from the thousands of individual, empirically-based, local equations.

A national unemployment-rate threshhold is suggested for two reasons. First, the system would be needlessly complex if *any* variation in unemployment rates, no matter what the level, resulted in increases or reductions in compensatory payments to state and local governments. What is desired is not a continuously-operating fine-tuning system, but rather one which is available in cyclical emergencies. The reason a national rather than a state or local unemployment rate is chosen is so that RSG's not compensate for governmental revenue losses which are the result of regional, structural unemployment. (This does not necessarily imply an objection to such aid for depressed regions, but only that such aid should not be combined with cyclical relief.)

The technique described as "ideal," consisting essentially of thousands of individual estimating equations, is impractical. One doubts that sufficiently accurate and comparable data exist upon which to base such estimates, and even if it did, the task would be enormous (and never completed—all such equations would have to be continuously updated). Putting aside these difficulties, it is not clear how legislation would be written to incorporate or authorize use of the equations. Finally, one suspects that this technique would provide results only after long lags.

At the other extreme in simplicity or promptness would be the method of estimating, with one equation, the total state and local revenue loss resulting from high national unemployment rates, and then apportioning a total grant equal to that loss according to some rule of thumb. One such rule would be per capita allocation, as in the Heller-Pechman-Nixon scheme. Another would be a distribution according to the unit's share of total state-local own-raised revenues, in a previous full-employment period.

These rules, while they have the advantage of promptness, simplicity, and certainty, have a serious failing. They do not distinguish between units which have highly cyclically sensitive revenue systems from those that do not. This means that in periods of recession, those with cyclically insensitive systems would receive windfall gains, while those with sensitive systems would not be fully compensated for their loses. Besides not fully achieving the objectives of the system, such a rule would also raise serious equity problems.

A simple compromise between the extremes is proposed. An aggregate amount of loss is determined by a single estimating equation. It is allocated among units according to each

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* There are three main reasons. (1) Open economies. States and localities have, in effect, "open economies," which engage in very considerable amounts of "foreign trade" with other regions. There is consequent inability to contain the effects of counter-cyclical fiscal policy within the boundaries of the jurisdiction. The problem is a familiar one of "spillovers" in fiscal federalism. Other things being equal, the larger the unit the less "open" it is, and the more self-sufficient it is. But other things do not tend to be equal; the largest units (*e.g.*, California, New York) also tend to be more economically advanced and hence highly integrated with other areas; and they also tend to include within them large metropolitan areas which in turn tend often to be multistate. (2) Properties of debt. Countercyclical fiscal policy requires the use of debt finance, and federal debt differs in three important respects from municipal debt. First, federal debt tends to be *internal* (Federal obligations are owned within the jurisdiction of the United States), where municipal debt tends to be external (obligations owned outside of the issuing jurisdiction.) The significance of this difference, in turn, is that when a debt is external, interest payments and principal repayments are a real burden to the debtor jurisdiction, requiring a transfer of resources to others outside the jurisdiction, whereas with internal debt, interest and principal payments are merely redistributive and not resource-using. Moreover, interest costs are affected (via credit ratings) by the extent of indebtedness, for states and localities, but not for the federal government. And finally, only the federal government can be completely assured of its ability to service and repay its debt, since it has the power to monetize the debt, either indirectly through the Federal Reserve System or directly through "printing money." (3) Security. Only the federal government can be reasonably sure that, by undertaking anti-cyclical deficit-financed expenditures, it will be able to raise employment and income, and thereby assure the existence of a strong base for income and other taxation to service and repay the debt. States and localities run the risk, by contrast, that in spite of their efforts the downturn may continue or even worsen, meaning a greater real debt burden imposed upon a shrinking revenue base.

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unit's share of total state-local own-raised revenues weighted by the cyclical income elasticities of the revenue sources used. That is,

$$G_i = \frac{\sum_j \epsilon_j R_{ij}}{\sum_j \sum_i \epsilon_j R_{ij}} T \text{ where}$$

G_i = grant to ith state or local government unit, in dollars;
ϵ_j = short-run (cyclical) income elasticity of the jth tax type (income, property, sales, etc.), computed nationally;
R_{ij} = the ith state or local government unit's total revenue yield in the last previous three successive years of sub-5% unemployment from revenue source j; and
T = the aggregate amount to be distributed, determined separately (exogenously).

For instance, assume a locality has raised a sum of $1,500 million in revenues in the previous three years, consisting of $750 million in property taxes with a short-run elasticity (let us assume) of 0.2, $250 million in sales taxes with an assumed elasticity of 1.0, $250 million in payroll taxes with an assumed elasticity of 1.5, and $250 million in nontax revenues, with an assumed elasticity of 0. Its weighted total revenue would be

0.5 times $750 million equals $375 million.
1.0 times $250 million equals $250 million.
1.5 times $250 million equals $375 million.
0 times $250 million equals $0 million.
Total $1,000 million.

Other units' revenues would be similarly weighted, and all of the weighted revenues summed. Each proportion of the total RSG (T) would be its proportion of the sum of weighted revenues.

The result is that units with little reliance on cyclically sensitive taxes would receive little in grants; those with greater reliance on them would be compensated.

A possibly simpler alternative method would be to make separate estimates of the total revenue lost by all units from each major revenue source. That is, estimate state and local total revenue loss from, separately, income taxes, sales taxes, property taxes, etc. Then allocate each total according to each unit's relative use of that revenue source in the previous three-year period. That is,

$$G_i = \sum_j G_{ij}$$

$$G_{ij} = \frac{R_{ij}}{\sum_i R_{ij}} T_j \text{ and}$$

T_j = the total amount to be distributed for the jth source, determined in aggregate separately (exogenously) for each revenue source.

FINANCING RSG'S

A question remains concerning the appropriate method of financing RSG's. The main questions are whether they should be funded through ordinary Congressional appropriations (implying reliance on general revenues), or whether a trust fund should be established, and if so, through use of what revenues.

There are a number of advantages to the use of trust funds. They could provide for prompt, virtually automatic payment—certainly a desideratum where anticyclical action is concerned. Moreover, since one objective is that government units behave *as if* full-employment revenues were assured, certainty is an important characteristic of the system. State and local executives and legislators will be more reassured by an amply endowed trust fund than by statutory authorization unfunded by appropriations.

One other potential benefit could accrue from the use of a trust fund. The trust fund's surpluses in years of unemployment under five percent could have a desirable restraining effect upon the economy, depending upon Congressional and executive behavior.

An effort should be made to assure that trust fund balances are sufficient not to be depleted in the midst of a sharp recession. As additional protection, the trust fund should be empowered to borrow from the Treasury.

If a trust fund is used, how should it be financed? There is no reason, as there is in the Heller-Pechman-Nixon proposals, to make the financing technique insensitive to the business cycle. Indeed, a technique which provides for trust fund receipts to vary positively with the general level of economic activity would seem desirable. Two possible techniques would be to set aside a fixed percentage of federal revenues, or to set aside a fixed percentage of combined state and local revenue. By the latter we do not mean that state and local revenues would be used to fund the trust fund, but rather that the federal treasury would set aside an amount computed by reference to state and local revenues. (There might be a temptation to draw an analogy to unemployment insurance and "tax" states and localities to finance the trust fund, but such an approach ignores the federal responsibility for guaranteeing full employment, and consequently full employment revenues.)

The amounts involved are not large. If Congress would provide an initial appropriation of $6 billion, annual increases of $1.5 billion (or about one percent of state and local revenues) would be sufficient to keep a one-recession minimum balance, assuming four years between recessions to restore balances. The amounts could, of course, be modified as experience dictates.

One final comment concerning trust funds is appropriate. For a number of years, reformers have urged a more prompt and flexible set of discretionary fiscal policy tools. For reasons of timeliness and neutrality, they have concentrated their proposals on the tax side, advocating variations of "formule-flexibility" or formula-triggered executive discretion over tax rates. Congress, jealous of its constitutional taxing powers, has not been interested in ceding any of them, either to the president or to a computer.

Advocates of such reform would be well-advised to look as we have into the trust fund device. Unemployment rates and/or other series could be used to unlock the fund for use for transfer or resource using expenditure, or even to trigger tax rebates, or for a variety of other possible uses. Surely a better technique could be found in the trust fund device than the recent depreciation-rule changes made by the executive branch for similar purposes.

ESTIMATED REVENUE LOSSES

Simple, preliminary estimates of cyclical state and local revenue losses are provided in Table I. We have used others' estimates of the income-elasticity of state and local revenue systems and of potential GNP (at four percent unemployed).

TABLE I.—ESTIMATES OF CYCLICAL STATE AND LOCAL GOVERNMENT REVENUE LOSSES (QUARTERS IN WHICH THE NATIONAL UNEMPLOYMENT RATE EXCEEDED 5 PERCENT)

[Billions of Dollars]

Quarter	Medium elasticity estimate	Low elasticity estimate
49–II	0.2526	0.2242
49–III	.2611	.2321
49–IV	.3515	.3121
50–I	.1809	.1604
50–II	.1174	.1041
54–I	.2293	.2023
54–II	.2998	.2646
54–III	.2784	.2458
54–IV	.2077	.1834
58–I	.8461	.7497
58–II	.9158	.8117
58–III	.7659	.6791
58–IV	.6547	.5805
59–I	.5961	.5286
59–II	.4508	.3995
59–III	.6748	.5989
59–IV	.6425	.5703
60–I	.5289	.4696
60–II	.6662	.5915
60–III	.8408	.7469
60–IV	1.0362	.9207
61–I	1.2044	1.0705
61–II	1.0735	.9544
61–III	.9721	.8644
61–IV	.8484	.7545
62–I	.7895	.7024
62–II	.7010	.6237
62–III	.6826	.6060
62–IV	.6963	.6199
63–I	.7667	.6828
63–II	.7865	.7006
63–III	.6979	.6219
63–IV	.6595	.5878
64–I	.5714	.5093
64–II	.5132	.4576
64–III	.5102	.4551
64–IV	.5630	.5024

Note: Federal State Coordination of Personal Income Taxes, Report A–27, Advisory Commission on Intergovernmental Relations, October 1964 p. 43. Actual and potential GNP estimates were obtained from "Technical Notes for Estimates of the High Employment Budget" unpublished memo prepared by The Federal Reserve Bank of St. Louis, September, 1970, Table 1, quarterly estimates of State and local government revenues were made available by the U.S. Office of Management and Budget through the courtesy of Charles M. Mohan.

The method used was to multiply the difference between potential and actual GNP by the product of the income elasticity estimate and the current actual ratio of state and local taxes to GNP.

The cumulative revenue losses over a full cycle appear to lie in a range below $6–7 billion. Data are not available on the current recession, but casual evidence suggests that revenue losses may exceed this range.

Indeed, it was the severity of the present state and local fiscal crisis that prompted the present proposal. Recession-induced revenue shortfalls are not, of course, the only factor responsible for the crisis, but they are a major factor, and in our opinion an avoidable one. That being the case, it is all the more regrettable that these government units have engaged in such inefficient and inequitable behavior. Our hope is that they need not do so again.

SCHOOL BUSING

Mr. CASE. Mr. President, like many other Senators, I have received a great deal of correspondence recently on the subject of school busing. I ask unanimous consent that a statement of my position of this issue be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CLIFFORD P. CASE ON SCHOOL BUSING

From the beginning, I have been a strong supporter of the 1954 decision of the U.S. Supreme Court in the Brown case and of the school desegregation progress that has been made as a result of that decision. I continue to hold that position.

I also have made it emphatically clear that I believe that all desegregation plans and programs, whether or not busing is involved, must not place any children, white or black, in situations in which they would be in danger of personal harm or harrassment, or in which they would get an inferior education.

Each of these objectives must be—and can be—met.

In line with the foregoing, I strongly favor the system of neighborhood schools. But I agree with Chief Justice Burger of the Supreme Court that busing may be necessary in some cases.

I believe local school boards must be given a full range of options from which they can pick the method of desegregation best suited to their individual circumstances. The best method for one district may not be the best at all for another.

School superintendents, however, face a difficult task and we in the Congress should give them all of the guidance and assistance we can.

In this connection, I have supported legislation, such as the Mansfield-Scott amendment recently approved by the Senate, that would write into statutory law the limitations of busing laid down by the Supreme Court in its decision in Swann v. Charlotte-Mecklenburg Board of Education. These limitations would prohibit busing that would endanger the health or safety of a child or that would impinge on the educational process.

I oppose busing in situations where it hurts children, or where it hurts their education. It is high quality education for all children that we are all seeking.

In situations where busing and other means cannot effectively desegregate the schools while still protecting the quality of education and the safety of the pupils, I believe that additional resources must be devoted to improving the quality of the schools to provide all children with an equal educational opportunity.

I long have been a supporter of Title I of the Elementary and Secondary Education Act, which is specifically designed to provide special federal assistance to educationally disadvantaged children, and year after year I have worked as a member of the Senate Appropriations Committee for additional funds for this program.

In addition, I am a co-sponsor of a Senate-approved School Desegregation Assistance Bill that would provide special Federal aid to help improve racially and ethnically isolated schools.

In my view, the education of our children is the best investment we can make in the future of our country.

THE NEW AMERICAN POPULISM: A BACKLASH AT ECONOMIC ELITISM

Mr. MOSS. Mr. President, George Wallace's overwhelming victory in the Florida presidential primary has forced many political analysts to rethink their ideas about voter sentiment in 1972. It now appears that many Americans are ready and willing to register a resounding protest at the direction our country has been taking over the past few years.

To dismiss the large Wallace vote as mere racial "backlash" would be a serious miscalculation. In a wide variety of areas, people are, in the words of the Alabama governor, "fed up" with a Government which appears to identify so entirely with the interests of an economic elite.

It is not hard to understand the average voter's sense of frustration. A few days ago on the Senate floor it was reported that in 1968 the middle income worker making $8,000 to $10,000 paid Federal, State, and local taxes at the same rate as the worker earning $25,000 to $50,000. Only last week it was made public that 112 wealthy citizens, whose annual incomes exceeded $200,000 in 1970, paid no Federal income tax whatsoever.

This news of flagrant tax inequities followed upon the heels of a Joint Economic Committee released study showing that the economic gap between the lower one-fifth of our society and the upper one-fifth has almost doubled during the past 20 years. Together with recent disclosures concerning the "ITT case," it now appears that Government policy actually supports the growing chasm between rich America and poor America.

Mr. President, I contend that if there is indeed a backlash vote in 1972, there are many sound reasons for it. It is a backlash by moderate and low income taxpayers at a system which represents the interests of an economic elite;

A backlash by the workingman and woman at national policies, based upon a governing philosophy that what is good for big corporations is good for America;

A backlash by the consumer and small businessman at the alarming growth of giant conglomerates, whose power to set prices and control markets makes a mockery of competitive, free enterprise;

Moreover, it is a backlash by the average citizen at the enormous political clout of a privileged group of corporate executives.

Mr. President, today I would like to cite just one example of the elitist mentality that has been shaping national policy over the past few years. I believe it offers a cogent demonstration of how the Government has been encouraging the economic polarization of our society.

Two years ago it was generally agreed that the Government should take action to alleviate the Nation's worsening unemployment situation.

What did the President choose to do? He appointed a special Task Force on Business Taxation and instructed the group to find ways of helping the business firms to expand.

In September of 1970, the task force reported a number of suggestions all aimed at offering massive tax breaks to corporations.

The President began quickly to implement the task force program. Early in 1971, the Treasury Department announced new regulations permitting business firms to write off capital costs over periods 20 percent shorter than their guideline useful lives. This proposal would cut real corporate taxes by $35 billion over the next decade.

Last August, the President took up the next task force proposal: a system of specially created tax shelters, called DISC's, for firms involved in the export business. More millions were lost to the Treasury.

Only recently the President announced his consideration of a new regressive value-added or national sales tax, a $16 billion program which the task force recommended in the event of the need for new taxes.

Every one of these proposals shifts the tax burden from the corporation onto the individual consumer. They all operate on the implicit assumption, one shared by the President, that what is good for big business is good for America.

This "trickle down" philosophy has governed national policymaking ever since the present administration came to office. It has been the guiding rationale behind the President's vetoes of the Manpower Act of 1970, the Accelerated Public Works Act of 1971 and his decision to cut Federal employment levels by 150,000. According to current elitist economic philosophy, public employment programs, which assist those at the bottom of the economic pile, are dismissed out of hand. It is no wonder that many people feel that Government in 1972 owes its first loyalty to the economically powerful.

LADY VOLUNTEERS MAKE RED CROSS POWERFUL AND CONSTRUCTIVE—FROM NATIONAL BOARD TO LOCAL CHAPTERS

Mr. COOK. Mr. President, distinguished and bright American women are making the American Red Cross one of the most constructive organizations for the 1970's. The National Board of Governors of the American Red Cross now has on it some very forward looking, articulate ladies, such as Sylvia Porter, whose column about the work of the Red Cross as it appeared in hundreds of newspapers across this country appears below. Miss Porter's economic advice and comments are followed closely by men and women alike, and she is widely regarded as one of the most powerful writers active today.

I am glad that the Red Cross has now recognized that the future of America as well as the continued growth and modernization of Red Cross itself, demand on the national policymaking board full voting representatives of young men and women who already have made major contributions in their hometown Red Cross chapter. Miss Elaine "Cissy" Musselman, of Louisville, Ky., is one of the youngest and most active members on the Red Cross board, and I am delighted they have selected one of Kentucky's finest.

As the American Red Cross faces new opportunities and some very serious challenges at its April-May San Francisco convention, I am glad that Miss Porter has outlined for her readers what volunteers can do. I am especially proud that a Kentucky leader like Miss Cissy Musselman will be right in the forefront of the new approaches that the American Red Cross needs and will be adopting.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Mar. 8, 1972]

UNSUNG VOLUNTEERS PRODUCE

(By Sylvia Porter)

Across the land are 1,827,600 who are working as American Red Cross trained volunteers in community activities—in the blood and youth programs, in safety, nursing and health programs, in hospitals, clinics, disaster relief, in helping members of the armed forces and their families, and in raising funds to support all these services.

On average, you are putting in 150 hours a year at those jobs. But that's just average: many are putting in 150 hours a month. Many certainly are contributing twice, three, four times 150 hours a year.

All of you give time, training, devotion and dedication for zero pay in dollars. All of you fall into one of the enormous categories of nonpaid producers in the U.S. economy. On top of this, hundreds of thousands also contribute cash and property.

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If you were paid merely $2 an hour—and the minimum wage is to go to this level in 1972—your contribution of only 150 hours a year would amount to an annual output of $548,280,000, an impressive sum by any yardstick.

If you were paid what your skills—as a nurse, a first aid or swimming instructor, a teacher—could easily bring in the job market your contribution of only 150 hours a year would easily mount to $1 billion or more. And if there were a more accurate estimate of the number of hours you actually work, the total would go zooming again—would add billions of dollars to our annual output of goods and services, give a far more realistic picture of our true Gross National Product.

"The volunteers who impress me most are the seemingly invisible ones who show up whenever a disaster strikes at the closest local level—such as a fire in a tenement house or multifamily dwelling," said James H. Evans, president of Union Pacific and a member of the board of governors of the American Red Cross, during a luncheon break at a recent board meeting in Washington. "The firemen, the policemen, all the rest of these essential workers are there. This is their job and they are paid for it. But the volunteers who offer food, clothing and shelter to thousands who have literally no place else to turn—no one pays them, no one ever mentions them. Yet they are always there."

"The usual point economists make is how much greater our GNP would be if we did put a dollar tag on the contribution of the unpaid worker," added William McChesney Martin, former chairman of the Federal Reserve Board and also a governor of the Red Cross. "But has anyone ever figured out how much smaller this figure would be if we didn't have such producers as the Red Cross volunteers? How many vastly productive lives have been protected by the blood program, for instance—saved to produce, earn, add to the GNP? How many billions of dollars have been added to our total output by the countless numbers of people protected by Red Cross safety programs, first aid, disaster relief, health education? If we can't put an exact figure on it, we certainly can agree GNP would be many billions of dollars smaller!"

"Now comes the entrance of the Red Cross volunteer first-aid instructor into the business world to help employers meet the standards of the new Occupational Safety and Health Act," George Elsey, president of the Red Cross, followed up "By using the new Red Cross multimedia system of teaching first aid, companies from coast to coast will be able to slash the time they must allot to first-aid training in complying with the law. This contribution too will run into hundreds of millions of dollars—all uncounted."

Of course the contribution of the volunteers goes far beyond this. As of the start of 1972, there were more than 43,000,000 volunteers working for 22 national agencies in the United States. Put a dollar total on the production, I defy you!

But because I have been so close to the Red Cross in the last few years, I have had a unique chance to see how its volunteers work. And I haven't included in the volunteer total the 2,319,800 who donated blood last year or the 6,576,200 students participating in the Red Cross programs in schools.

The economic story of the volunteer in America never has been told—and perhaps it never can be. But just because we cannot put a precise dollar tag on the volunteer's contribution we must not downgrade the magnificent size of that contribution.

BUSING

Mr. CRANSTON. Mr. President, there is substantial concern in California about the problems involved in using busing to end segregated public schools. The President's recent nationally televised speech on busing has not really clarified the issue. Hundreds of Californians have written to me about their concerns with the uncertainties in our national policy on school desegregation and their desire for the best education for their children.

I, too, am concerned about this difficult issue. I am deeply involved in the effort to find a wise solution.

Here is what I am for and working for, and what I am against and working against.

I helped lead the recent fight in the Senate for the successful Scott-Mansfield amendment that would prevent busing children for so long a distance and so great a time that it would risk their health and endanger the quality of their education. This amendment would also delay the effective date of the most disruptive court orders until they can be fully reviewed as to their constitutionality.

I have joined, too, in sponsoring a measure that would actually add $2.5 billion to improve education in those schools where improvement is most needed.

The President has called for spending $2.5 billion to improve our schools. It turned out, however, that he did not mean we should spend that much more money on education. He just meant we should transfer $2.5 billion from programs already underway or planned.

I will also do all I can to develop better ways than busing to improve education for all children and to end segregation. I believe busing should be viewed as a last resort, because it is the least desirable method of ending segregation and improving education. There are many better possibilities. As a start we must devote more money to bolster schools that need help. Other actions we should try include locating new schools where they will be integrated without busing, redrawing of district lines, greater use of the cluster school concept, educational parks, and community directed private schools. Still other ways are being explored and considered.

I believe, as President Nixon says he believes, that you cannot have both segregation and good education. In his March 24 press conference, President Nixon said "I agree" with the Supreme Court argument in Brown against Board of Education in 1954 that legally segregated education is inherently inferior education. Since that is the President's stated view, I cannot understand why he chose to attack the courts and to add to the atmosphere of antagonism toward our judiciary which has been a most unfortunate consequence of the busing debate.

The Supreme Court has never ruled that schools must be "racially balanced." It has ruled only that schools must be free of segregation imposed by local school boards or by other instruments of government.

Just last year a unanimous Court, led by President Nixon's choice as Chief Justice, Warren E. Burger, and joined by Justice Harry A. Blackmun, President Nixon's only other nominee sitting on the Court at the time, held that a reasonable program of busing can be a necessary and feasible tool for ending discrimination. They made this decision as the "strict constructionists" President Nixon knew them to be when he nominated them to the Court. Now, when the President finds that even Justices he appoints will not make decisions the way he would like them to, he proposes to take the right to make decisions out of the hands of the Court. This approach threatens the fundamental constitutional principle of separation of powers in our society, and threatens the very processes we have established to govern ourselves. If we start obeying court orders only when we like the orders, and try to take away from the courts their right to make decisions we do not like, we will be heading toward a breakdown of law, order, and justice in America.

The legislation proposed by the President creates substantial national uncertainty because there is widespread doubt whether the President's proposal is constitutional. If we pass the President's proposal and then it is found to be in violation of the Constitution—as many people believe it will be—we will be right back where we started with nothing solved and nothing accomplished.

The President's proposal might stop some busing, but it would by no means stop all busing ordered by the courts. The effect on California communities would be contradictory and irrational. Under the President's proposal, the San Francisco Board of Education, for example, would be prevented from transferring students now being bused long distances to schools closer to their homes. The President's proposal would also prevent the San Francisco Board from reducing the total number of students now being bused if their new plan means busing even one child not now being bused. At the same time, the President's proposal would have no effect whatsoever on busing in Los Angeles, if the pending appeal against the present court order there is turned down.

In short, the President has not come up with an easy, simple, immediate, or good answer. In fact he has not come up with any answer at all, and his proposal is opposed by Senators and Representatives from the North and South alike, regardless of their individual views on busing. The inconsistencies, uncertainties, and contradictions of the President's proposal have only added to the confusion and misunderstanding which are keeping us from a solution to the busing problem.

I am in the thick of the effort to resolve this matter, since I have been appointed to the Senate-House Conference Committee that will try to reach common ground for a reasonable approach to busing, and I am a member of the Education Subcommittee, which is considering the President's legislation and alternatives to it.

I will do all I can to help to reconcile the differences and to come to grips with this important issue fairly and effectively.

I cannot believe that fair-minded men and women of good will can not come up with an equitable solution to a problem we all want to solve: how to give all our children—no matter what their color or the income of their parents—a good, quality education.

I believe that most Americans believe in equal opportunity, and that they know that means not separation and segregation, but living together in one Nation in brotherhood and understanding.

TWO DISTINGUISHED NEW YORK CITIZENS: EARLE WILLIAMS AND JACK ROSEN

Mr. BUCKLEY. Mr. President, I invite attention to the accomplishments of two distinguished citizens from New York, Mr. Earle Williams, of New Rochelle, and Mr. Jack Rosen, of Brooklyn. Both men have unselfishly devoted their talents to aiding the handicapped and underprivileged, and also our men in the service.

Mr. Williams has embarked on a career of writing letters to servicemen that has now spanned 5 years and included over 5,000 letters. He got his start in 1967, when he wrote to his nephew in Danang, South Vietnam. Since then he has written to servicemen in Thailand, Vietnam, Japan, and even the United States. He averages almost 45 letters a week and they vary in length from two to four pages, or more.

Mr. Williams' exploits are made even more extraordinary when one considers that he has been totally confined to his home due to disability since 1967. Instead of withdrawing himself from activity, Mr. Williams has remained cheerful and industrious, performing a needed service for men away from home.

Mr. Rosen also uses his talents with a pen to ease the serviceman's burden. In 40 years, the world's fastest artist has completed over 100,000 caricatures, many of them being of wounded war veterans. Mr. Rosen has traveled to Vietnam at the request of our Government and has cheered countless servicemen with his drawings. In addition to his foreign travels, Mr. Rosen has visited many New York veterans hospitals, where he has lent his talents by helping to ease the hardships of wounded men.

In the future, Mr. Rosen hopes to continue his travels to veterans hospitals and visits to disabled children.

Mr. President, I again wish to commend these two gentlemen for their tireless efforts to remember those who have given so much of themselves in service to others.

THE NEED FOR A COMPREHENSIVE NUCLEAR TEST BAN TREATY

Mr. MOSS. Mr. President, the United States bears the major responsibility for controlling the effects of nuclear weapons. We introduced this new technology to the world: we should be the first to adopt proper controls on its use.

For this reason, I have decided to join Senator KENNEDY in cosponsoring Senate Resolution 230, a resolution to encourage a moratorium on underground nuclear weapons testing and to promote negotiations for a comprehensive test ban treaty. I do this after careful consideration—and I emphasize the need for care and caution in pressing for such historical changes. It appears to me that the technological advances in seismology have made on-site inspection unnecessary. The issue of inspection has been the chief stumbling block for the Soviet Union in all of our negotiations on such a test band.

The belief that a feasible underground test ban, coupled with the present atmospheric test ban, is now practical was recently announced by a panel of scientists at a conference of the Advanced Researched Project Agency of the Department of Defense.

Americans should understand that we have a great deal to lose if a comprehensive test ban is not soon adopted. The most threatening development in the field of nuclear weapons would be the development of a small, cheap nuclear bomb—one that many nations could afford. If this kind of proliferation occurs, then the management of nuclear weapons will become extremely difficult. It is to the advantage of all nations that the nuclear weapon's club remain small.

A complete test ban would slow the arms race, save scarce resources that are necessary for other defense programs and for domestic purposes, and would reduce the pollution that accompanies even carefully controlled underground tests.

Senate Resolution 230 simply calls for a moratorium on underground testing while negotiations go forward on a comprehensive treaty.

Clearly the benefits of such action outweigh any possible disadvantages. Mr. President, I urge that the Senate move quickly to adopt this resolution and that the Government move equally responsively to implement its intent.

THE NEED FOR EXECUTIVE REORGANIZATION

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Illinois, I ask unanimous consent to have printed in the RECORD a statement by him and insertions on the subject of the need for executive reorganization.

There being no objection, the statement and articles were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR PERCY

The President very appropriately asked the Houses of Congress yesterday, in a special message, to get on with the job of restructuring and modernizing the major Executive Departments by reorganizing them along the lines presented in his March, 1971, Executive Reorganization proposals.

In the Senate this program of restructuring was introduced as four bills: S. 1430, to create a Department of Community Development; S. 1431, to create a Department of Natural Resources; S. 1432, to create a Department of Human Resources; and S. 1433, to create a Department of Economic Affairs.

The President's message was timely. It was made almost exactly on the anniversary of the submission of his major reorganization message on March 25 last year. In the interim there has been action in both Houses. In the Senate, the Chairman of the Government Operations Committee, Senator McClellan, and the Chairman of the Subcommittee on Executive Reorganization, Senator Ribicoff, have, between them, presided at 7 days of hearings on the Department of Community Development. I have joined the President in urging that the hearings be completed. The House is to be commended for its vigorous activity. I think we can anticipate House passage of a well-prepared measure creating a Department of Community Development. I will do all that I can, as chief sponsor of the legislation in the Senate and ranking minority member of the Government Operations Committee, to promote these hearings.

The need for this reorganization is underscored by David Broder in his column in the Washington Post of March 14. Mr. Broder comments on the recent annual report of the Advisory Commission on Intergovernmental Relations titled "The Crisis Continues." This report presents a grim picture of a Federal structure that is failing because of the failure of the Nation's leaders to undertake needed programs of reform, including executive reorganization, solutions of the problem of local government financing, among others.

Mr. Broder writes that we "ignore these problems at our peril." The reason, he says, is that it is "just this kind of charade—much talk, little action—that has diminished the credibility of government in America and made so many citizens cynical of finding political solutions for the problems in their lives." Mr. Broder adds that President Nixon has proposed initiatives in almost all these areas, but that they have been blocked or ignored, for the most part, by a Democratic Congress.

It is in this perspective that I think we can read an editorial in the New York Times on March 29, regarding Administration's program for the cities. The editorial compliments the Secretary of Housing and Urban Development, George Romney, for his ability and integrity, but scores the Administration for a failure to back up this very distinguished and able leader with a comprehensive policy for urban America. I submit that enactment of the Department of Community Development proposal would go very far to put in the hands of one chief executive all of the policy and program tools he would need to fashion such a comprehensive policy, and to back it with well-conceived programs and with money. The Times, which I am very pleased to say has editorially supported the President's executive reorganization program, should consider that enactment of S. 1430, an Administration initiative, would do much to fill the need it so vigorously describes.

[From the Washington Post, Mar. 14, 1972]

THE CRISIS CONTINUES

(By David S. Broder)

For a government document, it is rather gaudy. The cover is printed on flaming red stock, and the title, in bright yellow print, splitting a black map of the United States into two jagged pieces, reads: "The Crisis Continues."

But for all these theatrical devices, it's doubtful that the 13th annual report of the Advisory Commission on Intergovernmental Relations will attract much attention from the presidential candidates, or that its message will become part of the political dialogue of 1972.

The reason is simple: The problems it outlines are almost too tough and too consequential for any politician to find comfortable. Yet they are problems we ignore at our peril.

The ACIR was set up in the Eisenhower administration, as a permanent, bipartisan body designed to monitor the health of the federal system and make recommendations for its improvement. Its current chairman is

a liberal Chicago Republican, Robert E. Merriam, and its members include two other private citizens and representatives of both branches of Congress, the Executive Branch, governors, mayors, state legislators and county officials.

Over the years, the commission's small but exceptionally able staff has turned out a series of reports providing most of our information about what is happening in the financing and structure of government at all three levels of the federal system. And each year, in its annual report, it gives a remarkably candid appraisal of the progress—or lack thereof in dealing with the problems of the American system of government.

This past year, the report says, "was a lean year for American federalism." There was lots of talk—about revenue-sharing, welfare reform, reorganization of government, finding new sources of school finance—but very little action.

"Few years in this century have witnessed as much political, popular and academic discussion of American federalism as 1971," the report notes. "But despite the heavy volume of speeches, debates, messages, bills, resolutions and research relating to intergovernmental questions, the crisis in federalism continues unabated."

What difference does it make? Well, it is just this kind of charade—much talk, little action—that has diminished the credibility of government in America and made so many citizens cynical of finding political solutions for the problems in their lives.

It so happens that the problems which ACIR has been grappling are the central problems of American life, as this excerpt from the report makes clear:

"The basic causes of cleavage in our social and governmental system can be found in metropolitan areas that are fragmented . . . in growing fiscal, social and racial disparities among local jurisdictions in those areas; in widening, population, economic and opportunity gaps between urban and rural America; in a growing but uneven state involvement in local affairs . . ."

Add to these the "multiplication of federal assistance programs, with a parallel proliferation of management difficulties; the counting ambivalance of the federal government on the question of its real role in our nation's metropolitan areas; and the prospect of a future population growth mostly slated for those metropolitan areas," and you have what the ACIR rightly calls "the real challenges to statesmanship at all levels."

Why has there been no significant action on these problems? President Nixon has proposed initiatives in almost all these areas, but they have been blocked or ignored, for the most part, by a Democratic Congress. But if the partisan split between the branches of the federal government explains the inactions, it does not excuse it. As the ACIR points out, a Democratic governor and Conservative (Republican) legislature in Minnesota last year made landmark progress in dealing with similar problems on the state level.

What we confront in the nation is a failure of political leadership in both parties to focus attention on these critical problems. The failure is continuing in the present presidential campaign. It is a failure we tolerate only at our peril.

[From the New York Times, Mar. 29, 1972]

MISSING: ONE POLICY

During his three years as Secretary of Housing and Urban Development, George W. Romney has tried without success to evolve an Administration policy for the cities and their suburbs. The other day in Detroit he rhetorically threw up his hands and said the job was too big for the Federal Government. Nothing that Washington could do, he suggested, would halt the terrible slide of inner-city housing into slums.

The problem is certainly too big for this Administration; and the responsibility for its non-performance lies not with Mr. Romney but with President Nixon. Secretary Romney has put forward several initiatives with engaging acronyms, elaborate supporting documentation and ambitious timetables for specific action. Each has been shredded and lost in the White House policy-coordinating machine. The input has been sizable; the output zero.

Mr. Romney even has a mausoleum of words to commemorate his own frustration. In the Housing Act of 1970, Congress required that in every even-numbered year the President should submit to Congress a "Report on Urban Growth." Last month President Nixon submitted the first of these reports. If the Congressional authors of this idea thought they would get an authoritative summing-up of information and legislative recommendations on behalf of the cities—comparable to the annual reports from the Council of Economic Advisers and the Council on Environmental Quality—they must be as sorely disappointed as Mr. Romney.

This vapid document spends 74 pages explaining that the Federal Goverment really cannot do much of anything about urban problems or suburban growth. The fragmented and inadequate authority of other levels of Government has been amply demonstrated, but the report passes the responsibility back to them: "any consideration of growth issues must recognize that many of these issues fall within the boundaries of state and local governments."

With an air of bustling discovery, the report states: "Ours is a Federal system with powers shared between the states and national Government. This system preserves the ability of citizens to have a major voice in determining policies that most directly affect them."

The "major voice," one is tempted to ask, that citizens have in the interstate highway program? Or in the lending policies of the Federal Housing Administration? Or in the Administration's impounding of water and sewer grants? Or in Federal Government failure to finance urban mass transit? These are only four of the many Washington decisions to act or not act which have had enormous influence on urban decay and development. No town or city or county can singly cope with the consequences of these Federal decisions.

President Nixon solemnly proclaims in this report that he has no "master plan for directing the multitude of public and private decisions that determine the patterns of progress in modern America."

No one expected him to have a "master plan." But citizens and local officials could reasonably look for some leadership, some guidance on alternatives, and some greater coherence in the Federal Government's own policies. Metropolitan and regional planning are essential, and the financial power of the Federal Government is the best available lever to compel local, county and state officials to take a broader view of their problems and to cooperate more effectively with one another. Mr. Romney's pessimism notwithstanding, only such Federal leadership can make federalism a viable form of government under complex modern conditions.

There is no mystery about the Administration's evasion of this crucial responsibility. President Nixon has political strength in very few of the inner cities. Action on any metropolitan-wide problem—housing, transportation, economic development—is sure to upset some voters and some interest groups in the suburbs. Silence is the politically safest course. If something absolutely has to be said—as in this report on urban growth—then question-begging platitudes are the next safest. The only mystery is why George Romney, a man of integrity and social concern, continues to cooperate in this great vanishing act.

ECONOMIC CONTROLS ON BEEF

Mr. ALLEN. Mr. President, it seems incredible to me that some people in a country that has attained affluence for so many should produce an anguished outcry when one small but vital segment of the economy gains back its income situation of 20 years ago—even though for only a short few months period.

I refer, of course, to the demands for economic controls over farm commodities—specifically beef.

Much of the agitation seems to come from so-called professional consumer groups who loudly and piously profess to speak for all families of our Nation. These groups and other special interest organizations would also have us lift all quotas on imports of meat and force a rollback of cattle prices below 20 years ago. These shrill cries from the great urban centers, where costs of living are predicated on factors beyond basic production costs, have already caused the administration to bow, in part, to their complaints by letting down the bars on foreign meat imports.

The unhappy and sad fact is that the consumer is being led down the primrose path by persons who either do not know or do not care about protecting consumer positions and consumer purchasing power. Of course, the consumer is paying a higher price for retail beef, but, as all cattlemen know, live cattle prices are not the cause of high retail beef prices as many farm critics assert.

It was only a few weeks ago that live cattle prices finally reached a price equivalent to what they were 20 years ago. I constantly point this out when the issue of high retail beef prices is put to me, together with the observation that not many—if any—segments of our economy would be satisfied with a price level of two decades ago. I do not think that the great industrial plants and business houses of America could conduct their operations if they paid their officers and employees the same rate they paid them 20 years ago.

When we closely investigate the statements of those who seek to place total blame for increased food costs on the shoulders of American farmers and ranchers, we find that they have distorted the picture by the omission of some relevant facts. For example, farm food prices have only increased 7 percent in the past 20 years. Yet, during this time, money paid to wage earners increased 340 percent; business and professional income increased 200 percent; and dividends increased 360 percent.

In addition, wholesale food prices are up 22 percent from 20 years ago and retail food prices are up 44 percent from 20 years ago. These figures are more than three times and six times as high, respectively, as the rate of increase in farm food prices.

Simply stated, Mr. President, these statistics show that the American farm producer is still not yet receiving a fair share for his vital contribution to our economy. Anyone would be hard pressed to show from these figures that our farmers and ranchers are the cause of the inflationary spiral, particularly in the area of high food prices.

This truth was aptly pointed out in an editorial published in the Birmingham News of March 25. I ask unanimous consent that the editorial be printed in the RECORD at this point in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHAT THE FARMER RECEIVES

Some people get the notion that when the price of a can of beans or a roast moves higher, the farmer and the livestock raiser are the ones who benefit.

This is far from being so.

Farm prices, the U.S. Department of Agriculture reported recently, are **up** only six per cent from 20 years ago. But wholesale food prices are up 20 per cent during that span and retail prices show a 43 per cent gain.

Today's farmer receives 38 cents of the dollar consumers spend on farm-raised food. This is down from 49 cents 20 years ago.

And during that same comparative span the food bill was 23 per cent of take home pay. Today, 20 years later, it is expected to fall below 16 per cent.

While the American farmer's efficiency in producing food for the nation's dinner table has advanced at a rapid rate, so has the cost of operating farms. Everything, farm labor, equipment, supplies, land, taxes—and debt—have soared.

The next time you discover you're paying a penny or two more for a food item, make an effort to learn who is getting the increase.

Chances are heavily against the increase going to the farmer.

Mr. ALLEN. Mr. President, now joining the attack on American agriculture are certain chain food outlets which have urged housewives to buy other protein items rather than beef because they say "beef prices are too high." One such enterprise suggested that fish be substituted, yet the retail price index tells us that the cost of seafoods in recent months has increased at a faster rate than beef.

I shall have more to say about the role of the retail food stores later on in my remarks. At this time, however, I should like to bring out some further facts regarding increased meat prices.

Mr. President, it is highly informative, I think, to check on prices of two beef items enjoyed by the greatest number of our people—hamburger and chuck roasts. Since 1964 to the present, hamburger prices have moved upward to the retail market level—never downward.

Starting at around 50 cents per pound in January of 1964, the price rose to about 52 cents through 1965; in 1966 to around 55 cents; in 1967 the price remained stable inasmuch as cattle prices had dropped to much lower levels, although retail hamburger prices did not reflects that drop. In 1968 hamburger prices rose to about 57 cents; in 1969 to around 65 cents; in 1970 to around 67 cents; in 1971 up to about 70 cents; and in February of this year to 73 cents per pound.

Chuck roast was at the 57 cent level in early 1964, moving up to 59 cents at the end of that year. Since that time, the retail cost of chuck roast has risen almost monthly, reaching 84 cents at the present time.

We thus see that while live cattle prices were remaining at lower levels year after year, hamburger prices were steadily increased to about 50 percent above the 1964 period, and chuck roast prices increased almost the same per centum.

Mr. President, I think that it would be well for American meat consumers to know that at no time in the period since the August 13, 1971, Presidential freeze order to the present time were choice beef carcasses more than 5 cents per pound higher, and today the price is below the August 13 date. It is significant to point out here that the price of average cattle marketed by farmers and ranchers remained at around $29 per hundredweight from August 13, 1971, until the past 2 months when the prices rose to $31 and $32. Yet, it was during these 2 months that the great protest about retail meat prices arose, because of a 2- to 3-cents a pound increase at the farm level.

It should be pointed out that the average price for cattle sold by farmers is not the choice grade often quoted in the newspapers. Rather, the average runs consistently 5 to 6 cents a pound under choice. This is the price the farmer gets for his cattle. He cannot produce all choice meat by any means.

Another factor but generally unknown to consumers: There are five different grades within the choice category. Some stores buy the lowest quality, but still can legally call it choice. Others buy the second best, or No. 2 carcasses. Very few buy the top quality choice. Within these grades, the retail outlets have a considerable varied margin with which to work in pricing their various cuts and hamburger. Thus, in comparing the choice carcass price listed in New York, Chicago, or Omaha, the advantage is on the side of the retail store selling third, fourth, or fifth quality within the choice grade.

I think that with all the tumult and confusion which has developed in recent days over food costs, especially beef prices, one element stands out clearly. Much of the national news media and many retailers and so-called consumer spokesmen do not unduly object over price increases for TV sets, for housing, for insurance, for automobiles, for clothing. They either ignore or take for granted that inflation is a fact of life and that annual wage boosts will cover all additional costs—except at the retail food level. And when retail food prices rise, the farmers and ranchers of America are the easy scapegoats. After all, they have only a minor voice that cannot rise to be heard above the clamor of certain urban segments of our economy.

Mr. President, it is this very emotional factor which has been taken advantage of by some retail outlets, particularly certain chain food stores. They had ridden the wave of media hysteria to a nice profitable position while sympathizing with the consumer over the high cost of beef. Yet, they piously deny any part of the blame for the increase in meat prices. They seek to point the finger at the farmer as the culprit. It is the same old story—the low man on the totem pole gets the ax.

What is even more appalling is that some of these retail chain stores also seek to take advantage of their profitable positions by means of advertising schemes. One such organization is Giant Food, which has retail outlets in the District of Columbia and its environs.

The first account of Giant's advertising gimmick that I know of appeared in the trade journal Supermarket News for March 13, in an article written by Suzanne Kilgore. In an interview with the consumer adviser to the president of Giant Food, Mrs. Esther Peterson, Miss Kilgore writes that Giant was going to run a beef boycott ad just as soon as beef prices rose again.

Yet, when a squabble developed between Agriculture Secretary Earl Butz and Price Commission Chairman C. Jackson Grayson about meat prices, Giant apparently decided that this was a perfect time to cash in on its scheme and, as all of us know, last week Giant ads appeared in Washington metropolitan newspapers, suggesting that housewives buy other meats and nonmeat products instead of beef.

I ask unanimous consent that Miss Kilgore's article regarding the Giant Food antibeef advertising scheme be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIANT FOOD: "DON'T BUY BEEF"

(By Suzanne Kilgore)

WASHINGTON.—In what shapes up as another "first," 94-unit Giant Food, here, is poised to advise customers not to buy the beef it sells, because the meat is overpriced.

In full-page newspaper ads, Esther Peterson, consumer advisor to Joseph Danzansky, president, will tell Giant Food customers flatly to "buy something else."

The ad originally was scheduled to run last week "but the meat market went down slightly," Peterson explained, gesturing toward a proof of the ad hung prominently on her bulletin board. "As soon as it goes up again—and it will—we'll run this ad."

Nutritional "alternatives" to be suggested by Giant include chicken, turkey, fish, eggs, cheese, beans, lentils, cereal, macaroni, spaghetti and even peanut butter.

"We did something similar to this a year ago and our meat sales were unchanged," Peterson told SN in an interview. "However, we didn't get the complaints about the prices. This ad is the kind of thing that helps people understand prices.

"The dividing line today is more between the retailer and supplier than the consumer and retailer."

This bold "don't buy" action is just one aspect of the many-faceted consumer program developing under Peterson's guidance.

FREEZE LEVELS

Just last week Giant Food found it necessary to raise prices on some private label items that were being held at freeze levels.

Any turn of the radio dial here will eventually tune in Peterson, explaining to consumers that increased costs to Giant have forced the firm to raise prices.

"There's a great deal of misunderstanding about price increases among consumers," she declared. "I think that if you tell consumers about price increases from suppliers, and about profit margins—things that I have

learned on the inside—it helps them to understand."

Giant Food, which took a real beating in the profit column after starting discount prices in August, 1970, has recovered its earnings stride.

When a District of Columbia Health Department report cited Giant's ground beef for excessive fat content recently, Peterson and Giant promptly took full-page newspaper ads advising area consumers that Giant's regulatory test for fat content was a "flop."

PERFECTLY STRAIGHT

"I am going to treat the consumers as intelligent persons and be perfectly straight with them," she explains. "I am convinced that, if you give consumers the tools and information, they'll use them. I have had a lot of good comments on that ad."

In October, 1970, after serving former President Johnson as in-house consumer adviser, Peterson accepted the consumer adviser spot at Giant. The move triggered criticism among her supporters, including organized labor, that she was "changing sides."

Since she edged into the "enemy camp" a little more than a year ago, she has been instrumental in initiating such Giant programs as unit pricing, open dating, nutritional labeling and, most recently, ingredient-percentage labeling. All have been promoted heavily by the chain, and area competitors have been prompted to follow Giant's lead.

"I can honestly say that I made consumerism popular," Peterson said with an emphatic nod. "I was able to make consumers aware that they are consumers.

"Consumerism is a good marketing tool. I love competition and I would much rather compete with quality things, instead of games, gimmicks and stamps."

HAND ON ADDITIVES

Peterson's hand has also leaned on food additives. A few months ago Giant came out with "uncolored cherries"—cherries without Red No. 2 coloring.

"I don't know whether they are out-selling the red cherries but they are doing very well," she notes.

Giant now is ready to market nitrate-nitrite-free hot dogs.

"They won't look very pretty but consumers will have the choice," Peterson says. "Where science has indicated that there may be a problem with additives, we don't know who is right—so we'll offer both.

"We want reality. I want us at Giant to outdo the Betty Furnesses and Virginia Knauers and Esther Petersons when it comes to consumer interest."

While responses to all of Giant's consumer programs has been "encouraging," Peterson is first to concede full acceptance and utilization is a long range project.

"The ones who are really excited about things like nutritional labeling and unit pricing are the younger housewives with college educations, as well as athletes from high-school-age on up," she declares.

When Esther Peterson joined Giant, she was granted a one-year leave-of-absence from the Amalgamated Clothing Workers of America, which she had served as lobbyist; "I have agreed to stay here another year and after that, I don't know. I've never had a job that was so much fun.

"I want to do more in the general merchandising area and in pharmacies. I'd like to do something about ingredient labeling of cosmetics and beauty aids."

Esther Peterson, in her role as Joseph Danzansky's energetic full-time consumer lady, is determined to make Giant Food the answer to a consumer's prayer.

Mr. ALLEN. Mr. President, this deliberate attack on the American cattle industry is selfish, reckless, and irresponsible.

For example, the article tells that when Giant Food was caught selling ground beef with excessive fat content by District of Columbia health authorities, the company used a full-page ad to declare that Giant's regulatory test for fat content was a "flop."

What is relevant, Mr. President, is that Giant did not tell the whole story. Their test was a "flop" only because they were caught in an outright violation of the law.

The simple fact is that a relatively simple electronic device tests hamburger and sausage fat content rapidly and accurately. Most States require this testing for manufactured meat products, and this testing equipment is quite standard.

We are indeed living in a time of slanted news and planted propaganda. What a shame that a huge retail food outlet with an otherwise good reputation should stoop to gross misrepresentations and half-truths to steer people's minds away from the fact that they were caught violating the law.

Mr. President, it is one thing to have the financial power and public relations departments to influence the habits of the buying public, but quite another to seek to charge farmers and ranchers with the responsibility for food cost problems when they have little or no means of countering such charges.

I deplore this practice of pitting one sector of our citizens against another for selfish economic motives without determining the real facts involved. I sincerely hope that this current flurry of unjust pointing of fingers and capitalizing on emotionalism will cease.

The morning's newspapers carry accounts of a meeting between Treasury Secretary John Connally and leading supermarket executives on yesterday. It was gratifying to note that these retail food representatives promised lower beef prices in the near future. It was disappointing to note that officials of Giant Food did not attend the meeting.

Next month, however, Chairman Grayson's Price Commission will hold hearings on high retail food prices. I would hope that officials of Giant Foods will either be asked or request to appear before the council to present their story including full documentation, on how they have been caught in a vicious cost-price squeeze insofar as beef products are concerned. I am sure it will be interesting.

EX PARTE NO. 281, ICC DENIAL

Mr. PACKWOOD. Mr. President, the Senate and the Nation should be aware of an action taken yesterday by the Interstate Commerce Commission when it denied the joint appeal of the Pacific Northwest Traffic League and the Puget Sound Traffic Association and others requesting a 30-day extension of procedural dates in a very significant railroad tariff proceeding. Ex Parte No. 281.

The railroads filed their application for an across-the-board rate increase on or about March 6 at which time the Commission set a date of May 1, 1972, for the filing of statements from shippers and consumer groups. The ICC allowed the railroads to amend their application on as late as March 17, but refused to grant the shippers and the consuming public an extra 30 days in which to prepare their statements.

On March 21, the Pacific Northwest Traffic League and the Puget Sound Traffic Association petitioned the ICC for reconsideration of the Commission's order of March 14, setting the May 1 date. The distinguished majority leader (Mr. MANSFIELD) and the senior Senator from Washington (Mr. MAGNUSON) joined me in urging the ICC to allow this 30-day extension. Our plea fell on deaf ears.

Mr. President, I want to make it perfectly clear that our request to the ICC was for an extension of time so that all parties involved might have an adequate opportunity to present the facts so that the ICC could then make a determination. I do not attempt to prejudge what that determination should be. I do feel strongly that the shippers and the consuming public is being unduly penalized. The Pacific Northwest shippers have authorized an extensive cost study dealing with transcontinental rail freight movements to and from the Pacific Northwest. It is humanly impossible to complete this detailed study prior to April 7. However, by their action yesterday, the ICC has, in effect, refused to consider the results of this important study in reaching a $500 million decision.

Mr. President, our regulatory agencies are frequently criticized as being dominated by the industries they are supposed to regulate. I would suggest that by refusing to give all parties adequate time to prepare their testimony the ICC has given credence to this charge.

This action is most distressing at a time when one of our most acute problems is the spiraling inflation. Among the items which will be most heavily penalized by the increase in freight rates are food and lumber. Both of these items are vital to our economy, and the rapid increase in food prices has been highlighted in the national press recently. The administration has pledged to hold food prices down, and on the very day that pledge was made, the ICC refused to allow shippers and the consuming public adequate time to present their case.

It is not as though the railroads have not had a rate increase recently. During the past few years, the ICC has approved six freight rate increases for the railroads. With ICC approval of the present proposal, the shipping public will be saddled with an increase of over 33 percent in just 30 months. It would seem to me that the Price Commission would have a great interest in these proposed increases.

Mr. President, I ask unanimous consent to have printed in the RECORD the following documents: Senator MAGNUSON's letter to ICC dated March 22, 1972; a copy of my telegram to ICC dated March 24, 1972; and a copy of the ICC order denying this request dated March 29, 1972.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., March 22, 1972.

Hon. GEORGE M. STAFFORD,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to Ex Parte 281, Increased Freight Rates and Charges, and the procedural dates established by the ICC for consideration of that case.

The past few years have seen approval by the Interstate Commerce Commission of six freight rate increases for the railroads (X-256, X-259, X-262, X-265, X-267, and an emergency increase under X-281). The ICC has presided over increases in these cases which have gone well over 40 per cent for most commodities. With ICC approval of the present proposal the shipping public will be saddled with an increase of over 33 per cent in just 30 months. The magnitude of these increases should in itself be of great concern to the Commission and even to the railroad industry which is finding itself ever less competitive with other transport modes. It certainly is of concern to the nation's shippers and many of us in the Senate.

But beyond this I am greatly worried about the impact of the across the board increases which despite ICC orders to the contrary continue to upset regional relationships in this nation. Protestations from the Pacific Northwest about the effect of these increases have as a practical matter been totally ignored by the Commission. The current rate increase proposal is even worse than the others because it would apply a higher percentage to Western shipments than to those in other parts of the country.

This is not the first time I have raised this point. Let me refer you to an October 12, 1970 letter in which I was joined by five other Senators. In that letter we pointed out, inter alia:

"Second, the Commission, despite repeated requests, has failed to require the railroads to demonstrate their cost of handling any commodity from any origin to any destination.

The Commission has rather been content to permit these increases in most instances to be applied across-the-board. (Applying to nearly all commodities and nearly all railroads.) This is particularly unfair to commodities such as lumber and grain which reportedly are already returning to the railroad in some instances as much as 236% over fully distributed costs. The whole concept of across-the-board increases penalize the long haul shippers who are paying the high rate. For instance, if a shipper is paying $3.00 per hundred weight for a typical movement and across-the-board 15% increase gives him a new rate of $3.45. A competitor who has a $1.00 rate from his origin to a typical destination would only suffer an increase of 15 cents making his rate $1.15. This means, of course, that when both shippers are going to the same market, the shipper who had the higher rate initially is now further penalized with an additional 30¢ per hundred weight per cost over his competitor."

Unfortunately what we said in the last two paragraphs of that letter is still, some 17 months later, relevant:

All of these considerations require close scrutiny. And they strongly suggest the need for an independent review. For these reasons we urge that the ICC thoroughly investigate the railroads' proposed increases and accordingly that the staff of the ICC as described above be directed to evaluate the data presented by the railroads. The Commission's obligation to the public, which includes ensuring the long range viability of the railroads, requires that at this critical hour for the railroads and the shippers that the Commission make an extraordinary effort to have before it all of the facts before making a final decision.

We wish to stress that we do not oppose railroad freight rate increases per se. But we do oppose very vigorously actions which in order to assist financially distressed railroads simultaneously provide a windfall to wealthy roads. Similarly we can see no justification for exacerbating the affects of already discriminatory rates on various commodities. We recognize that a thorough evaluation of the proposals now before you along the lines we have suggested will not be a simple matter, but we believe that the interest of the public requires that the effort be made."

The "thorough evaluation" that we felt was needed in October 1970 has not been completed and the railroads have continued to get almost everything they have asked for. The rate studies subsequently begun by the Commission (X-270 and X-271) evidence every indication of getting bogged down while rate increase cases are heard on a business as usual basis. This is true even though you stated in your form letter response to our October 1970 letter that "across-the-board increases may have the effect of increasing any disparities already inherent in the basic rate structure." And you stated that a rate structure investigation "appears essential."

While the studies have been underway, the Commission has consistently refused to allow its staff to make independent investigations of individual rate increase proposals. (Something which the staff of the CAB does routinely) If the Commission is to continuously refuse to have independent information developed by its staff than it should at least give shippers an adequate opportunity to develop sufficient information. I am in receipt of a communication signed by several shipper and governmental representatives (including a representative of the Department of Transportation, the State of Washington, the Washington State Utilities and Transportation Commission, the Oregon State Utilities and Transportation Commission, the Port of Seattle, and the Port of Tacoma) requesting that I support their petition for a 30 day extension of procedural dates in the Ex Parte 281 proceedings. Previously on March 14, 1972 the Commission turned down a petition by the Pacific Northwest Traffic League and the Puget Sound Traffic Association requesting 30 more days to prepare for this most important proceeding. One of the reasons for requesting a delay was to allow some additional time to prepare extensive cost studies dealing with transcontinental rail freight movements to/from the Pacific Northwest. This study was undertaken some time ago partially in response to the Commission's refusal to do anything about the Port relationship problems being created by its orders. I can see no reason whatsoever for denying that petition. If the railroads, after all the increases they have been allowed, can not wait another thirty days without a rate increase, then I would suspect that such an increase is not an answer to the railroads' alleged problems in any event. Further, with the anticipated improvement in the economy, the railroads may indeed not even need the increase. Now the Pacific Northwest Traffic League and the Puget Sound Traffic Association have sent a communication to the Secretary of the Commission urging reconsideration of the petition for modification of procedural dates outlined above. Mr. Chairman, I firmly believe that the Commission should grant this modest procedural request and I respectfully urge that you do so.

For your ready reference you will find enclosed a copy of the most recent communication which I have received plus a copy of the request for reconsideration.

Sincerely yours,
WARREN G. MAGNUSON,
Chairman.

MARCH 24, 1972.

Hon. GEORGE M. STAFFORD,
Chairman, Interstate Commerce Commission, Washington, D.C.:

Respectfully request your immediate reconsideration of Puget Sound Freight Traffic Association petition for thirty day extension of time for filing statement in ex parte 281 hearings. Pacific Northwest freight rate group urgently needs additional time to properly prepare its position in this important matter. Without this extension, severe hardships will be experienced by Northwest shippers. Please advise earliest.

Senator POB PACKWOOD, *Oregon.*

ORDER

At a General Session of the Interstate Commere Commission, held at its office in Washington, D.C., on the 28th day of March, 1972.

EX PARTE NO. 281

Increased freight rates and charges, 1972

Upon consideration of (a) a telegraphic petition, filed March 21, 1972, jointly by Pacific Northwest Traffic League and Puget Sound Traffic Association, for reconsideration of an order of the Commission, served March 14, 1972 (which order denied a requested extension of the schedule of dates established in this proceeding by our order of March 6, 1972, including sought change in the effective date of the involved tariff schedules from May 1, 1972, to June 5, 1972), (b) telegrams in support of the above petitioners filed separately by Snokist Growers Association, of Yakima Valley, Wash., Northwest Horticultural Council, Yakima, Wash., Simpson Timber Co., and jointly by Northwest Food Processors Association and Lamb-Weston, Inc., of Portland, Ore., and (c) initial telegraphic petitions for similar relief filed March 22, 1972, by Weyerhaeuser Company of Takoma, Wash., March 24, 1972, by Georgia Pacific Corp., of Portland, Ore., and March 24, 1972, by Montana State AFL-CIO, and Longview Fibre Company, of Longview, Wash.; and a joint reply thereto, filed March 27, 1972, by railroad respondents.

It appearing, That the schedule of dates set forth in said order of March 6, 1972, was established after careful weighing of interests of the carriers, shippers and general public and no sufficient reason has been shown for departing therefrom;

It is ordered, That the petitions be, and they are hereby denied.

Dated at Washington, D.C., this 28th day of March, 1972.

By the Commission.

ROBERT L. OSWALD,
Secretary.

SOIL CONSERVATION SERVICE FUNDS

Mr. CHURCH. Mr. President, recently I submitted testimony to the Agriculture Appropriations Subcommittee, calling for adequate funding for the Soil Conservation Service.

I ask unanimous consent that the testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FUNDS NEEDED FOR THE SOIL CONSERVATION SERVICE

Mr. Chairman, we all know of the nation's awareness that it must preserve and improve its environment. The Soil Conservation Service, our nation's principal conservation agency for private lands, recognizes the need for sound conservation practices. It has been earnestly working to improve our environment for over 30 years. President Nixon, in

his May 2 radio address, "A Salute to Agriculture," recognized the important role of the SCS when he stated:

"Another area where government should do more to provide technical assistance to farmers is that of soil and water conservation. Long before most Americans were thinking very much about the environment our farmers, our ranchers, our woodland owners were working together with government to conserve our natural resources. I believe we should now be providing more help for our dedicated corps of soil conservationists whose number has dropped sharply in the past four years.

"I am, therefore, increasing my new budget request for the Soil Conservation Service by $12 million to provide more manpower for this valuable work. I am also proposing that Federal grants for small watershed projects be increased by $28 million to a level of $105 million, and that 75 new projects be authorized."

Subsequently, Congress acted on the President's recommended increase and made some increases of its own. But, as is becoming all too often the case, some of those funds duly appropriated by Congress never reached their intended destination. The President has impounded $18 million in Soil Conservation Service funds. Thus we face a dual burden if the mandates of Congress are to be followed. First, we must determine the need and then make certain that once Congress has provided the funds to meet the need, the Executive Branch respects our will and spends the appropriated money. The power and responsibility of the nation's purse strings lies in the Congress, not in the Executive Office of the President.

Idaho is, for the most part, an agricultural state. Agriculture is, in fact, still developing in many areas of my State. The need and demand for the help offered by soil conservation districts is growing.

Though basically rural, urban centers such as Boise, Twin Falls, Pocatello, Idaho Falls, Lewiston, and Moscow are growing along with a mushrooming of recreation and vacation type developments. Basic natural resource data and careful planning are required to guide this growth and development in an orderly fashion.

Soil conservation districts have done a great deal to obtain State and local funds to help solve natural resource and community problems. However, because of manpower ceilings placed upon the SCS, personnel are not available to utilize these funds. You can readily understand why counties and states cannot hire employees to make soil surveys due to the short time nature of this employment on a local basis. In Idaho, a procedure has been developed in cooperation with the State Tax Commission for using soil survey data in making tax appraisals. The State Tax Commission is encouraging county assessors to use soil surveys. Soil surveys have been accelerated by money from counties in the amount of $75,000 to extend over a five-year period. Other counties are giving serious consideration to their needs for accelerating soil surveys for both planning and as a basis for tax assessment.

The Idaho Legislature is considering a bill this year to provide more moneys for soil surveys to the Soil Conservation Commission. Idaho soil conservation districts strongly support this legislation, but increased appropriation or other local funding for soil surveys is not the only answer to this problem. It takes people to do the job. Personnel ceilings imposed on the Service limit the number of soil scientists that can be hired, even when more money becomes available.

For example, several local governments and planning bodies, such as the Ada Development Council and the Boundary and Jefferson County Boards of Commissioners, are contributing funds for acceleration of surveys in their counties. The Soil Conservation Service has shifted soil scientists from other parts of the State to work in these counties. It's a matter of robbing Peter to pay Paul because the Service cannot hire new people to service these counties. Bonneville, Butte and Twin Falls Counties have expressed an interest to put money into soil surveys, but the SCS cannot hire additional soil scientists due to employment limitations.

The completion of soil surveys is lagging far behind the needs for soil information. Unless these surveys are accelerated, development without this vital information will continue in many parts of Idaho, resulting in costly mistakes and irreparable damage to our soil, water and human resources.

Our State has a new RC&D project encompassing the Wood River watershed and the famous Sun Valley area. Funds are needed to assure the success of this project. I need not remind you of the big job resource conservation and development projects are doing in getting local people, working together, to solve their development needs.

The small watershed program administered by SCS under the Watershed Protection and Flood Prevention Act, P.L. 566, has and will continue to have a very significant economic and environmental impact on our State. To date, five thousand watershed projects have been approved, including the Fourth of July Creek project in the vicinity of Coeur d'Alene (completed), Cedar Creek southwest of Twin Falls (completed), Montpelier Creek at Montpelier (under construction), Trail Creek at Victor (under construction), and Georgetown Creek at Georgetown (waiting funds for construction).

The Sand Creek Watershed project near Idaho Falls, on which planning is near completion, includes more than $4.7 million of Federal funds for construction. An additional $2.5 million of Federal funds will be spent for design of the structural measures, supervising the construction, and land treatment aspects of the project. Over the 10 year construction period of the project, local sponsoring organizations will expend $4.8 million for land rights and carrying out the local responsibilities in the project including $.6 million of land treatment practices.

The economic impact of the P.L. 566 watershed program is reflected by the $12 million of Federal funds that will come into the State through the six projects.

In addition to the dollar impact of these watershed projects, the land treatment and structural measures have an immediate beneficial effect on the environment and the economy in the project areas. The land treatment measures provided for will accelerate the proper use, management and conservation of the land and water resources. The land is protected from erosion, land scour, and sedimentation by these projects. Floodwaters are controlled. In addition, homes, farm buildings, state and county roads and bridges are protected, and money that would be needed for flood damage repair is available for other community improvements. The associated problems of pollution and the hazard to the health and well being of those in the flooded areas are eliminated.

Another program which is of tremendous assistance to soil conservation districts in Idaho is the snow survey program. SCS snow survey data is not only used by irrigators but is useful for almost every forecasting purpose including power, flood control, pollution control, recreation, industry and avalanche hazard forecasting.

Snow survey data in 1971 provided the basis for dramatic multiple-purpose flood control operations beginning January 1. By then it was obvious that 1971 was going to be one of the biggest snowpack years in history. Special meetings were held and news releases made to encourage lowering of reservoirs to control the floodwaters forecast to come. These actions helped avert millions of dollars of flood damage in 1971. All reservoirs started the irrigation season full or were filled after irrigation started. The isotopic snow gauge installed near Sun Valley is serving a multitude of users including recreationists who can get daily readings.

The National Association of Conservation District is requesting funding at slightly above the 1972 fiscal year appropriation level. But here again we face the problem of Executive impoundment of funds. Idaho fell far short of the manpower it planned to utilize based on the 1972 fiscal year appropriations. We lost four men to retirement, transfers, etc., and were not allowed to replace them even though the money was in our budget. Loss of these valuable employees plus the loss of anticipated additional help had a dampening effect on the soil conservation movement in Idaho.

All of this in face of the fact that Idaho soil conservation districts predict they will need 100 additional man years in our State over the amount provided them by SCS in 1972. Only two other states in the Union have predicted higher additional man hour needs than Idaho.

I agree with the National Association of Conservation Districts and urge your cooperation in passage of funding legislation at the following levels:

Soil Conservation Service—USDA

Conservation operations	$155,000,000
River basin surveys	10,743,000
Watershed planning	10,000,000
Flood prevention operations	132,066,000
Great Plains	20,000,000
Resource conservation and development projects	20,863,000
Total	348,672,000

Mr. Chairman, I hope that you will see fit to grant the Soil Conservation Service the funds so vitally needed by soil conservation districts in Idaho and throughout the United States to carry out their excellent work.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent to have printed in the RECORD a statement by him on the National Week of Concern for Prisoners of War and Missing in Action.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GURNEY

On Monday, it was announced that the American troop level in Vietnam had sunk below 100,000 for the first time in six and one-half years. But as servicemen in Vietnam are getting sent home sooner and as hopes rise that the troop withdrawals may exceed the goal of 69,000 in Vietnam by May 1st, there is one group of men involved in this war for whom nothing changes. These are our prisoners of war.

As of March 11, 1972 there were 489 American servicemen listed as prisoners of war; 388 are being held in North Vietnam, 96 in South Vietnam and five in Laos. For the families of these men, there is little hope or encouragement as the Communists not only refuse to negotiate in good faith, but also refuse to release much information on our POW's or let them communicate much with the outside world. But, in a way these families are lucky—at least they know something. For the loved ones of 1,129 men who are listed as missing in action—411 in North Vietnam, 456 in South Vietnam and 262 in Laos—there is no telling whether their soldier is dead or is, in fact, an unlisted prisoner of war. For the families of these men the wait is even more uncertain. The future more unsure.

Last year and again this year I have been a cosponsor of a resolution passed by Congress calling for a national week of concern for our POW's and MIA's in Vietnam. Therefore, I feel that it is only fitting and appropriate that, with the approach of the Easter and Passover celebrations, the President has proclaimed this week as national week of concern for the POW's. These men and their families deserve our concern, our support. We owe it to them to make every effort to secure their release as soon as possible. At the same time, we owe it to them to recognize their sacrifice and to reaffirm our commitment not to allow all their efforts and their suffering—not to mention that of 55,000 Americans who have died in Vietnam—to have been in vain.

We should also take this opportunity—this week—to express our admiration for and appreciation of the courage and strength of those men, the POW's who have suffered so much at the hands of the enemy. They deserve the respect and support of all Americans and let us hope that by demonstrating how much we care during this national week of concern, we can speed the day when they will be returned home to us with honor.

UNEMPLOYMENT

Mr. PELL. Mr. President, there are a number of ways to deal with our Nation's unemployment problem.

One method is to say the problem really is not a problem. Another method is to say that there is nothing that anyone can do about that problem anyway.

Mr. President, despite the fact that more than 5,000,000 persons are unemployed in this country and nearly 30,000 in my own State of Rhode Island, the administration seems to be using those techniques to explain its failure to deal with the unemployment problem.

Mr. President, Mrs. Alice M. Rivlin, former Assistant Secretary for Planning and Evaluation at the Department of Health, Education, and Welfare, recently examined the administration's excuses for this country's high level of unemployment.

I ask unanimous consent that Mrs. Rivlin's excellent article, published in the March 16 issue of the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOME QUESTIONS ABOUT THE ADMINISTRATION'S LINE: UNEMPLOYMENT AS AN ISSUE IN THE ELECTION

(By Alice M. Rivlin)

One might have expected unemployment to be among the simplest and most comprehensible issues of the election campaign. A high unemployment rate means that the economic machinery is not functioning properly, right? That's bad for the incumbents, because they are in charge of keeping the machine running. What could be simpler than that?

But to no one's surprise the administration does not see it this way and has launched a multi-pronged verbal onslaught designed to diffuse the unemployment issue and make it a lot more complicated. The administration's argument reminds one of the old story about the man who returns a borrowed pot to the owner with the statement: I deny that it is broken; anyway, it is not my fault, because it was already broken when you gave it to me; and furthermore I've done everything I could to fix it. The administration's line on unemployment goes something like this: (1) unemployment is not as serious a problem as it might seem because many of the unemployed are women and young people; (2) anyway, unemployment is not our fault, because it was a necessary consequence of winding down the war; and (3) we are doing everything either we or the Democrats can think of to fix it up.

Administration spokesmen, of course, do not actually say that unemployment is not serious—on the contrary. "We recognize that unemployment is a serious problem," Council of Economic Advisers Chairman Herbert Stein told the Press Club last month. "At the same time," he continued, "it would be a travesty to call it a disaster or to compare the situation with the Great Depression. This is especially true when it is recognized that in 1971, 48 per cent of all unemployment was accounted for by people aged 16 to 24 and another 23 per cent by females 25 years of age and older." Without saying why, Dr. Stein left the clear implication that unemployment of women and young people is less serious than the unemployment of mature men. He also pointed out that a lot of young people are not in the labor force—as though that eased the plight of those that were—and that some of those counted as looking for work were also in school.

Dr. Stein is right, of course, that a higher proportion of the unemployed are women and young people than, say, a decade or two ago. This is partly because there are proportionately more women and young people in the labor force than there used to be, but it is mostly because unemployment rates for these groups have gone up relative to those of experienced men. Both phenomena—the increase in women and young people in the labor force and the relative rise in their unemployment rates—have been taking place gradually over the years. They are not features of the current recession.

The administration's apparent contention is that unemployment of women and young people does not cause as much pain and suffering as unemployment of mature males because other people do not depend on their incomes. But this is only partly true. Many women, especially black women, head families, and so do many men under 25. The 23-year-old married man with a new baby and no assets to fall back on may feel his unemployment more keenly than his father. There is also psychological damage. The young person who can't find work may end up pretty discouraged with himself and society. Even loss of a part-time job may be serious, if it means dropping out of school.

Wives tend to earn less than their husbands, but that does not mean that no one depends on their incomes. The black family which is finally making it because both husband and wife work may feel just as desperate about the payments on the house or the car when the wife is out of work as when the husband is.

In any case, the unemployment rate is not so much a measure of economic pain and suffering—the poverty rate is a more sensitive indicator of that—as a measure of the health of the economy. It is also probably a pretty accurate proxy for the way people *feel* about the economy, which is why it matters in elections. If jobs are hard to get, people know about it. They worry about their own jobs; they postpone the vacation or the addition on the house or the store. It may not matter much to their state of mind whether the particular person they heard was out of work was Sam's father, or Harry's wife or Aunt Sue's oldest boy.

The second argument—that unemployment is attributable to de-escalation of the war—is a recurrent theme in the President's speeches. "We all know why we have an unemployment problem," he told the Nation on August 15. "Two million workers have been released from the armed forces and defense plants because of our success in winding down the war in Vietnam. Putting those people back to work is one of the challenges of peace . . ." "It is obvious," he repeated in his last economic message, "that the unemployment problem has been intensified by the reduction of over two million defense-related jobs . . ." And in the State of the Union address, he pointed out again "that if the more than two million men released from the armed forces and defense-related industries were still in their wartime jobs then unemployment would be far lower."

These presidential assertions that peace causes unemployment—vaguely reminiscent of Marxist theories that a capitalist system needs imperialism to maintain prosperity—are not stressed in the Report of the President's Council of Economic Advisers for the simple reason that they are not very accurate economics.

The attribution of the unemployment to military cutbacks implies that defense expenditures create employment and that other government expenditures do not. But there is no basis for this. If the administration had fully offset drops in military spending with increases in civilian programs, the de-escalation need not have created any aggregate unemployment at all, although there would have been local difficulties arising from the fact that the defense and civilian employment might have been concentrated in different places.

In fact, however, prior to August 1971, the administration deliberately pursued a policy of *not* offsetting the military cutbacks fully with increases in civilian spending. They were consciously holding down total government spending in order to create slack in the economy and reduce the inflation. It was not an implausible policy, although the human costs were bound to be high. Many economists thought at the time that it would be worth creating some unemployment in order to lower the rate at which prices were rising.

However, the policy did not work. Unemployment rose all right, but the inflation stubbornly refused to subside. Finally, in August 1971, the administration abruptly changed its strategy, began fighting inflation directly with wage and price controls, and started to use the budget to stimulate rather than cool off the economy. In view of this history it would be far more accurate to attribute current unemployment to a well-intentioned but unsuccessful attempt to fight inflation without price controls, than to attribute it to de-escalation of the war.

The third argument—we are doing everything anyone could do about unemployment—was strongly stated by Dr. Stein in his remarkable speech to the Press Club, "This administration has, I believe, the most powerful, comprehensive, coherent program for dealing with unemployment that any administration ever had . . . We are running the biggest budget deficit ever, except for World War II . . . We have the most comprehensive price-wage control system ever except during the Korean War and World War II . . . We have suspended the convertibility of the dollar . . . We are spending this year about $10 billion for manpower programs and unemployment compensation . . ." The message is: you Democrats have a lot of gaul criticizing us; after all, we're playing your song and playing it louder than you ever played it yourselves.

This recital of Republican accomplishments boggles the mind—at least for a moment. If you had offered 100 to 1 odds a year ago that Stein would be standing before the Press Club crowing about deficit spending, devaluation, and comprehensive price controls you would have had no takers. If you had predicted that the Republicans would

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actually be exaggerating the size of their deficit you would have evoked the sympathetic halfsmile that people reserve for harmless nuts.

But look carefully at that whopping $39 billion deficit now predicted for the fiscal year ending June 30, 1972. In the first place, most of that deficit is a result of the sluggish economy, not a response to it. Tax collections are below what they would have been at full employment and some kinds of expenditures (such as unemployment compensation) are higher. The full employment deficit, a much better measure of the stimulative effect of the federal budget on the economy, is much smaller ($8 billion, not $39 billion) and very recent. In the first half of this fiscal year the government actually ran a small full employment surplus. Moreover, the full employment deficit in the second half of the fiscal year (January-June 1972) is at least partly accomplished by pushing expenditures that would normally have occurred later into the current six month period. For example, the administration has indulged in a bit of calendar reform—the most original budget idea since Julius Caesar?—and has at least temporarily abandoned the twelve month year. Thirteen months worth of public assistance payments will be made to the states in the current fiscal year, leaving only eleven payments for next year. This maneuver has the effect of making this year's deficit look bigger (and next year's look smaller), but it has no real economic effect. States are not going to get their money out to poor people any faster than they would have anyway. Some of the other devices used to enlarge the current deficit seem equally unlikely to have any real economic effect. As George Perry put it in testimony before the Joint Economic Committee recently, the current "deficit looks to be about 10 parts slack-induced . . . 1 part full-employment deficit, representing a noticeable but not excessive fiscal push on the economy and 1 part hope, representing estimates of expenditures that may never materialize."

That the administration is finally using the budget to stimulate the economy is good news whether they are pushing hard enough remains to be seen. One could certainly make a case for creating deficits in a more stimulating way—giving consumers a tax break rather than investors and spending more on programs that create jobs directly, such as public service employment.

In the end, of course, it may turn out that the unemployment issue is really very simple after all. The average voter is probably neither interested in nor influenced by the who-struck-John arguments of the economists. If he has the gut feeling—based on personal observation, unemployment rates, or whatever evidence comes to his notice—that the economy is moving forward he will vote for Mr. Nixon and if he doesn't, he won't.

THE RETAIL PRICE OF BEEF

Mr. CURTIS. Mr. President, yesterday a meeting was held by the Secretary of the Treasury, Hon. John Connally, with leaders of the various chain food stores to discuss the price of food and, especially, retail prices of beef. The purpose of the discussion, as I understand it, was to try to pinpoint the causes of the price increases that are causing concern both to leaders in Government and to consumers at large in these times in which we are all dedicated to waging as effective a fight against inflation as possible.

I earnestly hope, Mr. President, that Secretary Connally and the heads of the large food chains looked at the problem with historical perspective. I hope they allowed economic facts rather than emotionalism to guide them. I have some facts to pass along to them. I will get right to the point.

Food prices today are not out of line with the prices of other commodities, such as manufactured goods. They have not risen nearly as fast as prices of manufactured goods. They fluctuate a great deal more than other prices. They are only very indirectly related to the prices received by producers of the raw agricultural products—in the case of beef, the livestock that are sold in the marketplace.

It is noteworthy that the Giant Food Stores here in Washington have launched a consumer-oriented campaign through their advertising columns to discourage the buying of beef. As part of the campaign, they have a consumer specialist or "promoter," as I prefer to call the person, who happens to be a former high Labor Department official in the Johnson administration, who is publicly suggesting that consumers buy meat substitutes.

I think this whole campaign by Giant Food Stores is an advertising gimmick and, worse yet, a hoax and a sham. The Giant Food people are trying to win customers away from other food stores by making the public at large think they really are giving them good advice, when in fact it is inaccurate advice. If the Giant Food people wanted to do their customers a favor, they would advise them to shop at other markets for the beef they buy.

Several weeks ago a cattle feeder from Hastings, Nebr., went to his local newspaper office and looked up cattle prices compared with retail meat prices on the local market 20 years ago compared with today.

He found that cattle prices were down slightly from the levels of 20 years ago, despite rather marked increases in retail prices of some beef products.

I have carried his research project a step farther, making a similar comparison for Giant Food Stores as well as several other retail commercial outlets in the Washington, D.C., area. The dates I used for comparison are approximately the same as those used by the astute Nebraska cattle feeder, whose name happens to be Ray Kissinger, who pointed the way for this type of historical research effort. They slightly predate the current controversy but are comparable.

I find it most interesting, Mr. President, that in the Washington Post for Thursday, January 13, 1972, the Giant Stores advertised only one beef product that was on a list it advertised approximately the same time 20 years ago, on Thursday, January 11, 1952, and this one product was hamburger.

What were the comparable prices, 20 years apart, for this product?

On January 11, 1952, Giant Food Stores advertised "lean" hamburger for 65 cents a pound. On January 13, 1972, "regular" hamburger containing 25 percent fat was advertised for 69 cents while "lean" hamburger containing 20 percent fat was offered for 89 cents a pound.

Is that such a big jump in retail prices for a 20-year period when the cost of everything else has been spiraling?

I decided to do some grocery-ad shopping to try to find a better buy, and I found that a competitor of Giant, the Safeway Stores, offered ground beef in the same Washington Post of Thursday, January 13, 1972, at a lower price than Giant was selling hamburger not only in 1972 but 20 years ago as well. The Safeway price for hamburger in January this year was 59 cents a pound. Would it not be fitting and proper for the Giant consumer expert, Mrs. Esther Peterson, to recommend in Giant's advertisement that Giant's potential customers in the Washington area buy their hamburger at Safeway? Needless to say, she did not do this.

I decided to make some further comparisons. On January 11, 1952, Giant Stores advertised sirloin steak for 98 cents a pound. Twenty years later, on January 13, 1972, Acme Stores in the Washington area offered sirloin steaks—"full cut including the tenderloin"—for $1.29.

Twenty years ago the Giant Stores advertised round steak for $1.10 a pound. At Safeway Stores in the Washington area, consumers could buy round steak for $1.19 on the same day this year when they could buy hamburger at Safeway cheaper than they could buy hamburger at Giant either then or 20 years earlier.

Giant Stores advertised chuck roast for 69 cents a pound on January 11, 1952. Twenty years later on the comparable date, Giant did not advertise the same product but Consumers Supermarkets offered it to customers in the Washington area for 89 cents a pound boneless.

I do not doubt that there have been increases in some food prices but there have been decreases in others from 20 years ago, Mr. President. I think the consumers can find the bargains by reading the pricelists in all the grocery ads in the Washington papers. They do not need the kind of misleading advice Mrs. Peterson has given them.

There is one thing I want to point out that I am sure Mrs. Peterson will not tell Giant's customers. This point is that livestock prices—the amounts which farmers and ranchers receive for the raw products—actually are lower today than they were 20 years ago.

On January 11, 1952, the Washington Post reported that prime beef on the Chicago livestock market, then the leading market in the world, sold as high as $37 a hundredweight while choice steers sold from $32.75 to about $36. Twenty years later the leading livestock market had shifted to Omaha, in my own State of Nebraska, where the Washington Post reported that on January 13, 1972, prime steers sold at a peak of $36 while choice steers went for $34.50 to $35.50.

I think the Giant Stores and any others that have maligned the meat industry, including the beef industry, should make a public apology. They should take a truth-in-advertising oath.

In Nebraska, a group of cattle feeders has purchased advertising space in next

Sunday's Omaha World-Herald to tell their side of the story. An article in the March 28th World-Herald described the effort, and I respectfully request permission at this time to put it in the RECORD, Mr. President, along with a letter to the editor from Mr. M. S. Schindler of Elgin, Nebr., which appeared in the same issue, setting forth some further interesting facts about earnings and profits on beef.

There being no objection, the article and letter were ordered to be printed in the RECORD, as follows:

FEEDERS COUNTER "UNFAIR" MEAT ADS

(By Don Ringler)

Some livestock feeders in Stanton County are fed up with recent advertising campaigns of certain chain stores urging consumers to boycott red meat because of high prices.

After doing a slow burn over these "buy something else campaigns" members of the Stanton County Livestock Feeders Association prepared a "report to the consumer direct from the cattle industry."

It will appear in a paid advertisement in Sunday's World-Herald and places the blame for meat price hikes on the retailer rather than the farmer.

USDA FIGURES

The advertisement signed by Steve Stevenson of Stanton, association president, says: "We think that it is very unfair for certain chain stores in the large consuming centers to attempt to have consumers boycott meat counters by ads, posters and other methods. Their motive is to make even more money by selling less desirable substitutes."

Quoting U.S. Department of Agriculture figures, the ad shows how the consumer's beef dollar is divided by the beef industry.

It gives the following breakdown on the $547.80 the consumer pays for the 481.3 pounds of retail cuts from a 1,100-pound live steer at the average price of $1.11½ cents a pound:

Retailer, $142.48; packer, $41.27; feeder, $103.51, and rancher, $260.54.

LONG, HARD LOOKS

"The retail price spread of $142.48 is definitely not justified by services rendered, the ad says. Consumers should take a long, hard look at this figure and not unfairly blame the cattle industry for the bulge in beef prices. Sirloin steak sold in Omaha 20 years ago for 79 to 89 cents a pound and ground beef 57 to 65 cents when cattle prices were higher than they are now. The cattleman's portion of the consumer's beef dollar is much smaller now than at that time," the ad continues.

Accompanying Stevenson to Omaha to place the ad were M. J. Hankins of Stanton, past president of the Nebraska Livestock Feeders Association, and Leonard Martin of Stanton, past president of the Stanton unit.

"We're not asking special favors," said Hankins. "We just want to get the truth across."

HE LIKED COMMENT

Hankins termed President Nixon's statement Friday blaming processors and grocers for rising food costs rather than the farmer as the "best statement that has come out of Washington in the last quarter century."

Martin pointed out that the rancher's share of the beef dollar is not excessive considering he must keep a calf for 18 months to grow a 700-pound feeder steer.

"The feeder has the animal for another five months," he added. "However, both the packer and retailer have that same animal only a few days."

[From the Omaha World Herald, March 28, 1972]

ELGIN, NEBR.

Regarding a recent Pulse letter, "Trail of the Steer," by the time a farmer gets his $328 for the 1,000 pound steer he has an investment of over $200 in feed and veterinarian expense over two years, or an annual percentage of 32 percent of his $200 and his labor. The $361 the packer receives amounts to 7 percent on his $238 investment and labor, but he has the beef in his possession only about ten days. This on an annual rate is a whopping 250 percent.

The $468 the retailer receives amounts to 29 percent on his $361. His investment and labor is also over about ten days. This on an annual rate as compared to the farmer is a horrendous 1,040 percent. How's that for a choice cut?

M. S. SCHINDLER.

GOVERNMENT WAGE BOARD INCREASES IN RHODE ISLAND

Mr. PELL. Mr. President, I am both heartened and encouraged by the announcement of the 5½-percent increase in wages for the Federal tradesmen, craftsmen, and industrial workers in the Narragansett Bay Area effective April 2, 1972.

As one who has been working for improvements in the system that is used to set Government blue collar wages, I am very familiar with the need for the hard-working employees in the Narragansett Bay Area to receive increases commensurate with the wages they have lost through inflation, and I am delighted that they are receiving an increase.

I am, also, happy to note that the survey of comparable private wages that was taken in January was the result of a congressional act last fall overriding the freeze President Nixon had imposed on wage surveys.

However, I believe Federal workers deserve equity. In this regard, I am disappointed that an Executive order of the President has prevented the Federal blue collar workers of Rhode Island from receiving the level of increase which the survey of comparable private wages had entitled them.

I recognize the importance of seeking to keep within the Federal guidelines. However, since Federal wage increases are usually at least a year behind private industry increases, there are very real grounds for allowing the 6.8-percent increase required by the Narragansett Bay Wage Survey. This figure should be kept in perspective with the 8.3-percent increase private industrial workers in Rhode Island received last year.

Since the wages of Government blue collar workers are set by surveys of past increases in comparable jobs in the private sector and since Government blue collar increases always trail increases in the private sector, I think it is unfair that the Government blue collar worker be made the leading edge of the administration's late anti-inflation effort.

I would urge the administration to rescind its wage ceiling and to allow Government workers the same increases permitted in the private sector.

REPRESSION OF JEWS IN SOVIET UNION

Mr. TAFT. Mr. President, much has been written concerning improvement of United States-Soviet relations and I certainly support such a policy, and hope it will continue. However, I believe it can only be based on a frank discussion of differences. One very important issue to be agreed upon, before a significant improvement can be made in our relations with the Soviet Union, is the issue of religious freedom.

Reliable reports indicate that the Jewish minority in the Soviet Union continues to be subjected daily to religious and cultural repression. The Soviet authorities habitually harass the Jewish minority. Complex and restrictive requirements are imposed on the right of Russian Jews to emigrate. Mail from outside the Soviet Union to Russian Jews is delayed for long periods of time and quite often discontinued completely. Jewish synagogues have been closed and currently only 60 still remain open with approximately half of these located in non-European sections of the Soviet Union where less than 10 percent of the total Jewish populace resides.

Soviet Jews have no Jewish libraries or social centers to enjoy. No Jewish newspaper, either in Yiddish or Russian, exists.

To summarize briefly, the 3 million Jewish men and women in the Soviet Union are being subjected to a systematic policy of "spiritual extermination."

I would urge that our Department of State change its reluctance to discuss this question and make every effort to impress this issue upon the Soviet Government, especially as to the right of Soviet Jews to emigrate to countries of their choice as affirmed by the United Nations Declaration of Human Rights. In addition, I believe it is quite urgent that President Nixon discuss this crucial issue with high Soviet officials in Moscow this May, since an omission to stress the plight of Soviet Jews would be an indirect indication that the U.S. Government does not consider this matter as being highly critical.

A letter from a prisoner serving in a Russian labor camp, similar to the situation in which many Russian Jews currently find themselves, has recently come to my attention. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER FROM MORDOVIA—TRANSLATED FROM THE RUSSIAN

I arrived at Mordovia a couple of years ago and here I am in one of the dozens of Mordovia Labor Camps. I remember well the road from Potma to the place of incarceration. In every direction there were deep woods but on both sides of the road, all around appeared fences of the camps. It appears that life in these regions occurs only in the immediate neighborhood of the camp. It is possible to see groups of people in prisoner's garb accompanied by guards with automatic weapons and dogs. Next to them club buildings, their existence incomprehensible for us, with slogans atop the buildings, but basically what stands out are fences, fences, and more fences. There are many camps in Mordovia. The prisoners refer to them simply as zones. What are they? Usually, it is an area surrounded by a fence—2 or 3 meters in height—a completely blind fence without a single opening. Above it is stretched barbed wire and observation towers are above from which constant surveillance takes place.

We are isolated from the outside world, awesome, by means of a forbidden zone into which the prisoners are not allowed to en-

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ter. It is a plowed area of earth fenced by another row of barbed wire. One finds there an armed detachment which comprises the heavily armed guard. Soldiers observe their shifts in the elevated towers from which automatic orders can be broadcast when any prisoner approaches the forbidden zone.

The zone consists of living quarters and working quarters. We live in barracks which are one to two stories in height. Inside they are divided into areas of 4–12 persons. Different camps have different arrangements. We sleep on bunks arranged in two levels and at nighttime the light is not turned off, so that we can be watched 24 hours, even while sleeping. This was difficult to get used to.

All prisoners wear the same clothes, summertime, cotton pants and shirts, and for winter we have a thin padded jacket and a hat—all of dark colors, and frequently they have been previously worn by other prisoners. Most of our possessions are taken away from us upon arrival, and are not returned until our term of sentence is completed. We are not permitted to wear woolen clothes in spite of temperature as low as 40 degrees below zero, centigrade, a frequently occurring temperature.

Here, one finds prisoners who are being punished for different offenses. One finds murderers, former Nazi criminals and so-called political prisoners. Generally speaking, it is considered that there are no political criminals in the Soviet Union. Therefore, there are no specific laws governing their detentions. Because of that persons convicted because of their ideas are qualified under Soviet jurisprudence as criminals. For example, in the year 1971, large groups of Jews were sent to Mordovia convicted in several different towns of the Soviet Union for anti-Soviet activity. I have met many of these persons and understand that their sole crime was the desire to emigrate to Israel. And, here, all of us are forced to live behind barbed wire.

The entire life in the camp is designated to hard labor. In shops where the majority of prisoners work, there are two shifts. People work one week in the first shift, in the second week, the second shift. For the first shift, we must get up at 6:00 A.M., then breakfast and at 7:30 A.M. is the summons for work. The first shift lasts from 8–4:30 P.M., with a 30 minute lunch period from noon–12:30. At 5:00 P.M. we leave work, then supper and free time until 10:00 P.M. For the second shift, which has in my opinion, more strenuous work. However, the necessity for rearranging oneself each week is the most unpleasant part. Here is a schedule for the second shift: 8:00 A.M. one gets up, breakfast, and at noon—dinner. At 4:00 P.M. we arrive for work from 4:30 P.M.–12:30 A.M. We work until 30 minutes after midnight, supper from 7:00–7:30 P.M. We leave work at 1:15 A.M. We are permitted to sleep at 1:30 A.M. We only have six hours to sleep—from 1:30 A.M.–8:00 A.M. It is taken for granted that almost everyone working the second shift sleeps from dinner until awakening (thus, the supposed four hours of free time cannot be used.) Thus, at 7:30 A.M. we go to work!

In general it is considered that work is the basis for re-education of criminals and therefore it is assigned the most important and special role in the life of the camp: both the encouragement and punishment of the prisoner is determined by his attitude toward work. Moreover, work is the only source of existence because from the money earned, with permission of the overseers, the prisoner may utilize up to five rubles per month for purchase of products from the commissary.

The prisoners are utilized in the Mordovian Complex for many types of common labor, completely unrelated to their educational and professional backgrounds. The "political" prisoners are used as a rule for the most strenuous and dangerous (healthwise) areas. I have seen that very clearly in the example of convicted Jews, many of whom have received higher education, and prior to arrest held government positions.

Zenkovka factory work, to which many are assigned, is the most difficult. One finds there a science associate, Vladimer Mogilever, a military engineer, Wulf Zalmanson, his brother Israel—student of the Polytechnical Institute of Riga, Asher Frolov—student of the Polytechnical Institute of Ryazan, and Shimon Levitt.

What is Zenkovka? One places into a drill press a zenker (reaming tool). It looks like a drill but it has a blunt end. It is not used for drilling, but for widening an opening. One takes an axle, places it into a vise and then turns a valve. Compressed air moves the vice so that the axle is positioned exactly under the reamer. Then it is necessary to move the wheel of the press so that the reamer is lowered into the opening, and widens it. After the opening is traversed, the wheel is rotated in an opposite direction, and the reamer is raised. Then the vice is opened by turning a valve. Without stopping the rotation of the reamer, it is necessary to remove the work piece and install a new one. Then the entire process is repeated. During a shift 1200 of these pieces must be processed. The most dangerous part is to remove the finished piece and install a new one. Switching off the press in this technology was not anticipated, which is a serious infraction of technical safety, completely inadmissible in freedom. The rotating reamer may easily injure the prisoner's hand. Such injuries are fairly common. In addition to the fact that the reamer may injure the hand; sharp, hot chips fly from under the reamer. To work in gloves is forbidden (it is even forbidden by the rules of technical safety) because if a hand in a glove would be caught under the reamer, then the glove would begin to wind on the reamer with meritable consequences—(one getting pulled into the reamer).

In addition to the above description, one should add the splashes of emulsion which attack the skin, fumes and horrible noise. The noise is not only from one's particular press, but there is a horrible noise emanating from the workshop itself. Shimon Levitt has small cuts all over his hands—a sight hideous to the eyes, but recently he seriously wounded his hand. But, this will heal. Wulf Zalmanson, without explanation was transferred here from the technical division where he was involved in engineering work—the only one of the Jewish prisoners; Israel Zalmanson was transferred from the Division of the Chief Mechanic, ostensibly for his poor work, although he completed all of his assignments. No one is able to fulfill the work norms, although Levitt is almost able to reach the quotas. The quota load is tremendous and if one does not fulfill it, one is punished.

The work is even worse. In so-called "emergency brigades" where David Chernoglas, a former engineer, is working. All of us fear assignment to this particular area. The reason being that basically it consists of loading and unloading railroad cars. The work is very difficult and dangerous. Moreover, one may be awakened at any time during the day or night, one does not know ahead of time. Even on a Sunday, one works.

At first glance, sewing of mittens in the camp shop appears to be fairly light work. Canvas mittens sewn in Mordovia are worn by workers far from Mordovia. Such shops exist in almost all of the zones. Women confined for political reasons—14 of them, among which is the sister of Israel and Wulf Zalmanson-Sylva. These women are occupied almost exclusively with this work, but even for them, the work is tiring. What can one say about the men: Aryeh Knock, Yosef Mendelevitch, Yuri Fedorov, Alexis Murjenko . . . excessive demands must be fulfilled in dimly lit buildings using machines which continuously break down. Besides which the completion of the quota is required under all circumstances, if one is to escape punishment. Sylva Zalmanson during work suffers from constant backache and dizzy spells related to constant eye strain. Because of acute eye strain, Yuri Fedorov was transferred from sewing mittens to turning them inside out—work which is less conducive to strain and acute conjunctivitis in the eyes. In general, he is fortunate because the quota for sewing can be met by few, even healthy persons are unable to meet the quota and all suffer consequences.

I myself work in construction. As do Tolya Altman, Michael Shepsholovitch, Boris Penson, Ahron Shpilberg. To begin, they were merely assisting pushing wheelbarrows with sand and moving different heavy objects. It was especially difficult for Candidate of Physical Mathematical Sciences: Lev Korenblitt, a man of weak health, who has spent all of his life in scientific laboratories and who simply did not have the strength for this type of hard work. Moreover, during transportation to the camp, Lev was so weakened that during the first week, he was unable to get up, not mentioning the fact that he was still driven to work in such condition and expected to meet his quotas.

The situation is also aggravated by the fact that it is almost impossible to endure the Mordovsky frost in the "so-called" special camp clothing. In our lives, various changes occur frequently, at any time one may expect a transfer to even more difficult and strenuous work. This took place with Tolya Altman and Misha Shepsholovitch who work together on a concrete mixer in penetrating winds. And then, one may be sent to work on the press, as happened to the husband of Sylva—Edward Kuznetsov. This work is known as being quite hazardous to prisoners because of virtual absence of fundamental norms of technological safety. In the camp, the press does not have any safety—grill and work pieces have to be replaced without stopping the machine. In freedom, one wouldn't encounter this situation anywhere, but in the camp it is permitted. The workers here are state criminals. The variety of labor in the camps is united by one single general quality, namely, unreasonably high work quotas, requiring not only experience but also unusual physical strength and this is possible only with adequate diet. It is difficult for a newcomer to adjust to camp food.

For breakfast: "soup." For those fulfilling the work quota, additional nutrition is available—cereal with vegetable fats and sugar. Since I do not receive this cereal I do not go to the eating hall in the morning at all. For dinner one is given cabbage soup and gruel (either peas or ragu—hardly edible). For supper a small piece of fried fish and again gruel. Presently because of the incidents of an epidemic of influenza, they started to occasionally give one onion to each prisoner. Some onions are also sold in the labor camp commissary, but there were not enough to go around. In general, no fruit or fresh vegetables are even given or sold. It is interesting to note that in our letters mentioning that we are fed "not badly"—this phrase is usually stricken out and the letters are returned by the censor. In addition to the established camp ration, under the conditions of meeting the work quota and "good behavior", prisoners have the right to buy products in the commissary to the extent of a miserly sum of up to five rubles per month. The assortment of products offered in the commissary is quite meager: margarine, cheese that looks like salami, canned fish of poor quality, candy—hard candy and caramels, gray bread (poor quality white bread), tobacco, fruit jam and also such necessary items as toothpowder, envelopes and stamps. The above assortment has been established officially and has not changed in the course of several decades.

Food in the hospital is substantially better in the camp according to so-called form 6B. Basic difference: white or rather gray bread, compote or pudding (thickened with potato starch, not gelatin), milk (250 grams per week), one piece of meat (50 grams per day) for dinner as the main course, truth (?) to fill in the fourth category. To enter the hospital for treatment and food is the ambition for every prisoner. This is, of course, difficult.

The camp hospital has approximately 120 beds, while the total number of prisoners in the strict and special regime camps serves a population of 1500. The hospital has almost no specialist if one does not count the three therapists, one surgeon and one dental technician, and all of them have just finished medical training and lack experience. The doctors work from 10 A.M.–5:00 P.M. In evening and night hours, during holidays and relief days, service is not rendered at all since there is no doctor on duty. Instead of a doctor and in place of a nurse and sanitary worker, there is a person—so-called paramedic, who has no medical training. For example, in the hospital of the Seventh barrack, the paramedic is a former tractor driver. It is interesting that even in the hospital, inspite of the fact that work is not forced, differences in regime are preserved: for those in the strict regime are in wards, and the specials are usually kept in solitary rooms. In cases of surgical intervention, the sick person is brought on a stretcher directly from the zone by prisoners and afterwards, following the operation, the patient is carried back to the zone.

The supply of drugs in the medical division is very meager and most of the medicines are kept for a long time beyond the limit of their utility. It is forbidden to receive drugs from relatives. Altman's wife was refused permission to pass on Vakalin to her husband which he needed for stopping cruel pains in his stomach. Federov's wife was forced to leave Sinalar which she brought for her husband Yuri in the guard room. Eventually, the drug was transmitted to the hospital and Yuri has made occasional use of it for curing eczema, which has developed in the camp.

Vladik Mogilever, who is not able to cope with heavy physical labor (I have already spoken of work in the reaming shop) because of acute nearsightedness, has been transferred to work that has no quotas—into a brigade for producing wooden logs. So he is sawing wood quietly in fresh air. It was possible for him to gain admission into the hospital and obtain from them an appropriate note—which explains the beautiful changes that have taken place for him. For many others, to be admitted to the hospital is like reaching the cup of the holy grail. Edik Kuznetsov has been suffering with hellish pains in his stomach, suggesting stomach ulcers. He was completely downed by sharp pain following heavy labor and with endless nausea. However, no one believed him and he was driven to work, he was stuffed with some kind of tablet used for dysentery without establishing the diagnosis! There was no mention even of special nutrition, although Edik doesn't even consume one tenth the camp ration.

To attain a diagnosis is a very complex business, which frequently requires several months. Appeals to the camp administration usually bring no results, and despairing prisoners undertake hunger strikes as a protest, which lasts many days and further undermines their health. One pays a high price for any medical service in camp! Only after a week long hunger strike, Edik Kuznetsov was finally placed into the hospital. As a result of a primitive investigation, the doctor diagnosed gastritis, in spite of obvious symptoms of stomach ulcer. Surprised, Edik requested an x-ray examination, but was "promised" it in a month. No measures were taken except that he was given some tablet to counteract nausea, and now Kuznetsov finds himself back in the zone in the same condition he was before.

His wife, Sylva Zalmanson, is developing a stomach ailment with similar symptoms—sharp pain and nausea. Moreover, her hearing has deteriorated. Sylva needs very badly a thorough medical examination which under the conditions existing in Mordovia is practically impossible to obtain.

Anatoly Altman came into the zone with an ulcer of the duodenum which was diagnosed while he was still free. He began to experience pains almost from the start and was one of the first Jews to gain admission to the hospital. He left the hospital, however, with a diagnosis of gastritis which does not anticipate special nutrition.

Shimon Levitt is suffering with inflammation of frontal sinuses. In the course of a long period of time, in view of absence of a specialist, the only medication he received was headache pills. After a sharp deterioration of his condition, he was relieved of work. He had a high temperature, but due to the fact that the prisoners are convoyed only to the hospital on Fridays, even though he was in the same zone as the hospital, all treatment was postponed by almost a week. From the hospital, he was released with the temperature, which even now occurs every evening.

Solomon Dreizner experienced for two months severe tooth discomfort and was unable to get an appointment with the doctor. After he was notified that his mother died, he developed an inflammation of the tertiary nerve, this causing him unbearable pain. The head of the medical division, a woman, declined to render him emergency medical treatment, threatening him with punitive isolation. He was forced to go to work in his sick condition. Since he was unable to work he was deprived of a scheduled visit. Solomon wrote several complaints to different departments complaining about lack of medical treatment and his unreasonable punishment. Being led to extreme mental anguish, he has declared a hunger strike for six days. Prison officials have told him to visit a special department in prison and told him he is a troublemaker and is having a bad effect on other prisoners. They have threatened punitive measures.

Jacob Michaelovitch Suslensky suffered from heart trouble on Sunday December 5, 1971. I, myself, was not a witness to his severe pain. Naturally, in the morning he went to the medical division of the prison. He was required to work on the second shift. He requested medication and relief from work at least for one day. Monday the chief of the medical department, a paramedic Egenova, told him "You should spend less time studying the Jewish language". However, she did not release him of his work. When I saw him I was surprised and even more surprised while hearing his account. Mogilever went after work with the sole purpose of checking out what had happened. The reality has exceeded all expectations. The chief paramedic very quietly repeated all she had told Yacov while Vladik showed a certain amount of confusion. He has reminded the paramedic Egenova about Statute 123, Constitution of the Soviet Socialist Republic, which declares the racial and national equality under law and also statute 74 of the Ukranian Union of the Federal Republic of the U.S.S.R., which punishes those who violate equality under the law. On the question "And where did you learn that—Suslensky is studying the Hebrew language?" The chief innocently replied "Don't you think that the Section G Internal Order has informed us of this?" What is truth is truth. The Section of Internal Order not only informed us, it makes the final decision whether a man for example, would be directed to medical treatment. Let us say that Yasha already twice has been stricken from the list. He has complained about the poor medical attention to the prosecuting attorney overseeing the Soviet Socialist Republic.

One can easily imagine how such medical service is reflected upon the health of the people. If in order to be medically treated, it is necessary to secure from the devil a statement about good behavior—without any verbal dependence of all rules and regulations of the labor camp. A slight deviation is followed by punishment. The variety of the different punishments in the labor camp is without end. For example, the removal of the right to receive mail and an increase in the duration of confinement (sentence). Prevention of receiving of the packages are some examples of punishments. By the way, this is the single source of additional food for the inmate, because to receive packages, those in the labor camp are not permitted, only after they have served half of their sentence, irrespective of their length of confinement. Only one package up to five kilograms in one year and even then provided that your rights have not been rescinded. In a package up to one kilogram in weight, which an---- received twice a year from the beginning of confinement, one may receive only dry goods and according to the instructions of the camp, these products must involve cracknel (a ring-shaped piece of dried mutton) and biscuits. Every other kind of food is forbidden. Imprisoned Jews that have been sent packages of bouillon cubes. However, even this was eventually forbidden. The excuse having been made that while they are dry goods, they are of meat extract, however, and meat is forbidden. Chocolate is also forbidden because "it is a substance that leads to 'excitement'". However, even the lack of this very insignificant addition to the products, makes it more difficult to endure the life in the camp.

Even more severe punishment is the removal of visitation rights. For those who are in the camp, the receipt of letters and visits is important as a symbol of human ties. It is understoood that the day of the meeting is yearned for with a great deal of excitement which is anxiously anticipated with preparation for several days as if it were possible to live again with one's visiting family, even though the actual duration of the visit is four hours under the watchful eyes of the supervisors. During the personal visit, one is not required to work according to the desire of the person in charge of the labor camp. However, I have not witnessed even once that a Jewish inmate would have been given visitation without requiring an entire working day. In 1971, this was done in the cases of Ahron Shpilberg, David Chernoglos, Victor Bogislovski, Lasal Kaminsky, Yuri Fedorov, Anatoly Altman, and in general all of the imprisoned Jews. The reduction even with the very brief time for visitation cannot be understood. It is a senseless cruelty if one would consider that the relative may have to travel 1000 miles in order to meet this forthcoming difficult blow and others for which they are really not prepared. The supervisors of the visits treat the relatives very harshly and with a deep hatred and this all is allowed to continue without reprisals for these prison officials. In spite of this, none of the relatives enter a complaint, fearing that the duration of visitation will be shortened. Any complaints to the overseer of the labor camp leads to no result. The women's supervisor Mache and Nadi feel they are in complete authority, even more so. Contrary to law is the personal search which relatives are subjected to prior to visitation, which of course are not sanctioned by any prison regulations.

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However, it is impossible to say anything, otherwise visitation may be completely forbidden. This is what happened to the wives of Chernoglos, Kaminsky, and the relative Kuznetsov. It involved actual body contact and turning the pockets inside out, emptying of the pocketbooks. These searches are carried out for the purpose of finding forbidden objects: guns, alcoholic beverages, narcotics, poisons, cigarettes, items of consumption, letters and postcards from Israel, criminal objects from the standpoint of the supervisor. These items are removed from the search. That is about all that one could find on the relatives of confined Jews. However, the degrading process of search is repeated time and again. Frequently the visitation is forbidden, the reason given—the work quota had not been fulfilled. Israel Zalmanson has been forbidden his forthcoming visitation. At first officials gave a warning. However, he had fulfilled his normal 80% and they punished him. The same thing happened to Aleca Murjinko. He had not fulfilled his quota for two days and has been denied visitors for all 1972. Aleca declared a 27 day hunger strike. Fedorov and Kuznetsov acted in solidarity with him in a 14 day hunger strike. Aleca is now near death and has ceased his hunger strike only when the prosecuting attorney promised to change the punishment to something else. Edward Kuznetsov is denied all visitors because he does not have any close relatives. His mother is bedridden and his wife Sylva Zalmanson is not permitted to visit her husband in the camp compound. Why wouldn't they change a personal visitation when he has no relatives, so that he could be visited by friends at least twice per year. However, this has been forbidden. It seems that Edward could have had personal visitation with Sylva who is located a few kilometers from him. However, this has been completely forbidden. At this time the prison officials require the examination of the original marriage certificate, while in spite of the fact, in all official documents Sylva and Edward are entered as husband and wife. This difficulty has existed for at least one year, husband and wife denied visitation.

All of the correspondence of the Jewish prisoners is subject to very strict censorship, with the exception of the doctor. The rest of the prison officials are censors. The inmates are forbidden to describe the life in the camp—the daily schedule and the quality of food. The correspondence should be strictly personal, otherwise the letters simply are not transmitted to the people they are addressed to or they receive them with many parts of the letter stricken out. This is especially sad because political inmates are not able to receive correspondence from their close relatives whose content could not be contested. This is done for the purpose of suppressing the spirit of the inmates and is done to make them feel that since no one writes to them, they are completely forgotten. Now it is known that the letters of the wife of David Chernoglos are destroyed before they are delivered. Fedoroy and Kuznetsov have not received letters from their relatives during the past two months, while they are being continuously written. On the other side, the letters from the camp do not reach destination to their relatives while the administration usually indicates they are not responsible for the loss. The wife of Murjenko has not received any news from her husband in three months and this is especially strange because the post, under normal conditions works quite efficiently. It was maliciously declared to Boris Penson's mother that the supervisor suggested to her son that he write regularly so that his mother would not worry. When he did write regularly, however, the letters were lost as in many cases.

The educational work within the labor camp compound was well funded which is incomprehensible. Why should education in the spirit of Soviet morality be given to Jews who forever wish to leave the Soviet Socialist Republic and live under different conditions. Once a week political classes take place to which attendance is mandatory while one's absence is punishable. The leader "educator" also works for the "section of internal order." He carefully scrutinizes the attendance and activity at the time of these classes. In the process of education the work does not stop even in view of the opposing national and self determination and religiousness of the confined Jews. Another sentence, I recall now—Josef Mendelevitch and how they persecuted him to wear a skullcap which for a religious is a very necessary part of his religion. Lazal Fachterberg was forbidden the reading of an annual prayer to his deceased mother, the Kaddish, because they have forbidden his receiving from home a Siddur or Bible in order to intercept the possibility of religious agitation in the confines of the Labor Camp which is a heinous crime under the condition of everyday atheist propaganda.

In the educational objectives for the inmates, it is forbidden to receive books from friends and relatives even through the special "book by mail" organization. The orders on literature frequently are left on the table of the censor, while this is difficult to explain why the books published in the Soviet Union are forbidden to the inmate? In addition, one can neither receive nor order newspapers of the friendly socialistic countries.

How strange that there is a pretension to the Jews to study Hebrew. Captain Patchugan had a discussion with Mogilever on this subject. On the question of why Americans, Ukranians, Latvians, and other nationalities are permitted to study their native tongue, the chief of operations replied: "They belong to their own nationality where as you do not," and "furthermore you Russian Jews must speak only in Russian." During the conversation, Captain Pitchugan has expressed in angry and offensive terms about the Hebrew language and writing and offended the human and national aspirations of Vladimir Mogilever.

The offensive incident with the illness of Jacob Suslensky, due to his study of the Hebrew language, was refused entrance to the hospital. I have already described. For what and due to whom is all this necessary? The prisoners of other nationalities do not have to endure these painful aforementioned experiences. The desire to learn one's language and literature, Major Sorokin from Camp 19 has claimed is Zionism, which, under the conditions of the anti-Zionistic campaigns, one can evaluate as a direct threat while it seemed that the Jews are ready to carry through and not be denied their goals.

FINANCIAL STATEMENT OF SENATOR AND MRS. CASE FOR 1971

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD the combined statement of Mrs. Case and myself of our assets and liabilities at the end of 1971 and our income for that year.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Financial statement of Senator and Mrs. Case, Mar. 30, 1972

ASSETS

Cash in checking and savings accounts (after provision for Federal income tax for '71), approximately	$60,000
Life insurance policies with the following insurers (currently providing for death benefits totaling $138,500):	
U.S. Group Life Insurance.	
Aetna Life Insurance Co.	
Connecticut General Life Insurance Co.	
Connecticut Mutual Life Insurance Co.	
Travelers Insurance Co.	
Continental Assurance Co.	
Equitable Life Assurance Soc.	
Provident Mutual Life Insurance Co. of Philadelphia.	
Cash surrender value	$49,556
Retirement contract with Federal employees retirement system (providing for single life annuity effective Jan. 3, 1973, of $28,236 per annum.) Senator Case's own contribution to the Fund total, without interest	41,072
Annuity contracts with Teachers Insurance and Annuity Association and College Retirement Equities Fund. As at Dec. 31, 1971 these contracts (estimated to provide a life annuity effective January, 1973 of $1,541.) had an accumulation value of	14,364
Securities as listed in schedule A	436,961
Real estate: consisting of residence building lot on Elm Avenue, Rahway, N.J., and house in Washington, D.C. (original cost plus capital expenditures)	72,200
Tangible personal property in Rahway and Washington, estimated	15,000

LIABILITIES

None.

INCOME IN 1971

Senate salary and allowances, $42,732, less estimated expenses allowable as income tax deductions of $5,634 (actual expenses considerably exceed this figure)	37,098
Dividends and interest on above securities and accounts	18,789
Lectures and speaking engagements: CPC International Plaza Club	1,000

SCHEDULE A.—SECURITIES

Bond and debentures of the following, at cost (aggregate market value somewhat lower):

	Principal amount
American Telephone & Telegraph Co.	$12,000
Cincinnati Gas & Electric Co.	4,000
Consolidated Edison Co. of N.Y.	5,000
Consumers Power Co.	5,000
General Motors Acceptance Corp.	5,000
Iowa Electric & Power Co.	5,000
Mountain States Tel. & Tel. Co.	5,000
South Western Bell Telephone Co.	5,000
Toledo Electric Co.	5,000
Total	51,205
Stocks (Common, unless otherwise noted) at market	385,756

	No. of shares
American Electric Power Co.	919
American Natural Gas Co.	548
American Tel. & Tel. Co.	200
A.T. & T. Warrants	20
Cities Service Co.	144
Combined Insurance	42
Consolidated Edison Co. of N.Y., $5 pfd.	50
Continental Can	38
Detroit Edison Co.	100
DuPont	40
General Electric Co.	240
General Motors Corp.	270
Gulf Oil	140
Household Finance Corp. $4.40 Cum. Conv. pfd.	100
International Business Machine Corp	128
Investors Mutual, Inc.	2,686
Kenilworth State Bank	25

Litton Industries	91
Madison Gas & Electric Co.	275
Marine Midland Corp.	563
Merck & Company, Inc.	200
Mid-Continent Telephone	80
Morgan, J.	22
National Community Bank, Rutherford	600
Owens-Illinois	80
Reynolds Industries	100
Tri-Continental Corp.	1,522
Union Carbide	48
Union County (N.J.) Trust Co.	1,157
Warner-Lambert Pharmaceutical Co	260

WYOMING STUDENTS ACUPUNCTURED

Mr. HANSEN. Mr. President, much has been printed in the United States concerning the Chinese practice of acupuncture, especially since President Nixon took certain initiatives and was able recently to breach the Bamboo Curtain of the People's Republic of China.

I was interested to learn from an article written by Alice Moeller, a staff writer for the Branding Iron, at Laramie, that this method of pain relief is in use by Dr. Victor Henry in the treatment of some students at the University of Wyoming.

Mr. President, in view of the recent progress made in U.S. relations with China, I believe that the article and Dr. Henry's comments are of interest. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OLD CHINESE ART: MEDIC PRACTICING ACUPUNCTURE

(By Alice Moeller)

The Chinese have been practicing the medical art of acupuncture for thousands of years. Although it is a known method in Europe, it is fairly unfamiliar in the U.S. Dr. Victor Henry, health service, is beginning to use this method to treat students.

"The method is based on placing small needles under the skin to stimulate nerve endings," he said. "It is not a method of curing all ills but it can relieve pain."

The method is safe only for those who know anatomy and where these nerve endings can be located around the body.

"Acupuncture is safe because you're not injecting anything into the body or damaging tissue," Dr. Henry said. "The nerve endings lie about one-eighth of an inch below the skin which means we don't bother muscles in the process."

He has treated four patients so far. One was a failure "which I expected even before I began the treatment but the patient wanted to try," he said.

This is a good record considering he has been using the treatment for one week.

He would not use the treatment where tissue changes have taken place such as with cancer or epilepsy. But it has been used to relieve the pain in arthritic joints. It has been thought that by stimulating points of the liver, infectious mononucleosis can be short lived.

"To me the uses of acupuncture are an advantage when used together with other forms of medicine," he said. "Antibiotics and surgery are also necessary to modern medicine, although in China acupuncture is a complete medical system."

In China the treatment is used as a substitute for anesthetics but this has not completely been understood by Western doctors With the increased exchange with China, Dr. Henry said, this too should become more well-known and accepted.

"The reasons for acupuncture not being more widespread in the U.S.," he said, "is that we have been shut out of China since World War II and the whole method runs counter to the anatomy and physiology of the West. This is rather hypocritical because doctors prescribe aspirin and not that much is known about how it works."

One of Dr. Henry's patients had a sprained ankle. The needles were placed on nerve endings both above and below the sprain to relieve pain. This could also be used for a broken leg to relieve pain after the leg is set.

A more miraculous example was in a New York clinic where a doctor was unable to lift his arm above shoulder level. He had been receiving treatment for one year with no results until he had one treatment of acupuncture. Afterwards he was able to touch his head.

Dr. Henry is the only doctor in Laramie to use acupuncture treatments. He just recently returned from a week of work in New York on perfecting his treatment. He says that the needles are so fine that they cannot show up in a photograph.

NONRETURNABLE STEEL DRUM USE SHOULD BE DISCOURAGED

Mr. RANDOLPH. Mr. President, litter on our streets and highways, and in our parks and recreation areas, in our countryside, is of national concern. In response, several States have passed legislation concerning this public-arousing problem, legislation directed at beverage containers—beer and soft drink containers, bottles, and cans.

The concept of "throwaway"—"use and discard"—has now been extended to 55-gallon steel drums. In effect, the steel drum manufacturing industry has created a 55-gallon beer can and the cost of disposal has been transferred from the private or industrial waste disposal cycle to potentially public, solid waste disposal systems.

Since its formation in 1963, the Subcommittee on Air and Water Pollution has received extensive testimony and considerable information concerning the potential environmental problems associated with solid waste disposal. The culmination of this effort was the enactment of the Resource Recovery Act of 1970. I had the responsibility to chair the Senate-House conference on this needed legislation.

During these hearings, a great deal of emphasis was placed on the recycling of containers and, especially, the land pollution and esthetic problems caused by the increased use of throwaway beer cans and soft drink bottles. Another major area of discussion was the problem of abandoned automobile hulks, which are not only a menace to the beauty of our countrysides, but also are a waste of natural resources.

The concept of reuse received little emphasis during those hearings; most of the expert witnesses presented testimony on how recycling could be employed to accomplish major gains in the fight against pollution. Yet the concept of reuse, whether encouraged by public policy through the establishment of disincentives, as proposed by Senators NELSON and JAVITS, or by production controls, was not fully explored. The idea of disincentives, as was pointed out at that time, would naturally require action by the Senate Finance Committee. That does not, however, preclude a proper discussion of disincentives before the proper environmental committees of the Congress so that they can acquire the background they need to carry out their responsibilities.

During the next 2 years, the Public Works Committee will initiate hearings that will shape future public policy regarding the reuse and recovery of resources. It is my purpose at this time to call attention to the fact that a complete review and analysis will be made in these hearings of the potential for reuse of products and containers as a means for conserving our disappearing natural resources, as well as a means for effective environmental quality management.

One facet of the reuse concept was alluded to in my prefacing remarks. In 1970 the committee received a letter from the National Barrel and Drum Association—NBADA—a trade association with over 150 members who operate plants that clean 55-gallon steel drums so that they may be reused over and over again—volume IV, beginning at page 2125. In its letter, the association commented that it is, after all, "a service industry; it does not manufacture new drums, it has no voice in the policymaking of those who do. It exists only to receive the used drum and to prepare it for reuse."

The drum reconditioning industry had its real growth during a period of national awareness of the dangers of destroying our natural resources. During World War II, and the Korean war, the War Production Board and the National Production Authority issued rules that made it impossible to buy new drums unless the user had made every effort to use already manufactured drums until their useful life had been exhausted. Only then could he buy new drums.

Now, we have come full cycle. The new steel drum manufacturing industry has moved into the production of nonreturnable steel drums that have limited reuse capability. I must question the implication of this practice for resource conservation and, even more specifically, its consistency with the aims and objectives of the public policy enunciated in the Resource Recovery Act of 1970.

In the New York Times, on January 2, 1971, there was a story from Anchorage, Alaska, that started out as follows:

In Alaska the main litter problem is not empty beer cans but discarded oil drums. At Barrow on the Arctic coast, about 48,000 of the metal barrels are scattered about the tundra. In the winter, these barrels are frozen into the soil or ponds and covered with snow. In the summer, the tundra thaws to a soggy consistency that makes it impractical to use vehicles to remove the barrels.

In the Time magazine for October 25, 1971, there was a picture of littered oil drums on the Aleutian Island of Amchitka. The article talks of an "oil drum culture" and notes that over a million such drums are scattered along Alaska's north coast.

This is the "environmental decade" and the drum reconditioner satisfies an important environmental function. When drums are left to rot, they con-

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tain residue of acid, paint, or chemical, which ultimately are released into the environment. The drum reconditioner performs the first step in abating this potential environmental problem when he cleans the residue out of used drums. At that time, he collects the residue and sludge deposits in the drum and disposes of it in accordance with developing environmental practices.

The traditional standard 18-gage steel drum can be reused over and over again for as many as 10 or 15 times. A lighter weight, 20/18-gage drum can usually be reconditioned two or three times. However, a lighter-weight, new-type drum, known as 24-gage or Monostress, has now been put on the market as an intended "throwaway" or a "single use" drum. After one use, it has no further functional value. If society is lucky, these drums will end up in a scrap yard where they can be recycled, but even then the disposal cost must be borne by the taxpayer.

At other times, however, it may very well end up as an unsightly 55-gallon blot on our Nation's countryside.

I have used the analysis of the steel drum to illustrate the need for the Subcommittee on Air and Water Pollution to take a close look at the concept of reuse, both as it relates to the conservation of our national resources and as a valuable tool for enlarging the effort to protect the world in which we live.

Prior to hearings next year, the Public Works Committee intends to review business practices which encourage single-use consumer products such as the steel drum. The committee also will provide for Federal guidelines which will serve as disincentives to such practices in order that the public interest can best be served.

Just imagine, if you can, a six-pack of 55-gallon "throwaway" cans.

HEALTH OF CHILDREN AND YOUTH

Mr. MONDALE. Mr. President, I have asked for time to speak this morning in order to bring to the attention of the Senate the little-publicized recent decision of the Committee on Finance to postpone and dilute a program that is of vital importance to the health of millions of poor children.

I refer to the requirement for "early and periodic screening, diagnosis and treatment" of health problems of children covered by medicaid. The committee action took the form of amendments to H.R. 1, the administration's proposed welfare and social security legislation.

On March 7, the committee announced that it had voted to postpone the effective date for the screening of all eligible children and youths by 2 years—from July 1, 1973 as now required by the Department of Health, Education, and Welfare, to July 1, 1975. HEW regulations specified that services for children from 0 to 6 years old be available on February 7, but gave the States until July 1, 1973, to phase in programs for dependents up to age 21.

In addition, the committee announced that under an amendment it adopted States would not be required to offer additional medical treatment for diseases discovered by the screening process. The HEW regulations specifically require the States to provide eyeglasses, hearing aids and certain kinds of dental care for children and youth regardless of whether such services were provided to other medicaid recipients.

As a result of the Finance Committee's action, children in as many as 18 States could be deprived of eyeglasses they need; in 25 States, they could go without needed hearing aids; and in 17 States, without certain dental services they require.

The decision by the Finance Committee only compounds a grievous injustice which has already been done to the estimated 11 million children from infancy to age 21 who are potentially eligible for these health services.

For the program that the committee has chosen to postpone and dilute was approved by Congress in 1967 and has only begun to go into effect in the last month or two. It took the Department of Health, Education, and Welfare nearly 4 years to develop and publish regulations to guide the States in setting up their programs.

In the meantime untold numbers of children from families who cannot afford private health care have gone without a physical exam; without dental care; without a test to determine whether they require eyeglasses or a hearing aid, without a test for anemia or diabetes or malnutrition. We can never know how many children have suffered and may suffer for the rest of their lives because these opportunities were not available to them.

We can guess the effects from the report of screening done in Mississippi, one State which went ahead and implemented its own program despite the delay of HEW in promulgating regulations. In Mississippi, examination of 1,178 youngsters revealed 1,301 "medical abnormalities." These included 305 cases of multiple cavities, 241 cases of anemia, 97 cases of faulty vision, 217 cases of enlarged tonsils, and significant numbers of cases of hernia, intestinal parasites, and poor hearing.

For years the Department of Health, Education, and Welfare dragged its feet in implementing this program. Finally, in November of last year, the Department issued regulations directing States to initiate their programs by February 7, 1972. I ask unanimous consent to have printed at this point in the RECORD the correspondence which I have had with Secretary Elliot Richardson concerning the implementation of the program.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

FEBRUARY 18, 1972.

Hon. ELLIOT L. RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have a strong interest in the progress of the early screening and diagnosis program for children under Medicaid.

I would appreciate it if your office would provide me with answers to the following questions about the program by the close of office hours on March 1.

1. How many states actually had programs operating on February 7, the deadline for implementation? Which ones did not?

2. How many states have made submissions (preprints, manual information, etc.) describing their programs and indicating their compliance with the HEW regulations? Which ones have not? What is being done by HEW to assure that this information is submitted?

3. How many states and which states have chosen the option of providing services for children only to age 6 immediately and working toward providing them for persons to age 21 by July 1, 1973? Please indicate the stages in which each State that has postponed service for 21 year olds will work toward the deadline.

4. How many States have been ruled in compliance with the regulations? Which ones have not? Why? Please list by State.

5. According to the information you have received, which States are not providing any of the services listed under Point 4 of the "Requirements" in the Medical Assistance Manual guidelines ("medical history . . . assessments of immunization status and updating immunization")? What is being done to institute these screening services in States that do not have them?

6. Under Point 4 as described above, are States required to test for sickle cell anemia? Lead paint poisoning? Diabetes?

7. How often must a child be examined under HEW's definition of "periodic"?

8. Would you please submit drafts or final versions of the "comprehensive guidelines" that are scheduled to replace the "interim guidelines"?

9. What efforts are being made by the States to assure that all eligible children are receiving the benefit of this program? Please list by State?

10. What arrangements have the States made to assure that when a health problem is identified the child receives the proper treatment? Please list by State.

11. What requirements has HEW adopted to discover how many poor children are now receiving early screening and diagnosis services in each State, and how many will receive them in the future years? Please submit available statistics.

Thank you for your cooperation.

Sincerely,

WALTER F. MONDALE.

SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., March 23, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter of February 18 inquiring about progress in the early screening and diagnosis program for children and under Medicaid.

Enclosed (Attachment A) is a copy of a summary of data from a survey which was conducted through Regional Offices of the Medical Services Administration shortly after the effective date of the early screening regulation. Based on this source and other information obtained by MSA, I will respond to your questions in the order they are presented.

1. We know that Kansas, Maryland, Mississippi, Tennessee and Virginia had operating programs on February 7. Alabama, Connecticut, Nebraska and Oklahoma had claimed earlier that they had programs. We are actively engaged in following up with each State to ascertain the status of their program and assist them in getting underway.

2. As of February 7, 1972, 15 States had submitted plan amendments indicating their compliance with the regulations, 34 had not, and on three we had no information. Our Regional Offices are following up with the States to see that the necessary plan amendments are submitted.

3. Regarding coverage by age group, our information relates to States' intentions, not their actual plans (except for the 15 States that had submitted plan amendments and Mississippi, Tennessee, and Virginia). As of February 7, 20 States intended to include all ages up to 21, 6 States would cover ages up to six, one State would cover up to 12, and information was uncertain on 15 States.

4. No States have been ruled out of compliance with the regulations. Under the procedure established by the Social and Rehabilitation Service (which administers the Medicaid program through the Medical Services Administration), the SRS Regional Commissioners submit a quarterly report on States' compliance with SRS regulations. The next such report will reflect status of State programs as of March 31, 1972.

5. We do not have information regarding which States are not providing any of the services listed under Point 4 of 'Requirements" in MSA's interim guidelines. We will be obtaining this information through our Regional Offices in the process of preparing the March 31 compliance report. We will also get information on what steps States are taking to initiate various screening services.

6. Point 4 does not require States to test for sickle cell anemia, lead-based point poisoning, and diabetes. The proposed content of the screening program is under close study in connection with the development of the final guidelines which will be issued to the States.

7. We will interpret the meaning of "periodic" in the comprehensive guidelines. Our present view is that periodicity will vary with respect to the condition being screened. For example, screening for sickle cell anemia needs to be done only once, and screening for lead-based paint poisoning should be done between one and six years of age, but does not need to be done thereafter.

8. We will be pleased to submit drafts of the "comprehensive guidelines" as soon as they are ready. We hope this will be within the next month.

9. Again, we do not have an inventory of States' efforts to assure that all eligible children are receiving the benefit of the program. This is another item which our Regional Offices will canvass for the March 31 compliance report. We can report, however, that in one or more States eligibility workers inform families of the screening program when their eligibility is established; letters are sent to current AFDC families informing them of the programs; and State and local agencies are developing outreach programs with staff of Head Start, Maternal and Child Health Services, and other community agencies.

10. We do not know what arrangements States have made to assure that children will receive proper treatment for identified health problems. Our final guidelines will suggest various measures. It must be borne in mind that under the final regulations the States are required to provide only such treatment as falls within the amount, duration, and scope of services set forth in the State's Medicaid plan, plus treatment for visual, hearing, and dental care if those items are not included within the regular items of service covered by the plan.

11. SRS's Division of Program Statistics and Data Systems is modifying its quarterly data collection and reporting system to include specific information on numbers of children receiving early screening starting with the current quarter. Projections of future coverage will be made by MSA's Office of Program Planning and Evaluation. SRS also has authorized conduct of a research and demonstration project this year on the evaluation of early screening programs, one product of which will be the development of means of identifying and recording data on diagnosis and treatment of children screened.

I appreciate your interest in the progress of the early screening program, and I wish to assure you that we will do our best to see that it is effectively implemented by the States. In the coming weeks we will be devoting increasing attention to the preparation of the final guidelines, the provision of technical assistance to the States, and monitoring their activities in carrying out the program in full accord with the statute and regulations.

With kindest regards,

Sincerely,

ELLIOT RICHARDSON,
Secretary.

ATTACHMENT A

ANALYSIS OF STATUS OF STATES IMPLEMENTATION OF PR 40-11(C-4) AS OF FEB. 7, 1972—EARLY SCREENING, DIAGNOSIS, AND TREATMENT

	Plan amendment submitted to regional office		Form in which the amendment was submitted		Age group elected, Jan. 1, 1972	Problem areas identified as precluding proper implementation and coverage
	Yes	No	SRS preprint	Other		
Total	15	34	9	6	15—NA; 16—0 to 6; 20—0 to 21; 1—0 to 12	
Region I:						
Connecticut		X			NA	
Maine		X			NA	
Massachusetts		X			NA	
New Hampshire		X			NA	
Rhode Island		X			NA	
Vermont		X			NA	
Region II:						
New Jersey	NA	NA			NA	
New York		X			0 to 6	
Puerto Rico	NA	NA			NA	
Virgin Islands	NA	NA			NA	
Region III:						
Delaware		X			NA	State plan omits dental care.
District of Columbia		X			NA	Unknown.
Maryland		X			0 to 6	State plan omits hearing aids.
Pennsylvania		X			0 to 6	No drugs for medically indigent only.
Virginia		X			0 to 21	State plan omits dental care.
West Virginia		X			NA	State plan omits dental care.
Region IV:						
Alabama	X		X		0 to 6	
Florida		X			0 to 6	
Georgia		X			0 to 6	
Kentucky		X			0 to 6	
Mississippi		X			0 to 6	
North Carolina		X			0 to 6	
South Carolina	X			X	0 to 6	
Tennessee		X			0 to 6	
Region V:						
Illinois		X			0 to 21	
Indiana		X			0 to 21	
Michigan		X			0 to 21	
Minnesota		X			0 to 21	
Ohio	X		X		0 to 6	
Wisconsin		X			0 to 21	
Region VI:						
Arkansas	X		X		0 to 21	
Louisiana	X		X		0 to 6	
New Mexico		X			0 to 6	
Oklahoma		X			0 to 21	
Texas		X			0 to 6	
Region VII:						
Iowa	X		X		0 to 12	
Kansas	X			X	0 to 21	
Missouri	X		X		0 to 6	
Nebraska	X			X	0 to 21	
Region VIII:						
Colorado		X			NA	State plan excludes eyeglasses, dental care.
Montana		X			0 to 21	
North Dakota	X		X		0 to 21	
South Dakota		X			NA	State plan excludes dental care.
Utah	X		X		0 to 21	
Wyoming		X			NA	State plan excludes dental care, hearing aids, eyeglasse

ATTACHMENT A—Continued

ANALYSIS OF STATUS OF STATES IMPLEMENTATION OF PR 40-11(C-4) AS OF FEB. 7, 1972 EARLY SCREENING, DIAGNOSIS, AND TREATMENT—Continued

	Plan amendment submitted to regional office		Form in which the amendment was submitted		Age group elected, Jan. 1, 1972	Problem areas identified as precluding proper implementation and coverage
	Yes	No	SRS preprint	Other		
Region IX:						
American Samoa						
Arizona						
California	X			X	0 to 21	
Guam	X			X	0 to 21	
Hawaii				X	0 to 21	
Nevada		X			0 to 21	
Trus. Territory						
Region X:						
Alaska						
Idaho		X			0 to 21	
Oregon		X			0 to 21	
Washington	X			X	0 to 21	

Mr. MONDALE. Mr. President, I think that this correspondence makes it clear that even with 4 years in which to gear up, HEW has very little idea of whether programs are actually operating in most States or of the nature of the services offered. On March 23, more than 6 weeks after the effective date, the Secretary wrote to me that only five States definitely had programs operating on February 7. Four States "had claimed earlier that they had programs," the Secretary wrote. What about the other 41 States?

Other crucial information that is lacking includes whether the States are taking steps to see that all eligible children are receiving the benefits of the program, and to insure that youngsters with health problems actually receive treatment for them.

I cite these deficiencies in the HEW effort to establish and monitor the programs as evidence that acceptance by the full Senate of the Finance Committee's amendments might kill this worthwhile and sorely needed program permanently.

It is obviously from the lack of information in the Secretary's response to my letter that the Finance Committee has made its decision without even knowing the scope of the financial burden implementation of the program has placed on the States. The American Academy of Pediatrics tells me that preventive health care for young people is the best insurance against development of chronic, expensive health problems in later years.

Further postponement and dilution of the requirements for State efforts—in the face of the incredible delays already tolerated by the Congress—can only be expected to signify an abandonment of congressional commitment to the program it authorized.

We have a hard enough time as it is passing the kind of legislation needed to assure a good life to the American children who are born in poverty. The very least we can do for them is offer the prospects of a healthy childhood and youth so that they will have a fair chance at an education and at the other opportunities that can ultimately help them break free of the poverty cycle.

When the committee version of H.R. 1 reaches the Senate floor, I intend to offer amendments to assure that the "early and periodic screening diagnosis, and treatment" program is both preserved and implemented.

I call Senators to support me in this effort.

VANDERBILT TELEVISION NEWS ARCHIVES AVAILABLE TO THE PUBLIC

Mr. HANSEN. Mr. President, Vanderbilt University has undertaken what I believe is a significantly important role as the caretaker and recorder of the television news programs of America. These programs, in my opinion, may be an important part of the visual record of the history of our times.

The Vanderbilt archives made it possible in the spring of 1971 for Members of Congress, newsmen, and commentators, and the general public to view in the Senate Office Building the news coverage by the major networks of the Laos incursion by troops of South Vietnam.

The administrative consultant to the Vanderbilt Television News Archives, Mr. Paul C. Simpson, has notified me that the programing available at Vanderbilt has been cataloged and published in a periodical called Television News Index and Abstracts.

To describe briefly the purpose of the index, I quote the following from Mr. Simpson's letter:

We hope to publish this monthly. At this time we are distributing approximately 275 copies throughout the United States to individuals, institutions, and organizations. We believe that these index and abstracts will serve two extremely useful purposes. We believe that they will give a quick review as to what has been shown on the television network news programs. We also know that they will serve as an extremely useful guide to the Vanderbilt Television News Archives collection of videotapes which extends back to August 5 1968.

Mr. President, the Vanderbilt Television News Archives is a nonprofit enterprise of the university. It comprises a videotape collection of the evening news broadcasts of the three major television networks—ABC, CBS, and NBC. The programs are videotaped each day off the air as they are broadcast in Nashville, Tenn.

The collection is available for use at the archive, for a nominal viewing fee, and on a rental basis for use elsewhere.

Mr. President, I believe this availability is of considerable interest nationwide, and those who are interested in access to the collection should write to Mr. James P. Pilkington, Administrator, Vanderbilt Television News Archives, Joint University Libraries, Nashville, Tenn. 37203.

HOW DEFENSE DEPARTMENT BEATS THE TAXPAYER

Mr. PROXMIRE. Mr. President, on Tuesday the Chief of Naval Material Command came before the Joint Economic Committee to testify on ship claims as well as other procurement.

In the course of Admiral Kidd's testimony I asked him about the orders he had received from Admiral Zumwalt to speed up spending and get rid of appropriated money.

Mr. President, the story of this hearing is about as devastating an indictment of service waste as I have ever heard—and I have heard plenty in the 5 years I have been in the Senate.

For this reason I ask unanimous consent that the transcript of the hearings be printed in full in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

ACQUISITION OF WEAPON SYSTEMS, PART 6

(Tuesday, March 28, 1972)

The Subcommittee met, pursuant to recess, at 10:00 o'clock, a.m., in Room 1202, New Senate Office Building, Senator William Proxmire (Chairman of the Subcommittee), presiding.

Present: Senators Proxmire (presiding), and Percy.

Also present: John R. Stark, Executive Director; Richard F. Kaufman, Economist; Loughlin F. McHugh, Senior Economist; Walter B. Laessig, Minority Counsel; Leslie J. Barr, Minority Economist; and E. A. Fitzgerald, Consultant.

Chairman PROXMIRE. The Subcommittee will come to order.

The Subcommittee on Priorities and Economy in Government began studying shipbuilders; claims against the Navy and shipbuilding practices in 1969. The claims problem has grown worse since that time and some of the disturbing aspects of the shipbuilding industry have also been aggravated.

The claims problem became critical when for the first time the dollar volume of claims pending and about to be filed neared the one billion dollar mark. Never in our history had the volume of shipbuilder claims been so high.

In 1969 the Navy "settled" a claim with the Todd Shipyards Corporation for $96.5 million, representing about 90 percent of the face value of the original claim.

This Subcommittee asked the General Accounting Office to investigate the Todd settlement and GAO's findings confirmed our worst fears.

GAO reported that the claim had not been adequately substantiated and that the contractor had not been able to establish a relationship between the costs claimed and the specific actions by the Navy which the contractor alleged caused the costs to be incurred.

On the heels of the Todd fiasco, the Navy in 1969 established a civilian claims review group under the chairmanship of Gordon W. Rule. The purpose of the Rule group was to review proposed settlements of claims in cases where the settlements entered into were $5 million or higher.

The Rule group had a limited function. It could not expedite claims or settle them itself. Its primary responsibility was to see to it that the claims were well supported by the facts so that proposed settlements were reasonable and fair to the Navy.

If the group concluded that a proposed settlement could not be substantiated, it could reject it. The effect of a rejection would be to cause the claim to be sent back to the system command from whence it came for further review and negotiations.

In 1970, the Navy settled a consolidated group of five claims with the Lockheed Shipbuilding and Construction Company for $17.9 million. Because each of the individual settlements was for less than $5 million, it was not forwarded to the Rule group for review.

We asked the GAO to investigate the Lockheed settlement, and the results of that investigation were reported to us and released to the public a few days ago.

Again we find the Navy entering into a very questionable settlement. GAO found in its report that the contractor's alleged delays were either exaggerated or nonexistent in at least two important instances. Lockheed could not relate its additional costs to specific government actions and GAO concluded that "we are not in a position to express an opinion on the reasonableness of the settlement."

In 1971 the Navy entered into a tentative settlement agreement with another shipbuilder, Avondale Shipyards, Incorporated, on one of the largest claims then pending. The proposed settlement was for $73.5 million, and it was forwarded to the Rule group for review.

The Rule group unanimously rejected the claim for a number of reasons, among them the fact that the claim lacked substantiation.

Following that action, some funny things happened to Mr. Rule and the claims review group. First, Mr. Rule, who just a year ago received the highest civilian award given by the Navy, "resigned" from his post as Chairman of the Contract Claims Control and Surveillance Group. Then the group itself was abolished, and a general board composed of flag officers was established in its place. Finally, Avondale was given a "provisional" settlement of its claim in the amount of $25 million. The circumstances surrounding these actions constitute a major reason for this hearing.

Another and perhaps overriding reason for our inquiry goes back to the Subcommittee's longstanding concern for economy in Government. Earlier this month, former Deputy Secretary of Defense David Packard delivered a speech on receiving the Forrestal Award and in that speech, he made some points that go to the heart of the defense procurement problem. Mr. Packard, it will be recalled, said on another occasion not too long ago that defense procurement was a "mess".

In his more recent speech, Mr. Packard talked about the tendency of contractors to buy into contracts and the way they are bailed out after getting into difficulties. He went on to say: "We are going to have to stop this problem of people playing games with each other. Games that will destroy us, if we do not bring them to a halt."

The games that disturb me most are the games that bureaucrats play with the taxpayers' money, particularly the games of spending dollars that do not need to be spent. It is perfectly clear to me that the Department of Defense spends too much, too fast, and there is evidence that getting rid of funds appropriated to it is a Pentagon policy.

Our witnesses this morning are Admiral I. C. Kidd, Chief, Naval Material Command, and Gordon W. Rule, Director, Procurement Control and Clearance Division, Naval Material Command.

Admiral Kidd commissioned and commanded the Navy's first all missile squadron, Destroyer Squadron 18. He subsequently served for over four years as Executive Assistance and Senior Aide to the Chief of Naval Operations; as Chief of Logistics at NATO Headquarters in Naples, Italy; commanded Cruiser Destroyer Flotilla Twelve and the First Fleet; and commanded the Sixth Fleet from 28 August 1970 to 1 October 1971.

Admiral Kidd's decorations include the Distinguished Service Medal with Gold Stars in lieu of Second Award, Legion of Merit with two gold stars in lieu of Second and Third Awards, and Bronze Star.

Gordon Rule has testified before this Subcommittee on several occasions, and we are glad to have him appear before us once again.

Admiral Kidd, you may proceed with your statement.

STATEMENT OF ADM. I. C. KIDD, CHIEF, NAVAL MATERIAL COMMAND; ACCOMPANIED BY GORDON W. RULE, DIRECTOR, PROCUREMENT CONTROL AND CLEARANCE DIVISION, NAVAL MATERIAL COMMAND; REAR ADM. R. G. FREEMAN III, DEPUTY FOR PROCUREMENT AND PRODUCTION, AND HART T. MANKIN, GENERAL COUNSEL

Admiral KIDD. Thank you very much, Mr. Chairman. I appreciate very much indeed your invitation to appear before your Committee today, sir, and respond to questions on shipbuilding claims and related shipbuilding matters.

Accompanying me this morning in addition to Mr. Rule is Rear Admiral Freeman, the Navy's Deputy for Procurement and Production.

Because your topic is broad, I will keep my formal remarks brief.

I do not plan to cover the specific actions that have been taken in the claims prevention area—I believe Rear Admiral Sonenshine covered these for you in his testimony before your Committee last September. The GAO has recently examined this area and concluded that those aspects of the Ship Construction Improvement Program (SCIP) that relate to claims hold considerable promise for managing our overall claims problem. If you or members of your Committee have questions on these actions I will be pleased to try to respond to them.

Let me assure you that since assuming command of the Naval Material Command four months ago, I have devoted a great deal of time to our problems in shipbuilding and more specifically, sir, claims.

When I took over, there were several things in this general area that appeared obvious.

First, roughly a billion dollars in outstanding claims, some outstanding for several years is, in and of itself, a problem of tremendous magnitude. There were more claims in the offing, in my judgment.

It was equally apparent that these claims were probably contributing to a feeling of some tension between the Navy and some of our contractors. Moreover, this situation was contributing nothing to our credibility with the Congress and with the American public. This matter requires prompt action—at a time when we need—need desperately—to modernize our fleet. To do this we need a strong and cooperative industry, and, of course, a great deal of Congressional and public support. Having been privileged to command our 6th Fleet in the Mediterranean just prior to coming to Washington this time, where we witnessed daily and at first hand the growing Russian naval capability, let me assure you that our naval capabilities are very much at stake here. The Russians are building fine ships and manning them with competent personnel—men that evidence a very complete knowledge of the ways of the sea.

Of concurrent concern to me—and I am being very candid now—was the fact that reflections of this relationship between industry and Government were becoming evident within the Navy. I found a wide divergence of views on how some of our claims problems should be handled—experienced and dedicated men, civilians and military, exceptional knowledgeable individuals—brilliant men—professionals, in every sense of the word—each with strong feeling. One of my first tasks was to address this matter. As the Chief of Naval Material that was my job. It was not a question of deciding which one of these gentlemen was correct—they were all right because they wanted this enormous claims problem resolved. It was simply a matter of how best to proceed, considering the many ramifications of the overall problem, and keeping the best interests of the Government uppermost in mind at all times.

There seems to be a certain amount of misunderstanding about the actions taken, however. If I may, I would like to describe them to you.

One of the first actions was to establish the Naval Material Command General Board. Its purpose is to provide me with the assistance and advice I need in managing all areas of my responsibility. It helps me in turn to keep the Chief of Naval Operations, Admiral Zumwalt, advised on matters involving weapon systems development, acquisition and, of course, fleet support. You might compare the General Board to the Board of Directors of a very large corporation. The Naval Material Command General Board has 14 permanent members. They include myself, the Vice Chief of Naval Material, two of my principal deputies, my six system commanders, and to insure that we keep abreast of the operational side of the Navy, the Deputy Chiefs of Naval Operations for Logistics, Submarines, Surface and Air also attend. Others, civilian and military, attend General Board meetings and participate when their particular area of expertise of knowledge is required.

I did not establish the General Board to deal with claims, in fact, it was not established to deal with any specific problem. It was established to deal with all matters of policy and common interest. It is the way I have chosen to manage a very complex command—a command that is responsible for spending approximately 60 percent of the Navy's total budget and employs roughly two-thirds of its total civilian work force.

In short, the General Board was established as a forum to provide discussion and advice. Again, let me say it was not established to solve any particular problem but rather to address any and all subjects. Parenthetically, the Navy had a General Board long before World War II for just this purpose to serve the CNO. I have used a General Board to run both the First and Sixth Fleets.

Now to speak a moment about the new Claims Board established this past January. It was in fact in the planning stage prior to my becoming the Chief of Naval Material. The Claims Board is composed of five of the most experienced civilian procurement officials we have in the Navy. It is assisted by

an exceptionally well qualified representative from our Office of General Counsel. The Chairman of the Claims Board is my Assistant Deputy for Procurement. The other procurement members are the most senior civilian procurement officials at our four hardware systems commands.

Their principal function is to review major proposed claim settlements. When their review is completed, the Chairman, or his representative, makes a presentation to the General Board. Then, based on this combined expert advice, the final decision will be made on the merits of the claim. The decision will then be briefed to the Assistant Secretary of the Navy (Installations and Logistics).

An additional responsibility of the Claims Board lies in the area of claims prevention. This Board has overall responsibility for procurement policy and procedural recommendations designed to prevent or minimize claim generating situations. It seemed only logical to me, Mr. Chairman, that when we got this aggregation of talent together that it address itself to preventing claims. Settling claims is only a part of my objective. Preventing new ones is equally important, if not more so.

That, in summary, highlights procedural changes made in the claim settlement area. I consider that our procedures are sound and hopefully should provide the assurance needed to be certain that these claims are being settled properly and promptly.

You might be interested in an example of increases in staffing now being applied to claims in the Naval Ship Systems Command. Subsequent to July 1971, we initiated action to increase the number of Headquarters civilian and military personnel working on claims settlement some fourfold. These people are also receiving increased support on a part-time basis by a large number of legal, technical and contracting personnel from within the Naval Ship Systems Command as well as additional part-time and full-time support by field personnel.

Senator, that concludes my statement. I will try to answer any questions you may have at this time.

Chairman PROXMIRE. Thank you.

Mr. Rule, do you have any observation you would like to make? I know you do not have a statement.

Admiral KIDD. On that statement?

Chairman PROXMIRE. On anything at all you would like to speak on, that statement or anything in connection with it.

Mr. RULE. First, I want to get into a you know what contest with you because of a statement you read in your opening statement. I take strong issue with you, Senator, on how you characterized the Todd settlement. You said it was a fiasco.

I personally approved the Todd settlement and after I approved it, I was given the job by the then CNM, Admiral Gallatin, of making a study regarding the causes of the Todd and I think your Committee has shown that study, and the study indicated only too clearly where the Navy was at fault and why this claim of $96 million had been approved.

You in your characterization, Senator, went far beyond what the GAO said in their comment when they looked at the Todd claim and I just want to say you and I usually get off on a friendly basis but we sure are not getting off today on that basis because you ought not characterize that settlement as a fiasco.

I say that very respectfully.

Chairman PROXMIRE. Well, I know you do, Mr. Rule. You know I have great respect for you. We just disagree on that.

Mr. RULE. And sincerely.

Chairman PROXMIRE. I thought it was a fiasco. People have different views of what constitutes a fiasco. I cannot characterize it as a heinous scandal in which corruption was obvious. I just said it was a fiasco.

Mr. RULE. Senator, I would just like to make this suggestion. The engineer in that case that negotiated and the contracting officer are still around. The people in my office recommended they scrub—recommended approval to me. I scrubbed it. I would like to get those people together in front of you and GAO and go through the motions and show exactly how we evaluated that claim from the bottom up and let you draw your own conclusions.

If we made as lousy a deal as you say we did, I ought to be fired because I believe in accountability.

Chairman PROXMIRE. Mr. Rule, you know I do not want to fire you. Other people seem to have different views on that but I certainly do not.

Mr. RULE. But I would like to go over exactly the mechanizations if at some time you would like that.

Chairman PROXMIRE. Fine. I would like to do it, first at least on a staff level. You obviously are thoroughly familiar with this but I would like to see if we could proceed on that basis first and then maybe we can——

Mr. RULE. OK. Having gotten that off my chest, good morning, Senator. (Laughter).

Chairman PROXMIRE. Thank you, sir. Any further observations?

Mr. RULE. Only that——

Chairman PROXMIRE. It is a good morning, I agree.

Mr. RULE. Yes, sir. It is nice, and I appreciate your asking me back. It is a privilege and I want to say that the gentleman on my left, Admiral Kidd, is the fourth Chief of Naval Material with whom I have had the pleasure of serving and I am very confident that he is going to be an outstanding Chief of Naval Material when he gets through his shakedown cruise which he is on right now.

Chairman PROXMIRE. Admiral Kidd, on page 4 of your statement you describe what you did to handle the job Mr. Rule's group had handled before. You said that the Board that you had is not a claims board primarily. It can take action in this respect but it has many other things it has to do. You said you have a new claims board.

That new claims board, as I understand it, has no decision capacity. It is simply an advisory group, unlike the Rule group which was—it is unable to send back a claim. All it can do is advise you on it, is that correct?

Admiral KIDD. That is my understanding of the way it will operate. Mr. Chairman, yes, sir. The Flag Officer Board and the additional civilians on the regular General Board. That is, the Flag Officers, not the General Board, and the Chief Counsel.

Chairman PROXMIRE. You can understand, I think, Admiral Kidd, why the views up here in Congress may be a little bit different than the views that you and the Administration may hold. We are concerned that a process which seemed to be very loose and which seemed to represent a potential serious threat to the taxpayers' money and to involve large expenditures might be getting more out of control. I had great respect for Mr. Rule and the job they did, even though we differ on that Todd Claim, and with that, with the abolition of the power which that group had and with the abolition—with the shifting of authority from that group to another, and with the principal authority now given to Flag Officers rather than a civilian lawyer with Mr. Rule's background, we are very fearful that the whole process is weakening.

Admiral KIDD. And were I you, not understanding and knowing the details, I think I would probably share your concern, but I would most earnestly disabuse you of any need for concern because in the first place, the responsibility and authority for the earlier claims review group which Mr. Rule chaired drew its authority from the Chief of Naval Material. When Mr. Rule resigned, and I was told that he has resigned when I arrived in Washington, and that the responsibility was mine, would be mine soon, I asked many questions from many gentlemen in and around Washington who had experience in this area, including Mr. Rule himself, for their advice as to how best to proceed.

One of the first gentlemen that I went to and asked was Admiral Rickover, a gentleman whom I have known ever since I was a youngster, and taking all of this advice and putting it together I found that since the final responsibility was mine, I would be well advised to learn and know as much about it before I had to make the decisions on these claims as possible, and it would be prudent to bring together the very best brains in the business, gentlemen experienced in handling claims, gentlemen of the law, experienced in the legal side.

I went to see the General Counsel of the Department of the Navy, sought his advice, invited him to sit with the General Board as I learned of the contributing facets in the matter of claims.

It then became evident that it would be very wise to insure that all claims were shared with the various Systems Commands before a final decision was made so that each of the various Systems Commands, each having a responsibility for reviewing claims of its own, would have an opportunity to see what the other Systems Commands were doing by way of new legal approaches, new technical approaches.

It seemed only wise to be sure that if System Command A had had difficulty in a particular type of claim, that Command B, C, D and E could be forewarned, and I decided to use this forum of the General Board which we already had established as a forum to bring all of this expertise and competence together.

Chairman PROXMIRE. Let me zero in on just why I am disturbed about this. I mentioned the game that bureaucrats play with the taxpayers' money. Let me give you an illustration.

On February 7 of this year, Admiral Zumwalt, Chief of Naval Operations, sent you a memorandum on the subject of fiscal year 1972 outlay targets. Are you familiar with this memorandum?

Admiral KIDD. I believe, yes, sir.

Chairman PROXMIRE. Let me read the first paragraph of this memorandum. It seems to me that Admiral Zumwalt is telling you and the others who were sent copies of the outlay target—let me first read it.

"Fiscal year 1972 outlay targets promulgated by reference A as part of the President's budget for fiscal year 1973 are over $400 million above target in the earlier fiscal year 1972 budget for the OPN, SCN, PAMN, and MILCON appropriations. Difficulty of achieving these targets during the remaining months of fiscal year 1972 fully appreciated but importance of avoiding shortfall in meeting newly established fiscal year 1972 targets to avoid resultant adverse effects on anticipated fiscal year 1973 outlay ceilings dictated need for top management attention. Anticipate any shortfall in fiscal year 1972 outlay target could be translated into program loss under fiscal year 1973 outlay ceiling.

"2. In order to prepare recommendations indicated in paragraph 4–D, Reference A, request your position on the following areas which appear to offer the best potential for meeting fiscal year 1972 and fiscal year 1973 outlay targets."

Now, let me once again say that this is Admiral Zumwalt telling you how he wants you to move ahead and spend the money that is available.

That is, the amounts that are supposed to be spent during fiscal year 1972 have been increased by more than $400 million for various appropriations including appropriations for other procurements, Navy OPN, ship construction, Navy SCN, procurement of aircraft and missiles, Navy PAMN, and Military Construction. Although it may be difficult to spend enough to reach the new targets in the remaining months of the year, it is important to avoid a shortfall so there will be no adverse effects on the anticipated FY 1973 outlay ceilings. This dictates a need, as the memo says, for top management attention because it is anticipated if the current outlay target is not reached, next year's outlay ceiling may be lowered.

In other words, we have to spend up to the hilt this year so we can have more funds to spend next year.

How do you interpret this paragraph?

Admiral KIDD. I had to study that memo long and hard before I thoroughly understood it, Mr. Chairman, and in a nutshell it underlined once more it is the same type of memorandum, going back through the history books, I found have been written in years gone by.

When we get final approval of our budget and the money actually in hand so late in the fiscal year, it very, very seriously complicates the ability of the Systems Commands to get proper contracts drawn and to get that money actually spent. In other words, we end up so frequently having six months to do what normally a year would be provided to do, fiscal year to fiscal year.

There is nothing in that memorandum that has affected the thoroughness with which we have gone after contract preparation and the attention to detail necessary to insure that as the money is spent, that it is spent properly and technically correctly.

Chairman PROXMIRE. All right, sir. Let me proceed now. The second paragraph says that your position is requested on a number of areas which appear to offer the best potential for meeting the fiscal year 1972 and fiscal year 1973 outlay targets and lists the following, and that is why—so pertinent to claims. (a) Settlement of the claims FY 1972 Vice FY 1973.

(b) Expedites provisional payments on claims and unadjudicated change orders.

(c) Accelerate contract close-outs and subsequent payment of withheld funds.

(d) Accelerate shipping and transportation billing process where services have been rendered but remain unbilled.

(e) Increase use of unpriced purchase orders and fast pay procedures.

(f) Increase source inspection and acceptance of material at receiving activities. Apply prompt processing procedures for materials received for inventory.

(g) Increase in amount, timeliness and coverage of progress payments to contractors from direct appropriations and working capital funds.

(h) Increasing NIF and stock funds expenditures. Investigate advance procurement of shortlead time material where firm NIF and stock fund orders are anticipated, and so forth.

You see, the pressure on you, I do not mean to criticize you but Admiral Zumwalt is indicating they want the highest priorities in settling these claims in a hurry. That is what seems so shocking and so difficult for us to accept in view of the fact that these claims in the past have been so controversial some times not legally supported. The only way you can settle them in a hurry is with a shortcut procedure that is very likely to result in a very substantial loss of taxpayers' money and an unjustified payment.

Admiral KIDD. This might be a conclusion drawn, but I would certainly reassure you incorrectly drawn. The haste which you speak to—I just do not move in a hurry when I am spending the taxpayers' money.

Chairman PROXMIRE. Yes, but you follow the orders of your superior, I am sure.

Admiral KIDD. Within the law, Mr. Chairman.

Chairman PROXMIRE. Well, let me just proceed to say that the Chief of Naval Operations is identifying areas he says you ought to look into in order to achieve new outlay targets. You ought to see if you can settle claims this year instead of next year—accelerate contract closeouts, increase use of unpriced purchase orders and fast pay procedures, increase amount, timeliness and coverage of progress payments, increase military construction payments, and so on.

You are also asked to evaluate the use of unlimited overtime, during the remainder of the fiscal year. In other words, spend, spend, spend, or do you have another interpretation?

Admiral KIDD. Oh, no. You read the words. And now I just mention in passing rather than increasing the overtime, I have cut it by two-thirds.

Chairman PROXMIRE. How about the other areas?

Admiral KIDD. Where I had to cut them, I have.

Chairman PROXMIRE. Can you give us any examples of what you have done in cutting provisional payments or—

Admiral KIDD. Well, in the case of—

Chairman PROXMIRE. —settling claims?

Admiral KIDD. Let us take one of the claims. One of the claimants having one of the large claims has been in to see me, oh, several times urging accelerated settlement. I have told him absolutely not. I would not touch him with a ten foot pole.

Chairman PROXMIRE. Admiral Kidd, I want to follow up on that. You have been a line officer and you are a man with a marvelous military record we are all proud of and all grateful for. In the final paragraph you are asked to comment on the recommendations that I have just read and to make other recommendations.

Did you comment? Did you make other recommendations?

Admiral KIDD. They have been verbal so far, Mr. Chairman, and I have told the Chief where it would be possible to practically conform and comply and in areas where it would not be because you just cannot get stampeded into this type of thing without reaping grievous difficulties.

Chairman PROXMIRE. Can you be more specific? Can you tell us what recommendations you made?

Admiral KIDD. I would be more comfortable if I could provide those specific for the record, Mr. Chairman, rather than trading on a hazy memory.

Chairman PROXMIRE. Can I ask you the Systems Commanders, NAVAIR, NAVELECSYS, NAVPAC, NAVORD, et cetera, NAVSHIP, NAVSUPSYS, if they made recommendations?

Admiral KIDD. Oh, yes, indeed. To me?

Chairman PROXMIRE. Yes, to you or Admiral Zumwalt.

Admiral KIDD. Yes, to me, and we take them under consideration each week when the Board meets.

Chairman PROXMIRE. Can you make those available—can you tell us in general, summarize them and let the Committee know for the record at least, what they were?

Admiral KIDD. I will, indeed.

Chairman PROXMIRE. We would like copies of the original recommendations if we could have them.

By the way, Admiral, I did not notice any mention of the Russian naval fleet or any military requirements whatsoever in Admiral Zumwalt's memo. It was not a matter of our having to do this for the national defense. There was no justification for accelerating the outlays except to reach some preconceived spending goal.

How do you explain that?

Admiral KIDD. Very easily, Mr. Chairman. Everything that the Chief writes, the responsibility to you and to me as taxpayers' to protect us with a property Navy, this is implicit in anything he puts on paper.

In this regard, if we are not able to expend the funds which you gentlemen appropriate for the things that we have asked for, that we need, with which to defend this country, in time, that is, by the end of the fiscal year, it is my understanding that we could stand to lose that money if we do not spend it within the prescribed amount of time. So, we must—and if I were he I would write the same memorandum—we must do our best to insure that we commit those funds within the prescribed period in order not to be put in a position of disadvantage later on by someone being able to say, well, you asked for the money but you did not spend it, so we are going to take it away or cut your budget next year.

Chairman PROXMIRE. From the standpoint of the national interest, I would be inclined to disagree. I think the general taxpayer would certainly go along in the overwhelming majority of cases that should any money be spent that is necessary or essential to defend our country or strengthen our Navy so it can perform its function, but to spend the money just because you may lose it next year seems to me is something you cannot justify, whether it is the Department of Agriculture, Department of Commerce, or the Department of Defense.

Admiral KIDD. In principle I have no quarrel with what you observe, none whatsoever. And I do not think that anyone would have. The simple facts of the matter here in Washington are that you ask for so much. That amount is usually cut several times along the line before final approval and appropriation. So you get xX when you ask for perhaps three or four X. And here we come to the point earlier made, that you only have half the time needed in which to go through the ponderous mechanisms of effectuating contract arrangements.

Chairman PROXMIRE. Well, why would it be such a disaster if you spent only as much as you can fully justify and not a nickel more? Then if you lose that, then you can come back, and it seems to me you can make a much more effective appeal to people like me.

I am on the Appropriations Committee and others who are on the Appropriations Committee—that this is the policy you are now following. This notion of getting rid of money at the end of the year in order that you will not lapse the amount and then be cut in a subsequent year, it seems to me, is playing, as I say, a game with the taxpayer and a game with the Congress that is most unfortunate.

Admiral KIDD. Well, sir, I just cannot agree with you on that in the way in which you put it, getting rid of the money. Heaven knows, we are not getting rid of it. We are doing our level best to get contracts written and it does not come easily nor in short periods of time. We are trying to get contracts written and get that money properly committed, not wasted, not gotten rid of, properly committed.

Chairman PROXMIRE. I would like to ask you about another memo to see if you can throw light on it.

On February 18, 1972, a memo was sent from the Commander, Naval Ships Systems Command, to all offices reporting directly to COMNAVSHIPS on the subject of "accelerated expenditure goals." The purpose of the memo which was signed by K. P. Chesky, Acting Deputy Commander for Plans, Programs and Financial Management Comptroller, was "to accelerate expenditures in the RDT&E and Procurement appropriations." The third paragraph is entitled "action" and it states the following: "Addressees are requested to initiate a review of procedures closely related to the actual expenditure of funds including (a), contract close-out and subsequent payment of withheld funds.

"(b) Processing of payment vouchers including progress payments.

"(c) Prompt processing and certification of DD–250's to paying activities.

"(d) Utilization of 'Fast Pay' procedures.

XUM

"This review should encompass the above areas and others that can lead to expenditure acceleration."

Now, this appears to be a memo implementing the note sent by Admiral Zumwalt to you and the Systems Command, is that correct?

Admiral KIDD. I am not familiar with that memorandum that you hold, Mr. Chairman. I am not familiar with that memorandum at this moment, sir. I could provide a response for the record on that, or perhaps—you spoke there as I recall, of contract closeouts. Admiral Freeman here can speak to that. This is within his area of responsibility, if you wish.

Chairman PROXMIRE. Would you like to speak on that, Admiral?

Admiral FREEMAN. Yes, sir. One of the areas in which we have quite a difficult problem is contract close-outs, particularly on research and development contracts, the reason being this is the final voucher. It requires an audit by the DCAA, and some rather complex procedures including such things as termination of patent rights, final equipment deliveries, all items under the contract satisfaction and a portion of the contract withheld until these procedures are in fact successfully accomplished.

Since it is the wind up of a contract it tends to take a low priority of the other things which are among the jobs of the DCAA, Defense Contract Audit Agency, and Defense Contract Administration organizations.

Hence, there are residual dollars in these areas that are properly expended but because we have not gone through the legal and procedural requirements to close it out, the money sits there unexpended.

Chairman PROXMIRE. Well, now, the Chesky memo refers to two documents, Second NAVSMG R 202120Z/02 January 72 and NAVMAT, and the other numbers. I can identify them if you wish.

Can you briefly tell us what these memos say?

Admiral KIDD. No, sir. I cannot at this time, Mr. Chairman.

Chairman PROXMIRE. We just gave you a copy.

Admiral KIDD. Yes, sir. I have the notice. The references I do not have with me.

Chairman PROXMIRE. Can you provide us with copies of the two memos?

Admiral KIDD. I will look into that as soon as I get back, Mr. Chairman.

Chairman PROXMIRE. When you look into it, will you give us the copies of that, provide those copies?

Admiral KIDD. When I get back to the office, yes, sir, I will look at it.

Chairman PROXMIRE. Thank you.

What are the current outlay targets for fiscal year 1972?

Admiral KIDD. Will you repeat that, sir?

Chairman PROXMIRE. What are the current outlay targets for fiscal year 1972?

Admiral KIDD. I do not have those at my fingertips, Mr. Chairman. I will have to provide that for the record.

Chairman PROXMIRE. Can you tell us how those targets were arrived at? You do not have the figures but can you tell us how you went about determining what those targets should be?

I know that you moved into this position since that was done but I am sure you are familiar with how it was done.

Admiral KIDD. As I recall and understand, those targets were arrived at taking the amounts of money that were appropriated for a particular period of time, fiscal year, and then going back to see when—on what calendar date those monies had to be spent by, and adding up those sums of monies that had to be spent, let us say, by 1 July 1972.

Chairman PROXMIRE. When you review your remarks, could you expand on that for the record?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. What have you done to implement Admiral Zumwalt's instructions as reflected in the memorandum which I read earlier?

Admiral KIDD. We have been meeting—the board meets weekly and this matter is taken up routinely at each weekly session and the Systems Commanders make a report periodically of how well they are doing, and we are not doing too well.

Chairman PROXMIRE. What action has been taken to—what actions have been taken to implement the Admiral's orders?

Admiral KIDD. Each of the Systems Commanders has received a copy. Each of the Systems Commanders has gone into means available to them to address each of the areas identified by the CNO.

Chairman PROXMIRE. Can you cite specific actions which the Systems Commanders and you have decided on taking?

Admiral KIDD. Yes. For example, we have gone with teams of competent contract people from Washington to outlying field activities to look over their books with them, their contracts with them, to see in what areas there is susceptibility to improved capability to commit funds. There has been absolutely not one bit of pressure, not one bit, to, as you earlier said, just get rid of money. I do not do business that way.

Chairman PROXMIRE. Well, if you were in their position and you were visited by your Admiral under these circumstances would you not consider that to be pretty powerful pressure to get rid of that money, spend it?

Admiral KIDD. No, I would not, Mr. Chairman. There is a vast difference between pressure and groups coming out to help and to advise.

Chairman PROXMIRE. Can you give me the additional cost to the taxpayer for the acceleration of spending that has been ordered by Admiral Zumwalt?

Admiral KIDD. Additional cost? No.

Chairman PROXMIRE. Yes. Supposing that order had never been issued. Would there be any difference at all in the amount expended?

Admiral KIDD. None, no, sir. Well, now, wait, you asked two questions. I will go back to the first one. Additional cost to the taxpayer by accelerating the commitment of funds? None.

Chairman PROXMIRE. Well, then, you are telling me that this money would have been spent anyway, so Admiral Zumwalt's order is just useless. It means nothing.

Admiral KIDD. No. No. His memorandum was an urging to insure that we took all available and proper means to commit appropriated funds in appropriate fashion and within the rules.

Chairman PROXMIRE. And absent that memo presumably some of those monies would have lapsed and the taxpayer would save something.

Admiral KIDD. No. The taxpayer would have lost. The taxpayer would have lost, Mr. Chairman, because we would have had to come back again for money for the same things and the way the cost indices are going up now, we would have had to pay more for it.

Chairman PROXMIRE. Then, what you are telling me is that it is perfectly consistent for the Navy to spend money much faster than it instinctively would in order to use up the funds that are available because that serves the taxpayer as well as the national interest. This is a very hard response for me to accept, very hard. If it is true in the case of the Navy, it must be true in the case of all other Departments.

Admiral KIDD. If we have the money in hand at the beginning of the fiscal year, we have the people on board in our contracting offices to do a proper job of writing the contracts and committing the monies within the fiscal year involved.

Now, getting the money as late as normally is the case, we are regularly faced with the proposition of going at forced draft and at a high rate of speed to get these funds committed. So that that memorandum from the Chief is nothing more than a recurring emphasis on the need to use the limited time available to commit the funds appropriated.

Chairman PROXMIRE. Admiral, that is a peculiar kind of economic effect. I have never seen it operate elsewhere.

Senator Percy has another engagement. He is in between engagements and I am delighted he is able to come even for a short time. I will yield to him for so long as he would like to question.

Senator PERCY. Thank you, Mr. Chairman, very much.

I have been very interested, Admiral, in the tail end of the conversation I got in on. I was a naval procurement officer 29 years ago in Washington. I do not think I will ever get over the effect it had on me, that big chart we had up in the Aviation Fire Control Department, where we had a goal to spend money by June 30 of that year, and we got a letter from the Chief of Naval Operations, Bureau of Ordnance, I guess it was, commending us for spending more money faster than any other department.

Chairman PROXMIRE. That was in the war.

Senator PERCY. That was in the war, and coming out of business, I just could not help but feel there was something wrong with a system that speeded up that process that way and caused us to spend money, buying spare parts for the next three or four years when there may be changes that would make those parts obsolete. I never wasted more money faster in my life than I did then and I have been working hard ever since to make it up to the U.S. Government. But I did it under orders.

Now, the Congress must share some responsibility in this respect and it is the system and the procedure. You would think in 29 years we would be able to improve it, and I am somewhat shocked to find that the same incentive system that has gone on, probably the same commendation letters will go out when the money is expended.

Can the Navy, can you as the top officer in these areas of procurement, help us devise a way that we in the Congress can remove this necessity for what must be wasteful expenditure under pressure of time that really would not be done by men of good judgment if they were not under such deadlines and if they would not "lose" the money at the June 30 fiscal year ending unless they did obligate it and spend it, and if you would like to comment on it now, I would appreciate it very much. If you would rather take some time and consider it so that we can take a look at possibilities for legislation that would enable us to rectify what seems to be a built-in disincentive for efficiency.

Admiral KIDD. I can give a very short answer, Senator Percy. I agree with you. Yes, sir, it can be improved upon with your help, you gentlemen up here on the Hill, by not enacting that legislation which was further, as I understand the problem, aggravated by obliging us to lose money at the end of a given period of time, because going around with the contracting officers and looking at the young ladies and gentlemen who are trying to put the words on paper that will permit the expenditure of funds, they are going four bells in a tube and when we get the money late, it is seven days a week. So this costs you and me as taxpayers more money for overtime for these youngsters.

When you are faced with a proposition of losing funds which you have fought hard to get and to justify, by George, the incentive is high to get them committed. There is no question about it. And when you do things in a hurry, you make an abundance of mistakes. There is no question about that, either. If you want it bad, you get it bad.

Senator PERCY. Well, I am the ranking member on the Government Operations Committee of the Senate and I will discuss with Senator McClellan and cooperatively with the Armed Services Committee whether this is not an area that one Committee or the other ought not to take a good look at because it is wasteful and I appreciate your candor on it, and I can understand the human factors involved.

Yesterday, and I am sure you were advised of my inquiries about subcontracting, and the sources of supply available to the Navy—obviously, you are limited if you do not have adequate sources of supply for major components as well as subcontracts and the economic system does not work as well when you are somewhat limited.

I wonder if you could comment on what role the Navy has played and can play if you feel that your sources of supply are too limited in expanding those sources of supply in the economy that has 25 percent idle capacity and five to six million unemployed people.

Admiral KIDD. I agree with your point, Senator. I think that we must get as much business as possible into the small subcontractors. I would parenthetically observe here that with some of the contracts that we have of comparatively recent vintage where we deal only with the prime, that our license to get into the subcontractor area is rather constrained. But as a matter of principle, there is no question but what we should stimulate interest on the part of subcontractors.

I feel a personal obligation to them. I have been told by some primes that this is none of my business but I still feel a personal obligation to them.

I have been disappointed in some of the contracts that we have, finding that in my judgment perhaps too few subcontractors have been looked at for possible help. We can do more and I have a task force within the Material Command going after this particular problem at this time.

I am not going to promise you any remarkable results because I just do not know how much success we are going to have.

Senator PERCY. In one other area that relates to my first question, and I do hope that you can give us some suggestions for what might get us out of this dilemma, is there a possibility that in the area of disposing of surplus material, equipment, lands, and it ranges from acreage to ships, that there again is no incentive on the part of the military services to dispose of these things?

Now, if a system could be devised where if you got rid of a ship, you were able to get rid of a shipyard and sell it to private industry or see that it goes into the public domain for open space lands, that you would get credit for that and you would be taking unused assets and moving them over into an area where you can liquify those assets and use them for something else.

Do you think this would cause the military services to do a lot of housecleaning, look around for things that are not needed or necessary that cost money to maintain right now, but there is no incentive to dispose of them? Can we be helpful in devising such laws as to provide the incentives for you?

Admiral KIDD. I applaud your thought. Of course, the law does not work that way now. We dispose of things and there is no concurring credit back. Would that it were so.

You ran through quite a shoppinglist there of things that—retired ships, and, of course, you know, we are string savers like the next fellow, looking against that rainy day when you might need them and need them quickly.

This in essence is the principle behind our reserve fleet and it has served us well when we needed it, both the reserve fleet and active reserve fleet.

Real estate the same way. The same way. It goes but when it goes, the Navy or whatever the Government service involved is, enjoys no return for that which they have given up.

This would certainly be a very attractive proposition, sir.

Senator PERCY. Particularly when you see very crucial items that you are not doing now and we know because of the Vietnam expenditures in recent years, critical expenditures have not been made, even maintaining the Navy in first class condition, and if you had the ability to move accounts around and if you could not get appropriated funds, you could get funds by disposing of certain things, I think you would have a terrific incentive and an ability to fulfill needs that right now you know should be met that simply are not because of lack of funds.

If I could turn to yesterday's testimony, Comptroller Staats testified yesterday about a Lockheed claim with regard to certain contractors for destroyers, destroyers escorts, hydrofoil, oilers, ammunition ships. In this case Lockheed claimed in excess of 243,000 additional production manhours attributable to late delivery of Government-furnished boilers for the construction of the two destroyer escorts Lockheed contended that delivery of the boilers for one of the ships had been delayed 14 months and for the other ship 7½ months.

Navy found installation of the boilers in one escort had been delayed 48 working days and the installation of the boilers in the other ship had not been delayed at all. The Navy also estimated the delay in delivery resulted from approximately 25,000 manhours of delay compared to Lockheed's estimate of more than 243,000.

Could you tell us how estimates could differ by as much as a factor of ten as was the case here?

Admiral KIDD. No, sir, I cannot. I do not know where those Lockheed numbers came from. I know our auditors disclosed during the claim review that this disparity existed and it was on the basis of identifying this disparity and others that the claim settlement was markedly reduced from the claimed figure in its initial form.

I just would have no comment on why the appropriation would come in of numbers of that size.

Senator PERCY. I wonder if Mr. Rule could tell us whether differences of this kind exist in the area of claims frequently or is this a very isolated case of a difference of fact of this consequence.

Mr. RULE. Senator Percy, it is very typical. It is not unusual at all. The Lockheed case is a very unusual case in that the claim as filed involved nine new construction contracts that Lockheed had procurement from the Navy. On all nine, the only nine contracts they ever had, they lost money. The total claim—

Senator PERCY. Well, at least they were consistent.

Mr. RULE. Yes, sir, and I asked the President once if that did not tell him something, that maybe they ought not be building ships, and he agreed.

The claim of approximately $180 million was exactly the difference between the total of all the contract prices that they had bid—and all these contracts were advertised procurement—it was exactly the difference between that total and what they said it was going to cost them to build the ships. That was the total claim. It was just that simple.

Senator PERCY. Is it possible that the frequency of these differentials simply comes about as a result of rather lax follow-up on this and that they really felt they could get by? There is slippage some place obviously. There is an error some place, estimating, bidding, whatever it may be, they incurred extra costs for some reasons but here they suddenly—it is easy to blame the Government. Is it possible when they do blame the Government that these claims have been allowed in the past with such a frequency that they felt they could get by with it again in this kind of a case where the facts are so contradictory and so easily ascertainable? That is the ludicrous part of it. It is just blatant fraud of some sort here.

Admiral KIDD. Mr. Staats testified yesterday that their records showed that the average of the claims that have been settled were settled at, I believe he said 37 percent of the amount claimed, and this ought to tell you something. This ought to tell you that the claims were almost fraudulent in the first place. Even if they were settled at 37 percent, which seems to me a little high, but even if that is the right figure, to be able to knock off of a claim 63 percent—if we had that sort of over-statement in proposals for new procurement, if people were coming in on new contracts proposals and giving us amounts of money that we would reduce that much, we would yell fraud, believe me.

When we reduce a contractor's proposal by ten or 15 percent, that is high. But when these people come in with these claims and we can settle them at 37 percent, you have got to ask yourself where was the rest, and so far as I am concerned it is just padding and this is why I take a hard-nosed view of claims. Some people do not. This is why I have gotten the American Bar Association, the claims lawyers and everybody else, p.o.'ed at me but I do not care.

I know these things are not correct. I know that they are taking us to the cleaners. And this is why I agree with Admiral Rickover, the claims should not be a negotiation. These people file these big claims and the thing they want to do quickly is sit down and negotiate. I say that they ought not be negotiated. I agree with Admiral Rickover. We ought to look at them carefully, discuss them carefully with the claimant, go over and find the facts, discuss endlessly almost, to be fair, but then we ought to make up our minds what that claim is worth and say this is it. No negotiation.

Senator PERCY. One final question. This may go beyond your province but I do not know where else to ask it.

What has to happen to get a change of management when you have such flagrant violations of managerial procedures, practices, as in this case by the Government constantly bailing out the company in one way or another, and we are finding all sorts of ways the Government is doing this, and using taxpayers money to do it, you see no change in management. This does not occur any place else. We have had major changes in management in the last few days in a situation that was intolerable from the standpoint of losses the company was incurring and this occurs every single day in the normal course of procedure except in the largest Government contractor we have got, with public money being used all over the lost for almost everything being done there, every salary being met, and yet no change in management.

Errors, mistakes, gross mistakes in judgment, misleading statements put in, no change in management. It just keeps going on.

What has to happen? How do we bring about change, then? And that is, of course, what those of us who were so strongly opposed to the Government coming in and guaranteeing loans that banks would have required a change in management if that had not been brought about. But there is no change. The same old team running things in the same old way, it seems.

Mr. RULE. I could not agree more and I testified against the Lockheed loan because I thought it was a dangerous precedent, but I would just like to quote to you as one

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suggestion what Mr. Packard said just a couple of weeks ago when he got the Forrestal Award. He said: "What is the solution"—after describing the game playing that goes on between industry and the services—"what is the solution? We are going to have to stop this problem of people playing games with each other, games that will destroy us if we do not bring them to a halt". And here is the point I want to make.

"Let us take the case of the F-14. The only sensible course is to hold the contractor to his contract." And he never was more right in his life. And it is going to be interesting to see if we do.

Senator PERCY. Well, we are certainly going to be interested in a bipartisan sense.

I want to thank you very much indeed, and I apologize for the executive committee that I must go to now but I very much appreciate your being with us this morning.

Chairman PROXMIRE. I agree with so much that has been brought out by Senator Percy in his questioning, not only on what goes on this morning but that we are never going to break our inflationary cycle unless we let the unions strike. Let them strike. This is a free country and it is the only way we can possibly resolve this situation. But we permit wages to go up as we have done with the Wage Board, the same way Lockheed said they are going to go under if we do not bail them out. Let them go. We have got to let free enterprise work, either that or we are going to have to expect to settle for a grossly inefficient operation

I want to get into some questions with you, Mr. Rule, because I want to pursue what Senator Percy was talking about, but I would like to get back just for one more question with Admiral Kidd before I proceed to some other things.

Admiral, you talk about you being string savers. There is ample evidence to me that there are few if any string savers left in the Navy. If so, they get a short trip out or are taken off their assignments or resign or something of the kind. At least in the Air Force as well as the Navy. We have been working for five years on this Committee to save money, hold back, constrain spending in one way or another, and hammering away with amendments on the floor and with everything we can do in hearings, and so forth, to call it to the attention of the military. Now we find with Admiral Zumwalt's memo that they are on the other side, they are doing their best to spend, spend, spend. You are sending teams out as you testified here this morning, to implement that memo and to make sure the funds are spent. You can see the terrific frustration we have here. We seem to be working completely at cross purposes and there is no question as to who is the most effective. Just take a look at our deficit of $38 billion. You are obviously winning this battle.

Do you have any reaction to that?

Admiral KIDD. Yes, sir. I would go back one step and underline the fact that the Congress appropriated the money in the first place which is being spent, appropriated it for purposes that we justify the need for in the case of the military, and here the Navy, for pieces of hardware that we must have, so I can see no cause for concern when we take steps to insure that we are able to buy that which we need and for which you gentlemen have appropriated the funds.

Chairman PROXMIRE. Well, I have no objection to that and I do not know how anybody else could possibly object that you be sure that you can buy what you need. The question is do you have to have at the very highest level this kind of express order to go even beyond the spending tendencies which have been demonstrated in such a superior way in the past? I am informed this decision on military spending has been made at the very highest level of our Government, for the Army and Air Force as well as for the Navy. Can you tell us whether similar efforts have been launched in the other services? Have you ever spoken to the Secretary of Navy on this matter?

Admiral KIDD. I could not speak for the other services.

Chairman PROXMIRE. Did you ever discuss it with Secretary Laird?

Admiral KIDD. No, sir, I have not.

Chairman PROXMIRE. Or with the White House, or anyone from the White House?

Admiral KIDD. No, sir.

Chairman PROXMIRE. Do you know whether the White House initiated the order to accelerate payment to defense contractors?

Admiral KIDD. No, sir.

Chairman PROXMIRE. All right.

Mr. Rule, have you seen any instructions to accelerate payments to defense contractors or to take steps to achieve fiscal year 1972 outlay targets?

Mr. RULE. I have seen that letter or wire or whatever it is you read. I have seen that.

Chairman PROXMIRE. Do you think that instructions of that kind have had anything to do with the recent actions on the Avondale claim?

Mr. RULE. No, sir, I do not think there is any connection at all.

Chairman PROXMIRE. Well, comment on that Avondale settlement. What was your reaction?

Mr. RULE. Maybe we ought to stick to that letter.

Chairman PROXMIRE. All right. Comment on the Zumwalt letter. It would be very helpful to have that.

Mr. RULE. Well, the Zumwalt letter, so-called, if that is what it is—as I recall it, it is a wire.

Chairman PROXMIRE. All right.

Mr. RULE. TWX.

I understand what they are trying to do and I certainly understand Admiral Kidd's explanation. We used to in the Navy have a policy when the Congress would give us our appropriations timely, we used to have a policy that we had to make sure that we spent one-fourth of that money in each quarter, that we could not slack off in our procurement, you see, down through the year. You remember this, Admiral Freeman.

We had to spend it prudently by quarter and not let it pile up at the end of the year.

This is not a new phenomenon, despite the fact that we now get our appropriations later. They always used to let it pile up and the directive to spend it by quarter was an effort to stop this. We used to always end up—Admiral Freeman knows this—with money at the end of the year and we would issue letter contracts pell-mell just to obligate this. This is nothing new.

Chairman PROXMIRE. Though it is not new, what do you think of it? You have been in the Navy now and had tremendous experience in handling these matters.

Mr. RULE. Well, the only thing really new is the itemization there, I think, of areas to look at.

Chairman PROXMIRE. In other words, they are doing it more efficiently now than before. They have got it organized.

Mr. RULE. I am not sure that is more efficient

Chairman PROXMIRE. They are wasting money more efficiently.

Mr. RULE. I am not sure it is wasting money but if Admiral Zumwalt had just sent a wire, now, look, do all you can to obligate money prudently by the end of the fiscal year, that would have been enough, but when you go into detail and say let us issue more unpriced purchase orders, the very thing we fight all year before this comes down not to do, when he says let us think about——

Chairman PROXMIRE. That is what concerns us.

Mr. RULE. Let us think about unlimited overtime when we just put out a directive to knock off overtime unless it is really authorized, some of these things are a little antithetic to our normal procurement practices.

Chairman PROXMIRE. Let me ask you now about the claims problem. First, I would like you to tell us why you tendered your resignation from the Contract Claims Control and Surveillance Group, whether you believe the group's action in rejecting the Avondale claim had anything to do with its abolition. Were you "pressured" to resign?

Mr. RULE. Oh, no, not at all.

Chairman PROXMIRE. Why did you resign?

Mr. RULE. The Avondale claim was rejected and I would like the record to show it was not rejected by Gordon Rule alone. It was rejected unanimously by the entire group, including the representative from the Office of General Counsel. It was rejected with the recommendation that the Contracting Officer's decision be made, not with the recommendation that we spend eight or ten months or another year trying to make the contractor's claim for him.

It was rejected on the 23rd of July. On the 4th of August I was called into a meeting with the then CNM, and Admiral Freeman, this was just a couple of weeks later, and told they were going to reorganize the claims group. The pitch was that they thought it would be best to have it headed by a lawyer. They were thinking in terms of a lawyer from the Office of General Counsel.

Well, I happen to be a lawyer but I was on notice at that time that they were going to reorganize and as Admiral Kidd said, this all took place before he came aboard.

I did not do anything at that time. I rocked along and on November 8, the Assistant Secretary sent a memorandum to the Chief of Naval Material saying he wanted a plan for a new organization to speed up the review.

It was at that time that I was sure that the change was going to be made and I am just not built in such a way that I am going to hang around until I get kicked out, so I resigned.

Chairman PROXMIRE. So it was obvious that you—as we used to say in the old days, when I was ten years old, first, I got hired, then I got fired, and then, by God, I quit. Does that describe it?

Mr. RULE. No. I do not get that analogy at all.

Chairman PROXMIRE. Well, do you feel—If you had——

Mr. RULE. That is another one of our patented analogies.

(Laughter).

Chairman PROXMIRE. Well, you have just told us that—you could see the handwriting on the wall. Maybe I misinterpreted what you said. Do you feel if you had not taken that action you would still be holding that position and you still would have the same authority over claims that you had before?

Mr. RULE. Oh, that is by no means sure because——

Chairman PROXMIRE. You can say that again.

Mr. RULE. There is the authority naturally to reorganize in any way that Chief of Naval Material wants. The only thing I am satisfied, and I have told Admiral Kidd this, the only point on which I am satisfied is if the Avondale claim had been approved instead of disapproved, nobody would ever have thought of reorganizing a damn thing.

Chairman PROXMIRE. Good. Well, that is the——

Mr. RULE. That is the way I feel.

Chairman PROXMIRE. That is fine. If you had approved Avondale you would be in the same position you had been in. You would not have resigned.

Mr. RULE. I do not know. I am not saying how long I would have lasted but they would not have thought of reorganization at that point.

Chairman PROXMIRE. You heard Admiral Kidd describe a new system for reviewing claims. Could you explain how the present procedure differs from the one it replaced?

Mr. RULE. There is not any reason why this new organization that has been set up will not be very effective. It will not be as effective as the group I headed because I headed the first team. They got the second team in now. But if they want to run it with the second team, that is all right. But they will do a good job.

Chairman PROXMIRE. You say the procedures are not changed then, that it is just a matter of the quality and experience of the personnel.

Mr. RULE. I do not think the procedures really make that much difference. It has been said that these people have very great procurement experience. They do have. But again, I go back to Admiral Rickover's memorandum and that is not the kind of experience that is necessarily good in settling claims.

Chairman PROXMIRE. By and large—I am sure there are many exceptions but by and large, is it not a fair observation that service people, that is, those who are in uniform, those who are in the service, are much more subject to discipline than those who are not?

Mr. RULE. Well——

Chairman PROXMIRE. Would that not make a difference in the makeup of these groups?

Mr. RULE. On that point I would like to say that this is one of the very refreshing things that Admiral Kidd as the new CNM has brought to this office. It is something that has been needed for a long time. I have talked to him and I know that he believes in accountability and discipline on the material side of this Navy. We have needed that for a long time and I am just delighted as hell that this refreshing individual comes along with these views because they happen to coincide with mine.

I feel a lot of kindred things about us. I think we both have the basic philosophy that I may be in error but I am never in doubt.

Chairman PROXMIRE. I can tell you that is an awfully good philosophy.

In 1969 the Navy seemed determined to do something about the claims problem, something other than simply paying the contractors for unsubstantiated claims. The Office of the General Counsel of the Navy was directly involved in claims reviews at that time. We have a memo from the then Acting General Counsel, Albert Stein, to the Vice Chief of Naval Operations, Admiral Clarey, stating:

"We intend to put the claims through a legal wringer to assist in squeezing the water out of any that are not solid."

Of course, your group was set up to help with the reviews.

Now, under the new system, the legal counsel is pretty far out of the picture and your group has been abolished, so the 2 major steps taken trying to bring the claims problem under control have been done away with.

Mr. RULE. No, sir, that is not correct.

Chairman PROXMIRE. Not a fair statement? Why not?

Mr. RULE. Because Mr. Stein was legal adviser to the CCCSG that I headed and occupies exactly the same position to the new group. No change. He was not a member of the group that I headed.

Chairman PROXMIRE. Was not there a man from legal counsel's office on your group?

Mr. RULE. Only Mr. Stein. He was not on the group, Senator. And the reason he was not on the group, the reason that the Office of General Counsel insists upon being advisors, is because they do not want the head of any group, my group or the new group, to be telling counsel as members what to do, you see. They have got to maintain this legal nicety. Advisors, not participants.

Chairman PROXMIRE. The trouble I have is that it seems to me that a contract is a contract. We should live up to the contract. You go over the contract only when there is overwhelming clear evidence that one party owes more. In other words, if a contractor's claim that the contract should be—more should be paid than was, then the burden ought to be clearly on him. He ought to be able to make a completely convincing case. The facts ought to be just irresistible, it would seem to me, or no payment should be made. That does not seem to have been what has happened in the past. It happened much more with you in charge. We fear that it is not going to happen in the future.

Shipbuilding claims seem to follow a definite pattern. The contractor incurs large cost overruns and submits voluminous claims to recoup his potential losses. The Navy gets bogged down for months or years trying to figure how much, if anything, it owe. It cannot figure this out to any reasonable degree because the contractor fails to keep records which would substantiate the claim. The shipbuilder makes an issue with Defense and Congressional officials about the delay and threatens to hold the ship hostage until the Navy pays the claim. The Navy eventually caves in, releases money through a provisional settlement or makes an overall settlement without ever getting to the bottom of the claim to see how much the Navy actually impacted the contractor. The first time a major claim is rejected by the Navy civilian review group, the group is abolished.

Admiral Kidd, how will your new Claims Board organization be able to handle these problems any better than they have been handled in the past?

Admiral KIDD. I make no promise they will, Mr. Chairman. All I can do is try.

Chairman PROXMIRE. How would you reply to my question?

Admiral KIDD. You have made a couple of points there that I think are deserving of a bit of clarification. Admiral Rickover's position has been cited. Mr. Rule has well articulated his views in relation to the importance of lawyers. I fully share both, fully share both.

As I understand and see the claims situation, there are two parts to it. Those parts which can be easily identified as responsible, where the Government is responsible, and for those portions I believe that we must pay our bills and should pay them promptly.

For those parts of the claims which are legal matters, then those are properly the responsibility of the law.

As far as where the lawyers are, sir, we have now lawyers, and have had for some time, at the contracting officers level in the Systems Command, at the claims team level. The team chief is a gentleman of the law. He has two hats. He works for the General Counsel of the Navy and he works for the Systems Command. So the law is well represented right from the outset.

Now, how are we going to insure that we do better? I make no promises in this regard. More people are obviously needed. These people are being hired, acquired, put on to the claims review problems as they come up.

Here we are at great disadvantage because, if I may continue for a moment, because we are seeing industry equip themselves with large numbers of gentlemen dedicated to the proposition of just addressing claims, trying to find ways in which claims can be developed.

Let me have that thing from Disneyland. I could not believe this yesterday. You might just be interested.

Here is a very nice brochure from Disneyland East, "Government Contract Claims April 17 to 21, 1972, Walt Disney World, Florida, a practical course in the techniques of presenting claims to the Government."

Chairman PROXMIRE. Disneyland.

Admiral KIDD. Now, you pay——

Chairman PROXMIRE. Will you submit that for the record?

(Laughter)

Admiral KIDD. In the back here, you pay $350 to take this course.

Chairman PROXMIRE. Does the Navy pay directly or indirectly for a seminar like that?

Admiral KIDD. Good heavens, no.

Chairman PROXMIRE. Will you check that out?

Admiral KIDD. I have. We asked if we could go, perhaps send a man free. We were told no.

Chairman PROXMIRE. Who conducts the seminar?

Admiral KIDD. This is George Washington University and Federal Publications, Incorporated, sponsoring. He volunteered——

Chairman PROXMIRE. I am sure we would find that the taxpayer is paying for it one way or another.

Admiral KIDD. Well, I do not know. We volunteered to send one of our gentlemen down to talk with them, give our side. No.

May I read for a moment—this is how the industry sees it, apparently, or at least the legal branch supporting the industry's views. "Claims volume has risen dramatically, for a number of reasons: contractors' desire (because of reduced work) to maximize returns from existing contracts; the coming-home-to-roost the problem generated by sophisticated procurements; the balanced realism that Government contracting is not a honeymoon."

This is on page 1 of why the attendees are there.

That gives you an insight into what we are up against on the Government side with a very modest group of lawyers having to face up to this type of quite formidable array apparently dedicated to the proposition of seeing how well they can do this job.

Chairman PROXMIRE. Well, will not the Navy require its contractors to keep proper books and records, to maintain adequate budget and cost control systems, and to segregate the cost of changes so that claims can be fully investigated and substantiated? It seems to me the claims are now being settled on the basis of subjective judgments, not objective facts.

Admiral KIDD. Too often.

Chairman PROXMIRE. The GAO has repeatedly advised us that contractors are not able to relate alleged cost increases to specific Government actions. Why will not the Navy act?

Admiral KIDD. We have been and are in the following ways. Increasing greatly the numbers of the gentlemen that we have in residence at the shipyards, at the factories of all types, not just shipyards, legal gentlemen in some isolated cases because we do not have too many lawyers, inspectors and examiners. In one large private contractor, some 400.

Now, you get to a point of diminishing returns here, I am sure. Where that point is I would not presume to say.

Chairman PROXMIRE. Let me interrupt. I think hiring more people, I am not sure that will do it. That is spending more money What we are getting at is what you can do. Maybe it is difficult for you to do things. I am sure it is. But what you can do is to require the contractor to keep these records.

Admiral KIDD. And this we are doing now. There are several new directives. Mr. Packard. God bless him, he has several there in mind This 7001 or 7002 is one instrument which is going to be a fine ballbat when everybody gets in line. It is not something that can be done overnight.

Chairman PROXMIRE. Well, I can think of one very effective way to act and that is just not to pay unsubstantiated claims. Do not pay them.

Admiral KIDD. I agree with you fully.

Chairman PROXMIRE. That is the incentive.

Admiral KIDD. Fully.

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Chairman PROXMIRE. I am delighted to get that response. That is very helpful.

The Navy seems to be avoiding the Armed Services Board of Contracts Appeals and the litigation routes. How many claims has the Navy actually litigated and would you identify the cases and the amounts involved where the Navy has litigated claims?

Admiral KIDD. It will take about 30 seconds, if you want to go on to another question.

Chairmas PROXMIRE. The reason I stress this, maybe I am attributing to Mr. Rule improperly, but I thought he said something about how we should have less negotiation and more litigation, more going to court, more settling it on the basis of legal determination and not on the basis of negotiation where the other side has really nothing to negotiate.

Admiral KIDD. That is Mr. Rule's views Admiral Rickover's view and it is a view I, too, share. I think that we must go after these claims, identify the things that are proper charges on which there is no question, a change that the Government has initiated and for which we owe.

Where you get into some of these nebulous areas, the ripple effect, such things as that, I have told several contractors absolutely not. I am not going to get into that and if they choose to go that route, they must go to the courts.

Chairman PROXMIRE. Can you give us the data?

Admiral KIDD. Yes, sir. Would you like us to submit it for the record?

Chairman PROXMIRE. Unless you have it available right there.

Admiral KIDD. I have it right here.

Chairman PROXMIRE. Why do you not give it to us right now that is, the number that have been litigated?

Admiral FREEMAN. These are pending cases we have before the Armed Services Board of Contract Appeals at the present time.

Chairman PROXMIRE. Very good. Give us that for the record that is fine. You have several pages.

Admiral FREEMAN. Yes, sir.

Chairman PROXMIRE. All right.

Last year Admiral Sonenshein testified that the practice of making "provisional" payments on claims pending a final legal determination of entitlement and amount had been suspended and the inference I made was that it would not be resumed. A few weeks ago we learned that the Navy made yet another provisional payment to Avondale of $25 million. This is the claim that was unanimously rejected by the Rule group just a few months ago because it could not be substantiated.

I am informed that the provisional payments were made despite objections from the Navy's General Counsel and NAVSHIPS Deputy for Contracts. Is that right?

Admiral FREEMAN. Despite objection?

Chairman PROXMIRE. Yes, sir.

Admiral FREEMAN. No, sir. It was the other way around, Mr. Chairman. This——

Chairman PROXMIRE. Well, am I correct in saying that this was—this claim would have been unanimously rejected by the Rule group?

Admiral FREEMAN. Absolutely.

Chairman PROXMIRE. You reversed it.

Admiral FREEMAN. No. I did not reverse it. No. It was reversed by Mr. Rule and I have gone over the documentation wherein he reversed it and I think he was right.

Mr. RULE. Rejected.

Chairman PROXMIRE. I am also informed that payments were made without a report and evaluation by the claims team as to how much the Navy might owe on the claim. Is that correct?

Admiral KIDD. Run that by again, please, sir? No. no.

Chairman PROXMIRE. The rejection was made without a report and evaluation by the claims team as to how much the Navy might owe.

Admiral KIDD. We have had a claim team down there, Mr. Chairman, since last year.

Chairman PROXMIRE. Did they make a report on that?

Admiral KIDD. Last summer. They have been reporting continuously as they have identified parts thereof for which there was no question.

Chairman PROXMIRE. I am informed that Admiral Woodfin, the Deputy for Contracts, refused to sign the modification agreement for the provisional payment. Is that true?

Admiral KIDD. Well, I do not recall that. He was home with the flu.

Chairman PROXMIRE. If he did not sign it, who did sign it?

Admiral KIDD. What is it we are talking about now, sir?

Chairman PROXMIRE. The modification agreement for the provisional payment.

Admiral KIDD. That was signed by the Deputy Chief, Bureau of Ships.

Chairman PROXMIRE. Why did not Admiral Woodfin sign?

Admiral KIDD. As I say, I believe he was ill at the time.

Chairman PROXMIRE. He did not refuse to sign. Are you telling us that testimony to that effect——

Admiral KIDD. No. We sat right in my office and discussed this.

Chairman PROXMIRE. Did he recommend making the payment—Admiral Woodfin? You say he discussed it. Did he recommend making the payment?

Admiral KIDD. There was not disagreement among those at the time the matter was decided. I made the decision.

Chairman PROXMIRE. You say there was no disagreement. Did he recommend it? Did he take positive action and say you should pay this?

Admiral KIDD. No, I do not recall that he did.

Chairman PROXMIRE. Did you object?

Admiral KIDD. No.

Chairman PROXMIRE. Is the Legal Counsel here in the room?

Admiral KIDD. Sir?

Chairman PROXMIRE. The Navy Legal Counsel; is he here?

Mr. MANKIN. Yes, sir, I am the General Counsel.

Chairman PROXMIRE. Can you testify on this? Will you—did you know about this matter we have been discussing?

Mr. MANKIN. On the Avondale?

Chairman PROXMIRE. Admiral Woodfin.

Mr. MANKIN. And Admiral Woodfin. No, sir, I do not.

Chairman PROXMIRE. What about your own recommendations, sir? Will you identify yourself, come forward and identify yourself.

Mr. MANKIN. Senator, I am Hart Mankin, I am the General Counsel for the Department of Navy.

Chairman PROXMIRE. Yes, sir. Did you recommend this payment, sir?

Mr. MANKIN. Did I recommend the payment? I concurred in this payment, sir.

Chairman PROXMIRE. You did not recommend but you did not object to it. Is that a fair description, or you know about it but took no action?

Mr. MANKIN. I knew about it and I took the—the action I took is that I concurred in it.

Chairman PROXMIRE. Do you think it was a good decision?

Mr. MANKIN. Do I think it was a good decision?

Chairman PROXMIRE. Yes, sir.

Mr. MANKIN. I think it was a valid exercise of the judgment of Admiral Kidd and I think by and large, it was a good decision, yes, sir.

Chairman PROXMIRE. Let me ask you, Admiral Kidd, why did you decide to give Avondale the $25 million?

Admiral KIDD. Two reasons. First, I was satisfied that we owed them the money, but now let me stop right there. You know, this was not a lump sum payment. This money did not change hands all in a bunch. Not by a long shot. This was a provisional payment paid in increments, to be paid in increments.

Chairman PROXMIRE. Let me just interrupt to say did Mr. Rule make any recommendation on this matter?

Admiral KIDD. I do not recall.

Chairman PROXMIRE. Did you ask Mr. Rule?

Admiral KIDD. I did not, no.

Chairman PROXMIRE. Mr. Rule, did you have any position on this?

Mr. RULE. No, sir. I would like to say I was not consulted. Admiral Kidd——

Chairman PROXMIRE. Your original position was, of course, to reject it, right?

Mr. RULE. Admiral Kidd called me down one evening and was kind enough to fill me in on this payment. The decision had been made. I begged him not to make it. I thought it was a mistake and I begged him not to make it. I would beg him all over again because as I told him, I think really, and this will be my ongoing opinion, we are here to help this man and keep him from making mistakes. He can exercise the final judgment but I thought he was making a mistake and I so advised him.

Admiral KIDD. That is correct.

Chairman PROXMIRE. Fine. Thank you. Why did you think this was wrong, Mr. Rule?

Mr. RULE. Well, I understood and I still understand Admiral Kidd's desire to get the ships. He was trying to do everything he could to get the ships. But basically, as Mr. Packard stated in his speech with respect to holding the contractor in the case of the F–14 to the contract, I was in favor of holding the contractor in this case to the contract. Aside from holding the contractor to the contract, in that connection let me read one more line from Mr. Packard when he says: "Although some companies may be forced to suffer financially because of this concept", holding the contractor to the contract—"it will not be a major disaster to the country. It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend."

Chairman PROXMIRE. I thought very, very highly of Mr. Packard. He and I disagreed on some things but I thought he was a very great servant of our Government.

That entire speech will be printed at this point in the record. I think it is a very fine statement of principle that we ought to abide by.

Chairman PROXMIRE. Let me ask you a little further——

Mr. RULE. I would like to make one more point in answer to your question why I advised Admiral Kidd not to sign this provisional payment. Avondale is a division of the Ogden Corporation, a conglomerate with a lot of money. If they had simply said we are turning off the spigot, we are not going to finance Avondale any more, I think we should have gone after Ogden and made them put up the money rather than let them off the hook.

Chairman PROXMIRE. Thank you very much. That is most helpful.

Admiral KIDD. Would you like me to continue on that subject, Mr. Chairman?

Chairman PROXMIRE. All right. Maybe if I ask a couple of further questions you can include those in your response. I wonder if your decision was influenced by the instruction you received to accelerate payments to contractors from your superior.

Admiral KIDD. Absolutely not.

Chairman PROXMIRE. And also whether your decision was influenced by Avondale's threat to stop work?

Admiral KIDD. Oh, they had already stopped.

Chairman PROXMIRE. Threat not to continue, then, not to proceed.

Admiral KIDD. In answer to the first question——

Chairman PROXMIRE. Holding the ship hostage, not letting you have the ship.

Admiral KIDD. In answer to the first question, absolutely not.

Chairman PROXMIRE. That did not influence your decision.

Admiral KIDD. Admiral Zumwalt's memo?

Chairman PROXMIRE. No. You have answered that. I am talking about holding the ship hostage, whether or not that was an important element in your decision.

Admiral KIDD. It was, indeed.

Chairman PROXMIRE. It was. That was the crucial factor?

Admiral KIDD. Well, no. No. I will not say the—the crucial factor was the pressing need for those platforms. The fleet needed those.

Chairman PROXMIRE. That is what I mean.

Admiral KIDD. The fleet needs them badly. The team had been down there since last summer, going through, revalidating the figures which Mr. Rule had approved, and that team was reporting regularly their findings and I in checking with the team found what they had validated as proper charges to the United States for changes and for things that were our responsibility, and I decided that I would pay that bill. And the proper name for that bill I see here is a provisional price increase paid incrementally as they performed.

Avondale was very strong in their objection. They preferred to have what they called a maximum modification to the contract which I rejected out of hand. I said no, I would not stand still for that because implicit in that if I agreed to that would be that we owed them the money that Mr. Rule said we did not owe them and I said I do not think we owed you that much money.

Chairman PROXMIRE. Is it not true that the Navy had already provided 23½ million dollars to Avondale?

Admiral KIDD. That is exactly correct.

Chairman PROXMIRE. So this $25 million meant that you were paying about two-thirds of what the original claim was?

Admiral KIDD. Quite right. That is correct. And the first $23 million was made up of increments at that time of validated charges as the 25 provisional price increase was made up of elements of validated proper charges, too.

Chairman PROXMIRE. Does not the Navy when it makes this much of a payment give up its bargaining position? You will never get that back, will you?

Admiral KIDD. Well, I was advised on that score——

Chairman PROXMIRE. I am sure.

Admiral KIDD. I was advised on that score and I made a judgment. I could have been wrong. It would not be the first time I have made a wrong judgment, but I wanted those ships, having just come from a fleet where we needed them badly, and this was a validated bill that I was led to understand by the experts in whom I have proper confidence, that it was money owed by the United States and I decided to pay the bill.

Chairman PROXMIRE. Well, another way of looking at it is that this is extortion, that they were extorting funds from you on the grounds that otherwise you would not get your ship, you would not get what the Navy needed and you collapse and give in under this claim and it establishes a precedent which Mr. Packard and Mr. Rule are warning against here.

Admiral KIDD. I thought about that, too, very carefully, and extorting—perhaps. But their price asked, demanded, was ever so much higher, somewhere around 74, 76, somewhere around in there, $73 million, and I—

Admiral FREEMAN. $75 million.

Chairman PROXMIRE. This is 48½. This would be 48½ of that $75 million.

Admiral KIDD. Yes. And that difference has been the part in question right along.

The ripple effect, and so on, things that are rather nebulous, I do to get a handle on, and I said absolutely not, I will not touch it.

Chairman PROXMIRE. Now, on February 11th, Admiral Rickover sent a memo to Admiral Kidd strongly objecting to the new procedure for handling claims. Admiral Rickover said in his memo that claims settlement is principally a legal matter and should not be handled like contract negotiations. He suggests that the Office of Senior Counsel establish a Review Board composed of legal, accounting and technical experts to review settlements and eliminate items not clearly substantiated and, among other things, a list be promulgated of contractors who frequently make claims against the government or who submit excessive or unwarranted claims and that procurement agencies give consideration to contractors' claims records in awarding new contracts.

I would like to get your reaction and Mr. Rule's, reaction to Admiral Rickover's recommendations. Do you feel they are sound?

Admiral KIDD. Oh, I can answer that very simply. I agree with him. I seek his advice regularly. He calls me up many times a day with advice and I think he is sound.

Chairman PROXMIRE. What have you done to implement that recommendation? What have you done to have legal counsel set up?

Admiral KIDD. I think that the Board we have constituted now is going to operate, if I have my way, just about the way he proposes.

Chairman PROXMIRE. That is not under the General Counsel?

Admiral KIDD. No, it is not. However, the legal gentlemen whom we have as I mentioned earlier in the Systems Command and at the claims team level are gentlemen who have double allegiance, allegiance to the General Counsel and to the System Command for whom they work.

Now, when we go after a claim and agree to and pay our proper bills for things that are uncontestable, anything else that I am going to say take it to the Court, which is what Admiral Rickover has proposed.

Chairman PROXMIRE. At the present time the claims come up through the Systems Command?

Admiral KIDD. They do, sir.

Chairman PROXMIRE. They get to review them?

Admiral KIDD. Yes, sir, they do.

Chairman PROXMIRE. Isn't there a conflict of interest involved here?

Admiral KIDD. How so?

Chairman PROXMIRE. What I had in mind was at that point an independent group, either Counsel's office or Mr. Rule's office, wouldn't have advice, would they? They would step in maybe later but at that point the decisions would be made by the——

Admiral KIDD. No, no.

Chairman PROXMIRE. Procurement officials.

Admiral KIDD. I disagree with that, Mr. Chairman because the team, for instance, that I sent down to Avondale were gentlemen picked from rather far and wide. I would say no to the possibility of a conflict of interest there, sir.

Chairman PROXMIRE. Mr. Rule, yesterday we heard testimony from the Comptroller General about the settlement of Lockheed's claim two years ago. I suggested it appeared the claim was divided up into four portions in order to keep it from going to your Review Board. Seventeen million dollars should have gone to your Review Board since the total exceeded five million dollars, they divided it into five portions—all of which were under five million dollars, so you had no opportunity to see it and no right to under the law.

I also suggested the enormous discrepancies between the alleged delays and the actual delays indicated to me that the contractor may have intentionally misrepresented the facts in his claim.

I wonder if you could comment on the Lockheed claim and the GAO report.

Mr. RULE. Well, sir, as I mentioned earlier, the total claim involved nine contracts—

Chairman PROXMIRE. What is that? I am sorry. I missed it.

Mr. RULE. The total claim from Lockheed involved nine contracts. These five contracts were—they had a total claim value of about forty million dollars and Admiral Soneshein did feel that they were worth seventeen or eighteen million dollars. However, each one of those five contracts or rather none of those five contracts was he going to settle for at over five million dollars and we discussed this—Admiral Soneshein, Admiral Freeman, myself. We made it perfectly clear that if they were going to be negotiated as a lump sum all five together, they woud have to come to my Review group.

We were assured that they would not be negotiated that way, that they would be negotiated separately. I have no reason to believe that they weren't, although it is a little difficult negotiating techniques for me to comprehend, but I have no reason to believe that they were not negotiated separately, and in fact the GAO has checked that point. And they have no reason to believe that they were not negotiated separately, and hence, Admiral Soneshein lived up to his agreement and they did not and should not have had to come to my group.

Chairman PROXMIRE. Mr. Rule, I wonder if you would like to add anything as to how you think claims problems ought to be handled. What should the Navy, what should Congress do? Do you have any recommendations that you would like to make at this point?

Mr. RULE. You realize that you are asking an ex-claim person, but I have thought a lot about it.

Chairman PROXMIRE. One for whom I have the highest respect and faith.

Mr. RULE. I have thought a lot about claims for various reasons and I do have some recommendations. Bear in mind that my philosophy on claims against the government, unilateral claims, submitted by—we are talking ship builders now who come in years after—in some instances the ships have delivered—and say, you owe us fifty million dollars, one hundred million dollars, I just want to say that I characterize that as an adversary proceeding. I don't think that that is just another negotiation. I think that when a contractor comes in like that, unilaterally with five stacks of volumes prepared by so-called experts, I think that is an adversary procedure and I would treat it as such. And it is that feeling that makes me get to the point in my thinking where I say, these things should not be negotiated.

You negotiate new procurement. You do that because in every new procurement, when a contractor gives you his proposal, there is a big grey area of costs that he wants, and you only sort out those grey areas by sitting at the table and negotiating them and then you determine how much you should pay for what it is you want.

But when a claimant comes in unilaterally with millions of dollars that we are now told are settled for an average of 37 percent of the claim, my philosophy is that the grey area which cannot be substantiated, those

grey areas should be left for a board or a court to decide.

Now, there are people who don't feel that way obviously. The lawyers are not very prolitigation. Lawyers like to settle things. This is the one objection to—possible objection to Admiral Rickover's memorandum. I would be all in favor of turning them over to the lawyers if you had a hard-nosed staff of lawyers. If you had a bunch of pantywaists who wanted to settle everything and not go and slug it out at the ASBC and do the hard work, I wouldn't be in favor of that.

I would suggest that we get these claims, we scruf them, we sit down with the contractor and go over all the areas so that he cannot say we have been arbitrary or capricious. We would discuss every possible point in the claim with them and then make our judgment as to what the claim is worth and we have no negotiations. We tell the contractor, here is our evaluation. You can take this and settle right now. If you don't, we will make a CO decision, a Contracting Officer's decision right now for that amount and you can appeal.

Now, that is—if I had carte blanche I think that is the way I would do it.

There is an alternative that I would recommend, and that is that after the Navy has received the claim and after they have done all their fact-finding work, that both those packages be turned over to the GAO for decisions as to how much we owe this contractor. This would obviously negate any pro or conceiling on the part of the Systems of Navy Shippers personnel. Sometimes they feel anti a contractor and sometimes pro. This would get it into a purely objective forum and I am reminded that the GAO is going down and investigating these claims anyway after they have been settled, and I just would like to get them in with us to help settle them.

Now, I know they said yesterday that they don't want to do this because the contracting officer has to make the decision and they are not contracting officers. Well, that is at the tail and I think it could be taken care of in the case of claims, but I really think GAO could help us a great deal more.

Chairman PROXMIRE. We have asked the GAO to do this and they have indicated they couldn't.

Mr. RULE. Well, they did that on the ground that they stated yesterday that they are—that a contracting officer has to make a decision. Normally this is true, but I suggest, sir, that when an unusual situation, why can't we cut the cloth just a little differently to suit the situation?

Chairman PROXMIRE. Mr. Rule, those are excellent recommendations.

Mr. RULE. I haven't finished. I haven't gotten to the best part.

Chairman PROXMIRE. I beg your pardon.

Mr. RULE. I think, Senator, that Claims, I am not talking new procurement, I am talking claims—when this man comes in and files a claim against the government, I think that those claims should have the same stature, and dignity as a case in court. It is an adversary proceeding just like a case in court.

When a case in court is filed or when a case is before a board, members of Congress, lawyers, Secretaries, they don't call up the Judge and they don't lean on anybody and they don't call the Clerk of the Court, and I think that claims should have that—should have attached that same dignity and people should not be able to call up about claims. And this applies to lawyers, members of Congress, and everybody else.

I think there should be a canon of ethics in the Bar Association that should preclude lawyers from running to Congress, calling up the Secretaries, doing a lot of things that they wouldn't do for a case in court, you see. I think that they should do exactly the same things and only those things that they do with a case in court.

I think that there should be a rule in the House and in the Senate of the Congress along the same lines, that it is improper for members of Congress as they are doing today to call constantly, have meetings, call people up to the Hill, go down and sit with the Secretary, to talk about claims while claims are being adjudicated. I think they ought to—that ought to be an improper practice, and certainly to the extent that they call to expedite a claim which is perfectly natural, you like to point out how it is all right to expedite, and I agree.

Chairman PROXMIRE. We have been through that once.

Mr. RULE. Yes, we have been through that. But records ought to be made of any call placed by the lawyers, the members of Congress, on claims and they just don't have that stature today and I think they ought to have it.

I think that further, my last point is that when claim accounts, their lawyers, have meetings in the Bureau on the claims, I think those meetings ought to be recorded and a record kept of them for further use.

Those are my recommendations.

Chairman PROXMIRE. Those are very very valuable. I am glad you went ahead instead of stopping when I interrupted.

And I am glad that you sent up to me the Disney Land faculty showing contractors how they can get money out of the government. It includes on the faculty, as I suspected, officials of the Federal Government who are being paid by the taxpayers.

For example, Preparing and Defending the Claim, George T. Malley, Chief Counsel, NASA Langley Research Center.

Obtaining Information Discovery and Supoena, Irving Jaffe, Deputy Assistant Attorney General, Civil Division, Deputy Justice.

Clinic, Gerson B. Kramer, Claim, Department of Transportation contract appeals board.

Presenting Claim, to the Comptroller General, Paul A. Schnitzer, Assistant General Counsel, General Accounting Office.

Clinic, S. Nell Hosenball, Deputy General Counsel, NASA.

Department Suspension and Blacklisting, Paul G. Dambling, General Counsel, General Accounting Office.

And "Live" Hearing Demonstrations, Board Chairman, Richard C. Solibakke, Chairman, Armed Services Board of Contract Appeals.

So, this court is given to tell contractors how to get money out of the taxpayer, I think it is shocking. I am delighted that you called that to my attention. I missed that Disney Land faculty.

Mr. RULE. Senator, There isn't anything new about that except where it is going to be held. Those sections are being put on throughout the country regularly.

Chairman PROXMIRE. Yes, but my question earlier was whether this was being done by the Federal government or not? It is not being done directly. It is under the sponsorship I understand of George Washington University, I was told.

The important point I am trying to make is that members of the faculty here moonlighting are the people who are on the other side and employed by the federal government. I think it is a observation that is worth noting.

Admiral Kidd, I would like to get into ship building practice now. The GAO reviews of cost control and procurement practices at two of your major ship yards, Newport News and Litton, indicate that the Navy still doesn't have effective control over the cost of work for which the government shares a large part of all cost overruns and underruns. How much business do you estimate you have under contract that is not under effective cost control?

Admiral KIDD. Oh, I wouldn't hazard a guess, Mr. Chairman. I am not comfortable with the total adequacy of our cost controls. I am satisfied that the contractors are gradually becoming increasingly aware of the need for much improved cost controls. I am also satisfied that in the majority of cases they are banding quite satisfactorily and promising efforts in this regard.

But it is not going to be an easy thing to solve and it is going to take a long time.

Chairman PROXMIRE. Well, for the record, to the extent that you could do so, with your staff, will you review what has been done and indicate what actions you are taking to correct deficiencies?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. Both the Defense Contract Audit Agency and GAO have reported that during the periods 1969 to 1971 Navy contracts were charged about seven million dollars for overhead expenses applicable to Litton's commercial work carried on at the West Yard. We were shocked by this yesterday. Why hasn't the Navy acted and caused them to refund this money?

Admiral KIDD. Oh, we have, Mr. Chairman.

Chairman PROXMIRE. What else have you done?

Admiral KIDD. Yes, sir. This irregularity, if you will, causes as yet we can't prove one way or the other how or why it happened, was first identified by our own government contract auditors. It was brought to our attention. We went back to the contractor, drawing his attention to this, and asking him why and directing that he change his procedures to insure that this sort of thing would be prevented in the future.

He came back to us with a letter acknowledging this error and then enclosed a piece of paper, a legal brief, saying that he would change his bookkeeping procedures henceforth, but that the change in procedures would not be properly, legally made retroactive. We sent this compendium, this file, to the Defense Contract Audit Agency for comment and review. They are to come back to us on April 14th, of this year—and their staff. But I haven't given up on that one.

Chairman PROXMIRE. Well, I am glad to get this report. We missed it yesterday.

What is the present estimates for the program cost and the program unit cost of the LHA being built by Litton and how do these costs compare with the original estimates?

Let me ask some other questions in this connection as long as you are getting the data together. I want to know how much is Litton's claim on the LHA and I want it broken down, if possible, the figure by escalation, cancellation, and Navy impact costs.

Admiral KIDD. Those figures are not in our hands, Mr. Chairman, and aren't due until the end of this month. The re-set time.

Chairman PROXMIRE. How about the LHA delivery schedule? I understand there has been a slippage of two years, 24 months.

Admiral KIDD. The LHA delivery schedule has slipped, Mr. Chairman. Let me see where that stands right now.

Chairman PROXMIRE. Will you give us those other figures when they come in?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. I know you don't have them now. But send them to us.

What is the reason for the slippage which has occurred on the LHA program?

Admiral KIDD. Well, sir, a combination of many things. From the contractor's point of view they had a hurricane down there which slowed them down. They had a strike of about a month's duration. But when the storm struck, they left town. They didn't come back. So it wasn't a question——

Chairman PROXMIRE. Now, did you agree it was a 24 month slippage? Is that accurate or not?

Admiral KIDD. On the LHA?

Chairman PROXMIRE. Yes.

Admiral KIDD. No. I think that is kind of a soft figure yet.

Chairman PROXMIRE. It is more than 24 months?

Admiral KIDD. No. I would say somewhere between 12 and 24 but it is a little bit early to tell just how much.

Chairman PROXMIRE. I see.

Admiral KIDD. Those are the two things.

Chairman PROXMIRE. It could go higher, I presume?

Admiral KIDD. Yes, it could, I suppose.

Chairman PROXMIRE. How much will the delivery delays impact on other Navy programs such as the DD 963?

Admiral KIDD. I hope none but I am from Missouri in this regard and here again the contractor is not far enough along in what he is doing on the 963 to be able to tell you with any degree of assurance just what his delay is if any are going to be.

Chairman PROXMIRE. I am told that the overrun on the LHA is four hundred million dollars on the five-ship original target costs. Can you confirm or deny that?

Admiral KIDD. No. I think that that—I think that sounds like a figure picked out of the air.

Chairman PROXMIRE. Well, so far we have been—you know, when we make these estimates of overruns, they tell us that we are too high and we are always either on the nose—we were on the C–5–A—or too low.

Admiral KIDD. I didn't say it is too high or too low or anything else.

Chairman PROXMIRE. I know. You didn't deny it.

Admiral KIDD. We don't have the figures in hand, sir, from the contractor yet.

Chairman PROXMIRE. Well, when will you have these?

Admiral KIDD. They are due at the end of this month, Mr. Chairman.

Chairman PROXMIRE. Only a few days from now.

Admiral KIDD. Correct. What his cost dollars are going to be, and in that would be included the dollars for the cancellation which is in the contract, when we went from nine down to five, and additional changes of costs.

Chairman PROXMIRE. Can we count on having that by the end of next week?

Admiral KIDD. If he is on time, sir.

Chairman PROXMIRE. All right. It is my understanding that Litton is proposing that the Navy pay at the same ceiling price for five LHA's as was originally granted for nine LHA's and then in return Litton would accept "low profit of about 8 percent on costs", which would be an enormous profit, of course, on invested capital, and would drop its present claim. Can you confirm or deny this?

Admiral KIDD. I have heard that which you just enunciated but very informally and something on which I have taken no action because it is just about fourth-hand conversation.

Chairman PROXMIRE. I am also informed that partly because of the difficulties Litton has experienced at its new yard on the East Bank it is proposing to build the first 7 DD 963's at the East Bank, it increased costs to be borne by the Government.

Do you have estimates as to how much it would cost to build the DD 963's at the East Bank.

Chairman PROXMIRE. The Navy has had no estimate as to how much that would cost?

Admiral KIDD. No. We have no such communication from the contractor yet, sir.

Chairman PROXMIRE. If some of the DD 963's are built at the West Bank and some at the East Bank, wouldn't this cause the government to pay twice forward start-up costs and wasn't this what was supposed to be avoided by giving the entire program to Litton and not giving part of it to the Bath Shipyards in Maine? Wasn't this part of the justification for concentrating the whole program at the new Litton yard? How do you avoid the concentration, if you can?

Admiral KIDD. Good heavens, if that proposal that you have just indicated is apparently about to hit us comes to pass, that would obviate the—that West Bank yard.

Chairman PROXMIRE. That is our point, gentleman.

Admiral KIDD. It seems to me.

Chairman PROXMIRE. Will you let us know if they make that proposal and what the terms are?

Admiral KIDD. Indeed.

Chairman PROXMIRE. Has Litton asked the Navy formally or informally to restructure either or both the LHA and the DD 963 contracts.

Admiral KIDD. Restructure? No, sir, not to my knowledge.

Chairman PROXMIRE. Does the Navy plan to restructure either contract?

Admiral KIDD. No, sir, not to my knowledge. May I make addition here, Mr. Chairman.

Chairman PROXMIRE. Yes.

Admiral KIDD. Mr. Rule mentioned earlier, and you fudged a little bit on that F–14 contract, this is the same type contract, you know, and in counterpoint to Mr. Rule's observations on holding the contractors feet to the fire, that type of contract is no longer allowed, which I am sure is well known to you, but I think it would be important to introduce it into the record at this time.

Chairman PROXMIRE. Good. I have so many difficulties with the F–14. I know it is dear to the hearts of some of the people in the Navy but, boy, it is a tough one for me to justify in terms of admissions in view of the fantastic per copy cost of, what is it, sixteen million dollars now compared to the planes it would replace of about three million dollars and the notion that it would enable the aircraft carrier to be able to stand up to—help it stand up to Russian land planes, and so on. It just seems to me to be something impossibly costly and we have to cut our number of planes that we possibly afford to have.

Has Litton—let me ask this. Isn't it true that the Navy work at Litton's new ship yard so far is suffering from the same problems the Maritime Administration reported for its program, that is, defective structures, cost overruns, schedule delays, and a lack of trained manpower?

Admiral KIDD. Was that first defective structures, sir?

Chairman PROXMIRE. Yes.

Admiral KIDD. No, sir. Not yet as far as——

Chairman PROXMIRE. Let's take these one by one. Cost overruns?

Admiral KIDD. That again is going to be piece of this re-set submissions from the contractor due at the end of this month.

Chairman PROXMIRE. Schedule delays?

Admiral KIDD. The same, yes, sir.

Chairman PROXMIRE. Lack of trained manpower?

Admiral KIDD. This I can confirm, yes, sir.

Chairman PROXMIRE. Let me go back to the cost overruns. What was your response on that?

Admiral KIDD. This would be again a part of this dollar package that is due at the end of this month. As far as what I can prove to you at this point in time, I am——

Chairman PROXMIRE. We were asking for the——

Admiral KIDD. I am uneasy.

Chairman PROXMIRE. ——Asking for the figures, on the original cost and present projected cost. You don't have those?

Admiral KIDD. No. Not in writing.

Chairman PROXMIRE. What can—can you give us what you have, if not in writing, verbally?

Admiral KIDD. No, because you ask five different people, Mr. Chairman, you get five different answers.

Chairman PROXMIRE. They are all estimated overruns but in different amounts.

Admiral KIDD. But they are high, sir, on the high side.

Chairman PROXMIRE. How about the Navy's estimates? Does the Navy have one of its own or have more than one?

Admiral KIDD. We are tracking what they are telling us and we are tracking what our estimates are.

Chairman PROXMIRE. What does your track show?

Admiral KIDD. As you can well imagine, and I summarized that just a moment ago when I said I am uneasy.

Chairman PROXMIRE. What are the figures?

Admiral KIDD. I don't have those right at my finger tips, Mr. Chairman.

Chairman PROXMIRE. You can get that for the record, I understand.

Admiral KIDD. All right.

Chairman PROXMIRE. Isn't it also true that the anticipated benefits from the new yard have so far not been realized by the Navy?

Admiral KIDD. Here again it is still too early to tell because they are not at an identified milestone yet which they haven't met.

Chairman PROXMIRE. You gave them an LHA contract in '69. When will you be able to get them? That is three years ago.

Admiral KIDD. Yes. The first one, Memo of Agreement, original 1973, Memo of Agreement, 4/1/74. Nineteen months in one case.

Chairman PROXMIRE. Nineteen months in connection with what, sir.

Admiral KIDD. Delay in delivery on the first one.

Chairman PROXMIRE. Will you submit that document for the record? Can that be available to us?

Admiral KIDD. I would be happy to give you a summary of what the schedule shows, Mr. Chairman.

Chairman PROXMIRE. All right.

I just have one other area, Admiral. You have been most patient and responsive and I am very grateful to you, it wouldn't take us long, I think.

I want to get into the profits on Polaris Poseidon overhead and conversion. I am sure you are familiar with the correspondence between Admiral Rickover, Admiral Sonenshein and myself concerning the issue of excess profits made by the Electric Boat Division of General Dynamics?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. On Polaris Poseidon overhaul and conversion program, some time ago Admiral Rickover testified that a shipyard for the same work. Admiral Sonenshein later identified the yards as Electric Boat and Newport News Shipbuilding and Drydock Company, a subsidiary of the Tenneco conglomerate firm. I asked Admiral Sonenshein about Admiral Rickover's charges and Admiral Sonenshein replied in a letter that the last time they had this problem was in 1970 and since then profits and costs were coming down.

I asked Admiral Rickover to give me his reply to this letter and he told me in a lengthy and detailed response that there was no significant change in costs or profits on the submarine contracts involved with the exception of one where Admiral Rickover personally negotiated a lower profit with Electric Boat. Now, in the first place, credibility gap between the two of us. Why shouldn't members of congress be able to obtain the unvarnished truth about defense contracts without digging for it like a coal miner?

Second, do you intend to continue paying Electric Boat were profit than Newport News for comparable work? As you know Electric Boat company's costs are higher than Newport News' on essentially the same work. This fact is beyond dispute, and so far I have seen nothing to indicate that the Navy is doing anything about it. In fact, I believe the

situation is getting worse. Why won't the Navy act?

Admiral KIDD. Well, I would hope your last observation is inaccurate, there we are not doing anything about it. I think we are. I cited earlier the additional number of inspectors, examiners, that we have gotten on scene at both sites. We have made changes there.

Chairman PROXMIRE. Once again, when you cited that I pointed out this is more people, more expenses to the government, more expenditures but doesn't necessarily mean that you are going to reduce anything——

Admiral KIDD. No, sir.

Chairman PROXMIRE. In their explicite instructions of a particular kind that are going to be put into effect.

Admiral KIDD. Quite right.

Chairman PROXMIRE. What are they?

Admiral KIDD. Those instructions are to insure an improved and more accurate audit track of material, manpower, labors, costs, direct, indirect, and overhead.

Now, we are going to continue to also have cost disparities based upon geographic locations which is a case in point here where the wage rate at one site are higher than the wage rates at the others. There are going to continue to be instances of greater inefficiencies which we are seeing here. No question about it. I called Admiral Rickover and thanked him for his intercessions in the instance which he cited in his letter to you. The statement I have been personally in discussions, visited, and talked to the top management of these activities.

Now, one point that has been made to me, and I will be a parrot and report it back to you. We haven't had up until about the last two years a direct comparison of work at the two sites where the work packages have been actually identical and thereby lending themselves to precise comparison. This is, nevertheless, sort of a one-time yard stick but it is a yard stick but it is a yard stick that makes your point.

Chairman PROXMIRE. Well, I appreciate this very much. It is good to get this confirmation. Admiral Sonenshein denied the problem, and, of course, contradicted Admiral Rickover. It is good to get your confirmation.

I understand the contracts for this work are cost plus incentive fee.

Admiral KIDD. Correct.

Chairman PROXMIRE. Under such contractor's reimbursement all of his costs plus a profit—my information shows that in nearly every case, where more than ten contracts are involved, the contractor got higher profits then were initially negotiated for the job. Is that correct?

Admiral KIDD. I don't know, Mr. Chairman.

Chairman PROXMIRE. In nearly every case where more than ten contracts were involved?

Admiral KIDD. If I may, I would be greatful to be able to provide that for the record.

Chairman PROXMIRE. Fine. I am also informed that the initial targets were overstated for both ship builders to make excessive profits. In one case the profit amounts to 18 percent on costs which of course could be over one hundred percent on invested capital. Can you verify that? Can you verify whether it was 18 percent on costs in one case.

Admiral KIDD. We are studying that now. We have two study efforts underway to address that matter, Mr. Chairman. It is not completely done yet, sir.

Chairman PROXMIRE. Why does the Navy pay such high prices and high profits on cost plus contracts?

Admiral KIDD. May Admiral Freeman address that, Mr. Chairman?

Chairman PROXMIRE. Yes, sir, Admiral. Go right ahead.

Admiral FREEMAN. I don't think the statement is basically a true one, that we pay high costs and high profit. It certainly is not the intent.

Chairman PROXMIRE. In this record we are making here, that seems to be true.

Admiral FREEMAN. In an incentive fee contract, the original negotiated profit will increase if he does in fact reduce his costs. That is one of the provisions of that type of a document in this particular case, as you have been a strong supporter of uninformal accounting standards, so this deals with that kind of a problem in trying to be able to relate exact work packages, exact costs comparison.

Chairman PROXMIRE. But in this case they seem to be increasing their costs. Doesn't that mean that the profit will be reduced?

Admiral KIDD. Well, the most recent one was a substantial reduction in profit negotiated by the Naval Ships Systems Command for the most recent overhaul.

Chairman PROXMIRE. That is the one Rickover negotiated.

Admiral FREEMAN. I understand he was a participant, yes, sir.

Chairman PROXMIRE. Admiral Kidd, you said something about a study that you are making. Will you make that available to us when you have completed it?

Admiral KIDD. When it is completed.

Chairman PROXMIRE. Can you tell us what the profits on these conversions and overhaul contracts represent as return on investment? Is there any evidence on that?

Admiral KIDD. No. And I have talked to the president of one of the two ship builders involved and here it is kind of fuzzy, Mr. Chairman, as to what the investment is.

Chairman PROXMIRE. I know it is a difficult concept. We have had difficulty with the GAO on it. I have argued and my staff has argued that the return on the investment is really much more significant. My own business experience and business training tells me that this is what a businessman looks for, whether the costs are high. Whether the profit on costs are high or low is fairly relevant. They will take a very low profit on costs if his return on his capital is high. Return on capital is the vital determining factor and determines the justification, too, of the price being paid.

Admiral KIDD. The thing that I find troublesome is the great difficulty in identifying from the contractor's point of view what is his capital investment. It could be dollars, it could be money spent in new equipment, new machinery, new training techniques.

Chairman PROXMIRE. I realize that. But I think almost any estimate, we get the contractor in a discussion and the dialogue, having him give his estimates, the Navy gives its, and then well, at least, have some basis for determining what kind of return they are getting—

Admiral KIDD. Those two contractors strongly objected, of course, to using the return on capital.

Chairman PROXMIRE. They also do because it shows, of course, that they are doing very well.

The study by the GAO overall showed the average return was 50 percent, 50 percent on invested capital. I am informed that last year's Electric Boat Division made twenty-eight million dollars on a little over fifty-two million dollars in investment and here is another example. You confirm that? If it is true, that is more than 50 percent profit. Can you determine that?

Admiral KIDD. Following your lead of some moments back, Mr. Rule just reminded me here, we have five actions for the selected application of this approach. Magnavox Texas Instrument, Itek and Hughes and Librascope, and we are attempting to have Navships and Navelectric to participate but that thus far has been unsuccessful.

Chairman PROXMIRE. How about the Electric Boat Profit of 50 percent, twenty-eight million dollars return on fifty-two million dollars in investment?

Admiral KIDD. I can't confirm or refute the fifty-two million dollar investment figure, Mr. Chairman.

Chairman PROXMIRE. Could Admiral Freeman?

Admiral FREEMAN. No, sir. I am not familiar with that specific contract, sir. I will be glad to provide a comment for the record.

Chairman PROXMIRE. If you will provide that for the record, fine.

I am also informed that General Dynamics Company-wide profits for the year were about twenty-four million dollars, less than the profits made by its Electric Boat Division. That means except for the Electric Boat the Company actually lost money. Wouldn't that seem to follow?

Admiral KIDD. It would.

Chairman PROXMIRE. Why is the Navy allowing such high profits? Again, do you intend to do anything to remove excessive profits?

Admiral KIDD. We are trying. I think the matter of allowing profits—in the short time I have been here, I have asked just about every contractor I have seen, how much is enough? What is a proper profit? And fascinatingly I get answers ranging anywhere from two and a half percent to fifteen and twenty. There seems to be no uniformity, and this I don't understand.

Chairman PROXMIRE. Well, if they are talking about return on invested capital, I think fifteen or twenty would be quite modest. I would be delighted if they would settle on the average of fifteen or twenty percent. But they don't in so many cases.

Admiral KIDD. On the other hand, I had a very prominent contractor in the office yesterday who told me that in his operation, if he could make a profit but a fraction above that which he would get if deposited in the bank, he figured he was doing pretty well.

Chairman PROXMIRE. Well, they are getting 50 percent at Electric Boat. That is a lot better than you can do in any bank savings account.

In the Polaris Poseidon overhaul and conversion situation I described earlier it appears that the Navy has spent sixty-five million dollars more at Electric Boat than at Newport News for the same amount of work. Why don't you find out the individuals responsible and hold them accountable?

Admiral KIDD. We are trying and I think those figures are a bit off because the work packages are not identical and this leads to a great difficulty in precisely scoping the problem.

Chairman PROXMIRE. Will you give us a final report on that?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. At this point I want to insert it in the record.

Admiral KIDD. In that regard EB just reorganized and replaced certain key people who had been apparently involved in weak material controls, but have no great answer yet.

Chairman PROXMIRE. All right, Admiral, once again, and Mr. Rule, it has been a most informative and useful hearing. You have made a fine record. I know there has been some controversy but that is one of the things you have to expect in a record that is worth anything. Thank you very, very much.

Tomorrow morning the committee will reconvene in the same room at the same time. We will hear the Honorable Charles L. Ill II, Assistant Secretary Navy Installations, and from Mr. Hervert J. Frank, President of Aerosonic Corporation will be introduced by Senator Chiles.

The subcommittee stands in recess. It will reconvene at 10 o'clock tomorrow morning.

(Whereupon at 12:25 the subcommittee recessed to reconvene tomorrow morning at 10 o'clock, March 29, 1972.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD). Under the previous order the Chair lays before the Senate the unfinished business (S. 2956), the title of which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2956) to make rules governing the use of Armed Forces of the United States in the absence of a declaration of war by the Congress.

The ACTING PRESIDENT pro tempore. Under the order previously entered, the Senator from Mississippi (Mr. STENNIS) will be recognized for as much time as he desires.

Mr. STENNIS. Mr. President, I certainly thank the Presiding Officer, and I thank the Presiding Officer for the arrangement whereby I could use more than 15 minutes, although I do not expect to speak at great length on this subject; not today, anyway.

Mr. President, as would any Member of the Senate, I welcome the chance to take some part at least in the debate on this very grave question. I have welcomed the chance to take some part in the form and wording of this measure, although I do not claim more than a small part of the credit.

I want to say a few words by way of introduction that are not personal and are not intended as such, but it does have something to do with my personal experience.

I speak as one who does not want to restrict the President of the United States. There is very broad language in this measure that recognizes his powers as granted and conferred in the Constitution, as well as his responsibilities; and I speak as one who has a voting record and an advocacy record here over the years as leaning toward the Executive power in connection with the conduct of wars and the handling of emergencies.

I know the Nation has to have a head and when the people choose that executive head he represents in that office all the people. As a Member of this body I try when I can to back that leadership. I lean that way. That is my theory of government.

I do not want anyone in the President's office to sit idly by with indecision, or timidity, or anything else and fail to act in an emergency, fail to move in on a problem and let our country be a victim of aggression in war or in any other matters. So I lean against all those things and I think this measure surely takes care of the situation in that field.

As one who has been here when we went into two wars after World War II, neither of which was declared by Congress, and in neither of which Congress took a direct and positive yes or no responsibility I merely want to put Congress back in the role of having to share in that decision. That is all; that is all. I want to put Congress back into the role of having to share in decisions as to whether or not our Nation will be committed to war. I believe it should be fairly easy for the executive branch and Congress to find a way where both could fulfill their responsibilities—it is not a question of power—where both could fulfill their respective responsibilities as laid down in the Constitution of the United States.

During our history, until the years since World War II, we have been able, without any further legislation, to play those roles. I was standing right here behind where I am standing now, Mr. President, when the news came, in 1950, that we had committed troops to Korea, and the news about our landing troops there. I remember it as if it happened a few minutes ago.

I realized that that was the first time we had ever willfully gone into full-scale war, so to speak, without a declaration of war by the Congress. I was a new Member, but I listened closely.

At that time, on this floor, the thought of having to wait for Congress to declare war was almost scoffed at. It was said there was not time in a nuclear age, and so forth, and so forth. But I never did change my mind about it. I did not agree that we could not fulfill that obligation under the Constitution. As a practical matter, I knew, whether Congress had considered it or not, we would be calling on the young men of this country to fight that war, and I felt that the people as a whole were entitled to the viewpoint and judgment and decision, not only of the President, no matter who he was or how wise he was or how patriotic he was, but were entitled to the judgment and responsibility of the elected Members of Congress. That is where the direct contact with the people is. That is where the direct responsibility is. That is where the broad, common sense judgment of the American people as a whole is reflected—in the Halls of Congress—not always wisely, but it is the best they have in our system in those fields.

I think now, regardless of world conditions, that we ought not to abandon this safeguard and ought to put something on the law books—I am not so much interested in just what the language is—to reincarnate, reenact, and rerecognize the responsibility of the Congress in this field.

As I have said, I do not detract one bit from the President's power or his responsibility. This is a mutual affair. I said in a former speech that I did not believe any one man was wise enough to make these decisions and that the responsibility of it is too awesome for any one mind.

In addition to these leanings, I lean toward military preparedness—everybody knows that—in both quality manpower and in military weapons; but this leaning toward Executive power in crisis, and all, and leaning on military preparedness with a margin to spare, does not mean I have to abandon commonsense and throw away this safeguard—and I think it is a safeguard—against getting into wars. And that is exactly what we have done in the last 22 years.

Whoever has had the responsibility as the President has not had the backing of the Congress, which felt it had a direct responsibility, because it had not voted on a resolution. I think the military is better off, the people back home that have to carry the burden of the war are better off, and the Executive is far better off to have a required vote by the Congress. Then, if it is in the affirmative, the President has the backing of that Congress, and Congress feels a responsibility because it has put itself on the line and has committed the people. And the people feel they have been committed through their representatives—or at least a majority of the Senators and the Members of the House of Representatives—by having voted for that declaration of war, to throw the resources of this country, materiel and men, into the balance and commit themselves against the adversary.

On the other hand, if the people do not have that expression from the Congress, we know now that they do not feel the same way as they would with it. We know now by experience that they do not feel as much that it is their war and that they have this responsibility.

I hope we have learned a lot. I am not trying to refight this war, and I would not put my name on this resolution or any resolution until it expressly provided that the war in Vietnam is excepted from the operation of it. Because if we are going to set a policy for the future, let it be for the future and let us not try to lay blame for what happened in this war. I do not blame anybody except myself. I blame myself for my part, and let it rest there, and I have no comment on anyone else. But let us not get off now and try to let this debate decide whom to blame for it. I refer to the war only as an illustration of what can happen with reference to the people not having the benefit of the safeguard and then not feeling bound as they otherwise would.

I know what it is to be here—and I make no reference to anyone—as a Member of the Congress, not having had the responsibility of voting yes or no about whether we take this step.

The country is better off—I repeat that—the military is better off, the Congress, and every other branch of Government is better off if we do it this way. That is aside from the fact that it is a plain mandate of the Constitution of the United States. I think that is enough argument right there, but some persons do not think so.

I want to mention another thing, with great deference to anyone who may disagree. I do not think, Mr. President, that this is primarily a legal question. I think it is a policy question or a political question, and I use the term "political" in the very highest sense. If this were merely a legal question, we might as well just stop now, because the library is full of books, articles, periodicals, law books, Supreme Court decisions that try to pass on this matter with all the variations that are inherent in a fine technical instrument. We have all these fine variations on the legal aspects of this matter.

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I think we can find constitutional authorities that would differ greatly, authorities that might be entitled to our respect on purely constitutional questions; but that is not what we are confronted with.

The cases in the Supreme Court of the United States were decided at an altogether different time, under altogether different conditions, and they really hang on a very slender thread so far as the present is concerned. This is a down-to-earth, practical question of whether or not we are going to be committed to war, which means all of our material resources and manpower, drafted or volunteer, are thrown into the breach, with the question of human survival for them and for the Nation in the balance. It is not a legal question. We are not going to find answers in the books, so to speak, on this matter.

It is a practical question we have got to decide for ourselves. There was a good deal of debate in the Constitutional Convention about this matter, a great deal of discussion, which was not recorded in full. But finally, in the last analysis, the Convention decided how to settle it, and expressed their agreement in a very few words, when they said, "Congress shall have the power to declare war"; and that part of the Constitution was adopted almost without debate.

As I say, I do not wish to seem personal, but I want to try to answer the question: "What are your credentials to speak on this subject, especially the practical side of it? What are your credentials in connection with all these treaties, these mutual defense pacts and agreements?" A very valuable Member of this body met me in the hall yesterday and warned me against this resolution. He said it abrogated all the mutual defense treaties we had agreed to.

I think not. I would not agree to a resolution that abrogated everything we had agreed to. But I refer now, for background, to the CONGRESSIONAL RECORD of January 26, 1954, page 785. There was then pending before us the Mutual Defense Treaty or agreement between the United States and Korea. The language of that treaty referred to the fact that the signatories, the parties signing it, would respond in case of danger. The late Senator Wiley of Wisconsin was chairman of the Committee on Foreign Relations, which was reporting this treaty.

A colloquy about the subject begins on page 785, as I have already stated, and continues for 3 or 4 pages, a part of which was between the Senator from Wisconsin and the Senator from Mississippi. If Senators will indulge me, I shall quote some of the questions that I raised then, and some of the answers.

On page 785, we find this:

Mr. STENNIS. Specifically the clause we are discussing means that before the United States can resort to force or use troops, before it can go to war, it will be necessary that the matter be brought before the Congress. Is that correct?

We are talking about the phrase "constitutional processes."

The colloquy continues:

Mr. WILEY. I think the constitutional process in the case referred to by the Senator from Mississippi would call for a declaration of war by the Congress. I am not so naive as to say, however, that something might not happen which would be in the nature of an attack upon our forces or upon a part of our territory. In such a case we would not wait for a declaration of war; we would go into battle. Constitutional process might also include, withdrawing our ambassador, by the President, issuing an Executive warning, cutting off aid, and so forth.

Mr. STENNIS. If the Senator will yield further, regardless of what particular circumstances might exist at the time the question may arise, are we committing ourselves now, in agreeing to this treaty, to go to war if Korea is attacked, without any declaration by the Congress?

Mr. WILEY. In my opinion, very definitely the answer is no, but we enter into an undertaking that if there is an overt act by an aggressor upon our ally, then we will do that which we think is advisable and in accordance with our constitutional processes.

Mr. STENNIS. Who is "we"? Is that the Congress, or is it the President?

Mr. WILEY. It is the Congress and the President, who have to determine that question.

Here is what I think is the pertinent point in all of that discussion: How far are we committing ourselves with this agreement with Korea to go to war without a congressional declaration? I asked who did "we" mean, and Senator Wiley said:

It is the Congress and the President who have to determine that question.

The colloquy continues:

Mr. STENNIS. Under that interpretation, then, an act of Congress would be required before American forces could be used, or the United States could go to war under the treaty, as the Senator has explained it. Is that correct?

Mr. WILEY. As I understand the question, I agree that if an overt act is committed by an aggressor upon an ally, it then rests with the constituted authority, to wit, the Congress, to decide whether or not we shall regard such aggression as a basis for going to war.

Now skipping a few questions, I asked this question:

Mr. STENNIS. Will the Senator say that, in his opinion, that was the opinion of the committee which has reported the treaty, and which he represents on the floor today, the Committee on Foreign Relations?

Mr. WILEY. Supplementing what I have said, I would state that of course the President, as Commander-in-Chief, would undoubtedly come to the Congress, he would undoubtedly submit to the Congress a statement of the facts, and Congress would make the decision as to whether it would make a declaration of war.

Nothing could be any plainer than that. And that was the issue, the main issue before the Senate: the matter of confirming and ratifying a treaty.

On page 787 of the RECORD of the same date, we have the following. This is a little repetitious, but it came up in different ways, and other Senators asked questions along the same line.

As shown on page 787, I asked this question:

Mr. STENNIS. The Senator says "the President and the Congress." He means, does he not, that the language would require affirmative action by Congress before the United States could enter into armed conflict or into a war?

Mr. WILEY. I think it means before we could get into a full-scale war; I am sure of that.

But I agree fully with the statement of the distinguished Senator from Mississippi, namely, that, regardless of wherever our troops may be, if they are attacked, they will not await action by the President in calling Congress into session; or if an attack were made on any of our territory, the President would be obligated, as Commander in Chief, immediately to take the steps which would be advisable under the circumstances.

Mr. President, this resolution follows that language right on the nose. The one is drawn to fit the other. The resolution is drawn to fit this language.

As shown on the same page, we had this further exchange:

Mr. WILEY. The Senator from Mississippi now speaks, does he, about the use of force?

Mr. STENNIS. Yes; the use of force.

Mr. WILEY. Very well. I think that if the circumstances were such as I have suggested, namely, if there had been an overt act of aggression, but our troops were not involved, or if there had not been an attack upon our own troops, but simply an attack upon the troops of our allies, it would necessarily follow, under article III, that we would act to meet the common danger; and our action at that time would be in accordance with constitutional processes. If it did not mean consultation, or something similar, with respect to which the Executive has the power, and if it meant utilization of the Armed Forces, I believe that Congress should and would have to decide.

Mr. President, that is just an illustration of the extended debate here that afternoon, in which this point was raised time and time again; and every one of these mutual defense agreements that we have made contains that same clause—that this Nation will act under constitutional processes—except one, and that is the one with the Rio Pact, as we call it, with the Latin-American countries. That is an altogether different situation, and it can be explained fully, but I shall not go into that now because I want to move on to the other aspects of this important matter.

I do not know who raised the points in the other treaties. Perhaps they were not raised that vigorously in the very first ones. At that time, with all deference, we were just going around the world and we were putting together these mutual defense treaties. I voted for most of them, but I never thought there was much mutuality about them. World affairs were not settled, and we thought we were preserving all the prerogatives of the Constitution and the responsibility of Congress, and according to the wording of everything, we were. Of course, we have come along since then and got into war when we did not even have a mutual defense treaty or anything of the kind.

Mr. President, with that background, and coming to the resolution itself—it will be debated more fully, and I expect to make other comments on it at another time—I am going to proceed in a moment to a more formal part of my remarks.

I want to add this, with emphasis: It is clear that the President has responsibility and that Congress has responsibility. I know that President Nixon, as any other President, would be careful to guard his powers and follow his responsibilities, and I know that the State Department is concerned about this matter. It would be a great tragedy if we did not get together some way—there is plenty of responsibility to be shared by all—and put some language on the law books that will be an assurance to the American people. That language should be an assurance, not that we are backing up or backing off from anything or running out on a commitment, but that hereafter we are going to follow the Constitution, the rule of commonsense, the provisions of these mutual defense agreements, and that Congress is going to be certain to put itself into this field of responsibility.

We talk a great deal about powers. I think we emphasize the wrong thing. We have to emphasize responsibilities. That is what the people expect of us. I think it will be tragic if we do not make every effort possible, all of us—Congress, the executive branch, everyone—to find some way to adjust any difference of opinion we have and get down to the big question and find a way to restore clarity and certainty to this situation, and put a law on the books, to be signed by the sitting President, that recognizes the responsibilities of both branches of the Government. Until we do that, we are not going to have the faith and confidence of the American people on this matter as the Nation requires. I can sense that with what commonsense I have. It makes me sense that.

I have never tried to stir up the people one bit about this war. To the contrary, I have said that we are already in, and we will have to tough it out. I told them that here and elsewhere many times, including in my own State—that we are already in it, that we must not run, that we must not appear to run, that we will have to tough it out. But I resolved to do what little I could to clear up the situation as to what might be the course in the future.

As I see it, that is what this resolution tries to do, and I believe that, as a whole, it is a good measure in its field. If we will just try to get together—the executive branch and the legislative branch—we can find suitable language. We might improve it a little, we might weaken it a little, but we can find something to carry out these principles.

As I have said, I have never tried to stir up the people, but I think they are looking to us. Someone said, "You ought to put it off until after the election." I think we ought not to put it off until after the election. This matter is in the back of their minds. They are not very articulate about it, but they know. The commonsense of the so-called common people is the most powerful thing in our Government, say what you will. They are not going to stumble over a few words here, either, about what the Court held at some time or about what was said about some trouble 100 years ago or 50 this respect—actively reflects what he has said day in and day out, not only that, and they are not worried about that. They want to know what is going to be the rule; and when they are called, they will be ready, if they think these processes have been followed. There is no doubt about that in my mind. But if they think these processes have not been followed, it will create doubt, and I do not know what might happen.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, I want to express my full accord with the support which the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, is giving the proposal before the Senate, relative to the making of rules governing the use of Armed Forces of the United States in the absence of a declaration of war by Congress.

I agree with the distinguished Senator when he says that the people of this country are looking for some guidance and, in that respect, what this proposal does is to emphasize the constitutionality of the situation in this vital area as it exists between the executive and the legislative branches.

This measure was reported unanimously by the Committee on Foreign Relations. The distinguished Senator will recall that when he offered his resolution some months ago, I asked to be considered as a cosponsor; and I have never deviated in that support, because I thought that the Senator was right then and is right now.

There is talk about referring this proposal, after full, complete, and deliberate hearings before the Committee on Foreign Relations, to the Committee on the Judiciary—to the graveyard. That is what it would amount to. I do not think that the proposal now before the Senate, on which I expect plenty of debate, should be referred to the Committee on the Judiciary under any circumstances.

I do not know how many Senators are against this proposal. I would say that as of now they are in the minority. I would hope that when the final vote comes, those who continue to oppose this proposal still will be in the minority.

What we are doing here is taking no rights away from the President of the United States. As a matter of fact, I think we are leaning over backward a little too much to see that he retains the authority given to him under the proposed legislation. But I do not want to see another Dominican intervention—25,000 U.S. soldiers and marines to put down a revolution in the Dominican Republic several years ago. That was done, not with the approval of Congress, but entirely on the responsibility of the President. What has happened since that time is that we have put hundreds of millions if not more than $1 billion into the Dominican Republic, and there is no end in sight.

I do not want to see another Vietnam. I recognize that what the distinguished Senator from Mississippi (Mr. STENNIS) has said—and he has been consistent in on this floor, but also down in his own State and throughout the country.

Thus, if consistency is a jewel, the Senator is a jewel in that respect.

But it appears to me that the administration, in adopting a late offensive, so to speak, against this proposal, has been joined by people who have been in previous administrations and close to Presidents which might influence their judgments in favor of the executive branch.

For example, I understand that Mr. Eugene Rostow is against this proposal. He, I believe, was in the Johnson administration along with his brother, Walt Rosow, who was a Presidential adviser. Arthur Schlesinger is also against what the Senate is attempting to do. George Ball is against what the Senate is attempting to do.

On the other hand, others who were close to the President such as George Reedy have, I understand come out in favor of it.

All these names ring familiarly to me, but I think that this is a matter which should be considered and will be considered on this floor. We are delighted to get advice and counsel on both sides or on all sides of a question, but when we approach a proposition of this high constitutional priority, I think that we should keep it here until we are finished with it. We should not refer it to the Judiciary Committee under any circumstances. If there are any amendments to be offered, let them be called up and let them be voted on and, finally, one way or the other, let the Senate decide.

I want to commend the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Virginia (Mr. SPONG), and all other Senators who have joined in trying to bring a little degree of order out of a constitutional situation which has been getting out of hand and which Congress, especially the Senate, has allowed to get out of hand.

This is an attempt to protect the President's constitutional powers, to reassert Congress constitutional powers, and to do so, not in a spirit of animosity, but in a spirit of partnership and accommodation.

I believe that the distinguished Senator from Mississippi is doing an outstanding service on the basis of his remarks in the Senate today, and the fine support he has given to this proposition.

Mr. STENNIS. Mr. President, I greatly thank the distinguished Senator from Montana (Mr. MANSFIELD) for his very fine remarks and for his support and his outstanding position of leadership in this and other fields.

I really believe that the Senate can better handle this problem by coming to grips with it and, as the Senator from Montana says, debate the matter fully, call up any amendments that may be offered and let the Senate pass on them, and then have a final vote.

Mr. President, I have a very high regard for the Committee on the Judiciary. As everyone knows, my colleague from Mississippi (Mr. EASTLAND) is a very fine chairman of that committee. Everyone

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knows that we have worked together in harmony, so I make no reference to him when I say that I hope this problem is not referred to the Judiciary Committee or to any other committee. He and I have not talked in depth about this matter so that I do not know how he would vote on it at this time.

I want to say this, that I put together a resolution on this subject the best I could. No one requested me to do so. I had already made up my mind, as we got deeper into the Vietnam war, that I was going to try to do it at some appropriate time but, as long as I was engaged in the military procurement bills, I had some doubt as to whether I should undertake it then.

The distinguished Senator from New York (Mr. JAVITS), in his able way, filed a resolution that attracted my favorable attention. I commend him for his industry in that respect. Being frank about it, he had raised the issue and I decided that if I was going to act, I had better act then. I did, as soon as I could. But, in the meantime, I think I had already made one public speech about it. The Senator from New York and I have cooperated on it. I have certainly cooperated with him, as well as with the distinguished Senator from Virginia (Mr. SPONG) who, in my thinking, has been quite helpful in this field. It has been helpful to have the encouragement of the distinguished majority leader as well as the junior Senator from Missouri (Mr. EAGLETON). I am grateful to all of them. I speak solely on my own responsibility as a Member of this body, as I say, having been here when two wars were started without a declaration of war.

I see the Senator from New York is on his feet and if he wishes I will be glad to yield to him.

Mr. JAVITS. I thank the Senator from Mississippi for yielding to me. The usual clichés often heard in Senate rhetoric about the brilliance of the Senator from Mississippi, the high conscience expressed by the Senator from Montana, and the learning of the Senator from Virginia, do not seem apposite to the dignity and the importance of the matter we are discussing. But I think it is no secret at all for me to say—and I am the one to say it—that without the support of these Senators and without the close collaboration in the drafting of the bill by the Senator from Mississippi, the Senator from Virginia, and the Senator from Missouri (Mr. EAGLETON), we should not be here at all and we would not have such high expectations of favorable action by the Senate.

The words expressed by the Senator from Montana are built upon the base of confidence which has been inspired in this legislation precisely, because it has had such a diversity of points of view critically directed upon it. Without any prompting, I said yesterday exactly what the Senator from Mississippi said today. We have no false pride in the words we have settled upon in this bill. They are most carefully chosen. But, the idea, the principle, the fact that Congress is asserting its duty to participate—and I love that word "responsibility" which the Senator used—that is the most important thing.

People are getting cynical about politicians and those of us in Congress. They give us much too little credit. The pendulum always seems to swing much too far when the consciences and the deep feelings of the people contemplate the long-term future of this country.

Therefore, this kind of debate, in the tone employed by the Senator from Mississippi and the Senator from Montana, can help immeasurably to bolster the dignity of the country and the response of its citizens to it.

The Senator never uttered truer words when he said that the young people in this country have a fear of the irresponsibility through which they may be deprived of life or limb by some decision with which they feel no connection whatever. The best we can do there is to rely on the collective wisdom of Congress.

It is a fact, and this is a point that the Senator makes so tellingly—and he uniquely is in a position to make it—that there is a world of difference between the Gulf of Tonkin Resolution when we are "backing up" the President, and a Gulf of Tonkin Resolution when we know that we have the responsibility for the life of every young American just as much as the President does.

The argument that the President cannot respond quickly is entirely negated by the terms of the legislation and by one phrase—of which I was deeply reminded as the Senator spoke—in the testimony of Professor Bickel of Yale in which he said:

> The decisions of 1965 may have differed only in degree from earlier stages in this process of growth. *But there comes a point when a difference of degree achieves the magnitude of a difference in kind.* The decisions of 1965 amounted to all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers explicitly refused to confer it. (Italic added.)

In short, it is one thing to respond to an attack as President Johnson did, or the alleged attack on the destroyers. We must abide by that principle. That was that. However, now the sequel, this long war. What then? What did we have to say about it? To move from repelling an attack on destroyers to deploying 550,000 ground troops is a difference in kind. It is a war decision.

Mr. President, I take great encouragement from what has been said about this reference to the Judiciary Committee. I yield to no one in my respect for that committee. I served on it. That committee consists of a group of most eminent Senators. But, as the majority leader has said, such a move now would clearly be a move to pigeonhole the bill. When we look at the expert testimony we have had upon this matter, during the exhaustive hearings of the Foreign Relations Committee, one questions the need for future hearings.

There was Henry Steele Commager, probably a most distinguished name in U.S. history and matters pertaining to the founding of our Nation and our Constitution.

There was Richard B. Morris, professor of history at Columbia University, an equally distinguished expert of the Federal period and a great authority on Alexander Hamilton.

There was Alphens Mason, the most eminent authority on the Supreme Court and a great constitutional authority.

There was Alfred H. Kelly, professor of history at Wayne State University whose reputation on these matters is very high.

There was John Norton Moore, professor of the School of Law at the University of Virginia, who testified critically.

We had most enlightening testimony from Prof. Alexander Bickel of Yale Law School, who is not only a great constitutional authority, but who recently successfully argued the landmark, Pentagon papers case before the Supreme Court.

There was former Justice of the Supreme Court, Arthur J. Goldberg.

I would like to call to the majority leader's attention, because he is rough on his own party, that McGeorge Bundy and George Reedy are very much for this legislation. They were close advisers of President Kennedy and President Johnson.

There is before me a paragraph which appears in the RECORD on this measure which so sums up the feelings of the Senator from Mississippi. I would like to read it. Former President Abraham Lincoln said in his protest over the Mexican war while he was a Member of Congress:

> The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to go fraine the Constitution that no one man should hold the power of bringing oppression upon us.

Mr. STENNIS. Mr. President, I thank the Senator very much for his very fine remarks. I want to say that I have paid my respects and my genuine feelings to the Senator from Virginia (Mr. SPONG), who is also a coauthor of the Javits resolution. I did not state that before. The article written by the Senator from Virginia (Mr. SPONG) and published in the Law Review shows the depth of his study and learning.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I am happy to yield to the distinguished Senator from Virginia.

Mr. SPONG. Mr. President, I am aware that the Senator from Mississippi has not completed his remarks. I want to comment further on them at a later time. However, it is only fitting that I now say that, in my judgment, the Senator from Mississippi has consistently occupied the position he espoused here this morning from the very first debate on this matter in the Senate.

The Senator from Mississippi has read this morning from the January 26, 1954, CONGRESSIONAL RECORD. The Senator also testified during the hearings before the Foreign Relations Committee, and printed on pages 717–52 of the committee hearing record, along with a memorandum of his own, is the exchange between the Senator from Mississippi and the later Senator from Wisconsin, Mr. Wiley.

Mr. President, the first Presidential war was the Korean war. A first departure from what had always been the constitutional understanding of the role of Congress was in 1954. And when that debate took place, it was the Senator from Mississippi who put his finger upon the role of Congress with regard to the Korean situation. Also, when the Senator from Mississippi made a speech last year, at his alma mater, Mississippi State, he was only reaffirming a view that he has held for a quarter of a century.

I think this debate and the formulation of this legislation have been helped immeasurably by his participation. But his interest is something that goes back much further than I suspect many of the Members of the Senate realize.

I shall have some other comments for later, but I will reserve those until the Senator has completed his remarks.

Mr. STENNIS. Mr. President, I am grateful to the Senator from Virginia. I appreciate very much what he has had to say.

Mr. President, people say to me, "I am surprised. You are the chairman of the Armed Services Committee. You ought to be helping to defeat this resolution." Perish the thought, Mr. President. I have not had a single military man so far mention this to me. I think they are better off, and they realize that they are better off. They have some congressional responsibility tied to the very critical decisions that are made that put them up front within a matter of hours.

I emphasize again that I want all of the rights and the prerogatives that the Constitution puts on the President placed on him very positively. I do not want any responsibilities taken away from him here. He has those responsibilities. Let him carry them out.

The Senator from Montana may remember that in trying to oppose an amendment or two that he has offered here I have said, "Let us keep the responsibility on the President of the United States in this very area." That is the way I feel. President Nixon is not a timid man. He can take care of himself.

I believe this bill is a good bill. It represents hard work by the cosponsors and the members of the Foreign Relations Committee, and, on the whole, I believe it is a better bill than any of the individual measures introduced by the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Missouri (Mr. EAGLETON), myself, and others.

There has been some discussion of whether or not Congress has the authority to act in this area. It has been argued that Congress power extends only to the formal requirement of approving a declaration of war. The implication of such an argument is that by calling a war something else—"a police action," "hostility," or some other phrase—the requirement for congressional authorization can be avoided. It must be admitted that this requirement has been avoided too often in the past, Mr. President. We have already covered that matter. But to enumerate those occasions on which the United States has become involved in major hostilities such as the Korean war and the war in Vietnam, without clearcut congressional authority is merely to state the problem. They actually cite these precedents in favor of their position and in opposition to the resolution. These occasions are evidence of the constitutional imbalance that needs to be redressed. They are far from ideal models, in my opinion, for the future.

It is also important to understand that Congress has the authority not only to make those laws necessary and proper to the execution of its own powers, but also those necessary and proper for carrying into execution "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." That is from the Constitution. This gives to Congress the clearcut authority to define and give content to the powers of the President and the executive branch as well as its own.

But I do not think this measure as now written takes one whit of constitutional power or responsibility away from the President of the United States.

Finally, as was pointed out by Mr. Justice Jackson in his famous concurring opinion in Youngstown Sheet & Tube Co. against Sawyer, there is "a zone of twilight in which the President and Congress may have concurrent authority"—"When the President takes measures incompatible with the express or implied will of Congress, his power is at its lowest ebb," the opinion states, 343 U.S. 579 (1952). Thus, when Congress sees the need to legislate and define authority in an area, such as this, in which it and the executive branch have concurrent responsibilities, Congress is clearly within its rights as long as it does not attempt to take away from the President any authority which is clearly his and his alone under the Constitution.

During the course of our deliberations on this bill, Mr. President, I have consistently counseled that we not attempt to make this bill do too much. There are those who disagree and take the position that this bill should apply to the current hostilities in Southeast Asia. I respectfully disagree. Section 9 of the bill exempts hostilities in which we "are involved on the effective date of this act." To some there may appear to be a sacrifice of principle here, but I am afraid that this important legislation could never be considered objectively if we attempt to make it yet another vehicle for assessing our involvement in the war in Vietnam. We must look upon this bill as a new start.

I emphasize that any reference I make to the present war is merely illustrating the problem and not trying to go back and assess blame or putting blame on anyone except myself.

There are other actions of the past which are undisturbed by the bill. I call the attention of the Senate to the last clause of section 3(4) in which those specific provisions of law not yet repealed which authorize the use of U.S. forces are exempted from the provisions of the act. If we later decide to reassess these statutory authorizations regarding Cuba, Taiwan, and the Middle East, we are free to do so. They are not at issue here in this measure.

It has been argued that this bill is an attempt to hamstring the President in his conduct of our foreign affairs. Mr. President, this is far from true. As I stated at the beginning, this bill is an attempt to reassert the constitutional requirement of cooperation and mutual responsibility between the President and the Congress before our country's forces are introduced in hostilities. In most cases in which such use is contemplated, the President would be required to come to Congress for prior authority under section 3(4) of the bill. The statutory authority may be flexible in nature. It could conceivably authorize long hostilities or short ones. It could be called a formal "declaration of war" or not, depending on the circumstances. But if such cooperation is required, it is my belief, and in fact I feel as if I know, that the President will be in a stronger position than he is now because he will not be tempted to risk a war which the Nation will not support.

I will not go into the matter of wars that are gone into with the purpose of not winning. I may say something on that theory, but that is another question that involves the support and dedication of the people of the United States. I think they are shaking their heads on that point.

Moreover, there is some flexibility in the language of the bill itself. The authority of the President to use the Armed Forces without prior congressional approval is recognized in the event of armed attacks upon the United States or its forces and in the event such use is required to evacuate American citizens in foreign countries. It is important to note that the President is also authorized not only to repel such armed attacks, but also to "forestall the imminent threat" of attack upon the United States or its Armed Forces. This language gives the President some flexibility and I would be the first to agree that in some cases judgment would be required. But absolute precision in such matters, Mr. President, is a figment of the imagination. What is clear is that a definition of conditions such as that contained in this bill is considerably more precise than the current state of affairs. Let me cite a bit of history: There has been much confusion over the legal justification for the war in Vietnam. For example, President Kennedy, in writing to President Diem of South Vietnam on December 14, 1961, based U.S. assistance on the Geneva Accords of 1954, although he sometimes offered other rationales as well.

Secretary of State Dean Rusk was particularly given to emphasizing the importance of the SEATO treaty as the primary legal justification for U.S. involvement in Vietnam.

President Johnson would often refer to the Gulf of Tonkin resolution as showing congressional support for the war; but he said on August 18, 1967, "we repeat now, we did not think the resolution was necessary to do what we did and what we are doing."

XUM

Under Secretary of State Nicholas Katzenbach, on the other hand, often pointed to the Gulf of Tonkin resolution as the decisive legal justification. He testified before a subcommittee of the House Foreign Affairs Committee, on July 28, 1970, that—

In my opinion, the Constitutional authority to use our Armed Forces in Vietnam rests squarely on Tonkin and cannot otherwise be constitutionally justified.

President Nixon stated on July 1, 1970, that—

The legal justification is the one I have given, and that is the right of the President of the United States under the Constitution to protect the lives of American men.

I believe that it is constitutionally and politically unsound to allow confusion of this magnitude to persist.

That is exactly what has existed. I am not trying to blame anyone. They found themselves in that predicament. I give them credit for doing the best they could.

Finally, Mr. President, there are provisions within the bill requiring Congress to act quickly in cases in which the President has used his emergency authority. In this respect, I wish to point out the provisions of section 7 to those Senators who may be interested. I believe that these requirements should assure any Senator that delay will not occur if a real emergency exists.

I will add only one last personal note, Mr. President. I respect the views of those who oppose this bill. The arguments which they make essentially center on the premise that there may be circumstances in which the President would be somewhat constrained in his actions under the bill's provisions. As I have pointed out, we have worked hard to make these constraints flexible in emergencies, but, it is true, constraints are there. This means that a President would have to take into consideration the Congress and the people it represents before involving the Nation in war and, consequently, a certain element of caution would be introduced into his thinking.

That does not restrict or restrain him; it is just an element of caution and accountability, and not accountability some years later, but direct accountability. This will make it more difficult for the President to take some types of military actions than would be the case if the bill were not law. That is the purpose of the bill.

We are not meant to be the sort of government that can fine-tune the world. Our Constitution is constructed in such a way as to make us slow to anger but awesome in our unity once a decision is made. These requirements of our Constitution may sometimes seem inconvenient in the short run, but it is my firm belief that they are the only solid basis for the long-range security and survival of our Nation.

That is what it is our duty to do here now on this subject. We must think of the long-term security and survival of our great Nation. I am glad we are going to have a good debate. I believe much good will come out of it and that a measure with content will be placed upon the statute books.

I thank the Senate for giving me the time that was allotted.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Virginia.

Mr. SPONG. Again I want to commend the Senator from Mississippi for the contribution he has made to the debate this morning. I was pleased to hear the distinguished majority leader express the hope that this matter would not be referred to the Committee on the Judiciary. I have the greatest respect for that committee and for its membership. I think there are many distinguished lawyers on that committee who are capable of reading the very fine record that has been assembled and of discerning the legal points involved, but I am inclined to agree with the Senator from Mississippi that this is not primarily a legal question. And, those who would listen to the red herrings that are going to be presented here to membership of this body to the effect that this legislation endeavors to take any powers away from the President of the United States or to confer upon the Congress any new powers will be carried astray.

What we are seeking to do through this legislation is to set up a procedure that will bring about consultation, that will carry out the intent of the Founding Fathers that the war power be a shared power between Congress and the Executive.

The Senator from Mississippi is quite right in pointing out to this body, going back to the Korean situation, that not one of the mutual defense treaties is self-executing. They are not.

There may be those who will come in and say that the NATO alliance will be somehow impaired by the passage of this legislation. I find that somewhat ironic considering that two of the principal sponsors of this legislation are the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, who has a long record of support for the North Atlantic Treaty Alliance and the Senator from New York, who has devoted years of his time to the work of the North Atlantic Assembly, which has sought always through its inquiries to bolster that alliance.

The fact of the matter is, as the Senator has pointed out, that, with the exception of the Rio Pact which he mentioned, none of these treaties is self-executing. All have language in them requiring that the constitutional processes be observed. All look to a consultation and a concurrence by this body in the event of any long-term military operation in which this country would become involved.

I wish to comment on one other point that the Senator has touched upon and—perhaps I presume in saying it—that I believe does trouble him. I agree with him that Vietnam should be excluded from this legislation. I agree that we should deal only in the future. But I think that the public, until very recently, was overwhelmingly of the opinion that, through their elected representatives, they participated in decisions involving the use of force abroad.

The Senator from Montana this morning brought up the matter of the Dominican Republic. That news reached the American public via page 1 of the New York Times, which I believe—showed a picture of congressional leaders coming out of the White House—after the President had advised them of what had already taken place. The public, however, reading the paper, was under the impression that there had been consultation and deliberations involving their representatives before the action had taken place. This was not the case.

The record of the hearings on this legislation will show that I asked the chairman of the Foreign Relations Committee, the Senator from Arkansas (Mr. FULBRIGHT), in my absence, to ask the Secretary of State if he could name one instance in the past 25 years where Congress had participated in the making of a use of force decision. The Secretary of State replied that he was reluctant to answer because he did not want to offend the chairman of the Foreign Relations Committee, but the only instance he could think of was the Gulf of Tonkin resolution. And, I question the degree of consultation there. But allowing that, in a quarter of a century, going back to the Senator from Mississippi's questioning of Senator Wiley, Congress has not been consulted in use of force decisions prior to the action taking place. The Members of Congress have been called upon only after the fact. Along the way, there have been efforts to point out the role of Congress, but somehow they have been swept aside.

Our late colleague, the Senator from Georgia, Mr. Russell, on the occasion of the adoption of the Cuban resolution, pointed out, when it first came to this body that it gave to the executive branch, some time in the future, the power to declare war, and he opposed it to the degree that that language was changed.

The former Senator from Oregon, Mr. Morse, argued, in the consideration of the Gulf of Tonkin resolution, that the Congress was giving away certain power to the executive.

What I believe has troubled the Senator from Mississippi—and perhaps I am presumptuous in saying this—is that we have been engaged in a war, on the part of this country, that the people for the most part have never fully understood. I believe—and I am perhaps not quoting completely accurately—that in the Senator from Mississippi's speech at Mississippi State the import of what he said was that we should never go into another war without the people of the United States in some way being involved and understanding what the war was about.

Mr. STENNIS. The Senator is correct.

Mr. SPONG. What we are trying to do in this legislation is not change the Constitution, not give to the Congress any powers that it does not have, not take from the President of the United States any powers which the Constitution gives to him. Instead, we are trying to establish a set of rules whereby the people, through their elected representatives, will have some say in the making of use of force decisions. And in trying to do so, we have set in safeguards which, of all

the people in this body, I know the Senator from Mississippi appreciates the most, to guarantee that the security of this Nation is not impaired where emergency situations are concerned.

But the Senator has rendered a particularly great service in this debate by pointing out the fact that we are not taking way from the President any powers, that we are not doing anything with regard to NATO or to the strategic balance in the world today, that we are not doing anything that would impair the security of this Nation. As the Senator has said, it is not primarily a legal question. It is a question of assuring that, somehow, in the future, people will participate in the making of decisions that affect the question of war and peace and affect their lives.

Mr. STENNIS. I thank the Senator for a very fine statement on the issues and comments and the real points involved, which he has stated splendidly and clearly and with greater force than I myself could. He has already contributed greatly to the bill and the debate, and will continue to, I know.

Yes, on the NATO matter that the Senator from Virginia mentioned, if there is anything wrong with the language or any impairment on that command score, the Senator from Mississippi would be one of the very first to agree that that language be corrected and that matter be made clear.

But I do not think that that will be a real issue here on the floor of the Senate.

I thank the Senator again. Mr. President, I yield the floor.

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Arizona (Mr. GOLDWATER) I ask unanimous consent to have printed in the RECORD a statement by him entitled "Contradictions Between Text of War Powers Bill and Explanations Given by Its Sponsors."

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTRADICTION BETWEEN TEXT OF WAR POWERS BILL AND EXPLANATIONS GIVEN BY ITS SPONSORS

(By Senator GOLDWATER)

The specific areas where I believe there is a contradiction between the plain text of the war powers bill and the explanation given yesterday by Senator JAVITS are these:

1. "Explanation: Senator Javits claims the President can use his own judgment and discretion as to when an emergency fits one of the four situations when he can use armed forces under the bill.

"Text: Nowhere in the bill is there any language providing that the President may make an independent judgment of any kind under the bill. In fact, a legal brief introduced in the hearings record by Senator Javits argues that the President is the mere executive arm of the Congress who must follow the dictates of the legislative branch.

2. "Explanation: Senator Javits claims the President can take whatever forestalling action is needed without waiting 'until the bombs actually started landing on our soil.' He claims the bill is not 'inflexible.'

"Text: The actual text of the bill requires that before the President takes any defensive measure there must be an armed attack on the United States or 'the direct and imminent' threat of attack. In the case of an attack on a foreign nation, for example, Turkey, the 'direct' threat would be to that nation, not, to the U.S. The threat would be imminent to that nation, but distant to us. If a move against Turkey carried with it an implicit threat against the United States, it would be because the attack set in motion a chain of events which ultimately might represent a serious threat to the U.S. If it is the sponsors' purpose to allow the President flexibility in these circumstances, then they intend 'direct' to mean 'indirect,' and 'imminent' to mean 'some indefinite date in the future.' They might as well ask us to read the word 'black' as meaning 'white.'

3. "Explanation: Senator Javits claims it is the purpose of section 3, clause (4), to ratify the Formosan, Cuban, and Middle East Resolutions as authority for the President to respond to crises in these areas.

"Text: The bill plainly states that no provision of law now in force shall be construed as authority for Presidential action unless such provision 'specifically authorizes' the introduction of troops in hostilities. But all three area resolutions mentioned do not specifically grant authority for the commitment of U.S. forces in armed actions. One, the Formosa Resolution, squarely provides that 'the President of the United States be and he hereby is authorized to employ the Armed Forces . . .' In contrast, the Cuban Resolution states only that 'the United States *is determined*' to take certain steps. The Middle East Resolution declares only that 'the United States is *prepared* to use armed forces' and qualifies even this declaration by expressly providing that such employment shall be consonant 'with the Constitution of the United States.' It must be noted that a similar phrase 'in accordance with Constitutional processes,' as used in our mutual defense treaties, is taken by the authors of the war powers bill to mean that *no* specific authority is given pursuant to such treaties. The sponsors do not explain what the difference is between the term 'Constitutional processes' as used in treaties and 'consonant with the Constitution' as used in the Middle East Resolution. In short, the authors are reading section 3(4) as containing a proviso that all three area resolutions shall constitute specific authority for emergency use of American forces, when the section itself does not contain any reference at all to such resolutions.

4. "Explanation: Senator Javits claims there is full authority for the U.S. 6th fleet to be deployed in the Mediterranean at will by the President during times of crises.

"Text: The bill itself specifically directs that U.S. forces shall not be introduced in situations where imminent involvement in hostilities is a risk except in the narrow situations where the U.S. or U.S. forces are attacked or directly and imminently threatened with attack. In the six day war of 1967, for example, the U.S. itself was not directly threatened with attack; nor was there any immediate threat to American forces. There was an open and imminent threat made by Russia against Israel. President Johnson's prompt response by moving the 6th Fleet into the danger area in order to forestall Russian pressure on Israel would be prohibited under S. 2956 because no threat had been made against our own forces. For the sponsors of the bill to say that an American response is authorized in these facts reveals that the authors do not understand the implications of their own bill.

5. "Explanation: Senator Javits claims that section 3 allows the rescue of citizens captured in ships on the high seas or in aircraft flying through international air space.

"Text: The section itself limits action to protection while evacuating citizens 'from any country' in which such citizens are present. It appears strained to refer to a naval vessel or an aircraft as a 'country' and if the sponsors truly intend for citizens to enjoy protection in these situations they should redraft the bill accordingly.

6. "Explanation: Senator Javits claims it 'to be a faulty and distorted reading of the legislation,' to infer that the bill would prohibit U.S. personnel in the NATO integrated commands from exercising any functions without additional Congressional authorization.

"Text: The language of the bill flatly states that specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to 'command' or 'coordinate' in the movement of the military forces of any foreign country or government at any time when there is an imminent threat that the forces will become engaged in hostilities. At the very moment when our participation in the NATO unified command is needed the most, the bill thereby prohibits them from exercising any functions."

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to file reports during the adjournment of the Senate between the hours of 10 a.m. and 3 p.m. on Monday, April 3, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES). The Chair, on behalf of the Vice President appoints the following Senators to be members of the Joint Committee on Inaugural Ceremonies of 1973, pursuant to Senate Concurrent Resolution 63, 92d Congress; the Senator from North Carolina (Mr. JORDAN), the Senator from Montana (Mr. MANSFIELD), and the Senator from Kentucky (Mr. COOK).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION OF THE UNFINISHED BUSINESS ON TUESDAY, APRIL 4

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the recognition of the two leaders under the standing order, there be a period for the

transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, the distinguished junior Senator from Indiana (Mr. BAYH) will be absent from the Senate from March 29 through April 10, inclusive, while attending an interparliamentary conference in Africa. On his behalf, I therefore ask unanimous consent that, under rule V he be granted a leave of absence from the Senate during those dates.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until 12 o'clock meridian on Tuesday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. I ask unanimous consent that during the same period the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. McGEE. Mr. President, I proceed today not with formal remarks but with a commentary of a sort that I am about to explain.

I hold in my hand the latest issue of the Yale Law Report for the fall and winter of 1971 and 1972. It is an exceedingly interesting issue because of its lead article, a record of a debate between two distinguished Yale professors on the war-making powers. The two professors have been referred to here many times. They are Prof. Alexander M. Bickel, who is the DeVane Professor in Yale University, and Prof. Eugene V. Rostow, who is a distinguished professor of law at Yale University. The two men are of unquestioned integrity in their academic pursuits. They both enjoy national repute in regard to the probity of their minds.

I ask unanimous consent that the debate and the exchange between these two very distinguished professors be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE POWER TO MAKE WAR: A DEBATE BETWEEN ALEXANDER M. BICKEL AND EUGENE V. ROSTOW

(EDITOR'S NOTE.—A highlight of the alumni weekend in October was the Saturday morning exchange between Alexander Bickel and Eugene Rostow on the subject "The President, Congress, and the Power to Make War." Mr. Bickel, De Vane professor in Yale University, was the successful defense attorney for the *New York Times* last summer in the Pentagon Papers case. Mr. Rostow, Sterling professor of law and public affairs, served as undersecretary of state for political affairs, 1966–69.

(What follows is an edited and abridged version of Mr. Bickel's remarks, Mr. Rostow's response, the debate between them, and some questions and answers.)

Mr. BICKEL. President Johnson's decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of the powers to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers explicitly refused to confer it. The constitutional division of powers was repudiated in the sincere but I think grievously misguided conviction that it no longer suited modern conditions.

I will touch only briefly on such justifications for the decision to wage war in Vietnam as the supposed SEATO obligation and the Tonkin Gulf Resolution. As I read it, the South East Asia Treaty simply refers us back to where we started, for it obliges us to act only in accordance with our own constitutional processes. The Tonkin Gulf Resolution, which incidentally declared itself to be consonant with the Constitution, also in my judgment leads nowhere. There was, in my view, consonantly with the Constitution, no need to come to Congress for authority which the President has, as, for example, to fire back when attacked, and it was no use coming to Congress for authority the Congress cannot constitutionally delegate at large, for prospective use in undefined circumstances. It is claimed, finally, that Congress ratified the executive action by appropriating moneys to support it and to steadily enlarge it. This Congress assuredly did, and assuredly it did so partly under a misapprehension that is was in principle obliged to extend support, even if free to make some independent judgments of its own on questions of detail, and that in any event it was assuming no general responsibility by extending support. This is precisely the misapprehension which I think it necessary to dispel.

Now—I say this somewhat cautiously—few observers will deny the import of the original constitutional arrangements. The largest claims that are entered for independent presidential power rely rather on recent practice and on assessments of modern conditions which, it is said, require a revised conception of the original separation of powers. Our Constitution is, after all, a living organism, capable of growth and of adaptation. But surely it grows and adapts itself without losing its essential shape. It does not undergo radical mutations except by the process of amendment. There is a considerable difference, in my judgment, therefore, between extending the President's war-making power by another degree, and leaping over the brink to a change in kind, to an explicit, notorious, inexplable alteration in the shape of the original structure.

However, be that as it may, the argument about constitutional adaptation bids us ask whether the change in the division of war-making power between President and Congress has been an element of beneficial growth in the Constitution. And if this is the question, it makes a difference how one judges the Indochina war. For myself, I formed the opinion some years ago that the war has been a moral and practical disaster, and I believe further—which is the important point—that we might have avoided it, or might at least avoid its repetition, if our institutional arrangements were such as to foreclose presidential wars in circumstances of this sort.

What propelled us into this war was the corruption of the generous, idealistic impulse that informed and sustained this country's foreign policy through the Second World War and in the years after. I use the word corruption not to connote evil, but merely decay. The impulse decayed into self-assurance and into self-righteousness. It became, as generosity and idealism assuredly can, oppressive and in the end cruel.

But the war has been wrong too for another and for present purposes more interesting reason, an institutional reason. A democracy cannot well and should not wage a war which a substantial and intense body of opinion resolutely opposes on both political and moral grounds. Even autocracies cannot effectively wage wars in such circumstances. The Constitution, of course, provides for no special majority. Congress may declare war by the narrowest of majorities. But this is not a question of law; it is a question of forbearance, of continence.

The double error of this war is a product in good part of the imbalance we have permitted in the division of war-making power between the President and Congress. The President is a single official. The discipline of the democratic process plays on him only grossly, at wholesale. Congress, on the other hand, whatever its faults, is institutionalized communications, access, participation. The presidency can speak for a broad, existing consensus, and its genius is action. But its antennae are blunt, and it can mistake silence for consensus. Its errors are active ones, like the Indochina war—sins of commission. The genius of Congress lies precisely in its antennae, in its differentiated sensitivity. Its errors are generally those of irresolution, sins of omission, and I think we should have learned that by and large these are the less grave sins, in government at any rate. I do not believe that Congress, if it had been conscious of its own responsibility, would have plunged us into the Indochina war or let it run as it has.

Now if, as I believe, we have permitted a serious imbalance to arise between President and Congress, what is to be done? Does it not follow that the Supreme Court, which has more than once been asked to declare the Indochina war unconstitutional, should do so?

For my part I think the Court has been wise to exercise its discretion so as to avoid passing on the constitutionality of the war. If it did pas on the war, we would match the wrong way of getting into a war to the wrong way of getting out of it.

I think the answer lies with Congress. The practice of recent decades or of a century cannot have worked a reduction in the residual legislative power of Congress, if Congress should but exercise it. The power may have lain in disuse, but it's there, as effectively there, as legitimately, as the day it was conferred. And from it I think flows the duty to act.

Mr. ROSTOW. I think Mr. Bickel and I agree that the presidency is one of the two great constitutional innovations of 1787, the other, of course, being the institution of judicial review. There are all kinds of theories about the nature and scope of the presidential power, ranging from the colorful ideas of the *Curtiss-Wright* case to those which would confine the executive within the narrower possible limits.

Let me start with another proposition on which I think Mr. Bickel and I would agree: that the written Constitution of 1787—and what is said in that Constitution about the war power, both of Congress and of the President—has to be read, like any other legal document, in its matrix of history, purpose, and function. One of the main purposes of the constitutional scheme, viewed against the background of history and of experience, was to establish a national government capable of taking its place as a sovereign nation in the family of nations, and capable too of protecting the strength and security and welfare of the nation against the hazards of world politics; and to establish an independent presidency as part of that national government, a presidency which would be one of the three branches of government. These are the purposes in terms of which we must try to define the respective roles of President and Congress in the process of conducting the foreign relations of the nation.

I should indicate here an important disagreement between Mr. Bickel and myself. He seems to feel that foreign policy is a matter of generous impulse and of idealism. I do not. I regard foreign policy exclusively as a matter of national interest. I believe that no President and no Congress, acting separately or together, has the moral or the constitutional right to send a single soldier into battle unless, in their judgment, serious interests of the nation—and not generous impulses—are at stake.

The constitutional arguments about the presidency follow a familar pattern. One starts by assuming that the tripartite division of functions in the Constitution is going to be airtight, and discovers that it is never airtight. The President receives ambassadors; he conducts foreign relations; he carries out foreign policy; he initiates some foreign policy. The Senate advises and consents on two subjects—and two subjects only—the making of treaties and the appointment of public officials. The President commands troops. Congress appropriates for them. And so on. It is a pattern of divided power which is also shared, so typical of our Constitution. As Justice Jackson once pointed out, the President has some clear powers of his own, and Congress has some which it alone can exercise. In between is a gray zone. On problems within that zone, the nation speaks with a stronger voice when Congress and the President act together.

The founding fathers knew a great deal about public international law and the distinction between the law of war and the law of peace, which allows many uses of force in situations which did not invoke *jus belli*. It was established in the turbulent decades immediately after the adoption of the Constitution of 1787 that the sole and unique authority of Congress to "declare" war was not the exclusive mode through which the government of the United States could use force. Mr. Bickel has assured me that he recognizes that the United States did from the beginning use force in times of "peace," that is in times of peace so far as the categories of international law are concerned. The issue on which Mr. Bickel and I disagree is whether there has in fact been a change in the pattern of constitutional usage in the division of the war powers between Congress and the presidency in the twentieth century, and most especially in the year 1965: a change in the pattern of constitutional usage, that is, and not in the gravity of the problems presented.

In the eighteenth and nineteenth centuries, force was used in times of peace for a variety of reasons, ranging from self-help in the collection of debts and intervention in situations of chaos and disorder to the suppresion of piracy and the slave trade. Sometimes force was needed for great purposes of foreign policy. Force was used many times by the President alone in the name of the Monroe Doctrine, for example, which was a presidential declaration, not a congressional one. In the history of the use of force by the United States, there is nothing so dramatic as Commodore Perry's purely presidential mission to Japan. Some of those occasions when force was used were activities of the President alone in carrying out foreign policy, and in some the President had the formal support of Congress. Many of these affairs involved extended campaigns. There have been many more than a hundred and fifty episodes in our history in which force was used. There have been five formal declarations of war, and only a half dozen more Congressional authorizations. The notion that there has been a great change in the division of power between Congress and the presidency in this complex field in the twentieth century is, in my view, a myth.

The central thesis of Mr. Bickel's paper is that in 1965 an important change occurred in the distribution of authority over the use of force between Congress and the President. We should look at this claim in the light of Korea. The United States position about Korea, as articulated by Secretary Acheson, distinguished between those areas where we had troops stationed, where he said that any attack would be regarded as an attack on the United States, and those areas, like Korea, where we had no troops stationed. If there were an armed attack on countries in the latter class, he said, reliance would be placed first on the reaction of the nation attacked and, second, upon the world community which had expressed itself in the charter of the United Nations, which, he said, until that point, had not proved itself a weak reed. Of course, at that moment the communist nations were boycotting any organs of the United Nations in which the Republic of China was represented, a fact which permitted the United Nations to vote as it did in the Korean case.

President Truman then faced the question of how the United States should act under the Constitution to carry out the vote of the Security Council. As you know, a series of accidents led to his proceeding formally without a special Congressional Resolution, like the Tonkin Gulf Resolution, the Formosa Strait Resolution, or the Mediterranean Resolution of 1957. In Mr. Acheson's magnificent book, *Present at the Creation*, some aspects of that decision are discussed. There was never any serious doubt, Mr. Acheson says—in the sense of nonpolitically inspired doubt—of the President's constitutional authority to do what he did, acting to see to it that the treaties of the United States be faithfully executed. It is the wisdom of Truman's decision not to ask for congressional approval that has been doubted. Congressional approval, it has been argued, would have obviated later criticism of "Truman's war" in Korea. In my opinion, a congressional resolution to back the treaty would have changed pejorative phrases, but little else. The later criticism of the Korean War was inspired by the long, hard struggle, the casualties, the cost, and the frustration of war and not by serious doubts as to the constitutionality of the procedures by which it was authorized.

When the Korean War was over, the debate over the constitutional propriety of President Truman's action continued, and grew more intense. Senator Bricker and others proposed a constitutional amendment that would have curbed the presidency and limited the President's power to act in the field of foreign affairs. Many of those who are now supporting Senator Javits in comparable moves to curb the powers of the presidency fought the Bricker amendment.

The experience of Korea, and the history of the fight over the Bricker amendment, led President Eisenhower to develop the practice of getting congressional resolutions in advance, approving the presidential use of force in certain areas of tension, when in his judgment the use of force became desirable or necessary. Eisenhower used another form of Congressional participation on a large scale, namely the practice of making treaties like SEATO, that would publicly commit the power and influence of the United States in advance of trouble to assure security, and to deter aggression.

Both these practices were relied upon in Vietnam. The SEATO treaty, which was expressly drafted as a solemn warning against the use of force to take over the small, weak states of South East Asia, required each signatory to act in accordance with its constitutional processes to repel armed attack on any one of those states. The language was mandatory. And Congress decided, in passing the Tonkin Gulf Resolution in 1964, that that resolution, and not a declaration of war, was the wise and prudent constitutional method for approving and supporting what the President was doing, or might do, in carrying out our obligations under the treaty, and protecting the national interests which, it reiterated then, were in its judgment at stake in the conflict. In this decision, Congress was supported by a pattern of constitutional usage going back to John Adams' undeclared and limited war with France, which had been expressly approved as constitutional by the Supreme Court in 1800.

When President Johnson decided in 1965 to send troops to Vietnam on a large scale, therefore, he was acting on a much firmer constitutional base than Truman had in Korea, a regional defense treaty expressly addressed to the situation which had developed, and a congressional resolution backing the use of force under that treaty to protect South Vietnam against the armed attack which it found to be going on. I fail therefore to discover any basis for claiming that Johnson's decisions in 1965, however debatable from the point of view of wisdom or prudence, had constitutional dimensions, compared to those of Truman in Korea, or those of many presidents over the past century or more.

Mr. Bickel recognizes the constitutional force of these facts. He attempts to escape them by an argument I find surprising, and which I regard as erroneous: the argument, namely, that Congress cannot delegate its responsibility for authorizing the use of force in advance. That argument is met, I think, by two aspects of the situation in Vietnam. First, there was no delegation in advance, since force was being used in Vietnam by the United States at the time the Tonkin Gulf

Resolution was passed. And second, a large number of cases in the Supreme Court have approved delegations of discretion in advance to the President in situations defined far more generally than the specific and precise authority contained in the Tonkin Gulf Resolution to carry out the provisions of the SEATO treaty in protecting the state of South Vietnam against an armed attack then going on.

As Justice Goldberg has remarked, the Constitution of the United States is not "a suicide pact." It established a government capable of defending the national interest in the changing, and sometimes dangerous realm of world politics. The basic security of the nation is no longer protected by the British fleet, as was the case between 1815 and 1914. Constitutional rules, the principles of democratic responsibility, and the sharing of divided powers between President and Congress, can require no more than what was done by both the political and democratically elected branches of our government in Vietnam. In that case, unlike Korea, the President and the Congress met Justice Jackson's test: they acted together, and therefore the nation spoke with a single voice.

Many believe, of course, that what we have done in Vietnam, was a mistake—that the commitment—should never have been made, or once made, should never have been honored. We have a natural tendency to think that whatever we dislike very much must also be illegal, or indeed, unconstitutional. This hardly follows. Error in the use of constitutional authority, if error was made, does not justify constitutional change. The nation did not abolish or weaken the Supreme Court even after *Dred Scott*. So now, those who believe that the tragedy of Vietnam was an error should not cripple the strong and independent presidency it was one of the great concerns of the founding fathers to establish in the dangerous world of today, we have never needed the presidency they created more acutely and more continuously.

THE EXCHANGE

Mr. BICKEL. I have listened with great interest to Gene, as I have done for fifteen years, and as I hope I do it for many more. But as has also happened at times in the past fifteen years, I am unpersuaded. I don't propose to take much of the short time that is left to us in distinguishing the Vietnam war from the Louisiana Purchase and from Commodore Perry's expedition. But perhaps before I get to more central matters, a word on the Bricker amendment would be in order.

I was, as it happens, in the State Department at the time, and ambivalent about the Bricker amendment. Although I'm generally averse to amending the Constitution—we can do plenty by interpreting it, can we not?—I was, subject to that general predisposition, of two minds. It seemed to me that a substantial part of the Bricker amendment stated what I understood to be the existing constitutional position, and would have been unobjectionable in substance. All it attempted to do was to dissolve a doubt left in the wake of *Missouri* v. *Holland* on the question of whether a treaty can override the Constitution. It had no bearing that I could see on the exercise of the President's war power. I think even the positions of those who opposed the Bricker amendment quite strongly, more strongly than I did, are reconcilable with positions like my own, taken today.

Passing, under pressure of time, the problem of our purpose in entering the war, whether we entered out of self-interest or from a decayed, if previously laudable, impulse—passing that, let me come to what is really at issue between us, and it hangs on Korea and the Tonkin Gulf Resolution. I am not about to adjudicate the constitutionality of the Korean War. I stress a single point about it, which distinguishes it for me, without my necessarily accepting its constitutionality; it fits into prior theory, as I continue to understand it, of reactive presidential power, which is justified on the basis of the genius of that institution. The President can respond expeditiously in an emergency, in reaction to someone else's action. That certainly typified Korea, and that did not typify the Vietnam experience.

I would add about Korea that it was a massive attack by organized armies across a previously established border. We had troops with a full-scale establishment in Japan, right across the ditch. Thus, the surmise that this was a venture which threatened the safety of an established American military presence seemed plausible.

On Tonkin Gulf, the difficulty, I think, is this. The resolution and SEATO are not to put too fine a point on it and meaning what I am about to say to carry no pejorative, moral, or ethical implications—this is the way that kind of business was done, with calculated ambiguities which were thought to best fit the situation and achieve proper purposes—not to put too fine a point on it, the resolution and the treaty are vague, ambiguous, disingenuous documents depending upon each other, interlocking with each other. The SEATO treaty tells you we will act. My brother Rostow emphasizes—and he's entirely free to, the pot of italics is available to anyone, and we all spray them about—emphasizes the word "will." We *will*. Each nation *will*. And afterward *sutto voce*, "in conformance with our constitutional processes." Then comes the Tonkin Gulf Resolution, and it says, by God, our chests are still hairy and we are still powerful and we have muscles, and our President is our leader, and he *will*—again more softly now—consonantly with the Constitution, carry out the SEATO treaty, which is in accordance with our constitutional processes. Well, I am left, I must say, in a circle, into which I believe I was meant to be inserted, and that is not, I think, an acceptable procedure. The well-meant, but to me unacceptable premise was that this is all window dressing anyway, that this is all something you do for external political purposes, for purposes of showing yourself more united than in fact perhaps you are, because everybody in the game—the Congress that votes, the President who proposes—acts on the belief that if the President wants to, he can act on his own anyway. This is Mr. Rostow's premise. These are no concessions of power to Congress. They are concessions to external appearances. So it doesn't matter whether the constitutional position is understood. It doesn't matter whether it is understood what the treaty obligation really signifies, and what the action that Congress takes really means, because Congress is only adding its own assent, its own, if I may say so, irresponsible assent to an action for which the responsibility rests elsewhere. That is not democratic government, nor is it government that can work, the Civil War to the contrary notwithstanding, and I won't discuss the Civil War with my brother Rostow. It is quite a different matter.

Now, that leaves me with a delegation point, a serious point, for lawyers' discussion. My proposition is drawn from *Schechter*, drawn more recently from a case in the very area that we are talking about, *Kent v. Dulles*, the passport case. It is a proposition that recoils from the burning eloquence of that great construer, that great expander of federal powers, George Sutherland, in the *Curtiss-Wright* case. My premise is that presidential power here as in domestic affairs is limited. This is the premise of Justice Jackson's concurrence in the *Steel Seizure* case. Residual power is in Congress. The President's power does not take in all of the zone of twilight when Congress fails to act.

On that premise, I suggest that Congress cannot say, prospectively, without limiting the area, limiting the means, defining the circumstances in any fashion, that if there is trouble in this half of the globe, or even that if there is trouble involving people with whom we have treaties and understandings as between them and others—that if there is trouble, you go and do whatever is necessary. Congress cannot so conduct itself in any other field where it and the President share power. To allow it is to rob the exclusive congressional power to declare war of any meaning at all. Only the *Curtiss-Wright* case stands for the proposition that somehow this sort of a delegation—and it was an infinitely narrower one in *Curtiss-Wright* itself, and probably perfectly valid under current law—only that case stands for the proposition that somehow in foreign affairs delegations are permitted which would be intolerable otherwise. That is my proposition and I have no great hesitation in resting on it.

Mr. ROSTOW: This is a treaty, with a clearly defined standard to control the "delegation" in it, a specific geographical area, and specific conditions spelled out for action.

Mr. BICKEL. A specific area, yes. That part of the world covered by that treaty, which in turn——

Mr. ROSTOW. This is afterwards.

Mr. BICKEL. But you can't rely on the treaty for any more than describing that part of the world. And then it tells you, in conformance with the Constitution. I'm not parsing the text of Tonkin Gulf because I have my difficulties with the text, and I also have some difficulties with the legislative history about which I am bound to say that whatever was said on the floor, a set of facts had been put before the Congress which cannot have given rise to the vision of five hundred thousand troops fighting in Vietnam. A destroyer had been fired on by two gunboats.

Mr. ROSTOW. They had the experience of Korea just behind them, Alex.

Mr. BICKEL. Well, "just" is a little——

Mr. ROSTOW. What do you mean, "just"?

Mr. BICKEL. Eleven years.

Mr. ROSTOW. Well, eleven years isn't much in the seniority of the Senate.

Mr. BICKEL. Well, all right, leaving the legislative history out of it, here is a document that—reading it for the most that is in it—hands over in an area defined by that treaty, hands over to the President in his discretion, no standard, no telling him what kind of an attack, where, how, land, sea, air, whatever—in his discretion, the power to take all measures necessary. In other words, the power to go to war. The assumption which, I repeat, was widely shared, was that after all, Congress didn't have to look at this thing too closely. They weren't doing anything that was really going to be their responsibility. They were just adding themselves on, helping the President do something that he could do on his own anyway.

Mr. ROSTOW. I'll take thirty seconds to comment on the notion that any vote of the Congress, any public act of the United States is, or can be considered, a disingenuous fraud. With this I disagree most profoundly. I think the vote was in the vote on the Tonkin Gulf Resolution, which I think is the central point of disagreement between us. I put to one side the question whether these worldly and well-informad men, who live in a maze of gossip and information, really were brainwashed. They weren't. But their vote was a vote in the spirit of Justice Jackson's celebrated opinion in the *Youngstown Sheet and Tube* case, namely, in an area of constitutional power where there is doubt, a gray area where it was desirable from the point of view of the foreign policy and security of the United States, that the United States be seen to be united that the President and the Congress be seen acting together. Whatever men say now about their votes, I do not believe that we can accept for one second the view that an official act of the United States is window dressing, a fraud, or shadow boxing. It is an official act, intended to have all its legal consequences. What Mr. Bickel is saying now recalls the

debate in which he has made a very distinguished contribution, namely, the Southern argument that the Fourteenth Amendment is a nullity because it was ratified by legislatures of states that were under military occupation, and under circumstances which very often amounted to fraud. All that was true, but nonetheless the Fourteenth Amendment stands. I don't think we can accept that argument for one second about the status of public acts of the nation.

MODERATOR. We have a few minutes for questions, and would you indicate to whom you wish the question addressed.

Question. I have the feeling, Professor Bickel, that you are really attacking the whole concept of collective security arrangements that started with the League of Nations and which was inherited down through the SEATO treaty, so far as they give a prior commitment to go to war. Would you comment?

Mr. BICKEL. I think those security arrangements were entered into in something of the ambiguous frame of mind that I referred to a moment ago, when I found myself in that circle described by SEATO and the Tonkin Gulf Resolution. When NATO, the first of them, came to the Senate, the issue was confronted, and the secretary of state solemly told the Senate Foreign Relations Committee that we were not obliged to do anything except in accordance with our constitutional practices. My brief experience of a year at the outskirt of NATO diplomacy indicated to me that everybody there knew—I think the late Charles de Gaulle knew it very well—knew what the meaning of these arrangements could possibly be, knew that a country of this size, of this diversity, could not, projecting itself, projecting its politics—and its interests, if you will—twenty and thirty years into the future, be relied upon to act in terms of some unbreakable, stated commitment. Therefore, that knowledge, I think was put into those treaties. And in any event, if there's one thing the Vietnam experience should have taught everyone, it is that we cannot fight in sustained fashion and effectively except by somehow managing to gather a present consensus, a present, not prospective, and not twenty years ago consensus that we must fight. Any foreign head of state who doesn't know that ought to have his head examined. That is the essential fact. That is the essential condition that has made notions about America the Absolute Protector, which may have held in the early fifties, dated. And I think they are dated. I think, however, that what I am suggesting is simply that we recognize in reexamining our own constitutional arrangements that the impulse to distort them in order to serve the supposed imperatives of a world role was a wrong impulse, and that even the distortion didn't help, as Vietnam proved. I do not urge abandoning international agreements. I urge a sensible and realistic understanding of them.

Professor MYRES MCDOUGAL. Mr. Chairman, I'd like to wonder whether or not the President's or the Congress' power to delegate to the President is quite as limited as Mr. Bickel suggested. In addition to Justice Sutherland's fantasy in the *Curtiss-Wright* case, what would you do with the thousands of executive agreements going back to Washington's first term?

Mr. BICKEL. Professor McDougal and I haven't had this debate, haven't really joined on this issue between ourselves since 1957, I believe, when I first taught the subject and Mac found the only course conformable to his general delicacy of feeling in questioning me to be to hand a question to a student next to whom he was sitting, who would then flower forth with a glorious question right to the solar plexus—and I was not supposed to know where it came from. Seriously, I would say this. I'm guessing, but I would say an enormous proportion of executive agreements fall either within that area which is the President's own, that is, which is the area of his own independent responsibility, and incidentally if he didn't want to transfer——

Mr. MCDOUGAL. That includes tariffs.

Mr. BICKEL. No, no, no—certainly not. The largest number of them fall either into the area which is his own independent responsibility, perhaps the Roosevelt-Litvinov agreement falls in there—that sort of thing. Many of the military ones undoubtedly do. Or—and this is a greater group—in that zone of twilight where he has authority when Congress doesn't act. After all, the entire deployment of American troops across the world right now is, in my judgment, constitutional, although it is, in my judgment subject to change by Congress any minute that Congress wants to change it. That is all done largely by executive agreement. It is in the area where he has authority to act, the zone of twilight, if Congress doesn't.

Thirdly, they fall in an area of being authorized by Congress. Now, whether each one of the statutes authorizing executive agreements passes all the rules of the proper delegation of authority that I would impose or not, I cannot say. And finally, I am sure there are many executive agreements which pass no test at all, which are not within his own authority, which are not within the zone of twilight, and which quite conceivably commit the United States in terms and in ways that the President has absolutely no authority to commit them. And it may very well be that some of the Middle Eastern commitments by President Eisenhower were of that sort. And I can only say about that that it is ultimately a matter of prophecy and of wisdom and of assessment of the experience of the country, but my own judgment out of the experience of these past few years, is that only grief can come from the attempt to make and to fulfill and act upon substantial international commitments on the President's own authority. It won't work.

Mr. ROSTOW. I think the point which this discussion brings up is a point of the utmost importance for education and public opinion, a point to be approached with the utmost gravity, as we both have I hope today, and not in the spirit of polemics or debate. On the delegation point, the most important area of delegation really, I suppose, and the most dramatic or most important instances, are two areas where the Constitution and political history have made Congress extremely jealous of any presidential activity and where I think the President has absolutely no inherent power at all, that is to say, to set tariffs on the one hand and to make banking laws on the other. Now, the statutes which authorize the President to act in relation to tariff reduction, starting back a long way and dramatized of course in the statutes of 1934 as renewed as of 1962, do delegate and I think do wisely delegate, and do constitutionally delegate powers to the President which he can act under the surveillance of Congress and so on, but exercise and exercise properly. And so too the powers with regard to the IMF. But I think the problem is much deeper because what Alex says in the end is obviously true for the moment. It's just as true today as it was after Korea when the election was fought in 1952 on the slogan "No More Koreas," and within a few years commitments were being made and passed by the Senate reiterating and redoubling the Korea—giving out IOU's that meant more Koreas all over the world. Now why did that happen? And this is the problem to which I wish to return. It happened because the President and the relevant members of Congress confronting the world as it is every day through the cables, faced threats to interests which they could not in their judgment escape, despite their full knowledge as to the political consequences then of Korea and now of Vietnam. The answer, to my way of thinking, is not constitutional gadgets but a true and very serious national debate on what our foreign policy is for and how—if the answer comes out, as I believe it should—to protect our national interests. I think we are in the state of very deep confusion on the subject, and indeed in order to illuminate or deepen the confusion as the case may be, I have spent more of the last years writing a book on it.

Mr. MCGEE. Mr. President, I want to highlight what each of these men said in the debate in order to make the one point that I should like to make in these brief remarks today.

Professor Bickel spelled out very expertly in his discourse how the L. B. J. decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of power to declare war from Congress, where the Constitution had lodged it, to the President, upon whom the framers explicitly refused to confer it.

He goes on to remind us that SEATO and Tonkin Gulf obliged us to act only in accordance with our constitutional processes. He argues about the constitutional adaptation that bids us to ask whether the change in the division of war making power between the President and Congress has been an element of beneficial growth.

He contends that we double the error of this war, which is a product in good part of the imbalance that by indifference or inadvertence we permitted to arise between the President and this body in part and Congress in general. He works over the differences, technically speaking, between Korea and Vietnam. Returning to SEATO, Professor Bickel contends that this must be interpreted totally within our prescribed constitutional processes as envisaged by the Founding Fathers.

Therefore, he concludes by acknowledging that we examine our own constitutional arrangements and that we do not abandon our responsibilities in the international horizons of the world and hopes to contribute to closing the gap that currently has brought us to this floor, debating this issue at this time.

In contrast to Professor Bickel's excellent presentation, Dr. Rostow reminds us all of the great originality and innovative qualities of the Constitution. He would stress in particular, as the most innovative, the great powers given to the President of the United States, because these Colonies, back in 1787, had freed themselves of the British because they distrusted and disliked and in fact detested administrative authority—the authority of the King, and later the authority of the Governor; yet because of the hard lessons the colonists learned during their so-called trial period of independence under the Articles of Confederation, they discovered to their chagrin, and learned to their sorrow, the price they paid for no administrative responsibility or authority. Thus the Founding Fathers wrote strong conditions into the Constitution describing the new role of the President of the United States. A congressional resolution to back the treaty, changes pejorative phrases, but little else. It is little more than a resolution, Mr. Rostow contends.

He goes on to remind us that we should not let the tragedy of Vietnam and the emotions of 1972 get us off the track of the real question of responsibility in making and carrying out foreign policy.

Mr. President, I ask unanimous consent to have printed in the RECORD a point-by-point summation of each of the positions of the two professors I have been referring to.

There being no objection, the summation was ordered to be printed in the RECORD, as follows:

BICKEL-ROSTOW DEBATE ON PRESIDENTIAL WAR-MAKING POWERS

ROSTOW'S VIEWS

1. The written Constitution of 1787—and what is said in that Constitution about the war power, both of Congress and of the President—has to be read like any other legal document, in its matrix of history, purpose and function.

2. As Justice Jackson once pointed out, the President has some clear powers of his own and Congress has some which it alone can exercise. In between is a gray zone. On problems within that gray zone, the Nation speaks with a stronger voice when Congress and the President act together.

3. Mr. Bickel assures me that he recognizes that the U.S. did from the beginning use force in times of peace; that is, in times of peace so far as the categories of international law are concerned. The issue I disagree on is whether there has in fact been a change in the pattern of Constitutional usage in the division of war powers between Congress and the Presidency in the Twentieth Century and most especially in the year 1965.

4. A Congressional resolution to back the treaty changes pejorative phrases, but little else.

5. The experience of Korea, and the history of the fight over the Bricker Amendment, led President Eisenhower to develop the practice of getting Congressional resolutions in advance, approving the Presidential use of force in certain areas of tension, when in his judgment the use of force became desirable or necessary. Eisenhower used another form of participation on a large scale: namely, the practice of making treaties like SEATO, that would publicly commit the power and influence of the U.S. in advance of trouble to assure security and to deter aggression.

6. Many believe that what we have done in Vietnam was a mistake—that the commitment should never have been made, or once made, should never have been honored. We have a natural tendency to think that whatever we dislike very much must also be illegal, or, indeed, unconstitutional. Error in the use of Constitutional authority, if error was made, does not justify Constitutional change.

7. So now, those who believe that the tragedy of Vietnam was an error should not cripple the strong and independent Presidency which it was one of the great concerns of the Founding Fathers to establish.

8. It is just as true today as it was after Korea when the election was fought in 1952 on the slogan "No More Koreas," and within a few years commitments were being made and passed by the Senate reiterating and redoubling Korea—giving our IOU's that meant more Koreas all over the world. Now why did this happen? And this is the problem to which I wish to return. It happened because the President and relevant members of Congress confronting the world as it is every day through cables, faced threats to interests which they could not in their judgment escape despite their full knowledge as to the political consequences then of Korea and now of Vietnam.

9. The answer is not Constitutional gadgets but a true and very serious national debate on what our foreign policy is for and how—if the answer comes out—to protect our national interests. I think we are in a state of very deep confusion on the subject.

POINTS BY BICKEL

1. Johnson's decision of 1965 to intervene massively in Vietnam amounted to an all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President on whom the framers explicitly refused to confer it.

2. SEATO and Tonkin Gulf resolution obliged us to act only in accordance with our own constitutional processes. President went beyond it.

3. Argument about constitutional adaptation bids us to ask whether the change in the division of war-making power between President and Congress has been an element of beneficial growth in the Constitution. Indochina not a beneficial outgrowth of constitutional adaptation.

4. Double error of this war is a product in good part of the imbalance we have permitted in the division of war-making power between the President and Congress. The Congress, whatever its faults, is institutionalized communication, access, participation. The President is a single official.

5. Difference between Korea and Vietnam. Korea fits into prior theory of reactive presidential power, which is justified on the basis of the genius of that institution. The President can respond expeditiously in an emergency in reaction to someone else's action. This did not typify Vietnam as it typified Korea.

6. SEATO told us we would act in conformance with our constitutional processes. It doesn't matter whether it is understood what the treaty obligation really signifies and what the action that Congress takes really means, because Congress is only adding its own assent to an action for which the responsibility rests elsewhere.

7. When NATO came to the Senate the issue was confronted and the Secretary of State solemnly told the Senate Foreign Relations Committee that we were not obliged to do anything except in accordance with constitutional practices.

8. Suggesting we recognize in re-examining our own constitutional arrangements that the impulse to distort them in order to serve the supposed imperatives of a world role was a wrong impulse and that even the distortion didn't help, as Vietnam proved. I do not urge abandoning international agreements, I urge a sensible and realistic understanding of them.

Mr. McGEE. Mr. President, this brings me to the one point I want to address myself to quickly here today, and that is that the Bickel-Rostow debate in the Yale Law Journal should be saying to us that what we really should be addressing ourselves to right now is the updating of our mechanisms for responsible policymaking in our system of representative government, that we should do so armed by all of the wisest judgments we can command, and start, in effect, from scratch in many ways, and begin all over again.

The world that our Founding Fathers drafted the Constitution to meet is not the world the Members of this body are compelled to face. What we should put together, by way of suggesting how the United States can meet its responsibilities in the world, may have little to do with what the men in Philadelphia in 1787 not only thought but even understood. I do not know. I think we have reason at least to call it into question and to raise our own doubts, because we serve ourselves ill if we proceed along the road of examining this question encumbered unnecessarily by the limited experiences of the past, or even by the irrelevancies of the past. I would think we would make a much more substantive contribution if we were not trying to patch up an old formula, not trying to paper over an old process that obviously does not meet the realities of 1972.

The illustration is conspicuous. The Founding Fathers provided a specific mechanism for declaring war, leaving the initiatives of the events which preceded a war clearly to the President. It provided that only the Congress finally could declare war.

But, Mr. President, that was in the days—the good old days, I suppose we might say—when wars were declared, when nations dared to consider war as an instrument of national policy. But many things have changed since the Founding Fathers met in Philadelphia in 1787. Many things have changed since GALE MCGEE started college some 40 years ago. World War II and its aftermath have completely changed many of the relevant forces, and conditions in the world, to which we should be addressing ourselves as we seek the wisest possible answer to this question.

I had occasion to say here yesterday that I think the Javits proposal, blended and combined with the constructive suggestions of the Senator from Virginia, comes closer than anything else we did in the committee to taking this out of the context of emotion, at least, and trying to make it realistic. But what it still falls short of is addressing itself to the really big questions.

What should a nation like the United States, with all its dedications, have in its mechanisms for policymaking that would be realistic in the world around us?

We are not asking that question here.

What we seem to be asking is, how can we patch up what the Founding Fathers did? How can we paper over what the Constitution says?

We should be inquiring into what the Constitution should say in 1972. I firmly believe in the Constitution as an instrument of continuing policy in this country. But we are not proposing that here. For that reason, I think that we are almost just spinning our wheels. We are addressing ourselves to "making do" if we can get by with it.

With all due respect, I think that is not enough. We have put off too long updating the Constitution. We have put off too long updating the mechanisms of a representative republic in the field of foreign policy.

We have joined ranks among those Members of the Senate who are here in this body right now, particularly the Senators from New York and Virginia, in quest of that updating.

My only real difference with my colleagues on the pending proposal is that it does not and cannot reflect a complete reexamination and restructuring of how we should do it. Without any disrespect to anyone, least of all to our esteemed predecessors in government and those at the Constitutional Convention in Philadelphia in 1787, I say that what we owe the country now is an honest attempt at least to start with the assumption that we are starting from scratch, trying to measure what the times require, and how we can sort that out in a responsible procedure in foreign policymaking.

I wish I had the answer to that. I do not have it. But I do think that we had better well put ourselves to the task of coming up with the answers. I believe that the Senator from New York would be the first to agree that his proposal is not the ultimate answer yet.

I am saying while this is upon us, while our concern is focused, while the urgency reminds us that we have delayed it already too long, we should create a body of the finest minds available, a panel of those that would represent every conceivable interest and expertise in the policymaking process, that they would be commissioned to start as though nothing had happened in terms of the convention in Philadelphia in 1787, that nothing had happened in terms of any admonishment of the Founding Fathers, and that we should start such a panel thinking on their own, in the vacuum of the moment.

That would not give us our solution, but it would give us the ultimate, where if these great minds of today were writing a new Constitution for a brand new Republic of the United States of America in the real world of 135 sovereign national States and all that surrounds us, what would they come up with, what should we, in other words, aspire to by way of expectations.

What are the dimensions of that then? What would be our starting point here? It ought to be our beginning, where we then, as responsible representatives of the people, seek to take that dimension of policymaking, of the division of responsibility in a representative government, and take the next step, implement it in terms of the Constitution or traditions of the Nation and of the great wisdom of those who have preceded us both in administrative government and in this Chamber.

So, in summary, Mr. President, I am simply saying that we do believe that we are going at this in an inadequate way and that we are not going far enough. In some respects we are going at it a little backwards. We are going at it encumbered by the unrealities of the past rather than facing up to the harsh requisites of the present.

And we find ourselves, as the debate between these two esteemed professors suggests, not only embittered by Vietnam, but trying to prevent Vietnam. Vietnam has been the catalyst. Vietnam can teach us some things. However, like history itself, it ought not to be our hitching post.

What ought to be relevant here is what was long overdue, if there had never been a Vietnam, if there had never been a Korea, and that was modernizing and updating the process of decisionmaking.

Mr. President, I am preparing a proposal to submit to the Senate at an appropriate time in the course of the dialog and debate, to the effect that the President of the United States be commissioned to appoint at the highest level a group or panel to make this kind of a searching inquiry as to what a new nation conceived in 1972, should do with the awesome power of responsibility in the world that we have, and what kind of mechanism ought to be written into the theoretical constitution for that kind of a new republic.

Then, let us measure it, after that development, alongside those things that we have coming up through history. I think that only in that way can we separate the proper priorities, allow the proper weights, and sort through the beliefs that we ought to command in trying to resolve this heavy and difficult question of the war-making powers in a world that, in our time, never again can afford to declare a war for the convenience of the Founding Fathers who provided how it might be done if we would confine ourselves to their processes.

The times have changed the relevance of what they have said. No one is really measuring the role of the various branches of this Government and sorting it out in the light of the new events and the new and frightening responsibilities, that we did not seek but have, and trying to make it possible for our system to survive the impact of change, the erosions of irrelevancy, and the limitations of imprisonment for the very rich, but not quite relevant, past.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, yesterday and today I have heard with the deepest interest the proposals of the Senator from Wyoming. I do not construe his interest to be in opposition to the bill. What he is really saying, as I understand it, is that he is questioning whether this is the optimum solution, and indeed he said that he believes that even I think it is not necessarily the optimum solution.

Mr. President, I wish to set the record straight on that. I believe it is the best solution to our present problem. And if I did not believe that, I would not be here urging this case as strongly as I am. Nor would, I suspect, the 25 Senators who have joined with me in this matter, including the distinguished Senator from Virginia (Mr. SPONG), who has been so helpful and instrumental in the matter, the majority leader, the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), who will soon be speaking, and many other Senators.

Why do we feel as we do? I think that Senators who have expressed such interest in the matter ought to know. I think we feel as we do because we believe it is needed. We are planning on placing before the Senate this matter as a law and not as a constitutional amendment.

We have viewed what has been going on for the last few years and have asked what we have been doing for all of this time. People make various judgments.

We sought the judgment of the best minds and we elicited their opinions. I assure the Senate that the expression of views, he referred to, from Professors Bickel and Rostow did not come from the moon. They came because we urged them to get into this matter. I had a debate with the distinguished Professor Rostow on a national television show. Professor Bickel testified before us. I had occasion this morning to refer to part of his testimony. We heard from the outstanding experts on this measure. Now we are subjecting this matter to the greatest scrutiny on the floor of the Senate.

The confidence of the country is a very important thing, as we have seen with respect to the Vietnam war. We cannot discard the opinion of the public. The fact is that this war has torn our country apart. Many of us feel, and I feel deeply, that it has caused an erosion of the motivation of the American people that is heavily attributable to their feeling that we do not know how to run our affairs well enough to avoid Vietnams.

We cannot lay aside the Constitution. We can amend it, but that process, as we know, is not something that can be done soon in a matter of this kind and is hardly likely to occur. There is no need to amend the Constitution.

It permits exactly what we are trying to do, establishing the relationship and the procedure by law and implementing it through exercise of the "necessary and proper" clause with respect to the war-making powers.

The old declaration of war is gone. We have only had five declarations of war in our history. We have probably had 100 occasions in which the American forces have engaged in hostilities.

The question is: What do we substitute for this rather out-of-date mechanism. We have come up with what we consider to be a very satisfactory contemporary answer. A law can be changed. It is not fixed or permanent. It has exactly the qualities which I believe the Senator from Wyoming (Mr. MCGEE) wants. We come up with the best that we can at this time. It is subject to change if experience indicates it should be changed.

Why do we do this now? The reason we do it now is that we are engaged in many activities around the world which could lead to imminent hostilities. We are in a position of being on literally hundreds of bases and stations, every one of which poses a threat. We are engaged in very tense situations. We are still in a war in Vietnam. We are engaged in the air over Laos and Cambodia. We have forces in Thailand which are actively engaged in a hot war. There is no secret about that.

We have a tense situation in the Mediterranean; we have tense situations in eastern Europe. We are trying very hard to defuse those situations and work out detentes. We are involved in massive alliances: NATO, the Southeast Asia Treaty, the Rio Pact, the many bilateral treaties, and the United Nations Charter, for that is, after all, an alliance.

Those of us who sponsor this bill feel that the people should have some assurance that we will not repeat the mistakes of the past. That assurance should be given at the earliest moment. We believe that the assurance is contained in the measure before us. This is the best practical measure we have. It is a law; it is not a constitutional amendment.

We believe the confidence that can be inspired in the country by the stability provided by the war-making authority, through this legislation, is indispensable to the tranquility of America, having gone through the experience we have.

Mr. President, it is for those reasons we believe it is proper to have this bill before the Senate and it is necessary the Senate should act. Until we come along with a better solution at a later date there is nothing to prevent us from adopting this measure in lieu of what we have. Right now this seems the best solution.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Wyoming.

Mr. McGEE. I appreciate what the Senator from New York has had to say on this matter. I once more say to my colleagues that I think a most innovative approach to the immediacy of the problem has been undertaken by the Senator from New York, and this is by far the best of the recommendations that came up through the committee. No one knows better than I, unless it is my two colleagues, of all the hours and hours we have gone through, picking brains and in consulting the best people possible so that we might get the best thinking on this kind of proposal.

What I am saying to the Senate on this question is that the best minds are divided at the moment, partly because we have been seeking to get them to focus on how we can adjust the present system so that we can survive, so that we can apply a band aid to heal the wound.

My contention is that that is not enough and that we owe more to the country than to try to tape it up again; that it is clearly out of date; that the times may even now be numbering its relativity in terms of its operability, in terms of future crises.

I am mindful of the immediacy of the Senator's suggestion and what it is aimed at doing in establishing public confidence. But what we are doing is playing from Tuesday to next Tuesday and the following Tuesday, and a year from Tuesday, when we do that. It is important, I guess, to win those few months when the events of the world permit, but we are still ducking the question, and the basic question is modernizing our mechanism in this desperately important area.

We are trying to put it off again, hoping to come to grips with it once more when we have another crisis, when we will not have liked the way things turned out on the procedures indulged in at one level of government or another. That is what I am suggesting.

We are not doing what we should be doing in the ultimate on this question. The support that is clearly present for this approach is mixed in its motivations at the very least. Some of it is bitterness over Vietnam, and we do not want another Vietnam. It is put together to see that there will not be another Vietnam, but some historians will be the first to remind us there will not be another Vietnam; there will be another something else, circumstances change so substantially concerning a given crisis.

What we should be aiming at here is a procedure, a definition, a responsibility on how to go about that responsibility when we have a President, a legislative branch, and a judicial branch. Maybe we should have something that is entirely different, something that is not in the Constitution.

I do not know what that answer is and perhaps I would end up back in 1787. I am only saying this method of approach is ducking the question once more and it is to leave unanswered the questions we have a right to ask ourselves and to which we must insist on answers from the composite of the finest minds that can be asked to focus on it, and that is the difference in focus on the war powers resolution.

That is a difference in the Senator's approach and what he has had to say, and my approach and what I have to say. We hope to come out at the same place when we are through and to stand shoulder to shoulder in support of that, but I do not think we are permitting a chance to restructure, really to restructure how it might have been done by the Founding Fathers of 1972, faced by the world as they know it.

Until we try that and see then what we are compelled to do to make it realistically rational and responsible, we still fail our mission. It remains, as I have described it, another passage on an outdated vessel, instead of passage of a bill to meet the times. We should seriously be measuring how it basically might be restructured. If we come out with the conclusion that basically it should not be restructured, great, but I think we are shoving that in the closet by seeking to expedite the matter and trying to get at it with this measure.

I am not sure we are in as much jeopardy about a repeat performance as some of my colleagues feel, and understandably they feel that way.

I think the proceedings before the Committee on Foreign Relations, the measure, and the debate have served as an important warning for the moment, so we will keep our shirts on for another time around. I would be less anxious about a crisis next week or next month, and that entitles us, in the interest of the changing times to move a little more slowly on this and, I think, have a much larger measure applied to it.

I thank the Senator for yielding.

Mr. JAVITS. Mr. President, I conclude as follows: The words "ducking the issue" and "Tuesday to Tuesday or a year from now" are not my words, I believe it is we who are facing the issue. Ducking the issue is to appoint a commission to think about it.

We are offering a methodology. That is what the Senator asks for. We offer one, and a positive one, one that can work, one that has the additional advantage of being built into the present framework, so there is no question in the world that the next 5 years or 10 years could be taken up by consideration of a committee or any other group, to which the Senator could send the measure.

I might join him in proposing a commission, as a supplement, not as a substitute, to this measure. It is what should be the framework of government for the United States, including the power to make and declare war. That is fine with me, but I do not see where this changes one iota the situation of the country now in which Congress has for decades forgone its authority and in which that authority needs to be recaptured under a methodology which is consistent with the exigencies of modern times. We offer that as a composite of what the Senator asks for. We have here a methodology. We lay one on the table, one that has been thoroughly considered and debated. It has the advantage of being a law so that if there is any problem about it it can be changed easily and readily.

I believe that we are the ones who are facing the issue. We are not avoiding it. We are not withdrawing from it. There are many ways of killing a proposition. One way is to refer it to another committee. Another way is to appoint a commission to think about it.

The question is, Do we need action now, or is there a very long-range proposition that can await higher level deliberations that may well take years?

I deeply believe that we have now matured, after 2 years of deliberation, a concrete and definite methodology. It is a methodology which can work to give great reassurance to our people, and I think it is time to legislate it into effect.

I thank the Senator.

Mr. SPONG. Mr. President, the Senator from Wyoming has been very gracious, both on yesterday and today, in saying that what has been done by the Senator from New York and the Senator from Mississippi and the Senator from Missouri and other Senators, including myself, has been good, but not quite good enough. If I understand what the Senator from Wyoming has been saying, it is that perhaps we need a new Constitution.

I think it important to reaffirm throughout this debate that the proponents of this measure are in no way attempting to amend the U.S. Constitution indirectly. They are not seeking to take away from the President any powers with regard to the warmaking process that he presently possesses. They are not seeking to endow upon the Congress any powers that the Constitution from its beginning has not given to Congress.

What we are seeking, as the Senator from New York has pointed out, is a method. We are seeking to establish by law ground rules that will assure that in decisions involving the use of force and the making of war, the Congress will participate those decisions.

The Senator from Wyoming, both yesterday and today, placed, in my judgment, an undue emphasis upon the war in Southeast Asia as a cause for this legislation. That war is only one step in a series of historic events that have taken place over a quarter of a century and which suggest the need for this bill. Earlier this morning the Senator from Mississippi covered very well his own involvement in the debate at the time the Korean treaty was before this body. The Senator from Montana mentioned that we seek to avoid a recurrence of the Dominican Republic episode without congressional concurrence.

Thus, we do not seek to second-guess

decisions that have taken place in the past, but it is a historic fact that since the Korean war and since the sending of divisions to Europe as a part of the the NATO agreement, Congress has been bypassed in consultation on decisions that the Founding Fathers and the Constitution called upon them to decide.

Assuming that we await some commission or some constitutional convention in the future, the question is: Is the situation as it presently exists—where there is constitutional dilemma, in my opinion, over the war powers between Congress and the Executive—preferable to doing nothing? The answer is "No." The procedures suggested in this bill endeavor to set up the apparatus through which the intent of the Constitution can be complied with. If we need a new Constitution, or if a new approach leading to greater powers for the President or greater powers for the Congress is indicated, that will have to be taken care of in another way.

But after one-quarter of a century of continued involvement abroad without adequate congressional consultation, the time has come, I think, to set up rules which, hopefully, will lead to a sharing of responsibility for the very grave business of warmaking.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who seeks time?

Mr. TAFT. Mr. President, I want, at the outset, to commend the Senator from Virginia, the Senator from New York, and members of the Foreign Relations Committee for their long and arduous effort in connection with the legislation that appears before us; and I want to express my agreement with the sentiments just expressed by the Senator from Virginia and the Senator from New York to the effect that this basically is not a change in our Constitution, nor does it impinge, I believe, upon the constitutional powers of the President. Rather, it defines and it attempts, within the terms of the Constitution, to bring to the attention of the Executive and of the Nation the desirability—almost the inevitability—of bringing along, in the event of a commitment of our Armed Forces, the people of the United States.

It is not a matter of a difference of opinion or an argument or a struggle for power between the members of the legislative branch of government, under the Constitution, with the executive branch as to who does what or why or when. Rather, it is going back to the very safeguards that existed in the Constitution itself to bring into play, when an important decision of this kind is made, the people themselves, acting through the Congress of the United States.

With the changes in the technology of communication, and the immediate communication we have today with the broadcasting media, and with the daily newspapers covering these areas very, very fully, it is more important, I think, than it has ever been in the history of the United States to reassert the proposition that the people themselves shall take a part in the decision-making process.

The great tragedy of Vietnam, in many ways—whether the decisions were right or wrong—was that we became involved in a commitment when the people failed to recognize the nature of that commitment or some of the aspects of it. For that reason, I think it is most timely that now, as we phase out the Vietnam war, we take a look at the situation and that we in the Congress itself attempt to define more accurately what the participation of the people, through Congress, should be in this important aspect of national policy.

Mr. President, this debate is of a truly historic nature, owing its genesis to the very roots of our existence as a Nation. The ability of the British Crown to commit the American Colonies to war produced an inherent distrust of the executive branch as an institution. The framers of our Constitution granted Congress the power to declare war and charged the President with the responsibility for conducting hostilities once they had been lawfully commenced.

Despite that constitutional mandate there have been at least 165 instances during the history of this Nation when American Armed Forces have been committed abroad. On only five occasions, however, has war been declared by the United States, and as to one of those, the Mexican war, the declaration occurred after two battles had been fought and the Congress in 1848 adopted a resolution stating that the war was commenced "unnecessarily and unconstitutionally" by the President.

Apart from declared wars, the Congress has on several occasions, when American troops have been committed in other nations, adopted measures relating to the propriety of the President's action.

I ask unanimous consent that there be inserted in the RECORD at the conclusion of my remarks an exhibit listing the declared wars, other action taken by Congress relative to the commitment of troops, and the instances when American Armed Forces have been used in other nations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. TAFT. Mr. President, this exhibit is a part of an excellent document entitled "Background Information on the Use of United States Armed Forces in Foreign Countries," prepared for the Subcommittee on National Security Policy and Scientific Developments of the Committee on Foreign Affairs, of which I was a member during the last session of the Congress.

In a letter to Herndon, Abraham Lincoln addressed himself to this critically important issue:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose, and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect. If today he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us"; but he will say to you, "Be silent; I see it, if you don't."

In a 1916 Yale Law Review article, my grandfather, William Howard Taft, propounded the cast for strong executive power. In part he stated:

> When we come to the power of the President as Commander-in-Chief, it seems perfectly clear that Congress could not order battles to be fought on a certain plan, and could not direct parts of the army to be moved from one part of the country to another.

The issues had become more complex by 1951 when my father wrote a book entitled "A Foreign Policy for Americans." In chapter 2 of that volume, he urged more congressional involvement in military deployment, stating that:

> In the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, unless the whole matter was submitted to Congress and a declaration of war or some other direct authority was obtained.

In that same chapter he also stated:

> If in the great field of foreign policy the President has the arbitrary and unlimited powers he now claims, then there is an end to freedom in the United States not only in the foreign field but in the great realm of domestic activity which necessarily follows any foreign commitments. The area of freedom at home becomes very circumscribed indeed.

The concerns voiced then seem quite prophetic today. The last 20 years have witnessed a continued atrophy of the congressional war powers. At the same time, the Executive has taken an increasingly broad view of its prerogatives in this area. Under modern conditions, the irreversibility and the danger of Executive action without congressional authorization has accelerated to an unprecedented extent and therefore the concern for the problem is enormously enlarged.

This growing centralization of power in the Executive, accompanied as it has been by a similar centralization of domestic power in the Federal Government, has created a deep sense of frustration among the people who increasingly despair that they lack control over their own destinies. There is a demand for participatory democracy in foreign affairs as well as on the domestic scene. Just as means must be found to strengthen local governments in dealing with matters of domestic importance, so must we increase the participation of the elected representatives of the people in the foreign policy decisionmaking process, particularly as it applies to matters of war and peace. War is not only too important to be left to the generals, Americans abhor war to such an extent that it is too important to leave to the Executive alone.

It has long been recognized that there must be a close parallel of military and diplomatic frontiers. To these I would add the importance of the public opinion frontier. In my judgment it is important for foreign policy questions to be decided whenever possible in the limelight of public opinion. In a democratic nation the broadest public discussion of such issues, followed by definitive action by

the legislative and executive branches, produces the soundest basis for the determination of national policy. This is not to say that tactical decisions should be governed by public opinion. I am reminded in this context of the cartoon in the Saturday Review on March 13 of last year when an aide was shown saying to Napoleon:

> Sir, a public opinion poll shows 17 percent of the public believe you should fight the Duke of Wellington at Nivelles; 29 percent believe you should fight him at Wavre; and 54 percent believe you should fight him at Waterloo.

Much of the pressure for increased congressional activity comes with reference to our involvement in Southeast Asia. This is understandable—the process by which we became involved in Southeast Asia is a classic illustration of Executive usurpation of power from a Congress not willing to exercise its war powers, or an Executive willing to call for it. And what has been the result? While committing hundreds of thousands of troops abroad without congressional authority, the previous administration stepped up spending on the domestic front. The guns-and-butter strategy produced a ruinous inflation which has caused substantial economic disruption at home and abroad and has resulted in the obsolescence and decay of many military programs and facilities vital to our national security. It would also seem to have generated a considerable degree of psychological and economic vulnerability. One can only hope that if the Congress could have participated in these great decisions—if it had only been fully aware and made the country fully aware of the open-ended nature of our commitment—the necessary restraint would have been exercised. Of course, Congress did appropriate funds for the war but there is a great difference between appropriating funds for troops already committed to battle, and deciding initially that such a commitment is proper.

As Congress moves to reassert its constitutional prerogatives, we must profit by—rather than be blinded by—our experience in Southeast Asia. We must divorce, if possible, our great constitutional debate from the frustrations which many feel concerning our involvement there. Rather, the debate should be in terms of restoring a needed balance to the constitutional relationships between two great branches of government. We must recognize that Congress has too often given an Executive a blank check because of personal confidence in the individual occupying the Presidency at that particular time—or because of a sympathy with the particular national interest which the Executive's action is designed to protect.

If Congress moves to assert its prerogatives, as I think it must, it should do so in an "institutional" manner—one that divorces itself from the particular administration in office or the particular national interest which may be at stake—and it is particularly important to remember that in legislating, as we are, of course, today, in the shadow of a national presidential election. If the Congress reasserts its prerogatives, it must be vigilant to exercise these prerogatives whether it is a Democratic or Republican who is President and whether it is the survival of Berlin, Israel, or Cambodia which is at stake.

And any such reassertion must be accompanied by a searching review of our national commitments and the particular national interests served thereby. We are experiencing a reaction in this country which has been termed a "neo-isolationism." I am hopeful that this might only turn into what I would term a "new skepticism"—where we would no longer feel a compulsion to intervene in every brush fire around the world.

President Nixon in his report to the Congress on February 25, 1971 stated at page 154 that:

> It is essential that the United States maintain a military force sufficient to protect our interests and meet our commitments.

The unanswered question, however, is precisely what these interests are that would properly call for American military action in other nations.

With reference to the utilizataion of American military power we must decide precisely what American interests are involved in Southeast Asia, in the Middle East, in Europe, and in South America. That decision is intensely political in nature and as such requires the full and complete participation by the Congress. If the Congress is to have any role in the formulation of American foreign policy, it must have authority to participate in the determination of which interests are so vital to the American people that we must resort to the use of military force.

Mr. President, that is what the purpose of this legislation is, a purpose I believe it is well designed to accomplish.

EXHIBIT 1

MAJOR U.S. ARMED ACTIONS[1] OVERSEAS, WITH RELEVANT CONGRESSIONAL ACTION, 1789–1970

A. DECLARED WARS

1. *War of 1812.*—Congress declared war on Great Britain, June 17, 1812. Madison's review of grievances did not actually call for war, but Congress resolved the matter with a joint resolution declaring war.

2. *Mexican War, 1846.*—U.S. troops under General Zachary Taylor were ordered by President Polk to occupy the land between the Nueces and Rio Grande Rivers, territory also claimed by Mexico. This was done without any authorization from Congress. Mexican troops surprised and mauled an American unit, and Polk sent a message to Congress asking that it recognize the existence of hostilities. Congress responded by a resolution declaring that a state of war existed between the U.S. and Mexico.

There was opposition to the war from the beginning, which grew stronger with time. The House added a rider to a resolution honoring General Taylor on January 3, 1848, stating that the war was begun "unnecessarily and unconstitutionally" by the President.

3. *Spanish-American War, 1898.*—President McKinley at first merely requested Congress' permission to use military and naval forces to effect a cessation of hostilities between Spain and its rebellious possession, Cuba, and to establish a stable government in the latter. The Senate added a provision to this request recognizing the independence of Cuba. This provision was opposed by the President and deleted in the conference with the House. A resolution was passed giving the President discretionary authority to use military force to satisfy U.S. aims with respect to Spain and Cuba. Spain responded by declaring war on the U.S. In response, McKinley ordered Dewey to attack the Philippines. He then asked for a declaration of war, which Congress gave, stating that war had existed from the day Spain declared it against the U.S.

4. *World War I, 1917–1918.*—President Wilson asked Congress to recognize that the course of the German government amounted to war against the United States. Congress responded by a joint resolution declaring that a state of war existed between the Imperial German Government and the U.S. War was not declared against Austria-Hungary until December, 1917, eight months after the declaration against Germany.

5. *World War II.*—After the Japanese attack on Pearl Harbor on December 7, 1941, President Roosevelt went before Congress the next day, and asked for a declaration of war, dating from the time of the Pearl Harbor attack. Germany and Italy, who were allies of Japan, then declared war on the United States. On December 11, 1941, President Roosevelt asked that Congress recognize a state of war between the U.S. and Germany and the U.S. and Italy, a request to which Congress acceded the same day.[2]

B. OTHER ACTIONS

Armed action

Undeclared naval war with France, 1798–1800.—This was a limited war, fought essentially for the protection of American merchant ships which were being harassed by French naval vessels. This contest included some land actions, i.e., the capture by U.S. marines of a French privateer under the guns of the forts in the Dominican city of Puerto Plata.

Congressional action

Congress:

1. Created a Navy Department.
2. Voted appropriations for new warships.
3. Abrogated treaties and consular conventions with France.
4. Authorized the enlistment of a "provisional army" for the duration of the emergency.
5. Authorized seizure and bringing into port of armed French vessels which had been preying on American shipping. Did not authorize seizure of unarmed French vessels.[3]

Armed action

War with Tripoli, 1801–1805.—The so-called Barbary pirates exacted tribute from countries whose ships plied the Mediterranean. The European nations paid, finding this the easiest way. When Jefferson became President the Pasha of Tripoli, feeling tribute paid by U.S. was insufficient, declared war. Jefferson sent warships to the Mediterranean which, after several naval actions, succeeded in winning a treaty from Tripoli more favorable than any other nation had yet secured from her.[4] During this conflict a few U.S. marines were landed with U.S. Agent William Eaton, with a view to raising a force to free the crew of the *Philadelphia*. This expedition penetrated as far as Derna, on Tripoli's eastern frontier, and probably influenced the Pasha to make peace.

Congressional action

In 1802 Congress passed a law entitled "An Act for the Protection of the Commerce and Seamen of the United States, against the Tripolitan Cruisers." It authorized the President to protect commerce and seamen, to seize and make prizes of vessels belonging to Tripoli, and all other acts of precaution and hostility as in a state of war. This amounted to subsequent approval of Jefferson's actions, plus the authority which only Congress could grant: to take prizes and to give commissions to privateers. An act levying revenue duties to pay the cost of the naval operations was likewise approved.

Footnotes at end of article.

Armed action

Second Barbary War, 1815.—The Dey of the Algiers declared war against the U.S. Two U.S. naval squadrons were sent to the Mediterranean. Stephen Decatur, commander of one of the squadrons, dictated peace to Algiers, and then to Tunis and Tripoli, ending the Barbary blackmail as far as the U.S. was concerned. Within a year, European warships took action against the Barbary corsairs, and the payment of tribute ended entirely.

Congressional action

Congress authorized the expedition against Algiers. Specifically, it authorized the use of armed vessels, "as may be judged requisite by the President." The same legislation made it lawful to take prizes.

Armed action

Boxer Rebellion, 1900.—In 1900 a series of anti-foreign disorders erupted in China, fomented by a secret society known to Westerners as Boxers. This uprising was encouraged by elements within the Imperial Government, but it was not, strictly speaking, a war waged by that government. The high point of the rebellion came when the Boxers rampaged through Peking, and laid siege to the foreign legations there. An international force was organized to lift the siege, and a U.S. contingent of 2,500 men was sent by President McKinley to join this international force. These U.S. troops came from forces already mobilized for the Spanish-American War and the Philippine Insurrection. For many years thereafter the U.S. maintained a guard at Peking and other military forces at certain places on Chinese territory, pursuant to authority acquired from the Chinese.

Congressional action

None—Congress was not in session at the time. There was little protest when Congress did reconvene, however.

Armed action

Panama, 1903.[5]—U.S. warships in Central American waters were ordered to seize the Panama railroad, keep the Isthmus of Panama clear, and prevent Colombia from landing troops within 50 miles of the Isthmus if a revolution broke out. These orders were issued on November 2, 1903, and a revolution broke out in Panama on November 3, 1903. Troops from the *U.S.S. Nashville* prevented loyal Colombian troops from suppressing the revolt. On November 4 Panama declared its independence. The U.S. recognized the independence of Panama *de facto* on November 6, and *de jure* a week later.

Congressional action

No chance for Congress to act. Senate ratified the Hay-Bunau-Varilla Treaty on February 23, 1904.

Armed action

Armed hostilities with Mexico, 1914–1917.—1. During a time of revolutionary upheaval in Mexico there were at least two major armed actions by U.S. forces in Mexico. The first was the occupation of Vera Cruz in 1914, ostensibly for failure of the Mexicans to fire a 21 gun salute to the American flag. The salute had been demanded by Admiral Mayo, U.S. Navy, following the release by Mexico of an officer and nine sailors who had been arrested and paraded through the streets of Tampico after going ashore without the permission of Mexican authorities. President Wilson backed Admiral Mayo's demands, and ordered the North Atlantic battleship fleet to Tampico. Wilson's motive, essentially, was to force Huerta out as Mexican president, so that a constitutional government would come to power. Tampico was to be attacked, but Vera Cruz was made the objective when it was learned that a German ship was heading there with munitions for Huerta. There was a clash with Mexican naval cadets and soldiers resulting in some 400 casualties, mostly Mexican. Following the mediation of Argentina, Brazil, and Chile, U.S. troops were withdrawn from Mexico.

Congressional action

President Wilson requested authority to use the armed forces, two days before they were actually landed. Congress passed a joint resolution giving him such authority the day after.

Armed action

2. In October 1915, the U.S. recognized the Carranza government in Mexico. General "Pancho" Villa, whom the U.S. had briefly supported, revolted, hoping to capitalize on anti-American sentiment and embroil the U.S. in a war with Mexico. To this end his guerrilla forces held up a train carrying 17 American mining engineers in January, 1916, and shot all but one on the spot. The following March his forces raided the town of Columbus, New Mexico, killing 19 Americans, and burning the town. Public opinion in the United States demanded the punishment of Villa, and Wilson ordered a punitive expedition into Mexico, having first obtained the consent, however grudging, of the Carranza government. The U.S. forces never found Villa, but they did clash with Mexican government troops at two points, Carrizal and Parral. In the meantime, Villa raided Glen Springs, Texas. Mexico and the U.S. moved toward war, as Carranza demanded the withdrawal of American forces and Wilson called out the National Guard and incorporated it into the Army. But neither side really wanted war, and although no satisfactory settlement was reached, Wilson withdrew U.S. troops. The increasing possibility of American involvement in Europe probably contributed to his decision.

Congressional action

The use of armed forces was approved by the Senate, which passed a joint resolution offered by Sen. LaFollette. The use of armed force was declared to be for the sole purpose of punishing the outlaws who had raided Columbus. This resolution did not come up for a vote in the House, however.

Armed action

Expeditions to European Russia and Siberia, 1918–1920.—Following the Bolshevik Revolution, Allied expeditions were sent to Murmansk and Archangel, where they joined British and French troops in operations against Bolshevik troops. Wilson resisted allied pressure for large-scale anti-Communist intervention.

After the end of the war U.S. troops entered Siberia through Vladivostok as part of an allied force, chiefly Japanese, sent to safeguard military supplies and assist the Czechoslovak legion to escape from Soviet territory. U.S. forces reportedly participated in this expedition as much to keep an eye on Japanese plans as anything else. U.S. troops were withdrawn in 1920.

Congressional action

President Wilson was criticized in Congress for waging war in both North Russia and Siberia. Two resolutions were introduced in Congress to compel the withdrawal of U.S. troops from the Siberian venture, but both died in committee.

Armed action

Nicaragua. 1926–1933. The U.S. employed military occupation to end civil war and establish elections and regular government. President Coolidge undertook the occupation on his own responsibility. Henry L. Stimson was sent as the President's personal representative, and managed to work out an agreement accepted by contending Nicaraguan factions, except for General Sandino, one of the Liberal generals, and his followers. Sandino carried on guerrilla warfare against the Nicaraguan government and U.S. forces for the remainder of the occupation. At its height, over 5,000 sailors and marines were either in Nicaragua or in transit there.

Congressional action

Resolutions were introduced in Congress requesting immediate withdrawal of armed forces from Nicaragua. Hearing were held by the Foreign Relations Committee and the ensuing report, Senate Report 498, 70th Congress, defended retention of troops in Nicaragua until settlement worked out by Stimson could be carried out. This report expressed no opinion on the constitutionality of dispatching troops to Nicaragua in the first place. Mexico and the U.S. backed rival factions in the Nicaraguan dispute. This added to existing tensions between the U.S. and Mexico. This tension evoked a "sense of the Senate" resolution, introduced by Sen. Frazier of North Dakota, that the President not exercise his powers as Commander in Chief to send any of our armed forces into Mexico, or to mobilize troops on the Mexican border, or assemble fighting units of the navy in waters adjacent to Mexico, while Congress was not in session. If the President contemplated such action, the resolution directed him to call Congress into special session and explain his reasons for proposed military moves.

This resolution did not contest the President's powers as Commander in Chief, but it did represent an attempt to curb his initiative in bringing about situations that might become dangerous, or lead to armed clashes. It was not adopted, but public opinion grew increasingly opposed to intervention by U.S. troops in any foreign country. The policy of intervention in Latin America was ended during the 1930's, and the country attempted to insulate itself against involvement in foreign wars through the Neutrality Acts.

Armed action

China, 1927. In 1927, anti-foreign disorders, which had taken place repeatedly since 1911, reached a climax. There was fighting at Shanghai between Nationalist and anti-Nationalist forces, which led to the landing of 1,250 Marines, who joined an international force that reached 13,000 men. A naval guard had to be stationed at the American consulate in Nanking. A small contingent of sailors was landed at Hankow at the beginning of the year, and a tiny contingent of Marines in April. A U.S. and a British warship fired on Chinese soldiers to protect the escape of Americans and other foreigners from Nanking. By the end of 1927, the U.S. had 44 naval vessels in Chinese waters, and 5,670 men ashore. Other countries also sent considerable forces to the area. After U.S. signed an agreement with Nationalist China in 1928 which constituted recognition, U.S. troops were gradually withdrawn.

Congressional action

No specific action was taken by Congress with respect to the landing of troops. However a resolution calling for the end of America's special privileges in China won overwhelming approval in the House.

Armed action

Pre-War moves, 1939–41.—After the outbreak of World War II in Europe, the U.S. took a number of actions designed to safeguard its security and that of the Western Hemisphere and to aid the allied powers against Nazi Germany. Among these actions were the following: 1. Troops were sent to garrison air and naval bases obtained from Great Britain in exchange for overage destroyers. These bases were located in Newfoundland, Bermuda, St. Lucia, Jamaica, Antigua, Trinidad, British Guiana, and the Bahamas. 2. Greenland was placed under American control, and the U.S. was given permission to build bases there by agreement with the Danish Minister in Washington, an agreement disavowed by the captive Danish

Footnotes at end of article.

government. 3. The President ordered troops to occupy Dutch Guiana, under agreement with the Dutch government in exile. 4. Iceland was taken under U.S. protection for strategic reasons, after the British had indicated they could not longer garrison their base there, and after agreement had been secured from the Icelandic government. 5. The President ordered the navy to patrol the ship lanes to Europe. These patrols began to convoy lend-lease shipments as far as Iceland, where the British navy picked them up. Clashes with German U-boats resulted from this activity.

Congressional action

President Roosevelt did not seek specific congressional authorization for many of the actions he took to aid Britain and other nations fighting the Axis. However, despite fierce opposition, Congress passed the Lend-Lease Act. It also passed the first peacetime conscription law in U.S. history (which it renewed by a margin of one vote) and passed the bill permitting the arming of merchant ships. In addition, Congress repealed those sections of the Neutrality Act of 1939 which forbade trade with belligerants, established combat zones into which U.S. ships were not to sail, and prevented the arming of merchantmen. In short, President Roosevelt did not seek the authorization of Congress for certain moves he made as Commander in Chief, but he did obtain what was in effect the endorsement of Congress for his policy of assisting one side in an international conflict.

Armed action

Korean Police Action, 1950–1953.—North Korean troops crossed the borders of South Korea on June 25, 1950. The UN Security Council, called into special session, denounced the invasion as an act of aggression, called for an immediate cease-fire, and requested member nations to render every assistance to see that its resolution was enforced. On June 27, President Truman announced that he had ordered U.S. air and sea forces to give the Korean government troops cover and support; that he had ordered the 7th Fleet to prevent any attack on Formosa as well as to prevent any Chinese Nationalist sea or air operations against the Chinese mainland. Later that day the Security Council adopted a resolution calling upon the members of the UN to furnish such assistance to the Republic of Korea as might be necessary to restore international peace and security in the area. In response to this resolution, President Truman ordered ground forces to Korea to repel the North Korean attack. Since the Korean action was undertaken under UN sponsorship, other countries also sent contingents, but that of the U.S. was by far the largest.

Congressional action

A few members of both houses voiced criticism that the President had usurped Congress' power to declare war. Resolutions were introduced in 1951 to declare war against North Korea and Communist China, and also for an orderly withdrawal of U.S. forces. None of these resolutions came to a vote.

If Congress did not formally accept, neither did it as a whole contest the contention of the Executive that it acted in response to the call of the UN Security Council. The State Department, in its memorandum defending the authority of the President to repel the attack in Korea, pointed to the debates on the UN Charter in which it was asserted that by becoming a party thereto, the U.S. would be obligated by commitments the organization would undertake, including commitments to international policing, and that it would be within the power of the Executive to see that these agreements were carried out. The Senate had approved the UN Charter, and there was some feeling, particularly at the outbreak of the Korean conflict, that it had therefore authorized, at least implicitly and in a general way, actions that might be taken under it. Furthermore the entire Congress had passed the UN Participation Act.

Armed action

Landing of troops in Lebanon, 1958.—Lebanon has always preserved a delicate internal balance between Christians and Moslems. This was threatened by certain Moslems, reportedly encouraged by President Nasser of the UAR. When a pro-Nasser coup took place in Iraq in July of 1958, the President of Lebanon sent an urgent plea for assistance to President Eisenhower, saying that his country was threatened both by internal rebellion and "indirect aggression." President Eisenhower responded by sending 5,000 marines to Beirut to protect American lives and help the Lebanese maintain their independence. This force was gradually increased to 14,000 soldiers and marines, who occupied strategic positions throughout the country.

After the matter had been taken to the UN, and the General Assembly had passed a resolution calling on member states to respect one another's integrity and refrain from interfering in one another's internal affairs, and also requesting that arrangements be made for the withdrawal of troops, the situation stabilized somewhat. U.S. troops were then gradually withdrawn on a schedule worked out with Lebanese authorities.

Congressional action

The "Eisenhower Doctrine," a joint resolution, had been passed by Congress in 1957 authorizing the President to use U.S. armed forces to assist any nation in the Middle East requesting help against Communist aggression. President Eisenhower stressed the provocative nature of Soviet and Cairo broadcasts in justifying the landing of troops.

Armed action

Deployment of troops, Thailand, 1961–1970.—In 1961 a detachment of 259 Marines was sent to Thailand to set up a helicopter maintenance facility for ferrying supplies to anti-Communist forces in Laos, when the military situation in that country began to deteriorate. In 1962, when anti-Communists fled across the Mekong into Thai territory, and it appeared that Pathet Lao might move into Thailand, U.S. forces numbering 5,000 men were sent into Northeast Thailand to guard against that possibility. The UK, Australia, and New Zealand also sent in small units, in a show of SEATO solidarity. As the threat receded, the U.S. and other troops were gradually withdrawn. The building of U.S. air bases in Thailand began around 1964, and by 1965 U.S. air strikes against the Vietcong and North Vietnam were being flown from Thailand. These air bases in Thailand are still maintained.

Congressional action

In 1969 Congress voted to prohibit a commitment of U.S. ground troops to Laos or Thailand, as an amendment to the defense appropriations bill.

Armed action

Intervention in the Dominican Republic, 1965.—On April 24, 1965, a revolt broke out in Santo Domingo, capital of the Dominican Republic. On April 28 President Johnson ordered a contingent of several hundred marines to land there, stating that Dominican "military authorities" had requested assistance, as they could no longer guarantee the safety of American citizens living in the Dominican Republic. The President stated that assistance would also be available to protect nationals of other countries as well.

The first U.S. contingent numbered only 400 men, but on May 2 the President announced he was sending in 200 more, with an additional 4,500 to follow at the earliest possible moment. Eventually U.S. forces in the Dominican Republic were to number 21,500. Total personnel involved numbered over 30,000.

In announcing the dispatch of additional troops to the Dominican Republic, President Johnson cited increasing Communist control of the revolution, plus increasing needs for food and medical supplies, etc.

A peace commission from the Organization of American States succeeded in achieving a cease-fire among the contending Dominican groups, and on May 6, 1965, the OAS voted to create an Inter-American Peace force, to assist in restoring peace and order. As various elements of this Inter-American Peace Force began to arrive in the Dominican Republic, the U.S. withdrew a proportionate number of its forces. By the end of 1965 this Inter-American force numbered 9,400, with U.S. troops serving as part of that force. An Ad Hoc Commission of the OAS worked out a formula to restore constitutional government, and finally on September 3, 1965 a civilian, Hector Garcia Godoy, was inaugurated as provisional president. All U.S. troops were gradually withdrawn.

Congressional action

Congressional leadership was informed before the move was made into the Dominican Republic. Several resolutions were offered supporting the President's action in the Dominican Republic. The most prominent was H. Res. 560, endorsing the use of force individually or collectively by any country in the Western hemisphere to prevent a Communist takeover. It passed the House by a vote of 312–52.

Many members of Congress felt that the President had overestimated the extent of Communist penetration of the revolutionary movement. Others have charged that the intervention was motivated not so much by a desire to save lives and property as by a desire to prevent a Communist takeover in the country, a desire which, in their view, arose from an inaccurate assessment of the danger of such a takeover. Some argued that the U.S. should have consulted the OAS before it intervened in the Dominican Republic, something which it did not do.

Armed action

Vietnam, 1964-present. A U.S. Military Assistance Advisory Group had been in South Vietnam ever since the French relinquished authority there in 1954. In the late 1950's and early 1960's there was a marked step-up in guerrilla activities against the South Vietnamese government. This guerrilla activity was supported and directed from North Vietnam. U.S. military advisers were gradually increased, so that by 1962 there were 12,000 in the country, and this number was doubled by 1964.

U.S. policy was to work with the government of South Vietnam until the Vietcong insurgency would be suppressed, or until the forces of South Vietnam were capable of suppressing it. As time went on that date seemed farther and farther in the future.

It was against this background that the Gulf of Tonkin episode took place. On August 2, 1964, North Vietnamese torpedo boats were reported to have attacked the *U.S.S. Maddox* in international waters in the Gulf of Tonkin. The *Maddox* returned the fire, and aircraft from the *U.S. Ticonderoga* also fired on the torpedo boats. The *Maddox* was attacked again, along with the *C. Turner Joy* on August 4. On August 5, bases and an oil depot used as supporting facilities for the torpedo boats were bombed in retaliation, at President Johnson's orders.

On February 7, 1965, Communist forces attacked a U.S. ground installation. Seven U.S. soldiers were killed, and 109 wounded. President Johnson met with the National Security Council and congressional leaders, following which he announced that U.S. and South Vietnamese Air Forces had been directed to launch retaliatory attacks. These attacks were to develop into a program of bombing missions, while at the same time the U.S. began a buildup of its ground forces in Vietnam. Except for occasional pauses, the bombing campaign continued until the partial halt announced on March 31, 1968, and the complete halt seven months later. Ground forces reached a peak of 535,000 before the program of gradual withdrawal was begun.

Since the Spring of 1965 the U.S. has indicated an interest in settling the war by negotiation. All attempts at bringing both sides together failed until President Johnson's speech of March 31, 1968, announcing the partial bombing halt, and requesting North Vietnam to begin talks at once. The only result of these talks to date has been the total cessation of the bombing, in return for permitting the Saigon government to participate in the talks. As a further concession, the National Liberation Front (Viet-Cong) was also permitted to participate.

Entrance into Cambodia, 1970.—On April 30, 1970, President Nixon announced that U.S. and South Vietnamese troops had crossed the border into Cambodia in order to wipe out Communist sanctuaries there. He said that all American forces would be withdrawn by the end of June.

Congressional action

Tonkin Gulf Resolution—On August 5, 1964, President Johnson asked Congress for a resolution "expressing the unity and determination of the United States in supporting freedom and protecting peace in Southeast Asia." He recommended a resolution which would express the support of Congress for all necessary action to protect U.S. armed forces and to assist nations covered by the SEATO Treaty. Two days later Congress voted the Tonkin Gulf Resolution, which the President signed into law on August 10. Its operative clauses read as follows: "That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attacks against the forces of the United States and to prevent further aggression. Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The resolution is to expire when the President determines that the peace and security of the area are reasonably assured, or earlier by concurrent resolution of Congress.

The Tonkin Gulf Resolution (PL 88–408), passed the Senate by a vote of 88–2 and the House by a vote of 416 to 0. Growing anti-war sentiment in the Congress was reflected in a number of resolutions, while members favoring the Executive's Vietnamese policy introduced resolutions of support. By the time of this writing the Senate had repealed the Tonkin Gulf Resolution. Some other measures presently in effect are as follows:

1. The so-called "national commitments" resolution (Sen. Res. 85, 91st Congress), a resolution expressing the sense of the Senate that a U.S. commitment to a foreign power "necessarily and exclusively results" from affirmative action taken by both legislative and executive branches, through a treaty, convention, or other legislative instrumentality.

2. Title IV of PL 90–5, a statement of congressional policy expressing its firm intention to provide all necessary support for the armed forces fighting in Vietnam; is support of the efforts by the President and others to prevent expansion of the war, and bring the conflict to an end through a negotiated settlement which will preserve the honor and protect the vital interest of the U.S. and allow the people of South Vietnam to determine their own affairs; and finally, declaring its support for the convening of a new conference to pursue the general principles of the Geneva Accords of 1954 and 1962, and to formulate plans to bring the conflict to an honorable end.

3. House Resolution 61, 91st Congress. Affirms support of the House for the efforts of the President to negotiate a just peace in Vietnam, expresses hope of U.S. people for peace, calls attention to numerous peaceful overtures made by the U.S., requests President to continue to press North Vietnam to abide by the Geneva Convention of 1949 in the treatment of war prisoners, calls for free elections in Vietnam and announces willingness to abide by results of such elections.

4. The Senate passed an amendment to the Foreign Military Sales Bill (H.R. 15628) cutting off all funds for U.S. forces in Cambodia after June 30, 1970, unless Congress authorizes their operations in that country. The amendment also denied U.S. funds for the support of the troops of other countries which might come to the assistance of Cambodia.

5. A number of measures are pending to cut off all funds for military operations in Vietnam by a specified date.

FOOTNOTES

[1] Armed action means the confrontation of U.S. forces with those of a foreign government or revolutionary faction, usually, but not always resulting in an actual clash.

[2] For an account of the move short of war by which the U.S. sought to aid Britain in its fight agains Germany, see part B of this Appendix.

[3] Two days before Congress authorized the seizure of French ships, a lone U.S. naval vessel had been sent out on patrol to protect U.S. coastal waters between Long Island and the Virginia Capes.

[4] Although favorable in comparative terms, the treaty still recognized the right of the pirates to obtain ransom for imprisoned Americans.

[5] In terms of the military forces involved, the Panama episode of 1903 cannot be classified as a major action. In terms of the stakes involved, and the long range impact, it seems appropriate to so classify it.

INSTANCES OF USE OF U.S. ARMED FORCES ABROAD, 1798–1970

1798–1800—Undeclared naval war with France.—This contest included land actions, such as that in the Dominican Republic, city of Puerto Plata, where marines captured a French privateer under the guns of the forts.

1801–05—Tripoli.—The First Barbary War, including the *George Washington* and *Philadelphia* affairs and the Eaton expedition, during which a few marines landed with United States Agent William Eaton to raise a force against Tripoli in an effort to free the crew of the *Philadelphia*. Tripoli declared war but not the United States.

1806—Mexico (Spanish territory).—Capt. Z. M. Pike, with a platoon of troops, invaded Spanish territory at the headwaters of the Rio Grande deliberately and on orders from Gen. James Wilkinson. He was made prisoner without resistance at a fort he constructed in present day Colorado, taken to Mexico, later released after seizure of his papers. There was a political purpose, still a mystery.

1806–10—Gulf of Mexico.—American gunboats operated from New Orleans against Spanish and French privateers, such as La Fitte, off the Mississippi Delta, chiefly under Capt. John Shaw and Master Commandant David Porter.

1810—West Florida (Spanish territory).—Gov. Claiborne of Louisiana, on orders of the President, occupied with troops territory in dispute east of Mississippi as far as the Pearl River, later the eastern boundary of Louisiana. He was authorized to seize as far east as the Perdido River. No armed clash.

1812—Amelia Island and other parts of east Florida, then under Spain.—Temporary possession was authorized by President Madison and by Congress, to prevent occupation by any other power; but possession was obtained by Gen. George Matthews in so irregular a manner that his measures were disavowed by the President.

1812–15—Great Britain.—War of 1812. Formally declared.

On authority given by Congress, General Wilkinson seized Mobile Bay in April with 600 soldiers. A small Spanish garrison gave way. Thus we advanced into disputed territory to the Perdido River, as projected in 1810. No fighting.

1813–14—Marquesas Islands.—Built a fort on island of Nukahiva to protect three prize ships which had been captured from the British.

1814—Spanish Florida.—Gen. Andrew Jackson took Pensacola and drove out the British with whom the United States was at war.

1814–25—Caribbean.—Engagements between pirates and American ships or squadrons took place repeatedly especially ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. Three thousand pirate attacks on merchantmen were reported between 1815 and 1823. In 1822 Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies.

1815—Algiers.—The Second Barbary War, declared by our enemies but not by the United States. Congress authorized an expedition. A large fleet under Decatur attacked Algiers and obtained indemnities.

1815—Tripoli.—After securing an agreement from Algiers, Decatur demonstrated with his squadron at Tunis and Tripoli, where he secured indemnities for offenses against us during the War of 1812.

1816—Spanish Florida.—United States forces destroyed Nicholls Fort, called also Negro Fort, which harbored raiders into United States Territory.

1816–18—Spanish Florida—First Seminole War.—The Seminole Indians, whose area was a resort for escaped slaves and border ruffians, were attacked by troops under Generals Jackson and Gaines and pursued into northern Florida. Spanish posts were attacked and occupied, British citizens executed. There was no declaration or congressional authorization but the Executive was sustained.

1817—Amelia Island (Spanish territory off Florida).—Under orders of President Monroe, United States forces landed and expelled a group of smugglers, adventurers, and freebooters.

1818—Oregon.—The U.S.S. *Ontario*, dispatched from Washington, landed at the Columbia River and in August took possession. Britain had conceded sovereignty but Russia and Spain asserted claims to the area.

1820–23—Africa.—Naval units raided the slave traffic pursuant to the 1819 act of Congress.

1822—Cuba.—United States naval forces suppressing piracy landed on the northwest coast of Cuba and burned a pirate station.

1823—Cuba.—Brief landings in pursuit of pirates occurred April 8 near Escondido; April 16 near Cayo Blanco; July 11 at Siquapa Bay; July 21 at Cape Cruz; and October 23 at Camrioca.

1824—Cuba.—In October the U.S.S. *Porpoise* landed bluejackets near Matanzas in pursuit of pirates. This was during the cruise authorized in 1822.

1824—Puerto Rico (Spanish territory).—Commodore David Porter with a landing

party attacked the town of Fajardo which had sheltered pirates and insulted American naval officers. He landed with 200 men in November and forced an apology.

1825—Cuba.—In March cooperating American and British forces landed at Sagua La Grande to capture pirates.

1817—Greece.—In October and November landing parties hunted pirates on the islands of Argenteire, Miconi, and Andros.

1831–32—Falkland Islands.—To investigate the capture of three American sealing vessels and to protect American interests.

1832—Sumatra.—February 6 to 9.—To punish natives of the town of Quallah Battoo for depredations on American shipping.

1833—Argentina.—October 31 to November 15.—A force was sent ashore at Buenos Aires to protect the interests of the United States and other countries during an insurrection.

1835–36—Peru—December 10, 1835 to January 24, 1836, and August 31 to December 2, 1836.—Marines protected American interests in Callao and Lima during an attempted revolution.

1836—Mexico.—General Gaines occupied Nacogdoches (Tex.), disputed territory from July to December during the Texan war for independence, under orders to cross the "imaginary boundary line" if an Indian outbreak threatened.

1838–39—Sumatra—December 24, 1838 to January 4, 1838.—To punish natives of the towns of Quallah Battoo and Muckie (Mukki) for depredations on American shipping.

1840—Fiji Islands—July.—To punish natives for attacking American exploring and surveying parties.

1841—Drummond Island, Kingsmill Group.—To avenge the murder of a seaman by the natives.

1841—Samoa—February 24.—To avenge the murder of an American seaman on Upolu Island.

1842—Mexico.—Commodore T. A. C. Jones, in command of a squadron long cruising off California, occupied Monterey, Calif., on October 19, believing war had come. He discovered peace, withdrew, and saluted. A similar incident occurred a week later at San Diego.

1843—Africa, November 29 to December 16.—Four United States vessels demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory coast, etc., and to punish attacks by the natives on American seamen and shipping.

1844—Mexico.—President Tyler deployed our forces to protect Texas against Mexico, pending Senate approval of a treaty of annexation. (Later rejected.) He defended his action against a Senate resolution of inquiry.

1846–48—Mexico, the Mexican War.—President Polk's occupation of disputed territory precipitated it. War formally declared.

1849—Smyrna.—In July a naval force gained release of an American seized by Austrian officials.

1851—Turkey.—After a massacre of foreigners (including Americans) at Jaffa in January, a demonstration by our Mediterranean Squadron was ordered along the Turkish (Levant) coast. Apparently no shots fired.

1851—Johanna Island (east of Africa), August.—To exact redress for the unlawful imprisonment of the captain of an American whaling brig.

1852–53—Argentina—February 3 to 12, 1852; September 17, 1852 to April (?) 1853.—Marines were landed and maintained in Buenos Aires to protect American interests during a revolution.

1853—Nicaragua—March 11 to 13.—To protect American lives and interests during political disturbances.

1853–54—Japan.—The "opening of Japan" and the Perry Expedition.

1853–54—Ryukyu and Bonin Islands.—Commodore Perry on three visits before going to Japan and while waiting for a reply from Japan made a naval demonstration, landing marines twice, and secured a coaling concession from the ruler of Naha on Okinawa. He also demonstrated in the Bonin Islands. All to secure facilities for commerce.

1854—China—April 4 to June 15 to 17.—To protect American interests in and near Shanghai during Chinese civil strife.

1854—Nicaragua—July 9 to 15.—San Juan del Norte (Greytown) was destroyed to avenge an insult to the American Minister to Nicaragua.

1855—China—May 19 to 21 (?).—To protect American interests in Shanghai. August 3 to 5 to fight pirates near Hong Kong.

1855—Fiji Islands—September 12 to November 4.—To seek reparations for depredations on Americans.

1855—Uruguay—November 25 to 29 or 30.—United States and European naval forces landed to protect American interests during an attempted revolution in Montevideo.

1856—Panama, Republic of New Grenada—September 19 to 22.—To protect American interests during an insurrection.

1856—China—October 22 to December 6.—To protect American interests at Canton during hostilities between the British and the Chinese; and to avenge an unprovoked assault upon an unarmed boat displaying the United States flag.

1857—Nicaragua—April to May, November to December.—To oppose William Walker's attempt to get control of the country. In May Commander C. H. Davis of the United States Navy, with some marines, received Walker's surrender and protected his men from the retaliation of native allies who had been fighting Walker. In November and December of the same year United States vessels *Saratoga, Wabash,* and *Fulton* opposed another attempt of William Walker on Nicaragua. Commodore Hiram Paulding's act of landing marines and compelling the removal of Walker to the United States was tacitly disavowed by Secretary of State Lewis Cass, and Paulding was forced into retirement.

1858—Uruguay—January 2 to 27.—Forces from 2 United States warships landed to protect American property during a revolution in Montevideo.

1858—Fiji Islands—October 6 to 16.—To chastise the natives for the murder of two American citizens.

1858–59—Turkey.—Display of naval force along the Levant at the request of the Secretary of State after massacre of Americans at Jaffa and mistreatment elsewhere "to remind the authorities (of Turkey) • • • of the power of the United States."

1859—Paraguay.—Congress authorized a naval squadron to seek redress for an attack on a naval vessel in the Parana River during 1855. Apologies were made after a large display of force.

1859—Mexico.—Two hundred United States soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina.

1859—China—July 31 to August 2.—For the protection of American interests in Shanghai.

1860—Angola, Portuguese West Africa—March 1.—To protect American lives and property at Kissembo when the natives became troublesome.

1860—Colombia, Bay of Panama—September 27 to October 8.—To protect American interests during a revolution.

1863—Japan—July 16.—To redress an insult to the American flag—firing on an American vessel—at Shimonoseki.

1864—Japan—July 14 to August 3, approximately.—To protect the United States Minister to Japan when he visited Yedo to negotiate concerning some American claims against Japan, and to make his negotiations easier by impressing the Japanese with American power.

1864—Japan—September 4 to 14—Straits of Shimonoseki.—To compel Japan and the Prince of Nagato in particular to permit the Straits to be used by foreign shipping in accordance with treaties already signed.

1865—Panama—March 9 and 10.—To protect the lives and property of American residents during a resolution.

1866—Mexico.—To protect American residents, General Sedgwick and 100 men in November obtained surrender of Matamoras. After 3 days he was ordered by our Government to withdraw. His act was repudiated by the President.

1866—China—June 20 to July 7.—To punish an assault on the American consul at Newchwang; July 14, for consultation with authorities on shore; August 9, at Shanghai, to help extinguish a serious fire in the city.

1867—Island of Formosa—June 13.—To punish a horde of savages who were supposed to have murdered the crew of a wrecked American vessel.

1868—Japan (Osaka, Hiogo, Nagasaki, Yokohama, and Negata)—Mainly, February 4 to 8, April 4 to May 12, June 12 and 13,—To protect American interests during the civil war in Japan over the abolition of the Shogunate and the restoration of the Mikado.

1868—Uruguay—February 7 and 8, 19 to 26.—To protect foreign residents and the customhouse during an insurrection at Montevideo.

1868—Colombia—April 7—at Aspinwall.—To protect passengers and treasure in transit during the absence of local police or troops on the occasion of the death of the President of Colombia.

1870—Mexico, June 17 and 18.—To destroy the pirate ship *Forward,* which had been run aground about 40 miles up the Rio Tecapan.

1870—Hawaiian Islands—September 21.—To place the American flag at half mast upon the death of Queen Kalama, when the American consul at Honolulu would not assume responsibility for so doing.

1871—Korea—June 10 to 12.—To punish natives for depredations on Americans, particularly for murdering the crew of the *General Sherman* and burning the schooner, and for later firing on other American small boats taking soundings up the Salee River.

1873—Colombia (Bay of Panama)—May 7 to 22, September 23 to October 9.—To protect American interests during hostilities over possession of the government of the State of Panama.

1873—Mexico.—United States troops crossed the Mexican border repeatedly in pursuit of cattle and other thieves. There were some reciprocal pursuits by Mexican troops into our border territory. The cases were only technically invasions, if that, although Mexico protested constantly. Notable cases were at Remolina in May 1873 and at Las Cuevas in 1875. Washington orders often supported these excursions. Agreements between Mexico and the United States, the first in 1882, finally legitimized such raids. They continued intermittently, with minor disputes, until 1896.

1874—Hawaiian Islands—February 12 to 20.—To preserve order and protect American lives and interests during the coronation of a new king.

1876—Mexico—May 18.—To police the town of Matamoras temporarily while it was without other government.

1882—Egypt—July 14 to 18.—To protect American interests during warfare between British and Egyptians and looting of the city of Alexandria by Arabs.

1885—Panama (Colon)—January 18 and 19.—To guard the valuables in transit over the Panama Railroad, and the safes and vaults of the company during revolutionary activity. In March, April, and May in the cities of Colon and Panama, to reestablish freedom of transit during revolutionary activity.

1888—Korea—June.—To protect American residents in Seoul during unsettled political conditions, when an outbreak of the populace was expected.

1888–89—Samoa—November 14, 1888 to March 20, 1889.—To protect American citizens and the consulate during a native civil war.

1888—Haiti—December 20.—To persuade the Haitian Government to give up an American steamer which had been seized on the charge of breach of blockade.

1889—Hawaiian Islands—July 30 and 31.—To protect American interests at Honolulu during a revolution.

1890—Argentina.—A naval party landed to protect our consulate and legation in Buenos Aires.

1891—Haiti.—To protect American lives and property on Navassa Island.

1891—Bering Sea—July 2 to October 5.—To stop seal poaching.

1891—Chile—August 28 to 30.—To protect the American consulate and the women and children who had taken refuge in it during a revolution in Valparaiso.

1893—Hawaii—January 16 to April 1.—Ostensibly to protect American lives and property; actually to promote a provisional government under Sanford B. Dole. This action was disavowed by the United States.

1894—Brazil—January.—To protect American commerce and shipping at Rio de Janeiro during a Brazilian civil war. No landing was attempted but there was a display of naval force.

1894—Nicaragua—July 6 to August 7.—To protect American interests at Bluefields following a revolution.

1894–96—Korea—July 24, 1894 to April 3, 1896.—To protect American lives and interests at Seoul during and following the Sino-Japanese War. A guard of marines was kept at the American legation most of the time until April 1896.

1894–95—China.—Marines were stationed at Tientsin and penetrated to Peking for protection purposes during the Sino-Japanese War.

1894–95—China.—Naval vessel beached and used as a fort at Newchwang for protection of American nationals.

1885—Colombia—March 8 to 9.—To protect American interests during an attack on the town of Bocas del Toro by a bandit chieftain.

1896—Nicaragua—May 2 to 4. To protect American interests in Corinto during political unrest.

1898—Nicaragua—February 7 and 8.—To protect American lives and property at San Juan del Sur.

1898—Spain.—The Spanish-American War. Fully declared.

1898–99—China—November 5, 1898, to March 15, 1899.—To provide a guard for the legation at Peking and the consulate at Tientsin during contest between the Dowager Empress and her son.

1899—Nicaragua.—To protect American interests at San Juan del Norte, February 22 to March 5, and at Bluefields a few weeks later in connection with the insurrection of Gen. Juan P. Reyes.

1899—Samoa—March 13 to May 15.—To protect American interests and to take part in a bloody contention over the succession to the throne.

1899–1901—Philippine Islands.—To protect American interests following the war with Spain, and to conquer the islands by defeating the Filipinos in their war for independence.

1900—China—May 24 to September 28.—To protect foreign lives during the Boxer rising, particularly at Peking. For many years after this experience a permanent legation guard was maintained in Peking, and was strengthened at times as trouble threatened. It was still there in 1934.

1901—Colombia (State of Panama)—November 20 to December 4.—To protect American property on the Isthmus and to keep transit lines open during serious revolutionary disturbances.

1902—Colombia—April 16 to 23.—To protect American lives and property at Bocas del Toro during a civil war.

1902—Colombia (State of Panama)—September 17 to November 18.—To place armed guards on all trains crossing the Isthmus and to keep the railroad line open.

1903—Honduras—March 23 to 30 or 31.—To protect the American consulate and the steamship wharf at Puerto Cortez during a period of revolutionary activity.

1903—Dominican Republic—March 30 to April 21.—To protect American interests in the city of Santo Domingo during a revolutionary outbreak.

1903—Syria—September 7 to 12.—To protect the American consulate in Beirut when a local Moslem uprising was feared.

1903–14—Panama.—To protect American interests and lives during and following the revolution for independence from Colombia over construction of the Isthmian Canal. With brief intermissions, United States Marines were stationed on the Isthmus from November 4, 1903, to January 21, 1914, to guard American interests.

1904—Dominican Republic—January 2 to February 11.—To protect American interests in Puerto Plata and Sosua and Santo Domingo City during revolutionary fighting

1904–5—Korea—January 5, 1904, to November 11, 1905.—To guard the American Legation in Seoul.

1904—Tangier, Morocco.—"We want either Perdicaris alive or Raisuli dead." Demonstration by a squadron to force release of a kidnaped American. Marine guard landed to protect consul general.

1904—Panama—November 17 to 24.—To protect American lives and property at Ancon at the time of a threatened insurrection.

1904–5—Korea.—Marine guard sent to Seoul for protection during Russo-Japanese War.

1906–9—Cuba—September 1906 to January 23, 1909.—Intervention to restore order, protect foreigners, and establish a stable government after serious revolutionary activity.

1907—Honduras—March 18 to June 8.—To protect American interests during a war between Honduras and Nicaragua; troops were stationed for a few days or weeks in Trujillo, Ceiba, Puerto Cortez, San Pedro, Laguna, and Choloma.

1910—Nicaragua—February 22.—During a civil war, to get information of conditions at Corinto; May 19 to September 4, to protect American interests at Bluefields.

1911—Honduras—January 26 and some weeks thereafter.—To protect American lives and interests during a civil war in Honduras.

1911—China.—Approaching stages of the nationalist revolution. An ensign and 10 men in October tried to enter Wuchang to rescue missionaries but retired on being warned away.

A small landing force guarded American private property and consulate at Hankow in October.

A marine guard was established in November over the cable stations at Shanghai.

Landing forces were sent for protection to Nanking, Chinkiang, Taku and elsewhere.

1912—Honduras.—Small force landed to seizure by the Government of an American-owned railroad at Puerto Cortez. Forces withdrawn after the United States disapproved the action.

1912—Panama.—Troops, on request of both political parties, supervised elections outside the Canal Zone.

1912—Cuba.—June 5 to August 5.—To protect American interests on the Province of Oriente, and in Habana.

1912—China—August 24 to 26, on Kentucky Island, and August 26 to 30 at Camp Nicholson.—To protect Americans and American interests during revolutionary activity.

1912—Turkey—November 18 to December 3.—To guard the American legation at Constantinople during a Balkan War.

1912–25—Nicaragua—August to November 1912.—To protect American interests during an attempted revolution. A small force serving as a legation guard and as a promoter of peace and governmental stability, remained until August 5, 1925.

1912–41—China.—The disorders which began with the Kuomintang rebellion in 1912, which were redirected by the invasion of China by Japan and finally ended by war between Japan and the United States in 1941, led to demonstrations and landing parties for the protection of U.S. interests in China continuously and at many points from 1912 on to 1941. The guard at Peking and along the route to the sea was maintained until 1941. In 1927, the United States had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms on treaties with China ranging from 1858 to 1901.

1913—Mexico—September 5 to 7.—A few marines landed at Claris Estero to aid in evacuating American citizens and others from the Yaqui Valley, made dangerous for foreigners by civil strife.

1914—Haiti—January 29 to February 9, February 20 to 21, October 19.—To protect American nationals in a time of dangerous unrest.

1914—Dominican Republic—June and July.—During a revolutionary movement, United States naval forces by gunfire stopped the bombardment of Puerto Plata, and by threat of force maintained Santo Domingo City as a neutral zone.

1914–17—Mexico.—The undeclared Mexican hostilities following the *Dolphin* affair and Villa's raids included capture of Vera Cruz and later Pershing's expedition into northern Mexico.

1915–34—Haiti—July 28, 1915, to August 15, 1934.—To maintain order during a period of chronic and threatened insurrection.

1916–24—Dominican Republic—May 1916 to September 1924.—To maintain order during a period of chronic and threatened insurrection.

1917–18.—World War I. Fully declared.

1917–22—Cuba.—To protect American interests during an insurrection and subsequent unsettled conditions. Most of the United States armed forces left Cuba by August 1919, but two companies remained at Camaguey until February 1922.

1918–19—Mexico.—After withdrawal of the Pershing expedition, our troops entered Mexico in pursuit of bandits at least three times in 1918 and six in 1919. In August 1918 American and Mexican troops fought at Nogales.

1918–20—Panama.—For police duty according to treaty stipulations, at Chiriqui, during election disturbances and subsequent unrest.

1918–20—Soviet Russia.—Marines were landed at and near Vladivostok in June and July to protect the American consulate and other points in the fighting between the Bolsheviki troops and the Czech Army which had traversed Siberia from the western front. A joint proclamation of emergency government and neutrality was issued by the American, Japanese, British, French, and Czech commanders in July and our party remained until late August.

In August the project expanded. Then 7,000 men were landed in Vladivostok and remained until January 1920, as part of an allied occupational force.

In September 1918, 5,000 American troops joined the allied intervention force at Archangel, suffered 500 casualties and remained until June 1919.

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A handful of marines took part earlier in a British landing on the Murman coast (near Norway) but only incidentally.

All these operations were to offset effects of the Bolsheviki revolution in Russia and were partly supported by Czarist or Kerensky elements. No war was declared. Bolsheviki elements participated at times with us but Soviet Russia still claims damages.

1919—Honduras—September 8 to 12.—A landing force was sent ashore to maintain order in a neutral zone during an attempted revolution.

1920–22—Russia (Siberia)—February 16, 1920, to November 19, 1922.—A marine guard to protect the United States radio station and property on Russian Island, Bay of Vladivostok.

1920—China—March 14.—A landing force was sent ashore for a few hours to protect lives during a disturbance at Kiukiang.

1920—Guatemala—April 9 to 27.—To protect the American Legation and other American interests, such as the cable station, during a period of fighting between Unionists and the Government of Guatemala.

1921—Panama-Costa Rica.—American naval squadrons demonstrated in April on both sides of the Isthmus to prevent war between the two countries over a boundary dispute.

1922—Turkey—September and October.—A landing force was sent ashore with consent of both Greek and Turkish authorities, to protect American lives and property when the Turkish Nationalists entered Smyrna.

1924—Honduras—February 28 to March 31, September 10 to 15.—To protect American lives and interests during election hostilities.

1924—China—September.—Marines were landed to protect American and other foreigners in Shanghai during Chinese factional hostilities.

1925—China—January 15 to August 29.—Fighting of Chinese factions accompanied by riots and demonstrations in Shanghai necessitated landing American forces to protect lives and property in the International Settlement.

1925—Honduras—April 19 to 21.—To protect foreigners at La Ceiba during a political upheaval.

1925—Panama—October 12 to 23.—Strikes and rent riots led to the landing of about 600 American troops to keep order and protect American interests.

1926–33—Nicaragua—May 7 to June 5, 1926; August 27, 1926, to January 3, 1933.—The coup d'etat of General Chamorro aroused revolutionary activities leading to the landing of American marines to protect the interests of the United States. United States forces came and went, but seem not to have left the country entirely until January 3, 1933. Their work included activity against the outlaw leader Sandino in 1928.

1926—China—August and September.—The Nationalist attack on Hankow necessitated the landing of American naval forces to protect American citizens. A small guard was maintained at the consulate general even after September 16, when the rest of the forces were withdrawn. Likewise, when Nationalist forces captured Kiukiang, naval forces were landed for the protection of foreigners November 4 to 6.

1927—China — February. — Fighting at Shanghai caused American naval forces and marines to be increased there. In March a naval guard was stationed at the American consulate at Nanking after Nationalist forces captured the city. American and British destroyers later used shell fire to protect Americans and other foreigners. "Following this incident additional forces of marines and naval vessels were ordered to China and stationed in the vicinity of Shanghai and Tientsin."

1933—Cuba.—During a revolution against President Gerardo Mechado naval forces demonstrated but no landing was made.

1940—Newfoundland, Bermuda, St. Lucia, Bahamas, Jamaica, Antiguo, Trinidad, and British Guiana.—Troops were sent to guard air and naval bases obtained by negotiation with Great Britain. There were sometimes called lend-lease bases.

1941—Greenland.—Taken under protection of the United States in April.

1941—Netherlands (Dutch Guiana).—In November the President ordered American troops to occupy Dutch Guiana but by agreement with the Netherlands government in exile, Brazil cooperated to protect aluminum ore supply from the bauxite mines in Surinam.

1941—Iceland.—Taken under the protection of the United States, with consent of its Government, for strategic reasons.

1941—Germany.—Sometime in the spring the President ordered the Navy to patrol ship lanes to Europe. By July our warships were convoying and by September were attacking German submarines. There was no authorization of Congress or declaration of war. In November, the Neutrality Act was partly repealed to protect military aid to Britain, Russia, etc.

1941–45—Germany, Italy, Japan, etc.—World War II. Fully declared.

1950–1953.—U.S. responded to North Korean invasion of South Korea by going to its assistance, pursuant to United Nations Security Council resolutions. Congressional authorization was not sought.

1958. Marines were landed in Lebanon at the invitation of its government to help protect against threatened insurrection supported from the outside.

1962.—Cuba.—President Kennedy instituted a "quarantine" on the shipment of offensive missiles to Cuba from the Soviet Union. He also warned the Soviet Union that the launching of any missile from Cuba against any nation in the Western Hemisphere would bring about U.S. nuclear retaliation on the Soviet Union. A negotiated settlement was achieved in a few days.

1962–70.—Laos.—From October 1962 until the present, the United States has played a role of military support in Laos.

1964–1970.—War in Vietnam.—U.S. military advisers had been in South Vietnam for a decade, and their numbers had been increased as military position of Saigon government became weaker. After the attacks on U.S. destroyers in the Tonkin Gulf, President Johnson asked for a resolution expressing U.S. determination to support freedom and protect peace in Southeast Asia. Congress responded with the Tonkin Gulf Resolutions, expressing support for "all necessary measures" the President might take to repel armed attack against U.S. forces and prevent further aggression. Following this resolution, and following a Communist attack on a U.S. installation in central Vietnam, the U.S. escalated its participation in the war.

1965.—Dominican Republic.—Intervention to protect lives and property during a Dominican revolt. More troops were sent as the U.S. feared the revolutionary forces were coming increasingly under Communist control.

1970.—Cambodia.—U.S. troops were ordered into Cambodia to clean out Communist sanctuaries from which Viet Cong and North Vietnamese can attack U.S. and South Vietnamese forces in Vietnam as stated by the President. The object of this attack, which lasted from April 30 to June 30, was to ensure the continuing safe withdrawal of American forecs from South Vietnam and to assist the program of Vietnamization.

Mr. SPONG. Mr. President, I commend the Senator from Ohio, as I know the Senator from New York will also. He introduced a resolution on war powers, he testified before the Committee on Foreign Relations, and he is a cosponsor of S. 2956.

His statement here this morning reflects very well statements made by his father in this body over 20 years ago on the occasion of the entry into the war in Korea and on the occasion of the decision to send troops to Europe. What he has said here today is consistent with his father's views. Those of us who are working on this legislation have been pleased to have his help and to have his statement today as a part of the RECORD of this debate.

Mr. JAVITS. Mr. President, I am especially grateful to the Senator from Ohio for joining with us in this matter, and for his point of view as just expressed, his typical insight, and his particularization and specificity in thought.

The Senator from Ohio started off with a somewhat different approach and introduced his own resolution, which is a very interesting and important one. With the decisiveness quite typical of him, he then entered into this one and will give it the same conviction and the same support which caused him to come forward with his own important first suggestion

I think it is fair to say that the basic thrust of the Taft resolution on the same subject is contained in the legislation now before the Senate. I am pleased that he feels that this is in part his own handiwork, because that is true. I hope very much that he will continue, as the issue develops, to give us the benefit of his thinking.

As Senator SPONG has justly said, this is a great family tradition which Senator TAFT brings to the floor of the Senate, one of the most important and one of the most respected in our Nation. I am thoroughly mindful of the added weight which his support gives to this legislation.

I thank the Senator from Ohio very much for his extremely helpful contribution and especially for the intellectual integrity which he has brought to our joint enterprise.

Mr. TAFT. I thank the Senator from New York and the Senator from Virginia.

I should like to comment briefly on one other area, one specific area covered in my original resolution, and I believe also covered in the proposed legislation.

As a member of the House Foreign Affairs Committee for a period of years, I became particularly concerned at times with the seeming lack of participation of the House in some of the policymaking decisions in the foreign affairs area, except insofar as they related merely to the appropriation and authorization of money.

In that regard, my proposed legislation specifically eliminated the requirement of advance approval of treaty obligations. We have had some discussions on the question of whether treaty obligations of the United States are self-executing, and the preferred opinion seems to be that they are not self-executing; so that we do have a prior authorization required under the terms of the proposed legislation, on pages 8 and 9 of the resolution, that I think does not differ materially from the prior requirement I have indicated.

I also note that in the requirements and the specific comment with reference to a treaty, the authorization that would be required for the use of the Armed Forces would indeed have to pass the House as well as the Senate.

I bring that up with particular reference to a point I made originally in my opening statement, that I think the public opinion of the country is really what we are talking about. It is not just a matter of what the Senate, as one of the legislative arms of the Government, might think or what the House might think. It is really a voice for the people themselves that we are talking about and the importance of these decisions that are referred back and reasserted on the part of the legislative prerogative.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. JAVITS. It always has been, so far as I am concerned and so far as Senator STENNIS, Senator EAGLETON, and Senator SPONG, who have collaborated closely, are concerned. We have had that very clearly in mind. We have made that one of the big points as to why we wrote the legislation as we did, because we want to join both Houses of Congress. That is essential to us. The Senator has put his finger on the precise point. Senator STENNIS emphasized that this morning.

The fact is that if we are going to get into war, there is a point beyond which an incident becomes war. This was something we developed yesterday in the long colloquy with the Senator from Alabama (Mr. ALLEN), when he was making the strong point that the President has to be able to react. We said that we are not inhibiting him, that we want him to react. But at a given point, reaction becomes war; it changes its character; and it is at that point that Congress has to come in—and we mean Congress—and that is one of the reasons why we have fought so hard for this legislation, because we do not want to have this concept of exclusivity. When the Senate ratifies a treaty, that is it. So far as war is concerned, that is the business of the people, and we have to bring in the best we can, in the people's concurrence.

Mr. TAFT. I thank the Senator for his remarks. I certainly concur in the statement he has made.

Mr. SPONG. Mr. President, yesterday the very able Senator from Missouri, who is one of the principal sponsors of the proposed legislation, delivered his opening statement.

The Senator from Missouri has appeared before the Committee on Foreign Relations on two occasions to give that committee the benefit of his views on the various proposals before it dealing with the war powers. He has worked very closely with the Senator from New York in formulating the collective effort that the committee was able to report to the floor. But beyond that, the Senator from Missouri has authored a very timely law review article entitled "Congress and the War Powers," which has just been published by the Law Review of the University of Missouri. It is a very thorough and very timely treatise on the important subject presently before the Senate, and I ask unanimous consent that this fine article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Missouri Law Review, winter 1972, vol. 37, No. 1]

CONGRESS AND THE WAR POWERS

(By Hon. THOMAS F. EAGLETON) *

On almost every issue, our current national soul-searching leads us back to one crucial question whose answer is increasingly in doubt: Can the institutions created almost 200 years ago to govern a rural and agricultural nation meet the need of an urban, twentieth-century, technological society?

Much of the turmoil and questioning has sprung from our Vietnam experience. Even today, as we poke through the historical debris of the Vietnam era, it is difficult to identify why, and by what authority, the decisions were made which so deeply committed us in Southeast Asia. And the most significant question for the future to emerge from our Vietnam era is this: Who decides when and where America goes to war?

The President claims inherent rights as Commander-in-Chief. Congress claims that the Executive has usurped its war-making authority. Although it has the means to reclaim its authority, Congress has failed to act. In the past, both Legislature and Executive have been unwilling to have a showdown on this delicate issue in times of peace, and unable to in times of war. Yet this debate goes to the very heart of our system of government. It raises basic questions that must be answered. Will checks and balances still work in a hair-trigger nuclear age? Have we given up the benefits of collective judgment out of necessity or out of neglect? What follows is an effort to set forth the present state of the question and to argue that an orderly balance of power in war-making matters can and must be restored.

I. THE CONSTITUTION AND ITS UNDERLYING PRINCIPLES

During the debate on Indochina, the 91st Congress saw an unprecedented outpouring of commentary on the meaning of the Constitution and the thinking of the men who wrote it. Learned articles have appeared in many of our law reviews.[1] Law books were searched for both ancient and modern judicial opinions.[2] Treatises of recognized constitutional scholars were read and reread, and members of Congress[3] renewed their own acquaintance with the writings of Hamilton, Madison, Jay and Jefferson[4]—all in an attempt to understand the directives of the Constitution on the way we go to war. But to comprehend these directives some 183 years after they were written, it is necessary first to distill the principles on which the Constitution rests.

It is clear that the men who wrote the Constitution were influenced not only by the writing of theoreticians like Locke and Montesquieu, but also by the governmental practices and procedures which were followed or, in some instances, merely preached, in England. They noted on numerous occasions that many of their ideas had been derived "from the nation from whom the inhabitants of these states have in general sprung."[5]

In formulating a Constitution to create a central government of enormous but not unlimited powers, our Founding Fathers therefore worked from certain basic premises. First, since all of them were familiar with the autocratic powers which had been exercised over the colonies by the King of England, the Founding Fathers were reluctant to grant too much authority to the Chief Executive. They did not want this country's President to possess a variety of powers in the absence of any collective judgment. But neither did they want him completely stripped of discretion, at the mercy of other branches of the central government. So they limited his discretionary powers within rather narrow guidelines subject to legislative check lest the wisdom of a single man—or lack thereof—carry this country too far down a selected path.

Second, as a corollary to this concern, the Founding Fathers believed that the legislature should possess the widest range of authority delegated to the central government. A bicameral Congress composed of diverse individuals would reach its decisions through a process of deliberation and thus provide a collective judgment. It was not without forethought that Hamilton conceded "the superior weight and influence of the legislative body in a free government . . . ."[6] The framers of the Constitution rested their primary hopes for thoughtful policymaking on Congress, with its most cumbersome and therefore deliberative decision-making process. Congress received not only the longest list of powers, but also the residuary authority:

"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."[7]

Third, the framers of the Constitution were aware that, by giving specific and residual powers to the Congress while providing the President with a somewhat undefined charter, they had created a system of concurrent authority. They did not doubt that in so doing they had sowed the seeds for possible conflict. It was assumed that if this conflict occurred, compromise should be sought at all costs. However, if inter-institutional negotiations proved fruitless, it was likewise clear that overriding control would remain with the Congress. It was Hamilton—the chief architect of executive branch power—who wrote:

"The legislature is still free to perform its duties, according to its own sense of them; though the executive, in the exercise of its constitutional powers, may establish an antecedent state of things, which ought to weigh in the legislative decisions."[8]

A Congress moving to reverse the policies of a President should step carefully, but step it could. Collective decision-making—under the Constitution—was to be given more weight than one man's judgment. Antecedent presidential action could be overruled by the collective will of the legislature.

II. APPLICATION OF BASIC PRINCIPLES TO THE WAR-MAKING POWER

Obviously, the consequences of applying these underlying principles appear throughout the Constitution. But nowhere are they more evident than in the treatment given to the war-making powers. The framers of the Constitution directed a great deal of time and attention to the process by which this country should engage in hostilities. While most issues are dealt with by the Constitution in one reference, the question of waging war and raising military forces is treated throughout that document:

Article I, section 3 gives the Congress power to "declare war," grant "Letters of Marque," order "Reprisals," "raise and support Armies" (but for no longer than two years at a time), "provide and maintain a Navy," make rules which regulate and govern the military forces, and provide for organizing the militia and calling it up so that insurrections can be suppressed and invasions repelled.

Article I, section 10 forbids the States—absent congressional consent—from keeping military forces in time of peace or from en-

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gaging "in War, unless actually invaded, or in such imminent danger as will not admit delay."

Article II, section 2 makes the President "Commander-in-Chief of the Armed Forces as well as the State Militia, when it is called into service for use by the federal government."

Article IV, section 4 provides that the central government shall guarantee "a Republican Form of Government" to every state and "shall protect each of them against invasion."

These provisions were not designed to provide definitive answers to all questions regarding the use of American troops or the appropriate responses to acts of war or hostility by foreign nations. Rather, they were structured so that the Congress, the Chief Executive, and the States might understand how they were to mesh their roles in protecting this Nation from external harm.

In short, the Constitution attempted to assure that the awesome consequences of war did not flow through chance or mistake. The Founding Fathers set basic ground rules to control what they euphemistically referred to as "the Dog of War."[9] The ground rules themselves were relatively simple.

First, the framers drew a crucial distinction between offensive and defensive hostilities. If the United States were attacked, the President would act to repel the attack. Congress could provide the President with a small standing Army and Navy to fulfill his functions as defender of the nation's integrity—although in the early years of our nation such a course was admittedly frowned upon. The states could maintain militia and Congress could establish procedures under which the President might nationalize them rapidly to meet foreign attacks.

Second, Congress was to decide whether defensive action was to be supplemented or replaced by offensive action. The time lost in this process was considered less important than the necessity that the nation's elected representatives express their collective judgment. Thus, the Congress was to sanction in advance whatever actions were taken, whether simple reprisals, complex military operations or all-out war.

Third, the President's only role in the war-making process was to direct operations. That Congress was to play no part in day-to-day tactics was made clear by the draftsmen of the Constitution who changed the term "make war"—which might imply the idea of Congress conducting hostilities, to "declare war"—which carried the connotation of congressional initiation but presidential direction.[10]

The exact role of the President as Commander-in-Chief was clarified both by the delegates to the Constitutional Convention and by the authors of *The Federalist*. The records make clear the delegates' surprise when the possibility of giving the President power to make decisions which might result in offensive military action was raised at the Constitutional Convention. One delegate commented that he "never expected to hear in a republic a motion to empower the Executive alone to declare war."[11] This statement simply reflected the sentiment that centralized decision-making on matters of consequence was to be avoided. As Hamilton noted in a slightly different context:

"The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States."[12]

Clearly, the title "Commander-in-Chief" did not carry with it war-initiating powers and, in the words of *The Federalist, No. 69*, to be Commander-in-Chief "would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy; while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies,—all which, by the Constitution under consideration, would appertain to the legislature."[13]

While the President's role as policy-maker on questions of war was minimized, he was in turn granted far greater authority in day-to-day military affairs once hostilities had been commenced. As Hamilton stated:

"The direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of the executive authority."[14]

Fourth, commencement of hostilities was not intended to end congressional responsibility. For although Congress was not to be involved in making particular tactical decisions, it still was to play an important role in policymaking. A change from defensive to offensive action would need legislative approval. Decisions involving major changes in tactics—changes which might bring new opponents into a war, for example—also would constitute an appropriate subject for congressional concern.

That Congress could authorize less than total war was recognized by all three branches of the federal government early in our history. The early application of the Constitution's provisions dealing with war-making and the use of American military forces takes on special significance since most of the decisions and writings were the product of men who had either participated in drafting the Constitution or were intimately familiar with the context of its provisions.

In 1798, due to a number of French actions against American shipping, the United States became embroiled in its first trial by arms. Refusing to take independent action to initiate hostilities with the French, President John Adams waited until the Congress had passed a variety of statutes[15] suspending commercial relations with France and authorizing American vessels to seize certain French ships as well as other ships trading with the French. Thus, it was Congress which originated and limited our first combat response to hostile action by a foreign power.

This naval struggle with France produced, in turn, a series of judicial decisions by our Supreme Court which illuminated the principles underlying the Constitution's war-making provisions. In *Bas* v. *Tingy*,[16] the Court held that Congress could declare war in either of two ways—as a public or perfect war or as a limited or imperfect war. Justice Washington stated:

"If it be declared in form, it is called *solemn*, and is of the perfect kind; because one whole nation is at war with another whole nation, and *all* the members of the nation declaring war, are authorized to commit hostilities against all the members of the other, in every place, and under every circumstance. In such a war all the members act under a general authority, and all the rights and consequences of war attach to their condition.

"But hostilities may subsist between two nations, more confined in its nature and extent being limited as to places, persons, and things; and this is more properly termed *imperfect war*, because not solemn, and because those who are authorized to commit hostilities, act under special authority, and can go no farther than to the extent of their commission. Still, however, it is *public war*, because it is an external contention by force between some of the members of the two nations, authorized by the legitimate powers. It is a war between the two nations though all the members are not authorized to commit hostilities such as in a solemn war, where the government restrain the general power."[17]

The limited naval actions of 1798, according to Justice Washington, constituted "war of the imperfect kind, . . . more properly called acts of hostility or reprisal" and were well within the constitutional power of Congress to declare.[18] Justice Chase, concurring, stated that Congress had taken the permissible route of declaring "hostilities . . . by certain persons in certain cases." He noted further that such deliberate action "only proves the circumspection and prudence of the legislature."[19]

Justice Patterson, concurring in this unanimous sanctioning of Congress's power to declare a war limited in time or scope or area, stated:

"As far as congress tolerated and authorized the war on our part, so far may we proceed in hostile operations . . . [It] is, therefore, a public war between the two nations qualified, on our part, in the manner prescribed by the constitutional organ of our country."[20]

As the *Bas* case should be interpreted as delineating the range of congressional powers to declare and circumscribe hostilities, *Talbot v. Seeman*[21] should be read as putting the Court on record as to which branch of government must bear the *sole* responsibility for taking this country into hostilities—whether limited or full scale. It was newly appointed Chief Justice John Marshall who wrote:

"The *whole powers* of war being, by the constitution of the United States, vested in congress, the *acts of that body can alone* be resorted to as our guides in this inquiry. It is not denied, nor, in the course of the argument has it been denied, that *congress may authorize general hostilities*, in which case the general laws of war apply to our situation; or *partial hostilities*, in which case the laws of war, so far as they actually apply to our situation, must be noticed."[22]

Three years later, in *Little v. Barreme*,[23] Marshall expounded further on the constitutional structuring of the war-making powers. In 1799 Congress had authorized the seizure of American ships bound *for* French ports. The *Little* case involved the seizure of a vessel which had been taken en route *from* a French port to the Danish Island of St. Thomas. In a short opinion, Marshall ruled that the seizure was in conflict with the congressional will and therefore illegal. The Chief Justice stressed that had Congress simply declared a naval war against the French, the President as "Commander-in-Chief of the armies and navies . . . might, without any special authority for that purpose" have had power to seize an American ship bound *from* France.[24] By sanctioning only the seizure of American ships *to* France, Congress had effectively pre-empted presidential discretion and "prescribed that the manner in which this law shall be carried into execution . . . exclude[s] a seizure of any vessel not bound to a French port."[25]

Thus, through these three early decisions, the Supreme Court set forth a solid underpinning for later interpretations of the war-making powers. To the Court, "[t]he whole powers" of entering into an offensive war were vested in the Congress "alone."[26] Included in these powers was authority to declare either general or narrowly limited hostilities. Presidential authority to take offensive action under the guise of the Commander-in-Chief power arose only after Congress had acted. Moreover, while the tactics of warfare might require that the President have certain discretionary powers, even these

Footnotes at end of article.

powers could be narrowed by precedent legislative action.[27]

This interpretation of the constitutionally prescribed dichotomy regarding the war-making powers was not held by the High Court alone. Such diverse personalities as Jefferson, Hamilton, Adams, and Madison all agreed that presidential authority to take offensive action as Commander-in-Chief existed only after Congress had acted, and even then these powers could be narrowed by precedent legislative action. But they realized that strong-willed Presidents, exercising their commander-in-chief powers, might show great reluctance in returning to Congress for further approval of new decisions once hostilities had begun. Powerful presidents would naturally interpret policy decisions to be tactical. The Founding Fathers responded to this dilemma by giving the Congress full power over the expenditure of funds for the military and insisting that such funds be reviewed at least every two years. As *The Federalist No. 24* noted:

"The whole power of raising armies was lodged in the *Legislature* . . . [subject to] an important qualification . . . which forbids the appropriation of money for the support of an army for any longer period than two years—a precaution which, upon a nearer view of it, will appear to be a great and real security against the keeping up of troops without evident necessity."[28]

The Founding Fathers hoped that Congress would not turn on the Commander-in-Chief once hostilities had begun and force him to alter his course. But they recalled that such action had been taken by English Parliaments against wilful kings[29] and, as unpleasant as the prospect was, they recognized that similar action might be required by Congresses faced with strong and militant Presidents.

III. THE PRINCIPLES IN PRACTICE

The set language of the Constitution and its underlying principles have been subjected to 183 years of practice. Unfortunately precedents have occurred which prevent a conclusive argument that these principles are still in effect.

In recent congressional debate much was made of the fact that at least 125 instances can be cited where Presidents have sent military units into hostilities at their own discretion.[30] Most of these actions have been relatively trivial, some having the *post facto* sanction of Congress: rescuing American citizens abroad in times of disorder or revolution, protecting commerce against piracy, and other miscellaneous policing operations such as the Boxer Rebellion in China. But some of these cases must be viewed as clear abuses of executive power. One such abuse occurred when President Polk sent American troops to occupy the disputed border territory with Mexico, provoking a clash in which 11 Americans were killed. However, Polk's action was not unnoticed and by a vote of 85–81 the House of Representatives denounced it as a war unnecessarily and unconstitutionally begun by the President of the United States.[31]

With a few exceptions, however, the constitutional separation of powers remained pretty much intact until the turn of the century. In the 20th century the President's war-making powers rapidly expanded with Teddy Roosevelt's intervention in Panama and Wilson's excursions into Mexico.

President Franklin Roosevelt took extraordinary powers upon himself as he prepared for World War II. First, he conveyed 50 destroyers to England, under his powers as Commander-in-Chief. Then, through convoys to England and a shoot-on-sight doctrine, Roosevelt in effect committed the United States to war with Germany.

During the war the President expanded his powers even further when opposing certain measures of the Emergency Price Control Act as inflationary. He threatened the Congress bluntly when he declared:

"In the event that the Congress should fail to act, and act adequately, I shall accept the responsibility, and I will act. At the same time that fair prices are stabilized, wages can and will be stabilized also. This I will do."

"The President has the powers, under the Constitution and under Congressional acts, to take measures necessary to avert a disaster which would interfere with the winning of the war. . . .

"When the war is won, the powers under which I act automatically revert to the people—to whom they belong."[32]

If a President can put us into war and then successfully claim unlimited presidential power in wartime it could easily provide a precedent for the destruction of our constitutional government.

At the end of World War II public opinion strongly favored collective security—a concert of great powers enforcing peace by joint action against any future Hitler through the Charter of the United Nations. But Congress by no means relinquished its war power by consenting to ratify the United Nations Charter. Several weeks after the United Nations Charter became operative the United Nations Participations Act was passed by the Congress. Section 6 of that act empowered the President to negotiate a military agreement or agreements with the United Nations Security Council to make American forces available for United Nations' peace-keeping purposes. This was no blank check, however, for such agreements were "subject to the approval of Congress by appropriate Act or joint resolution."[33] The Participation Act also stated:

"Nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council . . . armed forces, facilities, or assistance in addition to the forces, facilities and assistance provided for in such special agreement or agreements."[34]

Only once have American armed forces been committed to full-scale combat on the basis of a decision made unilaterally by the President. That instance was Korea.

Although emergency conditions clearly existed after the North Korean invasion of South Korea, and the United Nations Security Council passed an "authorizing resolution" after United States air and naval forces were committed,[35] President Truman's action must be viewed as a sharp incursion into congressional war-initiating power. Congress never delegated power to the Security Council to commit American soldiers to hostilities under the United Nations Charter. Congressional leaders were informed "on the events and decisions of the past few days" but not asked to assent to those decisions.[36] However noble the motivation, this stands as a solitary case in our history, and it represents a precedent which must never happen again.

President Truman declared, through the *Department of State Bulletin*, that "[t]he President as Commander-in-Chief of the armed forces of the United States, has full control over the use thereof."[37] The *Bulletin* went on to claim a "traditional power of the President to use the armed forces of the United States without consulting Congress."[38] Obviously, this was a bold claim to "inherent" or "traditional" presidential power—which undermines the whole concept of constitutional government through a written Constitution.

Whereas President Eisenhower tended to acquiesce to the constitutional powers of Congress, John Kennedy tended to take the broadest of all possible views regarding presidential powers. On the eve of the Cuban crisis, President Kennedy sent to Congress a draft resolution stating that "the President of the United States is supported in his determination and *possesses all necessary authority*" to act.[39] According to the Chief Executive and Commander-in-Chief, this authority encompassed the use of the armed forces of the United States to prevent the Castro regime from "exporting its aggressive purposes" to any part of the hemisphere . . . and to prevent the creation or use of any "externally supported offensive military base in Cuba."[40]

Congress balked. Senator Richard Russell and others would not stand for such a resolution. In Russell's words, it was "a clear delegation of the Congressional power to declare war."[41] Senator Russell concluded:

"I feel very strongly it is preferable to say he was authorized (by Congress) instead of that he possesses all the necessary authority."[42]

In its final form, the resolution did not confer authority on the President, but rather served simply as a statement of national policy.[43]

IV. THE WAR IN INDOCHINA AND THE CONSTITUTIONAL QUESTIONS WHICH SURROUND IT

An account of this country's war-making efforts obviously cannot be complete without including the present hostilities in Indochina. No war in our history has troubled the nation more, and no war has posed more difficult constitutional questions.

United States' military involvement in Indochina dates back to 1955, when President Eisenhower established a military advisory group of approximately 350 persons in South Vietnam, although almost one billion dollars in aid had been accorded the French since 1950. By the time Eisenhower left office, the United States' military group had more than doubled. Under President Kennedy, the number of American military advisers in South Vietnam continued to grow steadily. At the time of President Kennedy's death in 1963, the American commitment to that country had grown to 18,000 men, and their functions had broadened. They trained South Vietnamese troops and coordinated their military activities as well. They accompanied local forces on forays and advised them how to fight the Viet Cong. While these various American quasi-military activities were never kept secret, neither were they put before Congress for its specific approval.

Congress did not really seem to mind this arguable incursion into its powers and, in fact, continued to appropriate monies to support these actions in Vietnam. After all, the conflict was not going too badly. It was not inordinately expensive, and, in line with the new Kennedy doctrine of "flexible response," it constituted our first experiment in limited war-making and in the training of foreign forces to participate in the worldwide struggle against international communism.

Unfortunately for military strategists, amateur counter-revolutionaries, and quiescent politicians, increasing communist activity and the coming 1964 presidential elections made Vietnam a front-page story. Then came the Gulf of Tonkin. In August 1964, American warships were allegedly attacked on two separate occasions by North Vietnamese patrol boats. After the second alleged attack, President Johnson ordered air strikes against North Vietnam's mainland—aimed at knocking out not only patrol boats, but also naval bases and petroleum storage depots as well. These were reprisals neither proportionate to, nor fully justified by, the attacks which were alleged to have occurred.[44] Again, Congress was not consulted before the response, and again Congress took very little note of this incursion into its constitutional powers.

On the following day, however, the President did present Congress with certain facts regarding the Tonkin Gulf incident. He asked both Houses for their complete support through passage of the Tonkin Gulf Resolution. Both Houses responded rapidly and passed this vaguely worded and ill-defined

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resolution in its original presidential form with only two dissenting votes—Senators Wayne Morse and Ernest Gruening.[45]

In perhaps his finest hour, Senator Morse attempted to persuade Congress that it must not grant the President this broad "predated declaraion of war." The resolution stated (in part):

"[T]he Congress approves and supports the determination of the President, as Commander in Chief, to *take all necessary* measures to repel any armed attack against the forces of the United States and to prevent further aggression.

"The United States regards as vital to its national interest and to world peace the maintenance of international *peace and security in southeast Asia*. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, *as the President determines*, to take *all* necessary steps, including the use of armed force, to assist *any* member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

"This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured. . . ."[46]

Despite anguished protestations in retrospect, it seems clear that Congress knew what power it was delegating to the President at the time it passed the Tonkin Gulf Resolution. The record shows not only the warning of Senators Morse and Gruening, but also a debate containing the following colloquy between Senator Fulbright, Chairman of the Foreign Relations Committee and floor manager for the Resolution, and Senator Brewster:

"Mr. Brewster. I had the opportunity to see warfare not so very far from this area, and it was very mean. I would look with great dismay on a situation involving the landing of large land armies on the continent of Asia. So my question is whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Vietnam or in China.

"Mr. Fulbright. There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. *However, the language of the resolution would not prevent it. It would authorize whatever the Commander in Chief feels is necessary. It does not restrain the Executive from doing it. Whether or not that should ever be done is a matter of wisdom under under the circumstances that exist at the particular time it is contemplated.* This kind of question should more properly be addressed to the Chairman of the Armed Services Committee. Speaking for my own committee, everyone I have heard has said that the last thing we want to do is to become involved in a land war in Asia; that our power is sea and air, and that this is what we hope will deter the Chinese Communists and the North Vietnamese from spreading the war. That is what is contemplated. The resolution does not prohibit that, or any other kind of activity."[47]

Later that day, Senator Fulbright and Senator John Sherman Cooper discussed the meaning of the Resolution:

"Mr. Cooper: *Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?*

"Mr. Fulbright: *That is the way I would interpret it.* If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution."[48]

Footnotes at end of article.

It seems certain that in 1964 no member of Congress thought that within a year American planes would be running daily bomb runs over North Vietnam, even though the "Pentagon Papers" indicate that plans had been drafted by the Executive,[48] or that thousands of American troops would be engaged in "search and destroy" missions in South Vietnam's Delta region or constructing American base camps throughout that country. Despite his contingency plans President Johnson probably had no idea that the limited military operation in South Vietnam would soon blossom into a 30 billion dollar-a-year war.

Faulty vision and political pressures cannot be permitted to minimize the legal significance of the Tonkin Gulf Resolution. In my judgment, the Tonkin Gulf Resolution—pared of its verbiage and placed in the context of its legislative history—was a broad congressional charter to the President to combat North Vietnamese forces anywhere in the SEATO area. It was an extremely broad delegation of authority in the area of foreign affairs but, as the Supreme Court noted in *Zemel v. Rusk*,[50] Congress has always been permitted to grant extensive powers in foreign affairs and to "paint with a brush broader than that it customarily wields in domestic arcas."[51] Although the existence of the Tonkin Gulf Resolution did not make the war we have waged in South Vietnam any wiser or any more explicable, it did make it a *legitimate* war authorized by the Congress.

This authorization has been revoked by the 91st Congress[52]—in fact, the Senate repealed it twice.[53] The President agreed, signing the repeal into law. But the repeal of the Gulf of Tonkin Resolution has done nothing to change the course of the war or to reassert congressional authority over it. Indeed, by failing to substitute a new legislative authorization to either continue military action or force withdrawal, and by tacitly accepting the right of the Commander-in-Chief to act in any way he wishes, Congress has left the scope of its authority in even greater doubt than before.

In fact, however, neither President Johnson nor President Nixon has been willing to conduct war-making operations simply on the basis of the broad authority granted in the Tonkin Gulf Resolution. Lyndon Johnson thought the Tonkin Resolution was "desirable" but as he stated at a press conference on August 18, 1967:

"We stated then, and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing."[54]

In the 1966 memorandum, the State Department contended that the SEATO Treaty was self-executing—that the President could independently commit troops to defend any SEATO signatory or protocol state under attack from communist forces if he deemed such action advisable.[55] But the SEATO Treaty—like the NATO Treaty, and all of our other collective security agreements—states that the United States shall meet aggression against one of its allies "in accordance with its *constitutional processes*."[56] Even if this caveat were not included in the Treaty, it would be incorporated implicitly. For the Senate—which is the only House of Congress that approves a treaty—can hardly by-pass the constitutional requirement that both Houses of Congress declare war.

Above and beyond the Tonkin Gulf Resolution or any treaty commitments, successive administrations have professed to find, as some of the predecessors have, inherent powers of the Commander-in-Chief which have been taken to authorize military action almost anywhere in the world. In the same 1966 memorandum quoted previously, the Department of State referred to the constitutional responsibility of the Commander-in-Chief to "repel sudden attacks."[57] The Department allowed that the "framers probably had in mind attacks upon the United States," but that now, in a world grown smaller, "[a]n attack on a country far from our shores can impinge directly on the nation's security."[58] Under these conditions, according to the Department's memorandum, "the Constitution leaves to the President the judgment to determine whether the circumstances of a particular armed attack are so urgent and the potential consequences so threatening to the security of the United States that he should act without formally consulting the Congress."[59]

V. THE STATE OF THE ISSUE TODAY

Recently, even more extended presidential powers have been discovered and proclaimed. On July 1, 1970, in an interview with Howard K. Smith, President Nixon seemed to extend the President's presumed authority to defend American security on a global basis even further—to winning a "just peace":

"Mr. Smith. What justification do you have for keeping troops there other than protecting the troops that are there fighting?

"The President. A very significant justification. It isn't just a case of seeing that the Americans are moved out in an orderly way. If that were the case we could move them out more quickly, but it is a case of moving American forces out in a way that we can at the same time win a just peace."[60]

When fighting broke out in Jordan on September 17, 1970, Congress was in session. Although United States' intervention was a very real possibility, the President did not seek congressional authorization to act. The State Department, in a letter to me, reaffirmed its broad view of the President's inherent constitutional powers which would cover United States' action in Jordan:

"As a general matter, the President must determine in a particular situation what action he believes necessary in behalf of the security interests of the United States and whether the pressure of events would permit him to take no action while the matter was submitted to Congress for its consideration."[61]

Somehow, in recent years, powers to ensure a "just peace" and unilaterally to define and protect "the security interests of the United States" wherever they may be threatened have been grafted to the constitutional authority of our Presidents as Commanders-in-Chief. If these claims are accepted, we also accept a major restructuring of the constitutional balance between Congress and the Executive, leaving Congress in the position of ratifying hostilities initiated unilaterally by the President or trying to stop them by cutting off funding, rather than making the precedent decision to authorize these hostilities.

In my view, both constitutional theory and the practical need for order at home and in the world require that these broad theories of unilateral presidential authority be rejected. At the very least, the revolutionary process by which the President has preempted Congress' constitutional duty to initiate war should be debated and either legitimated by constitutional change or rejected.

Some would argue that decades of congressional acquiescence plus Congress' poor performance during the Vietnam War constitute a persuasive case for *formally* restructuring the Constitution to give the President a broader, more unilateral war-making authority. I believe to the contrary that such a formal abdication of congressional authority should be opposed, as should further erosion of Congress' war-making role. The tragic presidential miscalculations on Vietnam—almost destroying that country while seriously dividing this one—are an even more compelling argument for returning to the principles of collective judgment and deliberation. We do live in a smaller, more dangerous and rapidly changing world. But these factors, rather than diminishing the value of collective judgment, make it all the more important. While "declarations of war" may be anachronisms, the death, destruction, tragedy, and suffering of war remain ever-present realities. Congress can and must exercise collective judgment as to when and how we engage in hostilities.

VI. CONGRESSIONAL ACTION

Congress possesses the power to restore its role in the process of collective decision making on matters of war and peace, if only it possesses the will. As constitutional scholar Alexander Bickel has noted:

"The 'necessary-and-proper' clause of Article I of all the Constitution authorizes Congress, of course, to make "all laws which shall be necessary and proper for carrying into Execution the foregoing Powers . . ." The reference is to the previously enumerated powers of Congress. But there is another portion of the necessary-and-proper clause, not so often cited, which is one of the greatest consequence when it comes to issues of foreign policy and of war and peace. *The clause also charges Congress to make all laws which shall be necessary and proper for carrying into execution all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.*"[62]

In 1970, during the second session of the 91st Congress, the House passed a feeble Joint Resolution which expressed the sense of Congress than "whenever feasible," the President should seek appropriate congressional consultations before involving the Armed Forces of the United States in armed conflict, and should "continue such consultation periodically during such armed conflict."[63] This vaguely worded effort fell far short of clarifying the war-making powers of the Congress and the President. On the Senate side, no hearings were held on the House Resolution or on a slightly better bill introduced by Senator Javits of New York.[64] In general, debate in the Senate has only touched the periphery of the constitutional questions involved, concentrating instead on the Cooper-Church and McGovern-Hatfield amendments dealing specifically with the Indochina War.

In 1971, in the first session of the 92nd Congress, eleven "war powers" bills or resolutions were introduced in the House[65] and five in the Senate.[66] Senator Robert Taft of Ohio introduced a resolution[67] which, while vague as to the future delineation of congressional-Executive powers, was meritorious in its attempt to force Congress to face up to its responsibilities in Southeast Asia.

Senator Jacob Javits of New York, the first Senator to introduce "war powers" legislation and a leader in bringing the issue to the attention of Congress and the public, introduced a slightly improved version[68] of his original 1970 effort.

The Eagleton Resolution[69] was introduced on March 1, 1971. Senator John Stennis, Chairman of the Armed Services Committee, also introduced a resolution[70] along the general lines of the Eagleton proposal on May 11th and Senator Bentsen of Texas introduced essentially the Stennis Resolution in bill form on May 17th.[71]

Underlying all these efforts was the premise that more precise guidelines were necessary to restore the process of joint congressional and presidential decision-making before this country engages in hostilities abroad.[72] These efforts recognized that the President must have sufficient discretion to take emergency action to meet attacks on the United States and its forces and to rescue American civilians under seige abroad.

These measures represented different approaches. After months of meetings among Senator Javits, Senator Stennis and me, a compromise bill was agreed upon, which can best be understood against the background of the five original proposals.

The following table illustrates the areas of agreement and disagreement among the original Senate proposals:

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	Eagleton	Javits	Taft	Stennis, Bentsen
Instances where President can act without specific authorizing Congressional action by both Houses:				
Repel attack on the United States	Yes	Yes	Yes	Yes.
Prevent an imminent attack on the United States, etc.	No (admits further debate is necessary)	No	Yes	Yes.
Repel attack on U.S. troops	Yes, but limited to defensive action	Yes	Yes	Yes.
Protect U.S. citizens abroad	Yes, but with restrictions	Yes	Probably yes, but sec. 4 is unclear	Yes.
Protect U.S. property abroad	No	Yes	Probably no but sec. 4 is unclear	No.
Under auspices of treaties	No	Yes, but requires affirmative Congressional action within 30 days.	Begs the question in pt. 1, sec. 2	Unclear.
Under national commitments	No	do	Probably yes, but sec. 4 is unclear	No.
Commit U.S. troops where imminent possibility of involvement in hostilities exists.	No	Yes, but not specific	Yes	No.
Commit U.S. advisors to accompany foreign troops in combat.	No	do	Yes	No.

The three most important areas of disagreement concerned the scope of the President's authority to commit troops to combat under "treaty commitments," to prevent an "imminent" nuclear attack and to deploy troops and advisors in situations where involvement in hostilities is a virtual certainty.

A. Treaties

All of our mutual defense treaties contain the caveat that each of the signators act "in accordance with their constitutional processes."[73] In this country, that means a collective decision must be reached by both Houses of Congress before United States' forces can be committed to trial by force, not by the President and the Senate through the use of the treaty power.

It seems clear that the President and the Senate, through the use of the treaty power, cannot legitimately "declare war." The concurrence of the House is required to authorize hostilities.[74] In fact, Madison noted that the possibility of giving the Senate alone the power to "declare war" was considered and rejected.[75]

Even if treaties could require the use of armed force, however, none of our treaties currently in force requires an automatic response. Our most strongly worded commitment, the North Atlantic Treaty, states:

"The parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking . . . such action as it deems necessary, including the use of armed force . . ."[76]

Under this language, the United States is not committed to an immediate or automatic response. As the Senate Foreign Relations Committee told the 81st Congress in its report on the NATO Treaty:

"Would the United States be obligated to react to an attack on Paris or Copenhagen in the same way it would react to an attack on New York City? In such an event does the treaty give the President the power to take any actions without specific Congressional authorization which he could not take in the absence of the treaty? The answer to both of these questions is "No."[77]

However, after re-reading murky presidential assertions on SEATO, it seems prudent rather than redundant to spell out that treaties do not authorize hostilities without further congressional action.

The Stennis and Bentsen proposals were unclear on this point. The Taft Resolution dealt with deployment. The Eagleton Resolution specifically stated:

"No treaty previously or hereafter entered into by the United States shall be construed as authorizing or requiring the Armed Forces of the United States to engage in hostilities without further Congressional authorization."[78]

However, the Javits bill not only failed to spell this out but, if enacted by both Houses, would have served as a functional equivalent of a predated—although limited—declaration of war. Under it, the Executive could have unilaterally engaged the United States in hostilities for up to 30 days in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad-Tobago, Uruguay, Venezuela, Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom, South Vietnam, Belgium, Canada, Denmark, Iceland, Italy, Luxembourg, the Netherlands, Portugal, Norway, Greece, Turkey, the Federal Republic of Germany, South Korea, Taiwan, and Japan—all treaty signatories with the United States.[79]

All of the Senate initiatives recognized the President's ability to fight a limited defensive war to protect American forces when they were legally stationed in a country with which the United States has a treaty commitment.

But what was at issue was whether the President should have unilateral authority to commit United States' troops to offensive hostilities under our far-reaching network of treaties. Three early Supreme Court decisions provide a solid underpinning for drawing the line between offensive and defensive war.[80]

B. Preemptive strikes

Should the President be empowered to strike first if he deems the very existence of this country to be threatened by "imminent" nuclear attack?

The concept of executive power to act preemptively is not new. In fact, the Articles of Confederation contained the first and only explicit grant of power for a pre-emptive strike:

"No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received cer-

Footnotes at end of article.

XUM

tain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted." [51]

However, a similar provision was omitted from the Constitution.

Justice Story again raised the possibility of executive pre-emptive powers when he stated: "the power to provide for repelling invasions includes the power to provide against the attempts and danger of invasion, as the necessary and proper means to effectuate the object. One of the best means to repel invasion is to provide the requisite force for action before the invader himself has reached the soil." [52]

In the nuclear world of 1972, the stakes are no longer isolated villages subject to attack by Indians. In a sane world dependent on the universal acceptance of mutual deterrence for its survival, a first strike should not be sanctioned. But no one can guarantee that sometime, someday, a demented world leader will not attempt an irrational nuclear attack on the United States. This remote possibility may be reason enough to justify an explicit grant of power to the President to act unilaterally and preemptively.

The Taft, Stennis and Bentsen efforts sanctioned unilateral presidential action to prevent an "imminent" nuclear attack.[53] The Eagleton and Javits proposals did not. Perhaps, as Congress attempts to clearly define the war powers of the executive and legislative branches, it should also recognize that, in the final analysis, all any resolution can expect to achieve is to hold a President legally and politically accountable for his actions. But the consequences of nuclear holocaust make the questions of political and legal responsibility moot.

C. When Congress must act

In what circumstances and at what point must the President come to Congress for authorization to conduct military hostilities? Should the continuance of a secret air war or the deployment of American troops to world hotspots, or the assignment of American "advisors" to foreign troops on combat missions require affirmative congressional authorization?

The Eagleton, Stennis and Bentsen proposals specified when affirmative congressional action was necessary.[54] The Javits and Taft Resolutions contained no such provisions. Obviously, hostilities include land, air, or naval action taken by the Armed Forces of the United States against other armed forces or the civilian population of any other nation. But the Eagleton, Stennis and Bentsen efforts were more specific. They included the deployment of American forces outside the United States under circumstances where an imminent involvement in combat activities was a reasonable possibility. They also included the assignment of United States' soldiers to "accompany, command, coordinate, or participate in the movement of regular or irregular armed forces of any foreign country when such foreign armed forces are engaged in any from of combat activity" [55]

There is well-founded precedent for such limitations. In the absence of limiting congressional legislation, presidential power to move Armed Forces of the United States in international waters and to station them on territory of our allies has generally been accepted, except where such action could reasonably be expected to lead to hostilities. Only once has this principle been flagrantly abused. In 1846, after the annexation of Texas, President James Polk ordered American troops to enter the disputed territory between the Nueces and Rio Grande Rivers. Hostilities immediately broke out and Congress thereafter declared war against Mexico. However, some 18 months later, the House of Representatives concluded that the President had unconstitutionally begun the war and, in effect, Polk was justly censured.[56]

The Eagleton, Stennis and Bentsen proposals were based on the view that presidential power to move the Armed Forces of the United States did not, and should not, extend to placing American men in situations where combat is almost inevitable. Further, as Vietnam has illustrated, these three proposals recognize that military advisors to countries where combat activities are in progress or could be expected to commence shortly are becoming increasingly more dangerous in an era of "brush-fire" wars and guerrilla warfare.

VII. CONCLUSION

During 1971, war powers legislation moved forward. Hearings began on March 8, 1971 and continued until October 6, 1971. Twenty-four witnesses were heard; constitutional historians and lawyers, spokesmen for the executive and legislative branches and former administration officials.[57]

After the initial round of hearings, Senator Javits and I, in an effort to put forth the best proposal and gain the most congressional support, began to work on a compromise proposal. After months of talking, an understanding on a compromise bill was reached. Senator Stennis, a leading Southern conservative, was kept abreast of developments, and on December 6th—one day before the Senate Foreign Relations Committee was to meet in executive session to report a war power bill to the Senate—he agreed to co-sponsor the Javits-Eagleton compromise, along with Senator Spong of Virginia.

With only minor changes, the Committee reported out the Javits-Eagleton-Stennis-Spong bill states:

[A]uthority to introduce the Armed Forces of the United States in hostilities or in any such situation (where imminent involvement in hostilities is clearly indicated by the circumstances) shall not be inferred . . . from any treaty hereafter ratified unless such treaty is implemented by legislation specifically exempting the introduction of . . . such Armed Forces from compliance with the provisions of this Act. . . . No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation. . . ."

"Pre-emptive strike:

"In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—

"(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; *and to forestall the direct and imminent threat of such an attack;* . . .

"Necessity of prior congressional approval:

"Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities." [58]

This bill will be debated on the floor sometime during the life of the second session of the 92nd Congress. Passage of a strong war powers bill is important in practical terms because it will provide political guidelines by which future Congresses can decide how and when to go to war. Congress will be assured of being involved, as the Constitution mandates, in the life and death decisions which face a democracy on the brink of war. Just as importantly, such legislation would provide the "judicially discoverable and manageable standards," which many courts have been unable to discover or manage with regard to the legality and constitutionality of the Vietnam War.

A war powers bill will not serve as an absolute guarantee against the occurrence of non-authorized hostilities in the future. The Indochina War might have occurred even if the guidelines for war powers responsibility had been clearly defined. Any legislation can be violated by a Chief Executive who chooses to do so, regardless of how clear and precise its terms.

In addition, no resolution can force Congress to act responsibly. It is clear that presidential decisions shaped the course of the Indochina war and that an indifferent Congress provided little or no restraint on executive actions. Some politicians will continue to prefer unclear guidelines, especially in an area as crucial as deciding whether to send American sons to war; for scapegoats are often popular in politics and the assumption of responsibility often is not.

These are problems that exist with many of the institutional devices we have developed in an effort to make the government operate in an orderly fashion. Good faith cannot be legislated. But clear criteria can be set forth within which men of good faith can and will operate.[59]

FOOTNOTES

*United States Senator from Missouri; B.A., Amherst College 1950 (cum laude); LL.B., Harvard Law School 1953 (cum laude).

[1] *See, e.g.*, 116 CONG. REC. 8737 (daily ed. June 10, 1970) where Senator Church made reference to the article *Congress, the President, and the Power to Commit Forces to Combat*, 81 HARV. L. REV. 1771 (1968).

[2] *See, e.g.*, Bas v. Tingy, 4 U.S. (4 Dall.) 36 (1800); Berk v. Laird, 429 F.2d 302 (2d Cir. 1970).

[3] *See, e.g.*, the excellent analysis of Senator William Spong, *Can Balance Be Restored in the Constitutional War Powers of the President and Congress?*, 6 U. RICH. L. REV. 1 (1971).

[4] *E.g.*, THE FEDERALIST (A. Hamilton, J. Madison, J. Jay).

[5] THE FEDERALIST No. 26 at 214 (B. Wright ed. 1961) (A. Hamilton).

[6] THE FEDERALIST No. 73, at 470 (B. Wright ed. 1961) (A. Hamilton).

[7] U.S. CONST. art I, § 8.

[8] 7 WORKS OF ALEXANDER HAMILTON 83 (J. Hamilton ed. 1851).

[9] 15 THE PAPERS OF THOMAS JEFFERSON 397 (J. Boyd ed. 1955).

[10] J. MADISON, NOTES OF THE DEBATES IN THE FEDERAL CONVENTION OF 1787, at 475 (1966).

[11] 2 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 318 (rev. ed. 1937).

[12] THE FEDERALIST No. 75, at 477 (B. Wright ed. 1961) (A. Hamilton).

[13] THE FEDERALIST No. 69, at 446 (B. Wright ed. 1961) (A. Hamilton).

[14] THE FEDERALIST No. 74, at 473 (B. Wright ed. 1961) (A. Hamilton).

[15] Act of July 9, 1798, ch. 68, 1 Stat. 578; Act of May 28, 1798, ch. 48, 1 Stat. 561.

[16] 4 U.S. (4 Dall.) 37 (1800).

[17] *Id.* at 40 (emphasis added).

[18] *Id.*

[19] *Id.* at 43–45.

[20] *Id.* at 45–46.

[21] 5 U.S. (1 Cranch) 1 (1801).

[22] *Id.* at 28 (emphasis added).

[23] 6 U.S. (2 Cranch) 170 (1804).

[24] *Id.* at 177.

[25] *Id.* at 177–78.

[26] Talbot v. Seeman, 5 U.S. (1 Cranch) 1, 28 (1801).

[27] Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804).

[28] THE FEDERALIST No. 24, at 204 (B. Wright ed. 1961) (A. Hamilton.)

[29] By 1789, in England, Parliament was the dominant force in military affairs. In fact, it had been so since the early years of the seventeenth century; no kind had been able to wage a war without parliamentary consent since 1626. In that year, when Charles I tried to wage a war without parliamentary consent, Parliament voted him no money. The impossibility of continuing the war without parliamentary financing led Charles to sign the Petition of Right (1628) which declared it illegal to collect any taxes without parliamentary consent, thus ending forever the possibility of a king waging wars independent of parliamentary authorization.

[30] *See, e.g.*, 117 CONG. REC. 5640–46 (daily ed. April 26, 1971) (remarks of Senator Goldwater).

[31] CONG. GLOBE, 30th Cong., 1st Sess. 95 (1848).

[32] *See generally* E. CORWIN, THE PRESIDENT: OFFICE AND POWERS 304 (3d ed. 1948).

[33] United Nations Participation Act, 22 U.S.C. § 287(d) (1970).

[34] *Id.*

[35] *See* Hoyt, *The United States Reaction to the Korean Attack: A Study of the Principles of the United Nations Charter as a Factor in American Policy Making*, 55 AM. J. INT'L L. 45 (1961).

[36] President Truman ordered American air and sea forces to give Korean Government troops cover and support on June 26, 1950. The President sent a message to Congress on July 19, 1950: *The Korean Situation: Its Significance to the People of the United States*, 23 DEP'T STATE BULL. 163 (1950).

[37] U. S. Dept of State, *Authority of the President to Repel the Attack in Korea*, 23 DEP'T STATE BULL. 173 (1950).

[38] *Id.* at 174.

[39] S. Con. Res. 92, 87th Cong., 2d Sess., 108 CONG. REC. 19,528 (1962).

[40] *Id.*

[41] *Hearings on S. Con. Res. 92 Before the Senate Comm. on Foreign Relations and the Senate Comm. on Armed Services*, 87th Cong., 2d Sess. 35 (1962).

[42] *Id.* at 36.

[43] Cuban Resolution, Pub. L. No. 87–733, 76 Stat. 697 (1962).

[44] *See generally* the material referring to the Gulf of Tonkin incident in the chapter *Military Pressures Against North Vietnam*, in 4 U.S. DEP'T OF DEFENSE, UNITED STATES—VIETNAM RELATIONS 1945–1967 (Comm. Print 1971).

[45] Vietnam Resolution, Pub. L. No. 88–408, 78 Stat. 384 (1964), *repealed by* Pub. L. No. 91–672 § 12 (Jan. 12, 1971).

[46] Vietnam Resolution, Pub. L. No. 88–408, §§ 2–3, 78 Stat. 384 (1964) (emphasis added).

[47] 110 CONG. REC. 18,403–04 (1964) (emphasis added).

[48] *Id.* at 18,409 (emphasis added).

[49] The authorization for contingency preparations was publised in March 1964. *See generally* the chapter *Military Pressures Against North Vietnam*, in 4 U.S. DEPT. OF DEFENSE, UNITED STATES-VIETNAM RELATIONS 1945–1967 (Comm. Print 1971).

[50] 381 U.S. 1 (1965).

[51] *Id.*, at 7.

[52] The Tonkin Gulf Resolution was repealed by Pub. L. No. 91–672, § 12 (Jan. 12, 1971).

[53] The Senate voted to repeal the Gulf of Tonkin Resolution on June 24, 1970, and reaffirmed that vote on July 10, 1970.

[54] New York Times, Aug. 19, 1967, at 10, col. 1.

[55] Meeker, *The Legality of United States Participation in the Defense of Vietnam*, 54 DEP'T STATE BULL. 474, 484–85 (1966).

Secretary Rusk brought out a "something for everyone" shopping list of Vietnam justifications on January 28, 1966, when conceding that the SEATO treaty was not necessarily self-triggering. He stated:

"I would not want to get into the question of whether, if we were not interested in the commitments, policy and principle under the Southeast Asia Treaty, we have some legal way in order to avoid those commitments. I suppose that one could frame some argument which would make that case.

"But it would seem to us that the policy, which was discussed and passed upon by the Executive and the Senate of that day, is that we are opposed to aggression against these countries in southeast Asia: both the members of the Organization and the protocol states.

"In addition to that, we have bilateral assistance agreements to South Vietnam. We have had several actions of the Congress. We have had the annual aid appropriations in which the purposes of the aid have been fully set out before the Congress. We have had special resolutions such as the one of August 1964, and we have had the most important policy declarations by successive Presidents with respect to the protection of South Vietnam against Communist aggression."

Hearings on S. 2793 Before the Senate Comm. on Foreign Relations, 89th Cong., 2d Sess., pt. 1, at 8 (1966).

Congress remains confused. At the end of a colloquy on repeal of the Tonkin Gulf Resolution between Senator Robert Dole and myself last June, the only thing that was clear was that the authority under which United States troops have been engaged and would remain engaged in Vietnam hostilities was unclear. *See generally* 116 CONG. REC. 18,970–82 (daily ed. June 23, 1970).

[56] Southeast Asia Collective Defense Treaty, Sept. 8, 1954, art. IV, para. 1, art. IX, para. 2, [1955] 6 U.S.T. 81, T.I.A.S. No. 3170.

[57] Meeker, *supra* note 55, at 484.

[58] *Id.*

[59] *Id.* at 485.

[60] *A Conversation With the President*, 63 DEP'T STATE BULL, 103–04 (1970).

[61] Letter from U.S. Dept. of State to Sen. Thomas Eagleton, Oct. 2, 1970.

[62] *Hearings on War Powers Legislation Before the Senate Comm. on Foreign Relations*, 92d Cong., 1st Sess.—(1971).

[63] H.R.J. Res. 1355, 91st Cong., 2d Sess. § 2 (1970).

[64] S. 3964, 91st Cong., 2d Sess. (1970).

[65] H.R. 8446, 92d Cong., 1st Sess. (1971); H.R. 4194, 92d Cong., 1st Sess. (1971); H.R.J. Res. 680, 92d Cong., 1st Sess. (1971); H.R.J. Res. 669, 92d Cong., 1st Sess. (1971); H.R.J. Res. 665, 92d Cong., 1st Sess. (1971); H.R.J. Res. 664, 92d Cong., 1st Sess. (1971); H.R.J. Res. 644, 92d Cong., 1st Sess. (1971); H.R.J. Res. 431, 92d Cong., 1st Sess. (1971); H.R.J. Res. 342, 92d Cong., 1st Sess. (1971); H.R.J. Res. 275, 91st Cong., 1st Sess. (1971); H.R.J. Res. 1, 92d Cong., 1st Sess. (1971).

[66] S. 1880, 92d Cong., 1st Sess. (1971); S. 731, 92d Cong., 1st Sess. (1971); S.J. Res. 95, 92d Cong., 1st Sess. (1971); S.J. Res. 59, 92d Cong., 1st Sess. (1971); S.J. Res. 18, 92d Cong., 1st Sess. (1971).

[67] S.J. Res. 18, 92d Cong., 1st Sess. (1971).

[68] S. 731, 92d Con., 1st Sess. (1971).

[69] S.J. Res. 59, 92d Cong., 1st Sess. (1971). For the text of this joint resolution in its entirety, see APPENDIX No. 1.

[70] S.J. Res. 95, 92d Cong., 1st Sess. (1971).

[71] S. 1880, 92d Cong., 1st Sess. (1971).

[72] Senator Javits stated the guiding principle behind these legislative efforts: The enumeration of Congressional war powers in the Constitution and the historical origins of the "declare" and "Commander in Chief" clauses testify that the constitutional framers intended to grant Congress the primary authority over the initiation of war and responsibility for the formulation of basic guidelines for the conduct of war.

117 CONG. REC. 2531 (daily ed. Mar. 5, 1971).

[73] *See, e.g.*, Southeast Asia Collective Defense Treaty, *supra* note 56, art. IV, para. 1, art. IX, para. 2.

[74] Bickel goes one step further in arguing that a delegation that is too broad may result:

On the other hand, I think that a generalized, prospective delegation by Congress to the President of the Power to go to war in aid of our allies pursuant to treaty commitment gives away more of its own power than Congress may constitutionally give away by so broad a delegation—or at any rate, a delegation which it is possible to construe all too broadly.

Hearings on War Powers Legislation, supra note 62, at —.

[75] J. MADISON, *supra* note 10, at 475.

[76] North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, T.I.A.S. No. 1964.

[77] SENATE COMM. ON FOREIGN RELATIONS, REPORT ON EX. L., NORTH ATLANTIC TREATY, 81st Cong., 1st Sess. 8 (1949).

[78] S.J. Res. 59, 92d Cong., 1st Sess. 2 (1971).

[79] The following are the signatory countries to the Charter of the Organization of American States, Apr. 30, 1948, [1951] 2 U.S.T. 2394, T.I.A.S. No. 2361: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad-Tobago, Uraguay, and Venezuela. The following are the signatory countries to the Southeast Asia Collective Defense Treaty, *supra* note 56: Australia, France, New Zealand, Pakistan, the Philippines, Thailand, and the United Kingdom. South Vietnam was designated a protocol state to the SEATO agreement. The following are the signatory countries to the North Atlantic Treaty, Apr. 4, 1949, 63 Stat. 2241, T.I.A.S. No. 1964; Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

A complete explanation of the commitments of the United States to the defense of foreign countries may be found in U.S. Dept. of State, *United States Defense Commitment and Assurances, August, 1967*, in *Hearings on S. Res. 151 Before the Senate Comm. on Foreign Relations*, 90th Cong., 1st Sess. (1967).

[80] Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804); Talbot v. Seeman, 5 U.S. (1 Cranch) 1 (1801); Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800). To the Court "the whole powers" of entering into an offensive war were vested in the Congress "alone". Included in these powers was authority to declare either general or narrowly limited hostilities. Presidential authority to take offensive action under the guise of the Commander-in-Chief power arose only after Congress had acted. Talbot v. Seeman, *supra* at 27. Moreover, while the tactics of warfare might require that the President have certain discretionary powers, even these could be narrowed by precedent legislative action. Little v. Barreme, *supra* at 177–78.

[81] ARTICLES OF CONFEDERATION art. VI.

[82] Martin v. Mott, 25 U.S. (12 Wheat.) 19 (1827).

[83] S.J. Res. 18, 92d Cong., 1st Sess. 2 (1971); S.J. Res. 95, 92d Cong., 1st Sess. 2, (1971); S. 1880, 92d Cong., 1st Sess. 2 (1971).

[84] S.J. Res. 59, 92d Cong., 1st Sess. 6 (1971); S.J. Res. 95, 92d Cong., 1st Sess. 3 (1971); S. 1880, 92d Cong., 1st Sess. 3–4 (1971).

[85] S.J. Res. 59, 92d Cong., 1st Sess. 7 (1971). *See* also S.J. Res. 95, 92d Cong., 1st Sess. 6 (1971); S. 1880, 92d Cong., 1st Sess. 5 (1971).

[86] CONG. GLOBE, 30th Cong., 1st Sess. 95 1848).

[87] The following is a list of witnesses that appeared before the Senate Foreign Relations Committee's hearings on war powers:

March 8, 1971: Henry Steele Commager.

March 9, 1971: Richard Morris, Alfred Kelley.

March 24, 1971: Thomas Eagleton, Claiborne Pell, Jacob Javits.

March 25, 1971: Thomas Mason, Robert Taft, Charles Mathias, Paul Findley.

April 23, 1971: Barry Goldwater, Frank Horton.

April 26, 1971: McGeorge Bundy, George Reedy, John N. Moore.
May 14, 1971: William P. Rogers.
July 26, 1971: Alexander Bickel.
July 27, 1971: Lloyd Bentsen, Thomas Eagleton, George Ball, William D. Rogers.
October 6, 1971: William Spong, John Stennis, Lawton Chiles, Arthur Goldberg.

[28] S. 2976, 92d Cong., 2d Sess. (1972) (emphasis added). For the text of this bill in its entirety, see APPENDIX No. 2.

[29] As one of the first members of the Supreme Court, Mr. Justice Iredell, noted:

"All systems of government suppose they are to be administered by men of common sense and common honesty. In our country, as all ultimately depends on the voice of the people, they have it in their power, and it is to be presumed they generally will choose men of this description: but if they will not, the case to be sure, is without remedy. If they choose fools, they will have foolish laws. If they choose knaves, they will have knavish ones."

Case of Fries, 9 F. Cas. 826, 836 (No. 5126) (C.C.D. Pa. 1799).

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2601) an act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will reconvene at 12 o'clock, meridian, on Tuesday, April 4. After the two leaders have been recognized, there will be a period for transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, after which the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Undoubtedly, that measure will occupy most, if not all, of Tuesday, Wednesday, Thursday, and Friday of next week. Rollcall votes are expected to occur during the week, and the leadership hopes that final action can be concluded thereon next week.

ADJOURNMENT UNTIL APRIL 4, 1972

Mr. ROBERT C. BYRD. Mr. President, pursuant to the provisions of House Concurrent Resolution 571, as amended, I move that the Senate stand in adjournment until 12 o'clock meridian, Tuesday, April 4, 1972.

The motion was agreed to; and, at 12:57 p.m., the Senate adjourned until Tuesday, April 4, 1972, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 30, 1972:

IN THE AIR FORCE

The following officer to be placed on the retired list, in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be general

Gen. Bruce K. Holloway, 410-64-1966FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, United States Code:

Lt. Gen. John W. Vogt, Jr., 059-14-2153FR (major general, Regular Air Force) U.S. Air Force.

IN THE NAVY

Vice Adm. Noel A. M. Gayler, U.S. Navy, for appointment to the grade of admiral for the duration of his service in duties determined by the President to be of importance and responsibility within the contemplation of subsection (a), title 10, United States Code, section 5231.

Rear Adm. Merlin H. Staring, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of 4 years.

IN THE MARINE CORPS

Maj. Gen. George C. Axtell, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

Maj. Dale L. Harpham, U.S. Marine Corps, for appointment to the grade of lieutenant colonel.

IN THE AIR FORCE

The nominations beginning Ronald B. Appel, Jr., to be lieutenant colonel, and ending Keith H. Wolfe, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1972.

IN THE ARMY

The nominations beginning Joseph F. Short, to be major, and ending Donald J. Wilson, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972;

The nominations beginning Chester A. Hanson, to be colonel, and ending Tony W. Todd, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972; and

The nominations beginning James M. Jackson, to be colonel, and ending Jack Whatley, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 13, 1972.

IN THE NAVY

The nominations beginning Robert R. Groom, to be permanent lieutenant and temporary lieutenant commander, and ending Bruce D. Noonan, to be permanent lieutenant (j.g.) and temporary lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1972.

EXTENSIONS OF REMARKS

IS WASHINGTON FOOLISHLY LETTING THE RETIREE "FADE AWAY"?

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SIKES. Mr. Speaker, the Retired Officer for March 1972 carries a well written article on the utilization of retirees. It is entitled "Is Washington Foolishly Letting the Retiree 'Fade Away'?" It is written by Lt. Col. Tom Hamrick and it is well worth reading. I invite the attention of my colleagues to Colonel Hamrick's statements:

IS WASHINGTON FOOLISHLY LETTING THE RETIREE "FADE AWAY"?

(By Lt. Col. Tom Hamrick)

Maybe it was once true that "old soldiers never died, they just faded away." But if so, that was yesterday. Today retiring members of the seven uniformed services become ranking civilian executives, men of action and substance in their newly-adopted civilian communities.

"Even so, the military just writes us off as valueless," complained an embittered young Navy captain. "Except for issuing retirement checks, the armed forces, neglects what are probably its most powerful non-military advocates." "Except for what we read in the press, or hear on radio and TV—and these reports are often colored grossly and adversely by media—we simply don't know what's going on within the armed forces," one TROA member added. "And, the armed forces don't really seem to care."

True enough. Except for a monthly retirement check, the only link the average retiree has with his former service is an occasional government information sheet which generally limits itself to retirement matters.

Can it be true that the seven uniformed services are spending millions of dollars on image publicity, but are leaving untouched and unchallenged an effective volunteer public relations force, its retirees, while trying to win advocates from other less receptive quarters in the civilian world?

Unfortunately, the answer is yes.

Prior to preparing this article, the author wrote a number of individual letters to congressmen, senators and members of the military hierarchy begging the questions: "What service of benefit can the retired member of the armed forces contribute to the military, except as a speaker before a civic or community group?"

Only one response of any substance was received. Most of the letters weren't even answered.

The only meaningful reply came from a military chief of information.

What he said was the same thing the retiree hears just before he hangs up his uniform for a final time. "Be our spokesman. Go forth and occupy the rostrum of the local civic clubs and be our town crier."

And with that encouragement, the retiree often considers himself totally dismissed from active military thinking.

Is there no other public service the retiree can beneficially perform for the military other than serving as an occasional luncheon speaker for a local Optimist Club? And, even so, how well qualified is he to tell the military story if what he reads comes only from the daily press? No audience is interested in a briefing which is as far out of date as the last time the retiree served on active duty. For the most part, on newly-breaking service matters, he can be no better versed than Will Rogers was when he used to claim that "all I know is what I read in the newspapers."

Therefore, even though the retiree is encouraged to be a spokesman in mufti for the military, is he sufficiently knowledgeable to serve to its advantage? Is he being kept updated? Is his role as a speaker *really* encouraged?

Secondly, is he needed for nothing else?

As the Peggy Lee song goes, "Is that all there is?"

The Pentagon reports it is aware that retirees "give us considerable public support through veterans activities, community-relations work with Army installations, public speaking appearances and journalistic activities."

But a retired Army major complains, "I can't recall any real effort any of the services have made to keep us posted, so we can be effective as a spokesman. But, face it: some of my buddies in retirement are damned glad the military in Washington doesn't keep them on a what's-happening mailing list, to urge them to 'continue to serve.' But I know a lot of us would do a helluva lot more if the Pentagon seemed more than remotely interested."

One veteran of 25 years in uniform asked, "Is it unreasonable, in view of the millions we're spending on public information in the armed forces, not to at least set up a small corps of knowledgeable individuals in the Pentagon to fix and maintain liaison with retirees, to keep them filled in on the facts and directly and indirectly encourage them to serve as the ambassadors the military claims it wants?"

But another retiree argues with him "some of our congressmen would be up in arms over such a program. I can hear them now, criticizing the military for wasting its dough on yesterday's heroes. Still, there ought to be some office in Washington which is directly—I mean directly—interested in the retiree. He is just too much of an investment to let go to seed."

A group of TROA members were informally surveyed by the author in advance of a monthly meeting to obtain their ideas on the matter. Their answers were imaginative, and several appear workable.

The Navy captain retiree quoted earlier in this article as being critical felt that "every branch of the uniformed services needs a special office which involves itself only in matters pertaining to retirees, and I don't mean to hear complaints and bitches, but to keep them informed and to keep them motivated. Make them feel they're still important instead of a drag on the nation's economy."

The off-the-cuff survey proved an "open sesame" in soliciting provocative comment, and a number of retirees were anxious to insert their contributions. Among ideas projected:

a. Initiation of a study by a committee representing all of the uniformed services to determine what volunteer duties retirees might happily and effectively be able to tender their former branch of service.

b. Presidential appointment of an "assistant secretary for the retired uniformed services" who is charged with maintaining meaningful liaison with all retirees, officers and enlisted, and providing them with the latest "party line thinking" at least on a monthly basis.

c. Appointment of special civilian aides, drawn from retired ranks, by this under secretary.

d. In turn, the civilian aide would serve as the under-secretary's immediate local contact. It would be the aide's obligation to form and organize committees of retirees to assist in fulfilling requests from the under-secretary on all matters pertinent to the retirement community and their association with the active military. Designation of these civilian aides could be based on recommendations by local TROA chapters, a town's mayor or the commander of an adjacent military installation, or a combination of these three agencies, plus others.

e. Formation of a "job placement" committee, working under the retiree civilian aide. "The average 'new' retiree, unless he goes to work immediately, feels lost in the community," a retired coastguardsman reasoned. "He needs something like this to encourage him and, if feasible, guide him to some of the employment opportunities available in the area which match his skills and potential."

f. The retiree civilian aide was seen by one advocate as the retirees' contact with such organizations as local governments, Chamber of Commerce and volunteer organizations. "Think of what a tremendous pool of voluntary manpower such a coordinating committee as this could provide a community," offered a retiree who claimed to be "fully retired."

"A lot of us would like to lend a hand to community events, just to have something to do, and the retirement group could bridge the gap between us and the sponsors of the event."

g. Charge commanders at all military installations with the appointment of an officer who, among other hats, would be his "retiree liaison," the contact man between the retiree and the military in all matters of mutual interest.

These were among the suggestions tendered by one small group of men in one evening.

"Write about it," one urged. "Let's see what happens. And maybe, too, other retirees have even better ideas."

DEVELOPMENT IN ALASKA

HON. MIKE MANSFIELD

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington, I ask unanimous consent to have printed in the Extensions of Remarks two articles on developments in the State of Alaska, published in the Los Angeles Times.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Dec. 26, 1971]

ALASKA SPENDS ITSELF INTO DEBT PREPARING FOR "DELAYED" RICHES

(By Al Delugach)

VALDEZ, ALASKA.—A thin, weathered, middle-aged truck driver glances out of the cafe window at his tractor-trailer rig parked amid the drifts of the four-foot, early winter snowfall.

He gets up to start on his routine: A 360-mile drive to Fairbanks on an ice-covered road that goes through treacherous mountain passes and across uninhabited stretches of the interior where it is 20 below zero in November and much colder in full winter.

"All I do all day is drive and talk to myself," he muses. "By night, I'm starting to answer."

The truck driver and his lonely ordeal are symbolic of the Last Frontier where prospects for great industrial growth appear like so much daydreaming in the face of a land and climate so hostile.

Alaska, which has many of the characteristics of an underdeveloped nation, is like an island in a sea of fabulously-valuable oil. And the thinly-populated state (300,000 persons, including 60,000 natives, most of whom live in deep poverty) is suffering the pangs of growth—even before the growth is a reality.

First, with riches from oil production in sight (but not in hand) the state government has embarked on large-scale spending programs that will keep it in the red even when and if the oil starts to flow.

Moreover, Alaska has many of the earmarks of a one-industry town. The oil industry is the undisputed giant of this state, which is twice as big as Texas, and the common attitude toward it is deference.

Many of the establishment people identify their economic interests with the desires of the oilmen—especially for the proposed pipeline to take out the oil. And average citizens, for the most part, go along.

There are signs in the early going that the public's elected representatives have tumbled over themselves in a desire to accommodate the oil industry. Some decisions have been a case of acting in haste, perhaps to repent at leisure.

Valdez is a case in point.

The oil industry has designated this ice-free, deep-water port as the terminus of the proposed pipeline to be built from Prudhoe Bay on the North Slope. For some, the pipeline signifies more business, higher land prices. For others it means jobs.

Like the rest of the state, Valdez is still waiting for it to happen.

Valdez is a little off the beaten path. Though it is accessible by highway from both Anchorage and Fairbanks, as well as by small aircraft and the state-operated ferry boats that ply Prince William Sound, winter travel by road and air is hazardous. On a day when it snowed 24 inches and planes were grounded, this visitor made it by a six-hour ferry trip from Cordova 85 miles across the sound.

It has 1,000 permanent residents and another 300 temporary ones, many of them working at the town's pride: the plant where the pipeline pipe is being coated.

Prospects at mid-1969 were for an early start on the pipeline. The oil industry was confident. Without waiting for federal right-of-way permits, it bought $100 million worth of 48-inch pipe from Japan for the 789-mile line.

By September, 1969, the first pipe was stacked in Valdez. By October, 1971, the last pipe was stacked in Valdez. Still no permit for a start on pipeline construction in the fragile environment of tundra and permafrost.

One obstacle has been cleared, a big one. It is the settlement of Alaskan native land claims by Congress on Dec. 14.

Another key to opening the way to the pipeline is an environmental impact statement by the Interior Department. It is expected to go to the White House and to the Council on Environmental Quality soon.

The local Establishment in Valdez went all-out in 1969 to get the nod over three other contestants as the oil industry's choice for the terminus.

City Manager Herbert Lehfeldt, as well as his predecessor, Dale Cutler, told The Times, however, that they feel the former mayor and city council gave unnecessary generous terms to the pipeline on pipe storage facilities and tariff for the use of the dock.

Cutler, the town's first professional city manager, said when he arrived in October, 1969, he found that the late Mayor George Gilson had leased for $1 a year a large city-owned tract to the pipeline company for storage of the pipe.

The city then spent $25,000 or more to clear the land, which is in the old townsite de-

stroyed by the 1964 earthquake and accompanying tidal wave. Cutler said he found the lease had not been signed. He renegotiated the lease on terms that included prepayment by the pipeline company in the amount spent by the city, Cutler said.

However, he said, he couldn't talk the city council out of reducing to 10 cents a ton from $1.50 a ton the pipeline company's payment for unloading the pipe on the city dock.

Although the oil industry spent $250,000 to beef up the city dock to handle the heavy pipe, Cutler's successor as city manager, Lehfeldt, said the city would have gotten much more than that under the old tariff. He called it a "fantastic" deal for the pipeline company.

Cutler says he "fought that like hell," but didn't prevail. Mayor Gilson died last year, but Ed Walker, a businessman who was on the council until recently, stoutly defends the dealings with Alyeska Pipeline Service Co., owned by the consortium of oil companies that will own the pipeline.

Walker, a tall, roughhewn, middle-aged man, and his wife, Frances, operate a new motel financed by a $100,000 Small Business Administration loan. The motel is kept filled, largely with business from the pipeline company and the pipecoating plant. He also is one of the redevelopers with contracts for purchase of bargain-priced city land, as was the late Mayor Gilson.

Walker speaks proudly of the way the Gilson administration went after the oil companies to get the pipeline terminus. He frankly says they were prepared to give everything free to the industry and credits the selection of Valdez to such inducements.

Meanwhile, looking beyond Valdez, the old question is once more raised: Is Alaska viable as a state?

During Alaska's territorial status, preceding statehood in 1959, the economy was heavily underpinned by federal expenditures, including those for military and for assistance to the native Eskimo, Indian and Aleut population.

The first decade of statehood was one of austere budgets for the state government. Then, in 1968, came the discovery of what may be the biggest oil deposits in the United States.

People started talking about the state's getting a good share of the riches. The first installment was $900 million paid in September, 1969, by oil companies for additional North Slope leases.

Expecting royalties to begin flowing by 1973, the state began spending its patrimony hand over fist.

Now, with oil production set back at least two years, the state is faced with the specter of running into the red by 1977 with a deeper descent each succeeding year. Projections now are for a deficit of anywhere from $425 million to $670 million by 1981.

SPENDING BEGINS

The big spending began in the 1969–71 fiscal year, when Republican Keith Miller was governor. State legislators upped the budget by 32% to $169 million. The next year, with pipeline hopes still rampant, the ante was boosted by another 77% to $300 million. However, the budget enacted by the 1971 Legislature for the current fiscal year reduced the $300 million to $292.1 million.

Much of the increased spending appears to have been for genuine needs, such as more welfare for impoverished natives, and better school, roads and public utilities.

The premature honeymoon has been called off. Gov. William Egan, a Democrat elected last year, has his departments working overtime on ways to hold down the budget.

He also has them toiling over the feasibility of the state's buying and owning the pipeline itself—a recent suggestion of his that startled a lot of people and started a lot of arguments among Alaskans nervous about the delay.

Egan spoke of netting $100 million a year or more, in addition to oil royalties, from state ownership. Some opponents wonder where he got the pencil to figure that.

The oil industry played it close to the vest in reacting to Egan's proposal. Except for Humble Oil & Refining Co., which quickly cried that it would lead to more delay in the pipeline construction, major firms have tended to wait and see what the state would come up with in a full study of feasibility of state ownership.

Airline, trucking and construction firms that plunged for huge amounts of equipment in anticipation of a financial killing were severely hurt—some to the point of bankruptcy.

These operators were largely in Fairbanks, jumping off place for freight shipment and road construction to the North Slope. Some were in Anchorage, the state's largest city.

Despite the blows to some Alaska entrepreneurs by the failure of the boom, the state's general economy is on a fairly even keel—to the surprise of some observers.

This is relative however, since unemployment in the state has been constantly high for some time (10% or more) and the aboriginal native groups live in rural poverty that experts agree is worse than any other section of the United States.

One of the bright spots has been construction, with increases over last year in both residential and commercial building. This is especially true in Anchorage, the main population center (130,000 persons).

"There have been some problems, but it's no disaster—that's for sure," says James N. Tveit, FHA deputy director in Anchorage.

Eric Wohlforth, state revenue commissioner, points out that the state has embarked on a public works program to provide jobs. This effort to soften the impact of the pipeline delay has included issuance of $45 million in general obligation bonds.

According to Richard Eakins, the state's acting director of industrial development, Alyeska, the pipeline company, eased the burden on some contractors who were held up in building the big pipeline service road.

It bought out some of the contractors. Others had contractual provisions for payment on a retainer basis for equipment obtained for the project.

Eakins expresses hope the settlement of land claims of the state's 50,000 natives by Congress will provide a start on the great problem of developing a viable economy in the rural areas, where most of the Eskimos and Indians live. A bill passed by Congress provides about $1 billion in addition to land.

There is no question, however, that the state government depends for solvency on oil production. To get that, there must be a way to take it out of the frozen desert that is the north slope.

"Oil lease sales have bailed us out in the past," says Eakins. Once the $900 million plus from the 1969 sale is eaten up, and if the pipeline is not bringing in revenue, the state will be in real trouble by 1976."

When North Slope oil is produced, the state expects to get $128 million royalties the first year, $180 million the second, $198 million the third and $234 million a year thereafter.

At least $400 million would be spent in the state during pipeline construction, it is estimated in a book-sized examination of the impact, good and bad, of the pipeline. But the study by the state law department states:

"Alaska is not deluded into believing that the pipeline construction with its jobs and money will be a social and economic panacea."

[From the Los Angeles Times, Dec. 6, 1971]

ALASKA MYSTERY—WHO FINANCED BIG LAND DEAL?—L.A. MAN WHO ACQUIRED PROPERTY ALONG PIPELINE ROUTE WON'T TALK ABOUT IT

(By Al Delugach)

VALDEZ, ALASKA.—Philip J. Matthew of Los Angeles went on an Alaskan land buying spree three years ago. A short time later the route of the trans-Alaska oil pipeline was announced.

The bulk of some 200 parcels of land Matthew had bought in central and southern Alaska turned out to be along the pipeline route.

And here in Valdez, selected over three other cities as terminus of the pipeline, Matthews had acquired much of the town's undeveloped land, including a waterfront site for possible docking facilities.

The pipeline, yet to be constructed, is to bring oil out of Prudhoe Bay on the North Slope. In 1968 drillers struck what is believed to be the biggest oil find in North America.

A VALUE OF $1 MILLION CLAIMED

The land—totaling about 500 acres—was purchased for an estimated $300,000. Conservative estimates place its value today at more than $600,000. Matthew, himself, has said that it is worth $1 million.

Who is Philip J. Matthew?

The same question has been asked by the federal government and by people in Alaska. Still a question is who may be associated with him in his Alaskan land deals.

While he has remained out of the news, Matthew, who is 49, had a meteoric rise in the world of finance about 10 years ago. His ventures included savings and loan associations in Los Angeles, Baltimore and Honolulu.

Key financing was provided through a little known but rich Caribbean entity called the Bank of World Commerce, Ltd., Nassau, Bahamas.

The list of his associates at that time included:

Clifford A. Jones, former Nevada lieutenant governor, friend of Bobby Baker and one-time casino owner in Los Vegas and the Caribbean.

Edward A. Levinson, a big-time Las Vegas gambler who was fined in a gambling profits "skimming" case involving the Fremont Hotel.

Meyer (Mike) Singer, now dead, an ex-Teamsters official widely considered as the West Coast representative of James R. Hoffa.

NO INDICTMENTS RETURNED

Alvin Malnik, Miami lawyer, a key figure in the 1966 federal grand jury investigation of suspected underworld involvement in the multi-million-dollar stock promotion of Scopitone, a movie-jukebox invention. People from coast-to-coast were subpoenaed as witnesses. No indictments were returned.

Other assorted Las Vegas gamblers, including Irving (Niggy) Devine, G. C. Blaine, Charles Turner, Ben Siegelbaum and Charles (Kewpie) Rich, as well as James (Jake) Gottlieb, casino owner and friend of Hoffa.

None of these names appears in the public record as being associated with the Alaskan ventures.

Nor is there any public record on who owns the more than 600,000 shares of stock issued in Matthew's firm—Financial Land Investment Corp.—in whose name the Valdez properties are held.

Records he has filed in Juneau show the corporation was incorporated in Delaware in February, 1969, the month he bought the Valdez properties. He is listed as president and treasurer. The vice president is a retired Los Angeles intelligence agent for the Internal Revenue Service, Walter E. Schlick.

The corporation secretary is Eugene Mettleman, a lawyer of Baltimore, which is listed as the corporation's principal place of business. Directors are Matthew, his wife Elayne and Hettleman.

One year after Matthew bought the Valdez land, Mel Personett, then Alaska commissioner of public safety, appeared before the state Senate Judiciary Committee.

While answering questions about Alaskan law enforcement problems, he voiced concern about the entry of associates of organized crime figures into legitimate business.

Personett then told of a man operating in the Valdez area who he said had associates who are underworld figures or who associate with them. Under further questioning, Personett named Matthew as the man he was talking about.

WITNESS CRITICIZED

Several senators at the hearing criticized Personett for naming in public hearing a man who had not been charged with any crime in Alaska.

Sen. Terry Miller (R-Fairbanks), who was majority leader, says he later wrote a letter to Matthew inviting him to appear before the committee "in case he wanted to rebut anything anybody said about him at the hearing." Matthew didn't answer the letter, Miller says.

The subject was not pursued. "We felt the least said the better for everybody," says Miller. Personett was replaced as department head when a democratic administration was elected last year.

INTERVIEW DENIED

Matthew, a wiry man with a moustache who wears lumberjack shirts at his handsome home in Tarzana, doesn't care to answer questions about his Alaska activities or associates.

Several weeks ago, in declining an interview, he said deprecatingly: "We don't have very much up there now."

After a review of his holdings in public records in Alaska, a reporter again sought to talk to Matthew.

"Write what you want," he snapped. "I have nothing to say."

Matthew is known by acquaintances in Alaska to have a more expansive side. They have heard him talk of his bank in the Bahamas, the savings and loan associations, the right hand man who is an ex-IRS agent.

Matthew showed up at the state land office in Anchorage in January, 1969, and proceeded to snap up most of the nonhomestead land available for sale by the state.

Contrary to an impression widely held by outsiders, Alaska is not a place where unlimited land is available for purchase. The federal government still owns most of it, and the state presently has a "minuscule" amount for sale to the public.

Matthew appeared to have considerable financial resources, and thus attracted unusual interest in the land office.

Although nearly three years have gone by, a veteran state employe clearly recalled Matthew's wholesale land purchases. In two visits about a week apart, she said, he bought in his and his wife's name almost all the residential and commercial lots available in a number of scattered cities and towns in central and southern Alaska.

CHECKS FOR 10 PERCENT

He put up cashier's checks for the 10% down payment (balance payable at 10% a year) on each parcel. The sales prices totaled $175,000.

This was before even the tentative pipeline route was generally known. The state land on sale over the counter on a first-come-first served basis was considered cheap by experts.

Then Matthew turned up in the southern port of Valdez (pop. 1,008) on Prince William Sound. Making friends with the city administration at the time, he bought up much of the remaining property in the new townsite (adjacent to the one destroyed by the 1964 earthquake).

When the oil industry filed its proposed pipeline route several months later, the terminus selected was Valdez.

A land developer recently recalled meeting Matthew in Valdez in February, 1969.

"I had figured out the pipeline HAD to end there," Jerry McCutcheon said.

How had Matthew figured it out? He was accompanied by a financial writer, the developer recalls. Matthew may have found out some information about the pipeline route from this man, who presumably learned it from his sources, McCutcheon theorizes.

Even now Matthew's name is little known in Alaska except in Valdez, where he visits a couple of times a year.

HELPED TEAM

He has the image here of an outsider with money to invest, a high pressure style and a lot of business savvy.

His admirers, generally the town's old establishment, recall that Matthew once laid out $500 to help send a boy's basketball team to a distant playoff game.

"I don't know who his backers are—that's his business," says Ed Walker, a motel man who was on the Valdez city council that cooperated with Matthew after his arrival.

It is the attitude Alaskans have traditionally taken. There is a widely observed convention that one does not nose into a newcomer's life prior to his arrival in what is aptly called the nation's Last Frontier.

Matthew's name is no better known in Los Angeles than in Alaska, though it is there he lives.

He resigned from the California Department of Savings and Loan in the late 1950s to go to work for Empire Savings and Loan in the San Fernando Valley, where he became executive vice president.

In 1961 Matthew emerged as a business investor on his own—to the tune of hundreds of thousands of dollars. One of his first associates was an old acquaintance, Teamster business agent Singer.

This was followed by a surge of well-financed business ventures that kept them busy on a circuit that included Honolulu, Los Angeles, Las Vegas and Miami.

Key to the ventures was the formation in June, 1961, of the Bank of World Commerce at Nassau with Miami lawyer Alvin Malnik.

Matthew, who had also formed a Bahamian bank for his former S&L employer, was the biggest shareholder in Bank of World Commerce with a listed investment of $230,000. Jones, Levinson and Devine were among the early investors.

LANSKY ASSOCIATE

Another, who became president, was John Pullman. He is known to federal investigators as a long-time associate of gambling kingpin Meyer Lansky. Pullman is said by government sources to have been a courier between Las Vegas and Switzerland and in recent years has handled investments for American organized crime figures in Swiss banks.

The Bank of World Commerce, whose address was reportedly only an office with one employe, has been described by government sources as organized to finance a financial empire.

One of the bank's first acts, under directors that included Matthew and Malnik, was to make an unsecured loan of $250,000 to Allied Empire, Inc., Beverly Hills. Matthew and Singer, having bought about 19% of Allied's stock in the several months preceding, were turning the former television cartoon producing firm into an S&L holding company.

Matthew, who had become Allied's president, used the $250,000 toward purchase of San Gorgonio S&L, in Banning, for $1.5 million.

The $250,000 loan was just for openers for the Bank of World Commerce, which lent a lot more to Allied. Between July, 1961, and September, 1962, the average unpaid balance on the loans reportedly ranged from $250,000 to $750,000.

A sidelight on the Allied venture was that Hoffa and his daughter reportedly got in on the ground floor of a tremendous market rise in Allied's stock.

About June 1, 1961, the Hoffas bought 1,100 shares at prices ranging from $4.75 to $6.75 per share and sold 600 shares six months later at $50.50 to $53.50 per share. At its peak, Nov. 24, 1961, Allied's stock hit $76 per share.

HONOLULU VENTURE

Busy as they were, Matthew and Singer found time in September, 1961, to launch the Waikiki Savings and Loan Assn. in Honolulu.

Matthew was the biggest original shareholder of record, as well as president. Other original subscribers included Levinson, Devine and other Las Vegas gamblers, as well as Jones and Pullman.

A later investor was Robert (Bobby) Baker, once secretary to the Senate Democratic majority. Baker, who was sold 2,500 shares by Matthew, later went to prison for his role in financial scandals unrelated to the Hawaiian venture.

(It was disclosed in 1963 that Baker endorsed Jones and Levinson for gambling casino concessions in hotels of a Pan American World Airways subsidiary in the Caribbean. Baker was quoted as saying he was doing a political favor.)

ISLAND PLANTATION

By December, 1961, Matthew was spearheading a takeover attempt on the big Ewa Plantation in Honolulu through his bases in Waikiki S&L, Allied Empire and the Bank of World Commerce.

The attempt was beaten down by major Hawaiian interests. But the price of Ewa stock was driven up in the process—greatly enhancing the value of the minority holdings.

Matthew's base at Allied Empire crumbled in January, 1963; when he resigned as president. Minority stockholders reportedly forced a change in management.

A long legal battle began between Matthew and his successor at the helm of Allied, Philip Nasser. While maintaining his family residence in Tarzana, Matthew spent the next couple of years in Israel.

Matthew and Nasser accused one another of fraud in civil suits which dragged out for years.

Nasser tried to attach Matthew's 43,476 shares in Allied Empire, which had changed its name to Riverside Financial Corp. But, in a key ruling, the Los Angeles Superior Court held that Matthew had previously transferred his interest in the stock to Clifford Jones on behalf of some 40 persons.

GAP IN RECORD

These included gamblers Levinson, Devine, Blaine, Turner, Siegelbaum and Rich, as well as Gottlieb.

There is a gap in the public record as to Matthew's business activities in the two or three years preceding his arrival in Alaska in January, 1969.

In Valdez he found a city administration receptive to selling him commercial and residential tracts remaining for development.

The present city manager, however, views as a mistake the leniency toward Matthew and a few others who signed up as "developers" under an urban redevelopment program for the land in the new townsite.

By promising to develop the property in specified ways, Matthew and the others got lots for as low as $400. Such lots would cost

perhaps 10 times the amount they paid if bought in another Alaskan city.

The new city council in Valdez has recently begun legal action to declare some of the development contracts in default.

Matthew avoided the situation by selling back to the city about 50% of his holdings after a dispute over which side was responsible for failure to develop the land.

Matthew has not built anything whatever on any of his Valdez properties, says city manager Herbert Lehfeldt, former Southern Californian who was city manager of Bell Gardens and Palmdale in the 1960s.

For many months, he said, the previous council granted one time extension after another to the developers.

"The council never forced the issue until now," added Lehfeldt. "We've got to break it open. People who move to and want to build a house in Valdez can't even buy a piece of land here.

"The city is strangling as a result of these redevelopment contracts."

In addition to the purchases from the city, Matthew bought a seafood processing plant in Valdez in 1969 from the Small Business Administration.

An SBA official in Anchorage refused to give the figures, concerning that "the media has not always been kind to the SBA."

However, it is reported by others familiar with the deal that Matthew bought the plant from the SBA for about half the original cost—and on easy terms—after the SBA's original deal went sour.

The federal agency had foreclosed in 1967 a loan reported at around $100,000 to a local group in Valdez. Last spring, Matthew finally was able to lease the plant to a major seafood processor.

Matthew writes long and frequent letters to city and state officials and to the local newspaper to air his grievances.

One is the city's refusal to sell him some land near the seafood plant which he said he was promised and which the processor needs.

Another is rejection of his $100,000 bid for a tract that was sold for half that amount to a Montana developer.

In contrast to the earlier honeymoon mood, Matthew and the attorney for his corporation have threatened to sue the city.

The new city council and Lehfeldt have established the policy of dealing firmly with Matthew.

Lehfeldt described the attitude previously as one in which councilmen were "overpowered and perhaps a little frightened" at Matthew's high-powered style.

A long Matthew letter of complaint directed to Lehfeldt and the council last Aug. 30 concluded with this typical flourish:

"I refuse to believe that the answer lies in going back in history and not having law and order in the City of Valdez. Maybe 100 years ago there was not law and order in Alaska or the Far West. But we are civilized today and we should be thankful for that.

"We cannot advise our children to live the golden rule and then act in hypocritical fashion by breaking the law just because we are mature in age . . . Will the City of Valdez act in a just and honorable way in its dealings with redevelopers, regardless of whether they are so-called outsiders or not?"

CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, the Law Observance Committee of the Federal Bar Association in cooperation with the Philadelphia Federal Executive Board, Philadelphia Bar Association, and the Police Chiefs Association of Southeast Pennsylvania held a conference on October 6, 1972, where the means of expediting criminal justice in the United States were discussed by several experts from the police, public defenders, district attorney's office and the courts.

The chairman of the committee and the one responsible for the marked success of the day is Harry Shargel, Esquire. I particularly commend his effort in bringing together those who will make changes in the criminal justice system.

For the benefit of my colleagues, I now submit Mr. Shargel's summary of the conference along with statements by Vincent J. Ziccardi, Esquire, chief defender, Defender Association of Philadelphia; Philadelphia Police Commissioner Joseph F. O'Neill; and Hon. D. Donald Jamieson, president judge, Philadelphia Court of Common Pleas:

CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE SPONSORED BY LAW OBSERVANCE COMMITTEE

A conference on "Means of Expediting Criminal Justice" sponsored by the Law Observance Committee of the Federal Bar Association in cooperation with the Philadelphia Federal Executive Board, Philadelphia Bar Association and the Police Chiefs Association of Southeastern Pennsylvania was an outstanding success. Important concepts were discussed and the conference was well covered by the news media including the three major television stations serving the Southeastern Pennsylvania, Southern New Jersey and Delaware area. The Federal Bar Association received much favorable publicity. Consideration is being given to the organization of a similar conference in Washington, D.C. and regional conferences in other parts of the country.

The conference, at the Defense Personnel Support Center in Philadelphia, included four panels: a panel on "Elimination from Criminal Justice Process" included a discussion of possibility of eliminating certain crimes from the criminal justice process and providing alternate methods of dealing with such crimes; a panel on "Arrest, Trial and Appeal" engaged in a discussion of procedures from the time of arrest to ultimate determination of guilt or innocence; a panel on "Sentencing Process" involved a discussion of guidelines for determining extent and nature of sentence, treatment and rehabilitation; and a panel on "Jail or Bail" involved a discussion incident to disposition of persons under arrest pending trial and awaiting sentences.

The conferees were welcomed by Hon. Joshua Eilberg, member of the Judiciary Committee of the U.S. House of Representatives. The luncheon speaker was the Hon. D. Donald Jamieson, Presiding Judge of the Court of Common Pleas, Philadelphia County. The panel on "Elimination from Criminal Justice Process" included William G. Nagel, Commissioner, Governor's Justice Commission and Executive Director, The American Foundation; Joseph F. O'Neill, Police Commissioner, Philadelphia; Hon. Arlen Specter, District Attorney, Philadelphia County; Vincent J. Ziccardi, Esq., Chief Defender, Defender Association of Philadelphia; and was moderated by Harry D. Shargel, National Chairman, Law Observance Committee, Federal Bar Association and Assistant Counsel for Litigation at the Defense Personnel Support Center.

The panel on "Arrest, Trial and Appeal" included Edward J. Blake, Esq., Court Administrator, Philadelphia County; Hon. Donald E. Santarelli, Associate Deputy Attorney General of the United States; Hon. Louis C. Bechtle, U.S. Attorney, Eastern District of Pennsylvania; Stanford Shmukler, Esq., Private Practice; and was moderated by John J. Harding, Esq., Clerk, U.S. District Court, Eastern District of Pennsylvania.

The panel on "Sentencing Process" included Melvin S. Heller, M.D., Temple University Unit in Law and Psychiatry, Clinical Professor of Psychiatry; Hon. Alfred L. Luongo, Judge, U.S. District Court, Eastern District of Pennsylvania; Hon. Dante Mattione, Deputy Attorney General, Commonwealth of Pennsylvania; and was moderated by Eugene C. DiCerbo, Chief, U.S. Probation Officer, Eastern District of Pennsylvania.

The panel on "Jail or Bail" included Mrs. Margery L. Velimesis, Executive Director, Pennsylvania Program for Women and Girl Offenders, Inc.; Frederick H. Downs, Jr., Chief Probation Officer, Court of Common Pleas, Philadelphia; Hon. Joseph R. Glancey, President Judge, Municipal Court of Philadelphia; and was moderated by Harold G. Miller, District Supervisor, Pennsylvania Board of Probation and Parole.

The program was organized by a special committee which was headed by Law Observance Committee National Chairman Harry D. Shargel and included Hon. Louis C. Bechtle, United States Attorney, Eastern District of Pennsylvania; Edward J. Blake, Court Administrator, Philadelphia; Eugene C. DiCerbo, Chief U.S. Probation Officer, Eastern District of Pennsylvania; Frederick H. Downs, Jr., Chief, Probation Officer, Philadelphia and Harold G. Miller, District Supervisor, Pennsylvania Board of Probation and Parole, Philadelphia.

REMARKS OF VINCENT J. ZICCARDI, ESQ., CHIEF DEFENDER, DEFENDER ASSOCIATION OF PHILADELPHIA AT CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

As you are all undoubtedly aware, proposals have been made in various parts of the country to remove certain cases from the criminal justice system and treat them in either a medical setting or social service setting. Philadelphia has not been behind in this movement. As early as 1967 Judge Weinrott of our Court of Common Pleas decided that the statute making "habitual intoxication" a crime was unconstitutional and directed that people afflicted with this ailment be given treatment instead of punishment. In his opinion he stated:

"It follows that the common manifestations of the compulsive habit, the staggering on the street, the rolling in the gutter, cannot convert the status of addiction into a crime any more than the violent sneeze, obnoxious (or even infectious) as it may be to another person within range, render the common cold a crime."

In addition, there is currently talk about legalizing certain activities such as off-track betting and consentual sex which are now classified vice offenses.

I am not going to delve deeply into these proposals. Rather, I am going to discuss the elimination from the criminal justice system of cases which should be screened from the system and are not.

Every element of the system, the police, the District Attorney, the defender, the courts, the prisons and the probation department attempt to enhance their image and importance to the system. The police do this by making more arrests, the District Attorney by securing more convictions, and the defender by obtaining more acquittals. Unfortunately, when the enhancement of image becomes the major objective manipulation of the system follows and the process suffers. In addition, public confidence and support for the system wanes.

Police statistics show that Philadelphia police clear more cases by arrest than any other large city.

Court statistics show that 2 out of every 3 people arrested in Philadelphia are not convicted of any crime.

These two statistics placed side by side I believe indicate that the courts are doing a major part of the screening of cases which should probably be done prior to arrest.

Examples of some recent cases which were dismissed at preliminary arraignment and which should not have been arrested follows:

John Miller was arrested on September 23, 1971. The complaint in his case read as follows:

"[Mr. Miller] has been frequenting the area of Delaware and Bigler Sts. An area notorious for vice activity, gambling, etc. The defendant is unemployed, he had on his person at the time of the arrest $185 in small bills and $9.00 in small change. He has a history of 9 arrests for illegal lottery and 9 arrests for common gambler."

This complaint of course does not establish that Mr. Miller committed any crime. . . . Incidentally, Mr. Miller is 69 years of age and is on a social security pension.

Fortunately for Mr. Miller his case was dismissed by Judge Mongelluzzo at the preliminary arraignment held on September 23, 1971.

Another case involves a seventy-four year old man, Frank Farmery, who was on his way to the race track on September 22, 1971, when he was arrested. This was Mr. Farmery's first arrest after 73 years of staying out of trouble.

The complaint in Mr. Farmery's case which was dismissed at the preliminary arraignment read:

"Violation of 607 P.P.C.—above defendant was seen by the above officer talking to unknown white males at the corner of Frankford and Comly and would mark something on a Morning Telegraph. Upon further investigation this paper did contain 4 horse bets. Defendant placed under arrest."

The horse bets alleged in the complaint were in fact markings on the Telegraph which a person might make in handicapping the horses or reminding himself to bet on a horse.

You might wonder how many cases there are similar to these. Statistically, and this is my count now, one out of six cases are dismissed at preliminary arraignment. This means that for one sixth of the people arrested there is not even the color of a valid charge which can be placed against them.

A large number of other cases which should also be dismissed get through the preliminary hearing and unnecessarily clog the courts. Why then are these people arrested? Are complimentary statistics behind it? Does police overtime have anything to do with it? Policemen frequently are paid time and one half (7.50/hr.) for court appearances. Does this lead to arrests for the sake of court appearances? Whose responsibility should it be to determine the adequacy of the charges before an arrest is made? Historically, in Philadelphia the responsibility for determining if criminal charges should be lodged has been assumed by the police although the A.B.A. Standards for Criminal Justice suggest that it is the DA's function. The police are not properly carrying out this responsibility. In response to this failure the District Attorney has started a pilot project (in I believe one stationhouse) where assistant district attorneys review the case before the defendant is booked to determine whether he should be booked. The results obtained by the project thus far are good. However, to have an effect on the criminal justice system the project must be extended to cover every police station and review every arrest. Only then will many of the unnecessary or unfounded arrests be eliminated.

The District Attorney has also established a pre-indictment probation program which assists in culling from the backlog cases which got by a preliminary hearing and which would result at trial in an acquittal or in probation being granted. This program in which the defendant is placed on probation prior to trial if he agrees and is not prosecuted if he succeeds on probation is limited only to cases which have not gone to indictment. Cases in which an indictment is returned are not eligible for this program and must go to trial. I know of no reason to cause a distinction between cases indicted and not indicted. If indicted cases were included many more cases could be disposed of by this method.

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The cases that follow indicate not only this sparing use of the *nolle prosse* and its detrimental affect in unnecessary use of court time but also may indicate why Philadelphia has the lowest guilty plea rate of all of the major cities in the country (our guilty plea rate is about 24%).

Mr. Elliott has been convicted in 1950 of two robberies and a homicide. Apparently he was tried and convicted on the robberies first and given a sentence and then tried and convicted on the homicide and was sentenced to life. Last year his conviction and sentence on the robberies was set aside on collateral attack and a new trial was ordered. The case recently came up for trial. Because the defendant was serving a life sentence we believed the District Attorney might consider a *nolle prosse*, as retrying the case and imposing a sentence would serve no one's interest. How much more than life can you sentence someone to? Much to our dismay the assistant trying the case advised us that although he had difficulty locating necessary witnesses he was not empowered by his office to *nolle prosse* the case but would for a guilty plea recommend probation. After discussing this negotiation with our client we were ready to proceed with the plea, to get the matter over with as quickly as possible. Unfortunately the assistant district attorney checked with his superior who instructed him to recommend a prison sentence on a guilty plea consecutive to the life sentence and not probation. With the case in this posture it became impossible for our client to plead.

The cases will now be listed for trial and a week or two of court time will be needlessly used to try these meaningless cases.

Mr. Scott was arrested in 1963 during the course of a robbery. In addition to this offense he was charged with two other robberies which had occurred around the same time. It was not until 1970 that his cases came to trial. The first case tried was the strongest case the Commonwealth had, the robbery in which he was apprehended. Needless to say the jury found him guilty. At this point we suggested to the Assistant District Attorney that he consider a *nolle prosse* in the two remaining cases as the only evidence in each of these cases was a weak seven year old identification, and that the defendant was not going to receive a sentence greater than the twenty year sentence permitted on the one conviction which they already had.

The District Attorney refused a *nolle prosse* and the cases went to trial. After a two week trial before a jury the defendant was acquitted.

In addition, he was sentenced to a term of not less than 5 nor more than 15 years on the robbery on which he was convicted. It is most unlikely that he would have received a greater sentence if he was convicted on all three cases.

All that the District Attorney's refusal to *nolle prosse* accomplished was that two weeks of valuable court time were needlessly used.

In summary, I believe our system of criminal justice would function as it should and could if (1) all arrests by the police were screened by the District Attorney prior to the defendant being booked, (2) if the District Attorney expanded his pre-trial probation program to include cases in which an indictment has been returned and (3) the District Attorney made greater use of the *nolle prosse* and/or plea negotiation in appropriate cases.

I have a reoccuring dream or nightmare in which I am defending a client charged with a serious crime and there are no "junk" cases on the trial list to hide behind when the judge starts to try cases. In this dream I am forced to trial and all the witnesses for the Commonwealth are present. The court also is not interested in production so it can give all the time to deliberation it requires. Of course, my client is convicted and is sentenced to a substantial term.

How different it is after this dream to go into a real courtroom to defend someone and find everyone interested in disposing of the large list of cases; to have seven or eight "junk" cases on the list which will take court time to try and which will cause victims in the "serious" cases to sit all day and have to return again for trial on another day; to know that the victim in the robbery case which was not reached the last four times listed because easier cases were in the room, has been "'rehabilitated" and will never return to prosecute.

To return to reality after my dream is to enter the world through the looking glass.

REMARKS OF PHILADELPHIA POLICE COMMISSIONER JOSEPH F. O'NEILL AT CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

From time to time proposals have been made to treat certain kinds of offenders in a manner other than the normal criminal justice fashion which is the cycle of arrest—indictment—trial—etc. The President's Commission on Law Enforcement and Administration, of Justice suggested in its report of 1967 alternatives to arrest including, for example, wider use of police discretion.

As the input agency to the criminal justice process, police certainly recognize that an increasing amount of arrests places additional burdens upon the entire criminal justice system. We also realize that the agencies of criminal justice must function with limited, and all too often, insufficient resources.

From a police view, there ere definite advantages that might be realized if certain types of crimes were eliminated from the criminal justice process. There are also other factors which, more from practical considerations rather than strong philosophical objections, must be viewed as cautions when considering alternatives to arrest in the disposition of offenders.

The kinds of crimes which have been frequently mentioned that should be treated in a non-arrest category are often labeled as "victimless" crimes. These would include those types of crimes in which there is no other person who suffers directly because of the misconduct of the offender. This would include the habitual drunk, the drug addict, the compulsive gambler, etc. granted there is often no other victim suffering from the direct behavior of this type of social misfit, but we cannot ignore the damage done to the offender himself or his family.

It is interesting to note that the combined total of arrests for drunkenness, narcotics, and gambling during 1970 in Philadelphia was almost 53,000 cases. This represented 52% of the total arrests made in our city last year.

From the police view, there are various ways in which certain offenses could be eliminated from the criminal justice process. One way of reducing the criminal justice work load would involve greater use of police discretion involving the decision-making of when to arrest or not arrest the criminal offender.

In the area of juvenile delinquency, we have exercised our discretion on arresting offenders for a number of years it is now an

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effective policy in handling juvenile offenders.

About 40% of the juveniles we apprehend for various offenses are released with referrals made to appropriate social welfare agencies. We have long-standing policies and guidelines on the kinds of things to consider when making our decisions about arrest or non-arrest dispositions of juvenile offenders. These would include seriousness of the crime, prior history of offender, the stability of the family, available referral programs, to mention the most important factors.

The feasibility of applying this procedure to adult arrests would by its nature require adequate referral services where the offender could be sent to a proper treatment program geared to helping the persons involved.

In another fashion, the volume of arrest cases can be directed toward those crimes which require the most attention. Given a limited amount of resources, we must select the most important programs to concentrate our efforts. In our assignment of resources to program areas, we select those categories which we think must be given priority.

For example, in the 10 year period between 1961 and 1970 arrests increased only 3% from 99,000 in 1961 to 102,000 last year.

However, there were dramatic shifts in the kinds of arrests made in Philadelphia during the past decade. For example, arrests for major crimes (index offenses) jumped 79% while minor crimes (part II offenses) declined 7%. However, within the category of minor crimes, there were substantial increases in selected areas such as narcotic violations (up almost tenfold), weapons offenses (up 2½ times), drunken driving (which tripled). Substantial decreases were reported in the categories of sex offenses, gambling violations (there was a shift from enforcing general gambling laws to concentrating on the persons involved in the profit-making operational end). Disorderly conduct was another area in which arrests have declined substantially (last year down to ⅓ the 1961 level).

From the police view, there are several advantages if certain crimes were eliminated from the criminal justice process. The basic gain would be the saving in manpower which could be reallocated directly to programs aimed at reducing the high level of serious crime.

I am also sure that alternative programs, if properly structured and funded, would provide more effective long-range solutions to the underlined problems of alcoholism, addiction, gambling, etc.

We all know, for example, that placing a *drunk* into a tank overnight and then releasing him the following morning does nothing to help his basic drinking problem.

We also know that processing an *addict* for use of narcotics within the criminal justice system does not effectively alleviate his physical addiction let alone treat the underlying motivations which led him to turn to narcotics.

From our view, it is in the best interests of everyone concerned to treat these difficult problems outside the criminal justice spectrum rather than having to deal over and over again with the same people who do not receive any real help in their basic needs.

Another direct gain would be in the savings of manpower and monies now required for court appearances which result from the arrests we make. Our general patrol efforts suffer because numbers of policemen are in courtrooms away from patrol.

On the average, 300 policemen are subpoenaed to court every day. Needless to say when these men are scheduled to patrol when they must attend court, we have a serious drain on our available manpower.

In addition, when the policemen are not scheduled to work during the timea they appear in court, we must pay overtime at premium rates (time and one-half pay).

Our overtime costs at current levels for court attendance amount to almost 2 million dollars per year.

If alternative programs could be developed, I am sure the savings in manpower and overtime funds would be substantial.

From a practical point, there are some serious problems that must be overcome if we ever hope to implement alternatives to arrest on any large scale. First, the programs to treat alcoholics, addicts, and other such types are certainly costly and must compete with existing governmental services for available monies.

Problem areas—alcoholism, narcotics addiction, mental problems, etc.—have never been accorded a high priority in our social programs.

We must also guard against the fragmentation of the various social agencies which would provide the needed services and follow-ups for the persons who might be included in these programs. Effective approaches to alternatives to arrest can only be realized if the referral agencies are properly coordinated.

Any program to provide alternatives must also be flexible. We should be very cautious about making programs all-inclusive at the beginning. Each case must be investigated and evaluated before a decision should be made that the case will be better handled as a referral rather than an arrest.

In ths way, we would be able to balance the needs of the offender and protection of the community when the exceptional case arises where repeated attempts to help the offender in the past prove useless and he continues to endanger other people.

Unless our programs are well thought in advance, any efforts to provide alternatives will be a quick exercise in futility.

I am sure that Arlen Specter can describe his experiences in which the police department worked with his office and tried to implement a detoxification program for alcoholics in the center city area in Philadelphia. The basic purpose of the program was to attempt to provide hospital treatment for hardcore alcoholics rather than the typical arrest disposition.

After the first day, the program failed because the hospitals were unable to provide the necessary space for the alcoholics under arrest. The fact that the down-and-out alcoholics do not have money certainly did not make them welcome admissions in any hospital.

In summary, however, I do feel that the advantages of alternative programs are certainly worth exploring.

From a police view, we would also like to see the laws changed to reflect the desires of the people rather than having to implement discretionary programs on our own.

I do feel that if we were able to streamline our criminal justice operation and concentrate on the serious offenders we would be in a much better position to deal with the hardcore repeaters who I feel pose a great challenge to our present system of criminal justice.

ADDRESS BY HON. D. DONALD JAMIESON, PRESIDENT JUDGE, PHILADELPHIA COURT OF COMMON PLEAS TO THE CONFERENCE ON MEANS OF EXPEDITING CRIMINAL JUSTICE

Good afternoon. It is an honor and a pleasure for me to speak to this distinguished group, most of whom participate in the criminal justice system at one vital stage or another. I am pleased, also, to have the opportunity to speak with you about the means of expediting criminal justice, one of the weightiest problems facing this nation today.

I regret I was unable to attend the panel discussions this morning and consequently have lost the benefit of what I am sure was an incisive discussion of this problem. I trust that if my remarks either repeat or omit matters which you have already touched, you will bear with me.

It is my hope to discuss in concise fashion the problem and possible solutions from my particular vantage point, that is, as one who deals on a daily basis with the judicial administration of the nation's fourth largest state trial court.

My observations on expediting the criminal process are, of course, predicated on certain assumptions. The first is that society will continue to insist that those who do not conform to the established rules and norms of conduct must be censured that they must be controlled to avoid recurrence of non-conformance and while thus controlled must be subjected to reasonable efforts toward rehabilitation.

Second, I assume that the adversary system will continue to be accepted as the best method for the determination of guilt or innocence.

Finally, I assume that we will for sometime to come be unable to overcome the myriad underlying causes of criminal conduct. The causes are neither secret nor elusive—they include inadequate education, employment, housing and recreational opportunities, and above all, a general lack of morality which is both cause and effect of the breakdown in the religiously disciplined community of close family living.

It is in this context, structured as it is by these separate elements, that the criminal justice system must operate. An examination of the processes of the system, from arrest, through trial and sentence to incarceration or probation, seem to indicate clearly that we must initially re-examine the criteria which we impose for inclusion or exclusion of a "case" in the traditional process. Such an examination must begin at the arrest stage. It is clear to me that the police, and here I do not speak derogatorily, but merely in recognition of one of our problems, are responsible for many arrests which must be characterized as "bad." The arresting officers either make errors in judgment based on insufficient information or a lack of understanding of the applicable law. If these arrests become "cases" and are allowed to enter the criminal justice system, the result is wasted manpower and effort at every stage.

The police must understand that they are not the adjudicators. It is not for them to determine guilt or innocence and for the judicial system to simply rubber stamp their determination. Rather, it is their function to apprehend persons they feel they have prima facie cause to believe have committed a crime. It is further their function, however, to secure all pertinent evidence sufficient to allow a sensible, factual determination of whether a defendant is guilty beyond a reasonable doubt or is to be acquitted. In this regard, the Philadelphia District Attorney's pilot program, placing assistant district attorneys in police stations to aid in the preparation of search and arrest warrants and in the decisionmaking process surrounding arrests, should prove to be of untold benefit in bringing the needed expertise and education to the police on the beat—the point at which it is most needed. We have an excellent Police Commissioner in Joseph F. O'Neill, and he is to be congratulated for his continuing efforts to upgrade both arrests and investigations.

The second area which I believe we must turn our attention to in examining the possible elimination of case work from the traditional justice system involves the so-called "victimless" crimes. In such categories I would include narcotics use, gambling and prostitution. In my judgment, it is more appropriate for us to divert this type of case from the system and subject it to rational, appropriate treatment in an effort to both rehabilitate and control. Obviously, there is no easy answer as to how this should be done and the structure for each must be carefully thought out if we are to avoid making a bad situation worse. It does not answer the problem, in my opinion, to either ignore or legalize—but there must be a happy medium of control which we, as an innovative nation can surely plan and carry out. An example of enlightened thinking is found in the pre-indictment probation program initiated by Superior Court Judge J. Sydney Hoffman. As many of you undoubtedly know, under this program first offenders accused of non-violent crimes are deferred at pre-indictment conferences and can secure dismissal of the charges against them after a period of untarnished conduct on probation.

As helpful as this program and the District Attorney's screening procedure have proven and as helpful as further steps in these areas might prove, however, it is simply impossible to gainsay the very obvious and overriding fact that the adversary system, as such, is inherently inefficient and, at best, conducive to delay. Unfortunately, delay in this regard is a beneficial factor from the point of view of the defense which frequently works against the accomplishment of a just result. This sad fact of life is complicated by the judge-shopping which seems to be another inherent evil in the adversary system in metropolitan areas. Further complication arises from the fact that the criminal defense bar, even in major cities such as Philadelphia, is often quite limited so that a relatively small number of lawyers handle a very high percentage of the private criminal defense litigation.

Still further complication arises from the poor manpower position which many public defender offices find themselves in. In Philadelphia, for example, between seventy and eighty percent of the criminal defense work is handled by the Voluntary Defender and, yet, the Defender's staff probably numbers fewer attorneys than even the private defense bar. It is worthy of note also that the prosecutor's staff, even in a city as large as Philadelphia, numbers far fewer attorneys than is desirable.

The problems of manpower, however, are not limited to either the prosecutor or the defense bar, private or public. To function with even a modicum of success, the adversary system must enjoy sufficient judicial manpower and efficient facilities in which to function. If the manpower problems of the litigants are compounded by insufficient judicial staff, possibilities for delay become so numerous as to become overwhelming. If the facilities which house the criminal justice system are inefficient in design or too far separated, additional factors promoting delay further confuse an already befuddled process.

What then, are the solutions to the problems with which the present criminal justice system presents us?

In many instances the answers are pitifully obvious. Increased operating resources, including appropriate facilities and adequate manpower at every level are a first priority. Inefficiencies must be overcome where possible and short of constitutional amendment the entire process must be tightened and buttressed against delay.

In this process, however, we must maintain careful balance. Thus, we cannot allow ourselves the luxury of launching a frontal attack on delay at the expense of ignoring our paramount responsibility, to wit, the pursuit of justice.

Expedite we must. Reform we must. Become more efficient we must. But lose sight of our reason for being—the administration of justice—that we must not.

Speed is only one aspect—one facet of justice. To be sure, delay and congestion are sufficiently vexing that we must turn our attention to them and attempt to eliminate them.

We must never allow ourselves, however, to lose sight of the overview. We have accomplished nothing if our courtrooms become speedy assembly lines devoid of human values, lacking in the total attention that must be paid to every case, to every individual litigant.

I am certain, however, that we can successfully avoid such pitfalls while at the same time successfully reforming the total criminal justice system.

Plea bargaining, where appropriate, and in moderation, serves as an excellent catalyst for more prompt disposition of certain kinds of criminal litigation. Indeed, the Philadelphia District Attorney must be commended for his strict use of this tool.

Other approaches to the problem can be found in programs such as Release-On-Own-Recognizance bail which deals with the vagaries of extended pretrial incarceration, thus freeing funds to be used elsewhere in the system and preserving intact those elusive human values which deteriorate so rapidly during incarceration.

In addition, voir dire must be strictly controlled, the number of peremptory challenges must be reduced—even eliminated—and the immediate disposition of post-trial motions must be allowed in the discretion of the trial judge.

Beyond this, we cannot overlook the very obvious management tool available in the sophisticated automated data processing systems which are now available. The on-line retrieval of information through computer terminals, conflict-free scheduling of both criminal and civil cases, and the automation of problem areas such as Domestic Relations payments (even though the latter is far removed from the criminal justice system) all serve to illustrate the advances which can be made in this area. The need for such techniques is especially acute in our large metropolitan areas and I am proud to be able to say that Philadelphia is the acknowledged leader nationally in this area.

We must of course, too, maximize the actual working hours of our courtrooms. In this regard, we must insure the strict enforcement of the traditional requirement that all parties be present. We must move with dramatic force in dealing with the problem of repeated continuance. It is very probable that we must begin court earlier and close court later than ever before.

Our juries must be smaller. In many cases, we shall probably want to entertain less-than-unanimous verdicts. Constant re-evaluation of the ratio of courtroom assignment time to chambers time must be part of our regimen.

In Philadelphia, I am happy to say, we have considered each of these alternatives and have either sought legislative action or moved ourselves with respect to every alternative which we feel presents any hope for increased efficiency of operation.

Beyond these areas which I have specifically alluded to, we have moved on the civil side, particularly through increased compulsory arbitration, realizing that successful efforts there will free judicial manpower which may then be assigned to the criminal backlog which plagues us. With specific reference to our own experience at the trial court level perhaps the most encouraging reform has been the expansion of the criminal jurisdiction of our Municipal Court to include cases with up to five-year penalties. This change, which was accomplished through our efforts in the legislature and signed into law on July 9, will effectively subject seventy percent of the criminal cases in the Philadelphia criminal justice system to a non-jury trial in the Municipal Court within six weeks of arrest.

There is, of course, a right of trial de novo on appeal to Common Pleas Court. It is important to note that through the first two years of Municipal Court criminal jurisdiction with two-year maximums and in our early experience with increased jurisdiction, the appeal rate has remained both constant and quite manageable.

If the appeal rate can be maintained at its present level and if the sentencing by our judges is appropriate to the level of criminal activity involved, query whether it would not be in the interest of justice to recognize a non-jury trial for all except homicide cases.

While I am not *sure* that it is appropriate—although it may well be—to consider changes affecting the traditional right to a jury trial, I feel it is imperative that we closely scrutinize the excellent screening of cases which a device such as the Municipal Court affords us. It is important to keep in mind that the jury system is an integral part of this inherently inefficient adversary system of justice which we have chosen—the system which is admittedly inadequate but better than all others. Other reform measures in this area are also called for. For example, in the remaining thirty percent of our cases which go to Common Pleas trial, we would like to bypass—eliminate—the indicting grand jury process which we believe serves only as a rubber stamp for the decisions of the District Attorney's office.

These problems and possible solutions which I have attempted to enumerate are all directed at improving the adversary process.

Perhaps we must consider substitutes for that process itself, although, as I have already indicated, it is reasonable to assume that it will be with us for many years to come. Perhaps the independent arbiter need not be a judge. Perhaps he can be a commissioner, a magistrate—the title is not important.

If we are not willing to make major changes in the process itself, perhaps then we must be more honest with ourselves and more sophisticated in the judgments which we make concerning our own efforts.

Isn't it foolish that much of our record-keeping still refers to "dispositions" so that the three-week homicide cases and the numbers charges dismissed at the preliminary arraignment somehow achieve equal weight in our tables and charts and annual reports.

Many court management experts contend that what you count is what you are. How do we "count" justice? I suggest that justice is not just more dispositions. It is, I suggest, merely fair treatment in reaching a fair and proper conclusion. The procedures and suggestions I have mentioned only scratch the surface in working toward a better adversary system. I sincerely hope that each of us takes from this meeting some idea or ideas which can be utilized in the justice process. We must do better. I am sure we will.

Thank you.

REMARKS BY HON. ROBERT T. MURPHY, MEMBER OF CIVIL AERONAUTICS BOARD, BEFORE INTERNATIONAL AVIATION CLUB

HON. JOHN O. PASTORE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. PASTORE. Mr. President, on March 21, the Honorable Robert T. Murphy, member of the Civil Aeronautics Board, delivered a most significant address to the International Aviation Club, in which he touched upon four timely and important issues confronting the field of international aviation. In his comments he commended the Depart-

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ment of State for its excellent cooperation with the CAB in bilateral route negotiations; he called for an expansion of international tourism to the United States to eliminate the current travel imbalance and most significantly, he announced a new determination on the part of the Board to deal with the serious problems confronting the public, the air transportation industry and travel agents as a result of violation of charter regulations.

As a member of the Committee on Commerce, I am deeply committed to the expansion of the travel market to assure that all of our citizens have an opportunity to enjoy low cost, safe and efficient transportation. However, I am equally concerned with the need for air carrier and charter promoters to comply with CAB regulations. It is only through such effective compliance that the public can be protected and that charter strandings, such as those experienced last summer, can be avoided.

I commend the CAB, in particular Richard J. O'Melia, its Director of the Bureau of Enforcement, for its determination to assure effective compliance with rules and regulations designed to protect the public.

I ask unanimous consent that Mr. Murphy's speech be printed in the Extensions of Remarks.

There being no objection, the remarks were ordered to be printed in the Extensions of Remarks, as follows:

REMARKS BY THE HONORABLE ROBERT T. MURPHY, MEMBER, CIVIL AERONAUTICS BOARD

I am deeply honored to have the opportunity to address this prestigious organization of international aviation experts. When the distinguished former Chairman of the Civil Aeronautics Board—my former colleague, Charles Murphy—extended your gracious invitation I promptly accepted but with the full appreciation that I follow in the wake of many gifted speakers who have graced your rostrum in the recent past.

I can recall the early days of this association when, in company with Joe Watson, (my tutor in matters of international aviation) I attended a number of meetings which were conducted in surroundings far less pretentious and classical than those in which we convene today. The steady advancement of the Club is undoubtedly due in large measure to the assiduous efforts of those early sponsors and founders as well as to the universal interest in the important subject matter to which it is oriented.

At the outset, let me say that I accepted your invitation, as I told Charlie Murphy, not without a great deal of trepidation. Frankly, I find it difficult to discuss in any detail some of the most significant international aviation matters which may be of the greatest current interest to you because, as a Member of the Civil Aeronautics Board, I must be constantly mindful of the restraint and impartiality which must be exercised with regard to matters which are pending before us for decision or advice. Somewhat like a pressure cooker I would like to let off some steam but can't. Some such pending matters include the proposed rulemaking on Travel Group Charters (or advance booking charters, as the British call it). Few issues demand the searching and intensive consideration of the Board to compare with this one. You can be assured that we are acutely aware of the magnitude of this proposal and its importance to the future course of the international air transport industry. Neither can I speak to you of the pending IATA fares which are so important and so imminent. Additionally, while I have been engaged in a series of interesting and diverse negotiations with some six European countries during the past six months here in Washington, discretion dictates that any reference to them be of a most general nature.

Putting aside these matters which I feel I am foreclosed from discussing, let me share with you several overall thoughts and personal reflections on a few aspects of international air transport developments as seen from one man's point of view.

First, I would like to comment on a remarkable example of effective and efficient teamwork which has redounded to the benefit of international aviation. It is a subject matter which is rarely mentioned. As I see it, it deserves special noting and underscoring. I refer to the valuable and harmonious relationship between the Department of State and the Civil Aeronautics Board in the field of international aviation which has persisted over the years. This is a partnership for cooperative Government administration which is not surpassed, to my knowledge, in the whole Federal Government complex.

The Board's role in negotiations with foreign governments in matters of aviation, as you probably know, is to serve as a consultant and adviser to the Department of State, principally on the economic aspects of the questions involved. We are responsible for the soundness of that advice and for the recommendations as to what we believe to be just or reasonable in matters of routes and charges. Our Bureau of International Affairs is constantly reviewing, analyzing and probing the whole spectrum of global aviation problems on a continuing basis. Frequently, their work is directed toward anticipating incipient problems and recommending courses of action designed to avoid them.

This modest-sized Bureau enjoys an enviable reputation in aviation circles everywhere. The Department of State, as a result of delegation from the President, is charged with the management of international aviation problems and, specifically, the negotiation of agreements on his behalf. For, as we all know, it is the President alone who is charged with responsibility for the conduct of our foreign affairs and, specifically, under section 801 of the Act, for ultimate decisions relating to international air rights. As the Supreme Court once cogently stated:

"In this vast external realm with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation . . . he alone negotiates." *U.S.* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 319 (1936).

So, there is a sharing of responsibility and a sharing of the work burden which is contemplated by the Federal Aviation Act of 1958. Through the coordinated efforts of both our agencies it has been possible to field negotiating teams competently prepared and equipped to meet the constant challenges of literally a worldwide series of complicated economic and political problems—problems which not only vary from area to area, but country to country. The smooth functioning of this historic relationship is a tribute to the personnel of the Aviation Division of the Department of State and to the staff of our own Bureau of International Affairs.

Let me talk for a moment about something new. As you know, the Board has tried for many years to obtain improved authority over rates in foreign air transportation. Hopefully, our long wait is about to end. If the President signs the bill sent to him by Congress, the Board will be given the power to suspend and investigate rates, fares or charges in foreign air transportation and, after hearing, to cancel those we find to be unreasonable, unjustly discriminatory or preferential. Board orders under the new power would be subject to Presidential disapproval. The lack of such authority by the Board in the past unduly impeded the ability of the United States Government to regulate international air fares.

This new power will enable us, not only to protect the traveling public against unreasonably high rates, but also our United States flag carriers against destructive low rates. It is the same type of power which most, if not all, foreign governments have long possessed. I shall always remember the furious storm that ensued following our justifiable disapproval of the IATA North Atlantic Rate Agreement in 1963—the so-called Chandler Agreement. In my view, that unpleasantness might never have occurred if all other governments knew in advance that we had the power to suspend and investigate international rates.

I believe the Board will utilize this new authority with cautious restraint and discretion and only in instances where its application seems clearly justified in the public interest. I would like to believe that the mere possession of the power may be equally as important as its exercise. I am sure that all carriers and their respective governments will be more likely to take into account the position of the United States Government in matters of rates and charges so that the suspension power granted to us may need to be invoked only in rare instances.

Turning to bilateral route relations for a moment, I believe it is fair to say that, taken as a whole, our foreign flag competitors have been treated equitably and fairly in terms of reasonable access to the U.S. market in return for route grants accorded to us. In this connection one may note that it is U.S. citizen traffic which constitutes the largest portion of the grist on which the wheels of international air transportation grind in the major air markets of the world. For example, on the North Atlantic we generate about two-thirds of the total market. Some measure of fairness is self-evident if one examines North Atlantic traffic on a market-by-market basis. There you will find that the U.S. flag carriers, in terms of revenue results, lag far behind the foreign flag competitor in a number of them. It is clear, therefore, that we cannot approach an exchange of route rights with other countries on the assumption that our market is so vast that we can absorb any and all additional competition.

When one considers what has taken place over the years in foreign water-borne commerce to the United States maritime industry where our flag has been almost swept from the seas by a tide of foreign flag competition, one is better able to understand the concern which we must constantly exercise in the maintenance of an economically viable U.S. air transportation system. History has a way of repeating itself and what has happened on the seas can happen in the skies unless we are constantly vigilant and ever prepared to protect the legitimate interests of U.S. trade and commerce.

Here, as a footnote reference only, let me say that my recent experience in reviewing the functioning of scheduled air services to and from several representative socialist republics leads me to believe that we need to overhaul the mechanism of commercial communication with such countries. I am divulging no confidences, I am sure, when I tell you that these operations, while socially, culturally and politically advantageous, have not been economically profitable for the U.S. carrier. Much of this is due to the difficulties in trying to meld or to reconcile the commercial liberalism of our free enterprise system with the commercial restrictionism required by the laws of the socialist regimes. Just how we will be able to solve this riddle I am unable to say at this point. I do know that some very fine minds are pondering that subject right now.

In my judgment, also, there is a great need to make the tourism market more of a reciprocal exchange. As I noted earlier, more than two-thirds of the passengers on the giant North Atlantic market consists of American citizens. The situation is little different elsewhere. I have spoken on this subject before and feel rather strongly about it. We have made many attempts to induce foreign travelers to come to our shores. The efforts of the United States Travel Service to promote vacation travel to the United States have reached a new high under the very vigorous and imaginative leadership of Langhorne Washburn, Assistant Secretary of Commerce for Tourism.

Our local service carriers, also, have done their best with the extraordinary "Visit USA" fares which they are once again renewing. Under these fares a foreign visitor for $150 can travel all over the U.S. without limit for 21 full days. This is some answer to the problem of long distances within the United States often raised as an objection to foreign travel within our country. Yet the volume of foreign visitors remains relatively modest.

Just to cite an example: Recently, Lang Washburn, in speaking to the International Tourism Exchange at Berlin, labeled the relationship of travel between the United States and Germany "lopsided" noting that while 1.7 million Americans visited Germany last year only 175,000 Germans came to the United States; and that this year, because of the Summer Olympics, American tourism to Germany would probably reach an all-time high of two million visitors. It seems to me that the recent readjustment in the rate of exchange between our dollar and many foreign currencies provides a better opportunity to encourage a greater flow of foreign tourists, particularly European tourists, to the United States. In short, let's try to make the North Atlantic more than a two-way street this year.

A final point of reflection today relates to a phase of ethics in the sale of air transportation. It is well known that the major part of the time and efforts of the CAB Bureau of Enforcement is devoted to affinity charter enforcement problems. The transatlantic area involves the largest volume of such charter operations. It is interesting to note that virtually all foreign countries require prior approval of all charters by U.S. scheduled and supplemental carriers. Our regulations, in contrast, do not require the advance approval of individual flights, except for off-route charters of foreign scheduled carriers.

However, we have conditioned the permits issued to foreign charter carriers to provide that the Board, without hearing, may require advance approval of individual charter trips conducted by the holder of the permit if the Board finds such action to be required in the public interest. This is a special reserved power.

A few months ago I was invited to go to London for some informal discussion on this vexing subject of enforcement of charter regulations. Mr. Richard J. O'Melia, Director of our Bureau of Enforcement, and the Chief of our Investigation Division, Joseph W. Stout, accompanied me. We spent several days in a useful exchange of views and a comparison of regimes which, I believe, will prove to be mutually beneficial. Also, in the last few weeks we have had a visit from an enforcement official of the Dutch Government. We anticipate similar informal discussions with enforcement authorities of other European countries.

Unfortunately, it appears that despite unrelenting enforcement efforts there continues to be a great deal of illegal charter operations. We have issued many cease and desist orders and have imposed a large number of fines but, apparently, the open flouting of applicable regulations is being carried out in the back alleys of the travel world by unscrupulous and unprincipled promoters.

I want to make it clear that these remarks are not intended to criticize the present conduct of the U.S. supplemental carriers. As a result of compliance difficulties experienced in past years they have established a self-policing program in an effort to cope with the problem of uncharterworthy groups. It would appear that they are making a strenuous effort to comply with existing charter regulations. Certainly, far fewer of the recent complaints received by our Bureau of Enforcement have involved the U.S. supplemental airlines.

I regret to say that such is not the case with some of the foreign flag supplementals. The Board has substantial reason to believe that some of them may be regularly engaging in foreign air transportation in a manner not in conformity with applicable regulations. Perhaps this may be due to their own inability to screen out deliberate violators. In our judgment, the circumstances are such that the public interest in protecting the integrity of the Board's regulations and in assuring that the carriers' future operations comply with the permits which the Board has granted them, constrains us to invoke the condition of their permits which will require the filing for advance approval of all charter flights.

Perhaps in this manner we can assist these carriers in solving the problem of compliance with certificate requirements. This is not only in the public interest, but in the carriers' interest as well. Therefore, I am authorized to announce that the Board today will issue an order requiring Donaldson International Airways and Laker Airways, Ltd. to file a request for advance approval of each passenger charter flight (except inclusive tour charters) at least 25 days in advance of that flight. The order precludes the operation of their aircraft in such charter flights on and after May 1, 1972, unless advance approval is granted.

The full considerations upon which we have decided to take this action are set forth in the order. Whether the carriers have knowingly violated the terms of their permits and what penalties are appropriate, if they have, are questions which the Board reserves for other proceedings and are not passed upon at this time. We shall be prepared to take like action with respect to similarly situated air carriers if we receive information concerning their operations comparable to that which we now possess concerning Laker and Donaldson. As our Chairman, Secor D. Browne, in his recent address to the Royal Aeronautical Society in London, stated:

". . . the Board has given itself the potential to require individual flight approval by foreign charter carriers. The Board will not shrink from exercising that authority under appropriate circumstances, including abuse of the privileges granted by the Board."

Another matter in the charter field which has been of serious concern to the Board and to the Congress is the illegal practice whereby passenger consolidators collect round-trip charter fares from participants but pay the carriers only for one-way flights. This problem was headlined last summer when almost 2000 students were stranded in London because of the lack of return accommodations. I am authorized, also, to tell you that to prevent a repetition of such a fraud, the Board today is issuing a notice of proposed rulemaking which will require that when carriers enter into one-way contracts for charter flights originating in the United States they must have confirmation from another carrier for return flights. This regulation should go far toward eliminating this fraudulent practice.

In conclusion, I would like to predict that this summer should be an improved one—particularly on the North Atlantic—for all carriers, scheduled and charter alike. It is significant. I believe, that even at the bottom of the unfortunate slump in domestic air traffic, the traffic on the North Atlantic held up very well. While the growth was not as large as in prior years, nevertheless, there was still a growth. The pent-up desire of the average American to visit across the seas continues unabated. To me, however, the most impressive thing is that the system of international air transportation, with all the complex problems attendant upon air commerce among so many *different* nations and peoples, works so effectively to serve that demand and to serve it reasonably well. It is up to us, both in Government and industry, to labor for its continued improvement in the public interest. Let that be our pledge for 1972 and the years beyond.

LITHUANIAN CATHOLIC PETITION TO COMMUNISTS

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of Illinois. Mr. Speaker, I noted with interest an article in today's Chicago Tribune which stated that a petition signed by 17,054 Lithuanian Catholics is being forwarded to Communist Party Chief Leonid Brezhnev, Mr. James Kuenger, chief of the Tribune's Moscow Bureau, reported that the signers were protesting religious intolerance, exile, and persecution in Lithuania. Kuenger quoted from the petition which contained examples of repression, torture and generally worsened conditions in Lithuania.

I commend the article in its totality to my colleagues. As a Congressman with a considerable number of Lithuanian Americans in my district, I find the situations described in the petition horrifying. Additionally, I protest the detainment of name collectors by the Communist authorities and object to the confiscation of lists of petition signers. The article is as follows:

LITHUANIAN CATHOLIC PETITION

Moscow, March 27.—More than 17,000 Lithuanian Catholics have signed a bitterly worded petition to Communist Party Leonid Brezhnev demanding an end to religious suppression.

The petition was signed by 17,054 individuals during last December and January. It is the most massive protest of its kind ever known to have emerged from Lithuania, where most of the U.S.S.R.'s estimated 3 million Catholics live.

SENT TO U.N.

The inch-thick document is a packet of 123 identically worded petitions. It was sent to United National Secretary General Kurt Waldheim, who was asked to forward it to Brezhnev.

The signers asserted that earlier petitions protesting official inhibition of their religious practices had gone unanswered, except in the form of "intensified repression."

Threats and arrests by Soviet Militia and Secret Police prevented the Lithuanians from gathering even more signatures and prompted them to seek U.N. help in getting their message to the Kremlin, they said.

"Freedom of conscience is still absent for the believers among our people, and the Church is still subjected to persecution," they told Brezhnev.

XUM

TELLS OF EXILES

The petition said that two Lithuanian bishops had been sent into unlimited exile without trials "altho they committed no crime." The two were identified as Juilonas Steponavicius and Vincentas Sladkevicius.

Also noted were the one-year prison terms handed out last November to two priests, Juozas Zdebskis and P. Budnis, for preparing children for their first communion at the request of their parents.

Father Zdebskis' mother charged that he was beaten so badly in prison before his trial that he was unrecognizable.

The petition complained of a shortage of priests, saying that even invalid and elderly priests were forced to work. This was attributed to Communist control of the sole remaining seminary in Lithuania, at Kaunas, which no more than 10 students are allowed to enter each year.

TEACHER DENIED WORK

It said a teacher in the Vilkavisskis district, one O. Briliene, was fired for being a practicing Catholic and since has been refused any kind of work, even menial.

"The authorities do not allow believers, even at their own expense, to restore burnt-out churches, for example, in Batakiai Gaure and Sangruda parishes," the petition said.

"Believers must obtain from the authorities, with great difficulty, permission to conduct services anywhere in a home, but in no case is it permitted to set up even a clock-tower in a former churchyard. At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church had stood."

The petitioners charged that religious persecution goes unpunished, in direct violation of Lithuania's Constitution. It also notes that the Soviet Constitution guarantees freedom of religion. [Russian authorities insist that such freedom exists.]

"By contrast, atheism is forcibly inculcated in Lithuania's Soviet schools," the petition said. "The faithful children of Catholics are made to speak, write, and act against their conscience."

[Sources reported about 10 children were called as witnesses at Father Zdebskis' trial. Several of them wept openly on the stand or remained silent under questioning.]

LIFE CALLED WORSE

The plea to Brezhnev also charged that the quality of life in Lithuania has worsened noticeably since the country was annexed by the U.S.S.R. in 1940.

"This present memorandum is the outgrowth of a national calamity: in the years of Soviet power in Lithuania, such vices as juvenile crime, alcoholism, and suicide have grown tenfold, and divorces and abortions have taken on threatening proportions as well," it said.

"The further we are removed from the Christian past, the clearer become the terrible consequences of forcible atheistic upbringing and the more widespread becomes an inhuman way of life deprived of God and Religion."

The signers said the petition was gathered despite a concerted campaign by the authorities to stop it. Several collectors were detained and lists of names were confiscated.

The petitioners said they will address themselves to the Pope in Rome or the U.N. rather than the Soviet government if the official attitude persists.

It is little short of amazing that the effort was as successful as it was and that the petition was forwarded to Moscow for inspection by Western newsmen before being sent out of the country. [It is expected to arrive in New York soon.]

ORIGINS OF AMERICAN DEMOCRACY—ARTICLE BY JAMES H. YOUNG

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. SPONG. Mr. President, the official magazine of the National Sheriffs' Association contains in its February–March issue an article written by James H. Young, president of the National Sheriffs' Association. Mr. Young is sheriff of the city of Richmond, Va., and is a fine citizen and patriot.

Sheriff Young discusses some of the origins of American democracy. I found his observations concerning the ancient Greek philosophers and patriots of particular interest.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT YOUNG SAYS . . .

As the bi-centennial celebration of the American Revolution approaches, our thoughts turn to the past as we prepare for the future. And fitting this is, because, as is carved on the Archives Building of the United States in Washington, D.C., "What Is Past Is Prologue."

When we consider our nation's heritage of individual liberties and freedom, we would do well to think of the patriots who left us this priceless heritage and to consider the origin of the ideas and ideals embodied in our governmental structure. The very words, *e.g.*, Republic, democracy, citizen, politics, philosophy, etc., have their own origin in antiquity.

As we trace these words, these concepts, back to their source, we inevitably must find our steps taking us to the birthplace of logical thought, the city-states of Hellene. It was there that philosophy was born. It was there that man became concerned with causes and effects, with the abstract ideals of justice, with the practical concept of equitable government, with human dignity, with the relationship of man and God, with man and the state, etc.

Our Founding Fathers were devoted students of Hellenic thought and were thoroughly familiar with such philosophers and political scientists as Plato, Aristotle, and Protagoras. They read avidly the works of such historians as Thucydides and Herodotus. They knew the writings of Homer and Plutarch. They sought to emulate the oratory of Demosthenes and the statesmanship of Pericles. In short, the ideas and ideals upon which America was founded came largely from Hellenistic culture as did the words which describe them.

Interestingly, too, documents recently unearthed disclose that a contingent of warriors from Zante, Greece, sailed to the New World during the American Revolution to help Americans in our War of Independence. Among the noblemen aboard was one Major Michael Vourtzis who served in the Continental Army as an aide of General Lafayette.

A direct lineal descendant of Major Vourtzis, His Most Eminent Highness, Brigadier General Pericles Count Voultsos Vourtzis, now makes his home in New York, and is continuing the fight for individual freedom, an ordered and lawful government, and the brotherhood of man under the fatherhood of God. Dr. Voultsos is Prince Grand Master of the Sovereign Greek Order of St. Dennis of Zante, one of the most ancient, if not the most ancient chivalric group in world history.

As loyal Americans and as defenders of our government of laws, we, as professional law enforcement administrators and practitioners, cannot help but be interested in this order of Knighthood. Although at first glance it may appear anachronistic in Twentieth Century America, it most definitely is not. United States Presidents Hoover, Roosevelt, Truman, Eisenhower, Kennedy, and Nixon, as well as Vice-President Agnew, have been decorated with the Order and are included in the roster of famous Americans wearing this historic decoration, along with many Senators, Congressmen, Governors, Generals, and Admirals.

The origin of the Order holds great interest to anyone concerned with the progress of civilized thought. The beginnings of the Order are ascribed to adventurous Zakynthian knights who joined Jason and his Argonauts in 1207 B.C., under the leadership of Laertes, the first grand master, in his quest for the golden fleece.

According to Homer, their descendants aided Ulysses in the Trojan War, with men and twelve ships, Strabo, Titus Libius, Apollodorus, and Polyvius write of the founding of Saguntum in Spain by their warriors, after the destruction of Troy by Hannibal in 218 B.C. Herodotus speaks of the high esteem that the Knights of Zante enjoyed at the Court of Darius. Thucydides extols them for War as allies of Athens. Xenophon records their feats under Phalinus, then grand master of the knightly order.

The Order continued to fight for freedom and human dignity through the centuries. The Knights of Zante fought in the First Crusade under Favius Segur. This was but one example of the continuing warfare waged by the Knights of Zante throughout the centuries. There is virtually no battle which took place during the centuries in which the Knights of Zante did not take an important and decisive role.

After the fall of Rhodes, the Vourtzis family, a Patrician Byzantine family, which had often contested the throne of the Empire itself, settled in Zante in the Sixteenth Century. The Knights proclaimed as their only purpose the benevolent teaching of St. Dionysios (Dennis): love of fellowman, battling want, alleviating misery, and mitigating need. The order's ancient motto, "Faith—Courage," epitomizes its dedication to these principles.

Dr. Voultsos, present Prince Grand Master of the Order, although a descendant of one of the oldest and noblest families of Zante, is an American citizen and has devoted his life to those principles which we all hold dear.

As Americans, as lawmen, as seekers after truth and lovers of liberty, as fighters for justice, we must pay homage to Dr. Voultsos, the Sovereign Greek Order of Saint Dennis of Zante, and their many contributions to the welfare of our nation, our nation's existence, and to our profession as participants in American criminal justice.

Let each of us remember that our nation could not have been founded, could not have succeeded, if it were not for help from such dedicated humanitarians as Lafayette, Kosciuszko, and von Steuben. To that list of names should be added that of Vourtzis.

Democracy derives from the Greek words *demos*, the people, and *kratos*, authority. May all authority in America continue to come from the people! May this condition exist so long as one person believes in human dignity and in the United States of America!

IS THERE REVOLUTION IN RUSSIA?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, as the President starts preparations for his trip to Russia, there will be a great deal of review in the press over conditions he will find there, and related commentaries on domestic as well as international policies of the U.S.S.R.

A very fascinating, and certainly timely, column by Dumitru Danielopol, the distinguished international correspondent for the Copley Press, emphasizes domestic complications within the Soviet Union:

[From the San Diego Union, Mar. 10, 1972]

IS THERE REVOLUTION IN RUSSIA?

(By Dumitru Danielopol)

Is that the rumble of revolution we hear from inside the Soviet Union?

The growing nationalism of the non-Russian minorities and the spread of the human rights movement are being felt at the Kremlin.

Party Chairman Leonid Brezhnev is arresting Ukrainian and Baltic dissidents, says the London Economist, "because he is afraid they will form an active alliance with the human rights movement that is already worrying him."

A secret Central Committee resolution last Dec. 30 started a wave of arrest, searches and interrogations. The Ukraine has been a special target.

Tempers in that always smoldering region have been kindled by Moscow's increased emphasis on Russification. Protestors are publishing "The Ukrainian Herald," an underground newspaper or "samizdat" which hammers at the violation of freedom of speech and other democratic freedom guaranteed by the Soviet constitution, judicial and extrajudicial repression in the Ukraine, violations of national sovereignty and conditions of Ukrainian political prisoners.

Another samizdat called "The Chronicle of Current Events" has appeared in Russia proper since 1968 despite Soviet efforts to suppress it.

The human rights movement inside the USSR is becoming even more visible.

The chairman of the Committee of Human Rights is Prof. Andrei Sakharof, a renowned nuclear physicist who made his liberal views known when he published in June 1968, a booklet on "Thoughts on Progress, Peaceful-Co-Existence and Intellectual Freedom."

Since then he has been in the forefront of the protest movement against persecution of the Jews and other non-Russian minorities.

What apparently worries the Kremlin most is a possible alliance between the two dissident forces and links between various national ethnic groups.

What is even more dangerous for the Kremlin, in this observer's opinion, are signs that the Soviet people are beginning to find their voice after the gagging Stalinist era.

The sit-ins, protests and demonstrations by Russian Jews who will no longer be cowed, the open opposition of intellectuals, artists and students—despite the risk of harsh punishment—tells us something.

Khrushchev opened a Pandora's Box when he permitted some authors to speak their mind.

The book "Revolutionary Voices" published in Munich by the anti-Bolshevik bloc of nations is filled with 250 pages of protests by Ukrainians. Its foreword asks:

"How does it come that the murmurs from men and women languishing in prisons, concentration camps and wards of psychiatric asylums can swell into a rumble heard all over the world?"

THE SOVIET NAVY AND THE INDIAN OCEAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HARRINGTON. Mr. Speaker, I have asked the Library of Congress to translate a Norwegian article by Anders C. Sjaastad, "The Indian Ocean and the Soviet Navy," that appeared in the October 1971 issue of Norsk Militaert Tidsskrift. Mr. Sjaastad's discussion is a serious and carefully researched analysis of a subject that in American hands, unfortunately seems to lend itself to hot and cold running hysteria.

Mr. Sjaastad's conclusions deserve our attention:

The Western powers overrating of the Soviet Union's naval strength and political intentions has yielded the Soviets unnecessary political gains, especially in the third world. It is sound and important to make continuous assessments of both the Soviet Union's capacity and intentions. But it serves no purpose to cry "wolf" every time one sees a Russian ship. If one cries "wolf" too often, one impairs not only one's alertness, but one also risks that the "wolf" will begin to act like a wolf confident that he deals only with a lamb.

The Norwegian study of "The Indian Ocean and the Soviet Navy" follows:

THE INDIAN OCEAN AND THE SOVIET NAVY

(By Anders C. Sjaastad)

1. INTRODUCTION

The Soviet maritime expansion is one of the most significant strategic policy changes that has taken place during the 1960's. While the Soviet Union previously had at her disposal only a coastal defense whose task it was to defend her own "shores", the Soviet fleet today has become a global factor, and the Hammer-and-Sickle files on all the oceans of the world. Much has been written about the Soviet maritime presence in the Mediterranean—a phenomenon that has become increasingly conspicuous in recent years. Five years ago hardly any Soviet ships were stationed permanently in these waters. The considerable expansion of the Soviet Arctic fleet, which is stationed at Kolohalvya, uncomfortably near Norwegian territory, also has been given great attention recently.[1] In recent years another maritime region has become the focus of interest, i.e., the Indian Ocean. In these latitudes, too, Soviet maritime activity is increasing. The question of political and military countermeasures against this naval expansion has, however, become all the more incendiary because Great Britain, which is in this area the major partner of the Western Big Powers, reportedly wants to counteract this potential threat through cooperation with South Africa in matters of security policy.

In the following, we shall present the strategic situation in the Indian Ocean and the areas adjacent to it as they appear today, evaluate the Soviet motives behind the naval deployment of the fleet and to what extent they would represent a threat seen from the West. We shall further discuss several possible countermeasures that the Western Powers might consider taking in order to counteract the troublesome consequences for them of the Soviet maritime presence in the Indian Ocean, and in this context, especially, the appropriateness of British arms sales to South Africa as a result of the Simonstown Base Agreements. Finally, we want to take a close look at any buildup that may affect the political and military strategy in the Indian Ocean and its immediate vicinity.

2. MARITIME STRENGTH IN THE INDIAN OCEAN AND ADJACENT AREAS

2.1. Soviet maritime strength in the Indian Ocean

As recently as 1965, no Soviet naval vessels put into the Indian Oceans.[2] In the years following a few Soviet ships occasionally appear in the area, but as a rule in connection with certain space or test programs. Not until 1968 can one say that Soviet naval vessels actually appeared in the Indian Ocean, and at one point during that year the fleet consisted of 3 surface vessels, 2 submarines and 9 mother ships, besides 5 ships connected with the space program.[3] Since that time the Soviet Union has maintained a more or less permanent maritime presence in the area.

How strong is the Soviet fleet in the Indian Ocean today? Should the Russian Navy navigate anywhere else, the number of vessels involved varies. The variation reflects both seasonal and political factors that would make this advisable. In relation to the reaction it has caused, the number of Soviet vessels in these waters is, however, amazingly small. When in 1970 the Soviet fleet in the Indian Ocean reached an all-time high, it consisted of 1 cruiser, 3 destroyers, 5 submarines (one of them a nuclear submarine), 1 tender for submarines, and a few mother ships.[4] The latest statement on a Soviet strength is the area reports 4 surface vessels (unspecified), 2 submarines (presumably diesel-driven), and 3 mother ships.[5] Though this is an area in which the Soviet Union has until recently not maintained a naval presence, the British Government's concern about the purely military side of this activity seems to be exaggerated. It is paradoxical that at that time the British apparently did not pay the attention they should have to 70 seagoing battleships, numerous coastal and escort vessels, 160 submarines including 60 nuclear-powered subs [6] that were stationed right outside their own backyard in the north (Kola Base). British Navy Minister Peter Kirk at the time also said that the Russian threat in the Indian Ocean was being exaggerated, and he has not even been officially corrected.[7]

In addition to her sheer maritime presence, the Soviet Union has tried—sometimes with considerable success—to establish a political foothold in the countries bordering the Indian Ocean. From the time that the Soviet Union established herself permanently in these waters in 1968, the Russian Navy has paid some 50 visits to 16 different countries around the Indian Ocean.[8] In particular, the Soviet Union seems to strengthen her influence on Somali, especially since 1969 when the "Supreme Revolutionary Council" came to power there. Among other things, the Soviet Union dispatched a large fleet to a visit to Somali in the summer of 1970.[9] The Soviet Union further entered into an agreement on July 14, 1970 with the island of Mauritius,[10] which is strategically situated in the middle of the Indian Ocean. The agreement guarantees the Soviets landing privileges for fishing boats and allows replacement of their crew. Simultaneously, the Russian national airline Aeroflot was given landing privileges on the island. It is obvious that such agreements can be exploited in irregular ways. In addition to the air privileges giving the Soviets a badly needed air reconnais-

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sance capacity, the fishing boats can, for example, transport soldiers, and the factory-ships accompanying the fishing fleet can transport tanks. At any rate, it seems that the steadily growing Soviet fishing fleet is extensively operating in association with the Russian long-range submarines. Besides Mauritius, the Soviet Union has fishery agreements with a dozen other countries bordering or lying close to the Indian Ocean. It has also been reported that the Soviets have laid out buoys for anchoring purposes in the vicinity of Seychellene [11] which is right in the middle of the Indian Ocean, somewhat north of Mauritius. The Soviet Union further has established close cooperation with the new state of South Yemen, which was formerly known as the British Protectorate of Aden. South Yemen today is as good as dependent on Soviet assistance, and the Soviet influence is claimed to be very strong. Indeed, some sources even report that the harbormaster of Aden is Russian.[12] Moreover, reports have been received to the effect that the Soviet Union is pushing base construction work and commando training on the island of Sokotra,[13] which belongs to South Yemen and which is strategically located at the point where the Red Sea joins the Indian Ocean. At the initiative of the government in South Yemen, Western pressmen have been flown into Sokotra, and upon their return they claimed that no military activities were going on on the island either by the Russians or anyone else—[14] except that this cannot, of course, be regarded as definite proof. What cannot be denied, however is that the Soviets are using Berbera in Somalia as a port of call today, that they are busy expanding Port Sudan, and that they have established a submarine base in the seaport of Hodeida in Yemen.[15] Because of the strained diplomatic relations between the Soviet Union and Sudan following the unsuccessful coup d'état and the events subsequent to it, the military value of Port Sudan to the Soviet Union is still doubtful at this writing. Nor can one rule out that the continuing Communist persecution in Sudan and in other Arab countries may cool the relations between the Soviet Union and parts of the Arab world, which may result in sanctions weakening the Soviet Union's strategic position in the area through, for example, a suspension of landing privileges.

A couple of other circumstances are worth mentioning. A strategic road across Afghanistan, connecting the Soviet Union with the Indian Ocean via Pakistan, was completed in July 1970.[16] The road, which runs out near Karachi, is a shorter and faster route than the long ocean route from Vladivostok, which is blocked by seasonal ice.[17] The recent events in connection with the civil war in Pakistan make it even less likely than before that the government in Karachi will approve the building of any base complex at the end of the route—because, among other things, of Pakistan's relatively close relations with China, and because such a base might more or less rightfully be interpreted as aimed, precisely, at China. In addition, the more and more determined efforts at political rapprochement between the Soviet Union and India, which recently resulted in a 20-year "peace, friendship and cooperation agreement" between the two countries will hardly tempt Pakistan to consent voluntarily to any measure that may strengthen the Soviet Union militarily.[18] The Indian-Soviet agreements give India, in fact, a certain security guarantee against Pakistani retaliatory actions and military attack. But nevertheless, so long as the route is open, the Soviet Union will be able to transport supplies to the maritime units that are in the western part of the Indian Ocean and to take care of the replacement of their crews.

It should be mentioned, finally, that the Soviet Union has helped India construct a naval base in Vishakhapatnam on the east coast of India. The base seems to be intended for Soviet submarines, though technically it is open to vessels of other nations.[19]

This is, in the main, the size and the look of the Soviet fleet in the Indian Ocean, and the most important of the logistic possibilities that are at the disposal of the Soviet Navy in that area.

2.2. The West's maritime strength in the Indian Ocean

What is known about the West's military strength, besides bases and logistic points of support, in the area around the Indian Ocean? When the now so notorious Simonstown Agreements on the defense of the Cape route were entered into between South Africa and Great Britain in 1955, the British had access not only to the Simonstown Base, but also to harbors in Port Sudan, Mombase, Dar-es-Salaam, Mauritius, Seychellene, and Aden,[20] as well as bases in the Persian Gulf, with Bahrein and Sharjah among the most important. Today, Great Britain is left with Seychellene, and the British withdrawal from the Persian Gulf by the end of 1971 now is definitely settled.[21] With Mauritius, which has become independent, Great Britain still has an agreement on defense arrangements—which means, in practice, that Great Britain has permission to use the existing naval installations on the island and that Mauritius will not do anything that would jeopardize these British privileges.[22] Great Britain further acquired a new colony five years ago, i.e., a group of islands, the "British Indian Ocean Territory", which lies between Mauritius and Ceylon and which comprises Diego Garcia and other small islands. The purpose behind the acquisition of these colonies was, precisely, to give Great Britain and the U.S.A. base facilities in these waters.

On Diego Garcia, which is 1,200 nautical miles south of India, Great Britain and the USA are now in the process of building a radio communications unit. The unit, which will be ready in 1974, is to form a connecting link between the Philippines and Ethiopia in the communications chain of the U.S. Navy.[23] Furthermore, Great Britain is building, in cooperation with the USA, new small, but effective bases on Gan in the Maldive island group north of Diego Garcia and southwest of Ceylon, on Cocos Island west of Java, and on the northwest coast of Australia.[24] The rest of the formerly British ports now are in the hands of the states outside the alliance.

In the Persian Gulf there are at present 7,000 British soldiers, 2,400 of whom are stationed at the bases in Bahrein and Sharjah. In addition, 6 minesweepers, 1 frigate, and 1 monitor ship, in addition to some RAF fighter and reconnaissance squadrons, are in the area.[25]

In order to ensure presence in the Persian Gulf, the only obligation under which Foreign Minister Douglas-Home put the British Government is that "training exercises involving British Army and Air Force units could take place regularly" and that "there would be regular visits to the area by ships of the Royal Navy."[26] The big British base in Singapore, which two years ago housed 74,000 British soldiers and their families, will, as we know, be liquidated in substance by the end of the year. Great Britain wants to leave there only 3,000 land-based troops and a naval strength of 1,500 men to help maintain stability in the area with a view to the new five-power defense agreement.[27] The new agreement entered into among the five Commonwealth countries Great Britain, Australia, New Zealand, Singapore, and Malaysia, comes into force on November 1, 1971, and replaces the 14-year old pact under which Great Britain alone binds herself to come to the aid of Singapore and Malaysia in case they are attacked. Great Britain further decided to increase the contemplated naval strength that is to be stationed in the area from 5 to 6 destroyers or frigates in addition to one submarine.[28] According to the agreement, both Australia and New Zealand will contribute air, sea, and land forces in addition to the forces the two local states, Singapore and Malaysia, can raise. Moreover, the Hong Kong garrisons will remain intact [29] though militarily it does not mean very much.

As for the USA, she will most likely maintain a smaller maritime strength in the Persian Gulf after the British pull out in 1971. However, in the Indian Ocean, the USA seems to be even less inclined to have a permanently stationed fleet. In this connection we disregard the fact that American Polaris submarines may be found stationed in those waters.

This is roughly the military situation in the Indian Ocean and adjacent areas: Great Britain's military strength is considerably reduced and the Indian Ocean no longer is politically a "British lake". The Soviet Union's fleet in the area has, in the course of a few years, grown out of nothing, but it continues modest, both quantitatively and qualitatively.

3. WHAT CAN THE SOVIET UNION DO?

What security risk does the presence of the Soviet fleet in the Indian Ocean represent for the Western powers? In this connection we want to raise two questions: (1) What is the Soviet fleet physically capable of doing? (2) Even if it can do certain things, is it likely that it will?

As has been pointed out, of course, since there is no Western strategic force of any size in the area, the Soviet vessels cannot be said to be necessary from a defense point of view. On the other hand, it is difficult to maintain that such a force as is referred to here has any significant offense capacity. Not only is the number of Soviet vessels in the area small, but also the composition of the task force is unbalanced [30] and not very well suited for offensive operations. Perhaps the force's biggest strategic problem is its lacking air support, and this weakness will, of course, become all the more pronounced the farther away it is from Soviet territory or, at least, from Soviet bases. As a matter of fact, the Cape of Good Hope is farther away from Soviet bases of any size than almost any other place in the world.

The British Government has said that the Western powers must protect themselves against Soviet attempts, as an object lesson or during a crisis, to impede or prevent sea transport around the Cape of Good Hope to Europe. In this connection it has certainly shown the significance of oil transports from the Persian Gulf. Half of Great Britain's and two-thirds of Europe oil imports are sent around the Cape.[31] All in all, three-fifths of Europe's oil imports are shipped today around Africa, and three-tenths of Great Britain's other overseas trade is shipped the same way.[32] The Soviets obviously can also create difficulties for Western overland oil transport—at any rate, for a shorter period until a counterstrike is affected by the West.

Moreover, it has become fashionable to maintain that the Soviets are busy learning the imperialists' old gun boat diplomacy. What must not be forgotten, however, is that this form of military pressure tactics occurred on the basis of complete maritime supremacy; a tiny force would be deployed, confident that the opponent would know what one had in reserve. In today's strategic situation no longer means that mere physical presence assures the same positive control over a harbor area. However, physical presence can still discourage the opponent from steps that he would take otherwise if he found no physical counter-balance in the area—this is what one may call negative control.

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Rumors have recently been heard that the Soviets are on the point of dominating the Indian Ocean militarily. The thought that a dozen Soviet ships might dominate harbor areas distributed over 25,000 sq. km. appears without a doubt somewhat absurd. This is reason enough for asking, as naval expert Michael McGwire did, whether the Western commentators who defend this thought have used too small an atlas.[33]

Few will doubt the significance of the Cape route for Western commercial interests, and that a deliberate and effective Soviet interference in this traffic will have grave consequences for the West European economy.

Between June 1967 and December 1969, 10,000 ships were forced to use the Cape route after the closing of the Suez Canal.[34] But the crucial question will nevertheless remain whether the Soviet interference in navigation along the Cape route is a likely scenario for a conflict. What would the Soviet Union want to gain by such action?

Any Soviet interference in Western ocean navigation will be interpreted by the Western powers as a very serious step which might easily lead to a crisis the outcome of which is difficult to foresee. In other words, such a demonstration on the part of the Soviet Union would be very risky and, if it came to the worst, the country could that way provoke a strategic nuclear war. It further seems not very likely that the Soviet Union could in a crisis concentrate on denying commercial navigation to her opponent. On the contrary, it may be assumed that the Soviet fleet will try to keep the Western naval forces in check, and it will be this that in a short and dramatic conflict will have military significance. It should be kept in mind that many of the old rules of warfare on land, as well as by sea, have changed in the age of nuclear weapons. In a strategic nuclear confrontation, oil will be irrelevant. In a prolonged conventional war—which in itself is unlikely, owing to modern technology—the Soviet Union would be in a position to impede the oil supply line to Western Europe whether the country has a dozen vessels in the Indian Ocean before the outbreak of hostilities or not. Carried to extremes, one can say, as one analyst did: ". . . in peace the oil will flow to Western Europe and in war it will not".[35]

If the Soviets should wish to obstruct Western commercial navigation, it is difficult to say why one would want to choose to do this precisely in the southern waters around the Cape of Good Hope. In case the Soviets want to achieve a relatively effective blockade, the European waters, for example, would be better suited because the shipping lanes are much more concentrated there and consequently the ships are easier to hit.[36] Moreover, logistic considerations of her own would prompt the Soviet Union to choose such a priority.

4. MOTIVE FOR DEPLOYMENT OF THE SOVIET FLEET

What is the Soviet Union's motive for its naval activity in the Indian Ocean? So far as one can gather, the Soviet Union must have a double purpose with her maritime strategy in these waters, i.e., what may be called, respectively, a political offense task and a strategic defense task.

The presence of the Soviet fleet is considered by many as being primarily directed against China. The fleet can be regarded both as aid to India against China and an attempt to limit the Chinese influence in Asia and Africa.[37] Such reasoning is supported by the argument that in a general way China seems to be the Soviet Union's most pressing long-range problem.

Another purpose of the Soviet Union is to show her presence in these waters in order to demonstrate military and, thereby, political strength regionally as well as globally. The visit of the fleet that the Soviet Union has paid in these waters, for example, to Somalia, must be seen exactly as a desire to "show the flag". Well, there probably is no doubt that, if the Soviet Union can increase her political influence at the expense of the West without great cost, she will gladly take advantage of such a chance. The Soviet intention to send naval vessels through the Malacca Straits into the Indian Ocean while the Commonwealth countries were sitting in Singapore and discussing British arms sales to South Africa [38] can hardly be viewed as anything else but an attempt to sow further discord between Great Britain and the African member countries. Such a demonstration could only serve to make Prime Minister Heath more confident that he is right. The Soviet Union will be more than ready to fill the political vacuum that will come into being being, at any rate, in the area around the Indian Ocean, if the Commonwealth collapses. The Soviet unwillingness in this respect has not been particularly great in the past.

The presence of the Soviet fleet in the Indian Ocean can, therefore, be interpreted to some extent as a political challenge to the Western big powers, but it also has a military-strategic connotation. Geographically, the Indian Ocean is well suited for Polaris operations; from the Arabian Sea, Central Russia, including Moscow, and the western part of China are within rocket range.[39] It seems as though the Soviet Union is trying, through naval deployment in the Indian Ocean, to meet the potential threat that the American Polaris submarines represent, even if the considerable distance from Soviet territory makes this task difficult. The pattern of the Russian naval activity in the Indian Ocean, together with the general Soviet naval doctrine, would also suggest that what worries the Soviet Union first and foremost is the presence of the Polaris submarines in these waters.[40] From the Persian Gulf a large number of the most important centers in the Soviet Union are within Polaris [missile] range. However, the limited waters in the Gulf are not very well suited for submarine activity,[41] though the Soviet Union certainly will not dare rule out the possibility. In the event of war, the Soviet Navy seems to have five tasks. Besides protecting the firing capabilities of its ballistic rocket equipped submarines and gaining control over the area around the four home bases, it must neutralize the Western Polaris submarines, knock out the allied aircraft carrier before any planes can take off, and support land operations.[42] The Soviet efforts in the Indian Ocean will, therefore, be concentrated on Polaris submarines and aircraft carriers, if any, which must move into the area. According to Siegfried Breyer, the Soviet Navy at present still has another task which also involves the strength of the fleet in the Indian Ocean: "The aim of the present-day Red Fleet is to reduce the offensive power of the western allies by forcing them to commit far greater forces to the defence of the sea lanes than the Soviet Union commits to their attack." [43]

5. WESTERN REPLY TO THE SOVIET FLEET BUILDUP

What response can the West make in order to meet the Soviet military and political expansion? In the following we shall examine several possible answers in conection with the controversial British arms sales to South Africa.

5.1 The Simonstown base and the British arms sales to South Africa

The present British Government has tried to persuade the Commonwealth countries, as well as other allies, that British-South African naval cooperation is a suitable and effective device to hold their own against the Soviet Union militarily. In the following we will disregard the political and moral aspects that have been drawn into the debate—not because we necessarily consider these factors irrelevant to the matter, but because we wish in this connection to weigh the effectiveness of the effort against its stated purposes.

The Simonstown Agreements were entered into on June 30, 1955, when Great Britain turned over her rule in this base to the South African Government. The agreements involved a limited defense cooperation between Great Britain and South Africa with a view to naval security and contained provisions concerning British supply contracts. According to the legal experts of the British Government, the British obligations as per the Simonstown Agreements amount to supplying 11 Wasp anti-submarine helicopters as well as spare parts for equipment turned over earlier.[44] The question of additional military equipment to be supplied by Great Britain to South Africa is left open.

The first question raised is whether the Simonstown Base is a strategic site, making it suitable for controlling or balancing the Soviet naval activity in the Indian Ocean. The question must be answered in the negative. The Base is too far south in relation to the politically and strategically most important areas. If one is to try to impede a possible Soviet fleet buildup in the Indian Ocean, the maritime efforts must be made much farther north, along the African east coast—i.e., in the areas where the Commonwealth countries most critical of the British arms sales are.[45] This situation will make itself felt even more if the Suez Canal is reopened—a set of problems we shall touch upon more closely later on. In the event of a prolonged conventional naval war, limited to the Indian Ocean, the Simonstown Base will become of great military value. To start limited, offensive, maritime operations will, among other things, be a considerable departure from the established Soviet doctrine. And in an all-out war between East and West, there will be far more pressing problems for the West to worry about than the security of a Cape route. According to Denis Healey, the British defense staff does not consider the Simonstown Base vital for British strategic interests.[46]

Assuming for a moment that the Soviet maritime threat in the Indian Ocean is as strong as the Heath government seems to think, it is difficult to understand that a limited naval cooperation between Great Britain and South Africa at the southern tip of Africa would be adequate to meet this challenge.[47] In reality it seems obvious that the British Navy with or without South African help has little to line up against a grave Soviet maritime threat—unless Great Britain chooses to concentrate considerable components of her navy precisely in the Indian Ocean.

But there is little to indicate that such a change in priorities is imminent. It is further worth mentioning that the British have not managed to convince the USA of the need for selling weapons to South Africa as a result of the Russian challenge in the area, though it has been assumed that President Nixon is tacitly supporting the British policy.[48] It has also been suggested that in case of hostilities, it is not the Simonstown Base that actually is important, but the possibility of other ports, such as Durban with an industrial potential behind it, being used by the British. It would, however, be something that Great Britain could not admit for political reasons since it would be interpreted as a further acceptance of the South Africa régime.[49]

It matters little whether it would be possible to control the sea route around the Cape of Good Hope through cooperation between Great Britain and South Africa, as it is not at all certain that this will strengthen the overall Western strategic interests in the Indian Ocean. Such cooperation might lead to the East African members leaving the Commonwealth, with the result that for political and economic reasons, the two will be pushed into the arms of the Soviet Union

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regardless of how much they themselves actually may dislike this. No less for national and inter-African reasons will it become difficult for them, in case of extensive weapons sales to South Africa, to maintain their relations with the West.[50] The result may then be that the Soviet Union will increase her influence and possibly establish herself militarily in these countries that border on the Indian Ocean at a time when Great Britain will no longer be in a position to act as a counterweight to the Soviet Union. Accounts of developments in the Middle-East are undoubtedly alarming. Nor should this situation offer ideological problems for the Soviet Union. Moreover, the USSR has shown that she cooperates in Africa with non-socialist countries and even with anti-Communist régimes, at the same time that she cultivates contacts with opposition groups.

5.2. The Persian Gulf

One area that the Western powers will have to continue keeping an eye on is the Persian Gulf. The British forces in the Persian Gulf that are pulling out now have not been particularly sizable—their most important task consisted of maintaining a political equilibrium among the countries in the area. Many may deplore that the Health Cabinet failed to reverse the former Labour government's efforts to liquidate commitments in the Persian Gulf. But in addition to the British financial difficulties necessitating a speedy liquidation of commitments, it seems no longer desirable, from the Gulf States' point of view, that the British remain. After these nations had been prepared for and become accustomed to British withdrawal, it would be unthinkable to go back on that today. Even loyal Western friends, such as Iran and Saudi-Arabia, now want the British to pull out because this will make it simpler for them to assure an independent posture toward the Soviet Union at the same time that it will ease their relations with more militant Arab states. In spite of mutual antagonism, the two feel that without an active military presence they will be better able to maintain stability in the area.[51] After the British pull-out Iran will become easily the strongest military power in the Persian Gulf.[52]

It may further be mentioned that in July 1970 Kuwait's Crown Prince said in his country's National Assembly, with direct reference to the British withdrawal from the area, that "Kuwait neither welcomes nor accepts any foreign presence in the area, be it British or otherwise".[53] The reaction, however, was not equally unanimous from all states in the area. Sheikh Rashid av Dubai, one of the most influential rulers in the small sheikhdoms, characterized the British Government's decision on withdrawal as a "disappointment", and he maintained that his view was shared by other Gulf rulers.[54] The Soviet Union, for her part, has shown a growing interest in the Gulf states, and recently a Russian fleet paid its third visit in 18 months to the Iraqui port of Um-Qasr close to the border between Irak and Kuwait. Though the two states agree in principle on the basis for fixing the borderline, there are problems attached to the demarcation of the border itself.[55] This is, therefore, a potential trouble area.

What can conceivably be done by the West with regard to the Persian Gulf in the time to come? The British efforts have been first and foremost identified with trying to create a union of the Arab emigrates. As originally conceived, this union was to consist of Bahrein, Qatar and the seven so-called "Treaty States". However, there is disagreement between Great Britain, Saudi-Arabia, and Kuwait, on one side, and the small sheikdoms themselves on the other side, as to how extensive the union should be, not to mention the fact that the nine Gulf states have conflicts of interest in many fields among themselves. On top of it, the Shah of Persia laid claim to the three small islands strategically situated in the Hormuz Strait in the approach to the Persian Gulf and today owned by two of the Treaty States. The Shah's own reason for the claim, which he threatens to back up with force, is that the islands may come into undesirable hands, something that may become a threat to the security in the area. The upshot of the whole business is that for the time being the chances of a nine-state union have evaporated. Bahrein and Qatar have declared their independence. Of the former seven treaty states, six formed a union, while the seventh, Ras al Kaimah, refused to go along. The conflict in connection with ownership rights to the three islands has, however, not yet been settled.

The West is hoping that the new union will, at any rate, contribute something to creating stable conditions in the Gulf after the British have pulled out, come what may. The USA wants, in addition to maintaining its modest maritime presence in the Persian Gulf, to strengthen her diplomatic ties with the Gulf states as was emphasized by American sources. The Western world is, as we know, dependent on the supply of oil from the Gulf, and there is nothing to suggest that the USA would endanger the Western oil interests in the area. On the other hand, even if U.S. policy has changed compared to what it was a year ago when the USA kept the question open as to by which means her maritime presence will be retained (if at all) when the British pull out, the USA does not seem sufficiently worried over the Soviet fleet buildup in the Indian Ocean to put into effect any strengthening of her all too small fleet in the Persian Gulf. The Soviet Union can surely be thought of playing on existing clashes of political interests in the area to win influence, but it is not very likely that she will try to do anything that may loom as a direct challenge to the USA and to the American maritime presence.

By studying the geographic situation of the Persian Gulf in relation to the Indian Ocean, the Western maritime presence in the Gulf appears as a more effective equivalent of the Russian fleet expansion in the Indian Ocean than the defense initiative identified with the Simonstown Base especially if the Suez Canal is reopened. But in the end, only the USA has the naval capabilities to meet a grave Soviet challenge in the Indian Ocean, unless the sphere of responsibility of the NATO Mediterranean Command is widened correspondingly, which does not seem very likely. Nor will any form of effective defense cooperation in the area between the Western powers and local forces would be likely to have any military significance. In the present-day situation, however, it is not necessary for the American fleet in these waters to have a strategic capability and mission. Its task should not be to deter the Soviet Union by its strategic nuclear capability, but to maintain, by its presence, regional stability through discouraging the Soviet Union and others from engaging in local political adventures.[56]

5.3 New Western bases

The other realistic response to a constantly expanding Russian naval presence is to develop the "British Indian Ocean Territories" into an Anglo-American naval base, according to the understanding at the time the colonies were acquired. Besides its strategically favorable location in the Indian Ocean far away from vulnerable straits and channels, such an alternative also has the advantage of not having to consider local politics. The disadvantage of such a solution is that the islands are small and that a base will have no industrial resources to fall back on. The implication of this alternative is, however, that the USA regards the Russian threat in the Indian Ocean as being considerable and that Great Britain believes in her own assessment of the Soviet challenge and is willing and able to contribute financially. At the Commonwealth Conference in Singapore in January 1971, Mauritius is supposed to have offered the British a naval base on the island as replacement for the Simonstown Base. Great Britain does not seem to be interested in such a solution because such a base will be expensive to build, will have no native fleet (i.e., non-British), and will be far from the South Atlantic. In addition, the British Government will have to be worried about the political situation on the island—it is evidently afraid a newly built base will be made inoperative through a left-oriented, pro-Russian coup as occurred in Libya and Sudan.[57] In addition, a hint will have to come from Mauritius and Seychellene that more British frigate visits will be welcome.

5.4. Political response

What the third and perhaps more important Western power can do is maintain good political relations with countries around the Indian Ocean. The British Government stated on February 22, 1971, that it was ready to issue export licenses for Wasp helicopters and certain spare parts if the South African Government wished to buy these. That same day the South African Government ordered 7 Wasp helicopters from Great Britain. This decision led to the eight-country group that had been formed for the Commonwealth Conference to study security in the Indian Ocean[58] being dissolved. It seems that the British Government meritoriously attached importance to what the Soviet *Red Star* wrote in April 1970: "Our people's ancient dream has become reality. Our navy is a real force. . .". But the British Government should perhaps also have listened to what Tanzania's President Julius Nyerere said: "I believe—and I certainly hope—that when Britain has finally considered all the issues involved, her Government will realize that her legitimate interests in the Indian Ocean are best safeguarded by friendship with the young and free nations bordering the Indian Ocean".[59]

6. THE FUTURE DEVELOPMENT OF THE INDIAN OCEAN

The military-strategic position of the Soviet Union in the Indian Ocean today is marked by a number of weaknesses for which the country must find remedies if she wants to be a naval power in the area. In the last part of this article we shall take a closer look at these problems and assess, furthermore, how they are going to appear in light of future development.

6.1. The Soviet Union's present military strategic problems

The Soviet navy in the Indian Ocean is plagued by serious shortcomings. We shall mention here especially "air cover", "reconnaissance capability", "logistics", and "personnel and mobility".

Aside from the two helicopter carriers of the Moskva-class, it does not seem the Soviet Union is planning to build aircraft carriers—least of all for offensive flying.[60] And even if the Soviet Union should at a given time wish to build aircraft carriers, it will take approximately 8 to 10 years before the first test ship will be operational, not counting that the effectiveness of the carriers will continue to be plagued by a shortage of fully experienced personnel. The Soviet Union's lack in aircraft carriers creates cover and reconnoitering problems for the Soviet fleet, a weakness that up to the present has not been remedied by the acquisition of any up-to-standard and safe air base in the southern waters.

Looking at the composition of the Soviet navy as a whole, it still gives the impression of having to "defend the motherland". The main task of surface vessels will be to control the areas right up against the four home bases of the Russian fleet in order to ensure that this fleet can carry out the tasks assigned to them. The composition of the fleet proves that this is its main mission, i.e., by the importance that is attached to the large number of medium-sized amphibian and escort vessels, lots of fast patrol and gun boats equipped with surface-to-surface rockets and torpedoes. That the fleet still is unsuited for offensive operations on the high seas a long way from the home territory is shown by the lack in long-range seagoing amphibious capability in addition to what is called sea-based flying capability.

It has been held that Soviet ships that find themselves in distant waters such as the Indian Ocean or the South Atlantic will, in the event of war, be denied a return to their own bases by U.S. and NATO fleets and will most likely be sunk in the course of the first few weeks.[61] In the Indian Ocean the Soviet Union will, without a doubt, have very long supply and communication lines. The Soviet Union can, however, step up her navy's striking power somewhat if the strategic doctrine is changed to one similar to the American. In that case, the Soviet Union will let her submarines move out on the high seas and not let them stay close to force them into action. Besides, it is to be kept in mind that the Russian Class Y submarines, those that are equal to the American Polaris submarines, are mainly stationed near the Arctic Ocean and Far East fleets.

6.2. Soviet Russian bases

If the Soviet Union, however, obtains a respectable foothold in East Africa, the situation in the Indian Ocean becomes altogether more serious from the Western powers' point of view. The Soviet Union can then establish well-developed naval base installations along the East African coast. In addition, the Soviet Union can in the course of a process like that win permanent landing rights for military planes in East Africa either by making use of existing airport capacity or even by being given permission to build air bases of her own. This may be precisely the way for the Soviet Union to guarantee her fleet a badly needed air support.

In fact, lines of communications can be run to bases in the Mediterranean and the landing privileges that the Soviet Union has there. In the event of a showdown the Soviet Union wants to be able to transport air forces via airports along the Mediterranean where the Soviet Union has landing privileges, such as in Egypt and Mers-el-Kebir in Algeria, to airfields in East Africa. Opinions are divided on whether, and possibly to what extent, the Soviet Union has bases of her own along the Mediterranean, and especially in North Africa. At least there is something to suggest that for the time being Algeria and Libya, at any rate, have no intentions to propose that the Soviet Union use former French and American installations,[62] but that is a situation that may change. Before the war in June 1967 there were altogether 21 operational airfields in Egypt west of the Suez Canal. Today, it is reported, the number of airfields has gone up to 30 and approximately 500 hangers are to be built.[63] There also are many indications that Russian pilots are flying the advanced Mig-21J and Mig-23 "Foxbat" from Egyptian airfields.[64] In any event, it seems obvious that strengthening the Soviet ready air capability will present only minor problems. Moreover, it has been held that a Russian naval air force unit has been based in Egypt since 1968 under cover of the UAR colors.[65] Regardless of whether this information is valid or not, it says at least something about what potential capabilities the Middle-East conflict has given the Soviet Union—also in connection with her policy in the Indian Ocean.

6.3. Opening of the Suez Canal

We have been able for quite some time to observe renewed interest on the part of Egypt in a reopening of the Suez Canal. The Israeli Government has also been willing to discuss possibilities for a withdrawal of its own forces and for a subsequent opening of the Suez Canal as a first step toward a Middle East settlement. As we know, no agreement has as yet been reached on this question among the parties, and it is unlikely that there will be any.

However, there is hardly any doubt that such a development will be to the liking of the Soviet Union, regardless of whether the country has pressed Egypt to bring this about or not. Now, it will take at least a year to get the Canal ready because of cleaning out, dredging, etc., but from the moment the Canal is navigable again the strategic situation in the Indian Ocean will be different.

Today the distance from Vladivostok to the Indian Ocean is far shorter than the distance from Odessa (the home port for the Black Sea fleet) around the southern tip of Africa and to the Indian Ocean. As soon as the Suez Canal is opened this situation will be reversed, implying that an entirely different, intimate cooperation between the Soviet fleets in the Mediterranean and in the Indian Ocean will become possible. By the lines of communications becoming shorter and simpler than those available today, it will become possible for the Soviet Union to maintain a more extensive naval presence in the Indian Ocean. In addition to reinforcements from the Mediterranean becoming more easily accessible, the Suez Canal will also facilitate a faster rotation of ships by the fleet availing itself of the repair facilities that are claimed to be available in Alexandria today.

Some people will point out that the Soviet Union has problems when it comes to repairs.[66] It is claimed that Russian ships in the Mediterranean must return to Odessa in case major repairs are to be made. If this holds true, it will undeniably create a problem for Soviet ships in advanced positions in the Mediterranean as well as in the Indian Ocean. In this connection, too, the recent events on Malta will become meaningful. From the Western point of view the loss of Malta as a base does not mean a great deal. What is important for NATO to prevent, however, is that the Soviet Union secure [crew] replacement and repair facilities. For instance, the big naval dock on Malta is capable of making all kinds of repairs, but it is not working to full capacity today. If Malta and the Soviet Union come to an understanding, this can also be important to the Soviet strategic position in the Indian Ocean.

An opening of the Suez Canal might ultimately strengthen the influence of the Soviet Union in the Red Sea and in the Gulf of Aden. Her influence there is considerable today. The Soviet Union extends substantial military assistance to Sudan, Somalia, Yemen, and South Yemen (People's Republic of Yemen). As mentioned before, the Soviet Union has predominance with ports in Hodeida in Yemen and Berbera in Somalia. This may result in two things: First, it is possible that the Soviet Union will be able to secure for herself naval repair capacity in this area—for example, in Hodeida or Berbera. If so, the Soviet Union can keep large forces in the Indian Ocean on a permanent basis and also make herself less dependent on the Suez Canal, which is vulnerable, in a critical situation.

Second, the sea route through the Suez Canal and the Red Sea will be a safer route to the Indian Ocean than the voyage around Africa—considering the influence and the position the country already has in the area. All this should make the Simonstown Base strategically even less important, if the Suez Canal is opened, than it is today. If the intended widening of the Canal should be realized, this situation will be further accentuated. Since the importance of the Suez Canal to the Soviet Union is far more of a military than of an economic nature,[67] an active campaign on the part of the Soviet Union for having the Canal reopened may be interpreted as an indication that she considers the Indian Ocean a strategically increasingly important area.

7. CONCLUSIONS

The Western powers overrating of the Soviet Union's naval strength and political intentions has yielded the Soviets unnecessary political gains, especially in the third world. It is sound and important to make continuous assessments of both the Soviet Union's capacity and intentions. But it serves no purpose to cry "wolf" every time one sees a Russian ship. If one cries "wolf" too often, one impairs not only one's alertness, but one also risks that the "wolf" will begin to act like a wolf confident that he deals only with a lamb.

FOOTNOTES

[1] See Johan Jorgen Holst, Anders C. Sjaastad, John Kristen Skogan, "Noen norske Sikkerhetsproblemer in syttiårene" [Some Norwegian Security Problems in the Seventies] in: *Minervas Kvartalsskdrift*, No. 3, 1970, pp. 235–253.

[2] *The Times*, March 13, 1971.

[3] *Ibid.*

[4] *The Times*, December 30, 1970.

[5] *The Times*, January 25, 1971.

[6] See Holst, Sjaastad, Skogan, *op. cit.*, pp. 243 and 245.

[7] *The Observer*, October 25, 1970.

[8] *Newsweek*, January 18, 1971.

[9] *The Times*, September 15, 1970.

[10] *Ibid.*

[11] *The Times*, October 19, 1970.

[12] *Ibid.*

[13] *The Times*, Sept. 15, 1970, Oct. 19, 1970, Dec. 30, 1970.

[14] *The Times*, January 1971.

[15] Robert R. Sullivan, "The Architecture of Western Security in the Persian Gulf" in: *Orbis*, Vol. XIV, Spring 1–70, No. 1, pp. 76–77. *The Times*, December 12, 1970; March 13, 1971. *Newsweek*, January 18, 1971.

[16] *The Times*, September 15, 1970.

[17] Sullivan, *op. cit.*, p. 80.

[18] At this writing—mid-September 1971—in Pakistan civil war is raging and the situation is uncertain. Little is known about Pakistan's further fate, far less about its future foreign policy. It is, therefore, difficult to discuss any further significance of this newly built road.

[19] *The Times*, March 13, 1971. *Newsweek*, January 18, 1971.

[20] *The Times*, March 13, 1971.

[21] Foreign Minister Sir Alec Douglas-Home's *Statement on Government Policy in the Gulf in Parliament* of March 1, 1971. Reported in *The Times* of March 2, 1971, and in *Aftenposten* of March 2, 1971.

[22] *The Times*, March 13, 1971.

[23] *International Herald Tribune*, January 18, 1971. *Newsweek*, January 18, 1971.

[24] Sullivan, *op. cit.*, p. 73.

[25] *International Herald Tribune*, March 2, 1971.

[26] Douglas-Home, *op. cit.*

[27] *The Times*, March 27, 1971.

[28] *The Statement on the Defense Estimates, 1971*. Defense Secretary Lord Balniel's presentation in Parliament of March 1, 1971.

[29] Sullivan, *op. cit.*, p. 73.

[30] Michael MccGwire, who is an expert on the Soviet Navy, in this connection, has come out with the following statement: "Her (the Soviet Union's) surface ships can sail around the world in time of peace, but because of the unbalanced structure of her fleet which has been built to meet a particular threat, and the West's naval predominance Soviet Navy does not have the capacity to sustain general naval operations in hostile mari-

Footnotes at end of article.

time environment at a distance from Russia's shore. The Soviet Union currently lacks a world-wide capability". Michael MccGwire, "Soviet Naval Capabilities and Intentions". *Royal United Service Institution*, London 1970, p. 44.

[31] As concerns the future oil imports of the EEC, a large part will come from Libya. "In 1970 already more than a third of the crude oil for the Common Market came from Libya, and a new agreement that has just been entered into (for 5 years) would imply that shipments in the years to come will be at least as large". *Aftenposten* (evening edition), April 7, 1971.

[32] *The Times*, October 19, 1970.

[33] Letter to the Editor in: *The Times*, February 2, 1971.

[34] J. E. Spence, "South Africa and the Defence of the West" in: *The Round Table*, Issue No. 241, January 1971, p. 18.

[35] O. M. Smolansky, "Moscow and the Persian Gulf: An Analysis of Soviet Ambitions and Potential" in: *Orbis*, Vol. XIV, Spring 1970, No. 1, p. 97.

[36] Former Defense Minister Denis Healey has expressed the same view. See interview with him in *Arbeiderbladet*, November 10, 1970.

[37] With regard to Chinese influence in Africa, see, for example, *The Sunday Times*, November 18, 1970.

[38] Two Soviet ships, one cruiser and one destroyer, passed by Singapore through the Malakka Straits. They were visible from windows in the building in which the conference was held. No Soviet ship of cruiser class had passed Singapore since April 1968, but the passage of lesser Russian ships through the straits occurred more frequently.

[39] MccGwire, "Soviet Naval Capabilities and Intentions", p. 40.

[40] *Ibid.*, p. 40–41.

[41] *Ibid.*, p. 41.

[42] *Ibid.*, p. 42.

[43] Breyer, *op. cit.*

[44] *The Simonstown White Paper*, which was prepared for the British Government by Sir Peter Rawlinson, Attorney-General, and Sir Geoffrey Howe, Solicitor General, and which was submitted to Parliament on February 4, 1971, states in conclusion:

"We therefore advise that the extent of her Majesty's Government's existing legal obligations to permit the export of arms to South Africa, arising from Simonstown Agreements, is to permit, if requested by the South African Government, the supply of the following arms for the South African maritime forces:

(1) Such number of Westland Wasp helicopters as is necessary to equip the three anti-submarine frigates supplied under the Sea Routes Agreement with their initial complement (together with reserves) of Westland Wasp helicopters; and

(2) Such replacements of the initial equipment and stores and base reserves for all the vessels supplied under the Sea Routes Agreement, and such other equipment for these vessels, as is necessary to keep the vessels efficient for the purpose of carrying out the objects of the agreement."

Besides, the White Paper puts on record that no legal obligations for the British Government exist beyond those mentioned in the Conclusions.

[45] This is an evaluation of the situation shared by naval strategists such as, for example, Admiral Anthony Buzzard. See *The Observer*, November 25, 1970.

[46] *The Observer*, October 25, 1970.

[47] For a good discussion of this point, see *The Sunday Times* of October 25, 1970, and editorial "British Interests, South Africa, and the Commonwealth" in: *The Round Table*, Issue No. 241, January 1971, pp. 3–7.

[48] *International Herald Tribune*, January 18, 1971.

[49] *The Times*, March 13, 1971.

[50] Uganda's ex-President Milton Obote said, among others, the following on the effects of the British sales [supply] of arms:

"I believe some historians will write that the Russians would not have gone so rapidly into the Mediterranean if the British government had acted differently in 1956 at Suez. . . . It would be an open invitation to the Russians and may be later to the Chinese to go into the continent of Africa, to replace the British and other Western powers." *International Herald Tribune*, January 19, 1971.

[51] *The Observer*, February 28, 1971.

[52] According to *The Military Balance 1970–1971*, The Institute for Strategic Studies, 1970, Iran has an army consisting of a total of 135,000 men, a fleet which comprises, among others, 1 destroyer, 5 frigates, 5 corvettes, besides over 30 lesser ships, and an air force which has a total of 175 fighter planes.

[53] *The Times*, February 25, 1971.

[54] *The Times*, March 3, 1971.

[55] *The Times*, February 25, 1971.

[56] See Sullivan, *op. cit.*, p. 88.

[57] *International Herald Tribune*, January 18, 1971. *The Times*, March 13, 1971.

[58] The eight-country group consisted of Australia, Canada, India, Jamaica, Kenya, Malaysia, Nigeria, and Great Britain. The group was to evaluate, among others, "the factors affecting the security of maritime trade routes in the South Atlantic and Indian Oceans which are of vital importance for a large number of Commonwealth countries".

[59] *The Observer*, January 11, 1970.

[60] For a more detailed discussion of and information on the Soviet fleet's capacity and buildup, see: Michael MccGwire, *op. cit.*, pp. 33–51. Michael MccGwire, "Soviet Naval Procurement" in: *The Soviet Union in Europe and the Near East: Her Capabilities and Intentions*, Royal United Service Institution, London 1970, pp. 74–87. Siegfried Breyer, *Guide to the Soviet Navy*, United States Naval Institute, 1971. *Jane's Fighting Ships, 1969–70*.

[61] Breyer, *op. cit.*

[62] In an interview with C. L. Sulzberger, Algeria's President Boumedienne admitted that Algeria is strongly dependent on the supply of arms by Russia, but he said that Moscow never asked for base installations in Algeria "because they knew the answer would be negative". Algeria purchased arms from the Soviet Union "because the Russians offer very acceptable conditions. When other conditions are offered by other nations on a more favorable basis, we will buy from them". Sulzberger asked whether the President wished more for the Soviet fleet to leave the Mediterranean than the American fleet—or the other way around. Boumedienne answered: "We want them both out. I see no reason for having either here. But this is a long-range idea and the situation is obviously not yet ripe for change". *International Herald Tribune*, March 1, 1971.

[63] *The Times*, December 30, 1971.

[64] *Aviation Week & Space Technology*, April 26, 1971, p. 9.

[65] *The Times*, December 30, 1970.

[66] *Ibid.*

[67] *The Times*, December 30, 1971.

EDA WORKS IN TEXAS

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DORN. Mr. Speaker, Chairman BOB POAGE of Texas, one of the greatest committee chairmen of all times, presented to our Public Works Subcommittee on Economic Development Programs this morning an exceptionally able witness, Mr. James M. Leath of Marlin, Tex. Mr. Leath told us a success story under the Economic Development Act that we wish to share with the entire Congress. Mr. Leath's splendid statement to my subcommittee follows:

STATEMENT OF JAMES M. LEATH, VICE PRESIDENT, FIRST STATE BANK OF MARLIN, TEX.

Mr. Chairman and Members of this distinguished Public Works Committee: It is difficult for me to express adequately the appreciation and gratitude that Marlin, Texas, feels toward the opportunity and the privilege you have extended us to present our experiences and our conclusions concerning the Economic Development Act to your Committee. My greatest fear in this endeavor is that I will not be able to effectively express how we truly feel about this legislation and the Economic Development Administration that is charged with the responsibility of implementing this fine program.

Those of us who live in the rural areas of America, many times, look at the legislation that comes from Washington and feel that our lives and our concerns have been pushed aside from the mainstream of thinking in our Congress. Yet, we strongly feel that our small communities have a great deal to offer toward eliminating and discontinuing the growth of many of the serious problems that unquestionably face our urban areas in this period of pollution, unemployment, inadequate housing, and unequal opportunity, all of which concerns us. We have thousands of acres of unpolluted, uncongested land in rural America; we have scores of natural resources; we have an abundance of untapped and underemployed human resources; and in most cases, the will and desire to accomplish better things for all of our people.

We seriously lack, however, the professional planning and necessary funds to effectively utilize these resources. Marlin, Texas, is a community of approximately 6,500 people, about 45–50% of whom are black or Mexican Americans; yet, in every endeavor we have attempted for the betterment of all our people. You will find the leaders of every segment of our community working together, seeking a common goal. In the last five years, we have begun to see the results of this work and today there exists in our community a sense of optimism and excitement that has been absent for many decades. Today our young people don't have to migrate to the urban areas to find meaningful employment; many of our unskilled and unemployed workers have been trained and hired for responsible jobs with living wages; and for the first time in fifty years, people are moving back to Marlin from Houston, Dallas, Fort Worth, and other urban areas because they can now fulfill their needs in an area they never wanted to leave in the first place.

Today in Marlin, we have a new high school and a new elementary school. A new area vocational school is under construction. Such a complex will very adequately prepare and train our fully integrated school enrollment under the finest conditions possible. For over thirty years, all of our students have been subjected to inferior and inadequate facilities. Our people voted for a 50% tax increase to provide funds for these new facilities, and this past week a delegation of our school board initiated negotiations with Texas State Technical Institute to take over our old Negro school and convert it into a vocational training center that would serve the needs of our poor and underprivileged.

Today, in Marlin, Texas, we have new shopping centers, new stores, new housing developments, new hospitals, new motels, and scores of remodeling projects throughout our business and residential community. Since

1967, virtually every business in Marlin has undergone either a major remodeling program or has built complete new facilities. In the last two years, a master plan has been developed and is presently being implemented, and in every area of our community there is the noticeable activity that indicates a thriving, growing area with a strong economy. It is a thrilling sight, indeed, on Friday evenings to see our bank lobbies and our other businesses thriving with people cashing payroll checks from hundreds of new jobs that have been created by our two new industries which were made possible with EDA assistance and the general expansion in our business sector.

This is a far contrast from the days, just a few short years ago, when our biggest day was the third of each month when the welfare and relief checks came in. Yes, gentlemen, if you came to Marlin, Texas, today, you might be like many of the thousands of tourists we have each year who come to relax in our world-famous artesian mineral waters—or like the industrial prospects that we now quite efficiently interview every month—you just might want to make Marlin your home. If you did, however, you would be confronted with one of our most serious problems in 1972—a critical shortage of housing, created by an influx of new people and a need for better housing by many of our citizens. But after sixty years of semi-depression and a long ride on the downhill slope of economic collapse, we in Marlin now greet our new problems with enthusiasm and a new will to overcome them.

What brought about such a drastic change in this dead, little Central Texas town? What is responsible for the Marlin I have just described to you as opposed to the Marlin that I first saw in 1962? Obviously, many people worked long and hard to achieve this success, but if you asked 100 people in Marlin, "What turned your community around?," you would get a virtually unanimous reply, "EDA."

I shall never forget my first experience of seeing Marlin as long as I live, and as I ride through Marlin today, hardly a day goes by that I don't recall this first impression, and then smile with great satisfaction as I see what is here in 1972—just ten years later—it looks like a completely different town. My two partners and I were looking for a small town in Central or East Texas, where we could make an investment in a country bank and plant our roots. We had been contacted by a family in Marlin that had just such a situation and in August of 1962, we drove to Marlin for an investigation. The first thing I remember is that Central Texas was in the midst of a six-month drought, and on this particular day it was 108°. Every bit of vegetation in the area was burned and dead, and as we approached Marlin the first thing that impressed us were the weeds—head high—and the trash lined the streets. As we approached the business community, I recall thinking, "What in the world am I doing here?;" all we could see were dilapidated buildings which were 50 to 100 years old and reminded us of the old ghost towns we see in the movies. Then we rode through the residential areas and past the schools and things got worse—there were two new buildings, both homes, under construction in Marlin that day and in short, gentlemen, this was absolutely the worst town I had ever seen.

We spent several weeks deliberating and decided that this community had to go up, because it had apparently gone just about as far down as it could go. We moved to Marlin in October of 1962, and as we began to meet the community leaders, we sensed that there was a very serious concern about this condition. Everybody wanted to change it, but how could it be done? The obstacles seemed to be insurmountable. We began, however to seek assistance and help from anyone we could find. State agencies, Federal agencies, and even private surveys and analyses. Everyone told us that we had a great geographical location, an excellent labor market, and that all we needed to do was get new industry, or in our case, get industry, because we had none. Our next thoughts were, quite naturally, what kind of industry? Where would we put them? What would we have to provide them, and what would it cost? Several people had told us, including the Texas Industrial Commission, that our best asset for immediate development was the artesian mineral water, which had been discovered in Marlin in 1890, and from that time up through the 1940's had attracted thousands of tourists and had sustained Marlin's business for decades. After World War II, however, all of these facilities had grown old, and without the spark and guidance of its original promoters, this vital industry had almost completely faded. Yet the talk of the town was how good it used to be when we had as many as 50,000 tourists annually, and the New York Baseball Giants used Marlin as a Spring training site. Grasping at a straw, we decided that once again this should be our starting point. We were willing to put our own money into this venture, but the problem of financing the additional funds needed proved to be a major problem. We contacted banks, savings and loan companies, insurance companies, and individuals, but it seemed that no one had too much faith in investing his money in a town like Marlin.

Finally, our Chamber of Commerce manager mentioned that he had recently been made a director of a new Economic Development District in Waco, Texas, and that maybe these people could help us. We called the Economic Development District office and the change in Marlin from this point is miraculous. The next day, three people from the Economic Development District office met with us; then in a few days, Marvin Hagemeier, the Economic Development Specialist from the Economic Development Administration came to Marlin. We discussed our dilemma, our hopes, and our needs. For the first time, we saw that somebody was indeed interested in helping us.

A week later, three men from the Austin office of EDA came to help, and in less than a month, a wonderfully innovative plan had taken shape. Fifteen local business and professional men had joined to form a development foundation, and EDA initiated steps to secure our needed assistance. Our local group put up $100,000 and EDA assisted with a grant of $150,000 toward our initial development of a public bath house that was to be the nucleus of developing a complete new industry. From this point, we hoped to stimulate private capital investments to provide a motel and allied service facilities needed to house these tourists. If our bath house made a profit, these funds would be used to advertise and build other needed community facilities. Our results were short of fantastic. We had an old 110-room hotel that Conrad Hilton had built in 1932. It was dilapidated and about to close, but on the strength of this announcement, a local businessman bought the building and completely renovated it, an eventual investment of over $650,000. Today, it is a thriving business. Another group, many of whom had been associated with the industry in earlier years, organized and built another new bath house facility, along with a new motel, representing another $700,000 in private capital investment. Some three months later, a $200,000 efficiency apartment motel was started, as many of our tourists visit for several weeks—sometimes months. Almost immediately, new projects popped up all over town—new businesses started moving to Marlin and renovation projects cluttered our business district. In the last four years, we have had over a dozen new businesses come to town, and our total business community has been expanded by at least 40% overall. This initial investment by EDA of $150,000 in less than a year had sparked at least $2,000,000 in private capital investment in our community. More important than this, it had given us a new spirit, a new confidence, and a new beginning. Our Chamber of Commerce formed an industrial foundation and more than sixty businessmen raised an additional $100,000 in less than three days time to purchase a 62-acre industrial site. And once again, we called on our new friends at Central Texas Economic Development District for assistance. We began to explore ways to develop this site, as well as a blighted area immediately adjacent to the park where some 3,500 Blacks and Mexican Americans lived in total deprivation with no water, no sewers, no paved streets.

After some two years of work and planning, screening of prospects, and labor surveys, we found a solution. A new company had been formed by a group of Abilene, Texas, businessmen to manufacture carpet. They, however, like our city, needed financial help—we called on EDA and initiated a project that some months later resulted in a dual program—a $912,000 EDA business loan to Marlin Mills, Inc., and a $648,000 EDA water and sewer grant to the City of Marlin to prepare for the carpet industry. Today, Marlin Mills is a little over one year old; it now employs 126 local employees and has an annual payroll approaching $1,000,000. By year's end, they expect to add 25 employees and have already started a new 12,000 foot expansion to this plant. Their new neighbor, to start construction in May, will be Wallace Business Forms, a Chicago-based, NYSE-listed company that already has opened temporary facilities in Marlin. In their new 50,000 square foot plant, they will employ over 150 people. Back in 1969, when money was tight and issues were failing all over the country, the City of Marlin passed, 968 to 36, a bond issue to provide their share of this water and sewer program—an overwhelming thanks from all our citizens to the Economic Development Administration.

In summary, gentlemen, EDA gave new birth to Marlin, Texas, and without this assistance, we would no doubt be near total economic oblivion. I would like to make one other point, if I may, because I know that our Congress recognizes that any program is only as good as its Administrator. It has been my privilege to work with EDA under two Administrations, and under both of them I have marveled at the attitude, the sincerity, and the dedication with which these people tackle a job. From the secretary in the Central Texas Economic Development District to the national director of the Economic Development Administration in Washington, we have an outstanding organization. The people of Marlin, gentlemen, gratefully request that you renew the life of this fine piece of legislation for a period of time that will enable communities to plan for the future and substantially assist communities such as Marlin. Yes, we would even suggest that you expand the program's scope and use this exceptional vehicle to accomplish the fulfillment of other pressing needs.

Thank you for affording me the opportunity to appear before you.

THE CAMPAIGN TO DESTROY THE UNITED FARM WORKERS UNION

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BADILLO. Mr. Speaker, we are witnessing a vicious and obviously politically motivated campaign to destroy

the United Farm Workers Union and, thereby, to deny basic rights and human dignity to the thousands of organized farmworkers—most of whom are Mexican-American, Puerto Rican, and black.

The United Farm Workers and, particularly, its president, Mr. Cesar Chavez, are the victims of a two-pronged attack which is clearly aimed at stripping the union of those rights and agreements which took so much hard-fought effort and dedication to attain. The primary target of this attack is the boycott—the only effective weapon or tool which the UFW can employ. The simple fact is that the retail boycott, successfully implemented against the grape growers for 3 years and presently being used against iceberg lettuce growers and certain California wineries, is the only means which farm workers can use to organize themselves and to seek a redress of grievances.

On the one hand the UFW is being persecuted by an antiunion alliance known as the Free Marketing Council, an organization described as a coalition of growers, shippers, and chainstores, and strongly supported by the American Farm Bureau Federation, right-to-work committees, and agribusiness interests. This well-financed campaign is designed to end the UFW's activities, especially the use of the boycott, and to permit a renewal of the deplorable treatment of migrant farmworkers and their families. These narrow, special interests realize that the years of exploiting farmworkers is ending and they are now resorting to gutter tactics to strip the UFW of its one effective weapon, the boycott, and to end their accountability to the American public over the degradation and poor treatment of farmworkers.

On the other hand is the ill-conceived action of the National Labor Relations Board in attempting to secure an injunction against the UFW's secondary boycott activities. The NLRB has consistently maintained that the UFW is not classified as a labor organization and, therefore, farmworkers are neither covered by the protections of the National Labor Relations Act nor the secondary boycott provisions of that act. Yet, through some form of convoluted reasoning and a clear reversal of years of earlier policy, the NLRB now seeks to impose the NLRA's restrictions on the UFW. The NLRB complaint runs counter to 37 years of treating farmworker organizations as outside the coverage of the National Labor Relations Act and there are no facts which warrant the NLRB's new position.

In view of the NLRB's sudden reversal of almost four decades of policy and the fact that it should occur at precisely the time when the Free Marketing Council and others are attempting to destroy the United Farm Workers, one can only reasonably conclude that these actions are directly related and represent a conspiracy to deny even a modicum of protection to farmworkers.

The NLRB is clearly employing a double standard by continuing to deny farmworkers the rights and protections of the National Labor Relations Act while at the same time stipulating that farmworkers must abide by certain prohibitions of this act. This duplicity and discriminatory treatment will simply not hold water and the American public must be made aware of the fact that the farmworkers union will be seriously crippled, if not virtually destroyed, by these politically inspired actions. How can any American in good conscience sit before his dinner table, in usually comfortable surroundings, and not feel some sense of support for those men, women, and children—heavily overworked, poorly paid, generally exploited—who have toiled to produce their fruits and vegetables, meats, wines, and other foods? Men of good will can only be offended by the treatment of farmworkers and by this insidious campaign to destroy their few rights and bargaining power.

Yesterday I wrote to the NLRB's General Counsel, expressing my very deep concerns over this issue and urging that the NLRB desist from pursuing its injunction against the United Farm Workers. I present my letter herewith for inclusion in the RECORD and urge our colleagues to join with me and others in calling upon the National Labor Relations Board to terminate its alliance with the special interests and to end its poorly conceived actions against the United Farm Workers Union and its members:

MARCH 27, 1972.

MR. PETER G. NASH,
General Counsel, National Labor Relations Board, Washington, D.C.

DEAR MR. NASH: I am writing to express my strong opposition to the complaint filed by the NLRB against the United Farm Workers Union, seeking to secure an injunction against the UFW's secondary boycott activities. Further, I also want to advise you of my very deep concern over the motives underlying your agency's actions against the United Farm Workers.

I have given this matter careful consideration over the past several days and simply cannot understand your rather convoluted reasoning in attempting to end the UFW's activities. Although it has been consistently maintained that the UFW is not classified as a labor organization and is, therefore, not covered either by the protections of the National Labor Relations Act or the secondary boycott provisions of that Act, you seek to impose the NLRA's restriction on the UFW. Certainly such ill-conceived action is clearly inconsistent with previous NLRB decisions and I would be rather interested in learning of the rationale behind your determination.

I am equally concerned that this action against the UFW by the NLRB should come precisely at the time when the union and, particularly its president, Mr. Cesar Chavez, are the targets of a reportedly well-financed campaign designed to end the UFW's activities, especially the boycott. The position assumed by the NLRB appears to be the same promoted by those seeking to end the UFW's activities and I cannot help but suspect that political motivations have entered into this issue.

I urge that you promptly reconsider the position the NLRB has assumed and desist from pursuing the injunction against the UFW. I will appreciate being kept fully informed of all pertinent developments in this matter and will look forward to hearing from you shortly.

Sincerely,

HERMAN BADILLO,
Member of Congress.

MARKET PRICE SYSTEM SERVES CONSUMERS WELL

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. FINDLEY. Mr. Speaker, earlier today I had the opportunity to present my views on farm prices and food costs before the U.S. Price Commission currently holding hearings on the economic stabilization program. My statement before the Price Commission follows:

STATEMENT BY REPRESENTATIVE PAUL FINDLEY

Chairman Grayson and Members of the Price Commission, I want to thank you for giving me this opportunity to testify before the Price Commission's Public Hearings on the Economic Stabilization Program. You are also to be congratulated on your decision to hold a national hearing on food prices April 12.

The competitive uncontrolled system under which American meat is produced is fair to the consumer, to the producer and to government.

Let me illustrate by citing the remarkable record of beef during the past twenty years:

Output has more than doubled: up 13.3 billion pounds or 150 percent.

Consumption per capita has doubled: now 113 pounds a year.

Value, in terms of an hour's wage, has nearly doubled: an hour of factory labor bought 2.6 pounds of round steak in 1971, contrasted with 1.4 pounds in 1951.

Pounds of round steak purchased with 1 hour of factory labor

1951	1.4
1956	2.2
1961	2.2
1966	2.4
1971	2.6

This has been accomplished without price supports or other forms of government subsidy.

The system which produced these remarkable results is itself remarkable. It is highly competitive at all times. Price trends influence greatly production decisions. Regardless of price, the levels of efficiency and quality stay high and, except for wartime, consumers have never known a period of shortage.

Beef producers are making money today. No doubt about it. Less than 10 years ago they were not. They were losing $65 or more on every animal shipped. Nevertheless, they stayed in the business because they remembered earlier periods of profit and counted on better times—like now—in the future.

This Commission is being urged to tamper with this system, to force—so to speak—a shotgun wedding of meat and price-control.

Such a union would, I predict, be bad for consumers, producers and the government.

For consumers, the marriage predictably would bring forth a quick issue of shortages black marketeering and favoritism in the butcher shop. Inevitably, supermarkets would be driven to practices like leaving excess fat on meat cuts.

In the end, it would mean less quality and less meat, perhaps rationing.

For the producer, it would bring less income, and for many, disaster. Currently, the producer is receiving 66 percent of the consumer dollar. If beef is brought under controls, the income of the producer would suffer slow but sure attrition. Government-sanctioned increases in wages, utilities and taxes—as they inevitably come along—would bring pressure on the supermarkets. With retail prices controlled, the pressures would be channelled to the maximum extent possible against the producer. An increase of 2½ percent in costs would require about a 4 percent decrease to producers if retail prices stayed constant.

Under these pressures livestock income—and production—would tumble.

For the government, controls would require a vast expansion of the bureaucratic network to check grades and cuts, chase black marketeers, file legal actions and fill the Federal Register with new regulations.

Ultimately, the pressures would get so strong, the legislative arm of the government would be forced to provide a grateful executive branch with a graceful exist by forbidding ceiling prices.

The wedding of meat and price-control would be a most unworthy, unholy union—one sure to end in divorce court—but only after a lot of needless anguish.

I understand the dilemma facing this Commission. Its Members are under heavy pressure from consumer interests which fail to understand—or refuse to recognize—how well they are served by the present competitive market price system.

Your dilemma reminds me of a story Abe Lincoln may possibly have originated. A young couple arrived late on Friday at the home of the Justice of Peace wanting to be married immediately. Unhappily, they had failed to secure the required license at the courthouse which was by then closed for the weekend. The Justice informed the couple that under the circumstances he could not perform the wedding ceremony. To this, the distraught young man said, "Your honor, couldn't you say a few words to tide us over the weekend?"

Besieged Members of the Price Commission, I hope you refuse to perform the wedding of meat and price-control. Instead, say some informative words to tide the American people over this period of concern. Support the Department of Agriculture in its educational program. Explain that this is a normal cyclical price trend.

Otherwise I fear you will later be conscience-stricken for having caused great harm to a food-production system that has served the American people well.

PEKING TERMED TOP "PUSHER" IN WORLD

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, one of the great "nonissues" of our day is the extent to which the narcotic drugs which are poisoning our young people today in record numbers originate in Red China with whose government we are now so busy making friends. Most people know that historically China has been probably the world's leading source of narcotic drugs; but every effort is being made to keep quiet about its role in today's drug crisis, presumably because it might upset some highly placed foreign policy applecarts.

This subject needs vigorous exploration and exposure. One party which at least has no interest in keeping it quiet is the government of free China on Taiwan. The following UPI report, printed some time ago—September 18, 1971—in Santa Ana, Calif., Register, but only recently brought to my attention, deserves to be much more widely known and investigated:

PEKING TERMED TOP "PUSHER" IN WORLD

TAIPEI.—An anti-Communist exhibition by eight Nationalist government agencies reported Friday that Red China is smuggling at least 10,000 tons of narcotics into the free world each year.

The agencies, four of them intelligence agencies which operate on the mainland, branded Peking the world's No. 1 drug pusher and said it netted at least $800 million a year.

The exhibition which also catalogues alleged Communist crimes on the mainland, opens Sunday for two months. Newsmen were given a preview today.

The exhibition, illustrated by graphs, charts and photographs, said Communist China is dumping heroin and morphine in South Vietnam to poison American troops.

It reported that heroin of more than 90 per cent purity worth $4,000 an ounce in the United States is sold in South Vietnam at half the price.

CONGRESSMAN JIM WRIGHT SPEAKS OUT IN BEHALF OF THE VIETNAM VETERAN

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. TEAGUE of Texas. Mr. Speaker, our good friend and colleague, the Honorable JIM WRIGHT of Fort Worth, Tex., spoke out this past week in behalf of the returning Vietnam veteran. His remarks are worthy of repeating in the RECORD in order that all may read them. I for one think that Mr. WRIGHT has set the record straight.

The remarks follow:

[From the Fort Worth Star-Telegram, Mar. 22, 1972]

VIET VETERANS HAVE EARNED HELP—DODGERS, DESERTERS HAVE NOT

(EDITOR'S NOTE.—This article was excerpted from a statement issued this week by Fort Worth Congressman Jim Wright on the question of amnesty for Vietnam war draft evaders.)

(By JIM WRIGHT)

While the House was passing a bill to increase educational benefits for Vietnam veterans, some public officials were trying to find a way to help youthful draft evaders who have fled this country in order to avoid serving it. Most of these, rather than enter the military, voluntarily exiled themselves to Canada or Sweden.

Now come Sen. Robert A. Taft Jr. and others with a bill to grant a blanket amnesty to all of these expatriates. Let them return and be forgiven if they will serve two years in some accepted public service, urges Senator Taft.

My basic feeling toward the self-styled "cop-out" is pity. Many, overtly encouraged by certain college professors and other anti-Vietnam protesters, no doubt rationalized that they were doing a proper thing—perhaps even a courageous thing. They were, in my opinion, pathetically and tragically misguided.

Some no doubt were motivated by nothing more noble than physical cowardice, some the products of parental pampering and over-protectiveness—anything to avoid responsibility. Yet others must be granted at least the charitable assumption of sincerity. With certain U.S. senators issuing public statements almost daily saying that our country's attempt to stop the aggression from North Vietnam was wrong and even "immoral," it was easy for a lot of these kids to talk themselves into thinking that they were doing the right thing by copping out.

Yet it just doesn't seem fair to me—and I personally cannot justify—giving them a blanket amnesty while other young Americans are being called to fight, and some even to die, for their country. What would this say to the parents and loved ones of those who are prisoners of war, and those who have given their lives? Or even to those who simply did their duty, took their chances, served their country and returned to try to pick up the threads of normal living?

At some later date, when this war is over, I think perhaps it may be right and proper to give these expatriates a chance to redeem themselves, if they desire it, through some form of compensatory service to their country—either in the armed forces or in some needed public work.

But not now. Surely not while others are dying for the country. Some of the self-exiles in Canada affect a posture of public bluff and bravado. Some declaim that they will not return until the country apologizes to them and brings them back as heroes. Well, so far as I am concerned, these particular ones can stay gone from now on.

For what they did was not right, whether sincere or not. If every citizen should be free to decide for himself just which laws he will obey and just which wars he'll fight for the country, there wouldn't be any such thing as law. There wouldn't be any organized society.

And I for one am fed up with the pompous self-righteousness of those who say they'd gladly fight for their country in some other war, but just not this one because it is immoral. Bunk. All wars are immoral. Killing is immoral. And some day, by God's grace, we may have a more moral world. But in this imperfect one that we have, the United States is still man's best hope for decency and humanity. And we do owe to it—with all its imperfections—a debt of personal gratitude and personal loyalty.

Of course, talking about what young people owe to their country is only one side of the coin. The other side is what the country owes to its young people—particularly its Vietnam veterans.

These are the guys who did not cop out, did not picket the White House, did not shout obscenities at the President, did not spit on the flag and did not go mincing off to Canada on the TV evening news. These are the guys who simply did their job.

And yet the country in many cases is treating them shamefully. Some 320,000 of these young men are presently unemployed. And it isn't only because of depressed national economic conditions.

The rueful fact, pointed out recently by House Veterans Affairs Committee Chairman Olin E. Teague, is that unemployment among Vietnam veterans is higher than among others.

Teague's committee has heard shocking cases of restaurants refusing to serve Vietnam returnees . . . employers denying them job opportunities because of My Lai . . . hospitals declining to hire medical corpsmen because of fears generated by publicity given to the small minority who have become drug abusers.

Behind and beneath it all is a general lack of evident public enthusiasm for helping cushion the re-entry shock for these young men as they filter back into the civilian world.

Why hasn't our society done more to express the gratitude it ought to feel for the Vietnam veteran? Surely it isn't that he has sacrificed any less, endured any less, suffered any less than the military of earlier generations. He has known all the anguish, frustra-

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tion and heartache associated with war since Sherman gave it its synonym . . .

What a lousy, dirty bum rap our fat, supercilious society has fastened upon these young men!

Clearly, we need to do more than we've done. We need to reward these fellows with a darn sight more than just a pat on the back and a few kind words—although even that would be a starting place. Its omission ought to burn like a hot iron poker in the national conscience.

A WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR AND MISSING IN ACTION

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. GALIFIANAKIS. Mr. Speaker, this is the week that Presidential proclamation has designated as "A Week of Concern for Americans Who Are Prisoners of War and Missing in Action."

It was in March of 1964 that the first American was taken prisoner, and today, 8 years later, we as a people still share the anguish of not knowing the fate of many of our brave men; 8 years later we still share the frustration of being unable to directly affect the conditions in which our valiant servicemen must live as prisoners in an enemy land.

I cannot be coolly logical or political on this subject, for it wrenches at my heart, angers me, and tortures my conscience as it does all of us. But our sorrow, our anger, and our guilt are worthless emotions unless they are channeled into positive action. If we harness the power of our collective feelings about these men and pull together, I have faith, I must have faith, that that power will be felt around the world, all the way to Hanoi. We have seen that adverse world opinion does affect the actions and attitudes of governments, even North Vietnam. It is a power not to be underestimated.

And yet, a week of concern must appear an inadequate gesture to many in the face of so many years of mistreatment of our men and anxiety of their families. But it says clearly, officially, unequivocally, "We care." Not just political leaders or the families directly involved but all of us as Americans who believe that all men are God's creation, human beings with souls. What right, then, to turn these creations into objects of ridicule, to treat their lives as meaningless chips in the game of war? No right.

There must be adherence to basic human laws. These prisoners must be treated in accordance with the provisions of the Geneva Convention. We must know the names and physical condition of our men held prisoner. Our sick and wounded must be released. There must be inspections of those prisons. We demand this at the very least.

I can think of no other single issue of more overriding importance to the people in our Nation than the lives and well-being of their husbands, brothers, fathers, sons, and fellow Americans. These are our people and they must be returned to us.

I was a strong supporter of the POW/MIA resolution which was passed unanimously recently in the House of Representatives. It calls for placing prisoner exchange in top priority position.

That is Government language. Let me put it in the words of a child:

Mr. Congressman, I miss my daddy. I love him more than they love him over there, so I hope you can tell them to send him home. My little brother doesn't know him yet, and I know he will like him a lot when he meets him. Can you help us?

We must never lose sight, regardless of what else we face today, of our obligation and our love for these men, and for their families.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BAKER. Mr. Speaker, this week, March 26 to April 1, 1972, has been proclaimed "National Week of Concern for Prisoners of War/Missing in Action" by the President. At the end of this month, the first American to be taken prisoner will begin his ninth year in captivity. This imprisonment at the hands of the North Vietnamese represents the longest and one of the most brutal ever endured by American fighting men.

Last year at this time, we marked another week of concern. Progress since then has been slow and discouraging. Despite every effort on the part of the United States to obtain more humane treatment and eventual release of all American prisoners, the enemy still holds 1,623 American servicemen and some 50 U.S. civilians. Among these are 31 men from my home State of Tennessee.

After almost 8 years of frustrating, fruitless negotiations for release of our prisoners, the enemy remains adamant in its refusal to comply with the Geneva Convention agreements it signed. Despite repeated demands for compliance by the United States, United Nations, and International Red Cross, the Communists are still flagrantly violating four points contained in the Geneva agreements.

Hanoi has failed to identify all Americans it holds, although international pressures recently forced Hanoi to acknowledge an official list of 339 prisoners, plus 20 U.S. servicemen it says have died in captivity.

Hanoi continues to reject even minimum standards for humane treatment of prisoners outlined in convention agreements. It repeatedly rejects all requests for impartial inspections of its prison camps, although U.S. camps, where 35,600 Communists are held, are inspected regularly. Hanoi soundly rejected the latest offer from the International Red Cross to act as an impartial inspector.

Hanoi continues to deny repatriation for seriously sick and wounded prisoners.

Perhaps most cruelly of all, Hanoi continues to ignore prisoners' right to correspond regularly with their families. Not only must their loved ones in the United States suffer physical separation from sons, husbands, and fathers; they must bear the additional agony of not knowing whether these men are dead or alive.

There are some signs continuous international pressure has led to some Communist concessions.

In addition to releasing a partial list of U.S. prisoners, Hanoi has recently permitted a limited exchange of correspondence between captured men and their families.

But much remains to be done.

On this occasion, I urge all Americans to rededicate themselves to the task of returning all prisoners to their homes and families. I repeat my plea to our Departments of Defense and State to bring every possible pressure to bear upon Hanoi to this end. And I reiterate my request to those responsible for progress of the Paris peace talks that the prisoner issue be given top priority in our negotiations.

Our American Prisoners of War/Missing in Action deserve our concern and prayer not only this week, but every week of the year.

FOOD DISTRIBUTORS SHOULD NOT BE MADE SCAPEGOATS IN BATTLE AGAINST RISING COSTS

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LLOYD. Mr. Speaker, a searchlight is scanning the landscape for scapegoats to blame for rising food prices.

First the light was wrongly pointed at farmers, especially cattlemen, because prices for beef have just reached the level of 20 years ago.

Now the light has been focused on the food distribution industry—the wholesalers and retailers—in the hunt for an easy victim. But the facts simply do not support such an attack. Consider this:

Although food prices have been rising in recent years, the rise has not been as great as for other goods and services purchased by consumers. The retail cost of market basket foods has risen 15 percent since 1967, compared with an increase of 22 percent for all other items in the Consumer Price Index.

The increase in food prices is primarily because of higher wages. Average wage rates per hour of production workers in manufacturing are 2.3 times higher than 20 years ago. Average hourly earnings of food marketing employees are 2.5 times higher than 20 years ago.

Other factors influencing rising food costs are such things as freight rates; container costs; added services and conveniences built into frozen and prepared foods, and more meals eaten out where service and labor cost more than the food.

According to the Department of Agriculture, the 1971 increase in marketing spreads, the difference between what a farmer receives and the retail cost to the consumer, corresponded with a general increase in operating costs of food marketing firms.

For example, earnings of employees in food marketing firms averaged $3.23 per hour in 1971, an increase of 7 percent over the previous year. Prices of containers, packaging materials, and other intermediate goods and services purchased by marketing firms also averaged substantially higher in 1971.

Aftertax profits of food manufacturing corporations averaged 2.5 percent of sales in the first three quarters of 1971, up slightly from the same period of 1970, according to the latest available statistics. By contrast, aftertax profits of 15 leading retail food chains averaged 0.9 percent of sales in the first 9 months of 1971, down slightly from a year earlier.

The facts show grocers and food retailers are not responsible for increased food prices. As a matter of fact, profits of foodstore operators are down to the lowest in 10 years. In a survey study for 1970–71 covering foodstore operators, net profits as a percent of sales went below 1 percent. Food retailers in many areas across the country make less than 1 cent per dollar of sales. Their return on investment is down to 8 percent of net worth, the lowest level in over a decade.

At the same time, price controls on grocers are rigorous. Their gross margins are frozen as of the level for the year prior to the August 1971 freeze. Price regulations now require retailers to absorb increases in labor costs which are going up and now equal around 50 percent of total operating expenses. Grocers cannot raise their margin and then must absorb all increases in operating expense under price regulations now in effect.

Store expenses account for around 22 percent of the retail price paid by the consumer. The remaining 78 percent is accounted for by the cost of merchandise which retailers have no control over.

In addition, grocers' net profit margins before taxes are also frozen. They are kept at the level which prevailed last year or the year before.

Anyone who knows the grocery business knows that profits are low because of intense competition among distributors. The grocery industry is one of the most highly competitive in the country.

It is neither accurate nor fair to try to pin the blame for higher food prices on those who are performing everyday at reduced margins and for less profits.

Mr. Speaker, despite the unfair claims against both agriculture and the food distribution industry, food is still one of the best bargains available for consumers. Consumers this year will pay less than 16 cents for food out of each take-home dollar, compared with 23 cents 20 years ago. If food costs had gone up in proportion to average take-home pay, consumers would be forced to pay an average of $286 more per person for food this year. Luckily, such is not the case.

Taking all the 70 major food items grown on the farm, the total increase during the past 20 years has been only 7 percent. In that same period, non-farm wages increased 340 percent; government employee salaries increased 430 percent; business and professional income was up 200 percent, and dividends increased 300 percent.

Instead of blaming grocers for rising food prices, we should be asking how we can help retailers reduce expenses by cutting redtape and unnecessary cost imposed by Government regulations and restrictions.

There are over 200,000 retail food stores in this country. They operate under stiff price regulations backed by intense market competition. Their profits—the lowest in years—are rigidly controlled. The effort to make grocers the scapegoats in the present situation should stop.

Everyone, including the food distributor, is the victim of rising costs. In addition to rising costs, the other obvious reasons for price increases are monopoly and conspiracy among dominant food distributors. The food industry is not yet the victim of monopoly in most parts of the country although danger signals are evident in many markets. Conspiracy to fix prices among dominant distributors in a market is another constant danger. The public will be protected against rising prices when costs are stabilized, and so long as monopolistic and conspiratorial practices are not allowed to develop.

GREEK INDEPENDENCE ANNIVERSARY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, March 25 marked the 151st anniversary of Greek independence from Ottoman rule. At this time we pay tribute to the principles of democracy and freedom so cherished by the Greek people—principles which have been suppressed by the current Greek regime.

March 25 is recognized as the day when Alexander Ypsilantis and the Archbishop of Patras raised the patriot flag which began a revolt culminating in the overthrow of Ottoman empire rule. The Treaty of Adrianople in 1829 and the London Protocol of 1830 signified a great triumph for the Greek people. During that struggle, Americans watched with great interest, and shared in the triumph and happiness following the Greeks' glorious victory. The warm friendship between the Greek people and the American people has been constant over the years. The United States is fully aware of its great debt to those early Greek scholars and philosophers whose ideals set the tone for our own birth as a Nation.

For the nearly three-quarters of a million Greeks who reside in this country, today is a day to be proud. All Americans relish the hope that the Greek nation will soon be able to enjoy the freedom and democracy first cultivated in the visionary minds of an ancient society.

HUMAN DISCARDS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HARRINGTON. Mr. Speaker, "Overcrowding, archaic, primitive, uncivilized"—these are just a few adjectives that characterize the indelible impression that one might be left with upon completing a visit to an institution for the mentally retarded. Whether it be the Willowbrook State School for the Mentally Retarded in New York State or the Rosewood State Hospital in Maryland, the story is the same. Dehumanizing, deplorable conditions exist in these institutions—conditions which are totally unacceptable for this country. These conditions are enough to manufacture madness, itself.

The mentally retarded have no freedom of choice. They have no control over their environment. They are but helpless victims of abhorrent conditions.

Mr. Speaker, I submit these alarming articles for those who cannot speak for themselves in the hope that others will speak on their behalf:

[From the Washington Post, Mar. 21, 1972]

HUMAN DISCARDS: THE PROBLEMS PERSIST

(By Douglas Watson)

OWINGS MILLS, MD., March 18—They cluster about a visitor, muttering incomprehensibly and holding out their hands in welcome to King Cottage, the shame of Rosewood State Hospital.

The rest of the 45 severely retarded young men move aimlessly about the locked, high-ceilinged room that is bare of all furnishings except rows of cots that are crowded only a foot apart.

"What's my name? What's my name?" one of the patients manages to ask. Others are oblivious to everything, rocking back and forth while crouched on the floor or chortling to themselves while they hop up and down.

The conditions at 60-year-old King Cottage and some other units of the sprawling, 2,600-patient Rosewood complex shocked Bert W. Schmickel last year when he became director of Maryland's mental retardation administration.

Calling Rosewood, "one of the worst I have seen," Schmickel announced in November that he was assuming personal direction of the state's largest health institution to make much needed changes.

"There are day-to-day dehumanizing things that ought not to be accepted," Schmickel said then.

"Jail cottages. Locked doors. This is archaic treatment of people. You see people inadequately dressed. You still see the isolation cells. They're just not modern in concept," he added.

With 60 buildings on 790 acres northwest of Baltimore, Rosewood is Maryland's largest health institution. But it is still not big enough to provide full care for all the mental and physical cripples sent there until a ban on admissions was imposed last year.

The task of caring for 2,600 patients is enormous. For example, a large number of the residents are not toilet-trained—10,500 diapers are used daily.

About 800 helpless, bedridden patients must be fed by hand or they will starve.

Rosewood's size and great variety of patients results in a wide variety in the quality of facilities, from a "snake pit" like King

Cottage to a school and vocational rehabilitation unit that are doing an impressive job of preparing some of the patients for self-supporting, close-to-normal lives.

The variations in care struck a mental retardation expert from a neighboring state who visited Rosewood last year. "They deserve a lot of credit for some excellent programs," he said last week.

But then he added, "I saw things there that horrified me personally." He recallled seeing children in the pediatrics section of Rosewood's hospital who were kept naked, he was told, because clothing wasn't available.

However Rosewood ranks among the nation's generally dreary large institutions for the mentally retarded, every staff member interviewed agreed that care for patients like the boys in King Cottage must be improved.

"Everything depends on getting the numbers down," said Schmickel in an interview. He has proposed sending 300 patients to two facilities in Baltimore, but said the shifts can't be made without an additional $1 million included in the supplemental state budget Maryland Gov. Marvin Mandel will propose to the legislature this week in Annapolis.

A spokesman for Mandel said Friday, "The revenue picture right now is very bad," noting that Mandel has received $90 million in supplemental requests from his department heads and the regular budget before the legislature only had a $350,000 surplus.

Whether Rosewood gets the $1 million it needs to ease its overcrowding may depend on whether the legislature votes to raise the state tax on beer.

Reduction of Rosewood's patient population to less than 2,000 is the immediate goal of Schmickel, formerly Connecticut's commissioner of mental retardation. He was brought to Maryland with the foremost assignment of ending overcrowding at the institution that accounts for $16 million of the state's $21 million annual mental retardation budget.

Dr. Neil Solomon, Maryland secretary of health, has said that Rosewood should be limited to 1,500 patients in the next eight years.

Dr. T. Glyne Williams, Rosewood's superintendent since 1964, said that if he could redesign the institution, he would limit it to no more than 1,200 patients.

Their objective of scaling down Rosewood to a more manageable size is in keeping with the present national trend away from big, isolated, often-hopeless mental institutions and to smaller, community-oriented facilities that enable individuals to live at home or, at least, in home-like surroundings.

Overcrowding at Rosewood means there is not room in King Cottage's two plain barnlike dormitories to provide a young man there with at least his own shelf or cubbyhole to keep personal things in.

Last week King Cottage had 99 residents, 12 more than its rated capacity, which Schmickel said is based more on how many cots can be squeezed in than on how many patients can be adequately cared for.

About 20 of King Cottage's residents go to Rosewood's school, but there is no attempt to provide any regular training for the others.

They must be satisfied largely with occasional group walks around the grounds, rotated periods in an arts and crafts room upstairs, or staring at the television sets kept in screened cages to keep disturbed patients from tearing them apart.

Some of the patients can look forward to weekend drives with the families or volunteer sponsors. But Dr. Williams notes that one-third of Rosewood's patients have never had a visitor.

He said the residents of King Cottage and other severely retarded patients often received less attention than Rosewood patients at either extreme of the handicap spectrum.

Rosewood has about 1,000 residents who, though their IQ is under 70, are considered only borderline, mild or moderately retarded. These are the ones whom Rosewood's school and vocational rehabilitation unit are primarily geared to help.

Rosewood also has about 1,000 profoundly retarded, largely bed-ridden patients whose IQ's are below 20 and who more frequently have multiple physical handicaps too. For these, the commitment is only to sustain life, a job that demands and gets round-the-clock nursing.

The remaining Rosewood patients fall into the severely retarded category of those with IQ's of between 20 and 35, who usually can walk, perhaps talk a little, can be toilet-trained but for whom there has been little hope of improving their condition.

Overcrowding at Rosewood heightens the health hazards. "Tomorrow we could have an epidemic in a crowded place like this. It would be very easy," said Dr. Williams.

Overcrowding also adds to the workload of Rosewood's staff of 1,700—a large number until spread around the clock, every day of the year and divided between 32 units of handicapped patients.

Overcrowding makes it harder to handle the occasionally unruly resident. Most so-called "hyperactive" young men were mixed indiscriminately together in the locked Bissell Cottage, which was surrounded by a 10-foot-high fence.

Schmickel had the fence torn down and separated the profoundly retarded youths from those who were less handicapped and who often would attack them. But Bissell Cottage, despite a staff that works diligently to dress the youths each morning, keep the floors clean, and provide some activities, still seems much more like part of a prison than of a hospital.

Schmickel's criticism of some of the things he has found at Rosewood and a series of reports on conditions there by WRC-TV has left many of the institution's employees resentful. Many feel attention has only been focused on the bad, and not as well on the improvements that have come to what began in 1889 as "the Asylum for the Feeble-Minded."

A visitor to Rosewood's campus-like grounds not only can be shocked at the Bissell and King cottages, but also can see nurses tenderly holding deformed children in Rosewood's 300-bed hospital.

The visitor can watch deaf children being taught sign language, and mildly retarded youngsters slowly learning how to spell or to count change at the Rosewood school. "I'm certain that there are another 150 to 200 children that we could reach if we had the staff and space," says Sylvia Staples, the principal.

One can tour the vocational rehabilitation unit where about 400 young people are being trained in shoe repairing, sewing, to assist mechanics and carpenters and to do other needed work that will enable them to become taxpaying rather than tax-costing citizens. Some commute from their homes in Baltimore to take the courses.

But the indelible impressions are of King Cottage and Rosewood's other overcrowded facilities where hope cannot now be found.

"The impersonality of it, the lack of dignity, the homosexuality that I think nobody would deny—we must do better," Schmickel said.

Dr. Williams is more likely to defend Rosewood, but he said, "There is no disagreement between us on the need to reduce the population of this institution."

[From Time magazine, Feb. 14, 1972]

HUMAN WAREHOUSE

By name and locale, Willowbrook State School seems a pleasant enough place: a teaching institution on a 400-acre bucolic tract on Staten Island in New York Harbor. Actually, Willowbrook, the world's largest institution for the mentally retarded, is a school in name only. It is instead a grim repository for those whom society has abandoned. What sets Willowbrook apart from similar facilities in other states is sudden exposure. Parents, legislators and newsmen have recently made headlines by attacking the system that allows such a place to exist. In the process, they have won some small sops for Willowbrook's pathetic prisoners. More important, they have shown how hopeless and archaic is the custodial approach to the problem of mental retardation.

The battle of Willowbrook began last December when two staff members, Dr. Michael Wilkins, 30, and Mrs. Elizabeth Lee, 29, a social worker, began urging parents of Willowbrook children to campaign for better conditions. The two, who were later fired, triggered an emotional avalanche. A local daily, the Staten Island *Advance*, took up the cause with a damaging series of articles on the institution. New York television stations dispatched camera crews and gave generous amounts of air time. Politicians also visited the institution. All reached the same conclusion: conditions at Willowbrook were intolerable.

ODOR OF DESPAIR

Built in 1941 to house 3,000, Willowbrook now has a population of 5,200. Half the "patients" are under 21, and at least three-quarters are classified as "profoundly" retarded (IQ under 20) or "severely" retarded (under 36). For a handful of its residents, the school lives up to its name: it has a clean, new and well-staffed education section where "moderately" (IQ from 36 to 52) and "mildly" (from 53 to 68) retarded children live in small brightly decorated dormitories. These youngsters, considered trainable, attend classes that teach reading and self-care.

But for most of Willowbrook's residents, the institution is a warehouse, a place capable of providing only shelter and the barest essentials, for those whose families are either unwilling or unable to care for them. One building designed to accommodate 188 currently houses 250 severely retarded and seriously disturbed adolescent girls in conditions so crowded that one bed must often be moved in order to reach another. Training of any kind is nonexistent, though recent experience elsewhere has shown that seemingly hopeless cases can benefit from professional attention. The girls spend their days sitting, standing or lying in a large marble-floored room that resembles Sartre's vision of hell. Bare and high-ceilinged, its walls covered with flaking green paint, the room is redolent of sweat, urine, excrement—and despair. Many of the patients are incontinent; the few attendants are kept busy changing them or putting clothes back on those who keep tearing them off. There is no time left to carry out rehabilitation programs. "It just kills me," says one attendant. "We're so busy that we can't do anything that really helps them."

Wards for profoundly retarded children are no better. By night, the children, many of whom have physical handicaps as well, sleep in closely spaced cribs. By day, they sit strapped into special chairs, recline in two-wheeled wagons that look like peddler's pushcarts or lie listlessly on mats on the floor. Some of the youngsters weep or grunt unintelligibly; most make no sounds at all. A few children with severe physical handicaps but normal intellects share the accommodations; families unable to care for them have made them wards of the state.

Conditions in some of the men's wards would have made Bedlam look inviting. One ward holds 40 seriously disturbed adults, some of them violent. The ward is staffed by two attendants, one a woman; they have all they can do to keep their patients from hurting themselves or each other. They cannot always keep their patients healthy. Hepatitis, which thrives on poor hygiene, is rampant at Willowbrook. Many of the patients have diseases and defects that will ultimately kill them. Some die of other causes: ten years ago, a measles epidemic swept through the institution and killed 250. Of the 125 patients who died of various causes during 1970, nine choked on their own vomit before attendants could reach them.

Conditions at Willowbrook were not always like this; seven years ago they were even worse. When Dr. Jack Hammond, the present director, took over the institution in 1964, the patient population was up to 6,500 "It was both inhuman and unhealthy," says Hammond. "They were literally packed in here like cattle." To relieve the overcrowding, Hammond persuaded the state's department of mental hygiene to halt admissions except for special cases. But Hammond, with a budget of $33 million a year, has not been able to relieve Willowbrook's gross understaffing. In December 1970, the state imposed a hiring freeze on all institutions. Willowbrook, which then had 274 staff vacancies, is now 900 short of its authorized roster of 3,628. For sections housing the most retarded, the recommended staff-patient ratio is 1 to 4; in some of Willowbrook's worst wards now, it is actually 1 to 20.

WAITING LIST

Some relief is in sight. The department of mental hygiene's 1971 budget of $580 million had been threatened with a $20 million cut in the coming fiscal year. Responding to public pressure, Governor Nelson Rockefeller has canceled the cut, announcing that the department's budget will instead be increased by $20 million. That will allow Willowbrook to fill at least 300 vacant positions. But it is unlikely to improve conditions at the institution. "Attendants aren't enough," explains Hammond. "We need to get 2,000 patients out of here."

Such an accomplishment seems impossible. Most of Willowbrook's patients are there because there is nowhere else for them to go. Nearly all experts in mental retardation argue for small centers where patients can receive intensive attention from doctors, therapists and teachers. They also recommend day schools that allow all but the most seriously afflicted to live with their families but still have care. In most states such facilities are simply nonexistent. Willowbrook, despite its well-advertised horrors, has a list of 1,000 awaiting admission.

ANNIVERSARY OF BYELORUSSIA INDEPENDENCE

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DELANEY. Mr. Speaker, I am pleased to join my colleagues in paying tribute to the freedom-loving people of Byelorussia on the occasion of the 54th anniversary of their independence.

The history of Byelorussian statehood extends back to the 9th century when several Slav tribes founded independent principalities on the territory of what is today Byelorussia.

Throughout the centuries these great people have endured severe trials to preserve their independence, and late in the 18th century suffered the ignominy of being annexed to the Russian state. Finally, on March 25, 1918, Byelorussia succeeded in declaring its independence from czarist rule.

The All-Byelorussian Congress met in the city of Miensk, and a provisional constitution providing for the freedoms we take so much for granted were guaranteed to all. Unfortunately, their experience of living in freedom was short lived, as the Russian Communists consolidated their forces and the Red Army brutally established Byelorussia as a captive nation on January 1, 1919.

We are heartened to know that the spirit of freedom continues to inspire the noble people of this great nation, and hope and pray that they will soon live again in political liberty.

VALUE-ADDED TAX

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PATTEN. Mr. Speaker, I recently received a letter from Mr. Joseph T. Karcher of Sayreville, who is a prominent lawyer in my congressional district. Mr. Karcher has written several legal articles, and he took this most recent opportunity to express some interesting thoughts on the proposed value-added tax.

In light of the hearings before the Joint Economic Committee on the value-added tax, I thought my colleagues might find Mr. Karcher's remarks most timely. I take this opportunity to place them in the RECORD as follows:

FEBRUARY 3, 1972.

Re Nixon's proposed new tax to relieve homeowners.

DEAR CONGRESSMAN: I am addressing this to you as a Congressman because it is my understanding that all tax raising revenues must originate in the House of Representatives, in conformity with the Constitution.

President Nixon recently announced that he might soon come up with a new federal tax plan which would "relieve" the homeowner of a substantial part of the cost of supporting our local public school systems.

It sounds good, but it now appears that his idea is to create a federal so-called "Added Value Tax" which would siphon off an estimated $16 billion of more taxes from the long suffering taxpayer. These new taxes would be collected and be sent to Washington and then would theoretically be distributed and sent back to the local taxing districts.

There are only three or four things wrong with this idea, viz:

1. This new tax is in effect an additional tax which is added to an article at every stage from its production to its final sale. It is inevitably passed on to the "ultimate consumer". It is generally known as a federal sales tax.

2. The "ultimate consumer" is primarily the same little home owner who is supposed to be "relieved" of some of his tax burden. Actually it would just add another tax to what he already pays.

3. It is a well known fact that the individual States and local communities never get back the same amount of taxes taken away for a specific purpose. Some of it (lots of it) gets lost in transit between Washington and back to the States. The only ones who would benefit would be the large bureaucracy created to collect this new tax.

Hence this looks like another "gold brick" to be sold the gullible American Public in an election year. We should be wise enough not to buy it.

The real problem with the ever mounting tax burden is that ever since the Constitutional Amendment which permitted the federal government to impose the income tax, Washington has been extracting so much taxes in this form at the local level that it leaves the States and local communities little if any other source of revenue to support themselves and the schools than the real estate tax on the homes and the State sales tax. If the federal government is now going to crash into this new field of taxation and impose a federal sales tax, we are not going to be better off, we are going to be worse off.

These are just my personal views but I believe they are sound and that every Legislator should be contacted and urged to vote against any such new form of taxes.

Respectfully yours,

JOSEPH T. KARCHER.

DIRECT AIR SERVICE—PHILADELPHIA TO IRELAND

HON. JAMES A. BYRNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BYRNE of Pennsylvania. Mr. Speaker, the Honorable George X. Schwartz, president of the City Council of Philadelphia has informed me our city council at a meeting held March 9, 1972, adopted Resolution No. 22 which would memorialize Secretary of State William P. Rogers to aid in inaugurating direct Philadelphia to Ireland in-flight service by Aer Lingus—Irish International Airlines. I am hopeful this service can be initiated in the very near future, and I am pleased to call to the attention of my colleagues the resolution adopted by the council of the city of Philadelphia as follows:

RESOLUTION No. 22

Memorializing the Honorable William P. Rogers, Secretary of State of the United States, to aid in inaugurating direct Philadephia to Ireland in-flight service by Aer Lingus-Irish International Airlines.

Whereas, Many thousands of Philadelphians of Irish heritage have been too long without a direct air link to the land of their forbearers; and

Whereas, Up to the present time the East Coast Cities of New York and Boston were the only cities permitting landing privileges to Aer Lingus-Irish International Airlines; and

Whereas, The City of Philadelphia is preparing to play host to the World for the Bi-Centennial Exposition; and

Whereas, This added service would encourage not only the people of Ireland to come to Philadelphia for the Bi-Centennial Celebration, but will also encourage an exchange of tourists and visitors that would foster a more direct relationship between Ireland and the people of Philadelphia; and

Whereas, Landing privileges for Aer Lingus-Irish Airlines at the Philadelphia International Airport would cause Philadelphia to be regarded as a major metropolitan gateway for world air travel; therefore

Resolved, By the Council of the City of Philadelphia, That we hereby memorialize

the Honorable William P. Rogers, the United States Secretary of State to aid in inaugurating direct Philadelphia to Ireland in-flight service by Aer Lingus-Irish International Airlines.

Resolved, That certified copies of this Resolution be forwarded to the Honorable William P. Rogers, United States Secretary of State; to the Congressional Delegation representing the Delaware Valley; and to the City Representative and Director of Commerce.

Resolved, That an engrossed copy of this Resolution be presented to David Kennedy, Senior Vice-President and General Manager for Aer Lingus-Irish Airlines for America.

Certification: This is a true and correct copy of the original Resolution adopted by the Council of the City of Philadelphia on the ninth day of March, 1972.

GEORGE X. SCHWARTZ,
President of City Council.

A STEAK, A STEAK; MY KINGDOM FOR A STEAK

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BRASCO. Mr. Speaker, Secretary of Agriculture Butz is dashing about unleashed these days, bellowing to anyone who will listen that the astronomical meat prices we have been paying recently are wonderful.

He takes a careful look at these prices, which are the highest since the Korean war, and states that:

They provide the best way to insure a good supply of the better cuts of beef that I prefer.

Profound words from a profound man. They should be chiseled in stone somewhere for future generations to ponder and wonder over. Rarely has such a pronouncement been uttered by a person of such exalted rank.

Mr. Speaker, today, the average housewife is going through the meat departments of 50,000 establishments, anguishing over the unbelievable meat prices, and this Secretary of Agriculture, who is determined to outdo Ezra Taft Benson, praises this state of affairs.

Millions of families are doing without decent cuts of meat, and this man, fresh from the corporate grasp of agribusiness, salutes their plight as beneficial.

Millions of children have become resigned to doing without. For the elderly, much of these kinds of meat have been out of reach for a year or more. Growing numbers of middle class families are seeking some better protein buys. And this man, who is supposedly the highest ranking agricultural official in the Government, applauds their sorry plight.

As the boat sinks beneath the waves, the builder of the faulty vessel cheers the sinking passengers. Should they wave back heartily?

One wonders at the thinking behind such public announcements.

The administration has turned the American economy into a national disaster. Inflation rages. Profits and interest rates remain untouched. Wages are fixed and take-home pay as well. But prices for necessities continue to soar. Victimized Americans by the millions are struggling and Butz commends the highest meat prices in history.

According to the consumer price index for January, the retail price of meats, poultry, and fish was up 6.7 percent from January of 1971. According to the wholesale price index for February, livestock prices were 17.4 percent higher than a year ago. Let us pull the curtain aside for a moment and see why this situation is the way it is today. The farm belt is a political disaster for the administration. Farm prices have been disastrously low as a result of administration policies. If inflation is allowed to rage unchecked in terms of meat prices, a significant group of farm voters will be favorably inclined toward the President's reelection effort this fall. Particularly if Mr. Butz roams the land bellowing about how fine such a state of affairs really is for us all. He takes the heat and the administration reaps the benefit. In the process of course, the average consumer's budget is turned into a different kind of hamburger, but that is quite all right with them.

Actually, the main dish in this dinner is the consumer himself. His money goes into the pockets of profiteers. His votes are supposed to go to the administration. His better interests are sacrificed for short-term political gain. The consumer is consumed.

Mr. Butz is simply the high priest in the temple officiating at the ceremony.

REVENUE SHARING

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EVINS of Tennessee. Mr. Speaker, the Committee on Ways and Means has tentatively approved a proposal for distribution of funds to State, city, and county governments as revenue-sharing.

Under this plan Tennessee would receive $79.1 million initially—$14.1 million by the State Government and $65 million to cities and counties.

The proposal would authorize allocation of $1.8 billion to States over a 5-year period and $3.5 billion to local governments over the same period.

Funds to the States would be based principally on their own revenue-production record. Funds to the cities and counties would be based on population, per capita income, and urbanization.

Under the Ways and Means plan and proposal funds would be divided between counties and cities within a county on the basis of local revenues raised by the respective cities and counties—excluding taxes for educational purposes.

This revenue-sharing proposal would give states and local governments much greater flexibility and discretion in the expenditures of Federal funds which they receive through appropriations.

WE CAN STOP THE DRINKING DRIVER

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BAKER. Mr. Speaker, each year, 56,000 Americans die on our Nation's streets and highways. Even more tragic than this statistic, moreover, is the fact more than half of these—over 28,000—are killed by the drinking driver.

Most tragic of all—we have the means to end this yearly carnage, but we are failing to implement them. This point was forcefully demonstrated in an article by Judge Raymond K. Berg, supervising judge of the Chicago, Ill., Traffic Court. Judge Berg's comments were reprinted in Progress, the publication of the International Reform Federation.

While we talk about ways to prevent traffic deaths linked to the drinking driver, the toll continues to mount. But as Judge Berg's article demonstrates, the solution is both simple and effective.

The answer? Tougher enforcement, coupled with educational and rehabilitative programs for those who drink and drive.

The Scandinavian countries, as Judge Berg points out, have enacted stiff penalties for the drinking driver, and alcohol-connected traffic deaths in these countries testify to the effectiveness of their programs. Sweden, for instance, sentences drivers convicted of operating their vehicles while under the influence of alcohol to 1 month of hard labor for a first offense. As Judge Berg notes, Sweden's percentage of road accidents involving alcohol has never risen above 5.4 percent during the past 25 years. This rate stands in marked contrast to the over 50 percent average of alcohol-caused traffic fatalities in this country.

That stricter enforcement can work here is illustrated by the success of a recent pilot program implemented by the Chicago Traffic Court and Police Department over the Christmas-New Year's holidays, 1971. These agencies announced and instituted a policy of sentencing persons convicted of driving while intoxicated to a minimum of 7 days in jail, plus unconditional revocation of driving privileges for 1 year. While fatalities in the rest of Illinois rose during the pilot period, they decreased by 32 percent from the rate for the previous year, in the Chicago metropolitan area.

As a sponsor of legislation to enact stepped-up highway safety programs, I believe the successful Chicago experiment could and should be adopted in the rest of the Nation. Because of its implications for the future of U.S. highway safety, I insert Judge Berg's article in the RECORD for the consideration of my colleagues:

WE CAN STOP THE DRINKING DRIVER SLAUGHTER

(By Judge Raymond K. Berg)

Are alcohol-connected traffic fatalities becoming so commonplace that the American public is insensitive to these tragedies and the conditions which cause them? Is the drinking driver, careening along, an accepted part of our daily lives? Not in Chicago.

We in Chicago are sufficiently concerned to attack the problem in a meaningful and effective way. The annual traffic slaughter, averaging 56,000 deaths per year, is nothing less than shocking and appalling. But even more shocking is the fact that more than half of these deaths are caused by drinking drivers. And more appalling has been the wide spread public apathy toward the problem of the drinking driver. If 1,000 fully loaded superjets crashed each year, killing all passengers, one can imagine the public reaction. Yet in an age of demonstrations, no one marches, pickets or demonstrates for victims of the drinking driver.

THE SOCIAL OR OCCASIONAL DRINKER

We hear much about the "alcoholic" driver as the alleged culprit. Most of the accusing finger of shame has been pointed at the "alcoholic" or "problem drinker" in traffic fatalities, with scarcely a thought given to the "social drinker." This emphasis has a negative effect in traffic safety, since it tends to encourage "social" or "occasional" drinkers to overdrink and drive. This approach causes the social drinker to feel that he is not part of the problem.

Because of the widespread attention given the "problem drinker" or "alcoholic" driver on the part of the U.S. Department of Transportation, the National Safety Council and other safety groups, and the planned expenditures of countless millions in public and private funds toward rehabilitation of the "problem drinker-driver", or the "alcoholic" driver, concern arose in Chicago.

We are now quite certain in Chicago that the *social drinker* is an equal or even more of a threat than the "alcoholic" to highway safety. That drinking affects driving is unanimously accepted as a well known fact.

The following statement, set forth in the "Drinking and Accident Fact Sheet," was jointly approved in 1969 by the American Medical Association, the U. S. Department of Transportation, the National Institute of Mental Health, the U.S. Public Health Institute, and the National Safety Council:

"There is a definite correlation between the amount of liquor in the blood and traffic accidents. Studies at Indiana University showed that a driver with a blood-alcohol level of 0.15% had a twenty-five times greater chance of causing a traffic accident than if he were not drinking. Increased accident causation is noticeable at 0.04%; is twice as great at 0.06%; and at 0.10% the probability is at least six times as great."

The medical and toxicological experts tell us that alcohol dulls and deadens the finer senses of the brain, that is, the senses to obey and follow highway directions and regulations. It slows down driver reaction so that many accidents which would be avoidable by a sober driver become "unavoidable." It changes a driver's mental attitude so that he becomes indifferent or overconfident or reckless and impair his judgment so that he makes critical errors in driving decisions. It impairs his muscular coordination and his acuity of visual perception.

In short, alcohol "tends to make good drivers bad, and bad drivers worse." Note well that the driver who has just enough alcohol in his system to slow his reactions or remove caution from his judgment might not be legally presumed "under the influence," but he forms the significant link in the causal chain of many traffic accidents.

Because of the doubts about the national emphasis on the "alcoholic" driver, and because of the concern in Chicago for the growing rate of alcohol-involved automobile fatalities, it was felt that positive action should be taken.

CONCERN LEADS TO

Accordingly, the Chicago Traffic Court undertook a study of drinking drivers who are arrested and brought before the Court. Commencing in April, 1970, ten convicted drinking drivers were referred each day to the Circuit Court's Psychiatric Institue for thorough psychiatric examination and evaluation. I should point out that the cooperation of these defendants was secured by Court assurance that their penalties would in no way be affected by anything they said to the Institute staff, that the study was intended as a means of helping the driving public. The ten, each day, were selected at random; and this procedure continued until a total of 250 such defendants had been examined. Thereupon, 100 defendants who were found "not guilty" were similarly referred; although they had not been proven guilty in court, they had been driving after some drinking. In addition, 50 defendants were referred in from suburban courts. As a further part of the study, psychiatric case histories were worked up on 173 persons involved in fatal accidents with alcohol.

The results of the psychiatric study were startling. *Only 20%* of the drinking drivers could be called "alcoholic." The great majority, *about 80%* were "social drinkers." For this great majority, rehabilitation was not an issue; rather, it was concluded that a program of prevention was appropriate. It was further concluded that the existing publicity campaigns, and the existing orientation of such proposed federal programs and advertising campaigns aimed at the "alcoholic" or the "problem drinker" or the "drunk" were incapable of making an impression on the social drinker. The "social drinker" would feel that all of this discussion of "alcoholics" or "problem drinkers" did not apply to him. That the "social drinker" is a threat to highway safety was obvious from the fact that almost one half of the "social drinkers" were arrested because they were involved in accidents.

Because of an obvious problem in semantics involving the meaning of the word "alcoholic", we used for purposes of our study the definition employed by the Chicago's Alcoholic Treatment Center:

"Alcoholism, or problem drinking as it is sometimes called, may be defined as an illness which is characterized by the compulsive, uncontrolled drinking of alcohol in any form which interferes with some area of one's normal living pattern."

"Alcoholism is not merely heavy drinking nor is it drunkeness. The social drinker ordinarily uses alcohol as a means of relaxing but is not completely dependent upon alcohol."

"The alcoholic is a compulsive drinker who can neither control the consumption of alcohol nor his behavior when under the influence."

Based upon the findings of the Court's Psychiatric Institute, Chicago undertook a pilot prevention program directed primarily at the "social" drinking driver. This program was intended to explore and develop a workable solution to the drinking-driving program.

THE CHRISTMAS BLIGHT

During the Christmas-New Year Holidays (December 18, 1970 thru January 3, 1971), the Chicago Traffic Court, the Police Department, and the State's Attorney's Office, carried on a campaign of public information and strict enforcement. The Traffic Court announced and instituted a policy of sentencing persons convicted of DWI committed during the holiday period to a minimum of seven days in jail, coupled with an unconditional revocation of driving privileges for one year. This program was unprecedented in the United States. Announcements were made in advance of and during the holiday period. It was believed that this threat would deter the "social" drinking driver who we believe is a major factor in automobile fatalities and accidents.

Some precedent for this program existed, particularly in Scandinavia. In Sweden, for example, a person convicted of DWI receives one month at hard labor. Sweden's percentage of road accidents involving alcohol has never risen above 5.4% during the past 25 years. In Norway and Finland, where three week sentences are meted out, alcohol involvement in auto accidents and fatalities has varied between 10% and 15%.

As a result of this holiday program, Chicago achieved a remarkable automobile safety record for the Christmas-New Year holidays.

This Christmas-New Year holiday program was especially significant because it was premised on the proposition that the "social drinker" is a major cause of traffic fatalities. What we had concluded from the Psychiatric Institute Study was apparently verified by the holiday pilot program.

During the course of the holiday pilot program, public reaction was generally in support of the program. The public was not only reminded of the penalties that awaited the drinking driver, but of the inherent dangers of drinking and driving as well. When the results of the holiday program were announced, immediately after the New Year's weekend, response was overwhelmingly favorable. The Court was urged, by safety groups, citizen organizations, the media, and countless individual citizens, to continue these efforts.

The Traffic Court thereupon extended this enforcement program to continue through the end of March, 1971, publicly announcing this extension. Again, the press and radio and television media did an outstanding service in carrying the message to the public.

The fatalities for the first quarter of 1971 represent a 32% decrease from first quarter 1970, a 42% decrease from first quarter 1969, and 41% decrease from first quarter 1968.

The March 31, 1971, Report of the Illinois State Police, covering traffic fatalities throughout the entire State, indicate that, excluding Chicago (fatalities were up in Illinois). Outside Chicago, fatalities rose from 378 (first quarter 1970) to 406 (first quarter 1971).

Chicago also experienced a reduction in personal injury accidents and property damage accidents during the first quarter of 1971 (8,341 injured and 32,891 property damage accidents) as compared to first quarter 1970 (9,491 injured and 36,116 property damage accidents).

The foregoing enforcement program has had a continuing impact on the driving public in Chicago. During that part of 1971 between the first of the year and the date of this writing (October 27, 1971) Chicago's traffic fatalities are down 18% as compared to the same period in 1970; and traffic injuries down 13%. This is in marked contrast to the rest of the United States, where traffic fatalities are up, and the State of Illinois.

NO DRIVING AFTER DRINKING

We have concluded that a new community ethic must be developed, an ethic that precluded driving after drinking. A total, long-range program must be inaugurated and carried on to this end. *The drinking driver must be deterred before he kills someone.* While rehabilitation is necessary for the hard core problem drinker, or alcoholic, *prevention* is the top-priority need, and the principal thrust must be aimed at the social drinker. Such a program embodies three essential phases: 1. Education, 2. Enforcement, and 3. Rehabilitation.

1. *Education.* Public acceptance of policies aimed at eliminating the role of alcohol as a cause of traffic accidents, and public adoption of this new community ethic, rest ultimately on a continuing program of public education. The public must be educated to the dangers of drinking and driving. In view of instilled habits of many of our adult drivers, it is conceivable that such an education campaign might well require a generation-long saturation program. There are approximately 55,000,000 young people in schools; it would certainly not be inappropriate to direct such education to these

future drivers as well as to those already driving.

That, on a long-term basis, public education campaigns of high intensity and saturation can and do generate public awareness with positive results is evident from such public education as the "anti-pollution" campaign and the "smoking and cancer" campaign. It is surely worth at least the same type and degree of effort to educate the public as to the measurable hazards of drinking and driving.

2. *Enforcement.* The courts, police, and driver license authorities must develop enhanced methods of identification and evaluation of drinking drivers. Strict enforcement of our drinking and driving laws and the imposition of penalties would compel Americans to choose between drinking and driving, as the Scandinavians have been compelled to choose. The public must know that they will be arrested and punished if they drink socially and drive.

3. *Rehabilitation.* A comprehensive evaluation of each offender is a prerequisite to identification and disposition of that offender. He should be evaluated by experts, and if found to be an alcoholic, his appropriate treatment prescribed and carried out.

Chicago has already made a determined effort to undertake this very type of total program. In early 1971, following the successful holiday enforcement pilot program previously described, the city developed a comprehensive and total Alcohol Safety Action Project (ASAP) under Section 403 of the National Highway Safety Action of 1966, and submitted a description of this comprehensive program in its application of funds to the National Highway Traffic Safety Administration. Chicago's project contemplated an omnifaceted program of prevention, education, and rehabilitation, involving all of the concerned agencies and groups of both the public and private segments of the community. Regrettably, the grant was not given for reasons best known to the NHTSA.

Nonetheless, we in Chicago have not terminated our efforts. At present the Chicago Traffic Court is conducting a three-month pilot study program. This present program is aimed both at prevention and rehabilitation, and at studying the need for and the implications of initiating and conducting an evaluation, education, and referral service for people convicted of driving under the influence of alcohol. So that public education may be carried on, the Court is using a public information officer loaned to it by the Chicago Association of Commerce and Industry. For the purpose of adequately identifying the convicted DWI defendant and rehabilitating him if necessary, we are using a professional and expert evaluator temporarily assigned to us from the Circuit Court Psychiatric Institute. Those defendants found to be alcoholics are being referred to appropriate rehabilitation treatments. Those found not to be alcoholics are being referred back to Court for appropriate sentencing in accordance with available statutory penalties.

Is not the potential saving of more than 28,000 lives a year well worth a total program of prevention and public education?

We in Chicago think it is.

PHILADELPHIA VETERANS' HOSPITAL VOLUNTEERS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, in many ways the patients in our veterans' hospitals are forgotten men. They are a legacy of the horror of war that too many people prefer to shut out of their minds.

Fortunately for these men, and for the country, there is a group of people who have chosen not to forget. They are the volunteers, who have given up time which could easily be spent with family or friends, to work without pay in the veterans' hospitals.

On February 28, 1972, these extraordinary men and women were honored in special ceremonies at the Veterans' Administration hospital in my city, Philadelphia. Some 156 individuals and 52 organizations were honored. All of these men and women and organizations deserve our thanks and appreciation.

To all of my fellow Philadelphians who year in and year out give of themselves to this most worthy effort I would like to add my thanks and heartiest congratulations.

At this time I enter their names and honors and the names of the organizations honored into the RECORD:

AWARDS

HONORABLE MENTION

Regularly Scheduled (RS) Volunteer Workers still active, who served during 1971, but not entitled to 100 hour certificate or the next plateau (300, 500, 1,000, etc.) certificates.

Louise G. Alberts, DAR.
James D. Alston, DAV.
Neta R. Anderson, DAR.
Eugene A. Barrett.
Esther R. Biddle, ALA.
Mary E. Bradley, AWM.
Kathryn A. Brownsey.
Tracy Callahan.
James A. Carpino.
Remo J. Ciccone, ARC.
Helen W. Clarke.
Anne B. Clarkson, IAWVA.
Rose A. Cloud, SCC.
Beatrice M. Conner, DAR.
Jean C. Conti.
Joseph J. D'Agostino.
Elizabeth W. B. Davy, DAR.
Donald E. Digian, AL.
Stuart Discount, JWB.
Elizabeth Durant, CD.
Elizabeth Frick, AMVETS Aux.
John A. Frick, AMVETS.
Joyce S. Gomberg.
Rose Gorman, CWVA.
Katherine M. Gormley, AGSM, Inc.
Eleanor W. Greene, ALA.
Katherine A. Greim, CD of America.
Ruth D. Grim, ARC.
Lorraine Gronski.
Frederick Haas, VWW I.
Robert C. Hannon, AMVETS.
Agnes Hausler, VFWA.
Elizabeth M. Hicks, ARC.
James Holden.
Iqbal Hussain.
Vada Hyde.
Edward Johnson.
G. Elizabeth Jones, CWVA.
Helene Jones, ARC.
Jean McC. Joyce.
Ethel Kehm, AMVETS Aux.
James E. Kehm, AMVETS.
Marie Kenny, ALA.
Kathryn T. M. Kilpatrick, DAR.
Hannah Klenk, SA.
Florence C. Krug, ARC.
Harry L. Lincoln.
Inez C. Lincoln.
Joseph Macanga.
Helen Magee, CWVA.
Florence A. Martin, AMVETS Aux.
Marian R. Martin, AWM.
Alvin G. Massinger, Jr., ARC.
Andrew J. McCann, DAV.
Anna H. McKenna, VFWA.
Fred W. Meckling, MSA.
Ann Miller, JWFA.
Margaret Miller.
Raymond J. Montoni.
Mary L. Moore.
Margaret L. Mullen, St. Leonards Academy.
Sara Myers, AL.
Larry Naides, JWB.
Samuel E. Nedd, Jr., DPSC.
Botte Nelson, VFWA.
Dorcas S. Norris.
Katherine Padula, CD of America.
Louise Padula, SC of E. Lansdowne.
Emily Quinn.
Michael Radvansky, 315th Infantry.
Josephine M. Ratay, ALA.
Raymond J. Reck.
Monica Redican.
Marion E. Roberts, DAR.
Catherine Rotay, ALA.
Clarice M. Russell.
Wilson H. Shive, VWW I.
Alan B. Simons, JWB.
Eric P. Skversky, JWB.
Stewart D. Smiley.
Isaac Smith, JWV.
Meyer B. Squires, AL.
Mary C. Thompson.
Florence Toupe.
William J. Toy, VWW I.
Jane B. Truesdell.
Bernadette A. Ward, ALA.
Mae Weisgrow, DAVA.
Dennis C. White, IBPOEW.
Virginia Wood, AGSM, Inc.
Walter S. Zulewski.

CERTIFICATE OF APPRECIATION—100 HOURS

Julio R. Blanco, ARC.
Bernice Glashofer, JWVA.
Christine Kofoed.
Hilda K. Kreitzburg, SC of East Landsdowne.
Margaret Lippincott, AMVETS Aux.
Joseph Macanga.
R. Carleton Mansfield, MSA.
Clifton A. Martin.
Teri McCleverty.
Louise Padula, SC of East Lansdowne.
Wynona Perry, DAVA.
Theresa A. Peterson, ALA.
Josephine Ratay, ALA.
Meyer B. Squires, AL.
Beatrice A. Williams.
Lida M. Wright.

CERTIFICATE OF MERIT—300 HOURS

Amelia H. Di Prima, SC of East Landsdowne.
Anna Dugan, CD of America.
Sarah M. Goodell.
Helene Hoback.
Horace F. Hopkins, AL.
Anne C. Lauff, AWM.
Katherine Padula, CD of America.
Margaret E. Siegman, SC of East Landsdowne.
Jack Stein, DAV.
Ralph Twiford, NMC.
Antoinette A. Vermillion, ARC.
Regina M. Walsh, AGSM, Inc.
Jennie Weintraub, JWVA.
Virginia Woods, AGSM, Inc.

CERTIFICATE OF OUTSTANDING SERVICE—500 HOURS

Helen D. Braun.
Bettyann Helen Funk. AGSM, Inc.
Marjorie Green, ARC.
Charles W. Leons, AL.
May M. Richards.
Dorothy C. Rose, ARC.

CERTIFICATE OF DEVOTION TO VOLUNTEER DUTY—1,000 HOURS

Elizabeth B. Aro, ALA.
Vada Hyde.
Joseph R. Klotz, JWB.
Carol E. Oakes, AWM.
Jeon L. Tustin, DAVA.

VA BRONZE PIN—1,750 HOURS

Chester Hunter, 315th Infantry.
Florence B. Killion.

VA SILVER EMBLEM—2,500 HOURS

Eleanor Kilpatrick, MOPHA.
Tillie Rose.
Samuel Shiff, JWV.
William Tadley, VWW I.
Jacob L. Zaslow, DAV.

JAMES H. PARKE ACHIEVEMENT AWARD—20,000 HOURS

Catherine Carr, CWVA.

VAVS LEADERSHIP AWARD

Anne B. Clarkson, IAWVA.
Rose Cloud, SCC.
Ruth Goldenburg, JWB.
Katherine Gormley, AGSM, Inc.
Samuel J. C. Greene, AL.
Charles Hangsterfer, ROALC of the United States.
Cheston Hunter, CWV.
Eleanor Kilpatrick, MOPHA.
Kathryn T. M. Kilpatrick, DAR.
Ann Miller, JWVA.
Michael Radvansky, 315th Infantry.
Dorothy Rose, ARC.
Catherine Thompson, AWM.
Mae Weisgrow, DAVA.
Dennis G. White, IBPOEW.

100% ATTENDANCE AT VAVS MEETINGS—AUGUST, NOVEMBER, FEBRUARY, MAY 1971

American Gold Star Mothers, Inc.
The American Legion.
American Legion Auxiliary.
American Veterans Committee, Inc.
B'Nai B'Rith Women.
Catholic War Veterans Auxiliary.
Daughters of the American Revol.
Disabled American Veterans Auxiliary.
IBPOEW (Dept. of Veterans Affairs).
Jewish War Veterans Auxiliary.
Masonic Service Association.
Military Order of the Cootie Aux.
Military Order of the Purple Heart, Inc.
Military Order of the Purple Heart, Ladies Auxiliary.
National Catholic Community Svc.
Navy Mothers Club.
Order of the Eastern Star.
Reserve Officers' Assoc. Ladies' Clubs of the United States.
Supreme Cootiette Club.
The Salvation Army.
The Senior Citizens of East Lansdowne.
315th Infantry Association.
Veterans of Foreign Wars of the United States.
Veterans of Foreign Wars Aux.
Veterans of World War I.

ORGANIZATIONS TO RECEIVE CERTIFICATES IN RECOGNITION OF EXCEPTIONAL OR CONTINUED OUTSTANDING SERVICE TO PATIENTS THROUGH VAVS

American Gold Star Mothers, Inc. Rep: Mrs. Katherine Gormley. Dep: Mrs. Elizabeth Nittrouer.

The American Legion. Rep: Mr. Samuel J. C. Greene. Dep: Mr. William E. Wollingham.

American Legion Auxiliary. Rep: Mrs. Frank Kenney. Dep: Mrs. George Urwiler.

American National Red Cross. Rep: Mrs. Dorothy Rose.

American Overseas Association. Rep: Mrs. Helen Chiu. Dep: Miss Anne McCaughey.

American Veterans Committee, Inc. Rep: Mrs. Raymond V. S. Miller. Dep: Mr. Chester Sheets.

American War Mothers. Rep: Mrs. Catherine Thompson, Dep: Mrs. Carol Oakes.

AMVETS. Rep: Mr. Robert Hannon. Dep: Mrs. Ruby Earle.

AMVETS Auxiliary. Rep: Mrs. Ethel Schultz. Dep: Mrs. Dorothy Gorman.

B'nai B'rith. Rep: Mr. Herman Schwartz. Dep: Mr. Art Levy.

B'nai B'rith Women. Rep: Mrs. Eugene Glazer. Dep: Mrs. Beatrice Silver.

BPO Elks of the United States. Rep: Mr. Frank P. Nocitra.

Brith Sholom. Rep: Mr. Aaron Goldenberg. Dep: Mr. Samuel Winkler.

Catholic Daughters of America. Rep: Mrs. Katherine Padula.

Catholic War Veterans. Rep: Mr. Charles J. Parker. Assoc. Rep: Mr. Cheston Hunter.

Catholic War Veterans Auxiliary. Rep: Mrs. Helen Magee. Dep: Mrs. Elizabeth Jones.

Daughters of the American Revol. Rep: Mrs. Kathryn T. M. Kilpatrick. Dep: Mrs. William J. Alberts.

Defense Personnel Support Center. Rep: Mr. Samuel Nedd. Dep: Mrs. Angelina Restifo. Sec. Dep: Mrs. Nettus Mears.

Disabled American Veterans. Rep: Mr. Jacob Zaslow.

Disabled American Veterans Aux. Rep: Mrs. Mae Weisgrow. Dep: Mrs. Gertrude Bray.

The 40-8. Rep: Mr. Elmer R. Confair. Dep: Mr. Richard B. Ross.

IBPOEW-Dept. of Veteran Affairs. Rep: Mr. Dennis C. White. First Dep: Col. William A. L. Clay. Second Dep: Mrs. Emeline Wiggins. Third Dep: Miss Rhonda Toles.

Italian American War Veterans Aux. Rep: Mrs. Anne B. Clarkson.

Jewish Welfare Board. Rep: Mrs. Milton Gold. Dep: Mrs. Ruth Goldenberg.

Jewish War Veterans Auxiliary. Rep: Mrs. Ann Miller. Dep: Mrs. Mildred Lermack.

Jewish War Veterans of the U.S. Rep: Mr. Isaac Smith. Dep: Mr. Joseph Goldstein.

Marine Corps League Aux., Inc. Rep: Mrs. Ruth Jannotta. Dep: Mrs. Louise Uysase.

Masonic Service Association. Rep: Mr. Paul S. Stewart. Dep: Mr. Ernest P. Knorr.

Military Order of the Cootie Aux. Rep: Mrs Evelyn Hibberd. Dep: Mrs. Dolores Bridges.

Military Order of the Cootie of U.S. Rep: Mr. Andrew F. Nelson. Dep: Mr. Edward Johnson.

Military Order of Lady Bugs. Rep: Mrs. Florence E. Miles. Dep: Mrs. Marie V. Nixon.

Military Order of the Purple Heart. Rep: Mr. James Valentine.

Military Order of the Purple Heart, Ladies Auxiliary. Rep.: Mrs. Eleanor Kilpatrick. Dep.: Mrs. Elizabeth Watson.

Mothers of World War II. Rep: Mrs. Carrie Meck. Dep: Mrs. Stella Snyder.

Music Performance Trust Fund: Mr. Jack Kopf.

National Catholic Community Service. Rep: Mrs. William Dougherty. Dep. Mrs. Catherine Auerwick.

Navy Mothers Club. Rep: Mrs. Helen Hoeffer, Dep. Mrs. Marge D'Ulisse.

Old Guard, City of Phila., Inc. Rep.: Col. Harry S. Burr.

Order of the Eastern Star. Rep: Mrs. Frances A. Schott. Dep. Mrs. Helen G. Daniel.

Philadelphia, USAAC Post #1. Rep: Mr. Clifford L. Hoag. Dep: Mr. Charles Carpenter.

Polish Legion of American Veterans Ladies Auxiliary. Rep: Mrs. Frances Plwnicki. Dep: Mrs. Helen Zarek.

Reserve Officers' Assoc. Ladies' Clubs of the United States. Rep.: Mrs. Charles Hangsterfer. Dep: Mrs. William Barr.

The Salvation Army. Rep: Mrs. A/Captain K. Strehle. Dep: Mrs. Mabel Hagherty.

The Senior Citizens of E. Lansdowne. Rep: Mrs. Margaret E. Siegman. Dep: Mrs. Amelia H. Di Prima.

Supreme Cootiette Club. Rep: Mrs. Rose Cloud. Dep: Mrs. Mary McKinley.

315th Infantry Association. Rep: Mr. Michael S. Radvansky. Dep: Mr. Cheston Hunter.

United Spanish War Veterans. Rep: Mr. John R. Lynch. Dep: Mr. J. A. Coleman.

USO. Exec. Director: Mr. John Kapp.

Veterans of Foreign Wars Aux. Rep: Mrs. Mae McElvaney. Dep: Mrs. Bette Nelson.

Veterans of Foreign Wars of U.S. Rep: Mr. Cassel Wechter. Dep: Mr. Thomas C. Hart.

Veterans of World War I. Rep: Mr. W. H. Shive. Dep: Mr. William L. Toy.

W.A.C. Veterans Association. Rep: Mrs. Harry L. McCann. Dep: Mrs. Anna L. Godsho.

SPECIAL AWARD

Samuel J. Karsevar, Military Order of the Cootie.

HONORABLE MENTION

United Spanish War Veterans Aux. Rep: Mrs. Anna Parker.

Veterans of World War I Aux. Rep: Mrs. Mary Dougherty. Dep: Mrs. Alma Tracey.

HOMEPORTING NAVY PERSONNEL IN GREECE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HAMILTON. Mr. Speaker, the House Foreign Affairs Subcommitee on Europe, chaired by my colleague from New York, BEN ROSENTHAL, and the Subcommittee on the Near East have been conducting a series of joint hearings on the Department of the Navy's decision to seek homeport facilities for elements of the Sixth Fleet in Greece.

Pursuant to these hearings, Mr. ROSENTHAL and I corresponded with the Department of Defense and the Department of State concerning the reasons for this decision, the general concept of homeporting, the choice of Greece over other Mediterranean sites and the political, strategic, and economic ramifications of the decision.

I insert in the RECORD at this point our letters of February 2, 28, and 29 to the Defense Department and the State Department and their replies of February 19 and 24 and March 7 and 21. I also insert in the RECORD a letter from the State Department of March 24 concerning anti-Americanism in Greece.

While the record of these letters and our hearings to date are somewhat inconclusive regarding the efficacy of the decision to homeport in Greece, I would like to bring this correspondence to the attention of my colleagues:

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 2, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: We write concerning the plans of the Defense Department to use Greece as a home port for certain ships of the Sixth Fleet and the strategic and political implications of that decision. We have also written to Secretary Laird on this subject.

The Subcommittees on Europe and on the Near East will hold hearings on this home porting proposal in about one month. To prepare for those hearings we would like written responses to the following points by February 17:

1. What discussions have been held with the Greek Government on this home porting arrangement concerning benefits which Greece will obtain if this plan is approved? Specifically, have any discussions taken place which indicate that the United States will provide military or other assistance to Greece in return for, or otherwise related directly or indirectly to, home porting? Has the purchase (or other procurement) by Greece of Phantom Jets been discussed in relation to home porting?

2. Will home porting of part of the Sixth Fleet increase the American dependence on Greece in our strategic, military and polit-

ical relations in NATO and within our responsibilities in the Eastern Mediterranean.

Specifically, how does increasing the number of official Americans (including dependents) living in Greece affect our relations with the military junta?

What dangers from the increasing anti-Americanism within Greece will exist for those dependents, for their sponsors when ashore, and for those Americans already living in Greece as a result of home porting? (Please indicate the number of official and private Americans now living in Greece to facilitate comparisons).

How will home porting in Greece affect our relations with (a) Turkey, (b) Middle East countries, including Israel, and (c) other NATO members?

Was home porting in Greece discussed in advance with NATO members at the diplomatic (as contrasted with military) level and, if so, with what results?

Were alternate home ports discussed with (a) NATO members, and (b) other European countries at the diplomatic level?

3. Does the announcement of the home porting proposal in the same week that the Congress passes a foreign aid authorization bill with a prohibition on aid to Greece affect the understanding of the Greek government and the Greek people about the future course of Greek-U.S. relations? Does the effect, in other words, of the aid prohibition on the Greek Government and Greek public opinion diminish, in the view of our Embassy, with the almost simultaneous announcement of the home porting plan?

In what other European countries do we have home ports for U.S. naval ships? When and under what circumstances were those home porting agreements reached, and how do the number of naval personnel (including dependents) in the Greek proposal compare with those now ported in these other countries?

Also, how large a proportion of (a) official and (b) private American residents in these other countries which offer us home ports will the proposed home ported naval personnel in Greece (including dependents) form?

4. What effects will the additional American naval personnel and their families have on the Greek economy? What effect will they have on the American balance of payments? Will additional and essentially civilian facilities (PX, Commissaries, theaters, schools, etc.) be built or expanded for the dependents and are these costs (as well as operating costs of such facilities) included in the estimated balance of payments loss? (For purposes of comparison, what balance of payments loss can now be attributed to other official Americans now living in (a) Greece, (b) in other European countries with home porting of U.S. ships and (c) in other European countries where U.S. military personnel are stationed with their families?)

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.

DEPARTMENT OF STATE,
Washington, D.C., February 24, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Following are the replies to questions contained in your letter of February 2, 1972, also signed by Chairman Rosenthal. Some of the information was provided by the Department of Defense.

1. *Question:* What discussions have been held with the Greek government on this homeporting arrangement concerning benefits which Greece will obtain if this plan is approved? Specifically, have any discussions taken place which indicate that the United States will provide military or other assistance to Greece in return for, or otherwise related directly or indirectly to, homeporting? Has the purchase (or other procurement) by Greece of Phantom Jets been discussed in relation to homeporting?

Answer: None of the discussions which have been held with the Greek government concerning the proposal to homeport elements of the Sixth Fleet in Greece has explicitly or implicitly suggested that the United States would provide benefits to Greece if the proposal were accepted. There has been no suggestion that military or other assistance to Greece or approval of the sale of military equipment to Greece would be contingent upon approval of the proposal.

2. *Question:* Will homeporting of part of the Sixth Fleet increase the American dependence on Greece in our strategic, military and political relations in NATO and within our responsibilities in the Eastern Mediterranean?

Specifically, how does increasing the number of official Americans (including dependents) living in Greece affect our relations with the military junta?

What dangers from the increasing anti-Americanism within Greece will exist for those dependents, for their sponsors when ashore, and for those Americans already living in Greece as a result of homeporting? (Please indicate the number of official and private Americans now living in Greece to facilitate comparisons.)

How will homeporting in Greece affect our relations with (a) Turkey, (b) Middle East countries, including Israel, and (c) other NATO members?

Was homeporting in Greece discussed in advance with NATO members at the diplomatic (as contrasted with military) level and, if so, with what results?

Were alternate homeports discussed with (a) NATO members, and (b) other European countries at the diplomatic level?

Answer: The homeporting concept is related most directly to problems of personnel retention, force levels, and budgetary constraints rather than to strategic considerations. There are of course strategic and military advantages which flow from the arrangement, but they were not the primary motivating consideration.

The Sixth Fleet is now logistically supported by mobile units and homeporting will not appreciably increase dependence upon Mediterranean shore facilities.

Increasing the number of official Americans living in Greece will affect our relations with the Government of Greece in quantitative rather than qualitative terms. There will undoubtedly be an increase in working level contacts between the American Mission in Greece and government authorities resulting from the expected greater number of minor administrative problems which will arise from a larger American community in Greece. Judging from the current level of such incidents with the American community at its present size, any friction resulting from the homeporting arrangement should not be a serious problem.

There is no evidence that anti-Americanism exists on a wide scale in Greece or is increasing. Although there are a few anti-regime groups active in Greece there have been no concerted violent expressions of antipathy toward the United States. Some clandestine opposition organizations are persuaded that the United States is responsible for the maintenance in power of the present regime and have directed largely symbolic acts of violence against American property. These have been infrequent and minor in character, and no American citizens have been injured. It is significant that the most potentially serious attack against the United States, the attempt to explode a time bomb at the American Embassy in 1970, was directed from abroad and executed by two persons who were not Greek.

There are about 35,000 official and private Americans now living in Greece. In addition, many Americans (estimated at close to 300,000 in 1971) visit Greece each year.

Although homeporting is fundamentally an administrative operation related most directly to personnel policies of the Department of Defense, to force levels, and to budgetary constraints under which the United States Navy must operate, there will inevitably be strategic advantages to the proposal. As such the countries of the Eastern Mediterranean should see it as part of the deterrent to conflict in that area. As the Sixth Fleet has an important contingent NATO role and as the Fleet's routine operations enhance the Alliance's position on the critical southern flank, we believe that the majority of the members of the Alliance will continue to see homeporting as one element in the improvement of the Fleet's ability to support its Alliance commitments.

Homeporting in Greece was not the subject of prior consultation with members of the Alliance. Since the practice is directly related to the United States Navy's internal personnel policies, force levels, and budgetary constraints, and does not alter our NATO commitments, we have treated homeporting as a matter for bi-lateral negotiation. Naturally, since there are NATO-related aspects to this homeporting, we briefed other members of NATO, within the context of the Alliance, after a decision had been reached to homeport in Greece. Briefings on the diplomatic level with NATO country Embassies in Washington and through our Embassies in the various NATO countries began at about the same time.

3. *Question:* Does the announcement of the homeporting proposal in the same week that the Congress passes a foreign aid authorization bill with a prohibition on aid to Greece affect the understanding of the Greek government and the Greek people about the future course of Greek-United States relations? Does the effect, in other words, of the aid prohibition on the Greek government and Greek public opinion diminish, in the view of our Embassy, with the almost simultaneous announcement of the homeporting plan?

In what other European countries do we have homeports for United States naval ships? When and under what circumstances were those homeporting agreements reached, and how do the number of naval personnel (including dependents) in the Greek proposal compare with those now ported in these other countries?

Also, how large a proportion of (a) official and (b) private American residents in these other countries which offer us homeports will the proposed homeported naval personnel in Greece (including dependents) form?

Answer: There is no relationship between the decision to seek a homeporting arrangement for elements of the Sixth Fleet in Greece and the question of security assistance provided by the United States to support the Greek role in NATO. There will of course be speculation by some persons in Greece and elsewhere that such a relationship exists. However we have made clear on numerous occasions that the extent of our security arrangements with Greece is not to be interpreted as an indicator of the United States attitude toward whatever regime is in power in Greece. We have made equally clear that we believe the restoration of democratic processes in Greece essential to the long term welfare and prosperity of the people of Greece as well as to the furtherance of Greek relations with its European allies and partners.

Although announcement of the homeporting proposal and final Congressional action on the foreign aid authorization bill did occur in the same week, the two activities were not related.

The Navy has been examining for some time the feasibility of homeporting a carrier task group in the Mediterranean. Congressional action on the foreign aid bill also continued over a protracted period. It was coincidental that both activities reached a conclusive stage at the same time.

The United States Navy has ships homeported in the United Kingdom, Spain and Italy. The Navy's homeporting arrangements with the United Kingdom commenced in 1961 under NATO SOFA (States of Forces Agreement) of June 19, 1951.

The arrangement was completed on February 20, 1964 in an exchange of notes between the Secretary of State and the Foreign Minister of the United Kingdom. In Spain, authorization was based on an exchange of notes dated July 17, 1964 between the United States Ambassador and the Spanish Foreign Minister. The Spanish authorization was extended to July 1974 on August 6, 1970, in an exchange of notes accompanying the signing of the 1970 Agreement of Friendship and Cooperation between the United States and Spain. Homeporting of United States Navy ships in Italy has been accomplished by amendments of the United States-Italian Bilateral Intrastructure Agreement of October 20, 1954. The first such amendatory protocol was concluded on March 13, 1967 by an exchange of notes. Similar amendments were made by exchange of notes in August 1970 and February 1971.

The Greek homeporting proposal would involve an estimated 9,700 naval personnel and dependents. The approximate total of naval personnel and dependents of the units homeported in the other three countries are: Italy, 4,600; Spain, 3,700; United Kingdom, 2,400. However, the total naval and dependent population of the homeported units and ashore naval facilities in these three countries are: Italy, 8,700; Spain, 9,500; United Kingdom, 7,000.

4. *Question:* What effects will the additional American naval personnel and their families have on the Greek economy? What effect will they have on the American balance of payments? Will additional and essentially civilian facilities (PX, commissaries, theaters, schools, etc.) be built or expanded for the dependents and are these costs (as well as operating costs of such facilities) included in the estimated balance of payments loss? (For purposes of comparison, what balance of payments loss can now be attributed to other official Americans now living in (a) Greece, (b) in other European countries with homeporting of United States ships and (c) in other European countries where United States military personnel are stationed with their families?

Answer: It is estimated that the Greek GNP will exceed $10 billion by the end of calendar year 1972. The United States Department of Defense and Department of the Navy expenditures in Greece (including the island of Crete) during the Fiscal Year 1970–71 period are shown below:

[In millions of dollars]

	Fiscal year 1970	Fiscal year 1971
DOD (including DON)	24.0	26.0
DON	(7.1)	(8.4)

The addition of 6,600 military personnel with an estimated 3,100 accompanying dependents into the Athens area will not in our opinion have a disturbing effect on the general economy of nine million Greek people. However, more United States dollars in the Greek economy could further encourage Greek imports of United States goods.

The total Department of Defense expenditures entering balance of payment loss considerations throughout the world amounted to $4.85 billion for Fiscal Year 1971. The Department of the Navy's balance of payment expenditures accounted for $776 million of this figure.

GOVERNMENT PAYMENTS FOR MISCELLANEOUS SERVICES

[In millions of dollars]

	United Kingdom			European Economic Community			Other Western Europe		
	1968	1969	1970	1968	1969	1970	1968	1969	1970
United States	14	14	14	67	69	71	44	55	5

This account measures expenditures of the non-military agencies of the United States Government for foreign services and for foreign goods which are purchased abroad and used or stockpiled abroad. Also included are net payments by such non-military agencies to United States nationals employed abroad and their dependents, and payments to international organizations for membership assessments. Estimates are based primarily on reports submitted by non-military agencies of the United States Government. Though not precise in measuring balance of payments loss, these figures do indicate an order of magnitude.

If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 2, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: The recent decision by the United States Navy to seek port facilities in Greece for a carrier task force is disquieting to several members of Congress particularly because it comes at a time when the will of Congress has been expressed in an amendment to the foreign aid authorization calling for the suspension of military aid to the present Greek regime. We are sure that there are many, and perhaps important, reasons for the recent decision, but we believe, because of the possible political implications of the move, that the topic needs further, detailed and public examination. To this end, we plan to hold joint hearings in March.

In addition to the ramifications of this move on American-Greek relations and on United States relations with other NATO and Mediterranean littoral states, home porting of the Sixth Fleet does raise justifiable questions with regard to naval operations and policy. We would like to raise some points here.

(1) The Sixth Fleet is currently self-supporting, self-sustaining and exists on supplies and support from United States ports. With the new arrangement, will there be any logistical or supply changes for the fleet? Will the fleet be able to maintain its flexibility and freedom from the political restraints of land bases if home porting in Greece is used?

(2) Once inside Greek territorial waters, the fleet needs Greek permission to leave. Would such permission be forthcoming in all potential Eastern Mediterranean crises? in an Arab-Israeli war? in a Cyprus crisis? in a Malta crisis?

(3) What other ports in the Mediterranean Sea were considered and on which of the following three criteria you have used were these other sites disqualified: a. operational location; b. availability of ship and related facilities; and c. the existence nearby of a reasonably large community?

(4) $13 million has been mentioned as an estimate of the initial costs of home porting (in addition to $13 million annually for continuing the home porting. Precisely how will the initial $13 million be spent? What naval facilities in Greece will be expanded or built? How do you arrive at the figure of $13 million for the annual maintenance of a carrier task force home porting in Greece?

(5) Would it be true that ships in Greek home porting will have to return to the United States every two or three years for six to nine months overhaul, leaving dependents in Greece for that period? Also, how much of an increase in time will naval personnel have with their families in Greece under this plan?

(6) Will ships in Greek home porting be available for duty outside the Mediterranean Sea or will they be functionally limited?

The Department of the Navy's expenditures in Greece affecting balance of payments amounted to $7.1 million in Fiscal Year 1970 and $8.4 million in Fiscal Year 1971. The homeporting of a Carrier Task Group in Greece will increase the balance of payment expenditures by an additional $13 million per year. Offsetting these increases will be the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payment expenditures throughout the Mediterranean Sea area by about $4.7 million. The net increase in United States balance of payment expenditure is estimated at $8.3 billion per year. This represents 1.1 percent of the United States Navy world-wide balance of payment expenditures and 0.2 percent of the world-wide Department of Defense balance of payment expenditure.

Some expansion of existing Air Force facilities for commissary, postal, household goods, housing referral, and legal services will be necessary. In addition, the Navy may use a mobile dependent support ship to provide medical services. The Navy does not intend to build facilities such as clubs or theaters which we consider beyond the austere concept. Additional school facilities will be necessary and are being arranged for through USDESEA (U.S. Dependent Schools European Area). While detailed planning is not complete, an initial outlay of $1.0 million in non-recurring balance of payment expenditures is estimated for this purpose. Annual balance of payment expenditures are included in the $8.3 million figure set forth above.

Information on balance of payments loss attributed to other (non-military) Americans resident in Greece and specific other European countries is not available in the form you requested. In the *Survey of Current Business*, the Department of Commerce publishes figures on a regional basis. Page 44, Line 23 of the June 1971 issue provides the following figures:

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(7) From our understanding, you expect that approximately 16 percent of navy personnel home ported in Greece will bring families with them and you expect this to promote an overall increase in reenlistment of from one to three percent. Please explain the basis on which home porting will be justified on a budgetary (as opposed to a morale) basis.

These and many other political and military considerations do form an integral part of this whole issue and we believe they need answering so that the impression is not left that some military factors have completely outweighed other military questions and all political issues.

We would appreciate a reply to this letter by February 17 so that we can plan hearings.

With best regards.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman,
Subcommittee on the Near East.

DEPARTMENT OF THE NAVY,
Washington, D.C., February 19, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. HAMILTON: Your letter of 2 February 1972 to the Secretary of Defense raised certain questions regarding the plans for homeporting a carrier task group in Athens.

At the enclosure are replies to your questions which, at Mr. Laird's direction, I have had prepared for your use.

I have also forwarded this information to Mr. Rosenthal, Chairman of the Subcommittee on Europe.

Sincerely yours,

JOHN H. CHAFEE,
Secretary of the Navy.

QUESTIONS AND ANSWERS

Question: The Sixth Fleet is currently self-supporting, self-sustaining and exists on supplies and support from United States ports. With the new arrangement, will there be any logistical or supply changes for the fleet? Will the fleet be able to maintain its flexibility and freedom from the political restraints of land bases if homeporting in Greece is used?

Answer: No new logistical and supply arrangements will be necessary. The ships, which are now supported by mobile logistic support elements, will continue to be supported by the same method when homeported in Greece. They will maintain their present flexibility and freedom from the political restraints of land bases, in that no base in the usual sense will be provided or utilized. Rather, Athens will be primarily and almost exclusively a residential location for dependents.

Question: Once inside Greek territorial waters, the fleet needs Greek permission to leave. Would such permission be forthcoming in all potential Eastern Mediterranean crisis? In an Arab-Israeli war? In a Cyprus crisis? In a Malta crisis?

Answer: The agreement between the United States and Greece concerning use of certain military facilities, dated 12 October 1953, places no restrictions on the entry, exit or overflight of Greek territorial waters by U.S. forces. Subject to GOG agreement, we would expect that homeporting in Greece would be accomplished under this agreement.

Question: What other ports in the Mediterranean Sea were considered and on which of the following three criteria you have used were these other sites disqualified: a. operational location; b. availability of ship and related facilities; and c. the existence nearby of a reasonably large community?

Answer: The Navy has examined the feasibility of utilizing 15 specific ports in the Mediterranean area, including locations in Spain, France, Italy and Greece.

The following were the primary criteria used in evaluating the suitability of Mediterranean ports for homeporting a carrier task group: strategic location; sheltered deep harbor and adequate harbor facilities; jet capable airfield nearby and available for some Navy use; availability of adequate ship repair facilities; large urban area capable of absorbing dependent population without need to develop extensive dependent support complex; local acceptability.

Of all of the ports examined, only the Athens area met all of our requirements. The other ports were not suitable with regard to one or more of the above criteria.

Question: $13 million has been mentioned as an estimate of the initial costs of homeporting (in addition to $13 million annually for continuing the homeporting). Precisely how will the initial $13 million be spent? What naval facilities in Greece will be expanded or built? How do you arrive at the figure of $13 million for the annual maintenance of a carrier task group homeporting in Greece?

Answer: Our expenditures in Greece will fall into two categories: personnel support and operational support. It is currently not planned to expand or build naval facilities other than for the addition of minor facilities at the airfield as required for the safe operation of USN aircraft. Some expansion of existing Air Force dependent support facilities will be necessary. In addition, we may use a mobile dependent support ship to provide medical services. We desire to hire and/or lease existing port services, pier space and perhaps some warehouse space and are exploring their availability. Estimated initial and annual recurring costs are as follows (in millions of dollars): It must be emphasized that these are preliminary figures only, developed as Service estimates and without any contact or consultation with Greek sources. Extensive discussions and site examinations in Greece will be necessary to refine these to budget-quality estimates.

	Initial	Recurring
Total personnel support	$12.7	$7.7
Additional PCS costs	3.0	3.5
Dependent support ship	9.5	2.5
Expansion and operation of AF facilities	.2	2.8
Savings—Reduction ship transit costs		(−)1.1
Total operational support	.4	5.7
Port operations, charter and hire and pier costs		3.0
Logistics costs		1.7
Transportation/vehicle maintenance		(1)
Leased transient berthing		(1)
Airfield operations	.4	1.0
Total	13.1	13.4

1 Costs are insignificant in this breakdown. Facilities will probably be leased.

Question: Would it be true that ships in Greek homeporting will have to return to the United States every two or three years for six to nine months overhaul, leaving dependents in Greece for that period? Also, how much of an increase in time will naval personnel have with their families in Greece under this plan?

Answer: Ships homeported overseas will return to the United States for normal overhaul. This would occur about every 2½ years for the destroyer types, extending to as much as four years for the CVA. Ships would be relieved on station, as we do now in other areas of the world, and dependents would return with their sponsors. Personnel management policies will be employed to minimize the number of personnel moved at the time of ship rotation.

Homeport time will increase from 25% to 30% under this plan, and equally important, the long family separation time associated with rotationally deployed ships will be eliminated.

Question: Will ships in Greek homeporting be available for duty outside the Mediterranean Sea or will they be functionally limited?

Answer: Sixth Fleet ships homeported in Greece will continue to operate in the same manner as the Sixth Fleet units do today. If necessary, they would be available to operate outside the Mediterranean; however, their prime mission would be to support our NATO and national commitments in the Mediterranean.

Question: From our understanding, you expect that approximately 16% of Navy personnel homeported in Greece will bring families with them and you expect this to promote an overall increase in reenlistment of from one to three percent. Please explain the basis on which homeporting will be justified on a budgetary (as opposed to a morale) basis.

Answer: Our studies estimate that 41% of the officers and 17% of the enlisted will take families overseas. We would hope to achieve an overall increase in retention rates in the Navy of from one to three percent as a result of homeporting three carrier task groups overseas. If retention is increased by 1% we would save approximately 14.7 million dollars annually, while an increase of 3% would save $44.1 million annually. The Athens homeporting proposal might well account for approximately one-third of the total. The estimated annual recurring cost of our proposal for Greece is $13 million; therefore, the program could pay for itself if the increased retention is realized.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 27, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Thank you for the information you supplied in response to our inquiry of February 2, 1972, regarding the political and military implications of the proposal for homeporting Navy personnel in Greece. Your letter partially answers some of our concerns on this issue, but many questions remain. Some are:

(1) In reference to your answer to Question One, what were the precise dates of (a) your initial talks with the Greek Government on the topic of homeporting, (b) the most recent discussion with the Greek Government concerning the purchase of U.S. aircraft, and (c) the visit of the French Defense Minister to Athens concerning the subject of arms supplies?

(2) What are the "strategic and military advantages" from homeporting which are referred to in answer to our Question Two but which are not enumerated?

(3) The comments, also in answer to Question Two, on anti-Americanism in Greece do not correspond to information we have received from Greece. For example, your answer seems to conclude that there is no anti-Americanism because there "have been no concerted violent expressions of antipathy toward the United States." While the violent expressions of anti-Americanism, whether concerted or not, are of interest to us (and we would like a detailed list of such incidents from April 21, 1967, to present, compared to a comparable period before the junta took power), we would appreciate summaries of reports from Embassy Athens on all manifestations of anti-American feeling in the last five years.

Specifically, we would like any reports prepared in the last year by any section of the Embassy on anti-Americanism or, if these do not exist, an indication of whether any Embassy survey on anti-Americanism is now underway.

(4) Also in further answer to our Question Two, where we asked for the number of "official and private Americans now living in Greece," please indicate a breakdown of the total figure you gave of 35,000 Americans, how many are official civilian employees, how many U.S. military personnel, how many official dependents, and how many private Americans.

(5) Finally under Question Two, you indicated a sequence of briefings of NATO countries on homeporting "after a decision had been reached to homeport in Greece." Please indicate when that decision was made and, in addition to the date of our first approach to the Greek Government on this issue (asked above in Question One), please indicate when Greek governmental approval was obtained and when the briefings of NATO members were conducted.

(6) Your answer to Question Four, on the balance of payments consequences of the proposed homeporting, indicated that "Offsetting these increases [in BP losses from Greek homeporting] will be the reduction of expenditures attendant [sic] with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet." It is not clear (a) what the relation is between "United States Atlantic Fleet units" and the Sixth Fleet under homeporting, and (b) how the reduction of port visits by those units is related to the strategic and military advantages" from homeporting to which your response to our Question Two referred.

(7) We were under the impression, from Operation BALPO, and other efforts by the Department of State to reduce the balance of payments loss from its activities overseas, that the Department had more detailed data on such losses than those supplied by the Commerce Department's *Survey of Current Business*. What we sought was information which would allow a comparison of the balance of payments loss in homeporting 9700 additional naval personnel in Greece and, for comparative purposes, the extent of such losses from the presence of State Department and other civilian personnel in Greece, from U.S. military personnel presently in Greece, and, again for comparative purposes, that same information for other European countries.

Using the information you supplied, is our understanding correct that the $8.4 million BP loss now attributed to U.S. Navy operations in Greece (for FY 1971) would nearly double from the additional BP loss (adjusted for the reductions you mentioned) of $8.3 due to homeporting?

(8) Finally, we have asked the Navy Department for detailed information on the alternatives to Greek homeporting. We are specifically interested in the consideration of Italian ports, as well as those in France and Spain which the Department of the Navy mentioned as having been considered and rejected. We would appreciate the Department's views of the political implications of homeporting in those countries as well as the Department's assessment of how well these alternative home ports would have met the broader criteria for a homeporting decision (as contrasted with the budgetary and personnel considerations which concerned the Navy) which we assume were paramount in the State Department's evaluation of that decision.

We would appreciate having answers to these questions before our hearings. If convenient, your answers may be included in the advance prepared statement of the Department's representative at those hearings.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.

DEPARTMENT OF STATE,
Washington, D.C., March 7, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In response to your letter of February 29, signed by Congressman Rosenthal, I would like to provide the following information in addition to the replies forwarded in my letter of February 24.

1. *Question:* In reference to your answer to Question One, what were the precise dates of (a) your initial talks with the Greek Government on the topic of homeporting, (b) the most recent discussion with the Greek Government concerning the purchase of U.S. aircraft, and (c) the visit of the French Defense Minister to Athens concerning the subject of arms supplies?

Answer: (a) On December 30, 1971, the Secretary of State approved the concept of homeporting units of the Sixth Fleet in the Mediterranean at whatever port was determined to be most suitable. In anticipation of press leaks, we informed the Government of Greece on January 19 that we would be briefing members of the Congress on the concept of homeporting and would be pointing out that Athens-Piraeus was a possible site. At that time, the Greek Government informed us that it would approve the project in principle, if Athens should be chosen as the homeport site. On January 25, Ambassador Tasca was authorized to inform the Greek Government that we would like to proceed with homeporting a carrier task force in the Athens-Piraeus area, provided suitable arrangements could be agreed upon between the two governments. On February 10–11, a United States Navy team conducted service-to-service discussions with Greek Navy representatives regarding the requirements for homeporting. NATO allies were briefed on January 31. We assume this reply will also cover the information requested in Question 5. (b) A team headed by Department of Defense and including representatives of Department of Commerce and Department of Treasury visited Athens February 9 to 11 to discuss the purchase of United States aircraft. The Team returned to Athens for further discussions on March 6. (c) We are unaware of any visit by the French Defense Minister to Athens in recent years. To the best of our knowledge the only high-level French official to have visited Athens within the recent past was Jean de Lipkowski, Under Secretary for Foreign Affairs, who met with Greek leaders January 27–29 for discussions mainly devoted to Franco-Greek economic relations.

2. *Question:* What are the "strategic and military advantages" from homeporting which are referred to in answer to our Question Two but which are not enumerated?

Answer: The strategic and military advantage to be derived from the homeporting arrangement is the continued effective operation of the Sixth Fleet in support of its NATO mission, in the face of strict budgetary constraints and reduced ship and personnel levels. This aspect of the homeporting proposal will be further touched on in Mr. Davies' statement and in Department of Defense statements before the two Subcommittees.

3. *Question:* The comments, also in answer to Question Two, on anti-Americanism in Greece do not correspond to information we have received from Greece. For example, your answer seems to conclude that there is no anti-Americanism because there "have been no concerted violent expressions of antipathy toward the United States." While the violent expressions of anti-Americanism, whether concerted or not, are of interest to us (and we would like a detailed list of such incidents from April 21, 1967, to present, compared to a comparable period before the junta took power), we would appreciate summaries of reports from Embassy Athens on all manifestations of anti-American feeling in the last five years.

Specifically, we would like any reports prepared in the last year by any section of the Embassy on anti-Americanism or, if these do not exist, an indication of whether any Embassy survey on anti-Americanism is now underway.

Answer: Our previous answer should not be taken as concluding that there is no anti-Americanism in Greece; it must be assumed that there are some expressions of anti-American sentiments in every country with which we deal. As previously stated, we conclude that there is no evidence that anti-Americanism in Greece either exists on a wide scale or is increasing. We would like to provide a more detailed response to this question when additional data from our Embassy in Athens has been received.

4. *Question:* Also in further answer to our Question Two, where we asked for the number of "official and private Americans now living in Greece," please indicate a breakdown of the total figure you gave of 35,000 Americans, how many are official civilian employees, how many U.S. military personnel, how many official dependents, and how many private Americans.

Answer: Of the estimated 35,000 Americans living in Greece, about 3,000 are U.S. military with around 3,500 dependents. There are approximately 200 other official personnel and 400 dependents. The remaining 27,500 include the American business community, personnel of non-profit organizations, and the large number of American citizens, most of them of Greek ancestry, residing permanently in Greece.

5. *Question:* Finally under Question Two, you indicated a sequence of briefings of NATO countries on homeporting "after a decision had been reached to homeport in Greece." Please indicate when that decision was made and, in addition to the date of our first approach to the Greek Government on this issue (asked above in Question One), please indicate when Greek governmental approval was obtained and when the briefings of NATO members were conducted.

Answer: Answered in No. 1 above.

6. *Question:* Your answer to Question Four, on the balance of payments consequences of the proposed homeporting, indicated that "Offsetting these increases (in BP losses from Greek homeporting) will be the reduction of expenditures attendant (sic) with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet." It is not clear (a) what the relation is between "United States Atlantic Fleet units" and the Sixth Fleet under homeporting, and (b) how the reduction of port visits by those units is related to the strategic and military advantages from homeporting to which your response to our Question Two referred.

Answer: We have asked the Department of Defense to answer in detail part (a) of this question, regarding the relationship between United States Atlantic Fleet units and the Sixth Fleet. In our earlier reply, we pointed out that the reduction in expenditures for port visits should be taken into account when computing the balance-of-payments costs of homeporting. The Department of Defense has pointed out that there may be little change in the overall number of ship visits as a result of homeporting; in our earlier reply the $4.7 million relating to port visits was deducted from the $13 million total cost estimate for homeporting to avoid double-counting in computing the added cost. Since the motive for, and the strategic and military advantage to be gained from, the homeporting proposal lies in maintaining the effectiveness of Fleet operations within tight budget limitations, all factors relating to cost are relevant.

7. *Question:* We were under the impression, from Operation BALPO, and other efforts by the Department of State to reduce the balance of payments loss from its activities overseas,

that the Department had more detailed data on such losses than those supplied by the Commerce Department's *Survey of Current Business*. What we sought was information which would allow a comparison of the balance of payments loss in homeporting 9,700 additional naval personnel in Greece and, for comparative purposes, the extent of such losses from the presence of State Department and other civilian personnel in Greece, from U.S. military personnel presently in Greece, and, again for comparative purposes, that same information for other European countries.

Using the information you supplied, is our understanding correct that the $8.4 million BP loss now attributed to U.S. Navy operations in Greece (for FY 1971) would nearly double from the additional BP loss (adjusted for the reductions you mentioned) of $8.3 due to homeporting?

Answer: We are computing estimates of balance-of-payments costs for Department of State operations in Greece and in other selected European countries, and we will provide these figures in a separate letter as soon as they are prepared. The Department of Defense is preparing estimates on expenditures associated with military personnel abroad. The Department of State is not in a position to provide similar estimates for other civilian agencies.

Your understanding is correct that the estimated $8.3 million in annual payments abroad attributable to homeporting would be additional to the $8.4 million in current U.S. Navy expenditures in Greece.

8. *Question:* Finally, we have asked the Navy Department for detailed information on the alternatives to Greek homeporting. We are specifically interested in the consideration of Italian ports, as well as those in France and Spain which the Department of the Navy mentioned as having been considered and rejected. We would appreciate the Department's assessment of how well these alternative home ports would have met the broader criteria for a homeporting decision (as contrasted with the budgetary and personnel considerations which concerned the Navy) which we assume were paramount in the State Department's evaluation of that decision.

Answer: We understand that Admiral Zumwalt will discuss the criteria applied in selecting a site for the Mediterranean homeporting operation. We assume that France (given its modified relationship to NATO) would not accept homeporting in a French port and that country was therefore excluded from consideration. Similarly, it would not have been appropriate to homeport NATO-committed ships in Spain. We already homeport various ships in Italy and would have considered acceptability high and political implications minimal for an expanded homeporting project there. However, none of the Italian ports met the technical criteria for homeporting a carrier task force.

If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 28, 1972.

Hon. JOHN H. CHAFEE,
Secretary of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for the information you supplied in response to our letter of February 2, 1972, addressed to Secretary Laird, concerning the proposal for homeporting in Greece. That information partially answered our inquiries but the following important data is still needed: (1) Your answer to our first question about the present self-supporting supply and logistical arrangements for the Sixth Fleet is not clear. You wrote "No new logistical and supply arrangements will be necessary (under homeporting)." This assertion seems inconsistent with the budgetary information you supplied in answer to Question 4 in which you listed $4.7 million for "Port operations, charter and hire and pier costs" and for "logistics costs," in addition to $1 million for "airfield operations."

You also wrote, in answer to Question 5, that homeport time would increase from 25% to 30% under this plan.

These responses raise these specific questions:

(a) Under present circumstances, what percentge of time does Navy personnel in the Sixth Fleet average with their families in a year? Do you expect this figure to increase 25 to 30 percent?

(b) How is it possible to homeport dependents without homeporting the ships on which the dependents' sponsors serve? In other words, how can the ships of the homeported task force "maintain their present flexibility and freedom from the political restraints of land bases" (as you wrote in answer to Question one) when nearly $5 million is required to maintain these ships in Greece in each year and when the ships will be in a Greek port for 30 percent of their time?

(c) To clarify your answer, what percentage of time do the ships in the task force presently apend in Greek and other Mediterranean ports? What are the other Mediterranean ports now used for visits?

(d) The Department of State, in its response to our questions about the balance of payments loss involved in homeporting, wrote that homeporting would involve "the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payments expenditures throughout the Mediterranean Sea area by about $4.7 million." That answer implies that Sixth Fleet ships will reduce their visits to other Mediterranean ports when they are homeported in Greece. If so, that reduction further implies operational changes because of homeporting. To clarify this point, please indicate present and proposed deployment of the task force vessels under homeporting.

(e) Does not homeporting necessarily increase naval dependence on a foreign country when 3,300 dependents live in that country? In the case of internal turmoil in Greece, does the Navy not have a responsibility for protecting and possibly evacuating its dependents and does that responsibility not constitute "a political restraint of land bases"?

(2) In your answer to our second question, you indicate that a present Greek-American agreement "places no restrictions on the entry, exit or overflight of Greek territorial waters for U.S. Forces." Even if this agreement applies to homeporting, will the U.S. Navy have to go through the formality of requesting permission each time it enters or leaves a Greek port? Under any agreement pertaining to homeporting could such permission be temporarily or permanently delayed by a Greek Government during some Eastern Mediterranean crisis?

(3) Our third question asked what other Mediterranean ports considered for homeporting and on which criteria they were rejected. Your answer neither listed the other ports considered nor did it give the reasons for rejection. We are especially interested in the Italian ports considered and would appreciate a detailed account of those ports and their suitability according to the criteria you listed.

(4) The budgetary information supplied in answer to Question four appears incomplete. For example, there is no cost listed for the schools for several thousand dependent children. Also, with homeported ships in Greece 30 percent of the time, instead of being in U.S. ports, do not trans-Atlantic supply costs increase? If so, where are those costs listed? Please indicate the construction of the costs for the Dependent Supply Ships and its justifications.

The budgetary figures indicated a savings of $1.1 million in "ship transit costs." Please explain this saving.

Since government housing is not indicated under the proposed homeporting, has the Navy established that nearly 1200 housing units are available in Greece for the dependents involved?

(5) Your answer to Question seven did not fully explain, as our question asked, "the basis on which homeporting will be justified on a budgetary (as opposed to a morale) basis." Please indicate in as detailed a manner as possible, the basis for the projection that homeporting will "achieve an overall increase in retention rates in the Navy of from one to three percent . . ."

(a) What are the present retention rates for officers, for junior officers in particular, and for enlisted men?

(b) On what basis is the increase in those rates as a result of homeporting estimated?

(c) What are the differences in retention rates between the Navy and the other services and how are those differences attributable to the lack of homeporting by naval units if that is the proper inference from your response?

(d) Describe the present use and cost of charter flights by naval dependents to visit their sponsors overseas. Has the development of this informal system of dependent visitation had any effects on retention rates?

(e) Is there a basis in researched data for relating the present retention rates to homeporting? For example, have naval personnel indicated, in any systematic study, that homeporting would affect their decision to leave the Navy?

We would like to have answers to these questions before hearings begin. If convenient, these answers may be included in the advance, prepared statement of the Defense Department's representative(s) at those hearings.

Sincerely yours,

BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Europe.
LEE H. HAMILTON,
Chairman, Subcommittee on the Near East.

DEPARTMENT OF THE NAVY,
Washington, D.C., March 21, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, U.S. House of Representatives, Washington, D.C.

DEAR MR. HAMILTON: Thank you for your letter of February 28, 1972, dealing with our plans for homeporting a carrier task group in Athens.

You raised various questions in connection with this plan and requested answers be provided. Enclosed are specific answers to your questions.

Your interest in this matter is greatly appreciated. If we can be of further assistance, please let me know.

A similar response has been sent to Congressman Rosenthal.

Sincerely yours,

JOHN H. CHAFEE.

QUESTIONS AND ANSWERS

Question. Under present circumstances, what percentage of time do Navy personnel in the Sixth Fleet average with their families in a year? Do you expect this figure to increase 25 to 30%?

Answer. Projected homeport time for units homeported at Athens under this plan would be 45–50%. This would represent an increase of approximately 25–39% over the 36% homeported time currently being experienced by Atlantic Fleet units which now deploy from CONUS to the Mediterranean. In addition, the homeporting of Atlantic Fleet units which continue to deploy on a rotational basis would also increase from the present 36% up to an estimated 54% (an increase of 50%).

Question. How is it possible to homeport dependents without homeporting the ships on which the dependents' sponsors serve? In other words, how can the ships of the homeported task force "maintain their present flexibility and freedom from the political restraints of land bases" (as you wrote in answer to Question one) when nearly $5 million is required to maintain these ships in Greece in each year and when the ships will be in a Greek port for 30 percent of their time?

Answer. Normal at sea support of a carrier task group includes the full range of requirements necessary, including fuel oil, aviation gasoline, spare and repair parts, food, mail and personnel. The carrier task group is not dependent on land bases for this support. Therefore, the flexibility and freedom from dependence on land bases is derived by providing primary logistic support at sea. Support provided in port includes those items provided any ship during its normal visits to a port, whether or not families are there, i.e., such things as pier space, water, electrical power, telephones and tugs.

The homeporting concept would merely place certain Sixth-Fleet units in the Mediterranean for longer periods of time, rather than rotating at more frequent intervals from the U.S. The lengthened stay in the Mediterranean would not appreciably alter the present logistic support concept. The lengthened stay would permit moving of families to the area so that normal port visits would result in time with the families located in the area.

Question. To clarify your answer, what percentage of time do the ships in the task force presently spend in Greek and other Mediterranean ports? What are the other Mediterranean ports now used for visits?

Answer. A typical list of ports that a carrier task group would visit during a six-month deployment includes the following ports:

Rota, Spain; Athens, Greece; Barcelona, Spain; Palma, Majorca; Cannes, France; Naples, Italy; Corfu, Greece; and Souda Bay, Crete.

Other ports visited by Sixth Fleet units include:

Aranci Bay, Sardinia; Argostoli, Greece; Augusta Bay, Sicily; Bari, Italy; Bizerte, Tunisia; Brindisi, Italy; Cagliari, Italy; Cartegena, Spain; Catania, Sicily; Dubrovnik, Yugoslovia; Gaeta, Italy; Genoa, Italy; Gibraltar, B.C.C.; Golfo de Palmas, Italy; Istanbul, Turkey; Iumurtalik, Turkey; Ismir, Turkey; and Iraklion, Greece.

La Spezia, Italy; Livorno, Italy; Malaga, Spain; Marseilles, France; Monaco, Monaco; Navplion, Greece; Palermo, Italy; Palma, Spain; Pyreaus, Greece; Porto Scudo, Italy; Rhodes, Greece; Taranto, Italy; Thessalonike, Greece; Toulon, France; Trieste, Italy; Valencia, Spain; and Venice, Italy.

Normally, Sixth Fleet units spend about 50% of their time in port and 50% at sea. Approximately 20% of the Mediterranean in-port time is spent in Greek ports, and the remaining 80% is spent in other ports. Under the homeporting concept, the ships whose families are located in Athens would spend a greater average time in Athens than in the past, but LANTFLT units rotating to the Sixth Fleet would spend a lesser average time in Athens and more in other ports.

Question. The Department of State, in its response to our questions about the balance of payments loss involved in homeporting, wrote that homeporting would involve "the reduction of expenditures attendant with port visits by United States Atlantic Fleet units assigned to and deployed with the United States Sixth Fleet. These reductions will reduce the balance of payments expenditures throughout the Mediterranean Sea area by about $4.7 million." The answer implies that Sixth Fleet ships will reduce their visits to other Mediterranen ports when they are homeported in Greece. If so, that reduction further implies operational changes because of homeporting. To clarify this point, please indicate present and proposed deployment of the task force vessels under homeporting.

Answer. The State Department reply addresses those BOP costs presently associated with maintaining a rotational carrier task group in the Mediterranean and indicates that the BOP associated with homeporting would be commensurately reduced by that amount in determining net BOP impact, since the average number of rotational units will be reduced under the homeporting concept. A reduction of visits to other Mediterranean ports by Sixth Fleet ships cannot be inferred. Sixth Fleet units are and will continue to be employed in consonance with the requirements of our national policy. While certain individual ships may experience some changes in port visit patterns, homeport assignments will not change the overall Sixth Fleet employment plans.

Question. Does not homeporting necessarily increase dependence on a foreign country when 3,300 dependents live in that country? In the case of internal turmoil in Greece, does the Navy not have a responsibility for protecting and possibly evacuating its dependents and does that responsibility not constitute "a political restraint of land bases?"

Answer. Homeporting overseas necessarily increases the reliance of military dependents on the facilities of the nation in which they reside. U.S. experience in Europe, particularly in Germany, has proven that this is not a major problem. In the case of internal turmoil in Greece the U.S. Navy would have a responsibility, under State Department guidelines, for assistance in the evacuation of naval dependents, as well as all other U.S. nationals. There are currently some 35,000 Americans, both official and civilian, who would require support in Greece at this time. This emergency support responsibility always exists world-wide for all industry services, since evacuation in any nation is affected normally at the direction of the resident U.S. Ambassador, and in the manner he determines most proper. Domestic turmoil, when occurring, is a severe political restraint, but has less effect on naval forces, which can sail away from the problem area, than it would have on land-based forces.

Question. In your answer to our second question, you indicated that a present Greek-American agreement "places no restrictions on the entry, exit or overflight of Greek territorial waters for U.S. forces". Even if this agreement applies to homeporting, will the U.S. Navy have to go through the formality of requesting permission each time it enters or leaves a Greek port? Under any agreement pertaining to homeporting, could such permission be temporarily or permanently delayed by a Greek Government during some Eastern Mediterranean crisis?

Answer. In negotiating for homeporting under the provisions of the 1953 Agreement, we anticipate a technical agreement will be incorporated whereby the arrival and departure of homeported USN ships will require only that the Government of Greece be notified in accordance with the Navy's world-wide movement reports system.

An attempt by the Government of Greece to deny entry or departure would be an extremely serious abrogation of the Agreement, so much so that we could expect it to arise only as one facet of a fundamental international crisis with even more serious potential impacts on all US forces in and relations with Greece.

The implication in this regard is essentially the same for U.S. Navy ships now entering and leaving Athens, or any other Mediterranean port, whether or not families are located there.

Question. Our third question asked what other Mediterranean ports were considered for homeporting and on which criteria they were rejected. Your answer neither listed the other ports considered nor did it give the reasons for rejection. We are especially interested in the Italian ports considered and would appreciate a detailed account of those ports and their suitability according to the criteria you listed.

Answer. Six Italian ports were considered for possible forward deployment of a carrier task group and were eliminated from consideration as a result of one or more deficiencies as indicated below:

[Legend: $—good; !—marginal; 0—poor or not at all]

	Strategic location	Adequate harbor	Jet airfield	Adequate ship repair	Adequate urban support	Local acceptability	Additional remarks
Augusta Bay	!	!	!	0	!	$	CVA anchors out, will not accommodate full group.
Gaeta	!	0	0	0	0	$	Too small for CVA.
La Spezia	!	0	0	0	!	$	Do.
Livorno	!	0	$	0	$	$	Not CVA capable.
Naples	!	!	$	!	0	$	Harbor/urban area too crowded.
Taranto	!	0	$	0	!	$	Too small for full group.

Question. The budgetary information supplied in answer to Question four appears incomplete. For example, there is no cost listed for the schools for several thousand dependent children.

Answer. Funding for dependent schools in the European area is provided by internal apportionment of DOD funds to the Army as the executive agent. We estimate there would be approximately 1300 Navy dependent school-age children in Athens. Additional costs projected in this case would be $1.3M.

Question. Also with homeported ship in Greece 30 percent of the time, intead of being in US ports, do not trans-Atlantic costs increase? If so where are these costs listed?

Answer: Existing mobile logistic support will continue to be the primary method of supplying and supporting the task group. However, the task group will require more extensive support than one which remains on station for only six months. The estimated increase in costs of $1.7M is identified as "logistics" in the cost summary; however, such cost will be offset in large degree by a $1.1M reduction in transit costs.

Question. Please indicate the construction of the costs for the Dependent Supply Ship and its justifications.

Answer: The concept of a Dependent Support Ship is being evaluated to provide first class medical facilities—which are considered an essential requirement—and an austere commissary and exchange. The present Air Force facility may not be able to care for the additional dependents and may not be capable of expansion; therefore, our plan to reconfigure a hospital ship has been developed as a contingency measure to provide the necessary support. The ship's cost of $9.5M

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includes $4.2M to segregate and care of women and children. Our etimate has recently been increased from $9.5M to $10.8M to incorporate additional habitability and sanitation features considered necessary for health and comfort. The ship's annual operating costs are estimated to be $2.5M.

Question. The budgetary figures indicated a savings of $1.1M in "ship transit costs". Please explain this saving.

Answer. Homeporting a Carrier Task Group in the Mediterranean will reduce the number of deployments to and from US ports by 12 round-trip destroyer transits per year and two round-trip carrier transits per year, at an estimated savings of $1.1M annually.

Question. Since government housing is not indicated under the proposed homeporting, has the Navy established that nearly 1,200 housing units are available in Greece for the dependents involved?

Answer. Navy on-site surveys indicate that ample rental housing is available in Athens to accommodate the number of dependents involved.

Question. Is there a basis in researched data for relating the present retention rates to homeporting? For example, have naval personnel indicated, in any systematic study, that homeporting would affect their decision to leave the Navy?

Answer. A Navy-wide survey was conducted in April 1971 to determine attitudes toward the subject of overseas homeporting. This study indicated that 11% of the officers and 13% of the enlisted men who had not made up their mind to stay in the Navy say they would remain on active duty for a longer period of time if their time at home was increased by one month/year. If the average time in homeport for all could be increased to a 50/50 ratio 20% of the officers and 19% of the enlisted men in the same category expressed the opinion that they would consider remaining on active duty for a longer period of time.

Of even greater relevance is the fact that the first term reenlistment rates on the 37 ships homported overseas for the first six months of FY 72 was 20%, whereas reenlistment rates for all ships for the same period as 16% and for carriers the reenlistment rate was 9.9%, the lowest of all due to their demanding operating tempo.

Question. What are the present retention rates for officers, for junior officers in particular, and for enlisted men?

Answer. Enlisted retention is measured by first term and career reenlistment rates. Officer retention for the three major warfare communities is measured each fiscal year by the retention of those officers who reached two years beyond completion of their minimum requirement (MSR) during the fiscal year. Retention indices for both are summarized below:

ENLISTED REENLISTMENT RATES

[In percent]

	Fiscal year 1972 through December	Fiscal year 1971	Fiscal year 1970	Fiscal year 1969	Needs
1st term	20	17	10	16	31
Career	90	90	84	17	80
Total	39	39	27	34	49

OFFICER RETENTION AT MSR PLUS 2 YEARS

[In percent]

Warfare specialty	Objective	[1] 1972	1971	1970	1969
Surface	45	14	17	16	18
Nuclear submarine	62	41	33	33	50
Pilot	47	34	27	25	31

[1] Projected.

Question. On what basis is the increase in those rates as a result of homeporting estimated:

Answer. All retention studies and surveys show family separation high on the list of factors causing officers and men to leave the Navy. It would, therefore, be reasonable to expect an improvement of 1–5% in Navy-wide reenlistment through an improvement of homeport time. To bear this out, our statistics for the first six months of FY 72 show the first term reenlistment rate on the 37 ships presently homeported overseas was 20% whereas the overall on-board reenlistment rate was only 16%.

Question. Describe the present use and cost of charter flights by naval dependents to visit their sponsors overseas. Has the development of this informal system of dependent visitation had any effects on retention rates?

Answer. The charter flight program commenced in December 1970. Since that time charter flights have been utilized by approximately 15,000 active duty Navy personnel, retirees, and their dependents. Costs for these flights are borne by the individual users. There are no charges to the Navy. Also, these provide only one short (10–14) day visit in the course of an entire 6–8 month deployment, and even the minimum charter and hotel expenses are prohibitive for the vast majority of our people, particularly our younger families.

The charter flight program is just one of several measures initiated recently by the Navy to make Navy life more attractive. It is not feasible to single out any one of these measures as having had any effect by itself, on retention rates.

However, the fact that so many personnel used their own funds to take advantage of a one time per deployment reunion with families shows the extent to which family separation is a concern to our people. It suggests that the greater family time resulting from homeporting is important to our personnel as overseas homeporting statistics presented earlier have shown.

Question. What are the differences in retention rates between the Navy and the other services and how are those differences attributable to the lack of homeporting by naval units if that is the proper inference from your response?

Answers. Membera of the armed forces community experience a wide range of motivating and demotivating factors leading to subtle differences in service life. Even in normal times, however, the Navy generally makes more demands upon its families than the other services. The criteria upon which we base the manning of our ships call for 70 hours of work per week at sea and 42 hours in port. Actually, many men work in excess of these hours because of exigencies of the service. Many of our ships execute deployments on a one-in-three basis. In home waters they spend a third or more of their time training at sea. In port, they spend about a fourth of their time in a duty status on board their ship. The arithmetic of this is that out of 18 months, it is normal for a seagoing Navy man to be separated from his family for 13 months. If overhauls are scheduled out of homeport, the separation is even greater. Obviously, even normal sea duty imposes frequent and prolonged separations of Navy families. But the Navy has not operated in a normal fashion for five years. With few exceptions, our combatant and replenishment ships in both fleets have spent less than 50 percent of the time operating from home ports. Certain carriers have recently documented more than 100 hours of work per man per week during a month-long period of flight operations. Both the Navy and the Air Force are structured with a higher percentage of technical skills than the other services. This imposes an added urgency to retain our personnel who represent lengthy and expensive training and experience. The Navy's seagoing requirements, and consequent lengthy family separations, place a greater strain on Navy personnel than do the operating requirements of the Air Force. My previous answers reflect the difference within the Navy of the effect on retention rates due to overseas homeporting. Comparative enlisted reenlistment rates for the four service branches are summarized below:

ENLISTED REENLISTMENT RATES FOR FISCAL YEAR 1972 THROUGH DECEMBER

[In percent]

	Army	Navy	Marine Corps	Air Force
1st term	11.7	20.1	10.2	34.8
Career	43.0	89.9	84.4	93.6

DEPARTMENT OF STATE,
Washington, D.C., March 24, 1972.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Following are some additional views on anti-Americanism in Greece, referring to Question No. 3 in your letter of February 29 and our partial reply in my letter to you of March 7. I trust this added material will adequately supplement the information provided in our earlier reply and by Mr. Rodger Davies during the recent hearings.

You inquired whether there were a recent survey on anti-Americanism in Greece. In his testimony, Mr. Davies mentioned the most recent survey, which was conducted in June–July 1970 by the Institute for Research in Communications in Athens. The survey indicated that in the summer of 1970 Greek opinion of the United States was high, with 71 percent of poll respondents expressing a good opinion and only two percent a bad opinion (the rest were "don't know" or "no opinion"). In a similar poll conducted in 1965, the "good opinion" percentage was 68 percent. About one-third of the persons polled in 1970 indicated an increase in their respect for the United States, with five percent saying it had decreased over the last year or so.

In comparison, similar polls taken in 1969 in five European countries (Great Britain, France, West Germany, Italy and Sweden) indicated an average favorable opinion of 51 percent.

A list of "anti-American" bomb incidents from April 21, 1967, to March 2, 1972, has been supplied for the record. Our files covering the pre-coup period reveal no bombing attempts. On the other hand, there were numerous demonstrations, with varying degrees of "anti-American" content, in the decade or so preceding the 1967 coup. Tensions over Cyprus were the primary stimulus for anti-American activities during this period. Occasionally these demonstrations erupted into bloodshed and property damage. Some notable violent incidents were:

(1) the 1955 "Oxi Day" student demonstration in Athens against the United Kingdom and the United States, which resulted in property damage and 80 reported injuries; (2) demonstrations in 1956 in front of the United States and United Kingdom Consulates General and USIS in Thessaloniki. Crowds were estimated to be as large as 10,000 persons. USIS was stoned without damage. A delegation presented a statement protesting the "anti-Hellenic attitude of the United States Government" and denouncing Americans as "former friends"; (3) crowds demonstrating in Thessaloniki in 1957, involving 2,500 to 4,000 persons were prevented by troops and police from reaching the Consulates General of the United Kingdom and the United States. Thirty police and eleven students were reported injured; and (4) in 1965, a march on the United States Embassy, Athens, by leftist students protesting our Vietnam policy was blocked by police. Eighteen persons were injured.

In the pre-coup period, Greek citizens had, and used, the option of expressing their attitude toward the United States through petitions, peaceful demonstrations and press articles. A few examples of these non-violent expressions of "anti-American" attitudes are cited below:

March 1964. Student groups numbering about 1,000 persons in early afternoon and several thousand in evening demonstrate at the United States Embassy protesting presence of Sixth Fleet, calling for self-determination for Cyprus and burning President in effigy.

May 1965 and May 1966. Communist-sponsored annual "Marathon Peace March" had a strong anti-American emphasis, with placards and slogans attacking United States policy in Vietnam and Cyprus and calling for removal of United States installations from Greece.

Greek newspapers of all political persuasions launched virulent attacks against the United States in the dozen years preceding the coup. The Cyprus situation was the usual context. In September 1955, for example, the entire Greek press kept up a steady stream of vehement tirades against United States policy on Cyprus. A similar atmosphere prevailed when tensions over Cyprus again reached fever pitch in 1964. During the entire period, few weeks passed without an attack on United States policies by one or more segments of the press.

Given the subjective nature of "anti-Americanism" and the social and political changes in Greece between 1955 and 1972, there can be no accurate comparison of anti-American sentiments in the pre-coup and post-coup periods. In the Department of State's view, anti-American expressions in Greece stem basically from two sources: (a) a small hard-core of persons whose ideology is strongly opposed to that of the United States, and (b) individuals who oppose specific policies of the United States Government. Anti-American expressions from the latter group will increase or decrease according to their view of our stance on issues of importance to Greece; however, these protests are not inconsistent with a basic feeling of respect and affection for the United States among this group. Thus, the numerous demonstrations against the United States Embassy, and heavy critical press play during the pre-coup period, and the list of bombing incidents since 1967, may not be at variance with the results of opinion polls showing a consistently high level of respect for the United States in both periods.

I hope this information will be useful to you. Please do not hesitate to let me know if we can be of further assistance.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

ETHNIC JOKES LOSE FAVOR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, as an American of Polish background, I am constantly approached by colleagues anxious to relate the latest "Polish" joke that they have heard. With minor adjustments, most of these jokes can be applied to almost any other nationality, a tactic which I used extensively during the last St. Patrick's Day weekend. Frankly, I am an ardent practitioner and supporter of ethnic and racial humor. I believe it can be practiced without any malicious motivation.

The Suburban Life, a publication serving communities throughout southwest suburban Chicago, in its Thrsday, March 23, edition, carried a very well done column on the subject of ethnic humor by Judy Topinka, one of its staff writers. I believe this column properly treats the question of ethnic humor, and I commend it to the Members attention.

The article follows:

ETHNIC JOKES LOSE FAVOR

(By Judy Topinka)

Humor has been balling out humanity since humanity decided to make itself distinct from monkeys.

And one of the best forms of humor used to be the ethnic joke. However, it seems that various ethnic, racial and socio-economic groups now find that brand of humor offensive and can no longer laugh.

The Poles are ready to skewer Bob Hope for his recent television spoof on "The Polish Connection"; Spanish-Americans think the Frito Bandito is no chip off the old block; Italians screamed because a movie, "The Godfather," mentions terms like Cosa Nostra and Mafia, and Jewish mothers are complaining about being compared to Mrs. Portnoy.

The blacks think Flip Wilson runs down black women with his Geraldine spoof: Women's Lib intends to sic a spider on Miss Muffett; Orientals are tired of being called "inscrutable" and Czechoslovaks are beginning to object to being described as nothing but "houby hunters."

So far the Albanians, Bulgarians, and Mongolians are still laughing, but they have not been the butt of jokes lately.

Sometimes a good ethnic joke needs a particular nationality or socio-economic group in it to be funny. I mean, can you imagine the Frito Bandito being funny if he were a Russian cossack or a Chinese mandarin? And could a houby hunter ever sound halfway reasonable or funny if he were Welsh or Irish?

There is a good deal of good humor to be found in every group, and it strikes me as silly, immature and insecure for a group to take offense.

While offense is taken by many, a television show like "All in the Family" which delights in using words of bigotry is high on the popularity rating charts. Reportedly no groups to speak of are objecting to the humor within the show nor the loudmouth antics of Archie Bunker.

Any group can never take itself so seriously that it cannot laugh at itself. The best Polish jokes I have ever heard have come from Polish people, while my Italian friends are forever deeding me to a genuine Italian funeral—"in the trunk of a car," and we can laugh about it together.

There is not enough humor in life as it is, and if we deny the laughter that is within each of our respective groups, well, we'll be in sad shape.

Let's learn to laugh at ourselves and enjoy it.

CONSTITUTIONAL CRISIS OVER BUSING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. STOKES. Mr. Speaker, one of the most distressing aspects of the furor over busing is its potential effect on the constitutional principle of separation of powers. The antibusing forces, because of disagreement with judicial decisions, are calling for legislation or even a constitutional amendment to curb the power of the courts.

In my view, this sort of emotional controversy is exactly the situation the framers of the Constitution had in mind when they created the independent judiciary. One branch of our tripartite Government must be free to act coolly and rationally despite the passions of the masses. The judiciary is far weaker than the other two branches of the Government. It cannot propose changes in the law on a grand scale but must react to individual cases. It cannot enforce its own decisions but must rely on the executive. In desegregation cases, the Nixon administration has demonstrated over and over that it will not support the courts and enforce the decisions.

Passage of the administration's antibusing legislation would undo many carefully considered judicial decisions of the past and would hamstring the courts in future cases. Even more serious, it would chip away at the very basic independence of the judiciary itself.

I want to call the attention of my colleagues to the following analysis of this problem in the March 27, 1972, issue of the New York Times:

CONSTITUTIONAL CRISIS: II

(By Anthony Lewis)

Twenty years ago in Washington, D.C., Negroes could not sit down with white people at a drugstore lunch counter. In seventeen states and the District of Columbia black children were legally barred from going to the same public schools as white children. In a third of the country blacks had to ride in the back of streetcars and could not go into a good hotel or restaurant.

In just two decades that pattern of segregated life has been broken in law and in fact. It has been one of the great social and moral achievements in America's history, perhaps the greatest. And it has been made possible by two principal factors: the place of law in the American ideal and Presidential leadership.

The South met court orders with evasion and delay and violence; but the courts stood firm, and in time they awoke this country's faith in law. The crucial political act was President Eisenhower's intervention against the mob in Little Rock. After that every Southern politician knew in his heart that neither the legal nor the political system could be moved from the course of desegregation.

It is that history, that achievement of the last twenty years, that President Nixon's program against school busing now threatens. Of course the President has not said that he wants to return to a segregated society. But there are reasons, both practical and psychological, for believing that his program may stop the momentum of desegregation and even reverse it.

Mr. Nixon proposes a moratorium of up to fifteen months on all "new busing orders by the Federal courts." In a still-segregated Southern district where half the children now go to school by bus—a common situation—it may be quite impossible to devise any desegregation plan that does not involve substantial busing. In those cases the Nixon plan would effectively put a moratorium on the Constitution.

The permanent legislation he suggests would outlaw busing for desegregation purposes altogether in the first six grades of school, whatever the geographic situation and whatever the history of racial barriers in an area. And school officials already under court orders would be entitled to have them "reopened and modified"—an open invitation to reverse the movement of the last twenty years.

Psychologically, the effect could be even greater. The impression Mr. Nixon sought to

create in his television speech was that he could stop the courts and the Constitution—that he would stand in the school bus door, so to speak. Those who want a segregated America are not going to miss the message that at last they have a President who will bargain.

It is not surprising that George Wallace and the militant black separatists are both on Richard Nixon's side on the busing issue. They want an America of two nations.

White liberals will be hypocritical if they pretend that busing can solve the really difficult problem of education and race in America: the problem of the inner city. In Chicago and Washington and New York there are simply going to be schools that are largely black; the answer to bad education there is not busing but a willingness on the part of the white middle class to spend real money and effort on those schools even though their own children are not involved.

But recognition of that hard reality does not mean capitulation to the symbolism of segregation. Studies show that Americans, even as they fear busing of their children to distant schools, accept the idea of a racially integrated society more than they ever have. They do not want to go back to the two nations.

The moratorium is the particularly disastrous symbol. The President might easily have suggested a pause in lower-court orders to let the Supreme Court consider the busing question. Conservative voices have urged that course; indeed a Nixon supporter, Senator Brock of Tennessee, assumed in a television appearance the morning after the President's speech that he was just allowing the Supreme Court time to act. But the moratorium would prevent decisions by the Supreme Court as by other judges.

For Congress to restrict the jurisdiction of the Federal courts in order to prevent a particular result obviously raises questions broader than schools or race. The leading precedent is a particularly unhappy one: action by the Radical Republicans after the Civil War to prevent the Supreme Court from deciding the constitutionality of military trials in the occupied South.

Whether it would be constitutional for Congress to impose a busing moratorium on the courts would depend on the facts of a particular case. But the Nixon proposal raises a profound question for our society, whether it is technically allowable or not: do we want to twist the legal process for short-run political ends?

That is the question that the lawyers of the United States especially should consider. The bar is often attacked as selfish, insufficiently public-minded. Now is the chance for it to show character—to lead the fight against hasty political intervention in the deliberate process of law and the courts.

It should be a fight that can be won. Other Presidents and other Congresses have attacked the Supreme Court; but the Court, even when its decisions have been most unpopular, has usually prevailed. The public has somehow understood that in our turbulent country it is wiser to trust our ultimate liberties to those judges, however wrong they may be in this case or that, than to politicians.

THE ENERGY CRISIS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LENT. Mr. Speaker, last week one of the outstanding weekly newspapers in my district, the Bellmore Life, carried a very sensible editorial concerning the prospect of offshore oil drilling in the Atlantic. The insight of the Life's editors, Mr. and Mrs. Johanannes Larsen, is to be commended, and for the benefit of my colleagues, I would like to insert the editorial in the RECORD at this point:

THE ENERGY CRISIS

The valuable Government Affairs Conference, sponsored by the National Newspaper Association, was held last week in Washington. Included were topics such as Consumer Legislation, Health Care Legislation, the Freedom of Information Act, the Department of Justice and First Amendment Rights, the Economy, China in Perspective, a visit to the Embassy of Iran and to the John F. Kennedy Center for the Performing Arts. All of it was relevant, but possibly the most momentous talk was that given by Under Secretary of the Interior, Dr. William T. Pecora, an internationally recognized geologist.

In his lucid and blunt presentation Secretary Pecora noted that the United States is over-reaching its known domestic supplies of energy and that discovery and development of new domestic sources are vital to consumer security. Today each American uses 50 per cent more energy than he did 10 years ago, and his needs are progressively increasing. Dr. Pecora concluded that the critical period in energy supply is upon us. We do not have the technology to develop exotic fuel sources today, though the "exotics" are our salvation for the future. Among them is solar energy, a field where research is just beginning. We must first fulfill present needs, said Dr. Pecora.

Offshore oil drilling without a doubt holds a prominent place among energy sources to be considered in the fairly near future. It seems to us that the people have every right to demand for environmental reasons that this source not be tapped off our shores until absolutely needed. Meanwhile, other sources should be developed as soon as possible.

Dr. Pecora had this to say on the subject: "Environmental dangers from properly conducted offshore oil drilling are minimal. Of the more than 9,000 wells drilled on the Outer Continental Shelf, only four significant pollution accidents occurred in the past 18 years. There is always a possibility of human error or mechanical failure, but improved offshore drilling technology and closer Federal supervision can come close to providing a fail-safe system for recovering oil."

If the time comes when offshore drilling has to be permitted, then such close supervision and use of the best available technology to secure a fail-safe system must be insisted upon, as the minimum price.

GARBAGE RECYCLING HELPS OUT A VILLAGE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DINGELL. Mr. Speaker, the New York Times of March 15, 1972, carried a report on garbage recycling at Briarcliff Manor, N.Y., which states that the community "is breaking even on recycling." I insert the text of the news item at this point in the CONGRESSIONAL RECORD:

GARBAGE RECYCLING HELPS OUT A VILLAGE

(By Linda Greenhouse)

BRIARCLIFF MANOR, N.Y., March 14.—The skeptics said it could not be done, but this attractive little village, in the garbage business for less than a year, is breaking even on recycling. By the end of the year, it may even be turning a profit.

It sells its newspapers to a contractor in Queens, its cans to a chemical plant in Elizabeth, N.J., and its bottles in Orangeburg, N.Y. It has reduced by 15 percent the amount of solid waste it has to send to the Westchester County landfill at Croton Point—3,000 tons last year at a dumping fee of $3.50 a ton.

The receipts from the recycled material, plus the savings from less use of the county dump, are now running about equal to the added cost of the project to the village. With greater volume or with another rise in the Croton dumping fee—both of which are likely, the break even point will be passed.

IDEA CAME FROM STUDENTS

Michael Markl, the village administrator, credits Briarcliff's success to the fact that "recycling was not something generated by the village and sold to the people; it was generated by the people and sold to us." The idea came from a group of high school students who approached the village board in November, 1970.

Whatever the reason, the economic feasibility of recycling as proved by this community of 6,500 people has added fuel to the debate about how Westchester should handle its garbage problems in years to come.

The county is about to enter into a 20-year contract with the New York State Environmental Facilities Corporation for eventual rail haul of Westchester's solid waste to an upstate landfill site.

County officials have maintained that, although philosophically they favor recycling, neither the technology nor the market for recycled material is developed enough to make the process a feasible alternative to landfill.

Most community recycling efforts around the country have been small scale projects manned by volunteers. But it is difficult to generate enough volume to make the effort pay.

Stephen McQueeny, a village trustee here and one of Briarcliff's leading recycling advocates, says "It's a question of attitude."

From its modest volunteer beginnings, the Briarcliff recycling project soon became an official village effort. It coincided with the village board's decision to drop its private garbage contractor and begin municipal garbage collection for the first time.

Beginning last June, the new Briarcliff sanitationmen began a monthly, house-to-house pick-up of newspapers in addition to regular garbage collection. Saving newspapers is voluntary. The first month, residents saved 9,000 pounds. By December, the public works department was picking up 40,000 pounds a month.

BECOMES THE "IN THING"

Residents bring their own cans and bottles to four huge bins alongside the post office on Pleasantville Road. The bins are 7 feet high and 16 feet long, and weigh about 10 tons when they are full of broken glass. They fill up in three to five weeks. The village pays a contractor to load the bins onto special high lift trucks and drive them to Elizabeth and Orangeburg.

"Its become the in thing," said James DiMarzo, superintendent of public works. "People really take out their aggressions trying to break the bottles."

During the first eight months of the program, the methods used changed so often that no precise cost accounting is really possible. For several months, with a smaller volume and a less efficient collection system, the village was spending about $2 on recycling for every $1 it got back.

Since June, the village has taken in $4,462 and saved $620 in dumping fees. It receives $20 a ton for glass and tin, $10 for other metal, and from $8 to $15 for paper. The main expenses now are $235 a month for leasing the bins, and $12.50 an hour for the contractor to haul the bins away.

Mr. Markl and Mr. DiMarzo have had visits from local officials from all over Westchester seeking to follow Briarcliff's example. They welcome the interest, but doubt whether large towns could really duplicate Briarcliff's success as long as recycling generally remains voluntary.

Even here there are still numerous newspapers, bottles and cans thrown out in the household garbage and sent on to the Croton dump. But there is little sentiment here for following the example of North Hempstead, L.I., which last year passed a law requiring residents to separate newspapers from other trash.

"It would seem kind of self-defeating to force the community to do something that was their idea in the first place," Mr. Markl said.

THE COUNTRY MAY BE WAKING UP TO THE DANGERS POSED BY CORPORATE GIANTISM AND CORPORATE SECRECY

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 28, 1972

Mr. METCALF. Mr. President, political and economic freedom and gravely threatened by corporate giantism and corporate secrecy and conspiracy. That is not exactly news. Adam Smith and Thomas Jefferson, among others, were pointing out the dangers in the 18th century. Congress from time to time has reacted to the warnings. The Sherman Act, outlawing monopolization, attempts to monopolize, and intercorporate conspiracies, was passed in 1890. The Clayton Act, outlawing monopolistic mergers, interlocking directorates, and other recognized evils of industry, was passed in 1914 and strengthened several times since, notably by the Robinson-Patman Act of 1936 and the Celler-Kefauver Act of 1950.

Still, year by year, the danger grows greater rather than less, the basic numbers are often repeated but too little noted by the public and the chief powers of government. The alarming statistics were noted again in the current issue of the Progressive, as follows:

The 100 largest corporations today have a greater share of manufacturing assets than did the 200 largest in 1950, the year Congress enacted the Celler-Kefauver Act to stop the trend toward industrial concentration. And our top 200 corporations now control the same share of assets held by the *thousand* largest in 1941, the year the landmark Temporary Economic Committee submitted its final report to Congress recommending an "Investigation of Concentration of Economic Power."

That quotation is from an article called "The High Cost of Monopoly," by Mark J. Green, an astute young lawyer associated with Ralph Nader's Corporate Accountability Research Group in Washington. Mr. Green, in turn, was drawing on testimony presented to Congress by Prof. Willard F. Mueller.

No amount of warning seems sufficient to arouse the American body politic and its elected leaders to take the strong measures necessary to reverse this frightening trend. Currently, the antitrust laws are more often "studied" than enforced. In fact, it is difficult even to get authorization for a new study if it seems likely to result in a call for stronger enforcement.

This Nation's reaction to economic concentration reminds me of the reaction of the citizens of ancient Pompei to the warning rumbles and belches of Vesuvius in the years before the great eruption of A.D. 79. There was concern, of course, but not enough concern to do what was needed.

The names of just the more recent rumblings from our own industrial Vesuvius, the volcano of concentrated economic power, include: Penn Central, Lockheed, and ITT.

Will we American Pompeians wake up in time to save democracy? There is room for doubt but there is also some room for cautious optimism.

The greatest hope lies with persons of talent and in leadership positions seizing upon economic concentration as an issue that requires their urgent attention. Why should not the enforcement of the antitrust laws become as important a presidential campaign issue as the enforcement of the laws against street crime? It can, if enough able and articulate people come to realize, as this Senator has long realized, that we have few problems more pressing.

To all of our energetic contenders for the Presidency, I commend this issue for their campaigns: law and order for big business. To assist the candidates and their advisers, I would insert four recent and most helpful writings in the RECORD.

The first is the article, previously mentioned, from the March issue of the Progressive, "The High Cost of Monopoly," by Mark J. Green.

The second is a column by Ralph Nader which appeared in the Capital Times of Madison, Wis., on February 14, 1972, under the headline, "Break-Up of Giant Firms To be A '72 Campaign Issue."

The third is a letter to the editor, which appeared in the Washington Post on February 26, 1972, under the headline, "Sen. Nelson on Government Support of Corporate Secrecy." Written by the Senator from Wisconsin (Mr. NELSON), it deals with a subject that he is currently investigating in hearings before the Senate Small Business Subcommittee on Monopoly, of which he is chairman.

The fourth is an article from the February 28, 1972, issue of the Nation, "Corporate Secrecy—Issue for the Seventies," by Thomas De Baggio. Aside from its omission of the aforementioned hearings of Senator NELSON, it is a hard-hitting outline of the nature of this long underrecognized and under-studied problem.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Progressive, March 1972]

THE HIGH COST OF MONOPOLY

(By Mark J. Green)

(NOTE—Mark Green is the director of Ralph Nader's Corporate Accountability Research Group in Washington, D.C. He is the co-editor of "With Justice for Some" and the principal author of "The Closed Enterprise System," which will be published this spring. His article is adapted from that book, Mr. Green has contributed to numerous periodicals and was the editor of the Harvard Civil Rights-Civil Liberties Law Review.)

MONOPOLY

The word has typically projected antique images on our memory screens—a combative Teddy Roosevelt, industrial tycoons, corporate empires, victimized farmers. Recent and converging events, however, have resurrected monopoly as a current problem:

In the mid-Sixties Senator Philip Hart's hearings into economic concentration collected an avalanche of data, documenting the high degree of industrial giantism in America.

The late Sixties witnessed the largest merger wave in American history, averaging 3,605 mergers annually between 1967 and 1969, or six times as many per year as its famous turn-of-the-century predecessor.

In 1969 President Johnson's Antitrust Task Force urged the breakup of shared monopolies in proposed legislation. (A close Johnson adviser told me that Johnson would have proposed such legislation if reelected. Why? "It was good public policy, cheap to pass, and would help out the consumer.")

America, Inc., a critique of big business by Morton Mintz and Jerry Cohen, became a best seller in five short weeks during 1971. *The Closed Enterprise System*, the Nadar antitrust study describing the consumer costs of tolerating corporate giantism, was covered by the general (and not merely business) press.

Senator Fred Harris recently introduced a rider to Phase II legislation to decentralize many of our giant corporations, and Senator Hart, chairman of the Senate Antitrust Subcommittee, will shortly introduce his own deconcentration legislation.

The Federal Trade Commission in January issued its first monopolization charge against a major industry in its fifty-eight year history, charging that four cereal companies were an illegal "shared monopoly."

Finally, President Nixon's wage and price controls have revived questions extending from economist Gardiner Means and the populist Senator Joseph O'Mahoney, Wyoming Democrat, in the 1930s, to John Kenneth Galbraith and Senator William Proxmire today: Has monopoly's "administered" prices caused our nagging inflation/recession? What, if anything, can be done about a place called Corporate America? What is ahead for Phase III?

Much of the American economy can neither be characterized as monopolistic (like Xerox, Western Electric, or IBM) or as competitive (the wheat and fashion markets). Between the two are "shared monopolies"—a form of flawed competition where only a handful of large firms produce a particular product. Shared monopolists often act as would a monopolist, with the result that prices invariably increase. For example, our steel industry, dominated by four firms controlling fifty-four per cent of all shipments, periodically raises its prices despite idle capacity of about a third and despite the availability of cheaper imported steel.

Industrial economists agree that when four or fewer firms control fifty percent or more

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of a market, a shared monopoly results. Collective or conspiratorial behavior, not competitive, then pervades productive activity. Such industries are many and recognizable, automobiles (General Motors, Ford, Chrysler); aluminum (Alcoa, Reynolds, Kaiser); soap detergents (Procter & Gamble, Colgate, and Lever Brothers); cereals (Kellogg, General Foods, General Mills, Quaker Oats); electric light bulbs (General Electric, Westinghouse, Sylvania); cigarettes (Reynolds, American, Philip Morris), and others.

The extent of shared monopolies can modestly be desired as staggering. In 1959 economists Carl Kaysen and Donald Turner concluded in their now classic *Antitrust Policy* that "there are more concentrated than unconcentrated industries in manufacturing and mining, they are larger in aggregate size, and they tend to occupy a more important position in the economy." More than a decade later, two other authors on Corporate America agreed. Economics professors William Shepherd and Richard Barber have both calculated that shared monopolies control about two-thirds of all industry. These are the industries of our giant firms: General Motors has 800,000 employees worldwide and collects more in total sales (some $20 billion annually) than the budgets of all but three countries; the advertising budget of Procter & Gamble alone is *twenty times* as large as the appropriation of the Justice Department's Antitrust Division, which must monitor a trillion dollar economy; the six largest firms in *Fortune's* 500 (there are 400,000 manufacturing firms in this country) earn fully twenty-five percent of all industrial profits.

Based on *market concentration*—the share of business held by the leading firms in a particular industry—there has been a slight increase in the already high level of concentration during the past two decades. But based on *aggregate concentration*—the ownership of all manufacturing assets by our biggest corporations—the increase has been dramatic. While the top 200 industrial firms controlled forty-seven per cent of total assets in 1950, by 1965 they controlled fifty-five per cent. Willard Mueller, former chief economist of the Federal Trade Commission, testified before the Senate Antitrust and Monopoly Subcommittee in November, 1969:

"You may recall that I testified before this Committee in 1966 that, should postwar trends in aggregate concentration continue, by 1975 the 200 largest manufacturing corporations would control two-thirds of all manufacturing assets. Unhappily, we have reached this level ahead of schedule. *Today the top 200 manufacturing corporations already control about two-thirds of all assets held by corporations engaged primarily in manufacturing.*" (Emphasis added.)

Also, the 100 largest corporations today have a greater share of manufacturing assets than did the 200 largest in 1950, the year Congress enacted the Celler-Kefauver Act to stop the trend toward industrial concentration. And our top 200 corporations now control the same share of assets held by the *thousand* largest in 1941, the year the landmark Temporary National Economic Committee submitted its final report to Congress recommending an "Investigation of Concentration of Economic Power." How can one comprehend power of this magnitude? Imagine a college classroom seating just 200, and there you could sit the rulers of two-thirds of American industry and more than one-third of all the world's industrial production. Pharaohs and emperors would be envious.

The disfiguring of free enterprise by monopoly imposes serious economic and social tolls. Foremost is the overpricing that occurs when one or a few firms control a market. A staff report now at the Federal Trade Commission estimates that "if highly concentrated industries were deconcentrated to the point where the four largest firms control forty per cent or less of an industry's sales, *prices would fall by twenty-five per cent or more.*" The examples are numerous:

There were a number of competing milk firms in Minneapolis-St. Paul in the mid-Sixties, but only three big milk firms in neighboring Duluth-Superior, although costs were similar in both markets, the half-gallon wholesale price in 1967 was 33.8 cents in Minneapolis-St. Paul, forty-five cents in Duluth.

While there were once as many as eighty-eight competing auto manufacturers in 1921, today the "Big Three" produce eighty-three percent of all cars sold in the United States and ninety-seven percent of all domestic models. Industrial economist Leonard Weiss, of the University of Wisconsin, has estimated that the noncompetitive state of the auto industry costs $1.6 billion per year.

Federal Trade Commission studies have found that cereal prices are fifteen to twenty-five percent higher than would exist under competition because of domination of the industry by just four firms.

The oil import quota, by keeping out much foreign competition, permits domestic oil firms to overcharge, according to a Presidential task force, by an estimated $5 billion to $7 billion per year; for a family of four in New York, this means an average of $102 added to gasoline and home heating bills every year.

Such overpricing leads to lost output. Monopoly misallocates resources, creating excess capacity and a smaller Gross National Product than is our national potential. Recent studies by economists William Shepherd and F. M. Scherer have tried to quantify this lost GNP, concluding that *the overall cost of monopoly and shared monopoly in terms of lost production is somewhere between $48 billion and $60 billion annually.* The tax revenues alone from this wealth could go a long way toward ending both poverty and pollution in this country.

Monopoly overcharging also results in an inequitable transfer cost. When consumers pay excessive prices for their purchasers, monopoly profits then redistribute income from the consuming public to the shareholders of particular corporations. Professor Shepherd of the University of Michigan has estimated this redistribution of wealth at $23 billion annually. And "people's capitalism"—that "the people" own our corporations—is no rebuttal. Although millions own some stock, only a relative handful reap the lion's share of corporate dividends. A 1963 study, containing the most recent figures available, pointed out that 1.6 percent of the adult population of the United States owned 82.4 percent of all publicly held stock. This redistribution of wealth—exacerbating the wealth extremes of a society where the richest one percent of U.S. families receive more income than the bottom twenty percent and the top five percent more than the bottom forty percent—can eventually have serious political consequences. "A man who thinks that economics is only a matter for professors," writes author-economist Robert L. Heilbroner, "forgets that this is the science that has sent men to the barricades."

Lost output and income transfers are not the only ill effects of monopolies. Other dynamic costs are less capable of measurement but still severely damage our industrial and social health:

INFLATION AND UNEMPLOYMENT

Concentrated industries can largely shrug off the classical monetary and fiscal restraints, not reducing their high prices as consumer demand declines. In 1970, both before and after the automobile strike, General Motors announced price increases attempting to maintain their targeted twenty per cent return (on net worth after taxes) rather than suffer a less than monopoly-like return. Due to such market power of big firms, we are in what economist Paul Samuelson calls a "sellers' inflation"—where higher costs are simply passed on to the consumer in the form of higher prices.

In 1969 the FTC's Bureau of Economics pointed out that "major concentrated industries, through the exercise of discretionary pricing power, contribute to both inflation and unemployment." Unemployment results since monopolies, as noted, significantly reduce our manufacturing output—which in turn reduces the number of workers who would otherwise be producing. If monopoly disruption were accountable for only twenty per cent of all the unemployed, this still translates into over a million unemployed workers. And to the extent that unemployment is an official policy to combat inflation—two million people have been thrown out of work between 1969 and 1971 with this purpose in mind—a "stagflation" created by our shared monopolies dims the employment picture.

POLITICAL AND SOCIAL EFFECTS

Assuming that Corporate America has political power, what then are the costs of increasing concentration of economic power? As economic diversity decreases, the number of units contributing to the political process decreases accordingly. And as political pluralism weakens, so does democracy. James Madison argued in the Federalist Papers that political freedom requires many "factions," setting faction against faction until a political equipoise results. But as large numbers of independent firms are swallowed up, we instead race toward *America, Inc.*, in Mintz's and Cohen's phrase, "one gigantic industrial and financial complex functioning much like a separate government."

Socially, people are governed by distant operatives; initiative and individuality succumb to the ethic of the Organization Man. Job mobility declines as the number of important independent firms dwindles. "Free enterprise" then witnesses the kind of dependence found both in the cartelized Japanese economy and the communized Soviet economy. General Robert E. Wood, the ultra-conservative former chairman of the board at Sears Roebuck, once observed, "We complain about government and business, we stress the advantages of the free enterprise system, we complain about the totalitarian state, but in our individual organizations . . . we have created more or less of a totalitarian system in industry, particularly in large industry."

Politically, the control over government by big business, already great, increases. "When a major corporation from a state wants to discuss something with its political representatives," Senator Hart has said, "you can be sure it will be heard. When that same company operates in thirty states, it will be heard by thirty times as many representatives." Supporting this view was International Telephone and Telegraph's effort to drum up Congressional opposition to the Justice Department's attempt to block its merger with the American Broadcasting Company; 300 Representatives and Senators complained to Justice.

Those large firms which dominate an industry, by their orchestrated power, can resist governmental and public pressure more easily than smaller firms of lesser political clout. And as big firms push out or buy out the small, the "mavericks" of industry disappear. Their disappearance reduces a source of political options since, as the number of private sources for social risk capital is reduced, the unpopular or new cause will find it that much more difficult to secure backing.

The social blights of racism and pollution have been associated with the discretionary power of monopolies freed from the spurs of competition. Economist William Shepherd studied racial patterns in white-collar jobs, concluding that firms with market power could afford the luxury of discriminating against blacks—and they did. But competitive firms, which had to hire the best employes at the going rate—whether they were black or white—were found to discriminate less. Also there is very little incentive for shared monopolists to be progressive on pollution, with their heavy investment in existing capital assets and with their ability already to exact monopoly-like returns. The *Auto-Smog Conspiracy* case provides one clear example. In this case the Justice Department charged the Big Four auto firms with illegally suppressing anti-exhaust technology and implementation.

Proponents of Big Business, on the other hand, argue that there are alternate benefits in our state of superconcentration. But on close examination, their verbal arrows become boomerangs:

INNOVATION

First popularized by the eminent Joseph Schumpeter, and recently adopted by John Kenneth Galbraith, the idea is that big firms can innovate better because they are able to risk the necessary large investments in research and development (R&D). "A benign providence," Galbraith has intoned, "has made the modern industry of a few large firms an almost perfect instrument for inducing technical change."

But nearly all objective evidence refutes this assertion. When you have a huge investment in present machinery, and when an unknown return is to be substituted for your sixteen to twenty per cent return, there is little need to embrace new technologies. Economist Leonard Weiss, after examining many analyses of R&D expenditures, concluded: "Most studies show that within their range of observation, size adds little to research intensity and may actually detract from it in some industries." Also, it should be stressed that about two-thirds of the research done in the United States is subsidized by the Federal Government anyway—not by big private industry.

A look at the concentrated steel industry revealed that of thirteen major inventions between 1940 and 1955, none was produced by the American steel companies. A small Austrian firm, one-third the size of one U.S. Steel plant, introduced the revolutionary oxygen steelmaking process. The first American company to adopt it was McLouth Steel, which had less than one per cent of industry capacity; it was ten years later when U.S. Steel and Bethlehem followed suit.

But steel has a long history of technological immobility. What of a large corporation commonly considered a major innovator, like General Electric, "where progress is our most important product"? In the household appliance field alone, the late T. K. Quinn, a former GE vice-president, credited small companies with the discovery and production of, among other items: the electric toaster, electric range, electric refrigerator, electric dryer, electric dishwasher, vacuum cleaner, clothes-washing machine, and deep freeze. Quinn concluded that "the record of the giants is one of moving in, buying out, and absorbing the smaller concerns." Nor was industrial bigness a *sine qua non* to the development of stainless steel razor blades, transistor radios, photo copying machines, and the "quick" photograph. Wilkinson, Sony, Xerox, and Polaroid were all small or unknown when they introduced these products.

EFFICIENCIES

The reputed efficiencies of large scale operation become inefficiencies when the scale grows too large. Competition is the whip of efficiency, driving firms to produce better goods at lower costs in order to increase sales and profits. Monopoly and oligopoly, however, lead to "the quiet life," in Judge Learned Hand's phrase, a state of mind and economy where there is little pressure to seek out efficiencies. In an age which has witnessed the collapse of the Penn Central (a firm which was the result of a merger with claimed efficiencies because of its large size), and the near collapses of Ling-Temco-Voigt (LTV) and Lockheed aircraft firms, it should be evident that being big does not mean being efficient. Robert Townsend has put it more impressionistically: "Excellence and bigness are incompatible."

Huey Long once prophesied that fascism would come to the United States first in the form of anti-fascism. So too with socialism—*corporate* socialism. Under the banner of free enterprise, up to two-thirds of American manufacturing has been metamorphosed into a "closed enterprise system." Although businessmen spoke the language of competitive capitalism, each sought refuge for themselves: price-fixing, parallel pricing, mergers, excessive advertising, quotas, subsidies, and tax favoritism. While defenders of the American dream guarded against socialism from the left, it arrived unannounced from the right.

What can be done? There is the antitrust alternative—breaking up shared monopolies into firms of more competitive size. Treasury Secretary John Connally has already dismissed the role of antitrust in the Nixon Administration's Phase II. The new controls "would make [antitrust] less necessary and, very frankly, *the matter has not been discussed at all,*" he said at a recent press conference. Others of this inclination charge "irrational populism" whenever corporate decentralization is urged, alleging it favors "Mom and Pop" stores over advancing technology. Clearly, only when the marketplace exploits actual efficiencies of size can the consumer get the most goods at the cheapest price. But the charge of irrational populism is misplaced when the point is that GM, averaging more than *$20 billion* in sales, could profitably be split up into three to nine companies, or that LTV, with *eighty-seven subsidiaries*, is neither efficient nor interested in the communities in which it invests. It is an argument for more $100 million firms and fewer $2 billion firms. It is an argument for the breakup and decentralization of many of our largest industrial corporations.

Beyond the "irrational populist" threshold, many others disagree with this suggested cure. One FTC commissioner, when asked what he thought of the Nader Antitrust Report, said, "Those guys are political dreamers. The Government will not break up the big firms." When asked why (since such lawsuits could be filed by his agency), he replied, "Because we wouldn't file such a suit." Catch 22.

John Kenneth Galbraith, in his *The New Industrial State*, ably points out the corporate control of the market mechanism, the seeking of growth not profits, the rise of oligopoly, and the blurring of private and public sectors. Despite this perception of symptoms, Galbraith goes on, *mirabile dictu*, to diagnose this industrial patient as healthy—exploiting efficiencies, encouraging long-range planning, and creating stability. To be sure, it creates stability (as does price-fixing, Galbraith should be reminded), but stability for *what*, and for *whom*? As it has been already argued, certainly not for consumers, that ninety-nine percent noncorporate management sector for whom the economy, presumably, was constructed in the first place.

Even some of those who agree that laws and lawsuits against shared monopoly suits are economically valuable still get apprehensive at the prospect. There is first the fear of widespread disruption in American industry, to which economist and former antitrust chief Donald Turner has replied, "The disruptive effects are usually exaggerated anyway." Shareholders and employes would not be injured, since the divested businesses are not liquidated or given away, but are sold for market value and continue to operate under new ownership.

Second, for those concerned that deconcentration suits may be a harsh penalty for monopolistic firms, leaving monopoly uncorrected is a "harsh" treatment for consumers. A corporation is an artificial body created by the law which, in the interests of all, must be controlled by the law.

Third, some fear that monopoly moves might inhibit business growth by penalizing firms for their successes. But the chance that continued success may in the future result in an antitrust case should not slow down profit-minded corporations, which will still be tempted by the interim monopoly profits earned prior to any dissolution suits. And finally, many understandably wonder if the public, comprised of large numbers dependent on giant business, would support such serious reform. This is the core issue. Without a following—demanding legislative action, supporting bigger budgets, and encouraging creative enforcement—antimonopoly activity will remain a romantic relic at best, a political pariah at worst.

Can a coalition coalesce around this issue? The ideological interests of small businessmen, small farmers, and urban liberals in a more competitive economic system are obvious. Racial minorities and blue-collar workers, seeing their small fixed incomes buy fewer goods because of monopoly prices, are also potential adherents. Even conservatives could jump on the antimonopoly bandwagon. They are the dedicated critics of public power, the believers in decentralization, and free enterprise, and something called "the competitive spirit." When confronted with the realities of unchecked, centralized private power, philosophic integrity could propel many into the antitrust camp. Conservative Senators James Buckley and Barry Goldwater, for example, opposed the Lockheed loan because it violated the principles of free enterprise. A top economic adviser to antitrust chief Richard McLaren, Leonard Weiss, aware of this conservative attraction and the potential popularity of an anti-monopoly drive, argued for a breakup of General Motors with this flourish: "In terms of winning votes, a big automotive case might be worth a hundred merger cases. Conceivably, it would make Nixon into another Teddy Roosevelt."

Perhaps. More evident, however, is the evolution of the consumer movement into what some trend-watchers have called "The New Populism." Ranging from tax inequities to shoddy merchandise to unfair property taxes, from auto bumper frailty to Pentagon cost overruns, there is a common thread of growing citizen hostility to the invisible bilk, that involuntary taking of income by unaccounted institutions. The extent and cost of monopolies can become as central to the New Populism as it was to the old.

[From the Madison, Wis., Capital Times, Feb. 14, 1972]

BREAK-UP OF GIANT FIRMS TO BE A '72 CAMPAIGN ISSUE

(By Ralph Nader)

WASHINGTON.—Several Presidential candidates, including Muskie, Lindsay, McGovern and McCloskey, are about to take positions on the issues of concentrated power, secrecy and monopolistic practices of giant corporations. Injecting the matter of monopolies and giantism into an election campaign is something of a revival. Although virtually ignored for three decades, it draws on the historic aversion of many Americans to the

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"trusts" that erupted on the national political stage with the populist-progressive movement in the early years of this century.

Why, in an era of skyrocketing campaign costs, would any politician believe that the reform of corporate power is a subject sufficiently compelling to risk both the withdrawal of business campaign contributions and the active opposition of industry?

The example of Sen. Harris, (D–Okla.) who tried this theme last fall and went broke in his brief run for the Presidency, should tend to dissuade other hopefuls. Harris recalled the disgruntled words of a wealthy businessman supporter: "Fred," he said, "can't you stick to the dope traffic and safe subjects like that?" Harris and some other politicians are convinced that the issue is important and that there is an emerging populist revival of concern about the power of the corporate state in America.

In the first place, such events as the bankruptcy of the Penn Central, the nation's biggest railroad, and the near collapse of Lockheed, the aerospace giant, have had a profound impact on liberal and conservative politicians alike. Both companies had to be rescued by government loans or guarantees; both reflected mismanagement and a secrecy that precluded early detection or public accountability; and one, Penn Central, was replete with managerial looting and serious breaches of responsibility to shareholders and passengers alike. The myth that connected bigness with efficiency and stability was severely shattered.

Furthermore, there is a movement spreading out of the farm belt made up of family farmers fighting for survival against the conglomerates which are buying up huge hunks of land and swallowing the family farm in their integrated agri-business operations.

Approximately 2,000 farms are going out of business in this country every week. The National Farmers Organization, the fastest growing and most militant opponent of agribusiness, has as its battle cry: "Pull together, men of the soil, so the farm-holders, not share-holders, reap the benefits of your toil."

Moreover, there is now a remarkably broad agreement among economists and lawyers specializing in anti-trust studies that legal action must be taken to undo economic concentration. Without such action, it is feared that what is left of the benefits of competitive enterprise will go the way of the dodo.

The last two Presidential Task Forces, representing liberal and conservative schools of thought, analyzed the problem for Presidents Johnson and Nixon. Both Task Forces repeatedly urged tougher enforcement to stop the monopoly of many industries by a few firms. The Johnson Task Force went so far as to urge legislation that would divide into more competitive firms any industry in which four or fewer companies held 70 per cent or more of sales.

Since 1965, eleven successive reviewers in the Justice Department's anti-trust division have recommended legal action to break up or divest the General Motors complex into various competitive units. General Motors has been in violation of the anti-trust laws for many years. According to a former Presidential assistant, Lyndon Johnson, if he had run for a full second term, was prepared to propose a deconcentration bill to the Congress.

Increasing public interest in big business abuses can be seen in the growth of the consumer movement, in such best-selling popular books as "America, Inc." and "The Rich and The Super Rich," and in the burgeoning resentment of many Americans over the invasion of privacy by the computers of big business firms. A 1970 survey by the Opinion Research Corporation found that 65 per cent of the public (up from 60 per cent in 1967) thinks that "in many of our largest industries, one or two companies have too much control of the industry," while 45 per cent of the public (up from 36 per cent in 1967) thinks that "for the good of the country many of our largest companies ought to be broken up into small companies."

Last month the Federal Trade Commission, in its strongest anti-trust move in years, filed suit against the big four ready-to-eat cereal firms who control 90 per cent of the market. Sen. Philip Hart (D-Mich.), chairman of the Senate Anti-trust Subcommittee, is soon expected to submit a major deconcentration bill. For years, his subcommittee has been holding investigative hearings, documenting in detail the real costs to Americans of the widespread practices of price-fixing, tying arrangements, and the freezing out of superior innovations, as well as other collusive behavior on the part of conglomerates involving drugs, bread, steel, auto parts and repair, medical laboratories, and petroleum—to name only a few. Such anti-competitive enterprise by supposedly competing businesses devalues the consumer's income and the general standard of living.

A secret staff report of the Federal Trade Commission estimates that "if highly concentrated industries were deconcentrated to the point where the four largest firms control 40 percent or less of an industry's sales, prices would fall by 25 per cent or more.

It is on the basis of such an abundance of documentation that these Presidential candidates can afford to reopen the old political debate over monopoly and economic concentration. If they succeed, the virtues of competition to consumers, to innovators, to small businesses encouraged to challenge the giants will be given more realistic attention than they have for many years under our little-used anti-trust laws.

[From the Washington Post, Feb. 26, 1972]

SENATOR NELSON ON GOVERNMENT SUPPORT OF CORPORATE SECRECY

A column by D. J. R. Bruckner about big business secrecy, which you published on Jan. 14, was a welcome break in the astonishing inattention to this problem by the daily media and elected officials.

It is now platudinous to note that a few hundred huge corporations have become, in effect, "private governments" exercising immense powers over all our lives. Daily, these "governments" make decisions and take actions that directly affect our pocketbooks, health, safety, life styles, environment, even our life expectancy.

Yet, despite increasing awareness of the power of giant corporations, Bruckner correctly observes: "It would be a lot easier to get Howard Hughes on the telephone than to get behind normal everyday business decisions in America." The big decisions, too often, are even more secret.

Worse, government secrecy supports corporate secrecy. Here is an example. The giant corporations have succeeded in erecting and fortifying in this country a public policy that equates not only apples and oranges but planets and oranges. In this incredible but real and present policy, the separate investment and profits made in any one of a global conglomerate's multi-million-dollar product lines are likened in all respects to the separate investment and profits made in a corner drugstore's soda fountain: both are protected as "proprietary data."

Further, by building and perpetuating a myth that any politician calling for public disclosure of the conglomerate's product-line data would also want the drugstore's big business has enlisted many small businessmen as allies in defense of an undiscriminating, codified policy of "business privacy." The alliance keeps most politicians tactfully quiet and the policy intact. Knowledge essential to either effective competition or effective regulation is thereby roped off as the statutory monopoly of a few corporate and governmental "big brothers."

Roll call votes in the Senate and House during last fall's debates on bills to extend wage and price control legislation are but the most recent evidence of this national policy's continued—and deeply regrettable—strength.

The bills requested by the administration and reported by both the Senate and House banking committees all contained similar sections making it a criminal offense for federal personnel receiving business information in connection with the economic stabilization program to disclose it to the public. The effect is to prevent both the public and Congress from monitoring the reasoning of the Price Commission, for example, in its evaluation of data received from the huge companies (annual sales of $50 million or more) that must file reports either after or before they raise prices

I offered in the Senate and Rep. Herman Badillo (D.-N.Y.) offered in the House an amendment to that section, guaranteeing privacy for "trade secrets and processes" but providing that "all other information received in justification of wage or price increases shall be made available to the public." We argued that a corporation with an annual sales of $50 million or more, raising or asking to raise its price on some product, should disclose to the public at large—not just the Price Commission—its investment, costs and profits in that product line, before and after the hike. The amendment was defeated 35–53 in the Senate and 73–275 in the House. The legislation then passed, with government-guaranteed big business secrecy firmly included as a lawful part of Phase II, Phase III and Phase "N." There was, incidentally, almost no notice taken by the daily media of the illuminating debates on this amendment in both houses of Congress, Nov. 30 (Senate) and Dec. 10, 1971 (House).

There are currently under way before the Senate Small Business Subcommittee on Monopoly hearings on corporate giantism and corporate secrecy. It is my hope that these hearings may stimulate widespread new thinking about our national policy on business secrecy. That policy, while perhaps appropriate for a pioneer economy and still appropriate for small and medium-sized businesses, seems not only unsuitable but dangerous to our freedoms when applied to the corporate giants.

GAYLORD NELSON,
Chairman, Subcommittee on Monopoly, Senate Small Business Committee.

[From the Nation, Feb. 28, 1972]

ISSUE FOR THE SEVENTIES

(By Thomas De Baggio)

American corporations sit on more secrets than do all of Washington's bureaucrats and brass hats put together. And they do so with less justification. This state of affairs and what it means for the nation—even the world—burst suddenly out of the soundproofed board rooms as the Penn Central's financial wreck began to be untangled. The transportation giant, revealed to be on the verge of death, presented a sordid instance of what happens when a modern acquisitive firm wraps itself in secrecy. So strong was the ban on information at Penn Central that the efforts of even a board member could not crack it. The same types of restriction are placed on crucial data by other corporations, and the public—even company directors—has no way of knowing if the same kind of clandestine mismanagement flourishes.

As the House Banking Committee makes clear in a staff report released in January, Penn Central's secrecy covered not so much

trade secrets as tricks of the trade. Committee Chairman Wright Patman (D., Tex.) noted that the financial labyrinth which honeycombed the Penn Central twisted and turned through Wall Street: "The attitude of everyone involved seemed to be, while the game was still going on, that all these dealings were of benefit to every member of the club, and the railroad and the public be damned."

Much of the railroad's financial and management affairs appear to have remained hidden from lack of concerted effort to pry them out. Thus banks loaned money without question, accounting atrocities glided through because they contained payoffs, secret self-dealing went uncovered because financial benefits accrued to those within the company. Indeed, a preoccupation with secrecy giving the appearance of conspiracy so enveloped the mentality of those involved that a dissident board member, Robert Odell, who had come from the New York Central when the two railroads merged, could not even meet informally with other board members to discuss what he had discovered.

Coupled with the revelations contained in an earlier report by the Antitrust Subcommittee of the House Judiciary Committee, which documented on a somewhat wider scale the corporate cloak-and-dagger operations that fostered the merger epidemic of the 1960s, the House Banking Committee's inquest into the wreck of the Penn Central may come to be viewed as corporate government's Waterloo. For it makes plain that corporate secrecy acts to preserve the destructive corporate domination of the economy, enhances corporate political influence and hides the harm that consumer products do to their users. As government becomes more involved in business through price and wage controls and various financial corporate props, it adds to its regulatory authority and responsibility without making equivalent demands for a public accounting. What is kept secret becomes more crucial to public decision making and increases the need to declassify corporate and government secrets.

Yet the right of corporations to hug their secrets at the expense of the public's health, safety and pocketbook goes almost unchallenged by government officials. Bureaucrats conspire with business leaders to shroud still further an important body of information that should be made public, and politicians do their best to skirt the issue, fearing to ruffle corporate feathers when they need campaign cash.

"Our economic intelligence about many aspects of business organization is worse today than it was around 1900 when Roosevelt made his plea for opening to public view the 'mammoth' corporations of his day," contends economist Willard P. Mueller, former Federal Trade Commission Economics Bureau director. But contemporary corporations dwarf those of Theodore Roosevelt's era. The largest of them are bigger than many sovereign nations. General Motors, for instance, is larger than 123 of the world's 146 nations. American Telephone and Telegraph, Standard Oil of New Jersey and Ford Motor Co. is each larger than Denmark, Austria, Indonesia, Norway, Venezuela, Iran or 100 other nations. Less than 1 per cent of manufacturers control 86 per cent of America's assets and 88 per cent of its net profits. Seven international oil producers, acting for the most part as a single economic monolith, have combined assets of $75 billion. That sum is as large as Canada's gross national product, and the Canadian economy ranks ninth in the world.

This corporate domination of the economy and natural resources should surprise no one, says Jerry S. Cohen, former chief counsel of the Senate Antitrust Subcommittee and author with Morton Mintz of *American Inc.* "A corporation being an entity without a soul and without a conscience, its rewards must be earthly," he says, "because the gates of Heaven and Hell can be opened only to flesh and blood. The problem this creates, and which we have yet to face, is that economic power is political power."

Sen. Fred Harris of Oklahoma, the former Democratic Party National Chairman whose five-month fling as Populist Presidential candidate ended abruptly with a $40,000 debt, says he was beaten by the big corporations who refused key financial support. Although forbidden by law to make campaign contributions, corporations form secret political committees and funnel donations through their executives. But corporate political influence is much more pervasive and hidden than covert contributions would suggest. "The giant corporation," says Cohen, "is able to manipulate public government in a way human beings seldom can. The corporation, for example, determines employment patterns—literally whether cities or areas will live or die. It has a large tax base upon which governments depend."

Even before corporations reached gigantic size their power was awesome, especially the power to draft legislation favorable to their interests. The greatest corporate legislative coup was the Fourteenth Amendment, adopted in 1868 and designed to assure all citizens the right of due process and equal protection of the laws. Georgetown history professor Carroll Quigley recounted that tale of corporate influence before a Congressional committee recently: "More than 100 years ago, Roscoe Conklin, a Senator from New York, who at that time was retired, gave testimony that he was at the secret hearings where a decision was made about the wording of the Fourteenth Amendment of the Constitution, and although it was not published and we did not know it until he made this statement, the purpose of the writing of that was to protect corporations at least equally when it gave certain rights to persons. They used the word 'persons' because it would, they thought, include corporations as well as the Negroes in the South for whom publicly they were establishing these protections." Thus it was that in guaranteeing rights to former slaves, the Congress emancipated the American corporation from virtually all restraints.

What freedom they did not thus gain, corporations soon won with a broad trade-secrets law that prevented federal employees from divulging corporate information which "concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses or expenditures of any person, firm, partnership, corporation or association. . . ."

Since "trade secrets" is a term not precisely defined, corporations can label everything about their business confidential, releasing only what pleases them. Even an item as innocuous as a company telephone book is guarded dearly, and the number of employees in a plant, their race and sex, take on the quality of state secrets. "Some research data is protected as a 'trade secret' long after any trade advantaged has evaporated," asserts Robert Choate, the nutrition expert whose exposé of nutrient content of dry breakfast cereals shook that industry into reform. "Other research relates to the public's well-being and whether positive or negative, should become part of medical lore even while research is continuing. General Foods, Kellogg and others have extended files on the cariogenic (cavity-producing) effects of their products. . . These tests reveal the cavity-producing potential of such drinks as Tang and Kool-Aid and such cereals as Sugar Frosted Flakes. This information should come into the public domain, especially since these products are advertised nationally." [See "Refrigerator Roulette: The Sugar-Coated Children's Hour" by Robert B. Choate, *The Nation*, January 31.]

When it sought to investigate Du Pont, a Ralph Nader study group was told by the firm's president, Charles McCoy, that Du Pont kept secret all information "harmful to the corporation." Like other companies Du Pont enforces the rule by obliging employees to sign a rigid contract designed to repress the slightest urge to disclose anything, either while employed by Du Pont or afterwards. A pension clause permits the company to cancel retirement payments if the former employee "willfully engaged in any activity which is harmful to the interest of the company."

Even the ownership of corporations is secret. Stockholder identity has been camouflaged by "street names," sometimes called "nominees." The codes were partially broken when Sen. Lee Metcalf (D., Mont.) made public the "nominee list" issued by the American Society of Corporate Secretaries. [See "Unmasking Corporate Ownership" by Sen. Lee Metcalf and Vic Reinemer, *The Nation*, July 19, 1971.] It revealed that Afco, Byeco, Cadco, Bebco, Erco, Floco, Forco, Gepco, Ninco, Octo, Oneco, Quinco, Sevco, Tenco, Treco, Twoco and Vivco were names used by Prudential Insurance Co. for its extensive holdings. But many of the exotic names employed to hide stock ownership and control refer to banks and brokerage firms, which in turn hold stock for others. Such codes have also cloaked the large holdings of life and health insurance companies in the tobacco industry—holdings which have deterred these powerful investors from fighting health hazards that shorten the lives—and boost the premiums—of policyholders.

Corporations have also protected themselves from the encroachment of the federal bureaucracy and the public into their closed domains by fostering advisory committees. There are an estimated 2,000 such committees, but the essential one for the maintenance of corporate secrecy is the Business Advisory Council on Federal Reports, a group of big business executives who counsel the White House Office of Management and Budget (OMB) and through subgroups atall government requests for information.

The OMB is crucial to the government's collection of data. It has the authority to withhold clearance for questionnaires or to delete questions from them. This power, coupled with the influence of the business advisory groups, was enough to delay for eight years a survey of industrial pollution. A survey of gas pipeline hazards was similarly delayed, as was a survey designed to discover problems in the business of auto repairs. Most recently, the electric power industry has been fighting to keep secret data collected by the Federal Power Commission on the availability, cost and quality of fossil fuel. At the same time, pressure on the OMB has delayed the Federal Trade Commission's collection of data on corporations' line-of-business profits. The data is to be gathered to supplement the agency's *Quarterly Financial Reports*, the only information published on income by industrial categories.

The need for the new survey is undisputed. Mergers have caused a decline in the quality of the *Quarterly's* data, because it reports revenues by "primary" industry. That sometimes means that a firm's total revenues are counted in an industrial category in which it does only 15 per cent of its business. The new survey would split a firm's profits into very broad product categories such as "canned, cured and frozen food," and it would demand no certification or audit of the profit estimates. Yet, the big conglomerates which have been hiding such information screamed at the suggestion that data be made available on a confidential

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basis to the government. "The potential impact of any leakage of profit data . . . could have substantial adverse effect on the competitive position of individual companies," argued Charles C. Hornbostel, executive vice president of the Financial Executives Institute, at an advisory meeting which was itself secret. But his real concern appears to be to preserve the elitist privilege to dominate smaller, single-product firms whose profit data are public. Product-line secrecy gives the large corporation an edge in gobbling up smaller competitors and hides monopolies in certain industries. Government policy and continued secrecy have permitted the destructive take-over of a number of industries either by one corporation or by several who "share" the monopoly.

The FTC has attacked the breakfast cereal industry, where four firms control 91 percent of sales, FTC contends that the shared monopoly was built on anti-competitive practices and extensive advertising. The overcharge to consumers has been 10¢ on a 40¢ box of cereal. The FTC has also been poking around in the soft-drink industry, where, Senator Harris has charged, the shared monopoly has created "a 3¢ overcharge on a 10¢ bottle and a $1.5 billion redistribution of income from ordinary Americans to the big soft-drink companies." Ralph Nader estimates that shared monopolies—many of them hidden—cost consumers $23 billion a year in overcharges.

Tricky accounting, as well as an aversion to product line reporting, is another way corporations hide financial data. By financial finagling International Telephone and Telegraph overstated its 1968 net income by 70.4 percent, according to the staff of the House Antitrust Subcommittee. Such financial shenanigans are neither unusual nor frowned upon—the Financial Analysts Federation cited ITT for "excellence in corporate reporting" four years in a row. This "excellence" has created statements so inadequate, in the view of David Norr, an analyst for the First Manhattan Co., that they might well have caused the New York Stock Exchange to halt trading in the firm's stock. But nothing of the sort has been contemplated by exchange officials or the Securities and Exchange Commission. Because of accounting tricks and the fever for mergers, encouraged by the government, we know less today about ITT than we did ten years ago, according to Professor Mueller. And ITT is not alone. A flock of small companies disappeared into large corporations during the mergers of the 1960s and have now become hidden items in consolidated reports.

An attempt to break through some of this secrecy was made in Congress last fall with an amendment to the extension of the Economic Stabilization Act. But in its watered-down version, the disclosure provisions of the Act are almost meaningless. An irony of the whole affair is that one of the justifications the Price Commission has trotted out for keeping these matters secret is the Freedom of Information Act, once seen as the legal beachhead of the public's right to know. The same law has been cited by newspaper publishers as a reason why their profit statements should not be filed in return for the antitrust exemption granted them under the Newspaper Preservation Act.

Big corporations find the government accommodating in other ways. U.S. Steel took it upon itself to refuse the property tax collector in Gary, Ind., information about its taxable facilities. Every year the IRS makes 30,000 tax deals with corporations. These agreements sometimes create new laws, yet they are not subject to review and remain secret. Every year $63 billion in subsidies is wheeled out of Treasury. The majority of it fattens large corporations. The few scraps that trickle down to the poor occasion a grave loss of privacy; those who wish to receive it must first pass a "means" test. But no corporation—including Lockheed—is required to make a complete public accounting of its finances before getting on the dole. Food processors are still not required to print on the label everything that is inside the can, in what quantity it is to be found and the nutritional value. The Agriculture Department has not yet required fat content of meat to be labeled, although it has established certain levels beyond which fat content is not allowed to go. Tests of drug efficacy made by manufacturers and the government prior to marketing still remain secret.

When corporations fail to forestall or influence lawmaking, they have shown themselves not beyond lawbreaking to keep secret what should be disclosed. "A large number of defense contractors, including many of the nation's largest companies, regularly refuse to provide the cost and pricing data required by the Truth in Negotiations Act," according to Adm. Hyman Rickover. "In some cases, entire industries have decided not to comply with the law. . . . For example, large steel companies . . . have for years refused to obey the law requiring them to furnish cost and pricing data." The Defense Department has shown little desire to force the issue. The computer industry, from which the government purchases $3 billion worth of equipment annually, refuses to give similar information to both the Atomic Energy Commission and the General Services Administration.

At other times corporations are willing to pay up rather than divulge a small piece of corporate data. Thus Volkswagen refused to name safety personnel or to release test reports in a suit alleging that seat safety-latch failure had caused injury. The judge, peeved by the firm's insistence on keeping its secrets, held Volkswagen liable for the damages. General Motors has kept its own witnesses and attorneys ignorant of facts established by tests, so that information pertinent to a court case would remain secret.

Lawbreaking corporations charged with antitrust violations will sometimes sign a consent decree promising to stop the allegedly illegal activities, rather than risk having secrets spilled in court. And the government has been eager to go along with them. Such secrets, if revealed, might cost a corporation millions of dollars in treble damage suits.

"The law simply cannot bestow equal justice so long as there are two separate and unequal classes of citizens, one that cannot be imprisoned and another that can, one for whom the most severe penalty is the punishment of its capital and another that can receive capital punishment," says attorney Cohen. Big corporations get away with their outlawry "because they are accustomed to controlling the framework of the law which applies to them," contends Nader.

No one denies that corporations have a valid interest in keeping some information to themselves. What is at issue is an assumed blanket right to secrecy and the power it confers on the corporate giants. It is a power sometimes greater than government and often absolute over the lives of consumers, workers and small businessmen.

Corporate secrecy, says Nader, "is the first and usually decisive obstacle to knowledge of and response to the abuses, illegalities and injustices which corporations heap upon citizens, governments and environments. . . . For the control of the process of information is control of the process of policy."

With corporations enjoying such great power and suffering so few checks, it is not difficult to agree with John Kenneth Galbraith, who remarked recently in Congressional testimony: "The line between public and private enterprise is obviously so exotic as to be ludicrous. . . . Corporate secrecy is now a formula for keeping the public in ignorance of the public business."

Short of nationalizing large corporations, a series of remedies are being prominently discussed as ways to crack the code of corporate secrecy. Among them are federal corporate charters and a change in the basic structure of the corporate board of directors. Both would help to bring corporations out of the secrecy-shrouded feudalism that sustains them and would create a democratic form of enterprise more appropriate to the 20th century.

As proposed by Nader's Corporate Accountability Research Group, federal corporate charters would embrace not only strict antitrust provisions and a breakup of shared monopolies but also full corporate disclosure. This last would probably include publication of product-line financial reports—perhaps even income tax returns—and product testing done by industry. It would also remove barriers which prevent the public from knowing a product's ingredients. Pollution emissions and occupational health and safety conditions would also be made public. As Nader himself has noted, a definition of trade secrets would have to be written to indicate what could properly be kept confidential.

Sen. Philip Hart (D., Mich.), who has publicly supported federal corporate charters, is fond of pointing out that the idea has had important high-level support for years. Presidents Theodore Roosevelt, William Howard Taft and Woodrow Wilson all supported the concept. Hart calls it a "conservative approach."

The House Banking Committee staff, after investigating the collapse of the Penn Central and the secrecy and mismanagement that contributed to it, came to the conclusion that, "If this is indicative of the way other corporations operate, serious efforts should be made to require more complete and timely disclosure of corporate actions and decisions and to develop a new comprehensive system of uniform accounting standards for corporate reporting." In the staff's minds the Penn Central bankruptcy raised "the serious question as to whether giant corporations affecting the everyday lives of our entire population . . . should continue to be governed in the traditional fashion, or whether a new system of corporate directorships should be devised reflecting the broader public interest that is at stake in the operation of these giant corporations." In addition to proposing a limit on the number of bankers on a corporation's board of directors, the staff report suggests that they be opened to "employees, customers, consumers and the public in general."

Making little legislatures out of the boards of America's corporate giants has been vehemently rejected by the corporate elite whenever it has been mentioned. Yet, in West Germany, iron, steel and coal companies were required in 1951 to give employees 50 per cent board representation. And while top corporate executives are not ready to jump for even that kind of limited corporate democracy, a survey of business executives conducted by the *Harvard Business Review* shows some new and remarkable flexibility on the subject of management decisions. The survey found one-third of the 3,453 executives polled willing to let an employee vote decide some policy issues. Half the younger executives were prepared to abide by an employee vote.

Thus there is some reason to be optimistic about reversing the trend toward more corporate secrecy and increasing corporate power, but the fight for reform is sure to be long. As Nader has pointed out, "The interplay between governmental secrecy and corporate secrecy in the context of an accelerating erosion of personal privacy represents a single, widening thrust in recent history."

FEDERAL REGIONAL COUNCILS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, during 2 year's service as chairman of the Local Government Committee in the California State Senate before joining this honorable body, I had occasion to explore the significance of various proposals for establishing a new level of regional government between Federal and local government. Such regional government would in effect bypass the States and create new administrative authorities under Federal direction and control, transcending State lines and unreachable by the local electorate.

A recent Executive order entitled "Federal Regional Councils" represent the latest and one of the most disturbing steps in this direction. It was issued shortly before the President's departure for Peking, and deserves much more attention than it has received so far in the press and communications media. Therefore I am taking this opportunity to present to you the following editorial from the largest newspaper in my district, the Santa Ana, Calif., Register, commenting on this Executive order which is No. 11647, together with the Executive order itself:

NIXON PARTITIONS UNITED STATES

One of the little chores that President Nixon tended to before he went abroad to break bread and drink wine with the world's most notorious mass killers was to divide the United States into ten standard federal regions and to establish a federal regional council for each.

The councils are to be comprised of the directors of regional offices of the Departments of Labor, Health-Education-Welfare, Housing and Urban Development, Department of Transportation reps, regional directors of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration.

The President set forth his scheme in Executive Order 11647, recorded Saturday, Feb. 12, in the Federal Register, Vol. 37, No. 30. So it is plenty official. The council is supposed to develop "closer working relationships between major federal grantmaking agencies and state and local government." That means the councils will handle tax money as it flows from the Federal Treasury to local politicians.

The regional partitioning of the United States has been cooking for a period of 20 years or more. It appears to be a method for displacing the authority of the several states in that it gives the President diverse authority over separate geographical sections. That is, he now can have one set of laws for California and a different set of laws for New England. That means he can enslave inhabitants of one area without inflaming the whole country. To regionalize the United States is to cut it up into parts so that Mr. Nixon and his Keynesian associates can digest it piecemeal.

The Constitution forbids the establishment of any new state within the jurisdiction of any other state or states without the consent of the legislatures of the states concerned. Mr. Nixon appears to have circumvented that prohibition by calling the new institutions regional councils instead of calling them states, but they can be termed "super states" with substantial justification. Whatever they are called, they are decidedly dangerous.

EXECUTIVE ORDER 11647—FEDERAL REGIONAL COUNCILS

The proper functioning of Government requires the development of closer working relationships between major Federal grantmaking agencies and State and local government and improved coordination of the categorical grant system.

I have heretofore directed the Domestic Council to:

(1) receive and develop information necessary for assessing national domestic needs and defining national domestic goals, and to develop for the President alternative proposals for reaching those goals;

(2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources;

(3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and

(4) provide policy advice to the President on domestic issues.

Furthermore, I have assigned to the Office of Management and Budget the responsibility for assisting the President in developing efficient coordinating mechanisms to implement Government activities and to expand interagency cooperation. Three years ago I directed that the senior regional officials of certain of the grantmaking agencies convene themselves in regional councils to better coordinate their services to Governors, Mayors, and the public.

I have now determined that the measures prescribed by this Order would assure improved service to the public.

Now, therefore, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. *Federal Regional Councils.* (a) There is hereby established a Federal Regional Council for each of the ten standard Federal regions. Each Council shall be composed of the directors of the regional offices of the Departments of Labor, Health, Education, and Welfare, and Housing and Urban Development, the Secretarial Representative of the Department of Transportation, and the directors of the regional offices of the Office of Economic Opportunity, the Environmental Protection Agency, and the Law Enforcement Assistance Administration. The President shall designate one member of each such Council as Chairman of that Council and such Chairman shall serve at the pleasure of the President. Representatives of the Office of Management and Budget may participate in any deliberations of each Council.

(b) Each member of each Council may designate an alternate who shall serve as a member of the Council involved whenever the regular member is unable to attend any meeting of the Council.

(c) When the Chairman determines that matters which significantly affect the interests of Federal agencies which are not represented on any such Council are to be considered by that Council, he shall invite the regional director or other appropriate representative of the agency involved to participate in the deliberations of the Council.

SEC. 2. *Functions of the Councils.* Each Federal Regional Council shall be constituted as a body within which the participating agencies will, under the general policy formulation of the Under Secretaries Group, and to the maximum extent feasible, conduct their grantmaking activities in concert through:

(1) the development of short-term regional interagency strategies and mechanisms for program delivery;

(2) the development of integrated program and funding plans with Governors and local chief executives;

(3) the encouragement of joint and complementary grant applications for related programs;

(4) the expeditious resolution of interagency conflicts and coordination problems;

(5) the evaluation of programs in which two or more member agencies participate;

(6) the development of long-term regional interagency and intergovernmental strategies for resource allocations to better respond to the needs of States and local communities;

(7) the supervision of regional interagency program coordination mechanisms; and

(8) the development of administrative procedures to facilitate day-to-day interagency and intergovernmental cooperation.

SEC. 3. *Under Secretaries Group for Regional Operations.* There is hereby established an "Under Secretaries Group for Regional Operations" which shall be composed of the Under Secretaries of Labor, Health, Education, and Welfare, Housing and Urban Development, and Transportation, the Administrator of the Law Enforcement Assistance Administration, the Deputy Director of the Office of Economic Opportunity, the Deputy Administrator of the Environmental Protection Agency, and the Associate Director of the Office of Management and Budget, who shall serve as the Chairman of the Group. When the Chairman determines that matters which significantly affect the interest of Federal agencies which are not represented on the Group are to be considered by the Group, he shall invite an appropriate representative of the agency involved to participate in the deliberations of the Group. The Under Secretaries Group for Regional Operations shall, consistent with the objectives and priorities established by the President and the Domestic Council, establish policy with respect to Federal Regional Council matters, provide guidance to the Councils, respond to their initiatives, and seek to resolve policy issues referred to it by the Councils. The Under Secretaries Group, under the Chairmanship of the Associate Director of the Office of Management and Budget, shall be responsible for the proper functioning of the system established by this Order.

SEC. 4. *Construction.* Nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

RICHARD NIXON.

THE WHITE HOUSE, *February 10, 1972.*

LET US HAVE FEWER SECRETS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DERWINSKI. Mr. Speaker, I commend the Executive order of the President through which the use of top secret classifications will be considerably reduced within the executive branch. As the administration struggles with this

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question, we in the legislative branch must forever fight bureaucracy, one of whose techniques is the use of classified material to avoid necessary legislative oversight.

The Chicago Daily News, in a succinct editorial commentary of March 13, gets to the heart of this question.

The editorial follows:

LET'S HAVE FEWER SECRETS

There won't be quite as many bales of paper stamped "Top Secret" or "Secret" if President Nixon's new executive order has the desired effect. In a double-barreled attack on the secrecy mania last week, Mr. Nixon directed that fewer agencies and individuals be allowed to classify documents, and also that documents already classified be opened sooner to public inspection.

The abuse of the security system has been an open scandal for a long time. It came to the fore when the Pentagon Papers appeared, for they revealed, among other things, that much information had been withheld from the public under a "Top Secret" stamp when it had little or nothing to do with national security. A primary purpose in classifying much of the material was simply to hide embarrassing mistakes and misjudgments.

The President is on the right track in trying, as he put it, to "lift the veil of secrecy which now enshrouds altogether too many papers" and to apply new rules that will "meet the standards of an open and democratic society." This is no easy task for obviously some secrets must be kept and finding the exact place to draw the line involves careful judgment. The tendency has been to err on the side of caution, and stamp anything remotely bearing on national security.

The new guidelines, which are to go into effect June 1, still call for individual judgment, and necessarily so, but the emphasis is changed. The order specifies that the top-secret stamp is to be used with "the utmost restraint," and secret stamps shall be used "sparingly." Mr. Nixon further directed that documents should never be classified "in order to conceal inefficiency or administrative error."

All this sounds good, and we applaud Mr. Nixon for spelling it out for the benefit of all his subordinates. But like any other reform, it will bear watching to see how the words are interpreted and how the practice squares with the theory. Even an unimaginative federal official can find ways of turning a blunder into a security crisis, and the urge to apply the stamp "sparingly" hardly ever appears. Perhaps we can take some comfort, though, in the fact that the President's directive got out before anyone stamped it a "Top Secret."

TOM McMILLAN—AN EXTRAORDINARY YOUNG MAN

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. McDADE. Mr. Speaker, on Saturday afternoon, sophomore Tom McMillan, of Mansfield, Pa., led his Maryland Terrapins to the championship of the National Invitation Tournament in New York City, and was himself named the most valuable player of the tournament. To be named the most valuable player in a contest with so many outstanding young men performing is indeed a signal honor, but to be so named as a sophomore is surely extraordinary.

Tom McMillan is an extraordinary young man.

There have been few high school students as eagerly sought after as was Tom McMillan. And the reason is one far more significant than the fact that he was the outstanding high school basketball player in the Nation. He was also a delightful and splendid young man and one of the outstanding scholars in the Nation. At his home school in Mansfield, he not only led his basketball team to the State championship, but led his own class academically.

To those who know Tom, who watched that victory over Niagara on Saturday afternoon, and who saw his selection as the outstanding player in the NIT, it came as no surprise to hear what was utmost in his mind at the moment of victory: he was looking forward to an opportunity to get back to the books, to put away the distraction of his outstanding work in sports and to pursue the academic distinction which has always marked his life.

I know that all of my colleagues here in the House will wish to join me in offering congratulations to this outstanding young man. We will certainly be hearing from Tom again in the sport in which he excels, and I have the same confidence that he will show the same distinction in any profession he might pursue when his playing days are finished.

I know that everyone in my congressional district joins me in congratulating our outstanding basketball player and student; the Commonwealth of Pennsylvania can be proud of this outstanding son.

MINNEAPOLIS' HRA DRAWS PRAISE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. FRENZEL. Mr. Speaker, the Minneapolis Housing and Redevelopment Authority under the leadership of Chairman Charles Horn, and Executive Director Robert Purcell has done a praiseworthy job of providing senior citizen housing for the Minneapolis area.

The Minneapolis HRA has not only provided over 6,000 units of public housing for the elderly, but it has provided facilities which are both esthetically pleasing and also provide pleasant living quarters for the residents.

I commend to my fellow members a recent Minneapolis Star editorial which highlights some of the accomplishments of the Minneapolis HRA:

PUBLIC HOUSING'S EYE APPEAL

When the American Institute of Planners held its convention in Minneapolis a couple of years ago, one of the visiting delegates expressed amazement at the architectural quality of the high-rise housing for the elderly that he had seen in the city.

He doubted if a better job was being done anywhere else in the country. Such praise is gratifying, of course, and we think justly deserved. And for the most part the structures seem to be not only handsome to look at but pleasant to live in as well.

What prompts these thoughts is the news that the Minneapolis Housing and Redevelopment Authority (HRA) has received the design model for its 43rd public housing high-rise for the elderly. Along with two other buildings now under construction, the new 15-story tower will give Minneapolis a total of 6,277 public housing units for the elderly. The new structures will accommodate most of the 1,108 persons now on the waiting list for such living quarters.

The HRA's record of providing public housing for the elderly, thus, is most impressive—whether in terms of architecture or numbers. Somewhat less so is its record with non-elderly public housing, where but 1,483 units are now under HRA management, with a waiting list for 500 more.

But even in family public housing, progress is being made, largely through scattered-site programs using refurbished or new houses. Of almost 2,400 public housing units now being planned or awaiting federal approval, 750 are for non-elderly families.

As the deliberately "invisible" portion of HRA's work, scattered-site family housing doesn't attract the attention that the strikingly visible towers for the elderly get. It is, however, of no less importance to meeting the public housing needs of Minneapolis' poor people.

REPORT TO CONSTITUENTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, in an effort to keep my constituents informed of my activities as their Representative in Washington, I regularly mail a newsletter to all of my constituents. The text of my most recent report follows:

A REPORT FROM YOUR CONGRESSMAN
LESTER L. WOLFF

Dear Friend and Constituent:

In this issue of my newsletter, I take the opportunity to discuss with you the very pertinent issue of Congressional ethics and the necessity for members of the House of Representatives and the Senate to strengthen standards and laws governing our own conduct in office.

Much concern is being expressed today about the government's "security blanket" use of executive privilege and its "rubber stamp" coverups of information that is vital to federal legislators, as well as the infrequent and less than open dialogues between the Administration, the Congress and our constituents—the people we are sworn to represent.

But our complaints would have a higher credibility rating if our personal finances and private affiliations were open to public scrutiny. Public office is a conferred privilege, not a privileged position. In 1964, as a freshman Congressman, I acted on this firm conviction by fully disclosing the sources of my income (even before this was required by the Congress) and by divesting myself of those private interests I felt might possibly conflict with my public trust. I sold my business even though no conflict of interest was inherent in its activities, but so that I could devote my full time to Congressional duties. Such full disclosure is essential to the best interests of our open American society, but I would go even further in my strong advocacy that we must establish higher standards to cover all aspects of Congressional ethics—not only as they pertain to finances, but also to other vital areas of public concern and possible conflict of interest.

During the past decade more than 400

proposals have come before Congress to set forth new and more clearly defined guidelines to assure the unquestionable conduct by the legislators in all branches of the government. Few have met with Congressional approval because they were too general, or too inconclusive in scope. However, among the specific proposals that have been adopted are statutes making it illegal for any Member of Congress to accept a "thing of value" with the knowledge that the gift is meant to influence his actions, decisions or votes, either in the Congress or before a committee; and for any Member to accept compensation, directly or indirectly, for services rendered.

In recent years, public inquiries have been made into the behavior of officials—and in some cases criminal proceedings have been instituted—based on charges of misdoings, fraud, tax evasion and special considerations for personal gain.

New, more stringent laws governing ethical standards will only become effective when all areas of conflict are clearly defined for workaday use. A fair and effective code of ethical standards for office holders would establish precise guidelines on just what is proper or improper conduct and thus preclude the chance of misinterpretation by the individual legislator.

Sincerely,

LESTER L. WOLFF,
Member of Congress.

THAI DRUG FLOW UNDER FIRE

During my recent narcotics fact-finding mission to the Far East for the Foreign Affairs Committee, I learned from our Bureau of Narcotics and Dangerous Drugs, as well as other sources, that Thailand serves as the major conduit for the illegal flow of raw opium and morphine derivative produced in the Golden Triangle area of Asia.

My investigation has disclosed that some 50 tons of raw opium and an unknown quantity of morphine derivative is transported through Thailand to the port of Bangkok where it is loaded aboard trawlers for shipment to Hong Kong, destined ultimately for our own streets here in New York.

Because of the deadly and dangerous results which this traffic brings in the form of heroin addiction and related street crime, I have introduced, with the support of more than 80 of my colleagues in the House, legislation to cut off military and economic aid to Thailand until that country takes adequate steps to control the drug traffic.

I am pleased to report that as a direct result of these efforts the Thai government has confiscated and burned more than 25 tons of raw opium. By comparison, in all of last year only 97 pounds of heroin and 645 pounds of opium were seized by U.S. and Thai narcotics agents.

THIRTY-THREE YOUNG MEN ARE NOMINATED TO THREE SERVICE ACADEMIES

This year, I was privileged to nominate 33 outstanding young men from my Third Congressional District for appointment in 1972 to three United States service academies—the Air Force at Colorado Springs, Naval at Annapolis and Merchant Marine at Kings Point.

The final selection of these young men as nominees followed several months of intensive screening of their qualifications by my District Veterans Committee comprised of former military men, civic and fraternal leaders.

I am indeed proud of their accomplishments.

The nominees, who come from all areas of my District—from Nassau and from Queens are: Timothy Coen, Thomas Klein, Manhasset; Craig Murphy, Port Washington; James Mathews, Glen Cove; Richard Smith, Glen Head; LeGrand Clark, Roger Marien, Sea Cliff; Michael Thomas, James Wilson, Edward Scheumann, Bradford Cornell, Richard Dwyer, Walter Neboshynsky, Syosset; John Vosburg, Oyster Bay; John Hoyt, Locust Valley; Andrew Fass, Jerry Schneider, William Kempner, Kevin Lonnie, Roslyn; Kevin Krasinsky, Williston Park; Michael O'Moore, William Holowechl, Mineola; Francis Dachille, Carle Place; Michael Morganroth, James Vincze, Benjamin Von Pentz, Mark Eisenberg, Albert Knipfing, Kenneth Kobell, Westbury; Colby Severence, New Hyde Park; Jonathan Hauser, Great Neck; William Meister, Douglaston; and James McGuinness, Little Neck.

SUBSIDIES SOUGHT FOR MASS TRANSIT

If our cities and suburban areas are to survive, the federal government must become more deeply committed to the concept of urban mass transit as a solution to the other urban ills, namely traffic congestion and air and noise pollution. I believe strongly that federal subsidies are essential to the successful operation of any commuter transit system and that we must undertake the effort to assure safe, clean and efficient transit facilities.

As a member of the Democratic Study Group Transportation Task Force, I testified last month before a House Banking and Currency Subcommittee in support of several measures, which I am co-sponsoring, to amend the Urban Transportation Act of 1964. I have asked for federal grants up to $1 billion over a five-year period to infuse new life into commuter transit systems serving urban and suburban areas.

Specifically, I cited the financial difficulties confronting New York City's subway and bus systems and the Long Island Railroad. The newly enacted fare increases, including the elimination of the LIRR ten-trip tickets, has placed an unprecedented hardship on the already overburdened commuter and are nothing more than a reward for inefficiency and mismanagement.

On behalf of the thousands of affected riders, I have urged the Price Commission to reverse its decision.

PROTEST IS LEVELED AT PRICE COMMISSION OVER RENT INCREASES

I have communicated to Price Commission Chairman C. Jackson Grayson a protest of a glaring loophole in the PC regulations that permits landlords to increase rents by 20, 30 and even 40 percent. Under the "average transaction" rule of Phase II, a landlord is allowed to use, as a basis for computing rent increase, the average rent increase imposed by him during the 30-day period in 1971, immediately preceeding the Phase I freeze on prices and wages. No matter how exorbitant this increase was, the landlord is now free to pass it on to his tenants under Phase II—and he is further permitted to tack on an additional 2½ percent increase.

I have called on the Commission to ban all these rent increases retroactive to November 15, 1971, with the exception of those necessitated by a rise in local real estate taxes. To allow landlords to charge the same increases under Phase II as they did when there were no controls at all is a gross injustice to the tenant laboring under income restraints.

MORE HIGH MARKS

Tabulation by the Congressional Quarterly of the major recorded teller and roll call votes cast during the first session of the 92nd Congress shows that Rep. Lester Wolff was on the job 93 percent of the time. His attendance record topped that of all other Congressmen in Nassau and Queens and rated him among the highest in the entire House of Representatives.

SOLUTIONS TO ECONOMIC NEEDS OF THE AGING ARE A MAJOR CONCERN

The economic position of the aging has long been of primary concern to me. I know full well the impact of the tax burden on these persons who are forced to live on fixed incomes and how their health and well-being are directly related to their shrinking Social Security payment dollars, their pensions and their modest savings.

Meeting the needs of our growing numbers of Senior Citizens is a responsibility that must be met by the Congress and by all levels of government. Inflation affects the economic condition of the aging more adversely than it does any other citizens. Older Americans derive most of their income from fixed sources. My concern is to have the purchasing power of these restricted incomes guarded against further erosion by inflation and the rising costs of essential items—medical care, rent and nutritional foods.

As a prime remedy to the economic inequities borne by the aging, I am urging the federal government to assume all welfare costs, thus freeing funds for the states to provide major support of education. This would remove the burden of the school tax from the local real property owner, many of whom are retirees, and others with fixed or restricted incomes.

I co-sponsored and voted for the recently enacted Nutrition Program for the Elderly, an amendment to the Older American Act, to provide $250 million over a two-year period to utilize our surplus agricultural supplies for our aging. This program, to begin July 1, will aid persons 60 and over by funding centers offering free well-balanced dinners in an atmosphere of companionship, as well as transportation for participants.

Under Phase II of the Economic Stabilization Act, the Price Commission permits landlords to increase rents by as much as 30 percent for apartments and residences not previously covered by rent controls. I have called upon the House Banking and Currency Committee to hold oversight hearings on this astonishing ruling and I have directly appealed to the Price Commission for a rollback of the increases. As a result, the Price Commission has indicated it may review its entire rent control policy.

There are other unfair regulations and practices which constrict the lives of our Senior Citizens. For example, Social Security beneficiaries are being penalized for taking employment by having their meager incomes reduced. Yet industry and government studies have shown that elderly workers are among the most reliable, productive members of the nation's labor force.

To summarize, the basic problem is to free funds needed to help our aging. It is my belief that we are not going to add to the income of these people or significantly reduce their taxes until we cut unnecessary spending.

This nation's economy cannot stand the repeated budget deficits of recent years—$23 billion in fiscal year '71, nearly $39 billion for the current fiscal year '72. The interest on these enormous debts added up to more than $19 billion in '71, will exceed $20 billion this year and is estimated to be $21.16 billion in fiscal '73—moneys we could, and should, be spending to solve the very serious problems we have in this nation.

REPRESENTATIVE EMANUEL CELLER—A MAN OF EMINENCE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CORMAN. Mr. Speaker, as the 92d Congress moves on and so many administration-fostered issues of dubious constitutionality come before us, my mind reviews the quality of men in the House of Representatives who can stop or have

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stopped the shredding of the Constitution. As I do this, I pause before the eminent figure of EMANUEL CELLER, dean of the House of Representatives and chairman of the Committee on the Judiciary.

I served on the Committee on the Judiciary for nearly 6 years. I watched closely this man who was my chairman, and I continually marveled at his knowledge of the Constitution, his sensitivity to the nuances of the law, and his determination that our Bill or Rights be inviolate.

Those of us who agree with MANNIE realize how much we have depended upon his leadership, his familiarity with the parliamentary maze to bring the American people closer to the American ideals or to deflect them from the consequences of hysteria whipped up by the unscrupulous.

He has fathered four amendments to the Constitution:

First. The 23d—Permitting residents of the District of Columbia to vote in presidential elections;

Second. The 24th—Abolition of the payment of poll tax as a prerequisite to voting;

Third. The 25th—Providing for succession in the event of Presidential inability;

Fourth. The 26th—Extending the right to vote to 18-year-olds in State and Federal elections.

Three of the amendments enlarged the right to vote. The other—Presidential disability—erased the ambiguity in our Constitution which could have thrown the country into chaos had we actually experienced a physically or mentally disabled President.

But MANNIE is not solely a constitutional authority. He fathered the Civil Right Acts, immigration reform as well as court reforms, and hundreds of enactments which brought tangible benefits to the country. Throughout is the running theme of equality of opportunity and equality of treatment for all the people in all areas.

Withal he is a gentle man, a man of humor, without the property of self-righteousness.

As we face a crisis in direction of the United States—whether it will move away from equality and compassion or regain its balance—we must be grateful that in our midst is a man like EMANUEL CELLER, who can lend not only his grace but his quiet wisdom, his respected experience, and undenied courage to give greater vitality to the preamble of the Constitution of the United States.

He is a great man.

CRIME FIGHTING IN BLADENSBURG, MD.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HOGAN. Mr. Speaker, all of us are greatly concerned about halting crime and the poison it spreads through any community, so it is with special pride today that I call my colleagues' attention to the crime-fighting efforts of the town of Bladensburg, which I represent.

Mayor Francis C. White and the city council have instituted a program called "Operation Identification," under the direction of Councilwoman Susanna K. Christofane, through which the town offers the free use of engraving tools to any citizen to engrave his driver's permit number on TV sets, radios, tape recorders or other valued possessions. The project is being underwritten by the Metropolitan Washington Chapter of Associated Builders and Contractors.

Operation Identification is designed to discourage thieves by putting them on notice that items they steal are easily identifiable and therefore difficult to sell. Similar engraving programs have met with success in other communities and they hold great potential for fighting some crimes.

By taking this initiative in Operation Identification, Bladensburg has made a major contribution in our battle against crime.

ANTI-DEFAMATION LEAGUE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EILBERG. Mr. Speaker, the Anti-Defamation League of B'nai B'rith was established in 1913 as the educational arm of B'nai B'rith, America's largest and oldest Jewish service organization, founded in 1843. The ADL seeks to promote good will and understanding among American's of all religions, races, and national and ethnic backgrounds, and it seeks to prevent discrimination against any of them. It combats the activities of extremist organizations that preach racial and religious hatred and that attack the democratic processes of our republican form of government. It engages in research and in educational programs to carry out these broad objectives.

The ADL program has its roots in the religious teachings of Judaism—that man is a creature of God, that all men are equal before the Almighty, and that the dignity of the individual is God-given and must not be violated—teachings that are shared by all the great religions.

Four Presidents of the United States have publicly praised the work of the ADL and three of them have honored the league by their presence on its platform at anniversary celebrations and annual meetings.

President Harry S Truman declared that ADL's "definition of America's democratic legacy is admirable" and that it was a meaningful force "in the hearts and minds of the American people."

In 1953, when the ADL marked its 40th anniversary, President Dwight Eisenhower received the league's "America's Democratic Legacy" medallion and was the speaker at its celebration banquet. In a tribute to the league, he declared:

> Your good work . . . has brought strength to the national community. By educating our citizens to overcome the evils of prejudice . . . nurturing the roots of freedom, you have helped to make our land a better place to live in. America continues to need your efforts.

In 1963, when the league marked its 50th anniversary, President John F. Kennedy was the honored guest at the league's ceremonials and, like President Eisenhower, accepted the ADL's "America's Democratic Legacy Award." President Kennedy declared on that occasion:

> Your organization . . . should itself be receiving an honor for distinguished contributions to the enrichment of America's democratic legacy. Your tireless pursuit of equality of treatment for all Americans has made a lasting and substantial contribution to our democracy.

And in 1965, when President Lyndon B. Johnson was similarly honored, he said at the league's annual dinner:

> In your half century of fighting discrimination, you have never tired, you have never faltered, you have never lost faith in your cause, and your cause has given faith to your nation . . . Wherever your torches burn, tolerance, decency and charity have been illuminated. Bigots and bias hide wherever you come into view.

As part of its ongoing program of defending American institutions, ADL has sought to educate the American people against the dangers of political extremism on the far left and the far right. Its programs against the activities of these anti-American elements have extended over several decades. Years ago, in his book "Masters of Deceit" FBI Director J. Edgar Hoover declared that "some of the most effective opposition to communism in the United States" has come from the Anti-Defamation League.

Mr. Speaker, in view of the distinguished record of public service rendered by the Anti-Defamation League of B'nai B'rith in almost 60 years on the American scene, its reports and public statements are worthy of careful attention and serious study by all Americans, including Members of Congress.

In November 1971, the ADL issued a well-researched and heavily documented report calling attention to repeated insertions in the RECORD, by our colleague from Louisiana (Mr. RARICK), of material from "the busy extremist presses" that deal in political radicalism, racism, and religious bigotry. The ADL report said that the gentleman from Louisiana's insertions of materials emanating from such extremist sources totaled hundreds of pages in the years since he arrived in this Chamber and that they had cost American taxpayers tens of thousands of dollars. The ADL report appears in the RECORD for January 19, 1972, starting at page 404.

Since then, the gentleman from Louisiana—despite the distinguished record of the Anti-Defamation League—has made use of still other materials from extremist and hate peddling propagandists to attack the ADL. Several of the sources cited by our colleague represent the political underworld of the United States—those who deal in the politics of "unreason" and in the slimy depths of bigotry and who have been exposed over the years by the Anti-Defamation League. In utilizing such propaganda sources to attack the ADL, our colleague from Louisiana has in effect given further proof of the accuracy of the league's findings in its November report. He has, by his own actions, verified the ADL contention that he is causing to be published, at taxpayers' expense, page after page of extremist and anti-Jewish propaganda.

On December 6, 1971, for example, Mr. RARICK inserted into the CONGRESSIONAL RECORD eight-and-one-half pages of direct quotation from an anti-Jewish propaganda diatribe—"Zion's Fifth Column"—published some 20 years ago by the late Jack B. Tenney, a well-known California anti-Semite.

On December 15, 1971, Mr. RARICK consumed 7 more pages of the RECORD—at taxpayers' expense—for more material from an anti-Semitic propagandist, this time utilizing materials published by Richard Cotten, a former radio broadcaster and more recently an extremist pamphleteer.

Mr. Speaker, background information concerning the late Jack B. Tenney and Richard Cotten appears hereinafter, so that Members of Congress will be aware of the kind of sources being utilized by Mr. RARICK at taxpayers' expense in his vendetta against our Jewish citizens in general and against the Anti-Defamation League of B'nai B'rith in particular.

JACK B. TENNEY

The late Jack B. Tenney, who died November 4, 1970, was a former California State senator who, during the 1940's, served as chairman of the California Un-American Activities Committee. In 1952, he was a candidate for Vice President of the United States on the ticket of Gerald Smith's Christian Nationalist Party. Tenney was for a number of years a close ally and associate of Gerald Smith, for three decades one of America's most notorious professional Jew-baiters.

Tenney's 1953 pamphlet, "Zion's Fifth Column," was one of many anti-Jewish polemics he produced during the 1950's. In April 1953, Tenney's pamphlet was mailed to Members of the Congress bearing a notation that additional copies could be obtained from Gerald Smith's organization. A second Tenney pamphlet "Zionist Network," appeared in July 1953. The Arab League subsequently bought 10,000 copies. These were distributed in the Middle East and in the United States. In "Zionist Network," Tenney characterized the activities of Jewish organizations in the United States as un-American and as part of a worldwide network whose "hope for dominance is geared to the rapid decline and destruction of Western Christian civilization."

In the material from "Zion's Fifth Column" quoted by Representative RARICK, Tenney maintained that the term "anti-Semitism" does not mean "anti-Jewish" but has a more all inclusive meaning of dislike of all Semitic groups, including the Arabs—one of the oldest excuses used by anti-Jewish propagandists trying to refute to or to obfuscate charges that they are hostile to Jews. The Tenney piece went on to say that to most Americans the average Jew is just like any other American—"a fellow whom you liked or disliked in the same way you liked or disliked Pat or Tony." But "unlike Pat and Tony," Tenney declared, "he is indoctrinated with a racial superiority complex."

Tenney began his adult life as a professional musician. At the age of 37 he started in the practice of law and moved into politics. In 1936, the year of his admission to the bar, he was elected to the California Assembly. In 1938, considered something of a liberal, he spoke at rallies of such agencies as the Hollywood Anti-Nazi League. In 1939, Tenney's political orientation began to change following his defeat for reelection as President of a local of the American Federation of Musicians. He blamed his defeat on "communistic" elements in the union.

When the joint factfinding committee on un-American activities of the California Legislature was created in 1941, Tenney became its chairman. The following year he was elected to the State senate, an office he held until 1954. Tenney chaired the California Un-American Activities Committee for 8 years. In the course of his investigations, he created his own definition of subversion. One did not have to be a Communist, fellow traveler, or ideological Marxist, Tenney decided, to be un-American. A man was a "practical Communist" if he believed in civil rights, FEPC—fair employment practices commissions—and the equality of man, Tenney said, even though he was otherwise a dedicated member of the Republican or Democratic Party.

Tenney's reactionary concept of democracy and his harsh treatment and name-calling of witnesses, earned him a barrage of criticism from the press and others in his years with the California committee. Tenney claimed he thrived on such criticism; but there is no question that pressure of public opinion and newspaper criticism helped force his retirement from the committee in 1949. At one time the San Francisco Chronicle, which also editorially attacked the committee, observed:

> A Communist is any
> Who disagrees with Tenney

In February 1951 Tenney was prosecutor in a public spectacle called "The Trial of Dean Acheson," staged by a now-defunct far right group at the Wilshire-Ebell Theater in Los Angeles. Subsequently he introduced a resolution into the California State Legislature calling for the impeachment of the then Secretary of State.

Also in 1951, Tenney became national chairman of America Plus, Inc., which proposed a "freedom of choice" amendment to the California Constitution. The amendment, which never got on the ballot, was designed to "make illegal any further State or municipal FEPC ordinance" and to repeal existing antidiscrimination ordinances. America Plus materials were distributed by both Gerald Smith and Robert Williams, the latter, like Smith, a professional anti-Semitic propagandist. Late in 1951 Tenney severed his official connection with America Plus in order to campaign for the Republican nomination for Congress in California's 22d District; he made it clear, however, that he still wholeheartedly supported the organization and its objectives.

Shortly thereafter, Tenney launched a column in an obscure California extremist publication called the American Reporter in which he attacked Jewish defense agencies; some of this material was later used by Tenney in his pamphlet, "Zion's Fifth Column."

During 1952 Tenney also published a pamphlet, "The Tenney Committee," in which he defended his record as chairman of the California Un-American Activities Committee. In one section, Tenney denied that he was anti-Semitic. Anti-Semitism, he said, was "un-American and amoral." But he added:

> It is as much a part of American Freedom as anti-Gentilism or a dislike for spinach.

Following the publication of "The Tenney Committee," Tenney moved closer to the Gerald Smith orbit. Smith had hailed Tenney's pamphlet in his publication, the Cross and The Flag. And when a reporter charged that Smith was peddling the work, Tenney commented:

> It seems that a man named G.L.K. Smith likes what I wrote in a booklet. How can I repudiate a man for agreeing with me?

In June 1952, Tenney lost his bid for the congressional nomination in the Republican congressional primaries to a candidate who had the backing of Richard M. Nixon, then a U.S. Senator. Tenney, moving into Gerald Smith's political camp, accepted the Vice Presidential nomination on Smith's Christian Nationalist Party ticket. The "party" had "nominated" Gen. Douglas MacArthur without the general's permission—for President.

Tenney formally accepted the Vice Presidential nomination at a Christian Nationalist Party rally in Los Angeles on September 14, 1952. In his remarks which followed an anti-Semitic speech by Wesley Swift, a notorious west coast Jew-baiter now dead, Tenney told his listeners that he accepted "the platform of Smith's Christian Nationalist Party in a deep spirit of humility and with a real understanding of the possible consequences to my political future."

Subsequently Tenney made a number of campaign speeches and on several occasions shared the platform with Smith and Swift, who unleashed their customary anti-Semitic tirades. Tenney publicly endorsed Smith, attacked FEPC and "minority pressure groups" and bitterly attacked such respected Jewish organizations as the Anti-Defamation League and the American Jewish Committee who, he said, had launched the United Nations and brought about the 1952 presidential nominations of Dwight Eisenhower and Adlai Stevenson.

The Christian Nationalist Party received fewer than 14,000 of the 60 million votes cast in the November 1952, elections. Tenney continued his open alliance with Gerald Smith. As the featured speaker at the closing session of Smith's San Francisco conference to abolish the United Nations on February 6, 1953, Tenney attacked "international Jewry" and charged that the majority of what he termed the "internationalist, socialist and alien organizations" supporting the U.N. were "composed of Jews."

During 1953, Tenney published the previously mentioned pamphlets, "Zion's Fifth Column" and Zionist Network."

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The former contained a thinly veiled apologia for the notorious anti-Jewish historical forgery, the "Protocols of the Learned Elders of Zion."

[The] approach to the "Protocols". . . as a literary forgery does not, in any sense, dispose of the context of the document . . .

Nor does the statement that the "Protocols" are a "fraudulent invention" together with the proffered proof, cancel out their contents . . .

In June 1954, Tenney failed in his effort to win renomination for the State Senate. He was defeated in the primary after George Murphy, then chairman of the Republican State Central Committee, denounced him for opposing President Eisenhower and Vice President Nixon in 1952 and for running as a candidate on the Christian Nationalist Party ticket. After leaving the State Senate, Tenney engaged in writing and in the private practice of law in California.

In succeeding years, Tenney's anti-Semitic writings turned up in a number of hate publications, such as Western Front of Los Angeles, an anti-Jewish publication, and the New Patriot of Jackson, Miss., a now-defunct racist and anti-Jewish quarterly. In addition, Tenney was listed in 1967 as legal counsel of the New Patriot and in the fall of 1970 as a "Legal Council" (sic) of the Washington, D.C.-based National Documentation Institute, an extreme right-wing "research" and propaganda operation conducted by anti-Semite Richard Cotten, who had broadcast two interviews with Tenney on radio during 1967.

RICHARD COTTEN

Richard Cotten is an extreme right-wing propagandist whose broadcasts and published materials have often included outright anti-Semitism. He has extolled the virtues of various extremist and anti-Jewish organizations, publications, and personalities, has cooperated with various racists and bigots, has distributed racist, extremist, and anti-Jewish propaganda, and has shared speakers' platforms with radical rightists, anti-black hatemongers, and anti-Semitic professional bigots.

Now in his early fifties, Cotten is a native of Phoenix, Ariz., is a former mutual funds salesman, and an ex-resident of Bakersfield, Calif. Since 1969, he has based his operations in the Washington, D.C., area.

Cotten first attracted attention as an extremist and an anti-Jewish propagandist in the 1963–65 period, via anti-Semitic broadcasts on a number of radio stations scattered across various States, but mainly located in the Far West. The broadcasts were supplemented by transcripts issued under imprimaturs such as Cotten's "Reprint Service" and "Richard Cotten's Conservative Viewpoint."

Among Cotten's themes were allegations that Jews were in league with Communists, that major U.S. radio–TV networks were controlled by Jews, and the expressed wish that Christians were running the U.S. State Department. Cotten also recommended to his listeners the publications of various anti-Jewish propagandists, such as Gerald Smith of California, Don Bell of Florida, and of the late Conde McGinley, Sr., founder and for many years the publisher of a scurrilous, racist, and anti-Jewish hate periodical called "Common Sense." Cotten also reprinted and distributed propaganda items published by a variety of other anti-Semitic peddlers of bigotry, made anti-Semitic speeches in several cities, and became a member of the board of policy of Liberty Lobby, a Washington-based far right organization headed by anti-Semites Willis Carto and Curtis Dall.

Cotten's broadcasting and other activities apparently attracted a certain following among members of the John Birch Society in the Far West and his farout and extremist views became a major cause of controversy and dissension even within the far rightist Birch organization whose founder—Robert Welch—once called Dwight D. Eisenhower "a dedicated, conscious agent of the Communist conspiracy."

The problem became so serious that Welch, in the spring of 1965, sent a special printed memorandum to every Birch Society chapter leader in the United States, warning them against Cotten and his teachings. It was Cotten's sympathy for armed "anticommunism," such as that manifested by the gun-toting Minutemen, and similar differences over far right doctrine and tactics, rather than Cotten's blatant antisemitism, that aroused the ire and the concern of the Birch Society leader. For his part, Cotten, in a February 8, 1965, broadcast, contended that he had resigned from the society, that he had not been kicked out of the organization, and that he believed in the Minutemen guerrilla warriors.

By Labor Day 1965 Cotten was well known as a far right extremist and anti-Jewish propagandist. It was on that day, in Bogalusa, La., that he arrived from California to share the speaker's platform with JOHN RARICK—then a Louisiana State district judge—at a rally sponsored by an organization known as the Anti-Communist Christian Association — a cover name for an active and violence-prone Ku Klux Klan unit in the Bogalusa area. Cotten appeared in place of Robert DePugh, leader of the Minutemen. The leader of the gun-toting far right extremist guerrilla organization was unable to be present because of troubles with the law elsewhere. Cotten, at the time, told the press that one reason he went to Louisiana was to urge RARICK to run for Congress. Cotten has, since RARICK's election to Congress in 1966, been one of the Congressman's favorite sources of extremist propaganda for insertion into the CONGRESSIONAL RECORD. The circumstances of their joint appearance before the Bogalusa Labor Day rally in 1965 were as follows:

When RARICK and Cotten appeared at the rally, the Bogalusa area had been a center of racial tension and of repeated acts of Klan violence and intimidation. The local KKK unit had been part of the so-called Original Knights of the Ku Klux Klan and their activities around Bogalusa had been so extreme that the U.S. Justice Department had filed a Federal court action under the Civil Rights Act of 1964, aimed at enjoining the Klan group from further assaults and intimidation against black people and white civil rights workers. The Klan unit, its leaders, various members and other individuals were, in fact, scheduled to appear in a New Orleans courtroom the day after Labor Day, when RARICK and Cotten addressed their rally, attended by some 3,000 persons.

When the Klan court case opened in New Orleans the next day, witnesses including Charles Christmas, who had served as grand dragon of the Klan unit, and his second-in-command, Saxon Farmer, who had served as grand titan. Both testified that the Klan no longer existed as a Klan in the Bogalusa area and that because of its bad reputation, it had been decided to try to improve the organizational image by dropping the Klan label and replacing it with the Anti-Communist Christian Association name tag.

Christmas testified that most of the officers of the Klan unit had kept the same positions in the association. Christmas also told the court that the Klan had had a wrecking crew—a group of so-called peacekeepers—but that the leaders had come to feel that its work was unnecessary and could be adequately handled by regular law enforcement authorities. As soon as Christmas and Farmer had testified, the Federal Government, with the permission of the three-judge court, added the Anti-Communist Christian Association as a defendant in the case. The Government charged that the association was a front and dummy for the Klan.

On the second day of the proceedings, the defendants admitted most of the Government's allegations of violence in a stipulation aimed, according of the New York Times, at avoiding some of the embarrassment of open testimony concerning assaults, harassment, and intimidation. In admitting certain of the charges, the defendants conceded that they had assaulted pickets and demonstrators, threatened Negroes with death, brandished guns and clubs, and that they had threatened civil disorder to discourage demonstrations and speeches by pro-civil rights groups. They did not, however, agree that each person accused in a specific instance had actually participated.

On December 1, 1965, the court, headed by Judge John Minor Wisdom, issued a strongly worded injunction, ordering the klansmen and other defendants to halt their "acts of terror and intimidation." The decision, written by Judge Wisdom, denounced the Klan as a "fearful conspiracy against society" and described the defendants as "ignorant bullies."

It was at a 1965 Labor Day rally sponsored by such types that Richard Cotten—and JOHN RARICK—had appeared.

Cotten has appeared at gatherings and conventions staged by other groups on the outer edges of American political life. In January 1966, for example, he shared the platform with another extremist RARICK friend—anti-Semite Ned Touchstone of Shreveport, La., editor of the "Councilor"—at a meeting of the Constitution Party of Texas, a far right political fringe group.

In September 1966, Cotten was active in addressing gatherings of the so-called Patriotic Party, a front group and political arm for DePugh's Minutemen group. Also in 1966, Cotten addressed the annual meeting of the extreme rightist Congress of Freedom in Shreveport, La. The meeting also was addressed by Touchstone and by other notorious personalities of the anti-Jewish lunatic fringe—retired Adm. John G. Grommelin of Alabama who has been a frequent candidate for political office on anti-Jewish platforms, and Mrs. Opal Tanner White, a longtime associate of Jew-baiter Gerald Smith.

In January 1967, Carto's Far Rightist Liberty Lobby held what it called the First National Convention of its board of policy. Participating in the activities was Cotten—who more recently has broken with the group and with other groups under Carto's control following a falling out with Carto. Cotten introduced one of the meeting's speakers—JOHN RARICK—who had been elected to Congress only a few months earlier.

In October 1967, Cotten, on several of his "Conservative Viewpoint" broadcasts, attacked the Anti-Defamation League, as he had in his earlier years on the air. Two months later, in December 1967, "Conservative Viewpoint" broadcast two interviews by Cotten with anti-Semite Jack B. Tenney in which the former California State Senator also attacked the ADL.

In April 1968, Cotten, in his publication, reproduced a letter from Minuteman Robert DePugh—which was titled "Message from Bob DePugh"—which Cotten prefaced by stating:

"No, I am not a Minuteman," but the concept of letting our government know that one alternative it does not possess is that of surrendering our sovereign Republic to the International Conspiracy, is very sound.

In 1969, Cotten relocated his "Conservative Viewpoint" operation from Bakersfield, Calif., to Sterling, Va., a suburb of Washington, D.C. He listed a post office box at Washington's Dulles International Airport as "Conservative Viewpoint's" address. During 1970, Cotten also organized Sterling Enterprises as an affiliate of "Conservative Viewpoint" to handle commercial aspects of his operation, such as the sale of books, the purchase of silver, and the sale of vitamins.

Also in 1970, Cotten, then close to the Carto complex of extremist organizations, was listed on the board of awards of the right-wing United Congressional Appeal and on the advisory board of the National Youth Alliance. In addition, Liberty Lobby's June 1970, Liberty Letter announced, according to the national coordinating committee of Friends of Rhodesian Independence, another lobby-alined group, that Cotten would lead a summer tour to Rhodesia.

The year 1970 also saw Cotten listed as a director of the National Economic Council, a New York-based far right group founded by the late anti-Semite Merwin K. Hart; he was also listed among members of the National Committee of American Friends of JOHN RARICK, which described itself as "Dedicated to the Re-election of this Great American and Courageous Congressman." Among other members of the pro-Rarick committee were such long-time anti-Semites as P. A. Del Valles, and Curtis B. Dall.

In the fall of 1970, Cotten announced the suspension of his broadcasts and the formation of the National Documentation Institute, with headquarters in Washington, D.C. NDI was set up to "assemble and file for quick reference" facts which, Cotten claimed, "have been distorted, concealed, or brazenly denied by the professional liars who manufacture the poisonous propaganda that is driving the United States to suicide." Cotten was identified as national director of the NDI, which also listed Jack B. Tenney as a "legal council" and anti-Semite P. A. Del Valle among its executive committee members.

During 1971, Cotten and Liberty Lobby's Willis Carto had a falling-out over the circumstances surrounding use of a Liberty Lobby pledge list by Cotten's National Documentation Institute. As a result, Cotten stated of Carto in the May 1, 1971, Conservative Viewpoint that "through the years I have, in the past, been willing to accept Willis Carto's enemies as my own," but he added:

I simply reached the point where his broad accusations were too much to bear.

Late in 1971, Cotten said in a promotional mailing that he had taken "the inevitable step of filing a petition in bankruptcy" for, as he described it, "the protection of creditors and my present and future operations." Cotten also asserted that "Conservative Viewpoint" would continue "both in print and on the airwaves."

FEDERAL APPROPRIATIONS DESPERATELY NEEDED FOR TUBERCULOSIS CLINICS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KOCH. Mr. Speaker, I am seriously concerned about the anticipated loss of Federal funds for tuberculosis programs across the country. Under current legislation, section 317 of the Public Health Service Act for Communicable Disease Control, the Federal funding for tuberculosis programs will cease at the end of this fiscal year. These programs are now still using $2 million in funds released late in fiscal year 1971. There was no money appropriated for tuberculosis programs under this section in fiscal year 1972. Although $20 million was appropriated for fiscal year 1972, $16 million was earmarked for venereal disease programs and $4 million for other immunization programs not including tuberculosis. The Congress had authorized $75 million for fiscal year 1971 and $90 million for fiscal year 1972.

Tuberculosis is the only disease among the 20 main causes of death in the United States in which all the research has been done; we know how to cure it. Those areas in which the incidence of tuberculosis is high reflect the economic and social problems of the community which cause disease to increase in poverty areas. The delivery of health care to these areas must be supported and improved, not curtailed.

The following is a list of those cities with populations of over 500,000 persons with newly reported cases of tuberculosis. The national rate of incidences of tuberculosis is 18 cases per 100,000 persons.

	Rate per 100,000
Baltimore	54.4
District of Columbia	48.9
Boston	48.0
Detroit	47.6
Cincinnati	47.3
San Francisco	45.7
Chicago	45.6
Cleveland	41.3
Pittsburgh	39.0
Philadelphia	38.9
Atlanta	38.3
Buffalo	35.7
San Antonio	35.6
Houston	35.5
New Orleans	33.0
New York	32.8
Dallas	29.4
Miami	28.2
Los Angeles	28.2
St. Louis	28.1
Kansas City	28.0
Seattle	27.5
Phoenix	19.4
Columbus, Ohio	18.2
San Diego	16.1
Denver	14.8
Minneapolis	13.8
Milwaukee	12.3

The following is a list of Federal funds designated for tuberculosis control under section 317 for communicable disease control which will cease after June 30, 1972, unless a new appropriation is made:

	Amount
Region II:	
Newark	$50,976
Erie County (Buffalo)	33,422
New York City	613,072
Puerto Rico	108,170
Region III:	
Washington, D.C.	298,769
Baltimore	70,331
Pittsburgh	34,000
Alabama	204,510
Dade County (Miami)	53,240
Fulton County (Atlanta)	39,950
Region V:	
Detroit	112,200
Region VI:	
El Paso	28,560
Houston	83,810
San Antonio	45,560
Region VII:	
St. Louis	39,950
Region IX:	
San Francisco	58,140
Hawaii	51,340
Region X:	
Alaska	64,000
Total	1,990,000

In New York City, 2,500 individuals per year develop active tuberculosis and an additional 1.5 million persons are estimated to be infected with the tubercle bacillus and each is at a variable rate of developing active tuberculosis, some needing chemotherapy. If these outpatient clinics are not supported, and if tuberculosis surveillance is curtailed because of lack of funds, we all take the risk of having a rise in tuberculosis cases in our communities.

Funds for venereal disease were cut

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in the midsixties when the incidence of VD was decreasing. From a public health point of view, this cut in funds was disastrous because the disease burst out again and is now almost of epidemic proportions. We cannot let the same thing happen with tuberculosis.

NEW YORK STATE JAYCEES ENDORSE CLEAN WATERS LEGISLATION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SMITH of New York. Mr. Speaker, on Saturday, March 25, 1972, I was privileged to participate in the New York State Jaycees statewide meeting in Batavia, N.Y. At that time, the delegates representing the membership of more than 10,000 strong unanimously endorsed a resolution calling for congressional passage of clean waters legislation providing construction grants for sewage treatment facilities which had previously qualified or for which applications for such grants under the prior act were pending prior to its expiration.

Mr. Speaker, I am pleased to introduce into the RECORD, the resolution of the New York State Jaycees as witness to the dedication of these young Americans to cleaning up the waters of the State of New York and of the United States.

Whereas certain provisions of the Water Pollution Control Act (the Act) provide for a program of federal grants to municipalities for construction of sewage treatment facilities; and

Whereas the provision of the Act relating to said grants has expired; and

Whereas prior to the expiration of the Act 197 municipalities in New York State had either qualified for such grants or had applications for such grants pending; and

Whereas legislation is currently pending in the United States Congress which would authorize federal grants for the construction of sewage treatment facilities to communities which had qualified for such grants under the provisions of the Act prior to its grants pending pursuant thereto; and

Whereas the New York State Jaycees, Inc. are strongly committed to conserving the water resources of this State for the benefit of all the residents thereof;

Now therefore, be it

Resolved that we, the New York State Jaycees, Inc. hereby urge the Congress of the United States to enact legislation to provide for a program of federal grants for the construction of sewage treatment facilities to municipalities which had previously qualified for or had applications pending for such grants under the Act prior to its expiration; and it is further

Resolved that we, the New York State Jaycees, hereby dedicate ourselves to the task of working for the enactment of federal legislation providing for federal grants to municipalities for construction of sewage treatment facilities and for such grants to those municipalities which had applications for such grants approved or pending prior to the expiration of the Act; and it is further

Resolved that the officers and members of the New York State Jaycees, Inc. are hereby authorized in the name of the New York State Jaycees, Inc. to take such actions as are necessary or appropriate to implement and effectuate the purposes of these Resolutions.

TRADE WITH REDS CONTINUES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. RARICK. Mr. Speaker, several illuminating articles on the escalation of trade between U.S. capitalists and the communists have appeared lately.

During the cold war, the United States and other NATO countries through embargo lists banned the sale to the Soviet Union of advanced technological processes and equipment considered strategic. The purpose of the embargo lists was to slow down Soviet military development.

It has now been revealed by one news article that some Western companies have managed to evade the embargo by selling to other Communist countries which reexported to the Soviet Union.

Voices are now being heard favoring the abandonment of embargo lists of strategic items even though Pentagon supporters assert that "all high grade technology has military application and that the embargoes have cost the Russians precious years of painstaking research."

According to another account, President Nixon said that the Overseas Private Investment Corporation would be authorized to insure American investments in Yugoslavia and Rumania.

The average American man on the street cannot understand why the U.S. capitalists would trade with the Soviet Union, Red China, and other Communist countries and take the chance of losing their investments. Especially is this so after the great losses inflicted on American capital in Chile and in Bolivia.

The average American is not advised that his tax dollar in foreign aid and Export-Import Bank deals is being used to entice American investments and development in foreign countries. Nor is the average American advised that his tax dollars are being used to pick up losses suffered by American industry if their foreign operation is seized or nationalized by a foreign state.

Congress in 1969 guaranteed foreign investments by establishing an overseas private investment corporation to "insure" U.S. capitalist operations in foreign countries.

Section 237(c) title IV of the Foreign Assistance Act of 1969 provides that the full faith and credit of the United States of America is pledged for the full payment and performance of obligations incurred by OPIC under its insurance and guarantee contracts. Thus, if claim settlements are in excess of available reserves, OPIC will be required to request supplementary funds from the Congress to pay the claims.

And as additional investor's guaranty, the Internal Revenue Service has ruled that U.S. companies whose overseas property is seized by a foreign government without promise of payment may write off their losses as an income tax deduction.

Who could devise a more ingenuous operation whereby capitalism of our country can use the full faith and credit of the U.S. taxpayers to develop Communist countries around the world without any worry of loss of their investment or income?

The American industrialist, as well as such foreign investment firms as American Security & Trust Co. and Riggs National Bank, cannot lose; the foreign governments stand to gain. So, everyone should be happy except the U.S. taxpayer who has not yet seen through the shell game.

Apparently, building bridges from the free world to the Communists is designed to tighten the Red's control over their subjugated and oppressed peoples—at the expense of the hard-working American taxpayer.

These pertinent newsclippings follow:

[From the Washington Post, Mar. 23, 1972]

WESTERN FIRMS EVADE BAN ON STRATEGIC GOODS FOR SOVIET BLOC

(By Dan Morgan)

WARSAW.—One of the most mysterious East-West stories today is that of the curious ways in which supposedly secret capitalist technology finds its way into communist factories.

All through the Cold War, NATO and Japan attempted to slow down Soviet military development by drawing up elaborate embargo lists of advanced technological processes and equipment that were considered strategic.

Now the entire system of embargoes seems to be coming apart, under the pressures of Western business competition and some of its own built-in absurdities.

Taking at face value Pentagon assertions that Moscow has achieved military parity with the West and is nearing technological parity, some businessmen are suggesting that the whole system be scrapped or at least drastically revised.

That would certainly be a good thing for the 100 million East Europeans outside the Soviet Union, who would benefit materially. President Nixon's decision last year to authorize the sale of advanced oil refining equipment for the Polish chemical works at Plock, for example, will be a boon to the country's motorists.

It may be questionable how much the erosion of the embargo system really threatens the security of the United States.

It has long been rumored that the Soviet space program employes IBM and Universal computers—without, of course, the approval of Washington.

What is known for sure is that West European and Japanese companies have been using all sorts of means to circumvent the embargo and sell their most advanced know-how and machines to Eastern Europe.

This is becoming more visible as American businessmen, encouraged by the Administration's more lenient trade policies, begin to test the water in Eastern Europe.

One American businessman who was visiting Warsaw last week told of seeing embargoed British equipment in one East European plant he visited.

In other cases, he said, British companies have fooled the international board that administers the embargo by listing the proposed equipment under a harmless-sounding name different from the one on the prohibited register. Thus, a reactor part could become a "heating element."

The international board is known as COCOM, for Coordinating Committee, which has members from the NATO countries—

including France, but not Iceland—and Japan. U.S. participation was authorized by the Mutual Defense Assistance Control Act of 1951.

COCOM, which is now meeting in Paris, must pass on exports before the home government issues export licenses. But some businessmen feel COCOM lacks the expertise to decide whether a given item falls under the embargoed category.

Japan, which supports its domestic industry to the hilt, pays almost no attention to the embargo.

However, the United States maintains a prohibited list longer than COCOM's and more secret. U.S. businessmen asking to see what actually is embargoed have been turned down and referred to the British list, which is accessible.

A number of companies have managed to get around the embargo by selling to countries such as Yugoslavia, that are not covered. The equipment is then reexported into the Soviet Union. Through this method, some highly advanced computer technology has reached the embargoes area.

U.S. businessmen also say that France has been a major violator of the technology freeze-out. At least one French company was punished with a one-year ban on U.S. imports for violation of NATO rules.

American firms with subsidiaries in Western Europe use their subsidiaries to overcome the longer, American embargo list. Through the subsidiary means, large quantities of high-grade American electronics equipment were rushed into Czechoslovakia during the economic relaxation of 1968. The various ruses have masked the full extent of East-West trade.

Nevertheless, there is little doubt that the American restrictions are a drawback to development in Eastern Europe. Yet they have had no effect on Communist policy toward the west.

Poland is an excellent example of how the American technological lock has been applied.

In three key areas—catalytic cracking for oil refining, semi-conductors for computers and tape copying devices for television—the Poles have been trying to acquire technology that only the United States has.

Development of advanced computers in the Communist bloc has been limited by deficiencies in producing integrated circuits.

In the other two areas, the U.S. has finally relaxed restrictions to enable an American firm to sell the Plock refinery a catalytic cracker for making high-octane gasoline. And it has authorized the California-based Ampex corporation to sell the Polish television enterprise $1 million in tape copying equipment. Apparently, a good system for using tapes, rather than films, to copy television programs is unavailable in the Soviet bloc. The Ampex technique eliminates laborious cutting and splicing of film and will streamline the entire Polish television network.

Symbolically, the American cracker in Plock will be adjacent to an inferior Soviet model. Twelve American technicians will be at the refinery for two years and housing for the families is already being sought.

There are arguments on both sides of the strategic lists debate. Pentagon supporters say all high-grade technology has military application, and that the embargoes have cost the Russians precious years of painstaking research.

The counter argument is that technology—particularly in such fields as electronics and computers—is quickly perishable and outdated by the staggering pace of advance in the U.S. The rigid Soviet-bloc economic systems are often too muscle-bound to adapt even what they buy.

Also, by withholding the technology, the U.S. forces the Soviet bloc to develop research and support sytsems of its own. The Poles claim to have been on the brink of a breakthrough in television copying technology when the U.S. finally authorized the Ampex sale. Moreover, the Poles told the U.S. that they could buy the equipment anyway through other channels—though at three times the price.

[From the Washington Star, Mar. 22, 1972]

AS&T READYING LOAN PROGRAM FOR YUGOSLAVIA

(By John Holusha)

American Security & Trust Co. reportedly preparing to take advantage of President Nixon's decision yesterday to encourage American investment in two Communist countries.

Nixon said yesterday that the government-owned Overseas Private Investment Corp. would be authorized to insure American investments in Yugoslavia and Romania, the first time Communist nations have been eligible. He said this would permit U.S. companies to engage in joint ventures with government-controlled companies in those countries.

AS&T, which has been challenging Riggs National Bank's dominance of the foreign investment field, is said to be preparing to announce that it has a $10 million line of credit set aside for investments in Yugoslavia. Bank officials were unavailable for comment.

OPIC would insure any loans under the program by AS&T for a charge of 1¾ percent per year. Thus, if AS&T made a loan at the prime, the cost to the customer would be at least 1¾ percent higher.

OPIC sources said the AS&T program, which would involve short as well as long-term credits, had been "hanging fire" for months, awaiting the president's decision. They said the bank apparently has no immediate customers lined up, but instead is going to compete for loans in virgin territory.

Under OPIC rules the loans cannot involve production of strategic materials, must encourage U.S. exports and aid the balance of payments as well as meeting sound business criteria. In case the investment is seized by the host country, OPIC would repay the lender.

Five U.S. firms, OPIC reports, have applied for insurance for investment in Yugoslavia. They include metal and petrochemical producers and applicance manufacturers. Additionally, other companies in a variety of fields have expressed interest in Yugoslavia. Negotiations with Romania are said be nowhere near as advanced.

Both countries have a 49 percent limit on the amount of capital a foreign company may invest in a joint venture. However, officials here say agreements can be written so that the outside investor has an equal voice in management.

Yugoslavia, actively seeking outside capital, has altered its rules making it easier to repatriate earnings and removing the requirement that 20 percent of earnings be reinvested in the venture. And two Yugoslav provinces have cut their profits tax from 35 to 14 percent.

Riggs Bank reportedly does as much as 90 percent of the overseas banking conducted in Washington. AS&T in its 1971 annual report did not mention the size of its foreign operation but said "Washington's importance as an international banking center is growing and we will compete for a greater share of this business in the future."

AFFILIATE ENDS TIE TO MOVING FIRM

[From the Washington Star, Mar. 22, 1972]

American Security Corp., the bank holding company affiliate of American Security and Trust Co., has quietly ended an 82-year business relationship by selling its 20 percent holding in Security Storage Co.

The relationship began in 1890 when Security Storage was formed as the Safe Deposit and Storage Department of AS&T by the bank's first president, Alexander Britton.

The local folklore has it that Britton found himself in the kind of predicament that can be solved by a rich, powerful man in the late 1880s. He had sold his house on I Street, but his new mansion on 16th Street had run into construction delays.

Needing a temporary place for his furniture and goods, he was irritated to learn he would have his china packed by a china merchant, his books by a bookstore, his furniture by a cabinetmaker, etc. Then he would have to find a warehouse and a drayman to move the whole collection.

Instead, he arranged to establish a safe deposit and storage department of the bank with $300,000 investment for land, building, horses and two-wheeled vans.

The department was incorporated in 1906 and American Security's holding gradually lessened as stock was sold to employes and others.

American Security Corp. registered as a bank holding company early in 1971 to protect its holding in Fairfax County National Bank. Under the law investments in businesses not closely related in banking are prohibited, so the stock had to be sold.

Security Storage also reported, in what must be one of the smallest annual reports issued in the area (3½ by 5½ inches, 12 pages), that its net profit for 1971, including an extraordinary gain from the selling of its Silver Spring warehouse and land, was $210,000 or $2.40 a share compared to $169,000 or $1.91 a share in 1970. The extraordinary gain accounted for $53,000 or 60 cents a share.

It also said AS&T chairman Robert Baker was leaving its board of directors.

Meanwhile, American Security & Trust Co and American Security Corp. announced 10 percent stock dividends on their respective stocks, which are traded as units. A total of 228,500 shares will be issued by each April 28 to stockholders of record April 3. After the distribution each organization will have 2,505,000 shares outstanding.

AS&T also declared a quarterly cash dividend of 45 cents a share, payable April 14 to shareholders of record March 13.

American Security last issued a stock dividend in 1969. AS&T and ASC units were quoted yesterday at $51.75 a share bid, up $3 a share over the past 10 days.

CLEANING THE WATER

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DON H. CLAUSEN. Mr. Speaker, I would like at this time to bring to the attention of the committee an editorial from a recent edition of the Washington Sunday Star.

This editorial very succinctly analyzes and compares H.R. 11896 with the companion bill from the other body. It expresses my own conviction that H.R. 11896, as submitted by the Committee on Public Works, is the better bill.

The editorial concludes that—

The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

Mr. Speaker, I include this editorial, in its entirety at this point in the RECORD:

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[From the Washington Star, Mar. 26, 1972]

THE MURKY BUSINESS OF CLEANING THE WATERS

To get a good argument going among those who care about the world around us, try the following question: Which of the two major pollutions, air or water, is the more insidious and resistant to effective controls?

Our own choice is water pollution. Polluted air, it is true, is impossible to contain and thus, for most people, impossible to escape. But the reverse of that proposition is that water, because it is more contained, can get incredibly dirty. No given amount of air is contaminated to the same degree as many of our major rivers and lakes.

Beyond that, the sources of water pollution are so numerous and disparate as to defy coordinated attack. Sewage from thousands of communities—treated, partially treated, untreated—is just one source. Industry pollutes the water in endless ways. And even if an industrial plant protects its own adjacent waterways, it may turn out a product such as detergent soap that winds up in rivers and streams thousands of miles away. Then there is thermal pollution, and mine acid drainage, and agricultural run-off, and off-shore dumping, and oil spills in coastal waters. Considered all together, it stuns the mind.

So does the cost of coping with it. As two examples: To halt mine acid drainage, which is limited to a few Appalachian states, might cost $7 billion; to separate sewer lines from storm drains in the cities where they are combined might cost $25 billion, or $50 billion. No one knows for sure. And no one can tell the cost of total water pollution control, except to say that it would dwarf all other environmental programs combined.

We bring all this up as a way of pointing up the immense significance of the debate scheduled to begin tomorrow in the House. Coming up is H.R. 11896, the House Water Pollution Control Bill. It is bewilderingly complex. With its four-year price tag of $24.6 billion, it could become the most expensive piece of environmental legislation ever passed. But even though the President's budget-makers are dismayed at these dollar figures, much more is at stake.

As it now stands, the House bill must be seen as counterposed to an extremely ambitious and highly controversial water-pollution bill the Senate passed in November. The major differences between the two bills run far beyond questions of detail and degree to a conflict over whether this nation should change, and how far it should change, its basic approach to fighting water pollution through this decade and well into the next. This is not just any old water pollution fight. It is truly a fight over crossroads decisions. Enormous consequences will flow from what the House decides to do about the bill that has come from its Public Works Committee, and about a series of "clean water" amendments, backed by 25 environment, civic and labor groups, that would bring the bill in line with the Senate version.

Very briefly, the Senate bill would sweep away the current practice of setting, and trying to enforce, water quality standards for various waterways. With the Environmental Protection Agency, not the states, running the show, the new approach would be strictly regulatory. Through the creation of any number of national effluent limitations and a system of discharge permits, it would be directed at specific sources of pollution. The timetable is significant: For industry, by 1976, a requirement to use the "best practicable" technology; by 1981, the "best available" technology; by 1985, no discharges at all.

A breath-taking bill, indeed, and one that, especially in this politically charged election year, puts any critic of it in the position of seemingly advocating dirty water. This is precisely the tricky postion in which the House committee found itself in trying to put together a separate version.

And yet the committee turned out a remarkably balanced product. It has some faults—notably in giving the federal government too little clout in making sure the states enforce the law. But in the main, we believe, it represents the right approach at this time to an extraordinarily difficult problem.

The House bill, though a large improvement over current law, is known as the the "weaker" of the two bills. This kind of comparison, with all its implications of good versus bad, can be highly misleading. "Strong" laws have been passed before that produced results far from the original goals. In setting the nodischarge 1985 goal, and declaring that as national policy, the Senate took the position that the country will never solve its pollution problem until Congress legislates fixed goals and sets a timetable for realizing them. It is a commendable thought, but only to the degree that the mechanics and the cost of reaching the goal are spelled out, and understandable, and feasible. Supporters of the Senate bill hope it is workable. They cannot be sure. Some administration spokesmen have called it unworkable. Theirs, too, is educated and somewhat biased guesswork.

The House bill offers what appears a reasonable answer. It retains the 1976 requirement for "most practicable" technology. But the far more sweeping 1981 and 1985 goals are made subject to further congressional action after a two-year study by the National Academy of Sciences and the National Academy of Engineers. This is already being assailed as something of a cop-out. The arguments for it are more persuasive. Subjecting all the unknowns in the water-pollution issue to an exhaustive academic study only makes sense. In the short term, with the bill's fixed 1976 requirements, this would not represent a reprieve to polluters. By 1974 or 1975, with the study reports in hand, Congress will be in a far better position to legislate between basic regulatory approaches. That it would fail then to act on water pollution seems highly improbable. And the tentative timetable is such that before 1981 industry would have enough time to adjust to higher standards.

The essence of the two-year study should be to make vital distinctions between the merits of water quality standards and the case-by-case regulation of pollution treatment at the source. Probably there is a case for a mix of both, and the House legislation wisely provides for such a mix at least until 1976. The trouble with relying solely on the present standards is the difficulty of establishing who is responsible for polluting a particular river system. But to switch entirely to a system calling for countless different treatment standards could prove just as cumbersome. For the government to direct an industry to elimilnate all discharges, or even to install the "best available" technology, ought to be judged in light of identifiable benefit. There may be little point to ordering an industry on, say, the Mississippi River to go beyond 80 percent or 90 percent treatment control. For another industry, located on a fragile waterway, 95 percent control might not be good enough.

Beyond the technical lie the economic considerations. They are far from idle ones. To hold new industries to the highest possible standards is one thing. It is quite another to mandate that every industry, including older, economically vulnerable plants, install the most expensive equipment and move to a 1985 no-discharge status. Beyond that, although the total costs remain elusive, it is beyond question that the costs of improving our waters will move upwards not on a straight line but on a sharp curve, so that the price tag for removing the last 3 percent of pollution could well prove higher, by multi-billions of dollars, than the cost of eliminating the first 97 percent. All this needs thorough delineation, and then the question must be faced of whether, in light of so many competing priorities, the nation wants to commit such a large part of its resources to go beyond basically adequate improvement in water quality.

The Senate, with its bill, has raised the nation's environmental aspirations. The House version, though, because it does not sacrifice wisdom for simplicity, represents better government.

ERIC HATCH'S AMERICAN SCENE

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, we in the Sixth District of Connecticut are blessed with outstanding literary talent and dedication to our National heritage. Eric Stow Hatch of Litchfield is a towering figure of Americana and a splendid example of the wealth of creativity that is in this country.

An established writer for over 30 years and the author of some 30 books, Mr. Hatch lives life to the fullest with a wide range of interests from an outstanding Army record to his activities with Connecticut's Bicentennial Commission, the Connecticut Historical Commission, the American Horse Shows Association, and the 1st Litchfield Artillery Company. Add to this panoply of activities a daily commentary on the Bristol radio station, WBIS, which is an integral focus of community interest and activity. Eric Hatch is still writing books, still making people happy—furthering an outstanding career which still knows no horizon.

The people of Connecticut, particularly the Sixth District, are proud and honored that Eric Hatch makes his home among us. His impact on the American scene during this century has been immeasurable. For the interest of my colleagues, an excellent feature article by J. Herbert Smith which appeared in the Sunday magazine of the Hartford Courant on March 19, 1972, follows:

ERIC HATCH'S AMERICAN SCENE

(By V. Herbert Smith)

The Associated Press wrote in 1940 that Eric Stow Hatch "has gained a place as one of the leading ambassadors to and from the realm of the wacky," and Bill Foote of The Courant editorialized last summer that it was never quite clear to him "how Connecticut was lucky enough to have acquired Eric Hatch."

A well established writer more than 30 years ago with "My Man Godfrey" and several other memorable works to his credit, Eric Hatch can't remember whether it's 29 or 30 books he has authored. Well past most men's retirement age, he has already started work on still another book.

In his weekly column Bill Foote said one of Hatch's "missions in life is to make people cheerful whether firing cement-filled beer cans from a revolutionary war artillery piece . . . or by getting the nation to ring bells on the Fourth of July."

A spry five feet seven inches in his riding boots, this little man with big ideas is proud of his past achievements, but a newer, more mellowed, even serious Eric Hatch seems to have surfaced.

He is chairman of the state's 1976 Bicentennial Commission, chairman of the Connecticut Historical Commission, a recognized American Horse Shows Association Judge, the founder and commander of the First Litchfield Artillery Company and he does a daily commentary on his Bristol radio station WBIS.

He believes "the pen is mightier than the sword" but at 16 tried to get into World War I. He "wangled" his way into the second war and in 1964 formed the Litchfield Artillery Company which annually tours the country.

His cannons once played the "real thing" in the New Haven Symphony Orchestra's rendition of the 1812 Overture.

Today Boston University has a complete collection of Eric Stow Hatch memorabilia. The university contacted him "I was quite certain, not because of the literary quality of what I wrote, but because I commented on the American scene for almost half a century and still kept my sense of humor," said Hatch.

He sat in his radio station office on several occasions recently, recalling his 50 years of writing about America and saying what he thinks of the country's situation today.

What he wrote most was comment on the upper crust of American society and he agreed he would have fit in nicely during the Victorian Age. But even "Godfrey" was written out of a kind of impatience with high society, then busying himself with scavenger hunt parties.

"Once they all had to try to find a hair from Grover Whalen's mustache, so I thought of looking for a forgotten man. Wouldn't that be an awful and tragic thing," said Hatch, and soon millions saw an educated hobo finds his way back to normalcy.

In his writings "there was always an underlying, I don't know, satire on society," he said.

An AP reviewer called "My Man Godfrey" the "classic screwball movie," and other reviews called it "one of the greatest movies of all time." Hatch wrote the book, then the screen play.

Eric said of his writing "it's humor, definitely, but I think over the years it has changed a little bit."

He said at first it was "slap happy and very, very funny, but underneath there was a kind of gentle satire and mockery of certain shibboleths."

Since the twenties he has written fiction and the closest Eric Hatch has come to journalism was sports writing for the New Yorker in 1926. But now with his commentary on national and world issues, he draws the fine line between the "objectivity" of reporting the news and the "fairness" he insists must be maintained in commenting on the news.

"Television news is a menace. Cronkite? No matter what the president did, it was wrong," he said. Matter-of-factly dismissing the "new activist or subjective" journalism, Hatch maintains "you have to be as objective as you can."

But that doesn't mean reporters cannot get involved in the functioning of their communities. Many in the press frown upon newsmen joining city commissions such as the board of education, but Eric Hatch thinks reporters "ought to join city boards."

"I think they can be objective and stuff that is off the record, a good reporter would not write anyway," he said. One thing he doesn't want, however, is his WBIS newsmen writing for political candidates.

"I'd give him a leave of absence," said Hatch if a reporter wanted to work for a politician because a newsman's "credibility" would disappear if he wrote both the news and for the men making the news.

There shouldn't be controls on the news in peacetime, said Hatch, but he believes that during wartime some restrictions must be upheld.

A reporter, learning of D-Day, for example, before the troops hit the beaches "should have been shot" if he ever leaked the story, said Hatch.

To him, "whatever news helps the enemy should be controlled."

"Yes, My Lai should have been reported, things like that happen. In World War II, if the Germans did it, it was reported," he said and held that the scant reporting of Allied atrocities then was self-restraint of the press rather than government suppression.

"I have always been a patriot. I got in a war if that's patriotic," said Hatch and nine years ago he and the artist Eric Sloan got Sen. Abraham Ribicoff to sponsor a resolution in the Senate calling for every American city and town to ring bells on the Fourth of July.

It passed the Senate unanimously and in Hatch's proud words "it's the law of the land."

At the age of 16 during "the war to end all wars" young Eric, who was permanently dismissed from prep school for jumping freight trains in his sophomore year, tried to make it to France but got as far as a New York State home regiment with the rank of private.

In 1944 he hit Omaha Beach on D-Day plus 30 as a civilian specialist in psychological warfare with the rank of lieutenant colonel commanding the combat loudspeaker trucks of the 3rd Army. He spent eight months going up to German positions asking them to surrender until "we ran out of gasoline at Troyes, 100 miles into enemy territory farther than anyone else in the U.S. Army at that point in the war."

But Hatch said he would not volunteer for the Vietnam or Korean wars. If asked, however, he would go.

"I cannot see volunteering to fight in wars we aren't trying to win. Vietnam isn't important and I never felt we were fully at war there.

"In World War II we were fighting for ourselves, our homes, if Europe fell the Nazis would be over here."

But the Communist threat today is not like the Fascist threat then—"if it was Russia trying to sneak into Canada I sure would agree with containment (of communism) but 10,000 miles away (in Vietnam) I don't know," he said.

He still remembers that day in 1944 when he and his corporal went looking for lunch and wound up facing the muzzle of a machine gun.

The State Department had granted his request to join up and he got as far as London where "I wangled an attachment to the 3rd Army."

Eric commanded a fleet of Dodge ambulances toting quarter-ton trailers with a generator, radio and loudspeakers.

It was Lt. Col. Hatch's job to drive up to encircled enemy positions and tell them to surrender. He always had a German and a French speaking man with him and the enemy "tried to shoot the hell out of us."

With his German speaking corporal at the wheel of a jeep, Hatch found himself at an encampment one day "that wasn't a very gay place, it had an aura of depression."

But he was hungry and they drove up to the tent of a lieutenant colonel "who told us the company had finished a tank battle just 20 minutes ago and a German machine gun was picking off his men."

After learning over some C-rations what Hatch did in the war effort, the beleaguered officer asked Eric, even though he did not have his loudspeakers, to try his psychology on the German tankers. "After all, they aren't very far away," he told him.

"He asked me how many men I wanted and of course I wanted five thousand," said Hatch. "A Lieutenant Muller and I led a patrol of ten men over a hedge row and down a gentle slope with our pistols cocked."

"I was waiting for my corporal to start yelling at them but we just kept walking, in two groups with the Germans in front of us. Finally one of the men next to me said 'look sir, aren't you going to shout at them?'"

Hatch said he knew some German from childhood days and "I cupped my hands and yelled loudly 'achtung, achtung, deutcher soldaten commen sie raus mit handen uber koppchen!'"

"There was no response," he remembered, "so we guessed they weren't there anymore and we walked back up the hill very cocky.

"But then the guy opened up with his machine gun. I had never had a machine gun shoot at me personally and the bullets were going sssft, sssft around us. I was 43, these guys were in their twenties but I had no trouble keeping up with them," said Hatch.

They all made it back and the colonel thanked them for his efforts. That colonel, said Hatch, is now General Creighton Abrams, commander of U.S. forces in Vietnam.

Hatch said it was years later he retold the story to a German friend who explained to him that what he had said that day in 1944 was "come out, come out, with your little hands above your little heads."

"I never did find out why the corporal didn't yell at them," said Hatch.

Eric Hatch and another soldier-author, Ernest Hemingway, served together for awhile in the 4th Armored division, but they never met. Hatch said Hemingway's best book is "A Farewell To Arms," about an ambulance driver in the first world war who fled with the woman he loved from insane war.

And Hatch thinks Hemingway's first novel "The Sun Also Rises," is worth reading. When that came out in 1926, Erich Hatch was leaving a comfortable position on Wall Street to start his own writing career.

Of his own work, "my favorite book is 'Five Days'—about a guy who steals a yacht," said Hatch. "It ran as a magazine series then sold about 3,000 copies in hardcover. In the paperback edition the publisher changed the title to 'Five Nights' and it sold 600,000 copies."

His latest novel, "The Year of the Horse," was made into a TV movie by Disney Studios last year and the name was changed to "The Horse in the Gray Flannel Suit."

Hatch usually wrote magazine serials in Liberty, The Saturday Evening Post, Redbook and others. He then would have it published as a book and later write the screen play for the movie version.

He would sometimes write the screenplays for somebody else's work, such as Thorn Smith's "Topper." The movie was released in 1939 and was the basis of a popular television series in the fifties.

Of Smith, Hatch thinks "he had a very great talent he didn't use. He didn't slow the story down enough to develop his characters. I think I added a certain tenderness to the story," said Hatch.

His mainstay for years was the mass circulation magazine and with their passing Eric says "I'm sorry with a tear in the eye and a hole in the pocketbook."

When television entered America's living rooms, Eric Hatch's name could be seen among the credits on Kraft Theater, Lux Theater and Armstrong Circle Theater.

And what he would still most like to write is the live TV play. The early ones like Kraft "paid the top dollar" said Hatch, and adds, the way TV is done now "leaves me a little cold. It's the absolute crystallization of monotony."

He went into business with his radio station and it is making a small profit, but "my

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life is writing." He has written "somewhere around 30 books" and is now into his seventies.

So is this century and Eric Hatch hasn't stopped writing about it. He scoffs at the mention of retirement and has a partial outline on his new book.

"I haven't written my best line yet," he declared.

To write a book you have to have confidence in your ability: there is not much room for humility; you have to know you are good. And to write 30 books you've got to be overflowing with confidence and a lot of imagination to boot.

But a rare statement of humility squeaked out between sentences as he said "I do what many have done before me."

"A character comes into my head and for some reason I want to see what happens to a guy that thinks like he does," he said.

Hatch takes his central character, usually a "male protagonist," and "I take him out of context, into situations I don't think he is used to."

He particularly likes his Bishop in "Five Nights"—"who has a very rich sense of humor for a holy man."

"I get ideas and throw them away. When I get one I like, I roll with it, 24 hours a day—when I'm not consciously thinking of it, my subconscious is," said Hatch.

A good author, said Hatch, knows where his talents are. "Every once in awhile I want to write a serious thing."

Inevitably his agent and the publisher send it back. "I get over the shock then sit down and write what I know how to write."

The book he is working on now—he has a list of chapters with single line headings and thinks he has the ending, parts of the middle but not the beginning—is a "totally irreverant political satire" on the last state election.

It centers on a governor who was in office a long time and gets involved in a scandal. "It's about the (1970) election had there been other candidates and it is not aimed at any living person," said Hatch.

Asked how long will he continue writing, he said "how long will I continue living?"

Those within the range of WBIS who hear the baritone voice each day state "this is Eric Stow Hatch with a UPI report from . . ." would be surprised to meet the man who belongs to that voice.

You could mistake him for a retired jockey, but besides his full-time job at WBIS, he is still judging horse shows, active in the Historical Commission and with his artillery company.

"Retirement? It's a slow way to commit suicide. Don't believe in it unless you retire to do something else," he said.

During the most recent conversation with him he was making plans for his wife to handle some of the business of the station so he could stay home in the rural Litchfield County hills to write his next book.

BYELORUSSIAN INDEPENDENCE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of New York. Mr. Speaker, for many years I have stated my commitment to efforts to free the nation of Byelorussia and to again allow this nation to be independent as it was briefly in 1918.

March 25 was the celebration of the 54th anniversary of this well-remembered but shortlived state of independence.

The Byelorussian community and Americans of Byelorussian descent have put particular emphasis on this anniversary of dependence of their nation as the Soviet Union will soon be celebrating its own 50th Anniversary—that is, the anniversary of the involuntary servitude and subjugation of the peoples of many nations, including its own.

I again assert my commitment to the cause of freeing Byelorussia from Russian dominance and to the cause of raising this nation's status to that of a sovereign and independent and democratic state which can be governed by its own people. The Congress of the United States, the people of America, and all of the freedom-loving people of the world want independence for Byelorussia and all nations who suffer under the dominance and control and exploitation of the Soviet Socialist Republic.

I include a short history of the Byelorussian struggle for independence prepared by the Byelorussian-American Association, Inc., at this point:

BYELORUSSIA

The history of Byelorussian statehood goes back to the 9th century when several Slav tribes founded independent principalities on the territory of what is today Byelorussia. In the 11th century the princes of Polacak won superiority and the rest united around them, forming the first Byelorussian state. Further unification of Byelorussian lands took place in the 13th century around the cities of Navahradak and Vilnia, and resulted in the creation of a new state, the Grand Duchy of Litva (Lithuania). The Grand Duchy was a powerful Byelorussian state encompassing all Byelorussian territory and at times including territories of its neighbors. Byelorussian was the official language of the Grand Duchy, and was used in all state and legal functions.

THE GOLDEN AGE

Two achievements of the Grand Duchy deserve special recognition. Dr. Francisak Skaryna translated and published the Bible in 1517, making Byelorussians the third people, after Germans and Czechs, to have a printed Bible in their native tongue. Also, the highly developed code of laws known as the "Litouski Statut" was drawn up by the Grand Chancellor Leu Spaleha. In its prime, the Grand Duchy became a cultural and artistic center of Eastern Europe, introducing the ideas and works of Renaissance to the area.

To preserve its independence, Byelorussia endured severe trials for over five centuries, from the 13th to the 18th century. After two successful war against the Mongols, the Grand Duchy was almost continuously plagued with wars against the Teutonic Knights. Moscow gave no trouble until 1490, when it launched a series of attacks against Byelorussia. At first, these attacks were easily repulsed; however, they persisted, and for the next three centuries, intervals of peace were exceedingly short.

Exhausted by long wars, Byelorussians sought aid from Poland, their ally by royal marriage. A treaty of union between the two countries was signed at Lublin in 1569. However, the promised military aid did not come, and the unwarranted interference by Poland into the internal affairs of the Grand Duchy provoked a reaction from the Commander-in-Chief of the Byelorussian army, Hetman Janush Radzivil. In 1655, Radzivil signed a treaty of alliance with Charles Gustav, King of Sweden, and joined him in a losing cause against both Poland and Russia.

DOWNFALL AND OPPRESSION

In the 17-18th centuries, Poland exerted increasing influence in Byelorussia; however, the resulting internal strife in the Federal State only weakened both peoples, and Russia alone benefited from the situation. Nevertheless, it was not until 1795, that the growing Russian state mustered enough strength to annex all Byelorussian lands. The newly conquered land was immediately subjected to a forcible administrative and economic integration and cultural Russification. Attempts were made to restore independence. During Napoleon's Russian campaign, Byelorussia was temporarily proclaimed a sovereign state under its former name, Litva.

Later anti-Russian uprisings occurred in 1830 and from 1863 to 1870. The political liberation movement gradually grew stronger, and was given impetus in 1906 when the Byelorussia-language press was allowed. The city of Vilnia became a center of Byelorussian political and cultural life, and the newspaper "Nasha Niva" (Our Soil) the source of patriotic expression.

THE RESURGENCE

During the First World War, Byelorussians took advantage of the weakened Russian regime and took steps to liberate themselves from the Russian rule. The All-Byelorussian Congress met in December, 1917, in the city of Mienak, and on March 25, 1918, proclaimed the Byelorussian Democratic Republic. A provisional constitution was then adopted which provided for: direct and secret ballot open to all; freedom of speech, press and assembly; national and cultural autonomy of all minorities; an eight hour work day, and the right to strike; all guarantees of human rights, advanced for their day.

The independence of the Byelorussian Democratic Republic was accorded de jure recognition by over a dozen states, and Byelorussian legations and consulates were set up in some foreign capitals. Unfortunately, the new state was unable to enjoy its sovereignty for long. The Russian Communists consolidated their forces, and the Red Army invaded Byelorussia. The Byelorussian territory was turned into a battlefield, and the nation soon found itself in Russian captivity again.

In an attempt to pacify the national aspirations of the Byelorussian people, the Soviet government in Moscow created the Byelorussian Soviet Socialist Republic (BSSR), which was to replace the Byelorussian Democratic Republic. However, this regime was nothing more than a new form of subjugation. By this time, the national consciousness of the Byelorussian people was strongly aroused and led to several armed insurgencies, the most notable being the Sluck uprising in 1920, and others from 1922 to 1926 in the districts of Vializ, Homiel, Cervien, and Barysau.

The German occupation during World War II provided a period of relative calm which resulted in a spontaneous revival of Byelorussian national institutions, counter to Nazi Eastern European policy. In 1944, in Mienak, the Second All-Byelorussian Congress was convened and reaffirmed the desire of the Byelorussian people for complete political independence.

THE CONTINUING STRUGGLE

The Byelorussian Soviet Socialist Republic of today is not an independent state; it only posesses some external trappings of independence, such as its membership in the United Nations. Such normal functions of a sovereign state as relations with other states are not only strictly controlled by Moscow, but on the diplomatic level to not exist.

The present relations of Moscow to Byelorussia are strictly colonial in nature and have two distinct aims. One is to exploit the Byelorussian natural resources for the benefit of Russian imperial expansion; and the other is to eradicate Byelorussian nationalism in the hope of fostering a homogeneous Soviet empire. In pursuit of these policies, Moscow has implemented the following measures: only Russians are permitted to occupy the key positions in the

BSSR; the industrial development in the BSSR is primarily channeled for the express purpose of developing the Russian empire in Siberia and Central Asia; the Byelorussian language has been almost completely eliminated from administrative use, from institutions of higher learning, and from secondary schools. Still, the ceaseless attacks by the Communist press and radio on "Byelorussian Bourgeois Nationalism" prove that these policies are failing, and that Soviet Russia will never succeed in stifling the desire of the Byelorussian people for their national freedom, just as Czarist Russia failed in the same endeavor.

On March 25, in 1918, the highest aspirations of the Byelorussian people for a free and independent life were fulfilled. Today, March 25th is a symbol of a dynamic spiritual force for Byelorussian Independence which unites all Byelorussians wherever they may be. The fight for Byelorussian independence is also a fight for the emergence of all captive nations, which is a necessary prerequisite for the establishment of a lasting peace in the world.

POLISH LEGION OF AMERICAN VETERANS, KRAKUSY POST 87 OF YOUNGSTOWN, OHIO, CELEBRATES 25TH ANNIVERSARY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CARNEY. Mr. Speaker, on Saturday, March 18, 1972, I had the honor of attending the 25th anniversary of Polish Legion American Veterans, Krakusy Post 87 in Youngstown, Ohio. The Polish Legion of American Veterans was founded in 1921. It serves as a living monument to over 2 million Americans of Polish descent who have served our country in the World Wars, the Korean war, and the present war in Vietnam.

Krakusy Post 87 was created in 1947 by Mr. Joseph Habuda, attorney and former Mayor Frank X. Kryzan, and Mr. Ignacius Sandeski. Post 87 chose to identify itself as Krakusy Post in memory of the valiant minutemen of Krakow, Poland, who fought so bravely to maintain their freedom. Today, Krakusy Post 87 of the Polish Legion of American Veterans has blossomed into one of the most active and effective veterans organizations in the Mahoning Valley.

Mr. Speaker, I congratulate the officers and members of the Polish Legion of American Veterans Post 87 on the occasion of their 25th anniversary, and I salute all Americans of Polish extraction for the great contributions they have made to our Nation both in time of war and also in time of peace.

Mr. Speaker, I would like to insert the names of the officers, past and present, of Krakusy Post 87 as well as the names of those members who are now deceased in the RECORD at this time:

PAST COMMANDERS OF PLAV POST 87

Name	Year
Frank X. Kryzan	1947–48
Peter Yavorski	1949
Fred Goodwin	1950–51
Stanley Kosinski	1952–53, 1958–59
John Demetruk*	1954
James Johnston	1955–61, 1962–66
Walter Cygan	1956
Michael Mislevy	1957
Ray Fron	1963
Adam Kielb	1964–65
Henry Gorski	1967
Frank Baniuk	1968–70
Stephen Sepesy	1969
Charles Popa	1971–72

*Deceased.

OFFICERS OF POLISH LEGION OF AMERICAN VETERANS POST 87

Charles J. Popa, Commander.
John Kosinski, Senior Vice-Commander.
Walter Cygan, Junior Vice-Commander.
Stanley Kosinski, Treasurer.
Henry Gorski, Financial Secretary.
Frank Oleksiuk, Sergeant-at-Arms.
Andrew Kostecki, Sergeant-at-Arms.
Stanley Kuharski, Adjutant.
Frank Kryzan, Judge Advocate.

BOARD OF DIRECTORS

Edward Gorski, Adam Kielb, Michael Mislevy, Chester Franczkowski, Past Commander Frank Baniuk.

OFFICERS OF PLAV CHAPTER 87

Womens' Auxiliary

Carolyn R. Maresky, President.
Mary Oleksiuk, Vice-President.
Helen Woodford, Recording Secretary.
Alice D'Antonio, Financial Secretary.
Mildred Kielb, Treasurer.
Tillie Cizmar, Sergeant-at-Arms.
Steffie Regina, Color Bearer.
Jennie Herman, Color Bearer.
Stella Sova, Color Guard.
Ann Hill, Color Guard.
Victoria Hoffman, Board of Directress.
Margaret Vrabec, Board of Directress.
Pearl Mont, Board of Directress.
Present Chaplain of P.L.A.V. Post 87: Rev. William Slipski.
Past Chaplains: Rev. Msgr. Louis Kazmirski, Rev. Leopold Dobosiewicz, Rev. Edward Kowaleski, Rev. Aloysius R. Zendarski.

MEMORIAL

In memory to those comrades who have departed our ranks since we have joined in fellowship 25 years ago, who have honorably served our great country in time of need, as well as, our Post during our years of growth, we inscribe your name on the Honor Roll and your memory will be cherished forever. We salute our silent comrades as we say . . .

Rest in Peace: Steve Bengala, William Bonk, Frank Bort, Nick Castor, Walter Cuban, John DeLong, John Demetruk, Past Commander, Edward Linert, Alexander Palewski, Frank Pruszkowski, Donald Starr, Stanley Sudol, Michael Whalen.

Mr. Speaker, I also insert the names of the persons who participated in the 25th anniversary program and the program committee in the RECORD at this time:

PROGRAM

National Anthem, Mrs. Robert Kosinski.
Polish National Anthem, Audience.
Invocation, Rev. Edward Kowaleski, Pastor, All Saints Church, Canton, Ohio.
Introduction of toastmaster, Stanley Kosinski, 25th Anniversary Chairman.
Toastmaster, Frank X. Kryzan, Past Commander, Post 87.
Welcome, Charles J. Popa, Commander, Post 87.
Remarks, Miss Carolyn Maresky, President, Chapter 87 Auxiliary.
Remarks, Edward C. Szymanowski, National P.L.A.V. Commander.
Remarks, Rev. William P. Slipski, Chaplain, Post 87; Pastor, St. Casimir Church, Youngstown, Ohio.
Remarks, Mrs. Laverne Wozniak, National Auxiliary President.
Presentation of resolution, Emanuel N. Catsoules, Third Ward Councilman, City of Youngstown.
Remarks, John S. Pabijan, Zone 2 Commander.

INTRODUCTION OF VETERAN AND CIVIC ORGANIZATIONS

Remarks, Waler J. Stolarski, Commander, Department of Ohio.
Remarks, Miss Violet J. Paul, President, Department of Ohio Auxiliary.
Remarks, Rev. Leo Doboslewicz, Past Post Chaplain, State Department Chaplain.
Remarks, Jack C. Hunter, Mayor, City of Youngstown.

INTRODUCTION OF PLAV POST AND CHAPTER REPRESENTATIVES

Remarks, Charles J. Carney, Congressman, 19th District of Ohio.
Recognition.
Benediction, Rev. Joseph A. Malik, Pastor, St. Mary's Church, Warren, Ohio.
God Bless America, Audience.
Dance music by John Lapinsky.

PROGRAM COMMITTEE

Chairman: S. Kosinski.
Co-chairmen: R. Fron, F. Kryzan.
Program Book: W. Cygan, Chairman; W. Muzevich, H. Gorski, F. Baniuk.
Ticket Reservations: M. Mislevy, Chairman; F. Kumik, Co-Chairman.
Historian: F. Goodwin.
Refreshments: A. Kielb, Chairman; S. Sepesy, Co-chairman.
Decorations: S. Kuharski.

Mr. Speaker, I insert a brief history of Krakusy Post 87 in the RECORD at this time:

HISTORY OF KRAKUSY POST 87

As a living monument of over 2,000,000 Americans of Polish extraction who have served in the World Wars and to those who have made the supreme sacrifice, we, the Polish Legion of American Veterans, have organized.

On March 16, 1947, at the hall of Free Polish Krakusy, 2205 South Avenue, Youngstown, Ohio, Mr. Joseph Habuda, a gentleman with foresight, Attorney and former Mayor Frank X. Kryzan, Ignacius Sandeski, together with Mr. Al Madey, the Polish Legion American Veteran State Commander, assisted by Mr. Al Olsen and Mr. George Wrost, representing the State Department of Cleveland, Ohio, formed the nucleus of Post 87. The organization blossomed out into one of the most active and successful veteran groups in the Mahoning Valley.

Post 87 chose to identify itself as Krakusy Post in memory of the valiant minutemen of Krakow, Poland. Later to be known as Karkusy, who bravely staved off vicious attacks from the intruders from east and south to maintain their freedom.

Post 87 was guided through its infancy by the able leadership of our first Commander, Frank X. Kryzan, assisted by Joseph Nalepa, First Vice-Commander; Edward Gorski, Second Vice-Commander; Fred Goodwin, Adjutant; Henry Jablonski, Financial Secretary; Edward Dolovy, Treasurer; Sergeant-of-Arms Raymond Fron and Walter Laskowski. The following members completed the charter membership: Henry Bogan, Frank Bort, Francis Habuda, Jr., Anthony Jasinski, Edward and John Kaczowka, Frank Kumik, Stanley Kucharski, Casimir Masluk, Ignacius Sandecki, Daniel Skica, Walter Swita and Peter Yavorsky.

The first milestone of historical progress was the dedication of our colors at an impressive ceremony on April 25, 1947, at St. Stanislaus Church by Bishop James McFadden, First Bishop, Youngstown Diocese, who formally dedicated and blessed the Flag and Post Colors.

Krakusy Post 87 hosted the 16th Annual State Convention of Polish Legion American Veterans in July 1948. It was recorded into the annals as one of the more successful conventions.

An historical achievement, due to active members, was the purchase of our first home at 1721 Highland Avenue on December 20, 1949. Through many pledges from our limited

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membership and a lending hand from two wonderful people, Mr. and Mrs. Anthony Wasacz. The club rooms were a transformation from a Lutheran Church under guidance of Taddeus Badowski, architect and veteran member from Cleveland, Ohio, with the cooperation of many aching muscles and sweat of the brows of its members. Dedication of the new Post was February 1952.

Spiritual counsel and inspirational guidance was given by our Post Chaplain, Reverend Leo Dobosiewicz, who was acclaimed Honorary Member at National Convention of 1952 at Boston, Massachusetts.

Our first Commander, Frank X. Kryzan, distinguished himself most ably by being elected Mayor of Youngstown for two terms, 1954–1960.

Honors were bestowed our Post by United Veterans Council in the election of Walter Cygan as First Vice-Commander in 1954 and Michael Mislevy elected Commander in 1960.

The Auxiliary, Chapter 87, was organized March 2, 1952, which has contributed to the success of many Post functions.

Again Post 87 was host to a successful 19th Annual State Convention in 1953 where both Krakusy Post and Auxiliary were recipients of honors for membership drives.

Our Post, being staunch supporters of youth movements, presented colors to Boy Scout Troop 51 of St. Casimir Church and Troop 57 of St. Charles Church in April 1957.

The energetic officers, headed by Stanley Kosinski, help organize Campbell, Ohio, Post 101 in March 1953.

Many citizens will remember the artistic dramatic talents that were exemplified at a very successful Minstrel Show in May 1955 by Post members. Again, in April 1961, with remarkable talent. Repeat performance was requested by many other Posts.

On June 1, 1955, Post 87 was presented the most prized possession, the flag that was flown over the nation's capital during the 89th session of Congress, by our beloved friend, Honorable Congressman Michael J. Kirwan.

At a State Convention, 1957, in Akron, William Wroblewski was elected Junior Vice-Commander of the State Department.

Another step of progress was the extensive remodeling of the auditorium with panel walls, lowering the ceiling, new windows and a new floor. Officially opened October 20, 1962, with festive dance country club style, to celebrate an achievement.

Post 87, proud of its heritage, continued to expand veteran interest by organizing Warren Ohio, Post 164, January 11, 1963, under the guidance of Commander Ray Fron, Frank X. Kryzan and Stanley Kosinski. Sadness befell all members for the loss of our beloved First Chaplain, Reverend Monsignor Louis A. Kazmierski, in March 1964.

Stanley Kosinski was elected to Senior Vice-Commander of the State Department in recognition of his ability in veteran work in 1963.

Tragedy struck, when on February 10, 1965, fire destroyed our first home. With it, many fond memories of joy and hard work. Many official records were lost. But Commander Adam Kielb, together with his staff of officers, with the well-known fighting, never die Krakusy spirit, proceeded with plans for a new building at the present location, 1087 Glenmont Avenue. Stanley Kosinski and Ray Fron headed the building committee. This appointed Building Committee worked unselfishly, unmindful of time, attending over 300 meetings to hasten building our new home which was dedicated April 23, 1966, at an impressive ribbon cutting ceremony by more than 500 guests.

October 25, 1965, James Johnston was awarded Legionaire Editor's Award for his excellent reporting of our tragic fire.

The 26th State Convention of 1967 was written into the annals. This year 1967, was the first year the Post sponsored an entry to the Soap Box Derby, youthful Henry Wroblewski being the driver. In 1971, the Post sponsored a Midget Football team that won the championship for its division under the name North Side Knights. Post 87 Color Guard participated in opening ceremonies of Young Men's and Women's Bowling Tournament for the past 12 consecutive years.

Activities is the heartbeat of our organization. Annual Valentine Sweetheart Dinner Dances, Summer. Picnics for friendly get-together and Harvest Moon Dinner Dances. For the athletic members, softball in the summer league and bowling in the winter months. Keeps members busy but physically fit.

The veterans at Butler Veterans Hospital are visited by Post members and Auxiliary three to four times a year since 1962. Steve Sepesy, in charge, has arranged for bands, clowns, assorted entertainers. Polish Legion American Veteran State Department did honor Steve Sepesy with a citation for his outstanding work in 1971 when over $2,000.00 value credit was presented to Butler Veterans Hospital which included five televisions, books, games, etc.

Without capable leadership, this Post would not have prospered. But behind the scene are the unsung heros, our members. To name each one individually would fill many pages. To them, the standing monument, our club, is their reward. Post 87 is proud to be part of this great community.

In my remarks to the Polish-American War Veterans, I discussed some of the Americans of Polish descent who have excelled in sports, business, politics, education and research, science, and the arts. I insert my remarks in the RECORD at this time:

OUTSTANDING POLISH AMERICANS

SPORTS

In the field of sports there are numerous Polish-Americans who have made significant contributions, however, until 1915, only a few names appeared consistently before the public eye. Among those who did were Frank Piekarski, a member of the all-American football team of 1904, and Stanley Ketchel, holder of the middleweight boxing title of 1907.

Among contemporary athletes, the list of outstanding Polish-Americans is impressive. Baseball is the most conspicuous of those sports relying heavily on Polish-American contributions. Names such as Stan Musial and Carl Yastremski come immediately to mind, but others who have excelled in their own right include Ted Kluszewski, Ed Lopat, Jim Konstanty, Ray Jablonski, Hank Majeski, George Shuba, Bill Skowron, Ted Kazanski, Mike Blyzka, Bob Kuzava, Steve Gromek, Frank Szymanski, Chet Laske, Cass Michaels, Gene Malinowski, Eddie Lubanski, Ed Klejwicki, Stan Lopata, Bob Babich, Harry Szulborski, and Walt Patuiski, all-American tackle at Notre Dame and first player picked in the pro draft this year.

POLITICS

In the arena of politics, Polish-Americans have held numerous political offices. The first Polish-American to hold office was John Kleczka, elected as a Republican Congressman from Milwaukee in 1918. Since that time, other prominent Poles who have distinguished themselves in the political sphere include: Joseph Mruk, mayor of Boston during the 1920's; John Gronouski, president John F. Kennedy's Postmaster General, and at one time, the U.S. Ambassador to Poland; and Senator Edmund Muskie (real name—Edmund Marciszenski).

The United States Congress has seated several Polish-Americans since 1918; included in the present Congress are: Representatives Roman C. Pucinski, Daniel Rostenkowski, John C. Kluczynski, and Edward J. Derwinski, all of Illinois, Henry Helstoski of New Jersey, Thaddeus J. Dulski of New York, and Clement J. Zablocki of Wisconsin.

BUSINESS

In the business community, Polish-Americans have been well represented also. The late Helena Rubinstein served as one of the more prominent examples of financial success, having amassed a $100,000,000 fortune as head of a cosmetics empire that spanned two continents. Oleg Cassini, son of a Polish count, came to the United States originally as a costume designer for Hollywood films. He later established his own reputation as one of America's more prominent designers, and gained ultimate stature under the Kennedy Administration as the exclusive designer for the then First Lady, Jacqueline Kennedy Onassis.

Other names in the business world are perhaps less familiar to the world at large. Henryk Orenstein, a Polish immigrant in 1947, now heads a multi-million dollar toy manufacturing company, Deluxe Reading Corporation, one of the Nation's largest toy firms, Edward J. Piszek, President of Mrs. Paul's Kitchens, Inc., a successful frozen food manufacturer, has been responsible for Project Pole, an effort to make Polish-Americans proud of their heritage.

EDUCATION AND RESEARCH

In the fields of education and research, one of the most outstanding Polish-Americans is Dr. Zbigniew Brzezinski, Director of Columbia University's prestigious research institute on Communist affairs. Dr. Brzezinski, a renowned scholar of Soviet studies, had taught at Harvard University for over a decade before accepting his position at the institute.

He has published at least nine books and dozens of articles on a variety of topics in prestigious journals. In 1960, Dr. Brzezinski was awarded the Guggenheim Fellowship, and in 1963 he was selected by the U.S. Chamber of Commerce as one of their "ten outstanding young men of the year." In 1962, Dr. Brzezinski served as Deputy Chairman of the U.S. delegation to the Polish-American caucus, and in both 1962 and 1964 he represented the United States at the German American meetings in Berlin.

Other prominent Polish-Americans in the intellectual community include Dr. Louis John and Dr. Richard Lewanski, Dr. Sohn, a professor of law and lecturer at Harvard University, was a member of the committee of scientists and political scientists who advised President Kennedy on disarmament. Dr. Lewanski is the librarian of the Johns Hopkins University Bologna Center, and was vice-president of the association of international libraries.

SCIENCE

In the scientific field, one of the most outstanding contributions came from theoretical physicist, Dr. Stanislaw Ulam. Dr. Ulam was born in Poland. He immigrated to the United States in 1935, where he has taught at Princeton, Harvard, and the University of Wisconsin. Dr. Ulam joined John Von Neumann and Edward Teller in the pioneering research on the hydrogen bomb. Many other Polish-American scientists have made their own contributions as evidenced by the following list of scientists released by the U.S. Atomic Energy Commission as having been associated with the atomic research done at the University of Chicago in 1967: Gerard S. Pawlicki, Leon Sefranski, Edwin Fudyja, Kazemierz Lesnieski, Leon Wojtonowski, Julian Ostopowicz, and Emil Konopinski.

ARTS

In the arts, Polish-Americans have been prominent in a number of categories. In music, violinist Bogdan Nasalski was selected as first violinist for the New Orleans Philharmonic. In 1960, Stanislav Skrowaczewski was named director of the Minneapolis Symphony Orchestra at the age of 38.

Pola Negri and Bella Darvi were two of cinema's more prominent leading ladies of Polish decent. Although newly in this country, American motion pictures can credit Polish director Roman Polanski as one of the industry's most creative, young directors.

In the domain of art, Jacques Lipchitz is renowned as one of this century's finest sculptors—his work appearing in the collections of most of the country's finer museums. At the same time, Polish-American painters Sigmund Menkes and Harry Mentz have also received critical acclaim from the art world.

MILITARY AID TO GREECE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SCHMITZ. Mr. Speaker, recently a "Dear Colleague" letter was circulated which contained the extraordinary suggestion that the best way to protect long-term U.S. interests in the Mediterranean area was to sign a letter to the President requesting him to immediately proceed to isolate the strongly pro-Western, anti-Soviet Government of one of our NATO allies; namely, Greece. This is certainly a novel approach to the problems of national security. Traditionally our international interests were understood to be advanced through the process of strengthening participating members of our mutual security pacts rather than weakening them.

The arguments for reversing this standard procedure in regard to this particular NATO ally are that Greece is not a democracy and that its current government is oppressive. The Greek Government is held to be so oppressive that our support for the present leadership is undermining our public image in that nation. This information comes to us by virtue of two members of a former Greek Government who were issued passports by the current oppressors so that they could put in an appearance before our House Foreign Affairs Committee. After enlightening the Members of the Congress they returned to Greece seemingly unafraid of repercussions. Ignoring a possible lack of complete objectivity on the part of these two members of some former government, it must be admitted that allowing members of the opposition to travel freely to other countries to testify against the regime is not characteristic of a tyranny. It would seem unlikely that opponents of a heavy-handed and brutal dictatorship would even ask to be allowed to journey to a foreign nation with the express purpose of undermining the "tyranny's" international position, much less be allowed to do so. In fact, it is inconceivable.

So the only argument grounded in reality which is being used to justify a U.S. quarantine of Greece is that it is not currently holding elections. This is undeniable. The Greek Government acknowledges this and, for those interested in the why of this situation, has an explanation. Some accept this hiatus in democratic procedures as justified, others do not. Practically everyone would look favorably on elections. But the point is that this is not the point when it comes to assessing the question of military assistance in support of our national interest.

U.S. military assistance is not given as a reward for someone's idea of democratic excellence in government but for the attainment of our own strategic purposes. Our alliances are based on mutual identity of national objectives in the face of a common threat which poses a real and present danger to the survival of non-Communist nations, including ours. NATO was formed to forestall Soviet domination of all Europe. This danger has not passed. If anything the danger is greater at this time than at any time since the alliance was formed due to a combination of vastly increased Soviet military might and the general Western apathy in the face of a buildup unparalleled since the time of Hitler. As one European put it, "We face a crisis because there is no crisis."

Be that as it may, the critical position of the United States should Western Europe and the Mediterranean be incorporated into the Soviet empire is understood by practically everyone, and because it is in our interest to prevent this from happening we formed the NATO alliance. The reason for the alliance determines the germane criterion to be applied when determining whether or not an alliance member receives military assistance. These criterion are twofold: First is such assistance necessary for the nation in question to fulfill its assigned role in the NATO defense plan? Second is the nation in question making major manpower and resource commitments of its own toward this objective? Greece qualifies on both counts, and therefore qualifies for military assistance.

The Congress recognized these criterion as valid when it gave the President the option of providing Greece with military assistance if he determined that it was in our national interest to do so. He rightly decided that it was. To assert as some have that in exercising the option we voted him the President has somehow abused the foreign policy responsibilities of the Congress, is contrary to the facts of the case.

The "Dear Colleague" letter also states that no other NATO member aids Greece. Yet the fact is well known, and attested to by our State Department, that France and West Germany — France being a NATO member—have made numerous credit sales to Greece, a form of aid in which we also often engage.

Finally, much is made of the fact that action has now been taken to allow the wives and children of our naval personnel serving in the Mediterranean to live in Athens so that their husbands and fathers can spend more time with them. The idea that this somehow represents an increase in our military presence in Greece is absurd. The men are already there; the wives and children add nothing to their military potential, thougn they add a great deal to their happiness. Many of the critics of the present Greek Government like to think of themselves as humanitarians, but it seems they are quite willing to sacrifice the happiness of our sailors and deny their wish to be with their families in order to advance their political objectives in a foreign country.

PEOPLE FOR PROGRESS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CONTE. Mr. Speaker, too often these days we hear the complaint that young people are not doing anything constructive. Too much attention has been given to that very small minority of American youth who would rather toss a bomb than help another human being. Today I would like to draw my colleagues' attention to a group of teenage Americans in my First Massachusetts Congressional District who are helping others and who are making an effort to play a constructive role in their society.

The "People for Progress Club" at Hoosac Valley High School in Adams, Mass., deserves our encouragement and praise for their many worthwhile civic and social endeavors.

The club, which was organized last year, is dedicated to the constructive improvement of local, national and international life. Its primary goal is also to provide positive and active participation in projects that will foster the development of "concerned world citizens."

Here is a brief résumé of some of their social projects:

PEOPLE FOR PROGRESS

(Included in the resumé is a listing and partial explanation of the activities conducted by the club)

RELEASE THE PRISONERS

During the Christmas holidays, club members took time out from their vacation to obtain signatures of area residents for the release of American prisoners of war. The result of this project was the obtaining of some 1,000 letters which were sent to North Vietnam.

PAKISTAN RELIEF FUND

Due to the disaster in Pakistan, club members organized a dance and homeroom collection to raise funds for the Pakistanian people.

WALK FOR INTERNATIONAL DEVELOPMENT

In conjunction with this project which was conducted on a national scale, the People for Progress Club organized the Hoosac Valley High School student body and the result of their effort brought in over $1,100.

NURSING HOME WORK

Members of the club are working on a weekly basis at the Adams Nursing Home. During the holidays all the club members participated in a program of entertainment and distribution of holiday cards.

WORK AT THE HOSPITAL

Some members of the club are working in conjunction with the Candy Stripers Organization in providing service for the local hospital.

WORK WITH EXCEPTIONAL CHILDREN

Some of the club members are participating in a club known as the Exceptional

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Children's Club. Through this, students are learning about the problems of the exceptional child as well as actively participating in work with these children.

ECOLOGY PROGRAM

Club members are presently working on a project involving recycling of glass. In the Spring of this year, the club is planning to plant flowers in key areas of town.

SANTA FUND

This fund is organized by local industry in order to raise money for the needy children of this area. Money raised goes towards the purchase of toys for these youngsters. Our club members held a homeroom collection to raise money for this fund.

FOOD DRIVE

This was conducted before the Christmas holiday. Food was given to the Salvation Army for local distribution.

TOY DRIVE

During the Christmas holidays, toys were collected at school to help the needy. These toys were donated to the Salvation Army for local distribution.

EYE GLASSES COLLECTION

In conjunction with the Lions Club sight saving program, club members organized an eye glasses drive which brought in some 500 pairs of eye glasses and cases.

GUEST SPEAKERS

The club has brought in guest speakers in order to provide the student body with more sources of information.

WENDY FOSTER DRIVE

The club conducted a homeroom collection for this eight year old youngster from the town of Florida. Wendy recently underwent open-heart surgery in Boston.

CLEAN-UP CAMPAIGN

During the Fall of the year, members conducted this campaign with the purpose of raising funds for charitable projects as they arose.

HELP FOR THE ELDERLY

In the town of Adams there is a new housing project for the elderly. In this light the club members have offered to help the elderly people in moving into their new apartments.

MARCH OF DIMES

Members of the club canvassed the town for this project.

SCHOLARSHIP

The club is presently organizing money-making activities for the purpose of presenting a scholarship to a senior who is planning to enter the area of social work, international relations, or special education.

CAR WASH—FOOD SALE

This project was conducted along with the food sale so that money could be raised by the club to be used for charitable purposes as they may arise.

CHRISTMAS PROGRAM

"The Five Senses of Christmas." The theme of this project was intended to reach the five human senses in such a way that each member of the school and local community could be involved in a meaningful and worthwhile Christmas project. (see included materials)

SUMMER FESTIVAL WORK

Club members are working in conjunction with local residents in planning and working on the Adams Summer Festival. This Festival includes one week of organized activities.

NASHVILLE BANNER SAYS SOUTH COLD TO NIXON'S BUSING MESSAGE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EVINS of Tennessee. Mr. Speaker, United Press International in a recent article appearing in the Nashville Banner speculated whether President Nixon's proposals concerning busing will be of substantial benefit to the people in the South.

Because of the great interest in this matter by my colleagues and the American people I place the article in the RECORD herewith.

The article follows:

SOUTH COLD TO NIXON BUSING MESSAGE

WASHINGTON.—President Nixon premiered his new anti-busing tune last week but Southerners were at first uncertain whether he was singing "Dixie" or "Yankee Doodle."

The President called for a "moratorium" on new school busing decrees, as the UPI Dixie Report forecast two weeks ago, but the immediate reaction of many Southerners in Congress was one of disappointment.

Sen. Sam J. Ervin, D-N.C., in comment on the Senate floor, said this would head off new busing orders in the North but leave the South, already virtually blanketed with orders, to "continue the status quo."

Sen. Herman Talmadge, D-Ga., said the "moratorium" was "fine and good for the children in the regions outside the South who are threatened by the prospect of future busing."

"But once again," he said, "the national leadership has turned its back on Southern children who have been laboring under this affliction for years."

"If it is proper to stop more busing in the future," said Sen. Strom Thurmond, R-S.C., "it is proper to stop the unreasonable busing which is going on now."

Sen. Lawton Chiles, D-Fla., said the proposed moratorium on busing "appalls me, because what it's going to do is allow the stopping of busing in all parts of the country except in the South . . ."

"Shameful political hypocrisy . . ." said Rep. Charles H. Griffin, D-Mass. "Southern children would continue under the heel of HEW and the courts while the rest of the states get off scot free."

Rep. Richard Fulton urged Acting Attorney Gen. Richard Kleindienst to intervene in the Nashville appeal from the federal court order that has resulted in massive busing of Metro public shool children.

The Nashville Democrat sent Kleindienst a telegram asking that he follow up President Nixon's antibusing pledge to the nation by intervening on behalf of the Nashville case before the Sixth Circuit Court of Appeals in Cincinnati.

"I have urged this action before to no avail," Fulton said. "It is my hope now, however, with the President's promise of Justice Department intervention that Nashville will be afforded the full weight of federal assistance in its effort to halt unnecessary and disruptive busing."

Meanwhile, one Senate member out of the entire Southern delegations in Congress went about confidently predicting the Justice Department, under Nixon orders, would begin actions to roll back busing in the South.

He was Sen. William E. Brock, R-Tenn., who accounted for his different reaction by saying the other Southerners had simply failed to read the Nixon proposals carefully.

Brock said, "This means his (Nixon's) efforts will be of immediate and direct relief to our Southern States."

Other indications were not as decisive, however.

When Secretary Elliot L. Richardson of Health, Education and Welfare briefed a group of congressmen behind closed doors he was asked about the Southern school busing cases, some of them "closed" as long as five years ago.

"There's got to be some limit," Richardson is reported to have said.

At that point, according to one witness, three Southern senators left the meeting. They were Chiles and Sens. Harry F. Byrd, ID-Va., and William B. Spong, D-Va.

Richardson was reported to have said later that he did not understand the question.

At a later briefing for newsmen, acting Attorney General Richard Kleindienst said he would seek to intervene immediately in cases involving Denver, Colo., and Richmond, Va.

A reporter who sought to ask Kleindienst later what about the South, was unable to reach him immediately. A Justice Department spokesman issued this statement:

"Mr. Kleindienst has made no decision on whether to intervene in those kinds of cases."

LOWERING THE RACKET

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. GUDE. Mr. Speaker, several weeks ago, the House passed the Noise Control Act of 1972. This is landmark legislation in that it will compel American industry to find methods of quieting its products.

One of the major contributors to the noise problem in the Washington Metropolitan area is the jet traffic at National Airport. These jets have, for some time, caused problems in the area, particularly for those citizens unfortunate enough to find that their once quiet homes are now underneath the flight paths of these planes. Due to numerous complaints, the FAA established an evening curfew on jet traffic, but has consistently permitted violations of its own curfew. Many local citizens have joined in suing the FAA over this matter, and request in their suit that a firm 11 p.m. curfew be established and maintained.

Many of my colleagues and I strongly supported an amendment to the Noise Control Act which would have given the Environmental Protection Agency the authority to set strict noise limits for jet engines. EPA has a legitimate interest in this noise pollution problem and is the appropriate agency to handle it. The FAA has had the authority to set this type of noise limit for some 3½ years, but has done nothing substantive about it.

The Evening Star yesterday editorialized on this matter and called for this type of authority for EPA. I would like at this point in the RECORD to commend to my colleagues that editorial:

LOWERING THE RACKET

"This noise is driving me crazy" is a familiar complaint these days, and people who voice it may be closer to the truth than they know. If some researchers into the subject are correct, it's possible to be driven bats or made quite ill by the infernal racket, of which the United States has more than any other country. And what's worse, the noise levels keeps rising.

So the House, in approving the first step toward national noise control the other day, did the American public no small favor. We hope the Senate will lose no time in concurring.

The House-passed legislation would not tone the bedlam down immediately; indeed there might not be noticeable results for three or four years. The task of muffling the billions of noisy machines and gadgets in the country defies comprehension, but it can be done over an extended period. There should be no popular illusion, however, that it can be done for nothing. As in other depollution processes, considerable expense for industry and business is a certainty, and the public ultimately will have to pay most of it.

With the pressure of a deadline, the House would push American technology into finding solutions for noise. Its bill is similar to the Clean Air Act of 1970, which is forcing the automotive industry to eliminate most exhaust pollutants by the middle of this decade. The Environmental Protection Agency would be required to establish within 18 months, noise emission standards for new manufactured products it identifies as major noise sources. But the measure isn't as strict as the air-pollution law, because it says the EPA "shall give appropriate consideration to technological feasibility and economic cost." Exceptions, therefore, are possible, because of the suspicion that a few machines may *have* to be noisy.

In any case, the EPA would be charged with determining whether that's so, and how much damage is really done to the public's health and welfare by different amounts of racket. There's evidence that the mounting urban cacophony contributes directly to deafness, high blood pressure, emotional disorders and other ills, but much more study is needed.

The Senate should hasten its consideration of this legislation, which could be strengthened in one respect at least: The EPA should be given a larger role in the control of jet aircraft noise than the House was willing to approve.

OILING THE WHEELS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, the issue of our oil import policy is one which has been debated at great length here in the Congress. We are constantly being reminded of an energy crunch on the one hand and an environmental crisis on the other. We are being urged to allow expanded offshore drilling and exploration and to allow the licensing of nuclear powerplants despite a lack of adequate safeguards.

For these reasons, I found the WMCA editorial which follows my remarks to be highly germane. We have an energy crunch in this country partly because we are prepared to deplete our resources at a greater consumer cost rather than foreign resources at a lesser cost to the American consumer.

The editorial follows:

OILING THE WHEELS

Oil is like any other natural resource: There's only so much of it, and once you use it up it's gone for good. So what do you think of a government policy that forces you to burn up your own country's oil reserves when you could be buying foreign oil cheaper?

Well, that's the policy we've had in Washington for years. Oil imports are restricted and domestic oil prices are pegged artificially high. One oil expert was very blunt about it not long ago. He called it a "drain America first" policy.

Yet the oil industry now insists it needs even higher domestic prices to provide more incentive for domestic oil exploration. All this in the name of national security.

But you know who's going to foot the bill: you, when you buy gas for your car or oil for your heater.

If you ask us, the best course for national security in this case also happens to be the best deal for all consumers: Lift the import restrictions and burn everybody else's cheap oil—while our own stays in the ground here and gets more valuable every day.

THE NIXON BUSING STATEMENT: A THREAT TO OUR LEGAL ORDER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EDWARDS of California. Mr. Speaker, I would like to call my colleagues' attention to an article entitled "Constitutional Crisis: I" which appeared in the New York Times on Saturday, March 25, 1972. In this interesting article reflecting his usual articulate, carefully reasoned style, Anthony Lewis discusses both the facts and the law surrounding the current busing controversy. He concludes that Mr. Nixon's recent speech on busing had the effect of raising "fantasy devils in the minds of his listeners" and that the real issue at hand is no longer busing, but the entire legal order of our society. I commend this article to the attention of my colleagues.

The article follows:

CONSTITUTIONAL CRISIS: I

(By Anthony Lewis)

When President Nixon made his television speech on busing, most of his audience must have believed that the Supreme Court had ordered massive busing to balance the racial makeup of public schools, and that millions of children across the country were being bused for that purpose. Those were the assumptions that seemed to underlie the President's urgency, his call for an immediate legal moratorium on busing.

But the assumptions are false. The facts are otherwise.

First, the figures. The Department of Health, Education and Welfare says it has no tabulation of children who are taking school buses because of a desegregation plan—children, that is, who would not have been riding a bus to school anyway. But H.E.W. does have figures on the number of bus-riding pupils in major districts that have desegregation plans with busing this year, and comparable figures for last year. The difference roughly shows the increase attributable to court orders or plans.

In Charlotte, N.C., for example, which produced the leading Supreme Court decision on the issue, 46,076 children rode the buses to school a year ago; this year there are 46,849. In Dallas the figures are: 5,079 last year, 12,154 now.

In all the districts for which H.E.W. has those comparable figures, the total increase in the number of children traveling by bus this school year is 126,810. That is out of some 46,000,000 children in American public schools. In short, so far as these figures show, less than three-tenths of 1 per cent of public school pupils have been affected by busing orders related to desegregation.

Second, the law. The Supreme Court has never found in the Constitution a requirement that schools or any other public facility be racially balanced. What it declared eighteen years ago in *Brown v. Board of Education* was something very different: the right to be free of legally imposed segregation.

In the Charlotte case last April, Chief Justice Burger quoted from the *Brown* opinion the central passage disapproving the old doctrine of deliberate separation of the races. The Chief Justice said the lower court in the Charlotte situation had used population ratios only as a "starting point" to overcome the entrenched vestiges of a segregated system. He added:

"If we were to read the holding of the District Court to require, as a matter of substantive constitutional right, any particular degree of racial balance or mixing, that approach would be disapproved and we would be obliged to reverse."

What has happened, in the view of many qualified lawyers, is that some lower courts have gone wrong. They have not heeded Chief Justice Burger's admonition against raising racial balance to the status of a constitutional right. They have slurred the distinction between school segregation imposed by deliberate policy and one-race schools resulting from neighborhood patterns. They have called for busing to overcome both situations.

In these circumstances, public concern about busing is wholly understandable. The suburban family that thinks its children are going to be taken fifty miles by bus every day to an inner-city school may well be frightened. And it is clear enough that many Americans today do think just that, however baseless lawyers may believe their fears to be.

A President interested in leading his country past such a divisive problem might have made it the occasion for an imaginative program to deal with the difficulties of race and public education in our cities. That would mean money, lots of it, and a recognition that money is not enough—that we do not know how to reach many children in our urban environment. It would mean commitment and effort.

But instead of trying to deal with the social and educational failure of inner-city schools, the source of so much of the concern about busing, he chose over a two-year period to make busing itself the issue. He chose politics.

Even the other night, when he talked to the country on television, Mr. Nixon could have sought to defuse the issue. He could have done so by explaining and assuring. He might, for example, have said that our national effort to end segregation has been a noble and necessary one—as it has—but that we must not be insensitive to other values. He might have expressed confidence in the ultimate judgment of the Supreme Court.

What he did do was to raise fantasy devils in the minds of his listeners—intractable judges, "social planners who insist on more busing even at the cost of better education."

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He projected himself as the white knight who would save the people from the courts and from the Constitution.

It would be hard to imagine a more cynical or a more dangerous use of Presidential power in our democracy, with its legal tradition, than to challenge the idea of law. It is up to the lawyers now, and the others who care, to understand that the issue is no longer busing: It is the legal order.

BADILLO OPPOSES CON EDISON ASTORIA PLANT

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BADILLO. Mr. Speaker, on March 25, I testified at a U.S. Army Corps of Engineer hearing on the environmental issues involved in Con Edison's proposal to build a new fossil-fuel plant in Astoria, Queens.

The text of my testimony follows:

THE PROPOSED CONSOLIDATED EDISON ASTORIA POWER PLANT

(Testimony of Congressman Herman Badillo, 21st District, New York at U.S. Army Corps of Engineers public hearings, March 25, 1972)

It has been said that Consolidated Edison's proposal to build a new fossil-fuel plant in Astoria represents a classic example of the issues involved in reconciling the need for reliable power with the equality urgent need for improving the quality of our environment.

But in this case we are not really concerned with the preservation of a scenic area or the protection of marine life; we are concerned with the very serious threats to life and health posed by a facility which would add measurably to the sulfur oxides, nitrogen oxides and particulate pollutants which have made this area of Queens among the lowest air quality areas in the nation.

In my judgment, there are two basic questions presented by Con Edison's proposal:

1. Whether construction of any additional power plants, particularly fossil-fuel plants, should be permitted in New York City at all; and

2. Whether construction of this particular plant is the best possible means of providing additional power reserves.

It is a matter of record that the power to be generated by the Astoria plant is not intended to meet day-to-day needs when it would be completed, but rather to add to the company's reserves. In this regard, it is important to keep in mind that even without the 800 megawatts Astoria would generate, Con Edison's reserve capacity would still exceed by a comfortable margin the reserve requirements considered adequate by the Federal Power Commission and the New York State Public Service Commission, and that margin is exclusive of outside power purchases—an area in which Con Edison, at long last, is moving aggressively.

As far as my first question is concerned, I am opposed to the construction of any new power plants in the City of New York. The only advantage they present is a cost saving by not having to construct transmission lines. However, the yet-unanswered questions regarding the safety of nuclear plants and the clear threat to air quality posed by fossil-fuel plants are more than sufficient grounds for prohibiting new plant construction in the city. Queens Councilman Tom Manton recognized this some time ago and his bill before the City Council should have been enacted long before this.

The Astoria expansion would be located in the geographic center of New York City, which makes it readily understandable how its emissions would have an effect in other communities. I am convinced that this site, of all conceivable sites within the city, is potentially the most dangerous to public health. As a matter of fact, the site was chosen only because Con Edison happens to own that particular piece of land. Years ago, when the company chose sites for its future power plants, Astoria was singled out because of its central location. As a result, that unfortunate community has the heaviest concentration of fossil-fuel plants in the country. We should be cognizant of that and not act to perpetuate the planning errors made by Con Edison years ago.

The second question goes right to the heart of the key issues which the Corps of Engineers must weigh under provisions of the National Environmental Quality Act.

Let us look first at the effect the Astoria plant would have on the quality of air in the area and in the city as a whole. As far back as the fall of 1969, the city's Air Resources Commissioner, Austin N. Heller, concluded that the Astoria expansion would produce "serious deterioration of air quality in New York City." A year later, the National Air Pollution Control Administration studied the Astoria proposal and found that the plant would make it impossible "to meet reasonable air quality standards."

Those conclusions were based on findings that the sulfur oxides, nitrogen oxides and particulate pollutants which would be emitted from the Astoria plant would aggravate an already-critical air quality situation, particularly in Queens and the Bronx, and would also make it impossible for these boroughs to meet federal and state air quality standards.

Con Edison maintains that the Astoria expansion would actually decrease sulfur oxide levels because the plant would burn low-sulfur fuel and as much sulfur-free gas as would be available. It should be pointed out, however, that even with low-sulfur fuel oil, the expanded Astoria plant would add 28,000 tons per year of sulfur oxides to the air in Queens and the Bronx—equal to 25 per cent of all such emissions in the entire city.

The amount of particulate matter in New York's air already exceeds acceptable federal levels and the Astoria expansion would emit 1,700 tons a year of such particulates as fly ash, soot and smoke. This is not a question of aesthetics at all; these particulates would greatly worsen the health effects of the sulfur oxides.

With regard to nitrogen oxides, the Astoria plant would have a worse effect than all the cars, trucks and buses which operate daily in the city. These pollutants are a serious health hazard in themselves—producing chronic respiratory diseases—but they also are a key element in the poisonous type of smog which afflicts Los Angeles.

In view of these threats, can the Corps of Engineers properly conclude that the Astoria plant is the best means available for increasing Con Edison's power reserves? The answer is clearly no.

Even without the four new power plants Con Edison plans to put into service (outside the city) in the next few years, the availability of purchase power—clean power that would add in no way to the city's air pollution—makes Astoria totally unnecessary.

After insisting for years that it could not obtain additional power from the Power Authority of the State of New York, Con Edison finally has contracted for 500,000 kilowatts during the summer and as much as 200,000 kilowatts during the winter starting in 1973. Negotiations are advancing with Hydro Quebec for an additional 500,000 kilowatts and perhaps even more, starting around 1977. Other planned purchases include 40,000 kilowatts from the Maine Yankee Atomic Plant for four years starting in 1973, from Rochester Gas and Electric and from Niagara-Mohawk.

As a matter of fact, Con Edison has been able to contract for 395,000 kilowatts more for the coming summer, a sharp increase over what it was able to purchase last year.

In conclusion, I am asking the Corps of Engineers to deny a permit for construction of the Astoria plant because it would be a serious and unwarranted threat to health in the worst air quality area of the city and because Con Edison's reserve needs would be better met through increased purchases of power from the Power Authority of the State of New York, Hydro Quebec and others.

Should construction of the Astoria plant be permitted, its emissions would make Queens and the Bronx virtual air quality wastelands. The health and lives of thousands of New Yorkers, some not even born, are very much at stake here.

IMPROVEMENTS AT FAIRBANKS INTERNATIONAL AIRPORT

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BEGICH. Mr. Speaker, recently, the Airline Pilot's Association completed a study of the conditions of our Nation's airports, which included a State by State and airport by airport inventory of the availability of key navigational facilities, including towers, radar service, runway and approach lights, instrument landing system—ILS—runway and identifier lights—REIL—and visual approach slope indicators—VASI.

In Alaska, of the 26 commercial airports, only 9 have control towers and only four are equipped with radar. Alaskan airports have a total of six instrument landing systems, but 66 are needed. There are 72 runways needing approach lights and only 20 are installed; six runway end identifier lights are in service, but 46 more are needed. Visual approach slope indicators are in service at 22 runways, but 50 more are needed.

Mr. Speaker, I bring these statistics to the attention of my colleagues, as well as the following resolution from the Fairbanks North Star Borough requesting the Federal Aviation Administration to proceed with the installation of an ILS system and glide slope on one of the runways at the Fairbanks International Airport, for consideration, especially before appropriation time comes again.

The resolution follows:

By: John A. Carlson
Introduced: 2/24/72
Adopted: 2/24/72

RESOLUTION NO. 72-13—A RESOLUTION REQUESTING FEDERAL AVIATION ADMINISTRATION TO PROCEED WITH THE INSTALLATION OF AN INSTRUMENT LANDING SYSTEM AND GLIDE SLOPE ON RUNWAY 01, FAIRBANKS INTERNATIONAL AIRPORT, FAIRBANKS, ALASKA

Whereas, due to its geographical location, Fairbanks International Airport, Fairbanks, Alaska, is a natural center for trans-continental flights; and

Whereas, Fairbanks International Airport is utilized by several large commercial airlines as well as private individuals; and

Whereas, numerous pilot reports have been made concerning problems encountered during landings at Fairbanks International Airport; and

Whereas, these problems are a direct result of the deficient equipment presently being utilized on Runway 19, and are compounded by the ice fog conditions particularly prevalent on the approach to this runway; and

Whereas, installation of an instrument landing system on Runway 01 would provide a wider margin of safety and a better percentage of flight completion:

Now, therefore, be it resolved by the Fairbanks North Star Borough Assembly that the Federal Aviation Administration is requested to proceed with the installation of an instrument landing system and glide slope on Runway 01 at Fairbanks International Airport at the earliest possible date.

Passed and approved this 24th day of February, 1972.

JOE LAWLOR,
Presiding Officer.

COUNTER-ADVERTISING

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DORN. Mr. Speaker, broadcasters are justly concerned about the growing tendency toward excessive Federal regulation and censorship. Broadcasters are alarmed over proposals such as counter-advertising and Federal court orders which would deny them the fundamental right to operate as a business in the public interest. They fear abridgment of their basic right of freedom of speech. The American people are supporting the right of their broadcasters to exist in the traditional concept of free enterprise.

Mr. Speaker, I commend to the attention of the Congress and the American people the following timely and splendid resolution unanimously adopted by the South Carolina Broadcasters Association.

RESOLUTION

Whereas, The Federal Trade Commission has advocated that Broadcasting alone, among all advertising media, should be compelled to sell time for counter-advertising that attacks broadcast commercials, and that broadcasters should be compelled to provide additional free time for such attacks, and

Whereas, This proposal by the FTC would cripple or destroy the financial basis which supports Broadcasting's programming services and other important social contributions, because common sense and past experience shows that it would be folly to expect advertisers to remain interested in Broadcasting as a proper advertising media under the enforcement of the counter-advertising proposal, and

Whereas, This proposal by the FTC seeks to obtain, indirectly, through the rules or policies of the Federal Communications Commission, a degree of power over broadcast advertising which Congress has not seen fit to grant to the FTC with respect to any kind of advertising, and would further force on individual Broadcast licensees a role the FTC admits it cannot fulfill, and

Whereas, This proposal would broaden the chaos that has already resulted from the FCC's and the Courts' misguided and illegal expansion of the "Fairness Doctrine" into commercial advertising, and

Whereas, Broadcasters, in no way, seek to defend false and misleading advertising or any other form of advertising that is contrary to law,

Now therefore be it resolved, That the entire membership of this Association expresses its strongest feelings that counter-advertising would impose on Broadcasters an impossible administrative burden, hold them responsible for judgments in areas of controversy outside of their competence, set them up for criticism from the advertiser, the counter-advertiser, and the public, and subject them to fine or the loss of license if the Federal Communications Commission or the Federal Courts later disagree at their leisure with broadcaster judgments made under stress, all the while diverting broadcast time for counter-advertisements that ultimately will sap the economic life blood of broadcasts licensees and destroy the advertiser supported broadcasting system, and

Be it further resolved, That this Association strongly urges and implores the members of the South Carolina Congressional Delegation to expend every effort in the defeat of this proposal, and to encourage their colleagues in the Senate and House of Representatives of the United States also to work earnestly and energetically for the defeat of this proposal.

TV VIOLENCE AND CHILDREN

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MURPHY of New York. Mr. Speaker, hearings were held last week by JOHN O. PASTORE, chairman of the Senate Communications Subcommittee into the Surgeon General's report on the impact of televised violence on human beings. The hearings made a great contribution toward rectifying the false impression created by the original news reportage on the report to the effect that TV violence was unharmful. The hearings also clarified the Summary Report of the Surgeon General's Advisory Committee itself which, in my judgment, did not accurately portray the serious implications of the research findings of the social scientists who made contribution to this project.

One of the first scientists who challenged the summaries advanced by the Surgeon General's Advisory Committee was Dr. Robert Liebert from the Department of Psychology at the State University of New York at Stony Brook, who had made a major contribution to the Surgeon General's TV violence project. Dr. Liebert and his associates, Dr. John M. Neale and Emily S. Davidson, spent a great deal of time with me and members of my staff reviewing the research which disputed the Advisory Committee's conclusion that TV violence caused aggression on the part of only a few predisposed youngsters.

These scientists proved to me as Dr. Liebert put it:

Beyond the reasonable shadow of a doubt that exposure to television violence, sometimes for periods of only a few hours, and in some studies even for a few minutes, can and often does instigate aggressive behavior that would not otherwise occur among entirely normal children.

Not only did he point to the research which proved that TV violence influenced normal children, the research showed that it influenced substantial numbers of American children from every conceivable type of background. And in a sense, as Dr. Liebert testified, a child who might never watch aggressive TV shows could be the target of aggression because one of his playmates has become more aggressive because of viewing TV violence and selects him as a victim. Dr. Liebert concludes, and rightly so:

That any and every American child can be affected by the present TV violence offerings.

Dr. Liebert, as a witness before the Pastore committee last Wednesday, March 22, presented an excellent summary of what the research findings were on children and TV violence. His testimony is as follows and I recommend this important statement as must reading for every Member of the House who is concerned with the mental health of our Nation's youth.

The testimony follows:

TELEVISION AND CHILDREN'S BEHAVIOR[1]

(Robert M. Liebert, Ph.D., Department of Psychology, State University of New York at Stony Brook, Stony Brook, N.Y.)

As a child psychologist, I have specialized in children's imitative learning. My work for the Surgeon General's inquiry included two research contributions and an overview of the literature on television and children's behavior. Because of the latter, I had an opportunity, over the past year, to read and study all of the technical documents, research reports, and summaries, as they were prepared, and to evaluate them in the light of past and other recent research.

I shall try here briefly to summarize, from this vantage point, the state of our present knowledge and reflect on some of its probable implications for the future.

Virtually every American home has at least one television set; many now have two. And they are used. It has been estimated that a child born today will, by the age of 18, have spent more time watching television than in any other single activity but sleep. Exposure to this medium thus constitutes a more pervasive, common experience during the youngster's formative years than has been known in any other large society through the whole history of civilized man. We now know a great deal about the effects of this exposure.

TELEVISION IS A TEACHER: WHAT IS BEING TAUGHT?

In design, of course, much of what children are exposed to on the air today is intended to be entertainment and, doubtless, much of it is entertaining. But children are also taught by what they see. Perhaps the best documented and least disputed affirmation that can be made is that virtually all children can and do learn from television What they learn depends on what they are shown.

Based on the extensive surveys by Professor George Gerbner and his associates at the Annenburg School of Communications, we know that what children are shown on contemporary television entertainment is heavily saturated with violence. Gerbner (1972) reported that the frequency of overt physical violence during prime time and Saturday morning network programs during the Fall of 1969 was such that eight in ten

[1] Portions of this testimony are based on the paper "Television and children's aggression: how much do we know?" by Robert M. Liebert and John M. Neale, and on the paper, "Television violence and Children's aggressive behavior: the weight of the evidence" by Emily S. Davidson, Robert M. Liebert, and John M. Neale.

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plays contained violence, with the frequency of violent episodes running about eight per program hour. Children's cartoons, which have long been the most violent of programs, actually increased their lead in violence portrayals from 1967 to 1969.

Our first question, then, might be whether children actually learn new violent and aggressive behaviors from watching television. An enormous body of scientific literature, spearheaded in large measure by the efforts of Professor Albert Bandura of Stanford University, has shown that such learning does occur. Bandura's findings, widely published and cited both in the professional literature and in earlier congressional hearings, do not need to be detailed here. Review after review has concurred with Professor W. Weiss' recent statement that "there is little doubt that, by displaying forms of aggression or modes of criminal and violent behavior, the media are 'teaching' and people are 'learning.'"

If children can learn aggressive behavior from watching television, does that mean that such learning will, in turn, lead to the instigation of a greater willingness to actually behave aggressively? Extensive scientific inquiries both prior to, and conducted for, the Surgeon General's exploration, show that the answer is "yes."

Television is a direct instigator of aggression

An example. To illustrate the logic that underlies some of this research, and also to show the manner in which evidence continues to accumulate, consider a recently reported study with which the Surgeon General's Advisory Committee did *not* deal. The investigation, conducted by Faye Steuer, James Applefield, and Rodney Smith, was recently published in the *Journal of Experimental Child Psychology*. Designed to show the absolute degree of control which TV violence can have on naturally occurring aggressive behavior, this particular study involved ten normal youngsters, the entire population of those enrolled in the preschool of the University of North Carolina's Child Development Center. The children, boys and girls, comprised a racially and socioeconomically mixed group who knew each other before the study began. First, they were matched into pairs on the basis of the amount of time that they spent watching television at home. Next, to establish the degree to which aggressive behavior occurred among these youngsters before any modification of their television diets, each was carefully observed for ten sessions, in play with other children, and the frequency of aggressive responses recorded.

Steuer and her associates used a demanding measure of physical interpersonal aggression, including: (a) hitting or pushing another child, (b) kicking another child, (c) assaultive contact with another child which included squeezing, choking, or holding down, and (d) throwing an object at another child from a distance of at least one foot. Only these severe acts of physical aggression were recorded. The baseline established a remarkable degree of consistency within each pair, prior to the modification of television diet. No one could say, then, that the children differed from one another at the beginning.

Next, Steuer and her associates asked about the effects of television. One child in each pair observed, on eleven different days, a single aggressive television program taken directly from Saturday morning program offerings, while the other member of the pair observed a nonaggressive television program. Subsequent observations of the children at play provided continuous measures of interpersonal physical aggressive behavior by each child. Changes from the original measures, if any, would have to be caused by TV effects.

By the end of the eleven sessions, the two groups had departed significantly from one another in terms of the frequency of interpersonal aggression. In fact, for every pair, the child who observed aggressive television programming had become more aggressive than his mate who watched neutral fare. In most of the cases, these changes were truly striking. Steuer's data are shown, graphically, (not printed in the RECORD) in the written version of my statement. The results are not new or unique.

Based on more than thirty other studies, involving thousands of normal children, Dr. Steinfeld's Committee reported to him:

"As matters now stand, the weight of the experimental evidence from the present series of studies, as well as from prior research, suggest that viewing filmed violence had an observable effect on some children in the direction of increasing their aggressive behavior." (1972, p. 67).

It was further noted, in the Committee's summary statement, that "there is a convergence of the fairly substantial experimental evidence for short-run causation of aggression among some children by viewing violence on the screen and . . . from field studies that extensive violence viewing precedes some *long-run* manifestations of aggressive behavior." (1972, p. 10).

Social scientists are carefully trained to avoid statements of certainty. In fact, even in the physical and biological sciences, professional and scientific reports are always couched in terms of probabilities rather than absolutes. Notwithstanding this tradition, it seems, to me, that it has been shown beyond the reasonable shadow of a doubt that exposure to television violence, sometimes for periods of only a few hours, and in some studies even for a few minutes, can and often does instigate aggressive behavior that would not otherwise occur among entirely normal children.

HOW GENERAL IS THE EFFECT?

Just as not all people who go to college are successful, no one would expect that every child who watches ten minutes of violence, whether in an experiment or at home, will suddenly erupt into aggressive behavior. We must ask about the pervasiveness of the effect disclosed by these studies. The Committee's report states that the observed effect might hold for ". . . a small portion or a substantial proportion of the total population of young television viewers. We cannot estimate the size of the fraction, however, since the available evidence does not come from cross-section samples of the entire American population of children." (1972, p. 7).

The term "cross-section sample" has a rather subtle, technical meaning which may have led to some confusion. The available evidence is based on youngsters from every conceivable type of background—both rural and urban—and has included samples of both middle- and lower-class children from the North, the South, the Midwest, and the West Coast. No region has been unrepresented, no economic group omitted, and no ethnic minority systematically excluded. One team described its own results as showing ". . . for relatively average children from average home environments continual exposure to violence is positively related to acceptance of aggression as a mode of behavior." The majority of the pertinent investigators whose work came to the Committee's attention might have described their own findings in the same way—and most did.

ARE SOME CHILREN "PREDISPOSED" TO BE AFFECTED BY TV VIOLENCE?

The Committee's report correctly noted that "we did not need research to know that at least an occasional unstable individual might get sufficiently worked up by some show to act in an impetuous way." Thus, appropriately, none of the investigations focused on "unstable individuals." The subjects were almost all normal children from average American homes. It is within this group that we have seen a significant, causal relationship between viewing TV violence and various measures of aggression in many children. It has been suggested, however, that the effect is limited to children who are "predisposed" to it. How should one interpret this statement?

At times, for a variety of reasons, each of us is somewhat more or less predisposed to work hard, eat a steak, or go to a football game; likewise, since not every child will become more aggressive after watching a particular sequence of television violence, we might say that some children are more "predisposed" to show the effect at a particular time than are others. It is presumably in this vein that we should take the Committee's observation that the causal sequence is very likely applicable only to those who are predisposed to it. But, if we so view the remark, then we must be careful to understand what has been said. As Dr. Steven Chaffee, who made substantial contributions to the research and overviewed the correlational studies, has recently noted:

"The 'predisposition to aggression' limitation is to some extent a near universal or tautological proposition, in that most children almost surely have at least some latent aggressive tendencies and are thus 'predisposed' to aggression if so stimulated. At the other extreme, it could be taken as a statement that only 'a few bad kids' (presumably someone else's, not yours or mine) can be influenced by media violence. . . . [But] several of the sample were [statistically controlled] partialled on such factors as sex, socio-economic status, age, and similar variables that often 'wash out' spurious relationships in social research; the link between violence viewing and aggressiveness remained, in both experimental and field survey studies." (1972, p. 12).

Going on to discuss other evidence as well, Dr. Chaffee concludes: "perhaps a more defensible conclusion would be that there is a small subgroup of habitually passive and unaggressive children who will *not* be stimulated to perform aggressively regardless of what they see on television." The research, as I see it, generally favors Chaffee's analysis. The effects are not limited to a small number of peculiarly predisposed children.

Moreover, aggressive actions are by their character social phenomena, so direct instigation is not the only way an average child can be harmed by violence on television. Suppose, for example, that a particular youngster either never watches aggressive television shows, or is for some reason unaffected by them. He may still be profoundly influenced, as the *target* of aggression, simply because one or more of his playmates has become more aggressive as a result of viewing television violence and selects him as a victim. For this reason, there is an important sense in which we can say with confidence that any and every American child can be affected by the present TV violence offerings.

WHAT SHOULD BE DONE?

The Surgeon General's Committee asked: "How much contribution to the violence of our society is made by extensive violent television viewing by our youth?" (p. 7). The answer appears, to me, to be that such viewing makes a significant contribution. It is not, of course, the only contributing factor to aggression. Cigarette smoking is by no means the only (or even the most influential) factor contributing to heart disease; moderate exercise is not the only factor which contributes to good health. The question is, really: "How much influence does any one factor have to show in order to be of social concern and practical importance?"

On the basis of evaluation of many lines of converging evidence, the following judgment seems, to me, warranted: The demonstrated teaching and instigating effects of aggressive television fare upon children are of sufficient importance in the United States to warrant appropriate remedial action.

From the 1906 Food and Drug Act, governmental offices have taken action to eliminate potential health hazards. It might be argued that entertainment fare should be outside the domain of such restrictions. But it already is squarely in it. Certainly, governmental control over the level of violence on television would be an extreme step which may have some undesirable effects. But there are alternatives. Violence is not intrinsic to entertainment offerings, and voluntary control is possible.

My comments thus far have focused upon the instigating effects of television for aggressive behavior. But that is only one side of the issue, the negative one. In an extremely important experimental field study, conducted by Drs. Aletha Stein and Lynette Friedrich, it was shown that exposure to even a relatively brief diet of prosocial television programs (in this case, the series Mister Rogers' Neighborhood) can foster a variety of positive, cooperative behaviors in some children. Other research, from many laboratories including our own, have suggested that children may learn substantive academic lessons, to share with and help others, and to develop a variety of positive social skills through television programs. The evidence also suggests that programs which are specifically designed with psychological and educational principles in mind can prove to be highly enjoyable to youngsters while effectively transmitting positive lessons to them and thus producing significant benefits for society. Therefore, I would like to issue a specific call for 1) an immediate and sharp decrease in the amount of violence in programs directed primarily to children, and 2) an equally enthusiastic effort to increase the number of programs designed to teach positive lessons.

Those of us who have taken occasion, on the basis of the research, to criticize TV's present offerings, may be misunderstood. I think for most of us, and I can say surely for myself, that it is not the medium but only its present message that we are criticizing. Television, although it will undergo many metamorphoses as cassettes, cartridges, cable TV, and the like emerge, is here to stay. And that, I think, is a good thing. Television is a powerful teacher. In a complex society like our own, powerful and effective teachers are very much needed. At the same time, the greater the power of the teacher, the greater is its capacity to work for either good or harm. The choice is ours.

REFERENCES

Chaffee, S. H. Television and growing up: interpreting the Surgeon General's report. Paper presented to Pacific chapter, American Association for Public Opinion Research, Asilomar, California, March, 1972.

Cisin, I. H., Coffin, T. E., Janis, I. L., Klapper, J. T., Mendelsohn, H., Omwake, E., Pinderhughes, C. A., Pool, I. de Sola, Siegel, A. E., Wallace, A. F. C., Watson, A. S., Wiebe, G. D. *Television and growing up: the impact of televised violence.* Washington, D.C.: U.S. Government Printing Office, 1972.

Gerbner, G. Violence in television drama: trends and symbolic functions. *In Television and social behavior* (G. A. Comstock and E. A. Rubenstein, Eds.), Vol. I. Washington, D.C.: U.S. Government Printing Office, 1972.

Steuer, F. B., Applefield, J. M., & Smith, R. Televised aggression and the interpersonal aggression of preschool children. *Journal of Experimental Child Psychology,* 1971, 11, 442–447.

IN SUPPORT OF THE UKRAINE

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SMITH of New York. Mr. Speaker, during the past many years, injustices in the form of occupation, imprisonment and repression have dominated the lives of the citizens of Ukraine, Russia. Soviet dominance over this area has created untold suffering for the people of the Ukraine.

Mr. Speaker, I wish to take this opportunity to place into the RECORD a statement of Mrs. Ulana Celewych, National President of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc. I urge my colleagues to take heed of her words and take a moment to reflect on the personal situations of the millions of captive Ukrainians presently under Soviet dominance.

I herewith enclose Mrs. Celewych's statement:

STATEMENT OF MRS. ULANA CELEWYCH, NATIONAL PRESIDENT

On behalf of the Women's Association for the Defense of Four Freedoms for Ukraine, Incorporated, of which I have the privilege of being the National President, I hereby state my shock and indignation and protest against the wave of arrests in Ukraine performed by the Russian Secret Police Force (KGB).

In these restless times many individuals, groups, and statesmen, including President Richard M. Nixon, in order to establish long-lasting peace and prosperity for generations to come, are exhibiting a new approach to satisfy human needs, individual and national rights, and identity.

At the same time, the Soviet Russian Colonial government, founder member of the United Nations Organization, signatory of the Universal Declaration of Human Rights, and-socalled "volunteer missionary of good will" for world community, is for Ukrainians, a brutal invader who occupied the Sovereign Ukrainian Republic and by force in holding it in the USSR system.

In conjunction with the existing reality of Russia's constant violation of human rights of the 48 million native Ukrainians on their own territory (majority of the population, 79%), our organization, in November 1969 presented a petition supported by 5,000 signatures to Ambassador Finger, who accepted on behalf of Ambassador Charles Yost, in which we expressed our concern of the increased terror, russification, restriction for continued education, deprivation of private property, as in the case of Mrs. Valentyn Moroz in Ivano-Frankivsk, a city in West Ukraine, mass arrrests of the people in 1961, 1965, 1967, 1969, and 1970, particularly among young scholars who grew up under Soviet occupation and who oppose the Soviet way of life imposed upon them; thus all these things creating an alarming situation in Ukraine for a long time.

In our opinion, Brezhnev is restoring the neostalinism and is again practicing genocide in the Ukrainian nation, particularly on the Ukrainian intellectuals.

Now again, on January 14, 1972, over two million Americans of Ukrainian descent in the U.S.A., as well as all Ukrainians throughout the free world were shocked by the news via the UPI and Reuter Press Agencies about the arrest of 11 leading Ukrainian dissident intellectuals on charges of "nationalistic agitation" and deliberate false fabrications defaming the Soviet State. The arrests were carried out on January 11, in the cities of Kiev, Lviv, and Odessa. Later, reports raised the number of arrested to 19, then to 36, and at the present time the figure has grown to 200, and there are possibilities that the number is much higher and it is questionable if the exact number will ever be known in the free world.

Sources said that the arrests were preceded by a series of raids by the Soviet Secret Police Forces (KGB) on the homes of the dissidents in Kiev, Lviv, and Odessa. Several European newspapers also stated that the KGB had begun a series of raids and interrogations in other large industrial and university cities in Ukraine, including Czernivtsi, Poltava, Kharkiv, Riwne, and Dnipropetrovsk. There the action was directed mainly against younger students, professors and writers, especially those who had been active in demanding Constitutional and national rights for Ukraine.

Because of the censure and russification policy forbidding free expression in existing government sponsored publications and newspapers, the Ukrainians were forced to establish their own news media for the purpose of objective information.

According to reliable sources, the KGB latest arrests were meant to destroy the writing and circulation of the underground newspaper "Ukrainian Herald" which carries information about secret trials and arrests of Ukrainians, russification, intentions of anti-Ukrainianism, national discrimination, and religious persecution. The latest issue of the Herald contained over 100 typewritten pages of detailed information about Soviet repressions in Ukraine.

Among the arrested on January 11, are Vyacheslav Chornovil, writer and author of the Chornovil Papers; Ivan Dziuba, author of Internationalism or Russification (a study in the Soviet nationalities problem); Ivan Switlychnyj, a literary critic; Wasyl Stus, poet; Ihor Kalynec, poet; and others. Among those arrested are also women. Larissa Karavansky, M.D., wife of Swyatoslav Karavansky who was recently sentenced to many years imprisonment; Irene Stasiv-Kalynec, poetess and wife of Ihor Kalynec; Stephany Shabatura, artist and designer; Stephanie Hulyk, a mother of an 8 month old infant and member of the association to preserve historical monuments; and Raisa Moroz, wife of Valentyn Moroz, whose fate is unknown.

We, the members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., on behalf of the millions of voiceless Ukrainians in the homeland of Ukraine, and on behalf of Ukrainian prisoners and their families appeal to President Richard M. Nixon, Secretary of State, William P. Rogers, U.S. Ambassador to United Nations, Honorable George Bush, Secretary General of United Nations Organization, Honorable Kurt Waldheim, to the majority and minority leaders of both Houses, and to the Honorable Senators and Congressmen, to raise their voices in support of rights for Ukrainians, and to take proper action towards the Soviet government to release all political prisoners, particularly the intellectuals, ailing, aged, and young mothers who have been torn away from their infants who need them so desperately. It is time to stop the Russian interference in the way of life and of the Constitutional rights of the people of Ukraine.

TAPPING THE TRUST FUND

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KOCH. Mr. Speaker, Transportation Secretary John A. Volpe has pro-

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posed a vitally needed change in the funding of our transportation programs. His recommendation for the creation of a single urban fund to provide a unified administration and financing of urban ground transportation programs—both highway and mass transit—has received considerable support from the news media. At this time, I insert in the RECORD one such statement issued by WMCA radio:

TAPPING THE TRUST FUND

The federal highway trust fund is a machine for turning money into concrete. The fund now takes in $5-billion a year, mostly from federal gasoline taxes. The more people drive, the more money goes into the fund. And every penny of that money must be spent on highways—whether the country needs them or not.

This past week the Secretary of Transportation told Congress some of the trust fund dollars ought to be spent on mass transportation in the cities—which the country certainly needs. He suggested starting with $1-billion from the trust fund next year.

We think that's a tremendous first step toward solving our mass transit woes right here in the New York metropolitan area.

The problem now is to get Congress to pass the Transportation Department's plan to tap the highway fund. So when you're looking over the candidates this year, you might want to ask where they stand on mass transportation.

A DIFFERENT KIND OF JOBLESSNESS

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. EDMONDSON. Mr. Speaker, today we hear a great deal about the plight of many of our minority groups and underprivileged citizens and are sincerely seeking answers for a better way of life for those who need help and hope. However, I believe we have overlooked a silent minority in our Nation who represent 20 percent of the total unemployment in the United States—a group of people 45 and older who are now unemployed or underemployed. Grim statistics show that once the older worker becomes unemployed, he runs a greater risk of being without a job for a longer period of time, and many become discouraged and withdraw unwillingly from the work force.

It is very gratifying to know that one of our most distinguished and able colleagues, in the other body, the Honorable JENNINGS RANDOLPH, is deeply concerned about this situation and has introduced the Middle-Aged and Older Workers Employment Act, which would provide an effective program of assistance to this age group. He has written an excellent letter to the editor of the Washington Post, March 7, 1972, responding to an article by J. W. Anderson entitled "Weighing the Impact of a Different Kind of Joblessness." I include that letter for your careful consideration, and it is my earnest hope that the Congress will act speedily and favorably on his legislative proposal. It follows:

WEIGHING THE IMPACT OF A DIFFERENT KIND OF JOBLESSNESS

It was with genuine interest that I read the February 5 article by J. W. Anderson entitled "Weighing the Impact of a Different Kind of Joblessness."

During the past 3 years, unemployment has jumped precipitously from 2.7 million to 5.1 million, nearly a 93 per cent increase. Yet, these statistics reflect only a small part of a very grim economic picture. These figures, for example, do not reflect the underemployed. Perhaps even more important, they do not include the labor force "drop outs," those who have given up the active search for work.

This is particularly significant for workers aged 45 and older. Nearly one million individuals in this age category are now classified as unemployed, approximately 67 per cent higher than in January 1969. However, this really only represents the tip of the iceberg because there is a substantial amount of "hidden unemployment" among older workers.

Today there are thousands of individuals 45 and older—and perhaps even millions—who are not counted among the unemployed because they have stopped looking for work. In many cases, this is the result of a prolonged period of fruitless searching for employment. Others have withdrawn from the work force involuntarily after exhausting their employment compensation. Large numbers have also been forced to take actuarily reduced social security benefits only as an alternative to sporadic work patterns.

There are now approximately 2.5 million men in the 45 to 54 age category who have withdrawn from the work force, too often unwillingly. Assuming that just 20 percent of this total wanted and needed employment—which is probably a conservative estimate—this would add another 500,000 to their jobless total. In addition, there are 11.9 million women in this age category who are not in the labor force. Assuming that only 5 percent of this total also wanted and needed work, there would be another 600,000 added to the jobless figures for persons 45 and older. Consequently, if the hidden unemployed were also counted, it is entirely possible that the jobless level for middle-aged and older workers would be approaching 2.1 million.

Once unemployed, the older worker also runs a much greater risk of being without a job for a comparatively long period of time. For unemployed persons 45 and older, the average period of being without work is about 16 weeks, approximately 35 percent longer than the national average. Moreover, about one out of every three jobless individuals 45 or older—in contrast to one in five for younger persons—has been looking for work for 15 weeks or longer.

Another important point which should not be overlooked is the large numbers of older workers have lost their pension coverage as well as their jobs. This of course, will mean a markedly reduced income in retirement.

Yet, our nation still lacks an effective policy to maximize job opportunities for persons 45 and older. By whatever measuring device one chooses to use, they have been grossly underrepresented in work and training programs. They now account for less than four percent of the total first time enrollments in existing manpower programs. However, they represent 20 percent of the total unemployment in the United States; 26 percent of all joblessness for 15 weeks or longer; 34 percent of unemployment for 27 weeks or longer; and 37 percent of the civilian labor force.

It was for these reasons that I have introduced the Middle-Aged and Older Workers Employment Act. This measure would establish a midcareer development services program in the Department of Labor to provide training, counseling and special supportive service for underemployed or unemployed persons 45 and older. Additionally, it would authorize placement and recruitment services in communities where there is large scale joblessness because of a plant shutdown or other permanent reduction in the work force.

Support for this concept was strongly indicated at the recent White House Conference on Aging. And I am hopeful that in 1972—the year for implementing the recommendations of this historic Conference—this measure will be enacted into law.

JENNINGS RANDOLPH,
Chairman, Subcommittee on Employment and Retirement Incomes of the Senate Committee on Aging.
Washington.

THE ELECTRICITY CRUNCH

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HOSMER. Mr. Speaker, conspicuous in Washington for its enlightened and balanced view of nuclear power development, the Washington Evening Star has again demonstrated a responsible approach to this vital subject.

An editorial in today's edition analyzes the coming crisis in electrical power and the potential for several already completed nuclear plants to help avert it.

The Star recommends that the Congress pass legislation to permit the interim operation of these nuclear reactors. This should be done in view of the potential public hazards of blackouts and brownouts despite the fact that the environmental impact reports required under the National Environmental Policy Act have not been completed.

I would point out, further, that there is no question that the plants will have complied with all applicable Atomic Energy Commission safety requirements. The only reason for the interim licensing is that the environmental impact statement on several of these plants has not yet been completed.

And considering that the environmental impact of nuclear power has already been studied at far greater length than any other industrial process, I consider this a proper approach for Congress to take in meeting the public's needs.

The Star's fine editorial follows:

[From the Evening Star, Mar. 28, 1972]

THE ELECTRICITY CRUNCH

The specter of a national electric power crisis at last is beating on Congress' door and cannot be ignored. But the current alarms are mild compared to the public clamor that will arise if the lights go off in large areas this summer. The lawmakers had better get earplugs if they don't take action soon to prevent that from happening.

Even doing their best they won't be able to assure enough kilowatts everywhere if the summer is long and hot. It's the old story of waiting too long to head off an impending emergency. Government and private industry share the blame, but the fragmentation of authority and the environmental movement are large factors in the dilemma. Congress, however, now has the ball, which is radioactive. It was tossed over from the White House and deciding on the next play is no easy matter.

What the White House wants Congress to do is cut a temporary detour around the Environmental Policy Act, so that several disputed nuclear power plants can be placed in operation. An administration bill would allow the Atomic Energy Commission to grant "interim" operating licenses before full environmental impact studies (required by the act) have been completed. Those emergency permits would expire in July, 1973, and by that time the environmental findings presumably would be available.

This has, predictably, stirred up a hornet's nest. A procession of environmental spokesmen recently told a joint congressional committee that the proposal assigns higher importance to electric power than to public safety. All the long-debated questions about the ecological effects of "thermal pollution" and the safety of reactors were raised anew.

All are being restudied in depth by the AEC, but this research is far from completion. In fact, the country's whole nuclear power movement is in a limbo caused by last summer's federal court decree that all plants must be subjected to additional studies, to comply with the environmental act. Hence the AEC is bogged down, and cannot grant permits for five large nuclear installations that are ready to begin producing power. Five others that are almost ready also may have to stand idle. It's estimated that these 10 facilities could turn out enough power for the cities of Los Angeles, Philadelphia and Chicago combined.

And if they don't start producing, power reserves in 40 percent of the nation (accounting for 55 percent of the kilowatt usage) are expected to drop below 10 percent. Some areas will have only 5 percent. Since 15 to 20 percent is considered an acceptable minimum, all this points to a dark and sticky summer if the mercury climbs very high.

Considering these omens, Congress should waste no time in authorizing the emergency permits, with one clear understanding: The remaining questions must be cleared up by the expiration date or the plants shut down. That should get some research results.

In any case, the risks seem miniscule. Nuclear generators have been in successful operation for years. They have a splendid safety record, and the AEC has studied them exhaustively all along. Congress should consider, too, the risks to the public in the blackout of large cities, some of which aren't safe even with all the lights turned on.

NEBRASKA RANCHER TO RECEIVE WILDLIFE CONSERVATION AWARD

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. MARTIN. Mr. Speaker, American farmers and ranchers are leaders in the national effort to improve and increase our wildlife resources. The conservation ranchers of the Nebraska Sandhills area are among our most active citizens in this respect. One of these ranchers, Mr. Vic Thompson of Newport, Nebr., was recently named "Nebraska's Outstanding Conservationist of the Year." The Sunday Journal and Star of Lincoln, Nebr., recently carried a news article on this subject and I insert the article "Newport Rancher to Receive Wildlife Conservationist Award."

NEWPORT RANCHER TO RECEIVE WILDLIFE CONSERVATIONIST AWARD

(By Bob Munger)

NEWPORT.—Vic Thompson's Spring Valley Park, just west of this Sandhills community on Highway 20, is the culmination of a dream.

The dream began back in 1938 when Vic and his wife Maude established the first roadside rest area in Nebraska, free to all who cared to stop.

It is for this and other conservation activities that Vic Thompson is named the recipient of the 1972 Lincoln Sunday Journal and Star's "Nebraska Outstanding Wildlife Conservationist Award."

"Maude and I worried about the number of accidents along this stretch of Highway 20," Vic says. "We finally decided we could help by giving some of them an opportunity to stop and rest, then go on refreshed."

The Thompsons would accept no contributions from travelers, nor from anyone else. They provided a cottonwood-shaded glen, cold well water and tourist information. They only asked that visitors sign their guest book.

"The last time we counted the signatures was when Maude was still alive (she died Feb. 9, 1970)," Vic says, "and that year (1968) we had over 4,500 visitors. They came from 47 states, 16 foreign countries and represented 123 different occupations."

In March 1971 Vic was presented a certificate of commendation from President Nixon "in recognition of exceptional service to others, in the finest American tradition."

Thompson has also turned his 1,100-acre ranch into a wildlife refuge, started shelterbelts, planted uncounted thousands of trees and constructed 14 fish ponds. All the ponds are stocked and open to the public for fishing.

"We've got more than 120 acres in shelterbelts alone," Vic says as he tours his ranch. "All of them fenced and unmolested for the growth of wildlife habitat."

Thompson, a member of the Nebraska Stock Growers Assn. and the state division of the Izaak Walton League of America, is active on a number of committees in both organizations. He is also the recipient of an honorary life membership in the Highway 20 Assn. and is a member of the board of the Nebraska Land Foundation.

Vic and Maude began planning in 1966 what he terms the "Centennial Memorial Forest." Several hundred trees are already growing on the hill site "where you can see for 20 miles," he says.

Thompson plans for the ranch to remain as a wildlife refuge and park. He has established a corporation to assure the facilities will always be open and maintained.

WEEK OF CONCERN FOR PRISONERS OF WAR

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, this week, March 26–April 1, the Nation observes a National Week of Concern for Prisoners of War/Missing in Action. Last Sunday, March 26, was also designated as a National Day of Prayer for the lives and safety of the over 1,600 Americans listed as prisoners or missing in action in Indochina. It was 8 years ago last Sunday, on March 26, 1964, that U.S. Army Adviser Capt. Floyd J. Thompson was captured in South Vietnam, thus becoming the first American POW in that conflict. The tragedy of the prisoner situation has been compounded by the fact that the North Vietnamese have refused to release a full and official list of American prisoners being held as required by the 1948 Geneva Convention on the humane treatment of prisoners of war. This has caused untold suffering and hardship for their loved ones, many not knowing whether their husbands, sons, and fathers are alive or dead.

Mr. Speaker, recently stories have been appearing in the press, often based on isolated interviews with recently captured U.S. servicemen, to the effect that the treatment of American prisoners by North Vietnam has been improving and is now quite good. I would like to think that these reports are true and that decent and humane treatment is being applied to all American POW's, as required by the Geneva Convention. But the sad fact is that we have no way of knowing how much of this may have been deliberately staged by Hanoi or to what extent American prisoners are now being afforded decent treatment by their captors. I would suggest that there is one simple way of verifying these reports, and that is for Hanoi to permit the impartial inspection of POW facilities as required by the Geneva Convention which it signed in 1957.

It is our hope that this week of concern will not only demonstrate to the families of these prisoners that we have not forgotten and that we do care, but that it will help to focus world attention on the plight of these men and their families and bring the pressures of world opinion to bear on North Vietnam to comply with the provisions of the Geneva Convention.

Finally, Mr. Speaker, it is my fervent hope, as the author of this legislation, that we will never again have to designate another such week of concern—that as our involvement in Vietnam draws to a close we can secure the release of all American POW's and reunite them with their loved ones before another year passes.

At this point in the RECORD, Mr. Speaker, I include the text of the President's proclamation and the testimony of Deputy Assistant Secretary of State William H. Sullivan before the House Foreign Affairs Committee on February 3 on the POW/MIA situation:

[Weekly Compilation of Presidential Documents, March 13, 1972]

NATIONAL WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

(Proclamation 4115, March 10, 1972. By the President of the United States of America a Proclamation)

1,623 American servicemen and some 50 U.S. civilians are now either missing in action or being held captive by North Vietnam and its allies. At the end of this month, the first men to be taken prisoner will begin their ninth year in captivity. This is the longest internment ever endured by American fighting men; it is also one of the most brutal.

The POW/MIA story of this long and difficult war is a tragic one:

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The enemy continues adamant in his refusal even to identify all the Americans being held. He continues to flout the Geneva Prisoner of War Convention which establishes minimum humane standards for treatment of prisoners—a treaty to which North Vietnam is a signatory, just as are South Vietnam and the United States and 128 other nations. He continues to block impartial inspection of the prison camps. He continues to deny repatriation for seriously sick and wounded prisoners. He continues to ignore the prisoners' right to regular correspondence with their families.

And so those families suffer in spirit hardly less than their men suffer in the flesh. They live in a nightmare of unremitting anguish and gnawing concern. Many cannot even know whether their loved ones are still alive; those who do know this much, must live with their additional knowledge of the cruel conditions in which the prisoners exist.

Each new chapter in this outrage has stiffened the American people's determination to see justice done. We have stood and will continue to stand united as a nation in our concern and compassion for the prisoners and missing men. We mean to see this matter through.

Concern for the prisoners' plight, moreover, has spread to the people of goodwill around the world—and we may be confident that their humanitarian efforts, though so far rebuffed as callously as our own, will still continue as steadfastly as our own.

The United States has spared no effort—by diplomacy, by negotiation, by every other means—to secure fair treatment of our captive sons and brothers and to obtain their ultimate freedom.

As we set aside a special week of national concern for this continuing tragedy, and a special day of prayer for its resolution, we do so with a determination to persist in this effort—for principle, for peace, for the sake of these brave men and their parents and brothers and sisters and wives and the children some have never seen.

Now, Therefore, I, Richard Nixon, President of the United States of America, as requested by the Congress in Senate Joint Resolution 189, do hereby designate the period of March 26 through April 1, 1972, as National Week of Concern for Prisoners of War/Missing in Action, and Sunday, March 26, 1972, as a National Day of Prayer for the lives and safety of these men.

I call upon all the people of the United States to observe this week with such appropriate ceremonies and activities as will stir and sustain widespread concern for the missing men and prisoners, nourish the patient courage of their loved ones, and—above all—hasten the day of their safe return to home and freedom.

In Witness Whereof, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

RICHARD NIXON.

[Filed with the Office of the Federal Register 11:52 a.m., March 13, 1972]

(NOTE. The proclamation was signed in a ceremony at the White House.)

DEPARTMENT DISCUSSES PROBLEM OF U.S. PRISONERS OF WAR AND MISSING IN ACTION IN INDOCHINA

(Statement by William H. Sullivan, Deputy Assistant Secretary for East Asian and Pacific Affairs [1])

I am pleased to appear again before this subcommittee to discuss developments bearing on our prisoners of war and our men missing in action in Indochina which have occurred since I last testified on April 1, 1971. Let me say at the outset that the problem of our captured and missing personnel continues to be a matter of the deepest concern to this administration at the highest levels. This was made clear by President Nixon in his remarks to the families of these men in Washington September 28, 1971, when he said that this problem has "Presidential priority." [2] We are continuing to do all in our power to assist our men held by the enemy, to obtain information about them and word from them, and to secure their earliest possible release.

The basic facts have changed little in the past year. Over 1,600 United States military personnel are listed as missing or captured in Southeast Asia, and over 40 United States civilians are in the same status. According to Defense Department figures, 383 of our men are listed as captured in North Viet-Nam, 92 in South Viet-Nam, and five in Laos. Two United States pilots are known to be captured in China. The missing civilians include three United States newsmen lost in Cambodia. The actual total held as prisoners remains uncertain, due to the other side's continued refusal to identify all prisoners. North Viet-Nam has identified 346 "United States pilots captured in North Viet-Nam," but this list by its own terms provides no information on United States personnel missing or captured in South Viet-Nam, Laos, or Cambodia.

Despite continuing efforts to secure North Vietnamese compliance with the Geneva Convention on Prisoners of War, by which they are bound, the Communist authorities have refused to abide by such convention requirements as impartial inspection, repatriations of seriously sick and wounded, and regular exchange of communications with families. North Viet-Nam's continued refusal to allow impartial inspection of prisoner of war facilities by the International Committee of the Red Cross or another impartial authority only serves to deepen our concern about the actual treatment of our men.

I am glad to note that the Congress has continued its efforts in this area, as witnessed by the unanimous approval by the House of Representatives on October 4, 1971, of House Concurrent Resolution 374, which had its origin in the good work of this subcommittee. As has been done in the past, this resolution was called to the attention of the Communist negotiators in Paris by Ambassador Porter on October 7, 1971. I offer for the record a copy of Ambassador Porter's statement on that occasion.

Before discussing prisoner release in the context of the Government of Viet-Nam/United States proposal for a negotiated settlement of the Indochina conflict made public by the President January 25,[3] let me review briefly some of our other recent efforts to make progress on the prisoner of war issue. As you know, President Nixon in his Indochina peace initiative October 7, 1970, proposed the immediate and unconditional release of all prisoners of war on both sides, without awaiting resolution of other aspects of the conflict.[4] Within the framework of that proposal, the United States and the Republic of Viet-Nam offered the release of all North Vietnamese prisoners of war held in South Viet-Nam in return for the release of all United States and free-world prisoners in Indochina and any South Vietnamese prisoners held outside South Viet-Nam. The South Vietnamese, with our support, have sought the mutual repatriation of all sick and wounded prisoners of war and have unilaterally initiated many such repatriations to North Viet-Nam.

On April 8, 1971, shortly after my last appearance before this subcommittee, the Republic of Viet-Nam with our support proposed that sick and wounded prisoners, and those held for long periods, be interned in a third country. Such neutral internment is envisaged by the Geneva Convention and was specifically endorsed by a resolution of the United Nations General Assembly. Five governments subsequently offered the facilities of their country for such internment. We regret the failure of the Communist side to respond constructively to this proposal.

In May of 1971 the Republic of Viet-Nam announced its intention to repatriate all North Vietnamese sick and wounded prisoners who wished to go to North Viet-Nam. North Viet-Nam broadcast an acceptance of this proposal, and some 600 North Vietnamese were found to be qualified for this purpose. Despite efforts to make known to these prisoners their government's apparent acceptance of the repatriation, when they were interviewed by delegates of the International Committee of the Red Cross all but 13 indicated unwillingness to return to North Viet-Nam. The consent of the returnee is required by article 109 of the Geneva Convention in the case of repatriation of sick and wounded prisoners of war prior to conclusion of hostilities. The Republic of Viet-Nam continued the repatriation effort, and the 13 prisoners of war were aboard a ship off the coast of North Viet-Nam when Hanoi broadcast a further statement rejecting their repatriation.

In a more recent action, the Republic of Viet-Nam announced the release of some 3,000 Viet Cong prisoners of war on the occasion of the Vietnamese national day, November 1, 1971. Nearly 700 prisoners of war were released outright in South Viet-Nam, and the remainder have been released through the Chieu Hoi, or "Open Arms," program. In addition, it should be noted that the Republic of Viet-Nam has regularly released large numbers of civilian prisoners in South Viet-Nam. I regret to report that the other side has failed to respond to these release efforts. There has been only one release of a United States prisoner captured in South Viet-Nam in the past year and no releases of prisoners captured in North Viet-Nam since August of 1969.

THE QUESTION OF MAIL AND PACKAGES

Let me speak about a matter of continuing concern to the families of our captured and missing personnel, and to the United States Government: the question of mail and packages. When I appeared before this subcommittee 10 months ago it appeared that this situation had improved over earlier periods, and testimony was given which suggested that this state of affairs would continue. During 1970 and in the early months of 1971 some 3,000 letters were received from nearly all United States prisoners captured in North Viet-Nam, a far higher rate than earlier periods. Many families were receiving letters at the one-per-month rate announced by North Viet-Nam. Hanoi had announced permission for prisoners captured in North Viet-Nam to receive one package every other month from their families, and there was some confirmation that the men were in fact receiving the packages.

I regret to report that during the following months there was serious deterioration in this record. During the last 9 months of 1971, up to just before Christmas, less than 200 letters were received from fewer than 50 of the prisoners. To the dismay of the families, virtually all packages mailed in August and October 1971 were refused by North Viet-Nam and returned to the senders. Although we hoped that the question of prisoner mail and packages could be handled on a humane basis, it became clear that it would be necessary once again to make known our concern about it. Accordingly, Ambassador Porter spoke on these questions in the Paris meetings on November 4, December 2, and December 9, calling attention to North Viet-Nam's violation of its own announced standards for correspondence. I will provide texts of Ambassador Porter's statements on those dates for the record of this hearing.

Just before Christmas the "Committee of Liaison" in New York announced receipt of 1,001 letters, including for the first time 18 from United States prisoners captured in South Viet-Nam. These letters were of course welcomed by the families who received them. For several it was the first word ever for men lost as long as 5 years earlier. I would call attention to the comments of Secretary Rogers on this subject at a news conference December 23, in which the Secretary said: [5]

"I think it is very difficult for us to understand why the North Vietnamese act as they do in such inhumane ways. Why do they hold up these letters for so long, in clear violation of the Geneva Convention? Why did they fail to tell us that some of those on the list were still alive? As you know, some of the letters were from men that had been listed as killed or missing."

As the Secretary indicates, several of the men captured in South Viet-Nam from whom letters were received had been listed as missing or dead. There remain nearly 600 United States personnel listed as missing or possibly captured in South Viet-Nam and some 265 in that status in Laos, from whom no word has ever been received. The fact that 18 letters have now come from men captured in South Viet-Nam indicates that the capability is there for such men to correspond with their families. The families have tried year after year to write to those men, but none of the 18 who wrote indicated that he had ever received a letter.

Earlier this week we were informed that another 451 letters had been received by the "Committee of Liaison" and had been forwarded to the families. The letters are all from men captured in North Viet-Nam who have written previously. Again, we welcome these letters but must question the motives that lead the other side to handle mail on this on-again, off-again basis.

On the question of packages, we have noted a broadcast in the name of the North Vietnamese post office on January 22 indicating that over 300 packages had been delivered to United States prisoners in North Viet-Nam at "Christmas 1971 or New York 1972." This was reassuring word to the families after the return of all packages mailed during the previous half year. The families now are preparing to send packages during the present month, and we trust that North Viet-Nam will comply with the bimonthly package permission announced previously.

In this regard, I would note that over 400 Christmas packages addressed to men not on North Viet-Nam's list were returned in recent days. The subcommittee can understand the feelings of a wife or mother who continues to mail a package every other month to a man listed as missing and possibly captured when it is returned without definitive word as to the status of that man.

FAILURE TO IDENTIFY PRISONERS

In a further effort to resolve this situation our spokesman in Paris on January 20 offered specific information on 14 of our men lost over North Viet-Nam under circumstances which leave no doubt of the other side's ability to provide information about them. Some of these men were seen to be alive on the ground, surrounded by enemy personnel. In some cases one man from a two-person aircraft is identified as a prisoner by North Viet-Nam, with no word on the other man. I regret to report that North Viet-Nam has not responded to this renewed specific request for information. I offer for the record the text of this statement by the United States spokesman January 20.

We recognize, of course, that many of the men listed as missing in Indochina are almost certainly dead. But without a full accounting, and without the right of all prisoners to correspond regularly with their families, the anguish of uncertainty continues. Surely the identification of all prisoners should transcend the issues of this or any other conflict. There can be no justification for the other side's policy in Indochina on this humanitarian question.

NEW PEACE PROPOSALS

I am sure one of the major interests of this subcommittee today is how our recent peace proposals affect the prospects for early release of our prisoners of war. This is of course a question of utmost importance, and for this reason I think it is worthwhile to review it in some detail.

You will recall that in his comprehensive peace initiative of October 7, 1970, President Nixon proposed the immediate and unconditional release of all prisoners of war, including journalists and other innocent civilian victims of the conflict. He asserted that such release would constitute a simple act of humanity, reflecting the position we have long held that the prisoner issue should be treated on a humanitarian basis and that its resolution need not—indeed should not—depend on or await resolution of the other issues of the conflict.

This position was, of course, far apart from the view of the Vietnamese Communists—as formulated in the NLF's 10 points in May 1969—that the two sides should negotiate the release of prisoners as part of the "aftermath" of the war. It was clear that Hanoi intended to detain our men as bargaining levers to extract from our side maximum concessions.

This tactic came into even clearer public focus when Hanoi reformulated its position on prisoners in the so-called seven-point peace program of July 1, 1971. In effect, Hanoi attempted to increase pressure on the prisoner of war issue by appearing to advance the timing of releases from the "aftermath" of the war to the first step of an overall settlement and by proposing the simultaneous release of prisoners and withdrawal of our forces, provided that we first make a unilateral, unconditional commitment to withdraw totally by a fixed date in 1971. Aside from this condition, our probing of the Communists' program readily revealed that it did not in fact contain the simple assurance that our prisoners would be released in return for the withdrawal of our forces.

Despite hints that Hanoi might in fact negotiate and even implement prisoner releases and troop withdrawals before and apart from resolution of political questions, within a few weeks after presenting the seven-point program they had dispelled any illusions on this point by repeatedly asserting that the military and political elements of their program were "inseparable" and that there could be no release of prisoners until both elements had been resolved.

Pham Van Dong, North Viet-Nam's Premier, made this clear in a speech on November 21, and I quote:

"Only if the U.S. will withdraw the totality of U.S. troops and at the same time cease maintaining the Nguyen Van Thieu puppet administration as a tool of the U.S. policy of aggression can the war be settled and peace be restored in Viet-Nam."

By year's end Hanoi had reverted to its original formulation regarding prisoner release, and I quote:

"The solution of these fundamental (military and political) points will allow the U.S. to get out of the Viet-Nam war in safety and honor: it will also enable the settlement of the questions of the aftermaths of the war, including the question of American captives."

It was clear that Hanoi had in no way altered its fundamental demand that we withdraw totally and throw out the South Vietnamese leadership as the price for the return of our men.

While these developments were occurring in the public forum, we were making every effort to break the negotiating impasse through secret talks with North Viet-Nam's leaders. The record of these talks, revealed last week by the President, is of particular interest and importance insofar as it reflects the lengths to which we have gone in trying to accommodate Hanoi's position on a settlement including early release of prisoners of war.

On May 31, 1971, we made an offer designed to separate the military from the political aspects of the war. I am not sure, Mr. Chairman, this is clearly understood on the record. We proposed the withdrawal of all our forces by a fixed date, the release of prisoners, and a cease-fire. We would leave the political and all other issues aside for resolution among the parties directly concerned.

This offer was rejected on the grounds that we must address the political elements as well. Hanoi then put forth its own nine-point program on June 26, 1971. Similar to the seven-point program presented publicly only a few days later, the nine points called for the total withdrawal of United States and allied forces in 1971 and the parallel release of military and civilian prisoners. But there was no provision for separating these points from the program's other points including the replacement of the South Vietnamese Government by a regimen which the Communists could control. Again, release of our prisoners was dependent on achievement of Hanoi's military and political objectives.

In an effort to accommodate North Viet-Nam's demands without forsaking our own goals, we formulated a new plan which encompassed both the major military and political issues. This culminated in our proposal of October 11, 1971, which, with minor refinements, was made public by the President on January 25 and tabled at the Paris meetings 2 days later. This plan provides for an overall settlement to be implemented in two phases: there would first be an agreement in principle covering the major military and political issues; once the details of these issues had been worked out, a final agreement would be signed.

Recognizing that more time would probably be needed to reach agreement on such difficult political problems as elections, our plan envisages implementing prisoner releases in parallel with troop withdrawals during the first phase; that is, as soon as the agreement in principle is reached but without waiting for the final agreement to be signed. The completion of this process would depend on final agreement being reached on the other issues of a settlement. It is our hope that such a phased approach to a comprehensive settlement would facilitate the earliest possible return of our prisoners without sacrificing our goal of assuring the South Vietnamese people of a chance to decide freely their own political future.

This represents the continuing objective of our negotiations, and Ambassador Porter has tabled our plan formally in Paris. In doing so, however, he has stressed the flexibility of our approach to the entire negotiating process. While we believe our most recent peace plan offers a fair, reasonable basis for resolving the Viet-Nam conflict, we remain willing to consider any serious proposal concerning prisoners of war. If the other side should prefer to separate the military from the political issues, we would be happy to dis-

[1] Made before the Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs on Feb. 3.

[2] For text, see BULLETIN of Oct. 25, 1971, p. 447.

[3] For President Nixon's address to the Nation on Jan. 25, see BULLETIN of Feb. 14, 1972, p. 181.

[4] For President Nixon's address to the Nation on Oct. 7, 1970, see BULLETIN of Oct. 26, 1970, p. 465.

[5] BULLETIN of Jan. 17, 1972, p. 49.

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cuss our May 31 proposal. Similarly, in the more unlikely event that Hanoi should wish to deal with the prisoner issue on humanitarian grounds, apart from all other issues, our proposal of October 1970 remain on the table.

To date there is little evidence that the other side is willing to negotiate in terms which seriously and realistically reflect the actual situation in Indochina. They are still attempting to achieve their maximum objectives. We nevertheless hope that we may induce Hanoi to forsake the battlefield in favor of the conference table and thereby achieve the release of our prisoners.

A GREAT AND GOOD CITIZEN

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, no community has a surplus of conscientious dedicated citizens. Consequently, the loss of one who lives up to this description in every respect is always a serious loss. In February, the city of Quincy and the whole south shore area of Massachusetts experienced just such a loss with the passing of Carl M. Oberg, one who literally devoted his last ounce of strength and breath to his community. I personally came to know Carl Oberg quite well over the years in our mutual efforts to keep alive the area's major single source of economic health and vitality, the Fore River Shipyard in Quincy, Mass.

Again, farsightedness is not in such bountiful supply these days that any community can afford to lose citizens of foresight, yet Quincy and the whole south shore area did, in fact, lose a man of great foresight with the passing of Mr. Oberg. He foresaw that if the Fore River Shipyard was to be truly competitive in the era of supertankers and aircraft carriers that the bridge over the Fore River would have to be widened. Now that the Fore River Shipyard is in serious competition for one of the largest commercial orders in history, I know there are many local officials and citizens who wish they had listened to Mr. Oberg a long time ago. Literally a one-man lobbying effort in Washington and in his local community for educating opinion about the need to help preserve one of the area's chief economic assets, Carl Oberg was about his business until shortly before his death.

As one of those who has been concerned with the yard and its future since coming to Congress, I consider it to have been one of my great good fortunes to have been able to count on the unswerving perseverance and completely selfless dedication of Mr. Oberg in all my efforts.

I would like at this time to share with my colleagues the tributes which appeared in the local papers, as a whole community begins to grasp the true worth of one of its most distinguished citizens. Two articles follow:

[From the Quincy Patriot Ledger, Feb. 19, 1972]

CARL M. OBERG

QUINCY.—Carl M. Oberg, 72, of 46 Presidents Lane, died yesterday at University Hospital, Boston, after a long illness.

Born in Lowell, he had lived in Dorchester most of his life before moving to Quincy 19 years ago.

Before his retirement, he had been a mechanical engineer at General Dynamics Quincy shipyard. He was a member of the Lafayette Masonic Lodge of Norwood, and Taleb Grotto.

He is survived by his wife, Mrs. Grace T. (Thoresen) Oberg; a son, Carl Thor Oberg of Pittsburgh, Pa.; a brother, Henry Oberg of Quincy, and three grandchildren.

Funeral services will be held at 12:30 p.m. Tuesday in All Saints Episcopal Church, Dorchester. Burial will be in Cedar Grove Cemetery, Dorchester.

Visiting hours at the Wickens and Troupe Funeral Home, 26 Adams St., are from 2 to 4 and 7 to 9 p.m. tomorrow and Monday.

OBERG

In Boston of Quincy, February 16, Carl M., husband of Grace T. (Thoresen) residence 46 President's Lane. Father of Carl T. of Pittsburgh, Pa. Brother of Henry of Quincy. Also survived by 3 grandchildren. Funeral Services Tuesday at 12:30 p.m. from the All Saints Episcopal Church, Ashmont Street, Dorchester. Relatives and friends invited. Visiting hours at the Wickens and Troupe Funeral Home, 26 Adams Street, Quincy, Sunday and Monday 2 to 4, 7 to 9. Interment will be in Cedar Grove Cemetery. Late member of the Lafayette Lodge of Masons, AF & AM.

[From the Quincy Sun, Mar. 16, 1972]

A TRIBUTE—CARL M. OBERG, 72, QUIET BENEFACTOR

If General Dynamics shipyard receives contracts for the experimental "supertankers", they may be indebted to the late Carl M. Oberg of 46 Presidents Lane.

Mr. Oberg, 72, who died Feb. 18 at University Hospital, Boston, was a retired mechanical engineer at Fore River who took it upon himself to travel to Washington to lobby for widening of Fore River Bridge.

"Armed with briefs and the best wishes of Mayor McIntyre and William O'Connell of the Chamber of Commerce," his widow said, Mr. Oberg "went to Washington and informed many of the Senators and Representatives of the importance of widening the bridge."

Mrs. Grace T. Oberg said the Massachusetts Congressional delegation "all pledged their support" to her husband and "he was most happy to learn on Jan. 13, 1972, that the widening is a possibility."

Widening the bridge is essential to allow passage of the gigantic ships which would have to pass under it for sea trials after construction at the shipyard.

Mrs. Oberg said her husband moved to Quincy from Dorchester in 1949, "enjoyed living here, became involved in working in Quincy, saw things that needed improvement and went after the situation."

Among his behind-the-scenes work was effort to bring about the traffic signals which have been installed at the intersection of Furnace Brook Parkway and Adams St.

"His abilities lay in the engineering field, procurement, expediting, construction, design and the art of detecting potential problems," she said.

"Younger men anxious to learn and understand their jobs came to him with their problems and appreciated his help. There are many men younger than he who owe their success to his aid and encouragement," she said.

The Obergs celebrated their 50th wedding anniversary in October 1971 with a surprise buffet dinner at George R. Bean Post in South Weymouth, Mr. Oberg was born in Lowell and was a member of Lafayette Lodge of Masons and Taleb Grotto.

Besides his wife, he leaves a son, Carl Thor Oberg of Pittsburgh; a brother, Henry Oberg of Quincy, and three grandchildren.

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ZWACH. Mr. Speaker, I was most gratified to read a recent release from the Department of Agriculture regarding Secretary Butz' rebuttal of charges that meat producers are causing present prices.

On the chance that some of my colleagues and others may have missed reading this excellent explanatory release, with your permission, I insert it in the RECORD:

TIME TO FERRET OUT THE REAL CULPRITS IN FOOD COSTS

WASHINGTON, March 25.—Secretary of Agriculture Earl L. Butz said today the time has come to ferret out the real culprits in the cost of food and hold them up by the back of the neck for everyone to look at.

"The place to look is in the processing and distribution system between the farmer's gate and the consumer's table. That's where 62 cents out of every food dollar goes—and that's where the bulge in costs has been ballooning," Secretary Butz said.

"President Nixon pointed out on Friday that the spread between farmers and consumers is too wide. And he was correct in pointing out that it is a mistake and totally unfair to make the farmer the scapegoat.

"The simple facts show that in the last 20 years farmers' prices for food products at the farm gate have gone up 6 percent; while consumers' food prices at the store have gone up 43 percent. Meantime, the farmers' share of the consumers' food dollar has shrunk from 49 cents to 38 cents," Secretary Butz pointed out.

Mr. Butz said the increase in food costs is in such things as freight rates; container costs; added services and conveniences built into frozen, pre-cooked, pre-mixed, pre-peeled and prepared foods; more meals eaten out where service and "atmosphere" cost more than the food, and higher wages up and down the line.

"Those costs in processing and distribution are hard costs," Secretary Butz said. "Once these costs go up, they harden and stay up. By contrast, prices of farm products are soft costs—they move up and down from month-to-month, season-to-season and from year-to-year—but they don't harden. For instance, farmers' hog prices fell 35 percent in four months time two years ago. And right now, farmers' cattle prices are 4½ percent less than a month ago and hog prices are 8 percent less than a month ago.

"I welcome the public hearings on food costs that the Price Commission will hold on April 12. If farmers were causing the inflationary bulge, I'd run for cover," Mr. Butz said. "Instead, I'm going to stand up and tell the truth about farmers. Any high school student in his first economics course knows that the best counter-move to inflation is to increase productivity. Well, farmers' productivity per man hour is 3.3 times more than it was 20 years ago—and that happens to be twice as fast a rate of productivity increase as in manufacturing industries.

"Farmers are producing 2½ times as much beef as 20 years ago, and four times as much Choice beef. They must be doing a good job—because people are voluntarily eating twice as much beef per person as 20 years ago. Farmers are giving them what they want; farmers are responding magnificently. Yet cattle prices just recently got up to levels of 20 years ago. And those are much cheaper dollars now.

"The public is being fed a lot of malarky about meat prices," Secretary Butz said. "One food chain in the Washington, D.C. area took full-page advertisements in newspapers this week urging people to eat less meat. They advised consumers to eat fish instead. Well, since the government's base period of 1967, fish prices have increased more than beef.

"This food chain said in their full-page ads that meat prices from their suppliers had skyrocketed. Well, we have people at the Department of Agriculture who watch wholesale prices all the time. The truth is that wholesale prices for Iowa beef carcasses are 1 percent less than last August 13 before the wage-price freeze went into effect. Those full page advertisements were signed by the consumer adviser to the president of the food chain. I recommend that she get out of her office and go out into the cooler and talk to the meat buyer," Secretary Butz said.

"In the last day or two, one Eastern Congressman has urged a nation-wide boycott of meat. He said this would force supermarkets to buy less meat from wholesalers, they'd buy less from packers, and packers would buy fewer cattle from farmers. 'Sooner or later, those cows will have to come to market at a lesser price,' the Congressman is quoted as saying.

"I'd like to invite the Congressman to come out into the country with me, and I'll show him that those are fed steers and fed heifers in the feedlots—not cows," Secretary Butz said.

"This is an example of the kind of muddled thinking you get when someone who doesn't know a cow from a fed steer is advising people on their eating habits and is placing the blame for food prices on farmers. Farmers are working for one-fourth less than the rest of the economy—farmers' average disposable income is only three-fourths of the average for non-farm people," Secretary Butz said.

"What the Congressman should be telling people is that between 1951 and 1971, farmers' prices for food products went up a magnificent total of 6 percent—meantime, the nation's wage rates increased an average of more than 6 percent a year for all 20 years, for a total increase of 130 percent.

"That's one reason why, despite rising food costs in stores, food is such a good buy for wage earners. They will spend $15.60 per $100 of after-tax income for food this year—that's for food eaten at home and away from home. Twenty years ago, wage earners spent $23 per $100 of after-tax income for food. If food still cost wage earners the same proportion of their incomes as 20 years ago, they'd spend $286 more per person for food this year," Secretary Butz said.

FIRST BAPTIST CHURCH OF DECATUR COMMUNITY CLOTHING ROOM

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BLACKBURN. Mr. Speaker, recently, among the stacks of mail on my desk awaiting attention, I came across a communication from the First Baptist Church of Decatur, Ga., reporting on the operation of its Community Clothing Room during 1971. This church is one of the oldest and largest in the Fourth Congressional District, and I was already aware of its reputation for worship and service, as well as its fine team of Christian "doers" under the leadership of Pastor William W. Lancaster, and Associate Pastor W. Ray Avant.

Amid the rush and bustle of the activities of Congress, this report caused me to pause with no small feeling of pride for the heartwarming story it tells. I want to share with my colleagues this particular example of what can be done to help the poor effectively through the cooperation of the Christian community and the willing hands of those who care deeply.

This special facet of the ministry of the First Baptist Church, the Clothing Room, has completed its second year of service. Almost 20 organizations, primarily churches in the area, with the added help of several schools and clubs, donated clothing, furniture, and household items which were sorted, sewed, and distributed by the Clothing Room directly to individuals, or through almost 25 of the agencies administering to the poor and indigent.

These agencies include a mental retardation center, the County Health Department, family and children services, boy scout and girl scout troops, several Baptist centers, day-care centers, city and county school systems, Economic Opportunity Atlanta centers, missions, and numerous other organizations concerned with the welfare of the disadvantaged.

It is gratifying to know that during 1971, 350 volunteers served at the Clothing Room with a total of 2,456 working hours.

The growth of the Clothing Room has been phenomenal. The number of individual requests since its beginning has increased daily, and during 1971, a total of 3,232 individuals were supplied clothing. Also, bulk clothing was distributed by the tens of thousands of garments to various organizations with their own facilities for distribution.

Shopping the sales and discount stores, the Clothing Room purchased hundreds of pairs of boys' pants and shirts to enable more children in dire need of clothing to attend school. Also, materials were purchased to make larger size dresses, gowns, and housecoats, and volunteers participating in this particular project sewed nearly 200 garments in 1971.

Three satellite clothing rooms were opened during 1971. One served by the Clothing Room is located in a portable classroom on the grounds of a school. This school has 1,140 children, all on the free lunch programs, and all in special need. The Clothing Room began to supply the school with clothing late in November, and has already distributed 7,000 garments as well as a large number of toys and games at Christmas time.

Cooperating with case workers, the Clothing Room supplied both clothing and housekeeping needs to 12 families who were burned out.

The Clothing Room also purchased well over 100 bed sheets for the use of elderly people who are being kept at home rather than sent to nursing homes. Because of limited funds, they were unable to meet the urgent companion need of supplying gowns, pajamas, robes, and housecoats to these senior citizens. However, some individual requests were met, such as the purchase of an electric can opener for an elderly lady crippled with arthritis.

I understand that President Nixon recently sent a citation to Mrs. Ralph Boren, Clothing Room director at the First Baptist Church. To the President's words of commendation for devotion to those less fortunate, I wish to add my own heartfelt thanks to Mrs. Boren and to her devoted band of volunteers for the generous giving of their time and hearts to this truly Christian effort.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. DULSKI. Mr. Speaker, the 43d annual Americanism Essay Contest for students in public, private, and parochial schools of Buffalo and Erie County, N.Y., had an interesting subject which brought forth some intriguing reaction from the young people.

The topic for 1972: "The Person I Consider Our Greatest American."

Some 75,000 students wrote essays on the subject and entries were submitted by 309 schools. Each school was permitted to submit only two essays for semifinal judging—the best written by a boy and the best written by a girl in coeducational schools. In other schools, the two best essays.

A preliminary judging reduced the more than 600 essays to 60 finalists from which the 12 winners were chosen.

As in the past, the prize for the winners is an all-expense paid sightseeing trip to Washington, with the young people and their four escorts due to arrive by air Friday morning, to remain until Wednesday, April 5.

The contest has been sponsored over the years by the Buffalo Evening News and the Erie County American Legion and Legion Auxiliary.

In announcing this year's topic, the sponsors explained that the title of "greatest American" is not easy to bestow. History books and today's newspapers list many contenders for this honor. Any man or woman, living or dead, may be considered.

In picking your nominee, you might consider a number of things: What the person accomplished, or is trying to accomplish, or how his life and thinking have influenced the lives of others. We set no boundaries for the subject of your essay . . .

Among the finalists, School 81 in Buffalo took top honors with two students among the 12 who won trips to Washington. Carlos Isada and Hannah Blau, both seventh graders in the "special progress" project for academically gifted children won with their essays on Thomas Edison and Mrs. Eleanor Roosevelt, respectively.

Six other winning essays involved individuals: Thomas Jefferson, Abraham Lincoln, Henry David Thoreau, Theodore Roosevelt, Will Rogers, and Martin Luther King, Jr. The other four chose types of people.

An unusual feature of this year's contest was a "repeater." Sarah Epps, who won a trip to Washington as an eighth grader last year, won again as a ninth grader.

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Mr. Speaker, the winning essays are well worth reading and do their authors proud. As part of my remarks, I include the texts of the winning manuscripts:

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Sarah Epps)

(Miss Epps, 15, 186 Box Ave., Buffalo, a ninth-grader at Genesee-Humboldt Junior High School, was winner of the girls division in the Buffalo public high schools. Her teacher is Mary Carson).

"I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the crooked places shall be made straight and the glory of the Lord shall be revealed and all flesh shall see it together. . . . This is our hope. . . . With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood." Dr. Martin Luther King, Jr., in his famed speech uttered those words.

God has truly blessed America with this man whom I consider our greatest American. He has left his shining name on the pages of American history and his imprint in the hearts of men.

Slavery left racism as one of its grim scars on the face of this country, along with racial unrest, violence and hate. Black Americans were the victims of discrimination and segregation. They suffered injustice, inequality and the deprivation of their "certain unalienable rights," a fact which denied the truth of the line . . . "with liberty and justice for all" in our country's Pledge of Allegiance.

Dr. King, a Nobel Peace prize winner, saw these, along with America's other imperfections. He struggled relentlessly to remove these blemishes, employing non-violence as his major weapon to secure equal rights and liberties, not only for Blacks, but for the deprived minorities of other races too.

Black is beautiful but so is white. But Dr. King saw an even more beautiful color which was black and white together.

His life was that of one genuinely attuned with God and although he is physically dead, the light he shone in his lifetime is still shining today. His inspiring words are still stirring impulses of growing harmony among races. His name has become a symbol of courage and hope for suppressed people everywhere. And, one day, regardless of the frustrations of today, Dr. King's glorious dream will become a reality which we shall forever cherish in our hearts.

Though they killed "The King" long live his dream of the unity of all Americans.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Sylvia Ohlschlager)

(Miss Ohlschlager, 18, 15 Lydia Lane, Cheektowaga, a junior at Maryvale Senior High School, was winner in the girls division for Erie County Public High Schools. Her teacher is Mrs. Margaret Laughlin.)

In this age of acid rock and Frank Zappa it seems ludicrous that I should consider Will Rogers to be interesting, much less admirable. To admit that I find Will Rogers to be our greatest American may condemn me to instant exile by my peers. However, I freely laud Rogers and profess my love for this gentle man who brought so much happiness into the bleak lives of a people who needed such an escape so badly.

Will Rogers was born in 1879 of mixed blood lines in which Cherokee predominated. Brought up on a frontier farm, he learned, along with the usual calf-roping and horse-riding, that there was a difference between prejudice and impartiality, and that a man was a man not Democrat or a Republican, a white or a black, a Catholic or a Protestant. Such was the philosophy that lay beneath that dry Western humor and his tall tales.

He infected the people with his own brightness, wit, and wisdom. Throughout his career, Will attended political conventions, banquets, Presidential parties and starred in many movies, theaters, concert halls and finally on radio.

Always he was the modest, wry cowboy who did tricks with his lasso while he talked, saying whatever came to mind. After the 1929 crash he kept the people in a cheery mood and from becoming as depressed as the economy.

Public apathy towards politics was often the target of his wisecracks, yet that same wit could well promote a charitable cause. Impartiality and understanding of other creeds, races, and political theories were preached by Rogers. He did the most of any American to promote patriotic spirit and faith in our country.

Therefore I feel that Will Rogers, the forgotten, mild-mannered humanitarian, should be remembered and recognized as our greatest American.

As Damon Runyon said: "Will Rogers was America's most complete human document. He reflected in many ways the heartbeat of America. In thought and manner of appearance and in his daily life he was probably our most typical native born, the closest living approach to what we like to call the true American."

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Lu Ann Picardi)

(Miss Picardi, 16, 685 Lafayette Ave., Buffalo, a junior at Annunciation High School, was winner of girls division for private and parochial high schools. Her teacher is Sister Anna M. Gaffney.)

The traditional image of a great American is a highly idealistic one. Its high standards unjustly disqualify many who will never have the opportunity to distinguish themselves in its light. Unless a person is the first, the best, or the only one to accomplish a certain feat, he is not eligible to receive the title of Great American.

This traditional pattern of thinking has led us to overlook those who have not had the advantage of the headline makers. I have chosen, not a politician, inventor, or adventurer, but one of the common people who has played a major role in the survivial of American ideals throughout history.

A man to be held in high esteem is the American Prisoner of War. He receives little or no public recognition. He is remembered only by family and friends. The role of a P.O.W. is not publicized, since he is not on the battlefield. We underestimate his significance in war effort.

A Prisoner of War is, first, an American soldier who has risked his life to protect his country's policies and ideals. He does not choose the position he holds, but is a victim of circumstance. Under heavy pressure, he stubbornly defends his country. He endures acute physical and mental suffering without regret. His great self-control is a quality to be admired.

Regardless of the length of time he has been imprisoned, he never loses faith. Indeed, his undying loyalty is a hindrance to his survival. The Prisoner of War's bitter struggle to keep sacred the ideals of the United States often remains secret from the public. If he is fortunate enough to survive, he may be unable to recount his experiences; but death may leave him no choice.

This unobtrusive man should be brought into the limelight. His valor, faith, and loyalty should be revealed to the people. Although he has not led numerous victorious attacks, he should be recognized as a true hero of the American cause. Surely, the American Prisoner of War is our Greatest American.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Hannah I. Blau)

(Miss Blau, 12, 163 Bidwell Parkway, Buffalo, a seventh grader at School 81, was winner in girls division for Buffalo public elementary schools. Her teacher is Christine Nagel.)

Is there really a "greatest American"? So many men and women have contributed to the growth of America. Franklin, Jefferson, Edison, Ford—all have been instrumental in America's development. The name of Anna Eleanor Roosevelt can and should be included in this list.

Eleanor Roosevelt devoted her life to humanitarian endeavors. Raising funds for needy causes, creating job opportunities, and improving working conditions were just a few of Eleanor's beneficent efforts. She acted as "eyes" for her disabled husband, inspecting and reforming hospitals across the nation. On her many hospital visits wounded soldiers were cheered by her warmth and compassion.

Often Eleanor asked the question, why war? Why was it impossible for countries to resolve their differences by discussion, instead of by conflict? In 1946 Mrs. Roosevelt joined the international group seeking an answer to the same enigma. She became a member of the United States delegation to the United Nations.

Eleanor Roosevelt again threw herself wholeheartedly into her work. She fought for the rights of women in countries where they had been degraded for centuries. She found food and shelter for the refugees of war.

Eleanor was known as the "human dynamo". And a dynamo she was. Mrs. Roosevelt's perseverance and determination were truly remarkable. She would accept any job, however demanding. Eleanor would not stand for inefficiency; she herself was clearheaded and sensible.

Mrs. Roosevelt was a revolutionary woman. She was harshly criticized for her direct manner of stating her opinion. Eleanor investigated and brought to light conditions which others carefully ignored. She did what no other woman has done for mankind. As Eleanor herself wrote:

"If we want a free and peaceful world, if we want to make . . . man grow to greater dignity as a human being—*we can do it!*"

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Patricia Nowicki)

(Miss Nowicki, 14, 31 Marie Ave., Cheektowaga, a ninth grader at Cheektowaga Central High School, was winner in the girls division for Erie County public junior high schools. Her teacher is George K. Szabo.)

"Greater love hath no man than this; that a man lay down his life for his friends; that a quotation taken from the Bible leads me to believe that a soldier fighting for America's freedom is the greatest American who could have ever lived.

A man brave enough to leave his home, family and security to fight that they may live on for generations to come, deserves the place of honor in the hearts of all true Americans.

Men have gone and go, to this very day, into battle knowing they may return minus a limb or not return at all, but nevertheless, they are willingly doing their part to preserve the rights provided for all Americans in the Constitution of the United States. Men like George Washington, Ulysses Grant and General Patton were among the greatest leaders. Many men, not so famous, earned medals and honors for commendable action.

Still many more little known or unknown men have done some things in their own individual ways to contribute to our preservation, even though they may not have lived to tell the great stories of their contributions.

Each of these men have earned the title of "soldier", "sailor", "airman", or "marine".

These people, some of them well-known and most of them forgotten, have preserved our freedom, our Constitution, our right to live and our general peace of mind. For years they have been debated about, shuffled around, sneered at and mimicked, but in recent years, very rarely appreciated.

To these devoted people we owe our lives and the freedom they have given us to enjoy both the provisions of the Constitution and our rights as human beings.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Ann M. Bryan)

(Miss Bryan, 13, 123 Victoria Blvd., Cheektowaga, an eighth grader at Queen of Martyrs, was winner in girls division in private and parochial elementary schools. Her teacher is Sister Mary Adalbert.)

The words men speak and the sacred doctrines they endorse shine brilliantly through the ages to brighten the shadow of time. Among these great Americans is Thomas Jefferson, whom I admire because his patriotism and determination will be instilled forever in the hearts of our people.

I consider Thomas Jefferson as our greatest American for his strong belief in reason, progress and freedom of one's own conscience. As mankind's best hope for a better America, Jefferson showed his belief of reason in handling relations with England during his Presidency. His great accomplishments are reserved not only in our country alone, but are extended to all parts of the world.

Jefferson believed in progress. He saw the approaching ending of slavery, so he freed his slaves. During his administration the Louisiana Territory was purchased, the Embargo Act originated and the explorations of Lewis and Clark were endorsed. He broadened the horizons of our growing union further westward so that eventually America would span the continent. But above all, Jefferson sought practical religious liberty throughout America. He was a just man, believing in freedom of press, although some made evident attacks on him.

Thomas Jefferson believed in freedom of conscience. He led the hard way for the Bill of Rights, and by writing the famous "Declaration of Independence," his belief of equality of all men, won the respect of American people. He captured the hearts of the majority with his vision of "life, liberty and the pursuit of happiness" for all.

For his noble, dignified character and his unsurpassed faith in the ideals and everlasting strength and perseverance, we pay homage to Thomas Jefferson, our greatest American.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Walter W. Smith, Jr.)

(Mr. Smith, 15, 399 Roesch Ave., Buffalo, a sophomore at Riverside High School, was winner in boys division for Buffalo public high schools. His teacher is Christine Singleton.)

In less than two centuries of existence the United States of America has perhaps more than any other country in history, contributed to changing the world and lifestyles of man. Many great Americans have emerged from simple beginnings to become names that the world will never forget.

Yet of all these men and their accomplishments, I cannot help but believe that the greatest American is the one who fought to preserve this democracy. His accomplishment is far superior to that of other men for without him there would not be a country like ours where other men could have worked such great feats.

From those first battlefields in Lexington and Concord to the rice paddies and jungles of Viet Nam, the United States soldier has fought and died to insure democracy for his family and friends. At times the United States has been wrong in its policies, but the soldier did not give up and say the government was totally wrong. If he did then we would be in great danger of losing the opportunity to live without fear of our basic human rights taken away. This tranquility, which is sometimes taken for granted, has produced an environment which has allowed men to do great things for the world and mankind.

The soldier has strived for the betterment of our country and worked upon his return to make a more democratic society where men and women can live in peace. If it took a war to make peace then the soldier has always sacrified to get it over quickly.

Let us not have another great American killed or wounded. If we help on the home-front to make our country a peaceful one then we will prove that our greatest American did not die for a futile cause. He died to preserve an atmosphere for potential greatness.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Michael T. Ray)

(Mr. Ray, 17, 8233 Jennings Rd., Eden, a junior at Eden Central School, was winner in the boys division for Erie County public high schools. His teacher is James G. Duffy.)

After having been approached with the topic for this essay, I sat pondering about one individual after another. But on considering many different people, I decided there was no single great American.

To me, the greatest American was the man who toiled long and hard on the arid soil, trying to make the most of his land. The greatest American was his wife, companion through all the heartbreaks and setbacks of life in these virgin lands.

The greatest American need not be seen on television, heard on radio, read about in books and newspapers, or in any other form of mass media. He is the unsung hero, the man of goodwill who made the once rude countryside flourish. Written in all the history books are the battles won by the colonists against the British, and the men who commanded the victorious forces. But what of the people they commanded, the people who made liberty a reality?

What of those who fell before the guns of their oppressors? Their names fade into oblivion with each new generation. Even less spectacular are the impoverished masses who labored to lay the tracks for the thundering "iron horse." Most of all, what of the devoted citizens who simply vote, pay their taxes, and help to maintain law and order?

I could have written of the legendary figures of the powdered wig, the inventor of the light bulb, a martyr for civil rights, a great president, or my grandfather. To me, these are all great and good men who should be admired.

But this country was founded, made and raised to greatness by the individual man or woman who labored to do his simple duty though he lacked the pomp and glory of the select few. Truly he is the great American.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Lawrence J. Owczarczak)

(Mr. Owczarczak, 16, 200 Aris Ave., Cheektowaga, a junior at Bishop Turner High School, was winner in boys division for private and parochial high schools. His teacher is Rev. Francis Braun.)

Of all great men past and present, there is one that stands out in my mind as a great American. This is Henry David Thoreau. As a sharp critic of society and a poetic writer of nature he wrote essays and journals showing his sympathetic understanding of the world of nature and his strong attack on injustice in society.

He published *Walden*, his Robinson Crusoe-like narrative, that is a masterpiece of essays. It probes deeply into the beauty of nature, the human spirit, and the meaning of life. For two years he isolated himself from society and the cruelties of the world and lived a simple life at Walden Pond near Concord, Massachusetts.

There he worked hard with what interested him. He observed the natural surroundings and the wildlife. He wrote articles and read books. He meditated a great deal and succeeded in enjoying a close relationship with what he saw and felt.

During his brief stay, this "one man revolutionist" overcame the difficulty of an increasingly complex society by simplicity and self reliant independence. *Walden* reflects the spirit of Thoreau as he takes delight in life and living.

Today many of his fellow Americans follow the philosophy of this great author. Many of the younger generation are doing today what Thoreau did yesterday. They are searching for the meaning of life and rebelling against what they feel is wrong in society. Like Thoreau these young people want more freedom and more solitude to meditate on life.

His love for nature is present on our American scene. People now realize the danger in the pollution of their water and air and are starting to care about them and to improve them.

Thoreau may not be a president, a wartime hero or an explorer, but he has accomplished a great deal as a "one man revolutionist" by trying to improve the lives of men in America.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Carlos M. Isada)

(Mr. Isada, 12, 276 Minnesota Ave., Buffalo, a seventh grader at School 81, was a winner in the boys division for Buffalo public elementary schools. His teacher is Christine Nagel.)

Any medal will outlast the man it honors. But his deeds alone will be ingrained in memories, and will overshadow superficial reminders—status and medals. Wizard and miracle creator, Thomas Edison is one man who will be remembered forever. His natural genius coupled with a fantastic character made him one of the greatest Americans that ever lived.

A truly great American must fit into our society's foundation. Thomas Edison surpassed the high ideals that govern our country. Perseverance, a pioneering spirit, and plain hard work comprised his character. Tom once said genius is ninety-nine percent perspiration and only one percent inspiration.

Edison was such a vigorous worker that since life was so short, he was going to hustle. When he was sixty-seven years old, a fire razed his laboratories. But, ignoring his old age, he made a fresh start. He was still hustling!

Even the greatest men have their moments of self-doubt. His most trying moments occurred when heavy scorn and distrust fell upon him concerning the electric light. For the only time in his career, Edison sadly wondered why he labored for people who cheated and distrusted him. His true greatness emerged when he rose from dismalness and regained his lost confidence.

A great American must be practical. He was called the wizard of Menlo Park because "impossible" dreams became realities. Although deaf, he created a phonograph so others might hear sound. His clean, cheap, and reliable electric bulb and the phonograph added much to the American way of life.

His many inventions are taken for granted. But when the power lines fail and the lights

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go off, only then can we appreciate the work of this man.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By David Regelski)

(Mr. Regelski, 16, 63 Center Ave., Lackawanna, a ninth grader at Herbert Hoover Junior High School, was winner in boys division for Erie County public junior high schools. His teacher is Mrs. Jeanette Porter.)

Through the determination and zeal of many outstanding Americans, a great land was built and it has flourished. One American stands above all others in illustrating the truest caliber of Americanism for me.

As hunter, explorer, author, soldier, or President of the United States, he displayed his sense of individuality and strength of character in each field of endeavor. This unique individual spirited and lived the essence of life he loved. His love for the country which he defended in the Spanish-American War was without measure in its pure quality of devotion.

He breathed a fiery spirit of brotherhood, of conservation of nature's wonders, and of the cooperation of all for the good of all. As President he personified a nature of inexhaustible energy, self-reliance, and individual initiative.

His courage, foresight, and wisdom led him to be widely known as a naturalist through his programs of conservation; a humanitarian, believing in the "square deal" and destroying corrupt government and business, as he becomes known as the "trust buster".

His dynamic personality united the ripe judgment of the scholar with the sharp wit of a realist as displayed in his striving for self-achievement and the goals of his country in peace as well as in war.

Sustained by faith and an inner drive to carve out his destiny, he would not give up hope of the promise tomorrow might bring in ways of peace, a trait which attained for him the Nobel Peace Prize in his negotiations in the Russo-Japanese War.

This man who left an everlasting imprint on the hearts and minds of the American people both morally and spiritually is my choice of a great American—Theodore Roosevelt.

THE PERSON I CONSIDER OUR GREATEST AMERICAN

(By Larry Delre)

(Mr. Delre, 13, 8082 Marble Rd., Akron, an eighth grader at St. Teresa of Avila School, was winner in boys division for private and parochial elementary schools. His teacher is Sister M. Ambrosiane C.S.S.F.)

Abraham Lincoln was one of the great men of all time. He preserved the American Union during the Civil War and proved to the world that democracy can be a lasting form of government. Lincoln's Gettysburg Address, and many of his other speeches and writings are classic statements of democratic beliefs and goals. In conducting a bitter war, Lincoln never became bitter himself. He showed a nobility of character which continues to grow in world-wide appeal.

As President, Lincoln was often a careless, inefficient administrator. But these failings mattered little when compared with Lincoln's great merits. Lincoln realized at the beginning of the Civil War that the Union must be saved. The United States was the only important democracy in the world. Lincoln knew that self-government would be proved a failure if the nation could be destroyed by a minority of its own people. He determined that the nation and democracy would not be destroyed.

Lincoln's second great asset was his ability to express his convictions clearly, and with such force that millions of his countrymen made them their own. He sought to be understood and to convince.

Lincoln's third great source of strength was his iron will. The Civil War had to be carried on until the Union was restored. His unyielding faith in victory helped to win victory. If the Union had not been preserved, the United States would have become two nations. Neither of these nations could have attained the prosperity and importance that the United States has today. Lincoln influenced the course of world history by his leadership of the North during the Civil War. He rose from humble origin to the nation's highest office. Americans regard his career as proof that democracy offers all men the best hope of full and free life.

U.S. MERCHANT MARINE AND ITS IMPORTANCE TO PUERTO RICO

HON. JORGE L. CÓRDOVA

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CÓRDOVA. Mr. Speaker, it is a pleasure to bring to the attention of the House the fact that the Senate of Puerto Rico has resoundingly expressed its support of the U.S. Merchant Marine, and its importance to Puerto Rico. The Senate of Puerto Rico is controlled by our political opposition, which has sometimes advocated opening the Puerto Rico trade with the mainland to foreign flag ships, a matter on which our two principal parties have heretofore been at odds. I am happy to see that our opposition has come around to our way of thinking on this issue. There follows the text of the resolution adopted by the Senate of Puerto Rico on February 1, 1972:

SENATE OF PUERTO RICO, THE CAPITOL

I, Miguel A. Díaz Santiago, Secretary of the Senate of the Commonwealth of Puerto Rico, hereby certify that in session held by the Senate of the Commonwealth of Puerto Rico the first day of February of 1972, Resolution Number 382 was passed, with the following text:

RESOLUTION

To request from the Congress and the Administration of the United States to take action in order to assure the expansion and revitalization of the Merchant Marine of the United States.

EXPOSITION OF MOTIVES

Whereas:

1. The economic progress and the safety of Puerto Rico require that fast and adequate means of maritime transportation be available at all times.

2. In case of emergency the Island would have to rely mainly on ships flying the United States flag, manned by loyal United States citizens.

3. The United States Merchant Marine presently handles only a small fraction of the nation's external trade, and it might be insufficient to fulfill the tremendous responsibilities which would be thrust upon it in an emergency.

4. The Merchant Marine of the United States is an important factor of the economy in Puerto Rico, as a source of employment and as a provider of services which are essential for our industries. The United States passenger ship fleet, which has practically disappeared, provided a large number of jobs for the Puerto Ricans.

Therefore, be it resolved by the Senate of Puerto Rico:

Section 1. To request from the Congress and the Administration of the United States that they take all necessary action to assure the expansion and revitalization of the United States Merchant Marine, so that it may always be ready to provide the maritime transportation which is so vital for the safety and the progress of Puerto Rico.

Section 2. That as part of those efforts be included the task to reactivate the passenger and tourism ships fleet, so important as a source of employment and economic activity in the Island.

Section 3. In accordance with the above and in solidarity with the Puerto Rican labor movement, we request from the Congress of the United States to forego all legislation that might authorize the sale of passenger ships flying the flag of the United States, that may be presently inactive, so that these may be put in operation again, to become additional employment sources.

Section 4. This resolution will be effective immediately after approval.

And to deliver to Mr. Guillermo Ryan, for official business and at his request, I hereby issue this certificate signed by me and sealed with the Seal of the Senate, in my office at the Capitol, San Juan, Puerto Rico, the first day of February of the year 1972.

ORGANIZED LABOR'S ROLE IN MANPOWER POLICY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. O'HARA. Mr. Speaker, on March 16, the Department of Labor conducted an observance of the 10th anniversary of the original enactment of the Manpower Development and Training Act. Those of my acquaintances who were able to attend, advise me that among all the outstanding speeches and superb presentations, there were one or two that stood out in the minds of most of those present—among them being the breakfast address by Mr. Howard D. Samuel, vice president of the Amalgamated Clothing Workers of America, AFL–CIO. I am pleased, Mr. Speaker, to have this opportunity to insert this excellent speech at this point in the RECORD:

MANPOWER POLICY: THE SECOND DECADE—THE FIRST 10 YEARS OF MANPOWER POLICY IN RETROSPECT: THE ROLE OF ORGANIZED LABOR

One of the reasons I looked forward to this occasion was that it gave me an opportunity to pay a word of tribute to Eli Ginzberg, the greatest manpower expert of us all, who is now rounding out ten years as chairman of the National Manpower Advisory Committee. Although some of the members of the Committee may feel that they have some special insights and experience, he handles us all like his students—which we really are. I am grateful for the knowledge I've gained serving with him.

I don't imagine there is any element in society more concerned with the subject of this conference than the labor movement. We were here more than ten years ago to urge and lobby for a manpower training program in the first place. Let me take a moment at this point to pay tribute to Elmer Holland, the Congressman from Pennsylvania, whose leadership and understanding helped make the original manpower act possible. I think he would be pleased to see how his baby has grown over the years, to become a major element in our government's economic program. And during much of the last decade, we have been among the most zealous in carrying out the goals and programs of the manpower training program as well as in criticizing it.

This is not the time or place to read to you a catalogue of labor manpower training activities, but I want to mention at least some of the highlights. Labor's program began about five years ago, when the Labor Department opened the way for co-sponsors of training programs. I have not seen any listing of all the labor-sponsored programs which have been undertaken in this period, but it must add up to hundreds, embracing Job Corps camps, the Apprenticeship Outreach program, OJT, JOBS programs, Public Service Careers, and many more. Telephone workers have been trained in Kentucky; hospital workers upgraded in Maryland, a city-wide placement program initiated in New York City; operating engineers trained in Tennessee; laborer trainees placed in jobs in Massachusetts; ironworkers trained in Birmingham; plumbers in Oklahoma City; retail employees in Pittsburgh. And so it goes, in virtually every trade and skill, in almost every area of the country.

Much of this activity is coordinated by a division set up by the AFL–CIO itself, headquartered in Washington, with offices and full-time staff in more than 50 major industrial centers. This is the Human Resources Development Institute, funded largely by the Department of Labor to promote and oversee labor's massive participation in manpower training.

A common thread running through labor's activities has been the effort to open up jobs and skills to the disadvantaged, members of minority groups, who in the past would not have had the training and knowledge. Perhaps the best known program is Outreach, a cooperative effort, more than five years old, among the AFL–CIO Civil Rights Department, the Building Trades and the Workers Defense League. Thousands of minority group members have been recruited, trained, and provided job opportunities through this extensive program, which now operates in over 75 cities and is steadily growing.

I suppose the record of our participation in the manpower training program might give the observer the impression that we are entirely happy about the government's program. Well, I am sorry to say that we are not. A very small part of our unhappiness results from an occasional lack of coordination between the Department and the AFL–CIO. It seems to me that the labor movement deserves to be treated as a full partner in this area, and I hope the climate of association and cooperation will not erode. But our real problem goes far beyond one of attitudes.

Before I discuss details, let me make it clear that I am not approaching the manpower issue from a partisan or political viewpoint. The goals of the labor movement in this area have not changed the past ten years, and I doubt that they will change in the near future. The keystone of our philosophy is that manpower training represents not only a goal in itself, but is rather one element in a broadscale attack through both government and private resources, on our twin problems of unemployment and poverty. Like all the elements of this battle, training programs must be integrated with economic planning and policies on the broadest basis.

If during the past ten years this philosophy had been carried out in a rational and thoughful way, we would not today have 50 different state employment services; we would not be training members of minority groups for jobs that don't exist; we would not be providing only 150,000 public service jobs at a time where there are 5½ million unemployed; we would not be forcing welfare mothers to train for jobs when there are not enough day care centers for their children; we would not be content with a federal minimum wage so low that any worker who is even close to it would be living below the poverty level.

And on it goes, one inconsistency after another, one incongruity after another. Instead of building an economy based on planning for national goals, we are wandering around like Alice in Wonderland.

An AFL–CIO viewpoint of manpower training would include the following features.

Number one, a manpower training program must be a national program, because unemployment and poverty are clearly national problems, not state or regional problems. In this respect we need comprehensive programs, and we must retain national categories, such as those for minority groups, which might otherwise get lost in many states or communities. We should also federalize the Employment Service and give it a clear mandate, and the tools, to do the job which our national goals require.

Finally, we should not be deluded into accepting the false promise of "revenue-sharing." I could use all my time to tell you why I oppose block grants in manpower—or in most other fields—but let me merely say that revenue-sharing simply represents an abdication of responsibility. So long as unemployment and poverty and discrimination are national problems, then they have got to be fought on a national basis, not state-by-state.

In addition, let me point out that block grants would make it difficult to maintain the essential integrity of the manpower program, to make sure that manpower training is not distorted into subsidizing low-wage employers, undermining existing wages and working conditions; aiding runaways; helping high labor turnover in jobs which do not really need training before hiring.

Number two, a manpower training program must recognize that training without jobs is a snare and delution, which is apt to cause more problems than it solves. I can think of nothing less productive than to offer training to a disadvantaged teenager and then to tell him to walk the streets when there are no jobs. It is not news to you that for the past couple of years we have had excessive joblessness—some 5½ million officially unemployed, countless more who in their discouragement have simply left the labor market and are no longer counted. Contrary to public opinion, the heaviest weight of joblessness does not fall on trained aerospace engineers or chemists and other scientists who have lost out because of cutbacks in space programs or on the campus. Unemployment in this group runs at less than 3 percent.

Today, as in the past, the weight of joblessness falls heaviest on the blue collar workers, the disadvantaged, members of minority groups, women, young people. These people often need training—but they need first an assurance of jobs. Our current Emergency Employment Act program is a step in the right direction, but it is hardly a giant step. It provides less than 150,000 jobs, at a time when we need upwards of five million which are not being provided by the private sector.

Can we afford to spend the money to put our population to work? Let me reverse the question—can we not afford to put our population to work? For a dozen reasons, the answer is no. It is less expensive to our economy, to our national spirit, to our capacity to meet our responsibilities, to spend what we have to provide stable full employment than to do anything less than that.

Let me add a special note at this point regarding women in our labor force. The statistics are clear proof that women have a harder time finding jobs, have a harder time winning promotions, and have a harder time getting equal pay for equal work. I am not convinced that just because many women have benefited from manpower training the program has done all it could to open full opportunity to women workers.

Finally, Number three, our manpower training program must be integrated with other measures which are aimed at accomplishing the same goals. I have already mentioned some of them. Our federal minimum wage should be raised—at least to $2 an hour, and even that is only a halfway step which will not fulfill the goal of the original Fair Labor Standards Act. I know that the federal minimum is not supposed to represent the average wage—but any federally mandated minimum wage which leaves a family in poverty is a grim irony. Our welfare program must be federalized, with national minimum standards and work incentives. It must include guarantees that those who work are paid a decent wage and do not end up as an exploited under-class, undermining the conditions of workers around them. And we must make sure that if we ask welfare recipients to train, that there are jobs for them after they have learned new skills, and day care centers to take care of their children.

This is quite a catalogue—and there is much more I have not been able to mention in the time allowed. Am I suggesting anything revolutionary or beyond our reach? As for the first, let me remind you of those revolutionary words which are found in the Employment Act of 1946: "All Americans able to work and seeking to work have the right to useful, remunerative, regular and full-time employment, and it is the policy of the United States to assure the existence at all times of sufficient employment opportunities to enable all Americans to freely exercise this right." Let me remind you that the name of this legislation was changed during the course of its passage, and the word "Full"—from Full Employment—was removed as offering a promise that could not be met. I suggest that it is time we put the word back into the Employment Act; because it will be more expensive *not* to meet that promise than to meet it.

Manpower training is important. It is important in itself. But its greater significance lies in our ability to make manpower training part of a national manpower policy, designed to abolish unemployment and poverty from the face of our nation. We have made great progress in building our manpower training programs these past ten years, but the real promise lies ahead of us.

"RIGHT TO POLLUTE" OPPOSED

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WYMAN. Mr. Speaker, the "right to pollute" is being dealt a long overdue death blow in America by an aroused citizenry. At the forefront of the struggle against pollution is the Environmental Protection Agency under the capable leadership of William F. Ruckelshaus.

In a recent address before the Lakes Region Clean Waters Association in Laconia, N.H., Administrator Ruckelshaus summarized the progress man is making in his relationship with his world. His observations merit careful reflection.

[From the Manchester, N.H., Union Leader, Feb. 9, 1972]

EPA CHIEF SPEAKS AT LACONIA—"RIGHT TO POLLUTE" OPPOSED

(By Earl O. Anderson)

LACONIA.—"All Americans might take a second, long look at the New Hampshire state

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motto—'Live Free or Die,'" the head of the U.S. Environmental Protection Agency asserted here last night.

"Today we can't enjoy true liberty or even life unless we give up our vaunted freedom to pollute," said William F. Ruckelshaus of Washington.

"But if we do surrender that obsolete privilege," he declared, "we can experience life as it was meant to be lived: free from waste, ugliness, despair and unwanted decay," Ruckelshaus told about 400 persons at the Margate Resort.

He addressed a meeting sponsored by the Lakes Region Clean Waters Association, headed by Peter S. Karagianis of Laconia. The speaker was presented by U.S. Rep. Louis C. Wyman.

This morning, the EPA administrator will meet Gov. Walter Peterson at 10, and then at 11 he will speak before a joint session of the Legislature.

At noon today he will lunch with business and industrial leaders at the 88 Restaurant in Manchester, and at 3 p.m., will speak to students at New Hampshire College at the new campus on Old River Road.

Just before his address, the EPA head was presented a citation, "Man of Destiny," by Karagianis, in recognition of Ruckelshaus' "many contributions to humanity, and his dedicated service to the cause of a clean environment, to assure an America for tomorrow."

Ruckelshaus said that he is "enormously gratified" that the common sense philosophy of concern for one's environment is becoming a part of the "national consciousness," and is "turning us from exploitation of the earth toward a mature stewardship of our priceless natural heritage."

In recent years, he asserted, the interlocking effects of pollution, overpopulation, and vanishing resources have compelled most Americans to reasses their "relationship to the world around them."

Habits of exploitation that once were sanctioned by law and general consensus, he observed, are being questioned as never before.

"We are beginning, as a people, to see the full impact of human activity in the once boundless realm of earth, and sky and sea," the speaker stated.

He indicated that a "philosophical revolution" has occurred and that "mankind will never be the same again."

"We have reached the end of an era that began with the industrial revolution."

The EPA has established three national environmental research centers to conduct studies on the health and ecologic effects of environmental contaminants, and to develop technological controls for all forms of pollution, he said.

During the past year the EPA has inaugurated a permit program to regulate the discharge of wastes into navigable waters and their tributaries within the Continental U.S., he added.

"For the first time we will have a nationwide inventory of industrial waste being discharged directly into our waterways, he disclosed.

The question that should be asked of any regulation, standard or permit is whether it serves the public interest.

"Any reasonable man knows that we cannot undo the damage and neglect of centuries overnight. We can only undermine the public's 'staying power' if we tout easy or immediate solutions."

The crucial decisions, he noted, are political, in that they must be made by society as a whole.

The American people must choose their priorities, decide what use they will make of their resources, and what risks they are willing to accept for what benefits," he said.

IT IS TIME FOR A SECOND LOOK

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. HANNA. Mr. Speaker, last December the Congress was swayed by public pressures of the moment into passing the extension of the Economic Stabilization Act. I pleaded with the House at the time to put off the extension until March of 1973. I said that we needed to see how the President's Phase II would work out before we extended its life for an additional year. Given the events of last week, I must ask my colleagues to ponder on whether they would today vote for that same extension bill.

Over the past 9 months the American people have been the victim of the cruelest of hoaxes. The administration, with the cooperation of the television media, has concocted a rosy fiction, entitled "The War Against Inflation." The fact is that prices continue to rise. In February, food prices increased at a rate that was the highest in 14 years. I ask my colleagues to consider for a moment whom this increase has hit the hardest. It is a fact that, while the wealthy pay a small percentage of their income on food, the working classes and the poor spend nearly half of their income at the grocery store. We all know that many food items have been exempted from price regulation by this administration—no doubt, this is why food prices have risen so disproportionately.

The callous disregard of the administration for the working classes and the poor is all too clear. The administration is not waging a war against inflation—it is waging a reelection campaign at the cost of the workingman.

Along with several of my colleagues, I have made reference in the past to examples of the clumsy mismanagement of the administration's wage-price program. We all recall that, when the President announced his plans for Phase II, he assured us that the program would not require a large Federal bureaucracy. Here again, we find a clear case of deception. The CLC, Pay Board, and Price Commission personnel number over 600 and the national investigative and "enforcement" staff across the country numbers about 4,000.

In his announcement of Phase II, the President acknowledged the inequities of the freeze and assured all of us that Phase II would be different. We were told that the burden of the effort to control inflation would fall equitably on wages and prices. This has not been the case. It is time, I think, to review the record of Phase II:

First. Wholesale prices are up 8.4 percent on an annual rate.

Second. Twenty-one percent of the items listed in the Consumer Price Index are exempt from controls.

Third. Retail food prices rose in February at the highest rate in 14 years.

Fourth. There are no controls on used car prices or other used goods on which the lower income families must depend.

Fifth. Most retail stores and rental units are exempt from controls.

Sixth. The Pay Board has been slow to rule on wage agreements, while the Price Commission has been quick to grant exemptions.

Seventh. While wages and salaries have risen only slightly, profits for larger corporations continue to make great gains.

With the resignation of three labor representatives from the Pay Board, we have seen another cycle of bureaucratic gymnastics designed to offer the illusion of constructive action. The "reconstituting" of the Pay Board into an all "Public" body begins Phase II-B. The President still refuses to recognize that the structure upon which he relies defies economic logic and predestines Phase II to failure. The war against inflation can only be won if it is fought by one board, making integrated wage-price-and-rent decisions.

I had hoped that the President would have acknowledged the force of economic necessity and used the recent resignations as the opportunity to totally reconstruct the anti-inflation mechanism. Since he has not done so, and in light of the dismal record of the administration's game plan over the past 4 months, I believe it is time for the Banking and Currency Committee to hold oversight hearings on the operation of Phase II. I respectfully request that the distinguished chairman of the committee, the gentleman from Texas, schedule such hearings in the very near future.

WASHINGTON DAILY NEWS' SPECIAL REPORT ON THE SPACE SHUTTLE

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PRICE of Texas. Mr. Speaker, I wish to call my colleague's attention to a collection of articles on the space shuttle which appeared in a special report of the Washington Daily News today. Mr. V. S. Choslowsky, director of the special projects department of that newspaper, asked a number of spokesmen for the administration, Members of Congress, and others to contribute their thoughts to this feature publication. I insert certain of these articles in the RECORD in order that the Congress will have the opportunity to become familiar with the statements by Dr. James C. Fletcher, Administrator, National Aeronautics and Space Administration; Congressman JAMES SYMINGTON; Congressman LARRY WINN, Jr.; Mr. James J. Harford, Executive Secretary, American Institute of Aeronautics and Astronautics; and Mr. Don Kirkman, Scripps-Howard science writer:

SHUTTLE IS KEY TO SPACE FUTURE

(By Dr. James C. Fletcher)

It takes off like a rocket, flies like a spacecraft, and lands like an airplane.

This shorthand description has been applied to the space shuttle which is being developed as the workhorse of the U.S. space program in the 1980's. Altho accurate as far as it goes, it provides only an inkling of the pervasive and profound influence that the shuttle will exert on our future in space.

MANY ECONOMIES

Few, if any, aspects of space flight will fail to profit. The shuttle will produce substantial flight economies, ease strictures on spacecraft design, lower manufacturing cost, remedy malfunctions in orbit, and afford a built-in versatile that will alter the nature of space planning and operations in major ways.

Cost reduction naturally broadens the planning base, and this in turn makes room for a greater variety of missions that can be scheduled under present procedures. For example, we can now consider an initial investigation of the possibilities the space environment offers for manufacture of such items as ultra-pure vaccines or super-alloys of high unit value that can be made only in the weightless environment.

The less stringent design requirements for reliability that stem from the shuttle's less severe launch environment alleviate many technical problems in designing automated spacecraft and greatly shorten the specialist man-hours required in planning and building them. The reduced commitment frees talent and funds for a more comprehensive attack on multi-faceted programs such as the earth resources effort.

INTEGRATION

The large cargo bay of the shuttle will end the need to design a spacecraft to meet the stringent requirements of a particular launch vehicle. One, two, or more satellites can be secured in the shuttle cargo bay, and when the hatches are closed, the payload is ready for launch.

The shuttle's inherent versatility—the cargo bay can be fitted with what is called a sortie module for manned experiment work as well as functioning as a freighter for instrument packages between the surface and space—will result in a merger of the unmanned and the manned programs. Thus, instead of a manned and unmanned program, we will have an integrated U.S. space program that employs men and instruments to maximum advantage.

From the evidence at hand, the shuttle will supply a lever for substantially increased international cooperation in space work. The shuttle concept has aroused keen interest in the European community organizations concerned with space flight and technology. A number of different proposals have been advanced as to the manner in which this interest could be expressed, including the use of European manufacturers as sub-contractors for components of the shuttle's systems.

An editorial writer has described the impact of the shuttle on the space program as a transition from the dramatics of a countdown to an airport routine. The dramatics will be fondly remembered by many of us, but nostalgia will not obscure the hard fact that the routine and economic access to space, of which the shuttle is the hinge pin, is the practical and common-sense means by which we shall reap the great harvest of benefits that space holds for mankind.

TECHNOLOGY ADVANCES ON ALL FRONTS

(By Representative JAMES SYMINGTON)

The construction of the space shuttle will advance technology across a broad front, for it will combine aeronautical know-how with space technology and provide man with new capabilities in space. As now proposed, the reusable shuttle launch system offers a multipurpose tool to provide direct access to space-derived benefits.

The shuttle offers an opportunity not only to the United States to advance its own aerospace science and technology, but also to countries which could not finance a complete shuttle system. The advantages will be mutual and conducive to needed international scientific cooperation.

The shuttle can offer the opportunity to conduct direct experiments with relevant equipment, allowing for adjustments and improvements in space-borne equipment no longer dependent on earth and a limited set of earth signals.

Astronomers will welcome the clarity with which the stars may be viewed from points beyond the earth's atmosphere. Geologists and agronomists will find their studies of pollution, terrain, soil and weather greatly assisted by shuttle-borne sensors further enhanced by human error-corrections.

The shuttle technique should lead to orbiting laboratory facilities capable of sustaining a number of varied experiments with a flexibility of timing and emphasis denied to their earth-bound counterparts.

The point should not be lost that the experimentation capabilities of shuttle-borne technology apply to the most urgent needs of resource conservation, not only in the advanced industrial states, but in the developing world as well.

In this connection the recent proposals adopted for consideration at the Stockholm Conference on the Human Environment sponsored by the United Nations in June are timely indeed. Great emphasis is laid in these proposals on man's stewardship of the limited resources of his home planet. Proper use of the space shuttle can help us in our efforts toward the resources management necessary to make this planet fit to house future generations of man.

SHUTTLE WILL PAY ITS OWN WAY

(By Representative LARRY WINN, Jr.)

America's first full decade in space is now recorded history. The American people have now invested over $40 billion in NASA since the space program began 15 years ago. The focus is changing for our second decade in space to the Space Shuttle.

The space shuttle can help solve the more pressing of our domestic needs—combating the drug problem, providing better transportation systems, insuring adequate energy resources, preventing natural disasters, increasing biomedical research, and providing new job opportunities, to name a few of the higher priority areas.

AVERT DISASTERS

In our research in natural disasters, such as earthquake and severe weather problems, space now appears as a primary hope in both predicting and averting these disasters. It has been documented that if weather could be accurately predicted even three days in advance, man could save $60 billion a year.

In curbing drug abuse, satellites are being designed which can accurately pinpoint and map drug-producing crops which now go undetected. I also see solar energy as a possible solution to this country's demand for abundant and clean energy sources. But the only realistic way in which solar energy can be produced is by the orbiting of large-scale solar energy collectors. The concept is proven, efficient and clean.

The space program can also help our unemployment problems. The space shuttle program alone will directly employ 75,000 people at its peak with major contracts going to more than 12,000 subcontractors in over 30 states. Indirect job opportunities will bring the total to more than 200,000 new jobs and increase the combined state gross products by over $10 billion.

PAY ITS OWN WAY

There is no question that space potentially provides many answers. Pursuing these solutions requires that the price be right. Space must pay its way.

That is precisely where thee space shuttle fits into the space program. The shuttle is a totally unglamorous concept, it's nothing more than a vehicle for launching and positioning satellites.

Presently, we discard multi-million dollar launch vehicles after a single use. But with the revolutionary advance the space shuttle will provide, we will have a reusable, cargo-carrying space airplane which will permit visits to space on as routine and efficient a basis as commercial jetliners now operate.

The first satellite which this country orbited cost $1 million a pound to place in space. Current launch operations have reduced that cost to less than $1,000 a pound. By use of the space shuttle, tomorrow's satellites will cost only about $100 per pound—a 90 per cent reduction.

The average number of U.S. space launches has been 51 per year from 1964 thru 1969. In the late 1970s, when the space shuttle will be available, the launch rate for NASA and DOD programs is projected at 55 to 60 per year. This projection does not include launches for other civilian and governmental organizations which are expected to raise the final launch rate to 75 per year by the end of this decade.

The space shuttle demonstrates a cost advantage over conventional launch vehicles at a mere 30 flights per year—with that advantage increasing as the flight level climbs. Clearly, the manner in which space will provide the maximum return on investment is thru the space shuttle.

IMPORTANCE TOO COLOSSAL TO PREDICT

(By James J. Harford)

It's now 1972. The first "Model-T" Shuttle flies in 1975 if everything goes well. It goes into routine operation in 1978—again, if everything goes well.

Guessing its significance is like trying to predict what the DC-3 would lead to in air transportation six years before its first flight. The space shuttle could be that powerful and more.

NEW JOBS

It has been said it will create 50,000 new jobs at the peak of the program. But if the shuttle does its assignment the way NASA expects it to—and NASA's Apollo track record has to impress even the cynical—it will help to create entire new industries and, in the long run, hundreds of thousands of new jobs.

It will have 1980's impact on global resources and pollution monitoring, communications, arms control and weather forecasting. And subsequently it could help us funnel enormous amounts of energy from the sun down to earth to augment conventional energy sources. It is even being considered as a possible means for future nuclear water disposal into the sun.

NEW TECHNOLOGY

Don't forget, either, that building the shuttle means developing new technology, particularly in materials, structures and computerized design, that may produce as many down-on-earth benefits as any engineering venture this planet has yet engaged in. The example of the miniaturized transistor-based circuit cannot be forgotten. Originally developed for space needs, it has spawned a whole new technology and revolutionized half the industries on earth today.

And an operational space shuttle will make it practical for us to finally achieve that elusive statesman's goal—collaboration with Europe, the USSR, and possibly China—in mankind's future efforts in space exploration. The concept of "one world" among our engineers, scientists, and men and women everywhere may eventually be attained by our all getting off it together.

One last point, if you will. I'm not so old as to fail to be thrilled by the fact that you

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and I won't need to be astronauts to qualify as shuttle passengers.

VON BRAUN WANTS TO FLY IN SPACE

(By Don Kirkman)

His hair is silvering and his 60th birthday was last week (March 23), Dr. Wernher von Braun—the man who more than any other helped put Americans on the moon—is eagerly looking forward to a space trip of his own.

"Why not?" von Braun smiled. "By the time the first passenger shuttle flies I'll be 68. I think flying into space in a shuttle will be just like being a passenger in an airliner, only smoother.

"I think NASA will let me do it and Maria (his wife) has no objections. There are a lot of grandfathers flying airliners. I don't see why they won't let one fly in a space shuttle."

BOYHOOD DREAM

The world's most famous space pioneer, von Braun has dreamed of flying in space since he was a boy in Germany. He developed the first operational large rocket—the World War II V–2. In post-war America he developed the rockets that launched this nation's first satellite and its first manned spaceship and the Saturn V rocket that boosted our astronauts on their journey to the moon.

But von Braun is convinced these triumphs were just a prelude to great days of space adventuring that lie ahead, including man's eventual conquest of the planets.

And the key to those great days, he said, are the space shuttles the National Aeronautics and Space Administration is asking Congress to authorize. Said von Braun, NASA's deputy associate administrator:

"Eventually, I think the shuttles will prove that man can fly in and out of space routinely, just like any other form of transportation."

TRAVEL TO MARS

He foresaw use of the shuttles for travel to Mars "probably around 1990, or at least before the end of the 20th Century."

The flight probably would begin in the cargo bays of a number of space shuttles in which a Mars spaceship, its nuclear engines, its crew and supplies would be hauled into orbit.

There, the spaceship would be assembled piece by piece, the nuclear rockets ignited, and the journey begun.

"I think the only way to fly to Mars is with nuclear power," he explained, "and because we would never want to ignite a nuclear rocket on earth, we'll have to begin the journey from orbit."

Von Braun said he expects the shuttle ships to help prepare the way for manned exploration by ferrying small, unmanned spaceships into orbit and launching them towards Mars in the late 1970s and 1980s.

These small scouts would continue to orbit, photograph and land on Mars, returning reams of information about the planet's environment and likely landing sites, he said.

"Before we go to Mars, we've got to do our homework just as we did before we went to the moon with the ranger, Lunar Orbiter and Surveyor space ships," he noted: "The more we learn about Mars, the more we'll find out what a fascinating place it is."

A COMBINATION ROCKET, SPACESHIP, AIRLINER

(By Don Kirkman)

Within the next few months, Congress willing, the advance guard of 50,000 American workmen and technicians will begin building two new spaceships that will dominate space in the last quarter of the 20th Century.

The National Aeronautics and Space Administration calls them space "shuttles," a name that describes how the spaceships will operate. They will "shuttle" in and out of orbit almost at will, much like airliners that shuttle back and forth daily between major East and West Coast cities.

MULTIPURPOSE

Each "shuttle" ship will be a combination rocket-spaceship-airliner that will be able to blast off a launch pad like a rocket, orbit like a spaceship and land at an airport like an airliner.

It will be capable of carrying out almost every type of space mission the nation desires—short-duration flights to place satellites and sky spies in orbit, prolonged journeys for scientific exploration, even rescue missions to retrieve satellites that have malfunctioned.

Compared to first-generation space capsules, the shuttle will be about as different as a Phantom jet is to Orville and Wilbur Wright's first bi-plane.

Basically, what NASA will place on order is a two-stage vehicle that will use a stack of rockets for its first stage and a swept-wing airliner for its second stage. The airliner will be mounted piggyback atop the rocket stack and trundled to a launch pad for blastoff. From that point on, however, all similiarity to today's space operations ceases.

The rocket stack will hurl the orbiter to about 25 miles up, drop away, and parachute into the ocean where the huge vehicle will be retrieved by waiting recovery vessels and towed back to the United States. As quickly as possible, the rocket stack will be cleansed of salt water, checked for damage, repaired if necessary, and transported back to its space port. There it will be refueled, mounted on the launch pad again and used to boost another space airliner into orbit.

The airliner it boosted toward orbit, meanwhile, will be carrying out its space missions around the earth. At its completion, it will fly back thru the earth's atmosphere, land at an airport, return to its space port and prepare for another flight.

MAJOR ADVANTAGE

The only portion of the two stage vehicle that will be lost during each shuttle flight will be the fuel tank attached to the airliner to boost it from 25 miles up to orbit.

This "reuseability" of the shuttle's rocket stack and space airplane is the essence of the idea NASA believes is the way of the future in space. Each shuttle, the space agency says, should be able to carry out 100 to 500 flights during its lifespan.

Throughout the first decade of the space age, the "throw-away" rocket and spaceship technique for boosting men and equipment into orbit has been horribly expensive. Every flight required the sacrifice of an exquisitely designed and fabricated rocket stack that became either junk at the bottom of the oceans or flaming chunks of debris as it reentered the earth's atmosphere.

Literally tens of billions of dollars worth of marvelously precise equipment was lost. The only justification for the waste was that at the time it was the only way to get into orbit, to the moon, or to the planets.

FINAL HURDLE

But each new rocket and spaceship paid a dividend in knowledge and finally in the past few years improvements in rocket engines, rocket fuels and new materials for spaceships have come along and made the shuttle possible.

The last barrier to be hurdled now is whether Congress is willing to allocate the money needed to build it.

There is no doubt some members of Congress are going to oppose the shuttle fiercely when NASA's 1973 fiscal year budget comes up for debate. NASA is seeking $227 million for the shuttle.

Sen. Edmund S. Muskie, D-Maine, for one, has publicly declared his opposition on the grounds that earth-bound needs should take priority. Senate Majority Leader Mike Mansfield, Mont., agrees. So do Sens. Edward M. Kennedy, D-Mass., William Proxmire, D-Wis., and Walter F. Mondale, D-Minn.

Mondale, the most vocal shuttle opponent, has given warning that he will fight it to the bitter end. He already has labelled it the "SSP" (for Space Shuttle Program) and predicts it will go down to defeat as the Supersonic Transport (SST) did.

LAST PROGRAM

And yet, there'a a solid body of sentiment in Congress in favor of the shuttle. They probably will carry the day.

They base their support on these arguments:

The shuttle is the United States' only manned space program planned for the last quarter of the century.

The United States should not abandon space to the Russians.

Compared to previous manned space programs, the shuttle is cheap.

As things now stand, only five more crews of American astronauts will journey into space in the next 21 months—the Apollo 16 and 17 spacemen who will land on the moon this year and astronauts who will make three flights next year in an earth-orbiting space base called Skylab.

When the last Skylab astronauts aplash down in December 1973, no American will venture into space again until the first shuttle flight in 1978. The nation has no other manned space program planned or on the drawing boards.

COMPETITION

The Russians, meanwhile, have made it clear they intend to continue to send men into space. Recently, a patiently pieced together Congressional report indicated the Russians are accelerating their space expenditures beyond anything the United States spent in the heyday of the Apollo man-on-the-moon program.

The Russians have said they will send cosmonauts to elaborate space stations orbiting earth and some day will send men to visit the planets.

They have not said the men they orbit also will carry out military roles, but every Soviet cosmonaut has been either a military man or trained by the military. And the entire Russian space program from its inception has been directed by special "rocket troops" that operate all Russian spaceports.

PEACEFUL PURPOSES

Perhaps the most compelling reason for pro-shuttle sentiment in Congress, however, is the dividends the shuttle will pay to the United States in the form of peaceful utilization of space and defense preparedness.

As now planned, NASA will build five shuttle ships and a launch pad for about $6.45 billion, a far cry from the $25 billion spent on the Apollo moon program. Peak expenditures will be about $1.3 billion per year, NASA administrator Dr. James C. Fletcher estimates, or less than one-third of NASA's annual outlays.

For this comparatively modest amount, NASA and other Government agencies and civilian space corporations expect to be able to increase the number of their space missions while sharply reducing each flight's costs.

One giant saving would be a drastic reduction in the types of rockets NASA and the Defense Department now build to send men and satellites into orbit—Titans, Centaurs, Saturns, Agenas, Deltas. All, except those that would carry very small or very large payloads into orbit, would be relegated to the scrap heap. Shuttles could haul either men, satellites or both into space.

FLEXIBILITY

This, in turn, would mean that satellites could be designed more flexibly and built more quickly and cheaply. Today the weight and design of a satellite is in large measure dictated by the amount of space available in the nose cone of the rocket that takes it into orbit. As a result, most satellites today take five or six years to design and build.

These restrictions will be relieved when satellites are carried into orbit in the shuttle's roomy (60 feet long by 15 feet wide) cargo bay, which will be able to carry a 65,000-pound load.

Among the satellites the shuttle will freight into orbit are the military's super-secret sky spies, communications and weather satellites, earth resources and technology satellites and a galaxy of other sophisticated equipment.

Each shuttle may haul as many as 16 people into orbit during one flight—a pilot, co-pilot, two cargo masters, and 12 passengers in the pressurized equipment bay.

The biggest single user of the shuttles probably will be the Defense Department which, NASA officials say, will take up about 30 percent of the shuttle's flights. Most of these will be secret as the flight from Vandenburg Air Force Base, Calif. now are.

OTHER SAVINGS

Another real money-saver to NASA, Government agencies and civilian space companies like Communications Satellite Corp. (Comsat) will be the shuttle's ability to fly into orbit to retrieve damaged and malfunctioning satellites that now must be regarded as space junk.

Since the space age began, the United States has had 131 launch failures, some as recently as only a few months ago, that have destroyed or damaged billions of dollars worth of satellites. Seventy-eight of those failures could have been eliminated by carrying the satellites into orbit. The majority of the other 53 could have been saved if a shuttle had been around to retrieve them from orbit for repairs.

Shuttles also might be used to inspect and co-ordinate aid during massive natural disasters that affect wide areas of the earth—tidal waves, earthquakes, floods, and so on.

Then, of course, there are those 50,000 jobs the shuttle will create for a sorely injured aerospace industry that has seen employment on space projects slip from a peak of 420,000 in 1966 to about 110,000 today.

Put back to work, these aerospace workers and technicians could put the shuttle into the air for its first test flights in 1976, into orbit by 1978, and fully operational by 1979.

McGOVERN—ATTENTION MUST BE PAID

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. ABOUREZK. Mr. Speaker, Senator GEORGE MCGOVERN, candidate for the Democratic nomination, recently made a major speech on the legitimate grievances of ordinary Americans against a government which does not seem to care about their problems anymore. The speech was hailed by the press as the only real attempt by any candidate to talk to working people about their problems in a honest way. I ask that the speech "Attention Must Be Paid" be inserted in the RECORD along with two newspaper columns—one by liberal columnist Tom Wicker and the other by conservative columnist William White—discussing the speech.

ATTENTION MUST BE PAID

(An Address by Senator GEORGE MCGOVERN)

Ladies and Gentlemen:

The night of the vote in the Florida primary, there was a strong, and mixed reaction to the large vote compiled by Mr. Wallace, the Governor of Alabama.

Some of the candidates simply ignored the Governor's large vote—I believe that was a mistake.

Other candidates attacked the Governor and all those who voted for him as simply being for racism.

That was a mistake.

I believe the Governor is an extremist. But I believe many of the people who supported the Governor did so because they are deeply frustrated and disgusted with the way their government is ignoring their concerns and interests.

The Governor convinced those people that he cared more about their problems than any other candidate—and those concerns ranged beyond busing to issues such as taxes, personal safety on the streets and schools that get steadily worse.

I'm not here to lecture Wallace supporters for prejudices that some have attributed to them—it is not prejudice to fear for your family's safety or to resent tax inequities. These concerns are as deeply felt in the black community as in the white.

Every poll taken in black communities has showed that more police protection is at the top of the list of concerns.

It is time to recognize this and to stop labeling people "racist" or "militant", to stop putting people in different camps, to stop inciting one American against another.

It is time to stop talking of divisiveness and to start dealing with the very real consensus that exists around these very human concerns that are felt in all our communities.

After the Governor's victory, I said I thought it would be a mistake to simply dismiss it as a racist result—I said that the Democratic candidates had better carefully consider the meaning of the Governor's victory—and respond to it in a meaningful way.

As yet, other candidates are either continuing to ignore the meaning of the Governor's vote in Florida—continuing to dismiss it as a regional racist result with, hopefully, less meaning for the rest of the country—or actually jumping on what they think is the Wallace bandwagon.

The President jumped on with his speech the other night—and Senator Hubert Humphrey jumped on with his response to the President. Senator Humphrey said: "that at long last the President has been able to get his finger up in the air and sense what's going on and has decided that he would say amen to some of the things that some of the rest of us have been trying to do. He's in agreement with me. Let's get the cart where it belongs."

And that was a mistake.

Since Florida, I have given more and more thought to what the results there meant. Tonight, I am going to try and respond in a meaningful way to what the voters of Florida were telling the Democratic Party—and the country.

First, a lot of the people voted for the Governor not because they want him to be President—but because he was a tool they could use to express their anger.

If that vote had actually been for President, I think the result would have been very different.

Voters in this country are smart enough to know that the Governor isn't a big enough man to govern this entire nation and its affairs with other nations.

But they are also smart enough to recognize a way of delivering a message—to use the Governor's own words—to the other candidates, and to the man who will be the nominee of the Democratic Party.

And the message they delivered was pretty clear.

They're fed up with the same old Washington politicians giving them a lot of talk about what needs to be changed in the country, and then once they get elected, changing nothing at all.

They're fed up with being told that the war's going to end and never seeing an end to the war.

They're fed up with being told that the economy's going to pick up and unemployment's going to go down—and never seeing either of those things happen.

They're fed up with being told that inflation's going to stop and prices are going down—and every time they shop for groceries, prices are higher this week than last.

They're fed up with being told that their taxes aren't going to go up anymore—and seeing their taxes raised while their take-home pay drops.

They're fed up with being told that their neighborhoods are going to be safe and clean—and seeing the city become more unsafe than ever before.

In short, they're fed up with being ignored by politicians who keep asking for money to solve problems that never get solved.

They're fed up—and they're mad.

And, that's what the Wallace vote meant.

It wasn't just a vote to stop the buses.

It wasn't simply a vote for racism in America.

It was an angry cry from the guts of ordinary Americans against a system which doesn't seem to give a damn about what's really bothering people in this country today.

It was a vote to stop the whole damn Democratic Party and make it listen to the people for a change—instead of just to political strategists.

During the past year, my travels have forced me to spend less time at my desk and more time with people in all parts of the country. It has been a tough bone-tiring experience. But I have come to the conviction that this crazy-quilt pattern we use to select presidential nominees is a good one, because it has both tested me and opened my eyes to a world I saw only dimly in recent years.

I've walked through the stench of the paper factories and the steady noise of the shoe factories of New Hampshire—not just smiling and handing out buttons—but stopping to listen.

I've gone down into the coal mines of West Virginia, felt the cold winter air blowing through the shaft and smelled the coal dust that can explode on a moment's notice if safe working conditions aren't properly maintained.

I've been in a thousand crowded big city neighborhoods, fast-changing suburbs, farms, towns and homes. I've come to a new appreciation of the pressures, the concerns and the hopes of ordinary American workers.

I know that this country is kept going day in and day out by hard-working men and women—not all of whom love their jobs by a long shot—but who do them because doing a job well is something to take pride in—in and of itself.

I know that the working people of this country are being asked to give everything for their country—including their son's lives in a confusing war that no one wants—and feel their government isn't giving them much in return.

I know that the majority of the people in this country—whether they're white or black or red or brown—aren't bigots or racists.

I know—and you know it too—that if a man has a job that he thinks has a future and respect, that if his kids are going to school where they can learn, that if his taxes are fair, that if he can take his family out to a park that isn't hopelessly polluted, and that if his car doesn't break down two weeks after the dealer delivers it and then tells him the warranty doesn't cover his particular problem—

If a man has these things, then that man doesn't really care who works at the next bench or who lives next door.

What the voters of Florida were trying to tell us with that vote for Wallace was that they don't have these things but they want

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them and intend to get them—if they have to tell off every politician in the country in the process.

Well, that's all right—that's what the political process in this country is all about—in fact, part of our problem is that the only time people think they can express themselves today is in talk shows and elections because in between the politicians don't want to listen.

I believe that people do have a right to expect government to listen—I believe they have a right to have their most basic hopes—a job and a family and a wholesome life—fulfilled to the greatest extent possible by their government.

As Willie Loman's wife said in Arthur Miller's *Death of a Salesman*, 'Attention must be paid.'

That's what the people in Florida were saying by their vote for Wallace and against busing—*attention must be paid.*

But here is where I think people have to stop and really think—think whether voting for George Wallace and stopping the buses is really going to give them all the other things they really want—jobs, homes, healthy families, better schools, safe communities—futures they look forward to with pride.

If I thought that voting for George Wallace and stopping the buses—and supporting the President—would deliver these things, then I'd vote for them myself and retire to a quiet life in South Dakota.

But I don't believe that is the case.

I do believe that Wallace and the President—and even some of the other Democratic candidates in this race—Humphrey and Jackson— think they are playing a game with the people—with busing being the thing to take people's minds off the problems which really concern them—

I believe that Wallace and Nixon want people to think so much about busing that they forget whether they've got a job or not—whether the job they've got is safe, secure or bearable—whether their pay raise is higher than their tax increase—whether they can afford the property taxes on their homes and the sales taxes on everything else—whether the streets are dirtier than they used to be—whether their kids are learning to read and write and add—busing or no busing—

Busing isn't a race issue.

It isn't even a real issue.

I listened very carefully to the President's speech on busing the other night.

I assume that was the President's response to Mr. Wallace and the vote of the people in Florida.

If it was, the President proved once again that he misses the message people are trying to get through to all of us—

People are afraid of losing their jobs—if they already haven't—they're afraid of having their neighborhoods go to pieces, they're afraid of the unfair burden of taxes that are higher than they can afford, they're afraid of getting sick because they can't lose a week's wages or be wiped out by hospital bills only the very rich can afford.

The President's solution for all this was one thing—

To stop the school bus.

Now you and I know that stopping the bus with political rhetoric is not a solution.

Wallace knows it—

Nixon knows it—

My friend, Hubert Humphrey, who's climbed on the anti-busing bandwagon, knows it—

First of all, despite what the President said— the school bus isn't going to stop anywhere it's running now—and, most likely, in some places it will begin to run in the future.

I'm not saying that because I think the busing of children is a great idea—though it is true that 42% of all school children in the country get to school by bus, the vast majority of them voluntarily and with nothing to do with integrating the schools racially—just because the bus is pretty much the only way to get there.

Despite that the President said—the only way he can stop the school buses from running is to upset the whole system of government on which all of us have depended for almost two hundred years.

The only way the President can stop the buses from running is by getting the Congress to take away from the courts—from the lowest court to the Supreme Court—the right to interpret and enforce the Constitution of the country.

And, despite what the President said, that is just not going to happen.

Even if the Congress passes the legislation the President asked for, the Supreme Court—with the President's own Chief Justice Burger presiding—will find that legislation unconstitutional—as the country's leading constitutional experts have already.

After all, this Supreme Court that Nixon is attacking has four of his appointees—and it was his Chief Justice that wrote the busing decision he now finds unacceptable.

The only way the President can stop the buses from running is to ask the Congress to pass a constitutional amendment—and he didn't ask for that—and not just because it would take years to finally pass a constitutional amendment—but because the President knows full well that when you start fooling around with the country's Constitution—you're getting into a very serious and dangerous business.

President Nixon is attempting to use the Presidential right to television time to incite public opinion against our judicial system. He is attempting to bring such public pressure on the Congress that it will act unwisely to enact legislation which he knows will be struck down as violating a strict construction of the Constitution. This is but part of a continuing Nixon attack on the courts and on the very basis of our democratic system—the principle of three equal branches sharing the responsibility of government and existing in a delicate balance of power that insures a fair and final settlement of our disputes.

The threat that this represents goes beyond busing and the problems of the moment and this presidential election. This has been tried before and defeated because the American people would not tolerate it.

Franklin D. Roosevelt tried to pack the U.S. Supreme Court at the height of his political power. He was rebuffed by the American people.

Richard Nixon has tried to pack the U.S. Supreme Court. Twice his appointees have been rejected by the U.S. Senate.

Now he is making another—a backdoor—attack on the Court which is now dominated by his own appointees. It will be defeated because the American people will not tolerate it.

If the President's political ploy to jam the judiciary to block the school bus were accepted, it would be used tomorrow by this President or some future president to deal with some other issue—perhaps to deprive you or me or our children or grandchildren of their God-given rights.

That's why we must unite, shoulder to shoulder, to protect our courts by halting the anti-busing hysteria. It is a threat to our most cherished possession—our heritage of personal conscience and freedom as Americans

Let me say this clearly for all who will listen—the courts are the fortress walls between the people and those who would work tyranny upon them—don't undermine them—for the consequences will erode the liberty of all Americans.

Let me tell you what I believe is the real reason the President proposed a law that he knows won't really work. He did it to make sure that the Congress and the country do nothing else for the rest of the year but endlessly debate busing. He did it to make sure—like Governor Wallace is trying to make sure—that the working man and woman in America forget about the real problems before the country.

He wants us to forget about the fact that the inflation he proposed to end almost four years ago is still robbing the paycheck of every worker in this country. Just go to the supermarket if you don't believe that. He wants us to forget that there are seven or eight million men and women in this country walking the streets for jobs that they cannot find because the President's idea of providing jobs to people is giving big business a $6 billion tax break—while big business gives him $400,000 to run the Republican Convention in San Diego this summer.

He wants us to forget that under his administration, which came into office pledged to a secret plan to end the war, that 20,000 young Americans have died in the past three years—most of them the sons of working families—many of them with black skins.

These are the things that are the real concerns of the people of the country today—not how long a child has to ride a bus—though the issue of the bus ride has become a temporary symbol of all these grievances rolled into one.

And, what about the President's pledge to provide quality education to the ghetto schools by providing $2.5 billion for those schools.

After the President's brave speech, it turned out that was money already in the budget.

Second of all, we've been spending that kind of money on the schools for years now—without the faintest idea whether it has done any good.

Third, last year when Congress passed a multi-billion dollar education bill to bring money—money for the three R's—into your schools—all schools—President Nixon vetoed that bill as wasteful and inflationary—now, when he wants to direct attention from this record, he talks of money for quality education.

Mr. Nixon is trying to get the working man to forget the mess he has put the country in.

But the working man isn't forgetting anything.

The working citizen is shouting out the laundry list of his problems and he's tired of being taken to the cleaners.

Mr. Nixon tried to tell us the worker was the silent American.

Well, he's not silent—he knows his problems and he is saying they better be dealt with—or by God, we'll turn you all out.

That was what the Wallace vote meant—and that's the message Nixon missed.

Help up solve our problems—don't try to tell us to be quiet—or to settle for parked buses while our children go to the same old lousy schools.

Neither Wallace nor Nixon has a program for dealing with the country's problems.

As Governor of Alabama, Wallace's record for the working man is sad proof of that.

Wallace's idea of tax reform to help the working man in Alabama is to raise the sales tax, the beer tax and the cigarette tax, while letting the big corporations in Alabama get away with paying practically nothing. Wallace signed into law a bill raising the interest on consumer financing in Alabama from eight to 18 percent. What a sad contrast to the record of another Southern Governor, Reubin Askew, who has required the corporations of Florida to assume more of the tax burden now carried by the little guy. What a sad contrast to Governor Askew's common-sense effort to accept the school bus as one of many devices we can use to help solve the difficult questions of desegregation and quality education.

Wallace's idea of caring for the health and well-being of the people in his state is to propose a private health insurance plan so bad that not even 10,000 people in the entire state signed up for it—not enough for the company to run the plan.

Under Wallace, Alabama remains an anti-union, anti-minimum wage, anti-working man citadel. If Wallace really cared, things would have changed in Alabama and he wouldn't have run second to Governor Brewer in the 1970 Alabama gubernatorial primary, before he turned on the race issue and won the run-off.

In fact, Wallace has been such an enemy of the labor movement in Alabama that during his time in office union membership has fallen by more than 40,000—and strikes for higher wages in Alabama are as rare as good roads, good public hospitals and decent care for the mentally retarded.

And the evidence shows that when it comes to giving special favors, George Wallace can compete with President Nixon's Justice Department any time.

Wallace and Nixon don't have a program for dealing with the country's problems.

What they do have is a plan to try and turn the legitimate attention of the people—the working people especially—away from those problems by taking all of us for a ride on a yellow school bus.

Well, the working men and women in this country are not going along for the ride—and neither am I.

The people—white, black, red and brown—are tired of the same old ride. This time—in this election—they want to make sure they are really going someplace that makes sense—they want a real program to turn this country around—to provide jobs and humane working conditions, fair wages and fair taxes, a sound, basic education and a wholesome environment for their children.

And none of that has anything to do with stopping the school bus.

The only way that is going to come about is from a real program directed at real change.

And, if the Democratic party wants the vote of working people, it has to offer that kind of program.

I am here tonight to offer that kind of program—the same program I took into the working wards of Manchester, New Hampshire—the same program that won me the support of the voters in those working wards.

I am here to offer a program that will really turn this country back to the people where it has always belonged.

One 60-year-old widow who voted for Governor Wallace in Florida said she did so partly because of disgust with the war continuing to go on.

"Anybody who'd end that war, I'm with him: but they're all liars."

I wish I'd had a chance to talk to that lady personally—because I think I could have convinced her that I would end that war. . . .

I promise you tonight that if I were President I would end that sad war the day I took the oath of office—and I would make sure that every American prisoner and soldier came home.

I promise you tonight that if I were President not a single American boy would be left to be the last to die in a war everyone else wants to get out of—and not a single father would be put in the position of having to explain to his son why he should be the last to go.

That same widow in Florida, talking about economics, said:

"It's getting so you can't live. You take someone on Social Security like me. They come in here and put in new sewers and raise taxes, but where do we get the money? The older people are fed up with this Government."

And not just the older people. Every young man just out of school who can't get his first job is fed up. Every working man who has been laid off from his old job is fed up. Every wife who has worked part-time to help make ends meet and now can't find part-time work, is fed up.

Fed up and tired of waiting for the promises of economic improvement of the Nixon Republican Administration to come true.

Working people in this country don't want any more promises about the economy and jobs. They want performance.

What this country needs is a new Economic Bill of Rights that guarantees every man and woman who is physically able and wants to work, a job at a living wage—and for those who are too old or too sick or for whatever reasons can't take care of themselves—an income adequate to meet basic human needs.

Not welfare—but an income.

Old people on Social Security shouldn't have to depend on politicians in Washington to raise their payments when the election years roll around. Social Security payments should be tied by law to the cost of living and whenever those costs go up, payments should go up.

A key part of a new Economic Bill of Rights would be comprehensive tax reform that would put more pay in the pocket of the working man and less profit in the ledgers of the big corporations and the vaults of the big banks.

The reason the Nixon Administration has failed so badly to get our economy moving again is that it has failed to understand that it is the income of the average person in this country that is the motor force of economic growth, not the profits of business and the banks.

We could raise $28 billion in new revenues by making sure that every person with income over $50,000 pays a substantial minimum tax, by reducing the special loopholes like the oil depletion allowance and the other gimmicks that let the rich get off without paying any taxes and imposing a high tax on inherited fortunes over half a million dollars.

We could raise another $32 billion by cutting out unnecessary wasteful military spending—and still have the strongest defense on the face of the earth. This $32 billion would go into the economy—to increase the number of jobs with a more intelligent use of resources.

The two major economic reforms, tax reform and the cutting of military waste, would raise $60 billion for the national treasury:

Dollars that can be used to reduce high property taxes and make sure every school—in the city as well as in the suburbs—gets the same amount of funding.

Dollars that can be used to end welfare and to provide jobs and dignified income for the needy.

Dollars that can be used to provide a hot school lunch for every school child and one hot meal a day for the old and disabled.

Dollars that can be used to provide the best medical care the country can offer at a reasonable cost and in a reasonable amount of time.

Dollars that help clean up pollution without forcing factories that keep people working to close down.

This is the kind of change the country needs and people want.

America needs new leadership—the kind of leadership that stands up for people.

America doesn't need the kind of leadership that is willing to make deals with the likes of George Wallace.

Ten years ago, George Wallace was trying to sell the same bill of goods to the American people by standing in the schoolhouse door instead of in front of the schoolbus.

Ten years ago, we had a different kind of national leadership—we had a President who cared about the well-being of all our people.

John Kennedy didn't make a deal with Wallace—he stood up to him.

"The heart of the question," President Kennedy said, "is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark . . . cannot enjoy the full free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place?"

President Kennedy stood for you—he stood for all of us—from the smallest of us, to the biggest—from the policeman to the schoolchild—from the steelworker to the teacher—from the machinist to the draftsman.

He offered all of us pride—pride in ourselves—pride in our neighbor—pride in America.

It is time for a return to that kind of leadership. It's time for a return to fair-play, self-respect and pride.

That's the kind of leadership I offer. That's the kind of hope I have for our country.

I ask your help to make the best of America happen again.

THE USES OF DEFIANCE

(By Tom Wicker)

George Wallace has been elected to no major office but that of Governor of Alabama, and in all of his celebrated battles with the Federal Government he has been defeated. But those who dwelt upon that fact, Mr. Wallace once said, simply did not understand "the uses of defiance."

George Wallace understands those uses very well. He has built a political career not upon solid achievement or even so much upon attractive proposals as upon sheer defiance, however hopeless, of what many in his constituency saw as unfair and overbearing policies imposed upon them without their consent.

Thus, in 1963, it did not matter so much that ultimately he was forced to stand aside from the schoolhouse door; what gave him his importance was that he stood there at all. When finally overwhelmed, he appeared to many who had stood with him in spirit to be the living symbol of what was happening to them; and to many he still does.

Defiance can take many forms. Mrs. Lurleen Wallace, the Governor's first wife, said of him that "when he's on 'Meet the Press' they can listen to George and think, 'That's what I would say if I were up there.'" And in a sense, hearing it said matters more than the fact that saying is accomplishes very little.

Sometimes the uses of defiance can even invert truth. It is true, for instance, that during Mr. Wallace's first term as Governor (1962–66) there were more pupil-miles of busing in Alabama, often to maintain segregated schools, than in 1970–71. Yet, Mr. Wallace has been able to thrust himself once more into national politics not by doing or proposing anything concrete but by strident defiance of what he pictures as a massive new wave of busing—exactly the defiance his constituency wishes it could voice.

Similarly, Mr. Wallace does not need to detail his tax reform program—if any—when he knows so well how to proclaim as his own the anger and defiance of all those who feel themselves overburdened by state, local and Federal taxes; who believe they get too little in return for their tax money; who know that the rich are not only getting richer but escaping taxes through loopholes; who are incensed to see their hard-earned tax dollars going to people they regard as welfare chiselers and loafers, and who view the tax collector as the most immediate instrument of distant and uncaring government.

That is why many believe Senator Edmund Muskie made a serious error in what sound-

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ed like a petulant response to the Wallace victory in Florida. Among other things, Mr. Muskie said the Wallace vote had disclosed "the worst instincts of which human beings are capable."

In the event that he should be the Democratic nominee, how does Mr. Muskie plan to appeal next fall to those Florida Wallace voters—and the millions like them in other states—that he so vigorously denounced? His attack may have given him a tougher image for the primary campaign; but it did not enhance his ultimate chance to be President and it did not provide the Democrats with the kind of leadership they will need to handle their Wallace problem.

Senator George McGovern much more nearly struck the right note in a later Wisconsin speech. He denounced Mr. Wallace as an extremist but said of his followers that they were primarily "frustrated and disgusted with the way their Government is ignoring their concerns and interests." It was a governmental system that "doesn't give a damn about what's really bothering people" that had given Mr. Wallace his opportunity, Mr. McGovern said.

The Democratic problem is not easy, but Florida suggests the necessity. It is to appeal to the legitimate concerns and self-interests of the Wallace voter (Mr. McGovern, for instance, does have a sweeping tax reform plan) without pandering to his or her prejudices (Mr. Wallace can never be outdone at that). That is the key to electing a Democratic President; it is the way to give the have-nots and the have-littles something more than a defiant shout; and it might even be the means to a more vital and responsive American politics in which a Wallace could find no real audience.

Under the direction of someone like former Democratic National Chairman Fred Harris, with his "new populist" program, the Democratic platform might be shaped to such an end. In the long run, however, only another candidate who can talk to them is likely to wean the Wallace voters from the dubious charms of defiance.

THE "BUNKER VOTE"

(By William S. White)

The TV tube, whose capacity to promote empty but "charismatic" politicians has so long been analyzed and accepted, is thrusting a phenomenon of quite another kind into this presidential year.

The new American Angelus, the program called "All in the family," which now switches off the brighter lights in sitting rooms all over America on Saturday evenings, is no longer merely full of social significance. It is also awash with political implications. So much is this so that the most thoroughly practical of politicians are now in private discussing "The Archie Bunker Vote"—and they are not laughing at all as they do it.

They do not know or pretend to know what direction "The Archie Bunker Vote" will take. They only know that a running satire no doubt intended to be only entertainment has somehow taken wide hold in the country and is becoming far more than merely amusing.

For Bunker, the unrelieved bigot, and his adoring and muddle-headed wife, who is at once free of all prejudice and a standing affront to women's liberation, are being watched by two very different groups in their vast audience with two totally different perceptions.

To the one group, which is unschooled and looks only at the surface, Archie's gross bias and extreme anti-intellectualism reflect and strengthen this group"s own. He is "telling it like it is"—or he is "telling them off."

The other group understands what the show is really about. They know that Bunker's racism is by definition self-destructive through its powerful built-in self-ridicule. They know also, however, that Bunkerism is not all that simple. Just as George Wallaceism is not all that simple. For Bunker, racism quite apart, is also a living embodiment of a mood of vague, angry protest against ultra-permissiveness in general and specifically against the great burden borne by the poor to help support welfareism that really succors only the very poor.

Bunker is also total candor, if nothing else, and candor itself (if not of the racist variety) is a quality that is widely longed for. What Bunker is on the television screen, in short, is in some ways pretty much what George Wallace is in real life. And Wallace himself is being re-examined now by the politicians just as "All in the Family" is being intently watched for nuances.

For proof of this latter point, however far-out it may seem, there is this direct evidence; some of the most influential and sophisticated couples in Washington, people in or closely connected with national politics, are declining attractive Saturday night dinner bids to stay home in the family with "All in the Family."

The reassessment of Wallace phenomenon got under tentative way after his smashing victory in the fairly typical state of Florida. But it is now at urgent pace. For one example, there is Sen. George McGovern, who until lately had been the farthest left of the Democratic presidential candidates except perhaps for John Lindsay.

Taking note of the violently emotional attack made after the Florida primary by Sen. Edmund Muskie upon Wallace supporters as well as Wallace himself McGovern has, however incredibly come to their defense. It is wrong, says McGovern, simply to say that the governor's big vote was "racism."

"It is not prejudice," McGovern goes on, "to fear for one's family's safety or to resent tax inequities." In brief, the senator now correctly sees Wallace as a symbol of frustrations going far beyond any race. Such a symbol, too, is Archie Bunker. He is Arthur Miller's Willy Loman in "Death of a Salesman;" he is every little man hounded on every side and struggling to find meaning in a disadvantaged life.

Archie Bunker is the type-figure of the lower middle class, black and white, and his harsh humor is his sole outlet from the grinding pressures that bite more deeply into that class than any other. It seems likely that when "The Archie Bunker vote" is at length counted, it will be found to be mostly from that class.

ARMY SHOULD REPAIR, NOT SCRAP, 12,000 TRUCKS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ASPIN. Mr. Speaker, the Army is planning to buy $107 million worth of trucks it already has. According to the Army's Audit Agency, the Army already owns 12,000 practically identical trucks that could be repaired at a cost of $39 million. But instead of repairing the vehicles, the Army is buying 12,000 brand new trucks at a total cost of $107 million.

Quite simply, Mr. Speaker, the Army is missing the opportunity to save $68 million by repairing trucks it already owns rather than buying new vehicles. The Army has missed this chance and instead has taken an action that will have the effect of lining the pockets of a few giant contractors with extra loot.

I have called upon Secretary of the Army, Robert Froehlke, to offer the slightest possible justification to the American people for what is obviously a blatant misuse of public funds.

Not only is the Army buying 12,000 unneeded trucks but, in addition, 12,000 broken trucks the Army could repair will eventually wind up on the scrap heap, wasting millions of dollars more.

In these days of rapidly escalating defense costs, one would think the Army would show a certain amount of prudence and repair trucks it already owns rather than buy brand new ones. Instead the Army is wasting $68 million. It is a shame that with the Defense budget rising a whopping $6.3 billion this year alone, the Army has not had the commonsense to repair trucks rather than squander $68 million.

I have written to Secretary of the Army Froehlke protesting this move in hope that he will come up with an explanation. The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 27, 1972.

ROBERT F. FROEHLKE,
Secretary of the Army, Department of the Army, the Pentagon, Washington, D.C.

DEAR MR. SECRETARY: The General Accounting Office has provided me with information obtained by the Army Audit Agency regarding the decision to buy new trucks as opposed to overhauling trucks in existing inventories.

The Army, according to this information, is planning to buy 12,000 new trucks at a cost of $107 million. The Army already owns an equal number of practically identical trucks that could be repaired for $39 million. But instead of repairing the vehicles, the Army is buying 12,000 brand new trucks at a total cost of $107 million. The Army is missing a chance to save $68 million by repairing trucks it already owns rather than buying new vehicles.

The Army's plan will have the effect of lining the pockets of a few giant contractors with extra loot. I wish you would offer the Congress and the American people any possible justification for this blatant waste of public funds.

Undoubtedly the 12,000 trucks that the Army could overhaul will eventually wind up on the scrapheap wasting millions of dollars more.

With the defense budget rising a whopping $6.3 billion this year alone, at least the Army could have the common sense to repair its trucks rather than squander $68 million on brand new ones.

I hope you will give this matter serious consideration.

Sincerely,

LES ASPIN,
Member of Congress.

FAYETTEVILLE STATE UNIVERSITY

HON. ALTON LENNON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. LENNON. Mr. Speaker, it has come to my attention that Fayetteville State University, North Carolina's second oldest publicly supported institution of higher learning, has recorded some noteworthy achievements during the 1971–72 academic year.

In November 1971, Fayetteville State University was reaffirmed for accreditation for a period of 10 years by the Southern Association of Colleges and Schools.

Fayetteville State's reaffirmation for accreditation is the culmination of the year's study and self-evaluation by the institution itself and the report of a Commission on Colleges Visitation Committee of the Southern Association of Colleges and Schools.

President Charles "A" Lyons, Jr. and Dr. Richard Fields, dean of the university, represented the institution at the meeting of the association in Miami, Fla., and received the notification.

Earlier, Fayetteville State University was one of only two American universities and colleges winning the coveted John Dana Publicity Award of the American Library Association.

Fayetteville State University was cited for this special award because of a year around project coordinated by Mrs. Nettie Thigpen, reference librarian.

Mrs. Thigpen developed a program to create faculty, student, and administration awareness about the university's library. The citation said:

Fayetteville State University receives this special award for a constructive program to convince the administration of special programs of the library and to implement an orientation program for students on utilization and care of library materials.

Mrs. N. R. Smith, FSU librarian, journeyed to Dallas, Tex., to receive the award for the institution.

Fayetteville State University was one of 10 institutions for which new Air Force Reserve Officers Training Corps units were approved for the 1972–73 academic year, and the only one on the list in North Carolina. More than 183 AFROTC units are in operation in the United States.

In a continuing effort to improve facilities and equipment, the university has started on a $5.1 million capital improvement program. Included in the projects are an Academic Building, which will be the main classroom of the campus and will cost $2,405,000, and a 450-student dormitory which will cost $1,955,000.

Others in the package are renovation of Mitchell Mechanical Arts Building for an Early Childhood Center, clearing, grading, filling land on campus, conversion of a portion of old library for a communications center and roads.

In an effort to enhance the university's on-going programs and to gain additional funds for new ones, Fayetteville State is in the midst of a $1,000,000 enrichment campaign. These funds will be raised among the private sector, foundations, businesses, alumni, and friends.

These funds will be used for endowment, scholarships—faculty and students, student and faculty recruitment, curriculum development, innovative programs, and distinguished university professorships.

Fayetteville State University has a current enrollment of more than 1,470 students and serves military persons and their dependents stationed at Fort Bragg and Pope Air Force Base.

Fayetteville State and North Carolina State University coordinate the higher education program for the military and their dependents with a Fayetteville State University-North Carolina State Branch at the Fort Bragg post. Fayetteville State University has assumed greater administrative responsibility for this program and will assume full administrative responsibility July 1, 1973.

Fayetteville State offers majors in 15 disciplines and a minor in recreation. It became a regional university in 1969.

President Charles "A" Lyons, Jr. has pledged that the institution will continue working to improve all areas of the university with evaluations and implementation of the findings of the institutional self-study and recommendations by various visiting committees.

It appears that Fayetteville State University is making a significant effort to enhance their program to be of greater service to the community, State, and Nation and the world.

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962, AS AMENDED—DOCUMENTARY HISTORY—PART III, 89TH CONGRESS

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. PERKINS. Mr. Speaker, as part III of the documentary history of MDTA, I include the following materials in the RECORD. They include excerpts from the House and Senate committee reports and floor debates and conference report on the 1965 and 1966 MDTA amendments.

The material follows:

[89th Cong., 1st sess., Senate Report No. 123]

MANPOWER ACT OF 1965

March 12, 1965.—Ordered to be printed. Filed under authority of the order of the Senate of March 11, 1965.

Mr. Clark, from the Committee on Labor and Public Welfare, submitted the following report together with supplemental, individual, and additional views (to accompany S. 974).

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 974) to amend the Manpower Development and Training Act of 1962, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE AND EXPLANATION OF THE BILL

S. 974 was introduced at the request of the administration on February 2, 1965. Its purpose is to extend, expand, and improve the Manpower Development and Training Act of 1962 (hereinafter referred to as MDTA).

S. 974 amends the MDTA to broaden the research and experimental authority of the Secretary of Labor. It also directs the Secretary of Labor to promote, stimulate, and assist nationwide job development activities in the service occupations and related fields.

The training allowance provisions of title II of MDTA are improved and the role of private educational facilities in the manpower training program is clarified. The bill permits payment of daily commuting costs where such costs would be burdensome to the trainee and allows administrative increases in transportation and subsistence payments in States outside the continental limits of the United States. It permits a larger role for the States in setting up smaller training projects. In addition, manpower training activities in redevelopment areas heretofore carried out under the Area Redevelopment Act are transferred to the MDTA with a separate authorization.

The bill extends the program for 4 additional years, and retains full Federal financing for the program through June 30, 1966. Thereafter, the States will be required to contribute 10 percent of institutional training costs, with certain exceptions permitted at the discretion of the Secretary of Health, Education, and Welfare. The 10 percent may be in cash or in kind. The bill authorizes appropriations of $454 million for fiscal 1966 and such sums as may be necessary each fiscal year thereafter. Finally, it provides that reapportionment of funds among the States will not be effected prior to January 1 of each year and then only upon 30 days advance notice—except during the final quarter of the fiscal year.

NEED FOR THE BILL

The goal set by the Congress when it enacted MDTA in 1962 was to provide training for 400,000 jobless workers during the 3 years for which the program was originally authorized. This goal is now within reach.

This is the MDTA record so far:

Training has been approved for almost 320,000 trainees of whom 135,000 are currently enrolled in training programs.

Another 60,000 individuals have been made more employable through special demonstration projects tailored to the needs of the disadvantaged.

Seventy-two percent of those completing institutional training have been placed in jobs.

Ninety-four percent of those completing on-the-job training have been placed.

Training, entry, or refresher courses, covering all skill fields, including technical and semiprofessional, skilled and semiskilled white collar, service, and agricultural occupations, have been offered under the program.

Training opportunities for the long-term unemployed are receiving heavy emphasis. About half the in-school trainees were unemployed for 15 weeks or more prior to enrollment and one-third were jobless for more than half a year. One quarter of all trainees have been nonwhite workers.

The program has concentrated much of its attention on youth, the group presently most afflicted by unemployment. During 1964, enrollment of youth rose to 38 percent of all enrollees in in-school training.

Those with little education have also received special attention. Training of unemployed persons with less than grade-school education more than doubled during 1964.

While these accomplishments are gratifying to the committee, experience has also demonstrated the need for improvement. A number of changes in the MDTA statute have been found necessary.

As the President stated in his Economic Report:

"The promise in the Employment Act of job opportunities for all those able and wanting to work has not yet been fulfilled."

Four unprecedented years of economic expansion, coupled with a new and growing manpower retraining effort have not brought full employment. Yet there are shortages of qualified workers in many industries and occupations. At the same time, there are some 3.7 million (5 percent of the labor force) unemployed citizens who want work but are unable to find it. There are 20 million Americans who lack the minimum training required for most jobs in today's complex economy. Another 1.3 million jobseekers will be added to the labor force this year, including a net rise of 500,000 in the number of teenage youngsters who must have a socially useful outlet for their youthful energies to say nothing of a hope of fulfilling their human aspirations. Many of these youth, some 7.5 million during the decade,

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will lack a high school diploma. To complicate matters further, the accelerating rate of technological innovation and its concomitant, sweeping changes in skill requirements of thousands of jobs, is putting a premium on advanced education and the increased adaptability it brings.

These are the manpower challenges; and one urgent need is to provide some measure of occupational adaptability to the legions of workers for whom it is already too late to provide "normal" educational opportunities. In response, several modifications in the MDTA have been recommended by the President and Secretary of Labor. The committee agreed substantially with those recommendations, with some modifications. The committee feels that the substantial successes of the MDTA clearly justify its extension. The causes of unemployment are acknowledged to be national in scope and its burdens should be borne by all. Many States and local governments are unable to provide matching funds. They simply do not have the resources to assume what is substantially a national obligation. Virtually all of the State Governors expressed their strong desire to the Secretary of Labor for the continuation of the MDTA. Many have specifically requested that the matching requirements now in the statute be eased.

We have much to learn in improving our manpower programs. The achievements already realized with the limited manpower research program already undertaken have been exceedingly useful. They have indicated the huge potential contribution which manpower development programs can make to the restoration of full employment. The committee recommends that the research and demonstration provisions of the act be expanded so that further experimentation can be carried out.

The several modifications in the training allowance provisions will assure that the central purposes of the act are served, particularly training of the disadvantaged and other unemployed who genuinely require it. Experience has fully demonstrated that training allowances are critical to the success of MDTA programs.

Eligibility for training allowances largely determines the capacity of most workers to accept training and the length of time they can continue in training status. The changes in training allowances—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families, are all designed to facilitate the retraining of the people who need it most.

Bringing the ARA training under the MDTA, will equalize the benefits of the two programs. It is a major step toward rationalizing and consolidating the Nation's manpower programs. Adequate safeguards are included in the bill to assure that the original purpose of ARA training is preserved.

Finally, one of the new features of the act is the proposed nationwide job development program. Secretary of Labor Wirtz, in testifying before the committee, requested the new provision to provide clear direction for the active development of jobs in the service area as an integral part of a comprehensive manpower program.

The committee was assured that findings of the Department confirm the fact that there is a great potential for job development and for trained people in service and related work. Without a specific, coordinated program those unfulfilled service demands, ranging from household help to appliance servicing and beyond, would, very probably, never be articulated, never enhance our gross national product, never provide the work so desperately needed by millions of idle hands.

The committee shares the conviction of the President of the United States, expressed publicly on February 1, 1965, "that a substantial number of jobs can be developed from presently existing and unmet service needs—in business, at home, on the farm, and in the community.

MAJOR PROVISIONS OF THE BILL, AS AMENDED

S. 974, as amended by the committee would amend the Manpower Development and Training Act:

With respect to title I by—

(1) authorizing experimental and demonstration projects through grants or contracts;

(2) authorizing Federal assistance for job development in service industries;

(3) extending and clarifying labor mobility demonstration projects; and

(4) authorizing bonding and other job placement assistance for trainees who cannot secure employment for reasons other than their ability to perform.

With respect to title II by—

(1) permitting training allowance payments for up to 2 years, with increases for trainees with dependents;

(2) easing restrictions on the eligibility of single persons, family members, and youths for training allowances;

(3) authorizing transportation payments for commuting and permitting increases in transportation and subsistence allowance rates in certain areas;

(4) extending full Federal financing of training programs through June 30, 1966, and providing for 10 percent, in cash or in kind, non-Federal matching for institutional training costs thereafter where higher Federal funding is necessary for private training;

(5) establishing criteria for the use of private training facilities; and

(6) transferring the training provisions of the Area Redevelopment Act to the Manpower Development and Training Act.

With respect to title III by—

(1) restricting to the second half of any fiscal year the reapportionment of appropriated funds among the States and requiring prior notice to the States;

(2) increasing authorized appropriations for titles I and II;

(3) permitting State approval of small training programs; and

(4) extending the act to June 30, 1970.

COMMITTEE AMENDMENTS AND RECOMMENDATIONS

In addition to technical amendments, the committee amended certain sections of the bill as introduced, and adopted additional amendments to the act.

Termination of title II

The bill, as introduced, would make the Manpower Development and Training Act permanent legislation. The committee amended the bill to extend the present June 30, 1966 termination date of title II for an additional 4 years, to June 30, 1970. The committee is mindful of the problems encountered at the State and local levels in planning and staffing for future training programs under temporary legislation. However, the committee feels that a 4-year extension should enable the States to fully plan and meet staff requirements for future programs and permit full-scale development of essential manpower policies.

State matching

The bill as introduced would require 10-percent matching, in cash or in kind, of all training costs from all non-Federal sources.

While the States, almost unanimously, enthusiastically favor continuation of MDTA training, only a handful are both able and willing to provide cash matching funds. Many States have virtually exhausted their revenue sources both with respect to borrowing and taxing. State indebtedness exceeds $92 billion—three times the indebtedness of just 12 years ago. Thus, recognition must be given to the fact that MDTA programs will not continue in many States if they are required to appropriate funds for matching.

The authorization for in-kind matching is designed to afford such States the opportunity to contribute toward training programs without the necessity of cash appropriations. It will, in addition, preserve local responsibility by encouraging the use of existing facilities for training.

The bill, as introduced, would require matching of training allowances as well as institutional training costs. Training allowances, by definition, cannot be matched except in cash, and the fair value of State-provided equipment, services, and facilities under most training programs is not sufficient to permit in-kind matching of total training costs.

The testimony of witnesses before the subcommittee disclosed that many States are without constitutional authority to provide matching funds for private education. At least one State, Oklahoma, is constitutionally prohibited from contributing State funds toward public or private adult, noncollegiate education. Furthermore, private educational institutions cannot themselves be expected to match training costs, in cash or in kind.

The committee amendment would eliminate matching for training allowances and postpone the effective date of State matching for institutional training costs for an additional year, until June 30, 1966. The extension of full Federal financing for 1 more year will enable the States and Federal Government to work out the administrative details of the limited matching requirements adopted by the committee.

Beginning June 30, 1966, Federal payments for institutional training costs would be limited to 90 percent of the cost to the States of carrying out agreements with the States for institutional training. In addition, the committee amendment would permit the Secretary of Health, Education, and Welfare, when necessary, to make payments to a State in excess of 90 percent where the Secretary determines either (1) that a State is without present constitutional authority to contribute to the cost of adult, noncollegiate, public, institutional training, or (2) that higher Federal payments are required for training in private institutions.

The exception for private training is intended to provide full Federal financing if necessary both where a State either cannot legally, or does not in a given training program, contribute to private education or training, or where a private institution itself does not provide in-kind or in-cash matching contributions.

While the committee realizes that under these matching provisions most training conducted in private institutions will be under full Federal financing, the committee feels that the door should not be closed to matching contributions from any source.

The committee considers that the State matching requirements of the bill, as reported, will enable all States to assume their full responsibility under the MDTA. The committee does not expect any further review of the matching provisions of the act will be necessary and considers the matching provisions as reported to be final.

Need for professional reorientation and refresher courses

The committee has amended the statement of findings and purpose of the act to add a further congressional finding that because of defense and other industrial reductions or closings, professional employees who become unemployed are in need of refresher or reorientation courses to become qualified for other employment within their professions.

The finding is intended to express concern for the professionally trained individual whose particular skill becomes obsolete or who may have suffered from overspecialization. Such persons may be in need of reorientation or refresher courses within their area of general expertise. The committee does not feel it necessary to authorize any new training programs in this area since there is presently sufficient authority for such training in the act. The finding adopted by the committee is not intended to authorize the payment of training allowances to professional persons who would not otherwise be paid such allowances.

Experimental and demonstration projects

The committee is satisfied that there is need for expanded experimental and demonstration projects in order to develop new techniques for finding answers to complicated manpower problems.

The bill as introduced authorized contracts only with nonprofit private agencies. The committee amended the bill to permit the Secretary of Labor to contract for experimental and demonstration projects with any private or public agency. Grants may be made only to public or nonprofit private agencies.

Although, it is expected that generally grants will be used for smaller research projects, this limitation would not apply to the establishment of manpower research centers which would require larger sums of money. Because the scope of the centers would encompass the encouragement of research, the training of researchers, and the establishment of long-term agreements with universities, larger sums should be available for these activities.

Authorization for experimental and demonstration projects under title I and the transfer of authorization for labor mobility projects from title II to title I will free such programs from the State matching and apportionment requirements of title II and permit the flexibility necessary for the conduct of operational research.

The committee recognizes the need for placement and bonding assistance to rehabilated trainees with criminal records. However, the authorization for trainee bonding and other placement assistance is understood by the committee to be strictly experimental since such projects have not been tried heretofore. The funds for such projects are limited to $500,000 over the next 2 fiscal years.

Job development programs

The committee amended the bill as introduced to place the new provision of job development programs in service occupations in a separate section under title I.

Training allowance duration

The extension of the maximum duration of training allowance payments to 2 years is necessary to reduce the pressures on trainees in programs which have had to be accelerated to meet the present 52-week limit. Accelerated training has caused trainees who might otherwise complete training to drop out of programs because they are unable to absorb their training in such concentrated doses. The extension of the duration of training allowances will also permit programs in many of the more highly skilled and technical occupations.

Computation of the basic amount of training allowances

Under MDTA, the basic training allowance is the average weekly unemployment compensation payment for total unemployment. Some State unemployment insurance laws require the reduction of benefits paid to a recipient by the amount of pension payments, social security benefits, and other such payments which he receives. The effect has been to reduce the average weekly unemployment compensation payment by about $2 in such States. Trainees in such States are believed to be unfairly penalized.

The committee therefore amended the act to provide that the total amount paid to any individual who receives a reduced benefit check for the above reasons be disregarded when computing the weekly average unemployment compensation for the purposes of determining the basic amount of training allowances.

Training allowance increases

The bill provides for additional allowances of $5 a week for each dependent over two up to a maximum of six.

The committee understands that the $10 increased training allowance provided by the 1963 amendments to the act is now paid on the basis of the number of persons in a trainee's household and the length of time a trainee has been in training. Thus, a trainee member of a household with three or more members is now eligible to receive an extra $5 a week for the first 4 weeks of training and an additional $5 a week thereafter. No extra allowance is paid to a trainee who lives in a household with fewer than three members during his first 10 weeks of training, but he may receive an extra $10 a week after the 10th week. The committee has been informed by the Department of Labor that the Department contemplates paying the extra $5 per dependent authorized by the bill in addition to the $10 presently permitted under the act. Thus, for example, a trainee with three dependents may have his basic allowance increased by $15 per week, $10 under the 1963 amendment and $5 for his third dependent. A trainee with six or more dependents may have his basic allowance increased by $30 a week.

Transportation and subsistence payments

The bill authorizes transportation allowances for commuting from a trainee's regular residence to his place of training. The committee recognizes the hardships which result when a trainee must use his training allowance payments for commuting expenses. The committee recommends that the Department of Labor adopt regulations specifying that commutation allowances be paid only for the least expensive form of transportation reasonably available to a trainee.

The committee added an additional amendment to the act to permit reasonable increases in the present rates of 10 cents per mile for transportation payments and $5 a day for subsistence payments in those areas, specifically, Hawaii and Alaska, where higher rate transportation is necessary and the minimum costs of room and board are in excess of $5 a day. In Alaska, for example, most trainees must use commercial air transportation at rates considerably in excess of the 10 cents per mile limit. The Federal per diem rates for Alaska and Hawaii are $21 as compared with $16 in the other 48 States. Such increases in transportation rates will not be authorized for commuting expenses.

Eligibility for training allowances

The bill, as introduced, would permit the payment of training allowances to single persons without dependents and to more than one family member if the head of the family is unemployed. A committee amendment would permit payment of training allowances to family members, even though the head of the family is or becomes employed, where the Secretary of Labor determines such payments are necessary to enable a trainee to undertake or continue with training.

Training allowances for youths

The committee adopted an amendment authorizing the Secretary to continue training allowance payments to a youth who becomes 22 years of age while in training, provided he has substantially completed his training.

The committee amendment will permit the selection of youths for a training program who might otherwise be denied training because the duration of the program extends beyond his 22d birthday.

On-the-job training

The committee has learned that in the development and execution of on-the-job training programs, the division of responsibilities between the Department of Labor and the Department of Health, Education, and Welfare contemplated under section 204(c) of the act has not been observed. This provision contemplates that some degree of flexibility should be maintained. Nevertheless, under the clear language of the statute classroom instruction for on-the-job training programs, whether supplementary or related, is the responsibility of the Department of Health, Education, and Welfare and arrangements for such instruction must be agreed to by the Secretary of Health, Education, and Welfare or his designee.

The responsibility of the Secretary of Labor in connection with on-the-job training programs under section 204 relates to training provided at the jobsite, involving employer-employee relationships in which the trainee is acquiring production skills. Closer cooperation between the two Departments and strict compliance with the requirements of section 204(c) must be maintained.

The committee adopted an amendment to make it clear that classroom instruction conducted in conjunction with on-the-job training programs is to be conducted in conformity with the responsibilities of the Secretary of Health, Education, and Welfare.

The committee notes that the Department of Labor's budget for the fiscal year 1966 contemplates a goal of 60,000 trainees for on-the-job training—double the number projected for 1965. In addition, 40,000 trainees are projected in fiscal 1966 for on-the-job training programs in service occupations pursuant to the new job development programs. The committee welcomes this expansion of on-the-job training and recommends that increased emphasis be given to on-the-job training programs in the coming years.

Private institutional training

The committee adopted an amendment setting forth specific guidelines for the States to follow in determining whether to use public or private facilities for institutional training. The committee feels that the present requirement that private facilities can only be used if they make possible reduced Federal expenditures is too restrictive and tends to discourage the States' use of private institutions where existing private facilities might have advantages over public facilities. Specifically, private institutions may have equipment or services not available in public facilities. Furthermore, training of individuals may be facilitated where a particular training course is available at a private school. In this connection, the committee feels that referrals of individuals for training should receive increased emphasis.

Redevelopment area training

The bill, in a new section, incorporates the training provisions of the Area Redevelopment Act under MDTA. The committee adopted several clarifying amendments to make it clear that, with four specified exceptions, ARA training programs will be operated in accordance with the provisions of the MDTA.

The four exceptions provide that (1) occupational training and retraining needs will be determined by the Secretaries of Labor and Commerce; (2) all unemployed and underemployed persons residing in redevelopment areas will be eligible for training and training allowances; (3) no State matching will be required; and (4) appropriated funds will not be apportioned among the States.

The committee wishes to make it clear that the authorization for ARA training under MDTA and repeal of sections 16 and 17 of the Area Redevelopment Act is intended primarily as a legal consolidation rather than

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change in operating procedures. The scope, purposes and emphasis of ARA training are not in any way altered or diminished. Thus, for example, consideration is expected to be given, as is required by subsection 16(f) of the Area Redevelopment Act, "to the special needs of individuals who are agricultural workers or are engaged in other seasonal occupations and who require occupational training in order to qualify them to engage in supplementary employment during the off season and during other periods of reduced activity in the field of their regular or primary occupations." Training for redevelopment areas will continue as in the past except for the expansion of training programs which result from the increased authorized duration and amounts of training allowance payments and additional funds available for ARA training.

Reapportionment of funds

The committee adopted an amendment which will limit the reapportionment of funds among the States to the second half of any fiscal year. The committee amendment will also require 30 days' prior notice to a State before any Federal funds originally apportioned to the State are reapportioned. Prior notice will not be required, however, during the last quarter of a fiscal year.

The committee feels that this amendment is necessary to alleviate hardships which, in the past, have been caused in some States where funds apportioned to the State are, suddenly, and without adequate notice, withdrawn and placed in the "national pool" prior to being reapportioned among the States. The committee believes that 30 days' notice will enable the States to complete the planning and secure necessary approval of inprocess training programs before funds are withdrawn to the national pool.

Authorized appropriations

The committee has amended the bill, as introduced, to retain specific authorization figures under each title of the act for the fiscal year 1966.

Authorization of appropriations are increased to $46 million under title I, $385 million under parts A and B of title II, and $22 million under part C (the area redevelopment training provisions) of title II. The present authorization of $1 million for title III is retained. Such sums as may be necessary are authorized for succeeding fiscal years.

Use of appropriated funds

Under existing law when a training program is approved the costs of training are obligated in their entirety against the appropriation current at the time of approval of the program. This is not the situation with respect to training allowances.

Training allowances become a legal commitment on the part of the United States only after the trainees are selected and referred and the commitment is made to the individual trainees so that they will receive the training allowances. Thus, if a training program is approved on the first of June, for example, the training cost in its entirety becomes an obligation against the then current appropriation. The selection and referral of the trainees and the commitment to them may, however, not be made until the next fiscal year. The training program may be a multiple occupation program under which trainees are selected and referred at varying periods.

Consequently, there have been serious complications in the fiscal management of the programs. The result has been that a program approved in 1 fiscal year in a State creates a contingent commitment for training allowances against the next fiscal year's appropriation.

The bill would authorize the obligation of all costs of training and training allowances against the appropriation current at the time the total program is approved without regard to when the trainees are selected and referred.

Limited State Approval of Small Training Programs

The committee adopted an amendment which will permit the Secretaries of Labor and Health, Education, and Welfare to establish procedures whereby the approval of any training program, the cost of which does not exceed $75,000, may be delegated to a State.

The recommendation for local approval of smaller training programs should not be construed as in any way indicating that the committee expects all or, necessarily, even a substantial proportion of such program approvals to be delegated by the Secretaries. On the contrary, it is expected that the Secretaries will use their discretionary authority only in cases where local approval will clearly facilitate operation of the MDTA program.

Secretaries' Reports

Section 309(a) of the act requires the Secretary of Labor to report to Congress each year, evaluating the programs under title I and part A of title II, their effectiveness in securing full-time employment for persons trained under the act, the need for continuing programs and making recommendations for their improvement. Thus far, the Department of Labor has conducted only minimal evaluation and followup studies on trainees and persons considered for training. The committee feels that section 309(a) of the act contemplates that the Secretary submit, along with his report on the operation of the programs, an outline of his plans and procedures for the evaluation of MDTA operations in the year ahead. Such plans might include, among other things, thorough studies of the effects and results of training a year after its completion, indicating, for example, whether trainees have upgraded the skills learned in the program. Comparison studies of the current status of those who were refused admittance to the program and those who failed to complete their training might also be included. This will insure that the executive departments gather the information Congress needs if its voice in policymaking is to be effective.

SUPPLEMENTAL VIEWS OF SENATORS JACOB K. JAVITS AND GEORGE MURPHY

The bill has provided a significant opportunity for review of the Manpower Development and Training Act of 1962 since there has now been sufficient time to begin to evaluate the experience under it. Some 135,000 trainees have been enrolled in the program and a total of 320,000 have been programed for enrollment by the end of the current fiscal year, the third year of operation. Viewed from this vantage point the program is in our judgment a hopeful one, although its scope is far from meeting the enormous challenge of either chronic unemployment for a long time, now, at an unacceptable national 5-percent level or of millions of educationally ill-equipped youth in a rapidly automating economy.

As still an experimental approach to training and retraining the unemployed, the program has shown a number of defects which we as a minority have sought to correct in the pending legislation. We are gratified to note that, as reported to the Senate, the bill and committee report, in which we have joined, contain a number of our proposals.

In view of the experience under the existing matching requirements in the act, which would have become effective on July 1, 1965, and with which only three State legislatures (in New York, Pennsylvania, and Michigan) have indicated a willingness to comply, we have agreed to modify the matching grant requirement to a 90-percent Federal, 10-percent State basis. An amendment offered by Senator Prouty (and Senators Javits and Murphy) makes this matching formula workable in several important respects. First, private training institutions, which cannot be expected to match Federal funds either in cash or in kind, would be exempted from the matching requirement. Second, matching may be in cash or in kind, so that public training institutions may contribute additional facilities or personnel or increased use of existing facilities or personnel. Third, the matching requirement is deferred for 1 final year of 100 percent Federal finnacing so that the States can plan to meet the requirement over the next fiscal year.

Testimony revealed that the time required for identification, development, and Federal approval of projects under the act is at a minimum 3 months, and that many applications require 6 months to a year. During that time the conditions on which the project was based may change substantially, and delay imposes hardship on the unemployed who are waiting for the training to begin. Accordingly, an amendment offered by Senator Javits was adopted to authorize the Secretary of Labor to delegate to State authorities approval of projects not exceeding $75,000. It is intended that this authority will be used to permit more rapid implementation of smaller projects and to reduce the burden of Federal reviewers so that they will concentrate on the quality of the larger projects.

Section 301 of the act presently authorizes reapportionment of funds allocated to the States where the allocated funds have not been used. Some States have found that, very shortly after an initial allocation, some part or all of the allocation has, without notice to or consultation with the State, been reallocated from the State and placed into the national pool for the use of other States. An amendment offered by Senator Javits would limit reapportionment of funds until after 6 months of the fiscal year have elapsed and only upon 30 days' prior notice to the State, except during the final quarter of the fiscal year, when prior notice is not required.

As originally enacted, the act included the finding of the Congress that there is a critical need for more and better trained personnel in the professional, scientific, and technical categories as well as in the apprenticeable category. However, this aspect of the need has been almost entirely neglected. The Labor Department has by regulation eliminated professionals from the program. Although the primary purpose of the act is to reach the unskilled and semiskilled, there is a national responsibility to all the unemployed, particularly in those areas most hard hit by defense cutbacks affecting Government contractors and military installations. As the just-released manpower report of the President emphasizes, these cutbacks often involve large numbers of highly skilled technical personnel who find it difficult to adapt their skills to other industrial uses. Accordingly, an amendment offered by Senator Javits (and Senator Prouty) would add to the findings and purposes of the act the specific authorization to include professional employees who have become unemployed because of reductions or changes in national defense and other industrial activities. This type of coverage would be limited to refresher or reorientation educational courses designed to make existing professional skills marketable, and not to supplant higher education assistance for those who have not yet obtained professional degrees.

As proposed by the administration, this bill would reassign responsibility for training under the Area Redevelopment Act from the Area Redevelopment Administration in the Commerce Department to the Labor Department and would apply Manpower Development and Training Act standards to that training. An amendment offered by Senator Javits avoids the possible overlap of authority by specifically repealing the comparable provision in the ARA Act simultaneously with the enactment of this act.

The Congress recognized in the 1963 MDTA amendments the fallacy of automatically linking to unemployment compensation levels the training allowances under this program, which is designed to induce training for employment. An additional $10 per week was then authorized, and the Labor Department has administered this additional payment on the basis of dependency and duration of training. The pending bill also provides for an additional $5 per dependent (above two and up to six) without referring to the existing $10. In response to a question from Senator Javits the Department has represented, and it is our intention, that the extra $5 per dependent will be added to the extra $10 presently permitted under the act, raising the maximum increase in basic allowance above unemployment compensation to $30 per week for a trainee with six or more dependents.

One of the most disappointing features of the program has been the very small use—approximately 10 percent of the trainees—of the on-the-job training program, which, as Secretary Wirtz himself testified, was expected to be a prime focus of the act when it was first enacted. We welcome the additional effort to make this program work which is represented by the experimental and developmental programs authorized by these amendments. We urge especially a determined effort to make the business community aware of the on-the-job training program, through publications and other methods, and to bring into close cooperation the 1,900 State employment service offices throughout the country. The employment service should be given maximum information about on-going, on-the-job, and institutional programs within commuting distance and should also be given firm instructions to maximize the number of individual referrals to those training programs, rather than keeping unemployed individuals waiting for a group arrangement to begin operation.

JACOB K. JAVITS.
GEORGE MURPHY.

INDIVIDUAL VIEWS OF SENATOR WINSTON L. PROUTY (REPUBLICAN, VERMONT)

There is no economic failure so terrible in its import as that of a country possessing a surplus of every necessity of life in which members willing and anxious to work are deprived of these necessities.

The Manpower Development and Training Act is a relatively new and imperfect instrument for dealing with the Nation's complex manpower problems. Some difficulties that have become evident since the inception of the act in 1962 have been overcome by the amendatory process in 1963 and now in 1965.

I offered the following amendments to the subcommittee which the committee has incorporated in the Senate bill. I believe them to be equitable and in the interest of maximum efficiency.

(1) *Youth training allowances.*—Previously, under the act, it was possible for a youth under 22 to start a training program and have his $20 weekly training allowance cut off when he reached the age of 22. This amendment allows the youth to continue receiving the training allowance until the end of his training. I believe that this action will tend to cut down the rate of dropouts and generally complement the manpower situation.

(2) *Elimination of unnecessary duplication.*—The original intent of paragraph (C) of section 204 in the act was that the Departments of Health, Education, and Welfare, and Labor should confer and agree on the best ways and means to provide on-the-job trainees with any classroom instruction incident to their training. In some of the classroom training conducted, this has not been the case. My amendment offered clarifying language to reaffirm the original intent.

(3) *Equitable standards for participation by private institutions.*—Existing law provides for participation of private training schools in the program only when they can provide training cheaper than such training would be if conducted by a public institution. This amendment changes the language so that the costs could be comparable rather than reduced.

I believe that the private institutions can play a greater role in making the Manpower Development and Training Act programs increasingly effective, especially where they can—

(*a*) provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations; or

(*b*) make possible an expanded use of the individual referral method; or

(*c*) aid in reducing more quickly unemployment or current and prospective manpower shortages.

The committee has incorporated this language into the act at my suggestion so as to insure that the private institutions are not excluded from participation as a matter of policy. Nearly half of the States have failed to use private training schools even though in many cases their personnel and facilities are superior.

I am keenly interested in the expansion of the individual referral method, and it is apparent that the private institutions are tailormade for accepting this type of trainee.

Expanded use of individual referrals would cut down the waiting period which accompanies the initiation of a group training class. I feel that the individual referral method offers the trainee a greater latitude of choice, and thus would reduce both the possibilities for misplacement and the dropout rate.

(4) *Financing.*—According to a survey made available to me by the Department of Health, Education, and Welfare only two of the States have appropriated funds to date which would meet the matching requirements that would come into effect after June 30, 1965. Therefore, in order to achieve the fullest participation by the States that is possible, I introduced and the committee approved the following financing arrangement:

The Manpower Development and Training Act program would be 100 percent federally financed during the next fiscal year ending June 30, 1966. Training allowances would continue to be 100 percent federally financed thereafter. Training costs, however, would be financed on a 90 percent Federal 10 percent non-Federal matching (in cash or in kind) basis, for fiscal years beginning after June 30, 1966.

If the bill had been adopted in its original form, the matching provisions would effectively exclude private schools from participation in the program. Therefore, upon my recommendation the committee approved an amendment to be written into the bill which would allow the Secretary of Health, Education, and Welfare to determine that in the case of private institutions, such Federal payments may be made as will give full effect to the purposes of the act.

(5) *Refresher training.*—The senior Senator from New York, Mr. Javits, and I recognize a great need to retrain professional and technical personnel who are displaced by defense order, or other industrial cutbacks. In many cases these people need only short refresher courses to put them abreast of the technological requirements of their field and thus make them employable.

Therefore, we recommended, and the committee approved, language to be inserted in the bill which would provide that such reorientation of persons with professional or technical skills, as would make them employable, be included within the scope of the act.

We feel that this amendment will ease the impact on communities heavily dependent on defense or other industries where these activities have been canceled or cut back. The personnel affected could then continue to be assets to the community rather than join the ranks of the unemployed.

Concluding remarks

I am convinced that these amendments, which met the approval of the committee, will help to increase the effectiveness of the act. Continued surveillance of the practical application of the act, however, is necessary, and I am sure that we will have to perfect it further from time to time.

The program is largely experimental. I share the hope of all others that it will be successful. At least two shortcomings which are difficult of solution, however, continue to cause me deep concern.

First, the act was expected to give the older unemployed man a new grip on life. For the most part, in this mission it has failed. There still remains the knotty problem of how to prevent discrimination because of age.

Second, I remain concerned about the small number of persons dealt with by the individual referral method. Part of the older worker's dilemma, I believe, can be resolved by the use of this method.

It was expected, at least by some of us in the Congress, that individual problems would be given individual attention. But all too often the jobless fellow who wants to pursue a certain type of training must wait and wait until that one bright day when several others want the same type of training.

If only one unemployed man in a given State wants to be a chef, for example, and there is a skill shortage in this occupation, then I say he should get the training. Slightly over 3,000 persons, nationally, have been trained on an individual referral basis during this fiscal year to date. I say this is an alarmingly small number, and inconsistent with the intent of the act.

I shall not rest with the improvements we have written into this bill, for we have only begun to approach the problems of unemployment in a dynamic economy. Implementation of positive and constructive ideas must meet the awesome challenge presented by advanced technology and automation.

WINSTON L. PROUTY.

ADDITIONAL VIEWS OF SENATOR GEORGE MURPHY

Although generally agreeing with the more experienced minority members, I wish to make the following observations:

First, I urge my colleagues to limit the extension of this program to 2 years. While hopeful that the program will achieve its stated goals and even encouraged by some of the reported results, I believe this legislative committee, as the expert in this field, owes a responsibility to the American taxpayer for the continued supervision and evaluation of this program.

Since we are recommending various changes, 2 years will provide an adequate trial period after which we can evaluate the results. How effective were the bonding demonstration projects? What type of courses require the extended training periods? Is it desirable to continue the 90–10 matching program? These are all questions that will be pertinent at the end of the 2-year period.

I deeply fear that the Congress may be needlessly duplicating their efforts. For example, for the young people we now have the Job Corps, the vocational education program, and an expanded Manpower Development and Training Act. Would it be more economical and efficient to consolidate these various programs?

XUM

As initially conceived, the main thrust of the Manpower Development and Training Act was aimed at assisting men who became unemployed because of automation and technological changes. The act presently provides that not more than 25 percent of those receiving training allowances shall be under age 22. As amended, the legislation would allow the Secretary of Labor to administratively adjust the percentage. While greatly concerned and interested in helping our young people, I wish to make certain that the expansion of this program for our youth is not to the detriment of the heads of households.

It is my hope that the States would expand the utilization of the private institutions in this program. Naturally, I am proud that the experience of California proves the wisdom of such utilization. Private institutions in my State account for 15 percent of the training under this program and I am most encouraged by the results. I was pleased to join the minority members of this committee in amending the legislation to permit the continued use of private schools.

GEORGE MURPHY.

[Senate, March 16, 1965]

MANPOWER ACT OF 1965

The PRESIDING OFFICER. The chair lays before the Senate the unfinished business, which will be stated.

The CHIEF CLERK. A bill (S. 974) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes.

Mr. CLARK. Mr. President, S. 974 was introduced at the request of the administration on February 2, 1965. Its purpose is to extend, expand, and improve the Manpower Development and Training Act of 1962—hereinafter referred to as Manpower Development and Training Act.

S. 974 amends the Manpower Development and Training Act to broaden the research and experimental authority of the Secretary of Labor. It also directs the Secretary of Labor to promote, stimulate, and assist nationwide job development activities in the service occupations and related fields.

The training allowance provisions of title II of the Manpower Development and Training Act are improved and the role of private educational facilities in the manpower training program is clarified. The bill permits payment of daily commuting costs where such costs would be burdensome to the trainee and allows administrative increases in transportation and subsistence payments in States outside the continental limits of the United States. It permits a larger role for the States in setting up smaller training projects. In addition, manpower training activities in redevelopment areas heretofore carried out under the Area Redevelopment Act are transferred to the Manpower Development and Training Act with a separate authorization.

The bill extends the program for 4 additional years, and retains full Federal financing for the program through June 30, 1966. Thereafter, the States will be required to contribute 10 percent of institutional training costs, with certain exceptions permitted at the discretion of the Secretary of Health, Education, and Welfare. The 10 percent may be in cash or in kind. The bill authorizes appropriations of $454 million for fiscal 1966 and such sums as may be necessary each fiscal year thereafter. Finally, it provides that reapportionment of funds among the States will not be effected prior to January 1 of each year and then only upon 30 days' advance notice—except during the final quarter of the fiscal year.

NEED FOR THE BILL

The goal set by the Congress when it enacted the Manpower Development and Training Act in 1962 was to provide training for 400,000 jobless workers during the 3 years for which the program was originally authorized. This goal is now within reach.

This is the Manpower Development and Training Act record so far:

Training has been approved for almost 320,000 trainees of whom 135,000 are currently enrolled in training programs.

Another 60,000 individuals have been made more employable through special demonstration projects tailored to the needs of the disadvantaged.

Seventy-two percent of those completing institutional training have been placed in jobs.

Ninety-four percent of those completing on-the-job training have been placed.

Training, entry, or refresher courses, covering all skill fields, including technical and semiprofessional, skilled and semiskilled white collar, service, and agricultural occupations, have been offered under the program.

Training opportunities for the long-term unemployed are receiving heavy emphasis. About half the inschool trainees were unemployed for 15 weeks or more prior to enrollment and one-third were jobless for more than half a year. One quarter of all trainees have been nonwhite workers.

The program has concentrated much of its attention on youth, the group presently most afflicted by unemployment. During 1964, enrollment of youth rose to 38 percent of all enrollees in inschool training.

Those with little education have also received special attention. Training of unemployed persons with less than grade school education more than doubled during 1964.

While these accomplishments are gratifying to the committee, experience has also demonstrated the need for improvement. A number of changes in the Manpower Development and Training Act statute have been found necessary.

As the President stated in his Economic Report:

"The promise in the Employment Act of job opportunities for all those able and wanting to work has not yet been fulfilled."

Four unprecedented years of economic expansion, coupled with a new and growing manpower retraining effort have not brought full employment. Yet there are shortages of qualified workers in many industries and occupations. At the same time, there are some 3.7 million—5 percent of the labor force—unemployed citizens who want work but are unable to find it. There are 20 million Americans who lack the minimum training required for most jobs in today's complex economy. Another 1.3 million jobseekers will be added to the labor force this year, including a net rise of 500,000 in the number of teenage youngsters who must have a socially useful outlet for their youthful energies to say nothing of a hope of fulfilling their human aspirations. Many of these youth, some 7.5 million during the decade, will lack a high school diploma. To complicate matters further, the accelerating rate of technological innovation and its concomitant, sweeping changes in skill requirements of thousands of jobs, is putting a premium on advanced education and the increased adaptability it brings.

These are the manpower challenges; and one urgent need is to provide some measure of occupational adaptability to the legions of workers for whom it is already too late to provide "normal" educational opportunities. In response, several modifications in the Manpower Development and Training Act have been recommended by the President and Secretary of Labor. The committee agreed substantially with those recommendations, with some modifications. The committee feels that the substantial successes of the Manpower Development and Training Act clearly justify its extension. The causes of unemployment are acknowledged to be national in scope and its burdens should be borne by all. Many States and local governments are unable to provide matching funds. They simply do not have the resources to assume what is substantially a national obligation. Virtually all of the State Governors expressed their strong desire to the Secretary of Labor for the continuation of the Manpower Development and Training Act. Many have specifically requested that the matching requirements now in the statute be eased.

We have much to learn in improving our manpower programs. The achievements already realized with the limited manpower research program already undertaken have been exceedingly useful. They have indicated the huge potential contribution which manpower development programs can make to the restoration of full employment. The committee recommends that the research and demonstration provisions of the act be expanded so that further experimentation can be carried out.

The several modifications in the training allowance provisions will assure that the central purposes of the act are served, particularly training of the disadvantaged and other unemployed who genuinely require it. Experience has fully demonstrated that training allowances are critical to the success of Manpower Development and Training Act programs.

Eligibility for training allowances largely determines the capacity of most workers to accept training and the length of time they can continue in training status. The changes in training allowances—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families, are all designed to facilitate the retraining of the people who need it most.

Bringing the ARA training under the Manpower Development and Training Act will equalize the benefits of the two programs. It is a major step toward rationalizing and consolidating the Nation's manpower programs. Adequate safeguards are included in the bill to assure that the original purpose of ARA training is preserved.

Finally, one of the new features of the act is the proposed nationwide job development program. Secretary of Labor Wirtz, in testifying before the committee, requested the new provision to provide clear direction for the active development of jobs in the service area as an integral part of a comprehensive manpower program.

The committee was assured that findings of the Department confirm the fact that there is a great potential for job development and for trained people in service and related work. Without a specific, coordinated program those unfulfilled service demands, ranging from household help to appliance servicing and beyond, would, very probably, never be articulated, never enhance our gross national product, never provide the work so desperately needed by millions of idle hands.

The committee shares the conviction of the President of the United States, expressed publicly on February 1, 1965, "that a substantial number of jobs can be developed from presently existing and unmet service needs—in business, at home, on the farm, and in the community."

The bill, as introduced, would make the Manpower Development and Training Act permanent legislation. The committee amended the bill to extend the present June 30, 1966, termination date of title II for an additional 4 years, to June 30, 1970. The committee is mindful of the problems encountered at the State and local levels in planning and staffing for future training programs under temporary legislation. However, the committee feels that a 4-year extension should enable the States to fully plan and meet staff requirements for future programs and permit full-scale development of essential manpower policies.

STATE MATCHING

The bill as introduced would require 10-percent matching, in cash or in kind, of all training costs from all non-Federal sources.

While the States, almost unanimously, enthusiastically favor continuation of Manpower Developing and Training Act training, only a handful are both able and willing to provide cash matching funds. Many States have virtually exhausted their revenue sources both with respect to borrowing and taxing. State indebtedness exceeds $2 billion—three times the indebtedness of just 12 years ago. Thus, recognition must be given to the fact that Manpower Development and Training Act programs will not continue in many States if they are required to appropriate funds for matching.

The authorization for in-kind matching is designed to afford such States the opportunity to contribute toward training programs without the necessity of cash appropriations. It will, in addition, preserve local responsibility by encouraging the use of existing facilities for training.

The bill, as introduced, would require matching or training allowances as well as institutional training costs. Training allowances, by definition, cannot be matched except in cash, and the fair value of State-provided equipment, services and facilities under most training programs is not sufficient to permit in-kind matching of total training costs.

The testimony of witnesses before the subcommittee disclosed that many States are without constitutional authority to provide maching funds for private education. At least one State, Oklahoma, is constitutionally prohibited from contributing State funds toward public or private adult, noncollegiate education. Furthermore, private educational institutions cannot themselves be expected to match training costs, in cash or in kind.

The committee amendment would eliminate matching for training allowances and postpone the effective date of State matching for institutional training costs for an additional year, until June 30, 1966. The extension of full Federal financing for 1 more year will enable the States and Federal Government to work out the administrative details of the limited matching requirements adopted by the committee.

Beginning June 30, 1966, Federal payments for institutional training costs would be limited to 90 percent of the cost to the States of carrying out agreements with the States for institutional training. In addition, the committee amendment would permit the Secretary of Health, Education, and Welfare, when necessary, to make payments to a State in excess of 90 percent where the Secretary determines; either, first, that a State is without present constitutional authority to contribute to the cost of adult, noncollegiate, public, institutional training; or second, that higher Federal payments are required for training in private institutions.

The exception for private training is intended to provide full Federal financing if necessary both where a State either cannot legally, or does not in a given training program, contribute to private education or training, or where a private institution itself does not provide in-kind or in-cash matching contributions.

While the committee realizes that under these matching provisions most training conducted in private institutions will be under full Federal financing, and committee feels that the door should not be closed to matching contributions from any source.

The committee considers that the State matching requirements of the bill, as reported, will enable all States to assume their full responsibility under the Manpower Development and Training Act. The committee does not expect any further review of the matching provisions of the act will be necessary and considers the matching provisions as reported to be final.

NEED FOR PROFESSIONAL REORIENTATION AND REFRESHER COURSES

The committee has amended the statement of findings and purpose of the act to add a further congressional finding that because of defense and other industrial reductions or closing, professional employees who become unemployed are in need of refresher or reorientation courses to become qualified for other employment within their professions.

The finding is intended to express concern for the professionally trained individual whose particularly skill becomes obsolete or who may have suffered from overspecialization. Such persons may be in need of reorientation or refresher courses within their area of general expertise. The committee does not feel it necessary to authorize any new training programs in this area since there is presently sufficient authority for such training in the act. The finding adopted by the committee is not intended to authorize the payment of training allowances to professional persons who would not otherwise be paid such allowances.

EXPERIMENTAL AND DEMONSTRATION PROJECTS

The committee is satisfied that there is need for expanded experimental and demonstration projects in order to develop new techniques for finding answers to complicated manpower problems.

The bill as introduced authorized contracts only with nonprofit private agencies. The committee amended the bill to permit the Secretary of Labor to contract for experimental and demonstration projects with any private or public agency. Grants may be made only to public or nonprofit private agencies.

Although it is expected that generally grants will be used for smaller research projects, this limitation would not apply to the establishment of manpower research centers which would require larger sums of money. Because the scope of the centers would encompass the encouragement of research, the training of researchers, and the establishment of long-term agreements with universities, larger sums should be available for these activities.

Authorization for experimental and demonstration projects under title I and the transfer of authorization for labor mobility projects from title II to title I will free such programs from the State matching and apportionment requirements of title II and permit the flexibility necessary for the conduct of operational research.

The committee recognizes the need for replacement and bonding assistance to rehabilitated trainees with criminal records. However, the authorization for trainee bonding and other placement assistance is understood by the committee to be strictly experimental since such projects have not been tried heretofore. The funds for such projects are limited to $500,000 over the next 2 fiscal years.

TRAINING ALLOWANCE DURATION

The extension of the maximum duration of training allowance payments to 2 years is necessary to reduce the pressures on trainees in programs which have had to be accelerated to meet the present 52-week limit. Accelerated training has caused trainees who might otherwise complete training to drop out of programs because they are unable to absorb their training in such concentrated doses. The extension of the duration of training allowances will also permit programs in many of the more highly skilled and technical occupations.

COMPUTATION OF THE BASIC AMOUNT OF TRAINING ALLOWANCES

Under the Manpower Development and Training Act, the basic training allowance is the average weekly unemployment compensation payment for total unemployment. Some State unemployment insurance laws require the reduction of benefits paid to a recipient by the amount of pension payments, social security benefits, and other such payments which he receives. The effect has been to reduce the average weekly unemployment compensation payment by about $2 in such States. Trainees in such States are believed to be unfairly penalized.

The committee therefore amended the act to provide that the total amount paid to any individual who receives a reduced benefit check for the above reasons be disregarded when computing the weekly average unemployment compensation for the purposes of determining the basic amount of training allowances.

TRAINING ALLOWANCE INCREASES

The bill provides for additional allowances of $5 a week for each dependent over two up to a maximum of six.

The committee understands that the $10 increased training allowance provided by the 1963 amendments to the act is now paid on the basis of the number of persons in a trainee's household and the length of time a trainee has been in training. Thus, a trainee member of a household with three or more members is now eligible to receive an extra $5 a week for the first 4 weeks of training and an additional $5 a week thereafter. No extra allowance is paid to a trainee who lives in a household with fewer than three members during his first 10 weeks of training, but he may receive an extra $10 a week after the 10th week. The committee has been informed by the Department of Labor that the Department contemplates paying the extra $5 per dependent authorized by the bill in addition to the $10 presently permitted under the act. Thus, for example, a trainee with three dependents may have his basic allowance increased by $15 per week, $10 under the 1963 amendment and $5 for his third dependent. A trainee with six or more dependents may have his basic allowance increased by $30 a week.

TRANSPORTATION AND SUBSISTENCE PAYMENTS

The bill authorizes transportation allowances for commuting from a trainee's regular residence to his place of training. The committee recognizes the hardships which result when a trainee must use his training allowance payments for commuting expenses. The committee recommends that the Department of Labor adopt regulations specifying that commutation allowances be paid only for the least expensive form of transportation reasonably available to a trainee.

The committee added an additional amendment to the act to permit reasonable increases in the present rates of 10 cents per mile for transportation payments and $5 a day for subsistence payments in those areas, specifically, Hawaii and Alaska, where higher rate transportation is necessary and the minimum costs of room and board are in excess of $5 a day. In Alaska, for example, most trainees must use commercial air transportation at rates considerably in excess of the 10 cents per mile limit. The Federal per diem rates for Alaska and Hawaii are $21 as compared with $16 in the other 48 States. Such increases in transportation rates will not be authorized for commuting expenses.

ELIGIBILITY FOR TRAINING ALLOWANCES

The bill, as introduced, would permit the payment of training allowances to single persons without dependents and to more than one family member if the head of the family is unemployed. A committee amendment would permit payment of training allowances to family members, even though the head of the family is or becomes employed, where the Secretary of Labor determines such payments are necessary to enable a trainee to undertake or continue with training.

XUM

TRAINING ALLOWANCES FOR YOUTHS

The committee adopted an amendment authorizing the Secretary to continue training allowance payments to a youth who becomes 22 years of age while in training, provided he has substantially completed his training.

The committee amendment will permit the selection of youths for a training program who might otherwise be denied training because the duration of the program extends beyond his 22d birthday.

ON-THE-JOB TRAINING

The committee has learned that in the development and execution of on-the-job training programs, the division of responsibilities between the Department of Labor and the Department of Health, Education, and Welfare contemplated under section 204(c) of the act has not been observed. This provision contemplates that some degree of flexibility should be maintained. Nevertheless, under the clear language of the statute, classroom instruction for on-the-job training programs, whether supplementary or related, is the responsibility of the Department of Health, Education, and Welfare and arrangements for such instruction must be agreed to by the Secretary of Health, Education, and Welfare or his designee.

The responsibility of the Secretary of Labor in connection with on-the-job training programs under section 204 relates to training provided at the jobsite, involving employer-employee relationships in which the trainee is acquiring production skills. Closer cooperation between the two Departments and strict compliance with the requirements of section 204(c) must be maintained.

The committee adopted an amendment to make it clear that classroom instruction conducted in conjunction with on-the-job training programs is to be conducted in conformity with the responsibilities of the Secretary of Health, Education, and Welfare.

The committee notes that the Department of Labor's budget for the fiscal year 1966 contemplates a goal of 60,000 trainees for on-the-job training—double the number projected for 1965. In addition, 40,000 trainees are projected in fiscal 1966 for on-the-job training programs in service occupations pursuant to the new job development programs. The committee welcomes this expansion of on-the-job training and recommends that increased emphasis be given to on-the-job training programs in the coming years.

PRIVATE INSTITUTIONAL TRAINING

The committee adopted an amendment setting forth specific guidelines for the States to follow in determining whether to use public or private facilities for institutional training. The committee feels that the present requirement that private facilities can only be used if they make possible reduced Federal expenditures is too restrictive and tends to discourage the States' use of private institutions where existing private facilities might have advantages over public facilities. Specifically, private institutions may have equipment or services not available in public facilities. Furthermore, training of individuals may be facilitated where a particular training course is available at a private school. In this connection, the committee feels that referrals of individuals for training should receive increased emphasis.

REDEVELOPMENT AREA TRAINING

The bill, in a new section, incorporates the training provisions of the Area Redevelopment Act under Manpower Development and Training Act. The committee adopted several clarifying amendments to make it clear that, with four specified exceptions, Area Redevelopment Act training programs will be operated in accordance with the provisions of the Manpower Development and Training Act.

The four exceptions provide that, first, occupational training and retraining needs will be determined by the Secretaries of Labor and Commerce; second, all unemployed and underemployed persons residing in redevelopment areas will be eligible for training and training allowances; third, no State matching will be required; and fourth, appropriated funds will not be apportioned among the States.

The committee wishes to make it clear that the authorization for ARA training under Manpower Development and Training Act and repeal of sections 16 and 17 of the Area Redevelopment Act is intended primarily as a legal consolidation rather than change in operating procedures. The scope, purposes and emphasis of ARA training are not in any way altered or diminished. Thus, for example, consideration is expected to be given, as is required by subsection 16(f) of the Area Redevelopment Act, "to the special needs of individuals who are agricultural workers or are engaged in other seasonal occupations and who require occupational training in order to qualify them to engage in supplementary employment during the off season and during other periods of reduced activity in the field of their regular or primary occupations." Training for redevelopment areas will continue as in the past except for the expansion of training programs which result from the increased authorized duration and amounts of training allowance payments and additional funds available for ARA training.

REAPPORTIONMENT OF FUNDS

The committee adopted an amendment which will limit the reapportionment of funds among the States to the second half of any fiscal year. The committee amendment will also require 30 days' prior notice to a State before any Federal funds originally apportioned to the State are reapportioned. Prior notice will not be required, however, during the last quarter of a fiscal year.

The committee feels that this amendment is necessary to alleviate hardships which, in the past, have been caused in some States where funds apportioned to the State are, suddenly, and without adequate notice, withdrawn and placed in the "national pool" prior to being reapportioned among the States. The committee believes that 30 days' notice will enable the States to complete the planning and secure necessary approval of inprocess training programs before funds are withdrawn to the national pool.

AUTHORIZED APPROPRIATIONS

The committee has amended the bill, as introduced to retain specific authorization figures under each title of the act for the fiscal year 1966.

Authorization of appropriations are increased to $46 million under title I, $385 million under parts A and B of title II, and $22 million under part C—the area redevelopment training provisions—of title II. The present authorization of $1 million for title III is retained. Such sums as may be necessary are authorized for succeeding fiscal years.

Mr. PROUTY. Mr. President, I wish to express my appreciation to the distinguished chairman of the subcommittee [Mr. CLARK] for the courtesy and the cooperation which he extended to the members of the minority. This has been a bipartisan effort, and I believe that a large share of the credit for our accomplishment should go to the senior Senator from Pennsylvania. I am most grateful to him.

Mr. President, I look upon the Manpower Development and Training Act as an experimental program; a program conceived of the notion that all men that want to work should be given their chance.

In reviewing the practical application of the act over its short tenure, I have found it to be more effective in some respects than in others. The Subcommittee on Employment and Manpower and the full Labor and Public Welfare Committee this year have adopted several refining amendments which I feel will make the act operate more efficiently.

One of the unfortunate situations that occurred under the previous operation of the act was the termination of a trainee's weekly allowance when he reached the age of 22. The amended bill will now allow the youth to continue receiving the training allowances until the end of his training. I believe that this action will tend to cut down the rate of dropouts and generally complement the manpower situation.

Another inequity that prevailed in the manpower development and training program was that private training schools could participate in the program only when they could provide training cheaper than such training would be if conducted by a public institution. My amendment, which is written into the bill before you now, makes it possible for private training schools to participate in the prorgam when the costs are comparable to those of public institutions.

I believe that the private institutions can play a greater role in making the manpower development and training programs increasingly effective especially where they can—

First. Provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations; or

Second. Make possible an expanded use of the individual referral method; or

Third. Aid in reducing more quickly unemployment or current and prospective manpower shortages.

According to a survey made available to me by the Department of Health, Education, and Welfare, only two of the States have appropriated funds to date which would meet the matching requirements that would come into effect after June 30, 1965.

Many States either will not or cannot meet this deadline for the matching requirement. Therefore, in order to realize the maximum participation by the States that is possible, I recommended that the matching requirements take effect after fiscal 1966. At that time 90–10 matching requirements—in cash or in kind—would become effective with respect to the training costs of the program. Training allowances would continue to be 100 percent federally financed.

An area of continuing concern to me is the small number of people being trained on an individual referral basis. Slightly more than 3,000 persons, nationally, have been trained via this method during this fiscal year to date.

Expanded use of the individual referral method can only lead to a reduction in the dropout rate, and an increase in the number of persons placed in the fields best suited to their aptitudes.

Mr. President, I do not feel that we have before us a finished product, even though we have amended the act on several occasions. In some areas the program has been effective and in some it has not. No, I cannot testify as to the efficacy of the program as a whole today. Continued surveillance of the practical application of the act is necessary, and I am sure that we shall have to perfect it further from time to time.

I do urge, however, that the bill, S. 974, be favorably considered by the Senate, and I share the hope of all others that it will be successful.

I shall propose one or two amendments later, but basically, I am most interested in having the program continue.

Mr. PROUTY. Mr. President, on behalf of the junior Senator from California and myself, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 17, line 4, strike out "each fiscal year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 9, strike out "each fiscal year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 14, strike out "each year thereafter", and insert in lieu thereof "the following fiscal year".

On page 17, line 19, strike out "each year thereafter", and insert in lieu thereof "the following fiscal year".

On page 18, line 21, strike out all after the colon and before the period, and insert in lieu thereof "'1967'".

Mr. PROUTY. Mr. President, first let me say that I am grateful to the majority leader for making it possible for me to offer this amendment. I was attending a policy luncheon, when I received a telephone call asking if I had objection to the committee amendments being considered en bloc. It did not occur to me at that time that I would be precluded from offering my amendment. Thanks to the distinguished majority leader, I am now permitted to do so.

Mr. President, this amendment provides for a 2-year program instead of one of 5 years duration. Originally, S. 974 contained provisions which would have made the program a permanent one. The bill as approved and reported by the committee provides for a 5-year program through fiscal year 1970. It is quite likely that the program will be continued for that period and beyond, if it can be demonstrated that it is achieving its basic objective. However, if our work on S. 974 at this session has shown anything, it has shown that much still remains to be done to make it an effective and efficient program.

It is the duty of Congress to see that the funds of the Manpower Development and Training Act of 1962 are spent wisely. Congress can perform this function only if there is a continuing review of the provisions of the act, and of the operations of the departments and agencies charged with the responsibility for its administration.

It is for this reason that I propose an amendment which would provide for a 2-year program. During this period, we would have an opportunity to reexamine the provisions of the act and its effectiveness. I have always considered it unwise for any committee to surrender to the Appropriations Committee its responsibility for determining the effectiveness with which a program, conceived by the committee, is being executed. This is particularly true with respect to the manpower development and training program, which is still in the experimental stage. The great Appropriations Committee does not have adequate time to develop the requisite expertise for the proper evaluation of such a program. Moreover, its responsibility is to recommend appropriations rather than to propose changes in existing statutes.

Therefore, Mr. President, it seems to me that the manpower development and training program should be subject to a continuous review and analysis by the Committee on Labor and Public Welfare; and that is the purpose of the amendment.

Let me point out that the sums involved or authorizations in the bill total $464 million for the next fiscal year. There would be an open-end authorization after fiscal year 1966. It seems to be in the interest of good legislation and sound legislative procedure that the committee should review this program and authorize funds at the end of the 2-year period.

Contention will be made, I am sure, that this would make it difficult, insofar as planning programs for the future is concerned. There is some validity to that contention, but certainly, inasmuch as the program is experimental, we do not know its effect yet, and we do not know how successful it will be.

It seems to me to be far better, instead of tying up a huge sum of money for a 5-year period, to review the program and see how it is getting along and how effective it is during the next 2 years. As I have suggested earlier, that is the entire purpose of my amendment.

I am supporting the program. I hope it will succeed. However, I believe we can make it a better program if we review it to see how it is functioning throughout the 50 States.

Mr. LAUSCHE. May I ask the Senator from Vermont a question? What does his bill provide with respect to the length of coverage?

Mr. PROUTY. Two years.

Mr. LAUSCHE. Is the second year open end?

Mr. PROUTY. The second year is open end.

Mr. CLARK. Mr. President, so far as I am concerned, I am ready to vote.

Mr. JAVITS. Mr. President, I should like to be heard.

Mr. CLARK. I yield to the Senator from New York.

Mr. JAVITS. I should like to have the floor in my own right.

Mr. CLARK. I yield the floor.

Mr. JAVITS. In committee, we discussed what had been done by the House committee on this subject when we discussed what was to be done by the Senate. I would not take the time of the Senate except that I have not heard discussed the reasons why we acted as we did.

On the previous occasions we have considered this program, we have always planned for a 3-year period for the program. When we enacted it in 1962, we gave it until 1965 to run. When we considered it again in 1963, we added on a year in order, again, to give the program 3 years.

We are in much the same situation now. We are looking forward to a period of extension for the program. My colleague's amendment, of which he gave full notice to the committee, would reduce it below the period of extension the committee had contemplated.

This is the first time we are heading into a matching period. We have heretofore not had matching. We have talked about it, and the law, if it remains as it is, will call for it. If we pass the bill we shall not have matching until June 30, 1966; so if we get only a 2-year period, we shall have only 1 year for matching.

I believe the testimony is conclusive that the States will not consider it worthwhile to line up teachers and make provision in their budgets for a matching program with the possibility that the program will run for only a year. I should like to refer to the testimony of the head of the vocational education program in Ohio, because the Senator from Ohio [Mr. LAUSCHE] raised such a question. I refer to page 112 of the hearings, at which Dr. Shoemaker, really calling for a permanent program, said:

"If this becomes a permanent act I will provide a continuing teacher-education program for these teachers we are having to pull in from industry. At the present time, I cannot afford to."

In short, if we really expect to have the States plan their programs intelligently and effectively for matching, it is necessary to provide a reasonable term of years for the program.

The House committee has provided for a 3-year extension. We could have provided 3, 4, or 5 years. We must still go to conference.

I believe that to cut it down to 2 years would be to cut it too close, considering what we need to do and what we wish to encourage industry to do. This is a critically important program. It is easy in this body to get into a discussion in detail and forget the forest for looking at the trees.

Two million people are changing jobs every year because automation, if our country is really to do the productive job that it must do. And we have almost 5 million endemically unemployed. This is about the only solid job training program at the Federal level that seeks to deal with both issues, and even here we are, at the most, training somewhere in the neighborhood of 400,000 to 500,000 people. If that is what we are to do—and that is little enough—American industry ought to be enlisted to do four times that much—at least we ought to give the plan a decent opportunity. If we really want matching—and we do, and I say this very deeply as a member of the minority—let us give the States a chance to plan ahead so that they will really match instead of thinking that the bill is only for a year, and that perhaps it will not call for matching. Otherwise the States would say, "Let us forget about it and see what Congress does."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Mr. President, when would the matching requirement become effective under the existing law?

Mr. JAVITS. June 30, 1965, if the bill is not passed. June 30, 1966, if the bill is passed.

Mr. CLARK. Mr. President, we shall be ready to vote within the next 5 minutes.

I oppose the pending amendment, which is proposed by a large majority of the committee.

SENATE 974, MANPOWER DEVELOPMENT AND TRAINING ACT AMENDMENTS

The Manpower Development and Training Act was originally established for a 3-year period. It was considered that this would allow sufficient time to gain experience with this new undertaking and to assess the value of Federal manpower training programs.

The program has since reaffirmed the belief of Congress that it would become a vital link in the measures then being considered, and many since enacted, for alleviating the problems of unemployment and poverty. The Manpower Development and Training Act is unique—and unlike subsequent legislative action such as the Vocational Education Act of 1963 and the Economic Opportunity Act of 1964—in that it is geared to the needs of the individual by providing allowances for the support and maintenance of himself and dependents during the training period. This act meets needs not possible under other legislation—either Federal or State.

Temporary legislation creates havoc with the States in planning operations for a program of this type. Uncertainty of continuing legislation results in a stopping and starting of program emphasis with decreased enthusiasm for the program. For example, some States began to phase out their Manpower Development and Training Act operations during the latter months of 1963 when matching under the original act would have commenced July 1, 1964. The States have contended that they cannot spend their resources in long-range planning because of the uncertainty of continued Federal assistance. They claim and reasonably so, that the terminal aspect of the Manpower Development and Training Act is a major psychological deterrent to planning long-range goals.

Many examples have been brought to the attention of the Departments of Labor and HEW of the frustration and disheartening effect of indecision on the part of the Federal Government as to whether Manpower Development and Training Act will continue at all, and if so whether the States will have to match funds to assure continued participation.

The States have frequently expressed the hope that the Manpower Development and Training Act would be continued for a period

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sufficient to make a major impact on unemployment problems.

The administration sent down an open-ended bill to make the program permanent. It is felt, and I personally agree with them, that the experience we have had since the act was initially passed has taken the program out of the demonstration category and placed it into a situation, as indicated by the report, in which the program has been proven a success, and further experimentation is not necessary. It was felt the part of wisdom by the chairman of the Committee on Labor and Public Welfare (Mr. Hill) that we should put a termination date in the bill in order to come somewhere within reasonable limits of what the House had done for purposes of conference.

Therefore, we wrote in the provision that the program would terminate June 30, 1966. The House approved a bill which would terminate the program on June 30, 1968. It is highly conceivable that as we go through the program, we shall reach an agreement with the House chariman of the full committee. The thing that I do not understand is the necessity for leaving the appropriation authorization an open ended one for every year after the first year of the extended period of 4 years.

Mr. CLARK. Mr. President, the explanation is largely historical. The bill came from the administration open ended all the way. At the suggestion of the minority members of the committee, and particularly the ranking minority member, the Senator from Vermont (Mr. PROUTY), we placed definite limitations in for the earlier period. No member of the committee suggested that we should go further than that.

The result was announced—yeas 35, nays 49, as follows:

[No. 37 Leg.]

YEAS—35

Aiken, Allott, Bennett, Boggs, Byrd, Va., Carlson, Cooper, Cotton, Curtis, Dirksen, Dominick, Eastland.

Ellender, Ervin, Fannin, Fong, Hickenlooper, Holland, Hruska, Jordan, Idaho, Kuchel, Lausche, McClellan, Miller.

Morton, Mundt, Murphy, Pearson, Prouty, Robertson, Scott, Simpson, Smith, Thurmond, Young, N. Dak.

NAYS—49

Anderson, Bartlett, Bass, Bayh, Bible, Burdick, Byrd, W. Va., Cannon, Case, Clark, Douglas, Fulbright, Gore, Harris, Hart, Hill, Inouye.

Jackson, Javits, Jordan, N.C., Kennedy, Mass., Kennedy, N.Y., Magnuson, Mansfield, McCarthy, McGee, McGovern, McIntyre, McNamara, Metcalf, Mondale, Monroney, Montoya, Moss.

Muskie, Nelson, Neuberger, Pastore, Pell, Proxmire, Ribicoff, Smathers, Sparkman, Stennis, Symington, Talmadge, Tydings, Williams, N.J., Yarborough.

NOT VOTING—16

Brewster, Church, Dodd, Gruening, Hartke, Hayden, Johnston, Long, Mo., Long, La., Morse, Randolph, Russell, Saltonstall, Tower, Williams, Del., Young, Ohio.

So the amendments offered by Mr. Prouty and Mr. Murphy were rejected en bloc.

The PRESIDING OFFICER (Mr. Kennedy of New York in the chair). The bill is open to further amendment.

Mr. PROUTY. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Vermont will be stated.

The LEGISLATIVE CLERK. On page 18, line 14, it is proposed to insert "(a)" after "SEC. 16.".

On page 18, between lines 18 and 19, it is proposed to insert the following:

"(b) Section 309(a) of such Act is further amended by adding at the end thereof the following new sentence: "On and after the date any such report is submitted, the Secretary of Labor shall, at the request of any interested committee of the Senate of any House of Representatives (or any duly authorized subcommittee of any such committee), appear before such committee or subcommittee (personally or through his representative) to discuss or explain any matter which is, or is authorized to be, contained in such report."

"(c) Section 309(b) of such Act is further amended by adding at the end thereof the following new sentence: "On and after the date any such report is submitted, the Secretary of Health, Education, and Welfare shall, at the request of any interested committee of the Senate or the House of Representatives (or any duly authorized subcommittee of any such committee), appear before such committee or subcommittee (personally or through his representative) to discuss any matter which is, or is authorized to be, contained in such report."

Mr. PROUTY. Mr. President, my amendment provides for annual reports by the Secretary of Health, Education, and Welfare and the Secretary of Labor. It provides further for the appearance before the Committee on Labor and Public Welfare, at the committee's request, of the Secretaries or their representatives to discuss the matters contained in the annual report submitted by them.

My main concern about the Manpower Development and Training Act is that much remains to be done to make the program operate at peak efficiency. Our committee has the duty to see that this goal is met. In order to do that, however, we must be informed and up-to-date on the operations of the act. We can do this only through frequent reports, and, indeed, through discussions with the administrators of the program.

I think it is well to place the language of my proposed amendment in the bill which we are considering. Certainly we can request the Secretaries to appear before the committee at any time. But, having this proposal in the bill will make certain that all parties expect an annual hearing on the operations of the Manpower Development and Training Act. In that way, it seems to me, we will assure the best possible review of an effective efficient manpower development and training program.

Mr. CLARK. Mr. President, I would hope that the amendment would be withdrawn or even defeated on a voice vote. The purpose of the amendment is to tell the Committee on Labor and Public Welfare of the Senate to do what it would do anyway, which is to call the Secretary of Labor and the Secretary of HEW and ask them about the annual report which they are required to file. That course would be the standard operating procedure of any standing committee of the Senate. I believe my friend the distinguished Senator from Alabama [Mr. HILL], who is the chairman of the Committee on Labor and Public Welfare, will confirm my statement that that has been the practice of the committee of which he is chairman, as well as of all subcommittees thereof for some time.

Mr. HILL. Mr. President, will the Senator yield?

Mr. CLARK. I am happy to yield.

Mr. HILL. The Senator is exactly correct. In my years of service in the Senate I have never known the Secretary of Labor, the Secretary of the Department of Health, Education, and Welfare, or the Secretary of any other Department of the Government to decline to come before the Committee on Labor and Public Welfare when any of those Secretaries has been asked to come before the committee to report on legislation or any particular program.

Mr. CLARK. Is the Senator from Alabama aware of any legislation in the fields in which he is such an outstanding expert that has required the Secretaries of any of the Departments of the Government to come before a committee of Congress at the request of that committee?

Mr. HILL. By including in his question the limitation of those fields in which I am an expert, I am afraid the Senator rather narrows the fields in which I can answer. But I know of no legislation that includes a provision requiring a Secretary of a Department of the Government to come before a committee of Congress. From the very beginning the Secretaries have always come whenever a committee wished them to appear. If the amendment were adopted, there might be an implication that a Secretary has not come or will not come. There is really no need for the proposed amendment.

Mr. CLARK. I give the distinguished Senator from Vermont [Mr. PROUTY] my personal assurance that, so long as I am chairman of the subcommittee—and I believe I may speak for all other Democratic members of that committee—if the Senator from Vermont desires the committee to call the Secretary of Labor or the Secretary of the Department of Health, Education, and Welfare before the committee, we shall call him. I hope with that assurance my friend will be willing to withdraw the amendment.

Mr. PROUTY. I have never doubted that my distinguished friend the Senator from Pennsylvania would do that. I merely wished to bring the question out into the open in order that the Secretaries or their representatives might be prepared to give us information which is so important if we are to understand what is going on, in order that we might improve the program. With the Senator's assurance, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The PRESIDING OFFICER (Mr. Kennedy of New York in the chair). The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 76, nays 8, as follows:

[No. 38 Leg.]

YEAS—76

Aiken, Allott, Anderson, Bartlett, Bass, Bayh, Bible, Boggs, Brewster, Burdick, Byrd, W. Va., Cannon, Carlson.

Case, Clark, Cooper, Cotton, Dirksen, Dominick, Douglas, Ellender, Ervin, Fannin, Fong, Fulbright, Gore.

Harris, Hart, Hickenlooper, Hill, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Mass., Kennedy, N.Y., Kuchel, Lausche.

Magnuson, Mansfield, McCarthy, McClellan, McGee, McGovern, McIntyre, McNamara, Metcalf, Miller, Mondale, Monroney, Montoya.

Morton, Moss, Mundt, Murphy, Muskie, Nelson, Neuberger, Pastore, Pearson, Pell, Prouty, Proxmire, Ribicoff.

Scott, Smathers, Smith, Sparkman, Stennis, Symington, Talmadge, Tydings, Williams, N.J., Yarborough, Young, N. Dak.

NAYS—8

Byrd, Va., Curtis, Eastland, Holland, Hruska, Robertson, Simpson, Thurmond.

NOT VOTING—16

Bennett, Church, Dodd, Gruening, Hartke, Hayden, Johnston, Long, Mo., Long, La., Morse, Randolph, Russell, Saltonstall, Tower, Williams, Del., Young, Ohio.

So the bill (S. 974) was passed.

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Manpower Act of 1965".

SEC. 2. Section 101 of the Manpower Development and Training Act as amended (hereinafter referred to as the "Act") is amended by inserting before the last sentence thereof the following new sentence: "The Congress further finds that, because of reductions in, or changes in the nature, kind, or extent of, national defense and other industrial activities, many professional employees have become unemployed, and because of the specialized nature of their previous employment, are in need of refresher or reorientation educational courses in order to become qualified for other employment in their professions."

SEC. 3. (a) Section 102(5) of the Manpower Development and Training Act, as amended (hereinafter referred to as the "Act"), is amended by adding a comma after the word "arrange" and inserting "through grants or contracts," immediately following the comma.

(b) Section 102 of the Act is further amended by adding new paragraph (6) at the end thereof to read as follows:

"(6) establish a program of experimental developmental, demonstration, and pilot projects, through grants with public or private nonprofit agencies or contracts with public or any appropriate private agency, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of the Act;

SEC. 4. Sections 103 and 104 are renumbered 106 and 107, and new sections 103, 104, and 105 are added, to read as follows:

"JOB DEVELOPMENT PROGRAMS

"SEC. 103. The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment.

"LABOR MOBILITY DEMONSTRATION PROJECTS

"SEC. 104. (a) During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of progams to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

"(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

"(1) there is reasonable assurance of repayment of the loan;

"(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

"(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

"(5) the loan is repayable within not more than ten years.

"(c) Of the funds appropriated for a fiscal year to carry out this Act, not more than $5,000,000 may be used for the purposes of this section.

"TRAINEE PLACEMENT ASSISTANCE DEMONSTRATION PROJECTS

"SEC. 105. During the period ending June 30, 1967, the Secretary shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in security bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section."

SEC. 5. Section 202(1) of the Act is amended by striking the words "and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks", and by changing the comma after the word "Act" to a period.

SEC. 6. (a) Section 203(a) of the Act is amended as follows:

(1) Amend the second sentence thereof to read as follows: "Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided*, That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further*, That in any week an individual who, but for his training would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess.";

(2) Amend the second paragraph thereof to read as follows:

"With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.";

(3) Insert the words "under the training program" after "compensated hours per week" in the third paragraph of such subsection;

(4) In lieu of the fourth paragraph of such subsection insert the following:

"The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked in excess of twenty hours per week.

(b) Section 203(b) of the Act is amended as follows:

(1) Insert a comma after the word "transportation" where it first occurs, strike out the language after that word and before the word "*Provided*" and insert the following in lieu thereof: "and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee:";

(2) Change the period at the end of section 203(b) to a comma and insert the following immediately thereafter: "except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necesasry to carry out the purposes of this Act, and subject to such limitations as he may prescribe."

(c) Section 203(c) of the Act is amended as follows:

(1) Strike the words "not less than" and insert "at least" in lieu thereof;

(2) Insert a colon after the words "gainful employment", strike everything in the first sentence after the words "gainful employment", and insert the following in lieu thereof: "*Provided*, That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further*, That no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section.";

(3) Amend the last sentence to read as follows: "The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowance (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years

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of age during the course of his training, if he has completed a substantial part of such training."

(d) Section 203(d) of the Act is repealed, and sections 203(e), 203(f), 203(g), 203(h), 203(i), and 203(j) are relettered 203(d), 203(e), 203(f), 203(g), 203(h), and 203(i).

(e) The present section 203(h)(2) of the Act is amended by striking everything in the first sentence after the words "all of such benefits paid" and adding a period immediately thereafter.

SEC. 7. Section 208 is repealed.

SEC. 8. (a) Section 231 of the Act is amended by striking the second sentence thereof and inserting in lieu thereof the following:

"Such State agencies shall provide for such training through public educational agencies or institutions or through arrangements with private educational or training institutions where such private institutions can (1) provide substantially equivalent training with comparable Federal expenditures, or (2) provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or (3) make possible an expanded use of the individual referral method, or (4) aid in reducing more quickly unemployment or current and prospective manpower shortages."

(b) Section 231 of the Act is amended by striking the third sentence and inserting the following in lieu thereof: "The State agency shall be paid 90 per centum of the cost to the State of carrying out the agreement, unless the Secretary of Health, Education, and Welfare determines that payments in excess of 90 per centum are necessary because (1) a State is without authority on the date of the enactment of the "Manpower Act of 1965" to enact legislation providing contributions to noncollegiate, adult education or training conducted in public institutions, or (2) such payments with respect to private educational or training institutions are required to give full effect to the purposes of the Act: *Provided*, That for the period ending June 30, 1966, the State agency shall be paid 100 per centum of the cost to the State of carrying out the agreement. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services."

SEC. 9. Title II of the Act is amended by adding part C to the end thereof to read as follows:

"PART C—REDEVELOPMENT AREAS

"SEC. 251. (a) The Secretaries of Labor and of Health, Education, and Welfare, in accordance with their respective responsibilities and under parts A and B of this title, are authorized to provide a supplementary program of training and training allowances, in consultation with the Secretary of Commerce, for unemployed and underemployed persons residing in areas designated as redevelopment areas by the Secretary of Commerce under the Area Redevelopment Act or any subsequent Act authorizing such designation. Such program shall be carried out by the Secretaries of Labor and of Health, Education, and Welfare in accordance with the provisions otherwise applicable to programs under this Act and with their respective functions under those provisions, except that—

"(1) the Secretary of Labor, in consultation with the Secretary of Commerce, shall determine the occupational training or retraining needs of unemployed or underemployed individuals residing in redevelopment areas;

"(2) all unemployed or underemployed individuals residing in redevelopment areas who can reasonably be expected to obtain employment as a result of such training may be referred and selected for training and shall be eligible for training allowances under this section: *Provided*, That the amount and duration of training allowances under this section shall in no event exceed the amount and duration of training allowances provided under section 203(a) of this Act;

"(3) the Secretaries of Labor and of Health, Education, and Welfare shall, each with respect to his functions under this section, prescribe jointly with the Secretary of Commerce such rules and regulations as may be necessary to carry out the purposes of this section; and

"(4) no funds available under this section shall be generally apportioned to any State pursuant to section 301 of this Act, nor shall any matching funds be required.

"(b) Sections 16 and 17 of the Area Redevelopment Act are hereby repealed. The repeal of these sections shall not affect the disbursement of funds under, or the carrying out of, any contract, commitment, or other obligation entered into pursuant to the Area Redevelopment Act prior to the date of repeal of such sections."

SEC. 10. Section 301 of the Act is amended by striking the period at the end thereof, inserting a colon in lieu of the period, and adding the following after the colon: "*Provided*, That no funds apportioned with respect to a State in any fiscal year shall be reapportioned before the expiration of the sixth month of such fiscal year and only upon thirty days prior notice to such State of the proposed reapportionment, except that the requirement for prior notice shall not apply with respect to any reapportionment made during the last quarter of the fiscal year."

SEC. 11. Section 302 of the Act is amended by striking the word "and" following "the Smith-Hughes Vocational Education Act" inserting a comma in lieu thereof, and inserting "and the Vocational Education Act of 1963" following "the Vocational Education Act of 1946.".

SEC. 12. Section 304 is amended to read as follows:

"SEC. 304. (a) For the purposes of carrying out title I, there are hereby authorized to be appropriated not in excess of $46,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"(b) For the purpose of carrying out parts A and B of title II, there are hereby authorized to be appropriated not in excess of $385,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter such amounts as may be necessary.

"(c) For the purpose of carrying out part C of title II, there are hereby authorized to be appropriated not in excess of $22,000,000 for the fiscal year ending June 30, 1966, and for each year thereafter such amounts as may be necessary.

"(d) For the purpose of carrying out title II, there are hereby authorized to be appropriated not in excess of $1,000,000 for the fiscal year ending June 30, and for each year thereafter such amounts as may be necessary."

SEC. 13. The following subsection is added to section 305 of the Act to read as follows:

"(e) The costs of all training programs approved in any fiscal year, including the total cost of training allowances for such programs, may be paid from funds appropriated for such purposes for that fiscal year; and the amount of the Federal payment shall be computed on the basis of the per centum requirement in effect at the time such programs are approved: *Provided*, That funds appropriated for the fiscal year ending June 30, 1966, may be expended for training programs approved under this Act prior to July 1, 1965."

SEC. 14. Section 306(a) of the Act is amended by inserting after the word "procedures" the following: "including, subject to such polices, rules, and regulations as they may prescribe, the approval of any program under section 202, the cost of which does not exceed $75,000".

SEC. 15. Sections 309(a) and 309(b) are both amended by striking "Prior to March 1, 1963, and again prior to April 1, 1964, April 1, 1965, and April 1, 1966" and inserting in lieu thereof: "Prior to April 1 in each year."

89th Congress 1st Session

House of Representatives, Report No. 170

MANPOWER ACT OF 1965

March 15, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. Powell, from the Committee on Education and Labor, submitted the following report (to accompany H.R. 4257).

The Committee on Education and Labor, to whom was referred the bill (H.R. 4257) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all of the bill after the enacting clause and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

PURPOSE AND SUMMARY OF BILL

In his Economic Report to the Congress on January 19, 1965, President Johnson stated:

"The Manpower Development and Training Act was passed in 1962 and broadened in 1963. Its purpose is to supply skills to those who, whether for lack of wisdom or lack of opportunity, failed to acquire them earlier. It aims to make possible retraining of those who would otherwise bear the burdens of society's technological progress.

"We intend to improve and expand our training programs in 1965."

On February 1, 1965, President Johnson announced a new, nationwide job development program.

"I am convinced that a substantial number of jobs can be developed from • • • presently existing and unmet service needs—in business, at home, on the farm, and in the community.

"Therefore, I am launching a nationwide job development program in service and related fields—to assure that trained workers are available to provide needed services at satisfactory wages and working conditions—"

H.R. 4257 was introduced by Congressman Elmer J. Holland, at the request of the administration on February 2, 1965. It directs the Secretary of Labor to proceed toward the objectives announced by the President and further amends the Manpower Development and Training Act of 1962 (hereinafter referred to as MDTA) in order to improve and strengthen the Nation's active manpower policy. The bill as amended by the committee extends the terminal date until June 30, 1968, continues 100 percent Federal financing until June 30, 1966, and changes State matching requirements thereafter to 10 percent of the costs of institutional training, in cash or kind. It also (1) directs the Secretary of Labor to stimulate and assist job development programs to fill unmet service needs; (2) expands the Secretary's research authority under title I, authorizing the use of grants as well as contracts, and providing explicit direction to undertake experimental and demonstration manpower projects; (3) extends and increases the authorization for labor mobility demonstration projects and establishes trainee bonding demonstration project authority; (4) liberalizes training allowances under title II with respect to amount, duration, and eligibility; (5) permits payment of daily commuting costs of trainees; (6) rationalizes the national manpower training program by bringing the training program for redevelopment areas, now provided in the Area Redevelopment Act, under the MDTA; and (7) replaces the existing title-by-title limitation on annual

appropriations with an open end authorization for the entire act.

NEED FOR THE BILL

Despite over 2½ years of successful operation of the MDTA, the manpower challenges which gave rise to the initial legislation still face the Nation—shortages of workers in key areas, 20 million Americans without the minimum training needed for most jobs, burgeoning technological innovation, radically changing skill requirements, and unprecedented numbers of youth seeking jobs for the first time. Without the substantial accomplishments of the MDTA, the present manpower imbalances would doubtless have been worse. As the Economic Report of the President noted:

"Four years of steadily expanding job opportunities have not brought us to full employment. Some 3.7 million of our citizens want work but are unable to find it. Up to 1 million more—"the hidden unemployed"—would enter the labor force if the unemployment rate could be brought down just 1 percentage point.

"In the next year, 1.3 million more potential workers will be added to our labor force, including a net increase of one-half million below the age of 20 • • •."

By the end of 1964, the MDTA program had come to within practical reach of the goal of training 400,000 persons initially set by the Congress for a 3-year program. During 1964, the second full year of operations, the previous year's program was more than doubled. Training opportunities were brought not only to displaced experienced workers, but also to increasing numbers of youth and disadvantaged persons at the bottom of the economic and social ladder whose absorption into the labor force presents the greatest obstacles.

The record to date is extremely gratifying:

"Occupational training in vocational education institutions and on the job has been approved for almost 320,000 trainees, since the act's inception. Another 60,000 have been reached through special projects tailored to the needs of the disadvantaged.

"High placement rates have been achieved for graduates of MDTA programs—for 72 percent of those completing institutional training; for 95 percent of those completing on-the-job training.

"Training projects have been approved over a wide spectrum of occupations at all major skill levels: technical and semiprofessional, skilled and semiskilled, white-collar, service, and agricutural occupations.

"Extensive training opportunities have been provided to the longterm unemployed. About half of the institutional trainees had been unemployed for 15 weeks or more prior to enrollment; one-third had been jobless for more than half a year.

"An increasing proportion of nonwhite persons had been enrolled in training—over 28 percent of all enrollees in institutional projects and 20 percent of on-the-job trainees in 1964. Over the entire life of the program, one-quarter of all trainees have been from nonwhite groups.

"Unemployed persons with less than grade-school education constituted 7 percent of all trainees enrolled in the large institutional training program during 1964, more than doubling their 3-percent representation in 1963. Their counterparts enrolled in on-the-job training constituted 6.7 percent of that program."

However, changes are now required to strengthen MDTA and make it more flexible, so that it can more adequately meet the Nation's manpower problems.

First, the success of the program clearly warrants its extension and a modification in the matching requirements to permit full Federal funding through June 30, 1966. Thereafter, 100 percent of the training allowances and 90 percent of other training costs will be financed by Federal funds. The causes of unemployment are national in scope and its costs should be borne more evenly across the Nation. Moreover, it is now clear that a majority of States, because of expanding education, welfare, highway construction, and other costs will not be in a position to meet the present matching requirements by July 1 of this year. This does not reflect inadequate interest of concern. Virtually all of the State governors have expressed their strong desire to see the program continue.

Second, the Nation's manpower research capability and efforts must be materially expanded to develop the additional information and insight needed to guide effective improvement in manpower policies and programs. The efforts already initiated under the modest research program provided under the original MDTA have been exceedingly useful and promising. They have identified the huge potential contribution of enlarged research investment—and have established a good base for the needed expansion. As part of this expansion, a clear directive to move aggressively and imaginatively with a wide variety of experimental and demonstration projects is fully warranted by the results of the limited program to date.

One of the most important operational findings made to date under the act is that there is a vast untapped potential for job development and for trained people in a myriad of service activities. As a corollary finding, these unfilled needs are likely to continue unfilled unless additional steps are taken to develop the jobs, in coordination with the required training of workers and stimulation of small private enterprise firms in the service fields. The Secretary of Labor testified that past failure to take these steps has "impeded the development of many thousands of jobs."

Fourth, training programs under the Area Redevelopment Act and the MDTA are quite similar in administrative arrangements and program content. Placing ARA training formally under the MDTA, as a specifically funded activity, will put the benefits of the two on the same basis and reduce the apparent overlap between the two acts.

Finally, the modifications in the allowances provisions will help to assure that the disadvantaged and other unemployed who require training allowance assistance will get it. Experience has shown that the allowances under the MDTA are a key to the success of the program. Availability of some income—i.e., training allowances—strengthens the incentive for most workers to accept training and significantly affects the length of time they can continue in training status. The changes in training allowance—lengthening the period of eligibility, making more disadvantaged and needy people eligible, and increasing the amount for trainees with large families—are all designed to facilitate the retraining of people for whom training is most needed, both for their own advantage and for society's.

BACKGROUND

H.R. 4257 is responsive to the manpower challenge as presently seen and described in testimony before the Select Committee on Labor, Congressman Elmer J. Holland, chairman. In brief but comprehensive hearings starting on February 2, 1965, the subcommittee took remarkably unanimous testimony from a variety of witnesses on the success and need for continuation of the MDTA. In short, it is a socially and monetarily sound investment in human beings. As the distinguished economist, John Kenneth Galbraith, recently stated in his testimony before the Joint Economic Committee:

"Increasingly the problem of employment is not a deficiency of demand but unemployability that results from deficient education • • • or unrelieved social squalor • • •. The primary remedy for this unemployment • • • is better education, more job training, more deliberate job creation for youngsters, and an equal break in education and employment for Negroes."

Without action this session to extend and amend the act, this vital manpower development program will begin to die almost at once. The committee having heard well-qualified witnesses has approved the administration's proposals with certain amendments to achieve the essential changes needed to continue and enhance a program of proven worth.

MAJOR PROVISIONS OF THE BILL

Explanation and need

Extension of the act

The act is presently scheduled to expire after June 30, 1966. The bill extends the expiration date to June 30, 1968.

As originally introduced by Congressman Elmer J. Holland on behalf of the administration, H.R. 4257 removed the expiration date and thereby made the manpower development and training program a continuing, permanent program. This provision of the original bill reflected the generally accepted view that this program can no longer be considered experimental, that it has been demonstrated to be an indispensable part of our current efforts to eliminate unemployment and reclaim manpower resources, and that present economic, technological, and demographic trends—particularly the extremely rapid pace of technological change—indicate a large scale manpower training and retraining program will be needed for the indefinite future.

In amending the bill to restore an expiration date, the Committee on Education and Labor is in no way disagreeing with the judgment that the MDTA program must have a continuing, permanent role in America's attack upon its manpower problems. The committee's action simply stems from a belief that the proper exercise of its legislative oversight function calls for this committee to review, from time to time, a program of such scope and importance as this. In the absence of an expiration date, there is a possibility that the program might receive congressional review in the future almost exclusively through the process of annual hearings on appropriations requests from the Department of Labor. The MDTA program, however, should periodically be opened to the thorough congressional examination and evaluation, looking toward any needed legislation to improve the program, which the Committee on Education and Labor is appropriately qualified to undertake.

Non-Federal Matching Provision

The act presently schedules each individual State to begin, after June 30, 1965, to bear one-third of the costs of training allowances paid under title II training programs, and also to bear one-third of the instructional and other costs of such programs[1] established within the State.

The bill designates June 30, 1966, as the date State contributions will be required. After June 30, 1966, payments of training allowances will continue to be made entirely from Federal funds, but the Federal contribution will drop to 90 percent of the instructional and other costs of title II training programs. The 10-percent non-Federal contribution may be made in cash or in kind.[2]

The matching provision of H.R. 4257, as reported, differs from both the original bill and the bill reported by the Select Subcommittee on Labor. The original bill required a non-Federal contribution, after June 30, 1965, of 10 percent of the total costs of title II training programs. It was amended to eliminate any matching requirement and the subcommittee recommended 100 percent

Footnotes at end of article.

XUM

Federal financing of the entire MDTA program.

The committee's decision to amend the bill and require an eventual small non-Federal contribution is consistent with a desire to adhere to the principle of State matching which was embodied in the original act of 1962. The act was amended in 1963 to reduce, from 50 to 33⅓ percent, the initial State contribution and postponed the date for matching to begin. This bill further reduces the State matching share and postpones its effective date. The committee has not seen fit, however, to give up entirely its original goal of joint Federal-State financing of the MDTA program.

The matching provision of this bill has been established because the Manpower Development and Training Act has become an important and valuable program. Congress cannot permit a sharp cutback from its present level of activity to occur in July 1965. It is now clear that few States are prepared to meet the 33⅓-percent matching requirement on July 1, 1965. Even in those few States which have appropriated funds are expected to furnish their share by July 1, the amounts appropriated may still not be sufficient, under a 33⅓-percent matching formula, to prevent a reduction in training courses being carried on. As for the remaining States, their failure to appropriate funds will practically eliminate MDTA training within their borders.

The choice is unavoidable: either reduce the present State matching requirements or abandon a great deal—probably most—of the MDTA program. The second alternative is wholly unacceptable. The unemployment rate still stands at 5 percent for the labor force as a whole, and at approximately 15 percent for youth 16 to 19 years of age. The number of new jobseekers is growing at a much faster rate than in the 1950's, and thousands of jobs each week are being eliminated by new technological advances. We are witnessing shifts in defense spending, and other disruptive characteristics of our changing economy. To relinquish now the progress we have made toward establishing an adequate manpower training program in the United States would be an extraordinarily shortsighted and defeatist act.

Testifying on this critical issue, Secretary of Labor Wirtz stated:

"We must face squarely the need for a more permanent involvement of the Federal Government in financing the act's vital programs • • • Secretary Celebrezze and I have written to all the Governors and done everything we could to encourage the States to provide the one-third matching requirement this year. However, it is apparent that a majority of the States will not be in a position to meet the present matching requirements by July 1.

"This is in no way a reflection of inadequate interest or concern. Quite the contrary, virtually all of the State Governors have expressed their strong desire to see the program continue."

The testimony before the Select Subcommittee on Labor, during its 8 days of hearings on this bill in February, and the letters and statements submitted to the subcommittee, confirmed Secretary Wirtz' description of widespread support for the MDTA program. There were no requests from witnesses desiring to appear in opposition either to the bill or to its liberalizing of the State matching requirements, nor did any of the numerous communications directed to the subcommittee call for preserving the act's present matching provision. Vigorous statements, on behalf of continuing a large-scale MDTA program, from the Governors of many States, including South Carolina, Michigan, Kentucky, Wisconsin, California, New York, and West Virginia are in the subcommittee's records. Although some criticisms were made of specific operational details of the program, no arguments were presented to the subcommittee for reducing Federal expenditure for manpower training and development or for lowering the current level of our training effort.

Indeed, the majority of those who expressed strong views to the subcommittee on the matching issue, through personal testimony or otherwise, urged the continuation of 100 percent Federal financing. Forceful arguments in favor of eliminating State matching requirements were made by witnesses representing the American Vocational Association and the AFL–CIO, while letters and telegrams to this effect were received from State Governors, State vocational education directors, and others deeply concerned with maintaining an effective manpower training program.

The economic and other factors, which explain the need for Federal financing of the Nation's manpower development and training program, are well known and widely acknowledged. They can be summarized briefly here.

At the outset, it should be emphasized that the Federal Government, since the early 1930's has become generally recognized as bearing the primary public responsibility for combating unemployment. Congress, in passing the Employment Act of 1946, explicitly confirmed this responsibility. The United States has an integrated national economy and a national labor market. The amount of unemployment in a local community or in a State is commonly influenced by forces originating elsewhere. A corporation headquarters in New York decides to close a branch plant in a Midwestern State. A nationwide shift in consumer demand cuts employment in a community traditionally specialized in the manufacture of a product which has now lost favor with the public. The development of new laborsaving processes and new products eventually displaces workers in establishments hundreds of miles from the firms and research laboratories responsible for these innovations. A Department of Defense decision to phase out an obsolescent weapons system causes mass layoffs in plants far removed from Washington, D.C. The high birth rate and declining need for labor in the farm sector of our economy brings a continuing flow of ill-educated, untrained migrants into New York, Chicago, Detroit, Los Angeles, and other large metropolitan areas, where they swell the welfare rolls and the ranks of the unemployed. Many other illustrations could be presented to point up the inappropriateness of placing a major financial burden of manpower training upon the individual State or community, when its level of unemployment may be primarily the result of national economic forces beyond its control, and when its number of unemployed who need and can benefit from training may have little relation to its capacity for financing a training program.

Some localities are logical centers for training projects which, for maximum effectiveness and economy, should draw trainees from more than one State—for example, training projects located in such major metropolitan areas as New York-northeastern New Jersey, Chicago, St. Louis, Washington, Cincinnati, or Philadelphia-Camden. A large State-matching requirement may seriously restrict these projects. Reluctance to incur substantial costs for training nonresidents, the complicated accounting systems, and fair allocation of costs of a project serve as roadblocks to full cooperation.

A State will be hesitant to finance the training of residents for jobs outside the State's borders. To act does give priority to training projects for skills needed within the local labor market area—which in some cases embraces parts of two States—and within the State. Nevertheless, the act definitely contemplates that some training will be carried on for positions outside the State. Congress has demonstrated a continuing interest in facilitating the mobility of American labor, and in the act, specifically directs the Secretary of Labor to "establish a program of factual studies of practices of employers and unions which tend to impede the mobility of workers," and to include a report on these studies in the annual Manpower Report of the President. In 1963, the act was amended, directing the Secretary to carry out labor mobility demonstration projects, exploring the desirability of giving limited financial assistance to unemployed workers, whose relocation costs may make it difficult or impossible for them to move to jobs outside their own communities. Therefore, the intent of Congress would be ignored if all training, under the MDTA program were aimed at filling jobs only in the State contributing to the cost of the project.

Finally, the present inability of States and communities to meet, without Federal aid, the fast-growing costs of providing an adequate educational system offers an extremely compelling reason for eliminating the large State-matching requirement from the MDTA program. This bill, as reported from the committee, thus avoids placing a heavy additional strain upon the already overburdened revenue sources of State and local governments.

Whatever the proportion of Federal financing, the MDTA program originates and is operated at the local level. The program requires the State-administered public employment services to determine the occupations for which MDTA training can be given and to select the trainees. It relies upon the State vocational education authorities to provide training through public educational facilities, or by arrangements with private training institutions. The act provides for local and State manpower advisory committees to help plan and evaluate MDTA activities within their respective areas. Manpower development and training, as it is administered, is thus highly decentralized. The number of Federal employees engaged in the MDTA program is, in fact, a very small fraction of the total number of people responsible for its operation.

The committee also wishes to emphasize that the shift to a higher proportion of Federal financing does not in any way preclude an individual State from providing additional funds to enable a larger volume of manpower training to be carried on in the State than can be supported from the State's allotted share of Federal MDTA funds. There will be many MDTA training projects in which the number of trainees that can be financed will fall short of the number that could reasonably be expected to find employment upon completion of training. These present a State with excellent opportunities to place additional unemployed workers in on-going MDTA training projects if State funds are made available beyond the amount required by the matching contribution to the Federal funds committed. It is the committee's hope that at least those States in a financial position to do so will take advantage of such opportunities to reclaim their unemployed manpower resources at a faster rate than is possible within the limits of the Federal appropriations for the MDTA program.

Job Development Program

The bill, in title I, directs the Secretary of Labor, to develop and maintain a program of "job development," primarily in the service trades. This provision does not give the Secretary any significant amount of new authority, but it does serve to emphasize the need for imaginative efforts to create new jobs—by contrast with filling existing job vacancies—through developing more effective techniques for bringing workers together with those who have need of their services. There is wide recognition of the fact that, despite the Nation's unacceptably high unemployment level, much unsatisfied demand now exists for such services as home maintenance, child care, appliance repair, hospital service, home nursing, and many others. Many of our presently unemployed workers can, with training, be employed in meeting this demand, if improved means are devised for dealing with the difficult transportation, work-scheduling, and other problems that now interfere with the provision of these services.

Secretary Wirtz gave special emphasis to this provision of the bill in his testimony before the Holland subcommittee:

"One of the important findings we have made under the operation of the existing Manpower Act is that there is a great potential for job development and for trained people in a myriad of service activities, and that these unfilled needs are likely to go begging unless additional steps are taken to develop them. The proposed amendment will give clear direction to what must be an integral part of a comprehensive manpower policy—the active development of jobs in the service area.

"The implementation of this proposal," Secretary Wirtz pointed out, "will be carried out in closest cooperation, not only with all appropriate Federal agencies • • • but with management and labor and local community representatives. • • • Labor standards will be carefully preserved. In fact, this program should contribute to raising standards. Service industries would become more productive and more responsive to the availability of the growing value of consumer income that is ready to pay for services."

The language of this provision, which directs the Secretary of Labor to stimulate and assist job development programs, "through on-the-job training and other suitable methods," is not meant to imply that on-the-job training projects which result from the job development program may be released from any of the requirements of section 204 of the act, which specifies the standards with respect to rates of trainee compensation, content of the training program, and other conditions which must be observed for all such projects. Furthermore, the committee notes that this provision of the bill is not intended to authorize the Secretary to use title I appropriations to finance the direct costs of training and training allowances for projects that are directly or indirectly established through the Secretary's efforts in the area of job development. It is the committee's understanding that financing for the job development program under title I is essentially to be limited to promotional and administrative costs of the program.

Training program for "redevelopment areas"

This bill repeals, effective July 1, 1965, those provisions of the Area Redevelopment Act of 1961 which authorize a manpower training program and provides instead for a supplementary MDTA training program in areas designated as "redevelopment areas" by the Secretary of Commerce.[3] The bill authorizes the appropriation in each fiscal year of funds to be specifically designated for this supplementary training program and gives the Secretaries of Labor and Commerce discretion to expend these funds in the various States without adhering to the apportionment requirements that must be observed in distributing other title II training funds among the States. It provides for the participation of the Secretary of Commerce, as well as the Secretaries of Labor and of Health, Education, and Welfare in the administration of the program.

The act's provisions with respect to maximum amount and duration of training allowances and other aspects of MDTA training projects are made generally applicable to the projects established under this supplementary program—with the major exception that any unemployed or underemployed individual in a redevelopment area, whatever his past employment experience, age, or family status, is to be eligible for a training allowance if selected for training under this program.

In essence, the bill brings together under the Manpower Development and Training Act the two large-scale federally financed manpower training programs and eliminates certain arbitrary differences in the provisions governing them. The payment of allowances in ARA training programs is presently limited to a maximum period of 16 weeks, and the allowance payable (unchanged since 1961) corresponds to the maximum originally specified in 1962 for MDTA trainees—i.e., the average weekly unemployment compensation payment in the State where the allowance is being paid. The transfer of the ARA training program to MDTA extends to this program the more liberal MDTA provisions for duration of training and size of allowance, since there is no apparent reason why training projects in a redevelopment area should be subject to more restrictive terms than other projects. At the same time, the broader eligibility for training allowances under the present ARA program is preserved, in view of the particularly severe unemployment and other economic problems which characterize redevelopment areas. A relatively high proportion of individuals and families in these areas are likely to have suffered from chronic, long-term unemployment which has depleted their financial resources, and families will frequently have more than one member who is unemployed. The $20 weekly youth allowance may be especially inadequate for youths in such families. High and persistent levels of unemployment in these areas may also have made it impossible for some young people—in their early or middle twenties and no longer eligible for youth allowances—to have gained the 2 years of employment experience required for regular MDTA allowances. These considerations, as well as others, indicate the desirability of keeping the training allowance eligibility provision in this supplementary program for redevelopment areas free from the restrictions otherwise applicable to MDTA programs.

Special funding for a supplementary training program in redevelopment areas is desirable, since there may be a tendency to overlook the needs of these less prosperous areas, in the process of seeking out job opportunities for which workers can be trained. These funds will assure that lack of trained manpower will not be a barrier to local communities in their efforts to overcome their economic stagnation. The training contemplated under this section of the act should be closely related to the economic development activities of the areas. The objective of the training should be to place long-term unemployed or underemployed workers in jobs resulting from economic growth; in jobs in new and expanding firms; in jobs in firms assisted by Federal loan programs; and not in jobs resulting from labor turnover, because of inferior working conditions or wages, nor in jobs in establishments relocating from another area when the relocation will result in increased unemployment in the original location.

Experimental, developmental, demonstration, and pilot projects

The bill directs the Secretary of Labor to carry on, under title I of the act, a program of experimental, developmental, demonstration, and pilot projects. These projects will provide a better understanding of the problems involved in effectively training youth from deprived backgrounds, older workers, members of racial minorities, and other groups of workers with special employment difficulties. They will also help to develop better techniques and methods for meeting the training problems of these groups. The Secretary is authorized to enter into contracts with public or private organizations, and to make grants to public or private nonprofit organizations, for the purpose of planning, carrying out, and evaluating these projects.

In addition the bill makes specific references to two categories of such projects. First, the bill brings title I the labor mobility demonstration projects authorized by the 1963 amendments to the act, extends to June 30, 1967, the period during which these projects are to be carried out, increases to $5 million the funds that may be appropriated in a fiscal year for them, and removes certain limits on the Secretary's freedom to use loans, grants, or a combination of both to help defray the relocation costs of the workers selected for participation in these pilot projects.[4] Second, the bill directs the Secretary to carry out, during a period ending June 30, 1967, special experimental and demonstration projects to assist, particularly, the placement of MDTA trainees with police records. Limits of $200,000 for fiscal 1966 and $300,000 for fiscal 1967 are set on the funds that may be appropriated for these projects. The language of this provision of the bill is broad enough to allow the Secretary both to select other persons than MDTA trainees for participation in these projects and to carry out projects to assist in the placement of persons who are having difficulty in securing employment for reasons other than a record of past encounters with the law. However, it is expected that the greater part of the funds appropriated for these special projects will be expended to help meet the costs of securing bonds for persons with police records who have successfully completed MDTA training courses, but who employers are unwilling to hire unless bonding can be provided.

In summary, the bill brings all experimental, developmental, demonstration, and pilot projects under title I of the act and gives the Secretary of Labor explicit authority to make grants, as well as enter into contracts for carrying out these projects. This shift to title I is designed to make a clear distinction between these projects and the regular, conventional training projects carried on under title II. It also insulates these experimental and developmental projects from the State-matching requirements for title II training projects, and from the requirements under section 301 governing apportionment of title II expenditures among the various States.

The 2-year extension of the period during which labor mobility demonstration projects are authorized to be carried on is necessitated by the fact that a lack of funds made it impossible for the Department of Labor to get the first group of these projects underway until late 1964. It would be impossible, accordingly, to accomplish the purposes for which the labor mobility projects are designed, if they were abruptly halted on June 30, 1965.

The special placement assistance demonstration projects are clearly needed to explore means of eliminating the barrier to productive employment that is too often faced by individuals with police records. The Manpower Development and Training Act has the purpose of reclaiming our human resources, and it is highly appropriate that steps are now to be taken under the act to attack the problem of waste of these resources resulting from denial of job opportunities to those saddled with records of past arrests or convictions. This problem is particularly acute, in view of the large number of American youths who acquire police records at one point or another during adolescence—and who may be permanently handicapped by these records, even though as adults they may have matured into as good employment risks as the general population.

Footnotes at end of article.

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Extension of Training Periods

The act presently limits payment of training allowances to a maximum of 52 weeks for those in occupational training programs. However, allowances may be paid for a period of up to 72 weeks to trainees assigned initially to programs of training in "basic education skills" which prepare them to enter occupational training programs.

The bill extends the period for which training allowances may be paid to a maximum of 104 weeks, whether the training is exclusively occupational or a mixture of "basic education" and occupational.

The purpose is not to bring about a sharp increase in the average length of MDTA training projects,[5] but to give needed flexibility to the program in two directions: (1) by enabling those with severely deprived educational backgrounds, who require much remedial instruction in "basic education skills" to receive a more adequate combination of "basic education" and occupational training than can now be provided within 72 weeks, and (2) to enable training to be carried on for more highly skilled and technical occupations than trainees can be adequately prepared for within the present limitation of 52 weeks.

Mrs. Ivan Nestingen, Under Secretary of Health, Education, and Welfare, pointed out the need for a longer maximum training period for the disadvantaged in his testimony before the Holland subcommittee:

"There are some programs for the extremely disadvantaged which we should be doing, but are not, because they cannot be carried out in a 72-week program • • •. Nearly 20 percent of all unemployed persons have less than 8 years of schooling. However, only 5 percent of the manpower training enrollees have less than an 8th grade education. An increase in the length of training weeks would permit an increase in the number of persons with • • • educational deficiencies who could be referred to training."

Turning to the opposite side of the training spectrum, Mr. Nestingen went on to explain:

"Our placement data tell us that graduates of the more highly skilled occupational training programs are readily placed in employment. • • • Even now we can anticipate the time when there will be few places in the world of work for unskilled persons. New jobs are being created, but only for skills of an increasingly higher order. Many of these more skilled job opportunities are now automatically excluded from consideration for possible training by the fact that successful preparation is not possible in 52 weeks. We are particularly aware that the manpower development and training program is not yielding enough workers who are prepared for scientific and technical fields which are vital to our continued economic growth. Training, however, in many of the electronic, mechanical, and health fields must extend beyond the present 1-year allowance limit."

Secretary of Labor Wirtz has also stated:

"Few of the current programs can be of sufficient duration to prepare jobless workers for the technical occupations which are and will be increasingly in greatest demand. In addition, the current 1-year limitation on allowances results in some programs being accelerated to the point where some trainees simply cannot adjust to the tempo required and are lost to the program. These are often the ones who need the program the most."

There is no question that an extension of the training allowance period is necessary if the MDTA program is to include properly designed projects to train workers for such occupations as computer programer, medical technician, automobile mechanic, electronic technician, electrical applicance serviceman, or engineering aid. Removal of the present 52-week limitation will further the congressional purposes of making the Manpower Development and Training Act an effective device for eliminating shortages in skilled occupations and upgrading the skill level of the Nation's work force.

Broadened eligibility, for regular training allowances

Under the act as originally passed in 1962, eligibility for regular training allowances (i.e., all allowances other than the special allowances of up to $20 a week provided under certain circumstances for youths below the age of 22) was restricted to unemployed persons with not less than 3 years of employment experience, who were either heads of families of heads of households.

In 1963, the Act was amended to extend eligibility for regular allowances to unemployed persons with only 2 years of employment experience, and to members of a household in which the head of the household or head of the family is unemployed. The amendment provided, however, that no more than one person in any one household could receive regular training allowances at one time.

This bill further liberalizes the eligibility requirements, in two ways. First, it provides that unemployed persons without dependents, who are not living as members of a family or household group, can also receive regular training allowances. This provision simply corrects the anomalous situation created by the 1963 amendments which made a single person eligible if he were living as a member of a family or household whose head was unemployed—but denied him an allowance if he were living apart from his family. There is no apparent reason why an unemployed single person living alone should have less need for a training allowance than an unemployed single person living in a household whose head is unemployed.[6]

Secondly, the bill allows more than one unemployed member of a family or household to receive a regular training allowance— provided that the head of the family or household is not employed. The status of the household or family head is thus a critical element in the eligibility determination process. If he is not employed, he and any number of otherwise qualified [7] unemployed members of his family or household are eligible for regular training allowances. If, however, he is employed, then no member of his family or household is eligible for a regular training allowance. This amendment, it should be noted, does not preclude the Secretary of Labor from exercising judgment as to how many persons in one family or household shall receive allowances at any particular time, consistent with good program administration.

With respect to administration of the provisions regarding training allowance eligibility, the committee notes that persons who have been determined to be eligible for training allowances under an MDTA program should not have their allowances suspended or terminated for reasons beyond their control. It considers it desirable that the eligibility provisions be interpreted liberally, in order to avoid placing severe economic pressure upon a trainee by unnecessarily withdrawing an allowance once his training has begun. Specifically, if an allowance is being paid to a member of a family or household whose head is unemployed, it would not further the purpose of this act to have the allowance periodically withheld from the trainee because the family or household head has occasionally obtained short-time or odd-job work—particularly when this earnings in such work are minimal.

Allowances for trainees with more than two dependents

The act originally provided that a trainee's regular weekly training allowance should not exceed the average weekly unemployment compensation payment (for a week of total unemployment) in his State during the most recent calendar quarter. In 1963, the act was amended to allow the regular training allowance to be as much as $10 above the average weekly unemployment compensation payment.

This bill increases the maximum regular training allowance for trainees with more than two dependents by authorizing an additional $5 per week for each dependent over two up to a maximum of four additional dependents. Thus, a trainee with a wife and five or more children is made eligible to receive an allowance of $30 above the average weekly unemployment compensation payment in his State. The Department of Labor shows a current range of $24 to $44 in this average payment, among the 50 States.

Secretary Wirtz, in supporting this provision of the bill, told the Holland subcommittee:

"These increases are urgently needed because the pressure of heavy family responsibilities frequently forces workers who need training the most to drop out of the program • • •. Many of the training programs are in the States having the lowest allowances. They are frequently not enough to enable a trainee to support his family, particularly for the more long-term training periods."

This liberalization of the maximum allowance payable is, as Secretary Wirtz implies, a logical accompaniment to the extension of the maximum compensated training period to 104 weeks. The longer the period of training, the greater the difficulty faced by a trainee with a large family in resisting the temptation to drop out to take any job which pays substantially more than the training allowance. It is in the public interest to minimize the obvious waste which is involved when a person who has been partially trained fails to complete sufficient training to qualify him for a new occupation. Such waste—of human resources and of Federal training funds—may be especially likely to occur in the case of a fairly well educated and talented trainee, engaged in a longer term MDTA training project preparing him for a relatively high level of skill, who may have an opportunity to take a less skilled job which at least offers an income well above the MDTA training allowance.

The objection usually offered to efforts to liberalize welfare and relief payments—namely, that a higher level of payments may reduce the recipient's incentive to find employment—is not relevant with respect to the allowances paid under the MDTA program. An MDTA trainee continues to receive an allowance only if he is making reasonable progress toward acquiring the occupational skill for which he is being trained. And the effort to master a new and usually higher level skill is a greater day-to-day challenge to the trainee than he would face by dropping out of the program and taking a job utilizing only his present skills.

Private Educational and Training Institutions

Although the committee restored a limited State matching contribution to the bill as reported from subcommittee, it specifically authorized the Federal payment of up to 100 percent of the instructional and other costs of projects to be carried out in private educational and training institutions, if the Secretary of Health, Education, and Welfare determines that such payment is necessary in order "to give full effect to the purposes of the act."

The intent of this committee amendment is to assure continuation of the present policy of assigning to private institutions those specific training projects which they can carry out with equal or greater effectiveness than public institutions, and at lower cost. Congress, when it passed the act in 1962, intended that the facilities of properly qualified, private training institutions could be used for MDTA training. In 1963, Congress reemphasized its desire to have private institutions participate in the program by specifically amending the act to authorize the State vocational education agencies to contract for training with such institutions where they "can provide substantially equivalent training with reduced Federal expenditures."

Statements presented during the course of the Holland subcommittee's hearings on this bill indicated that private training institutions have so far played a small, but valuable, role in the MDTA program. These institutions can be especially helpful in achieving the purposes of the program in certain situations. One of these situations arises when private institutions possess more modern equipment and facilities than public training institutions. Another exists when a private institution can quickly absorb into one of its ongoing programs an individually referred MDTA trainee, or a small group of MDTA trainees, and thus prevent these approved trainees from waiting until a specific new MDTA project can be gotten underway in a public institution.[8] An additional case is found when the capacity of public vocational schools and other public institutions in an area becomes too fully utilized to allow them to take on the desired number of MDTA trainees.

Representatives of the Department of Health, Education, and Welfare, the American Vocational Association, and individual State vocational education agencies have indicated their strong support for preserving the role of private institutions as needed participants in MDTA training. In certain States, however, legal or other barriers may prevent a State's contributing the required 10 percent of training costs to an MDTA project assigned to a private institution. In view of this situation, the committee has acted to authorize full Federal financing, where necessary, of training projects that can best be carried on in private institutions.

Authorized Appropriations

The bill authorizes the appropriation, through the fiscal year ending June 30, 1968, of such amounts as may be necessary to carry out the purposes of the act.

The act presently contains authorization limits, specified separately by title. These limits, for the fiscal year ending June 30, 1965, are: $3 million for carrying out title I; $407 million for carrying out title II; and $1 million for carrying out title III.[9]

Though the committee has not written specific authorization figures into this bill, it supports the expressed intention of the Secretary of Labor, in his testimony before the Holland subcommittee, to devote substantially more funds to research than has been possible within the act's present annual limit of $3 million for title I appropriations, and also to increase expenditures for experimental, developmental, demonstration, and pilot projects above their present level.

The committee recognizes the great potential benefits of enlarged research and experimental programs, and believes that the initial returns from the relatively limited programs carried out thus far clearly warrant expansion of the scope of these activities. Well-qualified observers of the MDTA program have been particularly impreseed with the way a number of the research efforts have immediately and directly guided the development of manpower policies and the improvement of training activities. An impressive array of academic and other research resources have been enlisted in these efforts, and members of the various social science disciplines have been effectively drawn together in pooled research undertakings. As Secretary of Labor Wirtz pointed out, "The wisdom of the Congress in establishing a strong mandate for research and experimental progress has been clearly demonstrated." The committee agrees with the Secretary that significantly larger financial resources are now required, in order to exploit the manpower research potentialities that are opening up.

OTHER PROVISIONS OF THE BILL

Research grants

The bill amends title I of the act to explicitly authorize the Secretary of Labor to make grants, as well as to enter into contracts, for the conduct of research related to the Nation's manpower problems. This amendment is simply designed to give greater scope and flexibility in maintaining an effective, imaginative program of research. As explained by the labor market research specialists who appeared as witnesses before the Holland subcommittee, the use of grants is especially appropriate for the more pioneering and exploratory research projects whose probable results and findings are particularly difficult to predict. Prof. Richard A. Lester, of Princeton University, gave an effective summary of this point in his statement to the subcommittee:

"Formal contracts for research usually entail certain advantages and disadvantages. They apply best in fields that are fairly well developed and for research that can be well defined and definitely mapped out in advance, with a specific timetable. The disadvantages center around the redtape and rigidities that may involve considerable delay before the contract is finally signed, and the need for contract revisions with experience, all of which may involve extra expenditures of time by the agency staff and the contractor.

"The advantages of the research grant have been its relative simplicity and flexibility, its minimal reporting burden, and the opportunity it affords for initiative on the part of the research agency • • •. It would seem desirable for the Government contracting agency to have both means at its disposal so as to be able to make the best arrangements to fit particular sets of circumstances.

The authority to make grants will thus give greater flexibility where necessary for such purposes as the development of project planning, preliminary to negotiations of a contract; support of younger research personnel on small projects (particularly for Ph. D. dissertion research in the manpower fields); financing of relatively inexpensive projects (under $10,000) where the administrative burdens of the formal contract procedures are unduly cumbersome; and the development of manpower research centers. In particular, the committee notes its approval of the Secretary of Labor's proposed intention to use a portion of the funds available under title I to aid the establishment of a limited number of regional manpower research centers. Such centers will facilitate a continuity in research and other relationships among governmental and nongovernmental manpower experts that is not feasible under an ad hoc contract-by-contract arrangement; will encourage coordination of activities among research-oriented organizations within each region; and will assist the development of critically needed, trained manpower research personnel.

Payment of transportation costs

The act presently authorizes the payment of transportation costs (up to 10 cents per mile) only for a trainee who must move away from his regular place of residence in order to take training; e.g., a trainee with a home in eastern Oregon who is approved for a training project located in Portland.

The bill amends the act to authorize payment of transportation expenses for those MDTA trainees (the vast majority) who commute each day between their homes and the training facility. The limit of 10 cents per mile is not made applicable to these daily commuting expenses, since, for many trainees, the local bus, subway, or other public transportation fare will exceed this limit. The bill provides, instead, for reimbursement to the trainee of the cost of travel by the most economical means of public transportation.

This provision of the bill will reduce the financial hardship imposed upon a great number of MDTA trainees, patricularly those in large metropolitan areas, by the necessity to allot a far from insignificant proportion of their limited training allowances to meet the costs of getting to and from the training facility. These costs may well mount up to $5 per week and more for many trainees. The committee believes, therefore, that it will further the purpose of the act to reimburse trainees for the extra transportation costs they incur by demonstrating the personal initiative and motivation to take part in a training program, and thus to make the entire training allowance available to help meet their ordinary living expenses.

Computation of the average weekly unemployment compensation payment

The bill makes two minor changes in the method of computing the average weekly unemployment compensation payment figure which is to be used in each State as a primary element in determining a trainee's weekly allowance.

First, the figure is now to be computed as the average of payments made over the most recent four calendar quarter period for which data is available, instead of as the average of payments in the single most recent calendar quarter period. This change in the method of computation is desirable in order to prevent the occasional necessity to raise or lower the weekly MDTA training allowance, in some States, in response to seasonal fluctations (from one quarter to the next) in the States' average weekly unemployment compensation payment. Calculating the average over a four-quarter period is expected to eliminate such fluctuations due to seasonal factors. While the MDTA weekly allowance is designed to be related to the general level of unemployment compensation in each individual State, no purpose would be served by having the allowance rise or fall simply because of seasonal changes in that level.

Second, the figure is now to be computed as the average "gross" weekly unemployment compensation payment. The purpose of inserting the word "gross" is to eliminate certain arbitrary differences among the various States with respect to the computation. In some States the weekly payment and unemployment compensation claimant receives may, under State law, be reduced from the "gross" amount to which he would normally be entitled, on the basis of his recent work experience and earnings. Such reductions may be imposed because the claimant is also receiving a pension, social security benefits, dismissal pay in lieu of notice, or certain other forms of income. Since the types and amounts of such reductions vary greatly from State to State, and since changes in them can affect the State's average unemployment compensation payment, and thus the average MDTA allowance paid in the State,[10] the committee has decided to require them to be excluded from the process of computation. The insertion of the word "gross" into section 203(a) of the act is designed to eliminate from the computation the amounts paid to all persons who do not receive a "gross" payment during the period. Thus, the total amount paid to any individual whose unemployment compensation benefit payments has been reduced because he received other income of the types described above will be disregarded in calculating the average payment for purposes of determining the MDTA allowance payable.

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Part-time work by on-the-job trainees

The act presently provides that an MDTA trainee—other than a trainee in an on-the-job training program—may receive the full allowance he is otherwise entitled to, if he is engaged in part-time employment for no more than 20 hours per week. If he is employed for more than 20 hours, his training allowance is reduced by the full amount of his earnings for those hours worked in excess of 20.

The bill now extends this provision to cover on-the-job trainees as well. That is, an on-the-job trainee will be entitled to receive whatever training allowance he would otherwise have received, if he is employed for no more than 20 hours per week in employment other than that provided as part of the training program. Presently, under the act, his training allowance is reduced by 2.5 percent for each hour of paid employment he has during a week, whether that employment is, or is not, part of the on-the-job training program.

No apparent purpose is served by treating an on-the-job trainee differently from other MDTA trainees with respect to the effect on his training allowance of taking part-time employment. Accordingly, the bill eliminates the distinction presently made in the act.

The effect of this provision of the bill can be illustrated by a hypothetical case. Assume that the regular training allowance to which an individual MDTA trainee would normally be entitled is $30. Assume that the trainee is enrolled in an on-the-job training program, for a period of 30 hours per week, that for 20 of these hours he is actually engaged in the production of goods or services and therefore receives payment from the training employer for these 20 hours, and that in addition the trainee has a part-time job for 12 hours a week with a second employer. Presently under the act, this trainee would not receive a weekly MDTA allowance of more than $6 (20 percent of $30), since he is engaged in 32 hours of paid employment during the week and for each hour of such employment his allowance is reduced by 2.5 percent. Under the act, as it would be amended by this bill, the maximum allowance which this trainee could receive would be raised to $15, since only the 20 hours of compensated employment under the training program would be considered in calculating his allowance.

Commitments of funds for training programs

The bill adds a new section 305(e) to the act, to provide that the costs, including training allowances, of all training programs approved in a fiscal year may be paid from funds appropriated for that year.

This provision is needed to deal with an essentially technical problem that has complicated the administration of the MDTA program. At present, when an MDTA training project is approved, all costs to be incurred for the project are obligated against the current appropriation in effect at the time of the project's approval. With respect to the costs of training allowances, however, this practice cannot always be followed, because the General Accounting Office has indicated that the payment of allowances to a trainee becomes a legal commitment on the part of the United States to the trainee only after the trainee is selected and referred for training. Thus, if a training project is approved shortly before the end of a fiscal year—for example, in early June—the training cost in its entirety becomes an obligation against the current appropriation. But the selection and referral of the trainees, and the incurring of a legal commitment to them, may occasionally not take place until after the beginning of the next fiscal year on July 1. The result, in effect, is that a program approved in 1 fiscal year creates a contingent commitment for training allowances against the next fiscal year's appropriation.

The Department of Labor states that the fiscal management of the MDTA program has been complicated by this distinction in the treatment of training allowances as opposed to other costs of MDTA training projects. Accordingly, the bill amends the act so as to authorize the obligation of all costs, including allowances, against the appropriation current at the time the project is approved, without regard to when the trainees are selected and referred.

The new section 305(e) added by this bill also provides that the Federal share of the costs of a training project shall be the share specified by the act at the time the project is approved. The practical effect of this provision is to assure 100 percent Federal financing of the costs of training projects approved prior to July 1, 1966, even though actual training under these approved projects may not begin prior to that date or may extend beyond that date.

Proportion of youth trainees

The bill amends section 203(c) to authorize the Secretary of Labor to make "such adjustments as may be necessary for effective management of programs under this section," in conforming to the act's limitation with respect to youth enrollment in the MDTA program. Though the act does not explicitly restrict the proportion of youths (age 16 or older, but below the age of 22) who may be accepted as trainees, it does state that no more than 25 percent of those trainees who are receiving training allowancea or unemployment compensation benefit payments may be youths under the age of 22.

Since the MDTA program is highly decentralized, the hundreds of separate training projects being approved and carried on simultaneously in the 50 States, it has proven to be administratively difficult to conform to this 25-percent limitation when it is interpreted as an absolutely rigid limit. Accordingly, this bill gives the Secretary of Labor some degree of flexibility with respect to this limit, so that the approval of trainees for projects will not have to be unduly delayed while time-consuming examinations of the most recent national enrollment figures are carried out to determine whether the acceptance of a few more trainees below the age of 22 is likely to create a violation of the 25-percent limit.

The committee takes note of the fact that the Secretary's intention, in requesting this provision of the bill, is only to gain some needed flexibility and elbowroom. There is no intention to change present policies with respect to the enrollment of youth in the MDTA program. Since the act was last amended, in 1963, to increase effectively the proportion of youth trainees, Congress has enacted the Economics Opportunity Act of 1964. The Neighborhood Youth Corps, the Job Corps, and other programs authorized by this recent act provide extensive new work and training opportunities for youth. Accordingly, the committee reaffirms its support for a policy of maintaining a reasonable limitation on the proportion of youths in the MDTA program. The primary emphasis of the Manpower Development and Training Act, from its beginning, has been upon the training and retraining of unemployed adults with substantial past employment experience. This continues to be the proper emphasis, in the view of the committee.

Additional comments

As part of its reexamination of the Manpower Development and Training Act which has been prompted by this bill, the committee wishes to record its observations upon certain aspects of the MDTA program and upon some of the issues raised by those presenting testimony and statements to the Holland subcommittee.

Safeguarding against MDTA substitution for private training efforts

The committee considers it desirable to emphasize, as it has in the past, that the establishment of a manpower development and training program was not intended to substitute Government-subsidized training for training normally undertaken by management, to discourage training by private industry, or to inadvertently lead to disruption of an industry's competitive relationships. There are obviously situations accordingly, in which it is not appropriate for MDTA training projects to be established. Firms in the apparel and garment industry, for example, are intensively competitive in a national market, are highly mobile, and have traditionally provided their own training on the job. In this industry prior training or possession of a specific skill is not typically prerequisite for obtaining employment. In an industry such as this, Government-subsidized training can disrupt competitive relationships by providing an advantage to some employers over others, and wastes Government funds by shifting the training function from industry to Government. Moreover, such subsidized training does not add to the sum total of jobs but merely brings about a redistribution of production, employment, and unemployment within the industry. It is the committee's intention, therefore, that financial support under this act shall not be made available for training programs in such an industry.

Advisory committees

In its report[11] accompanying the proposed 1963 amendments to the act, the committee stated its strong conviction that manpower advisory committees:

"* * * should be established at the local and State or regional level wherever appropriate and their advice sought before projects are approved."

The act, accordingly, was amended in 1963 to direct the Secretary of Labor, where appropriate, to require the organization on a community, State, and/or regional basis of labor-management-public advisory committees."

Despite the legislative action taken in 1963, members of the committee have continued to receive criticisms concerning both the excessive slowness in establishing effective advisory committees in some regions and communities and the overly limited role that advisory committees have thus far played in the MDTA program. There appears to be evidence that administrators of the MDTA program, all too often, have failed to take sufficient steps to involve these committees in the planning and evaluation of program activities. The committee again calls to the attention of the Secretary of Labor, therefore, its belief that each proposed MDTA training project should be examined in advance by a properly constituted labor-management-public advisory committee.

If a committee has not been established in or near the community where the project is to be located, then responsibility for examining the project should be assumed by the State advisory committee. Moreover, when an MDTA training project is proposed for development on a nationwide basis—for example, by arrangement with a national trade association—it seems clearly desirable to have the proposal reviewed in advance by the National Manpower Advisory Committee.

The committee fully recognizes the importance, for an effective manpower development and training program of arousing broad-based community support and encouraging widespread participation by representatives of labor, management, and other interested groups. By having proposed projects subjected to the scrutiny of such interested parties, administrators of the MDTA program not only receive the benefit of expert advice, but are also helped in their task of assuring that MDTAs training does not become exploited as a source of cheap labor or as a means for undermining existing labor standards.

Congressional Review of President's Manpower Report

The committee notes with approval the suggestion made by representatives of labor, in testimony before the Holland subcommittee, that annual congressional hearings be instituted upon the manpower report of the President. The act requires that the report be transmitted to Congress within 60 days after the beginning of each regular session. This annual manpower report, since its first appearance in 1963, has proven to be one of the most stimulating, widely known, and valuable of Government documents and has helped immensely to focus public attention upon the Nation's challenging manpower problems. The committee believes that it would be enlightening both to the Congress and to the general public to have congressional hearings conducted each year upon the findings, conclusions, and issues raised by the manpower report. Such a congressional review has a precedent in the form of the hearings held annually by the Joint Economic Committee upon the Economic Report of the President. Congressional hearings upon the manpower report would serve to emphasize the critical importance of developing and utilizing our human resources and would provide a broader forum for examination of manpower problems generally than can usually be provided by hearings focused upon a specific item of legislation.

Adequacy of Operating Agencies

When the Manpower Development and Training Act became law in 1962, crucial responsibilities for effective operation of the MDTA program were assigned to the Federal-State employment service system. Under this act, the public employment service has the principal duties of identifying job opportunities for which training is appropriate, interviewing, testing, and selecting the trainees, providing counseling services to trainees, and seeking to place graduates of MDTA training programs in employment.

It was well recognized at the time this proposed act was introduced, in 1961, that the success of the MDTA program would depend greatly upon an effective employment service system. Secretary of Labor Arthur Goldberg, testifying [12]in support of the legislation, stated:

"Before individuals are selected for training, we need to know not only the needs of our industries, but also a lot about each individual worker. * * * In this initial step in the training program, we will utilize to the fullest the counseling facilities of the local State employment service offices. Although such services already exist, they will have to be greatly expanded to do the kind of job that will be necessary. We have already launched a program of expanded services at the direction of the President, but even more will have to be done.

Congressional recognition that the MDTA program would call for an improved employment service was indicated in the Senate report accompanying the act, as originally proposed, in 1961:

It is evident that the large-scale program envisaged by this bill will require extensive upgrading, both in quality and in quantity, of the personnel of these State employment offices. In too many States and localities, these institutions are weak, and preoccupied with the mechanics of recordkeeping and paying unemployment benefits * * *. The committee has taken notice of the many studies surveying the employment services, which invariably recognize their weaknesses. These must be corrected if the tasks provided by this bill are to be performed".[13]

Since 1961, when the Kennedy-Johnson administration entered office, the committee notes that encouraging steps have been taken to revitalize and improve the Federal-State employment service system, so as to enable it to meet more adequately its heavy responsibilities not only under this act but also under other legislation of recent years. Nevertheless, the committee is aware that the personnel and other resources of the employment service need further strengthening. No public agency has a more vital and central role than the employment service in the Nation's effort to achieve full development and utilization of its manpower. Accordingly, the committee believes that it is essential that Congress take such steps as are still needed, in order to assure that the employment service is well prepared to carry out this role.

Administration of the program

The committee wishes to stress the obvious—but important—point that the achievements of the Manpower Development and Training Act depend greatly upon the judgment and discretion of its administrators in maintaining a soundly planned and well-balanced program. It should be noted that the 1963 amendments to this act and the amendments proposed in this bill have the effect of affording additional flexibility and opportunity for exercising discretion to those who are responsible for administering the program.

Among the suggestions made by witnesses before the Holland subcommittee were two proposals for limiting administrative discretion upon which the committee believes comments are in order. Representatives of industry who are enthusiastic over the progress of some of the major MDTA on-the-job training projects urged the committee to consider requiring that at least 25 percent of MDTA training funds be allocated to on-the-job training. The committee was not persuaded that it is desirable to establish a fixed division of funds between the on-the-job and the institutional training components of the MDTA program. It wishes, however, to emphasize again—as it did in its 1963 report—that a large role for on-the-job training was envisioned to the time the act was adopted, and that the committee counsels the Secretary of Labor to give continuing attention to the problem of assuring that this valuable type of training is not allowed to become a relatively neglected aspect of the program.

Secondly, representatives of organized labor vigorously urged the committee to write into the act—

"* * * a requirement that, at the very least, workers will not be trained for any jobs which pay less than the minimum wage stipulated in the Fair Labor Standards Act, whether or not the job is in a covered occupation or industry."

Although a strong case can be made on behalf of putting such a requirement into the act, the committee did not decide to impose such a limit upon the discretion of administrators in establishing MDTA training projects for specific occupations. Members of the committee are deeply concerned over the inexcusably low wage in many occupations—including occupations for which some workers have been prepared under the MDTA program—but a more direct attack upon this problem can be made through prompt legislative action to extend broadly the coverage of the Fair Labor Standards Act.[14] However, the committee expects that administrators of the MDTA program will remain acutely aware that the purpose of the act is not to reduce the statistically measured number of unemployed by putting individuals into any job vacancies that can be found, no matter how miserably paid and insecure such jobs may be. In occupations and industries where wages and working conditions are exceptionally substandard and turnover high, the number of reported "job opportunities" commonly tends to be high. The committee trusts that this fact will be given due consideration in the process of discovering and assessing those job opportunities for which MDTA training projects are to be considered.

FOOTNOTES

[1] Other than on-the-job training programs, under sec. 204 of the act.

[2] Matching in kind may be accomplished through a variety of arrangements, including: donation of space, physical equipment, personal services, grants by public organizations; such as, a city, county, school district, or any other State instrumentality, and donations by private (profit or nonprofit) agencies, or any other source. Thus the States will have considerable flexibility in determining what is particularly suitable for inclusion as its contribution.

[3] The necessary conditions for designation of areas as "redevelopment areas" are spelled out at length in sec. 5 of the Area Redevelopment Act of 1961. In brief, such areas must have suffered from "substantial" rates (6 percent or more) of unempoyment for specified periods of time, or, in the case of rural areas, be characterized by low incomes and underemployment.

[4] The act presently sets June 30, 1965, as the ending date for the labor mobility demonstration projects, limits appropriations for them to $4,000,000 in any fiscal year, specifies that grants may not exceed 50 percent of the relocation costs of a participant in the projects, and limits a combination of loans and grants to 100 percent of a participant's relocation costs.

The labor mobility projects are presently authorized under title II of the act, in sec. 208. The bill repeals sec. 208 and authorizes these projects under a new sec. 104 of title I.

[5] The average planned length of current MDTA projects, according to information supplied the Holland subcommittee, is 36 weeks.

[6] The word "single" is used here to denote an unmarried, widowed, or divorced individual without dependents.

[7] Two years' employment experience is still required, of course, before an individual can qualify for a regular training allowance.

[8] One of the more serious problems that arises in the MDTA program is the frequent necessity to keep an unemployed worker, who has been approved for training, waiting until a sufficient number of prospective trainees have been gathered together to enable a new training project to be undertaken on a reasonably economic scale. Particularly if the waiting period extends into a number of weeks, the individual may be induced by prolonged financial hardship to take a dead end job or one which underutilizes his potential abilities and thus forego his chance for training. Though this problem cannot be completely eliminated, the committee urges the administrators of the MDTA program to take every appropriate step to avoid the loss—to the individual and to society—that occurs when a person qualified and accepted for training is forced to give up his opportunity because of long delays in getting a project started. One of the developments in the administration of the program that is calculated to increase its usefulness is the referral of individuals, at the time that they are available for training, to institutions, both public and private, at the nearest available location. The project system alone does not provide sufficient suitable training opportunities for the wide variety of training needed and in the many localities in which it should be made available.

[9] The present limit on authorized annual appropriations for training programs under the Area Redevelopment Act, which are now to be transferred to MDTA, is $14.5 million,

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composed of a $10 million limit on weekly training allowances and a $4.5 million limit on other costs of training.

[10] In Pennsylvania, for example, the State unemployment insurance law was recently amended to require a claimant's "gross" payment to be reduced by the amount of any pension he receives. The result was a reduction, for the 3d quarter of 1964, of $2 in the average "net" unemployment compensation payment in the State—with a consequent reduction in the weekly allowance being paid to MDTA trainees in Pennsylvania. A technical change in the Pennsylvania law thus forced a cut in the MDTA allowance which was resented and not easily understood by the trainees and which in no way served to further the purposes of the MDTA program.

[11] Rept. No. 861, 88th Cong., 1st sess.

[12] S. Rept. 626, 87th Cong., 1st sess.

[13] On this point, the committee calls attention to portions of a statement presented to the Select Subcommittee on Labor by the American Nurses' Association:

"We • • • wish to point out that unemployed persons being trained for the health occupations will be entering a field of employment that is itself economically depressed and has a high rate of turnover. Studies by the Bureau of Labor Statistics over the years raise serious questions about employment as a nonprofessional worker in a hospital as a self-supporting job placement. For example, according to BLS, in June and July of 1963, when the Federal minimum wage was $1.15 an hour, in none of the cities surveyed was the average as high as the Federal standard and in Memphis and Atlanta average hourly cash wages were from 36 to 53 cents lower than the minimum."

[HOUSE, APRIL 1, 1965]

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4257) to amend the Manpower Development and Training Act of 1962, as amended, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4257, with Mrs. GRIFFITHS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. POWELL. Madam Chairman, I yield myself such time as I may require.

Madam Chairman, I speak to this House today on behalf of H.R. 4257, a bill entitled "The Manpower Act of 1965." This bill comes from the Committee on Education and Labor and amends the Manpower Development and Training Act of 1962, as amended.

The manpower development and training program established by that act is one of the most valuable weapons we have in this Nation's continuing battle to prevent the waste of our human resources and to realize the full productive potential of the American people. The new amendments to the act, proposed in H.R. 4257, are designed to make certain we will be able to use this weapon vigorously and effectively in the years ahead—and in all 50 States of this country.

The bill makes necessary changes in the act's present provisions for non-Federal matching contributions to Manpower Development and Training Act training costs. It also expands the eligibility for receipt of weekly subsistence allowances by trainees enrolled in the manpower development and training program. In several other ways it reduces the financial hardships that have discouraged some workers from taking training under the act and which have virtually forced some to drop out of training before completion. The bill further broadens the program to provide more adequate training for those with especially deprived educational backgrounds and to those capable of being trained for some of the advanced occupational skills that the Manpower Development and Training Act program has heretofore not been able to reach effectively.

These and other provisions of the bill will be presented in more detail by my fellow member of the Committee on Education and Labor, the gentleman from Michigan (Mr. O'HARA).

Madam Chairman, I think a tribute should be paid to two of our colleagues, in particular, as we consider this bill. One is the gentleman from Pennsylvania (Mr. HOLLAND), chairman of the Select Subcommittee on Labor. He, more than any other Member of this House, has been closely identified with the Manpower Development and Training Act ever since the early days of the 87th Congress, 4 years ago, when he first began the extensive hearings on manpower and automation problems which led ultimately to the passage of the act. The gentleman from Pennsylvania can be justly proud of his legislative accomplishments in making the manpower development and training program a reality and in securing the passage of further legislation which he introduced in 1963 to amend the act in a number of valuable ways. It is his bill, introduced on behalf of the administration which we consider today as we again seek to improve this act by new amendments.

The other Member to whom special mention should be accorded is the gentleman from Michigan (Mr. O'HARA), one of the most effective leaders in the effort that originally created the Manpower Development and Training Act. During February, in the unavoidable absence of the gentleman from Pennsylvania, the gentleman from Michigan very ably chaired the select subcommittee through 2 weeks of hearings on the bill before us today. He has an exceptionally fine understanding of the manpower development and training program, and I know of no one better qualified to explain to this House the need for keeping this indispensable program alive and healthy.

Mr. HOLLAND. Madam Chairman, in the two previous sessions the Members of Congress have acted on manpower training legislation.

In the 87th Congress, the Manpower Development and Training Act of 1962 was passed. For the benefit of our new Members this session, I would like to say this legislation resulted from a personal survey I conducted, immediately following President Kennedy's election, and public hearings of an ad hoc Subcommittee on Unemployment and the Impact of Automation which Chairman POWELL created and to which he appointed me chariman, early in 1961. With unemployment and its ever-increasing rate of growth considered as a most important domestic problem—all avenues were explored in an effort to find a satisfactory solution.

Today, as chairman of the Select Subcommittee on Labor, I ask the Members of the 89th Congress to pass the amendments to the Manpower Development and Training Act program—amendments which again broaden the coverage of the program, lengthen the training period, increase the subsistence allowance in specific cases, and make other provisions including the extension of full Federal financing for 1 more year—fiscal year 1966—with the States share, starting July 1, 1966, being reduced to only 10 percent in cash or kind.

The success of this program, in respect to reclaiming individuals and restoring their ability to become self-sufficient once more, is well known. The records show that between 70 and 80 percent of those, who have completed their training, are now employed. The fact that no opposition was raised in the Full Committee on Education and Labor, when this legislation was reported out, demonstrates not only bipartisan support but also the sincere recognition of the need for the continuation of this program.

Mr. O'HARA of Michigan. Madam Chairman, the bill before us today, introduced and sponsored by the gentleman from Pennsylvania (Mr. Holland) is a further step in the effort to provide a chance for American workers who are without the skills necessary to secure and hold substantially gainful employment. It represents the latest chapter in a struggle begun many years ago by the gentleman from Pennsylvania (Mr. Holland) to rescue from the human scrap heap of prolonged joblessness millions of our fellow citizens who needed to work and wanted to work but could not find a market for their labor. I would like to begin my remarks by paying tribute to the fight made by the gentleman from Pennsylvania for these neglected members of our labor force. It was a continuing struggle that he sometimes carried on nearly alone in which he persevered despite all obstacles. Its fruit is the Manpower Development and Training Act of 1962, one of the most successful programs ever adopted by the Congress. The gentleman from Pennsylvania has now proposed amendments to strengthen and improve this program which are embodied in H.R. 4257, the bill before us today.

It is a bill which has received the endorsement of both the majority and minority members of the Committee on Education and Labor. It is also a bill whose prompt enactment by the Congress is essential in order to preserve the manpower development and training program. This program, in the 2½ years since it began in the fall of 1962, has made an impressive contribution in restoring thousands of Americans to productive employment. Those of us who have watched the Manpower Development and Training Act program since its inception can testify to the satisfaction we have felt as it has demonstrated its value to our society.

The manpower development and training program was initiated in 1962 with exceptional bipartisan support in both Houses of the Congress—as was shown by the large majorities that voted to pass the original act. Since 1962, the program has proven itself a success, and has developed an even broader base of bipartisan support. The act was amended in important respects in late 1963—again by very large majorities in both Houses—and the additional amendments proposed on behalf of the administration this year have received a strongly favorable response. Manpower development and training is not, therefore, a controversial program. It is now well established and almost universally recognized to be one of the indispensable elements in this Nation's determined attack upon the problems of unemployment and waste of our human resources.

The select subcommittee held 8 days of hearings in February on the bill. Without exception, the witnesses who came before us, and others who submitted written statements, expressed enthusiastic support for continuing and expanding the manpower program. No one requested time to testify against the bill, and no statements in opposition were received. The bill was reported favorably from the full Committee on Education and Labor on March 4, without a dissenting vote, and with several improving amendments, including amendments proposed by minority members of the committee. There was no minority report.

Madam Chairman, I shall discuss briefly what has been and is being accomplished under the Manpower Development and Training Act program. By the time all the regular title II training projects that so far have been approved and given commitments of funds are completed—in addition to those projects that have already been completed—this program will have successfully equipped well over 300,000 American workers with new and much-needed skills. About 90 percent of these trainees, we should note, were totally unemployed before they entered Manpower Development and Training Act training, and practically all of the remainder were part-time workers or underemployed in jobs that did not fully use their potential productive capacity. In addition to these trainees I have just described—those enrolled in the standard title II training projects—the Manpower Development and Training Act program will also have given counseling, basic education, training, placement, and other services to approximately 60,000 more persons in the special experimental, demonstration, and pilot projects that have been designed for workers in our society with especially severe employment problems.

These experimental and demonstration projects have constituted an extremely valuable part of the Manpower Development and Training Act program, and have contributed to improving techniques for assisting such groups as older workers displaced by automation, workers handicapped by extremely limited educational backgrounds, nonwhite workers, and members of other racial minorities, members of low-income farm families who are struggling to make the transition to employment in urban areas, and young workers who dropped out of school because they were unable to adjust to formal academic education.

This, then, is the record of the Manpower Development and Training Act program. With the funds Congress has appropriated for its first 2½ years of operation, a total of almost 400,000 workers, by the end of this fiscal year, will have been involved in projects that are completed or under way.

Has the program been worthwhile? There is no question about it. The placement rate for those who have completed Manpower Development and Training Act institutional training projects has been approximately 73 percent. That is, almost three-fourths of these trainees are shown as having been placed in jobs within 90 days after completing a course of training. For the relatively smaller group of trainees who have completed Manpower Development and Training Act on-the-job training projects, the placement rate has been about 94 percent—this higher rate, of course, being a reflection of the fact that most on-the-job trainees begin their training in the establishment of employers who expect to keep them on as permament employees after the training period, while trainees in the institutional projects must go into the labor market to seek jobs when their training is over.

We can say, therefore, that around three-fourths of those who complete their prescribed course of training are finding jobs within a relatively short time after completion. This is a very solid achievement—especially in view of the fact that 9 out of 10 Manpower Development and Training Act trainees have been drawn from the ranks of the unemployed, and that a high proportion had been without jobs for 3 months, 6 months, a year or even longer before they were selected for training. Indeed, this is an achievement substantially greater than had been anticipated by many who voted, 3 years ago, to pass the Manpower Development and Training Act. The Manpower Development and Training Act program has more than fulfilled the hopes of its original supporters. It is putting thousands of Americans back to work—including great numbers whose long, frustrating search for decent employment seemed almost hopeless before Manpower Development Training Act training provided them with new skills.

The cost of the program, when set alongside the results being achieved, is a modest one for a great nation like the United States to pay. Looking at the institutional training projects and the on-the-job training projects combined, we have found that the direct cost of training one worker—including the cost of weekly subsistence allowances to those eligible for them—has so far averaged around $1,200 or $1,300. And no consideration has been given, in estimating this average cost, to the fact that a significant part of the cost of the weekly allowances actually just takes the place of unemployment compensation benefits or welfare and relief payments that otherwise would have been paid to many Manpower Development Training Act trainees.

The cost of training can be fully and completely measured in terms of dollars and cents. The benefits, of course, cannot be. It is impossible to put a price tag on the value of a worker, and the members of his family, receive when he is reclaimed from the industrial scrap heap, when his self-confidence is restored through the acquisition of a new and marketable skill. These are benefits that can accumulate over the lifetime of the worker—and even over the lifetime of his children, whose own motivation and chances of becoming productive members of our society may be greatly damaged if their father falls into the discouraged condition of the chronically unemployed.

The desirability of manpower training hardly needs to be defended at all, if the alternative is stagnation and demoralization. I doubt that there is a Member of this House who would contend that it is preferable for an unemployed worker—whether from the standpoint of his own interest or the interest of our society—to spend weeks and months in self-destructive idleness, rather than be engaged in skill training which can offer him even a fair fighting chance of regaining a place in the world of work.

If we confine ourselves just to those benefits from training that can be roughly estimated in dollars and cents, however, the clear indication is that manpower training is a very worthwhile investment in human beings. The Manpower Development and Training Act training program is still so young relatively, that only very limited information is yet available on the incomes and earnings, over a period of time, of those who have completed training. But I would like to summarize very briefly one of the few studies so far published on this question—a study carried out, with a grant from the Ford Foundation, under the direction of one of the country's most distinguished labor economists, Gerald Somers at the University of Wisconsin.

This study examined the post-training experience of approximately 500 previously unemployed workers who completed either ARA or State-sponsored training courses in West Virginia, and compared their experience with that of a control group of unemployed West Virginians, of comparable background. Observations over a period of several years clearly demonstrated that the first group—those who had completed training—enjoyed a very significant advantage over the control group with respect to stability of employment and with respect to the incomes they were able to earn. The conclusion of this University of Wisconsin study was that it had produced strong evidence that the benefits and potential benefits of manpower retraining substantially outweigh the costs.

In concluding my comments on the question of the cost of Manpower Development and Training Act training, I want to make two points, to help us see this program in perspective. First, the total amount paid out to unemployed American workers in weekly unemployment compensation benefits last year, 1964, was more than $2½ billion. By contrast, the amount of Manpower Development and Training Act funds committed for the payment of weekly training allowances during the year was not over 5 or 6 percent of this figure. For every dollar we committed to support a Manpower Development and Training Act trainee last year, while he undertook training, at least $15 to $20 was paid out in benefits to unemployed workers who were not being trained.

Secondly, the total number of workers whom the Department of Labor expects to be able to train under title II of the Manpower Development and Training Act program, during fiscal 1966—on the basis of the proposed administration budget—is approximately 275,000. This number is little more than one-third of 1 percent of the total number of people now in the American labor force. When we consider the high rate of productivity increase and of technological change in our economy, with its constant destruction of old jobs and creation of new job opportunities—and when we consider that the Manpower Development and Training Act program is now providing new skills to only about one-third of 1 percent of our labor force each year—then I think the proper question to be asked is not whether we are trying to do too much with Manpower Development and Training Act, but whether we are trying to do too little.

Madam Chairman, I will not discuss the main provisions of the bill we have before us, to amend the Manpower Development and Training Act.

This bill extends the life of the Manpower Development and Training Act program to June 30, 1968—that is, for 2 years beyond its presently scheduled expiration date of June 30, 1966. This extension for only 2 years does not indicate that members of the Committee on Education and Labor believe there is a possibility that we may not need a manpower development and training program after 1968. It simply reflects the view that the Manpower Development and Training Act program should be reexamined, within a reasonable period of time, by the committee, in order to develop any legislative action that the future may reveal is needed to improve the program.

The bill provides a 1-year extension, to June 30, 1966, of completed Federal financing of the Manpower Development and Training Act program. After fiscal 1966, a non-Federal contribution of 10 percent will be required for the costs—exclusive of the costs of training allowances—of institutional training under title II. This provision maintains the requirement of a non-Federal matching share, but it also sets that share at a level which will not threaten our ability to keep the Manpower Development and Training Act program going ahead in high gear. There is no doubt that this is a successful program, and that it is an essential program, for our unemployed workers and for the health of our economy. But there is also no doubt that most States—not all, but most—cannot take on a large share of the cost of the program. The provision we have in this bill, therefore, reflects the hard reality of the fiscal situation that faces practically all of our States.

The bill brings under Manpower Development and Training Act the separate training program which, since 1961, has been operated under authority of the Area Redevelopment Act. That act is scheduled to expire on July 1 of this year, but the administration is proposing to maintain the designation of redevelopment areas, which are to be eligible for special Federal assistance. Part of the Manpower Development and Training Act appropriation, from fiscal 1966 on, is expected to be specifically set aside for training in these redevelopment areas. The training projects in these areas will differ relatively little from other Manpower Development and Training Act projects. The chief points of difference are that the Secretary of Commerce will share the responsibility with the Secretaries of Labor and of

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Health, Education, and Welfare for redevelopment area training, and that any unemployed or underemployed individual in these areas may be eligible to receive a regular weekly subsistence allowance when selected for training, whether or not he meets the usual manpower development and training act eligibility requirements with respect to previous work experience, age, and family status.

This bill consolidates all research, experimental, developmental demonstration, and pilot projects under title I of the act, and explicitly directs the Secretary of Labor to carry out such projects. It also increases somewhat the total allowed spending for the special labor mobility demonstration projects that were authorized by our amendments to the act of 1963, and extends to June 30, 1967, the deadline for concluding these projects. Under title I, the bill also directs the Secretary of Labor to carry out two more specifically named types of projects: First, a job development program to explore means of creating new employment opportunities, primarily in the service trades; second, a trainee placement assistance project, which will be a 2-year experimental undertaking designed chiefly to assist the placement of trainees with police records who need to be bonded for many types of employment and who find it difficult or virtually impossible to be accepted for bonding by commercial surety companies.

Another provision of the bill extends the period for which a trainee may receive a training allowance to a maximum of 104 weeks. The act presently limits allowances to a maximum of 52 weeks, if the trainee is engaged in strictly occupational training, or to a maximum of 72 weeks, if he is in a course which includes training in basic education skills as well as occupational training. This provision of the bill, let me emphasize, is not intended to produce a large increase in the average planned length of the Man-Power Development and Training Act training projects. But it will give flexibility to the program in two desirable respects—first, by allowing longer periods of remedial instruction in basic education skills for trainees with especially deprived educational backgrounds, and; secondly, by enabling the Manpower Development and Training Act training projects to be instituted for a variety of the more highly skilled and technical occupations which are presently beyond effective reach of the program, under a limit of 52 weeks for occupational training.

The bill contains a set of provisions designed to reduce the financial hardships that bear upon many Manpower Development and Training Act trainees, and thereby encourage more individuals to enter training and to remain in training until their prescribed courses are completed. These provisions make single people, living apart from their families, eligible for the first time for regular training allowances. Also, eligibility for allowances is now extended to more than one member of a family, provided that the family head is unemployed.

The amount of the allowance that can be paid is increased for one category of trainees—those with more than two dependents. For each dependent beyond two, the allowance may be increased by $5. The maximum increase, however, is $20—which could be received by a trainee with six or more dependents. The final provision to be mentioned in this group is one which authorizes the payment of daily transportation costs for trainees, to and from the location of the training site. Since these costs can mount up to $3 to $5 a week in many cases, which is a much more than nominal proportion of the trainee's weekly allowance, the committee has endorsed the administration's proposal to begin defraying these costs.

The few remaining provisions of the bill are of a technical or minor nature, and I will only take time at this point to comment upon one of them. That is the provision which authorizes Federal payment of up to 100 percent of the cost of Manpower Development and Training Act projects assigned to private educational and training institutions, even after the 10-percent matching provision becomes effective at the end of fiscal 1966. This provision has been incorporated in the bill because the committee recognized that many States will be very reluctant to put up part of the costs of training projects outside the public vocational school facilities. Yet there are quite a few projects which can be most effectively and rapidly carried out in private institutions. The committee is convinced that it would be undesirable to reduce greatly the participation of well-qualified private institutions in the Manpower Development and Training Act program. For that reason, it has written into the bill this exception to the non-Federal 10-percent mating requirement.

Madam Chairman, I think this is an excellent bill and that its passage will mark an important step toward improving the manpower development and training program and solidly establishing it for the future on a sound, viable basis.

Mr. AYRES. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this has been one of the most constructive pieces of legislation enacted in recent years to assist people in getting gainful employment. Fortunately, it has not been a partisan issue in any way. The subcommittee members and the committee members have worked diligently and have come here today with a bill that both sides agree should be passed. The gentleman from Ohio (Mr. ASHBROOK), the ranking member of the subcommittee, and the gentleman from Minnesota (Mr. QUIE), and the gentleman from New York (Mr. GOODELL) have done a superb job.

It will be recalled that several years ago when many amendments were offered and Mr. GOODELL was active in the legislation at that time it was predicted that this would be one of the most constructive laws in this field. That has proven to be the case.

Madam Chairman, I now yield to the gentleman from Ohio (Mr. ASHBROOK), ranking minority member of the subcommittee, 3 minutes.

Mr. ASHBROOK. Madam Chairman, I rise not to point out any inadequacies in this bill, but to refer to the fact we have a continuing obligation to proceed in the direction this bill indicates. It is important that we continue to perfect this program.

One of the main objections I stressed when this bill originally passed was duplication and a certain amount of overlapping in existing programs. Some of the overlapping is not really significant. To some degree there is overlapping in the existing vocational training program, but this is not an important factor.

One of the areas of overlapping, which was very significant, has been handled by this bill, due to the consideration and study of the gentleman from Michigan, and other members of the committee. That of course is the Area Redevelopment Administration program, commonly called ARA.

I think this is basically a step forward to prevent duplication, to bring existing efforts under one general program. I would point out at the same time that we do have a continuing obligation to incorporate other similar programs into the Manpower Development and Training Act. Again, I know the gentleman from Michigan (Mr. O'HARA) has recognized this and has been very diligent in this field. Even after the enactment of this bill, the improvement of this law, there will still be overlapping in several important areas.

Mr. O'HARA of Michigan. Madam Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield.

Mr. O'HARA of Michigan. I and all the members of the committee are aware of the gentleman's interest in making this more efficient. We share his belief that we ought to consider the entire field of training and we hope to do that in the very near future.

Mr. ASHBROOK. I particularly thank the gentleman from Michigan because this has been one of the most constructive subcommittees I have had the opportunity to serve on. Under the provisions of this bill, the ARA is brought into manpower development training. We do have existing programs which at the present time should be considered, although we are not going to offer amendments to this specific bill.

I read the following from page 127 of the President's manpower report transmitted to the Congress in March of 1965, to give you an idea of the further obligation of our committee in studying these programs:

"It is still too early to evaluate the Economic Opportunity Act programs."

That is the Economic Opportunity Act, the so-called poverty program.

"The law has been in effect only 6 months. By the end of the current fiscal year, these programs are expected to be providing work training for some 200,000 young people."

It can be seen that there is at the present time one basic program which is operating simultaneously with the manpower development and training program. There is also another program which I hope in the future we will consider incorporating in the provisions of the Manpower Development and Training Act. You all recall when we passed the Trade Expansion Act there were provisions for basic training or retraining, as the case might be, where workers were harmed by the effect of imports. This program has not been very fully implemented yet but undoubtedly it will be in the future. It is important, I hope, that we as members of the committee in the further study of this bill will endeavor to incorporate into this act the provisions of the Trade Expansion Act which provide for training in the case of those employees who are hurt by the impact of imports.

I also hope the Economic Opportunity Act provisions providing for retraining can at least be coordinated with this program if they are not, indeed, placed under the efficient leadership that is offered by the Manpower Development and Training Act.

Mr. O'HARA of Michigan. Madam Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. DANIELS).

Mr. DANIELS. Madam Chairman, I want to underscore my support for H.R. 4257 and also focus particular attention on some aspects of the task of manpower training which must be given increased emphasis. The Manpower Development and Training Act has been in operation for 2½ years, and the Nation and thousands of individuals have benefited from its provisions. Nevertheless, the size of the yet unaccomplished task is so great in dimension and in its variety of problems that new and imaginative techniques must be provided to meet the challenge. I call your attention, therefore, to the provision of the bill before us which directs the Manpower Development and Training Act administrators to maintain a much-needed program of research and of experimental and demonstration projects.

Research, experimentation, and demonstration are indispensable adjuncts to an effective Federal manpower training program. The resources of the Departments of Labor, and Health, Education, and Welfare must be combined with those of all community agencies that can contribute innovations to the total training effort on a broad and continuing basis. Much of the experimental and demonstration effort under the Manpower Act thus far has been conducted by the Department of Labor and has been concerned with finding special counseling, testing, and referral techniques. These are vital needs—and there is an equally important need for finding unique training methods that benefit all types of individuals, with diverse backgrounds, in a multitude of occupational areas.

There are groups of individuals who continue to have especially serious employment problems and for whom provisions of the Manpower Development and Training Act and H.R. 4257 are uniquely designed. Manpower Development and Training Act experience has shown that new approaches and methods are required to meet the needs of disadvantaged worker groups, such as the undereducated, the non-English speaking, the migrant workers, out-of-school and out-of-work youths, older workers, minority groups, the physically and mentally handicapped, and others. New approaches are needed to provide jobs and occupational training for the more than a million unemployed workers with less than 8 years of schooling, for older workers who comprise about 40 percent of the long-term unemployed, for the nonwhite workers who have double their proportionate burden of unemployment, for the unskilled and semiskilled workers who account for one-third of the unemployed, and other similarly disadvantaged worker groups.

Progress has been made in alleviating the burdens of unemployment among these severely disadvantaged workers. Up to this time, a limited experimental and demonstration program has been undertaken under title II of the Manpower Development and Training Act. The projects have tested and evaluated new or improved approaches and techniques for testing, counseling, motivating, finding jobs for and training groups of workers with especially difficult employment or training problems. They have arranged for critical supportive social services and supplemental financial assistance in order to prevent dropouts and to insure successful job placement. They have utilized a wide variety of community, educational, employment labor, and local government organizations with special expertise in solving or investigating the problems of the target groups.

By January 1, 1965, over 110 projects, serving some 60,000 individuals had been authorized. The results of some of these projects have already been put to work in improving services to unemployed workers in regular Manpower Development and Training Act operations and in attacking complicated manpower problems.

Nevertheless, the remaining real challenge is that of marshaling additional know-how to cope with the problems of these severely disadvantaged workers. The amendments in H.R. 4257 are pointed toward expanding our tools and facilities for research and experimentation under title I of the act. These will be stepping stones in learning how to treat causes rather than symptoms of our still present manpower problems, and in opening up job opportunities which might otherwise be closed for reasons which may no longer apply.

In H.R. 4257, we now give the experimental and demonstration program the dignity of statutory language to acknowledge its rightful place in the total range of Manpower Development and Training Act activities. Such legislative authority will provide specific impetus for the Secretary of Labor to initiate a wide variety of imaginative and pioneering experimental and demonstration manpower projects to meet the needs and problems of workers, areas, industries, and occupations with severe or unique employment or training problems. This type of pioneering pays for itself many times over by improving regular training projects under the Manpower Development and Training Act and by guiding industries, communities, organizations, and the Nation to the solution of our manpower problems.

In concluding, I would like to call attention to the excellent cooperation of the Departments of Labor and of Health, Education, and Welfare—working closely with public authorities and private groups at the State and local level—in developing new techniques for reaching and training our disadvantaged workers. New methods of training have already been achieved as a result of the individual imagination and ingenuity of vocational educators, in cooperation with public institutions and private business. For example, here in the District of Columbia, private business is providing unique training methods to prepare persons for certain data processing jobs in a relatively short time. I have asked unanimous consent to have placed in the RECORD, at the conclusion of my remarks, a brief description of this and certain other interesting projects that have been developed by vocational educators in cooperation with public employment service officials under the Manpower Development and Training Act.

But these efforts by educators so far are limited in scope. A massive change in training practices can come only through an extensive research experimental and demonstration program, which includes participation by vocational educators who have the responsibility to provide institutional training as well as supplementary or related classroom instruction for on-the-job training.

The amendment to the act expanding the research, experimental, and demonstration program is designed to provide the Secretaries of Labor, and Health, Education, and Welfare with the tools they need to coadminister this important activity and learn more about how to develop and implement effective testing, guidance, counseling, referral, institutional training, on-the-job training, job development, and placement programs.

I am gratified to see this provision in the bill. It would not have been as good a bill without it.

Mr. DENT. Madam Chairman, I would like to say it would be remiss I believe if I did not at this time call to the attention of the Members of the House the fact that late in 1960, after the 1960 elections, my colleague of some 20 years in the State senate and house in Harrisburg, the gentleman from Pittsburgh, Pa., Mr. ELMER HOLLAND, the sponsor of this act, came down to Washington and from November until January worked, after consulting with the then President, the late President John Kennedy, and after talking to the chairman of the House Committee on Education and Labor, the gentleman from New York (Mr. POWELL), he and his good wife came down to Washington and with his wife and his staff, they worked for a period of about 7 weeks in making the preliminary studies and in getting this legislation into a position where it could be introduced.

Madam Chairman, from that time to this the gentleman from Pennsylvania has lived with, he has fought for, and has devoted most of his time in this House of Representatives to this particular subject.

Madam Chairman, it is a tribute to this House of Representatives and to the people of this great Nation of ours that dedicated men like Mr. HOLLAND will take their time and devote their efforts and energies to a field that up until that moment had been completely neglected.

Madam Chairman, I want to say while paying tribute to Mr. HOLLAND that he had in these last months, since he has been ill, the great right hand of the gentleman from Michigan (Mr. O'HARA) who has been stalwart in his support and in his efforts, and the great left hand, as it may be, of the gentleman from New York (Mr. GOODELL), who has also given of his own knowledge that this legislation could continue.

Madam Chairman, we really do not know, unless we live in a district where there has been longtime chronic unemployment and depression, what this particular bill means to the working people of this great Nation who find themselves, through no fault of their own, eliminated from the active work ranks due to their lack of ability to perform because of the lack of skills which they had no opportunity to learn.

Madam Chairman, I want to say that in my opinion this is a great moment in this House of Representatives, that we have again an opportunity to make the necessary amendments in order that this legislation may continue.

Mr. GOODELL. Madam Chairman, will the gentleman yield at that point?

Mr. DENT. Yes, I yield to the gentleman from New York.

Mr. GOODELL. Madam Chairman, I wish to join with the gentleman from Pennsylvania (Mr. DENT) in paying tribute to the gentleman from Pennsylvania (Mr. HOLLAND).

The gentleman from Pennsylvania (Mr. HOLLAND) has taken, from the very beginning with reference to this legislation, a completely nonpartisan view. This illustrates the remarkable stature of the man, that he was willing to accept suggestions and major changes from all sides in an effort to improve the legislation.

Madam Chairman, the history of the enactment of this law demonstrates that it is I believe a monument to every individual who had a part in it, and certainly the gentleman from Pennsylvania (Mr. HOLLAND) himself can take special pride in this as the man who made a major contribution to the enactment of this legislation.

Mr. DENT. On behalf of the gentleman from Pittsburgh (Mr. HOLLAND), I thank the gentleman from New York.

Madam Chairman, in our national effort towards solving the problems of unemployment and underemployment, the Manpower Development and Training Act has proved to be an effective and efficient piece of legislation. Of course, it is only part of the total picture which also includes such important pieces of legislation as the Vocational Education Act of 1963 and the Area Redevelopment Act along with other constructive efforts, such as the poverty program.

According to a recent survey of some 500 economists by the Chase Manhattan Bank of New York, 37 percent of the professors said that unemployment is the main problem of our country. The Manpower Development and Training Act program has proved itself to be worthy of continuation as set out in the measure now before the House. The Manpower Development and Training Act program is, to my way of thinking, exactly like a sharpshooter's rifle. With it we can take an accurate sight on our targets of unemployment and underemployment and, working with the States, bring to bear our joint efforts to use all types of educational institutions, public and private, to train people for jobs.

The Manpower Development and Training Act program does not, in the long run, cost money. Actually, it represents an investment in the future productivity of our citizens. In this day of automation all workers must be prepared for continuing education. No worker can afford to stop learning. Hence, jobs, employment and education are inexorably linked.

According to a recent survey by the well-known pollster, Lou Harris, which appeared in the Washington Post, Thursday, March 25, 1965, financial worries are the toughest problem in securing sufficient education. Of the people polled, 48 percent stated that finances were the main problem.

Madam Chairman, with the help of these 1965 amendments to the Manpower Development and Training Act we can continue to invest in the people of our Nation. An out-

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standing example of such investment was presented to the Holland subcommittee in the course of the hearings on this measure. At an investment of $474.19 per trainee a stenographer program was carried on under contract by the Detroit Institute of Commerce—a private business school. Out of 24 trainees, 20 were Negro and 4 were whites—18 trainees responded to a followup survey showing white-collar employment in such national corporations as: Jones & Laughlin Steel Co.; Prudential Insurance Co.; Vickers, Inc.; Sears, Roebuck & Co.; Ford Motor Co.; Chrysler Corp.; Burroughs Co.; General Motors.

The average earnings of the graduates of this program are $323.72 per month. On the basis of one deduction from a trainee's annual salary of $3,884.64 each of these Manpower Development and Training Act graduates will pay $456.80 in Federal income tax. In other words, the income tax paid in the first year after graduation just about equals the cost of our investment in human productivity and dignity.

Mr. PERKINS. Madam Chairman, I rise in support of this legislation. I happen to represent a district where we have one of the highest unemployment rates in the whole Nation in the coalfields of Kentucky.

I have personally witnessed the great work that the employment opportunities have made available to the many unemployed of eastern Kentucky since the enactment of this legislation a few years ago.

Madam Chairman, I actively supported the passage of the Manpower Development and Training Act in the 87th Congress. For many, it represents a necessary second chance to prepare for job opportunity. For many others, it represents a first chance.

Before the advent of automation it was possible and highly acceptable for the breadwinner to enter a full lifetime occupation requiring little or no basic education or skill. Technology has changed all of that. Until the enactment of the Manpower Development and Training Act, many thousands of unemployed persons in many districts had no opportunity to support their families and at the same time pursue a course of training which would pave the way for them to secure a job.

To say that the Manpower Development and Training Act in its initial years of operation did not measure up to our full expectations is no condemnation of the act nor of its administration. The task ahead is monumental. Much has been accomplished. Much more remains to be done.

Mr. QUIE. Madam Chairman, I yield myself 10 minutes.

Madam Chairman, the economists have disagreed on the persistent cause of unemployment which has prevailed during the last few years. However, there has been very little disagreement among observers of our current market situation that a large number of the unemployed are inadequately prepared to enter the current labor market, particularly in the occupations which have been expanding most rapidly in recent years. Long-term unemployment, that is, continuous unemployment lasting 26 weeks or longer, has averaged half a million a year since 1958, and the number of those unemployed for 15 weeks or longer has been 11 million. Many of them have not been able to return to their industries and occupations. There exists, therefore, a stagnant pool of hundreds of thousands of persons who need new skills and retraining to help them participate in the American economy.

We have heard from the Department of Labor that there are more jobs going unfilled than there are unemployed in the country. We have also heard that when a person begins his occupation in a semiskilled job he can look forward to four or five occupational changes during his lifetime.

As we look at the problem, however, of the unemployed and the fact that there are some adults who can be retrained, there is a necessity to retrain people for employment not only in their own area but there are many individuals who no matter what their training could not find employment in their own area and there is a need for them to learn skills just to find employment elsewhere in the State. Or another factor that is important, they would be required to leave the State to find employment if they are properly skilled. Therefore, the Federal Government becomes involved in this being interested in unemployment and being involved in unemployment compensation.

In 1962 the Manpower Training and Development Act was adopted by the Federal Government to provide assistance and incentive to go into the retraining as we have seen now operating in a number of instances.

This was amended again in 1963 and I believe the work that was done by a number of men who have been mentioned so far today should be mentioned again—the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. Holland], and the work he has done and his closest sidekick in this, the gentleman from Michigan [Mr. O'Hara]. As I mentioned earlier, I think on our side one who provided outstanding changes in the bill and gave great strength is the gentleman from New York [Mr. Goodell].

From this we now see a record in the Manpower Development and Training Act which I think is so good and so well developed that we ought to extend the act and make some changes in the act as we are providing in this legislation. Whatever its shortcomings, it emphatically is not merely another Federal welfare or handout program designed to relieve without curing some of the more unsightly and superficial aspects of poverty and despair resulting from being continuously out of work. Its purpose rather is to provide effective means for dealing successfully with, and eventually eliminating the basic causes of such unemployment.

It should not be forgotten that a concern by the Federal Government for improving the productive skills of our people did not originate in 1962 with the passage of the Manpower Development and Training Act. It has a much longer history.

The Federal Government manifested its concern almost 50 years ago by enacting the Smith-Hughes Vocational Education Act in 1917. This legislation provided for the Government to share part of the costs involved in meeting labor market demands for skills which were felt to be in short supply. During the following half-century, Federal aid for vocational education was expanded on several occasions in the George-Barden Act of 1946, title VIII of the National Defense Education Act, the Vocational Education Act of 1963, the Area Redevelopment Act, and the legislation which we are here proposing to amend.

In 1963, some 4 million youngsters and adults participated in the federally supported vocational education programs. However, this seemingly impressive total vastly exaggerates the real contributions of traditional vocational education to the acquisition of sorely needed skills. These federally supported programs of vocational education have tended to emphasize such activities as home economics and training for agricultural occupations. In fact, these two areas alone accounted for about two-thirds of all of the enrollees in the entire program.

The Manpower Development and Training Act constituted a new departure—an attempt to grapple with the unmet manpower needs of a highly complex and rapidly changing technical economy while simultaneously providing a hope of reabsorption into the productive life of the Nation for those whose skills had become obsolete or whose occupations had vanished.

The program has been in existence for less than 3 years. It is much too early to express any definitive conclusions about its effectiveness. But there is sufficient evidence to indicate that the prospects are hopeful and that many of those who are receiving training under the act are succeeding in finding jobs in which their newly acquired skills are being utilized. I regret that the committee report did not contain more information in the form of specific examples of what has been accomplished since the original enactment of the law in 1962.

However, shortly after the report was filed, an event occurred which not only constitutes a substantial contribution to the success of the program, but is a manifestation that important segments of American industry are eager to cooperate. I refer to the job-training contract entered into between the Government and Chrysler Corp. I would like to quote from the news story concerning this development which appeared in the Daily Labor Report published by the Bureau of National Affairs on March 18, 1965:

"The largest Federal on-the-job training program negotiated to date is announced by Labor Secretary Wirtz and Commerce Secretary Connor recently directed by the President to administer the job development program in the service industries.

"The new program begins with a contract between the Government and Chrysler Corp. to train 1,000 previously unemployed workers as automobile mechanics and auto-body repairmen while they are on the job at Chrysler dealerships on a starting wage of about $1.50 an hour, the announcement states.

"The contract was signed by Chrysler President Lynn A. Townsend and the two Cabinet members in a ceremony in Wirtz' office.

"The initial contract is expected to continue at least 3 years and to include another 1,000 workers later. The cost of the first phase is $7,850,000, of which the company and its 6,300 dealers will contribute $6,463,000. The Government will contribute the remainder.

"Wirtz terms this agreement, under the Manpower Development and Training Act, 'one of the most significant developments to date in the growth of the job development program.'

"The program will begin among dealers in Chrysler's Detroit, Cleveland, Pittsburgh, and Cincinnati sales regions. It will be expanded later to include dealers in regions such as New York City, Philadelphia, Atlanta, Chicago, Kansas City, Los Angeles, and Portland, Oreg.

"The trainees will be employees of franchised dealers. Any union relationship this may involve will be a local matter between the dealer and any local bargaining unit to which his employees may belong.

"Three unions are said to have some dealers' mechanics organized in major cities: the Auto Workers, the Machinists, and the Teamsters.

"The average hourly wage rate for journeymen mechanics with Chrysler dealers is about $3 in most areas, the Wirtz-Connor announcement states.

"The length of the training courses will vary from place to place, as worked out with individual dealers, and may be as long as 3 years, according to a Labor Department spokesman.

"Local offices of the Employment Service will screen and test the jobless workers applying for the training. The Wirtz-Connor announcement adds:

"'Once selected by local Chrysler Motors dealers, individual workers will be employed on a full-time basis, but will also receive additional nighttime instruction in automotive repair at local vocational educational facilities. Needed equipment at such facilities will come directly from Chrysler, and from funds allocated by the Department of Health, Education, and Welfare. That allocation will also include the cost of nighttime supplemental instruction to trainees.'

"Secretary Connor has these prepared comments about the new program:

"'This administration is convinced that the best way to provide job training as a means of generating increased employment for young and old is through the normal channels of the private enterprise system. It is now possible, under the Manpower Development and Training Act, for private industry and the Federal Government to work together to provide training in a normal working environment and on a scale big enough to be meaningful.

"'I want to express our appreciation to the Chrysler Corp. for responding so quickly and affirmatively to President Johnson's call for a job development program to enlarge economic opportunities for our citizens.'

"Secretary Wirtz adds:

"'The purpose of that program is to enable unemployed and underemployed workers to capitalize upon the evident job opportunities in many service and service-related fields. We are now producing automobiles at a rate that taxes our ability to provide trained personnel to service them. Some suggestion of this demand is found in the fact that courses in auto repair have consistently outpaced those for any other occupation for male trainees under the Manpower Development and Training Act.

"'The participation of the Chrysler Corp. in this project may be regarded as a sign of the increasing interest in expanding job opportunity in the service industry, and filling immediate unmet needs, by major American employers. As such, this contract is to be doubly welcomed.'"

Madam Chairman, I am particularly impressed by the overwhelmingly huge proportion of the cost of the project's first phase which the employer, Chrysler Corp., has agreed to assume. Its share will be more than 80 percent, that of the Federal Government less than 20 percent. And that division of responsibility, which I think a highly desirable one, calls attention to one aspect of the amendments made by the committee bill which troubles me a little.

The Manpower Development and Training Act as written when it first became law in 1962, provided that before the act expired, the States were to make substantial matching contributions as a condition to receiving Federal funds during the last years of the program. Unfortunately very few of the States acted to assume their proper responsibilities. As a result, the law was amended in 1963 and the practical effect of the 1963 amendments was to relieve the States of any obligation to make any financial contribution whatsoever for the life of the statute.

The committee bill, as originally introduced in the present Congress, realistically faced the problem created by the apparent apathy of the States, and in extending the program, among other things it substantially reduced the matching requirements for the States. The bill provided that the Federal Government was to bear 90 percent, the States only 10 percent, of the costs of the various training projects and programs set up under the act. However, during the hearings, most of the witnesses testified in favor of eliminating all matching requirements and having the Federal Government assume the financing of the entire cost of the program.

A small number of witnesses, among them Prof. Richard Lester, of Princeton University, remommended that the 10-percent matching requirement should be retained. Professor Lester felt that it was desirable to give the States a sense of concrete participation in the program which would carry with it a sense of responsibility on the part of the States for the success of the program. The subcommittee decided, however, to eliminate the matching requirements in toto. This troubled me, and for precisely the reasons described by Professor Lester.

As a result, I discussed the matter with the acting chairman of the subcommittee, the gentleman from Michigan [Mr. O'Hara], and it was agreed that in the full committee I would offer an amendment to retain some element of matching and that the acting subcommittee chairman would support the amendment.

My amendment provides for the retention of some element of financial participation by the States. It is a compromise between what the bill originally proposed and the subcommittee's decision to eliminate the matching requirements entirely. It requires the States to contribute 10 percent of the costs of training programs, but relieves them of any obligation to bear any of the costs of the living allowances paid to trainees. These are borne entirely by the Federal Government. The full committee accepted my amendment and it is included in the bill as reported.

I regret that the States have not shown the willingness of a large private enterprise like Chrysler Corp. to assume more of the financial burden of the program; and this despite the fact that the contributions originally asked of them were so much smaller in proportion. However, Chrysler's willingness to cooperate bodes well for the future of the program.

I think that the amendments made by the committee bill are justified despite the briefness of the experience we have had with the act. The general summary of the results of the program to date, set forth on page 3 of the report are most heartening. But I do wish to express the hope that after we have learned more about the results of the program as time goes by, we will give more thought to possible changes in the law to encourage an even greater degree of participation by private industry of which the Chrysler Corp. project is so striking an example.

After all, what we are trying to do is effectively to meet the manpower needs of our rapidly changing economy. The achievement of this goal is just as important to American enterprise as self-respect through productive employment is to our unemployed and to the health of American society as a whole. I can think of none who are better qualified to see, yes to foresee, the labor needs of our productive system. But even self-interest sometimes requires an additional stimulus, and often requires material help. I look forward to possible future amendments in the manpower program which will provide real incentive to private industry in the form, perhaps, of tax credits or deductions. The possibilities are many, and I sincerely hope that the Congress will give them its serious attention as the manpower program develops.

Mr. TALCOTT. Madam Chairman, I have asked for this time for the purpose of directing two questions to the gentleman from Michigan [Mr. O'Hara].

I take it that one of the purposes of this bill—and I support the principle of the bill—is that we have some 4 million unemployed people in this country, and in other areas we have job opportunities that are not filled because people are not trained to perform them.

I happen to think that the farm labor situation is one of those areas. In my area we have a great demand for farm labor, particularly stoop labor, and yet there are no domestic workers who are willing or able to fulfill these jobs.

Will this Manpower Training Act supply training for this type worker?

Mr. O'HARA of Michigan. If the gentleman will yield, agricultural workers have been trained under this program. There is nothing in these amendments that would reduce or prevent further training of agricultural workers under this program. However, we expect the Department to exercise judgment on these matters and train people for jobs that will provide them with a more or less steady source of income.

If any agricultural job meets that requirement we would expect the Department to train people, and we hope they will.

Mr. HATHAWAY. Madam Chairman, I would like to take this opportunity to commend the Departments of Labor, and Health, Education, and Welfare, for their administration of the Manpower Development and Training Act over the past 2½ years. Within the limits imposed by the legislation itself, they have provided training, and new hope to thousands of formerly unemployed Americans.

On the basis of working with the Manpower Development and Training Act, the Departments made recommendations to this Congress for amendments to strengthen the act. The Holland subcommittee, under the able leadership of the gentleman from Michigan, Acting Chairman O'HARA, carefully considered the Departments' recommendations, presented their suggestions to the full Education and Labor Committee, and the full committee now asks all Representatives to further their commitment to provide training to the unfortunate unemployed in our Nation.

One of the changes contained in this Manpower Act of 1965, the amendments to the Manpower Development and Training Act, concerns the length of training.

Although there is, theoretically, no limit to the length of training courses, they are practically limited by the length of time a trainee may receive training allowances. For the training allowance often means the difference between being able to stay in the course or being forced to drop the course and accept any job, just for a little money.

The amendments we are considering here today include a provision to allow a trainee to receive allowances for 104 weeks, rather than the present 52- or 72-week limit. We are, in effect, asking for the right to conduct courses for up to 2 years under the Manpower Development and Training Act.

It should be made clear that a statutory increase to 104 weeks of training under the Manpower Development and Training Act would not mean that many courses would actually run that long; just as many courses do not now run the full 52 weeks, or 72 weeks with basic education. But it would allow the administrators enough flexibility to provide courses of the 104-week length where they are required; and they are required in some cases.

Essentially, there are two kinds of courses which require a longer training period.

The first involves those people who do not have enough basic education to enable them to absorb the occupational training itself, so that it is necessary to provide them with some basic education either before they begin job training or concurrently with it. Such additional basic education necessarily extends the total time necessary to prepare a trainee for employment.

This is particularly important for those Manpower Development and Training Act trainees—nearly half of all trainees—who come from the rank of the hard-core unemployed. These disadvantaged people, many of whom are many years away from high school or any kind of school situation, need more time to absorb both the preoccupational and occupational training.

The second kind of course which requires more than the present 52 weeks of training involves certain more highly skilled jobs. Many technical jobs which are a product of our increasingly automated society cannot be learned in just 1 year.

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In connection with this kind of training, it should be noted that graduates of these highly skilled training programs are usually more readily placed in jobs than those with semiskilled and minimum-skilled training.

I am asking that we give the administrators of this important training program, who have proved themselves in the past 2½ years, the flexibility to provide the most meaningful training in every situation. As they have not abused the present limitations, we can all be assured that they will not abuse the new limitation.

Our first commitment and thought must be to aiding as many unemployed persons as possible. The Manpower Development and Training Act is an important facet of our overall educational program. Its improvement deserves our support.

Mr. O'HARA of Michigan. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Pucinski).

Mr. PUCINSKI. Madam Chairman, I rise in support of H.R. 4257. I consider it a privilege to serve on the subcommittee that drafted this legislation and reported it to the full committee and to the House. It is gratifying to see support from both sides of the aisle for this important legislation, and the amendments that are proposed today. The Manpower Retraining Act will undoubtedly go down in history as one of the most important pieces of legislation ever approved by the Congress. I know of no greater waste of human resources in this country than an unemployed American. Unemployment erodes his self-respect; crushes his dignity. It costs the community vast sums of money which must be spent to provide assistance to him and to his family. And finally, Madam Chairman, prolonged unemployment tends to shatter the unfortunate worker's confidence in our economic system.

This bill is designed to help retrain those Americans who for various reasons are unemployed; people who had been dislocated by automation; people who had been layed off because their plant moved to another area of the country, and for various other reasons. This bill also is designed to help those young Americans who for various reasons, in many instances because they dropped out of school prematurely, are not qualified or prepared to gain employment.

On all fronts this legislation has indeed proved its merit and worth. It has worked extremely well in Chicago. If the people of this country could see how much money we actually are saving the taxpayers of America by retraining these unemployed Americans for employment, they would realize the full significance of this bill.

Madam Chairman, in rising in support of this legislation, I should like to recall one brief anecdote of an experience I had in Chicago. We had an American father of a family of five children, married, unemployed for several years, not that he wanted to be unemployed but he was unemployed because he could not find work because he was unqualified for any decent work. This family was costing the taxpayers of Chicago some $270 per month for welfare benefits. This had been going on for many months.

Finally this man enrolled in the manpower retraining program, and we took this fellow and trained him to be a chef. It took 8 months to complete the job. He did his studies well. He is now a good chef and is earning $350 a month. The taxpayers of Chicago are spared the expense of providing $270 a month in relief for himself and his family.

I recently had an opportunity to talk to him and he said, "Mister, you don't know how wonderful it feels to come home and be greeted by my children as a breadwinner instead of a reliefer."

This is one benefit that could not be defined in terms of dollars and cents, but this is one illustration of what is happening all over America.

The Secretary of Labor today announced that our unemployed have reached the lowest percentage in the past decade. Our ratio of unemployed today stands at 4.7 percent. This impressive reduction certainly reflects the people who are being retrained under the bill and put to work.

It is clear now that there will be full employment opportunity for every American citizen only if two policies are pursued:

First, the economic policy of promoting that degree of overall economic growth which will produce the demand for enough work to occupy the full work force;

Second, the manpower policy of matching people and jobs, of supplying the manpower needs that develop, of getting people into the jobs that exist—or can be developed.

The Manpower Development and Training Act has been carefully designed to enable us to carry out successfully the second of these policies that I have just described.

One of the unique and most important features of the Manpower Development and Training Act is its provision for income maintenance for unemployed individuals undertaking occupational training under title II. We can thank the 87th Congress for its foresight in introducing this provision into our body of Federal manpower legislation—a provision which permits literally thousands of individuals to take advantage of training which would otherwise be beyond their reach. The amount of the basic training allowance is small indeed. Nevertheless, it often spells the difference between having basic living support and no support—between training for a job and not training. Often, however, it has not been enough to permit an individual to enroll in a Manpower Development and Training Act training course—or to remain in training once begun.

In 1963, the Congress provided some extension of income maintenance benefits for the Manpower Development and Training Act trainees. Now, H.R. 4257 proposes other amendments to the allowance provisions to bring benefits more in line with the needs of the individuals for whom the act is intended. These amendments generally mean a broader scope of allowance payments available to more unemployed persons.

One step in this direction is the proposed amendment to allow more than one member of a family to receive a training allowance. Another is to provide increased allowances for workers with large families. Removal of the present provision that not more than one person in any one household may be receiving training allowances at any particular time permits training opportunities to be extended to several members of families living at very low income levels. Nine and one-half million families—one out of five in the United States—live in poverty. Of these, 6½ million have one or more wage earners, and over 2 million have two or more workers. For them, economic growth alone will provide relatively few escapes from poverty.

We must focus on the handicaps that deny these workers a fair access to the expanding income of a growing economy. The single greatest hope of escaping substandard living conditions for the adult workers in these families is attaining a vocational skill. Although we may not be able to provide training opportunities for every unemployed member in these families, we will be able to improve the situation in some of the more severely impoverished family units.

The proposed dependency allowances—increase of an additional $5 per week for each dependent over two up to a maximum of four additional dependents—are necessary because of the pressures of heavy family responsibilities of family heads. Over 25 percent of the Manpower Development and Training Act trainees have three or more dependents, and one in six have five or more dependents. The regular weekly training allowances now payable in the 50 States range from a low of $24 to a high of $44 per week, with some trainees drawing up to an additional $10 as provided by the 1963 Manpower Development and Training Act amendments. Much of the training is done in States paying the lower allowances, and it is obvious that a family of five or more persons cannot live on these low levels of income. Increased benefits in increments geared to family responsibilities is a must, in order to enable some individuals to enter training and to give them some of the wherewithal to remain in training until they are equipped with a skill for suitable full-time employment.

A further improvement contained in H.R. 4257 recognizes the financial needs of single adult trainees without dependents. Heretofore, one eligibility requirement for allowances has been that the trainee be either the head of a family or the head of a household. These definitions, however, excluded the single adult worker—the unmarried man or woman, the widow, and the widower who had no dependents. Nevertheless, their living expenses—rent, utilities, grocery bills, carfare, and the like—continued, and often have prevented them from accepting training opportunities for purely financial reasons. This inequity in the eligibility requirement for training allowances would be removed by the amendments in H.R. 4257.

The provision for payment of daily transportation allowances is recommended because of the financial hardships many trainees encounter in merely commuting between their home and the training facility. The cost of transportation is generally high in relation to the amount of the weekly training allowance, and can absorb a disproportionate amount of the trainee's weekly income for living expenses. The employed worker can afford to pay commuting costs because his salary is adequate to meet them. The average weekly wage in manufacturing is now over $100, but the average trainee receives an allowance much less than one-half of this amount. Obviously, it is only equitable to help those who are motivated enough to enter and persist in training by covering the transportation costs that training involves.

Madam Chairman, I have highlighted some of the more significant provisions in H.R. 4257, because of their importance in providing the type of income maintenance needed to assist individuals to participate in the benefits of the Manpower Development and Training Act. I hope that these improvements will reduce considerably the extent of dropouts because of financial burdens from family responsibilities, and allow individuals to train for full-time suitable employment. The Manpower Development and Training Act has passed through the initial testing stage of an infant program with so much distinction and accomplishment that I urge each Member of the House to give favorable consideration to the changes in allowance provisions and the many other improvements in the Manpower Act of 1965.

Mr. RHODES of Arizona. Madam Chairman, as chairman of the Republican policy committee I rise in support of H.R. 4257.

The concept of manpower development through retraining is a basic tenet of the Republican Party. The Manpower Development Act of 1962, was Republican drafted and Republican supported.

One of the Republican concepts included in the original bill was the requirement for a Federal-State partnership achieved through the medium of matching funds. Under the original act the States were required to provide matching funds in the amount of 50 percent. And this was reduced to 33⅓ percent in 1963.

This bill reduces this requirement still

tence thereof the following new sentence: "The Congress further finds that, because of reductions in, or changes in the nature, kind, or extent of, national defense and other industrial activities, many professional employees have become unemployed, and because of the specialized nature of their previous employment, are in need of refresher or reorientation educational courses in order to become qualified for other employment in their professions."

SEC. 3. (a) Section 102(5) of the Manpower Development and Training Act, as amended (hereinafter referred to as the "Act"), is amended by adding a comma after the word "arrange" and inserting "through grants or contracts," immediately following the comma.

(b) Section 102 of the Act is further amended by adding new paragraph (6) at the end thereof to read as follows:

"(6) establish a program of experimental developmental, demonstration, and pilot projects, through grants with public or private nonprofit agencies or contracts with public or any appropriate private agency, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems of worker groups such as the long-term unemployed, disadvantaged youth, displaced older workers, the handicapped, members of minority groups, and other similar groups. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education, and Welfare, and Commerce, and the Director of the Office of Economic Opportunity. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare. He shall also seek the advice of consultants with respect to the standards governing the adequacy and design of proposals, the ability of applicants, and the priority of projects in meeting the objectives of the Act;

SEC. 4. Sections 103 and 104 are renumbered 106 and 107, and new sections 103, 104, and 105 are added, to read as follows:

"JOB DEVELOPMENT PROGRAMS

"SEC. 103. The Secretary of Labor shall stimulate and assist, in cooperation with interested agencies both public and private, job development programs, through on-the-job training and other suitable methods, that will serve to expand employment by the filling of those service and related needs which are not now being met because of lack of trained workers or other reasons affecting employment or opportunities for employment.

"LABOR MOBILITY DEMONSTRATION PROJECTS

"SEC. 104. (a) During the period ending June 30, 1967, the Secretary of Labor shall develop and carry out, in a limited number of geographical areas, pilot projects designed to assess or demonstrate the effectiveness in reducing unemployment of progams to increase the mobility of unemployed workers by providing assistance to meet their relocation expenses. In carrying out such projects the Secretary may provide such assistance, in the form of grants or loans, or both, only to involuntarily unemployed individuals who cannot reasonably be expected to secure full-time employment in the community in which they reside, have bona fide offers of employment (other than temporary or seasonal employment), and are deemed qualified to perform the work for which they are being employed.

"(b) Loans or grants provided under this section shall be subject to such terms and conditions as the Secretary shall prescribe, with loans subject to the following limitations:

"(1) there is reasonable assurance of repayment of the loan;

"(2) the credit is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

"(3) the amount of the loan, together with other funds available, is adequate to assure achievement of the purposes for which the loan is made;

"(4) the loan bears interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purposes; and

"(5) the loan is repayable within not more than ten years.

"(c) Of the funds appropriated for a fiscal year to carry out this Act, not more than $5,000,000 may be used for the purposes of this section.

"TRAINEE PLACEMENT ASSISTANCE DEMONSTRATION PROJECTS

"SEC. 105. During the period ending June 30, 1967, the Secretary shall develop and carry out experimental and demonstration projects to assist in the placement of persons seeking employment through a public employment office who have successfully completed or participated in a federally assisted or financed training, counseling, work training, or work experience program and who, after appropriate counseling, have been found by the Secretary to be qualified and suitable for the employment in question, but to whom employment is or may be denied for reasons other than ability to perform, including difficulty in security bonds for indemnifying their employers against loss from the infidelity, dishonesty, or default of such persons. In carrying out these projects the Secretary may make payments to or contracts with employers or institutions authorized to indemnify employers against such losses. Of the funds appropriated for fiscal years ending June 30, 1966, and June 30, 1967, not more than $200,000 and $300,000, respectively, may be used for the purpose of carrying out this section."

SEC. 5. Section 202(1) of the Act is amended by striking the words "and such persons shall be eligible for training allowances for not to exceed an additional twenty weeks", and by changing the comma after the word "Act" to a period.

SEC. 6. (a) Section 203(a) of the Act is amended as follows:

(1) Amend the second sentence thereof to read as follows: "Such payments shall be made for a period not exceeding one hundred and four weeks, and the basic amount of any such payment in any week for persons undergoing training, including uncompensated employer-provided training, shall not exceed $10 more than the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available: *Provided*, That the basic amount of such payments may be increased by $5 a week for each dependent over two up to a maximum of four additional dependents: *Provided further*, That in any week an individual who, but for his training would be entitled to unemployment compensation in excess of his total allowance, including payments for dependents, shall receive an allowance increased by the amount of such excess.";

(2) Amend the second paragraph thereof to read as follows:

"With respect to any week for which a person receives unemployment compensation under title XV of the Social Security Act or any other Federal or State unemployment compensation law which is less than the total training allowance, including payments for dependents, provided for by the preceding paragraph, a supplemental training allowance may be paid to a person eligible for a training allowance under this Act. The supplemental training allowance shall not exceed the difference between his unemployment compensation and the training allowance provided by the preceding paragraph.";

(3) Insert the words "under the training program" after "compensated hours per week" in the third paragraph of such subsection;

(4) In lieu of the fourth paragraph of such subsection insert the following:

"The training allowance of a person engaged in training under section 204 or 231 shall not be reduced on account of employment (other than employment under an on-the-job training program under section 204) which does not exceed twenty hours per week, but shall be reduced in an amount equal to his full earnings for hours worked in excess of twenty hours per week.

(b) Section 203(b) of the Act is amended as follows:

(1) Insert a comma after the word "transportation" where it first occurs, strike out the language after that word and before the word "*Provided*" and insert the following in lieu thereof: "and when such training is provided in facilities which are not within commuting distance of the trainee's regular place of residence, subsistence expenses for separate maintenance of the trainee:";

(2) Change the period at the end of section 203(b) to a comma and insert the following immediately thereafter: "except that in noncontiguous States and in areas outside the continental United States where the per diem allowance prescribed under section 836 of title 5, United States Code, exceeds the maximum per diem allowance prescribed under that section for contiguous States, the Secretary may provide for a reasonable increase in the transportation and subsistence expenses in such amounts as he may deem necesasry to carry out the purposes of this Act, and subject to such limitations as he may prescribe."

(c) Section 203(c) of the Act is amended as follows:

(1) Strike the words "not less than" and insert "at least" in lieu thereof;

(2) Insert a colon after the words "gainful employment", strike everything in the first sentence after the words "gainful employment", and insert the following in lieu thereof: "*Provided*, That he shall not pay training allowances to members of a family or a household in which the head of the family or the head of the household as defined in the Internal Revenue Code of 1954 is employed, unless the Secretary determines that such payments are necessary in order for the trainees to undertake or to continue training: *Provided further*, That no allowances shall be paid to any member of a family or household if the Secretary of Labor determines that the head of such family or household has terminated his employment for the purpose of qualifying such member for training allowances under this section.";

(3) Amend the last sentence to read as follows: "The number of youths under the age of twenty-two who are receiving training allowances (or who would be entitled thereto but for the receipt of unemployment compensation) shall, except for such adjustments as may be necessary for effective management of programs under this section, not exceed 25 per centum of all persons receiving such allowance (or who would be entitled thereto but for the receipt of unemployment compensation). The Secretary of Labor may authorize continued payments of allowances to any youth who becomes twenty-two years

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In connection with this kind of training, it should be noted that graduates of these highly skilled training programs are usually more readily placed in jobs than those with semiskilled and minimum-skilled training.

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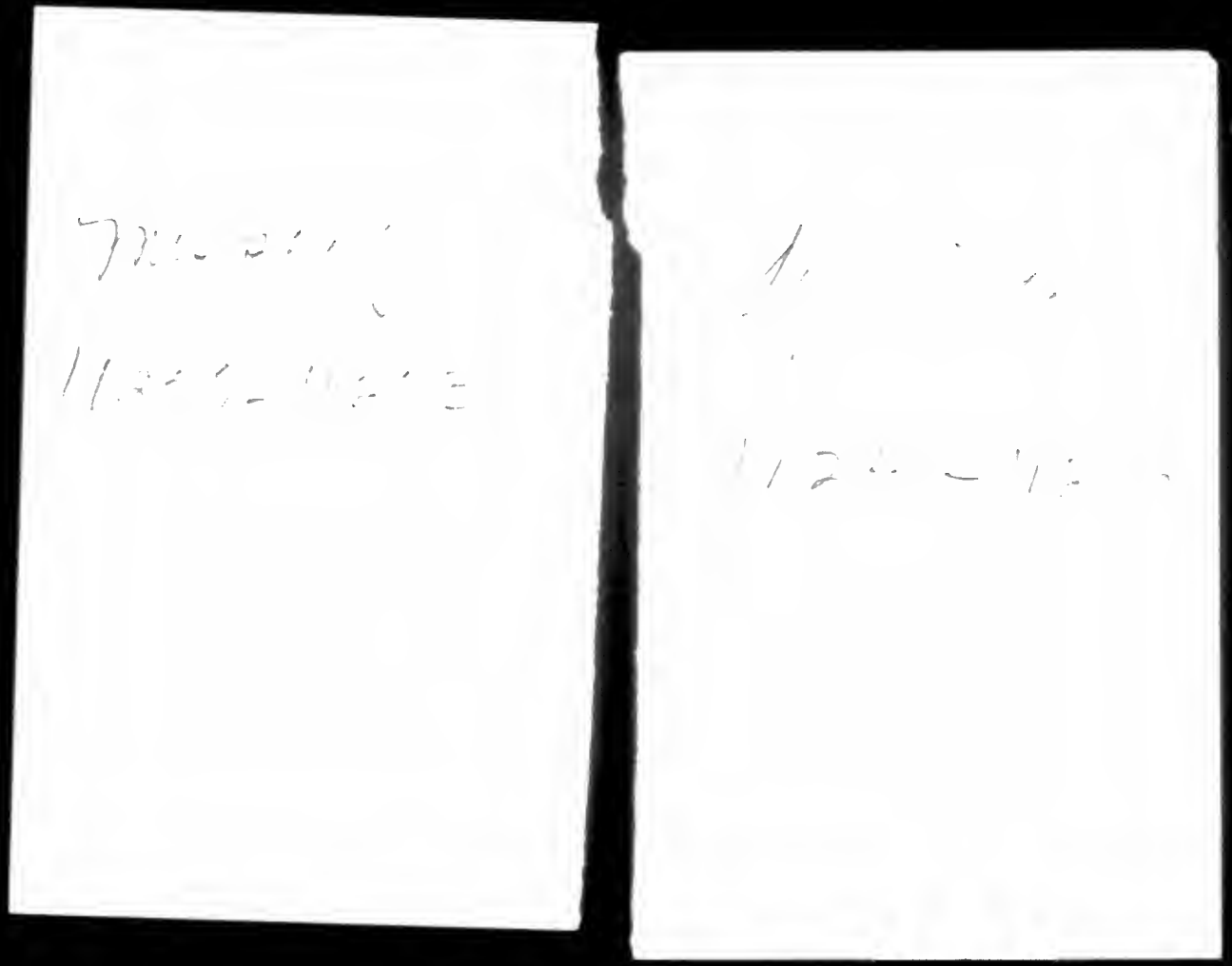

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Mr. Speaker, section 5(a) of this bill should, when it becomes law, remove any doubts as to the propriety of utilizing qualified and available institutions outside the regular public vocational education structure. This act, we ought to remember, was not designed as an "aid to vocational education" act. It was designed and intended to make it possible to train people in new skills. The source of that training ought to be a secondary consideration, and ought to be determined entirely on a basis of what will get the training underway most rapidly and provide the best training. If public vocational schools are able to cooperate in a timely and effective manner, they should be used. If private trade schools are, in a given situation, better able to meet the needs of the trainees and of the program, then they should be utilized. The private institutions have performed splendidly so far, and under the terms of section 5(a), it is my hope, the Department of Health, Education, and Welfare will feel even more free to use their resources wherever it is appropriate and wherever it will accomplish the fundamental purpose of the act—to get workers retrained.

I urge passage of this bill.

Mr. BENNETT. Mr. Speaker, I want to express my deep appreciation to the Select Subcommittee on Labor for allowing me to testify in the hearings on amendments to the Manpower Development and Training Act. I warmly thank and commend the committee for including in section 6 of its omnibus bill the provisions of my bill H.R. 16116, to develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions. I will restrict my remarks to section 6 since I am most familiar with the problem to which this section relates.

The basic tool in the rehabilitation of criminals is education, and a discharged prisoner without the knowledge and training to earn an honest living will probably soon be in criminal trouble again. This is a tragedy to him and very expensive to society. Of particular importance is training for the types of jobs where there is at the same time a shortage of manpower.

With crime costing our country $27 billion annually, we must do all we can to deter lawbreaking and to train the lawbreaker to live a responsible life in society.

As I pointed out in my testimony before the Select Subcommittee on Labor, it is estimated that 50 percent of released Federal and State prisoners resort to recidivism, a falling back into prior criminal habits. This percentage can be greatly reduced by adequate preparation for self-support when the prisoner is released.

To attack this problem I first introduced H.R. 14341, which was drafted with the help of many corrections officials and the Department of Labor, and would have established a sweeping program in the field of vocational training and basic education in correctional institutions on the Federal, State, and local level. Although the Department of Labor has no objection to such a broad program they feel more experimentation is needed before such should be attempted. It is for this reason that I submitted to the committee a new bill, the provisions of which are included in the bill now under consideration, which would limit the scope of the program in correctional institutions to experimentation and demonstration programs. It is, of course, a much less expensive program than the one originally envisioned.

This section of the bill will be a forward step in the anticrime fight, and I am glad to see the committee has seen fit to include this in the bill now before us.

Mr. HATHAWAY. Mr. Speaker, I add my support to the comments already made on behalf of H.R. 16715, the Manpower Development and Training Act Amendments of 1966. As the gentleman from Michigan (Mr. O'HARA) has already pointed out, this bill really began with contributions from a number of Members of the House. Section 4(a)(2) constitutes my own contribution to this legislation, which originated as H.R. 15467. Simply stated, my bill, and the related provision in this bill, were an effort to make it easier for young people to avail themselves of the Manpower Development and Training Act training if they have, for some reason which cannot easily be remedied, dropped out of school.

The existing law envisions admitting such people to the Manpower Development and Training Act training, but requires that a year elapse between their leaving school and their eligibility for a training allowance, and also requires that every conceivable effort be made to get them back into school.

No one, Mr. Speaker, objects to making such efforts. Counseling, guidance, and all of the persuasive talents of which the society is possessed ought to be utilized to get school-aged dropouts back into school. It is where they belong, and where they, in my judgment, can best be served. But there are cases where this is simply not possible. Young people perhaps rashly, get married. Young people, tragically, may have to support parents. Young people, for reasons which only the experts can even begin to understand, may find themselves totally unable to profit from an orthodox school environment. In these cases, where the best efforts to get them back into the classroom have failed, it seems to me that it should not be necessary to wait a year before the Manpower Development and Training Act training, if it is what they ought to have, can begin, and training allowances begin, as well.

It is not my intention, and, I believe, not the intention of the committee, that this provision should be used as an easy escape valve for those who can profit from regualr schooling, but want to make a quick buck instead.

I believe firmly that the requirement that the Secretary be certain—I emphasize the word "certain"—that the young man or woman cannot usefully return to the regular school system, should be fully complied with. But when it is complied with, let us not then wait 6 or 8 or 10 months before trying to see if that same young man or woman can benefit from the Manpower Development and Training Act training.

I support, of course, the remainder of H.R. 16715. These amendments to the act are as the gentleman from Michigan has indicated, not monumental in their effect, but they are useful, and they serve the important purpose of maintaining the flexibility of an important part of our national machinery for coping with the economic and with the human problems of our growing and changing economy.

The SPEAKER. The question is on the motion of the gentleman from New York (Mr. POWELL) that the House suspend the rules and pass the bill H.R. 16715.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

For text, see P.L. 89–792, below.

[Senate, Oct. 13, 1966]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, and that the Senate turn to the consideration of Calendar No. 1680, H.R. 16715.

The PRESIDING OFFICER (Mr. PELL in the chair). Without objection, the pending business will be laid aside temporarily.

The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 16715) to amend the Manpower Development and Training Act of 1962.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, this measure was reported favorably, and I believe unanimously, by the Committee on Labor and Public Welfare.

When the Manpower Development and Training Act was passed in 1962, it was designed primarily to deal with the problems faced by the experienced worker who had been or was about to be displaced by technological or other economic change.

The changes that have subsequently occurred in the Nation's economy, notably the substantial reduction in the unemployment rate, have required a corresponding evolution in the emphasis and direction of the training and research programs provided by the act.

The 1966 amendments to Manpower Development and Training Act do not alter the basic objectives of the act. But they do provide a needed flexibility to its program and its administration which will permit a more effective effort in dealing with the manpower problems of the Nation in the last half of this decade—problems of the disadvantaged and the hard-core unemployed and the growing problem of skill shortages in some areas and some occupations.

From its enactment in 1962, the Congress has looked upon the Manpower Development and Training Act not as a static or fixed statute but as a living, changing law—always responsive to manpower problems as they emerge. New pathways to employment, new patterns of training have developed from the constant search for better ways of fulfilling the legislation's mandate. The support for this flexible and versatile approach is evidenced by our action in enacting amendments in 1963 and 1965, with large majorities, and by now again proposing a variety of legislative changes to make this an even more effective manpower development and training program.

The rapid change in the nation's economic climate underscores the need for flexibility. The Manpower Development and Training Act, at its conception, was an emblem of the effort to reduce high unemployment rates and soften the impact of a fast-growing labor force in a time of rapid technological change. Yet, at a time when unemployment has moved below 4 percent, the striking relevance of the law has been sustained. What might have been considered in its initial stages as an antiemployment device, a mechanism whereby the unemployed could move into jobs, serves equally well in a period of economic expansion as an instrument for meeting skill shortages and for increasing the quality of skills in the labor force.

H.R. 16715 passed the House on September 19 by a voice vote under suspension of the rules. It will help perfect the act and will not require additional appropriations. That it received total bipartisan support in committee and on the floor is evidenced by the speech of Representative Quie, Republican, of Minnesota:

"I believe the changes are well drawn. The Members on our side of the aisle gave complete and wholehearted support to this legislation. There is no controversy in connection with it. Rather than take any more of the time of the House, I will just say that we will give wholehearted and complete support to it. We look forward to the development of further studies of manpower training in order that we can reach all of the people who have the capability but not the skills to hold down the job which everyone needs in order to have an adequate income."

Mr. Ayres, senior Republican on the House Committee on Education and Labor, seconded this sentiment:

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"I strongly support this legislation, because I feel that it strengthens the Manpower Development and Training Act in several essential respects. One significant omission in the existing law is the lack of any training program for older workers. The bill we are considering corrects this omission.

"I wish to commend the members of the subcommittee for the excellent work they have done in developing this proposal. . . . I hope the House will give its overwhelming approval to the bill."

The House bill was unanimously approved, without amendment, by the subcommittee and the full Committee on Labor and Public Welfare. The major provisions of the bill would—

First. Direct the establishment of special programs of testing, counseling, selection and referral of older workers for training and other programs.

Second. Authorize the Secretary of Labor to provide experimental programs of part-time training for workers in areas where there are critical skill shortages.

Third. Authorize experimental programs of training and education for inmates of correctional institutions.

There are a number of other provisions, whose explanation and justification can be found on pages 28–32 of the Senate hearings. As I indicated earlier, the bill requires no new authorization and has strong support of major segments of the business and labor communities as well as active bipartisan congressional support.

I enthusiastically recommend the enactment of these amendments to an act which is universally recognized as one of the Nation's most positive and successful solutions to continuing manpower problems.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 16715) was ordered to a third reading, was read the third time, and passed.

PUBLIC LAW 89–792, 89TH CONGRESS, H.R. 16715, NOVEMBER 7, 1966

An act to amend the Manpower Development and Training Act of 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manpower Development and Training Amendments of 1966".

SEC. 2.(a) Section 104(a) of the Manpower Development and Training Act of 1962 (hereinafter referred to as "the Act") is amended by striking out "1967" and inserting in lieu thereof "1968".

(b) Section 105 of the Act is amended by striking out "1967" where it appears in the first sentence and inserting in lieu thereof "1968", and by amending the last sentence thereof to read as follows: "Of the funds appropriated for a fiscal year to carry out this Act, not more than $300,000 may be used for purposes of this section."

SEC. 3. (a) Section 202 of the Act is amended by redesignating subsection (c) through (h), and all cross references thereto, as (d) through (l), respectively, and by inserting after subsection (b) the following new subsection:

"(c) The Secretary of Labor shall provide where appropriate, a special program of testing, counseling, selection, and referral of persons forty-five years of age or older for occupational training and further schooling designed to meet the special problems faced by such persons in the labor market."

(b) Section 202 of the Act is further amended by striking out the last subsection and inserting in lieu thereof the following new subsections:

"(j) Whenever appropriate, the Secretary of Labor may also refer, for the attainment of basic education and communications and employment skills, those eligible persons who indicate their intention to and will thereby be able to pursue, subsequently or concurrently, courses of occupational training of a type for which there appears to be a reasonable expectation of employment, or who have completed or do not need occupational training but do require such other preparation to render them employable Such referrals shall be considered a referral for training within the meaning of this Act.

"(k) The Secretary of Labor may enter into an agreement with the Secretary of Health, Education, and Welfare for the purpose of furthering the objectives of this Act by facilitating the provision of appropriate physical examinations, medical treatment, and prostheses for persons selected or otherwise eligible to be selected for training under this Act. The agreement may provide that where any such person cannot reasonably be expected to pay the cost of the services and the services are not otherwise available without cost to him from any other resource in the community, there may be expended (from sums appropriated to carry out this title and pursuant to arrangements made by the Secretary of Health, Education, and Welfare) not more than an aggregate of $100 to provide such services to that person. If the Secretary of Health, Education, and Welfare is unable to arrange for the provision of services under this section, the Secretary of Labor may expend not more than an aggregate of $100 to provide such services to any one person.

"(l) In order to assist in providing qualified workers in areas or in occupations in which there are critical skill shortages the Secretary of Labor shall, in accordance with regulations prescribed by him, provide an experimental program for part-time training of persons, including employed persons, to meet such skill shortages."

SEC. 4. (a) Section 203(c) of the Act is amended—

(1) by striking out in the first sentence "two years" and inserting in lieu thereof "one year",

(2) by striking out in the second sentence "not less than one year and" and inserting in lieu thereof "not less than one year or", and

(3) by adding at the end thereof the following: "Notwithstanding any provision to the contrary in this subsection or in subsection (h), the Secretary may refer any individual who has completed a program under part B of title I of the Economic Opportunity Act of 1964 to training under this Act, and such individual may be paid a training allowance as provided in section 203(a) of this Act without regard to the requirements imposed on such payments by the preceding sentences of subsection (c) or by subsection (h) of this section. Such payments shall not exceed the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the most recent four-calendar-quarter period for which such data are available. Such persons shall not be deemed youths for the purpose of applying the provision under this subsection limiting the number of youths who may receive training allowances."

(b) Section 203(h) of the Act is amended by inserting before the period at the end thereof the following: "unless the Secretary determines that there is good cause to permit an individual referred to further training to receive training allowances so that he may be prepared adequately for full-time employment."

(c) Section 203 of the Act is amended by adding at the end thereof the following new subsections:

"(j) To assure the maximum use of training opportunities, the Secretary of Labor is authorized to make, or cause to be made, advance payments of training allowances or a part thereof to individuals selected for training who, because of immediate financial needs for the maintenance of themselves or their dependents pending receipt of training allowances, would otherwise be unable to enter or continue training. The total advance payments to a trainee under this subsection outstanding at any time shall not exceed the amount of the average weekly gross unemployment compensation payment (including allowances for dependents) for a week of total unemployment in the State making such payments during the four-calendar-quarter period for which such data are available most immediately prior to the commencement of training by such trainee. Such advance payments shall be repaid either through deductions from training allowances or through other arrangements with such trainee.

"(k) Under such standards as the Secretary of Labor may find appropriate to achieve the purposes of subsection 202(1), an individual referred to part-time training under such section shall be paid an amount not to exceed $10 with respect to each week in which he is engaged in such training and such payment shall be in lieu of any other payments to which he may otherwise be entitled under this section.

"(l)(1) No training allowance shall be paid to any person for any period for which a money payment has been made with respect to the need of that person under a State plan which has been approved under title I, IV, X, XIV, or XVI of the Social Security Act and which meets the requirements of the first sentence of paragraph (2) of this subsection. The Secretary of Labor is authorized to pay to any such person (A) such sums as the Secretary determines to be necessary to defray expenses of that person which are attributable to training pursuant to the provisions of this Act, and (B) a training incentive payment of not more than $20 per week. Persons receiving payments under the preceding sentence shall be counted for purposes of the third sentence of section 203(c) as though they were receiving training allowances.

"(2) Notwithstanding the provisions of titles I, IV, X, XIV, and XVI of the Social Security Act, a State plan approved under any such title shall provide that no payment made to any person pursuant to paragraph (1) of this subsection shall be regarded (A) as income or resources of that person in determining his need under such approved State plan, or (B) as income or resources of any other person in determining the need of that other person under such approved State plan. No funds to which a State is otherwise entitled under title I, IV, X, XIV, or XVI of the Social Security Act for any period before the first month beginning after the adjournment of the State's first regular legislative session which adjourns more than sixty days after the enactment of this subsection shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of this paragraph."

SEC. 5. (a) Section 231 of the Manpower Development and Training Act is amended by striking out "vocational" in the first sentence, and by striking out the last sentence of such section and inserting the following in lieu thereof: "The Secretary of Health, Education, and Welfare shall give preference to training and education provided through State vocational education agencies and other State education agencies. However, in any case which he determines that it would permit persons to begin their training or education within a shorter period of time, or permit the needed training or education to be provided more economically, or more effectively, he may provide the needed training or education by agreement or contract made directly with public or private training or educational facilities or through such other arrangements as he deems necessary to give full effect to this Act."

(b) The third sentence of section 231 is amended by adding, after the words "with respect to private institutions", the words "or programs carried out in conjunction with programs or projects under section 102(6)"

SEC. 6. (a) Title II of the Act is amended by adding at the end thereof the following:

"PART D—CORRECTIONAL INSTITUTIONS

"SEC. 251. Without regard to any other provision of this title or section 301 of this Act, the Secretary of Labor shall, during the period ending June 30, 1969, develop and carry out experimental and demonstration programs of training and education for persons in correctional institutions who are in need thereof to obtain employment upon release. Arrangements for such education and training shall be made by the Secretary of Health, Education, and Welfare after consultation with the appropriate area manpower development and training advisory committee. Programs under this part shall be conducted through agreements with officials of Federal, State, and local correctional institutions. To the fullest extent practicable, the Secretary of Labor shall utilize the available services of other Federal departments and agencies. Programs under this part may include vocational education; special job development and placement activities; prevocational, basic, and secondary education, and counseling, where appropriate; supportive and followup services and such other assistance as is deemed necessary."

(b) Section 304 of the Act is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) For the purpose of carrying out part D of title II, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1968, and for the fiscal year ending June 30, 1969, such amounts as may be necessary."

SEC. 7. Section 301 of the Act is amended by inserting "parts A and B of" before "title II" in the first sentence, by striking out the words "make such apportionment" in the first sentence and inserting in lieu thereof "apportion 80 per centum of the funds available for such purposes", and by inserting after the first sentence the following new sentence: "The remaining 20 per centum may be expended by the Secretary of Labor and the Secretary of Health, Education, and Welfare as they find necessary or appropriate to carry out the purposes of title II."

SEC. 8. (a) Section 309 of the Act is repealed.

(b) Part B of title II of the Act is amended by adding at the end thereof the following new section:

"ANNUAL REPORT

"SEC. 233. Prior to April first of each year, the Secretary of Health, Education, and Welfare shall make an annual report to Congress. Such report shall contain an evaluation of the programs under section 231, the need for continuing such programs, and recommendations for improvement. The reports shall also contain progress reports on the vocational training study which will be conducted under the supervision of the Secretary during 1966 and 1967."

Approved November 7, 1966.

AID FOR PRIVATE AND PAROCHIAL SCHOOLS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ROONEY of New York. Mr. Speaker, I am today introducing legislation providing Federal income tax credits for individuals for tuition paid for dependents in private, nonprofit elementary and secondary schools. The tax credit allowed under my bill would be 50 percent of the tuition paid for each dependent up to a maximum of $500 per dependent. Such extras as transportation, books, extracurricular activity fees, and lunches would not be covered by the tax deduction.

Mr. Speaker, the purposes of this bill are twofold—to relieve the financial burden and to head off the collapse of the private and parochial school systems around the country. The costs of both private and public education have soared over the past few years and many parents now find themselves facing an almost intolerable burden of supporting the public school system through taxes and the private schools through ever increasing tuition fees. Yet at the same time many private and parochial schools cannot raise their tuition to meet their costs lest they drive away students without the wherewithall to pay. The prospect of the collapse of the private and parochial schools is a very real one and this would, if it came about, place an intolerable burden on already overcrowded public school systems. In New York State alone there are, according to the latest figures available, 841,378 students in 1,967 nonpublic schools, both elementary and secondary. Every educator in the State will tell you that if these almost 1 million students were dumped into the public school system, which already has 3,422,809 students enrolled, it would be utter chaos and present financial burden that could cripple the whole system.

The Office of Education estimates that the average per-pupil expenditure for public elementary and secondary schools throughout the country to be $858 per year. The cost then to New York State to absorb the pupils in the private and parochial schools in New York would be almost three quarters of a billion dollars—and frankly, neither the State nor the city of New York could afford it.

The situation obviously needs action and needs it fast. There is no question that the public schools are, and should remain, the backbone of our educational system. But if something is not done to help the private and parochial schools, around the country they will cease to exist, and their demise could well wreck many of the Nation's public school systems. There are now approximately 5.1 million pupils in private and parochial elementary and secondary schools in the Nation, while an additional 45.9 million children attend public schools. This bill is intended to help them all, and the children who came after them, to get the education that is rightfully theirs.

It would also provide relief to parents and to the private school systems by allowing them to charge fair tuitions and thus to grow to fit the need thereby easing the pressure on the public school system. Mr. Speaker, I believe that virtually every taxpayer in the country would receive directly or indirectly some benefit from this bill—certainly every school system would.

CONGRESSMAN WYDLER PRAISES SAINT VLADIMIR UKRAINIAN CATHOLIC CHURCH ON DEDICATION OF ITS PARISH CENTER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WYDLER. Mr. Speaker, recently, on March 12, I had the pleasure of attending the dedication of the Parish Center of St. Vladimir Ukrainian Catholic Church, in Uniondale, N.Y., in my congressional district. It was an important day in the life of our community, as this beautiful structure was dedicated to the service and love of God. I can well remember many years ago, when the property was first purchased by the church, and I attended picnics on the grounds, where the hopes and plans for the future of the land were discussed. Those hopes and dreams have now become reality, and I salute the congregation for their great sacrifices which have made this project and dream come true.

Quite properly, the pastor of the congregation, the Reverend Emile Sharanevych, saluted the occasion with some words entitled "A Great Day":

A GREAT DAY

(By Rev. Sharanevych)

This is a great day for our parish, for it represents the successful completion of a project which has been near our hearts and uppermost in our minds for many years.

Everyone who has the welfare of our parish at heart rejoices today at the opening of this modern building which will be the center of our various parish activities.

This building is the testimony to the sense of responsibility and the farsightedness of the people of this parish.

From this Parish Center will radiate lines of influence that will make our parish more progressive, its parishioners more acquainted with Ukranian heritage and better fitted for the privilegs and duties of our Holy Mother Church.

Those active in church organizations were as follows:

CHURCH ORGANIZATIONS

APOSTLESHIP OF PRAYER

President, Catherine Matulinski.
Treasurer, Maria Kochaniwsky.
Secretary, Maria Swaryczewsky.

CATHOLIC CLUB

President, John Attou.
First Vice President, Jerry Sydor.
Second Vice President, John Pawluk.
Treasurer, Olga Liteplo.
Recording Secretary, Ann Danyluk.
Corresponding Secretary, Bob Danyluk.

ROSARY ALTAR SOCIETY

President, Nancy Marko.
Vice President, Anne Choma.
Treasurer, Helen Savitsky.
Recording Secretary, Virginia Wowk.
Corresponding Secretary, Jean Kluba.

YOUTH CLUB

President, Mary Sydor.
Vice President, Ihor Szpaczynsky.
Treasurer, Donna Orinkawitz.
Recording Secretary, Oksana Dackiw.
Corresponding Secretary, Lysia Smejka.

CHOIR

Director, Steven Marusevich.

XUM

DANCE GROUP

Director, Millie Osenenko.

CHURCH COMMITTEE—1971–72

Chairman, Walter Liteplo.

Secretary, Anne Choma.

Irma Artim, Oksana Ilnyckyj, Ann Kapczak, Steve Kulynch, Ted Lipinski, William Mamus, Michael Rij, Nadia Yurkiw.

Trustees, Kasey Lipinski and Myron Myclo.

The program of the day celebrating this outstanding occasion was:

PROGRAM

Invocation, Very Reverend Peter Fedorchuk.

National Anthem.

Welcome, Reverend Emile Sharanevych, Pastor.

Toastmaster, Ed Orinkawitz.

Choral Selections, St. Vladimir's Choir; Steven Marusevich, Director; "All Glorify the Lord's Name" Bortniansky; "Mazepa" M. Hayvoronsky; Soloist George Shtohrwn.

Remarks, Anthony Bilenky, General Chairman Building Committee.

Introduction of Committees.

Musical Selections, Banduristy, Reverend Serhij Pastukkiv, Director.

Introduction of Church Committees.

Ukrainian Folk Dances, St. Vladimirs Osenenko Ukrainian Dancers, Millie Osenenko, Directress.

Introduction of Church Organizations.

Choral Selections, St. Vladimir's Choir, final scene from opera "Kozak in Captivity" S. Artemouski; Soloists: John Kapczak, Joseph Choma, Denise Marusevich.

Dance Finale, Osenenko Ukranian Dancers.

Guest Speaker, The Most Reverend Joseph J. Schmondiuk, Bishop of Stamford Diocese.

Acknowledgments, Reverend Emile Sharanevych.

Benediction, Reverend Basil Feddish.

BUILDING COMMITTEE

The members of the building committee who gave so much toward the completion of the building were:

General chairman, Anthony Bilenky.

Vice chairman, Joseph Choma, Andronic Kopystalnsky, Onufry Stecko.

Planning and design chairman, Hilary Zarycky.

Committee, Oreste Dackiw, Miroslav Lomaga, George Shtohryn.

Finance chairman, Edward Orinkawitz.

Committee, John Atton, Oresia Dackiw, Bill Savitsky.

Canvass chairman, Michael Wowk.

Committee, Theodore Barniak, Anthony Bilenky, Joseph Choma, Alex Clopyk, Oreste Dackiw, George Drance, Wasyl Horyn, E. Ilnynicki, John Kapczak, Walter Kluba, Steven Kochaniewski, Andronic Kopystianski, Mykola Kurczak, Kasey Lipinski, Ted Lipinski, Walter Liteplo, Miroslav Lomaga, Steven Marusevich, Ed Orinkawitz, John Pawluk, Nicholas Petrilyak, Michael Rij, Bill Savitsky, George Shtohryn, Onufry Stecko, Jerry Syder, Walter Szpaczynsky, Hilary Zarycky.

Public information and ceremonial chairman, Irma Artim.

Committee, Julie Bilenky, Ann Chome, Joan Orinkawitz, Helen Savitsky, Kay Sereduke, Pat Szpaczynsky, Nadia Yurkiw.

Legal adviser, John Flis.

Recording secretaries, Nadia Yurkiw, Michael Rij.

Auditing committee, Mykola Kurczak, Nicholas Petrilyak, Michael Wenger.

I have been pleased as a Member of Congress to join in a resolution seeking the resurrection of both the Ukrainian Orthodox and Catholic Churches, which Stalin genocided during his reign. This is not just a matter of religious expression, but the fact is, that there has been a complete physical eradication of two major churches in the largest non-Russian nation, both within the Soviet Union and in Eastern Europe. The text of that resolution, introduced in the 92d Congress, by me, is as follows:

HOUSE CONCURRENT RESOLUTION 555

To seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine.

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . ."; and

Whereas in the Constitution of the Union of Soviet Socialist Republics article 124 unequivocally provides that "In order to ensure to citizens freedom of conscience, freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens"; and

Whereas not just religious or civil repression but the genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches in a nation of over 45 million brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Government of the USSR to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches in the largest non-Russian nation both within the USSR and in Eastern Europe; and

(2) utilize formal and informal contacts with USSR officials in an effort to secure the freedom of religious worship in places of both churches that their own Constitution provides for; and

(3) raise in the General Assembly of the United Nations the issue of Stalin's liquidation of the two churches and its perpetuated effect on the posture of the USSR in the light of the U.N. Charter and the Declaration of Human Rights.

HON. JAMES KEE WORKS FOR HIS STATE AND NATION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WRIGHT. Mr. Speaker, all of us who have served in the Congress for any length of time know that there are "show horses" and "work horses." The "show horses" often get the publicity, but it is the steady, hard-working legislative craftsman—the "work horse"—who actually performs the hard, unglamorous, mundane work that results in legislation.

This is the work which, while sometimes not seen on the surface or known widely to the public, enables the Nation's lawmaking body to function. Without the energetic and dedicated services of those members who diligently attend the committee sessions, inform themselves as to the details of legislation and help actually in the drafting of that legislation, Congress could not function.

All of us who have worked over the last several years with our colleague, the Honorable JAMES KEE, of West Virginia, have increasingly been impressed with his selfless dedication to the hard work of lawmaking. He, like the foundation of a building without which its glittering facade would not be possible, is one of those whose strength undergirds the legislative process.

In the Committee on Public Works, we have long recognized the tireless service which JIM KEE gives to his State and his country. As chairman of our Subcommittee on Conservation and Watershed Development, he has compiled a record of hearings and a body of data in this Congress which will provide landmark guidance for years to come in the formulation of sound, workable, conservation legislation.

JIM KEE has been a champion of the upstream watershed development program, so vital to our country, just as he has worked so indefatigably on the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs.

It was to a very great degree through his efforts as one of the prime cosponsors that the Coal Mine Health and Safety Act was passed. Because of this monumental legislation, future generations who produce the necessary fuel for the Nation will be safer, healthier and will live longer. For this work alone, future generations should rise up and call him blessed.

JIM KEE is a quiet and inobtrusive person not given to blowing his own horn or making flashy claims. But those of us who work with him day in and day out have come to value and appreciate the real worth of his solid contributions, and it seemed to me that it was time for some of us to make a public acknowledgment of his truly impressive service.

NATIONAL WEEK OF CONCERN FOR OUR POW/MIA'S

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WINN. Mr. Speaker, this week has been set aside as the National Week of Concern for Our POW/MIA's. Although I support the President in naming this special week, I think each day we should all express our deep concern for these men who have served their country so well. We should all be aware of the daily suffering of their families and loved ones, who go on living, really not knowing their fate—little children who have never known their fathers—women who do not know whether they are wives or widows. There must be some accountability for these young American men.

For many months our delegation to the Paris peace talks has requested, even demanded, from the North Vietnamese the most basic rights under international law for these men—an accounting of those held prisoner, inspection by a neutral nation or neutral organization of prisoner of war camps, adequate medical care, and mail deliveries from their homes. None of these rights as guaranteed by international law have been honored by the North. Our Government will not cease in its efforts on their behalf.

Our troops are withdrawing, our men coming home; the President will have the number down to 69,000 by May. To all of us this is most welcome news, but we cannot and must not forget those men who are still listed as prisoners and missing in this most tragic war. Regardless of our feelings as to the morality of the conflict, we must be strongly united in our efforts to return these men who have served our Nation. One week will not do the job; we must work constantly until they are released.

SALVATION ARMY RESPONDS TO NEEDS OF PEOPLE AFTER BUFFALO CREEK DISASTER

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. RANDOLPH. Mr. President, one of the worst disasters in the history of our country occurred on February 26, 1972, when a mine impoundment broke through the mine refuse piles and sent millions of gallons of water rushing through the Buffalo Creek Valley in Logan County, W. Va. The death toll from this tragedy has reached 117. Hundreds of people were left homeless and property damage is in the millions of dollars.

Immediately after the flood, a large number of governmental agencies and private organizations began recovery work and caring for the people whose lives were affected by the flood. The American Red Cross, as usual, was on the job. Prominent among the organizations that responded to the need on Buffalo Creek was the Salvation Army. With the speed for which it is known, the Salvation Army moved into the area and immediately began providing humanitarian services so necessary to the flood victims.

Captain Charles White, commanding officer of the Salvation Army in Logan, W. Va., was on the scene immediately after the flooding had subsided, with other Salvation Army officers from nearby centers. They set up relief stations at Lundale, Amherstdale, and Accoville. The shelters provided food, clothing, medical attention and personal items to the stricken families.

Salvation Army officers in the National Capital and Virginias Division were immediately alerted and ready to serve. As soon as President Nixon declared the flood a national disaster, national resources of the Salvation Army were focused on the Logan County area.

Salvation Army officers came from other locations in West Virginia, as well as other States, including Ohio, Pennsylvania, North Carolina, Kentucky, Tennessee, Virginia, Maryland, and Washington, D.C. All were trained in administering emergency relief.

The Army established a national emergency telephone information center which was a primary means of phone communication to Logan, W. Va. With four telephone lines available 24 hours daily, more than 4,000 calls were received from 38 States. Salvation Army operators furnished information on the status and welfare of relatives and friends to more than 4,000 inquirers.

Seven Salvation Army mobile canteen units served the hundreds of homeless victims and workers in the Buffalo Creek area. The mobile canteen units also served as on-the-scene information centers, and transported supplies, such as lanterns, groceries, cooking utensils, and toiletries to the Salvation Army Centers. Homeless victims also were transported to shelter areas. Distribution centers were set up by the Salvation Army to give the victims food and clothing. Truckloads of items were brought to the five centers.

One of the most sensitive areas of service performed by the Salvation Army was in the morgue headquarters. Salvation Army officers as ordained ministers consoled the bereaved, and were on duty around the clock in the morgue at the South Man High School.

Many people chose to help the stricken through the Salvation Army. Forty-eight college students volunteered to aid the Salvation Army perform its services. Students from Berea College and Cumberland College of Kentucky, and Marshall University of Huntington, W. Va., were among the youth who worked night and day.

Organizations, too, chose the Salvation Army in their efforts to give help to the disaster victims.

The Salvation Army of Charleston, W. Va., headed by Brig. Warren Fulton, received all major out-of-town shipments for use in the 160 square miles of devastated area. Trucking firms, volunteering through the Salvation Army, met incoming shipments and furnished transportation to the disaster area and to the Salvation Army service centers for continuous distribution to flood victims and workers.

The Salvation Army in Charleston also received and is still receiving money donations from all over the country.

The Salvation Army is now changing to a long-range program in the disaster area. It will be stockpiling, and has been stockpiling food, clothing, and household necessities for all of the people who have been homeless. As the process of cleaning up and salvaging possessions began, the Salvation Army distributed a thousand mops, buckets, and brooms in distribution centers to help get the job done. Salvation Army officers helped transport many of the victims back to the disaster area.

As the families start to settle in their new homes, the Salvation Army gives them home furnishings, and household items. Officers help them move in, offer counseling, pray with the family, and present each a Bible, donated by the American Bible Society.

Mr. President, this is but a brief review of the many services provided by the Salvation Army to the people of Buffalo Creek.

The Salvation Army has given selflessly of its resources, both human and financial, in the way that has made it so widely known as a source of assistance to people in need. To date, the work of the Salvation Army in Buffalo Creek has cost more than $150,000 and this work continues. I know that so long as they are needed, the men and women of the Salvation Army will be on hand to assist the people of Buffalo Creek to rebuild their homes and their lives.

SISTER SYLVIA STEADY VOLUNTEER—KOREA NEXT

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SHRIVER. Mr. Speaker, an excellent article by Jack Kennedy, education writer of the Wichita, Kans., Eagle, concerns the continuing and rewarding services of Sister Sylvia Gorges, of Wichita. It has been my privilege to work with Sister Sylvia in her capacity as an educator and president of Sacred Heart College. She has made a splendid contribution to the college and our youth. Sister Sylvia now will continue to serve her church and the people of Korea. The State of Kansas and our Nation is a better place, because of the dedication and commitment of this humanitarian. The article follows:

SISTER SYLVIA STEADY VOLUNTEER—KOREA NEXT

(By Jack Kennedy)

Former college presidents might be expected to retire to the quiet, contemplative life free from budgets, personnel problems and endless trustee meetings.

Not Sister Sylvia Gorges.

Sacred Heart College president for 10 years until her resignation last year, she recently returned from five months at a Carlsbad, N.M., mission. At the end of April she will leave Wichita again, perhaps permanently, for the English faculty at 12-year-old Sogang University in Seoul, Korea.

A less-active person would establish two rules for ex-college presidents: never volunteer for anything and never be taken in by the ideals of college consultants you hire.

The soft-spoken, thoroughly dedicated nun of the Sisters Adores of the Most Precious Blood didn't listen to either bit of advice—and is very happy she didn't.

"When one of the workers became ill, I volunteered to step in and help out" at the Franciscan order's San Jose Mission, Carlsbad. "Helping out" meant long hours working with adults and children, many of them poor. Sister Sylvia adjusted to the slower style of mission life—she claims she has adopted it as her own style now—and did everything from teaching to assisting the 1,100 Spanish-American families with personal problems.

This mission staff is there to help "in just any way we can," Sister Sylvia said. "The area itself had developed much better than I had expected." There is considerable poverty, she said, although many of the families are doing well. New arrivals come to the mission constantly from nearby Mexico.

She met growing concern for "intellectual poverty, which I think is worse than the physical," and developed insight into Spanish-American life which should enable others to "accept them as they are, and to appreciate the beautiful in their culture."

First knowledge of the Korean venture came when four sisters enrolled at Sacred Heart after coming to the United States to

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join the order in Wichita. Two were Korean, two American. They returned to Sogang University last year.

Sister Sylvia had used several Jesuits as consultants to Sacred Heart. Sogang "came up in conversations" occasionally with members of the St. Louis-based order.

She began elementary teaching in 1932, switched to the secondary level in 1958 and was All Saints Elementary principal in Wichita before becoming Sacred Heart president in 1961. The lure of the classroom remained strong for the 59-year-old nun.

"They tried to persuade me," Sister Sylvia said. When the invitation to go to Korea came from Rev. John Daly, S.J., college president, she couldn't refuse.

Sister Sylvia will spend some time visiting friends and relatives in the United States before reporting to Seoul about May 1 to rejoin the four nuns already there, only members of her order on the staff.

The fledgling university started a graduate program two years ago. She will teach undergraduate English courses to Korean students, all of whom have had at least six years of English. The language is often required in Korean schools, Sister Sylvia said.

Her commitment in Korea is for one year—but the eagerness in her voice suggests Sister Sylvia's new career may be much longer.

PASSOVER 5732—AND PITTSBURGHERS REMEMBER THE PLIGHT OF SOVIET JEWRY

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. SCHWEIKER. Mr. President, this evening, at sundown, Jews in the United States, the Soviet Union, Israel, and all over the world will begin the celebration of Passover. Passover commemorates the freeing of the Jewish people from slavery under the Egyptian Pharaoh and the exodus of the Jews from Egypt to the land of Israel led by Moses. In our own day, Passover still sounds a call for human freedom and dignity, especially for the Jews of the Soviet Union. Moses' plea to Pharaoh, "Let my people go," echoes today as thousands of Jews in the Soviet Union seek to make their own exodus to Israel but are not granted permission to leave as free citizens.

In the spirit of Passover, Mr. President, a group of Pittsburgh people, both Jews and non-Jews, have been making special efforts to help one specific Moscow Jewish family obtain permission to go to Israel. The family consists of Emanuel Smeljansky, an engineer, his wife, Alla, an interpreter, and their baby son, Misha, of 17 Tashkentskaja Street, flat 42. The story of how the Pittsburgh group came to "adopt" the Smeljansky family is a stirring example of both international and interfaith cooperation among people and bears repeating.

The story is fully told in an article by Brad Vinocur which appeared in the Pittsburgh Press on January 13, 1972. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pittsburgh Press, Jan. 13, 1972]

LET JEWISH FAMILY GO, CITY GROUP TELLS SOVIETS

(By Brad Vinocur)

A group of Pittsburghers has begun a battle to support a young Jewish family in Moscow which is fighting to go to Israel.

Sparked by a sign on a Squirrel Hill synagogue which had an impact as far as Berlin, the Pittsburgh group is planning to put pressure on Kremlin officials to let Mr. and Mrs. Emanuel Smeljansky and their baby son go.

The organization, known as the Pittsburgh Voice for Soviet Jewry, has also sent money and "care" packages to the family. Some Voice members also are writing to the family to assure them of their support.

The events leading to this effort unfolded this way:

In August, a young German school teacher, Doris Gebhart, was visiting the Arthur Schwotzer family of McMurray as part of the Pittsburgh Council for International Visitors program.

While touring Pittsburgh she noticed a "Save Soviet Jewry" sign on Shaare Torah Synagogue in Squirrel Hill.

She was surprised to learn of the public effort to aid Soviet Jews and she told the Schwotzers of a personal effort she had been making to aid a Jewish family in Russia.

Several years ago Miss Gebhart met the Smeljansky family while she was touring Russia and she learned they had been refused permission to leave Russia.

During the two subsequent trips to Moscow, Miss Gebhart stayed in touch with the family and wrote to them frequently from Berlin.

The Schwotzers, who like Miss Gebhart are Gentile, began writing to the family and they introduced her to friends at Voice.

Miss Gebhart told Voice members that Emanuel Smeljansky lost his engineering job as an interpreter.

Voice sent money and a "care" package to the family and one member, Miss Myra Lanson of Squirrel Hill, began writing to the family.

Miss Lanson has received several letters in return and the Smeljansky family told her that their situation "is desperate."

Now Voice members are mounting a letter-writing campaign to the Russian ambassadors at the United Nations and in Washington.

"We feel that if enough people write to these officials about the Smeljansky family, the Kremlin will free them in order to stop the publicity," David Mazer, a Voice member said.

STUDENT TRANSPORTATION SAFETY ACT OF 1972

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PEYSER. Mr. Speaker, today I have introduced the Student Transportation Safety Act of 1972. This bill will hopefully avoid accidents similar to the one which recently occurred in Rockland County, N.Y., last week and which claimed the lives of four young people.

My bill will prohibit a local school board from authorizing any route for a school bus which crosses an open railroad crossing unless that crossing is first clearly marked with appropriate signs, a signal light warning of oncoming trains, and unless that crossing is protected by a warning gate.

Although nothing can bring back those young victims of the tragic accident, it is my hope that this bill will help to avoid such accidents in the future. I hope the Congress will take swift action on my bill.

In order to dramatize the need for this important legislation, and the extent of the lack of markings at railroad crossings, I would like to bring to the attention of my colleagues the following article which appeared in the New York Times of March 28, 1972, highlighting the problem in New York State alone:

ABOUT 2,400 RAIL CROSSINGS IN STATE UNGUARDED BY GATES OR LIGHTS

(By Frank J. Prial)

New York State has 4,300 railroad grade crossings, where tracks cross public roads, and more than half of them, some 2,400, have neither automatic gates nor electric warning lights.

The state and the railroads are embarked on a program to install more of these signals, but at the present rate—30 a year—it would take 80 years to complete the work. In New Jersey and Connecticut, similar but lesser problems were reported by railroad and government officials.

The crossing in Valley Cottage, near Nyack, where three children died and 40 were injured in a school bus-freight train collision last Friday, is one of those unprotected by automatic devices. Yesterday, a fourth child died of injuries received in the collision, and some 700 parents and friends crowded into St. Paul's Roman Catholic church in nearby Congers to attend a requiem mass for the three who died Friday.

Since that collision, parents and elected officials throughout the tri-state area have been raising questions about the safety of grade crossings and the competence of school bus drivers.

Angry resident of Valley Cottage and nearby communities said they had requested automatic signals at the site of the fatal collision a year ago. The Penn Central and the State Department of Transportation both said they had no records of such requests.

John Bryan, a spokesman for the State Department of Transportation, said there had been two known collisions between trains and road vehicles at the same crossing in the last four years, neither of them serious.

In 1971, New York State School buses were involved in 906 accidents, resulting in eight deaths and 402 injuries. In Connecticut, the state's 3,283 registered school buses had 390 accidents, with one fatality and 87 injuries. New Jersey figures were not immediately available.

While officials in all three states agree that rail grade crossings need to be improved or eliminated, they insist that their standards for training school bus operators are high.

Annual physical examination are required in each of the states. So are criminal record checks and stiff driver examination. New Jersey's chief of motor vehicle inspectors, Raymond Mockridge, conducts unannounced school bus inspections all over the state, and Connecticut's Motor Vehicle Commissioner, Robert C. Leuba, is pressing for a ban on the use of smaller "van" type trucks as school buses.

At the same time, Connecticut permits a school bus to be driven by a 19-year-old or by anyone, otherwise qualified, up to 69 years of age. In New York, the limits are 21 and 65.

Peter Lenehan, a spokesman for the Department of Motor Vehicles, said New York had the safest school bus operation record of any state in the country.

Nevertheless, some school officials share parent's concern over the quality of the people driving school buses. School officials pointed out that the work lasted only a few hours a day and the pay was therefore low.

Mr. Bryan of the State Department of Transportation said that none of the state's grade crossings "were substandard under the law."

The law, he said, requires a cross-arm sign in the shape of an X at each grade crossing, saying: "Railroad Crossing. The law dates from 1890. In 1957, he said, it was amended to make the arms four feet wide and reflectorized. "But," he went on, "we still have some around that were erected prior to 1957 and if they're still good, under the law, they don't have to be changed."

The law also requires that the municipality in which the grade crossing is located must erect approach warning signs not nearer than 100 feet to the tracks. These are round, white signs showing a black X and the word Railroad.

Last year, the New York State Legislature passed a law permitting municipalities to erect standard hexagonal red stop signs at railroad crossings. Such signs were erected at the crossing in Valley Cottage.

"The real answer is the elimination of grade crossings," Mr. Bryan said. He noted that upgrading a crossing costs around $30,000. Eliminating it, can cost from $1-million to $41-million, the price of a recent grade crossing elimination project in Buffalo.

PROPOSED 7-PERCENT DISCOUNT RATE FOR WATER RESOURCE PROJECTS CALLED "HEIGHT OF FOLLY HIGHLY DESTRUCTIVE"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EVINS of Tennessee. Mr. Speaker, Mr. Harry M. Mack, president of the Ohio Valley Improvement Association, recently appeared before the Water Resources Council in opposition to proposed new standards for water resource projects that would include a 7-percent discount rate in project evaluation.

May I say that I share Mr. Mack's views on this matter—such a discount rate would be discriminatory, unfair and unrealistic.

In other Federal programs—in the construction of housing, highways, airports, medical facilities, parks, and countless other programs—there is no such requirement. Even the foreign aid program contains no such requirement.

Why then should any discount rate be applied to water resource development which performs such essential and indispensable services for the people of this Nation?

In my view there should be no discount rate for water resource projects.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith excerpts from Mr. Mack's statement before the Water Resources Council.

The excerpts follow:

STATEMENT OF HARRY M. MACK, PRESIDENT, THE OHIO VALLEY IMPROVEMENT ASSOCIATION, INC.

THE INTEREST-DISCOUNT FACTOR AND OPPORTUNITY COST

. . . Turning to the rate to be employed in calculating interest on the public investment in water resources projects and in reducing future costs and benefits to a present value equivalent, we believe that the procedure loses all rational meaning if the rate chosen bears no significant relationship to the realities of federal finance or to the actual public policy preferences and needs of the American people in their capacity as citizens.

The opportunity cost principle as applied to water resource planning and evaluation is meaningless and perverse in these respects. In the first place, nobody knows what the opportunity cost rate is. It is universally conceded, however, that the principle opens the door to rate levels so high as to place only a fragmentary value on foreseeable benefits of great magnitude and thereby to dismiss most plans and projects vital to the long-term future of the county. Because the rate is actually indeterminable, the opportunity cost principle is thus a license to capricious upward adjustment and a superficially plausible device for disallowing highly beneficial programs for purely subjective reasons.

The rate used in planning and evaluation should be one which is clearly determinable. Prior to 1968, the rate employed by the evaluating agencies was the coupon rate on outstanding long-term government securities. The Department of the Treasury knew exactly what this rate was and certified it annually to the evaluation agencies. The present standard of the yield rate, whatever its other merits and defects, is likewise readily determinable. But, the opportunity cost rate is subject to estimates so broad and dependent on considerations so subjective as to be almost meaningless.

In 1958, economists of stature estimated on the basis of elaborate studies, that the opportunity cost rate fell between 5 and 6 percent. Numerous others now estimate it to be in the range of 8 to 10 percent. Senator Proxmire of Wisconsin has been informed by economists in good standing that the rate should be "perhaps 15 percent". We are thus presented with what purports to be a standard for water resource development subject to a margin of error of 300 percent of the lower figure.

Current rate estimates advanced by opportunity cost advocates all fall in the higher ranges and, with the passage of time, tend to moved upwards. The statement of proposed principles and standards cites a study by J. A. Stockfisch which concludes that the correct opportunity cost rate is 10.4 percent. The statement then proceeds to assert that the really correct rate is 10 percent, but that for totally nonquantifiable and subjective reasons, it ought to be 7 percent for the next 5 years. Having set up the 10 percent target with an air of scientific exactitude, there is little doubt that acceptance of the opportunity cost principle would initiate a rate escalation process, aiming at first towards 10 percent and eventually towards 15 percent.

The effect on water resource development would be disastrous, particularly with respect to projects offering major benefits during the later years of service life. Let us take, for example, a project with an estimated service life of 50 years. A one-dollar annual benefit during the second half of this 50-year life would amount in the aggregate to $25.00. At the discount rate of 3 percent formerly employed, the present value of this $25.00 would be $8.32. At the rate of 5⅜ percent now in use, this would shrink to $3.67. At 7 percent, it would be only $2.15, and at 10 percent the future $25.00 would be virtually dismissed from consideration as presently worth only 84 cents.

The effect on benefit evaluation for the earlier years of project service life would likewise be very injurious. Taking, for example, a project to be placed in service in 1975, at the 3 percent rate formerly employed, the present value of the $25.00 stream of benefits of one dollar per year for the first 25 years, beginning in 1976, would be assigned a present value of $17.41. But, at the proposed 7 percent rate we would reduce this $25.00 to only $11.65, less than half the actual amount. At 10 percent, we would call the $25.00 only $9.08. The effect of opportunity cost, therefore, would be not only virtual dismissal from consideration of all project benefits anticipated for the later years of service life, but also the assignment of only fragmentary value to the more immediate benefits.

Lacking as it does any known or determinable level, and subject, therefore, to upward adjustment without reference to established indicia, we can only conclude that opportunity cost represents a determination for subjective reasons to downgrade and disregard the foreseeable benefits of water resource development.

The opportunity cost principle rests on a standard highly inappropriate to public policy decisions. Its standard purports to be the free market rate of return on investment in the private sector of the economy. But private investment is completely neutral on objectives essential to the public interest—the national security, the quality of community life, the economic and social integrity of the nation, and the humane objectives of the relief of want and suffering. The free market dollar makes no distinction between luxuries and necessities.

It is, in fact, mainly by virtue of the public objectives to which the market rate is indifferent that water resource development is a public function. Thus, the reliance on a private market criterion would stultify the role of government in this area.

The opportunity cost rate undertakes to measure the rate of time preference as between consumption and saving on the part of the individual. But, private thrift is governed by a relatively short time span, for example, the brief period during which children grow up and prepare for college, the approach of retirement, and the very brevity of human life. Public investment, by contrast, lays the foundation for the livelihood of future generations. The typical water resource project is evaluated for a service life of 50 years. Few, if any, private investments are made on a consumer time preference looking ahead for half a century.

The private investor from whose decisions the market rate of return emerges is also a citizen. As a citizen he normally shares in the civic objectives which properly guide water resource development. He votes for representatives who will advance these objectives. The time preference of the individual human being in the conduct of his private affairs bears almost no relationship to the time preference of that very same person in his role as a citizen. Many a citizen would doubtlessly be shocked to learn that the narrow and mercenary criteria he employs in his private financial decisions had been adopted as a model by the national government to guide the long-term destiny of the country.

The opportunity cost principle is derived from an economic model. In the interests of a clean theoretical structure, this model reduces consumer motivations for saving and investment into a simplistic mercenary calculation. But, the human values and motivations underlying consumption and investment decisions are of enormous complexity, highly emotional, and normally subjective, and in seeking to reduce them to a mathematical formula, the opportunity cost theory throws reality to the winds in the interest of structural logic. Surely, it would prove the height of folly to subordinate the urgent and mounting needs of the nation's water resource development to the simplistic assumptions of an economic model.

Our Association views the opportunity cost doctrine as a standard for the interest-discount factor in water resource planning and evaluation as totally without merit and high-

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ly destructive in its potential effects. We vigorously recommend its rejection . . .

TRIBUTE TO KEITH BANDY

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GALIFIANAKIS. Mr. Speaker, I would like to share with you the accomplishments of one of my constituents, Mr. Keith Bandy, who has recently completed a tour of service with the Volunteer Development Corps in Jamaica.

More than 100,000 Jamaican families earn their living from the land. A few hundred of them—half of 1 percent—farm 45 percent of the cultivated acres. Another 2½ percent farm 20 percent of the land. The other 97 percent of the farmers raise their crops and livestock on 35 percent of the land. For these 97 percent, the 75-year-old Jamaica Agricultural Society is a spokesman and a source of farm production information.

Some years ago JAS found that its members needed better seeds than were available anywhere on the island, imported these improved varieties, and established distribution centers throughout the island. In time these centers grew into small farm supply stores, handling seeds, a little feed, a little fertilizer, some hand tools, and farm chemicals.

Today JAS members need larger quantities of these materials than the stores handle. JAS members need more efficient service. JAS members want lower priced farm inputs than these stores, with their limited volume, can provide.

So the society plans to construct perhaps a dozen one-stop farm service centers that would include expanded JAS farm supply services, perhaps a veterinarian, the Jamaica Government's farm credit agency, a food store, the JAS farm extensionist's office, a doctor, and a clothing store. Before proceeding with such an investment, JAS directors sought to design a model center and to develop a pattern of decisionmaking that would enable them to adapt this model to the needs of various communities throughout the island.

To do so, they turned for help to a fairly new organization, Volunteer Development Corps, which U.S. cooperatives have established to provide short-term, volunteer, technical help to cooperatives in the developing countries. VDC has headquarters here in Washington, and its funds come partly from cooperatives and largely as a grant from the Agency for International Development. VDC asked my constituent, Keith Bandy, to volunteer for this assignment.

Mr. Bandy is specially qualified for this undertaking. He is vice president for research and planning for FCX in Raleigh, the farm supply cooperative that serves farmers throughout the Carolinas and the largest distributor of farm supplies in this area. He formerly was a senior economist in Battelle Memorial Institute in Columbus, Ohio, one of the Nation's largest consulting firms. Mr. Bandy knows the needs of farm people. North Carolina has more farmers than any other State except Texas, and through FCX and its 81 supply stores, 50,000 Carolina farmers in effect meet their own needs for farm inputs.

Mr. Bandy volunteered his services. FCX continued him on leave with pay the 5 weeks he was in Jamaica. VDC provided his travel, lodging, meals, and clothing care. JAS provided his transportation in Jamaica, a place to work, and secretarial help throughout his assignment.

In Jamaica, he helped JAS officials devise a model farm service center and adapt this model to the first site at Santa Cruz, St. Elizabeth's parish. He helped them plan construction at this site in three stages so as to keep only a short step ahead of the needs of the center's lessees and to pay out in 15 or 20 years.

Mr. Bandy also devised for JAS officials a "framework for decisions" that will enable them to analyze potential sites for future centers, choose the most practical sites and select from among potential lessees those most likely to contribute socially and economically to the center. Thus, JAS officials can function as their own consultants—at least in making these decisions—and this seems to me especially important.

This was truly a joint effort. Using a private organization, AID provided some of the needed funds. U.S. cooperatives provided the rest. Mr. Bandy volunteered his services. FCX kept him on its payroll. The Jamaica organization provided services essential to his work.

AID funds did not flow until a private organization in a developing country asked for help. My colleagues and I are sometimes uncertain whether people overseas really want our help. In this case, we can be sure. I understand that this is VDC's operating pattern; it sends a volunteer overseas only when the group he will work with has asked him to come.

The people overseas—in this case, the directors of Jamaica Agricultural Society—are now less dependent on future assistance from the United States. With Mr. Bandy's "framework for decision" they can now make their own decisions regarding other farm service centers. This is the kind of help that enable people to help themselves.

Mr. Speaker, Mr. Bandy's efforts and achievements exemplify in the finest American tradition our willingness to make mutual understanding and cooperation in the world community a reality.

MEALS ON WHEELS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, elderly or disabled people living in their own homes or apartments sometimes need help in preparing balanced meals. I was pleased to join in the inaguration of such a service recently in Montgomery County, Md.

This report from the Montgomery County Sentinel describes the new program:

A new Meals on Wheels service for Montgomery County began operation Monday when volunteers packed their cars with hot boxes and cold chests and set off to deliver meals to 14 homebound elderly people.

Meals on Wheels of Wheaton is a volunteer non-profit program with a present capacity to serve 2 meals a day (one hot and one cold) five days a week to 40 shut ins.

The other area program, Meals on Wheels of Washington, D.C. Inc., which began in June 1971 with kitchen headquarters at Zion Lutheran Church, Takoma Park, has been serving about 35 people weekly in Prince George's and Montgomery Counties and northwest Washington. According to Mrs. Jane Davis, president of the board of directors, it is cooperating closely with the new group and has offered extensive advice and encouragement.

A similar service run by the Jewish Social Service Agency has been operating for about three years serving kosher meals on a non-sectarian basis in the county and northwest Washington. Mrs. Stacey Brooks of the agency's department of services to the aging points out that kitchen facilities at the Hebrew Home have limited this service to a maximum of 15 clients a week.

CHURCH WOMEN BASED

The Wheaton based program was initiated by Church Women United of Eastern Montgomery County. Their forum on the subject last February organized by the present publicity chairman, Mrs. Ruth Wise, revealed the pressing need for such a service. By November, a committee had firm plans and lacked only funds to get the program started. An appeal to civic organizations and individuals had reaped the necessary $3,000 by Jan. 1.

Although it is a volunteer program, Mrs. Wise explained the high initial expenses. Wheaton Presbyterian Church offered the use of its kitchen, but an investment of $5,000 was required to purchase refrigeration equipment, storage cabinets, and the special hot-boxes in which the food is transported ($100 per box) and cold chests for cold meals.

The cook is paid but all other work of organizing, packing and delivering food is done on a volunteer basis.

STRUCTURED PROCEDURE

Kitchen workers wrap and pack the cold meal and place the hot meals in disposable units (somewhat like TV dinner trays) into the pre-heated hot boxes. Delivery volunteers place the boxes in their cars and follow a prescribed route. The driver remains with the car while the server places one of the dinners in a basket and takes it and the cold meal up to the client.

Similar organizations have found these brief but cheerful visits have the added benefit of providing a few minutes companionship to break the monotony of the shutin's life.

Menus are prepared by Velma Clark of Rossmoor, a professional nutritionist with over 40 years experience. They now follow a 5 week cycle with plans to increase this to a 7 or 8 week cycle.

The volunteer worker who does all the buying is Mrs. Mary Garland, a professional dietician experienced in institutional buying.

LOW SODIUM MEALS

Although the menus are not specialized the food is cooked without salt to accommodate low-sodium diets, and a modified diabetic menu can be arranged by changing the dessert.

Monday's menu featured a hot meal with cream of tomato soup, baked chicken breast, peas and rice, applesauce and a cold meal with fruit juice, egg salad sandwich with lettuce on the side, carrot and raisin salad and milk.

Because of the kitchen's central location, and because of the efficiency of the hot-boxes which will keep food warm for up to an hour, the volunteers can serve a wide area and meet the need of clients in Bethesda, Chevy Chase, Kensington, Wheaton, Silver Spring, Rockville and Rossmoor.

A nominal fee of $10 a week is charged for the 10 meals provided, but if clients cannot afford this, other arrangements can be made. Cost of the Takoma Park service is the same. The determining factor is simply that a person is incapable—for whatever reason—of preparing his own meals.

The service is named for the location of its kitchen but its committee members and volunteers are drawn from a wide aea of the county.

Reaction has been immediate and enthusiastic. A Rossmoor client who is bedridden and whose husband has been ill since December called Monday night to say how wonderful the food was. She told Mrs. Andrew Thompson, treasurer of the group, that she felt the weight of the world had been taken off her shoulders now that she didn't have to worry about what they would have to eat.

DESPAIR—THE OLDER AMERICAN'S CONSTANT COMPANION

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRASCO. Mr. Speaker, almost 25 million Americans are over 65, and it is no exaggeration to state that they are at the very bottom of society's heap. Perhaps the greatest shame of this Republic is the plight these fellow citizens are in as of this moment. We have put an American on the moon, but we have also sentenced many of these people to a lingering, agonizing existence in their old age that is as reprehensible as it is inexcusable. We stand disgraced before the developed world.

Today, the ranks of the poor are growing, and most of the new recruits are older Americans. Retiring on fixed incomes, these people are literally unchecked. The recent astronomical rise in food prices alone has had a devastating effect upon older people. Many of them cannot even afford hamburger. Some are even supposed to be eking out their diets with pet foods.

For many older people, particularly those with chronic conditions, the dilemma is yet worse. Because they are more prone to such conditions, prescription drugs are a "must" for many. Often, to purchase drugs of this kind they must skimp or do without food. Or, if food is bought instead, the pain of a chronic condition must be endured. It is an excruciating dilemma, and one that the administration and even the Nation as a whole seems to ignore completely.

Only in the United States do we seek to segregate the elderly, shoving them into nursing homes and rest palaces, just to get them out of sight. We frantically pursue the will o' the wisp known as youth. It is an image we desperately seek to constantly place before us. Hence, anything old is a reminder of our eventual graduation to that status. Therefore, we deliberately try to shut them away. In other societies, the elderly are honored, cared for and sought out for inclusion in innumerable family activities. Such used to be the case here as well, until the past few decades. The treatment these people receive from their own government sets the standard for shabbiness.

I support the first tangible reform that we can and should enact to allow these senior citizens some financial leeway they earnestly desire. We can amend the Internal Revenue Code to allow a full $5,000 exemption from income tax for amounts received as annuities, pensions or other retirement benefits. This is in addition to whatever other exemption is received by an older person. It would be a basic exemption, over and above any portion of a retirement benefit exempted in any other part of the Internal Revenue Code.

In addition, we should also consider the plight of millions of older persons who retired years ago, when benefits were much smaller than today. Many of these people are retired government employees and State workers. Their pensions are literally wiped out by a few basic expenses. Several measures have been introduced on both sides of Capitol Hill to alleviate their plight and update their fixed pensions.

Further, recent months have brought to light the fact that a good many millions of Americans are paying into pension funds for years in good faith, only to find that one technicality or another robs them of the enjoyment of such pension benefits. I urge a thorough investigation in this area, and Congress should move forthwith to shed light on what is transpiring.

Another immediate reform we can and should move on is to extend the umbrella of medicare to cover prescription outpatient drugs. Persons living at home but requiring constant medication are in an intolerable bind. In a hospital facility they have some relief. But once at home, they must bear the cost themselves. This has led to a series of evils. In self defense, many elderly citizens have prolonged or sought to prolong such hospitals stays in order to cover some of their drug costs. They should not be trapped in this manner. In 1966, more than half the elderly living alone had incomes of less than $1,500. Eleven percent of elderly families and 53 percent of elderly individuals received less than $30 weekly. Another 30 percent of each category had incomes of between $30 and $60 weekly.

Nor are these people seeking a mere free ride, as some few reactionary foes of reform claims. Almost always they have led useful and fruitful working lives. All they seek is aid because of intolerable pressures from forces they cannot control.

Private insurance is not meeting the challenge. A Task Force on Prescription Drugs established in 1967 by HEW found that only 9 percent of the elderly had any protection under private insurance plans. It was also found that private insurance met only 2.8 percent of all nonhospital and nonphysician medical care expenditures. Yet they buy, in total, 23 percent of all prescription drugs.

We have only one avenue open, and I endorse it wholeheartedly. Let us amend section 18 of the Social Security Act to extend regularly provided prescription drug coverage to outpatients in the same manner as to those now covered by existing legislation.

Our national Government can and must come up with an overall program aimed at creating a better life for these citizens. It should include the following:

A fixed proportion of all Government funds spent on housing should be earmarked for the elderly.

Older Americans should be provided with a minimum annual income based on an intermediate standard of living as determined by the Bureau of Labor Statistics.

Publicly funded programs for older Americans should be designed to include transportation breaks for them.

Chronological age should not be the sole criterion for retirement. A more flexible policy should be based on a worker's desires, needs, and ability to perform the job.

The equivalent of a national school lunch program should be established for the elderly.

A national Federal reform program affecting nursing homes should be carried through forthwith.

Mr. Speaker, these are the minimum programs we should create and make available to the elderly. Every developed nation in the world, and even, to our shame, the Communist countries, has done at least or more. We are the only Nation in the world among developed states which uses people and then throws them onto the national junk heap to be forgotten.

Their quiet suffering is to be noted by any careful observer. In literally hundreds of cities they dwell in loneliness and despair, hoping that somewhere and somehow, their situation will be noted. Heretofore, it has not been.

It is not enough to come forth with the usual election year promises for a raise in social security. These moves, even if well intentioned, are merely stopgaps; bandaids over a cancer. They are simply too little and too late.

The President talks about a generation of peace. To the elderly, the future is now. They do not have another generation to fritter away in sterile patience. We cannot set our internal affairs to rights without a meaningful, comprehensive program aimed at alleviating all aspects of this situation.

Up to now we have failed dismally. Let us at least acknowledge the present state of affairs. Let us at least begin to legislate effectively here with a distinct goal in mind and sight. We can do no less.

HIGH PRICE OF MEAT

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MYERS. Mr. Speaker, there has been much publicity recently about the high price of meat at the grocery stores.

XUM

The following letter that I received a few days ago gives an interesting comparison:

CLOVERDALE, IND.,
March 21, 1972.

Congressman JOHN MEYERS,
House of Representatives Office Building, Washington, D.C.

DEAR CONGRESSMAN MEYERS: With all the East Coast outcry for controls on raw agricultural products, I thought you might be interested in an article that appeared in the March, 1972 issue of "The Farmer-Stockman of Nebraska":

"A check of ads in a Nebraska daily in 1952, when choice to prime beef was selling for $35.50–$38.00 in Omaha, shows the price of key cuts of beef in the column at center below.

"A cattle feeder went into a chain store recently and checked these prices against the prices today. The column at right shows present day prices. The Omaha price of choice to prime beef that day was $36.75–$37.25:

	1952	1972
"Swiss steak	0.85	1.69
Hamburger	.49	.67–98
Rib steak	.79	1.59
Beef stew	.79	.98
Sirloin steak	.85	1.63
Round steak	.98	1.39
Beef roast	.65	1.19
Prime rib	.69	1.29"

You have always proven to be an eloquent and knowledgeable agricultural proponent. I hope this might help you in some way to explain to your colleagues the foolishness of applying controls to raw agricultural products.

Respectfully yours,

JOHN M. NALLY.

(PS—Cost in 1952 to produce calf $75.00 and cost in 1972 to produce calf $125.00.)

TELEVISION VIOLENCE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, recently I had the opportunity to keynote the Serious Speech Contest of Area III, Toastmasters International, in Silver Spring, Md. Among the contestants was Mr. Charles W. Day, immediate past president of Capitol Hill Club, Toastmasters International, who presented a speech on the incidence of violence in television programing. During his remarks, Mr. Day cited the activities of Action for Children's Television, an organization working toward better television programing for children. I am pleased that one of my constituents, Mrs. Deborah Schlein, is the Washington resources chairman for ACT. Television violence, which has already been the subject of hearings in the other body, will become increasingly discussed in the months ahead, and I feel my colleagues may find Mr. Day's remarks of interest.

The remarks follow:

THE BOY IN THE DARK
(By Charles W. Day)

A little boy sits in a darkened room and presses a button. A screen bursts with color and form and television—the greatest teaching device in man's history—is on and operating.

The boy, his arms around his legs, his chin on his knees, watches and listens, his young mind absorbing every detail.

Suddenly, the picture changes, and during the next hour, he sees two murders by gun, one attempted murder by car, one attempted murder by strangulation, a water torture, two chokings, two assaults, a rabbit punching, and a groining—CBS–TV—prime time—last Tuesday night.

That little boy might have been mine, or yours, or anyone's, because the typical American child, before he is 14 years old, will see 18,000 human beings killed on television—and last Tuesday, in a Senate hearing, I heard the Surgeon General tell Senator Pastore what many of us have felt in our hearts: violence on TV can cause violent aggression in children, yours and mine.

Think how hard you are working to bring up your children—not to make them perfect, just better. Think of the time you are spending to teach them the rudiments of manners, a sense of decency, a measure of kindness, and a reverence for life.

Then, in 30 seconds, the slickness, the persuasiveness of television—the slick chicks and mod guys who use violence—cut the ground from under you. Remember: A child's mind is a wonderful thing; a child can learn eleven languages simultaneously. But he can't reject; he can't blot out something placed in his mind; consciously or subconsciously, it will stay there forever!

And don't think that TV violence is accidental or coincidental. Federal Communications Commissioner Nicholas Johnson listed in his recent book these memorandums from TV producers. "Give me more *violence*," said one. "Give me *violence and sex*," said another. And this gem from a network vice president: "I rather like the idea of *sadism*."

Senator Abraham Ribicoff, after studying TV programming, said recently, "America professes to care about its children, but in reality, it doesn't."

I ask all of us tonight: *Do* we care? . . . Does anyone really care? . . .

One person does. She is Mrs. Evelyn Sarson of Newton Township, Massachusetts, a house wife who two years ago created ACT: Action for Children's Television. Starting with a meeting in her living room, Mrs. Sarson enlisted the support of her friends and neighbors, then the support of men and women all over America. She petitioned the Federal Communications Commission to open a formal inquiry into children's programming—and she got it! When the docket on that inquiry closed a year later, comments—100,000 letters—filled 63 volumes, and they are still coming in.

I have spent the past weeks reading that docket and I want to share one letter with you I found particularly poignant.

"I am writing this note from my hospital bed," she writes, "where I have just given birth to a boy. I wholeheartedly support any guidelines for Children's programs that will help improve the future for my son."

That new mother cares. Evelyn Sarson cares. And the man sitting in front of you cares very deeply.

Well, what can we *do* about it? About organized, well-financed, intrenched TV producers who get big money for big violence? I'll tell you what we can do, and not tomorrow, not even later tonight, but *now*. Each of you has a program. If you can find a pencil, I want to give you a telephone number to remember. I'm going to give you the number of the Washington Resources Chairman for ACT. The number is 593–5210. After it, please write ACT. That number will give the information you need to cast your vote against needless TV violence.

Last week a Senate Subcommittee focused national attention on TV violence, and what to do about it! This is a perfect time to get into the fight!

Yesterday I talked to Mrs. Sarson at the Senate hearing and told her about this meeting tonight. She was delighted, and asked me what she could do to help us. I also talked to Dr. Jesse Steinfeld, the Surgeon General. He urged us to work through ACT as a respected and responsive organization.

Your program is your reminder, but it is more. It's your pledge toward less violence . . . on TV and in our tangled lives.

If I had but one prayer, I suppose it would be this . . . Father of us all, grant us the courage to *ACT* . . . so that all of us here tonight . . . might not abandon . . . the little boy . . . in the dark.

RENSSELAER FRESH WATER INSTITUTE AT LAKE GEORGE

HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KING. Mr. Speaker, on Monday during the general debate on the Federal Water Pollution Control Act amendments I introduced a statement entitled, "The Rensselaer Fresh Water Institute at Lake George—Programs/Objectives." In the Saratogian, a newspaper published in my hometown, there was a further article in the Sunday, March 26, edition explaining and amplifying the work done by the environmentalists of the Lake George area and, in particular, the work done by the research team of Rensselaer Polytechnic Institute and a group of scientists known as the Rensselaer Fresh Water Institute at Lake George. I again commend the work of these scientists, and ask consent to introduce the article in the Saratogian for the benefit of my colleagues.

The article follows:

RPI COMPUTER "BECOMES" LAKE GEORGE WATER QUALITY OF AREA LAKES UNDER STUDY

"We should all be concerned about the future," Charles F. Kettering, the noted American industrialist once said, "because we will have to spend the rest of our lives there."

Rensselaer Polytechnic Institute of Troy has always concerned itself with the future. The common theme from its founding in 1824 to the present has been "for the purpose of instructing persons who may choose to apply themselves in the application of science to the common purposes of life."

In the early 1900's William Pitt Mason, a professor of chemistry, campaigned to persuade upstate New York communities to install treatment plants for their public water supplies. The first attempts to integrate environmental considerations into an academic program were made in 1929 by Prof. Edward J. Kilcawley who subsequently received numerous honors for his pioneering work in pollution control and public health.

In the mid-1940's a sanitary engineering option was offered which, by the 1950's had expanded into a new and extensive curriculum in environmental engineering embracing not only sanitation, but also air and water pollution. Enlarged in 1967 it became the bioenvironmental division of the School of Engineering.

The environmental programs currently underway at Rensselaer are based on these roots of the past. Faculty and students from science, engineering, humanities, architecture, and management, are brought together to focus their efforts on many environmental study projects. One of these is concerned with the preservation of a very basic natural resource, fresh water, and is being pursued both on the RPI campus and onsite at one of New York State's most beautiful and picturesque lakes, Lake George—a mecca not only for thousands of vacationing New Yorkers, but those from surrounding states and Canada.

This program, which includes initial water-quality studies on Oneida, Saratoga, and Schroon Lakes to confirm the aging quality condition of those lakes, was undertaken in 1967 by the Rensselaer Fresh Water Institute (FWI) at Lake George. Since its establishment, FWI has grown from an activity supported by the School of Engineering to an independent university activity.

In order to increase its research program the FWI seeks added public support, says Dr. Nicholas L. Clesceri, director. This, he said, is not easy despite today's anti-pollution sentiment.

Calling RPI's project, and a similar study underway at the University of Michigan, "unique in scope" for the nation, Dr. Clesceri stated:

"Pollution is bad only until people find out they are going to have to spend money or give up something in order to take care of it," he said. "In order to take care of it, the biggest problem is to convince people—the taxpayers who support organizations such as the FWI through government grants—that without research into pollution, its causes and cures, fresh waters might reach a stage of virtual irreversibility."

What actually is going on at Lake George, and in laboratories at Rensselaer, that warrants support?

How does the pollution process transform a clean lake or stream into a polluted one? How can this process be stopped? Reversed? Slowed down?

If, men reasoned, we can learn how nature acted—how man intruded and changed her design—and how nature responded to this intrusion, we will know a lake's life story from its beginning to the present. Then, by applying this knowledge, we could predict its future actions and reactions and learn precisely how much of man's intrusions it could tolerate without upsetting its ecological balance.

To find answers to these crucial questions, an intensive study of the many factors involved with environmental systems began at Lake George—a well defined, relatively unpolluted system that would allow the formation of a basic mathematical model which could then be applied to larger, polluted lakes.

A mathematical model basically is a computerized dimulation of a problem—a very complex, constantly changing problem—into which the FWI scientists feed the biological, chemical, physical, and even social data. The high-speed computer, with its enormous memory units "becomes" Lake George and it, rather than the lake, can react: What would be the lake's reaction if this intrusion were added? If this interference were stopped? If this pollutant imput were reduced 25 percent? 50 per cent? completely?

But first the biological, chemical, physical and social data must be obtained. And this requires sampling and surveys and many hours of laboratory research.

Water samples are taken from various locations and depths of the lake by means of a 225-foot length of 2-inch tubing mounted on a reversible power hose reel. The intake end of this power hose brings water into RPI's boat, Water Watch in summer or up through a hole in the ice in winter, and this water, both from batches and from a continuous water sample system are analyzed and recorded. Some 600 water samples from five different depths have been taken at 14 different stations to date.

Glass and plastic microscope slides, too, are suspended to measure the growth rate of algae in the lake and these changes are analyzed and recorded.

In the laboratory complex on the northeastern shore of the 32-mile long lake, at Smith's Bay, FWI researchera separate the individual water samples into three plastic, quart-sized containers. The contents of one are analyzed "as is" while the other two are filtered through membranes with micron-sized pores. The unfiltered sample is used to measure pH, alkalinity, as well as ammonia, total nitrogen and phosphorous concentration in the water. One of the filtered samples is analyzed for nitrate, total soluble phosphorous, orthophosphate and dissolved silica. The second filtered sample is evaporated in a small quantity of acid to concentrate its volume tenfold and is then analyzed for micronutrients such as cobalt, copper, zinc, and molybdenum.

The glass and plastic microscope slides are analyzed to measure algae growth and the tendency or capacity of the lake to support this growth giving another indicator of the water environment.

The area around the lake, but nevertheless affecting it, is not forgotten either. An account of the amount of water entering, leaving the remaining in the lake is important in any complete study as is the fact that a better understanding of the movement of water into and out of the lake will greatly help in maintaining its level within acceptable limits. Water entering the watershed is mainly in the form of precipitation.

Rain gauges placed throughout the basin record the total amount of rainfall as well as its time distribution. To trace the water, measurements of stream runoff are made and this information provides a base for the calculation of chemical nutrients entering and leaving the lake.

Another study traces the effluent from the sewage treatment facility into deep natural sand beds for removal of remaining pollutional materials in the treated effluent discharged without chlorination.

"It's folly to think that we must treat sewage to the point of purity," Dr. Clesceri declared, "but there's a happy medium somewhere between purity and untreated discharge that will prevent overloading the lake."

"The more people, of course, the more we change the rate of natural processes," he added, "unless we cut into it somehow."

In other areas, studies of discharges from outboard engines indicate a buildup of oil and gas in the water and the researchers are trying to determine the number of boats that will be compatible with water quality—or the means of eliminating the discharge completely. Between 8,000 and 14,000 boats ply the lake already.

The ecologists are careful not to leave out any data necessary for the mathematical model and even conduct surveys among the lake's tourists, of their use.

All of this information, and more, reduced to mathematical computer language, is then fed into a computer and miles of computer tape will become a mathematical Lake George. Then, whatever is done to the lake itself, good or bad, can be done to the tape and the long-range results of the action can be concluded. This can also work in reverse: Will the addition of this nutrient, or that organism or an increase in either be beneficial to the lake or will it have adverse affects?

"Much has been done in the past," Dr. Clesceri said, "but much more must be done in the future. Geologists must contribute to the understanding of the geological and hydrological aspects of water supply and pollution; biologists must study and make decisions on the animal and plant life components; environmental engineers must focus on the adherence to the overall objectives of the research; mathematicians, limnologists, and chemists must add their knowledge; engineers must be available to design the necessary disposal or control systems; sociologists must study the social impact of the proposed solutions; resource economists must evaluate the financial considerations; public policy scientists must indicate the legislative activities necessary; and the professions, including medical and public health officials, must contribute to the understanding of the situation."

"We won't have the time and money to go into studies of this depth elsewhere," he concluded. "We'd better come up with a few answers here."

BRAVE BYELORUSSIANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. BIAGGI. Mr. Speaker, 54 years ago on March 25, 1918, the proclamation of independence by the people of Byelorussia took place. I am pleased to join my colleagues in the House of Representatives in paying tribute on this occasion to the brave Byelorussians whose brief period of freedom was cut short by the Bolshevik forces of the Soviet Union.

The Byelorussians who had lived under the czars for several centuries seized the opportunity afforded by the overthrow of the oppressive czarist regime, to break away from the old decadent empire. Indeed, they welcomed the chance provided by the Russian Revolution of 1917, and proclaimed their independence on March 25, 1918.

Then they formed their own democratic government in their capital city of Minsk, and began to rebuild their war-torn country. Unfortunately, this richly deserved freedom was not enjoyed by the Byelorussians for very long. In December of that same year the Red Army overran Byelorussia, annexed it to the Soviet Union and Byelorussians became the Soviet Union's helpless victims.

Since that time, for over five decades, the Byelorussians have been living under the oppressive yoke of the Communists. This tragic result, to which all men of good will still bear witness, was the launching of the slave ship of the state euphemistically christened the "Byelorussian Soviet Socialist Republic." Today the name Byelorussian remains an empty designation among the captive States that the Russians claim are free and independent nations. They are not free, however; they are under the same bondage that shackles many of the eastern and northern European states.

Today all Americans join with our fellow citizens of Byelorussian ancestry in renewing our own devotion to the principles of freedom and in our deeply felt hope that the day is not far off when the people of Byelorussia, as well as people everywhere, can join us in our enjoyment of the blessings of freedom.

XUM

REPORT FROM YOUR CONGRESSMAN ED ESHLEMAN

HON. EDWIN D. ESHLEMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ESHLEMAN. Mr. Speaker, I have just recently sent my constituents a newsletter. I am including the contents of that newsletter in the RECORD at this point:

REPORT FROM YOUR CONGRESSMAN
ED ESHLEMAN

SUPER SATELLITE

In the picture below [not shown] I am seen with a model of the Earth Resources Technology Satellite (ERTS) which is due to be launched in the near future. The satellite and I got together as a result of my work with the Task Force on Population Growth and Ecolog .

If you wonder how space technology and making policy on population growth and ecology get tied up, it is all an example of how complicated any subject that Congress studies can become. The Task Force has determined that the best way to deal with our two subject areas is to look into the development of a national land use policy. The satellite will provide a great deal of data that will aid experts in determining how each parcel of land should be used. Therefore, before beginning work on land use legislation, we had to first become acquainted with what the space scientists have to offer.

ERTS is an amazing example of how our space program brings many benefits to mankind. With this satellite we will be able to detect such things as vegetation blight, urban sprawl patterns, water pollution sources, and mineral deposits. By using infrared, ultraviolet and visible light, it will take "pictures" of the earth which can be analyzed by computers and then used to solve problems or keep us from creating new problems.

Thousands of taxpayer dollars may be saved because the satellite information will tell highway engineers where not to build a road because to do so will result in higher than average repair costs. The spread of crop disease may be stopped because farmers will have advance warning from satellite data that blight is beginning to set in. These benefits, and others too numerous to mention, will give people all over the world a greater chance of avoiding disasters of many kinds.

CHERRY BLOSSOM TIME

Washington's annual Cherry Blossom Festival is scheduled this year from April 3–8. If the blossoms cooperate with the date set by the committee, and if you are willing to brave the crowds which descend on the city for this event, there is no doubt that you will see your Nation's Capitol at its most beautiful time.

PROMISES, PROMISES

During this year of political campaigning, keep this in mind: When it comes to Government spending, there's no such thing as something for nothing. The candidate who promises you greener fields will also send you the bill for grass seed, water and fertilizer.

FINDING VETERANS JOBS

There was a briefing on Capitol Hill recently sponsored by the various government agencies who are responsible for the coordinated national campaign to find employment for returning GIs. I attended this briefing and learned that the campaign is designed to bring the problem of the returning veteran to the attention of employers and to acquaint veterans with the facilities that are provided to help them get located in a new job slot.

Department of Labor statistics indicate that the efforts have met with some success. Unemployment has fallen among the 20–29 age bracket from 8.5 percent in January to 7.4 percent presently. Among the 20–24 age bracket, the group that is generally classified as Vietnam Era Veterans, the drop has been from 12.3 percent in January to 9.7 percent today.

Of course, the agencies who are working at finding jobs for veterans are not satisfied with the present unemployment figures which are still too high. But they are encouraged, as I was encouraged, that we are making some real progress toward assuring that the men who have served their country and acquired skills during that service are getting a better break than unemployment compensation.

REDISTRICTING

On January 25 the State Legislature passed a bill to reapportion Pennsylvania's Congressional Districts. The overall number of Congressmen from our State was reduced from 27 to 25 based on the results of the 1970 Census. As a result of this redistricting, I will no longer be representing Lower Dauphin County and part of Lebanon County. I am sorry to be losing these areas, but I intend to maintain the close personal relationship I have had there during the past five years.

Having lost some old friends, the Sixteenth District gained some new residents who hopefully will become friends too. I would like to take this opportunity to welcome the citizens of Chester County who will become part of the Sixteenth District under the redistricting plan.

For all constituents, old and new, my goals as a representative remain the same—to be a voice of and a voice for you in national affairs and to aid you in solving any problems you might have with the Federal Government.

NEW FEATURE

Just below you will find a guest editorial written exclusively for my newsletter by Gerald R. Ford, the Minority Leader of the House of Representatives. I am going to begin including this feature in these reports to you so that you can get some idea of the views of my colleagues on issues of the day or their work here in Congress. Jerry Ford kindly consented to write this first editorial, on the subject of busing, but in months to come I plan to ask Members of Congress from both sides of the political aisle to explain their opinions of a variety of topics.

GUEST EDITORIAL

Forced busing to achieve racial balance has suddenly become one of the hottest topics of conversation in the country.

Forced busing is controversial—and I think it is controversial because it is wrong. Most parents, black and white, want quality and equality in education for their children. I do, too. But they don't want forced busing, and neither do I.

I am a believer in neighborhood schools. I believe that the neighborhood school system is the cornerstone of American public education. It seems to me that anyone who believes that cannot favor forced busing for whatever reason.

I have signed the discharge petition which would take H.J. Res. 620, the anti-busing constitutional amendment sponsored by Rep. Norman F. Lent, R.-N.Y., out of the hands of the House Judiciary Committee and bring it to the House floor for a vote.

Let me state categorically that I do not believe in segregation. I would strongly oppose any system that assigned children to a specific school on the basis of their race, whether the intention was to combine or to separate the races. It is for that very reason that I oppose forced busing—because it intensifies racial distinctions.

My view on school segregation is that we should act to end dual school systems wherever we find them but there should be no forced busing of school children great distances from their homes to achieve racial balance. Forced busing should be stopped because it places a hardship on parents and students alike—black and white—and wastes taxpayer dollars that should be used to improve the quality of education.

Our concern should be with quality education, not with forced busing to achieve racial balance. Instead of spending huge sums to transport students to a distant school, we should upgrade our disadvantaged schools for the benefit of disadvantaged students. I believe taxpayers would be willing to do that although they vigorously oppose expensive plans involving forced busing.

As a Congress of Racial Equality leader has expressed it, better schools and better teachers are the answer to improving education for blacks—not transporting children to the suburbs.

CLEAR MESSAGE

I saw a book the other day putting down the free enterprise system. I saw it in a bookstore selling for $10.95.

OVER AND UNDER

Some people have been shocked to find that more income tax is being withheld from their pay even though Congress voted last year to cut personal income taxes.

There has been a cut in income taxes. This year some 60 million taxpayers will share a $3.6 billion reduction in individual income taxes under provisions of the Revenue Act of 1971.

But when Congress cut taxes last year, it also adopted new income tax withholding tables. The reason for this action was that individual income taxes had been underwithheld since the Tax Reform Act of 1969 and many people were finding themselves with a sizeable tax bill on April 15.

Now we are finding that employees who do not have a wage-earner spouse or who itemize deductions and come up with a far higher total than the standard deduction are being overwithheld. The answer is for these individuals (except for those with two jobs) to file a new Form W–4 claiming special exemptions. These forms may be obtained from employers or the I.R.S.

OFF AND RUNNING

Congress is a great institution. As you know, the entire House of Representatives and a third of the Senate are running this year—and that's only for the Presidency!

A HISTORY LESSON

Once there were two great powers who were always opposing each other. One was sophisticated, advanced, educated, shrewd in business, and very wealthy. Their opponents were crude, pragmatic and very warlike. The wise men in the enlightened, sophisticated country came up with the brilliant idea that if they destroyed their arms and armories, declared themselves for peace and renounced war, no one would want to bother them. If they proved that they were no threat, then those across the sea would feel safe, would no longer have fear, and everything could settle down to trading. Without military expenditures, things could be done. Prosperity would boom without the load of military spending. So they did it.

But, unhappily, the guys on the other side didn't play the game right. They decided that now they had a chance. They decided to make sure that the enlightened country wouldn't change its mind.

So, Rome destroyed Carthage.

THE BAYVILLE-RYE BRIDGE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. WOLFF. Mr. Speaker, my colleagues know of my longstanding opposition to the planned construction of a bridge between Rye and Oyster Bay, N.Y. Two recent editorials, one of which appeared in Newsday and one was broadcast over WCBS–TV, highlight some of the problems inherent in the conception of this project. I am including these editorials following my remarks:

THE BAYVILLE-RYE BRIDGE

Any driver who has experienced the Long Island Expressway during a rush hour knows that something has to be done to ease traffic congestion in the metropolitan area. The Bayville-Rye bridge is the Rockefeller administration's response to that challenge.

And that poses a problem for Long Islanders. For seldom have we been faced with a more perplexing issue that the proposal to build this bridge across Long Island Sound. This much is clear to us: Long Island will need another link with the mainland before the decade is out. Two state studies have, we believe, documented that need. This much is also clear: Both of these studies fail to examine the consequences of *this* bridge. Vital information is lacking in a number of areas, and such documentation—which will require further studies—must be provided before construction begins.

Motorists are not alone in appreciating the Island's present limitations. The bridge has the endorsement of the Long Island Association of Commerce and Industry for good reason. Transportation costs emphasize the dead-end-street status of Long Island to businessmen. We're sure many LIA members would prefer a bridge linking eastern Long Island to Connecticut, creating a new artery in the circulatory system of the Northwest corridor. But in the foreseeable future any Suffolk crossing is unlikely because the governor and legislature in Connecticut fear their state will lose industry and recreational business to Long Island. With that preferable option blocked and with time a critical factor, a western crossing becomes the only possibility.

But has the state seriously considered mass transit alternatives? Is a bridge, which inevitably generates still more traffic, the best response or simply the most expeditious? Why was Bayville chosen as the site of this western bridgehead, and what will the bridge do to Long Island? The state has never fully justified the Bayville site, never acknowledged the implication of the proposed hookup with the Seaford-Oyster Bay Expressway, never fully examined the environmental impact or explored the effect of the bridge on land-use and recreation.

Bayville, for example, was selected despite traffic studies that showed a bridge further west—parallel to the Throgs Neck Bridge—would lessen metropolitan congestion more effectively. The study cited vague difficulties with access roads further west. But it did not come close to an adequate examination of this alternative.

WHAT WILL FOLLOW?

The waters off Bayville are a center for recreational boating. Is this really a good site for a bridgehead? The state argues that it is because it facilitates a link between the bridge and the existing Seaford-Oyster Bay Expressway. But at its southern end, this expressway links truck traffic only with the already overtaxed Sunrise Highway. Will the bridge mandate a major east-west expressway along Long Island's South Shore? The creation of such a connection with the Verrazano-Narrows Bridge and New Jersey would mean (a) the transformation of Sunrise Highway into the proposed high-speed Sunrise Expressway or (b) the construction of a major road on the South Shore wetlands. Long Islanders can't evaluate the bridge unless the State Transportation Department is frank with them about all the implications.

The state's study of the environmental impact of the bridge doesn't lack candor; but it does lack facts. In its most recent report, the state used wetlands data compiled in 1952. Considering this absence of first-hand information, the conclusions reached in the report are understandably vague. The report skirts critical considerations by pleading a lack of knowledge It can't for example specify what effect the bridge will have on young fish or how bridge pollutants (oil, abestos and rubber) will affect the quality of the water.

Nor has the state addressed itself to the probable effects of the bridge on land-use patterns. Northern Oyster Bay Town is Nassau's last open space preserve. Bridgeheads tend to stimulate development in their vicinity. The Nassau-Suffolk Regional Planning Board has recommended that the shoreline areas be protected from intensive development. Will the bridge make it more difficult to realize that goal? The state has never considered that.

The foregoing questions demand answers. Will we get them? It should be remembered that the state's latest report on the bridge was commissioned when the governor was running for reelection. Restudying the hot issue removed it temporarily from the political contest. The cost was $162,500, which may be a stiff price for dealing with a campaign issue but not much for analyzing a matter of such complexity.

So far as future studies are concerned, we recognize that they will take time and that time means delay. We also recognize that some opponents of the bridge are utilizing delay as a tactic, since they see pressure for the crossing fading when Rockefeller leaves office. Nevertheless, we believe more information in the areas noted is essential.

In dealing with other aspects of the bridge, the state's researchers were able to come up with the answers. The traffic studies, for example, adequately demonstrate how this bridge will serve a regional need by draining traffic from the 11 existing major expressways. The state also realistically views Long Island as a growth area that will need its own alternate routes for traffic: The Nassau-Suffolk Regional Planning Board projects a population of 3,300,000 in Nassau and Suffolk by 1985.

We recognize the need for another link with the mainland. But Long Islanders want to know: Why specifically a Bayville bridge? And what specifically will that bridge do to Long Island?

WCBS–TV EDITORIAL

BRIDGING THE SOUND

(By Peter Kohler)

FEBRUARY 10, 1972.

There are two important things to remember about Long Island. One is that it is long. And the other is that it is an island.

This bit of elementary geography is worth remembering when discussing Governor Rockefeller's plan to build a bridge from Oyster Bay on Long Island to Rye in Westchester County. Undoubtedly, such a bridge would help traffic get around New York City and help Long Island people and products get to New England and its markets more easily.

But, as we said, the other thing to remember about Long Island is that it is long, and that a bridge at Oyster Bay does virtually nothing to improve the dead-end status of eastern Long Island.

So it's no wonder that some Long Islanders believe that a much better site for a bridge would be further east, where the span could open up economic growth in what is now a largely rural area on eastern Long Island.

Now, this argument has merit, it seems to us, and if any new bridge is to be built to Long Island, it should be placed further east than the one proposed by Governor Rockefeller. But the most pertinent question of all is whether any new bridge should be built to Long Island, particularly when it is questionable whether this island and its limited water supply can accommodate the substantial additional growth such a bridge could bring.

The answer is by no means clear. But, on balance, the arguments against building another bridge to Long Island at this time are stronger than those favoring the project. And so, to this bridge, at this time, we say no.

KNOWLEDGEABLE, EXPERIENCED, EFFECTIVE REPORT NO. 1

HON. JAMES KEE

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. KEE. Mr. Speaker, while we, the Members of the 92d Congress are pursuing our legislative duties here in Washington, many of us are suffering attacks from those who are not informed as to the House rules and the responsibilities of its various committees. In all too many instances, we are the victims of statements loaded with half-truths, misinformation, and frequent charges which come very close to slanderous lies. Frequently, statements made by these individuals reveal a shocking lack of knowledge and a broad degree of ignorance on the workings of the Congress of the United States. I feel the time has come when I must put into perspective the facts as they are and the accomplishments of this Member.

A case in point: Recently a statement was made in my district that should this person be elected to this congressional seat, he would ask for an assignment to the Transportation Committee to insure that West Virginia would get the roads it so sorely needs. Now we all know there is no "Transportation Committee." Too, we all know that highway authorization comes under the jurisdiction of the Committee on Public Works. Not only am I a member of that committee, but I have the sacred trust of chairing a subcommittee of that committee, one which is important to my State—the Subcommittee on Conservation and Watershed Development.

As to highway authorizations for the State of West Virginia, hundreds of millions of dollars have been appropriated for construction of a modern highway system—millions for which I strongly fought. In fiscal year 1973 alone, nearly $123 million have been made available for all types of highways in our State. Of the 50 States, the District of Columbia, and Puerto Rico, 34 of these will receive less money July 1, 1972, than West Virginia. Congress does not build

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highways. Congress authorizes highways. The States must plan and build highways. Where and how these millions are to be spent is strictly a State affairs, and so it should be.

I hope this will provide a better understanding of how our highways come into being.

WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mrs. GRASSO. Mr. Speaker, this week we solemnly mark the Week of Concern for Prisoners of War and Missing in Action in Southeast Asia.

Tragically, it has been many years since the first American was captured by the North Vietnamese and their partisans in the South. During this time, efforts in our Nation have intensified—through official channels and through private means initiated by various organizations—to secure an agreement with the North Vietnamese on the release of the prisoners of war. Currently, with the number of prisoners increasing, American policy has concentrated on four specific goals: the identification and accounting of all prisoners held; the establishment of regular communication between all prisoners and their families; prompt repatriation of the seriously sick and wounded; and observation and inspection of POW camps by impartial observers. According to Pentagon records of March 18, 1972, the number of prisoners or men missing in action was listed at 1,501.

The condition of our POW's has been a source of great anguish to the American people. The families and friends of these men bear the burden of personal grief and anxiety for the safety and health of loved ones. The Geneva Convention of 1949 set standards for the treatment of prisoners in any armed conflict, whether or not there has been a formal declaration of war. Among the Geneva Convention articles is a provision making the repatriation of all seriously sick and wounded prisoners an obligation for belligerents. Most unfortunately, the North Vietnamese have continually refused to respect any of the Convention's provisions.

The American people and people the world over have joined in expressing their concern for the American POW's and MIA's. We wait to be united with these men who have suffered so much in this war. It is my fervent hope during this very special week in the religious lives of millions throughout the world that our prayers for these men who are prisoners or missing in action will be answered, and that at long last we and they may find cause for rejoicing.

SPECTRUM AIRS CHINA VIEWS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ROONEY of New York. Mr. Speaker, the CBS radio network offers a program called Spectrum in which the various shades of opinion, left, center and right, are freely expressed. The objective of these programs is to present, so to speak, the other side of the coin—one which might not be heard in newscasts or in the quotes of leading public figures of the moment. While the programs originate on the CBS network, they do not necessarily reflect the views of the network itself. I believe that this effort by CBS radio to strike a balance is commendable; I wish there were more of it in other news media. As an example of the broad range of these shows I would like to include in the RECORD at this point, under permission heretofore unanimously granted to me, two recent broadcasts on Red China by M. Stanton Evans:

SPECTRUM—VARYING SHADES OF PERSONAL OPINION ON CURRENT ISSUES

CBS RADIO NETWORK,
March 14, 1972.

I'm M. Stanton Evans with my personal viewpoint. On the strength of his performance in Red China, Richard Nixon is emerging as the most effective left wing President since Franklin D. Roosevelt.

Observers on both sides of the political fence are increasingly aware that, in the most crucial areas of national policy, Nixon is carrying the country leftward at a much more rapid pace than any of the current Domestic leaders could hope to do. The New York Times rejoices that in three short years, Nixon has "transformed the political and ideological landscape" in favor of the Left, and that because of Nixon the Republican Party can never again stand forth for its traditional principles.

In the matter of China alone, Nixon's services to the Left have been enormous. In less than a year, he has rehabilitated Communist China in the eyes of the world, presided over its entry into the United Nations, downgraded and demoralized the anti-Communist forces of Chiang Kai-shek, and signaled to the world our abandonment of Taiwan. Along the way, he has fostered the return to glory of that claque of hard Left propagandists who promoted Mao Tse-tung to the world as an "agrarian reformer."

In addition to all this, Nixon has such once-respected leaders of conservative opinion as Barry Goldwater and Ronald Reagan falling over themselves to explain and endorse his every leftward move. The spectacle of Nixon kow-towing to the Red Chinese, and getting praised by Barry Goldwater for doing it, is truly pathetic—telling us more about both these men than some of us would have cared to know.

It is precisely that spectacle, of course, which accounts for Nixon's success in promoting the interests of the Left. Had Hubert Humphrey attempted any such appeasement of Communist China, Goldwater and Reagan would have denounced his action as a staggering concession to our enemies and a betrayal of our allies—and stirred a considerable public resistance by doing so.

The fact that these conservative leaders support such things when Nixon does them virtually insures that he will keep on doing them. In a very real sense, the liquidation of conservatism which The New York Times finds so pleasing is the work of Goldwater and Reagan. They are in effect destroying the cause that they are suppose to represent.

This is M. Stanton Evans with Spectrum.

SPECTRUM VARYING SHADES OF PERSONAL OPINION ON CURRENT ISSUES

CBS RADIO NETWORK,
March 18, 1972.

I'm M. Stanton Evans with my personal viewpoint. Among the more shocking aspects of our recent binge of friendship with Communist China is the way in which we have covered up for Peking's commerce in deadly drugs.

For the past year or so the Nixon Administration has been making a big to-do about cracking down on the drug traffic, and focused elaborate attention on such reported malefactors as Turkey. Shutting down the supply of heroin going to U.S. troops in Indochina and flowing into America is supposed to be one of Nixon's major crusades. Yet while all this has been occurring, not a single word has been uttered about the fact that Communist China, by reliable account, is the largest supplier of hard, addictive drugs in the world today.

Red China's long history of involvement in the drug trade is not exactly a secret. In years past the subject has been brought to the official notice of the United Nations by the American government, and U.S. Narcotics Commissioner Harry Anslinger has written rather extensively on Peking's traffic in opium, morphine and heroin. Now, to hear the Nixon Administration tell it, Red China has nothing whatever to do with drugs.

Professor Stefan Possony of the Hoover Institution, an acknowledged authority on Communist techniques, sees the matter differently. He notes the recent disclosure of a high official in the Egyptian government that Chou En-lai told Egypt's Nasser, in 1965, that the Communists were, "planting the best kind of opium for the American soldiers in Vietnam." Possony estimates that from 40 to 60 percent of the illegal drug market is supplied by Red China.

These calculations are supported by Philadelphia assistant district attorney John Steinberg, who conducted an in-depth study of drug problems in Vietnam. Steinberg noted that heroin was sold in Vietnam at prices far lower than the market rate, indicating ideological rather than profit motivation. He is convinced the drugs are coming from Red China.

In similar vein, columnist Ralph de Toledano observes that drug seizures from Red Chinese sources in Hong Kong increased almost 1000 percent between 1970 and 1971. And if the trade is real, we are face to face with an official whitewash of Communist China that staggers the imagination.

This is M. Stanton Evans with Spectrum.

TELEPHONE PRIVACY—VII

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. ASPIN. Mr. Speaker, I have recently reintroduced the Telephone Privacy Act (H.R. 14097) with 28 cosponsors.

This bill would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option to require the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phonebook who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations and opinion poll takers. Also not covered would be debt collection agencies or any other individuals or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a sixth sampling of these letters into the RECORD, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

PRAIRIE VILLAGE, KANS.,
February 20, 1972.

Representative LES ASPIN.

DEAR SIR: I was highly pleased to read the attached clipping last week.

Sure hope your legislation, is made into a national law. We pay a good price for our private phone, and its for personal use only.

Yours truly,

——— ———.

BILL TO BAR UNINVITED TELEPHONE SALES CALLS

WASHINGTON.—Rep. Les Aspin (D-Wis.), yesterday introduced legislation to prohibit telephone solicitors from calling individuals who do not want to receive an uninvited sales pitch.

Under the bill, which would be called the Telephone Privacy Act, individuals could tell telephone companies they do not want to be commercially solicited over the telephone.

Commercial firms wanting to do business over the telephone would be required first to obtain from the phone company a list of customers who want sales calls.

PORT ORCHARD, WASH.,
February 23, 1972.

DEAR SIR: You have my hearty support for your bill which would enable a person to prohibit his telephone being used for unwanted solicitation.

About ten years ago the State of Washington held hearings in various cities but the state took no action to outlaw or even restrict the practice. I believe that if it is true that telephone solicitors just take a sequence of numbers without referring to the telephone book persons with unlisted numbers would be especially irritated by solicitors you might consider this in your bill.

Sincerely yours

——— ———.

OCALA, FLA.,
February 21, 1972.

DEAR SIR: This is welcome news to me indeed. Since my mother became an invalid a year ago, we have been hounded by two local cemeteries wanting to sell us a plot, and the phone company says there is nothing they can do about it. I will write to my Fla. congressmen and urge them to support your bill.

Yours truly,

——— ———.

LITTLETON, COLO.,
February 25, 1972.

DEAR REPRESENTATIVE ASPIN:

"NO SOLICITOR" PHONE OPTION EYED

WASHINGTON.—Rep. Les Aspin, D-Wis., proposed Sunday that individuals be allowed to place "no solicitors" signs on their telephones.

Aspin said he plans to introduce legislation in Congress Monday that would give persons the right to indicate to the telephone company if they do not want to be commercially solicited over the phone.

"It will significantly reduce the use of the telephone as a tool for invading an individual's privacy," Aspin said.

Charities and other nonprofit groups, political organizations, and poll takers, as well as debt collection agencies would be exempt from the legislation.

This is a great idea. Good luck.

Thank you.

——— ———.

FORT LAUDERDALE, FLA.,
February 28, 1972.

DEAR MR. ASPIN: Enclosed is an article in which we learned of your proposed "no solicitor" legislation. We not only thought you would be interested but also that you might like to know we hope you get this bill first time around.

I have been carrying my own struggle against these solicitors—by taking the name of the company and also name of the boss (man who hired caller) and returning their call.

Ironically, none of these men want to be disturbed. This I found rather amusing and have to laugh when they usually say, "if you don't hang up lady you'll hear words you've never heard before" and then slam the receiver down themselves.

Sadly, I cannot convince them by myself that they don't want to be disturbed either. But your bill will do just that for the public!

I have told each caller to please remove my name from the list as I am moving out of town. But of course, this does not remove me from the original list and I still get a call a day—down here.

May we harrassed housewives wish you success and we hope your bill "rings the bell"!

Sincerely,

——— ———.

(NOTE.—Article mentioned not printed.)

BLOCKOUTS AND BROWNOUTS ARE POSSIBLE UNLESS AEC NUCLEAR POWER FACILITIES ARE PERMITTED TO OPERATE—10 NUCLEAR FACILITIES BUILT, READY TO PRODUCE POWER SUFFICIENT TO SERVE CITIES OF LOS ANGELES, PHILADELPHIA, AND CHICAGO COMBINED—EPA CLEARANCE NEEDED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EVINS of Tennessee. Mr. Speaker, this Nation now faces an impending power crisis—blackouts, brownouts, and severe current shortages when peak demands flood our power systems throughout the country this summer.

As injunction suits, and executive actions have delayed bringing new power production facilities on the line, many Americans have warned of the danger of these delays. We have warned that a shortage of electricity could produce serious and severe consequences.

A proposed bill would permit the Atomic Energy Commission to grant interim operating licenses to nuclear plants already on the line but not operating while awaiting environmental impact clearance.

This bill should be passed—these plants should begin operating in the public interest—the people of this Nation need this electric power supply.

The Washington Evening Star on yesterday published an excellent editorial on this subject and I place the editorial in the RECORD herewith, because of the great interest of my colleagues and the American people in this most important matter.

The editorial follows:

THE ELECTRICITY CRUNCH

The specter of a national electric power crisis at last is beating on Congress' door and cannot be ignored. But the current alarms are mild compared to the public clamor that will arise if the lights go off in large areas this summer. The lawmakers had better get earplugs if they don't take action soon to prevent that from happening.

Even doing their best they won't be able to assure enough kilowatts everywhere if the summer is long and hot. It's the old story of waiting too long to head off an impending emergency. Government and private industry share the blame, but the fragmentation of authority and the environmental movement are large factors in the dilemma. Congress, however, now has the ball, which is radioactive. It was tossed over from the White House and deciding on the next play is no easy matter.

What the White House wants Congress to do is cut a temporary detour around the Environmental Policy Act, so that several disputed nuclear power plants can be placed in operation. An administration bill would allow the Atomic Energy Commission to grant "interim" operating licenses before full environmental impact studies (required by the act) have been completed. Those emergency permits would expire in July, 1973, and by that time the environmental findings presumably would be available.

This has, predictably, stirred up a hornet's nest. A procession of environmental spokesmen recently told a joint congressional committee that the proposal assigns higher importance to electric power than to public safety. All the long-debated questions about the ecological effects of "thermal pollution" and the safety of reactors were raised anew.

All are being restudied in depth by the AEC, but this research is far from completion. In fact, the country's whole nuclear power movement is in a limbo caused by last summer's federal court decree that all plants must be subjected to additional studies, to comply with the environmental act. Hence the AEC is bogged down, and cannot grant permits for five large nuclear installations that are ready to begin producing power. Five others that are almost ready also may have to stand idle. It's estimated that these 10 facilities could turn out enough power for the cities of Los Angeles, Philadelphia and Chicago combined.

And if they don't start producing power reserves in 40 percent of the nation (accounting for 55 percent of the kilowatt usage) are expected to drop below 10 percent. Some areas will have only 5 percent. Since 15 to 20 percent is considered an acceptable mini-

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mum, all this points to a dark and sticky summer if the mercury climbs very high.

Considering these omens, Congress should waste no time in authorizing the emergency permits, with one clear understanding: The remaining questions must be cleared up by the expiration date or the plants shut down. That should get some research results.

In any case, the risks seem miniscule. Nuclear generators have been in successful operation for years. They have a splendid safety record, and the AEC has studied them exhaustively all along. Congress should consider, too, the risks to the public in the blackout of large cities, some of which aren't safe even with all the lights turned on.

QUESTIONNAIRE RESULTS OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SNYDER. Mr. Speaker, in February of this year I sent out my annual questionnaire to the people of the Fourth Congressional District. As in previous years, their response was prompt, hearty, and encouraging. The Fourth District staff and I have just finished compiling and tabulating the answers and I wish to share the results with my colleagues here in the House.

As I have said here before, Mr. Speaker, I represent the people of our district with great pride. I believe that their considered opinions on this range of issues should be weighed earnestly and carefully.

The results of the questionnaire follow:

QUESTIONNAIRE RESULTS OF THE FOURTH CONGRESSIONAL DISTRICT OF KENTUCKY

(In percent)

1. Would you favor a Federally-controlled program of national health insurance financed by increased Federal taxes?
Yes, 22.1.
No, 74.8.
No opinion, 3.1.

2. Do you favor allowing college students to register and vote in the towns where they attend school, including local elections?
Yes, 19.4.
No, 79.8.
No opinion, 0.8.

3. Would you favor increasing the national debt by a projected $25.5 billion for the fiscal year 1973 in order to stimulate the economy and reduce unemployment?
Yes, 24.8.
No, 71.6.
No opinion, 3.6.

4. Do you approve revenue sharing of Federal funds by direct payment to states and local governments without Federal control in view of the National Deficit?
Yes, 29.4.
No, 65.0.
No opinion, 5.6.

5. Would you be willing to pay substantially more for products and service (automobiles, electricity, etc.) if they were made virtually pollution-free?
Yes, 56.7.
No, 39.6.
No opinion, 3.7.

6. Are you in favor of the United States expanding diplomatic and trade relations with Mainland China?
Yes, 68.7.
No, 26.3.
No opinion, 5.0.

7. Do you favor adjusting Social Security taxes and benefits automatically to cost-of-living increases?
Yes, 72.9.
No, 24.5.
No opinion, 2.6.

8. Do you approve the President's policy for ending U.S. involvement in Vietnam?
Yes, 81.2.
No, 16.1.
No opinion, 2.7.

9. Do you think that labor unions should be subject to the antitrust laws to the same extent as industry?
Yes, 87.5.
No, 7.6.
No opinion, 4.9.

10. Should welfare reform include a guaranteed annual income?
Yes, 10.3.
No, 87.5.
No opinion, 2.2.

11. Do you favor tax relief for parents supporting college students?
Yes, 51.5.
No, 46.4.
No. opinion, 2.1.

12. Federal spending in these areas should be . . .

	More	Less	Same	No opinion
Education	43.5	15.2	34.2	7.1
Defense	29.8	29.5	34.3	6.4
Crime control	77.0	3.5	14.3	5.2
Urban aid	15.1	35.1	36.6	13.2
Rural aid	16.6	33.1	38.1	12.2
Space exploration	12.1	51.8	28.4	7.7
Foreign aid	1.1	82.4	9.0	7.5
Mass transit systems	45.0	23.7	21.7	9.6

WHAT IS AN AMERICAN?

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FORSYTHE. Mr. Speaker, I would like to congratulate Maj. Robert J. Heckel, U.S. Air Force Reserve, on the receipt of the Defender of Freedom Award from the Freedoms Foundation at Valley Forge. Major Heckel began his military career in 1942 as a cadet in the Army Air Corps. Upon completing his training in 1944, he received a commission as a second lieutenant and his pilot's wings at Turner Field, Ala.-Ga. He was then assigned to the Southeastern Training Command as a B–24 bomber pilot. The war ended before he saw action, but he continued as an active reservist and served on active duty during the Berlin crisis of 1960–62.

A graduate of William and Mary College, Williamsburg, Va., and Syracuse University, where he received his BA and MA degrees respectively, he is now with the New Jersey Department of Community Affairs and resides in Willingboro, N.J.

I insert the text of Major Heckel's prize winning essay on "What Is an American?" as an example of the deep patriotism that can still be found in America today:

WHAT IS AN AMERICAN?

First and foremost an American is an individual—a free individual who accepts and preserves the Constitution of the United States and the Bill of Rights as the compound cornerstone of a free society.

An American is most reverent toward his God, but ever respectful of the God of his fellow American. He is forthright in his personal convictions, but ever tolerant of the tenets and beliefs of others. He reasons and whenever appropriate, speaks out constructively on the issues of the day, but always listens attentively to differing points of view on those same issues. An American courageously attacks his country's problems with constructive resolutions and openly decries destructive revolutions.

As an individual, an American is endowed with unselfish ambition, but always attempts to comprehend the motivation and goals of others. He is ever charitable toward Americans less fortunate than he, but offers charity as a stepping stone toward the self-improvement of the unfortunate, not condescending charity for charity's sake. An American maintains his pride and self-confidence, but is humble and understanding in supporting the pride of others. He is mindful of the right of self-determination of all nations, weak and strong, large and small, but is just as conscious of the need to defend his own nation against encroachment from its enemies, both internal and external.

While continuously laboring to improve his station in life, an American never conspires to impede or jeopardize the stations and standards of his fellow Americans. Like his forefathers, he is a pioneer dedicated to the pursuit of new horizons never before attained, not a self-satisfied consumer of his American predecessors' toils of the past. With undaunted will, an American forges his visions of today into the realities of tomorrow.

An American pays tribute to his country's heritage and traditions as he simultaneously strives to enlarge upon that heritage and establish new traditions that will be deserving of comparable tribute in time to come.

Fortunate indeed is the individual who holds claim to the title, "American"—for that individual is the posterity of men who sacrificed their "lives, their fortunes, and their sacred honor" to establish a free land for all Americans who follow. And two centuries later, an American is still an individual who is willing to make an equivalent sacrifice of his life, his fortune, and his honor to defend his and his countrymen's right to be free, so that Americans of tomorrow may enjoy that same privilege that he as an American enjoys today.

In final judgment, an American is an individual who weighs his nation's strengths and weaknesses on the scales of time and then states with unwavering resolve, "America and I are one—it stands for me and I stand for it!"

BRISTOL PRESS IS INVOLVED IN LEARNING EXPERIMENT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, on several previous occasions I have made remarks before this body regarding a marvelous daily newspaper in the city of Bristol, Conn., the Bristol Press. Last year, a very special year for the Press, marked a century of service to the people of the community.

Not to be outdone by this first 100 years, the Press has been quick to find new ways of touching the lives of its readership in a meaningful way. Recently, the newspaper began furnishing students at local schools with a new textbook each day. The "textbooks" are copies of the Press, furnished free of charge, to classrooms involved in an experimental program which uses the newspaper as an educational tool.

As always, the Press is to be applauded for its continued dedication and commitment to the people it serves. For the interest of my colleagues, an article by Laura Cook which appeared in the March 11 issue of the Press regarding this innovative program follows:

BRISTOL PRESS IS INVOLVED IN LEARNING EXPERIMENT

(By Laura Cook)

Joseph Wilson's seventh-graders at Memorial Boulevard School are studying the comics to learn about writing themes.

Harry Southey's eighth grade class is learning to write captions for pictures and, incidentally, to organize information coherently in sentences.

In Mrs. Janet Henton's Jr. High School Studies classes, students are putting together a sociological profile of the City of Bristol.

Eastern High School sophomores practice sentence recognition on an article about Big Horn Sheep with Mrs. Madeleine Driscoll while Raymond L. Robinson's remedial reading class discusses sex discrimination in The Latin School and Annapolis.

The single versatile textbook that is serving all these various educational purposes is, surprisingly, The Bristol Press. The Press is presently supplying 500 newspapers weekly, free of charge, to the school system, which is engaged on a pilot study of uses for the newspaper in the classroom.

TEACHING AIDE

The idea is not as strange as it may sound. The newspaper, with its constantly changing face, its relevance to experience, and its concise style, is being used as a teaching aide in increasing numbers of school systems across the country.

"American Education," a publication of the HEW Office of Education, last month featured the "Newspaper in the Classroom" movement in a series of articles by educators.

Because of the wide area covered by the newspaper, it has been proven a valuable educational tool in subjects ranging from mathematics through English to Social Studies in schools across the country, according to the articles.

Locally, the current study program got under way early this year with several Wednesday afternoon meetings with volunteer teachers in the Social Studies and English areas. Techniques for using the newspaper with students in grades seven through 12 were formulated and discussed. Now they are being tested.

Six to eight-week programs in the schools will end in the first week in April and then an evaluation period will follow during which teachers hope to create a curriculum for general use.

By comparing notes and compiling experiential information, the educators will also learn how problems can be ironed out: what is useful and what is not.

"BEHAVIORAL OBJECTIVE"

A big concept in education now is the "behavioral objective." It is believed that learning can be detected in the changes of behavior that occur in the pupil. This may be a physical activity or a change in feeling or thinking or both of these—to varying extents—at the same time.

For instance, teacher Mike Leahy at Memorial Boulevard states the behavioral objective he would like to achieve in his work with the newspaper as follows: "Students should be able to react to a front page."

Other teachers in the program have "the ability to distinguish between factual reporting and editorial opinion" as their objective.

Perhaps the most creative of the objectives this reporter heard was Mrs. Janet Henton's.

Mrs. Henton decided to use the local newspaper to put together "a picture" of Bristol with her three classes. In looking over The Bristol Press, she found 35 categories or columns that deal exclusively with the city.

She began the unit, now in its third week, by asking each student to pick two of these areas to read—one he or she was familar with and one that had never been read.

Then the students discussed possible questions the columns could answer—what information about the city they could learn. The church page, society, business and sports sections, and even the legal notices and Card of Thanks took on a new—sociological—meaning.

"Of course the test will be 'what are they going to come back with?'" Mrs. Henton explained. Near the end of the program she will give her students papers from a Californian community and they will have a chance to compare them with The Bristol Press.

TEACHING CHALLENGES

What's evident in the schools today is that holding the attention and engaging the interests of students is becoming more and more challenging. Young people who grew up getting most of their information from the television tube, find it hard to tune in on traditional education.

New educational methods are developing out of these needs and the Newspaper in the Classroom approach is one of them. How effective the program is remains to be seen but, at least in the opinion of one high school sophomore, reading the paper is "better than Julius Caesar."

NIXON VERSUS THE COURTS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, one of the major victims of the President's politically motivated attack on school integration is the Federal judiciary. What he has told the country is that a Supreme Court on which his own appointees constitute only one short of a majority cannot be trusted to continue the work begun 18 years ago to vindicate the rights of black people.

The article I wish to insert at this point by S. J. Micciche, himself a lawyer as well as a thoughtful commentator, points up the terrible irony of the President's recent performance:

NIXON CHANGES TUNE ON COURT

WASHINGTON.—President Nixon evidently needs to be reminded at times of his own ennobling words.

The presidential lapse is glaringly manifested in his proposal for a moratorium on school busing, designed to crimp the discretion of the Federal judiciary and dictate by statute the limits of constitutional reasoning by the U.S. Supreme Court.

But last Oct. 21, President Nixon went before the network television cameras in a wholly different frame of mind. The occasion was to announce his choices of Lewis F. Powell and William H. Rehnquist to the U.S. Supreme Court.

In the course of that unveiling, Mr. Nixon sought to reveal the depth of his personal feelings regarding the high court, saying:

"Let me add a final word tonight with regard to a subject that is very close to my heart because of my legal background and because of years of study of the American system of government.

"I have noted with great distress a growing tendency in the country to criticize the Supreme Court as an institution. Now, let us all recognize that every individual has a right to disagree with decisions of a court. But after those decisions are handed down, it is our obligation to obey the law, whether we like it or not, and it is our duty as citizens to respect the institution of the Supreme Court of the United States."

Aside from the questionable constitutionality of the busing moratorium, there is implicit in the President's espousal of that course of action a refutation of the "respect" he rhetorically urged for the Supreme Court last October and the "obligation to obey the law, whether we like it or not."

That some lower Federal judges may have ordered excessive busing does not excuse the President's attempt at executive and legislative interference with the judiciary.

Those judges draw their discretion from the unanimous opinion of the Supreme Court last April which decreed that busing was a constitutionally permissible tool to eliminate the last vestiges of segregated schools. Any abuse of that discretion will eventually be resolved by the high court on appeals.

But Mr. Nixon's proposal attempts to prohibit by statute what the Supreme Court has declared to be constitutionally valid. And inescapably, there is presented a direct challenge to the "Supreme Court as an institution."

The President's busing moratorium, said U.S. Sen. Edward M. Kennedy this week, precipitates "a potentially serious challenge to the authority of the Supreme Court."

If passed by Congress, and surely it would be tested, the court would be confronted with "accepting a severe limitation" on how it may interpret equal protection under the Fourteenth Amendment, Kennedy said.

What the President suggests, said the Massachusetts senator, is that "regardless how flagrant the act of discrimination or how clear the effort to pursue a policy of segregation, the court not issue an order to desist such activities if it means a single student would be bused."

It is wholly improbable that the court could go along with such a proposition for, as Kennedy said, such acquiescence would compel the court to "void every decision" since school segregation was declared unconstitutional.

Obviously, before the court faces that dilemma, the election of 1972 will be long past, and perhaps Mr. Nixon will have succeeded in diffusing the busing issue to his advantage.

But the price will have been the tarnishing of his own burnished phrases about "a subject that is very close to my heart."

BLACK LUNG STATISTICS FOR WESTERN MARYLAND

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BYRON. Mr. Speaker, recently I asked the Social Security Administration to report on the status of black lung

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claims and benefits in western Maryland. These benefits were made possible by the enactment of the Coal Mine Health and Safety Act of 1969.

Recently, the House of Representatives passed H.R. 9212 extending and expanding the coverage of black lung benefits, including a provision that would prohibit denial of benefits solely on the basis of chest X-ray results. Black lung forms an important part of western Maryland congressional assistance and this latter amendment will no doubt provide much needed aid to miners in Allegany and Garrett Counties.

It was my pleasure to support and work for this legislation which is now pending before the Senate. I hope the Senate acts favorably on the measure to insure humane treatment for the miners of our Nation, and I look forward to seeing this bill become law during the current session of the 92d Congress.

Listed below are the benefits received in three of the Sixth District counties through December 30, 1971:

County	Claims filed	Claims allowed	Monthly payments	Total cumulative payments
Alleghany	1,885	889	$131,545	$2,164,858
Garrett	486	229	38,706	628,207
Washington	21	10	1,681	29,469

PEACE CORPS VOLUNTEER FROM TRUMBULL MAKES IMPACT IN COSTA RICAN TOWN

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MONAGAN. Mr. Speaker, I was gratified to receive today from the Peace Corps a press release identifying a friend and constituent as a Peace Corps volunteer doing a most effective job in the town of San Marcos de Tarrazu, Costa Rica.

The Connecticut volunteer cited by the Peace Corps for his remarkable initiative and accomplishments is Thomas H. Burns, 26, the son of Mr. and Mrs. John L. Burns of 110 Gilbert Drive, Trumbull. I am sure that Mr. and Mrs. Burns, who are long time friends and constituents of mine, are justifiably proud of the accomplishments of their son in Costa Rica just as they have been properly proud of his achievements prior to the time he volunteered for the Peace Corps.

Having supported the Peace Corps and visited many of its areas of service abroad, I am gratified that so many of my own constituents have served the Corps with distinction and among the foremost of these deserving commendation is Thomas H. Burns of Trumbull.

I attach here the press release which was made available to me by John Agronsky of the Office of Public Affairs:

PEACE CORPS VOLUNTEER FROM TRUMBULL MAKES IMPACT IN COSTA RICAN TOWN

Thomas H. Burns of Trumbull, Conn. believes in taking the initiative in his work as a Peace Corps volunteer in Costa Rica.

Assigned to assist the people of San Marcos de Tarrazú develop their electrical cooperative, Burns has started a monthly news bulletin and discount sales program.

He is working to expand the sales program for the "Coopesantos" to include two other electrical cooperatives in Costa Rica, hoping to obtain for members an even higher discount on electrical appliances.

Besides his work with the rural cooperative, Burns teaches three English classes. As an instructor, he has had to improvise and innovate. "Not being able to find an English book to my liking," he reports, "I have been putting together my own 'self-study', 'at-your-own pace' English grammar course."

Burns graduated from the College of Sante Fe in New Mexico in December 1968. He obtained his Secondary Teaching Certification from the University of Bridgeport in June 1970. While attending school, he also worked as an offset printer in Trumbull. He entered the Peace Corps in July 1970.

Burns, 26, is the son of Mr. and Mrs. John L. Burns of 110 Gilbert Drive, Trumbull.

Costa Rica has more than 100 Peace Corps volunteers, working principally in the fields of agriculture, cooperatives, community development, education, public health, and public works.

The Peace Corps is part of ACTION, the citizens service corps established by President Nixon last July to coordinate federal volunteer programs at home and overseas. Joe Blatchford is the director of ACTION.

Other ACTION programs are Volunteers in Service to America (VISTA), Foster Grandparent Program, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), Retired Senior Volunteer Program (RSVP) and University Year for ACTION.

THE POLITICS OF PRIVACY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRAY. Mr. Speaker, the February 8 attempt in the House to create a Select Committee on Privacy, Human Values, and Democratic Institutions unfortunately failed.

However, it did attract quite a bit of attention. Following are two articles from the Village Voice, by Mr. Nat Hentoff, on the issue, which I found to be interesting:

THE POLITICS OF PRIVACY—I

By way of preface to what I consider a crucially important story that has been neglected by much of the nation's press (including television), I submit a recent press release from the Eastman Kodak Company:

"SURVEILLANCE CAMERAS HELP ADMINISTRATORS MAINTAIN ORDER IN FLORIDA SCHOOLS

"BARTOW, FLA.—Smiles and friendly greetings now far outnumber scowls and random left hooks among junior and senior high school students throughout Polk County, Florida.

"That's because their actions are being recorded on film, and if anyone does anything to seriously disrupt school routine, the odds against establishing an alibi are far from even.

"For the School Board of Polk County, plagued like 23,000 other systems in the United States with unrest, vandalism, and confusion, recently became the first in the nation to install a new automatic super 8 camera security system to monitor unfavorable situations, provide positive identification of trouble-makers, and establish concrete evidence through which administrators can take remedial action.

"Polk County's system employs recently marketed Kodak Analyst super 8 camera encased in sound-absorbent boxes that are set to snap a picture every 30 seconds. A number of the cameras, costing less than $240 each, are already in operation in Polk County junior and senior high schools. More are to come. . . .

The Polk County system, with an enrollment of 60,000 students operates more schools in more towns than any other system in the United States. It controls 58 elementary schools, 14 junior highs, 10 senior highs, and one vocational-technical school.

"Located in corridors, outdoor campus areas, problem classrooms, and other areas, each Analyst super 8 camera will automatically take 7200 pictures per 100 feet of Kodak MFX film, which is contained in standard-size drop-in cartridges. . . .

"W. W. Reed, superintendent of the Polk County School Board, emphasizes that this is by no means a snooping operation. Although the cameras operate constantly during school hours, the film is processed and viewed only when disruptions have occurred. 'We're neither interested, nor do we have the time to "spy" on our students *when they are conducting themselves in manners normal for their age levels,*' he explains . . ." (Emphasis added—N.H.)

"Although the auper 8 surveillance cameras have been in use only a short time, Reed reports that their psychological impact already has reduced disruptive incidents, and they already have had a definite effect on the total tenor at the schools. . . . In addition to the mounted cameras, junior and senior high school principals also are being supplied with Analyst cameras for hand-held use to cover incidents in areas that are not monitored."

On February 8 of this year, we moved farther toward what Representative Cornelius Gallagher has termed "post-Constitutional America." On that date, the House voted (216 to 168) to reject the creation of a Select Committee on Privacy, Human Values, and Democratic Institutions (H.R. 164). The New York Times thought the story worth only three paragraphs (February 12) although, to its credit, it did carry the vote tally (more of which later). The Times noted that a primary cause of the defeat of H.R. 164 was the strenuous opposition of Representative Emanuel Celler, who feared the new committee would encroach on the jurisdiction of the House Judiciary Committee, of which Celler is chairman.

The Times wholly ignored the serious, and indeed ominous, arguments of those supporting the bill; and it also ignored the details of the instructive lesson in political science (Realpolitik in raw action) disclosed by the way the votes split.

What follows is based on a variety of sources, including the record of the debate on the bill in the February 8, 1972, Congressional Record (pages 3181 to 3199). I would urge anyone interested in civil liberties to read the full text of that debate (which includes corollary articles and documents). And teachers, from junior high through graduate school, might well find the material conducive to lively class discussion in all kinds of courses.

Congressman Gallagher was co-sponsor of the bill to set up the committee on privacy, and he would have been its chairman. For seven years, 1965 to March 1971, Gallagher had headed the Special Committee on Privacy of the Government Operations Committee. It was finally abolished—again for parochial reasons of "jurisdiction" among House committees.

For that whole seven-year period, the now dead Gallagher Special Committee operated on a total budget of $75,000. (For the year 1971 alone, the House Internal Security Committee enjoyed a budget of $570,000.) Yet Gallagher and his small staff uncovered a number of significant assaults on privacy during that period. Meanwhile, Mr. Celler and his prestigious Judiciary Committee were largely somnolent concerning dangers to privacy during those years.

Among the accomplishments of Gallagher's Special Committee on Privacy from 1965 to 1971:

Its exposure in 1966 of a plan to establish a computerized national data center killed the proposal. (Such a center, as Congressman Sidney Yates of Illinois has pointed out, would have involved the "danger of consolidating individual dossiers, of incorporating inaccurate information, of misusing the information collected, and of breaching any safeguards of germaneness and legitimate need to know.")

In 1968, the Gallagher committee revealed startling information on the collection by commercial credit bureaus of political and behavioral data—as well as financial information—on 100 million Americans. One result of that exposure—though much more needs to be done—was the passage of the Fair Credit Reporting Act.

In 1970, Gallagher's committee was the first and only congressional group to focus national attention on the use of amphetamines to modify the behavior of at least 300,000 American schoolchildren. (See "Federal Involvement in the Use of Behavior Modification Drugs on Grammar School Children of the Right to Privacy Inquiry," the record of a September 29, 1970, hearing, available from the U.S. Government Printing Office, Washington.)

Also in 1970, as Gallagher observed during the floor debate last month, "I learned, in my capacity as chairman of the privacy inquiry, that there was under consideration at the very highest levels of our government, a proposal to give every American child a predictive psychological test to determine his potential criminality. The plan, by Dr. Arnold Hutschnecker, proposed to take those children who flunked the test and send them to rehabilitation camps. . . . The plan was studied within the Department of Health, Education, and Welfare for almost three months. It was only after I had announced my intention to hold public hearings on the issue that the plan was abandoned."

That first Gallagher committee having been killed in 1971, there is now a dangerous void in the House. Congressman Frank Horton of New York who co-sponsored the bill this year to set up a Select Committee on Privacy, emphasized during debate: ". . . we Members of the House cannot point to a single committee or subcommittee now structured to deal with the incredibly complex question of privacy." Among the areas now being ignored, Horton added, is the increasingly sophisticated use of computers, by government and in the private sector, "to create huge data banks of information, in immediately retrievable form, without congressional guidelines or, frankly, much congressional interest."

Horton also noted that "there is a behavior modification revolution in our society, but no existing committee of the Congress has the jurisdiction to evaluate these new tools of human manipulation."

B. F. Skinner's work was referred to frequently during the floor debate, and another advocate of the privacy committee, William Bray of Indiana, quoted Kenneth Little executive officer of the American Psychological Association: "All I hope is that the Executive and Congress take Fred Skinner's book seriously. Behavior shaping is here. If they dismiss Skinner's book, decisions will be made at a level beyond their control."

To which Congressman Bray added: "I do not know what Mr. Little means by his last sentence and I do not care to wait to find out . . . We ignore the potential danger in these things only at our peril."

Furthermore, without a committee on privacy, what likelihood do you think there is that the House is going to look into Orbis III? You don't know what Orbis III is? Gallagher has made it his business to find out.

"Many state highway departments," he point out, "are installing Orbis III. This system contains a sophisticated camera which can penetrate tinted glass or dark glasses worn by the car's occupants. It is tied in a computerized vehicle registration lists and produced automatic ticketing of speeders. A report is sent containing the picture of the occupants, the license plate number, the time, the weather conditions, the speed of the vehicle.

"Now this is undoubtedly valuable to find speeders but it is a singular example of the new surveillance technology. Its future applications may very well include being put in the driveway of anyone ever suspected of a crime to automatically tell when he leaves his home. Similar technology is being used to monitor on a 24-hour-a-day basis downtown street locations in towns.

"This represents," Gallagher adds, "a total surveillance society which is within the capabilities of our technology today. Unless questions are asked and future applications are evaluated, we all will be under the camera's eye and in the computer . . . The use of Orbis III and similar systems is a matter for all society to consider and only a group like the select committee would be able to ask the right questions."

Are *you* going to monitor Orbis III, Congressman Celler, now that the sanctified exclusiveness of your Judiciary Committee has been preserved? As a matter of fact, I am going to ask similar questions in this column from time to time as I get information about intrusions of privacy that the Gallagher committee would have likely gone into. And I'm not the only one keeping score. There will be another attempt to create a privacy committee during the next session of Congress, and a considerable burden of proof is now on Congressman Celler to demonstrate in exploratory action his professed concern with safeguarding privacy. His record up to now on this issue has been exceedingly poor.

Next week I'll go into the vote on the Gallagher bill and examine some of the surprising turns a number of congressmen took. Father Robert Drinan was one hell of a disappointment, as were John Conyers Abner Mikva, Don Edwards, and Robert Kastenmeier. But they are all members of the Judiciary Committee of which Emanuel Celler is the powerful and grudge-keeping chairman. In fact, only two of the 38-member Judiciary Committee voted for the Gallagher bill, defying Celler in the interest of trying to preserve the Constitution. One of the two, as you might expect, was the invaluable William Fitts Ryan. (Ed Koch and Bella Abzug, not members of the Judiciary Committee, were also on the side of privacy.)

Press coverage and analysis of this key debate—and vote—was scanty; and the carelessness of the New York Times is a further indication of how inept its Washington coverage often is. Nor did the Times see fit to editorialize on the issue. After all, when the Times' new staff goofs, the editorial writers tend to be at a decided disadvantage, not knowing what's actually going on.

By contrast, the St. Louis Post-Dispatch, on February 20, printed an editorial titled "Political Science Lesson." From the last paragraph.

"The episode is a lesson not only in the reluctance of Congress to alter in any way the traditional committee system but also in the tremendous individual power of committee chairmen. In this case, the 'integrity' of the Judiciary (Committee) was preserved; but only at the expense of a proposal that would have helped protect the privacy of every American."

A full-page ad in the February 1972 issue of Justice:

"RENT-A-NARC"

"Extra agents when you *need* them. For large or small jobs. In the community, correctional institutions, industrial plants on campus, in schools, many other situations."

The eager advertiser, Universal Detective, Inc., pledges:

"If your department or agency is short staffed, or lacks trained agents, our special service is designed for you. Our agents are trained in a narcotics agent training school, and receive polygraph and urine examinations. We provide weekly reporting systems that have *not failed* in obtaining convictions in *every* case. While your agents are in training growing their hair long, or sprouting beards, our specially trained narcotic undercover agents can be on the job."

That's it, kids. If the Kodak Analyst super 8 camera doesn't get you, Rent-A-Narc will.

Now, to continue with today's lesson on the foundations of the American way of life.

Fourth Amendment: "The right of the people to be secure in their persons, homes, and effects . . ."

Smile, you little bastard, this is a happy school.

THE POLITICS OF PRIVACY—II

During his unsuccessful attempt to convince his brethren in the House of the need for a Select Committee on Privacy, Human Values, and Democratic Institutions, Cornelius Gallagher received outside support from an unusually diversified array of individuals and institutions. The Washington office of the American Civil Liberties Union and the Daughters of the American Revolution were simultaneously working for the bill. Also in unaccustomed alliance were Harvard Law School professor Vern Countryman and conservative columnist Paul Scott. And there were statements and letters from the National Health Federation (whose national leadership is staunchly Republican) as well as from the Federation of American Scientists and from such professional experts on the erosion of privacy as Alan Westin of Columbia and Professor Arthur Miller. (The latter's book, "The Assault on Privacy," has just been issued in a Signet paper edition.)

I was not surprised at this ecumenism because when I first became involved in civil liberties work—growing up in Boston—I found that on certain issues, notably privacy, there were always a number of conservatives who took the Bill of Rights as seriously as many of us on the left did. There were also those on both right and left, of course, who weren't concerned at all. (A valuable early lesson for me was the utter contempt Stalinists I knew had for the civil liberties of Trotskyites.) In any case, then as now, the usual political categories don't necessarily hold.

This wide-ranging support was not enough to withstand the opposition to the Gallagher bill of Congressman Emanuel Celler, who considered a committee on privacy to be an incursion into his closely held fiefdom, the Judiciary Committee. Nor were Celler and the majority of the House moved by the substantive arguments concerning the necessity for such a committee (some of which were summarized in last week's column).

One supporter of the bill, Dr. Nicholas Kittrie, director of American University's Institute for Studies in Justice and Social Behavior, had warned: "There is a human modification revolution upon us, which in its magnitude is not unlike the industrial revolution of nearly 200 years ago."

Another advocate of the Gallagher bill, Dr. Peter Breggin of the Washington School of Psychiatry, wrote to endorse Gallagher's "concerns about mind control and deprivation of basic human liberties through psychiatric and psychological interventions, including the use of drugs, electroshock, and lobotomy, as well as the use of social engineering as urged by B. F. Skinner." (In a subsequent column, I'll report on some of

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Breggin's research concerning the renewed growth of psychosurgery in this country.)

Sam Ervin, the Senate's paladin of privacy, also underlined the "real need in the Congress for a committee which can devote its *full attention* to a study of privacy as a human value necessary to our society." (Emphasis mine—N. H.)

As Robert Sherrill pointed out in the March 5 New York Times, Ervin has forced the Army to supply his Constitutional Rights Subcommittee with more information concerning their spying on civilians. Some of the most frightening of this material, however, is still classified; but Lawrence Baskir, chief counsel of the subcommittee, is able to say that it deals with "psychological aspects of people, and personal relationships and personal finances." Since this information has come from the pocket and brain of the subject, Baskir adds, the question is raised of "just how the hell did the Army get it."

There was, then, a case, to say the least, for the creation of the Select Committee on Privacy. But Emanuel Celler—calling on House Committee chairmen to unite and reminding members of his own Judiciary Committee of the consequences of crossing him—succeeded in getting the Gallagher bill defeated.

As I noted last week, only two members of the 38-member Judiciary Committee supported the Gallagher bill. Although the Black Caucus in the House had taken a formal position in favor of the Select Committee on Privacy, John Conveyers of the Judiciary Committee voted against it. So did Abner Mikva, even though he himself had been the subject of Army secret surveillance. Mikva is on the Judiciary Committee. Father Robert Drinan, a consistent critic of the privacy-invading work of the House Internal Security Committee (of which he is a member), voted against the Gallagher bill. Drinan is also a member of the Judiciary Committee. Intriguingly, Richard Ichord, chairman of the Internal Security Committee, voted for the bill—as did Wilbur Mills and a number of quite conservative congressmen. (That unpredictable ecumenism again.)

Two of the most dependable liberals in the House, Don Edwards and Robert Kastenmeier, have for years been speaking of the abuses of the seniority system there. But when this crunch came, both voted against the privacy committee. Both are subcommittee chairmen in the hierarchy of the Judiciary Committee.

As for the New York delegation, Jonathan Bingham followed Celler while James Scheuer, to his credit, did not. For those of you who missed the tally in the Times, the other metropolitan New York congressman who voted in the negative were Lent (the man who defeated Lowenstein), Addabbo, Brasco, Rooney, and Carey. Shirley Chisholm was absent. All the rest—including Koch, Abzug, Rangel, Ryan, and Badillo—voted for the Gallagher bill.

During the debate, Mr. Celler noted reassuringly that not only would his Judiciary Committee do what had to be done concerning privacy—though it has shown less than scant interest in the past—but there are also other troops on the way. The Organized Crime Act of 1970, he observed, establishes a National Commission on Individual Rights. It will have 15 members. And this is how they will be chosen—four by the Speaker of the House, four by the President of the Senate, and seven by the President of the United States.

With that kind of sponsorship, the 15 should at the very least have to pass an elementary school quiz on the Bill of Rights.

The provision of a National Commission on Individual Rights, as Gallagher said in debate, "was tacked onto the Organized Crime Act, in my judgment, as an attempt to distract attention from the anti-poverty thrust of that bill and perhaps to salve the conscience of some of our members. . . . The commission is not yet appointed but the 'no knock' provisions and preventive detention and preemptive surveillance as well as other constitutional mutations are very much part of the law of the land. So you see the priority that privacy has."

Furthermore, this august National Commission on Individual Rights doesn't have to make its final report to Congress and the President until SIX YEARS after its establishment. It may, "as it deems advisable," issue interim reports.

Considering the composition of the Commission, privacy will be no more protected whether or not it ever issues any reports at all.

The four members from the House on that Commission are Celler; Mikva; William McCulloch (who voted *for* the no-knock clause of the D.C. Crime Bill); and Charles Sandman, who also supported the no-knock provision and is otherwise an undistinguished conservative with no known passion for civil liberties.

Sam Ervin is one of the Senate appointees, but so is the Bill of Rights' most inflexible and effective enemy in that body, John McClellan, Senators Edward Gurney (Florida) and William Roth (Delaware) make up the rest of the Senate contingent. These two Republicans are among those conservatives who have not been touched with ecumenical concern for individual liberties. They are just plain antediluvian Republicans. Gurney's Americans for Democratic Action rating in 1969 was zero. In 1970, it was six. Roth's ADA rating while he was in the House ranged from 8 (1968) to 7 (1969) to 20 (1970). Sam Ervin excepted, the Senate contingent is hardly like to be zealous in defense of privacy when protecting privacy collides with vested "patriotic" and commercial interests.

But what of the seven members the Nixon administration is going to select? Well, the man in charge of making those choices is Donald Santarelli, Assistant Deputy Attorney General, Office of Criminal Justice, in the Department of Justice. Mr. Santarelli's accomplishments in safeguarding the Bill of Rights include his having drafted the District of Columbia Crime Bill. In addition to its no-knock clause, that measure allowed for unprecedentedly permissive wiretapping, along with other assaults on the Bill of Rights. It was this D.C. bill which Gallagher, by the way, described as "repression without representation."

The foregoing, it seems to me, puts the forthcoming National Commission on Individual Rights in a drastically different context than Congressman Celler indicated in his highly selective description of it during debate on the Gallagher bill. I do not accuse Mr. Celler of being disingenuous on the matter. I do believe that his indifference to privacy allows him to actually believe that the Commission, along with his own Judiciary Committee, takes care of the issue.

Anyway, with the Gallagher bill dead for this term, our privacy is as safe as the lives of the people of Vietnam, Laos, and Cambodia while our leader, "winds down" the war by intensifying the bombing of Asians.

Two notes in passing. The material in this two-part series ought first to have appeared in the New York Times, not here. It is that important and far-ranging a story.

Second, for some of the voting records and other backgrounds of a number of the politicians cited, I am indebted to "The Almanac of American Politics/1972" by Michael Barone, Grant Ujifusa, and Douglas Matthews, published by Gambit. In terms of its current reference value, I share John Kenneth Galbraith's view that "this is the single most useful political document I have ever encountered."

Back to Orwell land. I promised last week to submit to Congressman Celler key privacy issues that his Judiciary Committee might consider looking into—especially since he has so stoutly maintained that a Select Committee on Privacy is unnecessary so long as Manny is at the helm of the Judiciary Committee. Here, sir, is my first lead.

From a report by Diane Bauer in the March 2 Washington Daily News:

"The Metropolitan Council of Governments is about to ask for federal funds to set up a super police force made up exclusively of spies to search out and destroy drug traffic and organized crime in the Metropolitan area.

"Agents for the Metropol, working out of a CIA-type secret headquarters somewhere in the suburbs, would build a network of paid informers, set up a data bank, and use sophisticated electronic spy equipment.

"COG will soon ask for $2.5 million in Federal Law Enforcement Assistant Administration funds to set up what it officially calls the Metropolitan Washington Organized Crime Intelligence Unit (MIG)."

(As you read from here on, add "subversive" to such terms as "criminal" and "illegal"; because once this kind of unit is set up, you can be sure as death that it will soon be in the business of also collecting political information.)

To return to Diane Bauer's account:

"Metropol's effectiveness would not be evaluated by numbers of arrests or convictions but by 'successful elimination of criminal groups.'

"'Suppression' of organizations would not necessarily be gained 'through traditional means of arrest and prosecution . . . but may be achieved by making the illegal operations so expensive and hazardous' that operations are suspended.

"Twenty per cent of the first year's budget, $94,990 would go to paid informers 'to provide motivation for sources to cooperate.'

"A $1100 salary bonus would go to each area police chief for cooperating with the program." (I bet Lavrenti Pavlovich Beria never thought of that.)

"About $50,000 is requested for spy equipment, including three 'SK8 Intelligence Kits' at $3200 each, two $1500 telephoto cameras, a decoder, a $1000 paper shredder, closed circuit tv, 12 recorders with voice-activated microphones at $450 each, $20,000 worth of radio transmitter-receivers, and a surveillance van.

"Despite Defense Department promises a year ago after Senator Sam Ervin's hearings on military snooping—that the Army would get out and stay out of domestic spying—MIG would ask to have Army CID men as top advisers on its staff.

"MIG headquarters would be located outside the District to help 'maintain an innocuous appearance.' . . . MIG would be geared to get assistance and information exchanges from the Internal Revenue Service, the Bureau of Customs, Postal Service, Department of Justice, Law Enforcement Assistance Administration, the FBI, the Armed Forces, and the Bureau of Narcotics and Dangerous Drugs.

"Although an accountant would probe financial transactions of suspected persons and groups, and MIG would tap the Internal Revenue Service for help, no mention is made of how MIG would get around federal laws forbidding the use of IRS information by other agencies.

"Its data bank system is planned to connect with other data systems including the FBI's NCIC, the Washington area's WALES, Maryland's MILES, and SEARCH, an interstate computer hook-up.

"MIG agents would be recruited from the CIA, the Defense Intelligence Agency, the Army's CID, the Office of Naval Intelligence, the Air Force's OSI, and the National Security Agency. . . . The staff would also include investigators from all local police departments . . ."

Quite an intriguing order of battle, isn't it? And that's only for Washington, D. C. Why, every town and city law enforcement complex will soon want its own MIG. And Congress, with no committee to devote full attention to such rapes of privacy, will grant funds for more and more MIGs.

February 8, 1972—the day the bill to create the Select Committee on Privacy was shot down—is a date to remember as privacy becomes more and more rare—like clean air.

A CORNWALL FILM MAKER

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, Albert Waller of Cornwall in my Sixth District has been called "the best film maker on literature in the United States."

A winner of countless awards, Mr. Waller's creative works have often graced our TV screens—giving the public some of television's best hours. It is an honor and privilege to know that while Mr. Waller and his family spend a great deal of time in Manhattan, they consider Cornwall home.

For the interest of my colleagues, an article which appeared in the Lakeville Journal regarding some of Mr. Waller's marvelous film achievements follows:

A CORNWALL FILM MAKER

(By Alison Wryley Birch)

Albert Waller has made a total of 36 films in the past eight years and almost every one of them has won him an award.

One, *In The American Grain* was made for CBS and won him *two* Emmys. It was the filmed story of the great American poet-physician William Carlos Williams. "Each film takes anywhere from four days to one year to make," Albert Waller says. "All of mine have been made for TV and run for one-half to two hours."

Albert and Kim Waller live in Cornwall. "We exist for five days a week in Manhattan," they say, "but we *live* in Cornwall." It was, in a round-about way, a film that first brought them here. The film showed Archibald MacLeish and Mark Van Doren conversing. Two great minds in the sunlit New England Corner talking about Cornwall. "I recalled it as we were driving over the covered bridge one day," Al Waller said. "On a whim we stopped to see a real estate agent and he brought us here. When Kim got out of the car and started to cry I knew we'd bought a house." That was five years ago.

BEGAN AS A WRITER

Albert Waller began his career as a writer. "I worked for The New York Times," he says, and had the euphemistic title of Exchange Editor. It's just another name for copy boy." Then we went to CBS as a news writer and worked the midnight to 8 a.m. shift doing the morning news report. "It was murder," he recalls.

"We lived on things like ham and chicken livers because they are two of the few things you can have for breakfast and dinner," Kim Waller adds.

Fated to be successful at whatever he does, Waller won the Esquire-Bantam book award for a long short story he wrote. Out of 5,000 entries, only 15 winners were chosen. Waller's story was later included in an anthology called *Stories For The 60's*.

WRITING LEADS TO FILMS

"I wanted to be a writer," Waller says. "I worked on TV to make a living while writing, then I went into filming." One of his first films, *In The American Grain* won not only the two Emmys but the Writers' Guild of America award for the best film written in the United States for TV. It was repeated on television five or six times. Only one Writers' Guild award is given a year.

Still specializing in instant success, Waller went to Africa to make a film for children. "I've made a good many of these," he says. One was *Jerry, Ralph and Jim*, a story about three seven-year-olds. Jerry is an upper middle-class boy, Jim comes from a huge potato farm and Ralph lives in Spanish Harlem—three totally diverse environments. Waller ended up with another award for that one.

Night of A Million Years was a film story of two ten-year-olds who get locked up in the American Museum of Natural History overnight, and in an effort to find their way out they live the evolutionary history of man. It's a silent film with no narration—totally visual.

The National Council Of Teachers Of English called Al Waller "The best film maker on literature in the U.S." Then, a film called *The Odyssey Of Michael Steinberg*, won Waller an award from the National Council of Christians and Jews for the best film that bridged the East and West. He also won the Ohio State Award for a film, which he says is actually more prestigious than the Emmy.

MOST ARE DOCUMENTARIES

Most of the Waller films are documentary. "I could be making commercials, but I'd go crazy!" he says. "You learn more in making documentaries than anything else." "I want to apply the techniques of documentary filmmaking to the making of feature films."

He has written a couple of screen plays so far. In spite of his visionary eye, Waller almost never takes the actual pictures. As the director, he has to know all the technical details involved in the creation of a film, but he doesn't have to be his own cameraman. He is his own writer and using his original talent with words, he writes every one of his films himself. Each film is done on a per-film basis and for each he lines up free-lance cameramen, assistants, researchers, editors, etc.

"Film is a chronological medium," Waller says. "The film exists in time even if the story doesn't. There's a rhythm to the film as there is to language. The director's main job is to hang on to the rhythm. It keeps you from shooting what you don't want to shoot.

"The best films don't necessarily have the most fantastic shots," he adds. A film is a series of shots that you remember as an emotion. A fantastic shot might spoil the rhythm of sequence. We're not after a picture—we're after an emotional statement."

FILM FESTIVALS ABROAD

Not only has Al Waller gone to other lands like Africa to shoot film, but many of his films have been shown in foreign countries. They've been shown at film festivals in Edinburgh, Scotland; Cork, Ireland; Tours, France; and in Melbourne and Sidney, Australia, as well as many other places here and abroad. The Council on International Non-Theatrical Events twice gave Waller an award for the best American non-theater films entered in competitions abroad.

There is a dreamy, poetic, quality to Waller's films, as well as a true story sense. The narration—done by people like E. G. Marshall and George C. Scott—has an epic poem quality and the filming matches the mood. A Waller film called *Century Next Door* is about one day in the life of the 19th century as seen through portraits in the Metropolitan Museum of Art in their 19th century exhibit. Another film, *Sense Of The City*, is a visual look at the urban experience through the eyes of professional writers. The uncommon attitude blended with the common event produces films of poetic mystery, blended nicely with the more prosaic facts of living.

EDITING IS THE KEY

"You have a responsibility when you make a film," Waller says. "I don't make exploitative films, so I have to maintain objectivity and sometimes it's difficult. In *Jerry, Ralph and Jim* it would have been easy to play one boy against the other, but I had a responsibility to those kids." One of the seven-year-old youngsters, he reports, wants to be a heart specialist or a mathematician when he grows up. "It's nothing to knock," Waller says, "He may very well grow up to be either!"

Editing, Waller believes, is the heart of the art of film making. "It's the language of the film. Even with a lot of bad footage you can come out with a great film if you have a great editor."

Albert Waller is working completely free-lance now. He's the only free-lance film maker ever to make a documentary film for NBC. It was called *Confrontation* and was a 90-minute film showing a confrontation between students and faculty at San Francisco State College. *The Great American Dream Machine* is a series on Channel 13 that Waller is working on now. "Al's relationship to his profession is as an artist and not as a worker," Kim Waller says.

"Oh, I love film-making" her husband says unequivocally, "If they didn't pay me to do it, I'd pay them!"

LAND USE PLANNING

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McKINNEY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: Mr. Speaker, as we enter this last quarter century, there is no question that one of the major challenges we must meet and solve is that of land use planning. Recently, Connecticut's Environmental Protection Commissioner Dan Lufkin spoke to this issue and what emerged, in my view, was a concise and thought-provoking look at what is ahead. At the time, Commissioner Lufkin was addressing a joint conference on the Environment at Albertus Magnus College in New Haven. I feel that his thoughts on that day are worthy of review and at this point, I would like to include them in the RECORD:

COMMISSIONER LUFKIN'S ADDRESS

One of the most famous astrologers of the 18th century became so confident of his ability to predict the future that he announced publicly the precise date of his own death. When that time arrived and he was still in good health, he hung himself to make the prediction come true.

This is only one particularly dramatic example of the self-fulfilling prophecy—a neat trick men employ to give the illusion that they have more power and wisdom than they really do.

We have seen self-fulfilling prophecies employed on the international level with great effect. We do not like the political ideology of a nation, and so we predict that it will be a bitter and aggressive enemy. To protect against this enemy, we arm against it, propagandize against it, surround it with our own troops and armaments and, lo and behold, we have a bitter and aggressive enemy. President Nixon's visit to China is an historic example of an attempt to repeal a self-fulfilling prophecy. He is the first President in 20 years or more to realize that you don't have to make your predictions come true by hanging yourself.

XUM

It is in the area of the environment, however, that the self-fulfilling prophecy has had its most direct and devastating effect. In a very real sense, such prophecies have been used as substitutes for rational planning. Giving the illusion of control over events. They indicate powerlessness rather than power and even reflect the attempt of special interests to exert domination over the common good.

The story of post-war development in Africa has been a series of self-fulfilling prophecies. Based on extrapolations of population growth, traditional housing and land use patterns and the probable location of business and industry, we have positioned public services to accommodate our assumptions. And, lo and behold, when the road is built, the prophecy comes true. We have predicted urban sprawl, and we got it. We have planned for row housing with one-half-acre zoning, and it happened. We knew people would need their automobiles to get to work, and, by George, they do.

It is only very recently that we have begun to realize, as we feel the noose tightening around our necks. That we are hanging ourselves to prove our wisdom, rather than using our wisdom to keep our necks out of the noose.

Highways are only the most obvious. Visible, permanent examples of how the self-fulfilling prophecy has altered our environment. Calculation of energy use is another that is only now beginning to intrude on our consciousness and on our conscience. Again, based on straightline predictions of population and industrial growth, the power companies have prophesied future demand and built capacity to meet it. Then, through sales promotion, pricing structure, and other incentives, this demand has been simulated to meet the capacity.

There are sound, historic reasons why the self-fulfilling prophecy has governed so much of our environmental decision-making. In the first place, the whole notion of planning, either public or private, has only fairly recently become acceptable in the context of a free enterprise society.

Up until a decade or so ago, only a few of our great industries were much concerned with long-range planning. Each year most would add a growth factor to the previous year's production, stir in some intuitions concerning public tastes and desires, and gear their manufacturing and sales efforts to meet these guesstimates. Planning had connotations of socialistic control, of interfering with the free play of supply and demand. The Communist nations had their five-year plans, and they didn't seem to be working. So, why should we bother?

Today, every corporation that expects to stay in business for very long has five-year and even ten-year plans of its own, and woe to the manager who doesn't meet his planning budget.

Increasingly, Government and subdivisions of Government are doing long-range planning of some kind. There is a proliferation of blueprints for the future, usually pegged to the year 2000, emerging from national, State, regional and local planning agencies all over this nation.

What we now call the environmental crisis is responsible for much of this heightened activity. We are beginning to be aware of the mess we are in now and the greater mess we are going to be in if we don't begin to control the use and abuse of our finite, interconnected natural resources.

As William H. Whyte has said, "there is a good side to the mess. We needed it. It is disciplining us to do out of necessity what we refused to do by choice." Unfortunately, this necessity is perceived very unevenly by the various interests that make up our society. And, until there is a general awakening, resulting in more comprehensive planning, more intelligent regulation and more aggressive enforcement, the predictions of special interests are going to continue to determine the fate of our resources rather than public planning based on the common good.

It is exactly—almost to the day—10 years ago that the Governor of Connecticut wrote a letter to the then-Commissioner of Agriculture and Natural Resources. "Dear Joe," he said, "our recent review of Federal and State legislative action in the conservation field indicates that now is the time for Connecticut to move swiftly to save our dwindling open spaces and our great heritage of natural resources for the use and enjoyment of future generations."

The Governor requested that a plan be submitted within 60 days to guarantee the open space resources of the State. And, within 60 days, such a plan was, in fact, submitted, calling for the creation of regional and local planning agencies and setting priorities for the preservation of wetlands, flood planes, pollution abatement, park development, forest acquisition, and all the familiar concerns we have been repeating to ourselves for the past decade.

During that period, we have seen some progress made. But the environmental crisis has not abated. The destruction of wetlands has continued, the pollution of air and water has accelerated, flood plane problems remain and so on down the line. And now, 10 years later, we are facing these issues as if they were all new and again talking about the need for a plan. Only this time we cannot approach the problem piecemeal; we have got to be courageous enough to bite the bullet of land-use planning as a whole, for without such a comprehensive approach, even strong, separate efforts are eventually doomed to failure. And we cannot afford another decade of talk.

Russell Train, Chairman of the CEQ, has called land use planning "the most important environmental issue remaining substantially unaddressed as a matter of national policy." His analysis applies to the States as well as the Nation. Again, there are valid historic reasons why land use planning has come so late to the agenda. But we must not let history determine the future as it has the past.

Historically, no one has been in charge of land use in our country. Or, to be more accurate, everybody has been very much in command of his own small piece of property. And the notion that a man's home is his castle has extended to the rights accruing to his ownership of land. No one owns the air we breathe. No one owns the water we drink. We can all agree to that. But rights of land ownership are as solid as the land itself, and people have tended to feed strongly that what they do with their land is very much their own business. And understandably so.

Yet we have seen land use policy piecemeal by the diverse owners of the land. Farmers have sold to developers. Developers have built to meet predicted needs. The self-fulfillment of these predictions had led to more complex needs for schools, sewers, roads and highways. Open spaces have been gobbled up in the name of necessity. Pollution of air and water, noise, discomfort and crowding have resulted from this confluence of private decisions, and suddenly the individual citizen and land holder has found that his property is not his castle after all. It is wreathed in smog; surrounded by noisy traffic; overburdened with taxes; and separated, both physically and spiritually, from the sources of natural beauty, peace, recreation, and pleasant utility, which he thought were his to enjoy by natural right.

Faced with the acute dislocations brought about by unplanned, uncontrolled land use, the citizen has found himself powerless to do very much about it. Land jurisdictions are as diffused as land ownership—spread haphazardly among individuals, towns, counties, special districts and regions and even the state itself. Thus, it has been almost impossible to know where to look for guidance or decisiveness in policies relating to the use of land.

Everywhere we look we see decisions about the land being made by someone else: by other people's planning instead of our own or by default. And these plans—and these decisions—are generally the result of self-fulfilling prophesies rather than of any systematic approach to how we want things to be in the future. And so, even an agency of state government like the Department of Environmental Protection, which has a broad charge to protect the state's resources, finds itself spending much time on the results of actions already taken rather than planning for actions which should be taken. By history we are forced into commiting the cardinal sin of ineffective management, i.e., spending most of our time on our problems rather than our opportunities.

The office of State planning is now putting together a master land use plan, as required by the legislature. Based on population projections which predict 5 million people in Connecticut by the year 2000, this plan divides the State into 3 categories of land use—permanent open space; urban land; and the gray area of rural land, which is either agricultural or of low density residential development.

Such a projection is an important first step in analyzing what resources we have, cataloguing the use of these resources, and projecting probable trends 30 years in the future. But this is still not a master plan. We must substitute the word should for shall and involve every concerned public agency, bureau, and private organization which will impact on our resources over the next generation in the active creation, not passive projection, of our future.

What does this mean? It means firm decisions about what should be done in the future about transportation. It means the resolution of the debate over mass transit and the end to federally-induced, self-fulfilling prophesies about highway construction. It means firm decisions about utilities—the public need for power—the siting of power plants—and the location of power lines. It means some decisive policy about the location of industry—the construction of new population centers—and, above all, perhaps, it means the establishment of some parameters of optimum population growth for this State projected into the future.

We have had, in Connecticut, some significant approaches to local and regional planning; some valuable and experimental programs of new community development. Now it is imperative that land use planning, which is nothing less than total environmental planning—and it should be called just that—be elevated to the highest priority and made a function of the State as a whole.

What we are doing presently is creating a patchwork quilt of individual policies and remedies based on the solution to environmental crises as they arrive, almost on an ad hoc basis.

This is only natural. Individuals and groups tend to follow the path of least resistance—of custom and tradition—until they themselves are personally affected by the actions and activities of others. In a poll conducted by the White House, the question was asked, "What do you think is the most pressing environmental problem today?" Land use control ranked last. Right at the bottom. And it usually stays there until an emergency arises. Until the bland, neutral words "Land Use Policy" are suddenly translated into discomfort, ugliness, pollution, destruction of finite natural resources, or the forcible invasion of individual or group self-interest.

Right now, in the absence of any coordinated policy-making machinery for land use planning, we are using individual powers or prerogatives to obtain some necessary results.

This is going through the back door instead of the front door. Existing or proposed pieces of legislation pertaining to coastal and inland wetlands, scenic highways, protected rivers, conditional sewer grants and the nondegradation principle expressed in the new air quality standards give us some handle on the use of land. But these are stopgap. Totally uncoordinated, not based on overall policy determinations and unrelated to the specific and expressed wishes of the people of the state.

What is needed is not more activity at the back door but a concerted analytical, educational and, ultimately, legislative effort to get in the front door of land use policy planning. This does not mean the concentration of power in any one agency or commission. Rather, it will require the cooperation and the coordination of every interested agency of the state as well as every private group or organization involved in major determinations of the state's growth and development. And most important of all, it should and must involve the public.

Several other States are now far ahead of us in planning where they are going to be a decade or a generation from now and how they are going to get there. Either officially or unofficially, they are participating in long-range analysis and study. Leading to recommendations that can be placed before the legislatures and the public in time to make a difference and have an impact on the future. Planning is only an exercise in theory and often in futility unless it actively involves *all* the people who are going to be affected by the plan or whose concurrence is necessary to make it work.

And so, I strongly urge that the people of Connecticut become involved now on a statewide basis in planning for the future of Connecticut.

Before the final draft of our air quality standards was prepared for submission to Washington, we went through the process of local workshops and regional public hearings so that every group, every interest, public and private, would have an opportunity to know the facts and to be heard on the issues.

Our future is too important to be left to self-fulfilling prophesies or even to piecemeal planning no matter how good or how sound that planning may be.

The people of Connecticut should have a voice in such crucial issues as the optimum population growth for Connecticut; the construction of mass or other alternate transit systems; the location of new cities and new industries; the policies relating to State lands and open spaces and the projection of power needs and the size and location of new power-producing capacity.

There are only two parts, really, for Connecticut to follow. One is the path of obedience to the past; charted by statistical projections of growth—the computerized extrapolations of demographers and statisticians—many of them employed in securing the self-fulfilling prophesies of special interest groups. This path is a total abdication of true planning and can end only as it did for the 18th century astrologer—with our neck in the noose.

The other path is harder, more perilous, and requires far more individual effort and choice. This is the path of detailed analysis of the State's resources and the deliberate assessment of the kind of life and the quality of environment deemed acceptable by this generation—in trust for succeeding generations.

One path permits past trends in population, economic growth and urbanization to continue with little, if any, change in direction or control. The other is based on the assumption that Connecticut's people and politicians, industries and communities are flexible enough and creative enough to set goals for our environment and to make the changes necessary to achieve them.

Ian McHarg has listed seven steps of agreement on which a statewide planning sequence must be based. I think we have the wisdom and the will in Connecticut to concur on each of these steps.

First, we must agree that the area is beautiful and vulnerable.

Second, we must agree that development is inevitable and must be accomplished.

Third, we must agree that uncontrolled growth is inevitably destructive.

Fourth, we must agree that development must conform to statewide goals.

Fifth, we must agree that the observance of conservation principles can avert destruction and insure enhancement.

Sixth, we must agree that planned growth is more desirable than uncontrolled growth and more profitable.

Seventh, we must agree that public and private power can be joined in partnership in a process to realize the plan.

If we can concur on these points and on this process, then direct implementation must begin.

The State's master land use plan is a good first step, but it is only a part and only a description. It is not a final answer.

All involved state agencies must begin to work together cooperatively to develop a program of optimum growth and development for Connecticut.

Local and regional hearings should be held to give every citizen and every group a chance to have his say, and add his contribution.

And, when this process has resulted in a kind of overall informed judgment, appropriate legislation should be passed creating the procedures and the controls necessary to implement the plan.

As William H. Whyte has said: "Our options are expiring. The land that is still to be saved will have to be saved in the next few years. We must make our commitments now and look to this landscape as the last one. For us, it will be."

Thank you.

GI BILL NOT SUFFICIENT

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, Mr. Henry Littrell III, a constituent who is serving as acting president of the Indiana State Collegiate Veterans Association was in Washington recently to express concern over the benefits received by our veterans. On the basis of his information, the funds available under the GI bill are not enough to meet the rising costs of education.

I would like to include the information that he has supplied me for the inspection of my colleagues. This information was given as testimony to the Subcommittee on Readjustment, Education, and Employment of the Senate Veterans' Affairs Committee.

The material follows:

TESTIMONY OF HENRY LITTRELL III

Mr. Chairman and Members of the Subcommittee, what is the veteran today faced with in his attempts to obtain an education? Let us look first at today's G.I. Bill and compare it to the G.I. Bill of 1948.

A large gap exists between the benefits that were available to the veteran in 1948 and the veteran of the Vietnam era. In 1948 the government paid for the cost of tuition as well as books and supplies up to a maximum of $500 a year. In addition, a monthly subsistence allowance was provided up to a maximum of 48 months. In the case of a veteran who was married and had one child, the total package amounted to $7,760. That amount rolled forward to today's dollar value is worth $14,511. Today's veteran going to college who has two dependents and is receiving benefits under the present G.I. Bill, has a package worth only $8,280 for the total 36 months he is eligible. This is paid in the form of a monthly subsistence allowance and there is no federal participation in the payment of tuition or books and supplies. The total package has increased only $520 in the last 23 years, a 6.7% increase.

I attend college at Purdue University in Indiana. I would at this time like to present to you the financial situation a married veteran with one child faces while attending school at Purdue. The following assumptions are made: 1) the veteran is going to school full-time under the G.I. Bill. 2) His wife is working. 3) This is a nine month budget. 4) There is no car payment for the family. 5) There is no prior indebtedness.

An Indiana resident pays $700 in fees for a nine month school year. He pays on the average $150 for books and supplies. Housing costs are $1200; utilities $220; telephone $72; food $900; new clothing $270; laundry and cleaning $100; personal expenses $270; recreation and entertainment $180; transportation, gas and oil $270; repairs $150; insurance and license $200; life insurance $100; medical expenses, doctor and dentist $150; prescriptions $90; medical insurance $130; baby-sitting $720; for a grand total of $5,872. These figures were provided by Mr. Dick Tombaugh, our Financial Aid Officer at Purdue University. The figures were arrived at on the basis of a survey that was made within the college community of Lafayette and West Lafayette.

Where does the veteran obtain funds to pay for the expenses he must meet while in the college environment? First of all there are his veteran benefits of $2,070 for nine months. Another source of income is a working wife. In our community, the average hourly rate of pay for a working wife is between $2.00 and $2.20 per hour. Assuming $2.20 per hour, a wife could earn $340 a month after taxes, etc. This would provide additional family income of $3,060 over a nine month period. This same amount added to the benefits received by the veteran would provide a total family income of $5,030 over a nine month period and the family would still be short $842. This leaves the veteran no choice but to go out and obtain a part-time job in order to bring in additional income.

How many veterans are willing to go to school under conditions such as these and endure the hardships that I have presented from the financial standpoint alone. The Veterans Administration tells us that in my state, Indiana, we have 25.8% of the Vietnam veterans population enrolled in some form of qualified educational programs. This is broken down further into four categories: College level—12.3%; Below college level—10.5%; On-the-job training—3.0%; and correspondence courses—6.8%. My state is seventh from the bottom in overall participation rate. What concerns me even more, however, is the question of how many people drop out of the programs into which they enter? Further, of those that do drop from a program, how many drop because of financial reasons? In the rate the VA has provided is included anyone who has taken advantage of their benefits for at least one month. What the VA has not provided is the rate of drop-outs. What is the non-completion rate of individuals in the four categories previously mentioned? These figures are even more significant than the ones the VA has provided.

I can only conclude on the basis of the VA figures alone, that the veteran in my state cannot afford to take advantage of the many educational benefits available to him under the present G.I. Bill, which is inadequate.

XUM

Another problem the veteran of today encounters is one of public indifference to the Vietnam era veteran. We credit a great deal of this indifference to the unpopularity of the contemporary conflict in Southeast Asia. We feel it is unfortunate the veteran must be left behind simply because of the whims of public opinion.

Gentlemen, we have to answer one basic question. Is the veteran of the Vietnam War any less deserving than his counterpart of World War II and the Korean War? If we are not as deserving, tell us we are not and be finished with it. On the other hand, if you say we are just as deserving, then give us at least the same benefits, no more, at least the same benefits the veteran had in 1948.

It would seem that we always return to the basic issue of not having an adequate G.I. Bill. If we had an adequate G.I. Bill, we could eliminate a number of these special programs established because of the inadequacies of the present benefits. We could eliminate a number of special task forces established to study the problems of the Vietnam era veteran. The Indiana State Collegiate Veterans Association fully supports the four point doctrine of the National Association of Collegiate Veterans Incorporated.

Thank you, gentlemen, for your time in listening to the problems I presented to you today. Although they are representative of the state of Indiana, I feel that many of the same problems exist in the other states of this country. Thank you once again.

HENRY G. LITTRELL III,
Acting President,
Indiana State Collegiate Veterans Assoc.

TOTAL BUDGET

Expenses	Single	Married: No child	Married: 1 child	Married: 2 children
Tuition, fees (Indiana resident)	$700	$700	$700	$700
Books and supplies	150	150	150	150
Housing:				
Hall, house bill or rent	1,200			
Payment on house or trailer				
Trailer space rental		1,000	1,200	1,400
Insurance				
Utilities:				
Electric, gas or oil				
Water		200	220	240
Telephone		72	72	72
Food (if not included in housing bill)		720	900	1,050
New clothing		225	270	315
Laundry and drycleaning		72	100	130
Personal expenses (haircuts, cosmetics, etc.)		225	270	315
Recreation and entertainment		135	180	220
Transportation:				
Gas and oil	400	270	270	270
Repairs		150	150	150
Insurance, license		200	200	200
Life insurance		$50	$100	$150
Medical expenses:				
Doctor, dentist		100	150	200
Prescriptions		45	90	135
Insurance		80	130	180
Babysitting			720	900
Prior indebtedness to be paid during this budget period (from liabilities listed on page 2)				
Subtotal	$2,450	4,344	5,872	6,777
Other expenses not covered above:				
Additional nonresident tuition	900	900	900	900
Additional nonresident travel	50			
Total	3,400	5,244	6,772	7,677

COMPARISON OF GI BILL BENEFITS 1948 VERSUS 1971

[Example: Full-time student with 2 dependents]

	1948 unadjusted	1948 dollars adjusted to 1971 [1]	Current 1971 bill
Maximum payment to school (4 years at $500)	$2,000	$3,740	None
Subsistence allowance (48 months at $120)	5,760	10,771	[3] $8,280
Total cash value	[2] 7,760	14,511	[4] 8,280

	1948 unadjusted	1948 dollars adjusted to 1971 [1]	Current 1971 bill
Purdue expenses:			
Fees (paid by U.S. Government)			2,800
Books and supplies (paid by U.S. Government)			600
Rent [5] (48 months at $40 per month)	$1,920	$3,590	[6] [7] $5,904
Total fees, books and rent paid by student	1,920	3,590	9,304
Total subsistence allowance paid	5,760	10,771	8,280
Allowance remaining for food, clothing, medical, insurance, etc.	3,840	7,180	[8] −1,024

[1] U.S. Department of Labor Consumer Price Index: 1967 equals 100; 1948 equals 66.9; September 1971 equals 125.1. 125.1/66.9 equals 1.87; 1.87 times 1948 prices equals 19 pr.
[2] Public Law 346, as amended in February 1948.
[3] 36 months at $230.
[4] $520 increase in 23 years, 6.7 percent.
[5] Purdue University General Bulletin, 1948 (590 3 and 4 room apartments, rental, $35 to $40 per month).
[6] Post-freeze rental rates MSC II, 2-bedroom furnished, Purdue University, Lafayette Campus.
[7] 48 months at $123.
[8] Loss.

FARMERS' ROLE IN WILDLIFE UNDERRATED

HON. JOHN KYL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KYL. Mr. Speaker, since 95 percent of Iowa's land is devoted to agriculture, the great majority of our wildlife live on, and from, farmland.

The wildlife picture in my State is excellent—thanks largely to Iowa's conservation farmers. With technical assistance from the Soil Conservation Service they have built almost 35,000 small farm ponds and improved almost 40,000 acres of wildlife-wetland habitat and more than 177,000 acres of wildlife-upland habitat.

Many other soil and water conservation practices also significantly benefit wild creatures. Farmers who terrace rolling land and plant on the contour—and you see this all over Iowa—not only reduce soil erosion, they also reduce the siltation of lakes and streams that can damage fishery habitat. Stripcropping, or planting alternate strips of cover plants and grains, attracts and supports many more wild creatures than the same field planted in a single crop. And minimum tillage—another excellent erosion control method used on almost 2 million acres of Iowa land—results in more wildlife because crop stubble retained over the winter provides food and cover for birds and small animals.

Through local soil and water conservation districts, many farmers in Iowa also sponsor small watershed projects, Public Law 566. Among other benefits, these require conservation treatment on the surrounding land and, through small lakes built under the program, provide many acres of new surface water to waterfowl and land animals.

I would hope that, as interest in the environment continues to grow, more hunters, birdwatchers, and nature lovers of all kinds would understand the very basic and significant role of the farmer in providing the majority of America's wildlife with the food, water, and habitat they need for survival.

EXPORTING TOBACCO

HON. JOHN L. McMILLAN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McMILLAN. Mr. Speaker and members of the House, I insert in the appendix of the CONGRESSIONAL RECORD a resolution adopted by the South Carolina State Legislature. We people in South Carolina are very much interested in the export of our tobacco. We have always had an excellent export market for tobacco, and I hope it can be further developed so that China and Russia can soon purchase millions of pounds of our tobacco in addition to the countries we are already exporting tobacco to at the present time.

The resolution follows:

A CONCURRENT RESOLUTION TO MEMORIALIZE THE SECRETARY OF AGRICULTURE AND THE CONGRESS OF THE UNITED STATES TO TAKE WHATEVER ACTION MAY BE NECESSARY TO ELIMINATE UNFAIR RESTRICTIONS ON IMPORTS OF U.S. TOBACCO PRODUCTS BY EUROPEAN COMMON MARKET NATIONS

Whereas, the tobacco growers of the Nation are concerned when they see a significant portion of their foreign market threatened as a result of unfair practices by foreign countries; and

Whereas, it is believed that a strong stand should be taken to persuade European Common Market nations to eliminate policies which raised internal support prices and provided for buyer discounts for the purchase of domestically grown leaf; and

Whereas, it is the sense of this body that retaliatory measures, perhaps a ten percent surcharge on imports, should be put into effect until such time as the European Common Market nations make such changes in their policies as will assure greater access to their markets for agricultural products of the United States.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Secretary of Agriculture and the Congress of the United States are hereby memorialized to take such action as may be necessary or desirable to protect tobacco and tobacco products exported by the United States against unfair import restrictions on such products by the European Common Market nations.

Be it further resolved that a copy of this resolution be sent to the Secretary of Agriculture of the United States and to each member of the Congress of the United States from South Carolina.

CVN–70

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BENNETT. Mr. Speaker, there are two items with respect to the nuclear-powered aircraft carrier CVN–70 which I would like to bring to the attention to the House.

When this matter was considered by the Congress 2 years ago, the administration was saying that they might or might not build the carrier depending upon the outcome of studies then being conducted. Last year the Congress was presented with a statement by Deputy Secretary of Defense Packard that funds for the long leadtime items for CVN–70 would not be spent even if appropriated.

The situation is different this year. I have just received a letter from Secretary Laird saying that the funds will be expended by the administration if they are appropriated.

I have also received a document from the Navy showing in question and answer form the reasons for a nuclear-powered carrier. I include the Laird letter and the Navy document in the RECORD at this point.

THE SECRETARY OF DEFENSE,
Washington, D.C., March 27, 1972.

Hon. CHARLES E. BENNETT,
Chairman, Subcommittee No. 3,
Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: This letter is in response to your request of March 14, 1972 for a clear cut statement as to the intent of the Executive Branch upon Congressional authorization and appropriation of long lead time funds for the nuclear aircraft carrier, CVN–70.

This carrier has been extensively studied and it is a firm requirement. I want to assure you that the administration fully intends to spend the money requested in FY 1973 for CVN–70 and plans to request authorization for the ship in the FY 1974 budget. We will definitely proceed with its construction, subject, of course, to the approval of the Congress.

Sincerely,

MELVIN R. LAIRD.

DEPARTMENT OF THE NAVY,
Washington, D.C., March 23, 1972.

Memorandum for the Secretary of the Navy.
Subject: Nuclear-powered aircraft carrier, CVN–70.

1. There has been great interest expressed in Congress and reflected in the press concerning the nuclear powered carrier, CVN–70, for which advance procurement funds have been requested in this year's budget. To assist in answering queries of Congress, the press, and the public related to this particular carrier and to the Defense Department carrier program in general, questions and answers keyed to the principal issues involved have been prepared and are attached herewith.

2. The CVN–70 will be the third of the three planned *Nimitz*-class nuclear-powered aircraft carriers. The first two ships of the class, the *Nimitz* and the *Dwight D. Eisenhower*, are under construction and are scheduled to be delivered in 1973 and 1975 respectively. The remainder of funding for the CVN–70 is planned for the fiscal year 1974 program, with delivery of the ship scheduled in 1980. The CVN–70 is needed to replace an old World War II carrier and is expected to be a vital element of the fleet well into the 21st century.

3. More than any other single new general purpose weapon system, CVN–70 will demonstrate our capability and resolve to meet the challenge of the Soviets; it will serve as a visible and credible naval deterrent. I consider CVN–70 the item of highest priority in the general purpose budget.

E. R. ZUMWALT, Jr.,
Admiral, U.S. Navy.

THE AIRCRAFT CARRIER

The following questions and answers have been prepared to set forth in simple terms, facts and rationale relating to the United States Navy carrier program. In their brief form, these answers cannot cover in detail all aspects of carriers, but they do present an unclassified discussion of the principal issues involved.

GENERAL

Q. What is the Role of the Aircraft Carrier in Today's Navy?

A. The aircraft carrier is the principal tactical weapon system through which the Navy carries out its primary nonstrategic mission of insuring the free use of critical sea lanes and its collateral mission of projection of power ashore. A credible capability to perform both missions is essential as a deterrent against direct Soviet action and as a stabilizing influence in our relationships with third country aggressors.

The aircraft carrier serves as the key member of a powerful, mobile naval task force, employing anti-submarine aircraft, attack and fighter aircraft, surface escorts and nuclear submarines. These air, surface, and submarine units together provide the greatest naval power that can be assembled to counter all threats at sea. The force has the mobility to operate where it can be most effective against any forces threatening our free use of the seas, and it has the sensors and weapons needed to defeat these threats. The maintenance of essential sea lines of communication with our allies and with our overseas military forces depends on the naval capabilities provided by this type of naval task force. The varied anti-submarine attack, and fighter aircraft capabilities provided by the aircraft carrier are essential for any naval operations in areas which are within the combat reach of Soviet air and naval forces.

For projection of power ashore, the carrier is a fully outfitted and equipped mobile air operating base. This mission requires large quantities of ordnance and significant numbers of air superiority, close air support, and interdiction aircraft. These aircraft must be able to counter all modern Soviet aircraft, penetrate to missile-defended targets, conduct precision day, night and all weather bombing, and perform the demanding tasks of reconnaissance and surveillance.

The requirement for these aircraft capabilities dictates the size and characteristics of their carrier base. Ships of the *Nimitz*, *Enterprise*, and *Forrestal* classes are best suited to these roles for they are large enough to operate such modern aircraft as the F–14, A–6, and A–7, and they incorporate the advantages associated with modern carriers. The *Nimitz* and *Enterprise* classes in addition provide the greatly increased tactical flexibility and responsiveness which derive from nuclear propulsion.

The distinctive operational characteristics of aircraft carriers can be summarized in four general categories:

First, *Air Power at Sea*. The aircraft carrier provides a concentration of aircraft of all types required to perform its assigned mission.

Second, *Mobility*. The tactical air capability provided by the carrier is mobile. It can be moved any place on the three-fourths of the earth's surface covered by the seas, without any international agreement or political commitment. It is always under complete and unquestioned United States control.

Third, *Complete Support*. The carrier is a floating air base, complete with aircraft; ordnance and jet fuel required to fly them; shops to support them; men to maintain and to operate them; facilities and equipment to direct and to control them.

Fourth, *Flexibility*. The carrier can be effectively employed across the full spectrum of warfare, from a demonstration of naval presence, though military confrontation and limited war, to general conflict with conventional weapons, to nuclear war.

Q. With our continuing investment in nuclear deterrent forces, why is it necessary to build a new aircraft carrier?

A. The principal effect of strategic nuclear parity is to decrease our military options in the event of a conflict of national interests. Whereas in the past we could rely on our nuclear superiority to deter many forms of warfare, we now must place increased reliance on our conventional forces to deter conventional war while seeking to maintain nuclear sufficiency to deter nuclear war. The capabilities and readiness of our conventional forces are increasingly important, since it must be assumed that they, rather than our nuclear forces, will be the deciding factor in future conflicts of interest, other than those involving national survival.

The aircraft carrier is the major striking arm of our conventional naval forces; it is our principal tactical weapon system which serves to insure our free access to the seas of the world. The nuclear-powered carrier

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can respond quickly and swiftly to areas of tension, traveling in international waters, and providing local naval superiority wherever it goes. It has the range of capabilities that permits it to react to any distint situation with just the proper response. The nuclear-powered aircraft carrier is that unique margin of difference between U.S. and Soviet Navies that provides the naval strength we require.

Q. What General Facts Describe CVN–70?

A. CVN–70 is the third ship of the *Nimitz* Class; it will be identical with *Nimitz* except for those minor changes necessary to accommodate the latest model aircraft flying when CVN–70 is delivered.

Its physical description is:

Length: 1092'.
Beam at water line: 134'.
Width of Flight Deck: 252'.
Displacement: 94,400 tons.
Propulsion: Two-reactor nuclear.
Endurance: 13 year reactor core life.
Ship's Crew: 2829.
Air wing: 90–100 carrier aircraft of 1980's
Air wing personnel: 2506.
Damage Control: Markedly improved over *Essex* Class, improved over all later classes.
Aviation Ordnance: 3.8 times that of *Essex* Class. 2.7 times that of *Midway* Class. 1.5 times that of *Forrestal* Class.
Aviation Fuel: 5.2 times that of *Essex* Class; 2.9 times that of *Midway* Class; 1.9 times that of *Forrestal* Class.
Construction schedule is:
Funding of Long Lead Time Components: FY–73.
Ship authorization: FY–74.
Lay Keel: 1975.
Deliver completed ship: 1980.
Replace World War II designed carrier: 1981.

REQUIREMENT

Q. What foreign naval forces could contest our free use of the seas?

A. At the present the Soviets have the only Navy capable of challenging our free use of the seas. The Soviet Union is embarked on a program revealing a singular awareness of the importance of sea power and an unmistakable resolve to become the most powerful maritime force in the world. They demonstrate a thorough understanding of the basic element of sea power: knowledge of the seas, a strong modern merchant marine, and a powerful new Navy. They are surging forward with a naval and maritime program that is technologically and militarily sound.

The genesis of this burgeoning naval development can be traced to the Cuban Missile Crisis of 1962. The inability of the Soviet Navy, in that instance, to act in support of foreign policy was quite clear. Having failed to support their overseas political objectives, the Soviets embarked upon a large scale expansion of their seapower. Every year in the decade since that confrontation at least one new class of cruisers, destroyers, submarines, or other combatant ships has appeared. In total numbers of major combatants the Soviet Navy is now the equal of the United States Navy, and Soviet naval ships of all types are being deployed ever more widely throughout the world.

The Soviet Navy now employs modern, capable ships for all phases of surface and submerged naval operations except sea-based tactical air. About 100 of the Soviet Navy's 340 submarines are nuclear powered; the subsurface fleet includes some 55 ballistic missiles. Their surface force of cruisers, destroyers, and smaller craft includes at least 20 major surface ships and 180 patrol craft armed with surface missiles. They have introduced their first cruiser helicopter carriers. Soviet Badger medium bombers and Bear long range bombers operate over the seas in close coordination with Soviet naval units.

This proliferation of modern naval ships and submarines has permitted Soviet leaders to look well beyond their national boundaries. For the first time in its history, the Soviet Union is using a deployed naval force in support of foreign policy in distant areas. These modern Soviet submarines, ships, and aircraft together constitute a challenge to U.S. naval forces and to our use of the seas.

Q. Do we face threats to our use of the seas other than from the Soviet Union?

A. No other foreign nation has naval forces approaching in size and capability those of the Soviet Union. However, the Soviet Union has provided relatively sophisticated weapons of all types to certain smaller nations and continues to do so today. These weapons in themselves constitute a sustained threat only as they may be supported by Soviet forces. If they were employed in coordination with Soviet forces, they would represent a considerable expansion of the general Soviet challenge to our use of the seas. This potential growth is most evident, for example, along the southern coast of the Mediterranean.

Q. Is it credible to think that the United States and the Soviet Union could become involved in a non-nuclear naval confrontation?

A. The primary reality of global relationships today is nuclear parity betwen the U.S. and the U.S.S.R. We no longer possess superiority in nuclear arms. Both the United States and the Soviet Union have developed strategic nuclear forces to a level considered adequate to assure deterrence from nuclear attack. This fact is of fundamental importance in all naval force planning; it is the continuing backdrop against which all of our national actions occur.

There are those who dismiss as unrealistic the possibility of a direct confrontation between American and Soviet naval power. Events may show that they are wrong unless we build naval forces which can clearly counter the best Soviet naval forces. In the 1962 Cuban missile crisis the United States with superior naval power and superior strength in nuclear weapons was willing to confront the Soviets. Now we speak of nuclear parity with the Soviet Union. If we allow them to attain superior naval forces, why should we assume that they will not confront us with their naval power to obtain their objectives in areas where they consider we will not be willing to risk nuclear war. Failure on our part to provide naval forces which can stand up to the best naval forces the Soviets develop could lead to our having to give in on all issues for which we are not willing to go to nuclear war.

It is widely accepted that American nuclear superiority over the past 25 years has deterred nuclear war; it is not as widely understood that our naval superiority over this period has deterred lesser wars. If we do not maintain the capability to operate our first-line naval striking forces in all areas required by our national interests, we will have given up the ability to carry out sustained military operations away from our shores, not only by the Navy but by the other services as well.

The importance of naval conventional forces grows as the principles of the Nixon Doctrine are implemented. This policy of deterrence stresses increased self-reliance on the part of our allies and promises reductions in our own overseas bases and forces. However, as we reduce overseas bases and forces, it is essential that we maintain a credible capability to return in force if needed, even if opposed. And if this should occur, the control of the sea lines of communication to the threatened area will be mandatory if we are to furnish aid for our allies and support for our own armed forces.

The Soviet Union has recognized these aspects of our developing maritime strategy and is continuing to introduce naval weapons best suited to interdict our lines of communication.

A conflict between the United States and the Soviet Union could conceivably develop as a contest of conventional forces, a contest closely controlled by both sides to avoid the question of total national survival which could unleash nuclear destruction. In such a contest the Navy would act in its primary mission role to assure continued freedom of the seas as required in support of our national objectives.

"To serve as a realistic deterrent, our general purpose forces, together with those of our allies, must be such as to convince potential enemies that they have nothing to gain by launching conventional attacks.

"To deter conventional aggression, we and our allies together must be capable of posing unacceptable risks to potential enemies. We must not be in a position of being able to employ only strategic weapons to meet challenges to our interests. On the other hand, having a full range of options does not mean that we will necessarily limit our response to the level or intensity chosen by an enemy. Potential enemies must know that we will respond to whatever degree is required to protect our interests. They must also know that they will only worsen their situation by escalating the level of violence." (President's Foreign Policy Report, 1971.)

EFFECTIVENESS

Q. Why are aircraft carriers essential to the U.S. Navy today?

A. We cannot keep the sea lanes open without them.

As the principal combatant of our Navy's general purpose forces, only the aircraft carrier can provide the types and quantities of aircraft required for the successful conduct of war at sea—now and for the foreseeable future. No other weapons systems under development can replace the long-range sustained, concentrated firepower of the carrier air wing. The carrier packs the offensive punch and defensive capabilities of a modern floating air base.

Wherever it is directed to move on the oceans which cover three-fourths of the earth's surface, the aircraft carrier takes with it the following capabilities:

Jet fighters to destroy enemy aircraft and cruise missiles.

Jet attack aircraft to destroy enemy forces on the sea or land.

Early warning and control aircraft to detect enemy forces on the surface or in the air.

Reconnaissance aircraft to detect, locate and identify hostile forces.

Electronic warfare aircraft to detect, deceive and jam hostile electronic transmitter and receiving devices, including radar and communications equipment.

Anti-submarine aircraft to provide long range detection and destruction of hostile submarines.

Anti-submarine helicopters to provide anti-submarine defense for the carrier in conjunction with other ships of the carrier task group.

Fleet tactical support aircraft for carrier onboard delivery of personnel and high value cargo.

Aviation ordnance sufficient for days of maximum sortie levels against hostile forces before replenishing from underway replenishment ships.

Jet fuel for days of continuous air wing operations against hostile forces before replenishing from underway replenishment ships.

Shop facilities and personnel to maintain all assigned aircraft ready for continuous extended operations.

The range and capabilities of its embarked air wing, combined with the mobility and speed of the ship, permit the carrier to stand off and reach the enemy with the full weight of its offensive capabilities.

The unique capability of the aircraft carrier to provide a highly mobile umbrella of airpower at sea is required for the successful accomplishment of the Navy's mission—control of the sea. Without the air superiority and massive striking power provided by the aircraft carrier, no other naval surface operations could safely be conducted.

Q. Why can't overseas land air bases be used instead of carriers?

A. Sea-based air supplements land-based air. However, overseas land air bases can be used effectively only for those portions of a carrier's mission that occur near a coastline, and then only if certain conditions are satisfied:

1. The base must be capable of handling aircraft of the types and numbers required.

2. The base must be secure from hostile attack and air approaches to the base must be clear of enemy weapons.

3. Logistic lines of communication and a command and control infrastructure must be in existence or must be established before the base can be used effectively.

4. The privilege to operate from the base and to overfly the sovereign territory of the host nation must be granted.

These requirements may be difficult to meet in areas and in situations in which tactical aircraft may be needed. A few of the obstacles which, encountered singly or in combination, have limited the use of land based tactical aircraft in past times of need and increasingly serve to limit its future effectiveness are:

1. There may not be suitable air bases within range of the scene of action. This was the case in Korea in 1950 after available land bases were overrun in the early days of action. The distance from Japanese bases severely limited the effectiveness of land based tactical aircraft, whereas aircraft carriers were able to move up and down both coasts of the Korean peninsula at close range.

2. Land bases, even when available and within range, cannot always accommodate the numbers of tactical aircraft required. This was the problem in Vietnam when our commitment there grew. We subsequently constructed a number of air bases to provide tactical air support. This experience indicated that two years from decision time were required to build up the needed base facilities.

3. The available land bases cannot be supplied with aircraft fuel and ordnance without constructing a major logistic network. In Spain and in Thailand we have found that pipelines and other lines of logistic support have had to be constructed to support land based aircraft. This is a major limitation on plans to use undeveloped airfields in distant areas of the world. The major logistic effort required to support a minor air assistance mission in the Congo highlighted this problem.

4. The privilege to fly from or over a friendly nation may not be granted or may be rescinded. This occurred during the Lebanon incident in 1958, when several European governments denied landing and even overflight privileges to United States aircraft attempting to transit to the Middle East. The 1970 Jordanian crisis again raised the question of such an impediment to land based air operations.

5. Vital land bases have not been secure from attack by air and ground forces and have been lost when most urgently needed. This happened in Korea when all of the local airfields were captured in the first five days of fighting. Even when the airfields are reasonably secure from capture, harassing attacks may be quite damaging. In South Vietnam over 400 aircraft have been destroyed on airfields and over 4,000 more have been damaged by enemy ground attacks.

Overseas air bases are essential for support of extended military operations; operations in Southeast Asia are the most recent confirmation of this fact. However, the factors and examples cited indicate that the bases may not be in the right place and may not be immediately available for our unrestricted use in a crisis; we should not place our entire reliance on static, foreign-dominated bases. For these reasons we need a combination of land-based and sea-based air wings.

Q. Aren't overseas air bases available in all the areas of our national interests?

A. The United States has a widespread network of air bases in the world. And these are, indeed, located in regions of our national interests. However, the area of the world covered by our overseas land base system is shrinking. At the end of the Korean War we had over 500 overseas bases of all types. As recently as 1957 we had over 100 air bases overseas. Operational air bases overseas today have been reduced by half and the trend continues downward.

Bases have been closed on the insistence of the host country; France is an excellent example of this action; Wheelus Air Base in Libya was the last of an extensive complex of United States Air Bases in North Africa.

Where we do retain our bases, it is frequently at considerable cost. We have spent over two billion dollars in Spain. A recent agreement with Portugal grants up to $435 million in economic and social development credits in return for our use of the base in the Azores for 25 months.

Q. Why can't commercial air fields be converted to military fields?

A. They can. Kits are being developed to be used for converting available runways into military airfields. However—for one tactical aircraft wing (approximately 90 aircraft—the equivalent of one carrier air wing) a kit includes over 6000 people, 7000 tons of cargo, and 1500 vehicles in its initial lift. It must be maintained by a daily logistic resupply flow of 3200 tons of consumables. This daily resupply, if provided by airlift, would require more than 100 C–5A transport aircraft. Since this is obviously impractical, overseas land bases are dependent on keeping the sea lanes open for logistic support. In many areas the Navy cannot do this without carrier aircraft.

Q. If the aircraft carrier is so important, why don't the Soviets have them?

A. When, after World War II, the Soviet Union began to develop and to construct a modern Navy, it was a strong continental power making first attempts to spread its military strength into the surrounding seas. The Soviet Navy was ineffective and virtually non-existent in terms of capable high-seas fighting units, and it had no recent experience nor tradition of operations in distant waters.

The Soviets, because of their central geographic position within the European and Asian land masses, are far less dependent on overseas logistic supply lines and on overseas alliances for their national objectives and for their defense than is the United States. The United States is essentially an island lying between the Atlantic and Pacific Oceans. We cannot obtain all of our essential materials over land routes; two of our states are separated from the others by miles of ocean.

The Soviets control an extensive system of land air bases throughout areas of the world vital to them. We have no such comprehensive land-base system. Their predominant land position has required mutual defense treaties with but two nations which do not share a land border with them. Our island position, on the contrary, has led us to enter treaty alliances with 41 overseas nations.

The Soviets, the predominant land power, have recognized the maritime position of the United States and our dependence upon free use of the seas to maintain economic and military contacts with friends and allies around the world. As the new Soviet Navy began to appear, its first units were those best suited for interdiction of the sea lanes.

An analogous situation is that of Germany in World War I and II. As the predominant land power she was able to use land transportation to extend her influence and to support her military and industrial effort. The Germans knew full well that the Allied war effort was almost totally dependent on overseas transportation. The naval forces they constructed and employed in numbers during those wars were designed for interdiction of the sea lanes.

The first priority for the Soviet Navy after World War II was to achieve the capability to deal with our superior Navy. This has meant the construction of submarines and surface ships capable of firing missiles against carriers.

Recent new classes of ships indicate that the Soviets are now thinking beyond this basic interdiction mission. For the first time in their history they are supporting an overseas foreign policy with deployed naval forces. They are maintaining naval forces for extended periods in Cuban waters, off the west coast of Africa, in the Indian Ocean, and they maintain a large naval force in the Mediterranean.

By the early 1950s, when they began to build their modern Navy, the Soviets were far behind the United States in carrier technology as well as in industrial capacity. Recently, they built two medium sized modern helicopter carriers. As they gain experience with these, and as they continue expanding their naval power, they may well build aircraft carriers to extend the areas in which they can project their national power.

PRESENT CARRIER FORCE

Q. What aircraft carriers are operational today?

A. The Navy has sixteen fully operational carriers in service today. This number represents a reduction by one-third from the twenty-four in service just seven years ago. This reduction has removed all but two of the carriers specifically dedicated to the development of air ASW techniques and has complicated the problem of deploying carriers to meet overseas commitments.

Our present operational carriers fall into four ship classes:

Essex class—four of these World War II designed veterans are operational (*Intrepid, Ticonderoga, Hancock, Oriskany*). A fifth, *Wasp*, is in the process of inactivation. All but *Oriskany* were completed and commissioned during World War II. *Oriskany* was started during World War II, but was not completed until 1950.

Midway class—three of these ships, commissioned between 1945 and 1947, are in the fleet (*Midway, Roosevelt, Coral Sea*). *Midway* was out of service for modernization of its aircraft facilities from 1966 to 1970.

Forrestals—eight large-deck, conventionally powered carriers commissioned between 1955 and 1968 are in service (*Forrestal, Saratoga, Ranger, Independence, Kitty Hawk, Constellation, America, Kennedy*).

Enterprise—the first nuclear powered carrier was commissioned in 1961.

Q. What carriers are under construction?

A. Congress authorized construction of the second and third nuclear-powered aircraft carriers, the *Nimitz* (CVAN 68) and the *Dwight D. Eisenhower* (CVAN 69) in the FY 1967 and FY 1970 Shipbuilding Program respectively.

In response to a request from the Secretary of Defense in August, 1964, the Atomic Energy Commission began development of a two-reactor nuclear propulsion plant for installation in these carriers. In May, 1968, the Naval Ship Systems Command awarded a contract to the Newport News Shipbuilding and Dry Dock Company, builder of *Enterprise*, for the design and construction of the *Nimitz*. Her keel was laid on June 22, 1968,

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by Senator Henry M. Jackson. In June 1970, the Naval Ship Systems Command extended the *Nimitz* contract to include construction of the *Dwight D. Eisenhower*. Her keel was laid August 15, 1970, by Dwight D. Eisenhower II, grandson of the late President.

The *Nimitz* Class will be an improved version of the *Enterprise* and the most modern warships in the world. Their two reactors are the highest powered, longest core life reactors under development. Their initial cores will last for approximately 13 years of normal ship operation.

Nimitz is well along in the construction process and is scheduled for delivery to the Navy in the fall of 1973. *Eisenhower* is in the early stages of construction, with delivery scheduled for the summer of 1975.

CVN–70, when completed in 1980, will be near duplicate of *Nimitz*. It will have the same hull, same nuclear propulsion system, the same major components.

These *Nimitz* Class carriers will not increase our numbers of carriers in active service. When they join the fleet they will replace old, World War Two-designed carriers which will be beyond their expected service lives.

CURRENT CARRIER FORCE

Name and number	Commissioning date	Age as of June 1, 1972	Age as of June 1, 1931, when CVN–70 is operational
Dwight D. Eisenhower:			
CVN–70	Sept. 1980		6
CVAN–69	June 1975		8
Nimitz: CVAN–68	Sept. 1973		13
John F. Kennady: CVA–67	Sept. 7, 1968	4	16
America: CVA–66	Jan. 23, 1965	7	20
Enterprise: CVAN–65	Nov. 25, 1961	11	20
Constellation: CVA–64	Oct. 27, 1961	11	20
Kitty Hawk: CVA–63	Apr. 29, 1961	11	22
Independence: CVA–62	Jan. 10, 1959	13	24
Ranger: CVA–61	Aug. 10, 1957	15	[1]
Saratoga: CV–60	Apr. 14, 1956	16	25
Forrestal: CVA–59	Oct. 1, 1955	17	26
Coral Sea: CVA–43	Oct. 1, 1947	25	[1] 34
Franklin D. Roosevelt: CVA–42	Oct. 27, 1945	27	[1] 36
Midway: CVA–41	Sept. 10, 1945	27	[1] 36
Oriskany: [2] CVA–34	Sept. 25, 1950	22	[1] 31
Hancock: CVA–19	Apr. 15, 1944	28	[1] 37
Wasp: [3] CVS–18	Nov. 24, 1943	29	[3]
Ticonderoga: CVS–14	May 8, 1944	28	[1] 37
Intrepid: CVS–11	Aug. 16, 1943	29	[1] 38

[1] Beyond expected service life.
[2] Oriskany (CVA–34) was launched Oct. 13, 1945. Construction suspended 2 years. Rushed to completion for Korean war.
[3] Inactivated March 1972. Decommissions July 1972. Wasp is therefore not counted in the total of 16 operational carriers.

Q. Why is the new carrier referred to as CVN–70, rather than CVAN–70?

A. Until recently the Navy's carriers have been designated CVA or CVS with an "N" added when the carrier has nuclear propulsion. The "A" identified an attack carrier, one whose air wing was developed around aircraft capable of surface attack missions. The "S" designated an anti-submarine carrier, one whose aircraft were capable of detecting and attacking submarines. As the number of carriers in active service has been reduced, it has become quite clear that it will not be possible to maintain separate groups of carriers for these two missions. Recent operational exercises have investigated the feasibility of combining the missions, and have shown that both attack and anti-submarine aircraft can be operated together from our modern carriers. When a carrier is outfitted to support both anti-submarine and attack aircraft its designation will be changed to CV (CVN, when it has nuclear propulsion).

The designation of the Navy's new carrier as CVN–70, rather than as CVAN–70, describes the true multi-mission capability that will be available when this carrier joins the fleet. CVN–70 will have the varied air strength required to permit it to operate against hostile, air, surface, and sub-surface weapons. In addition to having the most modern and advanced facilities for supporting and operating fighter and attack aircraft, CVN–70 will have the sophisticated analysis, control, and support equipment developed by anti-submarine forces.

When the carrier is expected to operate in its control-of-the-sea role against submarine, surface and air threats, its air wing can be adjusted to provide the types and numbers of aircraft needed to defeat these hostile weapons. This flexible carrier air wing can be adjusted from one tailored for sea control missions with a high concentration of anti-submarine and fighter aircraft, through intermediate stages of moderate anti-submarine and increased attack strength to one optimized for projection of tactical air power ashore. At the antisubmarine end of the capability spectrum is an air wing of S–3 ASW fixed-wing aircraft and SH–3 ASW helicopters (to detect and to attack submarines), F–14 fighter aircraft (defense against air reconnaissance and air attack), and a moderate number of A–6 or A–7 attack aircraft (to defeat surface combatant ships). At the opposite end of this spectrum is the tactical air wing, strong in attack aircraft, developed and proven over the past several years of attack carrier operations.

CVN–70 will have the facilities for these varied capabilities installed during construction. CVN–70 will be a multi-mission carrier with a multi-purpose air wing, a ship whose strength can be tailored to combat the particular threat it is expected to encounter.

Q. What limits the service life of older carriers?

A. Obsolescence of aircraft carriers is determined both by the physical strength and structural integrity of the hull, propulsion plant, and installed components and by the ship's ability to accept and to operate modern aircraft. It cannot be determined with precision, but is a mattter of judgment depending upon continuing evaluation of the physical condition of the ships and of their employment of modern weapons.

An analogy to the aging of an automobile illustrates these factors and their influence in determining useful life. There is no fixed age beyond which an automobile cannot be operated, if the owner wishes to spend enough money to complete required maintenance and repairs. As the automobile advances in years, maintenance costs will increase. And as the automobile ages the likelihood increases that a trip will be interrupted by a breakdown or mechanical failure. The prudent owner will also determine that his aging automobile does not have the power or the safety devices needed for modern expressways. Replacement may not be required at any one point in the life of the automobile, but replacement becomes more and more desirable as age increases. For all of these reasons it is a rare owner who will operate his automobile for as long as eight or nine years. And an automobile more than ten years old is usually limited to local driving.

An investigation by the House Armed Services Committee and extensive testimony before other committees of the Congress have documented the slow deterioration with age of the material condition of ships and installed equipment. Older ships are characterized, to a greater or lesser degree, by rusted and corroded structural members, deteriorated wiring, inadequate space for electronic equipment, and crowded crew areas. Overhaul costs have been found to increase significantly with age. Fatigue becomes a concern in evaluating propulsion plants.

While there is no simple index to judge the capability of older ships, age has been found to be a useful indicator. It has been the experience in the Navy that an age of about 30 years is a reasonable maximum life expectancy for the hull, propulsion machinery and basic installations. To date, the longest any aircraft carrier has been operated is less than 29 years.

Q. Can our older carriers be modernized to support and to operate modern aircraft?

A. It is neither practical nor economical to attempt to further modernize the *Essex* class carriers. These ships have previously been converted from straight deck, hydraulic catapult configuration to angle deck, steam catapult configuration. Even with this modernization these ships cannot operate a number of aircraft now in the fleet, such as the F–4 Phantom II, RA–5C Vigilante, A–6 Intruder, and E–2 Hawkeye. A significant fact is that these older carriers experience about twice the landing accident rate with attendant higher cost in lives and aircraft, compared with the larger deck *Forrestal* class. The problem is simply that aircraft size and speed have become excessive for the smaller size World War II carrier decks. No growth factor is left.

The *Midways* have all received one modernization which provided angled deck, improved catapult, and enclosed bow. *Midway* itself was modernized a second time to install better aircraft elevators, arresting gear, catapults, and other aircraft control facilities. These ships can support all present aircraft except the RA–5C Vigilante. They will not be able to support new aircraft, such as the F–14 and S–3, without extensive installation of support equipment. Such an installation would be at the expense of already severely limited aircraft handling and maintenance space. This resultant reduction in the numbers of aircraft that the ship could operate, together with the fact that the physical age of these ships is nearing thirty, makes it infeasible to consider further modernization.

Q. Why is CVN–70 so important to our future carrier force level?

A. When CVN–70 joins the fleet in 1981 all *Essex* and *Midway* Class ships will have long since passed their 30th birthdays. Our carrier force then will consist of only 12 modern, broadly-capable carriers (8 *Forrestals* and 4 nuclear-powered carriers) plus, at the most, three old carriers, 34 to 36 years old and operating in a limited mission role. With such reduced numbers it is even more essential to have two nuclear carriers in the Atlantic and two in the Pacific capable of reinforcing at full speed our deployed naval forces.

CARRIER FORCE LEVEL

Q. What numbers of carriers are needed to meet national objectives in wartime?

A. The number of aircraft carriers which the U.S. should maintain in active service is based on the wartime requirements of our national strategy. A reiterative study and planning cycle provides annually a thorough and logical analysis of all factors and leads to conclusions on force level requirements.

The determination cycle is conducted in this manner. The commanders of unified and specified commands around the world are required to develop force requirements to meet the objectives of the national strategy within their geographic areas of responsibility. These force levels are based on the current and projected enemy threat, established military planning concepts, strength of allies, and probable situations.

These several force requirements are reviewed by the Joint Chiefs of Staff in their determination of objective force levels. Those force recommendations which the Joint Chiefs of Staff consider to be the minimum forces needed to support national objectives at prudent risk, are forwarded to the Secretary of Defense. Fiscal constraints are not a major consideration at this stage of the dialogue. The Secretary of Defense reviews these recommendations, as well as other factors including fiscal, and issues fiscal guidance. The recommendations of the Services and the Joint Chiefs of Staff as to force levels are then made to the Secretary of Defense and become a portion of the information on which the Secretary makes the final force level decisions which are reflected in the budget submission.

In this manner, the numbers of aircraft carriers considered essential to our defense are determined, at least annually, by thorough analyses of current factors.

The current objectives plan specifies an attack carrier level of 16 carriers plus additional anti-submarine carriers based on "prudent risk" and without fiscal restraints. The program force level approved by the Secretary of Defense, in consideration of fiscal constraints and with funding requested in the FY–73 budget, is 14 attack or dual mission carriers and 2 anti-submarine carriers.

An important comment on attack carrier requirements was voiced by General E. G. Wheeler, while serving as Chairman of the Joint Chiefs of Staff, in the following exchange concerning attack carriers before the Joint Senate-House Armed Services Subcommittee on CVAN–70 on April 15, 1970:

Senator STENNIS. "Do you mean to recommend 16 [attack carriers] all the way through the 1970s?"

General WHEELER. "Yes, sir. I do indeed and for this reason. Assuming the Vietnamese war is over, and assuming, of course that we retain the concept of the Nixon Doctrine, which envisages support to our allies with lesser involvement ourselves in small conflicts, I still think it would be desirable to have 16 [attack] carriers; not on the basis of a peacetime situation, but on the basis of a possible future war.

"Now, let's take a NATO conflict. A substantial number of carriers must be devoted to the NATO area, particularly for the support of the flanks. I am speaking now of Northern Europe and also in the Mediterranean. In fact, we are talking of a number that would require augmentation from the Pacific Fleet to carry out that commitment.

"At the same time, we must recognize that if we have a war in which the Soviet Union is involved, the war is not going to be confined to the Atlantic Ocean or to the Atlantic region. The Soviet Union is a two-ocean country as well as the United States, and therefore we will have a requirement for a carrier force to be deployed in the Pacific area.

"In addition to that, we are going to have to have something for contingencies. After going over a great number of mixes of carriers needed under varying realistic contingencies, I came down on the number of 16 as being within a prudent level of risk.

"Now, you can turn that argument around the other way and take a look at your contingency plans for operations in Asia and you still will come up with about the same number; in other words, 16."

Q. What are our carrier force level requirements for a limited war?

A. Our recent experience of operating carriers in support of the conflict in Vietnam provides some guidance for conclusions on force level requirements in a limited war. Early in this period the Navy was authorized to operate 15 attack carriers and 9 anti-submarine carriers. At the height of the build-up in Vietnam, the Navy was required to maintain five attack carriers in the Western Pacific and, at the same time, to maintain a naval presence in the Mediterranean with two attack carriers. One anti-submarine carrier was maintained in the Western Pacific and at least one was at sea in the North Atlantic.

The force level of fifteen attack carriers was found to be inadequate to maintain this operational posture for a period of time extending to years. In recognition of this deficiency the Secretary of Defense approved a force level of sixteen attack carriers. The Navy outfitted one anti-submarine carrier to support and to operate attack aircraft, a development which partially alleviated the problems generated by too few attack carriers.

Situation: Limited war.
Deployed: 7 CVA; 2CVS.
Force level: 16 CVA; 8 CVS.

Q. What carrier force levels have we had to support our employment of carriers as deterrent forces in confrontations?

A. A confrontation—an increase in political tensions in a limited area—has required reinforcement of our forward-deployed naval units or the dispatch of carriers from home waters to a new area of concern. Two such confrontations, the Cuban missile crisis of 1962 and the Jordan-Middle East crisis of 1970, are illustrative of carrier requirements.

At the time of the Cuban missile crisis the United States had 16 attack carriers (CVA) and 9 anti-submarine carriers (CVS) in active service. Both types of carriers were employed to demonstrate our determination to resist this incursion of Soviet weapons into Cuba. Seven carriers (four CVS and three CVA) operated in the Atlantic to carry out President Kennedy's quarantine of Cuba. One Pacific attack carrier and one anti-submarine carrier were moved forward to assume positions of increased readiness in the Middle Pacific, and our two Mediterranean and three Western Pacific attack carriers and one Western Pacific anti-submarine carrier were placed in an alert status. A total of 15 attack and anti-submarine carriers were committed.

Situation: Confrontation—Cuba.
Deployed: 9 CVA; 6 CVS.
Force level: 16 CVA; 9 CVS.

The Jordan-Middle East tensions of 1970 provided an assessment of the numbers of carriers required in this critical area.

At the time of the Jordanian crisis two attack carriers were in the Mediterranean with the Sixth Fleet and four were in the Western Pacific with the Seventh Fleet. One attack carrier was operating in the Caribbean with its air wing embarked and ready; it was immediately dispatched as a reinforcement for our two Mediterranean carriers. One Atlantic Fleet anti-submarine carrier was alerted for further Mediterranean reinforcement if needed.

Situation: Confrontation—Jordan.
Deployed: 7 CVA; 1 CVS.
Force level: 16 CVA; 3 CVS.

Q. What carrier force level has supported our peacetime requirement to maintain a naval presence overseas?

A. In years of uncertain peace our national strategy has relied on military forces deployed overseas, forces with a credible capability to respond to a spectrum of contingencies in overseas areas of primary national interest. In two primary overseas areas critical to our national interests, the Mediterranean and the Western Pacific littorals, carrier forces have provided the assurance of a capability for quick reaction to threats to our national security and objectives.

In these years of uncertain peace the United States has maintained two attack carriers in the Mediterranean to provide a visible naval presence there. In the years before the Vietnam conflict, three attack carriers were required as a visible naval presence in Western Pacific waters. In order to provide this total of five attack carriers for operations in distant areas, to provide for some carrier capability in Atlantic and Pacific waters near our coasts ready for reinforcement of forward naval forces, and to permit progressive maintenance and overhauls of our ships and leave for our crewmembers, a force of fifteen attack carriers has been needed.

Situation: Uncertain peace.
Deployed: 5 CVA.
Force level: 15 CVA.

Since the summer of 1971 the number of attack carriers has been fourteen. The Pacific Fleet has had eight attack carriers to support a forward deployment requirement of three. This is one fewer than the desired number, and deployment requirements have been met only by reducing time that the carriers are in home waters. This has affected personnel retention rates in Pacific Fleet carriers and may have long range effects on the level of readiness as determined by the state of maintenance of those carriers.

During the mid-1960s the Navy was authorized nine anti-submarine carriers. One was maintained in the Western Pacific and at least one was always at sea in the North Atlantic. Fiscal restraints have caused a gradual reduction in numbers of these anti-submarine carriers to the two supported by the funds requested in FY–73 budget.

The reduction in carriers dedicated to this vital naval activity has increased the responsibilities assigned to our remaining attack carriers, as they must now add an air anti-submarine capability to their previous missions.

EMPLOYMENT

Q. How will CVN–70 contribute to our naval responsiveness?

A. The unique capabilities of the four nuclear-powered aircraft carriers that the Navy will have when CVN–70 joins the fleet in 1980 will permit these ships to assume a readiness needed to meet national requirements. The substantial improvement in military characteristics that emerges when nuclear power is used for aircraft carriers has been discussed widely in the past and has been amply verified by the operational experiences of *Enterprise* in its ten years of fleet service. The significant capabilities of CVN–70 which are possible because of the use of nuclear power in this ship are:

Essentially unlimited high-speed steaming endurance;

Nuclear fuel for 13 years of normal carrier operations (the equivalent of 11 million barrels of fuel oil);

90% greater aviation fuel capacity than a conventionally-powered *Forrestal*;

50% greater aviation ordnance capacity than a conventionally-powered *Forrestal*.

An increased aviation fuel and aviation ordnance capacity is possible because a nuclear-powered carrier does not need to devote space in its hull to carrying a supply of propulsion fuel oil. This increased capacity for aviation support materials emphasizes the high degree of logistic independence possible with a nuclear-powered carrier.

With their speed of response and their high degree of logistic independence, the four nuclear-powered carriers of 1980 will be the heart of the Navy quick reaction forces. These four carriers, two each based

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in Atlantic and Pacific coastal ports, will provide for rapid reinforcement of deployed forces or for contingency response in other areas. They will be able to move rapidly to areas of potential crisis without delaying for logistic forces, to conduct protective air operations enroute, and then to carry out sustained air operations in their assigned operating areas. These carriers will represent a national capability to increase naval strength in a distant area with closely-controlled, versatile, credible, responsive forces.

CVN–70 is essential if we are to have the tools to assume this rapid response plan for naval readiness in the 1980s.

Q. What type of naval task force will operate with CVN–70?

A. The task force assigned to operate with CVN–70 will include the numbers and types of naval units required to perform the particular tasks assigned in any given situation.

The future naval task force organized for operations in a hostile air, surface, and submarine threat area can expect to supplement the offensive capability of CVN–70 with the anti-air and anti-submarine capabilities of destroyer and frigate escorts, and with the stealth of nuclear submarine escorts. Such a force contains the sensors to detect an enemy, and the weapons to combat and to defeat the enemy. Escorting nuclear submarines will have the hydrophones and the weapons to intercept and attack enemy submarines and surface ships. Destroyers and frigates will search for and attack enemy submarines, guard against surface ships, and assist in defense against missile and air attack. The carrier's aircraft will employ sensors and weapons in three dimensions, and will add those important qualities of speed, versatility, and a concentrated capability.

The cooperative effectiveness of such a naval task group far exceeds the sum of the capabilities of the assigned units. Acting together to accomplish their assigned mission this group will be the most powerful naval force that can be organized for control of the sea and for projection of national power against an enemy.

NUCLEAR PROPULSION

Q. What are the advantages of nuclear propulsion for the carrier?

A. The principal advantages afforded by nuclear propulsion in surface warships derive from the ability to steam at high speed for unlimited distances without refueling. In the carrier, there are important additional benefits. Because the nuclear carrier does not have to carry oil for propulsion, there is more room in the ship's hull for aviation fuel and other combat consumables. This gives the nuclear carrier greatly increased combat staying power compared to its conventional counterpart.

These two qualities give the nuclear carrier a capability unmatched by any other tactical air system. This is the ability to:

Respond immediately to a contingency beyond the range of emplaced U.S. forces without waiting for supporting units or for the prepositioning of logistic support.

Conduct combat operations while approaching the objective area.

Continue combat operations without support or replenishment for the period of time required to establish sea-based logistic support lines.

An all-nuclear carrier task force can steam at high speed to any point on the oceans of the world and conduct maximum sustained air operations for many days entirely without logistic support. An all-nuclear carrier task force also has the capability to transit at high speed to and from distant and less vulnerable sources of ammunition, aviation fuel, and other supplies when it is necessary to replenish thus reducing its exposure to hostile forces.

COST

Q. Isn't a carrier very expensive?

A. Yes, carriers are expensive. But there is no cheap way to provide weapons systems for our first line striking forces which will have the capabilities needed to counter the rapidly growing Soviet Navy. Actually, the increase in cost of carriers over the years has been the least of any major weapon system. By far the largest increase in cost of nuclear carriers has been caused by inflation.

The estimated cost of CVN–70, funded over two fiscal years, is $951M. This is the projected total of expenditures over the eight years between funding for initial long lead time items and final delivery of the ship. It includes a reserve for inflation of material prices and of shipyard construction costs over the next eight years. CVN–70, when delivered in 1980, will be essentially identical to *Nimitz*, which will be completed in 1973 at an estimated cost of about $628M. It will have the same propulsion system, the same components, and will undergo the same construction effort. Though slightly larger and with an improved nuclear power plant, CVN–70 will be approximately equivalent to *Enterprise*, which was delivered in 1961 at a cost of $451M. The $451M to $628M to $951M price increase for these comparable ships represents the rising cost of shipbuilding—the effects of inflation on material and labor rates. These are tested and proven weapons systems—there is no untried technology, no goldplating in these construction costs.

The investment in basing cost (construction of CVN–70) amortizes at about $32M per year over the 30-year life of the ship. For this investment the United States will gain a sophisticated mobile air operating base which can move in international waters to any area of national concern, free of any arbitrary restrictions of a foreign government. The history of this century has shown that the carrier goes where the action is. Of the 44 carriers built by the Navy since *Langley*, CV–1, in 1922, which today would be classed as attack carriers, 41 have participated in combat. One of these, *Bon Homme Richard*, has been in action in three wars.

The investment in a land base has an assured return only as long as the base is needed in the specific location, and political and military conditions do not deny or restrict its full use. The investment in an aircraft carrier remains valid for the 30-year life of the ship.

Q. How does the cost of a conventionally-powered aircraft carrier compare to the cost of the nuclear-powered CVN–70?

A. Commander, Naval Ship Systems Command estimates about $650 million for the cost to construct a *John F. Kennedy* size oil-fired carrier with today's equipments and minimum configuration changes (such as sewage disposal, F–14 jet blast deflectors and conflagration control features) delivered on the same schedule as that planned for CVN–70.

It should be noted that the approximately $300 million higher investment cost estimated for CVN–70 buys not only a nuclear propulsion plant, but substantially better military characteristics for this floating airbase including:

a. Nuclear fuel for 13 years of normal carrier operations, the equivalent of 11 million barrels of propulsion fuel oil;

b. Essentially unlimited high speed steaming endurance with the well documented advantages derived therefrom;

c. Over 70% more aviation fuel if escort fuel carried—90% more aviation fuel capacity if CVN–70 has nuclear escorts and her escort fuel tankage is filled with aviation fuel;

d. 50% more aviation ammunition capacity, three versus two weapons elevators and a 20% greater rate of ammunition strike up;

e. Four C–13 MOD 1 long catapults with their greater energy capability with less strain on the aircraft compared to two C–13 MOD 1 catapults and two C–13 MOD O short catapults which can be fitted on *John F. Kennedy* size carriers;

f. Berthing and ship facilities to support 50% more air wing personnel.

Further, a substantial portion of the higher investment cost of the CVN–70 will be directly offset by the elimination of the cost of buying and delivering propulsion fuel oil, and the reduced cost of the logistic support forces due to less frequent replenishment of combat consumables because of the larger capacity of the CVN for aviation fuel and ammunition.

Q. How do costs of sea-based and land-based tactical air wings compare?

A. Relative investment and operating costs vary in different situations, and studies have shown quite a wide range of results, depending on the factors considered. A general summary of these studies would show that the costs of the two systems have been comparable. A land-based tactical air wing has about the same number of attack aircraft as a carrier air wing, and some types of tactical aircraft are common to both services; for example, the Navy-developed F–4 and A–7.

A true comparison of the relative cost of sea-based and land-based tactical air wings must consider all of the support and protective costs of the systems. A recent study by a Department of Defense analysis organization identified direct and indirect investment and operating costs and concluded that the cost of equivalent capability is cheaper when sea-based. Previous studies using the pertinent factors in different combinations have had varied conclusions. This has led to an informed opinion that the two costs are very similar.

Such analyses, focused as they are on costs, tend to obscure other important considerations, and should not be used alone to determine forces required for our national defense. In fact, the two basing systems are not competitive, they are complementary. Both are needed and each is used in situations where it can be most effectively employed.

Q. Does funding a new carrier require the funding of other ships to form a task force?

A. From time to time an effort is made by budget analysts to define the cost of some "standard" task force. The implication of this effort is that the funding of a carrier requires the funding of some set number of destroyer-type ships.

Such a direct tie between a carrier and some number of destroyers simply cannot be made. There is no standard carrier task force. A carrier task force consists of one or more carriers with destroyers, frigates, and other escorting units in numbers appropriate to the assigned mission and to anticipated hostile threat. They operate together in a task force for mutual support and increased effectiveness in the destruction of enemy forces, an essentially offensive action. As the name itself implies, a task force is constituted to perform a task, and the number and kinds of ships involved are related to that task. Under some conditions the task force might have six escorts, under other circumstances only two.

In any case, CVN–70, when it joins the fleet, will replace an old carrier. Its need for accompanying destroyers will be similar to that of the older carrier. Indeed, the ships accompanying CVN–70 on its first operations mission may well include some of the same ships that were with the older carrier on its last operational mission.

We do not buy ships on a task force basis. New ships are procured to keep our Navy modern and capable, in numbers based on the expected threat.

SURVIVABILITY

Q. What are the defenses of a carrier task force?

A. In war all military elements—particularly those forward units carrying the fight to the enemy—are subject to attack. This is the fundamental fact considered in the formation of naval task forces for operation in a hostile environment. And it is the all-pervading influence in the basic design of a carrier and in the development of its protective systems. The carrier is the strongest naval ship that can be constructed; it is meant to go in harm's way—to carry out its mission in the face of intense enemy opposition.

A fully alerted naval carrier task force, operating at sea, is a very difficult target, with multi-layered defenses. The missile threat is well-recognized and has generated a broad development of protective weapons and techniques. Defensive measures which are available concurrently with the full spectrum of offensive might of the naval force include:

Inherent mobility (indefinite endurance at high speed for nuclear ships): A naval force at sea cannot be pre-targeted for ballistic or area-missile attack, as a land base can be, and any attempt at an attack on a carrier must be preceded by a major effort to locate and to identify the ship moving over the broad ocean.

Air attack by carrier aircraft against surveillance platforms, launching platforms, and missiles in flight: Carrier aircraft can operate well beyond the range of hostile anti-ship missiles. Air-to-air missiles carried by these aircraft are effective for intercepting and destroying anti-ship missiles in flight.

Anti-submarine aircraft, and surface ships and submarines to detect and to attack hostile submarines: The search for hostile submarines ranges beyond 100 miles from the carrier. Friendly surface ships and submarines provide the sophisticated underwater detection devices; the aircraft provide wide range and rapid response.

Surface-to-air missile systems in ships of the task force for use against missiles. Soviet anti-ship missiles are basically small, high-speed aircraft, and our missile systems in DLGs, DDGs, CGs, and DEGs can intercept them.

Close-in gun and missile systems in the carriers for use against missiles. Current installations for point defense of our carriers are batteries of *Sea Sparrow* radar-guided missiles.

Active and passive electronic countermeasures from aircraft and from ships. Electronic devices and other decoys are used to jam and deceive the guidance systems of hostile anti-ship missiles.

Q. How does carrier mobility contribute to survivability?

A. Mobility is the characteristic that has the primary impact on the survivability of a carrier task force. The force is continually in motion. It is clear that this movement prevents pretargeting of the force for ballistic missile attack, and that it forces a hostile nation to devote a considerable effort to attempt to find and to identify the carrier among the hundreds and even thousands of ships using the sea.

But, more important, mobility of a carrier force means that this force can move to positions where it has the best chance of completing its mission in the face of opposition. The force commander knows his defensive strength against air, surface, and submarine attack, and can move the force to operating areas where this strength can overcome the opposition. In war, the force would operate where it has local superiority. If forced to withdraw from a forward area because of an overwhelming concentration of enemy air and naval units, carrier forces could move to positions where they could attain local superiority and then, by destroying enemy forces, fight their way back to the forward area again. This is simply a statement of the principle that governs any contest for control of the seas. But since a war at sea would be fought in three dimensions—by aircraft, surface units, and submarines—a strong naval force must combat the threat in those three dimensions; and a carrier task force can do that. Only a strong carrier task force can attain local superiority at sea and, by destroying enemy units, fight its way forward.

The offensive and defensive might of the carrier task force provides the strength for this tactic, but mobility provides the essential key. Mobility is essential to carrier survivability—it permits the carrier force to operate where its strength can overcome the enemy opposition.

Q. What is the defensive strength of a carrier?

A. If an anti-ship missile penetrates the many defenses of a naval task force, the carrier itself has the physical strength and the built-in protective systems to survive hits and to remain in operation. This strength was shown when *Enterprise* endured accidental explosions of bombs on her flight deck during training exercises in 1969. Nine major caliber bombs (equivalent in weight of explosive to more than six anti-ship missiles) were detonated. On that occasion, all essential systems in the ship were maintained in operable status, effective damage control contained the effects of the fire, and the ship could have resumed her scheduled air operations within hours, as soon as the debris was cleared from the flight deck.

Nimitz class carriers incorporate the latest design and engineering features, improved even over those of *Enterprise* and far superior to those of our older ships. These include:

Flight deck and lower decks armored with high yield strength steel. Total thickness of the armor specified to defeat a major-caliber semi-armor-piercing explosive.

Side armor of high yield strength steel. The shell and supporting ballistic bulkheads give a total thickness sufficient to defeat a major caliber explosive.

Torpedo protection provided by a new energy-absorbing hull design which will counter major caliber torpedo explosive warheads.

Over 2000 watertight and shock-resistant compartments to limit damage.

Protective systems for all ordnance and fuel storage and handling spaces.

Extensive fire-fighting facilities throughout the ship, supported by high-capacity fire pumps and the latest chemical fire-extinguishing agents.

Over 30 fully-equipped damage control stations manned by trained and practiced personnel.

Structure and machinery designed and installed to meet latest blast protection and shock protection standards.

Redundancy of machinery; four independent engines, four propellers; several independent steam-driven and diesel-driven electric generators.

Redundancy of command stations; well-separated, independent stations which provide ship command and control capabilities.

The defenses of a naval task force and the strength of the carrier itself cannot guarantee invulnerability to attack. No weapon system, no base, no unit is invulnerable. But the carrier has been constructed with all possible defenses and strengths to give it the highest possible probability of carrying out its mission against intense opposition.

Q. Can the effectiveness of CVN–70 be limited by attacks on its replenishment ships?

A. The military characteristics of a nuclear-powered carrier, and the type of operations nuclear power makes possible, act together to minimize its logistic vulnerability.

The nuclear-powered carrier is not dependent on external fuel for its own propulsion. It can transit the oceans to a new station at high speed and without pausing to refuel. It can conduct operations without the periodic increase in exposure which would be occasioned by refueling evolutions.

Space inside the hull which would otherwise be reserved for fuel oil for its own use can be used in a nuclear-powered aircraft carrier for extra aircraft fuel and aircraft ordnance. In fact, CVN–70 will have about twice the capacity for aircraft fuel and 50 percent more for ammunition than modern conventionally-powered carriers. These increased aviation support capacities permit the nuclear-powered carrier to operate for a longer time than a conventionally-powered carrier before it must be resupplied with aircraft fuel and aircraft ammunition.

When resupply is needed, the nuclear-powered carrier can call on its virtually unlimited high speed steaming endurance and, if necessary, move rapidly to an area of reduced threat to meet replenishment ships. After replenishment, it again moves rapidly to its assigned operating area and resumes its mission.

When the carrier task group joins with the replenishment task group, the total defensive effectiveness of the combined force is far greater than that of either group alone. During resupply operations, all protective systems are in active use—flight operations continue with anti-submarine aircraft searching the depths and with fighters alert; escorting naval units patrol their stations searching for hostile submarine or aircraft; gun and missile batteries are manned and ready.

The nuclear carrier's independence of external fuel for its own propulsion, its enlarged capacity for aircraft fuel and ammunition, and its ability to run to an area of reduced threat for resupply are all fundamental to its total effectiveness. It has a high degree of logistic independence, and it can operate to keep its necessary resupply operations out of areas of intense hostile opposition.

Q. If it were decided not to build the CVN–70 because of concern over its vulnerability, what would be the impact on the vulnerability of other forces?

A. If we fail to continue modernization of our carrier force the vulnerability of almost all our naval forces will be increased. Further, the vulnerability of overseas forces of the other Services will also be increased.

All surface ships are to some extent vulnerable to antiship missiles and to torpedoes. Most vulnerable are the unarmored tankers, ammunition ships, and troop carriers which support our overseas allies and our own deployed forces. Least vulnerable are the large, fast, heavily armored and well-protected carriers; they provide the air superiority without which our amphibious forces, our ground troops, and our logistic supply lines would be much more vulnerable.

Those who cite the vulnerability to crippling damage of nuclear aircraft carriers as the basis for not building them appear to believe we would be able to transport men and supplies without the protection afforded by our carriers. They can come to this conclusion only if they believe that an enemy, in the absence of our carriers, would permit our cargo shipping and troop transports to proceed unmolested. This is both wishful thinking and illogical. Should we become engaged in a war overseas, there is no viable way we can sustain our Army, Marines or our Air Force unless we can protect the ships which carry supplies to them.

It should be noted that 96% of all the material sent to Vietnam has gone by sea, and the 4% which went by air depended on there being jet fuel delivered by sea to Vietnam for the return flight. If the sea lanes by which we deliver the bulk of supplies overseas come under attack the only way we can defend them in many areas is with aircraft carriers.

In war all ships, all bases, all forces are vulnerable in some measure to attack. But it must be thoroughly understood that we cannot conduct overseas military operations without naval support, for the simple reason that almost all of our supplies must be transported by ship.

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The fact that carriers—and land air bases—can be damaged by enemy attacks does not reduce the need for air power—both sea-based and land-based. Without air power—and without nuclear powered carriers such as the CVN-70 to deliver it—all our other forces, including ground troops and our logistic supply lines, would become unacceptably vulnerable.

COMPLEMENTARY DEVELOPMENTS

Q. How do vertical take-off and landing aircraft such as the "Harrier" affect our future carrier requirements?

A. The *Harrier* does not affect the need for replacing our old World War II aircraft carriers with modern nuclear-powered carriers.

The *Harrier*, or any foreseeable VTOL aircraft, is not a replacement for the strike aircraft of our carrier air wings. It is a fine aircraft for the use to which the Marines will put it and the Navy is looking at it in connection with the planned Sea Control Ship. But the *Harrier* does not incorporate the high performance, diversity of combat mission capability, range and payloads vitally needed for operations against a determined enemy with a range of effective weapons. Carrier aircraft, on the other hand, are designed to gain and to maintain air-superiority in the face of the most sophisticated air threat and to conduct offensive operations against heavily defended sea-borne and land installations.

Q. How do missions and capabilities of Sea Control Ships compare to the missions and capabilities of attack carriers?

A. Our ability to control the seas in future crises will require a broad spectrum of sea-based air capability. At the top of the spectrum we have our attack carriers with powerful air wings. At the bottom we have our escort ships with LAMPS helicopters to extend the ship's sensor and weapons capabilities. The concept of the Sea Control Ship evolved to fill the gap between the two extremes.

The Sea Control Ship will not be a replacement for currently programmed ships since local area anti-submarine warfare needs for convoys and task forces are greater than can be met with currently programmed forces. Its primary mission will be to assist in providing protection for Underway Replenishment Groups, Amphibious Forces, Convoys, and other combatant groups in areas of relatively low threat, and where the threat consists primarily of submarines. As these convoys and combatant groups enter the high threat segments of their routes or as they approach amphibious objective areas it would be necessary to provide the depth and effectiveness of protection that can come only from aircraft carriers. The carrier task force is the only weapon system capable of handling the sophisticated three dimension threat that can be expected when these units are within Soviet bomber range and where the Soviet surface fleet could operate under the cover of her land-based tactical air power. Missions envisioned for the Sea Control Ship are based on its being able to provide a limited air capability for situations where attack carriers are not available. These include surveillance, anti-submarine warfare, limited anti-surface warfare, and limited anti-ship missile defense.

Thus the Sea Control Ship is seen as providing sea-based air capability supplementary to that contained in our aircraft carriers, which will continue to be our most powerful and dominant offensive force. The Sea Control Ship's offensive and defensive capabilities will be much less than those of attack carriers. Its limited top speed will preclude its being used in fast carrier task forces. It will be used primarily in low threat situations where the limited number of carriers would otherwise leave us essentially no air capabilities at all. The Sea Control Ship, in conjunction with our existing and programmed forces, will give us a much needed ability to strengthen our escort forces. It is not an alternative to modernizing our carrier force.

SIZE OF CARRIERS

Q. What factors determine the size of the "Nimitz" class carriers?

A. The basic requirements that determine the size of any carrier, including the *Nimitz* Class, derive from the types and numbers of aircraft and weapons for her air wing. The composition of the air wing is determined by the missions assigned to the carrier and to the severity of the threat the aircraft are expected to be able to counter.

For example, the size of the flight deck is a major characteristic affecting overall ship size. The flight deck is sized to provide the launching, landing, and aircraft parking and handling space required for the various types and numbers of aircraft in the air wing.

In order to be able to launch modern, all-weather attack aircraft and high performance fighters in the minimum takeoff distance, catapults are required. All our modern carriers have four catapults to provide maximum launching rate of aircraft and to provide redundancy in the event of malfunction or damage to a catapult. The *Nimitz* Class carrier will have four catapults.

The *Nimitz* Class will be the first carriers to have four of the latest design catapults which are 310 feet long and provide maximum flexibility for operating attack aircraft under a wide variety of operating conditions.

Catapult capability is extremely important since it determines the maximum fuel loads and ordnance loads that can be carried in the aircraft at launch and determines the rate at which the aircraft can be put into the air. A high launch rate not only gets the planes in the air ready to fight sooner, but it decreases the time the carrier is committed to a relatively fixed course and speed into the wind while launching aircraft.

The landing area required is dictated by the specific types of aircraft which must be handled. Approaching aircraft are limited in the vertical angle of descent at which they can approach the carrier by their own built-in strength. If they come in too steeply they may suffer structural damage when they land. If they come in at too shallow an angle they risk hitting the carrier's "ramp"—the after end of the flight deck. To minimize the risk of striking the ramp, aircraft are brought in a safe distance above it. This safe height, combined with the angle of descent, fixes the design touchdown point. Adding to this the distance required by the ship's arresting gear to stop the airplane, plus sufficient space forward on the angled deck to enable the aircraft to make a turn and clear the landing area brings us to a landing area with a length of about 750 feet.

The parking space provided must be sufficient to:

a. Park all the aircraft;

b. Handle the aircraft so as to provide the maximum launch rate in the specific sequences of types required for various missions to be performed;

c. Handle the aircraft so as to provide maximum recovery and re-arming rates.

The flight decks of all our modern attack carriers also have space for four elevators to provide maximum flexibility and speed in moving aircraft between various locations on the flight deck and the hangar deck. The multiplicity of elevators also minimizes the effects of battle damage and equipment malfunctions.

The requirements for simultaneous aircraft launch and recovery capability coupled with the above factors determine the overall flight deck that satisfies the aircraft requirements. Slightly less than 1100 feet in length and about 250 feet in beam in the case of the *Nimitz*, this flight deck size has varied only about 10% during U.S. aircraft carrier design of the past 20 years in spite of the more stringent requirements placed on carrier design by modern high performance jet warplanes.

The larger flight decks of our attack carriers built since World War II are also much safer than the smaller flight decks of our earlier carriers. Over the last five years for aircraft types operated on both large and small carriers the landing accident rate on the larger decks is one-third of that on the smaller decks.

With the key parameters of flight deck length and breadth set, ship volume is then determined primarily by the support requirements for the number and types of aircraft. These factors include space requirements for aviation fuel and ordnance, maintenance shops, repair parts, and personnel support. The ship volume must also accommodate the necessary sensors, active defense systems, communications equipment, command and control features, and propulsion plant.

The volume of the ship propulsion plant is determined by the shaft horsepower needed to propel the ship at the required maximum speed. The maximum speed must be sufficient to generate enough wind over the deck to launch and land aircraft under conditions where there is no natural wind and meet considerations of deployment time and ASW protection.

Because of the hydrodynamic characteristics of surface warships the same speed can be achieved for about the same horsepower over a range of ship sizes. Therefore, once the maximum ship speed is selected, the volume of the propulsion plant will be nearly the same for a range of carrier sizes.

The size of the carrier will be about the same whether nuclear or oil-fired steam propulsion is used. However, with nuclear power much of the propulsion fuel tankage needed for an oil fired ship can be used for aircraft fuel. This feature contributes to the fact that the *Nimitz* class nuclear carrier can carry about twice as much aircraft fuel as our largest conventional carrier.

Because of the essentially unlimited high speed endurance of a nuclear carrier and the greater capacity for aircraft fuel, the *Nimitz* class carriers are designed with adequate magazine capacity to carry about 50 percent more aircraft ordnance than our largest conventional carrier. This increases the overall combat endurance of the nuclear carrier, thus extending the time before replenishment of combat consumables is required.

Throughout the evolution of aircraft carrier design, holding ship weight and space to a minimum has been a major goal, consistent with attainment of required mission performance. It has required use of the most advanced technology and design techniques to build a mobile, fortified, jet air base with its high performance air wing and a vast electronic complex in a 1040 foot ship.

Q. What considerations are involved in deciding whether or not future nuclear-powered carriers should be made smaller?

A. The Navy has made studies of carrier design alternatives, including such configurations as catamarans and varying size mono-hulls. The result of these studies has clearly confirmed the superiority of the *Nimitz* size carrier over smaller attack carriers. Smaller nuclear carriers are technically feasible, but only with a considerable decrease in capability due to the sacrifice of air wing size, sacrifice of the amount of ordnance and jet fuel which can be carried, reduced number of catapults with less back-up redundancy, and reduced number of aircraft elevators with less back-up and less flexibility in handling aircraft.

For the foreseeable future the catapulting and arresting gear complex will be needed to handle projected carrier aircraft, including the F-14 now under development. VSTOL aircraft may be included in a future carrier, but for launching with strike payloads they require a long takeoff space or else must be redesigned for catapulting.

Projected future aircraft designs do not reduce the amount of aircraft ammunition and fuel needed. The need to reduce the requirement for logistic support for the striking forces emphasizes the importance of carrying as large a supply of combat consumables as possible.

The key consideration that would be involved in deciding whether or not future attack carriers should be made smaller would be the reduction in air wing capability that would result. If the total number of carriers in the fleet continues to decline and as the air, surface, and submarine threats our potential enemies can impose upon us increase, it becomes ever more important that the capabilities of the air wings on the remaining carriers be as broad as possible.

FIFTY-FOURTH ANNIVERSARY OF BYELORUSSIAN INDEPENDENCE DAY

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HUNT. Mr. Speaker, many of our colleagues have undoubtedly received a letter from the Byelorussian Congress Committee of America citing the 54th anniversary of the proclamation of independence of the Byelorussian Democratic Republic.

Like other captive nations whose independence in years long since past was snuffed out by Soviet oppression, so, too, are the people of Byelorussia prisoners of the U.S.S.R. after having lived free and independent of outside control for only 3 short years after independence was proclaimed on March 25, 1918.

Mr. Speaker, for the benefit of the historical background of the events leading to Byelorussian independence, Soviet conquest, and the subdued hope for freedom that lives on, I would like to include the full text of the letter I received from John Kosiak, president of the Byelorussian Congress Committee of America.

The letter follows:

BYELORUSSIAN CONGRESS COMMITTEE OF AMERICA,
New York, N.Y., March 17, 1972.

Hon. JOHN E. HUNT,
House of Representatives,
Washington, D.C.

DEAR SIR: March 25, 1972 will mark the anniversary of great significance for American citizens of Byelorussian descent. On that day Byelorussians everywhere in the United States and in other countries of the free world will celebrate the 54th anniversary of the proclamation of independence of the Byelorussiaan Democratic Republic. In Byelorussia, occupied by Soviet Russia today, this national observance is replaced by the commemoration of the Russian Bolshevik revolution. In this year the Soviet Russian government is also widely marking the 50th anniversary of the founding of the Union of Soviet Socialist Republics (USSR), to which Byelorussian SSR is annexed. The USSR is presented by Soviet propaganda as a voluntary union of sovereign nations. However, in reality the USSR is a prison of nations, reflecting the conquest, subordination, oppression and exploitation of Byelorussia, and other non-Russian nations by Soviet Russia.

The theoretical basis for creation of the USSR was invented by Lenin, father of Russian Bolshevism. Many years before usurping power in Russia he composed a program for the Bolshevik's Party, in which he formulated a status for non-Russian nations, conquered previously by the Russian Empire. His theses are follows: a) complete equality in rights for all nations; b) granting to all non-Russian nations the right for selfdetermination including separation from Russia and creation of independent states; c) merging of all nations in the single class organizations and educating them in the spirit of proletarian internationalism.

These theses were designated for propaganda purposes. Their obvious contradictions were clarified by Lenin in article, "On the Review of the Party Program". Lenin was stating this: "On our part we have not the desire for a separation. We want a large as possible state; a close as possible union of as many as possible nations, which are living in the neighborhood with Great Russians". In this way Lenin injected in Russian Bolshevism basic contradiction between propagandistic declarations and intended real policies for non-Russian countries.

The same false tactics was used by the Bolsheviks after their usurpation of power in Russia in 1917. The basic document of Soviet government, "The Declaration of Rights for Nations of Russia", proclaimed liberation of non-Russian nations from national oppression. The shameful policies of national oppression, existing in Czarist Russia, has to be changed to the policies of voluntary and equitable union of nations, belonging to Russia.

The Bolshevik "Declaration of Rights of Working and Exploited People", proclaimed that Russian Soviet Republic has to be erected on the basis of voluntary union of independent nations, as a federation of Soviet national republics. However, the policies implemented by Russia in to non-Russian nations presented a complete contradiction to these declarations.

On December 15, 1917 had assembled in Mensk the First All-Byelorussian Congress. It consisted of 1,872 representatives, elected by the people of all the ethnographical territory of Byelorussia. This was a national Byelorussian constituente, whose aim was to decide the future statehood of Byelorussia. Bolshevik-Russian delegates were in a small minority. They were not able to influence the Congressional decisions. After the Congress had chosen Independence for Byelorussian state, the Soviet Russian Army dispersed this assembly.

The Council of this First All-Byelorussian Congress proclaimed independence of the Byelorussian Democratic Republic, on March 25, 1918. In opposition to their independent Byelorussian state the Soviet Russian government created the Byelorussian Soviet Socialist Republic (BSSR). This fictitious state was created and its government was selected in Moscow. Official proclamation of the BSSR took place in January 1, 1919 in the city of Smaleusk which at this time was conquered by Russia.

Subsequently, the Soviet Russian Army conquered most of Byelorussia. Concluding a peace treaty with Poland in Riga in 1921, the Moscow government, without representatives from the BSSR, divided the territory of Byelorussia as follows: the BSSR was alloted a territory of six counties of the Mensk district only, with a population of approximately 1.2 million. Poland was given approximately 100,000 sq. km. of Byelorussia with a population of approximately 4.0 million. Directly to the Russian SFSR there was annexed approximately 250,000 sq. km. of Byelorussian territory with a population of over 9.0 million. In this way the Soviet Russian government brutally suppressed the aims of the Byelorussian people for self-determination and independence, and turned them into a colonial people of Soviet Russia. The government of the BSSR always is selected by the Russian Communist Party. Its functions are limited to those of local administration for the central Russian government in Moscow.

The formal creation of the USSR took place later, after all non-Russian independent republics were conquered and destroyed by Soviet Russia armies, and instead of them were created satellitic Soviet republics. On October 6, 1922 the session of the Central Committe of Russian Communist Party (Bolsheviks) accepted the draft by Lenin formulating the creation of the USSR. On December 18, 1922, the 4th Assembly of the Soviets of the BSSR accepted a declaration on the necessity for creation of the USSR. On December 30, 1922, the representatives of Soviet Republics signed the declaration and agreement formally establishing the USSR.

In the reality, the USSR is a continuation of the previously existing centralistic Russian Empire, using a different name, as well as different political, social and economic structure. The governing force in the USSR is the Russian Communist Party. This party presents a new Russian ruling class, substituting class of nobility, in the formerly Czarist Russia. The Polit-Bureau of this party is a totalitarian and dictatorial body, which establishes, executes and controls all policies for the USSR from Moscow, including non-Russian republics.

Consolidation of conquered countries by Russianization of their population is a continuous political process, pressed by Moscow government. This action includes: 1. Suppression of ethnic cultures of non-Russian nations of the USSR and forcible merging them in the one Russian stream; 2. Spreading of the Russian language by schools, publications, administrative use, etc. 3. Deportation of nationally conscious parts of the population, especially of the intelligentsia, to the other republics, with preference of Asian; 4. Sending in of many Russians for all leading positions; 5. Annihilation of those opposed to this denationalization; 6. Limitless and merciless exploitation of subjagated countries and their population for the benefit of Russian empirial aims; 7. Giving a high priority to the growth of the formidable military might and empirical expansion, neglecting the needs of incorporated non-Russian nations. As a result of this colonial policies of the Soviet Russian domination there were "liquidated" over six million of Byelorussian population.

Lenin envisaged creation of the USSR for the entire globe, obviously under Soviet Russian leadership. Subsequent governments of Soviet Russia are gradually realizing this goal. At present their military activities, covering many parts of the globe on the land, sea, underwater, in the air and strathosphere, often are surpassing those of other countries. This systematically growing threat to the security of free countries is the greatest menace to humanity of our time. It can be avoided by the liberation of Byelorussia and other non-Russian subjugated nations from Russian bondage and restoration of their truly independent states. The Russian state, limited to the ethnographical Russian territories, will not be capable of armed expansion in global dimensions.

At this time the Byelorussians under terroristic Russian domination do not have the possibility to defend their own national interests. Therefore, we take the liberty to ask you for support of the aims of the Byelorussian nation for liberation from the horrors of Soviet Russian occupation, and for restoration of an independent Byelorussian State.

Very respectfully yours,
JOHN KOSIAK,
President.

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CITY PLANNING WITH FORESIGHT AND EFFICENCY

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HANNA. Mr. Speaker, the city of Garden Grove located in southern California and in the heart of one of the fastest growing counties in the Nation—Orange County—has made giant strides in providing its citizens better services without burdening the taxpayer with an increase in the tax rate. Garden Grove, incorporated as a general law city in 1956, presently has a population of approximately 123,000. Like so many other cities in the southern California region, Garden Grove has virtually exploded from an agricultural village of a few people to one of the largest cities in the county and the 14th largest in California. Primarily a residential community, it is bisected by a heavily traveled freeway with commercial activity along principal streets and a major industrial area located in the western section of the city and a smaller industrial area situated in the central and southeastern parts of the city. As the city has progressed from a small village to its present size, the city council through its foresight has kept abreast with the progress made in the principles of management, primarily the application of cost effectiveness to city operations. The end result for Garden Grove has been a service level which meets the needs for this fast growing community without an increase in the tax dollar.

A novel organizational pattern instituted in the city in 1969 and credited by many responsible sources to Councilman John R. Dean for its implementation has operated to increase the city's responsiveness to the public and its long-range needs. The new organization, implemented according to most of the recommendations of a management audit conducted by Theodore Barry and Associates, Los Angeles, has brought more centralization to the policy decision-making and goal setting function of the organization. The city has attempted to break down departmental barriers that so often plague large organizations and cause unnecessary duplication and resultant increases in operational costs. Garden Grove has applied techniques that private businesses have utilized in recent years to increase profit margins and dividends. The citizens of Garden Grove has reaped the dividends of increased services at the same level of costs. While faced with severe growing pains and the burdensome task of transition from a rural community to an urban city, the cost effective approach used by city administration should smooth the way in this process.

The plan has received national and worldwide recognition, has been commended by a State of California resolution, praising the city of Garden Grove for its farsightedness and wisdom in implementing a plan with such total public benefit.

The new organization, in addition to strengthening central management, has instituted some regrouping that has resulted in greater productivity and a much greater accountability for results. The reorganization has established six line operations departments and a staff cabinet to the city manager—assistant city manager for urban development, controller, personnel, assistant to the city manager, administrative assistant, and management operations analyst.

In effect, this city manager's "staff cabinet" consists of the primary staff associates and an "advanced planning group" which is a break from the traditional day-to-day planning so often performed in other cities. The assistant city manager for urban development, as the No. 2 man in the organization, serves as primary liaison with developers and heads the long-range planning staff. This "think tank" team consisting of staff specialists is divorced organizationally and physically from the land use and zoning functions. Its role is greater than the traditional master planning; it includes long-range planning of programs, of needed service levels and staffing as well as capital items on a 5-year budget plan. While line departments remain responsible for their own planning and budgeting, priority setting is based on a city-wide basis.

Incorporating a programed budget (PPBS), long a practice of private business and recently endorsed by the Federal Government, the controller, as the fiscal right arm to the city manager, is able to wed long-range planning and fiscal resources so that city objectives are met without violating fiscal responsibility. Budgets are no longer calculated on a year-to-year basis filled with incremental though unnecessary budget allocations. Nor are departmental or citizen needs necessarily denied because of an inflexible document. The program budget approach has eliminated meaningless preoccupation with line item sums and has brought responsible and cost effective long-range planning and flexibility to the city of Garden Grove. Assisting in this effort to be cost effective is a former industrial engineer who fills, the position of management operations analyst. With the utilization of data processing systems, management information, and control reporting has truly enabled the city of Garden Grove to develop the optimum input-output ratio in regards to city services.

Another major cost saving innovation now in use in the city of Garden Grove is the secretarial coordination function involving assignment and overall supervision of all clerical personnel. This function is performed by the assistant to the city manager who also heads the community relations bureau, which serves as an ombudsmen type office for all citizen inquiries and demands. The utilization of the pooling concept has provided maximum use of employee talent and has eliminated excess free time in one department at the expense of an overburdened secretarial staff in another department. This concept has been applied to other areas within the city family and has resulted in sharply defined responsibility and accountability for like functions. The consequence of this modern management tool has been increased effectiveness and reduction of unnecessary costs.

Among the concerns and citizen demands for city services, police and fire protection has reigned among the most important. Unfortunately, this service is also the most expensive and one which consumes the major portions of most city budgets. Faced with a low tax base and a determination not to burden the local taxpayer, the city of Garden Grove has applied cost analysis to its fire protection plan and is currently implementing an innovative method of fire protection.

As described in the July edition of Fire Journal, this plan is a positive approach to provide the necessary level of fire service at less cost to the citizens of the city of Garden Grove. Applying the public safety concept, the city of Garden Grove has met the challenge to be cost effective in its police and fire protection. While keeping police and fire line functions segregated, the city has integrated administrative functions performed by police and fire to maximize the amount of time police and fire personnel are available for public service.

The fire department's approach to fire protection has been a prime example of the application of refined management principles to a traditional and perhaps outdated methodology. Using a systems approach, the Garden Grove Fire Department developed a unique fire protection plan based on the proven needs of this community and the availability of funds. The analysis dealt with the problem of the upward spiral of costs for municipal services and its effect upon the traditional operations of the fire department. Among the issues to be decided were: How can the principles of constant manning, distribution of companies, and nonproductive standby time be changed to counteract rising costs? How can response time be shortened? How can manpower be better utilized?

A study of the organization's past history of methods and procedures revealed particular areas of fire protection in need of improvement. Of not were these findings: First, of an average 2,000 alarms received annually, 50 percent were for fires and 50 percent involved first aid and rescues; second, approximately 98 percent of fire emergencies were handled by the first-arriving unit; and third, some responses in certain areas of the city exceeded the time deficiency factor of 5 minutes' response time.

Based upon the assessment of prevalent shortcomings and projected needs, the following goals were established for reorganization of the emergency functions performed by the fire department:

1. A system to eliminate the distance and time deficiencies.

2. A distribution capable of handling 98 percent of the emergencies and a good back-up system for the remaining two percent of the emergencies.

3. A reserve force of apparatus, equipment, and capabilities to cope with large scale emergencies.

In an effort to accomplish these goals, three new engine houses were added to the fire protection plan so that there would be a total of seven fire stations strategically placed throughout the city. The money for the added costs of construction came through salary savings by eliminating 10 percent of the fire suppression forces and reassignment of the rescue functions. Noting the configuration of the city—the east and west parts being separate entities—the fire companies were located appropriately. In the eastern portion which is larger, the concept of task force satellite companies—two-man, 550-gallon attack pumpers—make the initial attack with backup provided by a task force group of two engine companies and a truck company—elevating platform. There are five stations in this eastern area, with four two-man stations and the centrally located task force station.

The western portions, the site of a major industrial area, has two four-man stations with heavy pumpers. At this time, only one station in the western portion of the city remains to be built. With the purchase of new pieces of satellite apparatus, new equipment has been added to the rescue force for large-scale emergencies. An on-call system is utilized for the purpose of calling off-duty firemen to the scene of an emergency. This system is an additional cost-saving aspect of the fire protection plan. For example, a task force can be recalled about four times a year at a cost of approximately $1,000, as compared to manning a four-man truck company on a full-time basis at a cost of approximately $200,000 per year.

In essence, the fire protection plan is the outcome of a concerted effort to provide adequate fire service to the citizens of Garden Grove within the framework of a low tax base and a desire not to increase taxes. It is based on a sound analysis of the fire experience of the city and with full awareness of the needs for effective fire service for the city of Garden Grove. Because the plan is only partially implemented, the total effectiveness cannot be fully measured. However, based upon recent statistics concerning response time and other fire services, many of the objectives that were stated at the outset have been achieved.

The application of cost analysis, programed budgeting, and systems analysis to public agencies is a relatively new concept. Indeed, in many instances, these concepts are not yet fully understood by public service organizations. PPBS began as recently as 1965 in the Department of Defense, and the process of adopting the system in other Federal departments let alone municipal agencies has indeed been a deliberate process. Measurement of input-output ratios in the area of public service is, ostensibly, an improbable task given the intangible nature of much of the services provided by local communities. However, the city of Garden Grove has made the attempt to employ modern management techniques in an effort to be cost-effective. In a time when individual citizens are asked to bear a tremendous share of public costs, the critical need for cost effectiveness has never been more urgent. Although the task is sometimes difficult and at best not precise, the implementation of innovative management principles in public agencies is a must. The city of Garden Grove has taken major steps in this endeavor, and despite controversy and disagreement that so often accompanies organizational change, has attained much success in providing services to its citizens at the lowest possible cost.

Many of the cities across the Nation facing fiscal dilemmas should look to the innovations of the city of Garden Grove for ideas and concepts to maintain or improve services plus cut the costs of government and meet the needs of the people. The city of Garden Grove, its citizens, its city council—and particularly Councilman Dean—are to be praised and emulated for such major steps in improved local government.

ACTIVITIES OF THE SUBCOMMITTEE ON RETIREMENT, INSURANCE, AND HEALTH BENEFITS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WALDIE. Mr. Speaker, the Subcommittee on Retirement, Insurance, and Health Benefits of the House Post Office and Civil Service Committee has been extremely active this session, dealing with matters of great concern to many people. For this reason, I wish to include for the RECORD a summary and outline of the subcommittee's activities.

As chairman of the subcommittee, my main focus during the 92d Congress has been to improve the general level of benefits for a wide range of Federal employees and retirees. Government workers—both active and retired—have for too long been considered merely "public servants," and have had to accept a level of pay and benefits based on this concept of their role. It is my hope that through the efforts of the subcommittee, continuing progress can be made in assuring that the benefits of all Federal employees and retirees compare favorably with those in the private sector.

For the past year, the subcommittee has been investigating the Federal employees health benefits program to determine whether or not the program is providing the best possible health protection at the lowest possible cost.

In December 1971, we held hearings on the proposed 34.1-percent rate increase by Blue Cross/Blue Shield. During this hearing the Price Commission informed Blue Cross/Blue Shield that it must submit any rate increase to the Commission for approval. I submitted a third party statement to the Price Commission, recommending an increase of 8 to 10 percent, rather than 34.1 percent.

The Price Commission reduced the increase to 22 percent, but because the Government's contribution to the health insurance premium—based on 40 percent of the average of the premiums of the six largest plans—could not increase proportionately, the Federal employee and retiree will be paying about 34 percent more for high option Blue Cross/Blue Shield than last year. This figure is still much too high, and I am studying other ways to reduce the cost of health insurance.

In February of this year, we continued these investigatory hearings, with emphasis on the role of the Civil Service Committee in negotiating the contracts with the insurance carriers and administering the entire Federal employees' health benefits program. At this hearing, several witnesses testified regarding cutbacks in benefits to Federal employees and retirees by Blue Cross/Blue Shield. I am greatly distressed by the possibility that Federal employees, retirees, and dependents are being adversely affected by this punitive action on the part of Blue Cross. No notification of these cutbacks has been sent to Federal employees, nor has Blue Cross informed doctors that some claims will no longer be paid. The only means by which a person could determine that a previously covered service was no longer being paid would be to submit the claim and several weeks or months later, receive a denial. The end result is an employee stuck with a bill for a service that was previously covered by Blue Cross/Blue Shield.

As a result of this situation, I have sent letters to the heads of Government employee unions and to administrators of Blue Cross affiliated hospitals alerting them to this situation. The subcommittee staff has also been investigating cases in which benefit cutbacks have occurred. We are continuing our review of the Federal employees' health benefits program, and are in the process of planning additional hearings.

I am also aware of the fact that the present structure of the retired Federal employees health benefits program is quite insufficient. However, any reform of the present health plan for retirees will be premature until H.R. 1 is completed and signed into law. I am confident that the subcommittee then will try to develop an adequate health insurance plan for retirees which will supplement medicare A and B, and that such a supplemental plan will be available to all Federal retirees who wish to enroll.

In the area of retirement benefits, the subcommittee has made progress in expanding the category of hazardous duty occupations, and has also reported to the full committee legislative that would provide for earlier retirement of long-term Federal employees.

In addition, the subcommittee is considering legislation that would provide increases in minimum annuities for Federal retirees so that the years of retirement need not be years of continual financial struggle, as is now to often the case.

Hopefully, by the end of this session of Congress, the subcommittee will have made substantial progress in confronting those issues that are of the most concern to all Federal employees and retirees. My efforts and energies will be strongly directed toward this goal.

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STATUS OF LEGISLATION REFERRED TO THE SUBCOMMITTEE

HEALTH INSURANCE

H.R. 12202: The bill would increase the Government's contribution to health insurance premiums to 55 percent for the remainder of 1972 and would provide for additional 5 percent increases in the Government's share in each succeeding year, until the Government is paying 75 percent of the cost of the premium in 1976. One section of the bill would allow those employees who retired prior to July 1, 1960 to enroll in the Federal employees' health benefits program. Another section of the bill would extend family plan coverage to dependent children over age 22 who are enrolled in school on a full time basis.

Status: The bill has been reported by the full Committee on Post Office and Civil Service, and now goes to the House floor. In February, hearings were held on the "Postal Amendment" that I introduced. This amendment, which would include Postal employees in this legislation, is now pending before the subcommittee.

I fully support the provisions of H.R. 12202 which will provide Federal employees and retirees with a level of benefits now enjoyed by many workers in the private sector

H.R. 11255: This bill would permit voluntary retirement at such time as an employee's or member's attained age plus length of service aggregates at least 80 years. It would also permit an employee who has completed 25 years' service or who is at least age 50 and has completed at least 20 years' service, but who is not eligible to retire under the regular optional provisions, to retire voluntarily during a limited period while his agency is undergoing a major reduction-in-force.

Status: The bill is pending before the full Committee on Post Office and Civil Service. I support this legislation fully.

H.R. 1730: This bill would increase from 2 to 2½ percent the multiplier used in computing the annuity benefits of persons engaged in Federal criminal law enforcement activity.

Status: The bill has been considered by the full Committee on Post Office and Civil Service and referred back to the subcommittee for further study.

H.R. 7060: This bill would extend the preferential retirement treatment accorded law enforcement personnel to Federal firefighters, by allowing such persons to retire at age 50 after 20 years of service.

Status: This bill has been reported favorably by the full Committee on Post Office and Civil Service and now goes to the House floor.

H.R. 440: This bill would extend the preferential retirement treatment accorded law enforcement personnel to Customs and Immigration Inspectors, by allowing such persons to retire at age 50 after 20 years of service.

Status: The bill has been reported favorably by the full Committee on Post Office and Civil Service and now goes to the House floor.

H.R. 8726: This bill would liberalize the retirement benefits for secretaries of Federal judges, to make their benefits comparable to those of congressional secretaries.

Status: Hearings on this bill were held on March 27, 1972. The bill is now pending before the subcommittee.

H.R. 6622: This bill would increase the annuity computation for all Federal employees from 2 to 2½ percent.

Status: The bill is pending before the subcommittee. No action is scheduled at this time, but the bill may be included in hearings on minimum annuities.

H.R. 231: This bill would provide Federal retirement credit for service performed in Federal/State agricultural projects.

Status: The bill is pending before the subcommittee. No specific action is scheduled at this time, but the bill may be included in hearings planned on minimum annuities.

H.R. 13180: This bill, which I introduced, would provide Federal retirement credit for Japanese Americans interned in camps during World War II who are now Federal employees. There is no minimum age requirement at the time of internment to qualify for this credit.

Status: The bill is pending before the subcommittee. Hearings will be scheduled in the near future.

H.R. 2530—and 19 similar bills: This bill would provide full Federal retirement credit for service as a National Guard technician. Present law now credits only 55 percent of this service toward an annuity.

Status: Hearings were held on this bill in September 1971, and the bill is now under consideration by the subcommittee. Further hearings may be scheduled in the near future.

H.R. 7805: This bill which I introduced would provide an increase in minimum annuities on a graduated scale of percentage increases, with those persons at the lowest end of the annuity scale receiving the largest percentage increase.

Status: The bill is pending before the subcommittee. Hearings on this bill and many of the bills that have been previously described are planned for late spring. I believe an increase in annuities is essential if Federal retirees are to maintain a decent standard of living during this time of rising costs.

S. 1031: This bill would provide Federal retirement credit for District of Columbia substitute teachers during the year 1955–65.

Status: The bill is pending before the subcommittee and will be considered in the executive session in the near future.

The "rider" to H.R. 11255: This so-called "rider amendment" would allow Federal retirement credit for service performed on the railroads by persons now employed by the Federal Government. This "amendment" is simply an informal proposal and has not been introduced by any Congressman or Senator. If this legislation is formalized, the subcommittee will give it full consideration.

INSURANCE

H.R. 11563: This bill would waive an employee's deductions for life insurance during a period of erroneous separation, but would allow life insurance policy proceeds to be paid should the employee die during the period of separation.

Status: The bill is pending before the subcommittee and will be considered in executive session in the near future.

MY RESPONSIBILITY TO FREEDOM BY STUART D. BROWN

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LUJAN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conducts a Voice of Democracy Contest. This year nearly 500,000 secondary school students participated in the contest competing for the five national scholarships which were awarded as the top prizes. The contest theme was "My Responsibility to Freedom."

The winning speech from New Mexico was written by Stuart D. Brown, 894 43d Street, Los Alamos, N. Mex. I believe we can all be proud of Stuart and his accomplishment; if we had more young citizens like him, many of the problems facing our Nation today would vanish.

I would like to insert for the RECORD Stuart's speech as we can all learn from his words:

MY RESPONSIBILITY TO FREEDOM

(By Stuart D. Brown)

Not only have two hundred years come to pass since our nation was born, but in that time the Nation has also developed into the most advanced country in the world. The United States is and continues to be a growing and developing Nation. The American people are a dynamic society inspired by an atmosphere of freedom and Democracy. And in preserving this way of life, a new and stronger emphasis must be put into our basic responsibilities to freedom. Now that it is time I must accept the challenge of a position into this society and country, what should I do? What is expected of me? What are my responsibilities to this freedom and democracy that has been for so long so much a part of the American people?

A man once wrote: "My responsibility to freedom is to be free." Clearly this is not enough, it requires more, the responsibilities that come with our way of life are to know what these freedoms are, to practice and to recognize the importance of the opportunities opened to us by having these rights.

The early documents of the United States, spoke of things only rarely heard of throughout the history of man, they stated what rights each man, as an individual, possessed. Among these were the inallenable rights to life, liberty, and the pursuit of happiness; the right to freedom of opinion, of religion and speech, the rights of accused persons, the rights governing punishment, and under the Ninth and Tenth Amendments to the Constitution of the United States, the right to any other freedoms not specifically mentioned in the Constitution.

I believe democracy to be, of all forms of government, the most natural, and the one that is the closest geared with individual liberty, in it no one transfers his natural rights so absolutely that he has no further voice in affairs, he, instead, has a voice that is heard by the majority consideration, whereof he is a unit. Thus, all men remain, as they were in the state of nature, equals. And in that manner the government carried out its responsibility to the preservation of the rights of the people.

But knowing of the availability of these rights is only half of my responsibility to freedom. I must also practice and use them. I must not only recognize but respect the importance of their existence. And only by doing so can I maintain their existence for the generations to come. It is very much necessary to exercise the rights and freedoms the framers of our government so consciously granted. Only by their constant usage can we be insured that these rights and freedoms will never be overlooked or set aside, and only by wisely and consciously practicing these freedoms: the right of free opinion, religion, speech, and the many other freedoms granted through the Constitution can we truly recognize the importance of maintaining their existence.

Americans have rights and freedoms granted to few other countries in the world. America is based on the concept that each man is an individual, who has the right to be an individual. But this comes not without its responsibilities. My responsibility to freedom is to recognize, and to respect, and to appreciate these rights, and to use them.

WHO'S FOOT IS THE SHOE ON NOW?

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HUNT. Mr. Speaker, as a handful of self-righteous Senate Democrats continue their crude and ludicrous attempts to indict the Republican Party in connection with an ITT pledge for the Party's National Convention, the fact of a $1.5 million telephone bill owed by the Democrat National Committee from the convention 4 years ago is briskly sidestepped by both the committee and the news media.

There are some newspapers, however, that would like to see justice done, and the Asbury Park Evening Press is one of them. The following editorial from that paper hits the nail on the head and observes:

Every presidential year the major parties start fund raising to persuade the nation that their candidates are best equipped to govern. Solvency should be one test, a standard the folks at A.T. & T. and their customers would be happy to have the Democrats meet.

The full text follows:

$1,500,000 PHONE BILL

While it is sifting all the charges that ITT settled an antitrust suit with the government because an ITT subsidiary pledged $400,000 to the City of San Diego where the Republicans will hold their convention, the Senate Judiciary Committee should also inquire about the unpaid $1,500,000 telephone bill owed by the Democratic National Committee to A.T. & T.

Democrats on the committee imply there is some unholy alliance between big business and the Republicans. But they are not talking about the $1,500,000 owed to A.T. & T., dating back to the Democratic convention in Chicago in 1968. Senator Dole of Kansas, Republican National chairman, charges that this amounts to a gift by a utility regulated by the government.

The Democrats have been promised telephone service at Miami if they pay $100,000 in advance. But this still leave the old debt, plus $7,500,000 owed to others who have not been fully identified.

Every presidential year the major parties start fund raising to persuade the nation that their candidates are best equipped to govern. Solvency should be one test, a standard the folks at A.T. & T. and their customers would be happy to have the Democrats meet.

THE JOURNALIST AT SEA

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, the Oceanic Educational Foundation, with which I am privileged to serve as a member of the board of directors, sponsors a course in Humanities of the Sea at the University of Virginia.

One of the highlights of this course was a talk by Raymond McHugh, chief of the Copley News Service Washington Bureau. Mr. McHugh makes a delightful and eloquent case for new journalistic interest in the world ocean because of its limitless opportunities to benefit man.

Mr. McHugh's lecture follows:

OCEANIC EDUCATION—THE HUMANITIES OF THE SEA

(By Raymond J. McHugh)

REPORTING THE WORLD OCEAN—A NEW DIMENSION IN JOURNALISM

I feel like a man traveling on a forged passport.

Captain Sionim has showed me the list of lecturers in this series. I hardly belong in such distinguished company.

A newspaperman—or "journalist", if you prefer high-faluting words—is essentially a man who knows a little bit about a lot of things, and not very much about anything. It's a handicap imposed on us by editors and deadlines.

When the subject is oceanics or the future of the seas, that feeling is magnified. There's too much around the corner, out of sight of our education and/or experience.

You are beginning to probe a new frontier. We in the communications media are going to have to watch you, talk to you and learn from you.

I'm reminded of a night two years ago when I was asked to introduce Herb Klein, the President's communication director, to the Las Vegas Press Club banquet.

Herb is an old friend and colleague, so I asked:

"What are you going to talk about?"

"The ABM," he replied—the anti-ballistic missile system.

"What in blazes do you know about an ABM," I asked. "I've known you for 15 years and you couldn't tell one end of a missile from the other."

"You're right," Herb said. "But the fellow who wrote the speech is an expert!"

You don't have that advantage.

I couldn't find any experts on oceanics and the communication media.

When I introduced Klein that night, I described him as a "weapon" expert—W-E-A-P-O-N.

"Why's everybody always picking on Nixon?"

I tried that tonight with the word "Oceanic"

O-C-E-A-N-I-C

"Oh, can't everyone accept normal inland civilization?"

I guess not, otherwise we wouldn't be here.

Capt. Sionim erred on another point in his selection.

It's true that I newspapered for 10 years in San Diego and allowed my son to be bitten by the Navy virus—badly enough that he went to Annapolis and is now serving as a nuclear engineering officer on a Polaris submarine—but I'm an old landlubber, a one-time Army sergeant who made five D-Day landings in the Mediterranean, simply because I was too frightened to stay on the ship!

That's why your new course fascinates me, why you fascinate me.

To me the sea has always been a forbidding, hostile world. You see something quite different.

I'm sure I belong to the majority, but I have that uneasy feeling that the majority is wrong.

Formal education in journalism—for better or for worse—started in 1869. It was a time when American Clipper ships were at their competitive peak in world-wide trade.

But as the professionalism of the media grew over a century, the American role at sea has declined. Perhaps there was a correlation. Newsmen and seamen very seldom talk to each other, at least in a common language.

Today, we are discerning a new dimension in journalism—the World Ocean—but we really don't know how to describe it.

When Gen. Robert E. Lee, as president of Washington College launched the first journalism school, he overlooked an opportunity. He should have suggested to some enterprising graduate students that the seeds for his defeat were sown at sea by the maritime strength of the Union forces. He didn't and ever since American journalism has failed to report the dimension of the sea with the same zest that it covers day-to-day events on the land, in the air, even in space. We have just witnessed the excitement over the large land mass called China. But where is there parallel interest in that enormous ocean between that we call the Pacific?

I'm afraid that General Lee, the brilliant tactician and military genius, was like most of us, a land lubber. The average newsman who graduates from descendent J schools is trained to write for readers whose interests are largely landed. It is no surprise that oceanic matters catch him off-balance.

But the newsman, like the American people, is beginning to realize that the seas may be crucial in man's quest for a better quality of life, even his survival.

Whether the push comes from Cousteau, the Conservationists, Adm. Rickover, the Nixon Doctrine or the Russian Navy, he's becoming aware that the oceans, the dominant portion of man's planet, are also his last frontier for investigation and exploitation.

I would not wish to exaggerate this maritime renaissance. It's only an ember today, but if it is to be fanned into a flame our press must be convinced and educated. Then full coverage of the World Ocean will follow.

How does one do it?

My own Copley Press has been a pioneer in reporting the oceans and interpreting the significance of the sea to its readers. With a headquarters in San Diego that rubs shoulders daily with the Pacific fleet, Scripps Institution of Oceanography, the University of California, the aerospace and shipbuilding industry we should be a leader. For example, we're in a position to realize how a depressed aerospace industry is turning its eyes from the sky to the sea.

We've been casting our stone into the journalistic waters for several years, but we're frankly still not making waves.

The selling job is not an easy one.

President Nixon has called the 1970s "the decade of the seas," but the oceanic press in 70s lacks the breadth and depth that is warranted.

Even the editor who discerns the weak-

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ness finds it difficult to correct. There simply are too few writers and commentators who appreciate the sea, who have the educational background to analyze its importance.

The tide is turning, but is the average citizen being made aware of it?

The Navy this year will get $9.6 billion for new ships and equipment; that's $3 billion more than the Air Force; $5 billion more than the Army.

NOAA's budget is up 20 per cent.

The Navy's oceanographic research program is to get $203 million.

The Senate voted 83-0 to ratify an international treaty barring nuclear weapons on the ocean floor. It rated six inches of type or less in Washington newspapers.

Twelve European nations agreed to ban the dumping of harmful industrial waste in the northeast Atlantic. That rated two inches.

At your last meeting Rep. Craig Hosmer mentioned four predictions that he called "routine:"

Floating and underwater cities.

Trained porpoises herding schools of fish into automated processing factories.

Controlled fusion providing limitless electric power from the oceans.

Underseas farming to add to man's food supplies.

They may be "routine" predictions to you because of your specialized interest.

But how many people on the street would regard them as routine?

You are dealing in potentially one of the most exciting news-making areas one can imagine. The big problem is, there are too few of you and too few of us who can really communicate these ideas.

How do we find, educate and motivate talented writers to probe this new salt water dimension?

First we must kindle interest in youth and in veteran newsmen—comprehensive specialized courses in schools of journalism can be a beginning.

There is a striking relationship in the historic development of the sea grant program since 1966. It has a springboard for the study of the sea. At present, it is science-oriented. But major expansion is inevitable and it should move into humanistic-literary areas—ocean-oriented courses in international studies and law, economics, global geography, maritime history, oceanic art and literature. These disciplines, brought together into a single program, can foster a writer's appreciation of the total spectrum of the sea environment and its dynamic possibilities.

I like to go back to Athelstan Spilhaus's early statements of the potential of the program:

"Just as ocean study requires a multi-disciplinary pattern, competent reporters of oceanic activity with comprehensive educational background and varied experience will be able to develop in discerning depth the implications of oceanic enterprise.

"The seas beautiful, elegant, strong, dangerous and whimsical offer us military, recreational, educational, economic, artistic and intellectual outlets of unlimited scope. They offer us more space than space itself in which to remain human.

"Educationally this requirement has been recognized in the thinking resulting in the projection of centers of oceanic advancement and maritime studies to pursue the multi-disciplinary studies and research on university and college campuses throughout the United States."

I see no reason why journalists and schools of journalism can't be brought into the Center's intellectual sphere. Individuals aspiring to reporting the oceans require intellectual grounding and oceanic perspective if they are to give thorough, substantive interpretation to events and trends. The central thrust of this course, as I understand it, is directly related to this.

You have special interest, special motivation, but I think journalism school courses must begin at a relatively elementary level.

The normal schooling of the average American is deficient when it comes to the role of the oceans. His experience is not likely to compensate. The water dimension has not figured in the solution of his personal problems. Here and just across the Potomac we see a beginning.

The Washington Technical Institute has developed a job-oriented two-year program in Marine Science Technology that includes a four-day cruise for its undergraduates.

That's the technical side.

As a newsman, I prefer this University of Virginia approach to the "Humanities of the Sea." It is broader, more balanced.

But can't the two ideas be married?

We'll need many more courses of this kind in the United States before the country realizes how far we must go—and how late the hour is.

I suspect we'll need new texts, new curricula, a whole new concept.

Sea travel could be one short cut for the fledgling reporter attracted to your ocean environment. He would certainly benefit from a world cruise internship. Whether he circumnavigates the globe as a student or as a deck hand really does not make a great deal of difference. In some respects he will be better off working his way around the world, for it would involve realization of how the seafarer thinks—a kind of self-sufficient thinking that differs fundamentally from that of the landed individual. In any event, it will be important that the sea journalist gains a feel of the sea to buttress his writing. His scan of the sea and its time and space factors also will help him evaluate international affairs and strategy.

Observing the dynamics of ocean trade first hand will add to his discernment of what cheap water transport means to people world-wide, and how it promotes the interrelationship of people through ocean activity. The cultural, commercial, the diplomatic two-way flow across the oceans of the world has been altered by jet travel.

The pulse—the purpose, the global reality—of maritime activity has become remote. Too few appreciate its economic stimulus.

What I am suggesting is a time-consuming procedure, and necessarily so. But just as in oceanic research there is no royal road to reporting the sea. Our search is for a development of expertise in sufficient depth to give an insight into the vast potential of the oceans.

Lacking this substance, the country will not find the stimulating ideas that will convert the traditional land thinking of the frontier to your oceanic concept. We have to recognize that in its 200 years as a major maritime power, this rationale still has not become popular.

A revolution will not occur overnight. You'll be impatient. We live in a world geared to instant response. But I remind you of a comment by the sage Buckminister Fuller in his musing about the seas:

"To do anything really important, we have to think at least 25 years ahead."

Understanding the seas may help us regain the long range vision so necessary if we are to formulate new ideas for a new century.

Here I contend journalists must lead the way.

But where will we find young men and women willing to help forge this new dimension?

Who can find time for the serious studies and world cruising?

It won't be easy.

The serious-minded individual who shows writing talent and the required disciplined approach needs not only guidance but certain attractive incentives.

Perhaps a program can help support his apprenticeship at sea or close to the wharves of the world where he can gain the kind of background and enthusiastic enlightment that will give his articles the fine flavor of a sea-breeze, the romantic as well as the pragmatic dimension that will excite and invite others.

The nomad instinct in today's youth is an asset. Few seem to finish college anymore without a summer in Europe. Even when parents cannot afford to send them they find ways to get there. Soon, I suppose, they will be trekking to China. But most youngsters cross the ocean by jetliner. The sea to them is only a barrier to be crossed, not an adventure in itself.

I'm not the only parent who would like to slow their tempo. A slow boat to China, or to the Mediterranean would have psychological as well as educational rewards. The oceans can be a cushion for people chasing a Mach 3 existence. Aboard ship there's time to think.

Ocean travel also affords a more comprehensive global grasp of geography and a humanistic dimension in relating people and the role they plan in the mutual supporting process of world trade and other enterprises that attend ocean activity.

Special activity during port visits can afford insight into local problems, relating them to regional maritime activity. The concept of college aboard ship is not new; but the concept of ocean-oriented education aboard ships has been confined to Navy midshipmen or the maritime apprentice. Few journalism majors participate.

This same situation applies to a whole variety of new professions that are giving increased attention to the ocean environment.

But floating J-Schools are not the only answer.

Neiman fellowships on the sea could be offered. An international student exchange involving young people from Britain, Japan, Holland and other seafaring nations could be organized.

Independent study can also give the student of the sea a good grounding in fundamentals essential to writing with assurance and realism. As I mentioned earlier, the Sea Grant idea can be extended to journalism schools.

Dr. Horace M. Kallen, the venerable philosopher of the New School observes:

"In view of the little that had then been known of the role of the oceans in the formation, ongoing evolution and struggle for survival of homo sapiens as land animal, it was apparent that a reliable knowledge-in-depth of the oceans would have, at least an equal, and with considerable likelihood a higher, survival value for the future of mankind, than man's knowledge of the land."

Once a student grasps that he is dealing in survival, his quest for knowledge of the sea environment will grow beyond his curriculum. At this point he will shape his own course of study. He should give time to pursue his own intellectual basis for reporting the sea.

I recall a Reader's Digest article that describes Eric Severeid's early career. Upon completion of his studies at the University of Minnesota, Severeid contracted with the Minneapolis Tribune, his first employer, for a series of articles covering an arduous canoe trip through Minnesota and Canada to the Atlantic. It was a daring and difficult thrust into the wilderness. According to Severeid it served him in good stead, far beyond merely launching his brilliant career.

We should offer young students interested in the sea an opportunity to see it, smell it, experience it. It would result in exciting copy, I assure you.

Just the geographic aspect would broaden American interest in the world. That's a certain spin-off from the oceanic educational process. Editors could contemplate new newspaper sections; new television documentaries on "The Oceans" to give the public a fuller understanding and appreciation of this dominant portion of their planet. The Canadian Broadcasting System is currently planning a TV lecture series on the oceans. It will be interesting to hear the results.

I am not unmindful of the maritime coverage now offered in many major port newspapers. Conceptually, I am suggesting that broadening this coverage is essential to gain the full dimension of the oceans. The space allocated is limited and the scope is usually limited to merchant marine matters. Few are responsive to the entire ocean mosaic.

Chairman Helen Delich Bentley of the Federal Maritime Commission was an exception in her days on Baltimore's Sun papers. In fact, she owes her present job to the fact that she was such an outstanding exception.

We need more Helen Bentleys.

Until we get them, there will continue to be a certain pervasive mustiness in the maritime presentations one reads in the average newspaper and periodical. Part of it reflects the conservative cut of the jib of the Maritime community—a community not known for public relations success.

Always missing is the excitement that should be inherent if we are indeed talking of the frontier of the future. There's no sex appeal.

I won't minimize the romance of aviation. Charles Lindbergh's book "Spirit of St. Louis" is just as gripping as a Joseph Conrad tale of the sea. But who is reading Conrad anymore? Even college-level history texts are beginning to gloss over the Venetians, the Phoenicians and Genovese, the Hanseatic traders—and yes, the men who sailed the Yankee Clippers. They all shaped the world in which we live.

We're coming up to the bi-centennial of the United States, but how many young Americans understand that it was the French Navy, not the Continental Army that really decided the Revolutionary War?

My generation remembers Pearl Harbor, Midway, the U-boat battles in the Atlantic; but how many of us have read the stories of Trafalgar, Actium, Salamis, Lepanto—naval battles that changed not only the course of history, but of civilization.

The sea has a way of hiding its climatic moments; like storms they pass; on the surface nothing seems to change.

A stroll along the canals of Amsterdam or the streets of Djakarta will instruct any student in what the sea meant to tiny Holland for centuries. The still lavish homes of merchant princes standing cheek-by-jowl in Amsterdam; the palaces in Indonesia are testimony to a day when Dutchmen rode the sea to control New Amsterdam, the East Indies, South Africa, parts of Latin America and more islands than even the House of Orange could count.

The National Geographic Society, incidentally, has developed an excellent television documentary on Holland that features the Dutchman's constant struggle against the sea. It's the quality of work you should encourage in telling your oceanic story.

Walter Cronkite, who gained some of his discernment aboard the battleship *New York*, has expressed concern that too few young aspiring journalists are adventure-oriented. I think Walter would endorse enthusiastically the concept of sea-oriented journalism programs.

I know that men like Jim Copley who heads my organization and is dedicated to this nation's future will support such programs.

If we can attract the boys and girls with the sharp pens and typewriters, everyone will begin to comprehend the real dimension of this oceanic opportunity that is unfolding President Nixon talks of a "generation of peace."

If it is achieved, think of the new challenges that will confront men: a better world, a better environment, full utilization of resources.

You in this class obviously sense that the sea holds solutions to many of these.

I hope you're right. And I hope you'll help the communication media in this country attract, train and inspire the people who can tell the tale.

Thank you.

BAPTISTS SUPPORT QUALITY EDUCATION FOR ALL

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHWENGEL. Mr. Speaker, quality education for all students has been a much heated controversy during the past month. Although we all are in agreement as to the ends, disagreement begins when we talk about the means.

Recently, the Baptist Joint Committee on Public Affairs, addressed a letter and resolution to my attention. This resolution strongly supports quality education and urges all necessary steps be taken to assure its immediate achievement. It is heartening when religious-oriented groups show such concern. I would like to share their letter and resolution with you, as follows:

BAPTIST JOINT COMMITTEE ON PUBLIC AFFAIRS,
Washington, D.C., March 22, 1972.

Hon. FRED SCHWENGEL,
House of Representatives
Washington, D.C.

DEAR MR. SCHWENGEL: On March 8, 1972 the Baptist Joint Committee on Public Affairs unanimously passed the enclosed resolution. I commend both the letter and the the use of public funds for nonpublic education. I commend both the letter and the spirit of the resolution to you.

The Baptist Joint Committee on Public Affairs is composed of representatives from nine cooperating Baptist conventions with almost twenty-four million members. The Committee does not purport to speak for each Baptist, but on this issue of public aid to nonpublic schools our Baptist people have almost complete agreement.

I hope you will read the statement carefully. If you have any questions about our position, I will be happy to answer them.

Sincerely yours,

JONH W. BAKER.

RESOLUTION ON QUALITY EDUCATION

Whereas the Baptist Joint Committee on Public Affairs is concerned with many areas affecting the national welfare and destiny; and

Whereas quality public education for all children in the Nation is vital to the national welfare; and

Whereas many possible plans for promoting quality education are being considered or will be considered by the Congress and the Executive Branch;

Now therefore be it resolved that the Baptist Joint Committee on Public Affairs strongly supports quality public education for all children without regard to race, color, religion, sex or national origin; and

Be it further resolved that we urge that all actions designed to promote quality education be consistent with this Nation's historic position on separation of church and state, including no tax support for nonpublic schools.

PHONY BUSING ISSUE ROADBLOCKS DRIVE FOR QUALITY EDUCATION

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BOLLING. Mr. Speaker, John P. Roche terms the busing issue a phony one and discusses what our obligation to educate our children is all about. His column follows:

PHONY BUSING ISSUE ROADBLOCKS DRIVE FOR QUALITY EDUCATION
(By John P. Roche)

Last September in this space, I concluded an examination of the busing problem by suggesting that "we somehow move the wild men at both ends of the busing fight off to an island some place while the rest of us get down to the business of education."

Emphasizing the phony quality of the debate—which was just beginning—I argued that "it is the quality of the education at the end of the bus ride that counts. There is no point in riding kids across town or country just for the trip."

I wouldn't change a word of that column today, but, alas, instead of the wild men going off to an island to scream at each other, they settled on Florida.

From the day George Wallace arrived in Florida and—unlike us "pointy heads"—parked his bicycle straight, the debate over busing lost all contact with reality. As usual, the party of sanity got caught in an enfilade and its position—that it is the quality of education that counts, not the bus-ride—got tagged as a cop-out, as a compromise with "racism." It was almost as if George Wallace and John Lindsay had conspired to transform an educational dispute into a racial confrontation, each for his own political ends.

This is perhaps the place to pay tribute to Florida Gov. Reubin Askew. He could have stood aside and let the storm blow out. He certainly was aware of the risks involved in raising the flag of sanity. But he refused to take a dive. He is the kind of man that justifies one's faith in the democratic process and I want him to know—for whatever it may be worth—that I would be proud to be known as an Askew Democrat. What separates the men from the boys among politicians is that the men know when not to compromise.

While only an idiot would deny its racial implications, busing is not fundamentally a racial issue. As in the furious debate over public housing in Forest Hills, N.Y., class and race have been hopelessly confused. Most kids going to poor schools are not black: 80 percent of the American poor are white and they have not been dedicated to zero population growth.

Every morning at 7:15, the bus picks up my daughter and takes her to public school. It is an excellent high school, well-subsidized by property taxes in a wealthy suburb. If the same bus were going to take her to school in a white section of Boston or Cambridge, a school suffering from financial malnutrition, overcrowded, and largely populated by youngsters with no educational aspirations, I would be out screaming my head off.

But before you write me off as a self-made snob, let me add that I would vigorously support a program to bring students from these marginal schools—black or white—to attend our high school. Beyond that, I agree completely with the California Supreme Court, and other state courts, that local property taxes should not be the basis of school funding.

I don't see that we have any divine right to build a wall around our town, develop a

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fine school system, and lay out perhaps twice as much money per student as other neighboring systems. Particularly when in fact our tax level may be lower than those in other cities or towns, where a declining tax base has led to increased charges on individual property.

In other words, the underlying sentiment in the anti-busing configuration is our old acquaintance: "Let the poor rot." Whether the poor are black or white is fundamentally irrelevant.

However, the obligation of our society is to provide quality education for all its youngsters—which may or may not require a bus trip, but will certainly require a major reorganization of the units of public education and the expenditure of a lot of money, state and federal.

For openers, why not reinstate the 10 percent federal surtax on income, and specify that the money thus obtained be used to help equalize educational opportunity? This is not a pleasant message, but unless one is ready to pay the cost, he has no right to talk about quality education.

LEGISLATION TO END UNITED STATES-INDOCHINA CONFLICT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, recently I joined with a distinguished group of Senators and Representatives in introducing legislation to halt the bombing in Indochina and immediately withdraw American Armed Forces within 30 days after enactment of this measure.

I took this action because of the President's failure to comply with the end-the-war provision of the 1972 Military Procurement Authorization Act, signed by the President on November 17, 1971. Under title VI, "Termination of Hostilities in Indochina," the act declares it American policy to terminate U.S. military operations in Indochina "at a date certain."

Since the President has failed to act, I have introduced H.R. 14077 which includes the following provisions:

First, termination of funds for U.S. military and paramilitary—CIA-type—operations in South and North Vietnam, Cambodia, and Laos within 30 days after the bill's enactment;

Second, immediate termination of funds for U.S. bombing of South Vietnam, except where the President determines that air support is necessary for the immediate and safe withdrawal of U.S. troops. The President, however, is required to report back to Congress all details of any bombing operation in South Vietnam within 48 hours; and

Third, a 30-day extension of the withdrawal date if arrangements on the release of American prisoners have not been made. Further extensions would require congressional approval.

According to a recent Harris poll—March 1972—a majority of 56 to 26 percent favored a U.S. policy of immediate withdrawal from Indochina. H.R. 14077 is clearly in accord with this national mandate.

Our Vietnam war policy under the previous and present administrations has brought ecological havoc to Vietnam and deaths of countless Americans and Vietnamese. By continuing the air war, we only multiply the tragedy and increase the number of captured American pilots.

Let me point out that during the months of July through November 1971, the United States bombed Indochina at the rate of 50,000 tons per month. In late December, while the Congress was in recess, the President ordered massive air attacks against North Vietnam, a total of 1,000 sorties over a 5-day period.

Subsequently, during February 1972, over 67,500 tons of bombs were dropped on Indochina, a 35 percent increase over the totals for the latter part of 1971. In addition, from January 1 through March 20 of 1972, there were 100 bombing raids against North Vietnam. This is five times the 20 strikes flown in the first 3 months of 1971 and will soon surpass the total of the 108 strikes for 1971.

The air war was further escalated by the addition of 42 B–52's operating from Thailand and Guam in February 1972, doubling the B–52 force in Southeast Asia. For the first time since November 1970, three aircraft carriers were operating off Vietnam last month, with reports of a fourth on route. Each carrier carries 75 attack planes.

The impact of this escalation is a rapidly increasing rate of human and ecological devastation in Indochina.

H.R. 14077 would put an end to our present destructive policy, and become the catalyst for the release of our prisoners of war. I believe that only when the U.S. Government sets a definite date for total withdrawal and ends all bombing of Indochina, will our prisoners be released.

SOCIAL SECURITY NUMBERS

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRIFFITHS. Mr. Speaker, for years, I have been urging the Ways and Means Committee to require that every child be given a social security number at birth, which would be put on his or her card along with the parents' social security numbers. I recently made this suggestion public. The witty answer of the News American, from Baltimore supports this idea very well indeed.

The article follows:

GIMME A 1, GIMME A 2 . . .

Speaking as 059–26–5775, we see zero wrong with the suggestion by Representative Martha Griffiths (D.-Mich.) that every American be given a Social Security number at birth. With more than 200 million Americans, there are too many Smiths to confuse with other Smiths, Jones with Jones, Youngs with Youngs, ad infinitum.

By following Mrs. Griffith's advice, good old 059–26–5775 would not have had to memorize a number obtained in the prime of his youth: 51258965, courtesy of the U.S. Army. Or yet another, employe number 99199. Or bank account number . . . Well, we've made our point. One man, one number.

FEDERAL CASTE SYSTEM AGAINST THE SPANISH SPEAKING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, earlier this month I appeared before the House Civil Rights Oversight Subcommittee regarding job discrimination against the Spanish speaking in the Federal Government.

Data which I presented at the hearings showed convincing evidence of a virtual caste system which excluded the Spanish speaking from Federal jobs. Although comprising 6 percent of the total U.S. population, the Spanish speaking make up 2.9 percent of total Federal employment and only one-third of 1 percent of its executives. This is totally inadequate and reprehensible.

The enactment of the Civil Rights Act of 1964 was intended to break down the barriers of discrimination. The issuance of Executive Order 11,478, on August 8, 1969, was to provide leadership in achieving job equality within the Government itself. These promulgations, however, have seriously failed to end job discrimination and exclusion within the Federal structure.

The adoption of the 16 point program, on November 5, 1970, has yet to provide a significant increase in jobs for the Spanish speaking. I sincerely hope that it will not become an abstract document without enforcement powers, without concrete or visible goals. Such a misfortune would only obscure the indifference and neglect Spanish-speaking people have been experiencing in the area of Federal employment. Certainly the present level of staff support for the 16-point program, a total of only two professionals, would indicate a lack of serious commitment.

While I do not believe that population parity should be used as the only standard in evaluating Federal performance, I will use it here to emphasize the fact that equality in Federal employment has not been achieved.

Some improvement has been made within certain agencies. But the fact remains that at present rates of increase, the Spanish speaking must wait well over a half of a century before achieving job parity with other groups, including whites. For this reason many Spanish-speaking persons believe that the promise of job equality remains a myth.

NATIONAL LEVEL

As I stated earlier, the 2.9 percent representation for the Spanish speaking, with virtual exclusion from executive jobs, is absolutely unjustified. If we take the period from June 1966 through May 1971, we find that the Spanish speaking have been underemployed by over 50 percent.

It is estimated that with a 6 percent Spanish-speaking population, the Government would have to provide 80,000 additional jobs for the Spanish speaking to achieve parity with all other groups in this country. Given present rates of increase in Spanish-speaking

employment, it would take the Government at least 60 years to achieve that goal.

At the GS 9–18 levels, we discover similar deficits. Since 1966 the Government has failed to provide better paying jobs to the Spanish speaking by 80 percent, and shortchanged them by nearly 30,000 jobs.

At the top grade levels, the Government has failed by well over 90 percent with a loss of 319 executive jobs for the Spanish speaking. Out of a total of 5,650 executive positions, the Spanish speaking only hold 20 with not one in the Civil Service Commission, which has the responsibility to carry out the Federal equal employment program.

I find it difficult to understand why Civil Service is incapable of finding qualified Spanish-speaking individuals to fill these positions immediately.

The representation of the Spanish speaking in middle and top level management cannot be overstressed. It is an important key to gaining a deeper Federal commitment to the problems and priorities of the more than 12 million Spanish-speaking Americans.

An analysis of various Federal agencies reveals in even greater detail the extent and depth of this exclusion. As of November 1970, those agencies falling below the overall Federal average of 2.9 percent include:

Agency	Total full-time employees	Spanish speaking	
		Number	Percent
Post Office	716,812	19,063	2.7
General Services Administration	37,165	918	2.5
Justice	39,373	953	2.4
State including AID and Peace Corps	20,690	477	2.3
Navy	318,913	7,298	2.3
Veterans Administration	149,257	3,131	2.1
Interior	63,354	1,263	2.0
Agriculture	87,859	1,484	1.7
AID	6,812	121	1.7
Labor	10,655	178	1.7
Treasury	88,351	1,489	1.7
Selective Service System	6,527	102	1.6
Defense Supply Agency	51,503	812	1.6
HUD	14,830	225	1.5
HEW	107,221	1,516	1.4
Transportation	65,128	696	1.1
Commerce	32,766	220	.7
NASA	30,326	226	.7
General Accounting Office	4,646	28	.6
Office of Management and Budget	592	1	.2

In addition to these findings, we were able to obtain November 1971 figures on a selected number of Federal agencies. The following fall below the 2.9 percent Federal average:

Agency	Total full-time employees	Spanish speaking	
		Number	Percent
Postal Service	697,919	18,186	2.6
Justice	42,938	1,065	2.4
State	9,186	446	2.3
Veterans' Administration	160,709	3,528	2.2
Labor	12,160	240	2.0
Treasury	94,557	1,754	1.8
Agriculture	88,817	1,613	1.8
HEW	108,603	1,947	1.8
HUD	16,365	289	1.7
Commerce	29,888	227	.7
Bureau of Census	4,712	26	.5

SOUTHWEST

In the Southwest the Spanish-speaking people are experiencing serious obstacles in attaining equality in Federal employment. Although comprising 17 percent of the region's population, they constitute only 10.8 percent of the Federal work force. It is estimated that the Government would have to provide 32,250 additional jobs to achieve parity.

Similar deficits exist at the GS 9–18 levels. Since 1966 the Government has failed by 75 percent to provide adequate employment for the Spanish speaking at these levels, and has fallen short of the mark by 95 percent at the executive levels.

CALIFORNIA

In California the Spanish speaking comprise 16 percent of the State's population but only hold 5.6 percent of local Federal jobs. It is estimated that the Government would have to provide 30,500 additional jobs to the Spanish speaking, or almost twice their current number in California's Federal work force.

At the GS 9–18 levels, the Government has failed to provide job equality to the Spanish speaking by 87 percent, and in top grade positions by 97 percent, or virtual exclusion.

The California situation is further dramatized by the level of exclusion within various agencies. Agriculture, HUD, Interior, NASA, Transportation and Commerce failed by 75 to 100 percent to provide jobs on parity with the State's Spanish-speaking population. Air Force, Army, Navy, Defense Supply Agency, Justice, GSA, HEW, Post Office, Treasury, Veterans' Administration, and Civil Service Commission failed by 50 to 75 percent.

Agencies failing by 50 percent or more:

Agency	Overall Percent of Spanish speaking	Percent of Spanish speaking in top levels
Transportation	2.1	0.7
Interior	2.4	0
Selective Service	2.8	0
Commerce	2.9	0
Agriculture	2.9	0
NASA	3.3	2.0
GAO	3.7	0
HUD	3.8	4.6
Civil Service	5.4	0
Air Force	5.5	0
Navy	5.7	.4
HEW	5.8	1.2
Post Office	6.6	2.0
General Services Administration	7.2	0
Defense Supply Agency	7.9	0

LOS ANGELES COUNTY

A similar discriminatory pattern exists in Los Angeles County, where Mexican Americans and other Spanish-speaking groups make up of 18 percent of the county's population but only 6.2 percent of local Federal jobs. It is estimated that the Government would have to provide 7,844 more jobs for the Spanish speaking to achieve parity.

At the GS 9–18 levels, the Government has failed by 85 percent, and in executive positions by 100 percent, or absolute exclusion of the Spanish speaking.

FEDERAL SUIT

These facts document the failure of the Federal Government to immediately end the serious inequity and exclusion of the Spanish speaking from Federal jobs. It was for this reason that I joined with the National League of United Latin American Citizens and the American GI Forum in suing the Federal Government for job discrimination.

The suit, filed in the District of Columbia Federal Court on October 22, 1971, seeks an immediate 90-day freeze on Federal hiring and promotions while the Government prepares a plan to end the exclusion of the Spanish speaking from Federal employment. It seeks an order requiring the Government to provide employment to the Spanish speaking in line with their percentage of the population in each State no later than January 1, 1974. It seeks to modify the current Federal Service Entrance and Postal Examinations as barriers to equal employment and seriously unreliable in measuring specific job skills and individual talent.

The constitutional grounds for this suit are based on, first, the due process clause of the fifth amendment, second, the Civil Rights Act of 1964, third, various United States Codes dealing with equal employment in the Federal Government, fourth, Executive Order 11478, issued on August 8, 1969 and fifth, the promulgation of the 16-point program on November 5, 1970.

Regarding the status of the suit, in late February this year the Government filed a motion to dismiss on technical grounds of standing and failure of plaintiffs to exhaust administrative remedies. Our lawyers are now preparing a response to that motion, and we hope to proceed with court hearings in the next few months.

Mr. Speaker, the evidence I have presented today shows the lack of serious commitment by this Government to Spanish-speaking employment. Unless the Government acts immediately to reverse its pattern of exclusion, there seems to be little hope that the Spanish speaking will achieve equal employment within our own lifetime, or even that of our younger generation.

NATIONAL WEEK OF CONCERN

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, by a joint resolution of Congress, the week of March 26 has been declared a National Week of Concern for Prisoners of War and Missing in Action. I urge all Americans to join in this commemorative week. Special prayers for their well-being and safe return would be especially appropriate on Sunday, March 26, the National Day of Prayer.

You will recall that the resolution that we passed, stated the purposes of this week of concern is to proclaim and "to demonstrate the support and concern of the people of the United States for the more than 1,500 Americans listed as prisoners of war or missing in action in Southeast Asia, and to forcefully protest the inhumane treatment these men are receiving—at the hands of the North Vietnamese—in violation of the Geneva Convention."

There are approximately 1,140 men considered to be missing in action by the

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Defense Department as of January 1, 1972, and approximately 475 of our fine young men, known to be prisoners of war and held by the enemy in Southeast Asia. All efforts to bring about their release have failed.

For many wives, sisters, moms and dads, the agony continues day after day, year after year as they await some word from their loved ones, not knowing their whereabouts. Sixty-seven families in Indiana await the return of their husbands, brothers, or sons.

During this special week of concern, let us remember these great men in our prayers and in our deliberations here in the U.S. Congress.

BYELORUSSIAN INDEPENDENCE DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KEMP. Mr. Speaker, on March 25, 1918, the Byelorussian Democratic Republic was proclaimed in that country's ancient capital of Minsk. This year marks the 54th anniversary of Byelorussian independence and I feel privileged to join in the commemoration of that proud day.

The Byelorussians had long aspired to freedom and the right to govern their country without foreign control. This brave people, who had their own sovereign and independent state before the birth of the Russian empire, had suffered under the rule of the czars for several centuries. The Russian revolution provided the long-awaited opportunity for the Byelorussians and they proclaimed their independence in Minsk on March 25, 1918.

Unfortunately their freedom was to be short-lived, for in December of that same year the Lenin government sent troops into the country and dispersed the first Byelorussian Congress. Since that time the Byelorussians have lived in bondage, once again awaiting for the day when they can regain their freedom.

We live in a nation which also declared independence in the face of great odds and I feel that we share a common bond with this courageous people. It is right what we who have gained the blessing of liberty should speak out for our oppressed brothers and continue to remind the world that they live in oppression.

On this, the anniversary of their independence, I join with freedom-loving peoples everywhere in pledging support to the Byelorussians in their efforts to once again obtain the right to control their own national destiny.

Mr. Speaker, I include at this time a proclamation made by Gov. Nelson Rockefeller which pays tribute to the Byelorussian people and Americans of Byelorussian origin. I heartily agree with the sentiments which it expresses:

PROCLAMATION

Byelorussia, sometimes called "White Russia," is a land populated by more than eight million people, located at the western border of the Soviet Union.

Fifty-four years ago this March twenty-fifth, for a brief period of history, it existed as an independent state, with Minsk as its capital. Nine months after its birth, the new nation was absorbed into the Soviet Union.

Many Byelorussians, however, found refuge in the United States; and for them, the memory of those nine months of national independence remains as a high aspiration.

In New York State, many of the refugees live among us, where they make important contributions to our economy and society. It is fitting that we pay our respects to them on this anniversary of their homeland's independence.

Now, therefore, I, Nelson A. Rockefeller, Governor of the State of New York, do hereby proclaim March 25, 1972, as Byelorussian Independence Day in New York State.

WOMEN AND UNEMPLOYMENT

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I insert in the RECORD a speech by Dr. Carolyn Shaw Bell, professor of economics at Wellesley, delivered at a conference on national priorities and the Federal economic program held in Washington, D.C. The remarks of Dr. Bell are directed at the seriousness of unemployment among women and the trend to minimize its importance in the total unemployment rate. The speech follows:

REMARKS BY DR. CAROLYN SHAW BELL

The cruelest, and most significant, expression of discrimination against women which exists in Federal economic policy goes far beyond the program of this conference. On your agenda, this meeting at 11:30 on Friday discusses merely one of several topics of domestic concern—the social priorities mentioned yesterday as alternatives to the defense budget. You have the printed program: Today we consider health, education, women, employment, and the cities, each of these a problem area in our economy. Each of these merits a higher priority, more attention, than that given by our current economic policy. But I say that discrimination against women is *not* one item on a program like today's, or one subject for a conference like this. It is not a matter of equal opportunity, of jobs or graduates schools or management positions. The fundamental economic policy of this administration, its programs for higher employment and price stability, reflect discrimination against women. Furthermore, most critics of this economic policy share the same discriminatory views. If the policies mapped out for 1972 and beyond go into effect, they will add a new burden of economic discrimination against women. I mean this to be as earnest, and total, a condemnation as I can make. For it is high time to recognize this basic discrimination and to rebut the policy pronouncements that have been made, in recent weeks, which denigrate the contribution of women to the economy.

This administration has been concerned—and well it should be—with the twin problems of inflation and unemployment. It is now attempting to solve the problem of unemployment by redefining it. It will make unemployment go away, as it has done the war in Vietnam, by calling it by a different name. It will make unemployment go away by neglecting the women who are unemployed, since they are not, really, unemployed . . . or at least they don't matter as much as the men. We are asked not to be concerned with the five million people out of work because after all over forty percent of them are women.

Who offers this argument? Two weeks ago, Secretary Connally testified before the Joint Economic Committee of Congress in this city. Two leading papers quoted him as saying that a rate of unemployment of six percent, is not critical as it was during the thirties, the forties, and the fifties. Then, many of the people who were unemployed were homeowners; today, many of the people without work are women. This particular juxtaposition—women versus homeowners—escapes me. Are homeowners more important than renters? If a breadwinner cannot pay the rent because there's no income from a job, is this less important than not meeting the mortgage payment? Or are homeowners more important than women? Are renters less important than women? What about women who help pay the rent? Or the mortgage?

But Secretary Connally's testimony occurred on the same day the famous Liebling study of unemployment was leaked to the press. It too, like the Secretary of the Treasury, warns that today's unemployment rates cannot be compared with those of earlier years, because today's labor force contains so many more women and teenagers. It recommends that we get used to a high level of unemployment—they're only women. A later commentary suggests that, politically, the unemployed teenagers won't matter for much anyway, come the November elections, and another points out that, like it or not, in economic terms people are not equal . . . or to rephrase George Orwell, we may all be equal but as far as the GNP is concerned, some of us, e.g. men, are more equal than others.

The unequal ones consist of teen-agers as well as women, and much of my criticism provides a defense of young people as well as women. For Secretary Connally is correct in observing that a social change has occurred, so that we face more than a "simple" statistical problem. But rather than deal with the social problem, it is proposed to revise the statistics. The council of economic advisers gives one example of how to do this. Looking back to those Halcyon days when the labor force didn't contain as many women and teen-agers as today, the council of economic advisers, in its annual report, obligingly recomputes the rate of unemployment. If, they suggested, you pretend that the labor force today was 70 percent male and only 30 percent female, the way it used to be, then you could see that in fact the economic policies followed by the administration have succeed. If it weren't for all those troublesome women the unemployment rate today would be very close to the goal of 4%.

Geoffrey Moore, commissioner of the Bureau of Labor Statistics, in a *Wall Street Journal* article published a month ago, explained patiently that focusing on unemployment could lead to overlooking the importance of employment, and furthermore that some kinds of unemployment mattered much more than other kinds. Let us look, he urged, at the unemployment rate for married men or heads of households, for those who have lost their jobs or who are seeking full time work. But Commissioner Moore's article contained no information at all about the unemployment of women, who *are* heads of households, nor any reference to the needs of women, who *have* lost their jobs, nor any indication of the number of women, who *are* seeking fulltime work. And his message that the unemployment rate for *married men* was most important was heartily seconded, by Senator Proxmire of Wisconsin, who flatly equates the role of family breadwinner with the classification of married men.

The people I have named, like others identified only as "a well-known private economist" or "a government spokesman" have not bothered to detail the reasoning behind their statement. We have all accepted their reasoning: We all know—even though it may not be popular with the Egalitarians—what prompts these conclusions. If pressed, the spokesmen will point out what they consider the brutal truths—that women work intermittently, dropping in and out of the labor force, switching jobs during their lifetime, being much less stable workers than men. They emphasize that women work parttime, so obviously they don't contribute as much to total employment as men; so obviously their *un*employment doesn't count as much as that of men. And finally, they say, women's work and women's earnings are peripheral, for, in the last analysis, women are not responsible for supporting a family—as are men. If the spokesmen would voice these so-called truths, this rationale for minimizing the impact of women's unemployment, we would all be better off. For every single one of these notions is false. The reasoning implied by the statements of Secretary Connally, by Commissioner Moore, by Mr. Liebling and all of the unnamed economists whose quotations have been bandied about—they are all fallacious.

Let me start with the Council of Economic Advisers. In their annual report to the President, they present the argument that, if today's labor force paralleled that of 1956, today's rate of unemployment would be close to 4½ per cent instead of 6%. It's mostly, they say, because women account for almost 40% of the labor force that we have a 6% rate of unemployed: it's really a misleading figure. Over the past fifteen years, the composition of the labor force has changed indeed. But it has changed to make the unemployment figures for women *more* significant, not less so. A labor force like that of 1956 does not, in fact, exist today. Today, a much smaller proportion of adult men is at work than fifteen years ago. Since the early fifties labor force *participation* rates among males have steadily declined. Every age group, both whites and blacks, show a smaller percentage of men in the labor force than at an earlier time. Over the same period of time, of course, real national output has almost doubled. If women had *not* gone to work in rising numbers, if we *did* have the same composition of the labor force that we had in 1956, it isn't unemployment that would be smaller, it's total national output. The people who recalculated the labor force, to get unemployment down, conveniently forgot that such a recalculation would also, inevitably, result in a smaller national product and national income. The rise in labor power represents the efforts of women, particularly married women, and they have *accounted for a major part of* the rise in total national output over the past twenty years. Since 1950, the labor force has increased by about seven million men and by about thirteen million women.

Let me digress here to squash one myth—the notion that most women are part-time, peripheral workers. Among adults, that is women over 20 years of age, four out of five are fulltime workers. For younger people part-time male workers outnumber part-time females. The thirteen million additional women workers, therefore, didn't mean replacing one good man with two half-time women. The young woman today faces a worklife expectancy of 20-30 years. You remember I quoted Commissioner Moore, who suggested that we pay attention to unemployment rates among people who are seeking fulltime work. I would like to ask the Bureau of Labor statistics—why not publicize these figures? Why not release, from the fine print of a little known statistical publication, the facts about the number of women seeking full-time jobs? Instead of harping on the fact that 44 per cent of the currently unemployed adults are women, why not emphasize that eighty percent of the unemployed women are looking for full time jobs? While the unemployment rate for men, seeking full time work, dipped to 4% in January of this year, the rate for women seeking fulltime jobs was 5.7%—this, like any unemployment figure for women, can be guaranteed to be significantly higher than for men.

But to get back to how the labor force has changed, since 1956. One result of the increasing number of women, of course, is that married men account for a smaller and smaller percentage of the *total* labor force—for over a decade they've made up less than half of total employment. How true is it, as an unnamed "government spokesman" claimed on Saturday of last week, that a drop in joblessness among this group is truly "impressive"? This economist described adult married men, and I quote, as "the prime economic group in the sense that they're the breadwinners." But over half the married men in the country had wives who worked at some time during 1971. In what sense *are* married men *the* breadwinners"? Almost eight million wives earned between $4,000 and $7,000 in 1970, and two-thirds of them were married to men who earned less than $10,000. Working wives contribute over 25 per cent of the total family income in the country. Whether or not they are ignored as "breadwinners" by statisticians and government spokesmen, these women are not ignored by their husbands and children. Women, like men, work to pay the bills, to earn income for their families.

Their incomes can keep a family from grinding poverty or can spell the difference between moderate comfort and just scraping by. Sterling Sonderlin, economics editor of the *Wall Street Journal*, argues that married men respond most quickly to pressures on wages—how far is this true if, in fact, their wages do *not* account for total family income, because of the earnings of their wives? The same people who point out the large number of married women in the labor force and object that they distort the unemployment figures ignore these same women when it comes to unemployment figures for married men.

Let me turn next to the charge that women's unemployment represents, more often than for men, a re-entry into the labor force and therefore it isn't as important as unemployment among those who've lost their previous jobs. (There is, throughout all these arguments, an undercurrent distressingly familiar to those of us who can remember the days of the thirties, when women were denied jobs on the grounds that men "needed" them more, no matter what the facts of the individual case. There's also a tinge of the famous Marxist Doctrine—to each according to his needs—rather than the Puritan American Doctrine, to each according to the work done. It would be strange indeed to find women's unemployment made light of because of Marxist infiltration of the treasury and the Bureau of Labor statistics.) It is true, of course, that more women leave and enter the labor force more frequently than men. But the numbers involved are much smaller than is generally supposed. Nor does it follow that the effect on overall employment or unemployment should be minimized. As Senator Proxmire has pointed out, the number of unemployed who were laid off or fired has been steadily increasing since 1969. What he didn't point out, relying instead on the re-entry myth, is that while two-thirds of the unemployed adult men, in January of this year, fall into this category, half of the unemployed women do so also. Most importantly, from the point of view of welfare, or to quote Mr. Sonderlin "economic hardship", employment and unemployment determine earnings, they count in terms of dollars. The impact on the family income is the same, if a woman is unemployed because she's been laid off, or if she's unemployed because she's re-entering the labor force. It's her family's income that is affected. While I'm at it, however, let me squash another myth which suggests that women change jobs and are absent more frequently than men. Data for comparable types of employment show that job turnover is significantly higher for men than women, while absenteeism for illness is fractionally higher for women than for men. When men are sick, however, they stay out of work for longer than do women—and in either case the differences are not statistically significant.

We have, therefore, abundant evidence of the massive contribution of labor power, to the American economy, by American women—a rising source of production over the past 20 years, especially in view of the declining input from men, in proportion to their numbers. But we may still cherish a nagging belief that, somehow women are peripheral to the economic structure, that we really could go back to the labor force composition of 1956 and be better off. Because, after all, married men do form some kind of special group—they do have wives and families to support. What about this?

Both Commissioner Moore and Senator Proxmire hint at the correct interpretation, though neither one gives it the proper emphasis. Let us, says Geoffrey Moore, look at unemployment rates for those whose unemployed status is not likely to be in doubt—I quote, "Married men or heads of households." Senator Proxmire is not quite so sure; his letter commenting on Mr. Moore's position equates married men with heads of household. In fact, there are thirteen million working women in this country without husbands. There are six million households who depend solely on a woman for their means of support. (Most of these women, by the way, are in the labor force, and most of them are poor.) There are more than twenty million people in this country—half of them dependent children—who look upon a woman as "breadwinner"—and for such families unemployment poses as stark a problem of economic hardship as can be imagined.

We have here to distinguish two types of families, those with both husband and wife and those with a single household head, if we are to understand the term "breadwinner." Married men in the labor force, employed or not, cannot with any degree of certainty be identified as breadwinners. For when the "married man" loses his chance at overtime work, or gets laid off, he does have a wife who can earn—even if it is only a part-time job.

The single men with families to support of course share the same economic burden as the single women—such people are in fact the sole support of the family. But only one million families like this depend solely on a man, compared to almost six million dependent on a woman. Furthermore, this figure understates the actual number of families for whom a woman is breadwinner. The term head of household always refers to the husband, if he is present in a family. There is some unknown number of households, then, listed with males as the heads, who in fact rely on women's earnings because the husband is ill or incapacitated. Such women, and those without husbands have no partner to help out—even by taking care of the children so she can work nights.

The woman who is sole support of her family—like most working women—has a limited choice among low-paying jobs. The fulltime, year round worker who is a woman earns about 58% of what a man working fulltime, year around, receives. The woman who works fulltime finds, when business drops off, that she is much more likely than the man to laid off, to work a short week,

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to have overtime reduced. Involuntary part-time employment, as it's called technically, occurs about twice as frequently among women workers as among men. Even in occupations where women outnumber men, like the clerical and sales positions commonly regarded as women's work, five times as many women as men face involuntary part-time, and the reduced income which results. For the woman who is sole support of her family, therefore, employment is vitally urgent. Yet we are told to pay attention only to the jobless rate for married men, we are told to adjust to the fact that overall employment rates will have to be high if women continue to make up a large fraction of the labor force.

Why don't we, instead, collect and publish data on employment and unemployment by those who are the breadwinners, the sole support of their families? The bureau of labor statistics, since the early fifties, has printed a neat little graph of four major employment indicators. I suggest that a major revision is due. To start with, instead of the unemployment rate for married men—half of whom depend on their wives for some family support—let's have the unemployment rate for heads of households, male and female. Let's rescue from the fine print of BLS data the facts that unemployment among women who do support their families alone, runs almost twice as high as unemployment among married men, who may have help from their wives. Let's have employment data in numbers instead of percentages, so we know that among adults, part-time workers consist of six and one-half million women and two and one-half million men. Let's publicize the unemployment rate among full time workers, both male and female. (For women, it's a stubborn 5.7%, for less than 4%.) Let's do away with the "might have been" computations of unemployment rates cooked up by the President's Council of Economic Advisers—unless we can be brutally honest and admit the other half of the "might have been." Let's not classify people by sex, when it comes to employment and income. Let's pretend the worker is worth the hire, and adopt an economic policy to provide work and wages for as many people as want to be employed.

The administration discriminates against women, in its presentation of employment data. And the use of these data not only misleads the public, which is bad enough, but leads inevitably to inappropriate economic policy—fiscal and monetary and manpower programs which are doomed to failure because they do not come to grips with women's role in the economy.

GEORGE TODT: EDITORIAL COLUMNIST

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHMITZ. Mr. Speaker, in a time when so many commentators in our communications media seem to be dedicated to tearing down and belittling America and perverting freedom into license, the efforts of those writers who follow a constructive course are particularly welcome. We are fortunate to have such a man in southern California in the person of George Todt, editorial columnist, commentator and lecturer whose column appears frequently in the Los Angeles Herald-Examiner and other area newspapers. Mr. Todt was elected to an unprecedented four successive terms as president of the California Society of the Sons of the American Revolution, and then served as national trustee for California. He has been president and chairman of the board of the American Institute of Fine Arts and now works with the American Center for Education. In World War II he was a combat infantry officer.

I would like to call to your particular attention excerpts from the following excellent examples of Mr. Todt's work:

DISPELS MYTHS ABOUT RED CHINA

(By George Todt)

"The peoples of Asia, Africa and Latin America can destroy the United States piece by piece, some striking at its head, others at its feet."—Premier Chou En-Lai

Seldom have I heard a more penetrating or learned discussion of the real Red China than in a fabulous address by Lt. Gen. Victor H. Krulak USMC (ret), president of Copley Newa Service, as he was guest speaker at the national defense banquet of the California Society of the Daughters of the American Revolution at Disneylnad Hotel. . . .

SOUNDS TRUE

General Krulak is precisely on target with his facts. In his discussion of China he went far beneath the surface of the flimsy wishful thinking of idealists and propagandists who have been regaling the public lately with educated guesswork on Maoism.

The tough down-to-earth assessment of the present Chinese situation from General Krulak rang true and came like a breath of clean, fresh air after reading and listening to millions of shallow, wishful words.

I believe he told it like it really is as you may judge from a few random excerpts from my notes.

LACK FRIENDSHIP

"There are four converging stories on Red China," said the knowledgeable newsman. "First, the propaganda myth like the Maoists tell it; second, the truth as it really is; third, the death struggle at the top in Peking; and, fourth, the setting in which it is all played—China's contest with Russia for world Communist leadership with us as their synthetic ally.

"All put together, the combined story promises little immediate benefit for the United States of America because real friendship with us does not fit anywhere in the pattern of the current Chinese leadership.

VISITS FAR EAST

"This group hates us, aspires to use us and ultimately to enslave us. And it doesn't hesitate to say so. It is their party policy and daily preachment."

The former high ranking Marine general has recently returned from a trip to the Far East in a thorough fact-finding mission of his own.

He thinks much of what we saw on television during the President's recent visit to Peking was staged for American consumption—a rosy story of cheering happy communes, busy smiling workers, roaring factories, abundant markets and fertile fields, or military prowess and modernization.

But General Krulak pointed out telling that this is really the story of how the Maoists want things to be in China some day, not now. . . .

The general showed accurately that most of the Chinese are quite disillusioned with Maoism and that China needs the United States far more than we need the Red giant. He says we should play hard to get.

FAVORS HARD LINE

Instead of merely bailing out the floundering Peking Maoists as we did the Soviet Union in 1932 when we recognized that latter nation—when it, too, was on the ropes as events later developed—why not ask and get a proper "quid pro quo" from Mao if we give him a hand now?

General Krulak said he would advocate a hard line with the Reds. That is the only one they would respect because of the character of the men with which we are dealing on the world stage now.

"Chou En-lai is not the Duke of Norfolk," was the way Krulak put it to his audience. "He is a charlatan, a brigand and a cut-throat who get where he is literally over the bloodied bodies of his contemporaries. He will understand straight and strong words best, words like these:

"We are not interested in your ideology or in your theories of government. What we are interested in is peace brought about by mutual concession, and specifically, here is what we want you to do.

"1—Leave your neighbors alone. Stop your imperialist aggression in Thailand, Laos, Cambodia, Burma and the Philippines.

"2—Cease your active support of subversive revolution in Indo-China.

"3—Stop your export of Marxist violence to Africa, the Middle East and Latin America.

"4—Stop flooding the world with raw and processed opium.

"5—Stop polluting the atmosphere with your nuclear tests.

"6—Stop your villification of our country and all we stand for.

"Until you take these actions, we will not be convinced that you really want a reasonable or dignified relationship with us."

The general said that, with luck, such a strong position—if we take a resolute stand and don't give in—just might bring peace to our troubled world. And that is what President Nixon says is the name of the game.

PATRIOTISM OF DAR LAUDED

(By George Todt)

"Where there is no vision, the people perish."—Proverbs 29:18 (DAR Theme)

Many pretend to the title of "patriot" and some have earned it in actual practice. In the latter category are the hard-working and much-to-be-esteemed National Society of the Daughters of the American Revolution.

The DAR was founded in 1890, numbers 193,000 members today.

Consistently and for more than 80 years these feminine patriots in American everyday life have devoted themselves unselfishly and with untold courage to the preservation of the best in our ideals and culture.

Forces of reactionary subversion and lightweights in loyalty have railed against the Daughters for vague, undefined reasons over the decades. The patriotic ladies treat such rantings with a majestic "So what?"

CARRIES LITTLE WEIGHT

Their commendable attitude is that they could hardly care less if their members are rich or poor, as long as they are good Americans.

The size of the check their husbands can write carries little weight in the pecking order. What counts with the DAR are their good works.

They are working, not professional patriots.

Recently Mrs. Todt and I were invited by our friends, Maj. Gen. Leroy H. Watson USA (ret) and Mrs. Watson of Beverly Hills to be their guests at the 64th annual conference of the California Society of the DAR at the Disneyland Hotel in Anaheim.

General Watson, a former mayor of Beverly Hills, was a classmate of Gen. Dwight D. Eisenhower and 53 other general officers in the famous West Point Class of '15, which included also such other military greats as Omar Bradley and George Patton Jr.

Lovely and gracious Bea Watson is a former regent of her DAR chapter.

Before the banquet for the DAR president-general that night, Mrs. Watson was hostess at a reception in her suite for her friends.

BIG BRASS PRESENT

Just about all the big brass in the DAR, with their husbands and friends, showed up at the event, including the president-general who is Mrs. Donald Spicer of San Diego—the first women on the West Coast to attain the highest office of this old organization.

Eleanor Washington Sullivan Spicer is the widow of a U.S. Marine colonel and a rare combination of beauty, intelligence and charm. She is a far cry from a "little old lady in tennis shoes."

MET MRS. SPICER

We had a chance to talk together a bit at the Watson reception and later at the banquet, where the gifted guest speaker was a remarkable former fighting marine: Lt. Gen. Victor H. Krulak USMC (ret), now president of the Copley News Service. But he is another story, or another column.

I had met Mrs. Spicer some years ago when she was the California state regent of the DAR and I had been state president of the SAR. The Sons and Daughters are on the most friendly terms, even though our organizations are independent of one another.

Our aims and background largely coincide but, of course, the Daughters have 10 times as many members as we do with a correspondingly much larger program. Still, we have some brownie points of our own.

RUN GOVERNMENT

"What are you fellows in the SAR doing these days?," asked the president-general. So I told her, briefly.

"A few of them (such as Sens. Barry Goldwater, Strom Thurmond, Congressman John Ashbrook and about 50 others on Capitol Hill) are trying to help run the government," I said.

"Usually, we have close to 100 in the House and Senate, but our numbers have fallen off a bit lately."

The SAR is justifiably proud of the fact that nine Presidents of the United States have served as members of this organization since its founding in 1889.

Among them have been Theodore Roosevelt, Herbert Hoover, Harry S. Truman, Dwight D. Eisenhower and Lydon B. Johnson. Also more than 1000 senators, congressman, justices, governors, mayors and other noteworthy citizens who rendered great service to their city, state or nation have belonged.

At the banquet in her honor, the president-general gave a lucid, hard-hitting speech that was right on target. In addition to numerous other accomplishments, she is a gifted speaker and completely down-to-earth in her language and good manners. To listen to her is a treat.

URGES REFLECTION

The thinking of Mrs. Spicer was superior uniformly throughout her thought-provoking address. Let these few excerpts serve as an example:

"A little reflection will convince any reasonable person that, without patriotism, our democratic form of government is doomed," she said. Without patriotism, we have no defense against aggression from the outside—or from upheavals, subversion and revolution from within.

"If the majority of Americans are not willing to defend their form of government in every way, its time is at hand. We shall no longer be free. Or some other nation will so intimidate us that it will reap the benefit of our achievements over many generations.

"Without patriotism there will be no freedom in the United States, including freedom of the press. Now, some use that freedom (of the press) to decry patriotism and other traditional virtues. They attack the military establishment and the need for adequate national defense.

"Basically, it comes down to those who feel and believe that military preparedness is absolutely vital to our survival—versus those who sniff at the idea that Communist nations will take advantage of us if they secure the upper hand. The record is plain to be seen."

For active patriotism, the DAR and Eleanor Spicer are hard to equal.

VALUE OF CANAL TO UNITED STATES CITED

(By George Todt)

"As an artery of marine transportation, the Panama Canal enterprise became, and still is, a part of the coastline belonging to the United States. As such, its exclusive control by the United States is necessary for national defense."—Sen. Strom Thurmond (R-S.C.)

Is there any valid or logical reason why the United States ought to give up the Panama Canal, its legitimate property, to an unstable and demagogic Panamanian government today or any other time?

"It is discouraging to report that negotiations are once again under way with Panama," wrote Sen. Thurmond recently, "even though the present government is a revolutionary regime with little prospect of stability and with no procedures for ratifying a new treaty."

Let's go back into history, prior to the time our Panama Canal treaty was ratified with Panama on Nov. 18, 1903 during the administration of President Theodore Roosevelt.

Prior to that time, Panama had been a province of Colombia and groaned, ostensibly, under oppression by the latter. Gaining our sympathy, we helped Panama liberate that province of Colombia and it became a nation.

PANAMA SIGNED

The grateful Panamanians of that time, recognizing the vast contributions of the United States to their much-desired independence, were pleased, willing and eager to sign the mutual treaty between our two countries.

Not only friendship in that long-past day, but also enlightened self-interest prompted Panama to recognize the progress which a Panama Canal could bring to that backward area in the future.

Consequently she signed the treaty with alacrity. None had their arms twisted in the process.

In the treaty, Panama granted the United States exclusive sovereign powers over the Canal Zone in perpetuity for the purpose of constructing, maintaining, operating, sanitating and protecting the Canal Zone.

This was no steal but a legal and mutually agreed-upon international contract. The United States gave more than its share of "quid pro quo." Without our desired and needed assistance, the Panamanians today would still be a backward province ground under the heel of Colombia. This they have conveniently forgotten.

PANAMA GAINS

Since the treaty was signed, the American taxpayers have invested more than $5,000,000,000 in the Panama Canal enterprise, including its defense.

Benefits to Panama have been sizeable and all out of proportion to its contribution—which has been little more than to receive a split of the profits earned by U.S. initiative and enterprise. And yell constantly for more.

Much of the trouble in recent years between the United States and Panama has been inspired by left wing university students and other agitators. This has been doubtless egged on and manipulated by agitprops from the Soviet Union whose undercover mission is simply to stir up continuous trouble.

The real issue at Panama is not United States sovereignty over the Canal Zone versus Panamanian—but U.S. control versus Soviet domination.

Loss of the Panama Canal to the USSR (remember Cuba?) which could result from the faulty planning concepts of certain elements of our own Department of State in recent years, would be a genuine threat to the entire free world.

DANGER SEEN

It seems incredible to many of our citizens in the United States that some of our officials could even dream of giving away such a strategic advantage as to be found in the Canal Zone—much less give away all the billions our taxpayers have invested there since the turn of the century.

Transfer of the Canal Zone to Panama would deprive our nation and the free world of significant military and economic protection. Most likely we could not even use it in time of hostilities or international crisis if antagonistic regime were in power there.

Actually, whoever controls the Canal Zone is in a position to bring almost unbearable pressure on all nations utilizing the Canal. Particularly is this true with reference to South American countries whose merchandise must use the vital waterway to reach U.S. and European markets.

Today, Panama lives under a rule of terror and dictatorship.

In contrast, the U.S. Canal Zone is a vital island of freedom in a sea of demagoguery and totalitarianism. Why turn the clock back?

WAR RECALLED

If we are so insensitive to the lessons of history that we might give away the Canal Zone to an unstable Panamanian regime, we will only deserve what will most likely be coming to us. Those who recall World War II times will remember that the free world only avoided Axis political domination of Panama by the narrowest of margins.

Also, there is the unfortunate lesson of Egypt staring us in the face. Those who are reasonable, lucid and logical must recall the monumental trouble which has resulted in the Mideast since this unstable nation controlled a key international waterway. Shall we duplicate this bitter experience again?

Those alert citizens who prefer that we do not do so ought to express their concern to Rep. John M. Murphy (D-N.Y.), the distinguished chairman of the House Panama Canal subcommittee, care of House of Representatives, Washington, D.C., 20515. Let him have the benefit of your honest opinions.

On a matter of such transcending importance to the United States as the Panama Canal, let the "number one architect" of American foreign policy—the President of the United States—have the benefit of your responsible thought, too. He needs to know the pulse of the public.

IOWA CITY VETERANS' ADMINISTRATION HOSPITAL OBSERVES 20TH ANNIVERSARY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SCHWENGEL. Mr. Speaker, the Iowa City, Iowa, Veterans' Administration hospital celebrated its 20 anniversary on March 24. This hospital has provided important medical care for our veterans during the past two decades and its accomplishments deserve unqualified praise.

Donald E. Johnson, Administrator of the Veterans' Administration, delivered a special address at this commemoration. His remarks are relevant not only to the

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Iowa City hospital, but to all our fine veterans hospitals across the Nation. I would like to share his remarks with you:

IOWA CITY VETERANS' ADMINISTRATION HOSPITAL'S 20TH ANNIVERSARY OBSERVANCE

Congressman Schwengel . . . Dean Eckstein . . . Dr. Hardin . . . Department Commander Renaud . . . distinguished guests . . . Mr. Brown, Mr. Haag, Dr. Eckhardt, and all of my VA associates:

It is a real pleasure to join you in this observance of the 20th Anniversary of our Iowa City Veterans Administration Hospital.

To come home to Iowa always give me a thrill. But if I appear—on this occasion—to be more enthusiastic than usual, I would attribute it to the intense feeling of pride I have in being a part of this celebration. It is, of course, a high honor to be associated with so great an institution of healing and learning as the Iowa City Veterans Hospital, and to be the principal speaker as we recognize a significant milestone in its history.

The source of my pride, however, is in the main a matter of personal history. For, in my many years as a volunteer veterans' service officer—representing my American Legion Post in West Branch—I witnessed the birth, the growth, and the maturation of this hospital. Throughout that period, it was to this hospital that I turned for assistance whenever I was to help a deserving veteran get needed medical care. And, no matter how often I asked for such help, I always received it—promptly, courteously, and—what is even more important—with sympathetic readiness on the part of VA employees here.

So, in my role as a service officer, I came to think of this VA hospital as "my hospital;" a place to which I could turn to get a job done the way it ought to be done. Now, in my role as Administrator of Veterans Affairs, I can tell you—sincerely—I still think the same way about the Iowa City Veterans Hospital.

Whatever our involvement with this historic event . . . whether we are met today as VA employees . . . as VA hospital volunteers . . . or as VA's valued friends and neighbors here in the heartland of America . . . we know that this Iowa City VA Hospital is more than a multi-million dollar, 20-year-old structure of concrete and glass and steel.

And it is more than the $13-million which VA spends each year to operate this hospital . . . significant as this expenditure is to the economy of Iowa City and the Hawkeye State.

What gives life and meaning to this hospital is *people*.

And by people . . . I mean the hospital staff . . . the "Deans Committee" University of Iowa, with which this hospital is affiliated . . . the men and women, and teenagers, too, who are the Veterans Administration Voluntary Service . . . and the officials and citizens of this great community.

There are approximately 950 doctors, dentists, nurses, medical specialists, and other employees on the Iowa City VA Hospital staff.

These highly skilled, dedicated, and compassionate men and women give more than their time and talent to ensure that an average of nearly 5,700 inpatients each year . . . in addition to the veterans treated during more than 33,0000 outpatient visits annually . . . receive the finest medical care in the world.

They also give their heart and their concern . . . because they know and appreciate how much these veterans have given to America.

In still other essential ways . . . of course . . . Fred Brown and his associates . . . and their predecessors . . . have been privileged to make . . . and keep . . . this hospital a vital part of the entire medical community.

Since 1952 . . . 110,000 veterans have been admitted for care and treatment . . . while hundreds of thousands of outpatient visits were made by veterans in the 57 Iowa and Illinois counties served by this hospital.

Contributing importantly to the high quality of inpatient and outpatient care which they have received has been the harmonious, effective, and . . . I sincerely believe . . . the mutually beneficial affiliation of our Iowa City VA Hospital with the University of Iowa, College of Medicine, Dentistry, Nursing, and other departments.

We are very proud of this affiliation. We rely upon it—as well as upon our superb staff—to assure that this VA hospital will continue to play a substantial role in the furtherance of the essential triad of modern medicine: patient care . . . research . . . education. And, that it will do so under the very highest of standards.

Through this affiliation, our Iowa City VA Hospital is today . . . and has been from its beginning . . . a major source of training of needed medical personnel.

Many of the doctors, dentists, nurses, and other medical specialists . . . who received part of their training here . . . have served . . . or are now serving . . . as valued members of this hospital's staff . . . and this medical community.

All of these former trainees . . . of course . . . wherever they may be serving . . . are helping to meet the health care needs of all of our people.

Further enhancing the availability of top quality, professional health care to all of Iowa City's citizens . . . not just this hospital's patients . . . have been the exchange and sharing programs that characterize the close cooperation between our VA hospital and your medical community.

Today . . . these programs . . . which were little more than a commendable ideal just a few years ago . . . are not only a mutually beneficial reality . . . here in Iowa City . . . and in other cooperating VA hospital-medical communities throughout America . . . but are medicine's imperative of tomorrow.

I'm sure that most of you know that this hospital is part of a system of 166 hospitals, making this system the largest—as well as the finest—hospital system throughout the free world. I'm also sure that each of you know that the primary mission of the VA hospital system is—today, as it has always been—to provide America's ill and disabled and aging veterans with the highest quality care possible.

I can . . . and do . . . tell you that this mission is being carried out . . . fully, effectively, and compassionately. Further . . . I can . . . and do . . . assure you that this mission will be carried out . . . even more effectively and compassionately . . . and for increasing thousands of veterans . . . in the years ahead.

As Administrator of Veterans Affairs . . . I can state this fact . . . and give you this assurance . . . because of my awareness of VA medicine's on-going, record-setting programs . . . and because of my total, personal commitment to the realization of VA medicine's essential goals . . . now and in the future.

But I also come before you today as the representative of the President of the United States.

Repeatedly . . . President Nixon has expressed his strong, personal conviction that this Nation has a special obligation to our veterans . . . especially our service-disabled veterans.

He has also resolved that this Nation shall meet its obligation to our veterans . . . especially our service-disabled.

I know, too, that all present today . . . whatever our differences on other issues . . . fully share President Nixon's conviction and resolve concerning America's veterans, their dependents and survivors.

Patrick Henry gave us wise counsel when he acknowledged that he knew of no way of judging of the future but by the past.

We can judge how well America's veterans will be served tomorrow . . . by examining President Nixon's record in securing and improving the welfare of our veterans and their families. And for this, there is no more revealing measurement of performance by a President and his Administration than the annual Federal budget.

In view of this anniversary observance today . . . with its appropriate emphasis on VA's quality hospital and medical care program . . . let's consider President Nixon's budgets for VA medicine.

Expenditures for the veterans medical care program . . . in the fiscal year beginning a little more than three months from now . . . will reach an all-time high of *two and one-half billion dollars!*

This is an increase of one billion dollars . . . or 40 percent . . . in the budget for this most visible of all VA programs . . . in the very few years since President Nixon appointed me as his Administrator of Veterans Affairs.

Called for in our proposed, over-all, record-high VA budget of $11.7 billion for fiscal 1973 is an increase in VA's average employment of 11,640 . . . to bring our work force total to 183,876 . . . second only to the civilian work force of the Department of Defense.

More significantly . . . however . . . nearly 11,000 of this employment increase is earmarked for VA's quality hospital and medical care program.

Stated another way . . . and reflecting more forcefully than anything else . . . I think . . . President Nixon's true concern for our Nation's veterans . . . the President is requesting only 20,300 more employees for all of the departments and agencies in the Federal establishment . . . an increase of less than one per cent.

While no employment increase or even decreased employment is projected for most other agencies in Government . . . VA has been allocated well over one-half of the total additional employees authorized for the entire Government.

And I reiterate . . . virtually all of these employees are earmarked for our Department of Medicine and Surgery.

A moment ago I mentioned that VA medicine's primary mission has always been . . . is now . . . and will always be . . . to provide quality hospital and medical care for America's ill, disabled, and aging veterans in need of . . . and entitled to . . . this care.

We all know . . . of course . . . that their numbers are increasing.

For example . . . in the coming fiscal year . . . we will provide inpatient care for nearly one million beneficiaries . . . the greatest number in history . . . and more than 24,000 over this year.

We will increase outpatient visits to nearly 11 million . . . an all-time high . . . and 1.5 million more than this year.

You should also know . . . however . . . and I raise this point because far too few of our citizens realize that even after meetings our primary mission . . . VA medicine truly has an enormous, on-going capacity . . . and an even greater, more exciting potential . . . for improving the health status . . . not of veterans alone . . . but of the entire Nation.

While the President has given his unhesitating and unstinting support to VA medicine . . . and to the immediate, pressing needs of our hospital and medical care program . . . he expects . . . as do I . . . and as I am sure you do, too, that:

From the record-high 62,000 individuals for whom VA will provide medical training in the coming fiscal year will come knowledge and dedication to help meet the health needs of all of our people.

From the record-high $77 million to be obligated in fiscal year 1973 for medical and prosthetic research . . . including more than a million dollars for our Iowa City VA Hospital's research program . . . will come breakthroughs to benefit all Americans . . . and, indeed, all mankind.

And from a 21-year high of $155 million in construction funds will be developed concepts, designs, techniques, materials and equipment accruing to the benefit of the entire American medical community.

The poets tell us that an anniversary is that vital moment which links the past and the future.

This afternoon we will dedicate a 26-bed intensive care unit addition to our Iowa City VA Hospital. In so doing we will give further testimony to VA's commitment to constantly improving care in the years ahead for the veterans we will be privileged to serve.

This unit is more than a symbol . . . of course. It is as much of a promise of life as man can make to his fellow-man . . . but a promise that no VA hospital could have made as recently as a decade ago.

Two decades ago . . . when this hospital first opened its doors . . . another promise was made . . . and has been faithfully kept . . . by the unselfish, concerned, and compassionate men and women who have been . . . and are today . . . the Veterans Administration Voluntary Service.

They promised . . . and by their tireless efforts redeemed their promise . . . that the veteran patients in this posital . . . in addition to receiving the finest medical care possible . . . would also always know the voluntary companionship and comfort and care of loving hearts and healing hands.

Medical science . . . for all of its advancements . . . has never found a substitute . . . and never will . . . for the mere "presence" . . . even though silent . . . of a volunteer.

Last year . . . here in our Iowa City VA Hospital . . . this "presence" was evidenced by nearly 1,300 volunteers . . . who gave more than 115,000 hours of their time and their heart.

Surely . . . these generous, good people can claim an indispensable share of the credit for this hospital's accomplishments during the past 20 years.

Certainly the thousands of veterans whom they served with such kindness and devotion would be the first to say that these volunteers can never be given enough credit.

I need not add that the thousands of veterans whom we will be privileged to serve in the next 20 years . . . and more . . . will be no less in need of the "presence" of volunteers . . . and no less indebted to them.

In a poem entitled "Neighbors" . . . it is written that:

"In ways too numerous to tell . . . Yet all in tune with Heaven's plan . . . He does his part and does it well . . . Who helps a neighbor when he can."

For 20 years . . . the Iowa City Veterans Administration Hospital . . . its patients and their families . . . and its staff . . . have been blessed with the finest neighbors possible. To back this up, I point to:

The officials of this community . . . who have always been willing to cooperate in any program or event arranged by the hospital for the benefit of patients, their families, and the community; and to

The great veterans organizations, community service groups, and other civic, professional, business, and voluntary organizations which have made such invaluable contributions to the hospital and to the veterans we have been privileged to serve;

And . . . of course . . . to the individual citizens who have gone out of their way to be friendly and helpful to our patients and staff members . . . and who have asked in return only, "What more can I do to help?"

I can assure you that all of us in VA value highly your friendship. I intend that the VA shall always try to be your friend and good neighbor . . . and a constructive force for good in your community.

Thank you.

A NOVEL EDUCATIONAL EXPERIMENT

HON. CHARLES M. TEAGUE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. TEAGUE of California. Mr. Speaker, I call to the attention of my colleagues a novel educational experiment in which a student from California Lutheran College participated in a research project under the Naval Civil Engineering Laboratory:

NAVAL CIVIL ENGINEERING LABORATORY,
Port Hueneme, Calif., March 22, 1972.

A novel educational experiment that took a selected California Lutheran College senior from the classroom into the research atmosphere of the Naval Civil Engineering Laboratory (NCEL), Port Hueneme, has proven so beneficial that both tutor and student recommended the unique program be continued.

Randy Puckett, 20, spent four full weeks in the Laboratory's Materials Science Division, working under research chemists and biologists in a variety of projects and assignments.

Realizing the value of practical experience and exposure to professional researchers, the Thousand Oaks college proposed the study program involving highly qualified students. To qualify for the program students must have a minimum overall grade point average of 2.75 and at least 3.25 GPA in mathematics and natural science courses.

Puckett, of 587 Camino Manzanas, Thousand Oaks, said, "The experience turned out to be invaluable. I once expected research to be dull. But not now. If my plans to attend and graduate medical school are thwarted, I feel a career in medical research would be a definite possibility now. Before studying at NCEL, such a future never entered my mind."

James S. Muraoka, senior project scientist and biologist under whom Puckett worked most of the time, said the student "conducted his assigned tasks in a highly professional manner with a minimum of supervision . . . his interest, enthusiasm, and attention to detail were very much appreciated."

Puckett's assignments included: (1) preparation of artificial seawater by mixing more than 10 different chemicals; (2) performing bioassay of various oil emulsifiers using brine shrimp as test animals; (3) photomicrographing shrimp and marine bacteria placed under a microscope; and (4) conducting studies on the biodegradation of DDT by microorganisms under the supervision of Dr. Harold P. Vind, senior research chemist at NCEL.

"On the basis of this experience," Muraoka said, "the current California Lutheran College program to assign students industrial and governmental research laboratories for one month to obtain new experience and insight seems well worthwhile."

Puckett added: "There is no doubt in my mind that such a program should continue and be enlarged as much as possible. I hope NCEL feels the same way."

The individual at CLC most responsible for inaugurating this unusual college-laboratory program is Dr. Curtis B. Nelson, chairman of the Department of Biological Sciences.

TRANSPORTATION SAFETY

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SHOUP. Mr. Speaker, last month Mr. John H. Reed, the Chairman of the U.S. National Transportation Safety Board, gave a speech on "Transportation Safety Needs in 1972," before the Transportation Association of America's February 1, 1972, meeting in New York City.

Because of my interest in this critical area that affects so many Montanans and other Americans throughout the country in such drastic ways, I am placing into the RECORD Mr. Reed's entire speech. I am particularly impressed with his speech and want my constituents and all of my colleagues to have the opportunity to read it.

Mr. Reed's speech follows:

SPEECH OF MR. JOHN H. REED

It is an honor and a privilege for me to speak to the Board of Directors of the Transportation Association of America. I am sure that all of you share with the National Transportation Safety Board a common objective—the attainment of improved safety in all modes of transportation.

As most of you know, the Safety Board was created by Congress in 1966 to operate as an independent agency within the Department of Transportation. The Board is composed of five Members, appointed by the President, and confirmed by the Senate—and is supported by a staff of 271 employees. This makes us one of the smallest agencies in the Federal Government.

The Safety Board's basic mission is to determine the cause of transportation accidents—and to make public recommendations to correct any safety deficiencies we find through accident investigations or special studies.

This function will never make us popular—but it helps make transportation safer. We call the facts as we see them, whether we are serving notice on a Government agency, a trade association, or a private company. Our safety recommendations have attained a high rate of acceptance—which may be due, in part, to the fact that we make all of them public.

In the delightful letter I received from Harold Hammon, inviting me to speak here today, he suggested that I discuss "Transport Safety Needs in 1972." Then he gave me twenty minutes in which to do it. With this limitation firmly in mind, gentlemen, I shall attempt to speak to the point—giving you the general safety outlook and some of the safety needs in each major mode of transportation for the year ahead.

HIGHWAY

In highway transportation safety the outlook is for a continued rise in exposure to accidents through increased highway traffic and speed. However, there is a strong suggestion that the initial effects of vehicle safety changes, introduced since 1965, are beginning to be felt—for instance, a slight reduction in highway fatalities occurred in 1970 despite increased mileage exposure. The deaths in 1971 were up slightly over 1970, but still below 1969.

As more vehicle safety standards are put into effect we can look forward to further improvements.

I find that there is a continuing desire on the part of users of highway transporta-

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tion to increase the size, weight, and speed of vehicles and operations—and a tendency toward an increasing variety of loads to be carried over the highways. Thus, new problems are arising constantly. Because of the Interstate Highway System it is expected that an increasing proportion of movement of passengers and freight on the highways, in comparison with other transport modes, will continue. These factors behoove us to pay special attention to highway safety.

We must face up to the following needs in highway safey:

1. Our fatalities, injuries, and costs must be reduced—we are now aggregating 150 fatalities and six to ten thousand injuries per day; at a cost of from four to thirteen billion dollars annually.

2. A more systematic approach to national highway safety is needed. The interrelationship of the driver, the highway, and the vehicle requires closer attention.

3. There is a need to determine which priorities will yield the greatest improvements.

4. As we gain experience from the implementation of the National Traffic and Motor Vehicle Safety Act and the National Highway Safety Act of 1966—we should make necessary legislative and operational adjustments.

5. There is a need to identify and change many older, existing regulations or laws containing vague and unenforceable standards to make them more effective and reasonable.

6. Some months ago the Safety Board issued a special safety study entitled: "Risk Concepts in Dangerous Goods Transportation," which suggested a changed approach to the evaluation of hazardous materials regulations.

I would be remiss indeed if I failed to take this opportunity to express the Board's appreciation to the Transportation Association of America for arranging a symposium for the Board to explain this very technical study. I believe this cooperative effort of the TAA very substantially increased the probability that the matters described in the study will eventually be useful in producing better and more economical hazardous materials regulations.

In railroad transportation safety about seventy percent of fatalities occur at grade crossings—and thus are intermodal in nature. Of the remaining thirty percent of railroads deaths—about two-thirds are pedestrian trespassers struck by trains.

To install overpasses at all 215,000 grade crossings in the country would cost 100 billion dollars. As a large proportion of these crossings are in rural or low density areas, such a requirement would be unreasonable.

Methods being used to reduce this loss include closing highways at crossings, installing overpasses, and using automatic warning devices. Acceleration of these efforts should be accomplished.

It would appear that the fatality rate of passengers in railroad cars, and rail transit cars, could be brought nearly to zero by application of systematic hazard analysis and correction in the design of new cars—even though the speed of these trains will increase.

On the other hand, catastrophes involving the railroad shipment of hazardous materials is a continuing, and probably increasing threat—due to the concentration of materials through larger loads and the many new types of hazardous cargoes; such as flammable gases and chemicals.

It should be noted that an increase in fatalities has not followed the increase in train accidents—probably due to reduced rail passenger travel. However, with the introduction of Amtrak, rail passenger travel and fatalities could increase.

We must face up to the following needs in railroad safety:

1. Problems in the administration of the Federal Railroad Safety Act, the Hazardous Materials Transportation Control Act, and the Urban Mass Transportation Assistance Act—all of 1970—must be identified, and solved.

2. Existing older voluntary standards, which are vague or unenforceable, need to be identified and changed.

3. Safety investigations into rail passenger transportation and rapid transit are needed so that Federal assistance can be provided in such a way as to assure maximum safety of the systems.

4. Means to prevent potential large-scale hazardous materials accidents at the container/vehicle design stage must be discovered now rather than after accidents occur—and cause damage to the environment.

5. The problem of increasing property damage losses, especially from derailments which are a serious drain on the resources of the railroad industry, must be solved.

MARINE

In marine transportation, recreational boating accounts for about seventy percent of all marine fatalities—and recreational boat usage is expected to increase forty percent in the next ten years. However, new authority provided in recreational boating safety could bring about a substantial reduction in these losses.

In commercial marine operations a major threat is posed by the relatively rapid technological change in new types of vessels and greatly enlarged concentrations of hazardous materials. These conditions pose a particular problem to environmental pollution and corresponding ecological losses. The presence of very large integrated tug-barge combinations; cargo capacitiea in large tank vessels ten to twenty times those of a few years ago; a continuing boom in off-shore oil exploitations; introduction of new ground-effect machines; higher speeds of vessels; and probable increases in Arctic travel—all pose increases in exposure to accidents.

The following needs exist in marine safety:

1. The administration of the Recreational Boat Safety Act of 1971 must emphasize not only boat construction standards, but also the role of the boater, in order to counter an expected forty percent increase in exposure to accidents in the next decade.

2. Operation of the large scale Federal funding assistance to vessel construction, provided by the Merchant Marine Act of 1970, needs to be monitored to assure that safety gains will result.

3. Ways to attack high causalty rates among towing and fishing vessels must be found.

4. Accident investigation techniques for recreational boating must be perfected.

5. Marine casualties, which involve hazardous materials and pose a particular risk of largescale catastrophe, including damage to the environment, need to be controlled.

PIPELINE

Rapid progress in pipeline safety can be expected over the next five years through advance regulations under new authority. New commodities are expected to be shipped by pipeline, but the net effect will not be added hazardous but a reduction in total national freight transportation deaths—since pipeline transportation is by far the least hazardous method of transporting any form of cargo.

Nevertheless the risks of very large-scale catastrophes from pipeline accidents exist, however, but fortunately has not yet occurred in populated regions. I might point out, in passing, that if the pipeline accident which the Safety Board investigated in Missouri a few months ago had occurred 50 mile further east at St. Louis it could have killed 100 people and cost 50 million dollars damage. Experience with the Alaska pipeline proposal also points up the requirement to consider protection of the ecology even where human life is not involved.

We face the following needs in pipeline safety:

1. Accelerated implementaton of the Natural Gas Pipeline Safety Act of 1968 and the Transportation of Explosives Act of 1967.

2. Risks of the general population from existing pipelines due to increasing urban expansion must be reduced.

3. Recommendations are needed to reduce risks from increased exposure due to the rapid growth of liquid and gas pipelines.

4. Ways to counter environmental effects of pipeline accidents must be found.

CIVIL AVIATION

The civil aviation safety record is reviewed in two parts; air carrier transportation, and general aviation. I would describe the overall safety record in 1971 as relatively good—but not as good as the preceding year.

In all operations of U.S. air carriers there were 203 fatalities, up by 57 over the preceding year. More than 175 million passengers were carried, up by more than 600,000 over 1970.

The airlines flew over 6 million hours during this period and had eight fatal accidents—one involved a truck on the ground—but two occurred during approach for landing and three were midair collisions, two of which were nonfatal to the air carrier occupants. Our analysis of fatal air carrier accidents over the five year period 1966–1970 revealed that approach and landing accidents, and midair collisions, accounted for the greatest number of fatalities.

We estimate that in the early 1980's the total flight time compiled by U.S. air carriers will approximate ten million hours annually. This increase of over three million hours utilization, together with the introduction of the large, wide-bodied jets—such as the Boeing 747, the DC–10, and the Lockheed Tri-Star now coming into service—makes it imperative that future total accident rates be significantly improved. With 250 to 400 passenger aircraft, we must face the paradoxical fact that a decrease in the number of accidents could still result in an increase in fatalities.

The general aviation segment continued to account for the greatest number of fatalities, up by 68 to a total of 1,322. At the same time, however, it also accounted for about 98 percent of the aircraft in the civil air transportation fleet; for 90 percent of the licensed pilots; 81 percent of all civil aircraft hours flown, and carried about 50 percent of all passengers. The current fleet of 133,000 private aircraft is expected to nearly double in 1980, resulting in an increasing accident exposure despite a gradual reduction trend in accident rates over the years.

Of particular concern to the Safety Board is the problem of approach and landing accidents under instrument flying conditions. These cases account for approximately forty percent of the fatalities in air carrier operation. With the projected growth of aviation and larger aircraft capacities, this continues to be the major problem.

Looking at the big picture, I see the following civil aviation safety needs:

1. Improved air navigation aids; facilities and services, particularly IFR approach and landing devices; and the airport environment.

2. Identification and correction of hazards attendant to the midair collision problem.

3. Development of methods to prevent aircraft fatalities from post-crash fires. Our records show that in many approach and landing accidents the occupants survived the crash impact but succumbed to fire and smoke. The Board has already recommended that safety devices be developed and required for transport category aircraft to prevent and control in-flight and post-crash fuel system fires and explosions.

4. Development of procedures and methods to improve safe emergency escape from high, wide-bodied jets. In our recent investigation of a nonfatal 747 accident at San Francisco, which involved an emergency landing at the airport, we found that most occupant injuries were sustained during evacuation from the aircraft.

5. Increased research is needed in establishing aircraft performance requirements and certification standards compatible with human performance limitations, and eliminate design-induced pilot error.

6. In general aviation more research and development should be directed to eliminating stall-spin accidents; improving pilot proficiency through training and upgrading; and by substantially improving the crashworthiness of aircraft. This latter achievement could be speeded up by developing an experimental safety airplane featuring crashworthiness principles, under joint Government-industry sponsorship, and in much the same way that similar developments are conducted in the automotive industry.

In the time allotted me today, I have attempted to identify some of the transport safety needs of 1972—and the future. In varying degrees these needs affect all of us. The fact is that transportation determines how we live and work and spend our leisure time—and it is a vital contributory factor to our high standard of living.

The Nation needs the assistance of the Transportation Association of America to accelerate the reduction of the annual loss of nearly 60,000 lives, millions of injuries, and billions of dollars wasted.

Because of these facts of life—and it is life we are talking about—our good friend John A. Volpe, Secretary of Transportation, has proclaimed that: "Our first concern is safety in all models of transportation."

That could easily be the motto of the Safety Board. Our mission is to support that pledge—now and in the future. After serving on the Board since its inception in 1967, I have come to realize that work in transportation safety is never completed—of necessity, it is a continuing process that must never end."

THE EQUAL RIGHTS AMENDMENT: A BEGINNING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EDWARDS of California. Mr. Speaker, the overwhelming vote by which the amendment passed both Houses of Congress augurs well for its swift ratification by the 38 States necessary to make this guarantee of equal rights for women a part of the Constitution. But even as the ratification process begins and we in this Congress congratulate ourselves for a job well done, we need to be reminded that a constitutional amendment is just the beginning of what must be a continuing affirmative effort to secure the rights for too long denied women in our society. The Washington Post reminds us on this morning's editorial page of the job which still needs to be done. I hope that all of my colleagues will read this editorial, and for this purpose I insert it in the CONGRESSIONAL RECORD:

A MATTER OF SIMPLE JUSTICE

Congress may have taken its time—49 years to be exact—but it has finally sent along to the states a constitutional amendment designed to let women share fully with men all the rights and responsibilities of American citizenship. The step is a historic one in terms of both of the nation's constitutional history and the evolving role of women in this society. Once the amendment is ratified, things will never be quite the same. But that is as it should be. Sex, like race, is a line to which the Constitution should be blind. A person should be no less or no more of a citizen just because she is a female.

There is, of course, a long road called ratification that this amendment must travel before it takes its place in the Constitution. And there will be, no doubt, opposition to its ratification in some state legislatures. But the amendment has had a great sendoff by the wide margins with which it finally cleared Congress and a happy reception in the quick action of Hawaii in ratifying it almost immediately. We urge the Maryland legislature to join with Hawaii before this year's session is ended and the leaders of the Virginia legislature to put ratification at the top of their list of priorities for next January's session.

Even while that ratification process is under way, Congress should take the next steps in the process of eliminating the laws and the practices of government which irrationally differentiate between men and women. Final adoption of the amendment will require changes in many federal laws. Since Congress has now said those changes ought to be made as a matter of constitutional right, it has an obligation to get on with the task of making them as a matter of legislative policy.

These changes in the laws will not come easily, if the country's experience in ending discrimination against black citizens and the experience of some states in ending discrimination against women are any guide. Virginia, for example, recently adopted a state constitutional amendment barring discrimination against women. But a blue ribbon commission appointed to propose revisions in existing state laws to bring them in line with the new constitution largely ignored that particular amendment. The tendency among men to regard such an amendment as the end of a road rather than just a way station on the way to equality is substantial. It will take a great deal of watchfulness and persistence, perhaps even a great deal of litigation, to ensure that the promise of this proposed amendment to more than half the citizens of the nation is fulfilled. But it is a promise that must be fulfilled. Equal standing before the law of all citizens is, in the phrase chosen as the title of the report of the President's Task Force on Women's Rights and Responsibilities, a matter of simple justice.

DEDICATION OF JOE WALKER JUNIOR HIGH SCHOOL

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROUSSELOT. Mr. Speaker, on February 26 of this year, an important additional tribute was paid to one of the fine heros and great test pilots of our country when the Joe Walker Junior High School was officially dedicated at Quartz Hill in the Antelope Valley, Calif.

Joe Walker had devoted his life not only to air research and high speed testing important to the development of our space programs, but also to the youth of our country to whom he contributed much of his time. It is only appropriate that a junior high school educational facility which is one of the most up-to-date in design should be named in honor of this courageous American who contributed to his Nation and his community in so many constructive ways.

Though many citizens throughout the country have known of Joe Walker's career as the most decorated and proficient NASA research pilot, I am sure my colleagues here in the House of Representatives would have wished to have been present with me on February 26 at the dedication ceremonies of the Joe Walker Junior High School to listen to the many tributes once again paid to this giant of a man who served our country so splendidly.

Many friends and associates came to speak at the program which was called to order by the new principal, Mr. A. D. Rutledge, Jr. Each related their personal experiences with Joe Walker and told of the many ways in which he worked to become the complete and total American citizen who we would all aspire to emulate.

On January 8, 1966, Ralph Story, a television and radio news commentator, gave a news report about the untimely and tragic passing of Joe Walker. This commentary was repeated very appropriately at the dedication ceremonies and I ask that it be included for your review today:

NEWS REPORT—RALPH STORY, JUNE 8, 1966

People who defy death never die in the right way at the right time. The first cave man to slay a mammoth was probably fatally injured when he fell on a banana peel on the way home. General George Patton should have been killed in any one of a thousand reckless battles . . . but not in a peaceful staff-car ride after the war was over. Carlos Arruza should have been impaled on the horns of a bull . . . not on a steering wheel. And Barney Oldfield should have been impaled on a steering wheel . . . not to pass away of old age in a Beverly Hills bed. If John F. Kennedy had to go, logic says it should have been in those shark-filled waters of the South Pacific . . . not in a limousine in Dallas.

But it is the final landing for those who tempt death in the air which seems to be the most ironic of all. Paul Mantz stunted through the skies for years against all odds . . . and odds should have been with him for that slow flight over a sand-dune near Yuma.

Joan Merriam Smith dared the devil around the world but the dare was taken between here and Palmdale. Astronauts Elliot See and Charles Bassett were supposed to leave this earth at Cape Kennedy . . . not at the McDonnell factory in a Saint Louis fog.

And this shouldn't have been Joe Walker's last day . . . nor the XB–70's either. Maybe when Joe flew P–38 missions in world war two . . . and certainly when he pushed the X–15 to 4 thousand miles an hour and soared 70 miles into space . . . but not today just flying a common jet escort. The XB–70 should have crashed the day its landing gear burned . . . or a couple weeks ago when Pilot Al White saved the ship with a paper clip . . . but not today just flying over Barstow with no trouble.

It was all wrong . . . the wrong time, the wrong place, the wrong reason. It must mean that there are some brave souls death can only catch off-guard.

Chief of NASA's flight operations, Mr. Stanley P. Butchart, and several other officials of the National Aeronautics and Space Administration reviewed the almost unbelievable achievements and exploits of Joe Walker during his career as a test pilot. Some of these are recalled by Newsweek magazine in an article

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which appeared on January 20, 1966 entitled, "The Best":

THE BEST

On Joe Walker's first flight, he was hooked. In the 25 years that followed, the former farm boy from Washington, Pa., flew fighters for the Air Force and then became one of the government's top research pilots. Walker streaked through more than 100 pioneering flights, including ones in the experimental X-1, X-3, X-4, X-5 and in a possible lunar-landing vehicle. His greatest moments came with the cigar-shaped, rocket-powered X-15 in which he wrote aviation history by soaring to an altitude of 354,200 feet (67 miles) and pushing its speed to 4,104 mph (Mach 5.92).

Like all test pilots, Walker, 45, chief research pilot at NASA's test-flight center at Edwards Air Force Base, Calif., was fatalistic about the risks involved. But last week, in overcast skies 25,000 feet above the tawny Mojave Desert of southern California, the hazards inherent in his occupation finally caught up with him.

Who's Who in America additionally chronicled his outstanding performance record as follows:

Walker, Joseph Albert, test pilot; b. Washington, Pa., Feb. 20, 1921; s. Thomas Jefferson and Pauline Sharp (Smith) W.; B.A. in Physics, Washington and Jefferson Coll., 1942, D.Aero. Scis. (hon.), 1962; m. Grace McClary, Apr. 16, 1949; children—Thomas Daniel, James Paul, Joseph Brian, Elizabeth Ann. With NASA, 1945—; project pilot on D-558, X-1E, X-3, X-5, X-15; research on F-100, F-101, F-102, F-104, B-47; 1st flight on 15, 1960, since then 25 more; attained speed 4104 Miles per hour, 1962, altitude 348,700 feet, 1963; flight tested Lunar Landing Research Vehicle. Mem. Adv. Commn. Aviation, County Los Angeles. Served to capt USAAF, 1942–45. Decorated D.F. C., Air medal with 7 oak leaf clusters; recipient Robert J. Collier trophy, 1961. Harmon Internat. trophy for aviators, 1961. Kincheloe award, 1961, pilot of year award Nat. Pilots Assn., 1963. Henry De Lavaulx prix Fedn. Aero. Internat., 1963, Charter men, Sox. Exptl. Test Pilots (v.p. 1963–64); mem, Aero-Space Profls., Phi Gamma Delta. Home: 1309 West Av., L–4, Lancaster, Cal. 93534. Office: care NASA, Edwards AFB, Cal. Died June 8, 1966.

The Reverend Dorsey Allen, of Lancaster's United Methodist Church, who spent many hours with Joe Walker both as a personal friend and as his religious counselor, appropriately concluded the dedication ceremonies by reading a meaningful poem by Gill Robb Wilson which gave an uplifting overtone to the whole activity of naming this ongoing, modern educational institution after Joe Walker:

We shall remember you in this good land
Where freedom found rebirth and reared you up
To walk the earth in search of truth. We
Shall remember that in youth's bright age
You sought by valiant deeds to keep the faith
With cherished heritage. We shall remember you
Because your dreams unfettered by the sod, fled
To the stars if thus perchance the knowledge
Gained might well pertain to God. But most we
Shall remember you in that you walked serene
Among your fellow men, your faith a badge that
All might wear, your hope a thing that all
Might share. We shall remember you because in
All creation's plan, there is no wonder here on
Earth or in the stars or in bright Heaven
Itself a work of God so noble as an humble man.—Gill Robb Wilson

I am including a copy of the program as it occurred as I felt my colleagues would be interested:

PROGRAM

Call to order: A. D. Rutledge, Jr., Principal.
Presentation of flag: Congressman Rousselot.
Acceptance of flag: Carla Frazer, Student Body President.
Flag raising: E.A.F.B. Air Police Color Guard.
National anthem: Joe Walker Junior High Band, Don Olson, Director.
Flag salute: Congressman Rousselot.
Invocation: Rev. W. E. Forte, Minister, Valley Baptist Church.
Introductions: Dr. Roland Lampela, Superintendent Westside Union School District.
"History of Westside School District", O. Milton Stark, President, Westside Union Board of Trustees.
"A look at Joe Walker Junior High and Westside District," Mr. Jim Skalicky, Board of Trustees.
Presentation of dedication plaque: Mr. Jim Skalicky, Board of Trustees.
Presentation by NASA: Mr. Stanley P. Butchart, Chief of Flight Operations.
Presentation of trophies: Mrs. Grace Walker.
"Things we like to remember", Rev. Dorsey Allen, Minister of United Methodist Church.
"This land is our land", Joe Walker Jr. High Chorus, Elizabeth Tallakson, Director.
Announcements: A. D. Rutledge, Jr., Principal.
Open house and tour.

There are so many reasons why this building which houses and educates the young people who are the future of America has been named in Joe Walker's honor, but they are probably all summarized in the tribute paid by one of his close colleagues who said of his friend, "He was the best I'd ever seen."

CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of California. Mr. Speaker, this week, March 26 through April 1, has been designated as a time to be especially aware of the plight of those Americans now being held as prisoners of war in Indochina or who are listed as missing in action.

The observance of the "National Week of Concern" provides an opportunity for the expression of national feeling at every level for the nearly 2,000 Americans held captive or missing. During this week, we renew our pledge to maintain constant pressure on the government of North Vietnam, the Pathet Lao, the Khmer Rouge, and the Vietcong, to render more humane treatment to the prisoners and bring nearer the day they may return home.

To be meaningful and effective, we must channel our concern into constructive activities which will arouse public opinion in this Nation and throughout the world.

Within the community of nations, certain rules and procedures have developed to mitigate the brutality of war and to some humane element into conflict. These rules center around the rights of prisoners and captives and were effectuated by the Geneva Accords of 1954, of which North Vietnam is a signator. But, today, we see these basic principles flagrantly violated in Indochina.

In a free society, such as ours, we respect differences of opinion and we are witnessing great debate on the best method for this country to end its role in Indochina. Yet, regardless of these differences, Americans are united in their deep concern for the plight of our young men who are prisoners or who are missing in Indochina. No one in Hanoi, or any other place in the world, should underestimate the unity of feeling with which we support these men. No one should misunderstand our desire to see them freed and returned home to their loved ones.

We are committed to do all in our power to end the mistreatment of our captive servicemen and, ultimately, to effect their release.

Our concern, which should be shared by all men of goodwill in every nation throughout the world, transcends all ideological passion. For, at stake, are the lives of helpless prisoners, as well as certain basic principles of humanity honored at all times and at all places.

Let this week of concern mark a renewal of dedicated effort by all in this land on behalf of our men captured or missing in action in Southeast Asia. Above all, let us unite in prayer for an enduring peace founded on unshakable principles of brotherhood. May this week of concern inspire in us a deeper sense of unity, not only with our fellow Americans held captive in a foreign land, but with all people who care for the cause of human dignity and decency.

THE 192D ANNIVERSARY OF THE EVACUATION OF BOSTON

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, the 192d anniversary of the evacuation of Boston was celebrated on Friday, March 17, 1972. It was my pleasure to participate in this historic event. I would like to take this opportunity to share with my colleagues in the House a most inspiring address delivered by State Representative Raymond L. Flynn on this occasion:

Reverend Clergy, Mr. Mayor, Chief Marshall Rogers, Colleagues in Government, Ladies and Gentlemen: I am certainly pleased to have been asked to come here today, and to commemorate, with you, who are after all, my friends and neighbors, an important and justly renown event in the long history of this community—and indeed, of this nation.

In years past this oration has been delivered by men and women who have not failed to draw from the day the sorts of inspiration an American has a right to expect on such an occasion. These men have included John W. McCormack, James Michael Curley and John Boyle O'Reilly, Louise Day Hicks, and James Burke.

Certainly, I am in good company, and grateful indeed for the opportunity.

I am also, honored to be in the company of these good men whose proud uniforms surround us all here today, whose contribution to this ceremony must surely be to remind us that to many citizens patriotism is not a word to be defined nor a concept to be argued about, but the natural response of the natural man, who does not forget the rich blessings this great land still reaps upon us all.

One reason he does not forget is that the morning newspaper will hardly allow him. The most timely example of this, surely is that even as we here today, mark the brave resolve of our forefathers to hurl the British from this place, nearly 200 years ago, it is significant, that, in the land from which many of us derive, a peaceful land, but still tragically troubled, less fortunate men fight no less bravely the same fight fought here so many years ago. Interestingly enough, the password, here on the Heights, that cold night in 1776 was "St. Patrick."

But if we *are* more fortunate in this one thing, we may well be less fortunate in that we often do not perceive that there are still battles to be fought quite close to home.

We are perhaps, too comfortable. Like so many men of Irish heritage, my blood runs deeply when I think of "Bloody Sunday," but it runs no less deeply when I think upon the widespread surrender of so many people to the despairing and immature few who are determined to convince us that our country is too decayed even to think of saving, much less to love.

There are men here who have borne guns in her defense in earnest, and there would be nothing to say here today, if it were not so; but these other battles, being battles of the mind, require of us different weapons.

We must, firstly, be well informed. We must be reasonable men. Secondly, we must have the moral courage to act upon our convictions. You may ask, *where!* You will know better than I. For me the battles are fought in the stately halls of the Great and General Court. But leadership or citizenship, which is what we are talking about, is no less vitally important in the local hockey league, or in the parish guild, or in the boy scouts troops. It begs the question to ask, where—for we know in our hearts, where and when there is a job to be done.

All of us here today, moreover, have less excuse than most for being a poor citizen, for this community is an old and a proud community and with good reason. We have done our share in the religious profession, served in our armies, risen to great heights in the field of government, both nationally and locally, this is no ordinary community and I should not like to think our generation would want to make it so.

To be a part of the "silent majority" is every much as disgraceful than to be a part of the "noisy minority". One need not, one *should* not, cast oneself in the role of a self appointed judge of men and events, in order to stand up and be counted. But responsible citizenship ought not be so construed. There is for instance, nothing so quiet or modest as stepping into a voting booth and nothing any of us can ever do will matter quite so much.

So, then ultimately, I have come to ask you to help as indeed, have those many men who have stood and spoken here down through the years on this day. Notice injustice; do not surrender to apathy, let no one obscure your power, do not give up your rights.

Be worthy of this day, as indeed your ancestors were, and if this imperfect world seems disappointing, heed this text from Aristotle—"live nobly and you will change the world".

THE GOVERNMENT DENIES JUSTICE TO THE FARMWORKERS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROYBAL. Mr. Speaker, for nearly 100 years the farmworkers have been unorganized and powerless, facing constant poverty and poor health. They have worked long hours at physically exhausting labor for very low wages. Among the workers of this country they remain the forgotten and most isolated. Where others have gained labor rights and adequate wages, the farmworkers continue to be oppressed by the farm industry.

In 1965, after years of painstaking preparation and organizing, Cesar Chavez called a major strike against Di Gorgio Corp. and Schenley Industries. This action which began 7 years ago has evolved into a national movement.

The success of this movement has depended very much on its plea to the American public for basic justice and fair play. The strategy Chavez used to awaken us to the hardships of farmworkers has been the consumer boycott.

Denied the right to collective bargaining, the farmworkers resorted to the only practical strategy available to them: a nonviolent boycott movement. In Chavez' words, they believed the "American public would respond affirmatively." For the most part Americans have responded, they have championed the farmworkers' cry for justice and fair wages.

Today the United Farm Workers are facing a well planned, national attack by this administration to weaken the union's boycott. On March 9 the National Labor Relations Board under the political control of this administration filed a complaint in the Federal district court at Fresno to stop the boycott at stores selling nonunion wines. Court hearings are set for April 6.

In the past the Board has consistently ruled that the farmworkers were not protected under Federal labor laws and so were exempt from the boycott provisions of Taft-Hartley. It took this position as recently as March 15, 1971, in a letter to the union.

Now suddenly the Board has reversed itself. Its argument is that several laborers the union seeks to represent work at three packing sheds owned by growers who also loan out their sheds to other growers. On that basis, argues the Board, the sheds are now "commercial" not "agricultural," and so the union's activities fall under Taft-Hartley.

In effect, the Board is asserting the unbelievable: That although farmworkers are not entitled to the protections of the Labor Relations Act, they are bound by its restrictions and penalties.

This reasoning is tinged with legal sophism and callousness. It is clear the NLRB has ignored past decisions in filing this complaint. Based on legal precedents, it should have adopted a reasonable and practical understanding of the term "agricultural" instead of one tortured in its reasoning.

The sheds mentioned in the complaint are, in fact, an indispensable part of the grower's agricultural operations. That he permits others to use it does not change the meaning of the term.

For years growers used the farmworkers' exclusion from the law to subjugate them. Now that the union has become effective in organizing farmworkers, the administration would silence the movement to win support of growers and agribusiness in an election year.

This is political expediency not justice. It denies farmworkers their fundamental right to fair wages and equality under the law.

The administration had hoped to quietly execute the movement and gain the support of growers. While it wooed urban chicanos, Puerto Ricans, and other Spanish speaking with a few administration appointments, it would use every means at its command to smash the only effective hope for the poorest among them.

I call upon every citizen to reaffirm his support of the farmworkers and to protest this shameful effort of the National Labor Relations Board to destroy their union.

PRO-LIFE "MINORITY REPORT" ON POPULATION COMMISSION STUDY

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ZABLOCKI. Mr. Speaker, recently the President's Commission on Population Growth and the American Future has issued a series of reports on various aspects of population growth, population control, and family planning.

A number of the recommendations of the Commission have proven to be controversial and have been attacked for their antilife bias. Particularly offensive to many American citizens, including myself, is the emphasis on "liberalized" abortion.

Among the groups which has responded vigorously to the Commission reports and recommendations is the United States Coalition for Life. This organization has now released its "minority report" commenting on the issues which the Commission considered as well as the origins of the Commission itself.

Entitled "A Pro-Life Report on Population Growth and the American Future," the study was prepared by Mrs. Randy Engel of Export, Pa. It is available upon request from the Pennsylvanians for Human Life, Suite 1205, 240 North Third Street, Harrisburg, Pa. 17101, or from Women Concerned for the Unborn Child, Post Office Box 8071, Pittsburgh, Pa. 15216.

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Although the report itself is of such a length as to make it impractical to reprint in the CONGRESSIONAL RECORD, I believe it should be of interest to every Member of Congress who is earnestly seeking answers to current population issues.

For that reason I am placing in the RECORD at this point several press releases which are concerned with the Engel report in the thought that Members may be further informed and will write to request the full study. The items follow:

MINORITY REPORT CHALLENGES OBJECTIVITY OF ROCKEFELLER POPULATION COMMISSION

American taxpayers will foot the bill for a so-called "study" on *Population Growth and the American Future* costing hundreds of thousands of dollars when they could have had access to the same "studies" and recommendations of the Rockefeller Commission seven years ago by reading *Look* magazine for half a buck.

The *Look* article, "The Hidden Crisis", written by John Rockefeller III in February of 1965 is quoted at length in a 60 page minority report on *Population Growth and the American Future* released today by Women Concerned for the Unborn Child, Pennsylvanians for Human Life and right-to-life groups across the nation. The controversial Rockefeller article calls for an explicit government policy of population stabilization to handle the U.S. population "crisis" that "only the government can attack on the scale required."

The minority report charges that as early as 1957 the Rockefeller Fund in conjunction with the Conservation Fund and Planned Parenthood published a scheme for controlling population called *Population—An International Dilemma*. The pro-life minority report states that as chairman of the Commission on Population Growth and the American Future, John Rockefeller III assisted by the Commission's Executive Director, Doctor Charles Westoff of Planned Parenthood, has effectively controlled the logistics and direction of the Commission including the selection of researchers and their assigned projects.

Instead of stressing the means by which America can accommodate population growth, the Commission's efforts have been directed at the rationale and means of limiting and finally halting population growth, the report states.

The report charges that while every major group which has a vested interest in population control is represented on either the Commission itself on the research staff or both, no right to life group is so represented.

The minority report was prepared by Randy Engel, demographic advisor for Women Concerned for the Unborn Child and a regular columnist for Pennsylvanians for Human Life, in cooperation with concerned right to life groups across the nation.

No minority report will be forthcoming from the Rockefeller Commission although at least three Commission members are expected to register minority opinions in specific areas such as abortion. Any opportunities for external dissent by disgruntled Commission members regarding the biases or irregularities of the Commission have been ruled out by the Commissioners' decision not to attack the internal workings of the Commission in order to promote a facade of unanimity designed to stave off any opposition.

The report includes three major areas of study: abortion and population control, an analysis of the Commission's Interim Report and world and U.S. demographic perspectives.

In the area of abortion, the minority report details the current involvement of the federal government in the areas of abortion funding and research. It also highlights the Rockefeller interests in repealing all restrictions on abortion.

Population control is inextricably linked to abortion as well as to other anti-life activities, including euthanasia and infanticide, the report notes. This factor as well as the threat posed to the sanctity of the family by population control advocates, says the report, accounts for the great interest of right to life groups in the recommendations of the Rockefeller Commission.

REPORT CHALLENGES SESAME STREET'S POPULATION POLICY

Is the "subliminal" extolling of small families by the award-winning children's program *Sesame Street* in violation of the National Association of Broadcaster's Television Code prohibiting the process called "subliminal perception" or the use of any similar technique whereby an attempt is made to convey information to the viewer by transmitting messages below the threshold of normal awareness?

This is one of the controversial questions raised in a study on population education included in a minority report on *Population Growth and the American Future* to be released tomorrow in Pittsburgh.

According to Randy Engel, who prepared the report at the request of Women Concerned for the Unborn Child and Pennsylvanians for Human Life, "Population control advocates have decided to hitch their wagon to the rising star of environmental education because the study of ecology is a much safer avenue than a more controversial area such as sex education to indoctrinate the young in the 'crisis' of overpopulation in America."

The report quotes Doctor Irwin Slesnick, a population education pioneer from Western Washington State College (Bellingham, Washington), as saying that *Sesame Street* now includes deliberate and persuasive messages that are intended to convince little girls that motherhood and large families are not necessarily their destiny.

Speaking to about 300 elementary school teachers in Seattle last fall for a teach-in (sponsored by Planned Parenthood, Zero Population Growth and the Sierra Club), Doctor Slesnick said that the message of the importance of smaller American families already is reaching thousands of children. "In New York, Governor Nelson Rockefeller earmarked funds for the television program *Sesame Street* designed for pre-schoolers, with the specification that the show's format would include 'subliminal' extolling of the virtues of small families," Slesnick said.

In addition to the Rockefeller and Ford Foundations *Sesame Street* receives funds from the Departments of H.E.W. and the Office of Education. These two federal agencies, the report indicates, are fully committed to propagandizing the young in the need for population control.

Two textbooks cited in the report are an elementary text on population produced by the Population Reference Bureau called *Our Crowded World* and a campus-circulated booklet produced by Optimum Population, Inc. which states, "A young person must learn that he (or she) is not doing a baby or anyone else a favor by allowing it to be born."

The report, while favoring objective demographic and environmental studies, lashes out at the current trend of deluging the American people, particularly the young, "with a profusion of ill-documented facts and facile biological analogies to support the so-called population explosion and urges parents to take a greater interest in the area of population education and to work for a balanced public hearing on the population question."

REPORT CHALLENGES ZERO POPULATION POLICY

What is the relationship between an explicit government policy of population stabilization and the reduction of poverty?

A soon to be released national minority report on Population Growth and the American Future challenges the concept that population control means economic betterment for the family and a more equitable distribution of the nation's wealth.

"It is just the opposite," the report states. Zeroing in on some of the large corporations and foundations prominent in the population control movement including Standard Oil, Dupont and the Rockefeller interests, the report concludes, "Population control is a means for rulers to control the population. And when the issue is considered in terms of modern technology, population control becomes a way to increase the wealth of a few individuals and corporations."

The report, prepared by Randy Engel of Women Concerned for the Unborn Child and Pennsylvanians for Human Life in cooperation with right-to-life organizations across the country, also responds to the question of population control as a deliberate tool of black genocide. "Population control advocates are not racists—for to the Malthusian, color is not as important a factor as poverty. In a sense therefore, they can be said to practice democratic eugenics."

The demographic facts of life in the United States, according to the report, are currently such that white Protestants and Jews have birth rates which are at replacement level but blacks, Puerto Ricans, Mexican-Americans and other minority groups are reproducing well above replacement levels. A zero population growth policy, therefore, will have little meaning for the former group but for the minority groups it will likely pose special problems since they have a long way to go in order to achieve a birth rate consistent with a population stabilization level. The report states that in theory the zpg policies of the Rockefeller Commission on Population Growth and the American Future is not specifically directed at drastically lowering the birth rate of minority groups. In practical application, however, "it simply happens to work out that way."

The current drive to promote tax supported programs of abortion is seen by many as one avenue of cutting down the number of children on welfare rolls, the report says.

According to Doctor Garrett Hardin of the University of Southern California, Santa Barbara, "It may seem a rather cold-hearted thing to say, that we should make abortions available to keep down our taxes, but let us not hesitate to say this if such a statement will move legislators to do what they should do anyway."

QUESTIONNAIRE

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LANDGREBE. Mr. Speaker, for the information of my colleagues and for public knowledge, I am including a copy of my 1972 questionnaire in the RECORD. In an effort to obtain full participation, I have asked for responses from both the man and the woman of the household and from 18 to 21 years olds:

MY 1972 QUESTIONNAIRE

MARCH, 1972.

DEAR FRIEND: Could I impose upon a few minutes of your time to help me represent you more effectively? The past year has brought this country several new controversial isues to be added to a number of old controversies which are still far from resolved. The winding down of the war in Vietnam, drugs, socialized medicine, etc. are but a few of the issues. While it is a Congressman's responsibility to exercise his own independent judgment on the issues, it is also his responsibility to know the desires of the people he represents. Could you please give me your views by filing out and returning this Congressional questionnaire? To assure the broadest possible participation, I have provided separate spaces for each of you to mark your responses. Thank you.

Very truly yours,

EARL F. LANDGREBE.

1. Should the U.S. continue its generous support of the U.N.?
2. Do you feel there is a sufficient national effort to control pollution?
3. Do you favor mandatory severe sentences for pushers of hard drugs?
4. Should general education be financed by a national sales tax rather than through our present property tax?
5. Do you feel that network television fairly represents both sides of major issues of our day?
6. Do you favor federal legislation to establish day care centers and nursery schools?
7. Do you feel that further socialization of our medical and health care services is a. necessary, b. desirable, c. not needed?
8. Do you feel that our national defenses are being adequately maintained?
9. Do you favor President Nixon's Family Assistance plan?
10. Should Congress make greater efforts to balance the federal budget?
11. Do you favor—

a. continuation of the food stamp program?

b. revision of the food stamp program?

c. discontinuation of the present program?

Are you: Hourly employee, Salaried employee, Businessmen, Professional, Housewife, Student, Retired, Other?

OFF-LIMITS CAMPUSES

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DRINAN. Mr. Speaker, I attach herewith a helpful editorial in the March 28, 1972, issue of the Washington Evening Star.

This editorial expresses satisfaction that apparently some accommodation has been worked out between the Pentagon and the desire of the House Armed Services Committee to boycott and blacklist those institutions which have dropped ROTC training programs.

At the same time the Evening Star editorial concludes that "the Pentagon's compromise" is not satisfactory because it "is too much of a concession" to the dicates of a congressional committee.

The editorial follows:

OFF-LIMITS CAMPUSES

The Pentagon has announced a sensible policy for deciding which universities may be used for graduate study by officers of the armed services. Campuses will be chosen, essentially, on the basis of the appropriateness of the education offered and the best interests of the services. That is as it should be, considering the need of the military for the most expert officer corps it can get, and the interest of the taxpayer in getting the best value for his money.

The seemingly mundane matter became a source of controversy some days ago when Navy Secretary Chafee, answering a congressman's query, reported that the Navy was boycotting 15 institutions for dropping Reserve Officer Training Corps programs. The Navy, it appeared, had knuckled under to pressure from Chairman Hébert of the House Armed Services Committee, who is conducting a vendetta against colleges and universities that have adopted anti-military postures.

One trouble with the Hébert campaign is that the campuses thus declared off limits to officer-students—including prestigious places like Harvard, Columbia and Princeton—are more useful to the Pentagon than the Pentagon's budget is to them. The small numbers of military graduate students (Princeton counted five or six from the Navy) do not swell the revenues of the institutions, which habitually lose money on instructional programs. So much for the silliness of the Hébert brand of retaliation.

But the main point is that the military should be able to use the best educational facilities available. Why, for instance, should the Pentagon with its massive management problems be cut off from the expertise on tap at Harvard's Graduate School of Business Administration?

This is not to defend the actions of many institutions of higher learning that, folding under anti-military hysteria and left-wing disruptions, have banned ROTC. Such a turning from one of the nation's defense needs shows inadequate regard for the public interest and the rights of those students who would like to take the officer training and serve the country in that capacity.

But it also ignores the public interest to deny the value of some of these schools for the further education of high-caliber officers, especially on such grounds as Hébert's contempt for Ivy League folkways. Even the Pentagon's compromise decision to prefer ROTC campuses, other considerations being equal, is too much of a concession to Hébert's anti-intellectualism.

The committee chairman now may carry out his threat to try to legislate a boycott of the offending schools when the military procurement bill is considered. He and his colleagues should concentrate more usefully on the nation's real security needs.

LOCAL POSTMARK A REFLECTION OF HISTORY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PICKLE. Mr. Speaker, once again I would like to call your attention to the plight of local postmarks around the country. The postmarks of local towns and cities reflect the heritage of each community and this heritage should not be denied.

Oftentimes the town and therefore the postmark reflect a particular ethnic group or culture at a local level. This may be as various as the many ethnic groups which make up our great land. Should the U.S. Postal Service decide to remove these local postmarks, for whatever purpose, the net effect will be a great loss for the American people. That is what the U.S. Postal Corporation is trying to do: Eliminate the local postmark, and substitute a computerized number for your town.

At a time when we are preparing for America's bicentennial celebration, a celebration of our heritage, is it not proper to try to preserve our heritage today? Mr. Speaker, I contend there are other ways of speeding the mail than by destroying our local history and colorful heritage.

We have just celebrated another significant St. Patrick's Day in America. In the March 1972 issue of Postmasters Gazette, appeared an article by Mariette Hanhauser entitled "Irish Influence in Postal History—Alive and Well." It tells the story of how important Irish names have been preserved through the postmark: Dublin, Tex., Ga., Miss.; Kildare, Okla.; Shannon City, Iowa; Kilkenny, Minn., and many more. To that title, I would like to add "for how long?" Mr. Speaker, Mrs. Hanhauser's article is an excellent example of how important an otherwise seemingly unimportant postmark really is. I include this article in full, as follows:

IRISH INFLUENCE IN POSTAL HISTORY—ALIVE AND WELL

(By Mariette Hanhauser)

Like other countries in Europe and throughout the world, Ireland is not without representation in this country. A quick look through the Directory of Post Offices reveals numerous American cities named after famous Iris patriots, counties, and cities. A sampling includes several Dublins, Shannons, Sharons, a St. Patrick, a Parnell, an Ireland, two Shamrocks, a couple Patricks, several Londonderrys and a Kathleen, and Erin, and a Michael.

The Dublin, Georgia post office got its name from, as you might guess, the capital of Ireland. Mr. Jonathan Sawyer, a pioneer citizen of that community, named the city and was its first postmaster.

A steam flour mill drew Irish settlers to Ireland, Indiana where Postmaster William Rudolph, Jr. operates business from an Irish green brick building where he will stamp mail with a handsome shamrock upon request.

The Dublin, New Hampshire post office has for years cooperated with shamrock lovers across the country by obliging with postmarks of Dublin for St. Patrick's day.

Dublin was settled in 1753 by Scotch-Irish immigrants and a recent government survey has pronounced it the highest village in New England.

Shamrock, Texas, located in the Texas panhandle, boasts to have one of the largest Irish celebrations on March 17th in the country.

The name Shamrock was selected in 1898 by the first postmaster George Nichols, an Irish immigrant, for good luck. The first post office at Shamrock was located in a dugout near the Red River and the mail was carried by horseback from nearby Old Mobeetie. John Cullers, the present postmaster, is Shamrock's ninth.

The Wexford, Pennsylvania, post office was named after that county in Ireland. William Gibson, coming from Londonderry, Ireland, first settled in Pine Township, Pennsylvania, and subsequently bought land in the vicinity of what is now Wexford, for seven cents an acre.

Shannon City, Iowa postmaster Pearl M. Hailey gives this account of the history of her office:

The town of Shannon City was originally named Loomis after the practicing doctor there, Francis W. Loomis. An engineer of one of the earliest trains made the statement one day to the doctor that, as he approached Loomis, the town reminded him of his home

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on the River Shannon in Ireland. Dr. Loomis convinced the town residents that the name should be changed to Shannon. Later, the name was changed to Shannon City to distinguish it from that famous city in Ireland.

The first postmaster at Shannon City was an Irishman James F. McGinty who served until Dr. Loomis took over.

The Dublin, Texas post office was not established until 1875, however that community was settled by a group of hardy Irish immigrants in 1854. The present postmaster there, William L. Cowan, relates that the main street of Dublin is called Patrick and that most of the other throughfares have Irish names such as Grafton, Camden, O'Neil, Erin, Shamrock, Sheehan, Cagney, Grady, Ireland, O'Brien, Shannon, and Dublin.

Postmaster Cowan relates this interesting incident: "While in the Army during World War II, I was stationed in Belfast, North Ireland, and received an invitation to visit in the home of the Hunter family, which has operated the Hunter Distilleries for generations in Ireland. After dinner, I was talking to Mrs. Hunter and mentioned that I was from Dublin, Texas. She told me that she could name the principle streets there and proceeded to do so."

As its name implies, Dublin, Virginia was named after the Irish capitol. James Reed, an Irishman, settled a few miles from the present town site and went into the blacksmith business. He called the new settlement New Dublin. It was changed to Dublin in 1855.

The present postmaster there Bernard M. Anderson, Jr. states that a relative of his, Jacob Anderson, was the first postmaster at Dublin, serving from 1889 to 1893. His father, Bernard M. Anderson, Sr., served as postmaster until his retirement in 1963 when his son took over the postal responsibilities.

Roscommon, Michigan was named after that county in Ireland shortly after 1875. Every year, a supply of real shamrocks is sent from Roscommon, Ireland on St. Patrick's day. Roscommon postmaster Leo T. Valko is of Irish descent and his grandparents were from Kings County, County Mayo, County Kerry, and County Down.

Tyrone, Oklahoma post office was established in Beaver County, Oklahoma Territory, in 1892 with A. E. Blake as postmaster. Its name comes from the Irish County Tyrone and was designated by an Irish immigrant. The present postmaster there is Ralph O. Farmer.

The Armagh, Pennsylvania post office is named in Northern Ireland. The present postmaster is Ruth J. Svilar.

Green Isle, Minnesota has an interesting history. Postmaster Earl W. Dressen relates a story of three Doheny brothers, the first Irish settlers in the vicinity, who, in the spring of 1852, came up the Minnesota River on a riverboat called the "Black Oak." About 50 miles from their starting point at St. Paul they spotted a lush green valley that reminded them of their homeland. They decided that it was a good place to settle, did so and an early settler Christopher Dolan called it Green Isle. This original site of their disembarkation is less than 10 miles from Green Isle.

Kilkenny, Minnesota was named by Dennis Doyle who came to the area from Kilkenny, Ireland. The post office was established in 1857 with Doyle as the first postmaster.

The present Kilkenny postmaster, Ione Slattery, was confirmed in 1961.

According to Erin, New York postmaster Lydia Howard, Michael Robison, an enterprising and enthusiastic Irish settler, first gave the town the name Erin Go Braugh, or Erin Forever. The Erin part remained. Erin's first post office was established in 1872.

Parnell, Iowa is named after the famous patriot Charles Stewart Parnell, whose missions to America in the 1880's were to raise money for food for the starving people in Ireland.

The Parnell post office was established in 1884 and the town still maintains strong Irish ties: one can see Murphy's Grocery, Carney's Royal Beauty Salon, Carey's Shamrock Cafe, Weldon's Service Station, and Kelly's trucking. The present postmaster is Daniel P. McCarty.

Dublin, Indiana postmaster Margaret Horseman says that the first settlers to her community came from Dublin, Maryland. No doubt they had named the Maryland town after their original homeland.

As is evident, the Irish influence is alive and well in the annals of postal history.

SETTING THE RECORD STRAIGHT ON MEAT AND FOOD PRICES

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EDMONDSON. Mr. Speaker, Oklahoma is a proud and a pioneer State. The people I am privileged to represent are a patriotic and a self-sufficient breed. Their contributions to the Nation's economy and prosperity are intrinsic to the country. Now one vital and staunch member of the productive team of this State and Nation—our agricultural producer—is under attack. It is only fair to these people—and only fair to the other citizens of this country—to clarify the confusion on this issue.

There is no question about the gravity of rising meat costs to the consumer. There is considerable question about the responsibility for these increased prices and some charges of excess profits. However, an examination of the facts makes it obvious that the cattlemen, far from growing rich at the expense of the consumer, are only now beginning to catch up to the gains made by nonfarm workers.

The Department of Agriculture revealed that meat products this month rose above parity for the first time since 1910, for a parity ratio slightly above the depression day ratio. For the first time in 62 years, the meat producers are getting a return nearly equal to that of the rest of the economy.

A firm and vigorous agricultural system is essential to national stability and a crucial part of that system is the meat industry. ANCA President John Trotman has stated that while cattlemen's prices have risen above the 1951 level, their costs advanced 125 percent during that time.

Beef producer prices only now are recovering to the levels of 20 years ago—and those levels are not taking into account a depreciated dollar. During this 20 years, other wages have more than doubled and supplements and fringe benefits have multiplied sevenfold.

Farm food prices are up 7 percent in the past 20 years; wholesale food prices are up 22 percent; retail food prices are up 44 percent. During 1971, the retail cost of a typical market basket of food increased $21—the farmer received $1 and the other $20 increase was absorbed by middlemen. Yet, during these years since 1951, production costs to the farmer have nearly doubled; hired help wages have doubled; real estate taxes, farm machinery prices, and indebtedness are all up. But farmworker's output is more than three times as great as it was 20 years ago.

Our farmers can hardly be accused of profiteering. The farmer's share of each food dollar is 38 cents, compared with 49 cents of each food dollar 20 years ago. His income after taxes is 75 percent of the income of nonfarmers. His 7-percent increase in prices over two decades cannot be considered inflationary.

The Dust Bowl days are painfully remembered by our farmers and ranchers—the "Grapes of Wrath" tragedy is familiar to everyone. And now, when the parity level is just above the level of those days, there are cries of outrage over higher prices charged to the consumer. These cannot be attributed to the producers.

The average consumer's disposable income has increased more than 100 percent since 1951, and average per capita meat consumption has gone from 56 pounds 20 years ago to 115 pounds today. The beef industry has performed a tremendous job in meeting that demand—producing 2½ times its former output. It is estimated that the 1980 per capita consumption will be 130 pounds, and I am confident that our beef producers can meet that challenge as well. But they will meet it only if their continuing productivity is not impeded by crippling controls and restrictive regulations.

The Price Commission has announced hearings into spiraling food costs. Certainly the consumer needs relief, but I hope the Commission will take a hard look at just where the profits are being made. Even the 5 to 6 percent increase forecast for farmers' realized gross income next year is modest compared with recent growth in other sectors of the economy. Excess profits are certainly not going to the farmers and cattlemen, some of whom are finally getting their heads above the economic waters that have long threatened to engulf them.

The President has promised action to halt the upward costs. The Congress will be interested to see what steps he proposes. Clearly, striking at a group having one-fourth less disposable income than the rest of the Nation is not an equitable solution. Perhaps a study of profit margins and dividend distributions of the big processing interests is in order. I hope the Congress will receive a constructive Presidential message on this vital issue soon.

One thing is for sure: the cattleman and the farmer are not the villains in today's inflation story. On the contrary, they have been at the bottom of the totem pole for far too long as general prices and costs have steadily increased, and only recently have some agricultural prices begun to approach the parity level which is fair and equitable.

Let the facts be generally known on this matter. "The record speaks for itself."

NORTH COUNTY EDUCATOR RETIRES

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McEWEN. Mr. Speaker, I would like to bring to the attention of my colleagues in the House the fact that Charles J. Murphy, one of the truly distinguished public educators in northern New York, has announced his retirement effective in June of this year.

Mr. Murphy, a native of Potsdam, N.Y., whom I have had the pleasure of knowing for a number of years, has untiringly dedicated his life to the education of the young toward the end that they may be useful and responsible citizens. He has served well the residents of the village of Saranac Lake for the past 30 years, first as a teacher of 12th grade American history, and for the past 19 years as principal. It has been through his high degree of professionalism and dedication to the public interest that Saranac Lake High School takes its place as one of the finest high schools in New York State.

I might also point out that his wife, Helen, who has been associated with the Saranac School system for the pasts 10 years, has announced her retirement effective in June.

I should like to add my voice to that of the Murphys' many friends in congratulating these distinguished public servants, and say that I am proud to have them reside in my district. I wish them both many happy days together in the years ahead.

The Watertown Daily Times recently carried a brief biography of Mr. Murphy, which I insert in the RECORD at this point:

[From the Watertown Daily Times, Feb. 24, 1972]

PRINCIPAL RETIRING AT SARANAC LAKE

SARANAC LAKE.—Charles J. Murphy, principal of Saranac Lake High School, will retire June 30 after more than 37 years in the field of public education in New York State.

The son of the late Charles A. and Mary Murphy of Potsdam, he was educated in Potsdam schools and was graduated from the University of Michigan in June, 1933. He received his M.A. degree in August, 1940, from the State University at Albany with a major in secondary school administration. He did graduate work at Columbia University, Plattsburgh State University College and the University of Connecticut.

He taught social studies and special subjects at Speculator for seven years and joined the staff of Saranac Lake High School in September, 1942, as a teacher of 12th grade American History and chairman of the Social Studies Department. In September, 1953, Mr. Murphy was appointed principal of Saranac Lake Senior High School. He later served as principal of the Saranac Lake Junior-Senior High School and in September, 1969, was named principal of the newly-opened Saranac Lake High School.

Mr. Murphy, a past president of the Saranac Lake Teachers Association, served as a representative of the resolutions committee of the Northern Zone, New York State Teachers Association, and is a member of the New York State Association of Secondary School Administrators.

Mr. Murphy married Helen Duffy of Potsdam, who is a third grade teacher in the Saranac Lake Central School System. They have two children, John, a graduate of St. Michael's College, Winooski, Vt., and now associated with the National Association of Counties in Washington, D.C., and a daughter, Ann, a senior at Brockport State University College.

Mr. Murphy, a past exalted ruler of Saranac Lake Elks Lodge 1508, has served four years as north district scholarship chairman of the State Elks Association.

DR. JOHN SCHWADA BECOMES 12TH PRESIDENT OF ARIZONA STATE UNIVERSITY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RHODES. Mr. Speaker, recently I was privileged to attend the inauguration of Dr. John Schwada as the 12th president of Arizona State University.

Also in attendance for the ceremonies at ASU's beautiful and famous Grady Grammage auditorium, were 27 university presidents, 92 delegates from learned societies, and 200 delegates of universities.

The guest speaker was, Dr. Logan Wilson, president emeritus of the American Council on Education. His speech was extremely worthwhile and brought out ideas we all should consider. Therefore, I would like to include in the RECORD the text of Dr. Wilson's speech for the benefit of my colleagues.

A TIME FOR AFFIRMATION

Let me begin by saying that I am honored to be with you for this important occasion. Having spent many years on campuses, I am always pleased to get back to one of them, and a presidential inaugural is to me an impressive reminder of what a college or university should symbolize. Your new president and I, incidentally, have common associations with one major state university, and I am sure that over the years we must have confronted many similar problems. If President Schwada were not already an educational leader of demonstrated competence, one might wonder why he would enter what has been aptly described as the roughest profession. He already knows, however, that heading a large university is a rewarding as well as arduous undertaking. Although nobody asked me to give a be-kind-to-your-president address, I would urge that you join forces to make Dr. Schwada's term of office a long and rewarding one. In an area when the median tenure of presidents in some of our leading universities has become disturbingly short (just under three years among the institutions of the Association of American Universities), the need for more continuity of experienced leadership is critical.

As most of you are aware, this is not the happiest of times in American higher education. The golden age of the 1960s is at an end, and in many places there is much uncertainty, confusion, and even trepidation about what the future may hold. Within recent years we have witnessed the barricading of classrooms and the burning of buildings. Your campus, fortunately has not been among those marked by extremism and violence. But in altogether too many of the nation's colleges and universities enough students have behaved destructively, enough professors complacently or foolishly, and enough administrators indecisively to make urgent a period of affirmation. The title of my remarks to you here, accordingly, is "A Time for Affirmation."

I have chosen to stress the need for more affirmative action on all of our campuses in part because public confidence in higher education is now at low ebb. Federal aid has dwindled at the same time that federal guidelines, which some regard as interferences with institutional autonomy, have multiplied. Some state legislatures have leveled off or even reduced appropriations; many state governments have also curtailed campus authority in decision making. Private contributions last year showed a decline for the first time in many years. Hundreds of colleges and universities are in dire financial straits. Even though most public institutions are enrolling increasing numbers of students, the market demand for their graduates has recently been bearish rather than bullish. The surface aspects of our situation, in short, are not encouraging.

Some persons blame much of this adversity on a public backlash against recent campus disruption. Others state that the plight of many educational institutions simply mirrors a society that is confused, without real direction, and even sick. Still others attribute our setbacks to an overselling of formal education as a panacea for our ills and shortcomings, and feel that a period of belt-tightening while we reassess our priorities is indeed overdue. There is no denying a widespread disenchantment with traditional higher education, both inside and outside academic circles.

Whatever the explanations or rationalizations, I think our circumstances call for something more than educational breast-beating and self-flagellation. Continuous institutional self-examination and criticism are undoubtedly helpful, but unrelenting catharsis on the campus can debilitate energies needed for ongoing purposes. Although higher education has plenty of faults and shortcomings, my contention is that colleges and universities are on the whole better institutions than their detractors would have us think. To be sure, they are not perfect examples of economy, efficiency, productivity, equity—or what have you—but I would ask you to compare them with hospitals, courts of law, business enterprises, political agencies, and other real entities rather than with utopias. Our collective responsibility to such deserving institutions as colleges and universities, I would insist, is not to be a party to their denigration, but to extend and improve their services.

Here at Arizona State University, you are in a stronger position to confront the years directly ahead than are many other institutions. Looking back over the past decade, for example, one may note that your state has a better record of public support than the average state in showing a 446 percent gain as compared to a weighted, national gain amounting to about 350 percent. You should be encouraged also to observe that Arizona's percentage increase for the past two years is exactly double that of the national average. For the fiscal year 1972, Arizona ranks fifth in the nation in per capita appropriation of state tax funds for operating expenses of public higher education. In brief, it would appear that insofar as public support of higher education is concerned, there is little disenchanment here in your state.

Competing demands on the public purse from many other sources, however, are likely to become intensified in the future. As the competition for funds increase, the inputs and outputs of our institutions will be under sharper scrutiny. Accountability is already a byword in state capitals; legislators and the publics who elect them are no longer willing to accord intrinsic merit to everything that passes under the guise of higher education. Furthermore, there is a growing realization

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among students themselves of the importance of really meaningful achievement.

All around us we see evidences of a strongly felt need to reaffirm continuing objectives, agree upon and affirm new purposes, and move forward with the main business of our institutions. One of the strengths of the American system of higher education, of course, is that its diversity makes possible the attainment of a wide variety of objectives. Even within a single institution, when it is as large and complex as Arizona State University, a considerable range of student aptitudes and goals can be accommodated, with—to modify a figure of speech from Sir Eric Ashby—human parallels to both Continentals and Pintos emerging as products. Regardless of objectives, however, I believe that if any college or university is to maintain viability, it must manifest a common affirmation of at least four operating principles.

The first of these operating principles is the essentiality of carefully structured teaching and learning. To illustrate what I mean, let me give just one example of an institution that became a disaster mainly because it failed to heed this elemental premise. Known as Old Westbury, it was established four years ago as an institution in the State University of New York system. The disaster of Old Westbury was described briefly in a *New York Times* article last April. A visiting committee of educators reviewed the wreckage to see what could be done to salvage it. They found a college where libertarianism had run its course—with a helterskelter curriculum, no academic departments, no conventional testing, no failing grades, students doing largely as they pleased and getting course credit for it, nobody clearly in charge of anything, and nearly everybody endlessly arguing issues which never got resolved. The hapless venture was given the newspaper caption "Life and Death of a Far-Out College." It is true that the initial mode of operation was quietly phased out, and replaced with an arrangement which recognizes that carefully organized effort is no less essential in an educational enterprise than elsewhere.

Many of our traditional campus practices do need changing, to be sure, but to argue that all of them should be abandoned in the name of progress is, of course, utter nonsense. The disciplines of higher learning entail restraints as well as freedoms. Contrary to what the advocates of complete permissiveness would have us believe, programmed learning is not only more economical than the undirected kind but also less difficult for most undergraduates. Sequential courses are at times the manifestations of professional conspiracy, but more often than not they are the logical steps toward competence in a field. Grading and credentialing can be overdone, too, but before we discard them we ought to consider the consequences of living in a society where one would always have to be dubious about the competence of doctors, lawyers, or engineers. In the matter of general education, moreover, even though there now seems to be little agreement about what constitutes a well-educated person, surely there can be an insistence on minimum levels of intellectual attainment and of proficiency in such fundamentals as reading, writing, and mathematical calculation.

The campus is not, to be sure, the only place where educational endeavor can be carried forward. Yet because the substance of higher learning is in the main systematic knowledge, and the university is the best social invention man has yet devised for conserving, disseminating, and advancing it, there are necessarily some structural aspects of teaching and learning that must be accepted by all who would benefit from participation in the main endeavor of any campus. We all should bear in mind that if we permit a university's essential structure to be undermined, not only will its main reason for being disappear, but also its functions will remain unfulfilled.

A second indispensable operating principle for a viable college or university is continuity and coherence of effort. The basic purposes of academic institutions, I would argue, are not transitory, and perhaps this is one reason that such institutions are in the main longer lived than most other human enterprises. Lacking continuity and coherence of effort, virtually all of the so-called free universities founded by students and others in recent years have gone by the board. The *ad hoc* nature of their scattered concerns and the unquestioned right of everybody to do his own thing caused some far-out academics to regard them as models to be emulated by established institutions, but it seems to me that their main utility was to demonstrate what does *not* work in terms of the really serious business of higher learning.

Continuity in the curriculum and in the faculty are functionally related to institutional stability. Although no college or university can afford an ossified curriculum or faculty, in an era of permissive excess we must continuously remind ourselves that an equally bad situation is one in which the most transitory members of the academic community, the students, have the decisive voice regarding what will be taught and who will teach it. A further objection to the one-man one-vote mode of conducting academic affairs is the babel of voices that would render impossible any real coherence of effort. About this, however, I shall have more to say later.

Turning now to a third tenet of sound educational organization, I would emphasize that the maintenance of academic freedoms for faculty and students requires a willing acceptance of authority and responsibility. Let me explain what I mean by these terms. In the collegiate realm authority does not signify the giving and taking of orders, as is true, for example, among the military. Also, I would note that in any academic community ruled by reason the power concept of forcing other individuals to behave as one wishes, regardless of their own best interests, is a mistaken way of looking at the conduct of affairs. The authority of the professor in the classroom is analogous to that of the architect at the drawingboard, the surgeon in the operating room, or the flight captain behind the instrument panel. The authority of the administrative officer may variously resemble that of the quarterback on the football field, the dispatcher in a control tower, the leader of a sortie from a besieged place, or a presiding official who for procedural reasons is accorded first place among a body of equals. In short, academic authority in the true sense of the phrase rests not on force but upon reason, persuasion, and the influence of superior knowledge or earned competence associated with delegated status. Academic authority, when properly carried out, is thus authoritative without being authoritarian.

The larger society which supports our colleges and universities expects in return for its investment an assumption of responsibility on the part of all who are connected with such institutions. In the eyes of the public, the students are there primarily to learn, to enlarge their knowledge, and to improve their skills so that they later will be better citizens. Professors have a responsibility to diffuse and advance the higher learning and to refrain from propagandizing or otherwise obstructing the pursuit of truth. Administrators have an obligation to further the continuity and coherence of the whole endeavor by facilitating the achievement of basic institutional purposes.

I am aware, of course, that much of what I have just said is platitudinous, but the recent erosion of authority and responsibility on hundreds of campuses causes me to believe it would be worthwhile to restore to respectability some well-worn platitudes concerning the fundamentals of social organization. *True*, the establishment at any given time may be due a shake-up; *an* establishment, nonetheless, is essential to the ongoing operations of any college or university.

If our institutions are not be become perpetual debating societies where little is decided and even less accomplished, there is a fourth operational principle to be heeded. This is the necessity for effective leadership. Happily in virtually all colleges and universities, the day of educational autocrats has gone by, but on many campuses, most inopportunely, we find in their places administrators who are still loaded with responsibility yet stripped of requisite authority to discharge their duties.

To renew public confidence in higher education, I hope you will agree with me that presidents, vice-presidents, provosts, deans, department chairmen, and other administrative officers must be something more than mere pulse feelers and mediators. To have strong and creative leaders in academics, they too must be given certain freedoms. In my judgment, the proper way to keep them in check is not to remove their initiatives but simply to hold them accountable periodically for the achievement of agreed-upon objectives. I would also call it to your attention that in recent years the hamstringing of local leadership by faculty and students has been a critical element in the shift of decision making away from the campus to other locales where many of the controls are now being exercised.

As Fr. Hesburgh, president of Notre Dame, said in an eloquent adddress before the American Council on Education last fall, "the central person in exercising moral leadership for the life and prosperity of any academic institution must be its president." He went on to add that such leadership also requires support from all segments of the academic community. To quote him specifically:

"Moreover, a good leadership at the top inspires correlative leadership all down the line. Participatory democracy cannot simply mean endless discussion. Rather, if it is to work at all, it means that every member of the community, especially within his or her segment of the community, exercises moral responsibility, especially when it hurts and when it demands the courage to say and do what may be unpopular. Student judicial courts will not survive if they never find anyone guilty or never impose adequate sanctions for obvious wrongdoing. Student government will soon enough lose all credibility and acceptance, even from students, if its only concerns are freer sex, more parking, education without effort, and attainment of the heights of Utopia without climbing. Faculty senates will only be debating societies if they never recognize the central faculty abuses and move effectively to correct them. Vice-presidents and deans and departmental chairmen do not exist to pass the buck upwards and to avoid the difficult decisions. Leadership may be most important at the presidential level, but it is absolutely essential at every level—trustee, faculty, administrators, students, and alumni—if the community is going to be equal to the task that lies ahead for each college and university and for the total enterprise of higher education in America."

You will note that I have chosen to focus on the means rather than the ends of higher education. Here at Arizona State University, I am sure that you have diverse as well as shared objectives. The whole point of my stress on the need for common affirmations is their indispensibility in group endeavor, whatever the goals may be. You are fortunate in having a leader of President Schwada's proven capability at the helm, and in my judgment he is also fortunate in heading a university which has the potentials at hand for moving ahead into a very promising future. To you and to him, I extend congratulations and best wishes.

MENTAL HEALTH PROGRAM IN MISSOURI

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SYMINGTON. Mr. Speaker, Missouri has improved its mental health program a great deal in the last 5 years. However, like so many States, Missouri lacks sufficient funds to further develop its rehabilitation effort. I support full funding of all programs to assist the retarded and mentally ill. I oppose any impoundment of Federal funds appropriated by Congress for construction and improvement of mental health centers.

Federal funds authorized and appropriated to assist States in humanizing their rehabilitation efforts should alleviate problems of overcrowding, institutionalization, and custodial care. Federal dollars must be wisely administered. Missouri is fortunate to have legislators and administrators who care about this problem.

In this regard, I would call to the attention of my colleagues, an article detailing the use of Federal money by Missouri officials. The article was written by Les Pearson and appeared in the St. Louis Globe-Democrat of March 10, 1972. At this point I insert the article in the RECORD.

SCHOOL FOR THE RETARDED

(By Les Pearson)

State mental health officials are aiming at a "significant reduction" in the number of mentally retarded persons at St. Louis State School and Hospital, 10695 Bellefontaine Rd., perhaps within about a year.

At the same time, about $400,000—originally planned to pay for street widening and other purposes on the grounds—will go for air conditioning and other improvements intended to "humanize" the prison-like buildings, according to Dr. William Bradley, associate director for mental retardation.

These steps are part of a program aimed at bringing the state institution into conformity with federal standards.

If these standards—not yet fully defined—can be met, Dr. Bradley said "easily $2 million or $3 million" a year in new federal money could be made available for further improvements.

The decision to reduce population and improve conditions came after a Globe-Democrat investigation and a long series of stories about conditions under which the mentally retarded live in Missouri.

"We must be able to show more than just custodial care" to become eligible for the new federal money, which would become available under the Social Security Act on an individual basis for residents if the institution meets standards, Bradley said.

Bradley said the institution's 571 residents must be brought down to at least 528 to end overcrowding according to known accreditation standards.

Conversion of space now used for dormitory purposes to become needed space for recreation, therapy and other programs now contemplated would reduce the population to about 450.

Bradley has said that probably 300 of the residents at the state institution could live in the community, providing adequate residential facilities and other programs were available.

"There are no plans for a sudden reduction in population," Bradley said. "But I think we could make a significant reduction in perhaps one year."

Reduction of the population by 120 or so in one year is feasible, according to Mel Knowlton, acting executive director of the St. Louis Association for Retarded Children.

Knowlton, who established a successful community residential program for the retarded in Omaha, Nebr., said his organization is attempting to set up just such a residential program.

He takes the position that mentally retarded persons can live more happily and normally in a homelike setting in the community, rather than in an institution with its dehumanizing influence.

Knowlton estimated first year cost to set up and operate a small residence for 10 retarded persons to be $35,000, dropping to $25,000 or $30,000 the second year.

That would mean for less than $500,000, community residential facilities could be provided in the St. Louis area for 120 persons. Officials estimate recreation, therapy, education, training, day care and other services would cost no more than another $500,000.

The state estimates it costs $26 per day for residents at the institution now, which is more than $2 million a year for the 120 being discussed.

In the Omaha area, overall per diem cost for 1,000 mentally retarded persons being served is $6.78, Knowlton said, slightly more than half the per diem institutional cost in that state.

Bradley has been meeting with several North St. Louis County legislators in an effort to work out improvements in the institution now, by rearranging priorities for spending money.

They also have been attempting to find ways to reduce the population so that further improvements may be made.

Legislators involved are Sen. John D. Schneider (D.) of Florissant and four state representatives, all Democrats. They are James Mulvaney of Jennings, Judith O'Connor of Bridgeton, Earl Schlef of Dellwood and Walter Meyer of Bellefontaine Neighbors.

JOE PEPPER ADDS TO FAMILY RECORD

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FUQUA. Mr. Speaker, a young man from Tallahassee, Fla., is making a phenomenal record in his engineering studies at Stanford University.

Now in his third year of study on a doctorate in mechanical engineering at this great institution, he is Joe W. Pepper, son of Mr. and Mrs. Frank Pepper, of Tallahassee.

His uncle is Congressman CLAUDE PEPPER, my distinguished colleague.

Certainly Joe is carrying on a proud family name.

He is to present a paper to the 13th annual engineering meeting at Argonne National Laboratory in Chicago. The topic of his paper at the meeting this week is "Magneto-Hydrodynamics Steam Powerplant Systems."

Magneto-hydrodynamics—MHD—is a concept for generating electrical power that promises higher efficiencies than present day steamplants. Still to be determined, the university notes, is the question of air pollution from such MHD plants.

A graduate of Leon High, Pepper received his bachelor of arts and master degrees in engineering science at Florida State University.

I can confidently predict that you will be hearing a great deal about this young man in the future.

SIERRA CLUB EDITORIAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. KEMP. Mr. Speaker, recent months have seen the proliferation of much careless rhetoric about our Nation's needs, the relative merits of alternative social programs, and demands for reordering our priorities.

In that context, I would like to share with my colleagues an excellent editorial from the February Sierra Club Bulletin. Michael McCloskey's interpretation of the hazards inherent in the parochialism of some social planners demands all our attention. His perception of the tragedy of seeing two crucial reform movements; namely, environmentalists and minorities competing for predominance on the social agenda of this Nation points to the kind of predicament we may be confronting if the parochialism and self-righteousness of some social planners is not soon brought to a halt.

The inevitability of changing our national priorities is not questioned; the trend of the President's budgets reaffirm that fact. Human resource outlays since the President entered office have jumped from 32 percent to 42 percent of the total budget while defense-related expenditures have plummeted from 59 percent to 34 percent. The annual rate of increase in human resources since 1962 has been more than 12 percent, and every single budget component is increasing more rapidly than national defense. In 20 years, expenditures for human resources have skyrocketed 1,170 percent, while defense increases have been only 57 percent.

The trend is unequivocal. But we need to stop competing to command exclusivity on the Nation's list of priorities. Mankind's growing interdependence demands a more even-handed and well-reasoned examination of society's needs. We must take account of the validity of separate agendas and reject the narrowness of those who insist upon the righteousness of one social program and the frivolousness of another.

We must add a new dimension to man's thinking so he can see himself not as an antagonistic isolated individual who alone comprehends the demands of society, but as a rational thinker who

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recognizes the scope of our needs, the complexity of our problems, and who understands that proposed solutions are useless unless advanced in the context of the realities of the American economy and the Federal budget.

With this preface, I insert the Sierra Club editorial in the RECORD at this point:

"You environmentalists care more about the fate of the black bear than that of the black man. You get more excited about a dying tree than a child dying in the ghetto." These are charges being heard more and more from spokesmen for minority groups. They are hurled at environmentalists at conferences where we gather to explore relationships. Are they fair? How should we respond?

Some environmentalists are tempted to reverse the charges. "You care more about the plight of minorities than the plight of mankind." "You care more about civil rights than survival."

We should stop hurling such charges at each other. It is tragic to see two crucial reform movements jealously vying for predominance. There are too few committed to social reform for us to be able to endure the tragedy of such misunderstanding.

Both movements should share a commitment to the wholeness of life and should revere it. We should care what happens to all life forms, human and non-human, and work together to secure and maintain sound life support systems. We have to care about all parts of the human race, and understand that other forms of life have claims upon our conscience too. A communion of purpose should join us which will cause us to shrink from thinking in terms of trade-offs between life forms and dropping one concern for another.

It is important that we understand the difference between the claims of conscience upon each of us as individuals and the raison d'être for specialized organizations. As whole persons, each of us should be concerned with many causes, pleas, and reforms. Yet the only efficient way to pursue these goals is through specialized organizations which have limited agendas. No organization can attempt to undertake all reforms. None should be indicted for having a limited agenda, and much less for being successful in attracting adherents. We should respect the value of divisions of labor, and draw comfort from the fact that many groups are pursuing so much that needs to be done. We need both environmental groups and civil rights groups, and many more too.

We need to stop competing to achieve ascendancy on the nation's list of social priorities. There is no *a priori* way to assert that civil rights or poverty is more important than the environment, nor vice versa. They are both important and deserve high priority. We and other life forms need to survive, and human dignity needs to be established and advanced. It makes no sense to sacrifice either.

And finally, we need to stop trying to co-opt and manipulate each other. Environmentalists should stop trying to get minorities to be chiefly concerned with environmental programs. Despite the fact that the ghetto resident may be the chief victim of pollution, those suffering from so many ills there have to define their own priorities. And minorities should stop resenting the fact that so many Americans are now concerned with the environment. These Americans cannot be browbeaten into dropping their environmental concerns, no matter how urgent the case is for curing poverty.

We should work to respect the validity of separate agendas, and the vitality of a diverse movement for social reform. Respect will not bring us into total agreement, and points of conflict may occasionally emerge. But we need to see each other in the context of a larger purpose, to minimize our conflicts, and find opportunities to work together on projects where our programs overlap. As we do so, we may find that we need each other far more than we now suspect.

MICHAEL MCCLOSKEY,
Executive Director.

UKRAINE—THE LARGEST CAPTIVE NON-RUSSIAN NATION IN THE U.S.S.R. AND EASTERN EUROPE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FLOOD. Mr. Speaker, it is not generally known and sufficiently appreciated that the largest captive non-Russian nation in the U.S.S.R. and Eastern Europe is Ukraine.

With a population of over 45 million, Ukraine is one of the most resourceful nations in Europe, and if it were not under the domination of Russian Moscow, it would surely again become the granary of Europe in an advanced economic framework of industry and agriculture. Also, the country's geographic location, extending from the Carpathian Mountains toward the Caucasus and above the Black Sea, is a most strategic one as concern developments in Europe, Asia, and the Middle East.

Because we shall hear more and more about this largest captive nation in Europe, I submit for our popular edification the illuminating section on "Ucrainica in American and Foreign Periodicals" in the world-respected scholarly journal of East European and Asian Affairs, the Ukrainian Quarterly. The section, prepared by Dr. Lev E. Dobriansky of Georgetown University, regularly shows the growing interest in this captive nation and, above all, the prominent myths and misconceptions that many in the West still cling to when analyzing or commenting upon the Soviet Union, Russia, or Ukraine. It is high time these myths were dissipated, and a Select House Committee on the Captive Nations would be the most effective way of doing it—the Ukrainian Quarterly, volume XXVIII No. 1, spring 1972.

The article follows:

UCRAINICA IN AMERICAN AND FOREIGN PERIODICALS

"Who will be next?" a commentary and list. The Reader's Digest, Pleasantville, New York, October 1971.

In this issue of the Digest the long list of captive nations is featured under the caption "Who Will Be Next?". The list of over two dozen captive nations was compiled by the National Captive Nations Committee several years ago and is widely circulated every year during Captive Nations Week in July. The complete list includes the early captive nations which are now in the Soviet Union, such as Armenia, Byelorussia, Ukraine, Georgia and others.

Raising the question "Who will be the next to fall?", the commentary accurately points out at the start, "Today the communists still pursue their 50-year policy of relentless expansion." It mentions how this policy is backed with merciless genocidal practices. The Russian plot to incite a bloody revolution in Mexico is cited.

"Congressman Daniel J. Flood Named Honorary Doctor of Philosophy by the Ukrainian Free University of Munich, Germany," a statement by the Honorable Thomas E. Morgan. *The Congressional Record*, Washington, D.C., November 4, 1971.

At the banquet of the Fiftieth Anniversary of the founding of the Free Ukrainian University in Vienna, in 1921, the veteran and powerful Representative Daniel J. Flood was conferred with an honorary Ph.D. The sumptuous banquet was held on October 13 at the Statler-Hilton Hotel in New York City. Some five hundred distinguished guests attended the unique ceremony.

Congressman Morgan of Pennsylvania, chairman of the Committee of Foreign Affairs, introduced into the *Congressional Record* his remarks on the event and also the text of the address delivered by Dr. Flood after his acceptance of the degree. Chairman Morgan stated, "Congressman Flood has continuously supported the cause of Ukrainian culture, and served at the head of a committee a few years back which led to the erecting of the Shevchenko Monument here in the Nation's Capital. He has been since its inception a strong supporter of the Captive Nations Week resolution."

In his address of acceptance Dr. Flood declared in part, "It is an honor that I shall treasure richly and to the end of my day. Believe me, in granting me this privilege to become associated as a favored son of the Free Ukrainian University, you have rekindled more than ever before my hopes and desires to continue to work with you in the advancement and realization of the cultural and political aspirations of the Ukrainian nation. . ." The Free Ukrainian University is now centered at the University of Munich, Germany. It enjoys full accreditation, and for several days preceding the jubilee banquet important symposia were held at the Ukrainian Cultural Institute in New York on a broad variety of subjects.

"Rogers Cited Dangers," a commentary. *Wall Street Journal*, New York, October 5, 1971.

The dangers referred to in this commentary are related to the expulsion of the Republic of China from the United Nations. In a policy address to the General Assembly, Secretary of State Rogers warned that the ouster of ROC from the world body would be "perilous" for the future of other UN members. "To open it for one would be to open it for many."

Using the false analogy of Ukraine and Byelorussia, the Secretary argued that Washington's two-China policy wouldn't divide China any more than UN membership for Ukraine and Byelorussia has divided the USSR. Basically, what the matter of division had to do with the issue remains a mystery. The real division is between a Free China and a totalitarian Red China, largely two parts of a given nation. Ukraine and Byelorussia are not free republics, but nor are they parts of any larger nation. They are nations in themselves. And we simply suffered defeat as concerns Free China.

"Folly at the United Nations," an editorial. *The Evening Star*, Washington, D.C., October 27, 1971.

Folly is a mild term for the monstrous injustice done to the Republic of China by a majority of members in the U.N. These include our traditional member allies of Western Europe. This editorial is quite correct in its observation about the severe blow dealt to the prestige of both the U.S. and ROC. It is probably correct, too, in its prediction of the U.N. itself being the ultimate loser.

When in the course of this otherwise excellent editorial one reads what amounts to conceptual folly, one perhaps can appreciate some of the causes underlying our defeat in the U.N. This folly even goes beyond the widely circulated false analogy with Ukraine and Byelorussia. Just consider this: "One is

hardly surprised to find such fictional nations as Byelorussia and Ukraine voting 'no.'" This foolish statement reflects our fictional about the two as nations; the fiction rests in their supposed independent statehood. And this can be applied also to the other captive nations in the U.N. membership from Eastern Europe.

"Formula for Peking Entry Into U.N.," an article by C. L. Sulzberger. *The Evening Star*, Washington, D.C., October 8, 1971.

In the summer and fall of 1971 innumerable articles and commentaries were written on the so-called China issue and relating it to what came to be called the Ukraine-Byelorussian arrangement. This article is just one additional example. Its alleged formula also rests on the oft-mentioned false analogy.

The basic confusion resides in the contrived parallelism between two distinct nations and one nation with two district states, a free China and an unfree one. The confusion underlies the formula Secretary of State Rogers alluded to when in his address he stressed "After all, we know Byelorussia and Ukraine are not separate states." The significant point is that they are two distinct nations.

The writer recalls Stalin's cable to Roosevelt, which is quite pertinent now: "You, of course, know that the Ukraine and Byelorussia, which are constituent parts of the Soviet Union, are greater in population and in political importance than certain other countries which we all agree should belong to the number of initiators of the establishment of the international organization." Aside from the motivations of its signer, the message carries solid objectives worth for the present, whether in the U.N. or elsewhere.

"Ukrainians Buck Vatican, Call Synod," a report. *The Catholic Standard and Times*, Philadelphia, Pa., November 4, 1971.

In addition to widespread discussion in the fall of '71 on the China and Byelorussia-Ukraine analogy, considerable coverage was given to the speech of Josef Cardinal Slipyj to the synod at the Vatican and also the convening of a Ukrainian Catholic synod constituted by sixteen Ukrainian bishops. This report and those following are only a few examples of the world-wide coverage given this event.

The chief object of this report was the convening of the Ukrainian synod, ostensibly in defiance of the Pope's will. According to it, "papal secretary of state Jean Cardinal Villot sent a letter to Cardinal Slipyj, indicating that the bishops could meet to discuss Church problems but adding that they 'are not allowed to convoke what in canon law is known as a synod.'" The convocation expressed obedience to the Pope and proved to be highly fruitful in results.

"True and Still Trying," a report. *Daily News*, New York, November 13, 1971.

Here, Josef Cardinal Slipyj is reported continuing the fight for a Ukrainian Catholic patriarchate. He and associated Ukrainian bishops "restated their loyalty to Pope Paul . . . but vowed to keep up their struggle to have the cardinal made a patriarch." The Pope rejected the request for a patriarchate at this time last July, holding the cardinal's authority did not extend beyond Ukraine.

"Slipyj Attacks Soviet Union on Ukrainians," an article by Reynolds Packard. *Sunday News*, New York, October 24, 1971.

For the first time Josef Cardinal Slipyj spoke out openly against Soviet Russian persecution of the Ukrainian Catholic Church. He criticized the Vatican of muzzling him "for diplomatic reasons." This article recounts at length the highlights of the speech and the background of the Cardinal.

As the writer describes it, "Carried away by the expression of his eight years of pent-up emotions, the Ukrainian Catholic leader ignored the five-minute limit on synod speeches. Nobody interrupted him." The Cardinal spoke for fifteen minutes, and minced few words about the impediments of Vatican diplomacy. As he put it, "People are saying that Cardinal Slipyj does nothing for his church. But what can he do?"

"Ukrainian Prelate Critical of Vatican," a report. *The New York Times*, New York, October 24, 1971.

This newspaper organ also reported on Cardinal Slipyj's address before the Vatican synod. Pope Paul VI was in the audience of the synod at the time of the Cardinal's address. . . . Some 210 church dignitaries from around the world attended.

Confirming other sources, the reporter stated, "the Cardinal's long silence indicated that Pope Paul VI had asked him to refrain from commenting on the situation in the Ukraine to ease Vatican negotiations with Communist regimes. . . ." Surely, bargaining strength is not derived from mute silence.

"He Speaks for Married Priests," a special report. *Daily News*, New York, October 5, 1971.

A part of Cardinal Slipyj's address to the Synod of Bishops which receives special attention in this report concerns the use of married priests in the Eastern Rite Churches. Among other things, the Cardinal defended its use and urged the principle of reciprocity regarding celibacy. As reported, "Slipyj said that if Eastern rite priests were forced to abide by the rules of the Latin Church in the West, then the same rule should apply to Latin priests in the East."

Evidently, the Cardinal alluded to the United States when he brought out that "the strongest feelings against celibacy were in the very countries where the Vatican had stopped Eastern married priests from carrying out their ministry." Eastern Rite Churches allow the ordination of men who are already married. Contrary to the disagreement expressed by the Coptic patriarch of Alexandria, Stephanus Cardinal Sidarouss, a celibate priesthood does not guarantee a full-time clergy. The expression of choice would maximize clerical output.

"Eastern Patriarch Defends Ordination of Married," an article by Edward B. Fiske. *The New York Times*, New York, October 3, 1971.

The attitude of Eastern Rite dignitaries in the Synod of Bishops is further reflected here in speeches delivered by the Melchite Patriarch of Antioch, Maximos V. Hakim and Maxim Hermaniuk, the Ukrainian Metropolitan of Winnipeg. The former is depicted here as defending "the ordination of married as well as celibate men in the priesthood." The Patriarch argued this would be "in accord with the earliest traditions of the church."

The position taken by Metropolitan Hermaniuk on the issue differed somewhat from the others. He urged that "the question of ordaining married men be left up to the Eastern churches and, in the case of those following the Latin rite, to national episcopal conferences." There can be no question, however, that the forceful expression of Eastern rite positions has provided a healthy airing of the issue in the councils of the Vatican.

"Patriarchal Role Denied to Ukrainian Rite Church," an article by George Dugan. *The New York Times*, New York, September 26, 1971.

A lucid account of the affairs surrounding the issue of a Ukrainian Catholic Patriarchate is presented in this concise article. Primary, of course, is the recent papal denial of a request for this status. A letter from Pope Paul VI to Josef Cardinal Slipyj, Major Archbishop of the Ukrainian Church, held that there were historical, spiritual, canonical and pastoral, reasons which "due to contemporary circumstances, do not, alas, permit us to satisfy the wishes and desires of the Ukrainian Catholic hierarchy."

The movement for a patriarchate began almost a decade ago. The Ukrainian Congress Committee of America, which represents not only Americans of Ukrainian Catholic background but also Orthodox and other religious affiliations, early in 1963 resolved to attain this goal. Since then, the movement expanded and gained impetus, though there were several unsavory expressions from fanatical elements. About two years ago the Ukrainian Catholic bishops formed a synod, but it was declared invalid by Maximilian Cardinal de Furstenburg, prefect of the Roman Curia's Eastern Rites Congregation. Nevertheless, the movement in tactful and moderate turns continues.

"Ukrainian Prelates End 'Synod' in Rome," a report. *The New York Times*, New York, November 6, 1971.

Five days of synodical deliberations ended with the Ukrainian Catholic bishops, 16 of them, establishing a five-member permanent synod to govern the Ukrainian Catholic Church. As reported, the "synod" in 1971 sought to establish the principle of self-government and dealt with procedures for the election of their own bishops.

Also reported was the reception extended by Pope Paul VI to Metropolitan Ambrose Senyshyn of Philadelphia. Archbishop Senyshyn is one of the prelates elected to the new permanent synod of five. The matter of a patriarchate is an outstanding one and in time will be resolved in the broader field of global politics more so than simply through the Vatican. For though some are unable to understand it, the problems of "detente" with Moscow, pressures within the USSR and other matters are tied up with this particularist issue. In short, it will require for its realization a more favorable environment, which inevitably in time will come.

"Pope Reportedly Bans Synod of Ukrainian Rite," an AP report. *Buffalo Evening News*, Buffalo, New York, October 30, 1971.

Without duplicating the reports and accounts appearing in other publications, this report furnishes some additional insights into this historic event. It states, "The Ukrainian rite has for years been a thorn in the side of Soviet authorities, who identify it with Ukrainian nationalism." There can be no question that the issue is an integral part of the general struggle for the freedom and independence of Ukraine. The problem among Ukrainians in various countries has been largely tactical than anything else. The problem for Moscow resides in the nationalism prevalent within Ukraine itself and its support from the outside. The convergence of events itself will in the last analysis determine its outcome.

"Ukrainian Catholics Seek Freedom From Vatican Control," an article by William R. MacKaye. *The Washington Post*, Washington, D.C., November 6, 1971.

One of the most thoughtful articles written about the formation and undertaking of the Ukrainian Catholic Synod is this piece by a well-known, religious writer in Washington. At the outset he observes, "The speediest way to decentralization in the Roman Catholic Church, as Ukrainian Catholic leaders appear to have demonstrated this week, is simply to declare independence of direct control by the Vatican." This couldn't have been phrased more aptly and perceptively.

The writer is correct in pointing out the goal of self-governance and its important application "in the area of selecting Ukrainian bishops through machinery of their own rather than deferring authority to the Vatican." With foresight, he asserts that ultimately the Ukrainian bishops seek to assert their right in selecting a successor to Cardinal Slipyj as leader of the Ukrainian Church. In addition, a number of salient facts are neatly assembled in this article. One, for example, refers to the Ukrainian Catholic

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rite as the largest of all the Eastern churches recognizing the supremacy of the Pope. A second fact is the resistance put up for nearly 25 years by Stefan Cardinal Wyszynski of Poland to the appointment of Ukrainian-rite bishops in three Ukrainian dioceses. It is estimated that over a half million Ukrainians live at present in Poland. His description of Soviet Russian repression of the Ukrainian Catholic Church in the USSR is standard and well incorporated.

"Wives of Soviet Dissidents Lead Difficult Lives" an article by Roman Rakhmanny. Winnipeg Free Press, Winnipeg, Canada, October 11, 1971.

The writer of this highly informative and well-written article is a journalist in Montreal and the author of numerous articles on the Soviet Union and Eastern Europe. As his title indicates, the plight of wives, and of mothers and sisters as well, is described under Soviet Russian conditions where husbands, sons and brothers have been unjustly imprisoned for years because of their defense of human rights and even national freedom. His description of the wives of Soviet dissidents as being the most tragic among the underprivileged women in the world is no exaggeration.

With interesting factual report, the writer vividly portrays the struggles of such women as Zinaida Grigorenko, Gyuzel Amalrik, Raissa Moroz, Nina Karavansky, and the wife of M. Ozorny. As he rightly observes, "To stand by an arrested or sentenced man in the Soviet Union means literal hell for a woman." Loss of employment, forced changes in living quarters, discrimination against one's children and a host of other social abuses are the lot of these courageous women. On record, it appears that the wives of Ukrainian dissenters are subject to even greater misfortune. Those in Women's Lib and similar movements of momentary fashion might well spend their time and energy fruitfully by concentrating on the real plights of their feminine counterparts in the USSR. A reading of this article and its choicely selected contents would be an instructive lesson to the Lib's in the ways of negative freedom.

"What Can We Do About the Soviet Union?", an editorial by Ray Lapica. *KACE Radio*, Riverside, California, August 26, 1971.

The writer of this editorial is president of KACE and a long-time student and analyst of the Soviet Union. The editorial is concerned about what the writer regards as "today's greatest menace to the United States . . . the Soviet Union." It rejects proffered solutions to the problem along lines of compromise, live-and-let-live, and so forth, "as though the Kremlin will permit us to do that . . ." It finds, however, a common sense solution in the position advanced in the book *The U.S.A. and The Soviet Myth*, written by Dr. Lev E. Dobriansky of Georgetown University.

As broadcast to listeners in southern California, the editorial held that the most important step to be taken at first is to explode the many myths surrounding the USSR. Chief among these "is the common belief held widely in this country that the Soviet Union is a powerful nation of Russians." It went on with Dr. Dobriansky's solution through concentration on the non-Russian nations in the USSR, the nationalism prevalent among them, and the measures to be taken in the trade, diplomatic, political and other areas. To paraphrase a familiar quotation of the moment, not to confront the many nations in the USSR, but to negotiate with their peoples.

"Moroz Rocking the Empire of Soviet Cogs," an article by Roman Rakhmanny. *The Windsor Star*, Windsor, Canada, October 21, 1971.

Valentyn Moroz, the heroic Ukrainian history teacher, is the chief subject of this lucid and factually packed article. Authored by an outstanding Canadian writer and journalist, whose other recent contribution was cited above, the article surveys the imprisonments, the writings, and the effects of the 35 year-old dissident's struggle in the USSR. The pitch of the fascinating presentation is summed up by the writer in these words: "Herein lies the significance of Moroz's self-sacrifice; the huge empire of cogs is rocking because this human cog would not keep silent."

Any totalitarian state is one of human or de-humanized automations, except of course for those in the driver's seat. The vast population in the USSR is driven as a mass of cogs. Moroz develops this truth in his essays, particularly his "Report From the Beria Reserve," which was written in a Mordovian slave labor camp. He was incarcerated there for four years on charges of "spreading anti-Soviet ideas." His other essays, which significantly made their ways to the Free World, are described here with emphasis on their plea for individuality, personal creativity, and human dignity. These essays and the man himself have made a deep imprint in Canadian, American and other circles.

"Address on the Right of Peoples to Self-Determination," delivered by the Honorable Edward J. Derwinski. Release USUN-186 (71). United States Mission to the United Nations, New York, November 15, 1971.

One of the most striking addresses made yet in the U.N. on the subject of national self-determination was delivered by Congressman Edward J. Derwinski last November. Quite appropriately, it began on this theme, "My country has a rich heritage of independence from colonial rule which Americans have cherished for almost 200 years." Then, in view of an outstanding congressional resolution on the forcible incorporation of the Baltic states, the able Congressman dwelled at length on Soviet Russian domination over the three Baltic countries.

In this and a subsequent release he amplified his statement by referring to "the grim events of 1956 and 1968," meaning the Russian rapes of Hungary and Czecho-Slovakia. He later alluded to "the other non-Russian nations in the Soviet Union." It appears that some high-level policy restraints were in operation. The U.S. still maintains proper relations with the free Baltic legations in this country. In his remarks in U.N. Committee III on human rights, the Congressman declared on November 16, "I would hope that this would in some way help lead to better treatment of the non-Russian peoples within the USSR."

"In an Atmosphere of Friendship and Understanding," excerpts from an address. *Radyanska Ukraina*, Kiev, UkSSR, May 22, 1971.

The excerpts from a published address here refer to that delivered by the Prime Minister of Canada, Pierre Elliott Trudeau during his visit to Kiev and the Soviet Union. On May 21 the so-called government of the Ukrainian SSR sponsored a dinner in his honor. Attending the affair were such officials as V. V. Scherbytsky, chairman of the republic's council of ministers, B. P. Miroshnechenko, USSR ambassador to Canada, and V. O. Husyev of the Kiev city council. In his calculated opening remarks Scherbytsky spoke of growing understanding between the people of Canada and the USSR and elaborated as follows, "What I mean is the fact that quite a number of your compatriots—Ukrainians by origin whom fate at various times drove across the ocean—have helped and are helping Canadian development through their fruitful labor efforts." He stressed, "After becoming Canadian citizens, many of them do not forget about the Ukraine; they take pride in her achievements and wish her happiness and prosperity."

Many a Canadian of Ukrainian ancestry can accept the last statement but not with the meaning cast. Happiness and prosperity yes, but as it can only be in a free Ukraine. Some aspects of Trudeau's short address are scarcely palatable to Canadians of Ukrainian background. His reference to visiting "a number of Soviet republics" and construing them as "local governments" from which he learned "the kinds of problems that face the provinces of Canada" is hardly suggestive of a commanding grasp of the situation in the USSR. He topped off his complete misunderstanding with the celebrated toast, "Today, we, your Canadian guests, salute Kiev—*The mother of Russian cities.*" One wonders how some of Trudeau's hosts reacted to this, for that kind of a mother would have to be Russian, too.

"Remarks by the Prime Minister to the Ukrainian-Canadian Congress," an address by Prime Minister Pierre Elliott Trudeau. Release, Office of the Prime Minister, Winnipeg, Canada, October 9, 1971.

Prime Minister Trudeau appeared before the Ukrainian Canadian Congress in Winnipeg and addressed the delegates exclusively along cultural lines. He expressed satisfaction in celebrating with them "the 80th anniversary of the arrival in Western Canada of the first Ukrainian settlers." His other pertinent points dealt with the multi-ethnicity of Canada, the utility of language, and the contributions of Canadians of Ukrainian origin to the culture of Canada.

"'Realism' Toward China Founders on U.N. Issue," an article by Crosby S. Noyes. *The Sunday Star*, Washington, D.C., September 19, 1971.

Realism is in questionable quote here as concerns the U.S. two-China policy. Events the following month had borne out the writer's skepticism. However, his comment on "Byelorussia and the Ukraine as semi-autonomous provinces of the Soviet Union" and as an example for Taiwan's membership is grossly lacking in understanding.

CUTS IN THE VISTA AND PEACE CORPS PROGRAMS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, I wish to offer a few remarks on what is presently happening in the VISTA volunteer program.

At the time of the proposed merger of the various Government volunteer programs including VISTA and the Peace Corps last spring, many of us in the Congress expressed fears that such a merger would only be the first in a series of steps to eliminate the domestic poverty effort that VISTA represents.

Mounting evidence suggests that our fears were well grounded. Despite Mr. Blatchford's and Mr. Shultze's official assurances that the VISTA program would be greatly expanded and strengthened, in fact the number of volunteers for the program will slump to less than 4,000 by the end of June. On March 1, 1971, there were approximately 4,750 volunteers. Essential services such as training, transportation allowances and other forms of support to volunteers in the field have been drastically reduced, thus seriously impairing volunteer effectiveness.

A similar story of cutbacks could be told for the Peace Corps. These cuts disturb me, Mr. Speaker, because they seem to support the rumor that the administration really does not care about the poor, whether they live in this country or abroad. I would like to insert the following article, from the April 1 issue of the Saturday Review, which in a satirical way, portrays what has been happening to VISTA and the Peace Corps:

R.I.P.: PEACE CORPS AND VISTA

(By Wallace Roberts)

PORTLAND, OREG., April 1, 1973.—Peace Corps and Vista, that charming couple of liberal hope who danced, sang, and chatted for millions of Americans during the Sixties, died last week in a Portland, Orgeon, nursing home, penniless and without friends. The cause of death in both cases was reported to be lack of support, but it was understood that this attack was complicated by advanced stages of trivialization.

Peace Corps, the elder of the famous pair, was born of Confused Generosity and Good Intentions in Hyannis, Massachusetts, on December 6, 1960. Vista, his constant companion and colleague during the last half of his career, was the offspring of Genuine Concern and Co-optation and was born in Washington, D.C., on March 26, 1966. Together the couple gave Americans many hours of relief at a time when things seemed darkest. What Counter-culture, with its famous progeny, Woodstock and Alternate Life Style, was for the children, Peace Corps and Vista were to their parents.

For more than half the decade, Peace Corps alone dazzled the imaginations and warmed the hearts of many. He was a dashing figure, exotic, yet mundane, in a straightforward, innocent way. When he was later joined by Vista, his domestic counterpart who did so much for those who had never heard of Peace Corps, the pair became one of the most popular in the Liberal Circle. They were invited to fashionable dinner parties, where they were constantly invoked as the Hope of This World. They made several guest appearances on *Meet the Press*, where they gracefully accepted the apologies of their interrogators for having to ask tough questions. They were also the only couple ever to be honored two years in a row by Americans for Democratic Action. They stood for all that is best in Americans, and a grateful but troubled nation reached out to them, the last straws held out by the ever-elusive figure Domestic Tranquillity.

Circumstances surrounding the death of the team are clouded by Managed News, the Portland County Coroner, who has insisted that there be an autopsy for the advancement of political science. Meanwhile, rumors are replete, a few even suggesting that the deaths were due to other than natural causes, specifically conscious neglect. Coroner News has emphatically denied such a possibility, but until his report is made public, which is not expected to happen for another week when he presents it to the authorities, the speculation will undoubtedly continue. Our correspondent has, however, pieced together the following account of the last days of Peace Corps and Vista, based on numerous interviews with acquaintances and relatives of the deceased, as well as their critics and detractors. He has also had access to some of the preliminary reports made to Coroner News by the attending physician, the staff of the ACTION Nursing Home, and eyewitnesses.

Peace Corps and Vista moved into the ACTION Nursing Home on July 1, 1971, after languishing for more than two years in obscurity, playing to small audiences in the supper clubs of suburbia for a half and sometimes a quarter of their former income. At the peak of their fame they had been able to command fees of almost $200-million for a single fiscal year's engagement, but in their last days they considered themselves fortunate to get enough bookings to live on. In the end, even though they adapted gracefully to the more modest style demanded by their cramped quarters, they were playing to near empty houses.

Neither of them was ever known to speak harshly of the public for its great change of taste that put them and so many of their friends from the Reform Movement out of jobs. In fact, Peace Corps himself once said in an interview after the announcement of the loss of the War on Poverty, "It wasn't anyone's fault. We tried to make people happy, to forget their wretchedness for a moment, and I think we almost succeeded beyond what we had any right to expect. But people are impatient, and who are we to question their right to that?"

The move into the nursing home was made with just the amount of fanfare necessary to attract notice but not enough to convince many that anything really serious was wrong. Nevertheless, it was accepted without any real objection, partly because Peace Corps and Vista were simply not worth worrying about anymore, and partly because the thing today is to shuffle old ideas aside without admitting that they were naive or inadequately considered or just bad. You can't simply shut them away, but clearly they no longer are the big box-office attraction they once were, and letting them troupe around small-time circuits only underlines the fact that they are regarded as has-beens; so you have an announcement.

Richard Nixon, President of the National Political Performers Guild (which administers Peace Corps's and Vista's pensions and insurance policies), made the announcement of their move into ACTION on March 20, 1971, in Lincoln, Nebraska, before an audience carefully screened of possible troublemakers. He praised Peace Corps and Vista for their service to the politics industry and to the great American audience. He said that without their generous, unsolicited efforts both America and the World would be less happy places. Now, the time has come, he said, "to forge an alliance of the generations" by moving Peace Corps and Vista into the ACTION Nursing Home.

Mr. Nixon emphasized this was not a forced retirement for the two old performers. He said they would remain active, and to illustrate this he said he was also moving Foster Grandparents and Retired Service Volunteer Corps plus equally unknown old performers from the Small Business Administration into ACTION along with Peace Corps and Vista. He said he realized that none of these other performers had quite the fame of Peace Corps and Vista, but the best way to ensure that all performers can keep on giving the public what it wants is to group them according to type. Since all of these depended on volunteering, they should all be in the same nursing home that would, in his words, provide "a new volunteer service corps that will give young Americans an expanded opportunity for service."

The announcement was followed by months of planning and more announcements about how well the planning was proceeding and about what great places modern nursing homes were. Mr. Nixon appointed a promising, young dues-paying member of the Performers Guild, "Just Plain Joe" Blatchford, to take over as director of ACTION and, with appropriate ceremony, swore him into office. Among the rumors sweeping Portland this week is one that implies that the death of Peace Corps and Vista happened either directly or indirectly at the hands of this man.

Those who say "directly" assert that Blatchford was too intent on being promoted to the directorship of the state Mental Institution to do a good job of caring for the elderly. Those who say "indirectly" claim that there was deliberate intent on the part of the Performers Guild, which had instructed Blatchford, accordingly, to let the old troupers die by mismanagement under the guise of reorganization.

Neither rumor is true. Blatchford's record is spotless, and the public records of the Performers Guild show no such intention, even though it is known that a number of its members are not mourning the deaths.

"Just Plain Joe," as he asks everyone to call him, has an honest but abashed desire to serve his fellow man. In an interview with this reporter, Mr. Blatchford waved off the charges that he craved stardom himself or that he was the hatchet man for the Performers Guild. "We are at a point in history," he said, "at which it is absolutely necessary for government and society to rekindle this magnificent thing that Americans have—the willingness to do something.

"The point of leverage in ACTION is that it's primarily staffed by the person who leaves his private life and job for one or two years. It costs government less than $5,000 or $6,000 a year for dedication greater than the professionals give. In addition, you get feedback; we have 23,000 volunteers who are not paid to be yes-men. They are volunteers who will walk off the job. They'll tell you what's wrong.

"It's good for this nation's mental health. We've been through the war, the urban riots, and campus disturbances, and now we have college graduates who are asking, 'What can we do?'

"Remember, it was one man who invented the miracle rice, and it's the Peace Corps volunters who are teaching people how to grow it. *Sesame Street* may lead to a new idea in early childhood education, and it's the Peace Corps volunteers in Thailand who are doing it. What we're doing is spreading attitudes. There are Peace Corps types around the world, and now they are coming from other countries."

And so it went for more than half an hour. We were interrupted twice by members of the nursing home staff who had to confer with the director over financial problems; indeed, it seemed as if the whole staff of ACTION was more concerned with their own economic survival than with caring for their patients, a condition that bolsters the statement that Peace Corps and Vista died from lack of support.

Dr. Troubled Economy, the ACTION staff physician who was with Peace Corps and Vista to the end, said in his report to Coroner Managed News that it is true that the patients did lack support and that this technically was the cause of death. However, he went on, "Lack of support is a disease like pneumonia; that is, it doesn't usually exist unless it is brought on by a more fundamental weakness, such as simple exhaustion or an even more debilitating but slower acting disease. In the case of Peace Corps and Vista, the disease was a once rare but now quite prevalent form of diminution called trivialization."

Asked to explain in layman's terms just what this disease did to the body, Dr. Economy said in a telephone interview that trivialization attacked the soul and, by fragmenting its relatively few parts into millions of tiny duplicates, made them, in effect, useless. This brought on, he said, severe side effects, such as ennui, insecurity, frustration, and, in a few cases, despair or fear. "Together, all of these amounted to disenchantment, which in simple political terms means lack of support."

At that point in our conversation, Dr. Economy was recalled to the dinner party he was attending at the Portland County Country Club, but he referred this reporter to Professor False Dichotomy, who holds the Walt Disney Chair of Social Pathology at the University of California at Nevada City, for a more complete and thorough description of the effects and causes of trivialization.

Professor Dichotomy said, "Trivialization is a disease of the primary mythologizing system. Its basic cause is an obscure virus, hitherto regarded as benign in terms of hu-

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man biochemistry. The common name of the virus is Soaring GNP, and the method of infection is through media pollution, particularly on the *Six O'Clock Report* or in the "modern living" sections of the newsweeklies."

Professor Dichotomy said that the conditions that favor the Soaring GNP virus, and upon which it depends for sustenance, are the simple Machiavellian devices of disarming potential enemies by using their own weapons "combined with the spongelike quality of this society that leads it to latch onto whatever idea is the latest. No distinctions are made between fads, fashions, and genuine ideas. All are indiscriminately popularized and, hence, rendered useless, since they all appear equally valid and valuable."

Vista herself had some understanding of her affliction. In a letter she wrote to her parents in Weymouth, Massachusetts, four years ago, she said, "I know that Peace Corps and I are really watered down ideas of fundamental change, but I think that although no real power will change hands through our efforts, we can do some good in small ways."

And in April of 1972, just a year before she died, Vista again wrote her parents, "I fear we are useless now. We can't even cheer the faithful following that grows smaller every day; they all seem to prefer the up-and-comers like Ecology. I feel wretched and miserable—I want to do so much, but I'm so weak and tired all the time."

Miss Placed Idealism is a nurse at the ACTION Nursing Home, and yesterday she described the therapy that had been administered to Peace Corps and Vista since they entered the home. "They were both pretty debilitated when they got here," she said. "Peace Corps bookings alone had dropped from 42,000 in 1966 to 19,000 in 1970. There wasn't much we could do for them, but we tried. We put them both on a strict diet and tried to feed them specialized material that would be more receptive to their audiences. They began to respond to treatments, and bookings took on a slight increase in the last few months."

What then finally killed them? Why did they suddenly succumb? "I don't really know," Miss Idealism said. "No one does, and anyone who pretends to know is fooling himself. Trivialization is a strange disease It can lie domant for months and even appear to be defeated by treatments; then suddenly the patient just pops off, apparently in this case because the disease had progressed further than any of us expected. You just can't fight the ratings."

You just can't fight the ratings. To the generation that took *The Greening of America* to heart, those gentle democrats who believed there were rational solutions. Peace Corps and Vista were symbols of a way out, of Hope itself. Any public is fickle, but the politics industry is, perhaps, the most fickle of all. Whatever the coroner's verdict, the real cause of their deaths, and the obscurity that preceded them, is our own perception that they were only what we made them.

FORCED BUSING

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McDONALD of Michigan. Mr. Speaker, I believe the Supreme Court misinterpreted the equal protection clause of the 14th amendment and the intent of Congress in the 1964 Civil Rights Act in its decision of April 20, 1971, which upheld the use of busing as an interim method for eliminating from the public schools all vestiges of deliberately fostered segregation. Various legislative attempts, both before and after this significant decision, to prohibit forced busing have been disregarded by the courts and, therefore, have proven ineffective. Clearly, other solutions to this problem are needed.

On March 16, the President offered his plan designed to come to grips with the busing issue. He has proposed the observance of a 1-year moratorium on busing during which time the Congress, working with the States and localities, can develop a system that will assure an equal, quality education for every child. I wholeheartedly support this approach.

While the President's proposal buys us some time in which to work out our educational problems, I feel that the ultimate and most effective answer to the busing dilemma is the enactment of a Constitutional amendment. As you may know, I am involved in a campaign to secure the adoption of House Joint Resolution 620, a proposed Constitutional amendment which provides that no public school student shall, because of race, color, or creed, be assigned to or required to attend a particular school. The House Judiciary Committee is reviewing this resolution. I am hopeful that the committee will report the measure; in the event that such action is not forthcoming, efforts to discharge House Joint Resolution 620 will continue.

THE 75TH ANNIVERSARY OF POLISH NATIONAL CATHOLIC CHURCH CELEBRATED BY MEMBERS IN CLEVELAND

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. JAMES V. STANTON. Mr. Speaker, last Sunday the five Polish National Catholic Churches in the Greater Cleveland area held ceremonies commemorating the 75th anniversary of the church's founding, and I would like to extend my warmest congratulations to the members and officials upon this occasion. For a great many Americans of Polish descent, the Polish National Catholic Church has provided spiritual guidance and support in these times of uncertainty, and its growing membership indicates the degree of success it has had in conveying moral and religious values.

At the celebration in Cleveland, the speakers expressed a strong feeling of optimism for the future growth of the church, and I would now like to insert in the RECORD the following article from the Cleveland Press which describes the celebration:

[From the Cleveland Press, Mar. 27, 1972]

MORE GROWTH PREDICTED FOR POLISH CHURCH

A further growth of the Polish National Catholic Church in America, Canada and Poland was predicted by speakers yesterday at Holy Trinity Catholic Church, 7460 Broadway.

The occasion was a 75th anniversary celebration of the founding of the Polish National Catholic Church in Scranton, Pa., by the late Bishop Francis Hodur.

A jubilee banquet at noon followed anniversary services celebrated by Bishop John Misiaszek, Holy Trinity pastor and leader of Ohio's 19 Polish National Catholic churches.

Principal speaker was retired Polish National Catholic Bishop Bernard Golawski. He explained the 75-year growth of the church which now has 165 parishes in America, 18 in Canada and 185 in Poland.

Father Casimer Wilczyk, pastor of St. Mary Church in Parma, one of the five Polish National Catholic Churches in Greater Cleveland, gave the English address.

PRETTY GIRL MODEL PURSUES SUCCESS

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. NICHOLS. Mr. Speaker, every now and then, we read about some young person who, in spite of numerous difficulties, becomes a success and then strives to help others who have similar disadvantages. I have a number of such people in my district. One young lady who has done just this is Miss Trisha Mitchell of Anniston who was recently featured in a story, written by Frank Sikora, which appeared in the Birmingham News. I would like to enter this article for the reading of my colleagues with the hope that Miss Mitchell's desire to return to Alabama and help disadvantaged youngsters becomes a reality.

The article follows:

[From the Birmingham (Ala.) News, Mar. 23, 1972]

MOTIVES STEEL DETERMINATION—PRETTY GIRL MODEL PURSUES SUCCESS

(By Frank Sikora)

ANNISTON.—One night about a year ago Trisha Mitchell sat down at the kitchen table and wrote a little poem about a girl going to New York.

Going there to be a fashion model has been Trisha's dream since she was eight.

Now, it's finally going to happen.

"I just can't wait," says the lithe blonde who stands just a shade over 5'9". "I've made up my mind that I'm going to make it up there and I'm determined . . ."

Although "making it big" is a long shot for any girl in New York, that fact that Trisha is even going is remarkable.

Her father left home when she was two and money was hard to come by; living in a low-rent government project, she watched all her sisters and brother drop out of school.

With little to inspire her, she made plans early in high school that she would do the same.

The only time she would dismiss the notion was when she would daydream. "I used to have a Ouija board and I'd ask myself if I'd ever go to New York. I'd cheat and make sure the answer came up yes."

The daydreams were more real than she had imagined.

At 14 she enrolled in a modeling course with Macy Harwell who immediately recognized talent when she saw it.

Trisha (her real name is Patricia but she changed it she says, because she could never write the letter "P" very well) soon blossomed as one of the top students.

When those feelings to quit school erupted, it was Mrs. Harwell who would give her a pep talk. "You have to finish," she would tell her.

But it wasn't until she was in her final year at Saks High that she knew for sure that she was going to stay with it and graduate.

Last year she entered and won the Miss Anniston pageant and came to Birmingham for the Miss Alabama. She didn't win but did earn a scholarship with the Mannequins Agency in Birmingham.

Yet, the thing that really impressed her most was the reaction of the children living in the housing project. "When do you get to move into a castle," some of them asked.

"They really thought I was something," she beamed, "and all of a sudden I knew that I wanted to help them. They were poor, many of them unwashed. They had nothing."

Trisha got permission from the project manager to use a small activity building for a couple of hours a days and started a modeling class. More than 30 kids from 6 to 14 showed up and stayed with it faithfully for a month.

As the finale, she had set up a fashion show at Quintard Mall and borrowed a furniture truck to transport the youngsters. "It was a great show," she said, "and the kids really outdid themselves."

Meanwhile, Mrs. Harwell had hired Trisha as a full time instructor, advancing her a couple of paychecks to help with clothing needs.

In addition, she models part time during dinner hours at Ramada Inn and the Downtowner, and works nights as a sales clerk at a clothing store at Quintard Mall.

In mid-April they will go to New York to take part in a modeling event which could launch Trisha's career there.

"I'm going to make it," she insists. "I want to stay up there for about three years, make some money and contacts, then come back here and help underprivileged girls pursue modeling careers. I mean the girls who have no hopes of doing so on their own."

Helping the underprivileged or handicapped has already been part of her activity. Along with Mrs. Harwell, she has donated time teaching modeling to blind and deaf girls at Talladega School for the Deaf and Blind.

"This is really an inspiration to me the way the girls catch on. The blind ones have to touch my feet and hands to understand a stance. And I've learned sign language to talk with those who can't hear."

Last month those girls put on the first fashion show in the country in which the models were exclusively deaf and blind.

"I want to help people," says Trisha, "but in order to do it I have to go to New York and be a success. When I come back I will help those who need help. And someday I want to write a book filled with nothing but poems . . ."

To those who know her—including the tots in the project and the girls at Talladega—whether Trisha makes it big in New York or not, she's still a success. Smashing, in fact.

EDITORIAL URGES CRITICS OF PRESIDENT TO STUDY SCHOOL REPORT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. COUGHLIN. Mr. Speaker, I am pleased to bring to the attention of my colleagues an editorial that was published in the Philadelphia Inquirer on the importance of the report by the President's Commission on School Finance.

While the topics of schoolbusing and Federal aid to education are attracting widespread attention, the editorial correctly points out that the significant findings detailed by the report deserve scrutiny. The editorial urges the President's critics to "stop their sniping long enough" to study this document.

The editorial, "Critics of Nixon's School Plan Should Read That New Report," was published in the Philadelphia Inquirer on March 22, 1972.

The text of the editorial:

CRITICS OF NIXON'S SCHOOL PLAN SHOULD READ THAT NEW REPORT

President Nixon's message on busing, and his proposal for $2.5 billion in federal aid during the next fiscal year to improve the quality of education in poverty areas, give new significance to the recent report of the President's Commission on School Finance.

The commission documented widespread neglect of education in urban slums and recommended massive new funds to bring poverty area schools up to standards prevailing in more affluent communities. This is precisely what the President has proposed.

Mr. Nixon's legislation is designed to deal with the immediacies, pending development of a long-range program to end the tragic neglect of poverty schools. The commission's report has timely relevance to long-range needs, too, especially in the light of recent court rulings that public education financed by local property taxes is discriminatory against children in communities with a low tax rate or substandard tax base.

A key recommendation of the commission is that equality in education should be achieved without lowering the quality of education in any school system. This would be done by raising the standards of all schools in each state to the highest prevailing standards in that state.

To accomplish this, the commission proposes a federal subsidy of about a billion dollars a year to the states plus another billion to be used for upgrading education in urban areas where quality is low and costs are high.

Under this formula an additional expenditure of $6 billion a year by the states nationwide would be required to bring all their schools up to highest current standards, the commission's staff estimates.

These are huge sums, but they are not out of reach for a nation that poured more than $40 billion into the space program during the 1960s.

Whether city schools would be better off with states assuming more of the financial burden for public education would depend on the fairness of state governments in allocating funds. Philadelphia schools have consistently been short-changed by legislators in Harrisburg when money for schools is apportioned.

Unequal treatment of school districts by unfair state governments is no less discriminatory than inequities resulting from the financing of schools by local property taxes. Either way, the kids in city slums are the victims.

The U.S. Supreme Court has not yet ruled on the property tax issue and, until it does, the future role of states in financing public education will be clouded in uncertainty. Meanwhile, President Nixon proposes action now—on the premise that neglected schools in poverty areas should not be condemned to continuing substandard quality of education while seemingly endless litigation drags on in the courts.

Mr. Nixon's approach goes beyond the legalisms and gets to the heart of the matter—the children in poverty areas who, unless they are provided quality education in neighborhood schools without further delay, will be denied equal economic opportunity as adults. The President's critics should stop their sniping long enough to study the report of the Commission on School Finance.

THE PLIGHT OF THE AUTISTIC CHILD

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker, yesterday, I inserted in the RECORD two articles describing the abhorrent conditions that exist in some of our institutions for the mentally retarded. Certainly, many of the so-called institutions resemble warehouses for human beings more than they do centers of rehabilitation for the mentally ill. I inserted these articles in an effort to speak out on behalf of those who cannot speak for themselves. Today I would like to continue that effort and address myself to the plight of the autistic child.

While most of us think of mental illness in terms of mental retardation or cerebral palsy, it encompasses much more. "Mental illness" is just an umbrella under which fall the diseases of autism, aphasia, hydrocephalus, just to name a few. Each of these disorders is distinctly different, though we tend to group them into one category. The result of this is very little understanding of the types and degrees of mental illness. I would like to concentrate today on just one of these disorders—autism.

What exactly is "autism"? The dictionary defines it as—

A state of mind characterized by daydreaming, hallucinations and a disregard of external reality.

Mr. Speaker, it is much more. It is a child who, although he looks very normal and quite often handsome, is a world apart from others. It is a child that lacks normal and seems not to hear and is, therefore, assumed deaf and even dumb. It is a child who is often disruptive, hyperactive, and hard to manage and yet one who leads a robot-like existence because he is so detached from the world of reality. And lastly, it is a child who cannot think conceptually and must be taught to relate to the real world on every level. The starkness of his handicap is overwhelming; the story is a heartbreaking one.

The autistic child is in desperate need of individualized education in order to relieve or reduce his plight. There is a paucity of educational services available to him. The cost of special education programs and training efforts are almost prohibitive. His needs are abundant; the resources are negligible.

Along another line, his disease, like all other forms of mental illness, carries with it a pejorative social stigma. All too often we view mental illness as an individual failure or shortcoming rather than as a disease. In doing so, we sup-

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press the reality of the situation and thus deny the potential for curing these mysterious disorders. In turn, families suffer unneedful problems.

Mr. Speaker, I call for a concerted effort on the part of this body to seek to "cure all children with severe disorders of communication and behavior such as infantile autism, childhood schizophrenia, and other child psychoses." We can afford to do no less.

I submit this article in the hope that it will increase the public awareness of autism.

The article follows:

[From the Wall Street Journal, Mar. 22, 1972]

DENIAL OF EDUCATION TO ABNORMAL CHILDREN SPURS PARENT PROTESTS—MANY LAWSUITS SAY STATES NEGLECT THE HANDICAPPED; REBUTTAL: LACK OF MONEY

(By David Gumpert)

MEDFORD, MASS.—Every weekday morning at about 7:30, 14-year-old Wayne Keel stations himself by the living-room window to watch the yellow school bus pick up the children from neighboring houses in this pleasant Boston suburb. As he watches the bus make its round, the thin boy turns to his mother and asks, "Go to school?"

Sometimes Mrs. Keel tells Wayne that school is closed. On other days, she tells the boy that he's too old to go to school. Wayne never presses the issue, but the mother knows her son isn't satisfied, because the question always comes up again. "I think he's really puzzled," Mrs. Keel says. "Every day he looks out and sees that bus, and he can't understand why he isn't going to school."

The morning ritual in the Keel household has been going on for almost two years now. The reason: Wayne Keel is afflicted with autism (a little-understood form of schizophrenia characterized by withdrawal) and also shows signs of mental retardation. His schooling stopped in April 1970, when the special private institution that he'd attended said the boy's behavior made further assistance impossible.

Now, Wayne Keel has nowhere to go for schooling. The Medford public school system says it doesn't have any regular classes for severely disturbed children. The few state and private schools that are equipped to handle children like Wayne are full. Since mid-1970, the boy's sole schooling has consisted of sporadic private tutelage, ranging from one-and-a-half to 10 hours weekly, provided by the Medford system. So Wayne, who has no friends or playmates, spends his days pasting together paper rockets and buildings, and babbling to himself.

A COMMON PLIGHT

The plight of Wayne Keel, unfortunately, is far from uncommon in the U.S. According to Department of Health, Education and Welfare estimates, fewer than three million of the nation's approximately six million handicapped children of school age are receiving adequate special education. And of those who aren't receiving special attention, slightly more than two million are either in regular classes, where they're often failing and learning little or else they're receiving a minimal amount of home instruction, like Wayne. About a million receive no instruction whatsoever.

"This means there are more than three million children for whom the American school system has said, 'We don't have the time or the resources to provide you with an appropriate education,'" says Fred Weintraub, assistant executive secretary of the Council for Exceptional Children, a nonprofit organization for the handicapped based in Arlington, Va.

Until recently, protests have been rarely voiced by parents whose handicapped children were excluded from special programs. In the vast majority of such cases, however, this lack of action hasn't been caused by apathy. Rather, many parents were reluctant to discuss their abnormal children because of the real or imagined social stigma involved in the desiring of retarded or emotionally disturbed off-spring.

CHANGING ATTITUDES

But attitudes have changed, largely because of increasing exposure in the media and in discussion groups of the many families (including prominent families) whose children are handicapped. Around the country, parent groups are going to court in an attempt to force school systems to provide special classes for abnormal children. For example, class-action still on behalf of abnormal, out-of-school children have been filed in the District of Columbia and a number of states, including California, Pennsylvania, Michigan, New York and Maryland.

Such activity is beginning to have some effect. Federal courts in Pennsylvania and the District of Columbia have already cleared the way for at least some handicapped children to be enrolled in special public-school classes. And on both federal and state levels, legislation is being proposed to grant handicapped children the same educational rights as other children have. (Among the states, Florida, Georgia, Massachusetts and South Carolina are in the process of overhauling their laws on education to benefit handicapped children.)

"The incredible number of . . . handicapped not receiving any educational services is one of the great tragedies in the American way of life," asserts Rep. Charles A. Vanik (D., Ohio); sponsor of a bill in the House that would amend the 1964 Civil Rights Act to prohibit discrimination against the handicapped in federally assisted programs, including education-aid plans. The House bill and an identical bill in the Senate are pending.

Federal agencies have also become increasingly active in protecting the educational rights of the handicapped. According to Edwin Martin, associate commissioner for the Health, Education and Welfare Department's Bureau of Education for the Handicapped, federal spending to spur the education of the handicapped has increased to an estimated $215 million this year from $45 million five years ago.

OPTIMISM FOR 1980

Mr. Martin also cites the fact that the number of handicapped children being placed in special classes has been increasing at a rate of about 100,000 a year for the past five years—partly because of increased federal spending. He adds that this rate should accelerate to the point that by 1980 all handicapped children will be receiving an adequate education.

But such acceleration is dependent on state cooperation—and school systems in most states have traditionally done little for handicapped children. To be sure, some public schools have established special classes for the handicapped; but more often than not these classes aren't all-inclusive in their acceptance of pupils, and many will accept only those with the mildest disabilities. Medford, for example, has elementary school classes for mentally retarded children, for children with mild emotional disturbances and for those who are blind or visually handicapped; it has no classes for other types of handicapped children. (State residential schools, which usually do accept severely disabled children, are in most cases hopelessly overcrowded and understaffed—New York's highly publicized Willowbrook being a case in point.)

"The more serious the handicap, the more difficult it is to get services," Mr. Martin says. "It's kind of as if a doctor would treat you if you had a cold but not if you had pneumonia."

Certainly, the range of abnormalities afflicting handicapped children is wide. Such abnormalities, which often stem from birth defects, include emotional disorders, deafness, blindness, cerebral palsy and other types of brain damage, and mental retardation. It's estimated that 10% to 12% of all school-age American way of life," asserts Rep. Charles children have one or more of these handicaps.

Despite the problems of educating all these children, Mr. Martin believes further state cooperation is possible. Furthermore, he says, it's "not an unreal possibility" that the government might consider withholding federal funds from a state that doesn't fully cooperate in the education of handicapped children.

On their side, public schools argue that they're not equipped to cope with the special problems of many handicapped children. Some physically handicapped children, the schools say, aren't toilet-trained. Emotionally disturbed children, they contend, often disrupt classes and are sometimes violent.

SPECIAL CLASSES? "TOO COSTLY"

What about special classes for these children? "Too costly," school administrators say. They point to the fact that educating a handicapped child can cost up to three times that of educating a normal child—at a time when most school systems across the country are squeezed for cash. And some administrators say that even if funds were available their use could often be wasteful since, they argue, many handicapped children will never benefit from schooling.

Such arguments have little sway with many educators and parents of the handicapped. "If a new apartment house goes up, and there are more children, the schools find facilities," says Lewis Klebanoff, a professor of special education at Boston University and an editor of *The Exceptional Parent* magazine.

Others charge that public schools often don't care what happens to handicapped children. "Some principals simply tell parents, 'The schools aren't for crippled kids,'" says Larry Brown, director of the Task Force on Children Out of School, a Boston group that has studied the exclusion of handicapped children from public schools.

The contention that many handicapped children can't benefit from education is also dismissed by numerous educators. While these educators concede that some children are so severely disabled that they'll require lifetime institutionalization and that schooling would be of little help, they add that the vast majority—possibly 95%—of handicapped children could benefit from proper educational treatment. "There's no reason why, if we spend a few dollars, these kids can't fit smack into society," says Frances Connor, a professor of special education at Columbia Teacher's College in New York.

According to others who favor aiding the handicapped, the payment of these "few dollars" now will also be cheaper for the public in the long run. HEW's Mr. Martin, for example, says that more than 30% of the 2.5 million handicapped children expected to leave school during the next five years may need either partial or full public support in the form of institutionalization or welfare. Mr. Martin adds that it costs about $250,000 for lifetime institutionalization or welfare. But with proper education, he says, "at least 90% of the handicapped are potentially employable."

Money, however, will not provide the entire solution to the problem. Other than the absence of funds, a major obstacle exists: finding all handicapped children. Many state and local school officials say they don't know how many handicapped children are being denied a proper education. In Massachusetts, for example, Joseph Rice, associate commissioner of special education for the state, readily concedes that he doesn't know the number of handicapped children who aren't in school. "In theory, we ought to have records of this," Mr. Rice says. "In practice, we don't" (The location problem is compounded by the fact that some of the less severely handicapped children are enrolled in regular classes and are being simply dismissed as slow learners.)

The early discovery of handicapped children is particularly crucial, educators say, since intelligence and physical coordination develop to the greatest extent in the earliest years. For this reason, HEW's Mr. Martin says his bureau has been advising states to begin "preschool programs (for the handicapped) as a priority." Nevertheless, most educators concerned with the plight of the handicapped agree that even delayed discovery and treatment can be productive.

The history of 20-year-old Laura Bernard is illustrative. Laura has slight brain damage but went through the fourth grade before her condition was noticed, says her mother, Martha Bernard, president of the New York Association for Brain Injured Children. When the Bernards realized that their daughter wasn't learning to read or write, they had her examined by a neurologist. Following the neurologist's discovery of "minimal brain dysfunction," Laura was placed in special classes for the remainder of her school career and today she is learning to be a teacher's aide in a special program at New York University for handicapped people and slow learners.

Laura Bernard's brain damage is slight, but educators say even severely handicapped children can profit from special classes despite years of neglected treatment. For example, the Campus School, a state-supported school for the handicapped operated under the auspices of Boston College, Chestnut Hill, Mass., reports that it has had success in preparing many types of severely handicapped children for school programs from which they had previously been excluded.

According to Dan McCarthy, director of the Campus School, his institution last year moved four of its 30 students into regular school programs. Mr. McCarthy says one case involved a 14-year-old emotionally disturbed boy with cerebral palsy who had been sitting home for a year prior to enrollment in the Campus School. After one year of special treatment, the director says, the boy was admitted to a Boston private school for mildly handicapped children; prior to his treatment, the school had rejected the boy.

"There's no question even the most severely handicapped children can be helped with the proper program," Mr. McCarthy says. He adds, however, that the Campus School, which this year hopes to integrate about 20 of its 57 students into regular school programs, hasn't been able to enroll all the children it would like because of a shortage of state funds. The school currently has a waiting list of about 70, Mr. McCarthy says, and most of these applicants are sitting at home.

Such children may ultimately be helped by the courts—as has already occurred in Pennsylvania and Washington, D.C. Last year's successful suit in Pennsylvania, for example, claimed that denying an education to some mentally retarded children violated the equal protection provisions of the Constitution's 14th amendment. The suit, filed in federal district court by the state's Association for Retarded Children, resulted in a consent agreement that, in effect, obligates Pennsylvania to provide schooling for all retarded children in the state.

SUCCESS FOR SEVEN CHILDREN

The successful suit in Washington, D.C., was filed in federal district court by the National Law Office, a legal-aid organization, on behalf of all handicapped children in the city. Specifically listed were seven handicapped children, who had been excluded from public schools. The court subsequently ordered the Washington school system to immediately provide the seven children "with a publicly supported education suited to their needs" and to compile a list of all city children who are excluded from school. The court is expected to decide about the latter group in the near future.

Court action on handicapped children's education rights isn't always immediate or affirmative. In New York, for example, a federal appeals court recently received a case brought by parents of two brain-injured boys, who, the parents claimed, were being denied an education. The federal court, however, referred the case to state courts, where an outcome is pending. (Lawyers in such cases say they prefer to avoid state courts, which, they say, tend to be more protective of state school officials and less receptive to class-action suits than federal courts.)

Expeditious court action favoring the handicapped may pose its own problems. Some special education experts express concern that hasty court action will leave the public schools unable to cope with a flood of handicapped children. "I'm worried that all this is being dumped on one agency," says I. Ignacy Goldberg, a professor of special education at Columbia University's Teachers College; he cites the fact that Pennsylvania public schools must place all mentally retarded children by next September.

Nevertheless, as time goes by, uneducated handicapped children and their parents continue to suffer. Robert Dickinson of Spencer, Mass., for example, worries that his nine-year-old brain-damaged son, Tony, may never learn to speak or otherwise communicate since the youth has never had proper training.

Tony Dickinson is physiologically able to speak, and Mr. Dickinson says he has been told by speech therapists that the youth, with proper special training, might be helped to speak to some degree and that he also has the potential to learn sign language. Tony, however, has spent only slightly more than a year in school and now spends most of his days watching television. (He is also tutored an hour a day in academic subjects.)

"We must develop some communication before his neurological growth stops," Mr. Dickinson says. He adds that he has inquired about enrolling Tony at special schools as far away as Kansas and Georgia—all to no avail.

Here in Medford, Barbara Keel, mother of autistic Wayne, says that caring for her son "keeps me at home almost constantly." Mrs. Keel has one source of optimism, however. In early April, she says, Wayne will be enrolled in a four-week evaluation program at a state school to determine whether he has the potential to learn a vocation.

Meanwhile, Mrs. Keel says, Wayne's hyperactivity prevents her taking him on outside excursions. She also worries about the absence of playmates.

"I really think he needs someone besides me," she says.

RECOGNIZING GOD IN THE COMMONWEALTH OF KENTUCKY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. SNYDER. Mr. Speaker, we have expanded enormous energies here in the Congress for some time now over the issue of prayer and Bible reading in our public schools. I believe there has been little, if any, doubt in our minds that a great preponderance of the American people support the concept and practice of this type of religious expression.

In the recently concluded session of the Kentucky General Assembly, both Houses of the Kentucky Legislature gave their approval to a resolution embodying this affirmation of God Almighty in our public life.

The representatives of the people of Kentucky, on the State level, expressed their view on the subject in a resolution, the text of which follows. I commend it to my colleagues:

A RESOLUTION TO RECOGNIZE THE PROVIDENCE OF ALMIGHTY GOD IN THE COMMONWEALTH OF KENTUCKY AND THE SCHOOLS

Whereas, The Preamble to the Constitution of the Commonwealth of Kentucky expresses gratitude to Almighty God for civil, political and religious liberties we enjoy; and

Whereas, we teach our children in the Pledge of Allegiance to the Flag, that this is "one nation under God"; and

Whereas, we date all transactions according to the birth of Jesus Christ, A.D.—"in the year of our Lord"; and

Whereas, we recognize as did President Lincoln, the word of the Psalmist, that a nation is blessed "whose God is the Lord;" and

Whereas, it is evident with each passing day that our schools and our system of government will surely fall without God;

Whereas, public polls now show an overwhelming majority of the American people favor the historic recognition of Almighty God in the public schools; and

Whereas, this issue of the Rule of God in America transcends all partisan and sectarian divisions;

Therefore, be it resolved; That the Senate of The General Assembly of The Commonwealth of Kentucky:

1. Hereby requests the Honorable Governor of Kentucky to call the attention of our citizens to the truth of Holy Scripture quoted by the late President John F. Kennedy in a final speech never delivered, "Except the Lord build the house, they labor in vain that build it."

2. Hereby declares that it is in keeping with our national heritage that the Providence of Almighty God be recognized in every appropriate way in our public schools, and that voluntary, non-compulsory prayer and Bible reading and the Pledge of Allegiance to our Flag be encouraged in our schools and commended as a way of life for the children of the Commonwealth.

CONGRATULATIONS TO WAIPAHU, HAWAII, ON ITS 75TH ANNIVERSARY, MARCH 29, 1972

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. MINK. Mr. Speaker, as a resident of the town of Waipahu, Hawaii, I have always been captivated by its unique mixture of thriving growth and old time charm.

Waipahu grew up around a sugar mill which was founded some 75 years ago on the leeward side of the Island of Oahu. It existed as a sleepy plantation town for many years, but over the last two decades

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it has experienced a rapid rate of commercial and population growth.

Situated on the outskirts of the city of Honolulu, Waipahu is now an important community whose residents participate actively in the public affairs of their State. Yet they are also concerned with the environment and retained as much as possible of the old plantation flavor which contributes so greatly to Waipahu's uniqueness.

The city this year is celebrating its Diamond Jubilee anniversary with appropriate events and festivities. In connection with this members of the Hawaii congressional delegation have jointly introduced resolutions congratulating Waipahu on its 75th anniversary and extending the wishes of the people of the United States for its continued growth and prosperity.

The Diamond Jubilee was launched with the dedication of the new Hans L'Orange Park on March 5. Mr. L'Orange, a retired executive of the sugar company, participated in the ceremonies.

We look forward to many other activities as Waipahu observes its birthday.

For the interest of my colleagues, I am inserting at the conclusion of my remarks the text of the resolutions introduced as well as several articles about Waipahu.

The resolutions and articles follow:

CONGRESSIONAL RESOLUTION

Whereas, the Hawaiian word "Waipahu" means "spring water"; and

Whereas, the availability of spring water in the Aualii area of the Island of Oahu, Hawaii, led to the development of an agricultural district whose principal crops were bananas and rice; and

Whereas, the sugar company was incorporated in 1897, and thereupon built a mill at a place known to the Hawaiians as Waipahu; and

Whereas, over the years the company grew, expanded, acquired new lands, and brought great prosperity; and

Whereas, a thriving plantation town was created at Waipahu, amid the picturesque setting of the old sugar mill of the 1900's with its towering smokestack, the smell of molasses and the vista of sugar cane fields, the rickety clatter of a sugar cane railroad train tugging crop-laden cars, the activity of horses, mules, and pack animals, and the laughter of browned, barefooted children walking over dusty roads to rural school houses; and

Whereas, the slow growth of the community over the first 60 years was in marked contrast to the "boom" experienced in more recent times; and

Whereas, the faded red plantation houses down from the mill, with their little lawns and gardens and flowers have been replaced by a bustling business community with modern shopping centers, medical clinic, health center, theater, new post office, fire department, banks, churches, and numerous schools including three elementary schools and one high school; and

Whereas, Waipahu was once described as "a sleepy plantation town, where field and mill workers brought the necessities of life from the company store and lived in company-provided housing," but now the residents own their land, there are 300 businesses, and many individuals are employed in Honolulu 18 miles away; and

Whereas, Waipahu is the hub of Leeward Oahu, and has a population of 25,000 who are community-minded citizens anxious to preserve for their town the flavor and charm of an old plantation community; and

Whereas, the city of Waipahu will celebrate its 75th anniversary birthday in 1972 with appropriate "Diamond Jubilee" ceremonies, events exhibits and festivities:

Now, therefore, be it Resolved by the House of Representatives (the Senate concurring), that the Congress sends its greetings and congratulations to the city of Waipahu, Hawaii, and its residents, on the occasion of that city's Diamond Jubilee, and extends the good wishes of the people of the United States that Waipahu will continue to grow and prosper.

[From the Honolulu Star-Bulletin, Feb. 14, 1967]

WAIPAHU

On the Mainland in the Colonial period, the Creaky Old Mill by the Old Mill Stream became a symbol of much that was good in the Good Old Days. In the Hawaii of tomorrow, the corresponding symbol will be the old sugar mill of the old 1900's with its towering smokestack, cane-carrying flumes, the smell of molasses and burning cane fields, the dusty brown trucks on dirt roads in green fields, and browned, barefooted children walking to rural schools in plantation towns.

If Waipahu were wise, it would preserve for the next 300 years the charm it now possesses but does not really see. This plantation town bordering Pearl Harbor, population 15,000, is the home of the Oahu Sugar Company, founded in 1897. It has, in its creaky old mill and the few nearby old plantation-style houses, a cultural treasure worth preserving for the 2 million visitors a year expected here within 10 years.

Save it all now! Save every rickety old board in those little faded-red houses down the hill from the mill. Save their little laws and gardens and flowers. Preserve every fine shade tree and those towering royal palms beside the curving streets and old asphalt sidewalks. These are the memories of our time.

How swiftly time and memories pass! The Oahu Sugar Company had 345 mules for cane hauling in 1930, 2,400 employees in 1939, 1,800 plantation homes in 1947. Today, the company has 700 employees, few plantation houses and hardly a mule in sight.

How swiftly time and memories pass! The man who planted the first sugar cane in Waipahu had a son who became chairman of the board of United Air Lines. He has named jet planes "Waipahu" after the town of his birth. Will a child walking Waipahu's streets today walk the pathways of the Moon or Mars tomorrow? Of course she will!

Waipahu is blessed with an extraordinary civic pride, much of it an outpouring of the pride of the Arakawa family, which owns a department store near the mill. Recently, Goro Arakawa organized nine committees, 14 zones and innumerable street lieutenants in a major town beautification project. It shows. It shows, perhaps better than anywhere else in this State, how attractive, how livable, how lovable an old town can be, even while $25 million in new homes and construction goes up all around it:

Civic pride? Just two weeks ago, Waipahu High School students held an assembly. They donated $1,500 they had raised—by hard work—to a school in Botswana, Africa, exactly on the opposite side of the world from Waipahu. They have not seen the school nor its teachers and children, nor do they know even yet its name or exact location. That's more than civic pride. That's teen-age love, pure and undefiled.

The story of modern Hawaii—the historic past moving over to make way for the progressive future—is being retold just a half mile from the old plantation town of Waipahu where a 65-acre housing development, Waipahu Gardens is being built.

Part of the 250 homes will be on the historic nine-acre site of the old "stable camp" of the Oahu Sugar Company, often called the Waipahu Plantation Sugar Company.

Most of the hauling work for Oahu Sugar before 1930, when mechanized equipment was initiated, was done by the 300 big mules and 45 small mules which were stabled and pastured on this land.

The large California mules did the heavy cane hauling and plowing, and the small pack mules hauled seed cane and fertilizer to the fields.

The mules continued to be used throughout World War II, but in the middle '40's, most of the big mules bowed to progress and were replaced by machines.

Six of the smaller mules were retained to carry seed cane into tight sections of the fields where the large machines cannot enter. These mules are kept at the Waimalu Stables and ride by truck to the fields whenever they are called upon to work.

Before the formation of Oahu Sugar Company in 1897, this area was used for growing rice and bananas, but thousands of surrounding acres were arid cattle range.

Wise development of water resources transformed that semi-wasteland into 11,700 productive acres, making Oahu Sugar Company the second largest sugar producer in the Islands.

Five acres adjoining the stable camp, also part of the new development, housed all of the plantation workers and their families.

Working for the plantation was almost a family tradition. The women, known as "hoe hana" women because they worked with hoes, did plowing and odd jobs in the fields.

The men drove the mules and cared for the stables and other plantation operations. Even the children worked during the summer, and particularly at harvest time.

But, as one old-timer reflected, "Most of the kids have gone now . . . they're either going to school or working in government jobs . . ."

Some of the history of this area is still visible near Waipahu where an old foot bridge is still standing which passed over the railroad track and made a walkway for the children as they went from town to Waipahu Elementary School.

The school is also still standing; the old cement structure has been painted pink to match the new buildings which replaced the old wooden teachers' cottages. Waipahu Gardens' first to sixth graders will attend this school.

The memorable old stable is no longer there. It burned in 1959.

And the last families still working in the fields have been moving out of the area since 1957, giving up their little homes and gardens for homes in the new $5 million development.

Now only a few memories remain in the minds of the local people who worked and lived there. They remember old Joe Love, the "Mainland haole" who was about the best "muleskinner" they'd ever seen. They cringed when they saw him coming because he was such a cranky perfectionist.

Joe was the man who won silver trophies for "Best Six Mule Team" and "Grand Champion" muleskinner at the Honolulu fairs because he could make his team run in a figure eight.

Former veterinarian and member of the Honolulu police force, he seemed to know and work with animals better than with people.

It's said he roared out profanities when things went slightly amiss at the stables, but he trained perfectly the 40 horses that were ridden to and from work by the section bosses.

Old-timers still chuckle when they recall how Joe Love used to come home roaring drunk after a night out gambling with the boys at Moniz's Saloon on the corner of Depot and Waipahu Streets.

Cantankerous as he was, they still remember with respect this old stable boss who must have been around there for 25 years before he died in 1939.

They also remember that during the war they had to raise great quantities of Irish potatoes, in addition to their regular sugar cane crop to feed the locals and troops who flooded the Island.

There weren't many men around to tend the plantation then, for they were all called to war. After the war, not many of them were able to return to their old jobs because modern heavy equipment had taken over.

Now in place of the old mule pasture, there's a lovely playground and park which were built by the City and County for the Waipahu Elementary School children.

And in place of the old plantation houses high on the ridge separating two low lying cane fields, with a creek running down and off to the side where the old trestle still stands, new modern homes will rise on the gently sloping ground.

Waipahu's wooden streets have been replaced by cement sidewalks, and the Salvation Army now has its building where Moniz's Saloon once stood.

The families who will move in probably never have worked in a cane field, and the only hoeing the women will do will be in their ornamental flower beds . . . and the youngsters . . . most of them have never even seen a mule.

THE STORY OF OAHU SUGAR CO., LTD.—1894 TO 1971

More than seventy-five years ago a group of enterprising businessmen considered the possibility of starting a sugar plantation at Waipahu where ten thousand fertile acres were laying at waste covered with brush. By 1894 the first prospectus prepared by Mr. B. F. Dillingham was submitted to probable investors. It was a detailed study of the land and its resources, and foretold the possibilities believed to be held in store for those willing to venture into the enterprise. In 1896 an agreement was effected between landowners and H. Hackfield & Co. to insure its successful inauguration and in 1897 the Oahu Sugar Company was incorporated.

Mr. August Ahrens, who resigned his position as manager of Waianae Company to become Oahu's first manager, skillfully laid the pattern and plan which is the foundation of our plantation today.

He does not write in detail of all that was accomplished in the first few years of our Company's history, but the size of his first crop, following by just two years the organization of the Company, is sufficient to indicate the hustling which must have taken place. Wells were drilled and pumping machinery purchased; the mill was built and equipped; horses, mules, pack animals and tools for cultivation were obtained as well as seed cane; transportation was provided to get the cane to the mill; a labor force and experienced supervisory staff were employed and housing accommodations provided. Accomplishing all this in such a comparatively short time without the means of modern mechanical equipment such as is employed in enterprises of this sort today, shows to a remarkable extent the determination and hard work involved.

The first crop milled in 1899 totaled 7,900 tons of sugar from slightly more than one thousand acres.

Soil examination, along with the knowledge of the benefits derived from cane culture on neighboring lands of the newly organized Ewa Plantation Co., left little doubt about the possibility of growing fine crops at Waipahu, but the greatest problem facing Mr. Ahrens and each successive manager to the present, has been the development, conservation and efficient utilization of water. Sugar cane cannot be grown successfully on our lands without a reliable and sufficient supply or irrigation water. Steady development of walls and pumping plants provided water for early fields in the lower areas but some dry land fields were cultivated which produced pitiably low yields. The areas above the 500-foot level in Hoaeae depended entirely upon rainfall and in 1915 when drought seriously affected the plantation, 198 acres of long ratoon cane on unirrigated land dried up completely and had to be abandoned.

The plentiful supply of water in the Koolau range of mountains had, from the first been looked upon as a source from which a wealth of water might be drawn. A survey for determining a means of developing this water was made in 1905. By 1912 the water rights had been acquired and the Waiahole Water Company organized for the purpose of developing these water sources. The tunnel project, under the direction of a Mr. H. K. Bishop was started in that same year. In the 1912 annual report to the stockholders, Mr. E. K. Bull, who had taken over management of the Company in 1904 following the resignation of Mr. Ahrens, has this to say, "What the development of this irrigation project means to this plantation, and what effect it will have on our future crops when this water reaches our fields and an additional area of 3,000 acreas of the choicest new land has been brought under cultivation, is hardly necessary to comment upon; it is sufficient to state that it is hardly possible to overestimate the value and importance of this water development, and that with it assured we may look to the future with confidence."

Mr. Bishop was succeeded by Mr. J. Jorgensen who, with Mr. H. Olstad as his chief engineer, signed a contract for the job and completed construction of the Waiahole tunnel and its connecting ditches. Water was turned on May 27, 1916. In 1918 the Waiahole Pump was added to the mountain system to further improve it. Mr. Olstad joined the Company as Superintendent of Waiahole Water Co., in 1916 and remained in that capacity and as civil engineer of Oahu Sugar Company until his retirement in January 1948.

The development of the new Waiahole water supply brought several thousand acres of new land under cultivation. In view of larger crops expected in the future, it was decided to install an additional 14-roll mill and increase the boiling house capacity by 50%. Erection of the entire new mill and power plant was accomplished in 1917 while taking off the largest crop harvested so far—37,210 tons. Simultaneously the railroad system had to be extended. Locomotives were acquired as well as cane cars, main line and portable track.

By 1918 practically all available land had been brought under cultivation and the plantation was in the front ranks as a producer. From this date until 1947 when the lands of Honolulu Plantation Co. were acquired by Oahu Sugar Co. there was no significant change in acreage but the size of crop rose steadily and reached a high of 76,888 tons in 1937. Practical experience and studies in cultural operations, crop cycles, fertilization, irrigation, timing of operations, selection of cane varieties, control of diseases and pests, etc., are some of the leading factors responsible for this higher sugar production. Such development is a continuing process necessary to the success of the Company.

The topic of cane varieties is important in our development and would make an interesting story in itself. When the plantation started, "Lahaina" was the most successful variety in the Territory and accordingly the entire crop was planted to this cane.

Mr. Robert Fricke, former manager of Waianae Co., who was employed at the start of Oahu Sugar Co., recalled that about 100 acres of seed cane was purchased from Ewa Plantation and hauled to Waipahu by mule team. The land planted in the first year was entirely plowed by mule team and planted by hand.

In 1903 destruction of growing cane by the leaf hopper amounted to losses estimated at hundreds of thousands of dollars, and while research was going forward to find an insect enemy capable of destroying the pest, experiments were also conducted to find a variety which would have greater resistance to the damage caused by this pest. The leaf hopper was well under control in Waipahu by the end of 1907 through introduction of an egg-parasite by the H.S.P.A. entomologists, but variety tests continued, the object being to find some special variety which would eventually give better results than "Lahaina" on certain lands where conditions seemed to be unfavorable to this variety.

By 1918 the "Lahaina" disease, a root infection, which had been troublesome for several years, had spread over an extensive area. Its only control seemed to be the introduction of other more resistant canes. By 1921 close to half the crop was in H–109, although prior to that date Yellow Caledonia and other canes had been widely planted.

Yields from H–109 were so promising that its replacement of Lahaina and other varieties continued rapidly.

The search for varieties better suited to our conditions went forward, and in 1933 several seedling varieties proved superior to H–109, were 32–8560 and 37–1933. Since then other varieties have been developed and planted. Today we have 50–7209 and 49–3533 as the leading varieties on the plantation.

Until 1923 all cane was hand cut, hand piled and hand loaded, but labor shortages in the early 20's brought about revolutionary changes in harvesting operations and eliminated "hapai ko" or heavy hand loading. The 1925 crop was the first to be entirely loaded by machines except for fields which were flumed and a few small areas in gulches, etc. Today the fields are entirely harvested mechanically and the cane is transported to the mill in large thirty to forty ton semi-trailer diesel units.

When first built, our 9-roller mill was considered by Mr. Ahrens to be one of the very finest plants in these Islands, capable of handling an enormous crop. As time went on new improvements and changes altered it considerably, but we still have the same good word to say about it today—it ranks among the best in the State.

Factory changes and improvements are too numerous to mention in detail. However, the highlights are the addition to the crushing plant in 1903, making it a 12-roller mill, the first of its kind in the Territory; introduction in 1914 of special grooves in the feed and discharged rollers, an invention of Mr. Messchaert, Mill Superintendent at that time; addition of 14-roll mill in 1917 with new boilers, concrete smokestack, steam turbine and generators as well as 50% enlargement of boiling house capacity; numerous mechanical and automatic controls replacing hand operations; addition of cane cleaning plant in 1942 to overcome difficulty in grinding mechanically harvested cane; expansion of power plant to 7,000 KW capacity; enlargement of mill capacity in 1949 and addition of improved cane washing plant capable of handling over 200 tons of net cane an hour. This second full scale enlargement of the mill in 1949 was made necessary upon the acquisition of 3,000 additional acres of land in 1947 which formerly was cultivated by Honolulu Plantation Co. In 1961 there was a reorganization of the company and it became a wholly owned subsidiary of American Factors, Limited (now called AMFAC, INC.).

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In 1963 the installation and placing in operation of a new steam generation plant, the largest bagasse operating boiler in the world, also the addition of a new turbo-generator in the power plant increasing our power generation to 16,500 KW capacity.

In 1964 the installation of 150 acre automatic overhead sprinkler system was made on an experimental basis which could have, if successful, a tremendous effect on agricultural operations and practices.

In the past half century many factors have contributed to the increase or decrease in the size of crops harvested not the least of which has been Government control and restriction of production and marketing which was inaugurated in 1934 and continues in force today.

It was in connection with this legislation, known as the Jones-Costigan Sugar Act, that Mr. E. W. Greene went to Washington as a representative of the Hawaiian sugar interests. He had been manager since December, 1923 following the resignation of Mr. J. B. Thompson who had been manager since 1918 succeeding Mr. E. K. Bull. When it became evident that Mr. Greene's full time was required in Washington, he resigned as Manager and was succeeded by Mr. Hans L'Orange in 1937.

The taking of land by the Government for defense purposes during World War II also caused a serious decrease in sugar production. Between 1941 and War's end, nearly 3,000 acres of cane land were occupied by the Army and Navy for Military installations.

Mr. L'Orange was succeeded by manager, Mr. C. E. S. Burns, Jr., on February 16, 1957. Land has always been of major concern to the managers of the plantation, but more so during the fast increase in population of the island of Oahu. One of Mr. Burns' greatest problems was the renewal of leases and development of subdivisions with the various land owners and the acquiring of new land in order that the Company would be in the position to produce at least 71,000 tons of sugar a year. With the acquiring of new lands formerly in pineapple, and planting these lands in sugar, presented problems in water distribution and development, new roads, cane varieties, etc.

On January 1, 1965, Mr. C. E. S. Burns, Jr., Vice President and Manager of Oahu Sugar Co. since 1957 was appointed President of American Factors Associates, Ltd. of American Factors. Mr. Burns was replaced by Mr. Karl Berg, manager of Esperance Land and Development Co at Esperance, West Australia since 1960 and who was formerly manager of Pioneer Mill Co. on the island of Maui.

On December 1, 1965, Mr. John T. Humme, Assistant Manager of Kekaha Sugar Company came to Oahu Sugar Co. as Vice President and Manager replacing Mr. Karl Berg who was transferred to AMFAC in charge of the Plantation Department. During the period of 1965 to 1971 a number of important events took place which were a real challenge, among them being the construction of the H-1 highway through the center of the Plantation, the combining of two plantations, Ewa and Oahu Sugar, increasing factory capacity, the automation of pumps, shift of the plantation westward taking over pineapple lands for sugar cane, installation of facilities and modifying practices to comply with pollution requirements.

Labor relations in general over the years at Oahu Sugar Company have been very good as is evidenced by the fact that over half of our employees have service records of more than twenty-years and many who started when the Company was organized, remained until their retirement. Oahu Sugar has a well trained work force of 1072 employees, 127 of which are non-bargaining unit employees and 945 bargaining unit employees. The bargaining unit employees who with the other plantations in the sugar industry in the State of Hawaii are the highest paid sugar workers in the world and are provided year round employment of forty hours per week and many fringe benefits such as pensions, group insurance paid holidays, vacations with pay, medical plan, dental plan, sick leave, low cost housing and recreational facilities.

A great reduction in size of labor force occurred during World War II when hundreds of workers left to do defense work or to join the armed forces. During this period we also loaned labor amounting to many thousands of man-hours a year to the U.S. Government Engineers.

Throughout its history, the plantation on various occasions has participated in diversified agriculture. In early days an experiment in cotton planting on unirrigated lands proved unsuccessful. In more recent years experimental crops have consisted of tomatoes, papayas, macadamia nuts, sweet potatoes and Irish potatoes. Most of these crops were planted in conjunction with food conservation and defense plans.

The town of Waipahu, where our main office and mill are located, has an important place in this story since it originated with the organization of the Company and developed in relation to the growth and prosperity of the plantation. Prior to the selection of the mill site, this was an agricultural district known as Aualii, with bananas and rice the principal crops under cultivation. The interpretation of the Hawaiian word Waipahu is "spring water."

Today we have several modern shopping centers, medical clinic, health center, theater, new post office, fire department, banks, churches and numerous schools, including three elementary and one high school.

Looking back over the 75 years of life of Oahu Sugar Company, one can see that there have been many challenges and problems faced and overcome. We continue to have a progressive plantation, the largest on the Island of Oahu and the second largest in the State. Our factory is modernly equipped and our fields are well cultivated and high yielding. In addition to these physical assets, we have the confidence, the loyalty and support of our employees who are experienced in their work and who are interested in the community and in the welfare of a company on whose successful operation depends their own future and happiness.

VANISHING MEN WITH A TINY WISH

HON. CHARLES M. TEAGUE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. TEAGUE of California. Mr. Speaker, I call to the attention of my colleagues the excellent editorial which appeared in the March 23 issue of Stars and Stripes. It was written by my old friend and former townsman, Mr. Harold Say:

VANISHING MEN WITH A TINY WISH

Four hundred thousand of them there were, back in 1898, when they plied into the recruiting stations to volunteer to fight in the war with Spain. They did not know how long the war would last or how many of them would not come back. To many of them it was a great adventure. They had grown up in a generation of peace when the nation was settling its great West and building railroads to tie the country together and move its products from the interior to the coasts. To thousands of others it was an answer to the defense of the country; a crusade to free a downtrodden people from tyrants of the old world.

And like the boys of 1861, and those of 1917 still to come, they cast aside the safety and pleasures of home, factory, farm and school to answer their country's call. Whether the war was needed or could have been avoided was not a part of their thinking or concern. They went to war, a dedicated mass of patriots with no thoughts other than that of duty in answer to their country's call.

Some historians, and particularly textbook writers, over the years have downgraded the Spanish-American War, tending to picture it a bit on the Gilbert and Sullivan opera side. That Spain proved weaker than suspected and America's strength, particularly its naval arm, stronger than the country knew, in no way lessens the quality of patriotism that marked the volunteers of 1898. The war was over sooner than the naval and military heads could have hoped. Out of it, America stepped on the world stage where it remains to this day in major way.

Last week, this paper published the totals by states of Spanish-American War Veterans still living—some 2700 of them as of Feb. 29. A few years more, and none will be on this earth. It is a sad thing to watch these men go. These volunteers of long ago ask for no particular sympathy or special treatment.

Over the past many years they have asked for only one tiny favor—a postage stamp honoring their day. But over in the Post Office department there are apparently some controlling figures who like many school products do not know much about the Spanish-American War or the breed of men who volunteered to fight it—whether it be short or long, easy or deadly. The erudite ones who decide on postage stamps can find a spot for elephants, African animals and such, but they simply cannot fit a Spanish war stamp into their demanding schedule.

Perhaps some of the younger veterans' organizations with more members and more influence on Congress can take time out to press for this small, inexpensive item—a postage stamp—that these vanishing men of 1898 hope for. To them it means much, and is their only request to a great government that finds a way to spend and give away billions too many to count.

COMMISSIONER SPEAKS ON EDUCATION OF THE HANDICAPPED

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. QUIE. Mr. Speaker, last Friday U.S. Commissioner of Education, S. P. Marland, Jr., addressed the 50th annual convention of the Council for Exceptional Children. The convention attracted over 10,000 educators and others who work with the handicapped and gifted from the United States and Canada.

In his speech, the Commissioner detailed some of the first-year accomplishments of the drive to assure appropriate educational opportunities for each handicapped child by 1980. The emphasis within the U.S. Office of Education began a year ago when the Commissioner named education of the handicapped as a major priority. In my judgment, Commissioner Marland's speech was a very frank and forward appraisal of the situation.

I believe my colleagues would benefit from reading the text of the Commissioner's speech—not only because it forcefully describes the tremendous needs of 7 million children, but also because it suggests some directions those of us in the public and private sectors can go, to further close the gap between what is and what ought to be.

EDUCATION OF THE HANDICAPPED: CLOSER TO EQUALITY

(By S. P. Marland, Jr.)

A year ago, at your convention in Miami, Ed Martin made the initial public announcement that full education opportunity for handicapped children had been designated as a national goal of the United States Office of Education. Today, on your 50th Anniversary as an organization dedicated to improving the lives of handicapped boys and girls, I would like to report to you on the progress made toward that objective.

We all recognize that bringing full educational opportunity to the handicapped children of America—the six million of school age and the one million preschoolers—is a challenge for this entire Nation. It is not a challenge that the Federal Office of Education alone can assume. It is not a challenge that the local communities can meet using only local resources. It is not a challenge that State governments can cope with by themselves. Our call for the development of a national goal of education for all handicapped children by 1980 was a call for leadership from within the entire education community, a call for the cooperative activity without which we cannot hope to achieve this goal as a total Nation.

During this year, we have attempted to strengthen the State, local, and Federal partnership which has been growing over the past decade and to accelerate its progress. Education for the handicapped did not start this year simply because we have given it a new importance in the Office of Education. Your own 50-year engagement in the noble struggle is striking evidence of the long history of concern that many educators and many private citizens and, of course, many parents have felt for the need to develop the abilities of the special child. But I do think there is an important qualitative difference in special education this year. By establishing education of the handicapped as an objective of the Office of Education, all of us in that Office share a sense of concern and involvement in the objective, rather than just our specialists in the education of the handicapped. Specialists in higher education, vocational education, educational research, teacher training, and so forth—all the members of our family are involved and their involvement, I would say, grows deeper by the day.

If one analyzes the development of educational programming for handicapped children, the credit must be given in large part to groups such as your own—to teachers and other education professionals who have been advocates for the children they serve. Recognition must also be made of the tremendous contribution that parents have made. They have carried their case to school boards, to State legislatures, and to the United States Congress itself in attempting to develop a public policy that would be responsive to the needs of handicapped children. The legislative bodies have responded and continue to do so. More recently the Courts have begun to respond as I will discuss in a few minutes. But to be thoroughly honest with you, general educators have not always provided all of the leadership in this area that might have been desirable. This has by no means been universally true, of course. Many principals and local and State superintendents have in a variety of instances aggressively pursued more programming for handicapped children. But impeding these efforts has been the fact that the cost of educating handicapped children is inevitably greater, that there are many and cogent competing needs for funding, and that responsibility for seriously handicapped children has been left largely unassigned. Are they the responsibility of the schools? Or are they the charges of other kinds of social organizations? These factors have produced an uneven pattern of leadership within the education community. It is to this point that I think that I, as Commissioner of Education, and Ed Martin as Director of the Bureau of Education for the Handicapped, must attend. We must to the best of our abilities and to the limits of our resources attempt to joint with our State and local colleagues in providing leadership toward achieving the goal of full services to handicapped children.

In planning for this objective, we developed four national targets for Fiscal Year 1972: *First*, 100,000 handicapped children in in preschool programs. *Second*, 250,000 children added to the special education roles. *Third*, 250,000 children and young adults receiving vocational education in order that they might leave school with marketable skills and a chance for self-sufficiency and increased self-regard. *Fourth*, 17,000 teachers and professional personnel receiving the full or part-time training that will be necessary in reaching these other goals.

EARLY CHILDHOOD EDUCATION

A major focus of our concern has been in stimulating the development of early childhood programs for handicapped children. The research that you and your colleagues have done has suggested that in each area of handicapping conditions early stimulation and training can reduce or eliminate later educational handicaps. The significance of this in human terms—in the reduction of frustration and failure for children as well as in the amelioration of despair and isolation for parents—is obvious. And, in addition, there is increasing evidence that such programs are cost-beneficial in that they will reduce costs of later institutionalization or full-time special class placement.

Reports coming to us from our Model Preschool Programs are very encouraging. By the end of this year we will have at least one model program in each State. There is a tremendous variety in these programs. Some are serving infants in the first year of life, others concentrate on the five and six year olds; some deal with small groups of similarly handicapped children; others work to integrate handicapped into programs with nonhandicapped. There are programs in rural areas, and in inner-cities, some dealing with Spanish-speaking, and some with Indians. There are programs in schools and there are programs in hospitals.

In short, we are attempting to reach into widely varied segments of our population in order to gather from each wisdom in relation to preschool and early childhood training, and to give to each an assist in demonstrating the effectiveness of programming for handicapped children of all kinds. Program after program report gains in children's language and cognitive functioning, reduction of the sort of disruptive behavior that has caused children to be excluded from regular day care and preschool programs, and other well-documented and deeply encouraging improvements. We established the goal of 100,000 children in preschool programing at the end of this year on the basis of several factors: our accelerated efforts, increased efforts on the part of States to use Education of the Handicapped Act and State money for these purposes, a specific effort on our part to stimulate increased participation of handicapped children in programs under Head Start and other authorities, and in general, a full range of catalytic activities including encouragement and stimulation of new State legislation. It now appears that the Nation will come very close to having 100,000 children in preschool programs in 1972. We are able at this time to account for over 70,000 participating in programs under the Education of the Handicapped Act and Title VII of the Elementary and Secondary Education Act. And the complete roster of reports will not be available to us until sometime after the school year ends. As professionals in this field you know, as I do, that there is no comprehensive record-keeping system which can account for all the handicapped children in cooperative preschool programs, in privately operated day care and preschool programs across the country. This data is simply not collected systematically by State education agencies. Part of our efforts, then, has been to work cooperatively with the Office of Child Development and other HEW agencies in establishing better records of participation of handicapped children in preschool programming, and there are indications of substantial progress toward this objective. For FY 1973 we have requested an additional $4.5 million for Model Programs which will bring the number supported to 100. Our mutual planning activities with State education agencies and other responsible agencies will continue. For example, we have worked closely with the Governor's office and the Governor's Department of Human Resources in Illinois, offering support and assistance in the development of a new program in that State requiring preschool education for all handicapped children.

CAREER EDUCATION

Another major Office of Education objective is to accelerate development of the career education concept. In brief, the career education theme calls for a renewal of elementary and secondary curricula to place new emphasis on the variety of career opportunities available to young people. Career education would provide information and training in sensible alternative directions that may be pursued, and would provide specific skills training to students so that each would leave public education either with marketable skills or with specific higher education goals.

The Career Education goal and our Education of the Handicapped goal interact, and this year we have begun by expanding opportunity for vocational education for handicapped children. In 1971, about 115,000 handicapped young people were enrolled in pre-vocation or vocational programming. An analysis from 40 States indicates that over 200,000 children are in programs within those States, and it is expected that the goal of 250,000 will be reached this year.

It seems critical to me that the concept of career education takes hold in special education. From the earliest years curriculum should be developed in terms of realizable goals for productive lives for handicapped children. We cannot afford to let special education programming phase out after elementary school but must carry through with appropriate program for junior high school and high school so that our young people may enter into the world of work or go on to further study with confidence and competence.

EDUCATIONAL PERSONNEL

We will also meet the manpower target we stipulated. In fact, it will be oversubscribed. In addition to providing partial assistance to more than 20,000 undergraduate, graduate, and Special Institute trainees, we have been able to exceed our goals in terms of new programs established and new models of training under our special projects and programs. Other developments in the manpower area are encouraging. Our analyses indicate that more and brighter students are enrolled in special education each year, and that because of the overall manpower supply additional teachers are becoming available for the special education manpower pool. The critical problem which faces us and which faces those of you in the

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teacher education preparation field is to analyze more carefully the competencies which our teachers need, and to relate the progress that children make in school to the kind of training teachers receive. We must focus on the *outcomes* of our training process so that our goals can increasingly become qualitative as well as quantitative.

In attempting to come to terms with a national problem of the magnitude of the one which faces us in developing special education opportunities for all handicapped children, we proposed the establishment of 1980 as a target date. In a number of States the target date was legally mandated to be earlier than 1980. For some, such legal dates have already passed, unmet. In other States there is no date by which the task must be done. In order to afford additional services for approximately three million children by 1980, the total national effort would have to provide increased opportunity for a quarter of a million children this year and that figure would have to accelerate over the next few years, reaching the level of between 400,000 and 500,000 children per year as the decade ends.

It may be important at this point to reaffirm the meeting of target figures. There has been some confusion about some that I have mentioned. Not long ago one State leader said to us, "Well, you have established this national goal of full services by 1980. When are you going to give us the detailed plan for our State? When are you going to give us the money to do the job?" While that kind of question surprised us, as we have thought about it we can understand where we have failed to communicate clearly the true sense of our objectives and goals. We do not intend to develop from the Federal Office of Education a specific plan to serve all of the children in Pennsylvania or in Alabama or in Texas. Clearly we do not intend to impose a Federal plan on those States, or assume Federal responsibility for the education of the children in those States. We could not if we wanted to since the Constitution assigns primary responsibility for education to the States. What we do hope to do is to establish a national target, one point in time against which we can, as a Nation, measure our progress. We hope to provide a climate of leadership by affirming the right of handicapped children to an education, and by highlighting this right in the eyes of the public and in the eyes of the education community. We hope to stimulate the establishment in each State of a similar goal, developed by the people of that State, which would be a plan for the use of local, State and Federal resources in that State. At the same time, in developing such a national goal, we naturally hope to develop on the part of the Federal government—both the Congress and the Executive Branch—an increased sense of commitment toward this end and an increased share of national resources for these purposes.

We had an alternative. We could have set our goals in terms of just how far the Federal dollars would go. We could, for example, decide to give scholarships to X numbers of teachers. Or help Y numbers of children with Federal funds. Then we could have reached our goals quite easily, since they would match exactly the dollar resources we had available to us. Instead, we have said that the real meaning of the Federal dollar is not just to do a limited job, but to be a catalyst to the meeting of a national need. The $37.5 million in Education of the Handicapped Act funds could be spent in this fashion to provide an education for a maximum of 20,000 children at $1,800 per child. But through careful State and local planning in combination with the use of other Federal resources, this same amount could be a catalyst to stimulate better education for hundreds of thousands of children. As you know, we have chosen the latter strategy, and the State directors of special education and the colleges and universities are cooperating with us. They are investing Federal dollars very carefully so as to get the maximum mileage out of them. Programs are supported in areas where there is no State authorization, such as preschool, to demonstrate the value of such programs. Funds are being spent to aid seriously handicapped children—the multiple handicapped, the emotionally disturbed—programs for which sufficient State funding and priority have not been available. Funds are being spent to support Instructional Materials Centers and similar kinds of applications of education technology which are not easily supportable under current State program assumptions. Incredibly enough, this year our reports suggest that 90 percent of dollars spent under Part B of the Education of the Handicapped Act, Grants to the States, was spent for such purposes. Only 10 percent was spent for things that could have easily have been done routinely by the States. So that our goal of 250,000 new children receiving special education then can serve two purposes: *First*, it can serve as a mark against which the Nation can measure its efforts and help stimulate State goals. *Second*, it can provide for the parents, children and teachers a method of accountability, a sense of visible stepping stones so that year-to-year progress may be more easily and accurately determined.

A major strategy in developing new education opportunities for handicapped children has been to work cooperatively with other groups. For several years we have supported the CEC activity which has cataloged all State legislation on handicapped children and which has developed a model special education statute. This information resource has been used by a number of States in studying their special education programming.

We also reached out this year to the Education Commission of the States, an organization of governors, State legislators, and professional and lay people interested in education. ECS has adopted as its own goal our 1980 full education opportunity standard. With our support, and with the cooperation of the Council for Exceptional Children, a series of conferences was held around the country in which each State had a chance to examine its special education program in relation to those of neighboring States and in relation to the model statute. The recommendations from these conferences for improvement of State programs are fed back to legislators, to governors, and to State education officers. An index of the activity in this area is the fact that 899 bills have been introduced in State legislatures this year involving education for handicapped children and 237 have passed, 86 of them regarded as major in scope. Every State with a legislature in session has considered special education legislation. A number of very interesting trends are thus apparent:

(1) there is an accelerating movement toward mandatory legislation;

(2) there is a revamping of testing and diagnostic procedures and a greater concern for due process in identifying and prescribing for children;

(3) there is a general concern for the civil rights of handicapped people;

(4) preschool programming is receiving a great deal of attention;

(5) the definitions of handicapped children are being extended to include categories not previously served such as the trainable mentally retarded;

(6) transportation laws are becoming more flexible;

(7) private schools are getting more help, and regional programs are being established.

Now, of course, we recognize that these efforts are not solely attributable to the CEC legislative study or to the ECS conferences, but represents in large part the cumulative effect of years of work by parent groups, by professional groups, by State education agencies, and so forth. But it is also true that in situation after situation the legislators or the State special education officials have pointed out to us that these recent activities have moved them much further along. This week, for example, we have learned that the entire model statute was introduced in one State and that another plans to adopt it in toto. We have had direct contact from three governors in addition to numerous contacts with Chief State School Officers.

Most of our catalytic efforts specifically designed to reach our objective of 250,000 children added to the special education programs will not be felt until the next school year. This year we estimate that 215,000 additional children will receive special education services, and next year the 250,000 mark should be reached. This is 35,000 fewer children than we hoped for this year and about 45,000 fewer children than we hoped for next year, so we must either increase our efforts or lower our expectations. I think conditions are favorable, however, for more rapid gains in future years and thus feel that the 1908 goal is entirely within our reach. I think this optimism is warranted because we have seen new responsiveness within HEW and at the State and Federal legislative levels and because the recent Federal court decisions in Pennsylvania and in Alabama suggest a whole new judicial concern which will provide added stimulation. The Pennsylvania decision says in essence that a child who is mentally retarded, or thought to be by school officials or his parents or guardian, cannot be denied admission to school or have his educational status changed without notice and a chance for a due process hearing. And that by September 1, 1972 every retarded person between the ages of 6 and 21 must have access to a free public program of education and training appropriate to his learning capabilities. Furthermore, if any of the schools in the State provide a program for children younger than six they must also provide appropriate programs for retarded children. The larger message is clear: handicapped children are entitled to public education.

In the Alabama case, Federal Judge Frank Johnson ordered State officials to correct conditions at the Partlow State School and Hospital at Tuscaloosa which is for retarded children. Judge Johnson entered an interim order to correct immediately such things as fire hazards and unhealthful food and to begin a disease immunization program, and also ordered the hiring of 300 staff people by March 31, and this has already been done. According to observers, this is the first time that a Court has held that a mentally retarded person, involuntarily confined to an institution, has a right to adequate treatment and care.

These court decisions are exciting and encouraging and they bring us to a point in time where all the great arms of our Government—the judicial, the legislative, and the executive—are increasing their concern for the handicapped person and for his intrinsic rights as a human being. As educators, our responsibilities are not reduced because of this legislative and judicial concern. We know that handicapped children should have an education. We know that education for handicapped children works. We know that preschool programming can positively effect the growth and development of the handicapped child physically, emotionally, and cognitively. We know that given appropriate career education, handicapped children can be employed and we know that if we do our job well 90 percent or more of handicapped people can be partially or fully self-sufficient. We know that handicapped people can participate in higher education and in adult and continuing education. And it is clearly our responsibility to take the leadership in planning such programs, in demonstrating their effectiveness, and in providing equal educational opportunity.

When we made education of the handicapped a priority of the Office of Education it was not a one-year enthusiasm, as it is not a one-year enthusiasm for us to become interested in the gifted and talented children and to establish an Office of Gifted and Talented Children. Providing appropriate educational opportunity for handicapped and gifted children demands a long-term effort, presupposes a continuing priority, and obviously requires unremitting efforts to focus public attention and public resources on these children.

We intend this year and in the future years to continue our efforts to provide national leadership in special education. We will talk with the Chief State School Officers, we will enlist support from the school boards, we will present our case to the Secretary and to the Office of Management and Budget. I can assure you that it will not be an effort limited only to our Bureau of Handicapped Children and our program for the gifted and talented, but it will be an undertaking woven into the very fabric of the entire Office of Education and the Department of Health, Education, and Welfare. In fact, we are already launching cooperative activities with the National Institute of Mental Health, the Office of Child Development, and the Social and Rehabilitation Service so that we can integrate all our resources more effectively to serve children.

In closing I would like to quote Dr. Larry G. Stewart, associate director of the New York University Deafness Research and Training Center. Dr. Stewart, who is himself deaf, refers to America's deaf as a truly silent minority but one which is growing restless "under the yoke of centuries-old discrimination and denial of their right as Americans to equal treatment under the law."

"The patience of the silent minority is growing thin," Dr. Stewart writes. "How much longer" he asks, "must they wait for the freedom, justice, and equality promised to all Americans?"

The same might well be asked about all of our people who are somehow out of the ordinary, whether their differences are due to handicaps of mind or body, extraordinary mental gifts, social or economic disadvantagement, or race. For the patience of all these special Americans is growing thin.

But we can say today that education at all levels is beginning to respond to these legitimate claims and, as I hope the steps I have outlined to you today indicate, the Federal Government is beginning to move with accelerating effectiveness to meet the special needs of the handicapped and the gifted. It has been a long and difficult struggle for you of the Council—50 years long. But your message is beginning to be heard throughout America and I would say that as a result the educational prospects of millions of special children were never brighter.

TELEPHONE PRIVACY—VIII

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I have recently reintroduced the Telephone Privacy Act (H.R. 14097) with 28 cosponsors.

This bill would give to individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option to require the phone company, instead of supplying a list, to put an asterisk b.' the names of those individuals in the phonebook who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations and opinion poll takers. Also not covered would be debt collection agencies or any other individuals or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a seventh sampling of these letters into the RECORD, since they described far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

FORT WAYNE, IND.,
February 22, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: I have just read an article in our local newspaper indicating you were to introduce a bill to give persons the right to indicate to the telephone company if they do not want to be solicited over the telephone for commercial purposes.

I would like for you to know that I would certainly like to have a bill of this sort enacted and greatly appreciate your efforts along this line.

Yours truly,

———— ————.

FAIRFAX, VA.,
February 23, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: This is just a short note to express my wholehearted support for your bill H.R. 13267 to bring telephone solicitation under some control. I believe that this type of legislation is far overdue.

As one who was forced to remove his phone number from the telephone book because of repeated solicitations for everything from cemetery lots to mombo lessons, I hope that the merit of your proposal is recognized by the Interstate and Foreign Commerce Committee and all of Congress. I firmly believe that I do not pay my telephone bill to have it ring every few minutes with some unwanted sales pitch.

For years it has bothered me that members of Congress have decried the invasion of privacy by third class mail. It arrives quietly in your mail box and does not in any way invade your privacy as does an unsolicited sales pitch on your phone.

A copy of this letter is also being sent to my own Congressman, Joel Broyhill, in the hopes that he will also support your proposal.

Thanks for at least beginning to move the legislative wheels in this area.

Sincerely,

———— ————.

ARKANSAS SHERIFFS' ASSOCIATION,
February 21, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: The Arkansas Sheriffs' Association, the Arkansas Law Enforcement Officers' Association, and the Municipal Police Association of Arkansas feel, after having read an article in the Arkansas Gazette today regarding your proposed legislation on telephone solicitors, that we could wholeheartedly endorse your bill in its present form as we have been plagued with solicitors of this nature for the past two years.

We would, however, very much appreciate your sending us a copy of this bill at your earliest convenience.

Thank you very much for your cooperation.

Respectfully,

ARKANSAS SHERIFFS' ASSOCIATION.

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TERRE HAUTE, IND.,
February 21, 1972.

Hon. LES ASPIN,
Congressman from Wisconsin,
House Office Building,
Washington, D.C.

DEAR SIR: I read with pleasure a piece from the Indianapolis Star which told of your proposal to place "No solicitor" signs on private telephone numbers.

I have had people calling me selling insurance, light bulbs, and everything else that you could think of. I have called the telephone company to see if anything could be done to stop it, and they tell me that I should get an unlisted number. For me this is not possible.

Please drop me a line before this comes up for a vote so that I can put the word to my congressman: John Myers (7th dist.) and Roger H. Zion (8th dist.). I go to school in one district, and live in the other. Good luck and thank you for your effort.

Respectfully yours,

———— ————.

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MEMPHIS, TENN.,
February 23, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.:

Read enclosed article in today's paper.

I hope your legislative proposal succeeds in passing.

I am tired of receiving uninvited telephone calls for light bulbs or vacation resorts, etc., etc.

The article follows:

BILL WOULD CURB PHONE SOLICITORS

WASHINGTON, Feb. 19. Representative Les Aspin (D-Wis.) has introduced legislation to prohibit telephone solicitors from calling individuals who do not want to receive an uninvited sales pitch.

Under the bill, which would be called the Telephone Privacy Act, individuals could tell telephone companies they do not want to be commercially solicited over the telephone.

Commercial firms wanting to do business over the telephone would be first required to obtain from the phone company a list of customers who wish the practice.

TRIBUTE TO HERMAN BRANDT

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BELL. Mr. Speaker, on Friday, April 14, 1972, a testimonial banquet will be given for our friend Herman R. Brandt who is retiring as city clerk of Manhattan Beach after almost 22 years of distinguished municipal service.

Born in New York City, Herman Brandt attended Columbia University and completed his studies at the Uni-

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versity of Southern California. Serving in England and France during World War I, he received the Silver Star, the Purple Heart, and the French Medal of Honor for extraordinary valor in combat.

Early in his career he served as president of the Los Angeles City Civil Service Commission and directed public relations work for the Los Angeles Department of Water and Power. And for almost a third of a century he has been a leader and generous contributor to the community life of Manhattan Beach and the South Bay area.

Herman is a past president of the Manhattan Beach Property Owners Association, past president of the Manhattan Beach Coordinating Council, and past president of the South Bay Art Association. He has served as local chairman of both the American Red Cross Welfare and Disaster Fund and the American Cancer Society. For the past 30 years he has been city chairman of the March of Dimes.

He has been active in the Boy Scouts of America, the Veterans of Foreign Wars, the American Legion, the Elks Club, the South Bay Shrine, the Eastern Star, and virtually every other organization or project in which the indispensable ingredient has been service to others. In the 1950's he helped organize the South Bay Hospital District, served as its first president, and continues as an active participant.

Herman Brandt has already received recognition for his contributions to the community by those of his coworkers who know him best. He was presented with the Rose and Scroll Award by the Manhattan Beach Chamber of Commerce in 1955 and was voted Citizen of the Year in 1965.

He will formally retire as city clerk on April 18. He will not easily be replaced. He will not ever be forgotten. For in a nation which honors an historical tradition of local self-government, Herman Brandt has become a symbol of all that is best in local community life and government. He has been a man who makes the system work.

For these reasons, Mr. Speaker, it is with special pleasures that I call attention to the banquet honoring Herman Brandt on April 14 and to note that I will be joining with his many friends in Manhattan Beach on that evening to show him something of our profound admiration, gratitude, and respect.

NO AMNESTY FOR DRAFT EVADERS

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MYERS. Mr. Speaker, during the debate which has occurred in recent weeks on the question of granting amnesty to draft evaders and military deserters, many have argued that the thousands of young men who have fled the United States to avoid military duty should not suffer legal repercussions because of their personal abhorrence of war. Others, however, do not subscribe to the view that a person can decide to be a "fair-weather" citizen, and choose to serve his country at his discretion. This point of view stresses the importance of defending the principles for which this Nation stands and gives prime consideration to the sacrifices of thousands of young Americans, many of whom were undoubtedly strongly opposed to war, who answered the call of their country to serve in the agonizing struggle in Vietnam. It is in reference to this latter view that I wish to direct the attention of my colleagues to House Resolution No. 15 which was adopted by the Indiana House of Representatives during the recent session of the Indiana General Assembly.

I am pleased to insert this resolution at this point in the RECORD:

HOUSE RESOLUTION No. 15

Whereas, The war in Southeast Asia is rapidly coming to a close; and

Whereas, Thousands of young Americans have left the United States rather than serve in the armed forces and face the possibility of fighting in Viet Nam; and

Whereas, Thousands of young Americans went to Viet Nam (died there, were injured there or were made a prisoner of war while there) in the service of their country; and

Whereas, Sacrifice and devotion to duty has been one of the hallmarks of the American experience: Therefore

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

Section 1. That the President and the Congress of the United States of America are urged to adopt a policy of not granting amnesty to those young Americans who left the United States rather than face the possibility of military service during the Viet Nam conflict.

Section 2. That this Resolution be transmitted by the Principal Clerk of the House of Representatives to the President of the United States, to the United States Senators and the United States Congressmen from the State of Indiana and to the national offices of the American Legion.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DINGELL. Mr. Speaker, Congressman PELLY and I have introduced H.R. 14103 to amend the National Environmental Policy Act of 1969 to provide a temporary partial exemption from the requirements for the issuance of environmental impact statements.

This legislation was drafted to meet a temporary problem which has arisen with regard to the issuance of Refuse Act permits. I am in receipt of a letter under date of March 27, 1972, from Administrator Ruckelshaus of the Environmental Protection Agency relating to this matter which I would like to share with my colleagues. Therefore, I insert the text of the Administrator's letter at this point in the RECORD:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 27, 1972.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to call to your attention a serious problem confronting the Environmental Protection Agency in implementing our programs in the water quality area. As you know, the Refuse Act permit program faces a massive backlog of pending applications. Since President Nixon signed Executive order 11574, instituting the permit program, in December of 1970, approximately 20,000 permit applications have been received. We have moved as quickly as possible to process these applications and issue permits. However, in the decision of *Kalur and Large* v. *Resor, Ruckelshaus, and Clarke*, the District Court for the District of Columbia ruled that no further permits could be issued until EPA complied with the requirements of the National Environmental Policy Act by establishing procedures for the preparation and issuance of environmental impact statements in connection with Refuse Act permits.

We believe that it is vital to issue permits under the Refuse Act as quickly as we are able to perform a thorough evaluation of each application. Although under the law a discharge from an industrial point source without a permit is illegal, we cannot shut down every water-using industry in the United States. Instead, we must issue permits with specified conditions so that the discharger will know precisely the requirements he must meet. Every day of delay in issuing permits means further delay in attaining effective control over discharges subject to the Refuse Act.

From our examination of the administrative requirements of preparing impact statements in connection with the backlog of permits which we are now processing, we have reluctantly concluded that to undertake this additional workload would result in serious delays in this program. While some delays are acceptable with respect to Federal actions which are expected to have a detrimental effect on the environment, and may even be necessary in order to examine those effects, the effect of delay in the permit program is ultimately detrimental to the environment. I do not believe that this is acceptable. We must ask at this time for legislative relief from this serious problem.

I believe that the broad purposes of NEPA will not be compromised by this limited suspension. The permit program contains many safeguards designed to ensure that the permit is a vehicle for the improvement, rather than the degradation, of the environment.

Applicants for a permit are required to obtain a certification from their state that the discharge will not violate water quality standards. All permits are conditioned upon compliance with water quality standards, including compliance with any standards that are up-graded during the term of the permit. Where water quality standards are inadequate, more stringent conditions are imposed. There are special restrictions on the discharge of oil and hazardous and toxic substances. Every permit holder is required to periodically monitor his discharge to assure that he is in compliance with the terms of the permit, and in significant cases, the permit holder must monitor the impact of his discharge on the aquatic environment. In addition, EPA intends to require every permit holder to come up to certain defined levels of industrial treatment, regardless of the quality of the particular body of water involved.

As a procedural matter, the permit program offers ample opportunity for public participation. In all cases public comments are solicited and taken into account in the administrative decision. Where substantial public interest is displayed, public hearings are held. Citizens who are dissatisfied with the terms of the permit may obtain judicial review in the federal courts.

Section 402 of S. 2770, as passed by the Senate, and of H.R. 1896 as reported by the House Public Works Committee, would establish a new permit program administered by EPA. That section also contains numerous safeguards to assure protection of the environment and public participation. Every permit must be conditioned on compliance with applicable effluent limitations and performance standards, including standards for toxic substances. In general, existing industrial dischargers will be required to adopt the best practicable treatment, while new dischargers will be required to adopt a higher level of treatment. EPA is required to guarantee effective citizen participation in the permit issuance process. Public notice is required for every application, and in addition, an opportunity for a public hearing is required for every application. Finally, EPA's action in issuing or denying a permit is subject to judicial review in the federal courts.

In summary, we intend to scrutinize each permit application for compliance with water quality standards, and to develop stringent conditions to ensure that the permit is a tool for the enhancement of the quality of the environment, and not a license to pollute. Thus, we believe that a temporary suspension of NEPA's procedural requirements for the permit program would not allow us to be lax in our enforcement of environmental standards through that permit program. Indeed, without such a suspension, we will be subject to intolerable delays in utilizing the program to clean up the Nation's waters.

My staff will be available to work with you to develop a mutually acceptable legislative solution. I urge that early attention be given to this crucial problem.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

TRIBUTE TO COL. EARL G. PECK

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McCOLLISTER. Mr. Speaker, personnel changes at Offutt Air Force Base in Nebraska's Second Congressional District take place frequently, but rarely do they involve a man as dedicated to the community as Col. Earl G. Peck, base commander since August 1970.

Colonel Peck will leave in May to become commandant at the Squadron Officers School, Air University, Maxwell Air Force Base, Ala. He will be missed in the Omaha-Bellevue area as an active participant in a variety of organizations.

He has served on the boards of the United Community Services, the Mid-America Council of the Boy Scouts of America and the Ak-Sar-Ben Chapter of the Air Force Association. He has been a member of the Military Relations Committee of the Bellevue and Omaha Chambers of Commerce and the executive committee of the Omaha-Lincoln Federal Executives Association.

His dealings with my district office in Omaha have been very beneficial to my staff there. When the office opened, Colonel Peck arranged a complete tour of the Strategic Air Command to familiarize them with base operations and he has assisted us on several occasions with military questions and problems.

A native of Metuchen, N.J., he attended Rutgers University. After enlisting in the Air Force in 1948, he earned a bachelor's degree in political science at the University of Texas and was chosen for Phi Beta Kappa.

His involvement in civic activities began in 1963 when he first was assigned to Offutt with the Directorate of Personnel at SAC Headquarters. He left in 1967 to attend the Industrial College of the Armed Forces, a senior military staff school in Washington, D.C. While there, he earned a master's degree in business administration from George Washington University.

Colonel Peck's assignment prior to returning to SAC was chief of Special Air Operations at Military Assistance Command Headquarters, Vietnam.

I would like to extend my personal thanks and best wishes to Colonel Peck and wish him well in his new position. My staff and I look forward to working with his replacement, Col. Frank E. Knapp, and hope for a similar rewarding association.

WE SHOULD BE CONCERNED

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CLANCY. Mr. Speaker, this week rightfully has been designated as "Week of Concern for Prisoners of War and Missing in Action in Southeast Asia."

It was so designated to remind Americans that 1,619 loyal and patriotic American men in uniform have vanished from, or are imprisoned from our way of life—the freest, most prosperous life in world history. This week of concern is called because 8 years ago, on March 26, 1964, Floyd Thompson of the U.S. Army was lost while on patrol in Southeast Asia, thus becoming the first name on a long list of prisoners and missing in actions.

Surely, no other Americans are more entitled to enjoy the freedoms and privileges of America than these servicemen. We can never repay them for their great, grave sacrifices.

Regretfully, in America today, there are people who must be reminded of these cruelties and sacrifices of war.

But, there are Americans who are concerned every single day for our servicemen who have become the missing or captives in the war with North Vietnam. They are the American fathers, mothers, wives, sons, and daughters of these men. Some of these concerned American families have not known the fate of their loved ones since 1967.

They have seldom, if ever, heard from the prisoners. They do not know if the missing-in-action are dead, alive, wounded, paralyzed, maimed, amnesiacs, or prisoners. The wives and children of missing men must go on living as if their husbands-fathers will someday return—although, tragically, a great many of them are dead.

This is unjust and unnecessary cruelty imposed by the enemies in North Vietnam. Under the Geneva Convention agreement, they could and should release a list of the Americans they hold in prison. They could and should release a list of Americans whom they know are dead. This information would ease the anxieties and solve some of the multitudinous, human problems of American relatives.

By Geneva Convention agreement, the North Vietnamese enemies should allow the exchange of mail between prisoners and their American families. They should allow a neutral country or neutral organization to inspect the prison camps and hospitals where our American comrades are held, to assure that they are being contained in humane and healthy conditions.

But this is a vicious enemy. They refuse to even talk about captive or missing Americans. They defiantly refuse to discuss an exchange of prisoners. Since 1964, 26 Americans have escaped from the enemy, three have been recovered or rescued and only 32 have been released by the enemy. Never before in American history has an enemy at war refused to agree to a prisoner exchange, even during hostilities.

This is the most inhuman enemy that America has encountered. Americans must be concerned this week. We should encourage and support every effort to gain the release of American prisoners, to cause the North Vietnamese to abide by their commitment to the Geneva Convention, and to focus the attention of the world on the inhumanity demonstrated by the government and leaders in North Vietnam.

RETURN THE POW'S

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. McCLOSKEY. Mr. Speaker, a number of families of men captured or missing in Southeast Asia have joined to ask Congress to implement our request to the President as embodied in last year's Mansfield amendments.

Our colleagues will recall that twice we overwhelmingly passed the Mansfield amendment language—first as an amendment to the Selective Service Act extension, and second, as an amendment to the military procurement bill.

We asked the President to make the return of our POW's the sole condition for our withdrawal from Vietnam.

The President, however, has rejected our request, and insists that there be a second condition for our withdrawal, that being the survival of the Saigon government. This second condition, of course, prolongs both the war and the suffering of our POW's, as the North Vietnamese and Viet Cong have made it amply clear that they are determined to fight indefinitely, if need be, to overthrow a Saigon government which was promised to be disestablished over 15 years ago by a solemn treaty, the Geneva Accords of 1954.

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Some additional support has recently been announced for the position taken by Congress. This position comes to us in the form of a moving plea from a number of the families most affected—those of the POW/MIA families for immediate release. I place it in the RECORD at this point in the hope that it will stimulate our consideration of final congressional action to withdraw funds for this war at the earliest practicable future date:

POW/MIA POLITICAL HEADQUARTERS,
Washington, D.C.

Eight years ago Everett Alvarez became the first prisoner of war in the Indochina conflict. Since that time 1617 more men have become captured or listed as missing. Try to imagine what it would be like to remain in the same bare cell, hour after hour, day after day, month after month, year after year, not knowing when or even if you will ever see your family again, or whether or not they even know you're still alive. Imagine what it is like for families who receive letters like a wife in California recently did, describing in vague abstractions of metal and wood his dream of escape—not the metal of a new car, or the wood of their dream home, but the components of his coffin.

It has been four years since President Nixon promised to end the war and win the peace. He has not done it and Vietnamization will not do it. Every three days since President Nixon took office another American has become prisoner or missing in action. Forty five Americans have died for every American held prisoner, under the pretext that their sacrifices would secure the release of the prisoners and missing. Vietnamization may bring ground troops home, but it will not bring the prisoners of the missing home. We have wound down the ground war in Vietnam, but we have also wound up the air war and increased the number of men held as prisoners. The air escalation has increased the suffering of over 1600 prisoner of war families as well as countless Americans who have lost their loved ones. Vietnamization will continue the deaths, suffering, destruction, and refugeeing of millions of Indochinese.

We have no stated reason for being in Indochina. The time has come for the people of Indochina to determine their own destiny. Likewise the time has come for the President of the United States to honor the edicts of Congress and the mandate of 73% of the American people—to set a date for total withdrawal of all American forces, land, sea, and air, from Indochina contingent only upon release of the prisoners and full accounting of the missing, and the safety of our withdrawing troops.

We don't want your sympathy, we don't want your pity, and we don't want any more weeks of concern. We don't want emblems, we don't want bracelets with prisoners' names on them, we don't want postage stamps, we don't want your bumper stickers. We don't want your letters and petitions to Hanoi, Moscow, Paris, and Peking, and we don't want your parks and buildings named after them. We don't want them used as an excuse to continue the war, and we don't want them honored as if they were dead! We want our men home—alive—now!

DR. Z. ALEXANDER LOOBY

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FULTON. Mr. Speaker, Dr. Z. Alexander Looby, public servant, educator, and early and dedicated leader in the quest for black equality, died on Friday, March 24.

Dr. Looby was not only a man with a strong and abiding dedication to the cause of civil rights, but possessed a profound faith in the decency of man. These principles were the driving force behind his own conduct and his life's endeavors.

Dr. Looby served our community in many ways. He was a councilman in our old Nashville city government and later, when our city and county governments were consolidated, he served again as a metropolitan councilman.

Dr. Looby was a leader in the effort to remove racial restrictions against not only blacks in Nashville, but all black Americans. I say "remove" rather than "tear down" restrictions against blacks, because Dr. Looby was a gentle man of peace. He is quoted as saying:

The idea is to open a door without breaking it down. When you break a door down, you injure the whole house.

These words and this philosophy, Mr. Speaker, can be carried as sage advice by so many of us today as we deal with so many seemingly insurmountable problems.

Dr. Looby, while sometimes a controversial figure in our community, was at all times a constructive worker laboring to achieve that which was right through that which is good.

It has been said that Dr. Looby's legacy to the community of Nashville is "more valuable than many know, not only in terms of service and leadership but for the countless acts of help and kindness and for a life that exemplified the best in human spirit."

Dr. Looby was a very positive and contributing influence in our community and will be missed.

Mr. Speaker, on March 26, 1972, the Nashville Tennessean paid tribute to Dr. Looby in an editorial entitled "Dr. Z. A. Looby Left a Legacy." I include this editorial in the RECORD at this point and commend it to the attention and consideration of my colleagues:

DR. Z. A. LOOBY LEFT A LEGACY

Dr. Z. Alexander Looby was a quiet and unassuming man, but those who met him for the first time knew instinctively there was steel in him, although it was tempered by compassion and good will.

He was a man of dignity and integrity. He was independent of mind and spirit, and some inner strength of character carried him along through setbacks, or violence or physical harassment.

Dr. Looby assumed automatically that there was good in every person, and that even where there were flaws in relationships, that man's innate decency and a sense of fair play would prevail.

He was long a leader in the struggle for civil rights, and his was a persistent, determined effort. If some thought him too moderate in the battle, it was because he felt that an outstretched hand was more persuasive than a clenched fist.

"The idea," he once said, "is to open a door without breaking it down. When you break a door down, you injure the whole house." In his long life-time, Dr. Looby helped open many doors and he held the respect of both races.

As a councilman and an attorney—he held a doctor of jurisprudence degree from New York University—Dr. Looby could cut through the extraneous and get to the heart of the matter quickly and precisely. His counsel was often sought by his colleagues and his wisdom was a beacon in many stormy council session.

Dr. Looby's legacy to the community is more valuable than many know, not only in terms of service and leadership, but for countless acts of help and kindness and for a life that exemplified the best in human spirit.

HAITI AND THE LOW PROFILE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MOORHEAD. Mr. Speaker, at this time I want to acknowledge and take sour note of the recent visit to this country of Luckner Cambronne, the new strongman of Haiti. It was easy to see that Cambronne was on a "good will" mission to the United States, because he spent his time shaking hands with the right people—those who decide who gets what. In the spirit of the Easter season, Cambronne apparently came to the United States seeking to have his Easter basket filled with foreign aid goodies.

I am afraid, Mr. Speaker, that our Government—the Easter bunny to so many military dictators—is going to drop some military goodies in Cambronne's basket. The New York Times reported that the Nixon administration is giving "favorable consideration" to granting Haiti approximately $1.5 million worth of credits to purchase military goods in the United States.

These military credits would be the first direct U.S. aid to Haiti, other than humanitarian relief, since President Kennedy banned aid to Haiti in 1962. President Kennedy halted aid to Haiti, because of the repressive, terrorist tactics of Haiti's dictator "Papa Doc" Duvalier.

Today, with Cambronne the real power behind a figurehead president, Haiti's Government can become equally repressive as it was under the infamous "Papa Doc." Cambronne has replaced "Papa Doc's" feared personal army, the Tonton Macoute, with his own army, the Leopards, reportedly the 1972 version of the Haitian gestapo. Haiti's people are among the poorest in the world, and yet President Nixon is considering the approval of military aid credits that cannot do anything but make them poorer.

Mr. Speaker, Haiti already is delinquent in paying its debts to the United States, so why throw another rock on the pile? Haiti's people live in abject poverty. I am certain Haiti can use $1.5 million to help its people. Guns are a poor substitute for food, shelter and other basic human needs.

If this proposed military aid credit for Haiti is part of the administration's low profile policy for Latin America, the United States is stooping low indeed. I hope the Foreign Affairs and Appropriations Committees will put a stop to this nonsense.

Mr. Speaker, I insert at this point in the RECORD the following excerpts from a column by Virginia Prewett which appeared in the Washington Daily News on March 17, 1972:

HAITIAN'S VISIT BREEDS DISGUST

(By Virginia Prewett)

Latin Americans along Embassy Row, with other Western World diplomats, have watched in dismay this week as the U.S. State Department and even the Pentagon have wined and dined Haiti's current strongman, its Minister of Defense and Interior Luckner Cambronne, and two cabinet companions.

"We've had so many of these jolts, we're just sort of numb," said one. Others have not hesitated, in confidence, to express quiet disgust.

Luckner Cambronne, who signs himself "Acting Premier" in Haiti, has been publicized the world over as the late "Papa Doc" Duvalier's former bagman now implicated in the international drug traffic. Widely circulated news reports tell how he skims profits from Haiti's new quickie divorce mill and other officialized rackets. Cambronne cannot move around Haiti without an armed guard.

Usually accurate Haitian exile sources report that the high-level entertainment afforded Cambronne—he was even given a luncheon by Secretary of State William C. Rogers—was done at the urging of our Port-au-Prince ambassador, Clinton Knox, with the idea of "stabilizing" Haiti before an oncoming storm.

"Papa Doc's" young "lifetime-president" son, Jean Claude, has a rare type of goiter, which must be operated on. Called a sunken goiter because it has grown behind the sternum, or neckbone, its removal will be a tricky surgical process. Jean Claude sooner or later means to go to Europe for it.

Meanwhile, Mrs. Simone Ovide Duvalier, Jean Claude's mother, who props up the playboy heir, suffers blood disease complicated by an allergy that is activated by some of the transfusions she increasingly needs. She has been to Miami in recent months for treatment.

Ambassador Knox, forseeing the day when these last two of the Duvaliers will have to leave Haiti, "sold" the State Department on this week's exercise in building up Cambronne, according to the exile sources.

If this is true, and it obviously may be a part of the motivation, then State has made what promises to be a costly blunder. For the visit is having the effect, both at home and abroad, of firing up opposition to the Haitian dictatorship made up of Duvalier holdovers.

HISTORY REPEATS

The 50 or so Haitians from New York, Montreal and Washington who picketed Cambronne's press conference here Wednesday—and, as he left, spat on him—are getting together for the first time. Native Americans who picketed with them afterward had several conversations in Senate offices on Capitol Hill. If Haiti becomes an elecction issue later on, the Nixon administration can blame this week's blunder for it.

The upshot is that history grimly repeats itself, as the United States builds up yet another cutthroat-type dictator for Haiti with no regard for our own national dignity.

FATHER LOWELL SHEKLETON

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CULVER. Mr. Speaker, on March 18, one of the outstanding churchmen and spiritual leaders in my district, Father Lowell J. Shekleton, passed away in Dubuque. A man of extraordinary personal courage, human understanding, and vigorous enterprise, Father Shekleton died at an age when he had not reached the full promise of his career. His passing leaves a large void in the diocese and particularly among his parishioners in Guttenberg where he served since 1969, and for the 12 years previous in Fayette and Hawkeye. His personal example and pastorate spread far beyond the members of his parishes to include countless Iowans of all faiths including this member who gratefully valued him as a friend. Mr. Speaker, I insert the obituary notice and a moving editorial published in the Witness of Dubuque in the RECORD:

FATHER LOWELL SHEKLETON, GUTTENBERG PASTOR, DIES

GUTTENBERG.—Funeral services for the Rev. Lowell J. Shekleton, 52, were held at St. Mary's Parish here Monday, March 20, at 11 a.m. Father Shekleton died at Mercy Medical Center in Dubuque Saturday, March 18.

He was born in Lawler, Iowa on February 22, 1920 and was educated in the parochial school at Greene, Iowa, Loras College in Dubuque and the St. Paul Seminary, St. Paul, Minnesota. He was ordained a priest on June 8, 1946 and served as associate pastor of Nativity Parish in Dubuque until 1954. He served in the same capacity at St. Joseph's Church, Bellevue, for one year and was chaplain at Mercy Medical Center in Dubuque for two years.

FAYETTE PASTOR

In November of 1957 he was named pastor of St. Francis Church of Fayette and its mission at Hawkeye. During the twelve years that he was pastor in Fayette he re-located the parish and built a new church and rectory. In July of 1969 he was transferred to St. Mary's Church in Guttenberg where he served as pastor until the time of his death.

The Most Rev. James J. Byrne, Archbishop of Dubuque, was the chief concelebrant of the funeral Mass on Monday. Twenty-two priests concelebrated with the Archbishop. Present in the sanctuary was Bishop Francis Dunn, auxiliary bishop of Dubuque. The homily was delivered by the Rev. David A. Wheeler, pastor of St. Francis Xavier Basilica, Dyersville.

Burial of Father Shekleton was at Mt. Olivet Cemetery, Key West.

He is survived by his parents, Mr. and Mrs. Emmett Shekleton of Greene; two sisters, Mrs. Robert (Angela) Dolan of Decorah; Miss JoAnne Shekleton of St. Paul, Minnesota and one brother, Rev. Gerald Shekleton, Editor of The Witness, Dubuque.

FATHER LOWELL SHEKLETON

The world has never understood suffering, nor its need of it. St. Augustine said God uses all things, even our sins, to save us. It is better that men suffer pain than God be profaned by our indifference. Pain and suffering were an integral part of the life of Christ. Through pain He taught man the way to peace, purification and salvation. The impact of His suffering is still reverberating throughout the world. Man comes to perfection because of the suffering of Christ.

Man is in great need of repentance. Today's world would tell him there is no need of sacrifice, denial or atonement. But if we are to return society to Christ we need to be purified, humbled and stripped of self so that the grace of God can work in and through man.

History is replete with examples of how the sufferings of the saints were able to heal the wounds of the world. Suffering is effective only when those who bear that burden know the mystery of their own Christianhood.

Father Lowell Shekleton was a priest just a bit over twenty five years. His death on Saturday, March 18, culminated a period of time that demanded from him much pain, anguish and suffering. Those close to him during the past several months knew how he used his suffering to help his parishioners in Guttenberg and strengthen his family.

There was never any question in his mind about the need to prepare for death through long days of suffering. He welcomed that mission. His Archbishop told him that throughout the years of his priesthood he had told and shown his people how to live. Now God was asking him to show them how to die. And that he did in a splendid fashion.

Kindness has been described as the overflowing of one's self into the lives of others. If this is kindness then Father Shekleton was indeed a kind man.

Many tributes have been paid to him during his last illness and death. A tribute that will linger long is the presence of the parish complex in Fayette. When he was assigned there in 1957 it was with the idea that he relocate the physical structures of the parish unit and build a new edifice. When it was completed the Archbishop who assigned him there remarked that he had done in Fayette, what a lot of bishops would not be able to accomplish in a See city

It is never easy for a young man to die. It was easy for Father Shekleton because he had studied the meaning of death very well. He was not afraid of death. He saw it as a new chapter in his life, a chapter that would introduce him into the unending presence of divine love. His preparation for this new chapter was bolstered by the genuine and sincere care tendered him by the Presentation Sisters of Dubuque where he resided during the crucial days of his illness.

Shortly before he passed into the risen life he expressed one last wish. He called by name each member of his family and asked that they say the rosary with him. "When that's finished," he said, "I'll leave."

The Christian faith gives man courage and strength. St. John wrote to the Christian Community that "We are God's children now; what we will be later has not yet come to light, we know that when it comes to light we shall be like Him, for we shall see Him as He is."

For Father Shekleton that time has come. His life was a hymn to divine light. His Easter is being celebrated now and this year of 1972 many people will find more meaning to their crosses as they behold the witness he gave.

May he rest eternally in the sweet embrace of God.

A JOB WELL DONE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GUDE. Mr. Speaker, residents of the Washington area fortunate enough to have heard the marching band of Archbishop Carroll High School know what an excellent group of musicians and showmen they are.

Recently, the Carroll High School Band participated in the St. Patrick's Day parade in Dublin, Ireland, and in a contest parade in Limerick, Ireland. To their great credit, the Carroll Band took the top prizes in these events, and I am told that they were the hit of both Dublin and Limerick. In fact, the people of Dublin were so impressed that the news of their performance made the front page of the Dublin Times.

Washington-area residents and the American people can take great pride in these students for representing America so well abroad. The type of one-to-one

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contact these students had with the Irish people and the good will engendered by their visit is something that all the foreign aid in the world cannot buy.

The Carroll High Band is comprised of young people from throughout the Washington area. Members of the band are:

Kevin Armstrong.
Gregory Bartock.
Alfred Bernstein.
William Breedlove.
Byron Briese.
Clifton Brown.
Kenneth Burnett.
William Butler.
John Callahan.
Louis Casey.
Kurt Cherry.
Keith Credit.
Prescott Coleman.
Stephen Cunningham.
David D'Agostino.
Robert Davis.
Thomas Davis.
Mills DeBoster.
John DiBartolo.
Robert Dimond.
Ben Dolcich.
Richard Doyle.
John Dziduch.
Thomas Eloshway.
Damon Flemons.
Charles Florence.
William Forrestel.
Richard Gibbs.
Timothy Goenner.
Richard Greene.
Joseph Jenifer.
Timothy Keane.
James Kern.
Thomas Kern.
Mark Kern.
Kevin King.
John Lerch.
Michael Maloney.
Bernard Mattingly.
Mark Meeks.
Mikel McCall.
LaMar McClain.
Terrence McGrath.
Bracy Means.
Edmund Millard.
Paul Mondor.
Joseph Morris.
John Moss.
Melvin Mumford.
Richard Nelson.
Joseph Nolan.
Thomas H. Noone.
George Norwood.
Mark O'Donnell.
Richard O'Meara.
John O'Shea.
Gregory Peters.
Bryant Potosky.
Ivan Proctor.
Stephen Quander.
Timothy Quinn.
Bernard Rafferty.
Timothy Sawyer
Stuart Smith
Kevin Sullivan.
Paul Thompson.
Joseph Trimble.
Kevin Tyner.
Theodore Verbich.
Thomas Vereb.
Donald Wheeler.
Jerome Wheeler.
Albert Williams.
Kathy Behrens.
Carol Blatzheim.
Mary Ann Blatzheim.
Kathy Bovio.
Lisa Ceccorulli.
Loretta DiGennaro.
Debbie Fowler.
Karen Kelly.
Kathy Maryman.
Maureen McNulty.
Nancy Morgan.
Maureen Nolan.
Jeanne Parker.
Mary Beth Scalley.
Agnes Zimmerman.
Irene Zimmerman.
Mary Ellen Zimmerman.

I know that my colleagues in the Congress join me in offering our congratulations to these students for their success, and in thanking them for a job well done.

OCCUPATIONAL HEALTH AND SAFETY ACT ONLY PARTIALLY SUCCESSFUL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, a year ago the Congress passed the Occupational Health and Safety Act which assures that "no employee will suffer diminished health, functional capacity, or life expectance as a result of his work experience." The letter of the law and reality are light-years apart. As a result of a series of actions by this administration, the Occupational Health and Safety Act can be best characterized as only partially successful.

The Nixon administration's interest in occupational health is best demonstrated by the amount of money devoted to occupational health and safety. The Department of Labor for fiscal year 1973 has allocated only $67 million for occupational health and safety. Of that amount $29 million will be given to the States where traditionally slow State legislators and State bureaucracies will probably do little to accomplish the important goals of the original act. Of the total funding for the program only $4 million is being used for occupational health research. This small amount is devoted to research despite the fact that a recent survey by the Public Health Service estimates that as many as 50 million American workers work in an environment that is potentially hazardous to their health.

American workers have the right to work in a safe environment that does not endanger their health and their lives. The Occupational Health and Safety Act embodies this principle of workers' rights. But the letter of the law and the spirit of the law do not conform to the Nixon administration's priorities. Control by business-oriented groups like the National Safety Council, limited funding, and the placement of NIOSH at the bottom level of HEW bureaucracy all point to the low priority the Nixon administration gives to occupational health and safety. The Nixon administration emphasizes occupational safety rather than occupational health. While this is a real and important problem that must be solved, the law requires that the Federal Government fight to eliminate all environmental hazards to workers. Surely safety is important, but workers also have a right to their health and to their lives.

Members of the Congress and officials of the administration who hail the great success of the Occupational Health and Safety Act are simply not considering all the facts. The act has not lived up to its intent because of a conscious effort by the Nixon administration to place occupational health at the bottom of its priorities.

Mr. Speaker, I am including at this point in the RECORD a series of articles that reveal the true story of the implementation of the Occupational Health and Safety Act. Included is an address by the president of the UAW, Leonard Woodcock, to the Midwestern Occupational Health and Safety Conference in Detroit on November 17, 1971, and several newspaper articles:

RALPH NADER'S DOCTOR SUGGESTS: ZERO POLLUTION LEVEL GOAL FOR MILLIONS EXPOSED TO ASBESTOS

If workers were guinea pigs and asbestos was a food additive, the Delaney Clause of the Food and Drug Act would have mandated the elimination of this carcinogenic dust from the environment long ago.

However, in 1972, 12 years after the publication of Dr. C. Wagner's data showing the relationship between asbestos exposure and mesothelioma (cancer of the lung linings) in *humans* and at a time when there are now hundreds of cases of this cancer in workers exposed to asbestos, the slaughter continues.

The question thus arises, how much longer, in the face of a massive, ever-increasing amount of evidence linking asbestosis, lung cancer and mesothelioma to asbestos exposure, will workers (and non-workers with "incidental" exposure) continue to be used as though they were guinea pigs.

In a recent report, the U.S. Environmental Protection Agency stated that, "A safe exposure level to asbestos has not been established." (Background information—*Proposed National Emission Standards for Hazardous Air Pollutions,* E.P.A., December, 1971.) This statement is the inevitable conclusion of a series of studies over the past decade, each showing the capability of lower and lower levels of asbestos fibers to cause disease.

A situation is thus present in which there is no safe level of exposure yet established, data exists suggesting that asbestos can develop at levels under 2 fibers/cc and the level of exposure causal to mesothelioma is even less than that which causes asbestosis. Under these circumstances regulations which do not propose to ultimately reduce the fiber count to zero (0) fail to comply with the 1970 Occupational Health and Safety Act which assures that "no employee will suffer diminished health, functional capacity, or life expectance as a result of his work experience.

In this light, the proposed regulations should be revised in accordance with the goal of gradually reducing the fiber count to zero (0) fibers per cubic centimeter. We concur with the Oil, Chemical and Atomic Workers' Union proposal to accomplish this in three years. What can be done now?

According to Dr. Joseph Wagoner, Director of the Division of Field Studies and Clinical Investigations of NIOSH, the only two factors for setting standards are 1) is the substance hazardous and 2) it is *technically* feasible to achieve reduction to a given level of exposure.

The NIOSH criteria document on asbestos clearly shows the ability of industry to reduce the 8-hour weighted exposure to below 2 fibers/cc. If one or two plants can achieve

this goal, there is no *technical* reason why all others cannot do the same. We agree with labor that this should be accomplished in 6 months rather than two years.

We are presently realizing that setting emission standards for air pollutants based on total weight or particle count without regard for respirable fraction is inadequate Similarly, it is not difficult to see how fibers shorter than 5 micra or fibrils may also be implicated as a cause of disease. As this new information becomes available, it should promptly be converted into regulations.

NIOSH is to be commended for the thoroughness of the criteria document on asbestos. In a certain sense, however, it is two documents rather than one. The bulk of the study reviews data on the hazards of asbestos which would support the idea of reducing exposure to zero. The recommendations, however, fall short of this. It can only be speculated that this discrepancy is the result of pressure applied by industry via the Department of Labor.

We hope that the elimination of the killing and crippling hazards of asbestos marks the beginning of a long struggle to give higher priority to the life and health of the American worker.

UNION LEADERS DEMAND NO CONCEALMENT

Scientists and government officials who "cover up" vital life and death information about worker health are guilty of a "My Lai syndrome," according to the Oil Chemical and Atomic Workers Washington Director, Tony Mazzocchi.

Referring to the concealment of civilian murders in Vietnam, the union leader said that government and corporate officials have kept asbestos exposure information "locked in government drawers."

During a press conference last week, Mazzocchi said his union was demanding of both the Department of Labor and the Environmental Protection Agency (EPA) that more monitoring of asbestos exposures occur at the workplace and in the community. He insisted that information on asbestos exposures be released when it is done.

A deadline for submitting a new asbestos standard for worker exposure occurred last Friday. The OCAW, plus the Industrial Union Department and the AFL-CIO, are seeking the right of workers and unions to have continuous monitoring to see what the exposure levels are.

Mazzocchi praised present officials of the National Institute of Occupational Safety and Health (NIOSH) who released information which had previously been concealed from workers and their unions.

The data concerned exposures at a Tyer, Texas, plant which showed unsafe levels far above the present safety and health standard.

"What happened in Tyler could happen, and probably does, in hundreds of other plants in America," the OCAW official said.

"We consider what happened in Tyler to be an environmental disaster—because the danger is not only to the workers, but to the entire community," he noted.

In an urgent warning to William Ruckleshaus, EPA's director, the union said the Pittsburgh Corning Corp. (the company in question) "sold tens of thousands of empty burlap bags, in which asbestos was shipped into the plant, to nurseries in the area.

"These bags are heavily polluted with asbestos fibers and this poses a health hazard to nursery workers and possibly to others, including the ultimate consumers, who handle the nursery products."

The Tyler, Texas, plant has shut down and is not now operating. Mazzocchi said the workers are now jobless and seeking other work, but he said the workers wanted the plant shut down when they discovered what dangerous levels of asbestos they were working with could do to their health.

An earlier study by Dr. Irving J. Selikoff showed that workers in a New Jersey plant of the same company were dying of cancer at ten times the expected rate. The New Jersey operation was shifted to Texas; another plant which is non-union is presently operating in Pennsylvania.

The hazard of asbestos is to the worker, to members of his family and to the community.

Paul Brodeur, author of a new book called "Asbestos and Enzymes," told the press conference last week that random autopsies in a random selection of cities showed the presence of asbestos in 95 percent of the cases.

Asbestos is, thus, a treacherous substance, which is most potent at the workplace, but which is widely used in the total environment.

COMPANY MDs CRITICIZED FOR COVER-UPS

The medical director of the Pittsburgh Corning Corp. (whose plant was under fire from its union last week) is president of the American College of Preventive Medicine.

Dr. Lee Grant, the company's chief medical officer and a physician, was attacked last week by officials of the Oil Chemical and Atomic Workers of America for allowing a bad situation to get worse and for failing to warn workers of threats to their health.

Grant has a long string of official associations and is a big man in industrial medicine.

"This is symtomatic of the occupational health problem in this country," OCAW Washington Director Tony Mazzocchi charged last week.

"It took doctors from NIOSH to release these reports," Mazzocchi said. "The victims were never informed. It is shameful that the information was kept from the employees."

In other comments, Dr. Sidney Wolfe, a physician with Ralph Nader's Health Research Group, said that most journals in occupational medicine are the handmaidens of industry.

UAW WASHINGTON REPORT

The co-author of the Williams-Daniels Occupational Safety and Health Act has charged that the Nixon Administration is "anti-worker" and is "subverting" the intent of Congress in administration of the law.

"It is now clear that many of our hopes and expectations are being frustrated," Senator Harrison A. Williams, Jr. (D-N.J.) told the 9th Constitutional Convention of the AFL-CIO's Industrial Union Department.

Williams, who is chairman of the Senate Labor Committee, said that "implementation of this Act is in the hands of an Administration which has failed to approach its objectives with vision and imagination. Instead, the Administration has adopted the penny-pinching attitude that health and safety for workers is something that this nation can barely afford."

The charges by Williams are particularly significant since this is the first time that he has spoken out on the administration of his law. His criticism of the law's administration parallels that voiced by organized labor.

Citing five areas, Williams warned that he believes "the time is not far off when the Senator Labor Committee will have to begin oversight hearings to determine, in a formal way, just how this law is being implemented and to establish a basis for a more realistic level of funding for the Act's program."

The five areas cited by Williams include:

Funding—"Despite the fact that this Act covers more than four million workplaces," Williams said, "the Labor Department asked for only enough funds ($24.9 million) to place 550 compliance officers in the field by next June 30."

This adds up to one inspector for every 7,200 establishments. Efforts by organized labor, supported by Williams, to get 1,000 new inspectors by June 30 failed. However, money was obtained for 200 new inspectors but this may be lost through the Administration hiring cutbacks.

Job Health—The New Jersey Senator said that "we still have no indication that it (the Administration) is undertaking any major new efforts to cope with the great range of occupational health hazards that have been ignored for so long."

The law created the National Institute for Occupational Health and Safety in the Department of Health, Education and Welfare. Williams pointed out that the Institute's budget is being increased only $8.5 million for occupational health activities.

Williams noted that there are currently more than 10,000 potentially toxic substances now found in regular industrial use but that the Institute, with its budget constraints, "is able to work on the development of standards for only ten of these 10,000 substances this year."

Anti-Worker—Among the "shortcomings" in the law's administration, Williams said, is the "reluctance to recognize that workers and their representatives must be treated as full partners, along with business and government."

He said that "despite the first-hand experience that workers have had with problems of safety in the work place . . . the Administration has made it pretty clear that workers are just wasting their time in applying" for jobs with the Occupational Safety and Health Administration (OSHA).

Training Programs—This same "anti-worker" attitude, Williams said, is evidenced in government-supported training programs.

The Labor Department, he continued, has done "virtually nothing" for helping workers in each plant to acquire sufficient knowledge about the Act to lodge complaints. He said that while in-depth training programs are needed, OSHA is paying the Boeing Company $65,000 to provide the orientation for union representatives.

He said, "the Department completely ignored the educational and training capabilities of so many unions."

State Programs—Williams declared that the Administration, in its haste to turn the programs over to the states, ignored "the record of failure of many decades on the part of most states that led to the conclusion that a Federal program was needed."

OSHA, he continued, "seems willing to approve plans on the basis of paper promises" from the states. The Senator noted that Undersecretary of Labor Laurence Silberman has announced publicly that the worker representatives to visit work sites for inspection need not be included in state plans.

Following are five objectives that Senator Harrison A. Williams (D-N.J.) says should be sought in job safety:

An all-out effort to perform the research necessary for developing the most effective standards for protecting employees against the full range of on-the-job hazards.

The development of an adequate compliance staff in the Department of Labor, equal to the task of providing a regular and effective inspection procedure. The staff should have the capacity to respond promptly when workers send notice that dangerous conditions exist in their places of employment.

The refusal to approve a state plan for any state which is not able to commit itself to at least as vigorous and effective a program as the Federal program—including full recognition of the principle of worker participation and worker rights.

A comprehensive program to provide employees with training in the Act's requirements and the application of those requirements to their own places of employment. In this way, they themselves may bring about a maximum level of compliance, without the

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need to depend upon Government inspectors in every instance.

Imaginative use of the Institute's resources and the Act's authority in an effort to integrate occupational medicine into an overall system of health care. Major emphasis should be on individualized screening and prevention.

Williams said it will take both money and "constant vigilance and commitment on the part of all of us to achieve these objectives."

HAZARDS IN THE WORK PLACE: THE CHALLENGE TO INDUSTRY

(Address by Leonard Woodcock, President, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America—UAW; to the Midwestern Occupational Safety and Health Conference of the Engineering Society of Detroit, Michigan, November 17, 1971.)

Let me begin by expressing my gratitude for the opportunity to be here this morning for discussion of the very important subject of occupational health and safety. I am supposed to be presiding over a meeting of the UAW International Executive Board this moment, but I am here instead because we in the UAW attach the highest importance to effective new measures to protect our members and all other working men and women against on-the-job hazards.

We see the promise of such protection in the Occupational Safety and Health Act of 1970 (OSHA) which has been in effect little more than half a year. And we are determined to do our utmost in the plants, in Washington, and in state capitals to convert that promise into fulfillment.

OSHA's passage was a kind of revolutionary event. It constituted an official commitment by the President and the Congress that 57 million American working men and women who are quite literally on the cutting, poisoning and killing edge of technological change would henceforth—and for the first time—enjoy the simple but very basic democratic and human right to work in environments where health and safety hazards would be held to a reasonable minimum, to participate along with management in maintaining adequate health and safety standards—and to have recourse to effective remedies when those standards are violated.

Such rights, one would think, would be a matter of course in any democratic society. The distinguished scientist, Rene Dubos, in his preface to "Peril on the Job," a study of hazards in the chemical industries, wrote:

"In a truly civilized society, protection of the worker should be regarded as the most essential, irreducible aspect of production cost."

Unfortunately for all of us, but especially for industrial workers, the world of industry and mass production is something less and other than a democratic, civilized society. The advent of unionism and collective bargaining made it more democratic and civilized. But even with the power to bargain, even with the right, which workers have under UAW contracts, to strike over unresolved issues affecting health and safety, it has not been possible to cope with the relentlessly increasing number of work hazards flowing from a system that has been almost totally permissive with respect to the exploitation of new technologies.

All of us here today have no doubt detected the signs that the age of such permissiveness is drawing to a close, albeit with a great wailing and gnashing of teeth. We are entering an era when corporate and governmental decision-makers will no longer be able to chart their course with an eye on economic indicators alone, but will have to give increasing attention to the social consequences of their economic performance. The enactment of OSHA is a sign of the new era with regard to the work place. Another sign is the rising demand for a national health security program which will organize the delivery of quality health services, with stress on preventive care, and with budgetary controls that will put an end to the cost inflation inherent in the present non-system. The Health Security Program now before the Congress is a working and essential counterpart of OSHA. Working men and women and their families need both, because the hazards to health are pervasive in our society and require equally comprehensive remedies.

For decades the UAW and other unions pressed for Federal legislation that would oblige employers to correct and prevent hazards threatening the health and safety of workers, to no avail. Despite efforts in recent years to make state workmen's compensation laws more responsive and relevant to workers' needs, most of them still lack benefit structures that give employers a strong cost incentive to maintain a safe and healthy working environment. And one could count on the fingers of one hand the number of states with adequate health and safety programs.

So the carnage in the work places of the land continued and augmented. As assistant Secretary of Labor Guenther has pointed out, there has been a serious increase in work-related injury and illness in recent years. When Congress passed OSHA in December of 1970, its members were responding to a critical national epidemic of industrial accidents and disease that could no longer be ignored by the Federal government because it had become a major preoccupation of the mass of American workers. The House Committee on Education and Labor stated in an October 1970 report that "The on-the-job health and safety crisis is the worst problem confronting the American workers." Annual BLS statistics cited by the Committee indicated that 14,500 workers were killed in a year, an average of 55 per day during a five-day work week; 2.2 million were injured; 300,000 were suffering from occupational diseases; and 250 million man days of work were lost, 10 times as many as from strikes.

And there was evidence that these data did not tell the full story. According to Congressional Quarterly, a report submitted by the Delphic Systems and Research Corporation to the Labor Department found that the annual BLS survey of work-related accidents was "seriously restricted" by survey-sampling and data-collection procedures at state levels. As a result, according to the Delphic study, even in the State of California, which has rigorous accident reporting procedures, more than 36 percent of firms reporting no injuries actually had employee accidents. On a national basis, Delphic projected about 200,000 disabling work injuries beyond the 2.2 million reported to the BLS in 1969.

If employers were minimizing the accident rate, a study of worker attitudes conducted by the U.S. Department of Labor in late 1969 and summarized in the October 1971 issue of Occupational Hazards makes it clear that workers themselves were seriously concerned over the risks they were running on the job. Sixty-four percent of all workers regarded protection against health and safety hazards "very important." Seventy-one percent had the same reaction to work-related illness and injury. And 69 percent deemed it very important to have protection against inadequate expense coverage during work-related illness or injury.

Along with the increase in on-the-job hazards and the failure of employers and state agencies to cope with them, another force was making a strong Federal commitment to occupational health and safety inevitable: the coming-of-age of a new generation of workers and changing values among many older workers. Younger workers are better educated and more demanding. Their expectations have been formed by the influences of a relatively affluent consumer society, rather than by the constraints and inequities of a hierarchical work environment that denies or turns upside down the notions of participation and equal treatment that are widespread in the broader community. And a growing number of older workers have come to share their views. The autocratic management dogma that health and safety are off limits for the very workers whose health and safety are at stake could not possible survive the generational and cultural change of the last several years.

In addition, the American people as a whole have acquired a new environmental awareness, and as a result there is a growing perception that the wall separating the hazards at work from the hazards in the rest of the community is permeable, in fact no longer exists in an age when a flood of toxic substances threatens our lives or health everywhere. It is now apparent that working men and women are the major victims of environmental deterioration, and the risks they run at work have been exposed to national attention. In and out of the work places, we are all being more or less battered and poisoned by a selfish and shortsighted use of science and technology.

Yet despite this new environmental awareness, and although OSHA represents a humane, reasonable and urgently necessary democratic response to a deep-going national concern, both in government and industry there are disturbing indications of something less than a full resolve to implement the law.

In much of industry there is an evident tendency to approach OSHA as another sinister encroachment on management's domain rather than to seize the opportunity it offers to achieve the obvious good of drastically reducing on-the-job hazards, to improve the quality of the work environment, and through those actions to increase productivity.

Industrial consultant Leo Teplow, writing in the April 19, 1971, NAM Reports, said disparagingly of OSHA, "It is a strange melange of Naderism and Laborism." Referring to the OSHA requirement that citations be issued to employers who violate standards or other provisions of the law, Teplow writes:

". . . The employer is then required to promptly post a copy of the citation in the workplace to which it applies, thereby practically inviting activists to charge the employer with bad faith in his safety/health program, or to discourage employes from continuing to work in what has been officially ruled to be a hazardous area."

Mr. Teplow states:

"A positive, effective occupational safety/hygiene/health program throughout the country is probably the best way to avoid the employee-relations complications built into the law."

But he also advises:

". . . One way to avoid being caught between conflicting state and Federal requirements, and to have the law administered closer to the plant is to have the state prepared to enforce the new law. It can be hoped that the state law can avoid the employee-relations problems which characterize the Federal law."

And he concludes:

"It is a mistake to dismiss this new law as something for the safety specialists to worry about. Its employe relations aspects may, in the long run, be more important . . . and more painful . . . than its basic objective of ensuring safe and healthful workplaces."

It would seem that Mr. Teplow's somewhat ambiguous advice caters to or reflects a kind of paranoia widespread among employers. If it is followed widely enough, the probable consequences will be the opposite of the result Mr. Teplow envisages. For if OSHA's basic objective of "ensuring safe and healthful workplaces" is to be subordinated to management efforts to keep workers and their representatives at bay in dealing with problems of health and safety, then management can count on reaping the whirlwind of far more "employee-relations" problems than would flow from a bona fide employer effort to cooperate with workers and their unions toward the end of attaining fail-safe, pollution-free work environments.

American industry has had a good deal to do with creating the need for the new law. Industry continues to aggravate the situation to this moment, by accelerating the pace of work, often with disregard for the health and well-being of those involved. New and higher production quotas are set with first priority given to profits, and only incidental attention to the impact on workers and their families. Instead of assuming the social costs entailed in the creation and maintenance of a civilized and humane work process, American industry has obliged the worker and the community to shoulder them. Instead of opting for a safe and healthful environment, instead of promoting new technologies to prevent accidents and work-related illness, employers often opted for under-reporting of casualties and fierce lobbying to hold compensation costs to a minimum.

I know you recognize with me that the health and safety of workers cannot be looked at solely within the limits of the workplace. Today it is increasingly difficult for workers and their families to secure adequate medical care. And the continuing skyrocketing of costs makes it increasingly difficult for workers to pay for that care or for the insurance which would pay for much of it. In recognition of the inter-relatedness of health in the workplace and health in the society, the UAW and many other progressive forces in the community are promoting the Health Security Program. This proposal for universal financing, reorganization of the health delivery system and the institution of appropriate cost and quality controls on services is one I hope you as professional people and employers, as managers and as citizens, will support in the interests of all of us.

I recognize, too, that in talking about management's responsibilites for safety in the workplace there is a parallel responsibility on the part of workers and the unions who represent them. I know we must join together in constructive safety and health education programs and that unions must help workers develop understanding that it is in their interest to make full and proper use of safety and health devices when installed.

The UAW and many other unions are seriously at work developing internal union programs to help carry out our own responsibilities as well as to see that the employers of the workers we represent carry out theirs.

And just as we propose to fulfill our obligations, we hope and expect business will meet theirs.

Fortune Magazine, in an invitation to a "major management conference" held last May, introduced its agenda with the following remarks:

"Your success as a business executive in the seventies will depend on thorough understanding of unprecedented social, political and psychological uncertainties. They will deeply affect your decision-making and your corporation's prospects and profits in this decade For the first time in American business history, the so-called 'non-market public forces' will be so powerful that the implications are staggering . . ."

I would add that the business executive himself may well be a major part of the problem and of the uncertainty. If he lacks the social responsibility and the simple humanity to insist on a strategy of production that protects his own workers, rather than exposing them as usual to the mounting risks of the new technologies, all the institutional advertising and press releases in the world will not save him.

The environmental crisis will not go away, nor will the occupational health and safety crisis which is an integral part of the larger threat. I would hope that the professional societies would summon up their courage and their social conscience and persuade American businessmen that social responsibility in the substantive as opposed to the image-making sense is the only realistic path through the uncertainties of the seventies and after. I would hope in particular that the engineering community will press for the introduction of new technologies already available to create safer and healthier work environments, and to give the highest priority to research and development along that frontier. Rene Dubos, in his preface to "Peril on the Job," makes this very relevant observation:

". . . Anyone familiar with the history of science and technology knows that progress has always resulted from the necessity to meet reasonable constraints and regulations. Scientists and technologists are so inventive that they can and will improve technological efficiency even as they develop working conditions compatible with the maintenance of health."

Labor—let there be no mistake about it—is determined that the benefits implicit in OSHA will be forthcoming. We are not content to wait patiently until planners in Washington, state capitals and the regions have fully staffed the program. Nor are we content to count the casualties in industries and plants that are not singled out in a worst-first strategy. We expect management to assume its responsibilities to implement the law forthwith. A readiness to cooperate when violations of OSHA standards are pointed out to supervision will minimize the potential for "employe-relations" problems and will produce time- and production-saving solutions without the necessity of having recourse to the more protracted Federal or state procedures.

We in labor are also disturbed over the ambiguous and what might be called the ideological approach of the Nixon administration toward implementation of the health-safety law. And we hope the Administration will not make the mistake of believing that union leadership is "out of step" with union members in warning that the labor movement has not fought so long for an effective law protecting working people from the hazards they face at work, only to lose the benefits implicit in the provisions of OSHA through failure to provide for vigorous administration.

Fail-safe, pollution-free workshops will not be attained through a weak-willed, penny-pinching, leave-it-to-the-states approach to occupational health and safety. We have been down that road. If it had taken us where we need to go, the Congress would not have heard from workers and their unions, and the Williams-Steiger Act would not have been signed into law.

We in the UAW are open to persuasion—through performance, not promises—that the purposes of OSHA can be fulfilled through state administration. It should be understood, however, that the UAW, like the rest of the labor movement, has had long experience in dealing with state administration in many fields, and that experience warns us that the so-called New Federalism of the Nixon Administration is a will-o'-the-wisp, a political equivalent of the Edsel.

For working people, OSHA is the best hope they have ever had that they will be able to earn a living with minimal risk to life and limb. And to the extent that the Nixon Administration loses sight of that hope and need, and comes to think of OSHA as a showcase or promotion stunt camouflaging the same old health-safety run-around, there is going to be hell to pay.

Already the Labor Department has muddied the waters by its casuistry in defining requirements for state plans, particularly with regard to walk-around rights for employees when inspections are made. As far as the UAW is concerned, there will be no cooperation with state plans that exclude precise walk-around provisions, penalty provisions equivalent to those in the Federal law, and the unequivocal obligation of employers to report to complaining workers. Nor will we accept a state administration which uses Federal monies available under the Act to effect cuts in its own funding for implementation. The Federal monies were intended to improve administration, not to facilitate cutbacks in state outlays.

We have other misgivings over implementation of the Act. We share the concern of Senator Williams, the Act's co-author, over the inadequacy of appropriations, a lack which will gravely impair the range and effectiveness of inspection and enforcement—and which will seriously cripple the very crucial research function of HEW with respect to the growing number of toxic substances continuously invading the work environment, in many instances in the absence of any or adequate knowledge of their possible effects on health and life.

And we have a further complaint. The Department of Labor is staffing the program as if it were a responsibility of the Department of Commerce. We see little more than token representation of persons with practical shop and union experience. And we warn again that this is a program to benefit working men and women. It must not be staffed and operated as an exercise in the New Federalism and the New Conservatism.

For these and probably other reasons, we are monitoring the progress of OSHA very carefully, with an open mind and a skeptical eye. And we appreciate the readiness of Senator Williams to open oversight hearings if and when it becomes apparent that labor's long search for on-the-job health and safety has again been frustrated.

It would be much more comforting if business executives would accept the offer of cooperation extended by the UAW and other unions and pursue the course of prevention, rather than bringing upon themselves and all of us the storm and fury that may well arise if industry, in this instance as in so many instances of the past, has to be carried, "kicking and screaming", into what is left of the 20th century.

[From the Washington Post, Mar. 16, 1972]

AFL–CIO WARNS ON ASBESTOS CANCERS

(By Victor Cohn)

"The largest epidemic of occupational cancer ever recorded" may be afflicting asbestos workers and their families, the AFL–CIO charged yesterday.

An associate of Ralph Nader also stated that this whitish rock fiber is becoming a more common and hazardous urban-air pollutant—the result of its use in insulating, fire-proofing, building, brake linings, floor tiles and other uses.

The labor group said that in the asbestos manufacturing area around Manville, N.J., (population 15,000) one group of surgeons alone has seen 52 cases of mesothelioma, a form of chest or abdominal cancer considered so rare just a few years ago that some medical books did not mention it.

Most of the 52 are asbestos workers. Some are family members who handle their asbestos-fouled clothes.

Dr. Maxwell Borow of Somerset Hospital, one of the New Jersey surgeons, told a news conference Tuesday that no one knows how widespread mesothelioma really is in such persons because no one has made wide enough surveys.

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The AFL–CIO quoted Dr. William Johnson of the government's National Institute of Occupational Safety and Health as saying that the Manville situation "may be only the tip of an iceberg."

Either cancer of some form or asbestosis—lung impairment—causes nearly 40 per cent of the deaths of New York-New Jersey asbestos workers, Dr. William J. Nicholson, professor at Mount Sinai Medical School, New York, estimated. He called this "a national disgrace."

The AFL–CIO charges came as the Labor Department held hearings on new limits for asbestos in the air in industrial plants.

The department in December ordered the permissible daily average asbestos exposure cut from 12 to 5 fibers per cubic centimeter of air. It proposes to cut this to 2 fibers starting June 1, 1974.

The Oil, Chemical and Atomic Workers International Union seeks a zero-exposure level in refineries, and the AFL–CIO urges a maximum level in any plant of one fiber per cubic centimeter.

Testifying at the Labor Department hearings, union spokesmen have been backed by Nicholson and by Dr. Sidney Wolfe of Nader's Health Research Group.

Wolfe yesterday called asbestos "a classic example of the invisible line between the work place and the environment, because a lot of people are affected who don't even work on the stuff."

He cited a British study of 76 mesothelioma victims showing that 31 were asbestos workers, nine were their relatives and 11 were persons who lived within half a mile of an asbestos plant.

Industry spokesmen and medical consultants are expected to argue against the AFL–CIO and Mount Sinai Medical School conclusions and to say that even the Labor Department December action was unwarranted.

Nicholson argued that no one knows what the safe working level of asbestos is, or if there is one. Therefore, he maintained, asbestos users should be required to show that they can use it without raising any dust.

The Environmental Protection Agency recently proposed to cut the amount of asbestos industry may discharge into the air, and to ban spraying the stuff on buildings for insulation or fireproofing.

[From the Wall Street Journal, Dec. 1, 1971]

JOB-HAZARD LAW SPURS COMPLAINTS FROM FIRMS ON COST OF SAFEGUARDS

(By Byron E. Calame)

The classic cry of "timber!" may no longer be clearly heard ringing through the forests of the Pacific Northwest.

Why? Because Uncle Sam now requires lumberjacks to don earmuffs as protection against the whine of their power saws. "If they want to continue to work in these jobs, they've got to wear the gear," says a man at Gilchrist Timber Co. in Oregon.

Protection of lumberjacks' hearing is one result of the nation's first comprehensive law covering health and safety on the job. In partial effect for more than seven months and in full effect for more than three, it is forcing most employers to take a fresh look at protection of their workers. And, on pain of fines or jail terms, many are finding it necessary to adopt what they consider inconvenient or costly safeguards.

At a plant run by New York-based American Standard Inc., limits imposed by the law have required a reduction in pressure in nozzles used to spray plastic on plastic-coated bathtubs and toilet seats; production has been slowed as a result. Sanitation requirements are forcing another major manufacturer to install new and larger partitions between restroom stalls; the cost is calculated at $200,000. And at Detroit's Regal Stamping Co., a subsidiary of Peabody Galion Corp., has had to put in new guards on its metal-stamping machines. The 100 employees are being required to make use of the guards and to follow more restrictive operating procedures as well. Regal President J. G. Wynn reports productivity has dropped 10% to 15%, though he hopes it will bounce back as employees learn the new procedures.

A HIGH RATE OF VIOLATIONS

Several hundred companies have been fined for violations of the law. The stiffest penalty to date: a maximum $10,000 fine levied against a Lockheed Aircraft Corp. construction subsidiary after a fire in California. (Lockheed is appealing.) REA Express Co. has drawn a $900 fine for an accident even though the employe injured had failed to use safety equipment provided by the company. (REA is contesting the fine.)

"We are witnessing the most extensive federal intervention into the day-to-day operation of American business in history," Leo Teplow, a Washington management consultant, says of the Occupational Safety and Health Act. Aimed at reducing the more than 14,000 on-the-job deaths occurring yearly, the sweeping law covers 57 million workers in 4.1 million factories, offices and shops.

There clearly is a gap between many corporate safety programs and the provisions of the new law. Violations have been discovered in 79% of the 5,600 establishments inspected since the law became partially effective April 28, according to George Guenther, assistant secretary of labor for occupational safety and health. (The law took full effect on Aug. 28.)

The standards in the law are hardly new to many larger companies. Most were drawn from "consensus" safety standards previously developed by groups such as the American National Standards Institute as voluntary guidelines for business; others came from safety regulations formerly prescribed for federal contractors and for the maritime industry. Most standards deal with guardrails, machine guards and similar basic safety precautions.

THE WORST FIRST

What's new, and is spurring many worried employers into action, is the stiff enforcement provisions of the new law. Employers can be fined up to $10,000 for each violation and can be sent to jail for up to six months where a willful infraction causes an employe's death.

Many employes are concerned, too, that workers will seek to harass management by initiating safety complaints; under the law, each employe complaint must be investigated. At last count, however, there had been only 556 employe complaints filed since April 28—fewer than the thousands that some leery businessmen had predicted.

With less than 500 federal compliance officers in the field, Labor Secretary James D. Hodgson has ordered them deployed—along with 70 inspectors from eight cooperating states—on a "worst first" basis. Top priority goes to checking on fatal accidents. Next are investigations of employe complaints. After that come industries with high injury rates; the initial five are longshoring, roofing and sheet metal, meat-packing, mobile-home manufacturing, and lumber and wood products.

The enforcement manpower is expected to remain limited, so Mr. Hodgson is stressing voluntary action. "We depend heavily on voluntary cooperation," he says, and he emphasizes that his inspectors "will be guided equally by the spirit of the law as by the letter." He adds: "We're certainly not going to measure the success of this program by how many penalties we assess."

Organized labor, which fought in Congress last year to win some of the enforcement provisions, is already protesting about lax enforcement. "The administration is 'tempering the wind to the shorn lamb a little too much," complains George Taylor, executive secretary of the AFL–CIO health and safety committee. A United Auto Workers' spokesman complains: "The jet set has 1,200 sky marshals at work to keep expensive airline equipment from going to Cuba, but 57 million workers will have less than 500 safety inspectors by next July 1."

One major union complaint involves the slow pace of the government's attack on health hazards. "Labor Department agents are going after boiler eruptions hammer-and-tongs while they boggle at those more insidious chemically induced explosions of cell tissue in the working man's liver, pancreas, kidneys and brains," asserts the UAW's weekly Washington newsletter.

Almost everyone agrees the toughest problem for employers will come when the government gets around to setting precise limits on workers' exposure to thousands of dangerous chemicals and other substances. "The real hooker is in the occupational health area," says W. E. McCormick, manager of environmental control at B. F. Goodrich Co. "I think the most far-reaching implications and serious consequences of the law are in this area."

The area of health hazards is largely uncharted. The National Institute for Occupational Safety and Health created by the law hopes to put out a dozen standards for toxic materials by the end of the year, a spokesman says. But critics say that's next to nothing compared with the 9,000 potentially harmful substances for which standards are needed.

Even though the most difficult compliance problems are yet to come, many companies, especially smaller ones, complain they have their hands full trying to meet the standards already spelled out.

The superintendent of a small California shipyard claims his costs are going to rise at least 20%. One reason: management is being forced to provide such things as "permanent-type" rather than temporary scaffolding and barricades around shipboard hatches during overhauls.

SAFETY CAN PAY

"An older plant can go broke trying to comply with some of these standards," asserts William Miller, manager of corporate safety at Goodyear Tire & Rubber Co. Mr. Teplow, the management consultant, claims the $200,000 another company is spending to remodel restroom stalls "isn't going to do anything for anybody's health and safety."

Yet some corporate safety experts, including Goodyear's Mr. Miller, emphasize that safety can pay. "When you look at workmen's compensation costs and weigh them against the costs of a safety program, you see a lot can be gained," he says. Robert DeRose, president of DeRose Industries Inc., an Indianapolis maker of mobile homes, says complying with the act should help pare his workmen's compensation insurance premiums by 10% during the next two years.

Such considerations, along with the act's tough penalties, are spurring companies to pressure employes to use safety devices. REA Express Co., for one, has a special reason for applying heat: It was fined $900 after an electrician was injured when he wasn't using the rubber mat provided for him to stand on. "Naturally, we're tightening down on making employes use the safety equipment," an REA official says.

But getting employes to use safety equipment is a problem at Richardson Homes Corp., an Elkhart, Ind., maker of mobile homes. Since the employes are paid on a piecework basis, an executive explains, they're reluctant to use safety devices, such as guards on power tools, for fear of slowing their production and cutting their pay checks.

DAMNED IF YOU DO . . .

Complying with the safety law presents a special headache for Robert Burns, manager of a Missouri Beef Packers Inc. plant in Plainview, Texas. A federal safety inspector in September cited the concern for not having a guardrail on the platform where employes stand to work on carcasses that move by suspended from an overhead track. But an Agriculture Department meat inspector has warned the company not to install the rail because germs could be spread as the carcasses rub past it. Mr. Burns says he is seeking a formal hearing with the federal officials involved to resolve the matter.

Despite the problems, safety officials at a number of larger corporations maintain they're well on their way to complying with the law. General Motors Corp. has sent experts to many plants to explain the law's impact. American Standard is conducting mock inspections of its facilities to help managers get ready for the real thing. At Boise Cascade Corp., safety administrator Marvin Strode is working closely with company purchasing agents; he made sure that an order for a new paper-mill machine specified the equipment must operate within presented noise limits.

But it's harder for smaller companies to muster the expertise needed for compliance, says an executive of the National Association of Manufacturers. At a recent seminar for small businessmen, he found "one guy who didn't even know a safety law had been passed."

A 1972 LEGISLATIVE QUESTIONNAIRE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DUNCAN. Mr. Speaker, I am mailing the citizens of the Second District of Tennessee a questionnaire on major legislative subjects facing this Congress. This is an annual project for me, and I find it is well worth the time involved for I have a data processing company tabulate the answers. This questionnaire provides me with, a basis for judging the sentiment of my constituents on these vital issues. Following is the legislative poll which is now being processed and will be in the mail shortly:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., Spring 1972.

DEAR CITIZEN: Again it is a pleasure for me to ask your opinions on major issues that are extremely helpful to me as I cast my votes in the House of Representatives. I will be grateful to you for your answering these questions with "yes" or "no" and hope you will return this to me as soon as possible.

Each year there are thousands of bills brought before the Congress. It is difficult to choose questions for this poll, but I want you to feel free to write to me about any that I was unable to include. Or, if you feel that a "yes" or "no" answer is insufficient to cover any items on this questionnaire, I welcome a separate letter.

Thank you very much for your interest, and please call on me any time I can be of assistance.

Sincerely,

JOHN J. DUNCAN,
Member of Congress.

A 1972 LEGISLATIVE QUESTIONNAIRE

1. Do you believe that the U.S. should have a policy of military superiority over Russia?

2. Assume you learned that Russia had gained military superiority over the U.S. and that it would cost $20 billion a year more for the U.S. to regain superiority. Would you favor or oppose spending the $20 billion?

3. Do you favor the establishment of a minimum wage?

4. Were you satisfied with the President's trip to China?

5. Do you favor the proposal to allow citizens to register by mail to vote?

6. Do you favor the proposed amendment to stop court-ordered busing to achieve integrated schools?

7. Are you satisfied with our withdrawal progress in Vietnam?

8. Do you think the wage, price and rent freeze programs have worked to improve the economy?

Name _____ Age: 20–35 _____
35–50 _____ 50–Over _____
Address _____ Zip _____
Voting Preference: Democrat _____ Republican _____ Independent _____
Whom do you want as our next President?
_____

MAYOR MERRILL HARRISON OF LAUREL, MD.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOGAN. Mr. Speaker, I would like to pay tribute today to a man who has contributed 28 years of his life to the service of the citizens of Laurel, Md. He is my longtime good friend and counselor, Mayor Merrill Harrison, who has literally dedicated his life to Laurel and its citizens and is now retiring.

His public life began in 1936 when he became clerk to the city council and continued through service as a city councilman, president of the city council and as mayor of Laurel for seven terms.

None of us can begin to count the hours he spent away from home or the financial sacrifices he has made for the town he loves. I know he has not counted them and I am sure he would be embarrassed if I tried. He simply saw what needed to be done and he went out and did it.

When a Laurel resident needed someone to talk to or turn to for help, Merrill Harrison was always there. He embodies the finest in the tradition of municipal leadership that has gained steadily in importance in Maryland and across the Nation as Federal, State, and county governments have grown increasingly complex. Merrill Harrison has always been right there when he was needed, close to the people of Laurel.

All of us in Maryland will be forever in his debt for the leadership and example he has provided. The spirit and dedicated hard work of men and women such as Merrill Harrison in municipalities across the Nation have helped to make our country great.

The tremendous contributions Merrill Harrison made to Laurel and its citizens are best described, I think, in a speech presented by Gertrude L. Poe, editor of the Laurel News Leader, during ceremonies honoring the retiring mayor on March 25.

I was privileged to participate in those ceremonies and heard her excellent address. I insert excerpts of those remarks into the RECORD.

This is your night, Mr. Former City Clerk for 12 years; Mr. Former City Councilman for two years; and Honorable Mayor of Laurel for 14 years.

An old mountain philosopher once said: "A feller can't no more talk about what he don't know than he can come back from where he ain't been."

If the converse of that philosophy is true, then it is the only thing that qualifies me—regardless of the introduction—to take on this task of speaker on this historic occasion. . . . for it is a sure thing that I know my subject . . . and I've been a long way with him. . . .

Merrill Harrison was born at 932 Montgomery Street in the house his grandfather built. His son lives there now. Four generations of Harrisons have lived there. That's how far back the roots of this man go in Laurel.

Baseball was his favorite sport. As a kid, he'd play on any vacant field in Laurel—and there were plenty of them. And until the last few years, he attended every World Series game—no matter where; no matter when. Nothing stood in his way. One might say that was the only time he deliberately forsook his duties as a Laurel official. No Council meeting was quite as important as that World Series game. And the bets he won and lost on them would make good listening.

Merrill's book learning began in one of Laurel's two elementary schools. It was at 9th and Montgomery where the Fire Hall now stands.

"The Laurel I knew as a young kid," Merrill recalls "was a sleepy little country town. Main Street was paved, but that's the only street that was. My street—Montgomery—was either dusty or muddy. I remember we did have street lights—the only trouble was they didn't give any light. Electricity was not available in day time except on Mondays when housewives were supposed to use their electric irons. We had one policeman, on foot, of course, on duty only at night. Our City Hall and jail were in a frame building at 5th and Montgomery where the Armory now stands." And that is a picture of Laurel when this man was a kid.

Friends, I'm sorry to have to reveal this and burst one of your bubbles—and it's probably why Merrill didn't get very far in life. He was a high school drop-out. In his senior year at Laurel High, some of the gusty temper and resolute decision making he later became famous for were beginning to blossom. He simply got fed up with an uncooperative commercial teacher and walked out in his senior year. He immediately, however, entered Strayer Business College in Washington and on graduating went to work for Kann's Department Store there where he has remained all these years and is now general superintendent.

General Everard E. Hatch was mayor in 1936 when Merrill was first appointed to municipal office. Mr. Bert Ayton, who died just a week ago, was president of the City Council and recommended Merrill for the job. The appointment of Merrill as City Clerk at the age of 25 and looking like a young Rock Hudson, came about when Town Treasurer John V. O'Brien was killed in an automobile accident and City Clerk Lee E. Gilbert was named to replace him, leaving the Clerk's job open.

Only one member of the Council serving in 1936 when Merrill entered municipal service is living. He is G. Bowie McCeney—my boss.

Merrill had served three years as City Clerk when I began to "cover" his as editor. There was no City Hall. The Council met in a ground level room of the Laurel Armory with a 5th street entrance until the Town bought the old Fire Hall and converted it to City Hall. But there was standing room only at most of the meetings in that Army room—unlike today's poorly attended meetings. In

XUM

the winter time it was cold and damp; in the summer time it was hot and humid. But a lot of Laurel's history was made there, not only by Merrill but by some of these men who've been introduced tonight.

Merrill served for 12 years as City Clerk under the Hatch, Tolson and Fetty administrations.

In 1948, it was *again* his friend, Bert Ayton, who encouraged Merrill to run for Mayor. Merrill ran unopposed—so his ascent to the municipal throne was painless—the kingdom he inherited was not.

Serving on the Council with Merrill in his first term as Mayor were Roy Armstrong, president of the Council, and Gilbert White, James B. Turney, Maynard L. Ward and Norris C. Beall, all of whom are deceased.

Merrill makes no bones about inheriting the worst police department in the entire USA. The streets were in deplorable condition. During WWII street material wasn't available and some of the streets were literally impassable.

The State Board of Health had advised no more building permits could be issued in Laurel until provision was made for increased water supply.

On top of that the Town had no money.

With all those things going for him, Merrill assumed for the first time the post of Mayor which he was to hold for a total of seven terms, longer than anyone in the Town's history.

He has never been defeated for office, though one time he was the only one on his ticket to be elected. It was in 1952 when he was opposed by Tom Israel who also headed a ticket. In what was probably the Town's most historic election upset, Merrill, whose slate included all incumbents, was reelected and found himself serving with a completely new City Council. Mr. Israel had headed a ticket of winners, save one, himself. A record 61 percent of the voters went to the polls in that one.

At the conclusion of those first three consecutive terms from 1948 to 1954, the highlights of his administration had to include:

Providing an unlimited supply of water. The Town had entered into a 40-year contract with Washington Suburban Sanitary Commission. Parenthetically, this was later voided by another administration when the Town permitted the Sanitary Commission to take over its entire water and sewer system. Because the Town had always made money on water, Merrill has always believed this was—and I quote—"a sad mistake."

But back to those highlights. Others certainly had to include:

Annexation of the 160-acre Fairlawn District to the Town, for Merrill believes this was the beginning of marked growth in Laurel. Although opposition to the annexation and subsequent development with all its ramifications was vehement, as some of you officials will recall, in retrospect the Mayor has pointed out that when the Laurel Shopping Center located in Laurel in 1956 they would have been just outside the Town limits had Fairlawn not been annexed—and the economic influence of the Laurel Shopping Center on the Town has been inestimable . . . and during those first three administrations, a Town Supervisor was appointed, which relieved the mayor's job in future years to a great degree.

Curiously, during those first six years as mayor, Merrill saw every ex-mayor die: DeWilton H. Donaldson, Edward F. Tolson, Capt. J. B. Anderson, whose daughter-in-law, Peggy, now serves on the Council; and John H. Fetty . . . so when Merrill left office he became Laurel's only living ex-mayor . . . a status risk I urged him not to assume, to no avail.

He dropped out of the municipal picture from 1954 to 1962—and I mean dropped out. He told me he would not even attend Council meetings. He intended to quote keep my mouth shut unquote. He thought it unfair to the incumbent mayor to continue a voice for Laurel. And he is the first to admit that Laurel's growth did not stop when he stepped down . . . it might even have accelerated, he adds a little reluctantly, and enumerates that . . .

The most elaborate street repair and drainage program in the Town's history was completed during his absence from the municipal scene.

The Laurel Shopping Center was built.

And the Comprehensive Master Plan with its accompanying Zoning Ordinance were adopted.

Merrill chalked up another first in the town's history when he was elected to the City Council during the Melbourne administration in 1962. He became the first person to have served as mayor and then Councilman.

It was inevitable that he be Council president and Council liaison to the new Laurel Planning Commission. I well remember in those painful early days of adjusting to a Zoning Ordinance and a Master Plan, chaos often reigned at meetings—the president's gavel was seldom heard.

But when Merrill got hold of the gavel he restored order to the Council meetings and never hesitated to put people in their places if they got out of order. Indeed, he sometimes asked them to leave. Ask Ron Davies, who later became his Councilman, about that.

Merrill has always called a spade a spade . . . which reminds us of a good old anecdote of a fellow Republican friend of Merrill's, Abe Lincoln. Abe used to ask, "If you call a tail a leg, how many legs has a dog?" To which the obvious answer was five, but Abe would then say, "No, calling a tail a leg, doesn't make it a leg."

And that's been Merrill's philosophy.

Almost as quotable as Abe Lincoln himself, Merrill told The News Leader one time—and with elections imminent it's worth repeating: "You soon learn that the mere fact that you received a few more votes than your opponent does not automatically endow you with omnipotence. Nor does it increase your normal intelligence and it does not provide you with any unusual powers of prognostication. You need plenty of competent advice. You get plenty advice. The main problem is deciding what is competent."

Another time we quoted him as saying: "The relatively few people who attend Council meetings usually are motivated by self-interest and you must be constantly on guard that you are not stampeded or pressured into some hasty, ill-considered action. You must be ever mindful of the vast majority of citizens who never attend a Council meeting. You must see that their rights are protected also."

Now that he is drawing to a close those years of involvement and responsibility as a municipal officer, Merrill is ready to warn his successors in office here that "the ideal mayor should possess the wisdom of Solomon, the patience of Job, the tenacity of a bulldog, and have an over-abundant supply of tolerance—enough to permit him to be tolerant of intolerance."

He hastens to admit that he has not possessed those qualities at all times.

But there were times when it was a good thing he did not have the patience of Job—and when Merrill's patience is finally exhausted, his temper flares to the boiling point. Am I right, Minnie?

It was in 1964, I remember, in June, when parts of Laurel ran completely out of water while other sections suffered a sharp drop. Complaints poured into City Hall and the Mayor's home. He passed the problem on to the Washington Suburban Sanitary Commission—after all it was their problem.

Water pressure was restored temporarily, but the next night the same thing occurred. Like a seesaw, as the water pressure went off and on, so did the Mayor's phone . . . and so did his temper. He had already checked personally at the Patuxent Filtration Plant at Laurel and the men there were as upset as he was. They were helpless to correct the situation.

The problem had to be resolved by the Commission itself.

So . . . the next morning found the Mayor and Town Supervisor George Barkman, who I think was trying to disassociate himself from the Mayor by walking a few steps to the rear and out of contact with the Mayor's boiling temper . . . walking into the Chief Engineer's office, only to be told he was attending a meeting with the Commission.

Delighted to discover that he had hit the jackpot by finding the entire board of commissioners and the chief engineer together, Merrill, with George, proceeded to the meeting room.

Without even a knock, the Mayor opened the closed door, and entered the crowded room where the Commissioners were in the midst of a hearing. Reasoning that if he took a seat and waited his turn, he might be there all day—and by that time his temper may have lowered to a simmering point, the Mayor in what he described as "the rudest, crudest, most offensive performance of my entire life," announced in his nastiest voice:

"I'm Mayor Harrison of Laurel and I've come here to get the water situation in Laurel straightened out and I want it straightened out today." He gave them until 4 p.m. or he would take action."

The water situation was resolved by 4 p.m. and Laurel hasn't run out of water since.

It wasn't until a long time later that I asked the Mayor what action he would have taken—and he told me he had intended to take six policemen to the Filtration plant and actually cut off the entire metropolitan district—using force if necessary—knowing he would have wound up in jail, but willing to take the chance.

I'm almost sorry the WSSC did respond to his demand, for Laurel history might have recorded another first for Merrill.

But that is typical of Merrill's philosophy through his 14 years as mayor: that the only reason for having a local government is that it is extremely sensitive to the needs and wants of its citizens."

There was an exception to that, Merrill, as I recall, and it probably was the most bizarre incident of your administration.

Remember the night a young man who occupied an apartment on Snowden Place arrived at City Hall with a cage containing a 7-foot boa constrictor, indignant (the man, not the snake) that he was not being permitted to keep his friend in his apartment? He requested permission to retain it as a pet and, as I remember, presented very valid arguments which the snake occasionally rearing its head in agreement, but you weren't very sensitive to their needs!

You have often exhibited righteous indignation when your Town officials were unfairly attacked. I remember your fierce defense of your Police Department on occasions when Prince Georges County officials have seemed to include them in a blanket indictment of all municipal police as inefficient and untrained—and I believe Gladys will remember it too.

You have never feared criticism and you have never shied away from what you considered unwarranted attacks on your own integrity and that of your officials. I remember well an exchange between you and the West Laurel Civic Association a few years ago in which you were indubitably the victor.

These are the traits which have woven strong threads of stability, of integrity, and of loyalty in the fabric of your administration.

Loyalty does appear to have been a steadfast characteristic of yours:

Born in Laurel, you never left it. Living in the west end of Laurel, you never moved.

Starting with Kann's you have remained there uninterruptedly.

Marrying Minnie, you have never thought of divorce—murder, yes, you confess, but not divorce.

Having started in municipal service, you never sought higher political office.

Having been persuaded to join a service club (a joiner you're not), you have been such a loyal member, I think the entire Rotary Club is in the audience tonight—which is tantamount to saying you inspire loyalty too.

Perhaps being born during the administration of Republican President Taft and Republican Mayor George P. McCeney of Laurel influenced your party affiliation . . . but that has been pretty loyal, too, if we can believe Vice President Agnew.

Well, we've already run out of those 20 minutes in which I was to wrap up your 28 years of service to Laurel, Merrill, and there are lots more things I want to tell your friends:

About the accomplishments of your latter administrations . . . the capital improvement program; the imminence of a new City Hall and Police Department; the annexation of another 430 acres to Laurel—you've seen the geographic size of Laurel double during your tenure of office and its population triple.

About how you've helped to bridge racial differences and inflammable situations in a quiet, dignified manner, and proof of this lies in the fact that I see leaders who worked with you in solving those racial problems among your friends tonight.

About the time you preached the sermon at Laurel Presbyterian Church. Even you were the first to admit you were operating out of your area of competency. You've always left the churchgoing up to Minnie.

About your French citizenship . . . remember when the Mayor of Pessac, France, met you when visiting a former countryman here, he was so impressed he made you an honorary citizen of his town?

You've certainly cut more ribbons to open more places than anyone in our history—and the smallest store received as much attention as the largest.

About your sincere search for the right answer to the perennial Main Street problem and your regret you're leaving an unfinished symphony with many discordant notes.

And about your frankness: "I drag my feet purposely at times. It's been my design," you told me one time. "I don't want this town to get into the financial mess Prince George's County and the United States are in."

About so many things only someone who has known you as long as I, has been able to observe that prove without a shadow of a doubt that although you've evidence some of the shortcomings of your sex your service, your faith, and your dedication are unmatched in Laurel's 102 years as a municipality.

"I am not quite sure just what 'Laurel' means," you said a few years ago. "I guess it means many things to many people, depending upon your relationship with the town. As one who was born in Lauren and has lived here all my life, it has a special significance. To me, it is home. My years here have provided me with an abiding faith in three things:

The fatherhood of God;
The brotherhood of man;
And the neighborhood of Laurel."

This has been your moral code, Merrill. Laurel has been the beneficiary of that code all of these years, and future generations will be its legatees. On behalf of all your friends gathered tonight, I think you for that legacy.

May you and Minnie—who has to be the most patient woman in Laurel for having shared you with Laurel so many years in a capacity that certainly didn't make you millionaires, now enjoy the riches of health and happiness as you step out of municipal limelight.

God bless you both . . . and will you take with you Merrill, this gift as a token of the love and respect and appreciation which your friends gathered here have for you both.

PERSPECTIVE FOR A PLANET

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BENNETT. Mr. Speaker, I have heard many graduation speeches through the years, but one of the best, if not the best I ever heard, was the one recently made by Nathaniel P. Reed, Assistant Secretary of the Interior, at the University of Florida on March 18, last. If it was as inspiring to the graduates as it was to me, they were indeed helped to better wisdom by this fine and dedicated public servant. I insert at this point in the RECORD the complete text of his speech:

PERSPECTIVE FOR A PLANET

I can't help thinking as I look over this sea of bright intelligent-appearing faces of all those old worn phrases which are dragged out at commencements.

I would only say welcome. Welcome to the real world—the world beyond the university. It is not altogether a pleasant world: in fact, it cries out for your involvement.

I am truly delighted to be here with you today—especially when I consider the alternatives.

Life in Washington, D.C. is not all heady and fascinating, or even that educational. It is taxing and wearisome and frustrating, too. It's also rewarding—very rewarding in the sense of participating in decisions where frequently one man armed with the facts can change a policy or improve a program.

I am sometimes surprised how much one can do with the supposedly immobile hulk of the bureaucracy. And I have been surprised by the greed and blindness and just plain stupidity I have found in places it has no business being.

But then, I'm surprised by a lot of things on the opposite side of that coin. I'm surprised at the openness and depth I find in many places where I did not expect such treasures. And I am, I hope, as grateful for these pleasant pluses as I am disappointed and furious over the miserable minuses.

Being here today is one of the pluses, and I am fully aware of the responsibility that goes with the privilege.

It wasn't that long ago that I sat where you do now, and paid attention off and on to what some old bird was saying from where I am standing today.

You grope for phrases that supposedly will add a last modicum of meaning to the four-year accretion of wisdom that has been laid on the class.

It is then that you realize that your seventeen years of future are past history; that the journey from that point forward is unknown territory for you both.

So now we are standing here together, and you can sense, perhaps, something of my dilemma.

I have *had* the seventeen-year journey you are about to begin, and yet the moment after this one is as new for me as it is for you.

So what good does it do for someone to stand here and exhort or describe the view to you—you with your good, young eyes and your fresh new education?

Well, *some* good, I think, I'm not really all that humble, or I wouldn't be here.

I *do* have some thoughts that I think would have passed my own critical muster if I had heard them in 1955. They might even have made a measureable impression, although my hindsight is not that good and so I cannot say.

At any rate, I think I would have listened to hear something that would have told me whether or not the speaker had really engaged in the struggle out there, or just read about it and observed it and discussed it.

And so I would like to begin by saying that I have had seventeen full, passionately involved, endlessly varied, challenging and consuming years since graduation. I have totally engaged every resource I could find within, or lay hand to without, in the effort to "make a difference."

This, then, is the part of what I have learned that seems to me worth spending these very few minutes on, with you.

How does one man or one woman make a difference?

If I could start with a recipe for beginners, I would name four basic ingredients: *enthusiasm, patience, a sense of process,* and *love.*

The first five years after I returned from military duty in 1959 were exhausting, but for the most part unproductive.

These were the years in which I threw rocks at the bureaucracy from the other side of the street. I railed and denounced and regretted everything that had to do with the establishment. I was like the critic reviewing the movie, "Ben Hur," who wrote "loved Ben, hated Hur," not realizing that the Florida I loved and the systems I hated were inseparable . . . ceaselessly interacting, continuously changing, and begging for less petulance and more participation.

In those five years, I had plenty of enthusiasm, but I had not yet learned either patience or the sense of process—the ability to take one step, and then another, and another . . . with the sureness and serenity to step if necessary; to go sideways or even a step backward if necessary; to bide my time, without ever losing sight of the objective or heart for the long haul.

Enthusiasm—the kind I am pushing—is not the frothy surface attitude that is constantly shouting "Wheeeee . . ." over every new idea or cause. It must be coupled with a tough set of values, a discerning eye, a discriminating taste. These are guardians of your integrity, and I cannot recommend them too highly.

But beyond these priceless treasures lie their irrational extremes—doubt and cynicism, and these two are destroyers—first, of your effectiveness, and eventually, of you.

Soundly based, enthusiasm is the best possible extender of the animal spirits bequeathed us in our cradles. It doubles and trebles our ability to make a difference—no matter what our chosen field of endeavor.

Curiosity and a sense of play are the child's greatest natural gifts—providing the kindling for the lifelong fires of enthusiasm, the fuel for that extra effort beyond mere survival that we call "living."

As an additive to life, nothing so adds to its zest as a gigantic appetite for involving yourself in its processes.

If I could speak to the ambitions of each one of you, I would. But strapped as I am to dealing in generalities, I can only urge you to explore my second ingredient—*process.* In the strengthening of your sense of process, you will discover the patience that is so

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much a part of the equipment of those who stay in the race.

The exploration of total process and your own part in it is endlessly fascinating, and it matters not a whit which avenue of the world you choose.

Process is at work there, and you are part of it. Process is at work in the heavens and you may choose to follow it with the telescope or the Bible. Process is at work in the atom and you may decide to track it in the Wilson Cloud Chamber or in the Genetic Code. Process is at work in society and you may seek it in the National Archives, a kitchen midden, an inner city ghetto, or a corporate board room. But *no*where will you find stasis, and *no*where will you escape yourselves.

You . . . and *process*. These two are at least as eternal as your mortal life span; and patience can lengthen that span.

And so you must come to terms with the process of living—joyfully, with powering enthusiasm, or reluctantly, with crippling doubt. Unless you have been competently diagnosed by a qualified psychiatrist as a hopeless masochist, terminal case, I strongly suggest the former.

Once you have determined your objective, then *change*, of course, is the vital tool. But don't think you will build the second America this very evening. You won't for a variety of reasons. The great separater of the men from the boys (and the women from the girls) is a highly developed, finely tuned sense of process.

If you want to change a system—*any* system—you must learn to plot a course of action; one that *surrounds* the problem, *envelops* the objective, until support comes from *all* sides and change becomes *mandatory* . . . not your personal victory against all odds, but instead, an inevitable step in inexorable process.

A university can be a tremendously exciting place to start shaping your objectives, to start charting your plan, to start developing your sense of process.

There is a new level of human awareness rising in the land, and the academic world will be hard put in the immediate future to maintain its leadership. Many schools will be lucky to hold their own in the new atmosphere of quest and inquiry—the new attitudes of the citizenry in relation to their world and to knowledge of that world.

I have found few signs of the death of morality, but much evidence of an eagerness for new values, new attitudes, new life styles that put less stress on the earth. I see everywhere a whole new set of environmental expectations.

The spirit behind this awareness is active and eager to start coping.

It takes the old linear approaches to problems and bends them—first into question marks and then, full circle, to where a man and his whole world become one closed ring.

This explosive new awareness is unabashed in its challenge to old authorities. It will not be turned off by a barked command, a denial of tenure, an order to conform. Nor will it stop respectfully at the walls of an entrenched institution or a hallowed discipline. Many of you in the rising mainstream of this new awareness are too polite to make rude noises. But even the meekest of you no longer accept "because I said so" as an adequate answer. There must be reason, and *good* reason for repressive actions, where before an arbitrary authority sufficed.

A university campus should be the epitome of the open questing ground—tolerant of many diverse points of view, cherishing its rebels and iconoclasts—flexible in the face of change, open-minded as a proving ground for intellectual alternatives. It must be a testing ground—even, if you will, a *conflict* ground, for great ideas and ideals.

At a university, above all, must youth and the establishment be "care-full" of each other. . . . . "care-full" as in full of care.

Here, if anywhere, the lines of "thou shalt" and "thou shalt not" must be exercised with consummate skill and tact, lest the whole delicate structure of a university . . . possibly man's highest *real* achievement in the sense of an open-ended, growing event . . . could suffer a setback with consequences comparable to the dark ages.

There should be a rule book—a clear concise set of standards, but beyond those, the university must be the center of free expression.

Do not be too disturbed by those who still equate change with national disgrace and treason.

The great debate in my college days was over another war, vastly different from Viet Nam, but our campus was wracked by the McCarthy hearings and the domestic scandals of the then Administration. Events change and yet they always retain something of their shape.

We surface from each of these national confrontations, hoping that we have learned something that will last, believing that change and process are not the devil incarnate, but the wellspring of hope. A sense of process can imbue change with purpose, and purposeful change is the greatest hope for a second America. Mix enthusiasm with purposeful change and we have the makings of something very exciting.

The last ingredient is love, and I place it last for the same reason that Babe Ruth and Ted Williams came fourth in batting order. Love adds the dimension of fullness, the texture of richness to life. Of all the great secret wellsprings of life and of living, it is the greatest. My own life was incomplete until I took the fateful step, and I commend love—with all its various complications—to you all.

Love is both an expenditure and a source of energy. You may choose to focus your love on an author, an artist, a game, your work—whatever. It is the *act of loving* that is important, more than the object. A peculiar thing about love is that the whole idea of it changes as you mature. In the beginning, to *be* loved is the most important aspect. Love me, love me, love me!

As you pile up life behind you, there comes a day when you turn to examine your love, and you find that *loving*—the ability to give outward from yourself in a loving way—the joy that flows back into you in the form of boundless energy—is the greatest reward. It is no longer love *me*—it is love! Pure and simple. In the end, it is the greatest reward you can find. And in the beginning, it is the surest guarantee against boredom.

And so I call upon you to broaden your young lives by passionately involving yourselves in your community. This Country can't stand a bored generation which refuses to commit itself. This Nation needs you and thousands like you who have not lost their acute sense of outrage for stupidity and injustice. This Country is crying out for the young to become involved.

It is not good enough to curse a system you do not approve of—you must accept the challenge and work to make it work.

If I were out there sitting with you, one assignment I would take on regardless of my major or my future avocation, is the pursuit of an environmental ethic by which to live.

I would combine the attributes of which I have spoken—enthusiasm, patience, a sense of process, and love to fulfilling the great challenge of our lives—can we live on this earth without destroying her?

There is no greater priority to be found than that of environmental sanity.

You—each one of you—can make a difference, today as never before. One out of 210 million you may feel is too small a fraction to affect the course of history. But you are wrong. Throughout this Nation, good and wise men *are* changing America. The incredible challenge to be a part of this moving force is open to all. You needn't be president, or a congressman, or a governor. You need not be rich. You do need to know, and to believe, and to be willing to work.

The immediate goal is a strong, working, national environmental ethic. There will be other, even more significant world goals beyond, if we can achieve this one. Our great grandchildren may not be able to identify our era with a slender stripe in the Grand Canyon walls.

But if *we* are successful in meeting head-on the innumerable challenges of our consumptive, willy-nilly, growth-oriented, polluting society, our great grandchildren will enjoy the great mysteries of this Nation's ecosystems as *we* have . . . its scenic grandeur, its pristine wilderness, its unique wildlife.

Perhaps simply the presence on earth of these treasures will be testimony that our generations of concerned citizenry were able to change a budding life style into a sturdy environmental ethic.

As a people, we have to accept a new rule book of behavior. The environmental movement is not, as a few reactionaries think, a leftwing movement against commerce and development. Nor is it, as a few anarchists think, the answer to their radical prayers. The American people's long suit is common sense, and they see a broad avenue of environmental cleanup and quality lying between these two extremes.

So far, the movement is composed mainly of the rich and middle classes, those who have had the opportunity to rise above mere subsistence, to have lived richly with nature's bounty.

If you are mired in an urban ghetto, fending off drug pushers and rats, it is hard to concern yourself over loss of an estuary or erosion from clear-cutting.

Any movement that endures must survive some bad times. The environmental movement has come through a severe recession, the whiplash of skeptics, and the backlash of extremists.

It remains very much alive and growing. Nowhere is it stronger than in your generation . . . perhaps because you have widely varied your patterns and experiences of natural life, or because you are determined to change an era you reject for many reasons.

Being a concerned environmentalist means being a student of alternatives. An environmentalist arms himself with facts and is committed to thinking problems through before deciding on a course of action. He considers the possible gains against environmental losses before undertaking any project. He rejects the cant that big is better, that expanding tax bases justify anything, that nature can be controlled and subjugated by guns and pesticides, by D-9 bulldozers, draglines and dredges.

Man is prone to leave a record on walls saying, "I was here" with spray paint. But on the walls of the Grand Canyon, where nature has written of man in embarrassing perspective, we rate only a handful of inches. Our puny little layer on that majestic earth log is silent warning to an animal that thinks it is not an animal—a hind-leg walker who disregards and destroys all animals except those he wants to eat, or ride, or bet on.

Thank God that as a people we are at last showing signs we are ready to become part of the system—part of the process—not content to remain a character rubber-necking from the side of the field.

This is a journey we are all on together. Look to it with excitement. It's for real, and to the best of our knowledge, it's just once around.

Don't lose time or heart over your errors. Consider them lessons, and learn them well.

The broad-based beginnings of wisdom and the budding ability to find relationships in parallel processes, begun at birth and well nourished here at the University of Florida, are firm grounding in the fundamentals of the journey.

The part no university can give you is the personal strength and courage and commitment to bet your life . . . to stay in the thick of it . . . to embrace it . . . to live it . . . to love it . . . and to *change* it.

We need you.

Welcome aboard.

WHY MA BELL STILL BELIEVES IN SANTA

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RYAN. Mr. Speaker, on December 23, 1971, the Federal Communications Commission abandoned its investigation of A.T. & T., which had been pending for 7 years, on the grounds of inadequate staff and funding. That decision constituted a default of the Commission's regulatory responsibility and was the target of widespread public outcry and criticism.

On January 18, the opening day of this session of Congress, Senator FRED HARRIS and I held a press conference with Commissioner Nicholas Johnson of the Federal Communications Commission, who had dissented from the December 23 decision. At that press conference Senator HARRIS and I discussed legislation—S. 3060 and H.R. 12423—which we were introducing, authorizing $2 million for the Federal Communications Commission to carry out this study. On January 27, 1972, the Commission then reversed its decision and announced that it would investigate the rate structure of A.T. & T.

However, those of us who have been involved with this issue are still concerned that this newly reinstated investigation may turn out to be a relatively superficial examination of what goes into the rate base of A.T. & T.

In this connection, Commissioner Nicholas Johnson has written an article for the March issue of the Saturday Review in which he expresses his concern that the FCC's decision to reinstate the A.T. & T. rate base hearing may not in fact lead to full-fledged, far-reaching examination of the Nation's largest corporation.

I commend Commissioner Johnson's article to the attention of my colleagues:

[From the Saturday Review, Mar. 11, 1972]

WHY MA BELL STILL BELIEVES IN SANTA

(By Nicholas Johnson)

Christmas came a little early for Ma Bell last year—to be precise, two days early. On December 23, the Federal Communications Commission announced its decision to dismiss its six-year-old inquiry into AT&T's rate base and operating expenses, while continuing its generous effort to set ever higher rates of return for Bell. (Two of the seven commissioners, H. Rex Lee and I, dissented, and Commissioner Robert Bartley concurred "reluctantly.") The commission, which acknowledged that it hadn't been doing much to regulate the telephone company anyway, as usual chose a "graveyard time" to announce an important decision—the late afternoon of the last working day before Christmas—in the hope that the press would not particularly notice the announcement. Journalists, as well as consumers and public officials, are bored and confused by the subject of regulation of public utilities—or at least so the FCC thought, and no doubt AT&T officials though so too.

After that holiday weekend, AT&T stock went nicely up, and telephone executives could gather round the hearth a few days later to toast what promised to be a vintage new year.

In the next few weeks a storm of public protest boiled up, stunning the majority of the FCC, which had never really understood the consumer movement or correctly measured its powerful influence on the press, citizens, and Congressmen. The first day Congress reconvened after the Christmas holiday the AT&T matter came up for floor discussion. Even the Department of Defense, on behalf of all the federal executive agencies, said that without an inquiry the fairness of long-distance phone rates could not be determined. What had seemed to the FCC majority as merely a more candid way of dealing with business as usual ("As long as we're not really going to conduct a hearing anyway," one commissioner had said, "why not just cancel it?") was publicly denounced. On January 28 the FCC reinstituted the inquiry, and on February 1 Chairman Dean Burch was trying to explain to the Senate Commerce Committee why an investigation that involved billions of dollars in phone company charges had been dropped in the first place.

Before trying to unravel the implications of the December 23 decision and the January 28 reversal, we must understand a little about the economics of the Bell System and the FCC's so-called "rate regulation." It's not all that complicated. The Communications Act of 1934 gives the FCC the responsibility of regulating the rates of "common carriers by wire." The act states that these rates must be "just and reasonable" and that proposed rate increases must be "in the public interest." Any charges not in the public interest are prohibited. As it works out, the FCC sets the long distance rates and state commissions set local rates.

Telephone rates are based on three variables: Bell's capital investment, or "rate base" (the value of the poles, your telephone, and so forth), the "rate of return" (or profit on that capital investment, and Bell's expenses.

First, consider the rate of return. Suppose the FCC, after a hearing, decides that Bell should get, say, 7 per cent as a fair return on its investment. Taking Bell's capital investment figure, compute 7 per cent of it. Then, figure out how much revenue all our telephone bills have to generate so that, after all expenses are paid, Bell will be left with that 7 per cent figure as profit. Finally, figure out what long-distance telephone rates must be to provide their share of the money. Conceptually, it's a relatively simple process.

You would think that, since the public interest is the guiding criterion for this calculation, Ma Bell would use FCC hearings to tell us how the public will be better off in terms of faster dial tones, fewer busy signals, and more telephone installations if we would grant an 8 per cent return as opposed to a 7 per cent one. Right? Wrong. I asked a Bell attorney at the 1967 rate hearing how service would be affected if the company got 4 per cent—or 10 per cent. He was totally unprepared for such a question.

Instead, the hearings are concerned almost exclusively with the marketability of Bell stocks and bonds—stock prices and rates of interest. Ever higher stock prices are assumed to be necessary for the phone company to raise new money for construction. For some reason, the commission seems to buy this reasoning, in spite of the evidence that the quality of telephone service has declined during the very years Bell has enoyed its highest earnings.

The size of Bell's capital investment, the rate base itself, may have a far more substantial effect on telephone rates than the rate of return. If we assume that Bell has a legitimate capital investment of $50-billion and is entitled to a 10 per cent rate of return, that's a $5-billion profit. An 8 per cent rate of return would give the company $4-billion—and the subscribers a $1-billion saving. But suppose the $50-billion figure is too high. Suppose that for any number of reasons—unreasonable depreciation practices, paying Western Electric, Bell's wholly owned subsidiary and supplier, too much for equipment, or counting items of operating costs as capital investments—Bell has inflated its rate base. Even at the higher 10 per cent figure, if the company's rate base ought to be valued at $20-billion, its return is only $2-billion—rather than $4- or $5-billion. I don't charge that Bell has done any of these things. I don't know any more than you do. The point is that nobody else at the FCC knows either and that the commission has not yet made any real effort to find out.

Let's look at an example. What's the rate base value of the telephone instrument in your home? Bell purchased that phone from Western Electric, whose phones are produced only for Bell and are the only ones Bell buys. And Western Electric's price—including Western's *profit*—has never been regulated by the commission. As far as the Bell System is concerned, these purchases are merely bookkeeping entries. Bell's incentive, in general, is to put as much value as possible on a rate base item because every dollar "in the ground" immediately starts earning its own rate of return. When that dollar includes Western's *profit*, it means AT&T is making two profits on the same piece of equipment—a rate of return on a rate of return. The FCC's trial staff—the agency's "prosecuting attorneys"—now urges the commission to consider Western Electric's rate of return in any decision on AT&T's overall rate of return.

Most of your phone bill doesn't have anything to do with Bell's profits, but with the third variable, "expenses"—$13-billion of them. How much do the executive get paid—in salaries, stock options, expense accounts? Is there a cheaper way of installing a telephone than sending a man to take out the old phone one day and another man to put in an identical one in the same apartment two days later? Advertising, policies on accelerated depreciation, use of employees, and maintenance costs all go into Bell's expenses. You're paying every month for those telephone trucks you see running around your town—and the public relations firm that told Bell it was time to give up on the drab green paint and the nineteenth-century company emblem. The FCC is supposed to be ensuring that Bell—and you—are not paying too much. In the thirty-eight years since the 1934 act, the agency has yet to complete a single hearing examining expenses. We have always simply accepted the figures supplied by Bell itself. At best, that is a lot of trust in Bell's multibillion-dollar infallibility.

Finally, there is the manner in which AT&T apportions its phone rates among different classes of customers. FCC's jurisdiction over long-distance service is not limited to individual subscribers' calls. It includes rates for "free" (flat rate) long-distance calls (Wide Area Telephone Service, or "WATS" lines), TELPAK (cheaper-by-the-dozen rates for private lines), and other large corporate uses of long-distance lines for transmission of voice, picture, and computer data. In 1964, when AT&T earned a 7.5 per cent rate of return on its total long-distance investment, the rates charged reflected a rate of return ranging from 10 per cent for individual long-

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distance consumers like you and me to 0.3 per cent for corporate TELPAK users.

In years of off-again, on-again hearings, starting in 1965, the commission has been unable to come to grips with any of these questions essential to regulation. All that came out of the first two years' work was the determination of a reasonable rate of return and a few rate reductions, although not enough, as it turned out, to bring Bell down within the range determined by the commission to be reasonable. The commission really never did get around to Bell's capital investment, expenses, and the apportioning of rates. Then, in 1969 and without a hearing at all, the commission granted Bell a new, higher rate of return. Finally in November 1970, Bell filed substantially higher rates still, and the FCC ordered the new hearing. None of the big issues were settled when the commission dismissed that part of the hearing that would have dealt with those larger issues last December.

Struggling to come up with explanations of this dismissal, the FCC majority said it had neither the staff nor the budget to carry out an AT&T hearing. The commission implied that priorities made it impossible to readjust ongoing projects in order to find the funds necessary to conduct a proper inquiry. It seemed to me the public indignation was predictable. Chairman Burch was surprised, however. In a letter to members of Congress, he said that the commission did and would regulate Bell "vigorously and effectively" through private, cozy, closed-doors chats with Bell officials—or "continuous surveillance," as the commission prefers to call them.

Bell officials were of mixed mind about the decision. AT&T Vice President for Federal Relations, E. B. Crosland said that the decision to dismiss the hearing into rate base items was "encouraging, because it should lend to a prompt commission decision" on the now pending rate increase case, and he applauded the long record of success of the FCC's practice of "thorough regulation without excessive costs and extended hearings." But AT&T Board Chairman H. I. Romnes later backtracked and called the dismissal "very unfortunate." As a Bell lawyer put it, the decision was embarrassing, because it 'made it appear as if Bell isn't regulated." It is always unfortunate for an unregulated monopoly when the public learns the truth.

Now that the hearing is to be reopened, will it finally deal with all the real issues of regulating Ma Bell? It likely won't be as broad a hearing as the one originally planned, nor can we expect it to be accomplished as soon as we had hoped. Chairman Burch told the Senate Commerce Committee in January that he couldn't even indicate a starting date.

The FCC still doesn't know where it is going to get the manpower to conduct the inquiry. Indeed, it has admitted that it doesn't even have the resources or expertise to determine what resources it will need. After all, the commission has never done so large a study before, and it is difficult, if not impossible, to find a suitable model. If the commission intends to proceed with the investigation using its current resources, or with just a few additional staff members, it will surely be engaged in what Chairman Burch called "window dressing."

Senator Fred Harris and Congressman William Ryan, as well as Senator Philip Hart and Congressman Jonathan Bingham, have introduced bills to give the commission the necessary funds. When given an opportunity to support the Harris-Ryan bill, and accept the funds, Chairman Burch, in a letter to Senator Harris, declined even to comment on his proposed legislation.

What, in fact, has been the FCC's budget position? In fiscal year 1972 Congress gave the FCC all the money it requested. Indeed, for fiscal 1973, after the criticism of the commission, the Office of Management and Budget insisted the commission take more than it had asked for AT&T regulation. Thus, if the FCC does not in fact have sufficient funds to conduct an investigation, the responsibility rests with the commission itself. It is hard to plead poverty when you get all you ask for, and more, and refuse to accept a $2-million gift from Senator Harris and Congressman Ryan.

What is the meaning of the AT&T caper? At least the days of bluntly "dismissing" such hearings seem to be over. But telephone users will continue to suspect, with some reason, that they are being charged more for long-distance service than the law permits. Beyond that, state public utility commissions, most of which have even fewer resources than the FCC, will be under pressure to permit excess charges for local and intrastate service as well. Many of them were legitimately concerned by the commission's admission of inability to regulate Bell.

It is difficult to predict precisely the dollar benefits that could come to you and me from the reopened inquiry. In establishing a rate base and expenses, there are, for example, hundreds of accounting decisions that affect your telephone bill—among them the proportion of debt and equity financing, using (or not using) accelerated depreciation, and the methods of evaluating property. But for the consumers dealing with a monopoly, these are more than "accounting practices." In an industry whose annual revenues are roughly twice the yearly income tax collected by all fifty states combined, a fraction of a percent here and there may amount to millions of dollars in phone-bill savings.

There are implications to this whole affair that are bigger than our phone bills, however. The history of nonregulation of AT&T is a bad omen for the current efforts at broader economic regulation. Public utilities regulation is the closest working model we have to the current Phase II wage and price controls. In both, the guiding criterion is "fair and reasonable" profits, and the controlling question is where the balance should be struck between corporations and consumers. In both, the regulated industries are well organized and capable of hiring the finest lawyers and economists to plead their cases, while the affected public is essentially unrepresented. The inadequacies and biases of public utility regulation do not speak optimistically for the success of the much vaster Phase II regulation. If the FCC cannot effectively regulate one company, how can we expect to accomplish meaningful regulation of the entire economy by the Wage, Price, and Rent boards?

The short-lived FCC dismissal of the AT&T hearing is only part of the current pattern of governmental deference to large corporations at the expense of the small consumer. Other examples include the continuing reluctance to reexamine, in a serious way, the Internal Revenue Code with its capital gains taxes, oil depletion, allowances, prepaid interest deductions, bad debts, reserves, tax-free municipal bond income, investment credits, and other "special interest" loopholes. The tax code, through these provisions, gives those earnings more than $25,000 each year a "welfare payment" of at least $4,000 annually; those earning below $3,000 a year get $16 in such "welfare." The oil-import quota costs the consumer an additional 5 cents a gallon in gasoline prices. The maritime subsidy gives big ship companies and shipyards benefits estimated at $750-million annually from the Treasury, with no advantage to consumers or taxpayers whatsoever. The continuing refusal to require quality labeling of canned goods (labels describing the grade or the product, measured against government standards) produces a 20 percent increase in the cost of such items.

In virtually every area where government affects business, there is a battle between consumer interests and corporate interests, and the corporate interests generally win hands down. Publicity aside, the trend in the day-to-day decisions in government during the past three years is against the consumer on every front.

Possibly the most distressing aspect of this corporate-consumer imbalance is that those who make such decisions often honestly believe they are acting in the public interest. Just as supporters of the SST argued that the project provided jobs, and opponents of the recently vetoed day-care legislation felt the family was being threatened, so those who applaud the commission's decision in the AT&T case believe we are protecting the investments of countless "little people."

Maybe so. But if that is the justification, let those who make the decisions say so. If the public interest is to be found in some secondary gain, let the choice between the alternative ways of attaining that gain be given to the public. If American automobile production is to be encouraged not because it produces the best product for the money (it clearly doesn't) but because the planned obsolescence creates jobs and stimulates economic growth, let the American people decide that's the way they want to do it. If we can't—or won't—regulate AT&T, let's consider breaking it up into manageable pieces, or perhaps nationalizing it, and then find another way to support those who are holding its shares.

Some would argue that our decision to reinstate the AT&T rate base hearing is a step in the right direction. I would like to share their optimism, but in my eight years in Washington I have seen too much that leads me to believe otherwise. Until the finance company comes to repossess the Christmas loot, Ma Bell is going to go on believing in Santa Claus.

SPEECH BY SECRETARY GENERAL OF U.N.

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FRELINGHUYSEN. Mr. Speaker, on March 22, the Secretary General of the United Nations, Mr. Kurt Waldheim, addressed a meeting of the Organization of American States held here in Washington. To the best of my knowledge this was the first appearance of the Secretary General before the OAS. He appeared at the invitation of the Secretary General of the OAS, Mr. Galo Plaza.

The Secretary General's speech, which should be of real interest to Members of Congress, follows:

SPEECH BY THE SECRETARY GENERAL AT THE ORGANIZATION OF AMERICAN STATES, WASHINGTON, D.C., MARCH 22, 1972

Mr. President, Mr. Secretary-General, Excellencies, I am very grateful for your invitation to be here with you today. I am glad that so soon after my appointment as Secretary-General I have the opportunity to become acquainted with two regional organizations—the Organization of African Unity last month in Addis Ababa, and now the Organization of American States here in Washington.

You will understand, I am sure, if I do not say much about the work of our two Organizations, our collaboration and our achievements. We all know very well our problems, our successes and our failures.

Instead, I shall speak of the present role of regionalism as related to world security and development and indicate a few avenues of possible progress.

The Charter, if fully realised, would allow for the gradual development of a world-order under which national, regional and global considerations and interests would be harmonised. In such a way we might evolve a system for peaceful evolution which would take account of the interests and concepts inherited from the past as well as the urgent requirements of an increasingly interdependent world. Were it not for the tensions between the great Powers which have dominated international relations since World War II, we might be much closer to such a situation today, and the effectiveness of regional arrangements might also have been greater.

But there are hopeful signs which should encourage us to think very hard how international organizations and regional arrangements can help to foster and consolidate the process of reapprochement which is now underway.

There can be little doubt that we have now entered, to the great relief of the rest of the world, a period of detente between the big Powers. The smaller countries need this detente to survive, and the less affluent countries need it to develop. We may indeed be living at a turning point in modern history. What we can, what we must do in all multilateral organizations, is to foster this process of detente by any means at our disposal. There have been, and there are likely to be, many pitfalls and accidents on the road to detente. International organizations can do a great deal. The main role of the Security Council, for example, at this particularly crucial juncture, should be to diagnose in time potential conflicts, to forestall them, to limit them and, if possible, to resolve them speedily.

We must do what we can to foster universality both in the United Nations and in regional organizations. Hopefully, with time, patience and statesmanship, detente might gradually develop into an intelligent, workable entente among governments. We are indeed in urgent need for more friendly, more concrete and more practical co-operation among all nations. Governments should not forget that the international institutions which may have developed over the years by now cover practically every field of human endeavour on a world-wide basis.

Global and regional organizations must actively seek practical opportunities to help solve problems and promote co-operation and better understanding. In this process each region has its particular contribution to make. Let us remember that at a time when the continent of Africa was largely unrepresented in the world scene, the members of your Organization played a very important role in creating the United Nations. The Latin American States advocated some of the most important ideas which were enshrined in the Charter: the aspiration of universality; the importance of creating international agencies for the promotion of economic and social co-operation; the necessity of solving regional controversies through methods consistent with the United Nations Charter. At the San Francisco Conference the Latin American States played a significant part in increasing the role of the less powerful States in the world Organization, and strongly urged the formal recognition of the importance of international law. Until 1955 the Latin American States constituted one-third of the membership of the United Nations. They played a major role in encouraging the extension of sovereignty and independence to dependent peoples in other parts of the world. They were in the forefront of the evolution of the concept of economic development through international assistance. The Latin American countries also played a prominent role in bringing about the Universal Declaration of Human Rights, one of the historic documents of our time.

We must be on the constant lookout for opportunities to make both regional organizations and the world organization more effective. If we seize these opportunities actively and realistically, we may not only be able to render a service to governments but also to reinforce the concepts of world order which our organizations represent. It will be my approach as Secretary-General to be available at anytime to give what assurance I can in any place on earth where there is conflict nd suffering. It is only by demonstrating their practical usefulness that international organizations will command the respect of governments and of the public and convince them that they can be an active part, indeed an increasingly important part of the instrumentalities needed to guide a rapidly expanding human society on a very complex planet.

I intend to maintain regular contact with the members of your Organization. I hope to visit many countries of your region and I will soon have my first opportunity to visit Latin America on the occasion of UNCTAD III in Santiago. I will also keep in touch with your Secretary-General, Mr. Galo Plaza, who has been closely associated with the United Nations since the beginning when he signed the Charter on behalf of his Government, and later when he played a key role in three of the peace-keeping operations of the United Nations. Another of the representatives here, Ambassador Sevilla-Sacasa, has the distinction of having signed the Charter of both Organizations. I hope that during future contacts we can explore together methods of developing regional and multilateral actions likely to consolidate the process of detente.

The tasks in front of us are immense. I was already well acquainted with them as a delegate of Austria to the United Nations and as Chairman of the Outer Space Committee, but never before have I seen them so vividly as from the point of view of my present position. The world is confronted from every side by a host of problems covering simultaneously the past, the present and the future.

In this regard may I say how useful it is that even when political rapprochement or unity in any particular region is not possible, institutional arrangements exist which allow for co-operation in nonpolitical fields. The United Nations Economic Commission for Europe has provided a forum for all-European economic co-operation and contacts throughout the worst periods of the cold war. The United Nations Economic Commission for Africa was the first all-African institution created on that continent. The United Nations Economic Commission for Asia and the Far East has created a spirit of economic and social co-operation in a most heterogeneous region. I do not have to mention the United Nations Economic Commission for Latin America which is well-known to you and which, under the leadership of some of the best economists of our time, has pressed very hard for economic co-operation and integration in Latin America. Across and above these regional efforts, the United Nations Specialized Agencies, its aid programmes, its humanitarian efforts, have often been able to provide a much needed practical intergovernmental co-operation even when political relations were at their worst.

Regarding the present, there is little to say which is not known to you about bilateral, regional and international efforts in economic and social development, more equitable distribution of wealth and income, industrialization, urban problems, unemployment, trade problems, monetary problems and so forth. Under the dual leadership of your Organization and the United Nations Economic Commission for Latin America, an immense task has been achieved in better understanding the problems of the region and in devising appropriate solutions. In the Charter it is recognised that economic and social development is a pillar of peace. Whatever is being done in this field is therefore a contribution to peace. Each region has its own geographical characteristics, its own cultural background and its own dynamics. Latin America has vast natural resources and geographic features which lend themselves to bold multinational co-operative projects such as the Andean enterprise or the development of great river basins. Its humanistic heritage and pioneering contributions to international law are of great value to the world's dynamics of peace and order. If each country and region contributes its own best to the forces which will shape the world, I believe that we will move rapidly towards a better political future.

Let me now turn for a moment to the future which already so deeply preoccupies all of us. When I see the work of the United Nations in nonpolitical fields, I am struck by the number of long-term projections in practically every direction: population projections, economic projections, forecasts of world food consumption, education needs, resources consumption and so forth. In this connexion, we have seen in recent years a new current which is rightly a cause of concern. The highly industrialized countries are encountering new problems which they bring to the United Nations and which are likely to become global in the future, but which do not as yet touch significantly the developing countries. Some of these problems are, as a matter of fact, very far from their concern at the moment. The environment has been the first of such issues, and the recent widespread public debate on the limits of growth is another one. There is a danger that these genuine preoccupations in the most industrialized countries, if projected too swiftly on to the entire world, might stifle efforts at development of the less affluent ones. There is therefore an urgent task for the regional organizations to interpret correctly regional conditions and needs.

I am grateful to the Organization of American States for its close co-operation with the Secretary-General of the Conference on the Human Environment, which will be held this coming June in Stockholm. Our efforts in the United Nations in the field of environment were designed from the start to take into account regional preoccupations and the views of regional organizations.

The area of global challenges is vast and growing. There is plenty of room for both regional and global action. There should be no duplication, no waste in such important historical tasks. Governments, as I have so often stressed since my appointment, are somewhat disillusioned with the United Nations. I have made it a priority in my work to do everything I can to increase the efficiency and effectiveness of the Organization and to give to the public a better understanding of our efforts as well as of our limitations. Governments have placed great hopes, perhaps sometimes exaggerated ones in their international institutions. They expect us to avoid the classical pitfalls of bureaucracy, duplication, waste and doing things in the old way. They expect from international civil servants the highest degree of public service. I welcome their concern for it will prepare us better for the difficult tasks which lie ahead.

I am personally convinced that with pragmatism, realism, hard work and devotion we can help the world reach its adulthood without wars and global disasters. This is the

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greatest challenge of our time, a time more complex, more frightening, more beset with problems but also blessed with more achievements, more rewards and more capacity for progress than any previous epoch in human history. I am deeply convinced that this challenge can be met.

I wish you great success.

FOUNDING OF THE DETROIT JEWISH NEWS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BROOMFIELD. Mr. Speaker, this week marks the 30th anniversary of the founding of the Detroit Jewish News. For those who have followed the growth of this excellent chronicle, for those who have witnessed its service to the entire community, there is little that I can add to embellish its well deserved reputation.

Under the able direction of editor-publisher Philip Slomovitz, Michigan's only English-Jewish newspaper has remained true to the lofty ideals which were set out in its credo in 1942. These include the pursuit of truth, service to the Jewish community and indeed service to the American way of life.

Today, just as that day at the beginning of the Second World War, there remains an urgent need for a forum to give voice to the cultural and spiritual heritage of the Jewish people. As a patron of principle rather than a disciple of partisanship, the Detroit Jewish News has and continues to be a worthy forum for that voice.

Mr. Speaker, I, therefore, insert the following editorial from the Jewish News as well as congratulatory messages from President Nixon and Mr. Jacob Marcus, director of the American Jewish archives, in the CONGRESSIONAL RECORD:

OUR 30TH ANNIVERSARY—REAFFIRMATION OF BASIC JOURNALISTIC IDEALS AND DUTIES TO THE COMMUNITY

THE JEWISH NEWS: OUR PLATFORM

The Jewish News makes its appearance with this issue as your newspaper, as an organ for the moulding of Jewish public opinion, as an instrument to strengthen the Jewish community, and for the advancement of the morale and courage of American Jews in this hour of crisis.

This is our credo:

A newspaper's responsibilities are immense in time of peace; they are far greater in time of war.

We are conscious of these responsibilities as Americans.

We are conscious of these duties as Jews.

The Jewish News believes in the American way of life and is here to contribute everything possible toward its survival.

The Jewish News believes in the sacred American ideal of Fair Play and dedicates itself toward the complete realization of this ideal.

The Jewish News is confident that Americans are prepared to fight for their rights and that they will refuse to permit fear to dominate our land. We are here to help defeat the spirit of fear.

The Jewish News believes in the Four Freedoms enunciated by President Roosevelt and will fight for these freedoms on every American front, in the American way.

The Jewish News pledges itself to a program whose concern it becomes to keep Jews and non-Jews fully informed on facts relating to the Jewish position; whose chief interest it is to advance the morale of our people and to hold high the banner of democracy, religious freedom and good will among all faiths to fight against fraud, deceit and misrepresentation, and in that spirit to set a high example for ethical conduct in our community.

We are motivated by the community responsibility of establishing the most friendly inter-denominational relations, of advancing the Good Neighbor policy between Jews and non-Jews, of establishing the type of relations which serve to build a wholesome American life based on interfaith co-operation.

The Jewish News pledges itself to serve as the organ for the good of the Jewish communities of Detroit and Michigan, and for our sister communities throughout the land.

To that end The Jewish News subscribes to all the American Jewish news-gathering agencies and pledges to give its readers the fairest collection of factual information regarding Jews everywhere—locally, throughout the state, nationally, throughout the world.

In order that the Jewish communities may keep abreast with all that is transpiring in Jewish life and with the various shades of opinion among us, we pledge ourselves to serve as a clearing house for these opinions, and to approach Jewish issues without partisan coloration. An effective Jewish public opinion must be an informed Jewish public opinion, and our task is to achieve that end.

The Jewish News dedicates itself to the cause of alleviating suffering among the oppressed Jewish masses in lands of slavery and bigotry, and to that end we pledge ourselves to do everything possible to enlighten our people on the various needs making claims upon us, be they in the fields of relief, of Palestine's reconstruction, or the defense of our rights everywhere.

The Jewish News pledges itself to place service to the community above the profit motive.

In this spirit The Jewish News makes its formal appearance as your newspaper, as the organ dedicated to the service of the most sacred causes having your interest and concern.

We are here to serve and to befriend you. Acting together, we are in a position to bring the most good to America, to the ideals for which America stands, and to the Jewish communities which form an important element in the American commonwealth.

Entering upon our 31st year, we reaffirm this Platform as a basis for service to our community—as a guideline in a program to assist in creating a knowledgeable community.

Much has happened since our Platform was formulated. We experienced a Holocaust, and we were witnesses to the rebirth of Israel. We have been part of a great American Jewish community that is committed to fulfillment of the needs involved in redemption in Israel as well as community-building on the domestic front.

In the years that have ensued, we have experienced the shock that goes with vanishing cities, and we are observing the emergence of new communities in which we must perfect policies to assure basic commitments to the American society while striving for continuity of Jewish allegiance and perpetuation of the ideals that are our legacies as the People of Israel.

In the years ahead, our obligations toward the advancement of the basic Jewish ideals are as firm as on the day on which our initial Platform was written.

The Jewish News is grateful for the responsiveness from a community that shares with us the responsibilities toward Jewish needs everywhere, on the worldwide and local fronts. We have duties to Israel. We are obligated to encourage ever-greater cultural and spiritual devotions to our people. We have duties to our nation, state and the cities that make up this great state. We are community-wise obligated to keep the human interests uppermost in the feelings that nourish our existence.

The Jewish News commences its 31st year as a journalistic entity in a spirit of total dedication to the goals that reach out for an assurance of dignity and honorable participation by all of us in a society that firmly protects the highest Jewish and American ideals.

THE WHITE HOUSE,
Washington, D.C., March 1, 1972.

Mr. PHILIP SLOMOVITZ,
Editor and Publisher,
The Jewish News,
Southfield, Mich.

DEAR MR. SLOMOVITZ: As *The Jewish News* observes three decades of reliable journalism, I am pleased to congratulate you and your staff on your success in maintaining the high standards that this milestone reflects.

I warmly commend the creative expression you have given to a heritage that has so significantly enriched the American way of life. Your success is hailed not only by the Jewish community, but by a nation that continues to benefit from the ideals, the values and the traditions that you perpetuate.

Sincerely,

RICHARD NIXON.

AMERICAN JEWISH ARCHIVES,
Cincinnati, Ohio, January 5, 1972.

Mr. PHILIP SLOMOVITZ,
The Jewish News,
Southfield, Mich.

DEAR PHIL: I know that you are soon to celebrate your thirtieth anniversary as publisher of *The Jewish News*. I want my congratulations to be added to those you'll be receiving from all your other friends and admirers.

You have a magnificent background and have done a wonderful job. You are a newspaper man in the best sense of the term. It is my hope and prayer that you will continue for another generation to carry on the splendid efforts which have always distinguished you.

With kindest personal regards, I am,

As ever,

JACOB R. MARCUS.

PLIGHT OF FARMERS AND RANCHERS IN TEXAS

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PURCELL. Mr. Speaker, as part of a continuing effort to inform my colleagues in the Congress who are uninformed with the plight of farmers, ranchers, and cattlemen in this country and in the state of Texas, I would like today to call attention to the unheralded yet thorny problem of mesquite control and to the singularly effective crusade of a true "brush fighter"—Mrs. Carroll Koch of Quanah, Tex.

Each year the mesquite tree drains a tremendous amount of dollars from the economy of the Southwest. Although bankers and ranchers of the area know and appreciate the nature of this pest, everyday businessmen and housewives have no idea of its ultimate cost in higher prices to the consumers of beef products.

Those who benefit from the control of mesquite on the ranges of the Southwest probably owe more to Mrs. Carroll Koch than to any other single individual. From her position as publisher of the Quanah Tribune Chief, Mrs. Koch was instrumental in organizing the Southwest Brush and Mesquite Eradication Association Almost single-handedly, Mrs. Koch used her influence and her enthusiasm to focus attention on the brush control problem and to generate valuable grants and legislative appropriations for much needed research. Most of what we have learned about effective brush control methods stems from Mrs. Koch's untiring efforts.

The following article, excerpted from the most recent issue of The Cattleman, is a story not only of how the problem of mesquite control is being attacked in the Southwest, but even more significantly, it is a story of how one dedicated individual has effectively martialed available human resources for the betterment of her community, to the advantage of ranchers throughout a multi-State region, in addition to saving consumers throughout the country valuable household dollars.

Mrs. Koch's exemplary "get the job done" spirit should serve as inspiration to all, especially to the legislators of the country who bear the awesome burden of providing leadership and solutions to problems that affect our citizens and all of their endeavors.

Any of my colleagues would be fortunate to have Mrs. Koch as a constituent. Her dedication and effectiveness as a community leader help to make my job as U.S. Representative for the 13th District of Texas more efficient and more productive for all the people I represent. I submit the following article for your careful review:

RANGE—BRUSH+WATER= —THAT'S THE FORMULA THAT THIS TIRELESS LADY IS STRIVING TO PERFECT AND THE ANSWER COULD PROVE OF UNLIMITED BENEFIT TO TEXAS RANCHES

(By Bob Bracher)

A farmer, a rancher, a publisher, a water conservationist, a brush fighter and a lady—but this story is about Mrs. Carroll Koch, the brush fighter. She has worked for the past seven years on the brush control problem in the Southwest and was instrumental in bringing the mesquite brush story before the people of Texas.

Her story of brush fighting goes back to a phone call she received in 1965 from U.S. Rep. Graham Purcell to discuss "just what we could do to awaken the people in the country to a problem that is costing Texas ranchers millions of dollars a year."

This phone call resulted in an energetic lady inviting more than 5,000 people to her small ranch west of Quanah for a mesquite field day on Dec. 8, 1965. This event was attended by researchers, ranchers, businessmen, equipment companies, United States Secretary of Agriculture Orville Freeman, and a host of state and federal officials.

The significance of the field day was perhaps not noted seven years ago, but since then it has been considered the first real attempt to discuss the need for mesquite brush to be seriously studied and controlled.

"We wanted to have the largest possible demonstration to show the people everything that was being used to fight brush and show them that nothing was working," Mrs. Koch said. "And it opened a lot of people's eyes to the fact that this brush was taking a tremendous amount of money from our economy. Of course, the bankers and ranchers knew this, but the everyday businessman and housewife really didn't know how much brush was making their beef cost."

The "experiment station" on the 300 acre pasture of Mrs. Koch's farm is still in use today with about 30 plots of mesquite brush being studied by different research groups in an effort to come up with a workable control method.

"We invite any group or research-minded individuals to come out to the place and put his control method on one of those plots of brush to find an economical control for the problem," she said, 'and I would wager that there is never a week that goes by, that some group does not come by to view these experimental plots."

Mrs. Koch has received much praise for her efforts toward the brush control eradication. She was instrumental in organizing the Southwestern Brush and Mesquite Eradication Association in Quanah in 1065, and it was this organization which hosted the field day that year.

"She has probably interested more people in brush control than any other one single person," said Jay Taylor, an Amarillo cattleman. "She started out in her own community and got the Secretary of Agriculture to come down and look at the mesquite problem and help with solving the problem. I consider that the greatest contribution to highlighting the real problem of mesquite," he said. "She is a true daughter of the soil."

Dr. Joseph L. Schuster, head of the brush control studies at Texas Tech University, said Mrs. Koch "brought the plight of the ranchers to the attention of the legislators and they, in turn, took her lead and appropriated money for brush research. It was through her influence and enthusiasm that the brush problem was focused in the minds of these lawmakers and the initial research grants were obtained," he said.

Mrs. Koch became publisher of the Quanah Tribune Chief in 1956 when her husband suddenly died. The Quanah newspaper was founded by J. A. Koch's father in 1889 and then run by her husband from 1941 until 1956.

She has since entered partnership with Ed Eakin who edits the paper, and has acquired an interest in the Iowa Park Leader published by Bob Hamilton. Her third "partner" in her business operations is Bill Dollar, who operates the Nortex Offset Publication company in Wichita Falls. This company not only prints books, brochures, newspapers, special booklets and magazines, but also handles the printing of a number of weekly newspapers in the Wichita Falls area.

"My partners and I work together in a team effort to try and offer some help to West Texas agriculture," the congenial lady said. "It is really because of their dedication that I am able to go running around the country promoting brush and water programs."

But it was her ranch at Lazare that was the catalyst for her becoming interested in the mesquite problem. As the years went by she continued to notice that she was able to in less cattle on her place and after "thinking about what was causing the grazing problem, I placed that call to Graham Purcell."

The Southwestern Brush Eradication Association, which hosted that enthusiastic field day, was formed through the Soil Conservation Service and has been headed by W. C. Howard of Quanah since 1965. This association and the SCS worked together on Mrs. Koch's farm to set up the plots and encourage new control methods to be tested.

"Up until the time of that field day, there were many people researching brush control who were totally unsuccessful," she said. "In fact, half of the problem that we had was that many of the people doing the researching really didn't know the problem."

Mrs. Koch was quick to give credit to a great many individuals who were important in bringing the brush control program before the public and those who have made accomplishments toward an adequate solution to the problem, but she singled out several men who were real leaders in this effort.

"There was never a program that came along which the late J. S. Bridwell of Wichita Falls did not support," she said. "Other men who have had a major impact on brush eradication have been W. C. Howard of Quanah; Jimmy Powell of San Angelo; Dr. Joe Schuster, head of the range and wildlife management department at Texas Tech; Jay Taylor of Amarillo; Dr. Gerald Thomas, former dean of agriculture at Texas Tech; and Claude Holcomb of Quanah. All of these men have taken an active interest in these brush fighting programs and have been largely responsible for the progress which has been made in controlling it so far."

However, Mrs. Koch is not only interested in controlling the brush, but finding some way of economically utilizing the resources which it has to offer. She pointed out that she hopes to see economic utilization of mesquite in products such as floor tiles, cattle feed or maybe even furniture.

"I feel like we are so close to controlling the mesquite that we might need some little something to find that feasible control," she said. "We are going to continue needing more research on this control and certainly more research on the utilization of mesquite."

Texas Tech University is currently running a number of tests on the Koch farm at Lazare, and has employed a full-time scientist to work on those plots and similar ones in the Quanah area for brush research. Bev Herndon, the scientist who is studying the brush problem in that northwest Texas area, has a number of tests including shredding, burning and chemical treatments.

In addition to her great accomplishments in brush control, Mrs. Koch has worked diligently in promoting another of the ranchers, ever-present problems—water. She was the prime mover behind a successful project to obtain federal funding of the Thirsty Water System, a distribution system that has brought water to many farms in a six-county area of northwest Texas.

"I just happended to read in the paper where there were to be some federal grants of money for rural water systems and so we called a meeting of some area ranchers and civic leaders and decided to work on obtaining some of that money for our area," she said. "That meeting ended up in obtaining about $750,000 for this water system, which is installed today and probably the biggest influence on our ability to get this water system was U.S. Rep. Graham Purcell."

That first meeting was held on Aug. 31, 1965, in the offices of the Quanah Tribune Chief, where Fred Parkey, Red River Water Authority manager, explained the prospects of the system to concerned rural residents. Since that meeting, a water line has been extended to several hundred people in five counties in more than a 100 mile direction.

"That system was the result of a lot of hard work and by never losing sight of the goal—to bring water to rural residents where they could stay on the land," she said.

In 1966 Carroll Koch was the recipient of the West Texas Press Association Community

Service Award which is given annually by the West Texas Chamber of Commerce. In 1966 she also received the Soil Conservation Society of America's Award for unselfish service for soil conservation. In 1968 she was cited as Quanah's Citizen of the Year.

She has truly been a citizen of the year for the ranchers and livestock producers throughout the state for the past seven years in her continuing efforts to fight mesquite brush.

DISCRIMINATION AGAINST THE HANDICAPPED IN FEDERALLY REGULATED TRANSPORTATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. VANIK. Mr. Speaker, federally regulated public transportation discriminates against the physically and mentally handicapped American. America is truly a nation on the move. Mobility is the keynote and modes of transportation that are dependable, convenient, and comfortable are coming to be considered a necessity rather than a luxury. However, with increasing frequency, persons with a temporary, or a permanent, disabling condition are encountering experiences that make them only too aware that public transportation does not serve the handicapped. Some barriers to transportation seem to be inherent in the operation of the particular vehicle while others are unintentionally built in by design. Regardless of how obstacles are created, they do exist. We must help make our handicapped, both physically and mentally, part of the traveling public.

We have made our handicapped peoples invisible on public transport. We have imprisoned them in their homes, making it all but impossible for them to travel long distances or commute even short ones. We have too long been apathetic socially, and indifferent legally towards their travel problems. They have sought to use public transportation, but are faced with one prohibiting barrier after another. Everyone should have access to public transportation, regardless of physical and mental capacity.

We consider the handicapped as a tiny minority of our population. In fact, the handicapped already constitute a sizable minority at present and the numbers are growing. The handicapped, by definition, are that percentage of the civilian noninstitutional population experiencing one or more chronic diseases or impairments over a 24-month period. The Institute of Rehabilitative Medicine in New York City has suggested that by 1980, 50 percent of the American population may be disabled, suffering from chronic disease, or over 65 years of age. The years 1961-63 saw 44 percent of our population, that is, 80 million, suffering from chronic diseases or impairments.

The handicapped person is present everywhere in society. He should participate in that society as well. One reason that he has not done so is the lack of public transportation for him. It is of great shame that arms of our Federal Government have both initiated new laws and tolerated old laws which allow for discrimination against the handicapped. Federally regulated and congressional empowered agencies continue to unconsciously inhibit the progress of the handicapped in opening up public transportation for themselves.

One such situation exists in the airlines industry. The Federal Aviation Act of 1958 gives all resolutions and regulations of the Civil Aeronautics Board the full force of law, and as law, these rules remain on the books until the courts might rule them illegal in the event of a contention to the law. The CAB presently lists its rules governing the carrying of mentally and physically handicapped persons on airlines. All commercial carriers are subject to their regulations. Technically, the CAB delegates the authority to accept or reject potential travelers to individual pilots. Their decisions are subjective, and are due scrutiny, as are the CAB rules. While a variety of the CAB rules relating to the handicapped go unenforced, it has come to the attention of my office that some are being enforced. I hope to alter the present rules which discriminate against the handicapped without medical verification of their hazard to the safety of the aircraft.

The Air Traffic Conference's Trade Practical Manual insists that—

> Persons who cannot take care of their physical needs should not be transported unless, by previous agreement, a suitable attendant accompanies them.

While this regulation could justifiably be applied to one who is unable to function without help during travel, it has been grossly misapplied to those capable of caring for themselves in flight. While airlines do make an effort in assisting the handicapped in boarding and deplaning, et cetera, they fall short by requiring that all passengers in wheelchairs be accompanied by a companion, a companion paid by the wheelchair patient.

In all, about 250,000 persons in this country are confined to wheelchairs, according to the Department of Health, Education, and Welfare. Additionally, about 1.5 million must use a cane or require other assistance to get around. Many of these are the elderly, but specialists emphasize that the number of young people and those in middle age confined to wheelchairs is increasing because of the war and a high rate of automobile accidents involving teenagers. Land mines and booby traps have caused proportionately more spinal cord injuries in Vietnam than in any previous war, according to the Surgeon General's office. Through the spring of this year, more than 2,100 servicemen were paralyzed below the waist or neck in Vietnam.

Airlines have traditionally opposed the lone wheelchair traveler with the expectation that in a crash the passenger would have a difficult time in freeing himself from the wreckage. It must be noted that also applies to the nonwheelchair traveler. How many survive from a jetliner crash, much less walk away. The CAB must develop rules and regulations that will not make airline travel prohibitive for the handicapped within reasons of safety.

The following bitter experience of one wheelchair-confined potential air traveler is set forth to illustrate the kind of treatment that disabled persons frequently encounter.

During April 1971, Mr. Ralf Hotchkiss, who is an engineer and writer, was engaged to be interviewed on a nationwide radio program of the Canadian Broadcasting Co. in Montreal. Mr. Hotchkiss is physically disabled, and uses a wheelchair. He made a reservation on Northeast Airlines flight 304 from Washington National Airport to Montreal. Upon reaching the airport, however, Mr. Hotchkiss was informed by a Northeast ticket agent that people in wheelchairs were never permitted to travel alone. Having previously traveled on airlines which never mentioned this rule, Mr. Hotchkiss questioned the rule. In response, a Northeast agent informed him that while this rule had been forced on the airlines by the CAB for years, the airline had only recently been sent orders for its enforcement, in fear of some crackdown by the CAB. Mr. Hotchkiss was able to recruit two fellow passengers as "attendants," but on discovering that they were not going as far as Montreal, the airlines booted him off the plane again. The airline personnel offered to telephone CBC in Montreal to cancel his appearance. They also called the other airlines serving Montreal, American and Eastern, and informed him that they were subject to the same rule and would not be allowed to take him either. Mr. Hotchkiss was denied compensation for his ticket, the argument being that Mr. Hotchkiss, not the airlines, was responsible for his not arriving in Montreal.

The Aviation Consumer Action Project, whose object is to provide an effective voice for environmental and consumer concerns in aviation, suggests that incidents of this nature are absolutely unacceptable on the part of regulated common carriers. This incident speaks for itself with respect to the competence and responsibility of the management of the airline involved; but it is a parody of public law and an insult to the CAB that it could be attributed to the lawful mandate of a Federal agency which is supposed to protect citizens. Unfortunately, this is not an isolated incident.

Again, what is especially chilling is the fact that this kind of abuse appears to be growing more serious at precisely the time when the number of injured persons relying on airlines for public transport is growing rapidly. In addition to the civilian public, the sacrifices our military men have already made in the service of their country must not now be compounded by the crude, arrogant behavior of airlines which care more for personal gain than public service. Additionally, the recent discontinuance of rail passenger service in many parts of the country leave air travel as the only viable means of conveyance for the American public. I urge the CAB to take prompt action which will protect these people from such arbitrary and discriminatory treatment and will reaffirm the obligation of airlines to provide service for all persons.

The right of physically disabled or crippled persons to travel by air is arbitrarily curtailed and circumscribed by a tariff rule—No. 15 of CAB No. 142—formulated by the airlines and approved by the CAB. This rule, as I earlier mentioned, requires attendants for all wheelchair inhabitants. This unconscionable rule, insofar as it permits the airlines to refuse transportation to physically disabled passengers, should be removed from the files of the CAB. The rule requires such passengers not only to pay additional fares for attendants but also to give assurance that they will not ask for "unreasonable attention or assistance" from carrier employees. One pertinent issue here is whether the employees of carriers are responsible for helping passengers in need of reasonable assistance for their transportation, or whether they should be principally employed for profitmaking purposes such as the sale of sex appeal, alcohol, tobacco, and duty-free goods. I believe that the employees have the primary responsibility to help physically disabled passengers. Another airlines rule allows carriers to refuse transportation to crippled persons on the grounds that they make passengers uncomfortable.

The conditions for international travel by the handicapped person are prohibitive, and the airlines' discretion to refuse air transportation to such persons is absolute. For instance, one tariff rule allows Pan American and Braniff to accept an incapacitated passenger, allowing these carriers also to charge four adult first-class fares for one stretcher patient. Their own tariff rules indicate that the stretcher passengers and disabled persons are charged arbitrary fares without giving due regard to the space occupied by those persons.

Section 404(a) of the Federal Aviation Act of 1958 provides that—

> It shall be the duty of every air carrier to provide and furnish interstate and overseas air transport as authorized by its certificate and to establish just and reasonable rules and practices relating to such air transport.

Rule 15 of the CAB n. 142 not only disregards the admonition contained in the section 404(a), but also violates the various provisions of the act which prohibit unjust discrimination. The act never authorized the carriers to refuse transport on the grounds of passengers' body shape or physical condition. I believe that a government action permitting the exclusion of persons from the use of a common carrier facility on the grounds of physical infirmity amounts to the denial of equal protection of the law.

I would hope that the CAB institute a rulemaking proceeding to guarantee the right of disabled persons to travel by air, without being subject to arbitrary conditions imposed by air carriers, and grant such other and further relief as may be appropriate.

The Air Traffic Conferences' Trade Practice Manual also lists other regulations which are outrageous. Section 2a states:

> Persons who have malodorous conditions, gross disfigurement, or other unpleasant characteristics so unusual as to offend fellow passengers should not be transported by any member.

Who determines when these conditions offend other passengers. Persons not only with contagious, but also "repulsive" skin conditions are not allowed to fly. Who determines what repulsive means. On one airline an unaccompanied blind person may not sit next to a person of the opposite sex. Another airline will not accept the mentally retarded as passengers. Seven airlines do not even accept mentally ill passengers, while five do if the patient's illness is inactive. One airline will not accept epileptics.

While air transportation is the major mode of long distance travel in the United States, surface transportation also is an important part of mobile America.

Buslines plead lack of trained personnel in helping the passenger off and on the bus, and insist that the bus aisles are too narrow for any sort of manipulation equipment. While there is no evidence that their ruling is enforced to the letter consistently, Greyhound has an official policy that states if an individual cannot walk onto the bus on his power he cannot ride the bus. The Interstate Commerce Commission has given its tacit approval to this discrimination.

Railroads, under the ICC jurisdiction, are guilty of allowing and even fostering discrimination against the handicapped on their own carriers. The Penn Central Metroliner denies wheelchair passengers the use of its coaches, because of the storage problem, but allows for the passenger to ride in the Metroliner club cars. All of this is provided if the passenger is accompanied by a competent attendant who can handle the wheelchair and assist the passenger in all requests en route. The railroad does not provide this service. It is difficult to understand why an attendant is required for the Metroliner when it has not been a requirement on any other train service. As for the railroad's rationale that Metroliner personnel are not always in a position to render assistance, I would hope that they might put themsevles in such a position as they have for so many years on other trains.

If, the railroads have determined that it is not the job of the train personnel to render assistance to the passengers, then one would expect it to be mandatory that the railroads make this position clear by prohibiting all passengers who require assistance. This category would as a minimum include the blind and many of the aged, as well as anyone who at any time during any train trip could be expected not to be fully self-sufficient. The very least we can demand of the railroads and the ICC is consistency. They are not consistent in who they discriminate against, only in that they do discriminate.

A great part of the problem, in both the air and on the ground, is architectural. Many airports and bus and train depots pose—to those in wheelchairs—an obstacle course of curbs, stairs, and restrooms they cannot use. Restroom barriers on transport facilities for those in wheelchairs are commonplace. Taxi drivers ignore them, and subway and transit buses are designed only for people who can walk up and down steps. Largely because of pressure brought by the President's Committee on Employment of the Handicapped and other groups, specialists in the field say the problems are now getting substantial attention and that progress is being made in some areas. Federal legislation of 1969 insists upon ramps, restrooms accessible by nonambulatory persons, and other design features tailored for people in wheelchairs, to be included in all buildings constructed with Federal funds. For too long the lack of architectural facilities has been the excuse of air and surface carriers in their discrimination against transporting the handicapped. Present aircraft and some railroad cars are too narrow for some physical handicaps, that is, a wheelchair. The removal of these architectural barriers should be given consideration by future designers and builders.

The issue is one of the application of ridiculous CAB and ICC tariff regulations. They allow for the carriers themselves to widely discriminate against the mentally and physically handicapped. These regulations, I believe, are unconscionable.

Do or should carriers have a duty to provide transportation to physically disabled persons, whether or not that person is accompanied by an attendant? I believe that they do.

What conditions may or should a carrier reasonably impose on the transportation of physically disabled persons? They should review the older CAB rules, and adjust them to present realities.

I introduced legislation on December 9, 1971—H.R. 12154—to amend the Civil Rights Act of 1964 to specifically include the mentally and physically handicapped. This bill would make it illegal to discriminate against any handicapped individual and to deny him access to federally regulated transportation. This amendment will reinforce prior efforts on behalf of the disabled American by making the spirit and the intent of the law equal. We must force the CAB and the ICC to view their rulings in light of the constitutionality of those rulings.

It is my hope that this legislation, which also has been introduced in the Senate, will receive early hearings and support from my colleagues. This endeavor to insure the protection of the legal and constitutional rights of our citizens is an effort that deserves the support of all Americans.

SURFACE TRANSPORTATION ACT

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DORN. Mr. Speaker, the Surface Transportation Act is supported by the Association of American Railroads, the American Trucking Association, and the Water Transport Association. The following concurrent resolution was unanimously adopted by the South Carolina General Assembly. I commend it to the

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attention of my colleagues in the Congress and to the American public.

A CONCURRENT RESOLUTION

To memorialize the Congress of the United States to enact the Surface Transportation Act of 1971.

Whereas, the present and future needs of the United States for a stable and an expanding economy require the smooth functioning of a balanced surface transportation system making the best possible use of all modes, rail, highway and waterway; and

Whereas, there is perhaps no single industry upon which the economy of this State and Nation depends as much for its growth and even its continued functioning as surface freight transportation; and

Whereas, much of the surface transportation system is today in a precarious financial position which impedes its ability to modernize and to meet increasing needs of both shippers and consumers alike; and

Whereas, existing federal policies relating to regulation and financing have lagged far behind and have impeded the progress and health of the transportation industry; and

Whereas, the need for revising and modernizing the regulatory laws affecting all modes of surface transportation has been recognized for many years, and numerous proposals for such revision have been advanced and considered by the Congress; and

Whereas, the Association of American Railroads, the American Trucking Association and the Water Transport Association are unanimously supporting this legislation.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Congress of the United States is hereby memorialized to enact the Surface Transportation Act of 1971.

Be it further resolved that copies of this resolution be forwarded to each member of the South Carolina Congressional Delegation in Washington.

POW/MIA WEEK OF CONCERN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, the President has proclaimed this week POW/MIA Week of Concern.

All Americans recognize the courage and sacrifice of the more than 1,600 men who are currently either prisoners of war in Indochina or missing in action. Their families have suffered the heartache of being separated from their loved ones for as long as 3 years.

It is my hope that this week will be more than a week of prayer and of concern for POW's and MIA's. Rather it should be the beginning of a new effort on the part of our Government to negotiate a fair and equitable agreement that includes the release of all of our POW's and an accounting for all of our MIA's.

All Americans want the POW's released. All Americans join with the President in expressing their concern and prayers for the fate of the POW's and the MIA's. And I am sure that most Americans hope that the United States will resume regular negotiations with the No. 1 topic of discussion being the release of our POW's and an accounting for MIA's.

INTERVIEW WITH OLIN "TIGER" TEAGUE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BELL. Mr. Speaker, in light of the much-deserved praise and often uncalled for criticism that our space program has recently received, I think it appropriate to enter in the RECORD an exclusive interview with my good friend and colleague, OLIN "TIGER" TEAGUE, which appeared last month in the North American Rockwell publication, Skyline.

Because of his brilliant war record and the extremely important role he has played in the advancement and success of our space program, TIGER has justifiably earned his nickname.

Both his commitment and expertise in this area enhance the value and interest of this informative exchange. I therefore urge a careful and thoughtful reading of TIGER's eloquent discussion of the relevance and significance of our role in space for both the Nation and the world.

The interview follows:

INTERVIEW WITH OLIN "TIGER" TEAGUE

Q. Through the 1960s, there was a continuing, strong sense of public pride in our space program; an exhilaration that culminated, magnificently, with Apollo 11 in July 1969. Since then, however, with the brief exceptions of subsequent moon flights, apathy has set in, or worse—the program has been subjected to abuse and attack. People either aren't interested at all, or openly challenge why space money isn't spent elsewhere. In the restructuring of national priorities, space has slipped close to last.

What are the causes of this phenomenon?

A. It is important to point out that, in my view, several space myths have grown up in the last several years. First, I am convinced that the general public still strongly supports our national space program. The apathy, abuse and attacks come from a small group of people. However, that group is vocal and articulate, and it has seriously damaged our space efforts reducing the support available to it and delaying the start of crucial new programs.

There is much talk of national priorities and of restructuring them. I believe our priorities should be put into perspective. Space expenditures have never exceeded four and one-half percent of total annual federal budget outlays, and this percentage has steadily declined since 1966. Today, funds for the national space effort are less than one and one-half percent of total federal outlays.

Q. Even so, why shouldn't the space priority be down-graded throughout the seventies, or until the time more pressing domestic problems can be remedied? If we diverted all space money to these problems, wouldn't it solve them?

A. The vast majority of our federal funds *are* directed to the solution of our national problems. In 1971 over $70 billion was, I believe, necessarily spent on national defense. In the areas of health, commerce, transportation, education and welfare benefits and other services and agricultural development we spent approximately $95 billion.

In 1971 we spent about $3 billion in space research and development.

I do not see how we could further downgrade space in terms of national support. It already commands a relatively low level of effort. Solutions for our domestic problems require a large amount of money along with new ideas and technology. This in turn is dependent upon a strong and expanded economic base. To promote an expanded economic base requires adequate support of research and development to create the new and more efficient processes, materials, tools, and techniques needed to solve our day-to-day problems.

Those nations in the world which do not persevere in research and development programs are, at the same time, those which fail to develop an economy which adequately feeds, clothes, educates and houses its people.

To those who ask 'why we spend money to explore space when there is so much to be done right here on earth,' I reply there was plenty to be done in Europe when Columbus first sailed. And there is still plenty to be done there. *If Columbus had waited until Europe had no more internal problems, he would still be waiting!* But the opening of the New World did more to revive the European culture and economy than any internal actions could possibly have done.

Our nation's accomplishments in space should serve to inspire a reawakening of the American spirit and a rebirth of our national pride.

Q. What then needs to be done to rekindle interest and support of the program?

A. What is needed to get public support is for people to realize the vast amount of knowledge, skill, and new technology which has been made a part of our daily lives in the last decade as a result of the space program. We also need to let people know what the consequences of not remaining the technological leader of the world will mean.

If we provide the proper leadership to the program, public support will be there. Notwithstanding this, NASA and the aerospace industry need to bring the message of the contributions of our national space program more forcefully to the public.

For instance, NASA has a continuing technology utilization program. It provides a means by which space-generated ideas, equipment and the techniques can be made available to American industry. We need to do more, however, in this area.

There are at least two things that industry can do to help achieve this: first and foremost—to do a good job on the programs they are undertaking now. Nothing can take the place of work well done. In this regard I believe that the aerospace industry deserves high praise. Industry also needs to bring the space program, its difficulties, and achievements to the public. By freely providing this information I am convinced that the American public will support our national space effort.

Q. As taxpayers, then, what specifically are the American people getting for their space dollar? Can such benefits be tangibly measured? What do you tell your Congressional constituents who doubt?

A. First and foremost, every dollar spent on our national space program is spent right here on earth. At its peak, 42,000 people in industry, universities and NASA were working on our space effort. If you apply the standard multiplier of approximately five, that represents about two million people directly or indirectly benefiting, and I believe that is a conservative estimate of the short term gains from our space program.

Perhaps the best way to discuss this is to consider our largest exports which are jet aircraft and computers. Both of these products come from the aerospace field and have depended on the research and development from the aerospace industry. For the United States to continue to be a world leader in these industries requires continuous growth in research and development. Our aerospace industry provides that growth. More importantly these are jobs creating industries. To many this is the way to measure what the significance of our space program is—by the way it creates jobs not only directly in the space program but in the industries which surround it.

In talking with the constituents in my district I try to tell them these things, and, frankly, most of my mail is in support of the national space program. The mail that I receive is not just from my district but from people throughout the country, and in general it says, "Let's get on with the space program."

Q. You mentioned earlier the need to inform the public of the consequences of the United States *not* remaining the technological leader of the world. If the space budget is slashed to the bone, what could be some of the consequences?

A. I am convinced that the space budget *already has been* slashed to the bone. We are not doing the things either for the short range or the long range that need to be done to maintain our technological edge and to assure the maximum benefits from the investments we have already made.

As a nation, we are in a position to capitalize on our first decade in space by providing this country and the world with a low cost transportation system that will open new opportunities for Earth oriented applications as well as the additional scientific investigation. Near-space can become a place of commerce. For example, it is well known today that several manufacturing techniques could be developed in space and would be profitable, perhaps not alone but in combination. Crystal growing for industrial applications . . . refining of certain materials for industrial applications . . . improvements of vaccines by "zero G" processing—these techniques use the unique characteristics of a "zero G" laboratory which cannot be achieved here on Earth.

This new capability, I believe, will provide advances in processing materials that today we cannot envision. All of these will have high potential and high return if we choose to develop the ability to manufacture in space. In addition to this, Earth resources surveys both with automated and manned spacecraft can directly improve man's living.

It is time we proceeded with these important, and ultimately essential programs which will not only improve the living of the people in our country but the people of the world. Continued reductions in our national space effort, in my view, eventually will make the United States a second rate nation.

It should be recognized, too, that this nation needs a sound technological base—sort of a technology bank. This bank must be replenished on a regular basis. Our space program is a major contributor to accomplishing this aim. Without this nation continuing to penetrate the technological frontier, our ability to improve our living standards and compete in the world market will be damaged.

Q. You have been quoted as saying "space vehicles could be used for interception and inspection, surveillance and other missions for which high performance aircraft are now used." What should be the future of the military in space, and what are the consequences of not developing this capability?

A. Our National Space Act of 1958 specifically directs NASA to furnish the results of its research and development to the Department of Defense. With the reduction in the military space effort as well as that of NASA, remaining space research and development becomes of even greater importance. Certainly the military has a role in space.

I am convinced that because the United States has been a major sea power we have contributed to open use of the seas by all nations. I am equally convinced that *only* so long as the United States is a major space power will the free use of space be available to all mankind. Space today is the "high ground" militarily. To abrogate the field to a potential enemy is to court disaster.

Q. With Sputnik, 14 years ago, Russia shook the U.S. and triggered our active involvement in space. We then passed the Soviets with a great technological surge and beat them to the moon.

Now our space effort is slowing and theirs is accelerating—the tortoise and the hare. If they leapfrog us and we declare a crash program would not that be far more expensive in the long run than if we continued at a steady pace? Can we not profit from history?

A. Yes, I think we have to profit from history and remember the shock of Sputnik. But the pace of technology has accelerated since the days of Sputnik and attempting to catch up will be more difficult in terms of human and natural resources. What I am saying is that if we continue to fall behind in our technological efforts, particularly in space, it may become so expensive and time-consuming that we will not be able to retrieve our position.

Q. In this vein, should we declare a new national space goal, such as Kennedy did in 1961 when he announced the manned lunar landing commitment?

A. I believe we should be establishing several goals which comprise building blocks for a strong continuing space program. The keystone to those building blocks is low cost transportation to space—the space shuttle.

(Editor's Note: Shortly after Congressman Teague was interviewed, President Richard Nixon gave NASA the okay for development of the space shuttle system. He said the shuttle "will revolutionize transportation into near space by routinizing it. It will take the astronomical costs out of astronautics.")

Beyond this can be built a number of important scientific and technological programs which include planetary exploration, additional lunar exploration and use of the moon as a space observatory and space base and near-Earth applications such as communications, weather prediction and ship and aircraft navigation.

Q. After Apollo, why will we need man in space? The Russians sent unmanned craft to the moon. Why can't mechanical satellites do the job as well and cheaper, as, for example, they do via communication and weather satellites? Why is man necessary to the further exploration—and exploitation of space?

A. I really think that is a wrong question. It seems to me that the right one is: "What is it we wish to do in space and how best can we do it?" In some cases, such as communications and weather satellites, it has made sense to use a completely automated spacecraft. That may or may not be true in the future. In other areas, such as resource surveys and applications, some may lend themselves to automated *or* manned effort.

It makes more sense to me to decide it on the basis of the missions to be accomplished rather than on some arbitrary and artificial division between manned and automated spacecraft. *The essence of exploration in my mind indicates the anticipation of man.* He is not preprogrammed. He can make decisions, changes, and can generally adapt to unknown situations. Man, therefore, is an integral part of exploration.

Q. You have mentioned the need for a manned space shuttle system, a whole new transportation concept. Why do we have to have a new system. Why can't we extend the ones we have?

A. I have heard it said many times that every major high-technology program stands on the shoulders of past scientific and engineering giants. This certainly is true of our space program. In 1961, as a layman, I was convinced from talking to those who were experts in the program that we could not build a space shuttle. It was technologically beyond our capability. By having developed hydrogen-oxygen rocket engines, by having developed the ability to operate and navigate in space, by having the ability to operate complex ground based systems, we have established the building blocks necessary for a more complex technology.

My understanding of the shuttle is that it will be simpler to operate, even though it will be a more complex vehicle. This is much like our colored TV sets today which are more complex than our black and white sets, but have been simplified as far as operation is concerned. The shuttle represents a reduction to practice of the complex concepts that we successfully utilized in our first decade in space. It seems to me, in fact, that the low cost shuttle is the answer in our space program. Not only does it eliminate a large inventory of costly throw away vehicles but it introduces a new degree of flexibility into the way we do our work in space.

Whenever we provide greater access and mobility in a new frontier, whether it be the far West of the 1800s or space of the 1970s, new ways are found to utilize that frontier. A low cost transportation system is the major part of the answer to a low cost scientific exploratory and near-space applications programs.

Q. Development of the shuttle system has aroused some criticism in Congress. What chance does it have for approval?

A. Criticism of the shuttle from a limited group has been loud. I believe that if NASA provides consistent and understandable goals for the shuttle as well as other space programs they will receive Congressional support. However, this will not come without hard work and effort on the part of NASA, the Administration, and Congressmen who believe in a strong national space effort.

Q. What about cooperation with the Russians? Will we team up on future space flights?

A. Both the Soviets and the United States have learned a lot about space in this last decade. Eight years ago I would not have considered it useful for the Soviets and the United States to attempt close space cooperation. However, since then NASA has cooperated with over 78 countries in space research and flight programs. This cooperation has been a useful two-way street to the nations involved.

As you know, NASA and their Soviet counterparts have been seriously discussing and exchanging information on a possible international docking capability. This could lead to an American spacecraft docking with a Russian spacecraft or space station or the Soviets docking with one of our spacecraft or space stations in the future.

I feel this is an appropriate time to fully explore this possibility so that we may have joint rescue capability in space and may be able to find mutually significant reasons for cooperation in space on a direct basis.

No matter what we may do, it is worthwhile to note that the Soviets consider this an important undertaking. There is good reason why they value their national space program. It would be a serious mistake for us to do less.

Q. A final question: Will space ever return its investment on the same magnitude that the development of commercial aviation did?

A. Yes, in many ways. One that we all see today is the communications satellite. In less than 10 years we have revolutionized worldwide communications. Communications satellites represent a direct dollars and cents improvement over earlier methods of transmission of information. As our population expands and our needs expand in the future the only way that we can fulfill our com-

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munications needs will be with the application of satellites. Navigation satellites also are available today to our Navy and it is only a matter of time before our traffic control and commercial sea-going vessels will use navigation satellites.

It is interesting to note in the communications area that our COMSAT Corporation had operating revenues of almost $60 million. Yet it was less than a decade ago that COMSAT was organized for the purpose of developing a commercial communications satellite system. Already slightly over $200 million has been invested in COMSAT—an entirely new industry providing new jobs and opportunities in this nation and throughout the world.

Through Earth resources surveys it is possible from low Earth orbit to determine the size of oil slicks at sea and with only slight modification Earth satellites can report world-wide air pollution. Information on the gulf stream has already provided fishermen with improved fish catches. Photographs from the earlier Gemini program have helped identify large reserves of natural oil and gas in Saudi Arabia.

However attractive these may be, a low cost transportation system to space is needed to make them reach their full potential.

Another return that is difficult to measure is the added capabilities that we have achieved through communication satellites and weather satellites which I have already mentioned. Here we add a whole new dimension to world commerce.

Jobs and new income are created by it and living standards improved by it. In these kinds of areas there is a multiple return on the investment which we have already received and which appears to me to far outstrip the relatively small investment we have made to achieve it.

I have great faith in the return on investment achieved and promised by our national space program. We have only to look back the length of two generations to see what has happened to commercial aviation. From Orville and Wilbur Wright's initial flight to the 747 is technologically the same kind of jump as from Sputnik to the Apollo 11 lunar landing.

STATEMENT AGAINST THE CONTINUED EROSION OF OUR FEDERAL INCOME TAX BASE, PARTICULARLY BY HIGH-INCOME INDIVIDUALS

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. SIKES. Mr. Speaker, early in 1969 former Secretary of the Treasury Joseph Barr testified before the Joint Economic Committee that unless we make major reforms in our income tax soon we would face a taxpayer revolt. He further stated that the people were particularly angry over the fact that 155 taxpayers in 1966 with incomes over $200,000 paid no income tax.

Recognizing that this was an intolerable situation, the Congress enacted the Tax Reform Act of 1969, which was generally regarded as one of the most substantive and comprehensive income tax reform laws ever enacted.

Yet, preliminary figures show that in 1970 there were still 104 individuals who had incomes over $200,000 and paid no income tax and there are many others who pay such minimal taxes that their contributions to the Treasury are laughable. There are many high-income corporations that are in exactly the same situation. There are foundations which are fattened from income which, in reality, should go into tax revenues and which produce little in the way of useful accomplishments.

How much longer can we allow high-income individuals to use tax shelters and erode our tax base? Such practices make a sham of the published schedule of tax rates at which individuals are supposed to be paying their income tax. For example, the current rates start at 14 percent and rise to 70 percent. However, tax experts have shown that the top effective rates are actually closer to 40 percent when we take into account incomes received by the high-income persons but not subject to income tax.

Actually, the income tax base is seriously eroded in the case of all income level taxpayers. A comprehensive income tax base, it is estimated, could reduce substantially the present rates, provide a more equitable tax structure, and create a sounder fiscal base on which to derive our present level of revenue.

While we can justify some of the exemptions and deductions in the tax laws, such as those which permit families with poverty-level incomes to be free from income tax, we certainly cannot condone large-scale avoidance by the wealthy. They must pay their fair share of taxes if our tax system is to be fair and sound. They have been benefiting too long from a host of tax preferences which the Tax Reform Act of 1969 in some instances attempted to remedy. It is obvious that the act did not go far enough and the Congress must take action to provide further corrective measures.

No one likes to pay taxes but people like it even less when they realize that there are tax dodgers who take advantage of loopholes which are not available to ordinary people and who, as a result, pay little or no taxes.

VIETNAM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BIAGGI. Mr. Speaker, 8 long years have passed since our first heroic man was taken as a prisoner of war in Vietnam. Eight years: During that time, two presidential elections have occurred and America has progressed from circling the globe to walking on the moon. We have seen children grow from infants into their preteens. It is hard to believe that some Americans have been in enemy prison camps since 1964—but it is true.

They remain there in desolation and discomfort, too often forgotten by their fellow countrymen. It is difficult for most Americans to identify with the daily struggle of these men, a struggle far more devastating to one's body and soul than the one they faced on the battlefield: They are confined and isolated, cut off from family and friends in a hostile and threatening environment. They live from day to day and they wait—for scraps of news about their release, for some indication that they soon will be free and back home. Meanwhile, our POW's live in a state of limbo, confident they are not forgotten, but without assurances that they are, indeed, remembered.

Here at home, their families wait and hope, often not knowing if their loved one is dead or alive, wounded or well, or if he will ever return. Their children must grow up without fathers, their wives must continue without husbands. The wives and children live in a world of hope and courage—confident that their patience will not go unrewarded.

For they have been patient, and perhaps for too long. The time has come to bring these men home. We must dedicate ourselves to the task of obtaining the release of our POW's. Let us vow that 8 years will not turn into 9.

This is not a partisan issue. Nor is this a question of "hawks" versus "doves": it is a fundamental issue of humanity. We must make our determination and concern felt in the White House: Let us tell the President that on this issue there can be no compromise.

But more than that, we must make our determination to free our men known in Hanoi. Today, we have an opportunity to do just that. The President recently visited Red China; he intends to visit the Soviet Union in the near future. Both of these nations have shown signs of "accommodation," of a softening of their attitude toward the United States. So our leverage, our bargaining power with them, is at a peak. What better time is there than now to exert pressure on the nations closest to Hanoi, on those nations most likely to influence the decision-makers in North Vietnam? We must make clear to President Nixon that POW's should be a high-priority item in his discussions with Peking and Moscow. And President Nixon should make clear to those Communist powers that America considers the release of its captured men one of its most pressing concerns. One of the chief aims of any and all negotiations must be to secure the freedom of those courageous soldiers. I know that my colleagues will join with us in this effort.

The POW issue has been a low-priority item for too long. Most of us have been so demoralized and disturbed by the conflict in Vietnam that we no longer want to think about it. Our participation in the war seems to be winding down, so we think about other things. But we cannot yet afford to do that.

These men are perhaps the most important men who remain in that strife-torn area. We owe it to them and to their families not to forget them, and not to desert them in their time of greatest need. Our attitude today cannot be one of complacency, one of relaxed indifference now that our combat troops are being withdrawn. We must redouble our efforts to free our POW's, for now is the time when they need us most.

How must they feel, knowing their brothers are returning home while they remain? How must they feel, when they hear reports that America's commitment in Vietnam is ended, but they are still there? How can they feel anything but loneliness, despair, even desperation?

It is our obligation to help these valiant men: not tomorrow, not next year, but now, using all the diplomatic tools at our disposal. I hope that my colleagues will join with me in keeping the pressure on the President to find alternatives and to seek initiatives in this area. We must stand as one on this issue. This is an issue that cries for our attention; we can do no less than to answer that cry. We owe at least that much to the more than 1,600 men who are prisoners of war in Vietnam.

CLEMSON UNIVERSITY LEADER IN ENVIRONMENTAL RESEARCH

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DORN. Mr. Speaker, Clemson University is a national leader in applying scientific advances in new and exciting ways for environmental improvement. Clemson University is making a magnificent positive contribution to environmental improvement. This splendid progress is another tribute to Clemson University's dynamic president, Dr. R. C. Edwards, and is in the great Clemson tradition of leadership. The following excellent article from the Keowee Courier, Walhalla, S.C., describes research being carried out in Clemson's ceramic engineering department concerning the commercial feasibility of using scrap and waste glass to manufacture bricks.

BRICK FROM OLD GLASS—CLEMSON EXPERIMENT

CLEMSON.—Considering the abuse it takes, it must be among the most unwanted things in the world.

Americans burn it, bury it, squeeze it into small, neat bundles and throw it away, and spend millions of dollars annually on new ways to get rid of this environmental cancer of affluent living.

Apparently no one has any use for garbage, alias trash, or the more pleasant sounding "in" term, solid waste. But American ingenuity appears on the verge of changing this because someone has found there is some good even in garbage.

The problem, perhaps oversimplified, is how to economically separate the good from the bad on a large scale basis so certain materials can be recycled or reused. Government testing on new garbage processing systems hints that the age-old outcast of society is already in for better treatment.

The potential of one component of processed garbage—mixed scrap glass—as a useful material in the brick manufacturing industry has captured the research interest of Clemson University's ceramic engineering department for the past three years.

Preliminary results on the feasibility of using waste glass as a major part of the brick material mixture indicate that Americans may literally find a place in their homes for some of the refuse now being discarded.

Ceramic engineering students under the direction of Prof. Gilbert C. Robinson, department head have just completed a short-term project for the U.S. Bureau of Mines which is looking at brick manufacturing as an ideal area to dispose of large quantities of waste glass.

Working around the clock in three shifts, ceramic engineering students fashioned some 2,000 bricks on a manually operated press. The bricks were fired in a tunnel kiln in Clemson's laboratories for 15 hours at 1,580 degrees F., then shipped to the Bureau of Mines experiment station at Tuscaloosa, Ala., for a variety of tests.

The Bureau of Mines supplied all raw materials for the project, 7,000 pounds of an impure scrap glass mixture obtained from the incineration of garbage, and 3,000 pounds of clay. The Bureau specified that the bricks be made of 70 per cent glass and 30 per cent clay.

Robinson said the glass brick project is part of a larger comprehensive study by the Bureau of Mines and others to find new solutions to the nation's growing solid waste problem. They are experimenting with a garbage disposal system in which mixed garbage can be separated into useful, individual components, including waste glass which would not be desirable for reuse in making glass containers.

"We believe that scrap glass can be developed into a valuable raw material for the brick industry," said Robinson, "but whether or not glass brick will be competitive in costs with present brick is not known because studies on the cost of preparing scrap glass are incomplete."

He said part of the final cost will depend on the proximity of the brick manufacturing plant to the glass source. This cost uncertainty has led Clemson researchers to pursue an alternate approach to using glass in brick making.

Robinson and Clemson's ceramic engineering department wants to determine how little glass can be used rather than how much. A small quantity such as two or five per cent may give brick manufacturers the necessary incentive to use scrap glass, he said.

Clemson research has shown that addition of a small amount of powdered glass to the mixture actually improves properties of natural raw materials used in brick making.

Many natural clays contain glass forming constituents which are an important link in the manufacturing process. During firing, these particles develop a glassy liquid which is mainly responsible for sealing and reducing the size of the brick's pores, as well as determining its strength, coloration, and other valuable properties.

Other naturally occurring clays, however, are deficient in these glass formers and the manufacturer must make adjustments in the raw materials to get a product which meets desired specifications.

"Addition of a small percentage of powdered scrap glass to deficient natural materials could solve a real problem for manufacturers in production of certain types of brick," said Robinson, "by improving properties of the brick and reducing manufacturing costs."

With only a two percent addition, bricks can be fired at lower furnace temperatures of product strength can be increased at present firing temperatures, said Robinson. Also, various color shades can be obtained by altering the quantity of glass in a mixture.

Whether or not reclaimed glass will be a panacea for the industry must be decided by further research. And Robinson said Clemson has plans for a detailed, in-depth study to refine present knowledge and answer many other basic questions on utilization of scrap glass in bricks.

REFLECTIONS—THE NEW JUSTICE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HARRINGTON. Mr. Speaker. We witnessed much turmoil in the past 10 years. There has been an alarming amount of violence, in life and fiction. Crime was on every citizen's mind. Protests and marches were a daily phenomena. History tells us that in such times, the tendency is not only to seek peace and order, but to seek it at all costs. We are witnessing today, a search for an order at the expenses of our civil liberties.

Over the cause of the present administration, the Justice Department has treated us to a myriad of new rules, statutes, and regulations designed to bring back the older order. Criminals are swiftly wisked into jail until trial so that the streets will be safe once again. Police are given a free hand with "probable cause" to protect us once and for all from the forces of evil. Agents are sent to infiltrate our groups and our privacy to restore a political order conducive to right-of-center bliss.

This is a false order Mr. Speaker. There is no easy "once and for all" in terms of remedies for the most main problems facing us today. Although our campuses are quiet, our students are still burning with latent rage at the insensitivity of the present administration to war, poverty, and discrimination. Organized crime is still spreading its greedy arms into the safest of communities and enterprises. And criminals, whose punishment is now emphasized over rehabilitation, are no fewer in number or less inclined to crime than before. And what we have lost in the process is the vital center of democracy, the recognition that no matter how repugnant a thought or action might be, the citizen involved must be guaranteed to the fullest extent his freedom of action and his civil liberties. Civil liberties must not be offered begrudgingly, or else they mean little when it comes right down to protecting them. Love of the Constitution, and its Bill of Rights, must be paramount. In the present administration it is not. Protection of civil liberties is in the hands of the Justice Department, and I for one, Mr. Speaker, am not happy with their enthusiasm for full freedoms and protections. Order seems to have taken a large bite out of the law. I have seen no better documentation of that bite than in this month's New Yorker magazine, in an article by Richard Harris. I insert that perceptive review in the RECORD and commend it to every Members attention.

The article follows:

REFLECTIONS—THE NEW JUSTICE

Although some conservatives in this country cling to the belief that Communist conspirators still pose the gravest internal threat to the United States, the most astute and practical-minded members of the right wing have long since concluded that the domestic

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Cold War is more or less over, and have swung their fire toward a new enemy—the criminal and anyone who is "soft" on him. They have much to gain by the switch. For one thing, unlike Communism, the widespread existence and the alarming growth of crime in America directly affect, or can easily be made to seem to directly affect, just about everyone. For another, the scope of what once was considered to be criminal behavior has recently been broadened in the public mind to cover a large number of activities that only a few years ago no one except political hysterics on the extreme right would have viewed as truly criminal—civil disobedience, the expression of political dissent through demonstrations, and, at times, even harsh criticism of the government.

Since most people are personally afraid of the mugger, the robber, the rapist, or the murderer and are generally distressed by social discord, politicians who promise most in the way of soothing private fears and restoring public order have a far better chance of changing the shape and direction of society, or of stopping the kind of change they don't like, than they ever had when they relied on an ominous-sounding but vague Red menace to frighten the people and to intimidate moderate and liberal leaders.

Phrases like "handcuffing the police," "coddling criminals," and "allowing the depraved to roam the streets at will and prey on the innocent" have a far more immediate appeal to the average person who is unhappy about society, probably without quite knowing why, than all of Senator Joseph R. McCarthy's murky fulminations against "the minions of Stalin" in the State Department "who have been betraying this nation," which so inflamed the populace twenty years ago.

There are some signs—clear but not clear enough to constitute evidence—that the "crusade" or "war" on crime has been and continues to be used by officials of the Nixon Administration, particularly of the Justice Department, to alter what has long and widely been accepted as the fundamental nature of our society. The danger today is not only that the Constitution will continue to be violated by the government, as it has been repeatedly in the past couple of years, but that the present Administration will rewrite the essential protections contained in that document, with the consent of the governed and the agreement of Congress and the Supreme Court, in the name of private and public security. While some revision of this kind has already been made in recent years—to a critical extent in certain areas of civil liberties—it would be rash to conclude that the nation is in the grip of a repressive and authoritarian regime.

At the same time, it would be equally rash to ignore the realities taught by history. Chief among them in this regard is that every government tries to increase its power at the expense of the individual, because at all times and in all places there are government officials who *know* what is best for the people and are determined to impose it on them for their own good.

Radical movements typically select a powerful and terrifying foe on whom they can heap enough blame for what seems to be wrong with society to conceal what is actually wrong. Over most of the past half century, the threat of Communism provided such a screen for the right-wing movement in this country. Many of its members were also convinced, by no means incidentally, that the Communists would separate them from what they so cherished—their property. Dire as that threat seemed, it scarcely compares, in depth or breadth, to the kind of fear that assails millions of citizens today who feel that they may be separated at any time from property, security, and even life.

Conservatives have always used government to prevent change, and since the backbone of conservatism is made up of a series of economic vertebrae—from hatred of taxes to disapproval of all welfare—it was perhaps inevitable that among the many advantages those on the right could expect to gain from the new conservatism would be its power to forestall large economic changes. Liberals are probably correct in claiming that the foster parents of most criminals are slum life and hopelessness. But conservatives are certainly correct in sensing what an alarmed public wants—something to be done *now* about crime. And doing something now does not include mounting an immense rescue mission for the poor, who commit most of the violent crimes that frighten people.

That kind of reform would cost too much money and would take too long, even if it were politically and socially desirable, and for conservatives it isn't. Rather, they say, the solution lies in enacting stricter new laws, applying unused old laws, imposing longer sentences, and making prisons so disagreeable, despite all the current talk about prison reform, that their occupants won't want to be sent back to them once they get out.

For some years, Richard Nixon has been the leading proponent of this view. In the 1968 Presidential campaign, he repeatedly called for a crackdown on lawbreakers, and offered his solution: "If the conviction rate were doubled in this country, it would do more to eliminate crime in the future than a quadrupling of the funds for any governmental war of poverty." Since today's prisons and jails are vicious crime factories, doubling their occupancy now would actually insure that twice the number of hardened criminals would be returned to society in the future. Still, Mr. Nixon's course has one virtue—it is cheap. Compared to the costs of reconstructing the country's major cities, building thousands of schools, and creating millions of jobs, the cost of doubling the capacity of the country's "correctional facilities" would be virtually invisible.

Most urban robberies, rapes, and homicides in this country are committed by men under the age of twenty-five. In a composite portrait of the kind of young man who commits them, the President's Commission on Law Enforcement and Administration of Justice has described him as "likely to be a member of the lowest social and economic groups in the country, poorly educated and perhaps unemployed, unmarried, reared in a broken home, and to have a prior criminal record." Other studies add that he is likely to live in a city and to have a grievance against society, especially against the police, with no constructive way of working it out. All this describes not merely the average young criminal but a very large number of young black men today.

More than half of the black people in the United States are under the age of twenty-five. According to the Bureau of Labor Statistics—whose figures have been criticized as being far too low in this area— roughly fourteen percent of black men of all ages are unemployed or underemployed, compared to half that percentage for white men. And thirty-one percent of all black teenagers have no jobs at all. From 1966 to 1975, the number of youths between the ages of fourteen and twenty-four living in black slums—the group with the highest crime rate—will have risen by a staggering sixty-three percent. That presages not an increase in the flow of crime but a torrent.

Inescapably, the poor commit crimes, sometime out of resentment, sometimes out of laziness, or sometimes out of need, but most of all because they live in a society where they find little besides poverty, sickness, and violence and are rarely exposed to any traditional moral standards. Today, most of those who commit the crimes that are most feared—assault, rape, murder—are black, and most of their victims are black, too, although by now enough violence has spilled over into white neighborhoods to make it a political problem. (A dozen years ago, Nathan Sobel, Chief Judge of the Kings County Court of General Sessions, stated that the majority of crimes committed in Brooklyn were the work of young Irish Catholic men.) If a third of all young black men cannot get work and cannot earn enough money, say, to buy a suit of clothes or even enough to take a girl out for a movie and a glass of beer, they are likely to steal. And if they have little hope of ever getting a decent job, they will likely turn to drugs to ease their frustration and bitterness.

Then, of course, they will have to steal more. Since very little is being done to provide training or work for them, the results seem inevitable. And since these figures are no secret, the Nixon Administration seems to be purposely following a course—malignant neglect, one might call it—that aggravates rather than alleviates the major cause of crime in America.

When the plight of the poor, particularly the black poor, became unavoidably clear to white Americans a decade or so ago, Congress enacted a greater number of effective civil rights laws in half a dozen years than it had in the previous century—most of them aimed at ultimately improving the social and economic lot of the deprived. No doubt part of this response was caused by fear that the poor, particularly the black poor, would take what they had been denied for so long if it wasn't given to them.

The great civil-rights demonstrations of the early nineteen-sixties showed their determination, and the riots of the late nineteen-sixties showed their desperation. The ordinary white citizen was alarmed and sickened by the brutal repression at Selma, but as time passed he was also alarmed, and then frightened, when a black family moved into his neighborhood and the value of the house he had worked for plummeted, or when he found that a black man was after his job, or when large sections of cities were burned and looted by blacks, or when he discovered that most street crime was black crime. If these factors did not make him an out-and-out racist, they made him often act like one. And they also provided politicians on the right with an opportunity to lure such citizens, mainly lower- and middle-class white-collar workers and skilled laborers, away from their traditional support of the kind of liberalism that promised more for "the little man." After all, who was the little man now?

In the view of William F. Buckley, Jr., conservatives are realists above all else. Compared to most liberals, they are—at least, in the short run—for they are usually more practical planners, more capable managers, more willing to compromise differences among themselves for the sake of a common effort, and less given to prima donna posturing to proclaim their integrity and independence. (Liberals have held a numerical superiority in the Senate over the past decade or so, but they have a far poorer record of achieving their ends than the conservatives there.) Primarily, though, conservatives are more realistic because they have such a low opinion of humanity, and are willing to put it to use.

One way they have put it to use politically is by nurturing the white man's fear of the black man—a very deep, perhaps ineradicable, fear by now—as the seed of their grass-roots support. Barry Goldwater planted the seed during his 1964 campaign for the Presidency, and Richard Nixon harvested the crop in 1968 by repeatedly promising in the North that he would crack down on those who committed crime or fomented disorder and by repeatedly implying in the South that he would slow down the pace of desegregation. North and South, the message was the same: black men would be controlled.

If demands for social reform were to be silenced through exploitation of whites' fear and resentment of blacks, the agitation for civil rights for Negroes had to be discredited.

One way to accomplish this was to equate it with crime. By now, the equation has been drawn and accepted by many people. "I suppose it was almost inevitable that 'law and order' got mixed up with civil rights," former Attorney General Nicholas deB. Katzenbach wrote in 1969. "It had been, after all, the plea of the white segregationist. To compound the connection, 'law and order' was also the catchword of Barry Goldwater, who voted against the 1964 [Civil Rights] Act, and George Wallace—the segregationist hero—in the 1964 and 1968 Presidential campaigns. It was, too, Senators McClellan and Ervin and Thurmond—fervent segregationists and strong critics of the Court's civil-rights decisions—who led the legislative battle to curb the Court on criminal procedure." Those procedures governed treatment of criminal suspects and defendants, the bulk of whom, again, were black.

A year after Katzenbach's statement, a leader of the right wing spelled out the connection between crime and civil rights even more precisely. In a letter to the Washington *Post* during the contention over the nomination of George Harrold Carswell to the Supreme Court, Assistant Attorney General (now Associate Justice) William H. Rehnquist wrote that "further expansion of Constitutional recognition of civil rights . . . logically brings in train . . . further expansion of the Constitutional rights of criminal defendants, of pornographers, and of demonstrators."

In other words, if you give someone you don't like the right to go to a decent school or to sit at a lunch counter or to vote, you're going to have to give other undesirables the ancient privilege against self-incrimination that the rest of us have, and you're going to have to give still others you disagree with the right to speak and to assembly freely.

The black riots that followed the assassination of Dr. Martin Luther King in 1968 made it far easier for conservatives to equate the assertion of civil rights with crime. In this case, the equation had some substance, for, whatever their grievances and whatever their needs, the rioters broke the law in violent ways that had not characterized earlier black protests. But the right wing interpreted their behavior as sufficient reasons to deny black people in general the simple human right to a bearable life—the right to decent housing, decent education, and decent jobs—because if these were provided now, the argument went, it would prove that the rulers of society could be easily blackmailed.

One leading politician of the right wing, James Buckley, who demonstrated *his* realism by getting elected to the Senate, recently went further than most conservatives have ever dared to publicly by suggesting that the civil-rights upheavals that shook the nation in the nineteen-sixties not only were criminal but created part of the crime problem that exists today. In a speech last fall in Rochester, he said, "Somewhere along the way in the last few years, the idea somehow got itself accepted that one must obey only those laws with which he agrees, and that one who disobeys a law, so long as he is righteous enough, is entitled to relative impunity. That sounded pious, safe, and harmless enough in the early sixties—at least in the Northeast—so long as the laws in question were court orders in Birmingham, Alabama."

The result, he said, was that outbursts like the one at Attica had less to do with the state of our prisons than with "the state of our attitude toward the law" that had grown out of the earlier violence of it. Actually, of course, Dr. King and his followers did not behave at all like criminals: they set out to prove that certain local laws and the court orders supporting them violated the Constitution and were unlawful, and they were ready to go to jail, as they often did, for breaking these laws and defying these orders. But Senator Buckley's casual distortion of recent history is less revealing than his underlying theme: the kind of equality that black men have is their sameness—Dr. King equals the black rapist or the black murderer in prison who revolts against the intolerable circumstances of *his* life.

Acceptance of this theme reduces the plea for social reform to a craven cry of surrender. And there are many signs that acceptance is fairly widespread, for the Nixon Administration met little real resistance as it slowed down desegregation and refused to use existing law to break up all-white suburbs, or as it downgraded the anti-poverty program, VISTA, summer-job programs for the young, and, until Congress put its foot down at the last moment, even the school-lunch program. Recently, the President vetoed an act of Congress providing two billion dollars' worth of day-care centers for children whose mothers, mainly welfare recipients, need such facilities in order to hold jobs. As hateful as welfare is to conservatives, it apparently is preferable to a sizable outlay of tax money that might create some measure of self-sufficiency for those who are now totally dependent on public charity.

Not long after this veto, President Nixon announced plans to construct a space shuttle: the cost is estimated at between ten and fourteen billion dollars. Later, Wernher Von Braun said that the project will bring closer the day when a child will be born on the moon. Presumably, it will not be a black child. In any event, the anti-crime coalition made up of a President and a generally compliant Congress will undoubtedly achieve a great many of the restrictive economic and repressive racial goals that were pursued for so long by the old conservative coalition of Southern Democrats and Northern Republicans in Congress. The "war on crime" should keep Negroes in their place and save a lot of money at the same time.

Those who are most deeply committed to the status quo are incapable of blaming society itself for its ills, because a conclusion of that sort would amount to an admission that society should be changed. Such people can ignore what is wrong and hope it will somehow be righted or simply go away; or, if the threat is large and lasting, they can select a few scapegoats and link them together with a conspiracy theory. That is the most common way out, and it was the way chosen by the far right in exploiting the crime issue. Criminals had been encouraged to do their worst, this theory went, by fuzzy-minded liberals (mostly on the Supreme Court), do-gooders in high places (Lyndon Johnson, for one), and, of course, Communists (all over the place).

Endless reiteration of the claim—at first in extremist publications, then gradually by policemen and prosecutors, who hoped to justify their failure to control crime, and finally by millions of citizens who could not understand how their sweet society had gone sour—had an effect beyond all expectation. The advertising campaign was immense, and the people bought the product. Few of them took the trouble to ask themselves why men in the highest places in government had set out to unleash society's malefactors, and the sheer volume of attacks, most of which were aimed at the Supreme Court, finally convinced a majority of the public that they must have substance. In the course of the 1968 Presidential campaign, Mr. Nixon led the assault on the Court, and by midsummer of that year the Gallup Poll organization reported that "unfavorable feelings toward the Court outweigh favorable sentiment by a 3-to-2 ratio." That was the first time a negative response to the Court had been recorded. Then, shortly before the election, Louis Harris's poll revealed that this response was increasing rapidly; now the ratio stood at three to one against the Court, with nearly seventy per cent of the public convinced that "violation of law and order has been encouraged by the courts."

Mr. Nixon's attacks on the Court undoubtedly helped him win the Presidency. They also dangerously shook the nation's delicately balanced tripartite system, for the Court is far more vulnerable in practice than it is imagined to be in theory. At the height of the barrage, Chief Justice Earl Warren, in a speech before the Judicial Conference, reminded his audience of representatives from all the federal courts that "the greatest adhesive power we have is the profound belief of the American people in our Constitutional system, the dedication of our public servants to obey its injunctions, and the independence of our judiciary." Then he added, "If one of our three coordinate branches of government is discredited, the entire structure of government is weakened.

None of them can strengthen the democratic process by climbing over the weakened body of another. In the nature of things, the judiciary is the most susceptible to attack, because it cannot enter the political arena and trade blow for blow with those who would discredit its work. The others can and do. In other words, if demagogues ever persuade the people that the Constitution endangers rather than protects them, and in response to public demand for a change Congress alters that document or the executive branch refuses to enforce it, our system of government will cease to exist.

Being the most vulnerable branch, the Supreme Court has historically been very sensitive to its inherent weakness, and has rarely gone far out in front of or lagged far behind the popular will or whim. Possibly through a desire to preserve itself as an institution, the Court has meekly stood by whenever the government has indulged itself or the public in convulsive fits of repression.

In 1953, toward the end of one of those periods—McCarthyism—Professor John P. Frank, of the Yale Law School, spoke at a symposium on the Supreme Court held at New York University. "The most striking fact in the relation of the history of repressions to the history of judicial review in particular or to the Supreme Court in general is that no direct action by the Court has ever had any significant bearing in either *stopping* or *slowing* a repression," he said.

Going on to list some of these—the Alien and Sedition Acts, anti-Mason scares, Know-Nothing threats, fear of anarchism, alarm over espionage and Bolshevism, and McCarthyism—he pointed out that the Court had done nothing about any of them. "The dominant lesson of our history in the relation of the judiciary to repressions is that courts love liberty most when it is under pressure least," he said, and added, "The great inescapable fact is that in a century and a half no substantial restriction on liberty has yet been invalidated."

The Warren Court had only recently been formed when Professor Frank spoke, and it wasn't until the spring of 1954 that it delivered its unanimous opinion ordering the desegregation of public schools. That decision and subsequent rulings on criminal-law procedures—the Gideon, Mapp, Wade, Mallory, Escobedo, and Miranda cases in particular—could be said to have certainly invalidated substantial restrictions on liberty. Still, those restrictions were the product of age-old racial and class supervision rather than the convulsive pressures Frank referred to.

Even so, over the years the Warren Court's decisions in these areas were sufficiently far out of the mainstream to set the Court up as a target—an enemy of society, so to speak—for the right wing. Stirred up by cries of treason and demands for the impeachment of the Chief Justice, the right wing marched off to join its greatest crusade since it

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followed Barry Goldwater over a cliff. Although the move to impeach the Chief Justice was futiley absurd, it served to keep the band together while recruits were enlisted.

And by the time an army of irate citizens had joined up, politicians who occupied less extreme positions than those held by the crackpot wing must have wondered what might be done with such an immense force and its restlessness over race and crime. (It has been said that during the 1968 Presidential race one of Mr. Nixon's fears was that President Johnson would choose a well-known judicial conservative of impeccable standing to succeed Warren. From the right wing's point of view, the choice of Abe Fortas was ideal, for now anti-Semitism could be added to what was basically a racist crusade anyway.) As millions of people became disenchanted with the Supreme Court, its members were almost certain, if Professor Frank was correct, to behave in a more subdued fashion. "Experience shows that there is not enough power in any five or nine appointive officials long to resist the overwhelming demands of democracy," he noted. "When public opinion reaches the proportions of a tidal wave, no merely intellectual appeal can stop it."

"In Dubious Battle," by John Steinbeck, describes how anyone who arouses a mob can never be sure that it won't turn on him in the end. Similarly, any politician who attempts to create and manipulate public opinion may find himself its victim rather than its master. That possibility confronted Mr. Nixon when he took office, for his use of crime as the basic issue of his Presidential campaign meant that he had to do something about the problem, but at the same time the policies he was committed to made it impossible for him to do anything that would work.

A more scrupulous and inflexible man might have been confounded by the dilemma. As events of the past three years have demonstrated, however, President Nixon has managed to transform the dilemma into an advantage that finally may be of inestimable value to the right wing's most cherished goal—destruction of liberalism as an effective force in American politics.

That is a tall order, to be sure, but there are indications that it may be on the way to being filled. If it ever is, much of the credit, or blame, will belong to the conservatives' adroit use of the crime issue to silence and then destroy their opponents. In retrospect, it appears clear that the Supreme Court was merely the first target and that the ultimate objective was, and is, the Bill of Rights.

Most Americans probably assume that they have always enjoyed the protection of the Bill of Rights by virtue of their citizenship. Until very recently, though, most of those protections were theirs only in federal proceedings, and the states were more or less free to interpret them as they saw fit. The process of extending criminal-law procedures in the Bill of Rights to the states began only about thirty years ago, and it wasn't until the Warren Court applied the bulk of its provisions to the states that the average citizen got the rights that he had taken for granted all along.

To the most informed and perceptive members of the right, it was probably this innovation, more than the Court's supposed softness toward criminals, that was unbearable. As every domestic autocrat knows, no authoritarian control—of a city, a state, or the nation—can exist alongside a Bill of Rights that is enforced. Still, the Warren Court's efforts to make that a reality left the right wing one alternative: if the Constitution means what the Supreme Court says it means, then perhaps a subdued Court or a newly constituted Court might decide that it means less than the Warren Court claimed.

While the Court itself could not initiate such a change, an Administration or Congress could—by proposing and enacting laws that legislatively redefine, limit, or abolish certain protections of civil liberties that are contained, or are presumed to be contained, in the Constitution. And if the Court were to let such changes stand, then the Constitution would become what Congress said it was.

As it has emerged, that is what the anti-crime coalition has attempted, and, to an unimagined extent, has accomplished. According to Lawrence Baskir, staff director and chief counsel of the Senate Subcommittee on Constitutional Rights, "The only part of the Bill of Rights that the Administration hasn't either rewritten or violated is the only one it should have—the 'right to bear arms.'" For the most part, these changes—some small, some monumental—have been made through a series of bills drafted largely in the Department of Justice and approved by Congress with appallingly little study and virtually no debate.

"By the time repressive legislation reaches the Supreme Court," Professor Frank observed, "we may expect that almost always some appointees of the repression period will be there, too." When President Nixon announced his last two appointments to the Court, he explained the reasons behind his choices. "As a judicial conservative, I believe that some Court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society," he said, echoing the theme he had used again and again during the 1968 campaign. "The peace forces must not be denied the legal tools they need to protect the innocent from criminal elements."

Having convinced the nation that crime was its most pressing domestic concern and that the Supreme Court was in large measure responsible for creating it, Mr. Nixon was now able to claim that the proper Supreme Court justice was a firm law-and-order man. This concealed one fact of major importance: by far the largest part of the Court's calendar is made up of non-criminal cases. In holding out the promise of public security against criminals by way of a hardfisted Supreme Court, the President ignored—publicly, at least—the likelihood that justices who favor the conservative approach to crime will also favor the conservative approach to such matters as race, economics, labor-management relations, states' rights, and, above all the other multifold problems that reach the Court, civil liberties in general.

Moreover, in the new Court judicial activism will be far likelier than judicial avoidance, and there is little doubt about the philosophical direction that activism will be aimed toward. If the Warren Court's rulings in criminal matters are revised, as a couple of key decisions already have been, so may be such opinions as the one that Chief Justice Warren considered the Court's greatest accomplishment during his stewardship—reapportionment of state legislatures to give every person an equal vote. If that is overturned, state legislatures will be securely returned to conservative control. All this, of course, gives the right wing a far better chance to remake society in its own image than it ever had when it claimed that whatever it feared or disliked was part of a Communist plot.

Radicals of the right and radicals of the left usually view life in such a remorselessly committed and narrow fashion that they are bound to view all opposition to them as fundamentally evil and probably a conspiracy. They continually imagine plots against them that do not exist and concoct plots of their own that cannot succeed. What both sides ignore is that history is their master, not their servant, and that its course is determined more by accident than by human direction. Like any other major historical development, political use of the crime issue did not happen by deliberate design.

Rather, it has come about in piecemeal fashion through a series of apparently unrelated events that have accidentally suited a prevailing national mood. However, once enough of these events occurred and the possibility of using them and creating others like them became obvious, then a movement—a collusive hope rather than a conspiratorial plot—to push society to the right gradually emerged. Again in retrospect, it can be seen that the radical right's war on crime began, quite inauspiciously and without a map or a plan, on January 24, 1967, when one of the leading right-wing zealots in Congress, Senator John L. McClellan, Democrat of Arkansas, who has done his best throughout his many years in public office to make sure that the helpless stay that way, introduced a bill to legislatively reverse the Supreme Court's decision in Miranda v. Arizona, which had been handed down the summer before.

At the outset, little attention was paid to the shot that McClellan fired, for his bill was put down as no more than a futile attempt to take revenge on the Court for its civil-rights decisions over the previous dozen years. Legal authorities dismissed the measure as being clearly un-Constitutional, since its effect was to say that Congress, not the Supreme Court, was the final arbiter of what the Constitution means—an issue that everyone assumed had been settled in 1803 by the case of Marbury v. Madison, which left the final interpretation of Constitutional issues up to the Court. Today, McClellan's proposal may look like part of a plot, because in many respects it was typical of the later moves to undermine the Bill of Rights that the right wing was to make intentionally.

To begin with, the bill seemed to abrogate the Fifth Amendment's privilege against involuntary self-incrimination, which the Miranda decision had been designed to secure for the lowliest suspect; further, it was clearly intended to diminish the authority of a liberal Court, or, if the Court overturned it, to whip up more public wrath to subude that institution; still further, it was racist; and, finally, its effect on the crime rate was almost certain to be negligible. In a five-to-four decision, the Court had stated in the case of Ernesto Miranda that suspects in criminal matters must be told that they have the right to remain silent when questioned; that they have the right to have a lawyer present, of their own choice if they can afford it and court-appointed if they can't; and that whatever they say may be used against them in court.

Of course, professional criminals, ranging from the pickpocket to the hired killer, and other citizens who are reasonably well informed already know that they have such rights. The only people who don't know it—the very poor and the uneducated, most of whom are black—have little reason to believe that they have any rights at all. In short, McClellan's move was bound not only to hurt the Court, which had tried to help the defenseless, but to hurt black people as well.

Opposition to the measure on the part of the legal community was virtually unanimous. "The effort to legislatively overrule Miranda is unfortunate and illegal," Joseph O'Meara, dean of the Notre Dame Law School, informed the Senate. "Unfortunate because Miranda, when all is said and done, does no more than extend to the poor and stupid what the wealthy and sophisticated have had all along. Illegal because it attempts to amend the Constitution by statute, which is a legislative version of what Senator McClellan accuses the Court of [doing judicially]."

The Bar Association of the City of New York, the American Bar Association, and the Judicial Conference also announced their opposition to the proposal, and urged Congress to defeat it. Early in 1968, while the measure was still in committee, the Associated Press polled members of Congress on what their constituents were most concerned about, and announced, "Overwhelmingly, the members reported that anger over riots and crime overshadowed all other domestic issues and, in many cases, even the war in Vietnam." Five months later, both houses of Congress approved McClellan's proposal by wide margins. Many members who publicly supported it were believed to have privately opposed it but to have been unwilling to appear soft on crime in an election year that was rife with charges that liberals had created the crime problem. One liberal senator who reluctantly voted for the bill said privately at the time, "I assume that the members of the Court, who don't have to worry about being reelected, will knock down the law as soon as it comes up for a test."

Of course, neither he nor anyone else in Congress could have foreseen that before the new law could be tested the narrow liberal majority on the Court would be replaced by a conservative majority. Without that accident of history, the right wing's attempt to subvert the Bill of Rights in the name of fighting crime might have failed—in this one case, at least. Of course, even if a fairly liberal Court existed now, the repressive mood of the people might still overwhelm it.

Professor Frank (who, by another accident of history, left academic life for private practice in Arizona, and later served as counsel to Ernesto Miranda) has made the point that although the Court has occasionally stood up to Presidents and often has stood up to state governments, it has been extremely hesitant about challenging Congress. The Court gives "an appearance of a judicial veto in the field of liberty when in fact there is almost none," Frank said, and he continued, "The average congressman would be surprised to know how little actual restraint the Court puts upon him. The repeated episode of buck-passing exemplify Congress's refusal to trouble itself about legal issues in a comfortable, if mistaken, assurance that the judiciary will correct the worst errors."

Senator McClellan's attack on the Miranda decision was the first of several attacks, most of them equally successful, that the right wing was to mount against the Bill of Rights in the next few years. His stroke was bolder than many of the others because it not only struck at the protection that the right most detests—the Fifth Amendment's stricture against involuntary selfincrimination—but also denied the Supreme Court its right to decide what the law means. In any case, McClellan's promise that enactment of his bill would sharply reduce street crimes seemed unlikely to be fulfilled, for almost all of the studies have demonstrated that the Miranda decision did not have much effect on those crimes in the first place; as Katzenbach told a congressional committee, it was "unutterable nonsense" to suppose that Court rulings on criminal law were related in any way to the rise in crime. But, politically speaking, the right wing could at least claim that a start had been made and that, unlike their do-good opponents, they were going to be tough with criminals.

That toughness was displayed again, by way of a measure, also introduced by McClellan, to allow municipal, state, and federal law-enforcement officials, with court approval, to tap and bug anyone who had committed, seemed to be in the act of committing, or was believe to be about to commit a crime punishable by a year or more in prison. The question of the Constitutionality was less clear-cut in this matter than it was in the attack on the Miranda decision, because the Supreme Court had never squarely faced the issue of the right of privacy, and had applied the Fourth Amendment's prohibition of "unreasonable searches and seizures" to official eavesdropping in specific rather than general ways. Supporters of the bill—mainly policemen, prosecutors, and criminal-court judges—based their defense on necessity. They argued that electronic surveillance is the best, and perhaps the only, way to control crime, especially organized crime. Opponents based their opposition on a variety of arguments: electronic surveillance is inefficient (a tap or bug requires the daily attention of several people, who might otherwise occupy themselves with less questionable and more productive investigations).

It is ineffectual (professional criminals avoid using telephones or discussing their plans where they can be overheard, and although police officers have been covertly tapping and bugging members of one criminal syndicate or another for years, organized crime is flourishing more than ever); it is probably un-Constitutional (most laws implementing the Fourth Amendment require reasonable limits on what is covered by a search warrant, and a tap or bug cannot be limited, since it records everything that anyone, however innocently involved, might say); it opens the way to wholesale political and personal blackmail and intimidation (one corrupt district attorney or police chief and one corrupt magistrate or judge could snoop on anyone).

The bill's permission for policemen or prosecutors to tap or bug anyone without court permission for up to forty-eight hours in cases of emergency involving organized crime could be flagrantly abused (the emergency is defined by the police or the prosecutors); and no such broad invasion of the people's privacy should be allowed until it has been demonstrated beyond dispute that it is necessary and that it will work (no evidence was ever submitted to sustain either claim).

In 1968, at the same time that Congress approved the anti-Miranda measure, it approved the tap-and-bug measure—for much the same reasons. This time, some of the votes were provided by Mr. Nixon, who paused long enough from his campaigning for the Presidency to express wholehearted support for the measure and to instruct his followers in Congress to vote for it.

Riots engulfed black slums in more than a hundred cities after the assassination of Dr. King in the spring of 1968, and shortly afterward Congress, in a state of alarm, passed the Civil Rights Act of 1968, which was designed to break down black slums by opening up suburbs to integrated housing. Conservatives cried that the nation was being blackmailed, and Senator Strom Thurmond, the extreme-right Republican from South Carolina, threatened to filibuster unless the bill also contained an amendment designed to prevent black militants from crossing state lines to foment riots.

Hoping to avoid any further delay while the slums were still smoldering, civil-rights leaders in the Senate accepted the package, including Thurmond's rider—once again in confidence that the Supreme Court would throw it out. The Rap Brown law, as it was known at the time, defined a riot as a public disturbance involving "an act or acts of violence" by anyone in "assemblages of three or more persons," and made anyone who crossed a state line to participate in an assemblage that turned violent subject to five years in federal prison and a fine of ten thousand dollars.

Under this law, if a man travelled from any state to, say, Washington, D.C., to participate in an anti-war demonstration and then was attacked by two or more policemen or *agents provocateurs*, he could be imprisoned and fined merely because he had made himself available for the beating. The effect of the law, of course, would be to discourage any large-scale demonstrations—in short, to abolish the rights of free speech and assembly for those whom the government dislikes.

Attorney General Ramsey Clark refused to use the reversal of Miranda, the wiretapping-and-bugging act, or the anti-riot law, on the ground that they were un-Constitutional and useless. To make certain that Clark's successor rejected this policy, Senator McClellan demanded, and received, assurances from the incoming Attorney General, John N. Mitchell, during his confirmation hearings before the Senate, that the intent of Congress had been amply demonstrated by its overwhelming approval of the new laws and would be heeded by the Nixon Administration.

Actually, of course, the intent of most members of Congress had been to escape retribution at the polls for failing to control crime. The members of Congress who had ignored the dictates of Constitution and conscience in voting for the bills provided the new President with the kind of support he needed to use these laws as he pleased. One of his earliest official acts, carried out by the Justice Department, was to use the one that Congress had directed against black agitators like Rap Brown.

The targets were the white organizers of the protests at the Democratic National Convention in Chicago the previous summer. Since the best evidence available—compiled by Justice Department observers who were on hand at the time and by a committee of the National Commission on the Causes and Prevention of Violence—showed that the police had been the chief lawbreakers, the prosecution of their victims was clearly a political maneuver that encouraged policemen to crack skulls at will the next time and discouraged just about any political dissenters who might be thinking of expressing their views out loud.

This move toward consensus by intimidation could scarcely have failed, for prosecution of the Chicago Seven was bound to be as popular as they were unpopular. Millions of Americans had watched on television as Mayor Daley's police beat, Maced, and gassed helpless people after they were arrested, and then a national poll showed that sixty-seven percent of the public approved the way the police had behaved.

Perhaps the most alarming act on the part of the Nixon Administration during its first year in office was the claim it made shortly before the trial of the Chicago Seven that in such cases it was not bound by federal statutes or, for that matter, by the Constitution—at least, in the ways it had usually been interpreted in the past. Some of the evidence collected by the government, the Justice Department admitted in court, had been obtained by means of wiretaps and bugs. In view of the Attorney General's support of tapping and bugging, this announcement didn't surprise anyone—until the Department also claimed that it was not bound by the provision in the McClellan surveillance law that such evidence was legally admissible only if court approval had been obtained before it was gathered.

In defending the government's use of the evidence, the Justice Department submitted a brief—one of the most astonishing documents in American legal history—which declared that the President was not bound by the McClellan law or by the Fourth Amendment's stricture against "unreasonable searches and seizures," because it was his overriding duty to protect the nation against anyone who meant to "attack and subvert the government by unlawful means."

Mr. Mitchell did not explain then or later how the disorganized crowd of ten thousand demonstrators who gathered in Chicago—unarmed and outnumbered better than two to one by heavily armed policemen, National Guardsmen, and federal troops—could be a serious threat to a nation of two hundred million people who wholeheartedly dis-

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approved of them. But if ordinary citizens were to be persuaded that dissenters were criminals, their leaders had to be prosecuted as criminals. And if it was impossible or inconvenient to obtain evidence within the framework of the law, then evidence collected outside the law had to be used, and justified by placing the President above the law.

The McClellan law requires that a warrant be issued by a judge before the surveillance can be carried out, that records of all taps and bugs be filed with the court having jurisdiction, and that periodic reports be filed with Congress on the extent of such surveillance nationally. The law also allows the President to bypass the court warrant in cases involving threats to the "national security," which, until Mitchell's time, had been interpreted to mean foreign threats to the nation.

Under the Mitchell doctrine, the government defines what constitutes an attempt to attack or subvert the government and then monitors the words of anyone, foreigner or citizen, who fits that definition, without notifying any official body of what is being or has been done. (Although "warrantless surveillance" had been conducted by the government against domestic "subversives" long before Mitchell took office, this was the first public admission that such practices had been going on—and the first time they were defended as being legal.) As expected, Judge Julius Hoffman, who presided over the Chicago trial, upheld the Justice Department's contention. But in two subsequent cases where the Department made the same claim, federal judges rejected it as unConstitutional, and the government has appealed those decisions to the Supreme Court.

The Administration may not have expected the Court to uphold its position—at least, not as the Court was constituted. But that may not have been of crucial importance, for by the time the issue was finally adjudicated an enormous number of people could be spied on, and enough could be prosecuted, and ruined, to frighten others out of speaking or acting in a way that the government might not like.

Now, with a new Court, there is a chance that the government's claim will be sustained. If it is, the effect could be broad, deep, and lasting, because the Justice Department has reportedly employed the Mitchell doctrine in numerous other cases—most notably the prosecution of Daniel Ellsberg, for passing classified documents to the press, and of the Harrisburg Seven, who are charged, among other things, with a plot to kidnap Henry Kissinger—and under its limitless power has put the leading anti-war organizations under surveillance.

According to several lawyers who have kept a watch on the Administration's legal maneuvers, from both inside and outside the government, another purpose behind the Justice Department's appeals was to persuade the Supreme Court to revise or to throw out altogether the so-called exclusionary rule, which makes illegally obtained evidence inadmissible in a trial. Since 1914, the rule has applied to federal cases, but it was not until 1961, in the case of Mapp v. Ohio, that the Warren Court extended this protection to state trials. "As matters stand, the exclusionary rule is the only thing that discourages policemen from breaking the law more than they already do when they gather evidence," a lawyer who spent two years in the Justice Department under the Nixon Administration said recently.

"Its effect is to say to policemen, 'Look, you might as well not get evidence illegally, because you won't be able to use it in court anyway.' Of course, a lot of evidence is still collected unlawfully and presented at the time of trial as if it had been discovered through legitimate means. But, even so, the exclusionary rule provides some measure of protection against government infringement of individual rights—enough protection, it seems, so that this particular government wants to get rid of it."

That is understandable in view of the Administration's proclivity for entertaining conspiracy theories, and the Justice Department has made increasing use of conspiracy charges. The simplest way to sustain, or manufacture, a conspiracy charge is by monitoring the participants, and the safest way to do that is secretly—that is, without controls like those imposed by the exclusionary rule. Conspiracy cases have many advantages for governments that hope to silence their critics.

To begin with, the word "conspiracy" itself suggests treason. And, in a legal sense, conspiracy charges are comparatively easy to support, because conspiracy laws give prosecutors the kind of broad procedural latitude that they are denied in ordinary criminal cases. In fact, people can be convicted of conspiring to commit an act even if they have never met or had any contact with each other.

In April, 1971, President Nixon publicly stated that when it came to "executive" or "warrantless" surveillance—euphemisms for the Mitchell doctrine in action—"the total number of taps is less, has been less, than fifty a year." The Attorney General and the director of the F.B.I. had earlier made similar statements. But Senator Edward M. Kennedy, using figures from the Justice Department, showed that the number of warrantless taps used was actually more than double the Administration's figure.

Moreover, he pointed out, the government listened in on such taps as much as ten times longer than it did on ordinary court-approved taps. No one outside the government knows what "national security" surveillance of domestic groups or individuals has produced, except fear. But it is known that out of a hundred and forty-eight thousand conversations overheard by federal agents *with* court permission during 1970 forty-eight convictions resulted, most of them for gambling. According to one former high official in the Justice Department, it is not so much that wiretapping is being used to prevent gambling as that gambling is being used as a pretext to support wiretapping.

Senator Sam J. Ervin, Jr., is an old-style conservative who has long been the Senate's leading authority on the Constitution and who is chairman of the Senate Subcommittee on Constitutional Rights. After having vigorously supported McClellan's original wiretapping-and-bugging bill in 1968, Ervin's change of mind on the issue has been complete, and he is now Congress' foremost opponent of government surveillance. "Such a system can result in great personal injury to the innocent in the form of social ostracism, loss of employment, and, of course, loss of liberty," he observed recently. "It also has the effect of discouraging legitimate political activity by those who fear that their views and acts will be recorded by the government and stored for some future use.

This fear is not restricted to so-called 'nervous Nellies.' Knowledge that the government is engaged in surveillance of its citizens creates an atmosphere of fear, which is inimical to freedom. It stifles political discussion and leads to a cowed and subservient population which does not dare disagree with government policy or accepted wisdom. Democracy cannot survive if the people are sullen, scared, and rebellious."

Not long after Daniel Patrick Moynihan left his White House post of Special Assistant for Urban Affairs, he wrote a letter to Mr. Nixon in which he described some of his recent experiences in private life. Among them were a large number of conversations that he had had with various businessmen, he related, and added, "More than any other thing, what seems to concern them most is the belief that the Justice Department in particular and the Administration in general is intent upon the diminishment of civil liberties in the nation, and has already to some extent succeeded." A number of other experienced and concerned citizens were convinced that such a movement was indeed taking place.

They included some leading Republicans, such as John W. Gardner, who spoke of "the frightening trend toward repression in this country;" Senator Jacob Javits, who said that "there seems to be the threat of a more insidious form of repression in our land [than McCarthyism] . . . tolerated, if not actually condoned, at the highest level of our federal government;" and former Ambassador to Italy Clare Boothe Luce, who declared, "There will be a repression of some sort in the U.S. very soon." In a report issued last summer by the Young Lawyers Section of the American Bar Association, a group that is not noted for radicalism, the Committee on Protection of Civil Liberties and Civil Rights concluded that "there is, indeed, an anti-libertarian climate in the United States which can properly be labeled 'repressive.'" The report went on to say, in part:

This anti-dissent and anti-libertarian climate has been both promoted by and mirrored in the words and actions of our highest government officials. We have heard those officials use divisive and inflammatory rhetoric against persons who have disagreed with the Administration's policies and actions. Those who have questioned official policies have been branded as "radical liberals," "bums," "home-front snipers," and part of "an effete corps of impudent snobs," or have been otherwise personally attacked or indiscriminately classified with those who would express themselves through violent, destructive, and unlawful means. Discrediting and intimidating these dissenters into silence is the apparent objective underlying these tactics. There are several ways in which American civil liberties are adversely affected by such rhetoric. First, many people are intimidated by such verbal attacks. Second, those who are intolerant of differing ideas and views thereby become convinced that they have official sanction to suppress those views. Third, officials at all levels of government are guided by what is said in Washington.

All this raises the question: What, actually, is repression? Professor Frank defined it as "an intense spasm of social fury in which a commonly latent impulse to destroy opposition without regard to the norms of democratic behavior becomes a dominantly conspicuous element in the American scene." That kind of spasm could take place in either the public at large or the government, or both. To Jefferson, the greatest danger was that such an impulse would go unchecked when it appeared in public officials. "The natural progress of things is for liberty to yield and government to gain ground," he wrote to a friend in 1788.

And in another letter, written many years later, after he had left the Presidency, he noted, "The functionaries of every government have propensities to command at will the liberty and property of their constituents. There is no safe deposit for these but with the people themselves." In the summer of 1970, Senator Ervin took the floor of the Senate to warn his colleagues against giving the Administration the powers it had asked for to combat crime, and told them, "Nothing short of tyranny can quench the insatiable search of government for power, and in its ardor to extend and multiply its authority government will extinguish the freedom of the individual unless it is restrained from so doing by fundamental law which it alone can neither repeal nor amend."

In this country, of course, that fundamental law is the Constitution. Ervin's warning might well have been delivered by any old-fashioned conservative, for fear of governmental power had long been one of the deepest and most abiding instincts among conservatives. But the new conservatives don't seem to mind such power at all, now that it is theirs. Have they used it repressively?

The answer is, in part, yes, although not to the degree that the Administration as a whole could be considered a repressive Administration. Yet the instruments of large-scale repression, most of them forged by the Justice Department under Attorney General Mitchell's stewardship, have been prepared; some have been used repressively by the government, and the others could be used in the same way at any time.

In an article that appeared in the *Denver Law Journal* last year, Senator Ervin wrote that while we are not living in a truly repressive society, "freedom is on the defensive." He went on:

The balance is shifting decisively toward the acceptance of harsher laws and the cutting of Constitutional corners which impede this search for security. The Administration has not been sensitive to this changing atmosphere. Rather, it has nurtured, encouraged, and fostered it. . . . Its policy . . . has produced a mood in the country which is extremely receptive to harsh, punitive, and Draconic measures in the name of security. This is a dangerous game. It produces a situation in which fear breeds fear and in which the government is encouraged to use its powers ever more freely. Ours is not a country in which government can become a tyranny against the will of the people. But tyranny can come just as surely if the people are willing to deliver over their freedom in search for safety.

Some of the laws recently proposed do not just cut corners off the Constitution but plunge perilously close to its heart. Six months after the Nixon Administration took office, the Department of Justice (a truly repressive branch of the government, in Ervin's estimation) sent Congress the first of its "anti-crime" bills—the District of Columbia Court Reform and Criminal Procedure Act, which is commonly known as the D.C. Crime Bill. Associate Deputy Attorney General Donald E. Santarelli, who had written Mr. Nixon's major speech on crime during the 1968 campaign, drafted the bill, and he personally assured Senator Ervin that it merely reformed the court system in the capital—something that everyone had long urged—and that it contained nothing the Senator would find objectionable.

With that, Ervin agreed to Santarelli's request that he co-sponsor the measure, but when it reached the Senate, with Ervin's name prominently displayed at the top, he discovered that it did more than reform the courts. It added some "extremely controversial" provisions to existing law, he said when he took the Senate floor to announce his opposition to the bill he had officially co-sponsored.

Ordinarily, few senators are on the floor—during even the most crucial debates—and it is unlikely that his disavowal reached many of his colleagues; those who didn't hear it but who saw his name on the bill probably concluded that if the Senate's foremost expert on the Constitution didn't object to the proposal they could safely support it. Since Ervin had supported McClellan's move to reverse the Miranda decision, and had even introduced a measure to remove Supreme Court jurisdiction over writs of habeas corpus in state cases, perhaps Santarelli felt that he would go along now with the Administration. No matter what the Senator's views may have been, however, the Administration's misrepresentation of the bill to a very influential member of the Senate was extraordinary.

The Senate drafted and approved a fairly moderate measure revising the court system and the criminal laws in the District of Columbia. But, under prompting by the Administration, the House District of Columbia Committee, an extremely conservative body dominated by Southern members, voted out an entirely different bill, which had not been the subject of hearings or debate in either house. This measure, drafted largely by Santarelli, was four hundred and thirty-nine pages long, and less than a quarter of it dealt with court reform. The rest, Ervin angrily told the Senate when the proposal arrived there, was "literally a garbage pail of some of the most repressive, nearsighted, intolerant, unfair, and vindictive legislation that the Senate has ever been presented."

However, when a conference committee finally met to consider the Senate and House bills, it approved the Administration's measure—largely because the Senate floor leader of the Administration's proposal, Joseph Tydings, a Democrat and a sometime liberal, fought for that version. Afterward, Ervin took the floor of the Senate and pleaded with his colleagues to reject the conference report, and the bill that came with it, but although they had never had a chance to vote on its provisions separately, they approved the conference bill on July 23, 1970, by a vote of fifty-four to thirty-three. "'Law and order' had become such a powerful political slogan that very little could be done to any proposal championed in its name," Ervin said later. "Almost by the day, the ranks of those who would dare cite the Constitution to defeat or amend anti-crime bills had evaporated. It became almost impossible to oppose a proposition which was labeled 'anti-crime'."

One proposition in the new law established a system of preventive detention in the District of Columbia. The provision calls for up to sixty days of imprisonment, prior to trial, of any defendant who, in the opinion of the judge presiding over his arraignment, seems likely to have committed the crime he is charged with and likely to commit other crimes if released on bail until he is tried; the crimes that the system applies to are violent crimes or certain "dangerous" crimes such as narcotics peddling. In the view of many Constitutional scholars, this innovation violates the Fifth, Sixth, and Eighth Amendments to the Constitution.

Moreover, there is little reason to believe that it will work. During a set of hearings that Ervin's Subcommittee on Constitutional Rights had held on preventive detention, witnesses pointed out that judges are wholly incapable of spotting likely repeaters, even after their records and characters have been revealed during trial and the judges, furnished with that knowledge and with detailed probation-department reports, impose sentences. In any event, the Justice Department offered no evidence to support its claim that preventive detention was necessary. After Ervin repeatedly demanded that the Department prepare some kind of scientific analysis to justify such a radical innovation, the Administration finally authorized the National Bureau of Standards to make a study.

The Bureau's report undercut the Administration's position, and the Administration, in effect, ignored the report. "Regrettably, the Department's approach to the study was emulated by the Congress when the issue came up for a vote," Ervin remarked later. "There was little effort on the part of preventive-detention advocates to join in a debate. There was not even much formal speechmaking in support of the proposal. The main argument used was that this was an 'anti-crime' proposal. That was all that was said and all that needed to be said."

In proposing and in approving preventive detention, the Administration and Congress abrogated the basic principle underlying our adversary system of criminal law—the presumption of innocence. That act was not merely radical; it was so revolutionary in nature that it could ultimately lead to what this nation has always professed to abhor—the inquisitorial system of criminal law—and thereby transform society itself.

In view of the proposal's exceedingly doubtful Constitutionality and the Administration's persistent refusal to listen to the most compelling evidence against it, the suggestion was bound to be made that perhaps its authors had something in mind besides getting dangerous hoodlums off the streets. Laurence H. Tribe, a professor at Harvard Law School, raised this question in an article that appeared in the *Virginia Law Review* while the bill was pending before Congress. Observing that the Administration probably saw political advantage to be gained from such a no-holds-barred approach to criminals, Tribe went on:

But Mr. Mitchell may also understand more to be at stake in the controversy than the fate of this particular law. For while the Attorney General stresses the supposed narrowness of the pending measures, the demands of the not-so-silent majority for security would make a further expansion of preventive incarceration too attractive to resist. . . . The inevitable consequence is a continuing pressure to broaden the system in order to reach ever more potential detainees. Indeed, this pressure will be generated by the same fears that made preventive detention seem attractive in the first place. What begins as an ounce of detention, therefore, may well become the first step of a profound shift in our system of criminal justice—a system that, at least until now, has operated on the premise that crime should normally be prevented by the threat of subsequent punishment rather than the imposition of prior imprisonment.

Several months after the D.C. Crime Bill was enacted, the Administration sent Congress a measure, which has not been voted on so far, to make preventive detention apply to the federal system throughout the nation. The expanded measure adds offenses that may be considerd political crimes, including hijacking of airplanes, theft of government documents, or "an attempt or conspiracy to commit any of the foregoing offenses." The possibilities of broadening the new bill are obvious. It now includes anyone who sells or distributes narcotics, and it would probably seem a very small and legally unimportant step to the general public if that category was widened to include anyone who uses narcotics. Since addicts are believed to commit a large proportion of all crimes in the country's major cities, sweeping a large number of them off the streets would probably bring about a striking reduction in the kinds of crimes that the public most fears. That form of preventive detention plus the use of compulsory evidence such as blood tests and urinalysis might constitute a mass violation of the Constitutional privilege against self-incrimination.

The Administration appears ready to take that risk, for under another of its proposals, which also has not been acted on as yet, police officers would be empowered, with the approval of a magistrate or a judge, to detain suspects without observing the age-old requirement that there be "probable cause" to arrest them for a crime, and to subject them to a series of "nontestimonial identification procedures"—including lineups, fingerprinting, footprinting, voiceprinting, photographing, and taking samples of hair, saliva, handwriting, urine, and blood.

The so-called "no-knock" provision contained in the D.C. Crime Bill permits law-enforcement officials and private citizens who are assisting them to enter private premises, only or stealthily, without identifying themselves. The Administration's defense of this statute again rests entirely on necessity—

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that surprise is essential in order to prevent suspects from destroying evidence such as narcotics or gambling devices before they can be arrested. Black leaders angrily denounced the provision as being designed to harass them, and threatened to shoot anyone who broke into their houses or apartments or places of business unannounced; if they didn't, they argued, they would be inviting every housebreaker, holdup man, rapist, or killer in to do his worst. Ervin asserted that the provision flatly contravenes the Fourth Amendment's prohibition of "unreasonable searches and seizures." The no-knock law, like preventive detention, could easily be broadened to cover the nation and to include other offenses—say, alleged conspiracies against the government.

Among the largely unpublicized provisions in the D.C. Crime Bill is one called "Sentencing of Multiple Offenders," which states that anyone who is convicted of any crime more serious than a "nonmoving traffic offense" in the District and has been previously convicted of the same kind of offense in any jurisdiction may be sentenced to one and a half times the maximum penalty for the second offense; if there were two previous convictions, he may be sentenced to three times the maximum penalty for the third one. The Fifth Amendment states that no one can be charged with an "infamous crime" unless first indicted by a grand jury, and both the Supreme Court and Congress have defined an infamous crime as a felony; in most jurisdictions, felonies are punishable by a year or more imprisonment.

In practice, then, this provision allows a judge to impose a felony sentence for a lesser offense without *any* grand-jury action, and thereby flatly contravenes the Fifth Amendment. (Also, the law would empower District of Columbia judges to send anti-war or anti-government demonstrators who break the law in Washington in the future and who have been convicted of breaking it in two or more other demonstrations, as many have, to federal prison.)

The same provision goes on to assert that anyone who is convicted of a felony and has previously been convicted of two or more felonies may be sentenced to life imprisonment. In a case of this kind, the judge bases his decision on "information" about the defendant's previous criminal record, which the prosecutor presents to the court with the jury excluded. In any attempt to rebut this information, the new law declares, the defendant "shall have the burden of proof."

In the opinion of Senator Ervin and other legal scholars, this provision violates the presumption of innocence, Article 3 of the Constitution, and the Fifth and Sixth Amendments. Another section of the new law makes it a felony, punishable by up to three years in prison, to break into a coin-operated telephone box, a parking meter, or a vending machine of any kind. By combining this provision with the multiple-offender provision, any judge in Washington can send someone to prison for life for breaking into parking meters three times. And the law permits these judges to sentence anyone who commits a crime of violence while armed, even if the weapon isn't used or displayed, to life imprisonment; if it is a second or subsequent armed crime, the defendant must be confined for a minimum of five years. And the law allows a prosecutor to appeal certain basic rulings by a judge during trial, and to interrupt it for as many four-day periods of delay as he can find cause for.

Of course, most criminal trials don't last four days, and neither do most jurors' memories. The defendant, on the other hand, has no such right of appeal against rulings that harm his case. Also under the law now on the books, a person who resists an unlawful arrest is automatically guilty of resisting arrest—an astonishing means of encouraging policemen to make illegal arrests, for even if a judge throws out the alleged cause for the arrest, he must uphold a charge of resisting it.

Almost no member of Congress who voted for the D.C. Crime Bill knew that it contained a provision greatly facilitating the use of electrical and electronic eavesdropping across the nation. The provision was contained not in the subchapter entitled "Wire Interception and Interception of Oral Communications"; instead, it was buried thirty pages past the end of that section, under the heading "Conforming Amendments," which followed and appeared to be a part of the section on capital punishment. This particular conforming amendment states:

"It shall not be unlawful under this chapter for an officer, employee, or agent of any communication common carrier to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a wire or oral communication. * * *

"An order authorizing the interception of a wire or oral communication shall, upon request of the applicant, direct that a communication common carrier, landlord, custodian, or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such carrier, landlord, custodian, or person is according the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian, or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant at the prevailing rates."

The most common communication carriers, of course, are telephone companies. For many years, they were reluctant to assist agents who wanted to place wiretaps, because that would have betrayed customers and subjected the companies to highly unfavorable publicity; moreover, the procedure was costly and time-consuming, and it was awkward to accept payment either openly or covertly. Now, however, all the repairmen and installation men working for telephone companies must, under federal law, place wiretaps on request—not in the District of Columbia alone but throughout the country. And landlords, building superintendents, and all other employees working in apartment houses or commercial buildings must lend a hand when an agent wants to install a tap or a bug.

Complaints about the Supreme Court's leniency toward criminals have partly grown out of the widely held but mistaken impression that anyone who robs a candy store and feels unjustly treated by the law can take, and often does take, his complaint to the highest court, thereby clogging the judicial system and, in the end, probably getting off. And complaints about lower courts' leniency toward the same criminal defendants have grown out of common ignorance of what the bar of justice is like. Most criminal-court judges who let defendants off with a light sentence or no sentence at all, to the public's endless outrage, usually have no other choice, because they know that there is no room left in jails and prisons.

If their years of courtroom work have left them with any sympathy, it is rarely for the people who appear before them. "To a mind-staggering extent—to an extent that conservatives and liberals alike who are not criminal-trial lawyers simply cannot conceive—the entire system of criminal justice below the level of the Supreme Court of the United States is solidly massed against the criminal suspect," Anthony G. Amsterdam, a leading Constitutional scholar and trial lawyer, observed recently. "A few appellate judges, a very few, can throw off the fetters of their middle-class backgrounds . . . and identify with the criminal suspect instead of with the policeman or the putative victim of the suspect's theft, mugging, rape, or murder.

Trial judges still more, and magistrates beyond all belief, are functionally and psychologically allied with the police, their co-workers in the unending and scarifying work of bringing criminals to book." Of course, case-hardened judges can be expected to applaud what one of them recently called, in discussing the D.C. Crime Bill, "some minor technical alterations in the criminal law." And, of course, the public can be expected to follow their lead, for few men would seem to know more about what is needed in the way of revision in the criminal law than judges on criminal courts. Moreover, the President of the United States asked for these revisions, and the Congress of the United States overwhelmingly approved them.

If measures ostensibly designed to control the ordinary criminal who commits the kind of ordinary crimes that most frighten the ordinary citizen—violent crimes—were approved by citizens high and low, it was inevitable that measures aimed at organized crime would be acclaimed, too. They were—as demonstrated by the manner in which Congress carelessly approved the Organized Crime Control Act of 1970, which was largely put together by the Administration, with some assistance from Senator McClellan. The bill was guided through the Senate by McCellan and his right-wing Republican colleague Roman L. Hruska, that defender of mediocrity in high places.

Both men had little to offer in support of the act besides the old claim of necessity, and on that ground—what William Pitt called "the argument of tyrants"—several basic parts of the Bill of Rights that remained intact after the D.C. Crime Bill's assult were now trampled on. To begin with, the act authorizes federal district courts to set up "special" grand juries in any district where the Attorney General or a designated subordinate decides they are "necessary because of criminal activity" or in any federal judicial district containing more than four million inhabitants. Like any other grand jury, special grand juries are empowered to investigate and to indict, but, unlike any grand jury heretofore, they are also instructed that if they find insufficient evidence to justify an indictment they can still issue reports "concerning non-criminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action."

As originally written, the bill placed elected, as well as appointed, public officials under scrutiny and exposure by special grand juries, but the House Judiciary Committee deleted those who are elected. In a furious minority report on the bill, three Democratic members of the committee—John Conyers, Jr., of Michigan, Abner J. Mikva, of Illinois, and William F. Ryan, of New York—pointed out that the power granted such grand juries amounts to a permit for "sanctified calumny." They went on to explain that special-grand-jury reports, under the proposal, need not be based on legally admissible, or even relevant, evidence but can consist of opinion, hearsay, and slander, all tied together by "prejudicial casuistry."

Although the law permits the subjects of these reports to appeal the conclusions before they are made public, this opportunity is confined to confronting the accusations, not the witnesses who made them. In effect those who are accused are allowed to prove their innocence but have almost no means of doing so. Moreover, publication of such charges—perhaps concocted by an ambitious prosecutor who is out to destroy appointed officials in order to get at an elected official who appointed them—would be almost certain to ruin anyone they are aimed at. Such a law flies in the face not only of decency and common sense but of clear rulings from the Supreme Court. In 1959, the Court declared:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirement of confrontation and cross-examination. This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases . . . but also in all types of cases where administrative and regulatory actions were under scrutiny. . . . Nor, as it has been pointed out, has Congress ignored thee fundamental requirements in enacting regulatory legislation."

Now, of course, Congress *has* ignored them. Prompted by the Administration, it has turned aside from one of the most fundamental principles of democracy—that the weakest and most despised man is entitled to a fair chance to defend himself against the government.

On the off-chance that this provision of the new law did not sufficiently pervert the original purpose of the grand-jury system—to protect the innocent against official oppression and private smears—the Administration and Congress provided that grand juries in general could be sidestepped if they stood in the government's way. Another section of the law, which was ostensibly designed to prevent organized-crime forces from invading legitimate private businesses, provides that whenever the Attorney General "has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation," he can "cause to be served upon such person a civil investigative demand requiring such person to produce such material for investigation."

Until now, the Attorney General, in his handling of criminal matters, did not possess anything so closely resembling the subpoena power, which had always been limited to federal grand juries. Although the new authority may be limited in scope, it seems inevitable that if the Attorney General is granted it for certain criminal proceedings he will be granted it for all criminal proceedings; otherwise, the law is discriminatory. The likelihood that this new power will be expanded through new legislation and upheld by the new Court is ominous, for in the past three years compliant federal grand juries have increasingly been used to harass and intimidate political "criminals" and political enemies, and a vindictive Attorney General could use his newly expanded authority similarly but with even less regard for the rights of particular individuals.

In 1790, the First Congress enacted a statute stating, "No conviction or judgment shall work corruption of blood or any forfeiture of estate"—that is, one's heirs cannot be punished for one's own misbehavior, and one's property cannot be entirely confiscated without regard to its value and the penalty imposed. In 1970, the Ninety-first Congress enacted a statute, as part of the Organized Crime Control Act, stating that anyone who has received income from a "pattern of racketeering activity" or who has collected "an unlawful debt" and has used the proceeds to invest in a legitimate business affecting interstate or foreign commerce can be fined up to twenty-five thousand dollars, imprisoned for as much as twenty years, and compelled to forfeit to the government all property or interests that have been obtained with such investments.

A "pattern of racketeering activity" is defined as two or more criminal acts, including everything from playing cards for money to committing murder, and collecting an unlawful debt is defined as accepting payment for a bet placed in contravention of any local, state, or federal law. In other words, a man who wins money in a weekly gin-rummy game and invests it could be fined twenty-five thousand dollars, sent to prison for twenty years, and lose, for himself and his family, his share of the business he invested in.

Supporters of this law content that it will be used only against organized criminals, while its critics retort that law should not be based on promises, that this law creates unequal justice, and that if the government could prove, as it so rarely does, that a member of a criminal syndicate had played in a couple of poker games where money changed hands, that would be enough to send him away without having to prove in addition what he had done with his winnings.

In addition, "any person injured in his business or property by reason of a violation of [this law]," the statute states, "may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

That is to say, if a restaurant owner who was not involved with a criminal syndicate won some money on a couple of bets placed through a bookie on the World Series and used his winnings to refurbish the inside of his place or put up a new sign outside, he could be sued for triple damages by a competitor down the street who *was* a racketeer, on the ground that these improvements had lured away his customers. Although the damages might be difficult to prove, winning that point wouldn't be vital, for tagging a competitor with the charge that he was a racketeer—a rather easy charge to support under the law's flagrantly loose definitions of that term—would ordinarily be enough to ruin a man.

A section of the Organized Crime Control Act that is entitled "Dangerous Special Offender Sentencing" has the effect of extending the D.C. law governing "multiple offenders" to the rest of the nation. Once again, a statute that is supposed to be confined to organized criminals could be used against a wide variety of other defendants, including those who are accused of committing political offenses.

Under this section of the law, a defendant charged with committing a felony that is punishable by a year or more in prison who has previously been convicted of two or more separate felonies and has served time within the last five years for at least one of them may be adjudged a dangerous special offender; a defendant who commits a felony "as part of a pattern of conduct" that is criminal under the law, that constitutes "a substantial source of his income," and that reveals "special skill or expertise" on his part may also be adjudged a dangerous special offender, and, finally, a defendant who commits a felony as part of a criminal conspiracy with three or more other people to engage in "a pattern of conduct criminal under applicable laws" and who had anything to do with starting, organizing, planning, financing, or directing such a conspiracy, or who gives or receives a bribe or uses force in such a conspiracy, may be adjudged a dangerous special offender.

A person who is found by the presiding judge to fit any one of these categories may be sent to prison for up to twenty-five years. Before the defendant's plea is entered, a prosecutor who intends to ask that he be designated as a dangerous special offender must present the judge, before the trial, with "information" about the defendant, and the law states that "no limitation shall be placed on the information concerning [his] background, character, and conduct."

In opposing this provision at a Senate hearing, a spokesman for the New York City Bar Association pointed out, "The trial court is directed to base its findings on a 'preponderance of the information,' yet the sentencing decision may be far more critical than the initial determination of guilt or innocence, which must be made on the basis of admissible evidence and beyond a reasonable doubt. 'Information' of all kinds, not only hearsay and rumor but also, presumably, the fruits of unlawful searches or illegal wiretapping, could be used and the defendant sentenced to . . . twenty-five years without any of the real protections afforded by a jury trial."

At a pre-sentencing hearing, the defendant has the right to counsel and to cross-examine "such witnesses as appear at this hearing," but, as in the case of reports put out by special grand juries, the witnesses will ordinarily be those who prepared the reports, not the informants who contributed to them. Moreover, the judge may omit from the material shown to the defendant any allegations that were originally contained in it and yet may base the decision that he is a dangerous special offender on what was left out. The judge may also infer that the defendant has engaged in "a pattern of conduct which was criminal" solely becuse he "has had in his own name or under his control income or property not explained as derived from a source other than [criminal] conduct." Once again, the burden of proof is shifted from the prosecutor to the defendant, and the presumption of innocence vanishes. Of course, when that is taken away from anyone, it may be taken away from everyone. Finally, the law gives the government the right to appeal the decision of a judge who has declined to call a defendant a dangerous special offender.

This is an unprecedented grant of power that may well violate the Constitutional stricture against double jeopardy. The law also gives the government the right of appeal in dangerous-special-offender cases if it feels that the sentence imposed is not long enough; this is also an unprecedented grant, and assuredly constitutes double jeopardy, for it amounts to a right to appeal the facts rather than the law. These changes give any federal prosecutor a huge club, for a defendant who refuses to plead guilty and to bargain for a lesser sentence than he could be given might face the risk of being charged as a dangerous special offender and sent to prison for much longer than he would have been had he pleaded guilty to the original charge. And, finally, these innovations could readily be expanded to cover other areas of criminal law, such as political crimes.

The Fifth Amendment privilege against involuntary self-incrimination—"nor shall any person . . . be compelled in any criminal case to be a witness against himself"—has always been one of the most bitterly contested sectora in the war between the left and the right. Those on the left and in the center have defended it as an essential bulwark against an inquisitorial government. And those on the right have attacked it as a screen that criminals and traitors hide behind. Before being appointed Chief Justice, Warren E. Burger called for revision of the Fifth Amendment, and one of the earliest official acts of Attorney General Mitchell was to order a secret Justice Department study of the feasibility of amending the amendment. As it turned out, that wasn't necessary, because the liberals, overcome by panic at being charged with coddling criminals and confused by dissension with the ranks, blew up their own front line.

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In 1966, Congress had set up the National Commission on Reform of the Federal Criminal Laws, under the chairmanship of Edmund G. Brown, who was known less for his legal acumen than for having defeated Richard Nixon for the governorship of California in 1962. The commission, which was controlled by a liberal majority, completed its work in 1970, and recommended several thousand large and small changes in the federal criminal code. One of them was a proposed revision of the federal immunity laws, based on the Fifth Amendment, which the Supreme Court and Congress had long defined as being absolute—that is, no person could be compelled to testify against himself unless he was granted *total* immunity from *any* prosecution for *any* part he might have had in the event or transaction being inquired into.

The Brown Commission recommended that this total immunity be legislatively changed to partial immunity. The suggested revision, known as "use immunity," would prevent anyone who was compelled to testify from being prosecuted on the basis of that testimony but would not prevent prosecution based on evidence that was obtained independently of, and was untainted by, the coerced testimony.

Use immunity was drawn up in the form of a bill and introduced in the House by three representatives who had served on the commission and were also members of the House subcommittee having jurisdiction over legislation dealing with criminal law—Richard H. Poff, a conservative Republican from Virginia; Don Edwards, a liberal Democrat from California; and Robert W. Kastenmeier, a liberal Democrat from Wisconsin. Their subcommittee, which had a strong liberal majority, held a one-day hearing on the proposed weakening of the Fifth Amendment's privilege against compulsory self-incrimination.

Only six witnesses appeared to testify, including Poff, who described the measure for the other members. Another witness was Will Wilson, then head of the Criminal Division of the Justice Department, who gravely declared that some kind of change like the one contemplated was desirable, because "public knowledge of the Fifth is such that there is wide acceptance of it, and more people will probably use it than has been the case in the past." In other words, something had to be done to stop all those citizens who had learned about their rights from asserting them.

Only one witness—Victoria Popkin, a spokesman for the American Civil Liberties Union—testified against the bill. After delivering a long, detailed, and persuasive exposition to demonstrate that the proposal ignored practically everything that the Supreme Court had ever said on the subject of the Fifth Amendment's privilege against compulsory self-incrimination, she went on to describe a few of the results that one could expect if the bill became law. Once a prosecutor can force a prospective defendant to testify about his own possibly criminal actions, she said, the government's already enormous advantages—in manpower, money, and the oppressive atmosphere of the courts—become colossal, for such a procedure would enable the prosecutor to narrow his search at once to a single person. "A less than candid prosecutor would be limited only by his ingenuity and diligence in uncovering an independent piece of evidence from which he could claim his investigation and its fruits proceeded," Miss Popkin explained.

Of course, ambitious prosecutors intent upon building records of convictions often use illegally acquired tips from wiretaps or bugs, or covertly broaden court-imposed limits on ordinary search warrants to include everything in a suspect's possession, so there was little reason to believe that they would not abuse the power inherent in use immunity. It would encourage prosecutors to ignore the clear intent of the Fifth Amendment, she continued, for under such a law they could grant immunity to a suspect and go on to prosecute him afterward just the same. In the past, suspects had ordinarily been granted immunity only as a last resort—most often in the case of peripheral rather than principal suspects—because prosecutors were naturally unwilling to take a step that would make later prosecution impossible.

But grants of use immunity would probably be the first resort of the lazy or incompetent or tyrannical prosecutor. Under existing law, Miss Popkin told the subcommittee, federal courts had authority to approve or deny an official request by a federal prosecutor that a witness either testify or go to jail for contempt of court, whereas under the use-immunity bill federal courts were required to approve such a request. This amounted to the direst kind of assault on the judicial system itself, as well as on the rights of the individual, she added because it placed "totally unrestricted power to grant immunity in the hands of the prosecutor," while at the same time it "reduces the requirement of a court order to a mere paper procedure."

In the case of federal departments and agencies, the rules laid down in the use-immunity proposal were open to even more extravagant abuse. Once again, the bill transformed court approval of official requests that a witness be forced to testify into rubber stamps. Citing the example of the Subversive Activities Control Board, which the Nixon Administration recently rescued from its almost moribund state and revived with a large infusion of funds, Miss Popkin pointed out that in the past the S.A.C.B. had hesitated to give witnesses immunity, since that would have precluded their prosecution.

Now, however, the board would be able, under such a law, to "call controversial witnesses and use this power to expose and harass" them, thereby violating not only the right of privacy but the rights of free speech and assembly, along with the right not to incriminate oneself. In the case of congressional committees, she went on, the bill made court approval of congressional requests for grants of immunity and contempt citations mandatory as long as two-thirds of the members of a committee of either house voted in favor of them. Since courts would lack the authority under such a law to determine whether a congressional grant of use immunity was proper, relevant, and necessary, as existing law required, Miss Popkin went on to say, Congress might use this power to harass unpopular witnesses.

In view of the demagogic excesses of the old House Committee on UN-American Activities, the Senate Subcommittee on Internal Security, the Subversive Activities Control Board, and the Department of Justice under comparatively strict law, it would seem to be the most dangerous kind of folly to loosen the law.

Miss Popkin was the last witness at the one-day hearing, and when she concluded her testimony a couple of subcommittee members questioned her for about ten minutes. Not long afterward, the subcommittee approved the bill with only one dissenting vote—cast by Congressman Ryan, of New York, who stated that such a law would destroy the Fifth Amendment. Later, the parent Judiciary Committee, also under the control of a strong liberal majority, approved the measure, and it was included as part of the Organized Crime Control Act.

Even so, the committee was sufficiently uneasy about what might be done with the new act to add at the last moment a title that provided for a federal commission to oversee the operation of it and to report to Congress and the President on any intrusions on individual rights that were made under its provisions, including the one authorizing use immunity.

The commission was to consist of fifteen members—four appointed by the President of the Senate, four by the Speaker of the House, and seven by the President. Senator McClellan tried to block adoption of the title, but failed; he then accepted a Senate appointment to the commission. However, the President has so far failed to appoint anyone to the commission, which was supposed to begin functioning on January 1, 1972, and it has never met. Rumor has it that McClellan, who is chairman of the Senate subcommittee on appropriations that would provide operating funds for the commission, has threatened to withhold them if the White House names even one civil libertarian to it. Recently, he also introduced a bill to amend the title so that it safeguards the prosecutor's rather than the individual's liberties.

Although Congress designed use immunity to replace total immunity, the latter is still on the books, to protect the government in the event that use immunity is ultimately thrown out by the Supreme Court. In the meantime, government prosecutors have offered a number of prospective witnesses use immunity, and when they have refused, as several have, and have threatened to take the issue to court, the government has granted them full immunity and federal courts have forced them to testify or go to jail.

In short, the government has used the law to bargain with people over their most basic rights. When use immunity is added to secret surveillance and the more or less unrestrained reports of grand juries, the so-called "chilling effect" on the First Amendment rights of free speech and free assembly is bound to plummet by several degrees. Under these repressive conditions, only the hardiest would venture to associate themselves with those who actively oppose government policy.

Aside from the ancient rule that a man should not be forced to condemn himself out of his own mouth, there is the point that even an innocent person may have something to hide, and the right to hide it—particularly if he finds himself living under an inquisitorial government. In that event, behavior that would otherwise be officially tolerated as a nuisance may become a crime.

Although the Nixon Administration could not be fairly characterized as tyrannical, some of its acts certainly have been, for they have employed, often unjustly, the most immense government power in response to the most trifling threats. For instance, conspiracy theorists on the right who hold high posts in the Justice Department have charged, in effect, that critics of the war in Vietnam are actually critics of the government and are bent on destroying it.

How they could possibly succeed, even if this were their intent, has never been explained. Preposterous as such conspiratorial fantasies may be, their use in an increasing number of federal cases serves a very serious political purpose—destruction of the left. Nothing has so unified or typified the liberal movement in this country in the past generation as opposition to the war in Vietnam, and to the right wing, of course, nothing could be clearer evidence of Communist inspiration than opposition to an anti-Communist war. Once again, crime is the issue—the most monstrous crime: treason—in the attempt to destroy, or at least discredit, the opposition. In the prosecution of Dr. Daniel Ellsberg and of Father Philip Berrigan and six other defendants in Harrisburg, grand juries have been employed to harass and intimidate associates, friends, and relatives of the accused. For instance, a federal grand jury in Los Angeles summoned Ellsberg's fifteen-year-old son at seven-thirty one morning to appear before it at nine-thirty the same morning, and then grilled him for over two hours on what his father had told him about the classified Pentagon Papers, which had been published in several newspapers.

Immunity has been granted many witnesses in these cases, along with some of the defendants, to compel them to testify against each other. A federal district judge in Boston found Ellsberg's stepmother-in-law in contempt for refusing to divulge what she knew. And Anthony Russo, who admitted that he had helped Ellsberg duplicate the Pentagon Papers but refused to say any more, spent forty-seven days in jail for his defiance of the government.

In the Harrisburg case, several defendants and prospective witnesses have also been granted immunity and then held in contempt for refusing to talk. Moreover, many of these people, along with Ellsberg's friends and associates, have been relentlessly investigated by the F.B.I. and called before grand juries. If any of these people—however innocent of any involvement in either affair and however convinced that there was no conspiracy of any kind—should refuse to tell whatever the government wants to know, they may go to prison.

"Where the press is free, and every man able to read, all is safe," Jefferson observed a few years after he left the Presidency. Yet he had been the object of as scurrilous attacks by journalists as have been endured by any President. "Our newspapers, for the most part, present only the caricatures of disaffected minds," he wrote to an acquaintance in Europe halfway through his first term in office. "Indeed, the abuses of the freedom of the press here have been carried to a length never before known or borne by any civilized nation." Probably every President has resented the press, and at times feared it, but until now none has tried to silence it with quite the zeal the Nixon Administration has displayed. Since the people have no other means by which they can learn what their government is doing, any attempt by it to control the press in any way—whatever its worst excesses, and they are always plentiful—must be tyrannical by nature, even if the public applauds it.

Vice-President Agnew's fulminations against the press were approved in advance by the President, who, Mr. Agnew recently revealed, watched a television broadcast of his first broadside against TV commentators with the greatest relish. At best, that suggests an insensitivity to Constitutional propriety. Senator Ervin, who is no great admirer of American journalism, called the attacks "a clear attempt to bully the press into changing its attitudes," and added, "The Administration assaulted the very integrity of the press and called into question its right to disagree with official views. Other administrations have had a hostile press, but other administrations have been content to complain or cajole. This time the very *bona fides* of the press were put in issue."

While the Nixon Administration has declared that it has every right to know what reporters learn in the course of their work, as displayed by its prosecution of Earl Caldwell, of the New York *Times*, for refusing to give a federal grand jury his notes on interviews with the Black Panthers, at the same time the Administration has declared that the people have no right to know about past Administrations' blindness and deception, as described in the Pentagon Papers. Although the publication of classified documents could not simply be ignored, there was one compelling political reason for the Nixon Administration *not* to make an issue of these documents—they contained nothing about the Nixon Administration.

There was also one compelling legal reason for not trying to stop publication of the papers—the First Amendment. Despite the obvious drawbacks in taking action against Ellsberg and the newspapers that had published the Pentagon Papers—principally the *Times* and the Washington *Post*—the chance to crush the Administration's opponents, or critics, in the press and in the anti-war movement was apparently too attractive to pass up. While it is probably too early to determine whether the attempt paid off conclusively, it has almost certainly had an adverse effect on those it was aimed at.

By now, nearly every reporter in the country must have heard about what has happened to Neil Sheehan, who prepared the Pentagon Papers for use in the *Times;* in a frenzied effort to prove its conspiracy theory, the government has investigated his wife, his relatives, his friends, his associates, his comings and goings, and his bank account. It will probably be a long time before his fellow-reporters forget the lesson. "Not since the Presidency of John Adams has any Administration so instinctively distrusted the exercise of freedom of speech and of the press by the American people as this one," Henry Steele Commager wrote recently. Of course, distrust of so fundamental a principle expresses distrust of the people themselves.

In an appearance before Senator Ervin's subcommittee last year, Assistant Attorney General Rehnquist assured its members that no one had to fear government surveillance, because in an important matter involving the rights of citizens the Administration could be relied on to conduct itself with "self-discipline.'" To date, the most notable examples of this doctrine in practice have been the government's self-discipline in not making vigorous efforts to prosecute the National Guardsmen who killed four students and wounded eight others at Kent State University in 1970 or the Mississippi state troopers who murdered two students at Jackson State the same year.

Perhaps the best measure of the Administration's promise to behave with restraint was its response to the Mayday demonstration in Washington last spring. After the riots that crippled Washington following the assassination of Dr. King in 1968, an advisory panel recommmended that in future large-scale disturbances police use "field-arrest forms."

Under this system, which the panel devised, a policeman who has arrested someone is to take him to the nearest police van, where a Polaroid photograph is taken of the two together as evidence that a particular officer arrested a particular person; the officer is then to fill out a brief form describing the circumstances of the arrest, attach the photograph to the form, and give the document to the custodian of the van. Washington police adopted this system, and during the comparatively small protests that took place in Washington in the days immediately preceding May 3, 1971—the day that a group of militant anti-war protesters known as the Mayday Tribe had promised to halt traffic and slow down government operations throughout the city—the new procedure was used successfully in several hundred arrests. But at a little before seven o'clock on the morning of Monday, May 3rd, Chief of Police Jerry V. Wilson suddenly ordered use of the field-arrest forms suspended and the streets cleared. Within a few hours, more than seven thousand people had been arrested. Almost all of them were charged with disorderly conduct, which is a misdemeanor. Assistant Attorney General Rehnquist justified the government's action, which, he said, had been taken under a legal principle akin to "qualified martial law."

There is no such legal principle. Nor was martial law, or anything resembling it, invoked by the Administration. The principle that should have applied to the arrests was a very basic and very simple one: due process of law. Under federal law and most state laws, a police officer cannot arrest someone for a misdemeanor unless he sees the person commit the crime and can identify him and describe what he did before a magistrate. Wilson's order openly violated this elementary rule of due process, for, as everyone knew at the time, few policemen would later be able to connect suspects with acts committed during the melee.

In sum, any policeman who made an arrest without recording on the spot the identity of the suspect and the details of the crime made prosecution impossible. That, under the law, made the arrest illegal. Some of those who were arrested that day were taken into custody while they were actually breaking the law, but since they were arrested in a manner that precluded prosecution, they were arrested illegally.

Others who had broken the law earlier and intended to break it again later were arrested while they were not doing anything wrong, so their arrests, too, were illegal from the moment they were taken into custody. And still others who were illegally arrested were innocent bystanders: passersby, attorney observers, government employees and business people on the way to work, journalists, and even a group of Canadian schoolchildren who had been brought to Washington by their teacher to observe democracy in action. Since a person who is unlawfully arrested or against whom there is no evidence of having committed a crime cannot be lawfully detained, the imprisonment of almost all the people locked up that day—and then held for anywhere from ten to sixty hours—was illegal.

And every official involved—from the greenest rookie cop to the police chief, from the staff of the District's corporation counsel to the mayor, and from junior lawyers in the Justice Department to the Attorney General and the President—could not help but know that the most basic Constitutional right of due process of law, which lies at the heart of our system of criminal justice, was willfully disregarded from the moment that the first arrest was made until the last prisoner was released.

Chief Wilson, who is widely regarded as one of the most skillful and decent police chiefs in the country, took entire responsibility for suspending the field-arrest forms and ordering the mass arrest. It would be difficult to find anyone experienced in the ways of government who believes that these moves were made without prior approval by the Attorney General, with whom Wilson spent the better part of the Saturday before the arrests, and by the President, who had vowed that the protestors would not be permitted to close down the city for even an hour.

"After all, the federal government is immediately and finally responsible for what goes on here," a judge who sat on many of the Mayday cases said afterward in private. "It is utterly inconceivable that a policeman would be allowed to make unprecedented decisions of that magnitude. However, it is not inconceivable that he would be allowed to take the blame." Time after time that day, Wilson was observed watching his men behave illegally and doing nothing about it: for example, they repeatedly ordered people, demonstrators and passersby alike, to move on, and then arrested them when they did. "Wilson was therefore guilty of openly flouting the Constitution," the judge went on. "Since he did that in full public view, he must have known that he had his superiors' full support. That proved to my satisfaction that a high-level decision had been made to arrest as many people as possible."

On May 4th, thirty-eight hundred more people were arrested, over half of them for sitting down on the street in front of the Justice Department. Another judge, who happened to be on hand, later described what he had witnessed. "The demonstrators were orderly and peaceful," he said. "They came there by prearrangement with Chief Wilson,

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who had led them in an orderly fashion down the street. When they were all jammed in before the Justice Department, he waved them to a stop, and they sat down. Then, suddenly, the police came out of hiding in buildings at either end of the Department and slid across the street like two doors, boxing in the crowd. They put up barricades and ordered everyone to disperse.

"When some of the demonstrators tried to obey, they were arrested for crossing police lines. Then some of the cops who had taken off their nameplates waded in and started clubbing the kids on the perimeter, who sat there, unresisting, and took it. When no one fought back, the cops stopped beating them, and then everyone was arrested. This was a legal gathering—an expression of every citizen's right to petition the government for a redress of grievances and to speak and assemble freely.

"But by some sudden flick of an official switch it was all made illegal, without a shread of justification under the law. Every policeman who arrested anyone there ignored the law. So did Jerry Wilson, who gave the order. And so did the Attorney General, who was watching from a balcony at the Justice Department and didn't lift an eyebrow at this public rape of the people's rights." On the following day, fifteen hundred more people were arrested, twelve hundred of them on the steps of the Capitol, where they had gathered, peaceably and without any threat of violence, to listen to anti-war speeches by three members of Congress. Without warning, this crowd—or audience—was also rounded up and taken off to jail.

Of course, the Mayday Tribe's attempt to stop the government from operating was itself illegal. It was also foolish, and it produced some extremely ugly and senseless acts of violence. In a speech before the Rotary Club of Cleveland a month later, Deputy Attorney General Richard Kleindienst described a long list of these to demonstrate his contention that the government had been forced to respond as it did. Undoubtedly, each act that he mentioned had actually taken place. But his speech, entitled "Mayday Fable and Mayday Fact," contributed more fable than fact to the popular legend about the event by implying that his catalogue was typical of "this vicious and wanton mob attack."

Such behavior was no more typical of the protest than the occasional outburst of brutality committed by some officers was typical of the Washington Police Department. (Most of the violence that Kleindienst described occurred in Georgetown, and it was largely due to a lack of forethought on the part of the police there. They failed to have enough men on hand at the spot where the greatest concentration of young people was bound to be—the vicinity of Georgetown University—and although the police were outnumbered, they provoked a confrontation unnecessarily, and at the same time neglected to cordon off the small area involved, some ten blocks in all, or to reroute traffic entering it by way of the only through street in that part of town.)

In any event, word had gone out from the Mayday organizers to campuses around the country that anyone who had violence in mind should stay away from the demonstrations, and while some of those who turned up assuredly were bent on violence, the consensus was that their number was probably one or two percent of the total—some two hundred to four hundred hardcore radicals in all.

As for the claim that the government's dragnet arrests had been necessary, most experienced observers were convinced that if the actual lawbreakers had been handled calmly under the field-arrest-form system, government workers would have been delayed in getting to work by, at most, an hour—the kind of delay that is ordinarily caused by a heavy rain or a light snow. "But the President had vowed that there would be no stoppage of the government, even for an hour, and he kept his word," one observer said a few days later. "God knows what he might do if there were a real emergency."

The police and the Administration were fully apprised of most of the demonstrator's plans, because several weeks earlier the Mayday organization had widely and openly distributed a twenty-four-page booklet called "The Mayday Tactical Manual," which described in detail the methods to be used during the protest. Early Sunday morning, the day before the mass arrests, the police gave the protesters four hours to break up their encampment in West Potomac Park.

Almost all of the people there obeyed, and on their way out of the park their leaders posted hand-lettered and mimeographed signs on trees notifying everyone, including a legion of undercover agents, that such-and-such a state group would meet at such-and-such a place elsewhere in the city at such-and-such a time. When these meetings took place, again with undercover agents present, they were devoted to discussions of the specific targets for the next morning. Everything was talked over openly and each plan was voted on, communal fashion, in each group.

Most of the plans involved little more than elaborate practical jokes; for instance, an especially popular one was for several demonstrators to pretend to look for a missing contact lens in the middle of a key intersection during rush hour. A more serious proposal was that trash containers on street corners and loose materials at construction sites be used to block traffic. Despite these forewarnings, neither city nor federal authorities took any steps to remove the containers or guard the sites.

One lawyer who served as a congressional observer rose at 5 A.M. on May 3rd and proceeded to drive around Washington to see what was happening. "Between six and seven o'clock, I made a complete circuit of all the city bridges, where the main trouble was expected, and found practically no trouble," he reported later. "At one small exit, about sixty kids were sitting down in the ramp. I was the first motorist who was stopped. After a couple of minutes, they got up and left in a group. If they had had any kind of a plan at all, they would have detailed twenty people or so to stay and cut off that exit, while the rest went on to do something else. But apparently they only wanted to stay together.

They were just kids, with no plan, no coordination, and certainly, in this particular case, with no vicious, wanton aims in mind. If they had planned to sabotage cars, they would have disabled mine, but they made no attempt to. When they left, they got teargassed—at that point, for doing nothing illegal. Then I drove around the grounds of the Washington Monument half a dozen times. Periodically, a few demonstrators would go out and sit down in the street, and the police would tear-gas them—again unnecessarily, because it would have been a simple matter to arrest them, without gas or violence or even much delay.

As for the trash cans that got so much publicity, I found that most drivers simply stopped, got out of their cars, removed the cans, and drove on. There was almost no delay anywhere. In fact, because the presence of so many policemen discouraged double parking and illegal turns and such, most people got to work more quickly than usual."

Afterward, the police contended that if the field-arrest forms had not been dispensed with officers would have had to spend more time processing than arresting people. "That claim was based on the assumption that *all* of the demonstrators were going to break the law sooner or later, so they *all* had to be arrested," the same lawyer commented afterward. "But that was a wild assumption, because a lot of the kids were just out for a lark and would have fled at the first sign of a real bust—at least in the areas I observed. If the arrests had been confined to those who actually broke the law—a fairly simple matter—that would have scared off many of the others and reduced the problem to a manageable size."

He went on to point out that while the number of demonstrators was limited to around twenty thousand at the outside, and the number of key intersections and bridges they could hope to tie up was limited to perhaps twenty, the number of troops available to Chief Wilson was, in practical terms, unlimited. "Wilson could have had all the troops he could possibly have used deployed wherever he wanted to keep the traffic moving," the lawyer added. "But it seems that he was unwilling to admit that his men couldn't handle things alone, so he ordered the mass arrests. At that point, he had to make a choice between violating the President's orders or the Constitution."

Apparently, it was also a case of official reliance on unreliable intelligence agents, who reportedly fed their superiors' worst fears by submitting as facts the kind of hysterical rumors that are most commonly the work of *agents provocateurs*. The only intelligence network that was worse than the Police Department's was the Justice Department's.

"No one high up in the Department seems to know that you can pay small prices for big gains," a former employee in the Department said shortly after leaving there a year ago. "They have no imagination, no experience, no skill. And although they're supposed to be tough, cool guys, they jump out of their skins at the slightest shadow. Their fears are always political fears, and they are so committed to their impressions that they can't escape from them, whatever the evidence to the contrary.

For example, Kleindienst later charged that there had been an international threat involved in the Mayday affair, because a few members of the crowd there had gone to Hanoi earlier to talk to North Vietnamese students, and one had also gone to Paris to talk to the North Vietnamese peace negotiators. It's difficult to believe that a grown man could get up and say that sort of nonsense—until you remember that he was one of Goldwater's campaign managers in 1964 and is a real Red-menace type. Of course, most of the intelligence material he relies on comes from F.B.I. agents, and they don't understand the simplest things. Shortly after Mayday, several hundred lawyers came down from Wall Street to protest the invasion of Cambodia. They were all dressed in three-piece Brooks Brothers suits and were carrying briefcases, and the F.B.I. men tried to infiltrate them while still wearing the beards, purple shirts, and bell-bottom trousers left over from Mayday."

Having ignored due process of law in arresting and imprisoning the Mayday people and anyone else who happened to be in the area being swept, the Administration proceeded to ignore the Constitutional and human rights they were entitled to as federal prisoners.

The detention centers were human stockyards, or worse. They were dangerously overcrowded, some to the point where mass hysteria or violence was a constant threat; there were few beds or blankets, sanitary facilities were inadequate, and the filth, stench, and danger of influenza and hepatitis went unchecked. The government claimed that it was doing its best—to make certain, one critic remarked, that the prisoners would not be in a hurry to protest again. One judge took a look at the worst place of all—a cellblock under the Superior Court Building, where six hundred people were crammed into cells built to hold a quarter as many—and ordered that they be transferred at once to proper quarters, and officially stated that

they had suffered "cruel and unusual punishment and irreparable injury."

During the five days that demonstrators were detained, lawyers were denied access to most of the detention centers for protracted periods. Where conditions were the worst of all—in the cellblock—the police refused to allow lawyers from the District of Columbia Public Defender Service, the American Civil Liberties Union, and other legal-aid organizations in to confer with prisoners for nearly a day, on the ground, as a representative of the Police Department later testified under oath, that they gave the prisoners undesirable advice and were unwilling to cooperate with the police.

Kirby Howlett, a Public Defender Service attorney who regularly worked in the cellblock during ordinary times, finally got admitted there, along with one other lawyer, on a court order. Nobody has ever had so many Constitutional rights violated in this town before," he said afterward. "On the day of the mass arrests, I saw many, many examples of police brutality. Cops clubbed demonstrators who hadn't done anything. If the cops couldn't catch somebody who had just broken the law, they'd club the nearest person, sometimes a demonstrator, sometimes just a passerby. But the cellblock was the worst thing I'd ever seen.

The police there were full of hatred. Some of them whom I'd known for years and considered friends asked me why I wanted to help these rotten Commies—why did I want to stay in this filth? They suggested that I leave, and let them do the job that had to be done. I had expected to find a bunch of hell-raising kids spouting obscenities—the kind that the papers and TV had concentrated on—but most of them were decent, straightforward kids. They were militant, but they weren't at all radical or even sophisticated in terms of politics or political protests. But the police had a hatred for them unlike anything I'd ever seen before—far worse than their reaction to blacks during the 1968 black riots or even to black cop-killers. I had nightmares afterward—here it was, unbridled police power encouraged by the highest authority in the country."

To process the seven thousand people arrested on May 3rd, the Justice Department that night sent over some of its lawyers, who were generally young and inexperienced in such procedures but willing to help out after they were told that their assistance would enable the young people to obtain their release and be sent off to find hot food and warm beds. It wasn't until these lawyers had been processing prisoners for several hours that one of them realized what he was actually doing on instructions from his superiors in the Justice Department—falsifying arrest records. When he told his colleagues of his discovery, several of them immediately switched over to the legal-aid side and began advising the prisoners not to accept the Justice Department offer.

One of these lawyers later testified under oath about what he had been told to do by the Department. First, he said, they were instructed to fill out an ordinary arrest form by writing down all pertinent personal data about the prisoner at hand. Then under "Location of the Arrest" they were to write "D.C.," under "Type of Premises" they were to write "Public street," under "Specification" they were to write "Arrested during demonstrations in D.C. on May 3, 1971," and under "Arresting Officer" they were to write the name and badge number of one police officer, taken in rotation from a list of seven. Of course, the absence of specific details rendered the forms legally worthless (that is, once a judge saw them), and the arbitrary choice of arresting officers made them as unlawful as the arrests themselves. If any doubt remained about the Justice Department's determination to keep the protesters under its control as long as possible, law or no law, the betrayal of its own young employees, who by concocting official records may have committed far more serious crimes than any that the demonstrators were accused of, finally settled it.

While the police and the Justice Department's highest-ranking members were violating the letter of the law, the courts were violating its spirit. The District of Columbia Superior Court, which was set up by the court-reform part of the D.C. Crime Bill, was the court that was immediately in charge of the Mayday cases during the early stages. Its chief judge, Harold H. Greene, who had formerly served in the Civil Rights Division of the Justice Department in the Kennedy Administration, was known among his fellow-lawyers as both capable and decent. As soon as the District of Columbia Public Defender Service learned of the mass arrests on Monday, May 3rd, it hurriedly drew up a petition for a writ of mass habeas corpus and submitted it to Judge Greene. He heard arguments by both sides, the other side being the D.C. corporation counsel, under direction of the Justice Department in this case, and then, at eleven o'clock on Monday evening, granted the request—to take effect twenty-one hours later.

That got the government through the next two crucial periods of rush-hour traffic—Tuesday morning and Tuesday evening. "Considering that the arrests were clearly illegal and that the defendants were being illegally held in horrible conditions, his decision was obviously based on political rather than judicial concerns," one defense attorney said later. "Judge Greene violated the whole purpose of habeas corpus, because he put himself in the role of an executor of public policy rather than in the role he was supposed to fill—the judge of that policy on objective legal grounds. To my mind, it's far worse for a judge to act as he did than it is for a cop to club an innocent person." At another point, defense attorneys pleaded with Judge Greene to order that they be allowed in to give the prisoners counsel, and, after a long delay, he ordered that two lawyers be allowed into the cellblock to consult with six hundred people for one hour. Ordinarily, anyone accused of disorderly conduct in Washington—the charge that nearly all the demonstrators were held under—is released upon posting a ten-dollar bond. Aware of this, the protesters had come to town with at least ten dollars apiece. Suddenly, after a meeting in the chief judge's chambers, judges of the Superior Court began setting bail in uniform amounts—usually two hundred and fifty dollars—and bail bondsmen uniformly refused to deal with demonstrators.

To get the young people out of detention, the Public Defender Service finally informed Judge Greene that it would try to persuade them to be processed if he would order that the processing not constitute an arrest record and that no records be sent on to the F.B.I., since it routinely distributes these on request to local police departments and to credit bureaus and banks; defense lawyers hoped to forestall this in the expectation that the cases would ultimately be thrown out for lack of evidence. Greene issued the order requested, but then the corporation counsel appealed the decision to the District of Columbia Court of Appeals, and this court overruled Greene.

In the meantime, many of the demonstrators who had heard about Greene's order had agreed to undergo processing, and now had police records. "There was absolutely no basis in law for the Court of Appeals' order," Barbara Bowman, director of the Public Defender Service, said afterward. One widely accepted explanation was that the court knew the Justice Department wanted the fingerprints and photographs of all the demonstrators, and wasn't going to stand in the way; in the course of the litigation during that week, it seemed clear that, next to keeping demonstrators off the streets, establishing arrest records for them was the main aim of the government.

"It was terrible to stand up there in court," Mrs. Bowman said, "knowing that you were absolutely right in appealing to the judges to understand that not far away thousands of peoples' basic rights were being abused and to suddenly realize that nothing was going to be done, because no one cared." Although there is no indisputable evidence that the Administration compelled, or persuaded, judges to delay matters, when one of them was privately asked if reports of such pressure were true he answered, "I can give personal assurance that they are."

On May 6th, a spokesman for the Administration announced that President Nixon was "totally satisfied" with the way the Mayday demonstrations had been handled, and added that no evidence had been produced to show that any unlawful arrests had been made. Two days later, the President met with Chief Wilson and commended him for acting "with firmness but yet with restraint." Two days after that, Attorney General Mitchell, in a speech before the California Peace Officers' Association, called the demonstrators "rights robbers," compared them to the Brown Shirts in Germany in the nineteen-twenties, praised "the valiant Washington policemen," and urged his listeners to adopt the same practices in the event of mass civil disobedience and disorder in their cities.

During a Presidential press conference three weeks later, Mr. Nixon responded to a question about the affair by saying that the government has always protected the right to lawful dissent. Then he added, "But when people come in and slice tires, when they block traffic, when they make a trash bin out of Georgetown and other areas of the city, and when they terrorize innocent bystanders, they are not demonstrators, they are vandals and hoodlums and lawbreakers, and they should be treated as lawbreakers." To be sure, those who acted in such ways should have been treated as lawbreakers. But the point was that they weren't. By treating the guilty and the innocent alike—illegally—the government made it impossible to prosecute those who should have been prosecuted.

It also probably turned many ordinary dissenters into confirmed radicals. When Ralph J. Temple, legal director of the A.C.L.U. in Washington, talked to a group of prisoners who were held in the Washington Coliseum, they kept asking him what had happened, why couldn't they use a telephone or get legal help. "Yes, you have those rights and they're being violated because the court system has broken down," he answered. One of the prisoners nodded, and said, "You see? The Establishment has won, as we've been telling people like you all along. You tell us to work within the system, and when we try to, *they* ignore the system. Oh, they may throw up a sop now and then, but when it comes to the crunch they smash us with naked power."

Apparently, President Nixon had not learned much from his hasty prejudgments of Charles Manson and Lieutenant William Calley in earlier press conferences, for when he charged that the Mayday protesters were lawbreakers more than four thousand cases were still pending before the courts. Of the first two thousand defendants, one was found guilty. In the cases of nearly twenty-five hundred other defendants, which were dropped for lack of "adequate evidence," the A.C.L.U. volunteered to take on the task of notifying them that they did not have to appear for trial if the prosecution would provide a list. It did—one that was partially

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illegible and lacked a large number of addresses.

When the A.C.L.U. finally got a proper list, it learned from some of the people on it that their inquiries to the Superior Court clerk's office about the state of their cases, after the order to drop all charges had been issued, had brought the uniform response that they had to appear for trial. The A.C.L.U. complained to the court, which explained that this had been an error and promised that it wouldn't happen again. Afterward, several A.C.L.U. employees telephoned the court, said that they were defendants on the list, and asked about their cases; they were all told that they had to appear for trial. Whenever defendants whose cases had not been dropped failed to appear for trial, corporation-counsel attorneys invariably asked the court to forfeit their posted bonds and to file criminal records; this resulted in about two thousand technical convictions. Another six hundred people pleaded either guilty or no contest—according to the A.C.L.U., under coercion. Of the other thousands of people arrested and detained, sixty-one were finally convicted—all on minor charges. In the end, the United States Circuit Court of Appeals threw out all the cases remaining that had not been settled one way or another, and directed that criminal records not be sent to the F.B.I. or, if they had already been sent, that they be returned.

Shortly before the Presidential campaign of 1968, Mr. Nixon remarked that any American President's overriding concern must be foreign affairs and that he can leave domestic matters largely to his Cabinet. As misguided as that outlook may be—no leader can deal successfully with other nations unless he has dealt successfully enough with his own to have its people behind him—it suggests that President Nixon may not have been fully aware of what his subordinates in the Department of Justice were actually doing when they devised the new anti-crime laws or when they put down the Mayday threat.

Indeed, it is even possible that neither he nor the deputy to whom he gave the greatest trust and responsibility in domestic affairs, former Attorney General Mitchell, realized what such policies could lead to. As largely political men, they have often seemed to view the power the people have given them to do what is fitting as power to do as they see fit. To such men, who have demonstrated an inclination to consider the immensely complex forces of the nation solely in terms of short-run political gains or losses, the Constitution must at times seem an obstacle to their ends rather than a bulwark of the people's freedom. And it is conceivable that the President and his Attorney General never fully acknowledged to themselves one price they paid for the support of the right wing in 1968 — the appointment of Goldwater, Thurmond, and Reagan men to key places in the Administration. Yet these men, too, undoubtedly believe in their cause—to preserve America as they understand it.

For instance, Richard Kleindienst, Attorney General designate, who was in daily charge of the Department of Justice and *had* to know what his subordinates were doing, is apparently convinced that a few thousand radicals on the opposite side, with no power and no support from the public at large, threaten to bring down the nation. None of these officials has acted or spoken in any way that would demonstrate an understanding of how fragile a system our democracy is.

If they do in fact understand that, then their official actions—in pressing for laws that can now be used to crush civil liberties, in prosecuting leaders of the anti-war movement to still dissent, in harassing the press to end criticism, in invading the privacy of tens of thousands of citizens to catch a handful of crooks, in illegally suppressing protest to show firmness—must be taken as signs that they see the system's weakness as an opportunity, not a peril. The system has survived this long largely because no President before now has used, or allowed to be used in his name, the people's deepest fears to divide them and to turn the majority's tyrannical instincts against his political enemies. No one can say that the President has willfully set out to undermine the Constitution that he swore to uphold. But how would the results be different if he had?—RICHARD HARRIS.

RURAL ECONOMIC DEVELOPMENT ACT

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MIZELL. Mr. Speaker, I am today reintroducing my comprehensive Rural Economic Development Act as an amendment to the Public Works and Economic Development Act of 1965.

I have outlined the provisions of this legislation for my colleagues on several occasions in the past, and I will not dwell on specifics again today.

Briefly, however, my proposal calls for the establishment of a 5-year Rural Development Commission to concentrate solely on solving the problems and improving the potential of rural America.

The bill calls for a first-year funding level of $1 billion in new money, with funds to be distributed among the States on the basis of rural population and the percentage of low-income residents within the States.

These funds will be used to improve transportation systems, promote industrial development, provide better education, health care and housing, protect the rural environment, and assist in planning new responses to rural needs.

The commission's work would rely heavily on local initiative for formulation of projects, and would also actively involve the States in overall planning functions, with the Federal role limited to general policy decisions.

This commission would be composed of the 50 State Governors and a Federal cochairman representing the President.

As I have told my colleagues before, the program I am proposing is basically a national adaptation of the Appalachian Region Commission, which was established under this same Public Works and Economic Development Act I am seeking to amend today.

I am honored and pleased to have as cosponsors of this legislation several of my distinguished colleagues from both sides of the aisle. Endorsing my proposal today are Messrs. ANDREWS, BEVILL, BROYHILL of North Carolina, CARTER, CLEVELAND, FLOWERS, GRAY, KEMP, KYROS, MONTGOMERY, and THONE.

The Committee on Public Works, which was so largely responsible for the success of these earlier economic development efforts, is now considering new means of improving local and regional economies as part of its extensive economic development hearings that are now being conducted.

I believe the legislation I am introducing today could be a significant contribution to those hearings, and I am convinced that the program it establishes would be a worthwhile product of those hearings. I further believe that enactment of this legislation by the Congress would serve as both symbolic and practical evidence of our commitment to improve the quality of life in rural America on a massive but well-organized basis.

I invite my colleagues to give this legislation their careful consideration, and I urge that action be taken on it as soon as possible.

ALLTIME BASEBALL GREAT "PIE" TRAYNOR DIES

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MOORHEAD. Mr. Speaker, my city of Pittsburgh suffered a great loss with the recent death of Harold "Pie" Traynor, the best third baseman ever to play baseball.

In the early 1930's, Pie lead the Pirates as both a player and then later as manager. He was an inspiration to all with his reckless, dynamic play and hard hitting.

But Pittsburghers remember more than just the supreme athlete when they think of Pie Traynor. He was everybody's friend and the original Mr. Niceguy.

Pie could not walk down the street in Pittsburgh without somebody recognizing him and stopping the grand old gentleman and talking baseball. And Pie always listened and always offered his thoughts on whatever point the citizen was trying to make.

He was a fixture at every Pirate spring training camp, often taking young infielders aside and showing them the finer points of the game. He did this right up until the time he died.

The Pittsburgh Post-Gazette eulogized Pie Traynor in an editorial last week. I include this fine statement in the RECORD at this time:

PIE TRAYNOR—MODEST IMMORTAL

On the playing field the late Harold Joseph (Pie) Traynor was a dauntless competitor, justly heralded as the finest third baseman in major league history. Anyone privileged to watch his glittering performances during the Twenties and Thirties can recount epic tales of a wide-ranging gloveman who hurled himself headlong at wicked smashes far inside the bag to rob incredulous hitters of extra bases.

A gaudy lifetime batting average of .320 attests to his prowess at the plate. Unlike Mike Gonzales' "swell field-no hit" rookie, Pie Traynor was an accomplished clutch hitter, equally adept at laying down a perfect bunt or hitting to the opposite field. His steady brilliance for 17 seasons with the Pittsburgh Pirates made his election to Baseball's Hall of Fame inevitable.

In private life, Pie Traynor had nothing of the flamboyance of the celebrated superstar. It has been said that the test of a gentleman is the way he treats people who can be of no use to him. The soft-spoken gentleman with the pleasant New England accent was as gracious to a newsboy as to a corporation president.

A lover of the tall tale and the gentle rib, Pie Traynor won the love of people largely unaware of his greatness on the diamond. Pie Traynor was even greater as a human being than he was a baseball star. There can be no higher praise than that.

POWER BLACKOUTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DINGELL. Mr. Speaker, I have introduced a bill to amend the National Environmental Policy Act of 1969 by providing authority to the President to suspend the requirement that an environmental impact statement be filed covering Federal actions in order to permit emergency actions or other similar actions in the public interest.

My colleagues may be aware that there have been a number of proposals made in recent days to amend NEPA in one respect or another. One of them, H.R. 13752, I introduced myself as a means of sharpening the question of the necessity for providing a limited exception to NEPA to avoid possible power blackouts during the coming year. I am not satisfied that this or any other bill to accomplish these limited purposes is necessary, but I am satisfied that the questions are being asked and deserve careful consideration. The bill which I introduce today has been drafted for that purpose.

It would permit the President, upon making a determination on the public record that an emergency exists or that the public interest so requires, to suspend for a period of 180 days the requirement that major Federal actions, as described by section 102(2)(C) of NEPA, not be accompanied by an environmental impact statement. His suspension could be further extended in increments of not to exceed 90 days. Any such action would have to be taken by Executive order and published in the Federal Register, supported by the background and the facts justifying his action. The bill goes on to make it clear, however, that the existence of any such extension would not in any other way suspend the operation of NEPA, nor would it override the basic commitment of that act to the conception of environmental protection. Its only effect would be to suspend for a limited, definable period of time, the procedural requirement that no Federal action might be taken until a 102 statement had been prepared, filed, and circulated for comment.

I will be frank to say that I do not believe that this exception to NEPA, if enacted, would often be used. It was not intended to cover the normal situation where an operating agency felt its prerogatives or options constrained by the pressures of time or expediency. It is intended to reach situations, such as we are told exists with respect to the ability of nuclear plants to fend off imminent power crises, where prompt emergency action must be taken of sufficiently national implication that the President feels compelled to intervene personally.

For the convenience of my colleagues, I include the bill, H.R. 14137, in full at the conclusion of my remarks:

H.R. 14137

A bill to amend the National Environmental Policy Act of 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331–4335) is amended by adding at the end thereof the following new section:

"SEC. 106. (a) If the President finds, in the case of any major Federal action for which the detailed statement and agency review process required by section 102(2)(C) is not completed, that—

"(1) failure to proceed with such Federal action on an expedited basis could result in an emergency situation which threatens the public welfare; or

"(2) the proper protection of the public interest requires that all or some portion of such Federal action be undertaken in advance of the completion of such statement and agency review,

he may, by Executive order, declare that such Federal action may be undertaken for a period of not to exceed 180 days notwithstanding the fact that such detailed statement and agency review process have not been completed. The effective period of any executive order issued under this section may be extended for such periods (but each such period may not exceed 90 days) as the President finds necessary. Any Executive order issued under this subsection, and notice of each extension thereof, shall be published in the Federal Register together with a statement which sets forth in reasonable detail the background facts and the justification for the order or extension. Any such order shall not take effect until five days after the date of its publication.

"(b) The issuance of any order or extension thereof under this section shall not in any other way affect the requirements imposed by section 102(2)(C) and the responsible official shall proceed, while the order or extension is in effect, with the preparation of the detailed statement and the agency review process."

DR. WALKER COMMENDS THE ARKANSAS COUNCIL ON ECONOMIC EDUCATION

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HAMMERSCHMIDT. Mr. Speaker, on the occasion of the 10th anniversary of the Arkansas Council on Economic Education, Under Secretary of the Treasury, Dr. Charls E. Walker, presented the following message.

I take this opportunity to agree with him about the quality of the economic education program in Arkansas, his comments on Bessie Moore's outstanding leadership, and also to congratulate Arkansas' many Kazanjian award recipients.

I am reading these remarks of Dr. Walker for the benefit and enlightenment of my distinguished colleagues in the House of Representatives:

COMMENTS BY DR. CHARLS E. WALKER, UNDER SECRETARY OF THE SECRETARY

It is indeed a pleasure for me to extend my very best wishes to friends and supporters of the Arkansas Council on Economic Education on this, your tenth anniversary.

Although, unfortunately, my present duties have cut down on the time available to work in the field of economic education, I still follow with interest the progress that is being made. And when anybody talks about progress in economic education, they always talk about the work being done in Arkansas—and especially about Bessie Moore.

Arkansas' corner on the Kazanjian awards still receives national attention. Your teacher workshops receive enthusiastic support. Your TV series on economic education has led the way for many other state councils. Yes, Bessie Moore still keeps things going full blast.

But the basic ingredient that makes the Arkansas Council so effective is the spirit of cooperation that exists—between educators, businessmen, bankers, labor leaders, government officials. All of these elements are essential if the maximum impact of an educational program is to be achieved.

A few years ago I had the very great pleasure of participating in one of your teacher workshops at Fort Smith. The interest on the part of educators could not have been higher. I saw why that evening when two busloads of businessmen drove in from Little Rock to attend that dinner.

It takes money to run a good program. But money alone will not assure the success that you strive for. Involvement—involvement of important people—is the name of the game. And it takes a willingness to provide time and effort—in addition to the money—to make a comprehensive program work and work well.

As you well know, the economic relationships between free world nations are now going through some dramatic transitions. And, although we are making significant progress in terms of reducing inflation and expanding job opportunities here at home, we still have serious problems that must be faced and mastered.

If we are to maintain healthy economic growth, stable prices, and relative balance in our international accounts, the people of the United States must better understand basic economic concepts.

It's not too much to say that the people of this nation have the power to vote our economic system down the drain. This is true because in a democracy such as ours the ultimate economic decisions are made through the political process. And, with the lowering of the voting age, a bigger burden than ever is being placed on our public schools to raise the level of economic understanding.

Many observers have perhaps rightly concluded that in the elections coming up this year economic factors will be the deciding issues. How well are the American people prepared to discuss, debate and analyze the basic concepts of these issues?

I can think of few items that should be higher on the agenda for the nation than an upgrading of economic understanding on the part of our citizens.

Toward that end, I wish you all well as you start your second decade of leadership in the economic education movement.

Thank you very much.

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SOFT DRINK FRANCHISE AGREEMENTS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PRICE of Texas. Mr. Speaker, there are 10 soft drink manufacturing plants in six different towns in my congressional district as it is presently constituted and 15 in nine different towns in the district as it has been redrawn for next year.

I am considerably concerned over the action of the Federal Trade Commission which would, if brought to the conclusion desired by that regulatory agency, seriously disrupt the soft drink industry and its method of marketing which has been in operation for more than 70 years.

What the FTC is trying to do is to have declared illegal the clause in contracts between eight soft drink franchise companies and soft drink manufacturers that gives a bottler an exclusive sales territory. If the public was not well-served by the soft drink industry or if there was a lack of competition between brands of soft drinks, perhaps FTC would have a point.

The facts, however, are otherwise. The public has been well-served; as a matter of fact, there is probably no product so readily accessible on the market today to so many at so reasonable a price as a soft drink. And there is no discernible lack of competition between brands so far as I can determine.

In brief, soft drink manufacturers contend that the following will result if the FTC prevails in its sult against the soft drink franchise companies:

First. Large soft drink manufacturers will become larger, and many smaller manufacturers will be compelled to quit the marketplace. New soft drink entries into markets will be more difficult if not impossible. With the demise of many manufacturers, some products will become unavailable in many market areas. It would follow that consumer choices and options would be limited.

Second. Years of financial investments would be eradicated. Many small bottlers will be fearful during years of litigation to reinvest in their businesses when the venture might well accrue to the benefit of another soft drink manufacturer marketing the same brand.

Third. When the smaller manufacturer is faced with the necessity of expansion in his market to ward off the larger predators selling the same brand product, his opportunity to obtain financial assistance for expansion will be diminished. This is even true during the period of litigation. Thus, the soft drink marketplace will become static.

Fourth. The consumer in many markets will face the following detriments: poorer market service—service would simply stop to the smaller, less profitable retail accounts; price increases; use of the one-trip container would be spurred as the market mix of the more expensive returnable bottle would make container ownership obscure; and determining liability would become difficult since the origin of the product could be from more than one manufacturer in a particular market.

Fifth. The soft drink retail market will become monopolistic, dominated by large-volume outlets and chainstores with their own warehouse controls on the distribution system and absent the many small outlets which now proliferate every locale. Finally, many local communities would witness the removal from their locale of local capital, labor, and taxes. Investment, incentive, and local growth will be stifled.

These briefly, then, are the compelling considerations which should be taken into account when one attempts to evaluate the prudence and wisdom of any attempts to declare unlawful a method of doing business which in the soft drink industry has for more than 70 years permitted small businessmen to enter and compete in the American economy.

In order to prevent the reorganization of an entire industry that is comprised primarily of many independent small businesses, I have today introduced legislation that, when enacted, will permit the continuation of their method of operation without threat of interference from the Federal Trade Commission.

THE CRISIS IN CAPITAL PUNISHMENT

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ECKHARDT. Mr. Speaker, Prof. Charles L. Black of the Yale Law School delivered the following Morris Ames Soper Lecture at the University of Maryland Law School on March 16, 1972. The topic of Professor Black's lecture was "The Crisis in Capital Punishment." Both the House and Senate are now considering legislation that would put a moratorium on executions. In light of these deliberations and the need for greater long-term consideration of this very serious question, I urge all my colleagues to read Professor Black's very learned remarks:

THE CRISIS IN CAPITAL PUNISHMENT

(By Charles L. Black)

We are at crisis. For about four years, no human being has been killed by warrant of law in the United States. If we resume the infliction of death by law, we shall have to answer to ourselves, to the future, to the rest of the world, and to whatever or whomever else it may be that judges us, how it came about that we did this, after so much time for reflection. Meanwhile, some six hundred persons have been condemned to die, and are in the death cells of our capital punishment states.

If the protection of the judicial stays be removed, and if no other remedy supervene, it is reasonably certain that within a year a good many times as many people will be killed in the name of law as in any year in recent American history. Most of what I shall have to say cannot be new, and my subject is a most unpleasant one, but I dare not put myself in the position of having to explain to my children how it happened that at such a crisis I could find myself honored by being tendered a platform at a great University such as this, and then not use that opportunity to have my say on this subject.

I propose tonight, therefore, to go through the reasons which underly my own opinion concerning the punishment of death. I shall then mention a few of the constitutional means for dealing with this problem, if the public will to deal with it can be found.

Capital punishment is an evil, unless justified, for two general reasons. The first of these is that it extinguishes, after untellable suffering, the most mysterious and wonderful thing we know, human life; this reason has many harmonics. The second reason is that this suffering and death must necessarily be inflicted sometimes by mistake. This reason has more branches than are commonly talked about, and I shall therefore lay particular stress upon it tonight.

The first of these reasons is at the heart of the matter, but for sheer considerations of time I am going to pass over it very briefly. Official killing, the prolonged fear of being killed, and the utterly undeserved suffering inflicted on those who love the one who is to be and at last is killed, are the things we are talking about, centrally and always. One could talk about them a long time, but I judge that few if any persons here tonight will not already regard these things as horrible evils in themselves, crying for justification. I ask you, therefore, to keep them continually in mind, as I discuss a few matters of greater intricacy and difficulty, though of an importance only ancillary to that of the killing, the fear, and the undeserved suffering of kin.

I will say very litle about the brutalizing effect of capital punishment on society. I would only say here that, to me, the abolition of capital punishment would convey a most desirable message about the State and its competence and powers. Here I recur to Wordworth's sonnet, the fifth in his lamentable sequence *On The Punishment Of Death*. The message of this sonnet is that the State cannot retain full and absolute dignity unless it has and wields the final power of life and death; "she" would be he says, "self-shorn of Majesty . . ." I heartily agree with Wordsworth's deadly accurate poetic intuition as to the importance of the State's possessing and using this power, as a definitory sign of the State's character. What I would disagree with is his conclusion that the use of this power defines a concept of the State that we need in these times, or in any times. Capital punishment defines the omnipotent State, the State that can and will do anything to its citizens—even kill them after they have been rendered utterly helpless. The difference I have with Wordsworth is that that is just exactly the kind of State I do not want. Of course the State *can* kill its citizens. Authentic majesty would, for me, be found in its solemnly deciding that it will never do so.

I must also refer, under this heading of general effects, to the possible effect of abolition on the treatment of prisoners in general. Without pressing the point—for it is only a conjecture in social psychology—I suggest that the fact that society is willing to kill some people tends to define the limit of what society will do to its deviant members, and so to make every other form of treatment of them, however brutal, seem less than extreme. The abolition of capital punishment would move the line; there would then no longer be possible a sort of vague emotional *a fortiori* argument generating the feeling that, since men who transgress the law may be killed, those who are not killed are getting a break, and have no reason to complain of their treatment. Their consideration, if it has any validity, would be a partial and collateral answer to those who argue that capital punishment is no worse than long imprisonment, given the conditions in today's prisons, for it might hold out hope that the abolition of capital punishment would

be a first step in still further self-limitation on the part of society.

But let me put all this—everything on general societal effects and on effects upon prison life—in its place. It is conjectural. What is sure, once again, is the killing, the dehumanizing fear, and the suffering spread among innocent people who love the condemned man. These things, I repeat, are enough. If they are to be continued, they ought to be justified—not by guesses, not by smirking ironic questions, but by the solidest fact and the solidest reason.

Now let me pass on—for here I think I have something slightly new to say—to the possibility of mistake. If you have concluded, with shrinking regret, that it is necessary and proper to kill the *right* man or woman, then you must nevertheless concede that there is in the whole universe of moral possibility hardly anything more horrible than the killing of the *wrong* man or woman. Yet I doubt, from what reading I have done, that the subject of mistake in the infliction of death by law has yet been accorded comprehensive justice.

The word "possibility", so innocent in its sound, can be quite misleading.

The possibility of mistake, however small in each single case, adds up to affirmative probability in a long run of cases, and to virtual certainty in a sufficiently long run. That which is fallible sometimes fails. So let us be clear about it: The evil of capital punishment consists, in part, with practical certainty in the long run, in the infliction of its cruelty on some people who do not meet the proclaimed standards, who have not deserved to suffer so, even under the rules society has set. The justification for such a horror must rise to a height almost beyond attainment by any prudential or moral consideration.

Let us consider "mistake" in its full range. When most people think of "mistake", they think of a certain rough kind of mistake, the mistake that consists in a finding that the defendant killed the victim, when in fact he did not do so. That kind of mistake can happen; in the long run, it must sometimes happen, and in a few cases it has been shown, with high probability, actually to have happened. But it is very far from being the only kind of mistake that counts. For we have not committed ourselves, as a society, to kill or even to punish every person who kills somebody else. We have, exactly on the contrary, committed ourselves not to kill, and in many cases not even to punish, many of those who kill other people. And—since this is just about the most serious matter with which our society, as a society, deals—we have to assume that this commitment is seriously binding, and that a grave mistake has occurred if a person be executed who falls, as to *any* of the rules we have committed ourselves to, on the wrong side of the line.

First of all, we have committed ourselves not to execute people, even though they have killed others, where certain gross factual conditions are found to have existed in connection with the killing. A defendant may, for example, admit that he killed the victim, but he may plead self-defense, claiming that he reasonably feared for his own life or bodily safety. The trier of fact must pronounce on the validity of this defense. In the first murder trial I remember—one held perhaps forty-five years ago in Texas—the defense was that the defendant thought the victim was reaching for a gun, though in fact he was reaching for a handkerchief. As it happens, the jury acquitted. But the defendant was a minister. Would the jury have acquitted if the defendant had been a shifty-eyed drifter? I don't know for sure. All I need to know, and all you need to know, is that mistake, in regard to the validity of the plea of self-defense, is a clear and ever-present possibility.

We have committed ourselves not to kill, though not to refrain from punishing, one who accidently kills another. I need not go through examples to convince you of the obvious fact that mistake is plainly possible—even quite likely—with respect to this commitment. In many cases, nobody will really know the truth about this except the defendant; the jury has to make a plausible guess based on circumstances. Yet, if you assume the jury is right nine times out of ten on this issue—a pretty good performance, after all—then a little elementary arithmetic will convince you that in a run of only eight cases it is more likely than not that a mistake will be made.

So far, I have sampled only what I may call the grossly factual mistakes possible in any fact-finding process. Let me pass to mistakes involving a mixture of matters which are progressively more difficult to classify as purely factual. But in doing so, let me *strongly* remind you that we have in this most serious of matters committed ourselves not to kill anyone whose case falls on the exculpating side of *any one* of the lines I am about to mention. The fact that the lines become progressively more difficult to locate does not excuse us from the unspeakable offense of executing the wrong man. It only makes it enormously more likely that we will do so.

Let us pass, then, to the concept and clouded reality of "premeditation" to the distinction, introduced rather generally in the last century, between "first degree" and "second degree" murder. It is familiar and despairing learning, to those who have written on the subject, that the distinction between "premeditation", which makes one eligible for the gallows, and absence of "premeditation" which does not, is in close cases virtually impossible to state with any clarity. Yet we must sometimes submit an issue so framed to the finder of fact, and sometimes it is the crucial issue. How likely do you think it is that the jury will always be right in resolving it? Yet its right resolution goes to our moral life and death as a society; if we premeditatedly kill one as to whom this issue has been wrongly resolved, then we, and not he, are guilty of first-degree murder, rendered immune from punishment only by the fiction, the arrogant fiction without cozening ourselves with which we could not bear to inflict capital punishment at all, that we are always right.

I come now to the issue of "insanity". We are committed, as a society, not to execute people whose action is attributable to what we call "insanity" or who are mentally incapable of standing trial, or who are what we call "insane" at the time of execution. As to the second and third of these. I shall say nothing; obviously, mistake is easily possible in either of these two respects, and doubtless often occurs. Let me focus on so-called "insanity" as a defense.

Once again, let us remember that we have committed ourselves not to kill by law, or even to punish, anyone who satisfies certain criteria as to the connection of "insanity" with the commission of the act. Yet the astounding fact is that, having made this commitment, for what must be the most imperative moral reasons, we cannot state these criterial in any understandable form, in any form satisfying to the relevant specialists or comprehensible to either judge or jury, despite repeated and earnest trials. The upshot of the best writing on the subject is that we have so far failed in defining exculpatory "insanity", and that success is nowhere in sight. Yet we have to assume, unless the whole thing has been a solemn frolic, that we execute some people, and put others into medical custody, because we think that the ones we execute fall on one side of this line, and the others on the other side.

I am talking about mistake, and it is hard to apply the concept of *mistake*, or rightness or wrongness, to the application of criteria of the quality we have succeeded in expressing. criteria which we do not ourselves even pretend to understand. But what a fearful alternative faces us here! Either mistake is possible as to the application of such criterial, or else the criteria themselves are quite meaningless, and mark no line. If the latter is true, then we are executing some people, and treating others medically, on an irrational basis.

We are dealing here, in truth, with philosophic issues which philosophy has quite failed to resolve—issues of determinism, free will, and responsibility. But we are not debating these issues philosophically. We are putting some humans through inutterable agony on the basis of a pretense, nothing short of frivolous, that we have satisfactorily resolved these issues. How can we dare go on doing this?

I believe I have now adequately sampled the possibilities of mistake with respect to the question of guilt in the narrow sense, and I believe I have said enough to show that the possibility of mistake in that regard is not a simple one, involving the mere question whether the defendant did it or not, but rather a very complex one, ranging into the puzzling but tragically real possibility of mistake in application of rules notoriously refractory to the best-instructed human understanding. To make the picture complete, I must now go on into the possibility of mistake with respect to judgments which are openly advertised as "discretionary", with no standards set out in words. Executive clemency has always been like that. A recent case in the Supreme Court holds that due process of law does not require that any verbally expressed standards be given to the jury that is to choose between life or death for the defendant, but that that matter is to be left in their discretion. So be it, or, rather, so must it be. But this makes discretionary decision, without publicly expressed standards, a major part of the capital punishment system.

Can one properly speak of "mistake" in the exercise of "discretion"? Some of the most interesting recent jurisprudential work has been done on that question. I cannot be sure that I have understood all that the legal philosophers have been concerned about. But I *am* sure that we have to choose between two things, or a mixture of them. The first alternative is that, though discretionary judgment is not bound by any *verbal* standards, it is bound by standards that cannot be and are not expressed in words. If that is true, then a discretionary decision may be right or wrong, in that it implements or fails to implement the unstated and unstateable standards that bound it. If this alternative is right, then it is clearly possible that a jury or a governor may make a mistake in selecting which man is to die and which is to live, and that, given the absence of authoritative verbal expression of standards, mistake is likely and even invited. Under the other alternative, the one that says that discretion is bound by no standards, stated or unstated, statable or unstatable, mistake would be impossible, for there is nothing to be mistaken about. But how dreadful (again) that alternative is! For if the decision of life or death is not being made by standards, as to which mistake is possible, then it is being made on some other basis—whim, prejudice, chance, or blind unconscious factors. The psychological fact in most good-faith decisions labelled as "discretionary" probably is a mixture of these two things—some vaguely-felt standards and some degree of uncontrolled hunch or impulse. But no imaginable mixture is any better than either of the alternatives in isolation.

Now I have depicted the capital punishment system, first, as a system breaking violently, in the name of law, on the greatest

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of mysteries, human life; as a system imposing the most horribly cruel and prolonged fear on those who are caught in it; as a system visiting utterly undeserved indelible horror on their families; as a system containing multiple serial possibilities of mistake in selecting those who are to die, with, very probably, an element therein of prejudice and caprice. I think that is an accurate description of the system—sensational, to be sure, because the subject is sensational in its nature, and sentimental, if you like, because it is only sentiment, after all that makes us abhor cruelty, or see human life as a mystery, just as it is only sentiment that makes us love our children. Saving such epithets, however, I submit that the picture I have drawn is true and undistorted.

Such a set of practices is a very great evil in itself. It cries rather than calls for justification. Let us now examine the justifications proferred.

The only practical or utilitarian justification, of a magnitude even arguably commensurate with the facts of the capital punishment system, is the allegation that capital punishment deters potential killers, and so saves innocent lives. As has often been pointed out, it is very important. The question is whether the whole of the evidence makes it substantially probable that the threat of capital punishment has *greater* deterrent force than the threat of long imprisonment.

Now the short facts about the deterrence question are these: After comprehensive study, not only is it not known to any slight degree of probability whether capital punishment has this *differential* deterrent effect, but, for systematic and easily comprehensible reasons, it can never be known whether this effect exists, barring some radical and utterly unforeseeable breakthrough in methodology. The first of these propositions is the consensus, I believe, amongst all competent persons who have studied the subject, and who claim to speak on the basis of solid evidence. The second proposition is really a by-product of the studies which have been conducted, for it is in the course of their conduct that the following insights have emerged:

First, there is no possibility of any adequate control, in the scientific sense. No state is in the same social condition at one time as at another, and no two states are exactly alike at any one time. Variances, therefore (and the variances tend to be small) could easily be owing to other factors than the presence or absence of capital punishment. (Lest I sound apologetic here, let me say that the raw statistics, viewed absolutely uncritically, show that there is more homicide in capital punishment states than elsewhere, but I certainly do not want to make anything out of that.)

Secondly, we have no reliable statistics on capital homicide, and, more important, we will never have such statistics, principally because most people who are charged with homicide plead guilty to a lesser offense, or have their cases disposed of in some other way. We do not know, and never can know, whether any one of these would, if charged and tried, have been found guilty of capital murder.

Thirdly, it is known for sure that *some* persons use murder as a form of suicide, killing in order to be killed, but we have no way, and never will have any way, of knowing how many. This phenomenon is not surprising; one could be pretty sure that it must be the case. There are a great many suicides. One of the main things standing in the way of suicide is irresolution—sheer inability to perform for oneself the final fatal act. What could be more natural than that the would-be suicide try to produce a situation in which, as in his disturbed condition he believes, the state will do the job for him? And of course we now know that the impulse to self-destruction is sometimes unconscious, and may easily be the real motive for some killings that seem senseless on any other ground. Such cases may balance out any deterrent effect, but we cannot know whether that is true or not, because we cannot know how many such cases there are, or how much deterrent effect there is, if any.

Any one of these three reasons, considered independently, stands athwart the path to any firm scientific conclusion about deterrence, one way or the other. Together, they make the position quite hopeless. No responsible person can assert (or, as far as we can foresee, ever will be able to assert that capital punishment does or does not deter.

If evidence fails us, then it is reasonable to pass from evidence to common sense. When I do this, I encounter insuperable difficulty. Like you, I have never come close to considering the killing of a human being; I have never been on anything like intimate terms with anyone who has. The mind of a person premeditating a murder is a mind unknowable to me; I can only attempt to imagine its state. Insofar as I can perform that act of imagination, my own common sense advises me, with all the appropriate incertitude, that a mind so far gone down a strange and wild path would probably not be swayed by the difference between possible (though highly improbable) execution and possible (and much more probable) long imprisonment. But whichever hunch I had, I would think it a totally unsatisfactory basis for putting human beings through the agony of dying by deliberate publicly sanctioned killing, and of waiting for that end—particularly as mistake is in the long run certain.

Evidence and common sense leave the matter of deterrent effect in equipoise. As lawyers, then, I think we have to ask where we want to place the burden of proof.

Does it not seem plain that the burden of proof ought to be on the proponents of legalized killing? If this cruelty is to be inflicted in the name of deterrence, then a solid evidentiary case should be made for the superiority of capital punishment as a deterrent. That case has not been made. It cannot be made. Summarily, (so far as deterrence goes) we are inflicting this cruelty without in the least knowing whether it does any good. That is a strong language. But does it not precisely summarize the case? Do we not shrink from its strength because we know it is true, rather than because of its extremeness of expression?

Other arguments are more difficult to answer, because it is more difficult to make out what is being asserted. I have more than once been confronted with an argument from history, which seems to boil down to the assertion that capital punishment is a very old institution, practiced *semper et ubique et ab omnibus*, and should in consequence (as I understand the argument) be continued. It is difficult to state this argument in plain form without appearing to caricature it, and perhaps that is all the answer it needs. I derive an exactly opposite suggestion from history.

The relevant history has in all civilized nations uniformly been one of reduction in the number of crimes for which this punishment may be inflicted, and in the number of cases, even of such crimes, in which it actually is inflicted. This historical movement includes progressive eliminations of refinements of cruelty in infliction, and has in recent times moved toward culmination in a world-wide trend to complete abolition, realized in many countries and in some of our States. In the United States, even before the recent judicial stays, capital punishment had become vestigial—a token payment, as it were, to some sinister lurking creditor, made at fearful cost to a few. The ecumenical movement of history is strongly and unambiguously against the retention of capital punishment.

I am afraid that all we come down to at last is retribution, or, to give it its shorter name, vengeance. I think we all know that capital punishment would not last two weeks, anywhere, if it were not supported by the naked desire for vengeance, felt by enough people, intensely enough, to support the continuance of the token payment we make.

There is not much rational you can say about vengeance. No logical or experimental demonstration can show that the desire for vengeance is wrong, anymore than such demonstration can show that murder is wrong.

One can note, however, that vengeance restores nothing. The slaughtering of the killer does nothing for the one already dead, or the bereaved family.

It ought also to be said here, as so many others have said, that the payment which vengeance, in its death-penalty form, exacts is in most cases, even under the *lex talionis*, grossly out of proportion to the crime. Few murderers possess either the means or the combination of ingenuity and diabolic derangement requisite for a crime corresponding, in prolonged and resolute cruelty, to the penalty exacted. The few who do are probably in all cases visibly mad.

But in the end, as I have said, one comes at last, as with all moral questions, to the naked choice. Reason leads and then leaves you there. One has to decide for oneself whether the desire for vengeance is to be indulged. The conflict at last is between the desire for vengeance on the one hand, and on the other the desire to avoid great cruelty, sometimes, inevitably, inflicted by mistake. These desires are equally sentimental; the first is as much a sentiment as is the second. One has simply to choose between incompatible sentiments.

I am entirely confident that most intelligent people who make those inquiries which any sensitive conscience must require will come to see that capital punishment rests on no rational ground, but only, after all, on the desire for vengeance, and that they will reject that desire as an inadequate and unworthy justification. From now on I shall speak to and for those who have so chosen, talking about ways and means, while asking you to remember, again, that we are at crisis.

What are the structural means for change? Most obviously, the state legislatures, one by one, might abolish capital punishment. Governors possessing clemency power might be induced to exercise it generally, as some have already done. As a constitutional lawyer, I don't think I need to say any more about these obvious possibilities. I want to pass on to some not quite so obvious.

I believe it can now be said to be the consensus among academic constitutional lawyers of standing that Congress has the power to abolish capital punishment for the entire nation, for state as well as for federal crimes. No two lawyers reason exactly alike, but, broadly, the grounds of this congressional power are two. First, Congress could very reasonably conclude—indeed, it is hard to see how it could fail to conclude—that capital punishment has for some time been administered in a racially discriminatory manner, and hence is likely to continue to be so administered. This conclusion would bring capital punishment squarely within the rationale of South Carolina v. Katzenbach and Oregon v. Mitchell, cases which held that where a device, innocent in itself, is shown to have been used as a vehicle for racial discrimination, Congress may altogether forbid the use of the device. Secondly, the Fourteenth Amendment incorporates the Eighth Amendment, which forbids the imposition of cruel and unusual punishments. In Section 5 of the Fourteenth Amendment, Congress is given the power to enforce that Amendment—including, of course, whatever is incorporated in it. Thus Congress has the power to enforce the ban on cruel and unusual punishments. Now these words—cruel and unusual—are vague. Part of the process of "enforcing" vague standards is the process of making them more concrete. There could be no more necessary and proper exercise of the power of enforcing this standard than a congressional finding that capital punishment is indeed cruel and unusual. Congress is the uniquely fit body for declaring the national sense and will on this question. And let me emphasize strongly that such action would not be made improper by a judicial decision (if, as I hope will not be the case, such a decision should come down) that, *without* the aid of congressional findings and action, the words standing alone could not serve as a ground for striking down the death penalty. Such a judicial decision would probably have been uttered, *mutatis mutandis*, as to the "devices" which Congress was held to have power to abolish, in the two cases just cited. It would make neither common nor constitutional sense—and let us hope that these march along together—to equate the situation in which the people's representatives have fixed a concrete meaning on these vague words with the one where they have not done so.

The most important pending legislative proposal on capital punishment is the Hart-Celler bill, now under consideration in Congress. That bill, basing itself on the foregoing constitutional grounds, would impose on the death penalty, whether inflicted by the nation or by any of the states, a two-year moratorium, during which Congress could study its own powers and the subject in general. This bill ought to be the focus of effort today, though not at the cost of abandonment of effort in the state legislatures and with state governors.

I think two amendments ought to be added to the Hart-Celler Bill, unless addition would make passage less likely. First, Congress, if it has a right to impose this moratorium, has a right to do so on humane terms; the attainment of humaneness is as "necessary and proper" as any other objective. I think Congress might easily conclude that, as to persons already under sentence of death, it would be inhumane to keep them in the agony of suspense for two more years. I would therefore favor an amendment to the bill effecting the commutation of all such sentences. Secondly, I should think it proper that the bill prohibit not only the carrying out but also the imposition of the sentence of death during the moratorium. In this way, Congress would put itself in the position of writing on a clean slate, without pressure.

If the Hart-Celler bill were to pass in time—with or without the amendments I have suggested—then the way would be cleared for thorough national deliberation on this question. This interim victory would be a great one—perhaps the best we can hope for now, outside of a favorable Supreme Court holding. But we have to face the possibility that an adverse decision of the Court may come down any day, and that the Hart-Celler Bill may not be passed in time.

For the constitutional theory I would put forward to take care of that contingency, I can claim no consensus. The theory is my own, as far as I know, but I believe in it and invite you to consider it.

In the event of a gap between an adverse Court decision and seemingly possible passage of the Hart-Celler bill, it is my contention that it lies within the power of the President to provide by Executive Order for a stringently limited moratorium, strictly in aid of proposed legislation and so conditioned as to expire after a stated time, or to be rescinded upon the President's further order. Such an Executive Order would be ancillary to the legislative process, and in no wise in derogation of Congressional power, since it would do no more than prevent a cruelly irreversible change in the *status quo*, pending Congressional deliberation. Its issuance would not even imply the espousal by the President of any views on the merits of capital punishment, or on Congressional power thereover. It would simply preserve an irrestorable situation, while the Congress deliberated on both these issues.

The theory is a simple one, appearing on the face of the matter. An irreversible change in situation threatens; the possibility looms that many lives may be destroyed, in contravention of what may after deliberation be judged by Congress to be our dearest national moral interests, expressed in the Constitution. The executive power, I contend, may validly act, simply and solely in order that Congress may not be rendered powerless to act with effect. It is, in part, for just emergencies that executive power exists.

There is, of course, no direct precedent for this executive action. But neither is there an entire dearth of suggestive authority in the cases. In *United States v. Midwest Oil Co.*, it was decided (by a Bench on which there sat, among others, Justices White, Holmes, and Hughes) that President Taft, "in aid", as his order put it, "of *proposed legislation*", might validly suspend the sale of certain lands which the Congress had actually, some twelve years earlier, explicitly laid open to public purchase. Approving this action the Court said:

"The President was in a position to know when the public interest required particular portions of the people's lands to be withdrawn from entry or location his action inflicted no wrong upon any private citizen, and *being subject to disaffirmance by Congress, could occasion no harm to the interest of the public at large.*"

These words, particularly the ones I have emphasized, would apply, *mutatis mutandis*, to the present issue.

The *Midwest Oil* case is, admittedly, distinguished on three grounds—none of them, I submit, sufficient to make a difference.

First, that case involved property rather than federal interest with respect to the taking of life. The clear satement of this distinction exposes its nearly shameful inadequacy. The United States has, to say the least, as much interest in the sufficiency of deliberation on issues concerning the lives of its citizens as it has in holding on to its property.

Secondly, the *Midwest* opinion rested principally on prescription; the Presidential power there exerted, the Court held, had been so long acquiesced in as thereby to be legitimated. But that distinction is far from fatal to the contention I am making, for long acquiescence in a process such as that used in *Midwest* could occur only in a government whose general tone and theory was friendly and not hostile to the enjoyment by the President of such power as is necessary, in affairs of the first importance, to preserve a status upon which legislation may effectively act, rather than being frustrated by intervening events. Concededly, the power I am here upholding does not rest on prescription—far from it. But the very grounds on which *Midwest* is placed suggest the point that such a power as the one now contended for would not be exotic or strange in a system of government that could acquiesce so long in actions of the *Midwest* sort.

Thirdly, the action which I contend is authorized would effect a temporary and provisional incursion on a power *prima facie* belonging to the States, whereas the *Midwest* decision concerned only federal matters in the narrow sense. This cannot be an insignificant consideration in a federal system. But I would direct attention, first, to the smallness of the proposed incursion; all that would be involved, or could be involved, would be a few weeks' reprieve for the condemned, pending consideration by a Congress in which the States, and the people of the States, are fully represented. I would also make the much more important point that nothing is so vital to the maintenance of a sound federalism as is adequate, and therefore unhurried, deliberation on the location of its balances. In the nature of the case, it is in Congress and then in the courts that this deliberation normally takes place. In debating the Hart-Celler bill, Congress will be considering whether the law and the high policy of federalism justify its own intervention. The adequacy of that deliberation, and the efficacy in practice of its outcome, are the very life's blood of sound federalism. An Order of the sort which I contend the President is empowered to make, therefore, would be exactly apt to sustaining a sound federalism, in this profoundly important sense. It would go not a step further than insuring that, if Congress should determine that the national power is paramount in the premises, that determination would (if sustained by the courts) be efficacious.

In the end, however, as to a novel question such as the present, one must turn to the question concerning Presidential power stated and, by implication, answered by affirmation of its second branch, in *In re Neagle*:

"Is this duty limited to the enforcement of acts of Congress or of treaties of the United States according to their *express terms*, or does it include the rights, duties and obligations growing out of the Constitution itself, our international relations, and all the protection implied by the nature of the government under the Constitution?"

Condemned men, whose lives may soon be spared by Congressional action, are entitled to "protection implied by the nature of the government under the Constitution." During necessary Congressional deliberation, only the President can give them that protection.

It is of interest, moreover, that the actual judgment in the Neagle case, by a step only one remove logically from the general Presidential power therein approved, took a man charged with murder out of the hands of the state authorities and freed him. What I am advocating now is a much lesser degree of interference with state power in regard to the punishment of crime—the mere suspension of the administration of a penalty pending Congressional deliberation thereon. The quotation from *Neagle* also serves to remind us that our foreign relations are sure to be affected by wholesale executions; this fact might motivate the President to act, and may even serve as a second basis for his power to act.

It should be pointed out, finally, that a Presidential moratorium order could be and undoubtedly would be tested in the courts, unless Congress acted soon enough to moot any possible test. The President need not, therefore, step back, as in some other sort of case he conscientiously might, from unreviewable innovation. Indeed, Presidential action might suitably include directions to the Attorney General to implement the declared moratorium by court action—perhaps, for reasons of expedition, within the original jurisdiction of the Supreme Court—so as to ensure the concurrence of the judiciary on the constitutional question before the moratorium took other than provisional effect.

Other possibilities suggest themselves. Under the constitution of any particular state, the governor, even if he does not possess full clemency power, might be held to possess a power, with respect to executions in his state, analogous to that I have advocated for the President. Either state or federal judges, sitting in equity and faced with

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a threat of irreparable harm quite *sui generis*, might impose stays pending legislation action, where the latter (either in Congress or in a state legislature) seems definitely possible. Any state legislature, even if unwilling to abolish capital punishment altogether, might be prevailed upon quickly to pass a little Hart-Celler bill, imposing a moratorium for purposes of study. All these possibilities should be fully explored and pushed to the end; others may suggest themselves to other minds.

It is perhaps time to summarize. But I shall not do so; I think my principal points must be fresh in your minds. Let me instead go at last to the heart of the matter. There once were uttered six tremendous words: "The greatest of these is charity". Law which blushes or smirks at the mention of charity is bad law. Charity is not sending in money; charity is not merely giving other people the benefit of the doubt. Charity in its human-to-human aspect, is the virtue of connectedness with all other people, of concern for them of obligation for their well-being. Charity is the belief, and action on the belief, that we are all severally members each of the other. Now human society will never attain to within calling distance of full charity; we need not worry about going too far in that direction. But I have been talking tonight, after all, about the extremist possible denial of charity, the denial that stultifies every other move toward charity, namely our claim, and our acting on that claim, of a right officially to classify a helpless human being as a piece of trash merely to be destroyed, a *thing* with which we have a right to end all relation by deliberately killing him or her after long brutalizing fear. Underlying everything I have said is my belief that we cannot move an inch toward that rough approximation to charity which must be the foundation of any good society, so long as we keep this institution in place. If you agree with me, whether in the same words or in others, then let us work together, using the ample means afforded by our consitutional democracy, to bring it about that not one person ever again be killed by law in the United States.

TRIP TO NORTHERN IRELAND—PART II: THE TRIP TO BELFAST

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BIAGGI. Mr. Speaker, the situation in Northern Ireland grows increasingly worse every day. Soldiers are stationed everywhere. The streets are constantly patrolled by the military, on foot as well as in mobile units. Moreover, the death toll continues to rise. Thus far, 285 people have lost their lives in the fighting in that strife torn country since August 1969. This statistic is even more shocking when we consider that the death toll represents such a high proportion of the population.

As I pointed out in my first report on my trip, I have been extremely active over the course of the last 2 years in trying to bring about a solution to this conflict. Legislatively, I have introduced measures calling for an end to hostilities, the withdrawal of British troops and the holding of a plebiscite of all of Ireland to determine the question of national reunification. In addition, I have also introduced legislation to provide 25,000 emergency refugee visas for residents of Northern Ireland. This would provide for possible Irish immigrants in much the same way that we provided for the Hungarians, the Cubans and the Soviet Jews in the past.

I have repeatedly called upon the Nixon administration to use informal diplomacy to resolve the conflict. Moreover, I have contacted the United Nations on several occasions to urge an inquiry into the atrocities being committed and to seek an international settlement of the problem.

Recently, I testified before the House Foreign Affairs Committee, Subcommittee on Europe, and reiterated my deep concern on the tragic situation in Northern Ireland.

In the first part of my report on my visit to Northern Ireland, I described the march at Newry where I acted as an observer. Today, I would like to discuss my trip to Belfast and what transpired there.

First, however, I think that it would be useful to briefly review the historical background of the current problems. In 1920, Ireland was divided into an independent state, the Republic of Ireland, and Northern Ireland, now known as Ulster. Since that time London has ruled Northern Ireland through its subordinate Parliament at Stormont in Belfast.

Northern Ireland is comprised of one and a half million people, two thirds of which are Protestant and generally support the Unionist Government. The remaining one-third are Catholic and support a variety of opposition parties.

Although violence has spread throughout Northern Ireland, Belfast has been the focal point of most of the violence in the past. The most violent incident in the recent past took place in Derry, where 13 civilians were shot by British troops. Since that time there have been numerous bombings and shootings resulting in even more deaths.

This was the extremely tense atmosphere engulfing Belfast as I entered that city. There was a warlike air about the entire area. Numerous bomb craters made passage through the streets difficult. Across the streets were blockades consisting of barbed wire and heavy lumber, flanked by armored cars and troops. Many buildings were pockmarked from gunfire and others were so destroyed that they resembled London after the blitz.

When we arrived at the Europa Hotel where I was to stay, I noticed a makeshift fence in front of the building. It was constructed in such a way that we were channeled through a small opening and compelled to be searched before entering. Once settled at the hotel, I had many lengthy conversations with the representatives of both sides of the issue. A theme which was constantly expressed by the minority was that the unification of Ireland must be a part of any agreement. These discussions provided me with information on a whole range of topics and enabled me to leave Ireland with a better understanding of the serious and deeply entrenched views of both sides.

For example, in a discussion with Mr. William Craig, a leader of the ruling Unionist party, he presented his views on the problems besetting Northern Ireland. He spoke at great length about how the Catholics were socially, economically, and culturally abhorrent to him. Surely, there are glaring examples of discrimination in virtually every aspect of life there. Unemployment among Catholics in Ulster is as much as twice the province's average. In Balymurphy, 40 or 50 percent of the male adult population were never afforded the opportunity to go to work. Moreover, in the Harland and Wolf shipyards in Northern Ireland, which pays its employees very well, less than 300 of a total work force of 9,000 are Catholic. Even in the postal system only four percent of the employees are Catholic. This is a truly shocking statistic when we consider that the Catholics represent 35 percent of the total population. These high unemployment statistics explain why so many Catholics live in ghetto districts such as Bogside. These revelations made me realize just how extensive the discrimination was in the north.

In addition to the discrimination, there are also some serious questions regarding the continued denial of civil liberties. The application of the Special Powers Act and the whole policy of internment without trial is appalling to me. I spoke with former detainees, who presented me with the grotesque details of their treatment at the hands of the British troops. The gestapo-like tactics of the British would not be tolerated for 1 minute in the United States. It is ironical that the country which gave us the Magna Carta, the greatest charter ever written for human rights, is using this type of interrogation technique.

Mr. Francis McGuigan, one of these detainees, and the only person to escape from Long Kesh internment camp, described the type of treatment he received. I was appalled. He told of how he was awakened one morning at 4:30 a.m., hit in the stomach with a rifle butt and told to get up. Standing over him were several British troops. They told him he would not have time to get dressed. Only after pleading to an officer was he allowed to put on a pair of trousers. He was taken outside and placed at the rear of an armored car. There he witnessed his 63-year-old father being dragged out of the house on his back. This older gentleman had been under a doctor's care for more than 3 years. But this was just the start of what was to be a long ordeal for Mr. McGuigan.

He was forced into the armored car and soon found three men piled on top of him. He was then driven to another location and put in a gymnasium and a hood was placed over his head. He remained in the gym for the next 2 days and was only given one cup of tea and a bowl of soup for nourishment.

Following this harassment, he was taken in a helicopter to yet another destination and given a physical examination. He was handed an oversized boiler's suit to wear and told to stand against the wall with his feet spread apart with a constant electronic noise in the background. Under this pressure and torture, he finally collapsed several times under the strain. In fact, when he was asked to spell his own name he could not.

The case of Francis McGuigan is not an exception. Wherever I went I heard accounts of similar treatment being used. For example, when I visited Stormont Castle and spoke with Dr. Newe, a member of the Stormont Parliament, he acknowledged that there was a need to reform the internment centers.

Of course, there have been denials by the Stormont government of any atrocities such as those committed against Mr. McGuigan. At congressional hearings in Washington, Captain Henderson of the Ulster Guard stated that the complaints of Mr. McGuigan were totally unfounded. At the same time that Captain Henderson was making his statement, however, the Prime Minister of England was announcing that atrocities would no longer be allowed. In other words, the statement by Mr. McGuigan must have been the truth. Surely, the Prime Minister of England would not have issued his edict if the conditions did not exist.

These deplorable conditions which I have described underscore the arguments and grievances put forth by the Catholic minority in their cry for justice. When I saw the combined effects of chronic unemployment and the repressive internment policy, it became clear that what I had been reading about in the United States was not only true, but in some cases understated. The reporting and eyewitness accounts of men like Pete Hamill of the New York Post should open the eyes of those who have not been concerned about the conditions in Northern Ireland.

After retiring for the evening at my hotel, I could hear the sound of bombs exploding and rifle shots being fired. I could not help feeling like I was in the center of a war zone. It is small wonder that the people of Northern Ireland live under a cloud of constant fear. They never know whether their family will be safe. Mothers are afraid to let their children outside for fear that they might be shot. Indeed, the children of Belfast are perhaps the most tragic victims of the war. In the Catholic sections the children have scrawled slogans on the walls such as "Up the IRA" and "Informers Beware." In the Protestant areas they read "No Popery Here." This is a very saddening situation to encounter. In every other part of the world Protestants and Catholics live together without difficulty. The situation which exists in Northern Ireland, however, is the result of the tragic escalation of the fighting which began in 1968 as a nonviolent campaign for civil rights by Ulster's half million Catholics. In fact, it has escalated into an all-out campaign resulting in 285 deaths.

Looking back over the day's events, I wondered how much longer such a situation could exist without totally exploding into an all-out civil war. The need for an immediate political solution is obvious and yet, the British refuse to yield in their position. Of course, the IRA members that I spoke to were just as stubborn in their position on the subject.

In the words of Mr. McSwiney who died in 1920, of a hunger strike while protesting the British tactics at that time: It is not those who inflict suffering but those who can suffer most that eventually conquer.

How much longer will the rights of a minority be suppressed? How much longer must the minority in Northern Ireland be treated as second-class citizens? When will they be freed of a condition resembling surfdom?

In my discussions with Mr. Austin Currie, M.P. of the Stormont government, he expressed his belief that peace will come about in the following way. First, the British policy of internment without trial must come to an end before any discussion may commence. Second, the Stormont parliament should be suspended. This would be followed by the appointment of a commission which represents all parties concerned to carry out the administrative functions of the Stormont government. Finally, the members on both sides of the issue could sit down and negotiate a long term political solution. I believe that this approach is a most reasonable and logical one.

The problems of the minority and the treatment of the citizens of Northern Ireland were reiterated by the other community leaders that I spoke with. Mr. Tom Conaty, chairman of the Central Citizens Defense Committee for example, expressed a deep concern for the British internment policy. Others such as Father Murphy, the pastor of Balymurphy and Mr. Gerard Fitt, leader of the Socialist and Democratic Labour Party, along with various IRA men also let their objections be known concerning the plight of the minority and the British policies in Northern Ireland.

Mr. Fitt was even served with a summons for his participation in the peaceful march at Newry. His response to this, however, was that it was a small price to pay when 13 people had lost their lives in Derry.

The overall attitude of the people of Northern Ireland seemed to reflect a loss of faith. They have lost faith in the Stormont government, they have lost faith in London, and they have lost faith in the courts. The British have made promise after promise, but the people no longer believe them. They have been told the same unkept promises year after year.

As I prepared to leave that beautiful country, I could not help but wonder why the Irish immigrants of the past had ever left. Then I remembered why my parents had left Italy. They left for better opportunities in employment, and to provide a better world for their children.

PERSPECTIVE ON NUCLEAR SAFETY

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, an inordinate volume of ma'erial has appeared in the CONGRESSIONAL RECORD over the past year bad-mouthing alleged nuclear powerplant safety features. There has been particular, although not particularly informed, emphasis on the postulation of a hypothetical loss of coolant situation, however remote a possibility in actuality. The complicated scenario involves a multitudinous and concurrent failure of all the many, many engineered safeguards specifically designed and built into these reactors to prevent or ameliorate just such a hypothecated event.

Only rarely does someone bother to put into the RECORD reading matter offering a fair perspective on the subject, or the difficulty of understanding the interrelationship of the assumptions which the hypothesizers make which underlie such postulated failures, or the calculations used to predict the potential consequences, or the weight to be assigned to small-scale experiments carried out to investigate a particular aspect of the phenomenon, or the worth of the redundant engineered safety devices which are part and parcel of the reactor design.

The event which must occur to produce a loss of coolant situation in a nuclear power reactor which has to be dealt with by an emergency core cooling system is this: There must be an instantaneous and complete rupture of the largest circulating coolant pipe—typically 29 inches in diameter, 2 inches in wall thickness—so that the coolant rushes simultaneously out of both broken ends at maximum flow rate.

Such an event is theoretically possible and should not be ignored. Nor is it ignored. It is included as a factor in the decision whether or not to license a nuclear power station. Far better that it be analyzed there than in the pages of the CONGRESSIONAL RECORD by people who know little, if anything, about it. These are the same types who pulled the Chicken Little act, predicting that the sky was going to fall in if the Amchitka test were carried forward, then, when it all came out safely as predicted, acted like they thought it was blind luck instead of good planning and judgment.

The same type could just as logically hypothecate disaster from a ruptured natural gas line in some metropolitan city, or a major oil pipeline in any area. But they are stuck in a nuclear rut. They act like it is a big lark to imagine nuclear accidents by playing the game of "what if" this and this and that and this and so on ad nausem happens in a reactor.

Well, what would happen? Would it follow the lurid scenarios you have been reading in the CONGRESSIONAL RECORD almost telling us we would not need nuclear electricity because everybody would start to glow in the dark anyway?

To find out what would happen in the event of an emergency core cooling failure let us listen to a knowledgeable expert for a change. Now, I am no fan of the eminent physicist, Dr. Hans A. Bethe, when it comes to his notions about arms control and other subjects outside the area in which he won his Nobel Prize, but I respect what he has to say when it comes to nuclear physics and reactors

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and emergency core cooling and this is what he said concerning the latter subject on March 6, 1972:

The recent concern about emergency cooling following a reactor accident is well taken, but the hazard in this case is primarily the damage to the reactor, a great financial loss to the utility involved, rather than any hazard to the public.

My point is: In view of the potential hazards which can easily be associated with extreme assumptions, should one conclude that a particular activity is not safe and should be stopped or should one re-examine his assumptions? And, why should public attention be focused almost exclusively on the nuclear power area, aren't there some other subjects that deserve some attention, too?

One result of the public attention being given to this alleged nuclear hazard has been the introduction of bills which would impose a prolonged moratorium on the construction and/or operation of all nuclear powerplants. This would provide time to educate and convince all who may be interested in understanding and judging for themselves rather than accepting the judgment of the responsible agency of our Government, the Atomic Energy Commission, and its statutory independent Advisory Committee on Reactor Safeguards. I have seen no bills which would impose a moratorium on the construction and operation of oil and gas pipelines or any of the countless other activities which could be extremely hazardous if certain events were postulated. I have seen no studies showing the damage to public health and safety consequent upon chronic power shortages in an energy dependent economy, but the consequences would be many.

Clearly nuclear safety is a complex technical problem which must be judged in a professional manner by competent objective scientists. Only Monday of this week the attorney for the National Intervenors, participating in the 31st day of the Atomic Energy Commission's rulemaking hearings on emergency core cooling system interim criteria, remarked prophetically—to the chairman of the hearing board:

I would bet, sir, that there probably aren't a hell of a lot of people in the United States who understand the criticalities of a loss of coolant accident or indeed, what kind of margins of safety there are.

I would certainly agree with that and conversely state that there are darned few physicists or engineers not already trained in this particular field who would be able to develop any expertise in anything short of a year.

Returning to my earlier remarks about the abundance of material in this RECORD concerning the technical aspects of nuclear power reactor safety, I am amazed to see that some of our Members, who are attempting to educate the Congress and the public in these areas, have shown some lack of objectivity in reporting to this body their findings.

A good example of this occurred just yesterday. In the House of Representatives, during debate, the gentleman from California (Mr. HOLIFIELD) held up during his speech a stack of recent Joint Committee on Atomic Energy hearings records over a foot tall. It was impressive evidence. Yet, at practically the same moment over in the other body a gentleman from Alaska (Mr. GRAVEL) was quoting only semirelated documents from AEC files to "explain why Congress has heard so little in the past about nuclear hazards."

Maybe this situation is due to the fact that some people only hear what they want to hear, see what they want to see, say what they want to say, and, also, only place in the CONGRESSIONAL RECORD what supports their preconceptions and not what helps give a balanced view.

The March 6 quote from Dr. Hans A. Bethe of Cornell University was not pulled from thin air. Actually, it is out of a letter over 3 weeks old to the gentleman from Alaska himself, which, to the best of my knowledge, has not previously found its way into the RECORD. In his letter, Dr. Bethe displays uncommon insight concerning utilization of nuclear power, its risks and its benefits and the impact that it can have on providing mankind with the much needed energy to be derived therefrom.

The letter follows:

CORNELL UNIVERSITY,
LABORATORY OF NUCLEAR STUDIES,
Ithaca, N.Y., March 6, 1972.

Senator MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: Thank you for sending me your various releases concerning atomic power and other potential sources of energy, and in particular your press release No. 468, on your bill calling for a halt in nuclear power plant construction and operation.

I am sorry to say that I consider this bill pure mischief, for the following reasons:

1. This country is already suffering from a power shortage. This becomes acute every summer in cities like New York, and also in the Northwestern part of the country.

2. The economic health of the nation depends sensitively on the availability of sufficient power. We have seen in 1970 and 1971 that the economic health of the U.S. is precarious at best, and even now it is very doubtful whether this country can maintain its prosperity under the pressure of competition from foreign countries with their cheaper labor. If you were to add to these economic difficulties a chronic and increasing power shortage, permanent depression would be the inevitable result.

3. Atomic power is the cleanest of the now-developed power sources. You may not be aware that a coal-fired power plant puts far more radioactivity into the air than a nuclear plant in which the radioactive products are carefully contained.

4. Consideration of pollution would dictate a shift from coal to oil. Our oil production is insufficient to satisfy the demand for automobiles and planes, so that we would be increasingly dependent on imports from such politically unstable countries as the Arab nations.

5. No other major sources of power are now in view. While you have mentioned many other possible sources of power, it would take research and development for at least 20 to 30 years to bring any of them into major practical use. However, I would support you in calling for vigorous research efforts to investigate the feasibility of some of the other power sources, notably the direct use of sunlight in such areas as Arizona. (Of course, any such power source would create an enormous problem of storing the energy produced during the day for the next night and longer.)

6. Nuclear power plants are designed with extreme care so that only minimal amounts of radioactivity are discharged to the outside world. Even the first plants were completely safe according to accepted AEC biological standards, but in modern plants the discharge of radioactivity into the surroundings has been cut down by an additional factor of 100.

7. The standards set by the AEC for biological safety are far more stringent than those of any other country. Western European countries, notably the United Kingdom, have many atomic energy plants and have much less stringent standards. Those in the U.S.S.R. are even less stringent.

8. Every nuclear plant is carefully examined before construction for its safety. Nuclear explosions are simply impossible for the standard power reactors working with thermal neutrons, and lesser accidents are stopped at very early stages by careful monitoring, including the use of computers. Even in case of a major accident, the release of radioactivity to the outside is prevented by airtight containment buildings. Probably more thought has gone into the problem of reactor safety than into any other problem of industrial safety.

9. The recent concern about emergency cooling following a reactor accident is well taken, but the hazard in this case is primarily the damage to the reactor, a great financial loss to the utility involved, rather than any hazard to the public.

10. The safety record of nuclear power plants has been very good.

In my opinion, even leaving economics aside, just the danger to the health of the population of the United States from a chronic power shortage is thousands of times greater than the potential hazard from nuclear plants. I sincerely hope that you will reconsider, and withdraw your bill.

To end on a more positive note, I appreciate your efforts to initiate serious research on some alternative power sources. Such projects as geothermal energy (and, even more, wind or tides) seem to me very unlikely to give appreciable sources of energy at anywhere near economic cost. Solar heat is a different matter; it has been calculated that 5,000 square miles in Arizona devoted to this purpose could supply the energy for the entire United States, even taking into account losses of power in transmission. Therefore, it would seem worthwhile to devote a substantial effort to the exploitation of this source of energy. However, storage of energy is exceedingly costly and difficult, witness the batteries in our automobiles which only store a minimal amount of energy. Whether this problem can be solved at tolerable cost, e.g. by massive storage of water in reservoirs and subsequent release, I do not know. Since these reservoirs would presumably have to be in scenic locations in the mountain states, we would probably have the conservationists in these states against us in this venture, even if it were feasible. A similar project in Switzerland, the Grand Dixence, storing only very moderate amounts of energy, turned out to be extremely expensive in spite of the most favorable geographic conditions.

It is all not as easy as it looks on paper.

Yours sincerely,

HANS A. BETHE.

RACIAL DISCRIMINATION AND LAW ENFORCEMENT FUNDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RANGEL. Mr. Speaker, the shocking fact is that the Federal Government has, without any strings attached, funneled nearly $1.5 billion to State and local law enforcement agencies, even though many of these agencies remain staunch bulwarks of racial discrimination.

The 1968 Report of the National Advisory Commission on Civil Disorders—the Kerner Commission—publicized what blacks have long known—that police brutality and harassment occur repeatedly in just about every black community in the Nation. This was unquestionably one of the major reasons for intense black hatred and fear of law enforcement officers, the Commission reported.

But, the Kerner Commission also stated that physical abuse is only one form of police harassment suffered by black communities. In nearly every city surveyed, the Commission cited instances of police stopping black people on foot or in cars without reasonable cause of repeated dispersals of peaceful street gatherings, and reported numerous instances of demeaning verbal abuse.

Even more reprehensible, however, is the use of the preventative patrol. In many areas police departments have sent roving task forces into black communities without prior notice to conduct intensive, and occasionally indiscriminate, street stops and searches. Not only suspicious persons, but also respected members of the community have been frequently subjected to back alley justice dispensed with a nightstick.

It is no wonder that the Kerner Commission concluded that the deep hostility existing between police and ghetto communities was a primary cause of the massive civil disorders that occurred in Watts, Newark, Detroit, Atlanta, and a dozen other cities in 1967.

Yet, today the Law Enforcement Assistance Administration—LEAA—of the Justice Department continues to give huge block grants to States who turn a blind eye to the reprehensible behavior of their police departments. As an example, the LEAA pork barrel doled out over $48 million in planning, block action, and discretionary grants in fiscal year 1969. And the amount has skyrocketed ever since: $236 million in 1970, $436 million in 1971, and $521 million in fiscal year 1972. These hundreds of millions were dispersed without any thought given to civil rights except for an insignificant and unenforceable boiler plate assurance printed in fine print on the bottom of each grant.

While it is obvious that Federal funds cannot be terminated every time an instance of racial discrimination occurs—for otherwise the funds would never be dispersed at all—there nevertheless is a simple and effective solution. This solution is to hire more black policemen to minimize racial tensions in the black communities and to increase minority representation on the State and local planning agencies where the policy decisions are made.

There is nothing new about this. In 1969, the U.S. Commission on Civil Rights found that many police departments, which were beneficiaries of LEAA funds, had purposely failed to recruit blacks, Puerto Ricans, and other minorities, had given minority members in the ranks unequal job assignments and undeserved harassment and had set up dual standards of promotion.

One of the main reasons police discrimination has gone unabated, is that the Federal officials who oversee law enforcement agencies have been chronically understaffed and their initiative have been dampened by their superiors.

On July 10, 1970, for example, Associate Justice William Rehnquist, then head of the Justice Department's Office of Legal Counsel, concluded that title VI of the 1964 Civil Rights Act—governing nondiscrimination in federally assisted programs—was not applicable to the employment practices of LEAA grantees and subgrantees, such as State and local police departments.

In fact, as late as October 1970 LEAA did not even have an office of civil rights compliance and was the only Federal agency dispersing Federal grants to have this dubious distinction.

Finally, it was decided that LEAA programs of Federal aid were in fact covered by the provision in the 1964 Civil Rights Act prohibiting discrimination in federally assisted programs. However, even after LEAA published its equal employment opportunity regulations on December 31, 1970, it has acted as a reluctant guardian of civil rights, since it continues to play a subservient role to State and local interests.

In fact, the U.S. Commission on Civil Rights in its 1971 report emphatically states that LEAA's compliance program has not noticeably improved the discriminatory attitudes of the agencies they finance.

LEAA still has not conducted a satisfactory title VI or equal employment opportunity compliance review. It has done a fast check of the 50 States to select the ones needing a thorough audit. It had promised to get this audit completed, but so far it is just in its second group of seven out of the 25 States that it is reviewing in depth.

LEAA's Office of Civil Rights Compliance has only seven professionals, a woefully inadequate number for the monumental tasks it should perform. It is no wonder that their efforts have been limited primarily to processing the numerous complaints it already has received. Civil rights enforcement, if any, is left primarily to the disinterested States.

Finally, last December, LEAA published some revised regulations which strengthen on paper its role in civil rights compliance. The Leadership Conference on Civil Rights alertly took exception, charging there still existed no provision for termination of Federal funds for reasons of discrimination or for the holding of reviews prior to grantees receiving funds.

Thus, LEAA continues to subsidize racial discrimination with Federal dollars. One example is *Davis* v. *Washington*, D.D.C. Civil Action No. 1086–70, a lawsuit filed in April 1970, by black policemen against the Washington Metropolitan Police Department for alleged discrimination in its promotion procedures. One month after the suit was filed, LEAA awarded the department over $1 million to recruit and hire 1,000 more policemen under the same employment practices.

Another example is *Allen* v. *Mississippi Commission on Law Enforcement*, Civil Action No. 4487, (S.D. Miss. 1970) and *Morrow* v. *Crisler*, Civil Action No. 4716 (S.D. Miss 1970). Allen challenged the racial composition of the Mississippi State planning agency which disperses LEAA funds and Morrow successfully challenged the systematic exclusion of blacks from the State highway patrol. During 1970, while both these suits were pending, LEAA gave the State planning agency $2 million and gave the State highway patrol a substantial grant.

These are not isolated instances. In the eight Southeastern States, over 99½ percent of the 5,000 State highway patrolmen and troopers are white. South Carolina and Louisiana have four blacks; Georgia and Florida have two each; Tennessee has six; Alabama and Mississippi, none, and North Carolina leads with nine blacks. The State planning agencies in most of these States have an equally dismal and discriminatory racial composition.

This shocking record is not confined to the South. In Northern States its been amply demonstrated that racism is also impeding fair treatment. Of course, part of the problem stems from the general antagonism blacks and other minority groups have toward policemen, and from the obvious fact that recruiting is often done in rural areas where few blacks reside. But, sometimes there are other less legitimate barriers. Thus, in *Castro* v. *Beecher*, Civil Action No. 70–1220–W (D.C. Mass. Nov. 17, 1971), it was found that the Boston police had used intelligence tests that failed to comply with State law, were not related to the police jobs for which the applicants were applying, and which gave an unfair edge to whites.

LEAA's Office of Civil Rights Compliance is aware of these problems but is hampered by a staff shortage. In a recent interview, the Director stated that it was LEAA's policy to have civil rights enforcement questions handled by the State, not his office. Most of its time is used in processing complaints and drawing up a compliance form which it soon plans to send to 15,000 law enforcement grantees and subgrantees. So far, funds have been dispensed regardless of whether States or subgrantees have signed the boiler-plate assurance forms.

The only means of enforcement so far used has been a mild query here and a gentle nudge there. The very thought of fund cut-offs for noncompliance seems to horrify LEAA bureaucrats.

So far, with the assistance of the Civil Rights Division of the Justice Department, LEAA has become involved in only three suits involving racial discrimination by LEAA grantees: Boston, Mississippi, and Alabama. But, most revealingly, all the suits were initiated by private parties, not LEAA.

In order to correct this blatant record of neglect, in order to make certain that LEAA faces up to its responsibility of

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insuring that no Federal funds are used to finance racial discrimination, and in order to eliminate discriminatory practices in the Nation's law enforcement agencies, I am today introducing legislation:

First, to prevent the granting of federal funds if the grantee or subgrantee is in noncompliance until such times the discrimination has been eliminated;

Second, to prohibit racial discrimination in the membership of the State planning agencies, local planning boards, and similar units;

Third, to require a finding of civil rights compliance prior to becoming eligible for a grant;

Fourth, to delete the section of the Omnibus Crime Control Act relating to Federal control and racial balance; and

Fifth, to provide for affirmative action to overcome the effects of past discrimination by the grantee in employment and in the services provided.

Section 1 of my bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to require that State planning agencies submit a State plan which will provide for affirmative action to overcome the effects of past racial discrimination in recruitment and promotion, in selection of sites for correctional and other facilities, and in the services provided. The site selection provision is to help avoid another Attica-type tragedy. New York's correctional facilities in the past have been built in rural areas and staffed with local white recruits who supervise a majority of nonwhite prison population.

Section 2 of my legislation eliminates the unnecessary prohibitions against racial quotas and Federal influence. These stale and musty amendments to the Omnibus Crime Control Act represent remnants of an earlier era.

Section 3 of this bill adds the following new provisions: First, prior to making any grant, the Justice Department must conduct a summary compliance review to determine if there is racial discrimination by a grantee or subgrantee. This practice is not novel. The Office of Federal Contract Compliance already conducts such reviews for Government contracts. The intent of this provision is to prohibit practices which led to the Davis, Morrow, and Allen cases.

The second provision of section 3 would require that no LEAA funds be given to a grantee or subgrantee who is found to be in noncompliance unless it is afterward found following a notice and hearing that such discrimination has been eliminated.

Such legislation will provide LEAA with the mandate comprehensive to its need to correct the inequities existing in thousands of State and local police departments, sheriff's office, and correctional facilities. Only by so strengthening and improving law enforcement at every level will we become better able to promote domestic peace, security, and justice in a Nation which is presently ravaged by internal turmoil and strife.

THE PIED PIPERS OF POVERTY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, the crowd that gathered on the Washington Monument grounds last Saturday was festive, but the note struck by its leaders was ominous. Thousands of poor children were exploited by "The Pied Pipers of Poverty" in an attempt to kill a progressive and realistic welfare rights plan, while holding out the cheap and empty hope of a totally unrealistic one. Those who would denigrate the President's family asistance plan, while demanding in its stead a guaranteed annual income of $6,500, are not only indulging in cynicism but teaching it to little children.

At this point, I would like to insert in the RECORD a statement made by Under Secretary of Health, Education, and Welfare John G. Veneman and a New York Times editorial which appeared March 28. I think that, taken together, these two pieces put the problem of poverty in much better perspective than Messrs. Harris, Wiley, and others:

STATEMENT BY JOHN G. VENEMAN

Behind all the kites and balloons at tomorrow's welfare march lies a special interest.

It is the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America.

The legislation these pied pipers of poverty have enticed school children to march against would, at one stroke of a pen, wipe out half of all the poverty in our country.

These men say that they oppose the President's welfare reform bill because it is not enough.

What they are opposing is a bill that would invest more money into helping people escape poverty than has ever before been proposed in a single piece of social legislation—$6.5 billion.

They say "We demand more"—$70 billion. more—a figure that would cost the taxpaying families of the Nation an average of $2,000 more a year.

Their proposal, hasn't the chance of a snowflake in the Sahara of ever passing Congress—and they know it.

Yet Senator Harris of Oklahoma stood on the steps of the Capitol yesterday and boasted:

"I think we can kill welfare reform this year."

The bill that he wants killed would provide $200 a month to a welfare mother in Mississippi who now receives only $60 a month to feed and clothe her children.

Are Senator Harris or George Wiley representing the best interests of that mother and those children?

That same bill would, for the first time, provide wage supplements to the parents of five million children of America's working poor; and enable those families to continue working and living in dignity at a livable income.

Are these children and these parents being honestly represented by those who want this bill killed?

And what about the crippled and retarded children who would benefit? Or the lonely children waiting for adoption who would also benefit from H.R. 1?

And who represents the disabled on Social Security who would receive Medicare coverage at no cost if H.R. 1 becomes law?

Or the blind, the aged and the disabled whose public assistance would be raised by $2 billion.

What do the pied pipers of poverty offer all of these people in exchange for the benefits they will not get if the President's welfare reform bill does not pass?

They do not offer bread.

They offer circuses.

I hope that people of good will and good sense will reply, loud and clear, to that cynical offer.

[From the New York Times, Mar. 28, 1972]

WELFARE MIDDLE WAY

President Nixon has again come strongly to the support of his welfare reform program, the Family Assistance Plan. After suggesting last summer that the wage-price freeze somehow made it desirable to postpone the effective date of the plan, Mr. Nixon in a special message to Congress yesterday reiteraied his conviction that reform of the ramshackle welfare system is imperative.

Unfortunately, the President gave little hint of his willingness to accept strengthening amendmenta to F.A.P. He may have calculated that his more extreme critics such as the National Welfare Rights Organization and sure to antagonize so many voters—and members of Congress—as to make it unnecessary for him to compromise.

The "Children's March for Survival" which these organizations sponsored in Washington last Saturday was a dubious venture on every ground. The demonstrators may feel as the march slogan proclaimed that "Nixon Doesn't Care," but adults who do care about the emotional security of small children hardly prove their own concern by involving youngsters in a huge demonstration in which several hundred became separated from their parents.

As a practical effort in lobbying the march's political and propaganda impact was almost certainly negative. Congress is simply not going to provide a minimum annual income of $6,500 for every family of four. In city halls and state capitals, the overwhelming political problem is to prevent unwise, inhumane cutbacks in existing programs as welfare costs steadily rise. Those who agitate for utopian solutions are not helping poor people.

Yet substantial improvements in the Administration's welfare bill are necessary and possible. The proposed minimum income of $2,400 for a family of four is too low. Whatever level is finally agreed upon, no recipient should get less than the benefits he or she is now getting. There should be coverage for childless couples and for single individuals. The work requirements should be revised to exempt mothers with preschool children.

Senator Ribicoff, Connecticut Democrat, is sponsoring amendments to the Administration bill which would attain these objectives. There is already considerable support in the Senate for the essential principles of the Administration bill—coverage for the working poor, a minimum income, uniform level of support across the nation. A lobbying effort in behalf of the Ribicoff amendments would be worthwhile and constructive. Verbal fireworks and protest marches for unattainable goals are not going to pay anyone's rent or brighten any child's life.

THE HARASSMENT OF FARMWORKERS BY THE NLRB AND THE NIXON ADMINISTRATION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HELSTOSKI. Mr. Speaker, on Monday, the President of the United States sent yet another message to Congress urging prompt enactment of his welfare reform legislation. In tones of great sympathy, the President wrote of "millions of children" suffering, being "forced to live in deplorable and degrading conditions." He stated further:

We must hit head-on the cruel fallacy that any income, no matter how low, is sufficient for an American family merely because that money comes from full time work.

We must establish the more humane and relevant principle that the total income of each American family must reach a certain minimum standard.

In sum, the President pronounced himself firmly committed to improving the lives of the millions of Americans who live in degrading poverty.

These were fine words of concern for the poor and the working poor. However, Mr. Nixon's messages to Congress are always laced with verbal assurances of his concern. We would be better advised to heed former Attorney General Mitchell's advice of a few years ago: "Watch what we do not what we say."

What the administration is really doing about the economic conditions of poor people can be discovered a block from the White House at the National Labor Relations Board. The Nixon-appointed General Counsel of that "independent" agency is currently engaged in a campaign of legal harassment of the United Farm Workers, the organization representing the impoverished agricultural workers of California. I include at this point in the RECORD a New York Times article of last Sunday detailing the unholy alliance which has been formed between the California agribusiness interests and Peter G. Nash of the National Labor Relations Board against the struggling farmworkers of that State:

CONSERVATIVE GROUPS MOUNT CAMPAIGN AGAINST CHAVEZ UNION

(By Steven V. Roberts)

KEENE, CALIF., March 25.—Less than two years after it won landmark contracts in the California grape industry, the United Farm Workers is under fierce attack, and its leaders are fighting for survival.

A well-organized, well-financed campaign has been mounted against the union by a loose coalition that includes the American Farm Bureau Federation, large corporate growers and shippers, right-to-work committees—and a variety of other conservative organizations.

The main target is the boycott, the weapon the farm workers union used successfully against the grape growers for three years ending in 1970 and is now employing against iceberg lettuce harvested by Mexican workers and against nine California wineries.

"They are using everything to hit us over the head," said Cesar Chavez, the union's director, whose headquarters are now in this mountain hamlet about 30 miles east of Bakersfield. "The right wing is spending a tremendous amount of money against us. They want to stop the boycott. They know it's the only way we can organize and they will do anything to take it away from us."

BOYCOTT A KEY WEAPON

The United Farm Workers is the first union to organize America's migrant agricultural laborers, and Mr. Chavez has gained an almost saintly reputation among workers for his leadership of La Causa, Spanish for "the movement." The boycott has been indispensable in that organizing campaign, because the migrants are too poor and too transient to conduct an effective strike.

To the union's opponents, however, the boycott is a "vicious weapon" and Mr. Chavez is a dangerous and power-hungry man. As the Free Marketing Council, an organization of growers, shippers and chain stores, put it recently:

"Forces of coercion threatening a massive take-over of the nation's food supply in the field must be brought under control through state and Federal legislation."

These attacks are growing at a time when the union has scored several notable successes. In recent weeks the farm workers have won two major contracts in the Florida citrus industry, their first victories outside California and Arizona. In addition, the American Federation of Labor and Congress of Industrial Organizations upgraded the farm workers from "organizing committees" to a full-scale union.

NLRB SEEKS CURB

The most immediate threat to the union is a petition filed in Federal Court by the general counsel of the National Labor Relation Board. That petition asked the court to enjoin the farm workers from conducting boycotts, which are prohibited by the National Labor Relations Act. Arguments will be heard in Fresno on April 6.

The case presents a complex legal problem, since farm workers have always been explicitly excluded by the act.

However, the Free Marketing Council and other groups have charged that the union represents some workers who help pack produce for shipment. These workers are covered by the act, and thus the union should be subject to its restrictions, the complaints contend.

Korbel, one of the nine wineries now being boycotted, has also asserted that the union wanted to represent workers who were not agricultural laborers.

The requested injunction would stop boycotts until the labor board judges the case on its merits, a process that could take a year.

The farm workers reply that the workers in question account for one-tenth of 1 percent of their total membership working under contract, which is about 60,000 workers. Moreover, they contend, the N.L.R.B. has consistently ruled in the past that farm workers were not covered by the board.

The difference, they say, is that until last August, the general counsel of the N.L.R.B. was Arnold Ordman, a Democrat first appointed by President Kennedy. When his term expired, the Nixon Administration replaced him with Peter G. Nash, a 35-year-old Republicant from Rochester.

The N.L.R.B. decision to pursue the case, the union stated last week, was a "purely political" one "made at the highest level" of the Republican party. "It is nothing less than an effort to destroy our union," the statement said.

Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches and finances other growers, the union said.

CITED BY LIFE MAGAZINE

Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

A spokesman for the N.L.R.B. called the union charges "bull" and added: "The only question is whether the evidence indicated there was a violation, and the general counsel concluded there was."

According to well-informed sources, however, there was some disagreement among the board's staff over whether to authorize the complaints against the farm workers.

One staff member expressed sympathy for the union and said it would be "very unfair" to subject the farm workers to the limits of the law, without the advantages. But that is what would happen if the complaints are upheld, he said.

The union has also been beseiged on the legislative front. Lobbyists in about 15 states, often led by the Farm Bureau, have pushed for laws that would prohibit boycotts by farm workers. Usually the bills also contain clauses that would require elections before union recognition and hinder strikes at harvest time.

ADOPTED IN TWO STATES

Such laws have already been adopted in Idaho and Kansas. One passed the Oregon legislature last year but was vetoed by Gov. Tom McCall. A similar bill was killed in the California Legislature, but a campaign is starting here to place an initiative on the November ballot.

Just last week, a bill was introduced in Congress that would create an Agriculture Labor Relations Board. Its provisions are similar to the National Labor Act, but it would allow growers to demand arbitration if farm workers struck, and impose a 40-day waiting period.

Historically, farmers have opposed placing workers under Federal legislation, but when the grape boycott proved so successful, they changed their position. In its early years, the union wanted legal protection. Now it feels that any legislation would be so restrictive that it could not organize effectively, and it would do better outside the law.

The third arena of conflict is the lettuce fields of the Salinas Valley, the "salad bowl" of America. In 1970, after the grape victory, Mr. Chavez announced that Salinas would be his next target. Almost immediately, most of the growers signed contracts with the International Brotherhood of Teamsters as a way of warding off Mr. Chavez.

CONTRACT DENOUNCED

The farm workers denounced the contracts as "sweetheart" deals and struck the lettuce fields in August. A month later a boycott started and four large growers signed with the Chavez union, but the rest held fast.

Last March, the teamsters agreed to give up their contract with the farm laborers. Mr. Chavez opened negotiations with the Salinas growers and imposed a moratorium on the strike and boycott. But after six months of no progress, the talks collapsed in November.

Last week, Mr. Chavez declared that the boycott would resume, and a new strike against the Salinas growers was imminent. The mood here in Keene is that the campaign will be a long and costly one. The lettuce growers are larger, wealthier and "more savvy" than the grape growers, according to Marshall Ganz, the Harvard graduate who directs boycott activities.

The union has already dispatched 200 organizers around the country to resurrect the boycott machinery.

The whole idea of a consumer boycott has lost some "freshness since the grape campaign," Mr. Ganz conceded. "But the American public is better educated about farm workers, and that's all helpful," he said.

"Lettuce is a tricky problem," Mr. Ganz added. "You can eat it in a sandwich or a salad and you don't think about it. It will take a lot of public education. Grapes became very stigmatized during the boycott—lettuce has to become a similar kind of symbol."

The tactics will again be grass-roots organizing among anyone who will listen:

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housewives, students, labor unions, civic groups. There will also be the publicity from a dramatic strike. As Mr. Ganz put it:

"The grape boycott never depended on the romance of it, but on grinding work. There is no substitute for that kind of commitment, and it's something the growers can't buy with money. It's a classic confrontation between money power and people power."

Mr. Speaker, there are a number of important points contained in this article about which I would like to comment.

First, it should be clear to any objective observer that Mr. Nash's court suit is intended to subject the farmworkers to the restrictive and punitive aspects of the National Labor Relations Act without simultaneously affording these workers any of the rights and protections of that legislation. In effect the farmworkers would be stripped of their only effective economic weapon against the growers, the boycott. They would be left with no other means of obtaining economic and social justice, a situation which would lead to a fast reversal of the gains made during Cesar Chavez' many years of struggle. As one NLRB staff member reportedly stated:

It would be "very unfair" to subject the farmworkers to the limits of the law, without the advantages.

I submit that it would not only be "very unfair" but a perversion of justice for the NLRB to succeed with this anti-Chicano, anti-union gambit.

Secondly, we should ask who stands to benefit from this NLRB suit. Many will recall the 1968 photograph of candidate Nixon in California merrily devouring a bunch of scab grapes. That did not win too many votes among the Mexican-Americans tolling in the fields, but I am sure it did not hurt the flow of funds from California's enormously wealthy corporate farmers to the Nixon campaign chest.

Now another election year is with us and Mr. Nixon is undoubtedly anxious to assue his agribusiness financial angels that he is their candidate. As Steven Roberts' article stated:

Union officials point out that large corporate farmers are generally strong backers of both President Nixon and Gov. Ronald Reagan. For example, C. Arnholt Smith of San Diego, an old friend of the President, controls a number of large ranches and finances other growers, the union said.

Life magazine charged last week that the Nixon Administration had "tampered with justice" by quashing an investigation of Mr. Smith's campaign-financing activities.

The NLRB's new-found concern for the pocketbooks of various wealthy California growers is, I believe, just one aspect of the intimate relationship between administration figures and large campaign donors. We have witnessed the development of the ITT case, which shows at the very least that officials of that multibillion-dollar conglomerate have ready access to and receive favored treatment from the highest officials of the Justice Department and the White House. Whether or not there was any direct link between the $400,000 ITT donation to the GOP Convention and the antitrust suit settlement we shall perhaps never know. It is clear, however, that the administration knows where its bread is buttered.

And that bread is being buttered today in California. In fact a special effort is being made by Maurice Stans and other fundraisers for the Republicans to beat the April 7 deadline when the new campaign disclosure law goes into effect. In this regard I am including at this point in the RECORD an excerpt from a front-page New York Times article of last Sunday quoting a typical fundraising letter being sent out by the administration's financial friends in California:

RUSH TO BEAT EFFECTIVE DATE OF THE NEW, TOUGHER LAW

One such letter sent recently from Los Angeles by Thomas P. Pike, a drilling machinery manufacturer, vice chairman of the Fluor Corporation in California and a donor, with his wife, of $10,000 to Mr. Nixon's 1968 campaign. The letter spoke openly of methods to circumvent the public reporting of Nixon contributions, "which," it said, "we all naturally want to avoid."

Mr. Pike, who was an Assistant Secretary of Defense from 1953 to 1956, later served as Mr. Nixon's California campaign chairman in the election of 1960 and as vice chairman of his Los Angeles County finance committee in 1963. His Los Angeles office said he was in France and he could not be reached to confirm the language of his letter, a copy of which was obtained by The New York Times. But other ranking California Republicans said they had received the identical letter and had discussed it with Mr. Pike. The letter said:

"A the request of former Secretary of Commerce Maurice Stans, I have agreed to serve with Leonard Firestone and Taft Schreiber and others as California co-chairmen of the Committee for the Re-election of the President, to raise the necessary funds.

"I am personally committed to give and secure a total of $50,000 from family and friends for this vital campaign.

"My plan is to secure from members of my family and a few friends approximately one half of this amount and then give the balance myself.

"The simplest and most painless way to do this is by giving appreciated low-cost securities to several committees (whose names I can supply) in amounts of $3,000 to each committee. In this way neither the gift tax nor the capital gains tax liability is incurred, and I can easily explain to you the mechanics of doing it.

"The standard of giving suggested is one-half percent, more or less, of net worth. This makes for a very substantial campaign contribution which will actually have a minimal effect on your life-style and personal estate, but will have a tremendous effect on your family's personal stake in the future of our economy and our country. I can't emphasize too strongly that the protection of your stake and my stake is precisely what is at stake here.

"We have a deadline of April 7th to meet for this important gift phase of the drive, because that is the effective date of the new Federal campaign law which will require reporting and public disclosure of all subsequent campaign contributions in excess of $100, which we all naturally want to avoid."

Mr. Pike's letter closed by saying that "you may rest assured that he [Mr. Nixon] will be personally appraised of your support."

One line from this letter to California's economic royalists deserves repetition. Mr. Pike states:

I can't emphasize too strongly that the protection of your stake and my stake is precisely what is at stake here.

So there it is. Mr. Nixon will make sure that the "stake" of these various fatcats, many of whom are undoubtedly growers, will be protected provided they ante up a fraction of their wealth to keep Mr. Nixon in office. If that is not a quid pro quo as cynical as the alleged ITT deal, I do not know what is. The coincidence of the NLRB taking action against the farmworkers at a time when Mr. Nixon's fundraisers are working the financial vineyard in California is peculiar at best. One is led to suspect very strongly that, all of his rhetoric and concern for the poor to the contrary, Mr. Nixon has decided to aid the growers in destroying the farmworkers union in return for financial contributions. It has been said that the ITT case is only the tip of the iceberg, just one example of corporate contributions influencing the legal decision-making of the administration. The harassment of the farmworkers by the NLRB seems to be another.

Mr. Speaker, I intend to do all I can to see that the NLRB's General Counsel fails in his effort to render the farmworkers union powerless. I urge all of my colleagues who are deeply concerned with social justice to express their views on this critical issue and to press for abandonment of the NLRB's legal attack on the farmworkers.

BEST WISHES TO "BRAD" MORSE

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROBISON of New York. Mr. Speaker, this is evidently bound to be a year of substantial change in the membership of this House—what with the already announced numbers of retirements, with more perhaps yet to come, plus the normal turnover as the result of next November's elections.

It is already clear that the Congress is losing some excellent Members—whose absence will be marked upon in years to come. Surely included in such a category would be our friend and colleague, Representative F. BRADFORD MORSE, of Massachusetts, whose energy, vitality, and devotion to his legislative duties, has earned him the respect and admiration of all of us. "BRAD" MORSE goes on, now, by virtue of a Presidential appointment, to the post of Under Secretary General of the United Nations—a position formerly held by the late Ralph Bunche. We are proud of the recognition thus granted our colleague's interests and talents in this field of foreign policy endeavor, and we know he will do well in his new assignment.

However, I am sure we all view this event with mixed emotions, for reasons well summed up in the following editorial from the March 29 New York Times:

"NEW LIFE" AT THE U.N.

The appointment of Representative F. Bradford Morse of Massachusetts to be an Under Secretary General of the United Nations arouses mixed feelings. As top-ranking American in the U.N. Secretariat, Mr. Morse will be replacing the late Ralph J. Bunche, though his duties will not be identical with Mr. Bunche's. Many at Turtle Bay and elsewhere will regret that President Nixon did not designate an experienced diplomat for the post.

Another cause for regret at home will be the further depletion of the ranks of liberal internationalist Republicans in the House where Mr. Morse had built an impressive record and twelve years of seniority. The qualities that made him an able and useful member of the House and of its Foreign Affairs Committee will serve Mr. Morse well as Under Secretary General for Political and General Affairs.

Mr. Morse will be joining the Secretariat under the new Secretary General, Kurt Waldheim, who says he wishes to "breathe new life" into the organization. Mr. Waldheim has offered to the People's Republic of China the job of Under Secretary General for Political Affairs and Decolonization and has named the U.N.'s first woman Assistant Secretary General—Mrs. Helvi Sipila of Finland.

With experience, Mr. Morse no doubt will discharge his U.N. duties with distinction but he will be missed on Capitol Hill.

LOS ALAMITOS, CALIF., POLICEMAN OF THE YEAR

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HOSMER. Mr. Speaker, on April 8, I have the privilege of addressing the sixth annual Policeman of the Year banquet in Los Alamitos, Calif. The dinner is being sponsored by Los Alamitos Post 716 of the American Legion.

The winner of this year's award is Detective Tom Hicks, who was selected by his supervisors as the city's outstanding policeman for 1971. Mr. Hicks has been a member of the Los Alamitos Police Department force for 8 years, including the last 3 years as a detective.

His contributions to his community have come not only in the line of duty as a policeman, but for many outside activities as well.

Police Chief Roy Kundtz commends Detective Hicks for many successful undercover narcotics investigations during the past year, including one which resulted in the largest marihuana seizure in the city's history.

Mr. Hicks also is the first aid instructor for all police department employees and reserves, in addition to teaching adult classes to many local citizen groups. His other contributions to Los Alamitos include instigation of a local motorcycle training program and a merchant crime prevention campaign.

He recently received his associate of arts degree in law enforcement from Cerritos College in Norwalk. Mr. Hicks is married and he and his wife, Peggy, have two children.

Mr. Speaker, I would like to add my congratulations to Detective Hicks for his outstanding achievements as a policeman and for bringing new credit to his profession.

And I would also commend the members of American Legion Post 716 for their efforts to bring this much needed public recognition to the hard-working members of the police department. By improving public awareness and appreciation for law enforcement, the job of Detective Hicks and the other men of the Los Alamitos Police Department will be made easier.

IN MEMORIAM: THE WARSAW GHETTO UPRISING

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CAREY of New York. Mr. Speaker, the date of the 27th of Nisan—April 11—is burned into the heart of Jews everywhere for all time, and, indeed, will never be forgotten by men and women of good will of whatever faith, nationality, or race. Just 29 years ago, with nearly the whole of Europe under the scourge of Hitler, the Jews of the Warsaw Ghetto, faced with cruel death at the hands of a brutish oppression, affirmed with their lives the dignity of human nature and the courage of men, women, and children in the utmost extremity.

The monstrous deeds of Nazi barbarism are written in blood across the pages of history. Foremost among them was the deliberate slaughter—the genocide—of a whole people. As early as 1938 a murderous pogrom gave warning of what was to come. By 1941 far-reaching preparations for the deportation and mass killing of European Jewry began to take shape in the infamous death camps, whose names have become bywords in the annals of inhumanity. Extermination on a vast scale—the "final solution" devised by Hitler for the so-called "Jewish problem"—eventually would claim the lives of some 6 million Jews.

The sheer magnitude of the crime staggers the imagination. The tragedy of an individual human being can be grasped only if we are able to identify personally with it. But it is virtually impossible to comprehend the appalling statistics of the Nazi program and what they meant in terms of human suffering. Seldom, if ever, has human technology lent itself to abuses of such enormity and horror.

There were relatively few instances of resistance, largely due to the incredulity of the victims in the face of Nazi deception and worldwide indifference. Among those instances, the story of the Warsaw Ghetto continues to inspire and sustain Jews and all men as an example of the valor of which human beings are capable.

Jews had settled in Warsaw as early as the 14th century, and, despite intermittent persecutions, had played an honorable part in Polish history. With the coming of the 18th century, larger numbers settled from Russia and adjacent areas. By 1939 some 30 percent of the total population of Warsaw—370,000 souls—were Jewish. The Jewish community of Warsaw became one of the great cultural and religious centers of Jewish life in the Diaspora. Flourishing Yeshivot, seminaries, political and religious associations, Yiddish and Hebrew periodicals and dailies, and the like, all testified to the vitality of that community.

The conquest and partition of Poland in 1938 by German and Soviet armies marked the advent of a new darkness for Polish Jewry in the areas occupied by the Nazis. Jews throughout Warsaw were brutally rounded up and concentrated into a small, sealed off area of the ancient ghetto. Some 433,000 men, women, and children were thus isolated from the life of the city, and subject to cruel abuse designed to break their spirits and bodies alike. Hunger, disease, and a systematic reign of terror gradually reduced the inhabitants of the ghetto by many thousands. In 1942 the "resettlement" deportations began, and in the end some 20,000 people a day were taken away to be killed in an atmosphere of deceit.

Gradually, the spirit of resistance took hold, especially as reports of the death camps began to filter back. In April of 1943 the Jewish Fighting Organization came into being, and the uprising was ready. There are very few battles in the history of mankind to compare with the fantastically unequal struggle that ensued, the last stand of the Warsaw Ghetto. Pitted against the remnants of Warsaw Jewry—some 40,000 emaciated and exhausted people, led by small combat units—were the German Panzer units, the Gestapo, and their collaborationist allies. Nevertheless, the Nazi forces were held at bay for no less than 42 days. Some 5,000 of the enemy perished along with nearly all of the Ghetto resistance forces, except a few who escaped in the terrible carnage of the last days.

The Warsaw Ghetto uprising sent a thrill of hope throughout the Jewish communities of the world. More than an act of despairing martyrdom—though its heroes are rightly honored as martyrs to the Holy Names and to religious freedom—it was an act of affirmation proclaiming the survival of the Jewish people in the face of all their enemies might do. It is so remembered today.

Our commemoration this year has a special significance in light of the conditions which confront the Jews of Soviet Russia in their desire to emigrate. The message of Passover in every age is one of deliverance—of Exodus and freedom from bondage. May it speak with renewed power to the Jews of Russia in their struggle for the right freely to migrate and to dwell in safety in the land of their choosing.

As a Member of Congress and as a deeply concerned American citizen, I pledge my continuing support to every effort in behalf of the oppressed in every land, and I commend the courage, the faith, and the hope which are symbolized for Jews and for all men in the deathless story of the Warsaw Ghetto. God grant that never again may such inhumanity

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stain the pages of history. To that end may we all work and pray as brothers of a common Father.

CLUB AMERICANA VISITS IRELAND

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WHALEN. Mr. Speaker, as they have for the past 2 years, some 200 members of Club Americana recently toured the Republic of Ireland. Their trip was another in a series of club-sponsored excursions to foster unofficial diplomacy.

While in Ireland, the group marched in Dublin's St. Patrick's Day parade. More importantly, the club members met with the Lord Mayor of Cork, Councillor O'Sullivan, and city officials in Limerick, Waterford, and Dublin. Through such meetings, Club Americana endeavors to harness our "people power" into a force for peace and understanding in our country and throughout the world. During their travels abroad, efforts also are made to arrange visits in homes of private citizens. Another commendable activity of the club is to maintain a scholarship fund for students in all parts of the globe who compete in an essay contest on the subject of "How can all nations live peacefully together?"

Mr. Speaker, Club Americana, which is comprised of private citizens from the Washington area, was organized and is directed by Robert J. Flynn whose son, Carey, graduated from Capitol Page School in 1966. One of the active members of the club is my administrative assistant, Alfred Swift Frank, Jr. Mr. Frank, at my suggestion, drafted a summary of the impressions which he gained during the club's latest visit to Ireland. In view of the present situation in that country, I believe his remarks will be of great interest to my colleagues and to the readers of the RECORD:

STATEMENT OF ALFRED S. FRANK, JR.

Upon landing in Shannon and planting the feet on the "old sod", the traveller is almost immediately struck by the total preoccupation of the people with "the troubles in the north." Thus, after the first few words of conversation, the native Irishman will invariably introduce the subject. "What do you think of the IRA?" "Do you think your country will get involved?" "Do you think we can ever have a united Ireland?" And so on. Moreover, it is not simply a matter of a typically friendly Irishman with his penchant for conversation and political talk. In some cases, they are seeking, albeit probably in vain, for specific answers or solutions. In others, they are espousing a firmly held conviction or belief. But whatever the specific motivation or interest of each individual, it is all too forcefully indicative of the seriousness of the latest convulsions in Ireland's long and stormy history of political, economic, and religious divisions and antagonism.

It is obvious that the Republic of Ireland has quite literally been shaken to its very roots by the recent tragic episodes of violence in Derry and Belfast. What is far from obvious, however, is any agreement or consensus as to a solution to the whole problem. Few in the Republic would argue against the concept of a united Ireland. However, opinions as to how it could come about range from civil war, if the situation should continue to deteriorate, to some kind of a negotiated, political unification possibly growing out of the EEC, should Ireland become part of the Common Market (a lively topic of conversation in itself). Many recognize, nevertheless, the economic burdens which would be placed on the Republic by unification at this time.

And so, after a week of virtual saturation from both public and press, the visitor is left with the seemingly unanswerable questions. What if anything can the Lynch government do (if, indeed, it should or could take any initiative)? Is there any way under a coalition, provincial government in Stormont that peace could be maintained, given the existing social and religious divisions there? Was there any alternative to the long awaited (but by no means universally expected) action by the Heath government at Westminster? Will the latter initiative result irreconcilable backlash by the Ulster Protestant radical faction (such as William Craig's Vanguard movement)? Or, on the other hand, would unification result in repression by the large Catholic majority in the south?

A recent poll taken in the North found that a majority of Catholics and nearly half of the Protestants in Ulster have said that they would accept a restructured Stormont parliament and a community government including Catholic ministers of cabinet rank. It would seem that the Heath plan is in line with this thinking.

Nevertheless, American travelers can now only perceive a deep sense of frustration and share with his Irish "cousin" a fervent, if perhaps distant, hope for a united and peaceful Ireland.

SCRAP THE SPACE SHUTTLE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, Congress is charged with the task of establishing the priorities for the Nation. Whatever advice we receive from elsewhere, in the final analysis, it is Congress who must act. We are now facing a significant decision in this respect with regard to a portion of the NASA program.

The space transport system—the so-called space shuttle—requires $200 million for fiscal year 1973. This is only a small portion of the total of $1.581 billion for the manned space flight funding. Total cost for the space shuttle, NASA assures Congress, will be $5.15 billion.

This budget request—indeed the entire concept of the program itself—needs to be looked at with extreme care by the Congress.

Continued exploration of space is needed. But the space shuttle is of marginal utility at best. A number of outstanding space scientists question its value. Further, NASA's assertions of "economy" need examination. This is a make-work project geared to keep a manned space flight program in operation and NASA knows it.

Congress must redirect the Nation's priorities away from this kind of make-work project that will cost the taxpayers billions for the primary benefit of an ailing space industry. It is a billion dollar bonanza for a favored few. It is clear that NASA is expecting a green light on this program. But there are other, more pressing needs. The priorities of our Nation need a redirection away from marginal programs of this kind.

The billions and billions of dollars that are going to be needed for this gold-plated gimmick in the next 10 years will saddle the taxpayer with unwanted and wasteful debt.

Nevertheless a slick and persuasive sales pitch by NASA seeks to convince Congress that the space shuttle is vital to "assure that the United States will have a continuing effective presence in space. Without it there would be no U.S. manned space flights after the Apollo and Skylab missions." After all the rhetoric is peeled away, the rationale for the space shuttle is really for continuing a manned space program.

Outstanding scientists—a number of whom have been associated with NASA in the past—affirm that the continued presence of man in space is simply not needed. Exploration and analysis can be conducted more efficiently with a great deal less cost using modern means of instrumentation. Man in space is an expensive luxury that NASA continues to justify in cold war terms as a space competition. This simply makes no sense.

Manned space applications will end with the Apollo and Skylab programs. There is no genuine justification to perpetuate manned space exploration through an expensive proposition like the space shuttle.

We are assured by NASA, of course, that the space shuttle is "economical" and "will reduce the cost of space operations substantially." Many critics, however, contend with good reason that the shuttle program is an expensive and wasteful venture. In fact, it has been exceedingly difficult to determine from NASA in the past exactly what this program will cost.

In their recent testimony before the several committees dealing with the space program, however, NASA now affirms that "This year we can give clear answers." Cost estimates nonetheless are still cloudy and uncertain. The taxpayer can be forgiven if he doubts the validity of future budgets; he knows from past experience that these figures seldom hold up.

The so-called economy to be derived from the space shuttle hinges on the "frequency of use" for the space shuttle and the promised savings of a billion dollars a year are similarly predicated on application a decade hence.

The real reason for the space shuttle is to keep a vast army of space technicians employed. Everyone realizes that aerospace is a sick industry. But a billion dollar bail-out is not the answer. A make-work boondoggle stretching over 10 years will merely put off the problem for 10 years while billions of tax dollars are sacrificed for a prestige item.

Make no mistake, special interest and big lobby groups are going to attempt to sell the American public on this project. Heavily-financed pressure groups and opinionmakers are behind this effort. But it is the American public who will have to pay out billions of hard-earned tax dollars.

We are at a critical crossroad. This is the year of decision—for Congress and the American people.

A green light to go ahead now will in effect give us 10 years of a program to produce an unneeded shuttle for a space transportation system.

The persistent and persuasive selling of this product by NASA is calculated to promote the space shuttle into a gigantic space boondoggle. The American people have a right to know what this newest space activity is going to cost and why. Costs will not stop at $200 million and they are likely to spiral far above the $5.15 billion now estimated. This modest beginning of funds is just the nose of the camel in the tent. These budget requests need to be looked at with extreme care by the Congress.

Before this program slips by Congress, let us bring forward all the facts and information available. On-going programs have been pared and redirected in an effort to give emphasis to the space shuttle. These curtailments came about, NASA now tells us, because these programs received less than wholehearted support from some in the scientific community. The space shuttle has been roundly criticized by a number of outstanding scientists.

In addition, NASA does not claim the primacy of economics that it once did, since that argument has been effectively beaten down. Now NASA claims that it will save money, but the total savings made possible by the shuttle depend on its frequency of use. In the projections for use the military is supposed to be one of the biggest customers. If this is a project so urgently needed maybe some means ought to be worked out to let the military budget assume a significant portion of the cost.

It is time to take a hard, cold look at this entire program—its costs and missions—and decide if we really want to burden the American taxpayer with billions of dollars of additional debt for a fancy space gimmick.

All that I am seeking is a thorough hearing for this program. So far, trying to pin down NASA on costs and details and the total concepts and implications of this program has been like trying to nail jelly to a tree.

In his "Tale of a Tub," Jonathan Swift, a satiric observer of man's folly, wrote "it is manifest what mighty advantages fiction has over truth." Truth, to have opportunity to prevail, must be told. When the American people learn the truths about the space shuttle I am firmly convinced that Congress will act to end this latest folly and get on with the real priorities of the Nation.

NLRB ATTACK ON UNITED FARM WORKERS UNJUSTIFIED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BINGHAM. Mr. Speaker, on April 6, the National Labor Relations Board is scheduled to appear in court in Fresno, Calif., in support of a complaint which it filed against the United Farm Workers seeking to enjoin the secondary boycott activities of the UFW. The Board's decision is an abrupt reversal of a long-standing policy that it regards the farmworkers' organization as outside the coverage of the National Labor Relations Act and, therefore, not subject to the secondary boycott provisions—section 8 (b) (4)—added by the Taft-Hartley Act.

In my estimation there has been no change of circumstances to warrant any interference whatsoever in the activities of the UFW by the NLRB. As long as the Board maintains that farmworkers are not covered by the provisions of the Labor Act which protect workers and assists unions, it should not arbitrarily adopt a position which applies a provision of the act designed to curtail union activities.

NEW INFORMATION IN THE DEBATE OVER PSYCHOSURGERY

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GALLAGHER. Mr. Speaker, on February 24, 1972, I inserted into the CONGRESSIONAL RECORD a long descriptive article by Dr. Peter R. Breggin entitled "The Return of Lobotomy and Psychosurgery." That article had not been published before and it triggered an intense nationwide debate over the resurgence of brain mutilation as a surgical technique. Dr. Breggin exposed the return of irreversible operations which most laymen, and many medical men as well, assumed had been deservedly cast into the trashbin of history. His original article was well written, extensively researched and, in my layman's view, presented solid fact, justified opinion, and sensible courses of action.

As I learned during the 7 years I headed the Privacy Subcommittee of the House Committee on Government Operations, however, any time an existing technology is criticized—even by someone as qualified as Dr. Breggin—the advocates of the procedure are never hesitant to claim that each of the criticisms had already been evaluated and all that concerned members of society need do is to relax and let the experts continue in the unimpeded exercise of their own judgment. This happened when I initiated congressional consideration of the credit bureau industry, when I held pioneering hearings into the computer and invasion of privacy, and most particularly when I questioned the use of behavior modification drugs—most often the amphetamines—on grammar school-children who were thought to suffer from the ill-defined, perhaps indefinable, malady known as minimal brain dysfunction.

Predictably, Mr. Speaker, exactly this same closing of the professional ranks has now occurred in response to Dr. Breggrin's questioning of the assumptions underlying the new use of mutilating healthy brain tissue in an attempt to control behavior that deviates from someone's version of normal. Dr. Breggin has prepared a response to his critics which, as in the case of his first article, has not been published before and is copyrighted.

The Washington Star's prize-winning, columnist, Judith Randal, wrote a very interesting column which appeared March 2, 1972, based on Dr. Breggin's earlier disclosures. She asks a very important question:

Is there any length to which society will not go to suppress behavior it considers deviant?

If there is not to be a permanently negative response to her question, the Congress must do more to understand and, hopefully, control the behavior of the practitioners, in dozens of disciplines, of the "technology of behavior," to employ Harvard Prof. B. F. Skinner's particularly repugnant phrase.

Mr. Speaker, as a means to further emphasize the seriousness with which I view Judith Randal's question, I insert her article from the Washington Star of March 2, 1972 and Dr. Peter Breggin's unpublished, copyrighted article "Psychosurgery for the Control of Violence" into the RECORD at this point:

PSYCHOSURGERY TREND ALARMING

(By Judith Randal)

Is there any length to which society will not go to suppress behavior it considers deviant?

The question is raised by a 20,000-word report on brain surgery inserted into the Congressional Record last week by Rep. Cornelius E. Gallagher, D-N.J. Written by Dr. Peter R. Breggin, a Washington psychiatrist, after almost a year's research, it documents in chilling detail what surgical intervention for psychological purposes portends.

At the University of Mississippi School of Medicine, for instance, Dr. Orlando J. Andy, working with a psychologist, has operated on several dozen people, most of them children. Some were only 5 years old.

According to letters written by the pair to Breggin, "these are not psychiatric cases, but behavioral problems." Furthermore, the goal seems to have been less the welfare of the children than to "reduce their hyperactivity to levels manageable by the parents."

What this may entail is illustrated by a boy whom Andy calls J. M. Nine years old at the time of his first operation, in 1966, the child has had three others since because his short-temper, aggression and other symptoms recurred after initial periods of "improvement."

At last report he was "manageable," which should at least spare him further surgery. But in that 1970 account, Andy notes: "Intellectually, however, the patient is deteriorating." Since the effects of psychosurgery are permanent, there will be no turning back.

It would be bad enough if such mutilation were confined to Mississippi. Unfortunately, it is not. Lobotomy—the procedure which ironically won Portuguese neurologist Antonio C.A.F.E. Moniz a Nobel prize—was replaced by electro shock and drugs as a treatment for the insane in the late 1950s. Now, however, it is experiencing a worldwide comeback, both in its original form and with refinements that reflect recent progress in medical technology. And this time, it is not only the schizophrenics whose brains are under siege.

Breggin has found, indeed, that most of the targets are people with "anxiety-tension states" and "obsession syndromes," particularly individuals of "good intelligence and personality." A disproportionate number of

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them are, he says, women and children, rebellious adolescents and, in a few cases—notably in California—prisoners whom authorities have found troublesome.

In fact, anyone who rubs his family or society the wrong way is apparently at risk.

In Texas, it has been drug addicts and alcoholics; in Canada, individuals who become "intractable" with age; in Britain, people with a pathologic fear of open spaces, and homosexuals; in Germany, sexual deviants, too.

Even chronic gamblers are in peril. Hauled into court for stealing money to meet his gaming debts, one Englishman was offered a choice between "voluntary" surgery and imprisonment. It is not hard to imagine that this could happen to political radicals as well.

An "old-fashioned" lobotomy involves deliberate destruction by scalpel of a portion of the brain's frontal lobes that is not by objective criteria diseased. More recently, however, other brain structures just as crucial to the personality have also been attacked and radium seeds, ultrasound, injections of olive oil or implanted electrodes have sometimes replaced the knife.

No matter how done, however, the operations have a uniform purpose: The "taming" of an unruly spirit that if not cowed by one procedure can always be blunted by the next. Thus, while these advances have the advantage of greater surgical ease and safety, their very simplicity makes them disturbingly attractive as tools for the mass application of mind control.

For the would-be despot—be he politician, prison warden, mental hospital superintendent, law enforcement official, bigot or simply family tyrant—psychosurgery is a dream come true.

Take the case of a woman with a long history of depression. So angered was she by what had been done to her in two operations insisted on by her mother that she refused to undergo a third and, let out of Boston City Hospital to go shopping took a fatal dose of poison. Yet instead of interpreting her suicide as understandably symbolic of vengeance, her doctors described her behavior as "paranoid" and were "gratified" that her apathy had lifted to the point where she could act.

The last time psychosurgery was in fashion some 50,000 Americans underwent this assault on their inmost beings and virtually every state hospital still harbors pitiful remnants of the results. Among the nations of the world, Russia alone has taken legal steps to see that it will not happen again. If the public cares about the rights of the individual guaranteed by the Constitution, it will demand that the United States do so, too.

[Copyright 1972 by Peter Breggin]

PSYCHOSURGERY FOR THE CONTROL OF VIOLENCE—INCLUDING A CRITICAL EXAMINATION OF THE WORK OF VERNON MARK AND FRANK ERVIN

(By Peter Roger Breggin, M.D.)

(NOTE.—Peter R. Breggin, M.D. is a practicing psychiatrist and faculty member of the Washington School of Psychiatry. He was trained at Harvard College, Case Western Reserve Medical School, The New York Upstate Medical Center in Syracuse and the Massachusetts Mental Health Center, where he was a Teaching Fellow at Harvard Medical School. Before going into private practice he was a fulltime consultant to the National Institute of Mental Health. He is the author of a variety of scientific papers and two novels, as well as co-author of a book on the rehabilitation of state mental hospital patients.)

Recent statements by lobotomists and psychosurgeons have appeared in the press and on television to the effect that lobotomy has been replaced by newer methods. Other reports say that psychosurgery is carried out under carefully controlled conditions and that it is based upon careful scientific methodology. Several other psychosurgeons have tried to give the impression that the technique is limited to individuals with brain damage, epilepsy and violence. All these statements are false.

In the Congressional Record of February 24th, I describe in detail the return of lobotomy and psychosurgery as a treatment for psychiatric disorders in which the patient suffers from neither brain disease nor epilepsy. In the entire study involving nearly 100 papers and 1,000 recent cases in America, none of the psychosurgeons were operating on individuals with brain disease and none were basing their work on the treatment of epilepsy. In fact, only one project in America is dealing with this combination of brain disease, epilepsy and violence, and I did not discuss it in the first review in the *Record*. But the recent publicity necessitates an examination of this work by Mark and Ervin.

Concerning the self-resistraint and scientific orientation of lobotomists and psychosurgeons, in the several hundred published articles by lobotomists and psychosurgeons, there are few if any that qualify as "scientific." The matched control group is the acme of the scientific method, and there are *no* such studies in the entire psychosurgical literature, except for three follow-up studies which showed that the surgery was no help and tended to produce severe side-effects, including lethargy, loss of interest in the world and intellectual deterioration (79, 94 and 121. See also 33, 81, 84 for descriptions of brain damage in follow-up studies.)

Concerning the self-restraint of psychosurgeons, the situation has changed little since the Group for the Advancement of Psychiatry published a report condemning psychosurgery as a method whose promoters exaggerated its good effects while denying its mutilating effects upon the personality. The Group for the Advancement of Psychiatry advocated scientific research and careful controls and warned the psychosurgeons to limit their work and their claims. None of this has taken place. Mark and Ervin are the only group who have described a board whose duty it is to review pre-surgical candidates. But their board is concerned with certifying the presence of epilepsy, and cannot stop them from doing psychosurgery on their epileptics. In general, there are no controls on the activities of surgeons, and in several centers, disheartened psychiatrists have been unable to stop the activities of psychosurgeons against whom they have strong feelings. In one medical center I have contacted, the Department Chairman in Psychiatry did not know that the Department Chairman in Neurosurgery was active in psychosurgery. So much for self-supervision and restraint!

Because Mark and Ervin have received considerable publicity for their work on epileptics with violence, it is important to emphasize that this is the only psychosurgical group in the country specifically tying their work to a theory of epilepsy and violence. All the others are operating on patients without known brain disease and without any epileptic cause for their violence. In fact, as I describe in the Record, the majority of patients operated on in America are women with neurotic problems!

But the publicity given to Mark and Ervin in response to my disclosures in the Record necessitates a thorough examination of their work in this study. Limited as it is, it also offers unique political dangers which also require analysis. As I will try to show, they are simply performing a psychosurgical operation on violent people who also happen to have epilepsy.

Since the publication of the Record study, a new interest in psychosurgery *for* the control of violence has become apparent. Vernon Mark and Frank Ervin have drawn particular attention to brain surgery as a means of political control in their recent book, Violence and the Brain, and in still more recent statements to the media. The President of the new International Association for Psychosurgery, William Scoville of Yale and Hartford, has also advocated the use of psychosurgery for psychopaths in Arthur Winter's new book, The Surgical Control of Behavior.

M. Hunter Brown has also advocated and described psychosurgery for psychopaths in recent publictions and at the March 9–11 Houston Conference (89). O. J. Andy in Mississippi has operated on adolescents with criminal records and on little children as young as age five who demonstrate aggression and hostility. Aarons in the Washington Post has disclosed the use of brain surgery on violent inmates in the California prison system, as well as proposed plans to expand this program. In addition, Judy Randal of the Washington Star has reported that Frank Lorimer of the Illinois Prison system is advocating a similar program (131).

Closely related to this "law and order" orientation, Fields has recently unearthed the use of psychosurgery on heroin addicts in Philadelphia. Experimental work on psychosurgery for addiction has also been carried out in Philadelphia with much publicity but with no scientific reports (92).

The political dangers of psychosurgery for violence will be discussed in the conclusion of this study, but here it is necessary to point out that the psychosurgeons themselves have been advocating their approach for wide scale social control. Mark and Ervin and Sweet in 1967 remarked that the Detroit riots could not have been caused by political conditions alone. Based on no evidence whatsoever, they conclude that violent protesters may have had brain disease, and they advocate large scale screening and treatment. In their book in 1970 they elaborate upon their use of electrical methods of screening and control and even take it on themselves to describe what is "unacceptable violence" in both the personal and political arena. They imply that 5–10% of Americans have brain disease that may require treatment! Their work has obvious "law and order" appeal, and it is no surprise that they are supported in part by more than $100,000 from the Justice Department, Law Enforcement Assistance Administration (134).

Sweet, Mark and Ervin are not alone in their interest in political applications of psychosurgery. In a recent popular paperback, Delgado of Yale has advocated "physical control of the mind," including psychosurgery, for the control of domestic and international violence in the political sphere. He wants the United States to begin a billion dollar program for physical control of the mind, complete with mass education, public school projects and research into psychosurgery.

As we shall see in this review, psychosurgery has a long and awesome history as a means of social control, and it is being resurrected for this purpose within our institutions and within the society at large.

It is no exaggeration to say that we are in danger of a massive use of psychosurgery to intimidate and control our population.

DEFINITION OF PSYCHOSURGERY

Psychosurgery is any surgery which mutilates or destroys brain tissue to control the emotions or behavior without treating a known brain disease. In 99% of the cases, the brain surgery will actually attack normal tissue. In a few cases, some brain disease will be present, but in these instances, the brain disease will have nothing in particular to do with the symptoms which the surgery is attacking. Thus, psychosurgery is a pacifying operation which blunts the emotions and subdues behavior regardless of the presence or absence of any brain disease or any particular psychiatric problem. It is simply a mutilating operation whose effect is to destroy the individual's ability to respond emotionally.

Lobotomy, or destruction of a portion of the frontal lobes, is the original psychosurgical operation. It is still in use, as recent books by Kalinowsky and Winter demonstrate. Lobotomy directly impairs the highest human centers for creativity, empathy, understanding, abstract reasoning and future planning. The original lobotomy operations left the patients in a state approaching vegetation.

Newer operations attack the brain lower down in the "limbic system." The lower down the operation, as Scoville says, the less intellectual damage and the more emotional blunting. The basic pacification is the same, and when the operation is repeated several times, as in studies by Mark and by Andy, intellectual damage is also obvious. Since the parts of the brain attacked are all interrelated, a generalized damage to the personality must always follow the surgery.

I. The First Major Studies in Lobotomy

The history of lobotomy is rooted in the problems within massive state custodial institutions. The very first recorded lobotomy was done by Burckhardt in Switzerland for the specific purpose of taming some difficult patients under his care. That was in the 1890's and the outcry against these brain mutilations was so great that it was not attempted again on a significant scale until Egas Moniz, John Fulton and Walter Freeman met at a conference in 1936 and observed the effects of lobotomy on two monkeys and a man. All three subjects had become somewhat demented, passive and untroubled by any degree of frustration. Within one year, Moniz had begun operating on mental hospital inmates in Portugal. His career was cut short, however, when the state hospital psychiatric director refused to let him operate any more and when a patient maimed him with five pistol shots. Moniz did live long enough to get the Nobel Prize for his efforts, but it was left to Walter Freeman to promote his work and to operate upon 4,000 Americans over two decades.

Freeman, too, had his problems. While humanist William Allanson White was superintendent at St. Elizabeth's, Freeman was barred from operating at the largest institution in his home city, Washington, D.C. (41). Freeman also spoke openly about censure he met from his neurosurgical colleagues who believed that a psychiatrist should not be permitted to do major brain surgery (1950, 1971.) And he, too, met resistance from some of his patients, two of whom pulled guns during pre-lobotomy interviews (38).

Freeman describes in *Psychosurgery* (1950) how his very first patient fought for her life prior to surgery.

"Who is that man? What does he want here? What's he going to do to me? Tell him to go away. Oh, I don't want to see him." Then she cried out, writhing about in bed so that the nurse was scarcely able to control her sufficiently to administer avertin by rectum.

After surgery the patient becomes docile, and the first question Freeman puts to her says a great deal about lobotomy:

Q. Are you content to stay here?
A. Yes.
Q. Do you have any of your old fears?
A. No.
Q. What were you afraid of?
A. I don't know. I seem to forget. p. xix.

Freeman describes another patient who is operated upon under local anesthesia so that he can report on what is happening to him. The patient screams, "O Gee whiz, I'm dying. O doctor. Please stop. O, God."

Freeman orders the patient to sing God Bless America, and then describes how the patient becomes more disoriented and passive with each "stab" into his brain.

Freeman also describes "a negress of gigantic proportions who for years was confined to a strong room at St. Elizabeth's Hospital." It takes five attendants to drag her to the operating room, but she immediately becomes passive after the surgery. The attendants are still afraid of her "300 lbs of ferocious humanity," so Freeman puts on demonstrations of her docility:

"Yet from the day after operation (and we demonstrated this repeatedly to the timorous ward personnel) we could playfully grab Oretha by the throat, twist her arm, tickle her in the ribs and slap her behind without eliciting anything more than a wide grin or a hoarse chuckle. pp. 406–7.

Freeman makes clear that the brain damage is responsible for this docility. He advocates giving two or three electroshocks to knock difficult patients into unconsciousness, disrupting their brain patterns before the final surgical disruption. He uses this electroshock technique on both the adults and the young children upon whom he performed single and multiple lobotomies.

One six year old child is a difficult behavior problem for her mother, and so she is subjected to electroshock and two "radical" (large mutilations) lobotomies. After the first one, "she returned to her habit of smashing toys." After the second extensive raking of her frontal lobes, she still has a great many problems. When seen at home, "she was quite withdrawn but less troublesome." When she is seen several years later, "In spite of her increased speed and strength, she can be more easily managed at home, is beginning to put sentences together and the impulsive, destructive behavior is subsiding." p. 444.

Writing in 1965, Freeman observes that there's no sense operating on a patient once the ward notes read "Gives no trouble on the ward." And in one of his few direct observations on the problem of law and order, he notes in the American Handbook of Psychiatry, "lobotomized patients seldom come into conflict with the law precisely because they lack the imagination to think up new devilries and the energy to perpetrate them."

In 1971, Freeman is again advocating psychosurgery with pride in its usefulness within large custodial institutions: "it proved to be the ideal operation for use in crowded state mental hospitals with a shortage of everything except patients."

The political pacification implications of Freeman's work has largely been ignored by Freeman and by critics, but they stand out in his summary of ideal surgical candidates in his textbook, Psychosurgery. He is obviously describing a levelling operation that controls oppressed and discarded elements of the society when he lists the following four top criteria for psychosurgical candidates: age: older; sex: female; race: black; and occupational role: the "simpler" ones. The Negro female—remember Oretha?—is described as his best patient. p. 515.

Again publishing and lecturing, and new Honorary President, The International Association for Psychosurgery, Walter Freeman is a significant figure in the revival of lobotomy and psychosurgery.

Freeman's anecodotal style is complemented fully by the more scientific style of the second great classic of the lobotomy literature, Studies in Lobotomy, by Greenblatt, Arnot and Solomon, from the mecca of psychiatry at the old Boston Psychopathic Hospital, now the Massachusetts Mental Health Center, the main Harvard teaching facility. In a study of more than 200 of 500 lobotomized patients, Solomon starts off by lauding the work as "adding to the total joy of living" of their patients. But the psychologist's report, tucked away in a chapter no larger than the one on urinary problems, describes the patients as "slap-happy" from brain damage, many of them suffering from a downhill course of deterioration brain damage. They cannot focus on their tasks and suffer from a cardinal sign of brain damage, "concrete thinking," or the inability to think abstractly. But in the conclusion to the study, Greenblatt gainsays the psychologist's report. He says outright that there's nothing necessarily wrong with "concreteness," and points out that "fewer variables concern the patient, less attention is given to the future, and the patient attends better to mundane realities." p. 469.

Brain damaged patients make good inmates!

Furthermore, after lobotomy they can at last be made to work in the demeaning jobs available within the hospital, so that "the hospital plant can be run more economically." Also, "It is gratifying to know that they are apparently more comfortable and less troublesome within the hospital." pp. 136–137.

Some patients even get out of the hospital, but almost invariably they are women who can function as brain damaged housekeepers, "because of the devotion of the spouse, or because they have shown some improvement mentally and were partially able to perform household duties." p. 162. But the husbands don't agree with this improvement, and they find that these brain damaged people "cripple the group activities and spoil the freedom and happiness of the entire family." p. 173. Besides, it is openly admitted that more wives than husbands return home because it doesn't take much "for a wife to keep house." p. 161. Wives apparently make good inmates, even at home. Five men in the entire study are able to return home, but a scanning of the book turns up some disastrous results even in these best cases. "Even though her husband was supporting her and her children," the authors lament, one woman still declared, "I wouldn't sign permission for lobotomy on a dog." p. 162. The authors seem to complain, "even if the dog was supporting you?" Another of these five men is lethargic around the house and terrorizes the wife with his surgically induced convulsions, while another is so bad to his children, his wife declares "It would be better off for all of us if he were dead." p. 152–153.

In only three instances did patients become less dependent on their families after lobotomy. p. 169.

As a pacifying operation, lobotomy at best produced docile inmates in and out of the hospital.

II. Current Lobotomy and Psychosurgery Studies

Pacification is equally apparent in the newer forms of lobotomy and psychosurgery. In his recent text, Kalinowsky describes modern lobotomy patients as sometimes blunted and subdued, often with shallow feelings and impaired sense of self. In his articles and his recent contribution to Winter's book, Scoville speaks of lobotomy as a "blunting operation," and he includes all the newer forms of psychosurgery as "partial" lobotomies which dull the personality. Arthur Winter, writing with Leo Shatin, says that psychosurgical patients become "more placid—sometimes passive."

Operations aimed below the frontal lobes at the remainder of the limbic system produce the same effects, perhaps with less intellectual damage. Turner talks about the cingulotomy as the operation of choice for "intractable and uncontrollable aggression," independent of any brain disease. He recommends combining cingulotomy with frontal lobotomy and temporal lobotomy in people with rage, fear and depression—a kind of cranial clean out.

Roeder describes the "cure" of a sexual deviant whose potency is weakened and who can no longer indulge in erotic fantasies after hypothalamotomy. Sano shows how the same operation will tame aggressive and hyperactive children as young as age four. His best case, recorded in the literature and read as

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his one illustration at a recent conference he and I both attended:

"Emotional and personality changes: the patient became markedly calm, passive and tractable, showing decreased spontaneity."

Sano calls it "sedative surgery."

Vernon Mark, Frank Ervin and their colleagues (1970) have also operated on the thalamus, in this instance upon a woman with "chronic intractable agitated depression." This is frank, undisguised psychosurgery, for there is no pre-operative indication that the woman has any brain disease whatsoever. This is the most detailed clinical case in the entire current psychosurgical literature, and it is particularly interesting because the physicians consider it a "gratifying" example of the efficacy of psychosurgery—even though the patient became enraged at her doctors, refused further surgery, and finally killed herself the moment she began to recover from the surgery 40 days after the operation. The authors state that the suicide was further evidence that she was getting better—well enough to act upon her underlying depression—although the dynamics of her suicide seem grossly apparent and merit some description.

The authors admit that the patient and her mother are "frankly antagonistic to each other," and they describe her mother as "rigid, insensitive, and dominating." But they do not comment on their observation that the mother, along with the patient, "insisted that something be done." Nor do they comment on the fact that the patient brought the poison into the hospital with her prior to surgery, a poison her deceased father had told her about "in case she ever needed it."

She is operated on with heat coagulation of her anterior thalamus in an area in which when stimulated caused the patient to look "drawn" and to cry out "Don't do that; don't do that!" After this coagulation, she shows gross brain damage: an acute brain syndrome marked by "confusion," "severe" recent memory loss and moods swings "from near euphoria to severe depression." Soon she responded to a confrontation with her neurosurgeon "with bristling hostility, and her anger spread to others including the psychiatrist."

Her mood swings remain unpredictable and she is operated on a second time by means of her indwelling electrode. After surgery, she continues to be hostile and the authors tell us she is "definitely paranoid." She refuses further surgery and even refuses to see her neurosurgeon ever again. She expressed "wishes that someone might 'cut her throat.'"

She continues to suffer from obvious symptoms of severe post-operative brain damage. Her recent memory is "quite impaired," as well as her remote memory; she has periods of "confusion," cannot find her way around, cannot recall names and suffers wide mood swings. When she is in a high period, clearly associated with a brain damage induced euphoria, the authors blithely quote the mother—this hostile, dominating mother—as saying "she is her old self again!"

In December, forty days after surgery, she is finally recovering from the trauma sufficiently to become "concerned with reality problems." Her "spirits are good" and she seems to be improving, and she is given a pass to go shopping on the forty-fourth day after surgery. She goes to a phone booth, calls her mother to say "goodbye," and kills herself with the poison she had stashed away four months earlier.

To me the clinical course speaks for itself: rage at her neurosurgeon and her psychiatrist, rage at her mother who brought her in for surgery, persistent signs of brain damage, and suicide the first few days that her confusional state begins to clear.

Orlando J. Andy at the University of Mississippi has been pacifying so-called hyperactive children with a variety of operations, including thalamotomies. He writes to me that he's operated on thirty to forty patients, the majority children, many of the others adolescents, some with criminal records. In operating on children, his avowed purpose is to control their aggressivity and to make them more manageable. In one case, he operates upon a nine year old boy of normal intelligence, and after six operations and signs of gross brain damage, he becomes "adjusted." "Intellectually, however, the patient is deteriorating," Andy lets us know in 1970.

Amygdalotomy is the pacification operation par excellance and we need to look at it more closely. The amygdala is an almond sized nerve center on the inner side of the temporal lobe. Envisioning the brain as a boxing glove with two thumbs, the fingers are the frontal lobe, and the thumbs are the temporal lobes, with the amygdala in the crease between the thumb and fingers, somewhat beneath the surface of the thumb.

Anatomically it has connections to the basic structures of the limbic system, including the frontal lobes via the thalamus, and the hypothalamus as well. It is an important moderator and switchboard for the entire limbic system and hence for all emotions and drives, and even for all higher level activities through its connections to the frontal lobes. Destroying it to cure one "symptom" such as violence makes no more sense than bombing a railway center to stop one passenger on one train. The symptom may be knocked out, but many other tracks and greater numbers of humanity will be brought to a halt.

Now let us examine the specific form of psychosurgery called amygdalotomy, the method which has received so much publicity in the hands of Mark and Ervin who claim they are treating violence associated with psychomotor epilepsy. This is the same surgery which has already been used on prisoners in California.

There are dozens of animal studies which indicate that amygdalotomy pacifies the animal in the absence of any brain disease or mental illness. Now Kling has shown that while the chimp makes a good inmate after amygdalotomy (but a poor learner), once the chimp is let out into the monkey tribe, he cannot survive. He is isolated and sometimes withdraws and dies. Mark and Ervin themselves describe in their book how amygdalotomy will pacify an aggressive or a frightened animal, making it tractable and easy to handle They also acknowledge in passing that amygdalotomy has been used to pacify human beings in the same manner. Furthermore, of the four cases described in detail in their book, the first three are suffering from violence which clearly has no relation to their epilepsy. They are cured of their violence without curing their epilepsy, further evidence of the psychosurgical pacification which they are inducing in their patients.

There is also a great deal of literature demonstrating that amygdalotomy pacifies human beings of every age regardless of the presence or absence of any brain disease or any particular mental illness.

Balasubramaniam is probably the most experienced surgeon in the world when it comes to amygdalotomies. His basic theoretical paper is entitled "Sedative Neurosurgery," and he states "Sedative neurosurgery is the term applied to that aspect of neurosurgery where a patient is made quiet and manageable by an operation." He most frequently operates on "hyperactive children" whom he describes as "restless."

Writing in July 1970 in International Surgery, Balasubramaniam summarizes his results on 115 patients, 3 of them under age five and another 36 under age eleven. He produces this result with his amygdalotomies and occasional hypothalamotomies:

"The improvement that occurs has been remarkable. In one case a patient had been assaulting his colleagues and the ward doctors; after the operation he became a helpful addition to the ward staff and looked after other patients. In one case the patient became quiet, bashful and was a model of good behavior."

He sums up his own work: "This operation has proved to be useful in the management of patients who previously could not be managed by any other means."

In Japan, Narabayashi and Uno report on a follow-up of 27 children ages five to thirteen who have had amygdalotomies. Again the non-specific pacifying effect is apparent. They operate on children characterized by unsteadiness, hyperactive behavior disorders and poor concentration rather than violent behavior; it was difficult to keep them interested in one object or a certain situation.

In five of their many cases, this is the best result they achieved:

(they) have reached the degree of satisfactory obedience and constant, steady mood, which enabled the children to stay in their social environment, such as kindergarten or school for the feebleminded.

Chitanondh has also performed amygdalotomies on a wide variety of patients, but his scientific justification is somewhat more specific. He operates on individuals who have a problem involving their sense of smell on the grounds that the amygdala is particularly involved in the olefactory system. In one case, his pacification is particularly apparent, as he operates on a nine year old boy who is involved in a struggle with his parents. They lock him up in his room but he runs away to "smell engine oil" in parked cars.

In a number of the studies we have reviewed, multiple and combined operations have been used to achieve at least the proper degree of pacification. The amygdalotomy is growing in popularity now, particularly abroad, and so this operation is sometimes superimposed upon other psychosurgical operations when pacification has not been achieved. At times the amygdalotomy may simply be the last straw, but at other times it may indeed suggest a more potent effect toward pacification. But since psychosurgeons never perform controlled studies (never! not in the entire literature is there a matched control group study!) it is difficult to differentiate the pacification effect achieved by multiple operations versus amygdalotomy by itself.

Two studies indicate this problem, as well as illustrate the generalized principle that we are dealing with pacification rather than treatment of any one syndrome.

First, Vaernet reports on 12 schizophrenic patients in whom aggressive and destructive behavior was a prominent feature. Five of the patients had been unsuccessfully pacified with prior lobotomies and two with prior cingulotomies, but now eleven of twelve are finally pacified with amygdalotomies. In addition, two patients were given lobotomies in the modified method of Knight with radium seeds.

The second study has not been published, and I have only been able to read the 200-word summary in the programme of the Second International Conference on Psychosurgery. It is called "Neurosurgical Treatment of Aggressivity: Stereotaxic Amygdalotomy versus Leucotomy," and it is presented by J. Siegfried and A. Ben-Shmuel of Zurich. They performed lobotomies and amygdalotomies on different patients in a non-controlled fashion, so their results are of little significance. What is interesting is that they don't even bother to mention the psychiatric diagnoses of these patients. They were all being treated for "aggressivity," and that was enough to put into the summary. No better illustration could be given of the generalized pacification sought by psychosurgeons.

III. Violence and the Brain: an analysis of the work of Mark and Ervin

Mark and Ervin never clearly state their hypotheses and so neither they nor their critics can clearly analyze their research work. But as the title indicates, they do hypothesize a direct connection between brain disease and a wide variety of violence that occurs in both the personal and political arena, from alcoholic outbursts, bad driving, child murder and rape to ghetto uprisings and warfare between nations. They further hypothesize that the violence in their patients is causally related to their psychomotor epilepsy. They then claim that their successfully pacifying surgery somehow proves the link between the epileptic brain disease and the surgery—even though the brain disease is untouched by the surgery.

The most gross flaws in this study can be described in seven major categories.

First, in a book devoted to amygdalotomy, they never review the existing literature on amygdalotomy, thus ignoring the body of material indicating that amygdalotomy is a pacifying operation. In one place they do mention its taming effects in animals, without drawing the logical conclusion from this. In their very brief summary of the literature, they describe only studies done on epileptics, lending the misleading impression that amygdalotomy for violence is somehow related to epilepsy.

Second, they never discuss psychosurgery in general, and do not mention that all forms of psychosurgery produce a reduction in violence, even the old fashioned lobotomy. Thus they lend the impression that their surgery is unique in kind when in fact it is at best unique only in the degree of pacification which it produces with relatively small lesions.

Third, in their clinical presentations they ignore the fact that their surgery pacifies the patient no matter what the cause of violence in the patient. In one instance the violence is a direct product of surgically induced brain damage, in another the product of diffuse brain disease, in another a possible response to the emotional frustrations of enduring psychomotor epilepsy; and in most cases, throughout the book, the picture is of a multiple causation, social, economic, personal and perhaps biological.

Fourth, in most cases the epilepsy itself is uncured by surgery, again suggesting a lack of association between the pacified aggression and the epileptic brain disease.

Fifth, in the first four cases there is no indication that the violence described is associated clinically with seizure phenomena, such as a distinct aura, automatic movements, or forced actions. Nor do the authors mention in this regard that most neurologists and neurosurgeons believe that violence in association with psychomotor epilepsy is rather rare.

Sixth, their study fails to fulfill most of the qualifications ordinarily required of scientific methodology. There are no control groups and there are no attempts to prove that a group of clinicians would reach a consensus about the association of the violence with the epilepsy. There are no discussions of the difficulty of judging the importance of an electrical discharge from an area which has recently been traumatized with an electrode. There are no considerations given to the notoriously difficult task of reaching consensus on the reading of EEG's in routine clinical cases, let alone in experiments. And finally, anecdotes are mixed with observations and homilies are presented as scientific truths, with no attempt to separate experimental results from their interpretations.

Seventh, from meager unscientific evidence momentous conclusions are drawn concerning the biological nature of violence as well as the political means for its control.

They make anecdotal references to bolster the importance of their book, including the Speck murders in Chicago, rape, drunken driving, wife beating, child murder, ghetto uprisings and Viet Nam. Then they relate this to a "considerable percentage" of dangerous individuals who fall into the "5 to 10 percent of the population whose brains do not function in a perfectly normal way." p. 5. But both their large percent of organically damaged Americans and their assumption of organic disease as a major cause of violence are completely unsubstantiated and highly controversial assertions.

They achieve their inflated 5–10% by listing a pot pourri of syndromes, most of which have little relationship to proven brain disease, and *none* of which has proven relationship to violence. The list includes cerebral palsy, mental retardation, hyperactive behavior disorders, maternal deprivation, social deprivation and all head injuries sustained in accidents and in war, although they have no proof that these traumas caused longterm after-effects. Similarly, their case for relating organic disease to violence seems to rest upon scattered reports relating violence to that highly inconclusive and often incorrectly read measurement, the EEG.

When they finally discuss the basic hypothesis of their research, that there is a frequent and strong association between psychomotor epilepsy and violence, they offer no scientific evidence. They fly in the face of strong dissent from their view in traditional textbooks and in the opinions of most neurologists and psychiatrists, and yet show no diffidence to the notorious unreliability of clinical impressions. But their entire work and enormous research funding depends upon this unproven, generally unaccepted assumption.

The first case they cite as an illustration strongly indicates, in fact, that the violence has a specific root other than the epilepsy. "Mary" has psychomotor epilepsy for ten or more years without any associated violence. Her seizures, however, become worse and worse, and finally she becomes a menace to herself and to other people, because she starts fires when she is smoking during a seizure. Then her "violence" appears for the first time:

"Worst of all, she insisted on smoking continually, even after she had started a number of small fires during her periods of unconsciousness—fires in which she herself was repeatedly burned. When anyone in her family said anything to her about her constant smoking, she would hit at them with her fists. She also used a broom handle to beat her husband on a dozen different occasions, and once attempted to stab him with a bread knife.

"Eventually Mary's violence and her refusal to be reasonable about the dangers inherent in her smoking, as well as her uncontrolled attacks of epilepsy, prompted her physicians to seek a surgical opinion." P. 64.

The tests are then described, including findings of a seizure pattern, especially in her left amygdala, and so her left amygdala is destroyed.

Now the authors write:

"The initial results of this temporal lobe surgery have been gratifying. She still has seizures but her rages have disappeared. She has set no more fires, and she has become able to function once more as a housewife and mother.

"Temporal lobe epilepsy, then, is an important example of a known disease state that is related to violent behavior." P. 64.

No, nothing could be further from the truth. This, their one illustrative case in the chapter, proves if anything that temporal lobe epilepsy is not related to violence, at least in this case. First, the patient develops her "violence" long after her history seizures. Second, the violence is not associated in any way with her seizures either temporally or clinically, but it is associated very directly with a struggle over her smoking habits and her endangering herself and others. Third, she is brought to surgery in large part to control her violence, not her seizures. Fourth, when "cured" of her violence—pacified—her epilepsy remains unchanged. Another person has been pacified by psychosurgery—nothing more and nothing less.

The fact that she is returned to being a satisfactory housewife and mother is again typical of psychosurgery studies. Not only have the vast majority of patients been women, both in the past and in the current literature, but the two most in-depth prolobotomy studies have already told us that psychosurgery is much more effective on women than on men because women can more easily be returned home to function as partially crippled, brain damaged housewives, while there are no social or occupational roles for partially crippled, brain damaged men.

The second case is also a woman and her violence is again unrelated to psychomotor epilepsy but instead develops post-operatively as a result of brain damage from a temporal lobe lobectomy. She is operated upon because she attacks hospital attendants. Her rage is also cured by amygdalotomy, but not her seizures.

The third case is a young man who is frankly psychotic and who suffers from typical paranoid suspicions and delusions. When his wife would deny his allegations, he would physically assault her, after which he would feel remorse, sob uncontrollably and eventually fall asleep.

He also appeared to have suffered brain damage from a severe blood loss earlier in life, and on occasion he was noted to have psychomotor epileptic seizures, though these are only briefly mentioned and apparently observed by only one or two people. As the authors say, "Thomas's chief problem was his violent rage."

During a period of ten weeks of probing and stimulating his brain, they discover one area in which the patient feels pain and states "I am losing control," both of which are said to precede his seizures. Thomas is taken for surgery, but becomes violently opposed to it. Eventually he is talked into it. Since the operation—bilateral amygdalotomy—"Thomas has not had a single episode of rage. He continues, however, to have an occasional epileptic seizure with periods of confusion and disordered thinking," P. 97.

The fourth case, Julia, is more complicated. She has a long history of brain disease with seizures beginning with encephalitis at age two. Sometime around or after the age of ten, she begins to have "temper tantrums," but these are not associated with her seizures. At the age of 18, she begins to have periods of terror after which she assaults the person near to her. That she was already carrying a knife at the time of her first assault indicates a more planned process than a seizure, but there is no doubt she suffers from repeated outbreaks of panic and hostility. Nor is there any clinical evidence that her violence is a product of her seizures rather than a product of her life situation as a brain damaged person. Still the authors conclude:

"Julia's case clearly illustrates the point that violent behavior caused by brain dysfunction cannot be modified except by treating the dysfunction itself." P. 98.

Of some interest, in this one case, the authors were able to observe a seizure associated with amygdala activity and followed by an outburst of violence.

After bilateral amygdalotomy, her violent episodes are reduced, but her seizures and her psychotic behavior continue.

In their four cases, the authors have demonstrated nothing more than the well established fact that amygdalotomy, like all psychosurgery, has a pacifying effect. In addi-

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tion, they have conducted many experiments on a severely brain damaged youngster who frequently becomes violent and who sometimes shows spiking and a seizure after which she becomes typically violent. The subsequent violence does not even mimic her clinical pattern in which her outbreaks follow panic states, not seizure states. So what caused her violence? Panic in the experimental situation? A disturbing sensation in her head produced by the experimental electrodes? A mimicry of something expected of her in the way of violence? Even that alternative is not out of the question, for Charcot had the entire medical profession convinced that not only violence but all psychiatric disorders sprang from epilepsy. And Charcot was unconsciously able to train all his patients to throw fits for him! (103).

But the authors consider no alternative but the one they have been searching for to justify their surgery—that violence is a product of psychomotor epilepsy and can be treated, incidentally, by an operation which doesn't even treat the epilepsy.

The importance of their much heralded finding in this girl cannot be guessed. But it can easily be over-estimated in importance.

These are the authors' beat cases. After the first four, they go on to discuss cases of "hidden brain disease" and hidden relationships between seizures and violence!

Based upon absolutely no evidence—since they have developed none—the authors assume that the violence they have observed was related to the brain disease of their patients, in particular the epileptic feature. They then describe common features of their brain diseased patients and a prison population, and come up with the absolutely meaningless observation that these violent people have four common characteristics—1. a history of physical assault, especially wife beating; 2. violent responses to a little drinking; 3. impulsive sexual assaults; and 4. a history of traffic violations and accidents.

They call this "the dyscontrol syndrome," but it should simply be called a list of forms of violence, for they admit that the four traits aren't necessarily present in the same person!

They then go on to repeat the obvious observation that a great deal of crime is produced by criminal repeaters, as if this somehow indicates a syndrome of biologic origin.

Then they describe a case, Tony, who has had a number of these violent and irresponsible traits, plus a history of hallucinations. We are told he once suffered a head injury while driving, but we don't know if this was before or after the start of his chronic violence. Nor would it make much difference in proving a connection between brain disease and violence, let alone limbic system disease and violence. Besides, his neurological studies are normal.

"He is started on Dilantin and then we are told it produced a marked improvement in his behavior. We were not able to see if the improvement kept up because he refused to return for a follow-up examination and there was no way for us to compel him to continue with treatment," P. 128.

So why do they mention this case at all? And why make it the first illustration of the correlation between a supposed "dyscontrol syndrome," brain disease and the necessity of somatic therapy?

This book is nothing more than a collection of largely irrelevant anecdotes interspersed with a great many exhortations concerning the extent of violence all around us. It proves nothing, but does tend to illustrate the well-established fact that amygdalotomy, like all psychosurgery, has a pacifying effect upon emotions and behavior without otherwise changing psychiatric and seizure disorders.

The inexplicable fact is that Mark and Ervin must have known this before they began their research. Decades of experimentation prove that removal of the amygdala in animals usually produces a de-fused creature who cannot get excited about anything. Fierce animals become tame and fearful animals cease to act afraid. Placid animals lose interest in everything. An animal without its amygdala loses instinctual drive, sociability, and the motivation to learn. He is leveled off, deadened or blunted. He is, in short, less alive, but a good inmate. So it is with humans as well.

Mark and Ervin clearly recognize all this early in their book when they note that killer rats no longer attack and that fearful mallards no longer take flight, but that both become manageable after amydalotomy, even after "normal provocation." Then they go on to say about humans:

"Indeed, neurosurgeons have surgically removed areas of the amygdala to treat assaultive behavior in patients for whom this symptom was a feature of some other brain disease." P. 28.

They do not footnote these references, ignoring them as they do when they later review the literature on humans, for this psychosurgical evidence undermines their basic hypothesis about treating psychomotor epilepsy and instead lumps them along with lobotomists and psychosurgeons who practice the art of deadening their fellow men until they can no longer respond to "normal provocation."

Mark and Ervin also fail to point out that neurosurgeons have been using amygdalotomy to pacify patients whose assaultive behavior has no relationship at all to any brain disease (8, 9, 85, 86, 105, 120). Amygdalotomy will even undo the hostility of a patient whose anger is directed at a psychosurgeon who seeks to mutilate him. Thus psychosurgical patients rarely complain afterward—no more than a mutilated rat will fight, no more than a mutilated mallard will take flight.

The most striking exception I can recall belongs again to Mark and Ervin—their patient who killed herself after refusing to have anything more to do with her neurosurgeon. Mark, Ervin and their colleagues had planned a third operation for her. Had she accepted it, she too would have stopped complaining.

DISCUSSION

A number of years ago I described how adrenaline may function as a sedative in the normal human being by crossing the blood brain barrier to calm the brain through its effects upon the trophotropic centers of the hypothalamus. I developed evidence that this adrenaline feedback mechanism led to the fatigue and exhaustion experienced during chronic anxiety and severe stress. It crossed my mind at the time that we might someday develop means of reducing these inhibitory effects, thus ameliorating the debilitating effects of chronic stress and anxiety. Little did I imagine that quite the reverse would happen and that psychosurgeons would actually disrupt the balance of the hypothalamus and the limbic system to produce these same debilitating effects in order to control the hyperactive or aggressive individual. Sano has developed this to a true science in which he stimulates the hypothalamus to discover its arousal centers. Then he coagulates them, leaving the child at the mercy of an imbalance which makes him inhibited and docile.

To some degree all psychosurgery disrupts the limbic system to create this sort of imbalance. But the situation is far more complex, for the entire limbic system is integrated within itself and with the frontal lobes. Disruption within this system must do more than create an energy imbalance. It must eventually disrupt the inter-relationships between all man's higher functions in the frontal lobes and the energy centers that lie beneath. Eventually the effects will be felt in both the higher symbolic systems and the lower energy systems. When the surgery is aimed more directly at the frontal lobes, the higher symbolic functions will be more grossly disturbed. When the lower brain centers are the target, the blunting or de-enervating effect will dominate.

I believe the pacification effect of psychosurgery is now so well documented and so well understood that it is unrealistic to say that we do not know what is going on. We may not understand the exact mechanics or the details of the symbolic disruptions, but we do know that all psychosurgery destroys the capacity of the brain as an emotionally responsive organ, ultimately pacifying the individual without regard for any brain disease or psychiatric disorder.

The ethical and political implications of this pacifying operation can only be touched upon here.

As I have described in my first novel, The Crazy from the Sane, and in "Coercion of Voluntary Patients in an Open Hospital," mental patients are so vulnerable and so easy to victimize that even the most voluntary patient in the most open hospital has little control over what happens to him. Psychosurgery will be a particular menace to these individuals. But the situation of the captive child in a state institution or the incarcerated adult in a state prison is even more disastrous. Both are entirely under the control of authorities whose major intention is to manage them in the most economical and most efficient manner. Most of the first 50,000 victims of psychosurgery were incarcerated adult mental patients. The next 50,000 may be incarcerated children and state penitentiary prisoners.

But there is a still greater political menace in the psychosurgery movement—the danger that all of our citizens will become potential victims as the nation is turned into one large therapeutic state dominated by technological totalitarianism. This is not so far-fetched as it may seem. Thomas Szasz has already described the dangers of the therapeutic state in some depth, and I described its potential reality in my new novel, The Hebrew Disease, including the political use of psychosurgery, before I had any inkling of the actual return of psychosurgery. But even more impressive, Sweet, Mark and Ervin have been talking in some depth about the possibilities for screening large segments of our population for possible physical control.

In both a letter to the editor of the Journal of the American Medical Association, and in their book, Mark and Ervin advocate a national screening program for the identification and treatment of potentially violent people. And in both instances they clearly intend this as a large scale political measure. In the letter, they argue that the violence in the Detroit riots cannot be explained by environmental conditions, such as poverty and racism, because not all of the ghetto dwellers rioted and because even fewer became violent. Instead, they suggest the possibility of brain damage as a cause for rebellion, and in particular for violence, and then they advocate their screening and treatment program. In the book, they widen their interests to an "early warning" alert system whereby "unacceptable violence," including crimes against property, can be detected and screened out for prophylatic treatment. Their definition of "unacceptable violence" applies "equally to police or public authorities as well as to politically activist groups (students, racial, etc.), and all violent acts that do not fit into this category would be 'unacceptable'."

Mark, Ervin and other psychosurgeons do have an effective pacifying operation in their hands. It has already been applied to a few prisoners in California, to aggressive epileptics in Boston, to hyperactive children and adolescents with criminals records in Mississippi, to drug addicts, alcoholics and a wide variety of neurotic and psychotic individuals around the nation. Mark, Ervin and Sweet say they want to focus their research and treatment on individuals with brain disease, but this is irrelevant. The Justice Department is already interested in their work and their operation will pacify anyone, with or without a brain disease or a psychiatric disorder. Jose Delgado has gone so far as to advocate a National Space Agency styled crash program pumping millions of dollars into physical control of the mind.

Even if the projects of men like Mark, Ervin and Delgado find only limited application, the presence of these projects will most certainly intimidate a large portion of our population. The growth of psychosurgery brings us much closer to a future state of totalitarianism based on technological intimidation.

In the Congressional Record of February 24 I have advocated the abolition of all forms of psychosurgery and I am currently framing a bill to this effect with Congressman Cornelius Gallagher (D–N.J.). I believe it is time to take action before the psychosurgical forces are fully marshalled.

BIBLIOGRAPHY

1. Aarons, Leroy F., "Brain Surgery Is Tested on Three California Convicts," The Washington *Post*, February 25, 1972, p. 1.
2. Andy, O. J., "Neurosurgical Treatment of Abnormal Behavior," *Amer. J. Med. Sci.* (1966) 252:232–238.
3. Andy, O. J.; D. F. Peeler; J. Mitchell; D. P. Foshil and K. Koshino, "The Hippocampal Contribution to 'Learning and Memory,'" *Cond. Reflex.* (1968) 3:217–233.
4. Andy, O. J., "Thalamotomy in Hyperactive and Aggressive Behavior, *Confin. Neurol.* (1970) 32:322–325.
5. Andy, O. J. and M. F. Jurko, "Hyperresponsive Syndrome," *2nd Int. Conf. on Psychosurgery* (1970). See Scoville.
6. Bailey, Harry; Dowling, John; Swanton, Cydric; Davies, Evan, "Studies in Depression; Cingulo-tractotomy in the Treatment of Severe Affective Illness," *Med. J. Australia* (1971) 1:8–12.
7. Baker, Earle; Young, M.D.; Gauld, D. M.; Fleming, J. F. R., "A New Look at Bimedial Prefrontal Leucotomy," *Canadian Med. Assoc. J.* (1970) 102:37–41.
8. Balasubramaniam, V.; Kanaka, T. S.; Ramanugam, P.V.; Ramanurthi, D., "Sedative Neurosurgery," *J. Indian Med. Assoc.* (1969) 53:377–381.
9. Balasubramaniam, V.; Kanaka, T.S.; Ramanugam, P.V.; Ramanurthi, D., "Surgical Treatment of Hyperkinetic and Behavior Disorders," *Int. Surg.* (1970) 54:18–23.
10. Ballantine, Jr., H.T.; Cassidy, Walter; Flanigan, Norris; Morino, Raul, "Stereotaxic Anterior Cingulotomy for Neuropsychiatric Illness and Intractable Pain," *J. Neurosurg.* (1967) 26:488–495.
11. Ballantine, Jr., H.T.; Cassidy, Walter; Broduer, John; Girlunan, Ida, "Bilateral Anterior Stereotaxic Cingulotomy for Incapacitating Mood Disturbance," *2nd Int. Conf. Psychosurgery* (1970). See Scoville.
12. Barhol, H.S., "1000 Prefrontal Lobotomies—A Five-to-ten-year Follow-up Study," *Psychiat. Quart.* (1958) 32:653–678.
13. Batchela, Ivor, *Henderson and Gillespies Textbook of Psychiatry*, Oxford Med. Publishers, 1969.
14. Breggin, Peter R., "Coercion of Voluntary Patients in an Open Hospital," *Arch. Gen. Psychiat.* (1964) 10:173–181.
15. Breggin, Peter R., "Sedative-like Effect of Epinephrine," *Arch. Gen. Psychiat.* (1965) 12:255–259.
16. Breggin, Peter R., "The Psychophysiology of Anxiety," *J. Nerv. Ment. Dis.* (1964) 139:558–568.
17. Breggin, Peter R., "Psychotherapy as Applied Ethics," *Psychiatry* (1971) 34:59–74.
18. Breggin, Peter R., *The Crazy from the Sane*, Lyle Stuart, 1971.
19. Breggin, Peter R., "The Return of Lobotomy and Psychosurgery," *Congressional Record*, February 24, 1972, pp. 5567–5577.

20. Breggin, Peter R., "Lobotomies Are Still Bad Medicine," *Med. Opin.*, March 1972.
21. Breggin, Peter R., *The Hebrew Disease*, Stein and Day Pub., scheduled for release in the Fall, 1972.
22. Breggin, Peter R., "Psychiatry as Utopian Politics," *4th Intern. Cong. Soc. Psychiat.* (1972). To be delivered and placed in *Proceedings*.
23. Breggin, Peter R., "The Politics of Psychosurgery," *4th Intern. Cong. Soc. Psychiat.* (1972). To be delivered and placed in *Proceedings*.
24. Breggin, Peter R., "Psychosurgery for Hyperactive Children," submitted for publication.
25. Brown, M. Hunter, and Lighthill, Jack, "Selective Anterior Cingulotomy: A Psychosurgical Evaluation," *J. Neurosurg.* (1968) 29:513–519.
26. Brown, M. Hunter, "Double Lesions of the Limbic System in Schizophrenia and Psychopathy," *2nd Intern. Conf. Psychosurgery* (1970). See Scoville.
27. *Canad. Med. Assoc. J.*, "Standard Lobotomy. The End of an Era," (1964) 91:1228–1229.
28. Chitanondh, H., "Stereotaxic Amygdalotomy in Treatment of Olefactory Seizures and Psychiatry Disorders with Olefactory Hallucinations," *Confin. Neurol.* (1969) 27: 181–198.
29. Crow, H. J.; Cooper, R.; Phillips, D. G., "Progressive Leucotomy," in Masserman, Jules, *Current Psychiatric Therapies, III*, Grune and Stratton, 1963.
30. Crow, H. J., "Brain Surgery in the Treatment of Some Chronic Illnesses," a paper given at the British Council for Rehabilitation of the Disabled, Tavistock House (South), Tavistock Square, London, 1965. Published Separately.
31. Crow, H. J., and Phillips, D. G., "Multifocal Frontal Leucocoagulation in Anxiety and Obsessional Illness," *2nd Intern. Conf. Psychosurgery* (1970). See Scoville.
32. Delgado, Jose M. R., *Physical Control of the Mind—Toward a Psychocivilized Society*, Harper Colphon, 1969.
33. Dynes, John B., "Lobotomy—Twenty Years After," *Virginia Med. Quart.* (1968) 95: 303–308.
34. Evans, Philip, "Failed Leucotomy with Misplaced Cuts: A Clinico-anatomical Study of Two Cases," *Brit. J. Psychiat.* (1970) 118: 165–170.
35. Fedio, Paul, and Ommaha, Ayub, K., "Bilateral Cingulum Lesions and Stimulation in Man with Lateralized Impairment in Short-Term Verbal Memory," *Exper. Neurol.* (1970) 29:84–91.
36. Freeman, Walter, and Watts, James, *Psychosurgery*, Charles C. Thomas, 1950.
37. Freeman, Walter, "Psychosurgery" in Arieti, Silvano, *American Handbook of Psychiatry, II;* Basic Books, 1959.
38. Freeman, Walter, *The Psychiatrist;* Grune and Stratton, 1960.
39. Freeman, Walter, "Psychosurgery," *Am. J. Psychiat.* (1964) 121–653–655.
40. Freeman, Walter, "Recent Advances in Psychosurgery," *Med. Ann. D.C.* (1965) 34: 157–160.
41. Freeman, Walter, A Taped Interview for the American Psychiatric Association Museum and Library, April 17, 1968.
42. Freeman, Walter, "Frontal Lobotomy in Early Schizophrenia: Long Follow-up of 415 Cases," *Brit. J. Psychiat.* (1971) 119: 621–624.
43. Fulton, John, *Frontal Lobes and Affective Behavior;* Norton, 1951.
44. Gallagher, Cornelius E., "Federal Funds of $283,000 to Harvard Psychologist B. F. Skinner," CONGRESSIONAL RECORD, volume 117, part 36, pages 47185–47195. (A summary of his investigation in "mind control").
45. Greenblatt, Milton; Arnot, R.; Solomon, H., *Studies in Lobotomy;* Grune and Stratton, 1950.
46. Greenblatt, Milton, and Solomon, Harry, Eds., *Frontal Lobes and Schizophrenia;* Springer Publishing Co., 1953.
47. Group for the Advancement of Psychiatry, "Lobotomy," in *Report #6*, 1948.
48. Hassler, R. and Dieckmann, G., "Stereotaxic Treatment of Compulsive and Obsessive Syndromes," *Confin. Neurol.* (1967) 29: 153–158.
49. Heath, Robert G., "Electrical Self-stimulation of the Brain in Man," *Amer. J. Psychiat.* (1963) 120: 571–577.
50. Heath, Robert G., "Developments Toward New Physiologic Treatments in Psychiatry," *J. Neuropsychiat.* (1964) 5: 318–331.
51. Heath, Robert G.; Stanley, John B.; Fontana, Charles J., "The Pleasure Response; Studies in Stereotaxic Technics in Patients," Kline and Laska, eds., *Computers and Electronic Devices in Psychiatry;* Grune and Stratton, 1968.
52. Heath, Robert G. and Guerrero-Figuroa, R., "Stimulation of the Human Brain," *Acta Neurol. Latino Amer.* (1968) 14: 116–124.
53. Heath, Robert G., "Perspectives for Biological Psychiatry," *Bio Psychiat.* (1970) 2: 81–87.
54. Helmberger, R. R., "Stereotaxic Amygdalotomy," *JAMA* (1966) 198: 741–745.
55. Heatherington, R. F.; Haden, P., and Craig, W., "Neurosurgery in Affective Disorder. Criteria for Selection of Patients," 2d Intern. Conf. Psychosurgery (1970). See Scoville.
56. Hirose, S., "Orbito-ventromedial Undercutting, 1957–1963," *Amer. J. Psychiat.* (1964) 121: 1194–1202.
57. Hirose, S., "The Case Selection of Mental Disorders for Orbito-ventromedial Undercutting," 2nd Intern. Conf. Psychosurgery (1970). See Scoville.
58. Holden, J. M. C.; Itil, T. M.; Hofstatter, L., Prefrontal Lobotomy: Stepping-Stone or Pitfall?" *Amer. J. Psychiat.* (1970) 127:591–598.
59. Kalinowsky, Lother, and Hippus, Hanns, "Psychosurgery," in their text, *Pharmacological, Convulsive and Other Somatic Treatments in Psychiatry;* Grune and Stratton, 1969.
60. Kalinowsky, Lothar, "Psychosurgery Panel," *Dis. Nerv. Sys.* (1969) 30: suppl: 54–55.
61. Kalinowsky, Lothar, "Psychosurgery Said to Help in Certain Neuroses," *Psychiatric News* (1971) April 7, p. 7.
62. Khachaturian, A. A., "A Criticism of the Theory of Leukotomy," *Nevropatol. I. Psikhiatrya* (1951) 20: No. 1. Microfilmed English translation, Library of Congress, TT 60–13724.
63. Knight, Goeffrey C., "Stereotaxic Tractotomy in the Surgical Treatment of Mental Illness," *J. Neurol, Neurosurg. and Psychiat.* (1965) 28:304.
64. Knight, Goeffrey C., "Intractable Psychoneuroses in Elderly and Infirm—Treatment in Stereotactic Tractotomy," *Brit. J. Geriatric Practice* (1966) 115:257–266.
65. Knight, Geoffrey C., "Bi-frontal Stereotactic Tractotomy: An Atraumatic Operation of Value in the Treatment of Intractable Neuroses," *Brit. J. Psychiat.* (1969) 115:257–266.
66. *Lancet* (1962), "Leucotomy Today," 2: 1037–8.
67. *Lancet* 1969), "Brain Surgery for Sexual Disorders," 4:250–251.
68. Lewin, W., "Observations on Selective Leucotomy," *J. Neurol. Neurosurg.* (1961) 24:37–44.
69. Lindstrom, Petter A., "Prefrontal Ultrasonic Irradiation—Substitute for Lobotomy," *Arch. Neurol. and Psychiat.* (1954) 72:399–425.
70. Lindstrom, Petter A.; Moench, L. G.; Roynanek, Agnes, "Prefrontal Sonic Treatment," in Masserman, Jules, ed., *Current Psychiatric Therapies, XV;* Grune and Stratton, 1964.
71. Lindstrom, Petter A., "Prefrontal Sonic Treatments (P.S.T.). 16 Years Experience," 2nd Intern. Conf. Psychosurgery (1970). See Scoville.
72. Livingston, Kenneth, "The Frontal

XUM

Lobes Revisited. The Case for a Second Look," *Arch. Neurol.* (1969) 20:90–95.

73. Manchester *Guardian*, April 2, 1968, p. 18.

74. Mark, Vernon; Sweet, W. H., and Ervin, F. R., Letter to the Editor, *JAMA* (1967) 201: 217.

75. Mark, Vernon, Testimony on H.R. 13111 before the House Appropriations Subcommittee. Part 6, p. 1002. Senate FY 70 Appropriations Hearing, Dec. 1969.

76. Mark, Vernon, and Ervin, Frank, *Violence and the Brain;* Harper and Row, 1970.

77. Mark, Vernon; Barry, Herbert; McLardy, Turner, and Ervin, Frank, "The Destruction of Both Anterior Thalamic Nuclei in a Patient with Intractable Depression," *J. Nerv. Ment. Dis.* (1970) 150:266–272.

78. Marks, I.M.; Birley, J; Golden, M.G., "Modified Leucotomy in Severe Agoraphobia," *Brit. J. Psychiat.* (1965) 112:757–769.

79. McKenzie, K. G. and Kaczanowski, G. "Prefrontal Leucotomy: A Five Year Controlled Study, " *Canad. Med. Assoc. J.* (1954) 91:1195–1196.

80. *Medical World News*, "The Lobotomists Are Coming Again," January 15, 1971, pp. 34 ff.

81. Miller, A., "The Lobotomy Patients—A Decade Later," Canad. Med. Assoc. J. (1967) 96:1095–1103.

82. Moniz, Egas, "Attempt at Surgical Treatment of Certain Psychoses," in Wilkins, Robert, ed., *Neurosurgical Classics;* Johnson Reprint Corp: 1965.

83. Moore, D., "Prefrontal Leucotomy," *Canad. Med. Assoc. J.* (1970) 102:875.

84. Moser, M.H., "A Ten-Year Followup of Lobotomy Patients," *Hosp. Community Psychiat.* (1969) 20:381.

85. Narabayashi, H.; Hagao, T.; Saito, Y.; Yoshido, M.; and Nagahata, M., "Stereotaxic Amygdalotomy for Behavior Disorders," *Arch. Neurol.* (1963) 9:1–17.

6. Narabayashi, H.; and Uno, M., "Long Range Results of Stereotaxic Amygdalotomy for Behavior Disorders," *Confin. Neurol.* (1966) 27:168–171.

87. Narabayashi, H., "Functional Differentiation in and around the Vertical Nucleus of the Thalamus based on Experience in Human Stereoencephalotomy," *Johns Hopkins Med. J.* (1968) 122:295–380.

88. *Newsweek*, "Probing the Brain," April 21, 1971. Cover Story.

89. "Neural Bases of Violence and Behavior," a conference sponsored by the U. Texas Medical School, Houston, March 9–11, with a panel on the "Role of the Neurosurgeon," including Vernon Mark, Keiji Sano, W. H. Sweet and Earl Walker. Frank Ervin delivered a separate paper entitled "Studies of Aggressive Behavior in Penitentiary Inmates."

90. Pippard, John, "Leucotomy in Britain Today," *J. Ment. Sci.* (1962) 108:249–255.

91. Post, F., "An Evaluation of Bimedial Leucotomy," *Brit. J. Psychiat.* (1968) 114: 1223–1224.

92. *Psychiatric News*, "Psychosurgery Hailed in Experimental Texas Study," Dec. 16, 1970, p. 1. Also see, News Release, U. Texas Medical Branch at Galveston, Sept. 1, 1970, 7 pages.

93. Rinkel, Max, *The Biological Treatment of Mental Illness;* Farrar, Straus and Giroux, 1966. p. 66 and p. 146.

94. Robin, A.A., "A Controlled Study of the Effects of Leucotomy," *J. Neurol, Neurosurg. Psychiat.* (1958) 21:262–269.

95. Roeder, F.D., "Stereotaxic Lesion of the Tuber Cinerium in Sexual Deviation," *Confin. Neurol.* (1966) 27:162–163.

96. Sano, K., Yoshioka, M., Ogashiwa, M., Ishijma, B., Ohye, C., "Postero-medial Hypothalamotomy in Treatment of Aggressive Behavior," *Confin. Neurol.* (1969) 27:164–167.

97. Sano, K., Hiroaki, S., and Yoshiaki, M., "Results of Stimulation and Destruction of the Posterior Hypothalamus in Cases with Violent, Aggressive or Restless Behavior, 2nd Intern. Conf. Psychosurgery (1970). See Scoville.

98. Sargant, W. and Slater, E., *Physical Methods of Treatment in Psychiatry;* William and Wilkins, 1964.

99. Scoville, William B., "Recent Thoughts on Psychosurgery," *Connect. Med.* (1969) 33:453–456.

100. Scoville, William B., ed., *Transactions of the Second International Conference on Psychosurgery;* Charles C. Thomas, in press. Held at Copenhagen, Denmark, August 24–26, 1970, with approximately 100 participants and 41 papers, including 12 papers from America, representing approximately 20 American investigators. William B. Scoville of Hartford and Yale was elected President, with Walter Freeman, San Francisco, as an Honorary President. My bibliography is based upon full pre-publication reprints from M. Hunter Brown, William Scoville and Petter Lindstrom; newly published Vaernet and Madsen, and Freeman (1971) papers, and summaries.

102. Sem-Jacobsen, Carl W., *Depth-Electrographic Stimulation of the Human Brain and Behavior;* Charles C. Thomas, 1968.

103. Shipley, Thorn, ed., *Classics in Psychology;* Philosophical Library, 1961.

104. Shobe, Frank, and Gildea, Margaret, "Long-term Followup of Selected Lobotomized Patients," JAMA (1968) 206:327–332.

105. Siegfried, J., and Ben-Schmuel, A., Neurosurgical Treatment of Aggressivity. Stereotaxic Amydalotomy vs. Leucotomy," 2nd Intern. Conf. Psychosurgery (1970). See Scoville.

106. Slater, B., and Roth, M., *Clinical Psychiatry*, 3rd Ed.; Williams and Wilkins, 1969.

107. Smith, Aaron, "Selective Prefrontal Leucotomy," a letter, *Lancet* (1965) 1:76.

108. Solomon, P., and Patch, K., *Handbook of Psychiatry*, 2nd Ed., Lange, 1971.

109. Spiegel, E. A., and Wycis, H. T., *Stereoencephalotomy, I;* "Thalamotomy and Related Procedures," Grune and Stratton, 1962.

110. Spiegel, E. A., *Progress in Neurology and Psychiatry;* Grune and Stratton, 1970. See pp. 67–69.

111. Steegmann, A. T., "Dr. Harlow's Famous case: the 'impossible' accident of Phineas T. Gage," *Surgery* (1962) 52:952–958.

112. Strom-Olson, R., and Carlisle, "Bimedical Stereotactic Tractotomy: A follow-up Study of its effects on 210 Patients," *Brit. J. Psychiat.* (1971) 118:141–154.

113. Sweet, William, Testimony before the Senate Appropriations Committee, Part 6, p. 1002, Senate FY 70 Appropriations Hearings. 1970.

114. Sykes, M. K. and Tredgold, R. F., "Restricted Orbital Undercutting: A study of Its Effects on 350 Patients over the years 1951–1960," *Brit. J. Psychiat.* (1964) 110:609–640.

115. Szasz, Thomas S., *The Myth of Mental Illness;* Hoeber-Harper 1961.

116. Szasz, Thomas S., *Ideology and Insanity;* Anchor Books, 1970.

117. Tan, E., Marks, I. M., Marset, P., "Bimedial Leucotomy in Obsessive-Compulsive Neuroses," *Brit. J. Psychiat.* (1971) 118:155–164.

118. Tooth, G. C. and Newton, M. P., *Leucotomy in England and Wales;* H. M. Stationery Office, London, 1961.

119. Turner, Eric, "Operations for Aggression. Bilateral Temporal Lobotomy and Posterior Cingulectomy," 2nd Intern. Conf. Psychosurgery (1970). See Scoville.

120. Vaernet, K., and Madsen, Anna, "Stereotaxic Amygdalotomy and Basofrontal Tractotomy in Psychotics with Aggressive Behavior," *J. Neurol. Neurosurg.* Psychiat. (1970) 33:858–863.

121. Vidor, R., "The Situation of the Lobotomized Patient," *Psychiat. Quart.* (1963) 37:97–104.

122. Vosburg, R., "Lobotomy in Western Pennsylvania: Looking Backward over Ten Years," *Amer. J. Psychiat.* (1962) 119:503.

123. Williams, J. M. and Freeman, W., "Evaluation of Lobotomy with Special Attention to Children," *A. Res. Nerv. Ment. Dis. Proc.* (1953) 31:311.

124. Winter, Arthur, Ed. (Contributors: Winter, A.; Brazier, M.; Heath, R.; Osmond, H.; Scoville, W. and Shatin, L.) *The surgical Control of Behavior;* Charles C. Thomas, 1971.

124a. Witter, Charles. "Drugging and Schooling." *Transaction.* July/August 1971.

125. Wortis, S.B. ed., *The Yearbook of Psychiatry and Applied Mental Health;* Yearbook Medical Publishers, 1970. Reviews Brown Lighthill favorably (1968).

126. Mycis, Henry T., "The Role of Stereotaxic Surgery in the Compulsive State," 2nd Intern. Conf. Psychosurgery (1970). See Scoville.

127. Breggin, Peter R., and Greenberg Daniel. "Return of the Lobotomy," The Washington *Post*, March 12, 1972, p. 1 Outlook Section.

128. Fields, Larry, "Addict Who Died Had Brain Surgery to Fight Habit," Philadelphia *Daily News*, March 13, 1972, p. 3. This was the first in a series in which an unpublished psychosurgery project surfaced for the first time. The surgeon, Jewell Osterholm, Director of Neurosurgery at Hahnemann Hospital, had operated on twelve people with cingulotomies for addiction, alcoholism, pain and "emotional problems."

129. Hampton, Jim, "Eerie Brain Surgery," *National Observer*, March 25, 1972, p. 1. Contains considerable independently gathered opinions and reports.

130. Von Hoffman, Nicholas, "Brain Maim," The Washington *Post*, July 16, 1971. This was the first article in the media based on my research.

131. Randal, Judith, "Psychosurgery Trend Alarming," The Washington *Star*, February 1972. This is the first of several by Randal on the return of psychosurgery, some containing new material. Text reference refers to her second article, Wash. *Star*, "Psychosurgery is Denounced," Mar. 12, 1972.

132. D'Arazien, Steve, "The New Lobotomists," *Boston After Dark*, March 7–13, 1972. This is one of the more detailed analyses published.

133. Trotter, Robert, "Clockwork Orange in a Calif. Prison", *Science News*, March 11, 1972. This is important reading, including new material uncovered by Trotter concerning grants from the Justice Department and the National Institute of Mental Health to support the work of Vernon Mark and Frank Ervin, and including some of the difficulties these men have had gaining support for their work from the medical establishment.

134. The Justice Department, Law Enforcement Assistance Administration, has given to William Sweet, and to Mark and Ervin, a grant of $108,930, for the following purpose (summary from Justice Department): "The role of neurobiological dysfunction in the violent offender. Specifically, the grantee will determine the incidence of such disorders in a state penitentiary for men; establish their prevalence in a nonincarcerated population; and improve, develop and test the usefulness of electrophysiological and neurophysiological techniques for the detection of such disorders in routine examination." In addition, Vernon Mark, Frank Ervin and William Sweet have two other grants from the National Institute of Mental Health totaling more than $500,000 and dealing with violence, epilepsy and brain surgery.

135. Greenberg, Daniel, "Lobotomy: The Brain Cutters Return," *Science and Government Report*, P.O. Box 21123, Washington, D.C., March 15, 1972.

In addition, the Associated Press and Reuters and numerous newspapers, columnists and magazines have begun covering the return of lobotomy and psychosurgery.

THE TYRANNY OF COMMUNIST CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CRANE. Mr. Speaker, in the euphoria following President Nixon's trip to Peking, many Americans seem to have forgotten the difference between freedom and tyranny.

Many, for example, have been heard to hail the accomplishments of the Communist regime in China because "crime and prostitution has ceased, the streets are clean, and the society is orderly." Such statements are reminiscent of the apologies which were made for the regimes in Nazi Germany and Fascist Italy in the 1930's. It was said at that time that fascism was of great benefit to the Italian people because Mussolini had at least "made the trains run on time."

Such past refusal to understand the nature of a totalitarian society led us to miscalculate our relationships with the leaders of such societies. Today's apparent willingness to accept the dictatorship of Mao Tse-tung as a responsible and legitimate government with whom the United States may somehow work in an effort to achieve a meaningful peace, is fraught with serious and probably insurmountable difficulties.

It has been said, since the President's trip, that if the United States can have cordial relationships with such "non-democratic" societies as Spain, Greece, and Taiwan, why not with the Communist regime in Peking?

The fact is that there are serious differences between the quality of life in the non-Communist world, with its varying degrees of allegiance to democratic values, and within the orbit of Mao Tse-tung. In a recent column, William F. Buckley, Jr., set them forth this way:

In Taiwan, in Greece, and in Spain a human being can: (1) practice his religion, (2) quit his job, (3) join a labor union, (4) leave the country, (5) travel within the country where he wants to, (6) enter into contracts whether to buy or sell a loaf of bread, exchange a piece of land, or provide a personal service. (7) What he owns is his. (8) He is free to buy all but a very few books, and in fact he can get these by the mildest exertions. (9) He may say things he wants to say: except that he cannot attempt to bring down the government—he has no political freedom.

The contrast between life in such non-Communist societies and life under the Communist regime of Mao Tse-tung is profound. Mr. Buckley points out that:

In China, you may not practice a religion. you may not change your job without permission of the state, there are no labor unions to join, you cannot leave the country. or travel within your country except by special permission. You may not engage in contracts except by leave of the state, which owns all your services. You may not own property, outside the tooth-brush category. You will find to read only accepted works of Communist theology.

Mr. Buckley notes that:

There should be differences enough to be visible to most people.

If Americans can no longer tell the difference between a totalitarian society and one which provides individual freedom, even if it be less than we provide in our own country, then we have reached a time of crisis. When a nation cannot differentiate between friends and enemies, between governments which tyrannize the individual and those which do not, it has reached a point in which its own future remains questionable.

I wish to share Mr. Buckley's column which appeared in the Chicago Daily News on March 16, 1972, with my colleagues, and insert it into the RECORD at this time.

The column follows:

COMMUNIST CHINA LEADERS NOT MERELY DICTATORS—BUT TYRANTS CHAINING NATION

(By William F. Buckley, Jr.)

In the aftermath of the Peking summit the distinction crushers are hard at work insisting that after all, what is the difference between having affable social relations with the governors of China, and having affable social relations with the governors of Taiwan, Spain, and Greece? One has the feeling that some of the people who make the comparisons really do not know the difference, unlike those others who are merely polemical opportunists.

A gentleman who broadcasts from Long Island, to give an example, amused himself at the surprise expressed by some of us over the enthusiasm with which Mr. Nixon threw himself into the business of toasting the person of Mao Tse-tung. Here is how he put it. Why be "appalled at the sight of the President drinking toasts and exchanging civilities with the despotic rulers of Red China?" Because of the "embarrassment (caused to) our friendly client despots on Taiwan? As if Mao and Chou weren't the moral equals of Franco, Papadopoulos, and other dictators toasted and praised on their own home grounds last October by Vice President Agnew."

Of course for years now it has been chic to refer to the "so-called free world," the idea being that much of the world on this side of the Iron Curtain is no more free than the world at the other side of the Iron Curtain. The gentlemen who slur the distinction spend, on the whole, not enough time . . . thinking.

In Taiwan, in Greece, and in Spain, a human being can: (1) practice his religion, (2) quit his job, (3) join a labor union, (4) leave the country, (5) travel within the country where he wants to, (6) enter into contracts, whether to buy or sell a loaf of bread, exchange a piece of land, or provide a personal service. (7) What he owns is his. (8) He is free to buy all but a very few books, and in fact he can get these by the mildest exertions. (9) He may say anything he wants to say: except that he cannot attempt to bring down the government—he has no political freedom.

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At a positive level, you are required to submit to hours of instruction every week in the state religion, to fawn on its leaders, dogmas, rituals, and hope (but not pray) that you will find yourself aligned with the winning faction during civil uprisings.

There should be differences enough there to be visible to most people. To be sure, Mr. Nixon has not greatly helped. His perfunctory references to our "different systems" make him sound as though Americans like calico, while the Chinese Communists like gingham. Still, people who influence opinion ought always to distinguish between the despot and the totalitarian. Papadopoulos is a despot. Mao is a totalitarian, which is a stage advanced from the tyranny about which political philosophers have written from the beginning of time.

Papadopoulos did not take power in order to tyrannize. He took it, as Franco did, in an intractable social and parliamentary situation. That they haven't yielded more of their power is either a discredit to their integrity, or a tribute to their perspicacity (closer to the former, I judge, than to the latter).

A LOOK AT THE SECOND SESSION—STATEMENT BY SPEAKER CARL ALBERT

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ALBERT. Mr. Speaker, major new laws enacted this year include election campaign reform, equal employment opportunity enforcement, the Special Action Office for Drug Abuse Prevention, and the equal rights amendment.

Top priority bills still to be resolved in conference include the higher education amendments, water pollution, and welfare reform, including liberalization of the social security program.

The House leadership includes among its high priority measures for the months ahead the $2 minimum wage bill to be taken up by the Rules Committee on April 11, an omnibus housing measure being marked up in the Banking and Currency Committee, a $5 billion emergency community facilities bill, the $5.3 billion ways and means bill for assistance to State and local governments, repeal of equal time for presidential candidates, and further liberalization or expansion of Federal health assistance programs.

Still ahead of us are the money bills, with only the legislative appropriation approved so far. I requested all committee chairmen some time ago to move expeditiously on authorizations to speed the appropriation process, and nearly all of these measures are advancing in committees to enable us to fund programs by or shortly after the beginning of the fiscal year.

The emerging thrust of this session is the provision of massive Federal aid for local community development, with hoped-for fallout in reduced unemployment and stimulus of the economy generally. The welfare reform bill will offer job assistance and provide financial savings for the States. The Rural Development Act will create new business opportunities and many new jobs in those areas of the country hit hardest by the sluggishness of our economy. The community facilities bill will generate employment and provide needed improve-

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ment for basic water and sewer systems and other local public works. The water pollution measure is a major facility-modernization and job-creating bill. And revenue sharing will revitalize local government by assisting with the provision of needed public services and hopefully create jobs in its wake. A package of major legislation such as this will help alleviate some of our most pressing domestic problems and generate activity which will revitalize communities across the country.

We have prepared a progress report on important measures acted on this year.

BILLS SIGNED INTO LAW THIS YEAR

Election campaign reform: The House began the Second Session of the 92d Congress by approving the conference report on the first comprehensive campaign reform bill since 1925. The act, which goes into effect on April 7, places limits on advertising expenditures and certain forms of contributions and contains stringent disclosure and reporting provisions.

Equal rights amendment: With Senate approval of the House-passed bill, the proposed 27th amendment to the Constitution guaranteeing equal rights for women was signed on March 23 and sent to the States for ratification.

Equal employment opportunity enforcement: This act, approved by the House in 1971 and recently passed by the Senate, empowers the Equal Employment Opportunity Commission to bring court action against employers or labor unions which fail to observe anti-discrimination laws. Coverage is extended to State and local government employees, employees of education institutions, and employers and unions with 15 or more full-time workers or members.

Debt limit increase: The fourth debt limit increase requested by the Nixon administration was for $50 billion above the existing $430 billion ceiling. Congress however approved an increase to only $450 billion for the duration of fiscal 1972, requiring the administration to seek a further increase for 1973.

Special Action Office for Drug Abuse Prevention: This act authorizes more than $1 billion to centralize and coordinate all Federal drug abuse prevention programs, including education, treatment, rehabilitation, training, and research efforts. Formula grants to the States to assist their drug abuse prevention efforts are also authorized.

Food programs for the elderly: This new legislation provides $100 million in fiscal 1973 and $150 million in 1974 for low-cost nutritional meals for the elderly. It authorizes grants to the States for providing such service to persons over 60 years of age and calls for a broad range of supportive services such as health care, recreation, and social counseling.

Inter-American Development Bank: The act provides $900 million over the next 2 years as the U.S. contribution to the fund for special operations of the Bank, with loan restrictions against countries which fail to control narcotics traffic into the United States and which expropriate American-owned property.

Asian Development Bank: A U.S. contribution of $100 million for the special funds of the Bank is authorized over the next 2 years, with the same restraints aimed at narcotics traffic and discriminatory acts against American interests.

International Development Association: $960 million is authorized over the next 3 years for increased U.S. participation in the association.

AWAITING PRESIDENTIAL SIGNATURE

Eighteen-year-old jury duty: Lowers the age for service on Federal juries to 18, a logical sequel to the constitutional amendment lowering the voting age and other legal developments in various States.

Guam and Virgin Islands Delegate: Provides for the election of one nonvoting delegate from Guam and one from the Virgin Islands to begin serving in the next Congress. This will be the first time that every American territory will have Congressional representation.

OTHER MAJOR BILLS APPROVED BY THE HOUSE THIS SESSION

Rural Development Act: This legislation is designed to facilitate economic growth and development throughout rural America. It raises the loan limit in the agricultural credit insurance fund from $100 million to $500 million for rural economic development, pollution control, watershed protection, flood prevention, and resources conservation and development. The authorization for water and waste disposal grants is raised from $200 million to $500 million, and the Secretary of Agriculture will be authorized to share the costs of water quality management, land utilization, and waste management.

Office of Economic Opportunity: This measure authorizes $2.3 billion for fiscal 1972 and $3 billion for 1973 to continue existing antipoverty programs and to fund a new independent Legal Services Corporation and a new rural housing development and rehabilitation program. The $1.5 billion earmarked for an expanded Headstart is double the administration budget request in an effort to meet the needs of the thousands of children presently unable to benefit from this important program.

Vocational Rehabilitation Act amendments: The bill authorizes $4 billion over 3 years for vastly expanded services to the handicapped, including comprehensive centers for the deaf, transportation and housing assistance, and funding of new and expanded rehabilitation facilities.

Noise control: Authorizes the Environmental Protection Agency to establish and enforce noise emission standards for products deemed harmful to human health, including construction and transportation equipment, motors or engines, and electrical or electronic equipment. Regulations are to be ready within 18 months, and citizen suits against violators will be authorized.

Sickle cell anemia: $105 million is authorized for 3 years for the diagnosis, prevention, and treatment of a disease which hereditarily afflicts blacks and for which there is no known cure. Grants will be available for screening, counseling, informational services, and research and development programs.

Office of Technology Assessment: Authorizes $5 million in 1973 and 1974 for the establishment of a 10-member board to identify for Congress the impact of existing and developing technology and to assist in the setting of national priorities. The board would have subpena power and would be required to cooperate with the National Science Foundation and to promulgate rules and regulations.

Amtrak financing: The National Railroad Passenger Corporation will be authorized an additional $170 million until 1973 for acquisition of passenger cars and locomotives and to provide related services. The Corporation will be required to increase its mail and express revenues in order to put itself on a sound financial basis.

Veterans education and training amendments: The GI bill program will be considerably liberalized, with advance payments authorized and allowances raised to $200 a month for a single veteran and proportionately more for families. On-the-job training, apprenticeship programs, and correspondence course work will be eligible for support.

Marine mammal protection: Establishes a 5-year moratorium on the capture or killing of ocean mammals for commercial purposes, and creates a Marine Mammal Commission to review the condition of various species and make recommendations for future regulation.

High-speed ground transportation: Authorize $315 million for 3 years of research and development and demonstrations of advanced concepts in intercity and door-to-door transit, with areas of high unemployment receiving priority consideration.

Modification of gold value: Raises the price of gold from $35 to $38 an ounce to accomplish the devaluation requested by the President in connection with realinement of the international monetary system.

Water pollution: The House bill will authorize $24.6 billion through fiscal 1975 for grants for the construction of waste treatment facilities, with the Federal share increased to 75 percent; sets 1985 as a target for cleanup the Nation's waterways and 1981 as the deadline for application of the best available technology; and delegates responsibility for pollution control and abatement to the States under EPA guidelines and approval.

NEW HEALTH-CARE CENTER IN MARTINEZ, CALIF.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. WALDIE. Mr. Speaker, in late November of last year I became aware of plans for a creative new health facility in Martinez, Calif. Although I have known for some time that Contra Costa County was in need of new medical facilities, this new facility goes far beyond the scope of being just another town hospital. Martinez has come up with an exceptional plan for truly comprehensive health planning which is deserving of National attention.

Planning for this new health center has progressed markedly since I first became aware of it last year. I recently met with representatives from the proposed facility and the school of medicine at the University of California, Davis to further discuss the proposal for making the new Martinez Hospital into a model health-care delivery system, functioning under the auspices of the Martinez Health Center, in conjunction with the nearby VA hospital and the University of California Medical School at Davis.

The Martinez Health Center will include construction of new facilities for a 48-bed general hospital, a 172-bed convalescent hospital, a multiphasic health assessment unit and an ambulatory care center to replace the long outdated and nearly obsolete Martinez Community Hospital. In addition, there are plans for a day-care center for the children of the employees and additional space set aside for physicians' offices.

The Contra Costa Labor, Health, and Welfare Council, in cooperation with the directors of the Martinez Community Hospital, plan to build the new plant adjacent to the present U.S. Veterans' Administration hospital located in Martinez, Calif. The medical adviser for this new facility, Mr. Bruce Hannon and the executive secretary of the Labor, Health and Welfare Council, Mr. Louis Martin, are now in the process of planning a health-care delivery system for Martinez using this model facility as a training unit for the department of family practice of the school of medicine at the University of California, Davis. It would be used to help train family practice residents—physicians—family nurse practitioners, health aides, social workers, administrative and other personnel.

Mr. Speaker, I ask to insert a letter from William R. Nesbitt, M.D., assistant to the chairman of the department of family practice at the medical school at Davis which describes the planned health-care system involving the team approach, be inserted in the RECORD at this point.

The letter follows:

UNIVERSITY OF CALIFORNIA,
Davis, Calif., March 3, 1972.

Hon. JEROME R. WALDIE,
Martinez, Calif.

DEAR CONGRESSMAN WALDIE: First, I would like to express our deep appreciation to you from the School and especially from the Department of Family Practice for taking time from your busy schedule to meet with us concerning the Martinz Project. The following is a report about our meeting:

Dean Tupper reviewed the history of the University of California Davis School of Medicine and its commitment to improving primary health care. It was mentioned that the Department of Family Practice has developed a system of health care delivery involving the team approach. The proper development and utilization of such teams delivering health care, especially in medically deprived areas, would have a tremendous impact on the health care delivery systems of the United States. In theory, the ideal health care delivery team could accomplish the following:

(1) Expand the services of the physician to approximately double his present capacity through use of the health care team members.

(2) Improve overall medical care by giving a continuity of care that was never before possible.

(3) Reduce the costs of medical care by the optimum use of members of the health care team and also by optimum use of the physical facilities provided for medical care.

(4) The primary health care team would be responsible for the patient's total care. In the event that the primary care physician was unable to satisfactorily treat the patient, specialists would be brought into the primary health care setting and would see the patient with the primary health care physician. This would give a greater degree of continuity of care to the patient, while still assuring him of the expertise of the medical specialist.

Mr. Louis Martin has developed the physical facilities in Martinez where such an ideal program could be carried out. The Department of Family Practice has the expertise to assist local physicians to organize an ideal health care delivery system to be used in these model facilities. In addition to this it would be desirable to set up an affiliation with the family practice residency program at the Contra Costa County Hospital in Martinez and also to have a clinical affiliation with the Martinez Veteran's Hospital, preliminary steps have been taken to accomplish this.

Construction is about to begin on the acute hospital of 49 beds, the convalescent hospital of 172 beds, the comprehensive health screening unit, and the day care center. In the planning stages is the ambulatory clinic. All of these facilities except for the ambulatory clinic are under one roof. The plan for the development of this program would be as follows:

The Martinez Health Center will own and operate the physical facilities. In cooperation with the local physicians and in consultation with the University of California, Davis, Department of Family Practice, Martinez Health Center would form four health care delivery teams, each consisting of one physician, two family nurse practitioners, four health aides and one social worker. These teams would function as modular units to give care to individual families, either on a fee-for-service basis or on a capitation basis. It is estimated that one team could adequately care for a patient population of 2400. National statistics indicate an average of four visits per year per patient population. On the basis of these figures, each team physician would be responsible for 800 visits a month or approximately 200 visits per week. There are many primary care physicians who are taking care of this many patients without the use of the health care team. By the use of the health care team, the physician would probably see approximately one-half of this number or 400 patient visits per month and other members of the health team, such as the middle level practitioners and the health aides, would be able to take care of the remaining 400. In addition to taking care of the 400 patients that the doctor was not required to see, they would also be able to give a great deal more preventative health care than would be possible if they were seen by the physician alone. The family nurse practitioners would be able to see the patients who came in for routine health check-ups, for immunization, for well baby checks, for weight control checks, for allergy shots and a multitude of other minor medical conditions, for which consultation with the doctor would not be required, but which, under the present system, he is now responsible for. The physician is now free to devote more time to complex medical problems.

The Department of Family Practice has applied for funds under the National Comprehensive Health Manpower Training Act of 1971. If the grant is approved, it would provide a physician, a family nurse practitioner and an administrator, who would supervise and conduct a teaching program in the facility. The physician employed under the grant would consult with the team physicians working at the Martinez Health Center, helping them to utilize the team concept to its maximum degree. He would also be responsible for supervising the residency program in Family Practice, which we envision would be established. The family nurse practitioner would supervise the family nurse practitioners and the health aides in the health care teams and also provide supervision for the training programs for family nurse practitioners and health aides, which would be carried out in this setting. The administrator would be responsible for developing and refining administrative procedures involved in the use of the health care team. Such matters as insurance, Medi-Cal, Medicare, unemployment insurance and the actuarial data on this type of health care program would require a full-time person to keep meaningful records that could be satisfactorily analyzed and evaluated periodically as the project proceeded.

Since this is a new concept in health care delivery and has never been instituted in the United States, to the best of our knowledge, it would become mandatory that it would be underwritten by the Government before embarking on such an innovated program. We would not want to commence such a program and discover that unanticipated difficulties made it impractical to continue, thereby leaving the subscribers without continuity of care. Although we anticipate that after the program is underway for three years, it will be fully self-supporting at a more economical level than comparable care under the present system. The start-up costs, evaluations, and the refinement of the health care delivery program would probably constitute a greater expense than the private subscriber would be able to handle initially.

In order to give you a clear picture of the function of this facility, a description of the care of a hypothetical family is as follows: Mr. Jones works in an oil company. His hours of work are from 8:00 a.m. to 5:00 p.m. He and his wife and three children live two miles from the clinic. The children's ages are 14, 12, and 5. Mrs. Jones develops blood in her bowel movements and is given an appointment in the outpatient clinic. There she is seen by a family nurse practitioner who takes a complete history and does a physical examination and then refers the patient to the multiphasic screening center for a complete laboratory work-up, including upper and lower GI Series. At the same time, she makes an appointment for Mrs. Jones with the team physician. One week later Mrs. Jones is seen by the team physician who re-examines her, reviews her laboratory work, along with her X-ray findings, which indicate the probable existence of cancer of the large bowel. Arrangements are made to admit her to the acute hospital for a major abdominal operation. The husband and the wife meet with members of the health care team where the seriousness and the degree of disability of the ensuing surgery is discussed. Arrangements are made to put the five-year old into the child day-care center, the two older children will be able to attend school. Either a health aide or a social worker will visit the home on a weekly basis and provide Mr. Jones with menus of easily prepared well-balanced meals that can be fed to the family in the absence of the mother. They will be assured of the interest and support of the health care team and encouraged to bring any problems that arise to the team members. Mrs. Jones has her surgery done by a board certified surgeon with the team physician acting as first assistant and the family practice resident acting

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as second assistant. Surgery is uneventful and on the third post-operative day the patient is transferred to the convalescent hospital, where she ramains under the care of the team physician but has the normal follow-up care of the operating surgeon. After an additional week of hospitalization in the convalescent hospital unit, the patient is sent home, where she is seen by the family nurse practitioner who changes her dressing every other day. In 12 weeks when her wounds are completely healed, she returns to the convalescent hospital section, where she will stay during her term of cobalt therapy, which will be given to her across the street in the Veterans' Administration Hospital. Upon completion of this course of treatment, she will be returned home and followed in the outpatient clinic by health care team members.

It can be seen from the ambitious nature of this project that it will need to be subsidized to approximately 50 percent of its costs until its fiscal feasibility can be established. If, as anticipated, improved health care can be given for less money, this should be amply demonstrated within a three year period at which time the operation should be self-sustaining. The degree of support would be estimated as follows: 75% of projected cost for the first year, 50% of projected cost for the second year, 25% of projected cost for the third year. I am sure a strong advocate with the Government will help us realize this revolutionary new concept of health care.

We deeply appreciate any assistance you can give in helping us demonstrate the validity of the health care team concept.

Sincerely,

WILLIAM R. NESBITT, M.D.,
Assistant to the Chairman, Department of Family Practice.

The letter from Dr. Nesbitt describes what is possibly the most innovative of all the new plans being incorporated into the Martinez facility, that of the utilization of the medical team approach to health care. This approach would allow one physician to do the work of two by doubling his present capacity. Such a health care concept could have a tremendous impact on providing better and less costly health care throughout the Nation.

The proximity of the new health center to the Veterans' Administration hospital would allow both facilities to share such expensive equipment as the nuclear medical equipment, including the VA's cobalt machine. Because of the communities interest in keeping down the ever rising costs of medical care, organized labor has given its pledge of $880,000 in donated labor from member painters, carpenters, roofers, and electricians. By maintaining the hospital on a low profile of one story construction the considerable capital investment can be reduced significantly over contrasting costs of the multistory steel and concrete buildings found in urban areas. Such savings would help hold down the investment per bed to less than $16,000 compared to $50,000 and up for high-rise construction. This combination of innovative health care delivery and the community efforts to keep health cost investment per hospital bed at a minimum represents a long overdue and encouraging form of medical health care reform.

I am extremely enthusiastic about this proposal, and I think it is deserving of full consideration and assistance by the Federal Government as an innovative approach to health care.

NEW ROLE FOR CIVIL DEFENSE

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. DAVIS of Wisconsin. Mr. Speaker, the Office of Civil Defense has been assigned the additional role of using its know-how and organization to prepare for natural as well as nuclear disaster.

Our colleagues, Mr. BRINKLEY of Georgia and Mr. BOB WILSON of California, have jointly introduced H.R. 13384 to clarify, legislatively, this expanded role. The bill has been referred to the Committee on Armed Services, where I hope it will receive prompt consideration.

It seems to me that a disaster is a disaster, whether it be nuclear or natural, and it takes the same kind of organization, skill, and participation to deal with either. The Office of Civil Defense is attempting to get State and local participation in disaster planning, which, in my opinion, is the way it should be.

This whole matter is comprehensively and knowledgeably dealt with in an article in last Sunday's Washington Star written by Miriam Ottenberg. I commend its reading to my colleagues:

CIVIL DEFENSE MOVES ON NATURAL DISASTERS

(By Miriam Ottenberg)

With spring ushering in death-dealing floods, tornadoes and storms, the government has mounted a massive effort to limit the effects of natural disasters before they happen.

Both the disasters and the effort to cut losses go far beyond spring. The Office of Emergency Preparedness (OEP) is mobilizing Federal experts to determine the best ways to meet other calamities—for example, a West Coast earthquake or an East Coast hurricane.

And the Office of Civil Defense (OCD), which had been limited in recent years to protecting against the effects of a nuclear attack, now has been formally assigned a dual role: using its know-how and organization at the local level to prepare for natural as well as nuclear disaster.

The new government push against nature's worst will start emerging publicly tomorrow when the U.S. Civil Defense Council opens its midyear conference at the Sheraton Park Hotel here. Both George A. Lincoln, the OEP director, and John E. Davis, the OCD director, will address the opening session.

Within two weeks, the OEP will spell it all out for Congress. In a three-volume report, more than a year in the making, OEP will tell Congress what can be done to reduce or prevent losses of life and property resulting from forest or grass fires, earthquakes, tornadoes, freezes and frosts, "tsunami" (tidal waves), storm surges and tides and floods. Congress ordered the study in the Disaster Relief Act of 1970—most of which deals with what happens after a disaster. This deals with what could be done beforehand to mitigate the effects.

From advance reports, it looks as if the three volumes will become a disaster bible—all you want to know about disasters, what causes them, where they occur most, what man can do to cope with them, what new Federal and state disaster laws are needed, how disasters can be mitigated through modifying the weather and changing the way buildings are built and the land is used, how science and technology can help.

SIMULATED EARTHQUAKES

The new thrust—as it shows up in the report and the way the OEP and OCD are thinking—is to become risk-oriented in terms of natural disaster, to find out more about the specific impact of a variety of disasters and what can be brought to bear to lessen the damage and loss of life.

That's why OEP asked the National Oceanic and Atmospheric Administration (NOAA) to simulate earthquakes of varying magnitude in the San Francisco Bay region. What OEP wants to know is exactly what would happen in a mild quake and in a quake as severe as the 1906 catastrophe.

Through continuous monitoring, a study of seismology and the 1906 records, NOAA is determining just how vulnerable the area is and where the heaviest damage would be suffered. Then the facilities on the surface will be inventoried—the locations of the major hospitals, the reserve or "package" hospital facilities, ambulance services, clinical laboratories, railroads in proximity to the fault, the airports and freeways.

Already some lessons are being learned. Two major airports in the bay area are on landfills—the poorest kind of land to resist earthquake. The lesson to be learned from that: In case of a major quake, help might not arrive by plane.

Then there are the highways. A freeway paralleling the fault could be broken up some, but one crossing the fault would surely take a beating. As a result, in future planning certain roads might be relocated.

The study is delving into every aspect of metropolitan life. Some 28 California and Federal planning committees will take the systematic and thoroughgoing estimate of what could happen and follow it up with plans realistically tailored to meet the worst eventuality. They're concerned particularly about saving lives, so they have to know what hospitals are most vulnerable and what might have to be brought in to replace the lost medical facilities.

On the East Coast, NOAA is taking a similar look at hurricanes. Chosen for a major study to look at a large population center vulnerable to hurricanes were Miami Beach, the Biscayne Bay area and the rest of Dade County. NOAA is developing a risk map to show what could happen when hurricanes of varying strength hit the coast.

One concern is helping people escape the worst of it. The population must get into protective shelters or evacuate the area. Getting away may not be as easy as it sounds. Unlike some other areas, such as the Gulf Coast, where people simply flee inland, escape from Dade County is along the coast highway, which could be underwater in the storm surge accompanying the hurricance where it hits the coast. Most loss of life in hurricanes is caused by drowning.

VERTICAL EVACUATION

To meet this kind of problem, OEP and NOAA are talking about "vertical evacuation." Instead of leaving town, people could escape from wind and water by sheltering on the upper floors of Miami Beach's luxury hotels.

OEP has also been surveying areas in need of a better warning against flash flooding, the scourge of spring on many of the nation's waterways. Already, instruments are being put in rivers to warn of floods.

Tornadoes present their own difficult problem. Authorities may know the area and time of year where they are most likely but the storms are too erratic to pinpoint the locations accurately.

NOAA has compiled some rather terrifying statistics about the lethal effect of tornadoes. According to these figures, from 1953, when the present warning system was developed, through 1971, an average of 118 people a year lost their lives to tornadoes.

Because tornadoes are so unpredictable, OEP has had NOAA work with newspapers, radio and television stations on what to tell the people about tornadoes and when.

OEP, in carrying out its role of coordinating disaster preparedness as well as disaster relief, even uses the technique of the U-2 planes to overfly hurricanes before and after they strike to make high altitude photos of the action for future planning.

In getting disaster preparedness down to the people who ultimately have to make it work, the OEP, which coordinates the total disaster program for the President, has turned to OCD. Lincoln formally presented his request to the Secretary of the Army last December. He emphasized that preparedness for such disasters as tornadoes, hurricanes, floods and earthquakes "makes a contribution to preparedness for a nuclear attack situation."

"It is clearly in the national interest," he said, "to make full use of available Federal capabilities to improve preparedness for disasters generally." He called for a systematic survey of selected communities in disaster-prone areas to determine what their most pressing disaster needs will be, and he noted that OCD was already doing some of that.

Davis, who was governor of North Dakota before becoming OCD director, enthusiastically took on the added tasks, although he'd like to have the authorization now pending in Congress to use federal civil defense money "to assist state and local governments to prepare to cope with the effects of local disasters."

Davis isn't asking for more money, just the legal authority to use it the way it's being used now through the back door. That is, a community may ask for and be willing to pay matching funds to get an emergency operating center. Civil defense approves because such a center is basic to trying to keep a community functioning under nuclear attack. Once built, however, the center is the mayor's command post when a tornado hits.

Dual use for everything is Davis' idea: Certainly have what the community needs to survive nuclear fallout, but don't let the equipment rust and the manpower get equally rusty while waiting for a bomb to fall. Davis wants to use everything for every kind of disaster and he wants the responsible people to know what's needed and how to use it when they must.

"It's very difficult to sell disaster preparedness in terms of a nuclear attack that people think will never happen but we can sell preparedness for peacetime disasters because they're happening all around us and people demand protection. Any good plan is applicable to both," Davis says.

The dual-use idea permeates his thinking about shelters, about the warning system, even about pollution.

Take shelters, one of the primary responsibilities of OCD. Thousands of architects have been taught how to gain protection against fallout while reducing the noise level and vandalism at the same time. The idea is that while it may be hard to sell a school board on the kind of construction that would offer protection against fallout, the board would be interested in thick walls with no outside windows that would offer here-and-now protection against noise and vandalism.

Right now, civil defense can point to enough shelters to protect 208 million people against radiation fall-out but much remains to be done because they aren't all where they're most needed. There is a shortage of shelters in suburban and rural areas.

Since more shelters must be acquired OCD has embarked on new shelter surveys. The agency is taking 250 buildings selected by computer from ones surveyed earlier for fallout and determining whether buildings of those dimensions and made of those materials could offer protection from blast and fire.

OCD knows more about surveying buildings than anybody because it has done more of it. That expertise encourages them to go one step further. They're new determining whether it would be feasible to apply the same data to natural disaster that is, whether a building with this thickness of walls could withstand the worst a tornado has to offer or keep from collapsing in an earthquake.

Because of the vital relationship that exists between how much warning is given and how many lives are saved—whether the disaster is nuclear or natural—OCD is determined to speed the warning. Now under construction at Edgewood Arsenal, Md., is the prototype of an alarm system that OCD says would take only 30 seconds to alert 98.5 percent of the population. It's called the Decision Information Distribution System (DIDS).

The low frequency radio station under construction will cover the 50 million residents of the 10 Eastern Seaboard states. One aspect of DIDS causing some viewing-with-alarm as a possible invasion of privacy is a proposed gadget that sounds a warning even when a television set is turned off. OCD hasn't gotten to that stage yet but it's in the planning as the government seeks the most effective way to reach the man who never gets the word.

WHOLE HAZARD

In presenting the new "whole hazard" approach to local governments—as OCD is now doing—the federal government is helping the local government make the best use of what it's got to cope with disasters and seeing what more it needs.

Actually, many communities have done a fair job of preparing for disasters, although the amount of money spent on civil defense nationwide is less than the price of a hamburger for every person in the United States. Last fiscal year, OCD spent $31.4 million on matching funds which go to local communities. The cities and counties put up $44.2 million and the states spent $10 million. The money went into salaries, office equipment, warning sirens, radiological monitoring equipment, communications and emergency operating centers. Although it's officially purchased for protection against nuclear fallout—until OCD gets the legal authority now pending in Congress—once the equipment is installed in the community, it can be used for other disasters.

What federal OCD wants is to get the mayor and the governor of a state involved in disaster planning, since they are the ones the people look to in a real emergency.

One device for getting officials involved is the simulated disaster. Some towns have simulated both nuclear and natural disaster—at different times, of course—to see where their planning breaks down, what they've forgotten to do. This year OCD has scheduled 434 simulated disasters and has already held a quarter of them.

The other major gambit to assure more prepared communities is the "onsite inspection". OCD tells a state what it can do for communities to help them prepare for disaster and asks what communities want and need assistance. They all want it.

Thus invited, OCD teams go into town to advise officials on what decisions must be made, to make an inventory of the town's civil defense assets and unmet needs, to discuss improved communications, to compile a report on disaster threats, to assess the capability to handle the threats and determine what should be done to increase that capability.

AMERICAN CLOCK AND WATCH MUSEUM

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, time is an important attraction in all our lives, and in Bristol, Conn., has taken the form of the famous American Clock and Watch Museum.

The museum's collection contains a vast array of time pieces and early trade catalogs, including a reproduction of the 1880 catalog of the E. Ingraham Co. There is also an exhibit of various styles of clock designed by Elias Ingraham of Bristol—one of America's clock pioneers. The museum's new curator and librarian, Chris H. Bailey, brings years of horological experience to his fascinating job. A visit to the American Clock and Watch Museum in Bristol is a must for anyone planning to visit this area of Connecticut.

For the interest of my colleagues, an article which appeared in the March 24 issue of the Bristol Press regarding this year's museum opening, follows:

CLOCK MUSEUM OPENS APRIL 1 WITH NEW CURATOR AND DISPLAYS

The American Clock and Watch Museum will open its doors for the season April 1 with several new displays and a new full-time curator and librarian.

The museum, located at 100 Maple St., will be open daily, except Mondays, from 1 to 5 p.m. through Oct. 31.

Chris H. Bailey, a graduate of Brigham Young University and a native of Robinson, Ill., is the museum's new curator and librarian. Bailey has a B.S. degree in the specialized field of historical and genealogical research. He is an accredited genealogist and one of two persons in this country accredited in Australian genealogical research.

From 1966 to 1968 he spent two years in southern Australia and has lived in various cities and towns in the states of Victoria and South Australia. After returning from that country, he finished his education and started working for the Brigham Young University, teaching a few classes and working as the American analyst at the University's Genealogical Research Center. He recently revised, edited and published a 700 page family history entitled, "Highsmiths in America."

Bailey has been interested in clocks and other horological items for more than half of his life. He bought his first clock, made less than 10 miles from Bristol, when he was 12 years old. He first came to Connecticut three years ago to stay with friends in New London and work the summer and buy "just two" clocks. He added 21 to his collection that summer.

During that time, he first visited Bristol and the clock museum. He has returned each year since then to visit the museum and study the collection. Just before last Christmas, he returned to Bristol to talk with the late Edward Ingraham and other museum officials about his present position.

The museum has reproduced two early trade catalogs from its library and exhibits are on display in connection with each.

These recent publications are the 1874 catalog of the E. Howard Clock Company of Boston, Mass., and the 1880 E. Ingraham Company.

The Howard Company was a manufacturer of precision timepieces, regulators, and tower clocks, many of which adorned many early public buildings, railroad stations and churches in the past century and early part of this century.

The museum's collection contains a number of examples of these clocks. Two outstanding examples are an Astro-regulator made about 1850 and a handsomely carved watchmaker's regulator made special order for the Charter Oak Life Insurance Company of Hartford in 1872.

Two exhibits have been made in connection with the reproduction of the 1880 catalog of the E. Ingraham Company. One ex-

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hibit shows various styles of clocks which Elias Ingraham is credited with designing during his clock production years. The second exhibit shows approximately 20 of the clocks from the museum collection which are are advertised in the 1880 catalog.

Another interesting display shows the step by step evolution of the production of a wooden movement from the time it is finished wheels, etc., and finally an assembled movement. This exhibit, made and loaned by George Bruno of Torrington, depicts the production of a "Torrington" type horizontal wood clock movement which was made by Norris North and others from the period of about 1822 to 1842.

Elias M. Bidwell of Farmington has loaned the museum a collection of seven museum different Blinking Eye novelty clocks which were produced about the Civil War years and later in Connecticut. These clocks, in the shape of people and animals, have eyes which move in a winking fashion as the clocks run.

During the 1972 season, Mrs. Muriel Harris, Mrs. Elsie Isles, Mrs. Laura Tracy and Mrs. Dorothy Noel will work as museum hostesses. Mrs. Rose Proudman and Mrs. Clara Downs will also assist in this capacity.

Interested persons are invited to visit the museum and observe the products of the industry which was perhaps the earliest factor in the building up of Bristol and surrounding areas. Members of the Museum Association are admitted free, as well as children under 8 who are accompanied by adults. All others must pay a small admittance fee.

WOMAN OF THE YEAR IN ARKANSAS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ALEXANDER. Mr. Speaker, Arkansas is fortunate in having many outstanding women as citizens of our State. One of our civic leaders who has demonstrated great leadership and untiring efforts, is Mrs. Joe N. Basore, of Bentonville and formerly of West Memphis.

I am pleased to enclose an article from one of our periodicals which describes the noteworthy achievements of Mrs. Basore.

[From the Springdale (Ark.) News, Mar. 19, 1972]

CHOSEN WOMAN OF THE YEAR: STATE PTA PRESIDENT HONORED

(By Becky Hall)

Mrs. Joe Basore of Bentonville was chosen recently as Woman of the Year by the Arkansas Democrat in Little Rock, mainly, she believes, because of her work with state and local Parent-Teacher Associations. She is currently president of the Arkansas Congress of Parents and Teachers and serves on many state councils.

A two-year resident of Bentonville, Mrs. Basore and her husband lived in Cherokee Village from 1955 until Cooper Co., Inc., Basore's employer, moved an office to Northwest Arkansas. They are now in the process of building a house in Bella Vista. Basore's home is Berryville and she was born and raised in West Memphis.

Mrs. Basore started in P-TA as a local unit president when her son, now a freshman at the University of Arkansas, was in the first grade. She moved up the ladder of state offices from district president to seventh vice president (director of the department of health), to first vice president (aid to the president and counselor of directors), to president.

"It's really a full time job right now," she said. "Fall and spring are the busiest times of the year because in the fall is the membership drive and the convention is in the spring. This year is also the 75th birthday of the P-TA."

"There are 501 P-TA units, so I travel quite a bit," she continued. "I try to visit as many local units as possible—at least the ones I'm invited to."

The state is divided into 15 districts and each district has a director elected by the Board of Managers of the state P-TA.

"I think there are lots of problems facing parents and teachers today and rather than deal with problems individually, they found out they needed an organization," Mrs. Basore explained. "People feel there is an apathy on the part of the parents, and many teachers feel that if parents don't care, then they don't either," she commented. "I think parents and teachers realize that to give training to youngsters there has to be cooperation between them. Parents want the best for their children and it is not always a college education."

"The P-TA for so long has been the money-maker," Mrs. Basore commented, "but we have to reach parents about early school education, school bonds, and many other things. Program is about the only way you can get parents interested. P-TA needs to be taken to the parent. There are some P-TAs having afternoon meetings, and more have night meetings which involve fathers. Over one-third of local unit presidents are male."

Each year the P-TA holds workshops in vulnerable spots over the state for parents and teachers to get together to discuss problems. The Board of Managers decides a central theme for each year, and local P-TAs carry on from workshops. Last year the emphasis was on health education, including smoking. They hoped to reach both children and parents with this topic. "We've had many programs of drug education," Mrs. Basore explained. "Last year we held several workshops on school and community relations."

Children's emotional health was the topic this year. "We had workshops throughout the year in Fort Smith, Texarkana, Conway, Monticello, Jonesboro, Harrison and Arkadelphia," Mrs. Basore said. "Springdale had a series of meetings resulting from those workshops and other local units over the state had programs. Rogers had a film on drug abuse, an Art Linkletter film entitled "Knock on Any Door."

The P-TA chose this year's topic of emotional health because it dealt with early childhood education, affects of school age child, teen-agers and their use of drugs, smoking and general health—things that cause the generation gap between parents and child, according to Mrs. Basore.

"P-TAs have now encouraged PTSA, a parents, teachers and students organization," she explained. "Most are located in high schools and involve students as full members of the P-TA. There is one at Highland High School in Hardy and Central High at Little Rock, and North Little Rock has one. There are also others.

"A group of people shouldn't go out and do this without discussing it with the students," Mrs. Basore warned. "But I think we kid ourselves if we don't think we have to involve our young people. It's past the point when you can lay it out and say, 'Here it is, take it.' "

"My work in P-TA has told people I'm interested in children," she said, adding that was one reason she was on so many state councils.

This will be her fourth year on the Council of Economic Education, which is responsible for programming the Arkansas Council on Economic Opportunity. They provide in-service training for teachers, who go back to their schools and use what they have learned. Dr. Bessie Moore is director and the annual meeting is March 28.

She is also serving on the state 4C Committee, a group of people from different organizations and agencies and consumer parents who formed the Coordinating Community Child Care Services. They try to coordinate all child care services in the state so programs will not overlap or be duplicated.

The Junior League and another group are sponsoring a conference on abused children and Mrs. Basore said she became a member of this by virtue of her P-TA work.

Another of her appointments includes the Coordinating Committee for Educational Television, for which she and others study curriculum recommendations presented by committees and approve the curriculum to use in schools.

Recently reactivated for a White House conference, the Executive Committee for the Arkansas Council on Children and Youth has also enjoyed the services of Mrs. Basore, who helped prepare studies on the need for childhood education in Arkansas.

"My husband and I are charter members of the Cherokee Methodist Church," she said, adding that she served on different committees of Women's Society of Christian Service (WSCS), of which she was president.

"Most all Board of Trustees have the president of the WSCS as a member," she explained. She added that she never served churchwomen on a district level, and has taken a leave of absence from her church work to devote her time to the P-TA.

"The work I have done in P-TA is what is responsible for my selection as Woman of the Year," she said. "I'm glad women have spotlighted the programs so well that people became aware of our efforts."

STATEMENT CONCERNING "WEEK OF CONCERN FOR PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA"

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. CRANE. Mr. Speaker, this week has been set aside as a "Week of Concern for Prisoners of War and Missing in Action in Southeast Asia." It is important that in showing our concern we understand quite clearly the nature of the enemy with whom we are engaged in combat and the disastrous effects which would follow any potential victory which we might permit him in the future.

Thousands of Americans have died fighting Communist aggression in Vietnam, and too many are today languishing in Communist prisons in North Vietnam.

Some have been imprisoned for as long as 8 years. The Government of North Vietnam has violated the Geneva Convention and has not permitted many of the imprisoned servicemen any communication with their families. In many instances, that Government has refused to acknowledge the names of the men who are, in fact, under their control.

Buried in Communist prison camps, these brave Americans must often think

they have been forgotten by the very Nation which sent them into battle. They live their lives with the hope that they are, in fact, remembered, and during this week we have the opportunity to make it clear that they are.

Yet, there are many who espouse their cause by advancing a policy which would make their sacrifice meaningless. Many now state that the United States should unilaterally withdraw from Vietnam, even if a Communist victory is the result, if only our adversaries will return the prisoners.

Such an approach means that those brave Americans who have died in this conflict have died in vain, that aggression will, in the end, be permitted to succeed, and that the suffering which these prisoners have endured has been for no reason.

We have an obligation to our allies in South Vietnam, to the Americans who have died, and to those in North Vietnamese prison camps today, to make it clear that aggression committed by totalitarian states will not be permitted to succeed.

We should also consider for a moment what the cost would be in human lives were the Communists permitted to come to power in South Vietnam. Prof. P. J. Honey of London, widely recognized as one of the foremost authorities on North Vietnam in the free world predicts that "on the basis of past Communist deeds, and given the size of South Vietnam's population, the minimum number of those to be butchered will exceed 1 million and could rise to several times that figure."

Col. Tran Van Dac, a North Vietnamese officer who defected after 24 years in the Communist movement, informed the press that the Communists, if they win, will slaughter up to 3,000,000 South Vietnamese who have resisted them so bitterly for so long.

Douglas Pike, author of the definitive work, "The Viet Cong," who made an in-depth study of the organized mass killings carried out by the Communists during the brief occupation of a portion of the city of Hue, concludes his study with these ominous words:

The meaning of the Hue Massacre seems clear. If the Communists win decisively in South Vietnam what is the prospect? First, all foreigners would be cleared out of the South, especially the hundreds of foreign newsmen who are in and out of Saigon. A curtain of ignorance would descend. Then would begin a night of long knives. There would be a new order to build. The war was long and so are memories of old scores to be settled.

We must not lose faith with those Americans who today suffer as prisoners of war and to those thousands of others who have made the supreme sacrifice of their lives for freedom and for their country. To argue, as some have done, that we should, in effect, surrender if only the prisoners are returned, is to make a mockery of that suffering and that sacrifice. The war has been fought to defeat aggression in the hope that a better world in which men and nations would be free could be achieved. Despite the opposition to the war, the protests, the parades, the slogans, the fact remains that the Communist enemy is a brutal foe, and his success would lead to more tragedy and conflict, not to less.

We must be thankful that our Nation has produced men as brave and daring as those who today suffer under the yoke of Communist prisons. We must make every effort to see to it that these men are returned to their homes and families as rapidly as possible, and in the honorable manner that they all would wish.

They must understand that their fellow Americans do care, that those who do not, or appear not to, are a small if vociferous minority. The American people have not broken faith with their men in North Vietnam and will never do so. They will continue to do everything possible to see to it that their imprisonment ends and that a new day of freedom and reuniting with their families comes as rapidly as possible.

DOROTHY DAY RECEIVES LAETARE MEDAL OF THE UNIVERSITY OF NOTRE DAME

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BRADEMAS. Mr. Speaker, I take this opportunity to announce that Miss Dorothy Day, the founder of the Catholic Worker Movement and befriender of society's outcasts for almost a half-century, has been named the 1972 recipient of the Laetare Medal, the University of Notre Dame's highest honor. She became the 19th woman to receive the honor, conferred annually since 1883 on outstanding American Catholics.

Rev. Theodore M. Hesburgh C.S.C., president of the University said:

Dorothy has been comforting the afflicted and afflicting the comfortable virtually all of her life, always a little bit in advance of the acceptable she has pricked the conscience of us all, reminding us that the way to the Father is in service to the least of His brethern. In a society buffeted by various types of political radicalism, she has exemplified the most radical approach of all: Christian love. No one has put it any better than she once did when she said, "Love is indeed a harsh and dreadful thing to ask of us, of each of us, but it is the only answer."

Mr. Speaker, Miss Day, at 74 still guiding both the Catholic Worker Movement and its newspaper, was born in Brooklyn and spent her adolescence in Chicago. In 1914 she entered the University of Illinois as a scholarship student, and her awakened interest in social justice led her into the Socialist Party. Two years later she dropped out of the university when her father moved to a new job in New York City. During the next 10 years, she wrote for radical publications in New York and Chicago, entered into a short-lived common law marriage in which a daughter was born, and was converted to the Catholic Church in 1927.

In 1932 she met French-born Catholic layman Peter Maurin, who envisioned a "green revolution" which would unite scholars and workers in houses of hospitality for the needy and in farming communes. In 1933, the two of them published the first issue of the Catholic Worker, a monthly which is still the only periodical in American journalistic history to cost more by the year—25 cents—than by the issue—a penny.

Mr. Speaker, in the wake of the newspaper appeared houses of hospitality, which numbered around 30 in the Nation's inner cities at the peak of their movement's popularity during the depression. To live in these houses, sharing bread and bed with the poor and sick, came young men and women attracted by the ideals of Dorothy Day and Peter Maurin. They lived in voluntary poverty, caring for the faceless victims of industrial society's economic catastrophe and preaching the cooperative, decentralized social order of Maurin.

Mr. Speaker, the Catholic Worker Movement was a rite passage for many of today's Catholic social activists. One observer wrote:

It was a Christian revolution she was starting. She was opening the minds of bishops, priests, seminarians, and lay people to the fact that Christianity was not a stuffy sacristy affair. She was a trumpet calling for all of us to a tenant farmer, migrant worker or Negro. We think of Church history as being made by popes and bishops. Here is a woman who has placed her stamp on American Catholicism. The seed she sowed in the thirties is now bearing fruit a hundredfold.

Today Dorothy Day continues her work at the movement's headquarters in New York City, writing and lecturing, busy enough to regret not spending more time with her daughter and nine grandchildren. Her most recent book, "Meditations," a collection of commentary on social ills in the light of the Christian Gospel, was published in 1970.

Mr. Speaker, the Laetare Medal will be presented to her at Notre Dame's commencement exercises on May 21. She joins such recent recipients of the award as President John F. Kennedy, poetess Phyllis McGinley, industrialist J. Peter Grace, the Associate Justice William J. Brennan of the U.S. Supreme Court.

INTERNAL REVENUE SERVICE AND THE FREEDOM OF INFORMATION ACT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information Subcommittee of the House Government Operations Committee is presently conducting oversight hearings on the administration and effectiveness of the Freedom of Information Act (5 U.S.C. 552). Thus far, we have received testimony from more than 40 witnesses, including legal authorities on the operation of the act, representatives of the media, former Presidential Press Secretaries and public information officers.

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and officials of executive departments and agencies.

As part of these hearings, testimony will be taken from officials of the Treasury Department and Internal Revenue Service on Friday, April 14. In this connection, I would like to call attention to three excellent articles by Mr. E. Edward Stephens, whose syndicated series "Counsel for the Taxpayer," appears in newspapers throughout the country. These articles from the New York Daily News for February 25, 1972, March 10, 1972, and March 17, 1972, describe allegations against the Internal Revenue Service for the withholding of information and documents from Mr. and Mrs. Philip H. Long of Bellevue, Wash., and from Mr. Stephens himself, when IRS documents strangely disappeared from the shelves of the Treasury Department library.

Mr. Speaker, it is just this type of questionable actions in the information field on the part of Government bureaucrats that our subcommittee is investigating in our hearings. When Treasury and IRS officials appear before the subcommittee we will certainly demand a full explanation of the actions described in Mr. Stephens' articles.

The articles follow:

[From the New York Daily News, Feb. 25, 1972]

IT MAY PAY TO CONTEST FINDINGS OF IRS AGENT

(By E. Edward Stephens)

Q. A revenue agent is auditing my income tax returns. If he concludes that I owe more taxes, but I disagree, should I go along with him or what?

A. Chances are it will pay to fight. Odds are heavily in your favor, as revealed by the recently released annual report of the Internal Revenue Service for fiscal 1971, which ended last June 30.

This 130-page book, resembling the annual report of a giant corporation, details IRS operations for the year. Amid lavish self praise—a large part of which is justified—the book contains statistics of vital importance to taxpayers.

For one thing, it shows that in '71 IRS appellate conferees settled 19,743 "nondocketed" cases at an average of 28.77 cents on the dollar, saving the taxpayers $773.4 million. These were cases in which no U.S. Tax Court petitions had been filed.

Taxpayers did even better than they had done in the previous year, when appellate conferees settled 20,780 nondocketed cases at 34 cents on every dollar of deficiencies served up by revenue agents, for total tax savings of $548 million.

All of which indicates that it generally pays to contest the findings of an agent if you think they're wrong.

AUDIT PROCEDURE

Under normal IRS audit procedure, if you're not satisfied with an agent's findings, you can try to settle with either a district conferee or an appellate conferee. Or, you can go to a district conferee first, then to the appellate division if you don't reach agreement.

So it would be helpful to compare the average district settlement with the average appellate settlement. Unfortunately, you can't do this by studying the IRS annual report, because it doesn't publish district figures that are comparable to those published for appellate conferences.

IRS admits that it has the district settlement figures. They're in its "quarterly statistical report," compiled at taxpayers' expense. But IRS officials are curiously hush-hush.

Since they have stubbornly refused to disclose the desired figures, I can't tell you at this writing how taxpayers came out in 1971 district conferences. But I can report that, in years 1967 through 1970, district conferees settled 105,070 cases at an average of 41.13 cents on the dollar.

The figures were supplied by Philip H. Long and his wife, Sue, who somehow were able to examine the quarterly statistical reports that IRS keeps under wraps.

DATA FROM MANY SOURCES

Phil and Sue Long have gathered a wealth of useful data from many sources, and they share it generously with other embattled taxpayers. You can contact them at 4885 Lakehurst Lane, Bellvue, Wash. 98006.

Among other charges, the Longs accuse IRS of failure to comply with the letter or spirit of the Freedom of Information Act, passed by Congress in 1967 to force federal agencies to disclose, upon request, information they concoct at public expense—data that they had been hiding from taxpayers who pick up the tabs.

Section 552(a)(2)(C) states:

"'Each agency . . . shall make available for public inspection and copying . . . administrative staff manuals and instructions to staff that affect a member of the public."

Citing this section, the Longs requested a look at a portion of the Internal Revenue Manual entitled "Disclosure of Official Information Handbook." Although this appears to fit squarely into the mold of the law, the request has been denied.

IRS officials soon may have to answer in court. The Longs don't give up easily when they believe they're being deprived of their legal rights.

[From the New York Daily News, Mar. 10, 1972]

SETTLE 1971 TAX CASES FOR 41.6 PERCENT

(By E. Edward Stephens)

Q. It will help me to know how taxpayers came out last year in district settlement conferences. Your column stated, two weeks ago, that the Internal Revenue Service had refused to give you the desired figures. Have you succeeded in getting them?

A. Yes—without IRS cooperation. The figures are taken from the "Quarterly Statistical Report," prepared by IRS employes at taxpayers' expense and marked "for official use."

In the fiscal year 1971, which ended last June 30, IRS district conferees settled 25,615 cases at a nation-wide average of 41.57 cents on each dollar of deficiencies and penalties proposed by revenue agents and tax auditors. The corresponding average for the preceding four years ('67 through '70) was 41.14 cents on the dollar.

The location of your residence can make quite a difference. In the North-Atlantic Region—New York, Connecticut, Rhode Island and Massachusetts, plus Maine, New Hampshire and Vermont—taxpayers were able to settle for an average of 37.05% of IRS proposed deficiencies and penalties. But the neighboring Mid-Atlantic Region—Pennsylvania, New Jersey and Delaware, with Maryland, Virginia and the District of Columbia—the average settlement was 61.04%.

RESULTS BY DISTRICTS

There's an even wider variation which you break down the results by IRS districts. A few examples:

	Percent
Manhattan	35.13
Brooklyn	40.23
Buffalo	41.47
Wilmington, Del.	43.32
Baltimore	46.57
Philadelphia	50.39
Albany, N.Y.	53.34
Richmond	61.18
Newark	83.64

Taxpayers who took their cases to the IRS appellate division did better. In fiscal '71, appellate conferees settled at a nation-wide average of 28.77% of deficiencies and penalties toted up by revenue agents and tax auditors.

These figures show that it's generally wise to by-pass the district settlement conference and try your luck with an appellate conferee. They also flatly refute the claim that IRS treats taxpayers uniformly throughout the country.

AGAINST SMALL TAXPAYER

The truth is that the IRS audit system works viciously against the small taxpayer. Here's the way the wheels grind:

A revenue agent or tax auditor makes his examination. He then proposes deficiencies and penalties, throwing in everything but the adding machine—to give IRS maximum advantage in settlement negotiations.

Even when the taxpayer believes the deficiencies are inflated, he'll probably give up if the amount involved is relatively small. He doesn't know how to handle the case himself, and he can't afford a tax specialist because there isn't enough money at stake. So he generally grits his teeth and pays the full amount, with interest.

If the deficiencies and penalties were larger, it would pay to retain help and shoot for settlement with a district or appellate conferee. As IRS figures reveal, prospects would be bright.

Under the present set-up, the IRS juggernaut rolls right over the little fellow. He should be able to get free assistance from public tax defenders paid by the federal government.

[From the New York Daily News, Mar. 17, 1972]

HOW YOU CAN FORCE IRS TO DISCLOSE ITS STATISTICS

(By E. Edward Stephens)

Q. Your Feb. 25 and March 10 columns revealed amazing figures taken from the Internal Revenue Service's quarterly statistical reports. How can I get a peek at these fascinating documents?

A. Apparently you'll have to take the slow road—send IRS a written request and try to force disclosure under the Freedom of Information Act. Follow IRS procedural regulations, section 601.702(c). You'll find them in volume 28, Code of Federal Regulations.

Chances are you'll win eventually, but you may have to drag IRS officials into court to make them comply with the law. By the time you get the desired reports, you may have forgotten why you wanted to examine them.

If you had asked your question a week ago, I could have pointed out a fast road. I would have directed you to the Treasury Dept. library, open to the public, where the quarterly statistical reports had been displayed prominently for ages.

It may have been just a coincidence that the reports mysteriously disappeared shortly after my Feb. 25 column was published. When I looked for them on March 9, the library shelves were as bare as old Mother Hubbard's cupboard.

The librarian, an attractive young lady—sweet, conscientious and efficient—would say only that the reports had been "taken off the shelves." She sent me to the Internal Revenue Service for further information.

I called on Mr. D. O. Virdin, chief of the disclosure staff in the office of the IRS assistant commissioner for compliance. But the interview turned up nothing but double talk—even though Virdin was assisted by three other IRS officials. Nobody mentioned the strange disappearance of the reports from the Treasury library shelves.

IRS officials soon may have to give more forthright answers than I got. They're due for questioning by the foreign operations and government information subcommittee of the House government operations committee. Hearings started March 6, will continue through June.

"We plan to find out whether the executive branch of the federal government is following the letter—and the spirit—of the freedom of information act," said Congressman William S. Moorhead (D-Pa.), the subcommittee's chairman.

The subcommittee is going to pinpoint federal agencies with the "best" and "worst" performance records as shown in an analysis of case-by-case denials of information. You can contact the subcommittee at: Room B-371, Rayburn House Office Bldg., Washington, D.C. 20515, or by calling area code 202, 225-3741.

FOR "WORST" RATING

One case that will help insure the "worst" rating for IRS is that of Philip H. and Susan Long, of Bellevue, Wash. Here's how it went:

Nov. 11, 1971: The Longs sent Virdin a written request for a look at the IRS Disclosure of Official Information handbook.

Dec. 9, 1971: Request denied by John F. Hanlon, IRS assistant commissioner for compliance.

Jan. 7, 1972: The Longs appealed by letter to Commissioner of Internal Revenue Johnnie M. Walters.

Feb. 25, 1972: The Long case was exposed in this column. Walters reversed Hanlon's decision and sent Longs the desired handbook, with the exception of one section entitled "Special Tax Check Reports."

It may have been just another coincidence that, after a delay of nearly two months, Commissioner Walters made up his mind the very day that IRS hanky panky in the Long case was revealed. But at least two people—Phil and Sue Long—are sure it was no mere happenstance.

WORKING FOR PEANUTS

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HAGAN. Mr. Speaker, I am proud to take this opportunity of sharing with my colleagues the story of a fine young man in my district who literally "worked for peanuts." He is an 18-year-old who has just been selected to coordinate the Georgia Peanut Commodity Commission's youth program in peanut promotion. Mike Daniel is his name and he comes from Claxton, Ga. Mike and his father, Herbert A. Daniel, were 1971 winners in the Father-Son 4-H Peanut Production Contest. Mike attended the National 4-H convention in Chicago last fall as a State winner in field crops competition making him well-qualified to represent the peanut commission throughout the State of Georgia.

When we learn about young people like Mike who are working hard and proving they have what it takes, we do not have to worry about what is happening to our younger generation. I believe the future of America is in good hands and that the majority of our young men and women all across this country, like Mike, are preparing themselves in many fields of endeavor to take their place as responsible citizens. These are the young folks who will be our leaders and it is they who will carry on the principles on which this Nation was founded.

I am pleased to present Mike Daniel's story as it was told in the Claxton Enterprise on March 23:

EVANS COUNTY YOUTH SELECTED TO COORDINATE PEANUT PROGRAM

Mike Daniel isn't the only 18-year-old farm boy who ever went away to college and "worked for peanuts," but he may be one of the few who has made peanuts work for him.

The Evans County youth, a student at Abraham Baldwin College, has been selected to coordinate the Georgia Peanut Commodity Commission's youth program in peanut promotion.

Mike and his father, Herbert A. Daniel of Claxton, were 1971 state winners in the Father-Son 4-H Peanut Production Contest, and Mike attended the National 4-H Convention in Chicago last fall as a state winner in field crops competition.

As one of the state's youngest peanut growers, Mike will travel throughout Georgia speaking to youth groups, civic clubs, conventions and other organizations interested in the future of agriculture and peanut production in Georgia.

"Mike will help lead a new youth organization called the "Growing Georgia Goober Group,'" said Dr. George "Pete" Donaldson, executive secretary of the Peanut Commission. "He will work with various youth groups in the state with the objective of exploring possibilities for young people in agriculture."

The young Georgia peanut farmer recently represented the Peanut Commission at the tenth annual Teenage Nutrition Conference in Atlanta where he prepared and served homemade peanut butter to hundreds of Georgia teenagers attending the conference.

Donaldson said the average age of peanut growers in Georgia is 55, but he hopes the commission's youth program will lower this age level by encouraging young people to stay on the farm.

Peanuts have been the leading cash money row crop in Georgia for the last five years with the state's 28,000 peanut growers producing more peanuts than any other two states combined.

"The lawyer, the businessman, the grocer and everyone else is dependent on agriculture," explained Mike, who has farmed his own crops since the tenth grade. "Working on the farm has given me a strong sense of responsibility and a great deal of respect for the farmer as a businessman, manager and economist."

Mike is an honor graduate of Claxton High School and recipient of $500 Georgia Farm Bureau Scholarship presented annually to four college students throughout the state.

LEGISLATION TO PROVIDE FOR NATIONAL PRESIDENTIAL PRIMARIES

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. MINK. Mr. Speaker, presidential primaries have taken on the spectacle of a horse race.

Instead of a valid exercise in citizen choice, the present primary system is a chaotic, haphazard obstacle course whose returns bear little relationship to the desires of the electorate.

Nearly every honest observer of the political scene readily agrees that the vast majority of our people are fed up with their Government. Most have little faith or confidence in the political system. They do not believe that an individual can any longer have any impact on the governmental decisions which increasingly affect his daily life.

The hodgepodge primary system guarantees that the wishes of the voters will be distorted and used to affect the results of other primaries.

The ground rules of primaries vary from State to State. It is difficult to get on the ballot in some, and in others it is difficult to get off. The winner in some gets committed delegates, but in others he gets no guarantee because it is only a preference poll. Even if a candidate wins in terms of receiving the most votes, he may lose because news media interpret his share of the vote as less than he should have received.

Undue emphasis is placed on the results of a small State like New Hampshire, where a candidate is subjected to the personal vendettas of a self-styled publishing tycoon. States are increasingly seeing primaries as a revenue source, attracting publicity and roving bands of newsmen and pollsters. The showmanship generated is demeaning to democracy.

Candidates needing only a fraction of the vote for an interpreted victory are free to pick and choose among States where they can work the primary situation to their particular advantage. There is never a clear-cut decision. The voters must try to weave their way through the conflicting claims and differing analyses and interpretations.

In the past, many concerned citizens have urged that this mishmash which has now reached 25 primaries be replaced by a single national primary. Never before has the need for this been more evident. Instead of assisting in the democratic process, the primaries are subverting the right of the electorate to have a meaningful input in the selection of the major party candidates for the highest effective office in the land.

Carefully staged publicity gimmicks, endorsements by public figures, and financial support by special interests are ingredients in the current battle for survival. The 5 months of primaries would tax the endurance and perseverance of the hardiest of souls. While this type of contest might be appropriate to the law of the jungle, it is not a fit system for choosing our President.

To correct this scandalous situation, I have introduced legislation to provide for a national presidential primary. My bill is similar to a measure introduced by Senators MANSFIELD and AIKEN, but with some changes.

Basically, the plan envisions the nomination of presidential candidates by a single nationwide closed primary to be held in early August. To get on the ballot, a major party candidate would be required to file petitions signed by qualified voters in at least 17 States equal to 1 percent of the vote cast in the last election for presidential candidates in those States. Provision would be made for minor party candidates as well. There could be no cross-filing and for the most part, the place and manner of holding the primary would be left to individual States. There would be a runoff only when no candidate received more than 40 percent of the vote. The proposal

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leaves the selection of a vice presidential nominee to each party. The role of conventions would be reduced to shaping party platforms and possibly assisting in the vice presidential nominee selection. Our recent campaign spending reforms would apply equally to the national primary.

My bill provides that all citizens who meet the qualifications of a State for voting for the members of the most numerous branch of the State legislature, may vote for President and Vice President. There would be only a 30-day State residency requirement. Any candidate would be permitted to withdraw from contention by filing an affidavit with the Secretary of the U.S. Senate.

I feel that this amendment to the constitution should be approved as quickly as possible. Obviously it is too late to save us from our present predicament, but a national primary would restore order from another chaos in 1976.

We cannot permit our political process to be destroyed by a primary system which reduces the Presidency to a 25-ring circus. Today, as our citizens watch numbly, we inflate trifles to traumas, and downplay the issues which are of fundamental importance. As the presidential derby careens over its wildly fluctuating course, there is no clear decision which inexorably emerges.

A national primary would permit the undivided attention of the principal contenders for a brief period of time. Much of the debate could be over national news media. Cost of the national primary would not be a factor now since the general election campaign would be paid by the taxpayer's $1 checkoff system which prohibits any other solicitations and limits spending.

Only persons who could amass the required signatures could get on the ballot. The signature campaign would cost little and could be done by volunteer supporters.

The candidates' stand on issues would be the prime concern in the national primary. The result of one primary would have no effect on another since all occur on the same day. The news media would become more responsible.

The national primary will give politics back to the people and enable the selection of a President by ballot and not by the polls.

In my view, there is no more imperative goal now than to perfect our political system by implementing a national primary. I hope that the legislation which has been introduced will be speedily considered and approved by the Congress.

SHORTAGE OF NATURAL GAS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. PICKLE. Mr. Speaker, the following article that appeared in the March 29 edition of the Washington Post is only one of a series of indicators that this Nation is facing a severe energy shortage. The article points out that last year was the third in the last four that the Nation consumed more natural gas than the industry was able to discover.

Although some critics challenge the accuracy of the figures the AGA use to show the shortage of natural gas, I do not think anyone can deny the fact that this country is not meeting its energy demands. Although different committees of Congress are looking into the energy shortage problem, I say that some immediate action is necessary. Lengthy hearings have been held on H.R. 2513, the national gas amendments. This bill would at least give the natural gas producer a guarantee of certainty in his operations. Under this proposed bill once the FPC had approved a contract between the producer and the pipeline the FPC could not come back in and change the price or other terms of the contract. This bill is not granting the producer a lot, it is just giving him the assurance that once a price has been agreed on that the FPC would not change it. This is assurance that a businessman needs to have before he can make investments and carry on his operations.

I think the Washington Post article points out again the need for this bill as an initial step. I insert the article in the RECORD, as follows:

U.S. RESERVE OF NATURAL GAS SEEN REDUCED

(By James L. Rowe, Jr.)

The American Gas Association reported yesterday that the nation's shortage of natural gas worsened last year as proven reserves tumbled to 278.8 trillion cubic feet from 290.7 trillion cubic feet at the end of 1970.

Last year was the third year in the last four that the nation consumed more natural gas than the industry was able to discover. In 1970, proved reserves—those which the industry knows exist and can recover from the earth—increased, but only because the AGA included 26 trillion cubic feet of Alaskan gas for the first time.

In a statement, F. Donald Hart, president of AGA, said, "Total proved reserves of natural gas are now lower than they were in 1964, yet demand has risen by nearly 45 per cent since then."

The Federal Power Commission, in a staff report issued last month, estimated that, in 1971, American consumers demanded 0.9 trillion cubic feet more than the gas industry was able to supply.

The estimate was based on a projection that 22.8 trillion cubic feet of gas would be produced last year. The AGA reported yesterday that actual production in 1971 was 22.1 trillion cubic feet, which could mean unfulfilled demand was as high as 1.6 trillion cubic feet.

By 1990, the FPC study estimates, the nation will demand 17.1 trillion cubic feet more of natural gas than the gas industry can supply.

In two related developments:

A Federal Power Commission hearing examiner said the commission had no authority over construction of a $39.5 million plant to manufacture synthetic gas from naphtha, but said when the synthetic gas is mixed with natural gas for interstate shipment, the FPC could exert jurisdiction. Synthetic gas is seen as an important supplement to natural gas.

The chairman of the House Interior Committee, Wayne Aspinall (D-Colo.), said his panel would hold hearings next month to examine "the dimensions of the energy crisis and explore alternatives to further crisis over the next 15 years."

The American Gas Association, an organization of natural gas distribution companies, said reserves in the lower 48 states declined last year to 247.7 trillion cubic feet, the lowest level since 1957.

AGA estimates of reserves have not received universal acceptance from consumer groups, although at present AGA estimates are used by the Federal Power Commission in determining rates it sets for natural gas. The FPC, however, is conducting a national gas survey to determine to the total extent of the nation's gas shortage.

The FPC granted billions of dollars of increases to natural gas producers last summer to encourage them to explore for more gas reserves. The Potential Gas Committee of the Colorado School of Mines estimates that the nation has potential reserves of 1,178 trillion cubic feet in addition to the proven reserves of 278.8 trillion cubic feet. The AGA estimated total proven and potential gas reserves can supply the nation for 60 years.

The natural gas shortage already has had some impact on gas distribution companies. The Washington Gas Light Co. announced several weeks ago that it would not be able to supply any new customers with natural gas because it could not buy any more gas than it already has contracts for from gas pipeline companies.

The gas company also is considering construction of a synthetic gas plant to help it over shortages of pipeline gas.

FURTHER TESTIMONY THAT THE GROCER IS NOT TO BLAME

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. LLOYD. Mr. Speaker, on the "Today Show" for March 30 the former consumer adviser to President Lyndon B. Johnson stated that since she had been associated with the Retail Food Store Organization she had changed her mind regarding the culpability of retail food markets in the matter of higher food prices.

This further substantiates the need for both Government and consumers to be fairminded in our essential search for the most effective way to stabilize the cost of living. It is simply wrong to point the finger of blame at any one segment of American industry. I submit the editorial from the Salt Lake Tribune of March 30, which is a responsible statement on the issue:

[From the Salt Lake Tribune, Mar. 30, 1972]

MEANY WRONG IN BLAMING RETAILERS FOR MOST OF FOOD COST INCREASE

When he said that Price Commission rulings cannot be enforced without a large investigative staff, AFL–CIO President George Meany challenged a basic tenet of the administration's anti-inflation effort.

Though the small Pay Board and Price Commission staffs are augmented by Internal Revenue Service personnel, the anti-inflation program relies heavily on voluntary compliance stiffened by public opinion. If Mr. Meany is correct that some 200,000 full-time agents would be needed to enforce Price Commission regulations, then volunteer compliance has failed.

Mr. Meany assumes that most of the blame for rising food prices falls on the retailer. But that basic assumption is open to serious question.

There probably are instances where retailers have taken advantage of the Price Commission's lack of enforcement staff. But the retailer is but one link in the long and complicated chain from producer to consumer and every link that handles a food product along the way is also suspect.

Farmers and supermarket operators usually get most of the blame for soaring food prices because they are most visible to consumers. Both in turn blame "middlemen," a mysterious lot which includes suppliers, commercial carriers, processors, distributors, wholesalers and a host of lesser figures most consumers don't even know exist. Placing all the blame for high food prices on any one part of the food production and merchandizing apparatus, as Mr. Meany has done, is grossly unfair.

Since so many have a hand in setting the ultimate price of most food items, stepped up price control enforcement directed mainly at the supermarket would be missing a good part of the target. Even if Mr. Meany's 200,000 investigators turned up in every supermarket in the land, their effect would be minimal.

A better way is suggested by Treasury Secretary John B. Connally who met Wednesday with the heads of large supermarket chains to discuss rising meat prices. Mr. Connally should quickly follow up the Wednesday gathering by arranging for similar meetings with large food producers, dealing in grains and other foodstuffs and food processors and distributors.

All should be told, as the grocers were told, "We are going to be watching your profit margins and we are going to be watching your pricing policies." The relatively few investigators at the Price Commission's disposal should then be deployed at key points along the production and distribution tube to make the secretary's threats stick.

A TIME FOR CONCERN

HON. ALAN CRANSTON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, March 30, 1972

Mr. CRANSTON. Mr. President, on February 20, 1972, I had the pleasure of addressing the annual convention in Los Angeles, Calif., of the distributors of Shaklee products. Shaklee Co. was one of the first manufacturers of "vitalized minerals" as a natural organic food supplement. This product was actually first marketed before the word "vitamin" had been coined. The convention gave me an opportunity to discuss some recent concerns of mine with the problems of environmental degradation. I hope my colleagues will be interested in sharing these thoughts with me.

Mr. President, I include the following portion of my speech at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

A TIME FOR CONCERN

The theme of the 1972 convention—A Time for Concern—seems especially appropriate for a gathering of Shaklee employees.

After all, it is only natural that you, who have contributed so much to our nutritional well-being, would now be interested in and concerned about the well-being of our environment.

For too long, we have based our decisions on social planning about the utilization of our resources solely on short-term economic indicators.

It is now imperative that we expand the bases for our decisions to include environmental considerations.

We have made great strides in developing an understanding of and a respect for our environment.

Just as the decade of the 1960's found national attention focused on the human tragedy of poverty, hunger and malnutrition—and the discovery by the majority of Americans that poverty was a daily reality for millions of their fellow citizens—I think that the decade of the 1970's will be looked upon as a time of environmental "consciousness-raising."

In a few short years, the general public has developed a fair understanding of some complex ecological principles.

We are growing out of our environmental "adolescence" toward a maturity that recognizes our individual and collective responsibility to preserve our natural resources and to maintain a quality environment.

A good indication of the diffusion of this new environmental awareness is our language.

The American vocabulary today abounds with words that reflect our environmental concerns.

Words like "ecology," "biodegradable," "recycling," and phrases like "endangered species," and "natural or organic foods," are now commonly used in our daily speech.

An organization of bicycling enthusiasts in Santa Barbara has even coined a new word—"Bikecology"—to illustrate the ecological advantages of riding bicycles instead of driving cars.

Incidentally, I have introduced legislation to provide federal financial assistance for the development of bicycle transportation facilities in our cities.

Young people—always the nation's most precious resource—are particularly concerned about the deterioration of our environment.

And rightly so.

It is our sons and daughters who will inherit our environmental mistakes.

It is they who must find solutions to the overwhelming problems of over-population, air and water pollution, solid waste disposal, noise pollution, urban decay, suburban sprawl, and the energy crisis, just to name a few.

I am encouraged not only by their enthusiasm but also by their willingness to "roll up their sleeves" and work to reverse the deterioration of our physical world.

They are, in short, taking responsible action to solve these problems.

President Nixon expressed the need for action very well in his recent environmental message to Congress:

"Each of us, all across this great land, has a stake in maintaining and improving environmental quality: Clean air and clean water, the wise use of our land, the protection of wildlife and natural beauty, parks for all to enjoy.

"These are part of the birthright of every American.

"To guarantee that birthright, we must act, and act decisively.

"It is literally now or never."

We have heard from the doomsday prophets that the end is in sight for life on earth.

Although California did not drop into the sea as predicted by local soothsayers in April 1969, many of these predictions are made by respected scientists and can not be lightly dismissed.

The famed anthropologist, Dr. Louis S. B. Leakey, for example, has warned that man is "not only the most dangerous species on earth, he may also be one of its most endangered."

If society acts now against pollution and overpopulation, Leakey said before the 138th meeting of the American Association for the Advancement of Science, man can survive for another 20,000 years—about the length of time since the species broke away from the line of common descent that gave rise to the great apes.

If not, goodby!"

The species, man, may be extinct in as little as 30 years!

Just to get a perspective on why it is "literally now or never," I'd like to discuss briefly the magnitude of a few of our environmental difficulties.

1. Over population.

In 1950, there were 151 million Americans.

Today there are 208 million.

By the year 2000—only 28 years from now—that number will have swelled to around 300 million.

In other words, if present growth patterns remain constant, our national population will have doubled in a span of 50 years!

The National Academy of Science said of this population growth in 1965:

"If present fertility and mortality trends persist, [U.S.] population will surpass the present world population in a century and a half.

"And in about 650 years, there would be one person per square foot throughout the United States."

Since most environmental damage in the U.S. today is directly or indirectly a result of the pressures of a growing population, these trends have obvious implications for the quality of our future environment.

We must be thinking *today* about how our society and our environment will absorb the additional 10 million people that will be added to our burgeoning population in the next 25 years.

We must answer:

Will there be jobs available?

Will there be suitable housing?

Can we grow enough food and fiber over the next 25 years to feed and clothe these millions?

Can we preserve open space and wild and scenic places in time?

How will we dispose of the solid waste produced by a nation of 300 million?

How will we produce enough energy to satisfy the tremendous appetites of 300 million American consumers?

And can we produce this energy without ruining the quality of our air and water?

What about hospitals, schools, and roads and mass transportation?

2. *Noise pollution*, which most of us think of as an annoyance, is actually a serious health hazard.

Consistently high levels of noise affect our heart rates and our metabolism and increase levels of mental and physical stress.

Some experts have predicted that noise pollution will leave every city dweller in America deaf by the year 2000.

3. *Endangered species.*

Our encroachment on wildlife habitats now threatens the extinction of many familiar plants and animals.

Experts are now predicting that within 20 years, more than half of today's familiar species will be extinct.

Not only will the loss of so many species of plants and animals drastically alter the present ecological balance, but it will also hasten what Dr. Kenneth E. F. Watt has called "man's efficient rush toward deadly dullness."

Expanding on this concept in the February issue of Natural History, Dr. Watt theorizes that diversity may be an essential element for man's survival.

We know, for example, that complex and diversified ecosystems are generally stabler and have more compensatory resources to re-

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sist invasion from outside plants and animals.

Dr. Watt suggests that diversity may be something more than a luxury for human well-being.

It may be necessary for our survival.

4. *Air pollution*—a major concern for those of us who live in Los Angeles—is reaching crisis proportions.

The Environmental Protection Agency has estimated that the annual toll on human health, vegetation, materials and property values due to air pollution amounts to around 16 billion dollars—more than 80 dollars for each person in the United States.

Furthermore, air pollution is the cause for increasing alarm about its hazards to life and health.

In Los Angeles County—an area with the world's highest concentration of cars (4.2 million in 1970)—doctors are advising between 9,000 and 10,000 patients each year to leave the area in order to prolong their lives.

While an absolute cause-effect relationship between air pollution and health has not yet been established, we know that they are linked.

Recently, researchers at Cornell University were able to demonstrate that even a slight increase in the levels of air pollution leads to a rise in the death rate.

Furthermore, evidence is growing that even long-term exposure to low levels of pollution can cause chronic illness and promote premature death.

Major illnesses linked to air pollution include emphysema, bronchitis, asthma and lung cancer.

In 1967, the public health service reported that emphysema is the fastest growing cause of death in America.

In the 10 year period between 1950 and 1959, deaths among males from emphysema rose from 1.5 per hundred thousand to 8 per hundred thousand.

In 1962, more than 12,000 persons died of emphysema.

PHS also reported that chronic bronchitis affects as many as 21 percent of the men between the ages of 40 and 50.

In short, deaths from chronic bronchitis over the past 10 years have increased 200 percent.

5. *Solid waste disposal:*

Every day each of us generates about 4½ pounds of solid waste.

This means something like 800 million to a billion pounds a day in the United States.

If we cannot manage the wastes produced by 200 million people, it will be a catastrophe when we reach 300 million.

To sum up, let me state it this way:

Every eight seconds a new American is born.

He will require over a life-span of 70 years: 56 million gallons of water, 21,000 gallons of gasoline, 10,150 pounds of meat, 28,000 pounds of milk and cream, 9,000 pounds of wheat and 31,500 pounds of pulpwood in paper products.

He will also have to be educated, clothed and housed.

This will average out to 8,000 dollars worth of schooling, 6,000 dollars worth of clothing, and 7,000 dollars worth of furniture.

Unless there is a devastating war, electric power production will increase five times by the year 2000, building will increase five times, and there will be 244 million automobiles on America's roads.

And so, it is a "time for concern."

It must also be a time for action, for time is growing short.

Forces set in motion by the industrial revolution have brought us—in less than 100 years—to the bring of environmental catastrophe.

Solving the environmental crisis will require vast federal expenditures.

It may also require significant changes in our style of life, particularly in our rates of consumption.

It will certainly require the development of a low-emission engine, a decreased reliance on the automobile as a means of transportation, the development of a clean source of energy, the recycling of at least part of our solid waste, and the harnessing of our vast technological skills to solve environmental pollution rather than to contribute to it.

I am fully convinced that we can accomplish all of these imperatives and more if we have the will to do so.

We need a firm national commitment and the full cooperation of every American—along with some wise, thoughtful planning, followed by sound, constructive, creative action.

We also need the kind of dedication and ingenuity that has characterized the Shaklee family since a small boy who lay ill with consumption resolved that he would live.

And he did.

The determination that grew out of that experience developed into a life-long philosophy: "We are what we think."

That philosophy became the cornerstone that grew into Shaklee Products and that small boy who survived that cruel Iowa winter was Forrest G. Shaklee, Sr., president of Shaklee Products.

Before I turn the rostrum over to Dr. Shaklee, I would like to express personally my admiration and my gratitude to him for the planning followed by action that led to the unlocking of some of nature's best kept secrets for the betterment of man.

If we could harness his energy and his determination, we would be well on our way to solving our environmental crisis.

And our environment could certainly profit from a good, strong dose of vitamins.

THE 196TH ANNIVERSARY OF THE EVACUATION OF BOSTON

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, the 196th anniversary of the evacuation of Boston was celebrated on Friday, March 17, 1972. It was my pleasure to participate in this historic event. I would like to take this opportunity to share with my colleagues in the House a most inspiring address delivered by State Representative Raymond L. Flynn on this occasion.

The address follows:

ONE HUNDRED AND NINETY-SIXTH ANNIVERSARY OF THE EVACUATION OF BOSTON—MEMORIAL EXERCISES AND ANNUAL REDEDICATION AT DORCHESTER HEIGHTS ON FRIDAY, MARCH 17, 1972

(By Raymond L. Flynn)

Reverend Clergy, Mr. Mayor, Chief Marshal Rogers, Colleagues in Government, Ladies and Gentlemen:

I am certainly pleased to have been asked to come here today, and to commemorate, with you, who are after all, my friends and neighbors, an important and justly renowned event in the long history of this community—and indeed, of this nation.

In years past this oration has been delivered by men and women who have not failed to draw from the day the sorts of inspiration an American has a right to expect on such an occasion. These men have included John W. McCormack, James Michael Curley and John Boyle O'Reilly, Louise Day Hicks and James Burke.

Certainly, I am in good company, and grateful indeed for the opportunity.

I am also, honored to be in the company of these good men whose proud uniforms surround us all here today, whose contribution to this ceremony must surely be to remind us that to many citizens patriotism is not a word to be defined nor a concept to be argued about, but the natural response of the natural man, who does not forget the rich blessings this great land still reaps upon us all.

One reason he does not forget is that the morning newspaper will hardly allow him. The most timely example of this, surely is that even as we here today, mark the brave resolve of our forefathers to hurl the British from this place, nearly 200 years ago, it is significant that, in the land from which many of us derive, a peaceful land, but still tragically troubled, less fortunate men fight no less bravely the same fight fought here so many years ago. Interestingly enough, the password, here on the Heights, that cold night in 1776 was "St. Patrick".

But if we *are* more fortunate in this one thing, we may well be less fortunate in that we often do not perceive that there are still battles to be fought quite close to home.

We are perhaps, too comfortable. Like so many men of Irish heritage, my blood runs deeply when I think of "Bloody Sunday", but it runs no less deeply when I think upon the widespread surrender of so many people to the despairing and immature few who are determined to convince us that our country is too decayed even to think of saving, much less to love.

There are men here who have borne guns in her defense in earnest, and there would be nothing to say here today, if it were not so; but these other battles, being battles of the mind, require of us different weapons.

We must, firstly, be well informed. We must be reasonable men. Secondly, we must have the moral courage to act upon our convictions. You may ask, *where!* You will know better than I. For me the battles are fought in the stately halls of the Great and General Court. But leadership or citizenship, which is what we are talking about, is no less vitally important in the local hockey league, or in the parish guild, or in the boy scouts troops. It begs the question to ask, where,—for we know in our hearts, where and when there is a job to be done.

All of us here today, moreover, have less excuse than most for being a poor citizen, for this community is an old and a proud community and with good reason. We have done our share in the religious profession, served in our armies, risen to great heights in the field of government, both nationally and locally, this is no ordinary community and I should not like to think that our generation would want to make it so.

To be a part of the "silent majority" is every much as disgraceful than to be a part of the "noisy minority". One need not, one *should* not, cast oneself in the role of a self appointed judge of men and events, in order to stand up and be counted. But responsible citizenship ought not be so construed. There is for instance, nothing so quiet or modest as stepping into a voting booth and nothing any of us can ever do will matter quite so much.

So, then ultimately, I have come to ask you to help as indeed, have those many men who have stood and spoken here down through the years on this day. Notice injustice; do not surrender to apathy, let no one obscure your power, do not give up your rights.

Be worthy of this day, as indeed your ancestors were, and if this imperfect world seems disappointing, heed this text from Aristotle—"live nobly and you will change the world".

COOLEY'S ANEMIA

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mrs. GRASSO. Mr. Speaker, once again Leonard J. Patricelli, president of WTIC-TV, channel 3 in Hartford, Conn., has embraced an excellent and worthy cause as his own.

Mr. Patricelli was in the forefront of the battle to make the public aware of sickle cell anemia. His activities helped bring about the passage of national legislation that would provide resources for an all-out attack on sickle cell anemia. Now he is mobilizing support in behalf of efforts to find a cure for another dread blood disease, Thalassemia, which is often known as Cooley's anemia. This illness most frequently afflicts descendants of persons from the Mediterranean area. Congressman GIAIMO and I have introduced a bill, H.R. 14016, which would provide $7.1 million over 3 years for counseling, screening and treatment programs for Cooley's anemia. Grants to public and nonprofit private organizations would be available under this bill, in addition to programs to inform and educate the public about the disease.

The WTIC film on Cooley's anemia, presented on February 25, is an example of public service at its best. It has received wide acclaim in Connecticut. Channel 3 has graciously made this film available to me, and I intend to give my colleagues in the House the opportunity to view it soon after the Easter recess.

For the benefit of my many colleagues who have recently been made aware of Cooley's anemia, correspondence between interested viewers and Mr. Patricelli follows:

NEW HAVEN, CONN., *December 29, 1971.*

DEAR MR. PATRICELLI: All Connecticut residents are proud to know that WTIC-TV, Channel 3, of Hartford, has brought the "Forgotten Disease" to the public's attention. I have known about Sickle Cell Anemia for over 20 years; I have had friends who passed away with this dread illness and I have studied about Sickle Cell Anemia as a Doctoral Candidate at St. John's University. I was very satisfied to know that Connecticut is doing testing to prevent, eventually, the spread of this genetic disease and now that Congress has passed legislation for monies to be applied for research, treatment, detection, and prevention of this illness.

However, let me call your attention to another hemoglobin disorder—Thalassemia Disease (Cooley's Anemia). This may be called the "Unknown Disease." It, also, is a genetic illness involving the hemoglobin chains. In Sickle Cell Anemia, there is a genetic error in one of the B-chains where one amino acid is substituted for another. This results in sickling of the red blood cell.

In Cooley's anemia, a fetal hemoglobin chain does not "switch over" to the normal adult hemoglobin B-chain due to a genetic error of the "switch-over" gene. This means a person with thalassemina disease grows and lives with fetal hemoglobin Hb F rather than with normal hemoglobin—Hb A. People with sickle cell anemia and thalassemia have some of the same symptoms—joint-pain, need for transfusions, *abnormal hemoglobins, anemia, genetic disorder.* Some people even have a form of disease called S-thalassemia where they genetically acquire HbS-Hb F (sickle cell hemoglobin combined with fetal hemoglobin of thalassemia).

So you see, only half of the abnormal hemoglobin diseases have been brought to the public's attenion. (There are others, though, such as sickle cell-hemoglobin C disease, hemoglobin H disease, and other minor hemoglobin anomalies—there are hemoglobins for every letter of the alphabet, but it is unknown whether these cause severe illness). I am writing to you about thalassemia because each time I have seen your programs and spot commercials for sickle cell anemia, it has caused me to feel badly that no one pays attention to thalassemia, a disease which affects mainly our youth. Let me explain.

I have thalassemia major. It was called Mediterranean anemia because it affects people mostly from that region. Mostly Italians and Greeks were known to have it. I'm an Italian. Now the illness has been found in great number in Southeast Asia, Africa, Ireland (one case), and all over the United States. People with the major form of thalassemia never lived beyond 20 years. But that has changed recently. I am 30 (Jan. 27, 1972), and the oldest person in Connecticut with thalassemia. I feel that if someone is going to do anything about this, I must. I am the oldest, best educated (a true miracle—a Ph. D. Candidate with a M.S. in microbiology and now working in physiology with my research and thesis being written on a topic in hematology) and a knowledgeable person (and patient) in Connecticut. My sister had this illness and recently passed away from it. This illness requires a lifetime supply of blood—I receive two units of packed red blood cells per month—because of the defect in hemoglobin synthesis and ineffective erythropoiesis. As the illness progresses, the iron from the transfusions of blood accumulates and deposits in all the tissues of the body. Growth and maturation slow up and development may be arrested. The newer technique of more intensive transfusion therapy has now permitted growth and development to maturity, However, iron deposition may be accelerated. Deposited iron affects endocrine glands—I am now a diabetic—and muscles such as the heart—I have had two heart failures—may lead to complications. Death is usually caused either by massive infection or heart failure. To lessen the iron stores of the body has been the subject of much research. Recently, a new chelating (binding) agent for binding iron has been placed into the hands of clinical researchers. It is called Desferal. My own doctor has been giving me this medication since I had the first heart failure. There is the possibility that I may be excreting enough iron to remain at a steady state with regard to input and output of iron. Normally, people hardly excute iron at all, except menstruating women. So of course, the addition of iron into food is very bad for people with thalassemia.

Therefore, Mr. Patricelli, I would like to ask you to help not only the people with Sickle Cell Anemia but also those with Cooley's Anemia (Thalassemia). A cure for one may lead to a cure for the other if they are both attacked at the genetic level. I would like to see 1972 as the year that the "Unknown Disease" is attacked.

We have formed a Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children, Inc. Our chapter President is Mrs. Dorothy Guiliotis, 196 Ellsworth Avenue, New Haven, Connecticut 06511. Tel. 777-2607. Our goals are: (1) Blood Donations for Cooley's Anemia; (2) Donations of Money for Research into Treatment and Cure of Cooley's Anemia; (3) Enlargement and Support of our Local Chapter; (4) Education of the Public about Cooley's Anemia.

However, I would like to see even more done. I believe that an institute is necessary for the study of abnormal hemoglobin diseases, mainly for Thalassemia and Sickle Cell Anemias since these are the worst in the sense that they are terminal illnesses. I also believe that the State Health Departments do not do enough, that there should be a central agency to coordinate the evaluation of potential carriers, numbers of patients, available facilities to treat this illness, etc. New York now has before its legislature a bill which would create in its State Health Department a blood disease institute which would also treat patients. Do you know that many patients from Connecticut go to New York—usually Cornell Medical Center or Presbyterian Medical Center—because they feel we in Connecticut do not have good or adequate facilities? I, too, have gone to New York for consultations and to start Desferal therapy. Won't you help us? The University of Connecticut Medical Center could possibly be a fine choice for the Institute for Hemoglobin Disorders.

My own personal desire would be to do research in Cooley's Anemia right here in Connecticut to help all of us. But no one is interested, except the chapter members.

Sincerely yours,

MICHAEL IOVENE, Jr

P.S. Some thoughts for publicity for Thalassemia, if you will help us Mr. Patricelli:

1. We have a film "Another Tomorrow for Theresa" see Page 2 of Cooley's Anemia Newsletter and spots from the film are available.

2. *What's Happening Update.*

Interview of patient(s) receiving blood transfusions, playing, etc. and discussion of parents difficulties, concerns, pay, and love for their children with Thalassemia.

Discussion with physicians caring for Thalassemia patients—children and young adults—concerning cause, treatment, research, possible cure.

Interview chapter members of New Haven Chapter of Cooley's Anemia Blood and Research Foundation.

3. Suggestions for Services for Patients with Cooley's Anemia, Sickle Cell Anemia.

a. Research.
b. Education.
c. Social Services.
d. New Legislation.

Make Education more available to patients.
Possible Institute for Research.
Aid to Handicapped Patients Jobs, etc.
Spot Commercials.

MARCH 6, 1972.

DEAR MR. PATRICELLI: I wrote you a while back asking your help for more informative broadcasting of Cooley's Anemia and I was most happy to see the program aired on Fri. Feb. 25th "What's Happening" which delved into this more deeply.

As a mother of two children who both suffer from this incurable disease, I was—needless to say—very sad and heartsick to see what my children will have to go through and what they will have to face in a few more years. The one thing that gives me hope is the research that is being done. My pediatrician had told me that my children would not live beyond the age of 14 years; but now through advanced research, these children are given the promise of two decades of life.

I only hope and pray that further research will help eliminate some of the pains and discomfort they now have to face. But further research requires extensive funds. So I am asking you—no I'm begging you to

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find it in your heart to help us begin a campaign to collect funds for the Cooley's Anemia Foundation of New Haven of which I am a member. We need to find some means of beginning a National Drive for funds—and what better advertisement than television. *Please* for the sake of my children and those of others, *please* help us. You helped Sickle Cell Anemia victims greatly, now give us a helping hand. I would be truly and eternally grateful.

Sincerely,

(Mrs.) PAULINE FUSCO.

FEBRUARY 25, 1972.

GENTLEMEN: Thank you for a wonderful show! Your program about Thalassemia was well done and informative. You've performed a great service for all your viewers and particularly those of us of Greek extraction.

Many, many thanks.

Yours truly,

Mr. and Mrs. MINO G. MARNEL.

FEBRUARY 26, 1972.

DEAR SIR: I watched the "What's Happening" program on Cooley's Anemia which was on Friday, February 25th, and was very happy that some notice is finally being given to a very serious health problem.

I think you did an excellent job in such a short time showing the different aspects of the problems—information given by the doctors and problems faced by patients and families.

I know this program will start many people thinking about this dreaded illness and I hope this will be the first of many programs of this kind.

Thank you for your interest.

Sincerely yours,

HARRIET KRAL.

SOUTHERN CONNECTICUT STATE COLLEGE,
New Haven, Conn., February 26, 1972.

DEAR MR. PATRICELLI: You and your staff are to be heartily commended for the excellent job you performed in making us aware of the seriously debilitating disease called "Cooley's Anemia." I personally would appreciate seeing even more coverage given to this affliction. I am particularly concerned about the specific financial (as well as psychological) stresses which confront parents of such children.

That "Cooley's Anemia" is primarily an affliction of the Greek and Italian populations should be a source of both surprise and concern to many Connecticut residents. Utilizing 1960 census data, it was discovered that the four cities in the United States with the largest proportion of Italians in the population were New Haven, Waterbury, Stamford and New Britain—all in Connecticut!

Once again, most grateful for the service you have rendered, and trusting that you will enlighten us further on the subject, I remain

Sincerely,

EUGENE FAPPIANO,
Instructor of Sociology.

EAST HAVEN, CONN.

DEAR SIRS: The program you presented Friday, Feb. 25, at 7:30 on Cooley's Anemia was very interesting and very well put together. Will there be any other programs on this subject? Being of Italian descent, this program really struck home and was so true to life. Few people have even heard of this disease. Thank you for your interest. We of the Terrazzanos' really appreciate your showing of this disease.

Very truly yours,

JOANN TERRAZZANO.

NEW HAVEN, CONN., *March 2, 1972.*

Mr. LEONARD J. PATRICELLI,
President, Channel 3,
Broadcast Plaza,
Hartford, Conn.

DEAR MR. PATRICELLI: Please accept my thanks and congratulations on your organization's film on Cooley's Anemia presented on the "What's Happening" program Friday, February 25, 7:30 to 8:00 P.M. Howard Pearson and I have long been aware of your interest in and contributions to Sickle Cell Anemia. But your efforts on behalf of Cooley's Anemia are enormously appreciated.

Your team did an excellent job of filming, interviewing and editing. I was impressed with the way in which scenes of other areas were spliced in while a commentator was talking about such areas. The only criticism I have heard relates to the fact the high cost of the disease to the patient was not adequately stressed. This comment came from a victim of the disease. If you have film covering this point in the interviews it would be worth splicing it into the story.

With thanks for your very real help in this worthy cause, I am,

Sincerely,

DAVID H. CLEMENT, M.D.

BLOOD AND RESEARCH
FOUNDATION FOR CHILDREN, INC.,
New Haven, Conn., March 6, 1972.

Mr. LEONARD J. PATRICELLI,
WTIC, Channel 3,
Broadcast Plaza,
Hartford, Conn.

DEAR MR. PATRICELLI: On behalf of the Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children, Inc., I would like to express my appreciation for the informative program presented on the "What's Happening?" show on Friday evening, February 25, 1972, and for the advertisements placed in the New Haven and Hartford newspapers on the day of the telecast.

The thirty minute documentary on Cooley's Anemia, a little known disease which primarily affects those of Mediterranean origin, was quite skillfully done.

I personally witnessed the three days of shooting which went into the preparation of the program and was quite impressed with the finished product. A great deal of credit is due the crew of men who worked on the film. The telecast contained all of the ingredients necessary for a complete understanding of the problems of Thalassemia. The five interviews conducted by Brad Davis and John Sablon, the laboratory and blood bank shots, and the slide insertions were very effectively blended together. Director Jack Gutkin is to be commended.

The seriousness of Cooley's Anemia cannot be summed up in this brief note, but please know that the public service which you rendered to us by providing us with the half hour of prime television time will be of significant value in helping us to brighten the lives of youngsters afflicted with this fatal disease.

Our chapter which was organized in November, 1971, has undertaken five main goals: education, fund raising, screening legislation and service to patients and their families. Your program, in one evening, has allowed us to take our message into the homes of thousands of people we might otherwise never reach.

It truly was a *Public Service Program.*

I hope that you will not think me ungrateful if I impose upon your kindness to make the following requests:

1. My tardiness in thanking you for presenting our program *must* not be reflected as a lack of gratitude—but rather that the response received as a result of the telecast has been so overwhelming that this is the first opportunity I have had to put my thoughts and comments on paper. Many of the people who responded had seen the program but an equal number had not. Those who did not later heard about it. They expressed interest in learning more about Cooley's Anemia and asked if the program were to be aired again. May I ask if it is your intention to repeat the program? I would be most grateful if this were to be possible. If we were notified that a rerun was planned, we would contact all those who have inquired and inform them of the date scheduled. Another reason for this request is the fact that the program happened to appear on a Friday during Lent when many of the audience upon whom we hoped to make our greatest impact—namely, those of Greek and Italian descent were attending Friday evening church services. I hope that you will consider scheduling the film again.

2. My second request is that we might be given a 16 mm. copy of the film. We feel that the film is so well done that it would be a tremendous aid in our educational program. The quality of your film far exceeds the quality of the film we now use in presentations to various organizations throughout Connecticut.

3. Public exposure is very important to the success of our Chapter. We would be most appreciative if members of our organization might be invited as guests on appropriate programs broadcast on W.T.I.C. We would also be most appreciative if our 59 second commercials and news releases could be aired.

In conclusion, I would like to state that in all of our contacts with W.T.I.C. we have been treated with courtesy and understanding. Dick Ahles, Rufus Coes, Brad Davis, John Sablon, Jack Gutkin, and all of the others with whom we worked were very cooperative. They are indeed a credit to you and to your organization.

Again, on behalf of our chapter, our deepest gratitude for a *Public Service* very well done.

Sincerely,

DOROTHY K. GUILIOTIS,
Chairman, Executive Board.

BROADCAST-PLAZA, INC.,
Hartford, Conn., March 15, 1972.

Miss DOROTHY K. GUILIOTIS,
Chairman, Executive Board, Cooley's Anemia Blood and Research Foundation for Children, Inc., Connecticut Chapter, New Haven, Conn.

DEAR MISS GUILIOTIS: It was a pleasure to read your comments concerning our "What's Happening?" program of February 25. Cooley's Anemia is unquestionably a serious problem and I am glad that WTIC has been able to help out in the fight. Normally we do not repeat programs of this kind but we are considering it in this case. Furthermore, I am pleased to inform you that we have ordered a black and white 16 mm print of the program made for the use of your group at our expense.

WTIC welcomes every opportunity to assist the Connecticut Chapter of the Cooley's Anemia Blood and Research Foundation for Children. I suggest that you keep Brad Davis and John Sablon informed about your activities as well as Ross Miller, who is program manager for WTIC Radio. An occasional guest appearance by one of your group on one of the regular WTIC radio programs would be most interesting to our audience and helpful to your effort.

In addition, we would very much like to broadcast public service announcements in support of Cooley's Anemia on television. I have asked Brad and John to produce an effective and appropriate spot for your group within the next few weeks and they will be in touch with you concerning this project. When it is complete they will give you copies of the announcement for distribution to other television stations in Connecticut.

I wish you continued success in this important work.

Sincerely

L. J. PATRICELLI.

TELEPHONE PRIVACY—IX

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I would like to include in the RECORD today an article, entitled "Can't a Family Eat in Peace," which appeared on page 1 of the Christian Science Monitor on Monday, March 27.

I believe many of my colleagues will find this article of considerable interest. It follows:

CAN'T A FAMILY EAT IN PEACE?
(By Robert P. Hey)

WASHINGTON.—Between the soup and the pork chops the phone too often rings: "Hello, there," purrs your friendly dinnertime interrupter, "We'd like to invite you and your family to take a lovely drive this weekend at our expense to see . . ."

It's another telephoned advertisement adroitly timed to find you home trying to eat supper.

For years American husbands and wives have complained to each other about their unwelcome intrusion into their privacy—one of too many intrusions nowadays.

Now somebody in Congress is trying to stop it. And he has struck a responsive chord with the American public.

Rep. Les Aspin (D) of Wisconsin has introduced a bill which he says would allow Americans to "place a 'no solicitors' sign on their telephones." Under his bill people who don't want to receive telephone ads could tell the phone company, which would have to keep a list of them, or place asterisks beside their names in the telephone book.

Firms that wanted to solicit business over telephone would be required to check with the telephone company—and to skip over those people on the "do not call" list.

Mr. Aspin's bill would exempt some organizations from these requirements: nonprofit groups, political candidates, poll takes, and debt-collection agencies.

In the month since he first mentioned the bill he has received 200 letters from all parts of the United States. With a single exception they have cheered him on.

He says it's more mail than he has received on any other issue.

Some people have written that they receive four or more phone calls a day. One writer expressed the general sentiment: "For years family, friends, relatives, and I have complained about nuisance calls from salespeople selling magazines, roofing, siding, and you name it. They always call when a person is in the middle of something involved, when someone is ill or taking a nap, and worst of all, when those who work third shifts are sleeping."

One elderly letter writer, an invalid, complained that she had been commercially solicited over the phone by undertakers.

"If there is any place where the right to privacy is absolute," says Mr. Aspin, "it is within one's own home. This legislation is simply designed to stem this growing telephonic invasion of our privacy."

NO OPPOSITION INDICATED

Letters have come from husbands and wives, from retirees and the young, from mayors and police chiefs. "It's the sort of thing that affects everybody, says an aide to Mr. Aspin.

He adds that, thus far, "we haven't found any opposition to it at all."

Right now the bill merely has been referred to committee. Should other members of Congress get letters on it from their constituents, too, there could be hearings this year—and possibly even action by the full House.

If the bill appears to be going somewhere in this Congress, some firms soliciting business via phone could be expected to object, says Mr. Aspin's aide.

"But what we're fighting" now, he says, "is not any lobbies as such—it's inertia."

Two hundred letter writers have told Mr. Aspin it's time Congress did something about the problem. He hopes they're telling their own representatives in Congress, too.

PROTECTION FOR THE DAY LABORER

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MIKVA. Mr. Speaker, last June, I introduced legislation—H.R. 9282—to protect the day laborer in this country by eliminating abuses in the day labor-temporary help industry.

Government, the labor movement, and society itself have forgotten about the day laborer—the unemployed and often unemployable men and women who must depend on a labor agency to send them to a job each day so they can earn a few dollars. Because they are desperate for work, they are ripe for exploitation. With the support of more than 20 of my colleagues, I introduced the bill to prevent that exploitation.

At present, only one State, New Jersey, regulates temporary help services. My proposal, the Day Labor Protection Act, would require that any temporary help service obtain a license from the Secretary of Labor who would establish and enforce strict standards for the industry. It would eliminate the 90-day restrictive hiring clause and insure fair labor practices and an adequate workman's compensation plan. Between the time he reports to the day labor agency and the time he gets his check, a day laborer may spend 12 to 14 hours, yet he is paid only for the time actually spent working at the jobsite. The Day Labor Protection Act would eliminate that injustice. Under the bill, a worker will be paid for the time spent in transit between the jobsite and the temporary help agency, and he will be paid half time for the hours spent waiting assignment at the agency.

Several months ago, the Special Labor Subcommittee of the House Education and Labor Committee held hearings on the bill. Industry representatives testified that the abuses were greatly exaggerated. They claimed, for example, that their firms no longer followed the 90-day rule, which prevents a company from permanently hiring a day laborer until 90 days after he has worked there on a temporary basis. We presented evidence and witnesses, including day laborers themselves, which indicated that the abuses were very real and not exaggerated, including the use of the 90-day restriction. Now, there is more evidence to support the bill.

Recently, a reporter from the Chicago Sun-Times, William C. Harsh, Jr., and Chicago Alderman Christopher Cohen took jobs as day laborers in Chicago to find out what it is like. That experience generated several newspaper articles, which I commend to my colleagues. They explain in vivid detail the plight of the day laborer and make an effective argument for the kind of legislation I have introduced.

The text of the articles follows:

DAY LABOR—ITS EVILS, PROBLEMS
(By William C. Harsh Jr. and James Campbell)

At 7 a.m. each workday, Lake Shore Labor Service distributes pay vouchers in its basement office at 7 N. Halsted.

The place on Skid Row is dark and smells of vomit, but the men wait quietly. They know the vouchers can be cashed only at King's, a bar around the corner at 816 W. Madison. King's opens at 7.

When the vouchers come, the men climb the stairs, pass a sign telling drunks to stay out and wander into King's. There, the bartender shoves a pencil stub and a 15-cent glass of wine at them.

Outside, the wind is cold. Inside, the men sign the vouchers and are paid their few dollars. A color set is tuned to a television show. A sign says food is available but "only with bar drinks."

Many of the men take another glass of wine. Others order "a dollar's worth"—pint of wine and a pack of cigarets. They can be found later standing in small groups in nearby alleys.

A few look for work. The jobs are gone at Lake Shore and the other day-labor agencies near Madison, but, if they get lucky, a trucker will hire them off the street to unload his rig.

If they don't get lucky, they'll be back at the day-labor offices the next morning at 5 a.m., broke and hoping for work.

The men are day laborers. They are descended from the old-time casual laborers who followed the lumber camps—whose portable dormitories mounted on skids coined the term "skid row"—and built the railroads.

They hire out one day at a time at the nearly 50 day-labor offices in the city. Of the roughly 5,000 men and women working day labor on any given day, the ones on Madison are the worst off.

To find out who works day labor in Chicago and under what conditions, two Sun-Times reporters and Ald. Christopher B. Cohen (46th) hired out as day laborers and then talked to the industry's representatives and its critics.

Day-labor agencies came to Chicago near the end of World War II. They set up on the Near West Side and in other decaying areas of the city. Today, day-labor agencies in these original areas are shriveling, and the largest offices are in Uptown.

Persons looking for work through the agencies generally show up at about 5 a.m. Men and women wait in separate areas. A few offices offer free coffee, but most charge for it. In Uptown, the Salvation Army serves coffee and doughnuts from a truck.

Between 5 a.m. and 7 a.m., the dispatcher—who has a list of the orders phoned in from customers—calls the workers forward in groups and hands them work orders.

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When a worker gets a work order, he is, in fact, being hired by the day-labor agency for that day. It is the agency that will pay him. The firm where he will work pays the agency.

The first work orders go to the agency's regulars, who are valued by the dispatcher because they are known quantities and because the agency's clients prefer to get the same workers every day to cut down on training.

Ed Pfaff, president of the Chicago chapter of the American Temporary Service Contractors Assn. and Chicago manager for Manpower, said such regulars are rare. He said a recent survey by the ATSCA showed that only 3 of 10 day laborers stay within the same agency for even a month.

When the day laborer gets his work order, he can, if he's broke, also get cash for carfare and lunch. This advance will be deducted later from his daily pay. Arrangements for the advance range from forms filled out in duplicate at one agency to a simple "need some money?" at others.

Critics point out that the worker usually gets his work-order hours before he's expected at work. Since he's an employe of the day-labor agency, they say, he should be paid for his waiting time. Pfaff disagrees.

"The precedent for our system is the union hiring hall," he said. "Remember, when a man walks into the office at 5 a.m., he's not our employe—he's applying for a job. If it becomes a bone of contention, we can hire the guys later. But we try to give people an idea of whether we can use them so they don't hit the street."

Many agencies own buses or vans, which sometimes are filled beyond legal limits, to take employes to work. Most charge for the ride. At the job, the day laborers work the number of hours required, often a full shift, and then return to the agency with their signed work orders and pick up their pay.

The pay is the biggest complaint raised by the agencies' critics.

The going rate is $1.60 an hour, although some agencies pay more. To pay $1.60, Pfaff said, most agencies charge their client firms $2.35 an hour. Critics say the agencies could afford to pay more. Pfaff disagrees.

He said the agencies generally earn between 6 and 8 per cent profit before taxes with the current setup and that the industry is so competitive that no one can afford to raise his rate above $2.35 in order to pay the laborers more.

He said that, out of the money it retains, the agency must pay the employers' Social Security tax, workmen's compensation and unemployment compensation contributions, liability insurance premiums and all its salaries and office expenses.

VOLUME IS THE KEY

The key to profits, and survival, in day labor is volume, and if an agency raised its rate, it quickly would lose volume, Pfaff said.

"In this industry," he said, "if somebody isn't generating fairly decent volume, he can go down the drain fairly quickly." Since the economy turned sour and knocked the floor out of the industry in 1969, more than a dozen firms have gone under here.

Most, Pfaff said, were marginal operations on Madison that constantly flirted with the 50-jobs-a-day minimum needed to make anything but an owner-operated agency worthwhile.

All that makes little difference to the day laborer, struggling to make it on $1.60 an hour.

It doesn't make him feel any better to know that, in many cases, the firms dealing with agencies are paying their own workers less than $2.35 (but more than $1.60).

The firms are willing to pay the premium rate for day laborers for a number of reasons. Many companies located in the suburbs can't find unskilled labor nearby and are not located near public transportation. They turn to day-labor agencies to bring unskilled workers to them.

(Conversely, of course, many day laborers turn to agencies simply because they cannot get to plants needing unskilled help. This includes persons who work at the same plant for as much as a year but need the agency bus to get there.)

Firms using day laborers also save on fringe benefits that might be paid to regular employes and, since day laborers never accumulate seniority that would bring higher wages, they can save on payroll in the long run.

Some firms also like the constantly changing work force day labor brings because it discourages union organizing. (An attempt by Local 743 of the International Brotherhood of Teamsters to organize the day laborers failed in 1970.)

Finally, since, other things being equal, a firm's unemployment compensation contribution is tied directly to the number of claims against it, firms with business requiring a widely fluctuating work force prefer day labor to keep claims down.

As the rate charged by agencies rises, the industry argues, some of these advantages dissolve and day-labor jobs disappear. But critics of the agencies say the break-even point on most of the advantages is far from current levels.

In the end, the fundamental disagreement between the industry and its critics hinges on whether day laborers choose that life or are trapped into it.

DEFENSE OF SYSTEM GIVEN

Those who defend the industry point say that, prior to the industrial revolution, everyone worked only enough to fulfill his needs. Some persons, they say, continue to prefer that way of life.

"Basically, modern society strives for security," Pfaff said. "But here we have a small group that actually strives for insecurity, and that is a deep-rooted psychological problem that the industry has nothing to do, with.

"These people do not respond to the things we respond to. They aren't looking to do anything with themselves. They work when they want and play when they want.

"Actually, if you took a group of day laborers and a group of people with comparable wages and steady jobs, I think you'd find the skill level of the day laborers was higher. It's the emotional level that's the problem."

The critics, of course, disagree.

THEY'RE TRAPPED, HE SAYS

The Rev. Thomas Millea, an Uptown priest who long has worked with day laborers, argues that such persons are trapped.

"These people have their own personal and economic problems," he said "Some have drinking problems—there's no question about that. Others have rural skills and have a hard time surviving in the city. All they really have is their strength and willingness to work hard. You know, a lot of these people could make more on welfare, but they would rather work for their money.

"But the day-labor system helps to trap them. They have to wait around to see if they can work. They have to connive and sometimes pay for a job. It produces a horrible dependency."

In the past, critics also have been displeased by a 90-day ban on firms hiring a day laborer permanently. After a laborer had been sent by an agency to a firm for a day's work, that firm agreed not to try to hire the worker until 90 days had elapsed. That rule now has been eliminated—at least formally.

EIGHT HOURS' PAY TAKES 12 HOURS

(By William C. Harsh, Jr.)

It was dark and cold when Ald. Christopher B. Cohen (46th) and I rubbed a little dirt from the gutter under our fingernails and headed for the Ready-Men day-labor office at Milwaukee and Halsted.

Like those on the street with us, we dressed in dark clothing and worked slowly, with our eyes downcast. Bright clothes, bright eyes or fast movement would set us apart in the day-labor world.

We wanted to blend in, to become two of the roughly 5,000 men and women who, on any given working day, are hired by day-labor agencies in Chicago and rented to firms needing temporary help throughout the city.

The office was much like the others we would see. Three dozen men sat on benches against the walls or milled around near the door. The entrance to the women's waiting room was down the block.

SITTING AND DOZING

A sign near the door warned the men not to bother women at a nearby bus stop, police order. We both took seats and dozed.

"You! You with the jacket. What's your name?"

Two dispatchers sat in a high, narrow window on the back wall. I gave my name to one.

"You worked here before?"

I hadn't. I filled out the W-2 form. Nobody checked to see if the name or social security number was mine. Later a city worker told us that identification means little in the day-labor world. People dodging something can get lots of work.

A Ready-Men employe who didn't know there was a reporter there said he thought 55 per cent of the agency's employes worked under false names.

The dispatcher handed me my work order. I was to report to Juanita at the Papermate pen plant in La Grange. Fifty cents, to be deducted from my pay, bought me two ham sandwiches and a pickle in a white paper sack. The pickle was already soaking through the sack.

"The bus leaves at 6:30."

WAITING, WAITING . . .

I'd been hired, but I'd have to wait an hour for the bus to leave, and it would be another hour until I'd get on a payroll.

Day-labor critics say that, since I became a Ready-Men employe at 5:30, I should have been paid from 5:30.

The people who own the agencies say that, if that becomes an issue, they will simply wait to hire right before the bus is ready to leave.

Cohen was also going to Papermate, so we had breakfast in a nearby cafe. We then boarded a bus that would take us to the Papermate factory.

The bus, which seats 24, had 33 people aboard. Boards were placed between the seats to make room for everybody. The windows were fogged over and most people tried to sleep.

EXTRA DUTY

Once, on an earlier trip, the driver had made Cohen "chairman of the boards"—which gave him the privilege of stacking the boards at the front of the bus at the end of the trip.

They took attendance and we left.

The Papermate factory is large, functional, box-like. It is typical of hundreds of other light-assembly and light industrial plants that have located in the suburbs. Unskilled laborers are not welcome in many of these areas and so employers import them through Ready-Men.

We waited in the punch clock area while the guard gave us time cards. A schedule on the bulletin board said assemblers—the lowest-paid category—made $2.14 to $2.93 an hour. The Ready-Men agency would bill Papermate $2.35 an hour to rent me, and pay me $1.60. The agency would make 6 to 8 percent on the transaction after expenses.

The plant was clean, the cafeteria was good and the people were friendly. I opened cartons of Flair pens and gave them to the women on the assembly line, who packed them into display cartons.

I also stacked wooden pallets, swept up and emptied trash. Cohen assembled shelves. The work was tiring.

JUST PASSING THROUGH

Before lunch, my supervisor asked me what my story was. I was just passing through. She said she'd have Ready-Men keep sending me to Papermate as long as I wanted to come.

At quitting time, I asked if I could get steady work as a regular employe at the plant for awhile. I knew that, at least formally, most day-labor agencies have eliminated the controversial "90-day clause" that would have prohibited Papermate from hiring me away from Ready-Men for 90 days.

My supervisor talked to her boss. I wasn't to tell Ready-Men, but I could come back. She said her boss was good friends with Ready-Men, and that "sometimes things can be waived."

There was a lot of grousing about the crowding on the bus on the way back to Milwaukee and Halsted. The driver triumphantly told the complainers that there would be 40 people riding the next day, and everyone would sit six to a seat.

"If you don't like it, get out the door," he told us. "Lots of people who want to work can take your place."

ELEVEN IN A CAR

He told us he'd once taken 11 people to a job in his own car. Someone wondered why anyone would submit to that.

"When you get hungry enough, you'll work," he said.

It was 5:30 p.m. and raining when we hustled from the bus into the Ready-Men office for our pay. The dispatcher barked our names and handed out the checks. He was pleasant enough about it.

I'd been with Ready-Men for 12 hours, and I'd worked a full 8-hour shift. I made $9.35 after taxes and deductions for my lunch and 50 cents bus fare.

The dispatcher had finished with the checks. He smiled and held up three pairs of new socks.

"Now," he said, circus-barker style, "who wants to buy some socks?"

Nobody did.

Mama's is a nearby bar and many of the men cash their checks there. Some stayed, but most seemed to linger only for a drink or two and then drift out.

Ready-Men has its share of steady workers and family people who work day labor simply because they have no way to get to the suburban plants except on the Ready-Men bus.

Cohen and I drifted out with some of the last of them. It had been a long day.

COHEN PLANS MEASURE TO ASSIST DAY LABORERS

(By William C. Harsh, Jr.)

Ald. Christopher B. Cohen (46th) told a City Hall press conference Monday that he will introduce an ordinance to license and regulate day labor agencies at the next meeting of the City Council.

Cohen said the ordinance would seek to correct abuses he found when he and two Sun-Times reporters hired out as day laborers during the last two weeks. Articles describing the day labor industry appeared in Sunday and Monday editions of this newspaper.

Cohen, whose ward office at 4527 N. Broadway in Uptown is within three blocks of 13 commercial day-labor agencies, said "Since being sworn into office last April, I have received many complaints about the day-labor industry in my ward and I decided to see for myself just what the situation was."

SOME FINDINGS

During his investigation, Cohen said, he found that:

(1) Some day labor agencies pay their workers with IOUs cashable only at one tavern.

(2) Some agencies maintain unsanitary hiring halls.

(3) Some agencies don't pay overtime rates to day laborers who work more than 8 hours a day.

(4) There may still be fly-by-night operators in the city who close before paying their employes.

(5) Some day labor agencies still enforce the controversial "90-day clause" that prevents day laborers from moving to permanent jobs. The clause prohibits companies using day-labor help from putting those workers on permanent payrolls until 90 days after the laborers leave.

(6) That day laborers lack even the most basic fringe benefits, such as medical insurance.

(7) That agencies charge employes for rides on the company bus, and that such buses are often loaded far beyond their legal capacities.

LICENSE LAWS FAIL

Cohen said that the city's 50 day-labor agencies are not licensed by the city, state or federal governments, and that attempts to pass a state law licensing them have failed because "Downstate and suburban legislators are not interested, because the problem doesn't affect them."

The city gained the power to license the agencies on July 1, when home-rule powers under the new state constitution took effect.

"What I think the City Council should do is see that the mayor, or one of his representatives, regulates these agencies," Cohen said.

Cohen, a regular Democrat, said he will introduce the ordinance at the Council meeting March 29, and will hold hearings on it in Uptown during early April.

HOW IT OPERATES

In the day-labor industry, workers are hired one day at a time by day labor agencies that, in turn, rent them to firms needing temporary help.

The agencies generally charge their client firms $2.35 an hour and pay the workers $1.60 an hour. The agencies pay the employers' taxes and other expenses, and generally make between 6 and 8 percent in pre-tax profits on the transactions.

About 5,000 Chicagoans hire out as day laborers on any given work day.

SAM J. KELLNER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RANGEL. Mr. Speaker, we have recently read about unscrupulous land operators and the tragic results of their manipulations. I would like to tell my colleagues of the work of an honest developer and the community he has built. Too many elderly people have had the experience of buying a retirement home somewhere and then being abandoned after the deed was signed. Too many senior citizens had been taken in by cunning real estate operators who fleece the public in phony land sales. Too many retired couples have wasted their life savings on homesites which turned out to be located in swamps or deserts.

Every so often, one comes across a humanitarian who has deep concern and feeling for the millions of senior citizens who cannot maintain the same standard of living that they had while living on fixed pensions and social security incomes, finding that the cost of living is too expensive for their meager monthly income.

Sam J. Kellner of Hicksville, a long-time Long Island builder, is the builder that I commend today. Ten years ago, Mr. Kellner set out to build unique, low-cost, high-quality housing for older Americans. He searched out 5,000 acres of the highest, driest, most finely treed acres of Florida land and started to build a community for the retired—a city where older Americans get a return for their money, where they get proper medical attention when needed, employment if required, modern sanitation services, and even educational, social, and recreational programs to fill out the many hours that a retired person has on his hands.

Mr. Kellner's dream city for senior citizens—Beverly Hills—is marking its 10th anniversary now. His organization, Rolling Oaks Corp., has made a dream a reality, and in the process, has provided a haven where thousands of retirees are enjoying a new and happy way of life.

Beverly Hills, located some 65 miles north of Tampa in Citrus County, Fla., today has almost 2,000 homes and a population of some 4,000 people. This city will accommodate up to 17,000 homes when completed in the late 1970's.

Mr. Kellner believes that a prospective purchaser should have the opportunity to see what he is going to pay his hard-earned money for. The homes are priced for persons of modest means. A model of the homes available in Florida is presently on view in Hicksville, Long Island, and in Detroit, Mich. Other models are to be built shortly in a number of other cities.

Mr. Kellner is especially proud of the fact that he is spending his own hard-earned money in developing Beverly Hills. There are no mortgages or construction loans on any of the property, thus saving all interest; even the 300,000-gallon water tank is free of debt. He presently is giving this huge tank a paint job so that it would blend into the environment of the community.

A retiree buying a retirement home must buy a whole community, Mr. Kellner maintains. This is why Beverly Hills has a huge recreation center, where over 1,200 meetings of various clubs and groups are held annually, where there is a public safety department staffed entirely by residents on a volunteer basis, where there is a fully equipped library which also maintains a "bookmobile" that regularly tours the community, delivering books to residents.

Mr. Kellner donated the land for the permanent library, as well as providing land and buildings so that the residents could build churches and synagogues. He also installed a free bus service for residents who do not drive.

Under construction at Beverly Hills is a $1 million shopping center on an 8-acre site that will have 22 stores upon completion later this year. Coming

XUM

also, on a tract of 30 acres, will be a modern medical and nursing center completely staffed by doctors and nurses.

People who have worked hard and steadily all their lives deserve the best in their retirement years, Mr. Kellner says. At Beverly Hills, the residents have a sense of security and independence because they own their own homes and can enjoy a whole new and rewarding way of life in a vibrant and active community of their contemporaries.

RISING MEAT PRICES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FRASER. Mr. Speaker, last week I introduced a bill, H.R. 14034, to repeal the meat quota law. The American housewife is paying through the nose for protectionist practices. The United States is much more protectionist than people imagine. A dramatic example of how people pay for restrictive trade measures can be seen in the rising price of meat.

This month the administration announced that meat imports for 1972 would be limited to a meager 1.24 billion pounds, less than one-thirtieth of the total amount of meat Americans buy each year. In spite of phase II, the wholesale price index for February showed an increase of 0.7 percent. Half this increase was due to rises in the prices of livestock, poultry, meats, and fish.

Even without quotas, imports of meat are being restricted. Voluntary restraints by our major foreign suppliers of fresh and frozen meat—Australia, New Zealand, Ireland, Mexico, and several Central American countries—cost the U.S. consumer some $350 million annually. This hits the low-income family hardest because meat imports are used largely in lower-cost items like frankfurters and hamburgers.

It is about time that American consumers realize how much trade restrictions are costing them. A recent study by C. Fred Bergsten of the Brookings Institution shows that barriers on imports of oil, textiles, steel, and sugar all whittle away consumer income. Quotas make oil prices 60 percent higher than they otherwise would be. It is hard to get an exact figure, but the best estimates are that tariffs, import quotas and voluntary restraints all add up to from $10 billion to $15 billion in extra costs each year to the American consumer. Consumers have a personal stake in avoiding any new import restrictions and in liberalizing our present trade policy.

The bill to repeal the meat quota provisions of Public Law 88–482 follows:

H.R. 14034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 22, 1964 (Public Law 88–482; 78 Stat. 594), is repealed.

FURTHER INJUSTICE FOR THE AMERICAN FARMWORKER

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. GONZALEZ. Mr. Speaker, I am placing in the CONGRESSIONAL RECORD a copy of the statement my colleagues and I issued earlier this week at a press conference we held in the Rayburn House Office Building. It is our hope that the administration will reconsider the sudden adverse position it has taken against the Farm Worker's Union.

A TORTURED INTERPRETATION OF THE LAW CAUSES FURTHER INJUSTICES FOR THE AMERICAN FARMWORKER

Most Americans know that farm workers are the least organized, the most overworked, the least paid and the most exploited of all workers.

Every citizen receives his daily bread, his fresh fruits and vegetables, his meat, his pork, his poultry, his canned goods, his wine from the hands of these farm workers, most of whom are Mexican Americans, Puerto Ricans, and blacks.

Every decent citizen is offended by the degradation of farm workers.

Farm workers are confident that Americans have a fundamental sense of justice and decency. That is why they chose the boycott as their principal instrument in their struggle for organization and recognition. Against every provocation, against every power and against all odds, the farm workers union has emerged as a real power working in behalf of farm workers, making progress in the fight for decent wages, decent working conditions, and just treatment. Every success that the farm workers have had has come in the absence of any legal protection, and legal guideline, any help from past precedent.

The farm workers have organized simply by calling to the attention of the people of this country the misery and degradation they have been subjected to, and by calling on all of us to refrain from buying products that are not produced by union hands.

That is all the farm workers have to use as a weapon, the boycott. Up until now, that has been all they have needed or wanted. They do not want violence; they do not want to cripple anything or anyone. They simply want the right to appeal to the American sense of fair play, decency and justice. They cannot coerce anyone to join a boycott—they do not need to, because enough Americans have responded to their plea to make their boycott work.

The blunt fact is that the retail boycott is the only means that farm workers can use to organize themselves.

The equally blunt, and profoundly shameful fact is that the National Labor Relations Board is trying to take that frail instrument away from the farm workers. The National Labor Relations Board is saying that the farm workers have no right to cry out for justice, no right to plea for support, no right to the freedom to ask us simply to refrain from buying given products. The President feels free to ask u not to buy meat, but would tell the farm workers that they have no equal right to ask us not to buy lettuce.

The National Labor Relations Board is petitioning the Federal courts to outlaw the farm workers boycott nationwide. It is claiming that the boycott is illegal, an activity barred by the Labor Relations Act. But that Act does not cover farm workers. The Board is saying, and it is almost impossible to believe—that a farm worker is not entitled to the protections of the Labor Relations Act, but is bound by its restrictions. A farm worker is not entitled to supervised elections, not entitled to call on the Board for relief—but is subject to all its restrictions.

This tortured interpretation of the law flies in the face of every previous action, position and decision of the National Labor Relations Board with respect to the farm workers union. It defies common sense, and would kill common decency. It would destroy the farm workers union.

This grotesque action is the invention of the present NLRB counsel, Peter Nash, who was not long ago appointed by President Nixon.

The irony of it is that the Administration is on the one hand wooing Mexican American and Puerto Rican voters and, with the other, using every means at its command to smash the only effective hope for the poorest among them. One out of every five Mexican Americans is a farm worker—one out of every five will see his only hope for justice extinguished if the NLRB succeeds in its actions. A million Mexican Americans will, if the Administration has its way, see their union destroyed, while the President parades twenty-seven of his appointees through the country to show how magnanimous he is.

We denounce the actions of the NLRB and its counsel.

We demand that the NLRB withdraw its petition.

We affirm our belief in the right of farm workers to organize, in their right to appeal to every American for support in their efforts.

We will not stand idly by and see these humble workers silenced, crushed, and smashed by the Administration.

We can understand why the Administration would want to smash the farm workers union, for it receives vast revenues from those who have fought the union every inch of its painful way—but this is not a matter to be determined by the size of party contributions. It is a question of decency, and we will not see decency sold out.

We call upon every citizen to reaffirm his support of the farm workers, and to protest this shameful effort of the National Labor Relations Board to destroy their union. We are confident that enough citizens will hear us and heed us to force the President to lift his hands from the backs of the farm workers, who are already overburdened by oppression.

Bowed by the weight of centuries he leans
Upon his hoe and gazes at the ground,
The emptiness of ages on his face
And on his back the burden of the world.
—MARKHAM.

SENATOR CHARLES PERCY TESTIFIES IN SUPPORT OF THE NATIONAL BLOOD BANK ACT

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. VEYSEY. Mr. Speaker, few products are as vital to the practice of medicine as pure and safe human blood. Yet, adequate supplies of safe blood are the exception, rather than the rule in this country. Senator CHARLES PERCY recognized this problem some time ago and was one of the first of the bipartisan group of Senators to introduce the National Blood Bank Act to deal with it. Senator PERCY's bill is identical to H.R. 11828, now pending in the House with more than 80 cosponsors.

A recent hearing of the Senate Health Subcommittee dealt obliquely with the need for supervision of blood banks and more vigorous recruitment of volunteer donors. Senator PERCY submitted an informative statement of the problem and his reasons for supporting the National Blood Bank Act. I commend the Senator's comments to those interested in improving the safety of blood recipients across our Nation.

STATEMENT OF SENATOR CHARLES H. PERCY

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to present a statement in support of the National Blood Bank Act (S. 2909) which Senator Hartke and I introduced on November 29th. I regret, however, not having the opportunity to testify in person. Being informed at the close of business on March 23, that the subcommittee would consider S. 2909 the subsequent morning, unfortunately, left me no other alternative but to submit this prepared statement.

No one can be as pleased as I that this subcommittee is dealing with this country's number one cause of death—cardiovascular diseases—with such dispatch. I am a proud cosponsor of the National Heart, Blood Vessel, Lung and Blood Act of 1972, and I have time and again supported and worked for the eradication of all dread diseases. I can, therefore, understand the subcommittee's eagerness in dealing with one of this country's most urgent health problems. However, I urge the subcommittee not to overlook in its good-intentioned haste another equally urgent national health problem.

I am speaking of this country's blood problem.

According to Stanford University's Dr. J. Garrott Allen, whom many health specialists regard as the nation's leading expert on the blood problem, blood transfusions now kill at least 3,500 Americans and medically injure another 50,000 each year. Dr. Allen further estimates that of every 150 patients over 40 years of age who receive blood transfusions, one dies.

The common reliance on commercial blood is the biggest contributor to the serum-hepatitis rate among transfusion patients. No less than eight studies conducted by scientists in leading institutions from 1968 to 1971, have shown that the risk of hepatitis from commercial blood runs from 11 to 70 times greater than the risk from voluntarily donated blood. The Government's Center for Disease Control (CDC) in Atlanta reports that no one knows exactly how high the transfusion hepatitis rate is because physicians often fail to report serum-hepatitis cases. The CDC estimates that the real serum-hepatitis rate could be two to 10 times Dr. Allen's estimate, or 35,000 deaths and 500,000 illnesses each year. Whether it is 3,500 or 35,000 that die each year, the fact is that no one should have to die. Even one death is too many.

Newsmen have corroborated many of the above findings. NBC's Chronolog program last October carried a critical report of this country's blood banking systems based on nine months of research. One of the best articles to come from newspaper investigations was a series by that fine Illinois paper, the Chicago Tribune. A three-reporter task force found that paid donors accounted for 60 percent of the 250,000 pints drawn annually in Chicago. They pictured the paid donor as "most likely to be an alcoholic or drug addict who needs the money for a bottle of cheap wine or a bag of heroin." They also found "winos who sold blood so often that they had scar tissue on their arms." They learned that suspected hepatitis carriers were rejected by one bank and then accepted by others. They discovered that one commercial blood bank paid skid-row donors with vouchers cashable only at a nearby liquor store. This same blood bank firm paid the same way in Washington, D.C.

Clearly, there is a lack of adequate inspection and supervision of blood banks. 17 states have no blood-banking laws whatsoever, and 21 others only have laws that exempt blood banks from legal claims of patients harmed by contaminated blood. Only seven state license blood banks, and only five provide for blood inspection. The Division of Biological Standards of the National Institute of Health, responsible for "some supervision, some research and some inspection" of this country's blood banking systems, licenses only 166 of the 7,000 blood banks in this country.

The transfusion hepatitis risk would be minimal if doctors had an infallible laboratory test to detect serum hepatitis in blood. The most reliable detector is the Australia-antigen test which researchers have found to be effective only 25 percent of the time. Because hepatitis detection is still unreliable, many authorities say the only solution to the nation's blood problem is to use only low-risk volunteer blood. And this, most agree, means the creation of a nationally coordinated noncommercial blood banking system under a single agency.

The National Heart, Blood Vessel, Lung, and Blood Act of 1972 is an excellent heart bill. However, its provisions dealing with blood and blood products are totally inadequate in bringing adequate supervision to blood banking and in creating a national voluntary blood program that can guarantee every American high quality blood at a price he can afford. What is needed to deal with this country's blood problem are the more comprehensive blood banking provisions contained in the National Blood Bank Act, introduced by myself and Senator Hartke in the Senate and by Congressman Veysey in the House.

Following is a summary of the provisions of the National Blood Bank Act. I hope the subcommittee will give the bill the serious consideration that it deserves—either as a component of the National Heart, Blood Vessel, Lung and Blood Act of 1972, or as an independent bill.

AND IF ELECTED, HERE'S WHAT I'D DO ABOUT POLITICAL TV SPOTS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 1972

Mr. MIKVA. Mr. Speaker, in this time of primaries and an up and coming presidential election, political advertising has once again become an often discussed issue. As expenditures for campaign advertising increase, there is growing public concern over the lack of substantive information presented in much political advertising.

The following is a speech presented by a distinguished expert in the advertising field. He is Mr. John E. O'Toole, president of Foote, Cone, & Belding Communications, Inc. The speech, entitled "And If Elected, Here's What I'd Do About Political TV Spots," emphasizes some of the problems inherent in the present style and form of political advertising, and presents some sensible alternatives.

Mr. O'Toole examines the negative effects that the buying of TV spots has on the electoral system, and points out that talented men find it difficult or impossible to enter politics because they cannot afford the costs. As an alternative, he describes the system adopted in Great Britain, where the buying of political commercials is forbidden. Rather, the television stations allocate a certain number of 10 minute broadcasts to each party, depending on the size of the party's membership.

The text of Mr. O'Toole's speech follows:

AND IF ELECTED, HERE'S WHAT I WOULD DO ABOUT POLITICAL TV SPOTS

(Speech by John E. O'Toole)

Recently I found myself in Washington, D.C. In an earlier and more innocent era, that might be the last place you'd look for an adman. But in the balmy autumn of 1971 many of us were there at the cordial invitation of the Federal Trade Commission.

Washington is a city from which has been heard, in recent months, a lot of commentary about our business which might make the most hardened of us reluctant to tell our kids what we do for a living.

And as I was cabbing it back to National Airport, I thought about all the elected officials in that very city who had used television in their campaigns in ways that would never be tolerated for product advertising. I thought of abuses and misuses which, were they for a product, would never get past a continuity acceptance department. And I got mad. Not only because of the importance of the electoral process, but because I'm tired of the advertising business taking it in the seat of the pants for these excesses.

We have enough people on our backs now without the thinking electorate of the United States accusing us of "packaging candidates" and "selling Presidents."

And we can do something about it. All of us in advertising agencies and particularly people in broadcasting. We can learn from the mistakes of 1970 and make 1972 the year some maturity enters the whole area of political campaigning on television.

And there is some evidence that mistakes were made in '70. A week after the November elections Foote, Cone & Belding interviewed more than 1600 people through our Monthly Information Service and the Gallup Organization. We wanted to know if voters shared our concern with the way TV was used. We found three-quarters of the sample favoring restriction or control of political advertising on television. Most were concerned about the inequity of TV time and funds among the candidates. Of those favoring restriction, 28% felt the content wasn't truthful or honorable enough. That percentage was higher here in the West, interestingly enough.

Well, how did we reach this sorry state?

It all began back in 1952, which happened to be the first election in which I was qualified to vote. More importantly, it was the first election in which television advertising was employed.

General Eisenhower, with the help of Robert Montgomery and Rosser Reeves, did a series of spots in which he answered questions asked by voters—usually ending with "Let's clean up the mess in Washington."

From there, for twenty years, the political use of television has, for the most part, gone downhill.

There have been some brilliant exceptions. The Kennedy-Nixon debates, for example—a format so candid and revealing it has been skillfully avoided by presidential hopefuls ever since.

There has been little subsequent use of debates and longer length expositions. In

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the 1968 campaign, 70% of the TV advertising was in "spots."

Meanwhile, television was getting a larger and larger proportion of the campaign media expenditure. 58 million dollars in 1968. And television time got more and more expensive.

As a result, the standard campaign today is a big reach/frequency spot effort of 10, 20, 30 and 60-second commercials; the most expensive form of communication this side of Telstar.

And if you can't afford it, you don't play. Even if you're an embryonic Abe Lincoln.

With that much cash going into media, needless to say a lot of people got their mitts into the creative work. A lot of people who don't share with most of us a certain respect for the powerful tools of mass communication and for the rationality of the individual.

Professional image-builders began to emerge and take over the creation and production of the messages. In the public mind, these people were lumped into the pejorative designation "Madison Avenue," although many of them didn't represent any recognized advertising agency.

But they talked like the worst huckster stereotype. And the statements they made about their craft—statements that would get one forcibly ejected from any reputable ad agency—sounded like this:

"Our job is to glamourize them and hide their weaknesses."

"It's much more important to know the man than to know his stand on an issue."

"If I had only three weeks for a campaign, I'd pick a pretty boy."

"He was a beautiful, beautiful body and we were selling sex."

"Voting is an emotional response."

Well, friends, in my opinion that's a sad compendium of cynicism.

The people behind those statements are making some mistakes about product advertising, too. But I won't get into that right now. Their fundamental error, if not sin, is in equating the communications program of a candidate for public office with the advertising of a consumer product.

If you say it's just like advertising packaged goods, the simile breaks down immediately. Most packaged goods are minor purchases. Most depend for their survival on establishing a predisposition to repurchase. The consumer's most effective response to a disparity between advertising claim and reality is never to buy it again.

When you "buy" a political candidate as a result of his advertising, you're stuck with the "purchase" for four years—with results that can be far more devastating than not getting your teeth as white as you'd hoped.

If you draw the comparison with a big-ticket purchase, the analogy crumbles just as quickly. An appliance, an automobile, an insurance policy are not sold by advertising. They are sold by a dealer or an agent. Advertising can only establish, in the mind of the prospect, an appropriateness between his need or life-style and the product, then direct him to the personal salesman and the actual product.

Unfortunately, this essential second step is missing if you apply the same techniques to selling a candidate. And the candidate offers you neither a money-back guarantee nor any kind of service warranty.

Furthermore, none of the safeguards imposed upon contemporary television advertising apply to political spots. Even the libel laws are suspended.

The NAB and network continuity acceptance departments wouldn't think of challenging the statements, claims and promises made by a political commercial.

Indeed, I wonder if the FTC is going to insist on the same kind of documentation from candidates as it demands from automobile manufacturers in 1972.

So it's not only insulting to the issues and office involved to equate them with claims for a can of soup, it's potentially quite dangerous.

But it's been done. Done consistently since 1952. And I'd like to show you some examples.

There have been commercials that didn't mention, much less provide an opinion on, a single issue.

Films: JFK, "It's Up to You"; Nixon, "Nixon's the One"; Taft, "One Man Who Can Win."

There have been commercials that never once showed you the candidate.

Films: Buckley, "John Wayne"; Evans Water ID.

There have been commercials so caught up with image-building you wouldn't know there was a political campaign going on.

Film: Agnew, "My Kind of Man."

Some just registered the product name.

Film: Mezvinsky, "What's His Name?"

And there were unsubstantiated claims galore.

Film: Stokes, "Saturday Night."

Every now and then there's been one that attempts to emulate candor.

Film: Lindsay, "Snow Removal."

But primarily the theme has been disparagement.

Film: Johnson, "Hydrogen Bomb."

Disparagement and more disparagement.

Films: Smith, "Police are Pigs"; Humphrey, "Laughing Man."

When communication like that can form an important part of a major political campaign, there's something very wrong. And since the advertising industry is being blamed for it, I think we ought to initiate some remedies.

One possibility is for advertising agencies not to accept a political account. This is the simplest solution. It's our solution at FCB at the moment. But I'm not sure it's the right solution.

I think the talents that reside in an agency could, under the right conditions, be ideal for creating and placing meaningful messages for a candidate.

What are those conditions? Well they certainly aren't a high-level, saturation barrage of spots.

The system adopted in England seems very reasonable to me. Under the Independent Television Act, political commercials are forbidden. However, during general elections the BBC and ITA allocate a certain number of free broadcasts to each party, the number based generally on the membership of the party.

In the 1970 elections, the Conservative and Labour parties each received five TV broadcasts of ten minutes duration and seven radio broadcasts of either ten or five-minute length. The Liberal party was given three TV broadcasts and four radio.

After a year-long study headed up by Newton Minow, the Twentieth Century Fund recommended something similar for the U.S.—one of the few nations in the world, incidentally, that allows political candidates to purchase TV time.

The Fund suggested that, during the last five weeks of a presidential campaign, all TV and radio stations simultaneously carry six prime-time half-hour programs featuring the candidates and attempting to "illuminate campaign issues and give the audience insight into the abilities and personal qualities of the candidates."

That sounds pretty reasonable, too. As an absolute minimum, I think we should have the restrictions on TV expenditures put forth in the bill approved by the Senate on August 5. This bill—which would also rescind the ridiculous equal-time proviso, at least for presidential candidates—made so much sense to both parties that it passed with an 88-2 vote.

But the House has turned it into a partisan political joke composed, as far as one can perceive through the procedural pandemonium, of a multiplicity of different plans.

Equally important is the *kind* of message to be used. Notice the word "message." The idea and terminology of political TV "spots" should be dumped forever.

10-second, 30-second, even 60-second lengths are inadequate and inappropriate for presenting a candidate to the voter.

These lengths defy a discussion of issues and encourage the shallowest kind of imagery, the shoddiest kind of logic and the most reprehensible kind of mud-slinging.

I'm in total agreement with Ward Quaal of WGN Continental Broadcasting who will not allow a political message of less than five minutes on his stations.

If, in an uncharacteristic display of responsibility, the broadcasting industry would follow Quaal's example and set a five-minute minimum on political messages, many of the abuses would automatically be eliminated.

I don't think any political image-builder would risk the ennui inherent in five minutes of groovy music and up-shots of a grinning candidate.

I don't think they could successfully refrain from giving us a glimpse of their man for five minutes or manage to elude every issue.

And I am at least hopeful that they would see the peril in a full five-minute implication that the other guy is a fascist freak.

But just in case, I would suggest a few simple guidelines that would not unduly restrict the creative construction of the message.

And these guidelines would be a code for political broadcast messages that the candidate himself would assent to in writing before he or his supporters would be sold time on any station.

One, the message should be designed to help the voter know and understand the candidate, his character and his ability to communicate.

Two, the message should establish what the issues are which the candidate feels are important.

Three, the message should clearly state where the candidate stands on these issues.

That's all. It's very simple. So simple that I'm sure many of the professional image-builders would smile at the naivety of such an ingenuous proposal. They'd probably point out that longer lengths would blow their reach and frequency and render their TV campaign ineffective.

I have a little too much faith in the intelligence of the American voter, having dealt with him as a consumer for some time, to buy that.

And, like a good adman, I also have some research. There was a study done on political broadcast advertising by the School of Journalism and Mass Communication at the University of Wisconsin. It was done in areas of Wisconsin and Colorado among 512 voters after the 1970 campaigns.

Here's the last paragraph of the introduction: "The results of this study suggest that a moderate number of high-quality, substantively informative advertisements may be more effective than a saturation presentation of superficial image-oriented spots."

And here's the final sentence of the study: "Thus, the most effective advertising strategy would be one that allocates campaign funds away from a high frequency of exposure approach into a more modest number of ads containing substantive informational content that is presented in an interesting and entertaining manner by skilled producers."

"Yeah," reply the image-builders, "but how do you make it interesting and entertaining? Five minutes of a guy talking issues is about as exciting as watching paint dry."

Well, there's only one way to prove that this kind of political message doesn't have to be dull. To make one.

At the time that thought occurred, there were only two announced presidential candidates—Representative McCloskey and Senator McGovern. We placed calls to associates of both candidates. Only Senator McGovern's group responded, and he agreed to work with us in developing the kind of message I'm talking about under the guidelines I've set forth.

So last month, one of our producers named Burns Patterson and a damn good cameraman named Al Taffet went with the McGovern group to New Hampshire.

Out of the footage they shot, every inch of which was concerned with Senator McGovern's view of the problems and his proposed solutions, comes this model for the five-minute political message. At a cost, I might add, of about one-tenth of some of those orgies of imagery I showed earlier.

Film: McGovern.

I leave it to you to judge whether that kind of treatment is too dull or too cerebral for the American voter. It's serious, I'll admit. Not a prat-fall or gag-line in it. But somehow I continue to regard that job on Pennsylvania Avenue as a rather serious matter.

Ever mindful of the equal-time provision, we're offering to do the same kind of message, at cost, for any announced presidential candidate from either major party.

So that's my platform, fellow Americans. I'm urging the House to stop weaving loopholes into the bill to restrict candidates' TV expenditures.

I'm urging the broadcast industry to set a minimum length of five minutes on all political messages. And to insist that the content concern itself with the candidate, his view of the issues and his proposed solutions.

And I'm urging all of us in the advertising business not to be beguiled into making commercials that confuse a candidate and an office with a deodorant and an armpit.

If these minimum standards of responsibility aren't observed—if we have an encore of those abuses that characterized television campaigning in '70—those fragile strands of public confidence that we're trying so hard to maintain for advertising could be eroded entirely.

And November 1972, is only twelve months away.

SENATE—*Tuesday, April 4, 1972*

The Senate met at 12 o'clock meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who rules in splendor in realms above all earthly kingdoms, we thank Thee for Thy luminous presence with us as we seek to serve a nation under Thy providence and judgment. Save us from small and selfish living in a time requiring greatness. Keep ever before us the vision splendid of Thy divine fatherhood and human brotherhood as we dream our dreams, enact our laws, build our Nation, and plan our world, until Thy kingdom comes on earth as it is in heaven.

In the great Redeemer's name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 4, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that the President had approved and signed the following acts:

On March 30, 1972:

S. 18. An act to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty;

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3353. An act to provide for the striking of medals in commemoration of the first U.S. International Transportation Exposition.

On March 31, 1972:

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

REPORT ON OPERATIONS OF THE INTERNATIONAL COFFEE AGREEMENT—MESSAGE FROM THE PRESIDENT (S. DOC. NO. 92-65)

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance:

To the Congress of the United States:

I transmit herewith my report on the operations of the International Coffee Agreement during 1971.

Last year the International Coffee Agreement proved its continuing value as an instrument of international economic cooperation. The 62 members of the International Coffee Organization worked together effectively to stabilize world coffee trade.

This stability serves the interests of the United States in two important respects.

First, it benefits the American consumer by helping to prevent the recurrence of the extremely high coffee prices recorded in the years prior to the Agreement. In 1971, for example, the International Coffee Organization successfully dealt with the supply crisis of the previous year and served to bring down the price of our imported green coffee by eight cents per pound between January and December.

Secondly, the International Coffee Organization reduces the fluctuation in the foreign exchange earnings of coffee producers. It thereby supports the development efforts of over 40 nations in Latin America, Africa, and Asia and supports our own aid objectives.

The recent passage by the Congress of enabling legislation permits us to fulfill certain of our obligations under the Agreement. Approval of this important legislation constitutes an important reaffirmation of our determination to cooperate with the developing countries.

RICHARD NIXON.

THE WHITE HOUSE, *April 4, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2770) to amend the Federal Water Pollution Control Act, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended, was read twice by its title and referred to the Committee on Agriculture and Forestry.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 30, 1972, be disposed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 695 and 696.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MISSOURI RIVER BASIN

The bill (S. 3284) to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated the sum of $114,000,000 to provide for completion of work in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law No. 534, 78th Cong.), as amended and supplemented by subsequent Acts of Congress, plus or minus such amounts, if any, as may be required by reason of changes in construction costs, as indicated by engineering cost indices applicable to the type of construction involved. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Pick-Sloan Missouri Basin program, whether included in said comprehensive plan or not.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-726), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of this measure, which was proposed by the Department of the Interior, is to authorize appropriations to complete the program of the Bureau of Reclamation for the completion of construction of the Pick-Sloan Missouri Basin program formerly called the Missouri River Basin project.

BACKGROUND

Initiation of a comprehensive plan of development for the Missouri River Basin project was authorized by the Flood Control Act of 1944 (58 Stat. 887). Section 9(e) of the act authorized appropriations in the sum of $200 million for the partial accomplishment of the portion of the plan undertaken by the Secretary of the Interior. The ceiling on appropriations for the comprehensive plan has been increased by a series of subsequent acts which are enumerated in an attachment to the executive communication appended to this report.

The act of August 14, 1964 (78 Stat. 446) initiated a policy of authorizing additional appropriations to continue the program for 2 fiscal years only. Furthermore, that act included language prohibiting the use of funds appropriated under that authorization to initiate construction of additional units of the project. Since that time, acts authorizing construction of additional units have included separate authorizations of construction appropriations.

PROPOSED LEGISLATION

The Department proposes in S. 3284 to provide an increase of $114 million in the authorization for the comprehensive plan. This amount would provide for the completion of construction of units which were authorized without individual appropriation ceilings, including deferred drainage work which may be undertaken after some years of experience in irrigating the lands. It will also provide for completion of the electric power transmission system associated with the development. A summary of the application of authorized funds by units is included in the executive communication appended to this report.

RECOMMENDATION

The Committee on Interior and Insular Affairs by unanimous vote of a quorum present in executive session recommends that S. 3284 be enacted.

SALINE WATER CONVERSION PROGRAM

The bill (H.R. 12749) to authorize appropriations for the saline water conversion program for fiscal year 1973 was considered, ordered to a third reading, read the third time, and passed.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIDENCE IN GOVERNMENT

Mr. GRIFFIN. Mr. President, recently in remarks prepared for the 20th annual University of Michigan congressional dinner on March 22, Michigan's Gov. William G. Milliken had some very cogent observations concerning the state of politics in this election year.

I ask unanimous consent that the text of the Governor's remarks, as delivered in his absence by Lt. Gov. James Brickley, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. WILLIAM G. MILLIKEN

Ladies and Gentlemen: I want to thank you for giving me this chance to speak to you tonight and to see how strong and deep loyalty to the University of Michigan runs in this capital. The University of Michigan is one of the world's greatest univerities, and I'm very proud to be among so many of its alumni. The list of distinguished guests who are with us tonight is so long that I couldn't possibly run through it. But I do want to say how pleased I am that President Robben Fleming can be with us. He is a most impressive man and a most impressive and able administrator. And I want you to know that we in Michigan recognize very clearly how much his wisdom and his vision are contributing to the progress of the great institution which he was chosen to lead.

I suspect most of you keep in pretty close touch with what's going on back in Michigan, so I'm going to refrain from giving you a progress report on what's happening in the Legislature, or what kind of sour cherry crop we can expect this year, or how automobile sales are going to do this spring. I thought instead that you might be more interested in hearing something about how a governor—the governor of your own state—views the mood of the Country and the condition of politics as we move more deeply into this election year.

Who will survive after November and who will not survive will be debated fiercely in the coming months. While we may differ in our predictions, we can be certain of one thing: the Country will survive, and the System will survive.

Frankly, I don't take much comfort in that, for it seems to me that if we're going to have this system in the long run, we are going to have to take some important steps in the near future to prevent its total collapse—a collapse brought on by the crisis in confidence.

Cynicism is nothing new to Washington, but the degree of cynicism which grips the entire country today is new.

It seems to me that in order to understand the force and dimensions of this cynicism, you have to be a target of it—that is, you have to occupy some position in politics or public life. I am continually surprised at the difficulty I have in convincing people that I mean what I say on vital issues such as civil rights, education, taxes, crime, drugs, and so forth. I, and others I know in public life, are also constantly surprised at how willing people are to challenge our motives. It is almost as if people believe we are not trying to solve the terrible problems that affect the quality of life for everyone in this country. It is almost as if people believe we are trying to prove that the System doesn't work, instead of trying to show, as well as we can, that it does.

Two factors underlie this terrible misunderstanding and cynicism about politics, I believe. One is the accumulated effect resulting from years of oversell on the part of political figures. The other is the real misunderstanding about the nature of American politics and American institutions.

Is it any wonder that many Americans have become dulled by political promises? For two decades now, and longer politicians have been promising to cure poverty, abolish crime, create a genuinely integrated society, reform prisons, improve the medical care system, lower taxes, and ease traffic congestion. And yet these problems are still with us. Whatever the issue, most Americans have been so inundated with promises for so many years—promises that were simply too unrealistic ever to be kept, that they regard what politicians say with a skepticism unmatched in history.

Today's public cynicism is the natural child of yesterday's political irresponsibility. For public officials, nothing much can be gained by condemning this cynicism. Our clear duty is to wage a slow, painful campaign to erase this cynicism from public life—to make no promises which we cannot keep, to speak with candor, and to remind people continually what progress will cost them.

So much about oversell as a cause of today's cynicism. The other factor in this widespread public apathy and disbelief, it seems to me, is that many Americans have a very distorted idea about the nature of public institutions and politics.

In short, most people have an exaggerated idea of political power. They conceive of state political parties as great, powerful bodies that are run by large, well-paid staffs that maintain tight discipline and close liaison with a political network which responds immediately to the leaders at the top. In this fantasy, a governor, or a mayor, or a senator or a party chairman only has to pull a switch to send thousands of party faithful into action in behalf of a good cause. In this fantasy, a twitch of the party mechanism can bring recalcitrant legislators to heel and fill the coffers of the party's empty treasury.

Well, of course, the truth is somewhat different, regardless of what party you are talking about. The truth is that the parties, on a state level at least, are fragile, skeletal organizations, operating with small staffs in unimpressive offices. The truth is that while these mighty political parties are brought to life during election years, they awake only after the most vigorous prodding. The rest of the time, they move along in something resembling a suspended life state—the kind of deep sleep you see in science fiction movies about astronauts going to the farthest planets.

Far from being disciplined, tightly knit organizations, these parties are restless amalgams of people with highly divergent backgrounds and opinions—from the way-out left of the Democratic fringe to the way-out right of the Republican fringe. Getting these people together behind a single program, not to mention a whole collection of programs, is a task that requires the combined skills of a diplomat and a wagonmaster.

Any time a politician tries to describe the true sluggishness of the American political system, or any time he tries to describe the force of bureaucratic inertia, he is accused of constructing an excuse for inaction. And yet I'm convinced there is simply no alternative to this kind of talk. We have to convince the American people that we will not move as rapidly ahead as we should until we revitalize the political parties and make them truly effective instruments for change.

To do this, we have to first bring them into the Twentieth Century. We have to streamline them, make them responsive to the needs and will of the people, and revise the antiquated procedures which have discouraged so many people who have tried to work within the party system.

Some of that is already going on in both parties, and I think that is encouraging. But we have to do a lot better job of convicing the great mass of people that they do have the power to affect the quality of their lives—by the simple and effective use of their freedom.

Now this is a very much abused and misused word—freedom. It is abused on the extreme left by the radicals who say freedom is a fraud; that fascism has already been established in this country. It is equally abused on the extreme right by the proponents of an unrestrained capitalism who believe happiness can be measured by counting the smokestacks around us and that the curve of human contentment precisely follows the Dow-Jones Index.

I reject both extremes. I believe we need a new definition of freedom in this country, a new understanding of who is free to do what to whom, and how. Because the idea that we are free to build a factory in every meadow, subdivide every forest, plow a new freeway through every city neighborhood—this idea has already seriously damaged the quality of life in this country and could lead to the final triumph of the ugly over the beautiful.

In the cities, we need change. In the countryside, we need preservation. The power to change and the power to preserve lies, in the first analysis, in the hands of government, and in the last analysis, in the voice of the people. Very little will be done to produce the necessary changes in the cities, and very little will be done to preserve the unspoiled parts of the country unless people produce governments with the will and the power to preserve and change. If governmental agencies are powerless to change and preserve, we must give them the power.

In this country, we have freedom—political freedom. We must learn how to use it more effectively than we have in the past. As we learned how to control the power of the atom, so too we must learn how to control and use the enormous force of political freedom. And in the same way that we use atomic power for peaceful purposes, so we must use political freedom in behalf of human values—to create beauty where ugliness now exists; to prevent the destruction of the environment.

Change is often difficult, but not impossible. Tradition, custom, special interest, vested interest—all of these things are formidable obstacles, but they are not insurmountable. Nobody—certainly not the left-wing radicals—nobody has convinced me that the System can't be made to work just because it squeaks along in certain places and has ground to a halt in others. Nobody has convinced me, either, that freedom doesn't exist in this country and that it can't be made to work for the betterment of life everywhere and for everyone.

In Michigan, we have been showing that the System can be changed. We lowered the age of majority to 18 to give youth the full rights of citizenship that they deserve. We changed the drug laws so that a young person will not be sent to prison for a long period just because he smokes marijuana. And as most of you know, the two parties reached a compromise that will give Michigan its first presidential primary this spring.

This progress hasn't made the ghettos of our larger cities fit for life; it hasn't stopped the destruction of our environment; it hasn't brought crime to a halt. But among many people, the progress we are making is being felt. It is, in small, often undramatic and yet important ways, improving the quality of life.

We're in a race with cynicism. We have to accelerate change—find ways to make state legislatures and Congress more immediately and directly responsive to the will of the people. And I think whether you're a Republican or a Democrat, you will agree that people must come to understand that governmen, while ubiquitous, is not omnipotent. Government can't stop somebody from throwing a beer can on the highway or force someone to paint his front porch. Government is an instrument for change; it can also be a force for stagnation. People have to get a better hold of government and use it to better purpose.

Those of us who are in politics strongly resent the idea that politics is a dirty word. Many of us are working hard to make politics a cleaner business than it is and to make it more productive in improving the quality of life.

As Governor of Michigan, I'm convinced that we do have the power and means to solve our enormous problems. What we need is the will to act and the support of the people in our efforts.

In order to restore the people's faith in government, we need to demonstrate that progress is possible. But we need to go further than that. In politics and public life, we need to revive truth, discard the exaggeration, bury the false hope, and close the awful gap between the image and substance of things.

If we can do that, and if we can get people to use the freedom they have for the benefit of society, then this country will leave the Age of Cynicism behind and move into a new age of hope and progress.

ABSENCE OF SENATORS

Mr. GRIFFIN. Mr. President, I wish to announce that the Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there any morning business?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIEWS DIFFER OVER ECONOMIC OUTLOOK

Mr. PROXMIRE. Mr. President, Mr. H. Erich Heinemann, writing in the Sunday, April 2, 1972, New York Times noted a number of the Joint Economic Committee's recommendations and the conflicting views of some business economic forecasters. The clash of views is of great importance. I welcome Mr. Heinemann's article and the views he quotes because the clash promotes public understanding and, in the long run, will help us all in making correct judgments.

Mr. Heinemann notes in particular that the business economists agree with the $100 billion estimate in economic growth projected for 1972. The issue is how much of this will be real and how much of it inflation.

He also notes that the economists predict a Federal tax increase through the value added tax in the coming year. They

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also believe unemployment will be reduced below the present 5.9 percent, but apparently arrived at no particular consensus as to how much it will fall.

These are interesting and important views and clashes of opinion. I commend them to the Senate and to the readers of the CONGRESSIONAL RECORD. I ask unanimous consent that the article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOST BUSINESS ANALYSTS DISCERN UPTURN, BUT ECONOMY IS STILL KEY ELECTION ISSUE

(By H. Erich Heinemann)

As the second quarter of 1972 begins, the national economy is gathering momentum. But its performance—and President Nixon's radical policy departures last August to deal with its shortfalls—is still at the center of a swirling controversy in this election year.

The Democratic majority of the Joint Economic Committee in Congress has characterized business as "sluggish," the Phase Two wage and price control program as "ill-conceived and poorly managed," and at the same time charged that little was being done to "meet our most pressing economic problem, which is the need to reduce unemployment."

On the other hand, the preponderant view among professional business forecasters—who, whatever their personal political biases, make their livings on the quality of their advice—appears to be quite the contrary in some major respects.

Alan Greenspan, president of Townsend-Greenspan & Co., Inc., a leading economic consulting concern, says "the pace of the economy is clearly quickening."

Mr. Greenspan's outlook is consistent with the composite prediction of a large group of forecasters whose opinions are tabulated regularly by the American Statistical Association and the National Bureau of Economic Research. This foresees for a marked acceleration in business, coupled with reduced unemployment and somewhat lower inflation.

Interviews with, and a culling of reports from, a large number of business forecasters in recent days disclosed substantial, though far from unanimous, agreement on the following points:

A marked acceleration in economic growth is likely this year, in line with the Administration's forecast of a $100-billion increase in Gross National Product.

There is a high probability of a Federal tax increase in 1973—most likely in the form of a value-added tax—to moderate the huge Federal budget deficits that now appear to be in prospect at least through mid-1975.

Substantial, though probably erratic, progress is expected in reducing unemployment below last year's average of just under 5 million people, or 5.9 per cent of the civilian labor force.

There is wide concern about the possibility of a significant shortfall from the Administration's aim of getting the rate of increase in prices below 3 per cent by the end of the year, and the concomitant threat that this might be met with a "Phase Three" price control program much more stringent than its predecessors.

To Mr. Nixon's partisans, he has good reason to be pleased with the performance of the economy in the first quarter of 1972—notwithstanding his confrontation with organized labor over the Pay Board and the growing anger among consumers over the sharp surge in food prices in the last three months.

While the official figures will not be published for several weeks, there is every indication that the nation's total output of goods and services (the Gross National Product) topped $1,100-billion at an annual rate during January, February and March.

This estimate, which is widely held among private business analysts, would represent an increase of roughly $30-billion from the $1,073-billion average in the final quarter of last year.

Equally as important, private economists believe that the bulk of this gain was in "real" terms (that is, production measured in dollars of constant purchasing power), so that substantial progress was made in reducing the nation's backlog of idle men and machines.

Since the nations' labor force and its output per manhour are together growing at a long-term annual rate of about 4 per cent, this means that real output must expand at a rate more rapid than that if unemployment is to be reduced and presently surplus industrial capacity put back to work.

REAL GROWTH ESTIMATED

According to the Argus Research Corporation, a Wall Street advisory concern, the $30-billion gain in G.N.P. in the first quarter—assuming that this, in fact, was what occurred—represented an 11 per cent annual rate of gain, with real growth accounting for 6.6 percentage points of that total, and higher prices 4.4 points.

William Wolman, vice president and economist at Argus is certain that the momentum the economy developed in the first quarter will carry through at least until midyear, and probably well beyond that, thus breaking the pattern of sluggish recovery that has been characteristic since the end of the 1970 recession.

A gain of $30-billion in total output in the first quarter, Mr. Wolman said in an interview that other day, would be "fully consistent" with meeting the Administration's target of a $100-billion increase in the average level of G.N.P. (measured in current dollars) during 1972, as compared with 1971.

It would be wrong, however, to leave the impression that private business analysts believe either that the Administration has solved all of the nation's economic problems, or that there are no major uncertainties in the current outlook.

HUGE BUDGET DEFICIT

Perhaps most important of all is the huge deficit in the Federal budget that President Nixon has programmed, which is currently estimated to total roughly $65-billion in the two fiscal years ending June 30, 1973.

In a letter to his clients two weeks ago, Mr. Greenspan said that while the deficit in the current fiscal year (ending this June) was apt to run a $1-billion or $2-billion short of the Administration's $38.8-billion forecast, "the fiscal '73 deficit is likely to be well above the $26-billion indicated in the President's budget message."

"With welfare reform and possibly some version of health insurance being fitted into the fiscal '74 budget," he went on, "the need for additional revenue is now going almost unquestioned."

Michael K. Evans, a brilliant, young mathematical economist who is president of Chase Econometric Associates, said last week that the Nixon Administration, "which still plans to be in office at this same time next year," was preparing the groundwork for the introduction of a "value-added" tax in 1973, in large part to "provide a badly needed source of additional tax revenue."

Mr. Evans cautioned that the incidence of the tax—a form of sales tax that would be imposed on the value added to a product in each stage of its manufacture—would have "potentially inflationary effects" unless the Administration were prepared to reduce other taxes by roughly the same amount.

"In my opinion," he said, "it has absolutely no intention of doing so."

VALUE-ADDED TAX

Indeed, the value-added tax, according to Mr. Greenspan, is "the only reasonable vehicle for a major increase in revenues in the area of $10-billion to $15-billion," and moreover would be the "politically easiest route to increased revenues since it is a new and complex tax which everyone vaguely thinks is paid by someone else."

At the same time, and equally as important, the Federal Reserve System is now providing a powerful stimulus to future business activity by adding rapidly to the quantity of money in the economy.

Last year, the Federal Reserve pursued an erratic course—first pumping up the money supply at a rate that the money managers themselves considered to be excessive and then in the second half of the year for all practical purposes halting the growth of money entirely.

In the view of many economists—and especially the monetarists who emphasize the rate of change in the supply of money as a key influence in inducing change in the overall economy—the Administration's success in achieving its economic goals this year will depend importantly on whether the central bank can avoid the errors it made in 1971.

According to Keith M. Carlson, a monetarist economist on the staff of the Federal Reserve Bank of St. Louis, "the prospects for reducing inflation and phasing out price-wage controls are good, if monetary expansion is maintained at a moderate rate."

But Mr. Carlson cautioned that "substantial employment gains in 1972 may be incurred at the cost of rekindling inflationary pressures in the future."

While economists are debating the need for higher taxes to reduce the Federal deficit in the years ahead and the impact of Federal Reserve policy a parallel problem is also getting increased attention. That is the definition of full employment.

Largely because the United States economy is currently operating well short of full employment, with an estimated 4.9 million people seeking work in February and unable to find it, most economists are willing to accept substantial deficit spending as providing an appropriate stimulus to business activity.

But the preponderant view among private forecasters, according to economists at the Chase Manhattan Bank, is that unemployment will be down to 5.3 per cent by the fourth quarter—as opposed to 5.7 per cent in February and headed still lower.

The question then, is at what point along the economy's upward path will labor markets become sufficiently tight that further increases in output become difficult. At that point, whenever and wherever it occurs, continued Government stimulation will be more apt to produce higher prices than further gains in real output.

LABOR FORCE CHANGES

A widely held view in the business community—which, it should be noted, is rejected equally by organized labor and by the Democrats on the Joint Economic Committee—is that changes in the composition of the labor force in the last few years have altered basically the nature of the unemployment problem, which in turn has raised substantially the level of unemployment that should be considered the "full employment" target.

Edwin H. Yeo 3d, vice chairman of the Pittsburgh National Bank, puts it bluntly:

"A good deal of the increase in labor unemployment represents structural unemployment. It does not represent excess supplies of workers with the right skills located in the right places to satisfy the particular increases in labor demand that are likely to emerge."

In fact, this may be one reason why unemployment has been little changed since midyear last year, while employment has grown by 2 million.

Chase Manhattan's economists make the same point in a different manner. In particular, they point out that the 16.9 per cent rate of teen-age unemployment last year was much higher than in 1954 or 1959, which were past periods when the over-all rate of joblessness was around 6 per cent.

RISE IN YOUNGER WORKERS

The vast increase in the number of young people in the population, the bank's analysts asserted, had not been matched by a comparable increase in the number of jobs that they were willing or qualified to perform. The analysis continued:

"Business is likely to run into situations of outright shortages of skilled, mature and experienced workers at significantly higher unemployment rates than in the past."

On the West Coast, Chase asserted, companies were already having problems in hiring experienced machinists, despite "soft" labor markets there.

The definition of full employment—the point on the unemployment curve where expansionary economic policies tend to become increasingly inflationary—in Chase's view, "many have shifted upward. It may even be as high as 5 per cent. If it is, then current United States fiscal policies could turn out to be substantially more inflationary than is generally recognized."

While the Democrats on the Joint Economic Committee, as representative of another viewpoint, will have none of this—"we are not persuaded that low rates of unemployment are harder achieved than they once were or that inflationary pressures at any given level of unemployment are necessarily greater now than they once were"—the fact remains that many business planners are concerned that the Administration may be applying too much of an upward shove to the economy.

SLUGGISH RETAIL SALES

Far more worrisome than unemployment to many business analysts has been the apparently sluggish trend in retail sales—notwithstanding steady growth in personal incomes—and a concomitantly high rate of personal saving (probably more than 8 per cent of disposable income in the first quarter this year).

Norman Robertson, the respected chief economist at the Mellon National Bank in Pittsburgh, noted recently (as have other economists) that this was a reflection of consumer uncertainty generated during the 1970 recession, and then he went on to say:

"Some analysts suggests that the currently high saving rate may be reflecting, in part, a fundamental change in attitudes among young people. Many younger members of the labor force, this argument suggests, are saving at high rates, either because of a lessened desire to acquire material goods or to enable them subsequently to drop out of the labor force for an extended period of time."

However, Mr. Robertson cautioned that "for the present this hypothesis must remain highly speculative, since no hard evidence has been uncovered to support it."

But whether or not the retail sales/personal savings pattern recently has been "a sour note marring the spring symphony"—as the Morgan Guaranty Trust Company asserted recently—is quite controversial.

Sam I. Nakagama, vice president and economist at Kidder, Peabody & Co., is convinced that "consumers are really beginning to loosen up," with sales at furniture and appliance stores, in particular, running sharply ahead of last year. Airline traffic and restaurant sales—"two good indicators of consumer confidence"—have begun to boom, he said.

Restaurant sales in particular, are considered to be a significant sign, since families will rarely incur the added cost of eating out unless they are confident about their prospects for future income.

In any event, even with an apparent slowdown at the end of last year, retail demand has been growing at a compound annual rate of better than 8 per cent since October, 1970.

On top of this, there is a long list of other sectors of strength in the economy. Among these are the following:

State and local government outlays are expected to increase by more than $15-billion this year, to a total of over $150-billion, which would substantially exceed the 1971 gain of $13.5-billion in this spending.

Housing starts soared to a new record annual rate of nearly 2.7 million units in February. Even though such respected housing economists as Michael Sumichrast, of the National Association of Home Builders, are forecasting that starts will decline gradually from this peak through the balance of the year, residential construction should make a meaningful * * * the G.N.P. this year.

Business investment, both in inventories and in new plant and equipment, should be up substantially in line with the expected rise in industrial production. Capital spending is projected to rise despite the appearance of considerable idle capacity among manufacturers. Much of the gain in capital outlays, according to Lionel D. Edie & Co., Inc., an economic consulting concern, should come from communications companies and from commercial concerns, while in the naper and non-ferrous metals industries outlays for pollution abatement are going up sharply.

Finally, net exports from the United States should improve markedly this year as a result of the devaluation of the dollar which will have the effect of reducing the relative price of American goods in international markets, while raising the price of imported goods here.

Whether this pattern of gathering economic strength will be translated into a new boom, new inflation, and perhaps harsher economic controls, only time will tell.

But provided that the nation's money managers in the Federal Reserve System keep a relatively steady hand on the monetary throttle, there is at least a chance that the elusive goal of prosperity without inflation can be achieved.

OVERHAUL OF PHASE II—JOINT ECONOMIC COMMITTEE'S RECOMMENDATIONS

Mr. PROXMIRE. Mr. President, the Joint Economic Committee recently issued its annual report which, under the Employment Act, is the congressional counterpart to the President's economic report. It is the congressional reply.

The report was significant in a number of respects. Its sections on unemployment, phase II, military spending, the failure to reorder priorities, and its international economic sections are, in my judgment, among the most salient and well written of any report the committee has published.

In last Sunday's Washington Post, the very able and perceptive economics and business writer, Hobart Rowen, commented on the report. He pointed out the significant areas of agreement between the majority and minority members of the committee. He noted the strong stand against the Hartke-Burke approach to trade, and he particularly noted the important differences between both the committee and the President, and the committee and Mr. Meany, over the workings of phase II.

A majority of the JEC believes that phase II attempts too much. It should be limited to controlling those prices and wages set by market power, or what is called administered prices.

The President, on the other hand, has covered the waterfront, but in the committee's view, this has been done superficially. The results have been continued price rises and ineffective wage controls over the big contracts. Mr. Meany's view is that since wages are controlled, and because every employer becomes an enforcement agency of the Government over wages, prices must be much more effectively controlled as a matter of equity and fairness.

These are the issues and these are the differences which exist. I believe that it is in the public interest that they be put out on the table and debated. From that clash of opinion and judgment the right policies are more apt to emerge than if they are ignored.

Mr. Rowen's article makes these issues very clear. I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAJOR OVERHAUL IS NECESSARY FOR PHASE II PAY-PRICE CURBS

(By Hobart Rowen)

The Joint Economic Committee of Congress, one of the best on the Hill, put out its annual study of the President's Economic Report the other day and got only the barest mention in the papers. Reason: the JEC study was released at the same time that George Meany and two AFL-CIO cohorts walked off the Pay Board—and that stole the headlines.

But the JEC effort is worth going back to. For one thing, the minority and the majority members were able to agree on a joint statement calling not only for reforms in the international monetary system, but firmly opposing "any broad system of quotas for solving our international trade problems."

This bipartisan rejection of the protectionist Hartke-Burke Bill offers real hope that oppressive quota legislation will be killed this session even though the passel of Democratic senators running for president hasn't been vigorous in arguing against the inward-looking principles of Hartke-Burke.

Presidential candidate Hubert Humphrey, who happens to be a member of the Joint Committee, footnoted his "strong disagreement" with some of the "dogmatic conclusions" offered by the Democratic majority on international economic issues—although they were not so radical that the Republicans couldn't support them in large measure.

Sen. Humphrey has retrogressed from the old days when he was a fighting, free-trading liberal. One of his own staff quotes him about as follows to a group of factory workers last month in Pennsylvania: "The way imports are growing, you're going to have to learn Japanese in order to get your TV repaired."

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On domestic issues, the Democratic majority, as might be expected, tended to be critical while the Republicans looked on the brighter side. But the committee as a whole was sensitive to the fact that the problems of unemployment and inflation dominate everyone's thinking.

The Phase II effort, the Democrats said, "is ill-conceived, poorly managed and apparently of little real help in controlling inflation." With considerable foresight, it spotted a key stumbling block to Phase II success, citing testimony of Agriculture Secretary Earl Butz that food prices would rise over 4 per cent in 1972.

Nor were the JEC Republicans unaware of a potential food-price bombshell, hastening to the defense of the farmer in this volatile situation. "Consumer price increases in recent years," the Republican minority asserted, "have largely been the result of increased costs after the product has left the farmer's hands and before it is sold to the consumer."

There is plenty of evidence that this is also the political posture of the White House, although Economic Council Chairman Herbert Stein told a press conference a couple of weeks ago that the margin of the middlemen—wholesaler and retailer—was in fact narrowing.

It makes little difference to the consumer pocketbook whether prices are advancing too fast because the farmer is to blame, or whether the reason is that distribution process is not sufficiently controlled.

Nor is it useful, except as an academic exercise, for the administration to break down the skyrocketing monthly increases in wholesale and consumer prices into what portion represents controlled commodities, and what part isn't controlled.

"What's controlled and what isn't controlled is less of an issue than going into a grocery store and finding out that prices have increased," Martha Robinson of the Consumer Federation of America observes.

Now that the chief labor members have left the Pay Board, and the leaky sieve at the Price Commission is making a mockery of price controls, President Nixon is faced with the need to revamp both pay and price mechanisms.

He can follow the advice of the Joint Committee majority (which drew on testimony by former Economic Council Chairman Gardner Ackley) and de-control almost all of the economy while clamping down on the big companies and big labor—"those sectors of the economy characterized by definite market power."

Or, the President can go the route suggested by George Meany on the "Today Show" last week by putting the whole economy under full controls—with an adequate bureaucracy to police it. A preliminary to this would have to be another wage-price freeze of the kind suggested by Rep. Wilbur Mills (D-Ark.) covering profits and dividends as well as wages and prices.

Mr. Nixon could take another route that would suggest neither de-control of large segments of the econpmy (Ackley), nor the straitjacket of a fully controlled economy (Meany): he might choose to get out of the present bind by a freeze on all food prices, processed and nonprocessed, pending formulation of a specific regulation. That would require the Cost of Living Council to bite the bullet by including a freeze of all foods at the raw agricultural level.

That's harsh medicine, particularly for an administration anxious to keep them happy down on the farm. Maybe it won't work. But labor isn't going to participate in a wage-control program while prices, notably food prices, are uncontrolled.

To be sure, there is yet another option: Mr. Nixon could junk the whole messy business. But with unemployment at 5.7 per cent and prices bursting at the seams even while controlled, that's not likely.

A decent wage-price policy is probably a permanent part of the economic landscape; the administration might just as well admit that Phase II needs a major overhaul. Above all, Phase III's objectives should be set out clearly, and a realistic appraisal offered on the chances of reaching them.

FITZGERALD, THE WHISTLE-BLOWER

Mr. PROXMIRE. Mr. President, A. Ernest Fitzgerald has paid in time and money for his efforts in uncovering the astronomical costs of the C–5A to the taxpayers of the United States. Blowing the whistle on waste is an heroic act. But the whistle-blower is not always treated as a hero.

Ernie Fitzgerald is a hero. A piece that appeared in the Washington Post's Potomac magazine last Sunday tells his story. It is a solid piece of reporting by George C. Wilson that deserves widespread readership.

For that reason, Mr. President, I ask unanimous consent that Mr. Wilson's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A. ERNEST FITZGERALD DISCLOSED COSTS OF C–5A

(By George C. Wilson)

Chairman PROXMIRE. I will begin my questioning with Mr. (Ernest) Fitzgerald. . . . You have told us this morning you did not prepare a statement for the record. Why not?

FITZGERALD. Mr. Chairman, I was directed not to prepare a statement.

PROXMIRE. Who told you not to prepare a statement?

FITZGERALD. Directly my immediate superior, Mr. Nielsen, the Assistant Secretary of the Air Force for Financial Management, but it is my understanding that he was, in turn, acting on the direction of our legislative liaison people . . .

PROXMIRE. Is it true that the costs of the contract (C–5A transport) will be approximately $2 billion more than was originally estimated and agreed on?

FITZGERALD. . . . If the total amount of estimated cost variance were to come to pass . . . If we were to buy the follow-on production runs using the repricing formula, and if our Air Force support items, things that have not yet been contracted for, increase proportionately, your figure could be approximately right.

And that is how an official of the Air Force—on the morning of Nov. 13, 1968—disclosed in public before a hearing of Sen. William Proxmire's (D-Wisc.) Economy in Government Subcommittee that the C–5A transport was out of control on costs.

The subsequent four years have documented the $2 billion overrun to the point that Air Force Secretary Robert C. Seamans Jr. no longer brands stories about it as irresponsible reporting—as he once did. And Lockheed Aircraft Co., the builder of the C–5A, came so close to bankruptcy by its poor financial management of the project that it had to ask the Federal Government for special loan assistance.

Seamans is still Air Force Secretary; Lockheed got the loan, but the man who first reported that cost overrun to Congress—Arthur Ernest Fitzgerald—has been fired.

Fitzgerald refuses to act like the banished bureaucrat who said too much. He is suing the government to retrieve his old Air Force job and he is writing a book about the C–5A and other atrocities of military procurement.

His suit will have far-reaching implications for the 2.5 million government employees covered by the U.S. Civil Service Commission. And his book, entitled *The High Priests of Waste* (W. W. Norton), promises to be a multiple warhead blast when it explodes over the Pentagon.

Fitzgerald does not quite seem like the zealot willing to take on the most powerful military organization in the world. He looks like a man comfortable to go fishing with—gray hair, medium build, mirthful around the eyes. He talks with that soft Alabama drawl, which coats over his stinging observations about the way the Pentagon spends the taxpayers' money for weaponry.

"You know," he said, talking recently in his McLean home, "everybody has written about me getting fired for talking about the $2 billion overrun on the C–5A. But what about that $2 billion? Nobody talks about that anymore. That's more important than me getting fired. I can always go back to the farm."

Free of the Air Force muzzle he had to wear as the $31,874-a-year Deputy for Management Systems for the Secretary of the Air Force, Fitzgerald has some pungent comments on defense matters:

On David Packard, former Deputy Secretary of Defense, who tried to straighten out the C–5A contract inherited from former Secretary Robert S. McNamara: "Packard was a disaster. The C–5A was a chance for the government to enforce a contract. But he gave it all away. We will never be able to enforce another contract."

On the Russians-are-coming theme of generals and admirals seeking more weapons: "Why doesn't someone ask these military guys how many weapons they could build with the money they waste? That's how to keep strong; stop wasting the money. What do you suppose the Soviet An–22 costs, the Russian counterpart for the C–5A? Probably about $5 million or $10 million. This compares to at least $60 million a copy for ours because the Air Force tried to build a plane to land on a cow pasture. The C–5A can't do that. And it won't carry any more than the simpler An–22."

On Maj. Gen. John L. Zoeckler (retired), project manager for the F–111 (TFX) fighter-bomber that soared way over cost estimates: "He told a bunch of us trying to cut costs while he was managing the TFX that 'inefficiency is national policy; that pressing for efficiency diverts management from more important problems; that only the national policy of inefficiency could provide equal opportunity, hiring of the handicapped and aid to small business.'"

On SRAM, the Air Force's short-range-attack-missile to be fired from aircraft at ground targets: "They knew it wouldn't work when they bought it."

To learn how a man developed such strong views and, more surprising, found a way to act on them right inside the Pentagon—for a while anyhow—one must start out in Birmingham, Ala., where Fitzgerald was born 45 years ago. His father was a "make-anything" pattern craftsman for steel mills in the city. Fitzgerald's mother, by all accounts an amazing woman, managed to infuse her son with a sense of mission about his life work. Now a 65-year-old widow, she practically single-handedly runs an organic farm on the Gulf side of Alabama between the towns of Fairhope and Magnolia Springs.

After graduating from Birmingham's Woodlawn High, Fitzgerald encountered for the first time the ways of military procedure as a seaman first class in the Navy from 1944 to 1946. For reasons that were unclear to him at the time, and remain so, the Navy decided it would be nice to tow its ancient ship, the USS Stewart, all the way from Guam across the Pacific to San Francisco, where it could repose as a kind of Naval museum. Fitzgerald was on the Stewart when she went under tow in September, 1945. After countless tow-cable breaks and other snarls, it reached San Francisco in March, 1946. "Birmingham Boy Helps Bring Ghost Ship," read one headline in his hometown paper.

"After we had dragged this thing all the way across the ocean," Fitzgerald recalls, "they decided to tow her out to sea again and use her for target practice. That taught me a lot about the military."

Leaving the Navy, gratefully, Fitzgerald attended the University of Alabama, graduating with a bachelor of science degree in industrial engineering in 1951.

After working as a quality control engineer in a Birmingham valve firm for two years, he began in 1953 what was to be a long and often stormy association with the aircraft business. He took a job as a cost-cutter at Hayes Aircraft Corp., also in Birmingham.

"Even in the mid-1950s," recalled Fitzgerald of his days at Hayes, "there was really no reason to have tight quality control—or controls of any kind for that matter. It was just a lot easier for the company to hire retired generals to work out any problems with the military."

Interrupting his aircraft career with a three-year stint as a cost analyst for Kaiser Aluminum, he returned to planes and their rising prices in 1957. He went to help out the Lockheed-California Co. as a consultant from Arthur Young & Co. Lockheed was finishing production of its Constellation passenger liner and starting on the Electra—the plane which had disastrous wing failures in its early days.

"They flimsied up the airplane to make weight guarantees," Fitzgerald says, explaining the Electra failures. A Lockheed employee protested shaving down the wing thickness, Fitzgerald maintains, but was ordered to go ahead and do it anyhow. Then, when the wings failed, this same employee was blamed.

Fitzgerald's mission was to reduce Lockheed's financial losses on the Electra. "That's where I got all my gray hair." He worked the Electra from 1957–62. He did not get into the company's aeronautical engineering problem, but put through cost-saving reforms, such as more systematic scheduling of the work by the factory supervisors, and other administrative changes.

After the frustrations of working for a small aircraft company in Birmingham which really did not care about cost controls; of being the S.O.B. who came to Lockheed from the outside, and of believing he could make a difference in management if he had clout of his own—Fitzgerald went into business for himself in 1962.

While living in Los Altos, Cal., he organized Performance Technology Council as an offshoot of the then existing Management Systems Corp. of Cambridge, Mass. Fitzgerald served as PTC's first president. Contracts which Management Systems Corp. had on the Air Force Minuteman ICBM were bought by PTC, Fitzgerald's outfit. Which is how he ended up working in the Pentagon for the Air Force.

Fitzgerald and his associates told the Air Force in 1963 that the vital guidance system on the Minuteman ICBM would work only one-third as long as it was supposed to, before breaking down. "With that kind of dependability," he said, "the President could find himself pushing a button, and nearly half of the Minuteman 2 missiles would remain in their holes as duds."

It was unnerving for the Air Force and the builder of the guidance system, Autonetics, to hear such predictions from an outside management firm like PTC. But the evidence seemed compelling enough for the Air Force to invite the PTC president, Fitzgerald, to leave California and set up shop right in the Pentagon to work on that and other problems. So, in 1965, he moved into an office in the Pentagon as Deputy for Management Systems for the then Air Force Secretary, Harold Brown.

"I went in there thinking they really did want to shape up the acquisition business," Fitzgerald recalls of his entry into the Pentagon bureaucracy. "Everybody seemed to be from Harvard, except me. But that didn't worry me. I had been through the airplane missile business from the inside. I got hold of the Mark II guidance system (also built by Autonetics) for the F–111 (TFX fighter bomber) pretty early. There was a big fuss when I and others said the contract penalties for less than the stated performance should be enforced. I saw it as the first chance to enforce the contract. But the Air Force caved in. They didn't want to make Autonetics lose money."

In those days of argument, Fitzgerald said the then Assistant Secretary of the Air Force, Robert Charles, told him: "We just can't cause them to lose all this money." Fitzgerald said his reply was, "Why not?"

Such an attitude, however, was not the way to win friends and influence people at the Pentagon, even though the then Secretary of Defense, Robert S. McNamara, bore an image of being tough on procurement. McNamara called the C–5A contract, for example, "a damn good contract" right after it was signed with Lockheed.

By the time Fitzgerald went to the Proxmire hearing on Nov. 13, 1968, it was widely known inside the Pentagon that the C–5A was in trouble on costs. But the Air Force hoped to keep it quiet until the matter could be resolved inside the family, not in public. But, under the law, Fitzgerald and any other witness is required to answer questions truthfully when members of Congress ask them. That was how Fitzgerald saw it, anyhow, he confirmed Proxmire's estimate of a $2 billion cost overrun on the plane.

But, right after he testified, the Pentagon freeze for non-team players moved over to him. "I just didn't get invited to any meetings that were important," he said in recalling phase one of that particular freeze.

Next, government snoopers began opening his mail and leaving their inked stamps on the letters to show what was being done. "I learned later," Fitzgerald said, "that this was done to scare me. A flap and seal man (one who surreptitiously opens letters) said they have a long needle to open letters in a way that leaves no telltale signs of tampering."

In what appeared to be another scare tactic, Fitzgerald said an unknown man in a sedan followed him from the Pentagon parking lot all the way to his home in McLean, Va.—remaining parked outside for no apparent purpose other than to worry the Fitzgerald family.

Large powers of the government bureaucracy then became involved:

The U.S. Civil Service Commission on Nov. 25, 1968, notified him that his civil service tenure had been revoked retroactively—as of Sept. 8, 1968. This back-dating of the action, Fitzgerald said, prevented him from challenging the revocation.

Defense Secretary Clark Clifford on Nov. 27, 1968, wrote Proxmire a letter which Fitzgerald said misrepresented his stand on previous Air Force testimony about procurement problems.

The Air Force drafted a memo outlining the various ways Fitzgerald could be fired.

Air Force Secretary Robert C. Seamans Jr. claimed before the House Armed Services Committee in May, 1969, that Fitzgerald had passed confidential documents to Congress—a charge Seamans later retracted.

Brig. Gen. Joseph Cappucci, director of the Air Force Office of Special Investigation, conducted an investigation of Fitzgerald. Anonymous and unproved accusations put in the Fitzgerald file included: seeming conflict of interest by trying to help his old company; suspicious conduct, such as working late at the Pentagon; pinch-penny habits, such as driving a Rambler automobile.

The Air Force relieved Fitzgerald of his duties overseeing contractors and their work—relegating him to less consequential matters, such as the financial state of some bowling alleys in Vietnam.

Fitzgerald and his family withstood all the pressure. He stuck to his desk at the Pentagon, waiting to see how the bureaucracy would try to get rid of him. The answer came on Nov. 4 in a form letter: "This constitutes the required 60 days advance notice," it said, "of proposed separation by reduction-in-force due to the abolishment of your position necessitated by a reorganization under the current Air Force retrenchment program . . . You will be retained in an active duty status through 5 January 1970 . . "

The form firing also contained this sentence: "If you believe that this proposed action violates your rights under Civil Service regulations, you may submit a written appeal to the Appeals Examining Office, Office of the Executive Director, U.S. Civil Service Commission . . ."

Fitzgerald, with the help of Washington lawyers John Bodner Jr. and William L. Sollee, assigned to him by the American Civil Liberties Union, appealed his firing on Jan. 20, 1970. The appeal asserted that Fitzgerald was fired "solely" because of his C-5A testimony and that "the importance of a resolution of this matter in favor of Mr. Fitzgerald in encouraging government employees to testify openly and freely about defense costs and policies cannot be overestimated . . ."

The letter requested his job back; removal of "untruthful material" from his record; cessation of government harassment. The Civil Service Commission did not get around to hearing Fitzgerald's case until May 4, 1971—raising the question of what a discharged employee without independent income or other job is supposed to live on during such a 15-month wait. Happily for his family, Fitzgerald's specialized background attracted enough non-defense clients—some in the area of business administration, a congressional committee, business management groups—to keep his income up to his old level after he was fired for about a year, but it has gone down since.

At the May 4 Civil Service hearing, Fitzgerald asked the examiner to hear his case in public so he could clear his name. The request was unprecedented for a case like Fitzgerald's. The examiner refused. The hearing went on in closed session May 4 and 5. Before its scheduled reopening date of June 16, Fitzgerald resorted to the court in hopes of forcing the Civil Service Commission to hear his case in public.

"It is well recognized that individuals cannot be deprived of their livelihood by the Federal government without due process," read the Fitzgerald brief to the U.S. District Court. "It is a basic tenet of our legal system that procedural due process requires a full and open hearing when a hearing is called for, as it is in this case."

Civil Service Commission Chairman Robert E. Hampton rebutted in a letter made part of the court record: " . . . until and unless this long established regulatory policy is changed, there is no basis for an open hearing even though an appellant may request it . . . Our long experience in the conduct of hearings has heretofore warranted the judgment that we operate best in the search for truth when hearings are freed as much as possible from complicated or rigid procedural rules and distractive formal trappings . . . The obstacle to an opening hearing . . . is a long-established regulatory policy and practice of the commission . . ."

In what looked like a victory for Fitzgerald, District Judge William B. Bryant on June 25, 1971, ruled that the only justification for the commission to hold a closed hearing on such an appeal was if the dis-

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missed employee wanted it that way. "The important advantages of a public hearing in judicial and quasijudicial proceedings have been thoroughly recognized," said Bryant, "to the extent of being taken for granted as an ingredient of due process . . ."

Bryant's ruling failed to budge the Civil Service. It held no more hearings at all on Fitzgerald—open or closed. At this writing Fitzgerald is waiting for a ruling by the U.S. Court of Appeals on his plea to order open hearings. The Air Force witnesses his lawyers want to call may well have left government by the time the Appeals Court acts. And his lawyers cannot subpoena witnesses to a U.S. Civil Service Commission hearing.

But someday—maybe even from the Supreme Court—the word will come down on whether an employee fired by the government has the right to face his accusers in an open hearing of the Civil Service Commission. This makes the case a landmark for the 2.5 million employees covered by the Civil Service.

Fitzgerald's critics in the Pentagon charge that he is a publicity hound who just wants to make a circus out of the Civil Service proceeding; that while in the Air Force he had no ideas when asked for reforming procedures to correct the C–5A mess and other ones like it; that he helped Proxmire instead of his own boss, Air Force Secretary Seaman's on the C–5A issue and thus should have been kicked off the team for lack of loyalty.

Richard F. Kaufman, who is the economist on the joint Economic Committee, which has employed Fitzgerald as a consultant after he was fired by the Air Force, said such criticism is way off the mark.

"In the Northeast," said Kaufman, "we associate clipped tones with toughness. So in that way Ernie's warm drawl and charm are deceptive. Once you work with him, you find someone who is tenacious, knowledgeable, extremely bright.

"But that's only part of the explanation for the way Ernie works—the way he hangs in there. He is one of the very few people in a business full of tension who has sense of responsibility to society, not just to himself. He has an appreciation of moral and ethical values—old-fashioned Americanism."

Qualities which seem reflected in Fitzgerald's attitude today toward the Pentagon. If, after all his personal wars, he is awarded his old Air Force job, one wonders if he would actually take it, or if instead the symbol and meaning of his victory are his goals.

"Sure I'll go back to the Pentagon. I've got unfinished work to do there."

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VALUE-ADDED TAX

Mr. PERCY. Mr. President, the Joint Economic Committee has just completed the first series of hearings on a very important subject, the value-added tax. I am very pleased that the distinguished chairman of the Joint Economic Committee, the Senator from Wisconsin (Mr. PROXMIRE), is on the floor this morning.

My own interest in this subject goes back many years. I realize that we are going to have to develop some tax reform ideas. We have certain taxes which are very onerous, and which are discriminatory and unfair in their application. Certainly today the discussion of tax reform is dominating the political campaign in the State of Wisconsin.

In 1970, while in Europe on NATO matters, I visited the U.S. Embassy in Paris and had a talk there with the Counselor for Economic Affairs. I told him that inasmuch as France has had a value-added tax for a number of years, I thought the French experience would be useful to us in making decisions on the value-added tax. In view of the fact that this involves an exceedingly complex subject and the French regulations themselves on the tax are contained in two loose leaf volumes containing several hundred pages, my ability to digest all of this material, particularly in French, had its limitations. I asked if the Embassy could not summarize the French experience with the value-added tax so that I might more easily understand it and so that I could pass it on to the Members of the Senate.

The Embassy has put together a summary of the tax and has compressed its basics into a few pages rather than several hundred pages.

As I offer this summary to my colleagues for their understanding, I wish them happy hunting in seeking an understanding of what is in substance a simple tax.

As we go through the summary, I think that we can see it as an exceedingly complex tax. Many problems arise in connection with the tax. Collection is not simple. When it comes to small manufacturers and farmers or different types of products, the tax cannot be applied uniformly on all types of products. There are different rates and gradations depending on the type of product.

In France, the rates on what they consider to be luxury items run as high as 33⅓ percent. On other items they range somewhat lower. However, I feel it would be very instructive for us to study the tax as it applies to France and to recognize that, stiff as the rates are, running up to 33⅓ percent, the tax still provides less than half of the gross revenue required to run the central government.

It is quite appropriate also that the Senator from Michigan (Mr. GRIFFIN) is also on the floor. The State of Michigan, as I understand it, is the only State that ever tried to apply the principle of a value-added tax within the confines of the State borders. I understand from a distinguished Governor of Michigan, Governor Milliken, the State rather quickly abandoned the experiment and no other State followed in its footsteps.

I ask unanimous consent to have printed in the RECORD, in addition to the summary of the value-added tax I received from the U.S. Embassy in France, an article entitled "The Value-Added Tax," published in the March 1970 issue of Finance and Development, written by Bjorn Matthiasson, an economist of the International Monetary Fund. This article has been provided to me by the Minister of Economic Affairs at our Embassy in Paris which covers the subject from a broader viewpoint than France allows and discusses in more detail than is undertaken in the summary, the major implications of the value-added tax.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FRENCH TAX ON VALUE ADDED

1. The French tax on value added is a general tax on sales of goods and services. It is collected, in a series of fractional payments, throughout the entire production and distribution cycle from the earliest stage of production up to and including the retail level. Each taxpayer making a taxable sale is liable for tax not on the full sales price of his product or service, but only on the portion of the price that represents the value added by him. "Value added" is the difference between a firm's receipts and its expenditures in buying goods and services from other firms, and thus is equal, generally speaking, to the total amount of wages, salaries, rent, interest and similar outlays, plus the amount of profits earned.

CREDIT MECHANISM

2. The heart of the value-added tax system is a tax credit mechanism. Each taxpayer invoices his customers for the full amount of the tax, calculated on the sales price at the applicable rate for the product or the service rendered. To ensure that he is taxed only on the value he adds, however, the law permits the taxpayer to credit, against the tax due at the applicable rate on his taxable sales, the amount of tax he paid on his purchases. Each taxpayer thus pays tax to the French Treasury only on the difference, representing the tax on the value he has added to the product or to the service rendered. Whatever the economic circuits of production and distribution, the total tax burden on a product or service does not exceed the tax at the applicable rate on the price to the final buyer (price for this purpose including the amount of the tax itself). Advocates of the value-added tax regard this feature as an important advantage compared to the "cascade" system of turnover taxes that has been utilized elsewhere in Europe, and that results in taxes being levied on taxes paid at previous stages in the production and distribution cycle of a product or service.

3. The right to credit tax on purchases applies both (a) to tax on purchases of materials and components physically incorporated into the final product, or consumed in its manufacture or in the rendering of the service (the "physical credit"), and (b) to tax on capital expenditures (purchase of industrial or commercial buildings and machinery and equipment) and many overhead expenses (the "financial credit"). There are, however, some limitations on the scope of the tax credit. Until recently, no credit was granted for the value-added tax on petroleum products. Now a credit may be taken for the tax on petroleum products used as a raw material or as fuel in such industries as steel-making or in the production of electricity however, gasoline, fuel oil for space heating, and lubricants continue to be excluded. In the case of the "financial credit," acquisitions of passenger vehicles and furniture, for example, and the purchase of items of substantial value (e.g., transistor radios) for gifts to customers or star salesmen do not give rise to a right to a tax credit.

4. The taxpayer declares his total taxable sales and his credits and pays his tax monthly. Unused credits in any given month may be carried forward for application against tax liabilities in future months. However, unused credits may not be applied retroactively to liabilities for prior months that have already been settled. Nor—except for exports (see below) and a few minor instances involving domestic transactions—is the taxpayer entitled to a cash refund from the French Treasury for any unused credits.

RATES

5. Since the tax on value added is not cumulative, and since it strikes not the full sales price in each transaction but only a fraction of that price (the value added by the taxpayer), the rate must be high if the yield is to be substantial. This consideration has, in turn, given rise to the fixing of four different rates, in order to reduce the burden of the tax on commodities and services that are regarded as necessities of life and, on the other hand, to impose a kind of surtax on a limited list of "luxury" products. While certain products—such as bread and milk—were formerly exempt from tax, this was done away with in 1968, when the tax on value added was extended to the retail sector. The reason was that a producer of a tax-exempt product has no way to realize the tax credits available to him, with the result that his costs of production and his capital expenditures are simply inflated by the value-added tax on his purchases.

6. Effective January 1, 1970, the rates are applied to the sales price, before tax, of the product or the service rendered (previously the law specified the rates in terms of the sales price, taxes included. For example, the normal rate was set at 19 percent, which meant an effective rate of 23.456 percent on the price before tax). The current rates are as follows:

(a) Normal rate of 23 percent, which applies in all cases where there is no specific provision for another rate.

(b) Reduced rate of 7.5 percent, which applies to all food products, except those specifically listed as being subject to the intermediate rate (see subparagraph (c) below); unprocessed agricultural and fishery products, including meat; water; books; and nonluxury hotel accommodations.

(c) Intermediate rate of 17.6 percent, which applies to coal; wood; petroleum products; transport of persons; hospital care; laundry and dry cleaning; moving; restaurant and hotel accommodations not subject to the 7.5 percent rate; and specifically designated food products, such as beverages, coffee, tea, chicory, flour other than that used in making bread, pastry and other quality baked goods, candy, ice cream, sherbet, margarine and vegetable shortening. Construction of buildings is subject to the 17.6 percent rate, when the construction is for the account of the central government or political subdivisions, or when at least three-fourths of the total floor space is intended for living quarters; in all other cases the normal rate of 23 percent applies.

(d) Increased rate of 33⅓ percent on a short list of specified luxury products, including passenger automobiles.

TAXABLE AND EXEMPT PERSONS

7. In general, the value-added tax applies to the business transactions in France (affaires faites en France) of persons, natural or juridical, who buy for resale or who engage in transactions relating to an industrial or a commercial activity. Agricultural producers are taxable when they engage in activities which, by reason of their nature or their scope, are assimilated to those exercised by manufacturers or tradesmen. Persons exercising a liberal profession are taxable when their remuneration constitutes an important element in the cost of products or services subject to the tax on value added.

8. The law imposes a special tax on financial and banking activities, and banks and financial institutions are thus removed from the scope of the tax on value added. The base of the special tax is fairly narrow; for example, operations of mutual credit associations, banking operations relating to the financing of exports, and all interest and agios are exempted. In essence, the special tax applies only to purchases, sales and subscriptions of securities, safekeeping fees, foreign exchange operations, rental of safety deposit boxes, transactions in gold, and commissions on transfers and for the management of accounts—in other words, banking services in the narrow sense of the term. Taxpayers subject to the value-added tax on their own receipts are not entitled to a credit for any amounts of the special tax on financial activities charged to them by their banks.

9. Persons other than those specified in the two preceding paragraphs may opt to be subject to the value-added tax under conditions specified in the tax regulations. These persons include landlords of industrial or commercial premises, and farmers and persons exercising a liberal profession who are not mandatorily subject to the tax. The advantage to such persons in electing to put their business transactions under the tax on value added is that they can realize a credit for the value-added taxes included in their purchases of goods and services from other persons and firms subject to the tax. In particular, this enables them, in effect, to make capital outlays free of the tax on value added.

10. On the other hand, taxpayers who are fully subject to the tax are required to keep fairly detailed business records and thus to have a fairly sophisticated system of business accounting. Many small businesses—particularly, single-proprietorship retail outlets—and many small farmers are unable or unwilling to meet these requirements. To accommodate them, the tax system provides for a number of special possibilities:

(a) Business enterprises whose annual turnover does not exceed 500,000 francs for wholesalers and retailers and 125,000 francs for furnishers of services may elect to be taxed on an estimated basis (*forfait*), rather than on their actual volume of business. The amount of tax is, in effect, negotiated between the taxpayer and the Tax Administration, and the agreement is binding on both parties for a two-year period. If the annual amount of estimated tax is less than 1,200 francs, no tax is due. Above 1,200 francs and up to 4,800 francs, the taxpayer is entitled to a reduction in tax on a descending scale. Even more generous arrangements are available to handicraft enterprises for which remuneration of labor represents more than 35 percent of total turnover. Taxpayers subject to the estimated system continue to be entitled to a credit for the value-added tax on their investment expenditures, with the amount of credit being determined through estimation.

(b) The regulations contain a number of simplifications as regards the rules for taxation of small farmers. In addition, a number of special options are available to farmers:

(1) Individual proprietors are exempted from tax when their annual volume of business does not exceed 10,000 francs. Between 10,000 and 13,500 francs, they are entitled to a 60 percent reduction of their tax liability; between 13,500 and 17,000 francs, to a 30 percent reduction.

(2) Only farmers subject to the value-added tax have the right to take a credit for the tax on their purchases of equipment goods and other products. In order not to provide too great a discrimination against farmers not subject to the tax on value added, the law provides for an estimated refund to such persons, based on their sales of agricultural products either to persons subject to the tax on value added or for export. The rate of the refund is 3 percent for sales of poultry, eggs and meat; 4 percent for certain of these products marketed through producer cooperatives; and 2 percent for all other products.

(3) As an alternative to the estimated refund (subparagraph (2) above), farmers not subject to the tax on value added may obtain a rebate of 8.87 percent on purchases of agricultural equipment. This facility, which has been in effect since the introduction of the tax on value added in 1954, is a survival from the time when most farming activities were outside the scope of that tax. It is scheduled to expire at the end of 1971.

11. Newspapers, periodicals and press agencies are exempted from the tax on value added on their sales and are entitled, under appropriate safeguards, to receive from their suppliers free of tax the raw materials utilized in the production of their publications—e.g., newsprint, ink and solvents, electricity utilized to run presses, photographic prints, etc. Receipts from advertising, of course, remain subject to the tax on value added.

12. The law allows relatively few exemptions from the tax based on the status of the final purchaser—that is, a person who is not himself a taxpayer. In contrast to the situation as regards the U.S. Federal excise taxes, neither the French Government nor its political subdivisions enjoy exemption from the value-added tax with respect to their purchases of goods and services. There are a few such purchaser exemptions, however, For example, the tax is waived on transactions relating to the erection of monuments to the war dead; the American Battle Monuments enjoys this exemption with respect to the monuments which it erects in France. Likewise, expenditures made in France by the U.S. Forces in the interests of the common defense are exempted from the value-added tax by the Franco-American Tax Relief Agreement of June 13, 1952.

INTERNATIONAL ASPECTS

13. In its application of the tax on value added, France follows the "destination principle." The tax applies only to transactions carried out in France. A transaction is deemed to have been carried out in France if delivery is made in France. Thus, France, as the country of origin of an exported product, does not apply its value-added tax to a product whose destination is another country. On the other hand, it applies the tax to products imported into France (the country of destination), whatever the tax treatment of the products in the country of origin.

14. The importation into France of any product subject to the value-added tax on the domestic market is a taxable transaction. The tax is calculated on the value of the import, as defined by the French Customs Code (generally the landed cost), increased by applicable customs duties and entry fees. A taxpayer subject to the value-added tax may credit, against the tax due from him with respect to his sales, the value-added tax levied on his purchases of imported products.

15. French exports are exempt from the tax on value added. The exemption relates not just to the tax that would otherwise have been due on the value added to the product by the exporter himself, but to the full amount of tax that would have been invoiced at the applicable customer. To give effect to the exemption, the exporter excludes all export transactions from his taxable sales, the effect being to exempt from tax the value he himself added to the exported product. At the same time, he may claim a credit for value-added taxes on his purchases of materials and components incorporated into the exported product, or consumed in its manufacture, as well as capital equipment used in export production. This credit provides the basis for relieving the export from taxes on the value added to the product at previous stages. In the ordinary case, where the volume of domestic sales exceeds the volume of export sales, the exporting firm realizes its export credits by offsetting them against its liability for tax due on its domestic sales. In the case where a firm is engaged wholly, or primarily, in production for export, and where the tax on its purchases, for which it is entitled to credit, exceeds the tax due with respect to its

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domestic sales, the law specifically provides that the exporter may receive a cash refund for the excess tax credits attaching to exported products. Moreover, to avoid the administrative complexities and financial burdens that this system of payments and refunds might entail, an exporter may acquire, tax free, materials for export production that would otherwise be subject to tax.

18. In the case of services, the value-added tax is due when the service is utilized or enjoyed in France. Conversely, services rendered in France, but utilized or enjoyed outside of France, are exempted from the tax. Thus, for example, a French engineering firm which makes a survey in connection with a French bid on a hydro-electric project outside of France is not liable for the value-added tax on the transaction.

SOME ECONOMIC ASPECTS

17. The tax on value added is far and away the best revenue producer among all French taxes. As shown in the attached table, it accounts for about 45 percent of the total tax revenues of the central government.[1] In this regard, it brings in more than all direct taxes taken together, which yield only about one-third of central government tax revenues. Heavy reliance on indirect taxes is deeply imbedded in French traditions of taxation, and the value-added tax is the culmination of an evolution that began with the imposition of a turnover tax in 1920.

18. In economic terms, the major innovation of the tax on value added was the decision to relieve from taxation, through the mechanism of the "financial credit" (see paragraph 3 above), expenditures on plant and equipment by business firms whose sales were themselves subject to tax. As compared with its immediate predecessor, the production tax (which utilized a credit mechanism for taxes on purchases of raw materials and components but gave no credit for tax on capital expenditures), the tax on value added thus provided a considerable tax break for business investments. While it would be difficult to establish a precise cause-and-effect relationship, there is a widespread belief in France that the introduction of the value-added tax in the mid-1950's was one of the factors responsible for raising the level of gross capital formation in that period.[2]

19. If the value-added tax tends to favor investment, conversely, it bears heavily on consumption. In this connection, the use of four different rates, as mentioned above, is an attempt to mitigate somewhat the regressive character of the tax. Nevertheless, the French rates are considerably above those in Germany and the Netherlands—the other two Common Market countries that have so far put into effect a value-added tax in accordance with the decision of the European Community to apply this tax throughout the Community. It is clear that the French rates will have to come down in the process of European tax harmonization. Indeed, the French Finance Minister has publicly expressed himself on the desirability of lower French rates. A first step in that direction was taken at the beginning of 1970, when the tax on many food products was cut from the intermediate rate of 17.60 percent to the reduced rate of 7.50 percent.

20. As already discussed, the value-added tax mechanism provides for complete relief from tax for French exports and, conversely, for the imposition of tax on imports. These features—particularly the export exemption and the precise and automatic way in which the amount of tax to be relieved is determined—are often cited as important advantages of the value-added tax over other form of turnover taxation. The effects of the value-added tax on trade have been a matter of considerable international discussion in recent years. While differences of opinion exist on numerous aspects of this complex question, it is believed in many quarters that the change-over to a value-added tax, or important modifications in an existing system, can have significant trade effects. An illustration of the latter point is the move made by France at the close of 1968 to increase the rates of the tax on value added, while abolishing a tax on wages borne by the employer but not rebated in the case of exports.[3] The announced purpose of this change, which followed the decision of the French Government in November 1968 to defend the then-existing parity of the franc, was to provide an additional stimulus for exports and a corresponding deterrent to imports.

FOOTNOTES

[1] The central government in turn collects more than 80 percent of all taxes levied in France, excluding employed and employee contributions to the Social Security System, whose accounts are separate from those of the central government.

[2] Undoubtedly another factor was the stimulus of the Algerian war effort on the French economy.

[3] This wage tax was levied for the account of the central government general fund, and should not be confused with the employer social security contributions.

TAX REVENUES OF FRENCH CENTRAL GOVERNMENT

	Billions of francs		Percent	
	1968	1969	1968	[1] 1969
Direct taxes:				
Personal income tax	24.1	20.6	21.0	19.6
Corporation taxes	11.0	10.4	9.6	9.9
Other	3.7	2.5	3.2	2.4
Total direct taxes	38.8	33.5	33.8	31.9
Indirect taxes:				
Tax on value added [2]	51.2	49.7	44.5	47.1
Other	25.0	22.1	21.7	21.0
Total indirect taxes	76.2	71.8	66.2	68.1
Total	115.0	105.3	100.0	100.0

[1] 1st 9 months only.
[2] Including the special tax on financial and banking activities.

Source: French Finance Ministry, Statistiques et Etudes Financieres.

[From Finance and Development, March 1970]

WHAT DOES IT REALLY MEAN?—THE VALUE-ADDED TAX

(By Björn Matthiasson)

A number of countries have in recent years adopted a new tax called the value-added tax. Its spread has been very rapid; only ten years ago there was but one country, France, that used it. Then, with the inception of the Common Market, it was decided to align some of the taxes levied in the member countries. This decision involved the initiation of value-added taxes in the member countries, which in turn has inspired a number of other European countries to follow suit in their efforts to associate themselves later on with the European Economic Community. At present there are nine countries in Europe (see timetable) that have either put the value-added tax into operation or passed legislation for its introduction in the near future.[1] A number of other European countries, including the United Kingdom, have also given the value-added tax serious consideration, and it may be expected that in a decade it will be a predominant instrument of taxation in Europe.

STRUCTURE AND COVERAGE

The value-added tax is a sales tax levied in the value added to a product or service each time it changes hands. To illustrate this, the chart shows how a value-added tax is imposed on a steel product as it progresses from iron ore in the mine to the final transaction when an article incorporating it is handed to the consumer over the counter. The tax rate is in this instance 10 per cent of the price as it was before the tax is levied.

TIMETABLE OF VALUE-ADDED TAX ADOPTION AND BASIC RATE (PERCENT)[1]

Country	Year	Rate
France	1955	[2] 23
Denmark	1967	12.50
Germany, Federal Republic of	1968	11
Sweden	1969	11.11
Netherlands	1969	12
Belgium	1971	20
Luxembourg	1970	8
Italy	[3] 1972	
Norway	[4] 1970	20

[1] Based on price excluding tax.
[2] As of Jan. 1, 1970.
[3] Tentative date of adoption.
[4] Legislative adoption in process

The *mining company* brings the iron ore out of the ground and sells it to the steel mill for $50. For simplicity's sake we shall assume that the mine got the iron ore for nothing and paid nothing for its capital equipment and intermediate goods. The "value added" of the ore at the time of sale to the steel mill would thus be all of the $50 and the steel mill would pay $5 to the mining company in value-added tax, which the mining company would in turn remit to the Treasury. The *steel mill* then processes the ore in its blast furnaces and rolls it into sheets, selling it for $150 to a manufacturer. The manufacturer pays the steel mill $15 in value-added tax. But the mill passes on only $10 to the Treasury. The other $5 received from the manufacturer compensates the steel mill for the tax that it paid on the iron ore. The *manufacturer* shapes the steel into an appliance and sells it for $300 to the retailer, collecting $30 in value-added tax. Of this amount $15 goes to the Treasury, the other $15 is a compensation for the tax paid by the manufacturer to the steel mill. The *retailer* sells the appliance to the consumer for $500 and the consumer pays the retailer $50 in value-added tax, $20 of which the retailer remits to the Treasury, the other $30 being a compensation for the tax he paid to the manufacturer.

From this oversimplified description we see that each link in the production distribution process acts as a tax collector for the Treasury and the tax paid at each juncture is passed on next time the product changes hands, until the final product lands in the hands of the consumer who in the end bears the whole tax. It is thus conceived not as a tax on the producer, but rather as a tax on the product, borne by the consumer. We can also see that the proceeds collected by the Treasury come to exactly $50, or 10 per cent of the final net price.

This illustration presents a simple hypothetical outline of the tax. In practice the matter is of course more complicated. In our illustration the mining company got its ore for nothing and hence its sales price for the ore was all value added. In reality we would have to drop this assumption. The company's value-added tax liability is in fact the difference between the value-added tax collected and the value-added tax paid out to others by the company. Thus, if it collected $100,000 in value-added tax on its sales in one tax period and paid $40,000 in tax on its mining equipment and mining rights to others, its tax liability for that period would be $60,000.

The value-added tax is levied on almost all goods and services in domestic trade. Exemptions from the tax are usually few, but vary between countries. Banking and insurance, postal services, medical services, newspapers,

Footnotes at end of article.

and services and goods used exclusively by the government are most frequently exempted. Sometimes a good or service is subjected to a special excise tax and at the same time exempted from the value-added tax. In France, for instance, entertainment in theaters, cinemas, etc., is subject to an entertainment tax, but is exempted from the value-added tax.

Exports are always exempted from the value-added tax. In theory the export firm pays the value-added tax on its taxable intermediate goods and services, but gets a refund from the tax authorities. France, the country with the longest experience in value-added taxation, has eliminated this procedure for the most part and allows exporters in practice to accept goods and services for export production or delivery tax free, with the supplier in turn not remitting value-added tax on such delivery to the Treasury. This avoids the system of collection of value-added tax on supplies to export producers with a later refund of the same tax proceeds to the exporter.

SOME MERITS OF THE TAX

All countries that have so far adopted the value-added tax have done so in place of a sales tax of some other kind. These have either been a multiple stage gross turnover tax (as in the Federal Republic of Germany) or single stage sales taxes at the manufacturer and/or wholesale level (Denmark) or at the retail level (Sweden).

The advantages of the value-added tax lie primarily in the fact that it eliminates some of the knotty problems of misallocation, double taxation, and unfair tax exemption that have undermined the success of other sales taxes. There are many sources of such troubles.

A manufacturer who buys machinery subject to sales tax and in turn has to pay for the machinery out of taxable sales revenue can do one of two things. If he has any measure of control over his own sales price (i.e., if he is not unduly restricted by competition from increasing his prices), he can shift a part of or the full price of the machinery, including the sales tax, onto his sales. The sales price of the final product thus has more than the share of sales tax included in its price than the tax percentage by itself would indicate. If he has no control over the final sales price the manufacturer must bear the sales tax, in addition to any income tax, out of his profits. He is thus placed in an inequitable position vis-a-vis any other manufacturer who can at least partly control his sales price. The same is true if a raw material or semi-finished product is make subject to sales tax.

Most systems of single-stage sales taxation have sought to eliminate this double taxation effect by exempting capital goods and goods into production. The difficulty in doing so is twofold: first, it is difficult to eliminate all taxation of capital and intermediate goods, especially for small manufacturers and craftsmen who may need such goods only in small quantities. Secondly, the broader the exempted range of capital and producer goods, the easier it is to have such goods bypass the production process altogether and let them land tax free directly in the hands of the final consumer. Many such goods can alternatively be used as production inputs or as final consumer goods.

For multi-stage gross turnover taxes this problem of cumulation (often referred to as the cascade effect) simply has to be tolerated and few amends are made to correct its uneven impact on the final consumer. Such a turnover tax (at one time levied in Germany and still levied in Austria) is levied at a low rate and its impact on the final product price is often not even known.

The value-added tax gets away from these problems. It simply allows the value-added tax paid on all capital and intermediate products and services bought by the firm to be credited against the value-added tax collected on its sales. For example, if a company collected a value-added tax of $50,000 on its sales in a tax period, but bought at the same time equipment on which it paid a value-added tax of $10,000 in addition to its tax on normal inputs of $25,000, the company's tax liability would be $15,000. Thus, double taxation is eliminated.

The second advantage of the value-added tax is its neutrality toward transactions in goods and services and allocation of resources. Under the gross turnover tax system, as it existed in Germany before the value-added tax, there was a strong tendency to minimize the tax by integrating firms vertically—for example, a steel mill might amalgamate with a steel-using manufacturer. This reduced the number of times the product changed hands and thereby the number of opportunities the authorities had to levy the turnover tax. In Germany, one study estimated that for steel bars the cumulative tax burden in the nonintegrated production-distribution process was about twice as high as in a highly integrated system. To counteract these integrative tendencies, Germany resorted to devices creating an artificial transaction within a firm for tax purposes (to cancel the integration advantage) and it also let some transactions between affiliated companies forming a "community of interest" to go tax free so as not to give them incentive to merge.

The single-stage sales taxes have somewhat fewer drawbacks in this respect, but are nevertheless not neutral either. With a manufacturer/wholesale tax, as in the United Kingdom, difficulties arise in determining what the actual price to the retailer is, should the transaction between manufacturer or wholesaler on the one hand and retailer on the other be eliminated. Then a national wholesale price has to be arbitrarily determined, a matter of great complexity. The United Kingdom has had its sales tax system (called the Purchase Tax) under continous review over the years for this and other reasons, but the difficulties and inequities of the tax have not by any means disappeared. The tax has not, however, been so disadvantaged that the authorities would have wished to replace it with a retail sales tax.

FEWER COMPLICATIONS

The value-added tax gets away from most of these complications. As was seen in the example above of the travel of a product from the mine to the final consumer, the value-added tax stays always in proportion to the final sales price. The tax would not be any less if the number of stages that the product went through had been any fewer, unless such integration had led to greater efficiency, the benefits of which had been passed to the consumer in the form of lower prices. Nor do valuation problems for tax base purposes arise, as with a tax at the wholesale/manufacture level. The tax base of each company becomes simply the value added of that company in the tax period. The definition problems of value added are, of course, also somewhat complex when one gets right down to detail, but they are not nearly as vexing as definition problems with other sales taxs.

The third main advantage has to do with tax enforcement. For single-stage sales taxation the incentive to evade taxes is considerable, particularly if the rate is high. This is especially true of a high retail sales tax. There the problem of tax administration is compounded by the number of taxpayers being much larger than if the tax had been levied at the wholesale level or manufacturing level and by the fact that retail bookkeeping is often poor. The value-added tax has a built-in advantage in this respect. It automatically provides opportunities for cross-checking because each taxpayer is legally liable for the full amount of the tax and can reduce that tax liability only by providing that tax has been paid on his purchases.

The burden of proof is here placed on the taxpayer, which automatically makes it his interest to maintain records of his purchases and thereby of someone else's sales. It is thus much harder for the seller to let some sales go unreported, knowing that some purchaser will as a matter of course submit records of these to the tax authorities. Only at the retail stage does some danger of evasion exist. It is in any event less than the single-stage retail taxation (given equal tax rates) since only a fraction of the total tax proceeds on a product pass through the hands of a retailer under the value-added tax, whereas in the case of a retail sales tax he handles all of the tax proceeds alone and none is levied at other stages. It is also viewed as an advantage against evasion that the tax is collected in fractions at the different stages of production and distribution (often referred to as the fractional payments system) and thus there is less of a temptation to evade it. French business reported to the British Richardson Committee that somehow the value-added tax seemed less onerous than a one-stage tax. "A tax of 10 units on one's product is felt to be less burdensome, if one pays 8 units with one's left hand to one's supplier as an addition to his price, leaving only 2 units of tax to be paid with one's right hand to the government."[2]

SOME DISADVANTAGES

While these advantages are appealing and persuasive, the value-added tax is not without disadvantages. For the individual firm, particularly for small firms with limited bookkeeping, it is often complex. In a country that switches from a single-stage sales tax to the value-added tax, the number of taxpayers proliferates, often tripling or quadrupling. This makes the administration of the tax both expensive and cumbersome. In fact, the British Government commission investigating the value-added tax cited administrative expense as one of the main reasons why it thought it inadvisable to adopt a value-added tax in place of the purchase tax at the wholesale or manufacturing level.[3] German and French concern over administrative expense was less, since both countries already had an extensive tax administration machinery in existence at the time of the adoption of the value-added tax. Denmark and Sweden, however, had both only single-stage sales taxes prior to the value-added tax and neither viewed the increase in administrative expense as a particular problem.

Another special characteristic of the value-added tax is that it does not lend itself easily to exemptions of individual products or services. It functions best when all goods and services in domestic trade are subject to it. Under the single-stage sales tax, the division of a taxable firm's sales into tax-free and taxable sales was simplified because it could be done at one stage in the production-distribution process. Under the value-added system it would have to be done in perhaps twice as many places. Also, since the calculation of the value-added tax involves the deduction of previously paid tax against total tax liability the calculation of the tax is further complicated by the necessity of disallowing some of the previously paid tax as a counterpart of the tax-free sale. Therefore, the value-added tax is generally broader and has fewer exemptions than previous sales or turnover taxes.

While this inflexibility of the value-added tax is viewed as a drawback, it should not be forgotten that it is a blessing (perhaps in disguise) for lawmakers. It gives them a convenient excuse to resist pressure from special interest groups seeking exemptions of

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particular products and services for reasons that are less than sound. On the other hand, the impact of the value-added tax on such things as previously exempt food products (e.g., in Denmark) has led to a sharp price increase in basic necessities that cut into the living standard of lower income groups. This cut has in some cases been compensated for by increasing social security allowances and similar benefits. Finally, the value-added tax, like other sales taxes, is regressive but has at least the advantage over other sales taxes that its burden is proportional to taxable consumption.

OTHER ISSUES

There are a number of important side effects stemming from the imposition of the value-added tax that also carry both advantages. The issue that gets mentioned most in the newspapers nowadays is the so-called border tax controversy between countries in the European Economic Community already levying a value-added tax and countries outside, principally the United States. This issue arises because the United States has a relatively low load of indirect taxes and uses direct taxes as the main source of government revenue. Indirect taxes are generally refunded on exports in all countries,[1] but direct taxes are not. This relief from indirect taxes in the United States on exports is therefore a relatively smaller proportion of total taxes than in Europe with its heavy indirect taxes. Before the value-added tax, e.g., in Germany, the refund of indirect taxes was complicated by the fact that the actual tax load on the final export product was difficult to calculate due to the complexity of the gross turnover tax system. The refund was therefore probably lower than the actual tax load.

This changed when the value-added came along. With it the tax burden on an export product because quite explicit at the stage before the export was refunded in full. The amount of total export refunds rose thereby and the countries with no value-added tax claimed that this was a devaluation in disguise. For example, at the time that Germany imposed a value-added tax it was estimated that the devaluation implicit for merchandise trade was between 1 per cent and 3 per cent.

A second major impact of the value-added tax is associated with investment. As was said above, the payer of the value-added tax figures his tax liability by calculating the gross tax on his sales and subtracting the tax already paid on his intermediate products and capital goods. The significance of this method of taxation is that the value-added tax is primarily a tax on consumer purchases including housing, but production capital is in effect exempted from the tax through the right to deduct the value-added tax paid on it.

The consequences of changing to a value-added tax will largely depend on what tax the value-added tax is replacing. If it is replacing a retail sales tax with identical coverage and full exemption of production capital and intermediate goods, then theoretically there will be no change. In practice, however, this is not so. In all instances, so far, the value-added tax has replaced tax systems that in one measure or another taxed investments.[2] The profoundness of this change rests therefore to a considerable degree upon the way in which investments were handled under sales taxes prior to the imposition of the value-added tax.

But the structural investment problem is not the only one. A substantial transitional problems can also arise as a country goes over to a value-added tax, because investors are apt to postpone their investments if they anticipate that under the value-added tax they will escape the sales taxes previously levied on their investments. Germany, Belgium, the Netherlands, and Sweden all made arrangements to ease the transitional effects. Germany levied a special nonrefundable tax on investments that decreases gradually from 8 per cent in 1968 to 2 per cent in 1972, disappearing altogether at the end of that year. This tax is separate from the value-added tax under which the tax on investments is immediately creditable toward tax received on sales. In Belgium and the Netherlands, the credit of value-added tax paid on investments is limited to a certain percentage of actual tax paid, the percentage increasing as time goes on.

DOES IT HELP GROWTH AND THE EXTERNAL BALANCE?

In the last analysis it is of profound importance what effect the value-added tax has on economic growth. It is a far-reaching tax and is meant to be one of the mainstays of government revenue in all the countries that have adopted it. Thus, it is important that it should not hamper economic growth in any way through its effects on the price mechanism and the allocation of real resources. The simplicity of the tax may lead superficial observers to the conclusion that it must be conducive to growth and that there are no adverse economic effects to be feared from it. In the literature on value-added taxation this is quite widely disputed and arguments pro and con are presented in complex detail.

The argument that the substitution of a valued-added tax for a general sales tax of the types discussed above will stimulate growth are centered upon two main points: (1) that the exemption of exports, while imports are taxed, will benefit the balance of payments; (2) that the tax will stimulate growth through its exemption of productive investment and taxation of consumption.

The skeptics have raised a number of points about the value-added tax in criticism of these simple premises. An adverse impact of the value-added tax, they claim, can result from its effect on the price level. If its imposition raises wages by a substantial amount,[3] then it can unleash a wage/price spiral, particularly in countries with a weak income policy. The beneficial effect from the tax exemption on exports can thus quickly be canceled through higher wage costs placing export industries in a more difficult position than they were in before. Higher money incomes could at the same time accelerate the pace of imports, further weakening the balance of payments. The weakened balance of payments would thus necessitate a restriction in domestic demand for goods and services, thus dampening the growth rate.

In evaluating the second point, skeptics have tended to question whether investment is dependent on the level of taxation to such an extent that an exemption of productive investment from the value-added tax will materially stimulate it. Empirical studies have long found that investment was notoriously fickle in reacting to a change in interest rates and similar variables. Thus, it is by no means certain that investment would rise under the value-added tax, but if it should rise (and this is at least likely), one great limitation placed on the expansion of investment stems from the possible curtailment of consumption which can also be expected to result from the value-added tax. Such a curtailment could limit the need for new investment and thus place the economy in an overinvestment-underconsumption situation.

It seems from the foregoing that the benefit for growth and the external balance derived from adopting the value-added tax is subject to certain conditions falling in two broad categories: (1) that adoption of a value-added tax will not set off a wage/price spiral leading to adverse effects on the balance of payments, and (2) that a likely increase in investment at the expense of consumption will find outlet for its productive capacity.

CONCLUSION

The value-added tax is a unique taxation instrument in the sense that it leads to fewer misallocations of resources than most other taxes. Therefore, it deserves wide consideration among countries that are dependent on an efficient economic mechanism to achieve a satisfactory rate of growth. It has not been shown to be without qualifications or disadvantages, so that its benefit is subject to conditions, as shown above. In the opinion of this writer the adoption of the tax could materially benefit the tax structure in most industrialized countries. The administrative complexity of the tax may make it less wise to apply it in less developed countries where long experience in tax administration is not available.

Finally, it is to be hoped that the value-added tax could lead to further restructuring of taxes in a direction more conducive to growth, equity, and the allocation of resources.

FOOTNOTES

[1] Three other European countries—Finland, Greece, and Turkey—have a form of value-added tax that extends over only some of the stages of the production-distribution process. The production taxes in many French-speaking countries are similar.

[2] Chancellor of the Exchequer, *Report of the Committee on Turnover Taxation* (London, March 1964), p. 37.

[3] *Ibid.*, p. 8.

[4] Their imposition on exports is even prohibited in the United States by its Constitution.

[5] The only country that came close to exempting its production investment under the system prevailing prior to the value-added tax was Denmark.

[6] A value-added tax with an identical rate to a previous retail sales tax should not raise prices for goods previously covered, but the value-added tax is in effect always broader than prior sales taxes, especially in respect of services, and hence has tended to accentuate price increases.

Mr. PERCY. Mr. President, primarily I wish to commend the distinguished chairman of the Joint Economic Committee on the hearings that have been held.

Mr. President, I commend to my colleagues a careful study of the way in which testimony was taken. Here again it proves the value of having a joint committee of the House and the Senate. As we now undertake a study in depth of the principles of a new form of taxation it is well, with the time ahead of us, to take into account all of its implications before we are simply responding to a piece of legislation sent to us.

I commend the chairman of the committee for having undertaken this study in depth of a very important measure that is being proposed and discussed. In my judgment, it is not a simple tax and it does not have the advantages of progressive taxation as does the Federal income tax. If it were imposed on the American people it may provide many penalties for low-income people, which this Congress should be very concerned about after years of tax reform where we have tried to lighten the tax on low-income persons.

Mr. PROXMIRE. I thank the distinguished Senator from Illinois. The hearings we had in the Joint Economic Committee were held because there had been reports in the press that the administration intended to propose a value-added tax, and those reports were very consistent and persistent. However, when the representatives of the administration came before the Joint Economic Committee they disavowed this and said they would not propose it this year. For this reason we thought it was a good idea to have hearings this year and our committee held hearings, not on the revenue aspect, but on the overall impact on the economy and society, what the value-added tax would do, and whether or not it would be appropriate.

We had some of the outstanding economists in the country testify. Although two of the economists who testified favored the value-added tax, the preponderant view was opposed to it.

To me one of the astounding revelations about the value-added tax was the conclusion that the value-added tax would not only increase prices, which all of us recognize—it is, after all, a sales tax—but also it would reduce employment, reduce economic growth, and probably not have a favorable effect on our exports, which is the principal reason, presumably, for putting it into effect.

It was pointed out that when the value added tax is considered in this country, we consider the European experience. What is overlooked is that it was put into effect there to replace a different tax, a cascaded sales tax, which was a very bad form of taxation. In this country it was proposed as a substitute for the property tax or as a substitute in part for the Federal income tax.

The arguments were most convincing that the property tax is not as bad as the value added tax would be.

I thank the Senator from Illinois. I did place in the RECORD at the time of the hearings several of the best papers on the value added tax, and I do hope that Senators who have a chance to do so will read those papers and consider them because I think they are of extraordinarily high order.

If next year Congress should adopt a value added tax—if whatever administration is in office should propose it— we should do so with our eyes open. It could have a profound effect on our society and I hope we recognize all the consequences.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

(The remarks Mr. JAVITS made at this point on the introduction of S. 3446 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

S. 3382—ORDER FOR STAR PRINT

Mr. JAVITS. Mr. President, in view of the fact that the sponsorship by the Senator from Rhode Island (Mr. PELL) of S. 3382, the gifted and talented children's bill was not shown in the print for some reason we cannot understand, although he was one of the original sponsors and so stated in the RECORD, I ask unanimous consent that a star print of the bill may be prepared to include his name.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDITORIALS ON WAR POWERS ACT

Mr. COOPER. Mr. President, as the Senate debates the historic War Powers Act, I think it important to call the attention of all Senators to the large number of editorials that have been written in support of war powers legislation in general and S. 2956 in particular. In view of the significance of this legislation and of the intelligent comment given to it by major newspapers and magazines throughout the Nation, I ask unanimous consent to have these editorials printed in the RECORD.

Wall Street Journal, "No Short-Cut to Power," April 3, 1972;

The New York Times, "President's War Powers," March 31, 1972;

Commonweal, "War Power," March 31, 1972;

The New York Times, "The Balance in the War Powers Bill," February 14, 1972;

The Albany Times Union, "Javits Bill on War Powers Is Sound," February 10, 1972;

Newsday, "In Favor of Javits-Eagleton," December 29, 1971;

The New York Times, "Toward Bipartisanship Abroad," December 14, 1971;

Newsday, "Congress Awakes," December 10, 1971;

The New York Times, "Executive Omnipotence," July 29, 1971;

The New York Times, "The Conversion of HUGH SCOTT," July 29, 1971;

Life magazine, "The President's War Powers," June 11, 1971;

The Plain Dealer, "Restore Congress' War Power," May 16, 1971;

The Buffalo Evening News, "Clarifying the War Power," May 13, 1971;

The Dallas Morning News, "The War Decision," May 11, 1971;

The New York Daily News, "Capitol Stuff," March 28, 1971;

The Los Angeles Times, "Javits Bill Would Seek To Balance War Powers of President, Congress," February 21, 1971;

The Denver Post, "A 'Brake' on War Involvement," February 17, 1971;

The Dallas Morning News, "Best of Both," July 12, 1970; and

The Wichita Eagle, "Javits Bill Would Return Warmaking Power to Congress," June 18, 1970.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 3, 1972]

NO SHORTCUT TO POWER

The war powers legislation now before the U.S. Senate is described by its author, New York's Jacob Javits, as "one of the most important pieces of legislation in the national security field that has come before the Senate in this century." It may be, since it purports to do that which the Founding Fathers were reluctant to attempt: the fairly precise delineation of the President's war-making powers.

The bill, fashioned with backward glances at the origins of the Vietnam experience, permits the President to deploy the armed forces in specified kinds of emergencies for up to 30 days. To continue thereafter, he must have sought and received a congressional mandate to proceed or he would be forced to desist, his authority having expired.

The measure has generated surprisingly little controversy. While the administration opposes it as being "unconstitutional and unwise," it has not been noticeably vigorous in lobbying against it. And with only scattered opposition, it's expected to pass easily in the Senate. Perhaps because detente, not war is on the mind, and the Javits exercise now seems more philosophical than real.

More specifically, the bill does seem to redress a grievance that has become widely acknowledged, that in recent decades Congress has allowed the Executive Branch to arrogate unto itself a disproportionate share of decision-making power in foreign policy. Thus, the Javits bill has the blessing of Sen. John Stennis of the Senate Armed Services Committee, who argues that in years ahead "it will be easier and easier to go to war, to get pushed into war by a series of decisions." He adds, "As I see it, one man—wise as he may be—after he gets so far cannot back up. And he is further along the line than he realizes, maybe."

We thoroughly agree, but must confess to nagging doubts about the Javits approach. His bill assumes that it will force the Executive to consult more closely with Congress, out of anxiousness to win its concurrence in military enterprises. Yet it can just as easily be suspected that some future President may be forced to play his free hand for 30 days without consulting Congress at all, believing Congress would not yank troops out of action once they have been committed.

In opposing the war powers legislation, former Under Secretary of State George Ball had this worry. He observed: "History never repeats itself with any precision, and it shows a capacity for infinite imagination, and I would think there is a danger that if we tried to spell the limits or the situations out too precisely there is going to be enormous pressure on the executive, who feels it necessary to act in the interests of the country, to make some very ingenious but rather fantastic constitutional interpretations of his own. . . ." This isn't a concern to be dismissed lightly. Indeed, it has the ring of probability.

But where is the alternative? How does the nation return to the partnership approach to decision-making in foreign policy, the approach that has eroded, at times collapsing altogether, since the bipartisan understandings that marked the Truman and Eisenhower administrations? In those years, remember, the counsel of congressional leaders such as Lyndon Johnson strongly influenced President Eisenhower's decision to refuse to send U.S. airpower to rescue the French at Dienbienpnu.

An attempt to legislate a return to this halcyon era cannot succeed, and might even yield a perverse effect. It is not as easy for Congress to grant itself more power as it is for it to raise its salaries. The partnership approach can only survive where the political will exists, not only on Capitol Hill and in the White House, but in the nation at large. No statute can substitute for the hard work that must go into building a cooperative working

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arrangement between Congress and the Executive.

Sen. Stennis himself suggests that the legislation "is of secondary importance." Rather, "The most important balance to be restored is the balance in the minds of the nation's citizens, both those who are inclined to surrender their own responsibilities of decision to the Executive, as many in the Congress have too often done, and those who believe that no cause is worth fighting for." For this, the people themselves have to commit themselves to deciding in the future whether or not to go to war.

Sen. Stennis thinks legislation won't hurt, and perhaps he is right. But we suspect it could also lead to the lazy notion that the war powers problem haa been solved. While we can agree with Sen. Javits' objective, and applaud his good faith and earnestness, we doubt that his short cut to power will get him where he thinks it will. At the very least the Senate should be careful not to obscure the real point: the next time a decision is required on whether or not to commit the armed forces, once again the judgment will depend not on this law or that, but on the political will of the nation.

[From the New York Times, Mar. 31, 1972]

PRESIDENT'S WAR POWERS

Senator Javits is indulging in Nixonian hyperbole when he asserts that his War Powers Act, currently before the Senate, is "one of the most important pieces of legislation in the national security field that has come before the Senate in this century." The act merely attempts to spell out powers which Congress has always enjoyed under the Constitution but which successive Congresses, especially in recent years, have allowed dangerously to erode. Unless Congress acts more responsibly than it did, for example, in 1964 when the Tonkin Gulf Resolution was hastily adopted without serious challenge, the War Powers Act is not likely to prove effective in checking the arbitrary extension of Presidential authority in the war-making field.

The Javits bill is, however, a useful appendage to the Constitutional powers because it compels Congress to face up to its responsibilities. While granting the President ample latitude to act immediately in emergency situations, the bill requires a prompt report to Congress and Congressional authorization for the continuation of hostilities beyond 30 days. Congress could no longer allow a Presidential initiative to stand and grow by default as it has done time and again during the steady escalation of the Indochina conflict.

Administration spokesmen have assailed the War Powers Act as an unconstitutional abridgement of the President's powers as commander-in-chief. But it is the President and his predecessors who have defied the Constitution by ascribing to the commander-in-chief exclusive powers to commit the nation to war that were certainly not intended by the Founding Fathers. Senator Javits has pointed out that the Second Continental Congress, wary of the arbitrary authority of kings, strictly instructed George Washington as commander-in-chief ". . . punctually to observe and follow such orders and directions . . . from this or a future Congress . . ."

In a nuclear age when the President of the United States commands forces of unprecedented power scattered around a volatile globe it is especially important to reassert the Congressional checks on Presidential war-making authority that were explicitly written into the Constitution. Senate passage of the War Powers Act could be a significant step toward redressing a perilous imbalance in the American federal system.

[From the Commonweal, Mar. 31, 1972]

WAR POWER

Who will ever be able to measure the cost of the Vietnam war, both in human suffering and material waste? Thanks to our national technological know-how, vast areas of Indochina have been laid waste, and if the casuality figures are even remotely accurate, over one million men, women and children have been killed. Scores of thousands of others have been uprooted from their ancestral homes, and there are no accurate figures on the number of Vietnamese families that have been hopelessly shattered by the war.

Such devastation has been the price of a war carried on by succeeding Presidents but never really debated in House or Senate. Congress has voted funds for Vietnam year after year, true, but this is no substitute for a full-scale debate. When American troops are committed by the President, whether in Vietnam or the Dominican Republic, it is very hard for legislators to cut off the funds necessary to support them. And when the lives of "American boys" are already being lost in combat, the public tends simply to rally behind the President rather than weigh the issues seriously; in such circumstances the hard question as to exactly why our troops are involved in the first place tends not to get asked.

All of this makes very important a recent, little-noticed action of the Senate Foreign Relations Committee, in which that body issued a favorable report on a bill designed to curb the President's war-making powers. By this action the stage has been set for a momentous constitutional debate in the Senate during the weeks ahead. In that debate the battle lines are already reasonably clear. On one side are those who would define and in the process curb the Presidential war-making powers of the kind that plunged us into the morass in Vietnam. What the proposed legislation would provide is that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of such attack, or to protect American citizens endangered in a foreign country. Even in such emergencies the President could not continue hostilities for more than 30 days without Congressional approval. Lined up in support of the measure are Republican and Democratic Senators representing a wide range of opinion, from Senators Jacob Javits of New York and Thomas Eagleton of Missouri to Senators Robert Taft Jr. of Ohio and John Stennis of Mississippi. Arrayed against the bill are the Administration, those in the Senate who still support the war in Vietnam, and those in general who fear any tampering with the Presidential powers. Speaking for this group was Senator Barry Goldwater of Arizona, who called the legislation unconstitutional; some idea of how much unchecked power Senator Goldwater would grant to the President may be seen in his statement that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander-in-Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms." To give a President such unchallenged power, of course, is to risk the danger of constant war.

In point of fact, it should be noted, those who support the curb on the President's power to make war do not question his right to take quick and decisive action in the event of a sudden attack or any other genuine emergency. What they do object to is the notion that the President may use the armed forces at will in situations that do not constitute national emergencies and for as long a period as he sees fit, as has been done in Vietnam. With these views we are heartily in sympathy—indeed, there is much to be said for Senator Fulbright's claim that even this restrictive law allows the President more power than he should have; if he had his way, for example, Senator Fulbright would ban the use of nuclear weapons entirely without prior Congressional authority. Points like these deserve the most sober consideration by Congress and public alike, and we hope the eventual debate in the Senate will prove worthy of the gravity of the topic.

[From the New York Times, Feb. 14, 1972]

THE BALANCE IN THE WAR POWERS BILL

(By JACOB K. JAVITS)

WASHINGTON.—A national debate has begun on "the War Powers Act."

The bill was the subject of intensive year-long nearings before the Senate Foreign Relations Committee.

There has been criticism of the bill from Secretary Rogers, as well as from such former Kennedy and Johnson advisers as George Ball, Eugene Rostow and Arthur Schlesinger, Jr., and from Senator Goldwater. These critics have largely presented their objections to the bill from the perspective of "President's men." But I do not believe that they have grasped the real reason for the bill, nor do they give sufficient weight to the constitutional and legislative imperatives arising from our national experience of the past several decades.

The United States emerged from World War II as the dominant world power—a role quite alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political institutions. This practice tended to concentrate the essential power of war and foreign policy in the institution of the Presidency and to leave to the Congress only an appropriations or confirmatory role. This practice has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

The War Powers Act corrects the basic flaw of the postwar practice by restoring to the Congress and to the people a meaningful role on the question of war or peace.

Critics of the War Powers Act have alleged most frequently that the provisions of the bill are too rigid; that the bill does not and cannot foresee all the "unforseeable" contingencies which might face the nation at some future time. Such criticism is wide of the mark. The bill provides four categories of situations in which the President may take emergency military action in the absence of a declaration of war: first, to repel or forestall an attack—or imminent threat of an attack—upon the United States; second, to repel or forestall an attack upon the armed forces of the United States located outside of the country; third, to rescue endangered U.S. citizens abroad in defined circumstances, and fourth, "pursuant to specific statutory authorization."

This last category is designed specifically to enable the President and the Congress *together* to meet any contingency the nation might face.

Over the last twenty-five years the Congress on a number of occasions has passed so-called "area resolutions" at the President's request—most famous the ill-begotten Tonkin Gulf Resolution. The "fourth category" of the War Powers Act envisages replacement of the old, loosely-worded "area resolution" with precisely worded, new resolutions—as needed—which establish a national policy, jointly constructed by the President and Congress, respecting developing crises or threats which could involve use of the armed forces. A Congress and a nation so badly burned by Vietnam and the Tonkin Gulf Resolution can be expected to exercise more appropriate caution, prudence and precision.

The War Powers Act makes ample provision for emergency action by the President. Its unique feature is that, in doing so, it builds in a "trip-wire" necessitating affirmative Congressional action within thirty days. If the President takes emergency action putting the armed forces into hostilities, he must immediately make a full report of the circumstances, authority for, and expected scope and duration of, the military measures he has initiated. If the President is unable to obtain the concurrence of Congress to extend his authority, he must terminate his actions at the end of thirty days. The bill has strict provisions to prevent filibuster or other delays.

The War Powers Act cannot create national wisdom where there is none. But it can insure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon papers and the Anderson papers have shown us how dissenting and questioning viewpoints are screened out or excluded altogether from the present Presidential decision-making process. The real danger to our security today is not that the Congress might hamstring the President. The real danger is that Presidents can—and do—shoot from the hip. If the collective judgment of the President and Congress is required to go to war, it will call for responsible action by the Congress for which each member must answer individually and for restraint by both the Congress and the President.

[From the Albany (N.Y.) Times Union, Feb. 10, 1972]

(By John P. Roche)

JAVITS BILL ON WAR POWER IS SOUND

About once every 20 years, it seems, the United States Senate goes in search of a chastity belt to protect us from unwarranted intrusions of presidential power. In the early 1950s, Senator John Bricker of Ohio, in cooperation with the American right wing, put a great deal of energy into the so-called Bricker Amendment. In terms of the real world, the amendment was rather foolish—it was designed to prevent the President from betraying the nation to the Communists by executive agreements—but on a symbolic level it was clearly retroactive vilification of Franklin D. Roosevelt.

The debate on the amendment, of course, followed the latter direction. When I presented testimony against it on the basis that it was just damned foolishness, everybody got angry: the Democrats because I should have joined the ghost dance defending F.D.R.; the Republicans because I questioned their I.Q.

Well, now we are off again on the same sort of symbolic safari. Only this time the liberal Democrats are at point and their objective is to prevent Lyndon B. Johnson from ever taking us to war in Vietnam again. The chosen instrument for this operation is a bill, introduced by Senator Javits of New York, "to make rules governing the use of the armed forces of the United States in the absence of a declaration of war by the Congress."

Despite the fact that Secretary of State William Rogers has argued that it will undermine the President in time of crisis (and the joy on the other side of the hill that his opposition engendered) I wish to report that the Javits bill is essentially sound. It contains provisions that would regularize in quite sensible fashion the relationship between the commander-in-chief and the Congress in moments of crisis.

The central provision is that, in the absence of a declaration of war, the President may act to repel attack upon the U.S., or on the armed forces of the nation outside the country, or to protect the lives of American citizens caught, say, in the middle of a revolution. Strong proponents of presidential power are annoyed by this set of stipulations because they claim the President has inherent power as commander-in-chief to take such actions. Without getting into the historical dispute on the intention of the framers of the Constitution, I simply do not find this argument persuasive: the American system is based on the President and Congress sharing the power to govern (with an occasional assist from the courts).

The Javits proposal does, however, require the President to report to Congress within 30 days of any intervention and stipulates that hostilities can not be continued beyond 30 days without affirmative action by Congress. Again, unless one believes that Congress has constitutional leprosy, what is wrong with this? Any president who went off prowling around the world with the war power without firming up his congressional base should be impeached for incompetence.

There is one sticky bit: the Javits bill sounds at one point as though it were revoking all treaty commitments. The relevant provision states that no treaty can be considered a specific statutory authorization for the exercise of the war power by the President. For example, the North Atlantic Treaty alone would not sustain the President for more than 30 days. This, however, merely echoes the provisions of existing treaties: Art. 11. North Atlantic Treaty states "its provisions (shall be) carried out by the parties in accordance with their respective constitutional processes." The Southeast Asia treaty similarly noted that "the parties will act to meet the common danger in accordance with (their) constitutional processes." In other words, these treaties already include the essence of the Javits proposal.

There is probably no way to head off the high theorists. In no time the debate will be 30,000 feet above ground as senators prepare major addresses on "me and Vietnam." That will be unfortunate: Senator Javits' bill deserves consideration on its common sense merits. And it is not an "anti-Vietnam" bill: current hostilities are explicitly exempted from its coverage.

[From Newsday, Dec. 29, 1971]

IN FAVOR OF JAVITS-EAGLETON

(By Clayton Fritchey)

WASHINGTON.—These are the holiday headlines:

"Plain of Jars in Laos Falls."

"War Setback Deepens Cambodian Crisis."

"U.S. Confirms Loss of Jets Over Laos."

"U.S. Jets Hit Hanoi."

These are the questions raised by the headlines:

Is the U.S. winding down the war in Indochina, or is it becoming still more involved?

Have the invasions of Cambodia and Laos helped or hurt the battered peoples of those nations?

Should the Senate pass the Javits-Eagleton resolution to restore some of the constitutional war-making powers of Congress, or should it let the President continue to exercise these powers as he will?

The last question will be one of the first the Senate deals with when it returns to Washington after the holidays. In the light of the administration's gunboat diplomacy in the Indian-Pakistani war, a number of senators consider passage of the Javits-Eagleton legislation more urgent than ever.

The Indians are still furious over the pro-Pakistani Nixon administration sending a U.S. naval task force headed by the Enterprise—the world's only nuclear aircraft carrier—into the Bay of Bengal at the height of the war. They regarded this as a reckless and threatening action. The administration denies having had any hostile intention, but it was surely an intimidating show of force, if nothing else.

In any case, it has put some new thoughts in the minds of some of the senators who voted for the Cooper-Church resolution, which forbids the President from sending further ground troops into Cambodia without Senate approval. The talk now is of a similar ban against the chief executive deploying our armed forces into war zones via ship without congressional consultation. As one senator says, intervention by the Navy or the Air Force can involve the U.S. in war just as much as intervention by the Army.

Now that the fighting has subsided on the Indian subcontinent, attention has returned to Southeast Asia where our protege armies in Cambodia and Laos are in disarray despite strong U.S. efforts to sustain them. We have spent billions to train, equip and supply these forces, and our Air Force is fighting around the clock to back them up. But they are no match for the North Vietnamese.

Having staked its prestige on the success of the Cambodian and Laotian campaigns, the administration is beginning to step up its bombing attacks on North Vietnam. Mr. Nixon has repeatedly warned Hanoi that he would retaliate if it interfered with his strategy. If the North Vietnamese military successes continue, what will the President do? How and where will he strike? That is the troubling question.

Sen. Mike Mansfield, the majority leader, has time and again called the turn in this war. Sometime ago he said, "We may be getting out of South Vietnam, but it looks like we are getting into Cambodia. It appears to me that the old pattern is perhaps being repeated; that the handwriting is on the wall for another Vietnam, despite all disclaimers to the contrary."

Since it is obvious that the local armies in Indochina would collapse without continued massive U.S. air support, there is no danger of Mr. Nixon withdrawing all of our forces this year. The danger is some new form of escalation (which won't be called escalation) and this, of course, is what the Senate wants to head off.

First, there is the Mansfield resolution which calls for the withdrawal of all U.S. forces from Vietnam next year. Then there is the resolution introduced jointly by Sens. Jacob Javits and Thomas Eagleton, which would give the President power to deal promptly with emergencies like Pearl Harbor and the attack on Korea, but would require him to obtain congressional approval to continue hostilities after 30 days. It's not ideal, but it's better than no restraint, and it's soon going to be adopted.

[From the New York Times, Dec. 14, 1971]

TOWARD BIPARTISANSHIP ABROAD

Under the Constitution, only the Congress can declare war and pay American troops. But the President, as Commander in Chief, can commit the armed forces to combat on his own. In an era of undeclared wars, this ambiguity has led inevitably to executive encroachment on Congressional prerogatives.

Efforts by the Congress to resist the trend now encounter the argument that Congressional debate is a luxury that cannot always be enjoyed in the nuclear age, when split-second reactions may be vital to avoid the nation's destruction. But it is not the nuclear contingency that is in fact at issue. It is the relatively limited military engagement—such as the Dominican intervention or the Indochina conflict—that has most eroded Congressional control over the war-making powers. And it is essentially the no-more-Vietnams syndrome that is spurring current efforts in the Senate to increase the Congressional role in future military decisions.

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The legislative formula recently approved by the Senate Foreign Relations Committee to restrict the war-making powers of the Presidency is not and cannot be watertight. It is recognized that the Congress cannot and probably should not attempt to prevent the Commander in Chief from engaging the nation in hostilities in certain emergency situations. The intention is to prevent military action from continuing more than thirty days without Congressional approval.

The thirty-day clause is the heart of the proposed legislation, rather than the attempt to define the circumstances under which the President would be authorized to use the nation's military power. The bill would indeed authorize armed force to repel or to forestall an attack on the United States or on American forces stationed abroad. While the President's constitutional powers could not be limited to such contingencies by legislation the Congress can insist on its participation in decisions to extend or enlarge a conflict beyond the measures taken in the initial emergency period.

This approach undoubtedly involves some disadvantages. The need to sway the Congress could conceivably impel a future Administration to escalate low-key military moves and to attempt to arouse popular emotion. The Congress itself is not impervious to an exigent President and can be misled, as the Tonkin Gulf resolution demonstrated in 1964.

But such risks are smaller than those revealed by unrestricted exercise of the Presidential war-making powers. What would chiefly be restricted would be the President's power to take the nation into a large-scale war without its consent, explicitly expressed by its elected representatives.

Instead of resisting the proposed legislation, the Nixon Administration would be well advised to embrace it and to go beyond it to create a new atmosphere of cooperation with the Congress in foreign policy generally. With a necessarily divisive Presidential campaign approaching, it is imperative to restore some semblance of the old tradition that politics stops at the water's edge.

As a first move to restore a bipartisan foreign policy, Mr. Nixon could well invite the Senate majority and minority leaders to accompany him to Peking and Moscow—and to the summit meetings with allied leaders that will precede these historic voyages. Although it is too late for the talk under way with President Pompidou of France in the Azores, Senators Mansfield and Scott would be valuable additions to the American delegation for the projected meetings with the leaders of Britain, West Germany and Japan. Now that he has wisely if belatedly moved to take the allies into his confidence, Mr. Nixon can afford to make the same gesture toward the Congress.

[From Newsday, Dec. 10, 1971]

CONGRESS AWAKES

After decades in which the President's war-making powers waxed large, there are rumblings in the Congress signaling that the constitutional machinery of checks and balances is moving into action. A most encouraging and significant sign of movement came this week when the Senate Foreign Relations Committee unanimously approved bills that would put limits on a President's ability to ease the nation into another Vietnam war. One bill would require the executive branch to submit all international agreements to Congress for its information. The other would define the presidential power to use armed force, and forbid a President to continue hostilities for more than 30 days without obtaining the approval of Congress. It would also require a President to receive congressional authority before sending military advisers to a country engaged in hostilities. The bills will not reach the floor until next year. They will face strong opposition from the President. Sen. Jacob Javits (R-N.Y.) is the chief author of the legislation, and we agree entirely with his assessment of the importance of the committee's unanimous vote. He called it "a very historic day in which we are coming to grips with an open question in the Constitution." And it's about time.

[From the New York Times, July 29, 1971]

EXECUTIVE OMNIPOTENCE

(Tom Wicker)

WASHINGTON, July 28.—President Nixon's approach to Peking, no matter how welcome it may be, was planned in secrecy, decided by Presidential fiat, carried out clandestinely and finally announced only as accomplished fact. Thus, whatever else it was, this grand diplomatic undertaking was another exercise in executive omnipotence. Though aimed at peace, the operation so far has not been much different from the hidden processes that carried the nation into the war in Vietnam, and its consequences could be even more far-reaching.

Faced with this kind of unchecked power, the Senate is pondering a resolution by Senator Cooper that would require the C.I.A. to keep germane Congressional committees as fully informed as the executive; and Senator Ervin's subcommittee is considering how the rules of "executive privilege" can be tightened. Trying for some leverage on the Paris talks, Senator Hartke has offered a resolution for Senate confirmation of Ambassador Bruce's successor as chief negotiator.

Senator Fulbright's Foreign Relations Committee, meanwhile, has been trying to find effective means to limit the most dangerous form of executive omnipotence—the waging of undeclared war. Congress has ample constitutional authority to do so, but a major problem is to avoid inhibiting or frustrating the President's ability to act in a crisis. Another question is whether Congress itself is prepared to accept greater responsibility in question of war and peace.

William D. Rogers, a former State Department official, told the committee rather bluntly that if Congress intended to exercise an effective role in such matters, it would have to improve itself. "Your staffing is woefully inadequate. Your organization is wrong. Your ways of doing business are outmoded. And your conventional habits and practices are in need of fundamental reform."

He was, however, fundamentally in favor of Congressional action to redeem the situation created by what Prof. Alexander Bickel of Yale called the "unprecedented extension of Presidential power" that launched the Vietnam war in 1965. The decisions of that year, he said, "amounted to an all but explicit transfer of the power to declare war from Congress, where the Constitution lodged it, to the President, on whom the framers refused to confer it."

Constitutional scholars generally concede that the Constitution gives the President the power to repel or prevent sudden attack and to protect the lives of American citizens at home or abroad. But most agree with John Bassett Moore, the authority on international law, who said:

"There can hardly be any room for doubt that the framers of the Constitution, when they vested in Congress the power to declare war, never imagined they were leaving it to the executive to use the military and naval forces of the United States all over the world for the purpose of actually coercing other nations, occupying their territory, and killing their soldiers and citizens, all according to his own notions of the fitness of things, so long as he refrained from calling his action war or persisted in calling it peace."

The Foreign Relations Committee, therefore, is really considering what Mr. Rogers called "rules of practice" in exercising the war powers and not a "redistribution of power." The most practical proposals before it are a requirement for advance Congressional authorization before troop deployments that raise a "reasonable possibility" of combat (for instance, the stationing of troops in Europe in 1950, or President Kennedy's dispatch of thousands of "advisers" to Vietnam in 1961); and another requirement that a President who took emergency action to repel attack or protect American lives would have to obtain Congressional sanction within thirty days.

The latter provision probably would not have hindered President Truman from intervening in the Korean war in 1950, since Congress no doubt would have supported the repelling of invasion. It might have given Mr. Nixon trouble after the Cambodian invasion of 1970 and would certainly have forced him to greater consideration of Congressional and public opinion. And while President Johnson might have been able on his own to launch air raids in reply to the supposed Tonkin Gulf attack in 1964, he could hardly have launched the round-the-clock bombing of North Vietnam or sent a half-million troops to Asia without such authorization.

But there's the rub. Even if effective "rules of practice" are devised, the greatest responsibility to make them work will lie on Congress itself. It will need to know more and act more efficiently, and it will have to be resolute. When a President has sent troops into combat under the flags of peace, freedom and patriotism—no matter how fraudulently—it will take a bold and confident Congress to refuse him sanction.

[From the New York Times, July 29, 1971]

THE CONVERSION OF HUGH SCOTT

Efforts of the Administration to perpetuate what George W. Ball has called "the myth of executive privilege" in the conduct of foreign affairs have received a setback with the conversion of Senate Minority Leader Hugh Scott. The Pennsylvania Republican has now joined the growing ranks of legislators of both parties who seek to reassert the constitutional role of Congress in the war-making process.

"The time has come," Senator Scott told the Foreign Relations Committee the other day, "when Congress will not be denied the right to participate, in accordance with the Constitution, in the whole enormous business of how wars are begun." Until now, the Minority Leader has generally been the Administration's principal spokesman in efforts to head off mounting Congressional pressure to reverse the trend toward arbitrary Executive actions in the foreign policy field.

For some time now, other leading members of his own party plus a few Southern Democratic conservatives who have for long supported the Vietnam policies of President Nixon and his predecessors have been challenging Presidential assumptions of exclusive authority. For instance, Republican Senators Jacob K. Javits and Robert Taft Jr. and Democratic Senator John C. Stennis, chairman of the Armed Services Committee, are among the sponsors of limiting legislation of the kind that Senator Scott now says he is ready to support.

The Minority Leader is too astute a politician to continue to buck this powerful tide of Senatorial sentiment. It is not unreasonable to hope that President Nixon, too, in time may respond more positively to Congressional initiatives which are quite consistent with his own constitutional philosophy as a strict constructionist. The President has everything to gain by thus engaging the Congress as a partner in the difficult foreign policy decisions that still lie before him.

[From Life, June 11, 1971]

THE PRESIDENT'S WAR POWERS

In their frustration over the interminable and costly Vietnam war, a number of Senators and Congressmen have been moving over the past year or so to limit the President's war-making powers. Some of the recent proposals to limit the extension of the military draft or abolish it, as well as Senator MANSFIELD's bill to halve the U.S. military garrison in Europe, are ill-considered. But there is a good deal of merit in another movement, currently under way in the Senate, to restrict the President's power to take the Nation into future wars.

In the isolated infant United States of 1787, the sparse language of the Constitution seemed sufficient to limit those powers. The President, the Founding Fathers agreed, should have the power as Commander-in-Chief to make war, but only after it had been declared by Congress. The last war explicitly declared by Congress, however, was in 1941, just after the Japanese attack on Pearl Harbor. After World War II, with the United States emerging as world policeman and member of no fewer than eight foreign alliances, the President's powers became virtually unlimited, or at least unchecked. From the standpoint of Congress, our participation in the Korean war was a presidential fait accompli, justified in part by our obligations as a United Nations member. As for Vietnam, it will be argued for years whether the 1964 Gulf of Tonkin resolution was tantamount to a congressional declaration of war, as Under Secretary of State Nicholas Katzenbach later argued. But it was not presented to the American people, or to the Congress, as an explicit declaration of war. Senator FULBRIGHT, who urged passage of that resolution, thinks he was deceived over what happened in the Tonkin Gulf (were those two American destroyers really attacked by North Vietnamese gunboats? He has been suspicious of administration pronouncements ever since.

Senators JAVITS of New York, EAGLETON of Missouri and STENNIS of Mississippi—whose politics range from Eastern liberal to Southern conservative—have separately introduced resolutions which, while differing in certain details, would reassert Congress's power to declare war. The most recent of the three, introduced by Senator STENNIS, would in some ways place the most restraints on the President. With certain exceptions, it would prohibit the President from using the armed services in any future conflict without congressional authorization. The exceptions would apply only in emergency situations: the President could, on his own, order the Armed Forces to repel an attack on the United States by a foreign power, to prevent an imminent nuclear attack, or to evacuate American citizens from a foreign country if their lives were endangered. The emergency powers would be for a maximum of 30 days, and any extension would require congressional action.

Secretary of State William P. Rogers has opposed all three bills. In particular, he warns that any law circumscribing the President's powers raises the "grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis." Even the Stennis resolution, however, allows considerable latitude. It probably would not have prohibited Eisenhower's landing of troops in Lebanon in 1958 or Johnson's in the Dominican Republic in 1965, nor would it have hamstrung President Kennedy in deploying naval vessels to deal with the Cuban missile crisis in 1962. On the other hand, the resolution would have made the U.S. involvement in Korea impossible without a specific declaration of war. And Congress would have had to face up to the issue of military involvement in Vietnam in the early 1960s, before the big buildup ordered by President Johnson, when American personnel were already in a period of transition from military advisers to combat soldiers.

The whole matter needs considerable study in a dispassionate atmosphere. The constitutional issues are exceedingly complex, and it is essential that any redressing of the President's virtually unlimited war-making powers not be at the expense of his ability to deter potential aggressors in a convincing fashion. But after two medium-sized wars that have taken 90,000 American lives, one undeclared and the other semideclared, the people are surely entitled to some congressional restraints on the executive branch. Vietnam in particular has been hard on presidential reputations, and this might be less true if Congress shared more in the deliberations, the knowledge and the responsibility. One of the lessons of the painful Vietnam experience is that the country should never again commit American lives to a long struggle on foreign shores unless the people's elected representatives explicitly authorize it.

[From the Cleveland (Ohio) Plain-Dealer, May 16, 1971]

RESTORE CONGRESS WAR POWER

Congress has let slip out of its hands, and into the hands of presidents, its constitutional powers to declare wars, to limit or to sustain this country's military actions.

Many members of Congress feel that they were pressured into voting to support undeclared wars. A growing number of men in Congress have been struggling, throughout the Vietnam involvement, to re-instate Congress once again as a partner in decisions committing the nation's lives and property to the chances of overseas hostilities.

Now the peace voices have been joined by John C. Stennis, D-Miss., a conservative and relatively pro-Vietnam chairman of the Senate Armed Services Committee. Sen. Stennis has fallen in step with such liberal northern peace advocates as Sen. Jacob Javits, R-N.Y., on the issue of reclaiming for Congress power to check a president if he uses armed forces.

The men who wrote the Constitution, back in the 18th century, couldn't foresee a push-button war, or a war that starts with sneak thievery, snipers, street disorders and subversions—and then bursts into a "people's war of liberation." Some wars today are undeclared.

A president must have instant power to cope with possible nuclear attack. A president must protect Americans, military and civilian, now stationed by treaty or otherwise lawfully deployed in foreign territories. Congress must not tie the President's hands in that kind of crisis.

Treaties of mutual security multiplied profusely after World War II. United States commitments bind this country to go to the assistance of other countries all around the globe and all along the political spectrum. Those treaties were ratified by the Senate. There is no honorable way to junk those commitments, and to do it would discredit faith in America.

But it still is possible to find reasonable ways in which Congress can be brought into the decisions of war. And such ways should be found. As Sen. Stennis points out, the decision to make war is too big for one man, and it is doubtful that an American nation would effectively wage a war unless its own representatives—Congress as a body—supported it. That is a lesson Vietnam has taught.

Bills now pending would give the President necessary powers to use armed force in emergency situations spelled out by Congress. Sen. Javits' bill would then give Congress 30 days in which to declare war, to authorize limited hostilities or to tell the President to halt the military operations he has begun.

In some such formula—the Stennis bill narrows the presidential power a bit more—the American public would find some assurance. There must be a way for Congress to play the role of people's spokesmen in the days and hours, if not the first moments, of decisions as fateful as peace or war.

[From the Buffalo (N.Y.) Evening News, May 13, 1971]

CLARIFYING THE WAR POWER

Ever since President Johnson began the great escalation in Vietnam, with the Tonkin Gulf resolution providing the main cover of legality, a growing cross-section of congressional leaders has been seething in frustration over the Chief Executive's assumption of a war-making power which the Founding Fathers intended to repose in Congress.

While the effort to retrieve some semblance of this lost, strayed or stolen power has found its greatest support among Senate doves—with New York's Sen. Jacob Javits coming to the fore in recent months as the most articulate exponent—this movement is now immeasurably enhanced by the support of a leading southern hawk, Sen. John Stennis (D., Miss.).

Actually, the aggrandizement of the President at the expense of Congress in this vital war-making area is part of a generations-long pattern which, in the thermonuclear age, could not possibly be reversed in any ultimate sense. Obviously, we cannot have 531 thumbs on the nuclear button; the President must be free to confront any instant challenge to our survival with whatever emergency actions he deems necessary.

But this is not the kind of challenge we faced in Korea or now face in Vietnam, Cambodia and Laos, where this nation has waged prolonged war under presidential direction without either a congressional war declaration or specific congressional regulation of its conduct. Not only that, but the President takes it for granted that he alone has the power to wind the war up or down, widen it or narrow it, continue it or end it—just so long as Congress keeps supplying the money and refrains from imposing any absolute restrictions.

The Javits resolution, which Sen. Stennis' proposal seems to echo in most major respects, would authorize the President to commit our armed forces under four specific conditions: (1) to repel a sudden attack on the U.S.; (2) to repel an attack against U.S. armed forces on the high seas or abroad; (3) to protect U.S. lives abroad, and (4) to comply with a specific treaty or other formal national commitment.

But whenever such hostilities have been initiated, the President would be required to give Congress a full and prompt account of the circumstances, and, in the absence of a declaration of war, he would be prohibited from sustaining the hostilities beyond 30 days except as Congress may provide by law. To make sure that the whole Congress could act on such war-sustaining legislation within the 30 days, the desolution gives it a special priority guaranteeing it prompt committee clearance and a vote in each house within three days thereafter.

The only point on which Sen. Stennis seems to differ with this approach is that he would explicitly exclude any application to the Indo-China war. On this point, Sen. Javits said in his interview with The News this week that his proposal, while not retroactive and therefore not intended to apply in Vietnam, nevertheless could apply there, too, if hostilities involving American troops should be renewed after they had ceased. But that is a relative quibble compared with the broad constitutional purpose of redefining the war power in a context relevant to this dangerous age.

We think the Javits resolution does accomplish this in a most effective way, and we are impressed by the caliber of the many

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constitutional authorities who agree that it will help restore the balance intended by the Founding Fathers. The fact that the President must have untrammeled authority to act in bona fide emergencies does not, in our judgment, justify the waging of prolonged hostilities in the absence of either a formal declaration of war or a specific act of Congress. It is time that the basic constitutional responsibility for keeping this nation at war be put, as Sen. Stennis says, "where it belongs, on the people's representatives."

[From the Dallas (Tex.) Morning News, May 11, 1971]

THE WAR DECISION

When a legislative proposal bears the seal of both a conservative Southern Democrat like Sen. John Stennis and a liberal Northern Republican like Sen. Jacob Javits, it would seem to be an idea whose time has come.

Sen. Stennis told television newsmen Sunday that he will sponsor a resolution to clarify and limit the war powers of the presidency. Stennis, chairman of the Armed Services Committee, has been a strong supporter of the military and the Nixon administration's handling of the Vietnam War—he made it clear that nothing in his plan applies to that conflict.

But as he detailed his plan, he also made it clear that his ideas on war powers of the executive and legislative branches are similar to those of his colleague Javits. Javits had earlier introduced a resolution much like that now favored by the Mississippian.

Both the Javits plan and the Stennis version acknowledge the fact that in today's world, particularly when a nuclear confrontation is threatened, decisions to commit military forces must often be made quickly. This need for dispatch and the overall growth in the power of the presidency have resulted in a steady erosion of Congress' constitutional power to decide whether the nation will go to war.

Even in the beginning the architects of the Constitution realized that the president would have to have emergency power to repeal sudden attacks, defend the nation until Congress could speak. But in recent years this power has grown until Congress has been edged out of the decision-making picture.

Both Javits and Stennis would reaffirm the original principle laid down in the Constitution. The president would still be empowered to act quickly in case of emergencies such as a surprise attack or danger to the lives of Americans. But a new limit would be set on this power. The president would be required to get Congress to back his action wtih a declaration of war within 30 days or the troops will have to be withdrawn.

The purpose of these resolutions is to restore to Congress the final decision on whether or not this country is to fight a war—though leaving the President the task of fending off an enemy until Congress can decide.

The purpose is a valid one. As Stennis says, the plan "puts the responsibility where it belongs, on the people's representatives."

We have learned that it is important not only to get quick decisions but in the case of a national decision to carry on a war, to mobilize a broad base of support for the national effort in and out of government. The Vietnam War has shown the necessity for firm national unity even during a limited conflict.

Some members of Congress now say that they did not know what they were doing when they approved the Tonkin Gulf Resolution. Under the new plan, they would have no such escape hatch—they would be required to face the question squarely and bear the responsibility for their chosen answer. The trend in recent years has been for Congress to pass the hard decisions to the presidency—this plan would help to reverse that trend and return to Congress the duty and responsibility to make this crucial decision for the nation.

In facing up to its responsibility Congress can acknowledge both constitutional principle of the past and the practical lessons of the present. This idea's time has not only come, but it is plainly overdue.

[From the New York (N.Y.) Daily News, Mar. 28, 1971]

BILLS AIM FOR LIMITS ON PRESIDENT

(By Jerry Greene)

WASHINGTON, March 27.—President Nixon sounded the campaign cry of "no more Vietnams" back in 1968, and now it appears that this is being converted—slowly but surely—from slogan to hard legislation designed to impose strict limits on presidential powers.

Whether the President will buy the pending legislation, or even the idea of such a restriction, is yet uncertain. But Secretary of State Rogers, slated for early testimony on the issue before the Senate Foreign Relations Committee, is understood to be receptive to the idea.

It is doubtful that legislation to preclude any extended U.S. intervention in somebody else's war would be necessary for another generation at least. As Sen. John C. Stennis (D.-Miss.) told a national security seminar in January, the first lesson that has been learned from Vietnam is "that in the future, there must be a declaration of war by the Congress with respect to these engagements unless, of course, there is some major Pearl Harbor-type attack on the country."

Certainly, after Vietnam no President any time soon is going to make a heavy commitment of American troops to any so-called small war without solid approval of Congress. Not if he likes his job and wants to keep it.

Nixon himself accepted this fact of life when in his so-called state of the world message Feb. 25 he said: "Our experience in the 1960s has underlined the fact that we should not do more abroad than domestic opinion can sustain."

The Nixon doctrine of a "lower profile" for America around the world, and for assistance to beleaguered friends and allies in terms of arms aid and advice only, was a step toward implementing the policy of no more Vietnams.

But a policy wasn't enough for concerned members of Congress, including some of the backers of Nixon's Vietnam operations, such as Stennis. A crop of proposed restrictive legislation came early in this session of Congress. Primary attention has focused in the bill introduced by Sen. Jacob K. Javits (R.-N.Y.), with Sens. Charles Mathias (R-Md.), Claiborne Pell (D-R.I.) and William Spong (D-Va.) as cosponsors.

The Senate Foreign Relations Committee has been conducting hearings seriously, without fanfare, calling on constitutional experts as well as supporters of the measure. Publicly and privately, Javits has sought to lean on the President for support, contending that a Nixon endorsement of the war powers limitations would go far toward blocking the spread of the "new isolationism" that has caused the President concern.

In Javits' view, presidential approval of his bill would demonstrate Nixon's desire to "establish a role for Congress and the people in controlling undeclared wars."

The Javits bill would allow the President to repel attacks, to protect U.S. lives and property abroad and to comply with national commitments that had been approved by Congress. But if he moved into a limited war otherwise, he would have to end the intervention in 30 days without specific congressional authorization.

JEALOUS OF EXECUTIVE POWERS

Presidents traditionally have been exceedingly jealous of their executive powers and their authority as commander-in-chief of the armed forces, as laid down in the constitution.

Before World War II, FDR had his innings with Congress over the Neutrality Act and its repeal. Only last year Nixon battled successfully to stave off what he considered an intrusion into presidential powers by backers of the McGovern-Hatfield amendment to set a terminal date for Vietnam.

Nixon wanted no action by Congress, binding or not, that would in his view, interfere with his plans for withdrawal from Vietnam, and negotiations with the North Vietnamese in Paris for return of the war prisoners and a peace settlement.

But future commitments are something else again. It is quite likely that the President will raise no serious objection if forthcoming war power limitation legislation is carefully drawn and does not throw roadblocks in the way of swift movement in an emergency, and does not contravene authority clearly granted by the constitution.

STENNIS' OWN VERSION OF BILL

The constitutional issue is complex and debatable; the Senate committee must be mindful of equally complex treaties and "arrangements" the U.S. has with 43 foreign countries.

Stennis is at work on his own version of a limitation of powers bill. It will reach the Foreign Relations Committee during the hearings and will strive "to help perfect a more-realistic method that Congress shall use in providing explicit authority for the President to repel an attack, but requiring congressional authorization before hostilities can be extended for an appreciable time."

Many hereabouts are convinced that most of former President Johnson's latter-day political troubles stemmed from his reliance on the old Tonkin Gulf resolution as authority for commitment of combat troops to Vietnam in 1965. That was a time for review, and for acquisition of specific, clear-cut congressional authority.

Javits, in testimony before the Senate committee, said: "We live in an age of undeclared war, which has meant presidential war."

This observation may have been true enough until now, but not any longer. The national stress resulting from Vietnam will surely preclude any early repetition.

[From the Los Angeles (Calif.) Times, April 4, 1972]

JAVITS BILL WOULD SEEK TO BALANCE WAR POWERS OF PRESIDENT, CONGRESS

(By Ernest Conine)

It is possible to believe that the U.S. role in Vietnam has been essentially right and honorable, and still regret that President Lyndon B. Johnson did not seek a clear expression of congressional approval before committing this country to one of the bloodiest wars in our history.

Had he done so, this would have been an American war—right or wrong—and not "Johnson's War" or "Nixon's War." We might, as a consequence, have escaped a great deal of the pain and turmoil which has wracked this nation for the past five years.

All this being true, one does not have to be a Dove, a neurotic President-hater or a 1971-model isolationist to conclude that Sen. Jacob K. Javits (R-N.Y.) has come up with a proposal which merits serious consideration.

The Javits "Bill to Regulate Undeclared War," introduced earlier this month, would establish certain rules concerning the conduct of undeclared wars.

Specifically, the bill would recognize four kinds of circumstances in which the President, in his constitutional role as Commander-in-Chief, could initiate combat hostilities without asking for a declaration of war by Congress.

Emergency action could be taken, for example, (1) to repel a sudden attack on the territorial United States or its possessions; (2) to repel an attack on U.S. armed forces legally stationed abroad; (3) to protect the lives and property of American nationals abroad, and (4) to comply with a "national commitment lawfully taken by the affirmative action of the Congress and the President."

The President, however, would be required to report fully and promptly to Congress as to the circumstances of and authority for the action which he had initiated. And he would be required either to terminate the hostilities within 30 days, or to seek congressional approval for continuing hostilities beyond that time.

Javits makes no bones of the fact that his intention is to prevent the fighting of another "presidential" war such as Vietnam. As he put it, "Our tragic experience in Indochina shows that the pendulum has swung too far in the direction of presidential war-making."

Unlike some of his dovish colleagues, however, Javits is trying to deal with the world as it is. He is not trying to cripple the ability of the President to conduct a rational —and, if need be, strong—foreign policy in pursuance of American interests.

It is worth remembering how the Vietnam conflict became "Johnson's War." When Mr. Johnson made the fateful decision in mid-1965 to dispatch large numbers of U.S. ground troops to combat in Vietnam, practically everybody agreed that it would be a mistake for him to seek an actual declaration of war. Such a declaration would have put China and the Soviet Union on the spot and increased the chances of their direct involvement in the war. Or so it was thought.

There is no reason, however, that Mr. Johnson could not have outlined his Vietnam intentions to Congress and asked for a clear resolution of support.

If he had done so, there is no cause to doubt that he would have gotten it. Members of Congress, once having gone clearly on the record, would not have found it so easy to trade their hawk feathers in for dove feathers when the political going got rough. They would have had to share the blame or the credit for the war with the President.

It is highly unlikely, too, that we would now be suffering so heavily from inflation and unemployment if things had happened that way. Why? Because Mr. Johnson would never have been allowed to get away with the massively unbalanced budget in 1966 that triggered the economic woes with which President Nixon is still struggling five years later.

In mid-1965, however, LBJ was in the middle of trying to sell his "Great Society" program to Congress and the country. It was controversial and very, very expensive. The last thing he wanted to do was alarm everybody by talking forthrightly about the escalating U.S. involvement in the war.

It is not unfair, in retrospect, to say that Mr. Johnson got us into the war by stealth.

Later, as the full scope of the involvement became more clear and criticism mounted on Capitol Hill, the Johnson Administration fell back on the Tonkin Gulf resolution—a thin reed, to say the least—and upon the inherent powers of the President as Commander-in-Chief.

Obviously, there is something wrong when the President needs congressional authorization to deepen the harbor at San Pedro, or to build a flood control project in Kansas, but not to involve the United States in a conflict which has cost us thousands of lives and many billions of dollars.

Yet it would be most unwise to so hamstring the President that he could not legally respond to a genuine emergency—something like the Cuban missile crisis of 1962 or a Korea-style Communist invasion of some country which we are pledged to help defend.

Javits' approach gets around such objections by giving the President 30 days in which he can act without congressional approval. Beyond that time, he would have to make a case to Congress and to the country for the continuation of hostilities.

There may be constitutional complications. There always are in the murky field of presidential vs. congressional power. However, it is hard to see how anybody—even a President—could object to the substance of the idea that Congress should be consulted on the most fundamental decision which a nation can make; the decision to go to war.

[From the Denver (Colo.) Post, Feb. 17, 1971]

A "BAAKE" ON WAR INVOLVEMENT

Sen. Jacob Javits, R-N.Y., has introduced a bill, with bipartisan co-sponsorship, which would impose a 30-day time limit on a president's power to commit U.S. troops to hostilities abroad, unless within that time Congress approved his course of action.

This measure would close a significant gap in federal law and, in our view, deserves most serious consideration by the public, the President and Congress.

The measure has been inspired, of course, by the legal ambiguities of the undeclared war in Vietnam. The fact that even a "hawk" on the war, such as Mississippi's Sen. John Stennis, has declared himself in favor of the general idea, suggests that this is a measure whose time has come.

As the law stands, all the Constitution says is that Congress alone has the power "to declare war." However the President, as commander-in-chief of the armed forces, has been conceded the power, in case of sudden attack on U.S. forces or civilians abroad, or of a threat to them or our interests, to respond with force if he deems it necessary.

But no laws specifically authorize the President to do anything of that kind, nor are any limits—of time or any other kind—put upon how he uses this vague power.

In the kind of world we have now— where peace is kept only by a delicate, ever-shifting nuclear "balance of terror"—this loose, unregulated way of possibly slipping into a major war is too dangerous a way to live.

So the Javits proposal has, at first look, at least three major virtues:

First, it would put other nations on notice that Congress has authorized the President to take hostile action in case of threats or hostile action against us or our interests.

Second, it would put any president on notice that, if he responds to foreign provocation with hostile action, his reasons must be good and solid enough to win congressional approval within 30 days. This should make a president look even more carefully before he leaps into any such action.

Third, hopefully this measure would force Congress to make up its mind, within 30 days, whether it approved or disapproved of what the president was doing. Congress just couldn't let the matter slide for years as it did in Vietnam, until it finally passed the Tonkin resolution.

All these effects, in our judgment, would be healthy. And they would relieve a lot of fears among the public.

We believe Congress, the President and the public should give this proposal most serious study.

[From the Dallas (Tex.) Morning News, July 12, 1970]

BEST OF BOTH

The question of war powers has been a tough one since the days of the Constitutional Convention. It is, if anything, more controversial today than it was then.

The Founding Fathers clearly wanted the power to declare war—along with most of the other important powers—in the hands of Congress. But they also saw the danger in tying a president's hands, refusing him power to defend the country against a sudden attack until he could round up Congress for a formal declaration. It was clear that there would be times when he might have to act on his own initiative to meet a sudden emergency.

Presidents and Congresses have interpreted these powers first one way and then the other, but the question is still unresolved. The need for speedy action—in a sudden emergency—is still balanced off against the need for a broad base of considered, committed support in lengthy wars.

The question may never be fully resolved to the satisfaction of all, but a recent bill authored by Sen. Jacob Javits is a reasonable plan for a compromise solution.

Javits' bill would affirm the president's power as commander in chief:

To repulse a sudden attack on the U.S. or its territories.

To repulse an attack on U.S. troops legally stationed abroad.

To protect the lives and property of Americans.

To comply with the requirements of a recognized commitment through treaty or pact with other nations.

However, the Javits bill would also require that the president seek and get legislation from Congress to affirm this action within 30 days, if action beyond that span is required. The president would have a free hand for immediate action in defense of the Nation's interests. But for a sustained war, the formal approval of Congress would be required.

Javits' bill immediately gained strong support from Sen. Robert Dole, who has been the Nixon administration's champion in skirmishing around this issue. But it would seem to have appeal for many of Sen. Javits' liberal colleagues as well. It might even have something for Sen. Fulbright, who has taken strong, unequivocal stands on both sides of the war powers issue.

With Sen. Fulbright, the stand is quicker than the eye. But there is, in fact, something to be said for both the strong-president school and the traditional school that reserves to Congress the power to commit the nation to war.

Aside from the split-second requirements of nuclear crisis, there are times when a battalion deployed quickly in the right spot for a week can succeed, where much greater force would fail if it arrived too late.

An illustration of the quick, decisive action is President Johnson's success in cooling off the Communist attempt to take over the Dominican Republic, a success accomplished with little loss of life and fine support from other American nations.

On the other hand, the Founding Fathers were foresighted in seeing that a long war, requiring arduous effort and great sacrifice, should not be undertaken without the broad base of support that Congress can represent.

The Javits' plan to combine the strengths of both schools of thought is not foolproof. In its language, there are unavoidable loopholes that might allow either a president or a Congress to dodge responsibility. But it is nevertheless a creditable step toward updating and clarifying the proper roles for both branches of our government in a world where wars and threats of wars seem to be permanent fixtures.

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[From the Wichita (Kans.) Eagle, June 18, 1970]

JAVITS BILL WOULD RETURN WARMAKING POWER TO CONGRESS

Sen. Jacob K. Javits, R-N.Y., may have the answer to the dilemma of the increasing power of the executive branch to involve the nation in undeclared wars.

Senator Javits has introduced a bill which would limit participation in such conflicts to no more than 30 days, unless Congress gave its specific approval in the meantime.

This would allow the President to take action in an emergency, a necessity which seems obvious in this nuclear age. Yet it also would preserve the constitutional right of Congress to be the sole authority capable of involving the nation in a full-scale war.

Perhaps the need for the President to take emergency action has been exaggerated in our minds, but as long as there are intercontinental missiles, as long as there are American troops and military installations all over the world, it does seem that the commander-in-chief must be allowed some liberty to respond in an emergency.

Yet it is increasingly clear that there must be definite boundaries to that power. While a President can move quickly, he is dependent upon a handful of advisers, and particularly vulnerable to manipulation by the Pentagon. Congress moves slowly, but as a diverse body, it is more likely to represent the many views of the country, and to come up with decisions that do not follow the thinking of only one group.

Many contend that the congressional powers to institute military action were observed in the present disputed conflict, when President Johnson went to Congress in 1964 and was granted, in the Gulf of Tonkin Resolution, the power to "take all necessary measures to repel any armed attack against the U.S. and to prevent further aggression."

But that resolution was pushed through in record time. The U.S. destroyers Maddox and C. Turner Joy were attacked on August 2 and 4, 1964, and President Johnson won the Tonkin Resolution by August 7. It is now alleged that Congress was given wrong information about the Tonkin action. But in that short a time, pressed by the President, how could it sort out truth from misrepresentation?

Thirty days isn't much time for deliberation either, but it might be long enough for Congress to do a better job of assessing facts and situations.

The Javits bill shows a recognition of realities, but it would go a long way toward returning to the people—through their representatives most accessible to public opinion—the power of making war.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON DEPARTMENT OF THE ARMY CONTRACTS FOR MILITARY CONSTRUCTION AWARDED WITHOUT FORMAL ADVERTISEMENT

A letter from the Acting Secretary of the Army, transmitting, pursuant to law, a report on Department of the Army contracts for military construction awarded without formal advertisement, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION RELATING TO AUTHORIZED NUMBERS OF CERTAIN OFFICERS OF THE ARMED FORCES

A letter from the Assistant Secretary of the Air Force, Manpower and Reserve Affairs, transmitting a draft of proposed legislation to amend the Act of September 26, 1966, Public Law 89-606, to extend for four years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT ON U.S. EXPORTS TO YUGOSLAVIA

A letter from the Secretary, Export-Import Bank of the United States, reporting, pursuant to law, on U.S. exports to Yugoslavia, for the period November 1971 through January 31, 1972; to the Committee on Banking, Housing, and Urban Affairs.

PROPOSED GRANT AGREEMENT WITH THE UNIVERSITY OF WISCONSIN

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed grant agreement with the University of Wisconsin (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS ON DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered for temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF AN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order suspending deportation in the case of Giovanni Borstelj (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and naturalization Service, Department of Justice, copies of orders suspending deportation of certain aliens (with accompanying paper); to the Committee on the Judiciary.

THIRD-PREFERENCE AND SIXTH-PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports concerning visa petitions according the beneficiaries of such petitions third preference and sixth preference classification (with accompanying papers); to the Committee on the Judiciary.

REPORT OF U.S. COMMISSIONER OF EDUCATION

A letter from the United States Commissioner of Education, transmitting, pursuant to law, his report, for the fiscal year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF PRESIDENT'S NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

A letter from the Chairman, President's National Advisory Council on Supplementary Centers and Services, transmitting, pursuant to law, a report of that Council, for the fiscal year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting, pursuant to law, a report of that Council entitled "People for the People's College" (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the Senate of the State of Hawaii; to the Committee on Banking, Housing and Urban Affairs:

"SENATE RESOLUTION NO. 214 OF THE STATE OF HAWAII

"Relating to the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association

"Whereas, the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association have reached agreement after a lengthy strike which lasted one hundred and thirty-four days; and

"Whereas, the gravity and urgency of reaching accord on this situation have taken much hard work and concerted effort on the part of many concerned individuals representing labor, management, the arbitrator, and the Federal Mediation and Conciliation Service; and

"Whereas, the agreement reached after much discussion was regarded with favor by the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Whereas, the Pay Board has just slashed this agreement, the product of so much exertion by all concerned, by a substantial amount, a move that risks unnecessary confrontation between the International Longshoremen's and Warehousemen's Union, the Pacific Maritime Association, and the Federal Government; and

"Whereas, the International Longshoremen's and Warehousemen's Union, under the leadership of Harry Bridges, has cooperated with management to improve the companies and especially productivity; and

"Whereas, this increased productivity has led to higher profits for the corporations involved; and

"Whereas, the workers, who have not struck for many years, have not received their rightful share of the increased profits that resulted from increased productivity and were forced to strike to obtain benefits that should have been theirs; and

"Whereas, the agreement which was submitted to the Pay Board was recommended for approval by the staff of the Pay Board; and

"Whereas, the Pay Board itself, contrary to their staff's recommendation, has not approved the agreement in its entirety; and

"Whereas, the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association have both urged that the Pay Board approve the agreement to avoid further disruption of commerce; and

"Whereas, such action by the Pay Board against a small but important Union may create difficulty and hardship for our people; and

"Whereas, these members of the International Longshoremen's and Warehousemen's Union number only thirteen thousand one hundred workers; and

"Whereas, such action may be detrimental to a small and responsible Union such as the International Longshoremen's and Warehousemen's Union; and

"Whereas, such action may actually hurt efforts to build the American economy into a viable one that may provide a good life for all; now, therefore,

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Pay Board be, and hereby is, respectfully requested to reconsider its action and approve the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Be it further resolved that certified copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, the members of the Pay Board, and the members of the Cost of Living Council."

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION NO. 39 OF THE STATE OF HAWAII

"Ratifying a proposed amendment to the Constitution of the United States providing for equal rights under the law without discrimination on account of sex

"Whereas, the Congress of the United States has proposed an amendment to the Constitution of the United States to prohibit the denial or abridgement of equal rights under the law on account of sex; and

"Whereas, the transformation of our legal system to one which establishes equal rights for men and women under the law is long overdue; and

"Whereas, what was begun in the Nineteenth Amendment to the United States Constitution, extending to women the right of franchise, should now be completed by guaranteeing equal treatment to women in all areas of legal rights and responsibilities; and

"Whereas, the proposed Equal Rights Amendment provides for the establishment of complete legal equality so that before the law women and men will be treated without discrimination and individuals will be accorded the dignity and respect to which they are entitled politically and morally; and

"Whereas, House Joint Resolution 208, approved by the Ninety-Second Congress, Second Session, reads as follows:

"HOUSE JOINT RESOLUTION 208—JOINT RESOLUTION

"Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

"'ARTICLE

"'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'SECTION 3. This amendment shall take effect two years after the date of ratification.';

"now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, the House of Representatives concurring, that the Article proposed as an amendment to the Constitution of the United States as set forth in United States House Joint Resolution 208, dated March 22, 1972, be hereby ratified by the Legislature of the State of Hawaii; and

"Be it further resolved that a certified copy of this Concurrent Resolution be transmitted to the Administrator, United States General Services Administration, and that certified copies of this Concurrent Resolution also be transmitted to the President of the United States Senate and to the Speaker of the United States House of Representatives and to the members of Hawaii's delegation to the Congress of the United States."

A joint resolution of the Legislature of the State of New Mexico; to the Committee on Commerce:

"STATE OF NEW MEXICO SENATE JOINT MEMORIAL 1

"A Joint Memorial requesting the Congress of the United States to enact legislation controlling television advertising of certain drugs and medicines

"Whereas, drug abuse constitutes one of the nation's major problems; and

"Whereas, the attitudes conducive to drug abuse are widespread, as President Richard Milhous Nixon noted when he stated that ". . . we have produced an environment in which people come naturally to expect that they can take a pill for every problem—that they can find satisfaction and health and happiness in a handful of tablets or a few grains of powder . . ."; and

"Whereas, television 'mood' advertising of over-the-counter drugs and medicines having a stimulant, depressant or tranquilizing effect on the central nervous system, including calmatives, sleeping aids and caffeine stimulants, has tended to encourage people in false expectations similar to those castigated by the President, and thus has fostered a climate of drug misuse and abuse;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the Congress of the United States be respectfully requested to enact legislation controlling or eliminating television 'mood' advertising of drugs and medicines having a stimulant, depressant or tranquilizing effect on the central nervous system; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and to the members of the New Mexico delegation in Congress."

A concurrent resolution of the Legislature of the State of Michigan; to the Committee on Commerce:

"STATE OF MICHIGAN SENATE CONCURRENT RESOLUTION NO. 235

"A concurrent resolution memorializing the Congress of the United States relative to the Surface Transportation Act of 1971

"Whereas, The present and future needs of the United States for a stable and an expanding economy require the smooth functioning of a balanced surface transportation system making the best possible use of all modes—rail, highway, and waterway; and

"Whereas, The demand for freight transportation is growing three times as fast as the population and will double by 1985; and

"Whereas, Much of the surface transportation system is today in a precarious financial position which impedes its ability to modernize and to meet increasing needs of both shippers and consumers alike; and

"Whereas, Existing federal policies relating to regulation and financing have lagged far behind and have impeded the progress and health of the transportation industry; now therefore be it

"Resolved by the Senate (the House of Representatives concurring), That the Michigan Legislature urge the Congress of the United States to enact the Surface Transportation Act of 1971, with its provisions for updating regulations and extending limited financial assistance to the nation's surface transportation modes; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives and to each member of the Michigan delegation to the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"STATE OF CALIFORNIA ASSEMBLY JOINT RESOLUTION NO. 1

"Assembly Joint Resolution No. 1—Relative to the creation of a Commission on Indian Treaties.

"Resolved by the Assemoly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to create a commission to review and evaluate the various treaties made between the United States government and the various Indian tribes and nations; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Legislature of the State of Florida; to the Committee on the Judiciary:

"STATE OF FLORIDA SENATE MEMORIAL NO. 1145

"A memorial to the Congress of the United States to provide for the establishment in the State of Florida of a four year bachelor degree granting institution to be known as the United States Academy of Criminal Justice

"Be It Resolved by the Legislature of the State of Florida:

"Whereas, one of the most significant social problems in the country today is the issue of criminal justice, and

"Whereas, there is a growing need for the development of a uniform body of knowledge in the criminal justice field, and

"Whereas, the citizens of the United States are demanding that the United States government take the lead in establishing reforms in the field of criminal justice, and

"Whereas, an institution patterned after the U.S. Military Academy, U.S. Naval Academy and the U.S. Air Force Academy would provide a cadre of well educated, highly trained officers to serve as sheriffs, chiefs of police, prison wardens and in other similar offices, and

"Whereas, there are many able and highly qualified young people who are sensitive to social problems and willing to pursue law enforcement as a profession, and

"Whereas, such academy should have the best available resources, including a model prison, established in conjunction with the academy, for the purpose of allowing students practical experience in the most modern techniques of correction and rehabilitation of prisoners, and

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"Whereas, Florida because of its moderate climate and its ease of access by all modes of transportation would be an ideal location, and

"Whereas, Mr. Frederick H. Owen, Jr., a citizen of the state has devoted much time and energy to preliminary plans of the proposed academy and model prison, has located possible construction sites and has coordinated efforts with officials of this state, and

"Whereas, the United States government has created and fully funded various military academies and it is proposed that this academy be established in similar fashion, now, therefore,

"Be It Resolved that the Congress of the United States is hereby requested to provide funds and other necessary support for the establishment of the National Academy of Criminal Justice, in the State of Florida, and

"Be It Further Resolved that copies of this memorial be dispatched to the president of the United States, to the president of the United States senate, to the speaker of the United States house of representatives and to each member of the Florida delegation to the United States Congress."

A resolution of the Legislature of the State of Arizona; to the Committee on Labor and Public Welfare:

"STATE OF ARIZONA SENATE MEMORIAL 1005

"A memorial relating to a federal program for research and cure of sickle cell anemia, and recommending passage of pending legislation

"To the Congress of the United States:

"Your memorialist respectfully represents:

"Whereas, sickle cell anemia is a disease now afflicting fifty thousand black persons in this nation, with an additional two million black persons as possible carriers of this disease.

"Whereas, one child of every three hundred to five hundred black children will be stricken with sickle cell anemia and of those that the disease strikes, nine out of ten will die before reaching the age of forty.

"Whereas, millions of dollars have been raised in volunteer campaigns to fight approximately twelve hundred new cases of cystic fibrosis and eight hundred cases of muscular dystrophy, but less than one hundred thousand dollars has been raised to combat approximately eleven hundred new cases of sickle cell anemia.

"Wherefore, your memorialist, the Senate of the State of Arizona, prays:

"1. That the Congress give favorable consideration to passage of bills now pending before it to implement a program of research, diagnosis, treatment and public education of sickle cell anemia.

"2. That the Secretary of State of the State of Arizona be directed to transmit a copy of this memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and each member of the Arizona Congressional Delegation."

A resolution of the Legislature of the State of Arizona; to the Committee on Post Office and Civil Service:

"STATE OF ARIZONA HOUSE MEMORIAL 2001

"A memorial urging Congress to investigate problems created by Federal Civil Service tenure provisions and to make constructive modifications thereto

"To the Congress of the United States:

"Your memorialist respectfully represents:

"Under the tenure provisions of the federal civil service system there has built up over the years a situation which demands the attention of and corrective action by the Congress of the United States.

"On the one hand the job security provisions of civil service laws afford much needed protection to the thousands of loyal, hard-working, conscientious employees whose salary levels are generally lower than those offered by private industry.

"On the other hand the same job security provisions provide the disloyal, disruptive, power hungry few a shield with which to ward off attempts to remove them.

"The Congress must initiate and put into effect needed reforms in the tenure provisions of the civil service laws so that administrative responsibility within the agencies of the federal government may be returned to the control of the people.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

"1. That the Congress appoint a special committee of its members to study, investigate and make recommendations to the Congress for changes in the tenure provisions of the civil service laws toward the goal of returning agency employee responsibility to the elected representatives of the people in the legislative and executive branches of the government.

"2. That the Honorable Wesley Bolin, Secretary of State of Arizona, transmit copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each member of the Arizona Congressional Delegation."

A resolution of the Senate of the State of Florida; to the Committee on the Judiciary:

"STATE OF FLORIDA SENATE MEMORIAL NO. 227

"A Memorial to the Congress of the United States making application to Congress to call a convention for the sole exclusive purpose of proposing to the several states a constitutional amendment relating to the choosing of a presiding officer of the Senate

"Whereas, the government of the United States has traditionally been structured upon a system of checks and balances in order to maintain equality between the three branches of government; and

"Whereas, it is of primary importance that the legislative branch of government be free of any restraint or pressure in order to be more fully representative of the people; and

"Whereas, the vice president of the United States is the president of the senate pursuant to Article I, Section 3 of the Constitution of the United States, and may vote therein when the membership is equally divided; and

"Whereas, Article I, Section 3 of the United States Constitution further provides that the senate shall choose their other officers and also a president pro tempore; and

"Whereas, the continued existence of the representative of the executive branch as the presiding officer of an independent house of Congress is inimical to the preservation of an independent legislature free from leadership supplied by the executive branch of government; Now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That, pursuant to Article V of the Constitution of the United States, the legislature of the state of Florida does hereby make application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing to the several states a constitutional amendment which shall provide:

"That the senate shall choose its officers, including a presiding officer selected from its membership, who shall be designated as the president of the senate, and also a president pro tempore who shall preside during the absence of the president of the senate.

"Be it further resolved that this application shall constitute a continuing application for such convention pursuant to Article V until the legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by this legislature, and

"Be it further resolved that certified copies of this resolution be presented forthwith to the president of the United States senate and the speaker of the United States house of representatives and to the legislature of each of the several states a testing the adoption of this resolution by the legislature of the state of Florida."

Resolutions of the Legislature of the State of Nebraska; to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 86

"Whereas, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"'JOINT RESOLUTION

"'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

"'ARTICLE

"'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it resolved by the members of the Eighty-Second Legislature of Nebraska, Second Session:

"1. That such proposed amendment to the Constitution of the United States be and the same hereby is ratified.

"2. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

"LEGISLATIVE RESOLUTION 83

"Whereas, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"'JOINT RESOLUTION

"'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress;

"'ARTICLE

"'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.'

"Now, therefore, be it resolved by the members of the Eighty-Second Legislature of Nebraska, Second Session:

"1. That such proposed amendment to the Constitution of the United States be and the same hereby is ratified.

"2. That copies of this resolution duly certified by the Secretary of State with the Great Seal of Nebraska attached thereto be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of Congress of the United States."

A concurrent resolution of the Legislature of the State of Arizona; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION 2009

"A concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools

"Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

"1. In accordance with the provisions of Article V of the Constitution of the United States of America, the Legislature of the State of Arizona hereby applies to the Congress of the United States to call a Constitutional convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall permit the offering of voluntary prayer in public schools.

"2. If Congress shall have proposed an amendment to the Constitution to the same effect as the foregoing prior to January 1, 1973, this application for a convention shall no longer be of any force or effect.

"3. The Secretary of State of Arizona is directed to transmit authenticated copies of this Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

A concurrent resolution of the Legislature of the State of Arizona; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION 1002

"A concurrent resolution urging an amendment to the Constitution of the United States permitting each State to establish residency requirements for public welfare assistance

"Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"Whereas, the Legislature of the State of Arizona many years ago enacted into law a residency requirement for receipt of public welfare benefits; and

"Whereas, the Supreme Court of the United States has declared similar laws unconstitutional on the grounds in part that they violate the constitutional right of free travel; and

"Whereas, there are presently many laws which condition entitlement upon residency, that is, the right to use the courts of this state, for example, divorce proceedings require residency; driver's licenses and other licenses, such as the practice of law, medicine, and other professions; voting rights are conditioned on residency, and yet the judiciary has not declared such residency requirements unconstitutional; and

"Whereas, it would appear that in order to constitutionally establish a residency law for public welfare assistance, it is necessary that an amendment to the United States Constitution be enacted; and

"Whereas, the Legislature of the State of Arizona believes it to be for the best interest of the people of the United States that there be an amendment to the Constitution of the United States permitting each of the states to enact a residency law for public welfare assistance; and

"Whereas, the state of the economy in Arizona and elsewhere is one of severe stringency and the challenges facing state and local governments in these times of inflation and high unemployment are such as to sap the ability of governments at all levels to deal effectively with the myriad social problems which face our urban areas; and

"Whereas, our great metropolitan areas are faced in particular with problems of housing shortages, rising numbers of those addicted to narcotics, rapid rises in crime rates, air and water pollution, costs of fire and police protection, overburdened schools and many others and the provision of essential public services has become increasingly more financially difficult; and

"Whereas, the continual spiral upwards of welfare costs increases these problems both by increasing the demand for other essential services and by necessitating a diversion of limited funds from them; and

"Whereas, the greatest public good and least public harm will come from the maintenance of the levels of public assistance rather than from the stretching of limited state and local funds of any state to cover persons who have not yet established dependence upon them, those who are the most recent arrivals in the state.

"Therefore be it resolved by the Legislature of the State of Arizona:

"1. That the Congress of the United States of America is requested to propose an amendment to the Constitution of the United States permitting each state to enact a residency law relating to public welfare assistance.

"2. That the Secretary of State of the State of Arizona is requested to transmit a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Arizona."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Post Office and Civil Service:

"HOUSE JOINT MEMORIAL NO. 10

"A Joint Memorial to the honorable Senate and House of Representatives of the United States in Congress assembled, and the honorable delegation representing the State of Idaho in the Congress of the United States

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, regulations of the United States Postal Service prohibit the forwarding of state income tax forms mailed under certain conditions; and

"Whereas, regulations of the United States Postal Service provide for the destruction of nonforwardable tax forms under certain conditions.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we most respectfully urge the Congress of the United States to take such action as is necessary to provide the same treatment of state tax forms as that afforded the federal government in the forwarding and return of federal tax forms.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

A joint resolution of the Legislature of the State of Colorado; to the Committee on Labor and Public Welfare:

"HOUSE JOINT MEMORIAL NO. 1005

"Memorializing the Congress of the United States to reconsider the effectiveness of existing legislation relating to farm labor housing in the light of certain regulations promulgated by Federal agencies

"Whereas, The federal farm labor housing regulations, previously promulgated by the Secretary of the United States Department of Labor under the authority of Title 29, United States Code, section 49k, have already forced many agricultural producers of this state to close otherwise safe and sanitary housing; and

"Whereas, The reason many agricultural producers were forced to close otherwise safe and sanitary housing was that compliance with the federal farm labor housing regulations would have imposed an undue economic burden; and

"Whereas, As a result of this closing of agricultural labor housing, many farm workers have been unable to find housing and in some cases have been forced to sleep in automobiles or fields, thereby defeating the purpose of the federal labor housing regulations; and

"Whereas, The provisions of the occupational and safety standard covering temporary labor camps, as promulgated by the Secretary of the United States Department of Labor pursuant to the Williams-Steiger Occupational Health and Safety Act of 1970, would force the agricultural producers of this state to close even more otherwise safe and sanitary farm labor housing and could cause further undue economic burdens; and

"Whereas, While each and every separate provision of the federal farm labor regulations in and of itself may not be burdensome, when such regulations are taken as a whole and applied to farm labor housing, they can and do pose a burden for the agricultural producers; and

"Whereas, The federal farm labor housing regulations should be written with some degree of flexibility in order that farm labor housing which does not meet each and every provision of the farm labor regulations yet is otherwise safe and sanitary may be used; and

"Whereas, The state division of employment by federal regulation cannot recruit for or refer potential employees to an agricultural employer unless such employer's labor housing meets the requirements of the federal farm labor housing regulations even if such housing may otherwise be safe and sanitary; and

"Whereas, As a result, many agricultural employers no longer use the division of employment as a source of labor, thereby defeating one of the primary functions of the division of employment which is to place employee with employer; now, therefore,

"Be It Resolved by the House of Representatives of the Forty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the Congress of the United States is hereby memorialized to reconsider regulations concerning farm labor housing which may have the effect of restricting rather than encouraging the availability of safe and sanitary farm labor housing.

"Be It Further Resolved, That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the State of Colorado."

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Two joint resolutions of the Legislature of the State of Idaho; to the Committee on Interior and Insular Affairs:

"IN THE IDAHO HOUSE OF REPRESENTATIVES, HOUSE JOINT MEMORIAL NO. 12, BY STATE AFFAIRS COMMITTEE

"A joint memorial to the Senate of the United States to the members of the Senate Interior Committee, and to the Senators representing the State of Idaho in the United States Senate

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, the state of Idaho has, since statehood, exercised authority over the fish and wildlife management within the state boundaries; and

"Whereas, state management not only has merit based upon long standing precedent, but is the condition greatly preferred by the sportsmen who value the preservation of the state's natural resources; and

"Whereas, this tradition of state management is threatened in the adoption of H.R. 6957 establishing the Sawtooth National Recreation Area and vesting with the Department of Agriculture a usurpation of the fish and wildlife management within the area; and

"Whereas, such usurpation is an unnecessary invasion into a well managed state jurisdiction; and

"Whereas, H.R. 6957 has passed the House of Representatives and is now pending before the Senate of the United States.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the House of Representatives and Senate concurring, that we urge the Senate of the United States to give careful consideration of the language in section 8 of H.R. 6957, and to strike therefrom the reference to authority over fish and wildlife management in the interests of avoiding intrusion into state management.

"Be it further resolved that the Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate, the members of the Senate Interior Committee, and the Senators representing this state in the Senate of the United States."

"IN THE IDAHO HOUSE OF REPRESENTATIVES, HOUSE JOINT MEMORIAL NO. 14, BY WAYS AND MEANS COMMITTEE

"A joint memorial to the honorable members of the Idaho congressional delegation, the chairmen of the Interior Committees in both the Senate and the House of Representatives of the United States Congress, the leadership of the Senate and the House of Representatives, the Secretary of Interior, and the Director of the Bureau of Reclamation

"We, your Memorialists, the Senate and House of Representatives of the State of Idaho, assembled in the Second Regular Session of the Forty-first Idaho Legislature, hereby request that:

"Whereas, the area of Twin Falls County, Idaho, known as the Salmon Tract and relying for irrigation upon the waters of the Salmon Falls Creek has been an area of extreme water shortage during all of its sixty year history as an irrigated tract; and

"Whereas, adequate water supply for the Salmon Tract would be a great stimulus to the economic development of south central Idaho generally and to Twin Falls County, Idaho, particularly; and

"Whereas, the Commission intimated that Twin Falls and Cassia Counties, Idaho, in the area generally known as the Milner-Cottonwood Area, are facing severe cutbacks due to lowering water tables and are in extreme need for supplementary surface water supplies; and

"Whereas, water supplies are available in the Snake River for the supplemental water supplies needed on the Salmon Tract and the Milner-Cottonwood areas at a relatively low cost and at high benefit-cost ratios under the terms of the proposed Salmon Falls Division Project of the Bureau of Reclamation, Department of Interior of the United States of America.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully urge the Congress of the United States to take appropriate action to implement and fund the Salmon Falls Division Project as approved by the United States Bureau of Reclamation and the Secretary of Interior with appropriate safeguards for all persons now holding rights in the water supply of the Snake River.

"Be it further resolved that the Clerk of the House of Representatives he, and he is hereby authorized and directed to forward copies of this Memorial to Representatives and Senators representing the State of Idaho in the Congress of the United States, the chairmen of the Interior Committees in both the House and Senate, the leadership of the Senate and the House of Representatives, and the Secretary of Interior and Director of the Bureau of Reclamation."

A joint resolution of the Legislature of the State of Idaho; to the Committee on Labor and Public Welfare:

"IN THE IDAHO HOUSE OF REPRESENTATIVES, HOUSE JOINT MEMORIAL NO. 11, AGRICULTURAL AFFAIRS COMMITTEE

"A joint memorial—The Honorable President of the United States, the Honorable Senate and House of Representatives of the United States in Congress assembled, the Honorable congressional delegation of the State of Idaho, the Honorable Secretary of the United States Department of Labor, and the Honorable Secretary of the United States Department of Agriculture

"We, your Memorialists, the House of Representatives and Senate of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do respectfully represent that:

"Whereas, agriculture is a vital segment of the economy of the state of Idaho; and

"Whereas, agriculture has a decided effect on all other segments of the economy of this state; and

"Whereas, it is vital that agriculture have available during the growing season an adequate water supply; and

"Whereas, much of the water supply in this state is through the sprinkler pipe system; and

"Whereas, during this crucial period of time, there is not always available in the local labor supply an adequate number of sprinkler pipe movers; and

"Whereas, it is recognized that all reasonable efforts should be exhausted to supply the necessary labor from local labor supply sources.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-first Legislature of the state of Idaho now in session, the Senate and House of Representatives concurring, that we most respectfully urge the President of the United States, the Congress, and the Secretaries of Labor and Agriculture to recognize the problem facing agriculture, and undertake to provide solutions for the great disparity between the supply of local pipe movers and the demand for their services, and including the recognition that after reasonable efforts have been exhausted to secure said labor from local labor supplies, that it may be necessary to legally import foreign labor to accomplish this vital task.

"Be it further resolved that the Chief Clerk of the House of Representatives of the state of Idaho be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, to the Senators and Representatives representing this state in the Congress of the United States, to the Honorable Secretary of the Department of Labor, and the Honorable Secretary to the Department of Agriculture."

A resolution of the Senate of the State of Hawaii; ordered to lie on the table:

S. RES. No. 210

"Resolution congratulating President Richard M. Nixon, the Congress of the United States, and the Commission on Population Growth and the American Future for their concern and work towards a better America.

"Whereas, the subject of population growth is presently a most vital and volatile issue to the people of the United States; and

"Whereas, the Commission on Population Growth and the American Future was proposed by President Nixon and established by Congress in March 1970; and

"Whereas, the first of three final reports was recently released after a detailed, two-year assessment of the impact of population growth on the economy, the environment, government, and the quality of life; and

"Whereas, the twenty-four member Commission chaired by John D. Rockefeller, III, and composed of members of Congress, businessmen, union leaders, foundation and university officials, youth and minority groups concluded: 'No substantial benefits would result from continued growth of the Nation's population.'; and

"Whereas, the report expressly rejected views at the extremes of current public debate over population, challenging both 'bigger-the-better' boosterism on the one hand and 'the emergency-crisis response' on the other; and

"Whereas, the operative word is 'prudence', not 'crisis' nor 'complacency'; and

"Whereas, the Commission's report thereby called on the United States to become the first nation to adopt a deliberate population policy and enable parents now to avoid unwanted childbearing; and

"Whereas, the Commission's main concern in preparing this first report was not the quantity of people in the future but the quality of life; and

"Whereas, it concluded that unless population growth is checked, social freedom will be choked by fees, forms, licenses, lines, regulations, and red tape; and

"Whereas, the resulting society would be so oppressive that "the population of the year 2020 may look back with envy on what, from their vantage point, appears to be our relatively unfettered way of life"; and

"Whereas, the size of the population as well as the distribution of the population is important in promoting the future welfare of Americans; and

"Whereas, the stabilization of the national population would greatly allay the burdens of metropolitanization; and

"Whereas, the report also expresses that 'the time has come to challenge the tradition that population growth is desirable: what was unintended may turn out to be unwanted, in the society as in the family'; and

"Whereas, the Commission intimated that in the next two reports it would offer recommendations concerning regional and metropolitan government and the idea of purposely establishing alternate growth centers to ease pressures on existing metropolitan areas; now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that this body extend its congratulations and appreciation to Richard M. Nixon, President of the United States, members of the Congress of the United States, John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future, and members of the Commission on Population Growth and the American Future for their unselfish concern and work towards the betterment of America for the people; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, and John D. Rockefeller, III, Chairman of the Commission on Population Growth and the American Future."

A resolution adopted by the Pasadena Classroom Teachers Association, Pasadena, Tex., praying for the enactment of legislation to oppose forced consolidation of independent school districts in the State of Texas; to the Committee on the Judiciary.

The petition of Harold Vroom, and sundry other citizens of the State of New Jersey, expressing opposition to the massive busing of pupils; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS:

S. 3446. A bill to amend section 7 of the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CASE:

S. 3447. A bill terminating certain assistance to Portugal and Bahrain until the agreements relating to the use of military bases by the United States in the Azores and Bahrain are submitted to the Senate for its advice and consent. Referred to the Committee on Foreign Relations.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3448. A bill to authorize certain construction at military installations and for other purposes. Referred to the Committee on Armed Services.

By Mr. ROBERT C. BYRD (for Mr. JACKSON):

S. 3449. A bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON:

S. 3450. A bill to authorize continuation of programs of ACTION, create a National Advisory Council for that Agency, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS:

S. 3446. A bill to amend section 7 of the Small Business Act. Referred to the Committee on Banking, Housing and Urban Affairs.

ELIGIBILITY OF SHELTERED WORKSHOPS FOR SMALL BUSINESS LOANS

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to amend the Small Business Act to make eligible for SBA loans nonprofit sheltered workshops for the blind and the severely handicapped.

These nonprofit sheltered workshops, which can serve up to an estimated 100,000 persons in every State of the Nation, seek out the most restricted of workers because such individuals require the most assistance. The workshops endeavor to maximize the earnings of these handicapped persons, giving them dignity and making them self-supporting rather than community supported. The workshops consequently must subsidize such items as the wages of low producers, health and rehabilitation services as well as management and overhead. These supportive services are funded by fees from State rehabilitation agencies, community chests, private donors, community fundraising drives, Government grants and bequests.

Since the workshops spend almost all their funds on their clients, they cannot accumulate capital funds; they also have limited access to other sources of capital in the community. Thus, the small business loan program offers a major hope that they can obtain the funds needed to tool up adequately to meet the demands for the goods and services which they can sell.

Access to SBA loans for capital expansion will increase the Nation's resources for handicapped persons. It will also help special workshop groups that ordinarily find difficulty in securing employment in most of the sheltered workshops, such as the homebound, the multihandicapped and minority group members.

Sheltered workshops have proven excellent risks—they can repay the money loaned them in addition to providing remunerative work and training opportunities where private enterprise has not done so.

The recently enacted Public Law 92-28—the so-called Javits-Wagner-O'Day Act—has opened up for these workshops new opportunities in securing Federal contracts for goods and services; the legislation I am introducing will afford nonprofit sheltered workshops the chance to grasp this new opportunity. And that is all that the handicapped ask of us—a chance.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof a new subsection, as follows:

"(g) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any agency—

"(1) organized under the laws of the United States or of any State, operated in the interest of blind or other severely handicapped individuals, the net income of which does not inure in whole on in part to the benefit of any shareholder or other individual;

"(2) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(3) which in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection employs blind or other severely handicapped individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of these commodities or services."

By Mr. CASE:

S. 3447. A bill terminating certain assistance to Portugal and Bahrain until the agreements relating to the use of military bases by the United States in the Azores and Bahrain are submitted to the Senate for its advice and consent. Referred to the Committee on Foreign Relations.

Mr. CASE. Mr. President, I am today introducing a bill which would block all assistance to Portugal and Bahrain promised in recent executive agreements. This ban would remain in effect until the executive submits to the Senate as treaties these two executive agreements. I expect to offer the substance of this legislation as an amendment to the Foreign Aid Act.

I would have preferred that this matter be handled in a less drastic fashion. For several months now, I have been taking actions which urge the executive to submit to the Senate the agreements for U.S. military bases in the Portuguese Azores and in Bahrain—but to no avail.

I started out by writing to Secretary of State Rogers on December 9, 1971, urging that the agreement with Portugal for a 25-month extension of U.S. bases rights in the Azores in return for about $435 million in U.S. assistance and credits be submitted as a treaty.

I wrote:

There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate the use of the treaty process.

And I added that—

The furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa.

When it became clear that the administration would not react favorably to my letter, on December 16, 1971, with the cosponsorship of four other senior members of the Foreign Relations Committee, I introduced a resolution which called on the executive to submit the Portuguese agreement as a treaty.

Then on January 6, I read in the newspaper that the United States had entered into an "unpublicized" agreement with Bahrain for the establishment of a naval base on that island in the Persian Gulf. Again, the administration intended not to submit the agreement to the Senate but to settle the whole matter with a stroke of a diplomat's pen. Again, I pointed out on the Senate floor that the stationing of American troops over-

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seas could lead to a commitment toward the host country and ultimately to war, and that the United States was becoming involved in a volatile part of the world where previously we had never had our own base.

On that day, I announced my intention to expand my resolution on the Azores to include also the submission to the Senate of the Bahrain agreement. The Foreign Relations Committee then held 3 days of public hearings during which the State Department testified it still would not submit the Azores and Bahrain agreements.

Nevertheless, on March 3, the Senate passed my resolution 50–6. The vote was significant not only because of the overwhelming majority by which it was adopted but also because Senators of all ideological persuasions joined in the effort to reassert the Senate's explicit constitutional role in the treatymaking process.

On March 6, I wrote again to the Secretary of State asking, in view of the Senate's passage of my resolution, if and when the executive would submit the two agreements to the Senate for advice and consent.

I have now received the State Department's reply—dated March 21—which says that after "serious consideration," it still will not submit the Bahrain and Azores agreements to the Senate. Claiming that the agreements "were appropriately concluded as executive agreements," the State Department's only reaction to the overwhelming vote of the Senate on my resolution is to "have noted the sense of the Senate."

I understand full well that a Senate resolution is not legally binding, so the State Department technically has the right only to "note" it. Yet, I must say that the attitude of the Department is most unwise and is shortsighted in the extreme.

The framers of the Constitution were explicit in their inclusion of the requirement for advice and consent of the Senate in the making of a treaty. And nowhere in the Constitution did they mention that the executive could skirt senatorial approval by simply calling a pact with a foreign government an executive agreement.

But the Department still refuses to take heed of the Senate's will on this question. So, I am faced with two choices: Either I can let the matter drop—content to have a resolution with my name on it passed by the Senate—or I can at least try to take further action. I have chosen the latter course because I believe a fundamental constitutional question is at stake.

The Senate cannot compel the executive to submit the agreements, but at the same time the Senate does not have to appropriate any money to pay for the agreements' costs.

I am today calling on my colleagues to uphold the Senate's vote of March 3 and cut off the funds needed to implement the agreements with Portugal and Bahrain until they are submitted as treaties.

Mr. President, I ask unanimous consent that there be printed in the RECORD the text of my bill, various background documents, and earlier editorial comment on the Portuguese and Bahrain deals.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress declares that, until the agreements signed by the United States with Portugal and Bahrain, relating to the use by the United States of military bases in the Azores and Bahrain have been submitted to the Senate as treaties for its advice and consent, assistance to be furnished Portugal and Bahrain as the result of such agreements should be terminated, and that Senate Resolution 214, 92d Congress, agreed to March 3, 1972, expressed the sense of the Senate that such agreements should be so submitted to the Senate as treaties.

(b) Therefore, notwithstanding any other provision of law, on and after the date of enactment of this Act—

(1) no vessel shall be loaned or otherwise made available to Portugal;

(2) no agricultural commodities may be sold to Portugal for dollars on credit terms or for foreign currencies under the Agricultural Trade Development and Assistance Act of 1954;

(3) no funds may be provided to Portugal for educational projects out of amounts made available to the Department of Defense;

(4) no excess articles may be provided by any means to Portugal;

(5) no defense articles may be ordered for Portugal from the stocks of the Department of Defense under section 506 of the Foreign Assistance Act of 1961; and

(6) the Export-Import Bank of the United States may not guarantee, insure, extend credit, or participate in any extension of credit, with respect to the purchase or lease of any product by Portugal, or any agency or national thereof, or with respect to the purchase or lease of any product by another foreign country or agency or national thereof if the Bank has knowledge that the product is to be purchased or leased principally for the use in, or sale or lease to, Portugal; until such agreement with Portugal is submitted to the Senate as a treaty for its advice and consent.

(c) Notwithstanding any other provision of law, on and after the date of enactment of this Act, no funds may be furnished by the United States to Bahrain for the use of any such base in Bahrain until such agreement with Bahrain is submitted to the Senate as a treaty for its advice and consent.

DEPARTMENT OF STATE,
Washington, D.C., March 21, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: The Secretary has asked me to reply to your letter of March 6, 1972 asking to be informed if and when the Administration plans to send the recent agreements with Bahrain and Portugal to the Senate for its advice and consent.

The Department has given serious consideration to S. 214, as is deserving of any resolution expressing the sense of the Senate on a matter of this nature. However, as Under Secretary U. Alexis Johnson stated in his testimony before the Senate Foreign Relations Committee on February 1, the Department of State believes that the agreement with Portugal to continue United States rights to station forces in the Azores and the agreement with Bahrain to permit the Middle East Force to continue to use support facilities in Bahrain were appropriately concluded as executive agreements. The agreements involve no new policy on the part of the United States nor any new defense commitment. Indeed, to seek Senate advice and consent would, in our view, carry a strong implication of new commitments that were not in fact intended by the parties. Of course the agreement with Portugal is in implementation of our already existing commitments under the North Atlantic Treaty, which was approved by an overwhelming majority of the Senate.

We realize, of course, that there may be a difference of view on the form an international agreement should take, and we have noted the sense of the Senate with respect to the Bahrain and Azores agreements as expressed in the vote on S. 214. We will continue to make every effort to keep the appropriate Congressional Committees informed of important agreements under negotiation and to consult with those Committees whenever there is a serious question whether an international agreement is to be made in the form of a treaty or otherwise.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

TREATY WITH PORTUGAL AND
U.S. ECONOMIC AID,
December 9, 1971.

The Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In this morning's *New York Times,* it was reported that the United States and Portugal had negotiated an agreement regarding the future use by the United States of air and naval bases in the Portuguese Azores. It was further reported that the United States would furnish Portugal with economic aid in return for the use of the bases.

While not questioning the right of the Executive to negotiate agreements of this sort, I would like to receive your assurances that any final agreement will be submitted as a treaty for the Senate's advice and consent, and that no economic assistance will be furnished to Portugal without affirmative action of both Houses of Congress.

There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate the use of the treaty process. It is unfortunate that American forces have been in the Azores since World War II only on the basis of executive agreements, but this past oversight in no way justifies the enactment of a new agreement without conforming to our Constitutional processes.

Similarly, the Executive has the right to discuss with any foreign government the furnishing of foreign assistance, but the Constitution clearly establishes that the Congress must appropriate (and hence authorize) the funds to institute such a program. Congress has provided the President with certain discretionary authority to make changes in the allocation of foreign aid funds, but the clear intent of Congress has been for this discretionary authority to be used in emergency situations. The new agreement with Portugal is not a matter on which the Executive must act immediately and thus would not and have time to come to Congress for authorization.

Finally, I would point out that the furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa. You stated on March 26, 1970: "As for the Portuguese territories, we shall continue to believe that their peoples have the right of self-determination. . . . Believing that resort to violence is in no one's interest, we imposed an embargo in 1961 against the shipment of arms for use in the Portuguese territories."

Yet there would seem to be a clear tie between the furnishing of economic aid to Portugal and the wars in the Portuguese colonies. *The New York Times* said this morning: "The loans could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because of the need to import foodstuffs in part because of the war against the guerrillas in Angola, Mozambique and Portuguese Guinea."

This additional complication is an added reason for the Executive Branch to seek the advice and consent of the Senate before final action is taken on the reported agreement with Portugal. I am confident you will agree and I await your affirmative response.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

DEPARTMENT OF STATE,
Washington, D.C., December 17, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: The Secretary has asked me to reply to your letter of December 9 regarding the recent exchange of notes with Portugal formalizing continuance of the rights of the United States to use certain military facilities in the Azores.

The basis of our defense cooperation with Portugal is the North Atlantic Treaty, which was, of course, overwhelmingly approved by the Senate on July 21, 1949. The bilateral Defense Agreement of 1951 with Portugal, which was executed in implementation of the North Atlantic Treaty, provided for wartime use of the Azores facilities by United States forces "during the life of the North Atlantic Treaty" and for the peacetime presence of American personnel during a specified time for the purpose of preparing the facilities for possible wartime use, storing materiel, and otherwise achieving a state of readiness. These rights to peacetime presence of United States forces in the Azores, in pursuance of the goals of the North Atlantic alliance, were extended by agreement on November 15, 1957 to December 31, 1962.

Upon the expiration of our agreed rights of peacetime use under this bilateral agreement in 1962, those rights were extended unilaterally by the Portuguese Foreign Minister in a letter of December 29, 1962 to the American Ambassador. The exchange of notes which took place last week restored those rights to a bilaterally agreed basis, as was the case from 1951 to 1962. This exchange of notes did not, of course, expand in any way our presence in the Azores, which has remained substantially the same for many years. Likewise, it does not expand our commitments beyond those accepted by the Senate in giving advice and consent to ratification of the North Atlantic Treaty.

The various forms of assistance we intend to make available to Portugal will come under existing programs of the Departments of Defense, Agriculture and the Export-Import Bank of the United States. All assistance is expressly conditioned on the availability of authorizing legislation and appropriated funds. The Department does not agree that there is "a clear tie between the furnishing of economic aid to Portugal and the wars in the Portuguese colonies." Contrary to the press article you cite, there is no strain on Portugal's foreign currency reserves, which, in fact, have been rising continually and now stand at an all-time high of $1.6 billion. The main effect of the Eximbank and PL-480 credits we are offering Portugal should be to increase the United States share of Portugal's import market, which is lower than our share of the market in any other Western European country.

I am enclosing for your information, a complete set of the documents exchanged last week between the Secretary and the Portuguese Foreign Minister. If you have any further questions about them, please do not hesitate to let me know.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

DECEMBER 9, 1971.

His Excellency RUI PATRICIO,
Minister of Foreign Affairs of Portugal

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's Note dated December 9, 1971, which reads as follows:

"I have the honor to refer to the letter of the Foreign Minister of Portugal to the Ambassador of the United States of America, dated December 29, 1962, and to the notes of this Ministry and of your Embassy, dated January 6, 1969, and February 3, 1969, respectively, relating to the conversations regarding the continued stationing of American forces and personnel at Lajes Base in the Azores and its use by the same.

"I have the honor to propose that the continued use by American forces of the facilities at Lajes Base be authorized by the Government of Portugal for a period of five years dating from February 3, 1969.

"The continued use of such facilities will be regulated by the mutual arrangements affirmed and described in the letter of the Foreign Minister of Portugal dated December 29, 1962. Either party may propose the commencement of conversations regarding use of such facilities beyond the period described in this note six months before the expiration of such period, but no determination that a negative result has arisen in such conversations shall be made for at least six months following the expiration of such period. In the event neither party proposes the commencement of further conversations, a negative result shall de deemed to have arisen upon the expiration of the period described in this note.

"I should like to propose that, if agreeable to your Government, this note together with your reply, shall constitute an agreement between our two Governments."

I confirm to you that the above quoted proposal is acceptable to the Government of the United States, and that Your Excellency's note and this reply shall be regarded as constituting a formal agreement between the two Governments.

Accept, Excellency, the assurances of my highest consideration.

WILLIAM P. ROGERS,
Secretary of State of the United States of America.

THE SECRETARY OF STATE,
Washington, D.C., December 9, 1971.

His Excellency RUI PATRICIO,
Minister of Foreign Affairs of Portugal.

DEAR MR. MINISTER: I refer to the series of discussions that have taken between our two Governments designed to enhance our political, economic, and cultural relations and in particular to the discussions that have centered on Portugal's development programs in the fields of education, health, agriculture, transportation, and science.

As a result of these discussions, the United States agrees, within the limitations of applicable United States legislation and appropriations, to help Portugal in its development efforts by providing the following economic assistance:

1. A PL-480 program that will make available agricultural commodities valued at up to $15 million during FY-1972 and the same amount during FY-1973. The terms of the agreements under PL-480 will be 15 years at 4½ percent interest, with an initial payment of 5 percent and currency use payment of 10 percent.

2. Financing for certain projects of the Government of Portugal, as follows: The two Governments have reviewed development projects in Portugal valued at $400 million and the United States Government declares its willingness to provide, in accordance with the usual loan criteria and practices of the Eximbank, financing for these projects.

3. The hydrographic vessel USNS Kellar on a no cost basis, subject to the terms of a lease to be negotiated.

4. A grant of 1 million to fund educational development projects selected by the Government of Portugal.

5. $5 million in "drawing rights" at new acquisition value of any non-military excess equipment which may be found to meet Portuguese requirements over a period of two years. The figure of five million dollars is to be considered illustrative and not a maximum ceiling so that we may be free to exceed this figure if desired.

As soon as the Government of Portugal replies to this letter, discussions shall be initiated to implement the details of each of the individual items listed herein.

Sincerely yours,

WILLIAM P. ROGERS.

THE SECRETARY OF STATE,
Washington, D.C., December 9, 1971.

His Excellency RUI PATRICIO,
Minister of Foreign Affairs of Portugal.

DEAR MR. MINISTER: During the recent discussions between our two Governments regarding possible participation by my Government in the plans which your Government has drawn up for the economic and social development of your country, Portuguese and American technicians have reviewed various Portuguese proposals with a total value of some $400 million. These included, inter alia, projects for airport construction, railway modernization, bridge-building, electric power generation, mechanization of agriculture, harbor construction and town planning, and the supplying of equipment for schools and hospitals.

I am pleased to inform you that the United States Government is willing to provide, through the Export-Import Bank of the United States, financing for U.S. goods and services to be used in these projects, in accordance with the usual loan criteria and practices of the Bank. Applications for loans or preliminary commitments covering specific projects may be submitted to the Bank through the Portuguese Embassy in Washington or directly at any time and will receive expeditious handling.

Sincerely yours,

WILLIAM P. ROGERS.

JANUARY 14, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: As you may know, I have already informally told the Department that I plan to include the Bahrain base agreement in my resolution on Azore bases (S. Res. 214). I am enclosing for your information a copy of the amended resolution.

Since we are now in the process of preparing for hearings on S. Res. 214, I would be grateful if you could send me the details of the Bahrain agreement as the Department did earlier on the Azores pact.

Sincerely,

CLIFFORD P. CASE, *U.S. Senator.*

DEPARTMENT OF STATE,
Washington, D.C., January 26, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: The Secretary has asked me to reply to your letter of January 14 requesting details on the agreement between the U.S. and Bahrain providing for the continued stationing of the U.S. Navy's Middle East Force in Bahrain.

I enclose a copy of the text of the agree-

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ment, which was concluded December 23, 1971, and will soon be published in the Treaties and Other International Acts Series. The Chairman of the Foreign Relations Committee has also been provided with a copy.

I would like to stress that this agreement is essentially a logistics arrangement to permit Middle East Force to continue to carry out its mission of visiting friendly ports in the Persian Gulf and Indian Ocean area as a manifestation of the United States interest in the states of the region. The agreement with the Government of Bahrain was necessary because the British have relinquished the naval facilities in Bahrain, a small portion of which our Navy has utilized on an informal basis for over two decades. In addition, the British retrocession of legal jurisdiction over all foreigners in Bahrain as that state became fully independent last year necessitated a direct U.S.-Bahraini arrangement on the legal status of the personnel of Middle East Force.

The agreement with Bahrain involves no change in U.S. naval presence or mission in the area and the agreement in no way involves a political or military commitment to Bahrain or any other state.

Department officers would, of course, be pleased to have the opportunity to discuss with you the Bahrain agreement and its relationship to U.S. policy toward the Persian Gulf.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Enclosure: Text of Bahrain Agreement.

I, the undersigned consular officer of the United States of America, duly commissioned and qualified, do hereby certify that the attached is a true and faithful copy of the original this day exhibited to me, the same having been carefully examined by me and compared with the said original and found to agree therewith word for word and figure for figure.

In witness whereof I have hereunto set my hand and affixed the seal of the American Embassy at Manama, Bahrain this day of December 23, 1971.

RICHARD W. RAUH,
Vice Consul of the United States of America.

EMBASSY OF THE
UNITED STATES OF AMERICA,
Manama, Bahrain, December 23, 1971.

His Excellency SHAIKH MOHAMMAD BIN MUBARAK AL-KHALIFA,
Minister of Foreign Affairs, Government of the State of Bahrain.

EXCELLENCY: I have the honor to refer to the present deployment in Bahrain of the United States Middle East Force, including its flagship and other vessels and aircraft. The United States Government proposes to maintain this presence and its related support facilities subject to the following arrangements:

1. Vessels and aircraft assigned to or supporting the United States Force may freely enter and depart the territorial waters, ports, and airfields of Bahrain;

2. Members of the United States Force will be allowed freedom of movement within Bahrain and freedom of entry to and egress from Bahrain;

3. If there is any substantial change contemplated by the United States Government in the deployment of vessels or aircraft or numbers of personnel to be supported on Bahrain in connection with the United States Middle East Force, the United States Government will consult with the Government of Bahrain before effecting that change;

4. Passport and visa requirements shall not be applicable to military members of the United States Force except as shall be agreed upon between the two governments. All members of the United States Force, however, shall be furnished with appropriate identification which shall be produced, upon demand, to the appropriate authorities of the Government of Bahrain. Members of the United States Force will be exempt from immigration and emigration inspection on entering or leaving Bahrain, and from registration and control as aliens, but will not by reasons of their entry into Bahrain be regarded as acquiring any rights to permanent residence in Bahrain;

5. Members of the United States Force will respect the laws, customs and traditions of Bahrain, and abstain from activity inconsistent with the spirit of these arrangements. The authorities of the United States will take necessary measures to that end;

6. Members of the United States Force shall not be subject to taxation on their salary and emoluments received from United States sources or on any other tangible movable property which is present in Bahrain due to their temporary presence there;

7. The authorities of Bahrain will accept as valid, and without a driving test or fee, driving licenses or military driving permits issued by the authorities of the United States to members of the United States Force;

8. The authorities of the United States will pay just and reasonable compensation in settlement of civil claims (other than contractual claims; arising out of acts or omission of members of the United States Force done in the performance of official duty or out of any other act, omission or occurrence for which the Force is legally responsible. All such claims will be expeditiously processed and settled by the authorities of the United States in accordance with United States law;

9. The United States Force and its members may import into Bahrain (without license or other restriction or registration and free of customs, duties and taxes, equipment, supplies, household effects, motor vehicles and other items required by the Force or for the personal use of the members of the Force. Any items imported under this paragraph may be exported freely without customs, duties, and taxes. However, any property of any kind imported entry free under this paragraph which is sold in Bahrain to persons other than to those entitled to duty free import privileges shall be subject to customs and other duties on its value at the time of sale.

10. Personal purchases by members of the United States Force from Bahraini sources shall not be exempt from Bahraini customs, duties and taxes except for certain articles to be agreed upon between the two governments;

11. The Government of Bahrain shall exercise civil jurisdiction over members of the United States Force, except for those matters arising from the performance of their official duties. The Government of the United States shall exercise criminal jurisdiction over members of the United States Force. In particular cases, however, the authorities of the two governments may agree otherwise;

12. The term "members of the United States Force" means members of the Armed Forces of the United States and persons serving with, or employed by said Armed Forces, including dependents, but excluding indigenous Bahraini nationals and other persons ordinarily resident in Bahrain territory, provided that such nationals or other persons are not dependents of members of the United States Force;

13. The occupancy and use of the support facilities required by the United States Force will be governed by administrative arrangements between the United States authorities and the authorities of Bahrain or, as appropriate, private property owners;

14. Should either government determine at some future time that it is no longer desirable to continue the presence on Bahrain of the United States Middle East Force, the United States shall have one year thereafter to terminate its presence.

If the foregoing is acceptable to the Government of Bahrain, I have the honor to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective governments regarding this matter.

Accept, Excellency, the assurance of my highest consideration.

JOHN N. GATCH, JR.,
Charge d'Affaires ad interim.

STATE OF BAHRAIN,
MINISTRY OF FOREIGN AFFAIRS,
December 23, 1971.

JOHN N. GATCH, JR.
Charge d'Affaires ad interim, Embassy of the United States of America, Manama, Bahrain

SIR: I have the honour to acknowledge the receipt of your note dated December 23, 1971, reading as follows:

"His Excellency,

SHAIKH MOHAMMAD BIN MUBARAK AL-KHALIFA, *Minister of Foreign Affairs, Government of the State of Bahrain.*

EXCELLENCY: I have the honour to refer to the present deployment in Bahrain of the United States Middle East Force, including its flagship and other vessels and aircraft. The United States Government proposes to maintain this presence and its related support facilities subject to the following arrangements.

1. Vessels and aircraft assigned to or supporting the United States Force may freely enter and depart the territorial waters, ports, and airfields of Bahrain;

2. Members of the United States Force will be allowed freedom of movement within Bahrain and freedom of entry to and egress from Bahrain;

3. If there is any substantial change contemplated by the United States Government in the deployment of vessels or aircraft or numbers of personnel to be supported on Bahrain in connection with the United States Middle East Force, the United States Government will consult with the Government of Bahrain before effecting that change;

4. Passport and visa requirements shall not be applicable to military members of the United States Force, except as shall be agreed between the two Governments. All members of the United States Force, however, shall be furnished with appropriate identification which shall be produced, upon demand, to the appropriate authorities of the Government of Bahrain. Members of the United States Force will be exempt from immigration and emigration inspection on entering or leaving Bahrain, and from registration and control as aliens, but will not by reason of their entry into Bahrain be regarded as acquiring any rights to permanent residence in Bahrain;

5. Members of the United States Force will respect the laws, customs and traditions of Bahrain, and abstain from activity inconsistent with the spirit of these arrangements. The authorities of the United States will take necessary measures to that end;

6. Members of the United States Force shall not be subject to taxation on their salary and emoluments received from United States sources or on any other tangible movable property which is present in Bahrain due to their temporary presence there;

7. The authorities of Bahrain will accept as valid, and without a driving test or fee, driving licenses or military driving permits issued by the authorities of the United States to members of the United States Force;

8. The authorities of the United States will pay just and reasonable compensation in settlement of civil claims (other than contractual claims) arising out of acts or omission of members of the United States Force done in the performance of official duty or out of any other act, omission or occurrence for which the Force is legally responsible.

All such claims will be expeditiously processed and settled by the authorities of the United States in accordance with United States law;

9. The United States Force and its members may import into Bahrain, without license or other restriction or registration and free of customs, duties and taxes, equipment, supplies, household effects, motor vehicles and other items required by the Force or for the personal use of the members of the Force. Any items imported under this paragraph may be exported freely without customs, duties, and taxes. However, any property of any kind imported entry free under this paragraph which is sold in Bahrain to persons other than those entitled to duty free import privileges shall be subject to customs and other duties on its value at the time of sale.

10. Personal purchases by members of the United States Force from Bahraini sources shall not be exempt from Bahraini customs, duties and taxes except for certain articles to be agreed upon between the two governments.

11. The Government of Bahrain shall exercise civil jurisdiction over members of the United States Force, except for those matters arising from the performance of their official duties. The Government of the United States shall exercise criminal jurisdiction over members of the United States Force. In particular cases, however, the authorities of the two governments may agree otherwise;

12. The term "members of the United States Force" means members of the Armed Forces of the United States and persons serving with, or employed by said Armed Forces, including dependents, but excluding indigenous Bahraini nationals and other persons ordinarily resident in Bahrain territory, provided that such nationals or other persons are not dependents of members of the United States Force;

13. The occupancy and use of the support facilities required by the United States Force will be governed by administrative arrangements between the United States authorities and the authorities of Bahrain or, as appropriate, private property owners;

14. Should either government determine at some future time that it is no longer desirable to continue the presence on Bahrain of the United States Middle East Force, the United States shall have one year thereafter to terminate its presence.

If the foregoing is acceptable to the Government of Bahrain, I have the honour to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective governments regarding this matter.

Accept, Excellency, the assurance of my highest consideration.

JOHN N. GATCH, Jr.,
Chargé d'Affairs ad interim".

It is my pleasure to inform you that the Government of Bahrain agrees to all that was said in this note.

Accept, Sir, the assurance of my highest consideration.

MOHAMMAD BIN
MUBARAK AL-KHALIFA,
Minister of Foreign Affairs, Government of Bahrain.

[From the Washington Post, Dec. 18, 1971]

TRADE LEADS THE FLAG

Eager to sell more American goods overseas, the United States discovered that Portugal had (1) a long list of civilian needs and (2) a tradition of buying from West Europe. So the State Department went to work to open the Portuguese market. It succeeded handsomely. The other day it announced for the Export-Import Bank that the bank would finance American exports for Portuguese development projects (Lisbon happens to have an excellent credit rating) valued at about $400 million. Exim currently is financing only $17 million worth of exports to Portugal; the total since 1934 is only $175 million. Portugal, whose economic and political lag continues to keep it out of the European Common Market, had obvious economic reasons of its own to make the deal.

In return, Portugal got several things. First, it got a base-extension agreement from Washington. We have used Lajes field in the Azores since 1962 without a formal accord and, assured of use anyway, we didn't want or seek a renewal. But Lisbon sought the political imprimatur which, it felt, a formal renewal would bestow on its general policy. Second, Portugal got a visit from Mr. Nixon, who met Prime Minister Caetano (and French President Pompidou) there this week. Mr. Caetano may not do much for Mr. Nixon's political image but Mr. Nixon does plenty for Mr. Caetano's. And third, Lisbon got a few other conspicuous goodies, such as $30 million worth of PL 480 food, $5 million worth of civilian gear (roadscrapers) from Pentagon "excess" stocks, and a $1 million grant for education projects "selected by the government of Portugal."

Well, these days export promotion is all the rage. And if the United States in fact needs an Atlantic base to track Soviet subs and to keep an eye on the mouth of the Mediterranean, then it's not outlandish that it should sign for it. Often, after all, as with Spain last year, base agreements are paid for in military supplies or in credits for such supplies, not in credits for development goods, as is the case now with Portugal.

There is, however, a high price to pay; many Americans, and black Africans, wish we weren't willing to pay it. It is to give Europe's last colonial power extra status and encouragement in its dominion over Portuguese Guinea, Angola and Mozambique. By allowing trade priorities to lead it into closer association with Lisbon, Washington unavoidably identifies itself further with a colonial regime. It did so without a word to indicate it may have some residual sympathies for Africans fighting for independence. It did so with a gratuitous visit to the Azores by Mr. Nixon. And it did so without any visible effort to separate the negotiation or at least the announcement of the base and credits deals so as to avoid the damaging impression that the credits were some kind of aid given in return for the base.

There is also the question raised by Senator Case's resolution calling on the President to submit the new pact to the Senate as a treaty demanding ratification: "I cannot believe that the founding fathers would not consider to be a treaty an agreement, such as the reported one with Portugal, which calls for the stationing of American troops overseas and which furnishes a foreign government with a reported $435 million in assistance." We don't think the $400 million in export credits can fairly be counted as aid, but Mr. Case has a good point anyway. "Nowhere in the Constitution," he said, "did the [the founding fathers] mention that the Executive could skirt senatorial approval simply by calling a pact with a foreign government an Executive agreement."

[From the Trenton Evening Times, Dec. 20, 1971]

ADVICE AND CONSENT

The five senators who are seeking to have the administration submit the recent agreement with Portugal to the Senate for its advice and consent may be batting their heads against a stone wall. But they deserve an A for effort and their proposal merits the thoughtful consideration of their colleagues and the American public.

Under the accord, which the administration describes as an executive agreement not legally subject to congressional ratification, the United States promises Portugal up to $435 million in economic and social development credits in return for continued use of air and naval bases in the Azores.

Senator Case of New Jersey, a member of the Foreign Relations Committee, immediately wrote Secretary of State Rogers demanding that the pact be submitted to the Senate as if it were a treaty because it involves the stationing of American troops overseas. The Case move was not unprecedented. Senator Fulbright, the chairman of the committee, had sought unsuccessfully last year to have the administration submit a bases agreement with Spain to Senate consideration. Now Sens. Case and Fulbright have been joined by Sens. Javits of New York, Symington of Missouri and Church of Idaho in the introduction of a resolution that would declare it to be the "sense of the Senate" that any new agreement with Portugal for military bases or foreign assistance be submitted as a treaty for the Senate's advice and consent, and that no economic assistance be furnished Portugal without affirmative action by both houses of Congress.

The justification of an arrangement with a highly authoritarian regime that has been engaged for a decade in wars against nationalist guerrillas in Africa might be a distasteful and difficult problem for the administration. But that does not justify the bypassing of the constitutional role of the Senate in the treaty-making area. And, as Senator Case said, the framers of the Constitution "did not mention that the executive could skirt senatorial approval by simply calling a pact with a foreign government an executive agreement."

[From the Long Island Newsday, Dec. 22, 1971]

THE AZORES AGREEMENT

The recent decision of the Nixon administration to negotiate a five-year agreement with Portugal allowing this nation to use air and naval bases in the Azores has distressed one member of our United Nations delegation to the point of resignation.

And—as a black man and an American—Rep. Charles Diggs (D-Mich.) had good reason to be upset. The Azores agreement, said Diggs upon leaving the UN mission, was just another example of the "stifling hypocrisy" that characterizes this nation's policy toward black Africa.

For, the agreement comes complete with a $436,000,000 American donation to Portugal—money, said Diggs, that will be used to the disadvantage of suppressed blacks in Portugal's African territories.

Diggs is not the only person in Washington perturbed by the agreement. Sen. Clifford Case (R-N.J.) and four other senators, all members of the Foreign Relations Committee, last week introduced a "sense of the Senate" resolution that would put the upper house on record as opposing any new agreement with Portugal involving aid and military installations not first cleared by the Senate as a treaty.

The State Department says the White House was able to act unilaterally in this instance because the pact was an "executive agreement" and *not* a treaty. But Case and his co-sponsors—including Sens. Jacob Javits (R-N.Y.) and J. William Fulbright (D-Ark.)—are not satisfied with that answer.

On humanitarian and economic terms, the agreement with Portugal is questionable, at best. And, as an instrument of practical necessity, it is of doubtful purpose. An outpost in the Azores hardly seems vital to our national defense.

We urge the Senate to pass the Case resolution quickly when Congress reconvenes next month. Perhaps then the White House will get the message and re-think its position, at the very least when it considers future arrangements with foreign governments. Major U.S. support for the Portuguese—and the concomitant loss of respect for U.S. intentions among emerging African nations—is too vital a matter to be settled by Presidential decree.

XUM

[From the New York Times, Dec. 26, 1971]

IN CONTEMPT OF THE CONSTITUTION

Since World War II, the United States has had the privilege of refueling its military planes at an air base in the Portuguese Azores. This arrangement included port facilities for the U.S. Navy. A so-called "executive agreement" was entered into between this Government and Portugal and regularly renewed until 1962, when the Portuguese allowed it to lapse because of their resentment against the Kennedy Administration's anti-colonial policy in Africa. Use of the facilities continued, however, without a formal agreement. About 1,500 American servicemen have been stationed in the Azores for many years.

Earlier this month, President Nixon revived the agreement and not only renewed it for five years but also granted $435 million in economic aid to Portugal without consulting Congress.

Air and Naval bases, the stationing of troops overseas, the granting of money—these are the very substance of foreign policy. If the Senate is to exercise its constitutional authority to advise and consent in the making of foreign policy, it has an obligation to pass judgment on these issues.

Under the North Atlantic Treaty, of which Portugal is a signer, and under various laws enacted in the past the Nixon Administration can find a color of legality for the latest Azores deal. But the truth is that the President did not submit this agreement to the Senate as a treaty because he knew that he could not get two-thirds approval. It is doubtful if he could get the support of a simple majority. Rather than put the question to a test, he has put himself in contempt of the plain intent of the Constitution. It is an odd posture for a President who claims to be a "strict constructionist."

It is worth recalling that in 1947 when President Truman wanted to extend a smaller amount of aid—$400 million—to Greece and Turkey, he addressed a joint session of Congress and committees of Congress held lengthy hearings before approval was granted.

The amount of assistance granted to Portugal is enormous in terms of that small country's limited budget. It is also politically significant because it eases Portugal's budgetary difficulties when her finances are strained by the cost of combating the guerrilla warfare of the black rebels in the African colonies. Do the American people with their anti-colonial traditions wish to provide a subsidy to this last ramshackle little empire?

Senator Case, Republican of New Jersey, and four other members of the Senate Foreign Relations Committee from both parties have challenged Mr. Nixon's righthanded behavior by introducing a resolution calling upon him to submit the Azores agreement to the Senate for ratification as a treaty. If the Senate wishes to restore its constitutional credibility as a partner in the making of foreign policy, it will adopt this resolution.

[From the Washington Post, Jan. 9, 1972]

WHAT'S OUR GAME IN THE INDIAN OCEAN?

The stated grounds for the new American naval role planned in the Indian Ocean are so flimsy that one can only wonder if it has not been undertaken merely to provoke "the lady," as Indian Prime Minister Gandhi is apparently known in the White House these days. On the one hand, the larger and more frequent patrols will supposedly fill the "vacuum" being left by the British; on the other, they will offset the expanding but still modest presence (10 ships) of the Russians. Take your pick—or take both; they're small.

The Pentagon makes no effort to identify any newly threatened American interest. Rather, it says the Navy is eager for Indian Ocean "operating experience," vessels are available from the Vietnam war, and "we do have the capability." In a similar pose of innocence, the Pentagon calls attention to its new mid-Ocean "communications center" on Diego Garcia, as though to say, we've got it so let's use it.

Just last July, addressing a House Foreign Affairs subcommittee, administration witnesses could discern no pressing reasons for enlarging the then-modest American naval presence in and about the Indian Ocean. Since then, of course, the Indo-Pakistani war has taken place. In a gesture intended, according to the "Anderson papers," to distract Indian forces from Pakistan, the United States sent a task force including aircraft and helicopter carriers into the Indian Ocean. The administration's explanation that the ships were meant to evacuate Americans, if a threat to them materialized, must be set against the fact that three weeks after the war, the ships are still there. Is this not the spirit in which the new patrols have been ordered?

For the United States substantially to upgrade its politico-military role in an ocean heretofore spared the excesses of great-power competition is, however, a major move deserving of thorough public discussion. It goes well beyond the administration's disturbing step, just revealed, to take over from the British a naval base on Bahrain in the adjoining Persian Gulf; Senator Case has correctly demanded that this new executive agreement be submitted to the Senate as a treaty. Just what American interests are being served, and how? Will the American move solidify or loosen the Soviet purchase in India? Should we move unilaterally into a new theater, international sea though it be, when no litoral state has invited us and when all litoral states have just demanded in a General Assembly resolution that the big powers stay out? Should we consider responding in kind to the public Soviet offer of last July to negotiate naval limits in the Indian Ocean and elsewhere? Will our increased presence there give the Russians a stronger claim to increase their presence in the Caribbean?

We would have thought that the vaunted "Nixon Doctrine" militated against such an initiative as the President has now taken in the Indian Ocean. Or is this Doctrine already extinct?

[From the New York Times, Jan. 10, 1972]

NEEDED: CANDOR AND CONSENT

From the strategic viewpoint it makes good sense for the United States to maintain a modest naval task force in the Persian Gulf, as it has done for twenty years. What concerns us about the new arrangement for a permanent American naval station on Bahrain is the same problem that bothers Senator Case of New Jersey and four of his Foreign Relations Committee colleagues.

The agreement, signed with the newly-independent Government of Bahrain Dec. 23, was not announced; it was confirmed by Washington only after a New York Times dispatch had disclosed its existence, it was not in the form of a treaty, which would require Senate advice and consent, but an executive agreement, which does not have to be submitted to Congress at all.

It thus fits the pattern of Administration behavior illustrated only last month by revival of a pact with Portugal for continuing use of bases in the Azores in return for $535 million in credits, and by the signing last year of a new agreement with General Franco for bases in Spain at a comparable price. Mr. Case and his colleagues, who have already asked the Administration to submit the pact with Portugal as a treaty, say they will broaden their resolution to include the Bahrain agreement.

The presence in the Persian Gulf of even a converted seaplane tender and two destroyers—the current size of the task force—could bolster stability in a volatile area. Along with the decision to deploy Seventh Fleet patrols more frequently in the Indian Ocean, the force at Bahrain could offset an expanding Soviet naval presence and fill a vacuum left by Britain's withdrawal last year.

But if anything is clear about American military deployment and American bases in Asia after the bitter disillusionment in Indochina, it is that the Administration must make its case openly for every major move—with Congress and the country. Senator Case deserves plaudits, as usual, for reminding the Administration that establishment of an American base abroad is "a very serious matter" on which the Congress should be consulted.

[From the Philadelphia Evening Bulletin, Jan. 10, 1972]

SHOWING THE FLAG OFF INDIA

The U.S. Senate is restive over the emerging American presence in the Indian Ocean. And properly so, despite the Navy's argument that the "showing of the flag," in the shape of the giant nuclear carrier Enterprise, is necessary to counter Soviet penetration in this area of fast fading British influence.

Several senators have posed two critical questions: Could the deployment and the simultaneous leasing of an old British base from the Sheikdom of Bahrain precipitate the same disastrous sequence of events which culminated in the Vietnam War? And ahouldn't the Bahrain agreement be submitted to the Senate for ratification?

There is, of course, a distinction to be made between the deployment of a carrier off the Indian subcontinent to assert "freedom of the (Indian) seas" and the leasing of a base.

The former suggests a transient presence, to be augmented, reduced, or, as the Navy asserts in this instance, to be withdrawn altogether, periodically.

But a base, in anybody's definition—the Senate's or the Nixon Administration's—is just the dangerous stuff unwanted commitments are made out of. There's always the danger the Bahrain agreement might escalate to a commitment far exceeding Mr. Nixon's "low (Asian) profile . . ." And this possibility is all the more real for the fact that Bahrain views the agreement as an effective counter to territorial demands by Iran and Iraq.

Thus, the understandable anxiety of U.S. Senator Case (R-NJ) and Senator Fulbright (D-Ark). It may well be that the senators overreach in demanding that not only the Bahrain accord but the recent agreement with Portugal for expanded U.S. use of the Azores be submitted to the Senate for ratification. But one thing is certain. Only such demands, registered in firm and uncompromising language, can set the stage for the comprehensive debate such agreements dictate.

The debate may not bring the vote on ratification Mr. Case wants, or even prove that the accords are "treaties," properly subject to Senate action. But surely debate on such a critical constitutional question would serve to set and illuminate the limits of the U.S. commitment, on Bahrain and the Azores.

It is knowing precisely where the limits are that prevents or, at least substantially reduces, the threat of another Vietnam.

BACK TO THE CONSTITUTION

With no fanfare at all President Nixon has now entered into an agreement to establish a naval base on Bahrain, an island in the Persian Gulf that recently proclaimed its independence. Sen. Case of New Jersey rightly protests that the agreement is actually a treaty, and he insists it should be submitted to the Senate as the Constitution directs.

President Nixon is probably quite right in supposing that the base on Bahrain makes sense. He might even have been right in suppositions leading up to another so-called executive agreement with Portugal concerning bases in the Azores. But his rightness should not be permitted to obscure the central point, that major agreements with foreign nations should be submitted to the Senate for its review and advice.

The President's power in foreign affairs is enormous, which has been demonstrated for years in Vietnam and lately again in the war between India and Pakistan. But the Constitution and common sense insist that it be not unlimited. Congress does have its role.

There is need for debate of an issue like a naval base in the Persian Gulf. That is a dangerous part of the world. As Sen. Case points out, Iran has lately occupied certain islands in the Persian Gulf, and there is a territorial dispute among several Arab countries about islands there. The United States could become involved, and the Senate should have full knowledge of the possibilities.

Sen. Case has been joined by Sens. Javits, Fulbright, Church, and Symington in sponsoring a resolution calling for submission of the Azores agreement to the Senate for confirmation as a treaty. He now intends to submit a new resolution on Bahrain or to extend the Azores resolution to cover Bahrain.

Mr. Case stated the case well when he said:

The Senate's treaty-making role is so clearly defined in the Constitution that it should be redundant to be introducing resolutions calling for the Senate to give its advice and consent to treaties. Yet the Senate's role in the treaty-making process has become so eroded that we have no choice.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3448. A bill to authorize certain construction at military installations and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, for myself and the senior Senator from Maine (Mrs. SMITH) I introduce, by request, a bill to authorize construction at military installations and for other purposes.

I ask unanimous consent that the letter of transmittal requesting introduction of the bill and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., March 23, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation "To authorize certain construction at military installations and for other purposes."

This proposal is a part of the Department of Defense legislative program for FY 1973. The Office of Management and Budget on March 6, 1972, advised that its enactment would be in accordance with the program of the President.

This legislation would authorize military construction needed by the Department of Defense at this time, and would provide additional authority to cover deficiencies in essential construction previously authorized. Appropriations in support of this legislation are provided for in the Budget of the United States Government for the FY 1973.

Titles I, II, III, and IV of this proposal would authorize $1,869,250,000 in new construction for requirements of the Active Forces, of which $980,396,000 are for the Department of the Army; $540,869,000 for the Department of the Navy; $301,585,000 for the Department of the Air Force; and $46,400,000 for the Defense Agencies.

Title V contains legislative recommendations considered necessary to implement the Department of Defense family housing program and authorizes $1,073,684,000 for costs of that program for FY 1973.

Title VI contains authorization to expand the Homeowners Assistance Program (authorized by section 1013 of Public Law 89–754) to cover two limited situations in which Department of Defense homeowners outside the United States have not been eligible for assistance.

Title VII contains General Provisions applicable to the Military Constitution Program.

Title VIII totaling $97,185,000 would authorize construction for the Reserve Command Components, of which $33,570,000 is for the Army National Guard; $33,500,000 for the Army Reserve; $14,715,000 for the Naval and Marine Corps Reserves; $9,000,000 for the Air National Guard; and $6,400,000 for the Air Force Reserve. These authorizations are in lump sum amounts and will be utilized in accordance with the requirements of chapter 133, title 10, United States Code.

The projects which would be authorized by this proposal have been reviewed to determine if environmental impact statements are required in accordance with Public Law 91–190. Eighteen projects have been identified which may require environmental impact statements. Environmental statements will be submitted to the Congress by the military departments when required procedures have been completed.

Sincerely,

MELVIN R. LAIRD.

By Mr. ROBERT C. BYRD (for Mr. JACKSON):

S. 3449. A bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL SAFETY OF DAMS ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I introduce a bill and I ask unanimous consent that a statement prepared by Senator JACKSON together with the text of the bill be printed in the RECORD at this point.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON—NATIONAL SAFETY OF DAMS ACT

Mr. President, I introduce for appropriate reference the "National Safety of Dams Act."

This measure would provide for an expedited national program, coordinated by the Water Resources Council, to insure the safety of dams and other water storage and control structures. At the request of the Governor of any State, the Council, together with State officials, would prepare a technical assistance plan to insure the safety of water storage and control structures in that State. Under the Council's direction, technical assistance would be provided to the State by the Bureau of Reclamation and Geological Survey, the Army Corps of Engineers, and the Soil Conservation Service for its program of licensing and inspection of such structures and for other activities necessary for implementation of the plan. As a precondition for Federal assistance, the State would have to demonstrate that it has adequate safety laws and methods for implementation of those laws. An annual sum of $5,000,000 would be authorized for the administration of the program.

Mr. President, the tragic Buffalo Creek disaster which occurred in West Virginia has focused public attention on one aspect of a widespread danger to life and property. The dam which failed on February 26th was constructed out of mine refuse and was intended to impound water from a washing process at the mine. The failure apparently resulted because the structure was not properly designed for the release of excess water and because it was capable of impounding more water than the dam could safely retain.

In the aftermath of this tragedy, it has become evident that there are other similar structures, possibly equally as dangerous, existing throughout the country.

The terrible loss of life, human misery, and destruction of property which resulted from the Buffalo Creek disaster cannot be lessened by legislation, but the lesson of that disaster can provide the incentive to remedy the potential disasters which exist elsewhere.

Mine impoundments are only one of the many kinds of water control structures which pose threats to life and property. There are dams throughout the nation which have been constructed by public and private entities for all manner of purposes, many of which are of far greater size than the Buffalo Creek structures and which may pose threats of far greater disasters than did the failure at Buffalo Creek.

There are nearly 30,000 dams and reservoirs in the United States which are under state supervision. Some of these dams and reservoirs may be subject to Federal regulations under such statutes as the Coal Mine Health and Safety Act. Others are exclusively under State supervision. Unfortunately, neither situation provides for adequate regulation and inspection throughout the nation.

The safety of these impoundments should be a matter of great concern to public officials. The security of life and property below the reservoirs depends upon professionally competent design and construction supervision, and programs for regular inspection and maintenance of completed structures. Unfortunately, there is no uniformity among State laws regulating these structures.

In July of 1966, the United States Committee on Large Dams surveyed existing State law and reported that the majority of the states either had not enacted laws adequate to safeguard the public or did not fully support the laws already enacted. In 1969, the same body prepared and circulated a model State law for State supervision of safety of dams and reservoirs.

As is often the case, however, most states have small water resources staffs which are already overburdened with a variety of duties regarding water supply, water quality control, and other water resource responsibilities. If an expedited program of inspection of all non-Federal impoundments nationwide is to be carried out by the States, as it should be, the expertise and manpower of the Federal agencies which have engineering competence and which are leaders in the field of hydraulic structures must be mobilized to assist in the effort.

It is not logical to confine this effort to the type of mine spoil impoundments which failed in West Virginia. The problem is much broader than that. The problem is the lack of law and staff and monetary resources at the State level to insure the safety of water control structures of every type.

XUM

We as a Nation cannot countenance the continued threats to life and property which unsafe dams and water impoundment pose. Congress must act to provide for an expedited national program to insure dam safety.

The bill I propose today would lend needed support to the States to encourage them to attack the problem of dam safety. The vastly greater resources in technical knowledge and manpower of the Federal government would be placed at the States' disposal. The States, in turn, would be required to strengthen their safety laws and programs so as to make effective use of these Federal resources.

S. 3449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Safety of Dams Act."

SECTION 1. The Congress, recognizing the responsibility of the Federal Government and the governments of the several States to provide for the public welfare, finds—

(a) That provisions for the licensing and inspection by the States of the construction and operation of structures for the storage and regulation of water vary widely among the several States and in a number of States are inadequate to insure the safety and welfare of the public;

(b) That even in States which do provide for State licensing and inspection of such structures, there frequently are not adequate funds, personnel, and technical ability to maintain an adequate schedule of inspection of dams and other water control structures with the frequency and detail necessary to insure their safety;

(c) That the Federal Government has accepted responsibilities for broad public protection from floods in programs for the direct Federal construction of flood control and waterway improvement works, Federal financial assistance for the construction of flood control works by others, regulation of the construction of impoundments on navigable streams, and programs of disaster relief for areas affected by floods;

(d) That the Federal water resource development agencies possess technical competence in every aspect of design, construction, operation, and safety of water storage and control structures which need not and probably cannot be duplicated at the level of State government; and

(e) That the necessity for an expedited national program to insure the safety of water storage and control structures has been recently and tragically demonstrated in the cost of lives lost and property damaged and in reports which document the lack of safety in many such structures throughout the Nation.

SEC. 2. To implement an expedited national program to insure the safety of water storage and control structures, the Secretaries of the Interior, Army, and Agriculture, acting through the Water Resources Council, are authorized and directed to develop a program of technical assistance for the support of State programs for the licensing and inspection of non-Federal dams and other water storage and control structures. The existing technical personnel and facilities of the Bureau of Reclamation and Geological Survey, the Army Corps of Engineers, and the Soil Conservation Service shall be made available as otherwise provided in this Act to implement this program.

SEC. 3. Upon the establishment of the program authorized by Sec. 2, and upon written application by the Governor of a State to the Water Resources Council (hereinafter referred to as the "Council"), the Council shall, in consultation with State officials designated by the Governor, prepare a technical assistance plan to insure the safety of water storage and control structures in the State. Federal assistance provided under the plan may include any or all of the following functions—

(a) Technical review and recommendations to the appropriate State official concerning the adequacy of the designs of water storage and control structures which are proposed for State licensing or are currently under construction;

(b) Field inspection of existing water storage and control structures and recommendations to appropriate State officials concerning the safety of such structures and remedial measures required to protect life and property from any inadequacies found therein;

(c) Technical assistance to State officials on specific problems arising from State licensing and inspection of water storage and control structures; and

(d) Technical assistance to State officials on the development of general criteria for the design, construction, operation, and maintenance of water storage and control structures.

SEC. 4. No State shall be eligible for assistance under this Act until it has shown to the satisfaction of the Council that:

(a) The State requires by law that the construction of new water storage and control structures, as defined in this Act, and the modification, enlargement, and removal of existing such structures must be approved in writing by an appropriate State agency having engineering competence;

(b) The State provides by law for the inspection by a State official having engineering competence of water storage and control structures during construction and of existing structures periodically during operation;

(c) The State by law provides authority to an appropriate State official having engineering competence to suspend construction work, to restrict operation, and to require repairs or modifications of water storage and control structures for the protection of life and property;

(d) The State provides by law or regulation a procedure acceptable to the Water Resources Council for prompt and adequate consideration of complaints to the State by citizens who are or claim to be endangered or damaged by water storage and control structures; and

(e) The Governor of the State has designated a State official with engineering competence to administer the State laws and to represent the State in cooperation with the Council pursuant to this Act.

SEC. 5. Nothing in the Act shall add to or detract from the legal responsibility of the United States for damages caused by the partial or total failure of any water storage or control structure.

SEC. 6. For the purposes of this Act—

(a) A "water storage or control structure" means any artificial barrier including appurtenant works which does or will impound or divert water and which (1) is or will be 25 feet or more in height above the natural streambed or from the lowest elevation of the base of the barrier to the maximum elevation of impounded water, or (2) has or will have a maximum impounding capacity of 50 acre-feet or more, or (3) is a conveyance work designed to pass flood flows for the purpose of protecting life or property. *Provided,* That barriers which either are less than six feet in height or have a maximum impounding capacity of less than 15 acre-feet shall be excluded: *Provided further,* That "water storage or control structure" shall not include any structure constructed, operated, or owned by the United States.

(b) A "State" includes the District of Columbia, Puerto Rico, and the Territories of Guam, American Samoa, and the Virgin Islands.

SEC. 7. The Water Resources Council is authorized to make such rules and regulations as it may deem necessary or appropriate for carrying out the provisions of this Act.

SEC. 8. There are authorized to be appropriated to the Water Resources Council not more than $5,000,000 annually for the five fiscal years beginning with the fiscal year of the date of enactment of this Act for the administration and for transfer to the agencies enumerated in section 2 of this Act to carry out the purposes of this Act.

By Mr. CRANSTON:

S. 3450. A bill to authorize continuation of programs of ACTION, create a National Advisory Council for that Agency, and for other purposes. Referred to the Committee on Labor and Public Welfare.

ACTION ACT OF 1972

Mr. CRANSTON. Mr. President, I introduce today, for appropriate reference, on the request of the administration, S. 3450, the proposed ACTION Act of 1972, a bill to authorize continuation of programs of ACTION, to create a National Advisory Council for that Agency, and for other purposes.

This draft legislation was transmitted to the President of the Senate by the Director of ACTION on March 16, 1972. Mr. President, I ask unanimous consent that this transmittal letter, together with the proposed draft bill and section-by-section analysis, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTION,
Washington, D.C., March 16, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting herewith a proposed bill authorizing the continuation of programs of ACTION, creating a National Advisory Council for ACTION, and for other related purposes.

Reorganization Plan No. I of 1971 brought together in a new agency, ACTION, a number of programs which together provide a broad mix of volunteer services—Volunters in Service to America (VISTA), Retired Senior Volunteer Program (RSVP), Foster Grandparents Program, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE). The Peace Corps and the Office of Voluntary Action were also transferred to ACTION by Executive Order No. 11603 on July 1, 1971.

When the President submitted Reorganization Plan No. I to the Congress on March 24, 1971, he outlined in his message of transmittal additional steps which would be necessary in support of his goal of an expanded government contribution to volunteer service.

This bill would provide the Director of ACTION with sufficient authority to achieve that goal. It would modify existing legislation to take into account the effects of the creation of ACTION, to broaden the areas of endeavor in which volunteers may be employed, and to eliminate some of the differences between the treatment afforded domestic volunters and that afforded volunteers in international programs. The provisions of the bill are described in the attached section by section analysis.

Among the major provisions are—

A continuing authorization for the international and domestic activities of ACTION;

Grant-making authority for new programs to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation; and

A broadening of the scope of the VISTA and Foster Grandparent Programs.

The amendments contained in this bill are a substantial step towards providing ACTION with the necessary authority to utilize to the fullest extent the abilities of volunteers in programs of service supported by the Federal Government, and to permit the effective management of them. We recommend their prompt enactment.

We are advised by the Office of Management and Budget that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,
JOSEPH H. BLATCHFORD,
Director of ACTION.

A BILL AUTHORIZING CONTINUATION OF PROGRAMS OF ACTION, CREATING A NATIONAL ADVISORY COUNCIL FOR THAT AGENCY, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Action Act of 1972."

TITLE I—PEACE CORPS

SEC. 101. There are authorized to be appropriated such sums as may be necessary to carry out the functions, powers, and duties authorized by the Peace Corps Act.

SEC. 102. Paragraph (2) of subsection (b) of Section 301 of the Peace Corps Act (22 U.S.C. § 2501a), which relates to encouragement of voluntary service programs, is amended by deleting "$300,000" and substituting therefore "$350,000" and deleting "1971" and inserting before the word "fiscal" the word "any".

TITLE II—VOLUNTEERS IN SERVICE TO AMERICA

SEC. 201. Section 801 of the Economic Opportunity Act of 1964 is amended to read as follows:

"SEC. 801. This Title provides for a program of full and part-time voluntary service, and for the operation and funding of special and demonstration volunteer programs, together with other powers and responsibilities designed to assist in the development, encouragement and coordination of volunteer programs. Its purpose is primarily to strengthen and supplement efforts to eliminate poverty and, additionally, to deal with a broad range of human, social, and environmental needs through the use of volunteers."

SEC. 202. Section 810 of such Act is amended to read as follows:

"SEC. 810. (a) The Director of Action (hereinafter in this Title referred to as the 'Director') may recruit, select, and train persons to serve in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or Indian reservations, in full-time volunteer programs, and, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to programs and activities designed to carry out the purposes of this Title.

"(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities. No program designed to carry out the purpose of this Title shall be established within a State unless such program has been submitted to the Governor and has not been disapproved by him with 45 days of such submission. The assignment of a volunteer in any State shall be terminated by the Director when so requested by the Governor of such State not later than 30 days or at a time thereafter agreed upon by the Governor and the Director after such request has been made by the Governor to the Director."

SEC. 203. Section 810 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'Governor' as used in this section means the Governor of the State, in the case of any of the 50 States, and in the case of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, the chief executive officer thereof."

SEC. 204. The first sentence of subsection (a) of Section 811 of such Act is amended to read as follows:

"SEC. 811. (a) Volunteers under this Part shall be required to make a full-time personal commitment to achieving the purposes of this Title and the goals of the projects or programs to which they are assigned."

SEC. 205. Subsection (b) of Section 811 of such Act is amended to read as follows:

"(b) Volunteers under this Part shall be enrolled for such periods of service as the Director may determine."

SEC. 206. Subsection (c) of Section 811 of such Act is amended to read as follows:

"(c) Volunteers under this Part shall, upon enrollment, take the same oath of office as prescribed for persons enrolled in the Peace Corps (22 U.S.C. § 2504(j)): *Provided,* That persons legally residing within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, either permanently or temporarily, but who are not citizens of the United States, may serve in programs carried on under this Title without taking or subscribing to such oath, if the Director determines that the service of those persons will further the interests of the Unted States. Those persons shall take such alternative oath or affirmation as the Director shall deem to be appropriate. No funds may be expended to transport such persons either to or from any place outside the areas specified in this subsection."

SEC. 207. (a) Section 812 of such Act is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of the Internal Revenue Code of 1954, a volunteer shall be deemed to be paid and to receive each amount of any such stipend to which he is entitled under this section when such amount is transferred from funds made available for the payment of such stipend to the fund from which such stipend is payable."

(b) Section 1304 of the Internal Revenue Code of 1954 (26 U.S.C. § 1304) is amended by adding at the end thereof the following new subsection:

"(g) For treatment of the stipend paid to VISTA volunteers and volunteer leaders, see Section 812(d) of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992b(d))."

SEC. 208. (a) Title VIII of the Economic Opportunity Act of 1964 is amended by adding the following new section:

"VISTA ALLOWANCES

"SEC. 813. (a) In the case of an individual who is a volunteer or volunteer leader within the meaning of title VIII of the Economic Opportunity Act of 1964, amounts received as allowances other than amounts received as—

"(1) leave allowance, or

"(2) such portion of living allowances as the Director may determine as constituting basic compensation

shall not be included in gross income for purposes of income taxation under the Internal Revenue Code of 1954."

(b) Section 3401(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 3401(a)) is amended by adding at the end thereof the following new paragraph:

"(17) to a volunteer or volunteer leader within the meaning of title VIII of the Economic Opportunity Act of 1964, except stipends, leave allowances or living allowances determined by the Director of Action to be basic compensation."

and by eliminating the word "or" from the end of paragraph 15 and adding it to the end of paragraph 16.

(c) Section 124(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 124(a)) is amended by adding at the end thereof the following new paragraph:

"(19) Certain allowances paid to VISTA volunteers and volunteer leaders, see section 813 of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992(c))."

SEC. 209. The first sentence of subsection (a) of section 820 of such Act is amended to read as follows:

"SEC. 820. (a) The Director shall develop programs designed to expand opportunities for persons to participate in a direct and personal way, on a part-time basis or for short periods of service either in their home or nearby communities or elsewhere, in volunteer activities contributing to the elimination of poverty or otherwise in furtherance of the purposes of this title."

SEC. 210. Section 822 of such Act is hereby repealed.

SEC. 211. Subsection (c) of section 833 of such Act is amended to insert after the word "service" the first time it appears the following: ", including training,".

SEC. 212. Section 815 of such Act is hereby repealed.

TITLE III—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

SEC. 301. (a) Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) No compensation provided to individual volunteers under this Part shall be considered income for any purposes whatsoever."

SEC. 302. (a) The heading of Part B of Title VI of such Act is amended to read as follows: "FOSTER GRANDPARENT PROGRAM AND OTHER SENIOR VOLUNTEER PROGRAMS".

(b) Section 611 of such Act is amended to read as follows:

"SEC. 611. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of the development and operation of community projects designed to provide volunteer opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs.

"(b) For the purposes of subsection (a), grants or contracts shall be made principally for projects providing services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine."

(c) The first sentence of Section 613 of such Act is amended to read as follows:

"SEC. 613. In administering this part, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

SEC. 303. (a) Title VI of such Act is amended by striking out the word "Secretary" wherever it appears, and inserting in lieu thereof "Director".

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(b) Such Title is further amended by adding at the end thereof the following new section:

"MEANING OF DIRECTOR"

"SEC. 615. For purposes of this Title, the term 'Director' means the 'Director of Action.'"

(c) Section 202(3) of the Older Americans Act of 1965 is amended by inserting before the semicolon at the end thereof ", except for Title VI thereof".

TITLE IV—GENERAL PROVISIONS

SEC. 401. (a) There is hereby established a National Advisory Council for Action (hereinafter referred to as the "Council"). The Council shall consist of not more than 35 members appointed by the President. They shall be broadly representative of educational institutions, voluntary agencies, farm organizations, business and labor organizations, volunteers, and other public and private organizations and groups as well as individuals interested in the programs and objectives of Action. The Council shall advise and consult with the President and the Director of Action (hereinafter in this Title referred to as the "Director") with regard to policies and programs designed to further the purposes of that Agency.

(b) Members of the Council shall serve at the pleasure of the President and meet at his call or at the call of the Director. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of the Council or while otherwise serving at the request of the President or the Director, shall receive no compensation but may each receive out of funds available for the purposes of Action, while serving away from their homes or regular places of business, actual travel expenses and a per diem allowance or actual and necessary expenses as authorized by Section 5703 of Title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 402. Section 12 of the Peace Corps Act (75 Stat. 619, 22 U.S.C. § 2511) is repealed, and the Peace Corps National Advisory Council is abolished, effective 90 days after the enactment of this Act.

SEC. 403. (a) The Director is authorized to make grants to any public or nonprofit private agencies, organizations, or institutions in the United States and to enter into contracts with any such agencies, organizations, or institutions, or with any individuals in the United States—

(1) to develop and demonstrate new approaches, techniques, and methods with respect to the recruitment, training, and use of full-time and part-time volunteers for service to communities in the United States;

(2) to evaluate those new approaches, techniques, and methods; and

(3) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new programs for the use of full-time and part-time volunteers to perform work in the United States of the type described in Section 801 of the Economic Opportunity Act of 1964, as amended by section 201 of this Act.

(b) To the extent he deems it appropriate, the Director may require the recipient of a grant or contract under this section to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(c) Payments under this section pursuant to a grant or contract may be made (after necessary adjustment, on account of previously made overpayments or underpayments) in advance or by way of reimbursement and in such installments and on such conditions as the Director may determine.

SEC. 404. The Director is authorized, at the request of any Executive Department or agency, to recruit, train, accept, utilize, and refer to such Department or agency, volunteers who will provide voluntary services which are not normally performed by the employees of such Department or agency.

SEC. 405. The Director is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of Action. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purpose of the Internal Revenue Code of 1954 (including sections 170(j), 2055(f), 2106(a)(2)(f), and 2522(d)), property accepted under this section shall be considered as a gift or bequest to the United States.

SEC. 406. Notwithstanding any other provision of law, not to exceed 10 percentum of the sums appropriated or otherwise fixed by law to Action for a fiscal year to carry out any activity or function vested in that agency may be transferred and used by the Director for the purpose of carrying out any other such activity or function.

SEC. 407. There are authorized to be appropriated such sums as may be necessary to enable the Director to carry out his functions, powers, and duties, except those authorized under the Peace Corps Act.

SECTION-BY-SECTION ANALYSIS OF THE ACTION ACT OF 1972

The first section of this bill provides that it may be cited as the "Action Act of 1972."

TITLE I

Section 101 provides for a permanent authorization of appropriations for the Peace Corps.

Section 102 amends Section 301(b) of the Peace Corps Act to increase the limitation on expenditures authorized to encourage the development of international voluntary service programs from $300,000 to $350,000 and to make the limitation applicable to any fiscal year.

TITLE II

Section 201 amends Section 801 of Title VIII of the Economic Opportunity Act of 1964 (EOA), which contains the "Statement of Purpose" of Domestic Volunteer Service Programs, including Volunteers in Service to America. The amendment provides authority for an expanded area of service for domestic volunteers in programs dealing with "a broad range of human, social and environmental needs," in addition to the elimination of poverty, which remains the primary purpose of programs authorized by this Title.

Section 202 amends Section 810 of the EOA to authorize the recruitment, selection, training and assignment of volunteers to perform the expanded mission described in Section 801. It also provides that programs to be established within a State must first be submitted to the Governor of the State, and may not be commenced if they are disapproved by him within 45 days after submission. This provision replaces a requirement for prior affirmative approval of programs by the Governor, and is in line with the practice in other parts of the EOA, except that the Governor has 45 rather than 30 days in which to disapprove a program, and the Director has no authority to override a veto.

Section 203 amends Section 810 of Part A of the EOA by defining the term "Governor" to clarify that the chief executives of the District of Columbia and the Trust Territory of the Pacific Islands, which technically do not have Governors, have the same responsibility with respect to volunteers as the Governors of States and other jurisdictions.

Section 204 amends Section 811(a) of the EOA to harmonize the provisions of the Act relating to terms of service for volunteers with the broader mission for volunteers contained in Section 801. Volunteers will be required to make a full time personal commitment to the project to which they are assigned. No change is made in the current requirement that volunteers working in poverty-related programs live in the communities which they serve.

Section 205 amends Section 811(b) of the EOA to eliminate the mandatory one year term of service (plus training time) for volunteers, and to permit the Director to fix the term of service. It is intended that the term of service will be commensurate with the cost to the Government of training and transporting volunteers to and from their homes.

Section 206 amends Section 811(c) of the EOA to make the oath required of VISTA volunteers the same as that required of Peace Corps volunteers, permitting easier transfers between the programs. The amendment also authorizes the Director to prescribe an alternative oath or affirmation to be taken by aliens residing in the United States who serve as volunteers in programs under Title VIII, and prohibits funds from being used to transport such persons from or to areas outside the United States.

Section 207 adds a new subsection (d) to Section 812 of the EOA which adopts the language of the Peace Corps Act with respect to the treatment of readjustment allowances for income tax purposes. This language assures that the readajustment allowance will be taxed ratably over the period in which it accrued, but that the tax will not be payable until the volunteer actually receives the allowance.

Section 208 adds a new Section 813 to the EOA. The new section exempts from income tax amounts received by volunteers and volunteer leaders within the meaning of Title VIII of the EOA as allowances, except leave allowances or such portion of living allowances as the Director may determine are basic compensation. This treatment of allowances is identical with the treatment of Peace Corps allowances (see 26 U.S.C. § 912(c)), and will permit consistent treatment of both domestic and international volunteers. It is intended that the allowance now referred to by VISTA as the "living allowance," amounting to $75 per month for volunteers on projects, and $1.00 per day for trainees, which is for personal expenses, would be taxable, but that food and lodging allowances and adjustment allowances would not be subject to income tax. Stipends (readjustment allowances) remain subject to tax.

The section also amends 26 U.S.C. § 3401(a) by adding a new subsection (17), which removes the allowances described above from the definition of "wages" for the purpose of the withholding provisions of the Internal Revenue Code. Peace Corps allowances receive similar treatment under subsection (13) of 26 U.S.C. § 3401(a).

Section 209. The first sentence of Section 820(a) of the EOA is amended to include the broadened areas of service described in amended Section 801 of the EOA in the scope of opportunities for service available to short-term or part-time volunteers supported under Part B of Title VIII of the EOA.

Section 210 repeals Section 822 of the EOA, which authorized the operation of demonstration projects to help young criminal offenders during a three-year period which ended June 30, 1970.

Section 211 amends subsection (c) of Section 833 of Title VIII of the EOA in order to provide that training time shall be included in any period of satisfactory service of a volunteer which is credited in connection with subsequent employment by the United States Government, as is now the case with Peace Corps volunteers.

Section 212 provides for the repeal of Section 835 of Title VIII of the EOA, which provided for the termination of the programs provided for in that Title.

TITLE III

Section 301 provides that no compensation paid to individual volunteers in the Retired Senior Volunteer Program (RSVP) program for out-of-pocket expenses shall be considered income for any purposes whatsoever. This confirms the informal indication of the Internal Revenue Service that they do not consider such compensation as taxable income. It also resolves such questions as those which have been raised by welfare offices with regard to deducting from benefits paid to welfare recipients involved in the Retarded Senior Volunteer Program, the monies they receive as reimbursement for out-of-pocket expenses incident to their volunteer service.

Section 302. Part B has been amended to provide additional opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs. This includes the person-to-person services presently provided under Part B, Foster Grandparent Program, to children in institutions, i.e. hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs. It is intended that appropriations under this Part will be used principally for the Foster Grandparent Program.

In addition, it includes services described by the President at the White House Conference on Aging on December 2, 1971, where he stated that the kinds of persons who participate in the Foster Grandparent Program should also work with older people. This expansion of Part B would also permit low-income older people to work with children with exceptional needs in their own homes or with children and adults with exceptional needs in community settings. These expanded programs would operate under regulations which are substantially similar to those which presently exist for the Foster Grandparent Program.

Section 303. This substitutes the Director of Action for the Secretary of Health, Education, and Welfare wherever it appears in this Title. This is in keeping with the transfer of Title VI programs to the Director of Action pursuant to Reorganization Plan No. 1 of 1971.

TITLE IV

Section 401 establishes a National Advisory Council for Action similar to the Peace Corps National Advisory Council. The Council is to be made up of not more than 35 members to be appointed by the President, and those members shall be entitled to receive actual travel expenses and a per diem allowance while attending meetings or otherwise serving at the request of the President.

Section 402 provides for the repeal of Section 12 of the Peace Corps Act, which established the Peace Corps National Advisory Council.

Section 403 authorizes the Director to make grants to public or nonprofit private agencies, organizations, or institutions in the United States, and to contract with such agencies, organizations or institutions and individuals in the United States,

(1) to develop, demonstrate and evaluate new approaches, techniques, and methods with respect to the recruitment, training, and use of volunteers serving in the United States; and

(2) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new volunteer programs of the type described in Section 801 of the EOA.

This section complements Section 821 of the EOA which authorizes the Director of the Office of Economic Opportunity to design and conduct special programs to improve methods of providing volunteer services and to encourage wide volunteer participation.

Section 403 would also permit the Director to require grant or contract recipients to contribute money, facilities or services with regard to particular projects.

Section 404 provides the Director with the authority to recruit, train, accept, utilize and refer volunteers upon request, to any Executive Department or agency to perform services which are not normally performed by the employees of such Department or agency.

Section 405 provides the Director of Action with sufficient authority to accept and utilize gifts to Action, similar to the authority he has to accept gifts to the Peace Corps and VISTA.

Section 406 permits the Director to transfer not more than 10 percent of the funds available within Action to carry out a particular activity or function, to any other activity or function within Action.

Section 407 provides for a permanent authorization of appropriations to carry out all functions, powers and duties vested in the Director of Action, except those authorized under the Peace Corps Act for which a separate appropriation authority is provided. In addition to appropriations for VISTA and other activities under Title VIII of the Economic Opportunity Act of 1964; Foster Grandparents; RSVP; and other activities under Title VI of the Older Americans Act of 1965; and SCORE/ACE activities under section 8(b) of the Small Business Act, this section authorizes appropriations for programs and activities authorized by this Act.

Mr. CRANSTON. Mr. President, the bill I am introducing today, by request, contains provisions identical to titles II—VISTA; III—national older volunteers program; and IV—general provisions—of the administration's draft legislation except that these titles are redesignated I, II, and III, respectively.

The bill does not include title I—Peace Corps—from the draft legislation, because jurisdiction of the Peace Corps program is in the Foreign Relations Committee. Consideration of the two proposed sections in the original title I of the administration-proposed legislation should be carried out entirely by the Foreign Relations Committee in such form and manner as it deems appropriate. There are, however, three provisions in the bill as introduced—sections 301 and 302 to establish a National Advisory Council for Action and abolish the present Peace Corps National Advisory Council, and section 306 to authorize up to 10 percent transferability of funds between programs carried out under Action—which have a direct relationship to the Peace Corps program, and therefore, to the jurisdiction of the Foreign Relations Committee. Therefore, I plan to consult and coordinate fully with that committee as to those provisions during consideration of the bill in the Committee on Labor and Public Welfare. Alternatively, we would be fully receptive to referral of the bill to the Foreign Relations Committee as to those provisions for an appropriate period of time.

Mr. President, I wish to make plain at this point, that in introducing the domestic provisions of this bill, by request, I am not necessarily endorsing any or all of these provisions. Indeed, I already have the most serious reservations about several of the provisions, particularly the form in which they were proposed by the administration. My intention is merely to provide a service to the administration and a starting point for detailed consideration by the Committee on Labor and Public Welfare of the Action program and such additional enabling legislation for it as may be determined desirable and appropriate.

Based upon discussions with the chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS); the chairman of the Subcommittee on Employment, Manpower, and Poverty (Mr. NELSON); and the chairman of the Subcommittee on Aging (Mr. EAGLETON); this bill upon reference to the Committee on Labor and Public Welfare will be referred to the Special Subcommittee on Human Resources, which I am privileged to chair. Based on these same discussions, consideration of the provisions of the bill relating to the poverty program will be carried out with the closest coordination with the Employment, Manpower, and Poverty Subcommittee and consideration of those provisions relating to the Older Americans Act of 1965 and other senior volunteer programs will be carried out with the closest coordination with the Subcommittee on Aging.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing followed by the section-by-section analysis prepared by the administration—altered to reflect the new section numbers—be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Action Act of 1972."

TITLE I—VOLUNTEERS IN SERVICE TO AMERICA

SEC. 101. Section 801 of the Economic Opportunity Act of 1964 is amended to read as follows:

"SEC. 801. This title provides for a program of full and part-time voluntary service, and for the operation and funding of special and demonstration volunteer programs, together with other powers and responsibilities designed to assist in the development, encouragement and coordination of volunteer programs. Its purpose is primarily to strengthen and supplement efforts to eliminate poverty and, additionally, to deal with a broad range of human, social, and environmental needs through the use of volunteers."

SEC. 102. Section 810 of such Act is amended to read as follows:

"SEC. 810. (a) The Director of Action (hereinafter in this title referred to as the "Director") may recruit, select, and train persons to serve in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or Indian reservations, in full-time volunteer programs, and, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to programs and activities designed to carry out the purposes of this title.

"(b) The assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assign-

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ments in their own or nearby communities. No program designed to carry out the purpose of this title shall be established within a State unless such program has been submitted to the Governor and has not been disapproved by him within 45 days of such submission. The assignment of a volunteer in any State shall be terminated by the Director when so requested by the Governor of such State not later than 30 days or at a time thereafter agreed upon by the Governor and the Director after such request has been made by the Governor to the Director."

SEC. 103. Section 810 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'Governor' as used in this section means the Governor of the State, in the case of any of the 50 States, and in the case of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, the chief executive officer thereof."

SEC. 104. The first sentence of subsection (a) of section 811 of such Act is amended to read as follows:

"SEC. 811. (a) Volunteers under this part shall be required to make a full-time personal commitment to achieving the purposes of this title and the goals of the projects or programs to which they are assigned."

SEC. 105. Subsection (b) of section 811 of such Act is amended to read as follows:

"(b) Volunteers under this part shall be enrolled for such periods of service as the Director may determine."

SEC. 106. Subsection (c) of section 811 of such Act is amended to read as follows:

"(c) Volunteers under this Part shall, upon enrollment, take the same oath of office as prescribed for persons enrolled in the Peace Corps (22 U.S.C. § 2504(j)): *Provided*, That persons legally residing within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, either permanently or temporarily, but who are not citizens of the United States, may serve in programs carried on under this Title without taking or subscribing to such oath, if the Director determines that the service of those persons will further the interests of the United States. Those persons shall take such alternative oath or affirmation as the Director shall deem to be appropriate. No funds may be expended to transport such persons either to or from any place outside the areas specified in this subsection."

SEC. 107. (a) Section 812 of such Act is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of the Internal Revenue Code of 1954, a volunteer shall be deemed to be paid and to receive each amount of any such stipend to which he is entitled under this section when such amount is transferred from funds made available for the payment of such stipend to the fund from which such stipend is payable."

(b) Section 1304 of the Internal Revenue Code of 1954 (26 U.S.C. § 1304) is amended by adding at the end thereof the following new subsection:

"(g) For treatment of the stipend paid to VISTA volunteers and volunteer leaders, see Section 812(d) of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992b(d))."

SEC. 108. (a) Title VIII of the Economic Opportunity Act of 1964 is amended by adding the following new section:

"SEC. 813. (a) VISTA ALLOWANCES.—In the case of an individual who is a volunteer or volunteer leader within the meaning of Title VIII of the Economic Opportunity Act of 1964, amounts received as allowances other than amounts received as—

(1) leave allowance, or

(2) such portion of living allowances as the Director may determine as constituting basic compensation

shall not be included in gross income for purposes of income taxation under the Internal Revenue Code of 1954."

(b) Section 3401(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 3401(a)) is amended by adding at the end thereof the following new paragraph:

"(17) to a volunteer or volunteer leader within the meaning of Title VIII of the Economic Opportunity Act of 1964, except stipends, leave allowances or living allowances determined by the Director of Action to be basic compensation."

and by eliminating the word "or" from the end of paragraph 15 and adding it to the end of paragraph 16.

(c) Section 124(a) of the Internal Revenue Code of 1954 (26 U.S.C. § 124(a)) is amended by adding at the end thereof the following new paragraph:

"(19 Certain allowances paid to VISTA volunteers and volunteer leaders, see Section 813 of the Economic Opportunity Act of 1964 (42 U.S.C. § 2992(c))."

SEC. 109. The first sentence (a) of Section 820 of such Act is amended to read as follows:

"SEC. 820. (a) The Director shall develop programs designed to expand opportunities for persons to participate in a direct and personal way, on a part-time basis or for short periods of service either in their home or nearby communities or elsewhere, in volunteer activities contributing to the elimination of poverty or otherwise in furtherance of the purposes of this Title."

SEC. 110. Section 822 of such Act is hereby repealed.

SEC. 111. Subsection (c) of Section 833 of such Act is amended to insert after the word "service ' the first time it appears the following: ", including training,".

SEC. 112. Section 835 of such Act is hereby repealed.

TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAM

SEC. 201. (a) Section 601 of the Older Americans Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) No compensation provided to individual volunteers under this Part shall be considered income for any purposes whatsoever."

SEC. 202. (a) The heading of Part B of Title VI of such Act is amended to read as follows: "FOSTER GRANDPARENT PROGRAM AND OTHER SENIOR VOLUNTEER PROGRAM".

(b) Section 611 of such Act is amended to read as follows:

"SEC. 611. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of the development and operation of community projects designed to provide volunteer opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs.

"(b) For the purposes of subsection (a), grants or contracts shall be made principally for projects providing services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

"(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine."

(c) The first sentence of Section 813 of such Act is amended to read as follows:

"SEC. 613. In administering this part, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels."

SEC. 203. (a) Title VI of such Act is amended by striking out the word "Secretary" wherever it appears, and inserting in lieu thereof "Director".

(b) Such Title is further amended by adding at the end thereof the following new section:

"MEANING OF DIRECTOR

"SEC. 615. For purposes of this Title, the term 'Director' means the 'Director of Action:

(c) Section 202(3) of the Older Americans Act of 1965 is amended by inserting before the semicolon at the end thereof ", except for Title VI thereof".

TITLE III—GENERAL PROVISIONS

SEC. 301. (a) There is hereby established a National Advisory Council for Action (hereinafter referred to as the "Council"). The Council shall consist of not more than 35 members appointed by the President. They shall be broadly representative of educational institutions, voluntary agencies, farm organizations, business and labor organizations, volunteers, and other public and private organizations and groups as well as individuals interested in the programs and objectives of Action. The Council shall advise and consult with the President and the Director of Action (hereinafter in this Title referred to as the "Director") with regard to policies and programs designed to further the purposes of that Agency.

(b) Members of the Council shall serve at the pleasure of the President and meet at his call or at the call of the Director. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of the Council or while otherwise serving at the request of the President or the Director, shall receive no compensation but may each receive out of funds available for the purposes of Action, while serving away from their homes or regular places of business, actual travel expenses and a per diem allowance or actual and necessary expenses as authorized by Section 5703 of Title 5 of the United States Code for persons in the Government service employed intermittently.

SEC. 302. Section 12 of the Peace Corps Act (75 Stat. 619, 22 U.S.C. § 2511) is repealed, and the Peace Corps National Advisory Council is abolished, effective 90 days after the enactment of this Act.

SEC. 303. (a) The Director is authorized to make grants to any public or nonprofit private agencies, organizations, or institutions in the United States and to enter into contracts with any such agencies, organizations, or institutions, or with any individuals in the United States—

(1) to develop and demonstrate new approaches, techniques, and methods with respect to the recruitment, training, and use of full-time and part-time volunteers for service to communities in the United States;

(2) to evaluate those new approaches, techniques, and methods; and

(3) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new programs for the use of full-time and part-time volunteers to perform work in the United States of the type described in Section 801 of the Economic Opportunity Act of 1964, as amended by Section 201 of this Act.

(b) To the extent he deems it appropriate, the Director may require the recipient of a grant or contract under this section to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(c) Payments under this section pursuant to a grant or contract may be made (after necessary adjustment, on account of previously made overpayments or underpayments) in advance or by way of reimbursement and in such installments and on such conditions as the Director may determine.

SEC. 304. The Director is authorized, at the request of any Executive Department or agency, to recruit, train, accept, utilize, and refer to such Department or agency, volunteers who will provide voluntary services which are not normally performed by the employees of such Department or agency.

SEC. 305. The Director is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of Action. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Director. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purpose of the Internal Revenue Code of 1954 (including sections 170(j), 2055(f), 2106(a)(2)(f), and 2522(d)), property accepted under this section shall be considered as a gift or bequest to the United States.

SEC. 306. Notwithstanding any other provision of law, not to exceed 10 percentum of the sums appropriated or otherwise fixed by law to Action for a fiscal year to carry out any activity or function vested in that agency may be transferred and used by the Director for the purpose of carrying out any other such activity or function.

SEC. 307. There are authorized to be appropriated such sums as may be necessary to enable the Director to carry out his functions, powers, and duties, except those authorized under the Peace Corps Act.

SECTION-BY-SECTION ANALYSIS OF THE ACTION ACT OF 1972

The first section of this bill provides that it may be cited as the "Action Act of 1972."

TITLE I

Section 101 amends Section 801 of Title VIII of the Economic Opportunity Act of 1964 (EOA), which contains the "Statement of Purpose" of Domestic Volunteer Service Programs, including Volunteers in Service to America. The amendment provides authority for an expanded area of service for domestic volunteers in programs dealing with "a broad range of human, social and environmental needs," in addition to the elimination of poverty, which remains the primary purpose of programs authorized by this Title.

Section 102 amends Section 810 of the EOA to authorize the recruitment, selection, training and assignment of volunteers to perform the expanded mission described in Section 801. It also provides that programs to be established within a State must first be submitted to the Governor of the State, and may not be commenced if they are disapproved by him within 45 days after submission. This provision replaces a requirement for prior affirmative approval of programs by the Governor, and is in line with the practice in other parts of the EOA, except that the Governor has 45 rather than 30 days in which to disapprove a program, and the Director has no authority to override a veto.

Section 103 amends Section 810 of Part A of the EOA by defining the term "Governor" to clarify that the chief executives of the District of Columbia and the Trust Territory of the Pacific Islands, which technically do not have Governors, have the same responsibility with respect to volunteers as the Governors of States and other jurisdictions.

Section 104 amends Section 811(a) of the EOA to harmonize the provisions of the Act relating to terms of service for volunteers with the broader mission for volunteers contained in Section 801. Volunteers will be required to make a full time personal commitment to the project to which they are assigned. No change is made in the current requirement that volunteers working in poverty-related programs live in the communities which they serve.

Section 105 amends Section 811(b) of the EOA to eliminate the mandatory one year term of service (plus training time) for volunteers, and to permit the Director to fix the term of service. It is intended that the term of service will be commensurate with the cost to the Government of training and transporting volunteers to and from their homes.

Section 106 amends Section 811(c) of the EOA to make the oath required of VISTA volunteers the same as that required of Peace Corps volunteers, permitting easier transfers between the programs. The amendment also authorizes the Director to prescribe an alternative oath or affirmation to be taken by aliens residing in the United States who serve as volunteers in programs under Title VIII, and prohibits funds from being used to transport such persons from or to areas outside the United States.

Section 107 adds a new subsection (d) to Section 812 of the EOA which adopts the language of the Peace Corps Act with respect to the treatment of readjustment allowances for income tax purposes. This language assures that the readjustment allowance will be taxed ratably over the period in which it accrued, but that the tax will not be payable until the volunteer actually receives the allowance.

Section 108 adds a new Section 813 to the EOA. The new section exempts from income tax amounts received by volunteers and volunteer leaders within the meaning of Title VIII of the EOA as allowances, except leave allowances or such portion of living allowances as the Director may determine are basic compensation. This treatment of allowances is identical with the treatment of Peace Corps allowances (see 26 U.S.C. § 912 (c)), and will permit consistent treatment of both domestic and international volunteers. It is intended that the allowance now referred to by VISTA as the "living allowance," amounting to $75 per month for volunteers on projects, and $1.00 per day for trainees, which is for personal expenses, would be taxable, but that food and lodging allowances and adjustment allowances would not be subject to income tax. Stipends (readjustment allowances) remain subject to tax.

The section also amends 26 U.S.C. § 3401(a) by adding a new subsection (17), which removes the allowances described above from the definition of "wages" for the purpose of the withholding provisions of the Internal Revenue Code. Peace Corps allowances receive similar treatment under subsection (13) of 26 U.S.C. § 3401(a).

Section 109. The first sentence of Section 820(a) of the EOA is amended to include the broadened areas of service described in amended Section 801 of the EOA in the scope of opportunities for service available to short-term or part-time volunteers supported under Part B of Title VIII of the EOA.

Section 110 repeals Section 822 of the EOA, which authorized the operation of demonstration projects to help young criminal offenders during a three-year period which ended June 30, 1970.

Section 111 amends subsection (c) of Section 833 of Title VIII of the EOA in order to provide that training time shall be included in any period of satisfactory service of a volunteer which is credited in connection with subsequent employment by the United States Government, as is now the case with Peace Corps volunteers.

Section 112 provides for the repeal of Section 835 of Title VIII of the EOA, which provided for the termination of the programs provided for in that Title.

TITLE II

Section 201 provides that no compensation paid to individual volunteers in the Retired Senior Volunteer Program (RSVP) program for out-of-pocket expenses shall be considered income for any purposes whatsoever. This confirms the informal indication of the Internal Revenue Service that they do not consider such compensation as taxable income. It also resolves such questions as those which have been raised by welfare offices with regard to deducting from benefits paid to welfare recipients involved in the Retired Senior Volunteer Program, the monies they receive as reimbursement for out-of-pocket expenses incident to their volunteer service.

Section 202. Part B has been amended to provide additional opportunities for low-income persons aged 60 or over to render supportive services to people having exceptional needs. This includes the person-to-person services presently provided under Part B, Foster Grandparent Program, to children in institutions, i.e. hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs. It is intended that appropriations under this Part will be used principally for the Foster Grandparent Program.

In addition, it includes services described by the President at the White House Conference on Aging on December 2, 1971, where he stated that the kinds of persons who participate in the Foster Grandparent Program should also work with older people. This expansion of Part B would also permit low-income older people to work with children with exceptional needs in their own homes or with children and adults with exceptional needs in community settings. These expanded programs would operate under regulations which are substantially similar to those which presently exist for the Foster Grandparent Program.

Section 203. This substitutes the Director of Action for the Secretary of Health, Education, and Welfare wherever it appears in this Title. This is in keeping with the transfer of Title VI programs to the Director of Action pursuant to Reorganization Plan No. 1 of 1971.

TITLE III

Section 301 establishes a National Advisory Council for Action similar to the Peace Corps National Advisory Council. The Council is to be made up of not more than 35 members to be appointed by the President, and those members shall be entitled to receive actual travel expenses and a per diem allowance while attending meetings or otherwise serving at the request of the President.

Section 302 provides for the repeal of Section 12 of the Peace Corps Act, which established the Peace Corps National Advisory Council.

Section 303 authorizes the Director to make grants to public or nonprofit private agencies, organizations, or institutions in the United States, and to contract with such agencies, organizations or institutions and individuals in the United States,

(1) to develop, demonstrate and evaluate new approaches, techniques, and methods with respect to the recruitment, training, and use of volunteers serving in the United States; and

(2) to foster the establishment by public and private nonprofit agencies, organizations, and institutions of new volunteer programs of the type described in Section 801 of the EOA.

This section complements Section 821 of the EOA which authorizes the Director of the Office of Economic Opportunity to design and conduct special programs to improve methods of providing volunteer services and to encourage wide volunteer participation. Section 403 would also permit the Director to require grant or contract recipients to contribute money, facilities or services with regard to particular projects.

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Section 304 provides the Director with the authority to recruit, train, accept, utilize and refer volunteers upon request, to any Executive Department or agency to perform services which are not normally performed by the employees of such Department or agency.

Section 305 provides the Director of Action with sufficient authority to accept and utilize gifts to Action, similar to the authority he has to accept gifts to the Peace Corps and VISTA.

Section 306 permits the Director to transfer not more than 10 percent of the funds available within Action to carry out a particular activity or function, to any other activity or function within Action.

Section 307 provides for a permanent authorization of appropriations to carry out all functions, powers and duties vested in the Director of Action, except those authorized under the Peace Corps Act for which a separate appropriation authority is provided. In addition to appropriations for VISTA and other activities under Title VIII of the Economic Opportunity Act of 1964; Foster Grandparents; RSVP; and other activities under Title VI of the Older Americans Act of 1965; and SCORE/ACE activities under section 8(b) of the Small Business Act, this section authorizes appropriations for programs and activities authorized by this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 704

At the request of Mr. INOUYE, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 704, a bill to amend title 37, United States Code, to provide for the procurement and retention of judge advocates and law specialist officers for the Armed Forces.

S. 2754

At his own request, Mr. GRIFFIN was added as a cosponsor of S. 2754, a bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 214

At the request of Mr. CASE, the Senator from Utah (Mr. Moss) was added as a cosponsor of Senate Resolution 214 relative to the submission of any Portuguese base agreement as a treaty.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENTS NOS. 1030 THROUGH 1040

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of amendments Nos. 1030 through 1040, intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

RESCHEDULING OF HEARING ON THE WHEAT AND WHEAT FOODS RESEARCH, EDUCATION, AND PROMOTION ACT

Mr. ALLEN. Mr. President, I wish to announce a rescheduling of a hearing. The Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry had planned to hold a hearing Tuesday, May 9, on S. 3276, the Wheat and Wheat Foods Research, Education and Promotion Act; the hearing is now scheduled for Thursday, May 4, in Room 324, Old Senate Office Building beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ANNOUNCEMENT OF HEARINGS ON S. 1407

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an announcement by the distinguished Senator from Nevada (Mr. BIBLE) on open hearings to be held by the Subcommittee on Parks and Recreation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT BY SENATOR BIBLE

I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation for 2 p.m. on April 12, and at 10 a.m. on April 13, in Room 3110, New Senate Office Building, on the following bill:

S. 1407, to establish the Sawtooth National Recreational Area in the State of Idaho, to temporarily withdraw certain national forest land in the State of Idaho from the operation of the U.S. Mining laws, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on March 30, 1972, he presented to the President of the United States the enrolled bill (S. 2601) to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

ADDITIONAL STATEMENTS

RADIO FREE EUROPE—ADDRESS BY STEWART CORT

Mr. MATHIAS. Mr. President, on March 22, Mr. Stewart Cort, national chairman of Radio Free Europe and chairman of Bethlehem Steel Corp., addressed the first business leader fundraising luncheon of 1972 in Maryland at the Baltimore Hilton. Mr. Cort's address, entitled "Radio Free Europe in an Era of Negotiation," vividly outlines the critical importance of Radio Free Europe and Radio Liberty in maintaining a free flow of uncensored information so eagerly awaited by countless thousands in the countries of Eastern Europe.

I highly recommend Mr. Cort's remarks to the Senate and ask unanimous consent that they be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

RADIO FREE EUROPE IN AN ERA OF NEGOTIATION

A year ago last January, the senior Senator from New Jersey, Mr. Case, made an important public revelation about Radio Free Europe and Radio Liberty. He said they were getting financial support from the Government of the United States.

What happened to RFE and RL thereafter has been the subject of front-page reports and editorial comment in newspapers throughout the United States and Europe, both West and East. I propose to review the highlights of what happened and try to give you an assessment of where matters stand today.

The Senator's revelation in itself was really not all that revealing. It could hardly have come as a great surprise to anyone who had had occasion to give the matter much thought. RFE is a substantial enterprise and, as Senator Fulbright has said more than once in recent weeks, it has a substantial budget. It could never be covered fully from non-government sources alone.

THE COSTS OF BROADCASTING

RFE is not a station but a network. It broadcasts an average of 15 hours a day, in each of six foreign languages. It employs more than 1600 people. It has a verified audience of some 30 million regular listeners. (That, incidentally, is more than half the population of East Europe over the age of fourteen.) It operates 32 transmitters and deploys some 80 frequencies from two widely separated locations in Europe. It maintains its own news-gathering and research operations so that it can meet the particular needs and interests of its listeners.

All that costs money. About $23 million this year. That's less than 77 cents per listener per year. But it is a substantial budget. And unfortunately, RFE is in no position to sell commercial advertising-time to non-existent advertisers in the non-existent competitive economy of its market area.

Under the circumstances, RFE has had to function—and I hope will continue to function—as the beneficiary of government as well as private support.

THE ROLE OF PRIVATE SUPPORT

Incidentally, a good deal of misinformation has been circulating lately about the extent of the private contributions over the years. Let me set the record straight. During the past twenty years (fiscal 1951 through 1971), according to independent auditors, RFE raised more than $47 million from private sources. That represents approximately 18.7 percent of the total operating costs of the Radio during that period.

Private support has been and will continue to be an indispensable part of RFE's total budget. For the future, we are hoping that the government's participation will begin to fully cover operational costs, so that the private funds can be applied to RFE's long-deferred equipment-renovation and capital-maintenance program.

Senator Case's further statement—that the government's financial support had been channeled through the CIA—shocked some people.

I suggest that what matters is not the past, but the present—and the future. The relevant questions are: How well is RFE doing its job?—and—Does the job really need doing? There are also two related questions that have been widely discussed in recent weeks: Could the job be done as well or better by the Voice of America? And shouldn't our friends in Western Europe be helping us foot the bill?

I propose to give you very briefly my personal reflections on those questions. I might say that before joining the Board of RFE a year ago, I had at best a "smattering of ignorance" about how RFE really works. That had one advantage: I was able to approach the organization with an open mind. Not everyone can make that claim. I've had an opportunity to learn a lot. I have been to Munich. There and in New York, I met the men and women of RFE and had a close look at what they do and how they do it.

Like almost everyone else who has observed the RFE operation first hand, I came away enormously impressed with the professional skill of the staff and with their devotion to their work.

THE PROBLEM OF SURVIVAL

Perhaps most of all, I had to admire their steadfastness.

The men and women of RFE and RL have lived through more than a year of profound uncertainty about the very survival of the organization. This uncertainty was caused by the efforts of just one man. Surprisingly, he is a man with a worldwide reputation for devotion to the ideals of freer international communication, better understanding among peoples, and more normal relations between East and West—the very same ideals that RFE is trying to serve.

I would like to take a little time today to consider some of the things Senator Fulbright, as Chairman of the Senate Foreign Relations Committee has been saying about Radio Free Europe.

One must in fairness give Senator Fulbright credit for the courage of his convictions. It is regrettable—and it came close to being tragic—that in this matter the Senator's convictions are simply mistaken. I believe they are at odds with the facts. And they are clearly at odds with the views of almost everybody else who has expressed an opinion on the subject—and, by now, practically everybody else has expressed an opinion.

You may find it interesting to compare the things the Senator has been saying with what has been said—in response—by his colleagues, by the President, by the American and West European press, by scholars, labor unions, diplomats, contributors, and listeners.

The clash of opinion on this is a small part of what may be shaping up as a new "Great Debate" on American foreign policy. A reasonably complete documentation of the debate thus far, as it relates to Radio Free Europe and Radio Liberty, is yours for the asking. Just write or call RFE at 2 Park Avenue, New York City.

Much of that documentation has been published in recent issues of the Congressional Record. We have time here to consider only a few of the highlights.

COMMUNICATION AND DETENTE: THE FUNDAMENTAL QUESTION

Senator Fulbright posed the fundamental question in a Senate speech on February 17, 1972 in which he suggested that the activities of RFE and RL are an "irritant to our relations" with the Russians, that they constitute "meddling in the internal political affairs of other countries," and that they are "fundamentally inconsistent with the purposes of the President."

The President does not agree. In a letter to me last December 23, President Nixon wrote:

"I would like you and your associates to know that in my view the free flow of information and ideas among nations is indispensable to more normal relations between East and West and to better prospects for an enduring peace.

"The comprehensive news and comment which East Europeans get from RFE help immensely to neutralize the censorship of speech and press that is still imposed under Communist rule. RFE's broadcasts thus serve what should be everyone's right, as stated in the Universal Declaration of Human Rights, 'to seek, receive and impart information and ideas through any media and regardless of frontiers.'"

As the Washington Post put it in a lead editorial last June 28:

"Detente, if it means anything, means widening the West's contacts with the East, not helping the East seal off its people from the West. It means the exchange of people, goods, words and ideas. This is the essential business of RFE and RL."

Does the exchange of ideas really help? Let me quote the answer given by Professor Zbigniew Brzezinski of Columbia University, in testimony last fall before the House Foreign Affairs Committee:

"East-West reapproachement will become a reality only if the East European and Soviet populations are able to exercise subtle but continuing pressure on their own regimes on behalf of greater liberalization and closer contacts with the West. They will not be able to do so if they are deprived of access to independent sources of information. It is only by learning more about themselves as well as about such things as liberal reforms in other communist states, that the different groups in communist societies—the intellectual, the technocrats, the youth, the peasantry—can generate sustained pressure and articulate relevant demands . . . Arms are becoming less important as instruments of policy . . . More than ever before, it is what people think that shapes actions and that defines relations between states."

It is hardly surprising that the Communist governments do not welcome "independent sources of information." Of *course* they are "irritated" by the Radios. As a former Polish official admits (H. Birecki, letter to Washington Star, September 28, 1971), they are feeling "deep concern over the growing influence of Radio Free Europe, not merely on the population but above all on the Communist Party itself . . ."

The well-orchestrated campaign of the Communist governments in their own mass media and their complaints through diplomatic channels have had one purpose: to get RFE off the air.

To the censors, RFE's broadcasting is "provocation." To almost anyone else, it would be nothing more than the practice of professional journalism. Real provocation—name-calling, falsification and extravagant polemics, which the Communist press itself employs against Western media—is no part of the programming of RFE and RL.

But does the irritation really interfere with negotiations toward "detente"? The Soviet Union obviously does not consider its *own* international broadcasting to be inconsistent with *its* vision of detente. It devotes more than 330 hours a day in 78 languages to the conduct of what it continues to call its "ideological struggle against imperialism." And nobody is objecting to *their* broadcasts.

The fact is that East-West negotiations are proceeding on a variety of issues. Agreements have been reached on matters of perceived mutual interest. International broadcasting does not interfere with that process.

Indeed—and this is the heart of our case—full normalization of East-West relations will become negotiable only with the further evolution of Communist purposes. We must hope, as the President has stated (Report to Congress, February 18, 1970), that this will come about through "the passage of time and the emergence of a new generation in the Communist countries."

As the President put it in a letter last week to Senator Hugh Scott (Congressional Record, March 16, 1972), these Radios "can play an essential role in the reorienting of East-West relations that is *now taking place*." (My emphasis.)

I'm going to leave this aspect of the subject by quoting from a letter received by RFE in Munich on March 13, 1972. It was written by a Hungarian listener who signed himself "Tizedes". (As translated):

"I would like to react to [Sen. Fulbright's statement] in my own simple way: to ask the good Senator to come here and spend a few months among us, but not in the Hotel Gellert or the Hotel Duna, but with us! . . . Do come and watch television with me for one week . . . Do come to our country, Mr. Senator and become thoroughly involved in our lives. You should be aware of the fact that I am and we are simple workers but have the right to know the news, films, books and achievements from the other side, to learn from them and if necessary to draw strength and even enthusiasm from these."

PROFESSIONAL INDEPENDENCE AND RESPONSIBILITY

One of several myths that RFE has had to live with is the notion that because it is government-supported it could not possibly be privately-managed or enjoy professional independence. As Senator Fulbright put it in his Senate speech of February 17, 1972: "The covert funding has . . . been accompanied by policy controls and monitoring arrangements so as to insure compliance with official policy guidelines. All of this indicates, beyond question, that the Radios still constitute an integral part of our foreign policy toward Eastern Europe and the Soviet Union."

There are really two questions here, and I would like to get the record straight on both of them.

The first is, Does the government exercise "policy controls" on the work of RFE?

The answer is emphatically No. Unlike the Voice of America, RFE is not a spokesman for governmental policy. RFE (and RL) are simply professional media of news and comment, a kind of substitute free press for East Europe and the Soviet Union. They have their own boards of directors, their own management teams, their own staffs, their own corporate structures, their own procedures. Each of the Radios is really nothing more than a large "newspaper of the air." As such each puts heavy emphasis on straight, objective news reporting, while also providing editorials, features, and comprehensive roundups of Western opinion and analysis.

Of course they are, as Senator Fulbright said, "an integral part of our foreign policy." But this is true in one sense and one sense only: our foreign policy calls for freedom of communication among nations not just at the government level but at all levels.

I have personally observed how RFE gets the news, evaluates it, and processes it for broadcasting. I can assure you there is no attempt and no need to intervene from Washington (or even from New York) in the editorial judgments that are made in Munich every day about the meaning of the day's events and how they should be covered.

This point has been corroborated by many outside observers, including a commentator for the Dutch National Radio Service, which did a 50-minute documentary on RFE last April 21. He concluded that RFE applies "normal journalistic standards" and that governmental influence on RFE's programming "is just as negligible as that of the Dutch government on its subsidized artists."

The other question is this: Does the government "monitor" the work of RFE and RL? Of course it does. No responsible government would put up hard cash without knowing a lot about how the cash is being used.

Detailed information about the Radios—their programming and research operations, administration, budgets and expenditures—is available to the Department of State, and indeed to anyone else with a legitimate interest in such information. And of course the entire final product of RFE is broadcasting, and is therefore fully in the public

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domain. Their financial records are regularly audited by reputable commercial auditing firms and are routinely available to the General Accounting Office.

President Nixon summed up this whole aspect of the Radios' operation in two sentences in the letter he wrote to me last December:

"RFE's task is particular its coverage of internal developments in East Europe, is of course one that only an independent broadcaster could undertake. This Administration is pleased to contribute to the financial support of Radio Free Europe, because we have followed closely the work of RFE and are satisfied that it continues to serve a fundamental national interest."

THE DIFFERENT ROLES OF VOA AND RFE–RL

The President's statement also helps answer the perennial question: Isn't the Voice of America all we need, or if not, could the VOA take over the work of RFE and RL?

There is in fact no essential overlapping of purpose or function. VOA is the radio voice of U.S. policy. RFE and RL, on the other hand, provide the kind of all-round home service for its audience countries that domestic stations might offer if censorship did not exist. They are, as Anatoli Kuznetsov has written (letter to the House Foreign Affairs Committee, September 8, 1971), "a substitute for a free press non-existent in our countries." Kuznetsov added:

"It is precisely the fact of being able to speak the language of a free press and not of the government propaganda that makes the broadcasts of Radio Free Europe and Radio Liberty so attractive to their audiences."

Even if VOA were to assume the special functions of RFE and RL, it would have to take over not only all of RFE's and RL's transmitters and frequencies but their personnel and their budgets.

Today VOA broadcasts an average of about 3 hours a day per country to RFE's audience area, as compared to RFE's average of nearly 16 hours a day. VOA could not physically transmit RFE and RL programming over its existing facilities without drastically curtailing its own worldwide output and without sharply reducing the number of transmitters that RFE and RL must now operate in order to cover their target areas in the face of jamming and other interference.

FINANCIAL SUPPORT FROM WESTERN EUROPE

In a letter to Senator Percy (Congressional Record, March 6, 1972), Senator Fulbright expressed his concern over "the lack of any apparent interest on the part of our Western European allies to help share the financial burden imposed by the Radios." The Senator added:

"Such sharing would certainly be consistent with the Nixon Doctrine and would serve to erase the doubts that I and others have about continuing U.S. support for these Radio operations. Accordingly, it seems to me that multilateral funding arrangements would provide a meaningful alternative to the present arrangement and this, of course, is something that could be fully explored in connection with any fiscal 1973 funding request."

On this point, I am happy to find myself in substantial agreement with Senator Fulbright. And I am pleased to report that our own explorations began some time ago. I met personally on this matter in Munich last January with Dr. Dirk Stikker, the former Dutch Foreign Minister and former NATO Secretary General, who is the Chairman of RFE's West European Advisory Committee. A number of other knowledgeable and influential West Europeans took part in the discussions.

I believe our efforts can yield worthwhile results. But let me enter a note of caution. First, mobilizing European financial support will take some time. It would be unreasonable to expect or demand that this be worked out by the beginning of fiscal 1973, that is, by July 1. As the *Washington Post* pointed out in an editorial on March 13, 1972:

"To convert a 20-year American operation into an alliance project under the June 30 gun now held by Senator Fulbright, is simply not feasible."

Secondly, as Dr. Stikker said in a cable to Senator Percy on March 16:

"I know that you will appreciate that if West Europeans are to be encouraged to begin contributing their own funds—private or governmental—it will be important for them to have whatever assurance may be possible that the Radios continue to enjoy the full confidence of the Congress and that their future will not continue to be subjected to unreasonable uncertainties."

Third, we would do well to avoid creating any impression that this broadcasting service is a project of our military alliance. Hopefully, the governments of our NATO allies, and the NATO parliamentarians also, will keep themselves informed of this work and give it their support. But I would hope that the participation of West Europeans will also include others, and will extend to the private sector as well as to governments.

A SUMMING UP

In his speech in the Senate on February 17, 1972, Senator Fulbright declared that Radio Free Europe and Radio Liberty "have outlived any usefulness they may have once had." He added:

"The American public recognizes this; so do the Western Europeans."

The speech triggered a spontaneous and almost overwhelming response throughout the United States and Western Europe in favor of keeping the Radios on the air.

Editorials and other commentary appeared in virtually every major newspaper on both continents. Nearly all of them—including, I am glad to say, the Baltimore Sun and the Baltimore News-American—expressed unqualified support for the Radios and urged that they be kept on the air.

Scholars, diplomats, contributors, and listeners wrote letters to the same effect. The AFL–CIO issued a strong statement.

A 60-member national Citizens Committee was formed under the leadership of George Ball, former Under-Secretary of State. It includes Clark Clifford, Douglas Dillon, Milton Eisenhower, Averell Harriman, John J. McCloy, George Meany, Nelson Rockefeller, and nearly all the living former U.S. Ambassadors to the Soviet Union.

A separate in-depth study of each of the Radios was prepared by the Congressional Research Service of the Library of Congress at the request of Senator Fulbright. Both studies have been published in the Congressional Record on March 6, 1972. The findings firmly endorse the aims and performance of the Radios.

The President of the United States issued a statement on March 11, calling the Radios "unique voices of freedom" and saying that, "It would be a tragedy if their light should now be extinguished because of a parliamentary impasse between the two Houses."

The parliamentary impasse mentioned by the President resulted from the failure of attempts to reconcile differences between the House and Senate authorization bills through the normal processes of compromise in the conference committee. A majority of the Senate conferees under the chairmanship of Senator Fulbright had refused to accept or to offer any concession.

That in itself was unusual. What was perhaps even more unusual was the sequel.

On March 2, 1972, Senator Charles Percy and Senator Hubert Humphrey introduced a resolution taking note of the impasse and stating that:

"The Senate hereby expresses (1) its continued appreciation of the valuable work being performed by the personnel of Radio Free Europe and Radio Liberty and (2) its intention to provide adequate support to these two radios while the methods for future support are carefully examined within the framework of United States foreign policy objectives."

That resolution has now been co-sponsored by 65 Senators—nearly a two-thirds majority, including a majority of the members of the Senate Foreign Relations Committee. This distinguished bipartisan roster, I am happy to note, includes both Senators from the State of Maryland, Mr. Mathias and Mr. Beall.

Ladies and Gentlemen, this has been a long report—longer than either you or I might have wished. But it has been a long year and we have reached a point where it seemed to me useful to take stock. I appreciate the opportunity you have given me to do so.

If I were to sum up the results of the past fifteen months, I would put it this way: The perhaps unpremeditated attack by Senator Fulbright against RFE and RL, following Senator Case's announcement of January 1971, has had an enormously constructive effect. It has compelled all of us—including our friends in Western Europe—to take a hard, close look at a couple of twenty-year-old institutions and to ask ourselves whether indeed the time has come for them, in Senator Fulbright's words, "to take their rightful place in the graveyard of cold war relics."

The verdict of thoughtful people throughout the Atlantic community has been rendered. It says that Radio Free Europe and Radio Liberty are serving a vital and humane purpose and that they should stay on the air as long as censorship prevails in Communist Europe.

In reaching this verdict, I believe Americans and West Europeans have exercised a few ghosts, disposed of a few myths, that have haunted RFE for many years.

Hopefully, this has also helped prepare the way toward more reliable and more adequate financial arrangements, and toward a more active participation in this effort by our friends in Western Europe.

Above all, we have reaffirmed the right and the efficacy of the freedom of communication among nations. In an era of negotiation, what could be more promising than that?

DECISIONMAKING PROCESSES OF THE GOVERNMENT

Mr. McGEE. Mr. President, last week, during debate on the war powers bill presently pending before the Senate, I suggested that what we really need is a high-level commission to conduct an in-depth study of the decisionmaking processes of our Government, particularly in respect to the war powers.

My concern in offering this suggestion is that the world has changed significantly from what our Founding Fathers knew in 1787. As a consequence, it would seem feasible for us to commission our best minds in a study to determine whether there is a need for an updated decisionmaking mechanism in our Constitution to enable us to deal more effectively with the problems which confront our Nation now and problems which will arise in the future.

In the Sunday Washington Star, Paul Hope reviewed a book recently written by Gerald W. Johnson, a noted journalist-historian-biographer. In his book, Mr. Johnson points out the United States "must reshape its Government to fit the needs of the modern world or it is going to go the way of the Roman, Byzantium, and British empires."

Mr. Johnson concludes that—

If we fail, our place in world history will be that of another promising experiment that didn't pan out, and some other people will take up the struggle for it will never be abandoned while men retain imagination enough to dream of a better world.

While Mr. Johnson offers no solution to the dilemma confronting our Nation, he recognizes the scope of our problems. That is why I think now is the time for us to seek solutions in the hope that we can indeed draw up that much-needed mechanism which would allow us to realistically live up to our responsibilities in the latter third of the 20th century.

I ask unanimous consent that Paul Hope's review of "The Imperial Republic" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES ON THE BRINK OF COLLAPSE

(By Paul Hope)

Gerald W. Johnson, sometimes known as Baltimore's "Sage of Bolton Street," thinks the United States is teetering on the brink of collapse as a world power.

The 81-year-old journalist-historian-biographer has been setting his acerbic pen to problems of man and country for nearly 50 years since he gave up editorial writing for the Baltimore Sun for the freedom of freelance writing.

In this latest of 35 books, Johnson's main point is that the United States must reshape its government to fit the needs of the modern world or it is going to go the way of the Roman, Byzantium and British empires.

"If we fail," he says, "our place in world history will be that of another promising experiment that didn't pan out, and some other people will take up the struggle, for it will never be abandoned while men retain imagination enough to dream of a better world."

Johnson says the nation is in a third period of evolution. The first was a federated republic that didn't work and was soon replaced by the adoption of the Constitution that started the second phase—a "national republic." The third phase, which he calls an "imperial republic," began at the end of World War II and is not working.

Americans, he says, have to accept that the U.S. is a world empire and proceed from there. It can, he says, either lead the way to a better world or retreat into an isolationism that will cause it to be ostracized by the rest of the world.

The shortcoming of Johnson's book is that he never really defines what is wrong or what is needed to correct it. To the question of whether the "imperial third republic" can achieve anything remotely approaching the success of the second "national republic," he says:

"The only positive answer is that there is no positive answer. Unfortunately, answers are given, daily, positively, loudly, furiously. The consequence is that well-meaning Americans have lived for a quarter of a century deafened by such a clangor of brazen-tongued liars that rational, coherent thought is almost impossible."

Whatever the answer is, he says, it must come from an informed and interested citizenry.

"It will be a test of American democracy, not of American leadership, because whether we are governed by wise men or fools they govern by consent of the governed," he writes.

Because of communications systems developed in this country, he says, American people are always aware of events but what they don't know is the truth.

"It is needless to emphasize," he says, "that no man can ever be master of the whole truth, but it is necessary to emphasize that any man above the mental level of a half-wit can learn more of it than seems to be known by any but a relatively small segment of the American people."

He has no sympathy for people who don't vote, comparing them to "idiotes" of ancient Greece who refused to take any interest in the affairs of the city-state.

"For political purposes these people are worthless. . . . As far as determining the destiny of the country they are sheer dead weight," he says.

Nor has he any sympathy for leaders who withhold information from the people:

"Treason against the American people may include deliberately lying to them or denying them the facts, and thus the truth, about a critical situation."

Nor can Johnson tolerate those who would stifle dissent. He says that toleration of dissent is a severe test of courage because dissenters are so often fools. He recalled that the late H. L. Mencken once told him: "The trouble with standing for free speech is that you have to spend half your time defending sonsofbitches."

"What creates the quandary," says Johnson, "is that some dissenters are not fools, and they are the most valuable people in the nation because they produce action, including the correction of abuses and the abandonment of follies."

THE REVEREND JESSE JACKSON: SOUL LEADER

Mr. PERCY. Mr. President, for the 6 years that Operation Breadbasket has been alive in Chicago, the name of the Reverend Jesse Jackson has been synonymous with that effort.

Under his direction, Operation Breadbasket has labored for welfare reform, for ending hunger in America, for better health care, for minority enterprise and employment, and for the better education of our Nation's black children. Jesse Jackson is recognized as a forceful civil rights leader and a dynamic social reformer. I have worked closely with him on numerous occasions. Some of our early efforts by the Select Committee on Nutrition and Human Needs to focus national attention on the problem of hunger and malnutrition were greatly aided by Mr. Jackson's compassionate, sometimes angry concern for the plight of the urban poor.

There is every indication now that the Reverend Mr. Jackson's new effort, People United To Save Humanity, will be equally vital to the black community. I am confident that PUSH will be characterized by strong leadership, tremendous energy, and real accomplishments toward economic self-sufficiency.

An article published in the Wall Street Journal of March 16, 1972, presents some very interesting and candid reflections on the Reverend Jesse Jackson. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUL LEADER: JESSE JACKSON BECOMES A MAJOR NEGRO FORCE BUT HAS MANY CRITICS

(By Jonathan R. Laing)

CHICAGO.—Seven years ago, Jesse L. Jackson, a divinity student, went to see Mayor Richard J. Daley about a job in the city's poverty program. Instead, the mayor offered him a post as a highway toll collector provided that he hustle votes in one of the city's black neighborhoods. Mr. Jackson declined the offer.

Last fall Mayor Daley paid a visit to Mr. Jackson. The occasion was a breakfast to kick off Black Expo, a massive trade fair organized by the minister. There, in the cavernous International Amphitheater before some 700 of the city's white and black business elite, the beaming mayor laid a thumb-grabbing "soul" handshake on the flamboyantly garbed Mr. Jackson as flashbulbs popped and the crowd roared.

Thirty-year-old Jesse Jackson has come a long way from the dilapidated shack in Greenville, S.C., where he grew up. He is handsome, articulate and dynamic—so much so that some of his more zealous followers regard him as a sort of Black Messiah. Philosophically, he combines the old-line Booker T. Washington doctrine of self-help with a latter-day appeal to black pride and militant tactics. Many observers feel that Mr. Jackson is the most important black leader to emerge since the Rev. Martin Luther King, under whose tutelage he first rose to prominence in the movement.

His status hasn't been dimmed by the fact that last December he bolted from the long-established but money-pinched Southern Christian Leadership Conference, which Mr. King had founded. Mr. Jackson formed his own Chicago-based organization, which he grandly named People United to Save Humanity, or PUSH. When he split, he took with him not only his thousands of loyal followers but also a good number of wealthy black businessmen and prominent black politicians and entertainers, whose support is essential to any such group.

A LACK OF CONCRETE ACHIEVEMENT

At the same time, however, Mr. Jackson is having problems realizing his goal of an independent, self-sufficient black community in Chicago—a community he hopes will serve as a model for other big American cities. Like other civil-rights leaders, he is finding it difficult to translate the legal and legislative civil-rights victories of the past two decades into concrete black advancement.

On a personal basis, critics assert he is overly vain and is inclined to substitute high-blown rhetoric for the kind of sustained effort needed to effect tangible gains. The second of these alleged defects, they say, mirrors the current state of the civil-rights movement generally.

"The movement has an infinitely tougher job today than it has had in the recent past," says Herbert Storing, a University of Chicago political scientist who has written extensively on the civil-rights movement. "Other issues like ecology have risen that jostle it for attention. The problems of the blacks in the Northern urban ghetto are greater and more subtle than the Southern-type segregation that the movement was set up to overcome. As a result, leaders like Mr. Jackson tend to resort to posturing and shuttling from issue to issue. Too often, headline hunting has become an end itself."

Mr. Jackson heatedly denies these charges. He says he has won thousands of jobs for blacks, opened grocery-chain shelves to black-produced goods, channeled millions of dollars into black banks and in the process materially expanded the economic base of Chicago's black community. "You don't do all this without a lot of sweat and organizing," he says. "After all, what good is it for blacks to be able to go to any school or hotel or live anywhere when we can't afford it?"

As to his style, Mr. Jackson says, "Sure I'm out in front, but it's because black people put me there. My charisma is a natural gift, but I've also nurtured it through victories."

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A COMMANDING NATIONAL PRESENCE

Whatever the case, few deny that Mr. Jackson is a commanding presence on the national scene. His appeal is made up of a complex of characteristics. On the one hand, he is an ordained Baptist minister—a disciple of the Rev. Mr. King—who likes to refer to himself as the "country preacher." He says he adopted the sobriquet to avoid "pretentiousness." The title also strikes a responsive chord in his black constituency, steeped in the gospel tradition.

On the other hand, his image is anything but country with his bushy Afro hairstyle and mod wardrobe, his taste running from leather vests and puffy-sleeved, open-neck shirts to hand-stitched bell-bottom trousers. He jacks 220 pounds on a six-foot two-inch frame and still looks very much like the football star he was at North Carolina Agricultural and Technical College in Greensboro. "He isn't one to mess with. He's one brother who doesn't let anyone tell him what to do," says a black student at Farragut High School in Chicago's crumbling west-side ghetto, where Mr. Jackson recently addressed the student body.

He is, perhaps, most impressive when he takes the stage as the featured speaker in his weekly Saturday meetings of PUSH, staged at the massive Shiloh Missionary Baptist Church. The sessions, which start at 8:30 a.m., are a combination Southern Baptist prayer meeting, civics class and show-business spectacular. Each week the church's two thousand seats are packed while many more people tune in on radio.

Part of the meeting's allure is the black celebrities that Mr. Jackson attracts. In recent weeks they have included Richard Roundtree, star of the black motion-picture hit "Shaft"; singer Aretha Franklin; Bill Russell, the basketball star; Richard Hatcher, mayor of Gary, Ind.; former Cleveland Mayor Carl Stokes; and Sammy Davis Jr. Mr. Jackson's ability to draw such names, sometimes two or three at a time, attests to his status as a national figure.

No matter who is with him, though, Mr. Jackson is always the star. He is normally the last speaker on the bill. Shortly after 10 a.m., following a radio-station break, he strides confidently onto the stage as PUSH's 100-member teen-age choir, backed by a five-piece combo, sings the spiritual "He Included Me."

After a short prayer, Mr. Jackson kicks off his speech with the cry, "I am somebody." The crowd roars back, "I am somebody." Continuing the black-pride litany, the minister chants, "I may be poor." "*I may be poor.*" "I may be on welfare." "*I may be on welfare.*" "But I am somebody." "*But I am somebody.*" "I must be protected; I must be respected." "*I must be protected; I must be respected.*" "What time is it?" "*Nation time*" (meaning unity). "Right on."

His fiery hour-long speeches draw frequent cries from the audience of "right on" and "tell it, Jesse." In recent months he has spoken on such subjects as the threatened cut in Illinois welfare payments, an economic "bill of rights" for blacks, the legacy of Mr. King and the "unresponsiveness to blacks" of Mayor Daley's Cook County Democratic organization.

Whatever the topic, Mr. Jackson invariably hammers away at the theme that blacks must arise their aspirations. "Don't just be checking out your clothes and hairstyle—check out your mind," he says. "You can't teach what you don't know. You can't lead where you won't go."

He ends with a repeat of the "I am somebody" chant followed by a hand-clapping spiritual that leaves the audience in a fervor.

Some regard the Saturday morning meeting as stagy and without much point. Mr. Jackson, however, considers them important—sufficiently so that he is always present, even when his travels take him far from Chicago during the week.

"The meetings get people's heads together by instilling black pride and unity," he explains. "Self-hate is a major problem for blacks—especially for the Northern black who was pushed out of the South only to be a loser again in the North. With the celebrities, the speeches and the chant, we really convince people that they are somebody."

SOUTHERN SELF-CONFIDENCE

Mr. Jackson says that he, himself, has never lacked self-confidence, a fact he attributes to his Southern upbringing. Born in Greenville, S.C., the illegitimate son of a cotton-mill worker, Jesse was raised by Charles Jackson, a janitor his mother later married.

According to Jesse Jackson, growing up in segregated Greenville wasn't nearly as psychologically crippling as the Northern urban ghetto. "Most of the people in authority I encountered (in the South)—my principal, teacher and coaches—were black," he says. "Unlike kids in the North, I never doubted that blacks could do these things."

Indeed, his first real contact with whites turned out to be ego-bruising. It came when he went to the University of Illinois on a football scholarship in 1959. "I was amazed to find that there were whites who were smarter than I was and just as good athletes," he says. "But I never got a fair chance there, for blacks were pretty much excluded from campus life. They didn't even let me try out for quarterback because blacks just didn't run major college teams in those days."

Disillusioned, he transferred the following year to a Negro college, North Carolina A&T. There he became the star varsity quarterback, student-body president, campus civil-rights leader, the national officer of his fraternity and an honor student in sociology.

Mr. Jackson began the meetings and his coincident rise to prominence in 1966 when, while still a student at Chicago Theological Seminary, he was named by the Rev. Mr. King to head up the newly formed Chicago chapter of the Southern Christian Leadership Conference's Operation Breadbasket. Modeled after a similar SCLC group in Atlanta, the aim of the chapter was simple—to win jobs for blacks in white-owned businesses operating in the black community through moral suasion and, if necessary, picketing and boycotts.

Under Mr. Jackson's leadership, Chicago's Breadbasket soon eclipsed the record of the Atlanta chapter. Starting in early 1966 with Chicago's dairies, Breadbasket won agreements, or "covenants," from about 20 companies, including such national chains as A&P, National Tea and Walgreen's.

MORE THAN JOBS

Many of the agreements guaranteed more than jobs. For instance in the 1968 A&P covenant, negotiated after a bitter 16-week boycott of more than 40 of its ghetto stores, the chain agreed to provide shelf space and promotion for products of black businessmen. It also agreed to use minority-owned garbage-collection firms, exterminators and janitorial services in ghetto stores, to hire black public-relations firms, to advertise in black media and to bank in black institutions.

In addition, Breadbasket obtained a number of private business and government building contracts for black building contractors. Black Expo, a heavily attended trade fair that Breadbasket began in 1967, resulted in millions of dollars of new business for the city's black business community.

In all, Mr. Jackson figures that Breadbasket directly obtained about 5,000 jobs for blacks with an annual payroll of nearly $50 million and probably got more indirectly. Some neutral observers concur with the figures but say many of the jobs would have gone to minority groups anyway because of increased social awareness by business. In addition a number of black businesses in Chicago have profited handsomely from Breadbasket's efforts. Since 1965, Grove Fresh Distributors, which handles orange juice, has had a sales rise of 500% and Joe Louis Milk Co. of 400%, largely because of access to chain stores won by Breadbasket.

BEYOND THE BOYCOTT

Lately, Mr. Jackson has largely foregone boycotts for more grandiose economic programs. He is currently calling for a national black economic development plan. It calls for at least $15 billion of federal tax revenues (his estimate of annual black tax payments) to be deposited in black-owned banks. It also calls for community development, for massive job-training programs for blacks by the government and private industry, and for black reconstruction of the nation's inner cities.

PUSH recently disclosed a 35-page plan to eliminate disparities between black and white income levels, employment opportunities and unemployment rates. Among the plan's proposals is a guaranteed annual income of $4,000 keyed to a family of four, plus income supplements. Democratic presidential candidate Sen. George McGovern recently adopted the plan as part of his campaign platform.

Critics charge that his programs, though often laudable, are mostly rhetoric. The same goes for many of Mr. Jackson's activities, they say. Take his whirlwind trip to the last AFL–CIO convention in Miami Beach, where he called for a general strike to protest government wage controls and a more vigorous effort by unions to open leadership posts to minorities and to organize the unorganized. Other than meeting with several dozen black delegates, his activities there consisted mostly of issuing press releases and holding press conferences. Since the convention, he has apparently all but dropped the proposals, having done little to follow up on them.

Mr. Jackson is somewhat vague about how some of the things he proposes would be accomplished. When pressed for details on his job-training programs, for instance, he merely replies, "They must be different from the programs under the poverty program; they must train people for jobs that exist."

In the political sphere, where Mr. Jackson has become increasingly active in recent years, he has enjoyed only moderate success. He perhaps is most influential in the national arena, having played a key role in the recent black political strategy sessions leading up to the Democratic National Convention and the recent National Black Political Convention. He has the ear of leading black politicians, many of whom he has campaigned for.

MUSTERING THE MUSCLE

At times Mr. Jackson is able to muster plenty of muscle. A few years ago he headed off a proposed $125 million cut in Illinois welfare funds when he brought some 6,000 demonstrators to the state capitol in Springfield to protest the threatened action by the state legislature. He also worked effectively behind the scenes buttonholing state legislators and getting Gov. Richard Ogilvie to pressure fellow Republicans in the legislature to withdraw the budget cut. "He was phenomenal in action," says one of Gov. Ogilvie's top aides.

Yet Mr. Jackson's political influence is sharply limited because of his failure to swing votes in local elections. Despite his stature in Chicago's black community, he has largely failed to shake the political hold of the powerful Daley Democratic machine over the city's more than one million blacks.

Over the years most of the local candidates Mr. Jackson has backed have been trounced by their machine opponents. Last spring, running as an independent, Mr. Jackson challenged Mayor Daley in the mayoralty race but was unable to collect enough nominating signatures to get on the ballot. On the eve of the election, he threw his support to Mayor Daley's Republican opponent, who was swamped at the polls the following day, especially in the black precincts.

Mr. Jackson attributes his local political failures of Mayor Daley's "dictatorial hold" over Chicago. "I could give any other politician in the country trouble if I wanted," he insists. Other observers, however, say that the minister's defeats stem from poor organization and political ineptitude. "Jesse doesn't realize that elections are won by tedious, unrelenting precinct work and not emotional speeches and hand-clapping rallies," one political observer says. "Jesse doesn't put in the necessary hours in grass-roots organizing. He just wants the easy victories."

PREACHING UNITY BUT—

Lately Mr. Jackson has been talking about the need for a confederation of civil-rights groups to give united voice to black demands. Although preaching black unity, last December Mr. Jackson took his Chicago-based group out of the SCLC, thus seriously hobbling the SCLC's operations in the North.

The break came after Ralph Abernathy, the SCLC national president, suspended Mr. Jackson for 60 days as Breadbasket director because of "administrative improprieties." The national board of the SCLC charged that Mr. Jackson had violated the group's national constitution and organizational policy by incorporating Black Expo without obtaining the approval of the parent body.

He declines to discuss the split, but insiders say that it was inevitable because of the growing rivalry and antagonism between Mr. Jackson and Mr. Abernathy. The rift between the two surfaced a month after Mr. King's death, when Mr. Abernathy demoted Mr. Jackson as manager of Resurrection City, the camping ground during the 1968 Poor People's Campaign in Washington. In recent years the two have studiously avoided appearing together at rallies.

"Jesse always felt that he and not Ralph should run the SCLC because Ralph wasn't dynamic or effective enough for the job," an SCLC staffer says. "But SCLC is a Southern-based movement, and Jesse realized that there was no way he could ever displace Ralph, so he left."

Although Mr. Jackson insists that all is well within his own group, the turnover of aides has been heavy in recent years. A number of staffers who left complained of the minister's "egotism" and constant need for "self-glorification." "Jesse's on a constant ego trip," says Noah Robinson, his 29-year-old half-brother, who joined Breadbasket for a year but then left. "Jesse got rid of me because he was afraid that I was pushing him out of the limelight." Mr. Jackson declines comment.

GENOCIDE: BANGLADESH TRIBUNALS TO JUDGE PAKISTANI WAR CRIMES

Mr. PROXMIRE. Mr. President, recent newspaper articles indicate that the infant nation of Bangladesh will convene tribunals to hear charges of war crimes and atrocities leveled against captured Pakistani military leaders and soldiers. These Pakistani soldiers are presently being held in Indian POW camps as a result of the 2-week war on the Asian subcontinent.

Certainly there can be no doubt that the West Pakistani occupation of the East brought brutality and bloodshed. Many native Bengalis were slaughtered and their women raped in the effort to achieve the political submission of the East. No crime should be ignored. But during the course of every bitter war these wretched and unjustified acts of violence occur, and no nation escapes responsibility for a few reckless and criminal troopers. Clearly acts of atrocity and genocide were perpetrated by some soldiers serving West Pakistan, but also by Indian and Bangladesh troops in retaliation.

Justice is not served by victors judging the vanquished. Nor is morality served by punishing men solely for reasons of nationality, while ignoring the crimes of comrades. Ultimately we must hope that mankind will outgrow its need for violence, vengeance, and brutality. But as long as these needs remain we must look for more equitable methods for dealing with them. The tribunals soon to be convened in Bangladesh suffer from the same moral and judicial weaknesses which the controversial Nuremberg trials embodied. No international law sustains such action and no international organization has created a tribunal of impartial judges.

The Genocide Convention has provisions for such an international tribunal for the punishment of genocide. Bangladesh is not a party to it by virtue of her national youth. But the United States cannot offer such an excuse. Therefore I urge Senators to move quickly to ratify this humanitarian treaty with the hope that Bangladesh and all new nations will follow our lead. With such a treaty both justice and morality will be well protected, and the legal vacuum evident in Nuremberg and Dacca will be filled.

AIR TRANSPORTATION TO NEW ENGLAND

Mr. COTTON. Mr. President, I noted with special interest the statement of my friend the distinguished senior Senator from Georgia (Mr. TALMADGE), which appeared in the CONGRESSIONAL RECORD of March 28, concerning air transportation to New England.

At that time the Senator from Georgia placed in the RECORD the reply which I received from Mr. R. S. Maurer, senior vice president-general counsel of Delta Air Lines, Inc. This reply was in response to my letter of March 20 to Mr. Tom Beebe, chairman of the board and chief executive office of Delta Air Lines, which was included with the material which I placed in the CONGRESSIONAL RECORD of March 23—see pages 9893–9897.

Mr. President, I am grateful for the assurances expressed by Senator TALMADGE indicating that Delta does a "pretty good job" of serving his State, including smaller communities, and that he has "never known Delta to shirk its responsibilities with respect to the smaller communities it is required to serve."

I do not for one moment question the veracity and sincerity of my friend from Georgia. But the fact remains that the record in the Delta Air Lines-Northeast Airlines merger case—Docket No. 23315, the New England Service Investigation—Docket No. 22973, and the hearing record developed by the Aviation Subcommittee of our Committee on Commerce in September of last year in my own State of New Hampshire, do not encourage us from northern New England to believe that Delta Air Lines will render us the kind of service necessary if our region is to prosper and grow. In fact, I must, in fairness to Delta, give them credit for being most candid and forthright in their testimony before our committee and in their private conferences with me. Their representatives stated quite frankly that while, of course, they would comply with whatever requirements the CAB exacted from them in the merger went through, they intend, if permitted, to curtail sharply the service that New Hampshire and Vermont have received in the past from Northeast and Mohawk. The only North-South service they would render would be from Concord and Manchester, N.H., to New York—none to Boston. This would mean that three-quarters of New Hampshire and the whole State of Vermont with the exception of Burlington would be without air transportation except what could be afforded by the so-called third level carriers. They would operate an East-West service from some point in Maine through Lebanon, N.H. and Burlington, Vt., to Albany and points west, but there is little demand for such service by the people of New Hampshire and Vermont. What they need is access to Boston and New York. Subsequent communications from Delta Air Lines have been evasive in nature and give us no ground to believe that their intentions have changed.

Mr. President, in order that the RECORD may be complete in this matter I ask unanimous consent to have printed in the RECORD my reply to that of Mr. Maurer, which my good friend the Senator from Georgia (Mr. TALMADGE) placed in the RECORD of March 23.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 28, 1972.

Mr. R. S. MAURER,
Senior Vice President-General Counsel, Delta Air Lines, Inc., Atlanta Airport, Atlanta, Ga.

DEAR MR. MAURER: Your letter of March 23rd responding to mine of March 20th was a source of both disappointment and bewilderment.

It was a disappointment since it furnished no information that I did not already know about and because it was *not* responsive to either of my two inquiries.

It was bewildering for two reasons: first, because I thought I had addressed my inquiry to Mr. Tom Beebe, Chairman of the Board and Chief Executive Officer of Delta Air Lines, and not yourself; and secondly, because I cannot see how anyone could have responded to my letter without first having read the article in the *Commuter Airline World* of January 1972 to which I referred and to which you parenthetically admitted "we have not yet seen".

Accordingly, after reading your own response to my letter of March 20th, I am all the more anxious to see what Mr. Beebe has to say on this matter which is of such vital importance to my own State of New Hampshire, the State of Vermont and other areas similarly situated in the northern New England area.

With best wishes,
Sincerely,

NORRIS COTTON,
U.S. Senator.

VOTER RESIDENCY REQUIREMENTS

Mr. McGEE. Mr. President, though the Senate has tabled my bill to establish a

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National Voter Registration Administration to ease the path to the polling place for millions of functionally disenfranchised Americans, the issue is not dead. Even before the smoke had cleared from our recent vote, the Supreme Court found lengthy residency requirements to be, in effect, crude barriers to voter participation. Thus, the thrust of the law was, I believe, unmistakenly placed behind those provisions of S. 2574 which would have limited residency requirements for Federal election contests to 30 days.

Many close observers of the political scene are likewise convinced that registration procedures too often are used as another form of barrier to voting. As the New York Times observed editorially just before S. 2574 was tabled last month:

Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his state or community long enough or because he forgot to register weeks or months before Election Day.

Mr. President, although the question is not before us at present, I believe Senators should carefully weigh their attitude toward a system of simplified registration for Federal elections. I ask unanimous consent, then, that the New York Times editorial, entitled "The Frustrated Voter," published on March 10, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FRUSTRATED VOTER

Nothing is more frustrating for a citizen than to discover he cannot vote because he has not lived in his state or community long enough or because he forgot to register weeks or months before Election Day. Nothing could be more ironic since democracy thrives on popular participation.

The Senate is now considering a bill sponsored by Senator McGee of Wyoming, which would do much to smooth the way to the polling place. The bill would permit a citizen to vote in Federal elections if he had been resident in a state for thirty days. Twenty-four states now require that a potential voter reside in that state for at least one year, an old-fashioned residence requirement that no longer makes sense if it ever did.

The bill would also permit potential voters to register until thirty days before an election. Most states have approximately the same registration deadline, but this provision would do away with the anomalous requirements which now prevail in a few areas.

It is also desirable to make it easier for citizens to register. Except in progressive communities which have mobile registration centers, getting one's name on the voting roll often involves a trip to an inconveniently located office on a workday. The McGee bill eliminates this obstacle. It would set up a National Voter Registration Administration within the Census Bureau to register potential voters by mail.

There is no constitutional barrier to this reform inasmuch as local governments would still control the actual registration process—the Federal form would be mailed back to the local voting registrar—and the states could still set voter qualifications for the own elections.

The McGee bill is now before the Senate, but it has encountered stiff Republican opposition. Yet this reform ought not be a partisan issue. The frustrated voter is as likely to be a suburban Republican businessman recently transferred from another state as he is to be an inner city Democrat. A simplified registration procedure is long overdue.

THE EX-OFFENDERS EMPLOYMENT PROJECT OF ILLINOIS JAYCEES

Mr. PERCY. Mr. President, one of the overwhelming problems faced by a man when he is released from prison into the community is the lack of suitable employment. The problem is not simply one of a lack of available jobs. It is much more. The principal problem is a very antagonistic attitude on the part of employers. They regard ex-offenders as suspect and untrustworthy. Though in some cases, their fears may be justified, this type of attitude perpetuates the problem. Because an ex-offender cannot get a job, the chances are greatly increased that he will return to crime. And with this, the recidivism rates continue to increase, thereby supporting a potential employer's reluctances to hire ex-offenders. It is an endless and vicious circle.

However, there have been breaks in this circle. Organizations have sprung up that have tried to break the cycle and provide ex-offenders with not only a job, but a well-paying satisfying job. Though many of these programs are government funded, the greatest source of encouragement are those private organizations which have taken an active part in this area on their own. One such organization which has served as a model for other such groups is the Ex-Offenders Employment Project of the Illinois Jaycees. This is a group of men who are interested in getting ex-offenders jobs. The people who run the program happen to be in prison themselves. This enables them to play a unique and important role in helping to insure that when a man comes out of prison, he has a better chance of making it. They make sure that an alternative exists in the form of a job. To the individual prisoner, this can mean the difference between rejoining the community as a contributing citizen, or returning to crime. To society it can mean that instead of a criminal, we have a man interested and active in the welfare of the community.

Mr. President, I ask unanimous consent that an article published in the March edition of Manpower, the publication of the U.S. Department of Labor, be printed in the RECORD. It explains the Illinois Jaycees program and what it means in human terms to all of us. As the title of the article indicates, this Jaycee project forges the missing link between the community and the ex-offender.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRISON JAYCEES: FORGING THE MISSING LINK

Like most Jayees, James L. Trimble and David Blumenthal are optimistic, hardworking, and devoted to community betterment. But there's one big difference. Unlike most Jaycees, they are both in prison. And it's lucky for their cellmates at the State Prison at Joliet, Ill., that they are.

Trimble is chairman and Blumenthal co-chairman of the Ex-Offenders Employment Project, sponsored by the Joliet East Jaycees, a chapter inside the prison and composed entirely of inmates. The project has led to jobs and early release for about 300 Joliet inmates, and has attracted laudatory notices from correctional officials, employers, the U.S. Jaycees, and the U.S. Senate.

The prison Jaycees, of course, lack the mobility of their colleagues on the outside. But with the help of prison authorities, they have overcome this crucial handicap. They do their job-finding through links with Jaycee (formerly called Junior Chamber of Commerce) chapters throughout the State which are composed mostly of young business and professional men who have good contacts with employers. The prison makes this possible by giving Trimble and Blumenthal virtually carte blanche to send and receive mail and to make and receive phone calls.

"The Joliet East Jaycees' program is one of the really important steps taken in our State to involve the community in the responsibility of improving our correctional and rehabilitation program," said Peter Bensinger, director of the Illinois Department of Corrections. "My feeling is that without meaningful employment, the potential for real reintegration into society of ex-offenders is very limited."

Here's the way the project works.

About 6 months before his parole hearing, an inmate routinely receives a program application form from the prison's clinical services department. If he wants the Jaycees' help in finding a job he fills out the two-page application and sends it through the prison mail service to inmate Raymond Larsen, records coordinator for the project. The application asks for all relevant information about the inmate's background that bears on placing him in a suitable job. Specifically excluded are references to race, religion, or the nature of his offense.

But the prisoner is asked about his education and training, including prison training. This last is important because for many prisoners it represents the only vocational preparation or skill they possess. And while even prison officials admit that the training at Joliet could stand improvement, inmates do have access to classes in about 40 occupations, including barbering, food supply, auto mechanics, typewriter repair, drafting, and cement finishing. Volkswagen has established a course in auto repair and Portland Cement in cement finishing.

The application also asks the prisoner about his job preferences, work experience, hopes for the future, salary required, whether he needs help in finding housing, and whether he wants further education.

Jaycee chapters throughout the State have appointed coordinators to work with the project. After making sure the application is filled out properly, Larsen mails it to the coordinator in the area where the convict wants to settle when he is released. Along with the application goes a medical report describing the offender's present physical condition, and when possible, a vocational evaluation made by the prison's staff employment counselor.

The Jaycee coordinator—a volunteer who has to do the work in his spare time—then begins pounding the pavements, tapping friends and acquaintances among employers for a job for the offender. Information about the man's criminal background is made available to the coordinator on a confidential basis in case a prospective employer asks. But this information is not divulged unless the employer specifically asks for it.

The 6-month lead time gives the Jaycees ample opportunity to place a man and make sure he has housing before his parole hearing comes up. Without these two items, chances for parole are slim.

If the coordinator fails to come through with a job, the case is turned over to another Jaycee in the same area. The Jaycees are aided in their job-finding efforts by a directory listing Illinois employers who have indicated an interest in helping. The list—now about 110 firms—was compiled by the Senate Chamber of Commerce, which has given the project solid backing. Cooperating employers include such major firms as Caterpillar Tractor, Sears, Precision Castings, and Teletype Corporation.

Sometimes an employer wants to see a man before hiring him. Illinois has a work furlough law permitting a convict to go out on a job interview. But until recently the inmate had to pay all his own expenses plus those of a guard to accompany him, which made it impossible for most inmates to afford the trip. Inmates no longer have to pay these expenses, but the change has not yet been implemented so the Joliet East Jaycees invite the employer to visit the inmate at the prison.

Most employers, fortunately, are content to hire the man sight unseen. "This is due mainly to the 'selling job' performed by the outside coordinator," said Trimble.

The beginnings of the prison program go back almost 10 years, according to Fraser Young of the outside Jaycee chapter in the city of Joliet. Now outside coordinator in Joliet for the prison project, Young was chairman of the Joliet Jaycees' effort to establish a chapter in the prison. "The idea cropped up in 1963," he said. "But we met a stone wall from the prison administrators."

The situation remained unchanged until January 1970 when the new Illinois Department of Corrections was formed, taking over the correctional functions of the Illinois Youth Commission and the Department of Public Safety. The first director was Peter Bensinger, now 35. Bensinger, a member of the task force appointed by the Governor to launch the new correctional setup, was a top executive with the Brunswick Corporation of Chicago and was active in volunteer work with youth.

Bensinger took over with a commitment to improve and liberalize the correctional system of the State. He particularly wanted to strengthen education and training programs for prisoners and to ease their transition back into society.

Young said that in April 1970 Bensinger passed the word to try again. "We received a call from Bensinger's office that a meeting had been set up with the warden."

PILOT CHAPTER LAUNCHED

Young and two other Joliet Jaycee officers met with Frank Pate, then warden, A. M. Monahan, assistant director of corrections, and several other prison officials. They agreed that a Jaycee chapter should be started on a pilot basis in the prisons' Reception and Diagnostic Center. Within 30 days officers had been elected and "we were off and running," according to Young.

Normally, Jaycees are 21 to 35 years old. But the Jaycees have a sort of associate member category called "exhausted roosters." This device permits individual chapters to use the talents of men like Trimble, 48, and Blumenthal, 46, who are over the age limit. They do not hold elective office but they are sometimes named chairmen of special projects—particularly in prison where there are no other civic clubs, such as the Lions and the Kiwanis, for older inmates to join.

The first thing a Jaycee chapter needs is a project for improvement of its community. The community in this case was the prison and the big need was jobs. The inmate chapter, with aid from the Joliet chapter, drew up a plan which won the approval of the Illinois Jaycees' State Board of Directors.

The plan was then presented to the Illinois Law Enforcement Commission along with a request for money. Joliet Warden John J. Twomey gave his blessing. And when Bensinger put his stamp of approval on it, in December 1970, a $9,000 grant was forthcoming within 15 days.

The climatic event was a 2-day training seminar at a Joliet motel in January 1971. About 165 people attended, including 85 Jaycees representing 50 chapters throughout Illinois and many correctional officials, among them Twomey and Bensinger. Also on hand were six prison inmates representing the Joliet East Jaycees who were allowed outside the prison to attend the meeting—a first for the State of Illinois.

From this promising beginning, the project in the next 9 months compiled the following record:

Of 622 applications placed with coordinators, 287 inmates were paroled to jobs; 111 were conditionally released; 51 were placed on work release, transferred, or discharged; 6 withdrew; and 167 applications were pending.

Young reported that of the 287 paroled to jobs, only six have returned to prison. He noted that out of a similar group of 244 men—"released under normal conditions at the same time and not in our program"—82 have been returned to prison either for parole violations or new offenses.

"While it is still far too early to draw any positive conclusions from this fantastic decline in the recidivism rate . . . we think we know why this is happening here," declared Trimble and Blumenthal in a letter to a North Carolina prison inmate. "Where else do inmates have someone on the outside—a Jaycee volunteer—who writes to and visits the inmate while he is still confined; who makes an all-out effort to find him a meaningful job opportunity; who keeps in touch with the Parole Board after the inmate's parole hearing; who invites the man to visit his home after his release, enlists the inmate as a member of the local Jaycee chapter; who counsels, encourages, and establishes a solid friendship with the inmate in the free world?"

Bensinger believes the project "changes the odds" for men leaving prison in "two portant part of the community-at-large, important ways." First, "it involves an important part of the community-at-large, the business or employment community, which was not previously involved." And "it reduces having to rely on temporary low-paying jobs for inmates seeking parole."

This latter is a key point, in Trimble's view. He believes one of the project's main achievements has been to upgrade the types of jobs parolees and others being released can find.

"We get applications from only about half the men going out," he said. "A lot of them are people with no outside ties, no roots, no home. They come to us when they've exhausted every other possibility.

"Frequently a man will take any job just to qualify to get out of here. We're not interested in jobs like that. We're interested in a job with a future; with normal pay raises and some security, so the man won't be coming back."

The jaycees have found permanent jobs for ex-inmates as barbers, salesmen, cement finishers, meatcutters, construction craftsmen, auto mechanics, truck drivers, and welders. One skilled tool and die maker nailed down a job paying $5.80 an hour.

Precision Castings Company of Rockford has put more than 20 ex-offenders from Joliet and two other States prisons on the payroll, some of them before the project began. Most of them start on piecework production jobs, earning a minimum of $2.38 an hour, according to Edward James, Precision Castings personnel manager.

"One I hired recently from Joliet is on piecework, operating a punch press, and he's making $140 to $150 a week," he said. "Another fellow is a floor inspector. He's on hourly rate, $2.98 plus 16 cents cost-of-living. He's been with me 3 months. White or black, we take them."

OLDER WORKERS PREFERRED

Many employers prefer to hire younger men who are presumably more easily trained. Not James. He'll take the more settled man.

"Only three or four I've hired were not worth a damn, and they were younger fellows. I got rid of them. Some of the older fellows work 4 or 5 months, get a better job and go, and that's okay as long as they notify me. I've had really good luck. Only one fellow gave me any real trouble. He got mixed up with a woman and began drinking. I think he's back in the pen now."

James believes it is best not to put ex-inmates together in the factory.

"I spread them around, put them in different departments on different shifts. They're assured that nobody knows their records, not even the foremen. We treat them like anyone else. I tell them, 'As long as you want to work, everything's okay. If you horse around, I have to get rid of you.' They do okay."

Some outside Jaycee coordinators feel that simply finding a parolee a good job is not enough. Thorough-going followup is considered essential by G. Richard Dunkirk, 30, coordinator for the Bloomington chapter and State Jaycee vice president.

Dunkirk, president of a manufacturing and sales firm, had placed four Joliet ex-convicts by the end of 1971. One of these, Bob, 25, a former burglar, was paroled last March after Dunkirk persuaded the business agent of the Iron Workers Union local in a nearby city to give him an apprentice's card. Bob had a good deal of experience in the trade and within 6 months had his journeyman's card. He now earns $7.35 an hour. Despite this high pay, it quickly became evident that Bob had a proclivity for getting into trouble and several times he came close to technical violations of his parole.

Dunkirk now requires that all offenders he helps spend every evening of their first 3 weeks out of prison at a different Jaycee's home, talking and getting acclimated to freedom. Then they are required to check in with Dunkirk by phone every day after work for the next 3 months and discuss their problems. And they are further required to spend 2 hours every month for an indefinite period talking to a clinical psychologist.

JOLIET CALLED MODEL PROJECT

"What we try to do is turn major problems into little ones," said Dunkirk. "Take Bob, for instance. He has to do some welding on the job and that burns his clothes up. He called me one evening scared because all his clothes were burned and he couldn't buy new ones without his parole officer's permission. I called the officer at his home and got permission so Bob could be at work on time the next day.

"The ex-offender's biggest problem is he can't relate to free society," Dunkirk said. "All they can talk about is what they know—prison. You've got to get them on a fresh track, talking about jobs and other things related to the outside world."

Gary Hill, consultant on crime and corrections for the U.S. Jaycees, regards the Joliet project as a model effort. There are nearly 200 Jaycee chapters in prisons today "and all of them have some kind of employment project or referral to outside job sources," he said. "In my opinion, Joliet and Chino, Calif., are the best. Both of them tie together the efforts of correction professionals, the outside community, and the inmates."

Trimble noted that some parolees are now themselves acting as coordinators. By December, eight of them were out job-seeking for those still behind bars. Usually—but not always—they join the Jaycee chapter in their home community.

Walter Collins of Peoria is one of these coordinators. His first move after leaving Joliet on parole September 3, following 10 months served on a theft charge, was to get his old job back at S. V. Cain, Inc., a janitorial service. Trimble has sent him three applications. Collins placed one applicant with the Cain firm and is looking for jobs for the other two.

Placing ex-convicts is "an uphill battle," said Collins, who is especially interested in helping fellow blacks coming out of prison. "You have to be a good salesman. Employers

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give you the fishy eye. They think because a man's been in prison he's killed 40 people. If I ever get a business of my own I will hire nothing but ex-offenders. At least I'll consider them first. I know how important it is for these fellows to have a job."

The Joliet prison project has attracted inquiries from more than 125 Jaycee organizations—including one in Australia—interested in starting similar porgrams. Particularly satisfying to Trimble was an inquiry he received last September from Senator Charles H. Percy of Illinois.

Percy, who said he had been following the effort "with great interest," asked Trimble what he thought about "the possibility of expanding a project like yours on a nationwide scale." Percy also asked for the views of Trimble and other members of the Joliet East Jaycees on "a program of Federal incentives to businessmen to hire ex-offenders."

In a lengthy reply, Trimble said: "While we have some reservations as to the desirability and viability of providing Federal incentives to private businesses to employ ex-offenders—at least on a vast scale—we know from experience that private-sector involvement is absolutely essential. Thus we feel that every avenue should be explored to attain the fullest possible measure of cooperation and support from this area, up to and including incentives on a limited, experimental basis at the outset."

Before they got into trouble, Trimble and Blumenthal both had positions of some prestige in their communities. Trimble, now serving a 3-to-5-year sentence, was once administrative aide to the Mayor of a large southern city, and in 1949 was named by the Jaycees there as "Outstanding Young Man of the Year." Blumenthal, who is serving a 2-to-6-year sentence, was a sales executive for a luggage manufacturing firm.

TOO BUSY TO NURSE REGRETS

Fortunately, they are too busy to nurse their regrets. Like all Jaycees, they must do their civic work in their spare time. Both have full-time jobs in the Reception and Diagnostic Center at the prison. Trimble is a captain's clerk and Blumenthal is head clerk in the office of the center's superintendent, Wilson Meeks, a strong supporter of the employment project.

Meeks feels that the value of the project goes beyond its job placement activities. He noted that about 20 Jaycee chapters have come to the prison to hold joint meetings with the inmate chapter and last summer there were recreation and social programs between the prisoners and their outside colleagues. All this, he said, makes the inmates feel part of the community, enhances their social contacts, and gives them a feeling of responsibility.

Warden Twomey also believes that efforts to rehabilitate offenders must go beyond prison walls. "To return offenders to society as law-abiding and productive citizens, institutions must have programs for the improvement of values, attitudes, education, and work skills," he said. "Inmates must develop self-motivation and the community must be receptive and provide helpful resources to ex-offenders. It's a three-way effort. The Jaycees have gone that extra mile in providing community support and assistance."

Twomey's attitude and that of other correctional officials has helped, in Trimble's words, to turn the "shattering experience" of being in prison into "the rewarding experience" of helping others.

MARYLAND BICENTENNIAL DAY IN HARFORD COUNTY

Mr. BEALL. Mr. President, in little more than 4 years from now, the United States of America will mark its 200th birthday. Preparations to mark this event are even now taking place on the Federal, State, and local levels. The decade of the 1970's is a time to look back on our glorious past and rededicate ourselves to the promise of those formative years.

It is with great pride and pleasure that I bring to the attention of Senators the work of the citizens of Harford County, Md., to commemorate this significant period in our history. On March 22, the county celebrated Maryland Bicentennial Commission Day, when members of the community reverently memorialized the contributions of Harford County to our national heritage. On that day, 197 years ago, the Bush Declaration of Independence, believed to be a forerunner of the document approved in Philadelphia a year later, was signed by 34 Harford Countians who pledged themselves to the resolves of the Continental Congress, at the risk of their lives and fortunes.

This year is also the 199th anniversary of the founding of Harford County. The first governmental acts of the new county were performed on March 22, 1774, and thus the tribute at Abington, Md., last week had an important double significance.

Mr. President, I commend the citizens of Harford County for their concern for our Nation's past. I also ask unanimous consent that the remarks of Judge Wilson K. Barnes, chairman of the Maryland Bicentennial Commission; the Honorable Fred B. Baldwin, member of the Board of County Commissioners of Harford County; and Mr. Allan H. Constance, coordinator for the host committee at the wreath-laying ceremonies on March 22, 1972, at Bush, Md., be printed in the RECORD, for I believe they bring to bear some most notable thoughts on our Nation's history.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF HON. FRED B. BALDWIN, SR.

We stand today in the Community that was the First County Seat of Harford County and where the first governmental acts of our County were performed on March 22nd, 1774—198 years ago, today.

Our County had been created by an Act of The Maryland Assembly at its meeting in Annapolis, in the year of 1773. This means we are honoring our County's 199th Birthday, today. The act of the Assembly also designated this spot to be the first County Seat and indicated it should be called "Harford Town."

While there are no indications that any governmental buildings were ever erected here, the importance of this Colonial Community can never be over estimated. Due to travel conditions of those days, Harford Town was just about one day's journey from Baltimore, so that many of the Colonial leaders, in their trips to and from Philadelphia, spent the night in our County Seat.

These visits gave ample opportunity for our County leaders to exchange ideas and so the actions taken by our Colonial Forefathers, were a means of influencing actions taken by all the colonies in their meetings in Philadelphia.

So it is, that we latter day Harford Countians, take great pride in the leadership found here in Colonial Harford Town and are all happy for the opportunity to express our feelings in this symbolic ceremony today.

Greetings to our Honored Guests, Judge Wilson K. Barnes, Chairman and Members of The Maryland Bicentennial Commission for the Commemoration of The American Revolution and to Friends of Harford County.

I am sure that I could find no better words, with which to open this program, than the ones used 72 years ago, when this monument was dedicated. On that occasion, the Honorable Samuel W. Bradford opened his remarks thusly:

"We have met upon sacred soil, whereon we have this day erected a memorial dedicated to the imperishable virtues of human liberty. Upon yonder spot, now wrapped in the stillness of peaceful nature, there once stood men who gave to the World their most solemn pledge that Government by man without the consent of the governed should perish."

It seems very fitting, that in these days of a so called revolution, that we should take the time to honor the past and to reflect on those events which lead to the establishment of this great nation. Perhaps, as we examine the past, we will find a better understanding of our heritage and reach the basis for an even greater growth in our appreciation of those standards that came from our Colonial Forefathers.

The Harford Committee, provided for by the Maryland Provincial Convention, first met in 1774 as a Mass Meeting Committee. However, faced with events that were arousing the Colonists, this group felt that they should be more truly representative. With this in mind, they called for an election and set forth the ratio of elected representatives to be "ten in each hundred". They established the "hundred areas" and set up polling places.

The newly elected Committeemen met on February 22nd, 1775 and organized in a strictly parliamentary manner and adopted rules of procedure. On the following day they met and made a provision for a collection to be taken for the poor of Boston and also for the purchase of arms and ammunition. They then adjourned, apparently to await word of the reaction from the British Parliament to the Resolves of the First Continental Congress.

When word of the rejection of the Resolves came from England, the Harford Committee was called to meet and on March 22, 1775 they passed and signed the Proclamation that has come to be known as the Bush Declaration of Independence and it reads:

"We, The Committee of Harford County, have most seriously and maturely considered the Resolves and association of the Continental Congress and the Resolves of the Provincial Convention, do most heartily approve of the same, and as we asteem ourselves in a more particular manner, intrusted by our Constituents to see them carried into execution, we do most solemnly pledge ourselves by every tie held sacred among mankind to perform the same at the risque of our lives and fortunes."

As we reflect on the words of the Bush Declaration, it seems apparent that the principles set forth in this document, became the very cornerstones upon which this Nation was built. It is also very significant that it was the act of "a duly elected body of men" who had in their hearts a sense of deep responsibility to those they were elected to represent. All this stands to the Glory of the Bush Declaration and to those who put their signatures, thereto.

It is with a feeling of high honor that we can be a part of this celebration that calls attention to this the 197th Anniversary of the signing of the Bush Declaration of Independence at Harford Town on March 22nd, 1775.

PRESS ATTENTION ON THE NATIONAL BLOOD BANK ACT

Mr. PERCY. Mr. President, I invite the attention of Senators to the interest that the National Blood Bank Act (S. 2909), which Representative VEYSEY, of California, introduced in the House and the Senator from Indiana (Mr. HARTKE) and I introduced in the Senate, is receiving in newspapers across the country. The press has been closely following the fine efforts of Representative VEYSEY, who has done more than anyone else to bring about an effective solution to this country's critical blood problem.

I ask unanimous consent that articles describing our distinguished colleague's activities be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CAPITAL REPORT, BLOOD BANK BILL—PRICE COMMISSION

(By Mal Schechter)

"Blood on Capitol Hill" might sound like the title of a movie about political vampires, but it belongs to growing congressional concern over transfusion hepatitis and what the federal government can and should do, beyond current efforts.

A freshman California representative, Republican Victor V. Veysey (pronounced Vee'-see), may have set the stage for Congressional hearings this year. In introducing a bill for federal licensing of all blood banks, the 56-year-old "agri-businessman" launched an attack on the National Institutes of Health, whose Division of Biologics Standards licenses interstate blood banks. DBS, he charged, has shied away from attacking sources of transfusion hepatitis, that is, commercial banks relying on paid, often skid-row, blood donors. DBS says it's the wrong target. The row may interest the House commerce health subcommittee under Rep. Paul G. Rogers (D-Fla.) in holding hearings, Rep. Veysey hopes.

There seems little controversy over the identification of commercial blood donors as high-risk hepatitis carriers. Nobody seems to be saying that this country can do without commercial donors: perhaps 20%–40% (there are no hard figures) of all blood collected comes from them. Everybody seems to agree that the risk of hepatitis is far greater from commercially donated than from voluntarily donated blood. And almost everybody probably would be a lot happier to see more blood coming from volunteers. When you start looking for remedies, that's when you run into heavy controversy.

Rep. Veysey proposed a National Blood Bank Act that would establish a program in the Department of Health, Education, and Welfare to inspect, license, and regulate all blood banks. It would regulate standards for donor selection and manage blood inventories (to minimize dumping of expired blood). It would label as "high risk" any blood from a paid donor. To promote voluntary donations, a recruitment effort is authorized; it would honor and recognize voluntary donors and take other steps toward the ultimate goal of a 100% voluntary blood system.

Such national collecting systems as the American National Red Cross and the American Association of Blood Banks would police themselves, if their own inspection and accreditation efforts satisfy the federal program. There would be "Class A" banks with a high percentage of voluntary donors. All other banks would be "Class B." To renew a "Class A" status, a bank would have to meet a voluntary donation percentage set annually by the federal program. The level would be raised, consistent with needs of an adequate supply. Federal agencies could obtain blood only from Class A banks.

There would be a federally run national registry of donors to allow cross-checking for hepatitis cariers. Whenever the federal program has reason to believe that an imminent public health hazard exists, it may apply for a court injunction to close down a blood bank. Violators of the law could be fined up to $1,000 per count and imprisoned for up to a year.

It's unusual for a bill to expressly forbid an agency from an administrative role, but the Veysey bill specifically excludes DBS. The Center for Disease Control is a favored candidate for the role but the congressman would let a hearings process work the designation out.

Rep. Veysey holds DBS and the states responsible for what he calls inadequate supervision of blood banks. He told the House that 17 states have no law on blood banking and 21 have only one: "to prevent patients infected by tainted blood from recovering monetary damages."

He referred to the DBS efforts as "close to scandalous" for allowing the use of skid-row donors. He referred to a federally licensed blood bank in Washington, D.C., that pays donors with vouchers collectible at a liquor store. This kind of practice, he said, attracts a risky donor and spreads death and suffering. "The NIH knows this is going on, they know how much hepatitis it spreads, but they do nothing about it," he declared.

SOURCES OF BLOOD

Where do the nation's 5,800 community hospitals get their blood for transfusion? According to the American Hospital Association, three-million units were transfused in the first six months of 1971. Nearly 21% came from hospitals' own blood programs, 40.5% from American Red Cross centers, 20.5% from community blood banks, 13.6% from commercial blood banks, 1.7% from other hospital blood banks, and 2.9% from miscellaneous sources.

DBS says it can't go beyond the law as it now exists. Within that law, DBS says it has done the best it can. The chief of its laboratory of blood and blood products, Dr. John Ashworth, says the Veysey bill has a commendable approach to improving the voluntary blood supply. He agrees that voluntary blood carries a lower risk of serum hepatitis than blood from the so-called "paid" donor. But he parts company on a regulatory solution to the problem.

"How do you define a 'paid' donor?" Dr. Ashworth asks. For regulatory purposes, he goes on, you have to be specific. If you define him as someone who gets cash or other compensation, then you run into trouble. For example, suppose a family member needs blood and you would be charged $25 if you did not replace it. Are you a paid donor when you do replace it? "It's hard to imagine that giving blood to save $25 on a hospital bill isn't the same as getting cash in your pocket," Dr. Ashworth says. Moreover, some donors get time off from work or prizes for giving blood. Is this payment?

Federal law doesn't allow for prohibiting payment for giving blood, he continues. Nor does it apply to blood banks operating outside of interstate commerce, that is, wholly within a state. Thus, DBS can't get at some kinds of targets, under current law. Actually, Dr. Ashworth said, DBS issues 166 licenses that cover about 85% of the blood collected in the nation annually. (Although Rep. Veysey said DBS licenses only 166 of the nation's 7,000 blood banks, DBS maintains that one license may cover many banks. The Red Cross has one license for 60.) The American Association of Blood Banks applies standards to banks, whether in or out of interstate commerce, Dr. Ashworth noted. The thousands of banks beyond DBS or AABB networks are very small and would be hard to police, he said. Some of the blood they collect is not used whole but is processed in forms not associated with hepatitis transmission.

Wholesale embargoes on "paid" blood would possibly cost many more lives than they would save, another DBS spokesman said. The danger to a patient of being without blood is often greater than the hepatitis risk, he added.

DBS claims it has worked hard to get a test for hepatitis-associated antigen cleared for marketing. In April, two months after issuing the first manufacturing license, DBS told the blood industry it intended to require testing as soon as supplies were sufficient. (Rep. Veysey thinks DBS dragged its feet in clearing the test and in moving to make use mandatory.) A proposed regulation to require testing was pending in December and was expected soon to be final.

But the regulation was almost academic, Dr. Ashworth said; he knew of no licensed laboratory not already using the test. However, he noted that the test was only 25% reliable in detecting hepatitis-associated antigen. Better tests were in prospect, he said, and would be moving along as fast as possible.

Rep. Veysey says his bill had the consultation of AABB, American Red Cross, and AFL–CIO. None of these groups have endorsed the bill, though spokesmen find much to like. The AFL–CIO thinks the bill is "a short step forward"; it wants a single national blood banking system and an end to commercial blood banking. Last February, organized labor called for unpaid donors to get a legal claim on "low risk" blood when they or their designees needed it. An AFL–CIO spokesman said both DBS and the Red Cross should be more vigorous in improving the nation's blood supply.

Indeed, there seems agreement among reformers that recruitment of volunteers has to be much improved. Rep. Veysey stresses that the two R's—Regulation and Recruitment—must go hand in hand. Whether Congress is interested enough to consider the blood problem and whether it would legislate on one R in preference to the other, if not both, remained to be seen. Moreover, philosophical issues about "free enterprise" and its role in blood banking may influence Congress.

Noninstitutional providers of health services—including clinical labs, physicians, and blood banks—are subject to an average 2.5% limit on price hikes, which must be justified by cost increases and which must not produce higher profit margins as a percentage of pre-tax revenues. The U.S. Price Commission also announced that institutional providers—including hospitals, hospital-operated facilities, and skilled nursing homes—also are being held to 2.5% without need to obtain prior approval from the Internal Revenue Service.

Increases 2.5% to 6% above price in effect Nov. 14, 1971, must be reported to IRS and the Medicare intermediary with cost justification. Increases above 6% require prior approval, according to commission policies recommended by the Committee on the Health Services Industry. The goal is to cut by at least half the current 12.9% rate of inflation for health services.

POINTS OF VIEW

TRUTH IN TEACHING

If they really study student troubles, faculty will find "the student's greatest needs are to be competent and to be respected. The faculty member knows that these ends can be accomplished only through hard work and personal discipline. To let students believe otherwise would be immoral," says editor W. Lippincott, in the Journal of Chemical Education.

MEDICO-LEGAL PERIL

"The forced delegation of medical tasks to allied medical personnel is fraught with medico-legal peril . . . Doctors and hospitals

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may well incur liability for improper delegation or negligent failure" to provide proper supervision, writes attorney R. Crawford Morris, in the Journal of the American Medical Association.

MORE SEMANTICS

"As we all require services, goods, care, whatever, we are all therefore consumers," Dr. Kenneth E. I. Macleod writes in The Nation's Health. "The tendency to use, therefore, the term 'consumer' as a euphemism for some special group of people, say the poor, or the blacks, the Indians, or the Puerto Ricans, is a profound mistake in fact and as a strategy."

PHARMACISTS READY

In the midst of talk about new categories of health professionals, Dr. Lloyd M. Parks, president of the American Pharmaceutical Association, urges greater opportunities for pharmacists to perform at a higher level. "Drug product selection is a function which the pharmacist is qualified to assume today. It is a function that can lead toward even more responsible roles in the future," Dr. Parks urges.

GOP NEWSMAKER—"OOZE FOR BOOZE" IS HIT BY VEYSEY

A Republican Congressman has discovered a nationwide blood-bank racket which is spreading hepatitis—a dangerous, infectious disease—at an alarming rate among persons receiving blood donations.

In Washington, D.C., the Congressman, Victor V. Veysey of California, found a commercial blood bank giving donors a $5 voucher redeemable only at a local liquor store. Veysey said doctors advised him that "skidrow" types are especially likely to suffer from hepatitis. Veysey has introduced a bill to require the Department of Health, Education and Welfare to regulate the 7,000 blood banks in the U.S. (Only 166 now are inspected by the Federal Government.) HEW would screen out donors infected with hepatitis, label the source of blood and conduct a computerized follow-up.

Veysey is investigating means of encouraging voluntary blood donorship, such as conducted by the Red Cross. He said unpaid donors are much less likely to carry hepatitis.

The Californian said he was alerted to the problem by British reports comparing the high rate of hepatitis infection from commercial donors in the U.S. with the low rate of the disease in Britain, which relies on a voluntary system. He then checked with physicians at the Stanford Medical Center who told him of the spreading hepatitis problem in this country. A check of Washington commercial blood banks quickly turned up the so-called "ooze for booze" system, which Veysey said is nationwide.

Veysey, born in Los Angeles, is a graduate of Cal Tech with a master's degree from Harvard. He is a former college professor, rancher and plant manager. He served eight years in the California legislature before being elected to the U.S. House in 1970.

REGULATION OF ALL BLOOD BANKS ASKED

(By Jean R. Hailey)

Rep. Victor V. Veysey (R. Calif.) said yesterday that a commercial blood bank here gives vouchers to paid donors that are redeemable only at a nearby liquor store.

He made the statement at a press conference before introducing a bill that would regulate all blood banks in the country and provide for the major national effort to recruit voluntary instead of paid donors.

Accusing the National Institutes of Health Division of Biological Standards of neglect in supervising blood banks, he said his bill would establish a new office in the Department of Health, Education and Welfare to license and inspect all blood banks. Of 7,000 blood banks in the country, only 166 are licensed and inspected by the NIH division he said.

Veysey said much of the hepatitis in this country comes from the paid blood donors, many of whom may be alcoholics or drug addicts.

He then referred to the Scientific Blood Bank, Inc., 1007 H St. NW, which gives vouchers that can be cashed only at Moe's Liquor Store two blocks away, at 1203 H St. NE.

William Reiland, administrator of Scientific Blood Bank, which has branches in six major cities, said later that the liquor store was chosen to cash the vouchers because of its proximity to the blood bank and because the proprietor was willing to cash them.

He said all donors are given physical examinations before they are accepted and must wait eight weeks before they can make another donation.

A spokesman at the liquor store said those who come in to cash vouchers are not urged to make purchases and those who do usually buy only a bottle of wine or a pack of cigarettes.

[From the New York Times, Nov. 19, 1971]

BLOOD BANK CONTROLS SOUGHT

WASHINGTON, November 20.—Charging that alcoholics, drug addicts and other paid donors are infecting thousands of Americans with hepatitis, Representative Victor V. Veysey, Republican of California, has introduced legislation to regulate blood banks.

[From the Chicago Sun Times, Nov. 18, 1971]

SEEKS TIGHT CURBS FOR BLOOD BANKS

(By William Hines)

WASHINGTON.—Hepatitis-tinged Skid Row blood from Washington slums may be entering the veins of Chicago surgery patients because of "scandalous neglect" by a government agency responsible for maintaining the purity of the fluid, a California congressman charged Wednesday.

But the director of the beleaguered Division of Biological Standards countered in the wake of charges by Rep. Victor V. Veysey (R.-Calif.) that none of the blood in question is being used for transfusions in Chicago or elsewhere.

Furthermore, DBS director Roderick Murray said, allegations of negligence and a sweetheart relationship between blood banks and their supposed regulators in his agency are baseless.

NEW CONTROLS SOUGHT

Veysey's charges came at a press conference where he announced submission of a bill that would regulate the quality and distribution of transfusion blood more tightly than is now possible. The bill also would take authority for control of this vital commodity away from DBS' parent organization, the National Institutes of Health.

Veysey claimed that derelicts, drunks and drug addicts are being bled for $5 a pint at a storefront center on Washington's down-at-the-heels H St. N.E. and are given vouchers, which they cash at a nearby liquor store. All parties concerned agree that the story is correct up at this point.

They part company on the subject of what happens to the blood after it leaves the Washington outlet of Scientific Blood Banks Inc., a Chicago-based company with collection centers in four cities: Washington, Detroit, Cincinnati and Chicago.

SHIPMENTS TO CHICAGO

Dr. William Battle of Washington, president of the National Assn. of Blood Banks, said the fluid collected at the H St. location is shipped daily by air to Chicago, where it is processed and made available to hospitals in that area.

But Murray, whose DBS is already under attack for alleged laxity in upholding purity standards for vaccines, said none of the blood collected at Scientific station in Washington is used for human transfusions.

Inspectors from DBS cracked down on Scientific operations here a few weeks ago, and "until they put their house in order they will not be in the blood-banking business," Murray said.

But there was no dispute that up until a few weeks ago blood from H St.—some of it undoubtedly from the alcoholic and addicts that abound there—was getting into Chicago operating rooms.

(In Chicago, William Rieland, administrator of Scientific Blood Banks at 1434 W. 79th, said all donors undergo a medical screening under procedures stipulated at the National Institutes of Health.

SERIOUS HEALTH THREAT

(Donors are given NIH-approved questionnaires, he said, and NIH inspectors make periodic, unannounced inspections of the company locations.)

The dispute between one junior congressman and one medium-echelon federal official sparked more than usual interest because of the seriousness of the public health threat from hepatitis-tainted blood. Serum hepatitis is a serious liver disease that can be transmitted in the blood. At present there is no known cure, and about 20 per cent of those afflicted die, particularly those over 40 years of age or in an enfeebled condition.

Some studies indicate that serum hepatitis is transmitted 11 to 70 times more frequently through fluid obtained from donors who sell their blood than from those who give it free through Red Cross and similar banking programs.

Murray contested these statistics, arguing that commercial blood is perhaps only 5 times riskier than donated blood. He did not dispute the fact, however, that the risk of infection is considerably greater with $5-a-pint fluid.

Government statistics show that some 52,000 cases of serum hepatitis are reported in the United States each year and that about 10,000 infected patients die. Veysey contended—and many public health experts agree—that this is "only the tip of the iceberg" for a number of reasons.

One of these is that a doctor who transfused a patient and later had the patient come down with something he officially reported as serum hepatitis might be laying himself open to a malpractice suit. Another is that hepatitis is passed around the drug subculture via improperly sterized needles and that victims in this milieu rarely get medical attention even when they sicken.

Veysey charged that the fault for the hepatitis pandemic lies in good measure with Murray's agency, which, he said "seems to have been 'captured' by the groups it is supposed to regulate."

Murray heatedly denied any improper "sweetheart" relationship between his staff and commercial blood bankers.

[From the St. Paul Pioneer Press, Nov. 18, 1971]

HEPATITIS DANGER CITED IN CALL FOR BLOOD BANK LAW

WASHINGTON.—Charging that alcoholics, drug addicts and other paid donors were infecting thousands of Americans with hepatitis, Rep. Victor Veysey, R-Calif., introduced legislation Wednesday to regulate blood banks.

Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington, D.C. blood bank.

The only place the voucher could be cashed said Veysey, was at a nearby liquor store.

"We all know how this works—the donor it attracts and the death and suffering it spreads," commented Veysey.

Veysey said more than two million blood transfusions would be performed this year in the United States.

"One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal cause of much of the hepatitis, Veysey said, was the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis.

"Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

[From the Miami Herald, Nov. 18, 1971]

BILL TO REGULATE BLOOD BANKS IS INTRODUCED

WASHINGTON.—Charging that alcoholics, drug addicts and other paid donors are infecting thousands of Americans with hepatitis, Rep. Victor V. Veysey (R., Calif.) introduced legislation Wednesday to regulate blood banks.

Veysey illustrated his point by displaying to a new conference a voucher for $5 ("the going rate") given to donors by a commercial blood bank in Washington, D.C. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store.

"We all know how this works—the donor it attracts and the death and suffering it spreads," commented Veysey.

Veysey said more than 2 million blood transfusions would be performed this year in the United States. "One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal causes of much of the hepatitis, Veysey said, is the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

[From the Chicago Tribune, Nov. 16, 1971]

BILL FOR LICENSING BLOOD BANKS IS INTRODUCED IN U.S. HOUSE

WASHINGTON, November 17.—A California congressman today introduced legislation for federal inspection, licensing, and regulation of the nation's 7,000 blood banks.

The bill introduced by Rep. Victor V. Veysey [R., Cal.] would set up a federal system for supervising blood collection and distribution thru the Department of Health, Education, and Welfare. Veysey said his legislation seeks to stop "a tragic and death-dealing disease epidemic caused by this country's blood business."

CITES HEPATITIS SPREAD

Veysey said present state and federal laws are not controlling the spread of serum hepatitis in blood transfusions. Most of this infected blood, he said, comes from paid donors who often are recruited in skid row areas of cities.

"The risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood," Veysey stated. "Blood banks that use paid donors make it easy to ooze for booze, but the product they sell is death by the pint."

"WOULD AID REPUTABLE BANKS"

In urging passage of his measure, Veysey cited findings of The Chicago Tribune's Task Force. The task force stories, which appeared in September, told of skid row alcoholics and drug addicts giving blood over and over again for $5 a pint.

Veysey said his legislation would aid blood banks that do not take blood from diseased persons and which rely primarily on volunteer donors.

"The best way to aid reputable blood banks is to require less scrupulous ones to live up to the same high standards," he said. "My bill would require this."

Illinois licenses and inspects blood banks he said, but in 38 other states there are no such laws.

"In these states anything is legal," he asserted. "Anyone could run a blood bank. It would be legal to use the blood of cadavers and of ill people."

ONE DEATH IN 150

Of 2 million blood transfusions which will be performed in the United States this year, he said, "One out of every 150 of these will cause a death from serum hepatitis in the over-40 age group, plus a lot of very sick younger people."

His bill would have blood labeled as either "low risk" when it comes from voluntary donors, or "high risk" when it comes from paid donors. Additionally, blood banks would be classified as class A or class B depending on the per cent of paid and volunteer donors the banks used.

All blood banks would have to submit to licensing, inspection, and regulation. This power would be vested in a national blood banks program in the Department of Health, Education, and Welfare.

ONLY 166 LICENSED

Veysey said the government's national institutes of health's division of biologics standards licenses only 166 of the country's blood banks. Asserting that this supervision has been inadequate, he said:

"The division seems to have been 'captured' by the groups it is supposed to regulate. There appears to be a pattern of senior personnel in the division going to work for blood banks that use paid donors . . . it produces the kind of regulatory neglect we find in blood banking today."

Veysey's bill also seeks to encourage the recruitment of volunteer blood donors. The recruitment of more healthy volunteer donors, he stated, would go far in cutting down the incidence of serum hepatitis caused by blood transfusions.

WANTS BLOOD COUNCIL

An advisory council of representatives from blood banks, blood consumers, organized labor, and public relations agencies would be established within the national blood bank program.

Veysey said the problem with infected blood was graphically illustrated by a friend of his who was involved in a traffic accident. Veysey said the Fresno, Cal., man was taken to a hospital, given blood transfusions and later sent home.

"Sometime later they had to take him back to the hospital," said Veysey. "He died a painful death of serum hepatitis. So he won the battle but lost the war."

BLOOD BANKS

WASHINGTON.—A California congressman, claiming that alcoholics, drug addicts and other paid donors were infecting thousands of Americans with hepatitis, introduced legislation today to regulate blood banks.

Republican Rep. Victor V. Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington, D.C. blood bank. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store.

"We all know how this works, the donor it attracts and the death and suffering it spreads," commented Veysey.

In 1971, said the lawmaker, more than 2 million blood transfusions would be performed in the United States.

"One out of every 150 of these will cause death from serum hepatitis in the over 40 age group, plus a lot of sick younger people," he added.

During 1970 the center for disease control of the HEW Department reported 52,583 cases of this disease, which Veysey described as only the tip of the iceberg. The true figure may be as high as 500,000, he maintained.

The principal cause of much of the hepatitis, Veysey insisted, was the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict of live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

States are not policing the practice, according to Veysey. Of the 50 States, 38 have no laws whatsoever to protect the recipient of a blood transfusion, Veysey said, while 17 States have laws that block patients who have received "tainted" blood from suing for damages.

The freshman representative's bill would establish an office in HEW to license, inspect and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

The measure would also authorize $9 million to conduct a national program to eventually attain a 100 per cent voluntary blood donation system.

[From the Billings (Mont.) Gazette, Nov. 25, 1971]

LOCAL BLOOD CASE LED TO LEGISLATION

(By David T. Earley)

An October jury decision in Billings district court is "particularly significant" in current efforts in Congress to regulate the nation's blood-bank industry.

With 180,000 cases of post-transfusion hepatitis annually from tainted blood—3,500 of them says attorney Jeff Scott, the local jury award to a stricken patient was a milestone in legislative efforts toward more careful testing of donated whole blood.

The $32,941 award to his client, Charles A. Hutchins, was the first jury verdict to such a victim in the nation's history says the Billing attorney.

And the plaintiff's expert witness in the recent case, Dr. Garrott Allen of Stanford (Calif.) University's medical school, has since aided in drafting a regulatory bill for Congress.

Congressman Victor V. Vesey, R-Calif., submitted his bill to the House last week. The legislation provides for federal regulation of the blood-bank industry and requires a label on whole blood taken from paid donors: "high risk."

The intention, says Scott, is to provide an attending physician and his patient with information upon which to base a decision. "Now, they have none."

If the situation warrants they may decide to accept the risk of infection by the disease, apparently transmitted in higher than normal frequency by those who seek the extra money a paid donation will bring.

Hepatitis is one of the country's more serious health problems, says Scott, and now—particularly if the Vesey bill passes Congress—it is also a major problem to the blood banks, which do a $160-million business annually.

XUM

Defendant in the landmarks court suit was Blood Services of Montana, and the jury found it negligent.

Scott points out, however, that the defendant was shown by evidence introduced at the trial to have used "every test and screening device" used by other such services in the country.

In that sense, he adds, it wasn't simply the logical firm that was found negligent but the industry as a whole.

"The problem is in the use of paid donors. They have been demonstrated statistically to be more dangerous in transmitting hepatitis."

Effect of the Vesey bill would be to tighten control of blood from this high-risk group and give a patient the option of asking for donations from friends and relatives who would have no motive for concealing medical history from the doctor.

[From the Fort Worth Press, Nov. 22, 1971]

A Bloody Bad Business

A Washington, D.C., blood bank pays donors not in cash but by $5-a-pint vouchers redeemable only at a neighborhood liquor store.

That suggests much about an apparently not a typical commercial venture which supplies blood to the desperately ill.

It's small comfort that the D. C. blood bank operating this way is licensed and inspected by the Biologics Standards Division of the National Institutes of Health.

Even assuming the best, the bank is among only 166 of the 7000 blood banks in the nation that come under any federal supervision because only these 166 are deemed to operate in interstate commerce.

Rep. Victor V. Veysey, R., Calif., source of these statistics, argues there must be a better way to oversee enterprises that fulfill the ever-increasing emergency need for blood transfusions throughout the nation.

He contends winos, dope addicts and other derelicts, selling their blood to finance their habit, pass along serum hepatitis to unsuspecting patients who have to pay not only for the blood but for its possibly fatal taint.

State regulation, he reports, is abysmal, with 38 states either having no laws to protect patients from tainted transfusions or specifically forbidding such victimized patients from filing damage suits.

Veysey proposes an office within the Department of Health, Education and Welfare to license, inspect and regulate all blood banks; a national program of aid and education that would lead eventually to a 100 per cent voluntary blood donation system, and a national registry of donors that would screen out infected "ooze-for-booze" suppliers.

Veysey's proposal merits immediate consideration by the Congress.

[From the Washington Post, Nov. 18, 1971]

Regulation of All Banks Asked

(By Jean R. Halley)

Rep. Victor V. Veysey (R-Calif.) said yesterday that a commercial blood bank here gives vouchers to paid donors that are redeemable only at a nearby liquor store.

He made the statement at a press conference before introducing a bill that would regulate all blood banks in the country and provide for a major national effort to recruit voluntary instead of paid donors.

Accusing the National Institutes of Health Division of Biological Standards of neglect in supervising blood banks, he said his bill would establish a new office in the Department of Health, Education and Welfare to license and inspect all blood banks. Of 7,000 blood banks in the country, only 166 are licensed and inspected by the NIH division, he said.

Veysey said much of the hepatitis in this country comes from the paid blood donors, many of whom may be alcoholic or drug addicts.

He then referred to the Scientific Blood Bank, Inc., 1007 H St. NW, which gives vouchers that can be cashed only at Moe's Liquor Store two blocks away, at 1203 H St. NE.

William Relland, administrator of Scientific Blood Bank, which has branches in six major cities, said later that the liquor store was chosen to cash the vouchers because of its proximity to the blood bank and because the proprietor was willing to cash them.

He said all donors are given physical examinations before they are accepted and must wait eight weeks before they can make another donation.

A spokesman at the liquor store said those who come in to cash vouchers are not urged to make purchases and those who do usually buy only a bottle of wine or a pack of cigarettes.

[From the Virginian-Pilot, Nov. 18, 1971]

Blood Bank Regulations Urged

Washington.—Charging that alcoholics, drug addicts, and other paid donors are infecting thousands of Americans with hepatitis, Rep. Victor V. Veysey, R-Calif., introduced legislation Wednesday.

Veysey illustrated his point by displaying to a news conference a voucher for $5 ("the going rate") given to donors by a commercial Washington blood bank. The only place the voucher could be cashed, said Veysey, was at a nearby liquor store. "We all know how this works, the donor it attracts, and the death and suffering it spreads," commented Veysey.

Veysey said more than 2 million blood transfusions will be performed this year in the United States. "One out of every 150 of these will cause death from serum hepatitis in the over-40 age group, plus a lot of sick younger people," he said.

The principal cause of much of the hepatitis, Veysey said, is the paid blood donor.

"Here is the man or woman with a reason to lie about his past medical history to get the money," he said. "He may be an alcoholic or a drug addict or live in conditions that invite hepatitis. Commercial blood banks that depend on the paid donor move right into his neighborhood and make it easy for him to sell his body."

The freshman congressman's bill would establish a federal office to license, inspect, and regulate all blood banks. All blood collected would be labeled "high risk" if it came from a paid donor or "low risk" if it was taken from a volunteer.

[From the Washington Star, Nov. 17, 1971]

Giving Blood, Buying Booze

(By David Braaten)

A Republican congressman from California has discovered that a Northeast Washington branch of a Chicago-based commercial blood bank pays its donors with $5 vouchers which can be redeemed only at a nearby liquor store.

Rep. Victor V. Veysey, a freshman from Southern California, made the disclosure as he called for federal supervision of the nation's 7,000 blood banks as a means of cutting down on the thousands of cases of hepatitis caused each year by impure blood transfusions. Only 166 blood banks are supervised by the federal government now.

The Congressman charged at a press conference that "ooze for booze," selling their blood to commercial blood banks for $5 a pint, endanger the health of patients who may get the tainted blood in transfusions.

There are 2 million blood transfusions each year, Veysey said, and in the over-40 age group one out of every 150 recipients dies from serum hepatitis.

The unusual arrangement between Scientific Blood Bank, Inc. of 1007 H St. NE and Moe's Twelfth&H Liquors two blocks away was confirmed by William Relland, administrator of the blood bank.

Reached by telephone in Chicago, Relland described the voucher system as a security measure. Keeping cash on hand "in that neighborhood" would be asking for trouble, Relland said, and bank checks are easier to forge when stolen in a burglary. The solution, he said, was to work out an agreement with a neighborhood businessman to redeem the donor's voucher payments in cash.

Relland called the choice of a liquor store "unfortunate" but said it really had nothing to do with the quality of the blood donation, since the donor goes there after he has sold his blood, not before.

Relland said all donors must pass a physical examination before they are accepted, must wait eight weeks before selling blood again, and can sell only four pints a year. The impression that winos and derelicts can wander in off the street and sell blood without a screening is erroneous, Relland said.

The blood bank's banker, Morris (Moe) Shulman, offered a more jaundiced view.

"I'll tell you, if I was sick, I wouldn't want to get blood from some of the ones who come in here," he said.

Shulman said there is no pressure on blood donors to make a purchase, and that those who do buy generally are good only for a bottle of wine or a pack of cigarettes. He charges Scientific 25 cents per voucher ("They wanted me to do it for 15 cents, but I said a quarter or nothing doing") and he complained that the blood bank of ten let $300 or more in vouchers pile up before redeeming them by check.

Shulman estimated the daily traffic at around 20 donors, but said that "early in the month, when the welfare checks arrive," the blood business slacks off. "I wouldn't care if they never sent another one around," said Shulman. "It's a pain in the neck, if you want to know the truth."

He said that "about half" of the donors who come in, buy wine or liquor with the money. Others buy gum or cigarettes, he said.

Rep. Veysey's staff estimated commercial blood banks are a $150 million-a-year industry and claimed that a profit of as much as $50 a pint is possible.

Relland rejected this figure as "way out of line." He said the usual sale price to hospitals is $25 a unit, with the patient paying probably $35 a pint.

"Reliable studies have repeatedly shown that the risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood," Veysey said.

Relland noted—as did Veysey—that Scientific Blood Bank, Inc., as an interstate shipper of blood, is one of the 166 blood-banks in the country licensed and inspected by the Biological Standards Division of the National Institutes of Health.

Veysey said the Division of Biologics Standards "seems to have been 'captured' by the groups it is supposed to regulate." There appears to be a pattern of senior personnel in the division going to work for commercial blood banks, he said.

Veysey's bill would take the responsibility for blood bank supervision away from NIH.

His bill, which he said he would introduce today, also would require the source of the blood to be clearly stated on the labels.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will read.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

AMENDMENT NO. 1099

Mr. BEALL. Mr. President, for the past several days, and it will do so probably for a quite a few more to come, the Senate has been engaged in a discussion of S. 2956, legislation designed to define the warmaking powers of the President of the United States. For those of us who are anxious to see the Congress reassert itself as a coequal branch of the Government, the delineation in law of the conditions under which the President may commit American troops to action has great appeal. But at the same time the measure raises serious practical and constitutional questions demanding considerable thought and study.

I might add, Mr. President, that as a Member of the House of Representatives during the 91st Congress, I joined in cosponsoring a proposal similar to S. 2956. That bill did not come to the floor of the House for a vote and thus died with the adjournment of the 91st Congress. During the last year and a half, however, I have devoted considerable thought to the fundamental issues involved in this debate and, as a result, I have had second thoughts about solving the problem in this way at this particular time.

I am, therefore, sending to the desk a proposal that I plan to call up later in the debate on this legislation. This proposal is an amendment in the form of a substitute to S. 2956, which would, if adopted, create a National Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars. This 24-member bipartisan Commission would be composed of 12 members appointed by the President of the United States, some of whom would be appointed within the executive branch and others from private life. Among those who might serve are former Presidents, former Secretaries of State, diplomats, historians, constitutional lawyers, and so forth, in an effort to bring together the finest minds in our land to tackle one of the difficult constitutional problems confronting our Nation today. The remaining 12 members of the Commission would be appointed by the President of the Senate and the Speaker of the House of Representatives.

This Commission, mandated by law, would have up to 1 year to study in a deep and scholarly way the constitutional intricacies of the "War-making Powers". The duties of the Commission are contained in section 5A of my proposed amendment which reads:

DUTIES OF THE COMMISSION

Sec. 5. (a) Scope of Study.—The Commission shall make a thorough study of the authority of the Congress and the President in the use of the armed forces abroad, including authority to pledge United States military assistance, authority to deploy the armed forces abroad, authority to commit the armed forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice, relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

At the conclusion of its study, the Commission's recommendations will be submitted to the President and to the Congress, which could at that point pursue a coherent and practical legislative course of action that would be well founded in thorough research, free from political pressures, and thus able to be successfully enacted into law.

Mr. President, in introducing this proposal, I fully expect to be criticized for putting forth an idea which would, if enacted, sidetrack the so-called war powers bill. But I contend that I am saving, for the Senate and the 92d Congress, an opportunity to begin reasserting its proper role in the field of foreign affairs and military matters. I believe that probably the votes exist within this Chamber to approve S. 2956. But I do not think that the war powers bill stands a proverbial "snowball's chance" of becoming law. The obstacles that lie in its path are numerous and formidable:

First, there is considerable evidence that the other body will refuse to approve a bill such as the one that is presently pending before the Senate. The chairman of the House Foreign Affairs Committee's Subcommittee on National Security Policy and Scientific Developments recently stated that even if the Senate passes S. 2956 "it is very unlikely that war powers legislation will be taken up again." He went on to say that the Senate bill "presents a number of constitutional and practical difficulties which make its passage undesirable."

Second, we cannot overlook the issue of this bill's constitutionality. The constitutionality question, which hangs like a cloud over S. 2956, is in itself an interesting double-edged sword. Either we are significantly curtailing the powers of the President as Commander in Chief, thus running the risk of violating his constitutional mandate, or else we are leaving his powers as Commander in Chief intact, which means we are failing to substantively alter the President's ability to make war. Since 1789, Chief Executives have deployed American forces abroad over 150 times without a congressional declaration of war. The absence of significant legislative or judicial efforts to define or curb this Presidential power lends credence to the argument that our forefathers meant to invest the President of the United States with broad authority to make and carry out our Nation's foreign policy. On an issue of this magnitude, it is important for us to do more than simply posture the Senate. We must ultimately decide upon a course of action that is clearly constitutional, completely compatible with our national security interests, and unquestionably credible to the people of this Republic.

Third, I believe that there is a possibility that we could see an extended debate develop in this body over the merits of this war powers legislation. Since this is a presidential election year, the Congress must complete its important tasks between now and early July. Since even its supporters doubt that this proposal stands any serious chance of being enacted into law in 1972, I suggest that it would be prudent for us to follow the course of action I have outlined in my proposed substitute amendment and then proceed with the other pressing measures that directly effect the health, safety, and welfare of our 200 million people.

Fourth, the power of the President in foreign affairs and military matters stems from the recognition that he is Chief of State, Chief Executive of the Government, and Commander in Chief of our armed services. I am inclined to believe that the President, or any of his 35 predecessors, would be very reluctant to sign this measure into law. The President is responsible for preserving the prerogatives and integrity of the Presidency.

The above-listed reservations caused me to begin drafting legislation creating a national commission as early as last August. Last fall, I submitted copies of this proposal to Prof. John Norton Moore, of the University of Virginia Law School, who had previously expressed a willingness to assist me with this matter. Mr. President, I deeply appreciate the assistance and advice Dr. Moore rendered in the drafting of this legislation, and I ask unanimous consent that a copy of the correspondence that I exchanged with him last fall be printed in the Record at the conclusion of my remarks

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along with a complete text of the amendment that I have just introduced. In addition, Mr. President, I would like to call the Senate's attention to an editorial entitled "The War Powers Debate" which appeared in the Evening Star on Monday April 3, 1972, and ask that it, too, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table; and, without objection, the correspondence, amendment, and editorial will be printed in the RECORD, as requested.

The material ordered to be printed in the RECORD is as follows:

SEPTEMBER 24, 1971.

Dr. JOHN NORTON MOORE,
Professor of Law, University of Virginia, School of Law, Charlottesville, Va.

DEAR PROFESSOR MOORE: I appreciate your sending me the various articles with respect to use of armed forces abroad.

I have been considering introducing legislation to establish a Commission on the proper roles of the Congress and the Executive Branch in undeclared wars. The draft is in the roughest of forms and I would appreciate having your general reaction to this proposal and any suggestions you might have with respect to the same.

With best wishes, I am

Sincerely yours,

J. GLENN BEALL, Jr.

UNIVERSITY OF VIRGINIA
SCHOOL OF LAW,
Charlottesville, Va., October 1, 1971.

Hon. J. GLENN BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: Thank you for inviting me to comment on your proposed legislation to establish a Commission on the proper roles of the Congress and the Executive in undeclared wars. The subject is one which is particularly in need of review and I support your excellent proposal to establish a Commission to study the issues and to make recommendations to Congress. The issues are extremely complex and there is a danger that our understandable preoccupation with the Indo-China experience may lead us astray unless the most careful thought is given to any proposals for legislative intervention. On the other hand, it is possible to strengthen the present framework for Executive-Legislative cooperation on war/peace issues and this task should be tackled before the present momentum is lost. Your proposal to establish a carefully balanced Commission to prepare a thorough study and to make recommendations not later than one year after its establishment would seem a good compromise between these conflicting tensions.

Several minor changes in the proposed legislation would, I believe strengthen it greatly. First, I would recommend that the name of the Commission and its description in Section 1 be changed from "the Commission on the Proper Roles of the Congress and the President in undeclared wars" to "the Commission on the Roles of Congress and the President in the Use of the Armed Forces Abroad." The constitutional and practical issues, which include authority for initial "commitments to foreign nations," the conduct of hostilities, and the termination of hostilities,[1] are broader than implied by the term "undeclared wars." To be most useful a Commission study must look at each of these issues and their overall interrelation. Moreover, the Commission might also wish to study constitutional principles concerning uses of force falling short of war, etc. The suggested title would be descriptive of a broader and more useful study. Similarly, for the same reasons section 7(a) "Study and Investigation" might be usefully rewritten to read:

Sec. 7(a) *Scope of Study:* The Commission shall make a thorough study of the authority of the Congress and the President in the use of the armed forces abroad, including authority to pledge United States military assistance, authority to deploy the armed forces abroad, authority to commit the armed forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice, relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

By way of one minor point, would it be advisable to delete the final sentence in Section 8? I doubt that the issues would yield to extensive hearings and I would leave it up to the Commission to hold hearings, if any, wherever it would like to. In any event, isn't this geographic admonition inconsistent with the grant of authority to the Commission in the immediately preceding sentence of Section 8?

If I can assist in clarifying any of these suggestions or in assisting in any other way please let me know.

Sincerely,

JOHN NORTON MOORE,
Professor of Law.

S. 2956

Strike out all after the enacting clause and insert in lieu thereof the following:

ESTABLISHMENT OF COMMISSION

SECTION 1. There is hereby established a commission to be known as the Commission on the Proper Roles of the Congress and the President in the use of the Armed Forces abroad and in Undeclared Wars (hereafter referred to in this Act as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 2. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of twenty-four members as follows:

(1) twelve appointed by the President, of which no more than four may come from the executive branch of the Government;

(2) six appointed by the President of the Senate, four from the Senate and two from private life; and

(3) six appointed by the Speaker of the House of Representatives, four from the House and two from private life.

(b) POLITICAL AFFILIATION.—Of each class of members appointed under subsection (a), not more than one-half shall be from the same major political party.

(c) VACANCIES.—Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and a Vice Chairman from among its members.

(e) QUORUM.—Twelve members of the Commission constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 3. (a) MEMBERS OF CONGRESS.—Members of Congress who are members of the Commission shall serve without compensation in addition to that received from their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received from their service in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall be compensated in accordance with section 3109 of title 5, United States Code, when engaged in the actual performance of duties vested in the Commission (including travel time), plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 4. (a) STAFF.—The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, but at rates not to exceed the maximum daily rates prescribed for GS-15 under section 5332 of that title, except as may be authorized in accordance with section 5108 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may employ experts and consultants in accordance with section 3109 of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) SCOPE OF STUDY.—The Commission shall make a thorough study of the authority of the Congress and the President in the use of the Armed Forces abroad, including authority to pledge United States military assistance, authority to deploy the Armed Forces abroad, authority to commit the Armed Forces to combat abroad, authority to conduct hostilities and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

(b) REPORTS.—The Commission shall submit its final report and recommendations to the President and Congress no later than one year after the date of enactment of this Act. The Commission shall cease to exist thirty days after submission of its final report. The final report of the Commission shall include, but not be limited to such legislative proposals as in the judgment of the Commission are necessary to carry out its recommendations.

HEARINGS AND SESSIONS

SEC. 6. The Commission or, on the authorization of the Commission, any subcommittee thereof, may for the purpose of carrying out the provisions of this Act, hold such public hearings at such times and places as the Commission may deem advisable.

COOPERATION BY EXECUTIVE DEPARTMENTS AND AGENCIES

SEC. 7. The Commission is authorized to request, at the direction of the Chairman, from any executive department or agency any information and assistance deemed necessary to carry out its funotions under this order. Each department or agency is requested, to the maximum extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Amend the title so as to read: "A Bill to establish a Commission on the Proper Roles of the Congress and the President in the use of the Armed Forces abroad and in Undeclared Wars."

[From the Washington Evening Star, Apr. 3, 1972]

THE WAR-POWERS DEBATE

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requiring assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parites are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time.

We would agree most fervently that in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. BEALL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the Senate Foreign Relations Committee has revived one of the eternal questions of the American political experiment. Like the ebb and flow of a recurring tide, the issue of who controls the greatest share of the Nation's war powers has surfaced frontcenter in the Halls of Congress with amazing regularity only to recede on each occasion with a renewed endorsement of Presidential discretion.

The first clash over the great matter of war and peace arose in the term of our first President. When George Washington, with the rhetorical backing of Alexander Hamilton, issued a proclamation of neutrality during hostilities between Great Britain and France, it followed a vigorous political battle with Thomas Jefferson. Forecasting the strained and doctrinaire assumptions we hear today about the same power, Jefferson argued that since Congress alone had the power to declare war, it alone had the power to decide we were not at war. Clinton Rossiter writes that Washington's early rejection of this narrow reasoning is generally credited with establishing from that time forward the principle of Presidential primacy in the making of foreign policy.

Since then there have been numerous contests betwen the President and Congress, with Congress sometimes pushing the President into forceful action, as in the War of 1812, and more often denouncing Presidents for their military initiatives. The first Adams was criticized for arming naval vessels in violation of the spirit of an act of Congress, Tyler and Polk for their maneuvers inciting war with Mexico, Grant for attempting the annexation of the Dominican Republic by military as well as diplomatic means, Wilson for occupying Santo Domingo in 1916 and keeping American troops in Europe after Amistice Day—call the roll of Presidents, nearly all have been pilloried at one time or another from the forum of Congress.

What distinguishes the current effort by those who would leash the President's prerogatives in the field of foreign policy is the fact that never before in the country's history has any such legislation been so sweeping and inflexible. This is not an effort to order American soldiers home from Europe. It is not an effort to impose a 9-month deadline on the withdrawal of troops from an overseas hostility. It is not an effort to prevent military appropriations from being used for the purpose of maintaining or employing marines in two named foreign countries. These limitations, which seem strangely familiar but were actually settled 50 years ago, at least had the virtue of being proposed at the time and in the setting of the specific situation in question. Needless to say, these challenges were all rejected in Congress as was every legislative gambit throughout history meant to legally bind the Chief Executive in his military command powers.

Unlike these earlier attempts, the current legislation seeks to enact a permanent restriction, in all conceivable situations, unrelated to the incident at hand. The bill sets out four narrow situations in which it authorizes military action to commence. If a situation does not fit one of the imminent emergencies which the draftsmen of the bill have foreseen, the President is prohibited from acting until Congress authorizes him, no matter how fixed and untenable the situation may eventually become as a result of our failure to act. Even when the President is allowed to move, the bill states that his activity shall not continue beyond 30 days unless Congress grants an extension of his authority. Another provision of the bill enables Congress to stop whatever action the President has started before 30 days are up, so that he cannot even count on having 30 days for action even in those cases where it said he has a power to act. What the bill gives with one hand it takes away with the other.

Mr. President, this legislation is unrealistic, unwise, and unconstitutional. It makes no sense from the standpoint of safe or intelligent military planning. It is disruptive of our entire mutual security system which now safeguards world order. It is totally without any statutory precedent in American history. And it invalidly prohibits the President in the exercise of his constitutional powers of national defense.

Mr. President, the war powers bill is jerry built on false assumptions—false beliefs about the power of Congress to enact this kind of legislation, false claims of what the bill actually provides, and false understanding of what the role of Congress has really been in the shaping of important decisions bearing on war.

Mr. President, I shall discuss only the last of these assumptions today, for it goes to the very heart of the question of whether there is any need for the legislation. It is said a bill is needed which will allow the people to speak out before the country is ever again embroiled in a major, lengthy war. The assumption is made that the people, acting through Congress, did not exercise a voice in the military ventures of the last quarter century.

But, Mr. President, this view is wrong. It is contradicted by the hard facts of history. Congress now has and always has had an influential role in deciding upon significant policies affecting foreign affairs, both before and after a hostility begins.

[1] I have set out the full range of issues in my testimony before the Senate Foreign Relations Committee earlier this year.

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Each year, when Congress votes on the defense budget, it undertakes a thorough-going review of the Nation's defense posture, including what our worldwide commitments are and should be, what kinds and amounts of weapons should be produced, what the capabilities of our possible foes are, what the size of the individual armed services should be, and what equipment and services we shall extend to foreign governments.

Every time Congress acts on one of these defense appropriations or authorizations, it makes, or certainly has an opportunity to make, its own independent evaluation of both our overall defense requirements and projected commitments as seen at that moment. If Congress believes the Nation should not become involved in major conflicts around the world, it can severely restrict the designs of an activist President by reducing the size of the Armed Forces he can spread about the globe. Or Congress can limit the arms and machinery at his disposal by slashing billions of dollars from his procurement requests.

Congress also participates in war policy by passing area resolutions and ratifying defense treaties announcing an American policy of interest and concern in specific spots of the world. By refusing to adopt such measures, Congress might well discourage the President from moving forward with initiatives in those areas.

Of course, once a conflict has begun, Congress can influence the course of events either by providing money to sustain the fighting or by refusing such funds. No war is going to continue for long until a President must request funds for its support, at which point Congress can either collaborate by appropriating the money requested or force a change in policy by cutting or denying the funds.

Contrary to what some revisionists would like us to believe, all three of the above processes were utilized by Congress in the instance of Vietnam. War powers bill or no war powers bill, Vietnam would still be with us based on what happened in Indochina. In fact, Vietnam is a case history in proving why the authors of the war powers bill are badly mistaken in promising that their bill will stop future Vietnams. The fact is the bill would not even have stopped Vietnam itself. In the words of a Washington Star editorial published yesterday, this contention "is a monumental piece of historical hogwash."

It has now been judicially determined that Congress was involved in the expansion of the Vietnam war from its inception. The representatives of the people in Congress have played a broad role in authorizing both the onset of military measures in Indochina as well as each expansion of the American presence there. For example, when the Senate Foreign Relations Committee reported the SEATO Treaty in 1955 it forewarned that:

> The treaty is intended to deter aggression in that area by warning potential aggressors that an open armed attack upon the territory of any of the parties will be regarded by each of them as dangerous to its own peace and safety.

If that did not lay down the gauntlet to Communist schemes of aggression in Southeast Asia, perhaps the blunt explanation of the treaty by its floor manager, Senator George, did. He observed:

> It is our purpose, Mr. President, to give advance notice to any Communist nation contemplating aggressive action in that area that they will have to reckon with the United States.

But perhaps the strongest indication that Congress was deeply aware of the prospects for American military involvement in Asia is found in the concluding words of the 1955 report from the Foreign Relations Committee, where it states:

> The Committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific.

On top of these very determined congressional statements, there is a broad policy announcement by Congress included in the Foreign Assistance Act of 1963, which shows that Congress knew there was a war going on in Vietnam and knew American money and American men were committed to that struggle. This provision declares that economic and military assistance authorized by the act should be used in Vietnam "to further the objectives of victory in the war against communism."

A year later, but before Tonkin Gulf, President Johnson requested and obtained from Congress an additional $125 million of military aid earmarked for increasing the American advisory mission in Vietnam and expanding the Air Force of South Vietnam. Here was a clear-cut and visible opportunity to prevent a future escalation of our Indochina activity. What did Congress do? It voted all the funds which the President had requested.

This brings us forward to the Gulf of Tonkin resolution, which those of us who were here can remember was avowedly aimed at meeting the United States obligation under SEATO. The resolution frankly speaks of taking "all necessary steps" including "the use of armed forces." But we do not have to stop with the resolution itself. Less than 9 months later, President Johnson asked Congress for additional support of the war in Vietnam. He sought $700 million to increase the number of American troops in South Vietnam and expressly informed Congress he would regard a vote for the appropriation as a vote of approval for his policy in Indochina. Need I add that Congress approved the money by an almost unanimous vote?

A year afterward, in 1966, President Johnson submitted a whopping $133 billion supplemental appropriation request meant mainly to fund the cost of continued military operations in Indochina. The bills implementing his request became the focus for a full national debate complete with televised hearings by the Foreign Relations Committee on the proper American policy for Southeast Asia. Congress concluded the whole affair by approving each dollar for waging the war that the President had sought.

Mr. President, the list goes on and on. I could detail at least 24 statutes in which Congress has specifically spoken of Vietnam over the past two decades and has authorized the conduct of that campaign. These collaborations enacted after full and open debate, placed Congress knowingly and foursquare behind U.S. military operations in Southeast Asia. These actions were taken thoughtfully and after a full explanation of what the implications were. None can now claim innocence of what he was voting about.

Mr. President, there is simply no basis for the excuse that Congress did not know about and did not involve itself with United States policy toward Indochina. The Vietnam experience in no way gives rise to a change in the constitutional arrangement by which the Executive and Congress now share in decisions of basic military policy. The fundamental justification for the war powers bill explodes upon close inspection.

This measure stands upon no more than the flimsy need of emotionalism. It is riding the crest of a temporary wave of public longing for peace and calm, while the truth is that nearly every politician and newsman who hoists the banner of "no more Vietnams" has personally known of or been involved in all the currents of national policy with regard to Southeast Asia from the late 1940's to date.

The real story is that Presidents and their Cabinet members have historically spent an enormous amount of time working with Congress and striving to put the two branches in unison. It would be folly to alter this longstanding constitutional practice by a mere statute. Even more, it would be a falsehood to use the tragedy of Vietnam as the fulcrum of a contest with the President by a Congress which was wholly involved in the policies it now questions.

In fact, Mr. President, in testifying before the committee, I recognized the questions that had arisen in the minds of the American people and the questions that have arisen in the minds of Members of Congress relative to the power of the President in taking our country to war and the power of the President in taking our country into peace. I said at the time that even though I would probably vote against any such amendment, I would welcome the chance to allow the American people to vote on this constitutional matter through their State legislatures. I did not like to see it pursued through the legislative paths, because we can make mistakes that we will regret later.

I have no quarrel with the sincerity and the depth of feeling of the people who have introduced this measure. I would prefer to see it take the constitutional amendment route, so that Americans across this land could decide over an unhurried period of time whether it would be wiser to have 500 Members of Congress decide about war in moments of grave threat or to have one man, with his staff, make the decisions involved and judgment about the necessity for defensive action.

A short while before his death, Dean Acheson confided to me his impressions about the war powers legislation then pending before the Senate Foreign Relations Committee. I will read his words now because they bear directly on the division of powers between the President and Congress and contain a lasting message for an improvident legislature.

Mr. Acheson writes:

> If the President and the Congress are to assume attitudes of hostility, the nation in this modern world will be subject to grave perils. The separation of powers is not based upon the premise of their fundamental hostility. Criticism and restraint are contemplated in the workings of the system, and can be accomplished. The present legislative proposals do not seem to me to provide for this, but, instead, by setting up a series of rigid rules, to limit the powers of the President beyond safety and to give the Congress, by inaction, what the Constitution never contemplated, a veto upon executive action.

I might add, Mr. President, that when I started the study—in which I have been engaged, together with Mr. Terry Emerson of my staff, over the past 3 years—into this very interesting and very deep field, I wrote to every Cabinet member I could recall, every influential man who advised Presidents, both Democrat and Republican, on these matters and I have never received a letter from any of them that indicated that they thought the legislative process was a wise process. In fact, I cannot recall precisely, but I do not believe any of them even advocated the changing of the war powers of the President as granted to him by the Constitution.

Mr. President, Congress does not need new legislation to give it a place in the political command centers. It already has a very forceful and effective policy-making position. Through its power of the purse, Congress has basic control over the size and strength of the military sinews with which the President can wage war.

I point out, Mr. President, that in recent years Congress has, for example, enacted legislation that placed the decision as to the size of the military directly upon the military affairs committees of both Houses as the final judgment of Congress. In addition, Congress can grant or withhold a multitude of emergency powers bearing on foreign trade and the distribution of strategic materials and other economic elements that comprise the Nation's defense machinery. Members of Congress also enjoy a prominent public forum from which they can immediately and easily gain the ear of a free press and reach the American people directly with alternatives to Executive policies. Moreover, Congress can reject treaties or resolutions with defense implications.

These are the channels through which Congress is intended to exercise its very important share of the national war powers. These are the processes by which the Constitution invests Congress with a means for coequal participation in deciding questions of war and peace.

Whenever a President wages war in protection of American rights and freedoms, he does so only with the military forces and equipment that Congress has furnished him. He will not and cannot continue a war, secretly or for long, without the ultimate collaboration of Congress in the form of appropriations and perhaps an extension of the draft. That the President can begin defensive measures whenever necessary without the advance approval of Congress is one of the risks which the Nation must assume in order to survive in an imperfect world. In the highly complex society of the 20th century, when the domination of an ocean strait, or control of a critical resource, by one country might place that nation in a position of exclusive superiority from which it can dictate terms to all others, the President must be able to use his judgment in determining whether or not a present situation requires action now, because it might develop into an irremovable threat later if it is left unchallenged. As one well-known constitutional lawyer, Bernard Schwartz, has put it:

> A Constitution which did not permit the Commander in Chief to order belligerent acts whenever they are deemed necessary to defend the interests of the nation, would be less an instrument intended to endure through the ages, than a suicide pact.

I inject here, Mr. President, that as of this moment, the President is faced with a decision which he either has to make or not make, as to the issue of enlargement of the war in North Vietnam, where the Vietnamese have violated the agreement that she made with us relative to a cessation of bombing several years ago, where the North Vietnamese are now using the thousands of trucks we know she has had stored up there, where she is using more and more modern equipment, and where she is advancing her surface-to-air missile sites to the point that they will become dangerous to our B–52's.

I frankly think that the President is going to have to make up his mind—and soon—whether we will continue to sort of dilly-dally in the bombing of supplies once they have started down, or whether we will go in after the source of the supplies, which would be in the northern part of Vietnam, probably south of Hanoi, but I would not exclude the harbor or Haiphong.

With this background, Mr. President, I do not believe that Congress can change an arrangement which is so firmly structured into the Constitution by now legislating, in effect, that Congress shall not be deemed to know what it is doing when it appropriates money, or approves a treaty, or adopts an area resolution. The Members of Congress are grown men, wise in the ways of government, and we must be held responsible for our own actions. The Constitution itself has provided the means by which Congress and the President shall share in the important decisions of war and peace and Congress cannot substitute a different process by legislative flat.

Mr. President, I believe that the pending proposal is not only totally impractical in the context of the real world; it is unconstitutional as well. It may be that the legislation has received a great deal of attention, but it has received it from the wrong committee. For the fundamental issue is whether or not a constitutional amendment is the only means by which Congress can enumerate in advance the sole circumstances in which the President will have authority to use the armed forces abroad. This question is one which should rightly be considered by the only standing committee assigned the task of treating constitutional amendments, the Committee on the Judiciary.

In this, the Senate would conform to the method chosen by the legal profession itself, which is currently undertaking a major study of the "declaration of war" clause and the entire war powers issue. On February 5, at New Orleans, the American Bar Association opened public hearings on a planned year-long examination of the constitutional allotment of war powers. Which leads me to ask, if lawyers themselves cannot reach a collective position on the distribution of war powers without examining the Constitution more fully, can we responsibly decide on the same matter without additional study of our own?

I might point out that the Standing Rules of the Senate are clear on what the different committees should have as their responsibilities. One might think that this could be sent to the Committee on Armed Services—

> to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. Common defense generally.
> 2. The Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force generally.
> 3. Soldiers' and sailors' homes.
> 4. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces.
> 5. Selective service.
> 6. Size and composition of the Army, Navy, and Air Force.
> 7. Forts, arsenals, military reservations, and navy yards.
> 8. Ammuniton depots.
> 9. Maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone.
> 10. Conservation, development, and use of naval petroleum and oil shale reserves.
> 11. Strategic and critical materials necessary for the common defense.
> 12. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

Mr. President, I suggest that from this language legislation of this kind might be sent to the Committee on Armed Services. But as a member of that committee, I would think it very unreasonable for us to consider such legislation.

Then we think of the Committee on Foreign Relations which, under the Standing Rules of the Senate, has responsibilities—

> to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. Relations of the United States with foreign nations generally.
> 2. Treaties.
> 3. Establishment of boundary lines between the United States and foreign nations.
> 4. Protection of American citizens abroad and expatriation.
> 5. Neutrality.

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6. International conferences and congresses.
7. The American National Red Cross.
8. Intervention abroad and declarations of war.
9. Measures relating to the diplomatic service.
10. Acquistion of land and buildings for embassies and legations in foreign countries.
11. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
12. United Nations Organization and international financial and monetary organizations.
13. Foreign loans.

So here, with 13 areas of responsibility, only reason No. 8, "intervention abroad and declarations of war," might be reason to send this bill to the Committee on Foreign Relations.

I would disagree with that, however, because only the President can command our Armed Forces. I repeat, only the President. I say this from the vantage point of history. Indeed, out of the 201 hostilities in which American troops have been used abroad in defense of our liberties and interests in the world, there have been only five declarations of war, and two of those were in the same war.

Let us turn now to the Committee on the Judiciary which, I feel, is the committee that should really hear this matter.

The rules of the Senate provide:

(1) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Judicial proceedings, civil and criminal, generally.
2. Constitutional amendments.
3. Federal courts and judges.
4. Local courts in the territories and possessions.
5. Revision and codification of the statutes of the United States.
6. National penitentiaries.
7. Protection of trade and commerce against unlawful restraints and monopolies.
8. Holidays and celebrations.
9. Bankruptcy, mutiny, espionage, and counterfeiting.
10. State and territorial boundary lines.
11. Meetings of Congress, attendance of Members, and their acceptance of incompatible offices.
12. Civil liberties.
13. Patents, copyrights, and trademarks.
14. Patent Office.
15. Immigration and naturalization.
16. Apportionment of Representatives.
17. Measures relating to claims against the United States.
18. Interstate compacts generally.

Mr. President, it has been customary in the years in which I have served in the Senate to refer legislation that would have a bearing upon amending the Constitution to the Judiciary Committee. I hate to see us begin to proliferate the assignments of each committee. For example, I think it would be ridiculous to have the Armed Services Committee start to concern itself with foreign relation problems or with economic problems any more than it has to in the consideration of funds requested.

Mr. President, as the action by the American Bar Association in deciding to review war powers proves, the war powers issue is fraught with legal questions. And yet the Foreign Relations Committee has heard from only two professors of law, one of whom, Prof. John Norton Moore, has since written to me that he believes it is more important than ever to more adequately explore the constitutional issues. His letter, dated February 28, reads:

It would seem appropriate in view of the substantiality of the Constitutional issues involved to encourage the Senate Judiciary Committee, and perhaps the House as well, to hold careful and balanced hearings on the new proposal and not to have the bill passed precipitously.

These are wise words, Mr. President, which the Senate would be prudent to heed. They bear out the reason why the Senate should approve a motion for referral of the war-powers bill to the Judiciary Committee, a motion which I will support.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in yesterday's Washington Evening Star entitled "The War-Powers Debate."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WAR-POWERS DEBATE

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers to a specified period of time.

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. JAVITS. Mr. President, I think it will be valuable to Senators if there is an immediate juxtaposition of the speech of the Senator from Arizona and my reply in respect to this measure.

I have listened very carefully to his analysis of the problem as he sees it and to what he thinks ought to be done; namely, to kill the bill by sending it to the Judiciary Committee for review. Those are not my words. Those are the words of the distinguished majority leader who, when speaking of referral to the Judiciary Committee, called it the graveyard in this context.

However, that matter aside, I think it is much more helpful to the Senate in a debate such as this if the issue is joined. Mr. President, I would like to join issue with the Senator from Arizona on the question as he sees it. These are his words, as I copied them: "whether it would be wise to have 500 men in Congress make the decision about war or to have one man with a staff make that decision."

Mr. President, these are the words of the Senator as closely as I heard him. He then later added:

Only the President can commit our Armed Forces.

He made reference to the fact that the Congress could pass declarations of war every 10 minutes or every half hour, I think he said, but only the President could commit our Armed Forces.

Mr. President, this is not that kind of a country yet, thank God, and that is not the Constitution unless the Senator from Arizona (Mr. GOLDWATER) can amend it. And I doubt very much that the overwhelming majority of the American people would want to live in a country in which the power of decision over the life and death of all the citizens would be in the hands of one man and his staff, no matter how beneficent.

Mr. President, this contention defies the Constitution itself which, in plain language, gives the power to declare war only to Congress, as it gives the power to execute that decision to the Commander in Chief of the Armed Forces, who is the President. That is a far cry from one man; namely, the President, making the decisions about war and one man being the only person who could commit our Armed Forces.

Mr. President, this immediately raises the question: Suppose war was declared on a resolution of the Congress and the President refused to commit our Armed Forces. What then? Would the United States go down to destruction because one man does not want to do, perhaps willfully, his duty? I doubt very much that anyone would contend that.

Additionally, have we not advanced at all in the world in terms of the experience which we have gained from the subtleties with which war comes upon us now and the rather evident way in which war came upon us in other days?

Mr. President, the bill has been introduced as a result of what we have learned in past efforts to meet this situation. The Evening Star of yesterday published an editorial. The Evening Star may not like the bill. However, a lot of other newspapers do, including some of the most respected in the country, including the New York Times, the Washington Post, and many others. The Senator from Kentucky (Mr. COOPER) was kind enough earlier today to place in the RECORD quite a few editorials from a wide variety of publications in support of the measure.

I would like to read, although I have read it before, because it is so pertinent, with respect to whether it should be the 500 men in Congress who would make the decision or one man with a staff who would make the decision, the words Abraham Lincoln, who as a member of the Congress said in connection with the Mexican War in 1848:

The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

Mr. President, on this issue I take my stand with Abraham Lincoln.

There are circumstances, as we have recognized in this bill, where the celerity of a decision is absolutely imperative for the security of the Nation.

The bill providently takes care that the President may have his full constitutional power. This is not a constitutional change, but it exercises the authority Congress has to make the necessary laws to implement constitutional power by codifying the methodology, the procedure, which will be engaged, when we face the kind of situation in which the President has to act, and we want him to act. This is contained in sections 3(1), 3(2) and 3(3) which codify the implied "emergency" powers of the President. Then, there is an opportunity for the representatives of the people, the House and the Senate, to join and determine whether they come to the same conclusion, in the exercise of their own enumerated constitutional war powers.

There is a very significant point respecting this bill in the testimony of Prof. Alexander Bickel of Yale Law School, who testified strongly as to the constitutionality of this bill, in discussing just such a situation as Vietnam, which the Senator from Arizona (Mr. GOLDWATER) discussed, and which was discussed in committee. We wanted to know how does there come about a quantitative change in the action taken by the President. We confirm in this bill constitutional authority to take action in the event of sudden attack. Debates in the Constitutional Convention and other subsequent holdings use that wording. We confirm that power.

At what point does the state of affairs which flows from sudden attack become war? Professor Bickel explains that most admirably in one sentence which is quoted on page 16 of the committee report. He said:

But there comes a point when a difference of degree achieves the magnitude of a difference in kind.

That is the pivot of the issue. What happens when the President, as Commander in Chief, "repels a sudden attack" and that leads us into war, triggering the war powers of Congress? The Constitution, characteristically, is silent. So we have chosen the 30-day test in that regard. We have no illusions that that is a perfect answer but we believe that it is the best that a group of men, the sponsors and the members of the Committee on Foreign Relations, could develop as a test of automacity, when a question of degree has brought about a change in kind, and we are no longer "repelling a sudden attack" but we are faced with a war.

At that moment the Congress, as provided by the Constitution, becomes the body whose decision is necessary to commit this Nation to what has become an emergency of a different kind, to wit, an emergency of war. I refer to the powers of Congress in general; it is the President who has the specific power as Commander in Chief. We have shown by research what the Continental Congress defined the role of the Commander in Chief and his relation to Congress, to wit, one in command of the forces, but subject to the orders of Congress.

But, Mr. President, that is all you have. The President is Commander in Chief. He has no general authority beyond that, but Congress does, and Congress has the general authority, in article I, section 8 of the Constitution—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

That includes the President of the United States.

So it is Congress which would proceed in this matter with authoritative constitutional power, rather than the President. The President is being deprived of nothing. If anything, he is being confirmed in powers which are at most implied by his designation as Commander in Chief.

It is very interesting to me that the main citation which the Senator from Arizona chose to make is a citation from former Secretary of State Dean Acheson. We are not speaking of respect for or derogation of the reputation of Dean Acheson. I happen to admire him. He was a great American and I have nothing but words of praise for him. But this goes beyond that and it goes to the outlook of an individual on government. I have the utmost regard and respect for him, but that does not mean we cannot differ on this deeply critical issue.

So if the Senator from Arizona chooses to quote Dean Acheson it is very important to get an idea of what Dean Acheson thinks about the powers of the President. This is what he said in 1951 when he was supporting President Truman's plan to station six divisions of American troops in Europe:

Not only has the President authority to use the armed forces in carrying out a broad foreign policy of the United States in implementing treaties, but it is equally clear this authority may not be interfered with by Congress in the excercise of powers it has under the Constitution.

What does that leave us? Nothing. He does not need even a declaration of war, a threat of danger, or attack. He needs nothing, in the view of Dean Acheson.

If in pursuit of the "foreign policy" of the United States we should be committed to a nuclear attack against the Soviet Union, that is fine, he said, and Congress would have no power to stop him, let alone launch him on his way.

If that is the authority against the bill, it is a mighty good bill, because I doubt there are many in this Nation who would take that kind of extreme position on the President's authority as then Secretary of State Acheson did.

McGeorge Bundy and George Reedy testified with great approval respecting this measure. Indeed, George Reedy appeared on television and engaged in debate, in which I also participated, to sustain this position. So we come to one final point which I think it is right to deal with.

I come to the final point the Senator from Arizona referred to and that is whether or not the route for Congress is not the appropriations route; and utilizing the Vietnam war as an example, whether this is not, as the editorial in the Star stated, which the Senator from Arizona quoted, "a document grounded firmly on historical hindsight."

The difficulty with the appropriations route has been demonstrated very clearly, exactly in this Vietnam war. In the first place, does not this counsel to rely only on an appropriations cutoff assail reason, elementary reason? You have in the Constitution the provision that Congress shall declare war? Leave everything else out.

An action of retaliation against an alleged attack on an American destroyer took place in an afternoon and resulted in the Gulf of Tonkin resolution. The

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sequel to that is what? It is 8 years of war, 50,000-plus deaths, almost 300,000 war casualties, over $100 billion in treasure. Mr. President, what is war? Are we so blind we cannot see it? Or will we permit our judgment to be obfuscated by our unwillingness to accept responsibility?

That is what is at stake, Mr. President. That is what was at stake in the Gulf of Tonkin resolution, and that is what is at stake in this bill. Will we jointly with the President undertake to make this awful decision, or will we shunt it off to him, as we did in the Gulf of Tonkin matter?

I plead no lack of understanding then, and I knew what I was doing in respect to the Gulf of Tonkin resolution. I knew so well what I was doing that I do not want it to happen again. Is that a denial or an affirmance of human intelligence? Experience taught me that I do not want it to happen again. So I do not have hindsight; I have futuresight. That is one trap I do not ever want to fall into again. We know now the danger involved in our acting on the theory that we would take some retaliation for an attack on the United States, without having 30 days even to find out if there really had been an attack, but moving down into a retaliatory action. Fine. That is the President's power. He did not need us to repel an attack on our forces. But then, Mr. President, there is war, and war, and war. And yet we are told we have no authority, let alone to launch into it, to stop him when he has launched into it, except to cut off money.

All right—let us examine that. We have the best experience in the world on it. The Senator from Montana (Mr. MANSFIELD), with all the prestige in the world, proposes the Mansfield amendment in a money bill in the Senate, and he cannot get to first base on it. Why? Because at that point the issue is all tangled up. Are we going to support our men in the field? This money is not only for men in the field; it also goes for camps and post stations everywhere else. Are we going to bring this American democracy to a halt by denying the President moneys while we are in the middle of a war, and let him look like a fool in the eyes of the world?

Are we impotent? If we cannot do it through the money route for reasons we consider good and sufficient, are we tied to some shibboleth that the President is likened to the divine rule of kings? He would be the first man to deny it and lay down his life to deny it. I know it. That is a very important precedent in modern times. And yet that is the argument that is made against this bill.

One final thing, Mr. President. I would not vote for a constitutional amendment which says what this bill says. That is what the Senator from Arizona (Mr. GOLDWATER) recommends. I thoroughly disagree. I would vote against it, and I would fight against it, because it would then be too rigidly imbedded and not easily subject to adjustment as experience may indicate. That is exactly why we should not do it as a constitutional amendment, and why, rather, we should do it as a statute.

The draft that we are proposing to the Senate is not a constitutional amendment; it is a law, because it is a method we are trying to develop, not any basic change in the constitutional authority and the constitutional power of the United States. A method—we believe this is a good method. We believe it is an excellent method, the best we have been able to devise. We believe that method is necessary considering the exigencies which we have faced and are facing today, with hundreds of "tripwires" placed all over the world where we are, possibly, allowing ourselves to be involved.

A law is all this requires, and nothing else—a law with which we can again have experience in history and a law which we can change or repeal if we do not think it fills the bill, but certainly not to imbed this methodology in the Constitution of the United States, which, in our judgment, shows ample ability to absorb the methodology which we are proposing here to the Senate.

Mr. President, I think this speech of Senator GOLDWATER can fairly be considered, in view of the distinction of the Senator from Arizona (Mr. GOLDWATER) as a Senator of long-standing and as a former presidential candidate of my party, as a very authoritative statement of the case against this measure. It makes a presentation of the case which I think joins the issue, on practically everything I have heard, very accurately, and I deeply believe that it proves rather than disproves the urgent need for this legislation.

Finally, Mr. President, there is the matter of reference to the Judiciary Committee on the ground that the Judiciary Committee deals with constitutional questions. The Judiciary Committee deals with constitutional amendments, but it is by no means the exclusive body to deal with constitutional questions. If it were the only one to deal with constitutional questions, then we might as well eliminate at least half of the jurisdiction of every other committee around here.

Mr. President, can you fancy the Finance Committee agreeing that only the Judiciary Committee handled constitutional questions and that all such questions should be referred to it before anybody could act around here? What about one committee which deals with labor? We are dealing there right now with a law which will endeavor, at long last, to introduce some element of legislation into national emergency strikes. There is a hot issue of constitutionality there. When President Truman ordered strikers back on the railroads and we passed a law, did that come out of the Judiciary Committee? And how many bills do we have—probably some on the calendar right now—involving constitutional questions that will be contested under the Constitution?

We had a measure here about a year or so ago, which I argued for very strongly, relating to the Philadelphia plan to give minorities in the construction industry an opportunity to be enlisted in the work process in the building trades. There was a very deep constitutional question there. The Attorney General of the United States and the Comptroller of the United States took exactly opposite views on that question, and the Supreme Court ultimately decided it. Did we stop and send it to the Judiciary Committee? Of course we did not, because the Judiciary Committee has no exclusivity whatsoever in respect to constitutional questions, as distinguished from constitutional amendments. Every committee in the Senate which proposes legislation would properly feel itself threatened and capable of being overridden by what might be for the time being the opinion of the Judiciary Committee as to whether a particular measure was constitutional.

So, Mr. President, that has not been our practice, it has not been our precedent, and it should not be, and it is not imbedded in any way in the powers that are assigned to the respective committees. As a matter of fact, the only specific jurisdiction which relates to this particular question is the jurisdiction of the Foreign Relations Committee. The Senator from Arizona (Mr. GOLDWATER) himself read it. The definition is very clear on that score, and the Foreign Relations Committee, and the Foreign Relations Committee alone, is given jurisdiction. It could not be more specific if we considered that. Item 8 in its jurisdictional provisions under the Standing Rules of the Senate is "Intervention abroad and declarations of war." Intervention abroad—that is what this bill is all about. Intervention abroad when we send forces abroad. Intervention abroad when we engage in hostilities abroad. That is specific. It is not general—it is in so many words the jurisdiction of the Foreign Relations Committee.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. JAVITS. I yield.

Mr. GOLDWATER. If the rules of the Senate as read by the Senator, under paragraph 8, mean that this country could not go to war or declare war without the consent of Congress, what, in effect, does that do to the warmaking powers of the President as outlined in the Constitution under the Commander in Chief language?

I know that the bill will permit the President, in the protection of our country and our people from foreign threats, to commit troops in some emergencies, but within 30 days Congress can decide that he is wrong and order him to stop. I can see here a complete tieup in at least 17 treaties that we have exercised with the NATO countries, that specifically call us to act in mutual defense. The others do not too much concern me, but are we not leaving the whole subject of the defense of this country and the defense of our people pretty much in limbo when we say to the President, "Fine, you can send troops, but within 30 days we might tell you to bring them back"?

Frankly, if I were an enemy I would like to see that a part of our law.

Mr. JAVITS. Mr. President, I think there are two questions wrapped up in this issue. One is the question as to the power of the Foreign Relations Committee, and the other is as to the substantive provisions of this bill. I should like to answer each separately.

As to the Foreign Relations Committee, the provision here regarding its authority

does not in any way create any new authority under the Constitution or even under law. It says that insofar as we have before us measures dealing with intervention abroad and declarations of war, they will go to the Committee on Foreign Relations. That is all I contended. I did not contend that this measure gave any power—it could not—to the Foreign Relations Committee to do something which was permitted by law outside of this assignment of authority, any more than the assignment of authority to the Committee on the Judiciary over constitutional amendments gives it the power to make or unmake a constitutional amendment. Of course it does not. So I lay that question aside.

As to the substantive question, I think the issue is very clear between the Senator and myself. It is my view, as sponsor of this measure, and that of others who are interested, that after 30 days a reaction by the Commander in Chief has become a war, and there can be no war without Congress' intercession, so it becomes the duty of the Commander in Chief to bring the troops back—with the greatest concern for their preservation and protection—and to effect the process of withdrawal if the Congress has not authorized a continuation. That is what we are talking about.

As to treaties, the Senator raised the question of the NATO and other treaties. Under all the treaties we can move to war or to hostilities only pursuant to our constitutional processes.

The State Department, not once but on many occasions reiterated that it does not construe Section 5 of the NATO treaty as exempting the authority of the United States to engage in hostilities to be free from constitutional processes. That is, it must be according to our constitutional processes. That is their own construction.

I ask unanimous consent that the construction of the State Department in that particular matter, as most recently supplied, be printed in the RECORD at this point.

There being no objection, the State Department construction was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF LAW

Subject: Procedures for Implementing the Commitments Contained in the North Atlantic Treaty

In the course of hearings held on February 1, 1972, before the Senate Committee on Foreign Relations concerning the recently concluded agreements relating to facilities for the stationing of United States forces in the Azores and Bahrain, a question was raised concerning the extent to which the commitments undertaken by the United States in the North Atlantic Treaty, particularly those contained in Articles 3 and 5, are self-executing. We understand the issue to be the extent to which these commitments may be implemented by the President, without further action by the Congress. This question is considered in the light of the executive agreement with Portugal relating to the Azores facilities.

I. IMPLEMENTATION OF NORTH ATLANTIC TREATY COMMITMENTS

Article 11 of the North Atlantic Treaty expressly provides that the decisions concerning the means by which particular treaty provisions are given effect by this country are to be made in accordance with the constitutional processes of the parties. With respect to each category of implementing action, therefore, the question of procedure must be answered in accordance with United States constitutional procedure.

Article 5. This is the operative article of the North Atlantic Treaty. It provides:

"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

"Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security."

No action to implement the commitments undertaken pursuant to this article is required unless and until the condition requiring such action comes into being—an armed attack against one of the parties in Europe or North America. If this condition is fulfilled, the Treaty obligates each member to assist the party attacked. Such assistance is to be rendered individually and in concert. The nature of the assistance however, is not specified, and is left expressly to the discretion of the parties themselves, to be undertaken, as provided in Article 11, in accordance with their respective constitutional processes.

Various types of assistance may be envisioned. At the very lowest level, the United States could make diplomatic representations and issue statements condemning the attack. At a somewhat higher level of response, the United States could furnish arms and other material assistance to the party attacked. At the highest level, the United States could employ its own armed forces against the aggressor. The extent to which any of these actions would be undertaken by the President alone or would require Congressional authorization or approval would depend upon the respective powers of the President and the Congress under the Constitution.

As the Committee stated in its report to the Congress recommending approval of the North Atlantic Treaty:

"Article 5 records what is a fact, namely, that an armed attack within the meaning of the treaty would in the present-day world constitute an attack upon the entire community comprising the parties to the treaty, including the United States. Accordingly, the President and Congress, each within their sphere of assigned constitutional responsibilities, would be expected to take all action necessary and appropriate to protect the United States against the consequences and dangers of an armed attack committed against any party to the treaty. The committee does not believe it appropriate in this report to undertake to define the authority of the President to use the armed forces. Nothing in the treaty, however, including the provision that an attack against one shall be considered an attack against all, increases or decreases the constitutional powers of either the President or the Congress or changes the relationship between them." Senate Executive Report No. 8, 81st Congress, 1st Session, p. 14.

Speaking more generally concerning this question, the committee stated that:

"The committee wishes to emphasize the fact that the protective clause 'in accordance with their respective constitutional processes' was placed in article 11 in order to leave no doubt that it applies not only to article 5, for example, but to every provision in the treaty. The safeguard is thus all-inclusive.

The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander-in-Chief of the armed forces or impair the full authority of Congress to declare war.

"Except for the proposed foreign military assistance program, no legislation related to the treaty is presently contemplated or considered necessary. The treaty would constitute legislative authorization for our share of the expenses of the organization contemplated in article 9, but appropriations by Congress would be necessary. As the United States representatives on the council and the defense committee will have no authority to bind the United States Government, the committee believes that officials previously appointed with the confirmation of the Senate will not require further confirmation for these assignments." Senate Executive Report No. 8, 81st Congress, 1st Session, pp. 18–19.

It will be observed from the statement in the first two of the above-quoted paragraphs that the treaty does not enlarge or impair any constitutional powers of either the President or the Congress. The third paragraph recognizes that application of the Treaty requires the exercise of some of the Constitutional powers of the Congress, particularly by the enactment of legislation. It necessarily follows that the President is also required to exercise his Constitutional powers in the application of the Treaty. The powers of neither branch of the Government are changed but implementation of the Treaty may necessarily involve actions by each within the sphere of its authority that would not be taken in the absence of the requirements of the Treaty.

Article 3. Although the basic "security commitment" provision of the North Atlantic Treaty is contained in Article 5, Article 3 is of great significance also. It provides:

"In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack."

The actions taken pursuant to Article 3 must be taken, like those under Article 5, in accordance with the constitutional procedures of the parties. From the standpoint of the United States, the procedures to be followed depend upon the actions to be taken. They may involve the constitutional powers of both the President and the Congress. Certain joint arrangements undertaken pursuant to Article 3 can only be concluded by treaty, with the advice and consent of the Senate; the principal example of action of this type is the NATO Status of Forces Agreement (TIAS 2846), which contains various provisions altering federal and state legislation with respect to members of the armed forces of other NATO members who are stationed in the United States from time to time in connection with NATO affairs.

Other agreements, including agreements relating to the stationing of American forces in other countries, have traditionally been made by executive agreement. Such agreements effect no change in federal or state law; to the extent that they require authorizing legislation or appropriations to implement them, the agreements are made subject to the enactment of such legislation by the Congress. In every case, however, the necessary authorizing legislation has already been in existence, subject, of course, to the power in Congress to amend or repeal it. The United States has concluded executive agreements with every NATO country except

Norway concerning the stationing of United States forces.

II. THE AZORES AGREEMENT

Under the terms of the letters signed by the Secretary of State on December 9, 1971, relating to assistance and credits for Portugal, the United States agrees, subject to the limitations of authorizing and appropriating legislation, to furnish certain grant assistance and certain credit opportunities to Portugal. Pursuant to the exchange of notes relating to facilities in the Azores, which was signed the same day, Portugal agrees to continue, in accordance with the Defense Agreement of 1951, to make facilities in the Azores available for the stationing of United States forces. The agreement does not differ significantly from other executive agreements concluded over a period of thirty years with other countries both before and after the conclusion of the North Atlantic Treaty. The agreement does not require the stationing of United States forces in the Azores, although it contemplates that they will be stationed there; the decision regarding stationing is made by the President, pursuant to his power as Commander-in-Chief of the military forces of the United States.

The legal authority for the conclusion of the Azores agreement consists of (1) the existing legislation pursuant to which the President is given the authority, subject to appropriations, to provide assistance to foreign countries, (2) the power of the President, as Commander-in-Chief, to arrange for the stationing of United States forces in accordance with the requirements of national security, and (3) the North Atlantic Treaty.

Under Article 3 of the North Atlantic Treaty, we have agreed to develop our individual and collective capacity to resist armed attack; where it appears that this purpose and the security of alliance members can be strengthened by the stationing of United States forces on the territory of another country, the President, in his capacity as Commander-in-Chief, has the power to carry out the Treaty by such a stationing of forces.

In the case of the Azores agreement, the Executive determined that nothing in the substance of the agreement imposed a legal or constitutional requirement that the agreement be submitted to the Senate for approval; thus, it could legally be concluded as an executive agreement. The Department further concluded that no other factors dictated the use of the treaty process for this agreement. Basing arrangements of this type have always been handled by executive agreement. The Azores agreement contains absolutely no new commitments to Portugal; it neither expands nor reduces the commitments undertaken to that country in the North Atlantic Treaty.

CARL F. SALANS,
Deputy Legal Adviser.

Mr. JAVITS. Now, Mr. President, the question is, what are constitutional processes? We argue—and I think this is something that they themselves have said during the argument—that the constitutional processes include whatever powers the Constitution grants to Congress and to the President. So what we say, and I think we are eminently correct, is that we in Congress may define—this is the first time any effort has been made to define them—the constitutional processes, because we have the power under the Constitution to make precisely that definition. That is why I read the "necessary and proper" clause.

The President does not have the power to define what shall be a constitutional process, Congress does.

So, to sum up my answer to the Senator's question, it is precisely the effort to assert that "constitutional process" is defined to include action by Congress that we have introduced this measure and brought it before the Senate.

Incidentally, the Southeast Asia Treaty Organization is conditioned precisely the same way, that we shall carry out our intervention, in the event we choose to intervene with force, through our constitutional processes.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Certainly. I yield for anything. If I may say to the Senator, I think he is doing exactly the right thing, and I hope he can exhaust us, as it were, and that any conceivable question that he can think of that he would like us to try to answer, it is our duty to try to respond.

Mr. GOLDWATER. I will do my best.

Mr. JAVITS. I know that.

Mr. GOLDWATER. What would be the situation if the President decided that he had to send military forces to "X" area of the world, and he conferred, as he usually does in major matters, with the leadership of Congress, and Congress agreed that they would entertain a declaration of war, and a declaration was made? Would the 30-day clause apply?

Mr. JAVITS. No. The bill says specifically "in the absence of a declaration of war."

Mr. GOLDWATER. All right. Just to touch briefly on one of the reasons that I advance for sending this measure to the Committee on the Judiciary—and Senators far better equipped than I to argue law can argue this question—is that the Judiciary Committee deals with proposals that require a constitutional amendment to modify law, and it seems to me that is precisely what the Senator's bill is attempting to do, first, by trying to analyze what is meant by constitutional processes—and I must say I think that matter has been exhaustively gone into—and, second, to codify and clarify the language we often hear used, that under the Constitution it is the power of Congress to raise and support armies, navies, et cetera, and to provide rules, and so forth and so on.

I think the Senator is doing a good thing in trying to clear that matter up, because I think too many people in this country are confused—and this includes law students and great students of military history—about what the language in the Constitution really means. That is why I told the Senator in the committee meeting that while I would prefer the amendment route, I would join him in opposing it and voting against it, but on a different basis.

I do not think we should tamper with these powers the way they are. I fully understand the feelings of the American people and the feelings of the people who have backed this bill that something has to be done. I do not believe any change is needed, myself, but I welcome the opportunity to explore with both proponents and opponents of this measure the full ramifications of what we are getting into, and I welcome the invitation of the Senator from New York to enter in at any time. I certainly will, and I look forward to it.

Mr. JAVITS. Mr. President, may I say in reply that the words of authority or jurisdiction of the Committee on the Judiciary in item 5, "revision and codification of the statutes of the United States," are words of art. We have had commissions on revision and codification of the laws. They mean, as words of art, the compilation of the statutes, really, or laws dealing with the compilation of the statutes. They do not mean original substantive law on every conceivable case or question before Congress, which is what the Senator would imply, nor do they give the committee the executive authority to deal with the "necessary and proper" clause of the Constitution. Every committee has that as to the matters which are committed to its care, and in this particular case the Foreign Relations Committee, in the power to deal with "intervention abroad and declarations of war."

So I really do not think that that in any way changes the absolute provisions of the standing rules of the Senate.

May I say, too, that the report on NATO to which I referred, is a memorandum of law prepared by the Department of State, entitled "Procedures for Implementing the Commitments Contained in the North Atlantic Treaty," it quotes with approval the Senate Executive Report No. 8, 81st Congress, first session, which was the committee report on the NATO Treaty, saying:

> The committee wishes to emphasize the fact that the protective clause "in accordance with their respective constitutional processes" is placed in Article XI in order to leave no doubt that it applies not only to Article V, for example, but to every provision in the treaty. The safeguard is thus all inclusive.

This was treated as a safeguard because, as the committee viewed it, and as the Senate viewed it, it referred to the intercession of Congress in respect of the utilization of the forces of the United States in order to make good on the responsibilities which we undertook in the NATO Treaty.

Mr. President, so far as I am concerned, this has been a very helpful interchange in highlighting the main objections of the opponents of the proposed legislation and our replies thereto. I welcome the debate, as I explained to Senator GOLDWATER. We have had this exchange before, in the committee and outside the committee, on the Senate floor. I must say that I am deeply pleased with the capability of the basic provisions of the bill to stand up to the most detailed and intensive scrutiny.

Mr. President, if no further debate is momentarily desired, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. WEICKER). Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I rise in opposition to the present form of the bill before the Senate commonly known as the War Powers Acts of 1971.

In taking up the War Powers Act, the Senate is attempting to enter an area which involves not only difficult and ambiguous constitutional considerations, but also frightening implications for the ability of this country to pursue a comprehensive, integrated foreign policy. On first reading, the bill appears rather harmless. It reflects on face value the desire for the Congress to reassert its powers in the warmaking process and calls upon the President to provide the Congress with that information necessary to make objective and sound decisions in the event of U.S. confrontations around the globe.

However, having studied the bill carefully, it is my feeling that as written not only is the bill's constitutionality in doubt in many areas, but it would virtually abrogate our 42 defense treaties around the world, severely limit our role in NATO and thereby render NATO itself much weaker in the event of a serious confrontation, would possibly deprive the President of the authority he needs to carry on a forward defense, would preclude U.S. forces from protecting U.S. nationals on the high seas, and would severely limit our credibility with our allies.

There are countless historical precedents in the attempt of Congress to put statutory limits on and codify the President's power to deploy American forces, however, each case in the past was so rampant with variables, constitutional question marks and "what if's" that passage of specific guidelines became virtually impossible, and statutory limitations of this nature have never materialized. This is what we face with the Javits proposal, and I do not feel that passage of this bill would be in the best interest of the country, even though it might be helpful in bolstering the ego of the Senate.

The experience of the Vietnam war has whetted the appetites of most Senators, myself included, for more information upon which to judge the progress of and reasons for U.S. troop involvements. Often, those of us on the Armed Services Committee find it frustrating or difficult to assess accurately the intent and purposes behind some military decisions without more extensive and immediate information upon which to base our judgments. However, I do not think that this desire for more immediate and detailed information should properly extend to statutory limits on the President's powers as Commander in Chief.

S. 2956 states that:

> It is the purpose of this Act to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities . . .

Collective judgment, in my mind, is one thing, while collective decisionmaking in a hostile confrontation requiring rapid response is quite another.

So once again, we are plunging into a mental exercise in trying to establish the intent of the framers of the Constitution.

The Constitution of the United States has served us remarkably well for nearly two centuries, primarily because of its flexibility and its ability to accommodate the requirements of a technologically advancing world. With new problems born of a world with rapid communication and nuclear power, relevant change has emerged in the role and power of the Congress in meeting pressing needs, both foreign and domestic. An example of this is a changing interpretation of the declaration-of-war authority which the Congress holds under the Constitution. One hundred years ago, the consequences of issuing a declaration of war were quite different from those today. For example, one practical reason for Congress' failure to declare war in all but four of our nearly 200 military confrontations in U.S. history is the fact that a formal declaration could call into play the active belligerence of adversaries under provisions of their treaties of which we may have no knowledge. In the Vietnam war, we did not know what secret treaties might have existed between Hanoi and Moscow or Peking. In this context, I believe that risks should be limited to what circumstances require, not enlarged to meet constitutional formalism. I am suggesting that there are perfectly adequate constitutional means for Congress to exercise this power short of a formal declaration. As Vincent Davis of the Patterson School of Diplomacy at the University of Kentucky commented:

> In one sense, the Constitution sets up an inherent conflict between the Congress and the President in matters of war and peace. It is a case of shared powers rather than separation of powers. The Congressional involvement stems from the constitutional provisions for (1) creating the armed forces, (2) declaring war, (3) the crucial "power of the purse," and (4) Senate advise-and-consent powers on treaties. But, with respect to deploying forces, the Congressional authority to "declare war" is in effect obsolete and something of a dead letter. This constitutional provision stems from an ancient American idea that war and peace are black-and-white, clearly separate circumstances, but this is seldom true. Even when the Congress did "declare war" this tended to be merely a legalistic ratification of a circumstance which already existed de facto.

Interpolating here, Mr. President, as most Members will recall, when we declared war on Japan and later on the Axis Powers in Europe, we were in fact already at war. We had been attacked by Japan. In the case of the Axis Powers, they had already declared war upon us. So we had already had that circumstance existing prior to the time Congress in fact declared war.

As all of us know, no war was ever declared insofar as Korea or Vietnam were concerned.

Is the will of the Congress any less clear, or its purpose any less certain, if it chooses to authorize hostilities or deployment in the threat of hostilities by a resolution or by adopting a series of appropriation measures specifically designed to initiate, slow, or stop a U.S. military confrontation instead of a formal declaration? I think not.

To render judgment properly, whether by informal or formal means, however, Congress should be kept fully informed as to areas of tension, problems which might arise and, in most instances where security would not be jeopardized, the proposed mechanisms by which the problem will be met.

Interpolating again, Mr. President, I would say that the State Department, the Defense Department, and the White House—regardless of who holds the White House—can greatly expand their communications with individual Members of the Senate and of the House in order to keep us up to date on what the risks really are.

The focus of attention in the course of this debate has been on the power of the President as Commander in Chief to commit American forces to hostilities without the approval of Congress. The authority of the President to commit troops in limited conflict has not gone unchallenged. Congress has confronted an exercise of the use of this alleged Executive authority more than once. President Truman's commitment of troops in response to a U.N. resolution without prior approval of, or subsequent formal ratification by, Congress led to the great debate of 1951.

President Truman had relied upon his authority as Commander in Chief and upon resolutions of the U.N. Security Council declaring that armed aggression existed in Korea and calling upon U.N. members to assist in halting that aggression. He cited the history of actions by the Commander in Chief to protect American interests abroad. He characterized the U.N. Charter as the cornerstone of our foreign relations and singled out article 39 which authorizes the Security Council to recommend action to members to meet armed aggression.

The President's opponents noted that all treaties are not self-executing and that, until implemented by Congress, non-self-executing treaties confer no new authority on the President. Article 39, it was said, was not self-executing. Article 43, which provides expressly for the commitment of troops by members in accordance with their constitutional processes, had been implemented to the extent of Congress authorizing troop agreements, but since no agreements had been entered into, it was inoperative—so went the argument. Without any added treaty authorization, the President's action must be viewed solely in terms of his basic constitutional authority, it was said, and this authority does not extend to long-term commitments of troops in numbers ranging up to 250,000.

While scholarly views were quoted on both sides of the issue, and the congressional debate raged from January to April, there was no legal resolution to the President's authority in light of the U.N. Charter or independent of it. Nevertheless, it is clear that Congress acquiesced in the President's action, and since judicial precedents are virtually nonexistent on this point, the question is one which must of necessity be decided by historical practice. Viewed in the light, congressional acquiescence in President Truman's action furnishes strong evidence that this use of his power as Com-

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mander in Chief was a proper one. If history and precedent are relevant, it appears that there is a strong case to be made for the power of the President to commit American forces abroad without the explicit permission of Congress, although that commitment may lead to war. This power is not unlimited, but it cannot be easily circumscribed or easily dismissed just because those of us in Congress are bitter about the times over the last 7 years in which we were taken by surprise or were confronted with mounting public and personal opposition to the Vietnam war.

It strikes me that it is appropriate to ask why the power of the President in the realm of foreign affairs has grown so great. Is it because Presidents are usurpers? Or is it because events have necessitated it? Do the conditions of the world allow us safely to conduct our foreign policy on the floor of Congress? Can we safely attempt to substitute our judgment for that of the President at times of immediate crisis, when circumstances are such that only he can have all the facts available and only he can promptly act?

I know there is a belief among some of my colleagues that Congress has abdicated much of its responsibility in this and other matters to the executive branch, but we should not use this bill as a vent for our frustrations—adding insult to injury as far as the constitutional process is concerned.

I would be the first to support any feasible measures which would insure the Congress more immediate information upon which to judge our decisions concerning military and foreign policy. However, as I said before, the Senate should be extremely careful not to get so carried away with having such information or with being an integral partner in formulation of our foreign and military policies that we attemp to cloak ourselves, by statute, with powers never intended to reside in the Halls of Congress.

More important, however, than the constitutionality question, is the very practical consideration of whether or not the War Powers Act would dangerously limit the ability of this country to respond, even in a limited sense, to a confrontation. And second, if we give the appearance around the world of having limited this ability, we will have snatched from our allies their ability to rely on any credible protection from the United States.

Various situations come to mind, even with the most sketchy consideration of this bill, which bring up the "what if" problems in the event of hostilities.

In the even of an attack on NATO forces, other than U.S. forces, the proposed bill would preclude action or assistance by U.S. forces. U.S. assistance would require specific congressional authorization. It can be argued that this restriction does not change anything since the Senate in giving its advice and consent to the North Atlantic Treaty never intended for the President to have the authority to involve U.S. forces in the case illustrated without further approval of the Congress.

I would suggest that is a far different interpretation than was originally implied and intended when the Senate ratified the treaty. The legislative history is clear in that the strength of the treaty rested in the collective intentions of the signatories to respond quickly as one. Otherwise there would be little purpose in banding together as one and declaring in article V, "that an armed attack against one or more of them in Europe or North Africa shall be considered an attack against them all."

The strength of the treaty is in the collective unity of the members which announces to any potential aggressor that if you attack one of us you have, in effect, attacked us all. This is the heart and power of the treaty and if the President were precluded from promptly taking those actions he felt were in the best interest of the United States and the NATO alliance the security of both would be seriously endangered.

Such restrictions as proposed by the bill would remove the option of the initiative from our commanders. It could well be, in the situation postulated, that the President would wish to consult with the Congress on a mutually agreed course of action. But it could just as well be he might not because of the time element which necessitated immediate action to forestall and preclude a far more serious situation from developing.

Again, in the NATO area, the proposed bill would preclude continuation in command by U.S. officers assigned to NATO when an attack was mounted against other than U.S. forces. This would literally devastate the entire command structure of the alliance and greatly aid any enemy. It will be difficult enough to make the command structure function in a crisis environment brought on by an attack, let alone having all U.S. personnel pack up and go home during the middle of a crisis. Would any nation or group of nations trust its security to a commander whose participation can be manipulated by the nature of a would-be adversary's attack—by an attack on NATO where no U.S. troops are positioned?

I am glad that the distinguished sponsor of the bill (Mr. JAVITS) has indicated he would sponsor and introduce a joint resolution that would clarify this point. However, I might ask him if he is going to do that, why should we not do it in the process of disposing of the pending bill instead of leaving it up to future decision by the Senate at a time when we will be occupied, in a great many cases, with extremely important legislation.

Even with the exceptions granted to the President under section III there is a serious oversight. This section does not give the President authority to repel an attack against the United States and to take necessary retaliatory actions. Section III does give the President authority to repel an attack against U.S. forces outside the United States but, in this case, it does not give him authority to retaliate.

Why? Why should an aggressor against U.S. forces outside the United States be any less immune from retaliatory action? Admittedly, an attack against the United States, its territories and possessions is far more serious but, in my mind, any enemy that attacks an American, regardless of where he may be, should understand such actions will automatically be repelled and may bring rapid and retaliatory action by the United States. To limit any response by U.S. forces to "repel only" clearly restricts the ability of a commander to protect his forces. And what, by the way, is the meaning of repel within the context of the bill?

Does it relate to defensive actions only? Would a U.S. Navy ship on the high seas subjected to an attack by cruise missiles only be able to try and repel those missiles? Would the U.S. ship commander be allowed to attack the vessel that launched the missiles? Would he be allowed to attack an enemy picket ship that was relaying data information to the enemy attacker?

Such a restriction would impair the ability of our commanders to defend their forces and would communicate to any potential attacker the limits of the response our forces could take. It would further require each commander to carry a checklist of what he could do and I suggest he might be seriously impaired as a commander for fear he would violate some predrawn rule of engagement.

Whenever the President takes an action authorized by section III he must come to the Congress at the end of 30 days to get continuation authorization, if such is needed. Such a restriction could lead to a piece-meal strategy in countering an attack or threat of attack. This raises the question of whether military commanders are to include in all plans a contingency for withdrawal after 30 days. It further raises the possibility that the President would, if he were doubtful continuation authorization would be granted by the Congress, adopt an overkill strategy in the action taken—a strategy that might be far more than was required to handle the crisis at hand.

Mr. President, there are several other situations that come to mind that I would like to bring to your attention.

Nothing in the proposed legislation permits U.S. forces to protect American nationals on the high seas. Are we to assume the United States cannot immediately go to the assistance of an American merchant vessel and take what action is required to assure the safety of those on board? Does the Congress seriously believe it has time to debate the merits of such an action, assuming it is in session?

Again, the sponsor of the bill (Mr. JAVITS) states this is not the case and such actions are precluded. Nevertheless, this point should be expanded and clarified.

The proposed bill, in my opinion, would preclude a show of force, for example, to the Eastern Mediterranean in response to increased Israel-Egyptian tension. Let us do not kid ourselves that the world situation has evolved to the point that force, or the threatened use of force, is no longer a necessary instrument of national power. The insertion of U.S. military forces in an area where hostilities are "imminent" could well, as it has in the past, preclude those imminent hostilities from developing. And again, the effectiveness of such an action on our part does not allow time to debate and authorize the President to take those actions he deems necessary in support of national interests and policy. Again, the bill's sponsor states this is not the case and would be authorized. Nevertheless, it continues to bother me that there is so much ambiguity in the proposed bill and that completely opposite interpretations are possible.

For example, in the Cuban crisis, to the best of my knowledge, President Kennedy had already mobilized and authorized the deployment of naval ships, and had mobilized many of our ground forces in support of the ultimatum which was given to Mr. Khrushchev. Without any doubt whatever, this was placing our troops in a position of imminent threat of hostilities, yet to the best of my knowledge no advance consent was asked of Congress. It did not last 30 days, nor did he have to come back and request authority later.

Again, Mr. President, you can refer to this in the 1970 Mediterranean crisis and the 1967 crisis when President Johnson was in direct contact with the Soviet leaders.

Mr. COOPER. Mr. President, will the Senator yield or would the Senater prefer to finish his remarks and then yield?

Mr. DOMINICK. I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I have listened with interest to the able arguments the Senator has made on several issues. The chief sponsor of the bill, Senator JAVITS, is not in the Chamber at the present time and I do not assume to speak for him. However, on the last issue mentioned, I know of no provision in this bill, which would deny a "show of force"?

Mr. DOMINICK. It depends on the definition of "imminent threat." It gives the President the power to send in troops in an area where there is an imminent threat of hostilities.

But the question would be if he exceeded his authority on the definition of what is "imminent threat."

In the Mediterranean situation I am not sure we thought there was an imminent threat, as far as our troops were concerned, but there was so far as the Israeli troops were concerned. In Cuba it was a different situation.

I wish to give one more example. When I was with the Senator from Arizona (Mr. GOLDWATER) back in 1961, we were turning around Europe. One of the things I asked was, "What indications would you have there might be an imminent threat of hostilities in the NATO area?" The person we asked the question of said, "There are a number of ways we could get information but we would not be sure unless something was started." Whether or not there is an imminent threat is a matter of grave concern so far as it relates to the power of the President to deploy our troops.

Mr. COOPER. During the last several years, we have studied the warmaking power thoroughly. I see a distinction between preparation for an attack or for defense and what is called a show of force to warn a posible adversary against an attack.

For example, as the Senator has said, under the administration of President Kennedy, at the time of the confrontation between this country and the leaders of the Soviet Union, the President, I assume, took steps to prepare to meet any contingencies. He was preparing to defend this country.

It could be argued also that the movement of planes along the eastern seaboard toward Florida and other preparations was a show of force.

There are dozens of similar situations throughout history, but, as I understand "show of force" in its proper sense, it is to move ships or forces, not with the present to an adversary a face of strength, saying, "You had better not make an attack" to deter an attack. I find nothing in this bill to prevent the United States from doing that.

The old books on the laws of war recognize the right of a show of force to deter hostilities.

Does the Senator see my distinction?

Mr. DOMINICK. I know of the Senator's concern regarding the bill. I have had the pleasure of reading the Senator's individual views. Here is the wording in section 2, under so-called Purpose and Policy Section:

> At the same time, this act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress.

That is fine.

Then, it states: "to respond to attacks" and that is fine "or the imminent threat of attacks upon the United States, including its territories and possessions," and it says nothing about allies; and then "to repel attacks or forestall the imminent threat of attacks against the armed forces of the United States."

The question, then, is what is "imminent threat of attack"? On the next page, page 8, it is specifically stated:

> In the absence of a declaration of war by the Congress, the armed forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—
>
> (1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack:

My question is: What is a direct and imminent threat of such an attack? Obviously, as I said, there was no direct and imminent threat in 1967 in the Mediterranean. There might have been; I am not sure. The Navy was there in good force, Soviet submarines were all around the 6th Fleet. In the Cuban situation we were much less in danger of imminent attack than we were in the Mediterranean situation. Yet, as I gather from what the Senator has said, he thinks the Cuban situation was probably justified under this language, but the Mediterranean was not. It was a forward deployment. Is that correct?

Mr. COOPER. No, I did not comment on the Mediterranean situation at all.

As the Senator knows, I raised in my view some questions which concerned me about this bill, and I shall address myself to them in a day or so. With some amendments they can be corrected.

I am glad that the Senator has raised the question. First, I do not think there is anything in the bill which prohibits a show of force. Second, he has raised the question of retaliatory action. I think there is a right of retaliation if there is an attack on this country, and similarly, a right of retaliation if our forces should be attacked in any other place.

According to the laws of war, one can retaliate if attacked at sea or anywhere else. A country can retaliate upon attack to let the adversary know that he must not continue the attack. If the attack is continued, of course, the necessary measures to defend our forces or possessions could be used.

For example, after the Tonkin Gulf incident, if there was an attack—and we will assume there was an attack—on a U.S. destroyer, President Johnson bombed the ports from which, it was believed, the vessels came. It was retaliatory and, according to the laws of war, was correct. Conversely, the attack on the destroyers was not sufficient to enter war.

I believe paragraphs 2 and 3, section 3, which the Senator just read, are a correct statement of the authority of the President, but beyond those situations, he has no authority to move the country into war without the consent of Congress. I do not know whether the Senator would agree with me.

Mr. DOMINICK. I think the problem then is that we get down to strict formalism under the Constitution—that only the U.S. Congress has power to declare war. The difficulty is that we are in hostilities when we could have prevented them by forward deployment, and this bill does not permit that. I point out that the President may go forward, he may exercise that power anyway, and I do not know what we are going to do about it. He would say it is in the best interests of the United States. My guess is that if there were an imminent threat that he knew about and we did not, he would move rapidly to prevent it. I think this is a poor basis on which to legislate. That is my point.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. GOLDWATER. I would like to show why this worries some of us. Would this require congressional action to authorize the United States to exercise its right to access to Berlin which might be blocked by the Russians and the East Germans, but might not pose an immediate threat of attack on our forces even though our future security might be very much imperiled? Would it not raise a question of imminent hostilities?

Mr. DOMINICK. I agree. This is one of the points I wanted to come to later. We conducted the airlift into Berlin for a whole winter—longer than 30 days by far. Certainly, there was an imminent danger of attack during that whole operation. Yet we did not have to have a 30-day clause and did not have to have

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congressional approval. In fact, we never got into any hostilities, so we did not have that problem. But the point is, as the Senator well pointed out, How do we plan to take care of something like that that has no definite time, in requiring that type of action by Congress, and debate what we are going to do, and then the enemy will know about it, anyway?

Mr. GOLDWATER. I think everyone would recognize that our involvement in NATO is one where they have a broad understanding of this approach. I cannot say, from the intelligence standpoint, how long it would take, but certainly, with our ability to look upon the world in a way that we have never been able to look upon it before, we could gather information about our enemy that we were never able to before. So how do we get to the question of imminent threat? Is, for example, what is going on right now in Vietnam an imminent threat? Is it a direct and imminent threat, or one which might not ripen for several weeks, when 4,000 tanks are massed north of the DMZ, when SAM's are being brought into South Vietnam, when artillery and other weapons are moved to South Vietnam? Would the Senator call that a direct and imminent threat?

Mr. DOMINICK. If I were there, I surely would.

Mr. GOLDWATER. Yet, under the terms of this bill, it might not be direct and imminent because the threat of attack lies in the more distant future. But even if it were, the President could exercise the use of our troops only for 30 days, without the consent of Congress.

Mr. DOMINICK. That is correct. This is one of the problems.

Mr. GOLDWATER. I said earlier that if I were an enemy contemplating an attack on the United States or on one of its possessions, I would want nothing better than that clause in this bill, because it would guarantee the defeat of the United States.

What would be the Senator's answer to this? Section 3 of S. 2956, in my opinion, would flatly prohibit the U.S. involvement in NATO integrated commands from exercising any functions without specific congressional authorization whenever there was an imminent threat that any NATO forces would become engaged in hostilities.

In other words, we revert now from North Vietnam to the massing of tanks, trucks, artillery pieces, and a mass moving of arms in the Warsaw Pact nations, which I think any intelligence officer would see as an imminent threat, for all practical purposes. Yet is my interpretation of the language correct that we could not operate unless attack is threatened in the next day or two?

Mr. DOMINICK. It certainly seems so to me. The Senator will note that on line 14, insofar as NATO is concerned, there is a sentence which starts there saying that a specific statutory authorization is required for assignment or investment of Armed Forces of the United States to command coordinate personnel in the movement of or accompany regular or irregular military forces of any foreign country or such armed forces, to conduct hostilities, and so forth. This seems to negate the possibility of any NATO command or use of troops in support of our NATO allies under those circumstances unless we have specific authorization for it.

Mr. GOLDWATER. I call my friend's attention to another meaning of the bill—retaliatory action is limited to 30 days, unless authorized, in the event of attack on the United States, its territories, or possessions. This would pretty well shoot down our commitment to NATO.

Mr. DOMINICK. Yes. It would go further, because it means no mutual defense treaty we might make in the future would ever be credible, because it would become effective only when Congress had acted, after the hostilities had started.

Mr. GOLDWATER. The Senator will recall that only the President has access to the red button, and only through Presidential approval can the Supreme Commander in NATO retaliate with nuclear tactical weapons, and he can do that only after he has consulted with the President. But under the pending bill there is real doubt about the kinds of situations in which the President could do that? Is that not right?

Mr. DOMINICK. Under this bill, he would be in violation of the law. But as I said, I do not think anyone in those cases is going to pay any attention to this law, anyway. And that is a poor basis on which to legislate.

Mr. GOLDWATER. And the President would be in violation of law.

Mr. DOMINICK. He would, and presumably, in the case of a deliberate order of any kind, he might be subject to impeachment, regardless of who the President was.

Mr. GOLDWATER. I am glad that the Senator from Colorado is speaking freely as he is, and has permitted me to intervene. I personally think this is one of the most important matters to come before this body in my years as a Member. I think it is highly emotional; I have yet to hear any argument not based on emotion, and I am afraid the impression is somehow being created in the minds of the American people that we have finally found a way out of the war. I think there is a dangerous impression, and I commend the Senator for his remarks.

Mr. DOMINICK. I thank the Senator from Arizona. I should like just to pose one more matter, if I could. The Senator brought up himself that we have enough intelligence now to be able to tell as to when a Warsaw Pact country might be mobilizing for attack. But I would suggest to the Senator that, as newspaper reports have pointed out, the Soviet Union now has killer satellites, so that we could, on an intelligence basis, be blinded at the very moment of real tension. Would that alone be considered an imminent threat, if all of a sudden our intelligence communications satellites were knocked out of the sky by Soviet killer satellites? Would that in itself be an indication that we are imminently threatened with attack somewhere, by either Warsaw Pact forces or other nations, whatever it might be?

I frankly do not know, and I do not know what the President would do at that point, except to get on the hot line. I do not know what he could do under this bill in any way, and I think that might be the very key to let them make the last minute preparations in order to mount an attack.

Mr. GOLDWATER. I would say to the Senator that it would be difficult for me, as it is for him, to give a specific answer to that question, although I think it is fairly general knowledge that the Soviets can render inoperative any of our electronic-type satellites.

I would judge this to be an imminent threat. As I recall, however, there was some testimony by Professor Bickel before the committee in which he said that he felt an imminent threat would be one with 1 or 2 days' advance information. Certainly, in the case of Cuba, we had much longer than that. We have had it in the case of the invasion, now, of Hue, and I understand Hue is very seriously threatened as of this moment. We have known of this buildup since last October. I would have to say it has been an imminent threat all along.

As we watch the Russian accumulation of MIG's gathering in Egypt, I would have to assume that is an imminent threat against Israel. No matter where we find a buildup of arms, countries do not build up arms just for practice unless it is in their own country, when they are on maneuvers; and I would say that any overt action that indicates accumulations of force would have to be considered by any country an imminent threat to their peace and an imminent threat to their country. However, the legislative history of the bill before the committee indicates that "direct and imminent" only means something that is immediate—today or tomorrow.

Mr. DOMINICK. I thank the Senator from Arizona. I would certainly agree.

I want to make one other point, which I think somewhat ironic, I guess is the best way of putting it: Without quoting directly, when one of the leading Israeli officials was here, he was asked whether or not we had any treaty with Israel. Of course, the answer was no. Someone then asked whether a mutual defense treaty would be helpful.

The answer was no, that after all, they had had a treaty to protect the Gulf of Aqaba; that they had had a treaty by which U.N. representatives were supposed to stand between the Egyptian and Israeli forces; and that on each and every occasion when imminent hostilities seemed to be apparent to the Israeli, either the treaty was changed on the ground that it was long past the time and the circumstances under which it was entered into, or the U.N. representatives would pull out.

This representative said simply, "Give us the arms, and we will fight our own war. We do not want any treaties with anyone."

If that is true in that case, then should we pass this act, no country with a mutual defense treaty with the United States would ever believe us again, in my opinion. I think it would make totally incredible any effort by the United States to have any mutual defense alliance anywhere. This is the thing that really deeply concerns me.

Mr. SPONG. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. I will, after I have yielded to my colleague from Colorado.

Mr. ALLOTT. Mr. President, I thank the Senator for yielding, and I want to say I think he has presented a very strong and forceful case here, but if he will bear with me, since there has been an interruption in his regular speech anyway, I would like to return for just a few moments to the gist of the argument of the Senator from Kentucky. Incidentally, I think he has written a very fine set of individual views here, and if I were to read just those and read nothing else about this measure, I think I would be inclined to vote against the bill, although he decided, after writing them, to vote the other way.

The Senator from Kentucky attempted, during the course of the discussion—and legitimately so; I am not being critical at all—that perhaps we do have something to which we can latch on here, which will give us a little bigger handle on the thing we are talking about.

He attempted, particularly in the case of the Cuban missile crisis, to distinguish, as connected with that, between the words "show of force" and "direct and imminent threat of an attack."

I was a delegate appointed by President Kennedy to the United Nations during the time that crisis was in effect, and saw many things from the viewpoint of the U.N. that were not apparent here, I am sure. But let us take two things: Was what President Kennedy did at that time a show of force, or was it deploying of troops to protect us from imminent attack?

As I recall the situation, he did two things: First of all, there is no question that troops and all sorts of military equipment were heading toward Florida as if the whole State of Florida were a one-way road.

Second, as I recall it, he deployed certain of our ships in that area, not by way of a blockade, but the more euphemistic term of "quarantine" was used.

Now, let us assume that this was, as I think the Senator from Kentucky was trying to demonstrate, a mere show of force. Let us assume that that is what it was. Let us stop it there, and let us assume that the hotline grew cold, and that instead of negotiation of an agreement to pull the missiles out—and incidentally, I do not know of any absolute proof that they have all been pulled out yet—instead of an agreement to take them out and photographing certain long canisters on the decks of ships as they went out, the Soviets had said, "We're not going to do it. We call your bluff." What would we have done in that instance?

No. 1, the very euphemistic quarantine which we had established would then have become, without the stroke of a pen, a blockade. I have no doubt that the United States and President Kennedy would have considered very seriously, if not actually, mounting an invasion against Cuba in order to rid ourselves of those missiles. I feel fairly certain that this was the climate in which we were operating.

My point, therefore, is this, and I would like the Senator's comments on it: We cannot distinguish between a show of force and the deployment of troops to forestall a direct and imminent threat because troops were there as well as missiles, and we are in a gray area, and an attempt to define it is only going to lead to confusion and mischief down the road when we reach a similar situation.

Mr. DOMINICK. I agree entirely with the Senator. I think the point and case he has made is a very good example of this problem.

Another very simple one is this: Suppose we send our Coast Guard cutters out to rescue, off the coast of Cuba, some merchantman with American citizens on board, which the Cuban cutters are taking into control. Presumably, this would be a type of imminent danger, because the Cuban cutters are armed; and if we go in to get our nationals back in international, or even in Cuban waters, the chances are that we are going to be shot at. What do we do then? Do we have to get prior authorization in Congress, or is the President allowed to do it under the imminent threat aspect? If so, are we not in the same box we were in before; namely, we are engaged in hostilities without having Congress concerned or involved? So we are right back to the same spot again, it seems to me.

Mr. ALLOTT. I think the Senator has put his finger on this, or at least that is my understanding of what he was saying in the main portion of his speech, when he was speaking about nationals, or U.S. citizens.

I am referring especially to subparagraph 3 of section 3, which says that the President shall have power only "to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control."

In the case just cited by the Senator, as I see it, even though it might constitute a direct attack upon our citizens on that ship, and it might even be an American Merchant Marine, it does not fall within the four classifications that the committee has set up in its bill under section 3.

Mr. DOMINICK. If it is, it is certainly implicit, as opposed to being explicit. This is part of the problem I have, because I do not like to see us become involved in a gray area such as my colleague has suggested, where we are legislating without really knowing what we can or cannot do.

In many ways, it reminds me of the rather extraordinary effort to say that American airpower had done no good in the Vietnam war. The pilots during that situation, as the Senator knows, had to have a full legal-sized page of what they could not do before they could find out what they could do in the way of attacking a target. It made it almost impossible for airpower to be effective the way it was designed to be.

Mr. ALLOTT. As a matter of fact, I think the limitations consisted of more than a page.

Mr. DOMINICK. As a matter of fact, it was three pages, I happen to know.

What I am pointing out is that the same connotation is here—that no one will really know what he can or cannot do legally under this bill, if it should pass the way it is now. That is my great concern.

Mr. ALLOTT. I thank the Senator for permitting me to intervene, because I am sure that during the course of this debate there will be a great deal of discussion about the "what if" arguments in this bill.

It seems to me that it helps to show that one cannot distinguish between a show of force and an actual deployment of troops to forestall direct and imminent threat of such an attack. It seems to me that the missile crisis in Cuba is a classic example of it.

Mr. DOMINICK. I thank the Senator. I think he has made a very good point.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. COOPER. The Senator will recall the statement I made. Perhaps I was not clear. I had argued as he argued—that it was difficult at times to distinguish between a deployment of forces or ships, and a show of force, although there is a distinction. I said that the movement of air forces and people in Florida could have been interpreted in different ways.

The point I make is that I know of nothing in this bill which denies the deployment of forces to protect the country, to protect our forces, to protect our ships. I know nothing that denies a proper show of force. The chief objective of this bill is to prohibit the Executive from engaging our forces in hostilities except under certain conditions.

Mr. DOMINICK. I should like to add one more thing, and then I will yield to the Senator from Virginia.

Some years ago—I have forgotten whether it was 1967 or 1966—we were involved in a buildup in Vietnam, under President Johnson. We were involved in an extremely ticklish situation in the Mediterranean area. We were involved in rather acute tensions in the European theater—in Berlin particularly. All of a sudden, President Johnson, as Senator will recall, introduced transport aircraft into the middle of the Congo, with backups on Ascension Island. If hostilities had broken out in Europe or Israel, that would have meant that we would have a good chance of being at war on three continents at the same time.

No one in Congress had been consulted prior to that—not a single person. At that time, I prepared a letter of protest to President Johnson, in the strongest possible terms, and I received the signatures of 18 fellow Senators within 2 hours. I had it hand delivered to the President at the White House. I did not even try to get more signatures because I thought it was urgent that we move rapidly.

Thirty days later, I received an acknowledgment that it had been received. Six months later, he started withdrawing some of our military forces which were engaged as pilots and mechanics. Some

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of the planes were even flown, I gather, by Ethiopians, virtually by Ethiopians brought down there on behalf of the government, by us. It was only about 6 months later that he started to pull back from that position.

My point is that, if we pass an act of this kind, I do not know whether or not that will stop that type of action. I certainly would like to see some method by which we could. But, more importantly, I doubt very much if the President would have done that, if he had come up and briefed Congress on what he planned to do and had received what I conceive to be the unanimous disapproval of most Senators, at least to that kind of action. He did not even do that.

So what we need, at least, is a good deal more consultation, a good deal more information, and a good deal more ability to be able to express our opinions to the White House without having to go through legislation of this kind which, in my view, will seriously jeopardize the ability of anyone to be able to protect the best interests of the United States. That is the difficulty I see.

I yield now to the Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from Colorado. I recognize that he has not finished his remarks. The many questions he has brought to the attention of the Senate should be answered, and I am sure that they will be in the course of this debate.

Inasmuch as we talked somewhat extensively about the Cuban missile crisis, however, I should like to ask the Senator one question. Is the Senator under the impression that, had this legislation been in effect as of the time of the Cuban missile crisis, this would have in any way impeded the President?

Mr. DOMINICK. It would have not impeded him if we were certain he was introducing naval forces into position because of an imminent threat of attack; but I do not believe we can say, initially at least, that there was any danger of an imminent threat of attack on the United States from Cuba, insofar as we are talking about a day, 2 days, or a week. But I do believe that we introduced ourselves into a position where our own ships might well have been attacked, in which case it would have been a different kind of situation.

Mr. SPONG. I should like to make two or three observations.

First of all, situations such as the missile crisis were, of course, a matter of concern during the hearings on the Javits proposal and other proposals before the committee. Mr. McGeorge Bundy testified. He was not quite so ubiquitous as Dr. Kissinger has been, but he had a comparable position at the time of the crisis. The Senator from New York (Mr. JAVITS) specifically asked him, had legislation of this kind been in force, would that have in any way hamstrung—I think that was the word used—the President? And Mr. Bundy replied, on page 425 of the record of the hearings, as follows:

> I think the essential processes of the Cuban missile crisis would not have been sharply affected by this resolution or this bill or this kind of procedure.

That was a very unusual case, in my judgment, in that the justifications for a private deliberation and a secret decision were unusually great and those justifications had to do with the importance of having an established U.S. position clear and on the record, in a sense to take the diplomatic initiative from the Soviet Union, and I think there would have been very important advantages in that which probably would have led the President—and I am of course speculating—to follow the essentially lonely executive route of decisionmaking which he did follow in that case. Then, of course, under this bill and others like it, he would have had to do what he did in any case, namely, to report the matter to the Nation and to the Congress and within the 30-day period under your proposal there would have had to have been an affirmative authorization for the quarantine to be sustained, naval quarantine.

Mr. President, I should like to note here for the RECORD that, at the time of the crisis, first of all, we had a Cuban resolution already in force. One of the procedures we are seeking to establish in this legislation is the very thing the Senator from Colorado has just finished speaking to, and that is more consultation between Congress and the President. But, in the missile crisis, the authority was there for the President to act, had he chosen to rely on that resolution. Congress had already acted, to some extent. Second, I wish to agree with what the Senator from Kentucky (Mr. COOPER) has just said, that there is nothing in the bill which would prevent a show of force in international waters, which the President did. He has that right to deploy our naval forces in international waters.

Third, I should like to make this point: when the Senator from Arizona (Mr. GOLDWATER) and the Senator from Colorado (Mr. DOMINICK) ask each other what constitutes an imminent threat, the real question is: What is the President's judgment as to what is an imminent threat.

The cosponsors believe that under sections 1 and 2 of the bill, the judgment is with the President to make the determination as to whether or not there is an imminent threat. If, in his judgment, there is, he proceeds. And, again I want to say that if there are places in the bill—with regard to NATO, for instance—where some tightening can be done, the Senator from Virginia is not averse to that, if I think a specific proposal is necessary. I think we have to bear in mind that——

Mr. DOMINICK. Could I interrupt there and ask where the Senator finds that? When it is in his judgment?

Mr. SPONG. He is the only one who would act. The President is given the authority to introduce armed forces into hostilities——

Mr. DOMINICK. If later on he should introduce troops and they should be engaged in hostilities, and it is later determined by Congress that the reason for the hostilities was the introduction of the troops, then this group could say that there was no imminent threat and impeach the President for an illegal action.

Mr. SPONG. The possibility has always been there with regard to that kind of Presidential action, with regard to what the President does. All I am saying to the Senator from Colorado is that the authority for the President to act is recognized here if, in his judgment, there is a threat. Under the legislation, the President does report immediately to Congress, guaranteeing to Congress the very thing the Senator from Colorado was concerned about in the Congo situation; namely, an opportunity to participate in the decision.

I would close by——

Mr. DOMINICK. Opportunity—no—this is again what I said before, the distinction between collective judgment and collective decisionmaking. What we can do is to interject our judgment but he should not be bound by it. He has to make the decision. The problem here is, we are making the decision. We are saying whether he can act, by this act, not just interposing our viewpoints down to the White House as to what we think should be done.

Mr. SPONG. We are simply saying the Constitution provides that the President has the right to act in an emergency situation to repel attacks or to forestall imminent threats of attack. He has that right under the Constitution. He has that right under this legislation, but we are requiring him to report to us under the legislation, so we may thereafter participate in the decision. Congress seems to be absolutely agreed on one thing with regard to all this legislation, and that is that there should be a reporting process. That is what the House has already approved. The President, having reported to the Congress under the proposed legislation—almost immediately, we would hope—there would then be a 30-day period during which Congress has the right to give affirmative support to the President, or—after looking over the situation—to say that hostilities should be terminated.

Mr. DOMINICK. I thank the Senator from Virginia for his comments. I am not sure we are very far apart, except for the fact that he is apparently defending the specific language in the bill. I have made speeches for some 5 years now saying that Congress should—and the Senate in particular should—have more import into the decisionmaking prior to the introduction of American forces into hostilities. I think we should. But, this is judgment. The decisionmaking has to be by the President of the United States. What we are doing is preventing specifically that decisionmaking in a great many areas. Let me read the language which starts out in section 3, and I point out that we have assumed that we have only had about four declarations of war and about 200 hostilities in a period of almost 200 years:

> In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicatd by the circumstances, only—

This again brings out what is a situation where imminent involvement in hostilities is clearly indicated by the circumstances. It seems apparent to me that the NATO forces have been grouped together in Europe, because it was felt there was imminent danger of hostilities. That is why NATO was created.

I remember specifically writing to the State Department before the Soviet Union invaded Czechoslovakia and stating to them that the buildup indicated to me an attack on Czechoslovakia. I got a reply to the effect that certainly nothing like that could possibly happen.

About 2 days after my letter, the Soviet Union came in and wiped out a group in Czechoslovakia that was merely trying to let the citizens eat, drink, and enjoy themselves in that form of government.

I do not say that because I was right, but because there was a total divergence of opinion in the circumstances. The State Department had one view and I had another. I happened to be right on the occasion.

How can we tell? The NATO troops are present, because of the imminent danger of hostilities. Otherwise there is no point in their being there.

We have a large base largely for the purpose of coping with the presence of Soviet submarines in the Atlantic. We have other bases around the world. We have some in the Philippines that have been there for a long time. The purpose of the Philippine base is to prevent the imminent danger of hostilities against the Philippines.

It strikes me that nowhere in the world could we say that there is not an imminent danger of hostilities if we have troops there, because that is the only reason that we place troops there. If we do not have the imminent danger of hostilities, we do not have any reason to have troops there.

The net result of that is that the President could logically say: "Every deployment is all right. I do not have to do any more." And we would be exercising our total judgment in a vacuum as far as the pending bill is concerned.

We can go one or two ways and say that it casts doubt on our credibility—which I think it does—or that under the pending bill we will not accomplish anything, even though we would like to accomplish something.

I would like to see us come up with a mechanism by which we could get more information in Congress before these things happen.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. Mr. President, I have not yet completed my prepared remarks. However, I would be happy to yield to the Senator from New York for a question.

Mr. JAVITS. Mr. President, I do not think that a question will do it in any way. The answer has to be hours and not minutes. However, I noticed that the Senator raised a question as to what was meant in section 3 by the imminent threat of hostilities.

Mr. DOMINICK. Yes, because the bill then goes on to specify four instances and say that they are the only four in which we can inject troops.

Mr. JAVITS. Mr. President, we have already defined that, in quite an exhaustive colloquy with the Senator from Alabama (Mr. ALLEN), to mean, according to the way we understood the bill, that this would be in the judgment of the President. In other words, if the President thought or believed, and so reported to Congress—because a prompt report is required by section 4—that he is committing troops where there is the imminent danger of hostilities, it would bring the act into force and effect.

We understood that is the way in which this would work. And we believe that the President of the United States will act in good faith. That is one of the basic suppositions of this whole proposition.

I just rise to add a point of fact, that in the colloquy with the Senator from Alabama (Mr. ALLEN), it was made clear that the meaning of this phrase related to the judgment of the President. He would be the one to put the act into effect, and thereupon report promptly to the Speaker of the House, the President of the Senate, and so on, as required by section 4.

Mr. DOMINICK. Mr. President, I thank the Senator from New York for clarifying what the intent is, even though the bill does not say it. That always helps insofar as the history of a bill is concerned. However, I am interested in section 6, too. Section 6 provides that the use of Armed Forces of the United States in hostilities, may be terminated prior to the 30-day period for the imminent danger of hostilities, which authorizes the President to introduce troops.

Mr. President, as I said before, this is quite interesting, because if we assume that we are keeping troops in the European Theater in NATO, because of the imminent danger of hostilities, then I would presume that once this bill becomes effective, we would have to do something practically every 30 days. If it is not assumed that this is an imminent involvement in hostilities, I suppose that is a different situation. Under those circumstances he can place troops wherever he wants to. However, having been an advocate for quite a period of time of the belief that we ought to take more troops out of the European area and probably put them over in the Mediterranean force, I can find all kinds of difficulties in accomplishing either of these situations under this type of legislation.

Mr. President, I continue with my prepared remarks. Another "what if" is pretty interesting.

The proposed bill makes no mention of intelligence activities, for example, intelligence flights. That is only one of them. Are they prohibited or not? It may be distasteful, but it is necessary for the United States to engage in these activities, and there are adequate examples in the past of their necessity, one of which occurred off the coast of Korea in terms of aircraft, and one of them over the Soviet Union. Another example, of course, is the intelligence flights which were made over Cuba.

It brings to mind the missile crisis. As I said before, it seems perfectly clear that if our overflights are within a claimed territorial area, we can inject equipment in an area where there is imminent danger of attack. Then the question is: Do they come to Congress to authorize this every 30 days?

Let me give another "what if" which is not in my prepared statement. What do we do, I may suggest to the Senator from Virginia, about the American air patrols in the Korean DMZ that go on practically all the time. North Koreans have been trying to infiltrate into the South again, as we all know. They have not only attacked and captured the *Pueblo*, but also killed one crew member and imprisoned others for years.

And then I wonder how the bill would affect the operation of U.S. patrols in the Korean DMZ. It is not clear to me whether the provisions of section 9 are applicable or not, since, although we are in a truce situation and peace negotiations are continuing, the atmosphere there is certainly tense.

But they also shot down our intelligence flights off the coast.

Are we to assume from this bill, since these are imminent hostilities that there has not been authorization by Congress, that we have to withdraw our troops totally from Korea or authorize them every 30 days?

It seems to me this is another problem we are creating if we move in this direction.

Mr. President, I am also disturbed by other language in section III of the proposed bill. In particular, I refer to the use of the term "imminent threat." If we assume the proposed bill becomes law, does not the possibility arise that if the President took action under section III in response to his interpretation of an imminent threat, the Congress could fault his actions as not being within its interpretation of "imminent threat"? Is it not possible, because of this difference of interpretation, the Congress could take other measures designed to prohibit further action by the President even before the 30-day period had expired?

There is only room for one Commander in Chief, not 535. Only one individual, the President, has the facts immediately at hand necessary to determine what is best for the national security. So even though the proposed bill purports to guarantee the President can take those actions he deems necessary in certain situations, it really jeopardizes and endangers his ability to do so.

Mr. President, I am very much concerned that many Senators may not have studied this bill thoroughly enough to realize the many dangerous consequences of some of its provisions. In essence, this bill would make null and void, without initial authorization from the Congress, our defense commitments under the North Atlantic Treaty, the SEATO Treaty, the United Nations Charter, and many others. Can we honestly take upon the shoulders of the Congress not only the final authority in a President's decision to deploy troops in the event of hostilities but also attempt to become the repetitive top authority or all negotiated U.S. treaty commitments, even after the Senate has had one opportunity to ratify and consent to the original negotiation of each of our standing treaties?

Our allies would soon gain the impression that we were incapable of acting swiftly under the conditions of our mutual security agreements. I am sure, for

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example, that our friends in Western Europe would find little comfort in the fact that under this law, Congress would have to give its approval before the United States could participate in NATO command activities in the event of an attack on West Germany. Can we justify creating a situation in which our commanding officers in NATO cannot even participate in the planning and execution of operations of NATO troops until we get the Congress' collective interpretation of an "imminent threat?" How many of our allies would soon begin to feel that they were not in fact our allies at all?

Many will say that nothing regarding our treaty commitments would be changed by this legislation. They will argue that as our treaties are not self-executing and as most contain a clause which reads "in accordance with our own constitutional processes" the Senate is already authorized to initiate implementing legislation. However, the fact that our treaties contain this provision has never altered the reality that throughout our history Congress has performed an ex post facto role in this regard. This reality has come from a basic recognition on the part of many consecutive Congresses that prior consultation with and authorization from the Congress cannot in fact provide the necessary prompt response to our treaty commitments. This situation has not prevailed for nearly 200 years because Presidents have ignored the Congress. It has prevailed for the very practical reason that consultation in the midst of initial hostilities, which this bill would in many areas require, is not only impractical but self-defeating. Under the Javits bill, however, Congress would have to give legislative authorization before the President could dispatch troops in accordance with treaty commitments. There is a world of difference between the two approaches and the latter approach certainly precludes rapid response to an attack on allies or forward deployments and reinforcements to prevent such an attack.

Would this bill necessarily accomplish the goal of making more information available to Congress? I think not. As written, whenever the President takes action authorized by the bill, he must come to the Congress at the end of 30 days to get continued authorization. Might not a President, realizing that he had only 30 days to act before coming to the Congress for further authorization, be tempted in a "hostile" situation to do some "quick striking" or go further than he otherwise would have in order to accomplish as much as possible before congressional review? Would a President be tempted to give the Congress less, rather than additional, information because of the necessity for him to avoid congressional interference? Would it not be more expedient for a President to simply announce that on the basis of highly classified intelligence made available to him he was taking authorized action under the bill, accomplish as much as possible before the 30-day limitation, and indeed continue by maximizing the appearance of hostilities supposedly justified by classified information? Taking this one step further, would a President be tempted to provoke the hostilities he would need under the bill in order to obtain further authorization from the Congress?

There are many questions in this area which I hope we would not have but we are dealing with long-term legislation, not knowing who the President might be in a series of decades ahead, and we are preparing legislation which I think will not have the result which we might like it to have.

Another important point should be made in connection with the 30-day limitation provision. Such a proviso could lead to a piece-meal strategy in countering an attack or threat of attack. Do we seriously want this kind of approach to our military policy around the world when we have just begun to emerge from the ridiculous situation of a limited, step-by-step war such as Vietnam? This is further illuminated by the prospect that once the Congress gave its initial authorization for the President's introduction of troops in a hostile situation it could continue to put time limits on his use of those troops. The introduction of this element of uncertainty into military planning would place the United States in a situation of always being "too little too late."

Perhaps the most frustrating aspect of this bill is its utter vagueness. In considering the merits of a proposal such as this, it is necessary to consider all possible interpretations under every conceivable circumstance, and having done that, it seems to me that we are dealing with a bill which would be at least as subject to interpretation as the U.S. Constitution. Any time you can count as many lawyers on one side of a bill as you can on the other, it seems it would be rather difficult to respond with a real consensus.

One key to the very nature of this bill is the number of times the word "imminent" occurs. This word is usually accompanied by the word "hostilities." That is all very fine, but I wish someone would tell me how we would define these two words within the time period necessary to give the President the authority to respond to a military threat; and if he had done that, would not we already be saying that our troops are deployed overseas and are there for that reason, and so every 30 days Congress should authorize their being at those bases?

It seems to me the bill should be defeated, but at the very least it should be referred to the Judiciary Committee to determine its constitutionality and to interpret its meaning.

Mr. President, there was an editorial in the Washington Evening Star of yesterday, April 3, entitled "The War Powers Debate." I ask unanimous consent that the editorial be placed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WAR POWERS DEBATE

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This, also, is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time.

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

Mr. DOMINICK. Among other things, for the benefit of my colleagues on the floor, the last paragraph reads:

There is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

With those comments I would certainly agree, but I think the overall, interesting point with which we are all concerned is having more of a say in the judgment process. By this bill—and I call the attention of my colleague from New York to this—we are not just indulging in the judgment process; we are trying to inject ourselves into the decision-making process, and what we are doing is wrong.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. GOLDWATER. I do not want to add at any great length to the colloquy, but I think the key words beginning to shape up in this debate are "imminent attack." I would like to read a few paragraphs from page 712 of the hearings, in a colloquy between the chairman of the Foreign Relations Committee and the chairman of the Armed Services Committee, one of the coauthors of the bill, one of the most knowledgeable men we have in Congress on the subject we are talking about. If the Senator will bear with me, I should like to read from page 712 of the hearings. The chairman of the committee said:

One provision in your bill raises a question which you touched on, and I would like for you to comment on it. I am referring to where you say, "To prevent or defend against an imminent nuclear attack on the United States by the forces of any foreign government or power, but only if the President has clear and convincing evidence that such attack is imminent."

This raises a very difficult question, but while you are here, I would like you to comment on it.

Does this mean that the President would be the sole judge, if he thought that it was a dangerous situation, and that we might be attacked, then he has the right under this to launch a first strike—would he not, without consulting anybody?

Senator STENNIS. Yes, under those conditions, and it is a matter of wording and a matter of degree, but I think the law of necessity is operating there, and you just have to yield to it. That issue has held us back from dealing with this overall problem heretofore.

The President would ordinarily have a lot of fine counsel. We know about the experience on that. But the power, I think, the ultimate power, you would have to leave it with him.

The CHAIRMAN. I don't know what that counsel is. He doesn't counsel with the Senate to any extent that I know of. I don't know with whom he counsels other than Mr. Kissinger.

Senator STENNIS. Well, we had the Cuban crisis, so-called, and there was certainly a lot of counseling done there.

The CHAIRMAN. Not with the Senate.

Senator STENNIS. Well, I think so, Senator. I was not called to the White House.

The CHAIRMAN. I was called there 2 hours before they made the public announcement, but the decision was long since made. It wasn't consultation. We are often informed shortly before—

Senator STENNIS. Yes.

The CHAIRMAN (continuing). The decision is public, but I don't call that consultation.

Senator STENNIS. Well, I think some were called in, Senator.

The CHAIRMAN. It is my feeling that if we should incorporate into the law without any consultation at all required that if he thinks that the country is in danger he may launch a nuclear war, I think this is something that deserves very serious consideration. I don't know whether that is what you interpret that section to mean or not. I was just inquiring whether that is what you think it means.

Senator STENNIS. Yes, that is virtually what I think it means.

The CHAIRMAN. You think it does?

Senator STENNIS. I think we have got to meet that problem, and we won't get legislation if we don't, I feel. You can modify it, of course, requiring some advisers or some commission or something else; but I think we have got to meet it.

The CHAIRMAN. Personally, I would rather leave it vague, let it be uncertain, rather than to give him authority by law. I think I would prefer that, if I have to choose between having a bill that says "Yes, you may do this," and just leaving it as it is as to where he is uncertain, but certainly responsible for his actions.

Again the term "imminent attack" is a very difficult term that we are faced with. The danger of an imminent attack by a nuclear weapon is entirely different from the danger of an imminent attack by conventional weapons. We cannot read the minds of the Kremlin or the minds of Peking or the minds of Japan when it becomes a nuclear power, or the minds of any other nation, because only in the minds of their leaders will be able to find an imminent danger, and there is no possible way that our detection system can discover whether any enemy is going to launch a nuclear attack on us. We do not even have eyeball information on how we should be able to determine this.

So as I understand it, I say to my friend from Colorado, the President now has the authority by law under the Constitution, and the only authority, to press the red button and launch a nuclear attack when he decides it is necessary for the security of the United States. What would be the effect of this legislation on a decision by the President, say, to even retaliate, because after 30 days there probably would not be anything left of either side? Would this in any way affect the President's right and power to act?

Mr. DOMINICK. I frankly cannot interpret it. It refers to the interjection of armed forces into hostilities or under the imminent threat of hostilities. I would presume that if the President unleashed nuclear weapons on an enemy in retaliation, or just prior to a nuclear strike hitting us, by that time the water is over the dam, anyway, and we will just forget about the act. That is the point I made before. I think where the President totally believes the security of the United States has been almost wiped out or so threatened that it is impossible to deal with, he is going to act whether this law is here or not. He has to.

Mr. GOLDWATER. This touches very deeply on my understanding of the early arguments that went on among the Founding Fathers, as to whether the power of war this bill seeks to obtain should reside exclusively in the Congress, or should reside in one man, as should be shared, I happen to have great faith in the decision of the Founding Fathers in this matter, and I think they gave a divided authority in the affairs of war to both the Congress and to the Office of President. One of my fears about this is that we can get terribly political about which country we are going to defend and which we are not going to defend, or which treaty we are going to honor and which we are not going to honor. I would suggest that these decisions may not have any direct bearing upon the defense of our country, but merely on the political views made by some 500 people in Congress as to which country it would be politically wise to defend or attack.

Mr. DOMINICK. I strongly suspect the Senator is accurate on this. I have a deep and fundamental belief, whether it is justified or not, that Vietnam started bringing this whole situation into really serious thinking by a great many Senators, including the Senator from Arizona and myself. I have been working on the subject for a long period of time to try to see what we could do by way of a responsible act by which we could have some consultation and interject a judgment factor into the President's thinking in all cases of hostilities or threat of them. I have found no reasonable method yet, except the possibility of some sort of select group of Senators who would be consulted with prior to the President's making a decision. But, as I said before, my thinking was that we ought to distinguish between the judgment import we give to the White House and the decisionmaking which the President has to make.

This bill does not do that. This bill says that we are going to make the decisions and, in effect, have the overall exercise of judgment. That, I think, is wrong. We can inject our judgment and give it to the President or to the White House as much as possible, but any time we start making the decisions as to what the Commander in Chief can or cannot do in order to protect the interests of the United States, our own nationals, and our allies as well, I think we are making a very bad mistake.

Mr. GOLDWATER. I could not agree with the Senator more. I can envision situation after situation around this world where, while imminent attacks might not necessarily jeopardize our people per se, they could jeopardize the whole future of our country in an economic way, which in itself could be an act of war, in that it would bring distress and havoc to our people.

I am thinking, for example, that if we should allow the Soviets to take the Suez Canal and take the Strait of Malacca, and we offer no opposition to either one of those actions, our position of some dominance in the economic world, in my opinion, would disappear. I think the President would be right in judging such an action to be an imminent attack upon the economic strength of the United

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States, and therefore upon the welfare of our people.

I do not wish to delay this measure, but I think the meaning of this term "imminent attack" has got to be beaten out on this floor, and I think we have to have a much broader, more complete understanding of what we are talking about than has been brought out by the hearings or thus far by the debate on the Senate floor; and while I do not think the whole bill will hinge upon this point, I think we have to think first of the safety of our people and the ability of the American people to resist attack and to confront any danger that may face us; and again, I rather prefer to have that faith in one man than in the political decision of 500.

Mr. DOMINICK. I share the viewpoint of the Senator from Arizona, as he well knows, and I think his comments extremely pertinent.

Just recently, Mr. President, Mr. Hanson W. Baldwin, writing in the New York Times, had published in that newspaper a three-part series of articles concerning the Soviet naval presence in the Indian Ocean, and the increasing efforts of the Soviet Union to exert influence in South Asia and the Middle East.

I ask unanimous consent that those articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 20, 1972]

THE INDIAN OCEAN CONTEST: I—THE SOVIET UNION'S INCREASING INTEREST

(By Hanson W. Baldwin)

ROXBURY, CONN.—In the age of the missile and the nuclear warhead, the Indian Ocean, the world's third largest, represents a vast launching pad for missile-firing submarines.

It is as close or closer to many Russian missile-launchers and industrial centers as the Mediterranean—and less well defended. From south of India across the Himalayas vast stretches of Soviet Siberia and Red China lie within range of sea-based missile attack.

Small wonder that the Indian Ocean—already a theater of global struggle for raw materials and a vital international maritime route—has new-found importance.

So far, the opaque sea water has given the submarine relative invulnerability, and the Indian Ocean has not been vital to U.S. nuclear deterrence. But the vast Soviet expansion program in land-based ICBM's and ABM's, in air defense, in submarine and naval construction and in antisubmarine war fare continues despite the Strategic Arms Limitation Talks. If the talks should restrict offensive missiles, and if technological developments should lead to breakthroughs in submarine tracking, the Indian Ocean—with its 28,350,000 square miles of blue water in which to get lost—becomes increasingly important in the "balance of terror."

Major political changes have also altered fundamentally the stability and the power balance in the Indian Ocean area. In place of the colonial empires of yesterday a large number of independent states now border that ocean, which is the vital route for transit of Middle East and Persian Gulf oil to Japan.

Russia has clearly indicated by trade, fishing fleets, intensified oceanographic research, a naval presence, footholds around the Indian Ocean littoral and political and economic aid an increasing interest in the area

This interest may not fully represent a long-term Grand Design pointed toward the replacement of British power and an ultimate primacy, but the actions taken by Moscow fall into a clear pattern.

In the West, Soviet interest centers upon the Arab-Israeli conflict and maintenance of Soviet positions in Arab lands, and slow penetration of Middle East oil lands.

Opening of the Suez Canal and consolidation of dominant Russian positions at its northern entrance and in the Red Sea-Gulf of Aden are obvious objectives. In Iran, now linked by a gas pipeline to the U.S.S.R., Afghanistan and Pakistan north-south land communications between Russia and the Indian Ocean littoral nations have been tremendously improved. North of Afghanistan, close to Sinkiang and bordering disputed Kashmir, the U.S.S.R. can now support some 22 divisions, intelligence officers estimate, as compared to five or six in 1951.

Eastward, there appears to be one primary Soviet motivation—to checkmate Red China; a secondary one is to assume dominant power in the area once held by Britain.

Peking must be preoccupied primarily with her land frontiers with the Soviet Union where she faces more than a million Russian troops. But she is competing ideologically everywhere with Russia and has great ideological and political influence in West Bengal—particularly in Calcutta. China's small navy (except for submarines) is chiefly coastal and none can be spared for the Indian Ocean. But she is increasing her trade with African states, is helping to support a small guerrilla war in Oman, supplies left-wing fedayeen movements against Israel, has established a major foothold in Tanzania, is building a railroad from Zambia to Dar-es-Salaam, supports anti-Indian Naga and Mizo tribesmen in Assam and Communist guerrillas in Burma and maintains in Tibet and along the crest of the Himalayas sufficient strength to tie down about ten Indian divisions.

More important are reports, as yet unconfirmed, that Chinese in Dar-es-Salaam are preparing instrumentation to monitor test ICBM's to be launched in China and to overfly the Indian subcontinent to impact point in the Indian Ocean.

To the United States, the winding down of the Vietnam war, the continued turbulence of Southeast Asia, the uncertain future of Singapore, for decades the pivot of British power in the Far East, the slow emergence of Indonesia, the prospects of a mercurial Africa, the Sino-Soviet conflict, the increasing importance of raw materials and the vital prize of Middle Eastern oil (particularly to our Allies), and the complete change in the power balance in the Indian subcontinent pose both threat and challenge.

[From the New York Times, Mar. 21, 1972]

THE INDIAN OCEAN CONTEST: II—STAKING THEIR CLAIMS

(By Hanson W. Baldwin)

ROXBURY, CONN.—A new chapter in the history of the Indian Ocean opened long before the winding down of the Vietnam conflict and the Indian-Pakistan war.

The sortie into the Bay of Bengal of a U.S. naval task force from the Seventh Fleet, spearheaded by the nuclear-powered carrier Enterprise, was directly keyed to the birth throes of Bangladesh. It served notice that Washington was interested in what happened east of Suez and west of Singapore.

But it was not the first visit of the Enterprise to the Indian Ocean. A U.S. policy of concern and of low-profile action has been evident for many years.

What has happened recently is that the tempo of events has speeded up.

It is useless to argue who did what first. The United States has had a Mideast naval force of three ships based in the Persian Gulf for more than twenty years. As long ago as 1957–58, the Russians sent oceanographic research ships to the Indian Ocean. In 1966 and 1967 the first Soviet naval combatant vessels visited the area. Since 1968 there has been an almost continuous Soviet naval presence. Despite the great distances from Vladivostok, and around the Cape of Good Hope from Soviet naval bases in the Arctic, the Baltic and the Black Sea, the Russians are now maintaining continuously, on rotation in the Indian Ocean, an average of ten combatants and auxiliaries—small task forces of electronic trawlers, submarines (conventional and nuclear), tenders and supply vessels and tankers, guided-missile cruisers and destroyers, minesweepers and one or two amphibious vessels.

The Soviet Navy does not pay many port visits, except on formal or ceremonial occasions, and its sailors are carefully chaperoned when allowed ashore. Moscow recognizes the value of flag-showing, and Soviet squadrons have paid some fifty port visits in Africa and Asia. More important, Soviet ship-days (one ship, one day) in the Indian Ocean have increased threefold since 1968.

The Soviet ships favor offshore anchorage or moorings on banks or shoals, and replenishment (fuel, food and supplies) while at anchor, or occasionally, under way.

Mooring buoys, with Soviet markings, have been laid about 180 miles off the British Seychelles Islands, off Mauritius, in the Arabian Sea and presumably at other points.

The Rusians have entered into agreements with many countries, which provide port access and facilities, or aircraft basing or transit rights, communications stations or other rights. These include: Egyptian Red Sea ports; Hodeida in Yemen on the Red Sea; Aden; the island of Socotra in the Gulf of Aden; Berbera and Mogadishu in Samalia; a fort at the head of the Persian Gulf in Iraq; Mauritius, where Aeroflot flies replacement crews to the Soviet fishing fleets; Vishakhapatnam in Indian on the Bay of Bengal, where Soviet-built vessels of the Indian Navy are home-ported and where Soviet naval and other advisers have been assigned for some years; and access of some sort to other ports in the Indian subcontinent, including Gwadar in Pakistan, and possibly Trincomalee and Colombo in Ceylon, the Nicobar Islands, and Port Blair in the Andaman Islands. This Soviet build-up around the Indian Ocean littoral is far more important than the small naval forces they maintain there.

Most authorities agree that two events—one in the recent past, one in the more distant future—will eventually greatly strengthen Soviet political, economic and ideological influence—and eventually, military power—in the area: the recent Russian-aided victory of India over Pakistan, and the consequent consolidation of an already strong Soviet position in the subcontinent; and the opening of the Suez Canal, which would greatly ease Soviet logistic problems in the Indian Ocean, would facilitate Russian support of Communist "liberation" movements around the gulf, and would shorten by 7,000 miles or more, the maritime lines of communication between European and Asiatic Russia.

[From the New York Times, Mar. 22, 1972]

THE INDIAN OCEAN CONTEST: III—AND THE U.S. PRESENCE

(By Hanson W. Baldwin)

ROXBURY, CONN.—The United States and Western positions in the Indian Ocean area are, so far, small scale and low profile.

The only permanent and continuous U.S. military force in the area is the Middle East Force, at Bahrein, in the Persian Gulf. This force—though authorized five ships—has actually consisted of only three—the old converted seaplane tender Valcour as flagship and two old destroyers. An upgrading is now taking place. The 1,800-ton Valcour is being replaced this summer by the LaSalle, a 14,000-ton LSD, completed in 1963, converted with special facilities into a flag command ship. More modern destroyers will be assigned, and in time, two more ships may be added. At Bahrein, the United States by executive agreement with the Sheik of Bahrein is taking over a few minor British naval facilities. The United States, by agreement with Saudi Arabia, still uses the large nearby airbase of Dhahran, which can handle any type of aircraft.

Two years ago Secretary of Defense Melvin Laird announced that as the Vietnam war was wound down and more ships became available, the U.S. Navy would send more vessels on periodic cruises into the Indian Ocean.

In 1969 and 1970, 358 port visits were paid to Indian Ocean countries by U.S. Navy ships. The U.S. Navy has been showing the flag considerably more than Soviet vessels but the Russians have run away with the publicity.

Obviously, the U.S. presence in the area is not new; equally obviously it is becoming somewhat stronger, more frequent, and certainly more discernible. But there are no present plans for any permanent U.S. Indian Ocean fleet or task force except the small Mideast force. Unless there is a major increase in the naval budget the U.S. Navy will not be able to maintain a *permanent* presence in the Indian Ocean, even after Vietnam, larger than four to six ships. The name of the game for the discernible future, therefore, is cruises, mainly from the Pacific Fleet, whose "chop line" or jurisdiction has been extended effective Jan. 1, 1972, to a longitude extending due south from the western border of Pakistan.

More important is the new $19 million U.S. naval facility, to be completed in 1973, on the British island of Diego Garcia, almost in the center of the Indian Ocean. The base has no indigenous political liabilities; the entire Chagos archipelago has a population of only 900 people. The principal purpose of Diego Garcia is as a "modest communications facility."

U.S. Seabees have built an 8,000-foot coral runway and transport aircraft, flying from Thailand, are using the strip to bring in personnel, construction material and supplies. The station complement will number 274 U.S. and British personnel.

In Indochina there are no plans to retain *any* military facility. Camranh Bay, once a center of French naval interest, is not a part of the future U.S. naval planning. But long before Vietnam, the U.S. maintained a prepositioned cache of arms and equipment for one brigade in Thailand, and the Sattahip area in Thailand, at the head of the Gulf of Siam, has been partially developed into a combined air and naval complex with a major airfield, docks, refueling and ammunition facilities.

Attempts to interest the United States in Singapore have been largely unavailing, militarily. Some U.S. naval and many merchant ships have utilized Singapore and this may be done more frequently in the future. But there will be no permanent U.S. presence. Instead a small combined U.K.-Australian-New Zealand force (one brigade, plus; a few aircraft squadrons, and seven or eight destroyer or frigate types) will supplement Singapore's and Malaysia's tiny forces of fifty to sixty planes and 60,000 to 70,000 men.

But the British will continue to maintain other military footholds in the area. The British retain air base rights on Masira island off the coast of Oman; and Masira, along with Gan in the Maldive group (which is politically sensitive), Diego Garcia and the Australian-administered Cocos islands, 800 miles southwest of Singapore, offer limited staging or transit air facilities, plus communications.

For some time to come Red China's influence in the Indian Ocean area—except for possible occasional submarine cruises and merchant shipping—will be exercised, indirectly by the poised threat of ICBM's, by the influence of overseas Chinese and covert guerrilla and other operations, and by direct pressure around the borders of Southeast Asia and India.

The strategy of the Indian Ocean is a strategy of maritime control of the important trade routes that use that ocean. Three sea bottlenecks lead to that ocean. Russia today has dominant position, power and influence over the Suez Canal-Red Sea route; the Cape of Good Hope is relatively free to all, and the future of the Strait of Malacca is uncertain.

Mr. DOMINICK. I would also point out that in today's Washington Post I saw a very short Associated Press article, about a paragraph long, somewhere on a back page, in which it was reported that the Soviet Union had sent naval vessels into the harbors of Bangladesh, and that they were there ostensibly to repair and reequip 21 of the Bangladesh ships which had been sunk during the process of the recent fight between East Pakistan, West Pakistan, and India.

As most people would recognize, the area where they are conducting this operation is, once again, an outflanking position insofar as the Malacca Strait is concerned, and if they should, through India or Bangladesh, get a naval base in that area, their naval force would undoubtedly be rather substantially increased. It is already far larger than anything the allied free world countries have in the Indian Ocean, and we would find the last commercial waterway in the world outflanked by the Soviet Army.

I do not know whether this is an imminent threat. It all depends upon what the Soviets decide to do with it. I do not have the faintest idea what we would do in the event they decided to close off these commercial waterways of the world. But there is no doubt whatsoever that if you look at the situation from conventional terms, any commercial traffic through the international waterways, wherever there is a narrow passageway, has been outflanked by their navy, which in effect, at least strategically, is thus in an extremely advantageous position.

I think this is worthwhile putting into the RECORD. There is a good deal more that we could put in as time goes on, but this should be sufficient, for today, to indicate some of the concerns which I have with this particular measure, while I share the desire of most Senators to try to get more consultation with and information from the Executive insofar as our overseas commitments and deployments may be concerned .

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I rise in support of S. 2956, the War Powers Act.

It is clear to me, and I know to a great many of my colleagues, that there should be no need for this bill. Unfortunately, there is very great need for it. In this age of secrecy, contingency plans, hidden funds, and covert paramilitary operations, recent Presidents have allowed this country to slide into conflicts in clear defiance of constitutional procedures. To cite the most notorious example, the Tonkin Gulf resolution was interpreted as the functional equivalent of a declaration of war. Worse still, President Johnson asserted that even the resolution itself was unnecessary. The present administration continues to display this attitude. Unless we act now, Congress will increasingly allow itself to be used as the passive recipient of ceremonial gestures.

The War Powers Act is clearly in line with constitutional intent. In article I, section 8, the Constitution vests the authority to "declare"—that is, to authorize the initiation of—war in the Congress. Among the chief reasons for establishing these congressional powers was the cost of waging war. As Jefferson wrote to Madison, the power of unleashing the "dog of war" was transferred from those who spend to those who pay. The staggering price of American involvement in Southeast Asia underscores the importance of restoring the constitutional balance.

In terms of dollars, that unhappy, tragic war in Southeast Asia has now cost the American people $150 billion. The most reliable estimate I have seen of its final, total cost to the American people, when we have paid the final bill a couple of generations hence, will be $1 trillion. That is one thousand billion dollars that this war will have cost us.

Money alone, of course, would not justify the War Powers Act. There are other costs of war. Thinking in terms of the Vietnam war, one of those costs is lives lost. Another cost is lives shattered. Another cost is families broken. Another cost is the despair that has struck our land. Another cost is the division that has swept our Nation. Another cost is the diversion of our attention and our resources from pressing problems at home, and perhaps more pressing problems abroad, to this unhappy, tragic war in Southeast Asia.

One man simply should not have the power to initiate war even if he could do it free of charge. By providing that war powers should not be concentrated in the President's hands, the framers of the Constitution explicitly intended to make it more difficult to launch a war than to stop one. Past experience has shown that even a minor operation can have major consequences. The time is ripe for reasserting congressional authority, not in order to violate the Constitution, but rather to clarify and fulfill its provisions.

It is sometimes argued that the nature of contemporary war does not permit consultation with Congress, and that a bill restricting the President's warmaking powers would therefore damage national security. Nothing could be further from the terms of the War Powers Act than a threat of this kind. The bill explicitly permits the President to take direct and immediate action. Section 5 does provide that such action shall not be sustained for more than 30 days, but if American forces are still under attack at the end of that period, the operative clauses permitting Presidential action would automatically apply. Furthermore, in a less immediate sense, investing warmaking powers in the hands of

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one man is very possibly more dangerous than sharing these powers with elected legislators. In short, the act is fully compatible with the requirements of national security both now and in the future.

The constitutional evidence in support of the War Powers Act is clear. The Foreign Relations Committee has already studied the relevant legal questions thoroughly and responsibly. I urge an affirmative vote.

The PRESIDING OFFICER. Who yields time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

LIBERALIZATION OF CERTAIN CIVIL SERVICE RETIREMENT ANNUITIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGEE), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1681.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to S. 1681, a bill to liberalize eligibility for cost-of-living increases in civil service retirement annuities which was to strike out all after the enacting clause and insert:

That section 8340(c) of title 5, United States Code, is amended—

(1) by renumbering paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively; and

(2) by inserting immediately above paragraph (2) (renumbered as such by paragraph (1) of this section), the following new paragraph:

"(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

"(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

"(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339 (m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.".

SEC. 2. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) (1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when such increase results from an employee-management agreement under title 39, or any administrative action taken pursuant to law, which authorizes increases in pay on which such benefits are computed.

"(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in thirty equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the first fiscal year after the fiscal year in which an increase in pay becomes effective.".

SEC. 3. Section 1005(d) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "The Postal Service shall pay into the Civil Service Retirement and Disability Fund the amounts determined by the Civil Service Commission under section 8348(h)(2) of title 5.".

SEC. 4. The amendments made by the first section of this Act shall apply only with respect to annuities which have a commencing date after the effective date of the first annuity increase under section 8340(b) of title 5, United States Code, which occurs on or after the date of enactment of this Act. The amendment made by section 3 of this Act to section 1005(d) of title 39, United States Code, as enacted by the Postal Reorganization Act (84 Stat. 732; Public Law 91-375), shall become effective on that date on which the other provisions of such section 1005(d) become effective.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGEE), I move that the Senate disagree to the amendment of the House on S. 1681 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGEE, Mr. RANDOLPH, Mr. BURDICK, Mr. FONG, and Mr. BOGGS conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WEICKER) The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, following the remarks of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The secoond assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WEICKER). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 11 o'clock a.m. After the two leaders have been recognized under the standing order, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine business for not to exceed 30 minutes, with statements therein limited to 3 minutes each.

After the conclusion of the routine business, the Chair will lay before the Senate S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress. Debate will continue thereon. It is hoped that amendments will be called up and voted on tomorrow.

Therefore, rollcall votes may occur tomorrow.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock a.m. tomorrow.

The motion was agreed to; and at 4:12 p.m. the Senate adjourned until tomorrow, Wednesday, April 5, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 4, 1972:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Harald Bernard Malmgren, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. Allen L. Powell to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration, Vice Rear Adm. Don A. Jones, retiring.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Samuel B. Block, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of years prescribed by Public Law 91-358, approved July 29, 1970, and vice a new position created by said Public Law 91-358.

Robert H. Campbell, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Joseph M. Hannon, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Margaret A. Haywood, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of years prescribed by Public Law 91-358, approved July 29, 1970, and vice a new position created by said Public Law 91-358.

John R. Hess, of Virginia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Luke C. Moore, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

Donald S. Smith, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, vice a new position created by Public Law 91-358, approved July 29, 1970.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service information officers for promotion in the Foreign Service to the classes indicated:

Foreign Service information officers of class 1:

Robert C. Amerson, of Minnesota.
Lyle D. Copmann, of Nebraska.
Robert T. Curran, of Michigan.
Arthur S. Hoffman, of Florida.
Wallace W. Littell, of Maryland.
James Moceri, of Washington.
Harold F. Schneidman, of Pennsylvania.
Francis B. Tenny, of Virginia.
Gordon Winkler, of the District of Columbia.

Foreign Service information officers of class 2:

Philip W. Arnold, of New York.
Royal D. Bisbee, of Illinois.
David M. Burns, of Kansas.
William B. Davis, of Michigan.
F. Weston Fenhagen, of California.
Hans Holzapfel, of Virginia.
Miss Marilyn Johnson, of Massachusetts.
Leonard L. Lefkow, of Washington.
Robert Don Levine, of New York.
Miss Joann Lewinsohn, of Oklahoma.
James A. McGinley III, of Florida.
William J. Miller, of Virginia.
Robert W. Mount, of Nevada.
Robert L. Nichols, of New Hampshire.
Patrick E. Nieburg, of New York.
Melvin C. Niswander, of Maryland.
Michael T. F. Pistor, of New York.
W. Clinton Powell, of Hawaii.
Victor L. Stier, of California.
Ted M. G. Tanen, of California.

Foreign Service information officers of class 3:

Donald H. Albright, of Arkansas.
Theophilus E. Ashford, of New Jersey.
Leonard J. Baldyga, of Illinois.
Paul P. Blackburn, of Maryland.
Hugh L. Burleson, of Maryland.
John F. Cannon, of Massachusetts.
Philip C. Cohan, of Maryland.
John J. Daly, Jr., of Pennsylvania.
Neal T. Donnelly, of Florida.
Edward A. Elly, of Michigan.
Richard J. Gordon, of Maryland.
Miss Elinor Green, of New York.
John L. Griffiths, of California.
Andrew P. Guzowski, of Florida.
Miss Barbara A. Hutchison, of Delaware.
Stanton Jue, of California.
Leslie M. Lisle, of West Virginia.
Charles R. Meyer, of Ohio.
Dale A. Morrison, of Illinois.
Gordon W. Murchie, of California.
Warren J. Obluck, of California.
Alvin Perlman, of New York.
Mrs. Lois W. Roth, of New York.
William A. Rugh, of New York.
John C. Scafe, of Kansas.
Wesley D. Stewart, of Ohio.
John J. Tuohey, of New Jersey.

Foreign Service information officers of class 4:

Peter J. Antico, of New York.
Miss Juliet C. Antunes, of New York.
Robert K. Baron, of Pennsylvania.
Richard Birn, of New York.
Merton L. Bland, of California.
John L. Bright, of Ohio.
Gilbert R. Callaway, of Arkansas.
Michael P. Canning, of North Dakota.
Robert T. Coonrod, of New York.
Miss Victoria R. Cordova, of Washington.
Frank Darlington, of Texas.
Sherwood H. Demitz, of Missouri.
Robert Barry Fulton, of Pennsylvania.
Miss Mary E. Gawronski, of New York.
Robert K. Geis, of Texas.
Robert R. Gosende, of Massachusetts.
Donald W. Hauger, of Florida.
Miss Corinne A. Heditsian, of Rhode Island.
Christopher M. Henze, of California.
John H. Hudson, of Virginia.
Larry J. Ikels, of Texas.
William L. Jacobsen, Jr., of Washington.
Duane L. King, of Washington.
Howard A. Lane, of Virginia.
Alfred A. Laun III, of Wisconsin.
Dell F. Pendergrast, of Illinois.
Robert David Plotkin, of California.
James C. Pollock, of Pennsylvania.
Jerry Lincoln Prillaman, of Virginia.
Harold F. Radday, of California.
Christopher W. S. Ross, of the District of Columbia.
Richard C. Schoonover, of California.
Carl D. Schultz III, of the District of Columbia.
Donald F. Sheehan, of New York.
Miss Barbara M. Shelby, of New York.
Terry B. Shroeder, of California.
Willis J. Sutter, of New Jersey.
Daniel L. Traub, of California.
Ernesto Uribe, of Texas.
Richard A. Virden, of Minnesota.
Harvey M. Wandler, of New York.
Joel M. Woldman, of Ohio.

Foreign Service information officers of class 5:

Dennis A. Allred, of Illinois.
Robert Bemis, of the District of Columbia.
Miss Beverly H. Brock, of California.
Stephen M. Chaplin, of Hawaii.
Dennis D. Donahue, of Indiana.
Richard B. Fitz, of California.
Ludlow Flower III, of California.
John Frankenstein, of the District of Columbia.
Wayne F. Gledhill, of Utah.
Miss Gail J. Gulliksen, of Illinois.
L. Michael Haller, of Illinois.
John P. Harrod, of Ohio.
David W. Hess, of Iowa.
Edward J. Hinker, of Minnesota.
Edward W. Holland, Jr., of New Jersey.
David L. Jamison, of Maryland.
David K. Krecke, of Michigan.
Miss Susan E. Lowe, of Pennsylvania.
Anthony A. Markulis, of Virginia.
William H. Maurer, Jr., of Pennsylvania.
Miss Marilyn McAfee, of Pennsylvania.
Miss Caroline V. Meirs, of New Jersey.
Michael J. Nugent, of Maryland.
Michael Patrick Phelan, of Michigan.
Donald J. Planty, of New York.
Robert W. Proctor, of New Mexico.
Roger C. Rasco, of Texas.
Douglas S. Rose, of California.
Miss Janet E. Ruben, of Pennsylvania.
Andrew D. Schlessinger, of New York.
Stanley S. Shepard, of Colorado.
Jonathan L. Silverman, of New Jersey.
Lawrence M. Thomas, of Tennessee.
Richard C. Tyson, of California.
Miss Sandra L. Vogelgesang, of the District of Columbia.
Kenneth A. Yates, of Connecticut.

Foreign Service information officers of class 6:

Miss Barbara Joan Allen, of Missouri.
Parker J. Anderson, of California.
Miss Sarah R. Anderson, of West Virginia.
Peter T. Becskehazy, of Ohio.
Arthur S. Berger, of the District of Columbia.
Miss Jan Carol Berris, of Michigan.
Michael L. Braxton, of the District of Columbia.
Nelson C. Brown, of Louisiana.
Brian E. Carlson, of Virginia.
Miss Paul J. Causey, of Virginia.
Mrs. Janet C. Demiray, of Virginia.
Fredric A. Emmert, of Michigan.
C. Roy Fleming, Jr., of Tennessee.
Robert B. Geyer, of Pennsylvania.
Mark A. Glago, of New York.
Miss J. Alison Grabell, of New Jersey.
William Henry Graves of California.
Richard F. Hayse, of Kansas.
Robert C. Heath, of California.
Thomas A. Homan, of Illinois.
Miss Judith R. Jamison, of the District of Columbia.
John E. Katzka, of Wisconsin.
Miss Katherine Kline, of Ohio.
Robert F. Le Blanc, of Montana.
Charles C. Loveridge, of Utah.
Eugene A. Nojek, of Illinois.
Michael F. O'Brien, of California.
Joseph Daniel O'Connell, Jr., of Maryland.
Mrs. Donna Marie Oglesby, of Florida.
Miss Anne M. Sigmund, of Kansas.
John C. Thomson, of California.
John Treacy, of New York.
John C. Wicart, of Virginia.
Leonardo M. Williams, of Minnesota.

Foreign Service information officers of class 7:

Howard A. Cincotta, of Maryland.
David P. Good, of New York.
Andre N. Gregory, of New York.
Hugh H. Hara, of Illinois.
Philip C. Harley, of New York.
Miss Ann Jeryl Martin, of Tennessee.
Robert D. Miller, of Pennsylvania.
Robert C. Wible, of Ohio.

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1:

Richard J. Bloomfield, of Virginia.
William G. Bradford, of Illinois.
William D. Broderick, of Michigan.
Jack B. Button, of Kansas.
Edwin D. Crowley, of New Jersey.
William E. Culbert, of New Jersey.
Richard A. Ericson, Jr., of California.
Gerald Goldstein, of New York.
John H. Holdridge, of California.
Miss Margaret Hussman, of Idaho.
Richard E. Johnson, of the District of Columbia.
Lowell Bruce Laingen, of Minnesota.
William W. Lehfeldt, of California.
Frank E. Maestrone, of Connecticut.
Henry Hunt McKee, of the District of Columbia.
Jacob M. Myerson, of Maryland.
Sandy MacGregor Pringle, of the District of Columbia.
Stanley D. Schiff, of New Jersey.
Thomas D. Shoesmith, of Pennsylvania.
Monteagle Stearns, of California.
Richard D. Vine, of California.

Foreign Service officers of class 1 and consular officers of the United States of America:

Arthur R Day, of New Jersey.
Arthur I. Wortzel, of New Jersey.

Foreign Service officers of class 2:
S. Morey Bell, of Virginia.
Calvin C. Berlin, of Ohio.
Robert R. Bliss, of Michigan.
Charles W. Brown, of California.
Michael Calingaert, of New York.
Harvey J. Cash, of Arizona.
Michael E. Ely, of the District of Columbia.
Brandon H. Grove, Jr., of the District of Columbia.
Brewster R. Hemenway, of New York.
Ernest B. Johnston, Jr., of Alabama.
Archie S. Lang, of Illinois.
Donald C. Leidel, of Wisconsin.
H. Freeman Matthews, Jr., of Maryland.
David H. McCabe, of California.
Noble M. Melencamp, of Kansas.
Alan G. Mencher, of New York.
John L. Mills, of Georgia.
James B. Moran, of Washington.
John J. O'Neill, Jr., of Connecticut.
Wendell A. Pike, of Washington.
Stephen H. Rogers, of Virginia.
David E. Simcox, of Kentucky.
Melvin E. Sinn, of New Jersey.
Thomas W. M. Smith, of Maine.
William R. Smyser, of Pennsylvania.
Roger A. Sorenson, of Utah.
Michael Sterner, of New York.
Thomas E. Summers, of Maine.
Joseph Terranova, Jr., of Arizona.
Nicholas G. W. Thorne, of Connecticut.
Robert E. White, of New Hampshire.
Amos Yoder, of California.
Dan A. Zachary, of Illinois.
Albert L. Zucca, of Florida.

Foreign Service officers of class 2 and consular officers of the United States of America:
James L. Carson, of Oregon.
Maxwell Chaplin, of California.
John R. Davis, Jr., of Maryland.
Harry George French, of Maryland.
Holsey G. Handyside, of Ohio.
Robert B. Houston, Jr., of Maryland.
Charles K. Johnson, of California.
Robert Gerald Livingston, of Connecticut.
Christoper A. Squire, of the District of Columbia.
Jack A. Sulser, of Illinois.
Nicholas A. Veliotes, of California.

Foreign Service officers of class 3:
George A. Anderson, of Iowa.
James K. Bishop, Jr., of New York.
Edward C. Bittner, of Pennsylvania.
Archie M. Bolster, of Virginia.
Stephen W. Bosworth, of Virginia.
Carleton C. Brower, of California.
Alanson G. Burt, of California.
Thomas C. Colwell, of California.
Ernst Conrath, of Wisconsin.
Emmett M. Coxson, of Illinois.
John E. Crump, of Kansas.
Willard B. Devlin, of Pennsylvania.
John W. DeWitt, of Florida.
Robert B. Duncan, of New Jersey.
Emil P. Ericksen, of California.
James Ferrer, Jr., of California.
Rudy V. Fimbres, of Arizona.
Allen S. Greenberg, of the District of Columbia.
Myles L. Greene, of Florida.
Mrs. Winifred T. Hall, of New Jersey.
Kenneth Allen Hartung, of New York.
Miss Theresa A. Healy, of New Hampshire.
Robert M. Immerman, of New York.
Norbert J. Krieg, of California
Denis Lamb, of Ohio.
Robert E. Lamb, of Georgia.
Larry E. Lane, of Texas.
David E. L'Heureux, of New Hampshire.
William H. Mansfield III, of Connecticut.
Frank A. Mau, of Wyoming.
Paul B. McCarty, of Massachusetts.
Chester E. Norris, Jr., of Maine.
Miss Allson Palmer, of New York.
Donald K. Petterson, of California.
James A. Placke, of Nebraska.
Mark S. Pratt, of Rhode Island.
Henry Precht, of Georgia.
Anthony C. E. Quainton, of Washington.
Alexander L. Rattray, of California.
Miss Rozanne L. Ridgway, of Minnesota.
Robert J. Ryan, Jr., of Massachusetts.
Roger C. Schrader, of Missouri.
N. Shaw Smith, of Virginia.
Richard W. Smith, of New York.
Walter Burges Smith II, of Rhode Island.
Thomas Solitario, of California.
Ulrich A. Straus, of the District of Columbia.
Thomas M. Tracy, of Connecticut.
Lannon Walker, of California.
E. Allan Wendt, of Illinois.
Richard L. Wilson, of Iowa.

Foreign Service officers of class 3 and consular officers of the United States of America:
Hugh W. Burrows, of Michigan.
John J. Harter, of California.
John J. Helble, of Illinois.
Edward Hurwitz, of New York.
James T. Johnson, of Montana.
Gerald R. Olsen, of Michigan.
Russell E. Olson, of Illinois.
James G. Sampas, of Massachusetts.
Edward W. Schaefer, of Connecticut.

Foreign Service officers of class 4:
Andrew P. Antippas, of Massachusetts.
Richard C. Barkley, of Michigan.
Samuel B. Bartlett, of Massachusetts.
Adrian Anthony Basora, of Puerto Rico.
J. Peter Becker, of Florida.
John P. Becker, of California.
Harry C. Blaney III, of New York.
Kenneth W. Bleakley, of New York.
Richard W. Bogosian, of Massachusetts.
Parker W. Borg, of Minnesota.
William J. Boudreau, of Massachusetts.
William T. Breer, of California.
Charles F. Brown, of Nevada.
Richard G. Brown, of the District of Columbia.
James N. Bumpus, of California.
Ronald B. Casagrande, of the District of Columbia.
David P. N. Christensen, of Nevada.
Richard A. Christensen, of Wisconsin.
Malcolm H. Churchill, of Iowa.
Wat T. Cluverius IV, of Illinois.
John P. Crawford, of Ohio.
Marion V. Creekmore, Jr., of Tennessee.
Ernest B. Dane III, of the District of Columbia.
Edmund T. DeJarnette, of Virginia.
Edward P. Djerejian, of New York.
Robert W. Farrand, of New York.
Lowell R. Fleischer, of Ohio.
Patrick J. Flood, of Ohio.
Arthur M. Giese, of Mississippi.
Jay R. Grahame, of Virginia.
Marvin Groeneweg, of Iowa.
Richard D. Harding, of Michigan.
Douglas G. Hartley, of the District of Columbia.
John H. Hawes, of New Jersey.
Walter A. Hayden, of New York.
Richard Hines, of New York.
John L. Hirsch, of New York.
Francis S. M. Hodsoll, of New York.
Jerome L. Hoganson, of Wisconsin.
Robert Onan Homme, of Minnesota.
James F. Hughes III, of New York.
Miss Karen D. Jenkins, of Virginia.
James J. Johnston, of Arkansas.
John P. Jurecky, of Arizona.
Vladimir Lehovich, of New York.
David L. Mack, of Oregon.
James B. Magnor, Jr., of Virginia.
Edward J. Maguire, Jr., of California.
Dwight N. Mason, of New Jersey.
Gary L. Matthews, of Missouri.
Donald Floyd McConville, of Minnesota.
Henry Young McCown, Jr., of Texas.
Joseph D. McLaughlin, of Kansas.
Michael J. Mercurio, of Ohio.
Michael A. G. Michaud, of Maryland.
Bradford William Miller, Jr., of New York.
David T. Morrison, of Michigan.
James H. Morton, of Illinois.
Nicholas M. Murphy, of New York.
Geoffrey Ogden, of California.
Roble M. H. Palmer, of Vermont.
Dennis R. Papendick, of California.
Samuel R. Peale, of the District of Columbia.
Robert A. Peck, of California.
Chester F. Polley, Jr., of Illinois.
Gary S. Posz, of California.
Robert Rackmales, of Maryland.
Eugene J. Schreiber, of Missouri.
Larry W. Semakis, of New Jersey.
William C. Sergeant, of Florida.
Gilbert H. Sheinbaum, of California.
Robert William Smith, of California.
Rufus Grant Smith, of New Jersey.
John P. Spillane, of Illinois.
Joel S. Spiro, of Pennsylvania.
Walter E. Stadtler, of Maryland.
John C. Stephens, of Colorado.
Andrew Tangalos, of the District of Columbia.
Paul Daniel Taylor, of New York.
Dirck Teller, of Maryland.
Norman E. Terrell, of Washington.
Richard S. Thompson, of Washington.
Archelaus R. Turrentine, of Arkansas.
John D. Whiting, of Wisconsin.
Olin S. Whittemore, of California.
Philip C. Wilcox, Jr., of Colorado.
Milton J. Wilkinson, of California.
Theodore S. Wilkinson III, of the District of Columbia.
David S. Wilson, of California.
John J. Youle, of New York.

Foreign Service officers of class 4 and consular officers of the United States of America:
Frank L. Berry, of Kentucky.
Reppard D. Hicks, of Florida.
Robert E. Jelley, of California.
Edward R. O'Connor, of New York.
John G. Peters, of Maryland.

Foreign Service officers of class 5:
Frederick Brenne Bachmann, of New Jersey.
Paul E. Barbian, of Wisconsin.
Robert W. Beales, of Virginia.
David Russell Beall, of Michigan.
Charles R. Bowers, of California.
Charles H. Brayshaw, of Colorado.
Malcolm Heaton Butler, of Texas.
Timothy Michael Carney, of Georgia.
Robert K. Carr, of California.
John B. Craig, of Pennsylvania.
Brian G. Crowe, of New York.
Richard D. Cummins, of New York.
Miss Martha Ann DeWitt, of Colorado.
David J. Dunford, of Connecticut.
Vincent J. Farley, of New York.
Brian R. Furness, of Connecticut.
Robert P. Gallagher, of Rhode Island.
William L. Gallagher, of California.
Jon D. Glassman, of California.
Victor S. Gray, Jr., of the District of Columbia.
William D. Heaney, of California.
Richard E. Hecklinger, of New York.
Paul W. Hilburn, Jr., of Texas.
David L. Hobbs, of California.
Thomas R. Hutson, of Nebraska.
Philip A. King, of Florida.
Arthur L. Kobler, of New Jersey.
Donald B. Kursch, of New York.
David Burton Langhaug, of Michigan.
Edward Gibson Lanpher, of Virginia.
Richard R. La Roche, of Rhode Island.
Larrie D. Loehr, of California.
Robert A. MacCallum, of Pennsylvania.
Richard A. McCoy, of New Jersey.
Kevin J. McGuire, of New York.
Richard Keller McKee, of Illinois.
Miss Marilyn L. Muench, of Idaho.
Patrick A. Mulloy, of Pennsylvania.
Robert C. Myers, of Virginia.
Stefan Cox Nadzo, of Virginia.
Miss Sarah Louise Nathness, of Ohio.
Jerome C. Ogden, of New York.
Mrs. Mary Dell F. Palazzolo, of Georgia.
Robert Stephen Pastorino, of California.
Lee M. Peters, of Minnesota.
Paul P. Pilkauskas, of New York.
Blaine D. Porter, of Utah.
Kenneth M. Quinn, of Iowa.
Algirdas J. Rimas, of Virginia.
Miss Mary A. Ryan, of New York.

Miss Barbara L. Schell, of Pennsylvania.
Miss Marsha D. Smith, of Maryland.
Ronald L. Spaulding, of Washington.
Larry C. Thompson, of Oklahoma.
Edward A. Torre, of New York.
Miss Jane Whitney, of Washington.
Irving A. Williamson, Jr., of Missouri.
Richard LaVerne Williamson, Jr., of California.
Ralph Winstanley II, of Indiana.
Toby T. Zettler, of Ohio.

Foreign Service officers of class 6:
Eugene C. Bailey, of California.
Alan Whittier Barr, of California.
Ross E. Benson, of California.
Paul H. Blakeburn, of New Hampshire.
John S. Blodgett, of Virginia.
Michael A. Boorstein, of Colorado.
James C. Cason, of the District of Columbia.
Kenneth W. Chard, of Colorado.
Peter R. Chaveas, of New Jersey.
Donald R. Cleveland, of Oregon.
Daniel Chester Cochran, of Illinois.
Lee O. Coldren, of California.
Michael Congdon, of California.
Frederick R. Cook, of New York.
Richard Arthur Coulter, of Oregon.
Miss Kathleen J. Croom, of Missouri.
Jeffrey R. Cunningham, of Idaho.
Roger L. Dankert, of Nebraska.
Jan de Wilde, of Virginia.
Morton R. Dworken, Jr., of Ohio.
Douglas A. Dworkin, of Tennessee.
Lawrence F. Farrar, of Washington.
Royce J. Fichte, of Illinois.
Donald Lee Field, Jr., of California.
John Seabury Ford, of Ohio.
Edward F. Fugit, of Illinois.
John Michael Garner, of Texas.
Harold W. Geisel, of Illinois.
Allen McDowell Hale, of Virginia.
Albert Lee Haliff, of Texas.
Michael L. Hancock, of Georgia.
David C. Harr, of Illinois.
Donald Vance Hester, of Illinois.
James G. Huff, of the District of Columbia.
Miss Judith I. Hughes, of Utah.
Morris N. Hughes, Jr., of Nebraska.
Paul Andrew Inskeep, of Virginia.
Robert Leonard Jacobs, of Illinois.
Mark Johnson, of Montana.
Christopher G. L. Jones, of the District of Columbia.
Karl K. Jonietz, of Massachusetts.
Richard Dale Kauzlarich, of Illinois.
Harvey Lampert, of California.
Warren E. Littrel, Jr., of Illinois.
Frederic William Maerkle III, of California.
Lann A. Malesky, of North Carolina.
David Jordan Mangan, Jr., of Wisconsin.
Pedro Martinez, of Texas.
Gregory Lynn Mattson, of New Jersey.
Miss Mary Helen Maughan, of Utah.
Steven McDonald, of Missouri.
Brunson McKinley, of Pennsylvania.
David Norman Miller, of Nebraska.
William A. Hoffitt, of Texas.
Day Olin Mount, of New York.
Thomas F. Murphy, of Illinois.
Clarence M. Nagao, of Hawaii.
Ronald E. Neumann, of California.
J. Michael O'Brien, of Pennsylvania.
Scott Huston Ochiltree, of Connecticut.
Gordon Brent Olson, of Washington.
Allen R. Overmyer, of the District of Columbia.
Raymond J. Pardon, of New York.
Robert C. Perry, of North Carolina.
Ross S. Quan, of California.
William Christie Ramsay, of Michigan.
Paul V. Ray, Jr., of Wisconsin.
David E. Reuther, of Washington.
Wayne Alan Roy, of Virginia.
John W. Salmon, Jr., of Missouri.
Clement Laurence Salvadori, of Massachusetts.
Basil Scarlis, of the District of Columbia.
Robert L. Scott, of Virginia.
L. Gordon Shouse, of Florida.
William H. Siefken, of Texas.
Hugh V. Simon, Jr., of Tennessee.
Charles B. Smith, Jr., of New York.
James A. Smith, of Ohio.
Richard A. Smith, Jr., of Connecticut.
Frank J. Spillman, of Hawaii.
Joseph Gerard Sullivan, of Massachusetts.
Russell J. Surber, of Washington.
James W. Swihart, Jr., of the District of Columbia.
Robert E. Tynes, of Virginia.
Frank P. Wardlaw, of Texas.
Lyn F. Wheeler, of the District of Columbia.
Arlen Ray Wilson, of Wyoming.
Andrew Jan Winter, of New York.
Ira Wolf, of Virginia.
Leo R. Wollemborg, of New York.
Franklin Miller Zuttermeister, Jr., of Florida.

Foreign Service officers of class 7:
Marc Allen Baas, of Michigan.
Larry G. Butcher, of Oklahoma.
Mrs. Suzanne S. Butcher, of Pennsylvania.
Richard Dunlap Helm, of New Jersey.
Miss A. Elizabeth Jones, of Maryland.
John Scott Monier, of Illinois.
Christopher T. Seaver, of California.
Gregory D. Strong, of Montana.
Robert Taylor, of Texas.
Arthur M. Weisburd, of Arkansas.
John Stern Wolf, of Pennsylvania.

IN THE COAST GUARD

The following-named officers of the Coast Guard Reserve for promotion to the grade of captain:

John D. O'Malley — Richard L. Sprague
Robert L. O'Brien — Donald M. Draper

The following-named officer of the Coast Guard Women's Reserve for promotion to the grade of captain:

Eleanor C. L'Ecuyer

The following-named officers for reappointment in Coast Guard Women's Reserve in the grade of commander, having been found fit for duty while on the temporary disability retired list.

Frances S. Turner

The following-named officer of the Coast Guard for promotion to the grade of commander:

Jules A. Peebles

The following-named Reserve officers to be permanent commissioned officers in the Coast Guard in the grade of lieutenant:

Richard R. Cottingham — Arthur A. Whiting III
William S. Shaffer — Eric J. Williams III

IN THE U.S. ARMY

The following-named officers to be placed on the retired list, in grade indicated, under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Hugh McClellan Exton, 224-52-2891, Army of the United States (major general, U.S. Army).

Lt. Gen. James Benjamin Lampert, 224-52-8480, Army of the United States (major general, U.S. Army).

IN THE NAVY

The following-named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

John D. Chase — Roger E. Spreen
David M. Rubel — James Ferris
Robert S. Salzer — John H. Dick
Paul E. Pugh — William H. Livingston
John "L" Butts, Jr. — Howard E. Greer
William M. Pugh II — Jon L. Boyes
Ward S. Miller — Donald C. Davis
Donald V. Cox — Dean L. Axene
Herbert S. Ainsworth — Patrick "J" Hannifin
Earl P. Yates — James W. Nance
Donald D. Engen — Rembrandt C. Robinson
Oliver H. Perry, Jr. — Worth H. Bagley
Edwid K. Snyder — Clarence M. Hart
Herbert S. Matthews, Jr. — Lewis A. Hopkins

MEDICAL CORPS

William C. Turville

SUPPLY CORPS

Charles Becker

CHAPLAIN CORPS

Richard G. Hutcheson, Jr.

DENTAL CORPS

Anthony K. Kalres

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force (Medical Corps), in the grade of lieutenant colonel, under the provisions of section 593, title 10, United States Code, and Public Law 92-129, with a view to designation as medical officers, under the provisions of section 8067, title 10, United States Code, with effective dates to be determined by the Secretary of the Air Force:

Buckley, Richard E., 428-72-1201.
Hodgson, Corrin J., 470-34-0792.
Kachinski, Frank E., 207-26-0258.
Lowe, James C. Jr., 255-54-3101.

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be captain (Dental)

Van Asma, Kenneth L., 481-40-8328.

To be captain (Medical)

Carroll, Herman G., Jr., 409-58-4130.
Koop, Lamonte P., 476-46-2435.
Simerville, James J., 540-40-0053.

The following Air Force officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Akers, James C., 464-54-4458.
Albrecht, Jerry E., 543-44-3502.
Allen, Archie G., 509-30-8436.
Andress, Robert S., 444-34-2220.
Andrews, Melville M., Jr., 225-54-7012.
Armistead, Jack D., 439-58-5195.
Avery, Richard D., 558-44-6756.
Badalamente, Richard V., 553-48-4134.
Bainbridge, Thomas A., 505-40-9704.
Bair, William K., 233-68-0850.
Baker, Kennieth W., 455-62-0942.
Baker, Richard A., 429-80-2386.
Ballas, Andrew W., Jr., 292-38-6281.
Banks, Tommie L., 318-36-3000.
Bartlow, Gene S., 445-40-8616.
Bateman, Wilbur, W., Jr., 452-60-1473.
Beck, James R., 498-42-7724.
Becker, Larry L., 503-50-5459.
Benedict, Calvert A., 457-62-1387.
Berwager, Steven L., 173-32-7228.
Bevis, James N., 149-32-2565.
Bingham, Billy J., 489-44-8981.
Blakeley, William B., 227-54-9544.
Blassingame, Arthur A., 454-60-7695.
Blizzard, Gerald V., 238-60-0459.
Boman, Francis R., 493-44-8279.
Bourgeois, Warren H., Jr., 437-60-0295.
Bradham, John H., 248-62-4602.
Brass, William I., 505-44-4209.
Brown, Michael J., 270-36-1942.
Bryant, Lucious E., Jr., 261-50-0137.

Bryant, William L., 403–50–8297.
Burks, William N., 434–42–8450.
Bushfy, James W., 416–46–1509.
Byers, Jerrold K., 307–44–1236.
Cadle, Larry D., 533–36–1969.
Calcote, James D., 426–80–4477.
Capan, David R., 181–34–8435.
Capshaw, Billie D., 446–34–6035.
Carr, Michael L., 480–50–9862.
Carter, Jack D., 451–60–9749.
Carver, Lawrence A., 568–58–9619.
Cary, Leo M., 540–46–5025.
Casey, William E., Jr., 533–36–0065.
Cashman, James F., 021–32–3562.
Casleton, Jeffrey L., 361–34–2803.
Cecil, Allan C., 284–36–5482.
Celestini, Arnold C., 365–38–8396.
Chestnut, Robert B., 250–72–4817.
Cheveres, Robert, 551–50–8874.
Churchwell, John E., 037–26–5296.
Claiborne, James F., III, 448–38–7999.
Clark, Babe M., 467–68–1347.
Cleveland, Durand E., Jr., 457–64–9269.
Clingman, Billy G., 501–28–7075.
Cofod, Robert K., 098–14–4435.
Colley, William M., 263–72–8071.
Collins, Willie R., Jr., 463–54–4126.
Connors, Ronald E., 166–32–7593.
Crooker, Christian A., 177–34–2533.
Culp, Joseph P., 440–42–4840.
Cummings, John W., Jr., 220–40–5399.
Cunningham, Gene R., 410–58–5071.
Curtis, Richard R., 397–36–6503.
Davis, Forrest W., 255–56–0066.
Delar, Robert J., 075–32–8511.
Dews, John D., 264–60–1876.
Dickerson, Warren C., 118–34–8314.
Dodge, Ronald B., II, 557–64–6482.
Dolezal, Edward J., 466–64–6072.
Dorn, Raymond G., 389–38–7904.
Doubrava, Peter C., 131–30–7181.
Dougherty, James F., Jr., 194–32–4137.
Douville, Douglas E., 379–36–3051.
Driggers, Paul N., Jr., 250–60–4292.
Drouin, Donald V., 372–34–4217.
Druva, Karlis J., 366–36–2389.
Duffey, John G., Jr., 465–68–6374.
Dunn, Charles A., 577–52–5643.
Eakle, Bruce F., 304–46–8305.
Edwards, Charles R., 099–32–0187.
Ellis, Smokey F. C., 266–62–8843.
Erickson, Donald W., 502–34–5784.
Erickson, Eric J., 470–42–8200.
Eyermann, Richard J., 489–46–8118.
Fain, Maxwell, N., 249–50–5388.
Faris, Earl S., 251–68–1067.
Feltch, Milton L., Jr., 021–30–3554.
Ferro, Richard L., 038–26–7999.
Finlay, Thomas M., 216–38–6612.
Fisher, Neil, 529–40–1937.
Flatrush, William E., Jr., 495–34–1100.
Flick, Earl D., Jr., 191–32–8079.
Foley, Norman R., 554–50–4374.
Ford, David G., 543–46–5587.
Fore, Kenneth E., 227–52–1423.
Fortney, Frank L., 552–56–6527.
Fowler, Joseph B., Jr., 106–34–4272.
Frankle, John C., 122–32–9115.
Franklin, Lyle D., 507–40–4578.
Freeman, Augustus M., Jr., 005–38–0175.
Fretz, John W., Jr., 503–40–3497.
Gallerani, Robert B., 033–30–7131.
Gardner, Clarence L., 420–56–5293.
Garlett, Harold F., 528–40–0008.
Gilbert, Clifford F., 213–42–8611.
Gillespie, Richard W., 333–32–5534.
Gleckel, Gerard G., 104–32–3887.
Goforth, William C., 251–56–1511.
Golemis, Denis, 076–28–8499.
Gomez, Danny, 458–66–5615.
Goodman, Raymond W., Jr., 237–58–2634.
Grace, Paul J., 548–58–0440.
Gray, Charles F., 353–32–2355.
Green, Joseph E., Jr., 248–44–0709.
Griffin, John F., 248–62–5688.
Griffin, Michael P., 036–34–9475.
Gruetzmacher, John H., 264–68–5902.
Guyse, Barry D., 569–58–5091.
Haas, Barry L., 210–32–7464.
Haddix, Ronald 275–38–3443.
Hall, Adell, 380–36–5232.
Hall, Kenneth N., 409–60–7119.
Hall, Robert D., 179–32–9735.
Halsaver, Richard A., 164–32–6807.
Hamlin, James W., Jr., 290–34–3617.
Hancock, Thomas P., 190–30–3016.
Hannan, Robert R., 112–30–0590.
Harden, Franklin D., 252–52–6178.
Harden, Kaye M., 264–58–4339.
Harris, Samuel L., 511–40–6434.
Hart, Gordon, 258–52–5391.
Hartman, John W., 372–40–1686.
Harzman, Charles N., 447–36–4073.
Hawk, John D., 248–74–3315.
Hebinck, Robert V., 461–60–8672.
Hernandez, Louis Jr., 232–64–7535.
Herring, Harold C., 411–76–8038.
Hewer, David J., 370–36–3100.
Heydinger, Jerry J., 292–32–5931.
Hicks, Rodman P., 180–34–4423.
Holland, Bruce B., 228–46–6367.
Holland, George W., III, 310–34–3089.
Holmes, Melvin R., 362–42–6236.
Holtz, Robert L., 388–34–6881.
Hood, Robert M., 237–66–9474.
Horras, Herbert H., 480–40–6262.
Howard, Dennis D., 540–48–5905.
Huddleston, Harold J., 415–44–9050.
Hudman, James D., 465–54–7999.
Hudson, Morris R., 314–40–8039.
Hufnagel, Raymond J., Jr., 527–56–3993.
Hughes, Ann M., 281–32–9637.
Hunt, Marshall G., 255–64–5089.
Iben, John B., Jr., 189–32–6253.
Jakubczak, Donald R., 119–28–0865.
Jarvi, Dennis W., 383–40–3585.
Javier, David, 575–40–2981.
Jefferson, Perry H., 318–26–5648.
Jensen, Anthony F., 069–32–6617.
Johnson, Bruce R., 341–34–2264.
Johnson, Leroy L., 538–42–1132.
Johnson, Robert G., 350–34–6711.
Johnston, William D., 409–62–4136.
Kaiser, Richard A., 132–28–8586.
Kallvoda, George F., 289–34–6693.
Keating, Kevin O., 048–32–8496.
Kehoe, Thomas L., Jr., 066–32–4869.
Kelly, William A., 134–28–6747.
Kholos, Clark J., 555–44–9217.
Kilbler, Joseph D., Jr., 449–46–4541.
Kish, John G., 565–58–6548.
Kjellberg, Robert K., 144–32–3708.
Klein, Peter B., 060–34–6918.
Klein, Thomas K., 425–74–4071.
Knight, Andrew S., 523–52–8327.
Knight, William A., 420–36–3735.
Kozej, Freddie G., 209–28–1864.
Krahulec, James R., 469–46–2308.
Krajczynski, Robert G., 188–34–5299.
Kreideweis, John L., 150–32–4833.
Kren, Anthony J., 302–34–1503.
Kross, Walter, 113–34–0276.
Landry, Jerome A., 438–66–3771.
Lane, Emmitt D., 224–50–5724.
Laramore, Arleigh L., 543–38–6000.
Law, John R., 264–56–0104.
Leino, Richard A., 048–32–6020.
Leonardo, John A., Jr., 130–32–8614.
Leuenberger, John E., II, 393–36–5743.
Lilly, Carroll R., 301–34–4824.
Limpp, James A., 505–50–2753.
Lindell, Kenneth G., 560–52–3057.
Little, William P., 065–34–8612.
Loar, Dennis H., 285–34–9101.
Lombard, William H., 178–32–6945.
Long, David H., 415–52–6994.
Long, John H. S., 169–32–1028.
Lukas, Leonard P., 023–32–5193.
Main, Don R., 108–30–7091.
Makris, Dion G., 023–30–3143.
Mamiya, Roy A., 576–40–8270.
Marquette, John W., 189–32–0909.
Marsh, Robert L., 484–46–4687.
Martin, Harold R., 527–42–3616.
Mason, Jack C., Jr., 458–28–4705.
Massmann, Thomas A., 330–32–7663.
Mathews, Paul C., 266–42–3128.
Mattson, Robert C., 543–46–1352.
Matyaz, Joseph C., 190–32–6327.
Maxwell, Burton L., 444–38–4435.
May, Benjamin L., Jr., 449–64–4849.
Mayo, James W., III, 409–72–9712.
McAllister, Carol B., 149–30–9570.
McBride, Charles W., 222–24–4028.
McCabe, John R., 511–38–5111.
McCain, John P., 183–28–6240.
McClanahan, James R., 279–34–7220.
McCorry, Terrell D., 281–34–3068.
McDonough, Nancy B., 496–44–0637.
McDuffie, Jerry D., 411–66–6201.
McGarry, Thomas A., 482–46–5748.
McGowan, Raymond G., 549–44–0609.
McPhail, William T., 411–68–0619.
McWhitney, Edgar E., 137–30–8420.
Meadows, Eugene T., 402–58–1015.
Menard, Allen J., 433–62–5282.
Mercer, James A., 516–54–9183.
Merifield, James W., 275–38–4144.
Miller, Raymond R., 113–32–1199.
Milligan, Joseph E., 141–34–4044.
Moore, Harry J., 577–56–8257.
Moore, James L., Jr., 261–52–7589.
Moore, Jimmie L., 458–58–4339.
Morin, Paciand Jr., 461–48–2695.
Morris, Lawrence W., 051–28–2967.
Moyer, Darrell D., 252–62–8673.
Muller, Lloyd H., 372–38–4165.
Mumma, David R., 314–36–1279.
Murray, Edward H., 091–30–7691.
Namaksy, Diane B., 108–28–2230.
Netzer, Leonard A., Jr., 457–58–8039.
Nicolaus, Richard C., 214–38–6815.
Nitsch, Anthony J., 282–32–1677.
Nye, Harvey N., 443–38–8602.
Oak, Kirby G., 116–34–5749.
O'Halloran, Gerald J., 024–28–4240.
O'Hara, William F., 081–30–3322.
Oles, Michael J., 040–34–7701.
Oliver, Thomas J., 527–52–5465.
Ormesher, Thomas A., 160–34–3695.
Ortloff, Victor C., 098–34–6401.
Palinkas, Donald, 200–26–4393.
Panzenhagen, Donald N., 387–40–9419.
Parham, John L., 359–28–2659.
Parker, John S., 563–52–7358.
Pate, Glenn S., 307–44–1347.
Pazik, Anthony J., Jr., 474–44–1262.
Peach, Ernest B., 568–56–2880.
Perantoni, Edward J., 008–28–3103.
Petersen, Nolan R., 26–34–0738.
Peterson, Willard L., 474–46–1407.
Phillips, Harold R., 244–60–8420.
Pierce, Bruce J., 136–34–9951.
Pizzino, Larry J., 234–66–2332.
Place, Earl W., 064–30–6602.
Plotnicky, John R., 470–46–3714.
Podmenik, Raymond W., Jr., 166–34–9990.
Poole, Merle L., 563–58–4858.
Popkin, Michael M., 101–30–8910.
Powell, Theodore R., 106–28–9129.
Proska, Richard R., 162–34–1723.
Purvis, Stanley L., 238–70–1057.
Quednow, William J., 514–32–2385.
Radford, John F., 061–32–1279.
Raphael, Joseph, 561–44–4890.
Ratner, Solomon, 256–48–2588.
Reed, Robert E., Jr., 306–42–9735.
Reeves, Larry E., 511–38–8851.
Reisbick, John N. P., 522–52–1418.
Rembacz, William P., 334–34–3101.
Reynolds, Horace H., III, 560–42–3362.
Richmond, Patrick G., 262–54–9365.
Riley, Mason E., Jr., 235–66–7464.
Ritter, Peter H., 231–48–1069.
Roberts, Kenneth S., 502–44–4916.
Robinson, Elmer A., Jr., 484–34–9289.
Rogers, Terry R., 529–40–4887.
Root, James P. 357–34–5536.
Rose, Chester A., 206–32–2385.
Roth, Richard E., 272–32–4757.
Sammon, Bobby G., 454–64–4608.
Sanders, Robert E., 242–52–2133.
Sands, James E., Jr., 480–52–4157.
Sautter, Jack G., 269–36–2418.
Scalft, Earl J., Jr., 487–46–2706.
Schauer, Gaylen L., 509–42–3258.
Scheuermann, Andrew J., Jr., 134–30–8389.
Schmid, Robert E., 452–44–4454.
Schnepper, Ronald J., 313–38–8810.
Schonberger, John J., Jr., 200–30–4194.
Schuler, George G., 417–48–6383.
Schunk, William A., 389–40–3593.
Scott, James P., 509–40–3542.
Seymour, Walter E., Jr., 047–30–6802.

Sharp, Paul A., 160–34–2858.
Shields, Merle R., 493–38–4364.
Shive, Donald L., 160–34–6624.
Shooshan, Daniel M., 010–32–6452.
Siegel, John L., 166–30–9985.
Simons, Lewis G., 157–30–7819.
Simpson, William L., 369–42–5203.
Sims, Clarence N., 449–56–1065.
Skelton, Charles H., 305–42–3699.
Sladek, Robert F., Jr., 220–42–0170.
Smith, Charles D., 073–30–1827.
Smith, David J., 327–28–3686.
Smith, Jerry P., 310–38–8676.
Smith, Myron D., 540–48–9316.
Smith, Palmer W., 512–300–0086.
Smoot, Charles H., 463–52–7132.
Somers, Robert B., 104–32–4564.
Sorcf, Domonic P., 051–34–3982.
Sorge, Martin K., 462–58–9365.
Speice, Donald R., 167–34–4294.
Stein, John L., 540–42–0262.
Stevenson, Dwight P., 271–38–7470.
Stevenson, Richard E., 403–50–1473.
Stoll, Leonard P., 555–56–3621.
Stoll, Tibor G., 329–34–2456.
Stratton, Charles W., 456–64–6698.
Streff, George W., 046–32–8926.
Strickland, Terry C., 421–44–4852.
Strong, Brent M., 518–44–2602.
Sullivan, Kenneth L., 262–64–8265.
Sumner, Bobbie T., 434–54–4398.
Sweeney, James K., 232–42–3594.
Swenston, Ralph G., 543–38–2944.
Sykes, Michael P., 243–56–8157.
Symonds, Joseph E., Jr., 457–68–1740.
Takahara, Edmund W., 575–40–0694.
Taylor, Gilbert R., 364–36–1119.
Thau, John W. Jr., 493–44–8821.
Thomas, Kenneth D. Jr., 343–34–5062.
Thompson, Lyle W., 436–56–1876.
Thompson, Tracey A., 501–30–5080.
Tidwell, Howard N., 261–52–8798.
Tully, Paul F., 029–24–8146.
Uchimura, Walter S., 575–36–3371.
Uhls, William T., 311–38–3420.
Underwood, Jesse A. Jr., 196–32–6316.
Undlin, Jesse P., 565–42–9341.
Valentine, John R., 277–30–6621.
Wailly, Louis F., 309–30–2694.
Walker, Julian C., 253–56–5083.
Wann, Thomas C., 513–40–7754.
Warner, Terry R., 539–38–6798.
Warren, John R., 156–32–7161.
Watson, John I. Jr., 190–32–4420.
Waugh, Thomas W., 279–38–2283.
Wedding, Joseph P. Jr., 464–68–0177.
Weiner, Robert M., 108–36–4433.
White, James P., 728–12–9121.
Whitehead, Ronald S., 457–64–0347.
Whitfield, Edwin P. Jr., 227–42–1463.
Whitfield, Glenn T. Jr., 358–26–2869.
Wiegand, Harold G., Jr., 214–44–3983.
Wielunski, Michael E., 143–30–5876.
Wilbur, Anthony D. H., 023–30–7867.
Wilde, Donald J., 392–30–8386.
Williams, Jerome F., 305–36–1028.
Witherell, Roland E., 024–30–3322.
Wood, Emery G., 407–46–2766.
Wood, William A., 363–38–7942.
Wooton, Dennis F., 455–50–7025.
Wyatt, Jim E., 403–50–9689.
Zadrozny, Joseph E., 205–30–0168.
Zimmerman, George V. Jr., 172–30–5290.
Zimmett, Howard N., 109–24–5908.

To be first lieutenant

Aarnio, Paul R., 158–32–6690.
Abbott, John F., 402–60–8465.
Ackert, James E., 324–38–5602.
Adams, David H., 484–62–8771.
Adams, John L., 214–42–4589.
Adams, Ronald, 294–38–7986.
Adee, Eugene C., 134–34–3777.
Adleman, Ronald W., 522–54–2478.
Agren, Emanuel W., 534–40–0397.
Albers, Robert M., 493–46–9557.
Alder, Gordon S., 325–38–5656.
Alexander, David W., 526–70–4796.
Alexander, Peter M., 200–34–3125.
Alexander, Roger A., 258–66–7240.
Allen, Jerry L., 410–66–7361.
Allen, Robert G., Jr., 156–38–3996.
Allen, William R., 235–68–3486.
Alley, Michael L., 533–40–6394.
Allison, Mark J., 311–46–2410.
Alsup, Larry W., 440–46–3470.
Alward, John B., 306–48–5514.
Alwine, Dennis C., 536–40–5873.
Ameele, Reginald C., 073–36–5070.
Ames, Donald L., 273–42–2631.
Anders, Gregory E., 344–36–7524.
Anderson, Andrew J., Jr., 413–72–2868.
Anderson, Charles R., Jr., 437–66–4885.
Anderson, Phillip G., 347–34–4529.
Anderson, Wayne H., 503–38–0300.
Andrejak, Gary E., 363–44–4192.
Andrews, William J., 228–62–2491.
Anglemyer, Richard M., 284–40–9546.
Applegate, William J., 153–40–2649.
Arant, Michael H., 542–50–9683.
Archambault, George F., Jr., 215–46–0930.
Arndt, Richard A., 046–34–2760.
Arthur, Charles W., II, 239–72–0659.
Artz, John C., 428–90–7529.
Ashmore, Frederick M., 418–60–8749.
Aston, James A., 422–58–2458.
Atkins, Joe P., 408–74–7408.
Auwarter, Carmen E., 504–56–8462.
Avery, Sanders L., 258–74–4272.
Bailey, Thomas F., 540–50–5827.
Baird, Arthur D., 427–72–5562.
Baker, John P., III, 194–36–5743.
Baker, John R., 124–38–5720.
Baker, Michael D., 564–64–5806.
Baker, Samuel B., 266–68–2838.
Baker, Vincent T., 481–56–0760.
Baker, William H., 437–62–4489.
Baldridge, John R., Jr., 438–66–5724.
Baldwin, William R., 251–74–7886.
Balkcom, Robert E., Jr., 253–68–8443.
Bangs, Terry L., 264–70–9903.
Barazzotto, Richard A., 107–34–6758.
Bare, Richard L., 315–46–1985.
Barnes, George R., 568–62–7868.
Barnhart, Claude I., 122–32–9029.
Barr, Robert D., 457–74–2058.
Barrett, Paul H., Jr., 552–62–7134.
Bassel, James R., 444–40–1081.
Bassett, Kenneth R., 490–48–1103.
Batchelder, Floyd P., 002–32–6214.
Bates, Eugene F., 486–50–6912.
Battista, Archer B., 185–38–8394.
Bauer, John W., 315–44–3802.
Bauer, Jon C., 097–34–8916.
Bauer, Lee A., 322–36–0134.
Bayliss, Samuel A., 437–64–5753.
Bean, Gary P., 497–50–0711.
Beard, Gary L., 537–44–8584.
Beaudette, Daniel C., 517–50–8606.
Beck, Theodorf P., 517–48–2064.
Becker, Allan R., 394–44–7234.
Beckner, Malcolm K., 307–48–7260.
Bedwell, James W., 499–46–8550.
Beeler, Claude F., Jr., 447–44–5573.
Belshke, John J., Jr., 151–34–7046.
Bell, Charles T., 421–62–8684.
Bell, Robert L., 576–46–8465.
Bellen, Jerome T., 571–60–3991.
Belz, Raymond E., 124–38–2797.
Benefield, Gary G., 438–62–8161.
Bengtson, Raymond V., 510–42–8868.
Bennett, Steven L., 438–66–4188.
Benton, Jeffrey C., 447–46–3614.
Berger, James C., 523–58–1590.
Bergman, Alan R., 477–48–4479.
Bertfro, Edward P., 133–36–1051.
Bestland, Roger J., 504–50–5927.
Betts, Charles C., Jr., 424–58–4466.
Bibb, Harry L., Jr., 250–78–4937.
Bienias Ronald M., 322–34–2099.
Billick, Donald M., 571–66–3862.
Bir, James F., 261–64–8518.
Birnie, Cameron, 543–48–9484.
Bishop, Gerald K., 507–58–4302.
Blair, Charles W., 256–72–2681.
Blair, James R., III, 522–60–6193.
Blake, Peter D., 226–60–1171.
Bode, William P., 545–66–9620.
Boggan, James F., 436–66–7706.
Bohman, Richard T., 041–34–3351.
Boneske, Franklin, 100–36–7413.
Bonin, Martin E., 575–42–5858.
Bonner, John H., 467–70–4151.
Bonvissuto, Michael J., 056–36–1530.
Booker, John C., Jr., 457–78–4890.
Booker, Michael P., 449–76–1488.
Borland, William B., 559–64–2406.
Bortfeld, Stephen R., 570–62–4039.
Boswell, Irving W., III, 255–68–6245.
Boswell, James W., 452–66–5018.
Botula, Charles, III, 130–34–8122.
Boudreaux, Lionel P., III, 438–64–3816.
Bowron, Rupert F., 264–88–6666.
Boyer, David G., 214–50–5482.
Brackett, Howard R., Jr., 028–32–3807.
Bradford, Craig S., 548–62–1924.
Bradley, Cloyce F., Jr., 412–70–3894.
Bradley, Edward L., 316–46–3201.
Bradley, Gerald H., 404–60–8547.
Brady, Doyle E., 522–58–0446.
Brandau, Thomas H., 555–60–1432.
Brandon, William G., Jr., 430–86–2390.
Brandt, James A., 523–64–7833.
Braunreiter, John D., 468–48–3026.
Breen, Paul M., 017–34–6345.
Brennan, Edward J., 407–62–6310.
Bridges, Gary L., 455–72–9890.
Bridges, Wayne L., Jr., 543–48–1112.
Brindise, William J., Jr., 099–36–2131.
Brod, Thomas J., 154–36–4062.
Brown, Aubry A., 260–66–5208.
Brown, Charles B., 266–74–6059.
Brown, David A., Jr., 448–44–3850.
Brown, James T., 212–46–1074.
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Brown, William J., 395–44–1964.
Bruchas, James M., 172–38–9491.
Brundige, James L., 131–34–4331.
Brunson, John H., 252–74–1324.
Brunson, William F., Jr., 258–70–4765.
Bryant, Charles W., 253–74–0489.
Bryson, Roy A., 462–66–4601.
Buck, Kevin P., 112–36–7724.
Buckley, David C., 521–60–0874.
Buckner, William M., 410–66–7245.
Buer, Timothy J., 573–68–9081.
Buffkin, Bobby D., 237–68–7816.
Buffum, Ronald S., 565–70–0770.
Bulat, Antone S., 503–48–4145.
Burk, Dannie O., 462–70–4466.
Burke, Joseph P., Jr., 494–50–3501.
Burkholder, Bruce B., Jr., 172–36–1189.
Burman, David T., 079–36–4974.
Burnham, Mason I., 542–42–0279.
Burns, Edward J., III, 258–74–5662.
Burns, John C., 462–64–7210.
Busse, William B., 504–54–8691.
Butler, David S., 536–40–2913.
Butter, John A., 136–38–6424.
Byers, Norman P., 515–42–0049.
Cahill, James F., 159–36–4656.
Cain, Norris T., 434–68–2773.
Calabrese, Leonard M., 154–34–6054.
Calhoun, Russell C., 540–50–9729.
Calhoun, William L., 253–76–7361.
Callin, Thomas E., 566–60–6017.
Campbell, Edward L., 220–40–2512.
Campbell, Wayne D., 489–48–8752.
Carley, Gerald G., 437–66–5114.
Carlisle, Neil R., 260–66–3239.
Carlson, Donald D., 521–58–7833.
Carnahan, Robert A., 497–46–8789.
Carpenter, Bryan F., 367–46–6145.
Carroll, Alfred R., Jr., 542–50–1709.
Carroll, Jerald E., 293–38–7489.
Cary, Mitchell D., 281–42–9603.
Casati, Richard W., 313–48–2300.
Casteel, Terence L., 465–82–8880.
Cates, Charles F., 542–60–8978.
Cates, Norman L., Jr., 091–36–9025.
Center William H., IV, 090–36–4136.
Certain, John W., 256–70–7560.
Chadsey, David E., 014–36–2216.
Chalaire, James R., 438–62–8147.
Chambers, Howard B., Jr., 242–74–9564.
Chandonnet, Patrick W., 515–42–8155.
Chaney, Joseph A., 511–44–6467.
Chappelear, James W., Jr., 247–70–9704.
Checkoway, Stanley N., 213–48–2934.
Chenevey, Randall J., 279–38–2495.
Cheney, Kevin J., 261–76–5695.
Chervenka, Michael E., Jr., 102–38–0815.
Chesnut, David A., 370–46–2634.
Childs, Robert G., 174–36–0441.

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Chojnacki, Eugene R., 155–34–3930.
Chrampanis, Robert, 101–38–3177.
Christensen, Robert G., 528–58–6841.
Churchill, William H., III, 441–44–2218.
Cicci, Henry E., 164–34–4267.
Cinnamon, Charles E., 542–46–2525.
Clapp, John K., 055–36–1146.
Clark, Peter H., 420–62–7563.
Clark, William F., 389–44–2518.
Clarke, Gerald S., 431–78–6654.
Claxton, Bernard D., 306–44–2976.
Claybourn, Bobby E., Jr., 321–38–1310.
Clendenin, James A., 235–70–4555.
Cline, John M., 317–46–9486.
Cloak, Nathaniel H., 397–42–5051.
Cole, James C., 515–48–6453.
Coleman, Thomas D., Jr., 140–40–1206.
Collier, Walter E., Jr., 257–68–1873.
Conley, Sidney E., II, 438–66–2038.
Conley, Willie D., 524–56–4530.
Connelly, William M., 444–44–6415.
Conner, Michael A., 463–82–3651.
Conner, Patrick T., 568–62–0020.
Conners, Robert W., 219–46–7810.
Cook, Charles A., Jr., 049–32–4435.
Cook, Edward D., 264–76–3527.
Cook, Edward D., 316–46–9316.
Cooke, Larry D., 246–72–7930.
Copeland, Luther B., 422–60–1854.
Cornell, Donald A., 275–40–1609.
Cornell, Joel R., 014–34–8068.
Corns, Edwin M., III, 063–40–0316.
Corson, Robert A., 451–72–6950.
Corum, Larry E., 404–58–8555.
Cotton, Michael C., 541–48–8266.
Cottrell, Taylor C., Jr., 405–60–5646.
Couch, Richard S., 432–82–6350.
Coughlan, Peter, 127–32–2324.
Courtney, Wayne R., 412–80–4978.
Cowgill, John A., 266–86–3746.
Cox, Donald J., 484–46–4696.
Cox, George A., Jr., 022–34–2256.
Coy, Jerry D., 413–70–4130.
Crane, Robert R., 306–46–8947.
Crawford, Dohrman G., 289–42–8473.
Crawford, Gary C., 541–44–4579.
Crawford, John B., IV, 561–60–5399.
Crocheron, Wesley M., 548–60–8090.
Crookes, Harold R., 381–44–6584.
Crossen, John G., 468–48–9332.
Crossman, Peter L., 018–34–6174.
Crow, Stephen D., 585–20–4538.
Crum, Daniel F., 271–40–0156.
Cruz, David J., 527–62–9341.
Cull, George M., 487–48–7082.
Culley, Larry L., 562–72–6888.
Cunningham, Nevin N., 566–68–4907.
Cunningham, Paul M., Jr., 395–46–4506.
Currier, Louis F., 008–30–8439.
Curtis, Larry G., 538–42–0278.
Cusic, Wayne K., 434–66–1839.
Czekanski, James P., 011–38–6070.
Dahlberg, Roger C., 543–44–7988.
Dahljelm, Harvey D., 365–50–5138.
Dailey, David H., 412–72–1869.
Dale, Mark C., Jr., 254–68–4899.
Daley, Dwight L. W., 380–44–4887.
Dalrymple, Thurman E., Jr., 252–78–5372.
Damron, Cliff C., 526–66–0226.
Danahy, John M., 075–34–2107.
Danforth, Timothy E., 277–44–6707.
Daniels, Charles W., 516–52–3257.
Dannfliy, Larry R., 248–74–2543.
Davenport, James K., 140–36–2648.
Davis, Jonathan W., 419–60–6649.
Davis, Linn E., 236–70–8709.
Davis, Richard D., 251–78–9351.
Debuck, Marvin E., 386–48–6582.
Deegan, William F., Jr., 042–36–2461.
Deletetsky, Richard P., 006–46–0173.
Delgarbino, Albert P., Jr., 285–40–6156.
Delhoyd, Angel S., 528–58–3966
Dellario, Sammy W., 498–44–9170.
Delong, Ronald E., 188–38–6205.
Demarest, Kenneth C., 438–64–4547.
Depasquale, Michael J., 092–38–7469.
Deppe, Larry D., 345–38–2966.
Detenley, Donald R., 539–40–2869.
Deutsch, John P., 481–52–2667.
Devlin, John J., Jr., 026–38–2529.
Deyhle, Ronald R., 449–76–0258.
Dickinson, Michael T., 541–52–3053.
Dickinson, Robert F., 098–34–9827.
Dickinson, Robert J., 534–42–4098.
Dill, David C., 197–36–7076.
Dillard, John M., 547–74–4425.
Diuguid, James B., III, 407–60–0599.
Dmytriw, Stephen C., 136–38–5664.
Doane, Kenneth G., 059–38–1543.
Dobbs, Bruce B., 145–36–8521.
Dobosz, Francis J., 014–34–6934.
Doerr, Kermit W., Jr., 458–74–8484.
Dollison, James F., Jr., 270–44–1316.
Doolittle, James H., III, 465–68–2391.
Doran, Noel E., 560–60–4494.
Dorris, John D., 559–72–4306.
Douglas, Melvin E., Jr., 500–48–0505.
Dowdy, Ronald R., 422–58–1118.
Doyer, Dennis M., 023–34–5983.
Draper, William A., 038–28–8783.
Driskill, Larry W., 458–72–0815.
Dubbs, Roger R., Jr., 284–44–7167.
Duckett, Thomas A., 257–80–0245.
Duclos, Roger A., 329–38–2626.
Dudak, David M., 270–42–6104.
Duehring, Craig W., 468–50–8922.
Dugas, John G., 438–64–4108.
Dukes, Ronald E., 558–64–7189.
Dunton, Frank P., 028–36–3986.
Duplantis, Allan J., 433–62–5762.
Duthie, Dana C., 228–62–5421.
Eatman, Jack B., Jr., 523–56–9826.
Eccard, Lawrence D., 286–42–7506.
Eden, Douglas W., 335–36–1152.
Edly, Robert L., 152–34–9222.
Edney, James S., Jr., 460–70–2630.
Edwards, Donald W., 208–32–2824.
Eiche, Peter C., 391–46–8090.
Eickhoff, Bruce E., 505–56–7561.
Eickmeier, Gary C., 364–44–7439.
Ekwall, John, 549–68–8702.
Elder, Frederick A., III, 256–72–1631.
Elkins, Robert N., 255–68–4892.
Ellis, Paul C., 070–36–6984.
Emerson, Malcolm E., 224–64–6022.
Emery, Charles R., Jr., 378–44–1574.
Engleman, Johnny, 381–42–8659.
Enloe, David P., 486–48–1691.
Erle, Allen M., 124–36–8756.
Erling, Robert E., 475–50–1947.
Ermis, James H., 461–70–7938.
Ernst, Edward C., 037–30–6447.
Erwine, Larry C., 363–46–7996.
Evacko, Robert G., 314–44–8940.
Evans, Thaddeus D., 245–72–2126.
Everson, Robert L., 392–50–5987.
Ewing, Rowe B., 496–48–5860.
Faherty, Joseph P., 561–62–6819.
Fairbanks, Paul J., 025–32–8300.
Fancher, Robert E., Jr., 570–62–2716.
Fansler, James E., Jr., 309–46–9730.
Farley, Donald W., 556–56–8052.
Farley, Jimmy T., 442–46–8701.
Feld, Donald H., 482–52–7904.
Feller, Stephen K., 463–70–6912.
Felton, Douglas C., 478–54–0635.
Ference, Anthony, 045–36–4497.
Fergason, William E., 448–44–3665.
Ferris, William G., 193–38–2636.
Fierros, Dante O., 553–70–6283.
Filkins, Dennis R., 568–62–3773.
Fillmore, Kenneth R., 444–44–2044.
Findlay, George W., 266–74–8965.
Fink, Coy D., 245–66–4925.
Fisher, John T., 420–60–2742.
Fletcher, Larry E., 496–46–9191.
Fletcher, Richard P., 247–70–5236.
Flick, Robert C., 307–48–4423.
Flynt, Michael M., 264–76–7997.
Folmar, William A., 571–66–6564.
Folse, Thomas G., 247–72–4877.
Fondren, George F. Jr., 428–86–9506
Ford, Eldon B., 544–42–0884.
Ford, Ronald D., 448–42–9264.
Forseth, Rolf E., 395–44–0974.
Forster, Michael W., 566–62–0730.
Foster, Robert R., 257–70–3531.
Foster, Stephen F., 569–62–9394.
Fournier, Arthur E. Jr., 105–38–1744.
Fox, Hollis K., 527–68–9910.
Fox, Robert S., 237–66–5739.
Fox, William R., 012–36–1866.
Fradin, Daniel J., 219–46–7312.
Fragile, Pat C., 235–66–7660.
Francis, Kenneth R., 438–62–8704.
Franklin, Ollie E., 400–60–8311.
Frasca, Nicholas S., 266–92–3645.
Frazier, Rufus J., Jr., 264–74–3947.
Fredin Kurt A., 352–36–4247.
French, Clyde W., 227–54–4929.
French, Edgar C., 268–40–8507.
Frishkorn, Clayton R., Jr., 167–36–3525.
Fritzinger, Thomas J., 329–36–9989.
Fuller, Albert G., Jr., 431–80–9731.
Fulmer, Henry P., 204–36–0816.
Fulop, Charles T., 288–40–2708.
Funderburk, Leonard J., 246–70–8872.
Gabriel, James N., 315–46–3959.
Gaffney, James P., Jr., 521–56–8867.
Gaige, Gerald E., 454–72–9598.
Gaines, Richard W., 373–44–1557.
Galbreth Emmet R. II, 454–70–6777.
Gallagher, Frederick G., 381–42–1559.
Galleazzi, John A., 336–42–1166.
Galli, Robert E., 041–36–6414.
Galvani, Wayne W., 467–64–8298.
Gardner, John W., 293–44–2826.
Garner, James L., 455–70–9189.
Garrison, Rickey L., 446–48–2616.
Gaskell, Jeffrey R., 478–48–3021.
Gatliff, Robert E., 255–705–5475.
Geertgens, William W., 540–52–4926.
Gehlhausen, Keith F., 303–50–3275.
Geier, Henry J., 076–38–8347.
German, George D., 560–56–4528.
Gernhardt, Gary K., 501–48–9555.
Getchel, Gordon G., 568–68–8128.
Gibbs, John B., 460–70–3140.
Gibson, David B., 575–46–1509.
Gibson, Patrick D., 314–44–8937.
Gifford, William E., III, 212–48–4090.
Gilliland, Randall A., 507–50–7756.
Gillis, Mallon A., Jr., 018–36–6609.
Gilson, Mark D., 385–40–1934.
Giroux, Joseph T., Jr., 084–36–3830.
Gleason, Stephen D., 512–42–6210.
Glenn, William B., 419–56–8980.
Glisson, Jessie E., Jr., 255–70–7503.
Godbee, Henry H., III, 267–72–5783.
Goddard, Walter P., 536–42–1167.
Godeke, Richard H., Jr., 449–72–2087.
Godsey, Orin L., 507–52–1244.
Goetz, Thomas J., 141–38–3215.
Gombas, Joseph F., 077–38–7557.
Goodman, Ernest E., Jr., 579–56–6883.
Godgins, Lawrence J., 004–44–0646.
Gordon, John G., 084–38–8669.
Gordon, Robert D., 075–38–2564.
Gore, George E., Jr., 250–80–3867.
Gore, Joseph K., 345–36–9598.
Gottschalk, William C., 293–38–9879.
Grabeklis, Jerry I., 345–34–7777.
Gravlee, Ralph C., Jr., 264–68–5003.
Green, Gary E., 489–48–7407.
Green, John D., 417–56–1020.
Green, Kerry E., 420–60–0510.
Green, Merle R., Jr., 028–36–0425.
Greene, Jack W., 250–68–0526.
Greene, John K., II, 505–58–3747.
Greenfield, John P., 263–46–1422.
Gress, James W., 278–38–0728.
Griesel, John K., 441–42–1412.
Griffin, John C., III, 128–37–6571.
Griffin, Johnny, 449–72–2955.
Grimes, Robert D., 464–78–3966.
Grones, Royce G., 463–70–4603.
Gross, Stephen M., 393–40–2870.
Guarino, Allan R., 156–34–0544.
Guenther, Lynn F., 540–52–5190.
Guerrieri, John A., 201–34–7081.
Gulden, Wayne E., 291–40–5023.
Gunberg, Bruce M., 470–46–4153.
Gundlach, Raymond W., Jr., 564–56–0803.
Guthrie, Walter J., 255–68–6277.
Guyton, Thomas H., 437–66–8315.
Haas, David L., 507–56–2098.
Haas, Kenneth M., 160–34–1748.
Hadler, Earl P., 551–66–9902.
Hadlow, Gordon E., 578–58–7007.
Haeberle, John F., 232–68–6744.
Hagen, Charles H., 556–62–2212.
Hahn, Charles V., 284–44–8478.

Haines, Gary D., 136–36–0147.
Haines, Willard R., Jr., 218–44–8659.
Hale, Bernard E., 516–52–4710.
Hale, David E., 243–72–6836.
Halford, Joseph B., 437–64–5213.
Hall, Julian B., Jr., 237–68–4134.
Hamilton, Jacob R., Jr., 228–64–6299.
Hamilton, John J., 410–76–8515.
Hammon, Myles D., 417–56–5504.
Hancock, Dennis C., 494–48–0777.
Handsaker, James E., 558–58–8477.
Hanny, James P., 387–42–2511.
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Rock, William F., 495–52–8009.
Roe, John W., 288–40–2661.
Rogers, Barry C., 261–82–0714.
Rogers, Charles T., 248–74–1832.
Rogers, Henry D., Jr., 240–74–2413.
Romeo, Frank A., Jr., 009–30–4005.
Romer, Irving F., 569–66–8352.
Rosevold, Gary L., 502–54–6980.
Rosquist, William C., 220–42–8544.
Ross, Craig E., 127–34–7359.
Rouse, William R., 172–34–3448.
Rowell, Mark K., 040–36–1260.
Rumple, Thomas P., Jr., 215–46–0391.
Runyon, Robert C., 384–44–7119.
Rush, James M., Jr., 463–64–9375.
Rush, Robert M., 446–44–9034.
Russell, Robert E., 524–56–6969.
Rutledge, William D., 030–32–8440.

Rybolt, Henry C., Jr., 439–62–5525.
Rynearson, Richard A., 288–40–6147.
Saddler, Donald G., 462–66–1886.
Sakole, Patrick T., 228–54–4894.
Sanderson, George N., 502–54–6857.
Sanderson, Peter B., 074–38–9980.
Sandlin, Garld L., 510–46–7256.
Santucci, Edward B., 285–40–5836.
Sartori, Michael C., 231–58–0124.
Savarda, James S., 277–42–7111.
Schadle, Clark W., 450–72–4115.
Schaffer, Gary W., 498–50–0848.
Scharett, David E., 068–36–0185.
Schauss, John B., 295–46–3760.
Scheible, Henry W., 455–70–3018.
Schenker, Albert R., Jr., 143–34–8047.
Schneider, Gary N., 301–40–2893.
Schoeni, Arden W., 515–44–8902.
Schofield, Richard D., 262–72–1663.
Schomburg, Jerry P., 332–36–4655.
Schwartz, Richard M., 224–60–7778.
Schwenker, Richard L., 481–62–5397.
Schwerdt, Gary F., 526–72–0372.
Scofield, John R., 322–38–6395.
Scott, Glenn D., 542–50–2244.
Scott, Lowell E., 537–38–2252.
Scott, Michael D., 317–46–8480.
Scraper, Douglas D., 501–48–3098.
Scriba, Karl S., 477–54–7241.
Sebren, George H., 228–62–0668.
Seibold, James C., 507–56–9783.
Seifert, Robert O., 389–42–4036.
Seith, James F., 547–66–1918.
Selvig, Dennis M., 521–56–5509.
Shackelford, Joseph H., 312–46–4148.
Sharek, Ronald A., 510–50–8804.
Sharp, Gary W., 412–68–4068.
Shaw, Timothy J., 553–68–7085.
Shedd, Kenneth W., 246–68–9509.
Shelton, Gary M., 184–36–1315.
Shepard, Carl W., Jr., 564–56–6699.
Sherman, Marc I., 040–38–1811.
Sherrill, Marcus L., 309–44–7183.
Sherwood, Michael D., 134–36–7310.
Shields, Steven P., 513–44–8729.
Shillito, Charles L., 123–34–2715.
Shipp, Bill J., Jr., 459–74–5769.
Shorf, John W., 003–32–2154.
Shortell, Pat A. H., 476–48–9285.
Sikkink, Gary T., 503–52–1106.
Silver, Robert M., 098–36–1231.
Simaitis, Sanford B., 343–36–6871.
Simcox, James D., Jr., 510–46–2577.
Sime, Donald L., 482–62–3338.
Simmons, Ralph W., 187–36–5760.
Simms, James D., 233–64–7676.
Simonson, Dwight A., 508–56–6886.
Simpson, Richard L., 419–56–2687.
Sink, Charles C., 246–72–3900.
Sink, Johnny G., Jr., 240–72–0006.
Sizemore, Rodney B., 405–60–1019.
Skanchy, Robert B., 528–62–5798.
Skillern, Christopher L., 460–60–1608.
Slater, Marshall T., Jr., 028–36–6998.
Smaby, Stephen E., 532–42–3210.
Smallman, Herbert W., 408–74–5969.
Smart, Joseph F., 203–34–0658.
Smith, Clifford E. II, 295–38–7384.
Smith, Darrell G., 315–46–6026.
Smith, Donald G., 455–70–4760.
Smith, George T., 530–28–2080.
Smith, Jeffry B., 226–56–3938.
Smith, Joseph A., 562–70–1887.
Smith, Mark W., 542–50–1713.
Smith, Phillip F., 263–68–9387.
Smith, Robert F., Jr., 426–88–9737.
Smith, Robert H., 285–44–8067.
Smith, Samuel D., 455–76–0312.
Snellgrove, Robert T., 420–58–6028.
Solli, George A., 220–42–7622.
Sonnenleiter, James E., 341–36–1900.
Sorensen, Donald L., 555–64–7716.
Spanyol, Robert L., 526–82–6915.
Sparker, Jesse E., 466–70–7372.
Sparks, William T., Jr., 237–72–9749.
Spence, James R., 552–60–8990.
Spitzer, Leonard S., Jr., 429–84–0735.
Stan, Robert S., 074–40–2048.
Stapleton, Edward J., 521–56–2888.
Staton, George E., 239–64–7976.
Staugler, Steven D., 264–68–8698.
Steele, Andrew N., 549–64–4673.
Steimer, Herbert N., 527–62–4085.
Steincamp, Lynn, Jr., 011–34–9528.
Steiner, Edward G., 517–50–1769.
Stevens, Byron K., 315–50–2551.
Stevens, Robert L., 323–36–7797.
Stevenson, James B., 278–40–1482.
Stewart, Jimmie C., 313–46–1852.
Stewart, Will R., 156–34–8969.
Stickley, Alan F., 524–56–5366.
Stockton, Darryl L., 540–50–2238.
Stohler, David L., 315–46–0732.
Stokes, Richard W., Jr., 251–70–9354.
Stolberg, Paul C., 077–38–5764.
Stoughton, Richard H., 107–36–1676.
Stout, Wayne L., 116–38–1523.
Strang, Robert S., 570–56–6028.
Strauss, Henry M., 436–54–3678.
Streett, Arthur C., 215–42–9907.
Strom, William H., 157–36–6228.
Strom, William H., 538–44–1331.
Stromquist, Kenneth J., Jr., 469–50–6182.
Stropes, Eugene L., 346–36–8594.
Stuckey, Walter C., 251–76–1448.
Sturgeon, Robert P., 291–40–6737.
Sudberry, Charles E., 409–76–7061.
Suess, David C., 555–58–5015.
Summers, Robert L., 234–72–7107.
Sutter, Frederick J., 498–48–0068.
Sutton, Jeffrey D., 313–46–6469.
Swank, Jerry J., 315–48–8160.
Swanson, David I., 467–72–2623.
Sweeney, Frank P., 028–36–3426.
Sweeney, Gordon C., 032–32–8770.
Swenson, James H., 258–70–0357.
Swenson, Ronald D., 512–44–7434.
Talbert, David P., 576–44–1128.
Tateishi, Chris M., 575–46–7713.
Taylor, Alan C., 141–36–8262.
Taylor, Larry J., 521–58–2851.
Taylor, Michael L. F., 251–74–5935.
Templin, Philip S., 534–42–5510.
Tetrick, Byron R., 305–50–2713.
Tewell, Dennis P., 466–80–0036.
Thaler, William B., 243–76–7471.
Theuerkauf, Wade F., 288–40–6085.
Thomas, David L., 162–36–1661.
Thompson, Gerald V., 540—50–4815.
Thompson, Jay F., 514–44–2676.
Thompson, Kenneth R., 273–38–3724.
Thompson, Terence N., 417–62–7161.
Thomsen, Mark E., 391–44–2121.
Thorson, John E., 470–52–9528.
Thrush, Allen J., 268–40–0664.
Tipton, Charles L., 345–40–3654.
Tobias, Jerry E., 513–46–0216.
Tomlinson, Larry D., 570–62–5925.
Tomlinson, Ralph F., 480–54–4695.
Tonn, Jackie L., 399–42–2928.
Towle, John C., 326–38–4797.
Townsend, Dale P., 567–60–4808.
Trask, John A., Jr., 019–34–7760.
Travell, Harold F., 068–36–0814.
Treadway, Major A., II, 425–84–3072.
Trent, John R., 413–64–9973.
Tretler, David A., 413–78–9986.
Trevathan, Robert B., Jr., 451–72–6665.
Truitt, William L., 270–40–9481.
Trusty, Dennis E., 550–60–1007.
Tucker, Richard G., 525–92–8055.
Tumlinson, Kenneth W., 462–74–5168.
Tupker, William J., 542–48–1606.
Turner, Fitzhugh L., III, 018–36–0168.
Turner, Wilburne M., Jr., 243–07–7191.
Tuthill, Lanny Y., 103–36–1233.
Tworek, Edward J., 508–62–0673.
Tyson, Thomas H., 439–70–1872.
Umpleby, Howard D., 529–56–5436.
Usry, Henry G., 439–62–7442.
Uttaro, Gerald J., 075–38–2952.
Valentine, Ronald J., 488–48–2070.
Valentino, Paul H., 250–66–2499.
Vancil, William H., 488–48–8270.
Vanderford, Charles R., 343–34–2200.
Vandeventer, James B., 404–58–0974.
Vandyke, Raymond H., 412–70–4061.
Vanlerberghe, Ross P., 270–46–5344.
Vansickle, Robinson W., 517–50–3926.
Vanvleft, Alan C., 325–38–4954.
Vaspra, Lenwood H., 576–44–2677.
Venables, Ronald K., 232–68–6653.
Verploegh, David R., 481–54–0204.
Vore, Donald A., 220–46–0791.
Voskuhl, Marvin A., 280–42–8651.
Voxland, Charles D., 473–50–8273.
Waddell, John J., 504–48–8770.
Wade, James M., 459–74–1710.
Wadleigh, Gerald J, III, 112–36–7020.
Waldron, Robert E., 555–60–6513.
Walker, James R., 437–62–3068.
Walker, Paul H., 255–70–3658.
Walker, Perry D., 422–50–1827.
Walker, Warren H., III, 523–54–1668.
Wallack, Chester L., 523–48–9142.
Wallingford, Albert W., 333–38–6108.
Walsh, James J., 400–62–1002.
Waltz, Robert R., Jr., 536–42–0974.
Ward, Timmie J., 484–52–8382.
Warren, Larry R., 498–50–8470.
Warren, Michael E., 443–44–3981.
Warren, Stanley M., 417–56–6016.
Warzon, James R., 397–42–3260.
Watkins, Thomas G., III, 417–62–2808.
Watson, Paul B., 017–32–0569.
Waugh, Gary A., 232–70–0297.
Waxman, David R., 183–36–4154.
Way, Douglas T., 192–34–0807.
Wayland, John B., 345–36–1753.
Wcislo, Robert J., 340–36–2505.
Wear, Thomas R., II, 420–64–7005.
Weatherford, Joseph D., 282–42–2417.
Weatherly, Brian K., 554–54–0882.
Weaver, Dennis M., 555–70–8252.
Weaver, William F., Jr., 463–68–0026.
Webb, Edwin G., Jr., 573–64–2977.
Webb, James C., 221–28–3538.
Webb, Wiley E., Jr., 413–68–4490.
Webster, Alan H., 020–36–7760.
Wedberg, William R., Jr., 502–52–0196.
Wedel, Roger A., 063–36–6637.
Wedge, Roy D., Jr., 365–46–4021.
Wells, Donald L., 486–52–5570.
Wesson, Allen B., III, 305–46–0688.
Westenrieder, Reinhard M., 352–36–7987.
Westfrholm, Harold S., II, 243–76–1546.
Westmoreland, Lynwood K., 259–74–0249.
Weston, Robert W., 375–48–8200.
Westphall, Walter D., 525–82–1716.
Weyrick, Thomas M., 276–40–1019.
Whipple, Barry B., 338–36–7980.
White, Edwin W., 039–28–3149.
White, Jimmy T., 447–48–1038.
White, Terry L., 291–40–6386.
Whitefield, Perry N., 144–36–9759.
Whitley, Alton C., Jr., 251–78–5115.
Whitley, Russell V., 243–68–8659.
Whitney, Donald C., 053–38–5601.
Wiggin, Thomas T., 002–32–3231.
Wiggins, Dan P., 414–68–0487.
Wikstrom, Robert E., 530–32–4871.
Wilborn, Henry E., 467–64–4025.
Wilbur, James R., 122–36–1765.
Wilder, David J., 555–60–5757.
Wilhelm, Virgle H., 555–60–9113.
Wilkinson, Thomas P., Jr., 450–82–8627.
Willett, Gordon H., 367–46–8216.
Williams, Don L., II, 442–44–3688.
Williams, Frank M., 260–72–4008.
Williams, Gerald C., Jr., 435–64–6791.
Williams, John V., 448–44–1750.
Williams, Joseph H., 439–70–3287.
Williams, Lonnie R., 403–60–8701.
William, Stephen B., 239–72–3563.
Williamson, Kenneth C., 413–76–1500.
Williamson, Stephen, 482–54–2164.
Williford, Graham G., 232–72–5027.
Willingham, Rainer D., 225–66–3885.
Williston, Frederick F., 229–58–1186.
Wilson, Bruce W., 257–70–7669.
Wilson, James R., 261–84–7774.
Wilson, John G., 413–72–1465.
Wilson, Raymond T., 528–48–1508.
Wilson, Robert I., 460–72–6431.
Wilusz, Stanley F., 047–32–5838.
Winburn, Larry A., 523–50–1439.
Wingfield, Timothy D., 571–62–8647.
Winkelman, Charles B., Jr., 470–52–9598.
Winterer, Randall N., 472–50–2198.
Winters, George F., 108–30–7102.
Witter, Terry P., 541–50–1508.
Wittrock, Charles H., 550–70–1183.
Woerheide, Victor A. D., 224–62–2842.

XUM

Wolfe, Bryon L., Jr., 261–82–0716.
Wolfe, David R., 228–62–7900.
Wolfe, Jerry L., 234–72–3878.
Wolfe, Larry J., 353–36–2297.
Wolke, Gerard G., II, 362–46–2975.
Wolozyn, Joseph R., 174–36–4542.
Woodall, James R., 462–70–1794.
Woolen, Glen D., 515–42–2665.
Woolley, Richard E., 568–60–1075.
Woolley, Robert H., 264–78–7450.
Wooten, Randall E., 464–70–1244.
Workman, James H., 248–78–7279.
Wright, John R., 149–32–7413.
Wright, Kendall J., 522–56–4379.
Wysong, Robert T., Jr., 317–46–5226.
Yarbrough, James E., 412–74–5422.
Yeackle, Henry J., III, 539–44–5835.
Yett, Daniel A., 273–40–5553.
Yoder, Richard A., Jr., 577–62–3709.
Young, Alan P., 200–36–5604.
Young, David L., 229–56–6555.
Young, Oliver S., 407–62–4449.
Young, Robert A., 549–64–1908.
Young, Thomas O., 542–50–0939.
Youngblood, Roger L., 461–68–5854.
Younkin, Charles R., 296–40–3543.
Yuss, Ronald B., 206–34–4345.
Zedeck, Freddy, 051–38–6899.
Zentz, Tom A., 309–42–1608.
Zerl, William T., 321–36–5182.
Zigan, Theodore, 397–52–0751.
Zimmerman, Carroll L., Jr., 578–58–5190.
Zimmerman, Robert E., 506–62–8297.
Zollweg, Dennis C., 375–42–5281.

IN THE AIR FORCE

The following officers for promotion in the Air Force Reserve, under the provisions of section 8376, title 10, United States Code, and Public Law 92–129.

Lieutenant colonel to colonel, Dental Corps

Wilkens, Donald H., 351–24–3036.

Major to lieutenant colonel

Allen, Carl G., 023–28–6553.
Aycock, Gerald E., 439–40–3402.
Barnes, Robert R., Jr., 567–54–8236.
Beagle, Francis G., 316–36–4390.
Bentson, Roger L., 473–34–4213.
Birkhofer, Harold J., 485–34–9212.
Blissett, Arthur S., Jr., 370–34–0914.
Bouline, William C., 482–34–9159.
Brillas, Luis, 083–28–2874.
Brown, Rodney W., 511–26–2178.
Brunt, Donald J., 077–26–9988.
Carlen, John H., 534–28–3882.
Cass, Ronal E., 507–34–3543.
Chester, Farrow H., 526–34–4310.
Christianson, Kennard J., 477–32–7714.
Ciniglio, Raphael F., 153–26–3463.
Collum, Thomas E., Jr., 247–52–5656.
Conlon, James F., Jr., 014–24–6839.
Davis, James R., Jr., 152–22–7660.
Delbert, George P., 534–32–7380.
Delaney, James F., 006–30–5403.
Doran, James P., 555–46–8179.
Doud, Almond B., Jr., 504–34–2861.
Dunlap, Noel B., 224–38–8786.
Engen, Jerome T., 473–32–9196.
Fitz, Keith E., 277–30–1674.
Foreman, Marvin E., Jr., 244–48–8758.
Furr, Reather C., Jr., 240–46–9200.
Glenn, John W., 401–40–4527.
Godwin, James H., 248–44–1204.
Gonzalez, Joe V., 267–38–8016.
Gross, Jacob R., 295–28–8148.
Ground, Richard C., 519–28–5794.
Harman, Robert D., 249–64–7684.
Harrison, Edward E., 564–46–0938.
Hattaway, Thomas L., 262–42–8328.
Herrera, Henry A., 525–62–1208.
Hinkle, Scott C., 524–40–6123.
Hodgson, John H., 240–52–1923.
Hubbard, Edwin L., Jr., 215–30–1111.
Hughes, Edward J., 307–32–2734.
Hughes, Harry L., Jr., 219–28–3153.
Jabs, Edward H., 517–38–7931.
Jarvis, Robert G., 574–10–3824.
Johnston, Dale A., 276–30–8498.
Jones, Claude R., 430–58–2325.
Jones, William H., 250–56–0923.
Kelso, Joseph M., 491–32–4509.
Knauss, Robert R., 201–26–5624.
Lacina, Edwin L., 482–30–3154.
Langis, Alfred G., 022–24–9357.
Langston, James W., 424–42–7845.
Lockmiller, Kenneth E., 567–38–7242.
Mach, James B., 476–30–5903.
McBride, David T., 307–32–9692.
McIntosh, Lee D., 358–24–1561.
McKeown, Donald F., 206–26–3943.
McPherson, Peter R., 052–26–7539.
Michelsen, Niels T., 535–26–9576.
Morris, Billy L., 447–26–0737.
Nelson, Eugene D., 535–30–2598.
Pierson, Richard E., 565–44–4036.
Poff, Robert D., 535–32–2543.
Rogers, Donald F., 321–26–8175.
Roland, Ivan R., 240–42–5779.
Roth, Lawrence R., 144–22–7547.
Ruonavaara, Russell B., 552–38–2632.
Satterfield, Richard N., 562–46–5325.
Sedgwick, Wesley L., 293–24–6761.
Spurrier, Donald V. M., 456–44–5859.
Steely, Lowell V., 200–26–8764.
Steinhauer, Arthur W., Jr., 503–46–3500.
Stetson, Norman G., 007–28–2642.
Stewart, John A., 259–50–6824.
Thiele, Raymond G., 399–28–8719.
Thompson, William R., 347–26–5883.
Verrillo, Lewis N., 041–26–1583.
Viscount, Joseph, Jr., 040–24–1287.
Windels, Frederick G., 505–52–5234.

Nurse Corps

Carfagno, Theresa C., 090–20–5658.

IN THE NAVY

The following-named midshipmen (Naval Academy) to be permanent ensigns in the line or staff corps of the Navy to qualification therefor as provided by law.

Andrew R. Adams
George F. Adams, Jr.
Jerry C. Adams
Carl W. Akers
Lawrence R. Albert
Elliot L. Alderman
Eric L. Anderson
Stewart R. Andrew
James W. Angelo
Berthold L. B. Antonik
James M. Appelgate
Arthur C. Argue III
Michael C. Ash
Shay D. Assad
Eric J. Atkinson
Bruce M. Aukland
Jon F. Ault
Kenneth B. Austin, Jr.
Stephen P. Axtell
John L. Ayon
Daniel L. Baas
James C. Babbitt, Jr.
Robert C. Baczenas
Howard F. Baer, Jr.
Edward G. Bagley III
William C. Bailey
Richard C. Baker
Eugene Bal, III
William A. Ballweber
Richard S. Bates
Dale E. Baugh
Jeffrey R. Beard
John C. Beason
Albert F. Beede
Richard G. Been
Stephen E. Behringer
Robert B. Benefield
Webster L. Benham III
Randal T. Bent
Raymond W. Berard
Robert J. Berg
John W. Berriman
George Z. Berry
Timothy O. Beutell
Paul A. Bienhoff
Steven H. Bills
Stephen V. Bisceglia
Phillip A. Bishop
Blake V. Blakey, Jr.
Robert K. Blanchard
William D. Blanton, Jr.
Timothy R. Blevins
Hugh D. Blomeke
John D. Blosser
Paul F. Blunt
William Bobo, Jr.
Gerard R. Bodson
Richard T. Boeshaar
John D. Bones III
William S. Boniface
Walter G. Boost
Jeffrey L. Boroff
David C. Boy III
Jerome P. Boyle
John E. Boyle
Virgil Bozeman III
James W. Bradley
James L. Branson
Peter C. Braseth
Thomas L. Breiner
Michael F. Brennan
Bruce M. Bridewell
Joseph V. Bridgeford
Richard G. Brilla
David K. Brown
Glenn T. Brown
Guy H. Brown
Peter G. Brown
Nicholas M. Brownsberger
James W. Broyles
Robert J. Bruce
Blaine R. Brucker
David L. Brumbaugh
Todd T. W. Bruner
Michael L. Bryant
Bruce L. Bullough
Allen L. Burdette II
Jon A. Buresh
Douglas R. Burnett
James P. Butler
Richard J. Byham
John T. Byrd
Frank S. Calcaterra
Daniel E. Caldwell, Jr.
John W. Caldwell
Gerald P. Cameron
Michael B. Candalor
Robert W. Cannan
Scott T. Cantfil
Donald J. Carlson
John S. Carmichael
Guy J. Carrier
Henry D. Caskey, Jr.
Kevin G. Cassidy
Christopher H. Castle
Robert E. Cattanach, Jr.
John H. Cavanaugh
Stephen J. Cereghino
Robert E. Chabot
John E. Chalker
Kevin V. Chambliss
Richard W. Chandler
Steven D. Christensen
William G. Chung
Dion F. Clancy
Thomas R. Clarkin, Jr.
Michael J. Clawson
Stephen H. Clawson
Neal W. Clements, Jr.
John D. Clifford
Jeffrey G. Coffey
Fred L. Cohrs
Alfred B. Coleman, Jr.
David S. Coleman
Joe T. Coleman, Jr.
Robert O. Coleman
William W. Collins
Thomas J. Connelly, Jr.
Robert B. Cook, Jr.
William E. Cook, Jr.
Charles C. Cooper, Jr.
Wayne L. Cornell
Craig W. Corson
Douglas E. Cosgrove
Patrick E. Cosgrove
Kenneth M. Costigan
Craig H. Cover
Richard B. Covington
Gary L. Coyle
Michael C. Craig
Dennis J. Crane
Thomas F. Crawford III
Harold T. Cronauer Jr.
Kevin P. Crook
David L. Crouse
Darryl P. Cummings
Randall C. Curnutt
Delbert A. Curtsinger
Paul W. Dahlquist
Brian S. Dalby
Michael J. Daley
Thomas R. Danco
Ralph E. Darling
George R. Darwin
Jeffrey J. Davidson
Dan A. Davis
Eric S. Davis
Nelson C. Davis
Robert M. Davis
Thomas G. Deacon
Perry W. Dempsey
Robert J. Dengler
David A. Dennis
John C. Dentler
Julian P. Devillier
James D. Devin
John C. Devlin
George K. DeVore
Leif L. Dietrich
Glen A. Dilgren
John L. Dillingham
John M. Dillon
John F. Dohse
Joseph A. Donlan
Barry L. Dougherty
Vincent P. Dowd
Roger T. Doyel
Michael T. Doyle
Patrick R. Doyle
Richard A. Drawneck
Robert A. Drews
Joseph F. Driscoll
Peter M. Drobnak
Donald K. Drumm
David P. Dudek
James P. Dunn, Jr.
Patrick W. Dunne
John A. Dunning
Thomas J. Dziedzic
Robert S. Eads
Charles W. Ebeling II
Daniel N. Edelstein
Joseph P. Eisenhuth
Lance E. Elberling
Jimmy L. Ellis
Mark A. Emmert
David C. Endicott
Bruce B. Engelhardt
Richard T. Englund
Gary G. Evans
Stephen C. Evans
Ted R. Evans
Mark S. Falkey
Dale J. Feltes
Kevin J. Ferguson
Louis G. Fifer
Robert W. Filanowicz
Daniel A. Filippini
John W. Fisher
Dean M. Flatt
Daniel H. Fleming
George B. Foley
Roger W. Fosse
Thomas H. Foster II
Stephen G. Foti
Donald A. Frahler
Roland M. Franklin
Powell A. Fraser, Jr.
Stephen E. Frederick
David V. Fulwider
Joseph M. Galluccio
Frederick B. Gallup III
Daniel T. Galvin, Jr.
Francis L. Garrick
Martin D. Gastrock, Jr.
Wallace L. Gavett, Jr.
Bud S. Gear
Donald J. Gersuk
Darryll J. Getzlaff
James C. Giambastiani
Bruce B. Giannotti
Wendell J. Gift II
James M. Gilbert, Jr.
Richard P. Gilbert
David M. Gilchrist, Jr.
Timothy J. Gill
Thomas G. Gilson, Jr.
Paul A. Gimer
Joseph W. Glass
Raymond M. Glennon
Dean F. Glick
James R. Goddard, Jr.
Nelson G. Goddard
Richard E. Goldsby
Robert J. Goldstein
George B. Goldthwaithe, Jr.
Paul Goluboys
Thomas J. Goodwin
William V. Goodwin
David W. Gorden
Michael A. Gorman
Frederick D. Gorris
Jeffrey L. Gossett
Thomas C. Goudy
Patrick J. Grady
Gary A. Graf
William L. Graham
Geoffrey E. Grant
James D. Green
William H. Gregory
Gary A. Griffiths
Gary G. Groefsema
James C. Grover
Alan L. Grube
Ralph E. Grutzmacher
Richard M. Gutekunst
Brian C. Haagensen
Robert C. Hahn, Jr.
John T. Haislip
Richard L. Haley, Jr.
Barney R. Hall
Delmon E. Hall III
Gary M. Hall
Harold L. Hall, Jr.
James D. Hall
Thomas D. Hall
Timothy J. Hallihan
James E. Halwachs
Gregory R. Hamelin

David W. Hamilton
Gary R. Hammond
William A. Hancock
William J. Hannan
Dennis R. Hansell
Robert O. Hardy II
Robert W. Hardy
Allan D. Harper III
Michael J. Farrington
Craig H. Harris
Robert W. Harrison
John B. Harrold
John K. Harrop
Thomas F. Hartley
Gerald A. Harvey
Christopher G. Hauser
Michael E. Hayes
David W. Hearding
Christopher E. Heath
Michael K. Hedrick
Daniel R. Heimbach
Gregory L. Hemphill
Christopher R. Henry
Neal P. Hesser
Paul M. Higgins
Clarence E. Hill
James M. Hines
Larry A. Hinson
Gerald R. Hirsch
James E. Hoffmann
David J. Hogan
Wayne D. Hogue
Timothy A. Holden
Wallace W. Holdstein, Jr.
Howard M. Holland
John B. Holt
Lloyd N. Holz
James H. Hopper III
William F. Hopper
Bennett F. Horne, Jr.
Richard F. Horstmann
Robert J. Horstmeyer
Damon R. Hostetter
George R. Howard
John F. Howard
Robert H. Howe
Paul E. Huck
Colin C. Huddleston
Ronald A. Hughes
Michael J. Hutfless
John T. Iala
Stephen R. Ingalsbe
Kenneth M. Ives
Richard H. Jacobs
Robert A. Jacobson
Robert B. James
John M. Jarosinski
Stephen M. Jarrett
Jerry M. Jenkins
Keith A. Jewell
Stephen B. Johns
Arthur G. Johnson
Glenn L. Johnson
Larry C. Johnson
Mark G. Johnson
Ralph W. Johnson III
Lawrence E. Jones
Thomas L. Jones
Paul C. Jorgensen
Alfred M. Joseph
Michael C. Joyner
Thomas M. Judd
Glenn L. Kaden
Thomas M. Kait
Kendall W. Kalstad
Leonard Kaplan II
Theodore L. Kaye
Daniel S. Keefe
John J. Keenan, Jr.
Michael G. Keith
Thomas M. Keithly
Pat B. Keller
Clifford P. Kelly
Jesse J. Kelso
Curtis A. Kemp
Steven J. Kemple
William J. Kendall
Terence S. Kennedy
William G. Kennedy
Paul S. Kenney
Lawrence V. Kester
George K. Kilgore
Robert C. Killough
George F. Kindel
David F. King
Manton A. King
John J. Kirby
Douglas I. Kirkland
Phillip D. Klein
Saul D. Klein
James R. Klima
Christoper L. Klueber
William B. Knight
Maurice M. Koelemay
Gene M. Kohler
Andrew J. Koss
Alan R. Kraft
Lawrence L. Kraker
Theodore W. Kreeger
Lawrence H. Kube
Frank J. Kuezler Jr.
Edward J. Kujat
Frederick J. Kull Jr.
James J. LaBelle
Nicholas P. Lakis Jr.
Stephen M. Landrum
Douglas S. Lane
Gregory B. Lane
Ronald D. Lanning
Robert L. Larkin
Stephen L. LaRue
John C. Lasken
Selwyn S. Laughter
David E. Lawrence, Jr.
Karl T. Lawson
Christopher L. Lee
Patrick D. Lee
Richard P. Lee
Robert C. Leib
John S. Leidel, Jr.
Stanley P. Lenc
William A. Leonard, Jr
Lawrence A. Lewandowski
Paul S. Lewis
Robert D. Lichtenberg, Jr.
Robert D. Liggett
David J. Lind
Steven A. Livesay
Robert D. Loeffler
Thomas A. Loftus III
Stephen J. Logue
Mark A. Lohsen
William R. Lottes II
Patrick S. Love
Eugene Lovely
Gary S. Luote
Vincent J. Lynch
Thomas W. Lyons
William A. Lyons
Stanley J. Mack
Richard G. Macklin
Raymond M. MacKown
Robert A. MacPherson
Robert S. Madden
Michael R. Maixner
Dean M. Makings
Gary D. Mann
Walter W. Manning
Philip S. Mansfield
John T. Manvel
Robert D. Marlin
Robert D. Marrinucci
Anthony D. Martin
William G. Martin
James R. Mason
Daniel S. Mastagni
Robert L. Mastin, Jr.
John A. Mavar
James D. McArthur, Jr.
Stephen L. McCrory
Russell A. McCurdy
Rodney P. McDevitt
Daniel W. McElroy
John E. McEnearney, Jr.
Martin H. McGee
Leo F. McGinn, Jr.
William L. McGraw
Richard R. McIver
Kenneth P. McKay
Rayburn L. McKay
Michael McKinney
Arthur McKinnon
Robert L. McLane
John P. McLaughlin
William J. McMican
Hugh N. McWilliams
Gregory G. Mead
Mark Mendillo
Joseph A. Mentecki
Ellis W. Merschoff
Charles W. Merwine
Daniel H. Meyer
John G. Meyer
John E. Meyers
Thomas E. Miars
Kirk B. Michael
Ralph R. Michalska
Jeffrey C. Milanette
David R. Miller
Steven R. Miller
Donald M. Mills
Michael J. Milo
Richard D. Minnis
Michael K. Mitani
William G. Moffatt
Mark M. Mokodean
Christoper P. Molteni
Robert P. Monahan
William V. Moody
Robert L. Moon
William T. Moore III
Theodore R. Morandi
Kelly B. Morgan
Dennis G. Morral
Bruce V. Morreale
William D. Morris
Lewis F. Murphy
Robert P. Musselman, Jr.
Warren E. Musselman
Daniel H. Mutty
Howard H. Myers III
Rodney A. Myers
William J. Nadeau
James A. Natter
Charles W. Neihart, Jr.
John D. Nellis, Jr.
Jeffrey R. Nelson
Christian Q. Ness
Don A. Nestor
Stephen L. Neuman
Albert J. Neupaver
Ronald S. Newlan
Todd C. Nichols
Peter W. Nickodem
Jack S. Nielsen
Roy H. Nitschke
Eduardo C. Nocon
Ted L. Norris
John T. Nosek
James L. Nupp
Matthew P. O'Connell
Timothy D. O'Connell
Michael L. O'Connor
James G. O'Keefe
Paul J. V. Olechnovich
Alfred J. Olsen
Dennis P. O'Malley
Walter G. Opyd
Bernard R. Orender
William D. Orr
Kip R. Osborne
Robert E. Ostendorf, Jr.
Eugene P. Pache
Philip F. Palmatier, Jr.
Christopher W. Panos
Nicos S. Pantelides
Gregory A. Papin
Larry R. Papineau
Robert R. Pariseau
Thomas J. Pastorino
James H. Patterson
Terry L. Patterson
Kenneth A. Paul, Jr.
MacGregor H. Paul
Gregory R. Pearrs
John E. Pack
Robert A. Pell
Mark D. Perreault
Gordon C. Perry
Robert P. Perry
John G. Peske
James G. Phillips III
John L. Phillips
William C. Pine, Jr.
Mark D. Pistochini
James E. Pledger
Stephen W. Plovanich
Alan E. Porter
John S. Porter
Whitton M. Potampa
Fred C. Pottschmidt
Thomas J. Powers
Russell H. Poy
Michael W. Praskievicz
John H. Preisel, Jr.
Randall D. Preston
Michael J. Price
Thomas A. Prince
Thomas A. Prince
James A. Protzman
Glenn R. Pruden
Hershel W. Pryor, Jr.
Theodore A. Pytlik
Dale K. Quinlan
Robert W. Raber
Robert B. Rae
John C. Rainey
David J. Rappe
Rodger C. Rawls
Glenn E. Reitinger
Thomas J. Repeta
David B. Reppard
Charles M. Ress
Charles B. Reymann
Gary M. Rheam
Randall L. Rice
Michael P. Richard
William L. Rigot, Jr.
Patrick O. Riley
Raymond A. Ritchey
Norbert W. Robertson
Charles R. Robie
Richard A. Robison
Philip J. Rodgers
Thomas J. Rodjom
George C. Rogers
William Armstard Rogers, Jr.
Homer J. Rood
David A. Rosenzweig
Jeffrey A. Rothwell
William E. Roukema
Douglas R. Roulstone
William H. Round
William R. Rubel
Thomas G. Ruggles
Stephen J. Ruschmeier
Douglas K. Rush
Robert H. Ryskamp
William J. Sabo
Timothy A. Saboski
James A. Salamon
Kurt M. Salscheider
William W. Sandvig
Robert P. Saunders
Charles L. Savage
Adam J. Savitsky
John E. Schaffer
Stephen L. Schey
Christoper G. Schlehr
Larry E. Schluderberg
Colman A. Schmidt
Stephen V. Schmidt
Wesley H. Schmidt, Jr.
David A. Schneegas
David F. Schneider
Richard W. Scholl
John F. Schork
Mark S. Schramm
Jerry L. Schubert
Charles D. Schwaller II
Terry R. Schwieger
William S. Schwinghammer
Bruce B. Scott
David N. Seckinger
James R. Seeley
Fred A. Semko
Wilson O. Shealy, Jr.
Geoffrey L. Shearer
Jon Sheller
Paul Shemella
David E. Sheppard
William L. Sheppard, Jr.
Vining A. Sherman, Jr.
Robert B. Shields
William A. Shilling
James E. Shoemaker
Marshall S. Short
Edward E. Sievers
John H. Silcox, Jr.
Michael J. Silvestri
Steven A. Sisa
Richard T. Sizemore III
John L. Skolds
Michael W. Smiley
Earl M. Smith
James A. Smith
Jeffrey F. Smith
Kenneth R. Smith
Robert D. Smith, Jr.
Robert G. Smith
Robert S. K. Smith
Ronald C. Smith
Murray C. Snow
Thomas E. Snyder
William L. Snyder
Walter M. Soha, Jr.
John H. Sohl III
Bruce E. Sonn
Steven L. Soroka
Robert L. Spahr
William D. Speights
Maurice F. Spence
Robert E. Springman
Lemuel C. Stabler III
Gerald W. Stahl, Jr.
Ronald B. Staton
Scott L. Steele
Mark K. Stender
Michael S. Stevenson
Alton L. Stocks
Herbert N. Stockton
Ronald S. Stowell
Carl N. Strawbridge
George F. Stringer III
Richard H. Stringer
David C. Strube
Dale C. Sugg
William T. Sullivan
Michael D. Supko
John H. Swalles
Richard N. Swanson
Lloyd F. K. Swift
William A. Swisher
David R. Switzer
Allen J. Szigety
Michael A. Szoka
John F. Teply
Louis F. Terhar
Thomas G. Tetlow
John O. Thoma
Alan D. Thomson
James W. Thorpe, Jr.
Michael R. Tierney
Arthur R. Tillberg
John F. Timony
John R. Tindle
Erik A. Tobiason
Lloyd A. Tolk
Steven J. Tomaszeski
Edwin L. Tomlin
Nicholas M. Torelli, Jr.
Joseph F. Torres, Jr.
John Willie Townes III
Robert D. Trammell
William M. Trant
Timothy J. Traverse
Wayne O. Traynham
Michael W. Treeman
Kirk A. Troxler
Henry G. Ulrich III
Arthur R. Underwood III
Eugene F. Uricoli
Bruce N. VanderEls
Raymond W. VanDyko
John E. VanMaele
Robert R. VanOradel
Douglas R. VanScholk
James A. VanVliet
Walter A. Varakin, Jr.
David R. Vaughn
Daniel R. Veldstra
Robert P. Vessely
Daniel Vislocky
George E. Voelker
Charles S. Vogan, Jr.
Michael C. Vogt
John A. Walderhaug
James L. Walker III
James L. Wall
David L. Walla
Edward C. Wallace
Harry R. Wallace, Jr.
Walter W. Wallmark
Dennis P. Walsh
Bruce E. Walter
William R. Waltman
David A. Ward
William E. Wardlaw
Bruce E. Warner
Cecil L. Waters
William B. Watwood
Stephen S. Weatherspoon
Daniel H. Weaver
Jacob F. Wechselberger
Charles A. Weigard
Stephen P. Weise
David R. Weise
John K. Welch
Bruce D. Wellington
Kenneth J. Wessel
Paul K. West
Eric F. Westberg
Harold J. Wetterlin
Gregory T. Whalen
William G. Wheeler
Donald G. White
Joseph W. White
Kimber L. White
Dennis J. Whitford
Peter A. Wick
Stephen H. Wiestling
Conrad J. Wigge, III
Galen D. Wilcox
Mark D. Wilhelmy
Steven C. Wilkie
Joseph B. Wilkinson, Jr.
Steven J. Willats
Craig D. Williams
David B. Williams
Robert E. Williams, Jr.
Richard C. Williamson
Clarence C. Willis
Leland S. Willis III
Steven E. Wilson
Steven P. Wilson
Justin W. Winney, Jr.
Stephen J. Wismer
Dallas M. Wolf
Thomas P. Wolfe
Rodney K. Womer
Charles A. Wood
Dennis L. Worley
John R. Worthington
Christopher B. Yates
Charles S. B. Young
Gregory G. Yount
James D. Zuber, Jr.

The following-named U.S. Army cadets to be permanent ensigns in the line or staff

XUM

corps of the Navy, subject to the qualification therefor as provided by law:

Robert P. Coonan
Donald H. Costello, Jr.
George W. McFetridge, Jr.
Patrick H. McGann, Jr.

The following named (naval enlisted scientific education program candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law:

Stoy W. Addison
Charles C. Adkins, Jr.
Joseph L. Akins
Robert C. Averill
Robert C. Bailey, Jr.
Richard M. Bailly
John A. Bakshis
John T. Barrow
Jack D. Bonewald
Bruce E. Boughton
Karl W. Breitenbach
Ronald L. Bryson
Douglas E. Coshow
Peter F. Coste
John R. Delorez
Andrew J. Dillon
Lyle L. Drew, Jr.
Harry B. Elam
William M. Espinosa
David M. Fennelly
John L. Fisher, Jr.
Robert L. Foster
Charles R. Franze
James C. Froman
Michael I. Fulcher
Craig B. Garbarini
Charles M. Gooden
Jon M. Gould
William R. Greenen
Dennis N. Herbert
William B. Herpin, Jr.
Robert M. Hinton
Gray D. Hobby
Johnnie R. Hyson
Lowell R. Kent
Gordon C. Lannou
James W. Loadwick
Robert L. Mashburn, Jr.
Martin W. Mellor
Ronald (nmn) Messen
Joseph W. Messier
Harry G. Moore
Richard E. Murphy
Wayne H. Nitsche
Jackie D. Pendleton
Donald E. Peters
Ronnie "H" Prewitt
Martin B. Rambo
Philip Ruputz
Van A. Schaffer
Kenneth A. Schwarz
Michael N. Schwartz
Frank J. Schwindler
Joe B. Scrivner, Jr.
Charles E. Shirah
Michael D. Shon
Guy M. Smith
Leland R. Snelson
Robert B. Stack
Gordon A. Staley
Lawrence G. St John
Louis C. Stengel
Walter W. Stephenson
John W. Stillwell
David L. Tash
James W. Taylor
James W. Thomas
John F. Throckmorton
Richard L. Tunison
Jerry P. Wagner
Clarence W. Walther
William H. Ward
Stephen R. Warner
Franklin G. Wells
Trene A. Williams
Robert W. McConchie
Willie E. Woods

The following named (Naval Reserve Officers' Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law.

Jerry W. Bean
Hal L. Cook
Scott W. Edwards
Steven L. Enewold
Paul J. Gruehnau
John G. Morgan, Jr.
Peter Nemeth
Paul T. Newport
Robert O. Passmore
Carl A. Wilhelm

Betty A. Meriwether (Naval Reserve officer) to be a permanent lieutenant commander and a temporary commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Corder C. Campbell
Frederick R. Ellwanger
Richard F. Klepfer
William J. Klein
John E. Osborne

Douglas A. Kramer (civilian college graduate) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

The following named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

Joseph B. Callahan
William D. Craver
Ronald T. Harris
George H. Heye
Norman T. Jette II
Robert B. Jones

John M. LaPoint
William G. Lowell
Ronald L. Rish
Ferdinand F. Sauer
Stephen A. Schechner
Avery Stiglitz
James S. Westby
John W. Zirkle

The following named (Naval Reserve officers) to be permanent lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Martin T. Barco
Melvin L. Davis
Wayne A. Labore
Jeffrey F. Larson
James T. Mudler
William H. Wilson

The following named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

Johan P. Dahler
John S. Garrett
Kenneth A. Gerstein
Franklyn D. Gile
Robert M. Maass
James W. Olson
Robert E. Oyler
Robert N. Smyth
Thomas P. Torrisi
John D. Wallace
Leonard W. Widmer

The following named (civilian college graduates) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law.

Dennis W. Anderson Alan G. Bourne

George J. Miller, Jr., U.S. Navy officer, to be a permanent lieutenant and a temporary lieutenant commander in the Medical Corps of the Navy, in lieu of permanent lieutenant (junior grade) and temporary lieutenant in the Medical Corps of the Navy, as previously nominated and confirmed to correct grade, subject to the qualification therefor as provided by law.

The following-named U.S. Navy officers to be temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law.

William E. Billings, Jr.
Judson L. Crow
Walter L. Jensen

Dean O. Davis, Jr., U.S. Navy (retired), to be reappointed from the temporary disability retired list as a permanent lieutenant (junior grade) and a temporary lieutenant in the line of the Navy, subject to the qualification therefor as provided by law.

The following-named U.S. Air Force Cadets to be permanent ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

Harold M. Collins Wilbur Wanamaker

Johanna H. Gorman (Naval Reserve officer) to be permanent commander in the Medical Corps of the Navy, subject to the qualification therefor as provided by law.

IN THE NAVY

The following-named Reserve officers of the U.S. Navy for temporary promotion to the grade of commander in the line, subject to qualification therefor as provided by law:

Adams, Richard D.
Ahlers, George H.
Albrecht, Robert A.
Alker, Paul B.
Anderson, John W.
Anthony, Lee S.
Apicella, Frank L.
Archambault, Guy A.
Arena, Albert A.
Arnett, Robert C.
Arnold, Derrel W.
Arrigo, Anthony D.
Ayers, Larrie D.
Baer, Peter
Baggott, Richard
Baker, Herman D.
Baldwin, Robert C.
Barbee, Walter E.
Barger, Richard E.
Barich, F. X., Jr.
Barrett, Robert E.
Barrett, S. P., Jr.
Barrett, W. H., Jr.
Bartholmey, Don S.
Basye, Charles B.
Battle, Gerald G.
Baxter, Donald J.
Baxter, George W.
Bechtold, J. A., Jr.
Bednarek, Norbert H.
Beene, Jerry T.
Bell, Norris H.
Benjes, William B.
Benson, Donald D.
Bird, Paul L.
Bischoff, Herman C.
Bissell, Elliston P., III
Bitting, Robert A.
Black, Robert R.
Blackburn, C. A., Jr.
Blair, Harry R., Jr.
Blanchard, John N.
Blence, Franics A., Jr.
Bodden, Arthur I.
Boland, William K.
Bolwerk, James M.
Bond, Ronald K.
Boone, David V.
Booze, Joseph L., Jr.
Bordeaux, Kenneth R.
Borenstein, Jerome
Botterbush, William C.
Bousum, G. W., Jr.
Bowers, Henry K. W.
Boyd, Rudolph C.
Boyden, Richard F.
Braeckel, John A.
Brainerd, Walter S.
Brame, John H.
Brant, Richard E.
Bratz, Theodore A., Jr.
Braverman, Allen S.
Bray Larry E.
Bredehorn, Jack H.
Brees, David I.
Brinn, Ronald C.
Brockington, Philip S.
Brooks, James L.
Broussard, Warren J.
Brown, Donald R.
Brown, Richard N.
Brown, Robert S.
Browne, Gerald F.
Bruce, Robert W.
Brymer, Bufford R.
Bullock, William G.
Burdwell, Gerald B.
Bures, Frank, Jr.
Burke, Nicholas E.
Burkhart, Jack L.
Burkhart, Robert A.
Burrowes, Thomas, Jr.
Calkin, Theron B.
Callaghan, James F.
Camp, Carl R., Jr.
Campanini, Nicholas T.
Campbell, Boyce L., Jr.
Campbell, Robert J., Jr.
Carlson, Kenneth L.
Carlton, Anthony G.
Carris, James B.
Carroll, William J.
Carter, James G.
Carter, Malcolm K., Jr.
Carter, Walter W., Jr.
Cartozian, Haig O., Jr.
Catriz, Albert G.
Chadwick, Charles A.
Chisum, William R.
Chodorow, Alan M.
Chrisman, Virgil E.
Christiansen, Reed H.
Clarbour, Bertram N.
Clark, Leo W.
Clayton, William O.
Cobb, Joseph K.
Coffey, John J.
Cohen, David M.
Cohune, James S.
Cole, Joseph G.
Coleman, James E. M.
Collier, James L.
Collier, Joe B.
Collins, William B.
Compton, Cecil C.
Comstock, Craig
Condaxis, Paul P.
Corr, James V.
Corriher, Cotesworth E
Cox, Jerry G.
Crawford, Cal R.
Crawford, Charles W.
Cross, Gene B.
Crowhurst, Thomas J.
Cubbison, Robert J.
Cunningham, Shane A.
Cunningham, James S.
Curby, William A.
Currier, Rowland Jr.
Curtis, Wendell J., III
Cushing, Edward J.
Cusick, George M., Jr.
Czajkowski, Francis W., Jr.
Dalrymple, Jack L.
Davis, Gary S.
Davis, Grant
Davison, Gregory L.
Dean, Richard W.
Decosterd, Charles E.
Delplato, Lawrence S.
Devorsey, Louis, Jr.
Dickey, Gene P.
Dienger, Howard E.
DiPalma, Mario
Dixon, Robert G.
Doherty, Bernard J.
Dolbeare, Robert L.
Donato, Frank Jr.
Doyle, William L., Jr.
Drath, Robert J.
Dreher, Richard W.
Dudziak, Donald J.
Dufficy, Thomas J.
Dunbar, Richard M.
Duncan, Donald G.
Durham, William E.
Durr, James E.
Duryea, Robert O.
Dutton, Arthur C.
Eades, Glenn B.
Eaton, Winford R.
Edney, John W., Jr.
Eggert, Robert H.
Elliott, Norman S., Jr.
Elvin, Richard W.
Estep, Eldon M.
Evans, Edwin J.
Ewing, Robert A.
Featherstone, Robert J
Ferguson, Earl A.
Ferguson, Hugh M.
Fidler, Paul P.
Finnerty, Arthur J., Jr.
Fischer, Peter J.
Fitzgerald, Donald P., Jr.
Fitzgerald, Richard S.
Flanigan, Joseph D.
Flynn, Ronald D.
Forehand, William E., Jr.
Forsyth, William D., Jr.
Fort, Thomas H.
Francis, Perry G.
Frede, Edward W.
Freedline, Yale
Frimodt, Gerald L.
Frisby, Donald R.
Fry, Charles R.
Fulton, Luther G.
Gadow, John R.
Gallaudet, John C.
Gard, Robert L., Jr.
Gartmann, Russell J.
Gatti, John
Gaudet, William G.
Gera, John Jr.
Gerdes, Walter H.
Gerzevitz, Walter E.
Giardini, Giovanni T.
Giddens, Darrell G.
Gifford, Laurence S.
Gilbert, George S.
Gilmore, Daniel C.
Gilson, Roger W.
Gimbert, Kenneth C.
Gintowt, Charles C.
Giordano, Vito A.
Glatzer, Maurice
Gleason, Burton J.
Gleason, Russell D.
Glutting, John A.
Godfrey, Lawrence M., Jr.
Goforth, Roy B., Jr.
Goldsmith, Watson W.
Gossman, Max G.

Grace, Daniel L., Jr.
Graf, Donald V.
Grauer, John A.
Gray, John W., Jr.
Green, Clyde L., Jr.
Green, Don H.
Greene, Marshall W.
Greenlee, Wilfred M.
Greenspan, Alan E.
Grey, Edward R., Jr.
Grief, Donald J.
Grimes, Roy T.
Grocki, Chester J.
Grosskopf, George W.
Grow, Bruce W.
Gutowski, Leopold
Hair, Max A.
Hajek, Victor V.
Hald, Rodney D.
Haley, Thomas O.
Hall, Charles W.
Hall, Vaughn E.
Hall, Wilford H.
Hallett, John D.
Hansen, Helmuth H.
Hardin, James T.
Hardt, Dan A. II
Hardy, Edward W. III
Harmon, George P. W.
Hartley, Edward S., Jr.
Hartman, James W., Jr.
Haruch, John
Harwell, Layne H.
Hausmann, Albert C.
Hawkinson, Arthur A.
Hayes, Charles C.
Hayes, Robert T.
Hazlett, Arthur W.
Hazley, George J.
Hearn, Neal E.
Hedrich, David R.
Hedrick, Charles W., Jr.
Helweg, Otto J.
Henshall, John H.
Hertel, John R.
Hessel, Mark L.
Hinson, Brue H.
Hipkiss, Robert A.
Hobson, Robert L.
Hodella, Fred H.
Hohman, Glenn W.
Holland, Maurice J.
Hollenbach, Roger C.
Hooker, John B.
Hooper, John R.
Hostetler, John E.
Houldsworth, John C.
Howard, William J., Jr.
Hoy, William H.
Huch, Francis R.
Huffer, Nicholas R.
Huggins, Richard, Jr.
Hughes, Bruce N.
Humber, John L.
Hunt, Alan G.
Hunter, Carlyle E.
Hunter, Malcom K., III
Hylan, Leo P.
Iborg, Eugene L.
Imeson, Horace L., Jr.
Isham, Don Jr.
Jameson, Robert Q.
Janss, Charles E., Jr.
Jefferson, James F.
Jeffords, James M.
Jenkins, Emmanuel L.
Jetton, Thomas C.
Johnson, Paul S., Jr.
Johnson, William C., Jr.
Johnston, David R.
Johnstone, William N.
Joyce, Harrison T., Jr.
Jung, Charles A.
Justus, Norman E.
Kaempfer, Frederick P.
Kahabka, Clarence T.
Kale, Stephen H.
Kashmanian, Gregory
Keicher, Charles R.
Kelley, Eugene
Kelly, William S.
Kershner, Roger P.
Kevlin, Steven G.
Kilburg, Robert G.
Kildea, James T.
Kilgore, James C.
Kipp, David G.
Kirby, Lawrence G.
Kolb, Stanley D., Jr.
Konetchy, Howard A.
Korinke, Robert F.
Krummeck, "K" Kenneth
Kuehn, Gregory T.
Kunst, Arthur F.
Lackowski, Donald H.
Laidlaw, Scott D.
Lait, Hale H.
Lambden, Jerry D.
Lancaster, John S.
Landers, John D.
Landsverk, George R.
Larocca, Joseph P.
Larson, Lowell D.
Lau, Bernard S. K.
Lawes, Robert B.
Lawson, Donald R.
Leary, Donald W.
Lee, Roland D.
Lell, Virgil G.
Leo, Paul P.
Leonard, Archibald S.
Leukhardt, Martin W.
Levin, Roger L.
Lewis, Robert T.
Ligtenberg, Victor R.
Lillie, Robert B.
Littlefield, Ralph W.
Livingston, John G., Jr.
Lopez, Manuel B.
Loy, William G.
Luetge, James D.
Lusk, Marvin M.
Luthringer, John D.
Lynch, Harvey J.
Lynch, Maurice P.
MacFarlane, Robert C.
Maciolek, Ronald J.
MacQuarrie, John C.
MacWilliams, Walter W.
Magill, James E.
Maier, Richard L.
Malone, John S.
Malone, Michael E.
Mann, Charles K.
Marjenhoff, August J.
Martel, Leon C., Jr.
Martin, Michael J.
Martin, Thomas W.
Martini, Joseph C.
Mason, John A., III
Masterson, Russell W.
Mathews, Richard A.
Matza, Joseph A.
Mayer, Paul J.
McCauley, Hugh W.
McCormick, Paul J.
McGuinness, James P.
McIlvain, William C., Jr.
McKay, Bruce B.
McLallen, Walter F.
McLean, James C., Jr.
McMahon, Thomas T.
McMillian, Joseph C.
McMinn, Jim T., Jr.
McNergney, Robert P.
McWhorter, Bruce N.
McWhorter, William C.
Means, John H., III
Meggitt, William F.
Mellberg, Kenneth E.
Melville, Reid T.
Menke, Allen G.
Menzie, Douglas
Merriman, Marcus A.
Merritt, William A., Jr.
Mesics, Joseph C.
Messner, Karl R.
Meyer, Walter C.
Milat, John P.
Miller, Ralph E.
Miller, Wayne F.
Mitchell, Richard J., Jr.
Mitchell, Robert D., Jr.
Mizer, George A., Jr.
Moll, Frank H.
Monahan, Robert E., Jr.
Monell, Gary E.
Moon, Tylman R.
Morehead, John A.
Morgan, Bobby S.
Morgan, Donald A.
Moriarty, Brian M.
Morris, Edwin G.
Morrison, Joseph G.
Morss, Strafford
Moses, Thomas H.
Mullaney, James F.
Mullen, Edward W.
Mulligan, John R.
Mulvey, James H., Jr.
Murphy, Robert J., III
Myers, Thomas W.
Nasife, Lewis I.
Neal, Rodney D.
Needham, Robert M.
Neff, Benjamin G., Jr.
Neilan, Harvey D.
Neill, Lawrence D.
Nelms, Harry A.
Nelson, Clinton A.
Nord, Frederic J.
North, John H., III
Nourse, David A.
O'Bold, Charles E.
O'Connell, William B.
Ohea, William C.
Oliver, William L., III
Orecchio, John J.
Osciak, John W.
O'Sullivan, Paul L.
Owens, James W.
Paillette, Donald D.
Papritz, Gordon R.
Pare, David F.
Parsons, Milton K.
Patterson, Ralph A., Jr.
Patterson, Robert A.
Peters, William J., III
Peterson, Dennis H.
Peterson, Thorild F.
Pietkiewicz, Wesley
Piner, Thomas
Pitts, Phillip R.
Pizzeck, Eugene X.
Platts, Paul K.
Poff, Philip W.
Polson, Ralph W.
Potter, John L.
Potts, Edward S.
Prechtl, Jerome S.
Price, James C.
Prickett, Gordon O.
Prince, William G.
Proctor, Donald J.
Prophet, John M.
Pulice, John
Pullo, Anthony R.
Rash, Paul J., Jr.
Rausa, Rosario M.
Ray, Edward J.
Reardon, Freddie H.
Reavis, Marshall W., III
Redmond, James W., Jr.
Reidy, William J.
Reynolds, David W.
Rich, James H., Jr.
Richards, James H.
Riebe, Richard C.
Riggs, Joseph R.
Riley, Mark C.
Rimmington, John B.
Ritner, Joseph W.
Rittenberry, James G.
Robbins, Charles R.
Roberts, Tim H.
Robertson, Edward B., Jr.
Robinson, William A.
Roche, Kevin J.
Rodgers, Tommie J.
Roe, John E.
Roffey, Robert C., Jr.
Rogers, George M. Jr.
Rohm, Edward L.
Romance, Francis J.
Ross, Harold M.
Ross, James W.
Rossi, Robert J.
Rouch, Lawrence L., Jr.
Russell, James F., Jr.
Ryan, Edward P.
Salvino, Richard V.
Sams, Richard H.
Satterfield, Don G.
Scales, Carter H.
Schleter, John H.
Schoen, Rodric B.
Scholes, John F.
Schultz, Roman V.
Schutt, Harold J.
Secker, Charles W., Jr.
Sell, Curtis W.
Sessions, Joseph W.
Severin, Marlow P.
Sharp, George K.
Shepherd, Charles W.
Sherck, David L.
Sieber, Donald C.
Simmons, Roger A.
Sink, John D.
Sinnott, George P., Jr.
Skahan, Robert J.
Sloan, Robert L.
Smith, Denis G.
Smith, Henry G., Jr.
Smith, Paul E., Jr.
Smith, Ralph W., Jr.
Snyder, William P.
Sorensen, Edward J.
Spano, Salvador B., Jr.
Spare, Robert L.
Stainton, David G., Jr.
Stanfill, Hiram J.
Stanton, Paul F.
Stapleford, Thomas C.
Steacy, Bernard H., Jr.
Steere, Donald J.
Stephan, Charles A.
Stephen, Earl M., Jr.
Stephenson, John M., Jr.
Sternberg, Harold I.
Stevens, Rollin M., II
Steyer, Francis J.
Stieber, Conrad H.
Stinson, Robert G.
Storey, Sammy M.
Strickland, James M.
Stuart, Douglas A.
Surovchak, Richard J.
Swenson, Maynard L.
Tansor, Robert H.
Tapley, John T., Jr.
Tarn, John L.
Tassell, Harry P., Jr.
Teare, Paul L.
Thompson, Donald E.
Thompson, Neal P.
Tiedemann, John G.
Tivnan, Edmund L.
Tomlinson, Allen R., III
Torgersen, Edward H.
Torsen, Richard M.
Torstenson, Richard J.
Tranchell, William J.
Trimmer, Terry
Troemel, Arthur H.
Truesdell, Lemoyne F.
Turner, Peter C.
Twist, Gerald A.
Valentine, Alden G.
Vanarsdale, Jack M.
Vancise, Richard A.
Vanoni, Roy T.
Vaughn, William H.
Vestal, Ellis B.
Voepel, William C., Jr.
Voniorenz, James E.
Wagner, Richard G.
Walberg, Robert F.
Wangerin, Ronald R.
Wattenburger, Walter W., Jr.
Weaver, Donald E.
Webster, Kenneth A.
Weigman, Jay M.
Weintrub, Arnold
Weiss, Mitchell L.
Welch, Houston L., Jr.
Welch, Joseph R.
Weldon, Joseph D.
Wellborn, Earl E.
Welton, Robert G.
White, Robert F.
White, Robert R.
White, Thomas G., Jr.
Whitlow, George S., Jr
Whitney, Clarence C
Wiant, Mark C.
Wilkins, John M.
Williams, Harmon M
Williams, John A., Jr
Williams, Kenneth T
Wilson, Alan F.
Wilson, Bruce B.
Wilson, Glynn R.
Winters, Robert D.
Wolf, Charles R.
Wooddell, John G.
Wooldridge, Clark E.
Wright, Darryl L.
Wright, Jack R.
Wright, John R.
Yeager, Robert D.
Yorio, Beniamino
Youel, Donald A.
Young, Charles F.
Young, Harold H.
Young, Stanford
Young, Stephen G.
Yusem, Stephen G.
Zeh, Thurber G., Jr.
Ziemann, Terry N.
Zimmerman, Richard

The following-named lieutenant commanders of the line of the Navy for temporary promotion to the grade of commander, pursuant to title 10, United States Code, section 5787, while serving in, or ordered to, billets for which the grade of commander is authorized and for unrestricted appointment to the grade of commander when eligible pursuant to law and regulations, subject to qualification therefor as provided by law:

LINE

Barron, Douglas W.
Derryberry, William D.
Farnham, David W
McFerren, Robert W.
Nelson, Mark Van Voy
Sommer, Henry J., Jr.
Sullivan, Gerald F.

EXTENSIONS OF REMARKS

THE AMTRAK RECORD

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, April 4, 1972

Mr. METCALF. Mr. President, prior to Amtrak, I often said that it appeared to me the railroads had purposely reduced their service and discouraged public use of their lines in an effort to bring about abandonment of their responsibility in passenger service.

I supported the legislation establishing the National Passenger Corporation because we were told there was no other way to stop train discontinuances and because we were assured that a quasi-government corporation and Federal money would provide what the carriers had not provided—efficient and pleasant passenger service.

Regrettably, many of my constituents report that reality has fallen short of promise. Service is about as indifferent as before the carriers became operators

for Amtrak. Thus there is a familiar refrain describing hours of waiting in dirty depots, delayed arrivals and departures, cold dirty cars, unfriendly personnel, oversold reservations, and locked bathrooms.

In Montana, there is an added factor that is cause for great concern. When Amtrak restored partial service on Montana's southern route, the old Northern Pacific line, we were told to "use it or lose it." Mr. President, the service is such as to defy passengers to use it. And I am told that "lose it" often refers to baggage.

The parallel with pre-Amtrak days of deliberate downgrading is very uncomfortable. It is alarming when a constituent tells you that at least 200 fellow passengers on a recent trip say they would never again ride the train. Mr. President, is Montana going to lose rail passenger service again, and for the same old reasons?

On December 24, 1971, Mr. Louis W. Menk, chairman of Burlington Northern Railroad and a member of Amtrak's Board, issued a prepared statement from his office in Minneapolis-St. Paul. He said:

> My company and its predecessors have a long record of operating excellent passenger service and we intend to continue that on behalf of Amtrak.

Perhaps Mr. Menk spends much of his time in the corporation offices, or travels only as the chairman on his very own railroad might be expected to travel—as a VIP. Many Burlington Northern passengers receive different VIP treatment—they travel as very ignored passengers.

However, in all fairness, Mr. Menk has not always pointed with pride. According to the January 20, 1972, issue of Public Utilities Fortnightly, he reiterated his prophecy that—

> The long-distance passenger train is in the same position now as the stagecoach once was to railroading; it is time to let it die an honorable death.

The people of Montana want passenger trains; they will patronize them; they would welcome the excellent service that was Mr. Menk's pride and joy in December.

The spokesmen for an organization I refer to as CASTRO—Conglomerate America's Slick Transportation Rip-Off—Wally Schirra, continuously asks in misleading TV and radio advertisements, "Who needs them?" Mr. President, the people of Montana and other States need their railroads; they need good passenger service. More than 440,000 people patronized Burlington Northern passenger trains between May and December, 1971.

The order that restored part-time service through southern Montana will be reviewed before September of this year. My constituents are asking me if Amtrak is purposely providing poor service in an effort to abandon the route. One describes her "bad trip" with the conclusion:

> It appeared to the passengers that so many things could not go wrong without being done intentionally.

Mr. President, I have sent every one of my constituents' complaints to Amtrak. But they keep coming in.

I should like to share these letters with Senators so that the realities of passenger train service will be before them when Amtrak legislation is considered.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

BOZEMAN, MONT.

DIRECTOR OF PASSENGER SERVICES, AMTRAK,
Burlington Northern Inc.,
St. Paul, Minnesota

DEAR SIR: I have a sad tale which begs to be told!

During the last week of November, 1971, I made reservations to go to Seattle on Train #9, leaving Bozeman, Montana on December 19, and returning from Seattle to Bozeman on December 27, 1971. The train was on time out of Bozeman on December 19th, and all went according to schedule to Spokane, Washington, where we arrived at 12 midnight. At Spokane we were put on a siding without dining services or heat and we stayed there until 8 a.m., December 20th. During this eight hour vigil the railway personnel walked through the cars occasionally, but did not tell the passengers what was going on or how long we might expect to be marooned there. Of course, the train was crowded, as was to be expected during this season, but some of the seats were reserved as many as three times just in the near vicinity of the seat which I occupied (#46, car #932). The train from Seattle to Bozeman was very dirty: there were three large brown paper bags overflowing with garbage in the ladies' room on car #932, and the ladies' rooms in the cars both in back and in front of car #932 were out of order and were locked!

We were scheduled to arrive in Seattle at 11:30 a.m., and finally arrived at 6:30 p.m. During this entire trip the Conductors did not announce a single stop in our car. Passengers determined where we were by consultation with each other and by peeking out the windows to try to read the names on the stations along the way. I can understand how schedule delays can be unavoidable, but the surely unresponsive attitudes of the train service personnel is difficult, if not impossible, to understand.

My return trip, Seattle to Bozeman, on Train #10—Car #1032, seat #36, started very well and only one hour late. The train was clean, the service personnel neat and much more friendly and cooperative than the crew had been on the Bozeman to Seattle trip. I enjoyed the trip until we reached Garrison, Montana at 7:45 a.m., when the conductor awakened me and told me to get my things together as the train was to be rerouted to Helena (instead of going through to Butte), where I would be taken off the train along with all the passengers whose destination was Bozeman or Butte, and where I was to be put on a bus and taken to Bozeman. That would inconvenience us somewhat, but would have been bearable. But—, About 150 of us got off the train at approximately 9 a.m. and packed into the station in Helena where it was cold, crowded and *no one* seemed to know what was going on.

There were two busses (Capacity, 38 passengers each), brought to the station. This despite the fact that the railroad personnel had known for at least two hours about the planned transfer of passengers to busses, and $38 \times 2 = 76$, or about half enough space for the passengers being transferred! At 10:30 a.m., we were told to go outside and get aboard the busses. We could not even determine for sure which bus was going to Butte and which to Bozeman, or whether both would go to one destination. Finally, I stood in a line with the people who were going to Bozeman and the first 38 people were loaded on one bus. We then stood in line (outside in the cold weather), at the second bus until a decision was made for that bus to go to Butte. At this point we were sent back into the station and were told that two more busses had been ordered and would arrive soon. About noon two more busses were brought to the station. After much ado, one of these was loaded for Butte and one for Bozeman.

There were not enough seats on the second Bozeman bus for all Bozeman passengers. Those of us who did get a seat sat in the loaded bus with all our carry-on belongings for one-half hour when one gentleman went inside the station to report that we were very cold. There were old people, children, and at least one small baby on this bus load. A man came from the station and started the bus motor and turned on the heater. After another half-hour the fumes inside the bus were making the passengers ill, though we felt no heat as yet. So, once again, an old gentleman reported this to someone inside the station. A man came out of the station and into the bus and turned off the motor, saying we couldn't have heat and fresh air. I called to this man from my seat near the middle of the bus and asked if he had any idea of how long it would be before our driver arrived and we would get underway because if there was to be enough time some of us would like to go into the beanery or a nearby cafe and get coffee and something to eat.

The man hesitated and then answered, "I'm not supposed to tell you this and will probably lose my job for it—but, this bus *isn't* going anywhere!" When I asked why we had been kept on the bus under such extremely uncomfortable conditions for an hour without being told, he said, "Because they don't want you back in the station. It's too crowded." I couldn't believe my ears! All passengers left the bus immediately and most of us went into the beanery which was warm and nearly empty. What a blessed relief! Soon an announcement was made in the beanery that our train was being brought back to Helena and that we would occupy the same seats we had left at 9 a.m. and would resume our trip to Bozeman. Meanwhile, our train had been rerouted and was 30–35 miles on its way to Great Falls.

Upon reboarding the train and resuming my seat, I was told by passengers across the aisle, whose destination was Jamestown, No. Dakota, that the train had been backed all the way back to Helena. The people who had been loaded on the first bus for Bozeman had moved around the block; we, in our bus, had not moved at all; and since we did not go through Butte, I assume that the Butte passengers were bussed to their destination.

Finally, after this extraordinary comedy of errors, our train delivered us to Bozeman at 3:50 p.m.—5 hours, 20 minutes late—for no good reason.

During this trip I heard at least 200 people state that they would never ride a train again. From the quality of the service, most of us suspect that AMTRAK is another name for "Executioner," to be used to "finish off," the passenger service. "Use it or lose it," does not seem to be a valid admonition, since the train was over-sold on the Bozeman to Seattle part of the trip and almost full on the Seattle to Bozeman trip. It appeared to the passengers that so many things could not go wrong without being done intentionally. If this is indeed the case, and the passenger service is to be finished-off, you were remarkably successful in alienating a large segment of potential passenger clientel with just one, "bad trip."

I sincerely hope that this is not the case, and that you are making a genuine effort to serve the public. The people do not want to lose their passenger train service. This letter is written with the intent of helping you see AMTRAK from the passenger's point of view. I hope this may help you to take some action to correct the many indignities and inconveniences which the passengers so patiently suffer.

Sincerely yours,

Mrs. ALICE I. DURANCEAU.

MISSOULA, MONTANA.

Hon. LEE METCALF,
United States Senate,
Washington, D.C.

DEAR MR. METCALF: Enclosed (in case you don't subscribe) in an article that struck home with me. It seems the Amtrak system is trying even harder than the individual railroads to discourage passengers, at least on the Southern Montana route. Then when the time comes they can say people wouldn't use it and we're abandoning service.

My sister came from Bozeman to Missoula a week before Christmas. She too had a reservation plus a paid 50c charge they've added on for a seat. Someone else had the seats she'd paid for her and her granddaughter. They were left with the observation car which was dirty and contained a cigar smoker which is not supposed to be permitted. Then to top it off they sent her baggage to Paradise and she didn't get it back until two days later when she was leaving on the same train that was bringing it back.

Something needs to be done to bring this to the peoples attention. You have done much good in the past and I feel you could aid this situation.

CATHERINE MOLITOR.

BOZEMAN, MONT.,
January 20, 1972.

Hon. LEE METCALF,
United States Senate,
Washington, D.C.

DEAR MR. METCALF: Enclosed is a copy of a brief letter to the chief executive of Amtrak stating my concern about the way Amtrak is being run, and the reasons for my concern.

Can anything be done about this incredible situation? The billions of dollars in land and subsidies given to the railroads in the past and present would seem to obligate them to provide service, or at least make a serious attempt to do so. Yet they make no such effort, and now even subsidize the firm relieving them of their responsibilities (to the public and even their own employees with passes).

Are you doing anything to correct this?

Sincerely yours,

RICHARD STROUP,
SANDRA STROUP

BOZEMAN, MONT.,
January 20, 1972.

CHIEF EXECUTIVE,
Amtrak,
Washington, D.C.

DEAR SIR: I am writing to report and protest the shocking decline in the quantity and quality of rail passenger service in Montana and the Northwest since Amtrak began operation. I believe the account below of my recent rail experience amply supports the following contentions:

(a) Amtrak's general policies and style of operations are not consistent (by design or otherwise) with attracting or keeping travel customers, and thus with keeping rail service viable.

(b) The day-to-day operations of the system (at least in this area) are in an incredible mess, considering the hundreds of millions of dollars in fares and government subsidies being expended.

Some of the problems encountered on my recent trip with my family are listed below. On the same trip, I heard several people say that *never, never* again would they subject themselves to this kind of treatment by traveling Amtrak. I sincerely hope that this is not the result *desired* by Amtrak.

1. Having requested and received confirmed slumber coach reservations in advance of the Bozeman-Pasco trip, I was called a few days before departure and told that my reservations were revoked. This service was being discontinued without even existing obligations being fulfilled. (This service had earlier been reduced to three days per week.) No alternative accommodations were offered, as they would have been by a customer-conscious travel mode.

2. We re-applied for reservations (coach) and received them. On boarding the train, however, we discovered that the reservations were useless. Our seats (and most others, at least in that car) had been sold at least twice. The conductor told us brusquely to "fend for ourselves" and that it wasn't *his* fault, which of course was true.

3. Without a place to sit, we trudged (children in tow) to the club car to find temporary seats and refreshments. Before we could even sit down, the waiter (or porter?) told us very sharply that there were "no soft drinks!" When we continued toward some seats, he repeated the statement even more loudly and rudely. Since it was dark, we were able to find some seats in the Vista Dome though, of course, they did not recline. Finally, coming to a large town where several people would get off, we hovered like vultures over some seats which would be vacant, and which thereafter we would be unable to leave for fear of losing them.

4. In Spokane, we were delayed for about 8 hours without warning, information during the wait, or later explanation. This total lack of information, explanation, or apparent concern for the comfort of passengers contrasts sharply with treatment that airlines, for example, offer. There, a late flight is routinely handled with a courteous apology and explanation, and a meal and/or motel stay provided. Even though we were stuck in the large Spokane terminal, we couldn't even so much as buy ourselves a sandwich.

5. All through the trip, there appeared to be several empty bedroom units although the ticket office said there were none available. Never was this space offered even to those without seats due to the reservations foul-up. This was infuriating, as surely this could have soothed the plight of several wronged people, at little or no cost to Amtrak. Why wasn't it done?

In summary, both the quantity and quality of rail service have declined, by our experience, since Amtrak went into operation. My conclusion is that, unless your purpose is to quickly kill the passenger rail business, both the general policies and the day-to-day operations of Amtrak need quick and thorough revision.

Is anything being done?

Sincerely yours,

RICHARD L. STROUP.

JANUARY 17, 1972.

Hon. LEE METCALF,
Senate Office Building,
Washington, D.C.

DEAR SIR: The attached letter is an account of my experience with the new Amtrak rail passenger service. I am sending you this copy with the thought that you might be interested in this one encounter which suggests that the new Amtrak system still leaves a very great deal to be desired.

Respectfully,

JOHN M. LONG.

ELLENSBURG, WASHINGTON,
January 17, 1972.

Mr. S. T. THORSON,
Regional Manager, Passenger Sales, Burlington Northern Amtrak, Seattle, Washington

DEAR SIR: This letter is a follow-up on our telephone conversation December 14, 1971, and the result of an incredible string of errors incident to my trying to acquire round-trip Amtrak reservations to Detroit, climaxed by a $122.00 error in the quoted price! The events of this painful process were as follows:

November 29, 1971: I telephoned the passenger ticket sales office in Ellensburg, Washington and inquired whether it would be possible to get reservations to Detroit, leaving December 15, and returning around January 1. The immediate answer was yes, there was still ample time. I then inquired about the cost of the tickets, specifying the most economical accommodations with sleeping facilities for my wife and a three year old child. The price quoted was $342.00 total.

November 30, 1971: I called the Ellensburg depot and instructed them to go ahead and obtain the above reservations. I gave them several alternative dates. The price was also reaffirmed at that time as $342.00.

December 6, 1971: My wife called the depot and in response to her inquiry was told the reservations had been made (leaving Ellensburg Dec. 15—returning Jan. 1) and we could pick them up anytime up to the date of departure. No mention was made of the price in that conversation.

December 10, 1971: I went to the depot to pay for the tickets. However, at that time they discovered that they had reservations only from Ellensburg to Chicago—they had failed to make reservations for the return trip. When I expressed concern, I was assured that there was still ample time. I then stated I would wait at the station until they had called Chicago for reservation confirmation. They informed me that it would be impractical since it often took them *days* to get an open line to the Chicago reservations office. I was also told that the Amtrak reservations system in Chicago is almost hopelessly inadequate. To impress me with the futility of waiting I was further regaled with stories of ticket agents calling the Chicago reservations office via long-distance telephone, but when finally getting through, being put on "hold" for 30 minutes or more, only to be hung up on in the end.

December 12, 1971: After having telephoned the Ellensburg passenger service daily, I was finally informed that they have been able to make return-trip reservations for me leaving January 2 (the fifth of five alternative dates I gave them). No further mention was made of the price.

December 14, 1971: I made my second trip to the Ellensburg depot to purchase our tickets. When I identified myself I was immediately informed that there was one additional problem: the new price was $464.00—$122.00 higher than the price originally quoted and earlier reconfirmed! When I complained about the $122.00 error I was simply told by the agent that *they couldn't be expected to know everything!* I then called you at your office in Seattle.

Since I was one day away from departure, and had made commitments I was obligated to keep, I was forced to pay the additional money and take the reservations. However, I found that in response to a call you made to Ellensburg, that the second price was also an error! The price I finally had to pay was $427.20—still $85.00 more than the original.

I appreciate the assistance you gave me on December 14, but I feel that your organization has an obligation to do more.

On the basis of the original price quoted to me, I chose Amtrak over available reservations on the Canadian National Railway (from Vancouver, B.C. to Toronto, Ontario) and air reservations out of seattle. By the time the Amtrak errors had all been revealed, all my alternatives had been eliminated.

The ticket sales people I talked to, however inept they may have been, were acting as agents of your organization and I feel you have at least a moral obligation to absorb the consequences of their errors.

I feel that your organization should hold to your original commitment and reimburse me the $85.20 difference between the original price and the final price I paid.

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I might add that the reservations I finally received were for first class accommodations which I specifically stated in the beginning I did not want.

Very truly yours,

JOHN M. LONG,
Assistant Professor of Business Administration, Central Washington State College.

P.S.—For the sake of future passengers, as well as myself, I hope your organization can do something about a system that takes 17 days just to find out if a reservation is available, ticket agent personnel who consider errors as the norm, and a reservation service which seems to treat passenger service (in my case at least) as a nuisance rather than a business.

ST. PAUL, MINN.,
January 31, 1972.

Mr. JOHN M. LONG,
Assistant Professor of Business Administration, Central Washington State College, Ellensburg, Wash.

DEAR PROFESSOR LONG: I am sorry to learn of the difficulties experienced in arranging for your recent trip from Ellensburg to Detroit, Michigan, as outlined in your letter of January 17 to Mr. S. T. Thorson.

As a member of Amtrak, the Burlington Northern is dedicated to making this venture a successful one, and I want to assure you a thorough investigation will be made of the circumstances reported by you.

I appreciate your writing and will contact you again as soon as our investigation is complete.

Sincerely,

L. W. MENK,
Chairman.

BILLINGS, MONT.,
January 7, 1972.

Hon. MIKE MANSFIELD,
Hon. LEE METCALF,
Hon. JOHN MELCHER.

GENTLEMEN: You gentlemen are quite interested in rail passenger service, particularly the continuance of such service through Montana via the Southern route on what formerly was Northern Pacific. Prior to Amtrak the Burlington Northern had a slumber coach on its North Coast Limited, but did not have such a car on its Empire Builder. This slumber coach has since been discontinued on the North Coast train through here, but notice it is now being operated on the Empire Builder through the Northern part of the state. There has been quite a bit of comment on this around here as travel on the slumber coach was considerably cheaper and the accommodations just about as good as on the regular sleeping cars.

To use the slumber coach the coach rate was charged instead of first-class, and also the family plan applied. Also the berth accommodations were cheaper. Shown below is breakdown of cost from Billings to Minneapolis in slumber coach as compared to first class sleeping cars:

Slumber coach

Self	$31.25
Wife	20.90
Dbl. BR	17.95
Total OW	70.10
Total RT	140.20

Standard sleeper

Self	$39.75
Wife	39.75
Dbl. BR	27.20
Total OW	106.70
Total RT	213.40

Conductors running through here on the North Coast Ltd. tell me the slumber coach was patronized more than the standard sleeper, and they have heard much comment on the discontinuance of this car. Naturally, we are all interested in trying to get as much revenue for Amtrak as we can, and we who are living on the Southern Montana route want to have our passenger service continued, but think we should have the same advantage of the reduced cost of slumber coach fare as our friends to the north.

Your consideration of this matter will be greatly appreciated.

Respectfully,

W. L. WOOD.

JANUARY 20, 1972.

Re W. L. Wood, Billings, Montana
Hon. LEE METCALF,
United States Senate,
Washington, D.C.

MY DEAR SENATOR METCALF: Your communication has been received and is receiving our attention.

Response will be sent to you as soon as possible.

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

BILLINGS, MONTANA,
January 6, 1972.

Mr. K. D. WALTON,
Trainmaster B. N. Railroad,
Livington, Montana

DEAR MR. WALTON: Per our conversation on January 4, 1972 as to the reason that I did not allow passengres to board train No. 9 at Livington on January 2, 1972.

Be advised that the train consisted of five coaches, two sleepers, and the observation lounge car. The train was filled to full visual capacity out of Billings with about fifteen people standing in the isles and sitting on their luggage. All coach seats, dome seats, and all seats in the lounge car were full as well as people sitting in the rest rooms. There were also many coach passengers sitting in the bedrooms and roomettes. At Livingston we found two bedrooms we could use to Missoula, this space we filled at Livingston.

People are what we want on this train but we think that they should have a place to sit, therefore, the only solution is to give us some coaches during these holidays. I did not make a head count on this day but we, the crew, estimate that we had about four hundred and twenty (420) people on this train at Livingston. I do know that I had eighty eight for Bozeman and one hundred and forty for Missoula at Livingston.

Some four weeks ago I talked to Mr. Burks' office in St. Paul and at that time I asked where all of the coaches were that we had the year before to handle the holiday traffic. I was advised that they were in Minneapolis yard. I therefore asked why they were not available and I was told that they were in bad order and could not be used and that Burlington Northern would not repair them and neither would Amtrak. I was also told that we would have five or six coaches with which to handle the holiday traffic. To me this was a big deal when last year, 1970, we had eight and nine coaches on this train.

May I again say that it would have been nice to have some of the very intelligent Amtrak personnel riding these trains during the holidays and possibly they could see the conditions that exist, as well as how unsatisfactory their reservation system functions.

Hoping that this letter will suffice, I remain

Yours truly,

C. O. MOORE.

JANUARY 11, 1972.

Mr. DAVID W. KENDALL,
Chairman of the Board, National Railroad Passenger Corporation, Washington, D.C.

DEAR MR. KENDALL: Enclosed is a copy of a letter I have received from Mr. C. O. Moore of Billings, Montana, describing inadequate accommodations for passengers on Train No. 9, Burlington-Northern on 2 January.

You may recall that the resumption of BN service on the southern Montana route was accompanied by the admonition, Use it or Lose it. The history of rail passenger service in the last several years was replete with examples of carrier practices, often deliberate, designed to discourage patronage. Where carriers succeeded in evading prospective passengers (by closing depots, failing to answer telephones, reducing consists, sending passenger trains to sidings to await passage of freight trains, or the use of only the dirtiest available of passenger coaches) they brought their statistics to the Interstate Commerce Commission and said the public had abandoned them.

I profoundly hope that instances such as that cited by Mr. Moore will not be used by Amtrak to demonstrate that the southern route service is not being patronized and therefore should be discontinued.

Very truly yours,

ICC-AMTRAK.

BILLINGS, MONT.,
December 13, 1971.

Senator LEE METCALF,
Senate Office Building,
Washington, D.C.

Would appreciate your trying to prevent Amtrack and/or Burlington Northern down grading passenger service for southern Montana particularly during holidays between Seattle and Chicago. They are not providing sufficient sleeping and other cars.

F. W. POWELL.

DECEMBER 29, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: Your communication has been received attaching telegram to you from F. W. Powell of Billings.

We have added as many cars as were available to take care of as many people as we can at this holiday time. Be assured we are putting as much equipment on the line as possible.

Kindest regards,

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

MONTANA STATE
HOUSE OF REPRESENTATIVES,
Forsyth, Mont., November 6, 1971.

Mr. DAVID KENDALL,
Director, Amtrak,
Department of Transportation,
Washington, D.C.

DEAR MR. KENDALL: I am enclosing a copy of my letter addressed to The Today Show referring to what appears to be a considerable down-grading of our present Amtrak service in my particular area. My wife and I travel to Seattle quite often by train because she cannot fly, so we have a considerable personal interest in addition to the public interest. My experience in the past has always been that slumber coach reservations are always much more difficult to obtain while pullman space was very often practically unoccupied. We always thought the slumber coach was the answer to getting more people to use sleeping accommodations. In many cases we have found them superior to some pullman space, one example being that you don't have to put the bed away to get to the toilet, a sizeable factor in many peoples' lives. I am sure that dropping these cars will impair any efforts to attain your goals and I urge reconsideration not only of the sleeping accommodations but also hope there will be no degrading of dining facilities, which I am sure contribute much to the urge to travel.

Sincerely yours,

VIC EAST.
State Representative.

MONTANA STATE,
HOUSE OF REPRESENTATIVES,
Forsyth, Mont., November 6, 1971.

Mr. FRANK MCGEE,
The Today Show,
National Broadcasting Co.,
New York City, N.Y.

DEAR MR. MCGEE: Your subject on November 5, 1971, regarding Amtrak was of great interest to me and no doubt to many Americans. It was gratifying to know Mr. Cunningham felt that some improvement had been made though his experiences were evidently confined to east of Chicago where the service has been beneath that of the western railroads. You may know that after considerable battle we were able to convince Amtrak to provide on a temporary basis of Use it or Lose it service three times a week between Minneapolis and Seattle by way of a southern route through the most populated areas of North Dakota and Montana to supplement the daily service through the northern route they originally felt to be the most logical.

Later in the day, after your program, I went to the railroad station here at Forsyth this weekend and to Seattle next month. I was told that on November 14th the slumber coaches would no longer be carried, which causes me great concern because this will force anyone who desires sleeping accommodations to first buy a first class ticket at a considerably higher price and in addition pay a higher price for pullman accommodations.

This will hit hardest at those to whom the train means the most, the aged and infirm, those of moderate means and those whose health may prohibit flying or busing. It seems to me that if we are trying to provide the service needed to those who will ride the trains this is extremely short-sighted. I was also advised the dining facilities would be a "dining lounge car." While this may not be the repulsive automat or self-service car, it sounds suspiciously like a "beer and sandwich" type of thing. I hope I am wrong. Your guest, Mr. Cunningham, made much of the satisfaction of sitting in the nice surroundings of a traditional dining car and enjoying America going by and I think everyone who rides a train feels exactly like that. The employees interviewed on your program spoke of the flowers and the linens again being used and that they really felt everything at last was up, up, up.

Now, in this instance, we seem to be going down, down, down again, and I and thousands of others feel that to now degrade the service or price it out of reach of the great majority would be a tragedy. I would appreciate your giving the enclosed extra copy to Mr. Cunningham and assure you that programs such as we see on Today are much appreciated by many of us.

Sincerely yours,

VIC EAST,
State Representative.

DECEMBER 21, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: David Kendall has asked me to respond to your communication of November 11, 1971 concerning service on the North Coast Hiawatha.

It is true that the North Coast Hiawatha is being operated from September 15 to approximately June 15 without the slumber coaches. Our Marketing people tell me that good marketing judgment requires that these cars be placed in the services which have sufficient ridership to justify their inclusion in the consist. We intend to return them to the Southern Montana service in June of next year.

During the off-season, the only possible solution for a train such as the North Coast is its operation at absolute minimal cost, for ridership both at present and in years past has not been sufficient to justify an expensive train. The train will continue to have full leg-rest coaches and domes, and, in fact, will be upgraded to the extent that it has acquired ex-California Zephyr bedroom, lounge and observation domes.

Regarding the dining facilities, arrangements have been made to acquire and ready for service a group of four Santa Fe combination dining-counter-dormitory cars, but I am informed that during the upcoming Holiday Season some standard 36 seat diners will be in use on this run.

Amtrak has no intention of downgrading any service, but rather to use its limited equipment in the most productive manner.

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

MISSOULA, MONT.,
April 12, 1971.

Hon. LEE A. METCALF,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: While writing you about another matter, I would like to include a few words about the "Railpax" situation.

Writing both as a citizen of "The Lost Wilderness of Southern Montana", and as a former railroad employee, it seems that the interests and welfare of both classes have been over-ridden for something else—for what?

Railroads were built to transport people and goods. From the beginning of railroad history free transportation has been an inferred, (though unwritten) right for railroad employees and retired railroad employees. In fact it always has been one of the "fringe benefits" whether written or inferred. Now, all of a sudden, it is not going to be possible to even "buy" passage on a train without traveling a hundred miles or more to where a passenger train stops, and then, the chances are against the passanger going to the identical point where the train will let him off, which will necessitate other means of transportation to the passenger's destination. Probably it would be best to not attempt the trip at all, as with only one train per day, say, from Chicago to Seattle, one might not be able to get a seat on the train for several days.

Congress created Railpax. Will Congress discipline Railpax? or is it to be a Bureaucracy answerable to no one? Can anything be done to improve a very sad outlook?

Sincerely yours,

E. H. MURRAY.

CHRISTCHURCH, NEW ZEALAND,
August 8, 1971.

DEAR SENATOR METCALF: I took that Amtrak train to Missoula from here July 23 through the most beautiful country in the land at night. My return reservation was (Monday July 26) for a day when there was no train out of Missoula, though my purchase of the ticket was specifically on the premise there would be. Nor did the Burlington Northern compensate me for having to remain in Missoula another day. Indeed I had to buy a return ticket on the Tuesday (Partially I am sure because I would not relinquish the ticket which proved their negligence or malfeasance). The slumber coach from Spokane to Missoula was—on the total run from Seattle to Missoula two and one half hours late, which without an accident, must be impossible.

The return trip was in a coach which was the noisiest and filthiest I have experienced all over the world. The toilets for instance were pig sties without soap. I wrote a letter for "damages" to the President of the Burlington-Northern in St. Paul. Should he answer it I shall send that and my original along for your amusement. But the evidence is simply cumulative that with these people in charge public transport hasn't a prayer.

Prof. RICHARD T. TENCH.

AUGUST 10, 1971.

Mr. RICHARD T. TENCH,
Professor of Law,
Spokane, Wash.

DEAR MR. TENCH: We appreciated your letter of July 29, 1971, in which you call attention to the very serious error of our ticket office at Spokane in advising that you could return from Missoula to Spokane on July 26, 1971, when in fact the train was not scheduled to operate through Missoula on that date. We very much regret this unusual mistake on the part of an experienced ticket staff and I certainly understand your feelings as to the resulting inconvenience.

You have paid for one round trip ticket between Spokane and Missoula and one one-way ticket from Missoula to Spokane. All you have received is the round trip transportation. We feel that we should refund what you paid for the one way ticket from Missoula to Spokane in the amount of $9.50 and will be more than happy to do so. For accounting purposes, we require return of the unused portion of the round trip ticket. Upon receipt by us of that portion of the ticket, we will see that refund is promptly made.

For your convenience, a return addressed envelope is enclosed.

Sincerely,

LOUIS W. MENK.

DETROIT, MICH.,
October 11, 1971.

Prof. RICHARD T. TENCH,
Christchurch, New Zealand

DEAR PROFESSOR TENCH: Senator Metcalf has forwarded to me a portion of your letter telling of the troubles which you unfortunately had on the train out of Missoula. I can't tell you how sorry we are that any inconvenience at all, let alone what was apparently a major one, should have occurred.

In the first place, these are not things which we think should happen to anyone and particularly to one from your beautiful country, visiting what we think great scenery in ours.

I have sent copies of this correspondence to the people involved, hoping that it will prevent a reoccurrence of such an unfortunate incident.

I don't suppose you visit Montana with any frequency at all from the other side of the world, but should you plan another trip, please get in touch with us ahead of time.

With very best regard,

Sincerely,

DAVID W. KENDALL,
Director, National Railroad Passenger Corporation.

ST. PAUL, MINN.,
January 13, 1972.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: I am cognizant of the correspondence with Professor Richard Tench, including correspondence from your office and David Kendall of Amtrak, and my own reply dated August 10 which apparently was neither forwarded nor received. It was

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addressed to Professor Tench at Spokane. As he apparently moved to Florida and later to New Zealand, it may not have been received by him. I am, therefore, enclosing a copy of it with this letter and favoring him with a copy of my letter to you.

There is little more to add except to again acknowledge an error on the part of the reservation people at Spokane and to say that our operating people have been alerted as to complaint concerning the alleged condition of the car on the return portion of the journey.

I feel keenly about the obligation of Burlington Northern to do its part in providing a comfortable and efficient service and you may be sure that any deficiencies brought to light are made a matter of concern to our Operating Department. Amtrak passenger trains are in constant operation over our lines and I am fully aware that travellers' verified complaints are an important part of helping BN, as operator, to maintain a commendable level of rail passenger service and this is a concern that we do not take lightly, while admitting that situations such as Professor Tench describes can occur. It is our desire and objective to minimize or eliminate the recurrence of unsatisfactory conditions.

Sincerely,

L. W. MENK.

MISSOULA, MONT.,
August 31, 1971.

Mr. ROGER LEWIS,
National Railroad Passenger Corp.
Washington, D.C.

DEAR MR. LEWIS: Remembering Amtrak's warning, "Use it or Lose it!", I took my grandchildren from Helena to Missoula in mid-Aug. on the train, rather on the bus to Butte, where we were told the train would be 3½ hours late. Instead it was over 4½ hours late, making up some time out of Butte to get us into Missoula at ten, instead of six. What irked me was the fact that we were assured in Helena that the train was on time, whereas, as a matter of fact, employees of Amtrak in Butte told me the train had been four to six hours late for thirty days. I had friends coming to visit me in Missoula that same afternoon with whom I could have had a ride, but I chose to to use Amtrak.

I have been a very frequent passenger on trains previously, having gone to Chicago, Seattle, Thompson Falls, and Helena frequently in the past year. I also testified at hearings here in the federal building when the train was going to be taken away from Missoula. It is a vary harrowing trip for a widow to drive over the mountain passes alone in the winter.

There was no snack bar service on Amtrak; or was there even a waiter to serve softdrinks or cocktails in the Traveler's Rest, as there always had been previously. I saw some old people sit in that miserable train depot in Butte the entire 4½ hours with no place to get a snack, one a paralyzed old man, who could have stayed in Helena another few hours at home or in the veteran hospital, where he was probably released.

One woman told me she had left Casper for Billings with two small children at three in the morning, thinking the train was on time. Instead she waited over six hours in the Billings station. She said service and connections were even worse coming from Seattle.

Who are you kidding, "Use it or Lose it?" I was so exhausted after my trip from Helena to Missoula with two small children. I shall certainly hesitate before I make that trip again, especially in view of the fact that you have raised the fare from $7.50 to $10.00 round trip.

Another complaint is the fact that the train was posted on the board to leave Butte at seven when we returned from roaming all over the area to pass the time. Yet the train didn't leave the station until after eight o'clock with about fifty people waiting impatiently on the platform. I do not know how many were passengers and how many seeing others off.

Yours truly,

MARY S. GALLAGHER.

SECRETARY OF TRANSPORTATION,
Washington, D.C., September 23, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: On behalf of Secretary Volpe, I wish to thank you for your recent letter, accompanied with a copy of a letter from Mrs. Mary S. Gallagher of Missoula, concerning the operation of rail passenger service by the National Railroad Passenger Corporation.

All decisions concerning schedules, fares, reservations, tours, excursions, special trains, passenger services, promotions, other marketing or operational services are made by the Corporation. For this reason, we have forwarded your correspondence to the Corporation for appropriate handling.

You may also wish to write the Corporation, known as AMTRAK. The headquarters are located at 955 L'Enfant Plaza North, Washington, D.C. 20024.

We sincerely appreciate your interest in the improvement of rail passenger service.

Sincerely,

A. B. VIRKLER LEGATE,
Executive Secretary.

OCTOBER 6, 1971.

Mrs. MARY S. GALLAGHER,
Missoula, Mont.

DEAR MRS. GALLAGHER: I hope you will accept my apology on behalf of Amtrak for your very disagreeable encounter with rail passenger service. While not attempting to make excuses, I would appreciate the opportunity to explain.

The quality of rail travel has been deteriorating for many years prior to the takeover of operations by the National Railroad Passenger Corporation (Amtrak) on May 1st of this year. Since Amtrak must rely on the member railroads to provide track, stations, equipment and personnel, there was obviously little change that could have been reasonably expected overnight from April 30th to May 1st, nor for the immediate weeks following.

What did come into being on that day was a corporation which would bring together a central management team responsible for operating, planning, and marketing rail passenger service to attempt to reverse the decades-old trend of loss of revenue and ridership.

To accomplish this, Amtrak faced the challenge of actually keeping the trains running, while at the same time beginning the process of selecting the best equipment to purchase, and then scheduling the refurbishment of these cars according to our new designs before introducing them into service on routes throughout the country. Concurrently, we had to begin a complete revision of the many different rate and tariff structures applied by the railroads and unify them into a single, easier-to-understand national system.

We also initiated studies on improving communications which therefore would provide better means for passengers to obtain information and reservation assistance. Food—its quality, variety, preparation and methods of service, and its cost—is now undergoing intensive priority attention. And finally, a complete program of public information, promotion and advertising—that is, marketing—is being developed to let our present and potential passengers know of the improvements we are planning as we are able to introduce these updated programs for more comfortable, efficient, and desirable rail passenger travel.

I hope you will understand by this explanation that what you experienced was not the kind of service that Amtrak stands for. We shall immediately investigate the circumstances to avoid this situation in the future, and we are very grateful you cared enough to write to us.

Sincerely,

MARY REISNER,
Manager, Customer Relations.

"Report back, please."

OCTOBER 14, 1971.

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: With further reference to your communication of September 8 regarding travel experience of Mrs. Mary S. Gallagher, we are enclosing copy of October 6 letter sent to Mrs. Gallagher by Miss Mary Reisner, Manager of Customer Relations.

We are sorry Mrs. Gallagher encountered problems and certainly appreciate your courtesy in passing along her letter. It will help us in our effort to make passenger train travel a pleasure.

Sincerely,

GERALD D. MORGAN,
Vice President, Government Affairs.

A CONSTITUENT EXPLAINS HOW HE IS PENALIZED BECAUSE HE WORKS HARD AND GETS ABOVE POVERTY-LEVEL

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FISHER. Mr Speaker, we hear much these days—from presidential candidates and others—about burdens being borne by the middle class. They talk most about disproportionate tax burdens, but there are other areas which should not be overlooked. Among them is Government financing of housing.

Much of this latter complaint relates to the Housing Act of 1968, which included the famous sections 235 and 236—under which the more enterprising are penalized. The lower income are favored with 1 percent loan rates, little or no down payments, and middle-class-type housing loans are available to them.

Reports are multiplying of vast losses by the Government on loans made under those two sections. And considerable community disturbance has resulted. It happens that I was one of those who voted against the 1968 act.

Under leave to extend my remarks, I include a letter from a constituent who as a middle-class wage earner is a victim of the arbitrary application of the laws which foster housing loans.

The letter follows:

DEAR MR. FISHER: I am 32 years old and have had to work since I was 14—every day, except for three years in the Army—20 months in the Middle of the desert in Turkey during which I volunteered for duty in Vietnam. I have 5 years of college and work for an insurance company here in San Antonio, a job I have held for 6 years.

I make $710.00 per month. After taxes, Social Security, and $30 per month which goes into a company savings plan, I take home $499. I pay $130 rent for a two-room apartment in a 30-year-old 4-plex. I pay a bank note $74 for some furniture and doctor bills incurred three years ago.

After the first of the year my wife and I started looking for a house as we have lived in this apartment for 3 years since our marriage in 1969. We don't have the few thousand dollars it would take to buy someone's equity and take up payments, so my only means is through the VA.

I went to a well-known local Savings and Loan and was informed that on my salary I could only qualify to purchase a $14,000–$14,500 house. Of course, I was told by the loan officer, if I made less than $6,000 per year or was on welfare that they could put me in a $20,000 to $22,000 house and let the government pay for it under the 235 bill. And, after I moved in, we could stock the pantry with food purchased with food stamps.

Of course this isn't news to you, you being a member of the House of Representatives. It wasn't news to me either but it has become a very cold, hard fact that it is hard-working, honest persons like myself who are paying for the good life of the welfare chislers and are reaping none of the benefits.

I could, of course, take my $14,000 house, which would be on the west side of San Antonio and be the first WASP "blackbuster" over there but I fear for the safety of my family should I take this course of action.

To just accentuate the above I submit this tidbit: About 3 weeks ago I read in the paper that a man had been arrested for some crime and when he was booked at County jail it was discerned he was a "wetback" and when he was searched there was found in his pocket an *Approved Application* for this wetback's government-financed 235 house. Now, this is just too much to stomach!

Mr. Fisher, I don't expect any consolation from you as I realize as do everyone I know that today's trend is towards the "big give-away" to the "minorities" and the rich and let the man in the middle pay for it all. However, I fear (do I really?) that some day, maybe in the near future, there is going to be a "middle-class" backlash that is going to bring this nation to its knees and all the freeloaders, chiselers and crybabies and the "pay-no-tax" rich are going to get what they deserve.

In the meantime, I will continue to work for a living so I can help support them all while I live in these two rooms and watch television for entertainment.

Thank you for the time it took you to read this.

Yours truly,

———, ———.

ODDS SPEAKING AND SHIFTING AGAINST TRANS-ALASKA PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ASPIN. Mr. Speaker, I insert in the RECORD today an article discussing the proposed trans-Alaska oil pipeline and the most prominent alternative to it, a trans-Canadian pipeline. This article, from the March 28 issue of the Toronto Globe, discusses in some depth and with real understanding the relative environmental, economic, and political aspects of these two possible pipeline routes. Anyone even marginally interested in the trans-Alaska pipeline issue will find this article worth reading.

It follows:

ODDS BEGIN SHIFTING AGAINST TAPS PLAN

(By Ross H. Munro)

WASHINGTON.—In just one week, the prospect of oil from Alaska's North Slope flowing through a Canadian pipeline to the Lower 48 states has become a real possibility rather than a near impossibility.

The odds began shifting last Monday when a U.S. Interior Department report produced evidence that a Canadian line would create less environmental damage than the original Trans Alaska Pipeline System proposal for bringing out Alaska's oil—a trans-Alaska pipeline system consisting of a north-south line across Alaska and a fleet of tankers to carry the oil down the Pacific Coast.

Political clout was added Saturday evening when 243 Democratic and Republican senators issued a call for public hearings on the environmental dangers of the TAPS before it is permitted to go ahead.

The growing attractions of a Canadian pipeline for Alaska's oil are becoming increasingly worrisome to some powerful interests in the United States. During the past few days, the Canadian alternative to the TAPS has been attacked by leaders in U.S. Government and industry. They know the odds still favor the TAPS but they see those odds decreasing.

The Canadian Government already has seized upon the changing circumstances. Energy Minister Donald Macdonald, for instance, said last week that the Government has "a fairly strong belief" that a Canadian pipeline is the best way of getting oil out of Alaska. And for many months Canada has been quietly telling the United States that it will "welcome" any proposals for a Canadian line.

ALREADY PREDISPOSED

Even though it will not receive reports on the economic and environmental feasibility of a Canadian pipeline until the end of the year, the Canadian Government is already strongly predisposed toward a Canadian line. This line would cross Alaska into the Yukon, then run down the Mackenzie River Valley in the Northwest Territories, across Alberta, Saskatchewan and Manitoba to the U.S. border. From there it would proceed to Chicago.

Given the mood of Canadian economic nationalism, why is the Canadian Government already predisposed toward a pipeline through Canada that would carry U.S. oil to U.S. customers? There are three basic reasons.

First, if the TAPS goes ahead the B.C. coastline will fall victim to oil spills by tankers travelling from the southern terminus of the Alaska pipeline to refineries in Washington state and California. Last week's report on the environmental impact of the TAPS says such spills are inevitable. The spills could scar the shoreline and kill fish, birds and shellfish. This has become a big political issue in British Columbia and Ottawa is taking notice.

The second reason is the existence of oil in the Mackenzie River delta area. The problem is that exploration has not yet proved that enough oil can be extracted to jutsify the cost of building a separate pipeline to the south. But if a Canadian line is built for Alaskan oil, it would cost relatively little to use it eventually for Canadian Arctic oil.

The third argument for a Canadian line is the general impact it could have on Canada's economic development. A pipeline means a corridor, a corridor means a road and a road means greater access to Canada's northern resources.

Three counter-arguments suggest themselves. The first is that Canada should not be anxious to develop energy resources that will not be used domestically but by the United States. The only answer here is that Canada seems already committed to this course by giving its go-ahead to the oil companies to explore for oil in the Arctic.

Another related drawback, in the eyes of some Canadians, would be an inevitable increase in Canada-U.S. interdependence. Although this could well stop short of any continental energy agreement, the two countries would have to reach an understanding on the sale Canadian Arctic oil. And Canada would inevitably be forced to allow much of the labor and material for the pipeline to come from the United States—if only to avoid a balance of payments crisis.

The other counter-argument is an ecological one. Although it probably won't cause as much environmental damage as the TAPS, a Canadian pipeline would inevitably disrupt the environment as well.

There is an answer here, too, although it is a negative one: some sort of pipeline through the Mackenzie valley is almost an eventual certainty. If it is not a pipeline for Canadian Arctic oil then it would be a pipeline for natural gas from Alaska's North Slope.

According to last week's U.S. Government report, the tremendous amount of natural gas that will surface along with the oil on the North Slope cannot feasibly be reinjected indefinitely into the ground or shipped by tanker. It will have to be transported by pipeline. In other words, through Canada.

A cool natural gas line, however, would not pose the same threat to the North's permafrost that a hot oil line would. The consolation here is that the permafrost along the Canadian route is much less vulnerable, according to the U.S. report, than the permafrost along the Alaska route.

The Alaska permafrost has a generally higher ice content along a route with more mountains and with two earthquake zones. Earthquakes create a significant possibility of a line breaking and oil excaping to melt the permafrost and permanently scar the landscape.

This is one of the arguments that will be used by the U.S. environmental groups that are preparing their attempts to block the TAPS, or at least to stall the U.S. Government from granting a permit to begin its construction.

New hope for a delay of the TAPS was raised Saturday night by the call for public hearings in a letter drafted by senators Philip Hart (D, Mich.) and Clifford P. Case (R., N.J.) and signed by 21 other senators. They called the TAPS the largest engineering undertaking in history, which should be subjected to "the closest public scrutiny".

"Many are also concerned about whether alternatives have been given adequate consideration", the senators said, in an obvious reference to the Canadian route.

MINOR ISSUE

The TAPS therefore shows signs of becoming a minor issue during the U.S. presidential election this year. The predominantly Democratic make-up of the TAPS opponents also makes it obvious that if a Democrat were somehow to replace Richard Nixon in the White House next year the odds would turn against the TAPS.

Even if this does not happen, the politicians and the environmentalists in the United States may possibly delay the start of construction on the TAPS for some time. And if the delay continues into 1973 the Canadian Government will be able to call for formal proposals for a Canadian line. This would heighten the TAPS issue in the United States and confront the oil companies with a real dilemma.

The Canadian Government has a dilemma on its own right now. How does it keep the possibility of a Canadian route alive in the

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United States without souring its already touchy relations with the U.S. Government?

Obviously, Canada is going to continue to tell the U.S. Government privately that it does not want oil spills on the West Coast and that it does want time to develop the proposal for an alternative Canadian pipeline.

Mr. Macdonald has already said he will talk to U.S. Interior Secretary Rogers Morton this week about it. This may prepare the way for Prime Minister Pierre Trudeau to say a few words to Mr. Nixon when he visits Ottawa in mid-April. It is just possible that Mr. Nixon, facing a reelection battle this year, will be a little bit receptive.

Somehow the Canadian Government must also ensure that U.S. politicians and environmentalists fighting the TAPS become better aware of the Canadian position on the pipeline. This would include an awareness that the Interior Department's report last week did not include any concrete references to the information already assembled by the Canadian Government on a Canadian route.

CONFUSED ISSUES

After the report came out, the alternative of a Canadian pipeline was attacked by U.S. Government spokesmen and by the TAPS proponents in such a way as to confuse rather than clarify the issues.

Mr. Morton, for instance, appeared on NBC's Today Show and argued that "a great deal more land" would be disturbed by a Canadian pipeline. This is true, but his argument did not address itself to the nature of the environmental disturbance or the problem of oil spills on the West Coast.

Mr. Morton also conveyed the impression that the Canadian line is nothing more than a hypothetical alternative. "There is no application before us for a pipeline other than the one through Alaska", he told the TV audience.

The next day the Interior Department's radio news service made available a tape-recording of undersecretary William T. Pecora stressing the supposed drawbacks of the Canadian route.

"To serve its purpose, the Canadian line would have to divide somewhere in Alberta. One portion would cross the Rockies, the Cascades and probably the Sierra Nevada mountains on the way to Seattle or California", Dr. Pecora warned.

This was a new twist. Everyone else assumes that any oil from the Canadian pipeline destined for Washington state could be carried by an expansion of the Trans Mountain Oil Pipe Line Co. system. A line all the way to California is not being taken seriously by anyone at present.

But why do Mr. Morton and Dr. Pecora attack the Canadian alternative even though the Interior Department ostensibly is maintaining its neutrality until a final decision is reached on granting or denying a permit for the TAPS?

MAIN REASONS

These are the main reasons why it is almost universally believed that Mr. Morton and the Nixon Administration want the TAPS, and not the Canadian line to go ahead:

The oil shortage. Every year the United States consumes increasingly more oil than it produces. While the delivery of North Slope oil to the Lower 48 states will not reverse this trend it will slow it down. A Canadian line will take longer to complete than the TAPS and this would mean a greater U.S. dependence on foreign oil for a greater length of time.

Shipping: The TAPS would require spending $1.1-billion for oil tankers—a shot in the arm for the chronically ailing U.S. shipbuilding industry and a decrease in U.S. dependence on foreign-owned tankers.

Alaska's economy: The TAPS would increase employment and economic activity for an ailing state economy.

Industry pressure: The oil companies that largely control the North Slope reserves and Alyeska—the consortium that would build and operate the TAPS—have invested their money, time, know-how and prestige in the TAPS.

A look at Atlantic Richfield, one of the major companies involved, is instructive. Analysts of the oil industry say Atlantic Richfield has less available crude oil, especially on the West Coast, than most other major oil companies. It needs the Taps and it needs it soon.

Its chief executive officer is Robert O. Anderson, who is close to the Nixon Administration. He is the Republican national committeeman for New Mexico and is currently advising the U.S. Secretary of State on environmental matters. It can be assumed that Mr. Morton pays attention to Mr. Anderson's point of view.

Taken together, all these factors mean that the odds still favor the TAPS over the Canadian alternative, even though those odds are getting smaller. But U.S. politics, Canadian initiative and the fact that time is working against the TAPS could change all of that.

HIS MEMORY A BENEDICTION

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 1972

Mr. CHAPPELL. Mr. Speaker, in answer to the question, "What is success?" a writer once wrote:

He has achieved success who has lived well, laughed often and loved much; who has gained the respect of men and the love of little children; who has filled his niche and accomplished his task. Who has made the world a better place, no matter how small the contribution; who gave unselfishly of himself so that others might enjoy a better life; whose life was an inspiration; whose memory a benediction.

Mr. Speaker, I can think of no better words to describe the life of Melvin T. Dixon, whose service to the veterans of this Nation spanned 27 years. Melvin was only 54 at the time of his death, but the service he rendered as State service officer and director of the Florida Department of Veterans Affairs will make the burdens of those veterans disabled in the defense of our Nation a little easier to bear.

Melvin's work with veterans began in 1945, soon after his retirement from the U.S. Air Force because of disabilities incurred during his wartime military service as an officer. He served as contact representative for the Veterans' Administration Regional Office in St. Petersburg, Fla., and trained most of the post-war contact representatives hired during that period.

He joined the Florida Department of Veterans Affairs as a claims specialist and in 1948 was named senior assistant State service officer. One year later he assumed the directorship of the State office.

Concurrently, he served the American Legion Department of Florida as its department service officer, and held a similar position with AMVETS.

His administrative abilities, coupled with his ability to get to the crux of a problem with empathy and understanding, earned him the respect of his fellow service officers throughout America.

He served as president of the Southeastern State Service Officers Association, the Southern Governors Veterans Advisory Council, the National Association of State Directors of Veterans Affairs, and the National Association of Department Service Officers of the American Legion.

President Johnson took note of Mel Dixon's abilities and in 1967 appointed him to the U.S. Veterans Advisory Commission which was charged with the responsibility of holding hearings throughout America on the overall veterans benefits program.

As a result of the studies of this commission, legislation was developed and passed by the Congress which will have untold effect upon the lives of present and future veterans, their dependents and survivors.

With all of his responsibilities, Mel Dixon was never too busy to counsel with a disabled veteran, to encourage him to make a success despite his handicap. He offered no sympathy. Instead, he offered understanding, determination, and stability to troubled men and helped to make them useful, productive citizens.

Truly, Mr. Speaker, Melvin T. Dixon filled his niche and accomplished his task and made the world a better place with contributions big and small. He set an example for others to follow. To his family and the thousands of veterans whose lives he touched, his life was an inspiration, his memory a benediction.

AID INACTION RESULTS IN DEATH OF 350 CIVILIANS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. ASPIN. Mr. Speaker, I am releasing to the public today a document written by a senior Agency for International Development—AID—officer in South Vietnam that reveals that American officials failed to report a serious health problem in Pleiku Province that resulted in the death of 350 Vietnamese civilians. It is a national disgrace that our own officials failed to report a serious health problem in Pleiku that resulted in the death of 350 war victims. A simple call for help could have saved 350 lives.

Specifically, the AID document charges that despite the fact that 350 people died of "exposure, malnutrition, tuberculosis, and pneumonia," reports by American officials in Pleiku Province "failed completely to indicate the seriousness of the situation—since at least 350 people died it might be expected that the word 'death' would appear at some point. It does not."

"The situation in Pleiku province became known through unofficial channels reported by people who, although not directly concerned, were moved by humanitarian concern to do what they could.

"Had CORDS (the U.S. Military Aid Command) been forced to rely on official reports from Pleiku, this tragedy would not have been known until much later, with even worse human suffering the result."

The document goes on to charge that this is "inexcusable conduct" that should result in "punitive action" and urges the reporting in the future be much more accurate.

Mr. Speaker, yesterday I called upon AID Director John A. Hannah to report what action he had taken against officials who have been directly responsible for the tragic death of 350 innocent people.

The problem of officials in the field reporting half truths and sugarcoated reports that cover up the truth must be stopped. All that I am asking is that our officials in the field be honest. Currently they nurture and nurse the documents and reports so that bad is removed and the good shines out. It is this kind of reporting and this kind of dishonesty that got us involved in Vietnam in the first place. All of us recall the glowing documents reporting improvements and security in the countryside many of which apparently were fabrications.

I am asking Dr. Hannah to report at length what his agency has done to insure that the truth reaches senior officials in South Vietnam and eventually reaches the American people.

While our participation in ground combat may be limited, we still have a moral responsibility to alleviate the human suffering caused by this tragic and seemingly endless war.

I am inserting at this point in the RECORD the AID document which I have obtained and my letter to Dr. Hannah, Director of AID:

Dr. JOHN A. HANNAH,
Director, Agency for International Development, Washington, D.C.

DEAR DR. HANNAH: I am enclosing a copy of a memorandum prepared by an official of your agency in South Vietnam last June regarding the needless death of 350 innocent Vietnamese civilians.

This document indicates that reports from CORDS personnel in Pleiku province "failed completely to indicate the seriousness of this situation". Apparently 350 people died as a result of a serious health problem in that region. AID officials did little, if anything, to alleviate the problem. The document goes on to discuss this "inexcusable conduct" and concludes "it is my firm belief that punitive action is called for in this place."

I am writing to you to find out what action the Agency for International Development has taken against officials who have been directly responsible for the tragic death of 350 innocent people.

The document also indicates that reporting from the field has been less than honest. I wonder how many other unnecessary deaths could have been prevented if our officials had simply told the truth about the situation in that part of Vietnam.

I hope that you will report at length what has been done to assure that the truth reaches senior officials in South Vietnam and the American people.

While our participation in ground combat may be limited, we still have a responsibility to alleviate human suffering caused by the war.

Sincerely,

LES ASPIN,
Member of Congress.

REPORTING OF PROBLEMS IN PROVINCIAL MONTHLY REPORT

1. The War Victims Directorate is extremely disturbed when instances come to light where serious problems involving human suffering are not reported by those whose responsibility it is to prevent and/or alleviate such suffering.

2. A case in point is the serious public health problem as the De Grol/Plei Kotu and Plei Blong 3 relocation sites in Pleiku. Over three hundred (300) people have died at De Grol/Plei Kotu, and a lesser number at Plei Blong 3, since these sites were relocated in December and January. Deaths are due to exposure, malnutrition, tuberculosis, pneumonia. During the time period from December to April, the Provincial Monthly Report from Pleiku failed completely to indicate the seriousness of the situation. Only one mention exists—in February, of a health problem in Plei Blong 3; De Grol/Plei Kotu was not mentioned in regard to public health in any fashion until April. Since at least 350 people have died, it might be expected that the word "death" would appear at some point. It does not. Even when the PSA denied to mention the problem, it was in generalities, couched in terms of progress being made.

3. That progress being made is due solely to the fact that the situation became known through unofficial channels, reported by people who, although not directly concerned, were moved by humanitarian concern to do what they could. Had CORDS been forced to rely on official report from Pleiku, this tragedy would not have been known until much later, with even worse human suffering the result. This is an example of inexcusable conduct on the part of the PSA, who at the very least, is personally responsible for reporting events, be they good or bad. It is my firm belief that punitive action is called for in this case, and renewed emphasis upon couple, reliable reporting from the field, to prevent such tragedies from occurring again. I urge you to take decisive action on both these points.

REPORT ON STATUS OF 180-DAY NOTICES ON FEDERAL-STATE WATER QUALITY STANDARDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. DINGELL. Mr. Speaker, on September 10, 1971, I wrote to the Environmental Protection Agency requesting a report on the status of 180-day notices issued to municipalities and industries for violation of Federal-State water quality standards.

I have received responses to this and a subsequent letter which would appear to be of interest to my colleagues and, therefore, I insert the text of various letters and reports relating to this matter appear at this point in the CONGRESSIONAL RECORD:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 1, 1972.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: This is in response to your letter of January 18, 1972, requesting detailed information on the status of several industries and municipalities which were issued 180-day notices of water quality standards violations.

The following information is provided in response to each of the points you have raised.

1. "Chicopee, Massachusetts has failed to take action since the issuance of a notice which expired on November 9, 1971. When will Court action be brought against the city?"

The Massachusetts Division of Water Pollution Control took legal action against the City of Chicopee. The final decree was entered on July 28, 1971, with the Suffolk County Court establishing a detailed abatement schedule. This Court-imposed schedule requires Chicopee to provide a report and preliminary plans by March 1972.

Although Chicopee has been recalcitrant in meeting prior due dates, the City has authorized funds for necessary abatement projects. It is our view, in keeping with the intent of section 10(b) of the Federal Water Pollution Control Act, that State action should not be supplanted by the Federal Government at this time. We have recommended that our Regional Office carefully monitor compliance with the court-imposed schedule. Federal legal action will be initiated promptly should the State of Massachusetts or the Suffolk County Court fail to take further action as may be indicated to abate pollution.

2. "EPA stated that the Piels Bros. Inc. of Chicopee, Massachusetts has presented a program which would send its wastes into the Chicopee treatment system. Since Chicopee, Massachusetts is not complying with the EPA's notification, how is it possible that Piels Bros. Inc. proposed program can be considered adequate by EPA?"

As required, Piel's Brothers has taken steps to reduce its waste discharge through in-plant modifications. Moreover, the company is proceeding with the design of the pre-treatment facilities needed before connection to the planned municipal system. At present, the company is complying with the program developed as a result of the 180-day proceedings. Since connection to the City system is the most desirable treatment process in this case, our primary interest is focused on the City of Chicopee toward assuring timely completion of the required facilities.

3. "The City of Pepperell, Massachusetts was to have drawn final plans and specifications for its proposed sewage treatment facility by November 30 of last year. Have they complied wtih this directive and, if so, will you please send me a report on those specific arrangements?"

The City of Pepperell did not meet the precise program developed and a recommendation for court action was cleared. While this action was developing the City did take the required action and we have temporarily stayed our court suit. Our Regional Office will monitor progress by Pepperell and advise us promptly should reactivation of our court suit be required.

4. "EPA requested the Santa Fe Land Improvement Company in Kansas City, Kansas to obtain, in writing, a commitment from the city permitting the company to tie into its treatment facilities. Has such a commitment been received? On what date is the connection expected to be made? Does the city's treatment facility fully meet water quality requirements?"

The Santa Fe Land Improvement Company pollution abatement situation has been complicated by recent action on the part of the Company in deeding over its entire sewer system to the City of Kansas City, Kansas. The City of Kansas City, at present, provides primary treatment and is required under Federally approved water quality standards to complete secondary treatment facilities by January 1, 1975. Although the 180-day period for the Santa Fe Land Improvement Company has expired, our Regional staff will continue their negotiations with the Company

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and the City toward effecting a definite program to provide adequate treatment for Santa Fe's wastes through the Kansas City municipal treatment facility. Our Office of Enforcement and General Counsel will review this situation in four weeks, and you will be advised of further developments.

5. "The Ashland Oil and Refining Company of Kent, Ohio was also to have submitted a schedule. Has your office received notice from this company, if not, when can it be expected?"

Our 180-day notice action involved Ashland Oil at Ashland, Kentucky. A schedule has been developed for Ashland Oil and Refining Company. This schedule, which calls for completion of the recommended waste treatment facilities by November 1, 1974, was submitted as part of Kentucky's amended water quality standards which I formally approved on December 23, 1971.

6. "I understand that samplings will be taken from the Holly Sugar Company in Wyoming during the month of January. I would appreciate receiving, at the earliest possible date, a detailed report of your findings."

Holly Sugar at Torrington, Wyoming, was sampled by our technical staff in Denver on January 6, 7, 8, 9, and 10, 1972. We are informed that the report on the results of this survey is in preparation and will be sent to us shortly. A copy will be forwarded to you as soon as we receive it.

7. "Finally I feel that the brief descriptions in the December status report, relating to the Cleveland suburbs, need considerable clarification and expansion. I would appreciate receiving more detailed analyses of the Cleveland situation before February 10th."

Our Enforcement staff have prepared a detailed report on this situation. This report is enclosed.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

STAFF REPORT, OFFICE OF ENFORCEMENT AND GENERAL COUNSEL—180-DAY NOTICE ACTION—CLEVELAND, OHIO AND SUBURBAN COMMUNITIES

This report summarizes the situation concerning the 180-day notices issued to 30 Cleveland suburbs on August 9, 1971. Although 31 suburbs discharge to the Cleveland sewerage system, only 30 suburbs were issued notices as part of this action. The 31st, the City of Euclid, was the subject of a separate 180-day notice, issued July 30, 1971, based upon its separate discharge to Lake Erie.

BACKGROUND

On December 9, 1970, a 180-day notice was issued to the City of Cleveland, Ohio, for violation of Federal-State water quality standards for Lake Erie. The violations cited concerned public water supply criteria for bacteria, recreational criteria for bacteria, and the "four freedoms." On January 28, 1971, an informal hearing was held pursuant to the established 180-day notice procedures. After months of negotiations betwen EPA, the City of Cleveland, and the State of Ohio, an agreement was reached. This agreement has not been fully implemented principally as a result of:

1. The lack of approval by the Cleveland City Council of an increase in the sewer rate structure required to implement the plan; and,

2. The lack of an agreement between Cleveland and the 31 suburban communities that are connected to the Cleveland system.

On July 20, 1971, EPA called a meeting in Cleveland to assess the necessity for further direct EPA abatement action in the Cleveland area in order to fully implement the agreement between EPA and Cleveland. It was clear that the plan agreed to by the City of Cleveland and EPA, even though reasonable in terms of dates for compliance and facilities to be built, could not be met unless the City of Cleveland and the suburbs it serves reached an agreement quickly on a plan to pay for the needed improvements. The City of Cleveland and the 31 suburbs (including Euclid) were invited to attend the July meeting, but only 23 of the suburbs attended and of these only nine made any type of statement.

ISSUANCE OF THE 180-DAY NOTICES TO THE SUBURBS

On August 9, 1971, the Administrator issued 180-day notices to the 30 suburban dischargers to the City of Cleveland sewerage system for violation of Federal-State water quality standards; these violations being public water supply criteria for bacteria, recreational criteria for bacteria, and the "four freedoms."

The Lake Erie water quality criteria compliance schedule violations result from the collective discharges by Cleveland and the suburbs through Cleveland's three inadequate treatment plants. The suburbs account for approximately 40 percent of the wastes discharged. Therefore, the suburbs are equally at fault, along with Cleveland, for continuing pollution of Lake Erie and consequently are responsible for doing whatever is necessary in terms of financing and management to see that water quality standards are met.

Prior to the issuance of the 180-day notices to the suburbs, the responsibility and burden for control of pollution in the Cleveland area had essentially been placed on the City of Cleveland alone. The State of Ohio, in April of 1970, imposed a building ban on the City of Cleveland to halt further connections to the sewer system. This ban, which is still in effect, curtailed construction within the central city while the suburbs continued "business as usual."

On September 24, 1971, an informal hearing was held, pursuant to the 180-day notice, between EPA and the 30 suburban dischargers. The State of Ohio and the City of Cleveland also participated. At the hearing all parties emphasized the need for the City and the suburbs to reach an expeditious agreement as to financing and management of the Cleveland Sewerage System. The Board of County Commissioners of Cuyahoga County proposed a program whereby the County would run the system on a county basis. As the hearing progressed, substantial distrust between Cleveland and the suburbs surfaced indicating that voluntary formulation of a regional system would be a most difficult task.

Subsequent to the 180-day notice hearing, contracts were made with the suburbs and the City of Cleveland on a number of occasions by both the EPA Great Lakes Regional Office and the Region's Ohio District Office located in suburban Cleveland. Numerous attempts were made to schedule follow-up meetings, but no formal meeting was ever held. At that point, meaningful negotiations toward a regional system had virtually reached a standstill.

ACTIONS IN THE CUYAHOGA COUNTY COURT OF COMMON PLEAS

On December 1, 1971, a judicial hearing in the on-going case of the Water Pollution Control Board of the State of Ohio v. the City of Cleveland was held in Cleveland. The action had been initiated by the Ohio Water Pollution Board in 1970 to enforce the building ban which it had placed on Cleveland in April of 1970. At the 1971 hearing, the court heard testimony from both parties as to the violations by Cleveland of the Board's order and the pollution problem in general in the Cleveland area. The court, at the conclusion of testimony, granted Cleveland's motion to implead the auburban dischargers as third party defendants. A new hearing date of January 18, 1972, was set for Cleveland's motion to extend the building ban to the suburbs. EPA made a formal presentation as a court witness, urging extension of the building ban to all suburban dischargers as a form of additional pressure to break the impasse.

On December 7, 1971, there was also a hearing in a separate local case before the Cuyahoga County Court of Common Pleas concerning sewer rates being charged to certain suburbs by the City of Cleveland. The court issued an order, whereby the City of Cleveland could collect 95 percent of the sewer rate charged from East Cleveland and Cleveland Heights, both of which had been withholding payments, but little was accomplished by this decision as far as providing sufficient long-term rate structures to implement the massive building requirements to abate existing pollution. However, a surprising development at this hearing was the merging of the rate case with the Ohio Water Pollution Control Board's building ban case and a court order that directed:

"On or before January 11, 1972, all parties (Cleveland and the 31 suburbs) will formulate and file with the court a plan, acceptable to themselves, for a metropolitan sewer system."

A hearing was set for January 18, 1972, to discuss the plans submitted by the parties, in addition to considering Cleveland's motion to extend the building ban to the suburbs.

At the January 18, 1972, hearing both Cleveland and the suburbs submitted their respective metropolitan or regional treatment system proposals. The plans, as submitted, were very far apart and the court ordered the parties to meet on January 26, 1972, to discuss the differences in their proposals. The three main differences centered around control of the system, plant operation, and rate structure. On the issue of the building ban, the court granted Cleveland's motion for a temporary restraining order extending the ban to the suburbs for 14 days (until midnight February 2, 1972) without a formal hearing on the merits.

On February 1, 1972, the three major areas of difference were discussed in open court by the parties. The temporary restraining order was extended another 14 days without a formal hearing. The suburbs amended their pleading to include a counterclaim for $100 million against the City of Cleveland for violation of their agreement to adequately treat the suburban wastes. The court severed this counterclaim from the rest of the trial. The judge then met in chambers with both Cleveland and the suburbs to discuss going to trial on the merits. The parties agreed to a stipulation that sufficient evidence had been received as to the existence of pollution upon which the court should grant relief in accordance with the court's plenary equity powers. The parties will attend a hearing on February 15, 1972, with reference to the type, makeup, and conditions that should be established in creating a metropolitan Cleveland sewer district. The court also severed the rate issue from the case by appointing a referee who will be responsible for establishing fair and equitable rates to enable a metropolitan district to function properly.

FURTHER ACTION

It is anticipated that following the February 15, 1972, hearing, the court will establish a regional system if the parties involved cannot agree to one. In addition, the State of Ohio's Attorney General, representing the Ohio Water Pollution Control Board has stated that the Board does not wish the building ban to extend into the spring building season. The Board could invoke a new State law enabling the State to take over in situations such as this. The State could then plan, control, and operate the system, imposing the rate structure necessary to enable it to function.

JANUARY 18, 1972.

Mr. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. RUCKELSHAUS: According to the EPA's status report of December 7, 1971, a number of the 180-day notices issued for violation of Federal-State water quality standards remain in limbo. I am particularly concerned that several municipalities and companies have failed to take effective action toward compliance, thereby challenging the present enforcement system.

For example, Chicopee, Massachusetts has failed to take action since the issuance of a notice which expired on November 9, 1971. When will Court action be brought against the city?

EPA stated that the Piels Bros. Inc. of Chicopee, Massachusetts has presented a program which would send its wastes into the Chicopee treatment system. Since Chicopee, Massachusetts is not complying with the EPA's notification, how is it possible that the Piels Bros. Inc. proposed program can be considered adequate by EPA?

The city of Pepperell, Massachusetts was to have drawn final plans and specifications for its proposed sewage treatment facility by November 30 of last year. Have they complied with this directive and, if so, will you please send me a report on those specific arrangements?

EPA requested the Santa Fe Land Improvement Company in Kansas City, Kansas to obtain, in writing, a commitment from the city permitting the company to tie into its treatment facilities. Has such a commitment been received? On what date is the connection expected to be made? Does the city's treatment facility fully meet water quality requirements?

The Ashland Oil and Refining Company of Kent, Ohio was also to have submitted a schedule. Has your office received notice from this company and, if not, when can it be expected?

I understand that samplings will be taken from the Holly Sugar Company in Wyoming during the month of January. I would appreciate receiving, at the earliest possible date, a detailed report of your findings.

Finally, I feel that the brief descriptions in the December status report, relating to the Cleveland suburbs need considerable clarification and expansion. I would appreciate receiving more detailed analyses of the Cleveland situation before February 10th.

With every good wish,

Sincerely yours,

JOHN D. DINGELL,
Member of House Committee on Merchant Marine and Fisheries.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 17, 1971.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: In further response to your letter of September 10, 1971, we are enclosing the current status report on 180-day notice actions, as promised in our letter of October 6, 1971.

Sincerely yours,

HOWARD A. COHEN,
Director, Office of Legislation.

STATUS 180-DAY NOTICE ACTIONS

(December 1970 to December 1971)

1. City of Atlanta, Georgia (Chattahoochee River).

Notice issued on December 9, 1970.

Informal hearing held on January 12, 1971.

At the informal hearing, the Mayor of Atlanta agreed to propose a detailed plan to the City's Board of Aldermen at the Board's January 18, 1971, meeting, for funding the necessary treatment facilities so that a detailed construction schedule could be developed. Action was promptly initiated by the City to finance and schedule the construction of remedial facilities. On June 11, 1971, the Administrator approved the time schedule, agreed to by the City of Atlanta, for construction of the necessary facilities. Atlanta is currently on schedule and construction is underway. Surveillance of the progress of construction will be maintained.

2. City of Detroit, Michigan (Detroit River-Lake Erie).

Notice issued on December 9, 1970.

Informal hearing held on January 25, 1971.

Agreement among the EPA, the City of Detroit, and the State of Michigan was reached at the informal hearing. Specifics of the agreement are embodied in a Final Order of Determination issued to Detroit by the Michigan Water Resources Commission on May 21, 1971. Construction is currently underway. Surveillance of progress of the construction will be maintained. No further enforcement action is recommended at this time.

3. City of Cleveland, Ohio (Lake Erie).

Notice issued on December 9, 1970.

Informal hearing held on January 28, 1971.

The informal hearing resulted in an approval plan of implementation between the Environmental Protection Agency and the City. However, it was found necessary to issue separate 180-day notices to Cleveland's suburban communities in order to involve them directly in the proposed implementation plan. (See Nos. 19 to 48.)

The agreement which was reached at the informal hearing established the need for three things:

(1) A general expansion of facilities
(2) Year-round disinfection
(3) An increase in the level of treatment

No further enforcement action is recommended at this time.

4. Bemis Company Inc. (Nashua River) East Pepperell, Massachusetts.

Notice issued on April 6, 1971.

Informal hearing held on June 3, 1971.

Bemis Company is planning to tie into the Town of Pepperell's proposed sewage treatment plant for treatment of the Company's domestic wastes. However, the Town is not proceeding in an expeditious manner to complete the municipal system. Bemis has received a permit for disposal of its industrial wastes (paste and ink waste washup) from the Pepperell Board of Health, pursuant to the Company's installation of a new pit with polyethylene lining to take industrial waste and dye washup and paste. Satisfactory progress is being made, and no further enforcement action is recommended at this time.

5. Pepperell Paper Company (Nashua River) (formerly St. Regis Paper Company).

Notice issued on April 6, 1971.

Informal hearing held on June 3, 1971.

On July 30, 1971, Pepperell submitted a preliminary engineering report. Final plans and specifications for the required wastewater treatment facilities have also been submitted. Pepperell is making many in-house changes including embarking on a program to recycle 100% of its wood fiber wastes, which can be reused as inexpensive container stuffing or remade into cardboard. Satisfactory progress is being made. No further enforcement action is recommended at this time.

6. Pepperell, Massachusetts (Nashua River).

Noticed issued on April 6, 1971.

Informal hearing held on June 3, 1971.

At a special meeting held on June 14, 1971, the Town voted to raise and appropriate the sum of $1,800,000 to construct a sewage treatment facility. Surveyor maps detailing meets and bounds of the proposed sewage treatment plant site have been forwarded to the Massachusetts Division of Water Pollution Control. The Town has not yet selected an engineering firm to draw final plans and specifications, which was required by November 30, 1971.

7. Chicopee, Massachusetts (Connecticut River).

Notice issued on April 6, 1971.

Informal hearing held on June 2, 1971.

Within the 180-day period, Chicopee has failed to take effective action toward compliance with State and Federal water quality standards.

8. Piels Bros, Inc. (Connecticut River).

Notice issued on April 6, 1971.

Informal hearing held on June 2, 1971.

Piels Bros., Inc., has taken steps to remove 1,800 pounds per week of hops; 36,000 pounds per week of yeast solids; and 2,100 pounds per week of labels from the bottle washing operation. In addition, piping changes to remove stormwater from the industrial waste system are in progress. On July 2, 1971, Piels Bros, entered into an agreement with the City of Chicopee under which the City agreed to accept and treat the industrial wastes from Piels Bros., Inc. No further enforcement action is recommended at this time.

9. Reserve Mining Company (Lake Superior) Silver Bay, Minnesota.

Notice issued on April 28, 1971.

Informal hearing held June 3, 1971.

Reserve Mining has been informed that if it does not develop a satisfactory plan to dispose of 67,000 tons per day of taconite tailings now being discharged untreated into Lake Superior, Federal court action will be brought against the Company. Reserve Mining engaged the services of Roy F. Weston, Inc., to develop a concept evaluation of feasible treatment and disposal alternatives. The Weston report has been issued and is now under review. The Environmental Protection Agency is preparing for possible litigation.

10. Santa Fe Land Improvement Company (Kansas River) Kansas City, Kansas.

Notice issued on June 1, 1971.

Informal hearing held on July 13, 1971.

Engineering studies have been completed in accordance with a resolution passed by the City of Kansas City, Kansas. At an informal meeting, held on November 23, 1971, with EPA and Company representatives, the Company presented its accomplishments to date. The Company is presently completing work on its interim treatment system in order to tie into the Kansas City system. EPA has requested the Company to obtain, in writing, a commitment from the City with regard to the date that the connection may be expected. Satisfactory progress is being made.

11. Holly Sugar Company (North Platte River) Torrington, Wyoming.

Notice issued on June 15, 1971.

Informal hearing held on July 21, 1971.

Holly Sugar has completed its interim treatment facility. The Company has complied with all requirements and the implementation schedule which were agreed upon at the informal hearing. Sampling of the Company's outfall will be performed by EPA in January. Satisfactory progress is being made. No further enforcement action is recommended at this time.

12. Ashland Oil and Refining Company (Big Sandy River) Ashland, Kentucky.

Notice issued on June 22, 1971.

Informal hearing held on August 6, 1971.

A follow-up meeting was held on September 22, 1971, at which a schedule was agreed upon. This proposed schedule will be submitted to the Administrator for his approval in the near future.

13. Stamford, Connecticut (Long Island Sound).

Notice issued on July 16, 1971.

Informal hearing held on September 3, 1971.

Stamford has signed an agreement to let the Town of Darien tie into its proposed treatment plant. Satisfactory progress is being made. No further enforcement action is recommended at this time.

14. Darien Connecticut (Long Island Sound).
Notice issued on July 16, 1971.
Informal hearing held on September 3, 1971.
The Town of Darien is planning to tie into the Town of Stamford's sewage treatment plant. Satisfactory progress is being made. No further enforcement action is recommended at this time.
15. Bogalusa, Louisiana (Pearl River).
Notice issued on July 21, 1971.
Informal hearing held on September 9, 1971.
The principal impediment to a successful abatement program by the City has been the inability to pass a bond referendum. This factor controlled the development of an implementation plan at the informal hearing and is the key to Bogalusa's remedial program. Based on testimony at the hearing, it appeared reasonable to rely on Mayor Rawls's judgment that the referendum be by special election in February, as it was believed that the bond referendum vote would be lost or overshadowed in the general election held in November 1971.
The implementation schedule agreed upon at the hearing is as follows:
Bond referendum election, February 1972.
Complete plans and specifications, December 1972.
Advertise for bids, January 1973.
Award contract, February 1973.
Complete construction, August 1974.
16. Eastlake, Ohio (Lake Erie).
Notice issued on July 30, 1971.
Informal hearing held on September 9, 1971.
An additonal follow-up meeting was held on September 27, 1971. Although this is still under negotiation, it is believed that Eastlake is making satisfactory progress toward reaching an agreement.
17. Willoughby, Ohio (Lake Erie).
Notice issued on July 30, 1971.
Informal hearing held on September 9, 1971.
An additonal follow-up meeting was held on September 27, 1971. Although this is still under negotiation, it is believed that Willoughby is making satisfactory progress toward reaching an agreement.
18. Euclid, Ohio (Lake Erie).
Notice issued on July 30, 1971.
Informal hearing held on September 9, 1971.
Additional meetings were held on September 27, 1971, and October 26, 1971, and were attended by representatives of Euclid, the State of Ohio, and the Environmental Protection Agency. Resolution of the problem is still under negotiation, pending approval by City, State, and EPA.
19. Beachwood, Ohio.
20. Bratenahl, Ohio.
21. Cleveland Heights, Ohio.
22. East Cleveland, Ohio.
23. Gates Mills, Ohio.
24. Lyndhurst, Ohio.
25. Mayfield Heights, Ohio.
26. Richmond Heights, Ohio.
27. South Euclid, Ohio.
28. Lakewood, Ohio.
29. Brooklyn, Ohio.
30. Brook Park, Ohio.
31. Garfield Heights, Ohio.
32. Maple Heights, Ohio.
33. Newburgh Heights, Ohio.
34. Highland Heights, Ohio.
35. Mayfield Village, Ohio.
36. Shaker Heights, Ohio.
37. University Heights, Ohio.
38. Bedford Heights, Ohio.
39. Brooklyn Heights, Ohio.
40. Cuyahoga Heights, Ohio.
41. Linndale, Ohio.
42. Middleburg Heights, Ohio.
43. North Randall, Ohio.
44. Parma, Ohio.
45. Seven Hills, Ohio.
46. Parma Heights, Ohio.
47. Warrensville Heights, Ohio.
48. Warrensville Township, Ohio.
Notices issued on August 10, 1971.
Informal hearings held on September 23–24, 1971.
Negotiations are continuing. Delay is due to recent elections of Mayors.
49. Franklin, New Hampshire (Winnepesaukee and Merrimack Rivers).
Notice issued on August 20, 1971.
Informal hearing held on October 19, 1971.
A regional treatment plan is under consideration which may include the City of Franklin. A meeting will be held in January, attended by representatives of the City, the State, and EPA, at which the regional treatment plan will be discussed. Funds and land have been appropriated by Franklin to be used in the event that the City is not included in the regional plan.
50. Vincennes, Indiana (Wabash River).
Notice issued on September 3, 1971.
Informal hearing held on October 8, 1971.
An additional meeting was held on November 4, 1971. Negotiations are continuing.
51. Superior, Wisconsin (Lake Superior).
Notice issued on September 30, 1971.
Informal hearing held on November 17, 1971.
A follow-up meeting was held on November 29, 1971. Negotiations are continuing.
52. Superior Fiber Products (Lake Superior) Superior, Wisconsin.
Notice issued on September 30, 1971.
Informal hearing held on November 17, 1971.
A follow-up meeting was held on November 29, 1971. Negotiations are continuing.
53. Hurley, Wisconsin (Montreal River).
Notice issued on September 30, 1971.
Informal hearing held on November 18, 1971.
A follow-up meeting was held on November 29, 1971. Negotiations are continuing.
54. Hammond Sanitary District (Lake Michigan).
Notices issued on October 12, 1971.
Informal hearing held on December 1, 1971.
Another meeting is tentatively scheduled for the middle of December.
55. Whiting, Indiana (Lake Michigan).
Notice issued on October 12, 1971.
Informal hearing held on December 1, 1971.
Another meeting is tentatively scheduled for the middle of December.
56. Dunkirk, New York (Lake Erie).
Notice issued on October 22, 1971.
Informal hearing held on December 1, 1971.
At the informal hearing, information was developed on which EPA will be able to base a decision on a new schedule for construction of the required secondary treatment facilities. Dunkirk is to present the new schedule at a meeting to be held on January 27, 1972.
57. Covington, Indiana (Wabash River).
Notice issued on November 3, 1971.
Informal hearing scheduled for January 5, 1972.
58. Montezuma, Indiana (Wabash River).
Notice issued on November 3, 1971.
Informal hearing scheduled for January 5, 1972.
59. Logansport, Indiana (Wabash River).
Notice issued on November 3, 1971.
Informal hearing scheduled for December 14, 1971.
60. Tahoe-Douglas District (Lake Tahoe Basin) Zephyr Cove, Nevada.
Notice issued on November 9, 1971.
Informal hearing date has not yet been established.
61. Kingsbury General Improvement District (Lake Tahoe Basin) Stateline, Nevada.
Notice issued on November 9, 1971.
Informal hearing date has not yet been established.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 6, 1971.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: Administrator Ruckelshaus has asked me to reply to your letter of September 10, 1971, requesting a report outlining the cause for each of the 180-day notices issued to municipalities and industries for violation of Federal-State water quality standards, and the current status of each.

Enclosed is a listing of the 180-day notices issued to date, together with copies of the individual notices of violation.

A status report is in the process of being prepared at this time, and will be forwarded to you as soon as it is completed.

Sincerely yours,
GRAHAM W. MCGOWAN,
Director of Congressional Affairs.

ENFORCEMENT WATER QUALITY STANDARDS
(180-Day Notice of Water Quality Standards Violation)

Under the provisions of section 10(c)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 *et seq.*), notices have been issued by the Administrator of the Environmental Protection Agency to the following sources of waste that an abatement action could be brought by the United States unless action were taken to resolve the problem within 180 days:

On December 9, 1970, the Administrator of the Environmental Protection Agency issued 180-day notices of water quality standards violations as follows:

1. City of Atlanta, Georgia (Chattahoochee River) Informal hearing held January 12, 1971.
2. City of Cleveland, Ohio (Lake Erie) Informal hearing held January 28, 1971.
3. City of Detroit, Michigan (Detroit River-Lake Erie) Informal hearing held January 25, 1971.

On April 6, 1971, the Administrator of the Environmental Protection Agency issued 180-day notices of water quality standards violations as follows:

1. Bemis Company, Inc., East Pepperell, Massachusetts (Nashua River) Informal hearing held June 3, 1971.
2. St. Regis Paper Company, East Pepperell, Mass. (Nashua River) (New owners—James River Paper Company, Richmond, Virginia) Informal hearing held June 3, 1971.
3. City of Pepperell, Massachusetts (Nashua River) Informal hearing held June 3, 1971.
4. City of Chicopee, Massachusetts (Connecticut River) Informal hearing held June 2, 1971.
5. Piels Bros., Inc., Chicopee, Massachusetts (Connecticut River) Informal hearing held June 2, 1971.

On April 28, 1971, the Administrator issued a 180-day notice of water quality standards violation to: Reserve Mining Company, Silver Bay, Minnesota. Informal hearing held June 3, 1971.

On June 1, 1971, the Administrator issued a 180-day notice to: Santa Fe Land Improvement Company, Kansas City, Kansas. The informal hearing was held on July 13, 1971, at Kansas City, Kansas.

On June 15, 1971, the Administrator issued a 180-day notice to: Holly Sugar Company, Torrington, Wyoming. Informal hearing held on July 21, 1971.

On June 22, 1971, the Administrator issued a 180-day notice to: Ashland Oil and Refining Company, Ashland, Kentucky. Informal hearing held on August 6, 1971.

On July 16, 1971, the Administrator issued 180-day notices to: Stamford, Connecticut, informal hearing held on September 3, 1971, and Darien, Connecticut, informal hearing held on September 3, 1971.

On July 21, 1971, the Administrator issued a 180-day notice to: Bogalusa, Louisiana. Informal hearing held on September 9, 1971.

On July 30, 1971, the Administrator issued 180-day notices to: Eastlake, Ohio, informal hearing held on September 9, 1971; and Willoughby, Ohio, informal hearing held on September 9, 1971, one hearing. Euclid, Ohio, informal hearing held on September 9, 1971.

On August 10, 1971, the Administrator issued 180-day notices to the following suburban communities of Cleveland, Ohio:

1. Beachwood, Ohio.
2. Bratenahl, Ohio.
3. Cleveland Heights, Ohio.
4. East Cleveland, Ohio.
5. Gates Mills, Ohio.
6. Lyndhurst, Ohio.
7. Mayfield Heights, Ohio.
8. Richmond Heights, Ohio.
9. South Euclid, Ohio.
10. Lakewood, Ohio.
11. Brooklyn, Ohio.
12. Brook Park, Ohio.
13. Garfield Heights, Ohio.
14. Maple Heights, Ohio.
15. Newburgh Heights, Ohio.
16. Highland Heights, Ohio.
17. Mayfield Village, Ohio.
18. Shaker Heights, Ohio.
19. University Heights, Ohio.
20. Bedford Heights, Ohio.
21. Brooklyn Heights, Ohio.
22. Cuyahoga Heights, Ohio.
23. Linndale, Ohio.
24. Middleburg Heights, Dhio.
25. North Randall, Ohio.
26. Parma, Ohio.
27. Seven Hills, Ohio.
28. Parma Heights, Ohio.
29. Warrensville Heights, Ohio.
30. Warrensville Township, Ohio.

On August 20, 1971, the Administrator issued a 180-day notice of water quality standards violation to: Franklin, New Hampshire, (Winnepesaukee River-Merrimack River).

DO DOCTORS CHARGE TOO MUCH?

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. FISHER. Mr. Speaker, we are all naturally inclined to think that doctors charge too much. The same can be said of those who repair TV sets, fix the plumbing, overhaul your automobile, or who engage in other specialties. An electrical repairman is ordinarily well paid. No doubt some of them gouge the public, and I feel sure the same can be said of some doctors.

But, at the same time, we are talking about the exception and not the rule. In an interesting article which appeared in the spring issue of the American Mercury, Dr. Irwin Ross puts doctors' charges in proper perspective. Here is one paragraph:

Most people do not realize that less than one-third of the total amount of money spent for medical care in the United States goes to doctors. Out of every hundred dollars spent by the average American family, $4.35 goes for medical care; out of this the physician receives only $1.22, the hospital gets a somewhat smaller share, and the rest of the money goes for drugs, dentists, nurses, etc.

One thing we do know: The medical profession in this country has done more to advance medical science, prolong life, and alleviate suffering than has been the case in most of the nations of the world. Let us protect this advantage by repudiating moves to socialize medicine and thereby contribute to a deterioration of the quality of medical care in our society.

Under leave to extend my remarks I include the article written by Dr. Ross. It follows:

DO DOCTORS CHARGE TOO MUCH?
(By Irwin Ross, Ph. D.)
SOME FACTS AND FIGURES BEHIND YOUR DOCTOR'S BILL

Recently you have been very ill, or just moderately ill, or perhaps your doctor has used his time and skill to determine that you were not ill at all. You are grateful—that is, until you receive his bill. Then, quite often, resentment takes the place of gratitude.

The bill never seems to break down into $10 or $20 or $30 a visit. Always there appears to have been something added, and you are convinced you have been overcharged. Why is it that the setting of equitable fees seems to be so difficult?

One reason is that the doctor sells his services, not a product. Even when the care he renders the patient is lifesaving, some people feel that he charges too much. These people are becoming resentful and very vocal about it.

With their help, the American Medical Association has publicly denounced the few unscrupulous doctors who have been sending big bills for ordinary services, or who have refused to perform operations unless large sums were paid in advance, or who would not make house calls unless assured of immediate cash payment. But what about the charges made by the great majority of doctors? Are those too high?

To get a better understanding of the economic problems involved, consider Mrs. Smith's recent difficulty. Mrs. Smith, a young newlywed, was excited and pleased when her husband said he was bringing his boss home for dinner. She knew that if the boss liked her, and the way she ran the home, he husband might get a raise.

She was happily preparing dinner when suddenly the kitchen sink plugged up. She called Joe, the plumber. Joe worked briskly and efficiently, but it took almost two hours to clear the pipes. He charged $39.80 for the job—$30 of this for labor.

Mrs. Smith cheerfully paid him and her evening was a success. But an older person might have remembered that in 1955, the cost of labor would probably have been only $7 for the same job—and materials would have cost less, also.

ALLOWANCE FOR INFLATION

Most people, like Mrs. Smith, seem to feel that because of inflation, it is proper for workers to be paid much more than they were ten years ago. But strangely enough, when it comes to doctors' bills, they have a different attitude.

Let me tell you about my friend, Bob, a businessman of 42. Not long ago he had to attend a management meeting in New York City. At the banquet that followed, he ate too much lobster. At 3:00 a.m., he was awakened by a frightful itching.

Looking in the mirror, he was horrified to see his face disfigured by a puffy, red swelling. Promptly he called his doctor. Half an hour later, the drowsy-voiced doctor arrived at his house and told him: "You have a case of giant hives. Probably the lobster you ate."

FAST RELIEF

Some injections and a few pills gave Bob quick relief. Soon after the doctor left, he fell asleep and next morning felt fine and was able to go to work.

A month later, Bob phoned me. "I've gotten a bill from that doctor—it's robbery!"

When Bob quieted down, I learned that the bill was for $30. For this, the physician had seen him in the middle of the night and spent half an hour administering medical care.

I asked: "How much do you think he should have charged?"

Bob thought a moment. "The last time I had to call a doctor at night, he only charged $10.00."

It turned out that this visit was made in 1952, the year you could get a jumbo banana split for 30 cents, send a postcard for a penny, or buy a brand new Ford for $1,400.

A doctor friend of mine in his early days of practice decided to allow each hospitalized patient to set the price for services rendered. This seemed like a fair and painless method of handling the fee problem.

Among the first 20 patients were a secretary, a millionaire, several well-to-do businessmen a successful lawyer, several housewives, a chemist, a toolmaker and an engineer. Out of these patients, one paid about three times the average fee for services received. Two paid just the average. The remainder paid some small sum.

When his accountant tallied the results, he found the doctor had been paid an average of $1.75 for each hour of actual service rendered. From that time onward, the doctor set his fees according to services rendered, the nature of the case and the patient's ability to pay.

Patients generally get the type of medical care they want—and at a price which nearly always is fair. Some patients want care only when they have a specific illness; others want to see their doctor periodically; still others require more or less continuous care.

For more than 20 years, statistics show that the average sum spent for medical care amounts to only a little more than four per cent of total consumer expenses. This seems to be a small figure to pay for health. Furthermore, the United States Bureau of Labor Statistics reports that, while the cost of living for the average American family has risen 92% since after World War II, physicians' fees have increased by only 61%.

Most people do not realize that less than one-third of the total amount of money spent for medical care in the United States goes to doctors. Out of every hundred dollars spent by the average American family, $4.35 goes for medical care; out of this the physician receives only $1.22, the hospital gets a somewhat smaller share, and the rest of the money goes for drugs, dentists, nurses, etc.

Moreover, the latest Department of Commerce statistics show that the nation's tobacco and alcohol bill is more than five times as high as its collective doctor bill! And every year the public pays more for television, automobiles and musical instruments than they do for doctors' services.

UNEXPECTED EXPENSE

But statistics fail to tell the whole story. Medical expenses tend to pile up unexpectedly during certain periods of life. It is during these times that the doctor is most likely to be accused of charging excessively high fees.

Young couples getting started in life often have heavy medical expenses as a result of the birth of children and subsequent childhood illnesses. Accidents or major illnesses may create severe economic problems, especially when these affect the bread-winner. Again, in the older years, illness can cause serious trouble.

The principal way of tiding oneself over such trying periods is by developing a special item in the budget for sickness. This alone, however, is likely to be inadequate, especially when serious illness strikes. Additional help is obtained through carrying insurance. In extreme need the help of private charities or governmental agencies may be needed.

XUM

NOT IN THE BUDGET

Few people today budget for medical expenses. Even when this item does occur, it is at the very bottom of a heavy list of "must"—which includes a new car, vacation, entertainment.

Most people believe that doctors are well-to-do and keep all the money they take in. Few realize that a doctor spends 40 per cent of his gross income for expenses in connection with his practice. The mean net income for doctors runs around $35,510 a year. To earn this, the average doctor works more than 60 hours a week. His net income per hour of work averages about $7.50. Surely this is not overpayment for his services when you consider the importance of his work.

THE DOCTOR'S FINANCES

A doctor has financial problems precullar to his profession. He rarely begins practicing before 28, by which time he has spent nine or more years preparing for his carrer. During these years he has usually gone into debt. When he starts practice, he goes further into debt to finance the opening and maintenance of his office. Then it usually takes him several years to build up his practice so that he reaches the financial break-even point.

But the doctor's real income is even less than it appears. He is obliged to maintain a high standard of living in order to appear successful. He has to pay for his continuing post-graduate medical education, which does not increase his earning ability but merely improves the efficiency of the services he renders you.

If he gets sick, his practice ceases, as does most of his income. Furthermore, there is no such thing as a paid vacation for him. If he does take a much-needed holiday, not only does his income cease but he may even lose patients.

Despite these special financial problems, most doctors try to keep their fees low, even though by so doing they automatically limit their earning capacity. For example, several years ago in various localities medical societies tried to standardize charges for various services. On the surface, this seemed like a good thing. But unfortunately there are no two patients who have exactly the same type of illness and need exactly the same type of care.

Ideally, each patient must be treated as an individual case. But the fixed-fee system means that if a doctor is to earn an average living, he cannot afford to give his patients more than a rationed amount of time. This puts a premium on seeing the greatest number of patients in the shortest period. As a result of doctor and patient dissatisfaction with this method, some fixed-fee schemes have already been modified or discarded.

FEES ARE SET ARBITRARILY

The most serious problems in fee-setting are faced by surgeons. Most believe the patient should pay according to his ability to do so, the complexity of the operation and the amount of care given. They set the fees arbitrarily.

This means that one patient may pay $200 for a given surgical operation, whereas another may pay $1,000. Wealthy patients object to this arrangement and feel that they are being unduly penalized.

The charges of specialists are generally higher than non-specialists, but even within these categories, some doctors charge more than others for approximately the same services. Those physicians who develop the highest degrees of skill, the best professional reputations, do charge more. This results from the workings of the law of supply and demand. Medicine is an intensely competitive profession in which doctors try to excel in accomplishments to reap honors and financial rewards. This is true even though financial considerations are always secondary to the satisfactions a doctor gets from practicing his profession.

If one takes away the realistic rewards for superiority and substitutes the fixed-fee system, one reverts to the type of backsliding which has overtaken many physicians who, in England, participate in nationalized medicine. Whenever the law puts fetters on medicine, prescribing how it should be practiced, without taking into consideration what is really best for patients and doctors alike, medicine develops prison-pallor.

FACTORS IN ESTIMATING FEES

Doctors usually base their fees on their own estimate of the skill they have, the time they must spend with the patient, their office expenses, the customary charges made for such services in their locality, and the patient's ability to pay. Doctors have always scaled down fees to fit the economic status of the patient, and permitted deferred payments. But, always, the doctor has contributed a considerable amount of his own time to the care of many patients who pay only token fees, or no fees at all.

Yes, some complaints about overcharges are valid. But these are rare, and organized medicine is attempting to reduce even these to a minimum.

The best system for setting charges is, first, where the doctor places some realistic evaluation on his services. Then, if necessary, the fee may have to be adjusted to suit the economic needs of the patient. This requires that the patient ask his doctor to discuss fees frankly.

On his side, the patient will divulge the special reasons why the fee should be modified. There is no reason why the doctor should make all the economic sacrifices. Often, to pay for necessary care, a patient may have to forego some luxuries. Or the patient may have to recognize that he must carefully budget for illness as well as health.

To receive the most from your medical care, you must have faith in your doctor, believing that he will not only give you the best service he can, but that he will also charge a fair fee. Likewise, the doctor must have faith that you will follow his medical advice and also recompense him fairly for the services he has rendered.

When I think of what doctors can do for patients today that couldn't be done ten or 15 years ago, I am convinced that the costs of medical care are low. For example, many dangerous infections which formerly created prolonged illnesses requiring hospitalization and nursing care, are now tamed in a few days at small expense with powerful drugs. Even when complicated surgical procedures are required, the average stay in the hospital is shorter and the patient's period of invalidism is reduced.

Do doctors charge too much? My answer is this: dollar for dollar, the price you pay your doctor for medical care is not out of line with the price you pay for everything else in the world today.

ASPIN SUES PENTAGON

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday March 29, 1972

Mr. ASPIN. Mr. Speaker, yesterday I filed suit in Federal district court in the District of Columbia in order to force the Army to publicly release its investigation of the Mylai massacre. I believe that the Pentagon is guilty of covering up the criminal conspiracy on the part of senior American officials in the aftermath of the Mylai massacre.

I am filing this action under the Freedom of Information Act which requires all Government agencies to provide documents sought by private citizens except in special circumstances such as when the national security is involved. My distinguished colleague, the gentleman from New York (Mr. STRATTON) has written to the Pentagon asking for release of the report. The Army did not even have the courtesy to formally answer his request. Members of the press have asked the Pentagon to release the report. The Department of Defense has consistently refused to make this document public. The Pentagon's adamant refusal to release the report only raises new doubts about the extent of the brutal massacre and the subsequent coverup by senior American officials.

It is my hope that the filing of this suit and the eventual release of the report will stimulate debate on how effective our system of military justice has been. The Peers Commission report also makes a series of recommendations for improvement in the system of military justice and education of our troops in their rights and obligations under the military code of justice and international law. The Army's implementation of these recommendations should be scrutinized.

The most distressing aspect of this entire tragic chapter in the history of the Vietnam war is that the Pentagon is covering up its own investigation which first unearthed the initial conspiracy guide of the truth about Mylai. The military is guilty of a double coverup—first with the massacre and now with the investigation.

It is my belief that as a Member of Congress and a private citizen, I have a right to know why 25 men were charged with criminal offenses and only one man convicted. Surely the American people have the same right to know the truth about the aftermath of the Mylai massacre.

Specifically I am requesting the release of the Peers Commission report chaired by Lt. Gen. William Peers that investigated the initial investigation of the Mylai massacre. The aftermath of this horrible incident has been the indictment of 25 American soldiers including two generals but the result has been a conviction of only one man, Lt. William Calley.

My suit names Secretary of Defense, Melvin Laird, and Army Secretary, Robert Froehlke, as defendants. Under the Freedom of Information Act the burden of proof is on the Pentagon to show why the report should be withheld. Thus my suit requests an injunction against Laird and Froehlke requiring them to cease from withholding the document.

Previously the Pentagon has refused to release the report contending that since the Calley case was on appeal, the release of the report might prejudice the court. However, all the relevant portions of the Peers Commission report have been made available to both the prosecution and defendants in the Calley case. Furthermore, normally on appeal only points of law and matters of procedure are open for consideration rather than the introduction of new evidence.

The Pentagon also asserts that the Peers Commission report is an internal memorandum and a preliminary investigation and thus is outside the provisions of the Freedom of Information Act. Strangely enough this internal document was in large part, written by two civilian lawyers brought from outside the Department of Defense to work on the case. In addition, the Peers Commission report functions very much like an indictment in a criminal proceeding that outlines charges against particular individuals and the reasons that those charges have been brought.

Quite frankly, I believe that the Pentagon's excuses are phoney. They are simply afraid of the truth being made public.

I am being represented by public interest lawyer, Benny Kass, who assisted in the drafting of the Freedom of Information Act. Attorney Kass previously represented two Members of Congress, the distinguished gentleman from California (Mr. Moss), and the distinguished gentleman from New York (Mr. REID) who sought release of the Pentagon Papers last June in the Freedom of Information Act action.

My exchange of letters with the Department of Defense and the text of my complaint file in Federal District Court follows:

FEBRUARY 18, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: More than two and a half years ago the My Lai masacre occurred. The Army commissioned a major investigation of this incident officially designated "Department of the Army Review of the Preliminary Investigation into the My Lai Incident" and commonly referred to as the Peers Commission.

This document is the most comprehensive and authoritative report on the My Lai incident but it has been withheld from the general public. The Army's rationale has been that prosecution recommended by the report has not been completed and that the document was part of an investigation and therefore an internal working document.

I find that rationale unsatisfactory. All of the trials resulting from indictments contained in the Peers Commission Report have been completed and one convicted individual has entered an appeal on points of law and procedure not facts. The Peers Commission Report was not an internal document. Rather its role was similar to that of an indictment handed down by a grand jury.

As a member of Congress who is concerned with the system of military justice I believe I have a right to study this report and transmit its finding to my colleagues and the general public. As a private citizen I also have a right and an obligation to review the report.

I am requesting that you release the Peers Commission Report to me or the general public. This request is made pursuant to the Freedom of Information Act (5 U.S.C. 522) which places the burden of proof for withholding a document upon the administrative authority.

Since I am sure that you are very familiar with this case I expect that you will be able to notify me of your decision and the rationale for such a decision by February 29, 1972.

Sincerely,

LES ASPIN,
Member of Congress.

DEPARTMENT OF THE ARMY,
Washington, D.C., March 1, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR MR. ASPIN: The Secretary of Defense has asked me to respond to your inquiry of February 18, 1972, in which you request, both as a Member of Congress and as a private citizen, the report of investigation prepared by the Peers Commission.

Last year the entire report was made available to the Armed Services Committee of the House of Representatives. Since you currently serve on that Committee, I would suggest that it would be appropriate for you to direct that part of your request to the leadership of the Committee itself.

Because the Freedom of Information Act, by its own terms, 5 U.S.C. § 552(c), does not apply to the release of information to Congress, I shall assume that your reference to the Act was intended to support your request for release of the report as a private citizen or as a Member of Congress desiring to ". . . transmit its findings to . . . the general public." As a result, your request must be considered in accordance with 5 U.S.C. § 552 and Army Regulation 345–20.

The Freedom of Information Act exempts from mandatory disclosure to the public several statutorily defined and judicially developed categories of information. Among these categories, each of which constitutes a separate exemption, are included several which, in our view, offer valid legal justifications for withholding from mandatory public release portions of the report you have requested. 5 U.S.C. § 552(b)(4), (5), (6), (7).

To the extent that information contained in the report was elicited from sources who were previously assured that confidentiality would be maintained, nondisclosure is authorized under the provisions of 5 U.S.C. § 552(b)(4), which exempts from release information of a privileged or confidential nature.

Moreover, based on all the information obtained, the Peers Commission submitted its findings, recommendations and conclusions to both the Secretary of the Army and the Chief of Staff. Such findings, recommendations, and conclusions are precisely the type of information contained in "intra-agency memorandums," which the fifth exemption to the Act, 5 U.S.C. § 552(b)(5) was designed to protect from public release. Nondisclosure of these matters serves the legitimate purpose of ensuring that agency action is informed by a frank and uninhibited exchange of views among government officials.

Furthermore, much of the testimony obtained by the Commission includes raw and unevaluated allegations, the disclosure of which is likely to constitute, in the terms of the sixth exemption, 5 U.S.C. § 552(b)(6), "a clearly unwarranted invasion of personal privacy."

Finally, the report as a whole may be properly characterized as an investigatory file compiled for law enforcement purposes, which would be exempt from mandatory release under 5 U.S.C. § 552(b)(7). As you may know, judicial proceedings in one case are still pending, and a number of administrative actions are also presently unresolved. With respect to the on-going judicial proceedings, it is our view that public disclosure of the report would risk jeopardizing a fair and impartial disposition of the case, regardless of the grounds for the defendant's appeal. The report is also a crucial part of the pending administrative actions.

You may rest assured that our decision to withhold the documents in question was reached only after weighing carefully the strong policy reasons for public release which you and other interested persons have expressed from time to time. For the present, however, our position is to withhold the report from the public. As Secretary Froehlke announced at his press conference on January 28, 1972, once the reviews are completed in all actions involved within the scope of the Peers Commission inquiry, the Army will once again consider the issue of release to the public. Until then, I hope you will be satisfied that the Army's position is based upon what we perceive to be the best interests of all concerned. The paramount interest at this time is to maintain an atmosphere in which military justice can be dispensed without prejudice to the rights of those individuals involved.

We appreciate your expression of deep concern in this matter and regret that our reply could not have been more favorable.

Sincerely,

ROBERT W. BERRY,
General Counsel.

[United States District Court for the District of Columbia, Civil Action No. ——]

Les Aspin, 515 Cannon Office Building, Washington, D.C., and William B. Broydrick, 515 Cannon Office Building, Washington, D.C., Plaintiffs v. Department of Defense and Melvin R. Laird, Secretary, Department of Defense, Washington, D.C., and Department of the Army and Robert F. Froehlke, Secretary of the Army, Defendants

COMPLAINT UNDER "FREEDOM OF INFORMATION ACT" FOR INJUNCTION AGAINST WITHOLDING

1. This is an action under the Public Information Section of the Administrative Procedure Act, 5 U.S.C. § 552, popularly known as the Freedom of Information Act of 1966. Plaintiffs sue to obtain an order and judgement of this Court enjoining the Defendants from withholding, and ordering them to produce, a report entitled: "Department of the Army Review of the Preliminary Investigation Into the MyLai Incident", more commonly referred to as the "Peers Commission Report".

2. Plaintiff Aspin is a member of Congress, a citizen of the United States and a resident of the State of Wisconsin. Plaintiff Broydrick is a citizen of the United States, a resident of the state of New York, and is employed by Plaintiff Aspin.

3. Defendants Department of Defense and Department of the Army are agencies of the United States. Defendants Melvin R. Laird and Robert F. Froehlke are herein sued in their official capacity, respectively, as the duly appointed and qualified Secretary of the Department of Defense and Secretary of the Department of the Army. Both have their official office in Washington, D.C. Under and by virtue of the statutes of the United States, Defendants Laird and Froehlke are responsible for the proper execution and administration of all laws administered by their respective Departments. Furthermore, both Defendants Laird and Froehlke have authority to make rules and regulations necessary and proper to carry out the laws administered by the Department of Defense, the Department of the Army and the constituent agencies.

4. Jurisdiction is conferred on this Court by the public information section of the Administrative Procedure Act, Public Law 89–487, 80 Stat. 250 (July 4, 1966), as codified, Public Law 90–23, 81 Stat. 54. 5. U.S.C. § 552(a) (3).

5. Venue of this action is based upon 5 U.S.C. § 552(a) (3) and lies within this District because the plaintiffs' principal place of business lies in this District.

6. Public Law 90–23, 81 Stat. 54. 5 U.S.C. § 552(a) (3) provides in pertinent part"

". . . each agency, on request for identifiable records made in accordance with published rule stating the time, place, fees to the extent authorized by statute, and procedure to the followed, shall make the records promptly available to any person."

7. On February 18, 1972, Plaintiff Aspin made written application to Defendant Laird seeking release of the documents in ques-

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tion. Said letter included the following request: "Since I am sure that you are very familiar with this case I expect that you will be able to notify me of your decision and the rationale for such a decision by February 29, 1972." (See Plaintiff's Exhibit A).

8. On or about March 6, 1972, Plaintiff Aspin received a letter dated March 1, 1972, from a Mr. Robert W. Berry, General Counsel, Department of the Army. (Plaintiff's Exhibit B). In rejecting Plaintiff Aspin's request for a copy of the Peers Commission report, Mr. Berry stated, *inter alia*:

"You may rest assured that our decision to withhold the documents in question was reached only after weighing carefully the strong policy reasons for public release which you and other interested persons have expressed from time to time. For the present, however, our position is to withhold the report from the public . . . I hope you will be satisfied that the Army's position is based upon what we perceive to be the best interests of all concerned. . . ."

9. Plaintiffs have not received the material requested from Defendants.

10. Plaintiffs have exhausted the administrative remedies by which they could have obtained the withheld reports.

11. Plaintiffs have a right to inspect and copy the requested documents pursuant to 5 U.S.C. § 552(a)(3). Defendants are improperly withholding the material contrary to statute, contrary to the intent and policy of the Freedom of Information Act as expressed by Congress in enacting the law, by the President in approving it, and by the Attorney General's memorandum on the public information section of the Administrative Procedure Act (June, 1967) which advised all government agencies, inter alia, that the policy of the Act required ". . . that disclosure be the general rule, not the exception . . . (and) that there be a change in government policy and attitude." (pp. ii-iv)

12. The public information section of the Administrative Procedure Act, 5 U.S.C. § 552(a)(3), further provides that in any legal action brought pursuant thereto "the burden is on the agency to sustain its action" in refusing disclosure. Plaintiffs do not believe that Defendants have met this burden, nor have in any way justified their withholding.

13. The public information section of the Administrative Procedure Act, 5 U.S.C. 552(a)(3) also provides that proceedings under this Act, with certain exceptions, "take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

WHEREFORE, Plaintiffs pray that this Court:

(i) issue a preliminary and final injunction directing Defendants to cease from withholding from Plaintiffs the report entitled: "Department of the Army Review of the Preliminary Investigations into the My Lai Incident", commonly referred to as the "Peers Commission Report".

(ii) order Defendants to make available to Plaintiffs, or their designated representative or representatives, for inspection and copy the report in question;

(iii) direct that this cause receive the precedence in hearing and trial and expedited treatment required by statute; and

(iv) for such other and further relief as this Court deems just and proper.

BENNY L. KASS,
Attorney for Plaintiffs.

Dated: April 3, 1972

SENATE—*Wednesday, April 5, 1972*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Creator Spirit, we thank Thee for the resurrection of springtime and for the symphony of beauty all about us. We thank Thee for the beauty of color and motion, for the beauty of sound and silence, and for the beauty of day and night.

Create in us, O Lord, an inner beauty, in harmony with the splendor of the world about us. Take from our common life the discord which separates man from man and man from God. Make our lives incandescent with Thy presence that in selfless service to the Nation we may be instruments for the making of a new world of justice, peace, and brotherhood which sets forward Thy kingdom on earth as it is in heaven. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 4, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE BY FOUR FRIENDS TO THE LATE BILL LAWRENCE, OUTSTANDING JOURNALIST

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD remarks at the National Press Club by four friends of the late Bill Lawrence, an outstanding journalist who died on the campaign trail in New Hampshire while on assignment for ABC. The thoughts are of former Chief Justice Earl Warren; Elmer W. Lower, president of ABC News; Warren Rogers, president of the National Press Club; and Arthur Krock, former Washington bureau chief of the New York Times, longtime associate of Bill Lawrence while he was covering politics for that newspaper.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

IN APPRECIATION OF BILL LAWRENCE, 1916–1972

CHIEF JUSTICE EARL WARREN

If Bill Lawrence had known of our determination to have a memorial service for him in this setting, I am sure he would have approved. To Bill, these quarters of the National Press Club were sacred halls, and in the membership of the club are those with whom he shared the most thrilling and rewarding experiences of his life.

This room and the people here are reminiscent of his world-wide treks reporting the poignancy of war and other human crises that make both the news of the day and world history.

He would not want us to attribute perfection to him, and we shall not try because, like the rest of us, he was subject to common infirmities of human nature.

He knew all the moves in journalism, but on one occasion, at least, he could not find his way home from a night baseball game in old Griffith Park. As the crowd moved out after the game, he and my daughter, Virginia, whom he had taken there, fell into a sidewalk excavation. And Bill phoned me from George Washington Hospital to say that she was there with a broken leg. He neglected to tell me—but I suppose he could be pardoned for that because he might think I would know anyway—that the Senators lost the ball game, also.

He knew how to marshall all his reportorial talents for exciting trips to distant parts of the world, but sometimes he would forget his clothes.

Once when he was hurrying to Africa and was at our home before going to the airport, he suddenly discovered the only shirt he was taking with him was the one on his back, and my wife was obliged to expropriate some of mine for him.

With him, journalism was a passion. He not only believed the public has a right to know and to judge for themselves the events of the day, but he believed they must know if our institutions are to serve their true purpose.

It was to this cause that he dedicated his entire adult life of more than a third of a century. No journey was too long; no assignment too difficult; no danger to his health or safety too great if there was a job to be done. He worked to the bitter end not unmindful of the danger involved. Advised by his doctor and forewarned by a series of heart seizures, he knew that any unusual strain might mean the end.

It was not necessary for him to go to New Hampshire, but there were incidents there to be reported to the American people, and he went to that snow-bound state when he could well have remained here or comfortably in a warmer climate to the south.

He passed on, as any man of action would prefer, reading background material for his work, without a struggle and looking forward to whatever might develop.

As president of the National Press Club, he presided in this room and presented many important men of his time for discussion or world problems. He accepted that presidency as well as other journalistic honors which came to him, not for the honor they represented, but as further dedication to his profession. He made this room more meaningful as your presence here to honor his memory also enriches it.

If, at his insistence, this is not to be a solemn occasion, certainly it can be one of respect for that dedication, for his warm human qualities, and of appreciation for his friendship. I am sure he would not have denied us that privilege.

Our memory of Bill as a friend, a journalist, and as an American dedicated to the well-being of our country will remain with us always.

WABREN ROGERS

It is impossible for me, for you, for anybody who knew him to sentimentalize Bill Lawrence. We can only appreciate him. He was, by turn, mean and gentle, irascible and affectionate, tough-minded and romantic. In short, he was the complete practitioner of our trade—a professional newsman.

I remember Bill Lawrence best in an incident during his tenure as president of the National Press Club. He was arranging the Khrushchev lunch. It came out that the New York Herald Tribune would have only one seat. That left me out because a more senior member of the Trib bureau would pre-empt that seat, even though I was doing the personal color on Khrushchev.

I caught Bill sitting down in the taproom. I stood over him and bawled him out for doing that to me. I said it was a mean trick for a Times man to pull on a Trib man.

Uncharacteristically, Bill took it. He never said a word. Finally, he crooked his finger at me to bend over. I did. His mouth was in a crooked grin and his eyes twinkled. He whispered in my ear, "Shut up, you fool. I've had a ticket stashed for you from the beginning."

I felt about two inches high. We had already taken care of me even before I knew what it was I needed. And he had done it quietly, professionally. I might add that, very characteristically, he never let me forget the incident.

And so, when I think of Bill gone, I think of the epitaph on my wife's grave, where I, too, shall shortly lie. It is a quotation from Christina Rosetti, "Sing no sad songs for me."

ELMER W. LOWER

Last Monday I spoke by telephone to Bill Lawrence for the last time. He said he was going to New Hampshire to do his homework for our Primary Election coverage.

Bill had been confined to a sick bed for about ten days prior to that call. But he felt he had to go. He died in New Hampshire—on the job.

Bill had been in the news business for forty years. After four decades most players in this ball game are content to let a few of those line drives whip past them. They are satisfied to go after the pop flies and easy grounders.

Not Bill. He was too much of a newsman to let a big story go by without chasing it; especially a big political story.

I'm going to speak about Bill's professional career. If he wasn't perfect as a human being—and no one is—he was as close to perfect as we're likely to get as a reporter.

Bill shunned the elder statesman's role he deserved. He considered himself—first and last—a reporter. He was the best political reporter I knew in nearly four decades. I daresay he was the best political reporter any of us ever knew.

When it came to reporting, Bill was an impatient man. He couldn't wait to get to work. He quit the University of Nebraska to become a reporter for the Lincoln Star in 1932. In 1961 he quit the New York Times—after a distinguished twenty-year career—and joined ABC News because he felt the Times had left him out of a major story. And last week he quit a sick bed to go to New Hampshire.

When you read a list of the major stories Bill covered, it's hard to believe he was only fifty-six when he died. He had observed so much history first hand. His career mirrored the tumultuous times of the last forty years.

Bill made an impressive name for himself as a war correspondent in World War II and Korea and as a foreign correspondent. But it was reporting the rough-and-tumble American political scene that he loved best. He covered all of the presidential election campaigns between 1940 and 1968, except 1944 when he was overseas. 1972 would have been his eighth presidential campaign. He was as excited about reporting it as he must have been about that Willkie-Roosevelt race he covered thirty-two years ago in 1940 as an aggressive young reporter for the United Press.

Bill's dedication was total. In 1968, he collapsed the first night of the Republican Convention in Miami Beach and spent the rest of the Convention in an oxygen tent. Although he was still in frail health, he insisted on rejoining us for the Democratic Convention in Chicago.

He confessed to me a year later that a Chicago doctor kept him going each day with an assortment of medicines.

Bill was always on top of the big stories. Some said he was lucky, but those of us who worked with him knew that—like all great journalists—Bill made his own luck—made it by unyielding tenacity and by hard, determined work.

Sometimes, Bill's reports provoked controversy. When he reported on the liberation of the Maidanek Concentration Camp in Poland during World War II, his eyewitness account of the death factory was discounted by some as wartime propaganda. But the mass deaths were only too horribly true. When Bill reported that President-Elect John F. Kennedy would appoint his brother, Robert, Attorney General, his own newspaper ran an editorial suggesting Bill had been "had" by a trial balloon. And when, in 1966, he forecast that President Lyndon B. Johnson would not seek re-election, he became a target for his colleagues' gibes. In both cases, Bill was spectacularly right.

Bill's personality helped him in his work. He possessed a gruff honesty. He could be trusted. Everyone knew that. He became the good friend of dozens of important leaders—the movers and shakers whose politics ran the spectrum. Only rabid extremists found Bill's undoctrinaire attitudes and irreverent wit hard to take.

Bill's wit was as impartial as his reporting. He could deflate his own pretensions with barbs as deft as those he used on the pretensions of the great and would-be great.

We called him our National Affairs Editor. To Bill, national affairs were politics, thoroughbred racing's Triple Crown, professional football's Superbowl, any football game Nebraska happened to be playing, and what he insisted on calling the World Serious.

The 1969 World Series pleased Bill more than any other sports event he covered—because the Mets won.

The Mets were come-from-behind underdogs. And Bill was always a partisan of the underdog or the minority. He was a big man who never got too big to stand up for the little man.

Last year Bill went back to his high school in Lincoln, Nebraska, to deliver the commencement address. He returned from his home town proud and impressed—not because he had been asked to speak, but because both the Senior Class President and the Valedictorian were minority group members.

Bill Lawrence was proud to be a reporter. When he received his coveted Peabody Award in 1965, he viewed it as more than a personal honor. "They've recognized the poor bastards who stand out in the cold and snow and rain and cover the news," he told me. (Bill was plagued by a lot of cold and snow and rain in his forty years.)

If there was anything else that pleased him as much as that honor, I think it probably was his book.

Bill took a six-month leave of absence last year to write it. Its title sums up not only his career but also our times—"Six Presidents, Too Many Wars."

Bill didn't live to see publication of the book. It won't be in bookstores until next month. But his excitement about his memoirs was contagious. Many of us received blow-by-blow accounts from him on the researching, writing, editing and even the printing of the book. Just a few weeks ago he was proudly showing the book jacket all around our New York offices.

I'd like to quote briefly from his book.

It opens this way: "By 1972, I had been a reporter for forty years, spent eleven terms at the White House with six presidents, and, in between, reported on entirely too many wars.

"It has been an exciting, exhilarating experience for a boy from Nebraska, roaming the world in peace and war and, somehow, getting involved personally in the news.

"I've had a grandstand seat on history, and while some of it has been grim, especially in wartime, it has for the most part been a lot of fun."

Bill closes the book by quoting Senator Barry Goldwater, who said: "I have never known Bill to be vicious. I've never known him to take off on anybody. I have no qualms at all about an interview by him because I know he's going to report what I said, not what he thinks I said."

Bill then wrote. "I could not have hoped for a better epitaph to cap my journalistic career."

I can't either.

All of us here today honor the career of a great political reporter who called them like he saw them.

ARTHUR KROCK

The Psalmists, the Prophets and the Apostles had at least one thought in common—that when death comes in the full flood of achievement it is, as Isaiah put it, "Swallowed up in victory."

This was so strikingly demonstrated in the circumstances surrounding the death of Bill Lawrence that inevitably it has been the theme of the elegies delivered here today.

Yet, despite the fact that Bill died as he wished—engaged in the profession he adored and which made him famous—an enduring sadness must intrude. For he still had so much to give of the rugged reporting by which the people were enlightened in the ways of the political system under which they live. And we were ready with praise for his latest triumph—an autobiography of the highest quality.

But, though I never heard Bill quote Christina Rosetti, we know from what Paul Porter has told us that she spoke for him when she wrote: "When I am dead . . . sing no sad songs for me."

Accordingly, I shall speak of him as the friend and colleague I knew, respected, delighted in and dearly loved. This unforgettable association with one of the great reporters of our time—though it was like having a yearling tiger for a pet—continued after we ceased to be comembers of the Washington Bureau of The New York Times.

The last time I saw Bill he was, as usual, trying to maintain in journalism the honesty he brought to it, the determination that it should never allow itself to be misused by government.

"A high official who declined to be identified"—so runs the jargon which reflects one of the problems of our trade—had just inspired a news report that IF—as our intelligence services suspected—India planned to invade West Pakistan, and the Soviet Union did not do more to restrain India than currently appeared, President Nixon might cancel his plan to go to Moscow.

Bill telephoned me to ask if I would comment for ABC on this example of the use of the press, knowing full well what my comment would be.

Presently he arrived with his bewildering team of electricians, cameras and helpers; the apparatus was set up, and the interview began. It consisted of his question: "Do you think the press should allow an anonymous

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source to sue it in this way in a matter of such delicacy and international importance?" and of my answer: "It definitely should not be a party to such flagrant abuse." At which Bill, saying, "Thank you," signaled his Frankenstein monsters to pack up.

He knew what he wanted—and got it.

One more recollection:

Three of us were having a drink one day in a most distinguished residence: Bill and I and a President of the United States. Though off-the-record, the President fuzzed one of those gut-probings for the facts that were Bill's glorious trademark.

"Now listen here," burst out Bill. And, just as the President's ears began to turn red, he added, "Sir."

So Bill, if you have been able to endure this loving memorial, I venture to say to you: "Now listen here . . . Sir."

HEALTH CARE IN PHILADELPHIA

Mr. SCOTT. Mr. President, a group of leading Philadelphia physicians recently established a medical clinic in the city which provides residents with reasonably priced health care so as to help alleviate the crowded conditions in area hospitals. The group, headed by Dr. Raymond E. Silk, is seeking to open, in as many of the depressed neighborhoods as possible, clinics that provide comprehensive medical care to people in all income brackets. They also decided to provide medical care to those who cannot afford to pay for it. It is their feeling that those patients who cannot afford an office visit should not be deprived of good medical care, because an ounce of prevention for these underprivileged individuals can prevent serious illnesses at a later date.

The first facility to be established by Dr. Silk is the West Philadelphia Out-Patient Clinic at 49th and Baltimore Avenues in Philadelphia. Physicians at the clinic will be available for every major branch of medicine. Consultations are available between specialists to insure excellent care of the patients. The out-patient diagnostic services are limitless. The disabled members are entitled to specialists' evaluations to aid their recovery. Certain difficult cases, that have not been treated successfully by family physicians, may be referred to their medical team for correct diagnosis and proper treatment. Clinic facilities include allergy, arthritis, cardiac, podiatry, dental, diabetic, ear, nose and throat, eye, gynecology, medical, orthopedic, prenatal, rectal, skin diseases, surgery, urology, and X-ray, as well as physical therapy.

Mr. President, there is no question but that the reorganization for the delivery of health care services has to be done. In recent years, a new method of delivering health services has achieved growing respect. This new approach has two essential attributes. First, it brings together a comprehensive range of medical services in a single organization so that a patient is assured of continuous access to all of them. Second, it provides needed services for a fixed contract fee which is paid in advance by all subscribers. At the present time, Dr. Silk's West Philadelphia group has two unions that have a prepaid plan with them which, basically, is a modified health maintenance organization.

In President Nixon's special health message to Congress in February 1971, entitled "Building a National Health Strategy," he mentioned that such an organization has a variety of forms, names, and sponsors. One of the strengths of Dr. Silk's program, the embodiment of this new concept, is its great flexibility.

At the West Philadephia clinic, there is, basically, a health maintenance organization for some of the unions, and it is the clinic's intention to widen this for additional unions which will pay the clinic a prenegotiated and fixed periodic payment made on behalf of each patient and family unit enrolled in the plan. The clinic's physicians feel that they can provide medical care at a lower cost and can, without question, prohibit, restrict, and try to prevent duplication of services which, at times, can be very expensive.

The comprehensive health maintenance and treatment services that are available to people attending the West Philadelphia clinic include primary care and emergency care. At the present time, acute inpatient hospital care has been provided for at two institutions and inpatient care for chronic and disabling conditions is also available. Dr. Silk hopes to open such a clinic, or service, in South Philadelphia, North Philadelphia, Kensington, and any other area of the city that has such a need.

Dr. Silk has formulated plans for building a new hospital that would be made available for needy patients. He is not satisfied that the cost per day in the city's larger established institutions ranges from $95 to $125 for a semiprivate room. The hospital which Dr. Silk owns, the Broad Street Hospital Medical Center in Philadelphia, can provide medical care for approximately $50 per day in a semiprivate room, a tremendous savings. With the new facility which Dr. Silk has in mind, his group could maintain low medical costs, in fact, much lower than those of the teaching institutions, and provide a significant amount of care.

In the vicinity of the West Philadelphia clinic, Dr. Silk hopes to open a "soft" drug center called Action. This will be for the management and treatment of patients on "soft" drugs, and will place more emphasis on prevention. Additional Action centers will be located in North Philadelphia and center city.

Dr. Silk also intends to open, in the near future, a methadone maintenance clinic. The goal of this program, as with any narcotic drug treatment program, should be detoxification with residential facilities as a therapeutic community concept to keep the individual drug free. However, such broad programs command only limited facilities at this time; as such, the methadone maintenance program provides another alternative, one which is less complex.

Mr. President, I want to congratulate Dr. Silk and his able associates on their bold and far-reaching programs. They have demonstrated the tremendous capabilities of our Nation's private health care system and have done an exemplary job without a great deal of Government intenvention. Dr. Silk deserves the commendation and highest praise of all Americans who believe, as I do, that good health care is one of this Nation's top priority items.

FREEDOM FOR BYELORUSSIA

Mr. SCOTT. Mr. President, 54 years ago, on March 25, 1918, a struggle for freedom began in Byelorussia. This small nation, nestled between the Soviet Union and the Baltic States, planted a seed of nationalism when they proclaimed their independence from czarist Russia on that glorious 25th day of March. That seed is still growing and will continue to grow until Byelorussia breaks out of the Communist grip.

Not enough can be said for the courageous population of this nation and the Byelorussian Americans who work constantly to make sure the free world does not forget their brethren. The heritage of these United States further points out that America should never forget the plight of a people deprived of all social, political, and economic freedom.

May the hope for freedom live long in Byelorussia and may we all pray for liberty to become a reality for these people.

COMMITTEE SERVICE

Mr. SCOTT. Mr. President, under the provision of Senate Resolution 382, 90th Congress, creating a Commission on Arts and Antiquities of the U.S. Senate, the ranking minority member of Rules and Administration is a member of that Commission.

Recent action by the Republican Committee on Committees appointed Senator MARLOW COOK, ranking member of Rules and Administration. By virtue of this action, Senator COOK becomes a member of the Commission on Arts and Antiquities vice Senator TED STEVENS.

PRESIDENT NIXON'S WELFARE REFORM PROPOSALS

Mr. SCOTT. Mr. President, John G. Veneman, Under Secretary of Health, Education, and Welfare, recently made a statement on the President's welfare reform proposal and the "Children's March for Survival" which I believe deserves the attention of my colleagues.

I ask unanimous consent that Under Secretary Veneman's statement as well as a thoughtful editorial from the New York Times on this subject be printed in the RECORD.

There being no objection, the statement and editorial were ordered to be printed in the RECORD, as follows:

STATEMENT BY JOHN G. VENEMAN

Behind all the kites and balloons at tomorrow's welfare march lies a special interest.

It is the special interest of a few men whose private ambitions seem to depend on the continuation of poverty in America.

The legislation these pied pipers of poverty have enticed school children to march against would, at one stroke of a pen, wipe out half of all the poverty in our country.

These men say that they oppose the President's welfare reform bill because it is not enough.

What they are opposing is a bill that would invest more money into helping people escape poverty than has ever before been proposed in a single piece of social legislation—$6.5 billion.

They say "We demand more"—$70 billion more—a figure that would cost the taxpaying families of the Nation an average of $2,000 more a year.

Their proposal hasn't the chance of a snowflake in the Sahara of ever passing Congress—and they know it.

Yet Senator Harris of Oklahoma stood on the steps of the Capitol yesterday and boasted:

"I think we can kill welfare reform this year."

The bill that he wants killed would provide $200 a month to a welfare mother in Mississippi who now receives only $60 a month to feed and clothe her children.

Are Senator Harris or George Wiley representing the best interests of that mother and those children?

That same bill would, for the first time, provide wage supplements to the parents of five million children of America's working poor—and enable those families to continue working and living in dignity at a livable income.

Are these children and these parents being honestly represented by those who want this bill killed?

And what about the crippled and retarded children who would benefit? Or the lonely children waiting for adoption who would also benefit from H.R. 1?

And who represents the disabled on Social Security who would receive Medicare coverage at no cost if H.R. 1 becomes law?

Or the blind, the aged and the disabled whose public assistance would be raised by $2 billion?

What do the pied pipers of poverty offer all of these people in exchange for the benefits they will not get if the President's welfare reform bill does not pass?

They do not offer bread.

They offer circuses.

I hope that people of good will and good sense will reply, loud and clear, to that cynical offer.

WELFARE MIDDLE WAY

President Nixon has again come strongly to the support of his welfare reform program, the Family Assistance Plan. After suggesting last summer that the wage-price freeze somehow made it desirable to postpone the effective date of the plan, Mr. Nixon in a special message to Congress yesterday reiterated his conviction that reform of the ramshackle welfare system is imperative.

Unfortunately, the President gave little hint of his willingness to accept strengthening amendments to F.A.P. He may have calculated that his more extreme critics such as the National Welfare Rights Organization are sure to antagonize so many voters—and members of Congress—as to make it unnecessary for him to compromise.

The "Children's March for Survival" which these organizations sponsored in Washington last Saturday was a dubious venture on every ground. The demonstrators may feel as the march slogan proclaimed that "Nixon Doesn't Care," but adults who do care about the emotional security of small children hardly prove their own concern by involving youngsters in a huge demonstration in which several hundred became separated from their parents.

As a practical effort in lobbying the march's political and propaganda impact was almost certainly negative. Congress is simply not going to provide a minimum annual income of $6,500 for every family of four. In city halls and state capitals, the overwhelming political problem is to prevent unwise, inhumane cutbacks in existing programs as welfare costs steadily rise. Those who agitate for utopian solutions are not helping poor people.

Yet substantial improvements in the Administration's welfare bill are necessary and possible. The proposed minimum income of $2,400 for a family of four is too low. Whatever level is finally agreed upon, no recipient should get less than the benefits he or she is now getting. There should be coverage for childless couples and for single individuals. The work requirements should be revised to exempt mothers with preschool children.

Senator Ribicoff, Connecticut Democrat, is sponsoring amendments to the Administration bill which would attain these objectives. There is already considerable support in the Senate for the essential principles of the Administration bill—coverage for the working poor, a minimum income, uniform level of support across the nation. A lobbying effort in behalf of the Ribicoff amendments would be worthwhile and constructive. Verbal fireworks and protest marches for unattainable goals are not going to pay anyone's rent or brighten any child's life.

(The remarks Mr. SCOTT made at this point on the introduction of S. 3452 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is now recognized for not to exceed 15 minutes.

THE WAR POWERS ACT

Mr. ROBERT C. BYRD. Mr. President, I rise today to express my support of the War Powers Act, S. 2956. The purpose of this act is to fulfill the intent of the framers of the Constitution of the United States, and to insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances.

I believe that legislation of this nature is vital to the national interest. It is needed at this time to reestablish a constitutional balance between the executive and the legislative branches with respect to the use of the Armed Forces in hostile situations.

This act is not intended to encroach upon the recognized powers of the President, as Commander in Chief, to conduct hostilities authorized by the Congress, to respond to attacks or the threat of attacks on the United States, to repel attacks or forestall the imminent threat of attacks against U.S. Armed Forces, or to rescue endangered citizens and American nationals located in foreign countries.

The legislation constitutes an effort to confirm and codify the intent of the framers of the Constitution with respect to the war power. In my judgment, this legislation is needed to prevent the involvement of our country in future Vietnams. Its enactment would be prospective and would not have any bearing on the present war in Indochina. That war is fait accompli and the President is rapidly deescalating the American effort there. Vietnam, however, has proved the futility and the unwisdom of going to war without the clear-cut prior support of the American people, and the fundamental issue involved in this bill is that we insure that this country never again will participate with blood and treasure in a foreign war without such clear-cut prior support of the American people.

WAR POWERS OF CONGRESS

The war powers of Congress are enumerated in article I, section 8 of the Constitution. They are as follows:

The Congress shall have power . . . to provide for the common defense; to declare war . . .; to raise and support armies; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to . . . repel invasions; to provide for organizing, arming, and disciplining the militia; to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or office thereof.

The list of powers which I have quoted from the Constitution is detailed, lucid, and comprehensive.

WAR POWERS OF THE PRESIDENT

The war powers of the President are set forth in article II, section 2, of the Constitution:

The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States.

The foregoing cryptic statement constitutes the sum total of the Presidential war power delineated in the Constitution. It would be appropriate, however, to add the first sentence of article II, section 1:

The executive power shall be vested in a President of the United States of America.

THE INTENT OF THE FRAMERS

It is, to me, indubitably clear, from the foregoing constitutional passages, that the framers of that great document were neither uncertain nor ambiguous about where they wished to vest the authority to initiate war. That authority was vested in the legislative branch, and in the legislative alone.

The Founding Fathers had been much dismayed by the power of the British Crown to commit Great Britain to war, and the absence of extended debate over the war powers, during the Constitutional Convention, testifies to the near unanimity as to where that authority was intended to be placed. Only one delegate, Pierce Butler of South Carolina, favored vesting the war power in the President.

Congress was to "declare" war. The President, as Commander in Chief, was to respond to sudden attacks and to conduct war once it had started. The President was to command the Armed Forces once they were committed to action.

Alexander Hamilton's statement in Federalist 69 is worth noting:

The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the

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military and naval forces, as first General and Admiral of the Confederacy, while that of the British king extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

Jefferson put it metaphorically to Madison in 1789:

We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

In the early years of the Republic, Presidents acknowledged and carefully respected the war power of Congress. President Madison said that the question of "opposing force to force" was one "which the Constitution wisely confided to the legislative department of the Government."

President Buchanan said that the executive government of this country "Cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks."

Daniel Webster, while serving as Secretary of State, said:

The war making power in this Government rests entirely in Congress; . . . the President can authorize belligerent operations only in the cases expressly provided for in the Constitution and the laws.

Abraham Lincoln expressed his viewpoint on the matter as follows:

The provision of the Constitution giving the warmaking power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

TRANSFER OF THE WAR POWER TO THE EXECUTIVE

It is in the perspective of American history since World War II that the war powers bill must be considered as necessary legislation. Only since the Second World War have American Presidents claimed, and exercised, the power to commit the Armed Forces to full-scale and extended warfare overseas without prior congressional authorization. Such Presidential actions have reached their furthest extension in the case of Vietnam. Congress bears a heavy burden of responsibility for seeing that such an assertion of power is not legitimized in the future. We should be under no illusions as to the consequences of our failure to act now.

The handwriting on the wall can be seen from the comments of the Department of State in 1969, when the national commitments resolution was pending:

As Commander-in-Chief, the President has the sole authority to command our Armed Forces, whether they are within or outside the United States. And, although reasonable men may differ as to the circumstances in which he should do so, the President has the constitutional power to send U.S. military forces abroad without specific congressional approval.

The same assumptions of executive warmaking authority have been expressed from time to time in comments of the Department of State during the past two decades, so my remarks are not to be interpreted as being critical of the present administration alone. As a matter of fact, Congress is not faultless in view of its passive acquiescence in the unwarranted expansion of Presidential power. Such usurpation of power has, undoubtedly, more often been unintentional than deliberate, the major cause of the unhinging of the checks and balances in the war power equation having been the impact of three decades of almost uninterrupted crisis in foreign policy.

In time of emergency there is a natural tendency to fall in line behind the leadership of the President. In this constant state of emergency, our country found itself drawn little by little and deeper and deeper into the vortex of Vietnam. Who could have foreseen in 1961 or 1962 or 1963 or even 1964 that this inch-by-inch, day-by-day, deepening involvement would ultimately take 549,000 American fighting men to Vietnam?

CONGRESS MUST REASSERT ITS WAR POWERS

We must do all that we can, against the background of the difficult and costly lessons of the past, to prevent history from repeating itself. This bill, if enacted, will not constitute a catholicon. If the country is to be continually at war, or in crisis, or on the verge of war, or in small-scale, partial or surrogate war, the force of events must lead inevitably toward Executive domination despite any legislative roadblocks that may be placed in the Executive's way. But the adoption of this bill would help to restore the confidence of the American people in the processes of their Government, particularly as they relate to the vital and overriding questions of war and peace. I do not say the bill is perfect. I hope it can be improved, and I shall support any amendments which will improve it. But the fact remains that congressional inertia and quiescence can no longer be tolerated when it comes to the commitment of American forces abroad.

The war powers of Congress, as specificated in the Constitution, can no longer be permitted to atrophy. The constitutional authority to initiate war has never vested in the President, but has always remained where it was reposed in the beginning—in the Congress. Yet, the actual power to initiate war, as distinguished from the constitutional authority, has, practically speaking, shifted since World War II from Congress to the Executive. This power of Congress must be reasserted in no uncertain terms if the constitutional balance between the legislative and the Executive is to be restored.

Most Americans trust the President—the one now in office or any other. I trust Mr. Nixon to do what he thinks is best for our country. I trusted President Johnson and President Kennedy and President Eisenhower and President Truman in this regard. But when it comes to committing our country's men and resources to a foreign war, only the people's representatives in the legislative branch should make that decision. It should be a collective decision, not the decision of one man, regardless of how much confidence we have in that man.

Confidence—

Said Jefferson—

is everywhere the parent of despotism—free government is founded in jealousy; . . . it is jealousy and not confidence which prescribes limited constitutions to bind down those we are obliged to trust with power. . . . In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution . . .

EXPLANATION OF THE BILL

Mr. President, the constitutional basis for this bill is found in article I, section 8 of the Constitution, which I have quoted.

The essential purpose of the bill, therefore, is to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war powers with respect to "undeclared" wars and the way in which this authority relates to the constitutional responsibilities of the President as Commander-in-Chief. The bill is in no way intended to encroach upon, alter or detract from the constitutional powers of the President, in his capacity as Commander in Chief, to conduct hostilities authorized by Congress, to repel attacks or the imminent threat of attacks upon the United States or its Armed Forces, and to rescue endangered American citizens and nationals in foreign countries.

Section 3 of the bill defines the emergency conditions in which, in the absence of a declaration of war by Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is indicated by circumstances.

The conditions under which the President may make such emergency use of the Armed Forces, defined with a view to reconciling modern conditions of warfare and politics with the intent of the framers of the Constitution, are as follows:

(1) to repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

(2) to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;

(3) to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country; or

(4) pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United State in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation.

One of the most important provisions of the bill is Subsection (4) of Section 3. This subsection sets forth the criteria, by means of which the Congress can "pursuant to specific statutory authorization" give the President advance authority to take emergency action. Authority which might be granted in advance to the President under Subsection (4) differs from the authority which the President has in Subsections (1), (2) and (3). The emergency authorities specified in the first three subsections of Section 3 are recognized to be authority which the President enjoys in his independent Constitutional office as President/Commander-in-Chief. In codifying this independent emergency authority of the President, the Congress is exercising its own Constitutional power: "To make all laws which shall be necessary and proper for carrying into execution—all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

It was thought essential to specify—in Subsection 4 of Section 3—that no treaty, existing or future, may be construed as authorizing use of the armed forces without implementing legislation. The treaty-making power has been held not to extend so far as to authorize what the Constitution forbids. This limitation is properly construed in the Committee's view, as preventing the President and the Senate from exercising by treaty a power vested elsewhere by the Constitution. The President and the Senate could not, for instance, use the treaty power to abridge the Bill of Rights; nor, in the Committee's view, can a treaty be used to abridge the war-declaring power, which is vested not in the Senate alone but in both Houses of Congress. The framers of the Constitution considered and rejected the possibility of vesting in the Senate alone the power to declare war. That power was deliberately vested in the Congress as a whole; a decision to initiate war must be made by both the Senate and House of Representatives and cannot, therefore, be made by treaty. None of our existing treaties in any case require automatic military action.

It is also specified in Subsection (4) that specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to participate in combat-related military activities of the regular or irregular forces of any foreign country—the purpose here being to prevent secret, unauthorized military support activities.

Section 4 of the bill specifies that any emergency use of the armed forces shall be reported promptly in writing by the President to the Speaker of the House of Representatives and the President of the Senate, together with a full account of the circumstances and authority under which action was being taken and its projected scope. The President would be further required to make periodic reports on any military action outside of the United States, and in no event less often than every six months.

The heart and core of the bill—the provision which will give substance and weight to the Congressional war power—is Section 5, which provides that the use of the armed forces under any of the emergency conditions spelled out in Section 3 shall not be sustained for a period beyond thirty days unless Congress adopts legislation specifically authorizing the continued use of the armed forces. The intended effect of Section 5 is to impose a prior and unalterable restriction on the emergency use of the armed forces by the President. Emergency use of the armed forces by the President—under Section 3—would be undertaken with full knowledge on his part that the operation could be continued beyond a thirty-day period only with the specific authorization of Congress. The President would thereby stand forewarned against any emergency use of the armed forces that did not conform with the law and that he did not feel confident would command the support of majorities of both Houses of Congress.

Section 6 complements the restriction spelled out in Section 5 by specifying that Congress may terminate a military operation prior to the end of the thirty-day period by act or joint resolution.

Section 7 spells out mandatory procedures for expeditious action within the Committees and on the floor of both Houses of Congress with respect to any legislation authorizing a continuation of the use of the armed forces beyond the thirty-day period of the President's emergency powers or beyond a period authorized by Congress under Section 3 (4). The purpose of this section is to eliminate the risk of dilatory tactics to prevent or delay a Congressional decision with respect to the use of the armed forces. However, the accelerated procedures would not apply to advance requests for authorizations under Subsection (4) of Section 3 of the bill.

Section 8 contains a separability clause, specifying that, if any provision of the bill should be held invalid, the remainder would not be affected thereby.

Section 9 specifies that the bill would take effect on the date of its enactment but would not apply to hostilities in which the Armed Forces of the United States were involved prior thereto. The effect of this provision would be to exempt current military operations in Indochina from the application of the war powers bill.

CONGRESSIONAL AUTHORIZATION IS NOT OBSOLETE

We live in an age when declarations of war are obsolete, but I cannot accept the contention supported by some that because declarations of war are obsolete, so also, is the authority of Congress to authorize—or refuse to authorize—the initiation of war. The transfer from Congress to the Executive of the actual power—as distinguished from the constitutional authority—to initiate war has been one of the most remarkable and, to my mind, unfortunate, developments in the constitutional history of the United States. As I stated previously, we, in the Congress, bear a heavy burden of the responsibility for this metamorphosis.

I cannot conceive of circumstances in which the United States will play the role of aggressor in any war in which we may find ourselves involved in the future. Nor am I under any illusions as to the shocking suddenness that will attend any nuclear attack of which this country is the target. In any such eventuality, which I devoutly hope will never occur, protocol, constitutional power, and authority will be meaningless. But unless and until the minds of men and nations are substantially uplifted, we will continue to live in a world where armed conflict of a less cataclysmic nature is a constant threat. It behooves us, therefore, as a nation, to accept reality, and to be ever mindful of our own security, while striving always to use every means in our power to further the cause of international amity and peaceful human progress.

It is my firm opinion that an essential element of our national security, and a significant manifestation of our national prudence, lies in the willingness of the Legislature, of which we are a part, to reassume the powers and authority to initiate, or refuse to initiate, any foreign wars in which this Nation may be involved in the future. This is not merely a prerogative—it is a bounden duty. I shall vote for the passage of S. 2956, and I urge my colleagues to join me in fulfilling our Constitutional obligations to the people we represent.

Mr. MANSFIELD Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I am delighted to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from West Virginia for the remarks he has just made and for his support of the legislation which will again soon be pending.

References have been made to the Southeast Asian Treaty, during the course of this debate and before. Reference has also been made to the fact that I was one of the signatories to that treaty. That is correct. I was a signatory, along with the late Secretary of State, John Foster Dulles, and the late Senator from New Jersey, H. Alexander Smith.

I must say with some degree of pride that, while I never had much confidence in the Southeast Asian Treaty—sometimes known as the Manila Treaty and collectively referred to as SEATO—I was responsible for inserting in that treaty the phrase "due constitutional process." I did so because I wanted to make sure that Congress would have a say in anything which appeared inherent in the meaning and definition of the Southeast Asian Treaty. That is only one of the reasons why I am supporting the pending legislation.

"Due constitutional process" does not mean that the President—any President—has the right on his own initiative to engage this country in war except under certain limited and unusual circumstances. The Constitution gives the Congress the right to declare war.

In my many years in the Congress and in positions of responsibility, I have never been informed beforehand on what the Executive was going to do. But I have been told after the decision had been made, when it was too late to do anything except to protest. That protest, on the basis of what had been done to date, clearly does not go very far.

So, I am delighted that this measure is before the Senate and that Congress is once again trying to reassert its constitutional role in this particular area.

Mr. President, I ask unanimous consent that an editorial published in the Commonweal under date of March 31, 1972, entitled "War Power" and an editorial entitled "The Authority To Wage War" which was published in the Boston Globe of March 14, 1972, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

WAR POWER

Who will ever be able to measure the cost of the Vietnam war, both in human suffering and material waste? Thanks to our national technological know-how, vast areas of Indochina have been laid waste, and if the casualty figures are even remotely accurate, over one million men, women and children have been killed. Scores of thousands of others have been uprooted from their ancestral homes, and there are no accurate figures on the number of Vietnamese families that have been hopelessly shattered by the war.

Such devastation has been the price of a war carried on by succeeding Presidents but never really debated in House or Senate. Congress has voted funds for Vietnam year after year, true, but this is no substitute for a full-scale debate. When American troops are committed by the President, whether in Vietnam or the Dominican Republic, it is very hard for legislators to cut off the funds necessary to support them. And when the lives of "American boys" are already being lost in combat, the public tends simply to rally behind the President rather than weigh the issues seriously; in such circumstances the hard question as to exactly why our troops are involved in the first place tends not to get asked.

All of this makes very important a recent, little-noticed action of the Senate Foreign Relations Committee, in which that body issued a favorable report on a bill designed to curb the President's war-making powers. By this action the stage has been set for a momentous constitutional debate in the Senate during the weeks ahead. In that debate the battle lines are already reasonably clear. On one side are those who would define and in the process curb the Presidential war-making powers of the kind that plunged us into the morass in Vietnam. What the proposed legislation would provide is that in the absence of a Congressional declaration of war, the President could not use the armed forces except in certain specified emergencies, such as an attack upon the United States or its forces or an imminent threat of such attack, or to protect American citizens endangered in a foreign country. Even in such emergencies the President could not continue hostilities for more than 30 days without Congressional approval. Lined up in support of the measure are Republican and Democratic Senators representing a wide range of opinion, from Senators Jacob Javits of New York and Thomas Eagleton of Missouri to Senators Robert Taft Jr. of Ohio and John Stennis of Mississippi. Arrayed against the bill are the Administration, those in the Senate who still support the war in Vietnam, and those in general who fear any tampering with the Presidential powers. Speaking for this group was Senator Barry Goldwater of Arizona, who called the legislation unconstitutional; some idea of how much unchecked power Senator Goldwater would grant to the President may be seen in his statement that "183 years of experience under the Constitution has firmly established the principle that the President, as Commander-in-Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms." To give a President such unchallenged power, of course, is to risk the danger of constant war.

In point of fact, it should be noted, those who support the curb on the President's power to make war do not question his right to take quick and decisive action in the event of a sudden attack or any other genuine emergency. What they do object to is the notion that the President may use the armed forces at will in situations that do not constitute national emergencies and for as long a period as he sees fit, as has been done in Vietnam. With these views we are heartily in sympathy—indeed, there is much to be said for Senator Fulbright's claim that even this restrictive law allows the President more power than he should have; if he had his way, for example, Senator Fulbright would ban the use of nuclear weapons entirely without prior Congressional authority. Points like these deserve the most sober consideration by Congress and public alike, and we hope the eventual debate in the Senate will prove worthy of the gravity of the topic.

THE AUTHORITY TO WAGE WAR

The objections of Secretary of State Rogers to a Senate Foreign Relations Committee proposal carefully defining the circumstances under which Presidents may commit the nation to war without a declaration by Congress are perhaps understandable from the perspective of what are called "President's men." The fact is that Mr. Rogers has been joined by several other "President's men," including George Ball, Undersecretary of State in the Johnson Administration, Eugene Rostow, Arthur Schlesinger Jr. and others.

Neither Presidents nor the men around them happily surrender any of the powers that have accrued to Presidents over the years—accruing sometimes by accident, sometimes because they are strong while the congressional leadership is weak, and usually because, as George Reedy, press secretary to former President Johnson, has written, the trappings and sycophancy with which the Presidency is surrounded convince all but the most down-to-earth occupants of the office that they above all others know what is best for the nation.

In the case of the proposed War Powers Act, drafted by Sen. Jacob K. Javits (R-N.Y.) and unanimously endorsed by the Foreign Relations Committee to resolve the constitutional question of undeclared wars, the stated objection is that the proposal is too rigid, that it does not and cannot provide for the unforeseeable contingencies with which the nation might be faced at any time, especially in the nuclear age.

If this were so, the objection would be a compelling one. But it is not so. The bill lists four specific categories of situations in which the President would be empowered to take immediate action without consent of Congress: to repel an attack or the imminent threat of attack upon the United States; to repel or forestall an attack upon U.S. armed forces located outside the country; to rescue U.S. citizens threatened abroad; and in pursuance "of specific statutory authorization."

If there can be any legitimate objection to these provisos, it would have to be that they are not restrictive enough, rather than that they are too restrictive. The definition, for example, of "an imminent threat" could be too broad to leave to the exclusive judgments of Presidents, who, as Sen. Javits has said, "can and do shoot from the hip," as in the case of Vietnam after a reported attack on two U.S. warships in the Tonkin Gulf.

At any rate, it is hard to see how the President's hands would be tied in any situation which might require immediate action. The Executive Department's objections result from the requirement that a President, having taken emergency action, must thereafter make a full report to Congress and obtain its affirmation within 30 days or terminate the action, whatever it may be. The Javits bill contains strict provisions against filibuster or other delay. White House objections are hard to understand.

"The War Powers Act," as Sen Javits concedes, "cannot create national wisdom where there is none. But it can assure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon papers and the Anderson papers have shown us how dissenting and questioning viewpoints are screened out or excluded altogether from the present Presidential decision-making process."

Sen. Javits is amply supported by the facts. Historian Henry Steele Commager has pointed out that "Presidents, in the last 20 years or so, have thrown caution and constitutional scruples to the wind, as it were, and ventured on their own authority into military operations that were in fact acts of war" in Vietnam, Laos, Cambodia, Latin America, Cuba and elsewhere:

"The unlimited power of the Executive in foreign relations is no longer justified as an emergency power but is asserted to be a normal and almost routine exercise of executive authority . . . President Johnson asserted he did not need the Tonkin Gulf Resolution to justify his bombardment of North Vietnam, for he said he already had that . . .

President Nixon's Attorney General asserted that the President's authority to invade Cambodia 'must be conceded even by those who read executive authority narrowly' . . . Presidents act under 'the Nixon doctrine' . . . 'to contain Communism' . . . to protect 'vital interests' 9000 miles away or 'to fulfill commitments' that are somehow never made clear."

The Javits bill will be debated as soon as congressional decks can be cleared for it. Its passage over White House opposition will not be easy. But it is the nation's only assurance against another Vietnam.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of routine morning business with each Senator being limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SOUTHEAST ASIA

Mr. GRAVEL. Mr. President, I wish to make a few brief comments on the situation that exists today in Southeast Asia. I also wish to comment on statements made by the present administration as to those events, and to comment on the activity that has taken place in Paris with reference to the refusal of our Government to sit down and go ahead with discussions with the North Vietnamese.

I think this a very tragic situation and part of a tactic to try to isolate North Vietnam, and is related to the President's trip to Peking and his proposed trip to Moscow. The hope is that this will cause them to waver in their resolve to do what they feel is necessary to bring about peace. I think that is wrong. There is always something to be gained by talking. I think the administration made a tragic error in pursuing this tactic, which can only lead to a total collapse of negotiations. I hope our Government will sit down and, regardless of the degree of patience required, continue to talk, even if negotiations may not be fruitful in the beginning. There is more to be gained by talking than there is by killing.

On the subject of killing, I understand that a Member of this body, and it was reported in the press, made the suggestion that we should bomb Haiphong and Hanoi. This proposal comes with the increased activity in Vietnam which brought the war again to the front pages of the newspapers. Interest is now focused not on the increased number of American deaths, because supposedly we wound down the war and we are extricating ourselves, but on the problem of Vietnamization—whether South Vietnam can defend itself. Obviously, it is too soon to say with assurance what happened, because even our intelligence community does not know what is happening. But thus far there has not been a good account given by the troops of South Vietnam. The Vietnams, North and South, have relatively the same population. South Vietnam has a little larger military establishment than North Vietnam; certainly it has a larger air force. Nonetheless, they continue to retreat in the face of the North Vietnamese. This can lead to only one conclusion: they do not want to fight for the government they have.

The question we arrive at quickly is, What will our Government do? Obviously, it is a civil war between the Vietnamese people. We have given the South air cover. This air cover apparently is not enough. What will our Government do now? Will it increase the air cover and increase the use of U.S. ground troops? The President has this power, because he has the troops and he can escalate the ground war. Or will he get out entirely, as many of us advocate? I wish it would be the latter, but that will not be the case. I think we will see an escalation of the bombing—not an escalation of bombing of military forces, but an escalation of bombing of the civilian areas which, I think, underscores the total immorality of our bombing program.

The Governments of North Vietnam, South Vietnam, Laos, and Cambodia do not represent a threat to the American Government. The only two nations that could be a threat to us are the Soviet Union and possibly, to a considerably lesser degree, the People's Republic of China.

The President has gone to China and he has banqueted, supped, and toasted with the Chinese Communists, at the same time we are killing Vietnamese Communists. The President will now go to Moscow, sit down, and banquet with those Communists. How can we morally sustain ourselves when our Chief Executive is banqueting with the leaders of countries which can be a threat to us, and waging war against a country which is no possible threat to us? The argument that we are trying to give the South Vietnamese a chance for self-determination is specious, because that is a dictatorship. That was proven last October 11 in the elections, and there is no reason that we should spend our tax money and human resources for a dictatorship.

We are endorsing a dictatorship there. It is a civil war. Why not hold to the principle we hold so dear, self-determination, and let the people of Indochina determine the type government they want? We have honored obligations that were not there and we should get out.

I would caution this administration that the possible use of accelerated bombing or tactical nuclear warheads would be anathema to this Nation's desire for peace, and would cast us in a light in this century that we could never outlive.

I would hope the advice the President is receiving, and will receive, on possible escalation of bombing and possible use of nuclear warheads would be turned down, because this would only bring about a moral disaster.

Mr. President, I ask unanimous consent to have printed in the RECORD certain articles that focus attention on the situation that exists today inside East Asia.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1972]

HANOI SIGNALS CIVILIAN UPRISING

(By Victor Zorza)

In his last public statement before the Hanoi offensive, President Nixon said that if the South Vietnamese lines do not "break" under attacks from the North, "it will be the final proof that Vietnamization has succeeded." Therefore, if the lines do break, the converse would presumably be true, and Mr. Nixon would have to concede that Vietnamization has indeed failed.

If he did concede any such thing, his policy would be in ruins, and his chances of reelection much reduced. Therefore, as soon as the unexpected strength of the North Vietnamese offensive revealed itself, the administration began to wriggle out of its previously self-confident posture.

After the first assurances that the South Vietnamese themselves "can cope with the enemy threat," official spokesmen decided that "it is too early to judge the ability of the South Vietnamese to meet this." But if they are not able to "meet" it, Mr. Nixon will have to eat his words, and so will those who provided him with the wrong information.

The experts have led the administration to believe that the Communists might perhaps be capable of a few spectacular fireworks displays to catch the headlines, but no more than that. These analyses take no account of the political factors which, as the Communists themselves have always stressed, are as important in their strategic planning as are the military.

If these factors had been given their rightful place in the official analysis, special importance would have been attached to the recent emphasis in Hanoi on the key role of the cities in the final uprising that should mark the end of the war.

Pham Van Dong, the North Vietnamese premier, spoke of the coming political struggle in the cities. Another politburo warhorse, Truong Chinh, said that this would "seriously shake the enemy right in his den," and that it would be coordinated with the military struggle—that is, evidently, with the coming offensive.

General Vo Nguyen Giap, the commander-in-chief, made it clear that final success in the war would depend on civilian participation in the fighting alongside the regular army. A Vietcong broadcast said that the urban struggle would develop into a revolutionary movement which, in "coordination" with other attacks, would overthrow the Thieu regime.

Official analysts tend to dismiss such signs on the ground that they have seen them all before. They claim that the Vietcong do not have the military organization to mount a serious challenge to the regime. But the Communists have had plenty of time to rebuild their strength since their 1968 Tet disaster.

Once again, overconfident military and political intelligence in the field appears, as has happened so often in this war, to lead to misjudgments in Washington. In February, the intelligence experts told the White House to expect a Tet offensive when the political signs were clearly against it. When the Tet offensive did not come, senior American officials let it be known in Saigon that they expected the big push to come in the late spring or summer, in order to affect the United States election.

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They were still sticking to that view last week, in spite of indications, which coincided with the arrival of a Soviet military delegation in Hanoi, that the North Vietnamese had decided to strike before the dry season was over—that is, almost immediately.

They now say that they had expected it all along. But when the blow did fall, U.S. Ambassador in Saigon Ellsworth Bunker was visiting his wife in Nepal. The U.S. commander in Vietnam, Gen. Creighton Abrams, was out of the country. A key sector of the Demilitarized Zone was held by a newly formed, unseasoned division. Two aircraft carriers had to be rushed back to Vietnamese waters.

If the signs from Hanoi are read correctly now, they will show that the Communists are saying to Mr. Nixon: Make us an offer that will persuade us before the election to hold back the general uprising which could play havoc with your chances for a second term.

[From the Washington Post, Mar. 26, 1972]

THE UNITED STATES GIVES POSITION ON SUSPENDING PARIS TALKS

(From the remarks by Ambassador William J. Porter at the Paris peace talks on March 23.)

Unfortunately, there is no "give" in your position, no readiness on your side to listen to anything except what you call a "positive response" to your ultimatums, meaning a complete acceptance of everything you propose . . .

The absurdity of this attitude, in the light of your moral, military and political failures, is apparent to all who look at the Vietnam problem in detail. Among those who do, as you know, are an increasing number of young men of North Vietnam who are beginning to weight the failures of your policies and their cost . . .

In matters governed by international convention—I refer specifically to prisoners of war—you prefer the status of outlaws rather than abiding by the convention you signed. You reject our efforts here, and the efforts of others elsewhere, to persuade you to live up to your legal obligations. You pursue the vain hope that you can use the prisoners in your hands to extract political and military advantage, that you can achieve your goals by exerting a particularly abhorrent form of blackmail. Only your most hardened professional apologists continue to excuse your conduct in that domain . . . Indeed, you have acted in a manner which has made a great many people wonder whether you would dishonor any additional commitments you might make in the future as readily as you have dishonored those you have made in the past . . .

As you know, President Nixon, at the request of the Congress, has declared next week as a week of national concern for our men held prisoner by you and your associates. It would be a mockery of our concern for them were we to sit in this room with you and listen to more of your blackmail and distortions to the effect that the prisoner of war issue is an "imaginary problem." Therefore, our side does not agree to a meeting next week.

As for meetings in the weeks that follow, we believe it would be preferable to await some sign from you that you are disposed to engage in meaningful exchanges on the various points raised in your and our proposals . . .

[From the Washington Post, Apr. 1, 1972]

NIXON SCORES ON HANOI

(By Murrey Marder)

If scoring points really matters, the Nixon administration has succeeded in badly outmaneuvering North Vietnam and the Vietcong in the propaganda struggle in Paris.

With the return to Washington this week of chief negotiator William J. Porter for "consultations" of unspecified duration, the United States has completed what President Nixon has called a new pattern of actions "to break the filibuster."

To arouse the Paris talks now from a coma deeper than any the conference has experienced since the first encounter in May 1968, the United States has laid down the condition that the Communist side must first convince Washington that it has bonafide "intentions" to engage in "serious discussion."

Perhaps what is most interesting about this near-abortion of the Paris talks is not so much that it has happened, but that the happening has been greeted with a yawn by most people in the United States.

What this shows is that the American public has passed the numbness point of caring who proposes what formula for ending the war. All that matters is whether the war continues or ends. If the Nixon administration could extend national numbness with the war to that issue also—the war's existence—it would have a massive political accomplishment.

The Nixon administration has demonstrated that it can achieve almost anything short of that goal. It has proved, with remarkable public opinion "conditioning" skill, an ability to mold press and public attention that the Johnson administration never dreamed of attaining.

How many can now remember that two months ago, on Jan. 25, President Nixon said he was disclosing the record on 30 months of secret talks, by Henry Kissinger in Paris, "to try to break the deadlock in the negotiations?" Said Mr. Nixon, "Just as secret negotiations can sometimes break a public deadlock, public disclosure may help to break a secret deadlock."

Nothing, of course, happened. Nor was there any real expectation among experts in the administration that anything productive would happen. Breaking silence on the secret talks simply marked the end of an effort that failed.

But the Nixon administration accomplished two things by revealing the secret talks. The disclosure knocked the administration's domestic political critics off stride, at least temporarily, and it caused considerable confusion in North Vietnam. Hanoi's strategists were caught by surprise just before another blow was to fall—President Nixon's visit to China, which played on North Vietnam's suspicion of a sellout by one of its major allies.

Next, as Nixon administration strategists evidently calculated, Hanoi was reeling enough to be ripe for the next blow in Paris, the U.S. switch in the ground rules for holding the Paris talks.

Ambassador Porter in Paris, and other U.S. officials, long had urged an end to the automatic "assured propaganda forum" for the Communist side in the weekly Paris talks. President Nixon earlier authorized a progressive squeeze on this forum by skipping occasional meetings. Once the secret Kissinger-level talks were disclosed, the United States had a more plausible rationale for lopping off the ritualistic weekly talks: There could always be secret talks.

It was only "coincidence," U.S. officials maintain, that President Nixon happened to authorize that shift immediately before the return to Paris of the Vietcong's chief negotiator, Mrs. Nguyen Thi Binh, after a seven-month absence. But at least some officials smile when they say that. Mrs. Binh generally comes back to Paris with at least a new public wrinkle on Communist peace plans. Mrs. Binh is not foreclosed now from presenting any new offering at a resumed conference session—providing she can convince the U.S. side that she has something "serious" to offer.

On the scale of international maneuvering, the United States therefore now appears to have the Communist side clearly outpointed in Paris. Unfortunately, however, the outcome in Indochina, where the war goes on, is unlikely to be resolved on points.

U.S. ACTION IN LAOS BARED

(By Tammy Arbuckle)

VIENTIANE.—Americans have been flying helicopter gunships in combat areas in North Laos on certain occasions since the United States introduced a gunship program into Laos in late January, well informed American sources say.

But top U.S. Embassy officials here have been denying this American air crew participation is happening.

(The downing of an AC130 gunship by an enemy missile farther south in the Laos panhandle was announced today in Saigon. The crew of 14 is missing.)

Embassy officials say the helicopter gunship programs is flown by Thai "irregulars" and helicopters have been used solely for medical evacuation of Thai volunteer forces in Laos.

Informed American sources say, however, the Thais are "not doing a very good job and they have had a hard time up there and Americans have had to show them how, so there have been times when Americans have had to fly the choppers."

This correspondent's observations bear this in the early afternoon of February 20 at Ban Son, also known as Site 272 some 60 miles northeast of Vientiane, this reporter saw three Huey gunships take off in the direction of Long Cheng and the Plain of Jars. The Hueys were armed with door machineguns and twin rocket pods. Standing at close range as one ship took off this reporter saw the right door gunner was definitely American and other four crew members though partially obscured by gear and helmets also appeared to be Americans.

Through radio conversation and from U.S. and Meo officials this reporter learned the gunships were striking at Phou Teung in the southeast corner of the Plain of Jars to support the advance of Lao irregular force code-named "gumdrop."

CASUALTIES A PROBLEM

Conversations indicated the gunships were softening up Phou Teung to prepare for the Lao advance but in all fairness it must be admitted a problem also existed on evacuating wounded. Gumdrop had several wounded who could not be evacuated because of intense Communist groundfire and the strikes therefore may have been medivac oriented rather than assault oriented though with Americans on the gunships and picking up Lao, not Thais, it did not sound like it.

Informed American sources said the gunship program is controlled and advised by U.S. Army helicopter pilot Maj. Robert Moberg, a U.S. Army attache in the Vientiane army attaches office.

One American source said Moberg flew a control helicopter while gunships were operating but the control ship remained high and did not go down to participate in the action.

The gunships' crews are told they have no right to poke their noses into the running of the war here and at Long Cheng. Where the gunships operate has been mysteriously out of bounds to reporters for more than 10 days.

There is also the clandestine nature in which gunships were introduced. There was no announcement of such an addition being made to the airwar.

"OFF THE RECORD"

When this correspondent first saw the ships on February 20 U.S. officials put the matter "off the record" on grounds the ships had not yet been used and therefore the North Vietnamese did not know about them. They were a military secret.

Even after several strikes were made by the gunships, officials did not want to go on record concerning their use and the program did not come to light till one gunship crashed in a thunderstorm near Vientiane in front of witnesses. All five crew members were killed and U.S. officials say they were Thais.

U.S. officials, however, promised to investigate who was flying the helicopters on Feb. 20 and as has happened in past they base their defense on ground rules as they read rather than as they are carried out in practice.

"I have read the language of orders applying to this program and Americans are forbidden to fly such missions," a U.S. embassy official said. "I categorically deny that Americans are flying on these missions," he said.

Such denials are not surprising because of what is involved. While the U.S. is ostensibly pulling out of Southeast Asia the war has been escalated in Laos by introducing gunships under the cover of medivac operations. That additional Americans should be introduced even temporarily to get the program going and be exposed to enemy fire makes it worse. That this escalation is in response to North Vietnamese escalation by introducing long-range artillery and tanks into North Laos does not really help. The gunships are not going to make an appreciable difference and there is danger of American officials are going too far in the game of tit for tat involving the U.S. more deeply.

[From the Washington Post, Mar. 24, 1972]

THAI-BASED U.S. OPERATIONS CLOSETED IN TIGHT SECRECY

(By Jack Foisie)

BANGKOK, March 22.—Thailand is gradually becoming the staging area for most American-directed ground operations in Indochina as U.S. troop withdrawals from Vietnam continue and the war and political situations in Cambodia and Laos become more tense.

This has resulted in increased sensitivity on the part of Thai and American officials alike concerning U.S. air bases in Thailand and the camps and bases involved in cross-border operations.

In answer to a newsman's request, U.S. officials disclosed that there are 245 U.S. military advisers in Thailand and 280 members of the U.S. Special Forces.

But other than outlining their acknowledged training and advising roles, the officials declined to go deeper into Thai-based American operations in the Indochina war.

Officially, the role of all American Green Berets is to "train the Thais to be trainers" in counterinsurgency warfare, teaching tactics to their own troops and to those of "third-country" armies—that is, Laotians and Cambodians.

But these same American officials acknowledge that there are numerous secret camps—they call them "ad hoc training areas"—at which Americans are placed. They will not discuss the American role in these camps.

It is known, however, that some are border camps fronting on Laos and Cambodia, manned by Thai soldiers and American Green Berets engaged in clandestine cross-border operations. Rebellious areas in Burma are also being penetrated from Thai-American camps in the western provinces of Thailand.

The participation of Thai army "volunteers" in Laos, as part of a Western-backed Royal Lao army, is now an established fact. More than 5,000 Thai troops, artillerymen and airmen are in action on foreign soil.

They are American-paid, but the Thai government has its own reason for making the "volunteers" available. The North Vietnamese army and its Communist Pathet Lao auxiliary are closer to the banks of the Mekong River than in past dry seasons, and the Mekong is Thailand's border.

Despite contrary evidence, both Thai and American officials continue to pretend that the volunteers sign up on their own. They are, in fact, regular Thai units led by their own officers and taking orders mostly from the U.S. Central Intelligence Agency.

One of the assembly areas for this trans-Mekong migration is the Thai army camp of Saritsena, outside the north central town of Phitsanulok. CIA-operated Air America transport planes fly the new men from there directly into Laos.

In the most recent explanation of the Thai presence in Laos, a U.S. State Department spokesman last week described the Thais as "local forces" eligible for U.S. support.

This definition is intended to avoid violating the congressional ban on recruiting and paying mercenaries for fighting in Laos and Cambodia.

Secrecy concerning military assignments in Thailand has reached the point that a visitor with a great deal of aplomb can stumble into a secret American camp and stay a while by pretending that he, also, is on mysterious assignment.

It happened this way, without a lie being told. The gate guard challenged: "Who are you?" The newsman assumed a serious, knowing look and replied: "Don't ask me!"

For emphasis he pressed a finger to his lips, "Oh," the guard said, impressed. "I understand." He opened the gate and directed the visitor to the command post.

Exotic code names also figure into the secrecy. "Peppergrinder" is the name of a big American-Thai logistical base, for weapons and supplies destined for allied forces in Laos.

Despite their various unpublicized roles, the American Special Forces in Thailand have declined from the high point of 369 in 1969. The reduction was made possible after the Thai field police assumed their own training. The U.S. advisory force also has been cut back by 25 per cent from its high point.

Other American military activities have offset the reduction.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD ON FRIDAY, APRIL 7, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership has been recognized at the convening of the Senate on Friday morning next, the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, at 11:29 a.m, the Senate took a recess until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (MR. STEVENSON).

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON INTELSAT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In the relatively short span of seven years, communications by satellite has changed the world forever. We now live, in one very real sense, much closer to other peoples and to faraway events.

The fast-developing science of satellite communications must rate as one of the true marvels of the 20th century—a technological triumph that is bringing greater understanding to a world badly in need of closer ties and deeper insights.

As one might expect, the seven years since the launching of the first communications satellite, Early Bird, have been filled with important developments in this new field. The year 1971 was one of particular accomplishment, since it marked the completion of two years of multilateral negotiations which produced the governing instruments for the International Telecommunications Satellite Consortium. When the resulting Definitive Agreements come into force, possibly in 1972, that will signal the start of a new era for this highly successful organization.

It is my pleasure to report to the Congress on our activities and accomplishments in 1971 under the Communications Satellite Act of 1962. I am certain the Congress will share my fascination and satisfaction with the speed in which participation in satellite communications is spreading across the world as a new and constructive force among nations and peoples.

RICHARD NIXON.

THE WHITE HOUSE, *April 5, 1972.*

WAR POWERS ACT

Mr. TALMADGE. Mr. President, the single most important decision we as a Nation can make is the decision to go to war.

In our Nation's relatively short history of 196 years, the Armed Forces of the United States have been committed abroad on 174 separate occasions. Yet, the Congress has formally declared war only five times.

This means that for every war declared by the Congress, we have been involved militarily on over 30 other occasions solely at the direction of the President.

Our Nation has been at war for 15 of the past 22 years, and in the past 10 years alone Presidents have launched major

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military interventions in seven different nations.

In short, Mr. President, since World War II, our Nation has become greatly overextended throughout the world, both militarily and economically, without any expressed congressional mandate.

The expansion of Presidential authority and the erosion of Congress role in foreign affairs generally, and in war policy specifically, have precipitated a constitutional imbalance of grave proportions.

The purpose of S. 2956, the so-called War Powers Act, is to restore that constitutional balance of responsibilities between the executive and legislative branches without hamstringing the President in the performance of his duties as Commander in Chief.

How does this legislation go about accomplishing this goal? Stated simply, it defines the circumstances in which the President, without prior congressional authorization, can unilaterally commit the Armed Forces of our Nation, and the circumstances in which prior congressional authorization is required before the President can act militarily.

The starting point, and rightly so, is the Constitution itself. The bill recognizes that the Constitution vests in the President the power, even in the absence of a congressional declaration of war, to use American forces to repel sudden attacks on U.S. territory or U.S. forces outside this country, and to protect U.S. nationals whose lives are endangered abroad. These so-called emergency powers have been exercised by various Presidents in the past. There is no question that this authority arises from the President's independent constitutional office as Commander in Chief.

The bill goes to great lengths to preserve and protect these constitutional prerogatives of the President. Recognizing that ours is a troublesome and perilous world, it further empowers him to use the Armed Forces to forestall the threat of a direct and imminent attack on this country or this country's forces abroad.

However, the bill clearly and unequivocally states that any other use of the Armed Forces by the President for any other purpose, in any other circumstances, is prohibited, unless specifically authorized by Congress by law in advance.

We want no more of this calling of American troops into action because of some vague treaty commitment or executive agreement.

Let us have no more of this implying or inferring after-the-fact approval of a Presidential war because of congressional passage of an appropriations bill providing supplies and ammunition to troops already in the field of battle.

Perhaps most importantly, Mr. President, the bill prescribes procedures by which the Congress may overrule the President's exercise of his emergency war powers.

Any commitment of U.S. forces initiated by the President under the emergency conditions outlined in the bill is limited to 30 days, unless Congress by specific legislation authorizes their continued use.

Moreover, if it disapproves of the President's action, Congress may pass legislation terminating the use of our forces before the 30-day period has expired.

In my judgment, these provisions are the essence of the bill. The President, any President, would stand forewarned against any emergency use of the Armed Forces that did not conform with the law and that would not command the support of the Congress.

Finally, Mr. President, in cosponsoring and supporting this legislation, my intention is not to criticize those Presidents whose administrations have spanned the Vietnam war. My desire is not to strip the Commander in Chief of his rights and responsibilities under the Constitution. Nor am I motivated by jealousy or animosity toward the executive branch.

In answering the question of why, after 196 years, a war powers bill is needed now, let me restate what I said at the outset: The single most important decision we as a nation can make is the decision to go to war. I strongly feel that we must make that decision as a nation. In the recent past, however, the President, acting virtually alone, has determined whether we followed a course of war or peace. This is not right. It is the people who should decide this course, through their elected representatives. The decision is too great for one man to make, no matter how thick his hide or how broad his shoulders.

The War Powers Act (S. 2956) is a step in the right direction toward restoring this authority and this responsibility to the people and creating a better and more effective partnership between the Congress and the executive branch in foreign affairs.

Mr. JAVITS. Mr. President, will the distinguished Senator from Georgia yield?

Mr. TALMADGE. I am delighted to yield to the distinguished Senator from New York.

Mr. JAVITS. I was very much honored when the Senator from Georgia became a cosponsor of the bill. I am really inspired to hear him speak as he has. Some idea has been sought to be disseminated that those who back the bill have some desire to restrain the power of the United States in terms of either its own security or its true mission in the world.

I deeply believe that the historic value of the support of the Senator from Georgia, the Senator from Mississippi, and others, who have been identified with the very highest efforts to maintain the competence of the United States in the security field, is a clear underwriting of the fact that I have no such design. I have consistently voted for an effective defense of this country—and always will. This is a design to strengthen rather than in any way to derogate from that security power. I cannot tell the Senator from Georgia the degree of strength which I feel that that position is given by adherence to this measure by the Senator from Georgia.

In addition, the South has had a great tradition of constitutionalism. I believe that that is exactly what we are asserting here.

Again, I am greatly fortified by the position taken by the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, I thank my distinguished friend, the Senator from New York. I certainly do not want to weaken the military security of this country. On the contrary, I want to strengthen it.

I greatly fear that we are not as strong as we should be in the dangerous world in which we live at the present time. But there is a gray area in the Constitution of the United States that needs clarifying. The President of the United States clearly, under the Constitution of the United States, is the Commander in Chief of the Armed Forces of this country. The Constitution clearly gives to Congress, and to Congress alone, the power to declare war.

There is a gray area between the power of the Commander in Chief and the power of the Congress to declare war. That gray area needs resolving.

In my judgment the bill, as primarily sponsored by the distinguished Senator from New York, seeks to take a great step forward in eliminating that gray area.

When this country goes to war, it ought not to be as a result of the action of the executive branch alone. It ought not to be as a result of the action of the Congress alone. But it ought to be as a result of the concerted action of the executive branch, through the President of the United States, and the Congress. And under those conditions, I believe that if our country has to go to war again—and God forbid that it does—the people of this country would be united and they would be prepared to fight to a successful conclusion.

I hope we get in no further wars that we are backed into by the executive branch without Congress sharing in that action and carrying out its constitutional mandate and responsibility.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. TALMADGE. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished senior Senator from Georgia for his remarks and for the arguments he has just made.

He has emphasized that this is not an adversary proceeding against the President. It is an expression of intent to find an accommodation and partnership by which to bring about a restoration of some of the powers which the Congress has under the Constitution but which have been allowed to fall into disuse. It is not an effort to overshadow the President, but to work with him and, in so doing, to work with and for the best interests of the people and to avoid if at all possible, involvement in the type of conflicts in which we have been engaged in recent years and in which the Congress had little or no voice.

Mr. TALMADGE. Mr. President, I commented in my statement that this is a sharing of responsibility as provided in the Constitution.

I yield the floor, and I thank the distinguished majority leader, the distinguished majority whip, and the distinguished junior Senator from Arizona for yielding this time to me.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PUBLICATION ISSUED BY FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a Publication entitled "The Gas Supplies of Interstate Natural Gas Pipeline Companies, 1970" (with an accompanying document); to the Committee on Commerce.

REPORT ON OPERATION OF TRADE AGREEMENTS PROGRAM

A letter from the Chairman, U.S. Tariff Commission, transmitting, pursuant to law, the 21st report of that Commission on the operation of the trade agreements program (with an accompanying report); to the Committee on Finance.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Determination of Nonprofit Organizations' Eligibility For Reduced Postage Rates Should Be Improved", U.S. Postal Service, dated April 4, 1972 (with an accompanying report); to the Committee on Government Operations.

ENVIRONMENTAL IMPACT STATEMENT ON THE TRANSPORTATION REGULATORY MODERNIZATION ACT OF 1971

A letter from the General Counsel, Office of the Secretary of Transportation, transmitting, pursuant to law, a draft environmental impact statement on the Transportation Regulatory Modernization Act of 1971 (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION RELATING TO CERTAIN PRISONERS OF WAR AND MISSING FEDERAL EMPLOYEES

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to provide certain benefits for American civilian prisoners of war in Southeast Asia, for Federal employees in a missing status, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

REPORT OF DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, his report for the fiscal year 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON NATIONAL HIGHWAY NEEDS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on National Highway Needs, for the year 1972 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Oklahoma; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1074

"A concurrent resolution memorializing Congress to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and directing distribution

"*Whereas*, it was ordained and established in Article III of the Constitution of the United States of America that the Supreme Court's appellate jurisdiction shall be subject to such exceptions and under such regulations as Congress shall make; and

"*Whereas*, under this existing provision in the framework of governing law of the country, Congress can except from the jurisdiction of the Supreme Court such subjects as it sees fit; and

"*Whereas*, under the existing provision in the Constitution, Congress can surely take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and

"*Whereas*, the time has come when it should be called to the attention of Congress, the members of the House, the members of the Senate and the people of this country, that Congress can presently, without awaiting any amendment of the Constitution, except appeals of questions concerning a public school system of any state or public school system of any political subdivision of any state from the appellate jurisdiction of the Supreme Court.

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 33rd Oklahoma Legislature, the Senate concurring therein:

"Section 1. That the Congress of the United States of America be memorialized to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance.

"Section 2. That duly authenticated copies of this Resolution be distributed to members of the House of Representatives and Senate, including the Oklahoma Congressional Delegation, and the President of the United States.

"Adopted by the House of Representatives the 28th day of March, 1972."

"Adopted by the Senate the 23rd day of March, 1972."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Agriculture and Forestry, with an amendment:

S. 1943. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes (Rept. No. 92-728).

By Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, without amendment:

S. 3068. A bill to amend the provisions of the Agricultural Adjustment Act of 1938, as amended, relating to the lease of tobacco acreage allotments and marketing quotas (Rept. No. 92-729).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCOTT:

S. 3451. A bill for the relief of Crown Coat Front Co., Inc. Referred to the Committee on the Judiciary.

By Mr. SCOTT (for himself and Senator MCCLELLAN) (by request):

S. 3452. A bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 3453. A bill to authorize the crediting for certain purposes, of service performed as a member of the Senior Reserve Officers' Training Corps program, service as a midshipman at the U.S. Naval Academy, and service as a cadet at the U.S. Military Academy, U.S. Air Force Academy, or the U.S. Coast Guard Academy. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENS:

S. 3454. A bill for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickles. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3455. A bill to provide that time spent by individuals interned in places operated by the U.S. Government for U.S. citizens and nationals of Japanese ancestry shall be considered creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT (for himself and Senator MCCLELLAN) (by request):

S. 3452. A bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees. Referred to the Committee on the Judiciary.

Mr. SCOTT. Mr. President, as the ranking Republican member of the Subcommittee on Patents, Trademarks and Copyrights, I introduce by request on behalf of myself and the senior Senator from Arkansas (Mr. MCCLELLAN) a bill to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees.

This legislation is being introduced at the request of the Department of Commerce and provides for three miscellaneous amendments to the Trademark Act of 1946, as amended.

Under section 13 of the Trademark Act, any person who believes that he would be damaged by the registration of a mark upon the principal register may oppose the same by filing an opposition within 30 days after the publication of the mark sought to be registered. Section 1 of this bill provides for automatic extension of the period of filing oppositions in trademark cases on request of a prospective opposer. No reasons for requesting a first extension would be required. Subsequent extensions could be granted if good cause is shown.

Section 21 of the Trademark Act requires that a party taking an appeal to the U.S. Court of Customs and Patent

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Appeals must give notice to the Commissioner of Patents and file his reasons of appeal with the Patent Office. The requirement for filing "reasons of appeal" no longer serves a useful purpose and has occasionally deprived litigants of legal rights. Section 2 of the bill eliminates the statutory requirement for filing "reasons of appeal."

Section 35 of the present Trademark Act provides for the awarding of treble damages in appropriate circumstances in order to encourage the enforcement of trademark rights. The general rule in the U.S. judicial proceedings is that, absent specific authority by statute or contract, attorney fees are not recoverable in ordinary actions at law or in equity by either a successful plaintiff or defendant. Section 3 of the bill provides that attorney fees may be awarded to the prevailing party in actions under the Federal trademark laws, when equity justifies such awards. It would make a trademark owner's remedy complete in enforcing his mark against willful infringers, and would give defendants a remedy against unfounded suits.

By Mr. TOWER:

S. 3453. A bill to authorize the crediting, for certain purposes, of service performed as a member of the Senior Reserve Officers' Training Corps program, service as a midshipman at the U.S. Naval Academy, and service as a cadet at the U.S. Military Academy, U.S. Air Force Academy, or the U.S. Coast Guard Academy. Referred to the Committee on Veterans' Affairs.

Mr. TOWER. Mr. President, I am introducing today a bill to credit for pay and retirement purposes time performed as a member of the Senior ROTC program or as an academy cadet or midshipman. This bill is another in a series designed to increase the attractiveness of a military career, but it is also designed to eliminate an inequity that has inadvertently arisen.

Recently, I introduced a bill to establish Reserve enlistment and reenlistment bonuses with the hope that this measure would strengthen our declining Reserve component strengths. Those strengths had dropped 45,000 below the congressionally authorized floor as of December 1971. While that measure benefits enlisted men of the Armed Forces, the bill I introduce today is directed at the officer corps.

There are really two separate systems for raising officers for the Armed Forces, from college. The one with which we are most familiar, the Reserve Officers' Training Corps program, is utilized by the Army, Navy, and Air Force. The Marine Corps, however, has a special program called the platoon leaders course which is the prime source of their officers. College students are recruited early in their college careers and must normally serve two 6-week summer camps before commissioning.

Until last year members of the Platoon Leaders Course received no subsistence allowance. ROTC students were given $50 a month. To overcome this inequity, it was the practice of the Marine Corps to allow graduates of the PLC to count their service for pay and retirement purposes. The effects of this were to give these officers an approximate 2-year advantage in pay and to allow these officers to retire about 2 years earlier than their Army, Navy, and Air Force counterparts. These were considered sufficient incentive to overcome the lack of a subsistence allowance while in college.

However, last year Public Law 92–192 was passed. This gave both ROTC and PLC students a $100 monthly subsistence allowance, thus removing the original inequity but creating a new one. This bill will solve that problem by allowing ROTC students to count their years of service for basic pay and retirement purposes. It will additionally give service academy cadets and midshipmen the advantage of counting their years in the academies for these purposes. It is my belief, Mr. President, that this measure is essential to removing a pay inequity that was inadvertently created last session and it provides an additional incentive for officer procurement for the all-volunteer force.

By Mr. STEVENS:

S. 3454. A bill for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickies. Referred to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, on July 1, 1970, I introduced into the 91st Congress Senate bill 4052 providing for the relief of United Contractors, a partnership consisting of James E. Ward, Elkan Morris, and Andrew J. Dickies. Although the bill was not enacted during the 91st Congress, I still believe that it is a most worthy piece of legislation. Accordingly, I am resubmitting it today.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. KENNEDY, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 32, the Conversion Research, Education, and Assistance Act.

S. 2219

At the request of Mr. CRANSTON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2219, the Veterans' Administration Health Manpower Training Act of 1971.

S. 2354

At the request of Mr. CRANSTON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2354, the Veterans' Health Care Reform Act of 1971.

S. 2851

At the request of Mr. ALLOTT, the Senator from New York (Mr. BUCKLEY), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2851, a bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions.

S. 3010 AND S. 3193

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 3010 and S. 3193, bills to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

S. 3291

At the request of Mr. PACKWOOD, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3291, a bill to eliminate the discriminatory tariffs on fish nets and netting which are not produced in the United States.

S. 3309

At the request of Mr. ROBERT C. BYRD (for Mr. BURDICK) the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 3309, a bill to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes.

S. 3351

At the request of Mr. BROCK, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3351, a bill to establish a Council on International Economic Policy.

S. 3436

Mr. ALLOTT. Mr. President, I join today with the distinguished junior Senator from Utah (Mr. Moss) in sponsoring S. 3436, entitled an act to amend the Soil Conservation and Domestic Allotment Act and provide for a Four Corners Area program, introduced March 29, 1972. The bill is an effort to concentrate our attention upon the very real environmental problems that exist in the Four Corners Region. We who represent the Four Corners States are only too familiar with the problems of sediment and salinity as well as other pollutants in the streams and ponds of the Four Corners Area. This regional approach to solving the problems peculiar to this area is the logical avenue to pursue. It will arm the Soil Conservation Service with the authority to "tailor-make" needed solutions to regional environmental problems.

S. 3439

At the request of Mr. STEVENSON, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 3439, a bill to authorize expenditures to correct or compensate for substantial defects in section 203(b) FHA mortgaged homes.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE REPORT 92–634

(Referred to the Committee on Rules and Administration.)

Mr. WILLIAMS submitted the following concurrent resolution:

S. CON. RES. 74

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare two thousand additional copies of Senate Report 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971", a report by its Subcommittee on Labor pursuant to section 4 of Senate Resolution 35, Ninety-second Congress.

SENATE RESOLUTION 290—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. SCOTT submitted the following resolution:

S. RES. 290

Resolved, That the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Company, Inc., now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any legally or equitably due from the United States to the claimant.

EXTENSION OF THE ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 1100

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. STEVENSON. Mr. President, I submit an amendment to S. 3193, a bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

Mr. President, 3 weeks ago President Nixon told a national radio and television audience that—

> It is time for us to make a national commitment to see that the schools in the central cities are upgraded so that the children who go there will have just as good a chance to get quality education as do the children who go to school in the suburbs.

Last week the Office of Education announced a 15-percent cutback for next fall's funding of one of the most successful Federal efforts to bridge the educational gap in urban America—Project Follow Through. Conceived in 1967 as a kindergarten-third grade followup to the comprehensive program approach of Project Headstart, Follow Through has proven its worth by producing students who have consistently maintained higher levels of academic achievement, lower dropout rates, and more positive attitudes toward learning than their counterparts in urban schools who have not been fortunate enough to participate in the Follow Through program.

The story of how 26 Follow Through programs are in danger of being terminated this fall is one of broken promises, budgetary miscalculations, and disordered national priorities. If we as a Nation are to make the "national commitment" about which the President spoke, programs like Follow Through must be expanded, not curtailed. The legislation I introduce today is designed to do just that. If these programs are allowed to die, "equal educational opportunity" and "national commitment" will be just so much empty rhetoric for the thousands of families who have already seen what Follow Through can do and the thousands more who could follow them. I trust the Congress will not allow this to happen.

Last year the administration requested $59 million for the fiscal year 1972 Follow Through program, some $9 million less than the $68 million for fiscal year 1971. The Office of Education explained at the time that its goal was to reduce Federal per pupil Follow Through costs through more efficient administration. There was to be no cut in the number of Follow Through programs. Although this was the administration's position in August of 1971, we are now told that the $9 million cutback for fiscal year 1972 funds, which will be used for the school year beginning in the fall of 1972, will necessitate a 15-percent cutback in Follow Through programs, including three in the State of Illinois. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a list of the 26 Follow Through programs being eliminated by the administration.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Effect of $9 Million Fiscal Year 1972 Budget Cutback of Follow Through—School Year 1972–73

The following cities are losing their Follow Through projects (also included is the amount for which they would have been programed in the coming school year in the absence of cuts):

Lincoln, Nebraska	$43,500
Chicago (Howland-Lathrop)	152,000
Dimmitt, Texas	218,400
Jefferson Parish, La	205,000
Philadelphia (Elverson)	144,000
Wood County, Wisconsin	75,000
Riverhead, New York	314,400
Philadelphia (Stevens)	60,000
Philadelphia (Waring)	176,000
Stuarts Point, California	18,700
Randolph County, West Virginia	225,690
Texarkana, Arkansas	250,000
Pittsfield, Massachusetts	236,520
Chicago (Ogden)	39,375
Lansing, Michigan	337,500
Prince Georges County, Maryland	190,485
Laurel, Delaware	230,280
El Monte, California	336,995
Vincennes, Indiana	119,850
DuVal County, Fla. (Jacksonville)	763,290
Leflore County, Mississippi	337,500
Fort Yates, North Dakota	136,800
Hillsboro County, Florida	447,603
Lamont, California	240,000
Great Falls, Montana	249,000
Waukegan, Illinois	347,650

Mr. STEVENSON. Mr. President, it was not stated last year, when this year's cuts were ordered, that some 26 programs would have to be terminated. As of today, there is no new Federal or cooperative Federal-State effort to take over where these programs have been ordered to leave off. The administration has changed its signals in midstream, and unless we in the Congress do something about it, the disadvantaged children now being served by 26 fully operative Follow Through programs throughout the country will bear the brunt of the administration's miscalculations.

The amendment I submit today would earmark $100 million of the funds authorized by the Economic Opportunity Amendments of 1972 for Follow Through programs in fiscal year 1972 and $100 million in fiscal year 1973. In fiscal year 1972, $70 million of this would be enough to save all current programs, while the additional $30 million would permit a modest expansion. As quality preschool programs grow, there must be parallel growth in complementary programs such as Follow Through.

Among the projects scheduled to be terminated at the end of this school year are three in Illinois, involving four separate schools, one of which the Office of Education has called one of the most innovative and successful Follow Through programs in the Nation. These cutbacks are among the greatest for any State in the Union. Many years of hard work went into developing the programs at the Ogden School in Chicago, at the Howland and Lathrop Schools in Chicago, at the Carman School in Waukegan, and at other schools across the Nation. Much remains to be done, but years of work could be tragically destroyed by abrupt program terminations.

We cannot abandon these children who are finally beginning to receive what has for too long been the object of an empty national commitment—a quality education. By providing the funds necessary to keep current Follow Through projects operative, we can insure that children who now benefit from this Federal aid are not made victims of insensitive and unwarranted budget cuts.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1103

(Ordered to be printed and referred to the Committee on Finance.)

ELIMINATION OF THE PART B PROGRAM FROM MEDICARE PROGRAM

Mr. WILLIAMS. Mr. President, the present program of health insurance for the aged, or medicare, as you know, is composed of two parts, parts A and B. Part A is a hospital insurance program which provides practically every person 65 and older with vital protection against the astronomically high costs of hospitalization and other forms of related institutional health care. Hospital insurance is currently financed by means of a special payroll tax, much in the same way as payroll taxes are used to pay for retirement, disability, and survivors' cash benefits under social security. Part B, known as the supplementary medical insurance program, affords the elderly an additional margin of needed protection against the high costs of physicians' and other medical services required by older people. This program is, as you know, voluntary. The aged elect to choose coverage under the program and pay 50 percent of the costs of program benefits and administration.

About 6 years ago, when medicare began, monthly premiums for supplementary medical insurance were only $3. The costs of protection under this program, protection which has remained largely unchanged, is now $5.60 a month.

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On July 1 of this year, monthly premiums will rise to $5.80, nearly double the original costs of the program. The limited and fixed resources of more than 20 million older people will be reduced by a staggering $1.5 billion solely to finance the supplementary insurance program. The time has surely come, I am convinced, to examine our entire approach toward financing medical insurance protection for the country's millions of retired workers and their spouses.

I think it would be a sham for this Congress to act on increases in cash retirement benefits under social security on one hand, while allowing the Government to take back part of these increases in the form of higher monthly premium payments on the other. In my view, the part B premium now imposed on older enrollees should be eliminated altogether. First, it would provide an immediate measure of badly needed financial relief for an aged population that is already smarting severely under the intensifying pressures of inflation. And, second, elimination of premiums would remove any future monetary barriers which would serve to deter an older person from obtaining the protection afforded by the supplementary program.

To accomplish this reform in our social security system, I am introducing the following amendment which will eliminate the premiums for supplementary medical insurance.

The administration agrees that there is an urgent need to do away with part B premiums under medicare. But the President has asked the $1.5 billion represented by these premiums be financed through the hospital insurance payroll taxing mechanism. This means of financing part B benefits is, in my opinion, unnecessary and unjustified. It is wholly unfair to shift the burden of the costs of part B to an already burdensome and much too regressive tax levied on the salaries and wages of workers in this country. One-half of part B costs are now paid for from general revenues, and I see no reason why the entire cost cannot be financed in this matter.

Mr. President, when the social security legislation now in committee reaches the floor of the Senate, I hope a provision of the kind I have just described will be included in it. If not, it is my intention to support amendments that will achieve this objective.

AMENDMENT NO. 1104

(Ordered to be printed and referred to the Committee on Finance.)

Mr. NELSON. Mr. President, I am introducing an amendment to H.R. 1, the social security bill now before the Finance Committee, that would substantially increase the work incentives for welfare recipients.

Last Tuesday, in a message to the Congress, President Nixon had this to say about the present welfare system:

> Its shocking inequities continue to drain incentive from the many poor who work but who see some families making as much or more on welfare.

From the beginning, the desire to provide a greater work incentive has been one of the major motives behind the family assistance plan. In his message to Congress of August 11, 1969, in which he first presented this proposal, President Nixon declared:

> I propose a new approach that will make it more attractive to go to work than to go on welfare . . . For the first time, training and work opportunity with effective incentives would be given millions of families who would otherwise be locked into a welfare system for generations . . .

I support the President's goal. Nothing can contribute as much to the well-being and financial independence of the poor as jobs. Many of today's welfare recipients want to work. Under H.R. 1, coverage is extended to several million families whose heads are either already working, or who could work if employment were available. For all of these people, the welfare system should provide a strong incentive to seek—and hold—jobs.

Unfortunately, H.R. 1 does not meet this test. It does not live up to the Presidential rhetoric.

Here is how the bill would work. For every $1 earned by a welfare recipient—above $720—his welfare check is reduced 67 cents; at the same time, he must pay 5 cents in social security taxes. As a result, he keeps only 28 cents. Moreover, if he earns enough to pay income taxes, every additional dollar earned means 14 cents in income tax. In that event, the recipient ends up with 14 cents per dollar earned.

But that is not all. Most welfare recipients receive benefits from a variety of other programs—medicaid, public housing, et cetera—which also taper off as earnings rise. As a result it is quite possible for recipients to actually lose money from an additional $1 of earnings. As Senator LONG pointed out in his Senate speech of August 6, 1971:

> In many cases after one considers the increase in Social Security taxes paid, the loss of medicaid benefits, and especially if the family is enjoying the benefit of subsidized public housing, the family income would be reduced by more than 100 percent of every dollar that a father or mother proceeded to earn.

But even if this situation does not exist, the arithmetic is not very encouraging. A man who is paid the present legal minimum wage of $1.60 an hour and can keep only one-third of it is in effect working for 53 cents an hour. Not many people are prepared to do that.

Of course, a similar problem exists under current law. But as Alice Rivlin, former Assistant Secretary of Health, Education, and Welfare, and Joseph Pechman, director of economic studies at the Brookings Institution, testified before the Finance Committee in January:

> H.R. 1 gives significantly less incentive to welfare recipients . . . than present law.

The same conclusion has been arrived at in a study by Jodie Allen of the Urban Institute.

What it boils down to is this: The administration is trying to sell its welfare reform bill on the basis of a virtue which it patently does not possess.

It may be argued that although H.R. 1 provides little incentive to work, it will increase employment among welfare recipients because of the work requirement. This amounts to saying that we can accomplish through coercion what we are unwilling to try through economic incentives.

However, as Senator LONG has put it:

> The so-called work requirements are, in fact, a farce.

Work requirements have been in existence for at least 10 years under AFDC, and they have certainly not increased employment substantially among the AFDC population. If a welfare recipient is determined not to work, he can easily get himself fired after being placed on the job. As Roger Freeman of the Hoover Institution at Stanford University and one of the most outspoken opponents to H.R. 1, told the Finance Committee:

> There probably is only one way in which a man (or woman) can be made to find and take a job and keep it: *To make him want it.* No mandatory work requirement can make him do that . . .

A number of provisions contained in the Ribicoff amendment would improve work incentives. In particular, a credit should be provided for social security and income taxes paid by welfare recipients.

However, my amendment would go further. For the great majority of the working poor, it would provide a 50-percent tax rate—for every $1 earned, the welfare check would be reduced by only 50 cents, instead of 67 cents as in H.R. 1.

Specifically, this proposal would continue to disregard the first $720 of earnings. Over the next $1,000 of earnings, welfare benefits would be reduced 67 cents for every $1 of earnings, as in H.R. 1. However, for any additional earnings, benefits would be reduced by only 50 cents on the dollar. Table 1 compares this proposal with H.R. 1 for different earnings levels.

TABLE I.—WELFARE BENEFITS AND TOTAL INCOME UNDER H.R. 1 AND UNDER THE NELSON AMENDMENT FOR A FAMILY OF 4 AT DIFFERENT EARNINGS LEVELS

Earnings	H.R. 1: $720 disregard 67 percent tax rate		Nelson proposal: $720 disregard 67 percent on next $1,000; 50 percent thereafter	
	Welfare benefit	Total income	Welfare benefit	Total income
0	$2,400	$2,400	$2,400	$2,400
$720	2,400	3,120	2,400	3,120
$1,720	1,733	3,453	1,733	3,453
$2,000	1,546	3,546	1,593	3,546
$3,000	873	3,873	1,093	4,093
$4,000	212	4,212	593	4,593
$4,500		4,500	343	4,843
Break-even	4,320	-------	5,186	-------
Coverage	19,400,000	-------	24,400,000	-------
Cost	6,400,000,000	-------	7,400,000,000	-------

Admittedly this amendment would not improve the situation for those with very low earnings. However, these low earners already have a considerable work incentive as a result of the $720 disregard. Thus, a man earning $1,500 under H.R. 1 would have his welfare benefit reduced by only $520—his total income would increase by $9.80 as a result of his job.

The amendment would help those earning over $1,720, where help is most needed. These are the families that are most likely to become self-supporting through increased work effort.

Table II shows the distribution of families eligible for benefits under H.R. 1 by earning levels; 1.6 million, or about 43 percent of the total, have annual earnings under $360. These are primarily families headed by women with young children. Some of them will be able to find work if jobs and day care become available, but it is unrealistic to suppose that any large portion of them will become self-supporting in the near future.

At the other end, there are 1.4 million families with earnings over $1,720. These are largely families headed by a male who is working full time or part time, but whose earnings are not sufficient to remove the family from poverty. These are the families that are most likely to move out of poverty over time. These are the families that should be given the greatest inducement to increase their work effort and their wages. Yet under H.R. 1 these are the families that are faced with the highest work disincentive.

TABLE II.—DISTRIBUTION OF ELIGIBLE FAMILIES BY EARNINGS UNDER H.R. 1

Earnings:	*Eligible families*
Under $360	1,578,000
$361–$720	246,600
$721–$1,720	513,900
Above $1,720	1,375,700
Total	3,714,200

Source: Department of Health, Education and Welfare.

This amendment will add an estimated $1 billion to the cost of H.R. 1. This is no trifling sum. But consider the advantages:

To the extent that it encourages greater work effort, this approach will reduce the welfare caseload and welfare expenditures over time. As Governor Sargent of Massachusetts told the Finance Committee:

> High benefit reduction rates will surely encourage people to reduce their hours of work, and thereby increase their federal income payments. In this way, such high rates will encourage rather than discourage welfare dependency, and will be more expensive in the long run.

It will reduce the incentive for family breakup. Under H.R. 1, the incentive for an employed father to desert his family is less than under present law, but it is still considerable. If he deserts, the father can keep almost all his earnings while his family receives its welfare benefit. But if he remains with his family, the welfare benefit is reduced by two-thirds of his earnings above $720. By cutting the rate at which welfare benefits are reduced by earnings, this amendment decreases the employed father's incentive to desert.

The $1 billion would go to the "working poor." True, about 1 million additional families would receive welfare benefits. But these are not the people who have been pictured traditionally as "lazy" and "shiftless." Rather, these are hard-working families whose poverty results from the low wages of the breadwinner. As a matter of simple equity, these families should be allowed a higher income than families that do not work.

This proposal will tend to diminish cheating among recipients. The income maintenance studies sponsored by the Office of Economic Opportunity have shown that high tax rates tend to drive earnings underground—recipients do not report them.

In the Tax Reform Act of 1969, the Congress approved a maximum tax rate of 50 percent on earned income so as to diminish the incentive for wealthy taxpayers to seek out tax loopholes. Similar logic applies here.

Numerous witnesses before the Senate Finance Committee attacked the lack of work incentives in H.R. 1. Many—like Lucy Benson of the League of Women Voters—supported a 50-percent benefit reduction—or tax—rate. The case was put most succinctly by Alice Rivlin, former Assistant Secretary of HEW, and Joseph Pechman of the Brookings Institution:

> This is what we want to emphasize in this testimony—the bill does not make it worthwhile for people receiving welfare payments to hold jobs. The rate at which their earnings are "taxed" is too high. We believe that families receiving payments should be able to keep at least half of their earnings . . . If this Committee were to limit itself to one change in H.R. 1 . . . we believe the most important improvement that could be made would be to lower the marginal tax rate at least to 50 percent.

Mr. President, H.R. 1 has been presented to us as a program to solve the welfare problem by encouraging work and financial independence among the poor. Yet most of those who have studied the legislation are agreed that it provides little or no work incentive. Indeed, many experts argue that in this respect it is worse than present law.

My amendment may not represent the final solution to this problem. It may not go far enough. But it will help. It will lend some substance to the President's claims. The cost is high—$1 billion—but this is a small price to pay for a program that works. It would be tragic indeed if a few years from now the welfare crisis is back before us—unresolved, and out of control again—because we were not bold enough to pass a real reform in 1972.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 410

At the request of Mr. HART, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Amendment No. 410, intended to be proposed to the bill (S. 1478), a bill to amend the Federal Hazardous Substances Act.

AMENDMENT NO. 955

At the request of Mr. STEVENSON, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of Amendment No. 955, intended to be offered to the bill (H.R. 1), the Social Security Amendments of 1972.

NOTICE OF HEARINGS BY SUBCOMMITTEE ON PRODUCTION AND STABILIZATION

Mr. CRANSTON. Mr. President, I wish to announce that the Subcommittee on Production and Stabilization of the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 669, a bill to amend and extend the Defense Production Act of 1950, as amended and S. 1901, a bill to amend the Defense Production Act, as amended. These hearings will be held on April 12 and 13, 1972, beginning at 10 a.m. in Room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with these bills are requested to contact Mr. Reginald Barnes, Assistant Counsel, Senate Committee on Banking, Housing and Urban Affairs, Room 5300, New Senate Office Building, Washington, D.C., 20510, telephone 225-7391.

ANNOUNCEMENT OF HEARINGS ON S. 1430 TO ESTABLISH A DEPARTMENT OF COMMUNITY DEVELOPMENT

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Florida (Mr. CHILES), I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Committee on Government Operations for 10 a.m. on April 11 and 12, 1972, in room 3302, New Senate Office Building, on S. 1430—to establish a Department of Community Development. Those tentatively scheduled to testify are: April 11, 1972—Earl L. Butz, Secretary, Department of Agriculture, and James T. Lynn, Under Secretary, Department of Commerce; April 12, 1972—James M. Beggs, Under Secretary, Department of Transportation, Phillip V. Sanchez, Director, Office of Economic Opportunity, and Frank C. Carlucci, Associate Director, Office of Management and Budget.

NOTICE OF HEARING ON FORESTRY INCENTIVES ACT OF 1972

Mr. TALMADGE. Mr. President, on behalf of the Senator from Mississippi (Mr. EASTLAND) I hereby announce the Subcommittee on Environment, Soil Conservation, and Forestry of the Committee on Agriculture and Forestry will hold a hearing Monday, April 17, on S. 3105, the Forestry Incentives Act of 1972. The hearing will be in room 324, Old Senate Office Building, beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

NOTICE OF REPORTS REQUIRED BY SENATE RULES OF CONDUCT

Mr. STENNIS. Mr. President, early in this session, each Senator received a letter from me in my capacity as chairman of the Select Committee on Standards and Conduct reminding him of his responsibilities to file disclosure reports as required by the Senate Rules of Conduct. The letter included revised printed instructions and suggested forms for use in making these reports. A set of the instructions and the sample report forms also were sent to each administrative assistant and staff director with the thought that they would coordinate re-

quests for instructions and forms for other members of their staffs.

Rule 44 requires that each Senator, candidate for Senator, and employee who is paid by the Senate at a rate in excess of $15,000 a year must file a confidential personal disclosure with the Comptroller General and a public disclosure with the Secretary of the Senate. These filings must be made before May 15. Rule 41, which governs outside employment or professional practice by employees, requires that a report of such activity be made on May 15 and at certain other times.

It is my purpose, Mr. President, in making this announcement today to respond to those Senators who have asked me to remind them again of these reporting requirements.

The staff of the Select Committee on Standards and Conduct is available to assist Senators and employees in making these reports, and will make instructions and copies of suggested report forms available upon request.

TRIBUTE TO FORMER SENATOR LISTER HILL, OF ALABAMA

Mr. ALLEN. Mr. President, on Sunday, April 2, 1972, in its In Dixieland magazine section, the Birmingham News published an interesting article about Senator Lister Hill, whose decision to retire from the U.S. Senate led to my own presence today in this body.

During an illustrious 45-year career as a Member of Congress, 31 of which were in the Senate, Senator Hill set an outstanding record of legislative achievement. While he is more widely recognized for his legislation dealing with health, other programs he conceived, sponsored or helped guide to passage in Congress encompass a broad spectrum of governmental responsibilities.

Many Members of the Senate enjoyed a close association with Senator Hill.

I ask unanimous consent that the article from the Birmingham News ably written by its talented staff writer, Miss Anita Smith, be printed in the RECORD, so that all will know that Senator Hill is well and active in retirement at his home in Montgomery, Ala. He is greatly missed in the U.S. Senate by Senators on both sides of the aisle.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S HEALTH STATESMAN—AFTER 46 YEARS OF FIGHTING FOR BETTER HEALTH LEGISLATION, LISTER HILL IS ENJOYING RETIREMENT

(By Anita Smith)

The year was 1951. The scene was one of those political-talk sessions up on Washington's Capitol Hill. A well-known leader in the national health field walked up to President Harry Truman and complained politely but profusely that the Federal Bureau of the Budget wasn't releasing enough funds for health projects in the country.

Well-known for his outspoken talk, President Truman wasted no time in telling the complainer where he could find an ally for his health projects.

"Now look . . . there is a fellow up on the Hill whose name is Hill," said the President. "I served many years with him in the Senate. He doesn't pay any attention to Presidential budgets. He just busts them.

"No one can conduct a more successful raid on the Federal Treasury than Lister Hill."

Many others have agreed with President Truman. They have witnessed Lister Hill's well-known ability to conduct budget raids for the purposes of health causes in the nation. The man who came to be known as "America's health statesman" began his fight for health legislation as a member of the House of Representatives in the early 1920s. He continued his battles for health legislation when he moved over to the Senate in the 1930s. And during his 14 years as chairman of the two Senate committees having total jurisdiction over health appropriations, he guided to passage more than 80 major pieces of health legislation. Through his persistence and power, federal support for medical research alone rose from $125 million a year to some $2 billion a year under his chairmanship.

Today, the eloquent Lister Hill is far from the spotlight of the speaker's podium of the U.S. Senate, where he spent many an hour praising the legislation he sought and filibustering that which he abhored. He's far from the distinguished Washington offices where he drafted many a piece of legislation. And he's far from those endless piles of mail that poured in from people around the nation who wanted Lister Hill's help in getting a hospital for their small town, a research project to fight cancer, or a new center for mentally retarded children.

Instead, he's living a much quieter life with his wife Henrietta in a comfortable three-bedroom house in Montgomery, the town of his birth. He has just ended his third year of retirement from a 46-year career in Congress.

Lister Hill is 77 years old now, but still alert and active and still talking about health matters. He rattles off the names of the various health projects he endorsed as if the bills were passed yesterday.

When he hears that funds have been reduced or cut off for one of those projects, he shakes his head and says, "I'm not up there to fight for the money now. But if I were there, I'd fight 'em. We need money for health. There are just so many people suffering and dying."

With the pressures of public life no longer around to make endless demands on his time, Lister Hill has more hours to fill now with pastimes totally of his own choosing.

One of those pastimes is the joy of his life, reading. It's nothing unusual to see Sen. Hill seated in his green fabric upholstered chair in front of a window in his book-lined den, reading until 11 o'clock at night.

"He'll take hours to read a newspaper," said his wife Henrietta. "It seems to me that he reads every word . . . We've got so many newspapers and magazines that it has gotten to the point there's no place to put anything in the den."

No matter how late the senator stays up reading at night, he'll likely as not be up bright and early the next morning . . . to read his newspaper. "I've got to get up and see what's going on in the world," he smiles.

The retired senator spends hours, too, poring over the documents and letters that tell many of the tales of his 46 years in Congress.

His bedroom is covered with envelope after envelope of papers which record those pieces of legislation he championed—not just health legislation, but legislation for conservation, crop loans and insurance, TVA, waterway development, aid for military veterans and their dependents . . . And many, many others.

As he sits at his desk poring over these documents, the senator doesn't say that he's trying to write his memoirs. He just says, "I'm trying to get things together."

But much of what went on during those 46 years can't be found in any document. The cloak room talk, the late night caucuses, the behind-the-scenes maneuvering—those are things that are catalogued only in Lister Hill's memory.

"One of the biggest regrets of my life is that I didn't keep a diary," said the senator.

For more active pastimes these days, the retired senator walks for short distances. For many years, he took long walks. "I remember when we were in Washington, he used to walk as far as five miles," said Mrs. Hill. She said she'd go along and walk with him sometimes "but I'd get so tired I'd just sit down on somebody's curb and wait for him to come back by."

Now the senator has to take it a little easier when he walks, since he broke his hip in Oct. 1970 when he slipped in a darkened hotel room in New York one night.

From time to time, one can still see Sen. Hill at the airport, hopping a plane to attend a meeting in some other state.

And one can still see him in an office from time to time. He maintains an office in Montgomery's Post Office Building and spends a few hours there each week dictating answers to correspondence to his secretary. This office has a luxury of privacy and solitude he couldn't afford when he was in public office—no telephone.

Much of his time at the office is spent answering the requests for help he still gets in the mail. "You'd be surprised how many people still don't know I've retired and still write me or call me wanting me to do this or that," said Sen. Hill. "I write my colleagues in Congress from time to time to make a few suggestions."

When Sen. Hill was still in Congress and could convert his own suggestions into his own legislation, his four big health "pets" were preventive medicine, the building of hospitals and other health facilities, the training of health workers and medical research.

In the field of preventive medicine, Sen. Hill began the battle as early as the 1920s. As a member of the House of Representatives, he led the push for the Gorgas Memorial Institute of Tropical and Preventive Medicine, designed to conduct and encourage research in preventing and treating tropical diseases.

In the field of health facilities construction, Lister Hill etched his name permanently in the mind of America in 1946 by pushing through his most famous piece of legislation—the Hill-Burton Hospital and Health Center Construction Act. At the time the Hill-Burton bill was proposed, the nation was faced with a critical scarcity of hospital beds and other health facilities. Particularly in rural America, many people had to drive long distances to find a hospital bed in times of injury and illness when every second and every mile counted.

By the time the senator retired in 1969, the Hill-Burton program had provided federal matching funds for close to 400,000 desperately needed beds in some 10,000 hospitals, tuberculosis sanatoria, nursing homes, crippled children's clinics, rehabilitation centers and other facilities.

U.S. Sen. Mike Monroney of Oklahoma once said, "The Hill-Burton Hospital Act has done more to bring about the services of modern day medicine to more people than anything else Congress has ever done."

As for the training of health workers, Sen. Hill still expounds his feelings on this subject whenever health care is mentioned. In this interview, he said, "We've just got to have more doctors, more dentists, more nurses and other health personnel in this country." As evidence of his concern when he was in Congress, he pushed through such landmark health training programs as the Omnibus Health Act of 1956, the Health Professions Educational Assistance Act of 1963 and the Nurse Training Act of 1964.

And in medical research, it was Sen. Hill who after World War II sponsored the original bill to establish the now world-famous National Institute of Health (NIH) as the research arm of the U.S. Public Health Service. In 1955, when he assumed the chairmanship of the Senate's powerful appropriations subcommittee charged with health expenditures, the budget of NIH was only $81 million. But for years, Sen. Hill worked in close cooperation with his colleague in the House, the late John Fogarty, to change that. By the time he left Congress, the NIH appropriations had risen to well over $1 billion a year—making NIH the largest medical research enterprise in the world.

Add to all these measures numerous other Hill-sponsored health programs such as his measures to construct a nationwide network of community health centers, to establish facilities to aid the mentally retarded, to rehabilitate the disabled and the handicapped . . .

Although the bills passed, Lister Hill was not without political opposition. There were some who voiced their opinions loudly and clearly that the federal government should not get so financially committed to taking care of the nation's health.

But until this day, the senator passes off the opposition with a wave of his hand. "I went to Congress so long ago . . . at a time when the federal government had not yet become involved very much in health matters," he said. "But it was necessary for Congress to get involved. It just wasn't being done until we did it."

As the senator's successes in health legislation began to pile up, the torrents of praise poured in. One of Sen. Hill's colleagues said that no doctor in the entire history of medicine had matched the contribution of the senior senator from Alabama to the increasingly successful battle against disease and premature death.

Former President John F. Kennedy once called Sen. Hill "the outstanding congressional leader in the field of medical legislation in the nation today."

Former President Lyndon B. Johnson said, "There are millions of our people who are better off today, and millions who will be better off in the future, because of the fine work that you have done on health and welfare legislation."

And noted newsman and author William S. White wrote in Harper's Magazine in 1959, "Countless millions owe their lives to Lister Hill. He has done more for the public health than any American in history."

If one wonders what prompted Lister Hill to choose the nation's health as the subject for his legislative crusade, he has only to look at the senator's background for an answer. Sen. Hill's father was a well-known surgeon, Dr. L. L. Hill. The senator also is the cousin to five doctors and the brother-in-law to two others. He even is named for one of the world's all-time great men of medicine, famed British surgeon Lord Joseph Lister.

When Lord Joseph Lister was informed that the newborn son of Dr. L. L. Hill had been named for him, he wrote a letter wishing "a life of health, goodness and usefulness to my namesake."

Lister Hill feels that he indeed is enjoying that good, healthy life that Joseph Lister wished for him. During this interview, he walked down the long hallway and through the den of his home, reminiscing about the memories recalled to him by pictures, plaques and books along the walls.

One picture showed a beautiful Southern mansion in Columbus, Ga.—the home of some of Mrs. Hill's ancestors. It was in the house on Feb. 20, 1928, that Lister and Henrietta Hill were married.

The house is gone now. "And you know what's in its place? . . . A filling station," said the senator. Then, waving his hand, he laughed and said, "Now isn't that a hell of a note? A filling station."

Another picture reminded the senator of President Harry S. Truman. He chuckled in admiration, "Yes, I called President Truman 'Intestinal Fortitude'," said Sen. Hill. "He had guts, all right."

There were plaques and awards, too. By the time he retired, the senator had received honorary degrees from 14 colleges and universities, and well over 100 citations and plaques for his legislative victories, mostly awarded by health organiations.

A picture of the senator's father occupied a special place of honor. The senator beamed with pride. "He was the first American surgeon to successfully suture the human heart . . ." Sen. Hill talked of the small hospital that the late Dr. Hill founded in Montgomery, the same hospital where Dr. Hill delivered the first-born child of Sen. Hill. "The hospital is gone now . . . I think there's an office building in its place," said Sen. Hill.

Then, last but not least, the senator pointed to pictures of the five lights of his life—his grandchildren, the sons and daughters of his own son and daughter.

He finished his tour, settled into a chair in his den, rubbed his hands together thoughtfully, and said, "I thank the good Lord every night for the good life he's given me."

NORTH VIETNAM INVASION OF SOUTH VIETNAM

Mr. THURMOND. Mr. President, the current invasion of South Vietnam reaffirms my long-held belief that world communism, and the Soviet Union in particular, has not altered its goal to extend its philosophy by spilling the blood of friendly and nonaggressive people.

South Vietnam has never invaded North Vietnam, and military actions of its forces in the past decade have been defensive in nature. Today, the North Vietnamese Communists have ripped off the mask as insurgents and openly moved as aggressors across a broad front to acquire the land of their neighbor and brothers to the south.

It is also clear that this use of raw military power to seize the lands of another nation could not have been undertaken without massive military support from the Soviet Union. As they are now doing in Egypt, the Soviets continue to use third party countries to expand their control of the world's land and seas.

Too few American leaders have deplored this invasion of South Vietnam—a country whose people nor government covet the territory from which these attacks are being launched. It is inconceivable to me that some in high public office who have constantly criticized U.S. bombing north of the Vietnamese border fail to find fault with this Communist invasion of South Vietnam.

The reality of this situation tells us bluntly that our justifiable efforts at Vietnamization now face the acid test. Military men know that any well-planned and well-supported invasion will initially gain ground. However, the panic reports of the press in Vietnam may not tell the whole story. The South Vietnamese should not be written off until the smokes clears and the battle decisions have been more fully resolved. That period may involve many weeks.

In the meantime, it is my view that U.S. ground forces should not be committed but rather held in place to protect remaining American personnel in South Vietnam. However, in keeping with the Nixon doctrine, U.S. air and sea power should be applied in support of the South Vietnamese as they struggle to protect their homes and families from death and destruction.

As the events unfold in South Vietnam during the next few weeks and months, I trust these lessons will impress upon the American people that world communism threatens us so long as it threatens any peace-loving nation. To meet this challenge, we must realize that there cannot be peace without power. To that end I would hope there will be more support in Congress and among our people for a Military Establishment of sufficient size and quality to insure peace for our people and the hope of peace for other nations.

MISS SYLVIA PORTER: AMERICA'S FAVORITE ECONOMIC ADVISER

Mr. PERCY. Mr. President, I invite the attention of Senators to an article, published in the Wall Street Journal of March 25, describing the approach, working style, and personal background of Miss Sylvia F. Porter, one of the most widely read and best known columnists in the world.

As the Journal points out, Miss Porter got into the business of economics as a student at Hunter College in New York because of the effects of the depression on her own family—she wanted to find out exactly what was happening, and why. She has been telling Americans what, and why, for decades since she began writing for the New York Post in 1935. More important, Miss Porter gives us sound advice about what personal actions to take to protect or advance our own interests in response to economic events. This pragmatic, personalized approach is the reason why Miss Porter has been able to convert the often dull events of economics into interesting columns read by millions daily.

From my own personal experience I can attest that Miss Porter is entirely competent to fill the important advisory role in which she serves so many of us. She is exceptionally well informed, has a clear eye for fact as opposed to interpretation, and an unusual ability to convey her meaning in technical terms. At the same time, she is at home with even the most sophisticated economic concepts and analytic materials.

It is with great pleasure that I recommend this excellent article about this most distinguished jouralist, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISS PORTER'S SCHOOL: A COLUMNIST'S ADVICE WIELDS WIDE INFLUENCE COAST TO COAST

(By William R. Galeota)

As columnist Sylvia Porter might present the situation in her chatty second-person style:

You're a general-circulation syndicated writer who's been reporting for many years about an industry and often depending on the industry's executives for source material to help fill five columns a week.

One day you learn the industry is beset by problems that could shake its very foundations and send reverbations through the whole economy.

Thus your dilemma: Do you rush into print out of obligation to the public (your readers, after all)? Or, do you remain silent and hope the problem will be solved by the industry (your sources, after all)?

In fact, Sylvia Porter indicates she faced just such considerations a few years back as the paper-work plague began spreading through Wall Street. Last year, after the plague had felled a few brokerage firms and left a trail of red ink through many others, Miss Porter told her estimated 31 million readers she had had early information about the problems but didn't write about them for fear she might start panic.

The confession raised a lot of eyebrows. "If she really uncovered such a can of worms," says the business editor at an East Coast daily newspaper, "didn't she have an obligation to the public to launch an immediate fishing expedition?"

PRESERVING THE STRUCTURE

For her part, Miss Porter concedes that most newspaper reporters wouldn't agree with her motivation, but she asks rhetorically, "If you're going to be an analyst and a columnist on economic life, don't you think you have a responsibility not to bring the whole structure down?"

Whether Miss Porter wields enough power to wreck or save the economy remains in doubt, but her columns in 350 papers from the New York Post to the New Bern, N.C., Sun Journal have been known to send some ripples through segments of the economy. They have also made her one of the most famous working newspaperwomen in the country, and probably the richest.

A Treasury spokesman says her attacks on the low yields of savings bonds in 1969 and 1970 helped precipitate a flood of bond cashins. (Lately, with the decline of other interest rates, she's more favorably disposed toward savings bonds.) Consumer advocates also credit her columns with inducing reforms on such things as unit pricing of food items.

Former President Johnson, cognizant of her clout, once sought to forestall her criticism of a bulging federal budget by inviting her to the LBJ Ranch for an advance peek at the figures—without avail, as it turned out, because Miss Porter promptly blasted the budget as inflationary.

TRANSLATING ECONOMICS

The handsome, 58-year-old Miss Porter came by this impressive influence through diligent application to her grueling daily-column job for the past 20 years. Those readers who like her—and their numbers are legion—say she succeeds admirably in what she sets out to do: translate what she calls economic "baffle-gab" into English to educate and guide the consumer.

When she begins to discuss an esoteric subject like dollar devaluation, she literally starts at the beginning—by giving a dictionary definition of devaluation.

This basic approach has led some professional economists to sneer at her work as "economics by the eyedropper." But a member of an economics faculty, for example, applauds her ability to get the basics across without distortion. "She's not one of these medicine men of economics; you talk to her on a professional basis, and you agree or disagree on a professional basis." He calls her work "competent throughout" and compares it to a well-written bank newsletter.

But other professionals fault her for sounding too much like a banker, businessman or Wall Street analyst. They cite instances such as her failure to report the brokerage industry's back-office problems promptly and other cases where her columns are devoted to one executive's point of view, without advising her readers that contrary opinions exist.

Still, her basic success at the job of educating and guiding the consumer is evidenced by the praise she gets from some consumer groups. Says an official of Consumers Union, "Her economic philosophy is a very sound one, namely that an informed consumer is an asset in the marketplace. And she's tough when she has to be tough."

Another indicator of her success is the growing number of journalists who have joined the ranks of consumer economists in recent years. "The times have caught up with me," she says. "But there's plenty of room for all of us."

INSPIRATION FROM DEPRESSION

Her introduction to economics came in the school of hard knocks. Long Island born Sylvia Feldman was 12 years old when her physician father died. Four years later, when she was a freshman at New York's Hunter College, the stock-market crash of 1929 wiped out most remaining assets of her mother, who was speculating on 10% margin. Like many another family at the time, the Feldmans were forced to adjust to a new life-style known as stretching the dollar.

"The Depression left a giant blotch on a whole generation," she notes. "So I said, 'I'm going to find out why this is happening.'" She dropped plans to become a poet, switched her major to economics and began finding out why.

After graduating (magna cum laude and Phi Beta Kappa) from Hunter, she worked for a bond dealer, freelanced for financial publications and then, at the age of 22, tried to break into general journalism full time.

But in 1935 editors at most New York dailies and the Associated Press weren't ready for a female financial writer. The New York Post finally agreed to hire her only on two conditions: She would be paid on a space-rate basis, and she would write under the name of S. F. Porter to disguise her gender. (In her junior year in college she married Reed Porter, a banker, from whom she was divorced in 1941.)

In her early days on the job, Miss Porter sometimes found bankers would avoid talking to a woman reporter, so after press conferences she relied on second-hand information passed along by friendly male reporters.

WINNING HER WOMANHOOD

But then she swamped the Post with so much copy, she says, that the paper decided it would be cheaper to give her a regular salary. And in 1942 the Post finally conceded her femininity by switching her byline to Sylvia F. Porter. She began writing a regular column for the Post in 1942, and it became syndicated in 1947.

While her early work concentrated on heavier economic analyses, she gradually introduced articles giving readers detailed advice on such things as managing their money. "It wasn't a conscious decision," she says, "I just gradually arrived at a formula which says, 'Here is what is going on and here is what you can do to protect yourself.'"

The new format eventually boosted her column's readership far beyond what it would have been otherwise, she figures. "If I can get the readers on Monday by telling them how to save 20% on clothes, the chances are they'll still be with me on Wednesday when I tackle the dollar," she suggests.

So now, in a typical week recently, her readers learned that:

A major bank feels the best way for an individual to succeed in Wall Street is to avoid looking for "dream" growth stocks, and stick to basic industries.

President Nixon and Congressional leaders are proposing plans that would allow Americans currently not covered by pension plans to set up their own tax-deductible plans.

Now's the time to borrow money if you have to, as interest rates will climb when economic recovery boosts corporate demand for funds.

A new market in diamond futures is a "wild gamble" because the low margin involved means that a trader can double his money or lose it overnight.

PERSONALLY VIVID

She often employs vivid, descriptive images ("Deflation to cure inflation is like running over a man with a car and then, to apologize, backing up and running over him again") and personal-experience anecdotes (telling how her TV repairman advised her against paying for a repair warranty on her antiquated color-television set).

At work, Sylvia Porter is a blum of energy, and she is at work almost from the moment she arises, generally around 8 a.m., in her seven-room apartment on lower Fifth Avenue. She bids goodbye to her second husband, G. Sumner Collins, as he leaves for his job as promotion director for Hearst News papers. Then, after doing her daily exercises, she sits down to a weightwatching breakfast. (Her exercises and diet keep her quite trim.) At the breakfast table, she also begins devouring The New York Times, The Wall Street Journal and The American Banker, and then moves on to reading background material for her column of the day.

Her office, in a cramped corner of the 42nd Street suite of Publishers Hall Syndicate, serves mainly as a stopover between interviews. "My office is really in my head," she remarks as he pauses for a moment to take care of mail sorted out by her secretary. The mail, mostly publicity releases, all goes quickly into the waste basket. She keeps no background files, relying instead on quick phone calls to gather necessary statistics.

Her husband co-authors her weekly bond letter along with a Washington Star reporter. But for her column, her only staff is her secretary and a researcher, Lydia Radcliff, who lives hundreds of miles away in Vermont.

"I don't have to be surrounded with people," Miss Porter says. "If I need to see her, she can come down here." Miss Radcliff concurs, "We'ed only get in each other's hair if we were in the same office. She's a tremendously intense person. She thinks about three times as fast as she can talk. She's always firing memors to me saying, 'Do this now!' underlined three times."

Miss Porter's driving energy shows through at an interview, this one with George Johnston and James McCullough, executives of Scudder Stevens & Clark, the investment counseling firm, in the firm's Park Avenue offices.

CHARM BRACELETS AND LAMB CHOPS

At the lunch table, she flips off a dangling charm bracelet so she can jot down data with one hand while balancing a forkful of lamb chops with the other. She totes up the advisers' calculations of the supply and demand for stocks, and pauses to offer an observation on the changing supply of labor in New York—a plumber miraculously answered her call for help on a Sunday.

Then she gets to the question concerning her: "Well, what do you do with your widow and orphan? You've got to get her out of AT&T." The executives' answer provides her column's lead, which she writes and polishes in longhand before sitting down at a typewriter to produce the finished column.

This particular column advises her readers: "Do not buy stocks during this era unless you are confident that your return from each stock will be at least 6% a year. . . . Do not in fact settle for a return per year of less than 9%" including dividends and capital gains.

The reason, she tells her readers, is that the investment firm thinks bonds and fixed-income securities will "provide increasing competition for a stock market likely to be held down by a continuing (big) supply of stock during the 1970s."

That viewpoint may not be revolutionary among Wall Street veterans, but Miss Porter figures it should help her readers. "I don't know how many of those readers are aware of the 9% thing. I do think the level of ignorance out there is pretty great. For that matter, I myself don't know how many of the stocks we own are over 9%."

One reason she doesn't know is that, in investing some of the $100,000 she earns annually, she and her husband use the suggestion she often gives her readers—if you don't have enough time to manage your money, get a professional.

Even so, she sometimes advises her investment adviser with ideas of her own. In the spring of 1970, for example, she told her readers that bond yields probably were peaking, and she bought some 9.35% bonds of New Jersey Telephone Co. Despite her subsequent fat capital gain on the issue, the highest coupon yield ever for a Bell System bond, she continues to hold onto the securities with a collector's passion.

One of her most astute predictions, however, never saw the light of print in her column and enriched her by only $1.86. Last June, at lunch with Yale economist Harry Wallich, Miss Porter argued that President Nixon would have to resort to wage and price controls to get out of his economic difficulties, but wouldn't dare do so until the steel talks were concluded. So she bet Mr. Wallich 600 German pfennigs to one that the President would announce controls during the week after steel talks—the week of the President's Aug. 15 announcement of controls, as it turned out.

"It was utterly implausible," says Mr. Wallich. But he paid off in bills, to the disappointment of Miss Porter, who wanted those 600 pfennig coins.

An interviewer who believes in doing her homework (she read a Scudder Stevens report and compared it with one a year earlier before interviewing the firm's executives), she has little time—and little inclination—to relax. She and her husband have a country place in New York's Westchester County, but she quickly gets restless there and frustrated by her golf game.

A favorite pastime is reading Sherlock Holmes books. She once stumped a group of Holmes aficionados at a party by showing up disguised as a Holmes character, Irene Adler.

Fascination with whodunits isn't so illogical for an interpreter of economic jargon. But if Sir Arthur Conan Doyle has Miss Porter's knack for simplification, his books might have become known as here's-how-he-dunits.

BIRMINGHAM, ALA., ALL AMERICA CITY

Mr. ALLEN. Mr. President, 10 years ago liberal publications throughout the North were using the State of Alabama and its largest city, Birmingham, as targets for their journalistic diatribes. Despite the unfair attacks and the abusive indignities heaped upon us, we Alabamians continue our efforts to overcome the problems that face us. Last year the city of Birmingham was presented an "All-America City" award by the National Municipal League and Look magazine, recognizing the great forward strides being made in my home State. On Tuesday, March 28, 1972, the New York Times published an article entitled "Birmingham Steers Into Mainstream U.S.A.," written by Roy Reed. This story describes the great across-the-board progress made in this fine Alabama commercial, cultural, and industrial center—the youngest of the world's great cities.

I invite Senators to visit Birmingham and all Alabama and see for themselves evidence on every hand of the progress that is taking place there. Citizens of Birmingham greet visitors with, "It's nice to have you in Birmingham." They mean it and they show that they do.

Mr. President, because it does project a picture of continuing progress and growth in Birmingham and the rest of Alabama, I ask unanimous consent that the Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROUD BIRMINGHAM STEERS INTO MAINSTREAM, U.S.A.

(By Roy Reed)

BIRMINGHAM, ALA.—As it begins its second century, Birmingham has finally become sufficiently Americanized that Northerners who move here feel right at home. Some like it so well they refuse to leave.

"I've been here two and a half years and I wouldn't trade it for New York," John Woods, president of the First National Bank, said recently. He was an executive on the Chemical Bank of New York before moving here.

"We love it here," said Jane Lysinger, who moved here six years ago from Boston. Her husband, William R., recently turned down a transfer to his insurance company's home office at Hartford.

"About 50 per cent of the people we know here are from other places and they all feel the same way," she said.

SOME REMAIN UNSATISFIED

Some might find it hard to believe Mr. Woods and Mrs. Lysinger were speaking of "Bombingham," the police dog capital of the nation, the place that the Rev. Dr. Martin Luther King Jr. once called "the most segregated city in America," the city that 10 years ago was so ill-regarded that its businessmen and civic leaders were frequently snubbed when they went to other cities.

But it is true—Birmingham has changed. Just how much is not easy to measure; and some say that whatever the change, it is not enough, that some of the old rigidities of race, power and thought are still intact.

There are those here, too, who believe that this maligned city was never as different from the rest of the country as the country once thought. A nation that has accommodated the assassinations in Dallas, Memphis and Los Angeles and the mass killings in Detroit, Watts, Mylai and Attica, they say, has lost its right to feel superior to Birmingham.

"Except for the four girls being killed, Birmingham's trouble in 1962 was minor," Mayor George G. Seibels Jr. said the other day. "But that's history. What we're worried about now is where we're going."

Where Birmingham and its suburbs (population 731,668) seem to be going is straight into mainstream America.

Blacks are participating in city politics and most of the city's white political leaders are now considered racially progressive.

The downtown skyline is rising and sparkling. Beauty and quality are becoming more important.

A new spirit can be felt, partly because of newcomers who are slowly beginning to dilute the steel industry's power here. Other industries are moving in.

A MAJOR MEDICAL CENTER

The city is rapidly becoming a major medical center and, if the present trend continues, it could also become one of the South's leading centers of higher education.

Birmingham even has an expressway, at last. The first leg of $422 million worth of interstate highways for the metropolitan area was opened in 1970, years after other cities of similar size were crisscrossed with expressways.

As if to certify that Birmingham was finally catching up with the country, the National Municipal League and Look Magazine, just before the magazine went out of business, presented the city with an "All America City" award last year.

The most obvious change here during the last 10 years has been in racial matters.

The second black man was elected to the City Council last fall. Dr. Richard Arrington, a biochemist, won in a city-wide race although nearly 60 per cent of the city is white. He estimates that 8,000 of his 29,000 votes came from whites.

Elected with him were two white liberals, David Vann, a lawyer who was once a law clerk for the late Justice Hugo Black of the Supreme Court, and Angie Grooms Proctor, the daughter of a Federal judge who has written a number of anti-segregation school decisions. With a white moderate and a Negro already on the council, the city's governing body now has a 5-to-4 moderate-liberal majority.

One of the new council's first acts was to appoint the city's first black judge, Peter A. Hall, a long time civil rights lawyer. There was virtually no adverse public reaction.

Mayor Seibels, a Republican, was re-elected last fall with black support. He has tried, with more enthusiasm than success, to hire additional black policemen. Police Chief Jamie More, said to be an obstacle to the hiring of more blacks, resigned a few days ago.

After a series of black complaints against the police two years ago, the city's white leaders agreed to serious talks on a broad range of black grievances. Twenty-seven black and white leaders joined in a no-holds-barred discussion group called the community affairs committee. It still meets for breakfast every Monday.

One of the main changes the committee gets credit for is quietly doing away with the old separate lines of progression for black and white workers in the steel mills.

As in other southern cities, the young seem less concerned than their elders with racial differences. The students of the University of Alabama in Birmingham, which is 10 per cent black, recently elected a black student president.

Physically, Birmingham has never been beautiful except in pockets of rich, exclusive residential areas. It was gouged out of the mountains as a mining, smelter and railroad town and the scars have never quite healed.

The most distinguishing thing about the city in the past was the smoke from steel mills. It hung over the valley and darkened the uninspired squares of houses and low brick commercial buildings. The downtown area was laid out on a perfect grid, emphasizing its plainness.

No one seemed interested in building new buildings. During the late nineteen-fifties and early nineteen-sixties, the city went through an economic depression as the steel mills began to automate and lay off workers.

Now the look and smell of the place are changing. Twenty-three industrial plants were closed during a period of especially bad air pollution last fall. The big steel companies have since announced ambitious and expensive pollution abatement programs.

A building boom is under way. A convention hall that is the first part of a $35-million civic center has been finished, and two 30-story office buildings are being opened this

XUM

winter. They are the tallest buildings in town, rising almost as high as the big statue of Vulcan, the god of fire and metal-working, which looks down on the city from the top of Red Mountain.

It is reported that 180 companies looked at Birmingham last year and 25 decided to move or build branches here. Building permits show that the value of construction in the city increased from $52-million in 1968 to $110-million in 1971.

Plans for several million dollars worth of new hotels have been announced in recent months. The city's most famous old hotel, the Tutwiler, which once refused a room to the late Ralph Bunche, is bankrupt.

Perhaps the depth of the new pride here can be gauged more accurately in smaller projects designed mainly to make the city more livable.

For example, the city will spend $40,000 this spring to spruce up Kelly Ingram Park, the scene of most of the racial violence in the city in 1963.

The arts are increasingly well supported, too. The well-to-do now compete for $135 tickets to the annual Galaxy Ball to help maintain the Birmingham Symphony. And one day recently, the city art museum was showing paintings by Thomas Eakins, Andrew Wyeth and Winslow Homer.

One of the most far-reaching changes of the last decade, one already affecting almost every facet of the community from economics to taste, has been a phenomenal enlargement of the University of Alabama in Birmingham.

Dr. Joseph F. Volker, the school's president, remarked recently that Birmingham was once the only major Southern city without a university.

The university in Birmingham, once a few branches of the main campus at Tuscaloosa, was made autonomous in the mid-nineteen-sixties. It now has 8,000 students, 5,000 employes (second only to U.S. Steel's 12,000) and a budget of $68-million.

The University Medical Center, surrounded by private and semi-private clinics and hospitals, has become one of the nation's best known. It is especially well regarded for studies and treatment of the heart.

And on some 54 blocks obtained through urban renewal, the university is building $41-million worth of new facilities.

Some believe that Birmingham will eventually be known as an educational and medical center rather than as a steel town. In all, there are seven institutions of higher learning here, and they are growing and attracting out-of-state professionals who would not have given a thought to Birmingham 10 years ago.

A few years ago, Birmingham hired an out-of-state public relations firm to change its image. There now appears to be some danger that the city's leaders have swallowed their own propaganda.

During conversations recently with a large number of prominent citizens, only one white man, the Mayor, seemed really worried about the city's remaining problems.

The growing self-satisfaction here is illustrated by an apparent belief among most whites that Birmingham has practically solved its race problem.

Emory Jackson, managing editor of The Birmingham World, a black newspaper, said: "Going from zero to where we are, it looks good. But when you measure in terms of where we ought to be, it doesn't look so good."

For example, few whites seem to be aware that many blacks are still dissatisfied with the progress of school desegregation. After years of pressure from the Federal courts, the students of Birmingham—like those of many other larger cities—still live and attend classes largely in racial isolation.

The American Friends Service Committee says that 56 per cent of the city's 89 schools are more than 90 per cent black or white. It says the school board, which has one black member, continues to build schools in racially isolated places that will almost guarantee their being segregated.

The suburbs here become whiter each year. Birmingham lost 40,000 persons during the nineteen-sixties (down to 300,000) and most of them were whites moving to the suburbs.

The leadership euphoria extends beyond race. The same white leaders who believe that the race problem is substantially solved seem to be unquestionably committed to more skyscrapers and freeways, even though urban thinkers in cities that have plenty of both have begun to question the value of massive office buildings that attract more people to congested areas and of automobile facilities that subtract money from mass transit.

And only a few here are yet willing to assert themselves publicly against the absentee-owned steel companies, most of which have headquarters in the North.

Charles Morgan Jr., southern director of the American Civil Liberties Union, who was hounded out of Birmingham, where he grew up, several years ago because of his liberal racial utterances, told an audience of fellow Birminghamians recently, "We were a province of steel and to a large degree still are. Steel still has tremendous power in this city."

One way the industry has exercised its power over the years has been to keep the city's boundaries from expanding. The steel companies own large tracts of land that would be taxed more heavily if they were annexed to the city.

The most recent annexation attempt was defeated last year. Some leading citizens say that once again the steel interests were instrumental in the defeat. However, it may be noteworthy that steel's influence was wielded quietly. In the past, the industry campaigned openly; once a major company threatened to close if the city annexed its property.

Optimism fluorishes now in spite of the problems here. Mrs. David Roberts 3d, a liberal leader who has been appointed by Gov. George C. Wallace to head the Alabama State Council on the Arts, talked recently of the changes she has seen.

She has not received a threatening telephone call for several years, she said, and Mr. Wallace, who once had little use for Birmingham and its cultural leaders, has now publicly proclaimed it "the queen city of Alabama."

TRADE AND COOPERATION BETWEEN UNITED STATES AND MEXICO

Mr. FANNIN. Mr. President, in recent years there have been some significant developments in international trade and cooperation along the border between the United States and Mexico.

Factories which would have located abroad have been set up on the U.S. side of the border, and "twin plants" have been established on the Mexican side.

This program has been criticized by shortsighted union leaders.

It is obvious, however, that this program has been a boon to workers in both nations. The twin plants program is a success.

An article about the program was published in the March issue of the Latin American Digest, which is edited by Marvin Alisky, director of the Center for Latin American Studies at Arizona State University.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADE AND COOPERATION BETWEEN UNITED STATES AND MEXICO

Border Industries Increase U.S. Jobs—The AFL–CIO claims that U.S. assembly plants on the Mexican side of the border take jobs away from U.S. citizens. But a U.S. Department of Commerce report and a Harvard study indicate just the opposite: borderland plants increase both Mexican and U.S. job opportunities.

The U.S. Secretary of Commerce in January received a staff study of the relationship of U.S. investments in foreign countries to U.S. employment. On February 12 a summary of the staff report was made public.

Item 807 of the U.S. Tariff Schedule exempts duties on products of U.S. origin when imported into the U.S. as identifiable parts of an assembled article.

This tax break in recent years has prompted U.S. companies to open assembly plants in Mexico from Tijuana to Matamoros, allowing the assembly products to flow into border cities from San Diego to Brownsville.

The U.S. Tariff Commission found that if Congress in 1970 had yielded to pressures against the Mexican border industries, no increases in job opportunities for U.S. workers could have been expected.

Instead, there would have been a 200-million-dollar deterioration in the U.S. balance of trade, forcing various U.S. concerns to cut back, rather than expand operations domestically in 1971.

The Tariff Commission has reported to the Commerce Secretary that U.S. assembly plants across the Mexican border provide one additional job for a U.S. worker for each three jobs created for Mexican workers. Tariff Commissioners, in the Commerce Secretary's staff report, assert that should Item 807 be repealed, a net loss of jobs for U.S. citizens would result.

Backing up the Commerce Department, a study by Harvard economists in February concluded that U.S. labor actually profits from U.S.-owned and Mexican-staff plants across the Mexican border.

The Harvard study argues that without such U.S. investments in plants in Baja California, Sonora Chihuahua, Coahuila, and Tamaulipas, the parent corporations involved would have lost out to foreign competitors in their various product lines—musical instruments, electronic devices—both European and Japanese, and such loss of sales would have eliminated further assembly and sales jobs at branches of these corporations in the U.S. as the corporations began to reflect reductions in total sales.

Reacting to the Commerce and Harvard reports, in mid-February the Allen Bradley Company announced it will build a plant in Ciudad Juárez, Chihuahua, near El Paso, Texas. The plant will employ 100 by late 1972 and 400 in early 1973.

Bradley announced that the new Mexican plant "is not a matter of choice but is a matter of survival for our company." Without the new low-cost operation in Mexico, Bradley would have to curtail some operations inside the U.S. as foreign competitors continue to outsell Bradley at lower-production costs.

Ironically, the Bradley plant in Chihuahua, rather than reduce job opportunities for workers in the U.S., will help increase the corporation's yearly total sales and ability to maintain or increase jobs for U.S. Citizens.

McKinsey Management Consultants warn that the growth of multinational corporation operations along the border inside Mexico may reach a "socio-political pain threshold, at which point vigorous damaging local reaction may occur."

Implications of the McKinsey study include regional U.S.-Mexican management-labor conferences involving California and Baja California, Arizona-New Mexico and Sonora, Texas and Chihuahua-Coahuila-Tamaulipas. If uncertainties can be cleared up among U.S. and Mexican organized labor and political leaders, the border industrialization programs can avoid political arguments.

ADDRESS BY SECRETARY OF COMMERCE PETERSON

Mr. BAKER. Mr. President, yesterday at the National Press Club, the new Secretary of Commerce, Hon. Peter G. Peterson, delivered what was, in my judgment, an unusually thoughtful and hopeful address.

Perhaps the hallmark of the speech is its air of realism. During any political season, there is a natural temptation to oversimplify what is, of course, an extraordinarily complex and constantly changing world. Secretary Peterson clearly knows what it is we are up against. It is equally clear that he has no intention of being overwhelmed by it. The country is fortunate to have a man of Mr. Peterson's calibre in the Cabinet.

I ask unanimous consent that his April 4 address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE PETER G. PETERSON, U.S. SECRETARY OF COMMERCE

Today I'd like to talk with you about the future, in particular our economic future—and some things the Commerce Department may be doing to make us a more prosperous, employed, competitive and, perhaps, even a more fulfilled people.

A couple of years ago, Alvin Toffler's book, *Future Shock* was very much in vogue. Its thesis, of course, was that the rate of change in our society is so swift that both individuals and institutions are unable to cope with it. The result is future shock which Toffler defines as "the stress, both physical and psychological, that arises from an overload of the human organism's . . . adaptive system and its decision-making processes. . . ."

One of our problems, I believe, is that we are so bombarded by the events of today that we have no time to think about tomorrow—though I realize I am taking some risk in making that point before an audience which is responsible in large measure for the bombardment.

Charles Kettering, the great automotive pioneer once said that "we should all be concerned about the future, because we will have to spend the rest of our lives there".

Of all our institutions, government is one that has special difficulty in focusing on the future for it is bound by elections to a very regular, short-term timetable. In order to survive, any government has to think a great deal about the next election. And that leaves precious little time for thinking about the next generation.

Our problem, I think, is that most of us still expect problems to hold still while we try to solve them. We still do not appreciate what it really means to be residents of the "State of Flux". We have not been thinking far enough ahead. We stand in line for tickets on a train that has left the station.

A great newsman from my home area of Chicago, Ben Hecht, once put it this way: "Time", he said, "is like a circus, always packing up and moving away." And the challenge of keeping up with time is not simply a matter of predicting where it is going and organizing some elaborate welcoming ceremony in the hope it will choose to settle down. Rather, our challenge is to move on with time—to travel light enough so that wherever it goes we can pack up and tag along. And that means we must get rid of the heavy baggage we bring with us from the past.

John McDonald, a 19th century Canadian Prime Minister, was once asked the secret of his political success. His simple answer: "I thought a little ahead." We, too, must think a little ahead if we are to rise above the *threat of future shock* and get about the *task of future shaping*.

For example, for a long time the central motivations of our economy came solely from internal competition. One American business competed against another American business. As far as the economy as a whole was concerned, however, there was very little real competition from the outside world. As President Nixon has put it, we were running against the clock—like Paavo Nurmi. Perhaps this spring we should say we were a little like the UCLA basketball team that people often say faces its stiffest competition from its own freshman squad.

The result of all this was that we almost forgot that there was a game going on in the international arena. We were not even very careful about keeping score. We collected very few statistics, we sent out very few scouts, we studied no game films of our opponents. And in the absence of stiff competition, we even grew a little fat and lazy. The competition today is lean, hard, and talented.

Thus, at Commerce, we are now exploring ways that we can begin a much more systematic method of collecting information on our competitors abroad. The federal bureaucracy, I've found, tends to produce tons of data but only ounces of analysis as to what it means. We are now engaged in an effort to try to get a very comprehensive look at the competitive position of the U.S.—in our technological position, in our new plant and equipment investments, in tax incentives, in share of export markets, in raw materials, and so forth. I propose such a competitive intelligence system on the grounds that diagnosis should usually precede the cure.

Another new reality which will affect our long-range future is the interrelated nature of the problems we confront and the interdependent quality of their solutions. It is no longer enough to address one part of a problem with the confidence that others are addressing other parts of the problem and that the various solutions will eventually converge.

More than that, the time and energy and resources we apply in any one place are not available at another place. To decide to do any one thing in a finite world is to *trade off* the opportunity to do something else. In short, the problems we face today are "systems problems" and they demand a "systems approach" to their solution.

Our energy situation, for example, includes the entire web of social, economic, political, scientific and technological factors. It is not just a security problem, or a scientific one, or an economic one, or a balance of payments, or an environmental one: it is all of these, and probably more, interacting.

It is a root problem of our society, but we have not yet fully grasped the nature of the alternatives open to us and the consequences of those alternatives for our national future.

The fact is that decisions which are made primarily for *tax* reasons or for *security* reasons or for *environmental* reasons or for *transport* reasons, and which affect business generally, all have an enormous impact on our ability to supply sufficient energy. The problem is that the *immediate* considerations in *each* of these related fields always seem more important than energy considerations which will not be felt for another few years. History suggests that only when there is a brownout—or some other dramatic event—can the people who make energy their *primary* business get the attention of those who make *tax* policy or *security* policy or *environmental* policy or *transportation* policy their primary business. No wonder many say the nation has developed a crisis mentality and is engulfed by crisis rhetoric.

As the President's energy message has made clear, as a nation we failed to anticipate and adequately plan for the present national energy crisis—and this is a problem with which Commerce and others in the Administration are already deeply involved in a major Domestic Council effort. The problem caught up with the country faster than expected. The U.S. formerly had sufficient energy reserves to meet almost all of its needs and sustain economic growth. In fact, this abundant supply of low cost energy has provided the base for much of our industrial might.

There are a variety of broad options for dealing with this energy crisis.

Should we restrict energy demand? How? Perhaps more relevant, whose demand? For what products and services? At what costs to our economy?

Or, should we stimulate domestic production? Of what energy reserves? How? By increasing prices? or tax incentives? or developing new energy sources? or tapping the continental shelves? (Which is why the next fiscal year, we will launch an intensified program of mapping our continental shelves.)

Or, should we increase imports? Of which products? From where? Transported how? Where?

Each of these options has different security implications, different competitive implications, different cost implications, different environmental implications—in short, different trade-offs, and undoubtedly different constituencies.

While we are not presently prepared to accept these projections without further study, we have heard it said by some that it will be necessary to import an estimated one-half to two-thirds of our daily oil requirements, to reach the total demand that has been projected for 1985. According to estimates prepared by the Maritime Administration at the Department of Commerce, this would require a U.S. tanker fleet as large as the present world tanker fleet of 160 million deadweight tons to transport this fuel to the United States by 1985. To accommodate larger tankers, and achieve the necessary reduced shipping costs, the country will need to develop deepwater port facilities—which it presently lacks, and which in some cases have been opposed for political or environmental reasons.

These facilities will be difficult and costly to obtain since, in most instances, we have reached the economic and practical limit of dredging existing harbors. The answer could be constructing one or more ocean terminals in U.S. coastal waters. As you know, the oil industry is now going north and south to build refining and trans-shipment facilities in Canada and the Caribbean.

You may ask why it is so important that supertankers be employed in the transport of our petroleum imports. To put this in perspective, it is important to realize that almost three-quarters of the free world's oil reserves are in the Middle East and, therefore, any oil import in the future is likely to come from this area. Because of its great distance from the U.S., transportation costs for this oil will become a significant part of the ultimate cost to the U.S. consumer. If the oil continues to be transported in the average size tanker that now calls at our Atlantic and Gulf ports, a ship somewhat less than 50,000 deadweight tons in size, the annual transportation cost would be approximately 60% more than if it were transported in ships at least five times this size, and these have become standard in world trade. And even with the full utilization of

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the lower cost supertanker, transportation would represent some 30% of the landed costs of the imported oil.

As I have indicated, because of this cost difference, the large ships are being projected for transportation to the Bahamas and Canada. In doing so, we are exporting refining capacity and jobs from the U.S. and contributing further to the balance of payments problem.

Let's review the progression I cited in discussing the energy crisis: our needs may require increased imports, but we cannot import without more and bigger tankers, and we cannot use bigger tankers without adequate ports, and we can't have ports until we solve a lot of related environmental and political problems.

Because a problem such as this is so interrelated, the Department of Commerce cannot either be a one-cause advocate: the cause of business exclusively. This is why I strongly support not only the Domestic Council concept and, as you might expect from my previous incarnation, the Council on International Economic Policy. This is why I also strongly support the President's proposed reorganization plan: melding into a new Department of Economic Affairs the functions of commerce, labor, and transportation.

The fact that Cabinet Secretaries are seen as advocates for various constituent groups rather than general public servants is particularly dangerous at a time when hard problems are so interrelated and their solutions interdependent.

To take another example, I suppose there is no systems problem that is more human or important than the problem of training our people for a world of work. What systems problems are likely to emerge in the future, or for that matter now?

By 1980 jobs will be needed for something close to 100 million Americans—a record number—up to 20 million more than at the beginning of the decade. The problem of finding jobs for this labor force will require both an economy growing at its full potential (which, in turn, means exploiting to the fullest our international opportunities) and, among other things, a much improved system of fitting manpower skills to job requirements and the new industries we expect to emerge.

The U.S. today is over-supplied with technical manpower for its defense and space requirements. Yet there are shortages of laboratory specialists, medical assistants, computer technicians, and maintenance personnel for other complex equipment. I am told that less than half of the available jobs have been filled in these specialties.

The mis-match of technical skills to opportunities, and what might be the current and perhaps continuing excess supply of college graduates, is compounded by an apparent shortage of appropriate vocational training in high schools and post high-school education and training. Some estimate that 8 of 10 in high schools should be receiving occupational skill training, yet less than one in four are receiving it—and much of this training is directed to past rather than anticipated needs in the labor force. Yet, our high schools and colleges (with nearly 40 percent of college-age young people now in colleges) are turning out many graduates in much the same way as always, on the presumption that society will need their skills.

If indeed it doesn't, we can logically look forward to future generations of angry young men and women. And, of course, unemployment will be significantly higher than it need be.

What should we be doing in terms of projecting tomorrow's manpower needs and its impact on education and training policies?

We must as part of this problem think through how and where in our government and our society, given our culture, our system—we should systematically project and think about this future.

While I have talked about the energy problem and the education and training problem, or perhaps I shall say the jobs problem, these are only illustrative of a class of future-oriented systems problems that cut across a variety of constituencies, disciplines—where the sum is larger than the parts.

Dean Acheson summed it up when he said "As a nation of short-term pragmatists accustomed to dealing with the future only when it becomes the present, we find it hard to regard the future trends as serious realities . . . to treat as real and urgent—as demanding action today—problems which appear critical at some future date."

According to popular notions, one of the chief culprits and most frequently cited examples of short sightedness has been the mindless march of technology. I don't want to minimize the adverse effects we have suffered from technlogy, but I have to conclude that it is a great force for good will as well as evil. Ever since our distant ancestors started playing with fire it has solved more problems than it has created.

What we have to do is to borrow a phrase from tin pan alley—to "accentuate the positive; eliminate the negative."

On the positive side, we must, as the President has said "harness the discoveries of science in the service of man." Also on the positive side, we have to reap more economic benefit from our R&D dollars. We now spend $17 to $18 billion in government R&D—enormous sums spent on R&D that are several times the total research and development investment of our leading competitors abroad and almost 60% more than all of U.S. company sponsored R&D budgets in America. A certain mythology has developed that there has been vast industrial fallout from government R&D.

It is true that there are a number of outstanding examples of such manna. Nonetheless it is my starting view that the level of industrial fallout is simply inadequate in relation to the enormity of the investment and in relation to the payout to the U.S. competitive position.

This is the reason that the President, in his new technologies program, has provided money to the Department of Commerce for some major experiments on how this industrial fallout can be increased.

As a preliminary hypothesis I would suggest that there are two kinds of companies with regard to government R&D. I have a terrible habit of oversimplifying. I had a friend and critic in Chicago who used to say to me—"Peter, there are two kinds of people in this world, there are those who say there are two kinds of people and there are those who don't."

I will now proceed to tell you that there may well be two kinds of companies in America. There is one, it seems to me, which looks upon research contracts with government R&D as an end in themselves. They have developed a special mentality—they are a part of a special subculture—they see government R&D contracts as profitmaking opportunities measured solely by the profit in the contract itself. And by their own public statements, they have done poorly in creating commercial businesses.

There is a second type of company—some of America's best commercial companies, which have demonstrated their innovative ability to build industries, patents and jobs, who either do not get involved at all in government R&D or, if they do, usually not with their best people, not with the company's total resources. Why is this so? Well, I suspect one of the reasons is the patent policies of the government. In the risky entrepreneurial world of innovation, many of these companies have apparently concluded that what belongs to everybody, in fact, really belongs to nobody. They have learned many times that is what is everybody's job is really nobody's job. Thus, high on our agenda must be a whole new look at incentives for companies to commit their best technical people and some of their money and still repay the public interest, the public investment on that technology.

The President has asked the Department to explore incentives for private sector investment in R&D and new patent policies to insure that Government-held technology is put to work for the people who paid for it—the U.S. public.

We will have to ask ourselves some hard, and in some ways, new questions. How much economic value is inherent in the Nation's publicly paid for R&D? How successful have the agencies been in moving this technology to the market, creating jobs and increasing productivity?

I have asked the Patent Office to gather together in one place the answers to questions like the following: How many government patents have been licensed? How many have been used in commercial products?

While this study is still in its early stages, this much can already be told.

1. The overwhelming percentage of these patents have not been licensed to anyone.

2. Even among the licensed patents, the preponderant number have not found their way into commercial production.

3. Virtually all of these patents are offered on a non-exclusive royalty-free basis—to foreign partners; or if you don't mind, foreign competitors as well.

I believe we will also find, when we take a hard look at the Government's efforts at technology utilization for economic benefit, that the best success stories concern R&D projects designed originally with their potential for commercialization in mind. In short, one does not tend to find things he isn't looking for and the Government must find better ways to factor in at the outset commercial possibilities into Government technology strategy.

I would like to make one more point on this technology business, and to do it let me anecdotalize this a bit. Some of you know I spent a little time in the photographic business. It was always more than a little embarrassing to some of us in that field to remember that the two success stories—the two most important developments in the field of photography were those developed by Dr. Edwin Land—Polaroid—and those developed by Dr. Chester Carlson: Xerography. It has always been interesting to me that in both of these cases we had courageous, brilliant inventors, very small enterprises, who spent a lot of time trying to convince much larger firms in the industry that what they had was important and worthwhile and good. In our infinite and conventional wisdom, we persuaded ourselves that what they had wouldn't sell, couldn't sell, wouldn't work, etc. Several billion dollars later it's clear that the industry was wrong.

Now, this isn't to say that a lot of the innovative technology isn't done in the large "establishment" companies. It was rather to say, that given a budget restraint that we feel so deeply, it seemed like the logical starting point in terms of the "biggest bang for the buck" to start with the inventor and the small company. This is why one of the President's new *experimental* technology programs is to experiment with ways of bridging the gap between the inventor or the small business with a good idea and the market place.

As we wring the last drop of benefit out of our R&D expenditures, we must proceed with the vision that this is only half of our job. The other half is to assure that progress does not trample other values—that it does not impede our progress toward achieving a better quality of life. But, that's a subject for a whole talk, if not a treatise. Clearly, it's in the front of our minds and on our agenda for the national debates of the 70's.

What all this means to me is that we are facing a new world. We are facing more than an era of impressive new competition of goods from abroad. We are facing equally impressive competition of new ideas and new values at home.

It will not be enough, I am afraid, to say, we want more productivity—we want better use of technology—we want better thinking about our economic future—we want to win the economic competition of the 70's. For I think we will be asked win for what—win to what end? In the short run of course, there are pocketbook goals that have clear meaning to every American family—more jobs, more pay, more buying power. But in the long run, there are important questions. I think the new citizens of this country must know both that it matters and why it matters. They must know that it makes a difference.

A people must first possess, it seems to me, an active will to be the author of their own history—to have a new sense of purpose that is theirs.

A poet, John Ciardi once said, "It is easy enough to praise men for the courage of their convictions—I wish I could teach them the courage of their confusions." We cannot bring meaning to a confused world if we contend that the confusions do not exist. We should be perfectly clear about the fact that in some important ways we are a confused people.

Some of the same people who call for zero growth also call for major expansion of government programs in the quality of life. The Office of Management and Budget tells me if we just project the cost of existing quality of life programs and those that are now in the President's program—programs incidentally that many of these critics would suggest are completely inadequate—the costs of these programs alone will be about $75 billion more than they are today—by the year 1976.

It is no wonder that a professor, in recently talking about long-term side effects, defined side effects as "effects I don't want to think about".

From the very beginnings of our country the "boundless" nature of our resources has been critical in shaping our character. Tocqueville used this very word, "boundless," as a key to understanding America. The endless abundance of our country allowed us to believe in unlimited opportunity, it allowed us to dream impossible dreams. As the pioneers went westward they sang a song which said that "Uncle Sam is waiting to give us *all* a farm."

But now we are faced by a growing sense that there are limits to this abundance, that our economic expansion—like our geographic expansion—may be running out of room. To the degree that these are accurate assessments, they can affect not only our economic behavior but our way of looking at the world.

The pursuit of social justice, for example, can be a relatively uncontroversial thing when the pie of opportunity is growing ever larger. But the challenge becomes much more difficult when we come to believe, the pie's growing more slowly or stops growing altogether, when the pressures mount for cutting some pieces smaller so that others can be bigger.

As a society, we have compounded our confusion by permitting ourselves to enjoy the luxury of polarized rhetoric—to become reconciled, as it were, with the irreconcilable. It is a form of contemporary cop-out to take rigid, ideological, even theological and always simplistic positions to what are, at their core, highly complex but equally pragmatic problems. Secretaries of Commerce are not the ultimate source of theologies, new or old, and I shall not try to do so.

But I would only say nothing may help lift the curtain over our confusion than for us to live in the *future—predict* it, *project* it and most certainly not be paralyzed about it—and, then as a people, decide what we want and what it is we are working for. We may well find that, as in so many things, this elusive thing we call national purpose will be found in our making the journey, rather than picking the destination.

THE FOSTER GRANDPARENTS PROGRAM: THE OLD WORKING WITH THE YOUNG

Mr. PERCY. Mr. President, I noted with interest in this morning's Washington Post, an article by Ivan G. Goldman entitled "Foster 'Gramps' Aid Retarded." The article comments favorably on what I consider one of our most successful Government programs, the Foster Grandparents program.

Simply described, the Foster Grandparents program brings together people who have love and attention to give with people who need such commodities. It allows retired people aged 60 and over to work 20 hours a week with disadvantaged children and to receive modest stipends for their work. The "grandparents" work in hospitals, correctional institutions, and day care centers.

People associated with the program seem almost unanimous in praising it. The project director for the program in Lincoln, Ill., Mr. Merle Ording, reports that at the Lincoln State School, where grandparents work with retarded children, the 1-to-1 relationship of grandparent-to-child has brought about tremendous improvements in the vocabularies and general behavior of the children, as well as in the physical and mental health of the grandparents. It has enabled older people to maintain their dignity and to stay off the welfare rolls. In the words of one participant:

If it had not been for this program, I wouldn't have been able to exist for the last several years.

Last spring, when the Senate was debating how much money to allocate for Foster Grandparents, I received many letters on the program and I remember vividly the enthusiasm and sincerity which came through in these letters.

At the White House Conference on Aging, President Nixon personally requested more money for Foster Grandparents, and in a true bipartisan effort Congress responded almost immediately in granting this request.

In April of last year, I introduced S. 1580, to increase the number of community service opportunities, such as those provided by the Foster Grandparents program. I believe very strongly that we should continue to work for the expansion of a program which obviously works so well.

Mr. President, I ask unanimous consent that Mr. Goldman's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOSTER "GRAMPS" AID RETARDED: LOVE IS THEIR MOST IMPORTANT PRODUCT

(By Ivan G. Goldman)

Wynn was too retarded to speak, but she laughed like any other 9-year-old being pushed toward morning clouds on a playground swing.

Providing the muscle was Douglas Furr, a retired railroad switchman, a kindly man fighting a child's melancholy at Great Oaks, a Maryland center for retarded children near Beltsville.

For despite such cheerful touches as brightly colored tops, smile posters, and funnyface balloons in the dormitories, Great Oaks is unmistakeably an institution. And the grounds can be a lonely place when the wind blows across the naked spring grass.

Furr, 66, is one of 36 persons employed by Prince George's County in the Foster Grandparent program, a federal project employing 4,400 persons in 40 states.

Financed nationwide with $25 million from the federal Action program, the 7-year-old program is designed to provide employment for low-income men and women over 60, and individual attention for institutionalized children. Each foster grandparent spends 20 hours a week divided betweeen two children, and receives $1.60 an hour to do it.

Action, a catch-all department that oversees such programs as the Peace Corps and Vista (Volunteers in Service to America), pays for 80 per cent of each local Foster Grandparent program.

Prince George's financed with $160,000, is the only jurisdiction in Maryland, Virginia, or the District to take advantage of the program, said an Action spokesman.

The county sends half of its foster grandparents to Great Oaks, and a half to the county day care center for retarded children in Lanham. It plans to hire 20 more oldsters this year to work at Edgemeade, a private institution for emotionally disturbed children, near Upper Marlboro, said L. W. Mahaffey, county program director.

Furr, 66, who was among the first foster grandparents hired by the county three years ago, says, "I can see where I'm doing these children some good.

"I didn't show up Good Friday, and they tell me Wynn and Paul (age 8) cried all day. You see, Saturday and Sunday they don't miss me, because they know I won't be here. Isn't that something?"

Furr, who has six grandchildren of his own, said his mornings at Great Oaks "are really . . . something good—a good way to pass the time. It gets monotonous sitting around the house all the time," he said, still pushing Wynn's swing.

Foster Grandparent is one of those few programs that seem to please everyone. County and federal officials, staff members at Great Oaks, the "grandparents," and the children, all sung its praise in their own way.

"These people (the grandparents) are receiving something from these children that you can't buy with cash," said Mahaffey. "The children make them feel needed, and the income helps them to be self-reliant.

"As for the children, they receive love and attention on a one-to-one basis. Some of them may not ever be able to learn. But they all learn to recognize that grandparent. Something is getting through. It exists there."

To be qualified, an enrollee must have an annual income of less than $2,000, pass a physical examination, and undergo a combined screening and orientation process lasting two weeks.

Mahaffey said that in many cases, the lunch grandparents receive at Great Oaks is their only meal of the day. The center also provides the transportation, and it has become a meeting place—a way of "socializing" for the grandparents, Mahaffey said.

The only drawback: "We have to watch out for overattachment on the part of the grandparents," said Mahaffey. "Once we had a grandparent who became so involved with her little girl that when the girl got sick, the grandmother felt sick also. In that case we gradually weaned her away from the child, and then assigned her to another."

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Another time, Mahaffey said a woman grew depressed from seeing hopelessly retarded children day after day.

"She was a very genteel lady," he said. "She probably hadn't seen much suffering in her life. She became very depressed that this even had to be on earth." The woman was transferred to another county program—assigned as a semisocial worker to help other elderly people.

Although some children at Great Oaks have IQs below 35—placing them in a retarded category so low that many may never learn even to walk—grandparents tend to set goals, however, slight, for their charges.

Said Mary Smith, 75, of Fairmont Heights: "When I got Bryan, he's 7, a year ago, the first thing I wanted to do is toilet train him. It took us a whole year, but we did it."

Elizabeth Jennings, 81, of Cottage City, said her charge, Barry, 5, was very retarded, and she was uncertain at first whether she could set a goal for him. Finally, she decided to teach him how to unclench his fists, which he did, after many visits.

Her other charge, 6-year-old Sherry, was also severely retarded, and strapped in a wheelchair so she would not fall out.

"I'm trying to get Sherry to hold her head up," Mrs. Jennings said. "She always wants to sort of stoop like this. Come on, Sherry, you have such a pretty face, you don't want to hide it. Now give us a smile."

And Sherry smiled.

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. MANSFIELD. Mr. President, at the request of the Senator from Florida (Mr. CHILES), I ask unanimous consent that, in accordance with section 133B of the Legislative Reorganization Act of 1946 as amended by the Legislative Reorganization Act of 1970, the rules of procedure of the Committee on Government Operations be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE ADOPTED BY THE COMMITTEE ON GOVERNMENT OPERATIONS, PURSUANT TO SECTION 133B OF THE LEGISLATIVE REORGANIZATION ACT OF 1946, AS AMENDED

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. *Meeting dates.* The committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

B. *Calling special committee meetings.* If at least three members of the committee desire the chairman to call a special meeting, they may file in the offices of the committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within several calendar days after the filing of such request, a majority of the committee members may file in the offices of the committee their written notice that a special committee meeting will be held, specifying the date and hour thereof, and the committee shall meet on that date and hour. Immediately upon the filing of such notice, the committee clerk shall notify all committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside. (Sec. 133(a), Legislative Reorganization Act of 1946, as amended.)

C. *Meeting notices and agenda.* Written notices of committee meetings, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all committee members at least three days in advance of such meetings. In the event that unforeseen requirements of committee business prevent a three-day notice, the committee staff shall communicate such notice by telephone to members or appropriate staff assistants in their offices, and an agenda will be furnished prior to the meeting.

D. *Open business meetings.* Meetings for the transaction of committee business, shall be open to the public, except during executive sessions for marking up bills, for voting, or when the committee by majority vote orders an executive session. (Sec. 133(b), Legislative Reorganization Act of 1946, as amended.)

RULE 2. QUORUMS

A. *Reporting legislation.* Ten members of the committee shall constitute a quorum for reporting legislative measures or recommendations. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

B. *Transaction of routine business.* Six members of the committee shall constitute a quorum for the transaction of routine business. (Rule XXV, Sec. 5(a) Standing Rules of the Senate.)

C. *Taking sworn testimony.* Two members of the committee shall constitute a quorum for taking sworn testimony, provided, however, that one member of the committee shall constitute a quorum for such purposes, with the approval of the chairman and the ranking minority member of the committee, or their designees. (Rule XXV, Sec. 5(b), Standing Rules of the Senate.)

D. *Taking unsworn testimony.* One member of the committee shall constitute a quorum for taking unsworn testimony. (Sec. 133(d)(2), Legislative Reorganization Act of 1946, as amended.)

E. *Subcommittee quorums.* Subject to the provisions of sections 5(a) and 5(b) of Rule XXV of the Standing Rules of the Senate, and section 133(d) of the Legislative Reorganization Act as amended, the subcommittees of this committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

F. *Proxies prohibited in establishment of a quorum.* Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. *Quorum required.* No vote may be taken by the committee, or any subcommittee there of, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting legislation.* No measure or recommendation shall be reported from the committee unless a majority of the committee members are actually present, and the vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the committee, or any subcommittees, thereof, except that, when the committee, or any subcommittee thereof, is voting to report a measure or recommendation, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question and then, only if the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be addressed to the chairman of the committee and filed with the chief clerk thereof, or to the chairman of the subcommittee and filed with the clerk, thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the committee as to how the member wishes his vote to be recorded thereon. (Sec. 133(d), Legislative Reorganization Act or 1946, as amended.)

D. *Announcement of vote.* (1) Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. (Sec. 133(d), Legislative Reorganization Act of 1946, as amended.)

(2) Whenever the committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or recommendation, the results thereof shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes vast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the committee who was present at that meeting. (Sec. 133(b), Legislative Reorganization Act of 1946, as amended.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy votes recorded in favor of and in opposition to that measure, amendment thereto, or recommendation. (Sec. 133(b) and (d), Legislative Reorganization Act of 1946, as amended.)

RULE 4. HEARINGS AND HEARING PROCEDURES

A. *Announcement of hearings.* The committee, or any subcommittee thereof, shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Sec. 133A(a), Legislative Reorganization Act of 1946, as amended.)

B. *Open hearings.* Each hearing conducted by the committee, or any subcommittee thereof, shall be open to the public unless the committee, or subcommittee, determines that the testimony to be taken at that hearing may (1) relate to a matter of national security, (2) tend to reflect adversely on the character or reputation of the witness or any other individual, or (3) divulge matters deemed confidential under other provisions of law or Government regulations. (Sec. 133A(b), Legislative Reorganization Act of 1946, as amended.)

C. *Radio, television, and photography.* The committee, or any subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the committee, or subcommittee, may impose. (Sec. 133A(b), Legislative Reorganization Act of 1946, as amended.)

D. *Advance statements of witnesses.* A witness appearing before the committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least one day prior to his appearance, unless this requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for failure of compliance. (Sec. 133A(c), Legislative Reorganization Act of 1946, as amended.)

E. *Minority witnesses.* In any hearings conducted by the committee, or any subcommittee thereof, the minority members of the committee shall be entitled, upon request to the chairman by a majority of the minority, to call witnesses of their selection during at least one day of such hearings. (Sec. 133A(e), Legislative Reorganization Act of 1946, as amended.)

RULE 5. COMMITTEE REPORTS

A. *Timely filing.* When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time. (Sec. 133(c), Legislative Reorganization Act of 1946, as amended.)

B. *Supplemental, minority, and additional views.* A member of the committee who gives notice of his intention to file supplemental, minority or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views. (Sec. 133(e), Legislative Reorganization Act of 1946, as amended.)

C. *Draft reports of subcommittees.* All draft reports prepared by subcommittees of this committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the committee at the earliest practicable time.

D. *Cost estimates in reports.* All committee reports, accompanying a bill or joint resolution of a public character reported by the committee, shall contain (1) an estimate, made by the committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five fiscal years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimates with any made by a Federal agency; or (3) a statement of the reasons for failure by the committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Sec. 252(a), Legislative Reorganization Act of 1970.)

RULE 6. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. *Regularly established subcommittees.* The committee shall have four regularly established subcommittees, as follows:

Permanent Subcommittee on Investigations
National Security and International Operations
Intergovernmental Relations
Executive Reorganization and Government Research

B. *Ad hoc subcommittees.* Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc subcommittees as he deems necessary to expedite committee business.

C. *Subcommittee membership.* Following consultation with the majority members, and the ranking minority member, of the committee, the chairman shall announce selections for membership on the subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings.* Each subcommittee of this committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the committee.

E. *Subcommittee budgets.* Each subcommittee of this committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the committee, not later than January 10 of that year, its request for funds for the 12-month period beginning on March 1 and extending through and including the last day in February of the following year. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification, addressed to the chairman of the committee, which shall include (1) a statement of the subcommittee's area of activities; (2) its accomplishments during the preceding year; and (3) a table showing a comparison between (*a*) the funds authorized for expenditure during the preceding year, (*b*) the funds actually expended during that year, (*c*) the amount requested for the current year, and (*d*) the number of professional and clerical staff members and consultants employed by the subcommittee during the preceding year and the number of such personnel requested for the current year. (Sec. 133(g), Legislative Reorganization Act of 1946, as amended.)

SOVIET ANALYST—A NEW FORTNIGHTLY NEWSLETTER

Mr. ALLOTT. Mr. President, I am delighted to be informed of the launching of a new publication which promises to be very useful to all citizens concerned about the continuing problem of coping with the Soviet Union.

This new publication is Soviet Analyst, a fortnightly newsletter published in London and edited by Messrs. Robert Conquest and Tibor Szamuely.

I am acquainted with Mr. Conquest, who is author of many works on the Soviet Union, including the monumental study of Stalinism, The Great Terror. He worked for 10 years in the British Diplomatic Service and the Foreign Office. He has held fellowships at the London School of Economics, and Columbia University's Russian Institute. He has testified before the Senate and has been helpful to those Senators who have consulted him.

I am not personally acquainted with Professor Szamuely but I am acquainted with some of his published works. Professor Szamuely has lived in the Soviet Union—indeed, served as a prisoner in one of the Kotlas labor camps. He has been vice rector of Budapest University, and he has taught in Ghana. Today he is a British citizen, and a lecturer at Reading University.

Mr. President, so that all Senators can appreciate the high quality of Soviet Analyst, I ask unanimous consent to have printed in the RECORD 11 articles from the first two issues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RUSSIA AND OURSELVES

Our relations with the Soviet Union are are the centre of the whole refractory array of international problems before us, and thus of the future of the world. The depth and accuracy of our understanding of the Soviet Union is the crux of our correct handling of these problems. It is the purpose of Soviet Analyst to keep before its readers, regularly and continually, a clear view of the nature of the Soviet political culture, so different from our own; of the actions and the motivations of the Soviet leadership; and of the whole Soviet presence on the world scene.

Our editorial position is, of course, that of 'bourgeois democracy', 'bourgeois objectivity' and 'bourgeois morality', that of the traditional civic culture of the West.

The culture we will be dealing with is radically different in its whole history and beliefs. In Imperial Russia there was no tradition of mutual rights and obligations, but merely of the state and its servants or slaves.

The Westernizing element which had arisen by 1917 was virtually eradicated by the revolution, from which a despotism arose differing from Tsardom in its dedication to a messianic or utopian ideology. As Peter the Great and Catherine the Great had done, it sought the technological and military methods of the West, but excluded its political values. The Leninist theory of dictatorship imposed on a culture already deficient in civic content a system of ideas and of rules highly allen to Western conceptions. After fifty years a social stratum and interest, deriving power and legitimacy from these ideals, has become firmly established.

The relations between the two thoroughly dissimilar cultures, in fact, constitute the essence of the international scene.

The editors themselves with long experience of attending to and writing on Soviet affairs, have nevertheless felt the difficulty of keeping clear in their own minds the strange perspectives of that allen culture. As one of them remarked, while giving evidence to a committee of the United States Senate, 'an effort of the imagination, as well as of the intellect', is needed if one is not to find oneself making 'common sense' assumptions inapplicable to Soviet realities.

But if Western habits of mind make Soviet realities rather hard to grasp, it also seems to be the case that a tendency has arisen in the West to avoid contemplating the often raw and repellent difficulties at the centre of world problems. This may be natural enough. Years of coping with the facts, of endless vigilance, have taken their toll. There are many, it appears, who wish to be deceived, who desire the comfort of thinking that the situation cannot be as difficult as it looks, 'for how unpleasant if it were.'

Moreover, it is sometimes felt, or seems to be felt, that frank reporting and critical judgment of things Soviet is in some way harmful to international understanding. It is the common experience of almost all serious writers about these subjects that a parrot cry of 'Cold War' is raised, if only in limited and low-grade circles of the media, against comment unfriendly to Soviet officialdom.

After the Soviet invasion of Czechoslovakia in 1968, a number of commentators remarked that the Cold War had recommenced. They thought, that is to say, that the Soviet leaders had changed their policies for the worse. But, in fact, their policies had not changed. Events like the invasion only came as a surprise and shock, and seemed a new and disastrous phenomenon, to those who had let themselves become deluded about the whole question of Soviet motivations and policy. It is no part of the purpose of Soviet Analyst to overstate, let alone exacerbate, tensions. But, if reality is uncomfortable, it is nonetheless reality. And, plainly, any tendency in the West to see Russia in a delusive light may be comforting for the moment but may also be lethal in the long run. An international harmony based on the repression or distortion of information and opinion about the USSR unwelcome to the ruling party would be hollow, jerry-built and generally unreliable. The clearer the view we take about Russian affairs, the more firmly we express our own opinions, the better chance we have of attaining the greatest degree of international understanding possible today.

Though we take this critical view of the Soviet system, we do not mean in any way to misrepresent it. And we ask our Soviet and pro-Soviet subscribers (of whom a grati-

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fyingly large number have already declared themselves) to draw our attention to any errors of fact which may elude our own vigilance.

The element of detente in present international relations is, as far as it goes, both genuine and valuable; but it is not based on any present Soviet acceptance of basic principles of permanent cooperation or of pacific orientation. It is ill-defined, variable and subject to instabilities. To exaggerate it is to do a disservice to peace, which cannot subsist on a basis of misunderstanding of fact and misconception of motive.

From our point of view, a detente based on clear and realistic appraisal of the facts and possibilities is seen as an immediate aim of Western policy. In the longer run, we would feel, a true world peace—as against this utilitarian and vigilant truce—can probably arise only as the result of an evolution of the Soviet system into a civic order. Friedrich Engels remarked nearly a century ago that as soon as Russia reached the level of genuine constitutional development, the traditional Russian policy of conquest is a thing of the past.

Meanwhile the principles of Soviet policy, both at home and abroad, have been in effect to deny the legitimacy of the mere existence of non-Communist (or deviant Communist) ideas or regimes. This has never been concealed. Or rather, while major ideological analysis by or on behalf of the Party leadership has always clearly asserted the principles involved, there has indeed been an accompanying smoke-screen of more liberal, tolerant and peaceable remarks by various sponsors of Soviet propaganda in the West. But (as Professor Hugh Seton-Watson has said) it seems a mistake to believe that 'What 200,000 Communist party officials, from Brezhnev down to the secretaries of party branches in factories or collective farms, tell their subjects is all camouflage: the *real* views of the Soviet leaders are what some nice guy from the Soviet delegation at the UN said over a quiet drink, or what an itinerant Midwestern scientist heard from some friendly academician in Novosibirsk.'

We do the Communist Party of the Soviet Union the justice of accepting that it believes what it says. The Soviet leadership really seek a world dominated by their system. They are really, in the long run, not prepared to accept a continuance of the Western and democratic order. It is only at a much lower level, that of deceptive propaganda, that any question arises of an end to this central intransigence.

This is a clear and understandable position. It is compatible with wishing to avoid nuclear war, and seeking a certain style of detente. But it is, all the same, one of a central and basic hostility to other forms of political life.

Mr. Brezhnev and other members of the Politburo have more than once made it clear that the Soviet conception of 'peaceful coexistence' is of a form of struggle against non-Communist concepts, that 'in the ideological field' no truce can apply. (The current persecutions of Soviet intellectuals who speak for civil liberty is, in one aspect, no more than part of a single campaign of irreconcilability towards the whole Western concept.)

Brezhnev's point is developed at length in the authoritative work *Peaceful Coexistence and the Revolutionary Process* by V. N. Yegorov, published in Moscow last year. Yegorov (who sees, for example, a violent Communist revolution in Britain as a tolerable possibility) goes out of his way to deny that the Soviet concept of 'peaceful coexistence' is even *'mainly'* favourable to the development of peaceful forms of socialist revolution outside Russia. On the contrary, it helps the intensification of the whole 'world revolutionary process', including 'non-peaceful forms of the struggle.'

'Peaceful coexistence,' he adds, 'by its very nature has always been a specific form of intense economic, political and ideological battle between countries having different social systems, in the international arena.' And he specifically denounces any 'rapprochement' between the two systems, or any 'mutual concessions' or 'convergence'.

Or, as another leading post-Khrushchev theoretician, Academician P. N. Fedoseyev, has put it: 'The struggle for the liberation of the working class has an international character, since the final solution of the problem "*kto-kogo*." ("who-whom?") in the confrontation between socialism and capitalism is possible only on an international scale.' (*Dialetics of the Contemporary Epoch*, Moscow 1966, p. 253).

As for the immediate scope of Soviet aims, Foreign Minister Gromyko asserted flatly in his speech to the Supreme Soviet in June 1968:

'The Soviet Union is a great power situated on two continents, Europe and Asia, but the range of our country's international interests is not determined by its geographical position alone . . . The Soviet people do not plead with anybody to be allowed to have their say in the solution of any question involving the maintenance of international peace, concerning the freedom and independence of the peoples and our country's extensive interests. This is our right, due to the Soviet Union's position as a great power. During any acute situation, however far away it appears from our country, the Soviet Union's reaction is to be expected in all capitals of the world.'

Current tendencies (commoner in some Western countries than in others) to burke the issues, to avoid the cold light of such reality, may appear to be an intellectual scandal, but also a moral one. In extenuation, it may be urged that the facts, or many of them, have not been readily available—or, at least, that they tend to reach the non-expert occasionally and episodically, giving time in between for the effect to be blurred or forgotten. In Soviet Analyst we mean to contribute, as far as we can, to filling this gap.

Nationality Problems: Latvia

Since 1917 nationalities policy has always been one of the main pre-occupations of the Soviet government. This is understandable: the USSR is the last of the great multinational empires, with ethnic Great Russians comprising only a little over one half of the population. The stability of the state depends to no small degree upon its success in controlling and curbing the growth of national feeling among more than 100 divergent national groups.

Despite every effort, and contrary to much official propaganda, the CPSU has failed to find a satisfactory solution to the nationalities question. There is every indication that today the problems are more intractable than ever. National feeling is on the increase (partly under the influence of the world-wide decolonization of the last 20 years). On the other hand, the party can neither grant sufficiently far-reaching concessions to national sentiment nor revert to Stalin's policy of large-scale terror and mass deportations. This situation could only lead, and has led, to a general growth of resentment, ever more openly expressed. The recent arrests of "bourgeois nationalists"—many of them CP members—in the Ukraine and elsewhere illustrate the government's increasing difficulties.

For years the West knew hardly anything about nationality problems in the USSR. Very little information filtered out, apart from the exceptional case of Stalin's deportation of eight small nationalities, and the intermittent campaign of antisemitism. The outside world remained largely ignorant even of the widespread nationalist guerrilla movements of the immediate post-war years.

Today the position has radically changed, thanks to the flow of underground *samizdat* material, which includes such outstanding works as Ivan Dzyuba's *Internationalism or Russification?* Yet only a small fraction of this information has received the attention it deserves. In view of the crucial importance of the nationalities question Soviet Analyst intends to give it as wide a coverage as possible.

Almost all the recent *samizdat* revelations concerned developments in the Ukraine. Now, for the first time, a highly significant document has reached the West from Latvia (and received even partial coverage only in the *Daily Telegraph*): an appeal to the leaders of several Western Communist Parties from 17 Latvian Communists. The authors describe themselves as old party members, including some of pre-1940 standing. Since the appeal is—understandably, though unusually in recent *samizdat* practice—unsigned, it is impossible to verify their claim. However, the information contained in the appeal is undoubtedly authentic and could hardly be accessible to anyone outside the party *apparat*. It provides an unpredecentedly full picture of Soviet nationalities policy and of systematic Russification of one of the three Baltic republics annexed by the USSR in 1940.

The authors have taken this desperate step, they say, only after a number of Communists had suffered "repressions" for voicing their complaints to official party bodies, including the Central Committee in Moscow. They were driven to it because, after many years' loyal service, they had become convinced that Leninism was merely a screen for Russification, "that Great Russian chauvinism is the deliberate policy of the leadership of the CPSU, and that the forcible assimilation of the small nations of the USSR is regarded as one of the most urgent and important aims of state policy."

The forcible assimilation of Latvia began immediately after the end of German occupation in 1944–5, and was pursued with growing intensity until Stalin's death on the 5th March 1953. Then, for a brief moment, things seemed to change.

It has long been accepted by many Western scholars that Beria was the real initiator of the first and in some ways most far-reaching wave of de-Stalinization, immediately after the old dictator's death. Later the criminal indictment against Beria charged him with having attempted to "sow enmity and discord among the peoples of the USSR and, in the first place, to undermine the friendship of the peoples of the USSR with the great Russian people". This was a clear reference to a relaxation of Russifying policies introduced by Beria. Nothing more specific about the sudden change in the party line has ever been disclosed—until now, when the Appeal of the Seventeen supplies some of the missing information.

On the 22nd June 1953 the First Secretary of the Latvian CC Kalnberzin informed a Central Committee plenum of the decisions taken 10 days before by the Presidium of the CC CPSU, as follows:

"(1) All party and state organs are directed to correct fundamentally the situation in the national republics: *to put an end to the distortions of Soviet nationalities policy;*

(2) The training, development and large-scale promotion to leading posts of persons of the local nationality is to be organized; the practice of appointing cadres not from the local nationality is to be abrogated; the *nomenklatura* officials displaced from their jobs and unfamiliar with the local language are to be recalled to the disposal of the CC CPSU;

(3) Official business in the national republics is to be conducted in the local native tongue".

The Appeal correctly describes this document as unique in the last forty years of Soviet history.

Kalnberzin informed his colleagues that the Presidium had specifically criticized distortions of policy in Latvia. He referred to the fact that the proportion of Latvians among officials of the republican CC was 42 per cent, and among the secretaries of city and district party committees, 47 per cent. Not one of the departments of the Riga city party committee was headed by a Latvian, and only two of its 31 "instructors" were Latvian. The situation was even worse at lower levels: only 17 per cent of the secretaries of the republic's primary party organizations (cells) and 18 per cent of all Communists in Riga were Latvians.

But the new political line lasted only for a few days—until the fall of Beria at the end of June. The decision of the Presidium was never officially rescinded, yet shortly after the plenum Russification was further intensified. To this day it remains the basis of Soviet nationalities policy.

The Appeal defines two principal aims of this policy. The first is the mass settlement of Russians, as well as of brother-Slavs such as Ukrainians and Byelorussians, or the territory of Latvia (and the other two Baltic republics). This is achieved by a variety of methods. The first step (taken apparently in 1953) was the establishment of an Organizational Bureau of the CC CPSU for Latvia (a strictly extralegal body, the existence of which has never been disclosed). Within the Latvian Central Committee itself the key posts of Second Secretary and Secretary for Cadres have always been occupied by Russians, together with similar posts at lower levels, in particular those of personnel directors in all party, state and economic bodies.

The Appeal convincingly shows that one of the main motives behind the much-publicised industrialization of the Union republics is the impulse given thereby to further Russification. Numerous industrial enterprises have been built in Latvia without any economic justification (diesel, turbine, autoelectric instruments and meteorological instruments plants in Riga; a synthetic fibre plant in Daugavpils; the Plavinas hydroelectric power station on the river Daugava, etc.). The builders, workers and specialists for these plants were brought in from Russia, and their output is shipped to other parts of the Union. Several non-Latvian towns have been built up in the new industrial centres. Many of the republic's most important enterprises employ hardly any Latvians.

The growth of the Russian population of Latvia is also achieved by the location on its territory of large military garrisons, and by transforming almost the whole seashore into one vast all-union holiday resort. Almost all the indigenous population has left these parts.

Between 25 and 35 thousand outsiders arrive in Latvia annually for permanent settlement (a considerable figure for a land of 2.4 million people). Not surprisingly, in 1959 Latvians comprised 62 per cent, in 1970 only 57 per cent of the population of their country. They are already in a minority in their capital, Riga, where the proportion of Latvians in 1970 barely reached 40 per cent. After 30 years of Leninist nationalities policy Russians account for nearly one-third of the population of Latvia.

The second main aim of Soviet policy, according to the Appeal, is the Russification of Latvian life and the assimilation of the Latvian people. Here, too, a multiplicity of methods is applied. One each of the republic's two television and two radio programs is conducted exclusively in Russian while the second remains "mixed". In other words, about two-thirds of total broadcasting time is allocated to Russian. Half the periodicals appearing in Latvia are published in Russian. Official business in all republican, city and district organizations, as well as in all industrial enterprises, is conducted in Russian. Public meetings and conferences of all kinds—with a few exceptions—are also conducted in Russian. "There are many collectives with an absolute majority of Latvians, but if the collective has at least one Russian member he demands that the meeting be held in Russian and his demand is accepted; should it be refused the collective will be accused of nationalism."

Russian is rapidly taking over as the language of education and instruction, beginning from the kindergarten. Wide publicity is created for mixed Russian-Latvian marriages. Only four or five pre-Soviet Latvian writers have had their works republished—in contrast to the endless republication of the Russian classics.

No aspect of life is too insignificant to escape Russification. Latvian national dishes have been replaced by Russian recipes in the menus of all restaurants, cafes and cafeterias; the familiar national brands of cigarettes, sweets, etc. have likewise disappeared. National festivals have been abolished. Not one of Riga's six administrative districts bears a local name; they are called Lenin, Kirov, Moscow, Leningrad, October and Proletarian. Most of the streets have also acquired Russian names. Repertoires of Latvian professional and amateur theatres, orchestras, choirs, etc. do not receive approval unless they include Russian plays or songs.

The Russification of Latvia has not been carried out without resistance, even within the party. The Appeal lists 27 prominent officials removed from their posts and disgraced for "bourgeois nationalism" i.e. for attempting to defend some remnants of national identity. At their head is E. Berklavs, former Deputy Prime Minister of the Latvian Republic, who for some time led the resistance to forcible assimilation, and managed even to win a majority of the Bureau of the Latvian CC over to his side. Khrushchev personally arrived in Riga to take charge of the situation; Berklavs was dismissed from his posts and exiled from the republic.

Among the high-ranking Communist victims of the Soviet nationalities policy: the Chairman of the Presidium of the Latvian Supreme Soviet Ozolins; the Chairman of the Republican Trades Unions Council Pinksis; the Second Secretary of the Latvian CC Krumins; CC Secretary Bissenieks; First Secretary of the Riga city party committee Straujums; the editor of the Latvian party newspaper *Cina* Pizans; the republican Minister of Culture Kalpins; the First and Second Secretaries of the republican Komsomol, Ruskulis and Valters; the Chairman of the republican Commission of Party Control Plesums.

Today, after repeated purges, the top posts in the republic are occupied either by Latvians from Russia, who have spent most of their lives outside their country and hardly know the language—the First Party Secretary, the Prime Minister, the Chairman of the Presidium of the Supreme Soviet, the CC secretaries for propaganda and industry—or by Russians and Russified aliens; the two other secretaries of the CC and the Deputy Prime Minister.

Even worse than the position of the Latvians is that of the non-Russian national minorities living in the republic: Lithuanians, Estonians, Poles, Jews, etc.—nearly 14 per cent of the total population. Before the establishment of the Soviet regime they all had their own primary and secondary schools, they published books and periodicals in their own languages, ran their own theatres, clubs, choirs and similar institutions. Soviet nationalities policy has abolished all this; today minorities within a minority territory can use only the local language or, preferably, Russian. "Russians have everything in all the republics", concludes the Appeal, "the basic native populations have something in their own republics, the rest have nothing".

Such are the realities of the national question in the USSR. As the authors of the Appeal point out, the situation is identical in all the non-Russian parts of the country. They themselves would have very little hope even if the Western Communist Parties were to intervene on their behalf: the leaders of the CPSU "are unaccustomed to listening to the opinions of others. They act from positions of power and recognise only power". The outlook for the national republics looks bleak indeed. But it is also clear that the regime is creating vast reserves of future trouble.

The Tale of a Glove

Almost every Soviet statistical report on the fulfilment and over-fulfilment of the current plan contains, tucked away unobtrusively among the data showing constant growth of production, consumption and welfare, a brief phrase like this one (taken from the report on the fulfilment of the 1971 plan): "Despite the considerable increase in commodity circulation, the demand for certain goods such as fish, herring, vegetables, some types of woolen fabrics, clothes, footwear and kitchen utensils has not been fully met".

Outside observers often miss these little phrases completely, believing that they refer to esoteric items of conspicuous consumption. The absence of frills is even taken for a sign of virtue compared to our own consumer-oriented capitalist society. Yet from time to time the Soviet press spells out the precise nature of the missing goods and the extent of the shortages. *Pravda* has just devoted two stories to one such, fairly typical case. They provide a useful insight into everyday life in the USSR.

On the 16th January *Pravda* recounted the sad tale of A. D. Nikontov from Voronezh. Mr. Nikontov had been wounded in the hand during the war and experiences a certain sensitivity to cold (the average January temperature in Voronezh is –10 degrees C.). Beginning from last July Mr. Nikontov regularly visited every shop in Voronezh (a city of 660 thousand) in search of a pair of gloves. No luck: everywhere the shop assistants gave him the same reasonable reply, "If there had been gloves we'd have bought some ourselves". By the end of October Mr. Nikontov lost his patience and wrote to the Ministry of Trade of the Russian Republic asking for a pair of gloves via the State mail-delivery firm. Instead of sending him the gloves the deputy head of the ministerial department concerned, Comrade Pronichkin, forwarded Mr. Nikontov's letter to the head of the Voronezh Regional Trade Department, Comrade Sotnikov, with a covering note: "Kindly attend to this letter, taking into account all the circumstances described therein, and if possible render Comrade Nikontov assistance towards the purchase of a pair of gloves."

Comrade Sotnikov's deputy sent the letter on still further, to the director of the Voronezh City Administration for Consumer Goods Trade, Comrade Yevteev. The request was made more specific: "The Department of Trade asks you, upon arrival of the aforementioned gloves for sale, to inform Comrade A. D. Nikontov of this, and, exceptionally, to render him assistance towards their purchase".

Mr. Nikontov received no such notification. However, he proved indefatigable in tracking down his complaint from one office to another, "until finally he learned that the necessary instructions had been issued to the local equivalent of Woolworths. There he met with a friendly welcome, was offered a choice of shoe-polish, putty, penknives and various other useful objects—but no gloves. The shop did not stock them.

Mr. Nikontov returned to the Department of Trade. This time his reception was markedly cooler: he had become a nuisance, he

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was told, and no more assistance would be forthcoming. If he was so impatient to buy his precious gloves he would have to do it on his own.

Having told the story of Mr. Nikontov's misadventures, *Pravda* expressed its indignation. Not over the total absence of gloves for many months in one of the country's largest cities—apparently it found nothing unusual in that—but over the heartless bureaucratic treatment of an invalid of the Great Patriotic War: "Why, one asks, was it necessary to undertake months of correspondence, to involve so many organizations, merely, in the end, to pull wool over a person's eyes and to turn down his request?"

A good question. Five weeks later, on the 23rd February, *Pravda*, not without satisfaction, reported on the results of its intervention. Comrade Yevteev had received a reprimand, the director of the quasi-Woolworths a severe reprimand. The other participants had received corresponding punishments. The Voronezh Regional Department of Trade had "taken steps" to improve its investigations into customers' complaints and to inspect the commercial services available to invalids of the Patriotic War.

"The Ministry of Trade also informs us", concluded *Pravda*, "that the orders of commercial organizations for gloves are not fully met and that the demand cannot be satisfied. Measures are being taken towards increasing the production and the delivery of gloves to the trade network".

We are not told whether Mr. Nikontov finally managed to buy a pair of gloves.

Fictions and Fallacies

So many extravagant misunderstandings or misreportings of things Soviet still appear in the West and cannot in the nature of things be nailed every time by a letter to the offending periodical, that we propose to deal with them here in the hope of to some extent deterring this nuisance. We would welcome our readers letting us know of any especially egregious instances that come to their attention.

This time we note a few recent oddities from the world of scientific journalism:

(*a*) The *New Scientist* (2 December 1971) names and praises the Soviet Academician Vasili Emelyanov as one in a group including well known Western left-wingers, active in Stockholm in putting pressure for signing a SALT agreement on the stupid and recalcitrant governments of which they are subjects. Emelyanov, a member in good standing of the CPSU since 1919, winner of two Stalin Prizes, a government official in Stalin's time and more recently a member of Council of Ministers, has never criticised his masters. He is, in fact, their spokesman vis-a-vis his Stockholm friends rather than vice-versa. There are indeed Soviet atomic physicists (Emelyanov is a metallurgist) who have put what pressure they could on the Soviet government—Academician Sakharov, for example: but *he* does not get abroad. In fact, such travel is rather difficult Dr. Zhores Medvedev (who was himself prevented from travelling to deliver a scientific paper at a recent international meeting in Sheffield) tells us that there is only one passport actually in the possession of a Soviet private citizen—that of the poet Yevgeni Yevtushenko.

(*b*) Another British scientist (Dr. T. E. Allibone FRS) writes to *The Times* (11 February 1972) that unlike himself, Soviet Academician Peter Kapitza has a direct line to his authorities, and used it to get them to print a stamp commemorating Lord Rutherford. Good. Still, Kapitza has perhaps earned this privilege in a harder way than a British scientist might care to endure, being lured to Moscow from the Cavendish laboratories at Cambridge in 1934, and prevented (contrary to promises) from leaving for the next thirty years.

(*c*) A book, *The Siberians*, by anthropologist Farley Mowat, published last month, describes a visit to the Kolyma basin, formerly one of the largest and worst of Stalin's slave-labour zones. Mowat says that many prisoners died, of disease and lack of food due to inefficiency (though with no mention of the mass shootings by Major Garanin's squads; nor of mass death from 'penal diet' consciously imposed). But, he adds thousands escaped and merged with the civil population. In Stalinist (or current) conditions of documentation and 'vigilance' this is naturally impossible: and we are expressly told by the Soviet writer Varlam Shalamov that only *one* successful escape was known. Mowat has simply believed-what-someone-told-him, as so often. (It is also the case that though Mowat says that the number who died in the Kolyma camps cannot be known, it is not difficult to arrive at an estimate which cannot be far from the truth—about two million).

(*d*) *The Guardian* of 6 January 1972 headlined a report on a memorandum of the British Council for Social Responsibility in the Sciences on security methods in Ulster: "Methods of Interrogation 'Harsher than KGB's.'" The text was more restrained.

Peace and Eastern Europe

An idea behind some recent Western foreign policy moves seems to be that a line can be drawn in Europe between the Soviet and Western blocs, and agreement, détente, and general stability in the area be consolidated on that basis.

There is, of course, a certain fallacy in the notion that the Soviet Union would in any case regard a Western sphere as inviolable. Still, it can be argued that so long as Western power and morale on this side of the line are maintained, and all attempts to 'Finlandize' Western Europe resisted, a settlement of this sort would be advantageous, and even that an Ostpolitik so based could eventually lead to a more positive easing of international, and 'inter-ideological', tensions.

However, there is a hidden assumption here. Such a stability implies that Eastern Europe itself will remain reasonably calm. The opposite is the truth. And recent reports show that tensions within the Soviet bloc, far from easing, are becoming more and more dangerous.

First, of course, there is the problem of Rumania. Reports in some Western papers that the Rumanians have lately been making concessions to the Russians are unfounded, (as are similar rumours to the effect that Communist China has abandoned its interest in Eastern Europe, and in Rumania and Albania in particular.)

Mr. Ceaucescu, in fact, has understood the situation correctly. The only concession the Russians want is the overthrow of his regime. Nor is it seriously open to him to compromise by admitting pro-Soviet elements to his leadership: for that could only result in a progressive purge of himself and his supporters, on the Czechoslovak model. The now virtually confirmed execution of General Serb on charges of espionage for the Soviet Union, accompanied by the expulsion of the Soviet military attache, was a sharp lesson—closely resembling the similar execution by the Albanians of Admiral Sejko in 1964. As in Albania, this amounted to the suppression of a pro-Soviet plot. The Rumanians are reported to have purged 40 staff officers, and a number of important officials, including the Minister of Defence, and the Central Committee Secretary in charge of propaganda, have been demoted. At the same time a strong campaign of vigilance and indoctrination is proceeding in the Rumanian Communist Party, specifically against this type of treason. Moreover, Ceaucescu has understandably decided that his best policy is to sharpen, rather than disguise, differences with the Soviet Union over matters of foreign policy, and especially over China. Recent Rumanian approaches to the EEC, and the conduct of relations with West Germany on a basis quite uncoordinated with that of the Soviet Union, have been overshadowed by the reception of a Chinese military mission. Rumours have even been allowed to circulate, whether probable or not, that the Chinese have offered to provide the Rumanians with nuclear warheads.

A key move in the campaign not only against Rumania but for the re-establishment of strict Soviet control throughout the bloc, is the secret report by Vasil Bilak to the Central Committee of the Czechoslovak Communist Party, made on the 21 October 1971, whose content has recently become known in the West. He attacked the Rumanians for opposing their national interests to to the international obligations arising from the membership by their country of the socialist community', condemning their principle of 'sovereignty outside all class spirit', and failure in 'the struggle against opportunist deviation, against revisionism and nationalism in the international Communist movement.' This nationalism he detected in current Rumanian historical works, in the arts, and above all in the conduct of a foreign policy 'against the interests of a socialist community.'

Ceaucescu, during the visit of the Hungarian leader Janos Kadar at the end of February, firmly defended the Rumanian position and the possibility of 'differences of opinion'. In fact, actually during the visit, the official paper *Scinteia* (23 February 1972) warmly welcomed President Nixon's visit to China, which has been sharply condemned by the Russians. After Ceaucescu's ostentatious visit to China in June last year, it was a leading Hungarian Communist, Komocsin—the Party Secretary in charge of relations with the other Communist parties—who was put forward in both a speech in the National Assembly and an article in *Magyar Hirlap* (13 August) to attack the possibility of China forming an 'anti-Soviet axis' in the Balkans with Albania, Yugoslavia and Rumania.

In his report, Bilak also attacked Yugoslavia, largely for its foreign policy. And it is now learned that he also, to a lesser degree, criticised the leaderships in Poland, Hungary and East Germany. The Hungarians were (he said) repeating the errors made by the Czechoslovaks in 1966 and 1967—that is, attempting piecemeal economic reforms without realising that this 'centrifugal' conduct might lead to political disintergration. (Of East Germany he said that it would take 20 years for the economy and the party to recover from the 'sclerotic' rule of Ulbricht!) More importantly, he first condemned the Poles for excessive pliability and weakness towards the Church, and then said that Gierek's concession of "workers' committees" after last year's riots in the Baltic ports could lead to an 'anarcho-syndicalist' situation, rather than the improvements hoped for. (Qualms about Poland had already been expressed last year, in a little noted circular from the Party organisation in Moravska Ostrava dated 14 February 1971: in that region Poles crossing to and from the area of the Polish minority in Czechoslovakia were having a bad influence.)

Bilak's report is a call for the more effective re-Stalinisation of Eastern Europe on the Czech model. The question is, whether Bilak was put up to speak by the Soviet leadership. He has certainly, more than anyone else, played the part of Moscow's man over the last few years. It has been suggested, on the other hand, that he was acting to some extent on his own, as a known hardliner putting a case, and not necessarily implying full Soviet support. This might not necessarily be off his own bat: his Soviet links are said to be closest with Pyotr Shelest, First Secretary of the Ukranian Communist Party, and on most issues one of the most intransigent members of the Politburo. On the whole, though, it seems more likely that Bilak was acting as a fairly discreet mouthpiece for the Soviet leadership as a whole. (It will be remembered that during the invasion of August 1968 his daughter was on holiday in Cumberland and was kidnapped and taken either home or to Russia by Soviet security men—an action which shows their particular concern for Bilak.) A further point in favour of this view is that Bilak also uttered considerable criticisms of the Sudanese Communist Party (see below), in which the Czechoslovaks and he personally can have no direct interest whatever, and on which he must clearly have been speaking to a Moscow brief.

Bilak's report ranges wide, and indicates all the major trouble-spots of Eastern Europe. The mere existence of the Rumanian regime amounts, from the Soviet point of view, to a permanent temptation to break the peace. Yugoslavia has recently been the scene of a great purge of the Croatian party leadership, which was working for greater autonomy. Soviet agents have been in contact with anti-Communist nationalist elements in Croatia. And in the event of Tito's death there seems to be every prospect of a large-scale disintegration, of which the Russians would be ready to take advantage, possibly by force. A little less obvious, but in some ways even more dangerous, is the position in Poland.

It is generally agreed that Poland's economic and other problems have not after all been solved by the Gierek leadership. A further explosion within the next year or two seems highly probable. In March 1968, the demonstrations by students and intellectuals did not (as in 1956) rouse the working class; while in 1970 the fighting in the Baltic ports was purely by workers, and did not throw up or attach to itself a political or intellectual leadership. Next time it may be different. Moreover, a failure by the Gierek group would mean in effect that there was no further alternative party leadership capable of even promising with any hope of being believed that they could satisfy the working class. This is a formula for real trouble.

In fact, all in all, Eastern Europe remains a powder keg. Nor is there any question of Western influence calming down these fissiparous and rebellious tendencies, and achieving stability on the basis of the status quo.

For the reasons are absolutely fundamental. The Communist culture has simply not 'taken' in Eastern Europe. Most of these nations have not undergone, or have long since broken free, of the servile condition which the Russians have endured for 700 years. The demand for personal and national liberty is ineradicable. These countries are willing to live at peace with, and even in alliance with, the Soviet Union, and to admit Russia's supremacy in the area as a great power. If the Russian leadership would settle for that, then—and only then—could a 'spheres-of-influence policy be viable. But they have not done so and show no signs of wishing to do so. This is not an internal matter of the countries concerned, nor even of the Soviet block. It is a decisive factor for peace or otherwise in Europe.

Cruelty to Animals

For some months a correspondence on cruelty to animals has been going on in the Moscow *Literary Gazette*. The most recent contribution (16 February 1972) is a letter from Krasnodar in the North Caucasus, condemning the way in which dogs and cats are advertised for, at 65 and 35 kopeks respectively for experimental purposes, no questions asked.

There is in fact no Soviet law to prevent cruelty to animals. On the other hand, the question is on the face of it a wholly non-political one—that is, of the type admissible for debate. The present discussion started last September, with a long article by the biologist Dmitri Sukharev. He mentioned some horrifying cases of inhumanity actually published in research papers—for example, the throwing of rabbits into boiling water and pouring spirit over others and setting them alight. Sukharev pointed out that the cruel type of experiment mentioned was in any case entirely useless to science. He then noted that in England there are laws controlling excessive suffering under vivisection. Of course, 'One should not idealize English charity, traditionally merely a flowery disguise for hypocrisy. A community cannot excuse itself by its kindness to cats and dogs, when it is famous throughout the world for its cruelty to other nations.

The anti-Western angle soon prevailed. First, a letter to the paper from the British Anti-Vivisection Society was quoted, and sneered at as showing a 'ladylike' and extremist approach. And the question has since been extended to include the cruel experiments by doctors on human beings, performed by the Nazis during the war, and in Britain now. 'Where for example, newlyweds from poor families obtain the means for going on their honeymoons on condition that they allow themselves to be injected with various diseases' (*Literary Gazette*, 8 December 1971).

It was also pointed out (11 November 1971) that 'experiments on people, bringing these people to death and mutilation, are only possible in countries where the moral climate is darkened by force, wars, and mass repression against the dissenters . . . the activity of the British neocolonisers in Ulster cannot but influence the general atmosphere.'

Nevertheless, a number of the biologists and others who have written in are clearly attempting an improvement in the Soviet attitude to animals. There has as yet been little sign of legal action, but that may come. It seems unlikely, though, that they will then be allowed to divert their attention from Western medical and other malpractices to the chemical and physical tortures performed on dissidents in the Soviet 'psychiatric' hospitals.

Switch on the Sudan

The report by Bilak to the Czechoslovak Central Committee, referred to above, contains a most significant passage on recent events in the Sudan. As we have said, there is no real Czechoslovak interest in the matter, and we can certainly take it that Bilak is here speaking to a Soviet brief.

Bilak's thesis is that it was wrong of the Sudanese Communist Party to attempt a military coup against the Numeiry government, and the other Communist parties knew nothing about it. The Numeiry regime consisted of 'progressive officers' who had overthrown the previous 'feudal-upper bourgeois' government and should not have been opposed a l'outrance. The putsch was ill prepared, and supported neither by the army nor by the masses.

The repudiation and condemnation of unsuccessful attempts to seize power by foreign Communists is an old Soviet practice, dating from similar adventures in Europe in the 1920s. And, as so often, a switch from the earlier line that no coup had been planned, and that, on the contrary, the Sudanese Communists had been framed up by fascist officers, leaves those Western fellow travelers who swallowed it in the usual awkward position.

More important, this pronouncement seems to foreshadow a new line towards the Sudan, and the other Arab countries too. Bilak specifically condemns the Sudanese Communists for opposing Arab federation, as 'playing the pro-American game.' The defeat of the attempt to establish a full-scale Communist bridgehead at Khartoum has, in fact led (for the time being at least) to a further play of the 'united anti-imperialist front' card, and we are now evidently going to see an attempt to re-establish Egyptian, Libyan and Sudanese confidence in the Soviet Union's intentions. That may be a difficult task.

A Note on Soviet Oil

We here briefly consider one element in Soviet policy in the Middle East, of which we shall treat more fully in later issues.

Not so many years ago, we were asked to tremble at the thought of overdependence on Soviet oil, which, so it seemed to some, was going to disrupt markets in the western world. It should have been realised that world demand is rising fast, and that Soviet exportable surpluses were not large enough to constitute a menace, though of course they could and did make some inroads into particular markets, like that of Italy. Now the wheel has turned full circle. We hear of shortages of oil in the USSR, and Soviet policy in the Middle East is alleged to be influenced by a desire to assure herself of oil from this source.

Let us look at some facts. Soviet oil production has increased very rapidly, and oil is among the few sectors of the economy which has kept to its plan of schedules.

[In million tons]

	1960	1965	1970 Plan[1]	1970 Actual	1975 plan
Oil output	148.0	243.0	350.0	353.0	496.0
Oil exports[2]	33.2	64.4	.....	95.8	.....

[1] The 5-year plan (1966–70).
[2] Crude plus products.

The figures clearly show a rapid rise in oil consumption within the Soviet Union itself. Exports to the west have not been increasing fast in recent years, and this can only be due to lack of oil to sell, since we know that sales in such markets as Sweden have been below possibilities. The USSR has undertaken to supply oil to its own Comecon partners, it must supply its own needs, and, although western "hard" currency is urgently wanted, there has not been enough oil over to take full advantage of the market opportunities that exist.

This has largely been due to difficulties in developing new fields. The old Baku centre has long ceased to be a key centre of the oil industry. The Urals-Bashkir area replaced it. But now the great centre of expansion in the Tyumen' area of northwest Siberia (and to lesser extent also the northern and eastern fringes of the Caspian Sea). But Tyumen' is a difficult area to develop. It is sparsely populated, it has hardly any roads and inadequate railway, it has a harsh climate which interferes with construction and would-be migrants. Massive injections of social overhead capital are needed, people must be persuaded to go there and to stay, under conditions in which they are free not to go there, and free to leave once they get there. (Only a few weeks ago a Soviet journal informed us that of 100 assisted migrants to a part of West Siberia, 70 leave within a year of arrival). This oilfield is believed to be very rich indeed. Once it is fully operational, and the necessary pipelines are built, the comparative shortage of exportable oil might be overcome. Recent press reports speak of negotiations with the Japanese, designed (among other things) to secure help and

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credits for Siberian development, with the USSR paying in Tyumen' oil, moved across Siberia through an immensely long pipeline, which will take a long time yet to complete. There would, of course, also be pipelines from Tyumen' to centres in the European parts of the USSR, linking up with the so-called "Friendship" pipelines atretching across the border into East Germany and Czechoslovakia, and might extend further west.

Does all this mean that the Soviet oil "invasion" forecast in the early sixties will become a reality in the late seventies?

Nothing is easier than to make mistakes in forecasting the riches of an oilfield. (Think of the number of times America was "threatened with the exhaustion of *her* oil reserves, but they keep finding more of it.) However, it seems that we should not change our views drastically The "dangers" of Soviet oil exports were exaggerated ten years ago, the "oil shortage" was exaggerated by some analyst in 1970. If Tyumen' develops as expected, the USSR should fulfill her five-year-plan for the oil industry, and no doubt this plan envisages a large rise in domestic utilization, and expansion of sales to both Eastern Europe and the capitalist world. This is unlikely to represent any major increase in the share of the USSR in world trade in oil, but clearly it does leave room for the possibility of a sizeable invasion of some one market. Let us, however, bear in mind that the impact of Soviet oil sales in a few countries was due largely to the fact that Soviet oil was (and is) kept out of some very large markets, of which Great Britain is one, impact is heightened if sales of a given quantity are concentrated in a few places. This concentration was not, however, intentional: the Soviet salesmen went to the countries from which they were not barred.

Anyhow, the view that the USSR is likely to become a net importer of oil cannot be sustained, it has no evidence whatever to support it. Less clear is the position of the Comecon countries taken together. Only Rumania among them is an oil producer. The others are large importers, and their consumption will certainly rise fast. Will the USSR be able to meet all their needs, and at the same time continue to be a supplier to western markets? It may be confidently stated that Soviet planners will not wish to forego the convertible currency earnings which oil brings them. Therefore it is possible that such countries as East Germany, Czechoslovakia and Poland may buy increasing quantities of Middle East oil. But there is no strong case for asserting that the Comecon countries taken together will be net importers of oil, and it seems at least as probable that Soviet exports will exceed the imports from non-Soviet sources of the smaller Comecon countries, especially if Rumania's contribution is taken into account.

So, in assessing Soviet policy in the Middle East, it seems wrong to lay stress on actual Soviet neeed for oil as a significant factor.

The Price of a Television Set

Soviet publications hardly ever print any hard facts about retail prices in the USSR. This sensitive area is touched upon only when the government decrees price reductions on some types of goods. One such rare revelation was made by the weekly *Nedelya* on the 6th February. Commenting on the reduction, from February 1st, in prices of TV sets, the paper stated that colour television sets, previously cost 850 rubles, would now sell at only 650 rubles—the equivalent of six months average wages for Soviet workers and employees—while black and white 59 cm. (23 inch) screen sets had come down from 420 to 320 rubles: a mere three months average wages. The paper further remarked that even at the old price levels "many families" already possessed two TV sets—one in their flat and another in the dacha. Hardly to be wondered at: people who can afford dachas can probably manage two television sets as well.

Fictions and Fallacies

A common recent attitude to events in the Soviet Union is to condemn or criticise them, but to say that they are not substantially different from what goes on in the Western democracies. In particular, there have been many items lately claiming that there is little difference between the Soviet and British or American treatment of dissenters.

For example:

(a) In the *New Statesman* (3 March 1972) Mr. Anthony Arblaster reviews Dr. Peter Reddaway's edition of the first eleven issues of the clandestine Soviet journal Chronicle of Current Events, *Uncensored Russia*. He argues that a similar book could be produced in England called *Uncensored Ulster*, consisting of material suppressed by the authorities. The comparison breaks down rather, when one considers that (i) The "suppression" in the British case consists of failure to show certain film on television, to print articles in particular newspapers, etc. while in the Russian case it is not a question of material critical of official activities not being given adequate coverage on television or in particular papers, but of it not being allowed at all: in Britain of course (as for example in the *New Statesman* itself) a continuous stream of material attacking the government, the army, and so on, appears quite legally. (ii) he compares "the denial of civil rights" in the Soviet Union with "their denial in the United Kingdom itself". The denial of civil rights with us consists of the internment of suspected gunmen; in the Soviet Union of the imprisonment of anyone publicly objecting to official policy in conditions of civil calm. There may be objections to the former. But the two things cannot be made comparable simply by using the same words about them. (iii) Similarly he compares the "manhandling of demonstrators in Red Square" with the "equally brutal treatment of protesters in Chicago, Paris or Belfast". The three western examples were of rioters or armed rebels attempting to overawe a party convention or overthrow a government. The action of the protesters in the Red Square was to raise a few placards. A comparison with even the Chicago riot should be of the rioters in Chimkent in 1967. There the police opened fire; the dead are estimated as anything up to 200; on its suppression three "ringleaders" were executed; their trial was not held in public; the evidence was not reported—and so on. (iv) Mr. Arblaster writes that "no fair-minded person can fail to notice that while Soviet dissenters are held up for our admiration . . . Western dissenters" are generally speaking condemned. Here again, a sleight of hand has been performed with the general word "dissenter". In the one case men expressing a deviant opinion: In the other, that small section of the huge number of freely writing dissentients from official policy who go, to put it mildly, rather further. Mr. Arblaster does indeed see that what the Russian dissenters long for is the commonplaces of orthodox Western liberalism" which he regards as silly of them. He finds it "depressing" that they do not seem to want anything more "radical" or "socialist". As a Czechoslovakian student recently wrote in the American progressive *Dissent*, the inhabitants of the Communist states have 'had their fill of Utopia". *Experientia docet*.

(b) Mr. Stuart Hood in the *Listener* (24 February 1972) also, though less recklessly, compares the trial of Pavel Litvinov and others with the Chicago Trial. Perhaps the differences are more striking. In addition to the incommensurability of the events leading to the trials, we may note (1) that the Chicago accused were all out of bail, (2) that their case was followed and favourably reported on by large sections of the American press, (3) that they were acquitted, (4) that they openly expressed their desire to overthrow the American government by any means whatever, (5) that the trial was public, (6) that the American courts do not resemble those of the USSR in, for example, the recent appointment of two secret police generals to the Soviet Supreme Court.

(c) Professor Alec Jenner, Professor of Psychiatry at Sheffield University, is reported (*Guardian*, 24 January 1972) as being wholly opposed to the internment of Soviet dissidents in mental hospitals. But, in all fairness, he points out that the Soviet concept of schizophrenia is much 'wider' than ours. The definition of madness is "terribly difficult," and society has often "used or misused the term with people who do not fit into acceptable patterns of behaviour." He gives as an example the fact that parents or teachers may say that a child taking cannabis is mentally ill in some way. Thus Russians, similarly, believe that anti-Soviet behaviour must be a sign of insanity. The difference, of course, is that a lay citizen saying that "You must be mad" is not the same as a government defining opposition as lunacy and carrying out the necessary seizure and certification of the victim.

(d) Dame Peggy Ashcroft in a letter to *The Times* (2 February, 1972) also complains of the brutality and hypocrisy of putting Soviet dissidents into mental homes. She mentions the legitimate complaints of people like herself against the jailing of oppositionists in Greece, Rhodesia, etc. (though not in Zanzibar, Cuba, etc.) but then goes on to speak of the apparently comparable "harassing" of young revolutionaries in England. Here, it is the *word* "harass" which appears to cover a very wide range of different actions.

Among the Dissidents

An Unreported Political Trial

A highly significant Soviet political trial, thinly disguised as a common criminal case, has just gone completely unnoticed by Western news media. On the 14th February 1972 *Vechernyaya Moskva*, the Moscow evening newspaper, carried a short account of the trial of Mrs. Alisa Shokolskaya, accused of stealing hundreds of "antique" books from Moscow libraries with the aid of forged documents. Yet even the scanty details provided by *Vechernyaya Moskva* make it clear that this was no ordinary case of theft—if, indeed, Mrs. Shokolskaya's offence can be at all described as theft in any recognisable sense of the world.

Mrs. Shokolskaya is alleged to have obtained 1,233 books from the Lenin Library with "forged requisitions" from her employers, described as the Institute of Pedagogical Sciences. The books were then passed on to three leading Soviet intellectuals: Roy Medvedev, author of the massive study of Stalinism, *Let History Judge*, recently published in the USA and scheduled for publication in Britain on March 23, and twin brother of the famous geneticist Zhores Medvedev whose incarceration in a lunatic asylum in 1970 created a world-wide scandal; V. Y. Lakshin, the well-known literary critic and longstanding colleague of the late Alexander Tvardovsky; and V. P. Danilov, the eminent historian of collectivization, head of a research sector in the Institute of History in the Academy of Sciences. All three testified on Mrs. Shokolskaya's behalf. *Vechernyaya Moskva* remarked that they 'did not confine themselves to favourable character references'—whatever this rather ominous phrase may imply. Roy Medvedev, says the newspaper, even attempted to 'blackmail' Mrs. Shokolskaya's director in front of the court. No details of this mystifying episode are supplied. Medvedev also stated that he was unaware that the books had been stolen. 'Strange', commented *Vechernyaya Moskva*.

The garbled newspaper account is nevertheless sufficient for a fairly definite picture of Mrs. Shokolskaya's true 'crime' to emerge The term 'antique books' in Soviet parlance does not refer to *incunabula* or other rare editions: it applies to Soviet books which for some reason or another have been included in the official index of prohibited publications, or of 'out-of-date publications', as it is euphemistically called. Copies of such books are preserved in the 'special collections'—the *spetskhrany*—of select libraries; only authorized persons are allowed access to them, by special permit and for clearly stated specific reasons. Roy Medvedev's book is remarkable for its wealth of published sources, most of them inaccessible to the ordinary Soviet reader or to anyone conducting unofficial research.

It is quite clear that Mrs. Shokolskaya's crime lay in contravening Soviet censorship regulations with the purpose of assisting the valuable though unauthorized historical research of scholars like Roy Medvedev. In the USSR such a misdeed is far graver than common theft. So is the punishment: Alisa Shokolskaya was sentenced to *six years imprisonment*.

This case, which gives a particularly clear picture of the Soviet attitude to truth, and to the search for truth, attracted no attention in Britain, nor, apparently, elsewhere in the West. In itself it provides an answer to the question often put about the 'real' difference between Soviet and Western attitudes to unorthodox publication.

Solzhenitsyn

Interest has been aroused in Soviet dissenting circles, as well as in Britain, by instructions sent by Alexander Solzhenitsyn through his legal representative in Switzerland, Dr. Heeb, to protest against the impending publication by Macmillan and Company of a biography of him, as a result of which Macmillan abandoned the project.

We now learn the origins of Solzhenitsyn's qualms about such biographies. It has come to his notice that the KGB, through a supposed friend of his, attempted to plant in the West an entirely false story, both damaging and dangerous to him. He fears that, however, innocently, unauthorised biographies appearing in the West (and the one in question was specifically based on conversations with his 'friends') may in one way or another harm him.

Plea in Mitigation

A curious difference between the Soviet attitude and that of the West emerges in a description of the trial last year of the dissenter V. Kukul at Sverdlovsk. Kukul seems to have been the victim of a Moscow decision to make an example of at least one Jewish activist in each major city. However nothing could be found against him except the possession of writings of Jewish interest, and about Israel, (including material published in the Soviet Union itself, though in "antique" pre-Stalin times) : none of it, anyhow, of a type previously held to be criminal even under current draconic interpretations of an already draconic law. Kukul was sentenced to 3 years imprisonment, which he is now serving in the Novaya Liyaliya labour camp; a number of his letters to a friend who holds his power of attorney have been intercepted without notification, contrary to Soviet regulations, which at least provide that prisoners should be told that their letters have been suppressed.

However, an even more remarkable illustration of the nature of Soviet legal practice has now emerged. In a letter to the Supreme Court signed by Academician Andrei Sakharov and Dr. Valery Chalidze, the point is made that the defense attorney "having substantiated the conclusion that there was nothing criminal in the activities of V. Kukul, asked the court . . . to mitigate the punishment". We were reminded of the story, dating from Stalin's time, where one prisoner asked another,

"What did they give you?"

"15 years."

"What did you do?"

"Nothing."

"There must be some mistake. For nothing you only get ten years."

Decline of U.S. Exports

Mr. FANNIN. Mr. President, the Department of Commerce tells us that American exports declined 9.8 percent in February while imports increased by 3 percent.

Exports totaled $3.8 billion; imports $4.4 billion.

This, the statisticians tell us, means that our trade deficit increased by $278.8 million.

These figures are alarming because they demonstrate the continued deterioration of the ability of American industry to compete with other industrial nations.

There are two major reasons for this decline.

First, we have the unrealistic international trading agreements which allow foreign governments to give extraordinary aid to their export industries.

Second, and perhaps more important, we have the unrealistic wage rates imposed upon U.S. plants. The high wages imposed by unions have not brought prosperity to the American worker; the exorbitant wage increases have brought only inflation and a loss of jobs.

Mr. President, the situation has reached the point that leaders of many industries are asking for intervention by our Government.

The situation even is causing union officials to sit down with management to try to work out proposals to save our industries. These efforts are somewhat belated, and in some cases misdirected, but at least they are encouraging.

The only lasting solution, and the only one which will be fair to the American consumer, is for organized labor to start showing responsibility and restraint in bargaining. Increased wages must be allowed only when it is justified by increased productivity.

Mr. President, the business and financial editor of the Arizona Republic, Don G. Campbell, wrote an interesting column which appeared in his newspaper on March 12, 1972. I ask unanimous consent that the article be reprinted in the RECORD for the benefit of Senators who are concerned about the international trade problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Pinch of Low-Cost Imports Drives Steel Men to Protectionist Moves

The sound of the "Ouch" rings loudly across the land and no longer is there any question about whose ox is being gored.

It's labor's ox that is being gored, and the bellowing has reached ear-splitting proportions. It's a segment of the populace that is being pinched, and in the process, it has picked up an unaccustomed ally—a fellow-pinchee—with an equal amount of political clout: management.

And it is hardly a coincidence that the domestic steel industry is a prime mover in the attempt to get new legislation through Congress that is, by anyone's definition of the word, "protectionist" in nature. And while the effort to keep out imports is taking many forms, a major share of the lobbying is currently zeroed in on pending legislation amending the old "Buy American" Act of 1933.

How intense the pressure on Congress is destined to become was evident here this past week where a quiet group known as The Labor-Management Committee for Fair Foreign Competition met at Scottsdale's Doubletree Inn for a day-long strategy session.

Aptly named, the group is a blend of company executives and union officials representing the badly hit West Coast steel industry. Collectively and individually, the members of the committee feel their economic security sorely threatened by the influx of foreign (particularly Japanese) steel. And they are dead-right.

"Nationally," George Leonard of Northwest Steel Rolling Mills of Seattle, Wash., and a vice president of the committee, said in an interview, "imported steel has taken about 15 per cent of the market but, on the West Coast, it averages out to to about 35 per cent of the market, and in some places, like Seattle, a full 50 per cent of the market has been lost."

What this means in terms of American jobs, and lost tax revenues for Uncle Sam, gets up into some pretty impressive figures.

"We know for a fact that employment in the steel industry in the Seattle area is down about 30 per cent," said George Stender, the committee's president and an official with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers. "In other West Coast cities the average drop is only about 15 per cent, but this is a deceptive figure since—on top of the layoffs—many of the plants are also on a four-day week."

Here in Phoenix, Larry C. Haines, president of Allison Steel Manufacturing Co., said, the firm utilizes 70,000 man-hours a month when in full production, but is currently operating on a 39,400 man-hours-a-month basis. The local company, a subsidiary of the Houston-based Marathon Manufacturing Co., is a producer of re-enforced steel bars, and fabricates and erects structural steel.

But the steel industry and labor aren't the only losers, Stender added. Uncle Sam also takes a beating since lost tax revenues are equal to about 35 per cent of the purchase price of all steel acquired from overseas.

There's no great mystery in all of this, of course. The big bugaboo is the spread between U.S. wage rates and foreign wage rates. The average American steel worker earns about $5 and $6 an hour and the wage rate in Japan's steel industry is $1 an hour.

In Phoenix, Haines added, the average steel worker makes roughly $4 an hour although other costs in the fabricating process (exclusive of the raw material in the steel) runs the cost of production up to about $8 per man-hour. And, in addition to Japanese and Italian steel, this Southwest market is also competing against highly sophisticated Mexican producers operating in a labor market where wages average $4.60 a day.

Translated into hard selling terms, this means that U.S.-made steel normally selling in the $200-a-ton range is competing against foreign steel selling anywhere from $40 to $50 a ton cheaper.

While the members of the Labor Management Committee for Fair Foreign Competition attending last week's meeting here back

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away from the use of the word "protectionism" this is still basically, what the session was all about.

"The Buy American Act," Stender said, "was passed in 1933 and specified that the federal government should buy what it needs domestically unless it is unavailable or 'unreasonable' in price. 'Unreasonable' was interpreted as meaning that there was a 25 per cent or more price differential between the domestic and the foreign price."

Under President Eisenhower, however, the spread was lowered drastically—with the exception of defense-oriented items where the price differential was raised. Today, Stender said, everything is pegged at 6 per cent except defense items where the differential is 50 per cent.

This means that, under the "best and lowest" bid concept, the federal government can buy its needs overseas if an item selling for $100 domestically can be purchased from a foreign producer for $94. If it is defense oriented, of course, it MUST be purchased domestically unless the $100 items can be obtained overseas for $50 or less.

What the West Coast-oriented labor-management group is pressing for is a series of three legislative amendments to the Buy American Act that would: (1) establish equitable quotas on foreign imports; (2) require the individual states to follow the federal government's lead in buying domestically, and (3) raise the price-spread on all items to a flat 50 per cent.

It isn't merely that foreign labor costs are putting American labor at a disadvantage, members of the committee insisted. Our trading partners, they insist, are taking unfair advantage of us by subsidizing their own producers and using the U.S. as a gigantic "dumping ground"—encouraging their manufacturers to unload their goods here at prices that are far lower than their own prices at home, and absorbing the industry's losses. Japanese steel, for instance, sells for about $50 more a ton in Japan than it does in the United States.

"Protectionism?" Sure it is.

"Why should we lower our standard of living here?" a labor member of the committee asked rhetorically, and heatedly. "Isn't it better that they should raise their's?"

A NEW WAY OF HEARING

Mr. EAGLETON. Mr. President, an article published recently in the Washington Star has brought my attention to a new method which may prove to be a great help in overcoming the problems of the deaf.

This method is called infracode. Rather than use the ear as the path for hearing, infracode utilizes the sensitive nerve receptors in the skin. When an oscillator about the size of a wristwatch is placed on an area of the skin, vibrations are passed to the brain and are interpreted as sound.

Though the infracode method is new and is still being tested, there have been a number of encouraging results.

I am sure that Senators and those who deal professionally with the problems of the deaf will be interested in reading about infracode.

I ask unanimous consent that the article, entitled "A New Way of Hearing," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A NEW WAY OF HEARING

(By Judith Randal)

A new technique called Infra-Code may do for the deaf or partially deaf what Braille has done for the blind.

And, just as Braille makes use of the sense receptors in the skin, Infra-Code makes use of one of the body's least-appreciated collection of sense organs—the network of nerve receptors in the skin.

Pioneered at the University of Zagreb in Yugoslavia, the technique takes advantage of the fact that if normal conduction pathways are inoperative, others will take over if given a chance. Instead of trying to restore hearing by dealing with the structures of the ear, therefore, Infra-Code works by using an oscillator about the size of a man's wristwatch.

VIBRATING SENSATIONS

When placed on the skin and linked to a machine designed for the purpose, the oscillator causes the subject to have a different, but painless, vibrating sensation for every syllable spoken into a microphone. The vibrations in turn are passed along to the brain and interpreted as sound.

Once these individual pulses are imprinted on the nervous system, the patient continues to be able to pick them up and identify them even though he is not using the oscillator and does not hear them in the usual way.

Thus, after he has "learned" the word sounds through the oscillator, they become his.

The degree of success varies with such factors as the age and motivation of the subject and the duration and severity of his deafness, and some people continue to benefit from a hearing aid.

But of the same 200 who have been trained by the method in this country, almost all are in better contact with spoken language than before. They include some with nerve deafness who had been written off by doctors as beyond help, and a few deaf-mutes.

Infra-Code has been refined in this country by John S. Medaris, president of the Bethesda firm of that name. He has had the help of a Yugoslav physician, Dr. Arsen Stejnjajic, now on the staff of the Mt. Sinai Hospital in New York.

SOME TESTS DONE

Because almost anyone can easily learn to teach the technique and because large numbers of oscillators can be plugged into the basic unit, Medaris envisions its use in group situations so that several people can be rehabilitated at once.

He readily admits that doctors and audiologists consider his method unorthodox and unproved. For this reason, he is eager to have a recognized ear specialist or medical center subject it to rigorous trials.

The technique already has been evaluated for group use at the Western Pennsylvania School for the Deaf in Pittsburgh. In the test, 48 children from 3 to 5 years old were divided into two groups and half were taught to speak by conventional methods and half by Infra-Code.

So it became apparent that those trained with the oscillator were making far more progress in achieving clear, natural speech and at greater speed. So impressed were Pennsylvania educators that the state is considering substituting this method for long term special training, which would save its government $4,600 per year per child.

Another organization planning to use Infra-Code is the San Francisco Bay Hearing Society. The charge for lease of the equipment to them, as to other organizations, is $450 a month.

FREQUENCIES CHECKED

Meanwhile, word-of-mouth brings people of all ages from all over the nation to the Infra-Code Center in Besthesda.

Contrary to what many doctors believe, Medaris has found that even the totally deaf are sensitive to low sound frequencies. The first step toward rehabilitation, therefore, is an individual analysis, using the Infra-Code equipment, of the precise sound frequencies which the subject can and cannot hear.

Properly manipulated, says Medaris, sensitivity to low sounds can be exploited to help patients hear higher ones so that the totally deaf can be converted to being merely hard-of-hearing and the partially deaf can be made less so, even without wearing a mechanical aid.

No two cases of deafness are alike, of course, but the experience of Jimmy, a 13-year-old from a Kansas City, Kans., suburb is perhaps typical. A child with multiple handicaps, Jimmy has overcome most of the disabilities of cerebral palsy, but—despite ear surgery and two hearing aids—his speech was largely unintelligible when his adoptive mother brought him to Medaris a week ago.

Now, after two one-hour sessions daily for five days, he is still going to have to work on his enunciation, but much of what he says comes across loud and clear. He was beside himself with excitement Thursday night when, with his back to a window and without his hearing aids, he heard an ambulance siren scream outside.

During his training sessions, Jimmy wore the vibrator on his wrist and a headset whose only function was to block out any sound that might reach him through his ears.

His teacher, Janet Whitt, then gave him simple sentences through the microphone that is part of the Infra-Code equipment and asked him to repeat them, correcting his pronunciation whenever it wasn't quite right. Jimmy can lip-read, but he was able to respond correctly even when he couldn't see the teacher's face.

NOW USES TELEPHONE

Another of the people who say they have been helped by Infra-Code is Jeanette Perison, 22. Born totally deaf, she, too, is an expert lipreader, but before Infra-Code training, could not use the telephone. Now she can hear at distances up to 60 feet and is able to take phone messages at Microbiological Associates in Bethesda, where she works with laboratory animals.

Because Infra-Code structures and imprints messages in the brain, Medaris believes it also may be capable of helping people who are not deaf, but handicapped in other ways.

Many of the people with the form of mental retardation known as Mongolism, for example, speak poorly because of an over-sized tongue, one of the symptoms of the disorder. With the aid of Infra-Code, however, it may be possible to train at least some of them to overcome this barrier. Only one 30-year-old patient has been treated to date and only for an hour. But in this single trial, she learned to say distinctly, "My name is Marjorie."

And then there is Kenny, 17, who spoke normally until after an operation when he was four and has uttered nothing since except an incoherent babble. No one can predict whether Kenny, whom doctors say is schizophrenic, will ever speak again or dare to emerge from his private world.

But he was persuaded by Infra-Code last week to say "ba" instead of his usual "swa" or "swee," and when Janet Whitt asked him to put his hand in hers if he would like to come back, he did so immediately.

JOBS FOR VETERANS IN PRINCE GEORGES COUNTY, MD.

Mr. BEALL. Mr. President, all Senators are keenly aware of the distressing employment problems our veterans are now facing as they return from serving their country. These men, who have performed their duties with skill and dedication throughout the world, often at high personal sacrifice, possess the desire and ability to do an outstanding job in civilian pursuits, just as they did in the military. All they lack is the opportunity.

I invite the attention of the Senate to the fine efforts of one jurisdiction, Prince Georges County, Md., in coping with this pressing problem. Cooperating with the county Jobs for Veterans Task Force, the Chamber of Commerce, and other service organizations, the local government, under the able direction of County Executive William W. Gullett, has devised a system that might well serve as a model for other communities near large cities, but with unique problems of their own.

The county has created an Office of Veterans' Affairs, manned by a staff of six, all new veterans themselves, designed to help returning servicemen find employment, job development, and proper placement. I commend Prince Georges County for this much-needed project, and ask unanimous consent that the article "Suburb's Unemployed Veterans Get Attention in Maryland," in the JFV Report of March 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUBURB'S UNEMPLOYED VETERANS GET ATTENTION IN MARYLAND

A relatively new "one-stop" service center for veterans in Prince George's County, Maryland, might well serve as a model for other communities adjacent to large cities but with specific problems of their own.

In this case, the large city is Washington, D.C., which, like other major towns, has had its suburbs burgeon with incredible speed in the last years.

Prince George's has been and still is largely a bedroom community for federal workers in the Nation's Capitol. But its rapid rise in population and the press of its own population for services has left the county government groping for ways to cope with problems springing up at every hand. And one of these is the problem of unemployment among the county's Vietnam era veterans.

Late last year, the members of the county's JFV task force, and the heads of service organizations, and the chamber of commerce, lent their support to an effort to lobby the county government for more effective service to the county's young crop of returning veterans.

They brought to the attention of County Commissioner William W. Gullett the fact that most of the county's veterans were forced to go to offices of the Veterans Administration in Washington or to local employment service units for benefits and job information.

The ride to Washington, they pointed out, was often a long one from distant points of the county, and was, in a sense, asking the Washington VA offices to take care of a Maryland problem. In addition, the rapid return of so many veterans had left state veterans employment representatives in local offices in Maryland at a loss in handling their increasing caseloads.

Mr. Gullett agreed that something should be done, and the timely arrival of Emergency Employment Act funds made it possible. In late November the county set up an Office of Veterans Affairs in a shopping center a few miles from the county's boundary with the District of Columbia.

From an original three, the staff has now grown to six, all of whom are paid by funds provided under the Emergency Employment Act. All are recently separated veterans or recent retirees from military service, and their salaries will be paid for by the county when EEA funds expire in July.

Essentially, the six staffers are helping to find veterans jobs, and they concentrate their efforts on job development and placement. Raymond Thomas, deputy director of the office, said that, despite the continuing softness in the job market, more and more employers are requesting that veterans get the first crack at the jobs they are offering.

While the new office restricts its job development efforts to employers in the county, its referrals run to employers throughout the Washington metropolitan area because the office is plugged into the area-wide job bank system. This note of cooperation between the county, the city government, and other suburban organs of government is significant when one considers the difficulty frequently encountered in trying to get different governmental units, particularly a city and its suburbs, to work together.

Staffers in the new veterans office also are supplied by forms from the Veterans Administration so that an ex-GI can apply for various kinds of benefits without having to make the trip to Washington to pick up forms.

RECENT FEDERAL COURT DECISION LIMITS REGULATORY AUTHORITY OF FEDERAL TRADE COMMISSION

Mr. COOPER. Mr. President, yesterday, a decision by the U.S. District Court for the District of Columbia held that the Federal Trade Commission lacked authority to make general industry-wide regulations defining unfair and deceptive trade practices.

In his written decision, Judge Aubrey E. Robinson held that a trade regulation rule promulgated by the Federal Trade Commission requiring octane ratings to be posted at all gasoline pumps was "null and void as it is in excess of the Federal Trade Commission's statutory authority." He went on to state that:

The Federal Trade Commission lacks the requisite statutory authority to issue Trade Regulation Rules.

In my testimony before the Senate Commerce Committee on April 2, 1965, concerning proposals dealing with cigarette labeling, one of the major points of my testimony was that the Federal Trade Commission did not have the statutory authority to promulgate industry-wide trade regulations for the labeling of cigarettes as related to health hazards without congressional authorization.

I do not know what the final decision, perhaps by the U.S. Supreme Court, will be in this issue. I do make the point that action by the FTC or other Federal agencies should be according to law under regulations made or authorized by Congress.

I ask unanimous consent that Judge Robinson's order and decision and a news report published in the New York Times of April 5, together with my statement before the Senate Commerce Committee in 1965, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 1180–71]

NATIONAL PETROLEUM REFINERS ASSOCIATION, ET AL., PLAINTIFFS, v. FEDERAL TRADE COMMISSION, ET AL., DEFENDANTS

ORDER

Upon consideration of Plaintiffs' and Defendants' motions for summary judgment filed February 1, 1972, and their respective briefs, it is this 4th day of April, 1972,

Ordered and adjudged, that for reasons set forth in an opinion filed herewith, the Federal Trade Commission's Trade Regulation Rule dated December 30, 1970, as revised on December 9, 1971, and published in the Federal Register on January 12, 1971, and published, as revised, on December 16, 1971, relating to the posting of octane numbers on gasoline pumps at service stations, is null and void as it is in excess of the Federal Trade Commission's statutory authority; and it is further,

Ordered and adjudged, that Plaintiffs' Motion For Summary Judgment be and hereby is *granted;* and it is further,

Ordered and adjudged, that Defendants' Motion For Summary Judgment be and hereby is *denied.*

OPINION

William Simon, Esq., J. Wallace Adair, Esq., Robert W. Steele, Esq., Roger C. Simmons, Esq., of Howrey, Simon, Baker & Murchison, Washington, D.C. for the Plaintiffs, National Petroleum Refiners Association, *et al.*

L. Patrick Gray, III, Assistant Attorney General, Harold H. Titus, Jr., United States Attorney, Harland F. Leathers, Attorney, Department of Justice, Stuart E. Schiffer, Attorney, Department of Justice, Ronald M. Dietrich, General Counsel, Federal Trade Commission, Harold D. Rhynedance, Jr., Assistant General Counsel, Federal Trade Commission, Alvin L. Berman, Attorney, James P. Timony, Attorney, and Nicholas S. Reynolds, Attorney, Federal Trade Commission, for the Defendants, Federal Trade Commission, *et al.*

This suit questions the authority of the Federal Trade Commission (FTC) to promulgate Trade Regulation Rules pursuant to 15 U.S.C. § 41 *et seq.* (1971). It is a case of "first impression," no other courts having directly considered the issue.[1]

The FTC announced, on July 30, 1969, that it intended to issue a Trade Regulation Rule declaring that failure to post octane numbers on gasoline pumps at service stations would be an "unfair method of competition" and a "deceptive practice," constituting a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (1971) (hereinafter FTCA).[2] On December 30, 1970, the Commission issued such a Rule;[3] extended the effective date of the Rule on April 13, 1971 for the purpose of considering a revision thereof; withdrew the effective date[4] and proposed an alternative Rule on August 19, 1971;[5] and on December 9, 1971 issued a revised Rule in this respect that was to be effective March 15, 1972[6] but for a stay entered by this Court.

This Rule, in simple fashion, makes the failure to post octane numbers an "unfair method of competition" and an unfair or "deceptive act" or practice without the necessity of further proof. Plaintiffs here contend that the Commission lacks statutory authority to promulgate this Rule.

The Court need not consider the several other contentions raised by the Plaintiffs, for the answer reached here pretermits all other issues. For the reasons set forth below, that to this Court are persuasive, it is held that the FTC lacks the requisite statutory authority to issue Trade Regulation Rules.

Initially, one considers that the FTC is materially distinct from other administrative bodies. The FTC was created with the express purpose that it be a purely investigative body. This factor distinguishes the FTA from other agencies that are regulatory in nature. Recognizing that the FTC might serve a more vital function, Congress appended to FTC's investigatory powers, quasi-judicial authority to file complaints, hold hearings, afford due process and determine; based upon a finding of fact, whether viola-

Footnotes at end of article.

XUM

tions of the FTCA had or were occurring. The determination having been made that a violation existed, the FTC was granted cease and desist power to correct and prevent there continuance. Judicial review of cease and desist orders was specifically provided for to the Courts of Appeals. These quasi-judicial powers are laid out separately in Section 5 of the FTCA.[7] The investigative powers of the FTC are expressed in Section 6 of the FTCA.[8]

There is only one reference in the FTCA that speaks to the issuance of rules and regulations. The FTC relies heavily upon its substance and it states:

The Commission shall also have power . . .

(g) From time to time to classify corporations and to make *rules and regulations* for the purpose of carrying out the provisions of sections 41–46 and 47–58 of this Title. (emphasis added)[9]

This clause is located in Section 6 of the FTCA where the investigative powers are conferred.

While the authority at issue may at first impression be thought to fall within this section; to issue rules and regulations concerning deceptive or unfair trade practices or competition; both the context of Section 6 (g) and the legislative history accompanying it demonstrate that this particular authority was not, nor has it been, granted.

The history of this section is clear. Section 6(g) of this Act was intended only as an authorization for internal rules of organization, practice, and procedure. The section was to insure that the FTC had the power to require reports from all corporations.[10] Section 6(g) of the FTCA originated in Section 7 of the House Bill of 1914 that conferred only investigative powers on the Commission.[11] This House Bill did not contain provisions analogous to Section 5 of the Statute, as enacted, that conferred adjudicative authority upon the FTC. This is because the House Bill considered the FTC as an investigative body. Thus, the rulemaking grant in Section 6(g) could only have been intended as an adjunct to the Commission's investigative powers. Supportive of this analysis is the fact that the Senate version of this FTCA made no provision whatever for the promulgation of rules and regulations in any context. Therefore, the only provision concerning rules and regulations that were considered by the Conference Committee and the Congress stem from the House Bill. The existence of Section 6(g) in this statute could only pertain to housekeeping or procedural matters, as under the House Bill, the Commission had no authority to prescribe unfair, deceptive, or anti-competitive business practices.[12] The House Bill conferred only investigative powers.

Notably, when the Senate Bill's provision enabling the Commission to institute adjudicative proceedings to prevent unfair methods of competition was added, there was no indication that Section 6(g) rulemaking authority was intended to extend to this new area affixed by the Senate Bill in such a way as to circumvent the extensive due process procedures expressly provided for in Section 5 of the FTCA. Despite several amendments to the Act, no indication of such an intent has since been expressed.

Significantly, Congress refused to amend its proposals on two separate occasions that would have granted the Commission the very rulemaking power it now seeks to exercise.[13] In addition to the provisions of Section 6(g), the Amendment offered by Congressman Lafferty urged that the Commission be given the power to "make, alter, or repeal regulations further defining more particularly unfair trade practices or unfair or oppressive competition."[14] Thus, when Sections 6(g) and 5 were first proposed, Congress felt that an explicit grant of legislative authority was necessary. other than 6(g), to grant substantive rulemaking powers to the FTC. This Congress consistently refused to permit.[15]

Section 6(g) has remained unchanged since 1914, and it is still located in Section 6 of the Act among the Commission's other investigative powers.[16] If Congress at any time had intended to confer upon the Commission the authority to prescribe substantive law in such a manner as to vitiate the substantial procedural safeguards specified in the Act itself, there certainly would be some reference to this extraordinary grant of power in the Act or the legislative history. The fact that there is none lends credence to the conclusion that the Commission has no substantive, legislative rulemaking authority under the FTCA.

It is important, also, to consider the fact that the FTC, for approximately 50 years from the passage of the FTCA, never asserted the authority it claims to have always possessed. This indicia points to the fact that the FTC knew it was not originally granted this rulemaking authority.

Another critical analytical factor is that where Congress intended to grant substantive rulemaking authority to the FTC, it has done so clearly and unequivocally.[17] In each of these instances Congress felt the need to specifically authorize the Commission to issue substantive rules.[18] These examples of specific authorization would be "a meaningless and superfluous legislative gesture" if the Commission had had the authority it now claims was given it in 1914.[19] The fact that Congress particularized the grant of substantive rulemaking power in these narrowly circumscribed statutes and yet did not do so with respect to the Federal Trade Commission Act, that deals, not with consumer labeling, but with "competition" generally in all its many aspects, makes clear that Congress did not intend the Commission to have such powers under the latter statute.

This conclusion is further substantiated by the history of the Flammable Fabrics Act. Unlike the Wool, the Fur, and the Textile Fiber Acts, the general rulemaking power granted the Commission in the Flammable Fabrics Act did not specify the subjects upon which rules could be issued, nor did it contain an express provision that a violation of rules promulgated would constitute a violation of the FTCA.[20] It provided only that the Commission could make, "such rules and regulations as may be necessary and proper for purposes of administration and enforcement of (the Act)," [21] *i.e.*, in language similar to that of Section 6(g) of the FTCA. In 1967, however, Congress amended the Flammable Fabrics Act [22] to specifically provide that the Commission could issue rules requiring the "maintenance of records relating to fabrics, related materials, and products" and the following language was added by Congress to that provision:

The violation of such rules and regulations shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act.

The purpose of that amendment, according to the Report of the House Committee on Interstate and Foreign Commerce, was to "make the Flammable Fabrics Act more flexible by permitting flammability standards and other regulations to be issued under rulemaking procedures rather than having them fixed by law as is now the case." [23] The report explained further that, under the amended Flammable Fabrics Act, the Commission was authorized "to establish regulations for record keeping" and that "(v)iolation of any such regulation would be an unfair trade practice under the Federal Trade Commission Act." [24]

The original language of the Flammable Fabrics Act was *in para materia* to Section 6(g) of the FTCA.[25] Nevertheless, Congress felt the need to amend the statutes to give the Commission the power to include "provisions for maintenance of records relating to fabrics, related materials, and products," and the further need to amend the statutes to provide that violations of such rules would constitute a violation of Section 5.[26] Logic compels a similar need to spell out substantive rule-making authority in the case of Section 6(g) before such authority can be said to exist. Congress has not done so.[27] The Commission's claim of unlimited rulemaking power under the FTCA is, therefore, not only unsupported by anything in that Act itself, or its legislative history, but is also inconsistent with the history of other statutes entrusted to the Commission's administration by Congress.

The Federal Trade Commission further argues that the words rules and regulations in Section 6(g) are to be defined as they are in the Administrative Procedure Act (APA). "The whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. . . ." [28] The Federal Trade Commission Act was passed in 1914. The APA was passed in 1946. It is inconceivable to this Court that those words, when written and considered by Congress in 1914, can have the same exact meaning as those words carry today via the 1946 APA. There exists no cross reference or other legal relationship between these words in their respective statutes. The APA gave a specialized construction to these words. Congress recognized this special meaning by amending the National Labor Relations Act, also passed before the APA, to read, "to make . . . in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this subchapter." [29] Congress, however, did not make a similar amendment to the Federal Trade Commission Act. The inference, therefore, is that Congress did not expect the FTC to engage in substantive rulemaking in the manner prescribed by the APA. The rulemaking power in Section 6(g) of the FTCA remains unchanged by Congress to date, and conveys only the authority to make such rules and regulations in connection with its housekeeping chore and investigative responsibilities.

The Commission further contends that Section 5(a)(6) of the Act, that authorizes it to "prevent" unfair methods of competition, constitutes implied rulemaking power. In making this argument, the Commission ignores Section 5(b), the very next paragraph of the statute that requires the Commission to conduct adjudicative proceedings. General rules of statutory construction and the scheme of the FTCA itself demonstrate that the mandate of Section 5(a)(6) is to be carried out by means of adjudicative process specified in Section 5(b).[30] Moreover, the Supreme Court has expressly stated that the FTCA must "be read as an integrated whole." [31] Thus, the FTC's claim is patently untenable. If the legislative history of the Act will not permit the issuance of Trade Regulation Rules under the only section explicitly granting the Commission rulemaking authority, such sweeping authority cannot be based upon an implied grant of power in some other section of the Act or in the Act as a whole. In the face of an overwhelmingly contrary legislative history, there must be some basis for granting an agency unprecedented and far-reaching rulemaking power other than the claim of the agency itself that such power is necessary or desirable for its more efficient operation. The only support, however, for the Commission's novel theory of statutory construction is its own words. While the courts may have sustained imprecise grants of rulemaking power in some instances, they have never done so in the face of an overwhelmingly contrary legislative history, such as that of the Federal Trade Commission Act.[32]

The record amply reflects that the Commission itself has repeatedly admitted that it has no power to promulgate substantive rules of law [33] and Congress has implicitly rejected the efficacy of Commission Trade Regulation Rules by legislatively superseding them.[34]

Moreover, the Supreme Court has impliedly rejected the Commission's claim of rulemaking power, as have many of the legal commentators.[35]

The Court has considered fully all the other arguments put forth by the FTC in this suit. The sum total of their argument is a "bootstrap" operation, designed to conclude that the FTC possesses powers that it clearly does not have. The famous stricture of Mr. Justice Brandeis applies here:

"What the Government asks is not a construction of the statute, but, in effect, an enlargement of it by the court, so that what was omitted, presumably by inadvertence, may be included within its scope. To supply omissions transcends the judicial function.[36]"

It is therefore the conclusion of this Court, that for the above stated reasons, the statute (FTCA) does not confer upon the Federal Trade Commission the authority to promulgate Trade Regulation Rules that have the effect of substantive law.

Plaintiffs motion for Summary Judgment is hereby granted.

Defendants motion for Summary Judgment is hereby denied.

FOOTNOTES

[1] In two cases, courts have refused to enjoin the Commission from holding hearings looking toward the promulgation of Trade Regulation Rules holding that the proper procedure was to attack the rule after it issued. *Bristol-Meyers Co. v. Federal Trade Commission*, 1968 CCH Trade Cas. ¶ 72, 496, pp. 85, 677–78 (D.D.C. 1968), *rev'd in part and aff'd in part*, 424 F.2d 935 (D.C. Cir. 1970); *Lever Brothers v. Federal Trade Commission*, 325 F.Supp. 371 (D.Me. 1971).

[2] 34 F.R. 12449 (1969).

[3] 36 F.R. 354 (1971).

[4] 36 F.R. 7309 (1971).

[5] 36 F.R. 16120 (1971).

[6] 36 F.R. 23871 (1971).

[7] 15 U.S.C. § 45 (1971).

[8] 15 U.S.C. § 46 (1971).

[9] 15 U.S.C. § 46(g) (1971).

[10] Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63d Cong., 2d Sess., p. 14, 15 (1914); H.R. Rep. No. 533, 63d Cong., 2d Sess., p. 3 (1914); 51 Cong. Rec. 8845, 9047 (1914).

[11] H.R. 15613, 63d Cong., 2d Sess., Sec. 8 (1914).

[12] Having admitted that both the drafters in the House and the Senate had no intention of granting the Commission any rulemaking power, the Commission took the position that rule making authority was somehow mysteriously incorporated into the Conference Committee Report that was ultimately passed. Reasoning from this unsupported position, the Commission claimed that the House and Senate debates prior to the Conference Report were of no relevance to whether Congress intended to grant substantive rulemaking powers to the Commission.

In making this argument, the Commission ignores the fact that the legislative authority of a Conference Committee is limited to resolving differences between the two Houses. Such a Conference Committee cannot authorize new legislation that has not been submitted by one of the two Houses. *See Jefferson's Manual*, Section 546, which has governed House procedures since 1837. In short, the Conference Committee could not have given the FTC a power that was not included in the bill as it passed one of the Houses. *House Rule XXVIII* (3) (1971); *Rules and Manual of the United States Senate, Section 343* (1965). *See also* comments of Judge Covington, a member of the Conference Committee, 51 Cong. Rec. 14932 (Sept. 14, 1914); and the remarks of Congressman Sherley, 51 Cong. Rec. 14938 (Sept. 10, 1914).

[13] 51 Cong. Rec. 9047, 9049–50, 9056–57 (1914).

[14] H.R. Rep. 533, 63d Cong., 2d Sess., Part 3, p. 21 (1914).

[15] The amendment proposed by Congressman Lafferty that would have given the Commission the power to make, alter, or repeal regulations further defining more particularly unfair trade practices or unfair or oppressive competition also included the text of Section 6(g) within it. Thus, even in Congressman Lafferty's own view, Section 6(g) did not in and of itself confer the legislative rulemaking powers that the Commission now asserts it confers upon it. *See also* 51 Cong. Rec. 14,932 (1914) where Judge Covington, a member of the Conference Committee, who was called the "author of the bill," specifically stated in this regard: "The Federal Trade Commission will have no power to prescribe the methods of competition to be used in the future. In issuing its orders it will not be exercising power of a judicial nature . . ."; and 51 Cong. Rec. 14,928 (1914) where Congressman Sherley expressed the thought: "In other words, (the Trade Commission) exercises in no sense a legislative function such as is exercised by the Interstate Commerce Commission." Moreover, the evidence is overwhelming that Congress intended the Commission to act only upon Orders issued in specific proceedings after a complaint, hearings, and basis in fact established. 51 Cong. Rec. 14,928 (1914).

[16] 1951 *Annual Report of the Federal Trade Commission*, pp. 16–18 that states "the broad scope of the Commission's authority to investigate is indicated" by the powers conferred on the Commission in Section 6 of the Federal Trade Commission Act, specifically including the rulemaking power of Section 6(g). Other annual reports also refer to the Commission's rulemaking power in an investigative context. *See, e.g.*, 1954, p. 12; 1955, p. 9; 1956, p. 9; and 1957, p. 8; all Annual Reports of the Federal Trade Commission.

[17] Wool Products Labeling Act, 15 U.S.C. §§ 68–68j (1971); Textile Fiber Products Identification Act, 15 U.S.C. §§ 70–70k (1971); Fur Products Labeling Act, 15 U.S.C. §§ 69–69j (1971); Flammable Fabrics Act, 15 U.S.C. §§ 1191–1200 (1971); and the Fair Packaging and Labeling Act, 15 U.S.C. §§ 1451–61 (1971).

[18] This is consistent with the Congressional belief in 1914 that a separate provision from Section 6(g) was necessary to grant the FTC substantive rulemaking authority.

[19] R. Burris and H. Teter, *Antitrust: Rulemaking v. Adjudication in the FTC*, 54 Georgetown L.J. 1106, 1125 (1965).

[20] *Compare* 15 U.S.C. § 1192 (1964) *with* 15 U.S.C. § 68a, 15 U.S.C. § 69a (a), (b), (c), and 15 U.S.C. § 70a (a), (b), (c) (1964).

[21] 15 U.S.C. § 1194(c) (1971).

[22] *Id.* at 5.

[23] H.R. Rep. No. 972, 90th Cong., 1st Sess., p. 1 (1967).

[24] *Id.* at 5.

[25] 67 Stat. 112 (1953).

[26] 81 Stat. 570 (1967).

[27] *See Textile and Apparel Group, American Importers Ass'n* v. *Federal Trade Commission*, 410 F. 2d 1052 (D.C. Cir.), *cert. denied*, 396 U.S. 910 (1969); *Federal Trade Commission* v. *B. F. Goodrich Co.*, 242 F. 2d 31 (D.C. Cir. 1957) which indicates that broad power to promulgate trade regulation rules does not exist beyond the narrower grants of rulemaking authority given by the Congress.

[28] 5 U.S.C. § 551(4) (1971).

[29] 29 U.S.C. § 156 (1971).

[30] Section 5 remained a single unitary provision without separate, designated subsections throughout the House and Senate consideration of the measure. Today's lettering of Section 5 paragraphs resulted from the 1952 McGuire Act, a development 38 years after the original passage of the statute and completely unrelated to the question here under consideration.

[31] *United States* v. *Morton Salt Co.*, 338 U.S. 632, 650 (1950).

[32] This factor readily distinguishes cases such as *National Broadcasting Co. v. United States*, 319 U.S. 190 (1943) where neither the statutory scheme nor the legislative history of that Act clearly negated an implied grant of legislative power to the Federal Communications Commission and that statute was intended to authorize an agency to broadly regulate a specific, narrow segment of industry; *United States v. Oregon*, 366 U.S. 643, 648 (1961); *United States v. Public Utilities Comm. of Calif.*, 345 U.S. 295 (1953); *Schweaman Bros. v. Calvert Distillers Corp.*, 341 U.S. 384 (1951); *Paific Coast European Conf. v. Federal Maritime Comm.*, 376 F. 2d 785 (D.C. Cir. 1967). *See also* Weston, *Deceptive Advertising and the Federal Trade Commission: Decline of Caveat Emptor*, 24 *Fed. Bar J.* 548, 570–71 (1964) where it is stated:

To support is theory (of implied power), the FTC cites Supreme Court decisions involving the S. E. C. under the Public Utility Holding Co. Act, and the F. C. C. and the F. P. C. as authority for the proposition that an administrative agency has the choice to use either adjudication or rulemaking procedure to make 'substantive' rules. These cases, however, involve agencies with not only express power to issue 'legislative' rules but also with far more pervasive regulatory jurisdiction over the specialized industries involved. It may be that some agencies vested with both adjudicatory and legislative rulemaking powers have a choice of which procedure to use. But it is not at all clear that an adjudicatory agency specifically denied 'legislative' rulemaking power can use legislative type hearings to make 'substantive' rules other than merely 'interpretative' rules that are open to full-scale judicial review.

Testimony by former Federal Trade Commission Chairman Paul Rand Dixon before a Senate Subcommittee, *Hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 169–70 (Oct. 31, 1963).

[33] *Hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 169–70 (Oct. 31, 1963); *Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess. 281 (March 20, 1963); *Hearings before the Senate Committee on Commerce*, 91st Cong., 1st and 2d Sess., p. 9 (Dec. 17, 1969); *Hearings before the House Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee*, 91st Cong., 2d Sess., p. 54, 76–77 (Feb. 4, 1970). *See also* Title II of S. 986, 92d Cong., 2d Sess. § 206 (1972), currently pending in Congress, where Section 206 of that Bill would amend Section 6(g) of the FTCA to authorize the Commission to define with specificity through legislative rules those acts or practices which are unfair or deceptive to consumers and in violation of Section 5(a)(1) of the FTCA. It is noteworthy, here, that almost sixty years after the passage of the original Act that the Commission claims implicitly granted it authority to promulgate

Footnotes at end of article.

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rules to regulate all otherwise non-regulated industries, the Senate found the grant of such authority so far reaching and so inherently capable of abuse that it retained a sixty day veto over any use of that power in their proposed Bill. It is further significant that Congress has still not passed this legislation giving the Commission rule-making authority. *See*, Cong. Rec., Nov. 8, 1971, Daily Ed., p. S 17828, and statements of Senator Hruska at, *Id.*, p. 17857; Senator Cotton, *Id.* at S 17873; and Senator Cooper, *Id.* at S 17884.

[24] The Trade Regulation Rule relating to unsolicited mailing of credit cards (16 C.F.C. 415) was superseded by express provisions in the Truth-in-Lending Act (15 U.S.C. §§ 1642–44, *et seq.* (1971); The Rule relating to the prevention of unfair or deceptive advertising in labeling of cigarettes (29 F.R. 12626, 15570) was preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §§ 1331 *et seq.* (1971); and the proposed Rule relating to shipment of unordered merchandise (16 C.F.R. 427) was superseded by express provisions of the Postal Reorganization Act, 39 U.S.C. § 3009 (1971).

[25] *Federal Trade Commission v. Colgate Palmolive Co.*, 380 U.S. 374, 385 (1965); *Addison v. Holly Hill Fruit Products, Inc.*, 322 U.S. 607, 617–618 (1944); *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 532–33 (1935); *Federal Trade Commission v. Raladam Co.*, 283 U.S. 643, 648 (1931); *Federal Trade Commission v. Gratz*, 253 U.S. 421, 427 (1920). *See* Comment, 113 *U. PA. L. Rev.* 303, 304–05 (1964); Shapiro, *The Choice of Rulemaking or Adjudication in the FTC*, 54 *Georgetown L. J.* 1106 (1965); Weston, *Deceptive Advertising and the Federal Trade Commission: Decline of Caveat Emptor*, 24 *Fed. Bar J.* 548 (1964). *But see*, Wegman, *Cigarette and Health: A Legal Analysis* 51 Cornell L. Q. 678, 741 (1966); Elman, *Rulemaking Procedures in the FTC's Enforcement of the Merger Law*, 78 Harv. L. Rev. 385 (1964).

[26] *Iselin v. United States*, 270 U.S. 245, 251 (1926).

[From the New York Times, April 5, 1972]

COURT CURBS FTC AUTHORITY ON DECEPTIVE TRADE PRACTICES

(By John D. Morris)

WASHINGTON, April 4.—A Federal district judge dealt a heavy blow today to the Federal Trade Commission's consumer protection program by holding that the commission lacked authority to make rules defining unfair and deceptive trade practices.

The decision, if upheld on appeal, would severely hamper the commission's ability to proceed against industrywide practices that it believed were violations of the F.T.C. act.

It could still issue complaints and cease-and-desist orders on a case-by-case basis but would have to establish in each case that a particular act or practice violated the law.

This has not been necessary when industrywide regulations, called trade regulation rules, have defined the acts and practices in advance as violations.

Today's opinion was issued by Judge Aubrey E. Robinson Jr. of the United States District Court for the District of Columbia in nullifying a pending trade regulation rule requiring octane ratings to be posted on gasoline pumps.

"NULL AND VOID"

The regulation, which was to have become effective March 15, had been stayed pending Judge Robinson's decision on a suit by 34 refiners and two trade associations challenging the commission's authority to issue it.

The judge called the regulation "null and void as it is in excess of the Federal Trade Commission's statutory authority."

Further, he held, "the F.T.C. lacks the requisite statutory authority to issue trade regulation rules."

The refiners' suit was the first court test of the commission's authority to issue such regulations, although it had been doing so for about 10 years.

In two cases, courts have refused to prohibit the commission from conducting hearings looking toward the promulgation of trade regulation rules. However, they did not make a determination of the commission's authority, holding that the proper procedure was to attack the rules after they had been issued.

"UNFAIR METHOD"

In the regulation invalidated by Judge Robinson, the commission declared that the failure to post octane rating at gasoline stations was an "unfair method of competition" and a "deceptive practice."

Unfair methods of competition and deceptive private practices are prohibited by Section 5 of the F.T.C. Act, but the act does not define them.

The regulation was designed to give motorists a reliable benchmark for determining the antiknock quality of various brands and grades of gasoline. The octane number is important to consumers because each engine needs gasoline with a number high enough to prevent knocking, but it is a waste of money to buy a more expensive grade with a higher-than-necessary rating.

The commission's staff has estimated that the average motorist pays $50 to $75 a year for unnecessarily high-octane gasoline.

Judge Robinson said in his opinion that the legislative history of the F.T.C. Act of 1914 contradicted the commission's contention that the act gave it implied authority to issue substantive rules.

"Significantly," he said, "Congress refused to amend its proposals on two separate occasions that would have granted the commission the very rule-making power it now seeks to exercise."

As "another critical analytical factor," he said, when Congress intended to grant substantive rule-making authority to the commission it did so "clearly and unequivocally." He noted in particular the specific rule-making authority contained in the Flammables Fabrics Act, which the commission enforces.

"The commission's claim of unlimited rule-making power under the F.T.C. Act is, therefore, not only unsupported by anything in the act itself, or its legislative history, but is also inconsistent with the history of other statutes entrusted to the commission's administration by Congress," the judge held.

"The court," he said, "has considered fully all the other arguments put forth by the F.T.C. in this suit. The sum total of their argument is a 'bootstrap' operation, designed to conclude that the F.T.C. possesses powers that it clearly does not have."

LABELING AND ADVERTISING OF CIGARETTES

Mr. MORTON. Mr. President, during our Senate Commerce Committee hearing last Friday, April 2, on the cigarette labeling legislation, my distinguished colleague from Kentucky [Mr. COOPER] presented what I consider to be an outstanding challenge of the authority of the Federal Trade Commission to impose any so-called trade regulation rule with regard to labeling and advertising in relation to the hazards of smoking.

His legal and perceptive reasoning was of such high interest to committee members that I felt other Senators would find considerable food for thought in his remarks.

Therefore, Mr. President, I ask unanimous consent that his statement before the Commerce Committee and attachments mentioned therein be printed in the RECORD.

STATEMENT OF SENATOR JOHN SHERMAN COOPER, BEFORE THE SENATE COMMITTEE ON COMMERCE, APRIL 2, 1965

Mr. Chairman and members of the committee, I thank the committee for this opportunity to present my views on the bills before you, and on the general proposition of regulating the labeling and advertising of cigarettes. I know that this committee is giving thorough consideration to this question, its relationship to health and to the tobacco industry, and to the very important issue of the claim of authority by the Federal Trade Commission to extend its powers further than has ever been done before.

I have read several times the Surgeon General's report, "Smoking and Health," and I do not derogate its importance. I say this as one who is a representative of Kentucky—the second largest producer of tobacco in the United States, and the largest producer of burley tobacco—with 200,000 farmers engaged in the production of burley, dark air cured and dark fired tobacco, representing an annual value of $300 million. And, of course, the total value of the industry to Kentucky's economy is much larger—considering the manufacture, warehousing, transportation, and all aspects of the tobacco industry.

Having read the Surgeon General's report several times, and, as I said, recognizing its importance, nevertheless, I say to the committee that the report does not confer upon the Federal Trade Commission any powers that have not been authorized to it by the Congress.

I have read the statement of the Federal Trade Commission in which it attempts to justify, and I use the word "justify" advisedly, the basis and purpose upon which it proposes its "trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking." As you know so well, the rule was promulgated by the Commission on June 22, 1964, and is intended to become effective on July 1, 1965. From my study of the statement of the Federal Trade Commission and the testimony given by Chairman Dixon before the House Committee on Commerce and this committee, it is my judgment that the FTC is without authority to promulgate a rule such as it has proposed with respect to cigarettes.

I believe there is a serious question as to whether the FTC has authority to promulgate any general trade regulation. I make this statement upon several grounds. The authority is not specified in the statutes. The Commission, after the enactment of the statute in 1914, did not claim the authority to promulgate trade regulations until 1962—48 years later—and had limited itself to trade practice rules which are designed as guides to industry. Further, Congress, found that it was necessary to grant the FTC specific authority to promulgate trade regulation rules in the cases, among others, of the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, and the Fiber Products Identification Act of 1953. I will not press this issue further, but I raise the question for the committee's legal inquiry and consideration about the authority of the FTC to promulgate a general trade regulation rule.

Now I want to speak specifically concerning the authority of the FTC to regulate labeling or advertising of cigarettes. And I repeat my earlier statement that, significant as the report of the Surgeon General is, the report does not provide any authority to the FTC. A study of the statement of the FTC attempting to justify its rule, discloses that the FTC makes a labored and contradictory argument.

The statement, as Chairman Dixon testified before this committee, essentially bases

the authority of the FTC on the findings of the Surgeon General's report. Chairman Dixon said:

"The reasons justifying such a rule, as more fully explained in the statement of basis and purpose, are basically twofold. First, there is a concensus of medical and scientific opinion that cigarette smoking is a significant cause of certain grave diseases and contributes substantially to mortality from those diseases and to the overall death rate. These were the findings of the Surgeon General's blue-ribbon Advisory Committee on Smoking and Health. These findings are authoritative, reliable, and stand essentially unchallenged. They provide a compelling basis for prompt and effective governmental remedial action."

I am not here to attempt to argue on my part about the findings of the advisory committee, because they are scientific and technical, but I do challenge the statement of Chairman Dixon that "these findings are authoritative, reliable, and stand essentially unchallenged." The report was not based upon original research, but primarily upon a review and evaluation of research conducted prior to the appointment of the committee, and data previously accumulated. The element of causality which is of ultimate importance, was admitted by the report to be based upon statistical association and a combination of factors, rather than the identification of any incriminating component of cigarettes or any finding of the direct affect of any component upon the health of an individual. But most important, it cannot be said, as the chairman claimed, that the report has not been challenged. There is a substantial body of scientific and medical opinion which holds views contrary to that of the report—and the FTC knows that this is correct.

The effect of the ruling which the FTC is attempting to promulgate is to establish as a matter of substantive law that the report of the advisory committee is complete, correct, and unchallenged. The advisory committee itself did not go that far. It has conceded that additional research is needed. To give an example, a few days after the publication of the report, I raised several questions with Dr. Luther Terry regarding the effectiveness of filters, as it had been reported that the committee had found that filters had no value. In response to a letter written by me to him, he said the advisory committee made no judgments as to the effect of adding filters to cigarettes, and further that the committee felt that the development of better filters or more selective filters is a promising avenue for further development. I ask that the letters be made a part of my testimony.

This one instance, among others, indicates the position of the committee that further research is needed. And yet, the FTC adopts the position that the report is complete, conclusive, and unchallenged. If the rule should be maintained, any advertiser would be denied any opportunity to question the basic finding of the Commission. He would be limited to denying that he had advertised in a manner prohibited by the Commission. The statement of the FTC accompanying the rule does not substantiate its claim of legal authority to make such a broad finding. The FTC admits that it does not rely on sections 12–15 as a basis for the substantive prohibitions in its rule. Sections 12 to 15 deal with foods, drugs, devices, or cosmetics, and provide for injunctive relief where there is immediate possibility of danger to human life, health, or safety. The case of *FTC* v. *Liggett and Myers Tobacco Company*, cited on page 22 of the FTC report, held that cigarettes are not subject to the food and drug section. Therefore, the FTC's authority must be limited to section 5 of the act, which I quote:

"SEC. 5. (a)(1). Unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are hereby declared unlawful."

Undoubtedly, the Commission has authority concerning affirmative misrepresentations and deceptive half-truths which induce a significant number of purchasers to choose a particular product, including cigarettes. But the claim of authority of the FTC to regulate the advertising of cigarettes is not based upon its claim that there are any affirmative misrepresentations about cigarettes, or upon deceptive half-truths or that there are any false statements. The cases cited in support of its claims that cigarette advertising represents half-truths has no application at all.

The FTC is reduced to making its case upon the ground that as advertisers claim that a particular cigarette is pleasurable, or socially acceptable, that it is an inducement to smoke, and consequently the advertiser should be required to balance its inducement by stating the health injuries alleged to be consequent on smoking. It claims that the failure to do so is the unfair and deceptive practice which provides it with the authority to regulate.

But on page 95 of the FTC report, it makes this correct statement:

"First, in stating that the Trade Commission Act imposes special requirements with respect to the advertising of such producers we do not, of course, imply that the Commission has been given by Congress a general jurisdiction to protect health and safety of consumers. The Commission's responsibility is not to control or prevent the sale or use of dangerous products, but to insure that the advertising of such products is not unfair and does not deceive." In the face of this correct statement, the Commission is attempting to use an authority which it admits it does not possess—"a general jurisdiction to protect the health and safety of consumers." And with respect to its claim that the advertising of cigarettes—indicating their qualities are pleasurable or socially acceptable—is unfair or deceptive, the Commission has been asserting for 10 years that such advertising is proper. The guides adopted by the Commission "for the use of its staff in the evaluation of cigarette advertising" contain the following notice: "(a) Nothing contained in these guides are intended to prohibit the use of any representation, claim, or illustration relating solely to taste, flavor, or enjoyment."

Let me summarize the claim of authority of the Federal Trade Commission as I understand it from a study of its own report. First, it would arrogate to itself the authority to determine that the Surgeon General's report is conclusive and unchallenged. This is obviously incorrect, and it is an assertion of larger findings and scientific competence that that of the advisory committee. Second, having made this large claim, it now proposed to issue a rule giving to this incorrect statement the force of substantive law. Third, it would then proceed to control labeling and advertising as hazardous to health, not under the Food and Drug section of the Trade Commission Act, under which it admits it has no specific authority, and against its own admission that it has no general authority to do so. Fourth, it asserts its authority under the principle of section 5, claiming that advertising of the pleasurable use of cigarettes and so forth is deceptive or unfair. It does this, although for 10 years it has maintained in its Cigarette Advertising Guide that such advertising is not prohibited. Fifth, the larger consequences of confirming the claim of the authority of the FTC are these—in the future, if this precedent is confirmed, it would mean that the FTC could, on its own judgment, determine that any product might be hazardous to health and thus be permitted to censor advertising.

I want to make it clear that I do not question the power of the Congress to give this broad authority to the FTC if it desires to do so. Also, I do not question the authority of the Congress to enact such legislation as it determines is proper in connection with the labeling and advertisement of cigarettes. And this is the determination that the committee will make. I do suggest that the committee should halt this claim of authority by the FTC by preemption, at least until it determines whether it desires to give the FTC a broad authority which, as I have said, would not be limited to cigarettes but could be extended to any other product.

Finally, I would suggest that if the committee in its wisdom determines to act with respect to labeling any warning statement it imposes should be a truthful one. The proposals of the FTC are not correct and not fair. In my judgment, it would be a statement something on this order: "The Advisory Committee to the Surgeon General has found that smoking is a hazard to health, but there is a substantial scientific and medical opinion to the contrary." Considering the unsettled situation and that research is going forward, I would support the labeling of cigarette packages in a fair but correct manner.

I ask permission of the committee to amplify my statement.

U.S. SENATE,
January 13, 1964.

DR. LUTHER L. TERRY,
Surgeon General, Public Health Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR DR. TERRY: The report on "Smoking and Health," and the press conference Saturday, January 11, by the advisory committee to the Surgeon General, appear to be widely interpreted as having included a finding that cigarette filters have no effect. On the contrary:

1. Is it not correct that the advisory committee made no judgment as to the effect of adding filters to cigarettes?

2. Do I understand correctly that the committee made no finding on filters because it believed it had insufficient evidence from animal experiments, clinical studies, or population studies—the three kinds of evidence it considered—on which to base any finding as to the effect of the various types of filters?

3. To the extent that a filter removes tar, nicotine, and the gaseous elements of cigarette smoke, is it not reasonable to assume that the effects of the filter will be similar to the effects reported by the committee of smoking fewer cigarettes?

4. Does not the limited discussion of a new-type filter, on page 61 of the report, suggest that the advisory committee believes that the development of selective filters may have significance in terms of reducing the hazards to health the committee believes it has found?

5. Would not standardied research on the effectiveness and selectivity of filters, as well as additional research on the components of smoke, be desirable?

Because the report of your advisory committee is the subject of wide and general interest, it will be helpful to have your answers, at least to the first question, as quickly as possible.

Sincerely,

JOHN SHERMAN COOPER.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE,
Washington, D.C.

HON. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: This is in response to your letter of January 13 which poses certain questions as to the advisory com-

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mittee's views on cigarette filters. Certainly, it is erroneous to conclude that cigarette filters have no effect. As noted in the committee's report, filters in common use do remove a variable portion of the tars and nicotine. Your specific questions and our replies will follow:

1. Is it not correct that the advisory committee made no judgment as to the effect of adding filters to cigarettes?

Answer. Yes.

2. Do I understand correctly that the committee made no finding on filters because it believed it had insufficient evidence from animal experiments, clinical studies, or population studies—the three kinds of evidence it considered—on which to base any findings as to the effect of the various types of filters?

Answer. Yes.

3. To the extent that a filter removes tar, nicotine, and the gaseous elements of cigarette smoke, is it not reasonable to assume that the effects of the filter will be similar to the effects reported by the committee of smoking fewer cigarettes?

Answer. A categorical answer to this question is difficult. The best I could do would be to answer yes—perhaps, or yes—probably. A part of the problem here is whether the filter in addition to removing tar, nicotine or other elements of cigarette smoke might also lead to different levels of cigarette consumption and different amounts of inhalation, etc. Another difficulty is that we do not know all of the substances which different filters do or do not remove. Since we do not yet know all of the substances in tobacco smoke which have adverse health effects, a given filter might permit the selective passage of hazard substances, as well as selectively removing others.

4. Does not the limited discussion of a new-type filter, on page 61 of the report, suggest that the advisory committee believes that the development of selective filters may have significance in terms of reducing the hazards to health the committee believes it has found?

Answer. Yes. The committee felt that the development of better filters or more selective filters is a promising avenue for further development.

5. Would not standardized research on the effectiveness and selectivity of filters, as well as additional research on the components of smoke be desirable?

Answer. Yes, unquestionably.

I hope these responses will be of assistance.

Sincerely yours,

LUTHER L. TERRY,
Surgeon General.

THE VIETNAM OFFENSIVE

Mr. KENNEDY. Mr. President, nothing more brutally demonstrates the moral and military bankruptcy of the President's policy on Vietnam than the horror of the new offensive at the DMZ. The decision to send in our bombers to rain down massive new death and destruction on the people of Vietnam is a clear confession, if any new confession were needed, that the cruel and revolting policy of Vietnamization is a failure, a bald pretext to keep President Thieu in power.

After all the talk of peace, we are no closer to peace in 1972 than we were at the time of the Tet offensive in 1968. Four years of promises to end the war, and still the war goes on. When will the President learn that he cannot bring peace by making war? When will he learn that he will never get our prisoners back so long as American bombs are raining down on the people of Vietnam? When will he learn that it is not enough to promise peace, that he also must deliver peace?

It is wrong, terribly wrong, to debate the current offensive in terms of how Vietnamization should be tested, or whether or not there should be American air support. I am against any test of Vietnamization at all because it means a test carried out with human lives, with the lives of men and women and children. I do not believe that anyone in America or Vietnam has the moral right to demand a test like that.

Is this to be the result of our decade of involvement in Vietnam? Is this what the policy of Vietnamization and our support of President Thieu have brought us to—a final fight to the death between North and South Vietnam? By some cruel distortion, our leaders seem willing to let the war become a spectator sport, with the American people watching the slaughter on television, as though we were Romans watching gladiators in the arena.

I reject that role for America, and I think that the American people reject it. Instead, we must end the war, and the only way we can end it is through negotiations, not Vietnamization.

It is no coincidence that the escalation of the war on the battlefield is being accompanied by our boycott of the peace table in Paris. Three weeks ago, on the very day that President Nixon was criticizing American labor leaders for walking off the job on the Pay Board, he was ordering Ambassador Porter to walk off the job at the peace talks in Paris. Just as our policy on the battlefield has been a failure, so our policy in Paris is a failure.

By breaking off the peace talks, we broke off any hope for peace. We delivered a clear invitation to the Vietcong and North Vietnamese to escalate the violence. Perhaps we shall never know whether this long anticipated new offensive would have materialized had we chosen to stay at the peace table last month. The President claims that he is keeping all his options open, but he seems to have forgotten how he so recently foreclosed the most important option of all, the option of peace at the conference table, the only place where peace will ever be achieved.

And now, because of the flagrant and tragic failures in our policy, more American bombs are being dropped and more American fliers are being taken prisoner. Because of these failures, the people of Vietnam will have to pay for this new and much more terrible escalation. They will pay with the blood of thousands of soldiers and innocent civilians. They will pay with the devastation of their cities and villages. They will pay with countless families streaming into new refugee camps to escape the murderous impact of the fighting.

To me, the policy we ought to have is a simple one. Let us have a test of negotiations, not a test of Vietnamization. Let us go back to the peace table in Paris. Let us make a genuine effort to end the killing now.

I call on the President to demonstrate to the American people that he wants peace. I urge him, now, publicly, to call for an immediate cease-fire in the DMZ. I urge him to announce that America is going back to the peace table in Paris tomorrow, to seek an immediate end to the war. Let us discuss the plans already on the table. Let us develop new plans. Let us explore every possible avenue. But above all, let us stop this insane new round of killing, and end this unconscionable and interminable war.

MINERAL POLICY

Mr. ALLOTT. Mr. President, on March 16, in Dallas, the Assistant Secretary of the Interior for Mineral Resources and my good friend, Hollis Dole, addressed the Institute of Petroleum Exploration and Economics.

The title of his address was "Mineral Policy—the Art of the Possible." It should be required reading for all citizens concerned—as all citizens should be—about the problems implicit in the premise which Secretary Dole accepts:

> We face demands for immense quantities of minerals of all kinds over the foreseeable future.

As Secretary Dole says:

> This is particularly true of fuel minerals, which must furnish virtually all our energy until well into the next century at least.

Secretary Dole's address demonstrates his command of this complicated and crucial subject.

I am convinced that the "energy crisis" unlike so many of the trumped-up crises" we hear so much about, is real and dangerous and growing. I urge all Senators to give their attention to this crisis, and to begin by examining Secretary Dole's address. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

REMARKS OF HON. HOLLIS M. DOLE

One of the first things we are taught about poetry is that the subject of a poem is something different from its theme. This is true of much of our communication, and it is no less true of what I have to say today.

My subject is policy: my theme is politics—the vague, complex, chancy, non-linear, frequently non-rational process which a human community uses to determine what its goals are and how to go about attaining them. In the next few minutes I shall talk about some of the relationships between this political process and the satisfaction of mineral requirements which inclined me to give my remarks the title of "Mineral Policy—The Art of the Possible."

Since I'm not debating any zero-growth advocates on this occasion, I'm simply going to state as one of the "givens" the premise that we face demands for immense quantities of minerals of all kinds over the foreseeable future. This is particularly true of fuel minerals, which must furnish virtually all our energy until well into the next Century at least. Obtaining adequate, dependable, and hopefully low-cost supplies of these minerals becomes the basic objective of minerals policy.

In pursuit of this objective, we have adopted certain public policies addressed to mineral imports, public land use, taxes, conservation, direct subsidies, stockpiling, production, anti-trust, and research and development—all in an effort to coax, encourage, cajole, and otherwise induce the private sector to take the actions required to make these desired mineral commodities available. And along with these policies specifically addressed to minerals are others, adopted with other purposes in mind, but which impinge, lightly or heavily, upon the production and use of minerals. Environmental policy is a conspicuous recent example. Human health and safety is another. Foreign policy another. To some degree, perhaps as many as half a hundred discrete influences deserving to be called government policy exert some effect upon the operations that have to do with mineral supply and demand.

The pulling and hauling that goes on between these varied and often conflicting aims; the maneuvering, the bargaining, and the trade-offs that finally materialize over specific issues, form the broth in which our mineral policies are steeped, and they often come out with quite a different flavor and smell than the cook intended them to have. Thus, policy states what our actions should be; politics determines what they are.

Most of the pulling and hauling to which I refer focuses upon the cost element, and most of our present difficulties stem from our past unwillingness to pay the full cost of the other objectives we seek. Too often these objectives have been compromised by a mindset that has failed to recognize that no matter how closely you try to control the market for something, it always remains a free market in this important sense: in the end you get only what you pay for; and if you don't pay enough, you don't get enough. Our policy toward natural gas pricing at the wellhead is a classic illustration of how we traded adequacy and security of supply for the objective of low cost—and were rewarded for our penuriousness by having to pay higher prices anyway.

A distinguishing feature of our natural gas pricing policy is that it was originated by the Judiciary, not the Executive. It arose, as you all know, out of the Supreme Court's 1954 decision that the Federal Government, ostensibly to protect the consumer against excessive gas prices, had the responsibility for setting wellhead prices for gas sold in interstate commerce. The Federal Power Commission was assigned this task by the Court, and over the years the Commission strove to establish sales prices that would cover the true cost of finding and producing the gas, and provide a fair return to the producer, at a fair price to the consumer.

This turned out to be an impossible assignment. The price set by the Commission did *not* reflect the costs incurred by producers, and predictably the producers found better uses for their money than investing it in exploration and drilling for gas after 1961. In time, this cutback in exploration activity showed up in reduced additions to reserves, in falling reserve-to-production ratios, and finally in the actual pipeline curtailments in gas deliveries we are now seeing. Even the attempts of the present Commission to reach more realistic prices have not been able to reverse the downswing in exploration effort. The present outlook is for gas deliverability to peak out in the 1974–1975 period, followed by a marked and steady decline over the foreseeable future.

This prospect has given rise to efforts of the most urgent sort on the part of gas pipelines and distributors to bolster their dwindling supplies of domestic gas with imports of LNG or feedstocks for the manufacture of synthetic gas. These imported supplements are to come from the same unstable overseas sources that have given us concern for the security of our oil supply, and because of the logistics involved they are far more vulnerable to interruption. The system-entry prices we are looking at trend upward from a dollar per million Btu, and in no case can these increments be expected to fill the gap now opening between demand and domestic supply.

Ironically, the effects of this failure in our domestic gas supply will fall with particular force upon the Northeastern consumer, who was the special object of the Commission's solicitude for so many years. For it is the Northeastern consumer who is served by the interstate pipelines who were prevented from paying the true market price for gas as the intrastate buyers were able to do. And it is the interstate pipelines and their distributors who are now in curtailment, and who are negotiating so earnestly for supplementary supplies at five times the wellhead price of domestic natural gas. Thus, the consumer is put in a no-win situation; as the load factor drops on the highly-leveraged pipelines which serve him the cost of his service must inevitably rise; but the steadily increasing share of imported or synthetic gas in the stream will eventually cost him even more. To this must be added the belated price increases at the wellhead which will be necessary to revive the interest of producers in gas exploration. The latter can be quite substantial and still not approach the cost of the foreign supplements: the current average wellhead price in Southern Louisiana could be tripled, and the gas still deliver in New York at less than the minimum prices estimated for gas of overseas origin. Notwithstanding their relatively modest impact, however, these increments will still add to the consumer's bill.

Our experience with oil import policy also reflects our reluctance to pay the full cost of realizing our professed objectives. We determined in 1959 that an adequate and secure supply of petroleum was a proper national concern. It has now become obvious that over the intervening years we have forfeited a large part of our oil security: we are presently three million barrels a day short of being able to produce our full requirements; and we shall be dependent upon outside sources to meet 36% of our oil needs by 1975. The attractiveness of foreign oil prices has been heavily eroded by the events of the past two years. And we are now beginning to see that the term "adequacy"—even when applied to Middle East oil—may need some qualifications. To me, the price increases we have seen are significant not for what they are, but for what they say about a production philosophy that may be taking form within the minds and the councils of those who rule the oil exporting nations. Such a philosophy may for the soundest of reasons determine that oil is the ultimate hedge in a world trading system that is adrift for want of a standard of value; that it is better to hold black gold in one's own ground than yellow gold in someone else's; and that in these circumstances it may no longer be in a nation's interest to maximize production of an exhaustible resource which may be its only counter at the game table.

Should the production of the Middle East and North Africa be cartelized in this manner, the economic opportunities and expansion of consuming nations may come to be regulated not by their own needs and expectations, but by the rate at which the oil exporting countries consent to make their oil available.

It was to avoid just such developments as I have noted that we determined in 1959 that it was necessary to restrict oil imports to insure that most of our demand was met by domestic production which we could count on and control. Domestic producers were accordingly given a protected market in the expectation that they would thus be encouraged to find and develop the oil reserves that would be needed to keep this market satisfied. There was another *quid pro quo* involved, reflected in the oil import proclamation itself, to the effect that domestic producers, having been given this preferred status, would not take advantage of it by unduly raising prices. The sanction, implied but never stated, was the use of oil imports to prevent an unwanted rise in domestic oil prices. This price-for-protection bargain virtually immobilized the price of crude oil for a decade in the face of strongly rising costs—expressed not only in the price of oil country goods and labor, but much more significantly, in rapidly diminishing returns per unit of drilling. In theory, the price of domestic crude oil bore no relation to the world price; in practice the political realities linked the two so firmly that it was impossible for domestic prices to offset the steadily rising cost of find and producing oil in the United States. Responding to this, producers became extremely selective in their prospecting, forsaking the historic onshore provinces, and concentrating on the relatively untapped areas in Alaska, the continental shelf, and the deeper basins onshore.

Considering the rank uncertainties involved in petroleum exploration, I consider that the domestic producers have done astonishingly well. They have found a great amount of oil, and but for the inhibiting influences I shall presently discuss, I am confident that they would by now have found a great deal more. In toto, the crude oil reserve-to-production ratio at the end of 1970 was 11.7 to 1, which in other times and circumstances would have been considered very satisfactory. The fact that one fourth of these reserves is presently unreachable must not be charged against those who found them but against those whose efforts have prevented them from being brought to market. The North Slope oil, by the way, will cost the Nation far less than an equivalent volume of Middle East oil—a savings of $15 to $17 billion is involved—and requires no outflow of dollar exchange. I do not mean to imply here that these efforts of producers here provided all the oil we require; it is quite obvious that a much greater search is needed to restore some semblance of balance to our oil supply. I do maintain that the industry has been both diligent and successful, under the protection of the oil import control program, in finding oil on the new and promising lands that were made available to it.

Which brings me to my final topic today.

We have the good fortune to inhabit a country that is enormously rich in mineral resources, and no less than an Act of Congress declares that it is our national policy to encourage private enterprise to develop these resources—including mineral fuels—for the Nation's use. This law, the Mining and Minerals Policy Act of 1970, is a model of clarity and brevity: it is less than a page in length, and its purpose is to provide a sound, domestic minerals resource base and an industry able and willing to make these minerals available to the economy.

Now the first requirement for minerals exploration and development is access to areas where mineral deposits might reasonably be expected to occur. It happens that most of the mineralized lands in the country lie in the public domain so the obligation to provide access is a particular concern of the Federal Government. Over many years we have enacted numerous laws which speak to this matter of mineral access, including the Mining Law of 1872 and the Outer Continental Shelf Lands Act of 1953. We have published regulations to prescribe how operations on these lands shall be conducted, and we have developed leasing programs to assure that

they are made available for development in a timely and orderly manner. We have maintained an extensive surveying and mapping service to point out the general areas where deposits of particular minerals might be found. We have developed and published a vast amount of geological information to aid those interested in exploring for minerals in every part of the country. From time to time we have awarded subsidies in the form of loans, bonuses, purchase guarantees, or favorable tax rates, all designed to motivate prospectors to enter and develop the mineral resources of both private and public lands.

And they were indeed so motivated, and their efforts produced the base upon which we were able to build an industrial economy that last year provided a trillion dollars worth of goods and services to those who were lucky enough to share its bounty.

Now once again we are witnessing the interaction between policy and politics. In the face of an acknowledged, growing shortage of natural gas and a rapidly growing dependence upon foreign sources for oil, a group of environmentalists was successful in preventing the leasing of 360,000 acres of prime prospective oil and gas tracts in the Outer Continental Shelf off Louisiana last December. Other militant groups have brought the development of oil discoveries made in the Santa Barbara Channel to a dead halt, despite the fact that the West Coast is dependent upon outside sources for half its oil. Even the suggestion that the Department of the Interior was considering leasing tracts on the OCS off the Atlantic Coast brought forth a storm of opposition from activists in the Coastal States. The development of the fifth largest oil field in the world has been stymied for more than two years by the efforts of various groups seeking to deny its developers the access to Federal lands they require for a pipeline to bring the oil to a shipping terminal in southern Alaska.

Thus the historic policy of mineral access, which for more than a century has provided the basis for our phenomenal industrial growth, is being upset by the politics of a newly recognized public concern: environmentalism. The process has been greatly facilitated by certain court decisions and laws which compel courts and regulatory commissions to entertain the claims of those who previously had no standing before these bodies, and who could not heretofore have qualified as legal parties at interest. As an example, the suit against the Department in the Louisiana lease sale case was brought by three environmentalist groups whose headquarters are in San Francisco and New York, and heard in a court 1,200 miles from the physical site of the controversy. The people of southern Louisiana, whose jobs, income and general economic well-being were directly involved, were not represented in the court, yet no one can deny that they were "parties at interest" in the most literal sense of the term.

We are thus witnessing the rise of a new class of absentee landlords, who assert the power to control the economic affairs of distant areas in which they have no interest other than a professed concern for the environment. The opposition to the Alaskan pipeline does not come from the people of Alaska, but from the urban elite of the Lower 48. Yet it is the people of Alaska who must contend with an 18% unemployment rate, with the enormous problem of providing decent care and opportunities for their Native population, with financing necessary programs that are unsupportable on their present tax base, and who look upon the revenues from their oil production as the only way out of their difficulties. The enfranchisement of the professional adversary as a potential intervenor in any action involving the development of natural resources anywhere in the United States has consequences we can only begin to envisage. It is something totally new to our experience. It means that the would-be developer of a mineral property must now reckon with the power of some remote dissident to enjoin him from all action pending the outcome of a lengthy court trial which he may eventually win, but at a shattering cost in money, time, and lost opportunities. The possibilities it provides for the delay and frustration of vitally needed resource development are endless.

I have used these three examples to show how elusive are the goals of policy, and how readily they may be subverted by the politics of our society. Yet it is no less true that the outlook is for more government involvement in the affairs of the mineral industries rather than less. I think we all must concede that. And this means that we have no choice but to deal with the inherent clumsiness, the rigidity and the irrationalities of the political process in ways which still permit the private sector to do its job effectively. Education of the public is part of it. Active political participation is part of it, at every level. The development and strengthening of these associations among groups who recognize the importance of mineral resources in their daily lives is part of it: producers, their suppliers, labor unions, commercial clubs, taxpayers organizations—even consumer groups. Is it not conceivable that those with a concern for the Nation's economy and the continued flow of the goods and services it provides might unite in a common cause of their own?

These are all legitimate means for the attainment of the needs of the various constituencies in an open society. They have been used by others with telling effect. They can, and should, be used by those who are obliged not only to provide the minerals the Nation needs, but to secure public consent to do so. For in the last analysis, it is only through the political process that irrationalities can be dispelled and mistakes corrected, and the way made straight for constructive action. And it is the patient, daily attention to this process that will in the end provide validity for my thesis that mineral policy is in truth, the art of the possible.

THE OCCUPATIONAL HEALTH AND SAFETY ACT

Mr. TOWER. Mr. President, on February 29, the Senator from Nebraska (Mr. CURTIS) introduced the Occupational Health and Safety Amendments of 1972. Senators HRUSKA, BAKER, DOLE, HANSEN, PEARSON, and I have joined him in sponsoring this measure.

The Occupational Health and Safety Act, Public Law 91–596, was enacted into law in the waning days of the 91st Congress. In the 14 months since its enactment, the act has turned out to be a real problem for many Americans who are trying to the best of their ability to comply with the many hundreds of regulations that have since been promulgated.

The Occupational Health and Safety Act Amendments of 1972, S. 3262, is a responsible proposal aimed at achieving an equitable policy of occupational safety.

Mr. President, no doubt some of the problems we now face concerning the act would never have surfaced if the Senate had adopted the Dominick amendment proposed as a substitute to vest the authority of promulgating safety and health standards in a presidentially appointed five-member board. This amendment, which I strongly supported, was tabled by two votes. As the act was passed, the Secretary of Labor is given the power to set and enforce safety standards.

I am sure that every Senator and Representative has received a great amount of mail on the arbitrary manner in which the act is being implemented. On my visits to Texas, I have talked to many employers faced with the problem of meeting the regulations of this act.

The defects in the law and the manner in which it is being administered are easily recognizable. While S. 3262 includes 13 different amendments to the current law, a great many of these amendments relate to the same types of defects that create an impossible situation insofar as ability to comply is concerned.

I would like to discuss some of the remedies envisioned by the bill we have proposed. The bill would exempt from the act small businesses and farms that employ 25 or less people. This same exemption has been applied to the Equal Employment Opportunities Act. This is a crucial section of the bill because the Occupational Health and Safety Act is frustrating the orderly activities of small businessmen and farmers. I regret that this subject was not considered when the act was passed in 1970. The hearings in the Senate Labor and Public Welfare Committee centered around the separate views of organized labor and big business.

It is the small businessman and farmer who are facing the tremendous task of complying with the act. To begin with, the Labor Department has not made any distinctions between large and small businesses. Yet, it is easily discernible that problems of small business and what we have labeled as big business are totally different. The corner grocery store or small town radio repairman has little in common with our larger corporations whose interests are national and, in some cases, international. It is unrealistic to apply the same standards to both small and large business operations.

Many small businessmen have contacted me concerning the problems they have had in complying with the Occupational Health and Safety Act. Some have told me that the act is threatening the very existence of their business.

I think it is fair to assume that the same Federal interest does not exist when talking about the small businessman as compared with larger businesses and corporations. The need for occupational health and safety legislation is present in the large factory or business environment where much of the work is done with large machinery and where there is a high turnover rate with employers, because of the size of their operation, unable to have a close relationship with employers.

This is to be contrasted with the small business environment. In this situation there exists an everyday relationship between employer and employee. The small businessman has an interest in keeping his employee turnover at a minimum and therefore will go out of his way to make sure that safety conditions are adequate and remain adequate. In most instances, good health and safety conditions in a small business environment work to the personal advantage of both the employer and the employee since they work side by side very often.

I could direct myself to a number of regulations now being enforced that are proving detrimental to small business and have no effect upon health and safety conditions. For instance, section 1910.22(b)(2) states that—

> Permanent aisles and passageways shall be appropriately marked.

I cannot see the relationship between health and safety and this regulation when it pertains to department, hardware or drugstores.

Section 1910.22(d) requires the posting of design loads approved by building officials. This regulation is being enforced even though many Texas communities made up exclusively of small businesses do not have building officials. Furthermore, many of those that employ building officials have stated that these officials have never made such designations in the past and do not feel qualified to analyze this question.

Section 1910.22(a) relates to the maintenance of sanitary conditions in places of employment. I have no quarrel with this regulation on its face. However, the broad language employed has allowed for arbitrary enforcement. There are businesses across this country that by their nature may not appear to be perfectly clean on a 24-hour basis. Yet, I have been informed by many Texans that Labor Department inspectors have given out citations under this section, because the inspectors happened to walk into the factory at a particular time in the day when, due to the type of production, the area was not in the best condition. The inspector handed out a citation although had he entered the establishment an hour or two later, the Government requirement would have been met.

Section 1910.141(c) of the act deals with toilet facilities. Taking into consideration the fact that local political subdivisions are governed by some type of ordinance for health and sanitation purposes, I think that this section is completely irrelevant to the national objective at least insofar as it relates to small businesses. A constituent of mine wrote me about the fact that he was given a citation for not having a toilet facility for his female employees. This small businessman with about 10 employees had one female employee, yet the Federal Government was forcing him to build another facility in order to meet the needs of this one secretary who had never complained about the facility previously.

The amendment exempting businesses with less than 25 employees also would reach our small farmers. This is most important to them as they are likewise finding it increasingly difficult to comply with safety standards under the act. Farmers face the task of complying with regulations that in many instances were composed for manufacturing and industry. Furthermore, like the small businessman, the small farmer cannot be expected to face the same safety problems as those faced by the large corporation farmer. Besides being unable to comprehend many standards that are irrelevant to his small farming operation, he also cannot be expected to become an instant expert on the Federal Register's safety regulations at a time when the nature of the small farmer's place in our society is being jeopardized.

Mr. President, other Members of Congress have addressed themselves specifically to the specific regulations of the Occupational Health and Safety Act that have placed an undue burden on small businesses and farmers. It is also important to recall that the administration's original bill on this matter exempted the small businessman and farmer. Yet, because these groups were not adequately represented at the hearings on the bill their interests were, for the most part, neglected.

This act has completely taken these people, which make up the backbone of our economy, by complete surprise. Considering the fact that most of the regulations were promulgated without going through the normal rulemaking procedures that would have allowed for the possibility that their interests could have been represented before the enforcement stage and because of the fact that compliance under current circumstances has proved to be impossible, I think that small businessmen and farmers should be exempted from the act. This exemption should be permanent unless and until the regulations are redesigned to take into consideration the practical problems that have arisen.

Another provision of the 1972 amendments would amend section 6 of the Occupational Health and Safety Act to require that the Secretary of Labor evaluate all of the regulations, distinguish the various facets of a given general form of business, and determine if the rule should apply to each facet. Obviously, some requirements which are entirely reasonable and proper for a form of business of "hazardous nature" would prove to be most oppressive when applied to a "nonhazardous" facet. Such a distinction is not possible under the current statute.

A good example of such a duality might be found in the construction industry—"heavy construction" versus "light residential construction." Activities in light residential construction, which includes remodeling and decorating activities, are different from those activities which are associated with heavy construction. The work is different in that it is smaller in scope, in the number of employees on a given job, and the scale of activities necessary to complete the construction. By definition, light residential construction is limited to structures no more than three stories high without elevators. Working on a structure of this size must be viewed as being different from working on a structure 30 stories high.

I firmly believe that the requirements promulgated to provide such working conditions should be tempered in accordance with the segment of the industry involved. Certainly, the differences between "heavy construction" and "light residential construction" or homebuilding are sufficient to warrant the development of separate standards for the latter.

Mr. President, I think it is clear from the tone of my remarks that my intent in sponsoring this legislation is to bring needed reform to our national health and safety effort. This reform is vitally needed from a procedural as well as a substantive viewpoint. Procedurally, the 1972 amendments would provide safeguards to employers who are now facing difficulty in complying with the nonemergency standards or national consensus standards which have been promulgated without going through the usual rulemaking procedures embodied in the Administrative Procedures Act. These national consensus standards were intended to serve as a base for more up-to-date regulations. However, practically speaking, employers are being forced to comply with them and in many instances suffer penalties and violations without knowing their content or being afforded the opportunity to contest the regulation in a judicial setting. This is certainly contrary to the legislative scheme envisioned by the Occupational Health and Safety Act, and in my mind, is certainly not fostering the type of Government-private sector cooperation that is needed if our goal of effective health and safety conditions is to become a reality.

With this in mind, the 1972 amendments seek to correct many of the deficiencies that would not be present if the rulemaking procedure was adopted across the board. One provision in the 1972 amendments would allow an employer to waive a penalty handed out under a national consensus standard unless the employer received a copy of the requirement in question and was given 30 days to comply or request administrative review. Another provision of the bill would require the Secretary to provide technical assistance to employers with less than 100 employees so that compliance with the law could be effectuated on a much smoother basis.

Mr. President, I am sure that many public officials will say that the Occupational Health and Safety Act is still in its experiment stage and that eventually the problems it now has will be ironed out. Of course, this is a conclusory statement and has little or no relation to the evidence presented. I do not believe that the current problems will be ironed out until legislative reform is enacted, since it is obvious that the Labor Department cannot improve the current situation by administrative action. This legislation is of national significance and for that reason deserves continual observation by the Congress. We should not allow Americans to suffer unequal and arbitrary treatment, hoping in the meantime that the current problems will somehow disappear. Unless we act immediately the difficulties will only spread to additional sectors and individuals within our economy.

HOFFA AND PRISONS

Mr. PERCY. Mr. President, prison is a place where common decency and

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basic humanity are strangers to the inmates. The people whom society puts behind bars are those whom it wants to have out of its midst. Once they are gone from sight, society forgets about them. No one wants to trouble himself with what happens to those nameless men behind the gray walls.

On occasion, our complacency is shattered. Terrible scenes of death—Attica, for example—attract and hold the attention of people for a little while: Then, that, too, is forgotten. We console ourselves with the thought that such instances are aberrations, that normally, the prisons are not so bad.

Prisoners are released from behind the walls, as 98 percent of all prisoners are, but few talk about their experiences. The ex-offender has a story to tell about what happened behind the walls, but few listen few care. This is not the case, however, with James Hoffa. He was a prisoner for 58 months at Lewisburg Federal Penitentiary. He is out now, and he has told his story, and will, I hope, continue to tell it, in very graphic and moving detail. All of us who are concerned with the problems of the prisoners should listen to what he has to say.

We cannot forget that one part of the cause of that rising crime rate lies within our prisons. If we could truly rehabilitate all who are now in prison, crime could be reduced significantly. I believe that if we are interested in breaking the back of crime, we should pay close attention to the words of those who return from the places that breed crime to such an alarming degree, particularly to a discerning and intelligent former inmate.

Mr. President, on April 2 the Washing Post featured an interview with Mr. Hoffa. In the interview, he recounts some of the nightmares he lived through while in prison, nightmares from which one never quite awakens. I hope that Senators will read the interview, not just because it is a picture of what happens in our prisons—but because it is what one man experienced while in a supposed institution of rehabilitation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOFFA ON PRISONS: "ALL INDIVIDUALITY IS GONE"—TELLS OF EFFORT TO ADJUST

(James R. Hoffa, former head of the Teamsters Union, was released last December after serving 58 months of a prison term at Lewisburg Federal Penitentiary.)

(The following interview with Hoffa on his prison experiences was conducted by Al Stark of the Detroit News:)

"I was in my cell one day," says Jimmy Hoffa, "when an orderly was mopping the floor outside. The electric switch that unlocks the cells was thrown, because when the orderly finishes mopping the corridor he has to go into each cell and mop it out.

"He was in the corridor when the guy in the cell next to me jumped out and stabbed him 17 times. Just like that. It took seconds. Seventeen times.

"Well, I'll tell you what caused it. The orderly was the best sport—the best athlete—in the whole prison. The guy in the cell next to mine was always talking about how if the orderly wasn't around he would be the best athlete.

"The day before he had played handball with the orderly, and the orderly beat him again. What he was doing by stabbing him was getting rid of his competition. Then *he'd* be No. 1."

"As a matter of fact the orderly lived. He was in such great shape he survived."

Hoffa stops a moment.

"If you want to know what's wrong with prisons, you can start with this. Everybody is dumped together. The kid who stole a car or a kid who wrote a $40 bad check, dumped right with a psychotic like the one who stabbed the orderly, or the homo, or the rapist.

"Their attitude is, 'We've got you. What are you going to do about it?' "

Hoffa will testify Wednesday before a judiciary subcommittee headed by Sen. Marlow W. Cook, of Kentucky. He has an invitation, too, from a House committee, headed by Congressman Hamilton Fish Jr., of New York. He is scheduled to address lawyers in St. Louis and judges in Minnesota, and he says he's ready to go any place else where people want seriously to talk about prison reform.

Hoffa's own life in prison, the way he tells it, was a paradox.

He says he was far from pampered. He spent a long time in the A block, supposedly for the most violent prisoners. Then he spent a longer time in the mass dormitories, where 175 prisoners live together, where when prison rapes occur everybody does no more than wait for the screams to die down.

On the other hand, Hoffa was Hoffa—a famous man, a tough little guy.

"I didn't have any trouble with inmates," he says. "They knew who I was—and they knew I have as many friends as they have, so they caused me no trouble. Remember, too, I've dealt with all kinds of people in my life.

"The guards weren't any problem, either. One of them once came up and said he had a brother who was a Teamster, and the brother said you better take care of Hoffa because he's always taken care of me. Sometimes guards would come by and say 'so and so asked me to say hello'. And you know, the guards are unionized, too."

His companions among the inmates also were a paradoxical group.

There were Carmine DeSapio, former boss of Tammany Hall, in prison on a bribe conviction; Bobby Baker, the U.S. Senate's master-arranger; a mayor who got caught; an Army colonel; a major; some PhDs.

Hoffa is now 50 years old, and he shows his age in the grey on his temples and lines on his face.

But he is trim, and hard of body. "I worked out every day that I could in prison, in the gym or outside," he says, "I made it a point to exercise."

And he exudes energy—a peppery, even snarly sort of energy. He doesn't at all seem beaten down.

"I'll tell you," he says, a certain hard low snap to his voice.

"My body was in the prison, sure. But I never let my mind believe it. That cell is 7½ feet by 9 feet, and if you want to know what that's like you go home and spend the rest of the day in your biggest closet.

"But my mind was always somewhere else. I read books, and my mind wasn't in the cell. It was away somewhere in the books. And I wrote. And I had people send material for me to study."

Hoffa paused with the heat in which he said this. Then he said:

"Okay. How about the people in there who can't read? How about the people in there who don't have people outside to send them things?

"These are the guys who sit there and look at the walls and look at the ceiling.

Hoffa has ideas about prison reform.

Treat prisoners like human beings.

"Look" Hoffa says, "they broke laws and that's why they are there. But is that any reason to do everything to demoralize them?"

Most prison sentences are not life sentences; the prisoner presumably is one day going to return to free society, he says.

"But everything that happens to the inmate in prison reduces the chances of his making it on the outside. He's stripped of his personality and his individuality. He is treated as if he is nothing. He is put in cells that are too small with people he shouldn't be with.

"He has no dignity. His word is not taken as true on anything. And the result is, when his time is up, he has learned to hate everything and everyone."

The process of dehumanization often starts, Hoffa says, before the prisoner sees his prison cell.

A government car pulls up to the prison and out gets a marshal leading a prisoner in chains.

"Five to 10 pounds of chains!" Hoffa says. "On his arms, his legs and a chain belt around his waist. Standard procedure for transporting a prisoner. Are you going to take a kid who stole a car or a kid who cashed a bad check and chain him like that, display him like some animal?

"It's something he'll never forget!"

Once at the prison, Hoffa says, "he gets the prison haircut, high on the sides, and he gets the prison clothes—maybe new clothes and shoes, maybe used clothes and shoes, depending on what they've got. All individuality is gone. And they resent it.

"This is particularly important with the younger prisoners. I suggested to a lieutenant that they let prisoners bring their own trousers in and wear them in prison. Or circulate a Sears Roebuck catalogue and let the guys choose what trousers they want to buy for themselves.

"The lieutenant liked the idea, and he said he would take it upstairs. But it died. "Some of these things," Hoffa says, "just little things, would reduce a lot of tension, take off a lot of the pressure."

After the new inmate has his prison uniform and haircut, he joins the regular population.

"If he's been convicted of a violent crime," Hoffa says, "he goes to A block, which was meant to house the violent inmates. But, if the other parts of the prison are full, anybody might end up with those guys in A block.

"I was there more than two years. That's where that stabbing took place.

"Sometimes kids who've only stolen cars end up there for months.

"Often, if they're lucky, they get assigned to a dormitory. Lucky. Hah.

"There are 165 to 175 inmates in a dormitory. The beds are maybe only 18 inches apart. There are three showers, 2 urinals, two toilet stools for all those men.

"Now here you have that first offender in a prison dormitory for the first time, with all kinds of people, none of them he knows. There are homosexuals. There are rapists. Everything you can imagine.

"I think the single most important thing, to relieve pressure and tension in the prisons, would be to classify prisoners, by age and by offense.

"Get the young ones together. Keep the homos together, and away from the others. Keep the violent ones apart. Nothing would help more than this to relieve tension inside prisons.

"But that isn't done.

"Everybody is dumped together."

Hoffa thumps his desk.

"I'll tell you some things.

"A guy hears his wife is sick or she's been hurt in an accident. Or one of his kids. And he asks if he can go visit her in the hospital.

"Well, if his behavior record is good, they may say yes, he can go. But then they say he has to make a choice. He can have one visit. If he goes now, when she's hurt, that's it. If she dies, he has used up his chance and he won't be able to go to her funeral.

"When he goes, he has to pay the salary of the guard who escorts him and the mileage and expenses of the trip.

"And when he gets there, if he's done this, he may find the guard with him is one of those that makes him wear handcuffs to his own wife's funeral.

"Or take his own parole. A guy waits 10 years for a parole hearing, behaving in prison, trying to do the right thing. Finally he gets a hearing—not with the parole board, but with an examiner who gives him three minutes. Three minutes after 10 years!

"Then, a couple of months later, he gets a one-word reply. 'Denied.' No explanation, no nothing.

"Just 'denied'."

Official punishment in prison takes three forms: "There's the Hole, where they take your clothing and put you in a 7½-by-9 cell with the one window painted over so you can't see out and where they slide your food in through a slot in the door.

"Sometimes they take your mattress, and you've got two choices. The metal bed frame or the floor. Some guys are in there 30 or 60 days or more. And boy, let me tell you they hate everything when they come out of there.

"Then there's segregation. You spend all your time in a cell. They take your showers away. They don't let you shave. You don't see anyone.

"Or they take our good time away.

"You can work up good time by working well at the job they give you and generally behaving. Well, a guy starts to count his good time. He's got 100 days or 150 days, and those are days they'll take off his time. Those are days he'll get out early.

"A guy thinks of nothing but his good days.

"Then he's charged with breaking some prison rule, say some contraband in his cell.

"He goes before a board made up of prison officials—guards, lieutenants, captains. The guard who charges him tells the details. The inmate can tell his side in rebuttal, but he can't bring in evidence and he can't cross-examine.

"And he's going to be found guilty.

"They take 100 good days or 200, just like that, days this man has saved and saved and worked for. Just like that.

"I've had guards tell me they know this inmate or that inmate wasn't guilty. But do they speak up? No! And the reason—they tell you this openly—is that the guards have to back each other up.

"Now you wonder why there is tension in prisons, why the inmates become less than human beings?"

Hoffa looks out an unbarred window blet in the office where our interview takes place, out over the city and the river.

"You're in the dormitory with those other 175 guys and some new kid, some young kid who just was brought in is going to get it. The dormitories are three stories, and the two guards are downstairs and outside.

"So one night a bunch of guys grab this new kid, haul him upstairs, put a knife to his throat and rape him.

"I've seen these kids. I've heard them scream. I've seen them afterward, and I can't describe the shock. I don't think mentally they'll ever get over it.

"The next day the rapists are sent to the Hole—and so is the kid who was the victim. They treat them both the same way. The rapists spend some time in the Hole, and then they come back to the same dormitory, where you know they'll do it again to some other kid.

"The kid who was victim? They sew him up and then they transfer him to some other prison to start over, 1,000 miles away where his family probably can't visit him.

"That's how they handle it.

"And you ask why the other inmates don't rescue the kid, why they don't gang up on the rapists and put them off.

"I'll tell you.

"You jump a rapist and you're fighting. That's against the rules. So you get locked up, too, just like them.

"And do you want to take a chance of losing that good time you've worked so hard for?

"So you sit there or lay there on your bunk, and pretty soon the screams are over."

Hoffa paused.

"But it's not only things like rapes and psychotic prisoners who will try to kill a guy who beats them at handball.

"It's other things, too.

"Medical treatment—the worst thing at Lewisburg was the fear of getting sick. I've seen guys worry so much about getting sick that they made themselves ill.

"You get a heart attack. The guy reading your cardiogram machine is an inmate who never has been trained. They put him into the hospital, probably because he had a little education, give him two days training or a week, and he's the guy reading your machine.

"Same with the guy who reads your x-ray. Or the dental technician.

"I'll tell you what happened with Carmine DeSaplo (former boss of Tammany Hall politics in New York).

"He came to prison with all his pills and letters from doctors saying he had to take those pills. And he was really worried about his health.

"So first thing they do is to take all his pills away.

"Why? Don't ask me why. Probably because they didn't prescribe them. They run things. They don't want you dependent on anyone else." Every little thing they can do that strips the inmate of a little more personality, a little more dignity, they do."

Hoffa calls for an end to prison overcrowding (Lewisburg, he says, was built for 950 and now houses almost 1,600). He wants college-trained prison staffs. He wants more doctors and dentists. He wants better education for those who need it.

He wants prisons with enough room to segregate inmates by types of crimes or types of behavior. He wants inmates paid better for the work they do in prison.

All this costs money, money that will have to come from taxpayers. Most taxpayers have no firsthand knowledge of prison. And some hold the attitude that prison is meant to be punishment, and if it's a hard life the inmate brought it on himself.

"Well," Hoffa says, lips thin, "those people are going to have to realize that kind of system doesn't work. If they don't spend the money on prisons they are going to be spending a helluva lot more for more policemen, more judges, more prosecutors.

"Because what the prisons are turning out is nothing but trouble.

"I estimate that 15 per cent of the inmates I saw are going to be able to go back to society untarnished by prison, and you can identify those 15 per cent easily. They're the ones who have real associations on the outside, people who can help them.

"The other 85 per cent? Most of them have no one outside—half of them never get mail or visitors. They have no one to help them when they get outside. They aren't going to get decent jobs because they're excons, and they aren't going to get any help from the prison officials. . . ."

"They are going to have nowhere to go and nothing to do that would make them at all fit for society, because they've been containerized all these years in a place where every little dignity they might have is stripped away. And they're going to be more trouble than when they went in."

TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, the Propeller Club of the United States at its 45th annual convention held in Tulsa, Okla., on October 13, 14, and 15, 1971, promulgated a number of position papers on issues they deem to be of particular importance. Position paper No. 15 was on the trans-Alaska pipeline from Prudhoe Bay to Valdez. I believe this subject is of sufficient importance to warrant my asking unanimous consent that it be printed in the RECORD. I respectfully invite the attention of Senators to this position paper of the Propeller Club of the United States.

There being no objection, the position paper was ordered to be printed in the RECORD, as follows:

TRANS-ALASKA PIPELINE FROM PRUDHOE BAY TO VALDEZ

BACKGROUND

At this time of extremely high unemployment, the benefits of the trans-Alaska oil pipeline to the welfare of the nation cannot be overlooked. With the uncertainties and hostilities that now exist in world relations, a policy of continued dependence on mideast and other world oil supplies would, under the circumstances, appear perilous. During the three years considered necessary for completion of the pipeline, it has been estimated that 5,000 to 10,000 new jobs will be created by the project. When the pipeline is completed and in operation, hundreds of men will be employed to operate and maintain it, and hundreds more will be put to work in the oil fields on the North Slope. Construction of the pipeline will also have a highly beneficial impact on the depressed shipbuilding and ship repair industry as well as on shipping, supply, construction and tool making, and many other industries throughout the West and the nation as a whole.

POSITION

The Propeller Club strongly supports the construction of the Alaska pipeline from Prudhoe Bay to Valdez for the transportation of Alaska Slope Crude Oil.

NUCLEAR ERRORS: THE END OF PRIVATE ELECTRIC UTILITIES?

Mr. GRAVEL. Mr. President, today the AEC's Atomic Safety and Licensing Board will start consideration of new danger warnings from an extraordinary source, namely a Westinghouse subcontractor for the Indian Point No. 2 nuclear powerplant. The plant is on the Hudson River about 25 miles north of New York City.

On March 14, Mr. H. K. Brill, who is president of the PECor Division of the Pennsylvania Engineering Co. in New Castle, wrote a five-page letter to the AEC's Director of Reactor Licensing, L. Manning Muntzing. In this letter, he urges that the operating license for Indian Point No. 2 "be positively withheld until the Commission can thoroughly examine the complete contract file and related final technical data of the structures and parts fabricated and shipped by our company in 1967 and 1968."

Mr. President, I ask unanimous consent that this letter be printed at the end of my remarks. In addition, I ask that the article entitled "Subcontractor

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Denounces Indian Point A-Plant Work," from the front page of the New York Times of March 31, be printed following the letter.

DEVIATION AND DISTORTION PLAGUE IMPOATANT COMPONENTS

Among "the many problems" which Mr. Brill identifies in his letter are the steam-generator supports and the reactor support-ring:

Our company fabricated the steam-generator supports in accordance with the inadequate and incorrect Westinghouse drawings. Our staff observed in 1968 the steam-generators were delivered with serious deviations with respect to both size and form. As of December 1, 1971, there is a serious problem of plant safety because of the deviations of both the steam-generator supports and the out-of-tolerance steam-generators delivered by other suppliers.

Your attention is called to the inadequate, incomplete, and questionable design of the important reactor support-ring, one of the principal items of our contract. . . . There are a number of very serious deviations with respect to the fabrication of this important structure. . . . Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly and subsequent problems of non-destructive testing. . . . As of December 1, 1971, we believe there are problems of this structure with respect to the safety of operation on Indian Point No. 2 plant for the design life of 30 years.

Mr. Brill concludes his letter by warning that—

In our opinion, these problems have a direct relation to the safety of the operation of the subject power plant for the AEC-licensed design life of 30 years.

REPERCUSSIONS ON PRIVATE ELECTRIC UTILITIES

If any of this is true, then Consolidated Edison may have been saved by the bell from inadvertently operating an unsafe plant. Con Ed has announced that it will now conduct its own investigation.

How many defective nuclear plants are already in licensed operation, like time bombs with an uncertain schedule?

How many fatal flaws have gone unrevealed, undetected, or covered up?

If a nuclear power calamity someday forces us to abandon a city and a few States, will American citizens and industries still tolerate private electric utilities at all? It is not hard to imagine widespread revulsion leading to public operation and ownership of all the electric utilities.

I believe that corporate prudence will guide investor-owned electric utilities away from nuclear fission.

THE CHOICE OF PRUDENT MANAGEMENT

Any nuclear plant which is ordered today will come into operation in 1980 at the earliest.

However, by 1980, or perhaps sooner, safe, clean gasified coal can be abundantly available, along with fuel-cell technology offering twice the efficiency of steam boilers.

In short, the utilites have lost their last excuse for subjecting their stockholders, their creditors, the regional economy, and the public, to an irresponsible nuclear gamble.

I do not exaggerate nuclear hazards. It is the safety propaganda which is exaggerated.

WARNING FROM FORMER AEC LAB DIRECTOR

The magnitude of the "peaceful atom" threat is described well by the former director of the AEC's Argonne National Laboratory, Dr. Albert V. Crewe. He reviews Glenn Seaborg's book, "Man and Atom," in the February 25 issue of Science magazine:

One emerges from reading the book with a distinct feeling of uneasiness. Each chapter reassures us of the inherent safety of the development described and explains the enormous care which is undoubtedly taken to protect the public. And it would be hard to find fault with any of these precautions. Yet one cannot help feeling that if all the things that are described in this book come to pass, then our lives and our health will depend upon three factors: the ability of the medical profession to make quantitative assessment of the hazards of radiation exposure, the ability of engineers to provide the necessary precautionary engineering, and finally overcoming the much more difficult problem of maintaining administrative controls that are not subject to the whims of international politics or capricious domestic exigencies.

Should any of these three lines of defense fail, then the entire population of the world could be in serious danger.

WARNING FROM 1970 NOBEL LAUREATE

The 1970 Nobel Laureate for Physics, Dr. Hannes Olof Alfven, has warned us in a forthcoming article:

We now approach the key issues. The reactor constructors claim that they have devoted more effort to safety problems than any other technologists have. This is true. From the beginning, they have paid very much attention to the safety, and they have made remarkably clever work in devising safety precautions.

This is perhaps pathetic, but it is not relevant. If a problem is too difficult to be solved, one can not claim that it is solved by referring to all the efforts made to solve it.

WARNING FROM A CURRENT AEC LAB DIRECTOR

The present Director of the AEC's Oak Ridge National Laboratory, Dr. Alvin Weinberg, has acknowledged in the December 1971 issue of Nuclear News that technical "deficiencies" in a radioactive or plutonium economy, if unremediable, "could mean catastrophe for the human race."

THE NUCLEAR POWER MORATORIUM BILL

Considering the stakes, it would be prudent for Members of Congress to look carefully at S. 3223, the nuclear power moratorium bill, which was introduced on February 23, 1972.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

PENNSYLVANIA ENGINEERING CORP.,
New Castle, Pa., March 14, 1972.

Subject: Docket No. 50-247, Indian Point No. 2 Nuclear Power Plant, Consolidated Edison Co. of New York.

Mr. L. MANNING MUNTZING,
Director of Reactor Licensing,
U.S. Atomic Energy Commission,
Washington, D.C.

GENTLEMEN: This letter is forwarded to directly request the present "as built" engineering drawings of the design, manufacturing, assembly and installation of several Class I components of the subject nuclear power plant. It is realized a construction permit No. CP PR-21 was issued October 14, 1966 to Consolidated Edison Company for the construction of the 873MW(e) nuclear generating station. In addition, our staff has noted a recent press release No. 0186 dated October 20, 1971 of the Atomic Energy Commission stating that Consolidated Edison Company is permitted to commence fuel loading of the subject nuclear power plant but is prohibited from reaching a point of criticality or start up operation for commerical power generation.

Our company in December 1966 received from Pittsburgh Bridge & Iron preliminary "sketches" of several Class I structures of the subject power plant for purposes of bidding to fabricate these Class I structures and parts.

Pittsburgh Bridge & Iron had received in the latter part of 1966 these Westinghouse Electric Corporation "sketches" from United Engineers and Constructors of Philadelphia, Pennsylvania. United Engineers and Constructors were the architect engineer firm under contract with the Westinghouse Electric Corporation, Pittsburgh, Pennsylvania. The Consolidated Edison Company had contracted with the Westinghouse Electric Corporation for the complete Indian Point No. 2 nuclear generating station, ready for operation.

In January 1967 and the next three months additional Westinghouse Electric Corporation drawings were received by our company through the subject chain of subcontractors. Our company in turn submitted proposals to Pittsburgh Bridge & Iron Works to construct the various Class I items. In each case without exception the Westinghouse Electric Corporation drawings indicated both the design criteria and the choice of material for the important parts and assemblies. PB&I awarded a contract to our company on May 28, 1967, No. 13838.

On July 19, 1967 our company received from Pittsburgh Bridge & Iron two fundamentally important and essential contract documents covering (1) Specifications and (2) Special Conditions for the fabrication, assembly and test of the subject assemblies. This serious failure of not notifying our company of these basic contractual documents was the direct responsibility of Westinghouse Electric Corporation in that these documents were Westinghouse Electric Corporation documents as completed by their architect engineers, United Engineers & Constructors. The documents were dated December 12, 1966 and October 1, 1966 respectively.

It is essential to recognize the safety aspects of these Class I structures. The weldments and testing thereof of the parts and assembly could not be completed in accordance with standard commercial practices but were to be in accordance with special requirements of the American Welding Society. This included qualified welders and qualified welding procedures for the weldments.

In general the original Westinghouse Electric Corporation drawings for the structures and parts of our purchase order 13838 dated May 22, 1967 with Pittsburgh Bridge & Iron contained serious deficiencies. Dimensioning and tolerancing of the features of the parts were not in accordance with nationally accepted engineering standards; e.g., the ASA standards. The errors, omissions and incorrect features of the Westinghouse drawings included problems of positioning of the components and assemblies. The Westinghouse drawings did not indicate required engineering standards relating to the important standards of non destructive testing of the weldments.

The Westinghouse drawings indicated serious problems of assembly with parts and equipment furnished by other suppliers; e.g., the steam generators of the Indian Point No. 2 power plant. Our company fabricated the steam generator supports in accordance with the inadequate and incorrect Westinghouse drawings. Our staff observed in 1968 the steam generators were delivered with serious deviations with respect to both size and form. As of December 1, 1971 there is a serious problem of plant safety because of the deviations of both the steam generator supports and the out of tolerance steam generators delivered by other suppliers.

Your attention is called to the inadequate, incomplete and questionable design of the important reactor support ring, one of the principal items of our contract 13838 with PB&I. This Class I structure was to be fabricated in accordance with a "sketch" identified as Westinghouse Electric Corporation No. 9321-F-1287 and finally a drawing marked Revision I dated February 1967. There are a number of very serious deviations with respect to the fabrication of this important structure. These deviations have not been recorded by our staff because we have not received, after repeated requests, the present "as built" Westinghouse Electric Corporation drawing 9321-F-1287, Rv. 4. Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly and subsequent problems of nondestructive testing. It should be noted the Westinghouse Electric Corporation to date has not indicated an engineering standard of rejection or acceptance for the dye penetrant examination of this Class I structure. As of December 1, 1971 we believe there are problems of this structure with respect to the safety of operation of Indian Point No. 2 plant for the design life of 30 years.

Our staff is cognizant of the legal requirements stated in the Code of Federal Regulations, Title 10—Atomic Energy of the United States Government. Title 10—Atomic Energy is public law and is the expressed intent of the Congress of the United States in accordance with the Atomic Energy Act of 1946 as amended by the Act of 1954. There are additional numerous subsequent amendments as enacted by the several Congresses of the United States. There is the essential and important requirement of owners and operators of commercial nuclear power plants to assure the safety and well being of the citizens of the United States. The referenced paragraphs are detailed as follows—

a. Part 20—Standards for Protection Against Radiation. This part requires the Director of Reactor Licensing of the Atomic Energy Commission to assure that at all times the levels of radiation within the containment structure, the plant site and adjacent to the plant site for the design life of the plant to be within the stated precise and exact limits dosage of radiation of all types.

b. Part 50—Licensing of Production and Utilization Facilities. This section has direct application to the serious problems as of December 1, 1971 and of the Class I structures and parts of Indian Point No. 2 completed by our company under contract with Pittsburgh Bridge & Iron. In particular, your attention is called to Section 50.34, paragraph b, "The description should be based on the design criteria for the facility as a whole and for those major component parts which are essential to the safe operation of the facility, and are essential to the safe operation of the facility, and should be presented in sufficient detail to allow an evaluation of the adequacy of the various means proposed to minimize the probability of danger from radio activity to persons both on and off site." As of December 1, 1971 our company has not and cannot record the large number of deviations of the structure of purchase order 13838 because to date we have not received the so called "as built" drawings required to be on file with the Director of Reactor Licensing of the AE.

c. Your attention is called to Section 50.35 subparagraphs a, b, and c. In particular, subparagraph c states: "any construction permit will be subject to the limitation that a license authorizing operation of the facility will not be issued by the Commission until (1) the applicant has submitted to the Commission by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time, and (2) the Commission has found that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with the requirements of the license and the regulations in this chapter."

d. Your attention is also called to Section 50.36, subparagraph b which states: "Appendix A is provided as a guide to the type of materials which the Commission would generally expect to be covered by the technical specifications." Your attention is called to Section 50.40, paragraph (a) which states: "the processes to be performed, the operating procedures, the facility and equipment, the use of the facility and other technical specifications, or the proposals in regard to any of the foregoing collectively provide reasonable assurance that the applicant will comply with the regulations in the chapter, including regulations in Part 20 and the health and safety of the public will not be endangered."

This letter is directed to the Atomic Energy Commission to suggest the proposed operating license for Indian Point No. 2 nuclear generating station, Buchanan, New York, of Consolidated Edison Company, New York, be positively withheld until the Commission can thoroughly examine the complete contract file and related final technical data of the structures and parts fabricated and shipped by our company in 1967 and 1968. In addition we request of the Director of Reactor Licensing the complete "present" file of Westinghouse Electric Corporation drawings of the structures and parts of our purchase order 13878 with PB&I.

Our company as of December 1, 1971 has not either marked or recorded on the applicable drawings the large number of deviations which occurred during the fabrication of the items. The principal problem is of course the Westinghouse Electric Corporation through its chain of subcontractors will not forward to us their file of present "as built" drawings.

It is not possible for the AEC to inspect these structures to assure safety of operation until the deviations are officially recorded by our company for these Class I structures.

Our staff will be pleased to meet with your staff to explain or clarify the serious problems outlined in this letter. We shall pursue all possible means for a resolution of the many problems of Indian Point No. 2 power plant. In our opinion these problems have a direct relation to the safety of the operation of the subject power plant for the AEC licensed design life of 30 years.

Very truly yours,

H. K. BRILL,
President, PECor Division.

[From the New York Times, Mar. 31, 1972]

SUBCONTRACTOR DENOUNCES INDIAN POINT A-PLANT WORK—CALLS ON AEC TO HOLD UP OPENING OF NO. 2 UNIT IN "SAFETY PROBLEM"

(By David Bird)

A subcontractor who has built a key part of Consolidated Edison's new nuclear power plant at Indian Point, N.Y., has asked the Atomic Energy Commission to withhold the licensing of the reactor because of "inadequate, incomplete and questionable design" of parts of the reactor that pose "a serious problem of plant safety."

The request was made by H. K. Brill, president of the PECor Division of the Pennsylvania Engineering Corporation of New Castle, Pa. Mr. Brill's company constructed the support mechanism for the reactor, which is being built for Con Edison by the Westinghouse Electric Corporation.

Westinghouse, in a statement yesterday, said the Brill charges were "totally untrue . . . and have no bearing on the licensing of the plant."

A spokesman for Westinghouse refused to comment on the specific technical charges detailed by Mr. Brill's five-page letter.

The complaint by Mr. Brill is expected to delay, and could even block, the opening of the plant—an opening that already has been delayed three years beyond schedule.

Mr. Brill outlined his objections in a letter to L. Manning Muntzing, the A.E.C.'s director of reactor licensing.

Asked about the letter which was dated March 14, a spokesman for the A.E.C. in Washington said only that the charges were "under investigation by our division of compliance."

Environmentalists, who have been attempting to delay the operation of nuclear plants until safety questions can be more fully resolved, praised the Brill letter.

LETTER CALLED "SIGNIFICANT"

Anthony Z. Roisman, a Washington lawyer who has been leading the battle against Indian Point and other nuclear plants, said yesterday that the letter was "the most significant piece of information that as come into this or any other nuclear-plant hearing."

Mr. Roisman said that the letter marked the first time that someone who was actually building a nuclear plant had come out and raised serious questions about its safety.

Up to now, he said, charges against nuclear plants have been dismissed "as the usual rantiug-raving of uninformed citizens." But that charge, he said, cannot be made about Mr. Brill, who was directly involved in the construction.

Questions about the safety of the Indian Point plant had been raised earlier by the Pennsylvania Engineering Corporation in letters to Westinghouse and Con Edison. Westinghouse said in its statement yesterday that a review in 1969 and 1970 had "confirmed that there were no safety problems, and we are completely confident that all applicable Atomic Energy Commission safety standards were met."

CON ED PLANS INQUIRY

Con Edison said yesterday that Westinghouse had assured it then that the matter was only a "contract dispute."

A spokesman for the utility said that Con Edison would now conduct its own investigation.

Samuel W. Jensch, chairman of the Atomic Safety and Licensing Board, which has been conducting the hearings on the Indian Point plant, said he would ask interested parties for suggestions on what to do about the Brill charges when the hearings resume on April 5. The hearings are being held in the Springvale Inn, a home for the elderly in Croton-on-Hudson.

Mr. Roisman said he would ask for a complete reopening of the safety question, which proponents of the plant thought had been resolved after hearings that ran for more than a year. The inquiry had recently moved on to other environmental problems, such as fish kills and thermal pollution of the Hudson River that might be caused by the water used to cool the plant.

SERIES OF DIFFICULTIES

The Brill letter is the latest of a series of difficulties that have plagued the 873-megawatt plant, officially called Indian Point No. 2. Indian Point No. 1, a 265-megawatt pilot plant, has been operating on the site.

The new plant is completely built, but it cannot be operated until it receives an A.E.C. operating permit.

Last November a fire that caused damage estimated at $5-million swept through the plant. The damage has been repaired.

But then, when the plant was being tested recently, conservationists charged that there

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had been massive fish kills as vast amounts of water were sucked inside for cooling purposes.

Henry L. Diamond, the state's Commissioner of Environmental Conservation, ordered the plant to halt its testing.

Yesterday Commissioner Diamond authorized the plant to resume testing, but only after the utility had agreed to reduce the water intake velocity and to install more efficient screening devices to prevent "irreversible harm to the fish life of the river."

The Commissioner also asked Attorney General Louis J. Lefktowitz to seek fines for previous fish kills caused by the Indian Point plant. Testimony at recent department hearings indicated that the utility might be liable for penalties as high as $1.6-million.

The charges on the safety of the reactor raised in the Brill letter centered on what were termed "serious deficiencies" in Westinghouse's drawings for the plant.

"Dimensioning and tolerancing of the features of the parts were not in accordance with nationally accepted engineering standards," Mr. Brill said in his letter.

"The Westinghouse drawings indicated serious problems of assembly with parts and equipment furnished by other suppliers."

"SERIOUS DEVIATIONS" REPORTED

"Our company fabricated the steam generator supports in accordance with the inadequate and incorrect Westinghouse drawings," the Brill letter went on. "Our staff observed in 1968 that steam generators were delivered with serious deviations with respect to both size and form.

"As of Dec. 7, 1971, there is a serious problem of plant safety because of the deviations of both the steam-generator supports and the out-of-tolerance steam generators delivered by other suppliers.

"Your attention is called to the inadequate, incomplete and questionable reactor support ring. Our shop records conclusively indicate a serious problem of distortion during heat treatment of the welded assembly."

Further delays in the opening of the Indian Point No. 2 plant could affect the reliability of New York's power supply. ConEdison has said it is counting on the capacity of the new plant to meet peak demands this summer.

BUSING OF SCHOOLCHILDREN

Mr. BROCK. Mr. President, for some months a number of us have been working very hard in an effort to correct the excesses of the lower courts in the matter of forced busing of our public schoolchildren for the purpose of achieving "racial balance." Increasingly, forced busing has been done in the name of carrying out Supreme Court decisions. Upon examination, however, it would seem that just the opposite has been decreed by the high court, and Federal courts have been usurping the role of the legislative branch in their interpretation of the law. I ask unanimous consent that an article from the Wall Street Journal entitled "Behind the Busing Fuss" be inserted in the RECORD at this point:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BEHIND THE BUSING FUSS

In pursuit of our conviction that it will be best if the courts themselves solve the "busing problem," we have been reading about trying to find some available rationale that will preserve some impetus toward racial justice without falling into the absurdities of racial quotas. We can report that such a rationale does exist, as extracts printed alongside testify.

The source comes as something of a surprise, though, being the unanimous Supreme Court decision in Swann v. Charlotte-Mecklenburg County Board of Education, the very case in which the court first backed the use of quotas and busing to dismantle previous dual school systems. As the administration weighs its position on busing, we hope it takes note of how careful the high court has been, how much room for maneuver it has left in the judicial process itself.

The rationale in these extracts is precisely what we, at least, have been looking for as a way out of the present impasse. It rejects racial quotas, though recognizing the prudence of starting any discussion of desegregation by looking at the existing racial balance. It does not flatly outlaw all-black or all-white schools. It preserves pressure toward dismantling dual school systems where they exist, but recognizes that there will come a point when that transgression will be atoned.

The implication is that with the South desegregating, we will with all deliberate speed, as it were, reach a point where the school systems in North and South will be on equal footing. Then the nation will be in position to repair to the great principle the first Justice Harlan offered in his dissent to the notorious Plessy v. Ferguson decision, that "our Constitution is color blind, and neither knows nor tolerates classes among citizens."

But if all this is already the law of the land, or at least the direction indicated by the most crucial Supreme Court decision since Brown v. Board of Education, what in the world can be behind all the fuss? There is a good answer to that question, which is one reason why Nathan Glazer's article in the current Commentary ought to be required reading for anyone who hopes to understand the current "busing" controversy.

Mr. Glazer, the Harvard sociologist and long-time student of ethnic amalgamation, reviews a great many aspects of the problem, one of the most revealing being what the lower courts have been doing since Charlotte-Mecklenburg. He quotes a San Francisco judge's ruling, for example, "that the ratio of black children to white children will then be and thereafter continue to be substantially the same in each school." He quotes a Detroit judge blaming segregation on blacks as well as whites because "blacks, like ethnic groups in the past, have tended to separate from the large group and associate together." The Detroit court ordered busing between the central city and suburbs to end such separation.

The fuss, in short, arises because these and other lower courts have been going far beyond anything the Supreme Court mandated; indeed, they have been ordering precisely the things the Charlotte-Mecklenburg decision told them the Constitution did not require. The lower court judges have not been waiting for the legislature or even for the Supreme Court itself; they have simply been writing their own social opinions into the Constitution.

Mr. Glazer has trenchant things to say about the "crude Americanizing and homogenizing" that make up the substance of those social opinions. What's wrong with blacks wanting to associate with blacks, for example? In fact, the chief American answer to ethnic diversity has been to allow each group to pick its own associations under cover of a color-blind law, and to open the way for advance through political bargaining. He finds it healthy and hopeful that blacks are winning bargaining power today.

Meanwhile, though, the law has reached such confusion that Mr. Glazer can pack into one sentence irony like this: "The promise of Brown is being realized. Black children may not be denied admittance to any school on account of their race (except for the cases in which the courts and federal officials insist that they are to be denied admittance to schools with a black majority simply because they are black)."

The Supreme Court can correct much of the confusion by starting to overrule lower court decisions that are excessive in the use of busing and especially quotas, by writing the sensible obiter dicta of the Charlotte-Mecklenburg decision into binding law. It would seem to us appropriate if the administration concluded that Justice Department intervention in current suits could help achieve this result, and might also help rein back the lower courts to the pace the high bench sets.

This, in fact, is a point that goes beyond busing and desegregation. Unquestionably the legal system now and then—as in the Brown decision—needs a way for the Supreme Court to put aside cold precedent and follow the feelings and opinions of its human members. Yet this freedom to write personal opinion into law can easily be abused even by Supreme Court Justices, and we can scarcely see how a meaningful legal system can long function if it is abused by every district court judge as well.

REGULATION OF FOREIGN FISHING FLEETS

Mr. STEVENS. Mr. President, on March 18, 1 week ago last Saturday, the Japanese fishing vessel *Kayo Maru*, No. 31, was observed by a Coast Guard long range, search aircraft 10 miles northwest of Cape Sarichef. The Japanese vessel was seen retrieving crab pots. The aircraft, from the Coast Guard Air Station at Kodiak, gave the vessel orders to stop, but the Japanese vessel continued retrieving pots and moved out to 12 miles from shore. The nearest Coast Guard vessel on patrol was the *Mellon*, based at Honolulu, and was 32 hours away. The aircraft had only 3 hours of fuel remaining and had to abandon the chase after dropping a message block to the vessel, warning it not to fish in contiguous waters.

The waters north of the island of Unimak, in this locality, have been designated a crab pot sanctuary in the United States-Japanese agreements. However, this right to crab pot fishing does not extend to the contiguous waters.

Today, in addition to the *Kayo Maru*, 32 other Japanese vessels are fishing for crab just off Unimak Island.

On April 3 the Coast Guard seized two Japanese fishing vessels for another violation of the U.S. contiguous fisheries zone near Kodiak. Fortunately the cutter *Mellon* was nearby, this time, and it was expected that they would be escorted into Kodiak on Tuesday.

When the king crab fishery in Alaska began to decline 4 years ago, fishermen and processors tried to turn to the snow crab as a substitute, but a gloomy picture faces us for 1972.

We are able to produce and process snow crab, but foreign competition, using methods not available to our fishermen, and cheap labor, has dampened prices, and consequently, sustained advances in production.

There are a total of 268 foreign fishing vessels off the Nation's shores in Alaska today.

One ship, the *Mellon*, is responsible for

the patrol of the Bering Sea, an area of 873,000 square miles, much of which is ringed by American shores. In that area, 48 Russian and 10 Japanese are fishing for ground fish and herring between St. Matthew Island and the Pribilofs. The 77 Russian and 139 Japanese are between the Pribilofs and Unimak Island in the Aleutians.

Seventeen Russian are trawling for shrimp near Sand Point.

Three Russian and three Japanese near Kodiak, and 10 Japanese in the waters between Dixon Entrance and Dry Bay, fish for black cod and perch.

The Coast Guard vessel *Confidence* arrived in Juneau this week to patrol this area. The *Storis*, which was scheduled for drydock, has been sent to Kodiak to assist the *Mellon* with the escort of the two Japanese vessels.

Ordinarily, a total of two vessels patrol a coastline greater than that of the entire contiguous United States for the protection of a fishery resource that equals or surpasses that of the remaining 49 States combined.

Mr. President, we must bring these foreign fishing fleets under effective regulation, and we must provide for adequate enforcement of our laws and foreign treaties.

ANOTHER TRANSPORTATION CRISIS

Mr. BELLMON. Mr. President, most of us here today are aware that within the next 60 days we may once again be called up to legislate a railroad settlement to avert another threatened transportation emergency. The President has appointed Emergency Boards in the United Transportation Union-Penn Central and United Sheet Metal Workers Union disputes, thereby postponing shutdowns for 2 months. But in all probability, Congress will be faced with the necessity of legislating another ad hoc solution or solutions at the end of the no-strike period.

The reason? Existing statutes are ineffective in preventing crippling transportation tie-ups, and Congress has so far failed to enact new and more effective laws. We could end the constant intervention by Congress by enacting S. 3232, introduced by Senator PACKWOOD, and of which I am a cosponsor. It is a farsighted and comprehensive bill that would take Congress out of this labor dispute settlement business once and for all.

An excellent editorial on this subject appeared in Saturday's Washington Post. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONGRESS, LABOR LAW, AND THE PENN CENTRAL

We have noted on previous occasions that the lackadaisical attitude of Congress toward the labor laws is rapidly turning it into the nation's No. 1 arbitrator. It won't legislate major reforms in the labor-management area when there isn't a major crisis somewhere in the country. And it will only pass measures to put a patch on the immediate problem when a crisis does exist. As a result, the country moves from one crisis to another in the transportation field with Congress having to step in each time. Now, on the horizon, is another one.

Everything is set, or so it seems, for a monumental battle this spring between railway labor and, of all things, the bankrupt Penn Central. The current contract between the railroad and the United Transportation Union expired last night and all the signs indicate that a new agreement will not be reached easily. Most observers think that later this year, after all the delaying options in the existing laws are used up, a strike is inevitable because the issue separating the two sides is so fundamental. And once the strike begins, Congress will be forced into another patchup job, this one with an election drawing near.

The issue in the Penn Central dispute is that old problem of the size of train crews. The trustees of the railroad say they will go to the mat on it because, they contend, the railroad can never be brought out of bankruptcy without a sharp cut in labor costs. The union contends that reducing the crew size will make railroad operations more dangerous, an argument management says is unsupported by the evidence. Involved in this dispute directly are about 6,000 freight train conductors and brakemen on the Penn Central and indirectly about 25,000 similar employees on other railroads. Both sides recognize that a victory for the Penn Central would result in identical demands by all other railroads when their contracts come up for renewal.

Regardless of the merits of this particular dispute, its existence points out the problems of the labor laws. There are mechanisms in those laws through which a strike can be postponed but nothing other than moral suasion in them to prevent a strike at the end of the postponements. There has been enough experience with the process in recent years to predict what will happen this spring. The devices for postponement will be invoked, an agreement will not be reached, a strike will be called, and Congress will rush into the breech in an effort to get the trains running before their absence ties up a substantial part of the nation's economy. How much better it would be if Congress would give up its role as the arbitrator of situations like this!

The best mechanism we have heard about to take Congress out of this labor dispute settlement business is the final offer selection procedure backed by the administration and being pushed in the Senate these days by Senator Packwood. It establishes at the end of the road of negotiation and mediation in major transportation disputes a procedure under which the final offer of each side is submitted to a board of arbitrators. That board must choose one offer or the other with no middle ground and its choice is binding on both sides. This arrangement, of course, is compulsory arbitration, something the unions and many managements have long opposed. But that, it seems to us, is a better arrangement than legislative arbitration which is what exists at the end of the road now. The public interest desperately needs to be inserted into the bargaining process in this particular industry and that is more likely to occur through this kind of arbitration board than through patchup jobs carried out by Congress, particularly in election years when the attraction of votes and contributions can play a major role in determining the size of the patch.

VOTING BY 18-YEAR-OLDS

Mr. BROCK. Mr. President, this is the first year in which 18-year-olds will vote in national elections, and interest has justifiably focused on their attitudes and opinions. A number of test elections have been held on campuses in various parts of the country and many more will be held in the months ahead. As chairman of the Congressional Advisory Board of the Young Voters for the President Committee, I have followed the results closely. They have shown thus far that President Nixon enjoys wide support among young people.

I have here the results of test elections held on 47 high school and college campuses. The large majority were sponsored and conducted by official organizations, such as student councils and student government associations. The others were handled by independent, nonpartisan groups. Polling was conducted in several different formats; in some cases in the form of primaries, in others as mock conventions, and in still others as general elections in which all candidates of both parties were pitted against each other. In 46 of these 47 test votes President Nixon was the winner, regardless of format.

This strong support for the President from young Americans reflects, I believe, a widespread appreciation of his record on matters of particular concern to young people—his record on the draft, on an all-volunteer military service, on the new lower voting age. On the campuses and in the voting booths young people are demonstrating their endorsement of that record.

For the most part, these test votes have been held in New Hampshire and Florida, the first two States to hold primaries. In Florida they were conducted at more than 30 colleges and universities under the auspices of the student government of Florida Technical University and were sanctioned by the State legislature. Statewide, the President received more votes and carried more campuses than any other candidate of either party. In New Hampshire he won all of the 10 test votes conducted at six high schools and four colleges.

As other polling takes place at other schools across the Nation, similar support from young people will be shown. In recent elections at the University of Wisconsin, Whitewater, and the University of Southern California, for example, the President received more votes than any other candidate.

These results confirm what many of us have already learned from visits to campuses and talks with young people in various parts of the country. And that is that young voters in the primaries to follow and, of course, the general election in November, are going to help substantially in providing President Nixon with an overwhelming victory.

Mr. President, I ask that the names of these 46 schools—where young people have demonstrated such strong support for the President—be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SCHOOLS SUPPORTING PRESIDENT

New Hampshire College.
New Hampshire Technical Institute.
Plymouth High School.
New England Aeronautical Institute.
Kearsarge High School.
Dover High School.

XUM

Plymouth State College.
Spaulding High School.
Keene High School.
Laconia High School.
Atlantic University.
Central Florida Community College.
Chippola Junior College.
Embry.
Florida Presbyterian College.
Palm Beach Atlantic College.
Lake Samter College.
St. Petersburgh Junior College.
St. Leo College.
Seminole Junior College.
Brevard Junior College.
Gential Campus.
Valecis Junior College.
Polk Community College.
North Florida Junior College.
Rollins College.
Hillsborough Community College.
Dale-Marby Campus.
Indian River Community College.
Brevard Junior College.
South Campus.
St. Petersburgh Junior College.
Florida Southern College.
Palm Beach Junior College.
Gulf Coast Community College.
Miami Dade College (North).
Daytona Beach Junior College.
Okaloosa—Walton Junior College.
Stetson University.
University of Miami.
Florida Technological University.
Barry College.
Florida Institute of Technology.
Hillsboro Community College.
Seminole Campus.
Pensacola Junior College.
Tallahassee Junior College.
Florida State College.
University of Wisconsin—Whitewater.
University of Southern California.

AMERICAN LEGION AWARD TO LOWELL THOMAS

Mr. STEVENS. Mr. President, the American Legion presented its National Commander's Public Relations Award to the distinguished broadcaster and journalist Lowell Thomas during the Legion's recent meeting in Washington.

The award, in recognition of Mr. Thomas' pioneering efforts as a broadcaster, lecturer, and newsman, was made by the national commander of the American Legion, John H. Geiger.

Mr. President, I ask unanimous consent that the presentation be printed in the RECORD.

There being no objection, the presentation was ordered to be printed in the RECORD, as follows:

PRESENTATION OF AWARD TO LOWELL THOMAS BY JOHN H. GEIGER, NATIONAL COMMANDER OF AMERICAN LEGION

"It is always a pleasure to attend this annual Public Relations luncheon which is one of the most significant activities during our annual Washington Conference.

"We consider this luncheon session important for two reasons.

"First, it gives us an opportunity to renew acquaintanceships with our friends in the Washington media who do so much to help us get the story of the American Legion to the American people.

"Secondly, it gives us an opportunity to honor a practitioner of the communications art—an individual in media related activities who we believe has made a significant contribution to the American way of life. This honor is in the form of the National Commander's Public Relations Award.

"This year's honoree defies precise fitting into any mold. His career has spanned such a wide variety of activities—that just to read his biography inspires awe in the reader. The list of his accomplishments and honors is equally inspiring.

"Reporter—Author—Lecturer—Editor, he is all of these things and more. He is the friendly radio voice remembered from our youth—a pioneer in the use of the electronic media to disseminate the news—and when television was ready, he was among the first to effectively utilize this new form of communication.

"He is a world traveler and explorer—having unlocked for America and the world, remote and breath-taking vistas few had ever seen before

"He has been among those who have carried the film medium to its ultimate extension through cinerama.

"This great American was born in Ohio on April 6, 1892—and the far reaches of the world have been home to him ever since. He has achieved, if any man has, legendary status in his own time.

"It is my great honor and privilege to present to you—Mr. Lowell Thomas—the American Legion National Commander's Public Relations Award for 1972. I believe the inscription on the plaque signifying the award is the best indicator of the high esteem your fellow Americans feel for you.

"It reads:

"The National Commander's Public Relations Award, presented to Lowell Thomas, Author—World Explorer—Commentator.

"In recognition of his pioneering efforts in the audio visual field as a commentator and lecturer on our world.

"He has introduced America and the world to the concept of 'instant history'—the sight and sound recording of events as they occur. He also has brought to the people of the world a greater understanding of diverse lands and cultures.

"His sense of the American ethic and his service to humanity are a source of inspiration to us all"

Congratulations, Mr. Thomas.

ENVIRONMENT AND POPULATION

Mr. PACKWOOD. Mr. President, on March 29, Russell Train, Chairman of the Council on Environmental Quality, spoke before the Los Angeles World Affairs Council on a matter of utmost concern to many of us here in the Senate, environment and population and their close interrelatedness. Chairman Train made some astute observations about the ability of mankind to coexist with the rest of nature on the planet earth, and some of the requirements which must be met if we are to successfully reach that goal.

Because of its timeliness and relevance, I ask unanimous consent that Chairman Train's address be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY THE HONORABLE RUSSELL E. TRAIN

I am delighted to have this opportunity to address the World Affairs Council. Environmental problems are increasingly engaging the attention of nations throughout the world, and environmental cooperation among nations in rapidly becoming a major factor in international affairs. Environmental issues are gut issues that go to the heart of mankind's ability to survive in a world worth living in.

In 1968, just before the Nixon Administration took office, I chaired a conference on the subject of "Ecology and International Development." In welcoming the participating scientists to the conference, I made an observation which I will repeat in another context today:

"I suspect that a major reason ecology is so often ignored is not so much lack of expertise as the fact that an ecological awareness leads to the questioning of goals—and this is something few wish to do. The time has come when questions must be asked about the validity of development goals here and abroad . . ."

Since 1968 we have asked a great many questions, and more than ever before, Americans have become ecologically aware. As the President has observed, we now recognized that—

"At the heart of concern for the environment lies our concern for the human condition: for the welfare of man himself, now and in the future. As we look ahead to the end of this new decade of heightened environmental awareness, therefore, we should set ourselves a higher goal than merely remedying the damage wrought in decades past. We should strive for an environment that not only sustains life but enriches life, harmonizing the works of man and nature for the good of all."

This, of course, is the goal we shall pursue at the United Nations Conference on the Human Environment in Stockholm. As you know, all U.N. member nations have been invited to be represented at the Stockholm Conference this June to take stock, for the first time in history, of our international environmental condition. The success of this conference may well lie less in the specific agreements we come to there—although we expect some significant ones—than in the process of international dialogue and concern that Stockholm has brought about.

Over the past two years an unprecedented, high-level attention has suddenly been focused on the environment in nations across the world. Big and small, rich and poor, countries everywhere have had to decide first immediate and mundane issues—who will represent us, how will we select our delegation to the numerous preparatory meetings, larger issues have had to be addressed in various countries: What are our environmental problems? What are we doing to correct them? How are we organized to deal with them? How are other countries coping with their environmental problems?

During the past couple of years many countries have established a focal point of responsibility for the environment. Thus, significant reorganizations have taken place in Japan, Great Britain, Canada, France, Norway, and Australia, among others. Cabinet-level exchanges on the environment have occurred between the United States and Japan, and the United States and Canada, and heads of State now routinely include the environment on their agenda at international meetings.

Thus, the Stockholm Conference has served as an action-forcing mechanism, as we hoped it would. As world interest in the environment has grown, our expectations have also grown, and we now look forward to concrete agreements in several areas. We hope for an international convention on the control of ocean dumping, an area in which the United States has provided strong leadership, most notably in the Administration's proposed legislation which would severely curtail ocean dumping, legislation which has passed both houses of the Congress and is now in conference. We are also hopeful that the President's proposal for a World Heritage Trust, to provide international identification and uniform high standards of protection for areas of outstanding natural or cultural value, will be supported. I expect that some agreement on the establishment of institutional arrangements to conduct world environmental monitoring will be reached in Stockholm, and that a permanent new unit will be created in the United Nations to provide policy guidance on environmental issues.

The United States has worked hard to make the Stockholm Conference, and the international environmental activity it symbolizes, a success. The President has proposed a fund of $100 million to support a five-year international environmental effort in several areas, and he has pledged the United States to contribute $40 million on a matching basis to that fund. In my travels and those of my fellow Council members, Mr. Cahn and Dr. MacDonald, we have tried to work out ways of overcoming the very real obstacles to success at Stockholm. One of these obstacles is the concern that exists in some countries about the extent to which environmental progress entails economic costs, and possible effects on growth.

The question whether we should continue to regard growth—of population, the economy and resource use—as the primary measure of our progress as a society is a very important one and I want to raise it with you today. This is an issue that is bigger than the Stockholm Conference, and bigger than any individual country. It is in many ways an issue for long-term consideration beyond Stockholm. There are some who say that it is an issue for affluent societies in their post-industrial period, that lesser developed countries, or even poor Americans, cannot yet indulge the thought that growth and economic development may have to be curtailed if we are to maintain an environment conducive to personal health and well-being.

Well, I would be among the first to sympathize with the argument that economic development is essential to the good life, and that a dynamic economy is necessary to many of the social and even environmental goals of people everywhere. I believe it is of the highest priority to achieve a level of full employment that will provide all Americans the opportunity for meaningful employment—the President's policies are firmly committed to this goal.

However, I cannot leave it at that, for as a public official responsible for advising the President and the Congress on environmental matters, I feel obliged to share my thoughts on an issue which deserves urgent attention in the United States and elsewhere. Therefore, I would like today to call for a national debate on the desirability of growth, and I would like to suggest five areas where reflection and research should be directed.

I am aware that no concept is more central to western civilization than continued growth, whether it be of population, the economy, or of technology. In the United States we have conquered a great wilderness and built the largest industrial machine in the history of the world. We have greatly increased our agricultural productivity, we have been responsible for technological miracles from computers to moon landings, and we have attained an unprecedented standard of living.

In a sense, we are driven by our own prosperity. Keynesian economics has shown us how to manipulate the economy to achieve maximum growth and employment. Most of us march to the tune "produce or perish" and this has helped make of Americans a nation of high achievers.

But with all of the benefits from continued economic growth, as a people we are beginning to question whether more is really better:

Communities from coast to coast are more and more willing to forego new industries to prevent pollution and impairment of the local environment. Public debate in States such as California, Colorado, Oregon, Florida and others has begun to question the desirability of growth. Delaware, a heavily industrialized eastern State, last year called a halt to heavy development of its coastal zone.

The President's Population Commission has recently reported that ". . . There is hardly any social problem confronting this Nation whose solution would be easier if our population were larger . . ." After two years of research, the Population Commission concluded that "no substantial benefits would result from continued growth of the Nation's population."

The Club of Rome, an international group of scientists and industrialists, has recently sponsored a project at MIT on *The Limits of Growth*. That study predicts that current population, resource use and other trends will end is disaster in the next century.

One need not accept the dire hypotheses and methods underlying some of the more extreme predictions to acknowledge the fundamental validity of the questions these various groups are asking. They are questions which touch upon public policy choices in several fields, and most particularly upon environmental policy.

First is the question of the size and distribution of our population. The President has referred to this issue as "one of the most serious challenges to human destiny in the last third of this century . . ." According to the Population Commission, in the year 2000 per capital income may be as much as 15 percent higher under the two-child per family, than under the three-child growth rate.

Moreover, the anticipated distribution of future population makes clear that under even the lower population growth projections we may have to make substantial sacrifices in the quality of our lives to accommodate large numbers of people in our urban regions. While about 70 percent of the U.S. population is now concentrated in metropolitan areas, 85 percent is expected to reside there in the year 2000. In that year, more than six out of every ten Americans will live in cities of one million or more compared to four out of ten who now live there, and 50 percent will live in the huge urban agglomeration along the East Coast and adjoining the Great Lakes. Another fifteen percent will live in the area reaching from about San Francisco to Los Angeles.

This distribution will demand that we change our lives, and perhaps our values, very significantly. We must learn to adjust to higher density living, learn to share our open spaces and public facilities with more and more people, increasingly forego use of the automobile in favor of public transportation, and give up some cherished habits of privacy and solitude.

These projected settlement patterns will have serious consequences for land use and pollution. Industrial activity, transportation, and the like will be highly concentrated in large metropolitan areas. Pollution control will be more difficult, and higher levels of abatement will be imperative. The encroachment on the countryside will make the preservation of areas of critical environmental concern, such as wetlands, flood plains and scenic areas, extremely difficult.

In the face of these inevitable adjustments, it is especially tragic to learn from the Population Commission that between the years 1966 and 1970, 15 percent of all births were unwanted and 44 percent were unplanned. Since 1967 the United States has contributed more than $260 million in support of a worldwide program of population control and family planning activities. Although our population problems here at home may be less severe than those of some other nations, we can no longer deny that we have them. And so I think it is time to call upon every American to consider the implications of the future population growth and distribution that has been predicted for us as it affects his own choices and values.

The second question on which we should begin to focus scientific and popular attention concerns the carrying capacity of the earth itself. We must begin to ask ourselves whether food production will continue to be adequate for population increasing at exponential rates? Whether we will in time deplete certain resources and thereby bring an end to increased industrial production? And whether we can depend on technology and the market structure to allocate resources and continue to meet high levels of productive endeavor?

One group recently addressed these questions in Great Britain and concluded that the British population is twice as large as it should be for sustained resource use. Another group, as I have already mentioned, has developed a mathematical model which purports to show that continued population growth, resource depletion and pollution would have castastrophic consequences in the next century.

I offer no conclusive answers to this question. Since the time of Malthus few people have questioned the adequacy of resources to support growth and we should not be surprised if current efforts are somewhat primitive and unsophisticated. And above all, we should not allow cosmic issues to distract us from the societal housebreaking that modern man has so recently begun—the dirty job of cleansing the air and the waters of the wastes we have disposed in them.

Nevertheless, a thoughtful civilization would be foolish to dismiss lightly the grave considerations that are involved in the examination of the sufficiency of resources to support continued economic and population growth. And so I call for a national debate upon this question, and I suggest that we consider not only the adequacy of resources and the possible technological developments that may render productivity sustainable, but that we also inquire into the ability of our institutions to cope with change, to get food and goods to where people are, and to protect us from some of our own breakthroughs when, for example, a green revolution proves vulnerable to insects, or enhanced agricultural productivity causes farmers to inundate the cities in search of work.

The institutional questions are especially critical because we must look to government to anticipate change well before it occurs. For example, population tends to build on the previous generation, and increases can be built into the system. If all U.S. families henceforth had only two children, population would not level off for 70 years. Persistent pollutants even if stopped now would continue through the ecosystem for years. Hence, our traditional response to problems, generally when they become acute, is inadequate when we have to deal with long lag times.

A third and related issue concerns resource use and the ability of the market to allocate resources in the future. Most of the earth's resources are plentiful in total but their numbers are limited using current methods of extraction. As resources become scarce, their prices will go up and substitutes will be sought or new mining methods employed. Both of these will greatly increase the costs, and at some point in time, the question must be asked whether the devotion of significant amounts of money to this end will lessen the overall productive capacity of our economy. We must ask whether the market allocates long-term needs in an effective manner or whether prices only rise as a resource is close to depletion. Instead of dismissing these matters with an ideological reflex, we must apply careful analysis for it is by no means clear that the market place and technology will solve all of our problems in an even-handed manner.

A fourth issue on which I recommend national attention concerns technology. Can we rely upon technology to continue to in-

crease at the same rate as population, and if we can, what will be the side effects of technological progress? Acceleration of growth demands that new technology developments increase at least as rapidly as population growth. Yet we may create new problems as technologies are introduced without proper testing and analysis of their implications. These questions underscore the great need for technology assessment. Technology assessment should deal not only with hardware items like new energy technology and transportation technology, but should also explore the implications of monocultural agricultural systems, information technology and its impacts on privacy, and the like.

The issue we face here is how to develop technology in such a way as to make use of its benefits while at the same time anticipating potentially harmful side effects and taking those actions which reduce the risk of developing technology. The problem is particularly severe in that the side effects are often second or third order, their anticipation difficult, and the development of adequate safeguards complex.

A fifth issue I would pose to you is somewhat out of my area of responsibility, but is undoubtedly implied in much that I have said. That is the question of income distribution. If a policy of restrained growth were to be pursued, it is unreasonable to expect the poor to stay back while the wealthy settle in. Here at home, as well as in foreign countries, the tensions that threaten to tear apart the social order would be considerably reduced if economic circumstances were more equitable.

On the one hand, a growing economy produces a larger pie for all to share. If the pie is not increased there may be more competition for the same sized pie.

On the other hand, as the Population Commission has pointed out, reduced population growth, while it will lead to a lower GNP will lead to greater per capita income for all.

Perhaps the most perplexing problem facing any growth strategy is how to continue to maintain a high quality of life and meaningful employment opportunities without the continued burgeoning of the production of goods. The challenge will obviously entail improvements in services, education, the arts and recreation, and probably with greater amounts of leisure time. It may well be possible actually to lower production and yet maintain the same level of goods satisfaction through production of longer lived goods.

All of these questions suggest that we must improve our analytical techniques to understand the future. This means not only better projections of future trends, but a more profound understanding of the interrelationship among a wide variety of factors such as population, food, industrial growth, resources and pollution. We must improve our ability to assess technology all the way from personal conveniences to agricultural production to new energy sources and to new chemical products.

We must begin to understand the policy options before us. For example, if we understand better the impact of resource depletion and marketplace allocations, we can examine alternatives such as earlier substitution and recycling. Understanding population distribution, we can better devise our land use policies to meet tomorrow's problems. Understanding pollution trends will help us know when to change certain materials and products and how to develop better abatement technologies.

Above all, we need a national debate on growth. States and communities should begin to plan and discuss their short- and long-term alternatives for land use, population growth, and industrialization. (The President's National Land Use Policy legislation now pending in Congress would encourage the States to undertake a far more vigorous role in controlling land use and in giving direction to growth.) Federal agencies working with State and local governments should give these matters more attention and should provide greater research funds. Our academic institutions should begin to provide analyses and studies that give decision-makers a greater range of policy alternatives.

We can no longer escape our responsibilities. In the past we have acted as though our land, air, water and other resources were limitless. We have now learned from experience that this is not true. New analytical tools are beginning to give us a clue as to the potential for serious problems in the future if we do not develop policies and programs to deal with them now. If we do not think about the future, we have abdicated our most basic public and private responsibilities.

Personally, and as a father of teenage children, I should point out that I have been impressed by the way in which young people have challenged the smugness of our traditional assumptions about growth. Long before most of us, the young have identified the quality of life issue as separate and distinct from the quantity issue. Many young people have been saying in their concern for the under privileged, their openness to each other, their regard for nature and their disregard for accumulating goods, that another path toward happiness is possible. The question I wish to raise for national debate is whether it may not also be necessary.

We in the United States have a historic opportunity. The problems we face—poverty, pollution, the urban crisis—we share with all the world. Often, because we face them first, our solutions and our performance become the measure, mold the expectations, of what is possible.

It is the task of the national Administration to chart an orderly course through a confusing and disorderly time, to accommodate the need for institutional change as quickly as possible without wrecking what is essential and useful in our processes of government. We in this Administration are fully committeed to the reappraisal of the goals of technology and its consequences that is implicit in the environmental awareness, and I believe that as a people we are ready to ask some of the hard questions.

As we begin to ask them we will require not only sophistication, but also conciliation, moderation, and respect for each other's deeply felt wishes and desires. A posture of disciplined application to the business at hand is difficult to maintain in an atmosphere charged with passion as the coming debate is sure to be. But it is the only approach capable in the long run of achieving the broad goals and the better quality of life we seek.

THE BIRTH OF BANGLADESH

Mr. KENNEDY. Mr. President, the birth of Bangladesh is a saga of human courage and tragedy rarely witnessed in modern times. Millions of Bengalis perished in the violence of the Pakistan Army's repression last year, while millions more sought refuge in India, and countless thousands died of disease and malnutrition in the refugee camps. Today, because of this violence and dislocation, more millions face severe food shortages and famine.

Never has there been so massive a shift in population. In as short a span of time, as the flow of nearly 10 million refugees into India last year, and their spontaneous return this year to a free and independent Bangladesh. It is, and will likely remain, one of the great human migrations of the 20th century.

But although millions of men, women, and children found it necessary last year to flee their homes and their lands, in order to escape the genocidal violence of the Pakistan Army, most have now returned to Bangladesh, with hope and determination, to build a better future out of their destroyed lives and homes, because of the destruction and chaos caused by the civil war—because millions of people have been dislocated and economically ruined—the first year of Bangladesh will be more critical than for many new nations. For its first year will not only test whether its government survives, but also whether countless millions of its people survive hunger and disease.

Mr. President, to travel in Bangladesh today is to better understand the immensity of past tragedy, and to better comprehend the challenges which now face the Bengali people. Tragedy and triumph are everywhere present. One sees the tragedy in the massive devastation of the countryside, in the eyes of maimed children, in the whitened skeletons of mass graves, and in the faces of millions who must start life anew in the aftermath of a repression which created the most appalling tide of human misery in modern times.

The triumph can be seen in the joy of a people relieved that a nightmare of fear and violence has come to an end, and in the hope of a people who have courageously won a victory for self-determination and democratic principle. Dacca University—a primary target in the early days of the repression—reopened its doors just 2 months ago. More than 10,000 students are now registered. The vice chancellor and many of the students were among the refugees I visited in Eastern India last August.

In devastated Kushtia town—a district town some 90 miles northwest of Dacca near the Indian border—the rubble is now being cleared. And even though local resources are meager and the food and stocks very low, returning refugees have started to rebuild their shops and homes and lives. What is happening in Kushtia is fairly typical of what is happening all over Bangladesh. And if one doubts the remarkably fast and smooth return of the refugees, one needs only visit the Salt Lake refugee camp outside Calcutta, which I did on the day following my visit to Bangladesh. Last August this largest camp in India was filled with a teeming mass of humanity—some 300,000 Bengali refugees. In February, the Salt Lake camp was a ghost town, with little more than 10,000 people remaining—and they have now left for home.

I spoke with an Indian priest who succeeded reasonably well in running a medical center during the refugee influx. But he spoke of how only a few months ago he thought that the refugees would never return. He spoke of the despair that he and the other voluntary agency personnel felt in trying to battle an unending tide of refugees, disease, and squalor. But now he, too, has left, his work done. He has returned to his regular assignment with village health centers in rural India.

So, Mr. President, a visitor to Bangladesh today has the sense that things have

come nearly full circle—that a tragic story, which unfolded after the Pakistan Army's repression last March 25, has now come to an end—and the people of Bangladesh have now courageously and energetically turned to the task of building their new nation and rebuilding their broken lives. In a sense, the real story of Bangladesh is just beginning.

Much of the world has eagerly and promptly responded to the appeals of the Bangladesh Government for international assistance to help meet the immediate humanitarian needs of the Bengali people. The response of the U.S. Government, however, has been unconscionably lethargic and characterized by the awkward silence that has governed this administration's attitude towards the crisis in South Asia over the past year. Our national leadership persists in rationalizing its past policy of support for a shabby and shameful military regime which sought, but failed, to suppress a free election and the self-determination of the Bengali people. We readily provided military and diplomatic support to the military dictatorship of Pakistan last year, while today we have all but ignored the appeals of the government of Sheikh Mujibur Rahman for assistance in helping to feed and rehabilitate the refugees returning to Bangladesh.

Indeed, on February 2, representatives from the administration appeared before the Subcommittee on Refugees and sought to put a cloak of normality on conditions in Bangladesh, and bluntly told the subcommittee that "nothing"—including America's long failure to recognize Bangladesh—"is standing in the way of the movement of relief supplies."

They should have gone to Bangladesh. For their testimony then as well as their statements now run counter to the facts in the field. Congress and the American people were misled once again, and the best humanitarian instincts of the American people were betrayed by the failure of this administration to recognize and act upon the humanitarian crisis in Bangladesh over the past 3 months.

After speaking with Sheikh Mujib and officials of his government—after speaking with countless representatives of the voluntary agencies, the Red Cross and the United Nations—after speaking with the head of the American mission in Dacca and members of his staff—I have little doubt that our Government's failure to recognize Bangladesh has been the main stumbling block, paralyzing the new allocation or shipment of U.S. relief supplies and funds to Bangladesh. It made our consul general an official leper, unable to represent the American people in the initial humanitarian programs of the Bangladesh Government, the United Nations, and other international relief projects, especially those involving the needed distribution of food commodities under the Public Law 480 program. And it endangered the continued functioning of many valuable long-term U.S. humanitarian projects in Bangladesh such as the Cholera Research Laboratory—one of the world's finest cholera control organizations—due to the absence of bilateral programs. Moreover, the United States has traditionally supplied the largest share of food imports into Bangladesh under bilateral Public Law 480 programs, generating local funds that have been used for a variety of essential humanitarian and developmental projects. Today, that program is suspended, having waited months for the day of recognition.

During the subcommittee's hearing on February 2, the administration's witnesses said our Government was then poised to help Bangladesh, but that our commitments were simply awaiting an appeal from the United Nations. On February 16, that appeal was made by the Secretary-General on behalf of the United Nations Relief Organization in Dacca, and it was received by silence from the administration. A full month elapsed before our Government so much as even mentioned the problem, and many critical weeks passed before we actually committed funds, and then it has been only a token contribution.

Mr. President, over the last several months we have heard a great deal from administration spokesmen about how much the United States has contributed to humanitarian relief programs in South Asia and Bangladesh. We have been told that "all of us can be proud" of the administration's record in "giving generously and promptly" to the massive relief needs of the refugees and others in distress. But the actual record shows a more complicated story. A close analysis of the administration's list of contributions reveals that all too often they reflect nothing more than a transfer of earlier commitments from one account to another. Furthermore, after public inquiries by the Subcommittee on Refugees as to the actual amount of humanitarian aid delivered to the Bengali people over the past year, the administration was forced to admit on March 15 that $97 million of the $158 million worth of aid previously announced by the President was in fact canceled.

What pride, Mr. President, can there be in a record of nondeliveries, of recommitting old commitments, of bureaucratic delays and outright cancellations of congressionally authorized humanitarian assistance to Bangladesh? Whether it is doubletalk, incompetence, or both, the administration has a sorry record over the past year in responding to the human needs of the Bengali people. It has oversold and overannounced its aid programs. It has canceled and refused to expediously spend appropriated funds. And the record reveals a clear contrast between rhetoric and performance.

The time is long overdue for this administration to turn its priorities around in South Asia. Already we have heard, and the Congress has been informed, that the administration has resumed bilateral assistance to Pakistan. But what of the other nations of South Asia? What of Bangladesh whose needs are even more pressing? What of India, which carried nearly single-handedly a massive refugee burden created by the Pakistan military repression of last year? Why cannot this administration give the same sense of priority to the needs of all the peoples of South Asia? Are we to learn that our great Nation, with its long tradition of humanitarian service, will actually resume bilateral military assistance to Pakistan before it resumes bilateral food assistance to Bangladesh?

The record is clear that there remain today massive humanitarian needs in Bangladesh. The Congress has appropriated $200 million for Bangladesh relief needs, yet we read dispatches from the field that tell us that relief programs of the United Nations have been canceled or stymied because of the lack of significant American contributions. And so in desperation, the Bangladesh Government is turning instead to the Soviet Union. Should we be proud of the fact that the Russians are proving themselves to be more responsive and efficient in humanitarian assistance than the United States?

Mr. President, American policy in South Asia remains in a shambles. The latest pronouncement from the administration suggests that, aside from our begrudging and delayed recognition of Bangladesh, little else is being done to change our relations with South Asia. But we must change, Mr. President, if this administration is to remain true to America's tradition and ideals.

So let us begin anew in South Asia—let us start with Bangladesh. For more than most new nations, Bangladesh deserves the support and assistance of the American people—not simply for genuine humanitarian reasons, but for the sake of peace and stability in all of South Asia.

Mr. President, I ask unanimous consent to have printed in the RECORD a partial text of my report to the Subcommittee on Refugees on "The Birth of Bangladesh."

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE BIRTH OF BANGLADESH

(A report by Senator EDWARD M. KENNEDY)

INTRODUCTION

Nearly one year ago, on the night of March 25, 1971, systematic violence and political repression was unleashed upon the people of East Pakistan and the crisis that would change the map of South Asia forever, was set in motion. On April 1, 1971, one week later, the Subcommittee Chairman spoke on the Senate floor of the Subcommittee's growing concern for the plight of the East Bengali people caught in the violence of the Pakistan Army, as well as the direction and course of United States policy towards the crisis.

In the months that followed—as a tide of human misery engulfed the area, and as local violence escalated into open civil warfare—the plight of the people dislocated in East Bengal, now Bangladesh, and the nearly ten million refugees who fled into India, became matters of primary concern to the Subcommittee. In addition to a field study of the situation conducted in India last August by the Chairman, the Subcommittee has also held extensive consultations with experts in this country and overseas, as well as conducted five public hearings in Washington on June 28, July 22, September 30, October 4, 1971 and February 2, 1972.

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As stated in the Chairman's first report to the Subcommittee,[1] these hearings and the field investigations have attempted to focus attention on the humanitarian problems within the region as well as offer the Subcommittee's help and suggestions in a diligent effort to find reasonable and humane solutions, to them. The Subcommittee recognizes again that progress has been made in at least meeting some of the humanitarian needs. But it regrets that whatever priority our own government has attached to those needs, has been measured more by the degree of Congressional and public pressure, than by an active moral or political concern at the highest levels of our national leadership.

The current field study was conducted in Bangladesh by the Chairman on February 14–16, at the invitation of the government of Sheikh Mujibur Rahman, Prime Minister of Bangladesh. The Chairman was accompanied by the Counsel to the Subcommittee, Dale S. de Haan, and Staff Consultant, Jerry M. Tinker, who arrived in Dacca February 10. In addition to consultations in Dacca with the Prime Minister, the President, the Foreign Minister, and other senior officials involved in the Bangladesh government's relief and reconstruction program, the Chairman also visited several refugee resettlement areas in the field. In Kushtia District, along the western border with India, the team observed conditions of returning refugees, traveled by jeep through the town to observe the extent of destruction and disruption of the rural transportation system, and spoke with local relief authorities. In Narayanganj, south of Dacca, the team visited the large grain silo and observed the problems involved in the food distribution system, visited hospitals where civilian war victims were being treated, and observed the congestion of the port facilities. In addition, the Chairman made an unannounced stop at the Adamjee Jute Mill outside Narayanganj to inspect the conditions of the minority Bihari community who have taken temporary shelter there.

In Dacca, the Chairman and other members of the team had extensive consultations with both government, nongovernment and international agency personnel serving in Bangladesh. The team visited the headquarters of the United Nations Relief Operation in Dacca (UNROD) for a formal briefing directed by Mr. Toni Hagen, Chief of the U.N. Mission. A separate meeting was held with the heads of many foreign voluntary agencies now working in Bangladesh, including the International Committee of the Red Cross, CARE, Catholic Relief Services, OXFAM, the Cholera Research Laboratory and Hospital, World Council of Churches, among others. Additionally, conversations were held with the U.S. Consul General, now Chief of the U.S. Mission in Dacca, Mr. Herbert Spivak, along with members of his staff.

After leaving Bangladesh, the team visited Calcutta briefly, meeting with Indian refugee relief officials and touring the Salt Lake Refugee camp outside Calcutta. Several days were also spent in New Delhi by Mr. deHaan and Mr. Tinker, to confer with Government of India officials and voluntary agency personnel who had worked with the Bangladesh refugees while they were in India.

Prior to visiting Bangladesh, the Chairman conferred in Geneva, Switzerland with officials of the United Nations, including the U.N. High Commissioner for Refugees and the heads of the specialized agencies. He also met with the President of the International Committee of the Red Cross and officials of the United States Mission in Geneva.

The tone and purpose of the team's visit to Bangladesh, and the hope of the Subcommittee in studying the relief and reconstruction needs of the Bengali people, was stated by the Chairman in his opening speech at Dacca University on February 14th:

"I have come to Bangladesh to bring you the prayers and hopes of millions of Americans. And I am proud to stand here at Dacca University—long the symbol and focus of the Bengali struggle for self-determination, and the first target of those who sought to repress that freedom.

"It is in the finest tradition of America to embrace the cause of freedom, wherever it may be found.

"The American people are proud to stand with those who struggle for liberty, for human dignity, and for the noblest aspirations of man.

"You know that while some governments do not yet recognize you, the people of the world *do* recognize you, and they recognize all you have accomplished here in the name of *freedom* from tyranny and oppression.

"We are brothers in liberty, and no man, no policy, no government can change that fact.

"I have come to Bangladesh as one who has tried to be with you in your struggle. A few months ago, in August, I walked among the living and the dying in your refugee camps in India.

"I saw children starving and families destroyed by the ravages of war. I hoped to come to Bangladesh as well, but I was turned away by the Government of West Pakistan, a military government afraid for the world to see inside its borders.

"I was troubled, as the world was troubled, by the suffering of your people. And now I rejoice, as the world rejoices, at the bright new chapter you have written in the history of liberty on earth. . . . The prayer of Bengal's great poet and philosopher has been answered:

"Where the mind is without fear," said Tagore,
"And the head is held high;
"Where knowledge is free . . .
"Into that heaven of freedom, my Father let my people awake."

"Freedom is yours and the future belongs to the people of a new Bengali nation.

"For generations to come, the story of Bangladesh will be a lesson to the world. The birth of the Bengali nation will be an inspiration to other people in other lands—a symbol to all who share your love of life and the spirit of your courage, but do not yet share your freedom.

"There are many parallels between the United States and Bangladesh.

"Two hundred years ago, in America, ten thousand miles from where we are today, there were other people who followed the star of freedom. Our beginning was no more auspicious than your own.

"Like you, a powerful and established government was determined to deny us freedom. Like you, our early leaders endured terrible adversity before their cause prevailed. Like you, once the new American nation was born, there were those who said that such a weak and impoverished country could not survive in the modern world. They thought our great experiment in freedom would surely fail.

"And yet, we confounded all their wisdom. We were poor in everything but hope and courage. We had no wealth, but we had resources far more valuable and important—we had people with the energy and commitment to make our nation strong, and leaders with the vision to see the way, and help the people build their future.

"The revolution in America did not end in 1776. It did not die with Washington and Jefferson. It lives today in our efforts to fulfill the goal of liberty and equality for all our citizens, black and white alike.

"And it lives as well in the hopes we share for those who are oppressed in other nations.

"That is why the struggle of the people of Bangladesh has deeply touched the conscience of America. It evokes the greatest memories of our past, and demonstrates that our love of freedom transcends all thought of race or color or religion or nationality.

"The people of America were with you in recent months, although our government was not. We are with you now in spirit, and the leaders of America will not be far behind.

"The real foreign policy of America is citizen to citizen, friend to friend, people to people—forging bonds of brotherhood that no tyranny can diminish. For in a sense, we are all Bengalis, we are all Americans, and we all share the great alliance of humanity. For those who doubt that freedom and self-determination are the most powerful forces at work in the world today, let them come to Bangladesh.

"I have come here to say that America cares. I have come to learn from the father of your country, Sheikh Mujibur Rahman. I have come to talk again with those who suffered so much in the refugee camps, and to ask what my fellow countrymen and I can do to ease the pain of those who have survived and have done so much to preserve freedom.

"If any words of an American can help to heal the wounds you have endured, to reconcile those who live among you and who now must live together, they are the words that Abraham Lincoln spoke a century ago, as we neared the end of our own great civil war.

"With malice toward none," said President Lincoln, "with charity for all; with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."

"In the spirit of the best in America, in spirit of our Constitution, and our Declaration of Independence, I salute your great new birth of freedom, and I say Joi Bangla—victory for the Nation of Bangladesh."

SUMMARY OF FINDINGS

Return of the refugees

1. The flow of the East Bengali refugees into India last year was without parallel in modern history. In little less than 200 days 9,774,140 people found it necessary to flee their homeland—to escape the repression and escalating violence of the Pakistan army—and take refuge in the crowded refugee camps of India. While two-thirds of the refugees found shelter in organized camps, the remainder camped along rural roads or lived with relatives or friends. From the beginning, the daily influx of refugees outpaced the best efforts of the Indian government and others to cope with the refugees' needs, and thousands died of exposure, diseases and malnutrition.

2. As unparalleled as was the tide of the refugees that flowed into India last year, the return movement during the past two months has been more astounding still. Officials, both of the United Nations and Indian government, as well as voluntary agency personnel, testify that between January 1, 1972 and February 11 alone—just 42 days—an estimated 7,780,000 refugees left Indian territory and returned to Bangladesh, or nearly 190,000 refugees each day. As of March 25th, nearly all of the remaining two million refugees in India had returned home. This spontaneous, mass movement of people far exceeded official plans and expectations for repatriation, and it dispelled fears in many quarters that some refugees, particularly Hindu families, would never return. Almost as proof of the horror of violence and repression which drove them from their lands and villages last year, as soon as that violence ended in December—as soon as the Pakistan army was no longer operating in the countryside—the refugees began trekking homeward.

3. Elaborate plans and schedules for the repatriation of the refugees were established by both the Indian and Bangladesh governments. On the Indian side, an organized schedule for truck transportation was provided in order to take the refugees to transit centers on the Bangladesh side of the border. Supplies of blankets, rice for two weeks, and some cash was distributed to each family. On the Bangladesh side, some 250 transit camps were established to receive and temporarily house their returning citizens. After registration—to provide evidence to local village authorities of the refugee's eligibility for housing grants, welfare assistance and other benefits that the government hopes to provide the returning refugees—transportation, where possible, and additional food supplies, were provided as the refugee families headed towards their villages. To quote an official report from the United Nations High Commissioner for Refugees' Special Mission in Dacca:

"The Indian and Bangladesh authorities, military as well as civilian, are executing their part of the repatriation operation in a most admirable manner, combining efficiency with humanitarian sympathy . . . The overwhelming determination and eagerness of the refugees to return home made many decide not to await their turn in the organized repatriation, but rather leave the camps in India on their own initiative . . ."

Relief needs

1. Although the refugees are returning with great hope, they are also returning with little more than one or two weeks' food supply, with no immediate means of subsistence, and to homes that have been destroyed. As a result, there are three urgent requirements for relief assistance in Bangladesh:

a. *food* until the refugees are self-supporting;

b. *housing* to replace destroyed homes; and

c. *financial assistance* until jobs or farming is possible.

2. The Bangladesh government has established a relief assistance program, but, given the disruption and serious shortages in the countryside, these plans often remain more a hope and an aspiration than a functioning program in the field. Where possible, Bangladesh authorities are providing returning refugees with six pounds of rice or wheat each week for adults, three pounds for children, and milk for infants, until the family is self-supporting again. In addition, cash grants of Rs. 30 ($4.00) are provided each family each week. For those whose homes were completely destroyed, local authorities are providing Rs. 100 ($13.50) towards rebuilding their houses, and Rs. 50 for homes partially destroyed.

3. Relief Committees have been established at all levels of local administration, even to the village "panchayat", or local village council. In addition to monitoring relief assistance, these committees have been charged with settling disputes over the share of last year's crop when it has been grown by neighbors on the refugees' land; normally it is split 50–50.

4. Because of serious food shortages in many areas, coupled with a crippled transportation system, the government's plan for food distribution simply is not being implemented as fast as it should, if at all in many areas, and food riots are predicted in several district towns. The food crisis that not affects many areas is already beginning to undermine the massive popularity and leadership of Sheikh Mujib, threatening to destroy the new possibilities for growth and stability.

5. To combat serious food shortages in these districts, external assistance is urgently required. The U.N. Relief Operation in Dacca (UNROD) estimates that the minimum monthly requirement of foreign imported foodgrains for "bare minimum emergency relief needs" is 200,000 tons. There is also an urgent need for 200,000 tons of housing materials before the monsoon begins in late April. Further agricultural commodities, medical supplies and other emergency relief items were estimated by UNROD at 300,000 tons, for a total import tonnage of 700,000 tons. This compares with a monthly actual maximum transport capacity of 400,000 tons which means, says UNROD, that "if 700,000 tons of emergency goods arrive in Bangladesh, the monthly pile-up in ports will be on the order of 300,000 tons and the ports will be totally clogged . . ."

Relief priorities

1. The relief needs for the returning refugees are food, housing, and financial assistance, but the requirements for distributing it, and making it available and useful are:

a. restoration and reconstruction of *transport* facilities; and

b. rehabilitation of *local production*.

2. After nine months of civil strife and war, the transport infrastructure of Bangladesh has been severely disrupted. Port facilities have been crippled. The transport and off-loading capability of Chittagong port, the major sea port, is down to 70,000 tons—just 22% of capacity. Rail transport has been restored in portions of Bangladesh, but this can only be slightly increased during the coming year because two large bridges, the Hardinge and Mekna bridges, were sabotaged by the Pakistan army in the last days of the conflict and will require nearly a year to repair. Road transport can be improved only if 2,000 metres of "bailey bridges" are built before the monsoon rains come, otherwise long-distance road transport will collapse. In addition, of the estimated 8,000 trucks available in the country prior to the conflict, only 1,000 remain operational.

3. Surface shipment of relief goods from abroad, either by governments or voluntary agencies, must be coordinated and their arrival phased, otherwise supplies will simply rot in the harbors. Highest priority should be given to improving the unloading facilities at the docks of Chittagong and Chalna; for example, all 62 fork lifts available in the ports in 1970 are now completely inoperable. More bailey bridges, trucks, rolling stock for the railway are important, and consideration should be given for an emergency airlift for certain single, critical items that might have a "multiplier" effect on improving the transportation infrastructure—such as fork lifts, port machinery, and other key transportation items.

4. Additional, emergency food imports to Bangladesh are clearly needed during the coming months prior to the boro rice crop in April. However, a program that will mean "food saturation" must be avoided. As an UNROD report states bluntly: "this is not the time for the richer nations to simply dump their surplus goods into Bangladesh" and consider relief needs met. Not only will the logistic system not absorb massive amounts of food, other critical import needs will go unmet. But thus far, international pledges of donor countries to the United Nations indicate that most funds are being pledged in kind, mostly food, while only a small portion has been offered in cash.

5. Only by rehabilitating local production can the need for imports from abroad be reduced—reduced even to the deficit levels of pre-1970 production. Priority should be given to restoring local production, and donor nations should be encouraged to donate to these programs, rather than to further imports of food or supplies that can be produced in Bangladesh. For example, the United Nations recommends that immediate efforts should be made to restore the fertilizer plant at Ghorasal, which had an annual capacity of 350,000 tons of fertilizer. Instead of offering cash or equipment to restore this plant, most nations simply offered imported fertilizer. Emergency imports are, of course, required, but not at the expense, nor at the delay, of restoring local production.

6. Less than one-third of industry is now operational in Bangladesh, due to monetary, credit or organizational problems, or the lack of raw materials. In some cases, equipment and machinery has been ransacked. According to UNROD statistics, unemployment affects approximately 75% of the labor force normally employed in industrial establishments. Cottage industries, which account for approximately 57% of the total employment in Bangladesh, have also been adversely affected, especially textiles. Rather than importing clothing from abroad, which many nations have offered, priority should be given to importing raw cotton in order to re-open both mechanized cotton mills as well as provide work for one million weavers.

Rehabilitation needs

1. Because there is an inevitable connection between immediate, emergency relief needs and longer-term rehabilitation and development requirements—because today's need of a bridge to haul food supplies to avoid famine, is also tomorrow's bridge for industrial use—it is important to identify some of the longer-term rehabilitation needs. At least three areas require attention now:

a. *revival of the economy*, requiring outside monetary support;

b. improvement of technical skills through *training programs*; and

c. support of *medical programs*, including birth control.

2. The revival of the economy depends on more than just the restoration of the transportation system, as critical as that now is. There is also an immediate need for monetary stability and support, which can come only with international participation. At the earliest date the admission of Bangladesh to the International Monetary Fund should be supported by the United States Government. In addition, bi-lateral U.S. assistance through the P.L. 480 program can assist the Bangladesh government in generating rupee funds to support emergency employment programs through public works projects.

3. An area of pressing need is the establishment of special training programs for the improvement of technical and organizational skills. Such programs could well be supported by voluntary agencies with long experience in establishing and conducting short-term specialized training programs.

4. Health Needs: Months of dislocation and large-scale refugee movement, of overcrowding, disrupted water supplies and sanitation systems, and malnutrition have served to make the population of Bangladesh extremely susceptible to epidemic diseases. There are three immediate health-related emergencies in Bangladesh today.

a. Cholera and other diarrheal diseases, traditionally the largest killers in East Bengal, must be combatted on an emergency basis. At present a cholera epidemic is raging in Comilla District, and the establishment of rural treatment centers for diarrheal and cholera symptoms should be given the highest priority.

b. Smallpox prevention should be a primary feature of health programs in Bangladesh. Historically, smallpox has struck Bangladesh in five-year cycles, the last being in 1967. Most medical authorities in the field fear another major smallpox epidemic has already begun, with a serious outbreak in the south western districts of Faridpur and

[1] *Crisis in South Asia*, A Report by Senator Edward M. Kennedy to the Subcommittee to Investigate Problems connected with Refugees and Escapees, Committee on the Judiciary, U.S. Senate (Washington, D.C. Government Printing Office, November 1, 1971).

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Bakarganj where refugees from Calcutta are returning.

c. There is an immediate need for public health surveillance programs. Since preventive and therapeutic services cannot be extended to the entire population, a system of disease surveillance should be established as an early warning signal of areas facing health emergencies. Such a system would also report on nutritional problems, particularly among children.

d. Normal personnel resources and institutional facilities for handling these health programs, such as the Cholera Research Laboratory, are currently without adequate funds or are in organizational chaos. To meet these health emergencies, outside funds are urgently required, as well as some outside personnel.

TABLE I.—MINIMAL REQUIREMENTS FOR RELIEF AND REHABILITATION: THE ABSOLUTE MINIMALS REQUIREMENTS FOR 1972 FOR PREVENTING ANOTHER MAJOR DISASTER IN BANGLADESH ARE AS FOLLOWS—

	Value	Tonnage per month
1. Rehabilitation of 10,000,000 destitute people, duration of 6 months (this includes only 250,000 houses and a total food supply of 540,000 tons)	$80,000,000	190,000
2. Additional minimum food imports to add to a total of 1,500,000 tons per year (previously imported from Pakistan)	30,000,000	70,000
3. Additional wooden posts for strengthening the houses and corrugated iron sheets for a total of 800,000 houses (has to be imported until end of May)	41,000,000	30,000
4. Repair of major railway bridges	15,000,000	30,000
5. 6,000 feet of bailey bridges average length 200 feet	1,500,000	-------
6. Reestablishing of inland water transport system, Dacca, including ferries	13,000,000	-------
7. Reconstruction of schools and their reequipment with furniture, teaching aids, and science equipment	6,000,000	-------
8. U.N. chartered vessels, 12 months	6,000,000	-------
9. Raw materials for industries, agricultural inputs, and implements and fishery equipment, POL, cement, etc.	200,000,000	110,000
	439,000,000	400,000

[1] Source: U.N. Relief Organization in Dacca, Feb. 18, 1972.

The Bihari problem

A critical problem facing the long-term stability of Bangladesh is the settlement of the minority problem—the integration or repatriation of some 1,500,000 Bihari Muslims now residing in Bangladesh. Although most of the Bihari community speaks Bengali and have the capacity to integrate themselves into Bengali society, until now they have had no incentive to do so while the Urdu-speaking West Pakistanis were in control. There is clearly a crisis of confidence in the Bangladesh government among most Biharis today, and they will need, and have been pledged protection by government security forces. As communal passions subside in the coming months, and if adequate protection and assistance can be given during this period, there is every prospect that most Biharis can eventually be reintegrated into society. For those who cannot—who do not speak Bengali, or have ties in West Pakistan—efforts at repatriation must be made, even though the Biharis now in West Pakistan have not been fully integrated.

U.S. assistance to Bangladesh

1. Despite brave words and frequent announcements of aid, this Administration's record in responding to the humanitarian needs of the people of Bangladesh shows a sad gap between promise and performance, between aid commitments and aid deliveries. For example, on February 9, 1972, the President stated in his Foreign Policy Message to Congress:

"We responded to the humanitarian emergency. . . . We committed . . . $158 million both through the United Nations and bilaterally for the 60–70 million people in East Pakistan to help avert famine and stem the further outflow of refugees."

However, earlier testimony by officials of the Administration revealed other, somewhat conflicting, assessments of the amount of U.S. aid extended to the people of East Bengal. In a statement before the Subcommittee on October 4, 1971, Deputy Administrator of A.I.D., Maurice Williams, testified that:

"The United States contributed $37 million . . . and United States voluntary agencies $1.8 million for cyclone assistance relief. Additional relief since the cyclone . . . the United States has provided $112 million. These funds are humanitarian relief funds to help suffering people, and this suffering has arisen out of a series of disasters that have been inflicted on East Pakistan. . . . The United States share is $150 million, and most of that in food . . ."

But, later, on February 2, 1972, Mr. Williams had to revise his figures downwards:

"The United States . . . supported the U.N. humanitarian relief effort in East Pakistan with resources of food, money, boats and trucks. *The United States actually delivered about $65 million in food and essential relief*, or over two-thirds of the $94.7 million the U.N. records as pledged by all countries. This does not count additional US contributions of food from earlier programs which arrived during mid-1971 and were crucial to the overall food situation"

2. With each passing week, the total amount of U.S. aid "actually delivered" and made available to the people of Bengal, has been revised downwards by Administration spokesmen. It now is clear that the "record of pride" that the President has spoken of to the American people is less than the $158 million total reported in the President's message to Congress. It is, in fact, more on the order of $40 million—or less than 38% of the announced total. On the basis of available data, from both the Subcommittee's investigation and preliminary reports from the General Accounting Office (GAO), the following facts describe the actual level of American assistance to Bangladesh:

a. Of the total of $109.1 million in aid commitments announced last year, some $91 million in aid contracts were cancelled, or never signed or not implemented.

b. Of the total of some $38.9 million committed by the Administration in December 1970 for cyclone relief, most was not implemented until one year later, and then less than 15% of the tonnage of food grains represented in these agreements were traced as actually having been "delivered".

c. In addition to the cyclone and so-called "civil strife aid" listed above, the U.S. sold to the Government of Pakistan on November 25, 1970, 722,000 tons of wheat valued at $42.7 million, as part of the normal P.L. 480 sales program. At least 208,000 tons of this food is still unaccounted for, and some 169,000 tons was in fact sent to Karachi, West Pakistan, and not to East Bengal.

3. Preliminary reports from the GAO suggest that these instances of delayed aid commitments, of cancelled aid contracts, and of unfulfilled and undelivered aid promises, are but a sample of the failure of American humanitarian aid to the people of Bangladesh. (The Subcommittee has requested the GAO to undertake a full-scale investigation of U.S. aid to East Pakistan, and their reports are expected to be filed with the Subcommittee soon.)

4. For fiscal year 1972 the Congress has appropriated $200 million for Bangladesh relief, but less than $70 million had been committed to date, and nearly half of this, or $27 million, has gone to pay old refugee debts in India, and not to aid the new nation of Bangladesh.

5. During the last three months of crisis in Bangladesh, the Administration has thus far committed (not necessarily "delivered") $113 million. This has been composed of $71 million in P.L. 480 food, $35 million in cash for the United Nations' program, and $7 million in cash for various volunteer agency programs. This leaves approximately $130 million remaining out of the $200 million appropriated by Congress. There is an obvious need to expend these resources now, when the need is the greatest, not later.

6. No information is available to explain the Administration's lethargy in expending already appropriated and authorized Congressional funds for Bangladesh.

CONCLUSION

Bangladesh is a reality today, not simply in the minds of the majority of the Bengali people, as at the time of the Subcommittee's last visit to the field in August, but now in the fact of a government that functions, controls territory, administers to the peoples' needs, and, most important of all, holds a popular mandate to govern. These are realities that should have commanded the recognition, as well as the respect, of the United States Government from the beginning.

However, as this report documents, there can also be little doubt as to the reality of the problems that the people and government of Bangladesh face today. Not probably in this century has as many disasters fallen upon a single nation as have swept over Bangladesh in just this past year—from the natural disaster of a cyclone-driven tidal wave that killed 300,000 people, to a monsoon flood that swept away crops and homes, to the man-made disaster of civil war, which was by far the worst of all. So the refugees that have returned from India to Bangladesh are not only returning to destroyed homes and lost crops; they are returning also to destroyed lives and a devastated land. Everywhere there is evidence of mass graves, the grim evidence of the violence and repression unleashed last March 25th by the Pakistan army. Hardly a single family has remained untouched by this violence, and few do not mourn for lost brothers or sisters or parents.

But as evident as are the tragedies and the challenges facing the people of Bangladesh, so, too, are the resilience and courage and determination of the Bengali people to face the difficult tasks ahead. They are far from the "international basket case" some would have us believe, and there are many hopeful signs amidst the tragedy of Bangladesh.

First, there is now a government and a political leadership which has near-universal support, a rare phenomenon in any country. The present government of Prime Minister Sheikh Mujibur Rahman can make nearly any emergency decision without the threat of crippling opposition. As a result, long overdue reforms can be made. Sheikh Mujib can redirect the administration, set priorities for social reform and economic reconstruction, and eliminate all non-essential imports—all steps which would have been difficult, if not impossible, for earlier governments of the region.

Second, because the Bengali society and economy is largely homogeneous and relatively egalitarian, there are few of the social and political schisms and tensions that tear at most nations in South Asia. As one observer has said, "the average income is low, but this is bearable when everyone else's is, too." In addition, there has been a collective experience which has brought the majority of the people even closer, the sole exception being the Bihari community, which has been discussed earlier. There is also a sense of euphoria at having fought and achieved independence, and a collective sigh of relief at having survived a year of looting, arrest, rape and death.

Third, the "green revolution" is still ahead for Bangladesh. The new high-yielding seeds are only now being introduced, and if fertilizer consumption can be increased, and if the potential for water control can be tapped, Bangladesh will greatly increase its agricultural capacity. According to most experts, this will likely permit it to achieve self-sufficiency in food production for the first time in decades.

The potential for agricultural development is particularly excellent now that the possibility exists for joint planning of water control with India. Dams in India can reduce floods during the monsoon and increase water availability during the dry season in winter. Renewed relations with India will have other benefits as well: access to the Calcutta market for agricultural commodities, especially jute; access to cheap Indian products, such as coal, limestone, other mineral resources Bangladesh does not have; and income from Indian transit fees between Calcutta and Assam and Tripura. In short, the economic and ecological unit of Bengal will again be whole.

Fourth, Bangladesh no longer must bear the burden of a huge military establishment, nor of providing foreign exchange for civic developments in West Pakistan. Formerly, Pakistan spent approximately three percent or more of its national income on military expenditures, a high figure for a poor country, and direct'y related to the anti-Indian bias of the Pakistan military. These resources can now be diverted to local developmental projects. And since Bangladesh earned over half of Pakistan's foreign exchange through the export of jute, and received directly or indirectly less than 40% in return, it should now have a relatively secure basis for earning foreign exchange.

Fifth, the government of Bangladesh can rely on a relatively well established and trained civil service. Since 1963, the administrative structure of East Pakistan was progressively staffed by Bengalis. In the districts, as well as in the provincial government in Dacca, most of the civil servants today in the Bangladesh government are the same people who have held these positions over the past several years. And one of the great administrative problems of the past—the centralization of all decision-making authority in West Pakistan, which crippled local initiative in East Bengal—has now been removed with independence.

Clearly, Bangladesh faces immense problems, and there can be little doubt that it is, and will likely be, a tragically poor nation, by world standards, for many years to come. But it is far from a hopeless area, and certainly not a "basket case." Bangladesh deserves American help, not simply because it needs it, but because it has a demonstrated ability to effectively use it to help its people help themselves.

Furthermore, the immediate relief and reconstruction needs of Bangladesh are certainly not of unmanagable proportions. The requirement of two million tons of foodgrains this year is substantial, but only a fraction of what the United States alone has shipped in past years under the P.L. 480 Program to other nations in South Asia. According to United Nations estimates, the probable cost of reviving public and private sectors of industry, fisheries and agriculture for one year in Bangladesh, will be approximately $312 million. Longer-term development projects would perhaps require another $200 million.

The Congress has already authorized and appropriated $200 million, an admirable initial contribution, and additional assistance can be provided through existing P.L. 480 funds and appropriations for fiscal year 1973. If the Administration will only move ahead, if it will only marshal available resources, our nation can in fact be proud of its contribution to the relief and reconstruction of Bangladesh. But the record to date has been a sorry one of delay and inefficiency, and suggests the need for continued public and Congressional pressure in order to close the gap between repeated Administration "announcements" of aid, and actual delivery, between rhetoric and performance. We can only expect other nations to contribute more to Bangladesh if *we* take the initiative and if *we* live up to our traditional leadership in humanitarian assistance.

As the world waits, as we delay, the danger signs mount in Bangladesh. Already many of the hopeful signs for change—many of the new possibilities for growth and stability—are being sabotaged simply because food and other essential relief supplies are not effectively and swiftly being distributed in the countryside. There is an increasing danger that the massive popularity and leadership of Sheikh Mujib may be undermined in certain districts simply because of the lack of food—food that the United States and the international community can easily supply on an emergency basis, by airlift, if necessary, to avoid the clogged and damaged harbors of Bangladesh.

The needs of Bangladesh are known, the resources are there to help, we need only an Administration that will act now, not later.

RECOMMENDATIONS

If nothing else, the force of historical inevitability is finally bringing our national leadership to recognize the diplomatic reality of Bangladesh—although American foreign policy seems to persist in failing to recognize other new realities in South Asia. But the failure of American policy in the region has not really been *when* diplomatic recognition would be offered, but *how*: begrudgingly, with missed opportunities, and a time-lag that has had a tragic impact upon the humanitarian assistance program in Bangladesh. Already, America's delay in responding to the immediate humanitarian needs of the Bengali people for food and relief supplies, is serving to undermine what progress the Government of Bangladesh has made in bringing peace and stability to the countryside. Further delay will only further contribute to the disaster.

To learn the lessons of Bangladesh—for America to resume its traditional leadership in responding to humanitarian needs—our government must finally turn its policy around in South Asia and begin to move on several fronts.

1. Resumption of Bi-lateral Relations with Bangladesh:

With diplomatic recognition our government must resume those productive bi-lateral relationships which we have had with the people of Bengal over the past two decades. A host of important American bi-lateral projects—from the excellent Cholera Research Laboratory to essential P.L. 480 funded programs—have all been seriously endangered during the long winter of this Administration's non-recognition of Bangladesh. The importance of our role in the new multilateral programs now being undertaken through the United Nations must not diminish the importance of our special bi-lateral assistance programs, such as the Cholera Research Laboratory in Dacca. A renegotiation of the P.L. 480 food-for-peace program would have advantages for both the government of Bangladesh as well as for the American aid program. Already, in the absence of funds generated by the P.L. 480 program—which have traditionally been used by U.S.A.I.D. to finance employment generating rural public works projects—the United Nations has received proposals for a U.N. "Food Bank" to work along similar lines. Whether bi-laterally, multi-laterally, or both, it is clear that there is an urgent need for a P.L. 480-type program in Bangladesh today.

2. Emergency Response Needed to Humanitarian Program:

The Administration has been unconscionably lethargic in its response to the emergency humanitarian needs of Bangladesh. For too many months our government has allowed the lack of recognition to stall our nation's ability to meaningfully contribute to the relief needs of the Bengali people. Relief requirements have been known for months, and funds have long been available—including $200 million appropriated by Congress. Yet little has been spent or ear-marked of this appropriation for Bangladesh.

Nothing should stand in the way of allocating that money—now, not later—and to respond on an emergency basis to the following relief needs of Bangladesh: food supplies, transportation equipment, and cash to support the importation of critically needed relief supplies.

Consideration should be given to funding a temporary emergency airlift of high-priority relief supplies and to support distribution programs within Bangladesh. For example, an airlift of such items as fork lifts, port machinery, and other key transportation items that serve to speed off-loading at ports would have a "multiplier" effect on the relief effort. A single fork-lift delivered immediately to Chittagong port would be more than worth its air freight costs in how much it would help unloading of relief supplies and food commodities now idly waiting on ships in the harbor.

3. Financial Support for the United Nations Program:

Our government should provide leadership in mobilizing further international support for the United Nations relief program in Bangladesh, organized now under the format of a special United Nations Relief Organization in Dacca (UNROD).

Although UNROD has made an important contribution to the initial, emergency relief needs of the Bengali people, and remains a useful channel for short-term humanitarian relief efforts, it must not be allowed to become the permanent U.N. organization in Bangladesh. If an unfortunate parallel to the United Nations Relief and Works Agency (UNRWA) in the Middle East is to be avoided, the international community must now look towards the evolution of UNROD into a regular U.N. office administering regular U.N. programs, such as UNICEF, WHO, FAO, UNDP, etc. The future of Bangladesh requires more than simple humanitarian assistance, and only a more permanent U.N. role can effectively contribute to longer term developmental objectives.

4. World Bank Support:

Our government should provide leadership in encouraging the admission of Bangladesh into the World Bank system, and should also express our willingness to join international arrangements to assist in the reconstruction and long-term development of Bangladesh. Only through support of such international institutions as the World Bank can Bangladesh begin to stabilize its economic relations with other nations and promote its trade in the international market.

5. Assistance to the Biharis:

The problem of the integration of the minority Bihari Muslim community in South Asia has been a source of instability and friction for a generation, both in Pakistan and East Bengal. It now poses one of the most severe tests for the new nation of Bangladesh, as well as for relations between the other nations in South Asia. The international community can assist the Bihari's by first, supporting the work of the International Committee of the Red Cross, which has been asked by the Government of Bangladesh to provide temporary relief to the Bihari community until the Government's program is fully operational. The Red Cross should also be asked to expand the purpose of its mission in Bangladesh to include the stationing of international observers to assist the Government in fulfilling its sincere pledge of protecting the Bihari community.

Secondly, our government should encourage and facilitate arrangements for a popu-

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lation exchange, where possible, between Pakistan and Bangladesh of minority communities wishing to leave. Preliminary repatriation plans have been made by the representatives of the Secretary-General of the United Nations, and contacts established with all governments in South Asia. These constructive approaches should be actively supported by the United States.

6. Renewed Need for a Bureau of Humanitarian and Social Services:

An important lesson for the U.S. government from the experience of Bangladesh should be the recognition of the need for a continuing mechanism within the Department of State to give priority and coordination to U.N. humanitarian programs.

The President, in consultation with appropriate committees of the Congress, should issue an executive order establishing a Bureau of Social and Humanitarian Services within the Department of State. This Bureau should be headed by an Assistant Secretary of State. The time is long overdue to raise the level of responsibility and encourage stronger national leadership in international humanitarian and refugee affairs.

There continues to be no administrative unity among the various departments and bureaus of the executive branch which are presently concerned with refugee and humanitarian affairs. There is no single office to give guidance and impulse, no regularized decision making process, no ready mechanism to quickly evaluate and respond to frequent emergencies, no central office controlling and weighing over all allocations of resources, and little high-level interest and concern in the effective operation of the various humanitarian programs.

Nothing illustrates more the shortcomings in this significant area of public policy, than recent developments involving America's response to humanitarian needs in South Asia, the uncoordinated response to the human need produced by last year's earthquake in Peru, our ambivalent and tardy response to the massive human tragedy produced by the Nigerian civil war, and our early failure to anticipate and identify the very serious problems of displaced persons and civilian casualties in South Vietnam and Laos, which even today are not being accorded the priority they so rightly deserve.

NATIONAL WEEK OF CONCERN FOR POW/MIA'S

Mr. BROCK. Mr. President, marking one of the most moving and appropriate observations of the National Week of Concern for Prisoners of War/Missing in Action, Tennessee was one of the first States to validate legislation which will provide free tuition for the children of POW/MIA servicemen.

Introduced in the House by Representative Dale Engstrom and in the Senate by Senator Ray Albright, both from Hamilton County and my hometown of Chattanooga, the proposal received enthusiastic support from the Tennessee Legislature. Tennessee has some 63 families who have a member either held as prisoner of war or missing in action in Southeast Asia.

I want to commend Ray Albright, Dale Engstrom, and the entire Tennessee Legislature for making a real contribution to the welfare of our POW/MIA families during the second National Week of Concern for POW/MIA's.

EARTH WEEK

Mr. NELSON. Mr. President, our reports strongly indicate that Earth Week this year, April 17–23, will be even more widely observed than it was in 1971. The President has once again proclaimed this national environmental observance, and 45 Governors have proclaimed it or confirmed their intentions to do so. More than 100 mayors have already proclaimed Earth Week, and many schools and communities are planning Earth Week activities.

At the request of environmental and educational groups, I wrote articles last year and this year reporting Earth Week aims and activities. In view of the widespread interest in Earth Week once again, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From National Education Association Publications—1971]

EARTH DAY—FIRST STEP TOWARD SAVING OUR ENVIRONMENT

(By GAYLORD NELSON)

America is finally awakening to an environmental crisis that has already spread around the world. Only now are we beginning to realize that nowhere in this country is there a breath of unpolluted air, and that nowhere is there a lake or a river unaffected by the waste products of our society.

The first Earth Day, held on April 22, 1970, was a dramatic recognition on the part of the American people that the crisis exists and that it is everybody's problem and everybody's business to do something about it.

The participation was overwhelming, with some 10,000 high schools and grade schools, some 3,000 colleges and universities, and several thousand communities involved in programs and clean-up efforts.

One of the most heartening experiences of Earth Day was the quick and enthusiastic response of the nation's young people. Across the country, students from elementary school to college level joined hands to express their concern about the future of the world's physical environment.

In classrooms from Maine to California, schoolchildren focused their attention on environmental pollution by setting up room displays, presenting skits and puppet shows, and even composing songs warning of environmental danger. Some walked to school to note their concern about pollution from motor vehicles, while others took a hard look at their littered world and set out to beautify some part of it.

For example, third-grade pupils from San Francisco's Francis Scott Key School turned beachcomber to pick up beer cans, bottles, and other debris from a stretch of ocean beach.

In Ripon, Wisconsin, local merchants offered to pay schoolchildren a penny apiece for each discarded can they could collect from the countryside. The merchants expected to pay $100, but the children brought in so many cans that the total outlay was $250.54.

In Topeka, Kansas, and San Diego, California, young people avoided using automobiles and buses (major pollution sources) to get to school. Instead, they showed up on bicycles, on horseback, on roller skates and skateboards.

The widespread involvement and initiative of young people in Earth Day was a very heartening sign. As the new generation, they will inherit the pollution of the present. They have every right to start being concerned and involved now.

The next question is how can young people, as well as adults, establish Earth Day on a year-round basis?

The answer is for everyone to become a better citizen of the environment in two ways—by working with other people to accomplish anti-pollution goals, and by doing what he can to make the world a more decent place.

Young people can continue Earth Day activities in their schools and communities by establishing programs with definite goals and by working to solve the problems of their local environment.

The first step in such a program is to make an environmental inventory of the community, asking the questions: What are the sources of pollution in the lakes and rivers? What is the nature of the pollutants? What is the source of pollution in the air? What is the status of the local parks? Find out what can be done about each problem.

On those projects you can do something about, prepare a plan of action. Organize local groups—such as Boy Scout and Girl Scout troops, school classes or religious organizations—to work together.

For example, once you have found a dirty hillside, river bank, beach or roadside, inform the landowner that your group would like to clean it up. Be sure to tell the local newspapers, radio and television stations what you are doing.

Ask the city refuse collection department how to recycle the types of waste you expect to collect. Ask if any of the materials—such as aluminum cans, steel containers, paper, scrap iron—can be recycled and separate it into piles.

Sponsor assemblies at your school on pollution problems, and present programs at churches and synagogues and for community organizations such as the Chamber of Commerce, the Kiwanis Club, and the Lions Club.

Finally, help your community by finding projects your group can carry out. Plant flowers or trees in park areas and make sure there are trash containers in public places.

Earth Day, which soon became Earth Week, was an important first step in bringing Americans of all ages together in the fight to save the environment. But Earth Week should be celebrated every year, and a resolution calling for Earth Week to be proclaimed in the third week of every April was introduced at the National Governor's Conference last August.

You can help by writing to your Governor and asking him to proclaim the week in your home state. Write your Congressman too, and tell him you support a nationwide Earth Week.

Remembering Earth Week every year would help us measure our progress. In looking back at last year's projects, it would tell us if we are making headway in dealing with environmental problems. In looking forward, it would help us plan new projects to meet the most critical challenge facing mankind.

[From National Education Association Publications, 1972]

EARTH WEEK, 1972—APRIL 17–23

(By Senator GAYLORD NELSON)

Because of the overwhelming public concern peacefully expressed in Earth Day 1970 and Earth Week 1971, the environmental issue has now become a part of the national political dialogue, which was a prerequisite for achieving meaningful action on a broad scale.

However, actually solving our environmental problems is going to take decades, not just years, and will require a lasting commitment by all institutions and citizens.

Thus, Earth Week should be permanently established as a continuing educational effort—a time each year to renew the nation's environmental awareness and for local environmental inventories and reviews as well as special public and media reports.

This year, Earth Week can uniquely contribute to two special environmental needs:

Establishment of environmental education as an integral part of our schools and of environmental awareness as part of the daily community life;

Assurance that in the upcoming elections throughout the country, all candidates seriously address and take specific positions on the environmental issue.

The great burst of public creativity and enthusiasm from Earth Day 1970 and Earth Week 1971 has produced models for a new environmental citizenship and planted the seeds for a new environmental ethic.

An indication of the overwhelming interest in the environmental issue is that more than 3,500 applications have been filed for aid under the Environmental Education Act since the program was established in 1971.

Because the Administration has sought only a small share of the money Congress authorized in the Environmental Education Act, only a few projects have actually been funded. Strong public support is needed to more adequately fund this important Act which aims at stimulating environmental education pilot projects around the country.

In Ann Arbor, the University of Michigan has established a community garden to demonstrate for teacher workshops and school field courses a chemical-free alternative for the home-growing of flowers, vegetables, and lawns. It also provides access to a garden for people who can't have one of their own.

In Menlo Park, California, trained student teams will set up and promote the use of a waste recycling program in the community.

In San Benito County, California, a consumer's group will provide for disseminating environmental, social, and health information to a target population of Mexican-Americans.

In the Midwest, students from Wisconsin's Beloit College toured 75 secondary schools in the Mississippi River Basin in what they called an EnvironVan, bringing pollution control demonstrations, workshops, lectures, and field trips to more than 25,000 students.

In Manchester, N.H., an 18,000-acre swamp will be the focus of ecology instruction for local college and high school students.

In Pittsburgh, a citizens' ecology clearinghouse will train 20 high school students who will return to their classrooms with the knowledge, leadership techniques, and resources to develop a cadre of students to work for environmental improvements.

In Pontiac, Michigan, the board of education is building an alternative school for 2,000 students in the inner city, with environmental education emphasizing the day-to-day, large-city problems which are the immediate concerns of the students.

In the Washington, D.C., metropolitan area, what appeared to be the nation's first "environmental fair" was held for metropolitan area high school students at a regional shopping center, displaying for hundreds of thousands of citizens the results of such student projects as inventories of area pollution and demonstration of the impact of pollution on aquatic life.

The challenge now is to adapt these pilot efforts into permanent environmental education and citizenship programs in our schools and communities nationwide. Earth Week can be the launching point for such an effort.

And, Earth Week this year provides the opportunity for the environmentally concerned to more fully exercise their responsibilities in the political process.

The course of environmental programs will be strongly influenced for the next several years by positions political candidates at all levels take in the upcoming elections.

In 1968, not one of the presidential candidates saw the environmental issue as important enough to merit their serious attention. Just two years later, however, the President declared it as the issue of the 1970's, and public leaders at all levels were addressing environmental concerns.

As the nationwide environmental awakening has so dramatically shown, supporting strong environmental measures is not only good sense, but good politics and good economics.

If we started making a reasonable investment now in pollution control, the average American family would in a few years be realizing $200 in annual savings from a cleaner environment, according to a recent report.

This is the estimate of a National Wildlife Federation study based on current figures.

According to the Federation report:

Currently, air and water pollution cost each American family an average of $481 a year in damages. The total national damage bill is $28.9 billion a year.

By contrast, estimates are that a cleanup program would require $170 per year per family, $10.2 billion for the nation.

For this investment by all of us, the pollution damages would be reduced by some $22.2 billion, $370 per family.

The net savings would be $200 per family, $113 a year for air cleanup by 1976 and $87 a year for water cleanup by 1980, according to the National Wildlife Federation study.

By bringing about a more realistic balance sheet to measure costs and benefits, concern for environmental quality is becoming one of the most positive forces in American life today.

But where short-term gain, despite long-term consequences, is still the priority, the call to "wait a minute" on environmental measures still has a strong appeal.

As a dramatic example, strip mining operations carve up Appalachia at an accelerating pace, reaping immediate profit but destroying the region's economic future.

Similar examples can be found in almost every community in America, whether involving highway or airport locations, dams and reservoirs, pollution sources, the inner-city environment, scenic areas, recreation resources, noise levels, solid waste disposal, or building programs—or all these problems together.

Environmental action in the public interest on these key matters will depend on the continued public presence.

As an immediate public action priority in this election year, environmentally concerned individuals and groups should begin discussing environmental issues with all candidates for public office at all levels.

Earth Week in April provides every community a special time to determine its environmental issues and, through public forums, the candidates' specific environmental positions and plans. In this way, we can assure that the environment is a high priority election concern.

Finally, the nationwide review of environmental issues and our future needs provided by Earth Week should be especially useful in view of the United Nations Conference on the Human Environment scheduled for June in Stockholm.

In just two years, the environmental movement has blossomed from the peaceful nationwide demonstration of Earth Day 1970 to a global environmental conference.

We are taking the first big steps toward restoring harmony between ourselves and the fragile systems that support life on this planet.

We are beginning to adopt a perspective which views mankind as *of*, not *above*, his environment.

The challenge now is to translate this new view into a way of life, a joint effort by the citizens of all nations to restore and protect the integrity and livability of their environment.

ALASKA OIL PIPELINE BATTLE

Mr. STEVENS. Mr. President, the issues involved in the decision as whether to construct an oil pipeline across the State of Alaska, from the vast oil deposits at Prudhoe Bay to Valdez, vitally affect not only Alaskans, but every American.

The tremendous energy demands that will confront our Nation in a few years, at a time when we will be relying increasingly on foreign oil from the turbulent Middle East, make it mandatory that the Alaska pipeline be constructed without delay.

A report in the Congressional Quarterly of March 11 gives a comprehensive and unbiased report of these issues. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ALASKAN OIL: POWERFUL INTERESTS IN PIPELINE BATTLE

Two powerful coalitions of organized interests are grappling over an issue affecting the last great wilderness in the United States—Alaska. One of the richest oil strikes in American history touched off the controversy.

The battle lines are smudged but with exceptions shape up something like this: On one side are important elements of the oil industry and their allies in government and industry; on the other are environmental groups and their allies.

The division is complicated by costly company efforts to solve environmental objections, spurred by the virtual certainty of unprecedented government controls resulting from ceaseless prodding by environmental pressure groups.

Despite overlappings that obscure the line between the forces—such as financing of some environmentalists by their nominal opponents—a basic gap exists in this as in many other environmental disputes: Between those who give higher priority, on one side, to an energy crisis and, on the other, to an ecology crisis.

Both sides say their stance serves the public interest. Both possess strong political connections. Figures in both broad factions express hopes of reconciling differences, in spite of strong words exchanged in the recent past. Though working arrangements may emerge, political, economic and philosophical differences going beyond environmental topics render complete accord unlikely.

Immediately at stake is what industry sources say is the costliest private construction project ever—a proposed 48-inch pipeline to haul oil 789 miles south across Alaska. Estimated construction costs have swollen to well above $2-billion in three years of struggle.

Proponents say the oil is badly needed by the nation and cite benefits from development of Alaska's natural resources. They say the benefits far outweigh ecological risks which they pledge will be held to a minimum under close government supervision.

Opponents express unresolved fears of damage to the environment from construction of a pipeline carrying 170-degree oil across tundra and permafrost. They cite the possibility of pipeline breaks from earth settling or tremors, speak of potential oil spills from supertankers and have challenged in the past whether native rights were adequately protected. They also question whether alternatives have been sufficiently considered.

BROADER ISSUES

Some liken the situation to that prevailing in the early American West. Upon resolution of the pipeline dispute hinge at least in part broad questions of public policy. Some of these pertain to:

Development of huge new oil resources on

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Alaska's icelocked North Slope at a time when the United States is relying increasingly on foreign oil, particularly from the turbulent Middle East during the next decade. (*Middle East pressures, Weekly Report p. 242*)

The opening to development or widespread use for business or recreation of the largely virgin lands of Alaska, one-fifth the area of the other 49 states put together and more than twice as big as Texas. Alaskan state officials make it plain they look to mineral income to develop and operate the nation's 49th state.

A test of the growing activism among lawyer groups that have sprung into existence to convert lobbying into a sophisticated triple threat operating in the judicial, executive and legislative arenas at federal, state and local levels.

This has carried over into a general election year which finds national and international environmentalists with strong support from tax-exempt foundations bucking heavily financed oil, shipping and financial interests. The dispute is inextricably bound up in politics.

David R. Brower, former Sierra Club executive whose three-year-old organization, Friends of the Earth, has been a prime foe of the pipeline to date, indicates he is ready to postpone Alaskan oil development for at least several years longer. "We must cut down on the use of fossil fuels," Brower said in January 1972. "We need a cooling of this drive for more energy."

A tax-exempt companion group formed by Brower when he founded the politically oriented Friends of the Earth is called the John Muir Institute for Environmental Studies. It was made possible by an $80,000 gift from Robert O. Anderson, chairman of Atlantic Richfield, one of the main oil companies seeking to develop Alaskan oil.

E. L. Patton, president of Alyeska Pipeline Service Company, the consortium proposing to build the pipeline, termed some charges by Brower and other environmentalists "balderdash" and another—that the Alaskan oil was destined for Japan—"plain foolishness" when Patton and Brower spoke on the same platform before the Pipe Line Contractors Association.

The Sierra Club, veteran of wilderness fights from the Redwoods to the Everglades and now shifted onto an international footing, says the story of Alaska "and of the pressures to extract the black gold that lies beneath it reflects nothing less than a test case of what the struggle to save this planet is all about."

Dispute Over New Law. In the middle of the Alaska oil controversy is the National Environmental Policy Act of 1969 (42 U.S.C. 4321). Largely the outgrowth of legislation proposed by Rep. John D. Dingell (D Mich.) and by Senators Henry M. Jackson (D Wash.) and Edmund S. Muskie (D Maine), both candidates for the 1972 Democratic nomination for President, it was virtually unopposed when enacted by Congress late in 1969 and was promptly signed by President Nixon—symbolically, as his first official act of the 1970s.

The law declares as national policy the safeguarding of the environment and requires that environmental impact must figure in government decision making. The law has been a primary tool of opponents to the Alaska pipeline as originally conceived.

As the formerly non-controversial law becomes more and more the legal basis for bitter environmental struggles over large stakes, attorneys on both sides say the legislation may have been a sleeper subject to court interpretation as granting powers which few members of Congress realized when they voted for it. One writer on environmental law likened the act's use in the Alaska pipeline case to the role once reserved for the Colt revolver: "the great equalizer."

Court rulings in the Alaska pipeline or others of the approximately 160 cases pending under the law may ultimately determine the extent to which the 1969 law established, as some suggest, a new judicial veto power over the executive branch based on an open-ended definition of environment.

"Life under the National Environmental Policy Act has approached chaos," the *Oil & Gas Journal* said editorially in 1972. Noting the proliferation of court suits filed under the act and resultant delays in major decisions from executive departments and agencies, the publication for the domestic oil industry said:

"Under this hopeless confusion, the environment is running the government."

ALASKA PIPELINE

An Atlantic Richfield Company well struck oil commercially on Alaska's North Slope in the summer of 1968. The major obstacle to large-scale development of the field was the difficulty of transporting the oil at economical cost from the frozen north to markets far to the south.

In October 1968, eight companies based in the United States, Canada and Great Britain set up the Trans-Alaska Pipeline System (TAPS) as a joint enterprise. The major participants, directly or through subsidiaries, were Atlantic Richfield, Humble Oil & Refining Company and British Petroleum. Humble is a subsidiary of Standard Oil Company (New Jersey), world's largest oil company.

The state of Alaska, which included 2 million acres of North Slope land in its selections for state ownership in compliance with the Alaska Statehood Act of 1959, auctioned leases Sept. 11, 1969, netting $900-million from oil companies.

By January 1972, about 15 billion barrels of proven reserves had been located on the Beaufort Sea, site of the Atlantic discovery. Of these, Atlantic Richfield's proven reserves were about 1.9 billion barrels. Some estimates are that Alaskan oil reserves may exceed 100 billion barrels, far beyond known U.S. reserves.

The oil companies applied for permits to build an access road and a four-foot pipeline to Valdez in south Alaska. Tankers would carry the oil from that point.

Opposition to the proposed pipeline soon crystalized. Opponents attacked on several fronts in the courts, Congress and administrative agencies. They opposed the building of a road—first step toward actual pipeline construction and toward opening up the Alaska interior—and pressed Alaskan native land ownership claims.

Various groups said the heated oil could melt the terrain along the pipeline, causing changes in a delicately balanced environment lacking the capability of regenerating itself because of climate. They said caribou migrations might be interfered with by fear of crossing the pipe where it was above ground. Ecologists have cited dangers of pollution from oil spills in Alaskan waters and in Washington's Puget Sound to which oil would be hauled. Some have challenged the need for the oil and suggested Japan would become the major recipient.

In a move which has held up the pipeline until at least 1972, three plaintiffs on April 13, 1970, won a preliminary injunction from U.S. District Court Judge George A. Hart Jr. in Washington, D.C.

The judge barred the secretary of the interior, who was then former Alaska Gov. Walter J. Hickel, from issuing a pipeline construction permit. Plaintiffs obtained the order on grounds that the Interior Department had not complied with the National Environmental Policy Act of 1969 by filing a detailed statement on environmental impact of the pipeline proposal and of possible alternatives.

The injunction obtained by the Wilderness Society, Friends of the Earth and the Environmental Defense Fund Inc. of New York continues in effect until Hickel's successor, Secretary of Interior Rogers C. B. Morton, publishes a final environmental impact statement. The statement has been postponed several times.

Alyeska Formation. Trans-Alaska Pipeline System was succeeded by the Alyeska Pipeline Service Company, the formation of which was announced Aug. 28, 1970, at Houston, where Humble Oil has its home office. The group was set up to build and operate the pipeline, with original owners retaining their interests. It was headed by Edward L. Patton, former manager of a new oil refinery complex opened by Humble near San Francisco Bay.

It was Humble that conducted a multi-million-dollar exploration of possible tanker routes from the Arctic in 1969, during which the icebreaker S.S. Manhattan became the first commercial ship to make a round trip through the Northwest Passage. Humble also has studied the feasibility of building a new pipeline across the United States from Puget Sound to the East Coast.

Alyeska has sought in various ways to counter the claims of its foes. For example, it published a full-page advertisement in *The New York Times* Jan. 19, 1971, giving assurances concerning the pipeline and the environment. "Geology and engineering are our areas of basic competence," the ad said. After discussing some of the questions involved, Alyeska said:

"On this you have our pledge: The environmental disturbances will be avoided where possible, held to a minimum where unavoidable and restored to the fullest practicable extent. And we can assure you that the pipeline will be the most carefully engineered and constructed crude oil pipeline in the world."

. PIPELINE INTERESTS

Major proponents of an Alaska pipeline and the opening of the Alaskan frontier to development include:

Oil and gas interests.

The state of Alaska, admitted to the Union in 1959.

Shipping, and lumber and other natural resources interests.

In addition to business and financial interests, there also are those motivated by considerations of national security and the desire to develop domestic oil as insurance against excessive reliance on foreign oil. Without referring to Alaskan oil, Adm. Elmo R. Zumwalt, chief of naval operations, told the Senate Armed Services Committee Feb. 22, 1972, that "the potential for coercion of the U.S." when the United States imports about half its petroleum perhaps by 1985 "is ominous when one considers the measures the Soviets are taking to improve their navy."

OIL COMPANIES

The original oil consortium that formed Trans-Alaska Pipeline System consisted of:

Amerada Hess Corporation; Atlantic Pipe Line Company, a subsidiary of Atlantic Richfield Company; B. P. Pipe Line Company, a subsidiary of B. P. Alaska Inc.; Home Pipe Line Company, a subsidiary of Home Oil Company of Canada which later sold its interest; Humble Pipe Line Company, a subsidiary of Humble Oil & Refining Company, which in turn is a subsidiary of Standard Oil Company (New Jersey); Mobil Pipe Line Company, a subsidiary of Mobil Oil Company; Phillips Petroleum Company, and Union Oil Company of California.

Corporate officials, with some of the directorships or other positions they have held—within the period 1970–72 unless specified—included:

Amerada Hess Corporation.

Chairman and chief executive officer: Robert O. Anderson, director, American Petroleum Institute (API).

Chairman, executive committee: Leon Hess.

President: A. T. Jacobson, director, API.

Atlantic Richfield Company.

Chairman and chief executive officer: Robert O. Anderson, director, Chase Manhattan Bank; director, Chase Manhattan Corporation, a one-bank holding company; director, Pan American World Airways Inc.; director, Columbia Broadcasting System Inc.; director, Smith Kline & French Laboratories; chairman, Diamond A Cattle Company; director, API; chairman, Aspen Institute for Humanistic Studies; director, Resources for the Future; vice chairman, John F. Kennedy Center for the Performing Arts; member, finance committee, Nixon for President, 1967–68; Republican national committeeman, New Mexico, 1968—.

Vice chairman: Rollin Eckis, director, API.

President: Thornton F. Bradshaw, director, Atlas Chemical Industries Inc.; director, National Industrial Conference Board; director, Foreign Policy Association; director, API.

Directors include:

Courtlandt S. Gross, president, 1956–61, and chairman of board, 1961–67, Lockheed Aircraft Corporation, now chairman of Lockheed finance committee and director; director, Smith Kline & French Laboratories; director, Girard Company.

Robert S. Ingersoll, chairman and director, Borg-Warner Corporation; trustee, Aspen Institute for Humanistic Studies; confirmed Feb. 25, 1972, as U.S. Ambassador to Japan.

Ellmore C. Patterson, chairman and chief executive officer, Morgan Guaranty Trust Company of New York; chairman and chief executive officer, J. P. Morgan & Company Inc., a holding company; director, Atchison, Topeka & Santa Fe (AT&SF) Railway; trustee, Carnegie Endowment for International Peace; trustee, Alfred P. Sloan Foundation.

Kendrick R. Wilson Jr., chairman of board, Avco Corporation, a conglomerate.

Humble Oil & Refining Company, subsidiary of Standard Oil Company (New Jersey).

Chairman and chief executive officer: M. A. Wright, various posts with Standard Oil (New Jersey) culminating in executive vice president, 1960–65, when he took the top post with Humble; president, 1966–67, and chairman of board, 1967–68, U.S. Chamber of Commerce; director, National Wildlife Federation.

Vice chairman: Charles F. Jones, director, National Science Foundation.

President: T. D. Barrow.

Standard Oil Company (New Jersey)

Chairman of board, chairman of executive committee and chief executive officer: John K. Jamieson, Canadian-born, moved to United United in 1958, naturalized in 1964; executive vice president and director, Humble Oil Refining Company, 1962–63; president, Humble, 1963–64; executive vice president, Standard Oil (New Jersey), 1964–65; president, Standard Oil (New Jersey), 1965–69; chairman, 1969—; director, Chase Manhattan Bank; director, Chase Manhattan Corporation.

President: Milo M. Brisco, director, First National City Bank, New York City; director, First National City Corporation; member, New York Urban Coalition, 1967—.

Directors include:

Bert S. Cross, chairman of finance committee and director, Minnesota Mining & Manufacturing Company; chairman, National Industrial Pollution Control Council.

W. H. Franklin, president and director, Caterpillar Tractor Company.

T. Vincent Learson, chairman and chief executive officer, International Business Machines Corporation (IBM); director, Carborundum Company.

Donald S. MacNaughton, chairman and chief executive officer, Prudential Insurance Company of America; on policy council, Common Cause.

Mobil Oil Corporation.

Chairman and chief executive officer: Rawleigh Warner Jr., director, API; director, Time Inc.; director, Caterpillar Tractor Company; director, Bedford Stuyvesant Development & Service Corporation.

Directors include:

Grayson L. Kirk, president emeritus, Columbia University; finance committee and director, IBM Corporation; director, Council on Foreign Relations.

Lewis A. Lapham, vice chairman and director, Bankers Trust Company; president and director, Bankers Trust New York Corporation; director, H. J. Heinz Company; director, Tri-Continental Corporation; president of Grace Lines Inc., 1953–59.

George C. McGhee, various ambassadorial posts with State Department plus assistant secretary for Near Eastern, South Asian and African affairs, 1949–51; chairman, policy planning council and counselor, State Department, 1961; under secretary of state for political affairs, 1961–63; special assistant to chairman of Urban Coalition, 1969–70; director, Aspen Institute for Humanistic Studies.

Albert L. Williams, chairman of finance committee, member of executive committee and director, IBM Corp.; director, First National City Bank; director, General Foods Corporation; director, Eli Lilly & Company; director, GM Corporation; trustee, Alfred P. Sloan Foundation.

Phillips Petroleum Company.

Chairman of board and chief executive officer: W. W. Keeler, head of at least 10 Phillips enterprises in various countries; special consultant to secretary of interior, 1961; chairman, National Petroleum Council, advisory group to Interior Department, 1971.

Chairman, executive committee: William C. Douce.

Deputy chairman: John M. Houchin, vice president, American Independent Oil Company; director, API.

President: William F. Martin, director, American Independent Oil Company.

Directors include:

Clark M. Clifford, secretary of defense, 1968–69, whose firm Clifford, Warnke, Glass, McIlwain & Finney registered in 1970 to lobby for Avco Corporation "in support of adequate appropriations for mineral resources research." (*1970 Almanac p. 1218*)

A. F. Mayne, president and director, A. F. Mayne & Associates Ltd., Montreal; director, Kennecott Copper Corporation.

William Piel Jr., partner, Sullivan & Cromwell, New York City.

William I. Spencer, president and director, First National City Bank; president and director, First National City Corporation; director, United Aircraft Corporation; president and director, First National City Foundation; director, Sears, Roebuck & Company; director, Bedford Stuyvesant Development and Service Corporation.

W. Clarke Wescoe, executive vice president (for medical affairs) and director, Sterling Drug Inc.; president and chief executive officer, Winthrop Laboratories, a division of Sterling Drug Inc.; director, Hallmark Cards Inc.

Union Oil Company of California.

President and chief executive officer: Fred L. Hartley, director, North American Rockwell Corporation; chairman, Union Oil Company of Canada Ltd.; vice president and director, California State Chamber of Commerce; director, DiGiorgio Corporation.

Directors include:

Robert DiGiorgio, chairman and chief executive officer, DiGiorgio Corporation, San Francisco, dealing in lumber, food, wholesale groceries, drugs, recreational vehicles, etc.; director, Bankamerica Corporation; member of executive committee, Bank of America N.T. & S.A.; director, Foremost-McKesson Inc.; director, AT&SF Railway.

Prentis C. Hale, chairman, Broadway-Hale Stores Inc.; director, Bank of America N.T. & S.A.; director, Foremost-McKesson Inc.; director, AT&SF Railway.

R. O. Hunt, director, Crown Zellerbach Corporation (formerly its chairman and chief executive officer).

Henry T. Mudd, chairman and chief executive officer, Cyprus Mines Corporation; vice chairman, Marcona Corporation; director, United California Bank; director, Southern Pacific Company; chairman, Pima Mining Company; director, North American Rockwell Corporation.

Charles B. Thornton, chairman and chief executive officer, Litton Industries Inc.; director, MCA Inc.; director, United California Bank; member of exectuive committee and director, Cyprus Mines Corporation; member of finance committee and director, Trans World Airlines Inc.

STATE OF ALASKA

State officials have pushed for approval of the pipeline project. Four days after Earth Day 1970, which focused national attention on environmental issues, more than 100 Alaskan businessmen accompanied Gov. Keith Miller to Washington to lobby for prompt approval of the pipeline and road permits.

Eric E. Wohlforth, revenue commissioner for the state, said in a speech Feb. 4, 1972, that the state's pipeline position stems partly from the view "that Alaska's economic future is deeply wedded to the public conveyance of petroleum throughout the state. . . .

"Any final assessment of the economic potential of the state must start with a realization of one basic fact. To an extent greater than any other state, Alaska owns its sub-surface resources. With development of those resources we can and will share in the monetary gain which their ultimate sale will represent. Thus, unlike other oil and gas states, our state revenues need not be derived only from taxation of the resources but also from the participation in their development."

Wohlforth said passage of the native claims legislation in 1971 was a "giant step" toward developing Alaska's resources, adding:

"The battles which will be faced over the issue of 'lock up Alaska forever' as proposed by some environmentalists versus the state's desire for 'sound development' are similar to those which Alaskans faced during the natural disaster of the earthquake of 1964 and the Fairbanks flood of 1967."

MARITIME

Secretary of Commerce Maurice H. Stans, just before resigning in mid-February 1972 to head President Nixon's election campaign funds drive as he had in 1968, addressed a dinner sponsored by the National Maritime Council.

Stans, who was budget director when Alaska became a state, said the proposed Alaska pipeline "offers perhaps the greatest single opportunity for new cargoes and new jobs that the American fleet has ever had." (*The Washington Lobby, CQ paperback book, 1971, p. 75*)

"A fleet of some 30 new supertankers would be needed to carry North Slope oil from southern Alaska to the West Coast, and constructing them would pump an estimated $1-billion through the shipbuilding industry into the economy," Stans said.

He said the environmental dangers were recognized, but that "when the minimized risks are weighed against the great need for the pipeline and its potential benefits, I am certain that it must be built."

PIPELINE OPPONENTS

Opposition to the Alaska pipeline draws recruits from pre-pipeline battles over the Alaska wilderness. Many participants are active to varying degrees on environmental fronts elsewhere, involving such issues as offshore oil drilling, the supersonic transport, auto exhaust fumes, tanker or refinery pollution, power plants and thermal pollution, nuclear testing, waste disposal, auto safety and consumer affairs.

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Groups gravitating around environment as their focus include those operating largely as pressure and public opinion organizations and lawyer task force groups. Supporting these are foundations, some former government officials and miscellaneous elements from among student, antiwar, civil rights and consumer activists. Other allies have included members of Congress and federal officials, as well as Alaskan native factions. Ties are sometimes tenuous but real.

Among groups whose activities have tended to hold up the pipeline development on one basis or another, with some of the participants' associations, are:

Sierra Club. Long a pressure group in the environmental field, the club underwent a change in management and expanded its membership in the 1970s. Executive Director Michael McCloskey said the group's membership doubled in 2½ years to 140,000 at the start of 1972.

"Our size gives us a powerful voice in the halls of Congress and in dealing with government agencies across the country," McCloskey wrote in the club's *Bulletin*. "Our chance of prevailing is proportional to the strength we can amass."

The club in 1971 fought the supersonic transport, the Amchitka nuclear test, timber cutting in national forests and what it contended was lack of adequate environmental protection in the Alaska Native Claims Act.

The Sierra Club engages in grass roots pressure campaigns which have relied heavily on book publication. Book editor John G. Mitchell has said several books "had a profound influence on the outcome of crucial issues." One, called *Oil on Ice*, dealt with the Alaska oil situation and was sent to members of Congress as the club's first "Battlebook."

President Raymond Sherwin says growing numbers of legislators have become sensitive to environmental problems through club efforts but adds: "However, to be effective we must be in their offices and committee rooms when crucial decisions are being made."

The Sierra Club Foundation supports the non-legislative activities of the Sierra Club, including legal action conducted by the Sierra Club Legal Defense Fund which had about 60 court suits in progress in mid-1971.

Two of the Sierra Club's attorneys are James Watt Moorman, director of the Sierra Club Legal Defense Fund, and David Sive. Moorman is secretary of the Center for Law and Social Policy. Sive, who was executive director of the Committee on Natural Resources, New York State Constitutional Convention, in 1967, is a partner in Winer, Neuberger & Sive, New York City. He is secretary of the John Muir Institute for Environmental Affairs and is on the executive committee of Friends of the Earth. Sive was an attorney for the Committee for Nuclear Responsibility, which with other groups unsuccessfully sought to prevent the Amchitka underground test off Alaska Nov. 6, 1971.

Center for Law and Social Policy. Three of the six attorneys who brought the injunction suit which blocked the Alaska pipeline pending a final environmental impact study were connected with the Center for Law and Social Policy. It was incorporated Nov. 14, 1968, and has received extensive foundation funding including grants from the Ford Foundation, Stern Fund, Meyer Fund and Rockefeller Brothers Fund, whose chairman, Laurance S. Rockefeller, was a director of the Natural Resources Defense Council founded at Princeton in March 1970 to fight conservation cases.

Initial directors of the center were Arthur J. Goldberg, chairman, Charles R. Halpern, Richard B. Sobol and Bruce J. Terris. Leadership as of the annual report filed April 6, 1971, included:

Chairman of board: Goldberg, secretary of labor, 1961–62; associate justice of the Supreme Court, 1962–65; U.S. ambassador to the United Nations, 1965–68.

Vice chairman: David F. Cavers, president of the Council on Law Related Studies at Cambridge, Mass.; Mitchell Rogovin of Arnold & Porter, assistant attorney general (tax division), 1966–69. Rogovin also was treasurer for the center.

Secretary: James W. Moorman, who with Halpern and Dennis M. Flannery of the center participated in the injunction suit filed by Wilderness Society, Friends of the Earth and the Environmental Defense Fund.

Trustees include Stewart L. Udall, secretary of the Interior (D-Ariz.), 1961–69; J. Lee Rankin, Office of Corporation Counsel, New York City, U.S. solicitor general, 1956–61, chief counsel, Warren Commission, 1963–64; Ramsey Clark, attorney general, 1967–68, chairman of national advisory council to American Civil Liberties Union, 1969–; and Mrs. Marian W. Edelman, Washington Research Project.

Goldberg, Clark and their New York law firm Paul, Weiss, Goldberg, Rifkind, Wharton & Garrison registered July 18, 1969, to lobby for the Alaska Federation of Natives on land claims legislation. They testified on the group's behalf Aug. 7, 1969, before the Senate Interior and Insular Affairs Committee. (*1969 Almanac p. 1129, 544*)

Congress cleared the Alaska Native Claims Settlement Act (HR 10367—PL 92–203) Dec. 14, 1971, granting Alaska's estimated 53,000 natives $462.5-million in grants, $500-million from state and federal mineral revenues and ownership claims to 40 million of Alaska's 365 million acres.

Another lobbyist for the Alaska Federation of Natives was Claude J. Desautels Associates, which registered April 28, 1971. Desautels was executive assistant to Rep. Wayne N. Aspinall (D-Col.) 1949–61; congressional liaison for Presidents Kennedy and Johnson, 1961–65; executive assistant to the postmaster general, 1965–68. Aspinall, Chairman of the House Interior and Insular Affairs Committee, was a sponsor of the Alaska Native Claims Settlement Act and urged passage in the final form, noting he had worked on native claims since 1951. Rep. John P. Saylor (R-Pa.), ranking Republican on the Interior Committee, told the House Dec. 14, 1971, that if the same formula had been applied for all Indian tribes in the United States, "there has never been enough money in the U.S. Treasury to pay their claims." (*Weekly Report p. 130, 1971 Weekly Report p. 2657, 1141*)

Of Alaska's 365 million acres, about 95 percent were under federal control in March 1972. When pending land selections authorized by Congress are completed, about 60 percent of Alaska will be under some form of federal control.

The right-of-way for the proposed Alaska pipeline from the North Slope to Valdez has been reserved under Interior Department supervision. All Alaska public lands are frozen under department authority until March 17, 1972.

Udall is one of the three directors of both the Overview Foundation Inc., a non-profit environmental consulting group, and the Overview Corporation environmental consultants. The president and treasurer of both organizations, headquartered across from the Executive Office Building, is Henry L. Kimelman, in 1972 the national finance chairman for Sen. George McGovern's (D.-S.D.) campaign for the Democratic presidential nomination. Kimelman ranked third ($24,306.50) among McGovern's contributors as made public Feb. 28, 1972.

Friends of the Earth. The Friends of the Earth was among plaintiffs in the pipeline-blocking case filed in April 1970 against Alyeska. David R. Brower, longtime chief officer of the Sierra Club forced out in a leadership fight, in September 1969 announced formation of the Friends of the Earth, its subsidiary League of Conservation Voters and the John Muir Institute for Environmental Studies. The Friends of the Earth and the Institute are internationally based.

Brower is president of the Friends of the Earth and vice president of the Institute, founded with financial help from Atlantic Richfield Chairman Robert O. Anderson. The Institute's president is Max Linn of Albuquerque, N.M., public relations director for Sandia Laboratories, a key nuclear installation. Linn also was named a vice president of Friends of the Earth, along with Stewart M. Ogilvy of Yonkers, N.Y. Attorney David Sive, on the Friends of the Earth executive committee, was appointed secretary of the John Muir Institute.

The Friends of the Earth registered in 1970 as a congressional lobby organization "to promote legislation to preserve, restore and encourage rational use of the ecosphere." Executive director Gary A. Soucie, also formerly with the Sierra Club, is a registered lobbyist for Friends of the Earth.

In 1970, the Friends of the Earth won 11 of the 12 House races and one of the three Senate contests in which it took part. Among those it successfully backed was Sen. Philip A. Hart (D.-Mich.), chairman of the Senate Commerce Energy, Natural Resources and Environment Subcommittee. (*Details, The Washington Lobby, p. 45, 101*)

OTHER ENVIRONMENTAL GROUPS

Among the many other environment-oriented groups that have shown varying degrees and types of involvement in Alaskan issues are:

Conservation Foundation. Incorporated in 1948 in New York, the foundation moved to Washington in 1965. Not a membership group, it is financed by grants and gifts from foundations, organizations and individuals and is a non-profit organization to which contributions are deductible for income tax purposes. Donors have included the Ford Foundation.

Sydney Howe, the foundation's president, and two members of Congress—Sen. Gaylord Nelson (D Wis.) and Rep. Paul N. McCloskey Jr. (R Calif.), in 1972 opposing Richard M. Nixon for the Republican presidential nomination—Incorporated Environmental Teach-In Inc., which was the guiding force behind Earth Day which focused attention on the environment April 22, 1970. Staff members of the Conservation Foundation helped plan the program and set up the Teach-In office.

Russell E. Train, past president of the Conservation Foundation, held the number two post in the Interior Department as under secretary during preliminary moves in 1969 on the Alaska pipeline permit and now is chairman of the Council on Environmental Quality established by the National Environmental Policy Act of 1969.

An annual report filed with the Foundation Center in August 1971 showed among trustees as of Dec. 31, 1970:

Chairman: Samuel H. Ordway Jr., a lawyer, vice president of the Conservation Foundation, 1948–61; president, 1961–65; chairman, 1969—. He served on the U.S. Civil Service Commission, 1937–39.

Vice chairman: William H. Whyte, a writer who was assistant managing editor of *Fortune* magazine, 1951–59.

Eugene R. Black, president and chairman, International Bank for Reconstruction and Development, 1949–62; director, International Telephone & Telegraph Corporation; director, *New York Times;* director, Chase International Investment Corporation; chairman of John F. Kennedy Library; director, Boise Cascade Corporation; chairman, Overseas Development Council; chairman, Council of Economic Advisers of state of New York.

Ernest Brooks Jr., president of Old Dominion Foundation, New York City.

Mrs. Edgar M. Cullman, whose husband is president of General Cigar Company.

Gilbert M. Grosvenor, associate editor, *National Geographic.*

S. Dillon Ripley, secretary, Smithsonian Institution.

The foundation's consulting council included Donald E. Nicoll, aide to Sen. Edmund S. Muskie (D Maine); Dr. Michael F. Brewer, vice president of Resources for the Future, and Joseph L. Sax of the University of Michigan, chairman of the American Bar Association's Committee on Public Lands and Waters and a trustee of the Center for Law and Social Policy.

The Conservation Foundation opposed granting of the pipeline authority on the basis of the Interior Department's first impact statement, contending it did not ensure environmental protection. Howe said the foundation in 1972 considered it important that alternative routes across Canada be fully considered, with Canadian participation.

OUTLOOK

The next move on the Alaska pipeline is up to Secretary of Interior Morton, former Republican national chairman and U.S. representative (R Md. 1963–69). Both sides expect him to grant the permit, but that may be far from the end of it.

The Interior Department Feb. 24, 1972, issued two documents—making a total of 12 studies on Alaska pipeline impact released so far—on stipulations concerning the pipeline if approved and on findings of possible tanker oil spills.

The department said the stipulations would be "the most stringent and comprehensive set of terms and conditions dealing with environmental protection ever attached to the granting of a permit to use public lands."

Once Morton issues the environmental impact statement required by the National Environmental Policy Act, the Council on Environmental Quality headed by Train has 30 days to review it and make recommendations to the President. Plaintiffs who obtained the earlier injunction can challenge granting of the permit in court. Appeals could go all the way to the Supreme Court and consume all of 1972 or longer.

Meanwhile, participants on both sides have noted increasing attention given environmental considerations by all parties. Morton made his position clear before the National Petroleum Council Feb. 10, 1972. He said that from the contention of past years an essential fact has emerged:

"We recognize at last that there is an interlocking bond between the quality of the environment and energy demands in sustaining large numbers of people at decent levels of comfort and well-being."

Noting the steps that can be taken to conserve resources, Morton said that nevertheless "we still face the enormous backlog of unsatisfied needs that can only be met by increasing higher levels of energy and of productivity. . . .

"One thing the extremists in environmental groups do not understand is that these necessary jobs to enhance the quality of life can be accomplished through the use of energy and more energy directed by an ever escalating plateau of technology."

Regardless of the eventual outcome of the Alaska pipeline struggle, it appears likely to take its place as one more in a continuing series of confrontations waged around environment and involving many of the same participants.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 577 (S. 2956), a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The Senate continued the consideration of the bill.

WAR POWERS CONTRADICTIONS

Mr. GOLDWATER. Mr. President, 20 years ago, Prof. Henry Steele Commager, whose testimony is heavily relied upon by the authors of war powers legislation, attacked critics of Executive power as "unregenerate isolationists." When some political leaders of my party were challenging President Truman's decision to send American soldiers to Korea without congressional authorization and when a proposal was introduced in Congress seeking to prevent such deployments from ever occurring again without prior congressional approval, Professor Commager ridiculed these ideas as having "no support in law or in history." In two articles published in the Times magazine, Professor Commager charged that the assault upon the executive power was a dangerous attack on the integrity of our constitutional system which, if persisted in, may result in the "substitution of a parliamentary system of government for our presidential system."

The legislation which Professor Commager criticized was a close predecessor of the one before us today. As Professor Commager described it in his article, the legislation "centered upon the right of the President to commit American forces to danger points outside the boundaries of the United States without prior congressional authorization." He argued "that the overwhelming weight of authority supports Presidential discretion in this field." He assured us that the constitutional issue was not a new one, but had arisen and been settled in one administration after another, and in the courts as well, with always the same result. Professor Commager stated that "a century and a half of interpretation, a century and a half of tradition, practice, and custom," provides us not merely with precedents, but with guidance, to the conclusion that Presidential discretion in the conduct of foreign relations had served us well and was firmly based on the constitutional document.

He quoted from a great President and a learned student of foreign relations, John Quincy Adams, who, in his eulogy on Madison, said:

However startled we may be at the idea that the Executive Chief Magistrate has the power of involving the nation in war, even without consulting Congress, an experience of fifty years has proved that in numberless cases he has and must have exercised the power.

Professor Commager goes on to summarize the numerous instances in which American Presidents have sent U.S. troops abroad on their own authority without any prior declaration of war by Congress. Some counts would put these Presidential commitments at 150, although my own research indicates that they total around 196. As Professor Commager describes in his article, all of these Presidential acts involved the danger of war. "Congressmen protested, from time to time," he writes, "but on no occasion did Congress repudiate Presidential power or even refuse to sustain it by such appropriations as were required."

Mr. President, I disgress from my prepared remarks to comment briefly on some of the remarks made just recently by my friend, the distinguished senior Senator from Georgia.

Nearly every cosponsor of this War Powers Act has had an opportunity—not once, not twice, but many times—during the conduct of the Vietnam war to have expressed an opinion against that war by having voted against appropriations, authorizations, the Gulf of Tonkin Joint Resolution, and the SEATO Treaty.

Never was a resolution offered on this floor to my memory that in any way condemned the President. I am not being critical on this point, because I do not believe that any Congress, once having seen this country committed to war or any intervention by the President, would ever try to undercut the President at that point. But we have had our chances. And I point out that the Constitution and the rules of the Senate gives us these chances and these opportunities. But we have never taken advantage of them.

Thus, Mr. President, did Professor Commager defend on constitutional grounds the authority of President Truman to commit American soldiers to a major land war in Korea without congressional authorization. It is with this in mind, that I believe the Senate should evaluate Professor Commager's testimony before the Senate Foreign Relations Committee in 1971. I think that we should balance the doctrinaire assertion by Professor Commager now that the war powers bill is constitutional with his conclusion in 1951 that similar legislation was an example of "congressional usurpation."

But Professor Commager is not the only witness relied upon in support of the war powers bill who has taken a completely opposite stance in the past. One year before his testimony at the Foreign Relations Committee, Prof. Alexander Bickel confided to a House committee exploring the same legislation that "Codification seems to me difficult, heavily prone to error, quite possibly dangerous, and unnecessary." Washington attorney, William D. Rogers, remarked at the same hearing:

I think the Javits proposal requiring the President in effect to get out if Congress did not act within 30 days is dangerous.

McGeorge Bundy warned the members of the House committee that—

No single rule is likely to meet all our needs, and in particular, I think it is dangerous to try to deal with the future by legislating against the past.

Let me repeat, all these statements were made by individuals whose testimony is used in support of the bill.

In 1971, advocates of the war powers bill raised new doubts about the wisdom of their own legislation. One statement, inserted in the record of the hearings as support for Senator JAVITS' bill, comes from Judge Philip C. Jessup of the Council on Foreign Relations, who wrote what he described as an "unhelpful note." Judge Jessup observed that in his opinion "a fundamental difficulty arises from the fact that the concept of 'declaration of war' which was current when the Constitution was framed . . . is now an outmoded concept." Judge Jessup added:

Because of my belief about the lack of real legal relevance of the declaration in these times, I would hesitate to tie new legislation so tightly to the "declaration of war" clause of the Constitution.

In other words, Mr. President, Judge Jessup expressed serious doubts about the legal relevance of the principal peg on which the Foreign Relations Committee claims constitutional authority to codify the war powers.

Professor Bickel apparently has not lost all of his reservations about the legislation, because he testified last year:

I don't think the President can be deprived of his power to respond to an imminent threat of attack—as well as to the attack itself—on the United States or on troops of the United States lawfully stationed wherever they may be, nor I believe can he be deprived of the power to continue to see to the safety of our troops once they are engaged, even if a statutory 30-day period has expired.

Mr. President, I might add, that Professor Bickel was the only professor of law who testified before the committee in support of the general constitutionality of the war powers bill. So when the sole legal authority who is relied on by the committee testifies that he does not believe a time limit can be imposed on the power of the President to respond to an imminent threat as well as to an attack itself, I think the committee is treading on very weak ground in reporting a bill which includes a provision that is directly contrary to what one of their major witnesses told them could be validly done.

Another matter of concern was raised when Senator JAVITS revealed in a question to me at the hearing that the 30-day restriction on emergency military actions might pressure a President to go all out by resorting to nuclear war during the short period of time allowed him since there is nothing in his bill that stops the President from doing that.

McGeorge Bundy also verified before the committee a contention I have made that in some situations the war powers measure might aggravate a crisis rather than calm it. Speaking of the Cuban missile event, he testified that—

If there had been a national debate over what to do about those missiles we might easily have had a much more dangerous reaction that in fact we had.

And yet this is exactly what the war powers bill would cause. Just at the time when a crisis is likely to be at a pitch of public excitement is when the legislation requires that Congress must vote on whether or not to sustain U.S. involvement in the hostility.

I can see that day arriving if this legislation is passed and approved by the President. In some situations, I can hear the networks talking against the war. I can see the large eastern press talking against involvement. I can see Congress bowing to political pressure, in many cases over their wisdom, to make sure they are not going to be castigated by the media or the press. I do not say this in a derogatory way. It is a matter of fact that most of the media we listen to and see would follow this course and they would certainly support this bill, and I think they would be opposed to any action of the President regardless of what it might entail.

On the other hand, if the war powers bill had been in effect at the time of the Cuban missile crisis, Congress would have been required to act swiftly on the matter of continuing the naval blockade of Cuba before the 30-day emergency authorization had expired. One can easily suppose in the setting of the time—with enemy missiles being aimed at cities holding 80 million American citizens, with reports arriving of attacks on American reconnaissance planes, and with the killing of an American pilot over Cuba—that a majority in Congress would have favored an allout bombardment of Cuba or even an invasion.

Those who believe Congress is the ultimate haven of peace and love might thumb through Robert Kennedy's short book on the 1962 missile crisis where he writes that his brother's conference with the leaders of Congress "was the most difficult meeting." The late Senator Kennedy reports that many congressional leaders "felt the President should take more forceful action, a military attack or invasion, and that the blockade was far too weak a response."

And so, is it not possible, Mr. President, that Congress might, when confronted with dramatic pressure for making a swift decision, vote in favor of a military attack far beyond anything the President wished? We might remember that historians generally concur that it "was the War Hawks—Members of Congress all—who aggressively sought the War of 1812," and that in 1898 it was "the press and Congress" who pressured President McKinley into requesting a declaration of war against Spain.

In this regard, Mr. President, I should observe that if Congress acts as I have described in order to steer our Nation into broader hostilities than the President believes prudent, the authors of the war powers bill will leave him no exit. This is the logical end to which the rigid and doctrinaire constitutional claims of the sponsors of the legislation will take them.

For their whole argument on behalf of the power of Congress to pass legislation making rules regarding military hostilities is based upon their contention that the President must faithfully carry out the military policies passed by Congress. A legal brief on the war powers bill inserted by Senator JAVITS into the hearings record on his bill flatly declares that—

The President as Commander in Chief was intended to be the executive arm of Congress, carrying out its policy directives in the prosecution of military hostilities.

This legal brief, which is a part of the legislative history explaining the purposes of the primary author of the pending legislation, also asserts that—

Congress has the right to legislate concerning the initiation of war and the President has no right to contravene such legislation.

Mr. President, these unqualified doctrines, which stand as the legal support for the war powers bill, mean that Congress not only has the power to restrict the President's action, but also the power to order the President into taking whatever military conduct it chooses. If the President is subject at all times to the directives of Congress, as the sponsors argue, this is the absurd result to which their arguments lead. And if the President should veto any continuing authorization which proposes to expand U.S. participation in a hostility, the same legal concept would dictate that he has thereby terminated all authority for sustaining our involvement in the military hostility, placing him in an awful dilemma. Furthermore, Congress could override the President's veto under this legal reasoning.

Mr. President, this ramification is not the only way in which the war powers measure might bring about a military confrontation, not avoid it. As Secretary of State Rogers testified:

To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—

I think that is a very, very important statement—

would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis.

I might add to the word "ability," the "desire" of the United States to act in a crisis—

This might embolden such a nation to provoke crises or take other actions which undermine international peace and security.

Dr. James MacGregor Burns, a Pulitzer Prize historian, takes the same view. Dr. Burns testified at the 1970 war powers hearing that any legislation which would encumber the President's ability to respond and adjust to changing world situations, as he determines proper, will remove the one essential ingredient preventing world war III—flexibility. Dr. Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the Executive."

I repeat, Mr. President, that this is probably one of the most important points that can be made against this type of legislation. Certainly, no one can argue with the intent. All of us want to see peace. All of us want to see each branch of the Government acting in its own constitutional way. I think we are doing that today. But when we broadcast to the world that this Congress does not have faith in the President of the United States, or the next Congress does not have faith in the President of the United States, to assume his constitutional role as Commander in Chief and the chief framer of foreign policy, I can see our allies around the world doubting us, leaving us.

In fact, we already see in the world today the beginning of a realinement. We are beginning to see some of our historic friends looking to the potential enemy when they have doubts as to whether or not we will respond. I have to say ashamedly that some of the remarks made on the floor of Congress—in both Houses—have given those people the right to believe that, come a test, the people of the United States, the U.S. Congress, do not have the courage to measure up to the responsibilities that they have assumed in making treaties with people around the world.

The same warning was sounded by former Under Secretary of State George Ball, who testified that the neutrality acts adopted in the aftermath of World War I "very probably" impeded the United States from taking firm steps which would have averted World War II. The great problem which Mr. Ball sees in the pending bill is that it is impossible to prophesy all the situations in which the President may need to act without advance congressional approval. In his words:

The lesson one learns from the active practice of foreign policy is how often and at what critical times the totally unexpected event occurs to dominate and transform the scene.

For this reason, Mr. Ball sees the war powers bill as representing "an attempt to do what the Founding Fathers felt they were not wise enough to do," that is, to anticipate at any given moment the unlimited variations which the future is capable of presenting.

Mr. President, I have addressed myself mainly to some of the contradictions which the advocates of war powers legislation themselves have raised about the bill. I also have very grave concerns about the constitutionality of the legislation and will discuss these doubts further, probably tomorrow.

For now, I would only add, that the questions which proponents of the legislation have expressed in the past should serve as further reason for our taking a great deal more time on the bill. Why, the matter is so complex I understand the Foreign Relations Committee took 2 months, from December 7, when the bill was ordered reported, to February 9, when the report was filed, to obtain agreement by the committee members on the language of its report on the bill. If the committee itself required 2 months to prepare its report, surely the Senate as a body should be allowed an ample time in which to examine the bill.

Mr. President, in the Washington Evening Star is a very fine column by Mr. David Lawrence entitled "Danger in War-Powers Legislation." I think to sum up Mr. Lawrence's thought on this matter would be to sum up what I said before—that one of my major concerns with this legislation—and I have many, but one of the major ones—is wrapped up in what our allies and our potential enemies might think this country is getting into. Mr. Lawrence says, in the second paragraph of his article:

If there had been a strong Western alliance which included the United States, there might have not been a World War I or II. In both instances, the assumption was that the American people were advocates of isolationism and would not participate.

Mr. President, I do not charge the authors of the bill with being isolationists. I know all of them personally. I know some of them had extremely honorable service with the military in World War II and Korea. But I can remember the days in the 1920's and the 1930's, and I can remember the wonderful feeling that was over all of us that the United States would never go to war again. We had become an isolationist country. We had no Army, we had very little Navy, we had practically no Air Force. We trained in Louisiana with cardboard tanks and wooden guns. We knew nothing at all about strategic air warfare and tactical air warfare. We had, in fact, become so isolated from the rest of the world that we honestly believed that Hitler was no threat to the peace of the world and that Mussolini carried no threat to the peace of the world anywhere.

I can remember those days, and I can remember what a comfortable feeling it was; and I can remember what a terrible, shocking feeling we had on the morning of December 7 when Pearl Harbor was attacked, when we knew this country was not prepared for war.

Mr. President, whether we like to think of it or not, the same kind of feeling is wrapped up in this legislation that permeated the feeling of the people of this country, that permeated the Congress, and, to a degree, that even permeated our military, who had become mesmerized to a great extent by the feeling of isolationism in those days. We believed in Fortress America. We believed what George Washington said in his Farewell Address that we should live with our friends but keep the hedges high. And then the hedges were torn down in a short while.

I know, from my travels around the world—and they have been extensive lately—and I know from my visits with people around the world that precisely this kind of thinking is going on in the minds of the leaders in the world: Where will the United States be? Where will we sit if imminent danger occurs, imminent danger to any of our allies to whom we have made commitments? Where will we be ourselves if the enemy knows that, no matter what the President does by way of going to war to answer any attack on the United States or on American citizens abroad or on the American military abroad, within 30 days, or even less, the Congress—not particularly noted for expertise for decisions in military affairs, but noted for expertise in detecting through their extended antennae the feelings of the people—might say to the President, "You have to quit this," and the President has to do that under the terms of this legislation?

I understand that this fear that I carry is shared by some others and that the measure is not shockproof. I understand the authors may start amending it.

Mr. President, they may amend it to doomsday, but it will never be a proper piece of legislation for this Congress to consider.

So that my colleagues may have the benefit of reading the article by Mr. David Lawrence, I ask unanimous consent that it be printed at the conclusion of my remarks, and these are my concluding remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DANGER IN WAR-POWERS LEGISLATION

(By David Lawrence)

The biggest question mark around the world today is whether the United States is going to repeat history—weaken its military position abroad and give the impression that it will not help to prevent another world war.

If there had been a strong Western alliance which included the United States, there might have not been a World War I or II. In both instances, the assumption was that the American people were advocates of isolationism and would not participate.

What is happening in Congress, as various members sponsor legislation declaring the executive branch shall have authority to commit military forces for only 30 days and must get congressional permission for continuance of operations beyond that, is being taken to mean that the foreign policy of the United States hereafter will not be regarded abroad as enduring.

As long as the employment of military force by major powers can at any moment upset the peace of the world, the United States must do its planning through use of bases in other countries and by dispersing its submarines carrying Polaris missiles, utilizing foreign ports where they are available.

The Germans were convinced that the United States would not enter World War I or II. When they read the American press, they noted that elections were being won in 1916 and 1940 by denouncing any involvement in the war then in progress and by promises of candidates for the presidency to "keep out of war."

There are still those in Congress who think that the United States can stay out of Europe and Asia altogether or that use of military forces should be authorized merely when the other side has begun a war against us. Military men, however, say that wars can be prevented only by having an army, navy and air force distributed in strategic locations and in such size that potential enemies will not dare to take chances and start a war against the United States.

If an adversary thinks that the Congress will have to give its consent for American action in any critical situation around the world, there will be built up a feeling that the United States will no longer be of assistance to smaller countries and will be reluctant to furnish aid even to larger ones.

While the Constitution stipulates that Congress shall have the power "to declare war," it doesn't give either the Senate or the House the right to conduct foreign policy. This is a delicate task and requires secrecy in planning and in carrying out programs for cooperation with various allies.

If the consent of Congress were required for the presence of American military forces in a friendly country for possible help in certain emergencies involving a broad-gauged

policy of protecting American interests and preventing a larger war, the United States would find itself blocked in its dealings with allied nations.

This becomes even more serious if senators insist that the President should have only 30 days in which to conduct a military operation. What is overlooked is that the planning and stationing of armed forces in different parts of the world must take place a long time before any emergency develops.

The prospects are that a third world war is much more likely if it is definitely established that the United States cannot make and commit itself to the necessary preparations with allied countries. Plans for military operations would have to be submitted to Congress in advance in order to be able to get congressional approval and assure allied nations that assistance would be continuous and would not be interrupted by any action of Congress.

There are many other problems that could arise. This is why the State Department and the Department of Defense are emphatic in their statements that the proposals to interfere with the operations of the chief executive in conducting foreign policy can only result in more difficulties. They insist that America's position could be weakened in the world with respect to treaties it has signed and agreements it has made with its allies in the past.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mr. BENTSEN. Mr. President, I have the honor of being a cosponsor of S. 2956, which I think is one of the most important pieces of legislation that will be considered during this session of the Senate, particularly because it deals with the very awesome problem and responsibility of when and how and why this Nation goes to war.

I think all of us see some evidence of how far the Chief Executive has gone in exercising responsibilities that really lie with the Congress when we see a distinguished and eminent statesman like the Senator from Arizona, who can make such a sincere plea, questioning the validity of a bill such as this, which I think once again restores the balance of power.

As I rise to speak in support of this bill, my thoughts turn to the people of Texas who sent me here to represent them. My thoughts turn also to the Constitution, which I have solemnly pledged to uphold.

When the American people go to the polls to elect their Senators and Representatives, they make their decisions in the full knowledge and assurance that these elected representatives will have in their hands the power of determining when, and where, and under what conditions this Nation will go to war.

When the American people go to the polls to elect a President, they cast their ballots in the full knowledge that the candidate they choose will be Commander in Chief of the Armed Forces, and that they will have to trust his judgment to act prudently, responsibly, and expeditiously in situations involving our national defense.

This in itself is an awesome responsibility.

Let me say again, this is no ploy to try to attack a President, this one or any past one, or to try to put the finger of blame on this particular military engagement or any past one. But the greater responsibility of committing our entire nation to armed conflict—with all its global implications—is too awesome to vest in any one man, however trusted he may be, however clear his mandate.

The framers of our Constitution perceived this. And so they made wise provisions for distributing that responsibility among the Members of Congress, who represent the broad geographical reaches of this country as well as the broad range of political and socioeconomic views in this diversified Nation.

The balance of power that is one of the miracles of this carefully phrased document is emphasized in article 1, section 8, which specifies that the Congress shall have the power to declare war.

This is not a responsibility that can be transferred, nor a prerogative that can be waived without denying the very foundation of our system of government.

But we in the Congress must use our keenest vision to perceive the realities of the world situation and deal with them courageously and forthrightly—just as our founders did in their time.

With all their wisdom, they could not envision the newborn nation of the 18th century transformed to a mighty world power in the 20th century.

That is what we have tried to provide for in this piece of legislation. We tried to adapt this fundamental principle of the division of powers so that the mechanics of the decision would fit the Nation of today. Nor could the founders of this Nation foresee this age of instant communication and nuclear umbrellas, of swiftly shifting alliances and delicate balances in the international power structure.

These are the realities that command our attention today.

The judgments we make, the actions we take—or fail to take—in the light of these realities can determine not just the survival of our small corner of this planet, but the planet itself.

It is not beyond the reach of our imaginations to envision a capricious act by a megalomaniac or an irrational power that could produce world chaos. We are keenly aware of the possibility that our Commander in Chief may have to use the full power of his office to act in an emergency, to respond to a surprise attack that places the United States or its citizens in instant jeopardy.

We are equally aware of our own obligations to the people and to our democratic institutions—and we make no apology for having our antennas stuck out there, trying to reflect the will of the people of the United States. That is a part of our solemn responsibility.

Mr. President, we constitute a deliberative body—and deliberation is the essence of democracy. But we know there are times of crises and moments of great decision when time does not allow for deliberation. Then our survival as a people may depend on the ability of our Government to act swiftly and decisively, in the person of our President. Then we have no choice but to place our trust in him. And that we do.

That trust will be strengthened if, in the regular conduct of foreign policy, we adhere strictly to the principle of separation of powers spelled out in our constitution. It can be strengthened further if we are all agreed on what constitutes an emergency.

That is what we are trying to write out in this piece of legislation, and a great deal of time and thought has been put into it. That is what S. 2956 attempts to define, with sufficient clarity to give the Chief Executive specific criteria for making decisions involving the use of armed force, when time is of the essence.

This proposal is not an attempt to tie the hands of the President. Quite the contrary. By establishing clear guidelines, it would free him of the hazards of indecision when quick action is essential to the national defense.

Again, this proposal does not imply a criticism of any President, past or present, nor is it a political ploy to curb the power of the President. Rather, it is intended to reassert the constitutional powers and obligations of the Congress and to reassure the citizens of this Republic that we are mindful of our obligations and our responsibilities, and that we intend to discharge them.

In my opinion, the adoption of this measure would have a salutary effect in restoring the confidence of the people in the processes of government. This system of ours is on trial today, and we have to restore a balance of trust. The people recognize the protection that is inherent in the system of checks and balances. We do not have to spell it out for them. They are keenly aware of the weakened position of the Congress in this past decade, and of the gradual disruption of the historic balance of power that has occurred since World War II.

Mr. President, statesmen are not concerned with recrimination or fixing the blame for past errors. We are concerned for future generations in this country. But if anything is to be gained from bitter experience, it is the knowledge that our survival as a democracy rests heavily on that delicate balance of power, as spelled out in the Constitution.

We have been silent witnesses to the disruption of that balance, and our silence has served as sanction. Now we are reaping the whirlwind of distrust and shattered confidence.

It is time—and past time—for us to act affirmatively to restore the constitutional role of the Congress in the conduct of foreign policy and to reaffirm the balance between the executive and the legislative branches which has been our strength in the past.

No President could deny the need to restore that balance.

No President should fail to welcome the shared responsibility of the Congress, as elected representatives of the people, in making the vital decisions of war and peace.

It should not be a gradual process, a dollar-by-dollar appropriation, but the Senate should face the question foursquare. It should be forced to bite the bullet on an issue such as this.

There can be and there will be disagreement between the President and the Congress, and that is the kind of healthy debate that we want in a democracy. But there must not be distrust. Disagreement is healthy. It is fundamental to the democratic process. When expressed in open, vigorous debate, it provides the surest route to a policy that can be accepted in good spirit by all the people.

Distrust is unhealthy. It questions motives rather than means, and its pathway is destructive. Its victims are unity, strength, and the ability to move forward.

If we are to move forward in the latter half of this century and fulfill our early promise as a democracy, we must revitalize the institutions that have fallen into disrepair. We must act in such a way as to restore the faith of the people in those institutions. We must insist firmly on the balance of power that, in its turn, insures the balance of trust.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MANSFIELD. Mr. President, I am sorry that I was not in the Chamber to hear all the Senator's speech; but, having heard him speak many times on this floor, I appreciate what he has had to say, and I am sure that the part I heard fits in with the beginning which I missed. It appears to me that in this body and in the other body there are Members who can be called "the President's men," just as there are advisers, past and present, who can be called by the same appellation. In their view, everything a President recommends is right; everything a President does is right; and any time Congress, a coequal branch of the Government, seeks to exercise the equality granted to us under the Constitution, we are accused of engaging in adversary proceedings.

The Senator has correctly indicated that what we are trying to do is to work in accommodation and in partnership with the President, not taking away any of his constitutional rights—perhaps retaining too much of what we have given to him, and for that we have no one but ourselves to blame—but merely asserting the rights of Congress under the Constitution to play its part in these difficulties which arise from time to time.

For example, I believe it was stated on the floor today and previously that there have been a total of approximately 183 interventions by U.S. troops in all parts of the world from the beginning days of this Republic. How many of those interventions were accompanied by a declaration of war? Not when the Marines were sent into Santo Domingo, Haiti, Nicaragua, and elsewhere. Not when we became involved in Korea. Not when we sent 25,000 troops into the Dominican Republic a few years ago. Not when we became involved in the present difficulty.

To the best of my knowledge—and this is a reiteration on my part of something I said earlier today—I do not recall a single instance when Congress or its leaders or the chairmen and the ranking minority members of the appropriate committees were called in before a decision was made involving the lives of the young men of this country and its economy, but always after action was underway and it was too late for recall.

What this bill does is to allow the President a great deal of leeway. In my opinion, I think we are bending over backward to uphold his constitutional powers and his authority as Commander in Chief. I think it is about time for the Senate at least to stand up on its hind legs and reassert its constitutional powers under the Constitution, and that power primarily is the power to declare war in this instance.

The last time war was declared was in 1941, after the President inaugurated action. But there was a justifiable reason then. The last time before that was in 1917, when, on the basis of attacks upon American ships on the high seas and other incidents, the President acted and then came to Congress; and that was very likely justifiable.

I do not recall whether there was a declaration of war against Spain in 1898. I do not recall whether there was a declaration of war against the confederacy in 1860–61. I do not recall whether there was a declaration of war in 1846 against the Republic of Mexico. In fact, the constitutional authority on the part of Congress to declare war—and we are the closest to the people—has been negated down through the years, and never more so than in the past two or three decades.

So I commend the distinguished Senator for his statement this afternoon. I hope that the men and woman who comprise the membership of this body will not be "the President's men" in this instance, and they are in too many—and I apply this to all Presidents, because the same thing happened under Kennedy and Johnson and Truman and Eisenhower and Roosevelt—but will be "the Senate's men," representing the mandate which has been handed to them by their people and exercising the authority which, in my opinion, is theirs under the Constitution.

I want to reiterate one more thing I said earlier today. I happened to be one of the signatories to the Southeast Asia Treaty. The other two were the late Secretary of State Foster Dulles and the late H. Alexander Smith of New Jersey. I signed that document, along with those two, not because I thought it was a good treaty, because I did not think so then and I do not think so now. I signed it after I had insisted that the phrase "due constitutional processes" be inserted in that treaty. A "due constitutional process" means coming to the Congress of the United States. I think we have lost the sense of what that term means. In doing so, we have abandoned a responsibility which is ours under the Constitution, and in doing so I think we have negated what the Founding Fathers had in mind—and the documents will bear it out—when this Republic was founded.

In allowing ourselves to be used in this manner—and I blame no one but ourselves—I do not think we are keeping faith with the people who sent us here, nor do I think we are upholding our oath under the Constitution of the United States.

Again, my deep and most sincere commendation to the distinguished Senator from Texas, who has made many contributions during his service in this body.

Mr. BENTSEN. I thank the distinguished majority leader, who I think we can all say never has been any President's man. He has always been a strong defender of the responsibilities as set forth under the Constitution and a defender of the rights of the role of Congress and its charge of responsibility to the people.

What we are really saying in this bill is that if there is going to be a "blast-off," we would like to be consulted ahead of time, not just asked to come in for the crash landing.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. JAVITS. Mr. President, I rise to compliment the Senator on his address and the obvious thought and historical research which he has given to his position. He is one of the original cosponsors of a war powers bill. He came to this quite voluntarily—he was not solicited by me—in deep concern about the future of our country which he shares with so many men who are sponsoring this legislation—men with different ideological views and views on national defense and views on what the policy of the country should be.

The one thing about all this which strikes me so forcefully is the fact that we have, unhappily, come to define a "strong" President as one who is willing to employ the Armed Forces of the United States in hostilities. The theory, somehow, is that if one is to be an effective President, he has got to fight. I thought that the history of astuteness in government was to see how often we could win without fighting. Yet this seems to be the criterion, to facilitate and make it easy to fight.

The Founding Fathers themselves spoke of the awesomeness of the decision to unleash the dogs of war, as one of them wrote, and the intolerable consequences of war for the whole body politic. The men who back this legislation, like the Senator from Texas, are not pacifists. We have served our country, and we have no illusions about the world in which we live, its demands, and its hazards to life if one would retain freedom.

The Senator from Texas subscribes so eloquently to the great tradition which feels that the surest guarantee of freedom is the checks and balances which we have built into the Constitution.

The Senator comes from a great State—an enormous empire—in this country. Its people are probably as close to the frontier in their outlook, dynamism, and faith in their own abilities and their own two hands, probably as much, if not more than, any other State in the Union today. So I count it a great element of strength with respect to this measure that the distinguished Senator from Texas has joined in it. He has made a very important contribution to its ultimate success.

I am grateful to him. But much more than that, this is not an easy road for me or anyone else to take, especially in view of the kind of opposition which seems to

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indicate that, somehow or other, we are jeopardizing the security of this Nation. I am very strongly fortified when such Senators as the Senator from Texas come to the same conclusion quite independently, based on their own study and convictions of the matter.

Mr. BENTSEN. I thank the distinguished Senator from New York. He is an eminent scholar in this and many other fields. The Founding Fathers were very wise when they decided that the most awesome of our responsibilities was that of the Nation's going to war, and that such a decision should rest in the hands of the representatives of the people.

I now yield to the distinguished Senator from Virginia (Mr. SPONG).

Mr. SPONG. Mr. President, I thank the distinguished Senator from Texas. I should like to join the majority leader and the Senator from New York in commending the able Senator from Texas for his remarks this afternoon. As has already been pointed out, the Senator from Texas introduced his own version of the war powers legislation and gave the Committee on Foreign Relations the benefit of his views with his testimony. He has followed up his interest in this legislation with the presentation he has made to the Senate this afternoon.

The distinguished Senator from Texas comes from a State with a long and fine military tradition. It is, in many respects, similar to the State that I have the honor to represent. I do not believe either one of us would espouse legislation which we believed would in any way impair the security needs of the United States of America.

What we seek to do, as has been noted before, and as the Senator from Texas has so eloquently stated here, is to restore the role of the people and the people's representatives in the warmaking process.

I like what the Senator said about biting the bullet. I believe that the Senate and Congress must face this constitutional dilemma over war powers—and face it now. I do not believe that referring this matter to another committee, or referring it to a commission to study for 1 or 2 or more years, is facing the responsibility the Senate has, especially since a bill has been reported, after extensive hearings and exhaustive consideration of a number of pieces of legislation, including the one sponsored by the Senator from Texas.

So I commend him for what he has had to say.

As an addendum to the remarks of the distinguished majority leader, I would like to say that there have been five declarations of war: the War of 1812; the Mexican War; the Spanish-American War; World War I; and World War II. Those are the five instances in American history when Congress has followed through with its constitutional mandate.

Again I commend the distinguished Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from Virginia who has labored long, diligently, and constructively on this piece of legislation.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, I will keep these comments as short as I can.

I want to make it perfectly clear, early in this debate, that I am not quarreling one bit with the desire of some of my colleagues to restate the constitutional intent. I am not quarreling with their feeling that there should be a closer liaison between Congress and the President at all times.

However, I think, unless we actually change the Constitution, we are going about this entirely in the wrong way. What we are doing, in effect, is trying to amend the Constitution with legislation. I sincerely feel that that is unconstitutional. That would have to be decided by the courts. By the way, the courts have never put their hand on this question, yet it has been coming up constantly for nearly 200 years.

The only remarks that come to mind quickly were those made by William Howard Taft which supported the contention—and this was when he was on the Supreme Court—that the President has these exclusive powers and that they cannot be meddled with by Congress.

I agree with the Senator from New York that we need a strong President. I do not agree that his strength should be judged on his willingness to go to war. I think the strength of the President must be judged, for example, on his willingness to stay at peace. Although it came as a surprise to many of my friends in my own party, I supported President Nixon in his recent trip to China. I think it took a lot of courage on his part. That is the kind of man we need in the White House. It also took a great deal of courage for Jack Kennedy to do what he did in relation to Cuba, but it had to be done.

I do not think that we will ever judge the qualities of a President merely by his desire to go to war. I never particularly agreed with President Truman when he was in office, although I have repeatedly said that, as time goes on, he is getting to look like the best President we have had in this century. I think we will find that the reason is, as history records it, he was willing to assume responsibility.

Now, if assuming the responsibility of defending this Nation, defending its people, and defending it from harassment and invasion, means a strong President, then I would not want to be in this country when we had a President so weak that he would yield to any country, whoever attacks us.

As a layman, I should like to express my interpretation of the Constitution and present, offhand, some arguments that I feel are pertinent.

Under article I, section 8, of the Constitution, the Congress has the right to declare war.

Now this was one of the big stumbling blocks in the Articles of Confederation.

We had just finished, or were about to finish, a very long struggle, and the founders could not agree that the Congress again should have the power to make war.

So, when the Constitution of the Republic was written, they remembered these experiences and they gave us merely the power to declare war.

Now, throughout the nearly 200-year history of this Republic, I have been able to find about 196 instances of the Presidential use of Armed Forces abroad. They go from practically nothing to major wars.

Mr. President, I ask unanimous consent that a chronological list of 192 military hostilities abroad without a declaration of war be printed in the RECORD at the conclusion of my remarks. They appear in an article published in the West Virginia Law Review.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. Mr. President, there is no question that we have the right to declare war. We have never given that right up. We never had a right to make or conduct war. That is one of the great points that the American people misunderstand and that we misunderstand. We could declare war every 5 minutes here. However, only the President of the United States could call out the troops. We might recall also that the framers did use the words "sole power to commence or conduct war", which is the unsupported way the sponsors of this bill read the declaration clause.

We might argue further that the power to call forth the militia to execute the laws of the Union, suppress insurrections and repel invasions might be construed to give us the power to actually send troops abroad. I do not think that means that. I think that we have witnessed, at least within my lifetime, President Hoover's calling out the troops in Washington, I think back in 1929, to repel, not an insurrection, but possible trouble in Washington. We witnessed another occasion a few years ago when the troops of the National Guard were asked to stand by in the event there was trouble occasioned by demonstrators in Washington. This is what these clauses mean.

It also provides that we may raise and support an army. We have never given up that power. The Committee on Armed Services, on which I serve, has been working almost daily in an effort to bring to the Senate an authorization bill which would authorize expenditures to raise and to support armies. Here is a very effective way by which Congress can influence military policies.

We have gone a little further than that. Some of our colleagues seem to forget that we have now given the Armed Services Committees of both Houses the right, and in fact, the duty to set the individual service strengths of each of the Armed Forces of our country.

It provides further that we may provide and maintain a navy. We have not taken that power away from ourselves, nor has the President. In fact, if I were to be critical in any one area of the Presidents in the past, it would be concerning the fact that we have not maintained a navy adequately enough. We have a navy today that I feel is second in the world.

Our committee has worked on that matter every year. In a few weeks I hope that we will have asked the Senate to support the request for a very large sum of money to provide and maintain a navy.

It provides further that we may make rules for the Government and regulation of the land and naval forces. We do not often become actively engaged in this. However, I believe that under the subcommittee headed by the Senator from North Carolina (Mr. ERVIN) there have been hearings and will be additional hearings held on the courts martial processes of the armed services. This is what we mean by making rules for the Government and regulation of the land and naval forces.

I might state parenthetically that the Constitution does not mention an air force. We might consider that. In fact, I think that during the course of this debate, I might suggest to my friend, the Senator from New York, that we write in a provision for the Air Force. I would not want him left with a loophole that big.

I have already read the provision for calling forth the militia.

That is the power that is given us in Congress by the Constitution of the United States. We cannot make war. We can declare war. We have been asked to declare war only five times in the history of this country.

The President, on the other hand, can point to four distinct powers under article II as the root of his warmaking authority. He is vested with all the executive power of a sovereign nation, he is responsible for the conduct of our foreign affairs, he has the right and duty to execute the laws, and he is designated Commander in Chief.

The critics of the President argue that the Constitutional Convention intended, by giving Congress the power "to declare war," to confer the power "to commence war." It must be remembered, however, that the Constitutional Convention specifically rejected a clause giving Congress the power "to make war" and substituted for it only the power "to declare war." By doing this, the framers decidedly meant to leave with the executive the power to repel sudden attacks. That they meant to leave more is implicit in the many passages of the Federalist where Madison, Jay, and Hamilton focus on the safety of the people as the first objective of Government.

Mr. President, I have read those papers.

For example, Jay wrote:

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first. The Federalist, No. 3, at 10 (rev. ed. 1901).

The framers had just come through a long and difficult war, the successful prosecution of which had been greatly hampered by the Continental Congress. They were concerned with correcting the weaknesses of their past political experience. One way to do this was by infusing national strength through the new Executive Office. Thus, Hamilton asserts in The Federalist No. 73:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

Prof. David Watson, the author of a textbook on constitutional law, that of all the explanations of why the Constitution should make its President Commander in Chief:

> . . . none seems more reasonable than the fact that during the Revolution Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy.

Nor does the power to command forces conflict with the design of the Founding Fathers to avoid a monarchy. Charles Evans Hughes, a great Justice of Supreme Court, wrote in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.

Mr. President, I read these things to try to keep this whole debate in context. I would hope that the American people would become aware of what is being said on the floor on both sides. I think it is extremely important that American citizens really understand the power of the Congress is to declare war and the power of the President is to be Commander in Chief.

I repeat what I have often said, that if the American people want that changed, I believe that the only proper way to do it is through a constitutional amendment.

I might add that I have yet to meet or to talk with or to write to or receive correspondence from any man, who is still alive, be he Democrat or Republican, who has ever been connected with the State Department, or with any department of the Government concerned with foreign policy, who argues against the power resting where it now is. In fact, they will all emphatically state that it should not be changed.

Mr. President, I am going to request from several of these prominent people who have written me permission to have their correspondence printed in the RECORD. If they decline, I will not do it. However, I expect that they will allow me to do it. I think that the American people should be well aware of what we are doing and what it takes.

In closing, the distinguished Senator from Texas made the remark that is made whenever anyone feels we should make some changes; namely, that we are living in a different world, that the power of communication is so rapid and the power of detection from the sky has become so absolute that we should allow a lengthy process to be undertaken.

If I were going to try to use that argument, I would defeat myself immediately by saying that might have worked back in the Mexican War or when the American Army was in my territory fighting 200 Indians, or it might have worked even in World War I and possibly in World War II.

But we have an amendment, for example, that is going to be offered by the Senator from Arkansas (Mr. FULBRIGHT) that would destroy the President's use of nuclear weapons without the prior explicit authorization of Congress. I have notified the leadership I will not agree to any time limitation on that amendment. I have no objection to the authors of the bill writing any amendments they feel needed for so-called perfection purposes, although I do not think they can offer enough amendments to make it acceptable enough for this Senator to enjoy.

This action, if we take it, is one step. Assuming that the House would approve it, and assuming that the President signed it, and assuming that the Supreme Court holds it to be constitutional, the grave question in my mind, among other things, is, what will follow this? If we assume by law we have the power to make war, how long is it going to be before we have legislation introduced stating we will not only have the power to make war, but the power to conduct war? Again, I do not think any political body here or anywhere else has the ability to make strategic or tactical decisions.

I believe in our great concept of government where the man in uniform is sort of set aside from the rest of us and protected by civilian Secretaries is a sound one, but when we get into hostilities the man trained in the art of warfare must take over that war and this is probably the major problem we are confronted with in Vietnam today.

We went to war and failed to ask the advice of the man in uniform how to fight and win that war. This decision on the part of whoever was responsible for it will go down in history as one of the major mistakes ever made by any country going into war.

I am going to speak on this matter at great length. It is a subject I became interested in over 8 years ago. It is one filled with interesting study and I look forward to reading both sides of the argument. However, I could not allow what has been said after my remarks, although it did not pertain to my remarks to remain in the RECORD without trying to keep the RECORD reasonably straight.

Mr. President, I yield the floor.

EXHIBIT 1

[From 74 West Virginia Law Review 88–119, "War Powers Legislation," by J. Terry Emerson]

APPENDIX

A. CHRONOLOGICAL LIST OF 192 U.S. MILITARY HOSTILITIES [1] ABROAD WITHOUT A DECLARATION OF WAR

1798–1800: *Naval War with France.* When John Adams became President in 1797, he faced the serious problem of strained relations between France and the United States, in which France had made it a practice to seize American merchant ships and to manhandle their crews. Adams first attempted to

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Footnotes at end of article.

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negotiate a settlement but, when the French demanded exorbitant bribes and loans, his envoys rejected the proposals and departed.

Adams, thereupon asked Congress for the power to arm merchant ships and take other defensive measures. Congress responded by creating a Navy Department, voting appropriations for new warships, and authorizing the enlistment of a "Provisional Army" for the duration of the emergency. In July, 1798, the French treaties and consular conventions were abrogated.

The result was a "quasi-war" during which neither country declared war. The American Navy attacked only French warships and privateers and fought primarily for the protection of commerce. Some ninety French ships were captured during this naval war. In 1800 a convention was agreed to and peace was achieved. State, 2.[2]

1800: *West Indies.* On April 1, U.S. Marines, participated in the action between the U.S. schooner *Enterprise* and a Spanish man-of-war brig in the West Indies. USMC, I, 40.

1801–1805: *War with Tripoli.* During the early years of the Republic, the United States following the practice of several European nations, paid tribute to North African pirates. Shortly after Jefferson became President, the Pasha of Tripoli, dissatisfied with the apportionment of tribute, declared war on the United States (May 1801). Jefferson thereupon sent warships to the Mediterranean. After naval actions and landings under Commodore Preble, an inconclusive treaty of peace with Tripoli was signed in 1805. Congress passed various enabling acts during the conflict but never declared war. State, 3.

1806: *Mexico (Spanish territory).* Captain Z. M. Pike, with a platoon of troops and on the orders of General James Wilkinson, invaded Spanish territory at the headwaters of the Rio Grande, apparently on a secret mission. State, 16.

1806-1810: *Gulf of Mexico.* American gunboats operated from New Orleans against Spanish and French privateers. State 16.

1810: *West Florida (Spanish territory).* Governor Claiborne of Louisiana, on orders from the President, occupied with troops disputed territory east of the Mississippi as far as the Pearl River. No armed clash occurred. State, 16.

1813: *West Florida (Spanish territory).* On authority granted by Congress, General Wilkinson seized Mobile Bay with 600 soldiers; a small Spanish garrison gave way without fighting. State, 16.

1813-1814: *Marquesas Islands, South Pacific (claimed by Spain).* U.S. Marines built a fort on one of the islands to protect three captured prize ships. State, 16.

1814-1825: *Caribbean Area.* There were repeated engagements between American ships and pirates both ashore and offshore about Cuba, Puerto Rico, Santo Domingo, and Yucatan. In 1822, Commodore James Biddle employed a squadron of two frigates, four sloops of war, two brigs, four schooners, and two gunboats in the West Indies. The United States sunk or captured 65 vessels. Marine detachments participated in at least 14 of these actions. State, 16.

1815: *Second Barbary War (Algiers).* In 1812 an Alger.an naval squadron operated against American shipping in the Mediterranean. In one attack an American merchantman was captured and its crew imprisoned. In March, 1815, Congress passed an act that authorized the use of armed vessels "as may be judged requisite by the President" to provide effective protection to American commerce in the Atlantic and the Mediterranean. A naval squadron of 10 vessels under Commodore Stephen Decatur attacked Algiers, compelling the Dey to negotiate a treaty. Decatur also demonstrated at Tunis and Tripoli. All three states were forced to pay for losses to American shipping, and the threats and tribute terminated. State, 3.

1816–1818: *Spanish Florida.* During the "First Seminole War," U.S. forces invaded Spanish Florida on two occasions. In the first action, they destroyed a Spanish fort harboring raiders who had made forays into United States territory. In the second, Generals Jackson and Gaines attacked the Seminole Indians because their land was a haven for escaped slaves and border ruffians. In the process of pursuing the Indians, United States forces attacked and occupied Spanish posts. State, 17.

1817: *Amelia Island (Spanish Territory).* Under orders from President Monroe, U.S. forces landed and expelled a group of smugglers, adventurers, and freebooters. State, 17.

1818: *Oregon.* The *U.S.S. Ontario* landed at the Colombia River and in August took possession. Russia and Spain asserted claims to the area. Rogers, 96.

1820: *West Africa.* Marines participated in the capture of seven slave schooners by the U.S. corvette *Cygne* off Cape Mount and the Gallinos River on the west coast of Africa during the period from April 5 through 12. USMC, I, 64.

1820–1822: *West Coast of South America.* Marines were aboard three of the U.S. ships stationed off the west coast of South America from 1820 until May, 1822, to protect American commerce during the revolt against Spain. USMC, I, 65.

1822: *Cuba (Spanish Territory).* U.S. naval forces landed on the northwestern coast of Cuba and burned a pirate station. State, 17.

1823: *Cuba (Spanish Territory).* Between April and October naval forces made a number of landings in pursuit of pirates, apparently incident to Congressional authorization which became operative in 1822. State, 17.

1824: *Cuba (Spanish Territory).* In October, the *U.S.S. Porpoise* landed sailors to pursue pirates during a cruise authorized by Congress. State, 17.

1825: *Cuba (Spanish Territory).* In March, British and American forces landed on two offshore Cuban islands to capture pirates who were based there. The action appears to be incident to Congressional authority. State, 17.

1827: *Greece.* Apparently acting pursuant to legislation, in October and November, United States forces from the *U.S.S. Warren* and the U.S. schooner *Porpoise* engaged in seven actions against pirate vessels off Greece and made landings on three Greek Islands. State, 17.

1828: *West Indies.* In December, incident to legislation, Marines participated in the capture of the Argentinean privateer *Federal* by the U.S. sloop *Eric* at St. Bartholomew Island, W.I. USMC I, 67.

1830: *Haiti.* On June 5, marines participated in the capture of the slave brig *Feniz* by the U.S. schooner *Grampus* off Cape Haitien, Haiti. USMC, I, 67.

1831–1832: *Falkland Islands (Argentina).* American forces under Captain Duncan of the *U.S.S. Lexington* landed to investigate the capture of three American sailing vessels. The Americans succeeded in releasing the vessels and their crews and dispersed the Argentine colonists. State, 17.

1832: *Sumatra.* A force of 250 men from the *U.S.S. Potomac* landed to storm a fort and punish natives of a town for an attack on American shipping and the murder of crew members. State, 18.

1833: *Argentina.* Between October 31 and November 15, at the request of American residents of Buenos Aires, a force of 43 marines and sailors landed from the *U.S.S. Lexington* to protect American lives and property during an insurrection. State, 18.

1835: *Samoan Island.* On October 11, eighty marines and sailors burned the principal village on the island to avenge harsh treatment meted out to American seamen. Paullin, 729.

1835–1836: *Peru.* Marines from the *U.S.S. Brandywine* landed at various times at Callao and Lima to protect American lives and property during a revolt, and to protect the American Consulate at Lima. State, 18.

1837: *Mexico.* On April 16, marines joined in the capture of a Mexican brig-of-war by the *U.S.S. Natchez* off Brasos de Santiago for illegal seizure of two American merchantmen. USMC, I, 70.

1839: *Sumatra.* In January, American forces from the U.S. sloop *John Adams* and the U.S. frigate *Columbia* landed at Muckle, Sumatra, to protect American lives and property and to punish natives of two towns for attacking American ships. USMC, I, 70.

1840: *Fiji Islands.* American forces totaling 70 officers and men, landed on July 12 and 26 to punish natives of two towns for attacking American exploring and surveying parties. State, 18.

1841: *Samoan Islands.* On February 25, an American force of 70 marines and seamen from the *U.S.S. Peacock* landed to avenge the murder of a seaman. They burned three native villages. USMC, I, 71.

1841: *Drummond Island (Kingsmill Group, Pacific Ocean).* On April 6, marines from the *U.S.S. Peacock* landed and burned two towns to avenge the murder of a seaman by natives. State, 18.

1843: *China.* In June and July, a clash between Americans and Chinese at the Canton trading post led to the landing of 60 sailors and marines from the *St. Louis.* Paullin, 1095–1096.

1843: *West Africa.* In November and December, four U.S. vessels from Commodore Perry's squadron demonstrated and landed various parties (one of 200 marines and sailors) to discourage piracy and the slave trade along the Ivory Coast and to punish attacks made by the natives on American seamen and shipping. In the process, they burned villages and killed a local ruler. The actions appear to have been pursuant to the Treaty of August 9, 1842, with Great Britain relative to the suppression of the slave trade. State, 18.

1844: *Mexico.* President Tyler deployed our forces to protect Texas against Mexico, anticipating Senate approval of a treaty of annexation, which was rejected later in his term. Corwin, 245.

1844: *China.* On June 18, Marines from the U.S. sloop *St. Louis* went ashore at Canton, China, to protect American lives. USMC, I, 72.

1845: *African coast.* On November 30, Marines joined in the capture of the slave bark *Ponus* by the U.S. sloop *Yorktown* off Kahenda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 72.

1846: *Mexico.* President Polk ordered General Scott to occupy disputed territory months preceding a declaration of war. Our troops engaged in battle when Mexican forces entered the area between the Nueces and Rio Grande Rivers. The fighting occurred three days before Congress acted. U.S., 378.

1849: *Smyrna (Now Izmir, Turkey).* In July, the *U.S.S. St. Louis* gained the release of an American seized by Austrian officials. State, 18.

1850: *African coast.* On June 6, Marines joined in capturing a slave ship by the U.S. brig *Perry* off Luanda, Africa. The action was consistent with the Treaty of 1842. USMC, I, 77.

1851: *Turkey.* After a massacre of foreigners (including Americans) at Jaffa, the U.S. Mediterranean Squadron was ordered to demonstrate along the Turkish coast. Apparently, no shots were fired, but the display amounted to compulsion. State, 19.

1851: *Johanna Island (East of Africa).* The *U.S.S. Dale* delivered an ultimatum, bombarded the island, and landed a force to punish the local chieftain for the unlawful imprisonment of the captain of an American whaler, State, 19.

1852–1853: *Argentina.* Several landings of marines took place in order to protect American residents of Buenos Aires during a revolt. State, 19.

1853: *Nicaragua.* American forces landed at Greytown and remained for two days (March 11–13) to protect American lives and interests during political disturbances. State, 19.

1853: *China.* On September 11, a small Marine force from the U.S. steamer *Mississippi* boarded a Siamese vessel in the Canton River and put down a mutiny. USMC, I, 78.

1853: *West Coast of Africa.* In accordance with the Treaty of 1842, on December 3, Marines joined in the capture of the slave schooner *Gambrill* by the U.S. frigate *Constitution* off the Congo River on the west coast of Africa. USMC, I, 78.

1853–1854: *Japan.* Commodore Matthew C. Perry led an expedition consisting of four men-of-war to Japan to negotiate a commercial treaty. Four hundred armed men accompanied Perry on his initial landing at Edo Bay in July, 1853, where he stayed for ten days after refusing to leave when ordered. He then sailed south, landing a force at the Bonin Islands, where he took possession, and at the Ryukyus, where he established a coaling station. In March, 1854, he returned to Edo Bay with ten ships and 2,000 men, landed with an escort of 500 men, and after six weeks signed a treaty with Japanese authorities at Kanagawa. The whole campaign was on executive authority. State, 19.

1854: *West Coast of Africa.* Pursuant to the Treaty of 1842, on March 10, Marines joined in the capture of a slave brig by the U.S. brig *Perry* off the west coast of Africa. USMC, I, 78.

1854: *China.* American and British forces consisting of 150 English sailors, 60 U.S. sailors, and 30 merchant sailors landed at Shanghai on April 4 and stayed until June 7 to protect their nationals during a battle between Chinese imperial and revolutionary troops. State, 19.

1854: *Greytown, Nicaragua.* In July, the commander of an American naval vessel demanded reparation after an American official was injured during a riot. When this was not forthcoming, the vessel bombarded the town. Foreign property, including British and French, was destroyed. President Pierce defended the action of the American commander in his annual message to Congress. State, 19.

1854: *Okinawa.* On July 6, a force of 20 Marines from the U.S. steamer *Powhatan* went ashore on Okinawa and seized a religious shrine in punishment of persons who murdered an American. On November 17, Marines and seamen from the U.S. sloop *Vincennes* went ashore again at Okinawa to enforce treaty provisions. USMC, I, 78.

1855: *China.* There were two brief actions by U.S. warships, the first a landing in May at Shanghai to protect American interests there, the second an attack in August at Hong Kong against pirates. State, 20.

1855: *Fiji Islands.* In September and October, marines from the sloop-of-war *John Adams* landed four times to seek reparations for depredations against Americans and to force natives to honor a treaty. The landing parties fought skirmishes and burned some villages. USMC, I, 79.

1855: *Uruguay.* In August and November, U.S. naval forces put sailors ashore to protect American interests in Montevideo. State, 20.

1856: *Panama, Republic of New Granada.* U.S. forces landed and stayed two days to protect American interests, including the Isthmian railroad, during an insurrection. (By the treaty of 1846 with New Granada, the United States had acquired the right to protect the Isthmus and to keep it open, in return for guaranteeing its neutrality.) State, 20.

1856: *China.* In October and November, the U.S. warships *Portsmouth* and *Levant* landed 280 officers and men to protect American interests at Canton during hostilities between the British and the Chinese and in response to an unprovoked assault upon an unarmed boat displaying the U.S. flag. The Americans took and destroyed four Chinese forts. State, 20.

1858: *Uruguay.* Forces from two U.S. warships landed in January to protect American lives and property during a revolt in Montevideo. The action was taken in conjunction with the forces of other powers at the request of the local government. State, 20.

1858: *African coast.* On September 8, Marines joined in the capture of a ketch laden with slave food by the U.S. sloop *Marion* off the southeast coast of Africa. The action was consistent with the Treaty of 1842. USMC, I, 80.

1858: *Fiji Islands.* On October 6, about 60 marines and sailors from the U.S.S. *Vandalia* landed to punish natives for the murder of two American citizens and engaged in a fierce conflict with 300 native warriors. State, 21.

1858–1859: *Turkey.* American citizens were massacred in 1858 at Jaffa and mistreated elsewhere. In the face of Turkish indifference, the Secretary of State asked the U.S. Navy to make a display of force along the Levant. State, 21.

1858–1859: *Paraguay.* From October 1858, to February, 1859, an American expedition went to Paraguay to demand redress for an attack on a naval vessel in the Parana River during 1855. Apologies were forthcoming after a display of force, which amounted to compulsion. Congress authorized the action. State, 21.

1859. *African coast.* On April 21 and 27, Marines joined in the capture of a slave ship near the Congo River, Africa. The action was consistent with the Treaty of 1842. USMC, I, 81.

1859: *Mexico.* Two hundred U.S. soldiers crossed the Rio Grande in pursuit of the Mexican bandit Cortina. State, 21.

1859: *China.* On July 31, forces from the U.S.S. *Mississippi* landed at Woosung and Shanghai, where they remained until August 2, to protect American interests and restore order. The American consul had called on the ship for assistance. State, 21.

1860: *Kissembo, West Africa.* On March 1, 40 Marines and seamen from the sloop-of-war *Marion* landed twice to prevent the destruction of American property during a period of local unrest. State, 21.

1860: *Colombia (State of Panama).* On September 27, the Marine guard from the sloop *U.S.S. St. Mary's* landed to protect American interests during a revolt. This may have been authorized pursuant to the Treaty of 1846. State, 21.

1863: *Japan.* On July 16, when Japanese shore batteries at Shimonoseki fired on a U.S. merchant ship, the *U.S.S. Wyoming* retaliated by firing on three Japanese vessels lying at anchor. The shots were returned, and, by the time the action was over, there were casualties on both sides. State, 21.

1864: *Japan.* From July 14 to August 3, U.S. forces protected the U.S. Minister to Japan when he visited Yedo concerning some American claims against Japan. The forces also were designed to impress the Japanese with American power. LRS, IV, 52.

1864. *Japan.* Between September 4 and 8, naval forces of the United States, Great Britain, France, and the Netherlands, jointly forced open the Straits of Shimonoseki, which had been closed in violation of commercial agreements. Shore batteries were destroyed and 70 cannon seized. State, 21.

1865–1866: *Mexican border.* In late 1865, General Sheridan was dispatched to the Mexican border with 50,000 troops to back up the protest made by Secretary of State Seward to Napoleon III that the presence of over 25,000 French troops in Mexico "is a serious concern to the United States." In February, 1866, Seward demanded a definite date be set for withdrawal and France complied. Though American forces did not cross the border, the threat of foreign military operations was clear and imminent. U.S., 580–581.

1865: *Panama.* American forces from the *U.S.S. St. Marys* landed to protect American interests during a revolt. This was apparently implied by the Treaty of 1846. State, 22.

1866: *China.* Various landings by over 100 marines and seamen were made in June and July at Newchang to punish an assault on the American Consul and to guard diplomats. State, 22.

1867: *Formosa.* On June 13, 181 Marines and seamen from the *U.S.S. Hartford* and *U.S.S. Wyoming* landed to punish natives who had murdered the crew of a wrecked American merchantman. Several huts were burned. USMC, I, 91.

1867: *Nicaragua.* On September 6, Marines landed and occupied Managua and Leon. USMC, I, 92.

1868: *Japan.* From February 1 until April 4, landings were made at Hiago, Nagasaki, and Yokohama to protect American lives and property during local hostilities. USMC, I, 92.

1868: *Uruguay.* At the request of local Uruguayan authorities, several landings were made from five U.S. steamers at Montevideo during the month of February in order to protect American lives and property during an insurrection. State, 22.

1868: *Colombia.* An American force landed at Aspinwall in April to protect the transit route during the absence of local police. This was impliedly permitted by the Treaty of 1846. State, 22.

1870: *Mexico.* On June 17, the *U.S.S. Mohican* pursued a pirate ship up the Tecapan River near Mazatlan, landed a party of Marines and seamen, and destroyed it during a pitched battle. State, 22.

1871: *Korea.* In June, American landing forces under Admiral Rodgers captured five Korean forts after a surveying party, granted permission to make certain surveys and soundings, had been attacked. No treaty or convention was in effect. State, 22.

1873: *Colombia.* In May and September, nearly 200 American forces landed at the Bay of Panama to protect American lives and interests during local hostilities. The actions were impliedly allowed by the Treaty of 1846. State, 22.

1873–1882: *Mexico.* U.S. troops repeatedly crossed the Mexican border to pursue cattle thieves. Mexico occasionally reciprocated. Such incursions were finally recognized as legitimate by an agreement in 1882. State, 23.

1874: *Hawaii.* In February, a party of 150 men from two U.S. vessels landed to preserve order at the request of local authorities. State, 23.

1876: *Mexico.* On May 16, at the request of the U.S. Consul at Matamoras, a small American force was landed to preserve order when the town was temporarily without a government. State, 23.

1882: *Egypt.* On July 14, over 100 forces from the *U.S.S. Lancaster, U.S.S. Quinnebaug,* and *U.S.S. Nipsic* landed at Alexandria, when the city was being bombarded by the British navy, in order to protect American interests there, including the American consulate. State, 23.

1885: *Colombia (State of Panama).* On January 18, March 16, March 31, April 8, April 11, April 12, and April 25, American forces landed to protect American property and guard valuables in transit over the Isthmus during local revolutionary activity, an action authorized under the Treaty of 1846. USMC I, 96.

1888: *Korea.* On June 19, 25 men from the *U.S.S. Essex* landed at Chemulpo and marched to Seoul to protect American residents during unsettled political conditions. The action was requested by the American Minister. State, 23.

1888–1889: *Samoan Islands.* In 1886, the

Footnotes at end of article.

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German consul announced that the Sanwan group was henceforth a German protectorate, an action that brought the United States and Great Britain together in opposition. By 1889, Germany and the United States were close to a direct confrontation. The United States and Germany, together with Great Britain, shared certain treaty rights in Samoa for the maintenance of naval depots. In November 1888, U.S. Marines landed from the *U.S.S. Nipsic* to protect American interests after civil strife broke out ashore. In January, 1889, German forces landed, and, when those forces were attacked by the natives, German ships shelled the island. This action by Germany aroused the American public, and Congress appropriated $500,000 for the protection of American lives and property on the island and $100,000 for the development of Pago Pago harbor. The United States also ordered two more warships to the scene. All three powers had warships on the scene and an untoward event might have touched off war had not a hurricane in March, 1889, destroyed all the warships except one British vessel. Thereafter, the Germans invited the three powers to a conference, which was agreed to and held in Berlin. In April, 1889, they established a three-power protectorate there. In 1899 the Samoans were divided, the United States acquiring Tutuila. State, 23.

1888: *Haiti.* In December, American warships made a display of force to obtain the release of an American merchant vessel captured by a Haitian warship. The Haitian Government surrendered the ship and paid an indemnity after Admiral Luce gave an ultimatum ordering its release before sunset. State, 24.

1889: *Hawaii.* On July 30, at the request of the American Minister in Honolulu, the *U.S.S. Adams* sent a marine guard ashore to protect American lives and property during revolutionary disorder. State, 24.

1890: *Argentina.* The *U.S.S. Tallapoosa* landed a party in July to protect the American Consulate and Legation in Buenos Aires during a revolt. State, 24.

1891: *Navassa Island, Haiti.* American forces from the *U.S.S. Kearsarge* landed on June 2 to protect American lives and property during a period of unrest. The action was taken pursuant to Congressional action. State, 24.

1891: *Bering Sea.* An American squadron operated from June to October, jointly with British naval vessels, seizing four schooners. Rogers, 109.

1891: *Chile.* In August, 102 Americans of the South Pacific station landed at Valparaiso during a revolt in order to protect the American Consulate and American lives. State, 24.

1894: *Brazil.* The U.S. Navy engaged in gunfire and a show of force in January to protect American shipping at Rio de Janeiro during a revolt of the Brazilian navy. President Cleveland stated our action "was clearly justified by public law." State, 24.

1894: *Nicaragua.* In July, American forces landed at Bluefields to protect American interests during a revolt. State, 24.

1894–1896: *Korea.* On July 24, at the request of the American Minister, a force of 21 Marines and 29 sailors landed at Chemulpo and marched to Seoul to protect American lives and property during the Sino-Japanese War. A Marine guard remained at the American Legation until 1896. State, 24.

1894–1895: *China.* On December 6, 1894, Marines disembarked from the *U.S.S. Baltimore* at Taku and marched to Tientsin to protect American lives and property during the Sino-Japanese War. The landing party maintained order until May 16, 1895. USMC, I, 98.

1895: *Colombia (State of Panama).* Marines from the *U.S.S. Atlanta* landed in March to protect American interests during a revolt. This appears to have been authorized by treaty. State, 24.

1895–1896: *Korea.* During internal disorders from October 11, 1895, to April 3, 1896, the American Legation at Seoul was protected by Marines from various ships. Ellsworth, 60.

1896: *Nicaragua.* On May 2, Marines were put ashore at Corinto by the *U.S.S. Alert* during revolutionary disorders to protect American interests. USMC, I, 99.

1898: *Nicaragua.* On February 7, Marines landed at San Juan del Sur by the *U.S.S. Alert* to protect Americans against disorders. USMC, I, 99.

1898–1899: *China.* American forces guarded the Legation at Peking and the Consulate at Tientsin from November, 1898, to March, 1899, during a period of unrest. State, 25.

1899: *Nicaragua.* On February 24, in response to a petition from foreign merchants during an insurrection, Marines landed to protect life and property at San Juan del Norte and Bluefields. State, 25.

1899: *Samoan Islands.* Sixty Americans landed on February 14 from the *U.S.S. Philadelphia*, and on April 1 joined a British force in efforts to disperse native rebels. This may have been under color of treaty or statute. State, 25.

1899–1901: *Philippine Islands.* The United States employed 126,468 troops against the Philippine Insurrection without a declaration of war after the Treaty of Peace with Spain was concluded. Presumably the United States acted to suppress the rebellion under authority of the Treaty of Peace, which transferred to it the sovereignty possessed by Spain in the Philippine Islands. 40 Ct. of Claims 26–32.

1900–1901: *"Boxer" Rebellion (Peking).* In 1900 President McKinley sent 5,000 troops to join the international military force organized for the relief of foreign legations besieged in Peking by Chinese "Boxers." Using troops already mobilized for the Spanish-American War and the Philippine Insurrection, McKinley did not seek authority from Congress. Peace terms were concluded at an international conference, and a peace Protocol was signed September 7, 1901. The Protocol was not submitted to Congress. Because of the obvious inability of Chinese authorities to control local disorders, the United States acquired the right to maintain a guard at Peking for defense of the American Legation and to station military forces at certain points in Chinese territory to keep open communications between Peking and the sea. (Earlier, in 1858, the United States had acquired the right by treaty to station naval vessels in Chinese waters.) State, 3–4.

1901: *Colombia (State of Panama).* American forces went ashore in late November and stayed until December to protect American property and to keep transit lines open across the Isthmus during serious political disturbances. This apparently was authorized by the Treaty of 1846. State, 25.

1902: *Colombia (State of Panama).* Marine guards landed in April to protect American lives and the railroad across the Isthmus during civil disorders. They continued to land at various times between April and November. This appears to have been authorized by the Treaty of 1846. State, 25.

1903: *Honduras.* American forces disembarked at Puerto Cortez in March to protect the American Consulate and port facilities during a period of revolutionary activity. State, 25.

1903: *Dominican Republic.* In April, 29 Marines landed at Santo Domingo, where they remained for three weeks to protect American interests during a period of political disturbances. State, 25.

1903–1904: *Syria.* A Marine guard landed and remained for a few days at Beirut in April to protect the American Consulate during a Moslem uprising. Also our Mediterranean Squadron demonstrated at Beirut from September to January and at Smyrna the next August. State, 25.

1903: *Panama.* A revolution leading to the independence of Panama from Colombia broke out in November. Marines landed from the *U.S.S. Dixie* to prevent Colombian troops from carrying out a threat to kill American citizens, after Commander Hubbard had refused to allow the Colombians to transport their troops across the Isthmus. Marine guards remained on the Isthmus from the date of Panamanian independence (November 4, 1903) until January, 1914, to protect American interests during the construction of the Canal. This was allowed under the Hay-Bunau-Varilla Treaty. State, 25–26.

1903–1904: *Abyssinia.* Twenty-five American marines were sent to protect the U.S. Consul General from November 18, 1903, to January 15, 1904, while he was negotiating a treaty with the Emperor. USMC, I, 109.

1904: *Dominican Republic.* On January 3, 7, and 17, and on February 11, over 300 Marines landed at Puerto Plata, Sosua, and Santo Domingo to protect American lives and property during a revolt. USMC, I, 108–109.

1904: *Morocco.* A squadron demonstrated in Moroccan waters in June to force the release of a kidnapped American. A Marine contingent had landed on May 30 to protect the Consul General. State, 25.

1904: *Panama.* American troops were used to protect American lives and property at Ancon in November when a revolt seemed imminent. This action seems to have been authorized by treaty. State, 25.

1904–1905: *Korea.* In January, 1904, over 100 American troops were sent to guard the American Legation at Seoul because of the outbreak of the Russo-Japanese War. They remained until November 1905. In March, 1904, marines assisted in the evacuation of American nationals. USMC, I, 108.

1905–1909: *Cuba.* An American squadron demonstrated off Havana, and, in September, marines landed to protect American interests during a revolution. In October, marine and army units landed and took up quarters in many Cuban towns in connection with the temporary occupation of the country under a provisional governor appointed by the United States. This occupation was within the scope of the provision of the 1903 Treaty of Relations between the two countries, which gave the United States the right to intervene to preserve order. The occupation lasted until January, 1909. State, 26.

1907: *Honduras.* On March 18, during a war between Honduras and Nicaragua, the *U.S.S. Marietta* disembarked 10 men to guard the American Consulate at Trujillo. The *U.S.S. Paducah* also landed forces at Laguna and Choloma on April 28. State, 26.

1910: *Nicaragua.* In May, one hundred men from the *U.S.S. Paducah* landed at Greytown to protect American lives and property during a revolt. The *U.S.S. Dubuque* also engaged in shows of force. Joined combat was "hourly expected." State, 26.

1911: *Honduras.* Sixty men from the *U.S.S. Tacoma* and *Marietta* went ashore at Puerto Cortez during a revolt to protect American interests. The American Commander threatened to use force if necessary. State, 26.

1911–1912: *China.* American forces made six landings to protect American interests during the initial stages of a revolution. They were stationed at Foochow, Chinkiang, Peking, Hankow, Nanking, Shanghai, and Taku. This may have occurred pursuant to treaty rights acquired during the "Boxer" Rebellion. State, 27.

1912: *Panama.* During June and July, at the request of local political groups, American troops supervised elections outside the Canal Zone. This was impliedly authorized by the Hay-Bunau-Varilla Treaty. State, 27.

1912: *Cuba.* In May, American troops landed in eastern Cuba during a revolt and remained for three months to protect American interests. This appears to have been authorized by the treaty of 1903. State, 27.

1912: *Turkey.* A troop detachment from the *U.S.S. Scorpion* assisted in the protection of the diplomatic corps at Istanbul during the Balkan War. State, 27.

1912: *Nicaragua.* During a civil war, the President of Nicaragua asked the United States to protect its citizens resident there. Acting on a recommendation of the American Minister, President Taft ordered sizable landings of marines in August and September, 1912. Political stability returned to Nicaragua by January, 1913, but a detachment of marines was kept in Managua to guard the American Legation after the rest of the American troops withdrew. The Legation guard was reinforced in 1922 and remained until August 1, 1925, State, 27.

1913: *China.* U.S. forces landed in July at Chapei and Shanghai to protect American interests. Rogers reports there were many demonstrations and landing parties by United States forces for protection in China continuously from 1912 to 1941. He writes: "In 1927, for example, this country had 5,670 troops ashore in China and 44 naval vessels in its waters. In 1933 we had 3,027 armed men ashore. All this protective action was in general terms based on treaties with China ranging from 1858 to 1901." Rogers, 117.

1913: *Mexico.* In September a few Marines disembarked at Claris Estero, during a period of civil strife, to aid in the evacuation of American citizens. State, 27.

1914: *Haiti.* Marines landed in January, February, and August to protect American citizens during a period of unrest. State, 27.

1914: *Dominican Republic.* During a period of revolutionary activity, U.S. naval forces fired at revolutionaries who are bombarding Puerto Plata, in order to stop the action. Also, by a threat of force, fighting in Santo Domingo was prevented. State, 28.

1914: *Occupation of Vera Cruz, Mexico.* On April 9, 1914, an American naval officer and 9 crewmen from the *U.S.S. Dolphin* anchored off the coast at Tampico, Mexico, were arrested and marched through the streets by local authorities. They were released and an apology was extended as soon as the local Mexican commander learned of the incident. Admiral Mayo, commander of the American squadron, also demanded a 21-gun salute to the American flag. The Mexicans refused and President Wilson promptly ordered the North Atlantic battleship fleet to Tampico. On April 20, he addressed Congress in a joint session and asked for authority to use the armed forces. While Congress debated, Wilson learned that a German steamer was headed toward Vera Cruz to unload munitions for Huerta, and he decided to direct the naval action against Vera Cruz instead of Tampico. American armed forces landed at Vera Cruz, and, after an armed engagement resulting in 400 casualties, the Americans occupied the city on April 22. The same day, apparently after the fighting began, Congress passed a joint resolution which declared that the President was "justified in the employment of the armed forces of the United States to enforce his demand for unequivocal amends for certain affronts and indignities committed against the United States," but that "the United States disclaimed any hostility to the Mexican people or any purpose to make war upon Mexico." By November, 1914, American troops had left Mexican soil. State, 4.

1915: *Dominican Republic.* On August 15, the 5th Marine Regiment arrived at Puerto Plata to protect American lives and property during a revolutionary outbreak. Their protective mission lasted until October 12, 1915. USMC, I, 116.

1915–1934: *Haiti.* In July, at the initiative of the Executive, the United States placed Haiti under the military and financial administration of the United States, in part to protect American lives and property and in part to forestall European intervention to collect debts. Marines were stationed in Haiti until 1934. The occupation was sanctioned by a treaty signed and ratified by the Senate in February, 1916, but the first months of the occupation were on executive authority alone. State, 28.

1916–1924: *Dominican Republic.* President Wilson ordered the occupation of Santo Domingo in May, 1916, owing to local unrest. At one point, 3,000 marines were ashore. The United States placed a military governor in the Dominican Republic but turned political affairs over to the Dominicans in 1922. U.S. troops withdrew in 1924, and a general treaty signed that year formally sanctioned the previous occupation. State, 28.

1916: *China.* American forces landed at Nanking to quell a riot taking place on American property. Apparently this was authorized by a treaty. State, 28.

1916–1917: *Pershing Expedition into Mexico.* In October, 1915, the United States recognized the Carranza regime as the *de facto* government in Mexico. At the same time, Mexican rebel, Pancho Villa, directed a campaign against the United States. In January, 1916, Villa's followers massacred 18 American mining engineers in Santa Ysabel, Mexico.

Then, on March 9, 1916, 400 of Villa's men raided Columbus, New Mexico, and killed 17 Americans. The American public was incensed, and Wilson delayed sending an expedition only until he could obtain Carranza's consent. On March 13, 1916, when Carranza's government acceded, Wilson ordered General John J. Pershing to take U.S. Army units into Mexico. On March 16, Pershing crossed the border with 6,000 troops. On the following day, Congress adopted a joint resolution introduced by Senator Robert LaFollette sanctioning the use of the armed forces. Until then, Wilson had been relying on the Acts of 1795 and 1807 relative to employing the armed forces whenever there is "imminent danger of invasion."

Villa eluded Pershing, and the size of the U.S. expedition soon grew to such proportions (12,000 men) that Carranza protested and demanded its withdrawal, threatening war. Wilson on June 18 called out the National Guard and incorporated it into the Army; 150,000 militia were ordered to the Mexican border. But neither country really wanted war, and the crisis gradually subsided. Wilson decided to withdraw all American troops from Mexico in February, 1917. State, 5–6.

1917: *Armed Atlantic Merchant Ships.* In February, President Wilson asked Congress for authority to arm U.S. merchant vessels with defensive guns, but Congress refused to pass such a law. Thereupon President Wilson acted, on his own authority, to equip American merchant vessels with guns and gunners assigned to them from the Navy. His action occurred prior to the declaration of war on Germany which did not take place until April 6, 1917. Willoughby, III, 1568.

1917: *Cuba.* American troops landed in February at Manzanilla to protect American interests during a revolt. Various other landings were made, and, though the revolt ended in April, 1917, troops remained until 1922 because of continued unsettled political conditions. This was authorized by the Treaty of 1903. State, 28.

1918: *China.* American troops landed at Chungking to protect American lives during a political crisis. Apparently this was done pursuant to a treaty. State, 28.

1918–1919: *Mexico.* U.S. troops entered Mexico to pursue bandits three times in 1918 and six times in 1919. In August, 1918, there was a brief skirmish between American and Mexican troops at Nogales. State, 28.

1918–1920: Expeditions to Russia. Following the Bolshevik revolution in Russia in 1917, Allied expeditions landed, in 1918, at Murmansk and then Archangel. American troops first landed in August, 1918, with most arriving in Archangel Harbor on September 4. Though Armistice Day came on November 11, 1918, the American forces remained until June 27, 1919. At Archangel, the U.S. contributed some 5,208 men and suffered some 549 causalties, including 244 deaths.

The Allies also landed units in Siberia in August and September of 1918 where Bolshevik troops were fighting a force of 65,000 Czech soldiers who were trying to fight their way eastward. The Japanese sent 74,000 soldiers; the American sent 8,388; and the British and French provided minor contingents. The American forces began embarking for home on January 17, 1920, and the last units left on April 1, 1920.

President Wilson, who acted without Congressional approval, agreed to participate in the Allied expeditions to aid the anti-Bolsheviks, to help several thousands of Czech troops get back to their homeland, and to forestall possible Japanese expansionist plans in Siberia. State 6.

1919: Turkey. On May 14, a Marine detachment from the *U.S.S. Arizona* landed to guard the U.S. Consulate at Constantinople during the Greek occupation of the city. USMC, I, 121.

1919: Honduras. A small American force went ashore at Puerto Cortez to maintain order in a neutral zone during an attempted revolt. State, 29.

1918–1920: Panama. American troops went outside the Canal Zone, on request of the Panamanian Government, to supervise elections. This apparently was authorized by treaty. LRS, 55.

1920: China. American forces landed at Kiukang and Youchow to protect American lives and property. This may have been authorized by treaty. State, 29.

1920: Guatemala. Forty men from the *U.S.S. Tacoma* and *Niagara* went inland to Guatemala City to protect the American Legation and other American interests during local fighting. State, 29.

1920–1922: Siberia. The United States stationed a marine guard on Russian Island, Bay of Vladivostok, to protect United States radio facilities and other property. State, 29.

1921: Panama-Costa Rica. American naval squadrons demonstrated for one day on both sides of the Isthmus to prevent war between the two countries over a boundary dispute. This was impliedly authorized by treaty. State, 29.

1922: Turkey. In September forces from several American warships went ashore with the consent of both Greek and Turkish authorities to protect American interests when the Turkish forces were advancing on the city Smyrna. State, 29.

1922–1923: *China.* There were five landings by Marines from April, 1922, to November, 1923 (at Peking, Tientsin, Taku, Tungshan, and Masu Island) to protect Americans during periods of unrest. This may have been authorized by treaty. USMC, I, 122–123.

1924–1925: *Honduras.* There were intermittent landings from February, 1924, to April, 1925, to protect American lives and property during local unrest. In March, 1924, the *Denver* put ashore 167 men and in September, the *U.S.S. Rochester* landed 111 additional forces. USMC, I, 123–124.

1924–1925: *China.* From September 1924, to December, 1924, over seven landings were made by the Marines at Shanghai to protect Americans during a period of unrest. This may have been authorized by treaty. USMC, I, 124–125.

1925: *Panama.* As a result of strikes and rent riots, and at the request of Panamanian officials, 600 troops from the Canal Zone entered Panama City in October and remained for 11 days to maintain order. This conformed to American treaty rights. State, 29.

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1926–1933: *Nicaragua*. When local disturbances broke out in 1926, the Nicaraguan Government requested that American forces undertake to protect lives and property of Americans and other foreigners. In 1927, five thousand soldiers were put ashore.

Rebel political leader, Sandino, who received Communist propaganda and financial support, turned the situation into a real civil war. In January, 1928, Sandino was forced to flee to Mexico by Marine forces, but backed by Communist aid, he returned in 1930 and Nicaragua flared again. By 1933 an all-Nicaraguan Guardia Nacional became strong enough so that all U.S. Marines could leave. In all the marines had engaged in 150 clashes and lost 97 men, 32 in action. Rebel losses were approximately over a thousand.

The occupation was initiated entirely on the executive responsibility of President Coolidge. The Democrat minority bitterly critized his policy as a "private war" and as "imperialism," but did not question the President's authority. State, 6–7; and Dupuy and Baumer, 168.

1926: *China*. American forces landed at Hankow in August and September and at Chingwangtao in November to protect American interests. This may have been authorized by Treaty. State, 29.

1927–1928: *Armed Actions in China*. Anti-foreign incidents in China reached a climax in 1927.

In February, a U.S. expeditionary battalion landed at Shanghai, and in March, 1,228 Marine reinforcements landed there. By the end of 1927, the United States had 44 naval vessels in Chinese waters and 5,670 men ashore. In 1928, when the Nationalists had gained greater control over Chinese territory and purged themselves of Communist support, the United States reached a separate accord with the Nationalists, and, in July, signed a treaty which constituted United States recognition of the Nationalist Government. A gradual reduction of United States forces in China began in the same month. State, 7–8.

1932: *China*. In February, American forces landed at Shanghai to protect American interests during the Japanese occupation of the city, apparently under treaty. State, 30.

1933: *Cuba*. During a revolution, United States naval forces demonstrated offshore, but no forces landed. This was pursuant to the Treaty of 1903. State, 30.

1934: *China*. In January, marines from the *U.S.S. Tulsa* landed at Foochow to protect the American Consulate, apparently pursuant to treaty rights. USMC, I, 129.

1936: *Spain*. From July 27, through September 19, the *Quincy*, carrying a marine guard, served in the Spanish war zone. The vessel touched at several ports, sometimes evacuating American nationals. (Master rolls.)

1937–1938: *China*. Beginning on August 12, 1937, several marine landings were made at Shanghai to protect American interests during Sino-Japanese hostilities. Marine strength in China, assigned under the International Defense Scheme, reached 2,536 men by September 19. USMC, II, 2–3.

1940: *British possessions in Western Atlantic*. On September 3, President Roosevelt informed Congress that he had agreed to deliver a flotilla of destroyers to Great Britain in exchange for a series of military bases granted us on British soil along the Western Atlantic. American troops and ships occupied a number of these points in the following months. The President did not ask approval from Congress. State, 8–9.

1941: *Greeland (Denmark)*. In April, after the German invasion of Denmark, the U.S. Army occupied Greenland under agreement with the local authorities. Congress was not consulted, and the action appears to be contrary to an express Congressional limitation on using troops outside the Western Hemisphere. State, 8–9.

1941: *Iceland*. By Presidential order, U.S. troops occupied Iceland on July 7, the same day Congress was notified. The President did not consult Congress in advance, and in fact, the action clearly violated an express restriction that Congress had enacted a year before. Both the Reserves Act of 1940 and the Selective Service Act of 1940 provided that United States troops could not be used outside the Western Hemisphere. Iceland is generally placed with the section on Europe in each World Atlas and is some 2,300 miles away from the United States. State, 8–9.

1941: *Dutch Guiana*. In November, the President ordered American troops to occupy Dutch Guiana by agreement with the Netherlands Government-in-exile. Again there was no Congressional authority for the military occupation. State, 8–9.

1941: *Atlantic Convoys*. By July 7, President Roosevelt had ordered U.S. warships to convoy supplies sent to Europe to protect military aid to Britain and Russia. By September, our ships were attacking German submarines. There was no authorization from Congress. Corwin, 247.

1946: *Turkey*. In April, during USSR-Iran hostilities and USSR–Turkey tensions, a U.S. carrier unit was deployed as an affirmation of U.S. intentions to shore up Turkey against Soviet imperialism. USN, 15712.

1946: *Trieste*. In July, during the Trieste ownership dispute, U.S. Naval units were dispatched to the scene with open warfare imminent. USN, 15712.

1946: *Greece*. During the political crisis in September, naval units were requested by the U.S. Ambassador. One carrier was on the scene. USN, 15712.

1948: *Palestine*. On July 18, a Marine consular guard was detached from the U.S.S. *Kearsarge* and sent to Jerusalem to protect the U.S. Consular General there. One consular official was assassinated, and two Marines were wounded during the Arab–Israeli War. USMC, III, 7.

1947: *Mediterranean*. On January 7, Fleet Admiral Nimitz implied Marine reinforcements sent from the U.S. to Mediterranean waters served as a warning to Yugoslavia that the 5,000 U.S. Army troops in Trieste were not to be molested. USMC, III, 5.

1948–1949: *China*. A platoon of Marines was sent to Nanking in November, 1948, to protect the American Embassy when the fall of the city to Communist troops was imminent. The guard was withdrawn on April 21, 1949. In November and December, Marines were sent to Shanghai to aid in the evacuation of American Nationals and to protect the 2,500 Americans in the Communist encircled city. USMC, III, 8–9.

1950–1953: *Korean Conflict*. Communist armies of North Korea invaded South Korea on June 25, 1950. Later that day the United Nations Security Council denounced the aggression, called for an immediate cease-fire, and asked member nations "to render every assistance to the United Nations in the execution of this resolution." On June 27, President Truman announced that he had "ordered United States air and sea forces to give the Korean Government troops cover and support" and had ordered the Seventh Fleet to prevent any attack on Formosa and also to prevent the Chinese Government on Formosa from conducting any air and sea operations against the Communist mainland. The Security Council, on the same day, adopted a resolution "that the members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

The Department of State prepared a memorandum, on July 3, 1950, which defended the authority of the President to take the necessary action to repel the attack on Korea, using the argument that the "President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

Truce talks began in July, 1951, but it was not until July, 1953, that an armistice was signed. State, 9–11.

1954–1955: *Tachen Islands (China)*. From July, 1954, to February, 1955, U.S. Naval units were employed in evacuation of U.S. civilians and military personnel. Five carriers were on the scene. USN, 15712.

1956: *Egypt*. On November 1 and 2, a Marine battalion evacuated over 1,500 persons, mostly U.S. nationals, from Alexandria, Egypt, during the Suez crisis. USMC, III, 34.

1957: *Indonesia*. On February 14, the 3rd Marines took up station 550 miles northeast of Sumatra ready to intervene to protect U.S. nationals during the Indonesian revolt. USMC, III, 34.

1957: *Taiwan*. During Communist shelling of Kinmen Island in July, naval units were dispatched to defend Taiwan. Four carriers were on the scene. USN, 15712.

1953: *Venezuela*. In January, when mob violence erupted in Caracas, a company of Marines embarked on board the *U.S.S. Des Moines* and remained on station off Venezuela ready to protect American interests. USMC, III, 36.

1958: *Indonesia*. In March, a Marine company, attack squadron, and helicopter squadron were deployed with elements of the Seventh Fleet off Indonesia prepared to protect U.S. citizens and interests. USMC, III, 36.

1958: *Lebanon Operation*. A period of civil unrest began in Lebanon in May, 1958, led by Moslems who reportedly were aided by the United Arab Republic's President Nasser. When a pro-Nasser coup took place in Iraq July 14, President Chamoun of Lebanon appealed for assistance to President Eisenhower. On July 15, President Eisenhower sent 5,000 marines to Beirut to "protect American lives" and to "assist" Lebanon in preserving its political independence. The President publicly stressed the provocative Soviet as well as Cairo radio broadcasts. Eventually, 14,000 American soldiers and marines occupied strategic areas in Lebanon, but with orders not to shoot unless shot at.

On the day of the initial landings, the United States asked the United Nations Security Council to establish an international police force to preserve Lebanon's independence, but the Soviet delegate vetoed the American resolution. Further, the Soviet Union announced that it would hold military maneuvers near the Turkish and Iranian frontiers.

On August 21, the General Assembly passed a resolution calling on the member states to respect one another's territorial integrity and observe strict non-interference in one another's internal affairs. The resolution requested that practical arrangements be made leading to the withdrawal of troops from Lebanon. On September 26, the United States notified the Secretary-General of the United Nations that it had been possible to withdraw a portion of the American forces and to work out a schedule to withdraw the remainder by the end of October. State, 11–12.

1959–1960: *Cuba*. In the period from November 20, 1959, to February 15, 1960, the 2d Marine Ground Task Force was deployed to protect U.S. nationals during the Cuban crisis. USMC, III, 42.

1961: *Show of Naval Force in Dominican Waters*. On May 30, Dominican dictator Rafael Trujillo was assassinated. Political conditions in the Dominican Republic steadily deteriorated during the summer and early autumn. Then, on November 15, General Hector Trujillo and General Jose Trujillo, brothers of the slain dictator, returned to the island. Secretary Rusk stated three days later they appeared "to be planning an attempt to reassert the dictatorial domination

of the political and economic life of the country . . ." He added: "the United States is considering the further measures that unpredictable events might warrant."

On November 19, U.S. Navy ships took up positions three miles off the Dominican coast, and Navy jet planes patrolled the shoreline. The show of force produced the desired result because the Trujillo brothers and other members of the family departed for Miami before the day was over. According to one authority, "It later transpired that the Kennedy Administration was prepared to order U.S. Marines ashore if President Joaquin Balaguer had so requested or if the Trujillos had ousted Balaguer from the presidency." ERR, 449–500.

1962: *Thailand*. On May 17, the 3d Marine Expeditionary Unit landed in Thailand to support that country during the threat of Communist pressure from outside. On July 1, President Kennedy ordered 1,000 Marines in Thailand to return to their ships, and on July 30, the U.S. completed the withdrawal of the 5,000 Marines sent there. USMC, III, 56–57.

1962: *Cuban Naval Quarantine*. On October 24, confronted with a build-up of Soviet surface-to-surface missile bases in Cuba, President Kennedy ordered a quarantine 500 miles wide in the waters around Cuba. The blockade was aimed both at preventing delivery of additional Russian missiles and obtaining the removal of those offensive Russian weapons already in Cuba.

The crisis appears to date from Tuesday, October 16, when the Government's inner circles first began to discuss the idea of a blockade. On October 20, the First Armored Division began to move out of Texas into Georgia, and five more divisions were placed on alert. The base at Guantanamo Bay was strengthened. The Navy deployed 180 ships into the Caribbean. The Strategic Air Command was dispersed to civilian airfields, and the B–52 bomber force was ordered into the air fully loaded with atomic bombs.

On October 22, President Kennedy went on television to explain before the nation the situation in Cuba and the reasons for the quarantine. The President first notified members of Congress that same day. On Tuesday, October 23, the Council of the Organization of American States formally authorized by a unanimous vote "the use of armed forces" to carry out the quarantine of Cuba. Apparently, one day later the blockade went into effect.

Other notable dates include October 27, when the Defense Department announced that 24 troop-carrier squadrons of the Air Force Reserve were being recalled to active duty; October 28, when Premier Khrushchev, in a message to President Kennedy, announced he had ordered the dismantling of Soviet missile bases in Cuba, November 11, when Deputy Secretary of Defense Gilpatric announced the United States had counted 42 medium-range missiles being removed from Cuba on Soviet ships; and November 20, when President Kennedy announced he had ordered the lifting of the naval blockade.

On December 6, U.S. Navy planes verified that 42 Soviet jet bombers were being transported home from Cuba. The United States apparently closed the book on the Cuban crisis about this date. LRS, I, 24–25; and LRS, II, 1–18.

1963: *Haiti*. On May 4, a Marine battalion was positioned off the coast of Haiti for five days when trouble developed in that country. USMC, III, 61.

1964: *Congo*. In August, the United States sent four C–130 transport planes with approximately 100 flight and maintenance crews and paratroopers to protect the aircraft while on the ground. The purpose was said to be to provide airlift for the regular Congolese troops to combat areas during a rebellion against the government of Premier Tshombé and President Kasavubu. Earlier, in July, the United States had sent 68 officers and men to Leopoldville to advise the Congolese army. Both actions followed the withdrawal on June 30 of the last of the 20,000-man force which the United Nations had placed in the Congo in order to keep the peace.

Subsequently, in November, rebels in the Stanleyville area held over a thousand foreign civilian hostages, including 60 Americans, who were subjected to many atrocities and whom the rebels threatened to kill. When negotiations between the rebels and the United States failed, the United States and Belgium arranged to land Belgian paratroopers to undertake a humanitarian rescue operation.

On November 24, the force was airdropped by U.S. transport aircraft in the Stanleyville area and liberated most of the hostages. Belgian paratroopers undertook a second rescue operation on November 26, capturing the rebel town of Paulis. In all, about 2,000 foreigners were rescued. President Johnson assumed "full responsibility" for the United States role in the decision to transport the Belgian troops in American planes. Davids, 296–310.

1964–1971: *Armed actions in Laos*. At the request of the Laotian Government, unarmed United States jet planes began flying reconnaissance missions over the Plaines des Jarres in May, 1964, in order to gather information on rebellious forces headed by leftist Pathet Lao. After two jets were shot down on June 6 and 7, President Johnson decided to carry out a limited reprisal. On June 9, U.S. Navy jets attacked a Communist gun position in north central Laos, and this was followed by 36 "sorties" which knocked out a number of Communist posts. The United States has continued to play a role of air support in Laos to date. State 30.

1964–1971: *Armed Action in Vietnam*. Following the Geneva Accords of 1954 which provisionally divided Vietnam at approximately the 17th parallel, the Communists held control of the northern half of the country while anti-Communists maintained a precarious hold on the south. A U.S. Military Assistance Advisory Group, which assumed responsibility for the training of the South Vietnamese army after the French relinquished command, was steadily expanded as Communist guerrilla activity supported and directed from the north intensified. By 1962, there were 12,000 U.S. advisors.

In August, 1964, at the request of President Johnson following an attack on American naval vessels in the Gulf of Tonkin, Congress passed the Gulf of Tonkin Resolution, unanimously in the House and by a vote of 88–2 in the Senate. The Resolution expressed approval and support of "the determination of the President as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." Also it provided the United States is "prepared as the President determines to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." (South Vietnam is a protocol state of SEATO). The joint resolution was signed into law on August 10 as Public Law 88–408.

Both this resolution and the SEATO agreement itself have been claimed as authority for United States activities in Vietnam. In addition, several appropriations laws providing for support of the hostilities in Southeast Asia are purported to represent authority for our engagement there. The Tonkin Gulf Resolution was subsequently repealed by P. L. 91–672 (Jan. 12, 1971).

Since assuming office in January, 1969, President Nixon has ordered the withdrawal of 364,000 troops. The latest reduction will lower the total of American military forces in South Vietnam to 184,000 by December, 1971. State, 12–14.

1965: *Dominican Republic*. A revolt broke out in the Dominican Republic on April 24, 1965, and on April 28 President Johnson announced that Dominican military authorities had requested assistance from the United States in protecting the lives of United States citizens living in that country. The President added that he had ordered the Secretary of Defense to put the necessary troops ashore to protect Americans, and that this assistance would be available to the nationals of other countries as well.

The first United States military contingent to the Dominican Republic consised of 400 men. On May 2, the President announced that he was sending 200 more men immediately and that an additional 4,500 would go at the earliest possible moment. He cited the increasing Communist control of the revolutionaries, as well as the urgent need for food, medical supplies, and other humanitarian assistance to the Dominican people, as reasons for his decision. At their peak, 21,500 United States troops were in the Dominican Republic.

On May 5, a five-man OAS peace commission succeeded in achieving a cease-fire agreement among the contending forces, and on May 6, the OAS voted to create an Inter-American Peace Force to assist in restoring peace and order. The arrival on May 21 of the first contingent of a Brazilian force permitted the withdrawal of 1,700 United States troops, and as other foreign contingents arrived, additional United States troops were withdrawn. By the end of 1965, the Inter-American Peace Force totaled 9,400. In the meantime, a formula to restore constitutional government, worked out by an OAS Ad Hoc Commission, made considerable progress. The inauguration of a civilian, Hector Garcia Godoy, as provisional president on September 3, 1965, was a major step toward the restoration of stability. State, 14–15.

1967: *Syrian Coast*. In June of 1967, during the Arab-Israeli War, President Johnson ordered the U.S. 6th Fleet to move to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict. The action was taken as a counter-move against the Soviet Union after Premier Kosygin told President Johnson over the hotline that the Soviets "had reached a decision that they were prepared to do what was necessary, including using the military" to stop the advance of Israeli troops into Arab territory, and would give the Israelis just five hours to halt their operations. Star, D–4.

1967: *Congo*. In July, Lt. General Mobutu, who had now become President of the Congo, was challenged by a revolt of about 170 white mercenaries and a few hundred Katangese troops. The Congolese army numbered around 32,000, but required outside logistical support in order to crush the revolt.

Responding to a direct appeal from President Mobutu, on July 8 the United States sent three C–130 military transport aircraft to the Congo, with their crews, to provide the Central Government with "long-range logistical support." Approximately 150 American military men arrived with the planes.

The small American task force immediately began to drop several plane loads of paratroopers and their equipment and continued to fly troops until November. On July 15, the first aircraft was withdrawn; on August 4, the second; and on December, the last. LRS, III.

1970[3] *Cambodia*. From April 30 to June 30, U.S. troops attacked Communist sanctuaries in order to ensure the success of the program of Vietnamization. LRS, IV, 57.

Footnotes at end of article.

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SOURCES FOR COMPILATION [1]

Barck, Wakefield, and Lefler, *The United States A Survey of National Development*, 1950. (Cited as U.S.)

Clark, James R., "Right to Protect Citizens in Foreign Countries by Landing Forces." Memorandum of the Solicitor for the Department of State, October 5, 1912. (3rd rev. ed. with suppl. appendix up to 1933) (Not cited, but used generally as cross-check.)

Corwin, *President: Office and Powers* (3d rev. ed. 1948). (Cited as Corwin.)

Davids, Jules. "The United States in World Affairs 1964." Council on Foreign Relations, 1965. (Cited as CFR, I)

Dupuy and Baumer, *The Little Wars of the United States*, 1968. (Cited as Dupuy and Baumer.)

Ellsworth, Harry A., "180 Landings of United States Marine. 1800–1934." Marine Corps Historical Section, 1934. (Cited as Ellsworth.)

The Evening Star, Washington, D.C. May 12, 1971. (Cited as Star.)

Library of Congress, Legislative Reference Service. "A Selected Chronology on Cuba) September 21, 1961–October 23, 1962." (Cited as LRS, I.)

Library of Congress, Legislative Reference Service. "A Selected Chronology on Cuba, October 23, 1962–January 1, 1963." (Cited as LRS, II.)

Library of Congress, Legislative Reference Service. "The Situation in the Congo." January 22, 1968. (Cited as LRS, III.)

Library of Congress, Legislative Reference Service. "Background Information on the Use of United States Armed Forces in Foreign Countries." 1970 Revision. (Cited as LRS, IV.)

Paulin, Charles O., "Early Voyages of Naval Vessels to the Orient." United States Naval Institute Proceedings, V. 36–37 (1910–1911). (Cited as Paulin)

Rogers, James F., *World Policing and the Constitution*, 1945. (Cited as Rogers.)

U.S. State Department, Historical Studies Division, "Armed Actions Taken by the United States Without a Declaration of War, 1789–1967." Research Project No. 806A, August, 1967. (Cited as State.)

United States Department of the Navy, "Summary of Wars/Near Wars Since 1946." 116 Cong. Rec. 15712–15713, May 15, 1970. (Cited as USN.)

United States Marine Corps, Historical Branch. "A Chronology of the United States Marine Corps 1775–1934," V. I, 1965. (Cited as USMC I.)

United States Marine Corps, Historical Branch, "A Chronology of the United States Marine Corps 1935–1946," V. II, 1965. (Cited as USMC II.)

United States Marine Corps, Historical Branch, "A Chronology of the United States Marine Corps 1947–1964," V. III, 1971. (Cited as USMC III.)

United States Marine Corps Master rolls, available at Unit Diary Section, HQMC. (Cited as Master rolls.)

Willoughby, W. W., *The Constitutional Law of the United States*, sec. ed., V. III, 1929. (Cited as Willoughby, III.)

Worsnop, Richard L., "Inter-American Peacekeeping," Editorial Research Reports, V. I, No. 23, June 23, 1965. (Cited as ERR.)

B. FIVE U.S. MILITARY ACTIONS ABROAD UNDER A DECLARATION OF WAR

War of 1812: (1812–1815) On June 18, Congress approved a declaration of war against England. The war was officially concluded by the Treaty of Ghent, December 24, 1814, but the major battle of the war occurred with an American victory at New Orleans in January, 1815.

War Between the United States and Mexico: (1846–1848) Congress declared war on May 11, 1846. The Treaty of Guadalupe Hidalgo ended the conflict on February 2, 1848.

Spanish-American War: (1898) On April 25, 1898, the United States declared war against Spain. The peace treaty ending hostilities was signed in Paris on December 10, 1898.

World War I: (1917–1919) The United States declared war on Germany on April 6, 1917, and against Austria on December 7, 1917. The Treaty of Versailles was signed on June 28, 1919. The treaty was never ratified by the United States.

World War II: (1941–1945) The United States declared war on Japan December 8, 1941, and on Germany and Italy December 11, 1941. The war ended in Europe on May 8, 1945. Japan signed the formal surrender in Asia on September 2, 1945.

C. FORTY-THREE MAJOR MILITARY ACTIONS FOR BROAD STRATEGIC AIMS

1798–1800: *Naval War with France.* The U.S. fought primarily for the protection of its free commerce.

1801–1805: *War with Tripoli.* The U.S. upheld its right of free commerce.

1814–1825: *Caribbean Area.* The U.S. sank or captured 65 vessels to protect American commerce.

1815: *Second Barbary War.* The U.S. acted to provide effective protection to American commerce.

1844: *Mexico.* President Tyler deployed our troops to protect Texas one year before annexation.

1846: *Mexico.* President Polk ordered General Scott to occupy disputed territory between the Nueces and the Rio Grande.

1853–1854: *Japan.* Commodore Perry's expedition of 2000 men and ten ships advanced American commercial interests.

1864: *Japan.* U.S. Naval units participated in a joint effort to force open the Straits of Shimonoseki for the free conduct of international commerce.

1865–1866: *Mexican border.* General Sheridan and 50,000 U.S. troops backed up a demand from Secretary of State Seward that French forces withdraw from Mexico.

1888–1889: *Samoan Islands.* Germany and the United States were close to warfare due to their rivalry over naval privileges in the Samoans.

1890–1901: *Philippine Islands.* The United States used 126,468 troops against the Philippine Insurrection in order to preserve and foster any rights it had acquired from Spain.

1900–1901: *Boxer Rebellion (Peking).* The U.S. sent 5000 troops and marines to relieve foreign legations in Peking and to keep open communication between Peking and the sea.

1903–1914: *Panama.* Marine guards landed and remained on the Isthmus to protect construction of the Canal.

1906–1909. *Cuba.* The U.S. temporarily occupied Cuba to preserve order.

1912: *Cuba.* American troops remained three months to preserve order.

1915–1934: *Haiti.* By force of Arms U.S. troops took over Haiti in part to forestall European intervention.

1916–1924: *Dominican Republic.* U.S. troops occupied Santo Domingo and supported a military governor in the Dominican Republic.

1917: *Armed Atlantic Merchant Ships.* President Wilson armed American merchant vessels with guns and gunners assigned from the Navy.

1917: *Cuba.* Several American landings were made to preserve order.

1918–1920: *Expeditions to Russia.* The U.S. contributed some 14,000 men to aid the anti-Bolsheviks and to forestall Japanese expansionist plans in Siberia.

1926–1933: *Nicaragua.* The occupation of Nicaragua foiled the first attempt of Communism to infiltrate Latin America.

1927–1928: *China.* Nearly 6000 U.S. troops acted to help stabilize China.

1937–1938: *China.* Some 2500 marines helped preserve order in Shanghai under the International Defense Scheme.

1940: *British possessions in Western Atlantic.* U.S. occupied military bases on British soil to protect long range national security interests.

1941: *Greenland.* The U.S. Army occupied Greenland for the same reason as above.

1941: *Iceland.* U.S. troops occupied Iceland for the same reason as above.

1941: *Dutch Guiana.* American troops occupied Dutch Guiana for same reason as above.

1941: Atlantic convoys. U.S. warships were used to convoy military supplies to British and Russia.

1946: *Turkey.* A. U.S. carrier unit was deployed to affirm U.S. intentions to shore up Turkey against Soviet imperialism.

1950–1953: *Korean war.* U.S. forces acted to assist the Republic of Korea in order "to restore international peace and security in the area."

1957: *Taiwan.* U.S. naval units were dispatched to defend Taiwan.

1958: *Lebanon.* A primary purpose of using U.S. armed forces in Lebanon was to assist Lebanon in preserving its political independence.

1961: *Dominican Waters.* U.S. Navy ships took up positions three miles off the Dominican coast and Navy jet planes patrolled the shoreline to prevent a revolution in the Dominican Republic.

1962: *Thailand.* Some 5000 marines landed to support Thailand during a threat of external Communist aggression.

1962: *Cuban Naval Quarantine.* President Kennedy ordered a naval quarantine of Cuba to prevent delivery of additional Russian missiles and to obtain the removal of those already in Cuba.

1963: *Haiti.* A marine battalion was positioned off Haiti when trouble developed there.

1964: *Congo.* A task force of four U.S. C–130 transport planes with paratrooper guards was sent to the Congo to provide airlift for the regular Congolese troops against a Communist-assisted rebellion.

1964–1971: *Vietnam.* American forces have acted to support freedom and protect peace in Southeast Asia.

1964–1971: *Laos.* The United States has supported the free government of Laos, particularly with air missions.

1965: *Dominican Republic.* The threat of a Communist takeover and the need to provide humanitarian assistance to the Dominican people were major reasons for the American landings.

1967: *Syrian Coast.* During the Arab-Israeli war, the U. S. 6th Fleet moved to within 50 miles of the Syrian Coast as a sign to the Soviet Union it "would have to deal with us" if it entered the conflict.

1967: *Congo.* A task force of three U.S. C–130 transports and 150 men ferried Congolese paratroopers in order to crush a revolt against Mobutu's government.

1970: *Cambodia.* U.S. troops were ordered into Cambodia to assist the program of Vietnamization.

D. 81 HOSTILITIES WITH ACTUAL COMBAT OR ULTIMATUMS

1798–1800: Quasi-war with France.
1800: West Indies.
1801–1805: War with Tripoli.
1806: Mexico.
1806–1810: Gulf of Mexico.
1814–1825: Caribbean area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1817: Amelia Island (Spanish Territory).
1820: West Africa.
1820–1822: West Coast of South America.
1822: Cuba.
1823: Cuba.
1825: Cuban Keys.
1827: Greece.
1828: West Indies.
1830: Haiti.
1831–1832: Falkland Islands (Argentina).
1832: Sumatra.
1835: Samoan Islands.
1837: Mexico.
1840: Fiji Islands.
1841: Drummond Islands (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1845: African coast.
1846: Mexico.
1850: African coast.
1851: Turkey (apparently no shots fired, but the force displayed amounted to a compulsory ultimatum).
1851: Johanna Island (East of Africa).
1853: China.
1853: West Coast of Africa.
1853–1854: Japan (Commodore Perry's expedition including 10 ships and 2000 men conveyed an imminent threat of force.)
1854: China.
1854: Greytown, Nicaragua.
1854: West Coast of Africa.
1854: Okinawa.
1855: China.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858: Fiji Islands.
1858: African coast.
1859: African coast.
1859: Paraguay (The Naval display of force amounted to compulsion.)
1863: Japan.
1864: Japan.
1865–1866: Mexico border (General Sheridan and 50,000 American troops backed up the demand of Secretary of State Seward that French forces leave Mexico.)
1867: Formosa.
1867: Nicaragua.
1870: Mexico.
1871: Korea.
1888: Haiti (American Commander issued an ultimatum threatening force if necessary.)
1888–1889: Samoan Islands (Three powers had warships on the scene during an intense rivalry over claims in the islands. War was close when a hurricane destroyed German and American vessels.)
1891: Bering Sea.
1894: Brazil.
1899: Samoan Islands.
1900–1901: Boxer Rebellion (China).
1899–1901: Philippine Insurrection.
1910: Nicaragua (Armed combat was "hourly expected.")
1911: Honduras (The American Commander expressly threatened to use force if necessary.)
1914: Dominican Republic.
1914: Occupation of Vera Cruz, Mexico.
1915: Haiti.
1916: Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1926–1933: Nicaraguan occupation.
1927–1928: Armed actions in China.
1941: Atlantic convoys.
1946: Trieste.
1948: Palestine.
1950–1953: Korean War.
1962: Cuban naval quarantine.
1964–1971: Armed actions in Laos.
1965: Dominican Republic.
1964–1971: Vietnam War.
1967: Syrian coast.
1970: Cambodia.

E. 93 MILITARY ACTIONS LASTING MORE THAN 30 DAYS

1798–1800: Quasi-War with France.
1801–1805: War with Tripoli.
1806–1810: Gulf of Mexico.
1813–1814: Marquesas Islands (South Pacific).
1814–1825: Caribbean Area.
1815: Second Barbary War.
1816–1818: Spanish Florida.
1820–1822: West Coast of South America.
1823: Cuba.
1827: Greece.
1831–1832: Falkland Islands.
1835–1836: Peru.
1838–1839: Sumatra.
1843: West Africa.
1843: China.
1844: Mexico.
1846: Mexico.
1852–1853: Argentina.
1853–1854: Japan.
1854: China.
1854: Okinawa.
1855: Fiji Islands.
1855: Uruguay.
1856: China.
1858–1859: Paraguay.
1858–1859: Turkey.
1865–1866: Mexican border.
1866: China.
1868: Japan.
1873: Colombia.
1873–1882: Mexico.
1885: Colombia.
1888–1889: Samoan Islands.
1891: Bering Sea.
1894: Nicaragua.
1894–1895: China.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1901: State of Panama.
1902: State of Panama.
1903: Panama.
1903–1904: Abyssinia.
1903–1904: Syria.
1904: Dominican Republic.
1904–1905: Korea.
1906–1909: Cuba.
1907: Honduras.
1911–1912: China.
1912: Panama.
1912: Cuba.
1912: Nicaragua.
1913: China.
1914: Haiti.
1914: Vera Cruz (Mexico).
1914–1915: Dominican Republic.
1915: Occupation of Haiti.
1916: Occupation of Dominican Republic.
1916–1917: Pershing Expedition into Mexico.
1917: Armed Atlantic merchant ships.
1917: Cuba.
1918–1919: Mexico.
1918–1920: Expeditions to Russia.
1918–1920: Panama.
1920–1922: Siberia.
1922–1923: China.
1924–1925: China.
1924–1925: Honduras.
1926–1933: Nicaragua.
1926: China.
1927: China.
1936: Spain.
1937–1938: China.
1940: Occupation of British possessions in Western Atlantic.
1941: Occupation of Greenland.
1941: Occupation of Dutch Guiana.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korean War.
1954–1955: Tachen Islands (China).
1958: Lebanon.
1959–1960: Cuba.
1962: Thailand.
1962: Cuban naval quarantine.
1964–1971: Laos.
1964–1971: Vietnam.
1964: Congo.
1965: Dominican Republic.
1967: Congo.
1970: Cambodia.

F. 100 MILITARY ACTIONS BY THE UNITED STATES OUTSIDE THE WESTERN HEMISPHERE

1801–1805: War with Tripoli.
1813–1814: Marquesas Islands (South Pacific).
1815: Second Barbary War.
1820: West Africa.
1827: Greece.
1832: Sumatra.
1835: Samoan Islands.
1838–1839: Sumatra.
1840: Fiji Islands.
1841: Drummond Island (Pacific Ocean).
1841: Samoan Islands.
1843: West Africa.
1843: China.
1844: China.
1845: African coast.
1849: Smyrna (Now Izmir, Turkey).
1850: African coast.
1851: Turkey.
1851: Johanna Island (east of Africa).
1853: China.
1853: African coast.
1853–1854: Japan.
1854: African coast.
1854: Okinawa.
1854: China.
1855: China.
1855: Fiji Islands.
1856: China.
1858: Fiji Islands.
1858: African coast.
1858–1859: Turkey.
1859: African coast.
1859: China.
1860: Kissembo (West Africa).
1863: Japan.
1864: Japan.
1864: Japan.
1866: China.
1867: Formosa.
1868: Japan.
1871: Korea.
1874: Hawaii.
1882: Egypt.
1888: Korea.
1888–1889: Samoan Islands.
1889: Hawaii.
1894–1896: Korea.
1894: China.
1895–1896: Korea.
1898–1899: China.
1899: Samoan Islands.
1899–1901: Philippine Islands.
1900–1901: "Boxer" Rebellion (Peking).
1903–1904: Syria.
1903–1904: Abyssinia (Ethiopia).
1904: Morocco.
1904: Korea.
1911–1912: China.
1912: Turkey.
1913: China.
1916: China.
1917: Armed Atlantic merchant ships.
1918: China.
1918–1920: Expeditions to Russia.
1919: Turkey.
1920: China.
1920–1922: Siberia.
1922: Turkey.
1922–1923: China.
1924: China.
1924–1925: China.
1926: China.
1927: China.
1932: China.
1934: China.
1936: Spain.
1937–1938: China.
1941: Occupation of Greenland.
1941: Occupation of Iceland.
1941: Atlantic convoys.
1946: Turkey.
1945: Trieste.
1946: Greece.
1948: Palestine.
1948: Mediterranean.
1948–1949: China.
1950–1953: Korea.
1954–1955: Tachen Islands (China).
1956: Egypt.
1957: Indonesia.
1957: Taiwan.
1958: Indonesia.
1958: Lebanon.
1962: Thailand.
1964–1971: Laos.
1964–1971: Vietnam.

Footnotes at end of article.

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1964: Congo.
1967: Syrian coast.
1957: Congo.
1970: Cambodia.

FOOTNOTES

[1] The list includes only actual battles, landings, or evacuations. Deployments to maintain an American presence, or alerts bringing an advanced state of readiness are not included, except for seven or eight incidents when the risk of war was unusually grave. No military operations known to have been subsequently disavowed or repudiated have been included. The list was prepared with the direction of U.S. Senator Barry Goldwater and is published with his consent.

[2] Authority for each of the listed hostilities is given at the end of its description. The reference is to one of the sources in the author's Sources for Compilation which follows this section of the Appendix.

[3] Eight military engagements which were subsequently disavowed or repudiated have been omitted from the above list of precedents. These are:

1812: Amelia Island, Spanish territory. United States disavowed General Matthews' occupation of the area when he made himself the head of a revolutionary party. State, 16.

1824: Puerto Rico, Spanish territory. Commodore Porter was later courtmartialed for exceeding his powers when he forced an apology from a group of pirates who had insulted American naval officers. State, 17.

1842: Mexico. Commodore T.A.C. Jones occupied Monterey in the mistaken belief that war had started between the United States and Mexico. He withdrew and saluted, thereby disavowing his action. State, 18.

1857: Nicaragua. An American naval commander compelled the leader of a rebel group who was trying to seize Nicaragua to leave the country. The American commander's action was tacitly disavowed by the Secretary of State and apparently repudiated by President Buchanan. State, 20.

1866: Mexico. After General Sedgwich obtained the surrender of the Mexican border town of Matamoras, he was ordered to withdraw and his act was repudiated by the President. State, 22.

Late 1880's: Bering Sea. The United States paid nearly $500,000 to Britain in damages resulting from the seizure of British sealers by United States patrol boats outside the three mile limit. U.S., 586.

1893: Hawaii. On January 16, Marines from the schooner *U.S.S. Boston* landed at Honolulu and were dispatched until April 1 to protect American lives and property, after the deposition of Queen Lilluokalani. The action was later disavowed by the United States. LRS, III, 53.

1912: Honduras. A small naval force landed at Puerto Cortez to protect an American-owned railroad there. Apparently Washington disapproved and the men were withdrawn in a day or two. State, 27.

[4] Only the primary source is cited, although in several instances the summary was prepared from a composite of information published in more than one of the sources referred to herein.

81 MILITARY OPERATIONS ARGUABLY INITIATED UNDER PRIOR LEGISLATIVE AUTHORITY (NO DECLARATIONS OF WAR)

Year	Military operation	Legislation	Treaty
1798-1800	Quasi-War with France	X	
1801-1805	War with Tripoli	X	
1813	Spanish Florida	X	
1806-1810	Gulf of Mexico	X	
1813-1814	Marquesas Islands	X	
1814-1825	Caribbean area	X	
1815	Second Barbary War	X	
1817	Amelia Island	X	
1820[1]	West Africa	X	
1822	Cuba	X	
1823	Cuba	X	
1824	Cuba	X	
1825	Cuban Keys	X	
1827[2]	Greece	X	
1828[2]	West Indies	X	
1832[2]	Sumatra	X	
1835[2]	Samoan Islands	X	
1838-1839[2]	Sumatra	X	
1841[2]	Drummond Island	X	
1841[2]	Samoan Islands	X	
1843[1][2]	West Africa	X	
1845[1]	African coast		X
1850[1]	African coast		X
1851[1]	Johanna Island, east of Africa	X	
1853[1]	African coast		X
1854[1]	African coast		X
1854	Okinawa		X
1855[2]	China	X	
1856	Panama		X
1858[1]	African coast		X
1859[1]	African		X
1859	Paraguay		X
1860	Panama		X
1864	Japan		X
1865	Panama		X
1867[2]	Formosa	X	
1868	Columbia		X
1870	Mexico	X	
1873	Columbia		X
1885	Panama		X
1888-1889	Samoan Islands	X	X
1891	Navassa Island, Haiti	X	
1894	Brazil	X	
1895	Panama		X
1899	Samoan Islands	X	X
1899-1901	Philippine Islands		X
1901	Panama		X
1902	Panama		X
1903	Panama		X
1904	Panama		X
1906	Cuba		X
1911 1912	China		X
1912	Panama		X
1912	Cuba		X
1913	China		X
1914	Vera Cruz, Mexico	X	
1916	China		X
1916	Pershing Expedition into Mexico		X
1917	Cuba		X
1918	China		X
1918-1920	Panama		X
1920	China		X
1921	Panama-Costa Rica		X
1922-1923	China		X
1924	China		X
1924-1925	China		X
1925	Panama		X
1926	China		X
1927	China		X
1932	China		X
1933	Cuba		X
1934	China		X
1937-1938	China		X
1950 1953[3]	Korean war		X[5]
1957	Taiwan	X	X
1958[4]	Lebanon Operation	X	
1962[5]	Cuban Naval Quarantine		X[7]
1962	Thailand		X
1964-1971	Vietnam	X	X
1964-1971	Laos	X	X
1970	Cambodia	X	X

[1] Indicates operation occurred under Act of 1819 or Treaty of Aug. 9, 1842, with Great Britain, both relative to the suppression of slavery.

[2] Indicates military activity may have occurred pursuant to broad interpretation of authority conferred by certain Acts of Congress against piracy. See Act of Mar. 3, 1819 (3 Stat. 510), Act of Jan. 14, 1823 (3 Stat. 720), and Act of Aug. 5, 1861 (12 Stat. 314)

[3] Though reliance was also placed on the U.N. Charter, the Truman Administration based its authority to commit troops squarely on the President's independent Constitutional authority. Rogers, discussion supra, note 55, at S7197.

[4] In fact President Eisenhower sent troops into Lebanon without seeking specific congressional approval and without specifically basing his authority on the 1957 Middle East Resolution, Id.

[5] According to Secretary of State Rogers, "the Cuban Resolution, unlike the other area resolutions, contained no grant of authority to the President." Id.

[6] U.N. Charter.

[7] OAS

Mr. JAVITS. Mr. President, I have listened with great interest to the statement by the Senator from Arizona. None of us is alone in this body. We all serve together. There are 100 of us. The rules of the Senate give each of us rights and they give us collective rights. So I am not unduly dismayed by the promise of the Senator from Arizona that he will speak on this measure at very great length.

We have some perfecting amendments we will submit as soon as we feel the situation is appropriate, perhaps as early as today or tomorrow. We are entirely agreeable to a time certain for voting whether this matter should or should not be referred to the Committee on the Judiciary, with an agreement for an appropriate period of debate to precede that submittal to the Senate.

The Senator from Arkansas (Mr. FULBRIGHT) has amendments which we hope very much he will press forward with.

Finally, the Senator from Maryland (Mr. BEALL) has an amendment which offers to the Senate an alternative to the war powers bill through a presidential study commission. I do not think the committee considered this, and I do not think it would be for it. I would be unable to espouse it.

However, there is an orderly pattern by which after full and fair debate the bill may be considered and acted on. I rise only to express the hope that that pattern will be followed. This is a matter of great importance to the people of our country. As has been said before, we will be joining issue with the House, which has acted thus far only on the Zablocki reporting resolution. The orderly process of debate and consideration here, together with the relationship the other body has to this or a bill of its own, will produce a final result which will go to the President.

I hope that notwithstanding this idea which was expressed that they will fit within the orderly pattern of producing legislation in the Senate, and I hope no one will get especially dug in upon the consideration of this measure as contrasted with its merits. I certainly shall not. I see no disposition of that character on the part of the committee or the Senator from Virginia (Mr. SPONG) who is managing the bill for the majority on the floor.

I rise only to make the point and express my hope that in this particular case, a matter of such historical importance, we will do our utmost to give it every consideration it deserves. I made that clear yesterday. But I hope every effort will be made by the opponents as well as the proponents to bring the matter to a point within a reasonable time where the Senate can manifest its will.

Mr. SPONG. Mr. President, I said at the opening of the hearings on the pending war powers legislation that a number of "red herrings" would be raised in connection with this bill. That is exactly what has happened.

In addition, an attempt has been made to make this legislation appear complex and confusing. The truth is, however, that the bill is a very simple one. It, first of all, in effect, makes a distinction between defensive and offensive military actions. The right—and indeed the responsibility—of the President to act to defend our Nation—is restated in the bill. There has never been any question over this authority. The framers of the Constitution discussed it. It has been recognized by the courts. It was debated during the consideration of the Church-Cooper amendment dealing with Cambodia. It was covered extensively in testimony on the war powers proposals. It is included in this bill.

Offensive actions are, however, another matter. The power to declare war was given to Congress, and those of us who support this bill believe Congress should exercise that power. Congress should decide when hostilities are to be initiated with a foreign nation. We also believe that there are times when an action taken in defense of our Nation or our troops could become an offensive action. For instance, an attack on NATO forces in West Germany could, in a matter of days or weeks, turn into a situation in which NATO was taking offensive action. And, what the cosponsors of this legislation are saying is that we want a voice in these decisions, a voice which we believe was given to us by the Constitution when it specified that Congress was to declare war.

It has been suggested to us that under the pending legislation, the President would not be able to act quickly under NATO, that the U.S. would have to drop out of the NATO unified command during a crisis, that all our commitments would be reduced to 30-day possible commitments. In the first place, these charges are not true. The President could act quickly under the circumstances specified in section 3, circumstances which could be construed to cover hostilities against NATO. As the sponsors of this legislation have noted, there is no intent to prevent participation in the unified command and we are willing to adopt perfecting language to that effect. Finally, the 30-day limit is also a limit on Congress to act either negatively or affirmatively, not necessarily the arbitrary 30-day end-of-hostilities provision which some of the opponents of the bill are trying to make it out to be.

Second, these charges suggest something about the Congress. They are all based on the assumption that Congress will be unresponsive which is contrary to a natural instinct to support the President in hostilities abroad—an instinct which has, as a matter of fact, been demonstrated a number of times during consideration of legislation dealing with Southeast Asia.

While assuming an unresponsive Congress on the one hand, some of the opponents of the bill assume an irresponsible President on the other by arguing such things as that the President might be encouraged to escalate hostilities in order to conclude his activities within a 30-day period.

I would agree with a conclusion which is implicit in the argument that Congress might be unresponsive and the President over-anxious in the use of force abroad—that is, that neither the Congress nor the President is all-wise or all-foolish. But, I do not believe the opponents can logically argue both these points and then determine that the President should be unrestricted in war-making. Indeed, I believe that the argument leads to the determination that because neither the Executive nor the Congress is infallible that a collective judgment is the best arrangement we can have.

Finally, I would like to turn to several examples which have been raised. One involves what action might be taken if a U.S. military patrol were attacked in the Korean DMZ. In one way, I cannot give a specific answer. Under the bill, the actions that might be taken would depend on two matters: the circumstances of the attack and the President's determination of what type of threat the attack represents. Under most circumstances, I believe that an attack on a military patrol would be construed as an attack on U.S. forces abroad and therefore the President could act to repel an attack on those forces. That determination would, however, belong to the President. But what we are saying in this legislation is that after the President has involved the United States in hostilities—perhaps in repelling the attack—then he must report to Congress. The President would tell us what had been done to protect our troops. In most situations, I would expect the Congress to sustain him. If, however, his actions led to an expanded conflict, I think the Congress would want to examine them carefully so that it could exercise its constitutional authority to declare war, to participate in use of force decisions involving offensive actions by U.S. troops abroad.

During this debate there have been continuous references to Southeast Asia. There has, I believe, been an over-emphasis on Southeast Asia. There are various other situations which we are seeking to cover in this legislation. We have had reference to the Dominican Republic and to Korea, for example. Perhaps, to avoid the charge that we are legislating in the emotional aftermath of Vietnam, we who support the bill should argue that we are legislating in the aftermath of Korea.

But, the experience in Southeast Asia is fresh in our minds and it does suggest things to us. One of the most tragic things it suggests is the divisiveness which can wrack our Nation. To those who would argue that this bill will raise questions among our allies, I would suggest that it might, rather, reassure them. Certainly, a divisiveness in our nation cannot be very reassuring to our allies—anywhere in the world. But, knowing that military actions were being undertaken by decision of both the Executive and the Congress could eliminate questions as to U.S. position on and support for a military move.

I do not believe the legislation will of itself prevent future Vietnams or whatever situation will arise next. But, it will establish procedures and methods whereby the Congress can know about and review use of force decisions and whereby the Congress can participate in those decisions which might involve our Nation in war, and thereby, hopefully, help preclude unwanted involvements.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPONG. I am glad to yield.

Mr. JAVITS. The Senator has made some reference to certain perfecting amendments which we shall in due course propose. Will the Senator agree with me that there is nothing in mind to propose which we have not stated is already included in the bill; that these are truly perfecting amendments in the sense of spelling out with more specificity the precise answer to what is of concern, as would be natural in any debate, as it has been in this debate?

Mr. SPONG. I agree with the Senator. I can say, in reply to the Senator from New York, that the principal sponsors of this legislation have all agreed that the amendments to be offered do not change the bill but seek to specify in more detail our intent.

Mr. JAVITS. One of the things the Senator did not mention was the question of the high seas in the context of Section 3(3). Several statements have been made, and this was the subject of a colloquy between the Senator from Alabama (Mr. ALLEN) and myself last week, on March 29.

Of course, American-flag vessels would be "American soil"; would they not?

Mr. SPONG. Yes.

Mr. JAVITS. And foreign-flag vessels, vessels flying under foreign flags, would be "foreign soil"; would they not?

Mr. SPONG. Yes.

Mr. JAVITS. Again we are considering spelling out the applicability of the legislation to anything that happens on the high seas, though it is the very clear intention of the legislation that this be covered.

Is there any barrier whatever to any President's deploying our naval forces anywhere in international waters?

Mr. SPONG. The Senator from Virginia knows of none, and he would liken that to the naval activities which the Senator from Kentucky and I discussed on yesterday.

Mr. JAVITS. That is exactly right.

Mr. SPONG. They are very similar.

Mr. JAVITS. As the Senator has said very properly, there is no deleterious, or even constraining, effect upon the President in matters which are not explicitly addressed in this bill, which deals with introducing the Armed Forces in hostilities, or situations where hostilities are imminent.

Mr. SPONG. That is true. There are those who view this legislation as a constitutional change. It is not. It is, as the Senator from New York has said, the delineation of a methodology whereby Congress and the President can consult together and whereby the Congress can play a role in the matter of going to war.

Mr. JAVITS. It seems to me that the colloquies, including—and I use this word in quotation marks because I do not mean it invidiously—"hostile" colloquies, all serve to sustain the legislation rather than to break it down, in posing to us all the possibilities—many, of course, being hypothetical—which we may face in the foreign policy field. Does the Senator concur?

Mr. SPONG. I do concur.

Mr. JAVITS. I thank the Senator very much.

Mr. President, on March 30, 1972, Senator MCGEE and Senator DOMINICK circulated a letter to all Senators which leveled seven specific criticisms of the War Powers Act. I believe that those criticisms are not warranted. I have prepared a written response to each of these seven charges and, although we have actually covered most of this already in

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colloquy, I ask unanimous consent that the text of a rebuttal memorandum which I have prepared be printed in the RECORD, so as to be available to all Senators.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

REPLY TO POINTS RAISED BY SENATORS MCGEE AND DOMINICK

1. Criticism: An attack on NATO forces, other than U.S. forces, would preclude action or assistance by U.S. forces and would preclude continuation in command by U.S. officers assigned to NATO.

Response: (a) This assertion is based on an apparent misunderstanding of the legislation. Under Section 3(1) and 3(2) the President, if the circumstances justify, could construe an attack upon non-U.S. NATO forces as posing the "direct and imminent threat" of an attack upon the U.S. or upon the U.S. forces deployed in Europe. If the circumstances warranted such a construction of the situation, the President is empowered to take necessary forestalling actions which could certainly encompass any necessary military actions, including command assignments.

(b) Should foreign forces within the NATO integrated command structure be subject to incidental attack, or embroilment in hostilities, which are of such a nature as would not lead to a good faith finding by the President that such an attack or embroilment brought the emergency authority of Section 3(1) or 3(2) into play, the United States would still not be obliged to withdraw from the NATO integrated command structure as such. Rather, the pertinent provision of Section 3(4) merely would prohibit members of the United States Armed Forces from commanding those particular local forces of another NATO nation which were actually engaged in the hostilities in question. To give an example, if Norwegian forces became embroiled with Swedish forces as a result of a dispute between those two nations, the effect of the pertinent provision of Section 3(4) would merely be to require specific statutory authorization for the assignment of U.S. personnel to command, etc. *those*—and only those—particular local Norwegian units which were actually engaged in such hostilities. General Goodpaster and his U.S. deputies could certainly continue to exercise their full integrated command functions under NATO with respect to all other forces under the NATO command.

(c) Should non-U.S. NATO forces be attacked in an isolated or incidental context not related to the security of the Alliance and the security of the United States, the bill would prohibit the President from embroiling the United States in such hostilities without further specific statutory authorization. Such a hypothetical situation might involve an attack on Portuguese forces by leftist terrorists or, for instance, an attack by Cypriot partisans upon Turkish or Greek forces stationed in Cyprus, or, hypothetically, an attack by Quebec extremists upon Canadian military forces. Such coincidental attacks would not, and should not, in themselves trigger a capacity by the President to intervene and involve the United States in a war without Congressional concurrence.

2. Criticism: The bill gives the President authority to repel an armed attack against the U.S and to take necessary retaliatory actions. It gives the President authority to repel an attack against U.S. forces outside the U.S., but, in this case, it does not give him authority to retaliate. Such restrictions clearly limit the President in his role as Commander-in-Chief and communicate to any potential enemy or attacker the limits of any response.

Response: As noted, the power to repel attacks upon the Armed Forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate. There are good reasons for this. First, it should be emphasized that the President could, of course, take retaliatory action if an attack upon our Armed Forces abroad was construed as integral to an attack upon the United States. And he could do this respecting our NATO forces in Europe as part of his forestalling powers relating to an attack upon the United States. Nonetheless, the wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. Forces. Thus, for instance, an attack upon a Marine Guard at our Embassy in Nepal would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases in Thailand, would not trigger an authority to retaliate by launching search and destroy missions in Northern Laos.

3. Criticism: Whenever the President takes an action authorized by the bill he must come to the Congress at the end of 30 days to get continuation authorization. Such a proviso could lead to a piecemeal strategy in countering an attack or threat of attack. It could also force the President, if he were doubtful continuation authorization would be given, to adopt an overkill strategy in the action taken;

Response: The premise of this criticism is that there would be a deep division between the judgment of the President and the judgment of the Congress as regards the national security interests of the United States in a given situation. It might be argued that such a division of judgment has prevailed with respect to the continuing war in Indochina. History has shown us that U.S. military strategy is not likely to be effective when the judgment of the President is not shared by the Congress and the Nation. It is in part to prevent the embroilment of the Nation in such questionable enterprises that this legislation is being offered. The Constitution grants fundamental powers to the Congress respecting the involvement of this Nation in war. It has been proven by history that efforts to involve this Nation in war without seeking the concurrence of the Congress through the exercise of its constitutional responsibilities is against the national interest and is likely to be deeply damaging not only to the overall interests of our Nation but also to the conduct of military campaigns. It should be noted, however, that this bill does not attempt to involve the Congress in military strategy or tactics. That is the job of the Commander-in-Chief and his military advisers. The responsibility for unwise or ineffective strategy or tactics properly rests upon the President. On the other hand, on the basic policy decision on whether this country is to go to war, the Constitution specifies that the Congress must play a major concurring role.

4. Criticism: Nothing in the bill permits U.S. forces to protect American nationals on the high seas;

Response: This question was the subject of a colloquy between Senator Javits and Senator Allen. The colloquy is to be found in the Congressional Record of March 29 on pages 11037 through 11041. It is suggested that Senators read this colloquy.

5. Criticism: The bill would preclude a show of force, i.e., to the Eastern Mediterranean in response to increased Israel-Egyptian tension.

Response: Nothing in this legislation constrains or diminishes the authority of the Commander-in-Chief to make a "show of force" anywhere in international waters. The right of U.S. vessels to operate anywhere in international waters is a basic international right long recognized and proclaimed by all branches of the U.S. Government. Should any nation seek to interfere with, prohibit or constrain that right materially, such constraint would undoubtedly pose the "direct and imminent threat" of an attack upon the forces of the U.S. thus involved. The President would accordingly be authorized to act under Section 3(1) and 3(2). On the other hand, should the actions taken by an adversary to inhibit our naval forces be of a nature which falls below the threshold of posing an "imminent threat" of hostilities, the bill does not apply. In this regard the attention of the Senators is drawn to the language of Section 3 which states that the legislation applies only to the introduction of the Armed Forces of the United States "in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

It should be noted that the interpretation in the preceding paragraph applies with respect to the deployment of U.S. forces in international waters, as recognized by the United States. It does not apply to the territorial waters of other nations, nor would it authorize the introduction of ground forces in hostilities or situations where hostilities are clearly indicated by the circumstances, unless he had prior specific statutory authorization to do so (or he were exercising the emergency powers enumerated in Section 3 (1), 3(2) and 3(3)).

6. Criticism: The bill makes no mention of intelligence activities, i.e., intelligence flights: Are they prohibited?

Response: This bill applies to the "Armed Forces of the United States" and it applies to the introduction of such forces in hostilities or in situations where "imminent involvement in hostilities is clearly indicated by the circumstances." Intelligence activities would not be expected to fall within these parameters. However, if they did fall within its parameters, they would be subject to the provisions of this legislation.

7. Criticism: Are patrols by U.S. forces in the Korean DMZ prohibited? No mention is made of this.

Response: With respect to U.S. forces deployed in Korea, the President has authority specified in Section 3(2) of the bill "to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack." Routine patrolling in the Korean DMZ would not be affected by the provisions of this legislation. However, should our forces in Korea, in the exercise of their mission, be subjected to attack or the "direct and imminent threat of such an attack," broad actions are authorized under the bill which would certainly include patrols in the Korean DMZ.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SPONG. I am pleased to yield to the majority leader.

Mr. MANSFIELD. Earlier the distinguished Senator from Virginia, in response to a question raised by the distinguished Senator from New York, made it very plain that the purpose of this legislation was not to alter, amend, or adjust the intent of the framers of the Constitution or the Constitution itself.

I think that the initial two paragraphs of the committee report state the case succinctly, to the point, and in such a way that anyone can understand it.

First, let me say it is my recollection that this proposal was reported by the Committee on Foreign Relations unanimously; is that correct?

Mr. SPONG. That is correct.

Mr. MANSFIELD. Unanimously. Furthermore, it is my belief and my recollection that this is a composite of a number of similar resolutions which had been introduced by such Senators as the Senator from Ohio (Mr. TAFT), the Senator from Missouri (Mr. EAGLETON), the Senator from Texas (Mr. BENTSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Rhode Island (Mr. PELL), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SPONG), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Montana now speaking; and if memory serves me correctly, a similar resolution was introduced by the distinguished Senator from Kansas (Mr. DOLE).

Mr. SPONG. As I recall, the distinguished Senator from Kansas was the first cosponsor that the Senator from New York had. I was present, and I believe presiding, when the Senator from New York introduced the original legislation. His was the first bill, and the Senator from Kansas, in a colloquy that followed, asked to be made a cosponsor of that legislation.

The Senator from Montana is correct; the idea of the initial legislation introduced by the Senator from New York (Mr. JAVITS) was followed by resolutions offered by Senator BENTSEN, Senator EAGLETON, Senator TAFT, and Senator STENNIS. In addition, many other Senators were cosponsors of the various resolutions.

There was some mention earlier of the length of time that these measures stayed before the Committee on Foreign Relations. What the legislation brought to the floor represents is the collective effort of all of those prime sponsors, because all of them ended up joining with Senator JAVITS in the legislation that was reported.

Mr. MANSFIELD. So what we have is a composite group of Senators representing all sides of the political spectrum coming up with a composite bill, which, in their combined judgment, represents their best efforts at facing up to a situation which should not be avoided any longer; is that correct, generally speaking?

Mr. SPONG. That is correct. I suppose if one looked carefully at the list of Senators who have worked on this legislation, he could hardly find a broader philosophical span. Certainly it has been a bipartisan effort.

Mr. MANSFIELD. If the Senator will yield further I would like, not for the information of the Senate—I am sure every Member has read the report of the Committee on Foreign Relations—but to emphasize to the Senate, in two short paragraphs, what this measure provides, to read an excerpt from the committee report, which was placed on the calendar on February 9, 1972, 2 months ago, although the first resolution was introduced, I believe, by the distinguished Senator from New York on June 15, 1970, almost a year ago.

Mr. JAVITS. Two years.

Mr. MANSFIELD. Two years ago is correct.

The two paragraphs read as follows:

The purpose of the war powers bill, as set forth in its statement of "purpose and policy," is to fulfill—

And I emphasize the word "fulfill"—

not to alter, amend, or adjust—the intent of the framers of the United States Constitution in order to insure that the collective judgment of both the Congress and the President—

Of both the Congress and the President—

will be brought to bear in decisions involving the introduction of the Armed Forces of the United States—

Which, of course includes the Air Force, may I say to the distinguished Presiding Officer (Mr. GOLDWATER)—

in hostilities or in situations where imminent involvement in hostilities is indicated by circumstances. The constitutional basis for this bill is found in Article 1, Section 8, of the Constitution, which enumerates the war powers of Congress, including the power to declare war—

There was, if I recall correctly, some argument among the Founding Fathers about the use of the word "make," and finally they ended up by using the word "declare" instead—

and to make rules for the Government and regulation of the Armed Forces, and further specifies that Congress shall have the power "to make all laws necessary and proper for carrying into execution" not only its own powers but also "all other powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof."

The essential purpose of the bill, therefore, is to reconfirm—

Again I repeat, to emphasize the word—

to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war powers with respect to "undeclared" wars—

If my memory serves me correctly, the statement has been made that the correct figure is not 183 undeclared wars, but closer to 193 undeclared wars since the founding of this Republic.

Continuing—

and the way in which this authority relates to the constitutional responsibilities of the President as Commander in Chief.

The President's authority as Commander in Chief is in no way, shape, or form questioned in the proposal before the Senate.

The bill is in no way intended to encroach upon, alter or detract from the constitutional powers of the President, in his capacity as Commander in Chief, to conduct hostilities authorized by Congress, to repel attack or the imminent threat of attacks upon the United States or its Armed Forces, and to rescue endangered American citizens and nationals in foreign countries.

I was surprised—I should have known better—that in all our history there have been only five declared wars. So it just goes to prove that all of us can learn a little if we listen enough.

Here we are, trying to bring about an accommodation, a partnership, constitutionally between the executive and the legislative branches of the Government; and here we are, finding this clear-cut subject a matter of debate, a matter of difference. That is all right.

But I repeat: I would hope that those of us who serve in this body by the sufferance of the people, from our various States, but who are also Senators of the United States, would be aware of the awesome responsibilities which are ours to assume, if we will. We have been too willing, going back to the days of Franklin D. Roosevelt, and perhaps to a lesser degree beyond—but to a greatly lesser degree, if that be the case—going back over the past four or five decades, to give up the authorities under the Constitution and the responsibilities which are ours. Then, when we make an attempt to restore equilibrium in the powers of the branches of the Government, the argument is made that we are trying to downgrade the President, that we are trying to take away something from the President which is not constitutionally his but which is ours; and we are castigated because we try to assert an equality of power which the Founding Fathers said applies to both branches of the Government, just as they do, within the Congress, between the House and the Senate.

So I would hope that every Member, if he has not done so, would just read this report. He will find the gist of the arguments which brought a unanimous approval by the Committee on Foreign Relations, and he will understand, I hope, the reasons why it is necessary, even at this late date, to bring forth a resolution of this kind to rectify a situation for which we are to blame, and to do so in a way which, hopefully, will prevent future Vietnams and thereby redound to the benefits of the people of this Nation, whom we are sworn to serve, and bring about an application of the Constitution, which we are sworn to uphold.

Mr. SPONG. I thank the distinguished majority leader for calling the attention of the Senate to that section of the report, which is the very crux of what the committee had to say.

The Senator is quite correct. Congress has been the architect of the demise of its own powers. The debate that has taken place in the last few days is the third or fourth that has transpired in this body on this subject. Senator Stennis called to our attention the debate over the Korean treaty. Both Senator Javits and I were moved to remark upon the participation of the Senator from Ohio (Mr. TAFT) in this effort, because in many respects it echoed what his father had to say on the floor of the Senate at the time the sending of troops to Korea was debated, at the time of the sending of divisions to Europe, without any congressional authorization.

Coming as it does, this legislation, in my judgment, is perhaps the last chance for Congress to assert its powers and to reestablish the balance of the war powers that was envisioned by the Founding Fathers.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. MANSFIELD. Mr. President, when I first came to the Senate, Mr. Eisenhower was President, and the late Senator Taft was the leader on the Republican side. I never got to know Senator Taft too well, because within a matter of a year he was taken away from us because of cancer, as I recall. But I look upon Senator Taft as one of the most remarkable men of our generation.

XUM

I recall the affection which the present Presiding Officer, the distinguished Senator from Arizona—who came to the Senate at the same time I did—had for the leader on his side of the aisle. I also recall the strenuous efforts of the Senator from Arizona to bring about the creation of a memorial to our late departed colleague, a successful initiative which stands as an enduring monument to the contributions which Senator Taft made to this body and to our country.

I think of the late Senator Taft as a man who, almost alone, stood up and denounced the Nuremberg trials. The rest of us remained silent. I remember Senator Taft being accused of being a Socialist because he wanted to do something about housing for the low- and middle-income groups. What Senator Taft, along with Senator Wagner and others, espoused then has come to pass since and is accepted by both parties as sound economic doctrine.

But I remember Senator Taft most vividly because of his opposition to the war in Korea—not because of the war itself, because I think the justification was there to intervene, but because Congress was not brought in to give its judgment.

I was called to the White House at the time of the outbreak of the Korean hostilities. I was a Member of the House of Representatives at the time. Senator Taft was called to the White House, and he raised that question then, even though he recognized the need that to protect the U.S. forces south of the 38th parallel something had to be done. He raised the question then with President Truman that this matter, he hoped, would be brought before Congress very shortly. It was not. But down to the very end, Senator Taft made this argument; and I think the argument he made then is the argument which those of us who support the proposed legislation are making today.

So this man, a member of the opposite party, a man of great integrity and patriotism, a man of great foresight, could be considered, in a certain sense, one of the progenitors of the type of legislation, the unfinished business, which is before us today.

I hope that what he sought in the early 1950's will come to fruition in the early 1970's.

Mr. SPONG. I quite agree with the distinguished majority leader. I mentioned the Korean treaty and the sending of troops to Europe. Actually, Senator Taft first spelled out his position on this when the troops were sent to Iceland in 1941——

Mr. MANSFIELD. Before the war even.

Mr. SPONG. Yes, before the war, in 1941. A careful reading of what Senator Taft had to say in the debates that took place, and in the books he wrote, will show that he did not necessarily disagree with the need for the security measures that were being taken on those occasions, but he objected to the method by which they were done. He was the very first Senator, in this modern age, followed by Senator STENNIS and Senator COOPER, who questioned Senator Wiley at the time on the Korean treaty, to attempt to establish the principle that the Constitution required consultation and authorization from the representatives of the people.

Mr. JAVITS. Mr. President, I think this is an important colloquy to have included in making the complete record on this measure. We have a Republican President in the White House. Senator Taft was called "Mr. Republican," and for very good reason, because he exemplified what the Republican Party represented in the various fields of civil rights, the private enterprise system, economy in Government, efficiency in Government, belief in the private sector as being the true guarantor of freedom—and many other doctrines. So it is especially fitting that he should be cited. It is important as an authority in this respect that there is no desire—and I think this certainly demonstrates it—to curb this President because of party. The measure originated with me. Its sponsorship backing is thoroughly balanced and bipartisan. It is the product of men who were deeply troubled by what was happening under their very eyes, and which has now been referred to so eloquently by the distinguished majority leader and the distinguished Senator from Virginia. It is a pertinent and necessary element in the consideration of this measure. It is truly bipartisan in the finest spirit of what was called in Arthur Vandenberg's day, "bipartisan foreign policy." It will result in strengthening, not weakening, Presidents.

It is very important to understand that the President of the United States himself felt undermined and weakened when the Senate voted time and again to use the appropriations authority to try to have some say with respect to the Vietnam war. How much stronger a President could be, and how much more those who deal with the United States could feel that our commitments would be honored with the whole Nation committed in a considered way, not because we are backing the President and he has done it, but because the law says that we should concur with the same authority that he has.

Think of the reassurance to our people who bear the burden, who shed the blood, who pay out the money, who suffer the inflation. Are they not entitled to have their representatives make an independent determination? I do not denigrate the President's supreme authority with respect to the total of the national election at all, but there is another quotient, being the people's participation and that is why I joined in urging this law.

Mr. SPONG. I thank the distinguished Senator from New York.

Mr. McGEE. Mr. President, as the debate on the War Powers Act continues, I think it would be worth while for the Senate to take notice of Crosby S. Noyes' review of Gen. Maxwell Taylor's new book, "Swords and Plowshares," which appeared in the Sunday Evening Star.

General Taylor's analysis of where we stand in the wake of Vietnam has a direct correlation to the war powers debate. In effect, this piece of legislation is an extension of what General Taylor views as—"The record of our violent internal divisions, our loss of morale, and our psychotic inclination to self-flagellation and self-denigration. . . ."

General Taylor further points out that all this—". . . justifies serious doubts as to the performance to be expected from us in any future crisis—an uncertainty which will becloud our prestige and diminish our ability to influence world events as long as it lasts.

I think that one of the serious shortcomings of the War Powers Act is the fact that it is tied emotionally to our experience in Vietnam and it does not look to the future and what our role in a world filled with so many uncertainties should be. We should realize the dangers of attempting to undue the past without giving a sense of direction to the future.

The Evening Star of Monday, April 3, 1972, contains an editorial which strikes to the very heart of the war powers debate. The editorial correctly asserts that the war powers bill "is a document grounded firmly on historical hindsight."

And finally, the editorial raises another relevant issue to this debate by concluding that—

There is no legislative formula that can guarantee against 'future Vietnams' and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

I ask unanimous consent that the editorial and the Crosby Noyes column be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Evening Star, April 3, 1972]

THE WAR-POWERS DEBATE

The war-powers bill now being debated in the Senate is a document grounded firmly on historical hindsight. The whole impetus behind the measure is the contention that this country was led into the war in Vietnam through an abuse of the constitutional powers of the President as commander-in-chief of the armed forces and that if Congress or the people had been consulted, the whole unhappy episode could have been avoided.

This also is a monumental piece of historical hogwash. The Congress and the people were well and duly informed and consulted about our involvement in Vietnam from the very outset and gave their massive endorsement of the objectives pursued there. In 1964 the House unanimously and the Senate with exactly two dissenting votes (Morse and Gruening) whooped through the Tonkin Gulf Resolution, authorizing the President "to take all necessary steps, including the use of armed force to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom." The contention of many senators today that they didn't know what they were doing is an affront to the intelligence of the Senate itself and a latter-day piece of political sophistry that scarcely bears examination.

In any event, the proposal today is to correct what happened by laying down a whole new set of ground rules on the circumstances under which the President would be authorized to commit the armed forces of the United States to combat without a declaration of war. He could act in case of an attack—or imminent threat of an attack—on the United States itself. He could act to defend our armed forces overseas, to protect the lives of American nationals, or "pursuant to specific statutory authorization" by the Congress. But in all of these cases, the President would have to come before Congress to ask permission to continue military operations beyond a 30-day time limit. If such authorization were denied, the war would have to be called off.

We will leave aside, for the time being, the highly dubious constitutionality of these proposals. In the current debate, all parties are wrapping themselves in the Constitution and citing voluminous historical precedent to support their arguments. To some, the pertinence of what the Founding Fathers had in mind about potential military problems of the United States in 1787 has fairly dubious relevance to the problems that confront the nation in 1972.

Our concerns about these proposals are largely practical ones. One wonders, for instance, how they would affect our treaty commitments around the world, or how they would appear to affect them to our allies and our enemies. One wonders how they would affect our ability to respond quickly and decisively—or subtly and carefully—in case of an emergency. One wonders whether it is really within the authority of Congress to prescribe the conditions under which a President can exercise his constitutional powers or limit the exercise of those powers to a specified period of time.

We would agree most fervently that in times of great danger and in times of war it is essential to have national unity and the closest cooperation between the Executive and the Congress. A forceful argument can even be made that a declaration of war—regardless of its inherent dangers—would have prevented the terrible divisions that have rent the country over the last five years.

But there is no need to rewrite the Constitution to atone for the tragedy of the Vietnam war. There is no legislative formula that can guarantee against "future Vietnams" and also none that will guarantee firm and continuing congressional and public support when a war turns out to be more painful and costly than anticipated. Legislative bandaids are comforting. But it will take more than a new set of rules to repair the loss of unity and sense of national purpose that afflicts the nation today.

GLOOMY VIEW OF WHAT THE WAR HAS DONE TO US

(By Crosby S. Noyes)

"Swords and Plowshares"—a new book of personal memoirs by Gen. Maxwell D. Taylor (Norton, $10)—is something more than a chronicle of the long career of a distinguished soldier-statesman. It also is the coldest, hardest and in many ways the gloomiest analysis of where we stand in the wake of Vietnam yet produced by anyone who played a prominent part in shaping the events.

It is by no means an apologia for the conduct of the war. So far as Taylor is concerned, our involvement in Vietnam was the result of a massive miscalculation of the costs arising out of a disastrous lack of knowledge about our allies, our enemy and, perhaps above all, about ourselves. Besides failing to calcuate the costs of victory, we also have failed to appreciate the increasing cost of failure as time has passed.

Taylor, who practically invented the concept of limited war, has the gravest doubts of its feasibility in situations like Vietnam. The gradual, piecemeal commitment of American power, he believes, ended by defeating its own purposes. The restraints placed on the use of air power were interpreted as a lack of decisiveness by the North Vietnamese. The main result of the gradual approach was a prolonged war in which more people lost their lives and the national will of the United States was eroded.

Before committing the country to any limited war, an American president should take a number of precautions that were overlooked in the case of Vietnam. Among them, rather surprisingly, Taylor strongly recommends that the President should go to Congress to seek a declaration of war. He also is opposed to the use of draftees and reservists in such situations, and emphasizes the need for sufficient force to attain the objectives in a short time.

The general, who served a tour as ambassador in Saigon, has a number of harsh things to say about the ineptitude of our diplomats in Paris and elsewhere who failed to exploit our military advantage in South Vietnam.

He is equally bitter toward the news media, whose objectivity in reporting from Vietnam he does not greatly admire. The unabashed bias of many correspondents and the rise of "selective reporting" contributed greatly in his view to the collapse of political will that took place in the United States in 1968.

It is this erosion of national will, the loss of a sense of national purpose, that constitutes the gravest problem for the country in the coming decade, in Taylor's view. He sees it primarily as the erosion of the sources of the power of the state—its leadership, institutions, economy and national unity—which makes us vulnerable as never before to our internal and external enemies.

In spite of this, Taylor believes that we have it in our power to achieve our objectives in Vietnam. In comparison with the prices paid so far, the cost of "victory"—defined as the assurance that South Vietnam can choose its own form of government, free of the danger of having a Communist regime imposed by force—is rated as inconsequential. The cost of a defeat, on the other hand, would be prohibitive in terms of the consequences in Southeast Asia and in the United States. In Taylor's view, it would result in a "national disaster" of unacceptable proportions.

It is, withal, a melancholy closing of a career which coincided with an unprecedented rise of American power and prestige in the world. The over-all conclusion is that the United States is entering the decade of the '70s in a condition of declining power while facing increasingly difficult and complex problems at home and abroad that challenge our claims to world leadership.

The weaknesses revealed in Vietnam are a large part of the problem.

"At this moment," Taylor writes, "President Nixon's Vietnamization policy holds promise of achieving our main objectives providing those Americans who appear dedicated to its failure do not find means to salvage defeat from the costly achievements of past years.

"But even in victory we cannot completely redeem the unheroic image created by many aspects of our behavior in the course of the conflict. The record of our violent internal divisions, our loss of morale, and our psychotic inclination to self-flagellation and self-denigration justifies serious doubts as to the performance to be expected from us in any future crisis—an uncertainty which will becloud our prestige and diminish our ability to influence world events as long as it lasts."

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

NORTH VIETNAMESE OFFENSIVE ACROSS THE DEMILITARIZED ZONE

Mr. TOWER. Mr. President, the North Vietnamese 5 days ago launched a major offensive across the Demilitarized Zone. This blatant aggression violates both the original Geneva Accords that divided Vietnam and the agreements reached in 1968 that led to the bombing halt. It appears the North Vietnamese, having forgotten the lessons taught them during the 1968 Tet offensive, are trying to achieve on the battlefield once more, what they failed to get during Tet or at the conference table—the overthrow, against the will of the majority of South Vietnamese, of the Government of the Republic of Vietnam. It also appears that they are using substantially more heavy equipment than in 1968 and more conventional tactics. This, of course, is an advantage to the Allies in that the enemy will expose himself to a greater degree to artillery and aerial bombardment. Thus, while he stands to win a great deal more than by sporadic rocket attacks, he also stands to lose a great deal more—his tanks, heavy equipment, and some of his best troops.

It is clearly a gamble, and his purpose is not yet clear—whether to affect the American political scene, force the United States back to unproductive "peace" talks, hand the South Vietnamese a moral defeat, or divert attention from a possible offensive in the critical central highlands. Certainly, the ripples of the North Vietnamese offensive have already reached our shores. There are those calling for panicked withdrawal from South Vietnam once more, those predicting imminent disaster for the South Vietnamese, those suggesting cessation of air and naval fire support.

The fact is that our withdrawals are continuing in an orderly fashion. The burden of land combat is necessarily on the shoulders of the South Vietnamese, for the United States has only seven combat battalions in South Vietnam, compared to 112 such units in April 1968. But, the South Vietnamese continue to require U.S. air and naval support. The President is scheduled in the future to make further announcements concerning troop withdrawals after the May 1 troop level of 69,000 is reached.

I feel the President will take into account levels and intensity of enemy activity in South Vietnam before making any decision on further withdrawals. Nevertheless, the fact remains that no large contingent of U.S. troops is currently in danger and there is no indication at this time that the North Vietnamese have the desire or the ability to drive on to Da Nang where there are larger numbers of U.S. troops. This is not a rout. There is no reason for panic.

The fact is that disaster is not imminent for the South Vietnamese, unless we withdraw our air and naval fire support. Some people have the impression

that this dependence upon extensive air and naval support is a sign of weakness or cowardice. It is not. The American infantryman also depends heavily on such fire support. Most modern armies utilize extensive fire support because it saves friendly lives. It is obviously better to stop the enemy with bombs than bodies. To deprive our Allies of this support would mean higher casualties and would indeed imperil their chance to hold the northern provinces.

As the North Vietnamese capture outposts, they demonstrate their disregard for agreements. As they invade South Vietnam, they demonstrate the hypocrisy of their calls for a return to the "peace" negotiations. The North Vietnamese are hardly being "welcomed as liberators"; instead, the South Vietnamese civilians are fleeing for their safety and freedom.

I am confident that with the continued support, according to the current administration plans already enunciated, the South Vietnamese can repel this current Communist aggression. But, we must provide the support we have already pledged.

We must not panic. We must give our President the popular backing here at home which he needs to carry on his withdrawal objective while at the same time providing the South Vietnamese the minimum support necessary to safeguard their own borders.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. GOLDWATER. I am glad the Senator from Texas has spoken as he has. I think we have literally leaned over backward trying to respect the honor of the word we gave that we would not bomb north of the 17th parallel, that we would recognize the demilitarized zone as a zone, more or less, of no man's land. Now, we have known, as I am sure the Senator knows, for probably 4 months or more of the biggest buildup, the biggest concentration of trucks, artillery, and supplies in the history of this war. I have seen reconnaissance photographs of this buildup. We know harbors have been improved that were not improved before. One railroad—maybe two—has been built down to the DMZ or near it. Several roads have been constructed and at least one, Highway 1, has been improved.

We have known of this buildup and we have not done a thing to get at the very seat of the trouble. I do not want the Senator to commit himself; I merely wanted the opportunity to point out that I think in all honesty our President has a perfectly honest duty to go before the American people and remind them of our patience in this matter, of our willingness to observe our word, that they have violated their word, and they are now endangering not just South Vietnamese lives, but they are endangering American lives. In view of that I think the President has every right to say to the North Vietnamese, "We are going to destroy your equipment where you have it cached and stored, all marshaling yards will be destroyed, including Mig airfields and Mig airplanes if necessary, including the harbor of Haiphong itself."

I believe today, as I did 8 years ago when I was soundly spanked by the American people for suggesting we might win the war, that if we took this step at this logical point the war in Vietnam could come to an end, not by dragging it out for another year or two by the slow withdrawal of our troops.

Mr. TOWER. I was an early advocate of closing the harbor in Haiphong. There were three means available: Bombing the loading facilities, sowing mines, or a naval blockade. I think it is generally agreed that mining the harbor was the best method. I think it should have been done at that time.

Unfortunately, during the moratorium on bombing of far northern targets since 1968, the enemy dispersed his loading so there is no practical point where we could cut off the flow of external forces into North Vietnam.

I agree with the Senator that wherever there are large logistical buildups that are designed to support the current offensive, we should have no restraints in terms of using our superior airpower to destroy those logistical buildups.

Mr. GOLDWATER. I thank the Senator. I repeat that I think the American people, if confronted with the truth and if the American people were confronted with, I will not say possible, but probable result, they would rally around the President in any effort he might make in this direction.

Mr. TOWER. I concur with the Senator in that belief. It might result in perhaps some more outcry from people at home who want us to meet all the conditions laid down by the North Vietnamese, and, in effect, want us to surrender, but I think those cries would be short lived. I do not think what we are discussing is a long term, extended exercise, but something to be accomplished in a relatively short period of time.

I, of course, am delighted the President has made the decision to concentrate air and naval power in the area of the demilitarized zone. This is what we have been waiting for for some time, for the enemy to deploy his troops where we can bring our superior air and naval power to bear on them. I feel that with unrestricted use of that power in that area we can stop the offensive and make it more costly to the enemy than the Tet offensive of 1968.

Mr. GOLDWATER. I thank the Senator.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. PERCY. Mr. President, on May 14, 1970, speaking in this Chamber, I submitted Senate Resolution 409, declaring it to be the sense of the Senate that the President should not use the Armed Forces for any combat activity abroad without the express consent of Congress. The only exception would be an instance where the use of our forces would be necessary, pending congressional approval, to respond to a clear and direct attack upon the United States, its territories or possessions, of upon U.S. forces lawfully deployed pursuant to a treaty or other specific congressional authorization.

I said on that occasion that—

> It would be in the best interests of this country that the Senate have an open debate soon on this fundamental question bearing so heavily on Presidents and Congresses since the founding of the Republic, but as yet unresolved.

I said that I did not seek to impose my own solution, that it was more important to bring out all opinions, and to come to a decision which would give clearer definition to the relative roles of the Executive and the legislature in warmaking.

Since that time, there has been rational and orderly consideration of the issue. A number of other bills and resolutions have been introduced in both Houses. Extensive hearings have been held by the Committee on Foreign Relations.

Now a war powers bill has been brought to the floor with wide support and cosponsorship. It is not a liberal initiative. It is not a conservative initiative. Rather, it is a bipartisan, nonideological attempt by many Members of this body to delineate more clearly the executive-legislative relationship as it relates to warmaking. I agree with the principal sponsor of this legislation, the distinguished senior Senator from New York (Mr. JAVITS), that this is landmark legislation.

As I stated nearly 2 years ago, historical precedent adequately supports congressional authority in warmaking. There is no question that the framers of the Constitution meant to give Congress the power to initiate hostilities. They made only one exception, empowering the President, as Commander in Chief, to repel sudden attacks.

At the Constitutional Convention, during the debate on warmaking powers, James Madison, of Virginia, and Elbridge Gerry, of Massachusetts, challenged the phrase "to make war" which had been the focus of discussion. They moved to change the phrase from "make war" to "declare war," contending that this would leave to the President the power to repel sudden attacks. This motion was agreed to by a vote of 8 to 1.

The Constitution ultimately named the President as Commander in Chief of the Army and Navy, and empowered him to make treaties with the advice and consent of Congress. To Congress was allocated the power to levy taxes for the common defense, to declare war, to raise and support armies, to provide and maintain a navy, and to make rules for the government and regulation of the land and naval forces.

When, at the Convention, Pierce Butler, of South Carolina, had suggested that the warmaking power could be safely vested in the President, Mr. Gerry replied that he never expected to hear in a republic a motion to authorize the Executive alone to declare war. As I have mentioned, the Madison-Gerry motion was adopted, limiting the war-initiating power of the President to repelling sudden attacks.

But that is the limit of the Constitution's mandate in regard to warmaking powers. Nowhere does the Constitution specify whether, under what circumstances, or by whose decision can the Armed Forces be sent into battle when Congress has not declared war and there has been no sudden attack on the Nation.

At the beginning of our constitutional history, the primary responsibility of Congress in the initiation of war was frequently proclaimed and upheld. President Adams, in 1798, concerned about French threats to American shipping, waited until Congress provided the authority to move. Alexander Hamilton had advised the administration, in a letter to Secretary of War James McHenry, as follows:

> In so delicate a case, in one which involves so important a consequence as that of war, my opinion is that no doubtful authority ought to be exercised by the President.

In 1801, in his opinion on the Amelia case, Chief Justice John Marshall stated that the "whole powers of war" were vested in Congress.

That same year, Tripoli declared war on the United States when the United States refused to pay tribute in exchange for safe passage of American ships. President Jefferson moved ships to the Mediterranean with orders limiting them to self-defense and the defense of other American ships. He told the Congress that he felt obligated to take only defensive actions because he was "unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense."

During a dispute with Spain in 1805, President Jefferson renounced the use of force, saying that he thought it was his duty to await congressional authority "considering that Congress alone is constitutionally invested with the power to changing our position from peace to war."

In equally unequivocal statements, President Monroe and Secretaries of State John Quincy Adams and Daniel Webster stated that the initiation of war is a prerogative of Congress. President Monroe wrote:

> The Executive has no right to compromise the nation in any question of war.

Adams wrote that under the Constitution "the ultimate decision" belongs to Congress. Webster states:

> I have to say that the war-making power rests entirely with Congress and that the President can authorize belligerent operations only in the cases expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another.

In 1846, when President Polk moved troops into territory disputed between this country and Mexico, resulting in hostilities, Congress reluctantly declared war after the fact. Later, when the House of Representatives was resolving to thank Zachary Taylor, the victorious general, an amendment to the resolution stated that the war "was unnecessarily and unconstitutionally begun by the President of the United States." Former President John Quincy Adams, then a Member of the House, and future President Abraham Lincoln voted for the amendment which was adopted by a vote of 85 to 81, but later dropped.

In 1857, Secretary of State Lewis Cass, responding to a British request to send ships in support of an expedition to China, wrote to the British Foreign Office as follows:

> Under the Constitution of the United States, the executive branch of this Government is not the war-making power. The exercise of that great attribute of sovereignty is vested in Congress, and the President has no authority to order aggressive hostilities to be undertaken.

President Buchanan made the point as forcefully when he asked Congress for authority to protect transit across Panama in 1858. In his message to the Congress on December 6 of that year, he said:

> The executive government of this country in its intercourse with foreign nations is limited to diplomacy alone. When this fails it can go no further. It cannot legitimately resort to force without authority of Congress, except in resisting and repelling hostile attacks.

In 1900, President McKinley sent thousands of American troops to suppress the Boxer Rebellion in China and to rescue Western nationals in Peking. Although he was accused of acting without congressional authority, Congress had already adjourned and, because it was an election year, there was no interest in returning for a special session.

In 1911, President William Howard Taft sent troops to the Mexican border, but conceded that only Congress could authorize sending troops across the border. In a message to Congress, President Taft said:

> The assumption of the press that I contemplate intervention on Mexican soil to protect American lives or property is of course gratuitous, because I certainly doubt whether I have such authority under any circumstances, and if I had I would not exercise it without express Congressional approval.

Since the turn of the century, Presidents have used military force more freely, moving troops in support of foreign policy decisions and in reply to particular situations. Thus, an incursion was made into Mexico in pursuit of the bandit, Pancho Villa, in 1917. President Wilson sent marines to fight in Haiti and Santo Domingo. President Truman sent hundreds of thousands of troops to fight in Korea. All these actions were taken by the Executive without congressional authority. They negate the concept, central to the Constitution, that our Government requires a balance of powers within a system of checks and balances.

Of course, questions about the division of powers and the Congress' prerogatives have been raised most strongly in connection with the sending of U.S. troops into the Dominican Republic and Vietnam. Until Congress passed the Gulf of Tonkin resolution, the use of American troops in combat in Vietnam was totally without congressional approval. For this reason, more than any other, the question of congressional responsibility for warmaking has become a major issue in the country. As most of us in Congress well know, the American people are determined that there shall be no future undeclared wars initiated by Presidents and prosecuted without wide public support. The people insist that Congress measure up to its constitutional role, and this legislation seeks to do just that—to clarify the congressional role so that this Congress and future Congresses will do their duty.

The legislation is in no way a reflection on President Nixon, who inherited a major American war and has consistently reduced American involvement in that war. Had this legislation been enacted in 1960, President Nixon might never have had the conduct of the Vietnam war thrust upon him because the United States might not have committed troops to combat in that war.

Some critics of the bill contend that such legislation will affect the ability of presidents to meet emergency situations effectively. I do not agree with them. The President will still be free to commit American Armed Forces to combat, but the bill provides that such an involvement cannot be continued beyond 30 days without congressional accord. Since a President cannot effectively prosecute a war without congressional support and popular approval, this can serve to save Presidents from undertaking military adventures contrary to the wishes of the American people.

Moreover, legislation of this type can be a deterrent to impulsive, ill-considered actions which may involve the Nation in undesirable wars which are of no direct consequence to our national security. There would be quick congressional accord when a military action is obviously necessary to the Nation's security. Certainly the authority of Presidents to respond to instant threats would in no way be impaired.

The distinguished journalist and student of world affairs, Roscoe Drummond, has written:

> One thing the whole nation has learned from the Korean and Vietnam wars is that the United States armed forces must never be used in combat abroad without advance and explicit authorization by Congress except in case of direct attack. No president should ever make that decision by himself—never again. That is why it is urgent that Congress soon recover its full constitutional power to decide if, when, and under what circumstances the U.S. shall go to war.

Referring to my own Senate Resolution 409 which, like the pending bill, seeks to affirm congressional responsibility in warmaking, Mr. Drummond wrote:

> This is no radical proposal. It is simply bringing practice into conformity with the Constitution. . . . Now is the moment to put this principle and this policy into practice.

Now is surely the moment, although I think all will agree that 10 years ago would have been an even better moment for the enactment of legislation to protect the Nation from unnecessary, undesirable wars.

The American people demand it, and I submit that the American people are right.

Mr. President, I think that there can be no better example, tragic as that example is, of the way in which this Nation has gotten into recent wars, and the fact that this must never happen again, than the Vietnam war. Part of the tragedy of that war was unfolded before the Committee on Foreign Relations this morning, in considering what we are going to

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do about the 700,000 orphans who have been created in Vietnam.

Although we have done more than was ever required of a nation to fulfill its commitments, we are going to be paying for that tragic mistake for years, and years, and years to come, and not just in the divisions which have been created in this country, which have torn us asunder, not just in the $130 billion that have been expended, nor in the more than 50,000 lives that have been lost and the hundreds of thousands of casualties that are permanent remembrances and reminders to this country that never again must we make this kind of a mistake.

I am not certain that Congress would have had more wisdom 10 years ago than we have now. Hindsight is always best. But at least if we had resolved to go into this war by direct action of Congress, after deliberation and debate, with all the facts brought to bear, we might never have made that tragic mistake.

If there is any feeling that I get from the people of the United States as I have talked with them across the country and in my own State, it is that they expect Congress to do something about it now.

No one interprets this as a move against the incumbent President. I cannot imagine a man who has been as frustrated in his attempts to end the war as President Nixon has, as he realizes the extraordinary cost that the war continues to cause the American people to bear and the programs that have to be set aside because of it; and I should think this administration would want to make sure that it plays a role in insuring that—in a world where we make war but never seem to declare war any more—we go back to the original intention of the Founding Fathers.

Here we have a world which, since World War II, has not had a declared war: No declared war in Korea, no declared war in Vietnam, no declared war in the Middle East, no declared war between Pakistan and India. It is just out of vogue to declare war. But that has not stopped the world from engaging in more than 100 major and minor hostilities since the end of World War II.

What I have tried to do in my remarks today is to prove beyond the shadow of a doubt the intention of the Founding Fathers. Moreover, I think we should remind ourselves that we have an obligation to update procedures and practices involving the important matters of war and peace.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. PERCY. I yield very gladly to the majority leader.

Mr. MANSFIELD. The Senator seems to indicate the opinion that declarations of war are supposedly out of date. Did the Senator not say something to that effect?

Mr. PERCY. That is right. As far as I know, there has not been a declaration of war in 25 years, and yet we have been engaged in wars all over the world.

Mr. MANSFIELD. Is the killing of young Americans out of date? The reason I ask is that we are engaged in wars without declarations of war, but with or without declarations of war, young men die, and the latest figures put out by the Department of Defense, through March 25, 1972, indicate that 302,787 Americans have been wounded, 45,669 Americans have been killed in combat, and 10,119 Americans have been killed in noncombat activities in Southeast Asia.

So the total U.S. casualties—Americans, that is—to March 25, 1972, less than 2 weeks ago, is 358,575.

On the other side, the South Vietnamese have, dead, 147,305. These are Department of Defense figures. Other free world forces, dead, 4,870. Listed under "enemy dead," 803,145. And if I add correctly, that is more than 1 million known dead.

The Senator has mentioned over 700,000 orphans. How many millions of refugees? How do you calculate a destruction of a culture and a society and a land? How do you estimate all this cost in relation to what is happening in our own country and the impetus which this tragic, mistaken, begotten war has had on our own people, on our own problems here at home? How do you add up these costs?

Perhaps Congress, under a resolution of this sort, might have had something to say about our not getting into Vietnam, now into all of Indochina, including Laos and Cambodia.

What price do you put on a man's life, on the loss of a leg or an arm or a mind? How much have we paid already, and for what? In an area which is not vital and never has been vital to the security of the United States?

Declarations of war are not out of date. It is only because those in authority, both Democratic and Republican chiefs of state, have felt that they needed extraordinary powers in this extraordinary age to do the things which they considered—I say this in all candor—from a patriotic point of view. But that does not make their judgment right, and that does not make it inadvisable for us to admit mistakes.

Hopefully, a resolution of this kind, which strengthens the Presidents' hand but restores to Congress its rights under the Constitution, may well prevent future Vietnams and Dominican Republics and other imbroglios in which we have become involved.

We can do a great deal of talking in this Chamber; but none of us, to my knowledge, is or has been involved in the war in Vietnam or in Indochina, although I think that just about every Senator on this floor has served in the Armed Forces of his country during time of war.

I think it is about time that we think not only of the Constitution and what it means, what it really means, but also of what real equality, constitutionally defined between the executive branch and the legislative branch, really means. It is about time to stop talking of an extraordinary age in which we live and to accept the fact that these things are going to happen willy-nilly whether we like them or not if we do not have something to say about them.

Frankly, I am heartsick, and have been for years, about this war in Indochina, about this useless loss of life, about people who have been destroyed along with their culture and their land. It is about time that the Senate faced up to its responsibilities.

This is a good bill, but it does not go far enough. But it is a step in the right direction. When we talk of the refugees and the dead and the wounded, let us think a little about our own, and let us shed a silent tear for those who have done so much and whose services and whose lives we miss very deeply today.

Mr. PERCY. Mr. President, I appreciate the very thoughtful comments of the distinguished majority leader, whose views on this subject have been consistent and well articulated for many years. We can understand his exasperation that we are still dealing with the same tragic problem.

Just to update his figures of 2 weeks ago, if the figures were even updated as of last night they would have been out of date, because when I was coming in this morning I heard on my automobile radio the news we all know, that another aircraft was just announced as lost. It was downed over North Vietnam, and four more American boys are listed as missing in action. Four more families face the tragedy of knowing what war is all about—not that they have not known it through the anxious months, and years, possibly, that their men have been gone.

But now they are faced with the grim reality of not even knowing what the status of their fathers or husbands or sons may be for an indefinite time.

These are statistics and figures. But as all of us deal with them in our own constituencies, we talk with, we get to know intimately, the families of men missing in action or killed in action or injured in action. The tragedy of this war becomes very real as we face the families and try to explain what they have sacrificed for and where we are going from here.

Our new ventures in foreign policy have revealed the fallacy of much of the thinking of recent years—the outdated idea of a monolithic communism, one central point pulling all the strings to conquer the world through military aggression. This idea is being disproved by the very testimony, firsthand, being taken by those who have visited Peking and have visited and will be visiting Moscow. Today there is much divisiveness inside the Communist world, and more bitterness and more hatred between Communist capitals than, possibly, between capitals of the free world and Communist capitals.

I think we are indebted to the distinguished Senator from New York, who has been joined by a coalition of Senators, not ideological in makeup—not just liberals, not just conservatives, not just southerners, not just northerners, not just Democrats, not just Republicans—but Americans who have a constitutional responsibility to rectify what has been wrong in our procedures for many years and to find a way to bring the intention of the Constitution back into actual practice.

I say that when the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Mississippi (Mr. STENNIS) join, and are the principal sponsors of a bill, we had better take a good look at it, because that coalition of forces does not come together too frequently; but, when it does, I trust that the executive branch of Government will not fight too hard a proposal responding to the attitudes and feelings, and hopes and prayers, of millions of Americans who never want to see us stumble into war again.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. PERCY. I am glad to yield to the distinguished Senator from Virginia, who is another cosponsor of the proposed legislation.

Mr. SPONG. Mr. President, the managers of this bill welcome the supportive statement made this afternoon by the able Senator from Illinois. His remarks are consistent with and elaborate upon positions he has taken on this floor over a period of almost 2 years.

He has underscored two points that have been before us this afternoon in previous debate. The first is the nature of the sponsors, the makeup of the sponsors, of the proposed legislation.

This is truly a bipartisan effort, without regard to philosophy or geographical origin.

Second, the Senator from Illinois says that the people expect Congress to act in this area and he is quite correct. The time for action may be long overdue but certainly the measure before us comes to the floor after long deliberation and after collective effort. Those managing the bill welcome the support of the Senator from Illinois and the statements he has made this afternoon.

Mr. PERCY. I thank my distinguished colleague from Virginia.

Mr. JAVITS. Mr. President, I should like to interpose, my tribute to the Senator from Illinois for the fine statement he has made and his great perception in this field. I thank him especially for raising the question of why the administration feels it has to oppose and stand foursquare against this particular measure. I must say that it puzzles me. It has nothing to defend on that score. The President does not have to feel self-conscious about the Vietnam war. He has said many times it is not his war and he has properly claimed credit for beginning to get us out of it. There has been unusual generosity on both sides of the aisle—on the part of Democrats as well as our own—in recognition of that fact.

Also the President has made much on many occasions of being against centralization of power and the role of Congress in sharing that authority with him and in seeking, as it were, the cooperation of Congress with respect to many things which he needs to do. But when we touch this nerve, apparently, of this awesome power of life and death over our people, which one would think the philosophy certainly dictated would be one area he would want to share the responsibility, yet suddenly we find a stiffening and a hardening, as if some power of the presidency was not the presidency but some kind of kingship, some divine right, that was being invaded.

When we listen to the President's men testify on this subject, like the very highly respected Dean Acheson, whose words have often been quoted here, and Under Secretary Katzenbach and others with similar points of view, as well as the present Secretary of State, I must say, it makes one really wonder.

I am grateful to the Senator from Illinois for having discussed that point.

I wonder, too. I do not understand, along with the Senator from Illinois, why this administration would want to place itself athwart this legislation instead of, with humility—and this is a subject which calls for humility—cooperating with us and sitting down with us trying to work out a way which would be best to give reassurance to 200-plus million Americans that if we do commit the lives and fortunes of our people in this bloody business of war, at least we will do it together.

Mr. PERCY. Mr. President, I should like to respond. I cannot fully or adequately explain what the administration's position is, or do justice to it. As I have tried to do in all major legislation, before I submitted the resolution in May of 1970, I did discuss it with members of the administration and found them reluctant about it. I have had extensive conversations with members of the administration this past month on the pending legislation, trying in every way I could to persuade the administration that this was in the best interests of the administration, the Nixon administration which inherited this war and which has been straining in every possible way to extricate itself from the war at the earliest possible opportunity.

I have indicated that I have stayed off cosponsorship of this legislation so that I could be an independent advocate for the principles it represents.

I have questioned Secretary Rogers and have talked to Dr. Kissinger recently about it, as well as others. I have tried to look at it from the standpoint of the Middle East and other areas vital to the United States. I had to satisfy myself that this legislation would not in any way impair our ability to act, if we had to act to preserve peace in an area vital to the concerns of the United States.

I cannot see that this legislation would in any way impede necessary action. The President would have adequate power to move if necessary, but the Congress would be able to exercise its own constitutional role in such a situation. Certainly the number of cosponsors of the amendment who have advocated a firm policy in the Middle East would not endanger that part of the world to overt aggression. They have taken into account, as I see it, every possible contingency.

It should be noted that the letter from Secretary Rogers to the Senator from Colorado (Mr. ALLOTT) included the following paragraph:

> I wish to make it clear that the Administration is not opposed in principle to congressional action seeking to clarify the exercise of shared war powers by the Legislative and Executive Branches. For example, the Administration has not opposed House Joint Resolution 1, the Joint Resolution concerning the war powers of the Congress and the President, which has passed the House of Representatives and does not present the serious constitutional and other problems posed by S. 2956.

This indicates it was not a rigid position being taken against anything and everything, that the administration has an open mind.

Mr. President, I would think that it would be the responsibility of the administration, at this stage, actually to point out the kinds of situations that could exist that would endanger, somehow, the national security or that would unduly restrict the President as Commander in Chief of the Army, Navy, and Air Force. Certainly, no one in this body wishes in any way to endanger the country.

What we have demonstrated proof of is that nothing has occurred in the past decade, or in the history of the country, that has perhaps weakened the national security more than the Vietnam war. Our ships have become older and obsolete, the maintenance of our bases has been neglected. It has caused us to delay the production of new systems which the military feel they need but do not have the money for. We know that this war has been a devastating blow, in many respects, to the whole of our national strength. It is our national strength we are trying to preserve when we say that we must have a much broader executive-legislative cooperation as regards the warmaking power.

Mr. JAVITS. I thank my colleague from Illinois very much for an extremely helpful intercession here. He will find the letter from the Secretary of State of page 11054 of the RECORD, of March 29, 1972. We can perhaps discuss it a moment or two later on.

Mr. President, we are about to present to the Senate three perfecting amendments which have been worked out and are essentially in response to a discussion which was had here on matters which we feel are very fully covered by the bill, but in which we seek to give whatever reassurance Members of the Senate may feel they should have, by spelling out in words within the bill exactly what we have covered in colloquy. So, Mr. President, I shall offer these amendments. I will first suggest the absence of a quorum so that Members may be advised that the amendments will be offered. It is my understanding that the majority leader wishes to have a rollcall vote on these amendments. Therefore when I offer them, I shall offer them en bloc. However, since they apply to different parts of the bill and deal with different matters, unless someone wishes to ask for a division of the question, as anyone has a right to do, we would have one vote rather than three rollcall votes.

Mr. President, with that word of notice, I suggest the absence of a quorum.

Mr. GRAVEL. Mr. President, would the Senator withhold his request?

Mr. JAVITS. Mr. President, I withhold that request.

Mr. GRAVEL. Mr. President, I would like to send to the desk some amendments and will suggest the absence of a quorum if there are not a sufficient number of Senators present to ask for the yeas and nays.

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Mr. MANSFIELD. Mr. President, would the Senator yield?

Mr. GRAVEL. I would be happy to yield.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senator from New York, it is my understanding that he is going to offer three amendments and try to get them voted on en bloc, and very possibly voted on this afternoon, if possible.

Mr. JAVITS. The Senator is correct.

Mr. MANSFIELD. Mr. President, I understand that the Senator from Alaska has amendments that he would like to submit but not call up today.

Mr. GRAVEL I could call them up today, if the leadership would like, or I could call them up another day.

Mr. MANSFIELD. Mr. President, would the Senator from Alaska care to discuss the subject with the Senator from New York while I suggest the absence of a quorum?

Mr. GRAVEL That would be agreeable.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I will not call up these amendments today because of their nature. I think it would take some time to deal with them and, if I might use the expression, let them "silt in" because of their profound import.

I think it is very important to explain the amendments and to explain them in tandem, because I will call them up in tandem, as they cannot be handled separately.

One of the amendments I, myself, would not be prone to vote for. However, I think it is something that the Senate should vote on and be on record on.

AMENDMENT NO. 1101

The first amendment would change section 9 of the bill. On line 6 of page 13, it would strike out the word "but" and the word "not", and in place of the word "but" would insert the word "and". So, section 9 would read as follows:

> This Act shall take effect on the date of its enactment and shall apply to hostilities in which the armed forces of the United States are involved on the effective date of this Act.

Then my first amendment, amendment 1101, would add to that: "after the word 'Act' on line 8 of page 13, strike the period and place a comma so that it will read:

> . . . unless by not later than 15 days after the date of the enactment of this Act, the Congress declares war against any foreign power with which the Armed Forces of the United States are engaged in such hostilities.

It is not difficult to comprehend what this would do. If we feel—and I think we all do—that these war powers have been exercised capriciously by the Chief Executive of this country, regardless of party, in the 25 years, then we should do something about it in the future. What I am trying to do is to take the future and bring it to the present.

If I could make a comparison that is possibly not very pleasant, but very apt, I would say that if this body feels that it has been raped with respect to its prerogatives on declarations of war, that is fine. However, the Senate should understand that this act of rape that has been done is not an act in the past but is an act that is being done today. And if rape is wrong in the future or in the past, it is wrong today. And what the Senate will have to do is to face up to its responsibilities to vote on it under this particular piece of legislation.

AMENDMENT NO. 1102

The second amendment I offer is a very simple substitution for section 9. That is, we would substitute for the present section 9 an outright declaration of war against North Vietnam.

A new section 10 would relate to the date that the act takes effect.

I am not for a declaration of war against North Vietnam. But I think that we have stood around long enough. Not more than a few minutes ago, we heard that it is not considered to be in vogue to declare war, and this has been the situation since the Second World War, because wars are not nice. However, we go ahead and wage war. As the distinguished majority leader pointed out, we kill people. We cut off arms and legs. We make people insane. We rip out their psyches and send abroad the best youth that this Nation has. However, we do not find it within our vocabulary or within the niceties or proprieties of our society to declare war when we wage war.

Right now there is a war going on. It is a civil war. It is going on in Indochina.

We are supposed to be getting out of that conflict. Yet, right now, as these hostilities are being exacerbated for whatever tactical or strategic reasons the North or South Vietnamese leadership might have, we find that we are moving two new aircraft carriers onto the line. We are privy to the information that, though we are supposedly winding down the war, from the sanctuaries in Thailand we are increasing our activities in a remote control fashion. Information on the air war is kept secret—not from the North Vietnamese, not from the South Vietnamese, and not from the Cambodians or the Laotians. It is kept secret from the American people. If that is the way this Nation is going to act and act in secret, not from the enemy but from its own people, we ought at least to have the guts to say that we are waging war, and killing human beings. Let us do it in the way it has been done in the days of old, and done legally, and that is to say, "Let us declare war."

Mr. DOLE. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. DOLE. Is the Senate going to make that retroactive?

Mr. GRAVEL. We do not have to make it retroactive. It would have no effect at all. We would make it effective as of the present. Does that answer my colleague's question? Perhaps I could ask my colleague what would be the purpose of the question. What would be the advantage of making it retroactive?

Mr. DOLE. It would fix responsibility for the war in Southeast Asia.

Mr. GRAVEL. Is it possible my colleague would like to have it retroactive?

Mr. DOLE. I was curious about the Senator's amendment.

Mr. GRAVEL. Does my colleague have a purpose in proposing such a question?

Mr. DOLE. My purpose is to seek information.

Mr. GRAVEL. The Senator has the information now. Is there any purpose to his question?

Mr. DOLE. My purpose was to get information.

Mr. GRAVEL. I hope my colleague will share his wisdom with us since I was gracious enough to answer his question.

Mr. DOLE. The Senator is talking about declaring war and decrying all we have done as a nation and all those we have maimed and killed. I do not recall a reference to what the enemy has done to the South Vietnamese and our American servicemen. I find it interesting that sometimes we find fault with our own Government before we find fault with the enemy. I just wondered if the Senator from Alaska, in his amendment, would pinpoint the date of the origin of the war in Southeast Asia and then recite the history of the war since that time, the involvement of America in the war since that time, the administration during which we became involved and all administrations, Democrat and Republican, that have been charged with responsibility for dealing with this war. Then we would have it before the American people.

Mr. GRAVEL. I tried to do that as effectively I could when I read the Pentagon papers into the public record. The Senator from Kansas was critical of that at the time.

My colleague can now get a set of those papers from the Defense Department, which released them a week before the Beacon Press published them. I, therefore, will not take the time of this body by going through that historical exercise.

Mr. DOLE. I understand what the Senator from Alaska is doing. That is a judgment the Senator made, and it is one he will have to live with.

Mr. GRAVEL. I am happy to live with it and I am very proud of it.

Mr. DOLE. The Senator from Kansas is not proud of it.

Mr. GRAVEL. I might ask if the Senator from Kansas were to find something going wrong in a concentration camp, if we were killing people in Kansas and it were top secret information, would the Senator withhold that information from the constituency and the Nation?

Mr. DOLE. The Senator's analogy is not appropriate, nor is it relevant to the question at hand.

Mr. GRAVEL. Is there a difference in killing people in Kansas and killing people in Indochina? They are human beings.

Mr. DOLE. I know a little about the consequences of war.

Mr. GRAVEL. My colleague has not answered the question. Is there a difference in killing people in Kansas and killing people in Indochina?

Mr. DOLE. The result is the same. They are dead in either instance.

Mr. GRAVEL. They are human beings, are they not?

Mr. DOLE. Oh, yes, they are human beings.

Mr. GRAVEL. Should we not be concerned?

Mr. DOLE. I am concerned about anyone engaged in any conflict, armed or otherwise, where death and injury are possibilities. But the question posed by the Senator from Alaska is far afield.

Mr. GRAVEL. Not as far afield as my colleague has brought me. I am happy to go far afield if it is pertinent. We are talking about a hypothetical situation. If you have knowledge of a crime and something is going wrong, and it is marked secret, do you have to be a part of that secret or do you not have a responsibility to this country?

Mr. DOLE. I have a responsibility to the Government and to the Senate.

Mr. GRAVEL. Is the Senator placing that responsibility above human life?

Mr. DOLE. I will not discuss that with the Senator from Alaska.

Mr. GRAVEL. Why not discuss it? These are the momentous decisions we are talking about. When we talk about war powers, what are we talking about? We are talking about the power to take life. Why not discuss it?

Mr. DOLE. The Senator from Alaska can discuss anything he wishes, but I think the Senator from Kansas understands we have different views of our responsibilities as Members of this body and as citizens of America. I have one view and the Senator may have another view.

Mr. GRAVEL. Is that view so complex that the Senator cannot answer the question with regard to human life? Does he place his office in the Senate above human life? Does he place the decorum of this body above human life?

Mr. DOLE. The Senator is posing irrelevant questions.

Mr. GRAVEL. I think my colleague is right. We do have a difference because I find no such right above human life. When you talk about human life you talk about something definitive.

Mr. DOLE. Let me say to the Senator from Alaska that I would guess every Senator, and I am certain that everyone in this Chamber, deplores armed conflict just as does the Senator from Alaska, although he may speak more about it than other Members of this body.

Mr. GRAVEL. I beg to differ. If we measure the RECORD line by line, we will find the Senator from Kansas came here the same time as I, and he has been more verbose.

Mr. DOLE. We will measure our war records and our records in the Senate and find we know a little about conflict, death, and war, but I suggest there comes a time in every nation's history when the choice is very difficult. Sometimes we are engaged in armed conflict. Whether we made a mistake in becoming engaged in armed conflict is easier to judge from hindsight than it was at the time.

I only suggest the Senator is proposing that we have a formal declaration of war. That is his right. I believe it is a little late for that, because we are now withdrawing from Southeast Asia under the guidelines established by President Nixon. We have been doing so for a number of months. Eighty-seven percent of all troops and more than 90 percent of the combat troops will be out of Southeast Asia by the end of this month. That is progress to me, but maybe the Senator from Alaska is correct.

Mr. GRAVEL. It could well be a charade. How many deaths does it take to get out of South Vietnam? If the President wanted to do so he could get out in 30 days without the deaths and maiming and acceleration of the bombing. He is talking about moving American troops. We see it today. There are no American troops at the DMZ fighting that battle, but we have an air cover and our fighter pilots are being killed and captured. The Senator says we are winding it down. We have the power to end it, and all that I offer are two humble amendments to bring the issue to the floor.

We talk about war powers. Is there any purpose the Senator sees in our continued involvement in Indochina?

Mr. DOLE. The Senator said a while ago—maybe he has forgotten—that a death is a death, regardless of who is involved. Now he suggests we should let the killing go on, the killing by the North Vietnamese. A life is a life, the Senator said.

I believe we made our commitment in Southeast Asia, and I am not going to put an administration tag on it because it has been going on through three or four different Presidents and both parties. As a Member of the House I supported the Gulf of Tonkin resolution as did 413 other House Members on August 7, 1964.

Mr. GRAVEL. Was my colleague here to vote for the Gulf of Tonkin resolution?

Mr. DOLE. I was not in the Senate. I was on the other side of the Capitol in the House of Representatives. I voted for it. The Senator from Alaska had not arrived in Washington yet. One wonders what he would have done. Based on his statements prior to coming here he was rather hawkish.

Mr. GRAVEL. The Senator is in error.

Mr. DOLE. I would put it in the RECORD. It was in a magazine and in other material. But in any event, there is a change of public opinion, and a person can change to catch up with public opinion. But I do not think the American people want the commitment to end so quickly, although it is——

Mr. GRAVEL. Would that mean that people are not ready to honor commitments to Pakistan, to support commitments we had to Pakistan? There were four. Why should we now hang on the issue of American commitment? We had commitments to slavery, but our country has matured. We have a moral obligation to change. That is what the Senate is. It is a living body and not a dead body that enshrines itself to be worshiped.

We have a responsibility to change. That is all we ask for. My colleague suggests that because we did it in the past we must do it for all time. That makes no sense.

Mr. DOLE. Well, there are a lot of fools, and some will never be identified, but it might still be pointed out that we are ending the war in Southeast Asia. The Senator from Alaska, I think, would agree with that.

Mr. GRAVEL. No, I do not agree with that.

Mr. DOLE. Should we just walk away and let the North Vietnamese take over South Vietnam? Is that what the Senator is suggesting?

Mr. GRAVEL. Is it our country? Are they a threat to us? Should we have gone into Chile because that was a Communist country? What is the purpose of going in there? We have instituted a dictator in South Vietnam. We have instituted a dictator in Cambodia. Every time we turn around in Southeast Asia we have put in a dictator.

Mr. DOLE. The Senator is making a judgment he should have made several years ago. That is why I suggest the Senator make his declaration of war retroactive, so it would cover what he was thinking 7 or 8 years ago.

Mr. GRAVEL. We cannot change what has happened in the past. We can use the cliche that it is "spilt milk," but we can do something about the future, and the future starts today.

Let me reiterate the purpose of these amendments. We are today debating a law and will vote on a law which I think is a good one, and which will affect the war powers of the President of the United States. They should be affected, because this is a very serious power.

All I say is that if it is important to control those war powers one day in the future, it is important to control those war powers this very day—today, when we suffer the possibility of seeing the war reescalated, because the options are very simple. Depending on what happens in the present onslaught in Vietnam, the President has the following choices: One, he can escalate the war by sending in more troops. He has power to do that because this body gave him the draft. So he can pull in as many people as he wants and send them back into Indochina, which occurred in 1965 and 1966, because we did not limit that power.

The other option is that he can escalate airpower. He has already done that. The minute the last Congress adjourned the minute we left Washington, this administration stepped up the air war. I offered an amendment last October to limit the bombing only to protection of our withdrawing troops. So if truly we are talking about winding down the war, we should have had support to stop the bombing, because the bombing would have been related to the withdrawal of American troops. But that is not the case. The bombing that has been taking place this last year has not been related to the withdrawal of American troops. It has expanded the entire conflict. It has permitted us, as a matter of tactics, to change the war from a ground war with American troops to an automated war at

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a distance. We have waged this automated war. We have accelerated this automated war. We are now on the brink of accelerating it still further.

My fear—and I say I stand here trembling at the thought of it, because it is not an idle fear, and I say this most respectfully—is that since the President of the United States is on record as considering tactical nuclear warheads as something that can be used in a tactical sense, he may use them now. We face a situation where he may not have alternatives politically; it may not be politically feasible for him to reescalate the war with troops. So what other devices does he have? He is reescalating it currently with bombing. If that does not work, what is his next step? I pray his next step will be to get out lock, stock, and barrel. But if he is not of that persuasion, what is his next step? Tactical nuclear warheads.

I do not think there is a Member of this body who does not have that fear down at the bottom of his gut and is not worried and is not watching for developments day by day. But we sit here as though we were impotent. We sit here discussing a war powers bill that will take effect in the future, not today. We sit here as though we were impotent, hoping he will not do it. Yet we have power to have a role in what will be done and what will not be done.

I hope these amendments, which I now send to the desk and will call up and ask for a vote, will act as a vehicle in these very difficult times for this Nation.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table.

Mr. JAVITS. Mr. President, I now repeat the statement I made before with respect to my intention to offer three perfecting amendments en bloc.

The majority leader has advised me he will ask for a rollcall, so the attachés should, in the usual course, notify Members of the Senate.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, pending the arrival of a sufficient number of Senators, I ask unanimous consent at this time that it will be in order to ask for the yeas and nays when a sufficient number of Senators have arrived on the floor. The purpose is to allow the amendments to be laid before the Senate and the debate to start.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. May I say to the attachés that if the Members are not forthcoming, there will be a live quorum.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum. May I just explain to the Senate that we are having copies of these amendments made. They will be in in a minute, and then I shall debate them.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I send to the desk the three amendments which were the subject of the previous unanimous-consent agreement. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Has unanimous consent been given that they be considered en bloc?

The PRESIDING OFFICER. It has.

Mr. JAVITS. I send the amendments to the desk on behalf of myself, the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), and the Senator from Virginia (Mr. SPONG).

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. JAVITS. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The three amendments submitted by Mr. JAVITS, ordered to be considered en bloc, are as follows:

AMENDMENT No. ——

On page 8, line 11, immediately after the word "from," insert:

(A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or

(B)

AMENDMENT No. ——

On page 11, line 8, strike out "the continued use thereof" and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces"

On page 11, line 19, strike out the period after the word "Congress" and insert in lieu thereof a comma and the following:

"except in a case where the President has determined and certified to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities."

AMENDMENT No. ——

On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. JAVITS. Mr. President, there are 26 cosponsors of the war powers bill. In view of the limitations on time, to make a list of all of the sponsors of these amendments available for the RECORD, I ask unanimous consent that a list of the sponsors of the bill in alphabetical order be printed at this point in the RECORD, under a separate heading reading "List of Sponsors of the War Powers Bill."

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SPONSORS OF S. 2956, THE WAR POWERS ACT

1. Birch Bayh
2. Lloyd Bentsen
3. J. Caleb Boggs
4. Edward W. Brooke
5. Clifford P. Case
6. Lawton Chiles
7. Alan Cranston
8. Thomas F. Eagleton
9. Mark O. Hatfield
10. Hubert H. Humphrey
11. Daniel K. Inouye
12. Jacob K. Javits
13. B. Everett Jordan
14. Charles McC. Mathias, Jr.
15. George McGovern.
16. Claiborne Pell
17. Abraham Ribicoff
18. William B. Saxbe
19. Richard S. Schweiker
20. William B. Spong
21. John C. Stennis
22. Adlai E. Stevenson III
23. Robert Taft, Jr.
24. Herman E. Talmadge
25. Lowell P. Weicker, Jr.
26. Harrison A. Williams

Mr. JAVITS. Mr. President, I ask unanimous consent that, preceding each of these explanations, the text of the amendment be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The first amendment is as follows:

On page 8, line 11, immediately after the word "from," insert:

(A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or

(B)

Mr. JAVITS. Mr. President, the first of these amendments occurs at page 8, line 11, and proposes to insert, after the word "from" on line 11, the words "(A)

any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or (B)".

The point of this amendment is to answer a question which has been raised as to whether citizens and nationals of the United States who are on the high seas will be protected as if they were in another country. That is the general thrust of paragraph numbered (3) of section 3 of the bill.

Mr. President, we stated that that was our purpose and intention. We stated that we believed the word "country" which appeared throughout this particular paragraph with reference to a foreign country applied as well to a ship bearing the flag of that country, and that every ship carries some flag and, therefore, ships were included.

We are now spelling it out in so many words, so that there may be no need for transmuting the word "country" to mean a ship carrying the flag of a given country.

There is no question but that U.S. ships are soil of the United States.

Similarly, Mr. President, if Armed Forces of the United States are outside the United States of America, they are just as much outside when they are on the high seas as in a foreign country, and that is, therefore, fully covered by paragraph (2) of section 3. So the one place as to which we spell it out is where we deal with the presence of Americans in a foreign country, and there we state it.

That accounts for the first amendment.

The second amendment is as follows:

On page 11, line 8, strike out "the continued use thereof" and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces"

On page 11, line 19, strike out the period after the word "Congress" and insert in lieu thereof a comma and the following:

"except in a case where the President has determined and certified to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities."

Mr. JAVITS. The second amendment, Mr. President, occurs at page 11, line 8. It will be noted that this provision is section 5. The question, Mr. President, has arisen respecting what happens at the end of those 30 days, if our forces should still be engaged in hot combat. This explanation will be made by my colleague, the Senator from Virginia (Mr. SPONG), and if he is ready, I yield to him now.

Mr. SPONG. Mr. President, as the Senator from New York has stated, I would like to make a few brief remarks in support of the amendment to sections 5 and 6 of the bill which pertains to the bill's 30-day period.

I have listened carefully to some of the arguments made by individual Senators in the course of this debate—arguments which have pertained to their difficulties with this 30-day provision. Some Senators had doubts about the assertion of congressional authority to halt hostilities after 30 days because they believe that the assertion of this authority conflicted with the authority of the President as Commander in Chief.

I have always believed, however, that this 30-day provision was constitutional because I do not view it as a seizure by the Congress of the President's Commander in Chief powers. I have always felt that it was clearly understood by all that the President has certain irreducible powers as Commander in Chief of the Armed Forces which are given to him and not to Congress under the Constitution. Within the scope of these powers he is charged with maintaining the security of the members of the Armed Forces. Thus, as long as the President is acting in good faith to implement a decision which has been made by a higher authority—namely, by he and Congress acting together under the Constitution and according to law—he has certain duties and responsibilities, as Commander in Chief, which are his alone.

I have never believed that the bill sought to take this authority away from the President. For example, if our troops are engaged in hostilities, in an emergency and pursuant to law, and Congress decides that it will authorize no wider war, then the President is under an obligation to disengage the Armed Forces. I would add that he is under an obligation to disengage promptly and not to use such disengagement as a cover for pursuing a wider war which Congress has not authorized. But if he is, in good faith, seeking to disengage, I do not believe it would be constitutional for Congress to require him to order the members of the Armed Forces to cease fighting before they were safely out of reach of enemy attack. As an example, we might all recall the valiant and effective retreat by our Armed Forces from the reservoirs in the northern part of North Korea after the unexpected Chinese attack. No one would contend that, if such a situation should occur again and the President were required to extricate troops after the 30-day period expired, the President could not order our men to continue to fight their way out of an enemy encirclement.

Despite the fact that I do not believe the bill seeks to assert such congressional authority, I believe it is wise for us to accept this perfecting amendment which simply clarifies this point.

The amendment provides that the use of the Armed Forces shall not be sustained beyond 30 days under the President's emergency powers unless Congress so authorizes or unless: First, the President determines and certifies to Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or, second, Congress is physically unable to meet as a result of an armed attack upon the United States.

Several words of this amendment are important, Mr. President. First of all, there must be "unavoidable military necessity." This itself narrows the circumstances to those in which continued action by our Armed Forces is militarily completely unavoidable respecting the safety of those American Armed Forces who are engaged pursuant to the President's emergency powers. Furthermore, the President must certify to Congress not only that this military necessity regarding the safety of these forces exists, but also that this necessity requires the continued use of these forces" in the course of bringing about a prompt disengagement from such hostilities." Under this wording, I would argue that the President is authorized to protect the safety of our men as he is attempting to disengage them but that he is not authorized to seek a wider war for reasons which he has adopted, no doubt in good faith, but have not been found persuasive by Congress. Moreover, he may only use "such Armed Forces," referring to the Armed Forces which are in the process of disengagement. I would interpret this to mean that he may not engage in lengthy or extensive reenforcement of these forces for the purpose of pursuing some policy other than disengagement. Finally, I believe the word "disengagement" is significant because it implies an actual tactical disengagement, not merely a long-range theoretical hope of eventually retiring from the theater of war.

I would add only one further point. Some Senators have asked the question as to what the President's authority would be in case Washington and the Members of Congress were destroyed in a nuclear attack or in case Washington were occupied, as it was during the War of 1812. This point is easily dealt with, Mr. President, by a simple provision which permits the President to extend hostilities under his emergency powers if Congress is "physically unable to meet as a result of an armed attack upon the United States."

I believe that it will be clear to everyone that the sponsor and the cosponsors of this bill meant what they said when they stated several days ago that they were ready to accommodate legitimate requests for redrafting sections of the bill to clarify or to deal with points which came up in the course of the debate. We all felt this to be a strong bill which reasserts a constitutional role for Congress, which is in danger of becoming seriously weakened and even extinct. But we also want to take every reasonable step to insure that the President's constitutional responsibilities are not degraded as we take this important step to define and specify them. As I have pointed out many times, I believe that, under the provisions of the necessary and proper clause of the Constitution and under Congress authority "to make all laws necessary and proper for carrying into execution" not only its own powers but

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also "all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof"—article 1, section 8—our authority to delineate and specify these powers is clear.

I think that the second amendment that the Senator from New York has offered in behalf of the sponsors of this bill merely further delineates and specifies our feeling as to what the Constitution provides for emergencies continuing beyond the 30-day period.

Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I, too, would like to address some brief remarks to the second amendment, which is part of the three-amendment package offered by the distinguished Senator from New York.

I feel that the second amendment will be very helpful in clarifying the meaning of the 30-day authorization period as stated in section 5 of this bill. I believe it is important, however, that both Congress and the President understand fully what the President would be asked to certify if he found it necessary to continue the use of Armed Forces beyond 30 days in order to assure their protection. I am specifically concerned that all parties understand the meaning of the word "disengagement" as it appears in this amendment.

We have alluded on several occasions during the course of this debate to the effect that the Vietnam War has had on the drafting of this legislation. Concern has been expressed throughout that the confusion and uncertainty surrounding our involvement in Vietnam be avoided in the future.

President Nixon first announced on November 3, 1969, a plan to withdraw U.S. combat forces from Vietnam and replace them with South Vietnamese forces. He called his plan "Vietnamization."

The President specifically used the word "withdrawal." Three years later, we are still in the process of "withdrawal"; and if recent events are any indication, that process will continue for some time.

Now we use the word "disengagement" in this amendment.

Mr. President, I feel it is important that the legislative history of this amendment show clearly the intent of the sponsors as to the definition of the word "disengagement."

I draw a sharp distinction between the word "withdrawal" and the word "disengagement," and this amendment was drafted with that distinction in mind.

I see the action of withdrawal as being indefinite and ongoing. By itself, the word "withdrawal" would simply describe the direction of a movement or action but would fail to place a quantitative limit on that action.

The word "disengagement," on the other hand, I see as having two dimensions. It encompasses the full meaning of the word "withdrawal" but also includes the strong implication of finality. A quantitative limit is supposed.

By using the word "disengagement" in this amendment, we seek to require a complete divorce from prior policy considerations. The President not only would be obligated to withdraw U.S. Forces from the hostile situation but also would be required to cease his pursuit of the objective for which he initially involved them in hostilities. He would be asked to certify that his only objective or policy consideration is the safe removal of troops from the hostile situation in the minimum time possible.

I would add that Congress denial under section 5 of the President's request to continue involvement in emergency hostilities, or the termination of emergency authority prior to 30 days under section 6, would obligate the President to forego his original objective in a very explicit way. The word "disengagement" as used in this amendment would carry the same message but rather implicitly. The word "disengagement" as used in this amendment would carry that same message but do it implicitly.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I want to respond to the Senator from Missouri, and then the Senator from Kentucky (Mr. COOPER) has a question or two to ask of the Senator from Virginia (Mr. SPONG).

First, I assume that when the Senator says the "objective," and when he mentions the word "objective" in his explanation, he means the objective with which the President used the troops rather than perhaps some overall diplomacy or policy objective which might affect that country or a situation?

Mr. EAGLETON. The Senator from New York is correct.

Mr. JAVITS. Second, I assume the Senator is trying more clearly to define the power of Congress and the power of the President, in view of a statement from the administration which appears on page 291 of the hearing record of the Committee on Legislative Proposals relating to the war in Southeast Asia which was held in April and May of 1971. In that statement the administration said:

> Putting aside the question of the President's general authority under the Constitution to deploy troops abroad, we consider that the President certainly has the constitutional authority to take all reasonable efforts to protect the troops once they have been committed and to bring about their withdrawal under circumstances that contribute to a durable peace.

The Senator makes the point, as I understand it—and I wish to evidence my concurrence with the Senator—that we are not giving the President, in our judgment, all that latitude, that he bring about the withdrawal "under circumstances that contribute to a durable peace." We use the word "disengagement" in order to demonstrate that we actually expect them to be disengaged. It is only the tactical situation relating to disengagement which we will countenance as an element of delay in the 30-day period, not any other policy objectives such as achieving "a durable peace."

Mr. EAGLETON. The Senator is correct. Using the word "disengagement," we felt it connoted a quantitative and finite limit, that it would not be perpetual or limitless.

Mr. JAVITS. That was different from the word "withdrawal" which the administration uses and the word "withdrawal" which the President has used with reference to Vietnam.

Mr. EAGLETON. The Senator is correct.

Mr. JAVITS. I thank the Senator.

Mr. COOPER. Mr. President, I support the amendment interpreted by the Senator from Virginia (Mr. SPONG), and the Senator from New York (Mr. JAVITS), and Senator EAGLETON. I believe that the Senators from Virginia, Missouri, and New York have interpreted it well. Sitting through the hearings on this very important bill, I came to the conclusion that I would support it.

One section troubled me, however. In my separate views as to section 5, I raised the question of whether, when the President was exercising his constitutional authority, Congress could require him to suspend hostilities. I do not think so. The Senator from Virginia recalls my questions about section 5, does he not?

Mr. SPONG. Yes, I do.

Mr. COOPER. Section 3, subparagraph 1 and subparagraph 2, describes the situation in which the sponsors believe, and I believe our committee would agree, that the President has the constitutional authority to engage in hostilities.

Mr. SPONG. That is correct.

Mr. COOPER. I said a few days ago on this floor, during the debate, that if the same circumstances were present on the 30th day that prevailed on the first day, the President would have the same constitutional authority to continue to engage our forces in hostilities. Would the Senator not agree?

Mr. SPONG. I quite agree with the distinguished Senator from Kentucky. I know what his concern has been all along. As a matter of fact, it harkens back to the debate on the Cooper-Church amendment on Cambodia about certain limitations that could be placed on time and distance. I agree that the very fact of time, 30 days, cannot render something unconstitutional that would be constitutional if the same elements are present.

Mr. COOPER. This amendment provides that if at the end of the 30 days or prior, the President reported to the Congress that circumstances were such that the safety of our forces was still imminent, then he would be relieved of the responsibility to suspend hostilities, at the end of the 30 days.

Mr. SPONG. That is true. Under the bill as reported from the committee, the one specific exception to the 30-day authorization period—that is, beyond the constitutional argument that the Senator from Kentucky has presented—was that there be specific legislation which authorized the period to be extended. This amendment adds two things to that. It details what I had already understood concerning the President's Constitutional authority to protect U.S. troops but it also gives a mechanism, under which the President certifies to Congress that there is unavoidable military necessity for continuation of hostilities beyond 30 days. This merely says that by certifying the necessity to Congress, the 30-day authorization period is extended or, it is extended if Congress is physically unable to act. We would, however, expect that extention to be a reasonable one.

Mr. COOPER. Even though the amendment would now relieve the President of suspending hostilities 30 days, under the circumstances which the Senator describes, nevertheless, by using the word "disengagement" it is intended that the President in any period of time after 30 days would not misuse the authority, and that military action taken after 30 days would be directed towards disengagement of our forces; is that not correct?

Mr. SPONG. That is correct. In other words, he would proceed with the disengagement. The only way he could act to expand what he is doing is to have additional authorization from Congress.

Mr. COOPER. I must say that I am pleased with what the sponsors of the bill have done. It corrects, in my view, a constitutionally doubtful part of the bill. We have listened to the interpretations of the Senators from Virginia, Missouri, and New York on this point, and I am satisfied with the suspension of the 30-day period.

Let me ask one more question. If our country should be engaged in a war with countries and our national security is not threatened and our forces are not threatened, unless we deploy them in foreign countries where they are in danger, I would say that our duty is to disengage as quickly as is possible from hostilities. We have argued this through amendments during the past 2 or 3 years, in an effort to disengage in Vietnam and Southeast Asia.

This amendment may not meet another possible situation which I hope will never occur, that all of us hope will never occur. If the United States should become involved in a war with a nation which has the capacity to destroy us—and there are just a few, the Soviet Union in particular—in a nuclear exchange, as we could destroy them, would this amendment insist upon a disengagement when the very life and security of the Nation would be at stake. Would this prevent in any way the President of the United States continuing whatever whatever steps are necessary to defend this country where disengagement might not be the immediate answer.

Mr. SPONG. I do not think it would under the bill as reported. I do not believe that is the case under the bill if amended.

Mr. COOPER. I do not believe so either. I thank the Senator, and I thank the Senator from New York.

Mr. JAVITS. Mr. President, I thank both of my friends for the elucidation. I wish to state that I associate myself with the successive explanations which have been made to the first two of the package of three amendments.

The third amendment reads as follows:

> On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. JAVITS. I come now to the third amendment. This will be found at page 13, line 8, at the very end of the bill.

Our desire here, Mr. President, is to insert the following:

> On page 13, line 8, after the period, insert the following: "Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Mr. President, we had hoped that the Senator from Mississippi (Mr. STENNIS) would be on the floor and be able to explain this amendment. However, he is not present. So, I shall endeavor to explain it.

Mr. President, I want to discuss briefly the amendment which deals with the headquarters operations of existing commands which we share with some of our allies. I should explain that this perfecting amendment is introduced with the understanding in mind that there are three of these: NATO, the United Nations Command in Korea, and the North American Air Defense Command—involving Canadian and U.S. forces. In these three cases American commanders do not at the present time have actual complete command over allied forces, but they do have, under existing arrangements, "operational control" over some of these forces. This control increases in times of crises and approaches full-scale command. There is no intention that the bill interfere with these integrated command relationships and I do not believe that it does. Some Senators have expressed concern, however, that these existing command relationships might be affected by the provision in section 3(4) of the bill which pertains to the assignment of U.S. advisers to command foreign regular or irregular troops. Advanced statutory authorization is required by the bill for the assignment of such advisers.

The concern has been expressed that we should not have to await statutory action, for example during a crisis in NATO, for the American NATO commanders to assume their added responsibilities under existing arrangements.

The amendment before us clarifies this point and it simply excepts these existing command arrangements from the requirement for prior statutory authorization in a crisis. I want to point out, Mr. President, that this provision is very narrowly drafted. It does not except any use of actual combat forces. It does not except any command arrangements which are included only in contingency plans, and it refers solely to the use of members of the Armed Forces in the "headquarters operations of high-level military commands which were established prior to the date of enactment of this act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date." I should perhaps add, Mr. President, that members of U.S. Armed Forces work from time to time in planning groups or joint exercises with members of other armed forces. The bill does not affect such activities and thus it is not necessary explicitly to deal with them.

Finally, Mr. President, I want to point out that the Congress could terminate the involvement of these members of the Armed Forces from such commands at any time, so there is ample protection against opening up a loophole in the bill both by the wording of the amendment and by the existence of this termination power. We would all assume, however, that the executive branch would operate in good faith on important matters such as this. The intent and thrust of the exception is clear and I believe the amendment provides on important, but limited, clarification to the bill.

In point of fact, Mr. President, this perfecting amendment does not contain any further authorization beyond what is intended originally in the bill—and beyond what I believe the bill actually does permit. Nonetheless, as there has been some concern expressed on this point. The sponsors wish to offer this perfecting amendment to make the matter clear beyond dispute.

In closing, I wish to emphasize that it is our understanding that their amendments will be accepted in all good faith, and that it does not open the gates for subsequent establishment of additional integrated commands at any time between the time of their amendment and final enactment of the bill. In summary, we are talking about three existing commands: NATO, North American Air Defense Command—NORAD—and the United Nations Command in Korea.

Mr. President, there is one last point that I wish to emphasize. It will be noted, if Members will follow me and look at the sentence in section 3, paragraph 4, which starts on page 9, line 14, that this sentence ends with the assignment of members of the Armed Forces of the United States in respect to the military forces of another foreign country.

It is our intention that the U.S. Government could in the event it is an element in the exercise of the authorities contained in section 3(1) and 3(2), work with the armed forces of other countries in many ways.

In other words, we are not confined with respect to actions under 3(1) and 3(2), but we could be working within the operations of the armed forces of the foreign countries. This is also a part of that kind of response which could be encompassed in 3(1) and 3(2), after they have been invoked on some other basis. Of course, the assignment of commanders or advisers to foreign forces could not be used as a pretext for invoking 3(1) or 3(2) if such personnel got caught under fire.

That completes a statement of the purpose of the legislation with respect to this entire matter of participation in

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high level commands of the activities of members of the Armed Forces in respect to the armed forces of other countries.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I too, would like to add a few brief words in explanation on the third amendment in the package introduced by Senators JAVITS, SPONG, STENNIS, and myself.

Mr. President, I feel it should be made clear that this third amendment does not in any way imply a forfeiture of the constitutional obligation of Congress to be involved at the outset in the decision to go to war. It merely permits and gives legal sanction to a procedure which has been followed in the past. That is that American officers be permitted to participate in the joint commands of NATO and other defense structures previously established by treaty.

Mr. President, no treaty—not even the NATO treaty—is self-executing. Implementation of treaty provisions must be accomplished in accordance with the constitutional processes. Our Constitution states that the full Congress must participate in the decision to go to war and not just the Senate. A treaty, of course, is acted upon only by the Senate and not the House. For this reason, the language in section 3 subsection (4) of this act states that—

> Authority to introduce the Armed Forces of the United States in hostilities . . . shall not be inferred from any treaty hereafter ratified . . . no treaty in force at the time of the enactment of this Act.

I believe that this third amendment has clearly interpreted the words "to participate jointly" as having a limited scope. This language would in no way cause the NATO Treaty or any other treaty to which the United States is a signatory to be self-executing.

Mr. JAVITS. The Senator is correct. I am glad to confirm his explanation of the amendment which we have proposed.

Mr. GOLDWATER. Mr. President, will the Senator from New York yield.

Mr. JAVITS. I yield.

Mr. GOLDWATER. I should like to say, in reference to the few questions I have, that I think it is rather strange that after months and months of hearings—and I attended some of them—we now find the sponsors of the bill admitting that there are weaknesses in the bill or that some facts have been overlooked. This indicates to me that if we are unsuccessful in referring the bill to the Committee on the Judiciary for further hearings, we should either take the Taft amendment, which would establish a Commission to study the subject, or debate the bill at greater length. I do not suggest a filibuster; I merely suggest that we have a chance to work out the additional inequities. Although we have these amendments, they are small changes compared with the enormous problems which arise in the bill.

Again, I do not think any of us especially want to limit ourselves if there is one provision in the bill that could be construed as unconstitutional.

I should like to ask the Senator from New York about the amendment on page 8, line 11, which reads:

> Any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or . . .

What about situations that arise in aircraft?

Mr. JAVITS. Mr. President, I would say those are situations which would be covered. I call to the Senator's attention we did not believe this was essential. We believed the bill encompassed protection with respect to the high seas for the reasons I stated. But the question has been raised and we spelled it out in words. We saw no harm in that.

Mr. GOLDWATER. Would the Senator include the word "aircraft"? I think the recent occurrence where the son of a former Member of this body, young Mr. Kennedy, had his life endangered by a hijacking into a foreign country would be relevant. I would not say that would bring on an engagement of any sort but let us say an airplane was hijacked containing a high ranking delegation of U.S. Government officials. I do not think the language here would cover them because I do not think any court would hold the high seas has any relation to the blue skies because the same laws do not apply. If the Senator feels it does cover it, would he add language to include aircraft?

Mr. JAVITS. I arrived at an agreement with our cosponsors on the use of the term "high seas." I assure the Senator we will study further, and if we feel, again for the same reason, that we should include a reference to what the lawyers call the boilerplate respecting the air, I do not see any great objection to including it. I do not wish to undertake a commitment for it, but we will look at it.

Mr. GOLDWATER. I hope the Senator will. I am not speaking of military aircraft. I am speaking of private aircraft, of commercial aircraft engaged in round-the-world flight or intercountry flight that is hijacked.

I remember the Arabs or the Egyptians destroyed a 747. The very destruction of American property does not necessarily mean we would go to war; but let us say the destruction of this private property also involved the destruction or harm to American citizens under which, I might say, the high seas would certainly apply if they were attacked and harmed on the high seas.

I hope the Senator would do that because we will probably offer an amendment on that in the debate.

I think it is important in this same amendment to question the situations in international straits or where U.S. naval vessels are engaged in innocent passage in the territorial sea.

I refer to page 471 of the hearings John Moore was testifying. He said:

> In the absence of a prior declaration of war S. 731 would prohibit, among others, the following kinds of Presidential initiatives: humanitarian intervention similar to the joint United States-Belgian operation in the Congo if the intervention were not for the protection of U.S. nationals—

And this is the important point with respect to this amendment—

> an attack on U.S. naval vessels in transit in international straits or engaged in innocent passage in the territorial sea . . .

As I understand it, there is a distinct difference between territorial or international sea and a strait which is the property of a particular country.

Mr. JAVITS. Mr. President, in answer to that I would say we consider Professor Moore is wrong on that because section 3, paragraph 2 states specifically, "to repel an armed attack against an armed force located outside the United States." That does not seek to base jurisdiction on the definition of where it is; it bases it negatively. If it is outside the United States the response can be immediate. So in straits, territorial waters, or anything else, the American ship would be outside the United States. So I state the response would be immediate under section 3, paragraph 2.

Mr. GOLDWATER. Again, I would not disagree with John Moore too often. He is an outstanding international lawyer. I remind my friend there is a distinct difference in the waterways of the world. Where one is on the ocean has a great deal to do with what can and cannot be done. I am thinking not of a U.S. naval vessel but a pleasure ship or freighter, or any other kind of vessel flying our flag that is involved in problems in an international strait where the countries adjacent to the strait, or in the case of a strait going through a country, would have rights, there being no 3-, 12-, 200-mile limit within those waters.

I think it would be much better if the Senator were to spell this out a little more accurately, because I do not think the language the Senator has there is sufficient to do even what the Senator is trying to do.

Mr. JAVITS. Mr. President, in response may I say the sponsors of the amendment believe that that situation is very adequately covered. We cannot have it both ways. In other words, if they are international waters, then the high seas amendment which we are now proposing certainly covers it in so many words. If they are claimed to be territorial waters or straits within the confines of a particular foreign country, then they are provided for by the rest of paragraph (3) of section 3, which deal with such countries. If it is a U.S. ship, then it is U.S. soil. If it is an element of the armed force, to wit, a naval ship, then we have the power under section 3(2).

I just said a minute ago that we do not condition these powers upon where our forces are, where our ships may be. So long as any element of our forces is outside the United States, whether in international waters or in a strait or in the territorial waters of another country, we believe—we really have no doubts about this—that it would be covered by the various paragraphs to which I have referred. So we think that the network is complete respecting this coverage.

Mr. GOLDWATER. The language "high seas," as I understand it, was in the original bill, S. 731, and it was that to which Mr. John Moore objected, and it was eliminated from the bill which

reached the floor under a different designation.

I am not going to press this point, but I have had some experience on the seas, and there is a great difference between international waters and national waters. We are running into this problem with respect to Peru and Venezuela. They claim rights out to 200 miles, and there is a question of protecting our own tuna fleets. They interpret their rights as extending to 200 miles while we more or less confine our rights to 3 miles to 25 miles.

So I disagree completely with the Senator that "high seas" is going to cover this situation. Again, I think it points up one of the many weaknesses in the bill that can only lead to more trouble in the end.

Second, the language is suggested to strike out "the continued use thereof," on page 11, line 8, and insert "(1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of the Armed Forces of the United States," and so forth.

Is not that language a little ambiguous? I do not think it is necessary. What is "unavoidable military necessity"?

Mr. JAVITS. Mr. President, with the consent of the Senator from Arizona, I would appreciate it if my colleague from Virginia (Mr. SPONG), who has handled this particular matter, would respond. However, I am thoroughly with it. I am not asking him to do it because I do not know the answer, but as long as he dealt with it, I would ask him to reply.

Mr. SPONG. Mr. President, yes, I shall be glad to respond to the Senator from Arizona.

I think we should go back to the colloquy between the Senator from Kentucky and myself on this particular subject. What is involved here is similar to the reservoir situation in Korea. Where it is not possible at the end of the 30-day period to totally disengage the troops—and when the Congress has not acted affirmatively—then the President merely certifies the necessity to continue to the Congress. Again, however, I emphasize that the President would be expected to act in good faith.

I do not know that the words in the amendment are so ambiguous. We certainly know what "unavoidable" means. I suppose the Senator from Arizona would be more of an authority on military necessity than I am, but the fact is that if the President finds that Congress has not acted affirmatively, that there is no specific authorization for him to continue, and that the 30 days have ended, the position of the proponents of the legislation is that the Constitution would not allow us to cut off his duties as Commander in Chief, so long as he was acting to protect U.S. troops or pursuant to situations which could be construed as coming under section 3 of the bill.

In the debate that we have had, the proponents of this legislation have maintained from the beginning that we do not seek to cut off any constitutional powers of the President as Commander in Chief.

Through the use of this certification, if pursuant to sections 3(1) and 3(2), and in acting to forestall an imminent attack or to repel an attack, there is a military situation where more time is necessary to bring about prompt disengagement, we merely affirm, through this provision, that he has that constitutional authority. He merely needs to certify to Congress that the situation is such as described in the amendment.

I cannot define "unavoidable military necessity" any better than can the Senator from Arizona. The sponsors of this legislation do not want to see the lives of Americans, soldiers, and sailors, who have been used pursuant to section 3(1) or 3(2) imperiled because 30 days have passed. We feel that the President has the authority to continue, under certain circumstances, but he has to certify the existence of those circumstances to Congress.

Mr. GOLDWATER. First let me state one of the worries I have about this matter, and then I shall make a suggestion. We have heard long debates on the floor of this body insisting that we reduce our strength in NATO, for example; that we reduce our strengths in other places of the world.

I can see the possibility of the charge being made that the President could have avoided "unavoidable military necessity" had he listened to the Congress and brought the troops home. But the point is, I can see eliminating the language "unavoidable military necessity" because, as the Senator has suggested, it is a rather difficult point to define, and merely substitute, in the next few words, "the safety of the United States or of the Armed Forces of the United States engaged pursuant" et cetera, et cetera.

Would the Senator be inclined to accept that language in place of "unavoidable military necessity"? I think then we would be more in consonance with the Constitution and I think the desires of the writers of this legislation to continue the protection of the United States without any question.

Mr. SPONG. The Senator from Virginia can only speak as one of the sponsors. I have always felt that the President has the right and the duty to protect American soldiers and sailors in the field. I think the debate on the Cooper-Church amendment covered that very thoroughly.

What we are seeking here, and what I would like the Senator from Arizona to understand, is that this certification comes after the President has initiated some action himself under his constitutional authority, and after the Congress has already acted—either negatively or affirmatively—on the matter.

We will have to assume that the situation is conventional. The President initiates the activity. He reports this to Congress. Hopefully Congress would either act affirmatively or choose not to act. If Congress chooses not to act, they are saying by inaction—or they might even do it by affirmative action—that they do not approve of what the President did.

We have to go back in history a little, but the Senator will recall that in this debate we had the example of the President going into Mexico, and then there occurred the debate in which I think former President John Quincy Adams engaged, and later President Lincoln, and they both stated as Members of Congress that what had been done should not have been done.

This bill would also allow the Congress to act during the 30-day period. But if 30 days passes, and the troops are in danger—the very language the Senator has suggested—in my judgment, falls within "unavoidable military necessity." That is my opinion.

Mr. GOLDWATER. I thank the Senator from Virginia. I am still a little worried about it, but we can talk about it as we go along.

The third amendment that was offered and just explained by the Senator from New York leaves only one question in my mind, and I believe it has been answered. This has to do with page 13, line 8, where the amendment would insert the following language:

> Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the Armed Forces of one or more foreign countries in the headquarters operations of high-level military commands.

I think the Senator from New York explained that very clearly, and I believe he is thinking of headquarters like the Air Defense Command, which combines American and Canadian forces, Korea, NATO, and I presume to some extent Southeast Asia.

I am thinking of headquarters operations of high level military commands. I cannot make this statement with any substantiation other than I made it during my campaign 8 years ago, and I was roundly taken to task, and later several national magazines admitted I was right: There is an agreement, tacit though it may be, that in case of an attack on the NATO countries by nuclear weapons, not specifying size—I am thinking of small tactical nuclear weapons—our commanders in headquarters operations would have the authority to retaliate without the authorization of the President. I am not speaking of ICBM's or intermediate IRBM's; I am speaking of small tactical weapons. Would this have any effect upon such an understanding?

Mr. JAVITS. Mr. President, I do not know whether any such understanding exists, or whether it is lawful if it does exist, or whether the President has authorized any such thing. I only know that the control of all nuclear weapons is in the hands of the President, and I can say flatly there is nothing in this bill which prevents the President from using any weapon of the United States which he feels he must use in order to perform the functions which we have confirmed to him by this bill.

That is a generic answer; it is the best I can do.

Mr. GOLDWATER. I am glad that the Senator cleared that up. I think it was rather clear before I asked the question.

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but this has been discussed in times past. I personally feel that such an agreement is in existence, but I cannot prove it any more than the Senator can prove there is not one.

Those are all the questions I have. I just hope that in the course of debate on this matter, if we are unsuccessful in returning it to the Committee on the Judiciary, we can expect to see some amendments to clear up some very questionable areas in the bill. I am not being critical of the author of the bill or any of the cosponsors. I understand their purpose. I would like to see the same thing achieved. I just happen to feel that we are tying the hands of the President and we are tying the hands of the Congress. In fact, we are going to make it very difficult for this country to continue to be a respected power in this world.

I know there are some amendments I might offer; I do not know whether I shall offer any. I am glad that some amendments have been offered. But I think we should go a long, long time, and offer amendments to get this bill into some kind of shape. It is refreshing to note that the authors recognize, after just 2 days of debate, that there are several very important areas that need amendment.

Mr. JAVITS. Mr. President, I thank the Senator. That is what debate is about. In fact, the quality of debate is enhanced by the fact that we were listening, and did hope to profit collectively. I think the Senator knows my record. If we think he has proposed something that is useful to the purpose of the measure, its sponsors will embrace it, even though we know the man who proposed it is not going to vote for the bill anyhow.

Finally, Mr. President, we have only expressed in words what was very clearly implied and expressed in another form of words by this measure. Just as an example, I might say to the Senator, in dealing with the evacuation of Americans from aircraft, we cannot evacuate them while they are in the air. The plane would have to settle somewhere, on the high seas or on other land, and then the bill is certainly clear on that score.

We have not had any illustrations that we will eliminate all policy questions. We narrow the scope of the problem; but suppose the President certifies there is an imminent threat, which would come under this bill, and goes ahead and launches a tremendous operation. We do not agree with him within the 30-day period. The only way we can say we do not agree with him is by not giving him authority to continue.

We have no illusions, as sponsors, that we are locking everything up and there is no longer any ground for controversy or confrontation. We say we are establishing better methodology. The Senator may disagree as to either the desirability of the methodology or the type of methodology we have established, but we have put it forward without any illusions or any effort to build it up as more than it is.

Mr. GOLDWATER. Mr. President, something the Senator just said raises a question in my mind that I believe must be answered somewhere in the bill.

If the President's action is not answered within 30 days, is this considered essentially a pocket veto, an outright veto, or is it permission for the President to continue with the action?

Mr. JAVITS. The question is answered in the bill. We say specifically, in section 5—I would like to read that:

> The use of the Armed Forces of the United States in hostilities, or in any situation where imminent involvement in hostilities is clearly indicated by the circumstances, under any of the conditions described in section 3 of this Act shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces—

And so on.

The words "shall not be sustained beyond 30 days" have now been amplified to include the contingencies to which the Senator addressed himself with his colloquy with Senator SPONG.

The Senator used a word which is not in here—"pocket veto" or "veto"—but the President then has no authority from Congress under this law to proceed. The President conceivably could defy Congress.

Mr. GOLDWATER. That has happened before.

Mr. JAVITS. Of course.

Mr. GOLDWATER. I recall that at the outset of World War II—I do not recall the date or the year—Congress said that no draftees would be sent outside the limits of the Western World, or something like that. So President Roosevelt made Iceland a part of our part of the world and sent troops there. There are many ways by which to skin that cat, I suppose.

I thank the Senator for his explanations. I do not want to hold up the proceedings any longer at this time.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is further time requested? No further time is requested.

The question is on agreeing to the amendments. By unanimous consent, the amendments will be voted on en bloc. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. MAGNUSON), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. ERVIN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from Florida (Mr. GURNEY), the Senator from South Carolina (Mr. THURMOND) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 59, nays 0, as follows:

[No. 132 Leg.]

YEAS—59

Aiken	Curtis	Nelson
Allen	Dole	Packwood
Allott	Dominick	Pearson
Baker	Eagleton	Pell
Beall	Ellender	Percy
Bellmon	Fannin	Proxmire
Bentsen	Gravel	Randolph
Bible	Griffin	Schweiker
Boggs	Hansen	Scott
Brock	Hart	Smith
Buckley	Hughes	Spong
Burdick	Inouye	Stennis
Byrd, Harry F., Jr.	Jackson	Stevens
Byrd, Robert C.	Javits	Stevenson
Case	Jordan, N.C.	Symington
Chiles	Kennedy	Taft
Cooper	Long	Tower
Cotton	Mansfield	Tunney
Cranston	Miller	Weicker
	Montoya	Williams

NAYS—0

NOT VOTING—41

Anderson	Harris	Mondale
Bayh	Hartke	Moss
Bennett	Hatfield	Mundt
Brooke	Hollings	Muskie
Cannon	Hruska	Pastore
Church	Humphrey	Ribicoff
Cook	Jordan, Idaho	Roth
Eastland	Magnuson	Saxbe
Ervin	Mathias	Sparkman
Fong	McClellan	Stafford
Fulbright	McGee	Talmadge
Gambrell	McGovern	Thurmond
Goldwater	McIntyre	Young
Gurney	Metcalf	

So Mr. JAVITS' amendments were agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendments were agreed to be reconsidered.

Mr. SPONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no additional votes this afternoon.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that, when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR BEALL, TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes; and that thereafter there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BROCK ON WEDNESDAY, APRIL 12, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Wednesday next, April 12, 1972, immediately after the two leaders have been recognized under the standing order, the distinguished Senator from Tennessee (Mr. BROCK) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, before moving to adjourn for the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will reconvene at 11 o'clock tomorrow morning. After the two leaders have been recognized under the standing order, the distinguished junior Senator from Maryland (Mr. BEALL) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Debate will be resumed.

The leadership hopes and expects that amendments will be called up and voted on tomorrow. Consequently, there is a good possibility that rollcall votes will occur on tomorrow.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and at 6:10 p.m., the Senate adjourned until tomorrow, Thursday, April 6, 1972, at 11 a.m.

EXTENSIONS OF REMARKS

FEDERAL EFFORTS TO DEVELOP AND DEMONSTRATE NEW AND ENVIRONMENTALLY ACCEPTABLE MEANS FOR ELECTRIC POWER GENERATION, USING COAL, SEEM TO BE INADEQUATE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. RANDOLPH. Mr. President, I shall discuss the problems associated with the environmentally acceptable generation of electricity from such fossil fuels as coal and oil.

As my colleagues realize, supplies of fossil fuels must grow if our Nation's projected energy requirements are to be met in the future.

My responsibilities as a Senator from a major coal-producing State compel me to devote extensive and priority consideration to the problems surrounding this industry, which employs more than 40,000 people in West Virginia. It is an industry on the viability of which rests in large degree the future of our energy-dependent economy.

Yet, our coal future, our economic future and our Nation's future are critically endangered by the ad hoc nature of national energy policy and the lack of a comprehensive national fuels and energy policy for the environmentally acceptable development and utilization of energy resources.

THE ENERGY CRISIS

Mr. President, I do not overstate the critical nature of this Nation's energy future when I say that we face today and will face tomorrow, and many more tomorrows, a possible acute shortage of environmentally desirable fuels to satisfy the needs of America's industries, business establishments, and homes.

On July 16, 1970, I introduced legislation to establish a National Commission on Fuels and Energy. Had this Commission not been opposed by the administration, but instead established, the pending energy crisis of which I speak might well have been mitigated. The study it would have carried out, however, is being conducted in-house by the Senate Committee on Interior and Insular Affairs under Senate Resolution 45 which I introduced with the Interior Committee chairman, Mr. JACKSON of Washington, as principal cosponsor. My words of almost 2 years ago are valid today:

> The crisis of which I shall speak today is a real and genuine one. It is not synthetic. It is not one that has been created. It has developed with the growth of our complex society. It is a crisis that faces approximately 205 million men, women, and children in the United States.

For several decades there have been massive Federal expenditures on nuclear energy research to develop long-term electrical energy supplies. The short term—the 1970's and 1980's—was neglected with respect to energy from nonnuclear sources. The breeder reactor holds promise as a key to providing our energy supplies in the 21st century, but, it is at least 15 years from commercial operation and 20 years from any wide-scale application as an electrical energy supply source. Electricity amounts to less than 10 percent of our national energy demands and these requirements are and will remain until the next century overwhelmingly dependent on fossil fuels, including coal.

During the interim period, until the year 2000, however, this Nation's indigenous, nonrenewable oil reserves may be sufficiently depleted so that their use for nonenergy petrochemical purposes such as synthetic fabrics may be restricted. In addition, nonrenewable natural gas reserves, if not depleted before the year 2000, most likely will be restricted to priority uses. The critical period is from 1976 to 1990 when alternative and reliable supplies of fossil fuels, which satisfy environmental control requirements, must be developed.

There are several joint Government-industry efforts underway to develop commercial processes for the conversion

of coal into liquid and gaseous fuels. When they are subjected to vigorous analysis, however, it appears that these efforts are inadequate from two standpoints:

First, the technologies most likely will not be available when the gap between supply and demand occurs in the middle or late 1970's; and

Second, the amounts of synthetic fuels commercially available most likely will not be sufficient to satisfy an ever-widening gap between environmentally acceptable energy supplies and demands.

If coal liquefaction and gasification and other advanced technologic options are to contribute significantly to easing the energy crisis, increased Federal funding is needed immediately. Until recently the potential and the need for the development of these technologies has been largely ignored.

These technologic alternatives, which rely on our abundant reserves of coal and oil shale, must be pursured more vigorously. The only alternative is an ever-increasing reliance on imports of residual and crude oil. Besides the obvious short-term implications for national security and balance of payments, there also is the catastropic possibility between now and the year 2000 that international supplies of oil and gas cannot meet international demands.

The most likely reasons for this situation are inadequate transportation capacity and environmental factors, as well as political factors.

Our Nation and, indeed, the world are embarked on a gigantic gamble in attempting to maintain reliable and abundant sources of crude oil, natural gas, and coal and, hopefully, some substitute source of immense amounts of energy—the breeder reactor, fuel cells, or solar power—to replace nonrenewable fossil fuels when they are depleted. Should available energy supplies falter or be depleted, the American people and, perhaps, large portions of the earth may experience catastrophe.

Superimposed on this picture of our energy future is a real concern for the potential side effects of satisfying the energy requirements which must accompany the projected growth in our economy. An "environmental ethic" has developed as a response to the realization that we are faced with an environmental and potential human health crisis of our own making. The problem is of sufficient concern that it is the subject of a June 1972 United Nations Conference on Man and the Human Environment in Stockholm, Sweden.

ENVIRONMENTAL IMPLICATIONS

Growing energy consumption potentially includes increased discharges of waste heat into the environment; increased emissions of particulates, sulfur oxides, and nitrogen oxides from fossil fuel usage; and increased radioactive wastes from nuclear powerplants with their associated disposal problems.

Every present electric powerplant still may be in use 20 to 30 years from now with its associated environmental impact. If we are to be successful in resolving the dilemma between energy growth and preservation of environmental quality, the means must be developed for assuring the availability of clean fossil fuels.

The foresight of former Federal Power Commissioner Carl E. Bagge, in a speech before the American Power Conference in 1970, deserves repeating:

> The problem posed by the necessity to rely on fossil fuel generation as the backbone of the industry for many years to come is compounded by the fact that low sulfur fossil fuels are simply not presently available in sufficient quantities to clear the air pollution hurdle which now has been imposed upon the industry. Natural gas, the cleanest fossil fuel, accounts for one-quarter of all electric generation by steam plants and for one-sixth of the gas consumed in this country. It appears unlikely, however, that domestic gas supplies will be able to substantially alleviate the problem. While imported LNG (liquefied natural gas) and residual fuel oil hold out some promise, neither do their prospects appear sufficient to resolve the problem.

Although spoken in 1970, Mr. Bagge's words constitute an important warning today.

The time has come for our society to act to assure ample environmentally acceptable energy supplies while averting future energy crises. A comprehensive national energy policy is needed which would enable us to restore that balance between man's activities and nature. Perhaps the most critical factor in re-establishing this equilibrium is man's determination to create an environment based not on economic considerations alone but based, too, on his total physical, psychological, and spiritual needs.

CONGRESSIONAL MANDATE

When the Air Quality Act was enacted in 1967, the Congress considered the potential health and environmental implications of projected energy demands. In 1970, this was affirmed by the Congress when a national policy was enunciated that the protection of the health of the citizens of the United States must be assured, regardless of economic cost.

The 1967 act also included an amendment which this Senator authored and offered calling for the development and demonstration of new and improved methods for the prevention and control of air pollution resulting from the combustion of fuels. This authority was reinforced by the Congress in the Clean Air Amendments of 1970 which specifically authorized the Environmental Protection Agency to undertake research and development in the area of "improving the efficiency of fuels combustion so as to decrease atmospheric emissions; and producing synthetic or new fuels which, when used, result in decreasing atmospheric emissions."

The 1970 amendments also provided authority for EPA to establish performance standards for new stationary sources which reflect the best available technology and methods for controlling atmospheric emissions of such pollutants as sulfur oxides. Under this authority Administrator Ruckelshaus in 1971 promulgated new source performance standards for steam electric powerplants which cover emissions of particulates, sulfur oxides, and nitrogen oxides. Emissions from existing steam electric powerplants also are being controlled by federally approved State plants which must provide, at a minimum, the protection of public health.

From information supplied by the Environmental Protection Agency, the following observations can be made concerning these actions:

Forty percent of the U.S. population is living under conditions where sulfur oxide levels are unacceptable from the standpoint of health;

Achievement of the primary or health standard in these areas will require control of both existing and new sources to a level equivalent to one-tenth percent sulfur coal or 2.4 pounds of sulfur per ton of coal; and

New Source Performance Standards for steam electric generating sources located in other areas and using fossil fuels will require the use of seven-tenths percent sulfur coal or 14.4 pounds of sulfur per ton of coal.

The public has expressed a desire to deal directly with the environmental costs of energy production. Therefore, utilities are being asked to take the necessary control measures to protect and enhance the quality of the human environment. The resultant expenditures are estimated to involve large sums of money for air pollution control, for cooling towers to dissipate waste heat, and for newer powerplants and transmission lines which are compatible with surrounding landscapes. These expenditures undoubtedly will be reflected in electric utility rate structures. The critical factor, however, is the availability of environmentally acceptable fuels, coal and oil in particular.

AVAILABLE EASTERN COAL SUPPLIES

As mentioned, air pollution control regulations already enacted, and others pending, will eliminate the use of coal containing more than seven-tenths percent sulfur unless adequate means can be provided at the point of use for providing environmentally acceptable emissions. The immediate effect of implementation of these standards on the use of eastern coal for electric power generation was estimated by the Environmental Protection Agency to have the following implications:

Only about 18 percent—70 million tons—of the steam coal supplied in 1975 from the Appalachian and interior regions to large eastern steam generating capacity can be expected to meet environmental standards;

In 1975, there essentially will be no new supplies of interior region steam coal available which will meet the new source performance standard for sulfur oxides;

In 1975, there will not be any practical potential for increasing the rate of production of steam coal in the "as mined condition" from the Appalachian region to meet the new source performance standard.

Coal cleaning is possible by mechanical or chemical means; however, it is anticipated that it will be 1985 before this technology could potentially permit all Appalachian and interior steam coal to meet the new source performance standard.

These sources of supplies, however, constitute more than 90 percent of the current total coal-fired electric utility capacity of the United States and 70 percent of the projected total 1975 U.S. steam coal consumption.

ALTERNATIVE FOSSIL FULL SUPPLIES

Several fossil fuel sources are available as alternatives to eastern coal. These include western region coal, residual oil, and natural gas. There are also emission control technologies such as fuel cleaning and flue or stack gas cleaning. I ask unanimous consent to have printed at this point in the RECORD EPA's analysis of these alternatives.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

EFFECT OF STANDARDS FOR STATIONARY COAL FIRED POWER GENERATING SOURCES ON THE USE OF EASTERN COAL

The New Source Performance Standard for solid fuel (coal) will limit the use of Appalachian and Eastern Interior steam coals unless additional SO_x emission control technology is applied. Realizing this potential effect, the Office of Research and Monitoring has supported study efforts designed to quantify the supply/demand relationship for steam coal in the eastern United States after application of the New Source Performance Standard in 1975. The results of these efforts are summarized in the following paragraphs.

The estimated 1975 coal demand of eastern steam generating capacity to which the New Source Performance Standard directly or indirectly applies; i.e. units greater than 250 x 10^6 BTU/hr. (about 25 MWe) is 400 million tons. This includes both new and modified capacity coming on stream in 1975 and existing capacity to be controlled by the states to levels equivalent to the New Source Performance Standard. This constitutes more than 90% of the total coal-fired electric utility capacity of the United States and 70% of the projected total 1975 United States steam coal consumption. As shown in Table II, only about 18% (70 million tons) of the steam coal supplied from the Appalachian and Eastern Interior region in 1975 to large Eastern steam generating capacity can be expected to meet the standards of 0.6 Lbs. S/MBTU at the current industry production growth rate of 7% per year.

TABLE I

Region and pounds S/10^6 B.t.u.	Cumulative mineable reserves* (10^6 tons)	Cumulative 1975 production (10^6 tons)
Appalachian:		
0.6	1,500 (3,000)	70
0.8	3,000 (8,000)	135
1.2	4,000 (13,000)	160
All coal	9,500 (25,000)	275
Interior:		
0.6	25	0.7
0.8	125	1.5
1.2	1,800	22.0
All coal	68,000	230.0

*The 1st column under cumulative mineable reserve in the Appalachian Region is based on the results of "1967 Appalachian Coal Data Survey Report", U.S. Bureau of Mines, published in 1971. The column represents the reserves held by operating mining companies with production greater than 100,000 tons per year. The 2d column in parenthesis is derived from Averitt's estimate of total mineable coal reserves in the ground to which the sulfur estimates contained in Bureau of Mines Information Circular I.C. 8312, (1966) have been applied.

Two facts are of particular importance in Table I: (1) Essentially no steam coal meeting the New Source Performance Standard exists in the Interior Region and (2) no practical potential for increasing the rate of production of steam coal meeting the New Source Performance Standard in the "as mined condition" exists in the Appalachian Region. For example, based on a 20-year lifetime for the *total* mineable reserves shown in Table I, the production growth rate on low sulfur steam coal in Appalachia could not exceed the current 7% per year.

Based on the previously summarized results, the Office of Research and Monitoring has evaluated the potential of (1) alternative fossil fuel sources and (2) SO_x emission control technology currently available or under development by EPA to meet the coal supply *deficit* at the New Source Performance Standard for SO_x. These alternatives include the following:

FOSSIL FUEL ALTERNATIVES

Western Region Coal
Residual Oil
Natural Gas

EMISSION CONTROL TECHNOLOGY ALTERNATIVES

Flue Gas Desulfurization
Clean Fuel

1. Western Region Coal

Although vast reserves of low sulfur coal are known to exist in the Western Region, the bulk of these reserves are of the low heat content lignite rank and have a sulfur content in terms of Lbs. S/MBTU exceeding the New Source Performance Standard. Reserves of strippable bituminous and sub-bituminous coal estimated to meet the New Source Performance Standard are only 5.5 billion tons.

TABLE II.—SUPPLY/DEMAND RELATIONSHIP FOR ACHIEVING THE NEW SOURCE PERFORMANCE STANDARD IN EASTERN UNITED STATES COAL-FIRED COMBUSTION

	(10^6 tons)		
	1975	1980	1985
Demand: Total estimated eastern United States demand for coal meeting new source performance standard	400	500	650
Supply factors:			
Natural low sulfur Appalachian and interior region coal	70	110	150
Western region coal	40	70	120
Flue gas desulfurization	30	200	240
Cleaned fuels	20	90	140
Total supply potential	160	470	650
Supply/demand, percent	40	72	100

The estimated 1975 production from these sources is about 60 million tons of which 40 million tons will be absorbed directly in the Western Region. The remaining 20 million tons will be shipped for use in the Interior Region. This production represents a growth rate of 20% per year between 1970 and 1975. Based on the probable maximum availability of strip mining equipment and railroad transportation, Western Region production might be raised to 80 million tons by 1975. Thus, 40 million tons, or an additional 10% of the Eastern utility steam coal demand could be met by this source in 1975. Based on a 20-year lifetime for the mineable reserves, a maximum annual production growth rate of about 15% could be maintained for these Western coal sources.

Transportation costs on the order of $8 per ton per 1000 miles and major differences in moisture content and other characteristics also limit its use in Eastern steam generating capacity. The major foreseeable Eastern application for new Western coal production will be in new capacity designed specifically for this fuel. It is expected that transportation costs will limit this application to locations no farther east than Indiana.

2. Residual Oil

By 1975, it is estimated that only about 40% of the total residual oil supply required by the Eastern United States will meet the New Source Performance Standard. This demand projection does not include any additional conversion of coal fuel steam generating capacity to oil beyond that already defined. Despite improved capabilities and capacity to desulfurize residual oil, no decrease in the supply shortage is foreseen before 1985. As a result of this forecast, residual oil does not appear to have a measurable impact on reducing the coal supply/demand deficit in the Eastern United States at sulfur levels defined by the New Source Performance Standard.

3. Natural Gas

Physical shortages of natural gas including pipeline importation and liquefied natural gas are expected to be on the order of 30% by 1975 and as much as 40% by 1980. This shortage is again based on currently defined gas demand projections without consideration of additional increase for conversion of coal-fired steam generating capacity. Thus, no impact on reducing the coal supply/demand deficit in the Eastern United States is considered practical.

4. Flue Gas Desulfurization

The development of flue gas desulfurization technology by EPA can have a significant impact on increasing the availability of Appalachian and Interior Region steam coal capable of achieving the New Source Performance Standard. It is expected that three flue gas desulfurization systems will be commercially available for application by 1975. These are (1) Lime/limestone Wet Scrubbing, (2) CAT–OX and (3) MAG–OX. These systems can be applied by all new coal-fired utility steam generating capacity coming on stream after 1975. In addition to new utility capacity, these systems, as well as others in development by EPA, may be eventually retro fitted to an estimated 40% of existing utility steam generating capacity. Because of the level of construction and manufacturing effort required, it does not appear practical to expect this retrofit effort to be completed until at least 1980. Based on an ability to remove 80% of the sulfur oxides in the flue gas, flue gas desulfurization will increase the supply of Interior and Appalachian coal meeting the New Source Performance Standard by an estimated 32 million tons in 1976 or 8% of the coal demand by large Eastern steam generating capacity. By 1980, assuming the maximum retrofit capability, this percentage could increase to 50% of the coal demand of large Eastern steam generating capacity. In addition, the application of this technology to Interior region coal will eventually permit all coal in the region to meet the New Source Performance Standard. The cost of this technology is expected to be about $2 to $5 per ton of cleaned coal.

5. Clean Fuels

The Office of Research and Monitoring is currently developing several processes for reducing the sulfur content of coal prior to combustion.

5.1 Mechanical Coal Cleaning

This process, long used by the metallurgical coal industry involves the crushing of coal to release about one-half of pyritic bound sulfur component. This crushing is followed by washing to remove the pyrite by specific gravity difference. The optimization of this process for steam coal by EPA is well advanced and could be commercially applied prior to 1975. The maximum commercial application of physical coal cleaning technology under development by the EPA

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could increase the availability of Appalachian steam coal meeting the New Source Performance Standard in 1975 from 70 million tons to about 90 million tons. The increase is equivalent to 5% of the coal demand of large Eastern Steam generating capacity. In addition the application of this technology to Interior region coal will permit essentially all coal in the region to meet the New Source Performance Standard when used in conjunction with Flue Gas Desulfurization systems. The low cost of mechanical coal cleaning technology (about $1 per ton of cleaned coal) also makes it economically practical for the user to consider these additional flue gas control options.

5.2 Chemical Coal Cleaning

The commercial application of technology for the removal of sulfur from coal by solvent extraction refining is expected to be achieved by 1975. By 1978 this technology could increase the availability of Appalachian and Interior steam coal directly meeting the New Source Performance Standard by 90 million tons or 23% of the demand of large Eastern Steam generating capacity. The cost of this cleaning process, based on preliminary development results, is estimated as about $2.00 per ton of cleaned coal.

Technology for the removal of organic sulfur is also being developed by EPA. If successful the commercial application of this technology could begin in about 1978 in conjunction with the previously described inorganic bound sulfur removal process. By 1985 it could potentially permit all Appalachian and Interior steam coal to meet the New Source Performance Standard. The additional cost of this organic sulfur cleaning process is estimated at about $3.00 per ton of cleaned coal.

It is important to point out that although these chemical cleaning processes can have an important impact on utility scale steam generating capacity, their primary impact may be in controlling emissions from smaller industrial and area combustion sources to which other flue gas control alternatives such as flue gas desulfurization or combustion modification do not apply. The control of these smaller sources can be of particular importance in achieving ambient air quality standards.

SOURCE.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

Mr. RANDOLPH. Mr. President, the following observations are painfully apparent from EPA's material:

In 1975 only 10 percent, or 40 million tons, of the total demands for eastern utility steam coal can be supplemented or met by western coal sources;

By 1975, only about 40 percent of the total available residual oil supply required by the Eastern United States will meet the New Source Performance Standards which are less stringent than those for the critical urban areas;

It does not appear that new residual oil supplies will have a measurable impact on reducing the coal supply/demand deficit in the Eastern United States for the sulfur levels represented by the New Source Performance Standard;

Physical shortages of natural gas are expected to be on the order of 30 percent by 1975 and as much as 40 percent by 1980. Thus, there is no practical potential for reducing the impact of the coal supply/demand deficit in the Eastern United States through use of natural gas; in addition, there is an anticipated gas supply/demand deficit to be satisfied; and

Flue gas treatment systems offer potential for application by all new coal-fired electric generating capacity coming on stream after 1975; however, it only appears practical to expect that a maximum of 40 percent of existing facilities can be retrofitted and this cannot be expected to be completed until at least 1980. The maximum retrofit capability could increase, however, to 50 percent of the coal demand of large eastern steam generating capacity by 1980. The cost is expected to be about $2 to $5 per ton of coal.

The critical question is whether the industry can survive the period of adjustment represented by these controls. These observations were affirmed by President Garvey of Bituminous Coal Research in a letter to me—February 11, 1972—which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BITUMINOUS COAL RESEARCH, INC.,
Pittsburgh, Pa., February 11, 1972.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: At the February 8, 1972 hearing before the Committee on Interior and Insular Affairs, on S. Res. 45, you requested that I submit for the record additional information on coal reserves, as such information relates to a part of my statement in which I said, "The use of low-Btu gas will allow the efficient and non-polluting use of the still-remaining coal resources in Appalachia and the Midwest." You specifically asked that the information submitted refer to West Virginia, the Appalachia region, and the Midwest.

Air pollution control regulations already enacted and others pending enactment will eliminate the use of coals containing more than 0.7 percent sulfur unless some means is provided at the point of use for prevention of sulfur oxide emissions from the stack. How do existing reserves of coal in the eastern half of the United States from which most of our production now comes fit this requirement?

The only available reference which presents data on coal reserves according to sulfur content was published by the U.S. Bureau of Mines in 1966 (Sulfur Content of United States Coals, U.S.B.M. Information Circular 8312). While this publication gives data on coal reserves as of January 1, 1965, and some of the reserves have since been depleted, it is believed that the analyses contained therein are still appropriate for the purposes of your request. As of 1965:

WEST VIRGINIA

The total reserves were 102.7 billion tons, of which 81.9 billion tons, or 80 percent, had sulfur content in excess of 0.7 percent.

APPALACHIA

The Appalachia region includes the states of Alabama, Tennessee, Virginia, West Virginia, Ohio, and Pennsylvania. This is the largest depository of high-rank bituminous coal with approximately 31 percent of the total remaining reserve of the nation. About 204 billion tons, or 90 percent of this total reserve could not meet the 0.7 percent sulfur limitation.

MIDWEST

The states of Illinois, Indiana, Iowa, and Kansas have bituminous coal reserves totaling about 198 billion tons, of which 99.9 percent is more than 0.7 percent sulfur content.

KENTUCKY

Although neither totally in Appalachia nor the Midwest, the reserves in Kentucky should also be mentioned. Of the approximate 66 billion tons, 79 percent of that state's coal exceeds the 0.7 percent sulfur limit.

Obviously, to enable the use of the tremendous coal reserves contained in the eastern half of the United States, of which only about 14 percent is less than 0.7 percent sulfur content, while at the same time meeting the sulfur emission requirements stipulated by the Environmental Protection Agency, processes must be developed which will prevent emission of sulfur oxides from the stack following combustion. While some progress has been made in the development of stack gas clean-up methods, and this may be an interim solution for existing plants, I feel a long-range program should be pursued with the objective of eliminating sulfur oxide emissions in a more efficient manner. I believe the application of low-Btu gas using the basic technology being developed through the high-Btu gas research program offers the most attractive solution.

Sincerely yours,

JAMES R. GARVEY,
President and Director of Research.

Mr. RANDOLPH. Mr. President, the opinion expressed by EPA that:

It appears that the only satisfactory method for maintaining Eastern seam coal in the energy market is through conversion to synthetic gaseous or liquid fuels.

Elimination of environment regulation displaced coal production would represent a loss of $1 billion annually in sales, a loss of a critical energy resource; and a reduction of about 30 percent in the current work force employed in the bituminous coal industry. Some 44,500 mine workers would be affected adversely, including 15,000 in West Virginia.

SURFACE MINING CONTROLS

Added to the factors I have mentioned is concern for the environmental impacts of surface mining. In many areas of the country, surface mining has become a highly emotional issue. Unfortunately, a polarization of viewpoints is developing with one side advocating total abolition of surface mining and the other, in effect, insisting that surface mining has produced substantially good results.

I understand and sympathize with the feelings of both groups. People who have seen the country ravaged by reckless mining have every right to be disturbed. At the same time, the responsible surface mine operator should not be victimized by the shortcomings of his less responsible associates.

In recent years, more than half of the coal mined in the United States has been produced by surface mining methods. Accompanying this increase in surface mining activity has been a heightened public awareness of the potentially adverse environmental impacts resulting from the extraction of coal by this method. In West Virginia, surface mining is perhaps the most intensely debated public issue. In 1967, the West Virginia State Legislature enacted new controls over surface mining. Since then, additional surface mine law amendments have been enacted and other proposals have been made. And there have been recommendations that all surface mining be banned in West Virginia.

Mr. President, after examining carefully a number of legislative proposals relating to surface mining of coal, on February 24, 1972, I introduced a bill (S. 3282) on this subject. The legislation would establish a program of strict controls of surface mining operations and require reclamation of the highest quality. It would provide for neither abolition of surface mining nor its conduct without careful attention to its consequences.

In a study commissioned by the Legislature of West Virginia, it was estimated that approximately 8,000 people would lose their jobs if surface mining were prohibited in our State. I do not believe that irresponsible surface mining can be condoned; neither do I believe that total abolition is necessary to protect the environment.

FUTURE TECHNOLOGIC OPTIONS

The Air Quality Act of 1967 authorized a major Government-industry program for the development and demonstration of methods for the control of air pollution from the combustion of high sulfur fuels from the regions I have mentioned. While there has been progress under this program, accomplishments have not met congressionally estimated needs. Some processes have fallen far short of expectation while others are approaching commercial status; but the effort, as a whole, has been seriously inadequate, and both Government and industry are to blame.

Section 104 of the 1967 Air Quality Act provided for research and development activities into new and improved methods for the prevention and control of air pollution resulting from the combustion of fuels. These provisions contain two special features:

First, funds remain available until expended providing a flexibility that is useful in the planning and scheduling of research and development and demonstration projects which may extend beyond one fiscal year; and

Second, a legal basis is defined for supporting projects involving construction and installation of pollution control equipment on private property; this authority is very useful since industrial plants are the best possible sites for making a realistic evaluation of the economic and technological feasibility of new processes for the control of problems such as sulfur oxides pollution.

In 1969 a National Academy of Engineering—National Research Council Ad Hoc Panel on the Control of Sulfur Dioxide—concluded that "contrary to widely held belief, commercially proven technology for control of sulfur oxides from combustion processes does not exist," and a 5-year research plan was recommended to assure that the technology was available to meet 1975 air pollution control requirements.

Today, many industry spokesmen quote this almost 3-year-old report extensively as the current recognized judgment of experts and as their basis for not installing sulfur oxide control methods. Except for the foresight and leadership of a few companies, the progress that has been made would not have been accomplished. There also has been an obvious reluctance by industry to participate in this 5-year-old Federal program which has been consistently underfunded and understaffed by the Congress and by the executive branch alike.

As anticipated in 1970, one of the recommendations of the first annual report of the Council on Environmental Quality was:

Federal research and development on sulfur oxides and nitrogen oxide control technology should be accelerated. Sulfur oxides control technology for large coal-and-oil-fired power plants should be demonstrated in actual operation so that the technology can be applied throughout the industry.

The Council's first annual report also recommended:

A more balanced research and development program is necessary to hasten the development of more efficient energy processes. Although control technology for sulfur oxides will provide appreciable improvements for several decades, a longrun answer to this type of air pollution lies in better energy conversion processes which will emit less pollutants per unit of energy produced. Gasified coal, fluidized bed combustion, breeder reactors, and nuclear fusion all hold promise. Although research for new nuclear power sources has already received significant support, greater attention must be given to these other processes. Even now, the Nation needs to use its fuel resources more effectively through development of a national energy policy. Such a policy would guide the use of natural gas, low-sulfur coal and oil, and other energy resources to assure their availability and minimize air pollution.

ADEQUACY OF EPA FUNDING AND EXPENDITURES

The Congress responded to this need in 1967 and authorized in the Air Quality Act $370 million for the 5-year period, 1968 through 1972, for the total research and development program under section 104. Appropriated funds fell short of these estimates and authorizations, the actual appropriations for the 5-year period having been $133.5 million. Although the full amounts appropriated reportedly have been obligated, expenditures have been only $85.6 million, leaving $38.9 million of appropriated funds unspent. Of these amounts, expenditures for stationary source pollution control research and demonstration were some $50.5 million.

I propose to place these levels of funding in perspective. In 1967, the then National Air Pollution Control Administration projected Federal expenditures for a 5-year research and development plan for the control of sulfur oxide emissions from stationary sources alone should be $394 million.

A separate study by the Stanford Research Institute at the agency's request estimated sulfur oxide control technology development alone would require a Federal commitment of $255 million in the same 5-year period between 1968 and 1972 in order to have available an adequate sulfur oxide control capability by 1975. Yet, expenditures for the whole technology development program have been $85.6 million—for sulfur oxide, nitrogen oxides, particulates, special industry problems, and incineration control problems.

Congress increased the administration's budget request and appropriated $45 million for fiscal year 1970 for EPA's effort under section 104 of the Clean Air Act. However, only $36 million was obligated to this effort by the executive and expenditures were only $14 million. Obviously, Federal program efforts and funding have been unresponsive to anticipated requirements and this lack of foresight has contributed significantly to the potential coal supply problems I have mentioned. Mr. President, I ask unanimous consent to have printed at this point in the RECORD correspondence from EPA Administrator Ruckelshaus and Deputy Administrator Greenfield indicating expenditures and obligations for this program.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 1, 1971.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Enclosed, with exceptions, is the information you requested in your letter dated November 11, 1971, on the research, development, and demonstration program conducted pursuant to Section 104 of the Clean Air Act, as amended.

Since the President's program and related funding level are still in the formulating stage, and will not be available until January 1973 when the President submits his Budget to Congress, data for FY 1973 is not reflected. Similarly, and for the same reason, funding data for subsequent years is also not provided.

I hope this information that is provided will be helpful. If we can be of further assistance to you, please let us know.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

SEC. 104—FUNDING HISTORY, FISCAL YEARS 1967-72

[Dollars in thousands]

	1969	1970	1971[1]	1972[1]
I. Appropriations and expenditures:				
Appropriations	$18,700	$45,000	$29,100	$40,700
Expenditures	3,587	14,289	27,684	39,000
II. Expenditures by major program:				
a. Stationary source pollution control	2,844	8,028	14,199	22,514
b. Mobile source pollution control	443	2,315	6,684	15,181
c. Other related programs	360	3,946	6,801	1,305
Total	3,587	14,289	27,684	39,000

[1] Estimates.

Note: Fiscal year 1969 1st years funds appropriated for this purpose, therefore fiscal year 1967 and fiscal year 1968 not shown.

CHANGES IN EMPHASIS IN SO_x CONTROL TECHNOLOGY R.D. & D. PROGRAM, 1971 THROUGH 1972

SHORT TERM SO_x PROGRAM

The major change in emphasis will concentrate funding in flue gas treatment so that it is focused on the completion of major demonstrations which can impact on the attainment of primary SO_x standards by 1977 and earlier, where possible. Two new demonstrations will be added during fiscal 1972, making a total of six major demonstrations. Beginning in fiscal 1972, second generation flue gas treatment processes will be deemphasized. These processes generally tended to represent processes which could not be carried through a demonstration stage in time to impact on attainment of primary standards. The processes being dropped generally represented new ways of accomplishing the same results.

Physical desulfurization of fuel will be

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deemphasized starting in fiscal 1973. Coal producers and consumers have generally been dispassionate about the cost sharing of a demonstration for physical cleaning of coal. By the end of fiscal 1972, the washability of over 80 percent of Eastern coal production will have been defined. Projects will have been completed which provide design guidelines on the optimization of physical cleaning processes with respect to sulfur removal. This information can provide considerable guidance to coal producers in the building of any new coal cleaning plants.

The potential for chemical cleaning of coals will be evaluated and any work undertaken in the period fiscal 1973 through 1975 will emphasize these processes as opposed to physical methods. It is not anticipated that chemical cleaning of coal can be demonstrated in time to impact on the attainment of primary standards.

LONG-TERM SO_x PROGRAM

The emphasis of the long-term SO_x program will be more sharply focused on a specific end product, namely the demonstration of an advanced power cycle. Such a cycle represents a systems approach in which the derivation of energy from the combustion of fossil fuels can be considered in terms of the resulting environmental pollution problems. The system takes into consideration the desirability of removal of potential air pollutants in concentrated rather than dilute gas streams resulting from final combustion. It furthermore provides the opportunity for less waste heat, thus increasing overall efficiencies and minimizing thermal pollution. The existing program will be reoriented so that the present contributing components (new combustion techniques and fuel conversion) will be sharply focused on the needs of the state-of-the-art demonstration of the advanced power cycle.

III—SO_x CONTROL PROGRAM FISCAL YEARS 1971-72, FUNDING LEVELS AND MAJOR CONTRACTORS

[In thousands of dollars]

	Funded prior to fiscal year 1971	1971	1972	P—Planned A—Active
I. SHORT TERM SOX CONTROL				
A. Flue Gas Treatment				
(i) 1st generation—demonstration:				
Dry limestone		857	509	
TVA (Demo)	Yes	750	390	A
Research Cottrell (tests)	Yes	40		A
Other contracts and in-house	Yes	67	50	A
West Virginia University (injection process).	Yes		15	A
Illinois Geological Survey (carbonate rock).	Yes		54	A
Wet limestone		3,528	3,243	
Bechtel (demo)	Yes	367	800	A
TVA (demo)	Yes	2,005	1,630	A
Cottrell (Venturi)	No	163	95	A
Radian (study of limestone wet scrubbing).	Yes	262	25	A
Combustion engineering (marble bed scrubber).	No	249		A
West Virginia University (Venturi)	No	30		A
West Virginia University (Flyash)	Yes	57		A
USAF Aerospace (Flyash)	No	100	117	A
Environmental engineering (pilot study)	Yes	20		A
Other contracts and in-house	Yes	183	106	A
TRW (holographic techniques)	Yes	92		A
Monsanto (pilot scrubber)	No		115	A
McCrone (sampling train)	No		20	A
International minerals and chemicals (pore volume).	Yes		10	A
Catalytic oxidation		107	350	
Mitre (test program)	Yes	100	350	A
Illinois Power Co. (scale model)	No	7		
Magnesium oxide (oil)		39		
Babcock-Wilcox	No	39		A
Magnesium oxide (coal)			500	
Chemico/Boston Edison	Yes		500	P
Soluble alkaline scrubbing			5,958	
(2 demonstrations)	No		5,958	P
Total		4,531	10,560	
(ii) Second generation-pilot plant				
Sodium citrate	No			P
Ammonia scrubbing		240	173	
TVA (pilot study)	Yes	240	173	A
Molten carborate		40		
North American Rockwell (development of process).	Yes	35		A
Sigmaster-Breyer (evaluation of process)	Yes	5		A
Regenerable char		347		
Westvaco (development of process)	No	347		A
Total		627	173	
(iii) Second generation—other:				
Modified chamber		130	170	
Tyco (development of process)	No	130	170	A
Aqueous formate	No			P
Conceptual design			225	225	
TVA (evaluation of process)	Yes	225	225	A
Metal oxides			80		
USBM (evaluation of sorbents)	Yes		80		A
Total			435	395	
Total flue gas treatment			5,593	11,128	
B. Fuel Desulfurization					
Coal cleaning	Yes		822	609	
USBM (support)	Yes		649	404	P
USAF-NITRE (technical reviews)	Yes		90	105	P
Bituminous coal research (evaluation of Pyritic Sulfur).	Yes		83	100	P
Chemical fuel desulfurization			69	397	
TVA (removal of NOx and SOx)	No		69	398	P
High sulfur combustor study			15		
Chemico (Study)	Yes		15		A
Other contracts				262	
Total			906	1,269	
C. Other Direct Related Effort					
Total			2,960	6,529	
Analysis and measurements			1,558	2,454	
Industrial processes			428	2,175	
General support			974	1,900	
Total short term SOx			9,459	18,926	
II. LONG TERM SO_x CONTROL					
A. New Combustion Techniques					
Total			1,484	2,685	
Westinghouse (evaluation of fluidized bed combustion)	Yes		375	400	A
ESSO (fluid bed)	Yes		179		
Argonne National Lab. (atmospheric pollution)	Yes		441	300	A
USBM (fluidized bed combusion)	Yes		265	150	A
Pope, Evans, & Robbins (char. of air pollutants)	Yes		224	35	A
ESSO, England (coal gasifier)	Yes			350	A
ESSO (regenerable fluidized bed of limestone)	Yes			200	A
National Coal Board (reducing emissions)	Yes			400	A
Other contracts and in-house	Yes			850	A,P
B. Fuel Conversion					
Total			852	535	
Black, Sivalls, & Bryson (submerged combustion)	Yes		667		
Scientific Research Inst. (sulfur sequestering)	Yes		185	300	A
Pittsburgh-Midway (de-ashed/de-sulfurized coal)	No			200	P
Other Contracts & in-house	Yes			35	A
C. Advanced Power Cycles					
Total			282	808	
Consolidated Coal Co. (CO_2 acceptor)			282	400	A
Other contracts and in-house				408	P
D. Other Direct Related Effort					
Total			300	484	
General support			300	484	
Total long term SOx			12,377	23,438	
NOx adjustment			−560	−970	
Adjusted total			11,817	22,468	

* Includes $25,000,000 in addition to the budget currently being planned for 1973.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 9, 1972.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: In response to your February 14 request for additional material in support of my February 8 testimony, I am enclosing the following:

1. Data to update Administrator Ruckelshaus' December 1, 1971 information on the research, development, and demonstration program pursuant to Section 104 of the Clean Air Act, as amended.
2. Status report on EPA fuels combustion research program.
3. Briefing document describing estimated effect of standards for stationary coal-fired steam generating sources on the use of Eastern coals.
4. Information and current status of proposals to demonstrate advanced or combined power cycles.

I trust this information is responsive to your needs. If I can be of further service, please let me know.

Sincerely yours,
STANLEY M. GREENFIELD, Ph. D.,
Assistant Administrator for Research and Monitoring.

SEC. 104. CLEAN AIR ACT, STATUS OF EXPENDITURES

FUNDING HISTORY

[Dollars in millions]

	Fiscal years—				
	1969	1970	1971	1972	1973
Appropriated	$18.7	$45.0	$29.2	$34.8	$39.5
Carried over from previous year		5.6	14.1	15.9	3.7
Available for obligation	18.7	50.6	43.3	50.7	43.2
Obligated	13.1	36.5	27.4	47.0	43.2
Carry-over to subsequent year	5.6	14.1	15.9	3.7	

Note: The status of funding for sec. 104, Clean Air Act, is summarized and updated in the table below for fiscal years 1969 through 1973.

Mr. RANDOLPH. Mr. President, without the development of economically and technically feasible methods to control sulfur oxide and other emissions, the Nation's commitment to effective air pollution control cannot be honored. The effect of underfunding this vital activity has delayed important research and development work in control technology, thus delaying the establishment and implementation of emission standards and new source performance standards, and impeding vital efforts to improve the quality of our air resources.

AVAILABLE SULFUR OXIDES CONTROLS

Recently, the research emphasis of EPA's sulfur oxide control program was changed to concentrate on completion of major sulfur oxide flue gas treatment demonstrations which can influence the attainment of primary air quality standards for sulfur oxides by 1977 and possibly earlier. This implies a possible 2-year extension for compliance with the primary quality standard from 1975 to 1977. The data for existing sources suggests a slippage to possibly 1980 for compliance. This is hardly pollution control progress.

The EPA's principal and overriding criteria for funding sulfur oxide demonstration proposals is the nearness of the technology to a commercial system. The Department of Commerce and the Federal Power Commission have interpreted "available technology" to mean a process has been demonstrated on 100 megawatt—electric—facility for at least 1 year. In light of this definition, the current program does not provide sufficient latitude to fund proposals which will not produce a commercial process by 1975 to 1977.

As a result of this policy, second generation or advanced flue gas treatment methods have been deemphasized. These processes generally represent new and often more economic ways of accomplishing the same results. These "second generation" processes, which offer potential improvements in efficiency and cost in the post-1977 period, cannot be pursued under current budgetary restrictions. Therefore, control of sulfur oxides may very well be imposed at a premium cost which ultimately must be borne by the consumer.

Four control systems are being advanced to the stage of demonstration on the scale of about 100 megawatts electrical:

A dry limestone injection process developed by the Air Pollution Control Office and the Tennessee Valley Authority;

A limestone and wet scrubbing process being undertaken by the same group;

A magnesium oxide wet scrubbing process developed by the Chemico Corp., to be demonstrated by the Boston Edison Co.; and

A catalytic oxidation process developed by the Monsanto Company, to be demonstrated by the Illinois Power Co.

Two new demonstration processes for the control of sulfur oxides were called for in the President's June, 1971, energy message, raising the total to six major demonstrations. Yet, neither of those processes has been selected and announced by the Environmental Protection Agency from such potential candidates as:

The Westvaco regenerable char process, which produces elemental sulfur;

The Tyco modified chamber process to remove sulfur oxides, nitrogen oxides, and particulate matter with the production of sulfuric and nitric acids as by-products;

The Atomic International's molten carbonate process, which produces elemental sulfur;

An ammonia scrubbing process, which can be made to produce sulfuric acid; and

A Venturi wet scrubbing process under development by De Seversky.

Considering the significant impact that the lack of this technology could have on increasing the availability of Appalachian and Interior Region steam coal, a crash program is warranted to develop environmentally acceptable means for generating electricity from these coal supplies.

NITROGEN OXIDE CONTROL

Development of technology for controlling nitrogen oxide emissions to meet established standards lags well behind that for sulfur oxides. Although there is considerable potential for improvement in controlling nitrogen oxide emissions from the combustion of oil and gas, techniques for controlling emissions from coal-fired plants have yet to be demonstrated at even the pilot or prototype scale.

According to the Environmental Protection Agency, at the present rate of development it may well be 10 or more years before methods are available which can control nitrogen oxide emissions from powerplants. Significant reductions may well take even longer unless special attention is given to the development of reliable control alternatives for both new and existing facilities. In the interim, nitrogen oxide levels in the ambient air can be expected to almost double in the next 30 years.

On March 17, 1972, a panel of the National Academy of Engineering and National Research Council released an EPA contracted report which concluded that:

No proven process is currently available for substantial removal of nitrogen oxides from combustion stack gases once the nitrogen oxides have been formed.

The report, which deals with the Abatement of Nitrogen Oxides Emissions from Stationary Sources, the panel recommends that first priority in research and development should be given to methods of combustion modification. A substantial reduction—50 to 80 percent—in the amount of nitrogen oxides released into the atmosphere will come most economically from modifications of the combustion process rather than from stack scrubbing or absorption systems. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the conclusions and recommendations of the panel.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

INSERT IV

ABATEMENT OF NITROGEN OXIDES EMISSIONS FROM STATIONARY SOURCES

Prepared by *Ad Hoc* Panel on Abatement of Nitrogen Oxides Emissions from Stationary Sources, Committee on Air Quality Management, Committees on Pollution Abatement and Control, Division of Engineering, National Research Council, National Academy of Engineering (Washington, D.C., 1972)

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

A. Summary

National and regional standards for air-quality management are being defined under the Clean Air Amendments of 1970 (Public Law 91–604). Keeping the costs of meeting these standards within bounds and minimizing the burden on our national economy will call for the best efforts and most careful planning at all levels, from individuals, civic groups, and companies to local, regional, state, and federal agencies.

The nitrogen oxides emitted from industrial sources are essentially nitric oxide (NO) and nitrogen dioxide (NO_2). They are generally grouped together and, for convenience, termed NO_x. Nitrous oxide, N_2O, at the levels emitted by most chemical processes, is believed to be innocuous and is not included in the definition of NO_x. About 53 percent of the total manmade NO_x emissions in the United States are from stationary sources. (The remainder is emitted by vehicles.) The

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largest stationary-source contributions are from the fossil-fuel-fired boilers of electric utilities and from industrial furnaces. At the 1970 level of control, NO_x emissions from stationary sources would approximately double by the year 2000. The need to reverse this trend is clear.

On a world-wide basis, man-made sources of NO_x produce but a tenth of that produced naturally. But the distribution of man-made NO_x is closely related to population distribution; over 60 percent of the emissions in the United States occur in urban areas. The relative contributions from atationary and mobile sources vary substantially from city to city and the proportionate contribution at ground level is presumably more from mobile sources than from stack emissions. Stack height and meteorological factors also affect the relative contributions. NO_x has a residence time in the atmosphere of three to four days. Thus, pollution from NO_x is a regional rather than a global problem.

Unlike emissions of sulfur oxides (SO_x), which are directly proportional to the sulfur content of the fuel, NO_x is formed largely by the reaction of nitrogen and oxygen from the atmosphere at the high temperatures existing during combustion. A smaller contribution is from organo-nitrogen compounds in the fuel. *The most promising prospects for significant early reduction of NO_x in fuel-combustion stack gases lie chiefly in application of some combination of combustion-modification processes to reduce the NO_x formed. The probability that processes can be developed for removal of NO_x from stack gases is not encouraging.*

B. Conclusions

With regard to combustion-control modification the following conclusions are drawn:

1. Of the three fuels used in firing, gas, oil, and coal, gas allows the most precise control in the attainment of the lowest levels of NO_x. The term "coal" covers a variety of types of solid fuels varying greatly in their combustion characteristics and the nature of the ash formed. A variety of boilers and burners are required to burn these various types satisfactorily. Present emission levels from coal firing vary greatly. Of the three fuels, least is known about coal relative to minimizing NO_x formation from combustion. *A realistic objective for new plants using natural gas to be placed in operation by 1980, is a reduction in NO_x concentration to about 100 ppm from present-day uncontrolled levels, which average about 350 to 400 ppm, but range as high as 1,400 ppm.* However, natural gas may not be available as a fuel for utility boilers very far into the future. For oil, the most common range today, when the combustion process has not been modified, in about 180 to 280 ppm for tangentially fired units and 300 to 700 ppm for horizontally fired units. *A realistic objective for oil-fired plants placed in operation by 1980, achievable by the flue-gas recirculation and off-stoichiometric combustion, is about 150 to 200 ppm. For smaller* furnaces or where low-nitrogen oil is available, there is a possibility of reaching this objective at an earlier date. *Control methods are not yet established for coal. The Panel recommends a review to establish realistic objectives after more data become available in the next two or three years.*

2. Both theory and practice indicate that NO_x emissions from combustion sources can be lowered by: (a) reducing the amount of oxygen present in the flame zone, as by use of staged admission of air (or off-stoichiometric combustion), and (b) reducing the peak flame temperature, as by use of flue-gas recirculation to the flame zone. *The practicality of these abatement techniques has been developed primarily in furnaces burning gas or oil. Little has been done on coal-fired units.*

3. The principal problem in reducing NO_x emissions by the use of staged combustion is to avoid the significant increase of emissions of CO, hydrocarbons, and smoke. In addition, with coal, it is important to avoid increasing the hazard of flame-outs, the rate of corrosion of boiler components caused by a reducing atmosphere, and the percentage of unburned carbon in the ash. The applicability of the above techniques to coal firing is not well understood and it will vary considerably with burner design; e.g., flue-gas recirculation may be less effective with cyclone burners than with other burner designs.

4. The amount of NO_x formed per unit quantity of heat released on combustion can vary by a factor of about 10 depending on a number of interrelated factors: (a) the fuel (coal, oil, or gas); (b) the percentage of excess air used in combustion; and (c) the size of the furnace—as furnace sizes increase from domestic heating units to large utility boilers, the amount of NO_x formed per Btu released usually increases, probably because lower surface-to-volume ratios and increased heat-release rates per cubic foot lead to less rapid thermal quenching of the combustion process. For large utility boilers, increased furnace volume (while holding all other variables constant) will act to reduce the average temperatures and will therefore always act to reduce NO_x. However, it appears that the effect of furnace volume on NOx formation is of secondary importance when compared with other combustion-control modifications such as off-stoichiometric combustion. This is not to say that furnace volume is insignificant. In designs in which combustion is spread out in the furnace, e.g., tangentially fired units, it seems likely that increasing furnace volume would cause a reduction in NO_x; (d) burner design—designs that produce more intense combustion and higher temperatures, e.g., cyclone burners for coal, produce considerably more NO_x than designs that allow combustion to occur out in the furnace, e.g., tangentially fired boilers. It is impractical, however, in an existing installation to replace cyclone burners with tangential burners located in the furnace corners, for this would require nearly complete rebuilding of the furnace. It is not the fact that the burners are positioned to admit fuel and air in a tangential configuration that brings about a reduction in NO formation, but rather the manner in which fuel and air are admitted and mixed; and (e) load—as load is first reduced in any particular installation, the concentration of NO_x formed at first drops. With further reduction in load, the change in NO_x concentration is determined primarily by the degree to which increased air-fuel ratio may be required to prevent excessive carbon monoxide or smoke at lower loads.

5. Preliminary data exists regarding the relative importance of conversion to NO_x of fixed nitrogen in oil fuels. These data suggest that combustion of oil or coal under reducing (sub-stoichiometric air) conditions in a first stage helps reduce the amount of fuel nitrogen converted into NO_x or increases the conversion of NO_x to N_2 and the combustion products, but additional research is needed.

6. Presently feasible technology that can be applied to NO_x control in utility boilers varies with the fuel utilized and the nature of the installation—retrofitting an existing boiler or designing a new boiler. Furnace design (e.g., opposed vs. tangential firing), burner configurations (e.g., cyclone vs. conventional burners), and provisions for adjusting fuel and air flows and recycling combustion gases determine the degree of NO_x control achievable in an existing installation. Research, development, and design studies are needed to determine combustor configurations and designs that will facilitate complete combustion of coal and oil (avoiding carbon, hydrocarbon, and CO losses and preventing smoke and soot formation), and will at the same time minimize emission of NO_x (formed either by N_2–O_2 fixation or oxidation of nitrogen in the fuel).

7. Combined-cycle systems involving the combustion of coal or oil in combinations of gas and steam turbines are of considerable interest to utilities. Some of these may involve external coal gasification closely coupled to a turbine or boiler. NO_x emissions are expected to be low, comparable to those from natural gas, but little information is available.

8. On the basis of laboratory and pilot-scale tests, fluidized-bed-combustion boilers show promise of appreciably reduced NO_x emissions, compared with conventional coal-fired boilers. Burning of the coal is carried out at relatively low temperatures, 1400–1900° F.; tests indicate that the NO_x emissions originate almost entirely from nitrogen in the fuel. In fluidized combustors burning coal at atmospheric pressure, two-stage combustion has reduced NO_x emissions to about 70 ppm. In pressurized combustors, NO_x emissions have been reduced substantially in single-stage combustion. Fluidized-bed-combustion boilers, therefore, show excellent potential for NO_x control, and their development should be pursued.

Removal of NO_x from stack gases may offer potential for control in the future. *However, no proven process is available for substantial removal of NO_x from combustion stack gases.* Conclusions based on presently available information are:

9. Any wet scrubber system for NO_x removal will be expensive for two reasons: (a) Most of the NO_x is in the form of NO, which is relatively unreactive and insoluble. The maximum rate of absorption in an aqueous system occurs at a NO/NO_2 mole ratio of unity, which requires either (1) recycle of NO_2 and a method of generating NO_2 from the scrubbing system, in turn requiring very high scrubbing efficiencies for substantial overall removal of NO_x, or (2) oxidation of about half of the NO to NO_2 prior to scrubbing. The rate of oxidation of NO to NO_2 is slow and decreases with increasing temperature; and (b) large vessels are required for scrubbing because of the large volumes of gas that must be handled and the necessity for low pressure drop.

10. Catalytic reduction of NO_x to N_2 by a reducing agent as a process for treating stack gases from large utility boilers requires a sulfur-resistant catalyst if coal or oil is used as a fuel. Space velocity (i.e., catalyst activity) and catalyst life also limit this approach at present. The catalytic reduction of NO_x with ammonia or other reducing agents is being studied by several groups. Information is insufficient to assess fully the potential of any catalytic reduction methods of control.

11. Decomposition of NO_x in the absence of a reducing agent requires such high temperatures, on even the best catalysts known, as to be impractical.

The following conclusions have been reached for other stationary combustion sources and for chemical manufacture:

12. Somewhere between two percent and 21 percent of the NO_x emissions from stationary sources are produced by internal-combustion engines (burning natural gas or diesel fuel, used in conjunction with pipelines and gas plants). With diesel engines, techniques such as control of fuel injection, exhaust-gas recirculation, water injection, and alteration of combustion-chamber design, are available to reduce NO_x emissions. With gas turbines, redesign of combustors and methods of fuel injection accompanied by more fuel-lean conditions in the combustion zone should produce significant reduction in NO_x emissions.

13. More data are required on emissions from industrial process and commercial furnaces, residential furnaces and heaters, and incinerators.

14. Emissions from nitric acid plants and chemical operations may be "decolorized" (conversion of NO_2 to NO) by catalytic reduction with natural gas. A similar method can be used to reduce NO to N_2 (typically from 3,000 ppm to 100 to 500 ppm), but requires careful control. Adsorption by molecular sieves has been shown in the laboratory to produce even lower emission levels but no demonstrated commercial process is yet available. Alkaline scrubbing may be used but involves liquid-waste disposal problems.

15. In some chemical processing with nitric acid, a substantial portion of the nitrogen oxides emitted may be in the form of N_2O, which is considered to be harmless.

C. Recommendations

On the basis of its review and in conjunction with the above conclusions, the Panel recommends that:

1. *Combustion-modification studies be given first priority in research and development to control NO_x emissions. Studies of coal combustion are especially required. Studies of the effect of fuel nitrogen on NO_x emissions and the potential of flame-temperature-control techniques in oil and coal burning are also needed.* A substantial reduction in the amounts of NO_x released to the atmosphere (i.e., of the order of 50 to 80 percent) will come least expensively from modifications of the combustion process rather than from scrubbing or adsorption systems to remove NO_x from stack gases.

2. Experimentation to develop firing methods for minimizing NO_x emissions be accompanied by data correlation and theoretical analyses of the data obtained in order to develop the basic understanding for configuring and designing new combustors and for choosing operational modes in a variety of applications.

3. Boiler manufacturers and utilities incorporate as much flexibility as possible in the design of new boilers to permit taking advantage in the future of increasing knowledge of the factors affecting NO_x emissions in combustion.

4. Additional work be funded on new energy-conversion concepts—such as fluidized-bed combustion, coal gasification for electric-power production, and combined-cycle gas- and steam-turbine generating plants operating in conjunction with such combustors and gasifiers—to develop their potential for reducing NO_x and other pollutants.

5. New concepts claiming potential for the economic simultaneous removal of NO_x and SO_x be evaluated carefully.

6. Evaluation of all new electric-power-generation techniques utilizing fossil fuels—including magnetohydrodynamics (MHD), fuel cells, and combined-cycle plants with fluidized-bed combustion or coal gasification—incorporating estimates of NO_x formation and the economic cost of NO_x control, begin as soon as practicable.

7. Careful consideration be given to improving present methods of sampling and analysis of NO and NO_2 particularly in the presence of other pollutants from stationary sources.

8. The potential for the generation of NO_x by such sources as stationary internal-combustion engines, industrial and commercial furnaces, residential furnaces and heaters, incinerators, electrostatic precipitators, and other high-voltage equipment needs further evaluation. If the level of emissions is significant and the effect on ambient air quality is detrimental, then control techniques should be sought.

Mr. RANDOLPH. Mr. President, I am informed that the current Environmental Protection Agency program on nitrogen oxides control is largely restricted to two components: the National Academy of Engineering contract I mentioned and spinoff or side benefits from its sulfur oxide control program.

It is clear from EPA reports that a drastic reduction in nitrogen oxide emissions is required if the health problems of our smog-bound cities are to be solved. Yet, limited, if any, control technology is available or under development. Here also there is a need for a major Federal commitment of funds and manpower if this Nation's air resources are to be preserved.

ADVANCED POWER CYCLES

Although progress can be made in developing stack gas cleanup methods for sulfur oxides and nitrogen oxides, the long-range program should be pursued with the objective of eliminating these pollutants more efficiently.

On the basis of a hearing which I chaired before the Senate Committee on Interior and Insular Affairs on February 8, it is apparent that the emphasis of EPA's long-term sulfur oxide control program must continue to be on advanced power cycles for the generation of electricity. Such methods employ coal gasification without going to the lengths necessary to produce coal gas of pipeline quality. Development of this technology is anticipated to assure the future use of the ample coal reserves of the Midwest and Appalachia. These processes not only offer pollution-free energy but an efficiency considerably higher than that of conventional powerplants, thus decreasing thermal pollution and prolonging the life of our coal reserves.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary of the National Fuels and Energy Policy Study, Senate Resolution 45, hearing I chaired on advanced power cycles which appeared in the February 1972 issue of Energy Digest.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

ENERGY DIGEST,
Washington, D.C., February 1972.

COAL GASIFICATION

U.S. efforts, in the meantime, remain focused on advancing technology for producing synthetic gas from coal, with federal responsibility being increasingly split between Dept. of Interior and the Environmental Protection Agency (EPA).

EPA is concentrating on advanced power cycle technology, involving one-site production of low-Btu fuel gas for use in gas turbines, while Interior's programs are emphasizing synthetic pipeline quality gas that can be mixed with natural gas for distribution through existing natural gas pipelines, Administration officials told the Senate Interior Committee. Dr. Richard E. Balzhiser, assistant director for natural resources in the White House Office of Science and Technology, told the Committee that 3 major topping cycles are under consideration for continued federal R&D funding: gas turbines, magnetohydrodynamics (MHD), and alkali metal topping cycles.

"A low-Btu gasification system with hot gas cleanup feeding a gas turbine topping cycle and steam bottoming cycle is one of the more promising approaches to producing electricity cleanly and efficiently from coal," Balzhiser reported. He said preliminary estimates by one of EPA's contractors suggests that the cost of such a system might be comparable to the capital costs of existing power systems, without flue desulfurization systems." One of the advantages of the advanced power cycle technology is that it solves particulate and sulfur oxide emission problems and eliminates the need—and costs—for other desulfurization technologies.

However, according to Balzhiser, developing these technologies will be no overnight achievement—at least at present funding rates. Increasing the size of individual gas turbines and increasing gas inlet temperatures are two advancements that must be made to improve combined cycle performance. This calls for, he said, "a significant advancement" in materials technology as well as application of advanced aircraft turbine technology to industrial turbine design. "Significant progress in this area is expected in the next 5 years," he said, from large turbine manufacturers already working in conjunction with the Dept. of Defense (DOD) Advanced Research Project Agency, which is working to develop the technology necessary for higher temperature operations.

The Lurgi system for low-Btu coal gasification, developed and in use in Europe and now being adapted by some U.S. firms, "suffers from low efficiency and small unit size," he noted, and also "can't now be used with all of the available American coal." Interior Dept.'s Hollis Dole told the Senate Interior Committee that for utility purposes, fixed-bed gasifiers for low-Btu gasification do not appear to be "sufficiently attractive in terms of capital costs and potential efficiencies." He said the Interior Dept. does not anticipate "major expenditures" in this area. Instead, he noted, Interior has asked for $6.4 million for the 25–50 ton/hr. entrained-bed gasifier for the pilot plant slated to be built in Homer City, Pa. (see also ENERGY DIGEST; Vol. 2, p. 22). "This system should be of sufficient interest to power utility and to coal companies to elicit financial participation in the project" as well, Dole predicted.

He said Interior hoped to develop sufficient engineering data on all three topping cycle systems "so that a utility can choose a system for the coal they use and to fit their system's needs." However, "the real (engineering) contribution will probably not come until very late in the decade and probably no real substantial contribution to the generation of electricity through these combined cycles before the mid-80s," he said.

In questioning by Sen. Jennings Randolph (D–W. Va.), EPA's Dr. Stanley Greenfield, assistant administrator for research and monitoring, admitted that EPA has received $38.9 million between '69 and '72 which hasn't been spent; and that, although unsolicited industry proposals have been received for R&D funds for advanced power cyle R&D, EPA still has awarded no R&D contracts for it. Sen. Randolph hinted at a Government Accounting Office (GAO) probe of the matter, but will wait until after EPA oversight hearings in April before the Public Works Committee (of which he is chairman) before making a decision on the GAO investigation.

Specifically, an industry consortium submitted a proposal to EPA last year requesting some $25 million—to be matched to $35 million of their own money—to help fund a combined cycle plant fueled by low-Btu gas from coal. The consortium, headed by Westinghouse, has now submitted the proposal to the Office of Coal Research (OCR) in Interior Dept. in hopes of tapping funds there. Other industry members of the consortium include Bechtel Corp., AMAX Coal Co. and Public Service of Indiana.

One major reason Sen. Randolph is push-

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ing so vigorously for low-Btu gasification is that without it, much of the coal in his home state of West Virginia would be unsaleable under current environmental regulations. One EPA study estimated that without coal conversion, the bituminous coal industry would lose $1 billion a year, and 44,500 coal miners would lose jobs—one-third of them in West Virginia.

In a related development, North American Coal Corp. and Michigan Wisconsin Pipe Line Co. are jointly exploring the possibility of North American dedicating more than a billion tons of coal reserves to Michigan Wisconsin Pipe Line for eventual conversion into synthetic gas. Because of the long lead time for synthetic gas development, "it isn't too early to enter in to the planning stages of the project, including a determination of the availability of adequate coal reserves," Michigan Wisconsin president Wilber Mack told news media.

In the meantime, Washington observers are predicting that the Coal Gasification Development Corp. Act (S–1846) will pass this year despite opposition to the bill by the Nixon Administration. Hearings have concluded, and the Subcommittee on Mining, Minerals and Fuels—before which the hearings were held—is working on an interim report and hopes to get the bill approved by the full Committee soon. The House will probably take no action on the bill until the Senate has acted on it.

Mr. RANDOLPH. Mr. President, Congress specifically provided expanded authority in the Clean Air Amendments of 1970 authority for the Environmental Protection Agency to undertake research and development in the area of "improving the efficency of fuels combustion so as to decrease atmospheric emissions; and producing synthetic or new fuels which, when used, result in decreasing atmospheric emissions."

It has been under this statutory authority that the Environmental Protection Agency has pursued, as an air pollution control strategy, the development and demonstration of advanced power cycles for the generation of electricity.

In the opinion of principals within EPA and the Department of the Interior, that advanced or combined power cycle offers the potential for assuring that eastern and interior region coals remain in the energy market. Therefore, development of the advanced power cycle is important from the standpoint of energy, environment, and economy. The Environmental Protection Agency program which was initiated in 1969 should be encouraged and adequately funded for fiscal year 1973.

The Environmental Protection Agency has estimated that the total cost for demonstrating commercial advanced power cycles for the environmentally acceptable generation of electricity from coal would be approximately $75 million. In a joint Government-industry venture, industry contractor teams have indicated they are prepared to fund two-thirds of this cost. Several unsolicited proposals have been received by the Environmental Protection Agency.

Recently, however, the administration fragmented this program, admittedly without any assurance that the advanced power cycle will be developed to alleviate the emerging gap between coal demands and environmentally acceptable means for conversion of this resource into electricity.

Reportedly EPA requested $25 million for fiscal year 1972 to implement this program: The funds were apparently denied by the Office of Management and Budget. Instead the Department of the Interior, with a recognized expertise on synthetic high-B.t.u. coal gas, was allotted $3 million to pursue low-B.t.u. gas development. EPA is to pursue the development of fuel and stack gas cleaning methods and phase out its low-B.t.u. coal-gas program.

To date, however, there has been a difference between EPA's advanced power cycle program and the Department of the Interior's coal gasification program. As I understand it, the principal difference is EPA's emphasis on a combined system for the on-site production and combustion of a low-B.t.u. coal-gas, while the Department of Interior's program emphasizes the production of a synthetic pipeline quality coal-gas which can be mixed with natural gas for distribution through existing natural gas pipeline distribution systems.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD materials furnished by the Environmental Protection Agency describing its fuel combustion research and development programs for assuring the environmentally acceptable generation of electricity from coal.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATUS OF EPA FUELS COMBUSTION RESEARCH AND DEVELOPMENT PROGRAM

Combustion of fossil fuel is the major single source of sulfur oxides, nitrogen oxides, and particulates.

The principal goal of the EPA fuels combustion research program is to develop and demonstrate technology that will permit the continued use of fossil fuels to supply increasing energy demands without excessive pollution. Specific objectives include the development and demonstration of hardware that is capable of providing high efficiency combustion of fossil fuels and concurrently provide maximum availability of energy. A second objective of this program is to minimize or eliminate in the fuel preparation or combustion system the formation of sulfur dioxide, particulate and nitrogen oxide. A third objective is to develop combustion systems thus partially offsetting the cost of pollution control.

A major thrust of the EPA program is directed toward control of emissions from utility power plants. Industrial combustion of fossil fuels is the second principal source frequently making the major impact on the ambient air qality. Increasing attention is being given to the control of this segment of the fossil fuel combustion control problem.

Specific programs and their status are as follows:

SUBMERGED COMBUSTION PROCESS

The submerged combustion process being developed under contract with Allied Technologies Corp., 135 Delta Drive, Pittsburgh, Pennsylvania 15238, is a 2-stage combustion process which is based on the principle of combusting coal with air in a molten iron bath. The process in analogous to a basic oxygen furnace technology practiced in the steel making industry. Coal is injected beneath the surface of the molten iron bath where it dissolves freeing both organic and inorganic sulfur constituents. Iron has a strong affinity for both carbon and sulfur which consequently will dissolve readily in the molten iron. Sulfur migrates from the iron bath to collect in the floating molten alkaline slag to form calcium sulfide. The resultant calcium sulfide can be subsequently regenerated to form a concentrated stream of SO_2 or elemental sulfur.

Carbon dissolved in the molten iron is oxidized by air blown into the molten bath to form carbon monoxide. Combined with hydrogen methane and nitrogen from the gasification step, the product is a low BTU fuel gas which can be subsequently combusted in a power plant.

In addition to capturing sulfur from the fuel the molten process also retains most of the ash from the fuel. The ash becomes part of the recycling slag. Because of the contamination by the ash, slag must be continually purged from the system to avoid excessive build up. This slag is expected to have characteristics which would make it suited as a building material.

Development of the submerged combustion process has proceeded to the point that a single lance pilot scale has been constructed and is presently in operation. This pilot unit has a cylindrical bed 28" in diameter and a depth of 4 feet.

The contractor is currently conducting a test series to evaluate the several process operating viables and to characterize the performance of the device and further establish its operating feasibility. Initial results are very promising indicating that the majority of the sulfur from the fuel is captured in the slag. Indications are that SO_2 emissions, less than 100 parts per million are obtained almost without regard to the initial sulfur content of the fuel. Particulate removal efficiency has not been measured.

The process continues to look quite promising. It is planned to push the development of this system as rapidly as possible into the demonstration phase.

Application of the 2-stage combustion system to existing power plants and industrial boilers appears quite promising. Insufficient data are available to definitively assess the process economics although preliminary estimates are quite encouraging.

FLUIDIZED BED TWO-STAGE COMBUSTION OF OIL

EPA is currently cost sharing a study with Esso England to develop a process for two-stage combustion of residual oil. Residual oil is injected into a chemically active fluidized bed containing calcium carbonate. Calcined calcium carbonate reacts with the reduced sulfur (H_2S) from the partially combusted residual oil forming calcium sulfide which is subsequently regenerated to produce a high concentration stream of SO_2. Sulfur-free fuel gas from 150–250 BTU is produced for second stage combustion. This process has potential for both retrofit to existing power plants and to industrial boilers.

A pilot scale facility has been operated in England to evaluate the effect principle process operating variables. Extended runs of up to two hundred hours have been made. To date, results from the pilot plant study have been encouraging resulting in 90% sulfur oxide removal and efficient regeneration of the spent calcium sulfide. Further tests are needed to complete the design data requirements that must precede the scale up of this process. EPA has entered into a second contract in Esso England to complete the test program and develop scale-up design data. These studies will be completed in Fiscal Year 1973 with design of a 100 megawatt demonstration initiated in early 1973.

PRESSURIZED FLUIDIZED COAL COMBUSTION

During the past four and one-half years, the Environmental Protection Agency has researched the fluidized bed coal combustion system as a new technique for pollution-free combustion of coal. This work has been conducted under several contracts with Westinghouse, Pope-Evans-Robbins, BCURA England, Atomic Energy Commission (Argonne

National Laboratories) and Esso, USA This work has progressed to the point of design of a small scale pilot facility to further evaluate the feasibility of this system. While data concerning this fluidized bed combustion concept appears encouraging as a power generation system, there is some question about its future impact on the air pollution control problems, particularly as applied as a combustion system for utilities. From the air pollution control standpoint the greatest impact could be made if the system could be applied to the industrial boiler combustion area. At present, EPA is re-evaluating the merits of the fluidized bed combustion and reassessing its potential for application to the industrial combustion problem.

If pursued further by EPA, the project has now reached a point of constructing a pilot scale facility of the I–5 MW size. A decision on this portion of the EPA combustion program will be reached within the next month.

SOURCE.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

STATUS OF PROPOSALS TO EPA TO DEMONSTRATE ADVANCED OR COMBINED POWER CYCLES

The Environmental Protection Agency, during the period July 1, 1969–December 31, 1970, funded a technical and economic study with the United Aircraft Corporation (EPA contract 22–59–114).

The results of this study were published in December 1970 in a report entitled "Technological and Economic Feasibility of Advanced Power Cycles and Methods of Producing Non-Polluting Fuel for Utility Power Systems." As a consequence of this study three unsolicited proposals were submitted to EPA:

1. United Aircraft Research Laboratory proposal P–K 32 "Proposal for the Conceptual Design for the Gasified Coal Fired COGAS pilot plant," dated March 12, 1971.

2. Industry team consisting of Westinghouse Electric Corporation, Public Service Company of Indiana, Bechtel Corporation, American Metal Climax Corporation; proposal number 70M318A "Coal Gasification for Air Pollution Control" dated April 29, 1971.

3. Institute of Gas Technology; proposal number P17G371AK "Combined Cycle Power Generation Utilizing Fuel Gas Produced by Hydro-Gasification of Coal" dated March 1971 and revised October 6, 1971.

EPA reviewed the United Aircraft Research Laboratory report and the above mentioned proposals and came to the following conclusions:

1. The concept of advanced power cycle appears economically and technically attractive if developmental problems can be successfully solved. These problems include: (a) development of advanced low BTU gasification systems (b) development of high temperature gas turbine (c) development of high temperature gas clean-up systems.

2. The proposals were heavily oriented towards early demonstration of a current state-of-the-art plant. Although one advocated simultaneous development of advanced components, the whole program effort appeared to be underestimated. The principle advantage of an early state-of-the-art demonstration was that it appeared to be a means of attracting substantial industry funds to the overall program.

3. EPA concluded, after thorough evaluation of the proposals, that none should be accepted, but that if the program were to be pursued, it would be formulated differently from any of the proposed approaches and in a way more suitable to the EPA objectives. It was also concluded that if pursued the projected should be competitively contracted.

It was subsequently decided that the Federal government will pursue development of the advanced power cycle in the following manner:

1. The Department of Interior would pursue development of a fluid bed low BTU gasifier.

2. EPA will develop high temperature gas clean-up systems and combustion systems such as submerged molten iron gasifier and 2-stage combustion of residual oil. It was felt that the component technology was sufficiently well developed and involved sufficiently low risk to expect that this stage of development could be left to industry. When OCR and EPA have developed significant improvements in gasifier and fuel gas clean-up systems, federal participation in a development/demonstration project can again be considered. The development of advanced gas turbine technology, a tremendously difficult and costly problem in itself, is expected to spin off from ongoing federal and industry sponsored programs.

SOURCE.—Letter of March 9, 1972 to Senator Jennings Randolph from Stanley M. Greenfield, Assistant Administrator for Research and Monitoring, Environmental Protection Agency, Washington, D.C.

Mr. RANDOLPH. Mr. President, I question the desirability of the transfer of EPA's activities on low-B.t.u. coal gasification to the Department of the Interior at this time. This program has been in existence since 1969 and to fracture it now could easily result in a 3-year delay in demonstration of advanced power cycles. There also is no assurance that the advanced power cycle would even be developed under such arrangements. These factors cause discouragement.

There are other unconventional uses of coal being pursued by the Department of the Interior which offer low pollution and high efficiency utilization of coals. These include magnetohydrodynamics—MHD—coal-based fuel cells, synthetic petroleum from coal, and the solvent refining of coal to yield to low-ash, low-sulfur product which can be handled as either a solid or a liquid.

Some of these methods have begun to receive modest Government research funds. The need for them is so great, however, and their prospects are so attractive in terms of benefits to the Nation's environment and energy supply, that there should be substantially increased funding for these purposes, also.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD materials furnished by the Department of the Interior describing its fuels combustion research and development programs for assuring the environmentally acceptable generation of electricity from coal.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 2, 1972.

Hon. JENNINGS RANDOLPH,
Chairman, Public Works Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: In response to your letter of February 14, 1972, there are enclosed responses to 8 questions for assistance of your Committee in evaluating the hearings held February 8 on new energy technologies.

We hope this will be useful to the Committee and we are most desirous to supply such additional information that it may require.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary.

Question 1: In your prepared statement it is estimated that the Department of the Interior's program to produce pipe-line quality gas from coal contemplates a total expenditure of $120 million over a four year period. Would you supply for the record the estimated Federal and industry funding contributions for each process by year to demonstrate these processes?

Answer: The Department commitments for pipeline quality gas (high B.t.u.) are allocated among three projects for 1972, with AGA contributions as follows:

Project and contractor (prospective contractor) and location	Fiscal year 1972 OCR	AGA	Total
Hydrogasification: IGT, Chicago, Ill.	$4,670	$2,330	$7,000
Lignite gasification: Consol, Rapid City, S. Dak.	3,870	1,930	5,800
Bi-gas: BCR, Homer City, Pa.	7,377	3,220	10,597

Beyond 1972, the Department is contemplating the allocation of funds among seven additional projects, as appropriate, as follows:

1. Steam Iron Process;
2. Liquid Methanation;
3. Lurgi Gasifier Studies;
4. Hydrogen/Synthetic Gas;
5. Molten Iron Process;
6. Process Selection; Evaluation Designs; & Engineering Assessments Studies; and
7. Demonstration Plant Engineering, Planning, & Design.

Question 2: Would you supply for the record a description of the synthane process being developed at Bruceton, Pennsylvania, including estimated funding?

Answer: *Expenditures Related to the Synthane Process for Converting Coal to Pipeline Gas:* From 1961 through 1970, in-house coal gasification and related studies led to the development of the Synthane Process. In 1971, contracts were let to Hydrocarbon Research, Inc. (HRI) and to the Lummus Company for pilot plant research and plant design.

HRI had a larger gasifier than was available in the Bureau, and the purpose of the contract was to gasify selected coals under conditions that would provide data additional to those from the Bureau's in-house research, thus providing additional assurance that the Synthane Process would be commercially feasible.

The Lummus Co. contract was to design a pilot plant capable of converting 75 tons of coal daily to a gas of pipeline quality. In fiscal year 1973, a contract will be let for the construction and operation of the pilot plant.

EXPENDITURES FOR BUREAU RESEARCH RELATED TO THE SYNTHANE PROCESS

	In-house	Contract	Cumulative total
1961–69 (inclusive)	$1,140,000	.....	$1,140,000
1970	878,000	.....	2,018,000
1971	596,000	$1,246,000	3,860,000
1972	649,000	1,500,000	6,009,000
1973	649,000	6,000,000	12,658,000

The publications entitled "Status of the Synthane Coal-to-Gas Process" and "A Process to Make High-Btu Gas From Coal" are attached.

Question 3: Would you supply for the record an indication of past and future research expenditures for the development of improved power generation systems by the Department of the Interior, including fuel

cells, binary alkali metal cycles, combined gas turbine-steam turbine cycles, and MHD (magnetohydrodynamics)?

Answer: The Interior Department has been interested in improved power systems for many years. This interest has included work on the coal-fired gas turbine and conventional power systems as well. For the past six to eight years our principal interest has been in fuel cells and open cycle-magnetohydrodynamics for central station power. This effort has been in Bureau of Mines laboratories and by the Office of Coal Research contractors. The total expenditures are approximately:

Fuel Cell	$4,500,000
Magnetohydrodynamics	2,500,000

For FY 73 the budget includes:

Fuel Cell (reprogrammed)	$400,000
Magnetohydrodynamics	3,700,000

We have made internal studies and evaluations of improved cycles, including:

1. MHD—steam;
2. MHD—gas turbine;
3. Gas turbine-steam turbine;
4. Steam turbine-ammonia; and
5. Alkali metal turbine-steam turbine.

Additionally, we have evaluated closed cycle MHD and liquid (alkali) metal MHD systems. The Office of Coal Research has good proposals for work in each of these important areas and work will begin during the coming year if our budget is approved. Improved power generation systems are needed on a national basis but are particularly necessary in the Eastern U.S. to meet projected demand and satisfy environmental constraints.

Question 4: The National Petroleum Council last December issued the second volume of its interim appraisal of the U.S. Energy outlook. The task force report estimates that synthetic pipeline gas produced from western surface mined coal would cost from $.90 to $1.10 per million BTU; from eastern shaft mined coal the price would be $1.05 to $1.25, or $.15 more per million BTU.

Can it not be concluded from these economic estimates that eastern shaft mined coal has no immediate future as a supply for synthetic pipeline gas?

Is it reasonable to assume this price differential between eastern and western synthetic pipeline gas will continue?

Answer: (a) No. The price difference should be considered at *the point of use*. As an example, Appalachian coal converted to gas and transported to New York City would be cheaper than gas manufactured from Western coal after it had been transported to New York City. Pipeline costs are significant.

(b) We would expect the price difference *at the mine* to continue, but the delivered cost should continue to favor Appalachian coal by virtue of the geography.

Question 5: What specific proposals have been received for demonstration of advanced or combined power cycles for the generation of electricity? When were these received? What action has been taken? What action is anticipated?

Answer: The Office of Coal Research has received proposals for development of advanced gasification systems from the Institute of Gas Technology and Bituminous Coal Research, Inc. Additionally, preliminary exploratory proposals have been received from Westinghouse and United Aircraft. These latter proposals are related to turbine rather than gasifier, development. Proposal dates are as follows:

Proposal No.	Company	Effort	Date
536	Burns & Roe	Design study	June 22, 1970.
538	BCR	Entrained bed	July 27, 1970.
563	Burns & Roe	Fuel cell technology	Mar. 18, 1971.
571	United Aircraft.	Gas turbine	June 29, 1971.
(1)	Westinghouse	Gasifier and gas turbine.	July 1971.
586	do	Improved power cycles.	Sept. 23, 1971.
592	General Electric.	Alkali metal	Nov. 1, 1971.
605	Inst. of Gas Tech.	Fluid bed gasifier	Dec. 21, 1971.

[1] None.

To date we have not taken any action with respect to these proposals because of budget limitations. However, the budget request, now before the Congress, proposes $3 million for development of low-B.t.u. fuel gasification, $3 million for the development of magnetohydrodynamics, and $500,000 for the fluid-bed boiler. With these funds, we will begin work on an entrained gasifier and a fluid-bed gasifier as I indicated in my statement to the Committee. We will be seeking cosponsorship from the utility and coal industries but propose to begin the work as soon as the funds are available.

We believe our clean fuel/improved power cycle program holds great promise for improved efficiency and potential elimination of all air pollution and drastic reduction of water requirements for central station powerplants. This will allow utilities more latitude in siting their plants and allow us to mine the coal we need, convert it to power, and restore the earth. In effect, the cost of environmental controls will be offset by improved efficiency and lower capital cost for the power station.

EPA OVERSIGHT HEARINGS

Mr. RANDOLPH. Mr. President, as I have discussed, the Environmental Protection Agency's research, development, and demonstration program has been totally inadequate considering the anticipated impact of proposed and existing air pollution standards on Appalachian and Interior region coal supplies. The response of the electric utility industry to the problem, except for a few isolated utilities, also has left room for improvement.

Anticipated effects on coal production in the Appalachian and Interior regions could have been minimized or even avoided had both Government and industry accepted the responsibility set forth in the Air Quality Act of 1967. Their leaders should have responded as prudent men, dedicated to assuring an environmental quality which protects the health of our citizens and assures the viability of our coal resource developments.

There is reason to suspect that much of the progress that was made prior to the formation of the Environmental Protection Agency has almost been lost. There are signs that there actually has been a reduction in scope of Federal efforts for the demonstration of methods for the environmentally acceptable generation of electricity.

Mr. President, on April 10, 11, and 17 the Committee on Public Works has scheduled hearings before its Subcommittee on Air and Water Pollution to review the research programs of the Environmental Protection Agency in this critical area.

The subcommittee is particularly interested in four aspects of the accelerated research and development program required by section 104 of the Clean Air Amendments of 1970.

These aspects are the availability of alternative fuels, the efficiency of those fuels, new developments in technology to reduce emissions from combustion of fuels, and the impact of Federal support for this research on State air quality programs.

The hearings will begin at 10 a.m. each day in room 4200 of the New Senate Office Building. Witnesses invited to testify are:

MONDAY, APRIL 10

Dr. Ralph Lapp. Quadri-Sciences, Washington, D.C.

Dr. Vincent E. McKelvery, Director, U.S. Geological Survey.

Carl E. Bagge, president, National Coal Association.

TUESDAY, APRIL 11

Arthur M. Squires, chairman, Department of Chemical Engineering, City University of New York.

Carl Beard, director, West Virginia Air Pollution Control Commission.

Jean Schueneman, chief, Division of Air Quality Control, Maryland Department of Health and Mental Hygiene.

B. Hudson Milner, president, Louisville Gas and Electric Co.

MONDAY, APRIL 17

Dr. Stanley Greenfield, Assistant Administrator for Research Environmental Protection Agency.

Although these Public Works Committee hearings are of an oversight character by its Air and Water Pollution Subcommittee, they are also of particular importance to the National Fuels and Energy Policy Study, Senate Resolution 45, on which I serve as an ex-officio member of the Committee on Interior and Insular Affairs. Hence, I have discussed these matters with Senator HENRY M. JACKSON, chairman of the Interior Committee and of the fuels and energy policy study group. We are in agreement that the critical nature of these issues to the formulation of a comprehensive and effective national fuels and energy policy will necessitate that they be considered as part of the official National Fuels and Energy Policy Study.

FEDERAL WATER POLLUTION CONTROL ACT

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. BLACKBURN. Mr. Speaker, we have considered today a bill dealing with one of the most emotional issues which we face as a Nation. The great and justified demand of the American public that abuses of our waterways be dealt with has created an atmosphere which requires action. The House today indicated that when action is demanded, action will follow in the Congress.

For myself, however, I must look upon the purposes of this bill and the ambitions of its framers and ask if the action which the Congress is taking today is as much the result of a reasoned approach as it is a nervous reaction.

Several years ago we established the Environmental Protection Agency. We granted to this new organization broad powers reaching into every facet of environmental concern, as well as into the functions of State and local governments in the area of clean environment. We combined in one agency authorities dealing with every facet of environmental protection where previously such authorities had been spread among many departments. I supported this reorganization, because I felt that the time had come when expertise in the field of environmental protection should be concentrated into one agency for a more efficient effort.

Today, we are granting to this same organization contract authority over the next 3 years totaling $17 billion for the construction of waste treatment facilities. The Environmental Protection Agency has many fine and dedicated persons in its employ, but to assume that this relatively new agency, with very little experience, is now qualified to commit the taxpayers of the country to expenditures of $17 billion is to me extremely questionable.

Have we forgotten so soon the lessons from the Great Society days when new agencies were created and huge sums of money placed at their disposal to abolish poverty in America. No serious student of government today argues that the war on poverty was won or that any major engagement was successful. The lesson to have been learned from that approach to government was to warn us that new agencies with broad and noble purposes, manned by dedicated and sincere people and armed with huge sums of money, did not necessarily achieve the result intended.

The responsibility of the Congress to exercise a continuing review of executive agencies is just as great in areas dealing with the environment as it is in areas dealing with social programs, or any of the other areas now considered proper for governmental action.

In the past few months my personal experience with an oversight of operations of the Department of Housing and Urban Development and its various FHA and public housing programs only affirms the necessity for alert congressional oversight into the operations of executive agencies.

I see no reason to believe that EPA with its still new organizational and untried methods, can or should operate apart from congressional oversight.

Only today, the newspapers carried an article calling to our attention the fact that the balance-of-trade deficit was more serious during the past months than during any time in the history of our Nation. This legislation could jeopardize the jobs of American workers by compelling industries to purchase equipment that is extremely costly, if not prohibitive, at a time when the economy needs a boost. Workmen without jobs, by reason of plant closings, by reason of precipitous and unreasonable demands upon their employers, or by reason of lack of orders for the goods being produced, because they are priced out of the international market, will show little patience with a Congress that failed to take these factors into account.

It is a well-known fact that the incremental cost of achieving successively higher levels of discharge removal accelerates rapidly once your standards exceed 85 percent of the pollutants in the discharge. Former Chairman Paul McCracken, of the Council of Economic Advisers, cautioned that pollution removal costs will skyrocket as we approach 100 percent removal of all pollutants. Specifically, Chairman McCracken argued that to remove 85 to 90 percent of all discharge pollutants would cost the Nation about $61 billion, or $700 million for each percentage point of removal. However, when you get into the 95 to 99 percent removal range, the cost would double, or come to nearly $120 billion—about $6 billion per percentage point of removal. To move one more percentage point to 100 percent removal, or no discharge, would cost the Nation about 2½ times the previously mentioned amount, or $317 billion. As you can easily see, this figure is many times more costly than if we stayed in the 85 to 90 percent range. It has been estimated that if we were somehow able to achieve no discharge over a 25-year period, the total cost to the Nation would be about $2.34 trillion. Undoubtedly, the cost of cleaning up our rivers and streams is going to be expensive and will have a significant impact upon our economy.

In light of the above-mentioned facts, it must be remembered that the United States is today facing an ever-increasing trade deficit. American industry is finding it extremely difficult to compete in world markets. The requirement that we attempt to have zero discharge into our waterways by 1985 could cause economic havoc; unemployment would increase; American industry would not be able to compete; and the cost of goods to the consumer would rise astronomically. I believe that for this reason we should impose those limits which will still allow American industry to compete while making a serious effort to clean up our rivers and streams at the same time. It is hoped that technology will be developed within the next few years which will allow the recycling of our liquefied wastes in a manner which will alleviate the need for complete reliance upon the "no discharge" method of water pollution abatement.

As all Members of this body are aware, laws already exist to regulate what can and cannot be discharged into the Nation's waterways. The present regulations are going to have a significant affect on the Nation's economy. Recently, the Council on Environmental Quality released a report summarizing the economic impact of present pollution control requirements. They studied the effects of these requirements on approximately 12,000 plants currently operating in the industrial sector of our national economy. The study concluded that 300 of these plants will be forced to close, because of present pollution abatement requirements. These plant closings and production curtailments, because of pollution abatement requirements will have both a direct and indirect impact on the Nation's economy. There will be a significant loss of jobs and a reduction of equity in plants and equipment. Furthermore, an indirect impact is that certain suppliers and related firms will be forced to close or reduce production. The study indicates that because of present environmental regulations, prices in the affected industries are expected to rise over 10 percent in the period from 1972 to 1976. Furthermore, the study suggests that job losses directly attributable to environmental regulations will be between 50,000 to 125,000 over the 1972–76 period. This will create a 1-percentage point increase in the Nation's unemployment rate.

Pollution control devices will have a direct affect on the national economy in the form of higher produce prices and new demands for investment in pollution control equipment. It is expected that in order to comply with today's regulations, industry must immediately invest in $26 billion worth of additional equipment. Undoubtedly, prices will rise as a result of the cost push impact of pollution control costs. It is a well-known economic fact that as prices increase, this tends to slow down the growth of demand in the economy. Consequently, the growth of our gross national product will be severely retarded. Furthermore, unemployment will increase, because of the slow-down in real product work. The current amount balance of our international trade position will deteriorate primarily as a result of increasing domestic prices when compared with world market prices. Beyond the shadow of a doubt, foreign prices will not increase due to environmental regulations overseas. It is clear that net exports from the United States will decline.

Mr. Speaker, the reason I point out these facts regarding present regulations is to emphasize the devastating economic impact that the changes proposed in this bill would have.

There are several other portions of this bill that gravely concern me. The position of States with regard to initiative in the water pollution abatement area would be seriously eroded. We see a good example in my own State of Georgia, where the Georgia Water Quality Control Board has made continuing progress in cleaning up and preserving Georgia's waterways. I believe that the States have a valuable role which they could play in this area. However, the provisions of this bill would allow EPA to overrule many of the State programs if they did not conform to Federal guidelines. We had the situation in Georgia where the State guidelines were stronger than those of the Federal Government and where the State had to reduce its standards in order to conform with Federal guidelines.

Finally, the bill would allow the Environmental Protection Agency to make contracts for a 3-year period with different units of State and local governments for construction of waste treatment facilities. By giving this contract authority to EPA, we have placed another uncontrollable expenditure provision in our budget. In a time of continuing deficits which are being fostered because of continuing uncontrollable expenditures,

I do not believe this is the time or place to give such commitment authority to an executive agency.

We recognize a noble cause, and to demonstrate our degree of concern for the cause, we obligate the Treasury for huge sums of money with little thought as to its availability in the coffers. The uncontrolled items in the budget now constitute 71 percent of the Federal budget. Although we hope to come to grips with this most serious problem, the procedures adopted here today have made any serious congressional effort toward fiscal control almost impossible.

I believe that we should do everything reasonable to clean up the Nation's water systems and I have consistently cosponsored legislation which I feel would do this. During this session of Congress I have cosponsored legislation to increase grant authorizations for State and interstate water pollution prevention and control programs; a bill to provide financial assistance for the construction of waste treatment facilities and for the development of financial and other capabilities responsive to future waste treatment needs; a bill to strengthen and clarify the authority of the Administrator of the EPA to establish and enforce water quality standards; and the Environmental Financing Act. In addition, I have voted for the Water Quality Improvement Act of 1970 and the Water Resources Planning Act of 1971. Furthermore, I have consistently worked to preserve and protect our Nation's wetlands from unnecessary destruction by stream alteration.

Our hope to successfully upgrade the quality of our Nation's waterways lies in a continuing evolution of improved technology. I fear that the Federal Water Pollution Control Act will force commitments for huge expenditures by industry, as well as Government bodies, based on present technology which could well become obsolete in the very near future. For example, this bill has an overwhelming emphasis on limiting discharges into our streams. However, this fails to take into account the increasing appeal of recycling liquid instead of the "no discharge" approach. If we had more certain congressional oversight each year, errors in policies enunciated by this act could be more readily corrected.

In summary, I fear that Congress has gone too far in this legislation. I fear that we have granted too much authority to a relatively new Federal agency, promised far more money that we can reasonably hope to make available, and abdicated congressional responsibilities to the executive branch of the Government to a degree which is not necessary.

AUTO THEFT

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. TALMADGE. Mr. President, there has been brought to my attention an interesting editorial column from the Bethesda-Chevy Chase Tribune regarding the auto theft problem.

Written by Charlie Belt, formerly of Midville, Ga., the column recommends changes in title laws and auto inspection regulations in order to render car theft less profitable and less possible. Mr. Belt points out that such laws have effectively reduced the rate of auto theft in the State of Georgia.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDUCE CAR THEFT 70 PERCENT

(By Charlie Belt)

An examination of the auto theft situation indicates a substantial reduction could result from a few changes in the title laws.

First, the principal purchasers of stolen parts should be pinpointed. Eliminate the purchaser, and the profit factor is removed. Without profit from sale of stolen property, no theft would exist.

The insurance industry is the single largest national purchaser of stolen auto parts. It has a built-in constant demand for used cheap parts to repair damaged autos. The companies also purchase parts to repair a car stripped by auto thieves. This is a vicious cycle—buying parts stolen from one car to repair or replace parts stolen from another. This then creates demand for parts again and again in a never ending circle.

To eliminate this situation would be very simple: change the title laws and automobile inspection laws. Adopt a policy that when a vehicle is damaged or has sustained a loss that would not permit it to pass the automobile inspection in its present condition, require the insurance company to execute a form of triplicate, identifying the vehicle by I.D. number, color, year, model, make and type of damage. The adjuster would send one copy to the state explaining whether or not the vehicle was declared a total loss or repairable. When totaled out, the I.D. number would have to be physically removed by the adjuster, and sent in to the state. If repairable, the adjuster would have to indicate the repairing garage, showing address and trade name when repaired. The repairing garage would also receive one copy of the form, and would have to attach a notarized affidavit of I.D. number of the vehicle used parts were removed from for repairs. New parts would have to be shown by dealer's invoice.

This would eliminate parts being sold from any vehicle without an I.D. number or record of origin of the parts. It should also be illegal to repair any vehicle without an I.D. number. This would greatly reduce the ability to sell stolen vehicles or parts.

The insurance companies will say this will increase handling cost by requiring extra paper work, and reduce the value of salvage since rebuilders would have to apply to the state for a reissue of an I.D. number.

I grant that the paper work cost will be more, but it will be more than offset by the reduction in the companies' losses brought about by reduced theft.

Also, the companies contention that salvage vehicles will not sell for as high a price as they do now is true. With a special state reissue I.D. number, everyone would be able to recognize a formerly salvaged vehicle. This would eliminate palming off a vehicle as being only used driving to church on Sunday by a nice "little old lady."

How do I know this proposal will work? The State of Georgia in 1960 was one of the states with a very high rate of auto theft, having rebuilding garages for stolen vehicles. An Act such as I have described was passed in 1962 in that state, and the increase in auto theft has been held to about a 70% increase through 1970. The increase in Maryland and Virginia has been about 158% during the same period. It is evident that Georgia must be doing something right.

To have a question on insurance answered in this column, mail it to Charlie Belt. Certified Public Adjuster, c/o Bethesda-Chevy Chase Tribune, P.O. Box A, Bethesda, Maryland, 20014, or call 654-3496, 7-9 p.m. This service will be limited to what time and space permit.

DRUG TREATMENT IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EILBERG. Mr. Speaker, two new methadone treatment centers were opened recently in my city of Philadelphia. Each of these centers will have a treatment capacity of 200 addicts.

While the opening of these facilities is an important step forward in the city's fight against drug addiction, it is a very small step.

Drug addiction is undoubtedly the most important domestic problem facing this country, but at the Federal level we continue to fight it with a minimum amount of resources.

The cities and States simply do not have the money to deal adequately with the problem of drug addiction. The main thrust must come from Washington.

Methadone is an answer to one part of the problem. It will help some addicts. It certainly will not help all addicts, probably not even a majority. Methadone is not a remedy for the disease of drug addiction; it is a treatment for one of the symptoms. If we are going to end the problem of drug addiction we are going to have to deal with the problems which force people to turn to drugs for relief and we are going to have to cure the social and psychological problems of the addicts so they will not go back to drugs when things get tough.

At this time, I enter into the RECORD a statement by the city representative of Philadelphia on the drug treatment situation in the city, not to show how well we are doing, but to point out how much more must be done.

The statement follows:

METHADONE TREATMENT CENTERS

The first of two new methadone treatment centers for heroin addicts began caring for patients today (Monday, March 27), it was announced by Acting City Health Commissioner Dr. Lewis D. Polk. Located at 830 N. Board st., the clinic is operated by the Health Department's Office of Mental Health and Mental Retardation.

The second methadone clinic operated by the Health Department, at 716 South st., is expected to begin functioning within the next two to three weeks, Dr. Polk said.

Funds for the establishment of the centers come from a $293,835 grant from the Law Enforcement Assistance Administration of the U.S. Department of Justice, plus $125,930 matching funds from the Office of Mental Health and Mental Retardation.

Each of the new centers will have a treatment capacity of 200 addicts, 50% of whom will be referred through the criminal justice system and 50% enrolling on a voluntary basis, according to Dr. William Wieland, Director of the Addictive Diseases Division of the Office of Mental Health.

"Approximately 1,000 addicts are already being treated in three other methadone maintenance clinics housed in City health facilities and staffed by West Philadelphia Mental Health Consortium," Dr. Wieland noted.

"Another 700 are enrolled in methadone programs at St. Luke's Hospital, Mantua Halfway House, and Rehabilitation A.I.D. In addition, addicts are receiving therapy from other treatment programs in the city that do not utilize methadone but offer alternative approaches to drug abuse and addiction.

"We are working to expand both the methadone and the alternative treatment programs in the coming year, since all of the present programs have long waiting lists and some areas of the city have no programs at all at the present time," he said.

Heroin addicts who are 18 years or older are eligible for treatment at the City's methadone treatment centers. The center at 830 N. Broad st. will care for addicts who live in the Hahnemann Community Mental Health Center catchment area, between the Delaware and Schuylkill and from Montgomery ave. to Chestnut st. The center at 716 South st. will treat those who live in the Pennsylvania Community Mental Health Center catchment area, south of Chestnut st. and east of Broad.

The new City centers will be open seven days a week—from 8 a.m. to 6 p.m. Monday through Friday, and from 10 a.m. to 1 p.m. Saturday and Sunday.

Each methadone treatment center is staffed by a director, psychiatrist, social worker, registered nurses, ex-addict counsellors, a rehabilitation counsellor, and supportive clerical staff.

When an individual comes to the center for the first time, he will be registered and given an appointment for a medical and psychological evaluation, prior to any methadone being prescribed. In addition to the methadone medication, Dr. Wieland stressed that treatment will involve group therapy, peer pressure groups, and marital and family counselling groups.

The methadone maintenance program located at Philadelphia General Hospital and operated by the West Philadelphia Mental Health Consortium is currently caring for 600 patients, most of whom live in West Philadelphia south of Market st. About 220 residents of West Philadelphia north of Market st. are being treated for addiction at the clinic located in District No. 4 Health Center, 4400 Haverford ave., operated by the Consortium on behalf of the Philadelphia Psychiatric Community Mental Health Center.

The Consortium also staffs the clinic presently located in the District No. 2 Health Center, Board and Morris sts., on behalf of the Jefferson Community Mental Health Center. Approximately 200 residents of the area south of Chestnut st. and west of Broad st. are enrolled in that clinic.

NATIONAL WEEK OF CONCERN FOR AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

HON. QUENTIN N. BURDICK

OF NORTH DAKOTA

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. BURDICK. Mr. President, although U.S. soldiers now held prisoners of war or missing in action in Southeast Asia are never far from the minds of our people, this country has just observed a National Week of Concern for these men and for their welfare.

I sponsored the resolutions creating this remembrance both this year and last. Last year, I had hoped that the observance would be the only one. I am saddened and disappointed that 1 year later we are still in the same situation, still paying tribute to the bravery of men locked up thousands of miles away.

We are still concerned about the same issues as we were last year, for the conditions of our POW's and MIA's have not improved. Although the North Vietnamese endorsed the Geneva Accords regarding the treatment of prisoners of war in 1957, they have ignored those humanitarian agreements.

The North Vietnamese and Vietcong have continually refused to give any information about their prisoners. We do not know whom they hold, who is missing, who is sick, or who has died. They refuse to exchange seriously ill prisoners or permit proper medical treatment. International organizations have been refused access to the prisoners, and the prisoners have been denied the right to correspond freely with their families.

This conduct is hardest on the families of those missing or held prisoner. The suffering they must feel is almost beyond comprehension. Still, they have maintained the courage to work for the freedom of their loved ones in every way, through every channel. Throughout it all, they have been brave, courageous, and dignified.

If I were a member of one of those families, I do not know that observing a National Week of Concern would bring me much peace of mind. The attention it focuses on the matter is important, but strong, positive action is needed. We must continue to work to better the conditions for our POW's and for the safe return of every one of our men.

The surest and quickest way to bring this about is to set a date for the withdrawal of all American troops, contingent only on the release of our prisoners. I have voted for such a provision over and over again. The majority of Senators have also done so. In spite of our actions and the feelings of hundreds of thousands of Americans, the war drags on. More American soldiers are killed. More are missing. More are taken prisoner.

The fixing of a definite date for withdrawal would give renewed hope to our prisoners and their families. I deeply and sincerely hope that the President will agree to this step. History has shown that the release of prisoners comes after, not before, a commitment to withdraw.

This National Week of Concern is a sad reminder to all Americans to rededicate their efforts to end U.S. involvement in Southeast Asia and bring our troops—all our troops—home safely and soon. I would hope that the people, the Congress, and the President will heed this reminder and work to insure that this will be the last Week of Concern we must proclaim.

The city of Fargo, N. Dak., has also declared this week as a Week of Concern. I ask unanimous consent that the proclamation be printed in the Extensions of Remarks.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Whereas, over 1500 members of this nation's Armed Forces are currently held prisoner or declared missing in action in the conflict in Southeast Asia, and

Whereas, the government of North Vietnam has continuously refused all efforts by this nation and the International Red Cross to secure repatriation or humane treatment for these men, and

Whereas, never in this country's history have its fighting men been held for so long, with little hope for release and with severely limited contact with their families, and

Whereas, it is incumbent upon the citizens of this great country to support its fighting men held as prisoners of war or declared missing in action;

Now, therefore, I, Herschel Laskowitz, do hereby declare the period of March 26-April 1, 1972, as a "Week of Concern" for our POW/MIAs, and I call upon the citizens of this city in remembering these men through prayer and further through letters to our elected representatives, and I join with the families of these men when I ask of you:

Don't Let Them Be Forgotten.

AN INTERVIEW WITH GREEK AMBASSADOR BASIL VITSAXIS ON AMERICAN-GREEK RELATIONS—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people in an interview with the Honorable Basil Vitsaxis, Ambassador of Greece to the United States, on Greece and relations between Greece and the United States. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE IN AN INTERVIEW WITH GREEK AMBASSADOR BASIL VITSAXIS ON GREECE AND GREEK-AMERICAN RELATIONS

RARICK. Americans have good cause to be concerned over the increasing domination of the Mediterranean by the Soviet Navy. From North African countries in the West to Turkey in the East, deep water ports, support facilities and air bases once available to the United States and to NATO have been closed. Anti-Americanism is increasing and American warships are no longer welcome to make good-will visits to many once friendly ports.

One of the very few exceptions to this unfriendly attitude toward the United States is the Kingdom of Greece. The history of Greece has been the story of a constant struggle to keep burning the flame of liberty. Greece stands today as the greatest bulwark against communist tyranny in all of Europe. Were it not for the present friendly Greek Government the U.S. Sixth Fleet might well have been excluded completely from the Mediterranean.

Today, we are very privileged to have as our guest to talk about Greece and Greek-American relations His Excellency Basil Vitsaxis, the Ambassador from Greece to the United States and a personal friend of mine during his assignment in Washington over the past two years. Welcome, Mr. Ambassador, into the homes of our TV viewers.

Mr. Ambassador, the Soviet Union just last month reportedly warned the United States that its plan to establish naval bases in Greece can only provide a corresponding reac-

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tion from the Soviets. A State Department spokesman rejected the Soviet allegation that the U.S. is setting up naval bases in Greece. What can you tell us without violating military security, of course, about the U.S. naval facilities in Greece and any arrangement between our two countries regarding the United States Navy.

VITSAXIS. Well, first of all let me thank you, my dear John, for allowing me to be on your program. Coming to your question, I believe it is only proper to first say a few words on the importance of this sea, in the framework of World Strategy.

The Mediterranean stretches from the southern flank of Europe to the northern shores of Africa and represents a shortcut for some very important nations, between the Indian Ocean and the Atlantic. Three watergates, i.e. Gibraltar in the West, the Bosporus and the Dardanelles in the North-East and Suez, in the South-East, render this waterway extremely vulnerable. Some of the richest oil producing countries are largely dependent for their communications on this sea and, it is needless to add that, one of the hottest spots of today's world, is the Middle East.

All this make the Mediterranean—the least one can say—a very important sea.

The Soviet military and, consequently, political presence in this area is a new phenomenon and is, naturally, watched with ever increasing concern by the Western powers. The Western presence in this sea is represented by the NATO Naval forces, the backbone of which is the 6th United States fleet.

Greece belongs to NATO and is wholeheartedly committed to the cause of common defense. It was then only natural for my Government to give its approval in principle to the request formulated by the friendly and allied United States Government to establish home port facilities in the Athens-Piraeus area for the 6th Fleet.

I wish to take this opportunity to stress the fact that home porting facilities are not *military bases*. They aim at facilitating the officers and the crews, serving in the 6th Fleet, to meet more often and easier with their families without having to sail back to the United States.

The Soviet Union, I know, has launched a protest alleging that the United States are building new military bases in Greece. This allegation, as I said, does not correspond to the facts; but I wish to underline in this respect that though no American military bases are built in Greece, Soviet military bases—in the true meaning of the term—are being sought in the area—mainly on the Northern shores of Africa. I really cannot see how one can protest for even imaginary intentions of somebody else, while he himself not only entertains such intentions but also puts them into action.

RARICK. I think that it is safe to say that in Greece your people still like America and Americans and anyone who loves freedom is still welcome.

VITSAXIS. The ties between the United States of America and Greece are long-standing bonds of warm mutual friendship. They were hammered since our war of Independence of 1821. At that time many Americans came and fought in Greece and, by the way, it is noteworthy that Americans "fighting abroad for the cause of freedom" are not a new phenomenon, since, as early as in the 19th century, these brave sons of the United States came as volunteers to my country, fought shoulder to shoulder with us and died on our battlefields for the cause of our independence.

The ties between Greece and the United States were eventually strengthened during the two World Wars, during the communist invasion of my country and during the Korean war. On the other hand, many Greeks have come and settled in the United States, thus representing a living bond between the two countries.

I am happy to state, my dear John, that the relations between the Governments of our countries, truly reflecting the relations between our peoples, are excellent.

RARICK. Mr. Ambassador, could you tell me what was the effect of the recent realignment of currencies on the drachma and perhaps, more generally, what is the present state of the economy of Greece?

VITSAXIS. Well, let me first start with the second part of your question. If one takes April 1967 as a starting point, the Greek economy completes five years of sustained and rapid economic development. This has been particularly true during the last three years, when the national income grew by over seven per cent on the average. Mind you, this rapid economic growth was accompanied by a high degree of price stability, in spite of steadily rising prices in foreign countries and world inflation. Economic growth and industrialization has been dependent on imports, as most capital equipment has to be imported. Thus, imports have been increasing with the widening trade gap reflecting the accelerating growth and the ensuing higher standards of living. However, the inflow of foreign credits and investments, as well as remittances from Greeks working abroad, earnings of the merchant marine and the unprecedented receipts from tourism, more than kept pace with Greece's external trade deficit. In other words, the current account deficit had been more than offset by capital inflows, especially in 1971 and during the first months of this year, leading to a substantial increase in the total reserves of our Central Bank.

Referring to the latest well-known realignment of currencies in the world, I wish to state that my country did not change the purity of the drachma vis-a-vis the dollar. By allowing our currency to follow the dollar, we have improved our competitive position with regard to other European countries and especially the major countries of Western Europe, which constitute our main export markets.

It is worth noting that at the present stage of our development there is a great need for capital imports and the mobilization of our internal resources. From that point of view, the fact that the influx of private savings, both in local and foreign currencies, into the Greek banking system is at an all time high, is most encouraging. May I add, in this respect, that the confidence shown to the Greek economy and to the stability in my country by the international capital, as evidenced by this influx, is a clear proof of the healthy situation in Greece. As is well known, international capital does not obey any laws other than those of cool, objective appraisal and reason.

If the past is to serve as a guide, the dynamism of the Greek economy in recent years and its highly development-oriented character cannot but lead to an optimistic prognosis of the future of our economy.

Let me also remind our viewers that, like the United States, Greece maintains an economic system that gives private initiative and enterprise full opportunities and our trade is fairly liberal and in accord with the rules of the General Agreement of Tariffs and Trade.

RARICK. Mr. Ambassador, our people hear from time to time conflicting reports about your country today. On several occasions I have referred to Greece to my people as the last remaining bastion of peace in the entire Mediterranean as being pro-American and anti-Communist. Then, of course, our people also hear the small but very vocal minority in our country who for some strange reason seem to get front-page and wide press coverage as they constantly refer to the government of Greece as some kind of dictatorship. I believe it'd help our viewers to have a correct understanding of Greece today if they knew the background of how the present Greek government came to power. Would you care to enlighten our viewers as the representative of your country?

VITSAXIS. Thank you for asking this question because it will allow me to shortly refer to what happens in my country.

Following the war, the communists tried to take over Greece . . .

RARICK. You are referring to World War II?

VITSAXIS. Yes, World War II.

They wanted to control the country because of its strategic importance in the eastern basin of the Mediterranean. The world was led to believe, that it was an internal upheaval. In reality, as proved by an on the spot investigation of a special United Nations Committee, it was a camouflaged invasion from the North (we had similar phenomena in Korea and in North Viet Nam). The Greek people vigorously fought the communists. Our American friends gave us material support and advice; but *we* alone provided the necessary blood . . . Rivers of blood.

For four long years we fought to stay out of the Iron Curtain. Four years which brought destruction and catastrophe to our country beyond any description. The communist invasion was eventually crushed and we hoped that a brighter tomorrow was to come. The communists, nevertheless, did not abandon their aims. They only changed their tactics. Since they had not succeeded in conquering Greece by the force of arms they tried other, more subtle, though equally dangerous ways. They started infiltrating into the public offices, into the various services, hoping to get control of our country. The situation worsened with every passing year so that in the years immediately preceding 1967 the country was plunged into chaos. Democracy had virtually ceased to function; the economy was paralyzed by continuous strikes; and disorders broke out in all major cities, causing a well understood anxiety to the people of my country.

Something had to be done if Greece, as a free country, was to be saved. The armed forces of Greece did it. They intervened on April 21st, 1967, and took complete control of the destinies of the country. Their intervention was motivated by the desire to save democracy, not to destroy it. Immediately after the new Government came to power, it proclaimed to the people that it did not intend to establish a new form of government, dictatorial or otherwise. What it promised and what it is step by step promoting is the establishment in Greece of a real democratic life under the guarantee of the Constitution. Among the first acts of the new Government was to establish a Committee of highly competent persons, Professors of Universities, Magistrates and so on, to draft a new Constitution. The Constitution was publicly debated and then put to a vote. The Greek people by an overwhelming majority accepted this Constitution at a national referendum which took place in 1968.

May I, my dear John, take this opportunity to stress the fact that the Constitution, which is actually the fundamental Charter under which political life in my country evolves, provides for elections by secret ballot and for multi-party representation of the people in the Parliament. It also provides for all checks and controls which are to be found in every Constitution of western type democracies. Let me quote from Article 2, which reads:

"All powers emanate from the people, exist in favor of the people and the nation and are exercised by the manner prescribed by the Constitution."

The same Constitution guarantees all human freedoms. In some instances it provides for even a greater protection of human rights than does the International Convention of Rome on Human Rights. In short, the political system which is prescribed by our Constitution is a western type democracy and I do not think that anybody who would examine it could come to a different conclusion. Many, for reasons which I do not want to discuss now, continue to label Greece as a "dictatorship". To them I should like to say that Greece is the country where democracy was born and Greece continues to be the home of democracy.

RARICK. In listening to your explanation, Basil, I think its interesting to note that the Communists who would seemingly try to call or smear Greece as a dictatorship certainly don't practice in their own country what they preach about Greece. In Russia, for example, elections are a farce. The people have a right to exercise the ballot but they can vote for no one except a Communist. There have been some charges made by this same vocal minority, probably friends of the Soviet Union, that the Greek government does not allow freedom of the press. Would you care to comment on this?

VITSAXIS. Well, this allegation is less and less put forward today even by the staunchest opponents of the Greek Government. The flow of foreign tourists in Greece has allowed many people to see for themselves that censorship does not exist in my country. Our newspapers and magazines are also read abroad and it is easy for everyone to see that the press is free in Greece. Our Constitution guarantees the freedom of the press and adds: *"Censorship and every other preventive measure is prohibited."*

Our newspapers express freely their opinion with regard to the Government and to the course followed by it. Some are favorable, some are critical, as is the case in any free country.

RARICK. We also hear, Mr. Ambassador, about Greece being under martial law and that your country has political prisoners today. Would you care to comment on that?

VITSAXIS. I think I should start by explaining what is meant by martial law and what is the situation in my country with regard to this.

Martial law is in any country a legislative measure applied whenever certain conditions of national emergency prevail, whereby all human rights, with very few exceptions, are suspended. This happened immediately after the revolution of the 21st of April 1967. Then, little by little, and as the situation in Greece became less dangerous, human rights, the one after the other, were re-established and guaranteed. The only provision of the all embracing martial law which remained in force during the last years was the provision according to which a very limited number of crimes—mostly those against national security—should be judged not by ordinary Courts—as the case would be under the Constitution—but by Court Martials. This only last remnant of martial law was also lifted a few months ago for the quasi-totality of the country. It remains in force in very small areas and I am confident that in those areas also it will soon be lifted.

From what precedes you can see, my dear John, that the so often repeated allegation that my country is living under martial law is totally unfounded.

RARICK. Are there any political prisoners in Greece today?

VITSAXIS. I am glad to tell you in the most categorical way that there is not a single political detainee in Greece today. In order to better understand the question of political detainees I wish to briefly refer to the history of the matter.

During the communist invasion and immediately after it, various Governments of Greece have applied a law, voted by the Greek Parliament, according to which persons who were considered dangerous for the national security—because of their past record or because of their activities—could be confined in certain places in order to prevent them from undermining the security of the country. Such political detainees existed in Greece in the 50's and in the 60's. Their number—quite substantial—was decreasing every year. It was substantially increased again immediately following the revolution of the 21st of April 1967. This was quite normal if one takes into account the fact that the revolution took place in order to stop the downhill course of the country.

At this point, two facts should be stressed:

(a) That political detainees existed in Greece long before the revolution of the 21st of April 1967,

(b) That their confinement was—before as well as after the revolution—in accordance to a long-standing Greek law voted by an elected Greek Parliament and applied by the Governments of Greece both before and after the revolution.

It should also be noted that in the years following the revolution of 1967 the decline in the numbers of political detainees was much faster than before, and finally all confinement places were completely dismantled and all political detainees set free.

This is the truth, dear John, about the so-called question of political detainees in Greece.

RARICK. Any tourist who would care to go to Europe this summer to visit Greece would be safe in their property and their protection? They'd have no threats against them?

VITSAXIS. My answer is yes. And may I add that Greece is expecting all her friends. They will find at her shores not only safety but also the traditional hospitality for which Greece is known all over the world.

RARICK. And they would be welcomed, Mr. Ambassador, it has indeed been a pleasure having you on our program. I only wish we had more time. I welcome you to visit Louisiana. As you know our ties are very close with your friendly people.

A NATIONAL COACHES DAY

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, April 5, 1972

Mr. GRIFFIN. Mr. President, I am pleased to join the distinguished senior Senator from Texas (Mr. TOWER) in cosponsoring Senate Joint Resolution 213, authorizing the President of the United States to issue a proclamation which would designate a "National Coaches Day."

The great Knute Rockne once gave Frank Leahy this advice:

Coaching is a life of heartaches, but it's the life for you and me.

Along with many heartaches every good coach carries with him the personal satisfaction and knowledge that, in a very special way, he is molding among his students the capable self-reliant, team-spirited, and mature young men and women who will be the future leaders of our Nation.

Participation in athletics not only develops the skills required for a particular sport, but it also builds respect for opponents as well as a sense of fairplay. Experience on an athletic team teaches not only that great effort is necessary to achieve victory in competition, but also that there is much to be gained even in defeat when one does his best.

From the early days of Greece and Rome, it has been noted that young people mature into stronger adults if they set high goals for themselves and work steadily toward them. In so doing, they overcome obstacles which add to their strength of character and to the development of their native and acquired abilities.

The coach is actively involved in molding the character of youth from the time preseason tryouts begin until the last play of the season's last game. He is a teacher; but he must also be a good student—a student of human nature; of the differences among individuals and the various ways in which they respond to direction and leadership.

A good coach is capable of welding together the personalities and abilities of a variety of individuals into a team that functions as a unit. Indeed, the greatest contribution to the Nation of a good coach is the development in youth of a sense of teamwork.

And, in the final analysis, it is teamwork that makes possible much of what we call civilization.

Mr. President, I believe the joint resolution I have cosponsored is worthy of favorable consideration by Congress. I believe that the coaches of our Nation merit and deserve this kind of recognition.

TORRANCE SCHOOL DISTRICT RECOGNITION BANQUET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of California. Mr. Speaker, the hope of the future lies in our educational system, and the very heart of our educational system is the personnel who make an individual school a vibrant, living place of learning.

The teacher, the administrator, the secretaries, the custodians—all have an important role in educating the youth of today so that they will be prepared to meet the challenge which lies ahead. All must dedicate themselves to a cause which is above personal renown, a cause which does not bring riches or fame, but rather a cause which arouses the curiosity and results in a student's inspired feeling to make this earth a better place.

This is the reward of those who toil to educate our children. For, as the author Henry Brooks Adams said:

A teacher affects eternity; he can never tell where his influence stops.

The reward is the future.

To express our appreciation to those dedicated people who have such a powerful influence in shaping the future, the Torrance, Calif., Unified School District has scheduled a recognition banquet to honor 29 persons who are retiring after years of service.

All of us owe a special debt of gratitude to the school personnel, and I would like to offer a word of thanks to all of those who have given so much of themselves to direct our children toward tomorrow with a spirit of helping their fellow man.

Those retiring are: Mrs. Mary Rutherford, Mrs. Florence Porter, Mrs. Emily Young, Mrs. Florence Pratt, Mrs. Rosa

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Malott, Mrs. Helen Carpenter, Mr. George Marich, Mr. Raymond Collins, Mrs. Mary Miller, Mr. Gordon Williams, Mrs. Margaret Gaedke, Mrs. Virginia Bradshaw, Mrs. Virginia Booher, Mr. Richard Pueschel, Mrs. Merle Laskaris, Mr. Arie Blackman, Mrs. Velora Murphy, Mr. Jesse Gladgo, Mrs. Bernice McCoy, Mrs. Evelyn Brosius, Mr. Howard Bales, Mr. Jerome Peoviak, Mrs. Faye Hawks, Mr. Theodore Diamond, Mrs. Margaret Meyer, Mr. Charles Stimson, Mr. Roy Bravick, Mr. Vernon Briegel, and Mrs. Inez Thompson.

Mr. Speaker, their influence will never stop; it can be seen in future generations for eternity.

Because of the dedication of these individuals, and the philosophical tenets of the Torrance Unified School District which teach that "education is a dynamic, evolving relationship with subject matter the means, man the product, and society the result," we can look to the future with great optimism and hope.

For this, our entire community and country is eternally grateful.

JERUSALEM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ROSENTHAL. Mr. Speaker, in an age of brotherhood and enlightenment, it is all the more appalling to see the ugly head of bigotry raised in high places.

So it is that the Palm Sunday sermon of the Very Reverend Francis B. Sayre Jr., dean of the Washington Cathedral, is deeply disturbing and most out of place. His denunciation of Israel as an "oppressor" in Jerusalem was not only unfortunate but grossly inaccurate.

I would hope, for his sake, that Dean Sayre was speaking not so much out of prejudice as out of ignorance.

His allegations of mistreatment of Israeli Arabs is unjust and untrue. Since Israel assumed political control over both the old and new sections of Jerusalem, the Holy City has been open to persons of all lands and all religions. As the Washington Post points out in an editorial today:

> Freedom of religion and open access to the shrines in Jerusalem are better protected now, by the Israeli state, than at any time in memory.

Has Dean Sayre so conveniently forgotten that from 1948 to 1967 the Arab rulers of East Jerusalem denied Jews the right to visit the holy places of their religion and kept Moslems who were Israeli citizens from going to their own religious shrines?

Where was Dean Sayre during those years when the Jordanians destroyed all but one of the 35 snyagogues in the Old City, desecrated Jewish tombs, barred Jews from visiting the cemeteries of their friends and families, and evicted or killed the Jewish residents of East Jerusalem?

Why did his Palm Sunday sermon ignore these facts? Why did he fail to point out that Jerusalem today is a truly international city, open to all persons, regardless of their faith and their nationality?

I am inserting in the RECORD news reports of Dean Sayre's sermon plus editorial and reader reaction from two publications, the Washington Post and Jewish Week. I also am including a synopsis of a sermon by Rabbi Bernard H. Mehlman of Temple Micah in Washington, D.C.

[From the Washington Post, Mar. 27, 1972]

ISRAEL CALLED OPPRESSOR OF JERUSALEM

(By William R. MacKaye)

Once-oppressed Israelis have become the oppressors of Jerusalem, the Very Rev. Francis B. Sayre Jr. charged yesterday in a Palm Sunday sermon at Washington Cathedral.

Emphazing his conviction that contemporary events in Jerusalem are simply one of many examples of "the moral tragedy of mankind," the Cathedral dean exclaimed:

"What a mirror, then, is modern Israel of that fatal flaw in the human breast that forever leaps to the acclaim of God, only to turn the next instant to the suborning of his will for us."

Dean Sayre recalled that many people around the world cheered in 1967 when Israeli forces "surged across the open scar" that divided Arab Old Jerusalem from the Israeli sector.

"But now oppressed become oppressors," he declared. He asserted that Arab residents of Jerusalem are deported or deprived unjustly of their land and forbidden to bring their relatives to settle in Jerusalem.

Arabs "have neither voice nor happiness in the city that is the capital of their religious devotion, too."

The dean indicated that he was basing his position largely on the views of Israel Shahak, a Jew and professor at Hebrew University, who has lived in Jerusalem for 18 years. He is a survivor of the Bergen-Belsen concentration camp.

Dean Sayre quoted Shahak's assertion in the current issue of Christianity and Crisis, a bi-weekly journal of religious and social opinion, that Israel's annexation of East Jerusalem is "an immoral and unjust act."

Until the non-Jews of Jerusalem are given freedom, Shahak wrote in a passage quoted by the dean, "the present situation of one community oppressing the other will poison us all—and us Jews first of all."

Dean Sayre's comments on contemporary Jerusalem were contained within a longer reflection on the religious significance of the holy city, which forms a traditional topic for Palm Sunday. Palm Sunday recalls for Christians the day that Jesus entered Jerusalem and, only days before his crucifixion, was hailed by his followers as a king.

At the Episcopalian Cathedral a special procession including players of shofars, the rams' horns sounded by Jews on solemn occasions, wound through the gothic arches in a ritual re-enactment of Jesus' action.

"We are Jerusalem this morning," the dean declared to worshippers. And he warned them that this was an identity of sorrow as well as of joy.

"Jerusalem," he said, "in all the pain of her history, remains the sign of our utmost reproach: The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be overruled by God."

[From the Washington Post]

DEAN SAYRE ON JERUSALEM

If Dean Sayre's choice of words was unfortunate, in his Palm Sunday sermon at Washington Cathedral, his choice of a target was even more deplorable. He was on firm ground as long as he devoted himself to the moral shortcomings of mankind in general, as exemplified in the betrayal of Christ in Jerusalem. But when he turned the sermon into an intemperate denunciation of current Israeli policy in Jerusalem, and coupled it with a highly unjust allegation of mistreatment of Israeli Arabs, he committed an error of a particularly serious character.

The status of Jerusalem is neither less complex nor more easily soluble than any other point of contention between Israel and the neighboring Arab states. As a political issue it is open to vigorous debate, both in Israel and throughout the world. Here it suffices to say that the dean's description of the Israeli treatment of its Arab minority is not supported by most of the Christians who speak with authority on the subject. We print on the opposite page today a sample of the letters that we have received, and several of them address this point.

Dean Sayre's purpose was evidently to chide the Israelis for asserting political control over East as well as West Jerusalem, and its special meaning to three faiths, and to reproach the world's nations in general for their lack of support for the United Nations. But freedom of religion and open access to the shrines are better protected now, by the Israeli state, than at any time in memory.

But Dean Sayre was not delivering a political lecture. He is a high clergyman who, in a solemn celebation, denounced Israel as re-enacting "the moral tragedy of mankind" in the city of Jerusalem: "Now the Jews have it all. But even as they praise their God for the smile of fortune, they begin almost simultaneously to put Him to death." The words run painfully close to a very old, very familiar line of the worst bigotry. Undoubtedly Dean Sayre did not intend to evoke this recollection. But it is profoundly dangerous all the same. The gun is loaded, whether the dean acknowledges it or not. As the letters published here today indicate, a number of prominent clergymen have publicly dissociated themselves from the sermon. Dean Sayre himself might usefully reconsider his words.

[From the Jewish Week]

PALM SUNDAY SERMON STIRS PROTEST THROUGHOUT NATION—DEICIDE THEME USED BY DEAN AN ATTACK ON JEWS

A reference in a Palm Sunday sermon at the Washington Cathedral to Israel as an "oppressor" of Jerusalem who would prefer to "kill rather than to be overruled by God" has stirred a storm of indignation among Jews and friendly Christian church people throughout the country.

The sermon was delivered by The Very Rev. Francis B. Sayre, Jr., a grandson of President Woodrow Wilson and Dean of the Cathedral. Sayre cited events in Jerusalem as one of many examples of "the moral tragedy of mankind" and he added:

"What a mirror, then, is modern Israel of that fatal flaw in the human breast than forever leaps to the acclaim of God only to turn the next instant to the suborning of his will for us."

But what roused the greatest indignation in the sermon was the statement that "Jerusalem, in all the pain of her history remains in the sign of our utmost reproach. The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be overruled by God."

The clergyman said "the oppressed had become the oppressors" and that Arabs "have neither voice nor happiness in the city that is the capital of their religious devotion, too." He said he was basing his position largely on the views of Israel Shahak, a professor in chemistry at the Hebrew University of Jerusalem, who said he is a Jewish survivor of the Bergen-Belsen concentration camp and has lived in Jerusalem for 18 years. His opinions appear in the current issue of Christianity and Crisis, an organ of social and religious opinion. Shahak called Israel's unification of Jerusalem "an immoral and unjust act."

The ancient anti-Jewish deicide theme was also suggested in Dean Sayre's sermon when he said:

"Around the world, 'Hosannah' was echoed as Jewish armies surged across the open scar that used to divide Arab Jerusalem from the Israeli sector. Now the Jews have it all.

"But even as they praise God for the smile of the future upon them, they begin almost simultaneously to put Him to death—as if Jerusalem could ever be altogether theirs—or any one's."

Dean Sayre, according to Abe Foxman, mideast affairs chief of the Anti-Defamation League, organized a national prayer meeting at the Cathedral in January 1970 on behalf of the Palestinian Arabs which "all the pro-Arabs that exist" attended. Washingtonians who sought to deliver a contrary point of view were prevented from speaking.

National and Washington-area rabbinical and Jewish community organizations as well as leading non-Jewish clergymen have issued statements repudiating the sermon. A meeting of the Council of Churches of Greater Washington, a Protestant group, was called to discuss the implications of the incident.

A sampling of the statements issued on the sermon will appear in our next issue.

Arnold Forster, general counsel of the Anti-Defamation League of Bnai Brith, commented that "an attack from Dean Sayre on Israel comes as no surprise to us. His attitude has long been known. We read with dismay the inaccurate and unfair statement charging Israel as oppressing Jerusalem which he used to build his Palm Sunday sermon.

"His charge that Jewish rule of the Holy City is a 'moral tragedy' seems as far from the spirit of this holy season as it is from the fact."

DEAN SAYRE'S PALM SUNDAY SERMON RECALLS TIRADES OF CZARIST RUSSIA'S PRIESTS

The Very Rev. Francis B. Sayre Jr., Dean of Washington Cathedral and grandson of President Woodrow Wilson, observed Palm Sunday with a sermon that seemed singularly inappropriate to this presumably ecumenical age.

The harsh language was more reminiscent of anti-Jewish tirades in East Europe during the pre-Easter season. Denouncing Israel as an "oppressor" of Jerusalem, the Dean did not shrink from extreme invective. Referring to present-day Jerusalem, he said: "The zenith of our hope, undone by the wanton meanness of men who will not share it with their fellows, but choose to kill rather than to be over-ruled by God."

The same theme was echoed by a number of other Christian clergymen, all of them apparently inspired by a pro-Arab campaign.

We do not recall that the reverend gentleman or any of his like-minded colleagues ever denounced or even deplored the oppression of Jerusalem between the years 1948 and 1967, when Arabs ruled the city and would not permit a Jew to visit any of his holy places. Yet, now when the city is open to people of all races and religions, there are Christian clergymen who choose the Easter-Passover season to incite hatred against the only people who ever exalted Jerusalem as their national capital.

According to the daily press, the Dean indicated that he based his cruel judgment on Israel on a comment made by an Israeli, Israel Shahak, a new leftist chemistry professor at Hebrew University. The fact that one Jew has found Israel at fault is apparently conclusive proof to the Dean that all Israel is to be condemned. That the Israeli people are of many opinions and that they are completely free, even in time of crisis, to excoriate their government evidently gains Israel no points with this Christian Dean. He evidently prefers also to assume that Arab governments are rendered pure by the fact that no Arab dares to express a dissenting view.

Even if the Dean were innocently misled by the fact that an Israeli dissident has pleaded guilty for his country, there would still be no warrant for the Dean's reference to killing in Jerusalem. Israel's harshest critics have admitted that Israel has maintained the most liberal administration of the holy places in the city's modern history, and that its rule has been singularly mild in view of the tensions of war.

We are certain, nevertheless, that the Very Rev. Francis B. Sayre, Jr., did not consciously mean to emulate the traditional anti-Semitism of Czarist priests, who would make a practise of delivering blood-curdling indictments of Jews during their holy season. In singling out Jews for criticism that he withheld from Arab oppressors of Jerusalem, he may be betraying anti-Arabism more than anti-Semitism, since his only excuse for not having condemned the Arabs during their bigoted rule of Jerusalem would be that they are not criticism-worthy.

Grateful as we may be for being considered criticism-worthy by the Dean, we wonder whether Palm Sunday, which has long had fearsome connotations for the Jewish people, was an appropriate occasion for thus honoring us.

[From the Washington Post]

LETTERS TO THE EDITOR: REACTION TO DEAN SAYRE'S PALM SUNDAY SERMON ON JERUSALEM

On a fact-finding trip to Jerusalem a few weeks ago, both signatories of this letter failed to find any evidence of Israeli oppression in that city, of which Dean Francis B. Sayre Jr. spoke in his sermon in Washington Cathedral, as reported in The Washington Post (March 27). He named as his source of information Israel Shahak's letter in Christianity and Crisis, which we have read and found on the whole distorting and moreover, a singularly weak basis upon which to build a sermon in the Cathedral.

Shahak's technique of criticism is a familiar one. Every untoward action of the Israeli government of many months, and even years, is listed together in a way to convey the impression of an intense and ongoing oppression. The technique deceives no one at all familiar with the real conditions in the city.

Dean Sayre would have been better advised had he checked his information and his perspective with his co-churchman in Jerusalem, Anglican Archbishop George Appleton. One of us had the privilege of a long interview with him on the situation in Jerusalem, and we can assure the dean that the impression received from the archbishop was quite the contrary of that given by his remarks in Washington Cathedral.

Is there not something very wrong with Christians employing anti-Zionist Jews to witness for them against Israel? Is it not too close to the old anti-Semitic stratagem of using passages from the Hebrew prophets in order to scold Jews?

The Rev. EDWARD H. FLANNERY,
Executive Secretary, Secretariat for Catholic-Jewish Relations.
The Rev. Msgr. GEORGE G. HIGGINS,
Director, Division for Urban Life, United States Catholic Conference.
Washington.

NOTE.—The writer, a guest lecturer at the University of Maryland, is professor of English at Bar-Ilan University in Israel.)

If the Rev. Francis Sayre Jr. is indeed correctly quoted in your edition of March 27, I find it hard to credit that the Dean of the Washington Cathedral should have devoted his Palm Sunday address to an intemperate and entirely partisan attack upon Israel as "the oppressors of Jerusalem." When confronted with so clear an example of prejudice and distortion it seems pointless to offer a merely logical or statistical rejoinder. I shall therefore confine myself to one or two pertinent questions.

Who are the Arab residents who have been "unjustly deported" from that city? Has the Rev. Mr. Sayre acquainted himself with the files on the persons in question? Of what civil and religious liberties are the Arab residents of Jerusalem deprived? On what moral or legal grounds should Israel be required to permit the unrestricted immigration of additional Arabs into her territory? Is the Rev. Mr. Sayre aware that at the time of the foundation of the State of Israel in 1948 close to one million Jews were driven out of the Arab lands without the right of return? (Some 700,000 eventually found a haven in Israel). He raises his voice against the imaginary oppression of the Arabs in East Jerusalem. Did he, I wonder, raise his voice against the expulsion of the Jews from their homes in the Old City (East Jerusalem, note) in 1948 and the consequent deprivation of their rights by the Jordanian authorities for a period of 20 years? During that whole period Jews were not allowed access to their holy places including the Western Wall of the (Jewish) Temple. Did he, when the facts became known to him, similarly raise his voice against the destruction of the synagogues in the Jewish quarter of the Old City by the Arab Legion (after the fighting there was over) and the wanton desecration of Jewish tombs on the Mount of Olives? Or would these matters have been inappropriate for mention in a Palm Sunday sermon? I forbear to question the accuracy of Mr. Sayre's information regarding the primacy of Jerusalem in the faith of Islam (though I believe it is at least questionable). But surely Mr. Sayre can be in no doubt regarding the primacy of Jerusalem in the faith and history of the Jew.

I am not sure how to understand the last sentence of the Rev. Mr. Sayre's reported sermon, and indeed I imagine it must have puzzled many of your readers. He speaks of "the meanness of men who will not share it [i.e., Jerusalem?] with their fellows, but choose to kill rather than be overruled by God." Is this the theological language appropriate to a Christian living in the post-Auschwitz era? Is Israel indeed on trial at the bar of Christian truth, or is it not rather the Church of Christ which must search its conscience and question its conduct for standing by silently (as so many of its leaders did) whilst the Jewish people were being murdered and reviled? If now that people has regained its stature and dignity and has won a place for itself in one corner of the world, one might expect the leaders of the church if not to rejoice then at least to maintain a decent and humble silence before these mighty acts of the Lord of History—your history as well as ours.

HAROLD FISCH
WASHINGTON.

Passing through on *my* way back to Jerusalem, my home town, I chanced upon your report of Dean Sayre's talk on Palm Sunday.

How can a high church official spout such non-factual garbage?

I don't know who this so-called professor Shahak is (since I am connected with the Hebrew University myself and have never heard of him, he may well be a figment of some Arab propaganda machine) but the facts are—and easily ascertainable—that the East Jerusalem Arabs can be Israeli citizens if they wish, with all the rights and privileges of such citizenship (although they do not have to serve in the Israeli Army) and unless there is a clear-cut security reason, Arab families have long been able to be reunited, not only in Jerusalem but in all of Israel and the administered territories.

Furthermore, all Christians and Moslems,

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as well as Jews, have unrestricted access to their holy places. The oppression of the Israelis is expressed in such things as the first free elections in the West Bank, greatly improved social, health, and educational services, and a much higher standard of living.

Where was the prelate during the Jordanian occupation of East Jerusalem (carried out by force of arms, incidentally) from 1948 to 1967, when Jews were thrown out or killed, the Jewish holy places destroyed or desecrated, and no Jews allowed access to their cemeteries, *yeshivot*, or holy places (including the Western Wall)?

This churchman illustrates well the typical liberal gentile bleeding-heart attitude to the Jews—we'll commiserate with you as long as you're dependent on our goodwill for your survival, and we'll weep for you when you are slaughtered every few years by our co-religionists—but Lordy, don't you start winning and controlling your own destiny!

The hell with them, I say. We don't exist to justify their emotional hangups. We validate our own existence.

A. GRONMAN.

Jerusalem.

Dean Francis Sayre to the contrary I do not believe it is possible or appropriate for any believer faithful to a *loving* God to look for spiritual fulfillment in an attitude of hatred toward one side or the other in the Near East tragedy. Dean Sayre's Palm Sunday remarks about Jerusalem are incredible to anyone sensitive to the whole situation. In fact, Israel Shahak's observations, which the dean quotes, reveal not a "wanton meanness of men who . . . choose to kill" but instead they indicate in Shahak himself a Jewish conscience astir *in* Jerusalem *about* Jerusalem. Please, in this season celebrated simultaneously by Christians and Jews, let us shore up the respect for one another, not the suspicions.

NANCY MCMURRAY,
Convert to Judaism.

Washington.

It was with dismay, but no surprise, that we noted the inaccurate and unfair statements upon which the Very Rev. Francis B. Sayre built his Palm Sunday sermon at the National Cathedral (Washington Post, March 27). His false assertions that Israelis are "oppressors" in Jerusalem and that Jewish rule of the city is a "moral tragedy" seem as far from the conciliatory spirit of this holy season as they are from the facts.

Dean Sayre's strange suggestion that Jewish rule of Jerusalem (which has had a predominantly Jewish population for well over a century) is somehow not in accord with God's "will for us," serves to explain why no ringing sermons of protest were heard from him during Jordan's 19-year illegal occupation of the Old City. From 1948 to 1967 all Jews, Christians and Moslems from Israel were forbidden access to their holy places and all but one of the old City's 35 synagogues were wantonly destroyed.

Nor during this entire period did we hear Rev. Sayre's voice raised for the Jews of the Arab countries, who are being persecuted and humiliated even to the present time. In contrast, Israel has provided religious freedom, access and a boost into the 20th century for its Arab citizens.

Another distinguished minister, the Rev. Dr. G. Douglas Young, president of Jerusalem's American Institute of Holy Land Studies, is much closer to the facts. He lives in Jerusalem, has for many years, and he reports that Palestinian Arabs living under Israeli rule "are not keen to go back under Egypt or Jordan" and are not afraid to say so.

The most disturbing aspect of Dean Sayre's sermon, however, involves his charge that Israel is a "mirror" of religious hypocrisy and that the people of the Jewish State "choose to kill rather than be overruled by God." This is a venomous sort of fantasy that hardly lends grace to a pulpit on the day marking the entry of the Prince of Peace into that holy city of three faiths.

Rabbi JUDAH A. CAHN,
Chairman, Middle Eastern Affairs Committee, Anti-Defamation League of B'nai B'rith.

NEW YORK.

This period of special religious significance for Christians and Jews is scarcely the time for churchmen to engage in public dispute. Neither is it a time to keep silent when one's brothers and sisters of another faith have suffered a hurt. Dean Francis Sayre Jr. apparently was preaching good theology last Sunday in the Washington Cathedral, but questionable history. I'm no Jerusalem expert who can pit his knowledge against the gracious and learned dean, but I recall official statements by reputable Christians that give quite a different picture of religious and civil liberties in Jerusalem today. For example, two groups of Christian churchmen issued statements last June on what they saw and studied in Israel, commending that nation for its care for human rights, its fairness in housing, its practices of religious liberty, and its respect for holy places. Only this week I checked this kind of assessment with an American Catholic specialist in this field, just returned from Jerusalem, and he substantiated their basic findings.

I'm no apologist for Israel and I've found things in her short history to criticize. But to term Israel the oppressor today in Jerusalem in any serious way is to ignore the history of Jerusalem with respect to the same issues from 1948 to 1967.

The Rev. GRAYDON E. MCCLELLAN,
Presbytery Executive, National Capital Union Presbytery.

Washington.

When I was a child I was hypnotized by tales of childhood for a Jewish lad in Russia before the turn of the century. I remember still vivid descriptions of frightened Jews locked in their homes to avoid pogroms as red-eyed Russian peasants left their church screaming for Jewish blood on Palm and Easter Sundays. How wonderful it was, I thought, to be in America where even the church was enlightened.

So I thought until I read of Dean Sayre's vicious attack on Israel from his pulpit last Sunday. His was one of many attacks from various pulpits in this city. He accuses Israel of being aggressive, engaging in genocide and brutalizing the Arabs of that city—all of which is directly contrary to every report from every church group to visit unified Jerusalem. How crudely he attempts to defend this anti-Jewish diatribe with his meager evidence. One can only wonder about the depth of the ecumenical spirit of which we hear so much, when viewing this appropriate heir to the worst there is in the Christian tradition.

SOLOMON L. MARGOLIS.

Washington.

SYNOPSIS OF SABBATH EVENING SERMON DELIVERED BY RABBI BERNARD H. MEHLMAN

This past weekend, the Jewish and Christian communities of Washington were preparing to celebrate their respective holidays. For the Jewish community, this year's Festival of Passover had a special significance as the Festival of Freedom.

Not only are we celebrating the liberation of our ancestors from Egyptian bondage thousands of years ago, but we were also mindful of the liberation of Jews and the historic center of their faith: Jerusalem. No longer are Jews denied access to the holy ground of Jerusalem. No longer were Jewish graves in East Jerusalem desecrated, their tombstones used to pave the streets.

No longer were Jews denied even a glimpse of their holiest site: The Western Wall.

Joining with us in this celebration of freedom and human justice were the voices of such church leaders as Mrs. Cynthia Wedel, President of the National Council of Churches; Monsignor John M. Oesterreicher, an acknowledged leader in Catholic-Jewish studies at Seton Hall; the World Council of Churches; the Armenian Patriarch of Jerusalem; and such lay opinion leaders as the Editors of Time magazine and the New York Times—all of whom do attest, affirm, and acclaim Israel's administration of the Holy City and its fair treatment of the populace of East Jerusalem, Jew and non-Jew alike.

But one voice was missing. Speaking alone, discordant, and with the chill of winter, Dean Francis B. Sayre, Jr., of the Washington National Cathedral rose to the pulpit on Palm Sunday morning to deliver a homily. His lonely teaching harkened back to the days of bloodshed, to the mentality of bondage and oppression, and was a stark note of religious division. He delivered his homily on Palm Sunday, a day revered by Christians—but in the past deeply feared by Jews, for it was frequently the signal day for the beginning of pogroms. Every good preacher knows the significance of timing; I must assume that Dean Sayre was aware of the timing of his homily of Palm Sunday.

Grave questions are raised as to the rationale, if not also the consequences of his statement. Clearly he chose to ignore the weight of reputable Christian opinion concerning Israel and the Jewish administration of Jerusalem and instead seized an isolated observation by one individual which appeared in Christianity and Crisis. That he chose this particular article to generalize—again, on this particular day, Palm Sunday—leads us to ask a series of painful questions: Could this be a re-surfacing of a vestigal type of anti-Semitism? Or could this be an anti-Jewish posture concerning the questions of Israel and the administration of a united Jerusalem? Or—the worst of all—did he mean to do both?

Dean Sayre must answer such questions not merely to satisfy Jewish opinion, which he might choose to ignore; but he must answer his Christian brethren and colleagues in the clergy, for whom such a homily would be totally out of the question and, indeed, anathema to their feeling of brotherhood, the one-ness of mankind, and their diligent efforts to make ecumenism a living reality.

For me personally and for us as a community, linked in one sanctuary with an Episcopal Communion, St. Augustine's Church, this sermon strikes exceedingly close to home. In an age of growing improved Christian-Jewish relations, to which our joint effort here in Washington is a rich witness, Dean Sayre's lonely stance of division cannot be lightly dismissed by men of good will of any faith.

Despite the shock we have all felt at his Palm Sunday homily, we are turning once again to the richnesses of this holiday season and now feel a lingering sense of deep regret. Those of us who still strive for justice and brotherhood in an imperfect world—and who would welcome his return and assistance—now await his answers to our painful questions.

BRIG. GEN. JAMES F. LAWRENCE, U.S. MARINE CORPS

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. HÉBERT. Mr. Speaker, upon the occasion of his recent retirement from the Marine Corps, I include in the RECORD the biographical sketch of a truly dedicated and distinguished military officer, Brig. Gen. James F. Lawrence, USMC. Jim Lawrence has served his country with distinction for 30 years. And as most of you know, since 1967 he has served this body well as the Deputy Assistant to the Secretary of Defense for Legislative Affairs.

It is with deep regret that I see the general go into retirement, but it is a retirement richly deserved for a man who performed in the best traditions of the Marine Corps. I know my colleagues will join me in wishing the general the very best in the years ahead.

Also, Mr. Speaker, I insert in the RECORD a news release announcing the second award of the Distinguished Service Medal presented to General Lawrence by Defense Secretary Laird:

DISTINGUISHED SERVICE MEDAL

Secretary of Defense Melvin R. Laird will present the Distinguished Service Medal, Gold Star in lieu of second award, to Brigadier General James F. Lawrence, USMC, during a ceremony at 3 p.m. today in the Secretary's office, 3E880.

General Lawrence, who has served as Deputy Assistant to the Secretary of Defense for Legislative Affairs since 1967, will retire from active duty Saturday, April 1, resuming inactive status on the retired list of officers of the United States Marine Corps.

General Lawrence was born March 17, 1918, at Rutledge, Tennessee, and was graduated from high school at Asheville, North Carolina. He holds degrees from the University of North Carolina and George Washington University. He has served in the Marine Corps for 30 years.

In 1963, General Lawrence reported for duty as military assistant to the Assistant Secretary of Defense (Manpower); became Deputy Director in the Office of Legislative Liaison to the Secretary of Defense in 1965, and has held his present assignment since May 1, 1967.

Among General Lawrence's other awards is the Navy Cross received for gallantry in action in Korea in 1950.

He is married to Diana Harrison Foote. They have three children—Diana, James and Richard. They reside at 8720 Waterford Road, Alexandria, Virginia.

BRIG. GEN. JAMES F. LAWRENCE

James Fugate Lawrence was born March 17, 1918, in Rutledge, Tennessee, and graduated from Sand Hill High School, Candler, North Carolina, in 1936. He was graduated from the University of North Carolina, Chapel Hill, North Carolina, in 1941, receiving a Bachelor of Science Degree in Commerce. In 1953, he received an LLB degree from The George Washington University, Washington, D.C.

He attended the Platoon Leaders Course during the summers of 1938 and 1940 as a private first class in the Marine Corps Reserve, and was commissioned a Marine Reserve second lieutenant on July 1, 1941. Lieutenant Lawrence completed the Basic School, Marine Barracks, Naval Shipyard, Philadelphia, Pennsylvania, in April 1942.

During World War II, he served first as a platoon leader and then as a company executive officer with the 1st Battalion, 1st Marines, 1st Marine Division on Guadalcanal and New Britain. For his service during this period, he was awarded the Bronze Star Medal with Combat "V," the Purple Heart, and the Presidential Unit Citation. He was promoted to first lieutenant in December 1942 and to captain in September 1943.

Upon his return to the United States in August 1944, Captain Lawrence was assigned duty as Commanding Officer, Marine Detachment, Marine Barracks, Naval Base, Norfolk, Virginia, until September 1945. He completed the Japanese Language School, Yale University, New Haven, Connecticut, in December 1946. He accepted appointment in the regular Marine Corps in August 1946.

From December 1946 until May 1947, he served as Assistant Division Legal Officer with the 1st Marine Division. Ordered to the Marine Barracks, Yokosuka, Japan, he became Commanding Officer and Fleet Activities Provost Marshal, U.S. Fleet Activities until June 1949. While in Japan, he was promoted to major in August 1947. He completed the Amphibious Warfare School, Junior Course, Marine Corps Schools, Quantico, Virginia, in June 1950.

During the Korean conflict, Major Lawrence again served with the 1st Marine Division, this time as S–3 Officer; Battalion Executive Officer; and finally as Commanding Officer of the 2d Battalion, 7th Marines. He received the Navy Cross, a Gold Star in lieu of a second Bronze Star Medal with Combat "V," and the Presidential Unit Citation with two bronze stars for his Korean service.

Upon his return to the United States, Major Lawrence attended Law School at The George Washington University, completing the course in July 1953. He was promoted to lieutenant colonel in October 1952.

Lieutenant Colonel Lawrence reported to Headquarters Marine Corps where he served as Assistant Legislative Assistant to the Commandant of the Marine Corps from July 1953 until July 1956. He completed the Amphibious Warfare School, Senior Course, Marine Corps Schools, Quantico, Virginia, in June 1957. Colonel Lawrence was Staff Assistant for Doctrines and Development until November 1957, then served as a Member on the Marine Corps Board at Quantico until June 1959.

Assigned to Headquarters, Fleet Marine Force, Pacific, he saw duty in the G–1 Section until 1960; following this he served as the Force Legal Officer until July 1962. While serving as Force Legal Officer, he was promoted to colonel in April 1962. Assigned next to the 3d Marine Division on Okinawa, he served as Division Legal Officer until August 1963.

Returning to the United States later that month, he reported for duty as Military Assistant to the Assistant Secretary of Defense (Manpower), until October 1965, then became Deputy Director in the Office of the Legislative Liaison Office to the Secretary of Defense. He received a Letter of Commendation from the Honorable Norman S. Paul, Assistant Secretary of Defense (Manpower), and was awarded the Joint Service Commendation Medal for service as Military Assistant from September 1963 until October 1965. Advanced to the rank of brigadier general on May 1, 1967, he began his current assignment.

A complete list of his medals and decorations includes: the Navy Cross, the Bronze Star Medal with Combat "V" and Gold Star in lieu of a second Bronze Star Medal with Combat "V", the Joint Service Commendation Medal, the Purple Heart, the Presidential Unit Citation with two bronze stars, the Asiatic-Pacific Campaign Medal with four bronze stars, the American Campaign Medal, the World War II Victory Medal, the China Service Medal, the Navy Occupation Service Medal with Asia clasp, the National Defense Service Medal with one bronze star, the Korean Service Medal with one silver star in lieu of five bronze stars, the United Nations Service Medal, the Korean Presidential Unit Citation, Distinguished Service Medal, and a Gold Star in lieu of the second award in March 1972.

Brigadier General Lawrence is married to the former Diana Foote of Charlotte, North Carolina. They have three children: Diana H. James F., and Richard W. His parents are Mr. and Mrs. James F. Lawrence of Candler, North Carolina.

DRAFT RESISTERS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. MCKINNEY. Mr. Speaker, with the success of President Nixon's Vietnamization policy, the thoughts of many Americans have turned to the thousands of young men who resisted induction into the Army. Several hundred of these men had the courage of their convictions and went to jail rather than serve their country in what they believed to be an unjust war. The vast majority, however, decided to flee the United States and are now living in other countries.

What do we do with these young men? On the one hand, there are those who believe they should never be allowed to return to the United States or, if they do return, they should spend untold years wasting their lives in jail. On the other hand, there are many people, including some of the resisters themselves, who believe they should be invited back to the United States, saying it is we, not they, who have done wrong.

I cannot aline myself with either of these groups. No matter what their reasons, the 70,000 or so young men who refused to be drafted violated the law and, if we are to remain a nation of laws, they must accept the consequences of their acts. At the same time, I do not believe they should be subject to the ordinary criminal justice process with its consequent prison sentence. Requiring all of these men to go to trial would put an additional strain on prosecutors and courts which are already overburdened with work. More importantly, however, requiring these young men to go to prison would be counterproductive toward our goal of having them become responsible citizens.

Therefore, I have given my support to Senator TAFT'S proposal which would permit draft resisters to return to the United States on the condition that they serve 3 years either in the Armed Forces or some form of alternate service. I believe this is a realistic approach to an extremely complex problem. Unfortunately, my views on this issue have been misinterpreted by many who believe I favor general amnesty, welcoming the draft resisters back and attaching no consequences to their acts. I have drafted a reply to the numerous constituents who have written to me on my position, and I want to take this opportunity to insert a copy of that letter in the RECORD:

LETTER TO CONSTITUENTS

DEAR SIR: I am disturbed that through what I hope is only a simple misunderstanding, my position on the approach the United States should take toward those who refused to serve their country during the Vietnamese conflict has been misinterpreted. I have never said, nor is it my intention, that they should be allowed to "saunter back, free and unhampered."

May I state the facts as they are. First, I am a veteran and a member of the American Legion who has for years worked for the cause of the veteran. As such, I would never attempt to take anything away from their honor or service. In fact, I am the sponsor of

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quite a few bills intended to give them the help and recognition they truly deserve.

Second, I do not intend that there should be any action or any vote on this issue until the war has ended and all of our prisoners of war and American soldiers have returned to the United States.

Third, I am in no way attempting to exonerate these young men who have violated the law of the land. We are a nation of laws, and those who disagree with those laws must change them, not put themselves above them. Even the highest moral beliefs cannot give a man the right to put himself ahead of his obligation to obey the law of the land, without being willing to accept the consequences for his act.

Finally, I would like to point out that many young men who fled this country in the early days of the war could possibly have obtained deferments as conscientious objectors later on. Prior to 1967, this deferment was based on the belief in a Supreme Being. The 1967 Selective Service Act, however, dropped this section from the legislation, and from that point on, a deeply held moral conviction has been enough to qualify for a deferment.

Senator Taft has proposed that draft resisters be permitted to return to the United States on the condition that they serve three years either in the Armed Forces or in some form of alternate service. By giving my support to this proposal, I am not denying the principles which have guided our nation for the last two hundred years. Rather, I am trying to offer a realistic alternative to prison which will avoid national chaos.

Anyone who has followed the recent news stories on American prisons knows that they have beeen dramatic failures. They were designed to punish a man for his wrongdoing, but most importantly, to rehabilitate him so he would not commit a crime again. Yet, after more than 100 years of following this policy, 80% of those who have been to prison return.

Prisons have been aptly described as schools for crime, and the director of the U.S. Bureau of Prisons, Norman Carlson, has observed that "anyone not a criminal will be when he gets out." I see no reason for sending a draft resistor to prison where the only trade he will learn may be burglary and his alienation toward his country will only increase. Instead, I believe these men should be permitted to pay their debt to society in a more constructive manner, namely some form of public service. Three years of public service will benefit the individual and society much more than three years in prison.

Finally, I would like to emphasize once again that amnesty is not a new idea. It has been granted in some form after every war since the days of George Washington. Yet, in spite of this, the nation has survived a civil war and two world wars. Therefore, I do not fear a chaotic social structure if we follow what we have always done in the past—offer every individual, no matter what his crime, a second chance to share both the responsibilities and privileges of living in the United States. The only difference with this war is that it has been more unpopular than others and has lasted longer than others. Therefore, talk of amnesty has perhaps been more prevalent than in other wars.

I suppose it would have been easier not to raise this issue until the war has ended. As I have repeatedly said, no action should be taken before that time anyway. In addition, the political controversy surrounding my statement could have been avoided. But I have always made it a policy to answer every question as directly as I can, and it would have been unfair to the student who asked me my views on this issue and to all of my constituents if, for the sake of political expediency, I gave only half an answer.

Sincerely,

STEWART B. MCKINNEY,
Member of Congress.

WPLN–FM RADIO, NASHVILLE

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Tennessee. Mr. Speaker, as of February 21, WPLN–FM radio in Nashville was expanded to 100,000 watts stereo. This expansion of an outstanding station, which has listeners from Kentucky, middle Tennessee, and Alabama, was made possible through the grant program funded by the Public Broadcasting Act. The residents of the Sixth District of Tennessee and the Nashville area are much richer for this experience. WPLN programing is not strictly educational, or musical, but blends a fine array of programs to produce an excellent format. Listeners can appreciate fine classical music, have the opportunity to hear congressional hearings and major speeches live, can enjoy science lectures from the British Broadcasting Corporation, delight in a European music festival and be kept up to date by in-depth news coverage and recent happenings in Nashville.

The modern history of public radio began in 1967 with the enactment of the Public Broadcasting Act. The Corporation for Public Broadcasting was also created and set its goal at developing noncommercial radio and television. The CPB functions in a nonprofit, independent manner and is the main financial supporter for the National Public Radio network. WPLN, as one of the 500 public radio stations in the Nation, actually belongs to the community. The operation is financed through municipal appropriations, individual contributions, plus the Public Broadcasting grants.

In a day when the media is being attacked for peddling pablum to the public, WPLN and its sister stations stand out as an attractive alternative leading the way in entertaining, informative and educational programing.

I hope my colleagues are aware of the fruits of the Public Broadcasting Act such as WPLN, and will vote in favor of continued funding for the corporation.

SENATE—*Thursday, April 6, 1972*

The Senate met at 11 a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we lift our hearts to Thee in thanksgiving for many blessings, but especially for this good land which Thou hast given us for our heritage. Help us to prize highly and to conserve carefully the rich endowment of natural and human resources and to use both for the common welfare.

Look upon all who serve in the Government of this Nation, giving them wisdom and strength for public action, and spiritual renewal and inspiration in home and family life. Bind leaders and people together for united action in concerting those measures which shall best further the kingdom of righteousness and peace befitting a nation under God.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 6, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, April 5, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

KALISPELL, MONT., ROTARIANS CLEAN UP THEIR VALLEY

Mr. MANSFIELD. Mr. President, I am in receipt of an issue of the Rotarian, an international magazine, which published an article entitled "Kalispell Comes Clean."

Kalispell, Mont., is one of the most beautiful cities in the Nation. It nestles in one of the most beautiful areas of the Nation, in the Flatland Valley in the northwestern part of my State.

In recent months, the Kalispell Rotary Club, a subsidiary of the Planned Environment Committee, created in 1969 and headed—then and now—by an old friend of mine, Louis A. "Sam" Bibler, a geologist of renown and good repute, has undertaken to bring about a cleanup in the valley itself.

What the Rotarians have done in Kalispell, up in the Flatland country is, I think, worthy of commendation and a degree of publicity.

I wish to express my personal thanks to Mr. Bibler and the Rotarians for the job they have done in cleaning up their area, and to express the hope that the example set by the Kalispell Rotary Club will be followed by other civic organizations in other parts of the country, to the end that this Nation may become a better and a cleaner place in which to live.

Mr. President, I ask unanimous consent to have the article I referred to earlier printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KALISPELL COMES CLEAN

Fired with concern about their environment, plus a large dose of aesthetic outrage, this alert Rotary Club conceived and carried out an imaginative plan to rid its community of a blighted landscape.

Back in the Spring of 1892, some lumbermen and cherry growers up in the northwestern U.S. State of Montana proudly incorporated the little city of Kalispell, its musical name meaning "prairie above the lake" coming from the local Pend d'Orielle Indians. Located just a few miles from Glacier National Park and Hungry Horse Dam, today's Kalispell of some 10,000 people still lists its chief industries as lumbering and agriculture.

Could such a sunny, fresh-air community suffer any kind of urban blight?

Indeed it did—but no more, thanks to the energetic Rotary Club of Kalispell (80 members).

Until less than a year ago, the main highway approach to the town was marred by a growing tract of land littered with ramshackle dwellings, outhouses, derelict autos and trucks, and heaps of other junk.

Kalispell Rotarians decided to tackle the problem through their Club's Planned Environment Committee, created in 1969 and headed then and now by Rotarian Louis A. (Sam) Bibler, a geologist. The Committee, with the approval of the rest of the Rotary Club, formed a limited-partnership land improvement company and purchased 10½ ugly acres from eight different landowners and estates with $75,000 in investment funds provided by 57 of the Club's 80 members.

Immediately upon purchase, things began to happen. Local men and youths, including Rotarians and their sons, cleared the land of tons of junked vehicles and other debris. Five area volunteer fire companies burned all the shacks to the ground in a joint fire-control exercise that was beneficial to firemen as well as the new property-holders. Then the land was graded, leaving only its tall, beautiful trees. Then it was sown with grass seed.

Now what? Here is the long-range view of the Rotary Club in the words of the Planned Environment Committee: "Now that the property has been reclaimed and restored to its original beauty we plan to resell a major portion of it under restrictive covenants that would prevent any return to degradation. We also hope to develop one portion into a landscaped park."

Chairman Sam adds that proceeds of the land sales will be invested in new improvement projects so that the original investment can be used as a rotating environmental fund.

Enthusiastic coverage by local radio, television, and newspapers, Sam believes, helped inspire a concurrent junked-auto removal program spearheaded by the Chambers of Commerce throughout the Flatland Valley (the catch: 3,500 rusting hulks); and it also helped arouse a general community concern about environmental education and land use.

Bold and imaginative as it is—since the Kalispell Rotarians do not yet know when and if they'll sell that land—the project is but one of countless good works by environmentally-conscious Rotarians and Rotary Clubs in many places.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority whip desire recognition at this time?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Very well then, in accordance with the previous order, the Chair now recognizes the distinguished Senator from Maryland (Mr. BEALL) for not to exceed 15 minutes.

THE ITT CONTROVERSY

Mr. BEALL. Mr. President, it appears that some of our Democrat colleagues are guilty of gross hypocrisy in their handling of the current ITT hearings. They have condemned this Republican administration for the ITT settlement which forced the largest business divestiture in history, even though it was their own Democrat administrations which, by default, permitted ITT to become the giant conglomerate that it is today.

Our friends on the other side of the aisle conveniently ignore the fact that it was during the Kennedy administration that ITT first began to undertake sizable growth. During the inactive antitrust days of the Johnson administration—a period in which there was a Democrat appointed Assistant Attorney General, Donald F. Turner—ITT again showed remarkable and unchecked growth by acquisition. Other companies followed ITT's example.

At no time during this long period of conglomeration did either of the previous Democrat administrations take meaningful steps to halt the fantastic growth of ITT by vigorous antitrust legislation. The Democrat administrations failed to raise a finger in the direction of ITT, to warn that the Government would take action. There was an utter lack of will to take on the huge company during the Kennedy- or Johnson-dominated years, but my Democrat friends ignore this fact. Yet, they come forward, at a time when a Republican administration has taken action against ITT, to severely criticize what was achieved.

The previous administrations could have filed the ITT antitrust suits that this administration has, but they did not. They claimed that they had little chance of success or that the law was not broad enough to allow such suits.

But the Nixon administration believed it was worth the effort—that action had to be taken against the supercorporate threat to free enterprise. The Attorney General in a speech at the beginning of this administration in 1969, made his position clear:

> The danger that this super-concentration poses to our economic, political and social structure cannot be overestimated. Concentration of this magnitude is likely to eliminate existing and potential competition. It increases the possibility for reciprocity and other forms of unfair buyer-seller leverage . . .

To leave no doubt as to the action the Justice Department would take, Attorney General Mitchell gave the following warnings:

> The Department of Justice may very well oppose any merger among the top 200 manufacturing firms or firms of comparable size in other industries.
>
> The Department of Justice will probably oppose any merger by one of the top 200 manufacturing firms of any leading producer in any concentrated industry.
>
> And, of course, the Department will continue to challenge mergers which may substantially lessen potential competition or develop a substantial potential for reciprocity.

Consistent with that warning, the Nixon administration proceeded to bring key conglomerate antitrust suits, three of which were against the leader—ITT. The Antitrust Division went to court in each of the ITT cases, but was met by adverse decisions, in each, at the lower court level. At the time these three cases were settled, two had been lost in both preliminary and final orders, and the third had been lost at the preliminary stage and was awaiting trial. But at that point ITT realized that it stood to lose $1.2 billion for its shareholders if the Supreme Court overturned those lower court decisions—an unlikely eventuality according to the Solicitor General, yet still possible. This gave the Antitrust Division the leverage to dictate a tough settlement in those three cases.

That settlement, which my Democrat colleagues now denounce, was a substantial victory for the Government. A giant conglomerate was forced to divest itself of corporate holdings representing $1 billion in sales and, further, to refrain from additional substantial acquisitions for 10 years. The consent decree based on that settlement was a clear deterrent to other conglomerates which might otherwise have continued the merger trend. The settlement was harsh enough on ITT that its stock dropped drastically on the New York Stock Exchange on the day following the announcement and has yet to rebound completely. The business community complained bitterly of the settlement. Antitrust experts around the country applauded it, and still applaud it.

The Solicitor General of the United States, the esteemed Erwin Griswold, characterized the settlement as an "extremely favorable one." In his own words he states:

> This is a very substantial victory for the government, and the first one in the whole conglomerate field, probably setting a great precedent in the area, and it seems to me most misleading to keep telling the public that the government dropped three suits in the antitrust field, it didn't.

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Despite all of this, some prominent Democrats have presented quite a different story to the American people.

This kind of political misrepresentation is tragic, particularly when those who continue to mislead the public have full knowledge of the true facts of the case.

So that I will not be misunderstood let me recount those facts:

First. ITT made its most substantial growth during the two Democrat administrations before the Republican President took office.

Second. ITT could not have grown to its present size—if it had not been for the acquiescence of these two previous Democrat administrations.

Third. The Nixon administration made clear its intention to take action against giant conglomerates when it took office.

Fourth. This administration filed antitrust actions against ITT where the Democrats chose to look in the other direction.

Fifth. The suits led to a settlement where for the first time in history a giant conglomerate was forced to divest itself of substantial corporate holdings—a settlement praised by the respected Erwin Griswold as "a substantial victory for the Government."

I believe these facts are most important and were well stated in an editorial in the Wall Street Journal on Tuesday of this week. I read from the editorial:

> The record, after all is this: The previous Democratic Administration did not believe the antitrust laws applied to conglomerate mergers and did almost nothing about them. Mr. McLaren started to test legal theories making the application and the results were not encouraging. In the lower courts he lost two of the ITT cases outright and suffered a sharp setback.
>
> Whereupon Mr. McLaren settled the ITT cases by consent decree. The net result is that while the previous administration's tactics would have won nothing, Mr. McLaren got the biggest divestiture in history, a promise to take ITT out of the acquisition business for ten years and an example that did help deter the conglomerate movement. This does not sound to us like the record of an administration that sold out.

Mr. President, it is clear that this administration has taken action against a huge business conglomerate and established a precedent that will benefit our free and competitive enterprise system. To try to confuse the American people on this point is reprehensible. This administration has walked where Democratic administrations feared to tread. It is time to stop the hypocritical statements to the contrary.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 30 minutes, with speeches by Senators therein limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ITT AND THE KLEINDIENST NOMINATION

Mr. MANSFIELD. Mr. President, I have just listened to an excellent political speech about a matter which is of paramount importance to the American people. I hold no brief for what has been done under previous Democratic administrations. I hold no brief for what is being done under the present Republican administration. But I have noted from time to time what when the questions of the hearings now being held in the Judiciary Committee were being discussed, somehow or other it was always brought out that, "Well, it was worse under previous administrations, but no political connection was being inferred."

As a matter of fact, I think that the Judiciary Committee is doing the only thing it can do at this time in view of the publicity which has been created covering a situation which seems—and I use the word "seems" advisedly—to have had some connection with the nomination of the nominee for Attorney General of the United States, a man who, by the way, is, in fact, the Attorney General at this moment, even though he is only acting in that capacity. However, as acting Attorney General, he has all the prerequisites and the responsibilities which go with that job, excepting confirmation by the Senate.

I think that when it comes to politics, I have leaned just about as far backwards in this case as any Member on either side of the aisle. I except no one. I have been waiting for the facts to be brought forth so that evidence would be established before I am able to make a final judgment myself. It may be a little more difficult for a man who is not a lawyer to reach such a judgment. However, by the same token, because one is not a lawyer, it may be simpler also.

I have stated that as far as the hearings in the Judiciary Committee are concerned, they should be continued, but that only legitimate—and I emphasize the word "legitimate"—witnesses should be called in relation to the case as it affects the nomination of Mr. Richard Kleindienst.

I think that the American people demand that the legitimate witnesses be heard. And I think that if they are not heard, a cloud will be raised which will continue over Mr. Kleindienst's head. And may I recall to the Senate that these hearings were reopened at the express request of Mr. Kleindienst, who said that he wanted any cloud over his nomination removed. And I paraphrase his exact words a little freely but I believe, most accurately.

I do not want to see a witch hunt. But I do want to see the truth brought out. And Mr. Kleindienst himself, in asking that the case be reopened, wants the truth brought out. More questions are being raised than answers are being found.

There are other matters affecting this which are separate and apart from the nomination of Mr. Kleindienst, and they should be considered separate and apart.

The Foreign Relations Committee is going into the activities of multinational U.S. companies, many of them investing abroad at the express request of this Government. This is not something which was brought about because of ITT and the Chilean revelations, or the alleged revelations.

The inquiry—and I use the word "inquiry" advisedly—into the multinational corporations, has been discussed in the Committee on Foreign Relations for at least 6 months to my knowledge, but because of certain allegations raised publicly in a column, the matter has come to a head. And the committee has agreed unanimously to continue an inquiry in depth. It will take some time.

The committee has agreed also that it will not issue reports, if my recollection is correct, during the course of the hearings, so that politics will not be helped insofar as what the committee is endeavoring to do is concerned.

I understand—and I have not seen the stories as yet—that some new allegations, some new relevant questions were raised in the Baltimore Sun and the San Diego Union, I believe, in their issues of today.

Every legitimate question raised should be answered. Every legitimate witness should be called. This matter has got to be settled one way or the other. We have Mr. Kleindienst's nomination on the calendar. I am holding it here awaiting a judgment from the committee. I will seek its advice and its counsel as to what it thinks should be done. But I cannot do a thing about it until and unless such counsel and/or advice is forthcoming.

There are other matters, I understand, apart from the Chilean allegation, which have come to light which may well be considered by the Committee on the Judiciary, and if those allegations have any substance they should be and must be considered.

But I, for one, dislike very much to have the word politics involved in a matter which is of the highest importance. So may I say that I decry the politics involved. I am interested in the truth and the truth only. I would think all Senators seek that objective. I am interested in bringing these hearings to a conclusion one way or the other, but before that is done I want to see all the questions raised answered and I want to see all the legitimate witnesses called. In other words, I want to see Mr. Kleindienst getting a square deal because this is not helping him by having these hearings dragged out, it is not helping the Committee on the Judiciary, it is not helping the Senate, and it is not helping the country.

But questions have been raised and they must be answered, and the only way they can be answered is to call the appropriate witnesses, the appropriate legitimate witnesses, so that the questions can be asked and, if possible, the answers forthcoming.

So I would hope we would get away from the emotional aspects of this matter, and look at it as logically, and coldly, and impartially as we can. That is not too much to ask. It is not too much to ask the Committee on the Judiciary to meet more often, in the morning and in the afternoon, to bring this matter of the nomination, which is on the Senate Calendar, to a head so that on the basis of a thorough investigation and a calling of all the legitimate—and I emphasize the word again "legitimate"—witnesses the Senate can then be in a position to pass on the advice, counsel, or guidance of the Committee on the Judiciary as to what it should do in its wisdom in disposing of this nomination.

Again, may I say that I hope we do not get involved in politics, what previous Democratic administrations have done in comparison with what is being done now, because as a Democrat I am willing to admit we have made our share of mistakes, and more—maybe in this particular field. But going back into past history does not solve the problem which confronts us today, and I hope something definitive will be coming forth shortly based on the stipulations I made, based on the answers to allegations which have been made, and the hearing of all legitimate witnesses. As far as I am concerned, once a decision is reached, not in a political context, but in a fair and open minded context, then I am prepared to consider taking up the nomination of Richard Kleindienst to be Attorney General.

Until that time occurs I am doing my best, my very best, to try to keep an open mind until the evidence is in, all the questions pertinent to the nomination raised and answered, and all the legitimate witnesses heard.

Mr. GRIFFIN. Mr. President, the distinguished majority leader has reacted to a speech which he has characterized as political, and I can understand that. I think, however, that he would be the first to admit that if there have been political speeches on this subject, they did not start on this side of the aisle. There have been a good many coming from the other side of the aisle.

But I want to indicate that the distinguished majority leader has not himself addressed this subject in a political way, and for that I want to express my appreciation. He has said before he realizes many of the matters that have been raised in the press and which have taken the time of the Committee on the Judiciary, are not related to the nomination of Richard Kleindienst. It is quite obvious there has been very little evidence that bears on the fitness of Mr. Kleindienst to be Attorney General of the United States. I share the view the majority leader has expressed that while the Committee on the Judiciary should be encouraged to call such witnesses as may be necessary to answer legitimate questions as to the fitness of Mr. Kleindienst, that that should be done as expeditiously as possible.

If there are other questions relating to ITT, conglomerates, or whatever, that the committee or some other committee wants to investigate, that should be handled separately. I think the Senate owes it to Mr. Kleindienst, the administration, and the country to pass on this nomination on its merits as quickly as possible and with as little politics as possible.

While my colleague from Maryland has done a very effective job in pointing the finger at the other party, I would say frankly, that I believe a lot of the confusion in the country must be attributed to the way the press has reported this matter. In the evening news I have watched and listened to the newscasters say, in effect, that the Government gave a favorable settlement to ITT in exchange for a contribution to the Republican Party.

No matter how many times that statement is corrected it seems as if it continues to be said over and over again, even though whatever contribution involved was not to the Republican Party, but was to the San Diego Convention Bureau.

But more important, it was not a favorable settlement for ITT; it was a very unfavorable settlement for ITT and a victory for the Government, as far as antitrust was concerned.

The Senator from Maryland, I think, has documented that point very well in a very objective way. The day following the announcement of the settlement of the ITT case, ITT stocks dropped dramatically on the stock market. I do not know what other evidence we need in an objective way that it was an unfavorable settlement in the eyes of all investors around the country. Beyond that, the New York Times has reported, some of the highest officers in ITT sold large blocks of stock while the negotiations for settlement were going on. That buttresses the evidence that this was not a favorable settlement as far as ITT is concerned.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BEALL. Mr. President, inasmuch as I started the discussion, I want to say a few words to terminate it. When I took the floor I did so hoping to clear the air, as I think the Senator from Michigan tried to point out in his remarks.

I have the greatest respect for the distinguished majority leader. I think his has been a voice of moderation and understanding, and one of reasonableness in this discussion. I feel that we are all anxious that the matter should be brought to a conclusion fairly.

I believe that as a result of discussions that have taken place to date Mr. Kleindienst still remains every bit qualified to be Attorney General of the United States, and I hope we can get his nomination ratified as soon as possible.

However, I think there is a responsibility on each Member of this body when he feels an injustice has been done to his leaders to see that the injustice is corrected.

I do not think it is fair to accuse this administration of bringing about an unfavorable settlement of a trust-busting case when the opposite is true.

All I was pointing out in my remarks had nothing to do with the nomination of Mr. Kleindeinst. It had nothing to do with the hearings going on in the Judiciary Committee or whether they should continue. It was just to point out that it was under the Nixon administration that the ITT conglomerate antitrust case was brought, and it was under the Nixon administration that this conglomerate was forced to divest itself of some of its holdings.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORTS OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, reports of the military construction projects which have been placed under contract in fiscal year 1971, in which the working estimate exceeded the amount authorized by the Congress by more than 25 percent; and reports of individual projects in which the project scope was reduced (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION AUTHORIZING VOLUNTARY ASSIGNMENT OF CERTAIN RESERVE MEMBERS

A letter from the General Counsel of the Department of Defense submitting proposed legislation to amend section 269(d) of title 10, United States Code, to authorize the voluntary assignment of certain Reserve members who are entitled to retired or retainer pay in the Ready Reserve, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION TO EXTEND THE PROVISIONS OF THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

A letter from the Secretary of Commerce submitting proposed legislation to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended (with accompanying papers); to the Committee on Commerce.

LIST OF REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office in March 1972 (with accompanying papers); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the House of Representatives of the State of Georgia; to the Committee on Armed Services:

XUM

"H.R. 984

"A resolution urging the U.S. Army to return "treasure trove" to Mr. Donald W. Morrison; and for other purposes

"Whereas, Mr. Donald W. Morrison of Homerville, Georgia, while serving on active duty in the defense of his country in Viet Nam, found a 'treasure trove' of $150,000.00; and

"Whereas, he is entitled thereto against all the world, including the U.S. Army, except the true owner thereof; and

"Whereas the true owner has not asserted a claim to the 'treasure trove' for over four years, but the U.S. Army has unlawfully confiscated the 'treasure trove' without any creditable evidence that the 'treasure trove' was enemy property and without attempting to prove the lawful owner of the 'treasure trove'; and

"Whereas, Mr. Donald W. Morrison is being unjustly forced, at a considerable financial loss, to pursue legal courses of action to compel the U.S. Army to return his 'treasure trove'; and

"Whereas, the injustice being accorded this veteran of Viet Nam is severely damaging the image of the U.S. Army during a time when the Army is attempting to attract young men into service.

"Now, therefore, be it resolved by the House of Representatives that this Body does hereby urge the U.S. Army to return to Mr. Donald W. Morrison his 'treasure trove' of $150,000.00 without further legal action and without further delay, with interest thereon from the date of confiscation to date of return at six percent per annum.

"Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to forward an appropriate copy of this Resolution to the President of the United States, the Secretary of Defense, the Secretary of the Army, the Chairmen of the Appropriations Committees of the United States Senate and House of Representatives, the Chairmen of the Armed Services Committees of the United States Senate and House of Representatives, the Governor of Georgia, and each member of the Georgia Congressional Delegation."

A joint memorial adopted by the Legislature of the State of Idaho; to the Committee on Foreign Relations:

"SENATE JOINT MEMORIAL 115

"A joint memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States in Congress assembled, the Senators and Representatives representing this State in Congress, the Governors of the fifty States, and the Basque Government in exile in France

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, the history and traditions of this nation rest upon the principles of freedom from oppression and the rights of all citizens to life, liberty and the pursuit of happiness; and

"Whereas, we believe that democracy and freedom, when denied in one country atand threatened everywhere; therefore, it is our responsibility to bring to the attention of the people of the United States, and, we hope, to the people of the entire world that these very freedoms of the Basque people are threatened under the Franco regime in Spain today; and

"Whereas, the Basque people have a long and glorious history of personal accomplishment and a devotion to the preservation of their national heritage; and

"Whereas, the sole aim of the Basques, since human time began, has been to bar the world's wars, tribal, racial, religious, imperialistic or civil, from the tiny green mountain land which was their own before history began; and

"Whereas, no other country in the world holds the traditions of its forefathers so sacred as Euzkadi, as the Basques call their homeland; and

"Whereas, the Basques have been denied the rights to learn their own language, have been jailed, and have been denied their human rights by the Franco regime and are virtually threatened in their continued existance; and

"Whereas, the state of Idaho is known as the North American center of the Basque population; and

"Whereas, the Basques of North America have carried the traditions of their forefathers as honest and self-reliant peoples, possessing the basic elements of democracy, humanity, charity and mercy; and

"Whereas, the Basques of North America feel first they are Americans, and as such they feel for America as the Basques of Euzkadi felt for their country, which is: Gu Amerikarentzat eta America, Jaungekoarentzat. Which means We are for America, and America is for God.

"Whereas, in World II thousands of American lives were lost in a war which was precipitated from the Spanish Civil War, a war of genocide of the Basques, by the three dictators, Franco, Mussolini and Hitler; and

"Whereas, the Basques, who once enjoyed the oldest democratic republic in Europe, fought for the allies in World War II; and

"Whereas, over 2.4 billion dollars in aid has been given to Franco Spain for economic and military assistance since 1946 by the government of the United States.

"Now, Therefore, Be It Resolved by the Legislature of the state of Idaho that we voice our strong belief that as a nation we should reward our friends and not our enemies, and we deplore any free and democratic nation providing assistance to a ruthless, totalitarian government, directly or indirectly.

"Be It Further Resolved that we urge all steps be taken to cause the Spanish government to cease and desist the denial of the Universal Declaration of Human Rights of Man and insist that total general amnesty for all Basques and Spaniards now imprisoned or exiled for their political and social activities be extended by the Franco government.

"Be It Further Resolved that if such steps are not carried out, the President of the United States, the Secretary of State, and the Congress of the United States take all necessary steps to withdraw all foreign aid or benefits to the Spanish dictatorship.

"Bt It Further Resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Senators and Representatives representing the state of Idaho in the Congress of the United States, the Governors of the fifty states of the United States, and to the Basque government in exile in France."

A joint resolution of the Commonwealth of Virginia; to the Committee on Interior and Insular Affairs:

"HOUSE JOINT RESOLUTION NO. 69

"A joint resolution memorializing the Congress of the United States to authorize a tour of the Liberty Bell throughout the United States

"Whereas, the Liberty Bell has long stood as a symbol of the ideals upon which this nation was founded; and

"Whereas, many of our young people have never seen the Liberty Bell or been properly educated to its principles; and

"Whereas, a reaffirmation of our allegiance to these principles will be beneficial to our Commonwealth and nation; and

"Whereas, a movement is underway to place the Liberty Bell on tour of the fifty states; now, therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States be memorialized to authorized to direct that the tour be by way of highway transport in order that it may have the best possible access to as many American citizens as possible.

"Resolved further, That the Congress be memorialized to utilize to the fullest possible extent the offers of assistance from firms and organizations so as to cause no financial burden to the public.

"Resolved finally, That the Clerk of the House of Delegates is hereby directed to transmit a copy of this Resolution to the clerks of the United States House of Representatives and the United States Senate."

Resolutions agreed to by the Senate of the Commonwealth of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS UAGING THE CONGRESS OF THE UNITED STATES TO ESTABLISH A NATIONAL HUNTING AND FISHING DAY

"Whereas, Efforts are presently underway by the Congress of the United States to establish a National Hunting and Fishing Day on the fourth Saturday of each year, the Massachusetts Senate hereby recognizes the efforts of its resident hunters and fishermen in establishing fish and wildlife conservation programs that benefit game and nongame species alike; and

"Whereas, The sports of fishing and hunting are recognized as vital tools in helping to maintain healthy wildlife populations in balance with their habitat and natural food supplies; and

"Whereas, These citizens have contributed greatly to our Commonwealth's outdoor welfare, the conservation of our natural resources and the maintenance of a viable environment; now, therefore, be it

"Resolved, That the Massachusetts Senate, assembled in formal meeting this twenty eight day of March, 1972 in Boston, Massachusetts, does hereby urge the Congress of the United States to establish on the fourth Saturday of each year a National Hunting and Fishing Day; and be it further

"Resolved, That the Massachusetts Senate reaffirms its great concern for the future of conservation and its unswerving support of Massachusetts sportsmen in their efforts to mainstay fish and wildlife conservation; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth."

A concurrent resolution of the Legislature of the State of Oklahoma; to the Committee on the Judiciary:

"H. CON. RES. 1074

"A concurrent resolution memorializing Congress to take appropriate measures to curb Federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and directing distribution

"Whereas, it was ordained and established in Article III of the Constitution of the United States of America that the Supreme Court's appellate jurisdiction ahall be subject to such exceptions and under such regulations as Congress shall make; and

"Whereas, under the existing provision in the framework of governing law of the country, Congress can except from the jurisdiction of the Supreme Court such subjects as it sees fit; and

"Whereas, under the existing provision in the Constitution, Congress can surely take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance; and

"Whereas, the time has come when it should be called to the attention of Congress, the members of the House, the members of the Senate and the people of this country, that Congress can presently, without awaiting any amendment of the Constitution, except appeals of questions concerning a public school system of any state or public school system of any political subdivision of any state from the appellate jurisdiction of the Supreme Court.

"Now, therefore, be it resolved by the House of Representatives of the 2nd session of the 33rd Oklahoma Legislature, the Senate concurring therein:

"Section 1. That the Congress of the United States of America be memorialized to take appropriate measures to curb federal judicial power over public school litigation in regard to forced transportation of students to achieve racial balance or overcome racial imbalance.

"Section 2. That duly authenticated copies of this Resolution be distributed to members of the House of Representatives and Senate, including the Oklahoma Congressional Delegation, and the President of the United States."

A resolution adopted by the Board of Chosen Freeholders, Passaic County, N.J., praying for the enactment of legislation relating to the assumption of the cost of the welfare and relief programs presently administered by the counties and municipalities; to the Committee on Finance.

A resolution adopted by the Suffolk County, N.Y., county legislature, declaring moral support for the President of the United States to aid him in the achievement of an honorable and satisfactory conclusion of hostilities in Southeast Asia; to the Committee on Foreign Relations.

A resolution adopted by the Common Council of the City of Buffalo, N.Y., praying for the enactment of legislation relating to a busing moratorium; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. 2013. A bill to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans (Rept. No. 92-730).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 74. A concurrent resolution authorizing the printing of additional copies of Senate Report 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971" (Rept. No. 92-731).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Res. 286. A resolution to provide additional funds for the Committee on the Judiciary for routine committee expenditures (Rept. No. 92-732).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3323. A bill to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes (Rept. No. 92-733).

EXECUTIVE REPORTS OF COMMITTEES

Mrs. SMITH. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably two nominations. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Maj. Gen. Vernon Anthony Walters, U.S. Army, for appointment as Deputy Director, Central Intelligence Agency; to be lieutenant general; and Maj. Gen. George Edward Pickett, U.S. Army, to be assigned to a position of importance and responsibility designated by the President; to be lieutenant general.

Mrs. SMITH. Mr. President, I also report favorably sundry nominations, for appointment in the Marine Corps and Marine Corps Reserve. Since these names have already been printed in the RECORD, I ask unanimous consent that they lie on the Secretary's desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Jesse L. Altman, Jr., and sundry other officers, for promotion in the Marine Corps;

Kenneth R. Allen, and sundry other officers, for permanent appointment in the Marine Corps Reserve; and

Lynn Adams III, and aundry other officers, for temporary appointment in the Marine Corps.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Walter Charles Howe, of Washington, to be Deputy Director of Action.

S. 3345—ORDER FOR STAR PRINT

Mr. HARTKE. Mr. President, it has been brought to my attention that when I introduced S. 3345 on March 14, 1972, a portion of a sentence was omitted from the bill due to a typographical error. I ask unanimous consent that a star print of S. 3345 with the necessary corrections be made.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BELLMON:

S. 3456. A bill to provide access to the health facilities of the Public Health Service and the Veterans' Administration, and for other purposes. Referred to the Committee on Interior and Insular Affairs, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 3456. A bill to provide access to the health facilities of the Public Health Service and the Veterans' Administration, and for other purposes. Referred to the Committee on Interior and Insular Affairs, by unanimous consent.

MEDICAL FACILITIES ACCESS ACT OF 1972

Mr. BELLMON. Mr. President, Oklahoma, like other States, has certain citizens who are entitled to receive medical care at Federal expense. Primarily these include members of Indian tribal groups and veterans of the armed services.

The Federal Government has attempted to meet this responsibility through the establishment of various federally supported medical facilities.

For sometime, I have been concerned about the difficulties experienced, particularly by Indians in my State, in obtaining needed medical treatment. In order to reach facilities maintained for Indian citizens, it is often necessary for them to travel long distances at considerable expense and sometimes at great risk to the patient. This is especially true when hospitalization is required.

Our office files contain many examples of the inconvenience and the loss of time and money caused by the present system. One letter in particular illustrates the unfair situation which exists and how it can jeopardize a person's health.

Mr. President, I ask unanimous consent that this letter from State Senator Allen G. Nichols of Wewoka, Okla., be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OKLAHOMA STATE SENATE, 11TH SENATORIAL DISTRICT, SEMINOLE AND HUGHES COUNTIES,
August 28, 1971.

Senator HENRY BELLMON,
Washington, D.C.

MY DEAR SENATOR BELLMON: I am enclosing a letter as a basis for this letter. John Coley is a young full-blood Seminole Indian working his way through school and several of us are assisting him. He was advised after his wife became pregnant, to appear at Shawnee for assistance from the PHS Indian Health Center. They examined her and advised him that he could expect the baby around August 12, 1971 but that he would have to take her from Wewoka to Claremore, Oklahoma. Assuming the correctness of their diagnosis he made plans to take her to Claremore a day or so ahead of time.

However these so called experts mis-calculated the date. And about ten days before the appointed time, in the night time, the baby made its appearance. It was physically impossible for him to drive more than a hundred miles to Claremore. So the only thing he could do was to immediately rush her to the Wewoka Memorial Hospital and the baby was born in a few minutes. They kept her there for a week or more and they submitted the bill to this Benign Agency at Shawnee and as you can see they answered him in a very enlightening manner to wit: That he failed to comply with some rule and therefore they *declined* to pay the Hospital bill!

I explained to these Indians that we had one Senator in Washington who is not an Indian but that he is a great friend to all Indians and I am sure you will live up to my recommendations. I wish you would immediately turn the heat on that bunch of folks up there and let them know they ought to be penalized in mis-judging the arrival of this baby. In view of the fact that they fixed Hospital services more than a hundred

miles away. There is no way this Indian boy can pay this bill except to quit school and get a job. I am counting on you in getting the job done.

Sincerely Your Friend,

ALLEN G. NICHOLS.

Mr. BELLMON. Mr. President, to some extent, the same problems faced by Indian families also exist for veterans.

The result is that under the present narrow methods of administering these special Government health facilities, an Indian living in a city where the Veterans' Administration has a hospital may not use that facility, but rather is required to travel to another locality where the Public Health Service operates a facility for Indians.

Conversely a veteran living in an area where an Indian hospital is located is denied services at that federally supported institution and is forced to travel, often long distances at great expense, to a veterans hospital.

Moreover, certain federally supported medical facilities are located in remote and thinly populated areas where private or municipally operated medical facilities are totally lacking. Under those circumstances it is not at all uncommon for an American citizen whose taxes are supporting a Federal medical facility in the area to be denied access and be forced to go elsewhere to obtain necessary medical treatment.

Mr. President, in an effort to correct these inequities, I am today introducing legislation to provide better access to health facilities for Indians and veterans and eliminate the necessity for using only certain designated facilities. It also would allow Indians and veterans to obtain medical care at non-Government facilities on a cost reimbursement basis, and would make it possible for citizens not entitled to Government medical care to obtain treatment at a Government facility at their own expense.

Mr. President, this bill will greatly improve health conditions for our Indian citizens and eliminate much of the frustration encountered by both Indians and veterans in obtaining the care to which they are entitled. It also will result in better utilization of our tax-supported hospitals and clinics and will help to solve the problem of providing adequate medical care for citizens who live in rural areas of the country.

This bill provides for a credit card system to simplify administration and it is not anticipated that it will cost the Treasury any additional funds because it will make use of existing facilities and will provide for reimbursement by private citizens who use Federal facilities.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD, and further that the bill be referred to the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Facilities Access Act of 1972".

SEC. 2. (a) Section 322(a) of the Public Health Service Act is amended by striking the period at the end of paragraph (8), and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) an Indian who is (A) an enrolled member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or an individual who is a descendant, in the first or second degree, of any such enrolled member; (B) an individual who is considered by the Secretary of the Interior to be an Indian for any purpose; (C) an individual who is an Eskimo or Aleut or other native of Alaska.

(b) Section 332(d) of such Act is amended to read as follows:

"(d) The Secretary, within the limits of the Service facilities shall furnish care and treatment to any person not otherwise entitled to such care and treatment if—

"(1) such person would be eligible for such care and treatment in a Veterans' Administration facility; and

"(2) lives in an area remote from or extremely inconvenient to a Veterans' Administration facility and a Service facility is closer or more convenient to the residence of such person."

(c) Section 322(e) of such Act is amended by inserting immediately after the word "under" the following: "paragraphs (1) through (8) of".

(d) Section 322 of such Act is amended by adding at the end thereof the following new subsections:

"(f) Persons entitled to care and treatment under paragraph (9) of subsection (a) shall be issued a medical care card by the Secretary. Such card shall contain such information as the Secretary deems appropriate to indicate that the person to whom it is issued is eligible to receive care and treatment at the expense of the Service in public or private medical or hospital facility if he would be eligible for such care and treatment in a Service facility and such facility, or a facility of the Veterans' Administration is not reasonably accessible to such person.

"(g) Persons not otherwise entitled to treatment and care at institutions, hospitals, stations, or other Service facilities may, in accordance with regulations promulgated by the Secretary, receive such treatment and care when such institution, hospital, station, or other facility is the only facility reasonably accessible to such persons. Persons receiving care and treatment under this subsection shall be charged at rates established to reflect the reasonable cost of providing such care and treatment.".

SEC. 3. Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter III the following new subsections:

"§ 628. Hospital care and medical services provided in areas remote from Veterans' Administration facilities; medical care cards; eligibility of Indians

"(a) Subject to such regulations as the Administrator shall prescribe, a veteran may obtain such hospital care and medical services as he needs at the expense of the Veterans' Administration from private facilities if he would be eligible for such care and services in a Veterans' Administration facility and (1) he lives in an area remote from or extremely inconvenient to a Veterans' Administration facility, or (2) such hospital care or medical service can be provided at a cost equal to or less than the cost at which such care or service could be provided at the nearest Veterans' Administration facility.

"(b)(1) The Administrator shall provide for the issuance of a medical care card to any veteran who makes application therefor and who is eligible for hospital care and medical services from the Veterans' Administration. Such card shall contain such information as the Administrator deems appropriate to indicate that the veteran to whom it is issued is eligible to obtain specified hospital care and medical services at the expense of the Veterans' Administration.

"(2) The Administrator shall make such arrangements as may be necessary to pay persons and facilities which furnish hospital care and medical services to veterans eligible to obtain such care and services from private facilities at the expense of the Veterans' Administration.

"(c) The Administrator, within the limits of Veterans' Administration facilities, shall furnish hospital care and medical services to any Indian in need thereof if such Indian (1) would be eligible for such care and services in a Public Health Service facility, and (2) lives in an area remote from or extremely inconvenient to a Public Health Service facility and a Veterans' Administration facility is closer or more convenient to the residence of such Indian. Hospital care and medical services shall be furnished Indians under this subsection in accordance with such rules and regulations as the Administrator shall prescribe but only to the extent that the furnishing of such care and services does not adversely interfere with the furnishing of such care and services to veterans.

"(d) Persons not otherwise entitled to hospital care and medical services from a Veterans' Administration facility, may (to the extent that the furnishing of such care and services does not adversely interfere with the furnishing of such care and services to veterans) in accordance with regulations promulgated by the Administrator, receive such care and services when such facility is the only facility reasonably accessible to such persons. Persons receiving care and services under this subsection shall be charged at rates established to reflect the reasonable cost of providing such care and treatment.".

MEDICAL FACILITIES ACCESS ACT OF 1972—SECTION-BY-SECTION ANALYSIS

1. Section 2(a) by amendment to the Public Health Service Act establishes for the first time the right of Indians to health care in *any* Public Health Service Facility, rather than just those facilities transferred to the Public Health Service from the Bureau of Indian Affairs (68 Stat. 674).

2. Section 2(b) provides for the care and treatment of veterans in Public Health Service facilities where such facilities are more accessible than a Veterans' Administration facility.

3. Section 2(d) provides that Indians shall be issued medical care cards which shall entitle the holder to receive care and treatment at the expense of the Public Health Service from public or private facilities if he would be eligible to receive such care and treatment from a Public Health Service facility or a Veterans' Administration facility but such facilities are not reasonably accessible to such Indian.

4. Section 2(d) also provides that persons not otherwise entitled to care or treatment at Public Health Service facilities may receive such care if such facility is the only facility reasonably accessible to such persons. Persons receiving such care shall have to pay a reasonable charge covering the cost of such care.

5. Section 3 amends title 38 of the United States Code to provide that—

(1) Veterans may obtain medical care at the expense of the Veterans' Administration from public or private facilities where a Veterans' Administration facility is not reasonably accessible to such veteran;

(2) Upon application therefore, veterans shall receive a medical care card which shall entitle the holder to the private care described above;

(3) The Administrator of the Veterans' Administration is authorized to furnish medical care to Indians in a Veterans' Administration facility where such facility is more accessible than a Public Health Service facility. Such services shall not interfere with the furnishing of services to veterans.

(4) The Administrator is authorized to provide medical care in a Veterans' Administration facility to any person where such a facility is the only facility reasonably accessible to such person, to the extent such care does not interfere with the care of veterans. Persons receiving such care must pay reasonable charges covering the cost of such care.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2871

At the request of Mr. WILLIAMS, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 2871, the Marine Mammal Protection Act of 1971.

S. 3083

At the request of Mr. HARTKE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3083, the Truth-in-Food Labeling Act.

S. 3136

At the request of Mr. SCHWEIKER, the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3136, a bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amount of lead and cadmium which may be released from glazed, ceramic or enamel dinnerware.

S. 3139

At the request of Mr. CHILES, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 3139, a bill to authorize acquisition of the Big Cypress National Fresh Water Reserve in Florida.

S. 3302

At the request of Mr. PEARSON, the Senator from Tennessee (Mr. BAKER) and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 3302, a bill to amend the Airport and Airway Development Act of 1970 in order to make certain airports where the landing area is owned by the United States or an agency thereof eligible for assistance under such acts.

S. 3322

At the request of Mr. HARTKE, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 3322, a bill to amend the Internal Revenue Code of 1954 to encourage State and local governments to decrease their reliance on real property taxes as the principal means of funding expenditures for education by allowing a credit against Federal income tax for State and local income taxes imposed to fund such expenditures.

S. 3338

At the request of Mr. TALMADGE, the Senator from Texas (Mr. TOWER) and the Senator from North Carolina (Mr. JORDAN) were added as cosponsors of S. 3338, to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

S. 3357

At the request of Mr. MONDALE, the Senator from North Dakota (Mr. BURDICK), the Senator from Washington (Mr. JACKSON), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 3357, a bill to provide price support for milk at not less than 85 per centum of the parity price therefor.

S. 3382

At the request of Mr. JAVITS, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 3382, the Gifted and Talented Children's Education Assistance Act.

S. 3407

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 3407, a bill to amend the Education of the Handicapped Act to provide for improved opportunities for handicapped persons, and for other purposes.

SENATE CONCURRENT RESOLUTION 75—SUBMISSION OF A CONCURRENT RESOLUTION TO URGE EACH AMERICAN FAMILY TO PLANT A VEGETABLE GARDEN

(Referred to the Committee on Agriculture and Forestry.)

Mr. ALLEN. Mr. President, our Nation is taking stern measures to fight inflation. We are making massive efforts to combat malnutrition and we are working steadily to promote physical fitness. We are using massive governmental machinery to achieve our aims. However, there is available to us a most effective means for achieving all these goals. We cannot afford to overlook it merely because of its simplicity. I refer to the family vegetable garden.

With a vegetable garden, the family can help fight inflation and outflank and roll back increasing food prices. At the same time the family can insure better nutrition and can enjoy the benefits of healthful fun and exercise together.

Mr. President, there is an honored and most successful precedent for encouraging the use of the family garden. During World War II, the President of the United States urged us to plant victory gardens to help win the war against fascism. Why not plant victory gardens to help win the war against inflation, malnutrition, and poor health?

Self-help is the American way, and vegetable gardens are just as important to Americans in the war against inflation as they were in the war against fascism. They will increase the food supply and reduce the cost of the family meal. They will increase the supply of vegetables and thus reduce the demand in the marketplace and thus help bring down prices which must be paid by those without space for a garden. They will provide natural vitamins for family nutrition, and they will provide wholesome exercise for members of the family. On top of that, working together in the garden will bring families together in a common cause in our war against inflation.

Mr. President, the American way is to take positive action, with every American pulling and working together. It is already recognized that self-help can be much more effective than just passing laws.

Mr. President, Reader's Digest has published a condensation of an article entitled "Backyard Gardens Are Back in Style," from Empire in which the distinguished Representative from South Carolina (Mr. DORN) is cited for his great interest in gardening and for gardening's beneficial effects for him.

Mr. President, I commend the Reader's Digest condensation to the consideration of the Senate. It is timely and most interesting. I request unanimous consent that the article be printed in the RECORD.

I also send to the desk for appropriate reference a resolution urging the planting of gardens, and I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the article and concurrent resolution were ordered to be printed in the RECORD, as follows:

BACKYARD GARDENS ARE BACK IN STYLE

Behind their duplex apartment in Watertown, Mass., John and Jane Nagy maintain a vegetable garden richly fertilized with leaves, plus vegetable and fruit parings. Their plot is postage-stamp size, but super productive.

Nearly every weekend, Rep. W. J. Bryan Dorn (D., S.C.) dashes out of the House Office Building in Washington to catch a plane to Columbia, then drives to his home outside Greenwood. Minutes later, he has changed clothes and is in his one-acre garden. "You'd be surprised," he says, "how quickly complicated questions of state straighten themselves out between rows of okra and corn."

The John Meekers of Gilroy, Calif., owned a strip of "useless" clay 18 inches wide by 42 feet long between their driveway and their neighbor's. It's useless no longer; the Meekers mixed in leaves, grass clippings and the end product of a small compost pile, and now have a "vertical garden" of artichokes, tomatoes, cucumbers and pole beans.

The Nagys, Congressman Dorn and the Meekers are representative of a rapidly growing tribe of home gardeners reviving the good old American custom of growing at least part of their food in their own backyards. In the process, they get needed exercise save money and have fun; *and* they enjoy the tender, tasty perfection of truly fresh vegetables—which no frozen, canned or store-bought variety can possibly approach. At a time when the number of commercial farms is declining toward a rock-bottom minimum, when the cost of eating has never been higher, sales of garden supplies, seeds and nursery stock are soaring. According to Burpee's, the leading seedsmen, there are today more home gardens than at the height of the World War II Victory Garden fever.

Part of the appeal of growing your own food comes directly from the feeling that you are working in harmony with the forces that underlie and sustain the universe. This spiritual dimension, once present in all agriculture, until recently seemed doomed

by the whole concept of "agribusiness." Now, led by the home organic gardener, it is surging back—and is increasingly present even in the ranks of commercial farmers.

The organic approach—that everything comes from, and so should be returned to, the soil—is central in today's fight to protect our environment.[1] By recycling into backyard gardens grass clippings, leaves and the decomposable garbage every family produces, home gardeners appreciably relieve the burden on our nation's overburdened sanitary landfills and incinerators and, ultimately, on the atmosphere that surrounds us. At the same time, by utilizing nature's own pesticides, they are helping to reduce the tonnages of persistent chemicals that are poisoning our land and water, and endangering man and animal alike by entering the food chain.

If you want to discover the thrill of totally fresh produce, and the feeling that you're working with, rather than against, nature, it's easy to hop on the backyard-garden bandwagon. Here's how:

Soil. The successful growing of anything starts with proper soil preparation. Pick a sunny location, spade it thoroughly and then dig in all the undecomposed organic material—leaves, grass clippings, peat moss, straw or hay, etc.—you can beg, borrow or buy. (Presumably, as a beginning, you will not have any humus, the rich—and agriculturally desirable—end product of a compost pile.) Since this has a tendency to make the soil acid, a little groundup agricultural limestone will also be beneficial. Cultivated into the soil, the organic material attracts bacteria and tiny funguses which break down the cellulose and other fibers into constituent nutrients and thus feed the roots of your plants.

Unfortunately, these organisms themselves are heavy users of nitrogen, and while they're on the job they compete with your crops for nitrogen. To reduce this competition, many home gardeners add to their uncomposted material either a natural source of nitrogen, such as the bone meal or dried slaughterhouse blood preferred by organic purists, or a shovel or two of the least expensive 5–10–5 chemical fertilizer. (In two or three years, if proper soil practices are followed, a rich, humusy soil will result, and such "artificial" fertilizing can then be eliminated.)

The amount of space you have determines what you can grow. But remember this: a soil rich in the necessary nutrients will support an amazing number of plants crowded close together. A space no bigger than a pool table is still large enough for a salad garden of lettuce, radishes, onions or chives, plus a few staked-up tomato plants. As your space grows, so can your ambition.

Mulch. Whatever your garden size, you'll want to eliminate cultivating and weeding as much as possible. Even if you had the inclination, today's home gardener lacks the time for clean cultivation; often he has to leave for work before eight five mornings a week. So, as soon as his seedlings can be identified, he pulls out the weeds once and for all and fills in the space between his vegetable rows with a mulch. For this purpose, because it will eventually decay into humus, he uses a thick layer of undecomposed organic matter (again, such things as grass clippings, leaves, sawdust, wood chips, even three or four sheets of newspaper overlapped away from the prevailing wind and weighted down with a little earth).

The ultimate in mulching—and composting—is the permanent mulch system, wherein mulch is added at the top as fast as it decays below. Instead of annual plowing or spading to aerate the soil and work the humus in, you let earthworms do this for you on a continual basis. They burrow as much as six feet down, loosening and aerating the soil with their tunnels and fertilizing it with their castings. At planting time, under this system, the gardener simply pulls aside the undecomposed mulch and plants his seeds; when the seedlings come up, he returns the mulch.

Pests. Once your crops are in, your next concern is to keep them from being eaten by pests. Everything you have done so far has been conducive to pest control because healthy soil tends to produce disease- and pest-resistant plants. But you are still vulnerable.

The first thing is to encourage your natural allies, from songbirds and hoptoads to the predator insects—ladybugs, praying mantises, lacewing flies, tiny Trichogramma wasps, etc.—that neither bother people nor harm crops.

If natural predators aren't taking care of the problem, organic gardeners suggest trying some home remedies used by gardeners and farmers in previous centuries. These range from a strong solution of salt and water dashed on cabbage worms, to flour and water thrown on mites and other soft-bodied insects, to plain old water sprayed on aphids. For slugs, a bane in warm, wet weather, you can simply sink shallow pans of stale beer into the ground—the slugs will head for the bar, fall in and drown.

Other alternatives to insecticide spraying include: interplanting strong scented herbs, chives, onions, lavender, tansy, oregano—with food crops subject to infestation; companion planting of crops that repel each other's worst enemies—potatoes mixed with beans for example; or planting varieties of vegetables known to be immune or resistant (most seed catalogues call attention to such varieties).

All of these practices have the virtue of not poisoning the soil, pets or children. As a last resort, you may have to use such commercially available insecticides of vegetable origin as rotenone or the pyrethrins. These are potent killers, but at least they do not degrade the environment.

Even with the depredations of insects, chances are that your garden will produce more than your family can eat or, at times, even give away. And don't forget—gardening offers food for the soul as well as the body.

[1] *An Agricultural Testament*, by famed British botanist Sir Albert Howard, is the Bible for all advocates of organic methods.

S. CON RES. 75

Whereas inflation, nutrition, physical fitness, and recreation are national concerns;

Whereas a family can save on food costs, fight inflation, improve nutrition, get healthful exercise, and have fun together by planting a vegetable garden;

Whereas many citizens of the nation have already realized the many advantages of planting a vegetable garden; and

Whereas the pleasure, profit and fulfillment of growing your own vegetables has been recognized by publications with worldwide circulation;

Whereas patriotic citizens planted victory gardens during World War II at the urging of the President of the United States for the purpose of conserving national resources and combating inflation;

Whereas our nation is currently engaged in battle against the ravages of inflation and malnutrition, and vegetable gardens are a potent weapon against both;

Whereas the American way of fighting a problem is not boycotts and is not mere passing of laws, but is self-help and unity in pulling and working together; and

Whereas the planting of vegetable gardens will provide more food for the family's budget and will increase the vegetable supply and bring food prices down for apartment dwellers without space for gardens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That each American family is urged, where practicable, to plant a vegetable garden for the purpose of fighting inflation, saving money, getting exercise, and having the fun and pleasure of family vegetable growing.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. PEARSON, the Senator from Tennessee (Mr. BAKER) and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of Senate Concurrent Resolution 66, expressing the sense of Congress that the United States should negotiate for the use of foreign currencies to pay Peace Corps expenses to countries where these currencies are held.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be released immediately by the Office of Management and Budget.

WAR POWERS ACT—AMENDMENT

AMENDMENT NO. 1106

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 998 AND 999

At the request of Mr. CHURCH, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 998; and the Senator from Alaska (Mr. GRAVEL), the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. METCALF), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 999, both amendments intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1100

At the request of Mr. STEVENSON, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 1100 intended to be proposed to the bill (S. 3193) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

AMENDMENTS NO. 410

Mr. KENNEDY. Mr. President, recently before the Senate Commerce Subcommittee on Environment, the Environmental Protection Agency disclosed that disease-producing viruses had been found in the drinking water of two Massachusetts cities—Lawrence and Billerica. While we have been assured that this discovery represents a scientific breakthrough in detection techniques as opposed to a cause for alarm, it seems clear that the isolation of virus in drinking water is a final warning signal that congressional action is imperative if the quality of our drinking water is to be improved to meet health and safety standards.

Senator HART has introduced amendment No. 410 to S. 1478, legislation calling for minimum national drinking water standards, a meaningful national research and development program, and financial and technical assistance to State and local governments for planning, training, and the development of new methods of water treatment. As a result of hearings in both the House and the Senate, I am hopeful that the legislation will be amended to include adequate, uniform, and timely publication of water quality information to the public. I am happy to cosponsor amendment 410, and I look forward to favorable action by the Senate and the House on this legislation crucial to our national health.

There are three prevalent misconceptions surrounding the history of water quality in the United States:

First, that we have adequate treatment methods and facilities and a resultant, clean, healthy water supply;

Second, that recent efforts to curb pollutants poured into our rivers and streams, raw water sources, means that the flood of chemicals, bacteria, and viruses will be sufficiently controlled and eliminated; and

Third, that preventive measures are somehow less important, or of less priority for our national health than curative methods.

The history of water quality control in this country indicates that our early, effective efforts to provide clean drinking water met with great success, and this in part accounts for the satisfied, unconcerned reaction of many of our citizens to the suggestion that the water they drink may be of inferior quality. Water treatment methods effectively wiped out typhoid and dysentery from waterborne sources as long ago as the 1930's. Since that time, research has been less than adequate on the disease-producing contaminants in our water supplies and the inadequacy of our water treatment facilities and methods. While our population has grown, our water sources have grown smaller and dirtier. While our technology has put us on the moon, no new, effective type of water facility, maintenance and operation has been developed. And while we have endlessly researched new and better televisions, and washing machines, and vacuum sweepers, no new method of treatment to eliminate viruses from drinking water has been advanced.

What little information is available on the quality of our drinking water has not been sufficiently disseminated, and I think most American citizens would be shocked at its implications. A Government study showed:

First, 5.4 percent of the national population are being delivered "potentially dangerous drinking water";

Second, 40 million persons are delivered water which exceeds recommended limits; and

Third, 274,000 persons of the 82 million served by interstate water supplies are consuming water now prohibited under interstate quarantine regulations.

Many water treatment facilities from coast to coast are understaffed, inadequately funded, poorly operated and maintained. Operation and maintenance personnel often lack sufficient training and expertise in the field of water quality control. In an EPA study, 77 percent of water facility operators involved in the study had been inadequately trained.

While we have seen the Federal Government role in the regulation of drugs, foods, air pollution, mine safety and solid waste management, Federal participation and direction in the area of drinking water has been limited by lack of funds and authority. EPA has been limited to the regulation of interstate water supplies. For example, on March 17, 1972, EPA issued a prohibition against the use of water from Cordova, Alaska, aboard interstate carriers—trains, planes, buses. But no authority exists for a Federal governmental role in water supplies within a community. The lack of public concern, the absence of citizen demand for pure drinking water supplies can be traced directly to the lack of information obtained or disseminated concerning the local supply.

The Community Water Supply Study of July 1970 showed that 79 percent of the 969 water systems studied had not been inspected by any State official in the year prior to the study. And 56 percent of those could not remember a State official ever visiting the water treatment facility. EPA estimates that the States should be spending at least $30 million a year on water supply systems, just to keep pace with increasing population and ever-increasing pollution. But the States are currently spending one-third of that.

Water pollution control efforts—that is the regulation of pollutants on raw, untreated water in our rivers and lakes—have amassed tremendous support and Federal funding. Over a billion dollars has been spent on these sources of about 50 percent of our drinking water. But last in this intensive effort to clean up our rivers and streams is the concern for the other half of the problem—supplying clean drinking water by effective treatment of this raw water supply before it reaches our taps. If all pollutants were stopped today from being dumped into our waters—the problems of water treatment would still be with us. It is not only the chemical components from industrial wastes that affect our drinking water, it is bacteriological and viral factors which must concern us as well.

In 1965 in Riverdale, Calif., 16,000 residents became ill and three died from salmonela in the drinking water. In 1969, 30 percent of the population in Angola, N.Y., contracted gastroenteritis from the drinking water supply. And in 1969 in my own State of Massachusetts, the football team from Holy Cross was downed with a 66-percent infectious hepatitis rate from a faulty water delivery system.

And chlorine which has been found effective as a disinfectant for bacteria is generally less effective on virus control. Current methods of water treatment appear to be insufficient based on the limited research on virus in drinking water to date. The waste treatment plants servicing Lawrence and Billerica, Mass., are considered of superior quality—yet initial testing found virus in both supplies. Only three systems in the United States have been tested and no technology yet exists for an efficient, noncumbersome, effective, and quick way to test for virus.

Perhaps even more shocking is the fact that 20 million Americans have no water in their homes. They must pay excessive amounts for water, sometimes haul it over long distances, sometimes from muddy and dirty sources.

I have long been involved in the effort to assure every citizen in the United States the delivery of adequate medical care, and I have worked to fund the research and development of curative treatments, especially in cancer and heart disease. But we must concern ourselves also with the prevention of disease. As Drs. Wilheim Huepr and W. D. Conway pointed out:

> The most common and often prolonged and therefore the most dangerous contact with carcinogenic cancer-producing pollutants occurs when water thus contaminated is used for drinking purposes and the preparation of food.

And EPA pointed out that the major cost of waterborne disease is probably not the cost of medical treatment or even time lost from work, but the 365 days spent each year in semiproductive work due to chronic illness.

Amendment 410 to S. 1478, which the Senate will hopefully consider soon, establishes minimum drinking water standards, provides research funding, gives grants to the States to develop effective water programs. I cannot think of a more basic right of American citizens than the right to safe, clean drinking water. And as public awareness grows on the current state of our drinking water supply, our constituents will demand immediate and effective participation by the Federal Government to assure this right. I am happy to join as a cosponsor of this legislation which may be the single most important step we take

to insure our citizens that they have a right to this most basic of human needs—healthy drinking water.

ANNOUNCEMENT OF HEARINGS ON S. 1928

Mr. BURDICK. Mr. President, at the request of the Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him announcing hearings on S. 1928.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR JACKSON

For the information of the Senate and the public I announce that the Public Lands Subcommittee of the Committee on Interior and Insular Affairs will conduct hearings on S. 1928, to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minnesota and Wisconsin, as a component of the national wild and scenic rivers system.

The hearings will be held on April 14, commencing at 10 a.m. in Room 3110, New Senate Office Building.

Any person who wishes to testify should notify the Committee staff in order that arrangements can be made.

NOTICE OF HEARINGS BY THE SUBCOMMITTEE ON SECURITIES

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold hearings on the bills, S. 1164 and S. 3347, to provide institutional access to national securities exchanges.

The hearings will be held for 4 days, April 18 through April 21, and will commence at 10 a.m. each day in room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with this legislation are requested to contact Mr. Stephen J. Paradise, Senate Committee on Banking, Housing and Urban Affairs, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ADDITIONAL STATEMENTS

FAILURE OF PRIVATE PENSION PLANS TO PROVIDE RETIREMENT BENEFITS

Mr. WILLIAMS. Mr. President, on Sunday, March 19, 1972, the New York Times magazine published an article concerning the failure of many private pension plans to provide retirement benefits to those employees who had expected to receive them. This timely article coincides with the publication of a report by the Subcommittee on Labor's pension and welfare study, in which the subcommittee finds, among other things, that various deficiencies and hardships are inflicted upon working men and women as the result of the lack of mandatory requirements or controls in the operations of plans. I ask unanimous consent that "The Case of the Disappearing "Pension" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE OF THE DISAPPEARING PENSION

(By Fred J. Cook)

WASHINGTON, D.C.—Joseph Origlio, short, stocky, his English larded with a heavy accent, spent more than 40 years pursuing the American dream, and the failure of that dream has now driven him to seek refuge across the ocean in his native Italy. His story symbolizes the fate that has overtaken countless American workers who have faced old age and retirement confident that they would be well protected by pension plans in which they had participated most of their working lives—only to find at the last, irretrievable instant that their promised pensions were a mirage.

More than 30 million working men and women, about half the American labor force, now belong to private pension plans that have accumulated an enormous $135-billion in assets, roughly twice the amount of mutual-fund holdings and one of the largest reservoirs of unregulated wealth in the American economy. Probably in no other phase of American life has the fine print in infinitely complex and virtually incomprehensible contracts resulted in such widespread tragedy, and it is hardly any exaggeration to say, in paraphrase of Winston Churchill, that never has so much done so little for so few.

After an intensive, two-year study of American pension plans, a subcommittee of the U.S. Senate's Labor and Public Welfare Committee has prepared remedial legislation that will soon be sponsored by Senator Harrison A. Williams, Jr., the New Jersey Democrat who is chairman of the committee, and Senator Jacob Javits, the New York Republican and Williams' active partner in the pension study. In a joint statement at the end of February, the two Senators said the passage of their pension-reform bill was necessary during this session of Congress. Many private pension plans, they said, have been subject to financial abuse and as a result, "the just expectations . . . of many American workers have failed to materialize, and they are left with financial insecurity at that twilight stage of their lives."

A couple of studies made by the committee's staff show the dimensions of the problem. One analysis of 51 pension plans covering 6.9 million workers found that, since 1950, only 4 per cent received "any kind of normal, early or deferred" benefits. The second study of 36 better-structured plans covering 2.9 million workers concluded that, even here, only 8 per cent received normal, anticipated benefits.

Such figures indicate that 92 to 96 per cent of the 30 million "covered" American workers are not getting their retirement benefits (though it must be added that of those who forfeited their benefits, 85 per cent in one study and 80 per cent in the other had five years' service or less.) It has become common in negotiating labor contracts to accept a lower hourly wage increase in return for better "fringe" benefits, especially pension protection. But the files of Senator Williams' subcommittee and the public testimony it has taken are filled with pathetic stories of workers who had relied on the pension promise as a bedrock guarantee, then found that it was as evanescent as the proverbial pot of gold at the end of the rainbow.

How can this happen? The individual stories illuminate the virtually infinite ways it can happen and the many booby traps that exist in pension-plans fine print. This, for example, is the way it happened to Joseph Origlio:

Origlio was born in Messina, Sicily, in 1904. His wife comes from Palermo. In 1929 they emigrated to the United States, seeking the better life. Origlio was a skilled craftsman, a maker of fine shoes, and he worked steadily for shoe factories in New York City. He was a charter member and one of the founders of the United Shoe Workers of America. For 23 years he piled up pension credits, and he and his wife, who worked part of this time in dress factories in Brooklyn, began to make plans for their retirement.

They purchased about an acre of land on the outskirts of Lakewood, N.J., had a cellar dug and a foundation put in and roofed over. Then, on weekends, they worked to finish a basement apartment in which they could live. They expected to raise their retirement home above these basement quarters, finishing off the interior themselves.

But automation hit the shoe industry in 1959 and changed the life of Joseph Origlio. Along with many others, he was thrown out of work, and he was then 55, an age that made it almost impossible for him to catch on with a new employer in a labor-glutted market. For three years and 10 months—those 10 months were vital, as it turned out—Origlio was unemployed. Then the business agent of Local 60 of the United Shoe Workers found a job for him with the Evans Shoe Company in New York. During the jobless years, Origlio had found it impossible to keep up his union dues. Once he was working again, he offered to pay the back dues but he was told that all he need pay was a $15 reinstatement fee. Reassured, he worked from 1963 to 1970 and continued making retirement plans.

A one-and-a-half-story house was framed in above the basement apartment in Lakewood, and Origlio, his wife and friends finished off the interior. New furniture was purchased, and by 1970 the Origlios were ready for retirement. They knew that they could not live on their monthly Social Security payment of around $300; Origlio had a heart ailment, and medication was expensive. But, they thought, they did not have to worry. With the pension and Social Security they would be all right.

Then the pension vanished. The fine print in the union-administered pension plan called for 25 years of continuous service. Origlio had had only 23 when automation did him in. The pension plan, it was true permitted a break if a worker was unemployed—but only for three years, and Origlio had been out of work those extra 10 months. As a result, he forfeited everything.

An investigator for Senator Williams's committee went to Lakewood to interview Origlio and his wife "Their home was new and spotless," he says. "The furniture was all new and protected by plastic slip covers. They were a devoted couple; he wouldn't even think of leaving her for one day to come to Washington to testify. Besides, they had worked out a plan. Living costs are much lower in Italy. If they went there, they would still have their Social Security payments, they could rent their retirement home for a good price and the combined incomes would let them live comfortably. They had their passage to Italy already booked—and they sailed."

Joseph Origlio and his wife are still in Italy, and it seems unlikely they will ever return to America, the land of their youthful dreams.

Such individual tragedies happen—thousands of American workers are in situations far worse than Joseph Origlio's—because there is no regulatory legislation worthy of the name and because the chaotic pension-plan system, as it now exists, puts a premium on sharp practice. The only covering legislation was passed by Congress in 1959 in the Welfare and Pension Fund Disclosure Act. As the title implies, this act required merely that pension plans be registered with the U.S. Department of Labor as some 34,000 of them now are; but it established no rules and no checks on the operations of such plans, no provisions for the insurance and safety of the funds, no guarantees for the protection of workers.

The result has been widespread chicanery. Senator William's committee has carefully refrained from hurling sensational accusations, taking the attitude that it is merely hunting for the facts. But some of the facts it has uncovered are devastating.

In a report issued in November, committee investigators cited some typical examples. A joint union-employer pension plan in the transportation industry "has some $800,000 in loans outstanding for which there is no collateral"; a large data-processing manufacturing company has invested pension funds "in unsecured loans to the extent of $41,171,580." A major mining company has been operating since 1952 a pension plan that has $33.3-million in assets, but $107-million in pension liabilities; a major Southern utility company, after 26 years of pension-plan operation, has accumulated $66-million in fund assets, but is liable for $133.5-million in benefits. A couple of transit companies have hit upon a scheme under which each has used some $2-million in pension-fund moneys to underwrite its own mortgages or real-estate investments. A Midwest cable corporation has in the last five years charged off to "administrative costs" more than 33 per cent of the amount it has paid out in benefits. A Midwest utility company has reduced its pension-plan contributions by some $20,000 annually since 1962 as the result of "actuarial gains" made because workers who left the company and the plan retained no "vested interest" in their pension contributions.

This last angle is the crux of much pension-plan finagling. As many plans are operated—and it doesn't make much difference whether they are run by management or a union or by a joint union-management board—the self-serving interpretation of fine-print regulations can cost workers the protection they believed they had earned during years of service. The more pensions sacrificed in this fashion, the more money is left for fund managements to play with and the less the employer has to contribute to keep the fund solvent.

Two technical terms assume importance here. One is "vesting," the other "portability." Vesting means simply that a worker who has labored for a single company for years, participating in its pension plan, is guaranteed the benefits he has accumulated and the right to begin drawing them when he reaches retirement age. Many plans have no provisions for vesting; if one company is merged into another, if there is an economy cutback and a worker loses his job, if he has to move for health or family reasons, he loses all. Even plans that have so-called vesting privileges often hedge them with so many restrictions that they become worthless. A plan may provide, for instance, that a worker has a "vester" right to a pension when he has worked 15 years and is 55 years old; if he has worked 20 years but is only 45 when his job is terminated, he gets nothing. "Portability" assumes great importance in an increasingly mobile industrial society. It is highly unusual in today's economy for a person to work all his life for one company. In such fields as aerospace and electronics, mergers take place, contracts fluctuate, workers have to go where the jobs are. "Portability," then, is the means by which the pension rights a worker has accumulated can be credited to him when he changes jobs; as it is now, he generally loses everything.

The result of the chaos that reigns today is that the pension the American worker has been taught to consider a hard-and-fast guarantee all too often becomes a phantom. The guarantee is hedged with a forest of "ifs" that were described to the House Subcommittee on Labor by Assistant Secretary of Labor Thomas R. Donahue.

"In all too many cases the pension promise shrinks to this," Donahue said. "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

One of the most impressive witnesses to appear before Senator Williams's subcommittee described graphically how he wandered into that jungle of "ifs" and became a victim of the hazards lurking there. The witness was Stephen H. Duane, 52, of Jersey City, a stocky man about 5 feet 11 with a rugged face and hands partially crippled by arthritis after years of work in the chill of a food warehouse.

Duane had gone to work for the Great Atlantic & Pacific Tea Company when he was 19. He worked for A. & P. for 32 years with just one break, the three years he spent in military service during World War II. He came out of the Army as a first sergeant and was offered a foreman's job with another company, but decided to stay with A. & P. He explained: ". . . I was a man who went through the Depression and the hard times, and what I was looking for in life was security. Security to bring my family into the world, educate them and in my old age to be secure. I believed that I had security with A. & P."

In time Duane became steward of the Teamsters local in the A. & P. Eastern Butter and Cheese Warehouse, and, he testified, "When the men asked for a big raise, I said, 'Take a little, and the rest goes in our pension or in our benefits.'" For 21 years contributions for Duane built up in the pension-benefit plan. Then, in April, 1970, the blow fell. An A. & P. representative notified Duane, representing the union, that the warehouse was being closed; A. & P. had signed a contract with Merchants Refrigeration in Secaucus, N.J., to handle the work.

"Now, I went back to the men and I told them that, and they were shocked with disbelief," Duane testified. "In fact, they told me that I was a liar."

It was difficult, Duane testified, to get an explanation from management on where the men stood with regard to their pensions. In September, five months after the announcement that the warehouse would be closed, the situation was finally spelled out. Men who had 15 years of service and had reached the age of 55 would get "vested" pension rights; the rest would get nothing. Duane, with 32 years of work behind him, was only 51. He was ineligible for a pension.

Some men who had less service than he got their pensions, Duane explained. "I did not begrudge them, because one workingman does not begrudge another workingman anything he gets. But it does not seem fair that I put in half of my life and get nothing for it."

Senator Javits said A. & P. had informed the committee "that it stopped making contributions in 1969 because the plan was then adequately funded, in their judgment. And it's very clear why the plan was so well funded—simply because people like Mr. Duane, who had worked for decades, were let go without any rights whatsoever." Senator Javits explained that A. & P.'s own figures showed that, out of an aggregate of 50,957 employees who had left the plan since 1950, 37,641 forfeited all pension rights. In just the last five years, he said, those who got nothing included 800 with more than 15 years' service, 2,000 with more than 10 years' service and 15,000 with more than 5 years'. At a subsequent hearing last October, A. & P. officials said these figures reflected withdrawals from the company-operated pension plan after union negotiators got the company to agree in 1968 to a new plan with joint Teamster-management control. They argued that Duane, as a member of the union committee, had negotiated himself out of his pension because the new plan hadn't been operating long enough to do him any good.

A. & P. officials said Duane had received $5,406.40 in severance pay and $882 in accumulated vacation pay. This contrasted, however, with an annual $3,200 pension that an A. & P. worker making an average $9,000 a year could expect on retirement, A. & P. representatives also conceded that, even under their original company plan, Duane could not have qualified for any vested rights because he was not 55 years old. They also acknowledged that the absence of any vesting provision was prboably one of the reasons that union negotiators like Duane had sought a better deal in joint union-company management of the pension fund.

"The way this country is set up today," said Duane, "when a man is 50 years old looking for a job, he might as well dig a hole and pull a sturdy knot in it. It is practically impossible." Duane himself was lucky. The man who had offered him a foreman's job right after World War II remembered him, so he got work and started all over at the age of 51, but with scant protection for his future.

Many older workers are not so fortunate. When the Studebaker Corporation closed its automobile plant in South Bend, Ind., in 1963, thousands of workers were jobless. Studebaker's pension plan had been in operation only since 1950, and it had only begun to accumulate sufficient assets to cover the rosy promises written into union contracts. Repercussions from this disaster have been largely responsible for stimulating Congressional interest in pension-plan reform. Lester Fox, a former vice president of Studebaker Local No. 5, United Automobile Workers, and a member of the union's bargaining committee, described what happened when Studebaker closed down in December, 1963. The pension fund amounted to $24-million, and $21.7-million was required to purchase annuities for workers who had retired or who qualified for a pension, men 60 years old with 10 years' service. This left more than 4,000 workers to divide up the remaining $2.3-million.

Fox himself had 20 years' service with Studebaker and had just turned 40. If he had been younger, he would have received nothing, as it was, he got a lump-sum settlement of $350. Such payments, he testified, ranged from a low of $197 to a high of $1,757, paltry sums for older workers who found the job market virtually closed to them.

"You may be aware," Fox testified, "that there was a concerted effort on the part of the Federal Government, in concert with the local community, to attack the problems that older workers faced and to assist them. . . . But despite all the best efforts, there were those who could not find a solution, nor could a solution be found. So they took the only way they could, and that was to end their lives. . . ."

Studebaker, Fox said, had turned a deaf ear to union pleas that the pension plan represented "a private promise by the Studebaker Corporation, which socially, morally and as a matter of equity they were obliged to keep." The union had asked that the corporation stand behind "the promises of security" it had given, or at least made these pension obligations "a first-priority claim on the assets of the corporation." But Studebaker adhered strictly to the legalistic fine print and the financial limitations of the pension fund; some suicides resulted.

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Though the Studebaker case represents an extreme, the anguish and misery it demonstrated in such final form are common among workers who find themselves suddenly cut adrift. Much of this distress is caused by lack of vesting and portability rights. Two cases aired in public testimony before the Senate subcommittee illustrate how many solid, middle-class Americans are victimized by pension-plan provisions couched in such tortured, legalistic language that one witness testified: "I don't think there's a pension plan that I've looked at that two men can get the same answer out of, especially men that are not college men or lawyers."

Typical of what happens to many workers is the case of Mrs. Iris Kwek, who went to work for the Anaconda American Brass Company in Detroit when she was 18 and stayed with the company for 30 years. An intelligent, attractive woman with a ruddy complexion, Mrs. Kwek had attended college at night and in 1970 received a bachelor's degree in home economics from Wayne State University. She could probably have obtained a position that would pay more than she was earning at Anaconda, but she felt secure in her job after 30 years—and there was that promised pension. If she continued to work for the company until she was 65, she could count on a pension of about $100 a week, and she calculated that, with her husband's smaller pension from the city of Detroit and their Social Security payment, they could live well.

There was reason for her attitude. Anaconda, she testified, had billed its pension program as "our second paycheck." Anaconda's pension brochure, exhibited at the Senate hearings, shows a young-looking retired couple smiling happily as they examine a travel folder with the words "Italy" and "France" emblazoned on the cover. "With proper planning," Anaconda told its employes, "retirement can provide some of the most rewarding years of your life . . . Anaconda has a number of employee benefits to make your 'golden years' more enjoyable."

Iris Kwek will never sample the joys of those "golden years" on Anaconda's retirement plan. In 1971 some half-billion dollars' worth of Anaconda properties were expropriated by Chile; company earnings were affected, and a sweeping economy program was instituted. One of the savings devised was the elimination of Iris Kwek. She was informed that she was being discharged at the end of August. Since she was not protected by any vesting provisions, she was to lose 30 years of accumulated pension rights.

Mrs. Kwek explained that Anaconda had given hourly employes vested rights; its Canadina employes had vested rights. But salaried workers like herself did not. A friend of hers who had worked for the company for 28 years had left the year before, at 49 years of age, and "received nothing."

After Mrs. Kwek learned of her fate, she wrote Senator Williams, and committee investigators began looking into the case, both with her and with Anaconda. This led to what Senator Javits called "a little comic opera bit." Mrs. Kwek explained:

"For two months they literally ignored me, although I continued to go to work everyday and do my work. Many of the employes who were being severed were taking tremendous time off. But one afternoon they called me into the office, and the plant manager said, 'Mrs. Kwek, something has come up.' I said, 'Oh, would you like me to price or do something for you?' He said, 'No. We found a job, and we shall be able to retain you, I was amazed—after two months of literally ignoring me—he said, 'Yes. Would you want to consider taking a job?'" I said, 'Certainly.'"

The manager explained it might not be quite as good a job; Mrs. Kwek didn't care, she wanted it. This conversation took place on a Friday—just one hour after a subcommittee staff member had questioned Anaconda officials in New York about Mrs. Kwek. In Detroit, Mrs. Kwek was told to come back the following week to learn the details of her new job. She went home relieved, and, she testified, "That whole weekend I was thinking that things were going to work out fine. I had a good night's sleep for the first time in a month, really."

She also came to a quick decision. She had been scheduled to testify in the pension inquiry; but now with Anaconda treating her so well, she felt she could not. "How could you testify against the company you were were working for?" she asked.

She went back to work Monday, but her boss was tied up in a meeting. On Tuesday, she saw him, and this is the way she described what happened:

"I went up to his office. And he looked at me as if to say, what did I want? I asked him if he had come to any conclusions on this job, what it would entail. He said, 'Oh, the whole thing has fallen through.' He made me feel as if the whole thing had just been sort of a hoax."

In subsequent testimony, Anaconda officials confirmed Iris Kwik's story. Unfortunately, they said, the company had had to economize; there were no provisions in the pension plan to justify giving Mrs. Kwek any vested rights for her 30 years of service. They were really sorry, they told the Senators, but there had just been nothing they could do for her.

A companion story to Mrs. Kwek's concerns Frank E. Hoddick, who discovered what is meant by "portability." Hoddick had been employed for 26 years by the Michigan Bell Telephone Company. In 1967 he decided he would like to transfer to California. There were compelling reasons. His son was in college there, and his daughter had an asthmatic condition for which a doctor had recommended a warmer, drier climate. But when Hoddick sought a transfer to Pacific Telephone, another part of far-flung American Telephone and Telegraph, he found that his years of service with Michigan Bell and his pension situation militated against the move.

On March 10, 1967, Pacific Telephone wrote to Michigan Bell, saying: "We are not in a position to make a job offer. This decision is based primarily on the fact that he does not have equivalent time left for us before retirement as he has already accrued with you. With this understanding we are closing our files on the case." Pacific Telephone would not employ Hoddick because he had worked for 26 years under Michigan Bell's pension plan and would have only 20 years to work before retirement if Pacific hired him. At the same time, Hoddick couldn't claim any vested rights under the Michigan plan because the plan stipulated that he would have to be 55—and he wasn't. Moreover, the Michigan Bell and Pacific Telephone pension plans were practically identical. Both companies paid into an over-all fund, established under the aegis of A.T.&T., in the Chase Manhattan Bank in New York. If ever there was a case in which it would seem that there should have been no question about the retention of pension credits, it was this. Pension payments from both Michigan and Pacific went into the same pot, yet a worker could be whipsawed between different companies in the system and lose everything. As Hoddick testified a worker could retain his pension rights "after 15 years, if you have attained the right age, 55, but it is at their discretion . . . Basically, if you live, work and die and stay in the same state with the same company, no problems."

Hoddick and his wife decided to move to California anyway, and he finally got a job there with General Telephone. In doing so, he sacrificed his 25 years of pension credits and had to start all over again. His experience was not unusual. Senator Javits introduced into the record A.T.&T.'s answer to a committee questionnaire. It showed that 188,453 workers had participated in the pension plan since 1950; 147,888 had left the plan before reaching early or normal retirement age. And, of this total, only 32 had been granted pension rights.

Not all great corporations have been so insensitive to the problems of long-time employees. The Senate subcommittee was especially impressed by the Bank of America's broad system of interlocking plans designed to protect its workers. In addition to a medical-dental health plan, a liberal sickness-benefit plan and a disability plan, Bank of America has a two-part program to protect its workers in those "golden years" of retirement. First is a family-estate plan, established by the bank through a profit-sharing program. Employes become eligible to participate after three years of service and begin to acquire vested rights after they have been in the program for two years. They obtain a 100 per cent vested right after 15 years of profit-sharing.

In addition, Bank of America has a regular retirement plan, which provides for full normal retirement benefits at age 65 if the worker has been in the plan for 10 years. The plan also contains a vesting provision, hedged with an age limitation, but a low one. Bank of America gives a worker a full vested right to his pension after he has been in the plan for 15 years and has reached the age of 40. Merle R. Fisher, a vice president of the bank, told the Senate subcommittee:

"There can be no doubt . . . that employes obtaining the age level where retirement security takes on a greater degree of importance should have some definite assurance that their continued service with a present or future employer for a reasonable period will entitle them to reasonable benefits at retirement."

Fisher felt that there had to be some limitations on vesting; the cost of vesting for less than 15 years' service and 40 years of age, he felt, might be so great that final retirement benefits would have to be reduced. But he explained that the bank thought a worker who met these provisions should not lose everything if he changed jobs, but should retain the pension rights he had earned and on which he could begin collecting when he reached retirement age—a viewpoint so unusual among the thousands of plans investigated that it greatly impressed the Senators.

There are, of course, some classes of workers who have no trouble collecting promised pensions. Members of the armed services, policemen and firemen are assured of pensions, usually after 20 years of service, because they are protected by governmental guarantees. Similarly secure are the inhabitants of the executive suites of big business. Special provisions are made for them, and they are in a different category. It is the millions of average American working men and women who get hurt.

Summing up his committee's findings, Williams said: "It is inevitable that there will be critics who will characterize these hearings and the unfortunate witnesses as 'horror stories' or 'sympathy cases.' These are critics who find no fault with our private pensions and who continue to assure us that time will cure the defects. If what comes from the personal accounts and misfortunes of these witnesses is sorrow, then let us not only be compassionate, but also resolve to find the ways to better the life of those who have yet to retire."

As Senator Williams's statement indicates, the stories of Joseph Origlio and Stephen Duane and Iris Kwek are not exceptions. They are typical, duplicated almost endlessly in the labor subcommittee's files. Williams and his aides feel that there is no justification for such failures to produce on apparent promises, and no reason to couch pension-plan provisions in such intricate and legalistic language that workers cannot understand them.

After all, the private pension system in America will celebrate its 100th anniversary in 1975. True, its major growth began during World War II, when wages were frozen and labor contracts were sweetened by provisions for pension systems. Pension-plan experience thus extends over several decades, even if one takes World War II as a starting point, and the labor subcommittee thinks the kind of injustices it has uncovered should no longer exist. In July subcommittee aides sat down with Secretary of Labor James Hodgson and detailed for him the mass confusion, lack of understanding and personal tragedy and disillusionment they had found. Perhaps as a result, Hodgson issued late last year a directive calling for revisions in pension-plan contracts. The Secretary demanded that contracts spell out in clear and simple English the rights and obligations of workers—just what they can expect to receive and exactly how they can lose out. It was an important first step.

Various other reforms are being proposed. The Nixon Administration advanced its own plan in Senate Bill 3012, introduced in December. The heart of this proposal is a do-it-yourself pension scheme that, critics assert, will mean more of a windfall to banks and other financial institutions than to workers. The Administration proposal is that workers be encouraged to set aside $1,500 a year or 20 per cent of their salaries, whichever is less, for retirement purposes. The money would be deposited in a trust fund in a bank or savings institution, and the amount contributed could be deducted from the worker's income tax. The savings plus interest would be returned to a worker when he reached retirement age. A similar tax write-off has been available to professional or self-employed persons for some years. The Administration proposal extends the same system to the working class, ignoring, critics say, the reality that few workers like Mrs. Kwek or Joseph Origlio can afford to set aside $1,500 a year or 20 per cent of their earnings. The Administration proposal would give workers already covered by pension plans a similar income-tax credit if their contributions came to $1,500 a year or 20 per cent of their salaries—a limitation that would leave most workers on the outside looking in.

In a recent speech before the American Bankers Association in New York, Williams said "the principal beneficiaries" of the Administration bill would be workers "not covered under any private pension plan." He further charged: "This inducement for self-imposed personal savings . . . encourages the establishment of a save-it-yourself pension plan. Historically, American labor and management have shared the responsibility to provide retirement security for workers. Contrary to this American tradition, the Administration now proposes to dissolve this partnership and relieve management of this responsibility."

The bill sponsored by Williams and Javits calls for the creation within the Department of Labor of a single regulatory bureau with jurisdiction over all private pension plans and with responsibility for their policies and operations. It is designed to bring under control a fragmented and unregulated system.

The bill also calls for vesting privileges. It provides for a graded system, depending upon individual industrial situations, but its effect would be to give workers having 10 to 15 years' service deferred pension rights on which they can draw when they reach retirement age; they would not lose all, as is now so frequently the case. Another provision would tackle the more difficult problem of portability by calling for the voluntary development of a system that would allow workers changing jobs, going sometimes into entirely different industries with different unions and pension setups, to be credited with at least some portion of their accumulated pension rights.

Two other compulsory features of the bill are designed to guarantee fiscal responsibility. One calls for the compulsory funding of assets. It would not be possible, as it is today, for a company to treat pension funds merely as a bookkeeping transaction on the assumption that it will still be in business and able to pay the pension when the time comes; there would have to be a separate, properly funded pension account. A companion provision calls for the compulsory insurance of pension assets to protect workers whose plans might be suddenly terminated if their employers go out of business or merge with others. A final provision calls for tighter standards for fiduciaries, trustees and plan administrators to make them more responsible to the workers and insure the proper handling of pension funds.

"The problems have been identified, and the need for reform—real reform—is urgent," Senator Williams said in his Bankers Association speech. "American workers from all occupations and places in our country demand reform. . . . The challenge of reform today must become the accomplished reform of tomorrow."

KANSAS LEGISLATURE OPPOSES INCREASED MEAT IMPORTS

Mr. PEARSON. Mr. President, there has been much misunderstanding among consumers with regard to current retail prices of beef. The fact is that on-the-hoof beef prices have barely recovered to the levels of 20 years ago, while in that period the cattlemen's costs have been more than doubled.

The people of Kansas recognize that livestock production is the backbone of the Kansas economy. The billion-dollar beef industry in Kansas represents our No. 1 source of new wealth, and must be protected from predatory practices of foreign competitors.

I urged Secretary Butz to "hold the line" on beef imports this year, while urban advisers to the administration urged a 12-percent increase in imports of foreign meat subject to the Meat Import Act. The Secretary's decision, ultimately, was something of a compromise—meat imports are authorized to increase 7 percent this year over last year's voluntary restraint level.

I have expressed my deep disappointment over this decision to the Secretary, and have urged USDA to insure that imports are monitored to avoid a "glut" of foreign beef in the market during any particular month or quarter of the year. In past years, foreign suppliers have concentrated shipments during selected months, thus driving prices down unreasonably, and on a seasonal basis.

Mr. President, there is no question as to how Kansas stands on the issue of meat imports. The Kansas Legislature adopted a concurrent resolution urging the President to "hold the line" on these imports during 1972. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

KANSAS HOUSE CONCURRENT RESOLUTION No. 1135

A concurrent resolution memorializing the President of the United States with regard to meat import quotas or rollback of beef prices

Whereas, Recent published statements concerning the high cost of beef prices are disturbing to members of the legislature. The backbone of Kansas economy is agriculture and the backbone of agriculture is livestock production. Beef cattle business is a billion dollar industry in Kansas, ranking first in all Kansas industries with meat packing second; and

Whereas, An increase in meat import quotas would have little effect on current retail prices and would have a detrimental effect on the American agricultural community and a serious adverse effect on the Kansas economy; and

Whereas, Disposable income spent for food by consumers is at an all-time low percentagewise and meat prices have not been a factor in the inflationary rise in cost of living; and

Whereas, An increase in meat price quotas or a rollback in live beef prices would have an adverse effect on rural development programs in Kansas; and

Whereas, Increase in beef production is extremely important to the economy of the state: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas respectfully urges the President of the United States to maintain the present meat import quotas, or in any event not to increase such quotas at this time; and the President is further urged not to provide for a rollback of live beef prices.

Be it further resolved, That the secretary of state be directed to transmit a copy of this resolution to the President of the United States and to each member of Congress from this state.

DENIAL OF FUNDAMENTAL HUMAN RIGHTS TO JEWS

Mr. CHILES. Mr. President, the most basic of human rights is the freedom to worship as one's conscience dictates. Equally important is the right of all people to emigrate to a country which offers religious freedom and a haven safe from persecution and discrimination.

Today, Soviet Jews are being denied these fundamental human rights. The State of Israel has openly and freely welcomed all Jews to seek refuge within that democratic state. People of conscience around the world have joined Israel in the ancient cry, "Let My People Go," addressed to the Soviet Government. This is done out of the deep conviction and recognition of the principle that the plight of the Jewish people and other religious minorities in Russia is of concern to all of us. As President Kennedy once said:

The rights of all men are diminished when the rights of one man are threatened.

Last summer, the Senate adopted Senate Concurrent Resolution 33, which I cosponsored, expressing our will that determined steps be taken by our Government to call upon the Soviet Government to permit the free expression of religion by all its citizens, in accordance with the Soviet Constitution itself.

The citizens of my State of Florida, recognizing the right to emigrate, as affirmed by the United Nations Declara-

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tion of Human Rights, have expressed their anxieties and concern for the treatment of their fellow human beings in the U.S.S.R. by passing, at the current session of the Florida Legislature, a resolution of both Houses which appeals to the conscience of the Russian people.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 689

A Senate Concurrent Resolution requesting the President of the United States to urge the Soviet Government to end discrimination against religious minorities; to permit Soviet citizens to emigrate to countries of their choice; and to allow free expression of ideas in the exercise of religion of all Soviet citizens

Whereas, the people of the state of Florida strongly believe in freedom of religion and other human rights for all people and are opposed to the denial of these freedoms anywhere in the world; and

Whereas, it has come to the attention of American citizens that Jews and other religious minorities living in the Soviet Union are being denied the means to exercise freely their religion and are not accorded the same privileges granted other citizens living in the Soviet Union; and

Whereas, the government of the Soviet Union in persecuting Jewish citizens by denying them the same rights and privileges accorded to other recognized religions and discriminating against Jews in cultural activities and in their access to higher education, and by imposing restrictions against Jews and members of other minority groups which deny them the freedom to emigrate and to travel abroad; and

Whereas, the right freely to emigrate is a right affirmed by the United Nations declaration of human rights adopted unanimously by the general assembly of the United Nations; and

Whereas, such declaration of human rights presents the development of better understanding and better relations between the people of the United States, the people of the state of Florida, and the people of the Soviet Union.

Now therefore, Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

Section 1. That the President of the United States urge upon the Soviet government to end discrimination against religious minorities.

Section 2. That the President of the United States urge the Soviet government to permit Soviet citizens to emigrate to the country of their choice.

Section 3. That all Soviet citizens be permitted the free expression of ideas and the exercise of religion."

NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL OF THE UNITED STATES

Mr. GOLDWATER. Mr. President, several days ago the distinguished majority leader, Senator MANSFIELD, made a very appropriate suggestion that it is now time for us to get on with the business of confirming the nomination of Mr. Richard Kleindienst as Attorney General of the United States.

To say the very least, the friends and supporters of Mr. Kleindienst have been more than patient with the ridiculous allegations raised by Columnist Jack Anderson. Mr. Anderson and those who would love to believe his charges were correct have had ample time to prove their charges. They have failed—and failed miserably to make out a case against Mr. Kleindienst in the question of the ITT controversy.

Accordingly, I ask unanimous consent to have printed in the RECORD a timely editorial entitled "Senate Should Act Now," published in the Arizona Republic of March 28, 1972.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Mar. 28, 1972]

SENATE SHOULD ACT NOW

Before she collapsed under questioning by a committee of senators Sunday, Mrs. Dita D. Beard swore under oath that she had not written the memorandum attributed to her by Columnist Jack Anderson.

Publication of the memorandum led Dick Kleindienst to ask the Senate to reopen its hearings on his appointment as attorney general. With Mrs. Beard's testimony, the burden of proof shifts to Anderson.

Unless he can prove Mrs. Beard perjured herself, Anderson should withdraw his charge that Kleindienst helped negotiate a $200,000 political gift from International Telegraph and Telephone in return for dropping antitrust charges brought by the attorney general's office against ITT.

Regardless of what Anderson does—and his former flashes of arrogance offer slim hope that he will admit he went out on a limb in publishing the Beard memo—the Senate committee should reaffirm its approval of Kleindienst's appointment.

At stake here is the right of a president to appoint an attorney general of his own choosing, assuming only that the appointee is not guilty of any gross dereliction. And no one can say that such dereliction has been proved in the Kleindienst case.

What has been proved is that ITT, on its way to becoming the biggest conglomerate among American corporations, offered to contribute $200,000 toward the expense of holding the Republican national convention in San Diego next August. It did so because it owns the Sheraton Hotel Corp., which is building a fine new hotel in San Diego. ITT figured the hotel would receive more than $200,000 worth of publicity if it became, as it surely would, the convention headquarters.

If Jack Anderson and the liberal Democrats who have picked up his material want to put an end to all corporate gifts to party conventions, that is their privilege. But they'll hurt the Democrats far more than the Republicans. In fact, the Democratic Party is so far in debt that it might not be able to stage the usual national convention without substantial gifts from corporations.

The corollary charge, that the Republican administration wrongly dropped an antitrust suit against ITT, is equally invalid. The Nixon administration did drop charges against ITT, but only after the conglomerate had agreed to sell off some of the big companies it had acquired. The simple fact is that the price of ITT stock plunged after the consent decree was announced, conclusive proof that the decree did not favor ITT.

It should also be noted that conglomerates received their biggest boosts in the Kennedy and Nixon administrations, and only under President Nixon and Attorney General Mitchell were such corporate conglomerates as ITT brought to heel.

In summary, the liberal Democrats have had a field day opposing the appointment of a conservative attorney general. They have aired a lot of rumors and innuendoes and have proved nothing. Unless the Senate feels the President does not have the right to name his own lawyer, the Kleindienst appointment should be promptly approved.

REPRESENTATIVE HERMAN BADILLO

Mr. RIBICOFF. Mr. President, a profile of Representative HERMAN BADILLO, of New York, appeared recently in the Washington Report of the State University of New York. I have worked with Representative BADILLO on several occasions on legislation in which we were both interested. In addition to being a man of great character and integrity, Representative BADILLO has always impressed me with his unique ability to work with diverse groups to develop effective coalitions.

Representative BADILLO has played a major role in Congress in our efforts to improve education for all our citizens. While he has worked to solve the problems of the disadvantaged, he has never lost sight of the needs of all of his constituents whatever their race or economic status.

Representative BADILLO is young in service in Congress, but he has already made his mark, as his profile in the Washington Report makes clear. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Washington Report, March 15, 1972]

CONGRESSIONAL PROFILES . . . HERMAN BADILLO

This profile of Congressman Herman Badillo, whose district Hostos Community College, is the third in our series of sketches of members of the New York Congressional Delegation. Since comprehensive higher education amendments have been under consideration recently, we have begun with members who have played significant roles in these deliberations. Eventually, we will present profiles of all of the members of the delegation.

When you think of Congressman Herman Badillo, you think of "firsts," and of an original and perceptive thinker who rejects the shibboleths that float around Washington. The 43-year old Democrat is already a pioneer, as the first Puerto Rican-born voting member of the Congress. The question is asked, "What can a first-term Congressman accomplish?" Herman Badillo goes about setting up "firsts" in a way that should be the envy of all other Congressmen.

Central to all that Herman Badillo does in Washington, or rather Washington plus his own Congressional District, is based on his conception of service, which is central to his conception of the legislator's role. (Badillo's incredibly drawn 21st District, taking in large sections of "three different worlds"—the Bronx, Manhattan, and Queens—has been realigned by redistricting for 1973–74. More homogeneous, his new District appears to contain more voters of Puerto Rican descent.)

Congressman Badillo questions the traditional notion of a legislator as one who merely votes bills up or down. He understands the budgeting process, perhaps because of his training in economics and accounting (he is also a CPA). He knows that while authorizations are important, the actual appropriation is where "the action is," and he has insisted, with some success, that authorization bills "lock in" appropriations at certain levels to assure New York City of its fair share. For a freshman Congressman, he has been remarkably effective in his main areas of concern: bilingual education, aid to disadvantaged students, and school desegregation. Recently, he broke a deadlock over the $1.5 billion Nixon Administration school desegregation bill and succeeded in getting a 4 percent set aside for bilingual education written into the measure.

To improve his service to his constituents, and to make certain that New York residents get their share of the Federal dollar, Badillo has established several informal Federal-State-local structures within his District, another "first" as a Congressman. Badillo's availability is a far cry from the casual office hours many Congressmen maintain. He has opened separate Congressional offices for each county, as well as a unique committee of Federal, State, and local legislators who meet to discuss the problems of programs that cross jurisdictional lines. Congressional planning councils meet once a month in the Bronx, Manhattan, and Queens, and funnel applications to Federal programs. As Badillo has said, "the local offices in each of the three counties constitute different worlds and the problems must be considered in the local areas."

In Washington, Congressman Badillo has discovered that the current division of party membership within the House Education and Labor Committee means that a few members can make a big difference on key issues. He demonstrated this during consideration of higher education legislation recently when, under his leadership, a formula was accepted requiring that one third of the ultimate appropriation would be a percentage of the total Federal student aid money—a formula designed to benefit the disadvantaged.

In personal conversation, Congressman Badillo said that Congress had failed to change radically, and that "we need to go back to the City and come up with our own answers." He believes that too many pilot projects have been funded without any idea how they would be continued or given wider application later on, and that the State has not been aggressive enough in applying for funds for bilingual education. What really disturbs him, however, is that, despite the rhetoric of change, not enough Congressmen really believe in the equality of their fellow men and women. He feels strongly that too few political leaders "believe in equality now or in the basic principles of the Constitution," and says that if the Bill of Rights were submitted to a vote today, "it would probably be voted down." As one practical expression of his own principles, Badillo plans to submit legislation later in this session that would open the suburbs to low income housing and prevent suburban areas from using zoning to exclude low income families and racial minorities.

A native of Caguas, Puerto Rico, Badillo graduated from City College of New York as a Bachelor of Business Administration and later *cum laude* from Brooklyn Law School, where he was class valedictorian and on the staff of the *Law Review*. Former New York Mayor Robert F. Wagner appointed him Commissioner of the Department of Relocation in 1962 and his career has been remarkably successful ever since. Many feel that he could become Mayor of New York, and would be difficult to imagine a better prepared public official. It may be that only a person with his intuitive belief in the equality of all men and women, and conviction that this issue must be faced and solved, could govern a city like New York. Badillo knows that Mark Van Doren prophetically expressed in his poem, "Born Brothers:"

Equality is absolute or no.
Nothing between can stand. We are the sons
of the same sire, or madness breaks and
runs Through this rude world . . . .

Earlier in this century, Luis Munoz-Marin set in motion his famous "Operation Bootstrap" in Puerto Rico. Today, it may be that Herman Badillo—given a knowledge and experience of the City that few others possess—is the man to re-create a New York that is both manageable and liveable. There is no question in the minds of those who have watched him but that he has that "certain something" that cuts away from the deadening bureaucratic response and offers some hope based on substance to those who dwell in the City. That "certain something" has been demonstrated time and again during Badillo's short Congressional career. He means what he says, and what he is saying needs to be listened to, before it is too late.—*W. F. C.*

HOMEMAKER/HOME HEALTH AIDES TRAINING PROGRAM OF KANSAS STATE UNIVERSITY

Mr. PEARSON. Mr. President, much has been urged and advocated as necessary to provide proper treatment for our elderly and handicapped. Yet one very important program has suffered from lack of funds and priority treatment. I make particular reference to the homemaker/home health aides training program developed at Kansas State University.

Not only would this program provide improved care to great numbers of people, but it would bring into employment some substantial numbers of people, particularly women, who are not now in the labor force and whose talents have been untapped. It has been stated, and I think correctly, that the cost of this program, including the training and preparing of these personnel, will be repaid many times over through the services they render.

I ask unanimous consent to have printed in the RECORD a statement made at the National Conference on Social Welfare by Dr. Richard L. D. Morse, project director, homemaker/home health aide service training project, and Mrs. Mary Jo Harbour, program coordinator, homemaker/home health aide service, both of Kansas State University in Manhattan, Kans. I invite the attention of the Senate to their very thoughtful remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HOMEMAKER/HOME HEALTH AIDE—A NATURAL COMBINATION FOR TRAINING

The work of a homemaker and the work of a home health aide are so closely intwined for in-home service that it is logical they should receive the same training. Even the employing agency with a specific focus, such as health care, can better serve the clients if their aides are able to recognize related problems so the family can be referred for guidance.

Coordinated homemaker/home health aide training has many benefits that are not readily apparent. If a woman is trained for a dual role, she will find more job opportunities than one trained for only a limited role. Most small counties find they cannot support two services, but if the services are combined the agency may better serve the public's needs.

But the most compelling reason for coordinated training is that "fractionated care" is disturbing to most families. They do not like the type of care that requires two people: a homemaker to do meal planning, shopping and light housekeeping; and a home health aide to give a bed bath and range of motion exercises. The elderly, especially, are likely to be confused and angered by this type of divided care.

Our realization of a coordinated homemaker/home health aide training program came as a result of a decade of development. Our interest in a homemaker/home health aide program dates back to recommendations made as Kansas prepared for the 1961 White House Conference on Aging. We observed the futile attempts to establish a volunteer homemaker service in our community, Manhattan, Kansas. In 1965, when the County Extension Home Economist began graduate study in Family Economics, we suggested she undertake a survey of Riley County to estimate the demand for homemaker service. She interviewed community leaders to learn if they knew of families who would have used the homemaker service had it been available. The estimate of need was low and reflected the leaders' lack of understanding of homemaker service. But because most of the cases the leaders did recall involved hospitalization, a second mail survey was conducted of 2,140 persons hospitalized the previous year. A postcard-size booklet with line drawings was designed to describe homemaker service. The result was a surprisingly high estimated need for forty full-time homemakers in Riley County. This rate of one homemaker for every 1,000 population, when projected for the State of Kansas, resulted in an estimated need of 2,000 full-time homemakers.

The results of this study were presented to the State Board of Social Welfare. Their response was to include homemaker service in the state plan and to develop civil service classifications for homemaker and household aide.

Having established authorization for the service by the largest potential empolyer, the next logical step in the development of service was establishment of a training program. The goal was to develop training that would insure performance by homemakers meeting high standards of reliable service. A proposed training program was presented to the Administration on Aging which referred our request for funding to the National Committee on Household Employment. The National Committee on Household Emlpoyment included the program as one of seven pilot projects. These experimental and demonstration pilot projects were funded under the Manpower Development and Training Act by the U.S. Departments of Labor and Health, Education and Welfare. The terms of our contract limited the project to the training of "homemakers". Nevertheless, graduates of the project often found work as home health aides, and the home health agencies were pleased with the attitude and performance of the graduates.

In recognition of this interest in integrated homemaker and home health aide service, and in planning for future training when the program would not be restricted by the funding agency, we initiated conversations with the state health education staff to explore possible integration of the training for homemakers and home health aides. The initial response was that the only accepted training for home health aides was the Colorado 180 hour program, regardless of any previous training. Fortunately, this discussion led to the appointment of an ad hoc committee to review the training needed by home health aides. The committee was composed of representatives from the State Department of Social Welfare, State Board of Health, State Board of Vocational Education, Visiting Nurses Association, public health nurses, homemaker supervisors and our training project staff.

A contributing factor to the outcome of the work of this committee was Public Health Service Publication No. 1891: Recommendations for Homemaker/Home Health Aide Training and Service. The publication's definition and description of home health aide underscored the "in-home" characteristic of the service. This helped indentify it as a health companion to homemaker service

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rather than a part of an institutional program of care such as hospitals or nursing homes. Home health agency supervisors who had employed project graduates told convincingly of the wisdom of combining the training. The committee recommended comparative analysis of the Colorado program with the homemaker curriculum. The two programs were found to have much in common with the exception of the institutional focus of the Colorado program. So with some additional emphasis on home health care in the homemaker curriculum, it was accepted as meeting the requirements for training homemaker/home health aides.

Since October 1, 1970, when Federal funding ceased, the project has been part of the State Cooperative Area Manpower Planning System. Under this system the project is funded to train homemaker/home health aides.

THE TRAINING PROGRAM

The Homemaker/Home Health Aide Service Training Project is a four-week in-residence training program. During the first, second and fourth weeks the women live at the training center which is a remodeled home management house on the campus of Kansas State University. The third week is field experience, and the women work with a homemaker/home health aide who is employed as a staff member in a welfare, public health or voluntary agency. Most of the classes involved two or more ethnic groups. The women work in teams to care for the training center, plan and prepare meals and do their own shopping. The program is geared to the mature woman who has had experience in her own home. There are no education or income entrance requirements, although the women should be able to read, write and follow simple instructions. Graduates have varied in educational attainment from 6th grade to some college experience.

Classes are informal and usually meet in the living room or dining room of the training center. Some classes are held in Justin Hall, the home economics building, and the women take pride in being part of a University program.

The training curriculum covers orientation to homemaker service, professional development, home management, food for families, family life, consumer education, personal care and home nursing. All classes are taught by specialists, with as many as twenty-five contributing to each session. Continuity is maintained by the project's Teaching Coordinator and Teaching Assistant. A three-step teaching procedure is used. Lecture, demonstration and practical application.

Trainees participate in field trips, discussions, role playing, reading reports and problem solving. Continuous evaluation is built into the program. Each trainee completes a daily written evaluation, on which she lists three main points from each lesson and tells which lessons were most and least valuable. Each week the staff and trainees meet for an informal, taped evaluation of the program. Through constant evaluation, the staff is able to clear up misunderstandings and adjust the program to better meet the needs of the individual trainees.

The in-residence program has proven especially advantageous. It involves the trainees in an intensive, 24-hour-a-day program that enables them to learn by doing. For example, time management, a very difficult subject to teach, is learned as they manage their time and plan meals that fit around a tight class schedule. Personal relationships are learned as they adjust to others in the group. Often this is the first time these women have associated with persons of a different racial, religious or economic background. Guidance, understanding and informal counseling by the staff make learning situations out of problem areas which arise as the women adjust to sharing facilities. None of these enriching, learning experiences would be possible without the in-residence feature; simulated laboratory experiences would be a poor substitute.

The in-residence program frees women from family responsibilities. Women who can make arrangements to be gone from home for four weeks are more likely to be successful in training and employment as homemaker/home health aides.

Another benefit from in-residence training is reflected in the outstanding attendance record and low dropout record. Out of the 167 women who started training, only 4 dropped out of training. Two of these were Manhattan women who had been permitted to live at home because they were unable to arrange care of their children.

The staff members have more opportunities to become better acquainted with trainees in an in-residence program. Although no staff member lives at the center, there is time before class, after class and during coffee breaks for discussions. One or more staff members eat lunch each day with the trainees. This is very successful and is appreciated by both staff and trainees.

The in-residence feature limits the class size to ten women. Although this is a smaller number than most training programs, it has many advantages. It allows closer contact with resource people and staff, giving opportunity for more individual work with each trainee. Also, each trainee gets to know every other trainee as a person, and this is very important for those who will be working as homemaker/home health aides. A homemaker must learn to respect people whose values and approach to life are different and learn to accent the positive strengths of people. With the dropout record, the cost per graduate is not excessive.

Each training session is climaxed by a graduation ceremony. Trainees invite family and friends to a tea prepared by the staff. Each graduate receives a diploma stating she has completed the program and a Red Cross Modified Home Nursing Certificate. Most graduates also complete a programmed home nursing course and receive a certificate for this. Graduates participate in this ceremony with pride and look upon their new career with dignity.

JOB DEVELOPMENT

We discovered early in the project it was not enough just to train women for jobs; follow-up supportive services for the graduates are needed. A Job Developer was added during the second year to work with agencies, employment services and individuals to improve the quality of the service, encourage development of new services and improve understanding of the role and position of the homemaker/home health aide.

In addition to training and job development there is also need for assistance to supervisors and agency staff. This has been approached through workshops. The objective of these workshops has been to give the supervisors insight into the work of homemakers, how homemakers feel about supervision, ways homemakers can be used, sources of funding, legislative requirements for agencies and future directions for the service.

Finally, to meet the needs expressed by graduates for in-depth training in particular areas, the project has included "refresher courses". These three-day programs concentrate on three or four areas suggested by graduates, such as a discussion of homemaker service in Kansas, buying and preparing low cost meals, working with the mentally retarded, motivating people to change, family planning, and helping the handicapped.

EMPLOYMENT RECORD

The employment record of the graduates indicates the need for and acceptance of the service across the state. From 75 to 85 percent of the graduates are employed. The figure varies somewhat because some graduates want only part-time work and others work only on short-term referral cases. The training project develops expectations for improved salaries, benefits and working conditions for graduates. Perhaps the most important thing the trainees gain from the program is the development of their self-confidence. They are proud of their work and expect to be paid a respectable wage. And they are successful, since more than two-thirds are receiving over the minimum wage when only one-fifth received this wage before training.

The employment record must be viewed in the context of what has been started earlier about the development of homemaker/home health aide service in Kansas. Since homemaker service was not recognized by the state until shortly before the training program began, training was done without the promise of jobs, and the program had to assume major responsibilities to encourage development of the service as it trained women. Promotion of training and homemaker service has involved use of all available media. One of the most effective promotion methods has been through the Advisory Board, which has representation from all related areas such as health, welfare, education, employment and voluntary groups. The Advisory Board has also provided an opportunity for agencies to work together for a common program. Agencies have been cooperative in providing field experience for trainees and most agencies participate in supervisors workshops. As a result there has developed in the state a common understanding of what constitutes good homemaker/home health aide service. Our goal is to have homemaker/home health aide service available to all citizens of Kansas regardless of race, income or age.

CONCLUSION

We have described the homemaker/home health aide training and service as we have come to know it through the development of our project and service in Kansas.

We wish to summarize some observations about homemaker/home health aide service that extend beyond (1) our strong belief in the value of in-residence training, and (2) our conviction of the wisdom of integrating homemaker and home health aide training and service.

In every community of America today there are two unsatisfied groups of people who have much to offer each other. Who are they? First, there are families and individuals suffering for lack of adequate care, but know not where to turn for assistance. The yellow pages in the phone book tell where to call to get a car radiator repaired, but not where to call if the family is suddenly in need of a trained and reliable person to assist the family with its multitude of tasks and management problems. The other group is the surplus of women who have years of service to offer. They are not only without challenging work, but are filled with remorse, feeling no longer needed.

This demand and supply potential can be brought together through homemaker/home health aide service with benefit to all. No community can afford to be wtihout organized homemaker/health aide service.

Those of us with community leadership responsibility must learn to be better missionaries and to develop hard sell campaign tactics so that homemaker/home health aide service is listed in the yellow pages of every phone book of this nation:

Sell it as an economy measure because it costs so much less than institutionalized care.

Sell it as an opportunity for employment at respectable wages with opportunity to work with and help people.

Sell it as a humanitarian cause, for it enables families to stay together at home.

Sell it as a new industry for community development, one which keeps all the money in the home community.

Sell it as a profession, with standards and training required.

In relation to this last point, I should mention that next week, the American Home Economics Association under sponsorship of the Women's Bureau will be holding a much needed Consultation on Career Ladders and Lattices as a follow-up of their successful Workshop on Utilization of Auxiliary Workers. We are pleased to be a part of this development for upgrading household employment, giving opportunity for profeasional recognition to the multitude of roles undertaken in the name of "domestic workers" or even a mother.

We have published our research findings and guides undertaken in conjunction with the project—on evaluation, curriculum, training, etc. We have also prepared a question and answer sheet describing the project. A publication list is available upon request from the project.

LARGE INCREASES IN THE PENTAGON'S BUDGET

Mr. HART. Mr. President, large increases in the Pentagon's budget do not arrive full blown.

Rather, they build slowly as weapons systems progress through research and development to the deployment stage.

Once the deployment stage is reached, a weapons system builds a momentum of its own which most often is sufficiently strong to overcome rational opposition to deployment.

That momentum is generated by persons and interests which have a stake in seeing the project through to completion—those who designed it, those who developed it, and those who will build it.

Unhappily—at least from the standpoint of holding down Pentagon spending—our weapons developers have reached the deployment stage on a number of systems which will prove very costly if fully deployed.

Included on the list are continued deployment of intercontinental ballistic missiles, deployment of MIRV's, construction of new submarine missiles system, deployment of Safeguard, and construction of new bombers.

Perhaps past experience indicates the futility of seeking a critical review of weapons systems so close to the deployment stage, but I suggest such a review, knowing that difficult as it may be to stop the momentum these systems have already generated, it is even more difficult to reverse a decision once deployment has started.

In a very real sense, then, whatever action Congress takes this year on authorizations for many Pentagon projects will determine to a large extent the level of Pentagon spending for the next 5 years.

It is with those thoughts in mind that I ask unanimous consent that the following articles be printed in the RECORD: "Setting the Tone and Pace for Higher Military Spending," written by Michael Getler in the Washington Post of March 19; and "Laird's Latest Alarms," written by Herbert Scoville, Jr., a former assistant director of the Arms Control and Disarmament Agency and former Deputy Director of the CIA. Mr. Scoville's article appeared in the New Republic of March 25.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE RATIONALE FOR A NUMBER OF NEW WEAPONS PROJECTS: SETTING THE TONE AND PACE FOR HIGHER MILITARY SPENDING

(By Michael Getler)

As fast as the Nixon administration moves from its "era of confrontation to an era of negotiation," the Pentagon is moving to develop and publicize new rationales for going ahead with a number of new weapons projects.

Basically, the idea appears to be to come up with reasons why several prized, multi-billion-dollar projects needs to go ahead even though a new era of more normal relations seems to be opening up with Communist China and an agreement with Russia limiting rival missile-defense networks and some offensive weapons appears to be close at hand.

The natural question some people might ask is why—under these conditions and with a $38 billion federal deficit forecast—do we need to increase the defense budget next year to $83.4 billion, up $6.3 billion from this year?

To be sure, some of the traditional reasons for substantial "peacetime" defense spending are still valid and will remain so. And, until agreements are actually locked up with the Soviets—hopefully at the May summit meeting in Moscow—the administration can make a strong case for keeping some new projects going as a hedge against breakdown at the Strategic Arms Limitation Talks (SALT) and a continuing Soviet weapons buildup.

In the past few weeks, however, what seems to be happening is that a number of new reasons—or old ones not emphasized before—are creeping into Pentagon public statements that seem aimed at keeping the defense budget high no matter what happens at SALT.

Some examples:

On the eve of the President's trip to Peking, the Chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer, warned Congress about China's emergence as a nuclear power and that "regardless of how the relations among (the U.S., China and Russia) develop," the U.S. must always be able to cope with China and Russia simultaneously in a nuclear war.

The U.S., for years, has had Polaris missile-firing submarines prowling the Pacific and other weapons pointed toward China. So the question is whether the admiral was just restating the obvious, or was he laying the groundwork for further additions a few years hence to the already huge U.S. missile arsenal—or perhaps for a bigger ABM—based on the prospects that China—not covered by a SALT agreement—may have a few dozen long-range missiles late in this decade?

Chief of Naval Operations, Adm. Elmo R. Zumwalt, on Capitol Hill to defend another big increase in the Navy's shipbuilding program, warned the lawmakers that aside from the Navy's traditional role, he believed "a new one is emerging."

Zumwalt said that by 1985 the U.S. will be dependent for more than half its oil on foreign imports, and he believes the Navy may have to protect hundreds of foreign oil tankers on their way to the U.S. from "the potential for coercion" by Soviet warships.

The admiral, of course, may be right. But it is hard to find many veteran defense planners outside the Navy who have this particular fear on their list of worries.

For more than a year, the Pentagon has rattled the prospect of moving ahead with a vast new missile-firing submarine project known as ULMS to meet "a growing Soviet threat" and as a "signal" to the Russians that they better agree to halt their own missile-sub construction programs, presumably as part of a SALT agreement.

Last month, on the NBC-TV "Today" show, Defense Secretary Melvin R. Laird, made it clear that in his view there was no link between going ahead with ULMS—a potentially $30 billion project—and the SALT talks. "We are going to have a replacement submarine for the Polaris and Poseidon type sub which we have now, so this is not associated with the SALT talks at all."

Later that same day, Laird hedged his answer slightly, but his first remarks reflect the situation most accurately. The point is that it has always been privately assumed in the Pentagon that at some point the U.S.—and the Russians—might want to replace older submarines, but it was only a few weeks ago that Laird would clearly and publicly separate ULMS from SALT.

To buttress ULMS still further with arguments that don't have much to do with "the continued Soviet offensive force buildup," Laird has begun to put heavy emphasis on another argument: This program, he told a VFW convention in Washington last week, ". . . would give our Navy the operational capability of home-porting these particular submarines in the United States in solving some of the very important personnel problems we have . . ."

To support the Pentagon's urgent request for some $260 million this year and next to buy a fleet of new jetliners to serve as airborne command posts for the President and his staff in a nuclear emergency, Laird reached into the files for the type of information that might sic the FBI on a newspaper reporter. "Our current airborne command system is severely deficient in survivability and capacity and cannot fulfill our essential needs in the event of nuclear attack on our country," he told Congress in open session.

That is rather shocking news, and perhaps Congress ought to find out how such a situation was allowed to develop so fast while it is figuring out how much it wants to pay for the cure.

To ensure that ABM research and development goes on even though SALT may halt further deployment, the Army last month let a $10 million contract to begin development of a new ABM previously known as "Hardsite" and now known as "Site Defense for Minuteman."

The small start is in keeping with this year's plan to keep the deficit down, but the Secretary of the Army has made it clear that the total demonstration program will cost $700 million–$800 million.

While the Congress is pondering the new ABM project, it might ask why an ABM prototype that uses a modified version of the already developed Sprint missile and is based on cheaper, simpler and smaller radars than the Safeguard ABM should cost so much.

It might also be appropriate for Congress to at least ask whether it is worth that kind of money, just for openers, if the Minutemen missiles the ABM may be needed to defend in the 1980s are indeed becoming increasingly vulnerable to the big Soviet ICBMs which allegedly can someday carry scads of warheads each; and while the "invulnerable" ULMS is setting sail beneath the seas.

Also in the proposed new defense budget is a $400 million-plus down payment on a new fleet of radar planes. These are intended to warn against Soviet bomber attack, a threat which few defense planners outside the Air Force give much credibility.

To help explain why these AWACS planes are needed, the military is privately and publicly beginning to give more emphasis to the tactical air control aspects of the planes than to their role in Soviet bomber defense.

The new budget, in short, is a something for everybody budget. Nothing has been cut

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in this year of elections, negotiations and high unemployment.

In an attempt to avoid bloating the deficit still further, actual defense spending will be held down to $76.5 billion, just $700 million above this year. But it is in the authorization account of $83.4 billion that the seeds of future defense spending lie, and that is way up.

If the Nixon administration does achieve a sound and stabilizing agreement with the Russians at SALT, they will have made a major contribution to national security, and their tough stance and "bargaining chip" strategy will have been, in large measure, vindicated.

But the most important aspect of this year's budget is that it goes beyond SALT. It contains money for new weapons based on shifting rationales. If Congress chooses not to grapple with it in this election year, it will become the budget that rather casually sets the tone and pace for still higher military spending during the "generation of peace."

"SUFFICIENCY IS SUPERIORITY IN ANOTHER CLOAK"—LAIRD'S LATEST ALARMS

(By Herbert Scoville, Jr.)

"The Soviet Union is continuing to create strategic capabilities beyond a level which, by any reasonable standards, already seems sufficient." So said President Nixon in his State of the World message on February 9. The point can be conceded. The Soviets have strategic forces well beyond those needed to deter a U.S. attack, even if our strategic arsenals continue to increase at a high rate.

But what President Nixon's message did not say is that the U.S. is also building forces greater than needed to deter a Soviet attack and prevent us or our allies from being coerced. The administration policy of "sufficiency" is only superiority in another cloak.

We are now placing MIRV's (multiple warheads which can be aimed at individual targets) on a large fraction of our land- and sea-based ballistic missiles. Secretary Laird reports that during the past year we added warheads to our missile force at the rate of almost three a day. MIRV deployment as an alternative to building more missile launchers has long had strong support by the Joint Chiefs of Staff, and most of those who are now leading the hue and cry about Russian superiority in missile launchers are ignoring this warhead expansion. Our total offensive force loadings will, according to Secretary Laird, increase between mid-1971 and mid-1972 from 4700 to 5700 weapons while, during the same period, the Russians will only add 400 new weapons to their stockpile of 2100. At this rate, it will be a long time before they catch up.

All elements of our strategic forces are being improved far beyond the requirements of "sufficiency." We are deploying a new generation of missiles in both our land- and sea-based launchers when no current threat requires them. We are planning to build still more advanced missile submarines (ULMS) before there is any conceivable danger to the existing ones. We are building a new bomber, the B–1, years before the B–52's will become obsolete. We are deploying an ABM defense of Minuteman missiles which is not needed to preserve our deterrent, and is, moreover, inadequate and poorly designed to protect these missiles if the Soviets do develop a MIRVed ICBM force.

Over and over again, Secretary Laird and other Defense officials have stressed the *momentum* of the Soviet strategic build-up as justification for these additional weapons on the part of the U.S. On January 25, Laird prefaced his request for supplemental appropriations in this fiscal year with the statement: "These funds will be used for programs that we need to start now to meet defense requirements as a result of the Soviet weapons momentum."

What is this "momentum"? In his Annual Report of February 15, Laird described the Soviet strategic weapons developments which presumably worry him the most. The following item by item analysis of all of these leaves some doubt as to whether his concern is warranted.

CONTINUED DEPLOYMENT OF ICBM'S

The increase in Soviet landbased ICBMs has in the past always been cited as the dominating element in the threat. The Russians now have 1520 ICBM launchers as compared to 1054 US launchers. Though some 100 new Soviet silos have been identified for new or modified ICBM systems, the build-up has been slowing down. Indeed, Mr. Nixon in his State of the World message noted that the USSR added only 80 ICBMs last year, compared to 256 the previous year. Secretary Laird now projects an increase of only 30 between November 1, 1971 and mid-1972, and points out that the SS–9, SS–11 and SS–13 programs may be over. So the "momentum" in total numbers of Soviet ICBM launchers seems to be petering out.

What about the large ICBMs—the SS–9s which were most feared as potential first strike threats to our Minuteman deterrent? Here, the pace has slowed even more dramatically. In August, 1969, the Soviets were reported to have more than 275 SS–9s operational or under construction, and Secretary Laird predicted an increase of 50 or more per year in then justifying the need for the Safeguard ABM. Now, two-and-a-half years later, he reports that there are only about 300 of these large type ICBMs operational or under construction—hardly a cause for new alarm this year or requiring major increases in funds for new US strategic weapon systems. Included in this Soviet total are the same 30 new large launchers that were first reported under construction a year ago. No new Soviet missile has been tested for these launchers even a year later, and even if a new missile were to be deployed in them, it would not signify any increase in previously estimated threats we've always assumed. The SS–9 is capable of launching any MIRV system the Soviets chose to develop. If they need a different missile to have a MIRV to threaten Minuteman, then our previous worries were greatly exaggerated. It is rumored that the Russians may accept a ceiling on large missiles at SALT (Strategic Arms Limitations Talks). If so, that would publicly commit them to *halt a program they have almost stopped unilaterally.*

Secretary Laird also refers to extensive testing since 1965 of a modification of the SS–9 which would permit it to be fired on a depressed trajectory or used as a fractional orbit bombardment system (FOBS). This was mentioned years ago by Secretary McNamara and is not provocation for increased concern today. Such a system would be less effective than the basic SS–9 in destroying our Minuteman missiles.

MIRV'S

The Russian MIRV program is *now* behind where it was said to be in 1969 by the administration. At that time, Mr. Nixon and defense officials reported that the Soviets had been testing a multiple reentry vehicle system which had a "footprint" that appeared to threaten our Minuteman silos. Now Secretary Laird states that, "while the Soviets probably have not tested MIRV missiles thus far, they have conducted many tests of the SS–9 with multiple reentry vehicles (MRVs) since flight testing began in August 1968. The last MRV tests were in late 1970." What kind of "momentum" is this? The testing of a MRV on the small SS–11 ICBM, or even the deployment of MRVs as recently reported by Laird, subsequent to his report to Congress, calls for no panic. All authorities have conceded that MRVs, whether on the SS–9s or SS–11s, do not endanger our Minuteman. Cries of alarm for three years cannot alter the fact that there is no present evidence that the Soviets have started a MIRV program.

The President correctly states that the Russians have the basic technological ability to develop MIRVs, and this can be the only explanation for Secretary Laird's prediction that the "Soviet MIRV capability could be achieved next year." But there is no factual evidence to support such an estimate since testing has not begun. It would appear that Laird's prediction is even less valid and even more misleading than those made in 1969. For although the Soviets *could* begin testing at any time, it would almost certainly be more than three years before they could deploy any system that could even marginally threaten Minuteman. With the limited number of large missiles that will be available to the Soviets in the near future, such a MIRV system would have to disperse accurately six or more warheads per missile. This *is* within the payload capability of the SS–9, but a very long time would be required before it could be developed, tested, and deployed in significant quantities.

SUBMARINE MISSILES

The Soviets have during the last three years been building up their submarine ballistic missile force. They have 25 operational Y-class submarines, each with 16 missiles; they are turning out additional submarines at the rate of 9 to 10 a year as compared with the eight a year estimated earlier. When all those now under construction are completed, however, they will have only achieved approximate numerical parity with the US. They will still be below the total Western forces, since the French and the British also have small missile submarine fleets. More important, President Nixon recently said that "our missiles have longer range and are being equipped with multiple independently targetable warheads. Moreover, our submarines are now superior in quality." This year, as last year, authorities have referred to a new lang-range Soviet submarine missile, but it has been reported that this missile could not be fired from the Y-class submarines unless these are modified.

Since missile submarines are primarily deterrent weapons and cannot be used to attack either the Minuteman or Polaris portions of the US deterrent, it is hard to see how this Russian build-up would justify adding to US strategic forces. Our submarine strategic forces are "highly survivable," says Mr. Laird, and while there are indications that the Soviets are attempting to establish an area surveillance system and associated ASW (anti-submarine warfare) strike forces, they do not as yet have this capability. Other officials have testified that they have not been able to identify any development that indicates a Soviet threat to our seabased missile deterrent.

None of the reported Soviet weapons programs require the construction on a crash basis of a new submarine missile system (ULMS), which may cost tens of billions of dollars and may be designed to cope with the wrong threat. This is not security; it is insanity.

STRATEGIC BOMBERS

Both the President and Secretary Laird have warned of a new Soviet supersonic bomber. What they have in mind is a medium-range aircraft, probably primarily designed for use in Eurasian situations and of little direct threat to the continental US. Laird reports "a probability that it has a capability for inflight refueling. With refueling it could reach virtually all US targets." He does not say whether these bombers could ever get back to Russia, if they were used against such targets. Again, the development of this type of Soviet bomber, about which we have known for several years, does not require expanded US programs in response. We now have an overwhelming quantitative and qualitative lead in strategic bombers.

ABM'S

Laird also reports that "construction of the Moscow ABM system has resumed and testing of an improved ABM missile continues." He referred to this resumption last year and to the testing back in 1969. Nevertheless, Admiral Moorer, Chairman of the Joint Chiefs of Staff, has just said that the Moscow system, even with improved radars and more and better interceptors, could still be saturated by a very small part of our total missile force. It does not, therefore, endanger our deterrent. The U.S. has apparently been seeking at SALT, ABM limitations at levels *greater* than the present Moscow system, so it is hard to believe that the administration is really worried about the Moscow ABMs. Furthermore, the Soviets have been eager for an agreement to limit ABMs, and President Nixon has expressed optimism that this can be achieved at an early date, so the long-term danger from ABMs may never develop. If the SALT negotiations break down, the Soviet ABM program still does not warrant increases in U.S. strategic force levels for many years. We have ample lead time to put into effect any necessary countermeasures.

The deployment of a widespread space tracking system that would enable the Russians to predict the position of near-earth orbit satellites is described by Secretary Laird as a Soviet research and development effort worth mention. Presumably this system is composed of the same surveillance radars that a year ago he sought to associate with a Soviet ABM system. Apparently, the association is no longer considered quite so valid, and the fears generated in some quarters in past years are no longer as great. A space tracking system is not a major security threat; the U.S. has had one for more than 10 years.

In sum, in its current round of budget requests the administration has been crying wolf: it has not come forth with a single new development in the last year that in any way demonstrates a new threat to our strategic deterrent. The Soviet ICBM program is winding down and its MIRV program is many years behind original predictions. Only in the area of submarine missile deterrent systems has the Soviet program continued to roll forward, and here the U.S. is more than one generation ahead. The Russian strategic weapons programs are continuing, but their momentum is faltering.

In contrast, we have been moving forward with increasing speed on all fronts. We are deploying MIRVs rapidly so as to increase our force loadings at the rate of 1000 warheads per year. We are developing new guidance systems for these MIRVs. We are deploying a new model ICBM, Minuteman III, and modifying our submarines to fire the new Poseidon missile with a payload four times as large as the Polaris. We are not building any additional missile launchers, but no one has seriously advocated our increasing these for many years. We have a far more extensive anti-submarine warfare program both in terms of deployment and in terms of research and development than the Soviet Union. We are proposing to commit large sums to a new missile submarine (ULMS), though our present system is far superior to the Soviet Union's. We are building a new intercontinental bomber. We are proceeding with an expanded ABM deployment and carrying out extensive research and development on next generation systems. Restraint in U.S. weapons programs is hard to find. The administration ought to drop the double standard by which it evaluates U.S. and Soviet strategic weapons.

U.S. ARMY IN TRANSITION

Mr. GOLDWATER. Mr. President, it is no secret in this Chamber that the U.S. Army is today undergoing a drastic period of transition which will enable it to meet the complex challenges of the 1970's.

As many of you know, especially those of you who served with me on the Senate Armed Services Committee, the U.S. Army continues to decrease in size as the Vietnam war winds down.

Mr. President, right now the Army is experiencing its most rapid demobilization since the end of World War II. By the first of July of this year, the Army's strength will be at approximately 860,000 men—a reduction from over one and a half million men in 1968.

I am sure I do not have to stress the fact that a 44-percent reduction in Army strength in 4 years time presents our military leaders with some very acute problems. Because of their importance, I ask unanimous consent to have printed in the RECORD an address by Gen. W. C. Westmoreland, Chief of Staff, U.S. Army, before the Wilmington, Del., Kiwanis Club on March 20, 1972.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY GEN. W. C. WESTMORELAND

It is a personal pleasure to be here today. I certainly appreciate your warm reception for this is my first public appearance in the "First State." The historical and contemporary contributions of your great State to our Nation's welfare and progress certainly warrant the title of "Diamond State" because of Delaware's worth in relationship to her size. It is also a professional pleasure to visit a State where people take their citizenship responsibilities seriously. Delaware has always been distinguished by her many sons who have served our country so well.

I will complete my four-year statutory tour as Chief of Staff of the Army this July, after thirty-six years of service. As with most men, such an impending occasion leads me to reflect . . . not without some nostalgia . . . upon that old Army I discovered as a second lieutenant in 1936 and on the Army as I have known it through the years, as well as upon the Army we are now forging to meet the challenges of the future. In so doing, I find certain constants—values and traditions which have held firm throughout the proud history of the Army. I have also found marked evidence of change as the Army has responded over the years to the needs of our society and the challenges to our national security. The Army continues today to preserve the values and traditions which have made it great, while accepting the challenge to build an even better Army for the future. The truth of the matter is that the Army is more skilled and capable of dealing with change . . . while still preserving worthwhile traditional values . . . than most institutions.

Today, I want to discuss what the Army is doing during this present period of transition to meet the complex challenges of the 1970's.

As you know, the Army continues to decrease in size as the Vietnam War is concluded. Let me say that the Army's mission in Vietnam, although a complex one, has been virtually accomplished. Our Nation's objective in Vietnam was not to achieve a "military victory" in the classical sense. Our success in Vietnam cannot be measured in purely military terms. We have prevented the communist domination of South Vietnam. We have expanded the area controlled by the free world forces, denying resources and support to the Viet Cong and thus allowing a great deal more freedom for the people of South Vietnam—a freedom which provides the South Vietnamese with better local government, and improved commerce, transportation and way of life. For example, in South Vietnam the gross national product has increased 60 percent in 6 years, and the inflation rate has declined 60 percent in 5 years.

Since 1964—

Rice production has increased by 20 percent, and

Fish caught and processed have increased by 51 percent.

Since 1965—

Over 2,900 kilometers of hard surfaced roads and 728 bridges have been constructed.

The number of schools have increased by almost 50 percent with 91 percent of the Vietnamese children in the eligible age group attending school,

Over 80 percent increase has taken place in schoolteachers, and

Almost 350,000 acres of land have been placed under cultivation.

Additionally, a three-year-old land reform program called the "land-to-the-tiller program" has resulted in approximately 871,000 acres being distributed to peasant farmers. These are but a few of the significant statistics and indicators which show the progress made in South Vietnam in recent years.

Finally, we were directed to improve the capacity of the South Vietnamese to resist communist aggression, and it would seem that the South Vietnamese government now has in substantial measure achieved this capability . . . a capability that was developed behind the shield provided by U.S. forces.

One action which is unprecedented in scope and cost savings and yet has received very little notice is the current retrograde of supplies and equipment from Vietnam. The military services, mostly Army, now have shipped about 1.8 million tons of war materiel valued at approximately $4.5 billion out of Vietnam. Also, there remains approximately a million tons of materiel in Vietnam that either will be reclaimed or turned over to South Vietnam for nation building purposes. This tremendous savings of materiel and money is truly a remarkable achievement.

Ladies and gentlemen, I recently returned from a Far East trip. I visited numerous U.S. and allied units and installations in Vietnam and met with many civilian and military leaders. I found the confidence and professional competence of both American and allied forces in Vietnam to be high . . . despite the impression given by some observers. While our efforts in Vietnam have not completely ended, the overall performance of our Army there has most certainly been splendid. We can be justly proud of our efforts in Vietnam. I know that history will record that, under the most complicated and difficult of circumstances, the United States Army conducted itself in a manner characterized by honor, dedication to duty, and professionalism. Yes, there have been individual exceptions to such a performance, but these have indeed been few when one considers that over four million men have passed through our ranks since 1965.

Related to the conflict in Indochina, I want to comment on the plight of our captured and missing servicemen and their families. The first man reported missing in Indochina was Major Floyd Thompson, United States Army, who was lost while on patrol in March 1964. Since then, the military services have reported missing or captured a total of over 1,600 men . . . of which over 400 are Army. Our country and the families of these captured and missing have received very little information from the Viet Cong and the North Vietnamese even though our government continues to exert every effort for the release and accountability of captured and missing personnel in all Services, regardless of where they might be.

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As you know, President Nixon has proclaimed the period of March 26 through April 1 as a National Week of Concern for American Prisoners of War and Missing in Action. The Presidential Proclamation accompanied the signing of the Joint House-Senate Resolution passed by Congress. All Americans should honor these gallant men and their families by participating in activities that demonstrate our support and concern for their continuing sacrifices.

Today, the Army is substantially reducing its size in order to come within lower budget ceilings and to cope with the effects of continuing inflation. The Army continues to experience its most rapid demobilization since the end of World War II. By the first of July of this year, the Army will be at an approximate strength of 860,000. This is a reduction from over one and a half million men in 1968 . . . or a 44 percent reduction in just four years . . . and is approximately 100,000 below the Army's strength at the beginning of the Vietnam War in 1965. During the next fiscal year the Army will reach a strength of 841,000 . . . the lowest since 1950. Certainly, there is a strength level below which the Army cannot be prudently reduced if we are to perform our mission in support of national commitments . . . even with selected Reserve Component units at an unprecedented state of readiness.

I believe any further reductions in the strength of the Army will entail risks in our search for peace. The Army . . . together with the other Services . . . is faced with maintaining national security and furthering national interests against threats that have not diminished, give no signs of decreasing in the near future, and in some cases are actually increasing.

Today, our Army has the highest level of combat experience of any army in the world. We are building on that experience to improve the Army for its future missions. A comprehensive series of programs are already in being—programs designed—

To better structure our forces in view of anticipated missions,

To update our operational concepts and battlefield control systems,

To modernize our equipment and facilities,

To improve our management practices,

To streamline our logistical procedures, and

To insure the continued vitality of our research, development and testing programs.

The Army is also involved in numerous programs—

To improve both individual and unit training,

To keep our vast educational system current and responsive to Army needs, and

To improve the professionalism and quality of our people.

Our numerous programs and actions to make the Army the finest one in the history of our great Nation are not being limited to the Active Army. As Secretary Laird has stated: "Our military planning takes the Reserve forces into account as an integral part of our defense." In this regard, substantial reduction in the size of our Active Army means a greater reliance on the National Guard and Army Reserve. Therefore, achievement of a high state of Reserve Force readiness is one of our top priorities. We know that many in our Reserve Components are motivated to enlist as as alternative to being inducted. With a reduction of the draft, this poses some problems for maintaining the strength of our Reserve Forces. In view of this, a significant part of our programs and actions is being directed toward supporting our Reserve Forces. The combat readiness of the Army Reserve and National Guard is being increased through the issue of more modern arms and equipment, improved facilities and training areas, new approaches to recruiting and retaining, and closer association of Reserve and Active Army units in training and operational readiness.

Certainly, your State's heritage in citizen-soldier service . . . which goes back to the early Swedish settlements . . . is a proud one. The recent contributions of several of your Reserve Force units have contributed to that heritage. Your 344th U.S. Army Reserve Data Processing Unit has distinguished itself in volunteer assistance to Delaware's civil defense program. The Delaware National Guard headquarters for the 261st U.S. Army Strategic Communications Command was one of the pioneer units in improving joint Active Army-Reserve Force operational readiness. This last summer, it performed admirably in a NATO readiness exercise in Western Europe.

Our task in strengthening the Reserves is an important one . . . and one to which all of us should give a great deal of attention.

As you know, the President has made an all volunteer military force a National goal. In the vanguard of our efforts to attract more volunteers and to reduce reliance on the draft is the United States Army Recruiting Command (USAREC). We are more than doubling the number of recruiters in this important command. By the 30th of June of this year, we will have increased our recruiting stations from 982 in early FY 71 to 1,628. We are providing emoluments to our recruiters in terms of cost-of-living allowances and governmental rented houses. We are improving the quality of the officers and men assigned to this command. Almost everywhere I travel, I try to see the local recruiters. They are an enthusiastic and dedicated lot.

Our recruiting efforts are beginning to pay dividends, particularly in terms of getting higher quality people to enlist in the Army. The number of high school graduates joining the Army has increased dramatically since we imposed tighter quality controls last fall. For example, the Army's average in recent years of high school graduates enlisting has been about 54 percent of all enlistments. Since October this rate has jumped significantly. In February, it was at 84 percent. This is above the rates of the other Services. But we still have some shortfall in combat arms enlistments. Right now the Department of Defense is looking at the effects of the new pay increase before authorizing us to initiate the combat enlistment bonus authorized by Congress.

Of all of the actions we are taking to improve the Army for future missions, our most important actions are people-oriented actions. The Army is people. To strengthen the Army, we must capitalize on the energies and talents of our people. The most important of these actions are those that are devoted to improving professionalism—the quality, the motivation and the skill—of our people. The achievement of professionalism is our highest concern. In all cases, standards will remain high. Discipline will not be sacrificed on the altar of permissiveness. Let there be no doubt about that.

Some of our people-oriented programs have attracted much attention in the press. Our Army programs, however, are far more substantive and fundamental than those few items that have received considerable publicity. For example, we are eliminating excessive instability within our ranks that developed as a result of Vietnam. We are eliminating those negative aspects of Army life that have irritated soldiers for years and have caused them to expend energy and efforts in nonsoldierly pursuits. Other actions taken include increased pay, improved barracks and living conditions, and improved facilities and services for both the soldier and his family. All of these actions will take money and time. Our efforts are improving the attitude of our soldiers and providing them with more time for important training. A soldier who can devote more time to his essential tasks is a better trained, more confident, happier, physically tougher, more professional soldier.

The key to achieving a more professional, modern Army is leadership—both officer and noncommissioned officer. We are fortunate to have within our ranks today an abundance of quality leadership. We are taking advantage of the present period of transition to refine this quality leadership through leadership boards and teams, leadership and group communications training and higher standards for promotion and schooling.

But internal efforts are not enough. Our need now is to match the substantial progress made in enhancing professionalism and improving Service life within the Army through achievement of better public understanding and support. This is imperative if we are to attract and retain quality people in the numbers required.

From my travels about the United States, I know that there is a tremendous amount of latent goodwill and admiration for the Army. This must be transformed into the active public support so greatly needed during this time of transition.

I can think of no better way to engender that type of support than through organizations such as yours here today. I solicit your support and best efforts in this regard as we strive to ensure this Nation a strong, ready and responsive, quality Army. Ladies and gentlemen, you can count on the Army, an organization that has fought for the country 13 wars involving 159 campaigns without a defeat. A country could ask for no more from its soldiers.

It has been a great personal pleasure to join you today as your guest. I am grateful for your kind attention and your warm hospitality.

A READING PROGRAM FOR CONNECTICUT

Mr. RIBICOFF. Mr. President, a new and significant citizen volunteer movement is now underway in the State of Connecticut to help our children develop competent reading skills.

In America today every State is facing a reading crisis. Throughout the Nation, some 15 million schoolchildren are deficient in reading.

Teachers estimate that 43 percent of the youngsters in elementary school desperately need help with their reading problems. School principals indicate that 15 to 20 percent of their children cannot keep up with their classmates without special help.

A recent survey, conducted for the National Reading Center, of Washington, D.C., by Louis Harris and Associates, revealed that 21 million adult Americans lack some or all of the basic functional reading skills necessary to deal with the simplest experiences of daily living and working.

Citizen volunteers in Connecticut are giving their time to help assure that the children of our State will grow up with the ability to read. More than 150 volunteer tutor-trainers and coordinators from across the State participated in a 2-day training workshop conducted in Hartford by the National Reading Center on March 23 and 24. Each of these trained volunteers will now return to his or her home community to teach other volunteers how to tutor children in reading.

Participating in the workshop, sponsored by the Connecticut State Department of Education, were the University of Connecticut, Southern Connecticut College, and the following 37 school districts:

Bloomfield, Bridgeport, Bristol, Canaan, Cornwall, Danbury, East Hartford, Ellington, Fairfield, Griswold, Groton, Hamden, Hartford, Kent, Lebanon, Lakeville, Meriden, New Canaan, New Haven, Newington, New London, Norwalk, Norwich, Sharon, Southington, Stamford, Stonington, Stratford, Thomaston, Trumbull, Wallingford, Waterford, West Hartford, West Haven, Westport, Wethersfield, and Willimantic.

The National Reading Center is taking its tutor-trainer plan to 20 States this year, and seeks to create a corps of trained volunteer reading tutors in every State in the Nation by the end of 1973.

The Hartford Times published an article and an editorial on this fine endeavor. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Hartford (Conn.) Times, Mar. 15, 1972]

WORKSHOP TO TRAIN TUTORS FOR READING

Thousands of additional volunteer reading tutors will be helping primary graders in Connecticut schools next year, the State Department of Education hopes.

The department is banking on all-day workshops being held March 23 and 24 at New Haven's Conte Community School for 100 reading consultants, reading specialists, and experienced classroom teachers of reading.

They'll get several hours of intensive training by a team from the National Reading Center, an arm of the U.S. Office of Education in its program to wipe out functional illiteracy by the end of the decade.

The school district reading specialists will apply their workshop skills in training volunteer tutors to work with children in the elementary schools in their communities.

Anthony T. Tedeschi, coordinator of the state program, said, "We hope that each workshop participant will train 10 volunteer tutors. This would give us a total of 1,000 on the first go-round. And, of course, the reading specialists would continue training new groups of volunteers as the year proceeds."

Tedeschi explained that the training of volunteers takes about 20 hours, including seven hours of practical experience in using materials with pupils or in simulated situations.

Most of the workshop participants, according to Tedeschi, will be from the districts, where the great majority of children needing extra help in reading are enrolled. Some of the bigger districts may have as many as six reading specialists in attendance. However, several workshop slots are being held open for smaller districts.

Dr. Olive S. Niles and Dr. Robert F. Kinder, state reading consultants, have reviewed the training program and made recommendations and are involved in its implementation.

Workshop participants will go back to their districts armed with a wide variety of National Reading Center materials.

[From the Hartford (Conn.) Times, Mar. 19, 1972]

TUTORING TO BOOST READING

One hundred reading specialists, consultants and teachers of reading will meet in New Haven Thursday and Friday in workshops which may have major meaning for youngsters in the primary grades.

A team from the National Reading Center, which is part of the Office of Education, will unfold to the teachers its methods and objectives in a program to wipe out illiteracy by 1982.

After which the reading specialists will go back to their home schools and begin their own program to recruit and train volunteer tutors to work with children in the community.

The tutors could be retired persons, mothers whose children have finished school, or college students with time to spare.

If the program works out as officials hope it will, it could pour hundreds of tutors into the state school system on a year-in-and-year-out basis. This could be an invaluable help in boosting the reading competence of youngsters in the early grades to a level they otherwise might not attain. It is a commendable experiment. It will be up to the volunteers whether it works or not.

EVALUATION OF WATER RESOURCES PROJECTS

Mr. PEARSON. Mr. President, the Senate of the State of Kansas adopted on March 20 a resolution to memorialize the Water Resources Council, the Federal interagency body which has proposed far-reaching changes in the criteria for evaluating water resource projects. At the request of the President of the Kansas Senate, Reynolds Shultz, I submit for the attention of Senators the following document stating the concerns of members of that legislative body for the substantial reduction of flood control and water supply benefits which would result if the proposed criteria are adopted as written.

In particular, Mr. President, this document makes reference to the small watershed program authorized under Public Law 566, legislation originally proposed in the Congress by Representative Clifford Hope of Kansas. I want to give my support and endorsement to the request contained in this document.

In addition, Mr. President, I would like to submit for the attention of Senators a statement on the proposed new criteria which I have provided to the Water Resources Council for the record of its public hearings concluded March 22. This statement makes specific reference to provisions of the new criteria, including the 7-percent interest discount rate, its "grandfather" application to projects authorized, but not constructed after 5 years, and the treatment of regional development as an account for weighing the benefits from water resource projects.

I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION No. 34

A resolution memorializing the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects

Whereas, The state of Kansas has been recognized as one of the leading states in watershed development since the inception of public law 566; and

Whereas, Water resource development under this program has proved to be highly beneficial in reducing flood damage, enhancing wildlife habitat, improving environmental quality, providing needed recreational facilities, abating stream and river pollution, and improving the economic stability of the state; and

Whereas, The state of Kansas is presently actively pursuing rural development through resource conservation and development projects; and

Whereas, Any substantial increase in the interest or discount rate as used in determining economic feasibility would make structural works of improvement difficult or impossible to justify: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we hereby petition the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Be it further resolved: That planning assistance be continued or accelerated on all water resource development projects currently authorized for planning, and that no restrictions or time limits be established for completion of such planning operations; and

Be it further resolved: That the secretary of the senate be directed to send enrolled copies of this resolution to the Federal Water Resources Council, 2120 L Street Northwest, Washington, D.C., and to each member of the Congressional delegation from the State of Kansas.

STATEMENT BY SENATOR JAMES B. PEARSON

At the outset, I want to say my opposition to parts of the proposed new criteria for the evaluation of federal water resource programs stems from a desire to see the orderly development and conservation of our water resources move ahead. There is no thought here of holding the line against new and more credible methods by which the executive branch can weigh, and present to Congress, the benefits and costs of these projects. For years, those of us in the Senate who are committed to the development of water resources have sought a clearer and more understandable system for evaluating what we consider to be the considerable benefits of this process. Because the existing system lacks understanding, both within the Congress and with the public, the proposed *Principles and Standards* of the Water Resources Council provide some bases for improving the implementation of national policies in this area, and should be approached as a positive step in this direction.

DISCOUNT RATE

There are, however, several elements of the new criteria that should not, in my opinion, be allowed to become law. Primary among these is the 7 percent interest-discount rate, which would, according to preliminary assessments of the Kansas Water Resources Board, have the effect of removing from consideration the planning and construction of approximately 50 percent of the watershed projects approved by Congress for the state of Kansas, and every one of 10 major projects already approved for inclusion in the Kansas Water Plan.

There is no need to dwell on the impact this change would have upon the future economic development of Kansas, except to say it would be devastating. There are 14 important flood control projects in Kansas authorized by Congress but not yet constructed which would be jeopardized or simply eliminated by a 7 percent interest-discount rate. Should the rate later be increased to 10 percent, as the criteria provide, federal assistance for flood controls works would become unobtainable in the state of Kansas, where the nation in 1951 witnessed one of the most destructive floods on record.

The thrust of the increased interest-discount rate would be to leave the burden of further expenditures for flood control and water conservation works on the private sector and on state and local government. This is simply unrealistic. With profits measured in 50 year periods, private capital is not likely

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to flow into the construction of such projects, and yet the need for them continues as population patterns change and new areas of economic growth appear.

Can local and state government afford the outlays required for reservoir construction and maintenance? It hardly seems likely, considering the depth and breadth of the revolt against property taxes across the nation and the desperate condition of finance in priority areas such as public education. Nor should the primary responsibility for controlling and conserving the resources of our great systems of rivers and streams, which in many cases drain whole regions of the country, be allowed to fall on state and local government.

The interest-discount proposed by the Water Resources Council rests on a short-sighted concept and would have the effect of stifling federal water resource development in my own state and the nation. It would be uniquely applied to the field of water resources development, and it would lack specific authorization by the Congress. Several substitute methods for determining the cost of financing programs in this field have been suggested, and I strongly recommend that they be considered by the Council before it submits this document to the President for approval.

Let me add that it is just as important for small watershed programs and reclamation projects to continue to receive federal funds as it is for these funds to remain available for the planning and construction of larger flood control reservoirs and protection works. Small watershed constructions are not only the first line of upstream defense against major floods, but they are a valuable means of protecting from erosion the most essential possession of the American farmer—his land. It is my hope that the 7 percent interest-discount rate will not be visited on any of these types of water resource development programs.

GRANDFATHERING

A second part of the proposed criteria which lacks justification is the provision that projects already authorized by Congress but not constructed within five years would be reassessed using the 7 percent interest-discount rate. This would only serve to disrupt the process of orderly planning and construction schedules, by which state, local and regional bodies are seeking to carry out the job of applying federal water resource development funds with a minimum of duplication and inefficiency.

In most cases, planning on a federal water resource project takes three or four years itself, and the list of unbuilt projects over five years old is already too long. If we intend to observe the principles of our federal system and make a true partnership between government in Washington and government at state and local levels, then we should not allow these projects to be withdrawn from consideration for construction simply because federal agencies and the Office of Management and Budget have previously delayed them five years or more. The 7 percent interest-discount rate itself, if adopted, would disrupt present planning and construction schedules, and lend to increased planning costs at all levels. There is no justification for making matters worse by considering a reverse "grandfather clause" that would apply to specific projects authorized for construction by Congress five or more years ago.

REGIONAL DEVELOPMENT

With, I think, a large number of other members of the Senate, I regret that the Water Resources Council chose to ignore the purpose of Section 209 of the River and Harbor Act of 1970, which sets down a four-account system of water resources project evaluation. I supported this measure on the Senate floor and particularly regret the failure of the Council to give full weight to the regional development account.

Because future balanced economic growth in the nation depends on the development of job opportunities and the infrastructure for growth in rural America, it would seem imperative that regional development receive full consideration in these evaluations. Water resource projects are by their very nature regional and the problems they attack—floods, drought, water quality, transportation—are often regional as well. Few who have ever visited Kansas would deny that a barrel of fresh water there has far more value than it does, for instance, at Niagara Falls, or that soil erosion is not a more costly phenomenon for a Kansas farmer than it is for a lobsterman on the rock-bound coast of Maine. Yet the Council has reduced the import of regional development benefits and costs in its proposed criteria, and it has done so in contradiction of the expressed view of the Congress. Furthermore, it has done so in contradiction of the stated policy goal of this Administration to achieve a balanced pattern of economic growth in the nation. I believe the Council finds itself in the unfortunate position of the choir boy who sings his note both too soon and off key. It is a step which, fortunately, can be corrected before the final performance, and I would hope the steps necessary to do so will be taken without delay.

COST SHARING

The concept of cost sharing by "identifiable beneficiaries," which the new criteria seek to review and revise, is defined by previous legislation, namely P.L. 87–88. Any reconsideration of this concept should include discussion and debate in the Congress and a legislative effort made to reach consensus on its application before the Office of Management and Budget undertakes to use it in evaluating new projects. This would not be permitted if the new criteria are adopted as written, and we will, in my opinion, be engaged in creating an illegitimate bureaucratic step-child if this is allowed to happen.

CONCLUSION

These, then, are the four principal objections I would raise against the proposed new criteria: the 7 percent interest-discount rate, failure to adopt a regional development account as Congress mandated, the "grandfather clause," and the treatment of cost sharing. My reservations extend as well to the proliferation of bureaucratic red tape expected to accompany the criteria. A "cookbook" approach to federal program assistance, whether it be in the field of water resources in early childhood education, becomes a barrier to the efficient management of our natural resources. It suggests to those who seek leadership in the development of our nation's resources that government is unwilling to provide it. This is not the case, but should it ever become so, then national management and long-range planning for the benefit of future generations would disappear entirely.

New procedures for evaluating water resource programs are badly needed, and many of the proposals under consideration at this hearing are overdue. For instance, standards for weighing benefits and costs well recognized but not provided for by existing criteria are demanded, not only by those who would slow water resource programs, but by those who would accelerate them as well. The careful evaluation of environmental enhancement and damage in planning water resources programs is now required by law and as agencies engaged in this field seek to meet the law, new criteria must be agreed upon to guide them. Also, guidance must be provided for those outside government. Let us take a balanced approach to this problem and, with reason to guide determination, seek to correct the shortcomings of the proposed new criteria along the lines set down by the record of this series of public hearings.

THE GREAT PORPOISE MASSACRE

Mr. WILLIAMS. Mr. President, the New York Times of Sunday, March 19, contains a most interesting and enlightening article by Mr. Scott McVay, an administrator at Princeton University, concerning the plight of porpoises and dolphins, which are being killed in great numbers by the commercial fishing industry.

As most of us are now aware, porpoises and dolphins play an important role in assisting the commercial fisherman to locate tuna. They congregate around the tuna, whose feeding habits are similar, and act as a guidepost to fishermen, who are constantly on the lookout for them to point out the location of the fish. Unfortunately, over 200,000 of these playful and highly intelligent creatures are killed each year in the large purse seine nets used for catching the fish. These air-breathing animals drown because they become trapped in the nets or refuse to leave others of their group who are unable to escape.

The Senate will soon be called upon to consider legislation for the protection of all species of ocean mammals. Perhaps one of the most controversial aspects of this proposed legislation centers around the question of whether or not the commercial fishing industry should be permitted to continue the taking of porpoises and dolphins during their fishing operations. As evidenced by the tremendous amount of mail I have received on this subject, the majority of the American public feels the answer should be "No." However, there are those who disagree, citing their belief that the killing of these animals is accidental and cannot be prevented without causing irreparable damage to the fishing industry. I, of course, do not advocate the ruination of the fishing industry by forcing an immediate halt to this practice. In my statement before the Subcommittee on Oceans and Atmosphere of the Committee on Commerce, on behalf of my bill, S. 2871, the Marine Mammal Protection Act, I suggested the imposition of a time limit of 1 year following the effective date of the act after which no method of commercial fishing could be employed which could cause injury or death to porpoises and dolphins. This would allow 1 year for research on and development of new technological means of capturing the fish while preventing the entrapment of porpoises and dolphins in the nets. I made this suggestion because I do not feel that it is unrealistic to believe that the continued killing of porpoises and dolphins is unnecessary and can be prevented. It only requires a commitment on the part of the fishing industry and the Federal Government as well as a concentrated effort on the part of both to put an end to this needless slaughter. However, it is clear that it will be up to the Congress to provide the incentive for this needed research. I am hopeful that my colleagues in the Senate will bear this in mind when legislation for the protection of all ocean mammals comes before us.

Mr. President, I ask unanimous consent that Mr. McVay's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT PORPOISE MASSACRE

(By Scott McVay)

PRINCETON, N.J.—Many of the bounties of the sea have been tainted by man's profligate ways: mercury in swordfish, hepatitis virus in clams and shrimp. Our tables have long been graced with unblemished tuna, one of our children's favorites. Now we learn that our tuna is contaminated by the death of thousands of porpoises. How come? Since the late 1950's American tuna fishermen have been capturing tuna by setting their purse-seine nets on schools of porpoises.

Five major canneries and a number of independent companies operate 132 vessels from southern California in the tropical waters of the eastern Pacific—twelve more vessels are under construction. The fishermen first spot a cluster of birds winging in and out of an area of great activity. Drawing nearer, they sight the familiar porpoise or dolphin fins, usually of the spotted porpoise (*Stenella graffmani*) or the "spinner porpoise" (*Stenella longirostris*) which is known or its spectacular aerial gyrations. Upon closing in, the tuna can be seen as a great dark mass below the porpoises, where they are also feeding on the smaller fish. In high-powered skiffs the fishermen round up the porpoises, which may number up to 1,500, and attempt to drive them into a tight circling school. Then the half-mile long purse seine is set around the porpoises and the tuna below. The circle is constricted as the net is drawn together. Many of the porpoises panic, hit the net and drown.

In the early 1960's nearly all the porpoises entrapped with the tuna in the net died and were simply discarded to the sharks. The annual mortality is estimated to have run to many hundreds of thousands. For the last few years, a technique called backing down is permitting some three-quarters of the porpoises to escape, but the number that perish uselessly is still between two and three hundred thousand annually.

Three papers on this problem, written in 1968, 1969 and 1970 by William F. Perrin, a fishery biologist, caused a minor stir, but it was not until the public Congressional hearings last July on the proposed International Moratorium of Ten Years on the Killing of All Species of Whales that the problem began to reach a sizable segment of the public domain.

Porpoises are small members of the whale tribe. Thus, a revision in the bills working which now calls for a ban on the international killing of whales means that the passage of the legislation would exempt the American tuna fishery on the basis that the killing of porpoises in connection with catching tuna is accidental.

Also, one of the most troublesome problems facing the authors of the legislation now before Congress to ban the killing of all marine mammals is how to deal with the tuna fishery. Two of Mr. Perrin's conclusions illuminate the gravity of the problem: (1) the number of porpoises killed currently may exceed their reproductive capacity. How will fishermen catch tuna "if and when the porpoise disappear?" (2) the structure of the catch (number of males, females, juveniles) resembles the catch of the Soviet porpoise fishery in the Black Sea in 1963 and 1964—just before it collapsed.

Although various solutions have been proposed; using gates for releasing porpoises from the net, or using a small-mesh net that can supposedly be dropped to greater effect, these proposals have yet to be satisfactorily tested. Much still remains to be learned about the behavior of porpoises and tuna. Furthermore, the tuna industry—which grosses hundreds of millions of dollars annually—has responded sluggishly to Federal efforts to reduce or eliminate the porpoise mortality. Most of the tuna operators have answered requests for observers on their vessels grudgingly or by complete refusal.

One thing seems clear: efforts at research on, and regulation of the tuna industry are moving very slowly. Aroused and informed public opinion and Congressional reaction will not permit the wanton slaughter of porpoises and dolphins in the future as in the past. If the tuna industry is interested in retaining a prime place in the American home, it will have to pursue with openness, due speed, and determination the resolution of a problem that will require genuine cooperation between fishermen and scientists. Solutions must be found in a matter of months, not years.

SPENCER, CLAY COUNTY, IOWA

Mr. MILLER. Mr. President, Fortune magazine this month features an in-depth article on Spencer, Iowa, located in Clay County in northwest Iowa and one of my favorite smaller cities in the entire United States.

The writer, Rush Loving, Jr., has attempted to portray Spencer in a straightforward manner, setting out its good points as well as its problems, its openness as well as its biases. Above all, the writer concludes that, as long as progressive cities like Spencer continue to be concerned with their people, the smalltown way of life will continue to prosper.

I could not agree more. I ask unanimous consent that the article, entitled "Spencer, Iowa," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPENCER, IOWA

(By Rush Loving, Jr.)

There are times when the figures are gloomier than the facts, and such is the case with the current talk about the demise of America's small towns. The statistics do indeed look ominous. The Department of Agriculture reports that 52 percent of all communities with fewer than 500 people lost population during the 1960's. Among towns with a population of 500 to 1,000, 40 percent experienced declines. In crossroad villages all across the land, buildings stand abandoned, and streets lie empty. Interstate highways now divert traffic around the towns, and make it easy for farmers to take their business to larger centers that offer more choices for the shopper. In any case, there are fewer farmers, because mechanization has encouraged large-scale cultivation and thrown many farmers and workers off the land. So now, looking like tombstones for the villages themselves, boards cover the windows of the stores. Sidewalks crumble, weeds grow through the winding cracks in the streets, and the abandoned houses slowly disintegrate. The columned banks stand locked. Post offices are closed, wresting from these hamlets their last badges of identity. Not even freight trains stop anymore.

But the brighter side of the coin is that many small towns are still growing. More than a third of the towns with populations between 10,000 and 25,000 grew by 10 percent or more during the 1960's. That was less than their over-all rate of growth during the preceding decade, but more than the doomsayers would lead one to expect. A uniquely American life style still flourishes in thriving communities where people can settle and find jobs without adding to the populations and the problems of the already crowded cities. Industry is moving to these towns, drawn by their better living conditions and labor markets that promise lower operating costs. In a time when so-called "new towns" are getting lots of attention as a means for easing metropolitan congestion, we should not forget that some old towns with their established schools, streets, and homes hold promise as future growth centers. Among the prospering places are the industrial town of Opelika, Alabama (population: 19,027), the farming communities of Kearney, Nebraska (19,181) and Garden City, Kansas (14,708), and the petroleum town of Morgan City, Louisiana (16,586).

And then there is Spencer, the seat of Clay County, in the northwest corner of Iowa, where the gashed-out lake country of Minnesota meets the sweeping black prairie. Spencer's population climbed from 8,864 in 1960 to 10,276 in 1970, a 16 percent rise.

ON THE BANKS OF THE LITTLE SIOUX

One hundred years ago Spencer was a frontier settlement—a little wooden courthouse and a half dozen shacks—within sight of Horseshoe Bend, on the banks of the Little Sioux River. It was named for George E. Spencer, who had lived in Iowa before serving as U.S. Senator from Alabama from 1868 to 1879. Today Spencer is six square miles of stores, factories, warehouses, and homes. It has a prosperous central shopping district six blocks long and an enclosed-mall shopping center out on the edge of town, a new $650,000 waterworks, a well-kept riverside park, forty-eight miles of sanitary sewers, eight miles of storm sewers, and sixty-eight miles of streets, all paved.

Spencer owes its growth and its prosperity partly to its location, which makes it a natural marketing center. R. Paul Trinkle, Clay County director for Iowa State University's Cooperative Extension Service, cites surveys showing that the average Iowa farmer is willing to travel as far as sixty miles, or one hour's driving time, to do his major shopping. In other parts of Iowa all the farms are within fifty miles of good-sized cities, but that is not the case in the northwest. Spencer happens to sit in the middle of this vacuum. The two nearest cities, Sioux Falls (population: 72,488) and Sioux City (85,925), are each 100 miles away. It is 180 miles from Spencer to Des Moines, Omaha, or Minneapolis. Thus the farmers of northwest Iowa do much of their shopping in Spencer.

In Clay County and the eight counties that surround it, there are 10,111 farms, spread across 2,824,000 acres. They produce mainly corn, soybeans, hogs, and beef cattle. These nine counties raise more than 1,400,000 head of hogs a year and more than half a million head of beef. Clay County alone harvests more than 2,500,000 bushels of soybeans and nearly 9,500,000 bushels of corn. To produce all this, the county's farmers use 2,700 tractors, more than 600 grain combines, and 675 corn pickers—most of them purchased from Spencer's equipment dealers.

Two U.S. highways, 18 and 71, funnel the farmers into Spencer. They come to sell their corn and beef, to buy suits, get bank loans, have their golf clubs fixed (the farmers equal the businessmen in their zest for golf). They order new outbuildings and corn dryers, new tractors and combines—all from the showrooms of Spencer. On a typical Saturday morning, the cash registers jingle furiously in the Safeway supermarket at the shopping center, while downtown the floor planks creak comfortably in Bjornstad's Hardware Store as the shoppers come and take away everything from concrete nails to a child's red lunchbox with a train painted on the side. In the J. C. Penney store, down the street from Bjornstad's, women pick their way through racks of coats, talking and looking, yanking on the sleeves to read the price tags and trying on their selections, while their husbands wander

through the men's department and tend the children. It all adds up to an annual retail sales volume for Spencer that has doubled from $21 million in 1960 to more than $42 million today.

"THE FITTEST SURVIVED"

Spencer is fortunate in having town leaders who have made the most of its location and rich trading area. They have succeeded in creating an aggressive yet friendly atmosphere that makes it an inviting place for shopping and pleasant to live in. There are no First-Families-of-Spencer types in charge here. No clique of dynastic businesses keeping out competitors and discouraging new industries.

The town's forward-looking stance owes something to the careless youngster who dropped a burning sparkler into a box of fireworks at a drugstore one July day in 1931. Most of the business district went up in flames, and for many of the entrenched families it was a fateful day. "They were wiped out in the fire," says Robert C. Porter, farm representative at the Farmers Trust & Savings Bank. "They had to take their guts in their hands and rebuild. The gutless ones were wiped out. The fittest survived. So now we have a bunch of promotion-minded businessmen." The town finished its rebuilding about the time the depression ended, and the momentum of rebuilding kept Spencer rolling ahead through World War II and into the postwar era.

One of those who found opportunity in Spencer is Harold H. Howe, sixty-two (see page 78), who was born there. After serving in the Navy during the war, he went to work for the Northwest Federal Savings & Loan Association, which had only $500,000 in assets and an office over Penney's. Soon Howe was placed in charge of the s. and l. He solicited customers so vigorously and successfully that he was able to get deposits even from the local bankers. Today Northwest Federal is the biggest financial institution in the area. It has assets of more than $30 million, making it nearly twice the size of any bank in Spencer.

A. M. Johnson, fifty-nine, who is known as Stub, is another of Spencer's successful businessmen. A natural-born promoter who was reared on a Clay County farm, Johnson opened a short-order place on Grand Avenue in 1947 and named it Stub's House of Plenty. And plenty it has made for Stub, for now he also has part interests in a truck stop in Minnesota and a supper club in Sioux Falls. Another of his ventures is Stub's Ranch Kitchen on Highway 71 outside of town, where 500 people a day from all over northwestern Iowa troop through the buffet line to get more home-cooked mashed potatoes and spareribs and watermelon pickles than they can put away—all for $2.75 a head. His Ranch Kitchen and House of Plenty could easily form the nucleus for a chain operation, but Stub is not interested. "I'm at an age where I don't want any more," he says.

WHEN CHET HUNTLEY WAS A TELLER

Robert L. Krzmarzick, thirty-eight, a banker raised in Sleepy Eye, Minnesota, was invited to town in 1963 by eight Spencer men who wanted to start a new bank. They opened Spencer National Bank in the shopping center. To attract business, Krzmarzick broke all the local traditions about banker's hours, even keeping Spencer National open in the evening. For the bank's first anniversary he hired Chet Huntley to be a teller for a day, and so many people came in to open accounts that the staff couldn't handle them all. Today Spencer National has $12 million in assets, and has had a definite impact on the way its two older and larger competitors—the Farmers Bank ($15 million in assets) and Clay County National ($18 million)—do business. "We used to pass up loans we should have been making," says Dwight Willard, president of Farmers. They don't pass them up anymore.

Another outsider, Gerald Pearson, invested $6,000 with six other Minnesota men to take over a failing packinghouse on the north side of town in 1952. That little business has become Spencer Foods Inc., with a local payroll of more than $5 million a year; with 1970 sales of $310 million, it ranked 328th in FORTUNE's directory of the 500 largest U.S. industrial corporations last year. Pearson, forty-six, now a millionaire, is president and chairman of Spencer Foods and takes an active role in the town's business life.

One of Spencer's strong points is the depth of civic leadership in its business community. For example, there is John Greer, fifty-one, a big garrulous lawyer who came to Spencer in 1947 with little more than a new law degree; he is now one of the most successful lawyers in all Iowa. Belle Trinkle, Paul Trinkle's wife, and the mother of two children, is executive vice president of the chamber of commerce. Spencer businessmen once thought the job was too much for a woman to handle; they now admit they were wrong. And R. James Halverson, fifty, originally from Mitchell, South Dakota, started a typewriter sales and repair business in the basement of his home in 1949. Today Halverson owns Modern Business Equipment Co., with sales of $500,000 a year.

These and other leaders have an instinct for promotion that helps Spencer attract both shoppers and new residents. The people get out and work for their town. When there's something going on, like the county fair or a community picnic and threshing bee at Stub Johnson's farm, everybody pitches in to help. "I never felt I had to get up on a soapbox very often and pound my fist and drive the people. They're willing to do what's needed. They just need a hand to get the job done," says G. H. (Jiggs) Sondergaard, forty-six, who was mayor for ten years. (He was defeated last November by C. Earl Page, a retired Congregationalist minister.) Spencer's businessmen are boosters with a sense of purpose. They fear that if they stop getting out and doing things for their town, Spencer will become like many of its smaller neighbors—drab and barren towns that lie indolent and sunbleached below, stark grain elevators.

In recent years, Spencer's leaders have enhanced the town's economy by luring in a whole colony of new and lucrative industries. One June day in 1964, Harold Howe and Julian C. Holiday, a real-estate dealer, called a meeting of about sixty interested businessmen at the Elks Club to set up Spencer Industries Foundation. They hired an industrial development director from Des Moines, Walter Williams, and gave him a $25,000 annual budget for promoting Spencer. No more than seven cities in Iowa have experts like Williams, and Spencer is by far the smallest of them.

Since that day the town has attracted twelve new manufacturing plants and two truck terminals. They represent a total capital investment of $2 million, employ 440 workers, and have annual payrolls of $1,500,000. That is only a partial measure, of course, of the economic benefits Spencer has realized from industrial development; the new payrolls mean more business for the merchants and more jobs in stores and supply companies. The new plants turn out such varied products as concrete blocks, grease guns, canned mushrooms, and reconditioned auto parts.

In 1966, Williams and the Industries Foundation outsold two other Iowa towns and persuaded Morton Buildings Inc., which also has production facilities in two other midwestern cities, to build a $240,000 branch plant just outside Spencer. Morton turns out about fifty precut farm and industrial buildings a week. The company has fifty-three employees and an annual payroll of $270,000. "We have no trouble getting good labor here," says Harry L. Hensley, the plant manager. Indeed, the Spencer operation has been so successful that Morton recently expanded its site by 50 percent, buying five adjoining acres for future expansion.

LADDERS TO A CLIMBING MARKET

Van Ladder Inc. was drawn to Spencer by a team effort that made available both capital and a plant site. It all started when Eugene W. Faulstich, forty, a radio repairman and cable TV operator in Algona, fifty miles east of Spencer, invented an aerial ladder that can be mounted on small trucks. Faulstich, who started producing the ladders in a tiny plant at Algona, tried to get his own bank to finance a larger facility, but was turned down. When he applied to Spencer National, he got the $35,000 he needed and Spencer Industries Foundation found him a site on which to erect a 10,000-square-foot steel building.

That was a year ago. Since then, Van Ladder has been attracting a widening array of customers—electricians and U.S. and Canadian telephone companies, as well as large cable TV operations like TelePrompTer. Faustich is now adding another 5,000 square feet to his plant, in order to keep up with a flood of orders that are flowing in for an improved version of his truck ladder and two other types of industrial ladders that he's developed. "We've reached a market that's exploding," say Faulstich happily. He attributes much of his success to Spencer's initial willingness to take a risk. "The whole atmosphere was much better here, much less conservative than in Algona," he says.

The town leaders offer no giveaways or tax incentives to new businesses. They simply sell several facts hard: that the local people are farm folk who don't mind work, that housing is relatively cheap ($23,000 and up for a three-bedroom home), and that taxes are low ($400 a year for an average house). And less than half of Spencer's employees are unionized—although the town's largest company, Spencer Foods, was struck last year for seven months by its workers, who belong to the Amalgamated Meat Cutters union.

Spencer's three banks often work together to arrange financing for newcomers. Sometimes a group of as many as 124 local businessmen will countersign notes when an otherwise worthy company can't raise enough money on its own credit. Usually no individual commits more than $2,000 for each company, which means that the total risk is extremely low in relation to the signer's total net worth.

LOOKING AT THE RACE PROBLEM—REMOTELY

This is a white, mostly Protestant, overwhelmingly Republican town, a community of people—many of them of German or Scandinavian descent—who share a high regard for learning and pay their weekly dues to God. There is only one black in Spencer—Leon Jones, thirty-one, an inhalation therapist at Spencer Municipal Hospital—and only three or four in all of Clay County.

The townspeople have received Jones, who came from Des Moines, very warmly, but many—perhaps most—Spencer residents have a distorted picture of blacks in general, because their only view of most Negroes has been in the press. They've also heard horror stories from friends in Des Moines about "coloreds" moving into white neighborhoods and lowering the property values. Thus they tend to blame race, rather than urban crowding and poverty, for these conditions, and they think that an influx of blacks would automatically bring crime and decay to Spencer. They worry that the new plants they are bringing to town will change the values, as well as the complexion, of Spencer's population.

It is understandable, of course, that they should oppose anything that they think might bring crime to Spencer, for the town's criminal life is negligible at best. In fact, the nearest thing to a crime wave that it has at present is blamed by the Spencer Police Department on a woman known to the cops as "the Queen." She drives around at night heaving rocks through plate-glass store windows. So far, in little over a year, she's broken $15,000 worth of glass.

"THEY'VE GOT THEIR WAY PAVED TO HEAVEN"

Spencer is a churchgoing town; the largest congregations are Lutheran, Methodist, and Roman Catholic. In the past twenty years, eight of the nine major congregations in town have tried to outdo each other by building themselves new churches, each rivaling the other in architectural grandeur and costing all together nearly $5 million. "They've got their way paved to heaven now," says Harold Howe.

This emphasis on buildings displeases some Spencer churchgoers, because a few thousand of those millions would have done much to relieve the plight of Spencer's poorer people. Down on Park Street, beside the river, there are two blocks of tiny frame houses and trailers. The yards are cluttered; the weatherboard sides of the houses are warped and unpainted; some homes do not have indoor plumbing. People in the town call Park Street their ghetto area, although there are no blacks living in it, and there is nothing like the crowding and the destitution of a Watts or Harlem; it is, however, the greatest concentration of poverty and blight in Spencer. "It concerns me that in a prosperous community like this that we would have anybody living without indoor plumbing," says one local businessman. "We have some desperately poor people. We have put millions and millions of dollars into church buildings. In my mind it'a hard to justify this." Some ministers agree with this criticism. Says one: "You find a new church almost wherever you go, and not the least of all, us. This shouldn't be. I don't see where the Methodists need a $1-million structure."

Spencer spends a fair amount of money on its schools, too. Since 1960 its school budget has tripled, to more than $2,100,000 a year. In that same period its per-pupil costs have more than doubled—to about $850 a year—about the average for Iowa school systems like Spencer's. The pupil-teacher ratio is twenty-two to one; that, too, is average for a small-town school system in Iowa, but it is better than the ratio in Des Moines and far lower than the ratio in the big cities of the East.

There is no feeling in Spencer that any major improvements in the educational system might be needed. "They believe in going first-class here," says Charold T. Roberts, 54, a debonair man with a handsome gray mane who has been superintendent of schools for the past seven seasons. Three years ago the town's last school-bond issue—for $1 million—won approval by 92 percent of the vote. Roberts says he has no trouble getting and keeping good teachers, primarily because Spencer is a pleasant place to live—and because it can provide the teachers' own children with good schools.

PURE CORNBALL AND PARTICIPATION

There is no television station in Spencer (though residents can tune in several channels from other cities), and it is still a radio-oriented community. Radios play throughout the day in offices and kitchens. People in Spencer drive when they go about town, and virtually every car has a radio. The farmers have radios even on their tractors. What they listen to mostly is the local radio station, KICD, which is owned by Ben Sanders, sixty. A native of Brooklyn, he bought the faltering little station in 1945 for $18,000. It now has an annual gross of $389,000, and profits of about $50,000. Sanders has retired from day-to-day management (he lives in the mountains of North Carolina) but KICD still follows his successful programming formula of pure cornball and heavy community participation. It's mostly talk programs—including an hour-long reading from a novel every afternoon—interlaced with pop and show music and dance bands from the 1930's. No classics; they're too heavy. The station's public-service offerings run far beyond the range of most big-city broadcasters. During tornado time from May to September, when Clay County is frequently threatened but seldom hit, KICD will stay on the air all night, if necessary, to warn of approaching storm fronts. Along with all that, it broadcasts ads for virtually every Spencer merchant, beaming them over an eighty-mile market area.

Other than its radio station, Spencer has few cultural attractions. To be sure, this lack is characterisitc of most small towns, but Spencer offers fewer of the cultural amenities than even many communities its size. There is, for instance, no art museum; nor are there concerts by any visiting artists other than occasional college groups. There are annual offerings of travelogues but no other of the lecture series common to many such towns. There is good summer-stock theatre at the lake resorts just north of Spencer, but the rest of the year, the town makes do with amateur theatricals; there is only one movie house in town—and its bill is more family-oriented than avant-garde. Still, many Spencer residents don't feel deprived. "I can't believe culture is that important in either Chicago or New York," says Walter Williams, president of Spencer Industries Foundation. After all, says Williams, "you can drive to Sioux City in an hour and a half and see *Holiday on Ice*."

But the young people of Spencer do feel deprived. As is the case with most small towns, the youngsters of Spencer who go off to college (and about 55 percent do) often stay away. "Most of the ones I know are not coming back," says Kirk Watson, twenty-two, a senior at Mankato State College in Minnesota and the son of a Spencer veterinarian. "They want to get out and do something else. Most of the Midwest, and especially this area, is pretty much stagnated as far as culture is concerned." Watson himself plans to live some where else when he finishes college. Because of this drain, there are relatively few people in their late twenties and early thirties in Spencer. Between 1960 and 1970, when its total population was growing, Clay County suffered an 11.4 percent decline in the number of residents between the ages of twenty-five and forty-four.

TICKETS FOR SCREECHING RUBBER

Spencer's population growth has come mainly from an influx of people in their forties and up. Some of them are doctors and businessmen who want what the youth value less: a place where the pressures aren't so great and the people are friendlier than in the big city. In Spencer, people care about one another. They greet each other on the street and help out when someone's sick. They dress casually and have time for their families. A clock in Spencer is a guide, not the master of one's fate.

It's a quiet town. The only sound on a side street is the shouting of children at play. Only rarely is the peace broken by the rumble of a truck on Grand Avenue, or the horn of a freight up at the Milwaukee crossing, or the squeal of racing tires on a sports car—a noise that will win the young man a ticket if a policeman hears him, and one often does. Most days the sky over Spencer is bright and blue, and the only smell in the air—unless you're within a block of Spencer Foods' slaughterhouse—is of trees and flowers and new-mown grass. And in contrast to their city cousins, people in Spencer leave their homes unlocked and walk the streets at night without fear of muggers.

So long as they offer such a striking contrast with the big cities, and economic opportunities as well, towns like Spencer should continue to grow. Says Jim Halverson, who owns the business-equipment company: "If you asked me why I'm sold on this town, it's because it's been real good to me. I came here twenty years ago with very little. The town has paid my debts and educated my kids. I owe a debt to this town." And so long as that is true for men like Halverson, the Spencers of the land will go on prospering.

NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. PELL. Mr. President, in 1965 it was my honor to bring before the Senate legislation which led to the establishment of the National Endowment for the Arts and the National Endowment for the Humanities. Both organizations have been reauthorized twice and the funding for them has grown considerably. While the Endowment for the Arts has received great press and public notice, the Endowment for the Humanities has very quietly built up programs of excellence which, while of fine quality, have not been considered newsworthy. However, excellence does eventually receive due notice, I ask unanimous consent to have printed in the RECORD three articles published in the New York Times discussing some of the excellent programs which have been conducted by the Endowment for the Humanities under its first Chairman, Barnaby C. Kenney, and under its innovative new Chairman, Dr. Ronald S. Berman.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 30, 1972]

IN HUMANITIES PLAN: MIDDLE AMERICA

(By Howard Taubman)

WASHINGTON, March 29.—The National Endowment for the Humanities, which has received scant public attention compared with its sister agency, the National Endowment for the Arts, which deals with such glamorous matters as theater, opera, film, orchestras and museums, is setting its sights on Middle America.

Under the leadership of Dr. Ronald S. Berman, its new, dynamic chairman, the Humanities Endowment has decided to aim about a third of its budget of almost $30-million for the fiscal year ending June 30 at the great majority of Americans who presumably do not concern themselves with such matters as philosophy, languages, literature, philology, history and the other disciplines of scholars of the humanities.

[Meanwhile, in New York yesterday Dr. Berman announced an endowment matching grant of up to $500,000 for the New York Public Library.]

Dr. Berman, a scholar himself with a special background in Shakespears and Renaissance studies, believes that the humanities can and should be made accessible to ordinary people, and he intends to invoke television, films and other modern means of communication to reach the widest possible American constituency.

One of the first new programs on his agenda will be a television series devoted to the period of Shakespeare. The endowment, he said in a recent interview in his office here, is negotiating for the right to show the film

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versions of "Henry V," "Richard III" and "Hamlet" starring Laurence Olivier for this series:

"We won't simply show the films, though that won't be a bad start," Dr. Berman said. "We'll work in appearances by distinguished scholars. The aim will be to broaden the frame of reference, perhaps to bring Shakespeare and his time and people closer to ours."

Would the films be shown without cuts?

"I'm not against cutting a Shakespeare play," Dr. Berman replied. "Why should we make the going harder than necessary for a public accustomed to something less than a two- or three-hour drama?"

The Shakespearean project will be followed, Dr. Berman said, by a series of filmed versions of great novels.

"I know you can't encompass Tolstoy's 'War and Peace' in a short film version," he said, "but you should be able to manage something impressive with, say, Jane Austin. Dickens has been done extremely well, and we'll use some of those films."

Dr. Berman expects to make arrangements for the filming of a number of Restoration plays by such writers as Congreve and Wycherly for another series. He is negotiating with the British Broadcasting Corporation to film the series in England.

Even before Dr. Berman took over as chairman last December, the endowment had begun to back a series of filmed biographies, like one of the Wright brothers, which have been shown on the Public Broadcasting network. Dr. Berman said this series would continue.

The National Humanities Series, which has brought teams of humanist-lecturers and performers to remote places of the country, have dealt with such themes as "Justice—Trial and Error," "Face to Face," an inquiry into how and why men create, and "Stop, Look and Listen," a multimedia exploration of the humanities.

The endowment intends to expand its efforts to reach directly into the nation's communities. State-based groups have been established in Georgia, Maine, Missouri, Oregon, Oklahoma and Wyoming, and 10 more states are almost ready to launch grass-roots programs involving especially created councils, university extension divisions, public television and radio, public libraries and other organizaions. Each state is setting an over-all theme. In Oregon, for example, it is "Man and the Land."

The endowment will fund each state program at about $100,000. Dr. Berman insists that the lectures, panel discussions, film showings and multimedia productions must reach into the smaller towns and villages.

Dr. Berman and the Presidentially appointed National Council on the Humanities, which is composed of 26 men and women, intend to continue the endowment's support of scholarship and research. This commitment was reflected in the recent announcement of 64 senior fellowships to outstanding humanists, most of them on the faculties of colleges and universities, at a total cost of $1.4-million.

"We also want to do something about the colleges and universities," Dr. Berman said. "I don't mean innovate. Innovation generally leads to a narrowing of perspectives. I want to enlarge. W'ere going to try to encourage institutions to set up teams for teaching certain disciplines—using a charismatic lecturer, assistants for discussions of students in smaller groups and occasional contacts with outstanding teachers in the area.

"Eventually we might put as much as 25 percent to our budget into this program. We've already selected some universities. We're also arranging to help the University of Michigan establish a college devoted to medieval studies, the first of its kind in this country."

HELP FOR THE LIBRARY

The thousands of readers and researchers—New Yorkers and non-New Yorkers alike—who use the New York Public Library daily are well aware of the damaging impact the Library's financial difficulties are having on its operation, and on the availability of its rich resources to the public. Now a gleam of hope has appeared in the announcement by the National Endowment for the Humanities, acting with President Nixon's approval, that it plans to provide $500,000 in Federal funds by June 30 to help meet operating costs of the great research divisions of the Library.

The catch, however, is that the amount will be forthcoming only if an equal sum is provided by individual and corporate donations. It will not be easy to meet the challenge since the deadline is June 30, but the New York Public Library is of such extraordinary important to this city and its people that its current urgent needs deserve the utmost generosity possible from this metropolis and its citizens.

UNITED STATES OFFERS A GRANT TO PUBLIC LIBRARY

(By Laurie Johnston)

The deficit-plagued research libraries of the New York Public Library will receive up to $500,000 in Federal funds—if the same amount can be raised from contributions between now and June 30.

Dr. Ronald S. Berman, chairman of the National Endowment for the Humanities, announced the matching grant here yesterday. He said the endowment would consider an equal "challenge" gift in the next fiscal year.

The grant represents the first Federal contribution to the operating budget of the research libraries.

"This is a giant step in the recognition of our library for what it is—a truly national resource," said Richard W. Couper, president and chief executive officer of the New York Public Library.

He called the grant a patent recognition that neither public nor private dollars alone can sustain large cultural institutions."

Dr. Berman said the endowment had given grants for specific projects to libraries and museums, including the Library of Congress and the New York Public Library's Schomburg Collection of Negro Literature and History, but not for operating budgets.

He said the present matching grant with "within our mandate of support for the humanities."

The research libraries consist of 18 divisions including general humanities, science and technology, social sciences and the arts, occupying most of the main library at Fifth Avenue and 42d Street; a six-floor building with periodicals and patents at 521 West 43d Street, and the research collections in music, theater and dance at Lincoln Center.

Dr. Berman called them "one of the great resources of humanistic scholarship in the country." He noted that—unlike the 83 branch libraries—they were "public only in the sense" of being open to users without charge, since they had been founded and heavily supported by private giving.

With increased operating costs and a recession in contributions, the research libraries have been perennially threatened with complete closure to their users and have operated on drastically reduced schedules.

Private fund-raising, benefits and emergency transfusions of public funds have kept them alive, almost day to day.

Mr. Couper said that "valid pledges" as well as receipts in the library's own fund-raising would count in the total to be matched by the National Endowment for the humanities.

He said $600,000 had been raised toward this fiscal year's fund-raising drive for $1-million. The $600,000 does not count against the matching atart. The library would now have to surpass its remaining goal by $100,000 to qualify for the $500,000 maximum in matching funds.

Mr. Couper reaffirmed his conviction that money to keep the research libraries open on a full schedule of hours should come from the City University, whose graduate students use them most heavily. But, he said, "April will tell" what budget settlement will be made between the city and the state.

He said that whatever funds were received from the National Endowment for the Humanities would be used to maintain and improve the quality of the research collections themselves.

"Eighty per cent of our costs are people," Mr. Couper said, "but we are also in the financial throes of a startup of automation projects, including cataloguing, and these costs will level out in three years' time.

Dr. Berman said he had discussed the matching grant with President Nixon and had been "cheered" by his enthusiasm for it. Leonard Garment, special assistant to the President for education and cultural affairs, was among those present for the announcement, made at a news conference at the main library.

August Heckscher, the city's Parks, Recreation and Cultural Affairs Administrator, said he was "very pleased" about the Federal support.

"It is an important breakthrough," he said, "because it recognizes the national character of the New York Public Library."

He expressed hope that the action would "signal more Federal aid" to museums and other cultural institutions here that, he said, are also in a "national" category.

ABSENCE OF A SENATOR

Mr. GRIFFIN. Mr. President, I wish to announce that the senior Senator from Tennessee (Mr. BAKER) is absent from the Senate today on official business.

FORMER SENATOR PAUL DOUGLAS

Mr. WILLIAMS. Mr. President, last week, one of America's outstanding men celebrated his 80th birthday—former Senator Paul Douglas.

A number of us were honored to serve with Senator Douglas; and, indeed, it was a most meaningful honor. I recall that when I was a new Member of this body, Senator Douglas always was a source of inspiration and admiration to me, and he always will remain that.

Senator Douglas was far in advance of most of this country in many of his ideas. Only in recent years has our Nation begun to catch up with his innovative thinking, particularly in the area of social justice.

He is a man of towering intellect and total commitment. But, even more, he is a man of outstanding fairness; a man more ready to see good than bad in any individual and a man always willing to listen to all sides of any argument.

Senator Douglas is a man of great courage; courage that he demonstrated on the battlefield at significant personal cost and in this Chamber where he stayed in the forefront of so many important and controversial issues.

Fortunately for the Nation, Senator Douglas continued to put his great talents to work after leaving the Senate.

He returned to perhaps his first love—teaching—and has been a great source of inspiration to all the young people with whom he came in contact.

That was not sufficient for his energies. He also performed yeoman service as head of the National Commission on Urban Problems.

Again, it is indeed the fortune of this Nation to have the benefit of a mind that remains eternally young and vital.

Mr. President, the Senate has been graced with many great men throughout history. Senator Douglas belongs in that category—a giant of a man.

I am sure that all Senators join with me in wishing him many, many more happy and fruitful years.

ANOTHER POLL OPPOSES GUARANTEED ANNUAL INCOME

Mr. CURTIS. Mr. President, I note that the voters of Kentucky's Fourth Congressional District have rejected the concept of a "guaranteed annual income" as a part of welfare reform.

In a questionnaire poll of his constituents, Congressman GENE SNYDER found 87.5 percent of them felt welfare reform should not include a guaranteed annual income. Only 10.3 percent favored such a plan.

Recently, I have pointed out similar results in polls taken statewide in North Dakota and Oklahoma. These polls indicate there is only a small minority of the people in many areas of the country who find a guaranteed annual income acceptable. Even some, among the minority who do, may not understand its implications as contained in H.R. 1.

I challenge every Senator who feels favorably disposed toward such legislation to poll his constituency before he casts his vote. We are, after all, elected as representatives of the people. On many issues the popular will may not be clear. On this point, however, I believe it is unmistakably clear.

I compliment Representative SNYDER and his constituents for their contributions in helping demonstrate the will of the people on this issue. The full results of the Congressman's poll appear at page 11288 of the CONGRESSIONAL RECORD for March 30.

MRS. PATRICK HART

Mr. MONDALE. Mr. President, recently I read an article in the Minnesota Association for Children with Learning Disabilities Newsletter concerning the outstanding work of a Minnesota volunteer named Polly Hart.

I think we all recognize the field of learning disabilities as very important and work in the area is desperately needed. Too often, tireless work of generous and dedicated volunteers goes unnoticed by the public and consequently is taken for granted.

Mr. President, I am so impressed with the energy and selflessness of this mother of five young boys that I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR VOLUNTEERS

Polly Hart, mother of five young boys from 3 to 11, first learned about learning disabilities when her second son, Jim, was in the first grade at Schiller school in northeast Minneapolis. Jim's extreme quietness and slowness, his very low reading scores, and his tendency to read word's backwards prompted Polly and her husband Pat to seek help for him—first through the Minneapolis schools' psychological services, and then at the Psycho-Educational Center of the University of Minnesota. Jim's poor large-muscle control required special gymnastic exercises at both the University of Minnesota and at Larry Gleason's Gym.

After their experiences in helping Jim, the Harts were able, a year later, to respond to the different, but equally real, needs of their third son, Joey. The opposite of Jim, Joey was hyperactive and aggressive, with a short attention span and a poor attitude towards himself. Washburn Child Care Guidance Center was the place where the Harts got help for Joey.

Polly became active in the Minneapolis chapter of MACLD two years ago, and when the city was organized into units she became chairman of the Edison unit. With the excellent cooperation of the principal, social worker, teachers, staff and PTA at Schiller, Polly organized the first unit meeting in northeast Minneapolis in October, 1971. Those who have worked to set up a unit know the many chores and details involved. Polly made arrangements for the speaker and location, prepared and distributed flyers, arranged for publicity (an excellent article in the northeast newspaper, The Argus), and brought stacks of literature on learning disabilities to the meeting. Dr. Leo Hanvik, director of Washburn Clinic, spoke, and the meeting was impressive for its large turnout and the eager interest of the audience.

So far, this profile of a hard working MACLD parent volunteer is typical of many others. Polly's concern for her own children, which has included taking them week after week to special resource centers, has extended to the needs of others with similar problems. But Polly's experience is special and unique in that all the time she has been working to help her own and other children, she has also been fighting leukemia.

Several weeks ago, when the second unit meeting was held at Waite Park school, Polly was too sick to attend. However, with the generosity and courage that seem to be a family tradition, her husband and her mother, Mrs. Francis Guimond, continued the plans that Polly had begun and carried on with the meeting.

A few months ago, Polly wrote this poem on the subject of learning disabilities. Those who don't know her may be able to catch from the poem a hint of her special qualities—her sweetness, cheerfulness, optimism, goodness and courage—and will know why she means so much to us in MACLD.

WANTED: ACTION!

(By Polly Hart)

Another problem existing in our nation
Is not widely understood as it should be;
It involves twenty percent of our children,
And is called a special learning disability.

It is important to note that these children
Have intelligence rated normal or more,
But cannot learn if their teachers apply
The same methods they have used before.

Their hearing and vision are normal,
But a learning channel is blocked.
They try so hard, but are defeated,
If they are misunderstood and mocked.

In the effort to appropriate funds,
One matter demands attention;
Much more is spent on drop-outs and delinquents,
Than what is needed for early prevention.

There is hope that in the future,
When parents and schools understand,
The supply of SLD teachers
Will adequately meet the demand!

THE FARMER—MISUNDERSTOOD AND CRITICIZED

Mr. MILLER. Mr. President, one of America's least appreciated people is the farmer. He is not only misunderstood but is the first to be criticized if prices increase at the retail outlets, even though he has not been responsible for that rise. Yet studies will clearly show that the farmer is only slowly catching up—in some areas—to the prices which prevailed 20 years ago.

One of those who has been carrying the story of the American farmer throughout the Nation is John W. Megown, of Cedar Rapids, chairman of the Iowa Agriculture Promotion Board.

What he had to say, as reported in an article published recently in the financial section of the Denver Post, is well worth reading. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Feb. 27, 1972]

ROLE OF THE FARMER "NOT" APPRECIATED

COLORADO SPRINGS.—Most Americans fail to recognize and appreciate the role of the farmer in their daily lives, says John W. Megown, chairman of the Iowa Agriculture Promotion Board.

Megown, Cedar Rapids, Iowa, is one of five men nominated for the new, unfilled post of White House farm adviser. He addressed the 47th annual meeting of the Colorado Grain and Feed Association (CGFA) at the Antlers Plaza Hotel here. About 250 attended.

PREMIX GRAINS

Megown is public relations vice president for Vigortone Products Co., a division of Beatrice Foods, Inc., and the nation's largest producer of premix grains.

Despite the fact that farmers and ranchers, representing only 4½ per cent of the U.S. population are able to produce food and fibers for the other 95½ per cent of the country, the importance of agri-business in this country isn't realized, Megown told the farmers and grain dealers.

He said agriculture is an annual $320 billion industry, equal to about two-thirds of the value of all corporations in the United States.

OWN LAND

"Yet, this farmer, in his own land, has always been treated as if he were not quite the equal of those whom he fed," Megown noted.

Part of the problem lies within the agriculture industry itself, he said, pointing out there is disunity in the agricultural field "that at times appears to be downright suicidal."

Megown is a member of an ad hoc committee headed by Sen. Carl T. Curtis, R-Neb., and Rep. George H. Mahon, D-Tex., that is attempting to "identify what is wrong with public opinion toward agriculture."

He said the committee hopes to be able to recommend ways in which "existing misconceptions can be corrected."

MANY JOBS

Megown pointed out that 6 million jobs in the supply industries depend on farming,

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and that another 14 to 16 million jobs are involved in processing and marketing farm products.

"Our opportunity to be a singular and persuasive force is at hand—and has been for years," Megown said. "The purpose of the Curtis and Mahon study committee is to identify our strengths and suggest the ways these strengths can best be promulgated in the economic, social and political marketplaces."

RETIREMENT OF JESS TAYLOR, TRIBUNE, KANS., FROM KANSAS HOUSE OF REPRESENTATIVES

Mr. PEARSON. Mr. President, I want to remark here on the retirement of Jess Taylor of Tribune, Kans., after 24 years of service in the Kansas House of Representatives.

Jess Taylor, who became 75 years old on February 1 of this year, was the first man ever to serve two terms as Speaker of the Kansas House. Only one other man, Representative Calvin Strowig of Abilene, who is the present Speaker, has held this position for more than one term.

Jess Taylor is a friend who was my colleague during the years when I served in the Kansas Senate. He is loved by the people of southwest Kansas and admired by leaders of both political parties for his dedication to the electoral process and his readiness to speak the language of the people in the halls of government. On his retirement, he was honored by the reading of a proclamation citing his patience, fairness, cooperation, and leadership on the floor of the Kansas House of Representatives. I can imagine this was a moving experience for Jess Taylor and consider it a proper expression of the good will of the people of Kansas for this lively veteran legislator.

I want to take this opportunity to add my own expression of high regard for Jess Taylor and his dedication to the work of legislative representation. He is vital proof that legislators who retain their sense of equality with the people also retain the right to make the people's laws.

CAUTION IN THE SITING AND REGULATION OF LARGE NUCLEAR POWERPLANTS

Mr. WILLIAMS. Mr. President, now pending before the Atomic Energy Commission is a request for a construction permit for two large nuclear power reactors at the Newbold Island Nuclear Generating Station near both Trenton and Philadelphia. Each unit would have an electrical output of more than 1,000 megawatts, making them among the largest of the nuclear power reactors being built today.

Additionally, the nuclear industry is now publicly talking about the idea of platform-mounted nuclear powerplants located off our coasts. This is proposed as a way of finding sites economically close to load centers and reducing the acceptable sites for large powerplants.

Both of these developments have substantial implications for the State of New Jersey. The Newbold Island plant, if completed on schedule, would mean that within 5 years New Jersey will have six large nuclear power reactors having a total generating capacity of 6,160 megawatts. Each plantsite inevitably subjects the surrounding population to some exposure to radioactive wastes from routine operation. And this raises the possibility of potentially dangerous exposure should an accident result in release of even a small part of the enormous quantities of the radioactive wastes contained within a large nuclear power reactor. Each site also subjects the surrounding environment to the effects of the large amount of waste heat from a steam-electric powerplant whether nuclear or conventional. Looking ahead, I can see that the promotion of offshore locations means that our coast and oceans as well as our interior will face this risk.

The problem is how to assure the safety of the public at a time when the utilities want to quickly build many nuclear plants.

It is clear that the pressures for more nuclear power as well as more conventional power will increase in New Jersey. I know that more electricity will be needed by our cities, our industry, our commerce and our people in their private lives, and I am not prepared to adopt the position that the best way to deal with the environmental and safety problems of large nuclear powerplants is to put a lid on the use of electricity. Electricity has become the lifeblood of our urban society and we will be using more of it. However, with current warnings of impending power shortages, I do endorse and support measures to increase the efficiency and reduce the wasteful usage of electricity.

WE MUST ACT VERY CAREFULLY IN LOCATING AND BUILDING LARGE NUCLEAR POWERPLANTS

The fact that we need an increasing supply of electricity does not mean that we must rush into the deployment of new technology whose safety is the subject of increasing questions. If we must consider turning to nuclear power, then let us move deliberately and cautiously in the decisions as to where these plants will go, how big they will be, what safety measures will be employed, and what other measures will be needed to keep environmental impacts within bounds. There are several facts which dictate caution.

First, there is controversy over the adequacy of certain safety measures. Beginning in January, the AEC has been holding a public, rulemaking hearing on the very technical but also very important issue of AEC's acceptance criteria for emergency core cooling systems for light water-cooled nuclear powerplants. We have learned that there are gaps in our understanding of what could happen within a large nuclear power reactor in certain accidental situations, and the adequacy of this particular measure to prevent literally disastrous results from such accidents has become a matter of controversy. The hearings indicate that some well qualified professional men in the nuclear field think there is a possibility of a kind of accident that would cause the intensely radioactive core of a nuclear power reactor to melt. Because of the enormous heat contained in the molten core, the core could literally melt its way out of the plant and into the environment. It is terrifying to think of this type accident occurring in a barge or platform-mounted powerplant off our coasts with huge amounts of radioactive material escaping into the waters.

The testimony at these hearings provided, for example, the materials that led Richard Lyons to write in the New York Times of March 12 that nuclear experts share doubts on nuclear powerplant safety. The accounts of these hearings in the nuclear press, particularly Nucleonics Week, Nuclear News, and Nuclear Industry indicate to me the possibility of substantial, unresolved issues of nuclear safety. These issues must be resolved before we as a Nation so commit ourselves to nuclear power that other alternatives are foreclosed and the public is subjected to an unreasonable risk.

Second, the validity of standards for release of radioactive wastes is also in question. Also in January, the AEC opened rulemaking hearings on standards for emission of radioactive wastes from the kinds of nuclear powerplants now being built in the United States. It is evident from reports on its proceedings that there are questions as to how much radioactive waste a nuclear powerplant should be permitted to routinely emit to the environment, and how the effects of the emissions from individual plants should be taken into account when these plants are located near each other. If one looks at the locations of the 23 operable nuclear power reactors, the 54 that are being built, and the 52 more that are on order, it is evident that these are concentrated in the northeastern United States. Forty-two of these 129 units are located in Virginia and northward into Maine. Almost a third of the Nation's nuclear capacity will be found in a small but congested part of its territories. Inevitably these plants will be located so close to one another that their effects cannot be considered in isolation.

How nuclear plants of the future will be sited, designed, built, and located will depend considerably upon the outcome of these hearings, so there is reason for great caution until this matter, too, is resolved.

Parenthetically, I note that results are not yet in on three fundamental reexaminations of the scientific basis for our exposure standards. These were begun several years ago by the now defunct Federal Radiation Council and are being continued by the Environmental Protection Agency. I do not believe that the AEC should make any judgment on its standards until these studies are completed.

Finally, the Comptroller General has found deficiencies in AEC regulation of nuclear power. Only a few weeks ago, on January 31, the Comptroller General reported on management improvements needed in AEC review and evaluation of applications for construction permits and operating licenses for nuclear powerplants. His findings suggest to me that AEC has diverted much of the manpower that was supposed to develop criteria and standards and codes for nuclear powerplants to the short-term demands for review of applications for individual plants. This to me is a distressing situation. If anything, AEC should be expediting the development of these essential features of its regulatory system. Without them the public lacks the protection that must come from a coherent, consistent set of guides and standards for the designers of nuclear powerplants. This leaves the way open for too much individual variation and for diverting the scarce professional manpower into wasteful analysis of minor variations and away from fundamental issues. Parkinson's law is very much at work here; the less consequential commands the attention that should go to the more consequential.

The Comptroller indicates the AEC's licensing system stands in need of standardized safety review and evaluation. While he reports that the AEC recognizes this, recognition is not the same as resolution. Here again is reason to move very deliberately and very cautiously.

THE SITING AND TRANSMISSION ISSUES

At present where nuclear powerplants are located is the result of private decisions made in the board rooms of individual electrical utilities, often operating independently of one another, in a splendid isolation. This decisionmaking process may have been fine for a pioneer era, but simply is not consonant with the demands of our urban era. Measures to create effective regional planning for generating electricity are sorely needed. This is particularly true of planning that could identify where generating sites will be needed, when they will be needed, and how large they should be so that the public may have an early and effective voice in decisions that can have so severe an impact upon them. Certainly we should be careful in approving future sites for nuclear powerplants until a national siting policy for large powerplants has come into being.

Then there is the problem of transmission of this electricity. That problem is inextricably intertwined with the siting of large nuclear powerplants. If we can bring about the formation of a truly national power grid within the next few years, we will probably have the option of placing large powerplants in remote parts of the country where the population density is low. With a truly national power grid we could generate electricity at a distance from where we intend to use it. But such a grid will not come into being without continued pressure.

THE POPULATION ISSUE

To illustrate the importance I attach to siting, consider the population close to the Newbold Island nuclear plant.

The station will be located on Newbold Island in the Delaware River about 4½ miles south of Trenton and its suburbs—with a population of over 200,000; and 11 miles northeast of Philadelphia, with a population of 2 million. Only 3.4 miles from the site is the Willingboro complex with its population of 72,000 residents. The AEC's own Advisory Committee on Reactor Safety as early as September 1969 pointed out that this represents a relatively high-population density to be near a large nuclear powerplant, and the ACRS reiterated its concern last August. I think the Advisory Committee's concern was well expressed, and I hope the AEC will very carefully and thoroughly examine the design measures that are proposed. This would provide some of the additional safety and control of radioactive effluents that location in a populated area certainly demands. There must be and can be no compromise between cost and safety. If it turns out that measures needed to safeguard the public are considered too costly by the utility, then that would be a clear signal that the decision to proceed should be reexamined very carefully indeed.

SUMMARY

In summary, I am expressing what I feel is a growing concern in Congress that there is too much of a rush to build new powerplants, and to quickly deploy nuclear power. This tendency creates the very real risk of regulatory decisions made without sufficient contemplative examination of nuclear powerplants. If nuclear power is to be used, the public must be assured that AEC licensing of construction and operation of large nuclear powerplants will not proceed until these major issues are resolved. This is why I ask the AEC to proceed with extreme caution and not to sacrifice the long term safety of the public to short term exigiencies.

CONCLUSION—THE NEED FOR A NATIONAL ENERGY POLICY

In conclusion, I believe that we need a coherent national energy policy. We hear that unless large nuclear powerplants are rushed into immediate use with unseemly haste—though yet untested and unproven in reliability—we risk imminent electric power shortages. Yet these warnings, these expressions of urgency are not accompanied by priority attention to the forming of a coherent, integrated, coordinated policy for the use of our national energy resources, particularly for the generation of electricity. While the President's energy message underscored the potential imbalance between demand and supply for energy, it stopped short of enunciating a national energy policy or of establishing the means to form one. Fortunately, the Congress is aware of the need to fill this policy vacuum which has been created by the expanding demand for electricity. The energy policy study of the Senate, pursuant to Senate Resolution 45, which was introduced by my distinguished colleague from the State of Washington, Senator JACKSON, and which I consponsored, deserves our fullest attention. Our colleagues in the House are showing parallel interest. But if we are to achieve the needed policy, the administration and the Congress must give priority to an immediate, nonpartisan effort.

Lacking this, officers in the electricity industry as they choose between uranium or coal or oil for fuel, decide the location of huge new powerplants, work for or oppose adequate interconnection and coordination between fragmented utility transmission systems and elect to promote or to discourage efforts to tap supplementary energy sources, will work in a policy vacuum. Clearly we need immediate, strong, positive guidance. Otherwise the past trend toward fiercely independent, uncoordinated action by the companies in the electricity industry will be projected into the future with even more serious results. The planning which does exist today simply does not command the support and cooperation needed. Otherwise, we would not today be talking of an imminent energy shortage.

The time is past when the Nation could afford the luxury of parochialism, splendid isolation, and highly individualistic competition in the electricity industry and its supporting energy industries. Absent a national energy policy, we shall continue to see the building of ever larger powerplants with their ever-increasing assault upon the air, the water and the land at the places where they are built. We shall continue to see huge nuclear plants built close to large centers of urban population and industry despite warnings by eminent scientists that the design features required to prevent or control major nuclear accidents still rest upon unproven technology.

For these reasons I would conclude this appeal for caution and deliberation in the use of nuclear power with a plea to all concerned to get on with the forging of a viable, coherent national energy policy. If the electricity situation is as critical as the administration avers, then we must all set such policy. If the situation is not that critical, then we have good reason indeed to slow down the headlong rush towards huge, unproven nuclear powerplants.

Time is rapidly running out. We must decide now what our course will be. I am very afraid that we may find ourselves bound to a de facto energy policy that will result in a catastrophic future.

NINTH ANNUAL AIR FORCE BALL—ADDRESS BY COL. FRANK BORMAN

Mr. GOLDWATER. Mr. President, on March 24, in New York City, the Ninth Annual Air Force Ball was held under the auspices of the Iron Gate Squadron of the Air Force Association.

The Iron Gate Squadron is just one of many squadrons of the Air Force Association, all of which contribute to the selling of airpower and the helping of the Air Force, its men, women, veterans, and charities.

This year, Col. Frank Borman, one of our most famous and accomplished astronauts, served as vice chairman of the ball and delivered a short talk which I found to be extremely interesting, so much so that I believe Senators and other readers of the CONGRESSIONAL RECORD will find it equally interesting. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I am delighted to have served as a Vice-Chairman for this ball and to be here tonight.

It is now my pleasure to introduce to you two of my "space" colleagues who are with us tonight.

First, I would like to introduce one of the last men who will go to the moon in the Apollo series. The Apollo 17's Command Module Pilot, Comdr. Ronald E. Evans.

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And the first Air Force man to step foot on the moon. Former astronaut and retired Air Force Colonel, Edwin E. "Buz" Aldrin.

I'm among those who know how much blood, sweat, and tears have been shed to make this evening a great event.

Like Ray, and Gil, I am proud to be a member of the Iron Gate Chapter.

It gives me a wonderful feeling to be associated with men who not only have the sense of mission . . . but who also do their share in honoring those individuals and those organizations who have earned our wholehearted respect and admiration. This applies especially to this evening as we honor our Air Force.

We meet this evening . . . to celebrate an event that took place almost 25 years ago. On September 18, 1947, in our Nation's capital, a new vibrant force of freedom was born. The then one-year-old Air Force Association, in Air Force magazine, hailed the occassion as "The day Billy Mitchell dreamed of". I am talking about that eventful day on which Stuart Symington went to his office in the morning with the title of Assistant Secretary of War for Air and came home that night as the new Secretary of the Air Force.

This marked the official and formal recognition by the United States of what long ago had become an operational fact of life . . . that national defense is a three-dimensional structure . . . with aerospace the new and possibly most crucial medium of tactical, as well as strategic, warfare.

The road to co-equality had been long and arduous for our nation's air arm. It's start can be traced back all the way to the observation balloons of the Civil War. But it took the breakthrough of the Wright brothers at Kitty Hawk to provide the means that made aviation feasible. The genius of the Wrights offered the United States the lead in the field of flight . . . but our country dropped the ball . . . again . . . and again . . . and again.

It is fitting to refresh our memory of those early days for there seems to be a tendency for history to repeat itself. Perhaps one day—we will learn and we will remember.

The achievement of the Wright brothers was totally ignored by this country . . . and their efforts to interest the government in aeronautics remained unsuccessful for several years. The British and French governments, by contrast, were quick to realize the potential of the just invented airplane . . . and tried their best to persuade the Wrights to sell out to them.

But the two brothers refused on patriotic grounds. Finally, President Theodore Roosevelt heard about the government's apathy and decided that the War Department had better investigate the possibility of using airplanes for military purposes.

And so, in 1907, four years after Kitty Hawk, U.S. military aviation started. But the forerunner of today's powerful Air Force was nothing must to shout about. The Aeronautical Division of the Army's Signal Corps was launched with a staff of one officer and two enlisted men . . . and not a single airplane.

If you think that's under-staffed, listen to this: Shortly after the Division was formed, one of the two privates went over the hill, and the Army's new air arm lost half of its enlisted strength in the process. For the next forty years it was uphill all the way. The first aircraft turned over to the Army crashed during a test flight in 1908 . . . the next one met the initial test requirements but in a subsequent flight crashed with the only two military pilots of the United States aboard. While they weren't hurt, the Aeronautics Division lost them both through transfers . . . one of them because he apparently had the temerity to take a lady friend for a joy ride.

Things looked up some in the next round after the Army's only officer on flying duty, Lt. Benjamin Foulois, learned to fly through a correspondence course. There was a little incident, though, that I want to tell you about because it shows what good judgment our aviators have had right from the beginning. On one of those early training flights in the vicinity of San Antonio, Texas, Bennie Foulois was coming in for a landing when he discovered that his usual landing area was being used by Army troops.

Since he was already committed, he was confronted with a difficult choice . . . either crash into a tent or a horse. He chose the horse . . . and killed it. It turned out to be a very good choice, as the tent's occupant at that very moment was none other than General Douglas MacArthur.

1914 saw the outbreak of World War I in Europe. The air arm of the United States at that time consisted of 14. . . . I repeat 14 licensed military pilots . . . and eight of them were killed in training crashes. Military leaders gave very serious thought to abolishing aviation all together.

When the U.S. entered the war three years later, we, the nation that invented flying, ranked *seventh* in terms of air power among the nations of the world. And it is just as shocking to realize that when World War II broke out . . . 22 years later . . . we were *sixth* in terms of military airpower. Not much of a gain in more than two decades, I'd say. Of course, we rallied during the war . . . and the government-industry team . . . or in the jargon of today, the military-industrial complex . . . was able to forge the greatest air armada the world had ever seen in a few short years. This we were able to do in that pre-missile era because our fortunate geographic location shielded us from invasion.

After the war, however, we went right back to the old ways.

The mighty Army Air Forces that had ruled the skies over Europe and Asia was scrapped almost completely between the end of the war and the formation of our independent Air Force 18 months later. Manpower was cut some 86 percent; the drop in aircrew personnel was 84 percent. The number of combat groups nosedived by 96 percent.

Over the intervening quarter century, the autonomous United States Air Force developed into the Free World's most powerful deterrent force for peace . . . whose overriding task remains the prevention of global, nuclear war. At this task, the Air Force in concert with the other services, has been fully successful. Yet, in the 25 years since the United States Air Force was created from wartime Army Air Force, American fighting men in blue have been called into action 17 times in 17 different trouble spots around the world.

And from Greece in 1948 to Southeast Asia today . . . thousands of American airmen, along, of course, with the members of the other services, have given the last full measure of devotion to God and country. In addition, today some 1,600, almost all aviators, are either prisoners of war, or are missing in action in Southeast Asia. As we commemorate the 25th anniversary of the Air Force, we appeal to all Americans to leave no doubt that we, as a people, are committed in the fullest sense to taking every action, exploring every avenue, and proposing every possibility that can cast a ray of hope into the darkness of the prisons that hold these gallant fighting men.

Let there be no mistake about the American resolve on this point!

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So *far*, we have looked back, have reminisced to put the significance of the United States Air Force's silver anniversary into proper historical perspective.

But where do we stand today? The answer, I am afraid, is that in the cyclical gymnastics to which we subject our national defense effort, we are once again caught *up* in a *down*trend. The Soviet ICBM strength, already eight times ours in terms of *deliverable* war heads, is well on its way toward doubling our *missile inventory*. In terms of tactical aircraft, the picture is equally grim . . . and perhaps more crucial, their research and development effort, the technological life line to the future, dwarfs ours.

So, as we commemorate the 25th anniversary of the Air Force, we do so in a somber mood . . . with the realization, that America's adversaries in the past could damage its structure, but could not destroy it as a nation, even after years of war. Soviet Russia could do it before lunch tomorrow, although they would be destroyed in return.

Ladies, and gentlemen, the American airman has always lived with risk, whether he mans an early warning post in the far north, a missile site in the western plains, a SAC plane on vigil, an air strip in Vietnam . . . or carries the flag of the United States into the vastness of space.

In add the changing, in all the adapting to new technological and political conditions, the one immutable constant is his vigilance, his willingness to sacrifice, and his devotion to duty. *He was . . . is . . . and always will be*, the reason we are celebrating the silver anniversary of the United States Air Force . . . and the reason we give emphasis to its birthday theme . . . Pride in the past . . . faith in the future.

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Faith in the future was certainly exemplified this evening by the great performance of our own Air Force Academy's Chorale . . .

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And as for the pride in the past and indeed the present . . . I want you to meet a few of the many distinguished Air Force leaders who are with us this evening.

Ladies and Gentlemen . . . the immediate past Chief of Staff of the United States Air Force, General John P. McConnell.

The Commander-in-Chief . . . North American Air Defense Command and Continental Air Defense Command . . . from Ent Air Force Base, Colorado, General Seth J. McKee.

The Commander, Military Airlift Command . . . From Scott Air Force Base, Illinois, General Jack J. Catton.

The Commander of the Air Force Systems Command . . . from Andrews Air Force Base, Maryland, General George S. Brown.

The Deputy Commander in Chief . . . United States European Command . . . From Stuttgart, Germany, General David A. Burchinal.

A top man who really keeps our Air Force moving along . . . The Chief Master Sergeant of the Air Force, Sgt. Richard D. Kisling.

Now . . . for the presentation of the Iron Gate Chapter's highest award, the famed Bronze Eagle, I call again upon Gil Nettleton and Ray Bell.

THE UPPER GREAT LAKES REGIONAL COMMISSION IS DOING ITS JOB

Mr. GRIFFIN. Mr. President, in 1965 the Congress passed the Public Works and Economic Development Act which paved the way for the several regional economic development commissions which have been authorized to help solve problems hindering economic growth in certain lagging regions of the country. The intent of Congress at that time was to create a Federal-State partnership that, on the one hand, could be responsive to regional economic problems but, on the other, would not become an additional layer of government. While I am not in a position to pass judgment on all of these commissions, I have been impressed by the effort of the Great Lakes Regional Commission to meet that mandate.

I should like to call the attention of Senators to an editorial published recently in the Escanaba, Mich., Daily Press regarding a demonstration project funded by the Upper Great Lakes Regional Commission. Called Timber, Inc., the program was designed to aid the many small timber harvesters and woodlot owners of the region. It has demonstrated profitable uses for local timber, economic marketing procedures, and advanced safety techniques for woods workers. New harvesting methods were demonstrated, and the economies of various harvesting techniques were carefully evaluated. The majority of the tasks which the project was aimed at have been accomplished; those functions of Timber, Inc., which merit continuation are being woven into other ongoing programs. The Upper Great Lakes Regional Commission is to be commended for this fine effort.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TIMBER, INC. LIFE TO END IN 1972

You can scarcely pick up a daily newspaper these days without reading about the formation of some new organization or government agency. It seemed years ago that there was an organization to meet every public and private need or interest. Yet new organizations keep springing into existence in dizzying profusion.

In some cases, these organizations are created to carry out a specific mission, but the tendency is for their members, to perpetuate their organizations even after the mission has been fulfilled.

It was refreshing, then, to learn that an organization called Upper Great Lakes Timber Inc., will be dissolved at the end of this year after having been in operation three years.

Timber, Inc., was established to assist small lumber operators in Michigan. It is supported by public funds through the Upper Great Lakes Regional Commission. It was funded with $160,000 and has functioned under a board of 22 directors from all parts of Michigan. Most of its various projects have been confined to the Upper Peninsula, but the agency's work has been aimed at helping small loggers throughout Michigan and in parts of Wisconsin and Minnesota as well.

So how come Timber, Inc., has decided to close shop instead of applying for funds to extend its life after the initial three-year period ends?

Peter Grieves, Newberry, forester who is general manager of Timber, Inc., explains it this way: "Timber, Inc., has fulfilled its aims and destiny and will be laid to rest at the conclusion of the current funding program." He said operations are being terminated by Timber, Inc., directors at his recommendation because "further efforts is unnecessary and the organization has done what it can in the field of timber management."

Spoken like a man of the people.

Under the heading of unfinished business for Timber, Inc., are two major projects for 1972, its final year of operation.

One concerns plans to bring small wood producers of Michigan into closer relationship with the Timber Producers Association of Michigan and Wisconsin, giving them the benefits of trade association activity.

The other project is—would you believe—formation of a new organization. It would be called the Michigan Forestry Association and would be designed to encompass the needs of all forest-oriented organizations within the state.

Well, at least, it wouldn't be an organization financed with public funds.

PENSION REFORM

Mr. MONDALE. Mr. President, the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) has been conducting an intensive study of the private pension plan system in the United States, under the auspices of the Subcommittee on Labor. This study has had as its focal point the effects of private pensions on the more than 30 million workers who participate in such plans, and the millions more in their families who are also affected in a vital way.

On Monday, March 20, 1972, the Senator addressed the annual meeting of the Society of Actuaries in New Orleans. He spoke of the public policy issues which affect the development of pension legislation at this time, and the pressing social reasons for the equalization and strengthening of the laws which govern pension plans. He urges us to "improve our national commitment to the aging" and stresses that reform of the private pension plan system is one way to begin to honor that commitment.

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF U.S. SENATOR HARRISON A. WILLIAMS, JR., BEFORE THE SOCIETY OF ACTUARIES, NEW ORLEANS, LA., MARCH 20, 1972

I am very pleased to have this opportunity of meeting with you.

And, I am also pleased to see that you have devoted this forum exclusively to the subject of private pension plans.

That indicates to me a recognition on your part of the broad and significant impact the private pension plan system has on our society.

There are other indications, also, of this new awareness.

For example, consider these words which were authored by one of your members and appeared recently in the "Institutional Investor."

"Our relationships with our clients are becoming more problem-centered, with less concern for traditional roles and more for good decisions.

"We see the need to 'sensitize' our clients to social needs . . . we are the only group equipped by training and experience to pull together all of the demographic, economic, financial, investment, and social pressures converging on pension funds."

I want you to know that I agree wholeheartedly with this assessment of the role which actuaries should play.

As a matter of fact, a pension reform bill which I will introduce soon requires that actuaries be included as permanent members of the Advisory Council which would oversee operations of private pension plans.

I'd like to discuss with you today some of the issues which have led me, and several other members of Congress, to seek reforms in pension plan regulation.

Our considerations include protection of the worker, the mobility of the labor force, and the protection of pension assets.

But clearly the primary issue is the fulfillment of the purpose of private pension plans: retirement security.

Demographic projections after the 1970 census indicate the population base of the United States will be experiencing an unexpected shift from young to old.

That means there will be more older people, with more leisure time, and more employment problems, in an economy which still favors the younger over the older worker.

Clearly we must improve our national commitment to the aging; reform of the private pension plans is one way to begin.

Although the idea of social responsibility for the aged is as old as the tribe, pension plans in America did not begin to grow until the tax benefits and wage and price controls of World War II facilitated their advance in size and stability.

This growth of private pensions closely followed the acceptance of Social Security in 1935.

Once the government had taken the initial step, and offered the hope that old age need not be a time of destitution, it was no longer possible to ignore the other two components of retirement income that were supposed to accompany Social Security.

For it is important to remember that Social Security was never intended to provide more than a floor of income support.

Retirement income was held to come from three sources: social security, private savings, and private pensions.

Studies by the Subcommittee on Labor have shown, however, that even a combination of the average Social Security monthly benefit with the average monthly private pension benefit is not sufficient to sustain an urban retired couple above the poverty line.

Now, private pension plans are matters of contractual relations between employers and employees.

But when the basic purposes of pension plans are frustrated, and participants do not receive the retirement security they had justly expected, then the government must step in to help pension plans fulfill their obligations.

Congress has begun to recognize its responsibility.

One sign of its concern has been the intensive study of private pension plans by the Senate Labor Subcommittee, which released its findings and recommendations on February 28.

The findings substantiated earlier charges of defects in the system.

Among them were the following:

First that private pension plans are an integral part of the working lives of Americans, and are intrinsically woven into our economic and social structure.

Furthermore, they represent the largest collection of virtually unregulated funds in the United States today, with assets of over $135 billion.

Second, that there is currently no one federal government agency with authority to exercise close supervisory controls over private pension plans in order to assure fulfillment of purpose and to protect the rights of those involved.

Even on the corporate level, insufficient professional attention is paid to the annual audits of plans.

Our Subcommittee survey shows that only 45% of all plans studied provided for annual audits by an independent professional accountant.

Third, that deficiencies in plans contribute to hardships suffered by participants.

These deficiencies are related to

a. inadequate or nonexisting vesting.

b. underfunding

c. lack of portability provisions

d. lack of reinsurance of unfunded liabilities, to protect employees in the event of plan termination.

e. lack of uniform fiduciary requirements.

f. poor communication among employees and plan administrators.

These deficiencies are real.

Our goals are also real, and attainable.

Simply stated, we want to guarantee that change or loss of a job shall not mean irrevocable loss of accrued pension benefits.

We want to protect the worker's right to employment mobility, without the sacrifice of his retirement security.

And, we want to keep the employee at all times clearly informed of his rights and obligations under his pension plan.

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Means to these ends include minimum vesting standards, mandatory funding requirements, insurance of unfunded liabilities, the establishment of voluntary portability programs among employers, and improved communication between employee and employer, about the provisions of the pension plan.

The actuary assumes immeasurable importance in these reforms.

He is the architect of the plan which, if the assumptions are valid and realistic, will produce the promised pension.

Furthermore, he must so design the plans that costs will be kept low and businesses will not suffer.

In the course of the Subcommittee's pension study a certain mood of pessimism was detected.

There was some feeling that private pension plans are too big to handle, that costs are skyrocketing, and that the inevitable result would be government takeover of private pensions.

However, in my judgment, the need for government supervision of certain operations of private plans is not incompatible with the need for private enterprise to run its own affairs.

It is more than possible for pension legislation to be temperate, feasible, and effective, and not infringe upon the flexibility of the present system.

Proposed legislation, if it is to be at all meaningful, will increase the cost of private pensions.

Reform legislation will produce new responsibilities for the plans, such as increased benefits, and increased benefits are certain to increase costs.

But we must not overstate these costs.

Right now I see an immediate need for more intensive management of the investments of the pension plans in order to produce a higher rate of return.

Higher investment income, coupled with moderately higher contributions, will meet any liabilities incurred by new legislation.

With better management of assets, private pensions can survive, and be vastly improved by this legislation.

Among our goals is mandatory vesting—but at a reasonable rate, and within a reasonable period of time.

Another goal is compulsory funding—but with adequate protection for those who may find it difficult at first.

We also must compel insurance—but at a reasonable rate.

And, we must improve fiduciary standards to protect the assets of these funds and the rights of the people, to whom they belong.

We know it is possible to effect these improvements because so many of the better pension plans have already made them.

Part of our role as legislators will be to demonstrate to all companies and unions that it is in their best interest—because it is in the best interests of their loyal workers—to follow the lead already established.

Part of your role, as actuaries, will be to make the calculations that are the lifeline to pension reality.

For when all the speeches are finished, and both "sides" have had their say, there remains one question which should be carefully examined by all who have a stake in the private pension plan system: To whom do the pension benefits belong?

Are pensions a gratuity, a "gift" from the employer to his faithful employees?

Or, are they deferred wages, money the worker has earned, to be paid him at a later date?

The Subcommittee investigated this question thoroughly during its research of the past year.

Response on the part of the employees who testified at Subcommittee hearings in July was unanimous.

For one thing, the general feeling among these witnesses and among the thousands of people who wrote to tell of their losses of expected benefits, was that they had "worked all their lives" and "got nothing for it."

They were not referring to their yearly wages, but to their expectations of future security.

More specifically, one witness referred to her employers attitude:

"The company passed out a folder to the employees giving us a resume of the . . . pension plan . . . I think the company called it our second pay check"

This is especially true in collectively-bargained plans, when pension payments are often made in lieu of, or as a supplement to, wage increases.

And yet, we still find employers who maintain an essentially paternalistic view of the role of pensions in the life of the company.

These words from a witness at Subcommittee hearings in October attest to that:

"My father's philosophy and mine is that still the basic cell of civilization is the family, and our corporate people are part of our family . . . the basic philosophy was to provide additional money for those people that had given us long years of service."

I stated earlier in this talk that I believed the acceptance of Social Security by the nation at large signalled the beginning of the phenomenal growth of the private retirement system.

It is no longer logical to expect workers to experience filial gratitude for the pension benefit graciously tendered by a fatherly company president.

The pension is a right, not a gift.

Workers need to know what kind of retirement security they can plan on.

They will be living longer, in better health, frequently separated from other family members or a familiar community of friends.

They have a right to expect financial independence to save them from the cruel indignities of poverty and helplessness.

And we—you, the architects of the plans, and Congress, the architects of reform—have a duty to give our working people this security.

SUPREME COURT SAYS STATES CANNOT SET STRICTER ATOMIC POWERPLANT STANDARDS

Mr. SCHWEIKER. Mr. President, on Monday, April 3, the Supreme Court affirmed a ruling that individual States cannot set antipollution standards stricter than those required by the Federal Government.

The specific decision involved litigation initiated by the Northern States Power Co., regarding restrictions on the dumping of nuclear powerplant waste materials set by the State of Minnesota as a part of the process of granting a permit to build a nuclear plant on the Mississippi River. As this case wound its way through the lower courts to the Supreme Court, the position of the company that the State of Minnesota lacked the power to impose requirements stricter than those set by the Atomic Energy Commission was upheld.

Mr. President, this is the kind of situation I had in mind when I introduced S. 2050 on June 10, 1971. My bill would amend the Atomic Energy Act of 1954 to permit individual States to set their own standards for the regulation of radioactive discharges to the environment from nuclear powerplants, as long as the State's standards are more strict than the Federal standards. In other words, the Federal standards would set a minimum. If the States felt, as Minnesota did in this case, that tougher standards were necessary to protect its citizens, the States would have the authority to act.

I believe it is entirely appropriate to permit individual States to make their own judgments as to the safety of nuclear powerplants and the effect which radioactive emissions will have on the health and safety of the citizens. The Minnesota case graphically points out the need for my legislation.

We have established a clear precedent for this kind of legislation in section 109 of the Clean Air Act, which permits States to set standards that are tougher than the Federal standards. With the proliferation of nuclear powerplants around the country and the considerable dangers to the population which may result from nuclear accidents, it is even more important to permit States to set more restrictive environmental standards in the nuclear powerplant area than it is in air pollution.

I strongly urge my colleagues on the Joint Committee on Atomic Energy to act on this important measure.

Mr. President, I ask unanimous consent that an article describing the Supreme Court's opinion, published in the Washington Post, of April 4, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AEC PREEMPTS A-CONTROLS

The Supreme Court affirmed yesterday a ruling that states may not demand more antipollution safeguards than the federal government requires in the realm of waste dumping from nuclear-powered generating plants.

Over the dissents of Justices William O. Douglas and Potter Steward, the court denied a full hearing to the state of Minnesota, which claimed that federal laws had not preempted the field of environmental protections against nuclear pollution.

The court's brief, unsigned order did not settle the issue of federal vs. state power in other contested areas such as automobile safety and pollution rules, drug and cosmetics regulation—where overlapping jurisdiction has brought confusion and litigation.

But the action did indicate that states may be obliged to yield when judges find that Congress has clearly signified its intention to set national standards in a field appropriate for uniform rules.

A somewhat trickier question of what federal courts should do when Congress has not yet fully implemented a regulatory scheme is still pending before the justices in a case from Michigan.

Neither Michigan, in its claim of jurisdiction over water cleanliness standards, nor Minnesota in its nuclear energy appeal, has contested the ultimate power of the federal government to displace state regulation. But they strongly argue that the federal government has not yet assumed such sweeping power.

Environmentalists have charged that certain industries have played one government regulator against another and have won less severe rules from Congres and federal regulators than is proper if states are given adequate leeway to protect their own citizens from pollution.

In yesterday's case, the Northern States Power Co. went to court over the restrictions on waste dumping demanded by Minnesota in granting permits to build a nuclear plant on the Mississippi River. Lower courts agreed with the company that the state lacked the power to impose requirements stricter than those imposed by the Atomic Energy Commission.

INDIAN SELF-DETERMINATION

Mr. MONDALE. Mr. President, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) has long been a leader in the fight for Indian self-determination. As chairman of the Special Subcommittee on Indian Education and as chairman of the Administrative Practice and Procedure Subcommittee, he has time and again demonstrated his commitment to ending the tragic circumstances in which so many of our Native American citizens find themselves, and their powerlessness to influence programs presumably designed for their benefit.

Mr. President, I believe that Senator KENNEDY's recent testimony before the Committee on Appropriations regarding funding for the Bureau of Indian Affairs and the Indian Health Service will be of interest to all those who share his concerns. I ask unanimous consent that this testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY BEFORE THE INTERIOR SUBCOMMITTEE OF THE SENATE COMMITTEE ON APPROPRIATIONS, MARCH 16, 1972

Mr. Chairman, I appreciate this opportunity to testify before this Subcommittee concerning the budgets of the Bureau of Indian Affairs and the Indian Health Service for the fiscal year 1973.

This is my first appearance before this Subcommittee, although I have testified in the past before the Labor, Health and Welfare Subcommittee on the Appropriations Committee. I know that the members of this Subcommittee have great expertise and experience in matters relating to the federal Indian affairs budget, and that you, Mr. Chairman, and other members of this Subcommittee are also on the Interior and Insular Affairs Committee and have shown a special commitment to the Indian people.

Over the past few years my own activities in the Senate have brought me into close contact with many of the problems faced by Indians and Alaska Natives. In 1969 I chaired the Special Subcommittee on Indian Education, which travelled extensively and documented first-hand many of the educational needs of the first Americans. Last spring I participated in hearings of the Senate Education Subcommittee on Indian education legislation which I had introduced, and again heard testimony from numerous Indian leaders on the education needs of their communities. As Chairman of the Health Subcommittee I have had the chance to study many of the health problems of American Indians. And during the past 6 months my Subcommittee on Administrative Practice and Procedure has held 10 hearings, some in the West and Southwest, on issues relating to federal administrative protection of Indian natural resources.

During the past year many of the budgetary needs and priorities of Indian communities, primarily in the areas of education, natural resource protection and development, and health, have been brought to my attention by native Americans. I have gained some impressions and formulated some suggestions based upon this input from the Indian community, and I would like to share some of them with you.

I must acknowledge that I am here today with mixed feelings. I would like to think that at long last the Federal Government is beginning to take seriously its trust obligation to native Americans.

I would like to think that over a decade of rhetoric in support of Indian self-determination and development has real meaning.

I would like to think that federal funds appropriated in the name of Indians are directly benefiting Indians.

And I would like to think that the Bureau of Indian Affairs is the advocate of Indian rights and development, rather than a step-child dominated by non-Indians who view the expansion and the preservation of Indian rights as threats to their own interests.

This is what I would like to think. But it does not conform to the stark realities of the day. These realities are reflected in the frustration and anger of Indian people, whose hopes and aspirations have been raised by the rhetoric of self-determination, when the day-in, day-out operations of the BIA continue in the old pattern. They are reflected in a recent letter from Leon Cook, President of the National Congress of American Indians, to the Commissioner of Indian Affairs in January. With the Chairman's permission, I will not take time to read that letter but would like to have it included in the hearing record.

The BIA's Budget Memorandum this year says that in 1973 the BIA will "continue to place emphasis on assisting Indians to gain greater control over the educational, economic, and social development of their reservations" and will place "greater emphasis" for "Indian involvement, participation, and control in five specific areas." Mr. Chairman, since 1934 the Secretary of Interior has been required by Congress to consult with tribes on appropriations matters prior to budget submission to the Bureau of the Budget. (25 U.S.C. §476.) This mandate has not been followed in the past and, according to many tribal chairmen, is not essentially being followed today. It seems to me that if Indian self-determination is to become a reality, then tribal involvement in the setting of budget priorities and levels at the initial stages is a must. Let me now move on to some specific inadequacies in the present budget requests of the BIA and IHS.

NATULAL RESOURCE PROTECTION

Water Rights

Protection of natural resources is of fundamental importance to the future of Indian economic development. And inventories of water rights are prerequisites to protection. The hearings before the Administrative Practice and Procedure Subcommittee have clealy elicited these basic principles from Indians across our land. That water, especially in the West, is such a crucial and scarce resource, is attested to by the fact that the so-called "Westwide" water survey is presently underway. This study was directed by Congress and calls for presentation of a comprehensive water use survey and plan to Congress and the President no later than June 30, 1977.

Unfortunately the same sense of urgency is not reflected in the BIA budget where Indian water resources are concerned. The desperate need for water inventories on reservations has been thoroughly documented, and it is reflected in the establishment last fall of a Water Rights Office in the Bureau of Indian Affairs.

In testimony before the Administrative Practice Subcommittee in November 1971, Assistant Secretary of the Interior Harrison Loesch estimated that the total funds necessary to complete the required inventories of Indian water rights would be around $30 million, possibly more. Mr. Loesch testified forthrightly that he saw no reasons why the needed inventories could not be completed within five years.

And yet the BIA requests only $1.7 million for the coming fiscal year, much of which will be dissipated on administrative overhead. At that rate, it would take nearly two decades to complete the inventories. Mr. Chairman, if we use Mr. Loesch's estimates of money and time requirements, the BIA should be asking for $6 million for its Water Rights Office. If the deadlines were adjusted to coincide with the deadline for the "Westwide" survey, the requested figure would be $7.5 million. I urge the Committee at least to bring the funding of the Water Rights Office up to $6 million by adding $4.3 million to its budget.

In many cases Indians have superior, but as yet undefined, rights to water, so that inventories and even court adjudications of rights may be necessary before development based on water use can proceed. Even where Indian projects have been approved by Congress, however, budget requests are frequently far below program requirements.

For example, the Navajo Irrigation Project is far behind schedule, even though the Congress has usually appropriated the full amount requested by BIA, or even more. Generally the BIA's request to the Office of Management and Budget was at or above the original control schedule but was cut back drastically there. This year the request to OMB was reduced from $15 million to $10.5 million. This contrasts sharply with the experience of the corresponding non-Indian San Juan-Chama project, where each year OMB approved the Bureau of Reclamation's request according to the project schedule, and Congress appropriated those requests in turn. Two comparative tables make this clear and I would like to make them a part of the record. This Committee should take the initiative to raise the Navajo Project to at least the $15 million called for by the schedule.

In my recent travels to Indian country tribal leaders of reservation after reservation—for example, Colorado River, Gila River, Fort Mohave, and a number of pueblos—placed increased funding of irrigation projects at the head of their economic development priorities. Tribal leaders from the Northwest testifying in Washington displayed open anger and dismay at their inability to obtain approval for reclamation projects for their reservations.

I cannot begin to estimate the actual dollar amounts required to begin to meet the needs for water resource development on reservations. For that matter, the Bureau's budget memorandum fails to deal comprehensively with the overall economic development requirements of Indian reservations generally. I would thus urge this Committee to have this area surveyed completely by the BIA and to obtain a full report of those needs, so that Congress can place in proper perspective the actual requests of the bureau in this area.

BOUNDARY SURVEYS

On another vital matter concerning the protection and preservation of Indian resources, the Bureau's budget contains a request of $900,000 for long-overdue reservation boundary surveys. As often articulated by many of the tribal officials who testified before my Administrative Practice Subcommittee, unless boundaries are clearly defined and given the proper legal sanctity, reservation development is impeded or prevented. Furthermore, ambiguity over boundaries becomes an open invitation to squatters on disputed land and the consequent threat to Indian resources.

$700,000 of the Bureau's requests will be transferred to the Bureau of Land Management to conduct the boundary surveys. Although I realize that title 25 U.S. Code, section 176, provides that surveys of Indian land be ". . . under the direction and control" of the BLM, I am concerned that BLM may

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be surveying land which it claims belongs to the federal government and not to Indian tribes. These conflicts of interest appear clear at such reservations as Fort Mohave, Salt River, Colorado River, Fort Apache, Fort Yuma, and Chemehuevi, as explained to me by tribal chairmen in January.

In approving the funds for this important program, this Committee should be aware of the potentially conflicting interests here. I would suggest it appropriate that the scope and content of all surveys be jointly agreed upon among the BIA, the respective tribes, and the BLM, and that the BLM contract out the surveys where agreement cannot be reached.

EDUCATION

The largest single program administered by the Bureau of Indian Affairs is education. Education at first constituted the white man's primary tool to turn the Indian away from his traditional values and activities. While its objectives have theoretically changed, education has remained a central element of our federal Indian policy. Yet BIA education programs are inferior programs and are still unresponsive to the needs of the Indian people. Hearings before House and Senate Committees have highlighted what Indians believe to be the two basic elements needed to change this pattern: Indian control and adequate funding of schools.

Indians continuously ask for control of their own schools; official pronouncements support it; and the BIA says that local control will be a top priority. But progress has been suspiciously slow. To date, only eight schools are operating on BIA contracts, and plans call for an additional four in the coming year. This is out of over 200 schools presently run by the Bureau. Legislation currently pending before both the House and Senate and one bill in Conference strongly stress Indian control as a central element of Indian education. BIA actions, as well as pronouncements, should reflect this emphasis.

A GAO report on Indian education, due to be released next month, points out that the BIA has failed to develop a program of educational services to meet either the specific needs of Indian students or the Bureau's own declared goals in this area. It should be pointed out, however, that even if such programs had been planned and developed, there would not have been sufficient funds to implement them. Let me turn to three general areas for examples:

BOARDING SCHOOLS

It is well-recognized that the weakest aspects of Indian boarding schools—both off and on the reservation—are dormitory living and the quality of personnel and programs. The lack of trained personnel, career ladders, recreation programs, and other student-activities programs have significantly contributed to the high percentage of dropouts and to widespread lack of achievement. The BIA has asked Congress for a little over a million-dollar increase for boarding schools. To provide a significantly improved program of dormitory living, the Bureau should have an additional $4,800,000.

The model dormitory project at Toyei Boarding School on the Navajo Reservation illustrates that with dedicated administration and appropriate funding, extraordinary results can be achieved. According to a brief description of this project by its director, Dr. Robert Bergmen—which I would like to submit for the record—children in this program did better than those in a control comparison group at another boarding school in every behavioral variable measured, including academic achievement, psychological stability, and physical ability. Compare this, if you will, with the following cases suggesting the more usual boarding school experiences:

For almost a year the Intermountain School has been the focus of investigation relating to general low morale of the staff and mistreatment of students.

Several months ago a student was injured by a staff member at Chilocco School when the staff member became involved in a fight between several students. The dropout rate this year at Chilocco has been about 30 percent.

There have been repeated reports of corporal punishment at Pierre Boarding School, and late last month ten Indian girls attempted suicide by cutting their wrists.

The needs for additional funds for Indian boarding schools cannot be underestimated.

HIGHER EDUCATION

The Bureau of Indian Affairs makes scholarship grants to Indian students, based on financial need. These cover tuition, books, and minimum living expenses. During the present school year 10,500 students are receiving assistance from the Bureau under the higher education programs. The funds requested for the next fiscal year would likewise reach 10,500 students. I would like to point out, however, that the BIA estimates almost 14,500 qualified applicants for BIA assistance next September. Under the Bureau's present budget request, then, some 4,000 Indian students will probably have to end their education with high school. This seems to me to be inconsistent with not only our Indian policies, but also with our national priorities that are reflected in the $20 billion higher education bill presently being considered by House and Senate conferees.

Mr. Chairman, I have talked with Indian high school students in Alaska, in the Southwest, and in the Midwest over the past few years, and without exception they tell me of their desires to go on to college. Higher education is valued by Indian people as a key to full employment of both human and natural resources in their communities. An additional $7,000,000 would bring the funding level of the higher education programs of the Bureau up to its own projected needs for the next fiscal year, and I urge the Committee to add this amount to the $17.15 million presently requested for higher education assistance.

CONSTRUCTION

The final item in the education budget of the BIA that I would like to mention involves school construction. Under general building replacement and enrollment expansion principles, the Bureau estimates its annual construction needs at over $50 million. Yet for the next fiscal year the BIA is asking for approximately $31 million—almost $20 million short of its projected needs. I fully understand the fiscal restraints on the Executive Branch, imposed from within and by Congress. But I suggest that an additional $20 million on top of the Administration's request would not even meet minimal current growth and replacement needs for Indian school construction, much less start to meet the staggering backlog.

To give the Committee just a few examples: at least 10 schools have submitted applications for assistance in the design stage—the first stage—of construction. These total over $3.5 million; none of them are included in the Bureau's present budget. Improvements or additions costing over $50 million have been planned for construction this June at 14 schools; none will be funded this year. Haskell will be short a dormitory; Grey Hill will not be completed; Mt. Edgecumb will still have inadequate sewage treatment; Rough Rock will not expand to the high school level; and kindergarten facilities nation-wide will go unbuilt. We should try to fund school construction programs so as not to fall further behind. An additional $20 million would be a start.

INDIAN HEALTH

I would finally like to make a few suggestions with respect to some important program needs of the Indian Health Service which reflect the serious health needs of Indian communities.

Indian poverty and isolation have been both attendant to and reinforced by poor health. Improved health, both physical and mental, are essential to sound economic and social development on reservations. The Indian Health Service has requested program increases in only two important components of its operations: $756,000 for the upward mobility program which provides work-study training in medical disciplines for Indians beyond the professional assistant level, and $632,000 for Indian community health projects. I commend both increases to favorable consideration by this Committee.

Data from the recent census indicate that the Indian population is substantially larger than projected. Consequently, the service population of the IHS has been rising more rapidly than expected. Because of this, and because physical isolation often prevents the delivery of adequate health services, there are several other IHS program needs which I would like to discuss.

MENTAL HEALTH

The mental health program is a highly innovative and effective effort, based on using the strengths of the Indian people and their traditions to help solve current problems. This program has been developed in a form suited to each community it serves and is therefore able to reach people where a conventional psychiatric agency could not. Since this development has been recent and has proceeded community by community, there are still many areas and phases not covered. Indian people expect this progress to continue, but there is no provision for its expansion in the budget. I understand that the mental health program could make reasonable progress with an addition of $1.3 million, representing 70 new positions. The eventual goal is to place a mental health aide in each reservation community. There are now only 90 people serving in this capacity.

COMMUNITY HEALTH MEDICS

In the field of delivering care for physical illness, the Indian Health Service has also been innovative and effective, but past gains may be reversed if increased support is not forthcoming. For example, in the past year thirty community health medics have been trained. If no addition is made to the proposed budget, there will be no funding for their salaries or supplies or travel and their training may be lost to Indian communities. A budget increase of $600,000 dollars would provide salaries, transportation, equipment and support services for 30 health service medics.

AMBULATORY CARE CLINICS

Another IHS program in need of further support involves ambulatory care clinics. The Indian people now believe that the clinics can help them and they have learned to come to the doctor early enough to prevent severe illness. Since the service population is growing, the result is an over crowding in the clinics where there are not enough doctors, nurses, rooms, or equipment. Over the past 6 months there has been a seven percent increase in the use of these facilities. A budget increase of $4.5 million would make much-needed expansion available in this critically important area of Indian health care, and I strongly urge its consideration.

Before concluding my testimony I would like to point out to this Committee an extraordinary abuse of authority and flaunting of congressional will by the Bureau of Indian Affairs. It has come to my attention that the BIA has what it calls a "1299 fund". This fund is earmarked by the Support Service Section of the Bureau for general administrative expenses. Congress has apparently appropriated $6,057,000 for this purpose and has authorized the assessment of another $3,531,000 from the Bureau's operating programs, representing a total of $9,588,000. Yet last fall I learned that the BIA had a whopping $26,642,000 in the "1299 fund" from the fiscal 1972 budget. The over $17 million difference between what was authorized and what the fund contained was apparently taken from operating programs without the sanction or knowledge of this Committee.

Mr. Chairman, I have not studied the budget practices of the BIA which make this kind of sleight-of-hand possible. I do know, however, that Indian communities are in dire need of the funds that Congress provides for them, and I therefore must condemn any administrative looting of programs to support the pet projects of Bureau bureaucrats. When I was on the Navajo recently Chairman MacDonald referred to BIA officials as "range riders". From what I understand to be the Bureau's practice with regard to the "1299 fund", I would have to characterize them as rustlers. I think that this Committee might want to inquire about this matter of the Bureau directly. Two years ago this Committee chided the Bureau in its report for flagrantly ignoring the will of Congress through continued unapproved use of appropriations. Evidently the BIA has not yet read that report.

Mr. Chairman, I think that the pervasiveness of Indian needs is documented beyond dispute. We are only just beginning to deliver on the long-promised resources to help native Americans meet those needs.

The appropriations increases I have suggested this morning are relatively small, but crucially important to the strength of future Indian development—human as well as economic.

Thank you again for your consideration and for this opportunity to appear before your Subcommittee.

VOLUNTARY PRAYERS IN PUBLIC SCHOOLS

Mr. GOLDWATER. Mr. President, the Senate has heard much argument in recent years over the whole question of whether it should be permissible to offer voluntary prayers in our public schools. This problem runs very deep into the beliefs and the consciences of the American people. In acknowledgment of this, the House of Representatives of the State of Arizona recently adopted a house concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States which would permit the offering of voluntary prayer in the public schools. I ask unanimous consent that House Concurrent Resolution 2009, 30th Legislature, State of Arizona be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

HOUSE CONCURRENT RESOLUTION 2009

A concurrent resolution urging Congress to call a Constitutional Convention to propose an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. In accordance with the provisions of Article V of the Constitution of the United States of America, the Legislature of the State of Arizona hereby applies to the Congress of the United States to call a Constitutional convention for the purpose of proposing an amendment to the Constitution of the United States, which amendment shall permit the offering of voluntary prayer in public schools.

2. If Congress shall have proposed an amendment to the Constitution to the same effect as the foregoing prior to January 1, 1973, this application for a convention shall no longer be of any force or effect.

3. The Secretary of State of Arizona is directed to transmit authenticated copies of this Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.

AIRLINE PILOTS VERSUS FAA

Mr. HARTKE. Mr. President, last week I introduced S. 3423 in an effort to prevent the Federal Aviation Agency from transferring the responsibility for the medical certification of airline pilots from authorized private medical examiners employed by the airlines themselves. For the past several months, the FAA has been soliciting comments on a proposal which would effect just such a transfer.

The FAA's proposal is unique in that the only argument which has been offered in its support is the claim by an official of the agency that a few of the authorized medical examiners have not been performing their function responsibly. The obvious answer to such a charge is to withdraw the authorization of any doctor who does not conduct a proper medical examination. Instead, the FAA has decided to give the airlines this responsibility—a responsibility the airlines do not want and, in many cases, could not handle without great expense.

Airline pilots have opposed this transfer because it places in the employer-airline a dangerous potential power to use a trumped-up medical problem as an excuse for firing a pilot who has been too outspoken. For this and other reasons, they have opposed the FAA's proposal and supported S. 3423 and a similar bill in the House (H.R. 13088).

Mr. President, I ask unanimous consent that an article published recently in the Air Line Pilot and an editorial which represents the views of the Air Line Pilots Association on this subject be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

AN ALPA VIEW: SHOULD AIRLINES GIVE FAA PHYSICALS?

Last October, a notice of proposed rulemaking appeared in the Federal Register that deserves the attention of every airline pilot. Written by Dr. Peter V. Siegel, the federal air surgeon, the proposed rule would require all airline companies to be responsible for all future FAA airline pilot physical examinations in place of the independent aviation medical examiners.

To the average man in the street, this may sound like a minor change in the medical certification process for airline pilots. It is far from being minor. It is a change that shakes the very foundation of the time-honored doctor-patient confidential relationship. It is a change that completely reverses the concept that doctors who give physical exams in the public interest should not be on the airline's payroll and, therefore, beholden to company management for their livelihood.

Ever since the proposed rule was published, ALPA's Aeronautical Committee, Captain Rod Gilstrap (UAL), chairman, has spent many hours studying its impact on both pilots and their companies. It has consulted with counterparts of the Air Transport Association, Allied Pilots Association, Flying Physicians Association, Civil Aviation Medical Association, other prominent members of the aerospace medical profession, association MECs and ALPA officers.

It has also studied the many responses that FAA has received concerning the proposal. As a result, one basic conclusion has been reached: The proposed rule is not in the public interest and should not be put into effect.

In their contacts with physicians, committee members found that there is overwhelming opposition to the rule or to any alteration of the present system that would eliminate the independent private practitioner of medicine from the certification process. It was the consensus that the private practitioner is the only medical authority whose position of independence assures his freedom to make pilot certification decisions on a purely medical basis, free of government and management control or other outside pressures.

Objectivity in conducing physical exams is vital to the professional pilot because medical certification is a legal requirement for the practice of his profession. It is essential, therefore, that this system be free of all non-medical considerations.

When the Aeromedical Committee found solid opposition to the proposed rule (only four responses out of more than 100 supported the federal air surgeon), it felt that a meeting might be arranged to determine what reasons lay behind the rule. None had been expressed in the *Federal Register*. None have been given to members of Congress who have inquired as to why the rule is proposed.

No meeting between the committee and Dr. Siegel has been possible. Thus, it has remained a mystery why he considers so radical a change necessary after so many years of successful operation of the current system of exams by independent aviation medical examiners. The only conclusion that can be drawn is that the federal air surgeon is unable to administer his own program with the 2,000 medical examiners now licensed to give airline pilot physical exams.

Since it became evident that FAA was intent on putting the proposed rule into effect at the expense of the airline companies, over the protests of the medical community and to the complete disregard for the harm it could do to professional pilots, the only alternative was to seek the counsel and support of members of Congress.

The committee reports that its reception on Capitol Hill was "warm, sympathetic, understanding, and enthusiastic." The adverse impact that the proposed rule would have on the pilots' working environment and on air safety was immediately apparent to each representative and senator visited, and their staff members.

Proof of concern was manifested in H.R. 13088, a bill that was introduced in the House of Representatives by Representative Dan Kuykendall (R-Tenn.) on Feb. 9. The bill would amend the Federal Aviation Act of 1958 to specifically forbid FAA from designating certification authority to company doctors. Cosponsors immediately leaped forward. They were: Representatives John Jarman (D-Okla.); John D. Dingell (D-Mich.); Ralph Metcalfe (D-Ill.); Brock Adams (D-Wash.); S. Fletcher Thompson (R-Ga.); Joe Skubitz (R-Kan.); and Bertram L. Podell (D.-N.Y.), all members of the House Committee on Interstate and Foreign Commerce. A similar bill is expected to be introduced in the Senate.

Airline management is not in favor of the rule, either. Representatives of the Air Transport Association, speaking for the airlines, say there is overwhelming opposition to the rule. Airlines do not want to shoulder the additional expense of setting up examining facilities or contracting for them. Neither do they believe that the government should pass the responsibility for pilot medical certification off on them when it rightfully should

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stay in an independent status free from any pressure or possibility of accusation of pressure.

Many physicians have also responded. One of them seemed to express the feelings of most when he wrote FAA: "As a practicing eye physician and surgeon, I am my own boss. I owe nothing to any airline executive. My duties as a senior aviation medical examiner are and can be accomplished strictly on a professional basis without regard to the wishes, desires or pressures of any company official."

After weighing the evidence, the ALPA Aeromedical Committee formulated the Association's reply strongly opposing the proposed rule. It was submitted to FAA on March 1. FAA medical staff members will now consider the replies and implement, discard or modify the proposed rule. But there is no obligation on FAA's part to do anything for an indefinite period of time. Years could pass without any action. Then, without further warning, the rule could be published and made binding upon pilots, their companies and medical examiners.

It is the opinion of those close to the matter that the best immediate course of action for ALPA members is strong support of the Kuykendall bill and a comparable bill that will soon be introduced in the Senate. The language of the House bill would amend the Federal Aviation Act of 1958 by specifying that the secretary of transportation "shall not delegate any part of his authority to an employe of any air carrier or to any person performing medical services on a contractual or regular consulting basis for any air carrier." It is only by this kind of legislative constraint that FAA will be prevented from issuing an arbitrary order that would work to the detriment of pilots, airlines and the flying public.

Background information on the proposed rule was mailed to all ALPA pilots in early March. All are urged to write to their respective U.S. representatives and senators to ask support for ALPA's position against changing the medical certification process and support for any and all legislation that would prevent FAA from making such a change.

A LEAP BACKWARDS

The Federal Aviation Administration is planning to make a radical and totally unnecessary change in the medical certification of airline pilots. It has proposed a rule that would require all airline pilots to have their FAA medical certificates issued by their company's "designated air carrier physician (DACP)." Each DACP would perform all required medical exams from initial employment to the close of a pilot's airline career. While others may be contracted to give the exams, only the DACP will be able to issue certificates or file required reports.

In addition, each DACP will be required to maintain a continual "health surveillance program" on his company's pilots. This means he could order a pilot to take a physical at any time he had reason to suspect "a disqualifying deficiency or increase thereof." Any pilot who had not flown for 20 or more consecutive days because of illness or injury would have to submit to his DACP's scrutiny.

To the layman, the idea may seem like a proper way to keep tabs on the state of a pilot's health. What may not be realized is that when management pays the physician's wages, management can expect the physician to follow its whims. And if those whims include trying to get rid of a pilot for other reasons, there is no quicker way than to have the DACP flunk him on his physical.

ALPA's Aeromedical Committee and Home Office staff have studied the proposed rule very carefully and submitted ALPA's official response to the docket on March 1. No public hearing is offered.

If the proposed rule is put on the books, FAA will truly have taken a giant leap—backwards.

BUSING IS A USEFUL TOOL

Mr. JAVITS. Mr. President, perhaps the most emotional issues before the American people in 1972 are school desegregation and busing to achieve it. Thousands of my constituents in New York State have written to me, expressing a wide variety of views on how we in the Congress should attempt to cope with problems of racial discrimination and unequal educational opportunities which too often are the plight of millions of American children.

The question of busing and the underlying educational questions with which it has been used to deal were the subject of an informal interview in which I participated with editors of the U.S. News & World Report. My considered judgments on this problem are expressed in that interview, and I would like to share them with the Senate. I ask unanimous consent that the interview entitled "Busing Is a Useful Tool," published in the U.S. News & World Report of April 3, 1972, be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

BUSING IS A USEFUL TOOL

(NOTE.—Jacob K. Javits, a New York City lawyer, spent eight years in the House and is now serving his third term in the Senate. He is the ranking Republican member of the Senate Committee on Labor and Public Welfare.)

Q.—Senator Javits, what do you think of President Nixon's proposals to curb busing for school desegregation?

A.—I think that the President has sought a breather—a breathing space—and both the House and Senate had this in mind when they passed busing curbs in their higher-education bills.

But I do not believe that the President's permanent proposals—in addition to his proposed busing moratorium—for allegedly giving 2.5 billion dollars of aid to compensate those who have been left behind in education are any really new addition to the situation, nor do they represent a solution to the busing problem.

So I think the President's permanent proposals may have rough going. But I do believe that it's possible to work out, in the conference between the Senate and the House on the current education bills, not a moratorium, as the President asks, but rather some form of breather for the American people on the busing issue until July 1, 1973.

Q.—In what way would busing be restricted in that period?

A.—There are already restrictions in both bills—the one passed by the Senate and the one passed by the House—and we will find some compromise between them.

Now, the Senate bill would restrict busing that would damage the health of the child or impinge upon the child's educational opportunity—considering both the child that's being transported and the child in the school to which he is being transported.

The House bill would, for all practical purposes, seek much more extreme limitations on busing.

In addition, the Senate bill provides a moratorium, as it were, pending appeals from busing orders where local school districts are consolidated or where there is going to be busing from one school district to another.

Now, there are enough variables in that whole package to allow us to design, in my judgment, what will, for practical purposes, be a breathing spell in ordering any major new busing to aid desegregation until July 1, 1973. This would not eliminate busing entirely—and I doubt that you could do that constitutionally, or that you should.

Just to give you an example: Suppose the President asked for a moratorium that prevents a child from being bused to a different school from the one he is now attending. Well, suppose that child is in a segregated situation—and there are still many districts where he is—where he was bused way out of his way in the past to maintain segregation. Are we going to inhibit the courts from busing that child for desegregating him—and busing him less distance? Of course we're not.

That's why I say that an inflexible standard in this matter is impossible.

Q.—Senator, do you regard busing as a useful tool to desegregation?

A.—It is a tool. And, in my judgment, the whole busing issue has been very sharply overblown. The evidence is that all over the country there are only 3 per cent more children being bused today than have normally been bused in the past. Remember, 20 million American children are bused, and have been, every day, and that the leap forward—an enormous leap forward—in education was accomplished by the central school district, which bused children from all over a countryside to a central school instead of to a one-room school where they were way behind in education.

Q.—This 3 per cent increase in busing, however, is not scattered nationwide but is rather concentrated in a relatively few communities, is it not?

A.—I would think so, and that's where the clamor has often been greatest. There are other statistics that will interest you, which have been gathered officially.

Governor Wallace is making a big issue of busing. Yet, in Alabama, the facts are that busing has gone down, not up, since the drive to desegregate began about the middle 1960s. It's gone down a minor percentage.

Q.—Compared with the days of complete segregation——

A.—That's correct, because more kids were bused farther in aid of segregation. Nobody now thinks of the fact that black children were bused from their homes directly past the white school, which might have been across the street—bused for miles so that they could be segregated in the black school. Now the shoe is on the other foot.

I'm the first to agree that the American people are outraged by any oppressive busing, although a lot of wrong names are attached to it, like "involuntary busing" or "forced busing." After all, the school districts provide buses as a service to children assigned to schools beyond walking distance, as they always have. The child doesn't have to be bused.

But, be that as it may, the fact is that busing is a useful tool, a necessary tool, in desegregation. And desegregation is a necessary and essential tool—and the great majority of experts agree on this—in equal educational opportunity. That's not true in every case. It doesn't mean that you have to strain the child. It doesn't mean that you have to inhibit the opportunity to learn of the child being bused, or even the opportunity of the child in the school to which other children are being bused. But nonetheless, it is a tool.

Now, this tool should not be overused. But I believe the issue has become very emotional. Therefore, in order advance, not retard, the whole progress of better education and school desegregation, we have to define reasonable limits on busing.

"WE HAVE TO DEFINE LIMITS"

Q—Are there places where this tool of busing has been overused, in your estimation?

A—I would not wish to be critical of the courts. I'd rather put it this way—because I think the courts have really striven in good faith to redeem the promise of the Constitution, and I think they rendered an enormous service to American society—but I would rather put it this way:

There have been outraged feelings about busing in those areas where a large proportion of children were to be bused what the community considered to be an undue distance. For example, Richmond, Va., is a case in which busing was ordered across school-district lines. The original order in Los Angeles was another example of extensive, long-distance busing. That was subsequently modified.

Indeed, in most cases, where there have been the loudest screams, the appellate courts have corrected the district-court orders. The judicial process is such that you're bound to have some error in some cases. That's why we have appellate courts—the courts of appeal and the United States Supreme Court. And I think the courts have taken care of the oppressive situations.

Nonetheless, there has been the outcry, and we have to define limits to busing. And I believe that the Senate concept of how to define those limits is the most intelligent, because it is conditioned to the educational process rather than to the absolute idea of eliminating busing, which you can't do—and which even the President knows you can't do, and he shows that in his own message.

Q—Do you think the measures the President proposes would prevent effective desegregation?

A—I believe they would, because I believe that we have not ascertained—and this is a basic question in education—that money alone—even if the money that the President asks were adequate, and it's far from adequate—that money alone will correct educational opportunities soon enough. It takes years to develop a program even with the use of the money, with teachers and facilities and the tradition of a given school as to the excellence of its education and the conditioning of the child himself.

The basic, fundamental character of my philosophy that dictates the policy that I, therefore, adopt as a Senator and which I believe is best for the people of my State and the people of the country—my philosophy is that you need desegregated education to provide more-nearly-equal educational opportunity. I use the words "more nearly equal" because it isn't going to be truly equal for a long time.

Now, if you start with that proposition, then it inevitably leads to all of the things I have said. If you start, however, from the idea that if you simply load in more money, you are going to give children equal educational opportunity, then you can come to different conclusions from mine. I don't agree with that.

"LOTS, LOTS MORE MONEY IS NEEDED"—

Q—Do you think that most schools which blacks attend today are inferior to schools that most whites attend today?

A—Yes.

Q—In what way?

A—In the way of the morale of the student and the incentives to learn, which the society frequently withholds from him. Unhappily for all of us—and it's no credit to any of us—the schools most blacks attend are also inferior in facilities.

Lots, lots more money is needed. We need much more federal money for education than we're getting, much more than the President is asking for. But that is not the biggest answer to the unequal-education problem. It's the biggest answer to the problem of all children being under par in education.

For example, in reading skills, as compared, let us say, with children in the more-advanced countries of Europe, our kids are behind—very seriously behind—and this is wrong on grounds other than segregation.

Now, let me tell you about the money. The President is asking for 2.5 billion dollars—representing a billion out of the emergency school-aid fund, which is intended to facilitate desegregation, and 1.5 billion out of the money for poor children under the Elementary and Secondary Education Act.

Now, this emergency school-aid money is supposed to come forward anyhow. There is nothing more he's giving them in that than he's already promised them. The 1.5 billion dollars is the biggest deal of all, because we have only 1.6 billion for all poor children to facilitate compensatory education—not just the heavily impacted school where 30 per cent of the kids are poor. All we have is 1.6 billion for them all. So if you take 1.5 billion for this special purpose, you leave 100 million dollars.

We have already got a provision in the law that heavily impacted schools with poor kids, under a slightly different definition from the President's definition, get the special break. So of that 100 million dollars, more than one quarter is going to those children now. What have you got left for all of the other poor kids who don't happen to be in schools with 30 per cent poverty, let's say—20 per cent poverty, or 18 per cent poverty? So unless you come up with more monies—with another billion dollars added to it—you're not doing anything in a total approach to the problem even in compensatory education.

Q—Do you think busing as it's now done is improving equality of education for large numbers of children?

A—Let us separate the two issues:

First, let's take busing as it is now done for children generally, leaving out desegregation—and this represents the bulk of the children. The 20 million children bused for reasons other than desegregation certainly have a better education because of the busing.

Now, as to the busing for desegregation, I believe that there is material improvement in equalizing educational opportunity the soonest possible because of this busing. Here, as in any public matter, we must allow 10 per cent or so for error or for unwise decisions; pressing it too hard, moving in a way that many families consider too fast, and so on. But discounting that marginal percentage, the totality of the busing result is beneficial.

Q.—Do you think it is largely errors in application of busing that cause the public outcry?

A.—No question about it. And I agree there is an outcry. And I agree the President is right, and we were right in the Congress in trying to do something about this outcry. I would yield to no one in my liberalism and my passion for equal opportunity in education. But I realize we had to do something about this public outcry. Otherwise we would have had a reaction which could have killed all desegregation.

You really could have gotten a constitutional amendment that would be barbaric and reactionary.

Q.—Do you think the idea of a constitutional amendment to curb busing is now dead?

A.—I hope and pray so, because to distort the promise of America that way would really be a most regressive step in our history, let alone on this issue. You know, there is a saying in my faith: "This, too, shall pass away." This busing outcry, too, will pass. But we have to pay attention to it, and we have to make some concessions to it.

Q.—Senator, if racial integration is necessary to equal opportunity for blacks, does this mean that there will also have to be busing or some other mixing measure in cities in the North, where there is school segregation as a result of residential segregation? Will suburban and inner-city schools have to be mixed?

A.—I cannot say "Yes" to that, because that presents first a legal problem and then a factual problem. Let me explain:

The courts will be extending the concept of unconstitutional segregation to include much of the North. The reason is that they will find—as they have already found in such places as Pontiac, Detroit, Pasadena, Indianapolis, and New Rochelle, N.Y.—they will find that the drawing of lines for school districts, the pattern of school attendance, even what they have done about housing and zoning, will represent some contribution by the State to the resulting segregation in the schools. This will demand, therefore, State action or local action to correct unconstitutional segregation. Much of the segregation which is attributable to housing patterns will be found to be segregation just as unlawful as the dual-school systems of the South.

So this is going to be a big issue, and it is here that wisdom will have to temper the situation, because you simply cannot, wholesale, bus kids from Bedford-Stuyvesant to the outer reaches of Long Island, for example. It just can't be done.

So here is where you have to have an intelligent system. Some busing will be needed and desirable, also some redrawing of lines, some educational parks. The President's plan itself contemplates that idea. You will not be able to mix up the children completely. That isn't going to be your only solution. But you can't inhibit it, either. It must remain as an element of a solution.

WHAT TO EXPECT AFTER A "BREATHER"

Q.—Senator, you describe the pending congressional action as a "breather." After the breather, what will be "Phase 2?"

A.—"Phase 2" will be some form of greater regularization of the criteria for busing. That's where I part from the President. I don't think they can be the President's criteria, which are very questionable—both constitutionally and policywise. I think they will be more along the lines of the Senate's Scott-Mansfield proposals.

And I believe the courts will be aided, perhaps even directed, by the stand of the Congress.

UNEMPLOYMENT HIGH FOR COLLEGE GRADUATES

Mr. MONDALE. Mr. President, one of the gravest problems facing us today is that of the almost 6 percent of our work force who cannot find jobs. A paying job is essential in the pursuit of a happy, productive life. It is time the administration changed its attitude toward unemployment and implemented some realistic program for creating jobs.

I wish to call your attention to one segment of the unemployed: the recent college graduates who can find no employment in their chosen fields. It is paradoxical that society can provide so many a college education and then fail to provide jobs for those it has spent so much money to train. We are forcing such young people to go on welfare when they are willing and able to work.

I believe it is essential that the Government move decisively to combat the high rate of unemployment. Unfortunately, the administration seems to have no plans for doing so. In fact, the Chairman of the Council of Economic

Advisers has said that it would be difficult to reach a 5-percent level, and "dangerously inflationary" to achieve a 4-percent rate.

I recently received a letter from a college graduate struggling to find a worthwhile job. It is a moving letter and speaks for itself.

Mr. President, I ask unanimous consent that his letter and my reply be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ELY, MINNESOTA,
February 21, 1972.

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: Two years ago, as a college student, I wrote to you and asked for your help in ending the Viet Nam war. And last year I wrote to lend my support in legislation to save the environment. But today I write about a much more basic problem—I need a job to support myself and my family. Idealism rapidly disappears when one begins to wonder where his next meal will come from.

I graduated Cum Laude from the University of Minnesota, Duluth in June 1971 with a BA in biology and a minor in geology. All through school I was a good student, possibly a bit radical at times, but I always studied hard and found my earth studies interesting and stimulating. You might say I was a product of the Great Society, nurtured and funded through college as a poverty-stricken but intelligent student by annual grants and NSDL loans. These monies even helped support my wife and daughter as I completed my final two years at the University.

But there the dream ended. I graduated with a flood of mass-educated, idealistic young people who have already been forgotten by the very country that made a higher education so readily available to them. By some legislative and administrative lack of foresight, no one was prepared to employ these thousands of knowledgeable, but unneeded graduates of 1971. So, we swallow pride and put aside our training and tackle any job that will put food on the table. I worked as a laborer through June, traveled for six weeks to find work, found nothing and returned to the same labor job. It ended in November and I became a pulpcutter for three weeks. Then, that ended too. So, finally, in December, with somewhat dampened Christmas cheer, we approached St. Louis County Welfare for help. Luckily, we qualified for AFDC–UF and a monthy grant of $256.00 was made available to us. I also am enrolled in the WIN program and will probably be receiving an additional $70.00 per month as an incentive to seek employment. And, if I haven't found anything by June, we will receive, I think, an extra $24.00 per month after the birth of our second child. In March my NSDL loans become due; under this welfare program I have no way of paying them back.

I am, along with many others, in a very difficult position. Employers who need people to fill labor positions are suspicious because they feel we are over-qualified and will leave as soon as a better offer comes up. (True, but how do we live until that Golden Opportunity arrives, if ever?) We are considered fully trained, so we do not qualify for Manpower and other retraining programs which provide at least a temporary stipend while retraining. We are "college people" and therefore are suspiciously eyed by Welfare and those critical of welfare recipients. And everyone is out to "Hire the Vet" and "Hire the Handicapped" and increase their minority ratio. And we are somewhere in between. And, finally, if we are able to find a low-paying job, we are faced with the decision to work and live in poverty or remain on welfare and live more practically on a slightly higher, yet meager level.

In the past thirteen months I have made 86 applications for employment (90% had nothing to do with my training) and have endured twelve interviews in vain. My attendance at the Minn. Dept. of Manpower Services is probably the best on record and my college placement office has even agreed to reinstate my credentials without the traditional fee of $15. Besides that, I have taken every Civil Service test available. Minn. College Placement Exam: 86.61; FSEE: no results—taken Jan. 14; US Postal Exam: 80.5; I have also been rated without exams. Technical Assistant–US: 94; Biological Lab Assistant: rating upon open position; Biologist GS–5: no word; Wisconsin St. Civil Service: rated as Environmental Specialist, no offer in 13 months. I also was eligible for testing in New York and Michigan but could not afford to make the trips. I applied to the US government in Oceanography, Fishery Biology, Biology and to the Dept. of Agriculture, Interior and NOAA and have applied to similar agencies in several states. And the situation only worsens. I now face competition from the 254 men laid off at Reserve Mining and the 1200 or so who lost their jobs at the US Steel Plant in Duluth. And this does not take into account the people that are being let go by exploration firms in NE Minnesota as exploration of the Cu-Ni deposits ends.

I guess what I really want to say is that here I am, a young college-educated man who is eager to work—especially in my chosen fields—and there is no work. At one time I was idealistic, hopeful and proud of my goals and achievements. Now, each day I become more frustrated, bitter and defeated with an existence that was forced on me by circumstances that I could not foresee. And I feel sorry for the thousands of others, once hopeful, who are now without meaningful futures, either trained for nothing or losing their jobs because of a poorly planned, failing economy. What can we do?

Yours truly,

WILLIAM A. HAAPALA.

P.S.—Please tell Mr. John Connally that the employment situation is critical.

U.S. SENATE,
Washington, D.C., April 5, 1972.

Mr. WILLIAM A. HAAPALA,
Ely, Minnesota.

DEAR MR. HAAPALA: Thank you very much for your moving letter of February 21.

It is very disheartening to see that the unemployment situation in this country is hurting so many and yet is not recognized by the Administration as a number one priority. The present unemployment rate of almost 6% is disastrous; even 4% should not be considered full employment. In spite of this, the Administration has no plan or program for a substantial reduction in unemployment.

Fortunately, the Congress has recognized the need for urgent legislation in this area. However, the President vetoed the first two bills we passed—the manpower bill in 1970 and the accelerated public works bill in 1971. Then we succeeded in enacting the Emergency Employment Act last August. It authorizes 150,000 public service jobs.

I have sponsored a bill to increase the jobs authorized under that program to at least 500,000. I have also co-sponsored a bill by Senator Cranston, to establish a permanent public service employment program, and a bill by Senator Kennedy to use unemployed scientists and engineers in solving the problems of our crowded cities. I think all of these proposals will help to reduce the distressing levels of unemployment.

I believe that you have expressed all too well the feeling of frustration and disillusionment of many college graduates and other young people who have been severely handicapped by the Administration's neglect of the economy. Therefore, I am taking the liberty of placing your letter in the Congressional Record with the hope that many will be brought to understand the critical situation that now confronts us. I have also sent a copy of your letter to Secretary Connally as you requested.

With warmest regards.

Sincerely,

WALTER F. MONDALE.

THE SPACE SHUTTLE

Mr. BROOKE. Mr. President, the Senate Aeronautics and Space Sciences Committee is currently conducting extensive hearings into the request of the National Aeronautics and Space Administration to authorize $227.9 million for development of the space shuttle.

I have continually believed that the United States can and should support a space program of moderate means and expectations. In retrospect, it may be argued that the decision to conduct an all-out effort to land a man on the moon by the end of the 1960's did not result in the most effective or economical use of our scientific resources. By contrast, it seems reasonable to suggest that the current NASA budget, which represents slightly more than 1 percent of our national budget as compared to more than 5 percent in the mid-1960's, is a realistic program.

The scientific research which results from the space program has a potential economic and social impact far exceeding the NASA expenditures. After careful study, I am convinced that the space shuttle represents the most efficient means of continuing the space program at minimum cost and maximum benefit.

In this respect an article in the April 1972 issue of Foreign Affairs provides an excellent analysis of the space shuttle program. Written by Robert Jastrow, Director of the Institute for Space Studies and Office of NASA Goddard Space Flight Center, and Homer E. Newell, Associate Administrator of NASA, and formerly Associate Administrator for Space Science and Applications, the article includes a short history of the American space program and comments in greater detail on the economic practicality and potential scientific benefits from the shuttle.

The authors conclude from their discussion of the economic benefits of the space program:

The extensive use of space is becoming an economic necessity for every technologically advanced nation. The United States probably could not maintain a competitive position with other major powers in international commerce unless it made full use of the most advanced technologies available, including those of space—commerce-oriented satellites and the economics of the shuttle—in the conduct of its domestic and foreign affairs.

I ask unanimous consent that the article entitled "The Space Program and the National Interest" be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From Foreign Affairs, April 1972]

THE SPACE PROGRAM AND THE NATIONAL INTEREST

(By Robert Jastrow and Homer E. Newell)

In 1900 the population of scientists and engineers in the United States numbered one in 2,000. Today the ratio is one in 120 and the figure is still mounting. Current federal expenditures for research and development are $15.7 billion. During the postwar era these appropriations built the American research establishment to a level of strength beyond that of any other nation. Throughout the 1950s and most of the 1960s the build-up continued without opposition. Recently the taxpayer has begun to regard the House of Science with a degree of concern, because the costs of technological programs have become staggering in the last few years. Painful choices are being forced on the Congress. Shall program A or program B be funded? Each is so expensive that it seems impossible to fund both. Which will advance the national interest more? The general value of research is also being subjected to a closer examination. At what level of support does science make its maximum contribution to society? If the science we have purchased so far has been beneficial, will twice as much science be twice as beneficial?

The space program is a case in point. On January 5, President Nixon announced that "the United States should proceed with the development of an entirely new space transport system . . . the space shuttle which gives us routine access to space by sharply reducing costs in dollars." The decision to proceed with the shuttle was based in part on the dollars-and-cents savings it would yield, which are estimated to run to more than $12 billion in the first decade of shuttle operations against shuttle costs of $8 billion for development and hardware. But a bargain in bananas only represents a savings if the customer needs bananas. Why does America need a space program? Why does she need a man-in-space capability? What is the relation of space to the national interest?

To some, space is, or should be, pure science; to others, it is prestige and the American image; to still others, space means national security. Most often space is identified with science, but when a comparison is made with funding levels in other branches of scientific research, it becomes clear that support given to the program involves other factors besides the public interest in pure science.

II

Initially, there was no doubt regarding the motivation for bringing the National Aeronautics and Space Administration (NASA) into being. The American space effort was conceived in a mood of national insecurity. It grew out of the paroxysm of humiliation and self-doubt experienced by the United States in the fall of 1957 when the first Sputnik went into successful orbit while shortly after, as the world watched, the first American Vanguard rocket collapsed on the pad in a sea of fire. Headlines shouted "Kaputnik" and "Flopnik." With the launching of Sputnik, the Soviet Union had entered a domain of the environment that seemed to be denied to the United States. In the years following, the Soviets rapidly expanded their control over the new region. Their efforts were climaxed in 1961 by the first orbital flight of a Russian cosmonaut. The position of the United States as a world power seemed threatened by this evidence of a major Soviet technical capability in being. World comment at the time suggested that on both sides of the Iron Curtain the two systems of government were being reevaluated on the basis of the Soviet achievement.

NASA was two years old at the time of the Gagarin flight, and the space budget had reached the substantial level of $900 million. In retrospect, it is clear now that a billion-dollar budget was merely the entry fee into the race the Russians were running. On that budget, the United States was no longer falling behind the Russians, but neither was it catching up. An all-out effort was necessary, and the moon beckoned.

A land on the moon seemed to have all the needed elements. It was a clearly defined goal and gripped the imagination; its achievement would recreate the image of U.S. technological leadership; it involved minimum danger of a military confrontation; and it would automatically give the United States a first-class man-in-space capability. At the same time, the lunar landing was so far beyond the abilities of either the United States or the Soviet Union in 1961 that the early lead taken by Russia in manned flight would not predetermine the outcome. The lunar landing project provided America with a chance to overtake the Soviet Union and brighten its tarnished image with a major first in space. All in all, a greatly strengthened man-in-space effort seemed the most efficient way of redressing the strategic imbalance created by Soviet mastery of the new technology.

These factors created Apollo. Its goal was not the landing on the moon per se, but the development of a U.S. capability to operate and maneuver in space with man, and to maintain our presence there in the face of vigorous activity on the part of another great power.

Throughout the 1960s the Soviet Union remained the main driving force behind NASA, but with the landing on the moon in 1969 the original Soviet threat seemed to fade. American interest diminished, and a phase-out of manned flight operations commenced. According to current congressional authorizations, the manned flight program comes to an end in 1973, after the second Skylab flight scheduled for that year.

The projected termination of manned flight in 1973 posed a major policy issue for the United States. A parallel can be drawn with the situation that faced the government in 1961. At that time, the United States was confronted with a major Soviet achievement—the first manned orbital flight—while its own program continued to lag far behind. In 1971 the United States was faced with the termination of its manned activities in space, while Russia gave every indication of driving ahead forcefully in this area. The Soviet Union launched twice as many satellites as the United States in 1971, put up the first space platform, and, while it suffered a serious reverse in the deaths of the Soyuz 11 cosmonauts, showed no signs of a slackening interest in manned space flight.

The presidential action must be viewed in this context. Concern with the general strategic posture of the United States would appear to have been the overriding consideration in the recent decision to proceed to the next stage in the development of manned space flight.

Once that decision was made, the space shuttle had to follow, for the shuttle represents the most economical means of continuing manned flight operations. It is a reusable rocket—in effect, a rocket-plane—which can be flown again and again, carrying scientists, engineers and satellites up into orbit and back down to conventional jet landing—all at a substantial reduction in cost. The Saturn launches cost $55 million each, and the launch of the more advanced Titan 3C costs $24 million, whereas a shuttle flight will cost $8 million and deliver considerably more payload for the money. It makes no sense to continue to rely on the docket technology of the 1960s, when the experience gained in the Saturn-Apollo project and other U.S. space programs has shown the way to a much more efficient and lower-priced generation of space vehicles.

III

According to this analysis, a major force behind the space program as a whole is a concern for national security, and with the fact as well as the image of American technical and scientific strength vis-à-vis the Soviets. However, space is not the only government program important to the security and the technological strength of the United States. Can America afford the financial drain of matching the Soviet Union in every field of science and technology? Many Americans believe that this cannot be done without weakening other essential programs, such as urban reconstruction and education.

The question is one of values and priorities. From this point of view, is space a good place for the United States to put its money? What is the dollar return from the space program, relative to the potential return from the same amount of money invested in another sector of American society?

This question opens up an important avenue for discussion. Starting with the development of the Early Bird communications satellite in 1965, space technology has entered into the mainstream of the American economy with surprising rapidity. Today many observers predict that the U.S. investment in space will be repaid many times over. The list of promising space applications includes better weather forecasts, prospecting for minerals from space, better communications, satellites that monitor the atmosphere and lakes and rivers of the United States for pollution and are the only economically feasible means of doing so, and satellites that guide ships and planes to their destinations and provide traffic control over crowded air terminals.

IV

Better weather forecasting could yield several billion dollars a year as a result of increased productivity, mainly in the agricultural, transport and construction industries. Weather forecasting depends on the measurement of such atmospheric properties as pressure, temperature and the strength and direction of the winds throughout a large region. Currently this information is usually obtained by launching into the atmosphere small balloons containing weather instruments plus a radio to transmit results of the measurements to weather stations on the ground. In the future satellites will join the balloon network and expand weather coverage to a global scale.

At this point the reader may well register doubt. How can a satellite hurtling through space far above the atmosphere carry out measurements of such properties of the atmosphere as pressures and winds? Isn't it necessary to do the equivalent of raising a wet finger in the air itself to secure that information? Can the data really be acquired from a distance?

The answer depends on a little-known instrument called an infrared radiometer which is becoming a standard item of equipment on weather satellites. It is a well-known fact that satellites carry cameras to photograph the weather and provide early warnings of hurricanes and other disturbances. Less well known is the fact that the latest satellites also carry a delicate instrument which measures the intensity of the feeble emanation of heat which radiates to space from earth and its atmosphere. The sensitivity of these instruments is such that they could detect the heat from a flatiron at a distance of one mile. The heat radiated to space from the earth contains many different wavelengths, and each wavelength originates at different depths in the atmosphere as well as on the ground. My spreading out the measured radiation into its component wavelengths, the scientist on the ground is

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able, with the aid of a computer, to calculate the temperature of the air on the ground and at every level in the atmosphere.

Once the pattern of temperature variations is known over the entire globe, the scientist is in a position, again with the aid of a computer, to calculate the winds and the weather. The connection between temperature and winds is not obvious and requires some explanation. If the temperature of the ground were uniform all over the earth, there would be no winds and no weather. Winds arise because the sun's rays do not heat the ground uniformly. For example, the equator receives more sunlight than the poles. Where the ground is warmest, the air expands, rises and flows away. In this way temperature differences create winds. The actual situation in nature is considerably more complicated than this simple description suggests, but the basic theory is accurate. If the temperature pattern is known, the weather can be predicted.

In principle, the method can be applied without the aid of satellites. However, it would be prohibitively expensive to measure the temperature of the entire globe by ordinary methods. At present, extensive areas of the world are not covered by weather observations. Even in the United States the coverage is spotty, with only 70 balloon-launching stations for the collection of weather information. Large areas of the weather map are almost blank, including the polar regions and the oceans.

Unfortunately, much of the weather that blesses or afflicts the United States often originates in one of these blank regions on the weather map. The weather experienced by the West Coast generally comes from the Pacific Ocean, while the weather over the Midwest and the East Coast usually has originated some days earlier in central or western Canada. This fact prevents the meteorologist from making useful forecasts more than a day or so in advance, and even the one-day forecasts leave much to be desired.

Observations of the weather in the oceans and sparsely inhabited land areas surrounding the United States, impossible before the advent of weather satellites, should lead to a quantum jump in the accuracy and range of weather forecasts. Large savings through improved weather forecasting can be expected in the weather-sensitive sectors of the U.S. economy, because the volume of business in these industries is substantial. In agriculture, transportation, construction and roadbuilding, for example, the total annual volume in 1970 was about $270 billion, and estimated losses due to weather were in the neighborhood of $13 billion. A relatively modest reduction of 20 percent in these losses would correspond to a $2.6 billion savings. These circumstances lie behind the estimate of important gains to the U.S. economy from this single application of space technology.

v

Multibillion-dollar annual returns to the American economy from weather satellites may be matched by the yield from satellites employed in prospecting for valuable mineral deposits. The prospector and his burro are essential in the search for mineral deposits, but aircraft play an important supporting role, and so should satellite reconnaissance in years to come. In some cases geological faults—cracks in the earth's crust which are likely to be associated with ore deposits—can be seen in photographs taken from orbit. In other cases the presence of a buried ore deposit is signaled by a particular type of rock on the surface. Experience shows that an ore deposit is often surrounded by a special kind of rock, known as the "host rock" for that type of ore. Since different kinds of rock reflect sunlight in different ways, wide-area photographs of the region taken from a satellite can reveal the telltale host rock that indicates an ore deposit.

The stakes are high in this game. One estimate places the yield from potential satellite discoveries of mineral deposits in the United States at $2 billion a year in royalties alone. The total value of mineral deposits discovered each year by ordinary prospecting on the ground in the United States, Canada and Mexico amounts to roughly $10 billion. It is possible that several times this sum could be the global yield from major improvements in mineral prospecting. Here we reach the neighborhood of tens of billions of dollars in direct economic benefits from a single application of satellites. These gains would dwarf the investment in the underlying space technology.

Mining activities in northern Canada illustrate the economics of satellite prospecting versus ground prospecting. A single rock outcropping near Kitt Creek in Ontario led to the discovery of the famous Timmons deposit, one of the world's largest bodies of copper, zinc, gold and silver. This single find is estimated to have a value in the neighborhood of $10 billion. The find was made by a lucky fluke when a prospector stumbled across a small outcrop of ore that gave him a clue to the massive treasure-lode lying beneath the surface. Geologists believe that many deposits as rich as the Timmons find may exist in the area because it belongs to one of a number of belts of green schist—a type of rock deposit frequently associated with rich ore. The total area of the belts in this region is roughly 100,000 square miles. The terrain is too rough for jeeps or burros. Recovery of its mineral wealth requires systematic exploration of the entire region on foot, by prospectors stopping every hundred yards to collect soil samples for laboratory analysis. Tens of millions of dollars would be required to complete a survey of this one region. A complete exploration on foot is a workable approach in principle, but forbidding in practice because of the prohibitive cost.

The same analysis applies *a fortiori* to the still more difficult terrains of Brazil, equatorial Africa and Southeast Asia, in which a heavy cover of trees and vegetation makes ground exploration exceedingly difficult and expensive. The available evidence suggests the presence of large deposits of mineral wealth in these regions. Again it seems incredible that a satellite hurtling through space hundreds of miles above the surface of the earth should be able to detect mineral deposits concealed by a heavy tree-cover. But an example will indicate how this might work. Research has shown that trees growing in metal-rich soil absorb the metallic elements of the soil into the structure of their cells. As a consequence, the tree leaves reflect sunlight differently from leaves on the same type of tree growing nearby in ordinary, metal-poor soil. The rest of the story is clear: Measure the intensity of reflected sunlight over a continental expanse of forested regions by means of instruments mounted in a satellite, and look for the critical patterns that betray the presence of mineral deposits.

As a test of this method, measurements have been made at tree-top level at a site near Cooper Creek, Arizona. They show large differences in the reflected sunlight from two neighboring trees, one located in soil with a high abundance of copper and molybdenum, and the other growing nearby in ordinary soil. The tree growing in the metal-rich soil reflects twice as much yellow light as the tree growing in ordinary soil, but half as much blue light. This combination is an unmistakable sign of the presence of the metals. Such measurements obtained from a satellite can be used to guide the prospector to the mineral wealth of millions of square miles, with a great saving in time and money.

Aircraft can make the same measurement and are used for this purpose in surveys of small areas. Satellites acquire their unique value when a continent-sized area is to be surveyed. It is, of course, in these large-scale surveys that the greatest gains can be realized. The direct operating cost of an aircraft survey of the interesting areas of the earth, which total approximately 100 million square miles, would be about $300 million. The same survey could be carried out by a single satellite costing no more than $30 million. Additional savings result from the fact that each satellite photograph or radiation-scan covers thousands of square miles, revealing significant large-scale variations with unnecessary details suppressed. For many surveys the satellite detail is adequate, and consequently data-processing costs are far less than would be the case with the superfluous detail furnished by aircraft surveys.

Apart from costs, satellites are superior to aircraft because of the large area covered in each photograph or scan. Such an area is typically several thousand square miles. Airplanes usually cover no more than 100 square miles per photograph. Because many photos are needed to survey a large area, aircraft require the better part of a day to cover the equivalent of one satellite photograph. Consequently, different regions are photographed at different times of the day, and under different lighting conditions. If the area is large, and the survey lasts many days, the condition of the ground will vary from day to day because of local rain or snow. The intensity of the light reflected from the ground depends on these lighting conditions and ground conditions to a very great extent. The critical changes in intensity from place to place, which would indicate the presence of mineral deposits, are apt to be marked by the changes that occur from hour to hour and day to day during the course of an extended aircraft survey. Such difficulties do not arise in satellite prospecting.

The ability of the satellite to photograph large areas quickly and repeatedly makes it a very promising tool in the survey of other natural resources, such as crops, timberland, water and snow cover, which frequently vary day by day and from season to season. Crops offer a particularly interesting example because of the large losses experienced each year as a result of plant diseases. Infrared photographs taken from satellites can reveal plant diseases before they can be detected by the farmer on the ground, because a diseased plant or tree radiates a different level of heat to space, just as a feverish person experiences a change in body temperature. An estimated $840 million annually can be saved in the United States through the use of satellites for the detection of plant diseases, according to an IBM report.

vi

Communications satellites offer another fruitful field for the space program. Communications was the first area to be invaded by the new technology, and, together with weather forecasting, it constitutes one of the two areas in which satellites have already become an operational reality. The dollars-and-cents return to the economy from communications satellites is difficult to measure, but most experts agree that the gains promise to be enormous, because improvements in communications exert an upward leverage on the entire gross national product (GNP) by accelerating the tempo of business life. The only question is, what will be the amount of the increase in productivity? Will it be as small as one percent? Translated into dollars in the GNP, that would mean a gain of $10 billion annually. The indirect financial gains from improved communications may exceed all other returns from space.

The relationship between efficient communications and satellites can be clearly seen in the recent history of transatlantic telephone charges. The table below shows the monthly rates for a leased telephone circuit between New York and Paris during the period 1959 to 1971. The rates remained unchanged for a number of years, but in 1966—immediately after the first communications satellite went into operation—monthly charges dropped sharply and have continued to drop since that time.

New York to Paris telephone rates: 1959–71

	Dollars per month
1959 through 1965	$10,000
1966	8,000
1967	6,500
1968	6,000
1969	6,000
1970	4,750
1971	4,625

Although expanded cable service also contributes to the reduction in transatlantic phone rates, the coincidence of the sharp decrease with the onset of satellite operations is striking.

Arthur C. Clarke, who invented the concept of the communications satellite in 1945, has maintained a high reputation as a seer of technological developments and their impact on mankind. His judgment probably can be relied upon when he predicts: "What we are building now is the nervous system of mankind. . . . The communications network, of which the satellites will be modal points, will enable the consciousness of our grandchildren to flicker like lightning back and forth across the face of this planet."

vii

The three cases of weather forecasting, mineral resources and communications illustrate the economic value of space. The space shuttle enters the picture at this point because it affords the most economical means of realizing the benefits of the space program in the economic sphere. The shuttle moves back and forth between the earth and space environments. It carries a dual propulsion system—rocket engines and liquid hydrogen fuel for space flight; jet engines, kerosene and wings for the return to earth. Space shuttles can carry passengers and freight into orbit and down again at a cost per pound far below today's cost for a satellite launching or a manned space flight mission. The cargo bay, probably about 15 ft. x 60 ft. in dimension, will accommodate satellites and space platforms weighing up to 65,000 pounds and will provide a low-cost method for placing commercial or scientific satellites in orbit. NASA estimates that in the first decade of shuttle operations $5 billion will be saved in launch costs through its use.

Additional savings are expected to result from the reduced cost of the satellites themselves. The cargo bay of the shuttle offers a considerably gentler and less rigorous environment for delicate scientific instruments than today's conventional launch rockets. Much of the cost of building a rugged design into the satellite can be bypassed as a consequence.

A space transport system based on the shuttle also provides a means for repairing satellites in orbit, thus increasing their lifetimes, again at large savings. The new commercial satellites are expensive, and becoming more so as their capabilities expand. The first communications satellite placed in operation over the Atlantic—the Early Bird—contained 240 voice circuits and cost $8.2 million. The recently launched Intelsat IV supplies up to 9,000 circuits and costs $26 million. The advanced communications satellites proposed for a U.S. domestic system will cost about $50 million each. It seems extravagant to contemplate throwing away one of these expensive devices after a failure, when it can be brought back to earth in the cargo bay of the shuttle for overhaul, or even repaired in orbit by a technical team transported to the scene. Round-trip airfare for the overhaul is estimated to be about $8 million, but for this price the crew can salvage a $50 million satellite. The total savings resulting from the repair operations, plus the reduction in the cost of the satellites, is estimated to be $7 billion.

Some 20 U.S. satellites, each worth $30 to $50 million, will probably be in orbit in the 1980s, and each will play a critical role in some sector of American business and personal life. The list will probably include eight to ten Comsats dedicated to domestic and international uses, four or more satellites dedicated to worldwide marine and air navigation and traffic control, two or more satellites devoted to surveillance of the earth's face for mineral resources, water, timber resources, forest and grazing lands, fishing, farmlands, and the monitoring of air and water pollution, and several satellites devoted to astronomy, geophysics, and other branches of pure science. Experience will tell whether to divide these functions among numerous separate satellites as they are today, or to combine them in a smaller number of large electronic complexes. In either case, a low-cost space transport system will be required to maintain and repair these satellites in orbit.

Replacement costs are not the only problem in satellite maintenance. When a space platform is responsible for air traffic control or for the communications traffic of a continent, it will not be possible to permit one of these critically important devices to go out of service for a day, an hour, or even a minute because a transistor has malfunctioned. If air traffic control over Kennedy, O'Hare and other major airports depends on satellites hovering overhead, interruption of service would require reverting for a time to the less efficient modes of control which even today are becoming inadequate, and which in tomorrow's world would be extremely expensive. In the 1980s it is likely that the U.S. satellite network will be constructed on the principle of a 100-percent guarantee of uninterrupted service.

Continuity of service could be ensured without manned flights by building spare circuits into each satellite, ready to take over when a failure occurs. The backup equipment might consist of duplicate electronics for all the parts of the satellite or it could consist of one or more duplicate satellites launched with the main satellite and available for service at any time. But when circuit A became defective and circuit B took over, it would still be necessary to repair circuit A promptly; otherwise the failure of the satellite would only be postponed. Of course, a three-fold or four-fold redundancy could be built-in, but that soon becomes a very expensive way of obtaining protection from interruption in service. The space shuttle system is likely to prove the cheapest way of keeping critical satellites in continuous operation.

Financial returns are not the principal criterion for judging the usefulness of the shuttle, for its prime importance lies in the fact that space is an arena in which several nations are, or soon will be, engaged. The United States must maintain a presence in that arena through a manned flight program to preserve its position as a world power. But the extensive use of space is becoming an economic necessity for every technologically advanced nation. The United States probably could not maintain a competitive position with other major powers in international commerce unless it made full use of the most advanced technologies available, including those of space—commerce-oriented satellites and the economics of the shuttle—in the conduct of its domestic and foreign affairs.

viii

Some students of the space program have expressed the view that its impact will be felt in other respects than the cost-accounting of economic productivity versus technological investment. There has been much discussion of the influence of space exploration on the mind and spirit of man, as an extension of the revolution in thought that was initiated by Copernicus and continued by Newton and Darwin. A study of the history and pre-history of man suggests that the human drive is expressed through just such tentative movements out of the world of tried experience into a new world of untested promise.

Sputnik and the moon landing signaled the opening of a new frontier across which man can now travel into the endless reaches of outer space. The new frontier of space will not be closed quickly, for astronomical knowledge shows that billions of stars, some undoubtedly accompanied by earthlike planets, surround us in the galaxy. Space exploration has brought home to more people than ever before the reality of this vast complex of stars and planets. "Out there" is really there, a place that one can get to. Never again can we make the mistake of identifying our speck of planetary matter as the universe.

SOVIET PERSECUTION OF CATHOLICS

Mr. BUCKLEY. Mr. President, on a number of occasions in the past, I have spoken out against Soviet persecution of various minority groups within the Soviet Union, especially Soviet Jews. We know from their brutal record of suppression of dissent—Robert Conquest, author of the authoritative work, "The Great Terror," estimated that 20 million Soviet citizens were killed between 1929 and 1939 alone—that the Soviets will seek to destroy any individual or group which dare challenge the Communist ideology.

From the beginning, religious groups have been singled out for special treatment. The systematic persecution of Soviet Jews is already a well-known tragedy. Less well known, but being carried out with at least equal zeal by the Communist regime, is the brutal suppression of Catholics in the Soviet-conquered Baltic State of Lithuania.

The persecution became so intolerable that 17,000 Lithuanian Catholics submitted a petition to the U.N. seeking help to ease their plight. Merely signing this petition may invite more savage repression inasmuch as Soviet U.N. employees normally turn over such information to the Soviet intelligence services.

The details of the dramatic petition to the U.N. by Lithuanian Catholics was described in a Washington Post article of March 28, 1972. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OVER 17,000 BALTIC CATHOLICS CITE SOVIET PERSECUTION

Moscow, March 27.—More than 17,000 Roman Catholics from Lithuania have sent petitions to the United Nations, charging Soviet religious persecution. It was the largest open protest of its kind in the Soviet Union.

An inch-thick stack of petitions, bearing over 17,000 signatures of "believers," was sent to U.N. Secretary General Kurt Waldheim last month after Soviet officials in Moscow ignored their earlier protests, according to dissident Russian sources who made copies of the papers available to Western newsmen today.

XUM

Lithuania, a small republic on the Baltic Sea that was annexed by the Soviet Union in 1940, is known as an area where traditional religious beliefs persist despite official harassment by the Communist regime.

The petitions suggest continued strength of the Catholic Church in Lithuania despite steady anti-religious propaganda. It also seems to be a part of a growing effort by religious communities to induce the government to implement religious freedoms guaranteed by the Soviet constitution.

Last September, 2,000 persons from the town of Prenai, which has less than 10,000 population, signed an open letter to the Soviet leadership charging that freedom of religion was being curbed by local authorities in Lithuania.

Three other open letters with a total of 5,000 signatures were sent last fall to Party leader Leonid Brezhnev but police "using threats, arrests and handcuffs prevented the mass collection of signatures," the letter to Waldheim said.

"Such action by the authorities prompted the convention that the present conviction that the present memorandum, signed by 17,000 believers, will not attain its aim if it is sent by the same means as previous collective declarations," the letter said.

The Catholics were taking their complaints to the United Nations, the letter went on, because "believers in our republic cannot enjoy the rights set out in Article 18 of the Universal Declaration of Human Rights." The declaration, passed by the United Nations with the Soviet Union abstaining, calls for the recognition of religious freedom by all countries.

[At the United Nations, a spokesman had no comment on the petitions today.]

In their petition, the Lithuanians complained that Soviet officials limit the number of new priests to be trained and control the assignment of priests to parishes. They said no more than 10 youths a year can enter the seminary.

There are so few priests in Lithuania, the letter charged, that one must often serve two or three parishes and that "even invalid and aged priests must work."

The Lithuanian authorities do not enforce a law which would punish those who persecute church-goers, the petition claimed.

In addition, Catholics have not been allowed to rebuild churches destroyed during World War II and have difficulty in getting permission to hold services in private homes.

"At the same time, a dance hall was allowed to be built in the parish of Andreivas where the church stood," the petition said.

It repeated charges made last November that two parish priests were sent to labor camps for providing religious instructions to youngsters. Two bishops were also exiled without trial, it said.

More signatures would have been included in the 123 separate, identical typed petitions if the Soviet police had not reacted so strongly against the dissidents, the letter said.

"If in the future, the organs of the state take the same attitude toward believers' complaints as they have until now, we will be obliged to address ourselves to international bodies, the Pope, the head of our church, or the United Nations as an authoritative institution defending human rights."

In addition to repressing religion, the Catholics said, the "forcible atheistic upbringing" of Soviet society has also caused increases in juvenile crime, alcoholism, divorces, abortions and suicides.

The Lithuanians' protest comes at a time of improving relations between Moscow and the Vatican. Soviet President Nikolai Podgorny and Foreign Minister Andrei Gromyko have called on Pope Paul VI, and the Most Rev. Agotino Casaroli, who is tantamount to a Vatican foreign minister, visited Moscow last year.

There are an estimated 3.5 million Roman Catholics living in the Soviet Union, most of them Lithuanians and Poles. Catholics are situated in Lithuania, and in western parts of Byelorussia and the Ukraine.

Lithuania is the largest single Catholic area, with nearly 500 churches still operating there.

TRANSPORTATION STRIKES

Mr. TOWER. Mr. President, whenever a strike affects transportation or other key elements of the public sector, the average citizen is held hostage to a dispute not of his making. The recent west coast dock strike, which President Nixon described as imposing "a cruel and intolerable burden upon the American people," was a dramatic example of disruption caused by a strike. For 134 days, the west coast ports were shut down, causing an estimated $400 million business loss and massive inconvenience.

On Friday, March 31, the President acted to prevent a possible nationwide rail strike by signing Executive orders creating emergency boards to investigate labor disputes involving the Penn Central Transportation Co. These actions delay the threatened rail tieup for 60 days.

Meanwhile, just this past week in New York, a strike by 140,000 members of the Civil Service Employees Association threatened to bring chaos to State mental hospitals and institutions for mentally retarded children. Fortunately, the walkout ended before there was substantial impact on the helpless men, women, and children in these institutions.

These are but some of the recent examples of strike situations in which the public's rights are or may be subordinated to those of the labor disputants.

While the New York strike was regional in nature, the dock strike and the threatened rail strike are national in scope and I do not look forward with any enthusiasm to another repetition of a strike where the Government, after exhausting its emergency powers, stands paralyzed to end the dispute and halt the interruption of commerce, the rotting of crops and the waste which results from these conflicts.

In the middle sixties, Mr. President, Congress was called upon three times in 4 years to take emergency action to settle collective-bargaining disputes. Yet, despite that bleak record, we remain today without any effective permanent machinery, no formula, to resolve such strikes.

A bill similar to President Nixon's proposed "Crippling Strikes Prevention Act" failed passage by only three votes, despite the President's comment that the old ways have not worked and his plea to "tip the scales back in the direction of greater protection for the public." Senator PACKWOOD, 27 other Senators and I have reintroduced this bill as S. 3232.

The need for action in this field is made even more clear by the statements of labor leaders who display utter disregard for the consequences of their actions.

Harry Bridges, the president of the International Longshoremen's and Warehousemen's Union, is quoted in the March 15 issue of Forbes as stating:

It's a myth that strikes hurt the general public. Strikes are good for the country because they raise the worker's purchasing power.

Mr. Bridges' own strikers lost $60 million in wages, according to Forbes, but Mr. Bridges is quoted as saying:

What they did lose will be made up by our settlement.

Asked about business loss, he dismissed $400 million in losses by stating:

There were some small business losses, but not much.

These are the comments of a man who says he wants to form one big superunion which could "make a strike extremely dangerous for business," or in other words—stop economy.

The same attitude was displayed in the New York strike when the union vowed to "tie the State up as tight as a whistle." In the New York case, the humanitarian aspects of a strike affecting mental patients and retarded children, moved both the New York Post and the New York Daily News—newspapers sometimes at opposite editorial poles—to decry the walkout.

Mr. President, I believe that strikes which adversely affect the public interest must be dealt with. I believe the rights of the public cannot be trampled on indefinitely because of collective bargaining disputes. And, I believe the time to act is now.

For that reason, I ask unanimous consent to insert in the body of the RECORD following my remarks, the articles previously referred to: Forbes' article of March 15, the New York Daily News editorial of April 3, and the New York Post editorial of April 3.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Forbes, Mar. 15, 1972]

STOP THE ECONOMY!

One big union. One big union that could paralyze the nation. That has long been the dream of certain labor leaders, some of them confirmed leftists, some of them merely power-hungry. And now Harry Bridges, the aged (70), embittered long-time president of the International Longshoremen's and Warehousemen's Union is working on a plan to make that dream come true. He wants to form one big union of truckers, dockers, airline and railroad workers. If they were all to strike at the same time, they would bring the whole U.S. economy to a halt. Not a factory wheel would turn. The cities and suburbs would be without food.

A frightening prospect? Bridges' mouth is watering at it. Last year and this he kept West Coast ports closed for 134 days. "It's a myth that strikes hurt the general public," he says. "Strikes are good for the country because they raise the workers' purchasing power."

The West Coast port strike cost the 15,000 strikers an estimated $60 million in wages, but he dismisses that. "The workers were still buying with their savings," he says. "Besides the workers didn't lose that much, and what they did lose will be made up by our settlement."

The loss to business has been estimated at $400 million. Says Bridges airily: "There were some small business losses, but not much."

One might imagine that a union which could tie up West Coast shipping for 134 days is powerful enough. Not Bridges. He wants a union that could do what the British miners' union just did: stop the economy. "The coal strike in Great Britain was a unique situation," he says, almost enviously. "There a few miners have such power they were able to stop the economy. We could only get the same effect in the U.S. through the transportation business. If we combined truckers, dockers and other transportation workers, we would have the power to make a strike extremely dangerous for business. It wouldn't want to risk one."

Bridges is already getting close to a merger of his 65,000-member union with the International Brotherhood of Teamsters (membership: 2.2 million). He has talked with Frank Fitzsimmons, who succeeded Jimmy Hoffa as president of the Teamsters when Hoffa went to jail, and says top officers of both unions favor a merger. A formal agreement is yet to be drawn up, and the ILWU members must still vote on it. Most likely, the ILWU would end up becoming a division of the Teamsters.

HARRY'S FIRST STEP

Before the Teamsters talks, Bridges held several meetings with his eastern counterpart, Thomas W. (Teddy) Gleason, president of the International Longshoremen's Association, to discuss the possibility of a merger. "The ILA talks are temporarily suspended," Bridges says. "It's still possible we'll merge with them. The ideal situation would be for the ILA and the ILWU to merge, and then merge with the Teamsters." Why ideal? "Simple: economic power."

Actually, there are several barriers in the way to forming the one big union Bridges talks about. The ILA's Gleason is a strident anti-Communist, while Bridges has long been dogged by his left-wing reputation. (More than once in decades past, the Government tried to have him deported to his native Australia as a Communist, a charge he steadily and successfully denied.) Moreover, the ILWU and the Teamsters have yet to resolve their dispute over which union has jurisdiction over filling containers. Still, ideology plays a diminishing role in trade union politics these days, while power and money increasingly are the name of the game.

Would Congress stand by idly and let labor forge the weapon Bridges talks about? Congress was sufficiently moved by the West Coast dock strike to enact special legislation to force compulsory arbitration in the dispute. An even tougher bill, the Nixon-backed "Crippling Strikes Prevention Act," missed passage by a mere three votes a few weeks back.

But how could Congress stop a merger? The antitrust laws have never been applied to labor unions. Nor can many congressmen afford to oppose what major unions want—particularly in an election year. Then there is the now-shadowy figure of Jimmy Hoffa. He's free from jail and, rumors have it, has friends in the Nixon Administration. If there is a merger, Bridges is confident Congress would stay out of it. Says he: "There'll be no antitrust legislation against unions, and there'll be no compulsory arbitration bills, either."

That's power talking.

[From the New York Daily News, Apr. 3, 1972]

THE ULTIMATE OUTRAGE

In calling a strike of its 140,000 members, the Civil Service Employees Association not only defied the law and the courts, it violated every rule of human decency.

To gain its ends, the CSEA has shown that it does not scruple at using helpless men, women and children as hostages.

Its chosen pawns are the inmates of state mental hospitals and institutions for mentally retarded children. The strike, where it has been effective, has endangered the welfare of these helpless and pitiful unfortunates, and even their lives have been jeopardized.

The cruelty and indifference of the CSEA, under President Theodore Wenzl, has been redeemed in part only by the steadfastness of those union members who stayed at their posts rather than visit further suffering on their charges, and by the magnificent response of volunteers who rushed forward to ease the effects of the walkout.

As for the strikers and their chieftains, they are beneath contempt, and deserve nothing but the most drastic punishment permitted by the law.

[From the New York Post, Apr. 3, 1972]

NARROW ESCAPE

The quick end of the illegal Civil Service Employees Assn. strike must have been as large—or larger—a relief to many of the strikers as it was to both the immediate victims of the walkout and the general public. Most people who work in hospitals and schools for the retarded do not walk off their jobs without an awareness of the peril they are creating; those who refused to do so will wear no badges of shame.

It was a ghastly episode that could have reached calamitous proportions; only a long inquest will reveal why it happened, and what can be done to prevent a recurrence. The important fact at this moment is that it is over, and a glimpse of the disaster that was in the making may be a greater inhibition than the Taylor law on any who are tempted to risk human life in what they may regard as a valid cause.

INEFFICIENCY AND MISMANAGEMENT IN C–5A PROGRAM

Mr. PROXMIRE. Mr. President, once again it is my sad duty to convey to the Senate a Government report further documenting inefficiency and mismanagement in the C–5A program.

The report, prepared by the General Accounting Office, is the second such study to disclose major aircraft deficiencies in the C–5A, in addition to cost overruns and delivery problems, since the Proxmire committee first investigated this program in 1968.

The GAO report demonstrates that the Air Force is the biggest satisfied consumer of lemons in the history of military procurement.

A year ago GAO disclosed that the Air Force was knowingly accepting delivery of C–5A aircraft with major performance deficiencies.

The new report shows that the Air Force is still accepting delivery of defective C–5A's.

The 15 C–5A cargo planes accepted by the Air Force during February through September 1971 had an average of 251 deficiencies per aircraft, many of which are considered major.

The most serious defects are in the wings, landing gear, and radar.

The landing gear system, according to GAO, continues to be the most troublesome system on the aircraft.

In one 6-month period last year 3,327 landing gear failures were reported in the C–5A fleet, requiring a total of 82,673 maintenance man-hours.

The structural defects in the wing and pylons, resulting in numerous wing cracks, and, on one occasion, the complete rip-off of an engine from its mount, are by now well known.

The full extent of these problems is still unknown because the wing fatigue tests will not be completed until September 1974. This represents a 2½-year slippage in the original fatigue test schedule.

It is not now known that the pylon problems were the result of improper design and poor quality control during production and assembly.

Deficiencies in the design of the radar will probably require a complete update of the equipment. This problem was brought to Lockheed's attention by the Air Force early in the program. As with so many other problems, no corrective action was taken.

We have long grown accustomed to the idea that Lockheed is one of the most inefficient, if not incompetent, defense contractors. The report tends to reinforce this fact.

What is perhaps more disturbing is how it reflects on the competence and the good faith of the Air Force.

When the C–5A contract was "restructured," that is, converted from fixed-price to cost-plus, Congress was assured that part of the agreement included acceptance of new Air Force intensified management participation and authority over Lockheed's activities in this program.

The results of the first full-scale review of the program since the Air Force first asserted its new role is not encouraging.

The Air Force now concedes that the cost of correcting the C–5A's deficiencies, excluding the wing and pylon problems will be about $164 million.

Under the terms of the restructured contract, the Air Force must pay Lockheed for the costs of correcting all defects.

Thus, the benefits obtained by Lockheed in terms of reimbursement for correcting its own deficiencies will probably exceed the amount of the so-called loss that Lockheed agreed to absorb under the restructured contract.

This report demonstrates that the Air Force has not been able to learn from its mistakes. It is failing to take necessary corrective action. It is allowing Lockheed to continue bilking the American taxpayer.

The problems in the C–5A program are growing worse instead of better.

I ask unanimous consent to have printed in the RECORD the complete GAO staff study of the C–5A aircraft, dated March 1972.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE STAFF STUDY, C–5A AIRCRAFT, DEPARTMENT OF THE AIR FORCE

(NOTE.—Figures referred to are not printed in the RECORD.)

ABBREVIATIONS

ADI, Attitude Director Indicator.
ADS, Aerial Delivery System.
AF, Air Force.
AFCS, Atomatic Flight Control Command.
AFSC, Air Force System Command.
AHRU, Attitude and Heading Reference Unit.

ASPR, Armed Services Procurement Regulation.
ATM, Air Turbine Motors.
CARP, Computed Air Release Point.
CONUS, Continental United States.
CSAR, Cost Status Analysis Report.
DOD, Department of Defense.
ECP, Engineering Change Proposal.
GAO, General Accounting Office.
IDNE, Inertial Doppler Navigation Equipment.
LDCS, Lift Distribution Control System.
MAC, Military Airlift Command.
MADAR, Malfunction Detection Analysis and Recording System.
MMH/FH, Maintenance Man-Hours Per Flight Hour.
MMR, Multi-mode Radar.
MTBT, Mean Time Between Failures.
RDT&E, Research, Development, Test and Evaluation.
RFP, Request for Proposal.
SAAMA, San Antonio Air Material Area.
SAR, Selected Acquisition Report.
SHOVAR, Shortage and Variance Report.
SPO, System Program Office.
TCAN, Tactical Air Communication and Navigation System.

C-5A AIRCRAFT

Why the review was made

The General Accounting Office (GAO) examined into the status of selected major weapon systems because of the large acquisition costs involved, and the interest of the Congress in the acquisition of major defense weapon systems. This study on the C-5A is part of this effort.

In addition, in the House of Representatives, Committee on Appropriations, Report No. 92-666, dated November 11, 1971, the General Accounting Office was instructed:

". . . to make a thorough investigation of the defects in this aircraft and to assign a responsibility for the defects and establish the costs involved in correcting the deficiencies."

In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit a summary of data given to GAO by the Air Force.

Where the system is

System description and status

The C-5A is a large jet aircraft designed to provide a long-range airlift capability at high subsonic speeds. The aircraft is to be capable of tranporting combat and support units, military supplies, and items of outsized equipment. The aircraft's major deficiencies in the landing gear, wing and avionics have not prevented the aircraft from performing its basic cargo mission, but has restricted performance of its tactical mission.

Of the 81 aircraft on contract, as of February 1972, 56 had been produced. The balance are currently in production. Two of the 81 aircraft were destroyed by fire in May and October of 1970. The operational aircraft are assigned to four Air Force bases—Charleston, Dover, Altus and Travis.

The C-5A has flown over 44,000 hours in test, training and cargo airlift missions. As of January 1972, the aircraft had flown 430 channel (regularly scheduled) cargo missions which involved 45,350 tons of cargo. These channel missions produced 245,172,000 ton miles of airlift.

Coming Events

In December 1971, an Air Force/industry engineering team was formed for the purpose of conducting an independent in-depth review of the aircraft's structural problems with particular emphasis on potential fatigue life. This study effort, which is expected to be completed in late 1972, will be conducted primarily at Lockheed-Georgia Company where the C-5A is being manufactured.

Relationship to Other Systems

The Air Force advised us that the acquisition of the C-5A has allowed the Air Force to phase out obsolete types of airlift aircraft from active and reserve forces and reduce the procurement of C-141 aircraft from 20 to 16 squadrons.

Studies conducted from 1961 to 1964 illustrated the cost effectiveness of the C-5A for all types of air cargo requirements.

What we found

(a) With respect to the Congressional request:

Deficiencies

A recently accepted C-5A aircraft had 196 major and minor deficiencies—47 major and 149 minor. Of the 47 major deficiencies, 14 impair the aircraft's capability to perform all or a portion of six missions. (See Chapter 2)

Responsibility

Under the June 1971 restructured contract, responsibility for correction of the deficiencies rests with Lockheed on a cost reimbursable basis without fee on the premise that the fixed loss of $200 million therein settled Lockheed's liability for these as well as other problems. (See Chapter 2)

Cost

Based on a cost study performed by the System Program Office (SPO) in July 1971, the cost to correct the deficiencies was estimated to be about $164 million. This Air Force estimate, which was based upon numerous assumptions and conditions, was scheduled to be updated in February 1972 due to events which occurred since July 1971.

(b) With respect to aircraft performance:

Operation of the aircraft was limited by the Air Force to 80 percent of design requirements, in accordance with normal procedures until completion of the 100 percent flight demonstration. (See Chapter 3)

Operation of the aircraft continues under the 80 percent limitation primarily due to major failures which occurred in the nonflying wing/fuselage test articles. (See Chapter 3)

Major technical problems have been encountered, particularly with the wing, pylon, landing gear and avionics. (See Chapters 2 and 3)

One group of 12 aircraft experienced 36.34 maintenance man-hours per flight hour, compared to the specification rate of 17.65. (See Chapter 3)

On the average, the above aircraft were operationally ready 47 percent of the time compared to the specification objective of 75 percent. (See Chapter 3)

A résumé of the State Strength Capability of the C-5A follows.

	Load factor	Payload	Gross weight
Original design requirements	2.5G	220,000	728,000
	2.25G	265,000	764,500
Current restrictions	2.0G	174,000	712,500
AF estimated capability [1] (As of February 1972)	2.5G	185,000	728,000
	2.25G	230,000	764,500

[1] The estimated capability is contingent upon incorporation of the Lift Distribution Control System (LDCS).

Final determination of aircraft's capability must await completion of system flight testing in 1973.

(c) With respect to program milestones:

Delivery of the first operational aircraft was in December 1969, six months after the originally scheduled date of June 1969. (See Chapter 3)

Initial Operational Capability occurred in September 1970, nine months after the originally scheduled date of December 1969. (See Chapter 3)

Delivery of the 81st (last) production aircraft is scheduled for May 1973, 10 months after the originally scheduled date of July 1972. This slippage was caused by a change in the production rate from 3 to 2 per month and a strike at a major subcontractor's plant. Initially, 120 aircraft were to be procured and delivered by April 1972. (See Chapter 3)

(d) With respect to cost:

Total estimated costs have increased from $3,423.0 million for 120 aircraft estimated in October 1964 to $4,455.2 million for 81 aircraft as of June 30, 1971. The June 30, 1971, SAR also identified additional procurement of $326.3 million for such items as modifications and replenishment spares. (See Chapter 3)

The estimated unit cost has increased from the October 1964 estimate of $28.0 million to the June 30, 1971, estimate of $55.0 million. (See Chapter 3)

The foregoing cost estimates do not include the $200 million loss to be absorbed by the Lockheed Corporation.

(e) With respect to the SAR:

The SAR for the C-5A continues to be deficient by not including data on system reliability, cost per ton mile and productivity indexes based on speed, cargo carrying capability and utilization. We also reported on this matter in our previous C-5A staff studies dated February 1970 and March 1971. (See Chapter 3)

Our review of the C-5A SAR disclosed that it does not reflect an accurate picture of the C-5A performance status, in that:

(1) stated performance which is not based on actual hardware demonstration is not so noted;

(2) deficiencies in the landing gear and wing are not discussed; and

(3) continuation of the 80 percent operational restriction is not noted. (See Chapter 3)

(f) With respect to testing:

The acquisition strategy employed by the Air Force for the C-5A called for concurrency of development and production. Therefore, deficiencies properly discovered through testing are now being discovered while the aircraft is in full-scale production. Correction of such deficiencies are resulting in costly modifications or fixes. (See Chapter 4)

(g) With respect to progress payments:

The subject of progress payments is still under review.

Agency review

A draft of this staff study was reviewed by Air Force Officials associated with management of this program and comments were coordinated at the Headquarters level. The Air Force's comments are incorporated as appropriate. As far as we know, there are no residual differences in fact.

Matters for consideration

Close surveillance should continue over the C-5A program, particularly in the area of technical deficiencies that, if not corrected, may impair the operating mission capabilities of the aircraft.

There are also indications that aircraft reliability and maintainability may emerge as major problem areas.

The Congress may wish to inquire into the validity and status of the aircraft's mission requirements, with particular emphasis on the landing and taking off from unprepared surfaces and contour terrain following requirements.

CHAPTER 1: INTRODUCTION

The Lockheed-Georgia Company, a division of the Lockheed Aircraft Corporation, is located at Marietta, Georgia, and is responsible under its contract for building the C-5A airframe and managing the overall system. The General Electric Company, Evendale, Ohio, under a separate contract, is responsible for manufacturing the engines.

Since the Secretary of Defense committed the C-5A system to development and production in 1965, the Air Force Systems Command (AFSC), through the C-5A Systems Program Office (SPO), has had primary responsibility for management of the system acquisition.

Effective June 1971, the contract for the system acquisition was converted from fixed-price-incentive to cost-reimbursable. With the conversion, Lockheed agreed to accept a loss of $200 million under the contract.

Since our last staff study of the C-5A aircraft, which was issued in March 1971, (B-163058), the General Accounting Office has released the following reports pertaining to the C-5A program.

Financial capability of Lockheed Aircraft Corporation to produce M-5A Aircraft, B-169300, dated April 12, 1971.

Audit of payments from Special Fund to Lockheed Aircraft Corporation for C-5A Aircraft Program during period endin, June 30, 1971, B-162578, dated August 9, 1971.

Audit of payments from Special Fund to Lockheed Aircraft Corporation for C-5A Aircraft Program during the quarter ended September 30, 1971, B-162578, dated November 17, 1971.

Audit of payments from Special Bank Account to Lockheed Aircraft Corporation for the C-5A Aircraft Program during the quarter ended December 31, 1971, B-162578, dated February 18, 1972.

The above reports relate to Lockheed's financial problems with the C-5A program; a special contingency fund and fiscal constrainta imposed by Public Law 91-441; and the results of our audit of payments from the fund.

Scope of review

To provide the Congress with information on the current condition of the C-5A aircraft, we reviewed the status of 15 operational aircraft accepted during the time period of February through August 1971 from Lockheed from the standpoint of deficiencies that would impair operating effectiveness.

We determined the status of the testing program for the C-5A by comparing test plans with reports of actual tests conducted. We also examine selected test reports where major failures occurred.

For the third year we reviewed the program's June 30 SAR to determine improvements made and to identify remaining shortcomings in its preparation. We also examined the reasons for major changes in C-5A cost, schedule, or performance since the June 30, 1970, SAR.

Information on the C-5A was obtained by reviewing plans, reports, correspondence and other records, and by interviewing officials at the Lockheed-Georgia Company plant located in Marietta, Georgia, the SPO, intermediate and higher commands of the Department of the Air Force and the Office of the Secretary of Defense.

We evaluated management policies and the procedures and controls related to the decisionmaking process, but we did not make detailed analyses or audits of the basic data supporting program documents. We made no attempt to assess military threat or technology, develop technological approaches, or involve ourselves in decisions while they were being made. We also did not review the C-5A engine program because of audit time constraints.

To provide the House Committee on Appropriations with information on the aircraft's deficiencies, responsibility for the deficiencies, and the costs involved in correcting the deficiencies, we made an analysis of the deficiencies reported by the Air Force on aircraft number 53. In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit a summary of data given to GAO by the Air Force. This data is discussed in the following chapter.

CHAPTER 2: DEFICIENCIES IN ACCEPTED AIRCRAFT

In our March 1971 staff study, we reported on our review of the first 15 operational C-5A aircraft accepted by the Air Force. Our review disclosed that the aircraft had been accepted with an average of 130 agreed-upon and 127 unresolved deficiencies per aircraft. The aircraft's major deficiencies in the landing gear, wing and avionics did not prevent the aircraft from performing its basic cargo mission but restricted performance of the aircraft's tactical mission. These deficiencies were attributed to incomplete development and testing.

Our current review of the condition of 15 aircraft accepted by the Air Force during February through September 1971 disclosed that the aircraft are still being accepted with a number of deficiencies. These aircraft were accepted with an average of 251 deficiencies per aircraft—some major and some minor.

Since our March 1971 staff study, the following aircraft components have been corrected.

Air Turbine Motors

Air turbine motors (ATM's) drive two pumps incorporated in the C-5A hydraulic system. These pumps provide auxiliary power for hydraulic subsystems which are primarily used for operation of systems while the aircraft is on the ground.

At the time of our last report, the operation of the ATM was prohibited pending its relocation to a more accessible area of the ship due to a fire in aircraft number 11. The unit has been moved to the area of the auxiliary power unit, a more accessible and safer location. Operating restrictions no longer are imposed on the use of the ATM.

Radar Altimeter

The C-5A is equipped with two low altitude radar altimeter systems intended to provide an accurate indication of airplane altitude above the ground. They provide the primary sensing signals to the all-weather landing system which automatically flares the aircraft—changes its attitude—during an automatic landing. They are also important when used in conjunction with the terrain-following mode of the multi-mode radar for low-level missions.

In last year's staff study, we reported that this component could not be used with the all-weather landing system or the terrain-following mode of the multi-mode radar because they did not possess the required accuracy below 100 feet. Air Force officials advised us that no problems are currently being encountered with this component.

Crash Data Position Indicator Recording System

The crash data position indicator recording system records data and crew member conversations which are used in location and investigation of a crash.

At the time of our last report, this system was undergoing reliability testing following modifications designed to correct air foil, corrosion, tape jamming and water seepage problems.

Air Force officials advised us that the modifications have corrected the problem areas and the component currently is fully operational.

Special congressional request

In the House of Representatives Appropriations Committee Report No. 92-666, dated November 11, 1971, the General Accounting Office was instructed:

". . . to make a thorough investigation of the defects in this aircraft and to assign a responsibility for the defects and establish the costs involved in correcting the deficiencies."

In view of the Committee's desire to have a report before additional funds are considered for this program, we are providing to the Congress without audit the following data given to GAO by the Air Force.

Responsibility

Since the contract was restructured in June 1971, the subject of responsibility for the cause or cost of the defects is no longer an open issue. Under the restructured contract the defective items are to be corrected by Lockheed on a cost basis without fee on the premise that the fixed loss established therein settled Lockheed's liability for these as well as other problems. We therefore did not attempt to determine the responsibility for the causes of the defects.

Estimated Cost to Correct Defects

The latest information available regarding the cost of correcting deficiencies is a SPO cost study on the update requirements for the C-5A performed in July 1971. This study concluded that the total program to correct the deficiencies would cost approximately $164 million excluding the wing and pylon problems which had not yet been discovered. This estimate was based on the following assumptions:

1. The changes would be incorporated at Lockheed and at San Antonio Air Material Area (SAAMA). The work done at Lockheed would not be fee bearing. The work at SAAMA would be done in conjunction with a Depot Level Maintenance program to recognize economies in aircraft downtime and processing costs. There would be approximately equal work at both locations.

2. The changes involved were only those requiring depot incorporation. They included a known category, i.e., those which had been approved or identified but not yet approved as of June 1971, and an unknown group; i.e., a projection of additional changes which would be approved through September 1973.

3. It was assumed that there would be no additional major structural failures in the test programs.

4. It was assumed that all changes would be incorporated by late 1974.

This cost estimate covered all of the costs associated with these changes except the engineering design necessary to define the corrective action, which is part of the basic contract cost. Examples of the costs included in the study are installation of the change, fabrication of retrofit kits, planning, material, and subcontractor costs. The July 1971 study concluded that the total program to update the C-5A would cost $164 million. This was made up of $90.5 million for those known changes identified through June 1971 and $73.5 million for additional unknown changes which might be identified by September 1973. The expenditures for these changes were projected to occur in the following time-frame.

	Millions
Fiscal year 1973 and prior	$96.6
Fiscal year 1974	52.5
Fiscal year 1975	14.9
Total	164.0

Since July 1971, events have occurred which will affect this estimate. The structural test failures, the pylon failure, the forming of an Independent Structural Review Team, the extension of the incorporation schedule to late 1975 and a different mix of incorporations between Lockheed and SAAMA are the most significant changes to the assumptions made in July 1971. A cost for these has not yet been determined.

A special cost study is now being undertaken by C-5A SPO personnel for the purpose of updating the July 1971 cost study. This effort was planned to be completed in late February 1972.

Deficiencies

As mentioned earlier in this staff study, our review of the condition of 15 recently accepted C-5A's (February through August 1971) disclosed that the aircraft were accepted with an average of 251 deficiencies per aircraft—some major and some minor.

To answer the House Appropriations Committee's request, we analyzed the Shortage and Variance Report (SHOVAR) dated No-

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vember 24, 1971, on aircraft number 53. The SHOVAR is used by the Air Force to track deficiencies on the C–5A and is compiled at the time of delivery of a given aircraft. It represents a list of all items which are not on the aircraft but should be, and all items which do not meet contractual specifications. Prior to the restructure of the C–5A contract, this report was used to document the Air Force position on Lockheed's responsibility under the Correction of Deficiency clause; i.e., any item appearing on the list would be replaced or updated to specification under the contract cost-sharing arrangement or in the event of an overceiling condition the cost would be absorbed by Lockheed. Since the C–5A contract was restructured, these items are corrected by Lockheed on a cost basis without fee on the premise that the fixed loss established therein settled Lockheed's liability for these as well as other problems.

Our review of the SHOVAR for aircraft number 53 disclosed 196 deficiencies of which 47 were considered to be major defects based on the following criteria:

a. Any deficiency which precludes aircraft from fully meeting the specified mission capability for which it was procured.

b. Any deficiency which may endanger life or limb of C–5A air or ground crews or valuable property. There are no deficiencies in this category that currently result in a safety problem to the crew.

c. Any other deficiency for which the fix will increase the total estimated program cost over $1 million as agreed to by GAO and SPO officials.

The 149 minor deficiencies were not reviewed because of the low cost and lack of mission impact. However, costs for these changes are included in the July 1971 cost estimate of $164 million.

Of the major deficiencies, 14 negatively impact the C–5A's capability to perform its full mission. These deficiencies affect nine mission parameters (see Appendix II) as follows:

1. The Operations Annex (but not the basic Specific Operational Requirement) calls out a mission of 1 hour at 300 feet at between 300 and 350 knots. Aircraft which have not been updated cannot meet low level terrain following specifications for two reasons:

a. Static and fatigue test failures in the aft fuselage dictated beef-up of structure to withstand turbulence and high airspeed maneuvering loads. This applied to airspeeds above 250 knots.

b. The Multi-Mode Radar has been tested and proved at a nominal 1000 feet, with tolerances approximately 800 to 1100 feet. The requirement for an absolute 300 feet is currently under review for analysis of real worth to the mission. If the requirement is raised to about 1000 feet, the updating Multi-Mode Radar Engineering Change Proposals (ECP's) will correct all of the avionic deficiencies and permit safe terrain following.

2. The C–5A cannot currently meet maximum design payload requirements. Continuation of the 80 percent restriction limits the payload to 174,000 pounds. With the incorporation of the proposed Lift Distribution Control System, the payload limit will be increased to 185,000 pounds at 2.5 G's.

3. When the C–5 is landing on substandard runways, loose material is thrown up into the hydraulic and electrical lines running underneath the main landing gear. This has resulted in an inability to meet substandard runway requirements. A relocation of the hydraulic and electrical lines was made on test aircraft number 3 with satisfactory results. Implementation of the ECP for relocation of the lines is being deferred until the exact criteria for non-standard runway usage of the C–5A is clarified.

4. The minimum ceiling requirements of the C-5 is 250 feet. The C–5 is currently cleared to 300 feet. Tests are in progress on improved Attitude Heading Reference Units to provide confidence in lowering the minimum ceiling.

5. The turn around time requirement is directly related to the time necessary to kneel and unkneel the aircraft. The original allocation was 2 minutes each for kneel and unkneel, which left 11 minutes for unloading operations. In adverse conditions about 5 to 6 minutes were required for kneel or unkneel operations. Present consideration to go to hydraulic drives on the system reduces kneel and unkneel to approximately 3 minutes each and a requirements study to modify total time and kneeling operations times is underway.

6. The doppler radars currently do not fully meet the specification requirements of velocity and drift angle. ECPs are now being incorporated which will permit C–5's to meet specification requirements at the lowest and highest speeds attainable.

7. The Terminal Area Navigation problems have been resolved. Instructions for correction were issued January 27, 1972, and all aircraft have been updated. This correction involved tape changes to the Inertial Doppler Navigation Equipment computer which now permits the computer to properly accept data inputs from the various fixed navigational stations such as Tactical Air Communication and Navigation System (TACAN), loran, and terminal area navigation.

8. The Internal Doppler Navigation Equipment cannot meet vertical channel requirements in Terminal Area Operations. The corrective action discussed in 6 and 7 above also solve this problem.

9. The Aerial Delivery System cannot meet all aerial drop requirements. A group of changes has been developed to incorporate fixes for malfunctions found during category II drop tests.

The following sections discuss (1) those major deficiencies which affect the aircraft's mission, (2) those major deficiencies which do not affect the aircraft's mission, and (3) those minor deficiencies not affecting mission—those deficiencies identified in last year's staff study which have not been resolved.

Major deficiencies affecting mission

Landing Gear

The C–5A is equipped with a highly complex tricycle-type landing gear which was designed to operate on unimproved as well as conventional runways; take off and land in crosswinds by changing the position of the gear; and kneel in three modes to accommodate various types of cargo operations.

The landing gear system continues to be the most troublesome system on the aircraft. For the six month period ending August 31, 1971, there were 3,327 reported landing gear failures[1] in the C–5A fleet. A total of 82,673 maintenance man-hours were required, resulting in a maintenance man-hour per flight hour (MMH/FH) of 8.19. The meantime between failure (MTBF) was four hours.

Lockheed is still testing various subsystems of the landing gear system. There have been several major changes proposed for correction of the problems; some of the most important ones are concerned with the extension/retraction function of the gear and with specific areas such as the door lock, kneel door and relay logic.

A change has been proposed to change the driving power of the kneeling system from pneumatic to hydraulic. It is anticipated that this change will solve most of the recurring problems which have been experienced with the kneeling system.

Malfunctions in extension/retraction functions of the landing gear kept performance of this system below acceptable levels. Significant engineering changes were developed to solve these problems. Simplification of functions and substitution of relay logic circuitry in place of sophisticated electronic integrated circuits in the extension/retraction function shows major improvement in performance.

The original main landing gear kneeling pins would bend under certain kneeling conditions. The pins now have been redesigned and the new ones are expected to be less susceptible to bending.

The anti-rotation braking system has been modified. The modification consisted of the replacement of a rather sophisticated electronic braking system with a relatively simple wiring system tied directly into the landing gear handle. While it is slower than the electronic system, the modified system is expected to be more trouble free, easier to maintain, and much more reliable.

Air Force officials stated that the system for rotating the landing gear could not accomplish its task because of an undersized cylinder. Air Force personnel stated that this situation now has been corrected through the use of a larger cylinder.

The operation of the cross-wind landing system no longer is restricted. A new and different computer now is utilized and the system is used for take-offs and landings with essentially full capability.

Results of these improvements will not be felt in definite reliability improvement until the majority of the aircraft are retrofitted. As of the end of 1971, 22 aircraft were retrofitted with relay logic fixes and production incorporation was made on aircraft number 58 and up. Hydraulic kneeling work is still in the test stage and no aircraft have been modified. An extensive door lock redesign, to prevent inadvertent door gapping from structural deflections at higher airspeeds and altitudes and to provide longer life of the locking system will be effective in production on aircraft number 67. Retrofit is scheduled to start in March 1972.

Landings are restricted to hard surfaces; landing on unprepared surfaces, although still included in performance specifications, are not permitted because the aircraft has not been fully tested.

Wing Problems

The wing continues to be one of the major problem areas on the C–5A. Lockheed has two articles that test the fatigue strength of the wing. The test articles had incurred 21 failures as of October 1971, while completing only 15,000 and 30,000 hours respectively of the 120,000 test hours scheduled for each. The primary fatigue test article was down for repairs 285 days during fiscal year 1971. The wing fatigue tests are scheduled to be completed in September 1974, about 2½ years behind the original schedule.

Between March 15, 1971, and October 31, 1971, Lockheed proposed over $8 million in engineering changes to the wing. This amount excludes the complete redesign of an area specified as the 120 rear and mid beam joint, as recommended by the Air Force Special Study Group. The area in question incurred a major failure during fatigue testing in November 1970.

Air Force reports show that even after the necessary repairs are incorporated in the wings, in service repair probably will be required to attain 30,000 hours service life.

The static test article incurred a major wing failure in September 1971. The failure occurred during testing of the 150 percent design load limit requirement, which was the last scheduled major test for the static article.

Air Force officials stated that the failure occurred at about 126 percent of the design load limit. Subsequently, the Air Force and contractor studied the problem concerning the cracked wing, and the Air Force decided to incorporate a Lift Distribution Control System (LDCS) in all C–5A's. The Air Force estimated the cost associated with the development, testing and incorporation of LDCS at $3.0 million.

[1] Failures represent all types of mulfunctions reported in the landing gear by the Military Airlift Command.

Pylon Problems

In September and October 1971, cracks were discovered in the pylons of delivered aircraft. Air Force officials stated that the cracks were the result of two different problems, one design and the other quality control.

The first problem was discovered when an engine and pylon separated from aircraft number 13 as it was preparing for take-off. Subsequent investigation disclosed a break in a mount within the pylon caused the engine to separate from the aircraft. Air Force officials stated that improper design caused the break and that all of the pylons will have to be rebuilt in the area where the break occurred.

Air Force officials stated that this area of the pylon had not been tested for fatigue weakness because it had passed the static tests with no problems.

The Air Force required an inspection of all C–5A pylons as a result of the above incident. During the subsequent inspections another break was found in an area of the pylon. This break occurred in a triangular shaped fitting of the pylon. Air Force officials stated that the break was caused by stress corrosion brought on by a missing shim. The officials attributed the missing shim to poor quality control at the subcontractor's plant. As a result of this break in the pylon, all C–5A's were grounded by the Air Force until inspections could be completed of the pylon area.

The Air Force advised us that a comprehensive program of providing safe pylons through fatigue life tracking of installed pylons and replacing pylons with beefed-up pylons is in progress under top priority actions.

Multi-Mode Radar

The multi-mode radar consisted of two separate and independent radars which are used to perform several different functions on modes. The modes are weather mapping, ground mapping, contour mapping, terrain following/terrain avoidance, beacon identification and radar approach for landing with and without ground-based aids.

At the time of our review, the most current C–5A operating limitations published by the Air Force listed the terrain following/terrain avoidance, contour mapping, and radar approach modes as being not operational on aircraft in the field.

Air Force officials stated that Lockheed has completed flight tests on MMR in a more up-to-date configuration and all modes are operational and meet specifications with the exception of the terrain-following mode. Updating the system started in January 1972 and after test of updated systems, production articles are scheduled to be retrofitted beginning in November 1972. Even with updated radar equipment, however, the terrain following mode is not expected to be fully operational at the 300 foot level required by the specifications. Presently, it is being operated at a minimum level of 1,000 feet.

Air Force officials stated that a design deficiency in the radar will probably require a complete update of the equipment. They also stated that early in the program they brought this design deficiency to Lockheed's attention but no corrective action was taken. Even though other modes of the MMR are operational and are operating within specifications, the overall reliability is considered by the Air Force to be poor.

The planned update of the MMR will incorporate a number of changes, not only to the terrain-following mode, but to other operations of the radar as well. The rough estimate of costs for the equipment update currently is $13 million.

The MMR equipment discussed here, and the radar altimeter, Inertial Doppler Navigation Equipment, and Station Keeping Equipment discussed elsewhere in this study, are components of the aircraft's radar system. For the C–5A force for the six month period ending August 31, 1971, there had been 749 failures recorded for the system; the MTBF rate was 18 hours.

A total of 23,760 hours was expended in maintenance man-hours, resulting in a MMH/FH of 1.78 hours.

As of February 1972, the Air Force provided an estimated completion date of October 1974 for updating the entire C–5A force.

Inertial Doppler Navigation Equipment

The inertial doppler navigation equipment (IDNE) consists of an inertial navigation and a doppler radar system which is capable of performing its navigational role without dependence on ground aids. It provides position information by sensing the motions of the airplane and computing the changes of positions. The system combines basic navigational capability with additional computer services for processing data from and to other airplane systems equipment to assist in guidance and control functions.

In our 1971 staff study, we reported that limitations had been placed on its use until completion of flight tests by Lockheed. Our current review revealed that on operational units, IDNE computer software has been and continues to be a problem. All flight testing is complete and the accuracy of the equipment has been verified. A number of changes have been proposed and approved with delivery of revised units starting in January 1972.

Air Force officials stated that the operational specifications for the ground tracking function of the IDNE system has been relaxed somewhat, but this relaxation, or restriction, will be lifted when all proposed changes are incorporated into the system. The officials stated that the overall accuracy of the system is good, but the reliability is less than desirable. A critical shortage of doppler spares resulted in 60 percent of the 174 missions flown in August and September 1971 without an operational doppler.

As of February 1972, the Air Force advised us that updating of two of the system's major deficiencies had been completed. Updating of the remaining four major deficiencies is expected to be completed by May 1975.

Attitude and Heading Reference Unit

The C–5A aircraft is equipped with two attitude and heading reference units (AHRU's) capable of furnishing both heading and attitude information to the horizontal situation indicator, the bearing-distance-heading indicator, and attitude director indicator (ADI). Pilots rely heavily on the ADI when flying in bad weather because it indicates the attitude of the aircraft in relation to the ground.

In our March 1971 staff study, we reported that a restriction had been placed on take-offs and landings when the ceiling is less than 500 feet and one mile visibility. This restriction was due to low system reliability and malfunctioning gyros and electronic circuits.

During our current review, Lockheed officials stated that flight tests of the AHRU have been completed and it is now functioning properly. Limited modification of AHRU's in the field has resulted in improved operation and reliability. However, until all ships undergo complete modification, use of the equipment is still restricted on landings and take-offs when the ceiling is less than 500 feet and visibility is less than one mile.

For aircraft equipped with modified units, the C–5A SPO has recommended that the ceiling and visibility be changed to 300 feet and ¾ mile respectively.

As of February 1972, the Air Force had not updated any aircraft and estimated complete update of the entire C–5A force would be completed in September 1972.

Aerial Delivery System (ADS)

This system is essentially qualified. The test program in 1971 at Pope AFB, North Carolina, demonstrated the capability of the system. A few minor corrections to equipment are necessary to fully meet specified performance. A correction to the end fitting of the anchor cable to prevent chafing and failure after repeated usage is the type of fix encountered in this system.

As of February 1972, the Air Force was unable to provide an estimate as to when updating was scheduled to be initiated and completed.

Major deficiencies not affecting mission

Automatic flight control system

The automatic flight control system (AFCS) consists of four subsystems which provide automatic throttle control, assistance in moving the aileron and elevator flight control cables, stability augmentation (yaw-lateral-pitch) and automatic flight path control (autopilot). Flight path control functions, utilized by the AFCS, are displayed to the pilot for monitoring.

Our 1971 review disclosed that this component's subsystems were not operational or in the final and optimum configuration. Our current review showed that although Lockheed officials stated that developmental testing of the flight control system is complete, Air Force officials stated only a portion of the several components making up the system are actually operational.

In the operational modes of the AFCS, two problems impairing the full use of these modes were discovered and resolved. The first problem was binding in the autopilot servo which, under certain conditions, resulted in servo seizure and applied loads that would exceed the 80% operating limits. A safety supplement was issued to preclude this situation from occurring. Field and production installation of the required fix have been accomplished and the problem has been eliminated. The second problem involved altitude fluctuating and disconnects. Corrective action involved modification of electronic circuitry in the pitch computer. Production incorporation begins with aircraft number 59 and retrofit starts approximately February 1972.

The autopilot modes which had not completed development test were completed in 1971. A firm configuration has been determined and final updated production hardware delivery will begin in November 1972. A full update of this system is not anticipated until about January 1974.

Minor deficiencies not affecting mission

Malfunction detection analysis and recording system

The malfunction detection analysis and recording system (MADAR) was designed to assist flight crews and maintenance personnel in the detection and isolation of malfunctions in the aircraft. It also furnishes trend data related to subsystem degradation for use in prediction of impending failures.

Our 1971 review disclosed that the MADAR was not considered reliable and its potential had not yet been achieved. Our current review indicated that the MADAR continues to perform poorly but current tests have shown some improvement in the reliability of this equipment. After modification the equipment MTBF rate in laboratory tests increased from 87 hours to about 100 hours. However, for the six month period May through October 1971, the MTBF rate for operational aircraft in the C–5A fleet averaged only about 23 hours per ship for the MADAR system. Additional changes will be incorporated in an on-site update program beginning after December 1971.

The specifications call for a 300-hour MTBF rate for the system. Even after the total equipment update is accomplished, the best rate expected by the Air Force is 150 to 200

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hours. Despite this anticipated failure to meet specifications, the specifications have not been revised to reflect the lower MTBF.

Stallimeter Subsystem

The stallimeter is used to warn the pilot of an approaching stall condition of the aircraft.

Our March 1971 staff study reported that the component was unreliable and was not being used because of computer problems. Our current review disclosed that use of the stallimeter is still restricted on operational C–5A aircraft. Lockheed flight testing of this item is complete, and operation of the test version is satisfactory. However, since this item is a part of the AFCS, its use is limited due to the overall problems experienced by that major system.

Station Keeping Equipment

The station keeping equipment is intended to allow a large number of aircraft to maintain desired separation from each other while in formation. It operates as a simultaneous range tracking and 360-degree screen display system. Time-sharing methods are utilized on a single transmitting frequency and permit as many as 59 aircraft, within range of each other, to fly in a single formation.

In our March 1971 staff study, we reported that while this component was operable, its use was limited to visual flight use. Our current review disclosed that the system is still restricted to daylight visual flight conditions. A number of proposals have been made for changes to this system. After the changes have been incorporated, the Air Force expects the system to function normally, even though it is anticipated that operational specifications will not be met. For example, on the search mode, instead of the 20 miles called for in the specifications, the equipment will operate at only 14 miles. The system in use in the Air Force has not been operated or tested with a group of C–5A's because of the cost involved in such a test. Testing by Lockheed has been largely in a laboratory environment but the results indicate that the system's operation is satisfactory.

Aerial Refueling System

An aerial refueling system has been installed on the C–5 aircraft. Use by MAC has been prohibited pending incorporations of engineering changes. Changes to the aerial refueling system will be made as programmed and full operation of the system is expected by the Air Force following correction of the deficiencies. As of the close of our review, the Air Force was unable to provide a date for completion of the corrective action.

For illustrative purposes, the following minor deficiencies were selected for the purpose of illustrating the insignificance of a large number of the 196 deficiencies reported on aircraft number 53.

1. The interphone cord length is not sufficient to allow unrestricted movement of crew members in performance of their normal duties.

2. The aircraft's lavatory doorways have a 5¾ inch high step. Proposed corrective action is to make sills removable or markedly reduce step height.

3. The two covers for the troop compartment auxiliary refuse containers are not self-supporting in the open position.

4. Currently approved refuse containers (one 60 gallon plus two auxiliary containers) do not provide adequate capacity. Proposed corrective action is the addition of a second 60 gallon container.

CHAPTER 3: SYSTEM ACQUISITION REPORT

System cost experience

Our field work consisted of a review of the cost data shown on the June 30, 1971, Selected Acquisition Report (SAR). Therefore, the following discussion pertains to data in that report. While the total estimated cost does not include a complete estimate to correct the aircraft's deficiencies, a portion thereof is included in the current estimate.

The total estimated program cost as of the June 30, 1971, SAR was $4,455.2 million (Development $1,029.2 million, Procurement $3,608.4 million, Construction $17.6 million less Lockheed's loss of $200 million)—an acquisition unit cost of approximately $55.0 million. The agreed to loss by Lockheed Corporation is $200 million—$100 million investment loss and $100 million to be repaid to the Government in the future according to the terms of the June 1971 reconstructed contract. The SAR also identified logistic support/additional procurement costs of $326.3 million for such items as modifications and replenishment spares.

The $4,781.5 million total cost estimate for 81 aircraft as of June 30, 1971, was approximately $1359.0 million and $187.2 million higher than the October 1964 and June 30, 1970, estimates respectively. The October 1964 planning estimate (which did not include an estimate for additional procurement costs) for the total program was $3,422.5 million for 120 aircraft or about $28 million each. The June 30, 1970, SAR showed estimated costs of $4,308.6 million for 81 aircraft or a unit acquisition cost of about $53.2 million. The June 30, 1970, SAR also included logistic support/additional procurement costs of $285.7 million.

The difference of approximately $18.2 million between the June 1970 and June 1971 estimates was primarily the result of the following: $75 million due to the agreed to change in the proposed production rate from three to two aircraft per month; $47.8 million due to final negotiation of the Lockheed loss; $25.5 million due to an increase in additional procurement costs; $21.9 million due to implementation of Scientific Advisory Board recommendations; the balance of $17.0 million is due primarily to other adjustments in such areas as estimating and test support and add-ons.

Beginning with the initial SAR (March 31, 1969), the total estimated cost included $410 million for economic inflation expected to be incurred during the development/production phase (1965–1973). The $410 million is in addition to amounts included for inflation in the original contract estimates (see Appendix I). SPO officials stated that the original planning estimate was in constant 1964 dollars with no allowance included for inflation.

Air Force officials stated that the matter of inflation has been difficult to deal with and all estimates pertaining to inflation are questionable. With respect to C–5A expenditures, it is noteworthy that Air Force officials also point out that actual and projected expenditures adjusted by the OSD published rates of inflation and converted to 1964 constant dollars show that inflation could account for $692 million of the increase in program cost over the estimate made in 1964.

Subsequent to the issuance of the June 30, 1971, SAR, a strike at one of the major subcontractor plants forced the closing of the C–5A production line on September 18, 1971, for three weeks. The additional procurement cost associated with this strike is estimated by the C–5A SPO to be $6.4 million.

Funds were appropriated in the amount of $3,927.8 million for Research, Development, Test and Evaluation (RDT&E), Procurement, and Military Construction during fiscal years 1964 through 1971. During this same period the Air Force programmed $4,011.2 million for RDT&E, Procurement and Military Construction. Figure I shows the amount of funds appropriated, obligated and expended together with the current program by fiscal year. Figures II and III respectively show the RDT&E and Procurement appropriated and current program by fiscal year.

Figures IV and V show that the Air Force cost estimates for the C–5 program have increased from the $3,422.5 million (excluding additional procurement costs) planning estimate of October 1964 to the June 30, 1971, total program estimate of $4,455.2 million. The June 30, 1971, estimate also includes $326.3 million for logistic support/additional procurement costs.

The conversion of the Lockheed contract from fixed price incentive to cost reimbursement resulted in the continuing flow of payments to the contractor without which the continuation of the program by Lockheed would have been impossible. The conversion also resulted in Lockheed accepting new Air Force intensified management participation and authority over the contractor's activities in the performance of the contract. Representative areas and probable controls include, but are not limited to:

Plant activities
Program plans and status
Personnel resources
Engineering activities and
Facility resources

As of December 31, 1971, the total estimated program cost was $4,439.9 million taking into account Lockheed's loss of $200 million. The reported logistic support/additional procurement costs as of December 31, 1971, were $388.1 million.

SYSTEM SCHEDULE EXPERIENCE

The SAR's show that from June 30, 1970, to June 30, 1971, the projected delivery of the last production aircraft slipped 7 months from July 1972 to February 1973. This slip was caused by the change in the scheduled production rate from three to two aircraft a month. As of June 30, 1971, delivery of the last aircraft (81st) was estimated to be about 22 months later than originally planned. The original planning and development estimates for the C–5A, as charted on Figure VI, provided for the 81st aircraft to be delivered in July 1971 and the 120th aircraft to be delivered in April 1972.

A strike at one of Lockheed's major subcontractor plants in September and October 1971 caused a shutdown of the C–5A production line. The Air Force estimates that the 10-week subcontractor strike caused a rescheduling of aircraft production and now the last aircraft is scheduled for delivery in May 1973—a slip of two additional months.

System performance experience

Operation of the aircraft was limited by the Air Force to 80 percent of design requirement, in accordance with normal procedures until completion of the 100 percent flight demonstration. These flights tests were originally due to be completed in November 1969. However, this limitation has continued in effect primarily due to major failures which occurred in the non-flying wing/fuselage test articles which have delayed the 100 percent flight demonstration. Other major technical problems have also been encountered in the landing gear and avionics which are discussed elsewhere in this staff study.

We noted that reporting of the specification compliance for landing distance in a support area was not based on actual hardware demonstration. The original specification for C–5A landing distance was 4,000 feet in a support area on an unprepared surface. However, difficulty was encountered in controlling test conditions in such an environment. Therefore, the specification was adjusted by the Air Force to an equivalent requirement for dry concrete runways—3,125—and tests were conducted and performance measured on that basis. That raises the question as to whether the requirement for landing and taking off from an unprepared surface is still a valid requirement.

Our review disclosed that for the 8-month period ending August 31, 1971, 12 aircraft (average) assigned to the Charleston Air Force Base, experienced a total of 36.34 maintenance man-hours per flight hour which is in excess of the specification rate of 17.65.

Our review also disclosed that for the 9-month period ending September 30, 1971, the average operationally ready rate for the same aircraft was approximately 47 percent as compared to the specification objectives of 75 percent.

The monthly maintenance man-hours and operationally ready rates for C–5A's at Charleston are shown on Figures VII and VIII respectively. Figures IX and X show the maintainability and reliability rates for the entire C–5A fleet during the 6-month period ending August 31, 1971.

Selected acquisition reporting

The SAR is intended to be an accurate presentation of the status of the weapon system being reported using common baselines, technical data, schedule, and cost information. In our previous staff studies to the Congress dated February 1970 and March 1971, we stated that we believed the SAR's usefulness for this system is severely limited without disclosure of complete mission profile data and the aircraft's technical problems. The data provided in the C–5A SAR is in accordance with the DOD Instruction.

The June 30, 1971, SAR for this program still does not reflect the major operational and technical characteristics, i.e., range at specific payloads, germane to a cargo-type aircraft. While a considerable amount of detailed information on the program may be provided to Congressional members periodically through briefings, we believe that information pertaining to the aircraft's logistic capability should be addressed in the SAR.

Although we do not agree with the selection of the performance characteristics stub items cited in the SAR, we believe that the SAR should reflect a clear and precise status of the system's capability to fulfill those performance characteristics. For example, the C–5A SAR does not include any data on system reliability, cost per ton mile, and productivity index based on speed, cargo carrying capability and utilization. We found further, that the reported performance was not actually accomplished in compliance with the specification performance (mission guarantees). The reported performance was based on a combination of actual flight test data and extrapolations thereof, in accordance with Air Force procedure, rather than actual hardware demonstration flights.

We believe that when reported performance is not based on actual hardware demonstration, the basis used should be clearly noted for each characteristic.

We also believe that the technical section of the SAR should disclose the impact of the aircraft's deficiencies (such as the landing gear and wing deficiencies and the 80 percent limitations) on its ability to perform its basic missions.

CHAPTER 4: TESTING

Introduction

The successful fielding of any weapon system requires an orderly, phased progression of test and evaluation. The three basic types of testing—engineering, acceptance and operational suitability—can provide management with the necessary vital information needed to ensure the successful evaluation and subsequent fielding of the system.

Incorporated in any comprehensive test program is the need to follow a sequential testing program. In this process, the following steps must be performed:

1. Formulate test objectives to satisfy the mission objectives of the weapon.

2. Develop test plans to accomplish the test objectives.

3. Implement testing based on test plans.

4. Evaluate test results and prepare test reports.

5. Use test results when making key management decisions.

The real pay-off in a testing program is the proper assessment of the risk and delivery of the test results to the decision-maker at decision points in the acquisition process.

The acquisition strategy employed by the AF at the time that the test plan was established called for concurrency of development and production. Therefore, engineering testing (static and fatigue) would be conducted during production. Acceptance and operational suitability testing could not be performed prior to full-scale production. Under this type of strategy test results and reports thereof could not possibly be made available to program managers prior to key decision points.

In addition, test schedules have slipped to the point where all 81 aircraft will be completed or in production assembly before completion of the testing program. The delays in identifying deficiencies through the testing program has resulted in the production of aircraft with faults such as structural defects, and inoperable and unreliable subsystems.

A discussion of objectives one through three follows.

Development of test objectives

The establishment of testing objectives early in the acquisition program is an important aspect of testing in that it provides the framework to measure a system's capability to meet its mission requirements.

The C–5A Specific Operational Requirement initially provided two missions. The basic mission was to carry 100,000 pounds for 5,500 nautical miles while the alternate mission was to carry 265,000 pounds for 2,500 nautical miles. After completion of the aircraft's parametric studies, the number of missions was increased to five which were included in the original Request for Proposal (RFP).

By September 1965, the five missions defined in the RFP were further defined into 15 mission profiles (see Appendix II) in the specifications as the basis for structural life design based upon anticipated usage.

Development of test plans and means of assuring they would accomplish test objectives

Lockheed, as the system contractor, was required to prepare and submit to the Air Force for approval plans and procedures by which it would demonstrate the capability of the C–5A to accomplish the operational requirements. The contractor's original test plans were dated April 1965 and revised September 9, 1965, prior to contract award on October 1, 1965.

As a means of assuring the contractor would accomplish the test objectives, the Request for Proposal required the contractor to establish and explain the standards, tests, associated analyses, and other means that would constitute adequate proof, on completion of the development phase, that an acceptable level of performance, including all military effectiveness factors, could be achieved by the system in operational use. The request for proposal also specified that the types of tests would include but not be limited to the following:

Wind tunnel
Static
Fatigue
Drop
Design and development
Integration
Qualification
Reliability and safety
Maintainability
Flight

Lockheed's test plan showed that many of the tests to be performed on the C–5A were based on those made on the C–141, and that the nucleus of the management personnel assigned had extensive experience in testing cargo-type aircraft.

One major deficiency in the contractor's test plans was an inadequate allowance for contingencies to provide for failures which experience on other aircraft had shown were bound to occur. The test schedules were predicated on minimal problems during testing. This was recognized early in the program, but it was questionable as to whether the test schedules and test periods were enforceable because of the disengagement concept stressed under the TPP concept.

As late as February 1970, the contractor's test schedules showed completion of required static tests by August 1970. At that time the aircraft was to be released for 100 percent flight demonstration, however, test schedules still did not adequately allow for unexpected delays and possible failures. Program status charts as of February 1971, showed the 100 percent flight demonstration release date as being about August 1971. A major test failure in September 1971 has further delayed the 100 percent flight demonstration. As of January 18, 1972, the scheduled period for that testing had been set for March 10 to April 14, 1972.

However, at the completion of this test period, three components will not have been completely tested because the respective update production hardware is not available for testing. The three components are as follows:

Automatic flight control system
Multimode radar
Flight director

Air Force officials stated that production hardware should be available during 1972 and testing should be completed in June 1972. In addition, the wing and pylons have not been fully tested due to recent problems experienced by these systems.

Air Force officials also stated no further testing will be made of the aircraft's support area landing and take off capabilities—although the tests had not been completed. Some prior support area landing tests had caused damage to the test aircraft. Therefore, the Air Force has suspended the conduct of this type of testing.

Air Force officials stated that the aircraft will not be restricted from using unprepared surfaces, but that the lack of full and complete quantitative data for flight operations in such circumstances will tend to discourage its use.

Tests not accomplished in the time frame prescribed in test plans

Test plans and schedules stressed early disclosure of operational and engineering deficiencies in order that changes could be incorporated before significant production build-up. However, there have been significant schedule slippages in the test program and the testing has not been completed as originally anticipated.

Our comparison of the test schedules in effect at the date of contract award, October 1965, with the most recent (December 1971) projected completion dates for these tests disclosed the following:

Tests	Original test completion date	Current test completion date	Months slippage
Aerodynamic model tests	Nov. 1967	Oct. 1968	1
Category I:			
Static tests	Mar. 1970	Mar. 1972	24
Fatigue tests	Feb. 1972	Oct. 1975	43
Flight tests	July 1970	Apr. 1972	21
Category II: Flight tests	do	do	21
Category III: Flight tests (user tests)	Nov. 1971	Mar. 1973	16

Under the original test and production schedules, the first 67 of the original 120 aircraft were to be placed in production prior to completion of Category I and II testing (excluding fatigue testing) and any additional aircraft were to have been placed in production assembly after completion of testing. However, since test completion dates have slipped from 12 to 43 months, all 81 C–5A's will be in production assembly and

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about 55 will be completed by the time all tests (except fatigue) are completed. Thus, final test results will not be available before completion of production line aircraft, and resultant changes will have to be incorporated after production is completed.

As a result of testing delays, delivered aircraft are required to return to Lockheed for incorporation of engineering changes, as early as 3 months from the original acceptance date. Air Force officials stated that the updating of aircraft probably will continue for 3 to 5 years, with each aircraft requiring four or five updates. Air Force officials estimated the total cost of correcting those deficiencies, which are estimated to be identified through 1973, would be $164 million as discussed in Chapter 2 of this study. However, a total estimate to complete the update program has not been made.

APPENDIX I

ALLOWANCES FOR INFLATION IN PROGRAM ACQUISITION COST ESTIMATES

Planning estimate	Development estimate	Cost changes due to		Current estimate
		Quantity	Other	
$0 [1]	$? [2]	$? [3]	$? [3]	$410,500,000 [4]
$0 [1] per-cent.	? [2]	? [3]	? per-cent. [5]	9.8 percent. [5]

[1] Planning estimate was in constant 1964 dollars with no allowance included for inflation.

[2] Development estimate included amounts for inflation. However, the methods used to calculate the percentage and dollars were of a nature that the figures were not readily identifiable.

[3] Cost changes due to quantity or other changes have never been computed and, in our opinion, a reasonable assessment of these changes could not be made.

[4] The Air Force estimated inflation for 81 aircraft ($410,500,000) by reducing its estimate of inflation for 120 aircraft ($500,000,000) based on a percentage factor.

[5] Inflationary allowance percentage of current program acquisition cost estimate.

APPENDIX II. RÉSUMÉ OF AIRCRAFT'S 15 FATIGUE SPECTRUM MISSIONS

In order to provide the reader with an idea of some of the missions for this aircraft, the following fatigue spectrum missions (15) are discussed below together with the impact of the appropriate deficiencies. The 15 missions do not necessarily include all those missions which the aircraft may be required to meet—for example, wartime emergency requirement to carry a payload of up to 265,000 pounds.

Figures indicate areas of mission deficiencies [1]

1. Local training flights, None.
Range: 868 nautical miles.
Fuel Wt.: 128,000 lbs.
Cargo Wt.: None.
Speed: Traffic pattern to M 0.625.
Altitudes: 0 to 35,000 ft.
Runway: Standard.
Other: 10 touch and go landings, 2 full stops, no turn around (In remaining missions, assume 1 full stop landing unless otherwise specified).

2. Joint and Single Service Airborne Training; 1, 6, 7, 8, 9.
Range: 405 nautical miles.
Fuel Wt.: 85,000 lbs.
Cargo Wt.: 20,000 lbs., airdropped by air delivery system.
Speed: 0 to M 0.531.
Altitudes: 0 to 1,000 ft. (low level).
Runways: Standard.
Other: Requires computed approach to dropzone—Computed Air Release Point (CARP) and terrain following. One touch and go, one full stop landing.

3. Low level and Formation Training: 1, 6, 7, 8.
Range: 624 nautical miles.
Fuel Wt.: 98,000 lbs.
Cargo Wt.: 0.
Speed: 0 to M 0.531.
Altitudes: 0 to 1,000 ft. (low level).
Runways: Standard.
Other: CARP, Station Keeping Equipment and terrain following.

4. Route Familiarization, None.
Range: 2,352 nautical miles
Fuel Wt.: 207,700 lbs.
Cargo Wt.: 50,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,900 ft.
Runways: Standard
Other: Three low approaches, 5 touch and go, 1 full stop landing

5. Functional Flight Test, None.
Range: 344 nautical miles
Fuel Wt.: 52,500 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 44,800 ft.
Runways: Standard
Other: Speed and altitude maximums varied as to type of functional test being made

6. Long Range Logistics, None.
Range: 4,618 nautical miles
Fuel Wt.: 286,700 lbs.
Cargo Wt.: 90,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,500 ft.
Runways: Standard

7. Short Range Logistics, 2.
Range: 2,362 nautical miles
Fuel Wt.: 194,600 lbs.
Cargo Wt.: 190,000 lbs.
Speed: 0 to M 0.761
Altitudes: 0 to 34,100 ft.
Runways: Standard

8. Special Assignment Airlift Mission, 2. (Short Range)
Range: 924 nautical miles
Fuel Wt.: 96,800 lbs.
Cargo Wt.: 200,000 lbs.
Speed: 0 to M 0.762
Altitudes: 0 to 34,500 ft.
Runways: Standard

9. Special Assignment Airlift Mission, None. (Medium Range)
Range: 1,499 nautical miles
Fuel Wt.: 108,000 lbs.
Cargo Wt.: 100,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 39,600 ft.
Runways: Standard

10. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 288,100 lbs.
Cargo Wt.: 25,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

11. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 223,100 lbs.
Cargo Wt.: 90,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

12. Special Assignment Airlift Mission, None.
(Long Range)
Range: 3,431 nautical miles
Fuel Wt.: 213,100 lbs.
Cargo Wt.: 100,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,000 ft.
Runways: Standard

13. Joint Exercise (Overseas) consists of 1, 3, 4, 5, 6, 7, 8, 4 legs totaling 41.3 hours flying time
LEG 1—Deployment
Range: 4,912 nautical miles
Fuel Wt.: 282,600 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 38,400 ft.
Runways: Take-off standard, landing substandard
Other: Short turn around required
LEG 2.—In-Theatre Support
Range: 2,788 nautical miles
Fuel Wt.: 73,700 lbs. at take-off, air fuel to 149,300 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 39,800 ft. (low level 500 ft. approach 250 ft.)
Runways: Take-off and landing—substandard
Other: Low level cruise, terrain following, aerial refueling, rapid turn around
LEG 3.—In-Theatre Support (Recovery)
Range: 2,731 nautical miles
Fuel Wt.: 64,900 lbs. at take-off, air refuel to 107,300 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 45,300 ft. (low level, 48 min. at 500 ft.)
Runways: Take-off substandard, landing standard
Other: Terrain following
LEG 4.—Redeployment—Return to Continental United States (CONUS)
Range: 7,159 nautical miles
Fuel Wt.: 67,000 lbs. take-off, 2 air refueling to 251,400 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 44,800 ft.
Runways: Standard
14.—Joint exercise (CONUS), 1, 3, 5, 6, 7, 8
Range: 2,445 nautical miles
Fuel Wt.: 173,600 lbs.
Cargo Wt.: 95,000 lbs.
Speed: 0 to M 0.767
Altitudes: 0 to 2/3,900 (low level, 34 min. at 500 ft.)
Runways: Take-off standard, landing and 1 take-off substandard, final landing standard
Other: Rapid turn around, terrain following, Station Keeping Equipment
15.—Miscellaneous, None
Range: 628 nautical miles
Fuel Wt.: 80,000 lbs.
Cargo Wt.: 0
Speed: 0 to M 0.767
Altitudes: 0 to 43,800 ft.
Runways: Standard

APPENDIX II.—DESCRIPTION OF MISSION IMPACT OF MAJOR DEFICIENCIES

1. Cannot currently meet contour flying requirements.

2. Cannot currently meet maximum payload requirements. Limited to 174,000 lbs. With incorporation of LDCS, payload limit will be 190,000 lbs.

3. Cannot currently meet substandard runway requirements.

4. Cannot currently meet minimum altitude requirements. Cleared to 300 feet. Mission requires 250 feet.

5. Cannot currently meet 15 minute turn around time required.

6. Doppler cannot currently meet specification requirements in terminal areas.

7. IDNE cannot currently meet terminal navigation requirements.

8. IDNE cannot meet vertical channel requirements in terminal area operations.

9. Aerial delivery system cannot meet all aerial drop requirements.

Mach number is defined as the ratio of the speed of the aircraft to the speed of sound.

Mach 1 under standard conditions, at sea level, is 760 miles per hour.

The speed of sound changes with altitude so Mach 1 at 36,000 ft. is equivalent to 660 miles per hour.

[1] Description of mission deficiencies are found on page 5 of Appendix II.

EVALUATION OF WATER RESOURCE PROJECTS

Mr. PEARSON. Mr. President, the senate of the State of Kansas adopted on March 20 a resolution to memorialize the Water Resources Council, the Federal interagency body which has proposed far-reaching changes in the criteria for evaluating water resource projects.

At the request of the president of the Kansas Senate, I submit for the attention of the Senate the following document stating the concerns of that body for the substantial reduction of flood control and water supply benefits which would result if the proposed criteria are adopted as written. In particular, Mr. President, this document makes reference to the small watershed program authorized under Public Law 566, legislation adopted by Congress when Representative Clifford Hope of Kansas served as chairman of the House Agriculture Committee.

I would like to give my support to the request contained in this resolution. And I would like to call to the attention of the Senate the fact that small watersheds remain a key to the control of soil erosion and flooding of agricultural lands. The intent of Congress is that these watersheds should be constructed as a benefit to the agricultural sector of our economy, and their funding requirements should be weighed with this intent well in mind. This is the thrust of the resolution, and I commend it to the Senate.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION No. 1083

A Resolution memorializing the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects

Whereas, The state of Kansas has been recognized as one of the leading states in watershed development since the inception of public law 566; and

Whereas, Water resource development under this program has proved to be highly beneficial in reducing flood damage, enhancing wildlife habitat, improving environmental quality, providing needed recreational facilities, abating stream and river pollution, and improving the economic stability of the state; and

Whereas, The state of Kansas is presently actively pursuing rural development through resource conservation and development projects; and

Whereas, Any substantial increase in the interest or discount rate as used in determining economic feasibility would make structural works of improvement difficult or impossible to justify: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we hereby petition the federal water resources council of the office of management and budget to maintain or decrease the federal interest rate used in the formula for computing cost-benefit ratios for water resource development projects.

Be it further resolved: That planning assistance be continued or accelerated on all water resource development projects currently authorized for planning, and that no restrictions or time limits be established for completion of such planning operations; and

Be it further resolved: That the chief clerk of the house be directed to send enrolled copies of this resolution to the Federal Water Resources Council, 2120 L Street Northwest, Washington, D.C. and to each member of the Congressional delegation from the State of Kansas.

ADAM CLAYTON POWELL, JR.

Mr. BROOKE. Mr. President, it was with deep regret that I learned of the death of former Representative Adam Clayton Powell, Jr., of New York.

I believe that Adam Clayton Powell should be recognized for the positive impact he made upon the Nation.

For 26 years, Adam Clayton Powell, Jr., served in the Congress of the United States. In his prime he was the outstanding black political leader in the Nation. During the 1940's and into the 1950's his was one of the few voices heard from the black community in behalf of equal rights for all Americans. As a member, and later chairman of the House Education and Labor Committee, he fought for civil liberties, for education, and for job opportunities. He was a major contributor to the passage of the war on poverty legislation, to the adoption of manpower training programs and aid to colleges and libraries.

Adam Clayton Powell made a rich contribution to the welfare of the American people and the advancement of human rights. It is fitting that the Nation recognize these contributions and express our appreciation for them.

IDAHO SENATE URGES HUMAN RIGHTS FOR BASQUES AND SPANIARDS IN SPAIN

Mr. CHURCH. Mr. President, during the second regular session of the 41st Legislature of the State of Idaho, a Senate joint memorial was passed urging the Government of Spain to extend the principles of the universal declaration of human rights of man, as recognized by the United Nations, to all Basques and Spaniards and to allow general amnesty for all Basques and Spaniards now imprisoned or exiled for reasons of their political and social activities. I wholeheartedly support this statement, and am pleased to share it with the Senate. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

SENATE JOINT MEMORIAL No. 115

A joint memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States in Congress assembled, the Senators and Representatives representing this State in Congress, the Governors of the fifty States, and the Basque Government in exile in France.

We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

Whereas, the history and traditions of this nation rest upon the principles of freedom from oppression and the rights of all citizens to life, liberty and the pursuit of happiness; and

Whereas, we believe that democracy and freedom, when denied in one country stand threatened everywhere; therefore, it is our responsibility to bring to the attention of the people of the United States, and, we hope, to the people of the entire world that these very freedoms of the Basque people are threatened under the Franco regime in Spain today; and

Whereas, the Basque people have a long and glorious history of personal accomplishment and a devotion to the preservation of their national heritage; and

Whereas, the sole aim of the Basques, since human time began, has been to bar the world's wars, tribal, racial, religious, imperialistic or civil, from the tiny green mountain land which was their own before history began; and

Whereas, no other country in the world holds the traditions of its forefathers so sacred as Euzkadi, as the Basques call their homeland; and

Whereas, the Basques have been denied the right to learn their own language, have been jailed, and have been denied their human rights by the Franco regime and are virtually threatened in their continued existence; and

Whereas, the state of Idaho is known as the North American center of the Basque population; and

Whereas, the Basques of North America have carried the traditions of their forefathers as honest and self-reliant peoples, possessing the basic elements of democracy, humanity, charity and mercy; and

Whereas, the Basques of North America feel first they are Americans, and as such they feel for America as the Basques of Euzkadi felt for their country, which is: Gu Amerikarentzat eta America, Jaungelkoarentzat, which means: We are for America, and America is for God.

Whereas, in World War II thousands of American lives were lost in a war which was precipitated from the Spanish Civil War, a war of genocide of the Basques, by the three dictators, Franco, Mussolini and Hitler; and

Whereas, the Basques, who once enjoyed the oldest democratic republic in Europe, fought for the allies in World War II; and

Whereas, over 2.4 billion dollars in aid has been given to Franco Spain for economic and military assistance since 1946 by the government of the United States.

Now, Therefore, Be It Resolved by the Legislature of the state of Idaho that we voice our strong belief that as a nation we should reward our friends and not our enemies, and we deplore any free and democratic nation providing assistance to a ruthless, totalitarian government, directly or indirectly.

Be It Further Resolved that we urge all steps be taken to cause the Spanish government to cease and desist the denial of the Universal Declaration of Human Rights of Man and insist that total general amnesty for all Basques and Spaniards now imprisoned or exiled for their political and social activities be extended by the Franco government.

Be It Further Resolved that if such steps are not carried out, the President of the United States, the Secretary of State, and the Congress of the United States take all necessary steps to withdraw all foreign aid or benefits to the Spanish dictatorship.

Be It Further Resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of State of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, the Senators and Representatives

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representing the state of Idaho in the Congress of the United States, the Governors of the fifty states of the United States, and to the Basque government in exile in France.

SPECIALLY ADAPTED HOUSING FOR TOTALLY DISABLED VETERANS

Mr. TOWER. Mr. President, I am pleased to join with the Senator from South Carolina (Mr. THURMOND) as a cosponsor of S. 3343. This legislation would increase the maximum grant level payable to certain totally disabled veterans for specially adapted housing.

The grant program for specially adapted housing was created to assist totally disabled veterans obtain a suitable housing unit. Suitable housing, for these individuals, means a housing unit with special fixtures and facilities to accommodate the veteran's disabilities. Most of us bound up and down stairs, pausing occasionally to catch our breath. A totally disabled veterans finds stairs a physical impossibility. He needs ramps for his wheelchair. Most of us pass through a door without a thought as to whether or not we will fit. A disabled veteran, however, is all too keenly aware that there are many doors that his wheelchair will not fit through. These are but some of the architectural considerations that emphasize the need for specially adapted housing.

In fiscal year 1970, some 600 housing grants were awarded to totally disabled veterans. Many veterans, although eligible for the program, were not able to participate. When the entire Nation is facing a shortage of adequate housing, the handicapped veteran finds it even more difficult to find builders willing to construct a housing unit with special adaptations.

Furthermore, the housing industry, in order to alleviate the Nation's housing shortage, has increasingly utilized prefabricated units and fixtures. The needs of the disabled veteran vary from the standard, and custom homes are costly. Finally, the disabled veteran is acutely aware of the inflation of the land and housing markets.

The present maximum limit for grants to the veteran is $12,500 and the grant cannot be more than 50 percent of the total cost. Because the size of the grant is not adequate to meet the costs of specially adapted housing, the program has been severely restricted. By raising the maximum limit to $20,000, as S. 3343 would authorize, the grant program becomes a more realistic means of assisting the disabled veteran to obtain adapted housing. I urge the Senate Committee on Veterans' Affairs to give this legislation immediate consideration.

GENOCIDE: CLOSE AT HAND

Mr. PROXMIRE. Mr. President, my position in favor of ratification of the treaty for the prevention and punishment of genocide is well known. Since that treaty was penned nearly a quarter of a century ago, some critics feel that it has become an anachronism in the 1970's. In their view, genocide is a nightmare of the past, and with the defeat of Nazi Germany our fears should be assuaged.

I wish that this were true. All civilized men fervently hope that mankind has outgrown a violent adolescence and passed into a more mature and rationale period where dialog and reason prevail. But even the optimist must face reality. It does not take profound thought nor careful study to perceive that men throughout the world are skittering along the precipice of violence. A quick glance at press headlines for any day of the week brings bold announcements of bloodshed in Ireland, the Middle East, and the Asian subcontinent. In these struggles for religious and national survival, violence and brutality have become unwanted companions in the crusade.

This recognition is not the result of fatalism but, rather, realism. The wars that pitted Protestant against Catholic, Jew against Arab, Moslem against Hindu in the year 972 are no less real 1,000 years later. Ours is still a violent world. To ignore that fact, or to hide in fear of it, serves less than no purpose at all. Today, more than ever before, we must search for common ground to build a peaceful world community upon the foundation of international understanding. Creation of the United Nations was a beginning, but our news journals make clear that the task is far from completed. The ratification of the genocide treaty is an important building block in structuring world order.

RESIDENCY REQUIREMENTS FOR RECIPIENTS OF PUBLIC WELFARE

Mr. GOLDWATER. Mr. President, President Nixon has recently referred to the Nation's public welfare program as a mess and proposed legislation to do something about it.

Without going into detail on the administration's proposals I should like to point out that one of the large problems confronting the Nation's 50 States is the whole question of residency requirements for recipients of public welfare benefits. Recently, the Arizona State Legislature in a senate concurrent resolution urged Congress to adopt an amendment to the Constitution of the United States which would permit each State to establish its own residency requirements for public welfare assistance. Therefore, I ask unanimous consent that Arizona Senate Concurrent Resolution 1002 be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 1002

A concurrent resolution urging an amendment to the Constitution of the United States permitting each State to establish residency requirements for public welfare assistance

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

Whereas, the Legislature of the State of Arizona many years ago enacted into law a residency requirement for receipt of public welfare benefits; and

Whereas, the Supreme Court of the United States has declared similar laws unconstitutional on the grounds in part that they violate the constitutional right of free travel; and

Whereas, there are presently many laws which condition entitlement upon residency, that is, the right to use the courts of this state, for example, divorce proceedings require residency; driver's licenses and other licenses, such as the practice of law, medicine, and other professions; voting rights are conditioned on residency, and yet the judiciary has not declared such residency requirements unconstitutional; and

Whereas, it would appear that in order to constitutionally establish a residency law for public welfare assistance, it is necessary that an amendment to the United States Constitution be enacted; and

Whereas, the Legislature of the State of Arizona believes it to be for the best interest of the people of the United States that there be an amendment to the Constitution of the United States permitting each of the states to enact a residency law for public welfare assistance; and

Whereas, the state of the economy in Arizona and elsewhere is one of severe stringency and the challenges facing state and local governments in these times of inflation and high unemployment are such as to sap the ability of governments at all levels to deal effectively with the myriad social problems which face our urban areas; and

Whereas, our great metropolitan areas are faced in particular with problems of housing shortages, rising numbers of those addicted to narcotics, rapid rises in crime rates, air and water pollution, costs of fire and police protection, overburdened schools and many others and the provision of essential public services has become increasingly more financially difficult; and

Whereas, the continual spiral upwards of welfare costs increases these problems both by increasing the demand for other essential services and by necessitating a diversion of limited funds from them; and

Whereas, the greatest public good and least public harm will come from the maintenance of the levels of public assistance rather than from the stretching of limited state and local funds of any state to cover persons who have not yet established dependence upon them, those who are the most recent arrivals in the state.

Therefore, be it resolved by the Legislature of the State of Arizona:

1. That the Congress of the United States of America is requested to propose an amendment to the Constitution of the United States permitting each state to enact a residency law relating to public welfare assistance.

2. That the Secretary of State of the State of Arizona is requested to transmit a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congress from the State of Arizona.

RETIREMENT OF WILTON E. HALL AS PUBLISHER OF THE ANDERSON, S.C., INDEPENDENT

Mr. TALMADGE. Mr. President, my good friend, Wilton E. Hall, of Anderson, S.C., recently retired as publisher of the Anderson Independent newspaper. This is a very fine newspaper, which has wide circulation throughout the northeast portion of the State of Georgia, and we regret very much Mr. Hall's retirement.

Mr. Hall received words of tribute from many friends and associates all over

the Nation commending him for his outstanding service to journalism over 52 years, and as the distinguished founder and publisher of the Anderson Independent for 47 years.

There was published in the Anderson Independent an excellent letter from the eminent clergyman, Dr. Norman Vincent Peale, saluting Wilton Hall. It is a well-deserved tribute for many years of faithful service to Mr. Hall's State and Nation.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DR. PEALE SAYS HALL HAS MADE FINE CONTRIBUTION

MR. EDITOR: As one who has worked for a number of years in cooperation with Mr. Wilton E. Hall and The Anderson Independent and Daily Mail, I was sorry to hear that Mr. Hall has sold these newspapers for health reasons.

This is a matter of great regret to me, as I have always felt that Mr. Hall was one of the most creative and dynamic newspaper publishers in our country. He is a man of extraordinarily high ideals and vision for the community and for our nation, and he has made a magnificent contribution to our society.

I hold Mr. Hall in affectionate regard as a friend, and it has been my pleasure over many years to have my messages published through his newspapers and carried over his radio stations. I am very grateful for the opportunity that he has given me to reach the people of your area with a message of faith and hope. These broadcasts will be continued on his stations (WAIM–TV and radio); also we will continue to be with you each week in the Sunday Independent.

Please extend my very best wishes to Mr. Hall and tell him that I pray that the Lord will continue to give him health and strength to carry on his great witness in ways other than through the publishing business.

We all wish for Mr. Hall improved health and all of God's blessings in the days that lie ahead.

Cordially yours,

NORMAN VINCENT PEALE.

NEW YORK, *February 17, 1972.*

NATIONAL HOUSING CONFERENCE ACCORDS AND RESOLUTIONS

Mr. MONDALE. Mr. President, for over 40 years the National Housing Conference has been a major force representing the public interest in the advancement of decent housing for all people and in the revitalization of our cities and rural areas. For many years I have worked with the leaders and members of the conference on housing and community development legislation. Their assistance has been invaluable.

This year I had the privilege of addressing the 41st annual meeting of the National Housing Conference. It is always a pleasure to speak before a group that is so well informed and so dedicated to the elimination of substandard housing.

One of the major accomplishments of the annual meeting was the adoption of the National Housing Conference resolutions. I know from personal experience the value of these resolutions and that is why I am asking that they be printed in the CONGRESSIONAL RECORD. The resolutions provide an excellent summary of existing housing and urban development programs, current funding levels and recommendations for changing and improving the programs. These recommendations have often inspired and contributed to the development of major new programs. This year is no exception. Many of NHC's resolutions have been incorporated into the Housing and Urban Development Act of 1972, which passed the Senate on March 2, 1972.

I also want to call attention to the recognition paid to the distinguished senior Senator from Louisiana (Mr. ELLENDER) by the National Housing Conference at its 41st annual banquet held here in Washington on March 6, 1972. NHC also recognized the many accomplishments of the chairman of the Housing Subcommittee of the House of Representatives Banking and Currency Committee at this banquet. These two fine legislators certainly deserved this honor for their many contributions in the area of housing and urban development legislation.

I ask unanimous consent that these accords be printed in the RECORD preceding the National Housing Conference resolutions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 1972 NATIONAL HOUSING CONFERENCE RESOLUTIONS ADOPTED BY THE MEMBERSHIP OF THE NATIONAL HOUSING CONFERENCE AT ITS ANNUAL MEETING, MARCH 5, 1972, WASHINGTON, D.C.

Nathaniel S. Keith, President.
David L. Krooth, Chairman, Legislative Policy and Resolutions Committee.

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SUMMARY OF MAJOR POLICIES AND PROGRAMS RECOMMENDED IN RESOLUTIONS OF NATIONAL HOUSING CONFERENCE

We present the following summary of some of the major policies and programs which we recommend. These recommendations are covered in greater detail in this report as recommendations under the appropriate chapter headings listed in the index.

Full funding and use of all authorizations

1. We urge the Administration to request appropriations for housing and related urban development programs for the Federal Fiscal Year 1973 beginning July 1, 1972 which will meet the demonstrated needs and backlog requirements of communities and the people. Such request should call for full funding and use of all authorizations, and should provide for sufficient HUD staff and administrative services. To this end, we call upon the Administration to release immediately the following funds already made available by Congress but continued to be impounded:

A. Release of $130 million for Public Housing Development for some 80,000 units.

B. Release of the balance of $370,000,000 of the $500,000,000 appropriated for Water and Sewer Facilities Grants. Only $130,000,000 has been released to date. (Table 8 of HUD Budget Summary.)

C. Release of balance of $40 million of the $90,000,000 made available for the Rehabilitation Loan Fund. Only $50,000,000 has been released to date. (Table 2 of HUD Budget Summary.)

D. Release of $5,000,000 for Special Planning and Assistance Grants. This item is still under discussion with the Office of Management and Budget.

E. Release of $1,000,000 of Section 106(a), Low and Moderate Income Sponsor Funds which is being withheld pending submission and approval of operating plans by OMB.

F. Release of $3.3 million for Section 237, Counseling Services which is also being withheld pending submission and approval of operating plans by OMB.

G. Release of $2.9 million of Section 516 funds for Farm Labor Housing Grants which are available from previous year's carryover.

2. Even though the Administration has recently released much of the funds originally impounded (except those listed above), the initial Budget actions taken in freezing or cutting HUD funds for various programs demonstrate the need to grant a higher priority in the allocation of national resources to the solution of the problem of housing and community development. In view of the current critical housing needs and the financial crises in the cities, NHC urges action by the Congress and the Administration to assure that the full amount of funds authorized by legislation or appropriations will be released promptly and spent for housing and community development programs. Therefore, NHC supports pending Congressional proposals which would require the President to spend appropriated funds for housing and urban renewal.

Housing program to meet all needs and achieve economic integration

3. NHC reaffirms its support for a uniform and flexible housing assistance formula to serve all families who cannot afford the cost of housing on the private market. NHC believes that such a consolidated program for assisted housing is necessary: to eliminate the gaps in coverage created by the separate income limits, construction and design standards, income definitions, and rent requirements; to reduce the administrative workload and encourage wide participation of housing sponsors and developers; and to promote a policy of economic integration in assisted housing which will eliminate the segregation of low income families in housing for the poor.

4. The housing assistance program should be based on a variable subsidy formula which would cover the total deficits representing the difference between (i) full operating costs and debt service and (ii) the ability-to-pay of each family living in the housing up to the maximum established charge.

5. There should be a uniform definition of income with deductions of the types previously allowable, along with a reasonable ratio between income and required housing payments.

6. As a matter of principle, NHC recommends that there be no income limits for admission to assisted housing. NHC believes that the most desirable and workable criteria for the determination of income eligibility for such federal housing assistance is the ability of a family in a local area to pay the total cost of well-designed—but not luxurious—housing developed in that area, under an appropriate income definition and a reasonable ratio between income and required housing payments. A family should receive housing assistance to the extent that it cannot afford the full cost of such housing.

7. If the Congress decides that it is necessary to include an income limit on legislative authorizations and funding for subsidies to assist housing, we recommend the following program relating to income limits (instead of the one described in the preceding paragraph). The following program also includes a subsidy formula which is necessary to achieve economic integration and fill present gaps and areas of unmet need.

a. The income limit for 80% of the dwelling units should be the median income in the area, with authority in the Secretary to exceed the median by the amount required in order to meet the housing needs of the locality based on its income and cost factors. There would be no income limit for 20% of the units in order to achieve economic integration and enable housing developments to serve a cross-section of income groups.

b. There would be a flexible subsidy formula which would eliminate gaps in our housing program and assure that there is sufficient subsidy available to meet the housing needs of people at different income levels.

In the terms of the ratio of income to housing payment, we recommend that no family be required to pay more than 25% of his income for housing payment. Schedules would be established by a sponsor or local housing agency, but ratios of housing charges to income in a project (or local program) should average at least 20%. The amount of subsidy would be the amount required to meet the housing expenses remaining after the occupant made his housing payments. The amount of subsidy allocated for an assisted housing development should be based upon making dwelling units available to a cross-section of income groups, as follows:

(i) Up to 20% for occupancy by families or persons whose incomes are much below the maximum income limits and who require subsidies at or above the amounts which have been available for rent supplements and public housing. Based on their locally established payment of income for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover the principal and interest payments on the mortgages and a part of the operating expenses.

(ii) Up to 20% for occupancy by families or persons who would not be subject to an income limit. We propose to provide a subsidy incentive for such families to live in an assisted housing development with families of lower incomes. For this group, there would be a subsidy of 2%. At today's market interest rate, these people would pay an effective interest rate of 5% plus the ½ of 1% FHA premium. People in this group would make the locally established housing payment up to a "maximum established charge" which would reflect the 2% subsidy.

(iii) The remainder for occupancy by families or persons who are at or below the median or higher income limit established by the Secretary and who require subsidies in the form of interest assistance. Based on the locally established payment of income for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this could cover all of their interest and the FHA insurance premium. According to their varying needs, these people would pay a monthly charge ranging from 0% interest (with no FHA insurance premium) up to the maximum established charge which would reflect a 2% subsidy.

8. There would be a periodic reexamination of income only for occupants who are paying less than the maximum established charge. If their income increased, they would make housing payments on the larger income, but not more than the maximum established charge. With such a charge which reflects a 2% subsidy and an effective current interest rate of 5%, there would be an incentive for residents to remain in the housing community even though their incomes increase. As a matter of public policy, this is vitally important in order to achieve greater stability in housing communities and to maintain their economic integration. If people feel that they are permanent residents of a housing development, they will take better care of it.

9. By serving a broader segment of the market through economic integration, a housing development will be better able to achieve racial integration.

10. The past practice of committing maximum subsidies has resulted in unused contract authority because the commitment was based upon the maximum amount needed for everyone. The Senate Committee recognized the undesirability of pursuing this practice. Under our proposed program, the commitment of contract authority would be based on the estimated need based on serving a cross section of income groups. There

should be a national reserve of a reasonable amount of contract authority for commitment to meet over-runs in subsidies above the estimates. This reserve would be only a fraction of the amount of unused authority under the present system where all commitments anticipate a maximum subsidy for everyone.

11. Eligible sponsors should be broadened to include local housing authorities, regional or state agencies, in addition to those now eligible; also local housing authorities should be permitted to act as mortgagees, as is now done by an increasing number of state agencies.

12. NHC supports the principles and objectives of the Administration's proposals for simplification of the many federal housing programs, but only if the legislation includes the recommendations for a new flexible formula for subsidies, better income-to-rent ratios, achievement of economic integration, and all of the other amendments described in these resolutions.

13. If there is new legislation for the consolidation of housing programs and new formulas as to income limits, subsidies, cost limits and other matters, we emphasize the urgent need to continue operations and housing production under the existing laws. During the tooling-up period under the new legislation, and until the new programs become fully effective and operational, all existing programs should continue so that there will be no interruption in HUD operations in view of the need for a higher level of operation during the coming years.

14. We concur that the identity of low-rent public housing and Sections 235 and 236 be maintained (or their proposed substitutes in the Administration's Consolidation and Simplification Act) in accordance with the objectives established by Congress in the previous major housing and urban development acts, within the overall national housing goals established by those acts. We also point out that the expanding production capacity for low and moderate income housing—represented by local housing authorities, private turnkey developers, private developers of Section 235 and Section 236, cooperative groups and nonprofit corporations—is geared to the availability of specific national funding for each of these programs.

15. NHC encourages programs of home ownership. This includes cooperative ownership of multifamily housing which produces better communities, since the control and responsibility rests with people who have a stake and pride in their own housing development.

16. The program recommended in these resolutions would make housing available to families of all incomes. There would be no gaps or areas of unmet needs in our housing programs. Each family whose income is too low to obtain decent housing would receive the amount of assistance it needs to get such housing. We must reach the unserved income group below the level now eligible for public housing or rent supplementa. Likewise, we must avoid a gap or area of unmet need above the level now eligible for moderate income private housing assisted with federal interest subsidies or below-market interest rates. To achieve these objectives we urge the adoption of this program.

17. NHC recommends, in view of the fact that HUD has just recently activated an experimental housing allowance program, that no further expansion of this program take place until we have had experience with this program and learn the results of the experiment, particularly concerning any adverse impact on stimulating new construction of housing to meet national goals.

Equal housing opportunity and freedom of choice

18. We should provide an opportunity for freedom of choice in our housing programs. The choice of individual or cooperative homeownership or rental housing and the choice of city, suburban, new town or country living must not be limited by race, color, religion or national origin. With housing in each development available for a cross-section of income groups and a broader market, we can provide freedom of choice to people of all incomes to select where they want to live.

19. Community discrimination against subsidized housing should be removed as it is a most serious constraint on the availability of building sites for low and moderate income housing. We recommend legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action. The legislation should authorize suits by interested parties, as well as the Attorney General, to enjoin such discriminating action. The legislation should be strengthened by providing for federal preemption of local zoning upon an appropriate finding by the Secretary of HUD, so as to require opponents rather than proponents to initiate legislation.

20. We disagree with the President's statement that government encouragement of racial integration in the suburbs is not in the national interest. We believe such encouragement *is* in the national interest. We urge the Administration to take affirmative action to assure the availability of decent housing for all Americans, regardless of race, color, religion or national origin.

21. The Federal Government should be authorized to undertake housing developments as a last resort where no other agency or developer is meeting the need in an area for low and moderate income housing.

22. In addition to NHC's strong opposition to community discrimination against housing for minority groups and low income citizens, NHC opposes community discrimination against all multifamily housing. No community should be allowed to exclude multifamily housing. As land and resources grow more scarce, multifamily housing, whether subsidized or unsubsidized, makes the most efficient use of our limited land and resources for housing. Current studies indicate that even among families who do not need subsidies, many prefer to live in large planned developments of townhouses which offer amenities and services that would otherwise be beyond their reach.

23. NHC endorses in principle the bill introduced by Senator Ribicoff which would require that any new industry moving into suburban communities must first show that adequate housing and equal opportunities exist in that new community before approval of such move is given.

Community development program

24. NHC supports S. 2333, the Community Development Assistance Act of 1971, as introduced by Senator Sparkman. This plan would consolidate five categorical grant programs into one block grant. In addition, it would require a declaration of goals and a performance report. There would be continuity of financing and funds.

25. In the Community Development Assistance proposal, prior declaration of the community development goals is required. Likewise, a specific acknowledgment of how Federal funds are to be spent and a yearly performance statement as a prerequisite for the grant are required.

26. The Community Development Assistance Act would provide for a $8.8 billion three year program starting July 1, 1971 while the Administration's Special Revenue Sharing Plan proposes an initial $2.1 billion program starting January 1, 1972. There would be a limitation in spending in the Sparkman supplemental bill of $2.5 billion the first year, $2.9 billion the second year and $3.4 billion the third year.

Urban growth and new communities

27. NHC urges the full utilization of the Urban Growth and New Communities Development Act (Title VII of the Housing and Urban Development Act of 1970) to help take care of the increased urban population, relieve city congestion and provide building sites at reasonable prices. There is an urgent need for new communities which are carefully planned with housing, shopping, industry, transportation, schools, hospitals, open spaces, recreational and cultural facilities. Adequate federal grants should be authorized and made available to public and nonprofit agencies to assist all necessary new community projects and programs. Such federal grants should be made for water and sewer facilities; waste disposal; hospitals and health centers and services; mass transportation; airport development; open space, parks and beautification; recreational and cultural facilities; libraries; public buildings and public works; neighborhood facilities; environmental protection; planning; technological advances; and other essential public services and facilities.

28. Federal grants should be made to municipalities, public and nonprofit agencies to cover impact costs of providing educational, health and other services which result from the location of housing developments in an area. The Federal grant should cover the additional costs involved which cannot be met from collections of full taxes or their equivalents on the project. We recommend payment of full taxes or their equivalents on public and other assisted housing.

General revenue sharing

29. NHC recommends against any use of the new General Revenue Sharing Plan to reduce Federal grant funds which are urgently needed—and should be increased—for existing programs including: urban renewal; model cities; mass transportation; water and sewer facilities; new communities; neighborhood facilities; open space, urban parks, and urban beautification; health; education; training; or other vital needs. In short, the General Revenue Sharing Plan should represent additional funds and there should be necessary increases and full funding for all existing Federal grant programs to meet housing and urban needs.

30. NHC favors the President's proposal for a $5 billion initial appropriation for the General Revenue Sharing Plan in order to meet the urgent needs of States and cities, many of which are facing financial crises. As to increases above $5 billion in later years for General Revenue Sharing, NHC recommends a formula in distributing these additional funds which would encourage and reward states and local governments that meet the national objective of providing housing for the low and moderate income groups.

Special revenue sharing and support of the Community Development Assistance Act of 1971—S. 2333

31. NHC opposes the Special Revenue Sharing proposal in that it does not require adequate control of Federal distribution of funds to local communities in order to promote national programs and objectives. In contrast, these incentives and objectives are assured under S. 2333 introduced by Senator Sparkman, on which hearings have been concluded by the Senate Banking and Currency Committee.

32. S. 2333 requires that the application for Federal assistance include a summary plan for community development outlining major goals and particular objectives. Moreover, that Bill requires an accounting of how the Federal funds are spent and a yearly performance statement, all of which will assure accomplishment of the national goals and programs covered by the Community Development Assistance Act. The authorizations in S. 2333 are more adequate than the amounts proposed under the Administration's bill. Also, S. 2333 contains a better yardstick to measure the Federal Government's assistance to community development and requires a community program to meet housing needs of low and moderate income families.

33. NHC believes that Federal grants should provide incentives to promote national programs and objectives relating to housing and community development. The adoption of the model cities program by almost 150 cities was largely attributable to the Federal program of planning grants and supplemental grants for model cities. Likewise, the participation of over 1200 cities in the urban renewal program is largely attributable to the Federal program of planning grants and program grants for urban renewal.

METROPOLITAN HOUSING AUTHORITIES

34. Three Panels comprised of members of the Housing Subcommittee of the House Banking and Currency Committee, proposed in H.R. 9688 a far reaching bill which would provide for state and metropolitan housing agencies, community development block grants and improvement of existing programs. In addition, the bill would require more emphasis on management, tenant relations, broader housing allowance tests, aid to state and metropolitan development agencies and an urban development bank.

35. Title V of H.R. 9688 provides housing block grants to state and metropolitan housing agencies and embodies far reaching proposals designed to stimulate the establishment of such agencies and to restructure the entire system of allocating Federal subsidies to assist in the development of private and public housing for low and moderate income families and individuals.

36. The National Housing Conference has long supported the principle of more effective state and metropolitan housing programs. We have supported this principle as a major means of relieving the pressures on central cities, lessening the segregation of low-income households predominantly in the deteriorated or blighted sections of central cities, stimulating the development of housing for low and moderate income families nearer to new employment centers and achieving greater economic integration in suburban housing development.

37. We have, however, serious concerns as to the basic allocation machinery proposed in Title V and particularly as to its impact on the momentum finally achieved in the production of housing for low and moderate income families under established programs and the evident need for continuing expansion in such production to meet critical shortages. We are concerned with the time factors involved in establishing and perfecting complex new machinery in States and metropolitan areas to make decisions as to the housing needs for low and moderate income families in each locality, to determine the types and general locations of housing to be assisted and the income groups to be served. In addition, NHC shares the view of the National League of Cities and the U.S. Conference of Mayors that the allocation machinery of Title V may well discriminate against the central cities. NHC agrees that Title V could put control of HUD subsidy programs into the hands of many suburban officials who are now using zoning land use controls and other devices to defeat the production of low and moderate income housing in the suburbs.

38. We agree with the assessment in the panel report that several years will be required for the formation of such agencies in many states and metropolitan areas. We are also impressed by the complex state and local political factors involved in reaching a consensus on these matters without prejudice to the continued momentum of housing production.

39. We would recommend that an affirmative plan be incorporated in Title V assuring the continued flow of Federal subsidy funds for low and moderate income housing under the established programs and through the established channels.

CHAPTER A. GENERAL STATEMENT OF PROBLEMS AND OBJECTIVES

1. We are faced with an anomalous situation. There has been an increase in the Federal Government's contribution to housing and an increase in assisted housing's proportion of housing production, but at the same time we have failed to meet the housing production goals prescribed by law. These Resolutions are addressed to identifying once again our continuing housing crisis, reviewing our efforts to ameliorate that crisis and suggesting improvements of existing programs. This Report recommends programs especially designed to:

a. Provide good homes for people of all incomes in wholesome living environments which are in keeping with our Nation's standards and aspirations;

b. Take action to revitalize our cities and rural areas and save them from blight and obsolescence; and

c. Expand social programs, services and job opportunities to improve the quality of American life.

2. America's cities are in a struggle for survival. The decay of decades and the failure to take action which will improve the quality of American life have taken their toll. While the percentage of inner-city people who are ill-housed and live in despair and disillusionment increases, the suburbs gain in affluence. The need for decent housing and community services continues to be at the heart of our urban crisis. We must take vigorous and immediate action toward achieving our goal of providing good homes and good neighborhoods for all who are ill-housed. It is not enough to build new housing or rehabilitate existing housing. We must also assure that the housing is in a suitable living environment. At the same time, there must be an expansion of educational and social programs and other community services for the people to eliminate the causes of inner-city decay and decadence.

3. We must avoid increases in interest rates and housing costs which exclude people from the housing market who need homes but cannot afford them. The situation reached crisis proportions by the increase in interest rates to 8½% on loans under the FHA and VA programs in January of 1971. During the past year, there have been improvements in the money market and reductions in interest rates. The present interest rate on FHA and VA mortgages is 7%. The prime rate of major banking institutions is now 4¾%.

4. NHC applauds the recent actions by the Administration in expanding the Tandem Program in order to support and continue the 7% FHA–VA interest rate. We urge that the Administration continue, from time to time, to make further reductions in this maximum interest rate as promptly as possible. With the measures recommended in this report to help achieve further reductions in interest rates, particularly in housing for those of middle and lower incomes, we hopefully look forward to the time when we can return to a maximum rate on FHA–VA mortgages of from 6% to 5% which we had for many years. As interest rates are reduced, it is necessary to take measures to minimize or eliminate discounts as recommended elsewhere in this report.

5. While the law approves an average national goal of 2,600,000 units annually during a 10-year period, NHC urges that the average national goal should be 3,000,000 units a year. The increase in the rates of housing production during 1971 demonstrates that this goal of 3,000,000 units a year is possible through a continued acceleration in our housing production. NHC agrees an average of 2,000,000 units should be built annually for those above the low and moderate income groups who normally do not need federal assistance. However, instead of an average of 600,000 units annually for low and moderate income housing, NHC recommends a goal of at least 1,000,000 units annually for these income groups—of which half would be for the low income group. Due to the continued high housing costs, many families need some form of housing assistance even though they could have afforded housing without such assistance in the past when interest rates were lower. Accordingly, this report recommends several measures which are required now to enable such families to obtain adequate housing at monthly charges which they can afford.

6. In these times when there are so many competing demands for the use of federal funds and national resources, it is most significant that Congress in the 1968 Act declared that these programs should have the highest priority. This Congressional determination is so important that we quote it in full as a necessary introduction to these recommendations:

"The Congress declares that in the administration of those housing programs authorized by this Act which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other Government programs designed to assist in the provision of housing for such families, *the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality;* and in the carrying out of such programs there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques." (Emphasis added.)

For those families for whom the national housing goal has not become a reality, their housing needs should be met by providing them the opportunity to live in housing developments where economic integration is being achieved under the program recommended elsewhere in this report.

7. This declaration by the Congress recognized the need for a drastic realignment of past priorities in our federal budget and expenditures, since these housing programs were given a lower priority than other less urgent programs. Now that Congress has declared that these programs should be given the highest priority, there is a federal commitment to take all action necessary to achieve the goal of providing decent housing for families with incomes so low that they could not otherwise decently house themselves. To translate this highest priority into reality takes firm and courageous action—both by Congress and the President. NHC urges that action be taken to carry out this mandate.

Outline and explanation of succeeding chapters of report

8. In succeeding chapters of this report, we discuss legislation and necessary amendments, appropriations and administrative actions. First, we summarize the existing legislation under each program and the authorizations in legislation and appropriation acts; second, we present our recommendations for legislative amendments and additional authorizations in legislation and appropriations; and third, we present our recommendations for administrative actions.

Sometimes the same subject matter is covered twice under different headings and in different chapters. Thus, even though some subject matter is covered in Chapter E relating to the Administration's Housing Bill and our proposed amendments thereto, we felt it necessary to cover the same subjects separately with respect to each of the existing legislative programs, such as: public housing; interest assistance under Section 235 and 236; rent supplements; and urban renewal.

We cannot forecast whether Congress will

accept the Administration's recommendation to consolidate a number of programs as proposed in the Administration's bill. Therefore, in order to make this report meaningful and helpful in the legislative process, it is necessary for us to separately identify our recommendations:

a. As we have done in Chapter E if the Congress accepts the Administration's proposal to consolidate and simplify programs; and

b. As we have done in the succeeding Chapters F and EE if the Congress does not accept the Administration's proposal to consolidate and simplify programs.

CHAPTER B. ACTIONS NECESSARY TO ACHIEVE OUR GOALS

1. *Third Annual Presidential Report.* The Housing and Urban Development Act of 1968 requires an annual Presidential Report to Congress prior to February 15, of each year on progress toward meeting housing goals. Each year, the Report is filed later in the year. NHC recommends that the Report be filed on time in future years. Some of the highlights of the Report included:

a. HUD predicted that total loan amounts on one to four family homes will increase from $35.3 billion in 1970 to $44 billion in 1971 and to $47 billion in 1972. For multifamily properties, the total activity was $7.3 billion in 1970, $10.9 billion in 1971 and $11.7 billion predicted in 1972.

b. For new construction, HUD predicts long-term mortgage requirements will be $17.5 billion in 1971 for 1–4 family homes, and $20.5 billion in 1972; for multifamily HUD predicts the requirement is $6 billion in 1971 and $7.8 billion for 1972.

While the Report contained much informative data concerning the amount of money and materials available for housing, NHC believes that the Report failed to propose solutions for some of the basic problems which must be resolved if our national goals are to be achieved.

First, the assurance of adequate financing, at reasonable cost for the necessary expansion of total housing production, particularly for the production of low and moderate income housing;

Second, the provision of adequate sites at reasonable prices to accommodate this unprecedented production growth of housing on a well-planned and economic basis; and

Third, the adoption of the additional measures recommended in this report.

NHC again deplores President Nixon's decision to include *all* mobile homes in production which is counted toward meeting our housing goals. As stated in Chapter CC on Mobile Homes, NHC believes that the only mobile homes that should be counted toward our housing goals are those determined by HUD to meet all design, construction and durability standards so that they become eligible for long-term mortgage financing of 30 years on homes and 40 years on multifamily housing.

2. NHC believes that the President's Annual Report on Housing Goals should be enlarged to report the progress that has been made each year towards achieving equal opportunity and fair housing goals. Not only is HUD charged with housing production, but it is also accountable for equal opportunity and fair housing policies. Therefore, it is appropriate that the President's Annual Report state the progress toward achieving this important goal.

3. *Full Funding and Increases for All Programs.* The first imperative for meeting our housing goals is full funding and full use of all authorizations contained in the housing laws. We urge that President Nixon request full funding and advance authority for the interest assistance programs under Sections 235 and 236 and Rent Supplement Program for Fiscal Year 1973. NHC applauds Congress for its quick action on HUD appropriation requests for Fiscal Year 1972. For the first time in many years, HUD appropriations were made soon after the beginning of the Fiscal Year. In these unprecedented times of housing shortages, NHC strongly urges supplemental appropriations of all monies authorized for all programs but not yet appropriated. However, full funding of existing authorizations will not result in producing the intended volume of housing because of increases in housing costs. We recommend that the assistance authorization for all housing programs be increased: (a) to offset the advances in housing costs; (b) to achieve not only the goals established by law, but NHC's higher production goals; and (c) to make up for deficiencies in past production.

4. *Programs to Assure Adequate Financing for Major Increases in Housing Production.* The record of the past two decades makes it clear that the flow of funds for residential mortgage financing has been and continues to be determined by federal monetary and fiscal policies. The principal sources of funds for residential financing are derived from net consumer savings which are deposited in the institutions which make long-term mortgage investments at a fixed rate of return. This flow of savings under existing institutional arrangements is subject to sharp fluctuations based on competitive rates of return on other investment outlets. The total annual mortgage financing requirements involved in meeting the housing production goals by 1978 will be approximately $53 billion at current price levels, but this understates the actual prospective requirements. Even on the assumption of continued growth in gross national product and in consumer savings, this indicated expansion of more than twice the present new-housing finance requirements indicates that a broadened base for residential financing investment must be developed. The studies of this problem made by the National Housing Conference have led to the following recommendations in order to step up housing production to a rate necessary to meet our needs and goals including the housing required for those of low and moderate incomes:

a. *Full Use of Emergency Home Finance Act of 1970.* We urge the full use of all authorizations in the Emergency Home Finance Act of 1970. This includes the $250 million authorization for an appropriation of subsidies to reduce interest rates on advances made by the Federal Home Loan Banks to their members. We also urge that once these funds are appropriated, they remain available until expended. Our recommendation also includes, for each of the fiscal years 1973 and 1974, a $105 million authorization of contracts for subsidies under the new section 243 program which is intended to reduce interest rates for home ownership by moderate income families; however, the law should be amended to provide for a subsidy which would reduce the interest rate by 2% under the current FHA–VA interest rate of 7%.

b. *Reduction in FHA–VA Interest Rate.* We urge the Administration to take the lead in making cuts in the current FHA–VA interest rate of 7% as promptly as possible. We further urge the use and liberalization of the authorizations in the Emergency Home Finance Act of 1970, in order to achieve the *lower* interest rates which are necessary to serve those who cannot afford a 7% rate.

c. *Purchase of Mortgages on Moderate Income Housing.* NHC applauds the extension of GNMA purchase under the Tandem Plans 21 and 22 to many unsubsidized programs. Several months ago, GNMA began this program to purchase most FHA unsubsidized multifamily mortgages at a price of 96. This covered the following programs: Sections 207, 213, 220 and 221(d)(4). Recently, GNMA added Sections 221(d)(3), 234, 232, 222, 235 (existing housing) 223, 231, 233, and 237 to the original program.

Under this program, GNMA will commit to buy mortgages up to a ceiling of $22,000 per unit, except that the limit is $24,500 for four bedrooms or more. The price is 96% of value for new construction and 95% on existing mortgages. In addition, GNMA also established a program for GNMA purchase of Section 221(d)(3) market rate mortgages having 10% or more rent supplement assistance. The price of such mortgages will be 97—1 point higher than the price where no rent supplement assistance is involved—but we recommend a par price on these.

NHC also urges that the new programs be modified to provide par purchases for nonprofit and cooperative mortgages under the Section 221(d)(3) market rate program. This program provides 100% mortgages at market rates for moderately designed projects. Four points are too many for nonprofits and cooperatives to absorb.

NHC endorses the original Tandem Program No. 17, under which GNMA purchases at par Section 236 motrgages and market-rate rent supplement mortgages under Section 221(d)(3) for nonprofit and cooperative mortgators. NHC urges that this invaluable program be continued.

d. *Construction Financing.* GNMA and FNMA should continue and extend their participation in construction financing on moderate income housing. NHC applauds the action of FNMA in taking a 95% participation in the construction financing, with another mortgage institution taking the remaining 5% participation and handling the processing involved in construction loans; such FNMA participations are available in cases where either FNMA or GNMA issues a takeout commitment. This program for FNMA participation in construction assistance should be extended to cover all projects eligible by law for special assistance, instead of being limited in projects involving mortgages under Section 236 and Section 221(d)(3) rent supplements.

NHC also applauds the policy of the Federal Home Loan Bank Board in making special advances available to member savings and loan associations for both construction and permanent financing to produce housing for low and moderate income families.

e. *Assurance of Continued FNMA and GNMA Participation in Low and Moderate Income Housing.* We urge that FNMA and GNMA be provided with whatever additional authorizations are needed to continue their indispensable programs in providing a market for Federally-insured or guaranteed mortgages. FNMA and GNMA have done outstanding jobs in providing the financing for mortgages under Section 236 and rent supplements.

If the Administration takes the lead in making future reductions in interest rates as we recommend, the price may fall below par as it did after recent decreases in interest rates. Fortunately, we have the Tandem Program to assure par purchases of these mortgages by GNMA when FNMA does not take them at par, as described above.

f. *Full Implementation of the Housing Assistance and Interest Control Act.* NHC applauds the passage of the Housing Assistance and Interest Control Act of 1969. This Act increases from $1 billion to $4 billion the authority of the Federal Home Loan Bank System to borrow from the Treasury. The Act requires the Secretary of the Treasury to use the authority, when alternative means cannot effectively be employed, to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market whenever the ability to supply such funds is substantially impaired during periods of monetary stringency and rapidly rising interest rates. The Act contains the following provisions:

(1) Regulation Q authority is given to the Federal Reserve Board and the Federal Home Loan Bank Board to establish flexible interest rate ceilings. We recommend the full use of this authority.

(2) The President is given authority to establish credit controls both on a voluntary and mandatory basis. We endorse the full use of this authority as a means of channeling additional funds into housing production.

g. *Investment of Governmental Trust Funds in Mortgages for Low and Moderate Income Housing.* We suggest legislation requiring governmental trust funds to invest a portion of their loanable funds to finance housing, particularly for low and moderate income families. These investments would include mortgages insured by FHA or VA or bonds guaranteed by GNMA or HUD under the 1968 Housing Act. The GNMA guaranteed bonds relieve the investors of the burdens or costs of servicing the pooled-insured mortgages securing the bonds and assure a full recovery of the funds invested. Among the public trust funds to be so invested would be Social Security Trust Funds and Veterans Administration Funds which are available for investment. NHC supports legislation authorizing the use of VA funds for investment in VA-guaranteed mortgages.

h. *Investment of Private Financial Institutions in Mortgages for Low and Moderate Income Housing.* Private financial institutions should also be induced to invest a portion of their loanable funds in mortgages insured by FHA or VA or bonds guaranteed by GNMA or HUD to finance housing or new communities, with emphasis on projects which serve moderate and lower income persons and families. This would include private pension funds, insurance company funds and funds of financial institutions which benefit from federal support or assistance. These institutions should be induced to make such investments. In the case of institutions which obtain federal support or assistance, it would be appropriate to enact legislation imposing as a condition to such federal support and assistance, the requirement that the institutions invest a certain proportion of their funds in new housing. This requirement can be imposed in a manner which would not work a hardship on the foregoing funds because the housing securities would yield an attractive return and assure a full recovery. Therefore, NHC again endorses Chairman Patman's effort to establish a Development Bank funded by pension fund contributions to make mortgage loans available for housing at reasonable interest rates.

i. *Investments by Universities to Up-Grade and Improve the General Area of Their Location.* Major institutions such as universities should be induced to invest portions of their endowment or other funds to improve the general area in which they are located. These institutions should recognize their responsibility to assist in upgrading the housing and environment of such areas in order to develop sound and attractive local communities.

j. *Mandatory Purchase by the Federal Reserve System of Securities Guaranteed by FHLBB, FNMA and GNMA.* We endorse any legislative attempt to require the Federal Reserve System to purchase securities guaranteed by the Federal Home Loan Bank Board, FNMA or GNMA and utilized for new residential mortgage financing. This would be an addition to the Federal Reserve's present authority to make purchases on the open market. Since Federal Reserve's purchase of obligations would be directly from FNMA, GNMA and the Federal Home Loan Bank Board, this would assure that the funds would be channeled directly into the mortgage market when needed during periods when we have monetary stringency and rising interest rates. These obligations would include securities issued against the pool of mortgages, debentures or other obligations.

NHC is encouraged that the Federal Reserve System did make three direct purchases involving the Federal Home Loan Bank Board, FNMA and GNMA guaranteed securities during 1971. We now urge the Federal Reserve System expand this program and establish adequate levels of such purchases.

k. *Continued support for a National Development Bank.* NHC applauds the introduction of identical bills by Chairman John Sparkman and Chairman Wright Patman (S. 580 and H.R. 3550) to establish a $20 billion "National Development Bank" to finance public works and to provide loans for businesses and industries and for low and moderate income housing projects. Interest charges on the Development Bank's loans would be tied to the Federal Reserve System's discount rate. The Bank would be capitalized by an appropriation of $1 billion and could borrow up to twenty times the amount of capital or $20 billion.

l. *Continued Support for Home Owners Mortgage Loan Corporation.* We continue to support H.R. 4176, introduced by Chairman Barrett and Congresswoman Sullivan. This bill would create a Home Owners Mortgage Loan Corporation (HOMLC) which would administer a revolving fund captialized at $10 billion through appropriations of $2 billion a year for 5 years. It would make 30-year direct loans with a maximum of $24,000 bearing interest at not more than 6½%. We recommend a reduction in that interest rate to 5%. Those eligible for loans would be:

(1) "Credit worthy" moderate income families unable to obtain mortgages at reasonable rates of interest; and

(2) Families with incomes not exceeding $12,000, except that HOMLC would have power to vary the income limit.

Existing FHA insuring offices would process loan applications and existing lending institutions would service the mortgages for no more than ½ of 1%. This bill—and other housing legislation with income limits—should be amended to provide for appropriate deductions in determining family incomes.

m. Mortgage-Backed Securities—GNMA. NHC applauds the fact that more than billions of dollars of mortgage-backed securities have been sold during the operation of this GNMA program to attract new sources of investment capital into housing by GNMA guaranteeing privately-issued securities on home mortgage pools. NHC applauds GNMA for developing guidelines to permit the pooling of multi-family mortgages as backing for the securities and for developing procedures to "pass-through" construction interest to the investors. Initially only single-family FHA and VA mortgages had been accepted for pooling and investors received no interest until the project was completed.

n. *Immediate Action to Utilize All Existing Legislation.* We urge immediate administrative action and implementation to utilize *all* existing legislation—as described above—in order to assure an adequate flow of funds into residential mortgage financing and to reduce interest rates and eliminate discounts on such financing. The Administration should take such measures as are necessary to shelter housing from the impact of restraints or economic forces which preclude an adequate flow of funds into residential financing at reasonable interest rates. These actions are required to implement the national housing policy and goals authorized by law.

o. *Site Availability in Metropolitan and Other Areas.* We agree with the analysis in the President's Second Annual Report on National Housing Goals that community discrimination against subsidized housing is one of the most serious constraints on the availability of building sites for low- and moderate-income housing. We believe that there has been little or no improvement since that Report. We continue to support the Second Report's recommendation of legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the Federal Government, whether through legislative or administrative action. We regret that the Administration did not implement this recommendation. We urge that the Administration propose and the Congress enact legislation which would achieve this objective. Sponsors of subsidized housing need the assurance that the Federal Government's resources and power will clear away the constraints which are imposed on their proposed projects simply because they are intended for low- and moderate-income families. They are usually unable to pay for protracted litigation which is now the only way to overcome this problem. NHC strongly endorses the recommendation of the National Committee Against Discrimination in Housing adopted December 8, 1970.

After the submission of the Administration's proposed consolidation bill in 1970, Secretary Romney recommended a further provision which would have prohibited discrimination against subsidized housing through local land use and development controls in areas that lie in the path of urban development. The legislation would have authorized suits by interested parties, as well as the Attorney General, to enjoin such exclusion where such local action was inconsistent with local plans. Subsequently HUD withdrew this proposal and began work on Project Selection Criteria. While HUD's Project Selection Criteria would require "spreading" of assisted programs throughout areas without such programs, these areas frequently have excessive land costs, restrictive zoning practices or lack adequate water and sewer facilities to serve additional housing. Accordingly, we question whether the program will achieve its purpose in many areas.

We believe the original Romney proposal should be resubmitted, strengthened and enacted. It should be strengthened by providing for federal pre-emption of local zoning upon an appropriate finding by the Secretary so as to require opponents rather than proponents to initiate litigation. It should be applied to all local areas that do not take affirmative action to resolve their housing problems. Moreover, it should not be dependent on local plans—which may be silent with respect to local housing needs—in order for the legislation to be effective.

In addition to NHC's objections concerning Secretary Romney's announcement about drastic cuts in the overall HUD staff, NHC is opposed to any reduction in the staff charged with administering equal opportunity requests and procedures. We recommend that the current level of employees administering this program be set as the absolute minimum and that no reductions be made below that level.

The National Housing Conference agrees in principle with the adoption by HUD of a model lease and grievance procedure stating minimum standards to protect the mutual rights and obligations of housing authorities and tenants. We believe that the manner in which the Department adopted these standards, after extensive consultation with the National Tenants Organization and the National Association of Housing and Redevelopment Officials, represents a method of policy-making which should be emulated by the Department in the future. Minimum standards for management-tenant relations in public housing are an appropriate subject for national policy, with due recognition for the responsibilities of local housing authorities and resident groups—who may exercise creative local leadership to negotiate their mutual rights and obligations in an established framework.

In addition to the actions recommended

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above, NHC reaffirms its prior recommendation that HUD be given authority to withhold all HUD funds from those communities which do not provide housing on a nondiscriminatory basis.

p. *Measures to Insure Full Utilization and Preservation of Existing Housing Stock.*

Throughout this Report, we cite the importance of preserving existing housing resources. To this end, NHC recommends that programs be carried out to improve basic community facilities and tenant services that are needed to insure neighborhood preservation along with comprehensive programs of rehabilitation. It is equally important to avoid building additional housing of the types which are now experiencing grave difficulties. Under our proposals for economic integration, we would discourage construction of new subsidized housing projects which would exclusively serve low income families as a means of avoiding further large concentrations and segregation of low income families.

CHAPTER C. EMERGENCY HOME FINANCE ACT OF 1970

1. *Purpose.* Because of the severe housing shortage and sharp drop in housing starts in 1969 and the continued low level during early 1970, Congress passed the Emergency Home Finance Act of 1970 as an immediate response to the crisis. The Act was primarily aimed at relieving the middle income home and cooperative buyer.

2. *Authorizations in the Emergency Home Finance Act of 1970.*

a. *Subsidies to reduce interest rates (Housing Opportunity Assistance Program).* A $250 million appropriation of subsidies is authorized to reduce interest rates on advances by Federal Home Loan Banks to members for their use in purchasing housing mortgages, primarily on new housing but also on existing housing. The Board will allocate funds and regulate their use.

b. *Federal Home Loan Mortgage Corporation.* The Federal Home Loan Mortgage Corporation ("FHLMC") was created with power to purchase and make commitments to purchase residential mortgages from any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal Home Loan Bank, or any other financial institution whose deposits or accounts are insured by an agency of the United States. The Corporation can purchase eligible conventional mortgages and single-family and multi-family mortgages insured by FHA. The Corporation is authorized to issue notes, debentures, bonds, or other obligations and mortgage-backed securities guaranteed by GNMA.

c. *FNMA Conventional Mortgage Market.* FNMA was authorized to establish a conventional secondary mortgage market. Mortgages are limited to a 75% loan to value ratio, unless (1) seller keeps a 10% participation, or (2) the excess is privately insured, or (3) seller agrees to rebuy or replace the mortgage on default, as FNMA may require. A House provision barring financing when this might inhibit HUD assisted programs was replaced by language to the same effect in the conference committee report.

d. *Home Ownership for Middle Income Families—Section 243.* The Act established a new Section 243 to provide interest reduction payments on behalf of middle-income purchasers of homes or memberships in Section 213 cooperatives. Interests subsidy payments will be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. Monthly homeownership expenses include the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

The aggregate amount of contracts to make payments cannot exceed amounts approved in appropriation acts and contracts for such payments are authorized for $105,000,000 during the period prior to July 1, 1971, which amount is increased by an additional $105,000,000 for additional contracts prior to July 1, 1972.

e. *Increased Special Assistance.* GNMA Special Assistance Funds were increased from $2 billion to $2.75 billion, plus $750 million of additional authority which is transferred from program 14 which involved mortgages on new homes. This total increase of $1.5 billion is available for *any* tandem plan use.

f. *Program 14 For New Homes.* The par purchase requirement was removed for the funds left in Program 14, thus opening that program for wider use in the purchase of mortgages on single-family homes. The program's mortgage ceiling was increased to Section 235 levels.

g. *GNMA Purchase of 236 Mortgages.* GNMA may buy Section 236 multifamily mortgages above its $22,000 unit limit ($24,500 for 4 bedrooms or more) where projects have the benefit of a local tax abatement program.*

3. *Authorization in Appropriation Act.* Of the $250 million authorized under Title 1 to reduce interest charges for members of the Federal Home Loan Bank System, $85 million was included in the appropriation act authorization for fiscal year 1971 and $62.5 million was included in the appropriation act authorization for fiscal year 1972.

While $210 million of contracts were authorized for the first two years under the new Section 243 program, there has been no request to embody this authorization in any appropriation acts. No regulations have been issued.

4. *Recommendations.*

a. *Legislative Amendments.* NHC recommends an amendment to Section 243 which would provide for the use of the subsidy in order to achieve an effective interest rate of 5% instead of 7% for those people who need this larger subsidy to meet their remaining housing expenses after spending 20% of their income for home ownership expenses, utilities and maintenance. To provide an incentive which would help achieve economic integration, the amendment should provide a preference for people who will buy in a subdivision or housing development serving moderate and lower income families who receive the benefit of larger interest assistance or other subsidies. This program is needed for FHA-insured mortgages since the $250 million FHL Bank program reduces interest rates only on conventional loans made through saving and loan associations.

b. *Additional Authorizations in Appropriation Acts.* After adoption of our proposed amendment to provide 243 subsidies to reduce the effective interest rate from the current 7% to 5%, NHC urges the passage of a supplemental appropriation act which would include the $105 million contract authorization for Section 243 for fiscal year 1973 and an authorization of $105 million of additional contracts for fiscal year 1974—with funds to continue available until used. NHC also urges the appropriation of the $125 million balance of the subsidy authorization to reduce interest rates on advances by the FHL Bank to its members for use in purchasing housing mortgages.

c. *Administrative Actions.*

(i) Even though the current FHA–VA interest rate is 7%, NHC urges HUD to establish rules and regulations pursuant to Section 243. This program should be ready for immediate implementation if needed; also if our proposed amendment is adopted to achieve an effective interest rate of 5%. NHC urges that the Secretary set no income limit for eligibility for assistance under Section 243.

(ii) NHC urges that the Federal Home Loan Bank Board modify its rules so its members can purchase a larger percentage of mortgages on multi-family housing. Such housing has become increasingly important in meeting the needs of the middle-income group.

(iii) While regulations have been issued to implement the FHL Bank's Housing Opportunity Assistance Program ("HOAP") of subsidies which reduce housing costs by $20 monthly for five years, these regulations restrict the program to single-family houses. NHC urges that the FHL Bank Board promptly adopt the pending regulations which would make such assistance available to families living in cooperatives.

(iv) Under the current "HOAP" regulations, the income limits are 150% of the regular Section 235 limits. The income limits should be at least 150% above the median income in the area. The regular Section 235 income limits are too restrictive; also, they are tied to local public housing limits which have a wider variation from place to place than median incomes.

CHAPTER D. HOUSING AND URBAN DEVELOPMENT LEGISLATION, 1971

While no omnibus housing bill was passed in 1971, housing and urban development legislation of a limited nature was enacted. The following are the provisions contained in SJ Res. 176:

1. Flood Insurance—Church Properties. Sections 1305(a) and 1306(b)(1)(c) of the Housing and Urban Development Act of 1968 were amended to include church properties under the National Flood Insurance Program.

2. Temporary Waiver of Mortgage Limitations—GNMA. Section 302(b)(1) of the National Housing Act was amended to permit the Secretary to waive GNMA mortgage limitations up to 150% of the present limits until June 30, 1972. This would raise the limits to $33,000 per unit and $35,000 for units with four or more bedrooms.

3. Water Sewer Planning Requirements. Section 702(c) of the Housing and Urban Development Act of 1965 was amended to extend it until June 30, 1972, the period in which communities may complete planning requirements for water and sewer grants.

4. State Taxation of National Banks. The Bill would delay for one year, to January 1, 1973, the termination of interim provisions governing state authority to tax national banks.

5. New Communities—Supplemental Grant Assistance. Section 718(a) of the Housing and Urban Development Act of 1970 was amended to include private nonprofit organizations as eligible recipients of supplemental grants to assist construction of public facilities in new communities.

6. Public Housing Rent Reductions. Section 2 of the United States Housing Act of 1937 was amended to prohibit the reduction of welfare assistance payments to public housing residents benefiting from required reductions in rents resulting from the 25 percent rent-income limitation.

7. Authorizations for Comprehensive Planning and Open Space Programs. Sections 701(b) of the Housing Act of 1954 and 708 of the Housing Act of 1961 were amended to increase authorization for comprehensive planning program by $50 million and for open space program by $100 million.

8. Small Business Investment Companies. Section 303(b) of the Small Business Investment Act of 1958 was amended to clarify SBA authority to guarantee debentures issued by small business investment companies.

* See Chapter D for amendment permitting the Secretary to increase this limit to $33,000 until June 30, 1972.

CHAPTER E. ADMINISTRATION'S PROPOSED HOUSING CONSOLIDATION AND SIMPLIFICATION BILL; AND SENATE BILL S. 3248, INTRODUCED BY SENATOR SPARKMAN AND PASSED BY THE SENATE ON MARCH 2, 1972

I. Introductory statement

In the succeeding chapters we will discuss existing housing programs as authorized by different sections of the National Housing Act. The multiplicity of statutory section numbers evidences the variety of programs which were enacted in past years. It is evident from the history of the federal housing programs that no comprehensive plan or design was employed in the development of these programs and that each legislative program was enacted to meet a particular need that appeared urgent at a particular time. Consequently, there are gaps and areas of unmet housing needs due to the deficiencies in our housing legislation.

Last year the Administration proposed legislation to consolidate and simplify existing programs. This legislation was widely studied but was not enacted. This year the Administration has proposed another similar housing bill.

NHC, as in the case of the proposed Housing and Urban Development Act of 1970, again supports in principle the objectives of the proposed Housing Consolidation and Simplification Act of 1971 (Administration's Bill). As before, this Bill contains many worthwhile provisions for simplification of the many Federal housing programs and for uniformity in basic provisions. While the Conference believes that this Bill represents a significant improvement over last year's Bill and includes many of the amendments suggested to HUD by NHC, we believe that the Bill could produce some inequities and, inadvertently, present road blocks to the effective implementation of our housing programs.

The Senate Committee on Banking, Housing, and Urban Affairs reported an omnibus Housing Bill on February 28, 1972 (Senate Committee Bill) which was introduced by Senator Sparkman as S. 3248. Chapters 1 and 2 of this Bill generally follow the Administration's proposed Housing Consolidation and Simplification Act with a number of amendments which are described below. On March 2, 1972, S. 3248 was passed by the Senate with some amendments (the Senate Enacted Bill) by a vote of 80 to 1.

The Housing Subcommittee of the House Banking and Currency Committee will begin Executive markup sessions on housing and urban development legislation early in March. The House Subcommittee is expected to consider the Administration's Bill, the Subcommittee Panels' Bill and the Senate Enacted Bill.

Below, we first summarize each major provision in the Administration's Bill relating to housing consolidation and simplification and then we describe what the Senate Committee Bill provides as compared with the Administration's Bill. After these summaries, we list some of the major amendments which are necessary to remove undesirable features and otherwise improve the Administration's Bill. Finally, we identify the extent to which these matters have been included in the Senate Committee Bill. To the extent that the Senate Enacted Bill does not contain our legislative proposals, we continue to recommend our proposals for inclusion in the Senate Enacted Bill so that, as finally passed, the law will conform to our recommendations.

II. General purpose and summary

1. *Purpose and Goals:* According to Secretary Romney, the Administration's proposed bill is "an effort to deal with the overall housing picture" and seeks to achieve the following goals:

(a) To consolidate existing HUD programs for low, moderate, and middle income families.

(b) To eliminate unnecessary bureaucratic requirements and establish uniform criteria for subsidized housing programs.

(c) To base eligibility limits and construction requirements on income and cost factors prevalent in the community.

The *Senate Enacted Bill* continues these purposes and goals.

2. *Consolidation and Simplification:* The Administration states that its housing proposals would (a) consolidate authorities throughout existing law into a number of broad programs, (b) eliminate duplicate authorities, and (c) improve existing operations and subsidy programs. The number of existing FHA programs is reduced from approximately 50 to 8. Replacing some 40 existing authorities dealing with home, cooperative and rental housing are one new program to cover all unassisted home mortgages and one new program to cover all subsidized home mortgages; and one program each for the unsubsidized and subsidized rental and cooperative projects.

The *Senate Enacted Bill* provides for the above described consolidation and simplification but added several amendments that the Committee felt were necessary to retain provisions in existing law which were found necessary as a result of past experience. The Committee Bill recognizes that there are real distinctions between some existing programs which result from their essential differences and which need to be continued.

3. *Senate Committee's General Explanation of its Bill:* The Senate Committee Report gives the following brief explanatory statements to the Senate Bill:

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a committee bill (S. 3248) to consolidate, simplify and improve laws relative to housing and housing assistance, to provide Federal assistance to local governments in support of community development activities, and for other purposes, and recommends that the bill do pass.

Introduction

The Committee bill reported herewith is an omnibus bill of 7 chapters covering a broad range of Federal housing and urban development programs. Although the main thrust of the proposed legislation is to consolidate and simplify existing housing programs it contains authority for the development of several new programs, the most important of which is a new and far-reaching block grant community development program.

The consolidation provisions of the bill involve a complete overhaul of legislation involving the FHA mortgage insurance program and the low-rent public housing program. The former program goes back to 1934 when the National Housing Act authorized the Federal government insurance of mortgages, and the latter goes back to the Housing Act of 1937 which provided the authority for the low-rent public housing program. The basis for the consolidation provision in the committee bill is the Administration-sponsored "Housing Consolidation and Simplification Act of 1971"—S. 2049. The committee bill made several changes in S. 2049 particularly with reference to the FHA-insured interest subsidy program of benefit to lower income families and the elderly.

III. Major Substantive Changes and NHC Recommendations on Private Housing Programs; Also on Matters Applicable to Both Private and Public Housing Programs

(a) *Senate Committee's General Explanation on Provisions Relating to Mortgage Financing:* The Senate Committee Report gives the following general explanation on the provisions of the Senate Bill relating to mortgage financing:

The bill would recast the mortgage insurance programs contained in the National Housing Act into a completely new statutory framework—the Revised National Housing Act. The new authorization would reflect the experience gained over the past three decades with the mortgage insurance operations and would provide a statutory framework appropriate to the present orientation of these operations.

This consolidation and revision of the mortgage insurance programs was first submitted as part of the Administration's 1970 legislative program. Extensive hearings on the program were conducted by the Committee but because of the magnitude of the proposal and the need to evaluate carefully its impact, the Committee deferred action on the proposal. The Administration then resubmitted its proposal in 1971 with numerous changes reflecting many of the legitimate concerns raised during the Committee's hearings. Additional hearings were held during 1971.

The proposed Revised National Housing Act would consolidate the array of existing insurance programs into eight basic authorities, with relatively simple and flexible terms. Some obsolete and overlapping provisions of existing law would be eliminated and the many provisions now scattered throughout the National Housing Act relating to similar subject matters would be brought together under appropriate headings. The Committee feels that the consolidation will facilitate (1) public understanding and utilization of the mortgage insurance programs, (2) effective, prompt, and flexible administration of these programs by the Department of Housing and Urban Development, and (3) Congressional evaluation of the programs and decisions with respect to statutory amendments.

(b) *Financing Off-Site Components:* The Secretary would be authorized to insure advances of mortgage funds during construction or rehabilitation to cover the cost of materials and components which are assembled or stored away from the construction site. This extension of insurance authority is expected to facilitate the financing of Operation Breakthrough type projects which require substantial off-site assembly of component units.

The *Senate Enacted Bill* would modify this Section by requiring that adequate security be provided for materials assembled away from the construction site and that title to such components must pass to the purchaser before insured advances could be made.

(c) *Flexible Maximum Mortgage Amounts:* The various statutory dollar limitations on maximum mortgage amounts would be replaced by a uniform formula applicable to all home and multifamily mortgages. The Secretary would determine the development cost of a prototype unit of modest design in each housing market area. The maximum insurable mortgage amount for an assisted dwelling unit could not exceed 110 per cent of the development cost in each housing market area. For unassisted housing the maximum insurable mortgage could not exceed 200 per cent of the development cost of the prototype unit. For a multifamily project the maximum insurable mortgage amount would be equal to the maximum insurable ortgage amount of each individual unit multipled by the number of units in the project.

The Senate Bill would modify the above provision by providing that the maximum insurable mortgage amount for an assisted dwelling unit could not exceed 120% of the development cost in each housing market area. It would retain the provision for unassisted housing that the maximum insurable mortgage could not exceed 200% of the development cost of the prototype unit.

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(d) *Interest Rates:* The Secretary would have permanent authority to prescribe maximum interest rates for insured mortgages and loans based on his determination of the needs of the mortgage or loan market. These rates could differ for each of the different types of mortgages or loans which would be insured under the various sections of the Act and could further differ to take into account differences between mortgages or loans within each provision. In addition, under an experimental dual interest rate system, the Secretary could insure mortgages under such sections as he deemed appropriate of the Revised National Housing Act at whatever interest rate was negotiated by the mortgagor and mortgagee, provided no discounts were collected. This authority would expire on July 1, 1973, and would provide an alternative to the interest rate administratively established by the Secretary.

The *Senate Enacted Bill* would delete the provision which allows interest rates to differ for each of the different types of mortgages or loans which would be insured under the various sections of the Act. Likewise, the provision was deleted which allowed the Secretary to vary the interest rates between mortgages or loans within each provision. The *Senate Enacted Bill* includes the experimental dual interest rate provision.

(e) *Minimum Down Payment:* The minimum down payment for unassisted home mortgages would be an amount equal to closing costs. The minimum down payment for all assisted mortgages would be $200.

The *Senate Enacted Bill* would require—for all unassisted home mortgages—the minimum downpayment to be at least an amount equivalent to closing costs (exclusive of prepaid expenses) or 3% of the Secretary's estimate of the cost of acquisition, whichever is greater.

The *Senate Enacted Bill* would likewise require a minimum downpayment of $200 for all assisted home mortgages.

(f) *Builders Warranty:* Builders of homes approved prior to construction would continue to be required to warrant homes against substantial deviations from approved plans. In addition, builders of homes which are not approved prior to construction would be required to give homeowners a one year warranty against all structural defects.

The *Senate Enacted Bill* would not change these provisions.

(g) *Cost Certification:* The existing requirements for cost certification would be substantially simplified. The Secretary would be given authority to exempt residential multifamily projects designed for occupancy by less than 12 families or insured for less than $250,000 from the cost certification process.

The *Senate Enacted Bill* would retain most provisions of existing law regarding cost certification. The Committee felt that these provisions have been successful and effective for many years and that they should be continued to avoid uncertainties regarding the manner in which cost certification is handled.

(h) *Uniform Treatment of Major Components of Subsidized Housing Programs:*

(i) *Eligibility Limits*—The income limits would be standardized. Eligible families would be required to have incomes which do not exceed the median incomes for the area as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary could establish income ceilings higher or lower than the median in any area where a variation was necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

The *Senate Enacted Bill* sets 90 percent of the median as the standardized income. It retains the provision in the Administration's Bill authorizing the Secretary to adjust the limit higher or lower as necessary.

(ii) *Construction Cost Limits*—Specific statutory dollar limitations on the amount of the maximum insurable mortgage amount would be removed. The development cost of a prototype unit priced out in each housing market area would be the new basic criteria for maximum mortgage amount for both single family homes and multi-family units. Development cost would be equal to construction costs plus an amount attributable to land costs.

The *Senate Enacted Bill* provides substantially the same construction cost limits.

(iii) *Definition of Income*—For purposes of eligibility and the determination of the subsidy amount under the private programs, income would be defined to include income from all sources of all family members except that the Secretary would have authority to exclude income earned by minors and non-recurring income. For the purpose of determining the amount of the subsidy, $300 per minor could be excluded from income for each minor. For public housing receiving operating subsidies or under the new Homeownership Section similar definitions to the private programs would be used. However, under the regular Public Housing Program, income would be defined to exclude nonrecurring income and income of full-time students and to deduct $300 for each dependent and for each secondary wage earner, 5 percent of gross family income or 10 percent in the case of the elderly, and extraordinary medical expenses. This section is substantially the same as the present definition for the regular Public Housing Program which was included in the 1970 Housing Act.

The *Senate Enacted Bill* provides for complete uniformity in the definition of income for all subsidy programs whether private or public. The Bill would require that, in defining income, the Secretary shall consider income from all sources from each family member residing in the household with the following deductions:

(A) Income for any family member below the age of eighteen, nonrecurring income, as determined by the Secretary and the income of full-time students living with their parents;

(B) An amount equal to the sum of (i) $300 for each dependent, (ii) $300 for each secondary wage earner, (iii) five percentum of the family's gross income (ten percentum in the case of elderly families) and (iv) those medical expenses of the family properly considered extraordinary shall be deducted; and,

(C) Such further deductions as the Secretary determines in recognition of unusual circumstances.

(iv) *The Rent to Income Ratio*—All participants in the subsidized programs would be required to contribute 20 percent of their income to mortgage payments under the homeownership program and 25 per cent of income for rental and occupancy charges on multifamily housing for rental or cooperative operations. There would be a "basic rental" for each unit in an assisted rental or cooperative project determined on the basis of operating the project with the benefit of the assistance payments. The occupant would pay the basic rental or charge for his unit or such greater amount, not exceeding the fair market charge for such unit (the rental or charge without subsidy), as represents 25 per centum of his income.

The *Senate Enacted Bill* does not modify the above described rent-to-income ratios, except that an operating subsidy would be authorized on multi-family projects under 502 experiencing increases in operating costs as explained under subparagraph (j) below. In such cases, when an operating subsidy is paid in later years if operating expenses increase, the Bill (as clarified by the Senate Committee Report) provides that families: (A) in the low-income group, who receive deeper subsidies (comparable to rent supplements), would not pay more than 25 percent of their income for rent and (B) other families would not pay more than 30 percent of their income for rent.

(i) *The Subsidized Homeownership Program:* The assistance payment on behalf of any homeowner could not exceed the lesser of (i) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income, or (ii) the difference between the monthly payment for principal, interest, and mortgage insurance premium due under the mortgage and the monthly payment for principal and interest due under a 1% mortgage. However, the amount of this difference could be increased by up to one-fourth in cases (not exceeding 20 percent of the total amount of contract funds authorized by appropriation Acts) where the Secretary determined an increase was necessary to further the purposes of the section.

The *Senate Enacted Bill* would provide substantially the same formula.

The *Senate Enacted Bill* would add a new subsection to 402 which would provide that not less than 10 percent of that program would be available for use with respect to dwellings which require substantial rehabilitation.

(j) *The Subsidized Rental or Cooperative Program:* The assistance payment on behalf of a project owner could not exceed the difference between the monthly payment for principal, interest and mortgage insurance premium (or other comparable charges approved by the Secretary) on a market rate mortgage and the monthly payment for principal and interest that would be due on a mortgage at 1%. With respect to up to 20 percent of the dwelling units in any project, the Secretary could contract to make assistance payments to a project owner on behalf of tenants or cooperative members whose incomes are too low to afford the basic rentals. These payments, with respect to any unit, could not exceed the lesser of (i) the amount required to reduce the basic rental or occupancy charge to an amount equal to 25 percent of the family's income or (ii) the maximum payment which would be made with respect to the dwelling unit under the rent supplement program.

The *Senate Enacted Bill* is substantially different and provides the following new formula:

(A) As to 20 percent of the units in a subsidized multi-family project under 502, a deeper subsidy would be available which would pay the difference between the basic rent and 25 percent of a family's income. (The family would have to pay the cost of utilities as a minimum unless the Secretary determines that this requirement would result in undue hardship in an area because of its unusually high utility costs). At least half of this 20 percent are to have incomes of 50 percent or less of the median income in the area where the housing is located—these are called very low-income families. Likewise, the Secretary could decrease the deep subsidy coverage to 10 percent of the units if the project would not be viable with a deep subsidy coverage of 20 percent of the units. The Secretary could increase the deep subsidy to 40 percent of the units when needed—and up to 60 percent in projects for the elderly.

(B) During the rent-up period, the project's rent would be predicated on everyone paying at least 25 percent of the family's income. If paying the basic rent would require more than 25 percent of a family's income, it is possible that such a family could pay a higher percentage of its income for the housing *if* the Secretary did not provide additional assistance (deeper subsidy) to cover all the units to be occupied by such families.

(C) If the project were faced with increased operating costs which required that people had to pay more than 30 percent of their income, then a new HUD operating subsidy would become available to meet those increased costs rather than increasing rents to over 30 percent of a family's income or 25 percent in the case of families occupying units covered by the deeper subsidy. This is a compromise from the Brooke-Mondale Amendments which would have authorized HUD to pay an operating subsidy whenever expenses increased so that no one would have to pay more than 25 percent of his income for housing. For each 502 project, the Senate Committee Bill provides that there is to be established an initial operating expense level at the time the Secretary determines that the property is "fully" occupied after allowing for customary vacancy rates. At any time subsequent to the establishment of this initial operating expense level, the Secretary may contract to make additional assistance payments to meet increases in operating expenses above the initial level. These contracts may be amended periodically to provide for appropriate adjustments. The additional assistance payments are to be made if the Secretary finds that the operating-expense increases are reasonable and comparable to cost increases affecting other rental projects in the community. The additional assistance payments will be in an amount not to exceed either (i) the amount by which the sum of the cost of utilities, maintenance and local property taxes exceeds the initial operating expense level or (ii) the amount required to maintain the basic rentals of any units at levels not in excess of 30 percentum of the income of tenants occuping such units, except with respect to tenants occupying dwelling units on which the Secretary has contracted to make deeper subsidy payments who would not be required to pay a rental of more than 25 percent of their income.

B. *Recommendations:* NHC supports the principles and objectives of the Administration's proposals for simplification of the many federal housing programs, but only if the legislation includes the recommendations for a new flexible formula for subsidies, better income-to-rent ratios, achievement of economic integratiou, and all of the other amendments described in these resolutions. However, last year's bill would have produced inequities and presented serious roadblocks to the effective functioning of these programs. While many of these objectionable features were eliminated from this year's bill, there are still some provisions that would produce inequities and inadvertently block effective implementation of our housing programs. Therefore, we are listing below some of the features which we recommend be removed from this year's Bill. This includes amendments to the proposed Administration bill and other new legislation which are necessary: (a) to eliminate gaps and deficiencies in our existing legislation; (b) to assure the availability of housing to meet the needs of people at all income levels with monthly charges that they can afford; and (c) to achieve economic integration of assisted housing with a freedom of choice for people of all incomes to select where they want to live.

(1) *Rent Increases for Existing Tenants:* The most controversial part of last year's Bill was the effort to impose new requirements on existing projects resulting in substantial increases in rents or tenant contributions for present occupants under several programs. The Bill now requires rent increases for families now living in those public housing projects which will be assisted with annual contributions for operating subsidies. There would be a minimum rental payment of 20% of income (with a maximum of 25%) from families living in such projects. Many such families have been paying less pursuant to the income-to-rent ratios established by local housing authorities under previous legislation. The Administration proposes to make such rent increases effective in two increments—one-half after the first year's review of family income and the other one-half after the second year's review of family income.

People living in public housing projects already built should not be required to pay higher rents than those established under earlier laws and regulations; otherwise, there will be serious hardships for them. Such rent increase for these people will adversely affect their cost of living and reduce the amount they have for necessary food, clothing, and other living requirements. Therefore, NHC opposes any attempt to increase rents of *existing* tenants in public housing projects.

The *Senate Enacted Bill* would continue the same plans for rent increases for existing tenants as the Administration's Bill. This is more fully explained under Part IV of this Chapter.

(2) *Determination of Income and Eligible Deductions:* The Administration's Bill retains the allowable deductions for assisted private housing, namely, $300 for each minor child. In the 1970 Housing Act, Congress reaffirmed and codified for the regular public housing the type of deductions that had been typically available in such (a) an amount equal to $300 for each dependent and $300 for each secondary wage earner; (b) 5% of gross family income or 10% in the case of the elderly; (c) nonrecurring income and income of full time students; (d) medical expenses of the family which are extraordinary; and (e) such further deductions as the Secretary allows in recognition of unusual circumstances.

We recommend that these same criteria be adopted for assisted private housing programs—and for public housing receiving operating subsidies or under the new Homeownership Section—so that there are uniform criteria for both private and public housing receiving subsidy assistance. It is necessary to have fair standards of this character for determining deductions in computing family income in order to avoid an unreasonable and unfair burden on low income families who pay too much for housing. Such a burden will result unless there are exclusions from income which result in a realistic determination of the amount of income actually available to the family for its housing and other living expenses.

The *Senate Enacted Bill* adopts the NHC recommendations in their entirety.

(3) *Percentage of Income Required Under Assisted Housing Programs:* The Administration's Bill would retain the provisions requiring that 20 percent be spent for housing under the homeownership program (Section 235, which would become Section 402). In the case of the homeownership program, the housing expenses should be broadened to include utility costs, repairs and maintenance. This would establish a uniform criterion as to all housing which is assisted by interest subsidies. In the case of the assisted multi-family program, we recommend that locally etablished rent-to-income schedules be established and that no family be required to pay more than 25 percent of its income for housing. The housing-payment-to-income ratios in a local project (or local program) must average at least 20 percent.

In the case of multi-family housing, there should be both a minimum percentage of income paid for housing (up to the maximum established charge) and a maximum percentage of family income to be spent for housing. The establishment of a maximum would apply the same criterion to assisted private housing that has been adopted in the Housing and Urban Development Act of 1970 for public housing, known as the Brooke Amendment. This provides that tenants in public housing are not to pay more than 25 percent of their income for housing and that adequate subsidies are to be provided to achieve this objective. We recommend that a like percentage be established as a maximum in privately assisted housing. This is a sound principle which should be uniformly applied to all housing receiving subsidy assistance. It avoids the undue hardship that has resulted under existing programs where some families are paying too high a proportion of income for housing expense.

The *Senate Enacted Bill* would continue the same housing-payment-to-income ratios as the Administration's Bill.

As to the maximum percentage of income to be spent for housing, the *Senate Enacted Bill* would adopt the NHC recommendations in part as explained under subparagraph (1) above.

(4) *Realistic Income Limits:* As a matter of principle we would recommend that there be no income limits for admission to assisted housing but that each family or person be required to pay a locally established ratio of income for total housing expense. If, as a pragmatic matter, it is necessary to include an income limit in order to obtain legislative authorizations and funding for subsidies to assist housing, we recommend a formula for income limits which will eliminate gaps in our present housing programs. The present maximum income limits leave areas of unmet needs for the income limits are unrealistic. They fail to reach many who cannot afford adequate housing without the aid of some subsidy. We recommend the following program relating to realistic income limits and the achievement of economic integration:

(a) There would be an income limit, for 80% of the dwelling units, which would be both realistic and simple. It would be the median income in the area, with authority in the Secretary to exceed the median by the amount required in order to meet the housing needs of the locality based on its income and cost factors.

(b) There would be no income limit for 20% of the units, in order to achieve economic integration and enable the housing developments to serve a cross-section of income groups.

(c) Instead of the present subsidy formulae which result in gaps and areas of unmet need and which preclude achieving economic integration, we recommend the subsidy formula described in the next paragraph.

The *Senate Enacted Bill* would eliminate many of the gaps which currently exist in the subsidy program and which would be continued under the Administration's Bill. However, under the Senate Committee Bill, a gap would still exist as no interest assistance can be paid for any family with an income above 90% of the median, even though 25% of its income did not equal the market rent. Such families cannot afford housing at an unsubsidized rent, so their housing needs would not be met under the Senate Committee Bill.

(5) *Adequate and Flexible Subsidy Formula to Meet All Needs and Achieve Economic Integration.* There would be a flexible subsidy formula which would eliminate gaps in our housing program and assure that there is sufficient subsidy available to meet the housing needs of people at different income levels. Also, it would achieve economic integration. The amount of subsidy would be the amount required to meet the housing expenses remaining after the occupant pays a local established proportion of his income for the housing. The amount of subsidy allocated for an assisted housing development should be based upon making dwelling units available to a cross section of income groups, as follows:

(a) Up to 20% for occupancy by families or persons whose incomes are much the maximum income limits and who require subsidies at or above the amounts which have been available for rent supplements and public housing. Based on their locally established

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rent-to-income payments for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover the principal and interest payments on the mortgage and a part of the operating expenses.

(b) Up to 20% for occupancy by families or persons whose incomes are above the maximum income limit. We propose a subsidy incentive for such families to live in an assisted housing development with families of lower incomes. For this group, there would be a subsidy of 2%. At today's market interest rate, these people would pay an effective interest rate of 5%, plus the ½ of 1% FHA premium. People in this group would make the locally established housing payment up to a "maximum established charge" which would reflect the subsidy of 2%.

(c) The remainder for occupancy by families or persons who are at or below the median or high income limit established by the Secretary and who require subsidies in the form of interest assistance. Based on the locally established rent-to-income payment for housing, this group would be eligible for a subsidy in the amount required to meet the remaining amount of housing expenses. To the extent needed, this would cover all of their interest and the FHA insurance premium. According to their varying needs, these people would pay a monthly charge ranging from 0% interest (with no FHA insurance premium) up to the maximum established charge which would reflect a 2% subsidy.

There would be a periodic re-examination of income only for occupants who are paying less than the maximum established charge. If their income increased, they would make housing payments on the larger income but not more than the maximum established charge. With such a charge which reflects a 2% subsidy and an effective current interest rate of 5%, there would be an incentive for residents to remain in the housing community even though their incomes increased. As a matter of public policy, this is vitally important in order to achieve greater stability in housing communities and to maintain their economic integration. If people feel that they are permanent residents of a housing development, they will take better care of it.

The foregoing program would achieve economic integration and more wholesome housing communities. In each housing development or subdivision there would be a cross-section of families at different income levels because income limits would not apply to those who are not receiving assistance. This would avoid the past undesirable condition where families were segregated within narrow income segment. In such cases there was a predominance of lower income and excessively depressed people living in a housing development which was stigmatized and isolated from the community. Through the achievement of a balanced population in a community—including middle income people with those of moderate and low incomes—we can achieve more wholesome and stable communities. By serving a broader segment of the market through economic integration a housing development will be better able to achieve racial integration. Middle and moderate income families will help to provide leadership and status for the community. With housing in each development available for a cross-section of income groups and a broader market, we can offer freedom of choice to people of all incomes to select where they want to live.

In prescribing requirements with respect to tenant eligibility and rents under 502, the *Senate Enacted Bill* specifically provides that the Secretary shall seek to assure, insofar as practical, that in each assisted project, there is a reasonable range in the income limits of tenants. (Section 502(e)). The following provisions are included in that Bill to implement this economic integration objective:

(a) The *Senate Enacted Bill* makes it clear that the Secretary is authorized to insure a mortgage under Section 502 which is to be occupied *primarily* by those who are tenants of low-income at the time of initial occupancy (Section 502(1)). This clearly recognizes the eligibility for occupancy of people above the income limits applicable to those who are to receive assistance. This will help to achieve the NHC objective that 20 percent of the units should be occupied by people above the income limits applicable to those who receive assistance.

(b) The *Senate Enacted Bill* authorizes interest assistance in an amount sufficient to reduce the basic rental charge to the level that would be applicable under a mortgage with an interest rate of 1% per annum. This is the income group which would occupy 60 percent of the units under the economic integration program NHC recommends.

(c) With respect to 20 percent of the units in any project, the *Senate Enacted Bill* authorizes the Secretary to contract to make additional assistance payments for tenants whose incomes are too low for them to afford the basic rentals with 25 percent of their incomes. This additional assistance payment would be the amount required to reduce the rental payment by such tenants to 25 percent of their income (in no case is their rental payment to be reduced below an amount equal to the utility cost attributable to the unit occupied by such tenants).

(Note: The existing rent supplement program requires that tenants pay at least 30% of the basic rental charge regardless of their income. Therefore, NHC is pleased that the Senate enacted bill would lower this requirement to the cost of utilities unless the Secretary determines that the cost of utilities would result in undue hardship because of unusually high utility costs.)

However, the Secretary has authority to either reduce or increase the requirement that 20 percent of the units be occupied by such lower income families if he determines that such action is feasible to achieve the economic viability of the project and the economic integration objective stated in the Bill. There is a further proviso that no less than one half of the units with respect to which such additional assistance payments are made shall be occupied by very low income tenants—they are defined as those whose incomes do not exceed 50 percent of the median income for the area.

(6) *Contract Commitments and Reserves for Subsidy.* The federal government should make an overall dollar commitment of contract authority for subsidy which would take into account the anticipated need based on a project with a cross-section of income groups ranging from the low to those who pay the maximum established charge. By serving a broader segment of the market, housing developments should be programmed with subsidies to serve the anticipated income distribution within a housing development. In most cases, the actual dollar amount of subsidies to be committed to a particular project may be less than the amounts committed under present programs. The past practice of committing maximum subsidies has resulted in unused contract authority because the commitment was based upon the maximum amount needed for everyone. Last year, the Senate Committee recognized the undesirability of pursuing this practice. Under the proposed program, the commitment of contract authority would be based on the estimated need based on serving a cross section of income groups. There should be a national reserve of a reasonable amount of contract authority for commitment to meet over-runs in subsidies above the estimates. This reserve would be only a fraction of the amount of unused authority under the present system where all commitments anticipate a maximum subsidy for everyone.

The *Senate Enacted Bill* does not adopt this NHC recommendation. However, it does provide for an operating subsidy if needed to meet future increases in the operating expenses of multifamily housing assisted under Section 502.

(7) *Realistic Mortgage and Construction Limits.* We recommend the elimination of dollar limits on mortgages and construction costs, by establishing a flexible formula for the Secretary to determine such limits based on cost factors prevalent in the community. The 1970 Housing Act provided this amendment in the public housing program. It provided that prototype costs should be determined by the Secretary on the basis of his estimate of construction and equipment costs of new dwelling units in the area. The law provided that the prototype costs should take into account the extra durability required for economical maintenance of housing and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, it provided that in developing such prototypes, emphasis should be given to encouraging good design as an essential component of such housing and to provide housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. We recommend this program for private and public housing but with the mortgage amount to be increased to 125% (instead of the 110% proposed by the Administration) of dwelling construction costs on assisted housing—or 200% of dwelling construction costs for unassisted housing—plus nondwelling construction items and the full market price for sites which are zoned and suitable for such housing.

The *Senate Enacted Bill* would provide a satisfactory definition of the required prototype quality. While NHC recommended an increase from the 110% of prototype limits (which is the limit in the Administration's Bill) to 125%, the Senate Enacted Bill provides for an increase in the mortgage amount to 120 percent of the prototype for assisted housing.

(8) *Orderly Transition To New Programs.* With the consolidation of housing programs and new formulas as to income limits, subsidies, cost limits and other matters, we emphasize the urgent need to continue operations and housing production under the existing laws. During the tooling up period under the new legislation, and until the new programs become fully effective and operational, all existing programs should continue so that there will be no interruption in HUD operations in view of the need for a higher level of production during the coming years. The *Senate Enacted Bill* adopts this NHC recommendation. It provides that the revised National Housing Act shall be effective in whole or in part at such times as the Secretary shall prescribe. Moreover, the Secretary is to establish procedures for the orderly transfer of mortgage insurance operations from the authority of the present National Housing Act to the Revised National Housing Act, in order to assure continuity of program activity and provide an opportunity for necessary administrative or legislative revisions.

(9) *Disposition of Low Rent Public Housing and Secretary-Held Projects to Its Residents.* We support the proposed legislation authorizing the disposition of low-rent public housing for ownership by the residents and other low-income families. An amendment is necessary to provide for necessary repairs and improvements in public housing before its disposition. Low income families should not take over housing which needs such repairs and improvements to make it suitable for their ownership. Supplemental loans should be available to provide for this additional work, together with prepaid expenses and the costs involved in achieving homeownership by low income families; also, supplemental annual contributions should be authorized to cover the debt service on such supplemental loans from the Secretary or others. Without the recommended changes, the proposed provisions in the Act would not achieve the contemplated objective of cooperative and other homeownership by residents of public housing and other low income families.

We recommend a clarifying amendment to continue the annual contributions and the outstanding local authority bonds—which generally bear very low interest rates—upon disposition of public housing for cooperative ownership in order to permit the achievement of monthly charges which the low income residents can afford. The proposed legislation should be amended to provide that the interest rate on the purchase money mortgage of the cooperative should be the rate on the public housing agency's bonds on the project which will continue to be outstanding, with a continued pledge of the Federal annual contributions to maintain the low-income character of the project—including a program to encourage its economic integration. With low income families and fixed annual contributions, it is not feasible for the cooperative purchaser of public housing to pay the higher interest rate which would be applicable under the formula in the Administration's Bill. In sales to nonprofit cooperatives, the mortgage should be in a principal sum equal to the unpaid balance on the public housing agency's principal debt on the project, together with the amount of the supplemental loan for necessary repairs and improvements, prepaid expenses and costs involved in achieving cooperative ownership. Also, supplemental annual contributions should be authorized to cover the debt service on such supplemental loans.

The *Senate Enacted Bill* provides for disposition of public housing projects to residents in accordance with the NHC recommendations as described above. The Bill does not, however, provide for disposition of Secretary-held property to cooperative ownership by its residents.

An additional amendment similar to the amendment described above for disposition of public housing projects is needed to continue the Secretary's authority to dispose of Secretary-held projects for cooperative ownership. There has been an increasing number of rental projects acquired by the Secretary as a result of defaults. Experience shows that these projects, when properly rehabilitated, can be made successful under cooperative ownership, since the residents then have a stake in the community which they own. The Secretary's most recent disposition of a project for cooperative ownership involved a formula and procedure similar to what we are recommending, namely that the cooperative would give a purchase money mortgage to the Secretary in a principal amount equal to the appraised value of the property, as rehabilitated, for continued use as a cooperative (as defined in the *Senate Enacted Bill*) plus the costs involved in achieving cooperative ownership and the amount of prepaid expenses.

(10) *Necessary Continuance of Existing Laws and Equal Treatment for Cooperatives.* There are several amendments required to retain provisions in existing laws which were found necessary as a result of past experience. There are real distinctions between programs, which result from their essential differences and needs. Where existing laws recognize the need for special provisions adapted to the special requirements of a program, these provisions should be continued. The following examples are cited in the field of cooperatives:

(a) The proposed legislation should clarify the two types of cooperatives which have always existed under the cooperative program: namely, one which is a management-type project where permanent occupancy is restricted to members of the cooperative; and the second which is a sales-type cooperative where the individual units are to be sold to purchasers eligible for mortgage insurance and assistance. However, in the latter case, certain special safeguards should be provided, including the requirement for consumer-oriented sponsorship of the cooperative and for community facilities which the cooperative would continue to provide for the owners of the individual dwelling units.

(b) The provisions of existing law should be retained which allow a project to be initiated by an investor-sponsor for sale to a cooperative pursuant to a dual commitment which provides for a 90% mortgage to the investor-sponsor and the higher allowable mortgage to the cooperative upon its acquisition of title. The Secretary should impose such requirements on investor-sponsors as are necessary to assure that the consumer interest is protected.

(c) Likewise, in the proposed legislation, it is necessary to assure that there is at least equal treatment for cooperative homeownership as compared with individual ownership. Thus, in the case of single family homes there can be 100% mortgages when the amount does not exceed $20,000.00 per unit. The same privilege should be accorded to cooperatives when the average housing cost does not exceed $20,000.00 per unit. As to the replacement cost in excess of $20,000.00, the mortgage amount would be limited to 97 per centum of such excess. This amendment would continue to meet the recognized need for these percentages on cooperative mortgages and would retain similar long-standing provisions of existing law.

In addition to the above, an amendment is needed to assure that unsubsidized projects built under Section 501, with mortgage limits that conform to the lower amounts applicable to subsidized projects, will have 100% mortgages. This will allow the continuation of the Section 221(d)(3) market rate program.

(d) For more than 10 years—and again in the 1969 Act—Congress has recognized that while the normal formula of appraised value is appropriate on existing properties operated as profit-making rental projects, it is entirely inappropriate and unworkable for existing projects which are to be owned and operated on a nonprofit basis. In the case of a profit making rental project, it is feasible to have an appraisal formula which includes a capitalization of net income. However, there is no net income on a nonprofit or cooperative ownership project where the charges reflect the nonprofit objective. Congress recognized this and other differences in the factors involved in nonprofit projects and cooperatives, so it prescribed a workable appraisal formula for existing projects being acquired for cooperative or other nonprofit ownership. This formula has been tried and tested, and it should be retained.

(e) The 1968 Housing and Urban Development Act included cooperatives under both Sections 236 for rental and cooperative housing *and* Section 235 for homeownership for lower income families; also, Section 213 covers both management-type and sales-type cooperatives. However, in last year's Administration bill, cooperatives were limited to the management-type. It is important for cooperatives to continue to have statutory authorizations which cover both types of cooperative programs. In the case of condominiums, a project would obtain mortgage insurance under Section 501, with purchasers of the housing obtaining mortgage insurance and assistance under Sections 401 and 402. We recommend the same program for sales-type cooperatives where the individual dwellings sold to purchasers would get mortgage insurance under Section 401 when unassisted and under 402 when assisted, based upon individual mortgages which do not exceed the unpaid balance of the blanket mortgage applicable to the individual dwelling.

(f) In the 1968 Housing Act, Congress specifically recognized the desirability of permitting the conversion of assisted rental projects to resident owned cooperatives. Thus, Sections 221(j) and 236(j)(3) permit such a conversion. In further recognition of this concept, Congress provided in the Tax Reform Act of 1969 (Section 1039 of the Code) for deferral of gain upon the sale by a limited distribution project financed under Sections 221(d)(3) or 236 to a cooperative or other nonprofit corporation. Because many owners of Sections 221(d)(3) and 236 projects have been expecting to sell their rental projects to cooperative or other nonprofit corporations, provisions must be made to continue these existing laws providing for such sales.

The *Senate Enacted Bill* adopts the above NHC recommendations with some modifications and omissions.

(11) *Necessity of Retaining Profit and Risk Allowances (BSPRA).* While the proposed Bill provides BSPRA for Section 502 projects, it should be amended to continue this profit and risk allowance (BSPRA) of 10% of estimated project costs. Since 1956, the housing laws have directed that FHA include such an allowance in its estimate of replacement cost on certain multi-family projects. This policy is necessary to attract developers of multi-family housing; also to achieve the objectives of the National Housing Partnerships.

There is a proviso in existing legislation that HUD could adopt a regulation prescribing a lesser percentage if it determined and certified that this 10% allowance was unreasonable. However, no such determination has been made during the past 14 years. Moreover, Congress has five times re-enacted and extended the 1956 provisions to cover other multifamily housing programs where the mortgage amounts are based on replacement cost. Thus, there has been a continuing Congressional recognition of the need for such a uniform allowance in these multi-family housing programs. This profit and risk allowance should be retained.

It is especially important that cooperatives and other non-profit mortgagors receive BSPRA as this is necessary to avoid discouraging or discriminating against the construction of cooperative and other non-profit projects. In the case of the consumer cooperatives where there is no identity of interest with the developers, the proposed profit and risk allowance in the replacement cost becomes a part of the lump-sum construction price or payment to the sponsor and covers risks imposed on the developer and sponsor to protect the purchasing-cooperative members, including protection against any increase that occurs in development costs after members have purchased their units.

The *Senate Enacted Bill* adopts the above NHC recommendation with some modification.

(12) *Cost Certification and Industrialized Housing.* An amendment is necessary in the cost certification provisions to cover cases where factory-manufactured houses or major housing components are furnished by a subcontractor or supplier having an identity of interest with the mortgagor or builder. In such cases, it is not feasible to have a certification covering the costs involved in the factory production of such houses or housing components. Accordingly, the cost certification should provide for an allowance representing the Secretary's estimate—at the time of the issuance of the commitment—of the value of such manufactured housing or major housing components. We recommend such an amendment, which will help achieve the objectives of Operation Breakthrough.

The *Senate Enacted Bill* would provide for such an allowance as recommended by NHC.

We also recommend amendments to retain provisions of existing law regarding cost

certification. There have been successful experience and effective administration under these provisions for many years. It is necessary to continue these provisions and avoid uncertainties regarding the manner in which cost certification is handled. We are opposed to repealing well-established statutory rules and granting broad administrative discretion which will create doubts and uncertainties that could adversely affect housing production.

The *Senate Enacted Bill* would retain provisions in existing law regarding cost certification as recommended by NHC, with some modifications.

(13) *Continuity of Programs Under State and Federal Laws.*—Many state laws provide for higher ratio loans by banks and financial institutions when a mortgage is insured by FHA under the National Housing Act. We recommend an amendment which would assure that loans insured under the proposed Act would be regarded as loans insured by FHA under the National Housing Act so they will continue to be eligible for the higher ratio loan under state law.

The Tax Reform Act of 1969 provides certain tax incentives relating to the construction and sale of limited-distribution projects under Section 221(d)(3) and 236. We recommend an amendment which would assure that comparable projects under the proposed Act would be eligible for these tax incentives.

We recommend another amendment which would make other changes in federal statutory references which identify FHA programs by numbers which will no longer be a part of the proposed Act.

The *Senate Enacted Bill* does not specifically provide for the above three NHC recommendations.

(14) *Amendment to Avoid Over-Utilization of Contract Authority for Assistance Under Section 502.* The House and Senate Committees have previously questioned the manner in which HUD determines the amount to be charged against contract authority for assisted projects because this has resulted in an over-utilization of contract authority and, therefore, a decrease in the number of families that can be assisted. With a program like the one in the Senate Committee Bill to provide necessary additional assistance to cover future increases in taxes or other operating expenses, this problem becomes more critical, as it is desirable to avoid a set-aside of contract authority for this purpose—which would reduce the number of units to be assisted.

NHC recommends an amendment which would accomplish both of these objectives. At the time of the establishment of the initial expense level and the range in income levels of tenants, the Secretary would be authorized to reduce the amount contracted for assistance payments to what was needed to assure the economic viability of the project. However, the contract would provide that when additional assistance payments are needed for the project subsequently—due to an increase in operating expenses or a change in the income levels of tenants—the Secretary may amend the contract to provide for the additional assistance payments. These amendments to contracts would be made from the amounts of contract authority released through the reductions in contract authority after the initial expense level and tenant income range are established.

All reductions in contract authority would be set aside in a national reserve for later use on amendatory contracts when needed on any projects to cover increased operating expenses or reduced income due to a change in the income levels of tenants. Tenants, project owners and mortgagees would not suffer from the proposed reduction in the amount contracted for assistance payments, because these reductions in the outstanding contract commitments would be set aside to insure that the assistance funds would be returned later for future use if needed.

(15) *Housing For Elderly.* There are special provisions in the *Senate Enacted Bill* relating to assistance payments on units occupied by the elderly including the following:

(A) Not less than 15% nor more than 25% of the total amount of contracts for assistance payments authorized to be made after June 30, 1973, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by the elderly.

(B) of the amount stated in the preceding clause (A), not less than 30% (which may be reduced by the Secretary to 15% if necessary to assure the viability of the elderly housing program) shall be available for use only with respect to integrated projects. As applied to an elderly project, this term means a project in which not less than 10% nor more than 50% of the dwellings are planned for occupancy by the elderly. (Section 502 (h)(2)).

(C) Additional assistance payments (deeper subsidy) may be made with respect to no more than 60% of the units in any project in which all or substantially all of the dwellings are occupied by the elderly.

(D) There is to be an Assistant Secretary for Housing for the Elderly who will be responsible for administering assistance in behalf of the elderly. (This amendment was adopted by the Senate).

NHC supports these additional provisions to improve housing for the elderly. However, NHC questions the need for the mandatory requirement in clause (B). While we agree that law should permit buildings for the elderly to be located in the same neighborhood with younger people, we question the wisdom of intermingling the elderly in the same building with families who have young children.

NHC recommends the same definition of the "elderly" in the assisted private housing as the *Senate Enacted Bill* provides for public housing namely, families whose heads (or their spouses) or whose sole members are at least fifty years of age.

(16) *Counseling and Tenant Services.* The Senate Committee Report explains the provisions on counseling and tenant services as follows:

Counseling

The Committee provides that homeownership counseling and tenant services will be funded only from Section 106 (of the 1968 Act) appropriations. In the past some of these programs have been funded under other sections of the National Housing Act, but now it appears that all of the funding will come from this one section. Because of increased reliance on this program and the increased activity and emphasis on counseling and tenant services, it is necessary to sharply increase the amount of money for the 106 program. The Committee has accordingly increased the authorization from $5 million to $60 million by fiscal 1974.

There is no intention of limiting the use of such funds to homeownership counseling or tenant services functions, and the Department is expected to continue to use this authority to stimulate housing production in the areas of greatest need and to stimulate creation and continued viability of self-help groups capable of producing housing.

The *Senate Enacted Bill* adopts NHC recommendations. We are gratified that the Committee has increased the authorization to $60 Million for fiscal 1974 and broadened the scope of counseling and tenant services in order to cover all assisted programs.

IV. A. *Major substantive changes and NHC recommendations on public housing programs*

(a) The Administration's Bill contained the following provisions:

(i) *Flexible Development Costs*—The 1970 Housing Act provided a flexible development cost formula to determine maximum costs of public housing, which would be continued.

The *Senate Enacted Bill* would provide for similar flexible development costs.

(ii) *Federal Annual Contributions*—There would be a separation between the authorization to provide annual contributions for debt service requirements and the authorization to provide an operating subsidy. The maximum annual contributions for debt service requirements would be the annual amount of principal and interest payable on obligations issued by a public housing agency to finance the development or acquisition of the project involved. The present maximum limit on the rate of annual contributions for both debt service and operating subsidy requirements—the going Federal rate plus two percent times the capital cost of the project involved—would be eliminated. Also eliminated would be the authorization to pay an additional annual subsidy of up to $120 per dwelling unit occupied by an elderly or handicapped family, a displaced family, a very large family, or a family of unusually low income. The Administration states that these special category subsidies are no longer required in view of the new operating subsidy provisions.

There would be a separate authorization for the Secretary to make annual contributions to public housing agencies for the operation of low-income housing projects (including low income housing in private accommodations which would include an operating subsidy). The contribution payable annually under this section could not exceed amounts which the Secretary determines are required (a) to assure the low income character of the projects involved and (b) to achieve adequate operating services. The Secretary would be authorized to embody the provisions for annual contributions for operating subsidy in a contract guaranteeing their payments.

The *Senate Enacted Bill* contains substantially the same annual contributions provisions.

The *Senate Enacted Bill* added a provision which would allow public housing projects to pay the equivalent of full property taxes. Full property tax payments for existing projects would be phased over a ten year period. HUD has the right to reduce the payment of the equivalent of a full local property tax if it is considered unreasonably high.

The *Senate Enacted Bill* would increase the maximum authorization of contracts for operating subsidies (as described above) from $200,000,000 per annum as provided by the Administration's Bill to $335,000,000 per annum. These amounts are included in the total authorization for annual contribution contracts.

(iii) *Tenant Contributions*—The bill would establish rental requirements for families occupying dwelling units in a low income housing project assisted with operating subsidies. Subject to the existing law requirement that a family's rental charge could not exceed one-fourth of income, the family would be required to pay a rental of not less than one-fifth of the family's income, but not to exceed a fair market rental charge determined on the basis of operating the project with payments of principal and interest which the public housing agency is obligated to pay on the capital cost of the project. In the case of low-income housing in private accommodations, the fair market rental charge would be the rental which the owner receives for the dwelling unit plus the cost of utilities and necessary services not included in such rental. As to other tenants in public housing, they would not be required to pay more than 25% of their income under the Brooke Amendment.

The *Senate Enacted Bill* would provide substantially the same rental requirements.

(iv) *The Public Housing Homeownership Program:* Individual families or an association formed by them for their benefit would be permitted to purchase newly developed housing as well as existing projects. A conveyance of the property to the prospective homeowner would be made as soon as a mortgage with the public housing agency had been arranged. The maximum subsidy would be the same as the debt service subsidy that is provided for public housing rental projects which are not aided by an operating subsidy—the amount of principal and interest paid by the public housing agencies on the mortgaged property. The purchaser's contribution toward homeownership would be based on the same income formula as rental housing and would have to be sufficient to cover utilities, taxes and insurance.

The *Senate Enacted Bill* would provide substantially the same public housing homeownership program, but adopts NHC's recommendations relating to the disposition of projects to cooperatives as described in subparagraph 9 of our recommendations under Part III of this Chapter.

(b) The Senate Bill contains the provisions on Public Housing described below. Under each provision, we state the extent to which NHC recommendations have been adopted and our further recommendations.

The Senate Committee Report explains the provisions on public housing in the Senate Enacted Bill as follows:

Introduction

Chapter II of the bill would amend the United States Housing Act of 1937 to make needed improvements in the public housing program. The bill would modify the subsidy provisions so as to establish separate statutory limitations on the annual subsidy amounts which may be paid for capital and operating costs. The bill would also create a workable homeownership program for low-income families who reside in public housing or are eligible for such housing. The legislation also includes a number of other changes designed to make the public housing program more effective and would authorize additional funds for fiscal years 1973 and 1974.

Income limits and rents would continue as under existing law to be fixed by the public housing agency pursuant to State law, except as otherwise provided in the case of public housing agencies which contract to receive operating subsidies under section 9 of the revised Act. The rent fixed by a public housing agency could not exceed one-fourth of the low-income family's income, as under existing law. Income would be defined on the basis of a uniform definition of income applicable to all housing programs. In order to assure that all families with gross incomes pay at least some rent, the minimum rent would be at least equal to the cost of utilities for the dwelling unit. Occupancy would be limited to families who at time of entry are low income families. However, occupancy should, to the maximum extent possible, include a cross-section of families having incomes within the low-income range. At least 20 percent of all new housing development would be occupied by very low income families, as defined by the Secretary. The new occupancy requirements will provide an opportunity for public housing agencies to regain a cross-section of low income occupancy within their housing developments which prevailed in the early history of the program, but which is gradually being lost particularly in the largest communities. While it is expected that public housing will continue to give particular attention and priority to very low income families, the Committee expects that in the long run we would have more housing developments which are not occupied solely by the very poor, but by a cross section of lower income households, representing a variety of household types. Experience has demonstrated that a cross-section of occupany is an essential ingredient in creating economically viable housing as well as a sound social environment.

It is recognized by the Committee that existing public housing in many of our largest cities has become a concentration of very poor families and often predominately of families receiving public assistance. The provisions of this Act make it possible to develop new public housing with a cross section of low income families. At the same time, it is clear that steps must also be taken to alter the occupancy in existing public housing to achieve a similar cross-section of occupancy. It is the intent of the Committee that the Secretary of HUD take appropriate steps to assist public housing agencies to achieve this cross-section of occupancy in existing public housing within a reasonable time period.

Public Housing Subsidy Structure

The subsidy structure for the public housing program would be revised so as to provide a more effective statutory framework for the new operating subsidy authorizations enacted by Congress in 1969 and 1970. The Committee bill proposes to separate the debt service and operating subsidy authorizations and to establish separate statutory limitations applicable to each category of assistance. Existing law provides for a single statutory limitation for both debt service and operating subsidy, with a maximum limit on annual contributions based on the going Federal rate plus two percent times the capital cost of the project involved. Operating subsidy is therefore available to a project only to the extent, and only in amounts, that the debt service requirements of a project are less than the statutory maximum. This means that the amount available for operating subsidy is dependent upon the financing terms for development of a project—the locality which happens to finance the development of its projects at a time when more favorable terms are available becomes eligible for the greater operating subsidy. This is undesirable from the standpoint of achieving uniformity and equity in operating subsidy treatment and could result in the distortion of financing procedures.

Under the Committee's proposal, the limitation on the maximum amount of annual contributions for debt service is the amount needed for this purpose—*i.e.*, the annual amount of principal and interest payable on obligations issued by a public housing agency to finance the project involved. Consistent with the amendments enacted in the 1970 Act, the maximum amount of annual contributions for operating subsidy would be the annual amount needed to assure the low-income character of the project and to achieve and maintain adequate operating and maintenance services and reserves. With this change, the present authorization to pay an additional annual subsidy of up to $120 per dwelling unit occupied by a special category family would no longer be required and would be eliminated.

To assure that operating subsidy funds are allocated fairly and equitably, the bill would require any locality which receives such funds to establish minimum rental requirements. Action on this matter was deferred in connection with the 1970 legislation to permit further consideration as to what the income contribution ratio should be. The Committee took into consideration the prevailing practices in the public housing program, resulting from the strong local autonomy in the establishment of rental schedules, of varying rent-to-income ratios depending on local conditions and family characteristics. Accordingly, the bill provides for a certain minimum rental income calculated not on an individual unit basis but on the basis of the total number of units under a public agency's administration. The total rentals collected for all units would be required to be at least equal to 20 percent of the total incomes of all families in these units. The particular rent for each unit could be determined by the local agency subject only to the maximum rent of one-fourth of family incomes and the minimum rent of the cost of utilities.

Under the bill, any increases in rentals would be implemented in two stages: after the legislation has been operative for one year, one-half of the total amount of the required increase would be imposed when the first biennial review of income takes place; the full rental charge would be effective as of the next review of family income.

Localities which do not receive operating subsidy funds would not be subject to this income contribution requirement and would continue to fix their own rents, subject to HUD's approval. All localities would continue to be subject to the requirement that rents may not exceed 25 percent of family income—or be less than the cost of utilities.

The *Senate Enacted Bill* has adopted most of NHC's recommendations concerning the public housing formula, including the following:

1. To separate the debt service and operating subsidy authorizations and establish separate limitations applicable to each.

2. To eliminate the present maximum limit on annual contributions based on the going Federal rate plus two percent times the capital cost of the project. Instead,

(a) the limitation on the maximum amount of annual contributions for debt service is the amount needed to pay the principal and interest on the obligations issued by a public agency to finance the project involved; and

(b) the limitation on the annual contributions for operating subsidy is the annual amount needed to achieve and maintain adequate operating and maintenance services and reserves.

3. To improve the provisions in last year's Bill—which required any locality that received operating subsidies to establish minimum rental requirements—that NHC felt were overly burdensome. This has been corrected in this year's Bill to take into account the prevailing practices in the public housing program resulting from local autonomy in the establishment of rental schedules and varying rent-to-income ratios depending on local conditions. The Senate Committee Bill now provides for a minimum rental calculation which is not based on each individual unit, but is based on the total number of units under a public agency's administration. The total rentals collected from all the units are required to be at least equal to 20 percent of the total income of all the families in those units. The local agency can determine the particular rent for each unit, subject to the requirement that there is to be a maximum rent of 25 percent of family income and a minimum rent representing the cost of the utilities. (Unless the requirement to pay the utilities cost would result in undue hardship in an area because of its unusually high utility costs.) Note: Under current law, it is possible for some families to pay nothing.

4. To provide—as to localities which do not receive operating subsidies—that they would not be subject to the income-contribution requirement described in the preceding paragraph. In such cases, the local public agencies could continue to fix their own rents subject to HUD's approval. However, these localities would continue to be subject to the requirement that rents may not exceed 25 percent of family income or be less than the cost of utilities. (Unless the requirement to pay the utilities cost would result in undue hardship in an area because of its unusually high utility costs).

NHC recommends an amendment to the *Senate Enacted Bill* which would carry out the recommendation in the Senate Committee Report:

"That in the future public assistance authorities would provide that in those cases

where 25 percent of a public assistance tenant's income does not cover operating costs of a public housing unit, that payments to cover such a difference can be made by a public welfare agency directly to a local housing authority."

We believe that this matter is of such major importance that it ought to be included as part of the law, in order to induce public welfare agencies to take the necessary measure to implement the program. Accordingly, the Senate Enacted Bill should be amended specifically to provide that in those cases where 25 percent of a public assistance tenant's income does not cover operating costs, the public welfare agency will make a payment directly to the public housing agency to cover the difference between the amount paid by the tenant and the operating costs of the housing unit involved.

The *Senate Enacted Bill* did not accept NHC's recommendation that there be no increases in rental of tenants now living in public housing. Instead, it provides that in cases where a public agency receives operating subsidies and is required to meet the new income-contribution requirement (described in 3 above), the increases in rental would be implemented in two stages: one-half at the time when the first biennial review of income takes place after the passage of the new law; and the second one-half when the next review of family income takes place.

Income limits for eligibility

As under existing law, income limits for admission to public housing would be fixed by public housing agencies, subject to HUD approval. However, the proposed bill would delete the existing requirement that a public housing family must move if its income increases beyond the income limits for continued occupancy established by a public housing agency. This requirement has proved to be undesirable from the standpoint of achieving an economic mix of families in housing developments and has contributed to family insecurity and instability. • • • The new law would remove the 20 percent gap requirement which, under existing law, requires that there be a 20 percent gap between upper rental limits for admission into a project and the lowest rentals for standard private housing in this area.

This provision of the *Senate Enacted Bill* adopts NHC's recommendation and helps to contribute to NHC's objective to achieve more economic integration in public housing. This Senate Committee Bill provision adopts the NHC recommendation to eliminate the 20% gap.

Authorization

Authorizations would be increased by $300 million on July 1, 1972 and by $300 million on July 1, 1973.

The authorization for annual contributions provided for fiscal year 1973 includes an additional $150 million, as requested by the Administration, and an additional $150 million in new contract authority for operating subsidies. An annual ceiling of 335 million dollars has been set on contributions for operations of public housing agencies. Within this total figure, contributions may be provided by the Secretary of HUD to enable local public housing agencies to achieve and maintain adequate operating and maintenance services and reserve funds, while maintaining the low-income character of their development, as provided in the 1969 and 1970 Housing and Urban Development Acts. This latter authorization covers several matters. First, the "welfare rent amendment" of the 1971 Housing Emergency Act has resulted in income losses for public housing agencies of about $60 million, not anticipated in earlier authorizations. In addition, this present Act consolidates all previous contributions for operations, including special subsidies for elderly, large and very low income families, into one authorization. The new authorization of contract authority for fiscal year 1974 of $300 million is intended for new contracts for public housing.

It is recognized that the reduction of rents for families in public housing receiving public assistance to 25 percent of their incomes, as required by the 1971 Emergency Housing Act, means that additional housing subsidies will be utilized to offset inadequate welfare subsistence budgets provided in many States. There is continuing inequity in many respects relating to the way in which housing assistance relates to welfare assistance. It is the opinion of the Committee that housing subsidy should only have to be utilized to cover the capital cost of public housing development for families receiving public assistance; and that public welfare assistance should cover the operating expenses for a housing unit. Therefore, it is the hope of the Committee that in the future public assistance authorities would provide that in those cases where 25 percent of a public assistance tenant's income does not cover operating costs of a public housing unit, that payments to cover, such a difference can be made by a public welfare agency directly to a local housing authority.

These provisions of the *Senate Enacted Bill* adopt the following recommendations:

1. To increase to $335 million the annual ceiling set on contributions for operating subsidies for public housing.

2. To provide sufficient operating subsidies within this total figure to achieve and maintain adequate operating and maintenance subsidies and reserve funds, while maintaining the low rent character of public housing developments. The effect of this is to consolidate all previous contributions for operating subsidies including various special subsidies.

3. To include specific authorizations for an increase in the contract authority for annual contributions. The $300 million increase on July 1, 1972 (for fiscal 1973) includes $150 million which is intended for new contracts for public housing and $150 million for subsidies for new contracts for public housing. The new $300 million authorization for fiscal 1974 is all intended for new contracts for public housing. NHC continues to recommend that the authorization for fiscal 1973 should be $50 million more than the amount in the Senate Committee Bill and $100 million more for fiscal 1974.

Cost Limits for Public Housing Dwelling Units

The Housing and Urban Development Act of 1970 established flexible cost ceilings for public housing dwelling units, replacing the statutory dollar limits on construction costs per room. Under existing law, dwelling unit construction costs for the public housing program, excluding the cost of land, site improvements, and nondwelling facilities, cannot exceed by more than 10 percent the appropriate prototype construction cost in the same housing cost area, as determined by the Secretary, taking several factors into account. These procedures have worked well and the Committee has retained them.

Where low-income housing is provided in private accommodations under the leasing program, certain changes are necessary to make this program workable in some areas of the country. The Senate Enacted Bill contains the provision that such accommodations must not cost more than housing projects assisted under other public housing programs. In some areas the allowable costs are too low when determined on the basis of 110 percent of prototype construction costs plus the amount HUD allows for land, site improvements and non-dwelling facilities. Yet, in those same areas, the costs would be adequate if computed under the prototype formula applicable to assisted private housing under Section 502. In such cases, NHC recommends that new public housing provided in private accommodations should be permitted at costs comparable to those for assisted private housing.

It should be noted that the public housing limitation differs from the prototype mortgage limit applicable to assisted private housing because that formula is based upon 120% of prototype costs but it includes land, site improvements and nondwelling facilities. These are excluded from the public housing formula which is based on 110% of the prototype for only the construction costs.

Homeownership for Low-Income Families

The proposed public housing homeownership program would permit public housing tenants and low-income families eligible for public housing, including cooperative or nonprofit associations formed by or for the benefit of such tenants or families, to purchase low-income housing. With the aid of this new program, an individual family would be able to own its own home or a dwelling unit within a multifamily structure. An eligible cooperative or nonprofit entity could own entire projects. Newly developed or acquired housing, as well as existing authority-owned or leased housing now operated as rental units could be purchased. This would replace the program authorized by the Congress in 1965 under section 15(9) of the U.S. Housing Act which has not been workable because the required monthly payments are beyond the financial means of families of low income—in order to purchase public housing units the purchaser's payment must be sufficient to cover principal and interest, in addition to utilities, taxes, insurance, and maintenance.

The proposed homeownership legislation would provide subsidy assistance up to the full amount of the principal and interest payable by the local housing agency on the debt it has incurred in constructing or acquiring the property. The purchasing family would be required to contribute 20 percent of its income to "monthly homeownership expenses" (monthly amounts for principal and interest, insurance, taxes, and utilities), but in no case could the purchaser's income contribution be less than the full cost of operating the unit—the cost of insurance, taxes, and utilities. The program provides for the conveyance of the property as soon as the low-income family undertakes the obligation to purchase the property by executing a mortgage to the local housing authority. Thus, the family would enjoy all the benefits of homeownership immediately.

The potential for a successful public housing ownership program has been demonstrated under several homebuyers' programs developed through administrative action—such as Turnkey III These programs have served and will continue to serve a valuable function for families which do not have sufficient income to bear the minimum homeownership expenses required under the proposed new program. The proposed new program would facilitate the objectives of these homebuyer programs by permitting the low-income family to acquire full homeownership status at a much earlier date.

The Committee recognizes that the provision providing that full real estate taxes be paid in public housing could adversely affect the ability of some low income families to become home purchasers under the Turnkey III program. It is the intent of the Committee that the Secretary use his resources to insure that no families previously eligible to participate in this program will be denied such participation because of the new full tax payment requirement.

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Section 10 provides that in the case of sale of a project to a nonprofit cooperative which restricts occupancy to members, the mortgage may be in a principal amount equal to the sum of the unpaid balance of the housing agency's outstanding obligations, including obligations pursuant to the modernization program, and the prepaid expenses and costs involved in achieving cooperative ownership. After the sale of the project the annual contributions paid to the housing agency would continue to be used to assist in maintaining the low-income character of the project.

The *Senate Enacted Bill* adopts the NHC recommendations concerning the achievement of homeownership on public housing including cooperative ownership.

Definition of "elderly family"

The definition of "elderly family" would be modified to make eligible for public housing a single person who is at least 50 years of age. Under existing law, such persons must be at least 62 years of age to be eligible for public housing. • • • "Elderly families" means those whose heads or their spouses or whose sole members are at least 50 years of age, under a disability or handicapped."

NHC supports the foregoing amendments in the *Senate Enacted Bill.*

Financing provisions

Several amendments are proposed to facilitate the financing of project capital costs by permitting local housing agencies to issue obligations which are more acceptable to private investors. To permit bond issues with flexible maturity schedules, the bill would delete the present requirement that annual contributions be fixed in uniform amounts and paid over a fixed period of years. The bill would also provide for the issuance of obligations with balloon payments at the end of the term, by authorizing a combined pledge of both the Federal annual contributions and loan commitments. The National Bank Act would be amended so as to permit investment in such obligations.

NHC supports the foregoing amendments in the *Senate Enacted Bill.*

Full Property Taxes

The bill would provide for full tax payments to local communities for public housing projects placed under annual contribution contract after the effective date of this Act, providing uniformity in this respect between public housing and other federally-assisted housing programs. Such full tax payments also reflect the increased burden on local community services related to assisted housing, particularly the costs related to schools. A major purpose of the full tax provision to make it possible for new public housing to have access to a broader range of site locations, by assuring that a locality accepting such housing will not suffer a tax disadvantage. The section also authorizes the gradual increase in tax payments with respect to existing public housing projects, so that full tax payments will be achieved at the end of a 20 year period.

Recent changes involving reductions in tax payments to localities since such payments are based on 10 percent of shelter rents in public housing. This section is also designed to correct these inequities in current tax payments by public housing.

The foregoing provisions in the *Senate Enacted Bill* adopt the NHC recomendation for the payment of the equivalent of full taxes for public housing propects placed under annual contribution contract after the effective date of the new law. This will eliminate a discrimination that has existed against conventional public housing as compared with other Federally-assisted housing programs. As to existing public housing projects, the *Senate Enacted Bill* would authorize a gradual increase in tax payments so that the equivalent of full taxes will be achieved at the end of a twenty year period.

Leased Housing

The existing law requires that at least 30% of funds for public housing be reserved for leased units.

Between 1969 and the date when this provision became effective (June 30, 1971), the number of leased housing units placed under annual contributions contracts became a smaller and smaller percentage of the total number of units placed under these contracts. In 1969, this percentage was 36.8%; in 1970, 13.3%; in the first half of 1971, 11.4%. The percentage has been approximately 40% since the requirement became effective; nevertheless, the demand for leased housing still greatly exceeds the supply.

The Committee finds that leased housing has distinct advantages over the large public housing complex. With leased housing, the units remain on the tax rolls and pay their proper share for the support of schools and community services. Most importantly, leased housing eliminates the social and psychological stigma of coming from the "project". Leased housing is generally dispersed throughout the community. The children are not known as residents of public housing and the economic and social differences are less obvious to the public.

The 30% requirement has been changed to apply to units rather than annual contributions to ease the burden of administering the requirement.

With respect to new construction under the leased housing program, authorized in the 1970 Act, the Committee has received alarming reports of shoddy construction and exorbitant profits. The Committee expects HUD to immediately institute tighter inspection and appraisal procedures.

NHC supports the foregoing provisions in the *Senate Enacted Bill.* They adopt the NHC recommendation to modify the 30% requirement so that it does not apply to the total annual contribution funds available for public housing—which includes the operating subsidies. Instead, the requirement has been clarified so it will apply only to the number of public housing units.

Training in Housing Management

The Committee strongly supports the initiation of housing management programs designed to provide training in managerial techniques and to promote social responsiveness on the part of housing management staffs to the values of tenants of both public housing and Federally-assisted housing projects. In this connection, the Committee wishes to commend the recent actions on the part of the Secretary of HUD to encourage basic improvement in public housing management operations, including steps to develop a comprehensive public housing system which would provide increased tenant services.

The Committee is also aware of a recommendation presently under consideration by the Secretary of HUD to establish a Center for Housing Management with an Institute for Housing Management Training as a key component. The Committee endorses this type of approach as one potential method for meeting the national need for well-trained management personnel in assisted housing programs and encourages the development and implementation of training programs on a nationwide basis.

NHC supports the foregoing provisions in the *Senate Enacted Bill.*

Child-Care Facilities

Existing law provides Federal subsidy assistance for the provision and maintenance of child-care facilities in connection with the development and operation of low-rent public housing.

The Committee is concerned that child-care facilities have not been provided on a wider scale, and thus urges that HUD give immediate increased emphasis to such services. In this regard it is further recommended that the Secretary of HUD align his efforts with those of the Director of the Office of Economic Opportunity, the Secretary of HEW, and the Secretary of Labor to insure coordination within the Federal government in providing for adequate child-care programs and facilities.

This provision of the *Senate Enacted Bill* helps to carry out the NHC recommendation that adequate tenant and social services be included in public housing projects.

B. Other NHC recommendations

Repeal of Local Approval Requirement in Leasing Program. NHC recommends that the proposed Public Housing Program under Section 8 be amended to delete the requirement of local approval of each leasing project. This housing is located in private accommodations and pays full taxes. It should not be treated differently from other assisted housing programs.

The *Senate Enacted Bill* would not provide for a repeal of the local approval requirements for the leasing program.

Full Utilization of the Brooke Amendment. The Brooke Amendment in the housing and Urban Development Act of 1969 provides that the rent in public housing projects may not exceed 25% of the family's income; also, it authorizes additional assistance payments through annual contributions in order to achieve this objective and serve persons of very low income. To fully implement and extend the purposes of this legislation, the 1970 Housing Act (a) clarifies the use of annual contributions to pay the excess of operating and maintenance expenses over rental income and (b) increases the contract authority for annual contributions to enable the Brooke Amendment to be fully effectuated. We urge the release and full use of this contract authority for the purposes intended.

V. Provisions on urban renewal in Senate enacted bill and NHC recommendations on them

The Senate Committee Report Explains the Provisions on Urban Renewal:

Urban Renewal

The bill would amend Title I of the Housing Act of 1949 in order to assist certain small communities whose population has declined during the past decade in carrying out renewal projects. This section would specifically permit a small number of cities whose population has declined to below 50,000 (according to the most recent Bureau of Census date), after signing contracts to carry out urban renewal activities under a two-thirds federal—one-third local share arrangement, to convert remaining projects at any time prior to payment of the final grant, to a three-fourths federal—one-fourth local share program, as presently communities of under 50,000 by section 103 of the Housing Act of 1919. In adopting this provision the Committee recommends that such conversion only be permitted when there has been a significant—at least five percent—decline in population.

The bill would amend Section 103(b) of the Housing Act of 1949 to increase authorization for Urban Renewal Programs by $950 million for FY 1973 and by $300 million in FY 1974. In approving these additional authorizations the Committee took note of the fact that the Community Development Program provided for under this bill would replace the urban renewal program beginning in FY 1974. Urban renewal projects already in execution would be continued until completed. The Committee specifically provided for increased authorization under Title I In order to permit completion of projects already in execution through amendments to the existing contracts.

The Senate Enacted Bill provides specific increases in authorization for Urban Renewal of $650 million on July 1, 1972 (for fiscal 1973) and $300 million on July 1, 1973 (for fiscal 1974). These reduced amounts for urban Renewal authorizations are intended to cover the transitional period since there is a separate authorization for the Community Development Assistance Program prior to July 1, 1974 (for fiscal 1974) into which the Urban Renewal Program would be merged. It would be noted that the President has re-

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quested a billion dollar appropriation for Urban Renweal for fiscal 1973. NHC recommends an authorization of $3.5 billion in Urban Renewal Grants for fiscal 1973 in order to overcome the backlog of unfunded Urban Renewal applications and to restore momentum to this critically needed Urban Program.

VI. Provisions on model cities and NHC recommendations

The Senate Committee Report explains the provisions on Model Cities as follows:

Model Cities Program

The bill would amend the model cities statute so as to delete an unnecessary provision which places a special limitation on the amount of grants which may be made to a city demonstration agency. Under this provision the grant made for approved model cities activities is subject to an additional ceiling based on the aggregate amount of non-Federal contributions required for Federally assisted projects carried out as part of the local model cities program. The original purpose of this provision, to provide an incentive to cities to concentrate Federal resources in selected neighborhoods of great need, is accomplished under basic policies applicable to the model cities program. The special limitation serves no useful purpose and its deletion would eliminate burdensome administrative requirements at the Federal and local levels.

The bill would also provide an additional authorization of $400 million for model cities grants for fiscal year 1974 in order to complete the current five-year programs.

NHC supports this provision of the *Senate Enacted Bill.* We are gratified that the adoption of the Community Development Assistance Program will not cause any interruption in the completion of the current five-year programs for Model Cities. NHC continues to recommend a $1.5 Billion additional authorization for Model Cities instead of the lower amount contained in the Senate Committee Bill.

With respect to the Community Development Assistance Act Bill, the Report states that "The Model Cities Program was not included in the consolidation because it was enacted as a five year demonstration which has not yet been completed."

VIII. Program levels

Instead of the provisions of the Administration's Bill of open authorizations for all housing, urban renewal and model city programs, we recommend an additional authorization for each program for a five year period at the following levels:

(a) *Public Housing Program:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the public housing program:

On July 1, 1972 (for fiscal 1973) an additional authorization of $300,000,000. Note: An unused authorization of $130,000,000 of annual contribution contract authority which will carry over from previous fiscal years will be available.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300,000,000.

There are no additional authorizations for fiscal 1975, 1976, and 1977.

(b) *Public Housing Program Set-Asides For Modernization and For Operating Subsidies:* For annual contributions for improvements in existing projects, an increase in the set-aside of contract authorization to an aggregate of not more than $100 Million.

For annual contributions for operating subsidies in existing projects, an increase in the set-aside of contract authorization to an aggregate of not more than $335 Million.

These are set-aside authorizations out of the total contract authorization for annual contributions for public housing.

The *Senate Committee Bill* adopted the foregoing recommendations concerning the aggregate amounts of contract authorization which would be available for moderization and operating subsidies respectively.

(c) *Urban Renewal:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $3.25 billion.

On July 1, 1973 (for fiscal 1974) an additional authorization of $3.5 billion.

On July 1, 1974 (for fiscal 1975) an additional authorization of $4.0 billion.

On July 1, 1975 (for fiscal 1976) an additional authorization of $4.5 billion.

On July 1, 1976 (for fiscal 1977) an additional authorization of $4.5 billion.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for Urban Renewal:

On July 1, 1972 (for fiscal 1973) an additional authorization of $650 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $650 million.

These reduced amounts for the Urban Renewal authorization are intended to cover the transitional period since there is a separate authorization for the Community Development Assistance Program prior to July 1, 1974 (for fiscal 1974) into which the Urban Renewal Program would be merged. Note: The President has requested $1 Billion for Urban Renewal for fiscal 1973.

(d) *Model Cities:*

On July 1, 1972 (for fiscal 1973) on additional authorization of $1.5 billion.

On July 1, 1973 (for fiscal 1974) an additional authorization of $1.5 billion.

On July 1, 1974 (for fiscal 1975) an additional authorization of $1.5 billion.

On July 1, 1975 (for fiscal 1976) an additional authorization of $1.7 billion.

On July 1, 1976 (for fiscal 1977) an additional authorization of $1.7 billion.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increase in authorization for Model Cities:

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 Million.

There is no additional authorization for Model Cities on July 1, 1972 (for fiscal 1973), but the President's Budget Message requested an appropriation of $515 Million for fiscal 1973.

(e) *Home Ownership Program Under Section 402:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $250 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $325 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $350 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $350 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the home ownership program under Section 402:

On July 1, 1972 (for fiscal 1973) an additional authorization of $115,000,000. Note: There is an unused authorization of $55 Million of contract authority which will carry over from previous fiscal years.

On July 1, 1973 (for fiscal 1974) an additional authorization of $170,000,000. There are no additional authorizations for fiscal 1975, 1976, 1977.

(f) *Rental and Cooperative Housing Program Under Section 502:*

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

Unlike the Administration's Bill, the *Senate Enacted Bill* provides the following specific increases in authorizations for the rental and cooperative housing program under Section 502:

On July 1, 1972 (for fiscal 1973) an additional authorization of $225,000,000. Note: There are unused authorizations of contract authority of $98 Million for rent supplements and $25 Million for interest assistance under Section 236. These will carry over from previous fiscal years.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300,000,000.

(f) *Interest Assistance For Projects Assisted By State Agencies:* In addition to the foregoing authorizations in (e) and (f), NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1972 to provide interest assistance for projects financed or assisted by state agencies. The *Senate Enacted Bill* does not adopt this NHC recommendation.

VIII. Program objectives and conclusion

(a) *Program Objectives:* The program recommended in these resolutions would make housing available to families of all incomes and achieve economic integration. There would be no gaps or areas of unmet needs in our housing programs. Each family whose income is too low to obtain decent housing would receive the amount of assistance it needs to get such housing. We must reach the unserved income group below the level now eligible for public housing or rent supplements. Likewise, we must avoid a gap or area of unmet need above the level not eligible for moderate income private housing assisted with federal interest subsidies or below-market interest rates. To achieve these objectives we urge the adoption of the foregoing amendments.

(b) *Conclusion:* NHC supports and urges enactment of the *Senate Enacted Bill* which embodies programs that will greatly assist in meeting the housing and urban needs of the country. Among its major new features is a program to help achieve economic integration in Federally-assisted housing developments. The Senate Committee Bill includes many necessary amendments to the Administration's Bill in consolidating, simplifying and improving laws relative to housing and housing assistance.

NHC is gratified that the Senate Committee Bill includes many of the legislative proposals recommended by us. We appreciate the support of the Administration on a number of these amendments. These include some of the major amendments which this chapter describes as necessary to remove undesirable features and otherwise improve the Administration's Bill. In this chapter we have identified the extent to which these matters have been included in the Senate Committee Bill.

To the extent that the Senate Committee Bill does not contain all of our legislative proposals, we continue to recommend our proposals for inclusion in that Bill so that it will fully conform to our recommendations. Moreover, we recommend all of our legislative proposals to the House Banking & Currency Committee and its Housing Subcommittee and to the Congress and the Administration.

CHAPTER F. ADMINISTRATION'S PROPOSED DEPARTMENT OF COMMUNITY DEVELOPMENT AND PROPOSED REVENUE-SHARING PROGRAMS—OTHER PENDING BILLS

1. *New Department of Community Development:* In his State of the Union Message, the President proposed "a sweeping reorganization of the Executive Branch" which included a proposed Department of Community Development, described as:

"A department concerned with the community—rural communities and urban—and with all that it takes to make a community function as a community."

In the past, we have always supported the consolidation within one department of all the functions that relate to housing, urban development, model cities, new communities, planning, and other programs relating to communities.

The Department of Community Development (DCD) proposed by H.R. 6962 would consist of existing HUD programs and would also draw major programs from the Agriculture, Commerce and Transportation Departments and several agencies. Included in the proposed DCD would be all programs of HUD (except for college housing); Department of Transportation programs for highway construction and mass transit, and safety grant programs dealing with highway design and construction; Department of Agriculture programs of rural electrification, public facilities and housing (including Farmers Home Administration); programs of the Department of Commerce Economic Development Administration for financial and planning assistance for public works and development facilities (except business development) and that Department's Regional Action Planning Commisison; and the Office of Economic Opportunity programs of Community Action and "special impact."

Secretary Romney, in his testimony before the House Subcommittee stated:

"A single Federal department would thus administer the major Federal programs of assistance for the physical and institutional development of our communities. That is, a single Federal department would administer assistance for the planning and building of houses and supporting public facilities and highways; for strengthening State and local governmental processes; and for involving all interested public and private organizations and citizens in this endeavor.

"By bringing together programs concerned with community development, the new Department would move beyond fragmented Federal program administration. Equally important, it could move toward a community-oriented approach to problems. For the first time, there would be a Federal department having the ability to respond—in a coordinated manner—to local comprehensive community improvement programs. This means participation in articulating goals, setting priorities, and devising the best ways and means of improving not only the physical but also the economic and social environment of all our communities from the smallest village to the largest metropolis."

DCD would have three major general purpose administrations:

First, the Urban and Rural Development Administration would have the programs designed to assist the physical and institutional development of urban and rural communities, including the present HUD programs relating to new communities and community planning. This Administration would also include the Community Action and "special impact" programs of OEO; HUD's Urban Renewal, Model Cities, Open Space and Neighborhood Facilities Programs; the Water and Sewer programs of HUD, the Farmer's Home Administration and Economic Development Administration; the Public Facilities Programs of EDA and the Economic Rural Commissions and the Rural Electrification Program of the Department of Agriculture.

Second, the Community Transportation Administration would be built around Federal Highway Administration and the Urban Mass Transportation Administration.

Third, the Housing Administration would be built around housing production and management functions now in HUD and the rural housing programs of the Farmers Home Administration.

The new Department would also include the Federal Insurance Administration as it now exists in HUD.

Recommendations: NHC supports the proposed new Department of Community Development subject to the following changes and amendments in the proposal as submitted:

(a) We oppose the transfer to the new Department of the Rural Electrification Program, and the Farmer's Home and other rural housing programs.

(b) We oppose the transfer away from the new Department of the college housing programs.

2. *General Revenue Sharing:* NHC recommends against any use of the new General Revenue Sharing Plan to reduce Federal grant funds which are urgently needed—and should be increased—for existing programs including: urban renewal; model cities; mass transportation; water and sewer facilities; new communities; neighborhood facilities; open space; urban parks and urban beautification; health; education; training; or other vital needs. In short, the General Revenue Sharing Plan should represent *additional* funds and there should be necessary increases and full funding for all existing Federal grant programs to meet housing and urban needs.

As stated by the President in the State of the Union Message, his proposals include "a plan of revenue sharing historic in scope and bold in concept." Under this proposal the Congress would:

" . . . make a $16 billion investment in renewing state and local government. $5 billion of this will be in new and unrestricted funds, to be used as the state and localities see fit."

NHC favors the President's proposal for a $5 billion initial appropriation for the General Revenue Sharing Plan in order to meet the urgent needs of States and cities, many of which are facing financial crises. As to the Federal Government's assuming additional burdens and costs of the welfare system, we believe that this is a matter that should be separately considered on its own merits.

Under the proposed General Revenue Sharing, there will be increases in later years in the annual appropriation for the Program. With respect to annual increments above $5 billion for General Revenue Sharing, NHC recommends a formula in distributing these additional funds which would encourage and reward state and local governments that meet the national objectives of providing housing for the low and moderate income groups. Thus, if the local government issued certificates of occupancy for such housing funded by any federal, state or local subsidy program, that government should be entitled to an additional distribution under the General Revenue Sharing Plan as to the annual appropriation in excess of $5 billion. This will in no way restrict the use of the funds by the States and localities, but will merely affect the amount they will receive under the distribution formula.

3. *Special Revenue Sharing*—Community Development Assistance Bill, Chapter III, S. 3248 Introduced By Senator Sparkman And Passed by the Senate on March 2, 1972.

(a) *President's Recommendations.* In the State of the Union Message, the President proposed that Congress make a $5 billion annual investment in general revenue sharing as part of a total $16 billion investment in renewing state and local government. He then stated:

"The other $11 billion will be provided by allocating $1 billion of new funds and converting one-third of the money going to the present narrow-purpose aid programs into federal revenue sharing funds for six broad purposes—urban development, rural development, education, transportation, job training and law enforcement—but with the states and localities making their own local decisions on how it should be spent within each category. . . . The revenue sharing proposals will include the safeguards against discrimination that accompany all other federal funds allocated to the States."

In his Special Message to the Congress on March 5, the President recommended his Special Revenue Sharing proposal for Urban Community Development. We quote from his message some of the main features of the program:

"I recommend that four categorical grant programs now administered by the Department of Housing and Urban Development be consolidated into a single fund. The size of this fund in the first full year of operation would be $2 billion. Cities would be able to spend their money as they see fit, provided only that they used it for community development purposes.

"The four elements which would be combined to form this new fund would be the current programs for urban renewal, Model Cities, water and sewer grants, and loans for the rehabilitation of existing structures. The urban renewal program now contains several sub-categories the funds of which will become part of the new fund, including so-called "conventional" urban renewal, the Neighborhood Development Program, assistance for concentrated local code enforcement, interim assistance for blighted neighborhoods, demolition grants and rehabilitation grants. I am proposing that this new program begin or January 1, 1973. In its second year of operation, I would add to this fund by including the money which the Office of Economic Opportunity now spends on some of the elements of its Community Action Programs."

(b) *NHC's Recommendation on Special Revenue Sharing Plan and Support of The Community Development Assistance Bill of 1972 (Chapter III of the Senate Enacted Bill).* NHC believes that Federal grants should provide incentives to promote national programs and objectives relating to housing and community development. The adoption of the model cities program by almost 150 cities was largely attributable to the Federal program of planning grants and supplemental grants for model cities. Likewise, the participation of over 1,200 cities in the urban renewal program is largely attributable to the Federal program of planning grants and program grants for urban renewal.

We do not recommend the Administration's Special Revenue Plan in the form proposed in H.R. 8853, Community Development Bill of 1971. We believe the Administration's Community Development Bill fails to provide adequate incentives which assure the achievement of national goals and programs contemplated by the purposes of the categorical grants which would be consolidated. In contrast, these incentives and objectives are assured under the Community Development Assistance Bill of 1972—Chapter III of the Senate Enacted Bill, S. 3248 introduced by Senator Sparkman and passed by the Senate on March 2, 1972. The *Senate Enacted Bill* requires that the application for Federal assistance include a summary plan for community development outlining major goals and particular objectives. Moreover, that Bill requires an accounting of how the Federal funds are spent and a yearly performance

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statement, all of which will assure accomplishment of the national goals and programs covered by the Community Development Assistance. Accordingly, we support Chapter III of the Senate Committee Bill which embodies a special revenue plan of the type which NHC has previously recommended. Chapter III of the Senate Enacted Bill is entitled the Community Development Assistance Act of 1972. As such, the Bill primarily embraces Senator Sparkman's earlier Community Development Bill, S. 2333, as modified by the Committee. The Bill also includes certain provisions of the Administration's Community Development Bill.

(c) Senate Committee's Central Explanation of Chapter III, Relating to Community Development Assistance: The Senate Committee Report gives the following general explanation of the provisions of the Senate Bill relating to Community Development Assistance:

The most significant feature of the bill is the new block grant program to provide Federal assistance to localities for community development. This is brought about by consolidating and simplifying 5 major categorical urban development grant programs and replacing them with a single, more comprehensive, flexible and soundly-financed community development block grant program. The new program finally approved by the committee is basically the product of S. 2333, the Community Development Assistance Act of 1971 introduced by Senator Sparkman and the Administration's Urban Community Development Special Revenue Sharing bill, S. 1618. The committee adopted the block grant approach primarily to insure the priority use of Federal funds to eliminate slums and blight and to upgrade and make the nation's cities more livable, attractive and viable places in which to live. One of the most important provisions of the committee bill is the development of a 2-year Federal funding cycle at an assured and adequate level so that localities are always working with a known level of Federal grants for the next year as well as the current year subject only to meeting of minimum Federal performance standards.

In approving alternative provisions to the Administration-supported special revenue sharing proposals, the committee followed the Administration's plan calling for an overhaul and consolidation of existing urban renewal and related programs, but disagreed with the proposed plan for distributing Federal funds automatically to the nation's cities without proper regard to the use of such funds in carrying out the purpose of the program. The committee bill outlines specific objectives of the program and contains procedures to insure that the Federal funds are used to meet these objectives to the maximum extent feasible. This is done through four requirements.

(1) a pre-application needs analysis; (2) an application outlining the proposed use of funds, including a strategy and commitment on the part of the locality to meet its housing needs to eliminate its slums and blight, and to meet social needs of residents affected by community development activities; (3) a certification that the locality has met certain requirements with respect to planning and community participation; and (4) an annual performance statement. Continued federal funding would be contingent upon satisfactory compliance of these requirements.

The only exception to the application process would be for smaller cities of under 25,000 population which would be applying for Federal assistance for a single activity, other than an urban renewal activity, such as the financing of water and sewer facilities or open spaces. The committee believes such an exception should be used sparingly, on an interim basis. Eventually all localities requesting Federal funds for significant local development should be required to fulfill certain minimum standards relative to providing decent housing and eliminating slums and blight.

The Senate Committee Report explains the programs consolidated in the Community Development Assistance Act, as follows: "To carry out the purposes of the Act, the Bill would consolidate the following existing development program into a single community development program: Urban Renewal, Neighborhood Development, Water and Sewer, Neighborhood Facilities, Open Space, Public Works Planning Advances, Public Facility Loans and Advanced Land Acquisition.

"The Model Cities Program was not included in the consolidation because it was enacted as a five year demonstration which has not yet been completed. The Section 312 Rehabilitation Program was not included because it appeared likely that a number of communities might be prohibited by State and local laws from undertaking rehabilitation efforts under the Act. The Bill would, however, link the Community Development and existing rehabilitation loan program."

(d) *Summary of Senate Bill on Community Development Assistance and NHC Recommendations:* A summary of the provisions of the Senate Development Assistance Bill and NHC recommendations on them is as follows:

(A) *Effective Date of Program.* While Chapter III of the Senate Committee Bill would take effect on the date of its enactment, it does not contemplate that funds would be available until prior to July 1, 1974. Thus, the first $2.7 billion of grant authorization is to be appropriated for the period prior to July 1, 1974, which evidently contemplates its commitment during fiscal 1974. Accordingly, the Bill provides that no new grants or loans under the categorical programs (which are being consolidated under Community Development Assistance) are to be made after June 30, 1973, except with respect to projects or programs for which funds have been committed on or before that date.

(B) *Block Grants.* The purpose of Chapter III is to attack urban problems by "improving the present system of Federal assistance for community development." Chapter III encourages physical development and preservation of urban communities by consolidating the following categorical grant programs under one block grant called Community Development Assistance: development of community facilities including land acquisition; water and sewer grants; and neighborhood facilities; urban renewal; public facilities loans; open space land grants; and public works planning advances and loans. Provision is made for transitional termination of the existing categorical grant programs.

(C) *Authorization.* The Senate Committee Bill authorizes $5.9 billion over a two-year period. This is a change from S. 2333 which authorized $8.8 billion over a three-year period. Under the Senate Committee Bill, $2.7 billion is authorized to be appropriated prior to July 1, 1974, and the balance of the $5.9 billion prior to July 1, 1975.

Although the authorizations in the Senate Enacted Bill are less than the amounts which NHC recommends, they are more adequate than the amounts proposed under the Administration's program. While the Administration's Community Development Bill contains no specific dollar authorization, last year President Nixon pledged $2.1 billion for the first full year of the program. In his Budget for fiscal year 1973 (commencing July 1, 1972) the President has now requested more funding—in the amount of $2.3 billion—for urban community development revenue sharing. In HUD's Table 3 explaining this request, HUD shows a supplemental appropriation of $490 million for this special revenue sharing under proposed legislation above the amounts of funding contemplated for the categorical programs under existing legislation.

NHC recommends that these authorizations be increased by a total of $3 billion for the two years, with $1.5 billion added for the first year and a like amount added for the second year.

In addition to our recommendations above concerning authorizations for the proposed community development assistance program, NHC recommends an additional authorization of $3.25 billion in urban renewal grants in order to overcome the backlog of unfunded urban renewal grants in order to overcome the backlog of unfunded urban renewal applications and to restore momentum to this critically needed urban program.

(D) *Water and Sewer Grant Program.* NHC questions the feasibility of incorporating the entire water and sewer grant program within the community development program although NHC is in agreement that such facilities should represent eligible expenditures of grant funds for communities participating fully in the over-all program. However, the constituency for this popular and urgently needed program is so much boarder and contains so many governmental units which would be unlikely to participate fully in community development that NHC is fearful that the demands for water and sewer grants from such sources would seriously dilute the availability of community development grants for localities participating fully in the program. NHC therefore recommends that a separate water and sewer grant fund be maintained for use by local governmental units not wishing to undertake full community development programs. For this purpose, we recommend that an additional $500 million (above the amount in the Senate Enacted Bill) be authorized for each of the periods prior to July 1, 1974 and 1975 to provide a separate water and sewer grant fund for those applicants who do not wish to undertake the full community development programs. In this connection, we note that the Senate Enacted Bill authorizes the Secretary to waive the requirements for the full application process (which would otherwise be applicable to those seeking full community development assistance) in the case of localities which are (i) outside the standard metropolitan statistical area and have a population of less than 25,000 or (ii) those inside such an area but which are outside an "urbanized area" surrounding a central city with a population up to 50,000. Such a waiver is permitted only with respect to the first application filed by any public agency.

(E) *Allocation.* NHC does not concur in the Administration's proposed "outlay total" as the appropriate yardstick to measure the Federal Government's assistance to community development. Such outlays record the amounts paid on commitments during the previous and current fiscal years. We believe the outlays for these years were below the level which should be used as a test for allocations. Instead, we prefer the provisions of the *Senate Enacted Bill* which establish a "basic grant entitlement" for each community. This is to take into account not only past program-experience over a five-year period, but also other factors such as population, extent of housing, overcrowding and poverty.

Under the *Senate Enacted Bill* at least 75 percent of available funds shall be reserved for metropolitan areas. Allocation to an individual metropolitan area shall be determined by the ratio between that metropolitan area and all metropolitan areas in respect to the following: population, extent of housing overcrowding, poverty (weighted double), and extent of "program-experience", i.e., loans, advances, and grants for the programs in question during the five years prior to enactment. From the funds allocated to a metropolitan area, amounts shall be allocated to each metropolitan city, proportionately, on the basis of the above factors. The "program-experience" amount for each metropolitan city is the sum of the average, during the five years preceding the date of enactment, of loans, grants, and advances in these fields. An adjustment is provided where a metropolitan city would otherwise be entitled in its first year to more than 135 percent of the "program-experience" amount.

The remainder of the allocation for each metropolitan area shall be allocated to community development agencies based on such factors as population, extent of poverty, extent of overcrowding, and extent of program-experience. Any unit of local government which is not a metropolitan city will be eligible for annual grants equal to the program-experience amount for that locality, if any urban renewal program was carried out in the five years prior to enactment.

The foregoing allocation provisions differ substantially from Senator Sparkman's earlier Community Assistance Bill, S. 2333. That Bill provided a basic grant entitlement for each locality which was determined by the three years—during the five-year period preceding the date of application—in which the amount of such assistance was the greatest. Also omitted is the provision in S. 2333 for a built-in 15 percent increase annually for grant entitlement to community development agencies.

NHC recommends an amendment to the basic grant entitlement formula to meet the needs of new communities who will not have received many grants in the past and do not have much population or otherwise meet the criteria in S. 3248. Accordingly, an amount computed on its grant program experience or other criteria in S. 3248 would not be appropriate. Such new communities require a formula which takes into account future needs based upon the new population they will attract and all of the public facilities and services they will require

(F) *Grants.* Grants to community development agencies shall not exceed 90 percent of total net program cost. The limit is increased to 100 percent to cover housing relocation payments (not to exceed $25,000 for any displaced person) and for rehabilitation grants (a grant of not more than $4,000 to a low-income family). NHC supports these increases in the percentages of project costs to be covered by Federal grants.

The 10 percent local share could continue to be met by non-cash credits. However, the criteria for these non-cash credits are more stringent than currently permitted under existing practices in the Urban Renewal Program. NHC recommends that the 10 percent local share should allow non-cash credits of the same types and in the same manner as is now allowed under existing rules and practices in the urban renewal program.

(G) *Relocation Payments.* NHC strongly supports the provision in the Senate Bill for 100 percent Federal grants for relocation payments. This is particularly necessary because there is a serious problem arising under the Uniform Relocation Act as a result of legislation which imposes a requirement of a local contribution of one-third toward the relocation payments. This provision is completely unworkable so far as Urban Renewal Agencies and others involved in housing and redevelopment activities are concerned. There has been an Administration ruling that these provisions will not apply to Urban Renewal contracts executed before January 1, 1971. However, it is important to remove this requirement in the new legislation.

(H) *Loans.* The Secretary may make loans to community development agencies to provide short-term financing for planning and operating activities pending the receipt of grant assistance. Loans will be secured and will bear interest at not less than the going federal rate. To obtain loans, the Secretary may issue notes for purchase by the Secretary of the Treasury in the amount of $1.5 billion. The terms of the notes shall be prescribed by the Secretary of HUD with the approval of the Secretary of the Treasury. The Secretary of the Treasury is "authorized and directed" to purchase such notes.

(I) *Procedure.* Each annual application for financial assistance by a community development agency must include an outline of community development needs and objectives, and also programs for the next three-year period to meet housing and replacement needs, to eliminate slums and blight and to improve and upgrade community services and facilities. The application must also describe activities for the next two-year period designed to meet community development objectives and their estimated costs, the general location, and requirements for federally assisted housing and rehabilitation. The applicant must certify that the community development program is consistent with areawide development plans, that public hearings will be afforded prior to acquisition of private land, and that adequate opportunity has been afforded for citizen participation and meaningful involvement of area residents.

The Secretary must make his determination with respect to any application within 90 days. No application shall be approved unless the Secretary finds that the community has carried out its contractual commitments pursuant to any previous application.

(J) *Priority of Funding and Processing Applications.* HUD has recently issued a proposed project selection system for certain community development programs. HUD claims this selection system would assist in the selection of project applications for funding under the Neighborhood Development Program, the Open Space Program (Legacy of Parks), the Neighborhood Facilities Program and the Public Facility Loans Program. Project applications will be reviewed in the HUD Area Office by a team consisting of Community Development staff. Funding will be made available only after three distinct review activities occur:

First, the application will be judged against statutory related prerequisites to eliminate inappropriate proposals or clearly ineligible projects;

Second, the application, if it meets the prerequisite test, will be evaluated against certain numerically rated criteria; and,

Third, those applications ranked high enough to justify further processing in accordance with established procedures will then be reviewed for technical compliance with all relevant statutory requirements including those for which a preliminary judgment was made as to apparent eligibility in the prerequisite review.

No funding commitments will be made until after all three of these technical compliance reviews are completed.

NHC recommends against the use of this project selection system as this system completely ignores the basis upon which most pending applications were predicated. We recommend that HUD follow the mandate in the 1959 Housing Act which requires that applications be processed and funded in the order of submission and that approval or disapproval be based on the need and feasibility of such applications. The 1959 Housing Act contained a provision requiring the Administrator of Urban Renewal to consider urban renewal applications on a first-come, first-served basis except for projects that were urgent or extremely desirable. NHC recommends that this former congressional mandate be re-enacted as part of Chapter III of the *Senate Enacted Bill.*

(K) *Assurance That Assistance Accomplished National Goals and Programs.* Thus, the Senate Enacted Bill would require a prior statement summarizing community goals for a three-year period, giving a detailed program and budget for the first two years for which assistance is requested. Not only must the community development agency make a prior declaration of its goals and particular objectives, but it is subject to specific accounting of how the Federal funds are spent; also, it must submit an annual performance statement. All of these are intended to assure that the grant funds are utilized to accomplish the national goals and programs covered by the Community Development Assistance. In addition, the Senate Enacted Bill would require a community program to meet housing needs of low and moderate income families and to carry out systematic enforcement. Once the application is approved, the Secretary of HUD, to the extent he deems it feasible, shall reserve funds for the Federal assistance required for these housing programs.

(L) *Conclusion.* NHC urges the passage of Chapter III of the Senate Enacted Bill as it provides an excellent system of Federal assistance for community development. As set forth above, we recommend several amendments to the Bill, including increases and additions to the authorizations. NHC believes that any plan of Federal distribution of funds to local communities should include provisions of the type contained in this Bill which require the local agency's plan and particular objectives for community development, together with adequate provisions to account for the funds spent and to make a performance report.

CHAPTER G. LOW RENT PUBLIC HOUSING

I. Summary of existing legislation

1. *Need.* There is a tremendous unmet need for additional housing to serve the low-income group who cannot be decently housed without the aid of Federal subsidies. Many of the ill-housed in this income group are living in the slum and ghetto areas of our cities. Their unmet need for adequate housing has contributed to the crisis in our cities. Cities throughout the country have recognized the urgency of building additional public housing. Applications for additional public housing units are now being submitted to HUD at an annual rate of about 140,000 units.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) *Authorizations for Annual Contribution Contracts.* The 1968 Act provided an increase in the contract authorization for annual contributions of $100 million upon its passage and an additional $150 million on July 1, 1969, and July 1, 1970. The 1969 Housing Act increased the authorization for annual contribution contracts by $75 million as of July 1, 1969, and by $20 million on July 1, 1970. It was hoped that these increased authorizations would provide about 375,000 low-rent dwelling units over the 3-year period for the public housing program.

(b) *Tenant Services.* The 1968 Act authorized HUD to make grants to local housing authorities to assist in financing tenant services for tenants of public housing. $15 million in appropriations for grants were authorized for fiscal year 1969 and $30 million for fiscal 1970. The 1969 Act extended these authorizations through fiscal year 1971. The tenant services include: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services.

(c) *Limit on High-rise Projects.* High-rise public housing projects for families with children are prohibited except where HUD determines that there is no practical alternative.

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(d) *Leasing Program.* HUD was prohibited from prescribing limitations on the types or categories of structures or dwelling units (other than those provided in the law) which can be leased under the public housing Section 23 leasing program.

(e) *Additional Subsidy for Certain Families.* An additional annual subsidy of $120 was authorized for public housing units occupied by large families or families with very low incomes. In the past a like subsidy has been limited to the elderly and displaced families.

(f) *Loans for Public Housing Projects.* The 1969 Act increased from 90 to 100 percent the maximum amount of Federal loans or loan commitments authorized for financing the acquisition or development of a low rent housing project with respect to which annual contributions are to be made. Section 9 is used primarily to enable local housing authorities to obtain temporary financing for the acquisition or construction of a project by the sale of short-term notes backed by a Federal loan commitment. With a loan commitment of 100 percent of a project's acquisition or development cost, a local housing authority would be able to schedule the issuance of long-term bonds for permanent financing when most advantageous to itself and the Federal Government rather than just prior to acquisition or when development costs reach the 90-percent level.

(g) *Public Housing Annual Contributions.* Section 10(b) of the USH Act was amended to clarify existing authority to fix the amount of the annual contributions to public housing projects at an amount in excess of the debt service requirements of the projects so long as the fixed contribution does not exceed the maximum annual contribution authorized in that section.

(h) *Notifications to Applicants for Admission to Public Housing Projects.* The 1969 Act amended Section 10(g) of the USH Act by adding a new paragraph requiring every contract for annual contributions for a low-rent housing project to provide that the public housing agency shall notify promptly any applicant determined to be ineligible for admission to a project of the reason for such determination and provide the applicant, within a reasonable time after the determination is made, with an opportunity for a hearing on the determination. Applicants who are determined to be eligible for admission to a project must be notified promptly of the approximate date of occupancy insofar as this can be reasonably determined.

(i) *Elimination of Workable Program Requirement With Respect to Low-Rent Projects.* The 1969 Act amended Section 101(c) of the Housing Act of 1949 and Sections 10(e) and 23(f) of the USH Act to eliminate the workable program requirement for low-rent public housing and Section 221(d)(3) projects.

(j) *Reduced Rentals for Very Low Income Tenants of Public Housing Projects—Brooke Amendment.* The 1969 Act amended Section 2(d) of the USH Act to provide that rent in public housing projects may not exceed one-fourth of the family's income, defined by the Secretary of HUD. To make it possible to serve very low income persons in public housing, additional assistance payments were authorized within the existing annual contributions framework. To provide necessary funds for this purpose, $75 million was added to the authorization for annual contributions contracts under Section 10(e) of the USH Act.

The requirement that rents fixed by public housing agencies may not exceed one-fourth of the low-rent housing tenant's income does not apply in any case in which the Secretary determines that by limiting the rent of a tenant there will result a reduction in the amount of welfare assistance which would otherwise be provided to the tenant by a public agency.

(k) *Applicable Going Federal Rate.* The 1969 Act amended Section 14 of the USH Act to provide that any contract for annual contributions, loans, or both, may be amended or superseded for the purpose of insuring the low-rent character of the project involved so that the going federal rate on the basis of which such annual contributions or interest rate on the loans, or both, are fixed shall mean the going federal rate of the amending or superseding contract.

3. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Public Housing Annual Contributions.* The 1970 Act amends section 10(e) of the United States Housing Act of 1937 to increase the contract authority by $150 million, and by $225 million on July 1, 1971, for the public housing program.

(b) *Public Housing Rent Requirements.* The 1970 Act amends section 2(1) of the Housing Act of 1937 to provide more specific guidelines with respect to the maximum rental permitted to be charged tenants in public housing projects by providing a statutory definition of income for purposes of establishing maximum rentals at one-fourth the tenant's income. Family income includes income from all sources of each member of the family residing in the household who is at least eighteen years of age, but excluded are (1) nonrecurring income, as determined by the Secretary, (2) an amount equal to the sum of (A) $300 for each person in the household under eighteen years of age, and (B) 5 per centum of the family's gross income (10 per centum in the case of elderly families), (3) $300 for each secondary wage earner, (4) medical expenses of the family properly considered extraordinary; finally, (5) the Secretary may allow further deductions in recognition of unusual circumstances.

(c) *Public Housing Cost Limits.* The 1970 Act substitutes a new formula for establishing limits on the construction costs applicable to public housing projects which would be based on cost factors prevailing in each area rather than on national standards. Under the proposed formula, the Secretary of HUD would periodically "cost out" prototypes of various types of projects in each area suitable for occupancy by public housing tenants. These various types could include high-rise elevator structures, walk-up projects, detached or row houses, projects designed for the elderly and handicapped, and congregate and dormitory-type housing, and others as necessary. Prototype cost would be determined on the basis of complete plans and specifications for the particular type of project. These plans and specifications could vary from one part of the country to another to reflect differences in climate, design standards and specifications.

(d) *Amendment of Contracts to Assure Low-Rent Character of Projects.* The 1970 Act clarifies the use of annual contributions to pay the excess of operating and maintenance expenses over rental income incurred by public housing agencies.

(e) *Low-Rent Housing in Private Accommodations.* The 1970 Act amends section 10(e) of the United States Housing Act of 1937 to require that at least 30 percent of the dwelling units for which contracts for annual contributions are entered into pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be units in private accommodations provided pursuant to section 23 of the United States Housing Act of 1937.

(f) *Funding of Tenant Services.* The 1970 Act repeals the grant program for tenant services in public housing projects and authorizes such services to be financed out of project income and annual contribution payments.

(g) *Congregate Housing for the Elderly, Displaced and Handicapped.* The 1970 Act amends section 15 of the United States Housing Act of 1937 by adding a new paragraph (12) which would direct the Secretary to encourage local public housing agencies to develop congregate housing for the displaced, elderly and handicapped. Congregate housing is defined to mean projects with central dining facilities where some or all of the units do not have kitchen facilities. The dining facility would be required to be operated on a self-supporting basis; however, any expenditures, other than for food or services, could be considered a cost of the administration of the project. The section also provides that not more than 10 percent of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing.

(h) *Policy Statement.* Section 211 of the 1970 Act amends section 1 of the United States Housing Act of 1937 to state, as the policy of Congress, that public housing tenants should not be barred from serving on the board of directors or other governing body of a local public housing agency.

II. Recommendations

1. *Urgent Need to Make Authorizations Available for Commitment.* The Budget Request dealing with Fiscal Year 1973 contains cut-backs in the public housing program. The Administration requests only $183 million of new contract authority to be added to a carry-over of $130 million in unused contract authority. Thus, the Administration intends to commit only about 75,000 new units in fiscal 1973. This will continue the serious difficulties already facing the public housing program. The new starts for fiscal 1973 should be 90,000 units which is less than one-half of the annual number of units we need to meet our goals. Reducing the new commitments for fiscal 1973 to 75,000 units will only put us further behind in meeting our goals. Moreover, many public housing authorities are facing large operating deficits which are due to inflation; also, the additional funds are needed to implement the Brooke Amendment so that low income tenants do not pay an excessive proportion of their income for rent. While HUD has released $60 million of the $75 million currently available for these subsidies, NHC urges that all available authorizations be released immediately to meet this critical condition as contemplated by the 1970 Housing Act.

2. *Necessary Authorization.* NHC recommands the following schedule of authorizations for the Public Housing Program for new units to be developed:

On July 1, 1972 (for fiscal 1973) an additional authorization of $350 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $400 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $450 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $500 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $500 million.

3. *Increases in Legislative Authorizations.* There is a need to increase the authorizations as outlined in paragraph 1, above, for public housing to an average annual rate of 200,000 units for a 5-year period. Initially, the annual rate should be 150,000 units, but it should be accelerated each year until it reaches 250,000 units in the fourth and fifth years. This should include public housing of the conventional type, along with turnkey housing and leasing programs.

4. *Immediate Release of All Available Funds.* NHC deplores the action by the Bureau of Budget and Management that froze the $150 million of supplemental authorizations for Fiscal Year 1971 for many months and delayed meeting urgent needs.

5. *Continuation of Established Appropriation Procedures.* During the floor debate on the 1970 Housing Act, Congressman Davis offered an amendment to subject authorizations for annual contributions to approval in appropriation acts. NHC deplores and strongly opposes the intent of this amendment. There is no justification to change the long-established and satisfactory practice covering authorizations for annual contribution contracts. It has been in successful operation for 35 years since the 1937 law was enacted. NHC urges that the Housing Subcommittee reject this proposal.

6. *Other Legislative Amendments.* We should perfect the existing public housing programs in light of our experience. In the conventional public housing programs, this requires the following new federal aids to meet conditions that have been too long neglected:

(a) NHC approves the objective in the 1969 Housing Act, as reaffirmed in the 1970 Act, to establish a maximum percentage of a tenant's income which is required to be paid as rent by public housing tenants. However, NHC recommends that 20% instead of 25% of a tenant's income should be the maximum rent. The 25%-of-income requirement is too high for low income families to pay for housing in view of their need to use income for other essential living expenses.

(b) We recommend an amendment which would make subsidies available without reference to maximum income limits. The subsidies would be the amount needed after the occupant pays the required percentage of his income.

(c) Neither the program to lease privately-owned housing for public housing purposes, nor the rent-supplement program for those of public-housing incomes requires a local financial contribution in the form of exemption from local real estate taxes. Conventional public housing projects are therefore at a disadvantage in gaining acceptance by local governments, since these projects require tax exemption and pay only 10% of shelter rents in lieu of taxes. To eliminate this disadvantage, NHC recommends that local housing authorities be permitted to make payments in lieu of taxes equal to full taxes. Federal annual contributions should be increased to cover the payment of a full tax equivalent.

(d) Special federal grants should be authorized to offset the impact of locating low and moderate income housing in suburban and other areas where costs must be incurred for education, health or other services to the extent they cannot be met from collections of full taxes on the property. Such federal grants would provide an incentive and inducement to suburban and other communities to accept low and moderate income housing since it would not impose an additional financial burden on the community.

(e) Until such time as a full tax equivalent is paid on public housing as recommended above, there should be a federal payment to cover costs of sending public housing children to local schools; accordingly, NHC deplores the fact that the language of the Elementary and Secondary Education Bill which provided for such payments was deleted.

(f) There should be a HUD authorization to make federal capital grants to cover the full amount of land and site development costs in excess of the reuse value of the improved land for new low-rent public housing projects which are not located in urban renewal areas; also HUD should have authority to make such federal grants for a write-down on buildings acquired for rehabilitation.

(g) The present law provides for disposition of public housing to residents when the housing is sufficiently separable for ownership by the residents. We recommend an amendment to authorize sale of an entire project—including turnkey housing—to a cooperative with a membership limited to those who will reside in the project which will maintain its low-income character. The sale should be made subject to the continuance of the outstanding bonds of the local housing authority and the pledge of federal annual contributions as security therefor, including the additional bonds (and annual contributions pledged therefor) issued to finance necessary rehabilitation, costs of achieving home ownership and prepaid expenses. The proposed NHC amendment would make it possible for residents of public housing to achieve cooperative home ownership and to produce better and more stable communities. Further, instead of requiring over-income families to move out, they should be allowed to acquire cooperative home ownership by paying a higher monthly charge which they can afford, based upon a percentage of their increased earnings. This amendment will give public housing tenants an incentive to better themselves. As to public housing tenants whose incomes have not increased, they should be permitted to remain in the project as members of the cooperative—receiving the benefit of annual contributions so long as they qualify as low income families. The price and mortgage on the sale of a public housing project for cooperative ownership should be the outstanding principal balance on the outstanding bonds on the project including those issued for necessary rehabilitation and other costs.

(h) Repeal the provision in the U.S. Housing Act of 1937, as amended, which requires a 20% gap between the lowest private and the upper public housing income limits for admission.

(i) Permit low-income individuals—in addition to low-income families—to be eligible for occupancy in low rent public housing. NHC recommends the removal of the 10% limit on the number of units in a project which may be occupied by low income individuals as distinguished from low income families.

(j) Make the necessary changes to permit construction in a municipality of low-rent public housing for those of low income who will later migrate to the municipality for employment in industries located there or in service activities. This would include new communities or municipalities outside of central cities. It would facilitate dispersal of population and reduction of the concentration of low-income families in central cities.

(k) In new and existing low-rent housing projects, there is a great opportunity to provide social impetus and vitality not only to those living in the development, but also the neighborhood. The need is both for physical community facilities on a large scale and for skilled and dedicated personnel to operate them imaginatively. A program was authorized by the 1965 Act for two-thirds federal grants to assist communities in developing neighborhood facilities of all types, with preference to those in neighborhoods involving the anti-poverty program. While this affords a new opportunity to obtain needed physical facilities, the law should be amended to provide for necessary social and counseling services in such neighborhood facilities. Where funds or services cannot otherwise be obtained, local authorities should be permitted to use project funds for this purpose. Adequate funds for social and counseling services should be included in the project budget. We believe the 1970 Housing Act permits this under the amendment allowing project income and annual contributions to be used for tenant services. If any clarification is required to cover all of the foregoing services and facilities, we recommend a further amendment which would accomplish this.

(l) There should be an amendment authorizing the leasing of available private housing outside central cities for low-rent housing purposes. Such leasing should not require approval by the governing body of the municipality involved. Parenthetically, state laws should likewise be amended to enable local authorities to lease such housing outside central cities.

(m) The Section 23 leasing program should be amended to permit longer term leases as this will encourage more private owners to participate in the program. The leasing program should be available for use in connection with any FHA-insured housing so as to help achieve economic integration. It should also be available for use in connection with FHA-insured nursing homes.

(n) The 1965 Act repealed as to future projects the requirement of Section 10(c) of the United States Housing Act of 1937 that annual contributions to a public housing agency be reduced by any amounts by which the receipts of the agency exceed its expenditures. As a matter of fairness and to meet the needs of public housing agencies, NHC recommends that this repeal should also apply to public housing projects existing at the time of the 1965 Act, as well as future projects.

(o) There should be no income limits for continued occupancy in public housing. Instead, people should be permitted to stay in public housing if they wish upon paying the prescribed percentage of their income—where permitted under state law—but not in excess of the economic rent.

(p) NHC recommends the deletion of the amendment in the 1970 Housing Act requiring that at least 30% of the contract authority for annual contributions be used for the leasing program. This is particularly important because HUD is interpreting this requirement as applying to the contract authority for operating subsidies, which has the effect of increasing the total required percentage of the contract authority available exclusively for new construction for leasing.

7. *Administrative Actions.* NHC recommends and approves the following administrative actions by HUD:

(a) As permitted by the 1970 Housing Act, additional annual contributions should be made to meet all costs except those which low income families can afford in rentals. This should include not only the debt service, but also adequate maintenance, security, conservation and operation of public housing, and additional services. It should also cover the cost of work required to comply with anti-pollution legislation. The present needs and costs are higher than those which prevailed when the original annual contribution contracts were signed. If the annual contributions are not raised, local housing authorities will be forced to increase rents and income limits. This would jeopardize the continued achievement of the purpose of this program to serve low income families. Also, it will cause the deferment of necessary maintenance and repairs, thereby jeopardizing the physical condition and long-term life of the property. Most of the present annual contributions were computed to assure their adequacy to meet debt service, but without provision for the increased later costs of maintenance and operation, or the need for additional services. There has been criticism of conventional public housing because of its failure to provide necessary services and because of its failure to carry out adequate renovation. Correction of these conditions (with additional annual contributions for this purpose) should remove the cause of this criticism and produce a better living environment in public housing.

(b) The annual subsidy formula should be revised to permit the payment of the maximum annual contributions authorized by law, with residual receipts being used either for project rehabilitation or improvement. At any time after completion of a public housing project, provision should be made for reopening development cost, if

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necessary, to make additional loans for needed rehabilitation improvements, or other purposes, with annual contributions correspondingly increased.

(c) While we believe the proposal for private management of turnkey housing is of dubious merit, we favor testing this new approach to determine whether it will produce benefits or improve techniques in the management of public housing and the achievement of the program's social objectives. The proposal should be recognized as a pilot and experimental program to be determined by local housing authorities. Meanwhile, NHC reaffirms the wisdom of continuing the present tested management operations through local authorities. They have long experience in handling the operations and problems and social aspects of public housing management. Moreover, they are clearly motivated by the public interest in managing public housing to serve low-income families. Local housing authorities should be allowed the same budgets for their operations and management services on turnkey housing as are proposed for private management. NHC also recommends approval of experimental programs of local housing authorities for management of public housing by nonprofit organizations, since they likewise have motivations of public interest and social welfare.

(d) We again commend HUD for its flexibility in using existing legislative tools to develop a program which will enable low-income families to live in the same projects as families of moderate incomes instead of isolating families of each income group. Under this program, the low-income family can continue in occupancy when its income increases, but will no longer receive public housing subsidies; instead, it will get the benefit of a below-market interest rate. When the family becomes self-supporting, it will pay the full market rate of interest.

(e) The special subsidy for housing elderly and displaced persons is now available only in the event of a deficit operation. NHC recommends that this subsidy be made available generally in an amount equal to the difference between the rent paid per month and the average cost of operation.

(f) The 1968 Housing Act emphasizes the importance of good public housing design to the low-income family and to the local community. The Nation is concerned not only with the quantity of new public housing, but also with its quality. He urge HUD to take all actions necessary to achieve higher design standards for public housing developments.

(g) NHC recommends necessary adjustments in public housing income limits in those localities which have failed to keep pace with the increases in costs and incomes; also, there should be a recognition of the larger income which larger families require. Thus, there is no justification for a public housing limit for a larger family which would make a welfare recipient ineligible for occupancy.

(h) NHC recommends a revision in the letters of intent used by HUD in its turnkey housing program, in order to make it mandatory for housing authorities to purchase the land and plans from the developer if—for any reason—the local housing authority and the developer fail to execute a contract to purchase.

(i) NHC suggests that local housing authorities draw down the purchase price of the completed improvements at the time of signing the turnkey contract of sale. This sum would then be deposited to the credit of the local housing authority with a banking institution in the community in which the project is being built and a Certificate of Deposit would be issued to the local housing authority bearing interest at the highest going rate. In consideration of the deposit, the banking institution would agree to make the construction loan to the turnkey developer at an interest rate not more than 2 percentage points higher than the interest paid by the banking institution to the local housing authority on the Certificate of Deposit, plus normal operation and service charges and fees.

(j) HUD is currently working on the final version of new regulations for the Turnkey III and IV Programs. The Turnkey III Program will provide home ownership opportunities for low income families in projects which are initially owned by public housing authorities. Turnkev IV will provide similar home ownership opportunities in projects that are privately owned. The Turnkey IV Program has the advantage of paying full taxes and requires no local approval. Cooperative, nonprofit and profit motivated sponsors are eligible to initiate Turnkey IV Programs. NHC urges HUD to issue and implement Turnkey III and IV regulations which will enable achievement of home ownership status in a reasonable length of time. To insure that these programs receive a fair chance to succeed, HUD should earmark an adequate amount of the annual contribution contract authority for such programs. For turnkey projects financed under FHA programs, NHC recommends the use of FHA practices such as negotiated contracts with those who initiate these programs. Competitive bidding is not consistent with FHA practices and procedures. Moreover, negotiated contracts would provide a better opportunity for minority contractors to initiate such programs.

(k) The Section 23 leasing program should be administered in a manner which will permit longer term leases as this will expand the program including the encouragement of more new construction and rehabilitation.

(l) NHC recommends that the documentation required to qualify initially for the leasing program elminate the unnecessary requirement for development of detailed hypothetical data as to the extent of the potential supply of units.

(m) We urge HUD to restore the availability of consolidated annual contribution contracts and operating budgets for use by local housing authorities. This mechanism has been essential to enable most local programs involving more than one project to serve adequately a cross section of needs in the low income group. Also, this procedure has been necessary for the proper operation of projects with substantially different sizes, ages, neighborhoods, and design characteristics. Insistence by HUD on a separate annual contributions contract for each new project will exclude many development opportunities and impair sound and flexible management operations.

(n) When the local housing authority renews leases under the leasing program, there should be a price adjustment in the lease that takes into account price level changes.

(o) Late in the spring of 1971, HUD officials instituted a program of utilizing prototype cost limits for public housing as provided in the 1970 Housing Act. The schedule provides for four types of buildings: detached and semi-detached; row houses; walk-ups; and elevator buildings. Prototype cost limits have been published for almost all areas of the country. NHC recommends that all programs initiated under the old statutory maximums continue with the rules applicable to them when they were initiated. In addition, NHC recommends that HUD constantly review the prototypes as to their reasonableness. NHC has received many reports concerning the unrealistically low levels of the limits established under the prototype program.

(p) Late in the summer HUD announced a system for consolidating public housing subsidies and for advance funding to enable housing authorities to know what their funding will be for the year ahead NHC applauds such a concept.

(q) In mid-September HUD announced the delegation of more authority to local housing authorities for the modernization program including formulating its operating budget. The new HUD area offices can approve such modernization plans within HUD-approved budget amounts. Under this proposal a local housing authority can submit its proposed budget to the local governing body for approval without further Federal review. NHC applauds this delegation of authority to local agencies.

(r) NHC urges that HUD amend its site selection criteria which make it impossible for a new housing authority to receive a superior rating if it does not have past experience. In addition, they often preclude building housing projects already programed in urban renewal areas. Finally, they often make it impossible to comply with the one-for-one replacement requirement for housing under urban renewal. The site selection criteria also fail to give any weight to ownership and resident control of housing. NHC seriously questions the present site selection criteria and urges their amendment to meet the foregoing objections.

CHAPTER H. URBAN RENEWAL PROGRAM

I. Summary of existing legislation

1. *Objectives.* Urban renewal is a major instrument of reform which deals primarily with the physical side of removing blight. Its objective is to eliminate slum, blighted or deteriorating areas and provide for the use and disposition of land in accordance with comprehensive urban renewal plans that meet community needs. Over 1,000 cities are reclaiming such blighted areas for redevelopment or rehabilitation under urban renewal programs. The backlog of urban-renewal-grant applications was in excess of $3 billion at the beginning of the fiscal year and new applications averaged over $200 million per month, despite HUD actions to discourage applications by the imposition of more stringent requirements concerning program objectives and priority criteria. Each year about 60 additional communities are joining in the participation of the urban renewal program, after adopting workable programs for community improvement. There is a tremendous need for increased urban renewal authorizations and appropriations to meet the requests of cities who are seeking to stop the insidious blight which is overwhelming their older neighborhoods.

2. *Authorizations and Limitations in the 1968 and 1969 Housing Acts:*

(a) *Increased Authorizations in 1968 Act.* An additional $1.4 billion of urban renewal grants was authorized by the Act for fiscal year 1970. In addition, there was an authorization of $350 million for urban renewal grants for projects in model city areas, which supplements the previous authorization of $250 million for this purpose.

(b) *Neighborhood Development Program (NDP).* The 1968 Act provides for a new approach to urban renewal which is intended to facilitate more rapid rehabilitation and redevelopment of blighted areas on an effective scale. Financial assistance would be provided for a neighborhood development program which consists of urban renewal undertakings and activities in one or more areas that are planned and carried out on the basis of annual increments. Financing is based on the amount of funds needed to carry out the activities planned during a 12-month period in each of the urban renewal areas in the community's program. As to subsequent annual increments of the program, the community would receive financial assistance to the extent that funds are then available and the community's program is acceptable to HUD. This will permit the undertaking of urban-renewal-execution activities, land acquisitions and public improvements simultaneously with planning. By administrative action, HUD is now limiting new urban renewal activities exclusively to NDP proposals and will not accept any new applications for conventional urban renewal projects.

(c) *Low and Moderate Income Housing.* The 1968 Act requires that a majority of the total number of housing units in a community's residential urban renewal project which receives Federal recognition after August 1, 1968, must be for low and moderate income families or individuals. As to housing units in urban renewal areas, at least 20% of the total must house low-income families or individuals, but HUD may waive this 20% requirement to the extent that these units are not needed in the community.

(d) *Increased Authorizations in 1969 Act.* The 1969 Act amends the first sentence of Section 103(b) of the 1949 Act to increase the aggregate amount of capital grants which may be made under the urban renewal program by $1.7 billion on July 1, 1970, and reserves 35 percent of available funds for fiscal year 1970 and fiscal year 1971 for neighborhood development programs.

(e) *Extension of Urban Renewal Assistance to Trust Territories.* The 1969 Act makes the Trust Territory of the Pacific Islands and the Indian tribes, bands, groups, and nations (including Alaskan Indians, Aleuts, and Eskimos) of the United States eligible for:

(1) urban renewal loans and grants for rehabilitation;

(2) demolition grants;

(3) code enforcement grants; and

(4) interim assistance grants.

(f) *Extension of Period of Eligibility of Local Grants-in-Aid.* The 1969 Act amends Section 110(d) of the 1949 Act to permit, in the case of any urban renewal program for which an application is filed but not approved on or before the date of enactment of the 1969 Act, credit for local grants-in-aid if construction of the public improvement or facility was commenced not more than 4 years prior to authorization by the Secretary of a contract for a loan or capital grant for the project. The period of eligibility otherwise applicable is 3 years. There are also other extensions of the period of eligibility of local grants-in-aid for certain projects.

(g) *Inclusion of Enclosed Pedestrian Malls as Eligible.* The 1969 Act amends Section 110 (c) of the 1949 Act to include covered pedestrian malls and walkways (with related facilities) among the types of undertakings eligible for inclusion in urban renewal project costs.

(h) *Rehabilitation Grants.* The 1969 Act amends Section 115 of the 1949 Act to increase the maximum rehabilitation grant authorized under that section from $3,000 to $3,500.

(i) *Local Grant-in-Aid Credit for Certain University Facilities.* The 1969 Act amends Section 110(d) of the 1949 Act to make clear that medical facilities otherwise eligible for non-cash grant-in-aid credit may receive such credit if built on behalf (as well as if built by) a public university.

(j) *Replacement of Housing Units Where Project Involved Removal of Residential Structures.* The 1969 Act amends Section 105 of the 1949 Act to provide that if any urban renewal project which receives Federal recognition after the date of enactment of this Act includes the demolition or removal of any residential structures, there must be provided in the area within which the local public agency has jurisdiction by construction or rehabilitation standard housing units for occupancy by low and moderate income families at least equal in number to the number of units demolished or removed that were occupied by such families prior to demolition or removal. Replacement housing may be provided under Federal or State-assisted housing programs and may include units for low-rent housing in private accommodations assisted under Section 23 of the United States Housing Act of 1937. Where the Secretary of Housing and Urban Development deems it appropriate, he may take into account suitable housing outside the area within the jurisdiction of the local public agency for purposes of meeting this requirement. If the Secretary finds that the percentage of vacancies for all existing housing units in the area within which the local public agency has jurisdiction is 5 per centum or greater, he may waive this requirement to the extent that he determines that there are existing standard housing units available for occupancy by displaced low and moderate income families.

3. *Amendments in Housing and Urban Development Act of 1970:*

(a) *Urban Renewal Grant Authority.* The 1970 Act amends Section 103(b) of the Housing Act of 1949 to increase the aggregate amount of capital grants which may be made under the urban renewal program by $1.5 billion on July 1, 1971, and requires that not less than 35 percent of available funds during the fiscal years of 1970 through 1974 be made available for neighborhood development programs.

(b) *Relocation Payments.* The 1970 Act amends Section 114(b)(1) of the Housing Act of 1949 to provide that the Secretary of Housing and Urban Development may authorize the payment to displaced business concerns of fixed amounts in lieu of their total certified actual moving expenses where he determines that it is impractical for a displaced business concern to calculate the amount of such expenses.

(c) *Expenses in Connection with the Sale of Surplus Federal Lands to Local Urban Renewal Agencies.* The 1970 Act amends Section 108 of the Housing Act of 1949 to permit the Secretary to charge against the gross proceeds realized any property management or other expenses he incurs when Federal surplus real property is transferred to him for sale to a local urban renewal agency. Under existing law all the proceeds from such a transfer and sale must be deposited into the Treasury.

(d) *Early Closeout of Urban Renewal Projects.* The 1970 Act amends Section 106(i) of the Housing Act of 1949 to authorize the Secretary, in cases where the local public agency does not expect to be able in the reasonably near future, due to circumstances beyond its control, to dispose of remaining urban renewal project land, and the Secretary determines an early close-out of the project would be in the financial interest of the Government, to compute the net project cost and close out the project at no additional cost to the locality. The locality would receive an additional grant equal to one-third (or one-fourth) of the estimated dispositon proceeds from the undisposed land. When such land was subsequently disposed of in accordance with the urban renewal plan the net proceeds realized would be paid to the Secretary. Under previous existing law early project closeout was only permitted where 5 percent or less of project land remains unsold.

(e) *Inner City Development.* Part D of Title VII of the 1970 Act (establishing the National Urban Growth Program) amends Section 110 of the 1949 Act to make inner-city developments eligible for urban renewal aid without regard to requirements as to substandard or deteriorated physical condition provided the existing uses are obsolete, under-utilized or otherwise inappropriate non-residential facilities or consist of vacant land. New uses in such inner-city developments must be housing, essential public facilities or employment producing facilities.

4. *Authorizations in Appropriation Acts.* For fiscal 1969, $750 million was authorized and appropriated for urban renewal grants. In addition, an advance appropriation was made of $750 million of the $1.4 billion authorized for fiscal 1970 in order to give communities more lead time for planning their urban renewal program. For urban renewal projects in model city areas, $312.5 million was appropriated for fiscal 1969, as compared with the $350 million authorized. Of the $250 million authorized for grants on urban renewal projects in model city areas for the preceding fiscal year, $150 million was appropriated. For fiscal year 1970, $750 million previously appropriated was available plus $250 million of new appropriations. $1.35 billion was included in the appropriation act for fiscal year 1971 which was vetoed by President Nixon. Then, Congress passed another appropriation act for fiscal 1971 with a reduced total of $1.2 billion for urban renewal which was signed by the President. $1.25 billion was contained in the Appropriation Act for Fiscal Year 1972.

II. Recommendations

1. *Urgent Need to Continue Program.* President Nixon's 1972 Budget Message requested only $600 million for urban renewal funds for the first half of fiscal year 1972, plus a $200 million carry-over from this year. In addition, the Budget Message contemplated phasing out the rehabilitation grant program and consolidating it with three other categorical grant programs into a new community development grant program under special revenue sharing. Because the prospects of adoption of the special revenue sharing proposal, especially by the end of the first half of fiscal year 1972, were dim, Congress appropriated $1.25 billion for all of fiscal year 1972.

NHC continues to oppose the wiping out by the special revenue sharing program of authorizations not yet appropriated for urban renewal of $1.31 billion. Finally, NHC deplores the action by the Bureau of Budget and Management that froze $200 million of the $1.2 billion appropriated for fiscal year 1971 for many months. In view of the tremendous backlog, this money should have been made available immediately.

In his Budget Message for fiscal 1973, the President has requested an appropriation of $1,000,000,000 for urban renewal. In the event that his proposed new legislation is enacted for an urban community development revenue sharing program, the President proposed that there would be a supplemental appropriation of $490,000,000 in addition to the requested appropriations for the individual categorical programs. In that event, the President's Budget contemplated a total program for urban community development revenue sharing of $2.3 billion for fiscal 1973, which would include the amounts for the categorical programs plus the proposed supplemental appropriation for urban community development revenue sharing.

When there are additional legislative authorizations as recommended below, there should be additional appropriations for each fiscal year and an advance appropriation for the succeeding fiscal year. This will give communities more lead time for planning their urban renewal programs.

2. *Increase in Legislative Authorizations.* NHC recommends an increase in the authorizations for appropriations for a 5-year period at the following levels:

On July 1, 1971 (for fiscal year 1972) an additional authorization of $3.0 billion.

On July 1, 1972 (for fiscal year 1973) an additional authorization of $3.25 billion.

On July 1, 1973 (for fiscal year 1974) an additional authorization of $3.5 billion.

On July 1, 1974 (for fiscal year 1975) an additional authorization of $4.0 billion.

On July 1, 1975 (for fiscal year 1976) an additional authorization of $4.5 billion.

As public agencies elect to utilize the alternative Community Development Program under our proposed amendment to Part C of

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Title I, the foregoing appropriations would be utilized to provide funds to carry out the new Community Development Program which would gradually replace the other program.

3. *Legislative Amendments Relating to Parts A and B of Title I of the Urban Renewal Act.* NHC recommends the following amendments to urban renewal laws:

(a) On capital grants for urban renewal, code enforcement and other comparable programs, there would be an increase in the federal grant to ¾ from the present ⅔ which is paid to larger cities. For smaller cities, the ¾ grants should be increased to ⅚. Further, where the community elects to finance survey and planning costs at its own expense, the project capital funds for larger cities should be increased from ⅚ to ¾. Pooling all of such grants should be permitted for all urban renewal projects in the city. Where the urban renewal is located in a distressed area, the present subsidy of ¾ should be increased to ⅚.

(b) NHC recommends that action be taken to simplify both the legislative and administrative provisions relating to local non-cash grants-in-aid; also to embrace all types of such aids as being eligible for credits against the local contribution. The objective should be to eliminate most of the complexities of the rule, reviews and approvals of local non-cash credits and to extend benefits of this means of financing the local share of urban renewal projects costs.

(c) A new program of loan and grant contracts should be authorized for the purpose of assisting the acquisition and rehabilitation of scattered properties in residential neighborhoods designated for conservation, rehabilitation, or intensive code enforcement by an approved community renewal program. The cost of any new public improvements serving the rehabilitation properties should be recognized for appropriate grant-in-aid credits.

(d) Local public agencies should be authorized to make sales of industrial and commercial land for later development by nonprofit industrial development corporations or properly constituted public bodies on the same basis as is now authorized under economic development laws.

(e) There should be a broadening of the existing statutory provisions for recognition of real property tax losses—on the land as improved before the demolition occurred—by the locality in an urban renewal area as a local grant-in-aid credit. Such losses should be computed from the date of acquisition of the property to the date of transfer of title.

(f) Where a project is in execution, tax abatement should count as a non-cash local grant-in-aid to the project when such tax abatement is granted to federally-assisted housing for the purpose of achieving lower rents and facilitating relocation unless there is a federal grant to reimburse the state and local taxing authorities for their tax losses.

(g) NHC supports special urban renewal provisions for central business districts which would clearly recognize that commercial and business obsolescence comes within the definition of blight whose removal is eligible under Title I. NHC supports special urban renewal provisions for central business districts which would permit the renewal of such districts and recognize that employment, commercial, industrial, and cultural functions of central business districts are of vital importance to community growth and revitalization.

(h) There should be an amendment to the urban renewal law allowing any public facility to be eligible for non-cash grant-in-aid credit covering the full cost of the facility if its development was occasioned by the urban renewal program as certified by the urban renewal agency.

(i) Section 314 should be amended to provide that the Federal Government in special cases could pay up to 100% of the cost of the demonstration program.

(j) Non-cash grant-in-aid credits should be extended to cover air rights involved in the development costs for 221(d)(3) or 236 projects for low and moderate income families.

(k) Title I funds should be available for the reclamation of otherwise unbuildable land in urban areas on the same financial formulas now controlling other activities.

(l) Where state or local law requires abutting property owners to pay a portion of the cost of street repairs, federal urban renewal grants should be made to cover the owner's share when there is a showing of need.

(m) Under the Neighborhood Development Program, non-cash grants-in-aid—otherwise meeting time requirements—should become eligible as soon as HUD accepts an application for review.

(n) Costs of development of the initial application should be an allowable project cost.

(o) NHC urges legislation that would allow the owner of property in blighted areas which is either underdeveloped or contains a structure which is fully depreciated to be given the same tax allowances permitted under an involuntary conversion as through eminent domain, if he were to dispose of his property to a private developer and to include in the conveyance the appropriate restrictions and requirements of the urban renewal plan. Such a procedure would result in the achievement of the public purpose without the necessity of having the land pass through public ownership. Appropriate certification by the local public agency could afford necessary safeguards. This could result in a considerable savings in public funds and savings in time which would otherwise be lost in the process of acquisition and subsequent disposition by the local public agency.

4. *Legislative Amendments Relating to Community Development Program (CDP).* NHC endorses and recommends an alternative Part C program under Title I which would provide for a total Community Development Program (CDP)—a comprehensive communitywide program, prepared by the local community, including all physical development, rebuilding and rehabilitation activity, and eligible for federal funding on an annual basis. Most of the elements which NHC favors in such a program are contained in S. 2333, the proposed Community Development Assistance Act pending in the Senate Subcommittee on Housing and Urban Affairs. Many of them are also contained in Title VI of the proposed Housing and Urban Development Act pending in the Housing Subcommittee of the House Committee on Banking and Currency. The key element in the program is the preparation by the locality of a Community Development Plan. In drafting it, the locality would have to take stock of its physical inventory, set priorities, and relate each component in the plan to the specific public need it seeks to meet. The plan, if approved, would receive federal funding on a yearly increment basis, similar to that in the NDP program. The locality's application to HUD would contain a three-year forecast of financial assistance needed, including a one-year budget and program, and a request for a second-year reservation of funds. The proposal calls for a three-year Federal authorization, with one year contract, a second year advance reservation, and a third year forecast. They would be updated annually. The activities proposed for inclusion in a Community Development Plan extend greatly beyond those now eligible under traditional urban renewal or NDP. Specifically, the CDP would include:

(a) The Program would involve modifications in existing legislation relating to renewal, codes, rehabilitation, and other aspects as described in the propcsed new Part C of Title I. In addition to these items which would be funded out of CDP monies, the estimated cost of the following additional activities would be identified in the Program and there should be set aside the necessary Federal funds (which would not be CDP funds, except for rehabilitation grants) to assure their timely completion: (i) proposed housing and rehabilitation; (ii) water and sewer; (iii) neighborhood facilities; (iv) open space, urban parks, and urban beautification.

(b) The Title I program would continue, but the new CDP Program is designed gradually to replace it.

(c) The Program would cover the entire community in both public and private developments. The Federal funding proposed for public improvements and facilities under the CDP would be available on a city-wide basis but only in locations designated in the CDP's budget.

(d) When a Community Development Program is approved for a city, there would be a reservation of funds for all of the following activities relating to it: (i) proposed housing and rehabilitations; (ii) water and sewer; (iii) neighborhood facilities; (iv) open space, urban parks, and urban beautification. The estimated cost of these additional activities would be identified but would not be funded out of the CDP monies (except rehabilitation grants), but there would be set-asides of necessary Federal funds for each of these programs.

(e) Rehabilitation grants would be funded out of the CDP monies. Temporary loans could also be made from CDP funds for rehabilitation activities.

(f) Any activity contained in the operating budget of a Community Development Program would be eligible as a local contribution under the formula for a 90% Federal grant. The participating community should continue to have the option of providing its local share in public improvements as well as in cash. The budget would also include funds for the design and construction of facilities to the extent that such funds are not otherwise available. This proposal for CDP design and construction financing for supporting facilities when permanent financing is contemplated from other sources is to take the city's place when the city is slow in budgeting for the services or supporting facilities.

(g) While the CDP grant could not normally provide financing for the "supporting facilities" (schools, hospitals, etc.) it could provide, in addition to interim financing for design and construction, a five percent override incentive grant to certain Federal grants-in-aid; and, where necessary, definitive loans for permanent financing secured by a lease agreement.

(h) There would be a 20% supplementary grant for unrestricted purposes relating to programmed activities.

(i) The standards that would be applied for property acquisitions such as conditions, location and present use would be the same as currently set forth in Title I, as amended and in Title VII of the 1970 Housing Act.

(j) A local development corporation would be an eligible agency to undertake federally-assisted community development program activities, and could be so utilized by a locality. To be eligible to contract for such activity under a local CDP, a local development corporation should be able to: accept grants, gifts, and donations; make loans; issue stock; borrow funds; donate and dedicate land and improvements for public purposes; acquire property for development, redevelopment, rehabilitation, preservation, and conservation in accordance with a publicly-adopted plan; construct, repair or improve public facilities and improvements; construct or improve for industrial, commercial, or residential purposes and hold or sell same for public or private use.

(k) The provision of supplementary services and functions are necessary to successful operation of the CDP, such as health, education and training activities and day care centers for which there are no Federal programs available.

(l) Direct loans and grants are necessary for the conservation, preservation, and rehabilitation of other properties, as in the present 312 and 115 programs.

5. *Administrative Action:*

NHC opposes the administrative action by HUD in terminating approvals of any new urban renewal projects and requiring all new urban renewal activity to be under the Neighborhood Development Program. This action was taken without any legislative mandate. Pending the enactment of proposed community development block grant legislation, NHC believes local governments and local renewal agencies should continue to have the option of proceeding either through new renewal projects or electing to proceed under NDP, as provided for in existing law.

(a) However, with respect to the NDP Program, NHC recommends the following administrative actions:

(1) It should be flexibly administered, particularly as regards the requirements for actions on plans for areas larger than those proposed for the action year.

(2) The localities should have the option (without such action being prejudicial to their present or future programs) to employ the Neighborhood Development Program as the means of carrying out Title I activities, including the conversion of conventional Title I projects to the Neighborhood Development Program.

(b) NHC recommends, in those cases of condemnation of real property and when a deterioration has taken place through no fault of the owner, that an effort be made to predicate the compensation of the property on the fair market value before the deterioration. If legislation is needed to insure that equitable compensation is made in such cases, NHC recommends that appropriate legislative measures be taken.

(c) Cities whose population dropped below 50,000 in the 1970 census should be eligible for federal grants of ¾, rather than being limited to the ⅔ grant which was previously applicable to them based on the 1960 census. We believe this can be done through administrative action, but NHC recommends legislation if it is necessary.

(d) HUD has recently issued a proposed project selection system for certain community development programs. This selection system would assist in the selection of project applications for funding under the Neighborhood Development Program, the Open Space Program (Legacy of Parks), the Neighborhood Facilities Program and the Public Facility Loans Program. Project applications will be reviewed in the HUD Area Office by a team consisting of Community Development staff and technical experts. Funding will be made available only after three distinct review activities occur. First, the application will be judged against statutory related prerequisites to eliminate clearly inappropriate proposals or clearly ineligible projects; second, the application, if it meets the prerequisite test, will be evaluated against certain numerically rated criteria; third, those applications ranked high enough to justify further processing in accordance with established procedures will then be reviewed for technical compliance with all relevant statutory requirements including those for which a preliminary judgment was made as to apparent eligibility in the prerequisite review. No funding commitments will be made until after all three of these technical compliance reviews are completed. NHC recommends against the use of this project selection system. We recommend that HUD follow the mandate in the 1959 housing act which required that applications be processed and funded in the order of submission and that approval or disapproval be based on the need and feasibility of such applications.

(e) NHC urges that HUD recognize that there are over 550,000 units of new construction of public housing requested annually. Both for public housing and privately assisted housing, the use of the site selection criteria should not be conducted in such a manner as to reject projects and thus make it appear that there is not a strong demand for additional projects and funding.

CHAPTER I. MODEL CITIES

I. *Summary of existing legislation*

1. *Objectives.* NHC reaffirms its endorsement of the model cities program to launch local programs for the upgrading of entire neighborhoods. This is done through the concentrated and coordinated use of all available Federal aids and local private and governmental resources, including the supplementary Federal grants for such model cities. We urge acceleration in the disbursement and release of funds under the present program.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) The Housing Act of 1968 provided for (1) an increased authorization of $1 billion for the fiscal year 1970 for supplemental grants and (2) $12 million for fiscal year 1969 for grants to plan model cities programs. Any amounts authorized, but not appropriated, could be used for any succeeding fiscal year commencing prior to July 1, 1971.

(b) The 1969 Act amended Section 111(b) of the Demonstration Cities and Metropolitan Development Act of 1966 (with a conforming amendment in Section 111(c)) to authorize an additional $600 million in grant authority for model cities for the fiscal year 1971.

(c) The 1969 Act amended Section 111(b) of the 1966 Act to require that (for the fiscal year 1970 and thereafter) 10 percent of any appropriations for Model Cities supplemental grants be used in cities of less than 100,000 population and to permit such use without regard to the statutory formula fixing the maximum Federal amount payable to any city at 80% of the aggregate required non-Federal contributions in connection with all Federal grant-in-aid programs which are carried out as part of the Model Cities program.

(d) The 1969 Act amended Section 111(c) of the 1966 Act to provide that amounts authorized but not appropriated for any fiscal year could be appropriated for any succeeding fiscal year commencing prior to July 1, 1971.

3. *Authorizations in Appropriation Acts.*

(a) Of the $400 million authorized for supplemental grants to model cities for fiscal year 1968, $200 million was appropriated. For fiscal year 1969, there was an authorization of $500 million for supplemental grants but the amount appropriated was $312.5 million. For fiscal year 1970, $575 million has been appropriated instead of the $1 billion authorized by the 1968 Act. Of the $600 million authorized by the 1969 Act for fiscal 1971, the President requested $575 million, which was included in the appropriation act for fiscal 1971. $150 million was included in the appropriation act for fiscal 1972.

(b) Of the $12 million authorized for fiscal year 1967 for grants to plan model cities programs, there was an appropriation of $11 million. For fiscal year 1968 there was an appropriation of the $12 million which was authorized for such planning grants. No appropriation has been made of the $12 million of planning grants authorized for fiscal year 1969 or 1970.

4. *Amendments in Housing and Urban Development Act of 1970.*

(a) *Authorization for Model Cities Programs.*

The 1970 Act amends Section 111 of the Demonstration Cities and Metropolitan Development Act of 1966 to authorize new appropriations of $200 million during fiscal year 1972 for the Model Cities Program; extends the availability period for unexpended funds to July 1, 1972; and eliminates administrative expenses from the appropriations authorized under Section 111 of the Act.

5. *President's Budget Request for Fiscal Year 1973.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $515,000,000 for model cities. In the event that his proposed new legislation is enacted for an urban community development revenue sharing program, the President proposed that there would be a supplemental appropriation of $490,000,000 in addition to the requested appropriations for the individual categorical programs. In that event, the President's Budget contemplated a total program for urban community development revenue sharing of $2.3 billion for fiscal 1973, which would include the amounts for the categorical programs plus the proposed supplemental appropriation for urban community development revenue sharing.

II. *Recommendations*

1. *Increase in Legislative Authorizations.* NHC recommends a legislative increase in the appropriations for the model cities program for a 5-year period as follows: (a) additional supplemental grants at the rate of $1.5 billion a year; and (b) additional model cities planning funds at the rate of $50 million a year. We further recommend that there be advance appropriations for each fiscal year, besides the current one, to give cities more lead time for their planning and development of model city programs. While we are pleased to note the significant increase in cities now participating in the model cities program, we urge that the foregoing recommendation be adopted to enable participation by all qualified cities and counties which apply; also, to enable participating cities and counties to obtain the additional funds which they require.

2. *Other Legislative Amendments.* The model cities program cannot achieve its goals and provide necessary housing unless there are increased authorizations and programs—as recommended elsewhere in this report—as follows:

(a) To expand urban renewal activities.

(b) To increase the supply of adequate low and moderate income housing in the model cities. Such housing should not be limited to what will be developed in the model neighborhood area or the city itself. New housing and related community facilities should be developed extensively on vacant land or other sites not involving substantial residential displacement.

(c) To increase Federal grant funds for water, sewer, and neighborhood facilities, and for open-space and urban beautification.

(d) To increase Federal grant funds for all other programs involved in model city areas, including those dealing with health, education, welfare, mass transportation, training and other purposes relating to urban affairs; also, to specifically designate such categorical funds for these purposes to be available for model cities.

3. *Other recommendations.* To achieve the objectives of this program, full coordination is required between HUD—and all of its participating constituents—and all of the other Departments of the Federal Government who participate in the model cities program; also between the Federal Government and local governments. Each must effectively use all of its powers and available funds in doing its share of the total job. NHC recommends Presidential action and direction to assure that all participating Departments of the Federal Government fulfill their responsibilities under the programs for model cities and urban affairs, including (a) effective coordi-

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nation and cooperation between them and (b) the priority handling of applications for assistance filed with the various Federal Departments by model cities.

In late July, the Administration provided additional funds to 20 model cities in a test of "planned variations." This purported test in revenue sharing is apparently designed to allow greater freedom by local governments to solve problems with a minimum of Federal supervision.

CHAPTER J. HOMEOWNERSHIP PROGRAM UNDER SECTION 235

I. Summary of existing legislation

1. *Objectives.* Section 235 provides financial assistance to enable lower income families to acquire individual or cooperative homeownership. This law responds to the urgent desire for homeownership among lower income families who want the pride of owning their own home and the greater sense of security and dignity which it affords. Individual and cooperative ownership provides benefits not only to the owner, but to the community as well. Such owners take responsibility for maintaining and improving their homes. They acquire a stake in the community and participate in its affairs. The result is a more stable and wholesome living environment in which to rear children.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) HUD is authorized to enter into contracts to make periodic payments to lenders who make FHA-insured home mortgage loans to lower income families. The payments will be in an amount necessary to make up the difference between 20 percent of the family's monthly income and the required monthly payment under the mortgage for principal, interest, taxes, insurance, and mortgage insurance premium. In no case, however, can payment under the mortgage exceed the difference between (i) the required payment under the mortgage for principal, interest, and mortgage insurance premium and (ii) the payment that would be required for principal and interest if the mortgage bore an interest rate of 1 percent. The amount of the payment on each mortgage will vary according to the income of the homeowner. The family's income is required to be recertified at least every 2 years and appropriate adjustments made in the assistance payment to reflect any changes.

(b) The assistance payment is available for a purchaser having an income at the time of his initial occupancy, not in excess of 135% of the maximum income limits that can be established in the area for initial occupancy in public housing. However, up to 20 percent of the funds authorized in appropriation acts for the program can be used to assist families with incomes above these limits but which are not in excess of 90 percent of the income limits for occupancy in a section 221(d)(3) below-market interest rate housing project.

(c) In calculating the income of the homeowner for the purpose of determining eligibility as well as the amount on which the 20 percent computation will be made, there will be deducted $300 for each minor child who is a member of the homeowner's immediate family and living with him. Also, income of minors will not be included in the homeowner's income for this computation. By administrative action pursuant to recommendations in the Senate Committee Report, there is a deduction of 5% of gross income to cover payroll deductions for social security taxes and compulsory pension funds.

(d) The amount of a home mortgage cannot exceed $18,000 ($21,000 in high cost areas). These limits are increased to $21,000 (except that it may be $24,000 in high cost areas) for families with five or more members. The same limits apply as an average to the blanket mortgage of a cooperative.[1]

(e) On individual ownership of single family homes, the maximum downpayment is $200 for families with incomes up to 135 percent of the maximum income limits that can be established in the area for initial occupancy in public housing and 3 percent of appraisal value in other cases.

(f) HUD is authorized to provide budget, debt management, and related counseling services to homeowners who purchase homes under the program.

(g) The housing, with a few limited exceptions, must be new or substantially rehabilitated housing, except that up to 30 percent of the amount of contracts authorized to be made before July 1, 1971 can apply to existing housing.[2][3]

(h) The aggregate amount of contracts to make payments cannot exceed amounts approved in appropriation acts. The payments pursuant to the contracts cannot exceed $75 million per annum prior to July 1, 1969. This amount was increased by $125 million on July 1, 1969,[2] $125 million on July 1, 1970, and by $170 million on July 1, 1971.[3][4]

(i) The 221(h) program—with a new limit of $50 million—is changed to allow the Secretary to reduce the interest rate on a home purchaser's mortgage under the program to as low as 1 percent where the purchaser's income justifies, with periodic adjustments between 1 and 3 percent to reflect changes in the homeowner's income. Under this program nonprofit mortgages purchase and rehabilitate housing with financing under FHA insured mortgages and resell it to low-income families.

(j) Section 235(c) of the National Housing Act now authorizes homeownership assistance payments for home purchasers who assume mortgages and who are otherwise eligible.[2] Section 235(b)(2) of the act now allows subsequent eligible purchasers of cooperative units to get the benefit of homeownership assistance payments which were previously limited to the initial two purchasers of a cooperative unit.[3]

3. *Authorization in Appropriation Acts.* Of the $75 million authorized under Section 235 for interest-assistance contracts prior to July 1, 1969, $70 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized in the 1968 Act—this authorization was increased to $125 million in the 1969 Housing Act—for fiscal 1970, $90 million was appropriated. The supplemental appropriation Act of 1970 contained $35 million of contract authority. The appropriation act for fiscal year 1971 contains $130 million of contract authority and the appropriation act for fiscal year 1972 contained $170 million of contract authority.

4. *Amendments in Housing and Urban Development Bill of 1970.*

(a) *Extension of Programs.* The 1970 Housing Act extends 235 program authority until October 1, 1972.

(b) The 1970 Housing Act authorizes the Secretary to compensate the lower income purchasers of existing homes under Section 235 for serious structural or latent defects in the homes which the FHA appraiser should have recognized if properly performing his duties. The defects must be reported within one year of the sale.

(c) *Interest Subsidy Authorization.* The 1970 Act amends section 235(h)(1) of the National Housing Act to increase, from $125 million to $150 million as of July 1, 1970 and from $170 million to $200 million on July 1, 1971, the aggregate amount of the contracts which may be entered into by the Secretary to make periodic homeownership assistance payments. It also clarifies the authority of the Secretary of Housing and Urban Development to enter into contracts for assistance payments in an outstanding amount at any one time not in excess of the amount approved in appropriation acts.

(d) *Assistance Payments with Respect to Existing Dwellings under Section 235.* The 1970 Act amends section 235(h) of the National Housing Act to provide that up to 30 percent of the total amount of contracts of homeownership assistance payments authorized to be made by appropriation Acts through fiscal year 1972 may be made with respect to non-rehabilitated existing dwellings or dwelling units in existing projects. It also provides that at least ten percent of the total amount of contracts for assistance payments authorized to be made by appropriation Acts after June 30, 1971 shall be available for use only with respect to rehabilitated dwellings.

(e) The Senate and House Committee reports contain language which supports a change in the administration of contract authority under Section 235. NHC agrees with the Committees that the manner in which HUD determines the amount to be charged against the contract authority when a contract is made has resulted in an over-utilization of this contract authority and, therefore, a decrease in the number of families that can be assisted. This is caused by charging against the authorizations for each assisted home owner an amount equal to the full statutory subsidy necessary for the mortgage, even though the assisted family at the time it purchases the home will not receive the full subsidy. This has the effect of decreasing significantly the number of units for lower income families that can be financed under the program.

(f) *Assistance under Section 235 Program for Cooperative Projects Financed Under Certain State or Local Programs.* The 1970 Act amends section 235(b) of the National Housing Act to permit homeownership assistance payments to be made on behalf of lower income members of cooperative housing projects financed with aid under a State or local program which are approved by the Secretary prior to the completion of construction or substantial rehabilitation; this authority is comparable to similar authority contained in section 236 with respect to rental projects financed under State or local programs.

II. Recommendations relating to present 235 program

1. *Additional Authorizations in Appropriation Acts.* President Nixon's budget message for fiscal year 1972 did not request full funding for the Section 235 program, in spite of the tremendous backlog of applications. The budget requested $175 million of contract authority for fiscal year 1972 against Congressional authorizations of $200 million. In addition there was no request for $25 million of supplemental authorization for fiscal year 1971. $170 million was included for fiscal year 1972 in the appropriation act.

In his Budget Message for fiscal 1973, the President has requested that the Appropriation Act include authority for $170,000,000 of annual interest assistance contracts for the Section 235 program. The only substantive legislation now enacted is a carry-over of $55,000,000 of unused contract authority from previous fiscal years. Accordingly, there is an urgent need to assure the passage of a housing law prior to July 1, 1972, in order to provide necessary legislative authorization under Section 235 for the additional contract authority for fiscal 1973 and succeeding years. NHC recommends that the authorization in the Appropriation Act should be $250,000,000. in contract authority for Section 235, in accordance with the increase which we are recommending below in the legislative authorization.

We further recommend advance authorizations in appropriation acts to cover each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of homeownership programs for lower income families.

2. *Increase in Legislative Authorizations.* Currently there are no authorizations beyond fiscal year 1972 for Section 235. Therefore NHC recommends increasing the legislative authorizations for interest assistance contracts under Section 235 to the following:

On July 1, 1972 (for fiscal 1973) an additional authorization of $250 million;

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million;

On July 1, 1974 (for fiscal 1975) an additional authorization of $325 million;

On July 1, 1975 (for fiscal 1976) an additional authorization of $350 million;

On July 1, 1976 (for fiscal 1977) an additional authorization of $350 million.

In addition to the foregoing authorizations, NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1973 to provide interest assistance for projects financed or assisted by state agencies.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) Under Chapter E, we recommend a number of amendments to the proposed new Section 402 which would replace Section 235 if the Administration's Housing Bill is enacted. If that bill is not enacted and Section 235 continues, we recommend the following amendments to Section 235 which appear in Chapter E:

(1) Substitute the new proposal formula in subparagraph (2) of Chapter E–III with respect to eligible deductions in computing family income, so that the criteria under Section 235 would be the same as those established for public housing under the 1970 Housing Act.

(2) Substitute the new proposed formula in subparagraph (3) of Chapter E–III, so that the homeowner would be required to spend 20% of his income for housing expenses including mortgage payments, utilities, maintenance and repairs.

(3) Substitute the new proposed formula in subparagraph (4) of Chapter E–III with respect to income limits.

(4) Substitute the new proposed formula in subparagraph (5) of Chapter E–III which would provide varying amounts of subsidies for different income groups and which would achieve economic integration in a subdivision containing housing assisted under Section 235.

(b) The widely recognized increases in the costs of housing make it increasingly difficult—and in some areas impossible—to provide housing for the lower income group intended to be served under Section 235. To enable the program to reach this lower income group, NHC recommends that interest assistance be increased for those families who need it by reducing the payment of such families to the amount that covers only the principal payments on the mortgage without any interest. For those who can afford to pay interest, they would pay at a rate which they could afford ranging from 0% to the market rate.

(c) As a result of increases in housing construction and operating costs, there are more people who are now unable to obtain decent housing without Federal assistance. To enable the 235 program to reach these families and to achieve economic integration, it is necessary to eliminate income limits and thus avoid creating gaps and areas of unmet need in the housing program. Housing assistance subsidies should be based on the amount needed after the occupant pays the required percentage of his income. If Congress decides that income limits are necessary to continue this program and obtain funding for it, we recommend the revised income limit formula described in subparagraph 3(a)(3) above.

(d) Special federal grants should be authorized to offset the impact of locating low and moderate income housing in suburban and other areas where costs must be incurred for education, health or other services to the extent they cannot be met from collections of full taxes on the property. Such federal grants would provide an incentive and inducement to suburban and other communities to accept low and moderate income housing since it would not impose an additional burden on the community. Section 503 of H.R. 9866 would accomplish this.

(e) As stated above, NHC recommends a separate and additional authorization for state agencies administering housing programs using Section 235 funds in the amount of $50 million for each of the next five fiscal years. This authorization should be in addition to the authorizations recommended below. To meet the accumulated backlog of applications for such 235 assistance filed in the HUD offices, the full amount of regular authorizations of 235 funds should be promptly allocated to HUD offices and there should be no withholdings in Washington for programs of State agencies. These should be covered by the special additional authorization of 235 funds which we recommend for use on projects financed or assisted through state and other public agencies.

4. *Administrative Actions.*

(a) In early spring, HUD implemented Section 518 of the 1970 Housing Act authorizing the compensation of owners of Section 235 homes for major defects HUD likewise established procedures for the imposition of responsibility for repairs to the seller. To qualify:

(1) The defect must have existed on the date of the commitment to insure the mortgage;

(2) The property must have been more than a year old on that date;

(3) Proper inspection by FHA should reasonably have been expected to disclose the defect;

(4) Requests for assistance must be within one year after the insurance of the mortgage.

Sellers will be required to execute a statement that no serious defects exist which affect the livability of the dwelling and that they will compensate HUD for any expenses involved in the correction of such defects. NHC supports this program to protect consumers and urges its vigorous enforcement.

(b) Because of the flexibility of the interest assistance programs, not all recipients use the full amount of assistance. This money should be made available to promote additional housing. However, HUD's policy is to place these unused moneys in a reserve fund for the entire mortgage term for use in the event that the income of residents living in Section 235 housing falls. The 1970 Senate report instructed HUD to estimate a "reasonable" amount for reserve to cover the contingency of demands for additional payment and to utilize the balance of the unused subsidy money for new construction. HUD should adopt this program as quickly as possible.

CHAPTER K. RENTAL AND COOPERATIVE PROGRAM UNDER SECTION 236

I. Summary of existing legislation

1. *Objectives.* Section 236 provides financial assistance to enable lower income families to get rental housing or cooperative homeownership. This program is providing housing for families with income too high to qualify for public housing but too low to afford decent housing that could be produced in the private market. A tremendous unmet need exists for housing to serve moderate income families who cannot afford standard private housing without federal assistance. There is a long accumulated backlog of unfilled requests to serve this income group. Unlike Section 221(d)(3), the capital financing under Section 236—as well as Section 235—is shifted to the private market, including mortgage purchases by FNMA and GNMA under the tandem program involving special assistance. Federal assistance payments make up the difference between the market rate of interest and 1% depending upon income.

Because the successful Section 221(d)(3) BMIR program has been phased out, HUD should administer the Section 236 program with sufficient flexibility so as to serve as many families as possible who would be eligible for Section 221(d)(3) housing. These families will use substantially less subsidy money and will provide economic integration within Section 236 projects.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) Section 236 assistance is in the form of periodic payments to the mortgage financing the housing to reduce the mortgagor's interest costs on a market rate FHA-insured project mortgage.

(b) The interest assistance payments reduce payments on the project mortgage from that required for principal, interest, and mortgage insurance premium on a market rate mortgage—which is currently 7 percent—to that required for principal and interest on a mortgage bearing an interest rate of 1 percent.

(c) The interest assistance payments reduce rental or occupancy charges to a basic charge. A tenant or cooperative member will either pay (1) the basic charge or (2) such greater amount as represents 25 percent of income for total housing expense, but not in excess of the charges which would be necessary without any interest assistance payments. Incomes of tenants or cooperative members will be reexamined at least every 2 years for the purpose of adjusting charges. Rental or occupancy charges collected in excess of the basic charges are to be returned to HUD for deposit in a revolving fund for the purpose of making other interest assistance payments.

(d) Tenants or cooperative members of these projects who pay less than the fair market rental charge for their units will generally have incomes, at the time of their initial occupancy, not in excess of 135 percent of the maximum income limits that can be established in the area for initial occupancy in public housing dwellings. However, up to 20 percent of the contract funds authorized in appropriation acts may be made available for projects in which some or all of the units will be occupied, at the time of the initial occupancy, by tenants or cooperative members whose incomes exceed the above limit but do not exceed 90 percent of the income limits for occupancy of Section 221(d)(3) below-market-interest-rate housing.

(e) In determining income for the purpose of eligibility as well as the amount of rent or occupancy charges to be paid, a $300 deduction is permitted for each minor person in the family and any income of such minor is not counted. By administrative action pursuant to recommendations in the Senate Committee Report, there is a deduction of 5% of gross income to cover payroll deductions for social security taxes and compulsory pension funds.

(f) To qualify for mortgage insurance under the new program, a mortgagor must be a nonprofit organization, a cooperative, or a limited dividend entity of the types permitted under the section 221(d)(3) housing program. The mortgage limitations with respect to maximum mortgage amount are the same as for mortgages insured under the 221(d)(3) program. Interest assistance payments can also be made with respect to State-aided housing projects approved for receiving the benefits of the program prior to completion of construction or rehabilitation of the projects.

[1] Amended in 1969 Housing Act.

[2] Amended in 1969 Housing Act.

[3] Amended in 1970 Housing Act as described in paragraph 4(d) below.

[4] Amended in 1970 Housing Act as described in paragraph 4(c) below.

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(g) Contracts for assistance payments are authorized, subject to approval in appropriation acts, in the amount of $75 million annually prior to July 1, 1969. This amount is increased by $125 million on July 1, 1969,* by $125 million on July 1, 1970, and by $170 million on July 1, 1971.* **

(h) A project financed under the new program can include such nondwelling facilities as HUD deems adequate and appropriate to serve the occupants of the project and the surrounding neighborhood, as long as the project is predominantly residential and any nondwelling facilities contribute to the economic feasibility of the project. Where a project is designed primarily for occupancy by the elderly or handicapped it can include related facilities for their use, such as dining, work, recreation, and health facilities.

(i) A cooperative or private nonprofit corporation or association can purchase a project from a limited dividend mortgagor and finance the purchase with a mortgage insured under the program.

(j) Rent Supplement payments may be provided for tenants in projects financed under Section 236, but no more than 20 percent of the units in any one project can receive rent supplement assistance.***

(k) Section 236(b) of the National Housing Act now authorizes interest reduction payments with respect to part of a mortgage on a rental or cooperative housing project financed under a State or local program.*

(l) The dollar limits for mortgages on multifamily housing insured under Section 236 and 221(d)(3) have been increased by 15 percent.*

3. *Authorization in Appropriation Acts.* Of the $75 million authorized under Section 236 for interest-assistance contracts prior to July 1, 1969, $70 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized in the 1968 Act—this authorization was increased to $125 million in the 1969 Housing Act—for fiscal year 1970, $85 million was appropriated. The supplemental appropriation Act of 1970 contained $35 million of contract authority. The appropriation act for fiscal year 1971 contained $135 million of contract authority and the appropriation act for fiscal year 1972 contains $200 million of contract authority of which $35 million million is reserved for elderly housing.

4. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Extension of program.* The 1970 Act extends 236 program authority until October 1, 1972.

(b) *Interest Subsidy Authorization.* The 1970 Act amends Section 236(1) of the National Housing Act to increase, from $125 million to $150 million as of July 1, 1970 and from $170 million to $200 million on July 1, 1971, the aggregate amount of the contracts which may be entered into by the Secretary to make periodic interest reduction payments on behalf of owners of rental housing projects designed for occupancy by lower income families. It also clarifies the authority of the Secretary of Housing and Urban Development to enter into contracts for assistance payments in an outstanding amount at any one time not in excess of the amount approved in appropriation acts.

(c) *Inclusion of Certain Costs in Section 236 Projects.* The 1970 Act amends section 236(b) of the National Housing Act to authorize the Secretary, in computing the amount of rental assistance payments, to treat fees and charges imposed on mortgagors participating in State or locally financed mortgage lending programs in the same manner as FHA charged mortgage insurance premiums.

(d) *Use of Certain Housing Facilities Under Section 221 and Section 236 for Classroom Purposes.* The 1970 Act amends sections 221 and 236 of the National Housing Act to authorize the use of available facilities in existing sections 221 and 236 rental or cooperative housing projects for classroom purposes where public schools are overcrowded due in part to the project.

(e) *Congregate Housing for the Displaced, Elderly and Handicapped.* The 1970 Act amends section 221 of the National Housing Act to authorize the Secretary to insure mortgages covering rental projects to be occupied by displaced, elderly, or handicapped persons, which may contain community kitchens, common dining areas, and other shared facilities. The Act also amends section 236 of the National Housing Act to authorize the insurance of mortgages under that section covering rental projects to be occupied by displaced, elderly or handicapped persons which need not, with the approval of the Secretary, contain kitchen facilities. Up to 10 percent of the total amount of interest reduction payments contracted to be made pursuant to appropriation acts after the date of the enactment of the Housing and Urban Development Act of 1970 may be made with respect to such projects.

II. RECOMMENDATIONS

1. *Additional Authorizations in Appropriations Acts.* President Nixon's Budget Message for fiscal 1972 did not request full funding for the Section 236 program, in spite of the tremendous backlog of applications. The budget requested $175 million of contract authority for fiscal year 1972 against congressional authorizations of $200 million. In addition there was no request for $25 million of supplemental authorizations for fiscal year 1971. $200 million was included for fiscal year 1972 in the Appropriation Act.

In his Budget Message for fiscal 1973, the President has requested that the Appropriation Act include authority for $150,000,000 of annual interest assistance contracts for the Section 236 program. The only substantive legislation now enacted is a carry-over of $25,000,000 of unused contract authority from previous fiscal years. Accordingly, there is an urgent need to assure the passage of a housing law prior to July 1, 1972, in order to provide necessary legislative authorization under section 236 for the additional contract authority for fiscal 1973 and succeeding years. NHC recommends that the authorization in the Appropriation Act should be $275,000,000 in contract authority for Section 236, in accordance with the increase which we are recommending below in the legislative authorization.

We further recommend advance authorizations in appropriation acts to cover each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of homeownership programs for lower income families. Currently there are no authorizations beyond fiscal year 1972 for Section 236. Therefore NHC recommends the additional legislation authorization below.

2. *Increase in Legislative Authorizations.* NHC recommends increasing the legislative authorizations for interest assistance contracts under Section 236 to the following:

On July 1, 1972 (for fiscal 1973) an additional authorization of $275 million.

On July 1, 1973 (for fiscal 1974) an additional authorization of $300 million.

On July 1, 1974 (for fiscal 1975) an additional authorization of $350 million.

On July 1, 1975 (for fiscal 1976) an additional authorization of $400 million.

On July 1, 1976 (for fiscal 1977) an additional authorization of $400 million.

In addition to the foregoing authorizations, NHC recommends a separate and additional authorization of $50 million for each of the five fiscal years beginning with 1972 to provide interest assistance for projects financed or assisted by state agencies.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) Under Chapter E, we recommend a number of amendments to the proposed new Section 502 which would replace Section 236 if the Administration's Housing Bill is enacted. If that bill is not enacted and Section 236 continues, we recommend the following amendments to Section 236 which appear in Chapter E:

(1) Substitute the new proposed formula in subparagraph (2) of Chapter E–III with respect to eligible deductions in computing family income, so that the criteria under Section 236 would be the same as those established for public housing under the 1970 Housing Act.

(2) Substitute the new proposed formula in subparagraph (3) of Chapter E–III so that the occupant in multifamily housing under Section 236 would be required to spend 20% of his income for total housing expenses.

(3) Substitute the new proposed formula in subparagraph (4) of Chapter E–III with respect to income limits.

(4) Substitute the new proposed formula in subparagraph (5) of Chapter E–III which would provide varying amounts of subsidies for different income groups and which would achieve economic integration in a housing development so assisted under Section 236.

(b) NHC recommends that Section 236 and Section 221(d)(3) should be amended to remove the 10% limit on the number of units in a project which may be occupied by moderate-income individuals as distinguished from families. All moderate-income individuals would then be treated in the same manner as those who are elderly or handicapped.

(c) Currently there are almost twenty states that have legislative authority to operate agencies to finance low and moderate income housing through the sales of short-term notes and long-term bonds. Many states have such proposals in some stage of development. These agencies have been encouraged by HUD because they can provide lower cost mortgage money which is obtained because the interest on a public agency bond is tax-exempt. However, NHC believes that the operation of these state agencies should adhere to uniform standards and forms of the type prescribed by FHA if we are to encourage national builders in the subsidized programs. For builders currently doing business in several states, the proliferation of different housing rules and regulations will be an impediment to production of low and moderate income housing. Therefore, NHC suggests an amendment which would require stage agencies in the administration of Section 236 funds to continue using FHA forms and standards which now include necessary protections for the consumer.

(d) As stated above, NHC recommends a separate and additional authorization for state agencies administering housing programs using Section 236 funds in the amount of $50 million for each of the next five fiscal years. This authorization should be in addition to the authorizations recommended above. To meet the accumulated backlog of applications for such 236 assistance filed in the HUD officers, the full amount of regular authorizations of 236 funds should be promptly allocated to HUD offices and there should be no withholdings in Washington for special programs. These should be covered by the special additional authorization of 236 funds which we recommended for use on

*Amended in the 1969 Act.

**Amended in the 1970 Act as described in paragraph 4(b) below.

***Amended in the 1969 Act to allow up to 40 percent in cases where the Secretary determines that there is a need for additional rent supplement units.

projects financed or assisted through state and other public agencies.

(e) NHC recommends that under the GNMA Special Assistance functions public agencies be allowed to sell section 236 mortgages to GNMA.

(f) There has been a tremendous increase in expenses due to higher payments for local taxes, operating costs and tenant services in Section 221(d)(3) and Section 236 projects. These projects are finding it increasingly difficult to pay these higher expenses and continue to serve lower income families. Therefore, NHC recommends that $50 million be authorized which would be available for operating subsidies for these projects and those hereafter built under the new Section 502 program if enacted.

4. *Administrative Actions.* NHC makes the following recommendations for administrative actions:

(a) FHA should establish cost limits which will be realistic and workable in high cost areas, including both high and low rise buildings. This is necessary to assure that housing under 236 can be constructed within the cities in closer proximity to places with employment and public transportation.

(b) As to the cost of periodic income recertifications of occupants, FHA should pay these costs from the surcharges collected from over-income families. At present, these costs are treated as a project expense which results in an additional charge to occupants.

(c) From the beginning, Congress contemplated that 20% of the Section 236 funds would be available for "exception income limit" families. The Committee reports express the desire that HUD administer the 236 program in a manner which will achieve the Congressional mandate of economic integration. However, HUD has not fully utilized its exception limit authority. Less than half of the authorization for exception-limit families has been used. This denies the opportunity to achieve economic integration and defeats the intention of the law. The Administration should fully utilize its authorization and allow families to be accepted at exception limits in all geographic areas to facilitate the general achievement of economic integration in projects.

(d) While the Senate and House Committee Reports contained language directing HUD to more fully utilize contract authority *only* in Section 235 cases, NHC believes that HUD should take similar steps in the administration of Section 236 funds. There should be a periodic reevaluation of the policy of charging an amount equal to the full subsidy against the authorizations for each project. If it is found that certain projects have not fully utilized this subsidy and that payments are being made to HUD, some of this money should be reallocated to generate new construction.

CHAPTER L. SPECIAL MORTGAGE INSURANCE ASSISTANCE UNDER SECTION 237

I. Summary of existing legislation

1. *Objectives.* Section 237 can provide help to assure adequate housing for families of low and moderate income who—because of poor credit records, irregular income or seasonal employment—are unable to meet the credit requirements for purchasing single-family homes financed by a mortgage insured under Sections 203, 220, 221, 234, or 235(j)(4). This help is to be extended to those who appear able to achieve homeownership through counseling assistance.

2. *Authorizations in the Housing Acts of 1968 and 1969.*

(a) HUD is authorized to insure mortgages under the above-mentioned programs in an amount not to exceed $15,000 with increases not to exceed $17,500 in high-cost areas.

(b) Monthly payments, in combination with local real estate taxes on the property, must total 25% of the applicant's monthly income during the year prior to his application or the average monthly income during the three years prior to his application, whichever is higher.

(c) The Secretary is authorized to provide—or contract with public or private organizations to provide—budget, debt management and related counseling services to those obtaining housing under Section 237.

(d) The aggregate principal balance of all mortgages insured under Section 237 and outstanding at one time may not exceed $200 million.

(e) Authorizations are made in such sums as necessary to carry out the provisions of Section 237.

(f) The 1969 Housing Act amends Section 237(d) to include families who are applying for Section 235 homeownership assistance among the applicants under Section 237 who are to be given a preference for mortgage insurance and counseling services. Prior to this amendment, preference for Section 237 mortgage insurance—which is available to applicants who do not meet normal FHA credit standards—was limited to families living in public housing units (especially over-income families required to vacate public housing) and families eligible for public housing who have been displaced from federally assisted urban renewal areas.

3. *Authorizations in Appropriations Acts.* For the first time since its inception, funds were made available for Section 237. While the Administration did not request any funds, Congress made $3.25 million available for Fiscal Year 1972.

II. Recommendations

NHC recommends additional appropriation of funds to enable FHA to provide budget, debt management, and related counseling services to those obtaining housing under Section 237. In addition to assistance under Section 237, NHC urges that FHA make payments available under Section 235(e) to mortgagees to reimburse the mortgagee for its expense in handling the mortgage. This should include assistance to mortgagors in their budgeting to assure ability to meet mortgage payments.

CHAPTER M. THE RENT SUPPLEMENT PROGRAM

I. Summary of existing legislation

1. *Objectives.* The Rent Supplement Program was an innovative approach to low income housing. It utilizes the free enterprise system and has been strongly endorsed by the home-building, real estate, and insurance industries. It provides incentives for people to escape from poverty, and for the building of decent housing for those who need it most.

2. *Authorizations in the Housing Acts of 1968 and 1969.* The 1968 Housing Act made all previous authorizations for rent supplement contracts aggregating $150 million available for contract prior to July 1, 1969, but only to the extent that these contract authorizations were contained in appropriation acts. The Act provided for an additional $40 million in contract authority for rent supplements in fiscal year 1970 and an additional $100 million in contract authority for fiscal year 1971. The 1968 Housing Act provided that state aided projects are eligible for rent supplements if the projects are approved for such assistance prior to completion of construction or rehabilitation. The 1969 Housing Act authorized the Secretary of HUD to increase, where he deems it desirable, the maximum percentage of rent supplement units in 236 projects from 20% to 40%.

3. *Authorization in Appropriation Acts.* Of the $150 million authorized for rent-supplement contracts prior to July 1, 1969 only $72 million of the contract authority has been embodied in appropriation acts. Of the $100 million authorized for rent-supplement contracts for fiscal 1970, the appropriation act for fiscal year 1970 provided for only $50 million in rent-supplement contract authority. The appropriation act for fiscal year 1971 contained $55 million and the appropriation act for fiscal year 1972 contained $55 million.

4. *Housing and Urban Development Act of 1970.*

Rent Supplement Payments. The 1970 Act amends section 101(a) of the Housing and Urban Development Act of 1965 to increase, by $40 million on July 1, 1971, the aggregate amount of contracts that the Secretary of Housing and Urban Development may enter into to make rent supplement payments.

II. Recommendations

1. *Additional Authorization in Appropriation Acts.* In his Budget Message for fiscal 1973, the President has recommended that the Appropriation Act include a rent supplement contract authorization of $48,000,000 for fiscal 1973. NHC recommends that the Appropriation Act include the full unused rent supplement contract authorization of $98,000,000 which is a carry-over from previous years. In making these recommendations, we again urge the need for advance authorizations in appropriation acts for each succeeding fiscal year, besides the current one, to allow more lead time for the planning and initiation of rent supplement programs.

2. *Increase in Legislative Authorizations.* There is an urgent need to assure the passage of a housing law in order to provide the necessary legislative authorizations for additional rent supplement contracts for fiscal 1973 and succeeding years. NHC recommends increasing the legislative authorizations for rent-supplement contracts as follows:

On July 1, 1972 (for fiscal 1973) an additional authorization of $90 million;

On July 1, 1973 (for fiscal 1974) an additional authorization of $100 million;

On July 1, 1974 (for fiscal 1975) an additional authorization of $100 million;

On July 1, 1975 (for fiscal 1976) an additional authorization of $100 million;

On July 1, 1976 (for fiscal 1977) an additional authorization of $100 million.

3. *Other Legislative Amendments.* NHC makes the following recommendations for other legislative amendments:

(a) The rent supplement legislation imposes too great a burden on low income families by requiring them to pay rents equal to 25% of their annual income, since rent supplements will pay only the difference between such a rental payment and the fair market rental. To eliminate this hardship, NHC recommends that this rent paying requirement be reduced to 20% of family income. A similar recommendation has been made elsewhere in these recommendations relating to the present requirement that too high a percentage of family income be spent for housing under the interest assistance programs of Sections 235 and 236, and (in Chapter E) under the new proposed consolidation of these programs.

(b) There should be an increase in the statutory ceiling on the amount which can be paid as rent supplements on a project in order to reach families of very low incomes whose needs cannot be met now. There should be no areas of unmet need in our housing program.

(c) Counseling and social services should be made available to residents of housing aided by rent supplements. Such services should be allowable housing costs in computing rent supplement payments.

(d) The present law limits rent supplements to lower income families who are living in substandard housing. NHC recommends that the law be amended to include overcrowded conditions—properly defined as to appropriate occupancy limits—as a substandard housing condition; also to permit any low income family to be eligible for housing aided by rent supplements so long as the family qualifies as to low income, even though the family does not live in physically substandard housing. This would meet the

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needs of newly formed families and those who are spending too much of their low income for housing.

(e) There should be a repeal of the requirement in appropriation acts for a workable program or local government approval before rent supplements can be used in a locality.

(f) NHC urges the establishment of an additional rent supplement program for nonprofit or limited-profit mortgagors who own buildings which are not financed under Sections 221(d)(3) or 236. When the buildings meet code standards—or are rehabilitated to meet such standards—rent supplements should be made available so that the housing can serve low-income families. Present rent supplement requirements for rehabilitation are often unworkable because they cost too much. Rehabilitation to meet code requirements should be acceptable. This will stimulate rehabilitation and provide standard housing quickly and reasonably for many low and moderate income families.

4. *Administration Actions.*

(a) Construction cost limitations were initially established in the rent supplement program which were unworkable in many high-cost cities that faced the greatest need for this program. HUD has approved some increases in these cost limits. However, these increases are insufficient due to cost increases, so NHC recommends further increases in the cost limitations to keep pace with the increases in construction costs. Only through adequate construction cost allowances can the rent supplement program fulfill its purpose of serving low income families in these cities near the places of employment and public transportation.

(b) FHA has established lower limits as to the amount of rent supplements available for families in a project than the amount permitted by the statute. NHC recommends the repeal of these lower administrative limits which limit the subsidy to 70% of economic rent. HUD should be prepared in appropriate cases to contract to pay the full amount of rent supplements on a project up to the statutory ceiling. Only in this way can the needs of many low income families be met, particularly in high cost areas.

(c) The standards under the rent supplement program should be upgraded to produce better-designed housing which will more adequately meet the needs of families, with attention to their comfort and convenience. Thus, the limit of one bathroom per dwelling unit should be removed, as this denies adequate sanitary facilities for larger families.

CHAPTER N. HOUSING FOR FAMILIES RECEIVING PUBLIC ASSISTANCE; EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

1. Four million American families are receiving all or part of their income from public assistance programs. Many of these families are ill-housed, primarily because welfare grants in most cities are inadequate to pay the cost of standard housing. NHC urges the enactment of legislation which would establish and enforce minimum standards for housing occupied by recipients of public assistance. In addition, such legislation should provide that the Federal Government bear the entire cost for decent housing above the present inadequate public assistance allowances for shelter. Thus, families on public assistance would receive a federal housing allowance to supplement the local public assistance shelter allowance in order to cover the full charge for decent housing. Such federal housing allowances should be made in a manner (i) which will encourage rather than discourage ownership and (ii) which will provide security for the recipient against being subjected to the liens that are sometimes involved in local public assistance programs.

2. Even if programs are undertaken at the scale proposed elsewhere in these Resolutions, it will be years before many of the low income families will be able to obtain decent housing within their means. Therefore, NHC supports an experimental program of federal housing allowances for low income families. Besides the initial program for federal housing allowances—described in the preceding paragraph—to supplement local allowances for welfare families, we approve of the experimental program which has been initiated in several selected cities. However, we urge that this program involve explorations and demonstrations concerning the following:

(a) The type of families which should be eligible for a federal housing allowance, including criteria that they live in substandard housing and pay a disproportionate amount of their income for housing; or that they are being displaced from adequate housing and are unable to obtain other suitable housing at charges they can afford.

(b) The amount to be paid as a federal housing allowance. We recommend the difference between (i) 20% of the family's income and (ii) the monthly cost of adequate housing available in the community.

(c) Adequate consumer protections to assure that federal housing allowances will not inflate housing charges, by limiting the use of existing structures—which meet the foregoing standards—to cases where there are sufficient vacancies to avoid such increases in housing charges.

(d) Adequate measures to assure that housing allowances will be used solely to pay for housing costs, rather than being diverted for other purposes.

(e) Safeguards to assure that the federal housing allowance will result in adding to the supply of decent housing in the community through new construction or rehabilitation, except to the extent that decent vacant housing is available in a suitable neighborhood.

3. Because HUD has just recently activated the experimental program for housing allowances, NHC recommends that no further expansion of the housing allowance program take place until we have had experience with the housing allowance program and learned the results of the experiment, particularly concerning any adverse impact on stimulating new construction of housing to meet national goals.

4. The 1970 Act authorized the Secretary to conduct research programs to demonstrate the feasibility of providing low income families (those families eligible for occupancy in public housing projects in an area) with housing allowances to assist them in obtaining existing standard rental housing of their choice. The housing allowance may not exceed the difference between 25 percent of the family's income and the fair market rental of similar sized units or projects receiving rent supplement benefits. The Act also authorized the Secretary to contract with public or private organizations to help select eligible families. The Secretary is authorized to contract to make annual housing allowance payments of $10 million for each of fiscal years 1972 and 1973. The program would be terminated as of June 30, 1973.

(5) Provisions in *Senate Enacted Bill* relating to Experimental Housing Allowance Program.

The Bill would amend the Experimental Housing Allowance program established by the 1970 Housing and Urban Development Act to provide greater scope for experimentation and to increase the funding authorization for each of the next three fiscal years from the $15 million contained in last year's Act to $25 million annually. Under terms of the Bill, the Secretary of HUD would be directed to develop and utilize different types of housing allowances and different techniques for implementation.

This provision of the *Senate Enacted Bill* adopts the NHC recommendation that the Housing Allowance Program is to be continued as an experimental program—except that the Bill would increase the authorization by $10 million annually for the next three years—until its results are tested and evaluated.

CHAPTER O. REHABILITATION OF HOUSING AND CODE ENFORCEMENT

I. Summary of existing legislation

1. *Need.* NHC again reaffirms the importance of saving existing neighborhoods through rehabilitation and other conservation measures. It is sound policy to improve our present housing supply and conserve neighborhoods rather than allow them to deteriorate until they require greater costs in demolition and reconstruction.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) *Dwellings Eligible for Rehabilitation Grants and Loans.* The 1968 Act broadens the program of rehabilitation loans under Section 312 for repairs and improvements of dwellings. Instead of limiting the program to dwellings located in urban renewal and code enforcement areas, owners and tenants of dwellings are eligible for loans in the dwelling if located in an area certified by the public governing body as containing a substantial number of structures in need of rehabilitation, and

(1) If the locality has a workable program; and

(2) If the area is definitely planned for rehabilitation or code enforcement within a reasonable time, and the repairs to be assisted are consistent with the plan for rehabilitation or code enforcement.

The 1968 Act authorizes rehabilitation grants under Section 115 to low income homeowners whose properties are located in an area of the character described above, instead of limiting such grants to dwellings in urban renewal and code enforcement areas. The Act also authorizes the Secretary of HUD to make rehabilitation grants and loans to low income homeowners whose property has been determined to be uninsurable because of physical hazards. Such grants or loans may be made only to rehabilitate the property to the extent necessary to make it insurable under a statewide plan.

(b) *Increase in Rehabilitation Loan Authorizations.* The 1968 Act increases the amount authorized to be appropriated for rehabilitation loans. The increase for each fiscal year is from $100 million to $150 million; also, the program is extended to June 30, 1973. The 1968 Act limited eligibility for residential rehabilitation loans to persons whose annual income meets the locally applicable income limits for the Section 221(d)(3) below-market-interest-rate program. The 1969 Act amended Section 312(a) of the Housing Act of 1964 to remove the requirement limiting eligibility for residential rehabilitation loans to persons whose annual income is within locally applicable income limits for the Section 221(d)(3) below-market-interest-rate program. However, priority will be given to applicants whose incomes are within those limits.

(c) *Increase in Rehabilitation Grants.* The Housing Act of 1968 increased the limit on the amount of a rehabilitation grant to a low income homeowner from $1,500 to $3,000. The 1969 Act increased this limit to $3,500.

(d) *Repeal of Urban Renewal Limit on Acquisition and Rehabilitation.* The Act removes the previous limits on the acquisition and rehabilitation of residential properties by local renewal agencies. Under prior law, such agencies could acquire and rehabilitate for demonstration purposes no more than 100 units or 5% of the total residential units suitable for rehabilitation in an urban renewal area, whichever was the lesser. This limit has been repealed.

3. *Authorization in Appropriation Acts.* Nothing was appropriated in Fiscal Year 1969; $45 million was appropriated for Fiscal Year 1970; $35 million was appropriated for Fiscal Year 1971; and $90 million was appropriated for Fiscal Year 1972.

4. *Amendments in the Tax Reform Act of 1969 Relevant to Rehabilitation.* A special 5-year amortization deduction is now allowed for expenditures made on or after July 25, 1969, and before December 31, 1974, for the rehabilitation of buildings for low-cost rental housing. This rapid amortization is available only where the property is held for occupancy by families and individuals of low or moderate income determined in a manner consistent with the policies of the 1968 Housing Act. The aggregate rehabilitation may not exceed $15,000 per dwelling unit and the sum of the rehabilitation expenditures (over a 2-year period) must exceed $3,000 per dwelling unit.

5. *Amendments in Housing and Urban Development Act of 1970. FHA Rehabilitation Standards for Housing in Urban Renewal Areas.* The 1970 Act adds a new section 524 to the National Housing Act which requires the Secretary of HUD, with respect to properties approved for mortgage insurance prior to rehabilitation, to apply uniform property standards as between properties located within urban renewal areas and those located outside such areas.

6. *Project Rehabilitation.* This new program will attempt to help cities undertake large-scale, low-cost rebuilding of rundown low-cost housing. Estimates are that a major rehabilitation effort will involve nearly 22,000 housing units in ten cities. The rehabilitation units are primarily in absentee-owned slum buildings.

The first cities getting HUD approval of plans, technical assistance and program funds are Cincinnati, Detroit, El Paso, Hartford, Indianapolis, Memphis, New York, Philadelphia, Pittsburgh, and Seattle. HUD fund assistance includes financing under the public housing program, rent supplements, and mortgage assistance interest subsidies for both rental projects, cooperatives, and homes bought by lower income families. Project rehabilitation is directed by a team of officials from such HUD areas as FHA, Renewal and Housing Management, Model Cities, Equal Opportunity, and Research and Technology Six criteria determine selection of cities by project teams which visit localities seeking HUD assistance. These are suitable rental properties, skilled contractors, capable sponsors, job and enterprise opportunities for neighborhood residents, neighborhood acceptance, and assistance for displaced families.

II. Recommendations

1. To provide additional tools that are needed to achieve substantial progress through rehabilitation, NHC recommends the following:

(a) Section 312 should be amended to increase to $500 million the annual appropriations in each fiscal year to carry out the program. Section 312 should broaden the category of eligible borrowers to include public bodies, cooperatives, nonprofit corporations and limited dividend companies in addition to owners or tenants who are now eligible.

(b) While the 1969 Housing Act increases to $3,500 the federal rehabilitation grants to eligible occupants who own their own homes in the rehabilitation neighborhoods, NHC recommends an increase to $5,000.

(c) Where state or local governments allow tax abatement to encourage rehabilitation, there should be an annual Federal grant to reimburse them for the tax losses.

(d) Relocation assistance and payments should be available to anyone displaced as a result of a rehabilitation program.

(e) More realistic financing should be made available under FHA programs, particularly to serve those people of low and moderate incomes. This requires more practical and workable financing terms and allowances as follows:

(1) The formulas for determining mortgage amounts must recognize the actual cost of acquiring and rehabilitating properties that are structurally sound.

(2) There should be a contingency allowance built into the mortgage financing, which has now been done by FHA. In rehabilitation, the contractor is often not aware of potential problems until he opens the walls and ascertains actual conditions.

(3) The FHA requirements for rehabilitation should not require a specified percentage of mortgage proceeds to be used for rehabilitation, so long as property is brought up to code standards.

(4) In projects where the property is owned or controlled by the proposed mortgagor, cost savings may be achieved by stripping down the building and tearing out the interior walls before making estimates or getting bids for the rehabilitation work. In such cases, FHA should recognize the cost of gutting the building since this increases the value of the property for rehabilitation because conditions are known and unforeseen contingencies are minimized.

(5) To reduce the monthly charges to the level which moderate-income families can afford, it is necessary to eliminate present requirements for short amortization periods on rehabilitation projects. Where the rehabilitation property is in a central city, there is likely to be an increment in land value from which to repay the loan, even though demolition occurs well in advance of the remaining estimated life of the improvements. Thus, the property may later become part of a model city neighborhood or urban redevelopment area. At present, the statute limits the mortgages to a maturity not exceeding three-quarters of the remaining economic life of the building improvements. This limitation should be repealed. FHA should be authorized to permit up to 40-year maturities where appropriate.

2. There should be Federal grants to a local agency designated by the city government for a total coordinated plan for rehabilitation of the neighborhood and for carrying out the rehabilitation program contemplated by the plan. The local agency should enlist the participation of cooperative and nonprofit organizations and local housing authorities. The local agency would also act on behalf of eligible homeowners and tenants in the area in obtaining:

(a) Rehabilitation grants, interest assistance or rent supplements for them;

(b) Below-market-interest-rate loans or market-interest-rate loans for their rehabilitation work; and

(c) Contracts to perform the rehabilitation work, subject to supervision by the local agency.

3. HUD should fully utilize the authorizations in the 1968 Housing Act providing for the acquisition of property for rehabilitation and its disposition with appropriate write-downs which reflect the proposed use of the property. A similar program is necessary outside of urban renewal areas.

4. The authorizations in Sections 236 and 221(h) should be fully funded and utilized to facilitate and accelerate the rehabilitation program.

5. NHC recommends Federal grants to housing authorities or other public agencies—as described elsewhere in these recommendations—to bring housing up to minimum code standards and to make it available for families of low income, including those who are receiving public assistance.

6. NHC urges an acceleration of concentrated code enforcement in deteriorating areas, together with necessary public improvements to halt their decline. The costs of code enforcement programs—both for determining Federal grants and local grant-in-aid credits—should include all costs incurred for repair or installation of streets, sidewalks, streetlighting, trees, parks, open areas, recreational facilities, and other necessary improvements.

CHAPTER P. HOUSING FOR THE ELDERLY

I. Summary of existing legislation

1. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Housing Act did not provide for any increase in the authorization in the 202 program of direct loans at 3% interest to provide housing for the elderly. Instead, the new 236 program of interest assistance was intended to make FHA-insured financing available for this program. Under 236 there is interest assistance to reduce monthly housing payments to the level achievable with an interest rate of 1% and without any FHA mortgage insurance premium. Under 236, projects can now be undertaken which will provide housing exclusively for the elderly. Such projects may include related facilities, such as dining, work, recreation and health facilities. The Act authorized refinancing of certain 202 projects in order to achieve the lower monthly charges resulting from refinancing with interest assistance.

2. *Amendments in Housing and Urban Development Act of 1970.* The 1970 Act amends section 15 of the United States Housing Act of 1937 by adding a new paragraph (12) which would direct the Secretary to encourage local public housing agencies to develop congregate housing for the displaced, elderly and handicapped. Congregate housing would be defined to mean projects with central dining facilities, where some or all of the units do not have kitchen facilities. The dining facility would be required to be operated on a self-supporting basis; however, any expenditures, other than for food or services, could be considered a cost of the administration of the project. The section also provides that not more than 10 percent of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing.

3. *Authorizations in Appropriation Acts.* The contract authority in appropriation acts for 236 should now be fully utilized to finance housing for the elderly. For a description of the 236 authorizations in appropriation acts, see Chapter K which covers that program. The Conference Report requires that $35 million of the $200 million available for fiscal year 1972 be made available for elderly housing under Section 236.

II. Recommendations

1. *Additional Legislative Authorizations.*

(a) NHC urges that an average of 50,000 housing units for the elderly be provided each year for the next five years.

(b) NHC recommends that the authorizations under Section 236 should be available to acquire existing housing for the elderly, including projects developed with FHA insurance under Section 231.

2. *Other Legislative Amendments.*

(a) There is a need for special programs to provide federal grants for the following purposes in housing for the elderly:

(1) to assist in training professional personnel to manage programs for the elderly; and

(2) to provide working capital and seed capital to states and localities and to nonprofit organizations such as church groups, labor unions, fraternal and cooperative-servicing organizations.

(b) NHC recommends adoption in the next Housing Act of a provision that was passed by the House but not adopted by the Conference on the 1969 Housing Act which requires (1) that projects for the elderly or handicapped be administered, to the maximum extent possible, under the same terms as the Section 202 program, (2) that the requirement for

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computations of rents based on income will not apply to handicapped families, (3) that income verification for tenants in such projects shall be every five years and (4) that "Exception Income Limits" for the elderly or handicapped shall be $5,500 for individuals and $6,600 for couples, in lieu of 90% of 221 (d)(3) BMIR limit otherwise applicable.

3. *Administrative Action.*

(a) The 236 cost limits should be increased to permit housing to be built within the cities where they are needed to serve the elderly. In view of high land costs, this should include high-rise buildings. The program should include rehabilitation as well as new construction.

(b) In accordance with the statutory authority for loans equal to the total development costs, HUD should not require an approved sponsor to make an investment to cover the cost of preliminary expenses, facilities, furnishings, equipment, and working capital. Such costs should be included in the loan. It should not be necessary for a nonprofit sponsor to make a monetary contribution. Its contribution consists of its devotion of time, ingenuity, and energy in initiating and developing projects—all without compensation and motivated by public service.

(c) HUD should take all action necessary to allocate promptly the $35 million interest-assistance contract authority which the Congressional Conference Report requires be used for elderly housing.

CHAPTER Q. FINANCING NURSING HOMES, FACILITIES FOR GROUP MEDICAL PRACTICE AND NONPROFIT HOSPITALS

I. Summary of existing legislation

1. *Objectives.* NHC again recognizes that a continuing desperate need exists for hundreds of thousands of nursing home beds, especially among the low-income elderly. This need has increased by demands generated through Medicare. Since local housing authorities have long experience in building low-rent housing for the elderly, they are well qualified to develop nursing homes for low-income persons. They should be authorized to coordinate programs of housing and nursing home facilities for the low-income group. This can be done effectively by amending the USH Act of 1937, to authorize annual contribution contracts with local housing authorities for nursing home facilities. In addition to these needs, many communities are facing serious shortages in full hospital facilities. Existing hospitals are unable to undertake needed expansion because of their inability to finance such costly additions.

2. Authorizations in 1968 and 1969 Housing Acts. The 1968 Housing Act amended Section 232 of the National Housing Act to permit the cost of major items of equipment used in operating nursing homes to be included in the FHA-insured mortgage; also, to permit supplementary loans for the installation of such equipment in nursing homes previously constructed.

The 1968 Housing Act added Section 242 to the National Housing Act which establishes a FHA program under which the Secretary of HUD will insure mortgages covering new or rehabilitated hospitals (including initial equipment). To be eligible for such insurance, the mortgage cannot exceed $25 million or 90 percent of replacement cost, and the hospital must be owned and operated by one or more nonprofit organizations. A certification is required from the State health agency that the hospital is need and that State or local laws providing for minimum standards will be applied and enforced.*

The 1969 Act amended Section 232 of the National Housing Act to authorize insurance of mortgages financing new or rehabilitated intermediate care facilities or combined nursing homes and intermediate care facilities. The purpose of this program is to assist in the provision of facilities for persons who, because of incapacitating infirmities, require minimum and continuous care of the type provided by licensed or trained personnel but who do not need full nursing home care.

Under the 1969 Act an intermediate care facilities project or a combined nursing home and intermediate care facilities project can be financed under the same terms and conditions as provided for a nursing home under the present authority. The mortgage is limited to a principal obligation not exceeding $12,500,000 or 90% of the estimated value of the property or project including equipment. The Secretary must require certification by the State agency designated by the Public Health Service Act as to the need for such facilities and appropriate standards for their operation. The Secretary must also consult with the Department of Health, Education and Welfare as to the health and medical aspects of such facilities and as to the need and availability of such facilities in the area.

3. *Amendments in the Housing and Urban Development Act of 1970.*

(a) *Maximum Amount of FHA-Insured Hospital Mortgage.* The 1970 Act amends Section 242 of the National Housing Act to increase from $25 million to $50 million the maximum insurable mortgage amount covering a hospital.

(b) *Mortgage Insurance for Proprietary Hospitals.* The 1970 Act makes profit-making entities eligible to finance hospital construction or rehabilitation with FHA-insured mortgages. Previously, only nonprofit organizations were eligible to develop FHA-financed hospitals.

II. Recommendations

1. NHC recommends that Section 202 and Section 236 be amended to permit the inclusion of nursing facilities in housing projects for the elderly. In this way, elderly persons who need nursing facilities would not have to leave the community in which they are living. In public housing for the elderly, nursing facilities should likewise be included.

2. NHC further recommends that financing be available to nonprofit and cooperative sponsors under Section 236 which will cover the full cost of construction of nursing homes; also, that such projects should get the benefit of below-market-interest rates of subsidies. As stated above, we recommend a statutory increase in subsidy to permit a reduction in this interest rate to 0% for those who need it.

3. The 1966 Act included a program of FHA insurance for facilities used for group medical practice. NHC reaffirms its support of this program and urges its use to encourage the development of nonprofit cooperatives whose members will obtain the benefits of bona fide group medical practice at a reasonable cost. The program should operate in both urban and rural areas. NHC continues to recommend that mortgage amortization be permitted to commence after completion of construction of group practice facilities rather than at the time the mortgage is executed.

4. NHC continues to support the basic concept of the prior Patman Bill, H.R. 10188, which would remove obstacles that impede the broader development of group health plans and which would make financing available for group health programs providing hospitalization, out-patient and preventive care.

CHAPTER R. COLLEGE HOUSING

I. Summary of existing legislation

1. *Objective and Need.* Our Nation has increasingly recognized its dependence upon higher education for its security, welfare, and continued prosperity. To meet the demands made by the expanding number of students and by required increases in faculties, additional housing must be provided for students and faculty. Congress recognized the appropriateness of meeting these needs for college housing twenty years ago. In the Housing Act of 1950, it initiated low-interest loans for housing and educational facilities for students and faculties. Since 1961 there have been authorizations for loan increases at the rate of $300 million each year. Such increases are wholly inadequate to meet current needs. The study conducted under the auspices of the American Council on Education has indicated that approximately $1.5 billion per year of college housing will be needed for the next ten years. Recognizing that a portion of this amount may be derived from non-federal sources, the Council recommended that Congress authorize assistance which will provide a minimum of $1 billion of college housing a year for the next ten years.

2. *Authorizations in the 1968 and 1969 Housing Acts.* Instead of expanding the direct loan program for college housing, the 1968 Act contemplated financing in the private market, but it authorizes financial assistance to colleges by means of annual debt service grants. This grant program is to be used to reduce the borrowers' annual debt service payments on private market loans to the average annual debt service that would have been required if the loan were based on the rate charged on loans under the direct loan program. Annual grants can be made over a fixed period up to 40 years. The total amount of annual grant contracts is subject to approval in appropriation acts. The total amount cannot exceed $10 million, with this limit increased by $10 million on July 1, 1969. The new grant program is made available for loans involving the purchase of existing properties which are in need of little or no rehabilitation.

The 1969 Act amends Section 401(f)(2) of the Housing Act of 1950 to increase, by $4,200,000 on July 1, 1970, the aggregate amount of contracts which may be entered into to make annual debt service grants to help finance college housing facilities.

3. *Authorizations in Appropriation Acts.* There was an authorization of $5.5 million of annual grant contracts for college housing instead of the $10 million authorized in the 1968 Housing Act. For fiscal 1970, $6.5 million was appropriated. For fiscal 1971, $9.3 million of annual grant contracts was appropriated. This appropriation required an increase of $2.6 million in the legislative authorization. For fiscal 1972, $9.3 million was appropriated.

4. *Amendments in the Housing and Urban Development Act of 1970.*

Authorization for College Housing Debt Service Grants. The 1970 Act amends Section 401(f)(2) of the Housing Act of 1950 to increase by $12 million on July 1, 1971, the aggregate amount of contracts which may be entered into to make annual debt service grants to help finance college housing facilities.

II. Recommendations

Increase in Legislative Authorizations. NHC recommends a 5-year authorization of contracts for annual debt service grants which would be sufficient for $1 billion of private financing annually for college housing.

CHAPTER S. COOPERATIVE HOUSING

1. In urban areas where multi family housing predominates, cooperatives provide an important means of achieving homeownership. This produces better communities where the control and responsibility rests with the people who have a stake and pride in their own housing development.

2. NHC approves the use for cooperatives of the 221(d)(3) below-market-interest-rate (BMIR), 221(d)(3) market rate program, 235 and 236 interest assistance, the new Section 243 program providing interest assistance for middle income families, and rent supplement programs. Such cooperatives will make it possible to reach lower income groups

* Amended in 1970 Housing Act to increase mortgage limit to $50 million as described in paragraphs 3(a) and (b) below.

because of the economic savings and advantages of cooperatives. These are illustrated by the following savings:

(a) Lower closing costs with one closing—including one mortgage, one title policy, one insurance policy and one title transfer—on an entire project of many dwellings, rather than one for each dwelling.

(b) Lower transfer costs since it is unnecessary on a cooperative sale to incur the costs of title examinations and transfers, brokers' fees, refinancing and other charges.

(c) Lower construction costs which cooperatives have achieved through the economies of large scale building when many housing units are presold before construction starts.

The cooperative program has been successful for low and moderate income families assisted under programs with below-market interest rates. NHC concurs in the Congressional mandates to encourage such cooperative housing under Sections 213, 221(a)(3) ments by HUD and FHA encouraging cooperative housing under Section 213, 221(d)(3) and 236, such as the notice to FHA Insuring Office Directors and Assistant Regional Administrators which stated:

"In discussions with builders and lenders, the insuring office should encourage their participation in the above cooperative programs, not only because of the excellent experience which has been achieved from the FHA fiscal standpoint, but also because of the benefits both financial and sociological which flow to the users of this type of housing."

3. The need and demand for cooperative housing under Section 236 greatly exceeds the amount of funds available. In many HUD offices, cooperative housing represents a substantial part of the accumulated backlog of projects awaiting funds under the 236 program. This backlog of need should be met by the release of funds already available and increased authorizations recommended for the 236 program.

4. We recommend that FHA recognize the presently uncompensated costs to cooperative projects resulting from the requirement of recertifying incomes. The cooperative should be reimbursed by retaining the costs of recertifications from "over-income" surcharges that are ultimately returned to HUD. In addition, FHA should allow portions of the over-income surcharges to be used by the cooperative for improvements that FHA may consider advisable and justifiable during the life of the project.

5. Twelve years ago Congress established a revolving fund of $225 million—which is now administered by GNMA—for the purchase, at par, of cooperative mortgages insured by FHA under Section 213. While there have been extensive mortgage purchases from the cooperative revolving fund, much of the money has been returned, so it now has an uncommitted balance of about $100 million. In 1968, the Administration impounded the fund and no further GNMA commitments can now be issued. NHC recommends that the balance in the cooperative revolving fund be made immediately available for the purchase of mortgages on cooperative projects. The 213 program fills an unmet need among those middle-income families and individuals who can only afford the lower monthly charges achievable through cooperative economies and financing. To lessen the budget impact and induce the Administration to utilize these GNMA funds for the purchase of Section 213 mortgages, we recommend that these funds be used under the Tandem Program. In this manner, the budget will reflect only the difference between GNMA's par purchase of the mortgage and the market price at which GNMA later sells the mortgage.

6. (a) NHC applauds the HUD action in releasing millions of dollars for dividend payments to over 400 Section 213 management-type housing cooperatives who are covered by a mutual insurance fund. NHC agrees with HUD's statement that the dividend distribution was "persuasive evidence of the success of these housing cooperatives during the years that the Section 213 program has been in effect."

(b) The Cooperative Management Housing Insurance Fund (CMHI Fund") not only receives payment on mortgage insurance premiums but the CMHI Fund also receives payments from interest on invested reserves. Current law limits the yearly dividend distribution to excess collections (above anticipated needs) of mortgage insurance premiums. NHC recommends that participating housing cooperatives should also receive dividends which include their share of other income to the CMHI Fund. Accordingly, we recommend that Section 213 be amended to remove the above-described limitation on dividend distributions.

(c) Because many housing cooperatives are faced with large expenditures for capital improvements to comply with local environmental protection laws and changes in housing codes, we recommend that the reserves of the CMHI Fund should be made available for loans to finance such improvements. We recommend an amendment to Section 213 which would allow up to one-third of the CMHI Fund to be available for loans to participating housing cooperatives required to make such improvements. The loans should cover 75% of the improvement cost and be repaid over a ten-year period, but in no event beyond the maturity of the cooperative's mortgage. The loan should bear interest at a rate approved by the Secretary but not less than the rate being earned by CMHI Fund investments.

7. (a) As recommended elsewhere in this report, NHC urges the disposition of public housing and Federally-owned housing to cooperatives whose members will reside in such housing and enjoy the benefits of mutual ownership.

(b) In the disposition of property by urban renewal agencies, there should be a recognition in the disposition plan that it is important to achieve cooperative ownership of multifamily housing in urban renewal areas. Accordingly, part of these areas should be considered for the development of housing to be so owned by the people. In making a disposition for this purpose, there should be a disposition condition that those who acquire the property agree to develop it for housing that will involve cooperative ownership.

(c) The FHA insurance program for supplemental loans should be revised, implemented and administered in a realistic manner which would achieve its objectives. Many cooperative projects are faced by the necessity of making large expenditures to meet requirements of new laws enacted as part of anti-pollution and other health programs; moreover, many projects require rehabilitation and up-grading. Supplemental loans are also authorized to provide funds for necessary refinancing of membership resales which involve increases in equity. To facilitate administration of such supplementary loans to finance resales of cooperative memberships, such supplemental loans should be available not only to individual cooperatives but to a group or association of cooperatives or a non-profit financing institution to serve cooperatives. Supplemental loans should be made for a period and at an interest rate to permit their amortization without an undue burden on the projects. GNMA should be authorized to use special assistance funds for the purchase of such supplemental loans at par. The supplemental loan provisions in 213(j) should be extended to include housing projects covered by mortgages insured under Sections 221(d)(3) or 236. NHC recommends amendatory legislation to implement the recommendations in this paragraph to the extent that they cannot be effectuated through administrative action.

(d) The Special Assistant for Cooperative Housing at FHA should be provided with adequate staff and funds to undertake a broad program for the encouragement and development of cooperative housing, including necessary training of cooperative leaders and managers. The Special Assistant and his staff should have responsibility for both the assisted and unassisted cooperative housing in carrying out the functions prescribed in the laws establishing this position, which should be amended to cover cooperatives under all programs.

8 The Tax Reform Act of 1969 contains the following provisions of special interest to the operation of a cooperative housing project:

(a) Section 216(b) of the Code is amended to provide that, in determining whether a corporation is a cooperative housing corporation, no account is to be taken of stock owned and apartments leased by governmental entities empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities. The effect of the amendment is to allow individual tenant-stockholders to deduct their proportionate share of interest and taxes even though more than 20 percent of the cooperative's income is derived from a governmental entity. This amendment applies to taxable years beginning after December 31, 1969.

(b) Section 1039 is added to the Code to provide for deferral of gain upon the sale of a limited distribution project financed under Sections 221(d)(3) and 236 to a cooperative or other nonprofit corporation. This important incentive is more fully described in paragraph 4 of Chapter DD.

9. NHC recommends that the Rent Supplement Program be extended to cover the Section 213 Program. In central city apartments which are converted to cooperative ownership, this would enable them to serve inner city residents who need rent supplements to afford the monthly charges.

10. Since there is substantial interest on college campuses in the use of cooperative housing programs to serve college students, NHC recommends amendments in appropriate housing programs to enable the use of cooperatives for the housing of college students.

11. NHC applauds the U.N. General Assembly vote to encourage a program of social housing that includes cooperatives.

12. The law provides for conversion of existing rental projects financed under Sections 221(d)(3) and 236 to cooperative ownership under those same sections. However, there have been no conversions because HUD is reserving subsidy money exclusively for new construction. NHC urges that HUD reexamine this position and make monies available for this conversion program. As explained in Chapter DD, there is a tax program allowing for deferral of gain on rental projects converted to cooperatives if that gain is invested in the development of a new Section 221(d)(3) or 236 project. This program has yet to become operational because of the failure to release authorized funds.

13. Some existing Section 221(d)(3) cooperative projects are experiencing vacancies due to lack of qualified applicants; yet they are rejecting applicants who are over-income families who would pay the full market charges for their units. NHC recommends that HUD permit membership by these applicants for such existing Section 221(d)(3) cooperatives.

14. NHC recommends that a cooperative housing bank be established and capitalized by the Federal Government. There is a long history of successful operations of cooperative banks for agricultural endeavors. Through financing cooperative housing such a bank would facilitate the production of cooperative housing. It should be operated in a manner which will provide for the retirement of the Government-subscribed capital, so that the bank would become wholly owned by the housing cooperatives.

CHAPTER T. NONPROFIT HOUSING SPONSORS

1. Besides the cooperative non-profit projects discussed in the preceding chapter, the nonprofit sponsors described in this chapter are expected to have an increasing role in meeting the housing needs of low and moderate income groups with the assistance recommended below.

2. NHC believes that there is an urgent need for nonprofit housing sponsors for low and moderate income housing assistance programs. Nonprofit housing sponsors may be either: (a) broadly-based housing development corporations which aid a number of housing projects in the community; or (b) individual project sponsors, such as churches, charitable foundations, settlement houses, labor unions, fraternal organizations and other civic-minded groups.

3. NHC approves the use of Sections 221 (d)(3), 235(j), and rent supplement programs in nonprofit sponsored projects. This sponsorship makes it possible to reach lower income groups because of the absence of profit in the operation of such projects.

4. NHC is pleased that its recommendation was accepted for the use of the Tandem Plan for nonprofit sponsored housing. Without the Tandem Plan, it would be virtually impossible for nonprofit sponsored projects to go forward when mortgages are not selling at par.

5. NHC fully concurs in the report of the Senate Housing Subcommittee that nonprofit housing sponsors have contributed greatly to our housing production. The Committee Report stated: "among these institutions, the not-for-profit organizations involved in housing development have made substantial progress in the construction of low and moderate income housing in a relatively brief period of time. Today they account for a large portion of the housing development activity carried out under the several assistance programs authorized by the Congress. This is fulfilling the intention of the Congress and we are desirous to see not-for-profit sponsors and developers play an increasing role in meeting the nation's critical housing shortage especially for low and moderate income families and individuals."

6. NHC recommends that HUD provide the following financial and technical assistance to nonprofit (including cooperative) sponsors and organizations.

(a) Seed money loans to cover initial costs, such as preliminary architectural fees, engineering fees, site options, tenant surveys, market analyses, and legal and organizational expenses during the project development stage. These would be recoverable from the proceeds of the FHA-insured mortgage.

(b) Grants for administrative costs, social services and other necessary expenses which are important to the success of projects for low and moderate income families and persons.

(c) Technical assistance for expert aid needed to train personnel, develop projects, secure project approval and oversee construction.

(d) Assistance to nonprofit housing sponsors in the conduct of self-help and mutual self-help programs.

7. $1 million was appropriated for fiscal year 1972 under the Low and Moderate Income Sponsor Fund for use by the Secretary in providing a more adequate level of technical assistance. NHC urges that the balance of the $5 million that was authorized in the 1970 Act be appropriated, $3 million was appropriated for fiscal year 1972 for loans under the Low and Moderate Income Sponsor Fund. Likewise NHC urges that any remaining authorized funds be included in future appropriation acts.

8. The 1970 Housing Act provides for a Special Assistant to the Secretary who will be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by HUD. NHC is pleased that a Special Assistant has been named. It urges that he be given adequate staff and funds to undertake a broad program for the encouragement and development of nonprofit sponsored housing.

CHAPTER U. NATIONAL HOMEOWNERSHIP FOUNDATION; NATIONAL ADVISORY COMMISSION ON LOW-INCOME HOUSING; NATIONAL HOUSING PARTNERSHIPS; AND ASSISTANCE TO NONPROFIT SPONSORS OF LOW AND MODERATE INCOME HOUSING

National homeownership foundation

I. *Summary of Existing Legislation.*

1. *Objectives.* The 1968 Housing Act created the National Homeownership Foundation to carry out a continuing program of encouraging private and public organizations to provide increased homeownership and housing opportunities in urban and rural areas for lower income families.

2. *Authorizations in 1968 Housing Act.* The Act authorized the Foundation to make grants and loans (not otherwise available from Federal sources) to such organizations to help defray organizational and administrative expenses, necessary preconstruction costs, and the cost of counseling or similar services to lower income families for whom housing is being provided. The Foundation would also provide technical assistance to the organizations. The Foundation would be administered by an 18-member Board of Directors. Fifteen members would be appointed by the President. The Secretary of HUD, the Secretary of Agriculture and the Director of OEO would be the other three members. The board would appoint an executive director as its executive officer.

3. *Authorizations in Appropriation Acts.* Appropriations up to $10 million are authorized. The Foundation can also use donated funds. Nothing has been appropriated for fiscal year 1970. The Administration requested $250,000 for fiscal years 1971 and 1972 but nothing was included in the appropriation act for these years.

II. *Recommendations.* NHC urges that the Foundation be fully funded so that the Foundation can begin its vital assignment.

National advisory commission on low-income housing

1. *Objectives.* The 1968 Housing Act established a National Advisory Commission on Low-Income Housing to undertake a comprehensive study and investigate the resources and capabilities in the public and private sectors of the economy which may be used to fulfill more completely the objectives of the national goal of "a decent home and a suitable living environment for every American family".

2. *Assignment.* The Act directs the Commission to submit to the President and the Congress an interim report with respect to its findings and recommendations not later than July 1, 1969, and a final report not later than July 1, 1970. Neither report has been filed.

National housing partnerships

I. *Summary of Existing Legislation.*

1. *Objectives.* The 1968 Housing Act created a national housing partnership for the purpose of securing the participation of private investors in programs and projects to provide housing for low and moderate income families. The Act provides for a federally chartered, privately funded corporation under the District of Columbia Business Corporation Act; also, for a National Partnership organized by the corporation under the D.C. Uniform Limited Partnership Act. The Corporation serves as the general partner and managing agent of the National Partnership and each of its stockholders can be a limited partner. It provides the staff and expertise for the Partnership in organizing and planning project undertakings in which the Partnership has an interest, and receives a fee for such services.

2. *Authority.* Both the Corporation and the National Partnership are authorized to engage in a broad range of activities appropriate to the provision of housing and related facilities primarily for low or moderate income families, with or without the use of Federal programs, and may enter into and participate in all forms of partnerships and associations. The National Partnership forms partnership ventures with local investors for the purpose of building low and moderate income housing projects throughout the nation. Normally, it will be a limited partner in such undertakings, with an interest of not more than 25% of the aggregate initial equity investment for the project. Sales have been made of the requisite shares of stock in the Corporation and interests in the National Partnership. It began full operation in 1970. The President is authorized to create additional partnerships when he determines it to be in the national interest. National banks are authorized to invest in a corporation and other entities formed under this title.

II. *Recommendations.* NHC recommends that the following actions be taken:

1. To encourage widespread participation and private investment in the National Housing Partnerships, tax incentives must be continued for undertaking housing developments to serve low and moderate income persons. In Chapter FF, we describe the favorable action taken in the Tax Reform Act of 1969 to provide such incentives.

2. To enable the sale of projects undertaken by the National Housing Partnership to cooperatives or other nonprofit corporations, there should be an implementation of the provisions of Section 236(j)(3) of the National Housing Act as described under the separate 236 heading. An important tax incentive providing for deferral of gain upon a 236(j)(3) sale to a cooperative or other nonprofit corporation was added by the Tax Reform Act of 1969. It is more fully discussed in Chapter FF.

Assistance to nonprofit sponsors of low- and moderate-income housing

I. *Summary of Existing Legislation:*

1. *Objectives.* The 1968 Housing Act has provisions to assist nonprofit sponsors of low and moderate income housing.

2. *Authorization in the 1968 and 1969 Housing Acts:*

(a) The Secretary of HUD is authorized to provide technical assistance, with respect to the construction, rehabilitation, and operation of low and moderate income housing to nonprofit organizations.

(b) The Secretary can also make 80-percent, interest-free loans to non-profit sponsors of such housing to cover certain preconstruction costs under Federally-assisted programs.

(c) The Low and Moderate Income Sponsor Fund is established for the purpose of making the loans with an authorization of appropriations of $7.5 million for fiscal year 1969 and $10 million for fiscal year 1970. The Fund will be a revolving fund and repayment of loans will be deposited in the Fund.

3. *Authorization in Appropriation Acts.* $500,000 was appropriated in the Supplemental Appropriations for fiscal 1969, $2 million was appropriated for fiscal 1970, $3 million was included in the appropriation act for fiscal 1971, and $4 million was included in the appropriation act for fiscal 1972.

4. *Amendments in the Housing and Urban Development Act for 1970.*

(a) *Advice and Assistance with Respect to Housing for Low and Moderate Income Families.* The 1970 Act amends Section 106(a) of the Housing and Urban Development Act of 1968 to authorize technical assistance and advice with respect to individual tenants and homeowners assisted under HUD programs in addition to nonprofit sponsors of multifamily housing. The section also repeals the grant program for tenant services in public housing projects and authorizes such services to be financed out of project income and annual contribution payments.

(b) *Information and Advice to Nonprofit Project Sponsors.* The 1970 Act creates in the Department of Housing and Urban Development a new position of Assistant to the Secretary, responsible for assisting nonprofit organizations in complying with HUD requirements in applying for sponsorship of housing projects under the subsidized multifamily programs administered by the Department.

NHC urges that the full authorizations be appropriated and utilized for this program as more fully discussed in Chapter T.

CHAPTER V. RURAL HOUSING, RENEWAL AND PLANNING FOR MULTI-COUNTY AREAS

I. Summary of existing legislation

1. *Objectives.* There is increasing national concern to make rural America more attractive and livable for all. To achieve this goal, programs must be initiated to encourage the young and better educated to continue living in rural America. Programs which provide the same kinds of financial assistance as are provided for urban housing and renewal should be available to rural areas for rural housing and renewal. We endorse those provisions of the 1968 Housing Act which make certain housing assistance equally available to rural areas, but other legislation is required as described below.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) Under Sections 235 and 236, the Secretary was authorized to transfer to the Secretary of Agriculture a reasonable portion of the total authority to contract to make periodic interest reduction payments for use in rural areas and small towns. By agreement, the Secretary of Agriculture was delegated $2 million in contract authority under Section 235(k). However, projects under Section 236 will be processed by FHA. As of July 1, 1971, FHA exhausted its 235(k) contract authority and no new contract authority is anticipated.

(b) The 1969 Act extends for a 4-year period ending October 1, 1973, the various rural housing authorizations which were scheduled to expire on October 1, 1969.

(c) The 1969 Act amended Section 517(c) of the Housing Act of 1949 as follows:

(1) To remove the present $100 million limitation on the amount of new loan paper which may be held in the Rural Housing Insurance Fund at any one time;

(2) To authorize the Secretary of Agriculture to sell insured housing loans out of the Rural Housing Insurance Fund in blocks and to treat such transactions as a sale of assets for budgetary purposes; and

(3) To make clear that the Secretary of Agriculture may issue commitments to make or insure rural housing loans on one or more properties upon application by the lender, or seller and upon compliance with such requirements as he may specify.

(d) The 1969 Act amended Section 517 of the 1949 Act (with conforming amendments to Sections 518 and 519 of that Act) to abolish the existing Rural Housing Direct Loan Account and transfer all of its assets, liabilities, and authorizations to the Rural Housing Insurance Fund. It is the purpose of these amendments simply to consolidate the direct loan programs of the Farmers Home Administration in a single Fund, without changing the nature or coverage of those programs; all of the funds, claims, notes, mortgages, contracts, property, collections, proceeds, and unexpected balances which were held in or applicable to the Account will as a result of the transfer be held in or applicable to the Fund, and any authorizations for the appropriation of funds, the availability of funds for direct loans and related advances, or the issuance of notes which were applicable to the Account will become applicable to the Fund.

(e) The 1969 Act adds a new Section 524 to the 1949 Act to authorize financial assistance to nonprofit organizations to provide sites for rural housing for low and moderate income families.

3. *Amendments in the Housing and Urban Development Act of 1970*

(a) Sections 514 and 516 of the Housing Act of 1949 were amended to broaden the farm labor housing program by:

(1) Authorizing financial assistance to nonprofit organizations of farmworkers for the construction of farm labor housing;

(2) Authorizing financial assistance to broad based public or nonprofit organizations for the construction of farm labor housing any place within the State where the need exists.

(3) Lowering the interest rate on farm labor housing loans from 5 to 1 percent.

(4) Authorizing the financing of household furnishings in farm labor housing units.

(5) Raising the maximum grant from two-thirds to 90 percent of the development cost of a project.

(6) Requiring the construction of farm labor housing suitable for year-round use except where the Secretary finds that year-round housing is not needed.

(b) Sections 502 and 504 of the Housing Act of 1949 were amended to permit loans to people who lease a home site.

(c) Section 504 was amended by raising the ceiling on loans and grants for home repair from $1,500 to $2,500 and to $3,500 if necessary to provide water and sanitation facilities.

(d) The Secretary of Agriculture was given discretionary authority in the use of Farmers Home Administration county committees in the determination of the eligibility of loan applicants.

(e) Section 515(b)(1) was amended to raise the ceiling on loans for the construction of rental housing projects from $300,000 to $750,000.

(f) Section 520 of the Housing Act of 1949 was amended to raise the size of communities Farmers Home Administration can serve from 5,500 to 10,000.

(g) Both the Senate and House Committee Reports strongly recommend that 1968 report language be rescinded thus making it clear that both urban and rural residents should be eligible for Title V housing regardless of whether they work in a rural area.

4. *Authorizations in Appropriation Acts.* Elsewhere we have described the authorizations of interest assistance contracts under Section 235 and 236 which are now available for housing in rural areas. In addition, the rural housing program of the Department of Agriculture was authorized to maintain a $5 million program of 3%, 50-year loans.

II. Recommendations

1. *Additional Authorizations in Appropriations Acts.* NHC make the following recommendations:

(a) That authorization be increased for the following programs: Section 504 loans and grants from $50,000,000 to $100,000,000; Section 516 grants from $50,000,000 to $200,000,000; Section 506 research and study from $250,000 per year to $5,000,000 per year; and Section 523 technical assistance from $5,000,000 to $10,000,000.

(b) That the housing repair grant provisions of Section 504(a) be funded at a level of $25 million for fiscal 1972. Since 1964 there have been no grant funds available for housing repair.

(c) That the housing loan provisions of Section 504(a) be funded at a level of $25 million for fiscal 1973.

(d) That the farm labor housing grant provisions of Section 516(b) be funded at a level of $50 million for fiscal 1973.

(e) That the self-help housing technical assistance grants authorized by Section 523(b)(1)(A) be funded at the full limit of $5 million for fiscal 1973.

(f) That the self-help loan funds authorized by Section 523(b)(1)(B) be funded at the full limit of $1 million for fiscal 1973.

(g) That the full amount authorized by law, be appropriated for development and planning grants, for rural water and sewer systems for fiscal 1973.

(h) That $150 million be appropriated for FmHA administrative expenses in fiscal 1973 to enable the agency to handle the vastly increased workload particularly in housing and in community affairs.

2. *Legislative Amendments Relating to Rural Housing.* NHC recommends the following legislation relating to rural housing programs:

(a) The 3%, 50-year loan program to supplement the new authority granted under the 1968 Housing Act should not only be continued but increased. The Secretary of Agriculture should be authorized to contract to maintain the interest rate throughout the duration of the loan. Also the Secretary should be granted the power to reduce the interest rate to as low as 1% under this program.

(b) Enact legislation creating the position of Special Assistant for Cooperative Housing in the Farmers Home Administration (FmHA) of the Department of Agriculture (a similar position to that created in the Housing Amendments of 1955 for urban cooperative housing) with similar powers, duties and adequate staff and budget; and the additional responsibility of mobilizing the support of rural area cooperatives of all types for the creation and continued successful operation of rural cooperative housing projects.

(c) Give the Secretary of HUD authority to waive rules and regulations of HUD programs so small cities and towns can get an equitable share of HUD programs.

(d) That the population ceiling on FmHA loans be raised from towns of 10,000 to maximum 25,000 population, except in areas outside of SMSA's where no population limit should apply with commensurate adjustments in administrative funds.

(e) That the Rent Supplement Program be extended to programs which are financed directly by FmHA, such as the Section 515 Rural Rental Program.

(f) The authority given to the Secretary of Agriculture to use county committees as a means of determining the eligibility of applicants for FmHA housing loans should be completely rescinded.

(g) The authorization for annual appropriations for development and planning grants for rural water and sewer systems should be raised from $115 million to $230 million.

(h) A legislative goal of at least 500,000 housing units per year for FmHA financing should be established. This is the level which will be needed to achieve the rural part of NHC's national housing goal which calls for 10,000,000 federally assisted housing units to be constructed or rehabilitated in ten years.

(i) FmHA should be provided with funds for research geared to solve problems which often hamper or restrict housing developments in rural areas. An example is lack of waste disposal facilities. Research needs to be undertaken to develop a waste disposal system which could serve an individual home or a number of homes at a modest initial investment and low maintenance.

(j) Congress should establish a $6 billion level for FmHA insured housing loans in fiscal 1973. This would permit FmHA to finance at a level of about 500,000 housing units a year. Because these funds are raised through the sale of notes on the private market, the funding does not require appropriations from the Treasury. Therefore there is little impact on the Federal budget.

(k) That the FmHA staff be expanded to enable the agency to actively promote rental and cooperative housing to aid in meeting rural needs.

(l) The amendment of the FmHA Act to enable the agency to promote and finance

nonprofit housing development corporations as housing delivery systems to small towns and rural people.

(m) That legislation be enacted to assure that the American Indian—on and off reservations—is given the opportunity and choice to participate in all Federal housing programs.

(n) The establishment of a Rural Development Bank as provided in H.R. 15402 introduced by Congressman Patman.

(o) That the FmHA legislation be amended to authorize loans requiring principal and interest payments on as little as 50 percent of the principal, for Section 502 and 515 and as little as 10 percent of the principal on Section 504 loans, with the remainder covered by a second trust which would not bear interest or fall due for repayment until the first mortgage was paid off or the property changed hands.

(p) The creation of a Department of Rural Affairs, which would include those housing and community development functions currently administered by the Department of Agriculture, and which would receive its appropriations through new subcommittees of the House and Senate Appropriations Committees. In the absence of such an executive reorganization, NHC recommends that all appropriations for housing and community facilities programs be made through the same Appropriations subcommittees, whether the programs are administered by HUD or USDA.

(q) Enactment of any necessary legislation to authorize and direct FmHA to establish escrow accounts on behalf of its housing borrowers for the payment of taxes and insurance.

(r) Enactment of any necessary legislation to replace the present bonding requirements of FmHA County Offices with a fidelity bonding arrangement which would protect the government against fraud without making County Office staff financially liable for non-fraudulent administrative errors.

(s) Legislation authorizing FmHA to take all actions necessary to permit the use and compensation of housing consultants and specialists in preparing, processing or otherwise assisting in the undertaking of housing financed or aided by FmHA.

(t) Enactment of any necessary legislation to authorize and direct FmHA to refinance indebtedness when failure to refinance would likely result in the applicant's loss of his necessary dwelling or, if a loan for improvement were made, failure to refinance would cause a hardship for the applicant.

(u) Enactment of legislation authorizing the use of all Title V programs on leasehold interests in land.

(v) Enactment of any necessary legislation to authorize and direct FmHA to establish a system of orderly appeals whereby an applicant denied assistance would be afforded a due process hearing.

(w) Enactment of any necessary legislation that would preclude FmHA from discriminating against an applicant on grounds of the source of his income and to eliminate the practice of viewing housing needs as a residuum of other basic needs.

(x) Enactment of any necessary legislation to authorize and direct FmHA to take whatever security that is available, if any, for all loans made under Title V to members or organizations of an Indian Tribe or Nation living on reservation land or similar land which is otherwise restricted.

(y) Enactment of any necessary legislation to authorize and direct FmHA to make Section 504 home repair loans for amounts of up to $4,000 and for a period not to exceed 20 years and that any loan for less than $2,500 need be evidenced by only a promissory note.

(z) Enactment of any necessary legislation to authorize and direct FmHA to contract with private and public organizations for the purpose of conducting research and study programs.

(aa) Enactment of any necessary legislation to authorize and direct FmHA to allow any licensed attorney regularly practicing law in the state where a loan or grant is made to act as legal counsel for the recipient of such loan or grant.

(bb) Enactment of any necessary legislation to authorize and direct FmHA as a part of a grant for Section 523 technical assistance, to make a land development loan which will be repaid upon the expiration of the grant period unless extended and which shall bear no interest.

(cc) Enactment of any necessary legislation to authorize and direct FmHA to insure title to land which because of a remote cloud thereon is otherwise uninsurable.

(dd) Creation of an Emergency Rural Housing Administration as provided in the McGovern Bill (S. 2897).

(ee) FmHA should be authorized to make loans for the purchase of furniture to recipients of housing loans when they are unable to afford to purchase adequate furnishings at the time of moving into a FmHA-financed home.

(ff) Legislation authorizing FmHA to extend its housing programs to Guam and the trust territories.

3. *Recommendations for Administrative Actions.*

(a) The national office of FmHA should take steps immediately to improve the delivery system so that housing loans can be processed at a greatly accelerated rate. The first quarter of fiscal 1972 indicates that Farmers Home is not processing loans rapidly enough to deliver the $1.6 billion authorized this year which may well result in a cutback next year if steps are not taken to correct the situation.

(b) FmHA should provide counseling service to purchasers of FmHA-financed homes to acquaint them with the use of appliances and the up-keep of their homes, as well as their rights and responsibilities as homeowners. If FmHA does not have sufficient personnel for this, it should explore arranging for Extension Service home economists to perform this function or to contract with outside organizations to furnish the service.

(c) Besides Congressional actions, there is a need for more effective executive actions and better coordination of Agriculture and HUD, and for consultations with industry and public interest groups. Such actions should be taken to assure that federal housing, community facility and planning aids for rural areas are equivalent to those available in cities and metropolitan areas.

(d) The Secretary of Agriculture is urged to stimulate and encourage programs under new and existing cooperative housing provisions to alleviate the housing ills in rural areas.

(e) The Federal Housing Administration and the Farmers Home Administration (FmHA) are urged to work out a plan for making housing credit available in small towns that are too large for FmHA to service (over 10,000), but not practical for FHA to service because of remoteness or other reasons. A serious credit shortage exists in many of these areas.

(f) There should be standardization of FmHA regulations and procedures which presently often vary from county to county and from state to state, making it difficult and sometimes impossible for outside groups to work effectively with FmHA. In this respect, the staff of the National FmHA should be expanded. Also, in many areas where the demand for housing is substantial, FmHA should assign housing specialists. Presently, county supervisors are responsible not only for housing but for many other FmHA program as well. If FmHA is to achieve the potential which its housing program possesses, it must develop new administrative techniques to handle the greatly increased volume of housing applications.

(g) FmHA should reorganize its staff and further streamline its activities to speed up the making and servicing of loans.

(h) FmHA should increase its administrative limit of $100,000 for rural housing site loans to $500,000. The present limit, in view of escalating land costs and costs of developing rural land, is too low. As a result, the tremendous potential of this valuable new authority which FmHA received in the 1969 housing legislation is severely restricted.

(i) FmHA should strengthen its advance commitments to builders so as to encourage larger scale builders to operate in rural areas. This is essential to producing the volume of housing required to solve the critical shortage in rural communities. FmHA's administrative regulations prevent advance commitments from having the impact which Congress intended.

(j) FmHA should encourage broader use of programs for which nonprofit organizations are eligible, such as Section 515 rental housing, Section 514–516 labor housing, Section 523 technical assistance; and Section 524 site development, by eliminating the requirement that organization be made up of and controlled by persons from the community in which the housing is to be located. In rural areas non-profit housing organizations often consist of persons from several communities and even several counties. These organizations should be allowed to participate in the programs without the need for extensive reorganization. It is believed that the FmHA programs would benefit from the economies of scale and the need for better project management if this recommendation is followed.

III. Provisions on rural housing and renewal in Chapter V of S. 3248 and NHC's recommendations

The Senate Committee Report explains the provisions of Rural Housing:

Assistance Authorization

The bill would amend section 513 of the Housing Act of 1949 by increasing authorizations available for Section 516 Labor Housing grants to $150,000,000 through June 30, 1974. These increased amounts recognize the desperate need for decent housing for those who earn a substantial portion of the income from farm wage work and who historically have been one of the most indecently housed people in this county. Prior to 1970, there existed no effective program which could meet the needs of farm workers in rural areas. The 1970 Housing Act amended section 516 to enable public bodies and nonprofit sponsors to receive grants of up to 90 percent of the capital costs of a rental project for farm workers, thus for the first time making most projects economically feasible. As a result, there has been a large increase in demand for program funds. The committee was informed that, after the first six months of operation with the new authority, a backlog of over $18 million in requests had accumulated at the National Farmers Home Administration office with only $3.7 million to fund them. As a result, FmHA requested that no more new applications be proposed. It is estimated that the funds authorized here would provide decent housing and related facilities for about 10,000 families. It is estimated that some 250,000 farm worker families are in need of housing but it is anticipated that some will be served by other federally subsidized programs as amended by this Act.

Mobile Homes

The bill would amend title V of the Housing Act of 1949 to add a new section 525 to authorize rural housing loans to finance mobile homes, as well as individual sites, under provisions regarding interest, maximum amounts, maximum maturities, and standards applicable to HUD-insured loans for the same purposes. In other respects, e.g. the requirement that the applicant be unable to obtain a loan elsewhere, rural housing loans for mobile homes would be subject to the provisions of title V of the Housing Act of 1949.

Assistance Payments for Low-Income Tenants

The bill would amend section 521 of the Housing Act of 1949 to authorize the Secretary of Agriculture to make and insure rural housing loans on terms and conditions, and make assistance payments as necessary, to achieve the same results for lower income and very low income occupants of rental or cooperative housing as could be achieved under the provisions of the bill applicable to the insurances of loans and the making of assistance payments by HUD for the same purpose.

The bill would also amend sections 517 and 521 of the Housing Act of 1949 (1) to authorize the Rural Housing Insurance Fund to be used for the purpose of making the assistance payments and other relief available, (2) to require annual appropriations to reimburse the fund therefor, and (3) to authorize interim borrowings from the Treasury as necessary in anticipation of such reimbursement.

Nonprofit Organizations

The committee is aware of and acknowledges the tremendous effort made by many nonprofit organizations in rural areas in bringing the benefits of Title V of the 1949 Act to low income families. It has also been made aware, through testimony, of the fact that many nonprofit organizations are ineligible to participate in the various programs because the make-up of their boards of directors and the jurisdictions of their memberships is different from the regulations established by the Farmers Home Administration. Because of the tremendous need for rental housing which could be provided through the rural rental program and the labor housing programs, the need for self-help technical assistance through section 523 and the need for land development through sections 523 and 524, the committee believes it to be essential that more nonprofit organizations be encouraged to participate in these programs.

The committee is of the opinion that it is desirable to promote the use of nonprofit organizations who can, as time passes, demonstrate that, through the economies of scale and through enlightened management, housing for low-income people can be delivered efficiently and effectively in the widespread market of rural areas.

NHC supports the foregoing provisions of the *Senate Enacted Bill* which carry out many NHC recommendations. We continue our recommendations of additional authorizations and improvements in legislation relating to rural housing and renewal.

CHAPTER W. INTERIM ASSISTANCE AND INTERIM REHABILITATION PROGRAMS IN SLUM AND BLIGHTED AREAS

I. Summary of Existing Legislation

1. *Interim Assistance for Blighted Areas as Provided for in the 1968 Housing Act.* The 1968 Housing Act authorizes the Secretary of HUD to contract to make grants aggregating up to $15 million in any fiscal year to cities or counties to assist them in taking interim steps to alleviate harmful condition in slum or blighted areas of communities. To qualify, these areas must be planned for substantial clearance, rehabilitation, or federally-assisted code enforcement in the near future, and must need some immediate public action until permanent action can be taken. Grants may not exceed two-thirds of the cost of planning and carrying out an interim assistance program, except that three-fourths grants can be made to any community with a population of 50,000 or less. A community has to have an approved workable program to qualify for assistance.

2. *Need for Interim Rehabilitation Program.* In slum and blighted areas, there should be a program of rapid interim rehabilitation to correct those housing conditions which directly affect health and safety. The people now living in substandard housing should not be expected to wait until permanent neighborhood improvement programs are developed. We need a program which will provide grants and loans which can be rapidly disbursed to eliminate health and safety hazards, without regard to the useful life of the buildings. The objective is to provide whatever assistance is needed to achieve monthly charges, after interim rehabilitation, which will be within the financial reach of the low income and moderate income residents. The emergency upgrading of structures should not involve increases in rents beyond the reach of the present tenants.

3. *Funds for Interim Assistance.* There have been no appropriation authorizations to implement the 1968 Act providing interim assistance to alleviate harmful conditions in slum or blighted areas. However, $15 million of urban renewal funds have been allocated for this purpose.

II. Recommendations

1. *Authorizations in Appropriation Acts.* NHC recommends expansion of the program through appropriate authorizations and additional urban renewal allocations for the interim assistance program in slum areas. This should include an advance appropriation and allocation for the next additional fiscal year to give cities and counties more lead time in planning interim steps to alleviate harmful conditions in slum or blighted areas. NHC further recommends that the amount of the appropriations—and legislative authorizations therefor—should be increased in response to the increasing needs evidenced by the appropriation requests which will be filed for interim assistance.

2. *Legislative Amendments on Interim Assistance.* All cities should be eligible for a three-quarters grant for the cost of planning and carrying out the interim program. Instead of limiting the larger grants to the smaller cities, the large cities should get such a grant and not be limited to a two-thirds grant.

3. *Legislation for Interim Rehabilitation Program.* NHC recommends legislation to provide for the above described program of interim rehabilitation to correct housing conditions which directly affect health and safety, without regard to the useful life of the buildings. The legislation should include the following:

(a) Amendments to broaden the interim assistance law to include such interim rehabilitation of housing as is necessary to protect the health and safety of residents. This would make grants available to cities and counties which are undertaking such a program.

(b) With respect to interim rehabilitation to correct conditions which directly affect health and safety in homes located in slum and blighted areas, the following financial assistance should be extended to owners of homes who have low and moderate incomes: (i) rehabilitation grants under Section 115 in an amount not to exceed $3,500; and (ii) rehabilitation loans under Section 312.

(c) Federal code enforcement grants for interim rehabilitation of housing.

(d) Federal grants to urban renewal agencies to acquire slum buildings which are in violation of housing codes, and for interim rehabilitation to eliminate hazards. Public acquisition of properties for interim rehabilitation may be an early acquisition of part of the property that would later be involved in a permanent renewal program for the neighborhood.

(e) Section 312 should be further amended to provide loans to public bodies or agencies which take possession or control of any property—through receivership or otherwise—which violates code requirements or local laws concerning health or safety. This would cover property where the owner has failed to correct such violations within a period prescribed by local law. The loan should be made on the condition that it will be repaid from the income derived from the rehabilitated property, with appropriate liens or other rights that will be enforceable against the property.

Pursuant to the foregoing legislation, the assistance should be sufficient to achieve monthly charges, after interim rehabilitation, which will be within the financial reach of the present occupants or of others of low or moderate incomes.

CHAPTER X. NEW TOWNS AND NEW COMMUNITIES

I. Summary of existing legislation

1. *Need.* Since 40,000,000 additional people will be living in cities during the next decade, we need new towns and new communities to help take care of this increased urban population, to provide for an orderly dispersal of population and relieve further city congestion. These new towns would be carefully planned as balanced communities. They would be largely self-contained with homes, apartments, schools, jobs, hospitals, recreational facilities and open spaces. They should be planned to minimize transportation needs by assuring employment for residents within or near the community. They should provide housing for all income groups, including those of low and moderate incomes. These new communities can provide a new kind of urban living which can offer an alternative to the sprawling growth that threatens to overwhelm our metropolitan regions with costly and inefficient development.

There is an urgent need for Federal guaranties to overcome major obstacles which have prevented greater efforts in this field, namely: (1) the large capital investments to acquire large land areas and install the basic facilities needed to prepare the land for development; and (2) the extended period for the planning and installation of site improvements, during which large expenditures must be made for debt service, taxes and overhead.

There is an even more urgent need for Federal grants to public and nonprofit agencies for all new community assistance projects and services, which term (as used below) includes the following: water and sewer facilities; water conservation and pollution control; waste disposal; hospitals, health centers and services; mass transportation; open space, parks and beautification; public facilities and buildings; recreational and cultural facilities; libraries; neighborhood facilities and services; environmental protection; planning; technological advances; and essential public services.

2. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Act authorized HUD to guarantee obligations issued by new community developers to help finance approved new community developments. These guaranties were intended to overcome the major obstacles which have prevented greater accomplishments in this field. With the security of Federal guaranties, investors have been willing to provide financing geared to the realities of internal cash flow in new community development projects. To encourage localities to use Federal aid programs in support of new communities, the Act includes a program of incentive grants. When Federally-assisted facilities are being constructed to serve a new community, the public agency will be eligible—in addition to the basic Federal grants—for a supplementary grant covering an additional 20% of construction costs. However, the total federal contribution to the cost of community facilities cannot exceed 80% of the cost of the facility. This would include facilities such as water, sewer and the open-space land. Appropriations for supplemental grants were author-

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ized in the amount of $5 million for fiscal year 1969 and $25 million for fiscal year 1970.

The 1969 Act amended Section 412(d) of the 1968 Act to authorize appropriations for new community assistance grants through the fiscal year 1971.

3. *Authorizations in Appropriation Acts.* For fiscal year 1970, $2,500,000 has been appropriated for supplemental grants to public agencies which install federally-assisted facilities to serve new communities. $5 million was included in the appropriation act for fiscal year 1971. For fiscal year 1972, $5 million was appropriated for supplementary grants and $5 million for special planning assistance.

4. *Amendments in Housing and Urban Development Act of 1970.* Title VII of the 1970 Housing Act—called the Urban Growth and New Community Development Act of 1970—created broad new urban growth concepts and programs. This legislation provides a package of Federal financial aids to new community developers, both private and public, to assist in the provision of newly built communities and major additions to existing communities, including:

(a) Guarantees of the bonds or other obligations of new community developers issued to finance land acquisition, land development, and construction of public and utility facilities; the outstanding amount that can be guaranteed with respect to all new community developments cannot exceed $500 million and with respect to each development, $50 million; the amount guaranteed cannot exceed the sum of 80 percent of the value of the property before development and 90 percent of the actual cost of the development, except that for public developers the guaranteed amount could be 100 percent of the above cost items.

(b) Loans to pay interest on bonds of new community developers, repayable on deferred basis as long as 15 years; loans to bear interest at similar rate to outstanding U.S. obligations of comparable maturities; the outstanding amount of loans cannot exceed $240 million for all developments and $20 million for one development.

(c) Special planning assistance grants to new community developers to pay up to two-thirds the cost of various planning for new community development; $10 million authorized over two years.

(d) Supplementary grants to states or localities for facilities to increase the Federal share under numerous public facility grant programs by up to 20 percent of the cost of such facilities, provided the total Federal share does not exceed 80 percent; $168 million authorized over 3 years.

(e) Public service grants to help defray the initial costs of essential public services (including schools) with respect to new communities; open-end authorization.

(f) Comprehensive planning grants to public bodies or organizations or public officials to finance planning for urban growth and the provision of new communities.

(g) Open space grants, up to 75 percent, to public bodies to finance acquisition of undeveloped land which can be used in connection with the growth of new communities including the expansion or revitalization of existing communities.

Other parts of this title would authorize new community demonstration projects by the Federal government on Federal land; require urban growth reports from the President through an identified unit of the Domestic Council every two years; and authorize urban renewal grants to finance the acquisition of vacant or inappropriately used land or space which could be developed for housing and related uses, the development of new communities in town, or other undertakings related to inner city needs.

New Community Land Development

The 1970 Act amends title IV of the Housing and Urban Development Act of 1968 to authorize an increase in the Guarantee Fund for new Communities Land Development from $250 million to $500 million; extend the availability period of unexpended funds to July 1, 1974; and clarifies the conditions under which guaranty payments are to be made to bond holders.

II. Recommendations

1. *Appropriations.*

(a) We recommend the full appropriation of all amounts authorized for grants under the Urban Growth and New Community Act of 1970 which have not been included in appropriation acts; also, an advance appropriation of similar grants for the next year, besides the current one, in order to give more lead time for initiating and planning new communities. All future authorizations should be fully funded by appropriations.

(b) An appropriation of $5 million was made for special planning assistance grants to new community developers but these funds were transferred for use as supplementary grants in fiscal 1973. NHC deplores the failure to utilize the $5 million for special planning assistance to developers as contemplated by Title VII of the 1970 Housing Act.

2. *Requested Appropriation.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $5 million for supplementary grants for new community assistance projects. While this is $5 million less than the amount appropriated in fiscal 1972, there will be a carry-over to fiscal 1973 of unused supplementary grant authorizations so that the total amount available in that year will be $10 million.

3. *Increase in Legislation Authorizations and Appropriations.*

(a) We recommend that the aggregate limit on outstanding guaranties be increased by $1 billion above the present limit of $500 million. We further recommend an increase in the authorization of appropriations for supplemental grants to $100 million a year for a 5-year period.

(b) There is an urgent need for special planning assistance to developers. NHC recommends the full appropriation of the $10 million authorized for this purpose over a 2-year period and an additional authorization at the same annual rate for 3 more years.

(c) We recommend an appropriation of $10 million for fiscal 1973—and a like amount as an advance appropriation for fiscal 1974—to fund public service grants (as authorized by Title VII) to help defray the initial cost of essential public services (including schools) with respect to new communities. We further recommend a legislative authorization of appropriations for this purpose at the same annual rate for a 5-year period.

(d) All of the foregoing authorizations should remain available until committed.

4. *Other Legislative Amendments.*

(a) With respect to the Community Development Assistance Bill reported by the Senate Committee on Banking, Housing and Urban Affairs on February 28, 1972 (introduced by Senator Sparkman as S. 3248), NHC recommends an amendment to the basic grant formula to meet the needs of new communities. The present formula in that bill is not suitable or workable for new communities as it is based on past grant program experience, existing population, housing overcrowding and poverty—of which new communities have little or none. New communities require a formula which is based upon *future* needs, including the new population they will attract and the new community assistance projects and services they will require, instead of being based on *past or existing* conditions.

(b) The community development grants under S. 3248 would equal 90 percent of project cost. With respect to the 20 percent supplementary grant for new community assistance projects, an amendment is necessary to repeal the 80 percent limitation on the total Federal share of grants and to provide that the total Federal grant is not to exceed the cost of the new community assistance project.

(c) There should be an earmarking of Federal grants and assistance for all new community assistance projects and services to assure the availability of sufficient Federal grant funds to meet the needs of new communities.

(d) Nonprofit organizations should be made eligible for regular and supplementary grants for new community assistance projects and services—just as they are now eligible for such grants under the Hill-Burton program concerning hospital and health services.

(e) The Bureau of Public Roads should be authorized to purchase excess land beyond the amount needed for the roads themselves. This would include land suitable for residential development which the Bureau should make available to rehouse displaced families. At large road interchanges, the Bureau should be authorized to acquire additional land for the development of new communities which can meet the needs of our growing population, including displaced families. Such land can generally be acquired by the Bureau at low cost at the time that land is being acquired for new road systems.

5. *Recommendations for Administrative Action.*

(a) In view of the critical need for this program to help take care of population increases, relieve city congestion and provide building sites, NHC urges HUD (i) to utilize and effectuate fully the Urban Growth and New Community Development Act of 1970; (ii) to act promptly on guaranties required by developers to enable them to get financing for these new communities—including new towns in town—which are urgently needed; and (iii) to establish a sufficient earmarking of HUD grant funds to provide for new community assistance projects and services.

(b) To achieve the objectives of the new communities legislation, full coordination is required between HUD—and all of its participating constituents—and all of the other Departments of the Federal Government who participate in grant and other assistance programs; also between the Federal Government and local governments. Each must effectively use all of its powers and available funds in doing its share of the total job. NHC recommends Presidential action and direction to assure that all participating Departments of the Federal Government fulfill their responsibilities under their programs, including (i) effective coordination and cooperation between them, and (ii) priority in handling of applications and earmarking of sufficient funds for grants and assistance from the various Federal Departments to public and nonprofit agencies engaged in undertaking new community assistance projects and services.

CHAPTER Y. ADEQUATE SITES FOR EXPANDED HOUSING PROGRAM

I. Summary of existing legislation

1. *Objectives.* One of the most serious impediments to achieving our housing goals is the lack of adequate building sites at reasonable prices. It will be impossible to provide the necessary additional supply of housing unless suitable improved sites are available, which include all of the public services and facilities necessary for a suitable living environment. There is a special and critical problem relating to the availability of improved land for low and moderate income housing; such housing is least able to compete for land because it cannot pay as high a price. In addition, restrictive zoning and other practices have precluded many suitable building sites from being utilized to house these income groups. To meet these problems and facilitate achievement of the necessary expansion of total housing production on a well-planned basis, the National Housing Conference recommends the legislative and administrative measures described below.

2. *Authorizations in Existing Legislation.* The following is a summary of some of the major provisions in existing legislation which can effectively be utilized to make improved land available for expanded housing production, particularly for those of low and moderate incomes:

(a) The urban renewal legislation authorizes the acquisition of land and its disposition, with appropriate write-downs based on the planned use of the land. The legislation recognizes the special needs for rehousing families who are displaced and those of low and moderate incomes. The urban renewal laws are important tools which can be used to help provide an adequate supply of improved building sites at reasonable prices for housing, with emphasis on meeting the needs of persons of low and moderate incomes. (See paragraph 4(g) of Chapter T for an explanation of the provision in the 1969 Housing Act requiring a "one for one" replacement of housing demolished within the jurisdiction of the Urban Renewal Agency.)

(b) The 1968 and 1970 Housing Acts authorize programs for new communities and urban growth—as described in the preceding chapter—which should produce improved building sites for homes and apartments in carefully planned communities, including all necessary public and community facilities. The law requires that low and moderate income housing be included in these new towns as a prerequisite for supplemental grants to public agencies in providing water, sewer and other public facilities and services.

(c) Under existing law, federal grants are available to public agencies for water and sewer facilities, neighborhood facilities, open space and programs for advance acquisitions of land as described below. When adequately funded—as recommended elsewhere in this report—this legislation should enable public agencies to provide the water, sewer and other public facilities required for the improvement of land, so that it will become suitable and available for residential construction.

3. *Amendments in Housing and Urban Development Act of 1969.*

Sale of Land for Housing. It permits real property which is surplus within the meaning of the Federal Property and Administrative Services Act to be transferred to the Secretary of Housing and Urban Development at his request for sale or lease by him at its fair value for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income. Surplus real property can be sold on such terms by the Secretary if it is sold to (1) a public body which will use the property in connection with the development of a low-rent housing project assisted under the United States Housing Act of 1937, or under a state or local program found by the Secretary to have the same general purposes as the federal program under such act, or (2) a purchaser who will use the property in connection with the development of (i) rent supplement units, (ii) below-market-interest-rate moderate income housing or (iii) rental housing on behalf of which interest reduction payments are made under Section 236 of the National Housing Act. Prior to any sale or lease to a purchaser other than a public body the Secretary must notify the governing body of the locality where the property is located and no sale or lease may be made if, within 90 days, the local governing body formally notifies the Secretary that it objects to the proposed sale or lease.

As a condition to any sale or lease of surplus real property, the Secretary of Housing and Urban Development is required to obtain such undertakings as he may consider appropriate to assure that the property will be used in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income for a period of not less than 40 years. If during such period the property is used for any purpose other than the purpose for which it was sold or leased, it will revert to the United States (or, in the case of leased property, the lease will terminate) unless the Secretary, after the expiration of the first twenty years of such period, has approved the use of the property for such other purpose. The Secretary must notify the Senate and House Committees on Banking and Currency whenever any surplus real property is sold or leased pursuant to this section.

4. *Disposition of Surplus Land for Low and Moderate Income Housing and Related Facilities.* The 1970 Act amends Section 414 of the Housing and Urban Development Act of 1969 to authorize the Administrator of General Services to dispose of Federal surplus land to the Secretary of HUD for the construction of low and moderate income sales housing and related public commercial and industrial facilities. Existing law authorizes such disposal only for low and moderate income rental or cooperative housing.

II. Recommendations

1. NHC recommends full funding and full use of all of the authorizations in existing legislation for the purpose of assuring that there will be an adequate supply of improved building sites available at reasonable prices to meet our housing goals, with special emphasis on the needs for such land at prices which would permit its use for housing persons of low and moderate incomes. The amount of the appropriations and authorizations for these programs (including urban renewal) should be increased commensurate with the tremendous need to increase the supply of improved building sites to enable the contemplated expansion of housing production.

2. NHC recommends necessary increases in the authorizations and appropriations for all the programs which provide Federal assistance for public services and facilities in the new areas where improved land is to be made available for housing including: water and sewer systems; neighborhood facilities; open space; the new communities program; mass transportation; health, education and welfare.

3. The additional improved building sites should be made available both within the cities and outside of the cities. We must make available for housing development extensive areas of vacant land or other sites which do not involve substantial residential displacement; such land must be provided with necessary public and community facilities and services. Existing legislation should be amended to the extent necessary to enable the write-down of improved sites in such new areas of vacant land so the improved land will be at a price which enables its use for housing, particularly for those of low and moderate incomes.

4. To help provide the measures necessary to accomplish the foregoing objectives, NHC supports and urges the passages of S. 609, the "Urban Planning and Housing Assistance Act of 1971," introduced by Senator Javits. This bill contains the following provisions to encourage improved land utilization and expanded housing programs:

(a) It would deny assistance under programs of the Department of Housing and Urban Development to cities which employ restrictive land use practices to exclude publicly-assisted housing for low and moderate income families.

(b) It would provide 50 percent grants to pay for local services, such as transportation or water and sewers, which would be affected by more intensive land utilization and expanded housing.

5. To help provide sites for low and moderate income housing, NHC believes that nonprofit and profit-motivated sponsors need assistance from the Federal Government to overcome local restrictive zoning and other discriminatory practices which exclude Federally assisted housing. We strongly recommend the legislation described in paragraph 3(o) of Chapter B.

6. Federal grants should be made to municipalities and public agencies to cover impact costs of providing educational, health and other services which result from the location of housing developments in an area. The Federal grant should cover the additional costs involved which cannot be met from collections of full taxes or their equivalents on the project. We recommend payment of full taxes or their equivalents on public and other assisted housing.

CHAPTER Z. PUBLIC AND COMMUNITY FACILITIES INCLUDING WATER, SEWER, NEIGHBORHOOD FACILITIES AND OPEN-SPACE LAND PROGRAMS

I. Summary of existing legislation

1. *Need.* There is a great and continuing need for Federal public facilities grants to assist in overcoming serious backlogs in replacing substandard or obsolete facilities—especially in the central cities—and eliminating water pollution and meeting the unprecedented demands for additional facilities and services generated by population expansion. These needs cut across whole metropolitan areas and involve central cities, new suburbs and the new communities still to come. This essential expansion in Federal aid could be a potent influence in resolving the present chaotic conditions created by the multiplicity of local governmental jurisdictions in most metropolitan areas. This multiplicity has led to suburban sprawl, land misuse, land speculation, and frequent failure of an effective tool for the control of new developments. Such a program could provide metropolitan area and regional planning as important leverage to establish coordinated local governmental approaches to control programs of area and region-wide significance. At the same time it could foster decentralization of local governmental functions of strictly local application.

2. *Authorizations in 1968 and 1969 Housing Acts.*

(a) The 1968 Act authorized funds to be appropriated for water and sewer facilities and the open-space land program. For water and sewer facilities an additional $150 million was authorized for fiscal year 1969 and $115 million for fiscal 1970. For the open-space land program, the 1968 Act authorized to be appropriated for the purpose of making grants an additional $150 million (for a total ceiling of $460 million) prior to July 1, 1970. The limit on the amount of funds the Secretary of HUD is authorized to use for grants for technical assistance on open space was raised by $75,000. The Act provided that any appropriations made for water and sewer facilities, neighborhood facilities, and advance acquisitions of land programs not already appropriated my be appropriated for fiscal 1970. The Act extended the interim planning requirements under the basic water and sewer facilities grant program to October 1, 1969.

(b) The 1969 Act authorized funds for Open Space, Urban Beautification, and Historic Preservation Grants. Section 702(b) of the Housing Act of 1961 was amended to extend the availability of approximately $84 million in unused authorization for open space, urban beautification, and historic preservation programs through the fiscal year 1971. Prior to this amendment the authorization would have expired at the end of fiscal year 1970.

(c) The 1969 Act authorized funds for Community Facilities Grants. Section 702(c) of the Housing and Urban Development Act

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of 1965 was amended to extend for one year (until October 1, 1970) the time within which a community may qualify for a basic water and sewer facilities grant even though its program for an area-wide system (though under preparation) has not been completed.

(d) The 1969 Act amends Section 708(b) of the 1965 Act to authorize appropriations for grants for basic water and sewer facilities neighborhood facilities, and advance acquisition of land through the fiscal year 1971. Prior to this amendment, these appropriations were authorized to be made only through fiscal year 1970.

(e) The 1969 Act amends Section 708(a) of the 1965 Act to authorize the appropriations of an additional $100 million for basic water and sewer grants for fiscal year 1971.

3. *Authorizations in Appropriation Acts.* For fiscal year 1969 there was an appropriation of $165 million for water and sewer grants, an appropriation of $75 million for open-space land grants, and an appropriation of $35 million for neighborhood facilities grants. For fiscal year 1970, there was an appropriation of $135 million for water and sewer—plus $15 million carryover—$75 million for open space and $40 million for neighborhood facilities. The following was appropriated for fiscal year 1971: $350 million for water and sewer facilities grants, $75 million for open space land programs and $40 million for neighborhood facilities grants. For fiscal year 1972, the following was appropriated: $500 million for water and sewer facilities grants, $100 million for open space land programs ($75% grants allowed for Section 706) and $40 million for neighborhood facilities grants.

4. *Amendments in the Housing and Urban Development Act of 1970.*

Consolidation of Open-Space Land Programs—The 1970 Law amends title VII of the Housing Act of 1961 (grants for open-space land, urban beautification and historic preservation) to authorize a single program of grants for (1) acquisition of title to, or other interests in, open-space land in urban areas, and (2) the development of open-space or other land in urban areas for open-space uses (including historic preservation).

5. *Other 1970 Legislation.* In addition to the regular water and sewer appropriation, Congress passed a $1 billion authorization for basic water and sewer facilities. When President Nixon signed the bill, he commented that he would not spend the money if it were appropriated. To this date there has been no appropriation.

6. *Legacy of Parks Program.* In September, 1971, HUD issued guidelines for the "legacy of parks" program. This plan provides for matching grants to local public agencies for up to 50% of the cost of land acquisition, land development, environmental improvements and the preservation of historic sites. Additional grants for up to 75% of the cost of acquiring land is available for parks to be used in urban areas.

II. Recommendations

1. *Urgent Need to Continue Water and Sewer Grant Program.* In his Budget Message for fiscal 1973, the President has requested an appropriation of $200 million for water and sewer facilities. Senator Sparkman's Bill, S. 3248 (as reported by the Senate Committee on Banking, Housing and Urban Affairs), provides for community development assistance which would combine several categorical assistance programs—including water and sewer grants—into one block grant program. Chapter F, Part 3 contains a description of the proposed program.

For the reasons set forth elsewhere in these Resolutions we recommend that a separate water and sewer grant fund be maintained for use by local governmental units not wishing to undertake full community development programs.

There should also be advance appropriations for each succeeding fiscal year, besides the current one, to give public agencies more lead time for their planning and development of these community development assistance programs, including sewers and water facilities. When the additional legislative authorization recommended below is made—if the water and sewer and public facility assistance continue as separate categorical grant programs—we recommend an increase in the rate of appropriations to $2 billion annually for water and sewer grants, and for other public and community facilities as described below.

2. *Increase in Legislative Authorization.* NHC recommends a 5-year authorization of $2 billion annually for grants to local governments for basic water and sewer facilities and other types of public improvements and community facilities. Of the $2 billion, $250 million should be made available annually for the open space land program. The public improvements and community facilities should include those authorized by the 1965 Act such as neighborhood and public facilities, particularly in slum and ghetto areas. It should also include the acquisition of land to provide parks and recreational facilities in urban areas, so that they are closely accessible to the people who need them most.

3. *Other Legislative Amendments.*

(a) As recommended in these Resolutions on other comparable programs, Federal grants to both smaller and larger cities for public and community facilities should be increased to 90%. Participating communities should have the option to provide the 10% local share in public improvements or other non-cash credits as well as in cash. For neighborhood centers, parks and recreational facilities in slum and ghetto areas, the Federal grant should be 100%. Moreover, there should be annual Federal grants to provide for the staff and operating expenses of such facilities. The neighborhood facilities centers in such areas should be permitted to include swimming pools—either indoor or outdoor—and gymnasiums.

(b) We believe that the foregoing grants should be generally restricted to communities that are simultaneously providing adequate housing for low and moderate income families, where the need for such housing exists.

CHAPTER AA. FEDERAL PROGRAM FOR PLANNING AND MANAGEMENT ASSISTANCE TO STATES, TO AREAWIDE AGENCIES AND TO LOCALITIES

I. Summary of existing legislation

1. *Need.* With increased concentration of population in and around metropolitan areas, there is an urgent need for a coordinated development of resources and services for urban and rural areas and a need to facilitate comprehensive planning for these areas. Because of the problem of multiplicity of political jurisdictions and agencies involved with this planning, and because of the inadequacy of the operational and administrative arrangements available for cooperation among them, NHC believes that Federal programs are badly needed to achieve the additional participation and cooperation from the states and localities. The 1968 Housing Act contains the following provisions to meet this need:

(a) The Section 701 planning assistance grant program is extensively revised. The Secretary of HUD is now authorized to make comprehensive planning grants to State planning agencies for assistance to "district" planning agencies for any nonmetropolitan areas. Consultation with the Secretary of Agriculture is required prior to approval of any distict planning grants The Secretary of Agriculture and, when appropriate, the Secretary of Commerce, may provide technical assistance in connection with the establishment of districts and the carrying out of planning by them

(b) Other new provisions authorize direct planning grants to Indian tribal planning councils or other bodies for planning on Indian reservations; to regional and district councils of government as well as those organized on a metropolitan basis; to regional commissions and economic development districts established under the Public Works and Economic Development Act of 1965; to cities, without regard to population, within metropolitan areas for planning which is part of metropolitan planning; and to official Government planning agencies for areas where rapid urbanization is expected as a result of a new community development assisted under Title IV of the Act. The Secretary is required to consult with the Secretary of Commerce before making any planning grant which includes any part of an economic development district.

(c) The definition of comprehensive planning is broadened to include planning for the provision of governmental services and for the development and utilization of human and natural resources. The inclusion of a housing element is required as part of the preparation of comprehensive land use plans. The use of private consultants, where their professional services are deemed appropriate by the assisted governments, is added to the stated purposes of the program.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) *Comprehensive Planning.* The Act increased the amounts authorized to be appropriated for the purposes of comprehensive planning by $35 million making a total not to exceed $265 million prior to July 1, 1969 and authorized to be appropriated an additional $125 million for a total not to exceed $390 million prior to July 1, 1970. Of the amount available prior to July 1, 1969, $20 million may be used only for district planning grants and that amount shall be increased by $10 million on July 1, 1969. All amounts appropriated must remain available until expended except that any funds so appropriated, not to exceed an aggregate of $10 million plus 5 percentum of the funds so appropriated, may be used by the Secretary for studies and research in comprehensive planning.

(b) *Planned Area-Wide Development.* Supplementary grants (designed to encourage areawide planning) are authorized for Federally-assisted projects in all multijurisdictional areas (not just metropolitan areas as previously provided) such as the rural planning districts proposed to be assisted with comprehensive planning grants under the comprehensive planning provisions of the law. Unused authorizations for appropriations for supplementary grants for fiscal year 1967 and 1968 are made available through fiscal year 1970.

(c) The 1969 Housing Act amends Sec. 701(a) of the 1954 Housing Act to extend availability of approximately $100 million in unused authorization for comprehensive planning grants through the fiscal year 1971. Under existing law this authorization will expire at the end of the fiscal year 1970.

3. *Amendments in Housing and Urban Development Act of 1970.* The 1970 Act amends Section 701(b) of the Housing Act of 1954 to extend for 1 year (through fiscal year 1972) authority to appropriate unused authorizations for comprehensive planning grants. The Act also authorizes an additional $30 million for comprehensive planning grants to be appropriated prior to July 1, 1972.

4. *Authorizations in Appropriation Acts.* The Budget authorizations or requests for Comprehensive Planning Grants were $50 million for fiscal 1971, $100 million for fiscal 1972 and $100 million for fiscal 1973.

II. Recommendations

Additional Authorization in Appropriation Acts. NHC urges that full amounts be appropriated for supplemental grants for the orderly growth of our urban areas. These are needed to achieve more effective coordinated metropolitan area planning and program development. In addition, NHC urges that the amounts authorized for a program of area-wide incentive grants be appropriated.

President's New Planning and Management Program. In his Message on March 5, 1971, dealing with special revenue sharing on urban community development, the President recommended federal grants for a new Planning and Management Program. We quote from his Message:

"To strengthen State and local capacities even further, I am presenting a second proposal today, one that would do a great deal to help *all* of our revenue sharing proposals work even better. I am asking the Congress to authorize a new program of Planning and Management Assistance to States, to areawide agencies and to localities. Under this program, $100 million would be available for these purposes.

"The new program would involve more money, and would provide recipient governments with broader and more flexible support for building up their capacity to govern effectively. . . . It will place new emphasis on the creation of a comprehensive management process, one that ties together planning and action, not just in the community development field, but in fields such as transportation, education, law enforcement and all other fields of local and areawide governmental endeavor. . . ."

Until we know more about the proposed operation and specifics of this new program, NHC is not able to take a position on it. However, we are favorably disposed to it: (i) if it will result in an increase in the total amount of aid available to States, area-wide agencies and localities for the important purposes contemplated by the program; (ii) if the new program will not adversely affect any present programs; and (iii) if there is no interruption or withholding of funds for present programs during the transitional period until the new program is enacted and becomes fully operational.

NHC emphasizes the importance of continuing the requirement for a housing element in the Section 701 program. This is important if we are to make adequate sites available for a well balanced housing program.

III. Provisions on Comprehensive Planning and Related Programs in Chapter IV of S. 3248 and NHC Recommendations

The Senate Committee Report explains the provisions on Comprehensive Planning as follows:

Comprehensive Planning

The bill expands the purposes of the comprehensive planning program to include assistance to state and local governments and regional combinations thereof for implementing plans and for increasing the policy-planning-evaluation capacity of the chief executive as well as for engaging in a comprehensive planning process.

The section of the bill also amends Section 701(a) of the Housing Act of 1954 by simplifying and consolidating the eligible recipients categories. Eligible recipients would fall into six categories instead of the present 11. The four basic primary categories are: states for distribution to small communities and counties, states for their own use, municipalities over 50,000, and areawide organizations. The other two secondary categories—Indian tribes and other governmental units or agencies having special planning needs—include other eligible recipients previously listed in subsection (a). The Committee does not expect these last two categories to receive more than a small share of total grants.

The consolidation and simplification of eligible recipients also involved some substantive changes. At the present time, municipalities over 50,000 may receive funds only for planning which is part of metropolitan planning. The Committee wishes to retain, and, indeed, strengthen planning on a metropolitan-wide basis and it has taken several actions to accomplish those objectives. However, it believes that cities should not be prevented from using 701 funds to engage in their own local comprehensive planning and to help implement those plans.

Grants, in the case of both municipalities and states, will be made to general purpose units of government rather than directly to planning agencies. The recipient may, of course, allocate a portion or all of its funds, as it sees fit, to planning agencies, in order to carry out the recipient's activities.

The present law also specifies metropolitan, regional, and district planning agencies as eligible recipients for comprehensive planning funds. Section 401(a) specifies that the eligible recipient within a metropolitan area, region or district shall be the A–95 metropolitan clearinghouse (as specified by Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Section 401 of the Intergovernmental Cooperation Act of 1968) for that area.

The Committee sees no reason for the federal government to encourage several competing organizations undertaking planning within the same geographical area. However, separate authority for Councils of Governments in Section 701(g) is retained, so that even where COGs are not A–95 agencies, they will nonetheless still be eligible for funding. The emphasis on COGs—areawide bodies whose members are composed of elected officials, or their representatives, of jurisdictions within the area—is consistent with the Committee's desire to foster a planning system around elected officials at all levels of government.

Finally this section retains language mandating the Secretary to encourage co-operation among the various units of government in preparing and carrying out plans and adds a provision to ensure that local, areawide and state plans and activities are consistent with one another.

In addition this section changes the present federal matching grant from 66⅔ per centum (or 75 per centum in certain specified cases) to 80 per centum for all recipients. The Committee raised the Federal share in order to emphasize the degree of federal interest in encouraging comprehensive planning. However, it resisted efforts to increase the federal share to 100 per centum because it felt serious planning requires a strong commitment by the recipient, including a willingness to invest some of the recipient's own funds.

The section also extends the program by making available authorizations of $150 million for FY 1973 and $200 million for FY 1974. The increased authorization will be necessary to meet, in an orderly fashion, the expected increase in program applications resulting from the expansion of eligible activities provided for in this bill.

The Committee also mandated a specific set-aside for areawide agencies. The set-aside equals 30 per cent of the first $125,000,000 appropriated annually and 25 per cent of any funds appropriated annually in excess of $125,000,000. The Committee felt the set-aside was necessary because areawides, unlike other primary recipients, have no independent fund-raising capability. Furthermore, despite the emphasis on areawide planning in present legislation (an emphasis which is retained), funding for areawide has fallen as a percent of total grants, even though the number of areawides receiving funds has greatly increased. In fact, the average 701 grant for an areawide has actually decreased from $72,843 in 1970 to $70,731 in 1972, at the same time the average grants to state for state planning has increased from $185,417 in 1970 to the $430,000 in 1972.

This Section also clarifies and expands the list of eligible activities a recipient may undertake. Eligible activities would include, in addition to comprehensive planning, activities necessary to develop and improve the management capability directly necessary to implement comprehensive planning and activities necessary to develop a policy-planning-evaluation capacity.

By policy-planning-evaluation capacity, the Committee has in mind the development on the part of a recipient of the analytical ability more rationally to identify its problems and needs, set long term policy goals and short term policy objectives for meeting its needs, devise programs and activities to meet those policy goals and objectives, and evaluate its progress towards meeting these goals and objectives.

The two new activities would allow recipients to spend 701 funds, for example, to undertake studies to identify problems in one or more policy areas, to strengthen their budgeting systems, to improve their ability to gather, process and analyze data necessary for rational decisionmaking, to devise programs and to reorganize governmental structures, and to strengthen the capacity of the recipient to analyze the impact of its programs in meeting its policy objectives. The Committee particularly wishes to stress the importance of increased efforts at self-evaluation. The 701 funds would not be available, however, for direct program administration.

In order to prevent possible abuses of 701 funds, the Committee added a provision specifying that activities assisted under 701 grants shall be carried out by professionally competent persons. However, the term professionally competent should not be interpreted in a narrow sense—i.e., it is not the Committee's intention to view a formal professional degree as a necessary precondition for professional competence. Rather the term implies persons should have an appropriately related background or experience.

Section 401(b) also changes the required activities, all recipients must undertake. Under present law, all recipients must prepare a housing element as part of a comprehensive land use plan. Section 401(b) requires all recipients to carry out an ongoing comprehensive planning process which shall include, as a minimum, a housing element, a land use element, and a five-year capital programing element. The five year capital programing element is added as a required element because the Committee feels that rational planning for urban growth must include major capital investments such as highways, transit lines, and sewers, whose placement will determine the future shape of urbanization.

The Secretary is mandated to make no grants to recipients which, three years after enactment of Section 401(b) are not engaged in comprehensive planning which includes at least the three required elements. The secondary recipients and municipalities under 50,000 as well as counties under 50,000 are exempt from this provision.

The Committee wishes to emphasize that it conceives of comprehensive planning as a continuing process in which goals, objectives, and activities change over time. Nonetheless, at any point in time, the present status of comprehensive planning (including long term goals and short term objectives, activities being undertaken to accomplish goals and objectives, and an evaluation of previous efforts) should be able to be set forth in concise written form. In short, the mere statement that a recipient is engaging in comprehensive planning in the three required areas shall not, in itself, suffice as satisfactory evidence that the required planning elements are being carried out.

This section also enjoins the Secretary from making grants to applicants which have not made a good faith effort to implement their comprehensive plan. The Committee has no desire to encourage planning as an academic exercise or to subsidize the production of "paper plans" which merely sit on library shelves. It recognizes that planning must be flexible and goals and objectives will

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change over time. It also recognizes that structural, political, or other obstacles may prevent plans from being successfully implemented. But at the same time, it expects recipients to utilize planning as guidance for public action. Indeed, the prime rationale for extending the provisions of the 701 legislation to cover management and policy-planning activities is to increase the ability of a recipient to implement its comprehensive planning and its likelihood of doing so.

The bill also amends Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 by adding comprehensive planning and community development activities undertaken pursuant to Title II of this bill, to the list of activities for which Federal grant applications must be submitted to an areawide agency for review. If state law permits, the areawide agency must be predominantly—rather than "to the greatest extent practicable" as the present law provides—composed of or responsible to the elected officials of the jurisdictions for which the agency is authorized to engage in planning. Predominantly means, at a minimum, a majority, but the Committee wishes to make known its desire that if possible, a much greater portion of the areawide agency's membership be composed of or responsible to the elected officials of these jurisdictions.

The Committee wishes to emphasize that Section 204 remains the operative legislative provision with respect to the A–95 review in metropolitan areas. The Committee is concerned that some federal agencies and departments may not be fully discharging their responsibilities under Section 204 and particularly the requirement that applications not be approved unless the provisions of Section 204 are met by the applicant. Section 204 includes a provision that, if the application is accompanied by comments from the areawide agency rather than by certification that the areawide agency has made no comments, the comments "shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area . . ." In order to ensure that legislative requirements such as this are being carried out and to evaluate the impact of these requirements, Section 402(b) requires each federal agency administering program pursuant to the provisions of Section 204 and Section 401 of the Intergovernmental Co-operation Act of 1968 to submit a report to Congress by July 1, 1973 on the manner in which they are implementing OMB circular A–95 (which sets forth rules and regulations for implementing the provisions of Section 204 and Section 401 of the Intergovernmental cooperation Act).

NHC supports the foregoing provisions of the *Senate Enacted Bill* which carry out many NHC recommendations.

Training and Fellowship Program

The bill also amends Title VIII of the Housing and Urban Development Act of 1964 (training and fellowship programs) by providing the Secretary with the authority to make grants to or contracts with higher education institutions to assist them in planning, developing, strengthening, and improving programs in courses of study for which the Secretary has the authority to provide fellowships.

NHC supports the provision of the *Senate Enacted Bill*, except that NHC recommends an amendment to authorize the grants to other training institutes of a nonprofit character which are approved by the Secretary.

CHAPTER BB. URBAN MASS TRANSPOATATION

I. *Summary of Existing Legislation*

1. *Objective.* There is an urgent need to modernize, expand and reorganize the urban transportation systems. Adequate Federal grants are necessary to achieve this objective.

2. *Authorizations in the 1968 and 1969 Housing Acts.*

(a) The 1968 Act increased authorized appropriations for grants and other assistance to urban mass transportation by $190 million for fiscal year 1970. The amount of funds which can be used for research, development, and demonstration projects was increased by $6 million, commencing July 1, 1968; also the statutory limit on the funds available for this purpose is removed, commencing July 1, 1969. The definition of "mass transportation" was broadened to allow greater flexibility and opportunity for application of new concepts and systems.

(b) The 1969 Act amended Section 4(b) of the Urban Mass Transportation Act of 1964 to authorize appropriation of $300 million for fiscal year 1971 for grants under that Act.

3. *Authorizations in Appropriation Acts.* For the fiscal years 1969 and 1970 there were appropriations of $175 million each year. Of the total amount in legislative authorizations for mass transit grants, $70 million has not been appropriated. Section 5 of the 1964 Act is amended to extend until July 1, 1971, the interim program there authorized of 50 percent grants for mass transportation facilities and equipment in urban areas not yet able to meet full area-wide comprehensive planning and programing requirements. These emergency grants are in place of the two-thirds federal grants available when all comprehensive planning requirements are met.

II. *Recommendations*

1. *Additional Authorizations in Appropriation Acts.* NHC recommends an appropriation of the $70 million authorized by law for mass transit grants, but not yet appropriated. When the additional legislative authorization recommended below is made, we urge an increase in the rate of appropriations to $750 million annually for mass transportation grants. No funds were requested by HUD for fiscal year 1971 because under an agreement between HUD and the Department of Transportation (DOT), the administration of HUD's residual functions in mass transportation will be transferred to DOT, as will unobligated balances.*

2. *Increase in Legislative Authorizations.* NHC recommends that authorization of appropriations for mass transit grants be increased to $750 million per year for the next five years. The expansion of the program is necessary to achieve the housing and urban development goals recommended in this report. We also urge an advance appropriation for each succeeding fiscal year, besides the current one, in order to give cities more lead time for planning their mass transit programs.

III. *Provisions on urban mass transportation in chapter VI of S. 3248 and NHC's recommendations*

The Senate Committee Report explains the provisions on Mass Transportation as follows:

Assistance for Operating Expenses

Chapter VI of the bill would amend Sec. 3 of the Urban Mass Transportation Act of 1964 to prevent reduction of essential transportation services in the Nation's urban centers by authorizing assistance to defray operating expenses. Grants or loans, requiring at least one-third local contribution, would be provided to State or local public bodies in order to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. Included within the terms of such assistance are grants to State and local public bodies for debt servicing for mass transit investments.

The Committee, in reporting Chapter VI, specifically calls attention to the critical need for increasing and improving the Nation's public transportation systems and for providing necessary Federal assistance to permit local communities to plan and implement the mix of transportation services most responsive to their own goals and to orderly community growth and development.

The 1970 Housing and Urban Development Act, as reported by the Committee and passed by the Senate, contained a provision for operating assistance for urban mass transportation. A similar provision was not contained in the House Bill and the House-Senate Conference deleted the provision. A substitute provision calling for the Department of Transportation to conduct a study of the feasibility of operating subsidies and to report back to the Congress within a year was inserted in place of the initial operating assistance program.

The Department of Transportation submitted its study of the "Feasibility of Federal Assistance for Urban Mass Transportation" in November 1971. The report contains extensive documentation of the critical state of the transit industry; detailed review of State and local actions to aid transit operations; and an Administration proposal for additional study and consideration of the operating subsidy issue.

The Committee rejected the Arministration's suggestion for further study. Accordingly, hearings on "Emergency Urban Mass Transit Legislation," were conducted January 31–February 2, 1972.

While the passage of the Urban Mass Transportation Act of 1970 was a significant advance in Federal assistance for mass transportation, the Committee had reservations that a program of capital grants could, by itself, alleviate the financial distress of the transit industry and the increasing number of municipalities which own and operate transit systems. Information received by the Committee indicated that in the decade from 1961–1971, the number of municipalities which were forced to initiate programs of operating assistance to transit systems increased by nearly 400%. Deficits are currently running at the rate of $360 million a year and, as set forth in the following table from the Department of Transportation's November 1971 Report, are nationwide in effect.

The Committee has been apprised of the fact that the revenue/expense situation of mass transit is likely to deteriorate still further given present patterns of assistance and that the general picture of the transit industry will remain one of rising fares, increasing operating expenses, and declining ridership. In the absence of Federal support, States, cities and municipalities will continue to be forced to carry the burden of transit's financial decline. As developed in testimony during the 1972 hearings, the 108 systems which are currently subsidized will almost certainly increase to the point where every large city transit system will be public owned and heavily subsidized. At the present time 35 cities are facing the issue of initiating local subsidies for transit operations.

On the basis of such evidence, reports and testimony, it has become evident to the Committee that increasingly passenger revenues cannot meet the operating expenses; that the problem is national in its dimensions; and that if mass transit is to perform an essential public service, federal support for operating expenses is a prerequisite.

Accordingly, the Committee is recommending that mass transit legislation be amended to authorize grants under Sec. 3 of the Urban Mass Transportation Act of 1964 for operating expenses as well as for capital costs. The major purpose is to assist in revitalizing the Nation's mass transportation systems by allowing States and localities to determine which systems in their jurisdiction are in need of operating assistance and, on this basis, to submit to the Secretary of Transportation a comprehensive mass transportation service improvement program to improve such service and to place mass transportation operations on a sound financial basis.

Section 601 directs the Secretary of Transportation to issue such regulations as he deems necessary to administer the operating subsidy program in an equitable manner and to include in the regulations appropriate definitions of (a) operating expenses and (b) the sources of State or local financial assistance which may be considered in computing the maximum allowable Federal grant. It is expected that criteria established by the Secretary of Transportation for evaluating applications for operating assistance would be comparable to criteria employed under the existing capital grant program.

Further, in view of the critical conditions of the Nation's mass transportation systems today, the Committee strongly believes that funds duly authorized and appropriated by the Congress for the capital grant program which have been withheld from obligation in FY 1971 ($200 million) and in FY 1972 ($300 million) should be immediately available upon enactment of the bill to assist in defraying operating expenses of mass transit systems.

The Committee desires to emphasize that its action to amend Sec. 3 of the Urban Mass Transportation Act of 1964 to permit grants for operating expenses should in no way be construed as reducing the funds that would otherwise be authorized for the capital grant program. There is no intent to make operating subsidy requirements compete with requirements for equipment and facilities to the detriment of the existing capital grant program. Accordingly, during review of the Administration's request for mass transportation contract authority for fiscal years 1976 and 1977, the Committee proposes to recommend and appropriate increases in the total authority and to earmark amounts for the express purpose of operating subsidy grants.

Assistance for Capital Expenses

The bill would also amend the Urban Mass Transportation Act of 1964 by providing that Federal grants for capital assistance shall not exceed 90% of Sec. 4(a). Also, grants for technical studies under Section 9 would be authorized at a level not to exceed 90%.

The Committee feels strongly that funding for mass transit capital facilities and equipment at a 90/10 ratio is essential if the Nation's transit investment is to become an attractive alternative to highway programs, which have long been funded on a 90/10 basis for interstate construction.

Additional Amendments

The bill would provide additional amendments to the Urban Mass Transportation Act of 1964 including (1) to clarify the term mass transportation system; and (2) to make explicit the applicability of Sec. 4(a) to grants for facilities and equipment as distinguished from grants for operating expenses.

Planning Certification for Capital Grants

Testimony was received by the Committee pertaining to the effect of planning requirements on the administration of the capital grant program under the Urban Mass Transportation Act of 1964. While no legislative revision is recommended, the Committee emphasizes that in devising Section 4(a) of the 1964 Act it was not intended that it be administered in such a manner as to result in inordinate delay in the provision of Federal financial assistance to localities for transit facilities and equipment.

The Committee feels strongly that in determining whether applications comply with the Sec. 4(a) comprehensive planning requirements, it is appropriate for the Secretary of Transportation to follow certification procedures comparable to those required under the Federal aid highway program. The Committee is aware of initial action on the part of the Secretary of Transportation to standardize and streamline the planning certification process for various related transportation grant programs and commends this effort. In this connection, the Committee requests the Secretary of Transportation to report to the Committee on the status of such planning consolidation activities and associated action to expedite determinations required under Sec. 4(a) at the earliest practicable date but in no event later than 6 months after the date of enactment of the bill.

For the purposes of financing grants and loans under the mass transportation program, an amendment was adopted by the Senate authorizing an appropriation of $400 million prior to July 1, 1973, which amount may be increased to $800 million prior to July 1, 1974.

NHC supports the foregoing provisions of the Senate Enacted Bill which carry out many NHC recommendations. We are particularly gratified with a program that recognizes the need for operating subsidies for urban mass transportation; also, the need to increase Federal grants for capital assistance to a 90 percent ratio similar to that which is available under the highway program. We continue our recommendations of additional authorizations and improvements in legislation relating to urban mass transportation.

CHAPTER CC. RESEARCH, TECHNOLOGY, TRAINING AND TECHNICAL ASSISTANCE

I. Summary of existing legislation

1. *Need for Basic Research and Training.*

(a) The housing industry has neither the organization nor the resources to support substantial research in the area of housing technology and research. Existing research is almost exclusively in the hands of material and large equipment suppliers and reflects the particular interests of these groups. It is necessary that federal financial support be given toward the development of new systems and overall construction techniques. The technological advances necessary to reduce housing costs must be accompanied by more uniform building codes in all areas of the nation. This will make it more feasible for developers and manufacturers to produce housing and materials for a national market.

(b) There is a shortage of trained professional and sub-professional personnel in the broad field of community development. This presents a serious problem in achieving effective action programs.

2. *Authorizations in 1968 and 1969 Housing Acts.* The 1968 Act recognizes the need for urban technical assistance, research, and training and provides assistance in the following areas:

(a) *Advances in Technology in Housing and Urban Development.* The Act authorizes such sums as may be necessary to be appropriated, commencing with fiscal year 1969, for studies of new and improved techniques and methods of applying advances in technology to housing construction and rehabilitation, and to urban development. Four-year contracts are authorized for such studies rather than two-year contracts as heretofore authorized.

(b) *Housing for Lower Income Families Through New Technologies.* The Act directs the Secretary of HUD to institute a program under which qualified public and private organizations will submit plans for the development of housing for lower income families, using new and advanced technologies, on Federal land which has been made available for that purpose or on other suitable land. The Secretary is to approve five plans, each of which shall have a technology and organization with a potential to produce at least 1,000 dwelling units a year. The Secretary is to seek the construction of that number of dwelling units a year over a five-year period for each of the various types of technologies proposed in approved plans. Mortgages financing the projects are authorized to be insured under the FHA experimental housing program.

(c) *Authorization for Urban Information and Technical Assistance Service Program.* The Act increases the authorization for grants to states to assist in the provision of urban information and technical assistance by $5 million for fiscal year 1969, and by $15 million for fiscal year 1970. Amounts authorized for these grants, but not appropriated, are authorized to be appropriated for any succeeding fiscal year commencing prior to July 1, 1970. In the Administration's budget requests for fiscal year 1971, the Urban Information and Technical Assistance programs were combined with the Comprehensive Planning Assistance (701) program described in Chapter Y.

(d) *Federal-State Training Programs.* The Act broadens the Federal-State training program to permit grants to states for the training of subprofessional—in addition to professional—persons who will be employed in the field of housing or community development. The trainees may be trained for employment by private nonprofit organizations or public organizations which have responsibility for housing and community development programs.

(e) *1969 Act Amended Training and Fellowship Programs as follows:*

Title VIII of the Housing Act of 1964 was revised to consolidate, under one authorization, that title's program of fellowships for city planning and urban studies and the community development training program. Specifically, the title:

(1) Consolidates the title by striking the headings which divide it into two separate parts:

(2) Amends Section 801(b) by including, as a purpose of the consolidated title, the provision of "fellowships for the graduate training of professional city planning and urban and housing technicians and specialists";

(3) Amends Section 810 by striking the first sentence (which authorizes appropriations for urban fellowships) and substituting a general authority for the Secretary to provide such fellowships;

(4) Substitutes for Section 802(d), which authorizes without fiscal year limitations $30 million in appropriations for community development training programs, a new section numbered 806 authorizing appropriations, without fiscal year limitation, of up to $30 million for the consolidated Title VIII program; and

(5) Amends appropriate sections of the title to strike inapplicable reference to its several "parts" and substitute appropriate reference to the "title" or to the various "sections" thereof.

(f) *Extension of Urban Information and Technical Assistance Services Authorization.* The 1969 Act amended Section 906 of the Demonstration Cities and Metropolitan Development Act of 1966 to authorize appropriations for grants to help finance programs of urban information and technical assistance services through fiscal year 1971. Prior to this amendment, appropriations were authorized to be made only through fiscal year 1970.

3. *Authorizations for Urban Research and Technology in Appropriation Acts.* There was an appropriation of $11 million for fiscal year 1969 for urban research and technology and an appropriation of $12 million for the low income demonstrations program for fiscal year 1969. There was an appropriation of $500,000 for urban fellowships. There was no appropriation for the urban information and technical assistance service programs. For fiscal year 1970, $2.5 million was appropriated for urban fellowships. For fiscal year 1971, $30 million was appropriated for urban research and technology; $3.5 million was appropriated for community development training and urban fellowships. For fiscal year 1972, $45 million was appropriated

*Under the proposed Department of Community Development, mass transit would become its responsibility along with most of HUD's functions: See Chapter F.

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for urban research and technology; $3.5 million was appropriated for community development training and urban fellowships.

4. *Additional Authorizations for Training and Fellowships in Appropriation Acts.* NHC recommends necessary appropriation authorizations to carry out all of the authorizations in the laws for training and fellowship programs. In addition, NHC recommends that $1 million a year be appropriated for training under a 5-year program; and that the fellowships be increased to $2 million a year under a 5-year program.

5. *Amendments in Housing and Urban Development Act of 1970.*

(a) *Research and Demonstrations.* The 1970 Act authorizes and directs the Secretary of Housing and Urban Development to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. To carry out activities under this section there would be authorized to be appropriated such sums as may be necessary. All funds so appropriated would remain available until expended unless specifically limited.

(b) *General Provisions*—The 1970 Act brings together under one heading a series of administrative and other provisions which are applicable to activities under section 501 as follows:

(1) A new section, which is based on section 1010 of the Demonstration Cities and Metropolitan Development Act of 1966 and section 417 of the Housing and Urban Development Act of 1969, directs the Secretary, to the greatest extent feasible, to require the use of advanced technology under housing programs administered by him, and to encourage and promote the acceptance and application of such advanced technology by all segments of the housing industry, communities, and the general public.

(2) A new section is based on section 108 of the Housing and Urban Development Act of 1968. It provides that in order to encourage large-scale experimentation in the use of new technology with a view toward the ultimate mass production of housing and related facilities, the Secretary shall, wherever feasible, conduct programs under section 601 in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land where local building regulations or variances from them permit such experimental construction.

(3) A new section is based on provisions in section 1010 of the Demonstration Cities and Metropolitan Development Act of 1966 and section 108 of the Housing and Urban Development Act of 1968. The Secretary would be authorized, in connection with projects under this title, to acquire and dispose of land and other property required for the project as he deems necessary.

(4) A new section which is based on section 314 of the Housing Act of 1954, section 301 of the Housing Act of 1948, section 602 of the Housing Act of 1956, and section 1011 of the Demonstration Cities and Metropolitan Development Act of 1966, authorizes the Secretary to pay for the cost of writing and publishing reports on activities financed under section 501, and similar activities not so financed which are of significant value in furthering the purposes of that section.

(5) A new section is based on provisions in section 301 of the Housing Act of 1948, section 314 of the Housing Act of 1954, section 207 of the Housing Act of 1961, and sections 1010 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966. It authorizes the Secretary to carry out his functions under section 601 either directly or by contract or grant.

(6) A new section is based on title III of the Housing Act of 1948, section 602 of the Housing Act of 1956 and section 601 of the Economy Act of 1932 (31 U.S.C. 686). It requires the Secretary to utilize facilities of other Federal departments and agencies, and to consult with and make recommendations to such agencies; and authorizes him to enter into working agreements with them.

(7) A new section is based on provisions in section 602 of the Housing Act of 1956 and provides that the Secretary is authorized to obtain information from private and public sources.

(c) *Repeal of Existing Research Authorizations.* The 1970 law repeals, effective July 1, 1971 (except for contracts, commitments, reservations, or other obligations entered into prior to that date) title III of the Housing Act of 1948, section 314 of the Housing Act of 1954, section 602 of the Housing Act of 1956, section 207 of the Housing Act of 1961, section 301 of the Housing and Urban Development Act of 1965, sections 101 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966, and subsection 1714(b) of the Housing and Urban Development Act of 1968.

6. *Recommendations on Research and Technological Development.*

(a) NHC supports an increase of $75 million in the appropriation for research and development over the $45 million contained in the Appropriation Act for fiscal year 1972.

(b) NHC supports legislation authorizing FHA insurance of the cost of plant production facilities for approved industrialized housing systems. This can be done through an amendment of the experimental housing provisions under Section 233 of the National Housing Act.

(c) NHC recommends administrative action or legislation, if necessary, to permit—in the case of FHA-insured rental or cooperative projects involving use of factory-produced components—the making of progress payments by the developer to the housing manufacturers based upon certified invoices of receipts and expenditures for materials and labor by the manufacturer, such progress payments to be covered by the FHA insurance of construction advances to the developer.

(d) NHC deplores the HUD reductions in training and intern programs as part of its staff reduction program. These programs are vitally important to develop the additional trained personnel required and they afford an opportunity for greater minority participation in housing and urban development programs.

CHAPTER DD. OPERATION BREAKTHROUGH

I. Summary of existing legislation

1. About two years ago, Secretary Romney initiated the Operation Breakthrough Program. It is designed to achieve advances in design and planning of housing and to use modern techniques of production, marketing and management. Its purpose is to increase greatly the supply of quality housing, particularly for those of low and moderate incomes.

2. To initiate Operation Breakthrough, HUD solicited requests for proposals for several types of contracts: Type A for design, testing and evaluation, and prototype construction of complete housing systems which can lead to volume production. The program is planned in three phases: Phase I, Design and Planning; Phase II, Prototype Construction, and Phase III, Volume Production. HUD has made awards to 22 bidders for Type A contracts.

3. Type B contracts were solicited for research, development and design of innovative concepts for any individual or group of primary elements of building systems, materials and techniques, land use concepts and business considerations—including legal, financing, processing and management techniques.

4. HUD sought and has awarded contracts for eight prototype sites (from 5 to 30 acres each) to be brought under Government control and used to erect and display the prototypes which HUD selects. HUD intends that the sites will be an effective marketing device to spur demand for projects using the prototype dwellings.

5. Volume production is to be achieved with the aid of one or more of the HUD programs, including Sections 235 and 236. HUD intends to give priority in allocation of funds—under Sections 235, 236 and other programs—to projects using the prototype dwellings.

6. The 1969 Housing Act amended Section 1010(a) of the Demonstration Cities and Metropolitan Development Act to direct the Secretary of Housing and Urban Development to assure—to the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under that section—that there is no restraint by contract, building codes, zoning ordinances or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance. The purpose is to stimulate expanded production of housing under such programs, except where the foregoing restraints are necessary to insure safe and healthful working and living conditions.

II. Recommendations

1. NHC favors Operation Breakthrough and the programs of technological development in housing with their objectives to add to the production resources necessary for the achievement of our housing goals also, to help offset the inflationary rise in housing costs. Inflationary increases in housing and financing costs have adversely affected the consumer and made it impo sible for many people who need homes to get them at prices or rents which they can afford.

2. NHC has always urged the prompt and full use of all funds authorized by the Congress for housing production rather than withholding funds for uses that will not materialize during the ensuing year. Accordingly, NHC urges that HUD take no action at this time which would withhold funds from use except for specific projects which will use Operation Breakthrough housing that can be promptly delivered and involves a system which has been approved by HUD.

CHAPTER EE. LOAN INSURANCE FOR MOBILE HOMES

I. Summary of existing legislation

1. *Need.* During the past few years, there has been a great increase of interest in mobile homes as a source of lower cost housing. Sales of mobile homes have increased substantially, from about 235,000 in 1967, to over 450,000 units in 1971.

A survey conducted by the Bureau of the Census for HUD revealed that mobile homes contribute significantly to housing supply. However, while the production and sale of mobile homes have expanded greatly in recent years, so that an estimated six million people live in about 2,200,000 mobile homes in the United States, the number and quality of mobile home parks have not kept pace. There is a great deficiency of suitable mobile home park spaces, and generally the ones that exist are improperly designed and provide inadequate community facilities.

2. *Amendments in the Housing and Urban Development Act of 1969.* Section 207 of the National Housing Act is amended to increase the maximum amount of a mortgage which may be insured for a mobile home court from $1,800 to $2,500 per space and from $500,000 to $1,000,000 per project mortgage. The section also redesignates, for greater accuracy, the mortgage insurance program for "trailer courts or parks" as a program for "mobile home courts or parks."

Title I of the National Housing Act is amended to authorize the establishment of a new FHA program financing the purchase of a mobile home to be used by the owner as his principal place of residence. Under this program, a purchaser can obtain an FHA-insured loan in an amount not exceeding $10,000 which must be repaid over a maximum term of 12 years. The financing charge to the purchaser is to be prescribed by the Secretary of Housing and Urban Development and may vary depending on the amount and term of the loan. In addition, the Secretary is required (1) to prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which the mobile home is to be located, and (2) to obtain assurances from the borrower that the mobile home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

3. *Amendments in the Housing and Urban Development Act of 1970—Mobile Home Loans Under Title I.* The 1970 Act amends section 2(b) of the National Housing Act (home improvement and mobile home loan insurance) to provide that when a mobile unit is composed of two or more modules, the maximum insurable mobile home loan shall be $15,000 (instead of $10,000) and the maximum term shall be 15 years 32 days (instead of 12 years 32 days).

4. In March of 1971, the Veterans' Administration announced new standards for mobile home guarantees. These guarantees cover a portion of the principal amount, up to 30%, and a maximum of $10,000 for mobile homes or up to $17,500 if the loan also includes a fully developed lot. Minimum standards require a mobile home to be at least 40 feet long and 10 feet wide, with a minimum of 400 square feet. Pursuant to its flexible authority, the Veterans' Administration has set an interest rate of 10.75% on loans for purchase of the mobile homes and 7% on the part of the loan used to purchase a lot and make improvements.

II. Recommendations

1. NHC recommends that necessary safeguards be established for mobile home parks which will assure that the mobile homes are located in an area that has adequate sanitary and community facilities; also, to assure that the mobile home parks are planned in a manner which is not inconsistent with sound urban development of metropolitan areas. In many cases, mobile home courts are built just outside the cities and just beyond the reach of present zoning and building code authorities. Yet, population growth will result in the expansion of metropolitan areas to embrace the areas covered by the mobile home parks. Accordingly, it is necessary that the mobile home parks conform to the long-range plans of metropolitan areas. Likewise, it is necessary to assure that the mobile homes meet appropriate quality and space standards.

2. NHC recognizes wider and larger mobile homes can be built with substantially the same quality as other homes which qualify for FHA insurance. NHC recommends that such mobile home units be eligible for 40-year mortgage financing under Sections 213, 207, and 221(d)(3) if such projects (a) meet FHA design, construction and durability standards and (b) conform to site planning and engineering criteria that make such projects comparable to other developments which qualify under Sections 213, 207 and 221(d)(3).

CHAPTER FF. EFFECT OF TAX REFORM ACT ON HOUSING

On December 30, 1969, President Nixon signed the Tax Reform Act of 1969 into law. There are several provisions in the Act that drastically altered current tax consequences associated with housing and real estate development; also, the Act adds an important incentive for the production of low and moderate income housing and its sale to the occupants. A summary of these provisions follows:

1. Accelerated depreciation—i.e., 200 percent of the straight line rate—will only be permitted for new residential rental housing. However, there are recapture provisions which offset the tax benefits upon a sale to the extent described below.

2. Any excess of accelerated depreciation over straight line depreciation will be subject to recapture for approximately 16 years 8 months instead of the present 10 years. These new recapture rules do not apply, however, to the Section 221(d)(3) and 236 limited distribution programs to serve low and moderate income groups. For these programs, the recapture rules of existing law are retained without change—namely there is no recapture if the project is held for ten years. Thus, the new tax law retains the existing tax incentives for such housing constructed to serve those of low and moderate incomes.

3. Subsequent owners of new residential rental property are divided into two categories: those who acquired used residential property with a useful life of less than 20 years and those who acquired used residential property with a useful life of 20 years or more. Those in the first category are limited to straight line depreciation while those in the second category may depreciate the property at a rate not to exceed 125 percent of the straight line rate.

4. The new tax law provides for deferral of gain upon certain prescribed sales of Section 221(d)(3) and 236 limited distribution projects. On these federally-assisted projects serving those of lower incomes where the investor's return on his investment is limited, the Government will now encourage the sale of these housing projects to the lower income occupants, a cooperative or other organization which will operate the property for their benefit. To qualify for the deferral of a taxable gain upon such a sale of a housing project, the owner is required to reinvest the proceeds in another lower income housing project. The taxpayer's basis from the old property, to the extent of the reinvestment, becomes part of his basis for the new property. This provision provides a necessary tax incentive for the production of low and moderate income housing and for its sale to or for the benefit of the lower income occupants.

5. NHC reaffirms its support for the current tax incentives afforded new and rehabilitated housing for low and moderate income families as provided by the Tax Reform Act of 1969.

6. NHC urges that the present special recapture rules for section 221(d)(3) and 236 limited distribution projects be extended beyond the present end of the experimental program in 1974.

CHAPTER GG. CREATION OF HEALTHY ENVIRONMENTAL CONDITIONS

Housing must be in a suitable environment. We now suffer from the tragic and dangerous effects of air and water pollution and unsafe and inadequate waste disposal. Likewise, recent studies reveal that the high noise level of our cities may prove as deleterious as other forms of pollution. Yet, little has been done to alleviate these pollution conditions which are growing worse.

I. Summary of existing legislation

Before the overt public concern with our environment, Congress passed several significant pieces of legislation aimed at controlling the environment. A summary of the more important laws follows:

1. *Clean Air Act of 1963.* This Act provided for an expanded and strengthened program. It authorized legal actions to stop air pollution. It also authorized matching grants to state, local and interstate agencies for programs of air pollution prevention and control.

2. *Motor Vehicle Air Pollution Control Act—1963.* This Act directed the Secretary of HEW to establish standards on the emission of substances from new motor vehicles or engines which contribute to air pollution. The Act prohibited the sale, manufacture for domestic sale, or importation of any vehicle or engine not in conformity with the regulations and provided fines of up to $1,000 for each new vehicle or engine manufactured or sold in violation of the regulations.

3. *Water Quality Act of 1965.* This Act requires the states to establish and enforce water quality standards for all interstate waters within their boundaries. If a state fails to take necessary action by June 30, 1967, HEW can act and set federal standards. The establishment of water quality standards is designed to prevent pollution before it occurs, since it is now possible to determine whether discharges of wastes and sewage cause unacceptable pollution in an interstate body of water.

4. *Clean Waters Restoration Act of 1966.* This Act provides that a Federal grant could pay from 30 to 50 percent of the construction costs of a sewage treatment plant. The higher grants are conditional on state participation in the financing of treatment plants and the establishment by the state of quality standards for non-interstate bodies of water within its boundaries.

5. *Air Quality Act of 1967.* This Act enlarged the existing federal responsibility for air pollution control. In most cases the Federal Government will not step in unless the states fail to act. The HEW Secretary is authorized in time of "imminent and substantial" danger to public health from air pollution, to seek a court injunction to halt further emissions into the atmosphere.

HEW is also authorized to designate air quality control regions throughout the nation. It can provide full federal financing for regional control commissions to be established by state governors. HEW can enforce air quality standards in the control regions, if the regional commissions fail to enforce an air pollution plan that complies with guidelines for air purity prescribed by HEW.

The Act further requires the registration of all fuel additives with HEW. Fuel manufacturers are required to notify HEW of the type, concentration and purpose of all additives used in their fuels.

The Act provides that automobile exhaust standards can be issued only by the Federal Government, except for California, which is permitted to enforce its own more stringent standards.

II. Recent Legislation

Clean Air Bill of 1970. (a) The Act contains the following deadlines for a 90% reduction of specified automobile emissions:

(1) a 1975 deadline for carbon monoxide and hydrocarbons,

(2) a 1976 deadline for nitrogen oxides.

(b) The Act allows the Administrator of the Environmental Protection Agency (EPA) to control or prohibit fuels or fuel additives which he deems harmful to public health or welfare or which impair a device or system to control emissions.

(c) The Act allows the Federal Government to set "primary" quality standards with the states having control over "secondary" air standards.

(d) The Act includes authorizations of $1.1 billion over three fiscal years. This includes $350 million for research on fuels and low-emission engines; $15 million for long-term research grants; $650 million for state grants and other programs; $55 million for a Federal low-pollution car program; and $30 million for a new noise pollution program.

Recent Actions. (a) This year the Environmental Protection Agency assumed the functions of air and water quality control previously exercised by the Departments of the Interior and HUD.

(b) This year the Council on Environmental Quality was established as an advisory group to formulate broad policies re-

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garding parkland, land use and population growth.

(c) This year the Cabinet Committee on the Environment and the Citizens' Advisory Committee on Environmental Quality were established to make recommendations to the President concerning the development, restoration, and preservation of the beauty of the countryside, urban and suburban areas and water resources.

III. Recommendations

1. NHC concurs with the past pronouncements of President Nixon that:

"It is literally now or never . . . A major goal for the next ten years must be to restore the cleanliness of the air, the water, the broader problem of population congestion, transportation and the like."

2. NHC believes that we should have a ten-year goal to end air, water and other pollution and create healthy environmental living conditions. However, it is imperative that we should not let our concern for environment replace our priority concern to fulfill our housing goals. We must avoid the tendency to replace priorities instead of fulfilling them. We must not be diverted from our commitment to meet the need to provide decent housing for all Americans.

3. NHC suggests that HUD and DOT jointly study the impact of airports on housing in close proximity thereto or within flight patterns including:

(a) noise, air or other pollution;

(b) the distance required or other measures needed to assure healthy environmental conditions for such housing; and

(c) the actions required to resettle people displaced from airport impact areas suffering from unhealthy environmental conditions and the utilization of land in such airport impact areas for appropriate purposes other than housing.

CHAPTER HH. RELOCATION

I. Summary of existing legislation

1. *Objectives.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 recognizes the needs of persons who are displaced or have their property taken for Federal and federally assisted programs. This legislation establishes a uniform policy for the fair treatment of such persons and requires the heads of Federal agencies causing the displacement to provide relocation payments and assistance to those persons affected by such programs. The policy of the Act is to allow the activities essential to various Federal and federally assisted programs to continue, but not at the expense, inconvenience or hardship of individuals.

2. *Authorization in the Relocation Act of 1970.*

(a) The heads of Federal agencies are authorized to make the following types of relocation payments:

(1) Payment to families and individuals for the actual reasonable moving expenses or a fixed moving expense allowance not to exceed $300 and a dislocation allowance of $200.

(2) Payment to assist in obtaining a replacement housing unit which may be a payment to a displaced homeowner, who has owned and occupied the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the property, not exceeding $15,000 and covering the difference, if any, between the acquisition payment made by the local agency and the cost of a comparable suitable replacement housing unit. Such payment may include an amount to compensate the displaced homeowner for the present worth of any loss of favorable financing and an amount to compensate the displaced homeowner for reasonable closing costs incident to the purchase of a replacement housing unit. Payments may also be made to a displaced tenant who has occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling, to assist the displaced person in making a downpayment toward the purchase of a replacement housing unit or to assist the displaced person in the rental of a replacement housing unit, for a period not to exceed 4 years.

(3) Payments for the displacement of business concerns which may cover, within certain limitations, actual reasonable moving expenses, actual direct loss of tangible personal property and actual reasonable expenses in searching for a replacement business or such payments may be a fixed payment equal to the business concern' average annual net earnings, but not less than $2,500 nor more than $10,000, if it is determined that the business cannot be relocated without a substantial loss of its existing patronage and it is not a part of a chain operation.

(b) Each Federal agency whose actions result in displacement must establish a relocation assistance advisory program to determine the relocation needs of displaced persons and businesses, to provide information on the availability of relocation resources, to assure the availability of replacement housing prior to displacement, to assist in the re-establishment of displaced businesses and to supply information to those displaced concerning Federal and State programs which may be of use to them. Persons and business concerns adjacent to the area where the project or program activities are being carried out may also be entitled to relocation assistance.

(c) Project or program funds may be used for replacement housing when it is determined that the required housing cannot otherwise be made available.

(d) The costs involved in providing payments and assistance for displaced persons and business concerns are considered as part of the costs of a program or project for which Federal financing is available. For displacements occurring prior to July 1, 1972, where the Federal assistance is by grant or contribution, the Federal agency will pay a maximum of $25,000 per person. After July 1, 1972, the same requirements for agency matching apply to costs of relocation and other assistance to a displaced person, whatever the amount, as apply to other program or project costs.

(e) Before approving any grant to, or agreement with a State agency under which Federal financial assistance will supply all or part of the cost of the displacing project, there must be satisfactory assurances from the State agency respecting compliance with the Act.

(f) While the heads of Federal agencies are to consult together on the establishment of regulations for the implementation of the Act, the head of each agency is authorized to establish regulations and procedures for the fair and proper provision of the payments and assistance authorized under this Act. The following Federal agencies have issued regulations pursuant to this Act: Department of Agriculture; Department of Housing and Urban Development; Department of Transportation; Federal Highway Administration; Department of Interior; Economic Development Administration; Fish and Wildlife Service; Department of Health, Education and Welfare; Tennessee Valley Authority; Environmental Protection Agency; Department of Labor.

(g) The Act provides for seed money loans for planning and obtaining federally insured mortgage financing to stimulate the construction and rehabilitation of sale and rental housing to meet the needs of displaced families and individuals. The loans may be made to nonprofit, limited dividend, or cooperative organizations, and to public bodies.

(h) Relocation payments are not to be considered as income for Federal income tax purposes or for determining eligibility or extent of eligibility of a person under the Social Security Act or any other Federal law.

(i) To facilitate, encourage, and standardize the acquisition of real property by Federal agencies, the Act establishes the following guidelines for heads of Federal agencies:

(1) The Federal agency shall make every reasonable effort to acquire property by negotiation.

(2) Real property shall be appraised before negotiations and the owner may accompany the appraiser during his inspection.

(3) Before negotiations, the Federal agency shall establish a just amount of payment and offer to acquire the property for that amount. Such amount shall not be less than the approved appraisal of fair market values.

(4) No owner is required to relinquish possession of his property before the Federal agency pays the agreed purchase price, or deposits in court an amount equal to the approval appraisal of fair market value.

(5) Construction shall be so scheduled that a lawful occupant has 90 days written notice before he is required to move.

(6) If the Federal agency permits an owner or tenant to rent the real property for a short term, the rental cannot exceed the fair rental value of the property for such a term.

(7) A Federal agency cannot take coercive action to compel an agreement on the price to be paid.

(8) If eminent domain is to be used, the Federal agency shall institute formal condemnation procedures.

(9) If acquisition of only part of a property would leave the owner with an uneconomical remnant, the Federal agency shall offer to acquire the entire property.

(j) When a Federal agency acquires any interest in real property, it should acquire at least an equal interest in the buildings, structures and improvements. Where the buildings, structures or improvements are the property of a tenant or other person holding legal possession, the head of the Federal agency should pay the tenant the fair value of the property.

(k) The Federal agency shall promptly reimburse the owner for reasonable expenses, including recording fees, mortgage penalty costs for prepayment, and pro rata portion of property taxes.

(l) If the Federal court rules that the agency cannot acquire the property by condemnation, or if the agency abandons the proceeding, the court shall make an award to the owner for reasonable attorney, appraisal and engineering expenses.

(m) As a condition of Federal assistance, state agencies must be guided to the greatest extent practicable under state law, by the land acquisition policies of the Act, and property owners must be paid or reimbursed for transfer of title and litigation expenses.

II. Recommendations

1. Now that we have finally achieved our long-sought objective of uniform relocation assistance, NHC urges its full use and implementation, including the measures required to assure the availability of replacement housing prior to development.

2. NHC recommends legislation to eliminate the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 which requires a local share contribution for relocation costs. Currently this provision is scheduled to become effective on July 1, 1972. It should be repealed before then.

3. NHC recommends an increase in the dislocation allowance from $200 to $500 as part of the relocation payment to families and individuals.

CHAPTER II. PROGRAMS AND POLICIES FOR GENERAL APPLICATION TO HOUSING

1. *Equal Opportunity for Housing.*

(a) Throughout its entire life NHC has been committed to equal opportunity for all American families to secure good housing in good neighborhoods. It again reaffirms this position. Equal opportunity in housing is

now the law of the land—both by statute and by court decree. Yet this opportunity is still denied to millions of American families throughout every section of the land because of their race, color, creed, or national origin, or because of the myth which exists as to their desire, or ability to pay for and maintain good homes. To overcome this denial of opportunity and to dissipate these myths, an urgent task is facing the nation.

(b) NHC has long supported the principle of a competitive housing market open to free bargaining by all American families without regard to racial or ethnic background. Many localities have been limited in achieving this objective, however, because of inadequate supplies of low and moderate cost living accommodations and by the congestion of many minority group families in limited sections of the community. To provide an adequate supply of housing, it is necessary to raise production to a minimum of 3,000,000 dwelling units per year.

(c) We urge the President and the Congress of the U.S. to take all steps toward providing an equal opportunity for housing. This includes full and adequate appropriations for the administration of the fair housing program under Title VIII of the Civil Rights Act of 1968. Of the $9.25 million requested by the President for fiscal year 1972, Congress appropriated $8.25 million for such expenses of administration for Fair Housing and Equal Opportunity. We strongly urge the larger appropriations required for achieving equal opportunity for all American families to secure good housing in good neighborhoods. We urge the Administration to take all necessary additional actions to achieve this equal opportunity objective. Strong affirmative measures should be taken to enforce the fair housing rights contained in Title VIII.

(d) We should provide an opportunity for freedom of choice in our housing programs. The choice of individual or cooperative homeownership or rental housing and the choice of city, suburban, new town or country living must not be limited by race, color, or religion.

(e) The Assistant Secretary for Equal Housing Opportunities announced the result of a concentrated radio and television campaign which encouraged people to report alleged discrimination in obtaining housing. The results of this campaign, which covered several Mid-Atlantic states, indicated that with proper information, many families will seek HUD's assistance in obtaining housing. NHC urges that this campaign be broadened to cover larger sections of the country and that HUD continue to institute such innovations.

2. *Relocation.*

(a) NHC is gratified that we have finally achieved our long-sought objective of uniform relocation assistance through the passage of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. NHC urges its full use and implementation including the measures required to assure the availability of replacement housing prior to its development.

(b) When homeowners or tenants are being displaced for urban renewal or other government action, there should be a Federal grant to provide adequate payments as equitable compensation not only to pay their moving expenses, but also to help them obtain decent homes elsewhere.

(c) When a small business is being displaced through urban renewal or other governmental action, affirmative action should be taken to assist its relocation either within the urban renewal area or elsewhere. If it is to be relocated within the urban renewal area, there should be a policy to establish a rental for the small business which it can afford. In order to achieve this, an appropriate write-down should be made in the disposition of property under the urban renewal program. While it is recognized that there are allowances under the present legislation to cover the cost of relocation by a business which is displaced through urban renewal, we recommend this additional action to better assure the continuance of a small business that is being displaced. NHC also recommends the full implementation and use of the 1965 amendments to the Small Business Act for businesses which are being displaced by urban renewal or other governmental actions.

(d) NHC applauds Secretary of Transportation Volpe's declaration that no Federal aid will be approved for construction of highway, airport or mass transit projects until adequate replacement housing is provided for all families to be dislocated. This Replacement Housing Policy contains the following provisions:

(1) Specific written assurance that adequate replacement housing will be available (built, if necessary) before the initial approval or endorsement of any project.

(2) Construction will be authorized only upon verification that replacement housing is in place and has been made available to all affected persons.

(3) All replacement housing must be fair housing—open to all persons regardless of race, color, religion, sex or national origin. In addition, all replacement housing must be offered all affected persons regardless of their race, color, religion, sex or national origin.

NHC also commends the General Services Administration for its announcement of a similar policy requiring assurances of the availability of adequate housing before new Federal buildings are located in any area.

(e) NHC deplores the recent HUD discrimination against relocation payments to displaced persons who seek new homes in cooperatives. Neither Section 516 of the Housing Act of 1968 nor the regulations promulgated preclude replacement housing payments to those seeking replacement housing in cooperatives. However, in a Circular, HUD states that such payments may not be made to a displaced person moving into a cooperative. This discriminatory action should be stopped. NHC recommends that HUD should make replacement housing payments to displaced homeowners who seek to purchase a home in a cooperative.

(f) NHC applauds the passage of Section 510 of the Highway Act of 1970 which allows the Secretary of DOT to include in the cost of a highway project expenses for providing new housing or used or rehabilitated housing for those persons displaced by that highway project. We urge that DOT carry out this mandate and allow adequate amounts for such housing as part of the costs and expenses of all future highway projects. Such housing should conform to sound standards and should have prices and monthly charges within the reach of the displaced persons.

3. *Uniform System for Computation of Incomes by HUD.*

(a) HUD should have a uniform system for computing incomes which could be used by all constituent agencies administering housing programs which involve income limits. To be equitable, income limits should allow appropriate deductions and exemptions like those long recognized and utilized in the public housing program. The Senate Committee on Banking and Currency recognized the appropriateness of such uniformity in its Report on the 1968 Housing Act:

"Although the statute is silent on defining income, the committee is aware of the necessity for the Secretary to establish procedures to assure that fair standards and rules are followed within HUD for determining income (after allowable deductions) for eligibility of low or moderate income families or mortgagors under HUD's various programs. These procedures would apply to those who receive the benefit of subsidies or below-market interest rates to enable them to obtain occupancy, homeownership, or cooperative housing membership."

(b) At the present time, the methods of computing income differ in HUD, although the constituent agencies are administering comparable housing programs involving income limits. Under the 1970 Housing Act, public housing has allowed appropriate deductions of exemptions in computing the family income as follows:

(1) income for any family member below the age of eighteen, nonrecurring income, as determined by the Secretary, and the income of full-time students, living with their parents;

(2) an amount equal to the sum of (a) $300 for each dependent, (b) $300 for each secondary wage earner, (c) 5 percentum of the family's gross income (10 percentum in the case of elderly families), and (d) those medical expenses of the family properly considered extraordinary shall be deducted; and

(3) the Secretary may allow further deductions in recognition of unusual circumstances.

(c) Although these deductions or exemptions are now allowed in the public housing program, they are not recognized uniformly in the FHA program involving rent supplements or below-market interest rates under Section 221(d)(3) or interest assistance payments under Sections 235 and 236. In the interest assistance programs the 1968 Housing Act provides for the deduction from family income of $300 for each minor child and the elimination of the earnings of all minor children. Pursuant to the Congressional intent as evidenced by the foregoing quotation from the Senate Committee Report, HUD has allowed a further deduction of 5% of gross income to cover payroll deductions for social security and compulsory pension funds. However, HUD has not allowed other deductions of the type which have been long recognized in public housing and are now specifically authorized in the 1970 Act. Such deductions should be uniformly allowed in all HUD programs which involve income limits.

(d) NHC is gratified that S. 3248 (introduced by Senator Sparkman after favorable action by the Senate Committee on Banking, Housing and Urban Affairs) contains a provision which would carry out the foregoing recommendation of NHC concerning a uniform system of computation of income by HUD.

4. *Rehabilitation in Slum Areas Not Intended as Containment Program.* Rehabilitation programs for slum areas are not intended to be containment programs which would restrict present residents so that they must continue to live there. They should have an opportunity to move into other areas. The NHC goals contemplate development of new and rehabilitated housing in other areas which would be available for the low and moderate income families now living in slum and ghetto areas. To help assure achievement of this objective, we recommend enactment of legislation providing that no program of subsidy, aid, or assistance by any agency of HUD—including sewer and water facility grants, open space grants, community facilities grants, urban renewal programs, model cities programs, mass transit grants, and FHA insurance—may be carried on within any jurisdiction if a reasonable share of housing will not be available for low and moderate income families. Such legislation would help assure the development of balanced programs of housing in new areas into which the residents of slum and ghetto areas could move.

5. *Adequacy of Housing and Neighborhood for Low and Moderate Income Families.* Federally-assisted housing should provide adequate space and facilities and meet proper standards for comfortable living. The housing should be in a suitable neighborhood. In this way, we can improve the quality of life in Federally-assisted housing as prescribed in the 1968 Housing Act. The following are

among the measures necessary to achieve these objectives:

(a) Better design standards in housing developments.

(b) Dwelling units which provide adequate space and amenities rather than minimum space and facilities.

(c) More housing units of larger size, with more bedrooms and bathrooms, in order to meet the needs of larger families.

(d) Adequate recreational and community facilities with swimming pools, day-care and pre-school centers, all designed to create good neighborhoods.

(e) Air conditioning whenever appropriate, which will encourage families and their children to remain in their dwellings and off the streets during hot summers.

(f) Designs which encourage homeownership such as detached, semi-detached and townhouses.

Housing communities should be pleasant places to live. They should respond to the needs of the residents, with attention to their comfort, convenience, and recreation. By providing children and adults with good homes and with opportunities to engage in wholesome and constructive activities, we can create better communities and reduce juvenile delinquency and crime. With Federally-assisted housing that conforms to the foregoing criteria, we can achieve economic integration, both through initial occupancy and through the upward mobility and continued occupancy of families whose incomes increase.

6. *Uniform System of Tax Exemption and Tax Abatement.*

(a) In some HUD programs there is no requirement for real estate tax exemption or tax abatement. This is true in the new leasing program for the use of privately-owned housing for public housing purposes. It is also true in the rent supplement program for those of public housing incomes. Yet, conventional public housing projects are required to have tax exemptions and they pay only 10% of shelter rent in lieu of taxes. We previously recommended that conventional public housing projects conform with those other publicly-assisted programs which serve low-income families. This would be accomplished by permitting their payment in lieu of taxes to be equivalent to full taxes. NHC is gratified that S. 3248 (introduced by Senator Sparkman after favorable action by the Senate Committee on Banking, Housing and Urban Affairs) contains a provision which would gradually implement and carry out this NHC recommendation over a 10-year period during which payments would be increased annually until they reached the equivalent of full taxes.

(b) There should be a more practical and consistent policy concerning the requirement for tax abatement on privately-owned projects which are federally-assisted either with (i) below-market interest rates, (ii) interest assistance, (iii) rent supplements, or (iv) leasing programs under public housing. Tax abatement should not be required on these projects, even as a means of offsetting the higher costs that prevail in some cities. Such tax abatement is often unavailable because of restrictions in state and local laws; moreover, the cities often face serious problems of inadequate tax revenues and are unwilling to grant tax abatement. Cost limits should be made realistic so that these private housing programs can function in high cost areas without requiring tax abatement.

(c) Where state and local governments grant tax abatements on housing projects which are federally-assisted in the manner described above, there should be an annual Federal grant to reimburse them for their tax losses.

7. *Disposition of Federally-Owned Housing Projects.*

(a) FHA has acquired ownership of rental housing projects upon which defaults have occurred. When requested, FHA should either lease these projects to local housing authorities for public housing or make negotiated sales of these projects for cooperative ownership by low income or moderate income families. Also, sales may be made to public agencies or nonprofit or other properly motivated organizations which will use them to provide housing for low or moderate income groups. The housing should be sold at a price and with a mortgage term and interest rate—on the purchase money mortgage accepted by FHA—which would enable the property to serve these income groups at monthly charges which they can afford. Financing should be made available to rehabilitate these properties. Such properties should be eligible for rent supplements and interest assistance payments. These recommendations also apply to other federally-owned housing.

(b) FHA has also acquired ownership of single-family homes on which defaults have occurred. In the disposition of this housing, FHA should meet the needs of those of low and moderate incomes. The housing should be sold to them at a price and with a mortgage term and interest rate—on the purchase-money mortgage accepted by FHA—which would be within the financial reach of the low and moderate income purchasers. Priorities should be established for sales which would accomplish this purpose, rather than granting priority to cash sales or sales involving conventional loans, as these generally involve purchasers with incomes above those at the low and moderate level. Legislation should be enacted if it is necessary to establish disposition policies in accordance with the foregoing principles.

8. *Acceptance and Accumulation of Applications for Programs.*

HUD has often discouraged the submission of new applications in programs where a backlog of unsatisfied applications exists. NHC is strongly opposed to this discouragement of applications for HUD assistance. Even when there is an unsatisfied backlog of applications, HUD should continue to accept applications. There is no better way by which HUD can learn the needs and demands for programs which it administers, so that it can document and support requests for necessary Congressional authorizations and appropriations.

9. *Construction Work and Employment in Ghetto Areas.* Increased construction volume will require substantial increases in the work force. The large pool of untrained unemployed or under-employed within the ghetto is a large source of additional manpower. There should, therefore, be an effective program to accelerate the training of unskilled groups and to broaden their opportunities for employment in the construction industry. NHC recommends an adequate expansion of the training program of the Manpower and Training Administration of the Department of Labor, together with the full amounts needed as appropriations. We commend the Outreach Program of the building and construction trade unions which has enlisted thousands of disadvantaged and minority workers in skill training in their trades. We urge further extension of these training opportunities for such workers to advance toward skilled employment.

NHC endorses the provisions in the 1968 Housing Act which direct the Secretary of HUD to require:

(a) That opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing be given to lower income persons residing in the area of the housing; and

(b) That to the greatest feasible extent contracts for work pursuant to the housing programs shall, where appropriate be, awarded to business concerns located in or owned in substantial part by persons residing in the area of the housing. If bonding is not available to such contractors or subcontractors, HUD should take necessary actions to enable them to obtain adequate bonds. HUD should initiate a program which would assure the availability of bonds to such contractors, with necessary underwritings of reinsurance as is now authorized to enable persons to get other types of insurance in high-risk areas where such insurance would otherwise be unavailable.

In the foregoing programs, we recommend that bids be invited from local contractors which have the participation of minority groups either in an ownership, executive management or direction capacity. In housing construction where the contractor or sponsor incurs additional costs because of utilization of untrained workers from ghetto areas, the additional cost should be recognized as a public cost, with reimbursement therefor by the Manpower and Training Administration.

"In addition in housing construction where additional costs were incurred (particularly when this resulted in increasing the costs above the statutory limits on the mortgage involved) because of the utilization of minority contractors, sub-contractors and the training of minority workers, the additional costs should be recognized as eligible for a grant from HUD or for long-term financing from HUD on a basis where payments are deferred until after the retirement of the HUD-insured mortgage."

In the 1969 Housing Act, there is an extension of these requirements to cover all HUD programs providing financial assistance in aid of housing, urban planning, development, redevelopment, public or community facilities and new community development. Section 3 of the Housing and Urban Development Act of 1968 is amended to require the Secretary of Housing and Urban Development, in the administration of programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, public or community facilities, and new community development to require (1) that to the greatest feasible extent opportunities for training and employment arising in connection with the planning and carrying out of projects assisted under such programs be given to lower income persons residing in the project area, and (2) that to the extent feasible, contracts for work to be performed in connection with any such projects be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project. Prior to this amendment, these employment and work opportunity requirements were only applicable to the administration of the Section 235 homeownership program, the Section 236 rental assistance program, the Section 221(d)(3) below-market-interest-rate program, public housing, and the rent supplement program. NHC recommends administrative or legislative action to define the "project area" as the metropolitan area in which the project is located.

10. *Surety Bond Guarantees.* The Housing and Urban Development Act of 1970 amends Title IV of the Small Business Investment Act of 1958 by increasing the revolving fund of Title IV from $5 million to $10 million and adds a new provision establishing a program whereby SBA and HUD can guarantee any surety up to 90% of its loss as a result of the breach of the terms of a bid bond, payment bond, or performance bond on account of a contract up to $500,000. NHC urges that the Secretary of HUD and the Administrator of SBA carry out the full intent of this provision and take all steps necessary to provide technical assistance to any contractor or subcontractor for whom a bond is guaranteed under this provision. However, NHC recommends that the law be amended to remove the $500,000 limit on bonds and to allow a bond to be in such amount as HUD requires on the project involved. We further recommend the establishment of an adequate fund in HUD which

can be used to guarantee sureties on bonds for minority contractors and can provide necessary technical assistance to such contractors and training by such contractors.

11. *Support for International Programs for Housing.*

(a) NHC is aware of the critical housing problems elsewhere in the world, particularly in the developing countries. We urge continuation and expansion of our Government's foreign aid programs for housing in the developing countries, particularly cooperative housing to provide ownership by moderate income families as contemplated by the Foreign Assistance Act.

(b) Further, we urge our Government to support effort: (i) to elevate the importance of housing in the economic development process by supporting efforts to establish, within the framework of the United Nations, a specialized international agency dedicated to solving the housing problems of the developing countries; (ii) to increase U.S. financial support to U.S. universities and other institutions for research and training programs to help solve these housing problems and supply the trained personnel so badly needed.

(c) NHC recommends enlargement of the investment guaranty program for housing by increasing the available guaranty authority and by extending the 100% guaranties to other appropriate areas besides Latin America. We recommend legislation providing for the encouragement of cooperative and other homeownership by low and moderate income families in the cooperating countries and for the utilization of financing assistance of the types which have been proven effective in our domestic programs, particularly the establishment of national savings and credit systems specializing in housing and related fields.

(d) NHC supports the proposal for the creation of an International Housing Finance Corporation, which would be associated with the World Bank or the United Nations Development Program, to facilitate the mobilization of capital and the development of housing programs, particularly in the newly developing countries.

12. *Appropriation Authorizations.*

(a) NHC strongly recommends Congressional appropriations of adequate amounts for the administration of all HUD programs, including the additional funds which are required for additional staff to administer the many new programs contained in our Housing Acts. These funds are urgently needed to meet the critical problems of our urban areas and the shortage of adequate housing for persons of low and moderate incomes. We further recommend all of the additional appropriations described elsewhere in this report.

(b) NHC deplores the further staff reductions being made in HUD, in the face of critical deficiencies in the quality of services in the field to communities and the deterioration of technical information and guidance services being supplied in Washington. In addition to NHC's objections concerning Secretary Romney's announcement about drastic cuts in the overall HUD staff, NHC is opposed to any reduction in the staff charged with administering equal opportunity requests and procedures. We recommend that the current level of employees administering this program be set as the absolute minimum and that no reductions be made below this level.

(c) Advance appropriations provide lead time for initiating and planning programs in all authorizations in appropriation bills providing contract authority or funds. The authorizations should cover the succeeding fiscal year in addition to the fiscal year involved in the appropriation act. Appropriation acts have previously adopted this practice for the urban renewal and mass transit programs. We deplore the action taken by the President in discontinuing requests for advance appropriations for the succeeding fiscal year on programs where this practice was previously established, such as urban renewal. It is equally necessary that this practice be resumed and extended to all other programs involving private enterprises as well as public agencies, and we are pleased that President Nixon once made such a recommendation for advance authorizations on the Section 235, 236 and rent supplement programs. The same practice should be followed in all other housing and urban development programs. This will give more lead time for the planning and initiation of programs. Such a practice in the housing program will help avoid the past difficulties experienced as a result of uncertainties and delays in providing funds and commitments. Through advance authorizations for two fiscal years, there will be an uninterrupted flow of funds and commitments at an early enough time to permit advance planning and work in the initiation of housing programs.

13. *Workable Program and Local Approval.* In order to remove impediments to construction of low and moderate income housing, NHC recommends repeal of the requirement for a workable program or local government approval of projects receiving Federal assistance. However, in localities without a workable program, the Secretary of HUD must first be satisfied that: (i) there is a need for the project; and (ii) its location will provide a satisfactory residential environment. The 1969 Act accepts this recommendation on several programs. Likewise the requirement for a workable program or local approval for rent supplement and Section 23 leasing program should be dropped. These programs pay their full share of local taxes and should not be discriminated against.

14. *Recommended Change in Budget Concepts Concerning Mortgage Purchases.*

(a) NHC does not believe in the new concept of the Federal Budget (which was initiated several years ago) that initially reflects expenditures for mortgage purchases in the same way as it reflects expenditures for grants, even though collections on mortgages are later credited as offsetting income. If several billion dollars of mortgages are purchased and retained by a government agency, all of this initially appears as an expenditure in the Budget during the fiscal year when the mortgages are purchased. This has an adverse effect on many public interest and social programs which are dependent upon the steady flow of mortgage financing at reasonable interest rates. The Budget should reflect only the actual cost to the Government of purchasing and holding these mortgages—this would be the differential in interest between the rate of the mortgages held by the Government and the rate on Government borrowings.

(b) *If* the present Budget concepts are retained which initially treat mortgage purchases as an expenditure in its entirety, NHC believes that there should be active encouragement of the sale to private investors or FNMA of mortgages (or participations therein) held by GNMA or other government agencies. Upon such sales, the funds realized can and should be offset against the expenditures for the purchase of the mortgages.

15. *Availability of Land and Support of S. 609.* NHC recommends such measure as are necessary to help assure the availability of enough land, at reasonable cost, to achieve our housing goals. These should include the establishment of appropriate reserves of land for future use to provide the housing, public facilities and recreational areas required to meet these goals. To this end, NHC urges passage of S. 609, the Urban Planning and Housing Assistance Act of 1971, introduced by Senator Javits.

16. *Increases in Housing Costs.* We deplore the inflationary rise in housing costs, particularly the increases in interest rates (which have declined somewhat from their earlier higher levels) and prices of building materials such as lumber. It is urgent that action be taken to achieve a reasonable and stable level of interest rates and housing costs. When interest rates and housing costs increase, many people who need homes can no longer afford them—even though they could have afforded them previously when the interest rates and housing costs were at more reasonable levels. NHC strongly recommends that necessary measures—which are recommended elsewhere in this report—be taken to stop inflationary increases in interest rates and housing costs which adverely affect the consumer and jeopardize achievement of the housing goals established by Congress and the higher goals recommended in this report.

17. *Insurance for Ghetto Areas.* NHC recommends that when a home is purchased in a ghetto area and the mortgage is FHA-insured, necessary federal action should be taken to assure that the home owner obtains all hazard insurance required for his protection. Likewise, on cooperative housing in ghetto or central city areas, federal action is needed to assure the availability of hazard insurance at reasonable costs which reflect the lower losses and risks on such cooperative housing.

18. *Private Investment in Lower Income Housing.* NHC urges the participation of private investors in programs to provide housing for low and moderate income families. NHC recognizes that the tax savings which result from current rules of accelerated depreciation on improved real property are essential to insure the continued flow of such equity funds into investment in low and moderate income housing. NHC opposes any change in such rules which would reduce the already too-low return from investments in housing for families of low and moderate income.

19. *Reduction of Monthly Mortgage Payments.* With past increases in interest rates, people have been excluded from the housing market who needed dwellings but could no longer afford them at the higher interest rates. Elsewhere in this report, NHC recommends measures to increase the flow of funds into the housing mortgage market and to make mortgage financing available at more reasonable interest rates. We are pleased that HUD has taken action to reduce the interest rates (although further measures are needed to achieve a more reasonable rate); also to reduce the monthly debt service on mortgages by providing for level amortization payments instead of the higher initial curtailments of principal which were applicable to certain mortgage insurance programs—e.g., those under Sections 220, 221(d)(4) and 207. By reducing the debt service payments, the level amortization plan will reduce the monthly charges to the consumer and help offset the current high interest rates.

20. *Housing for Indians.* (a) Low and moderate income Indian families living on Reservations have long been denied the benefits of FHA-insured homeownership. Such Indian families have not been able to obtain FHA-insured financing on individual homes. Also, it is difficult for them to obtain FHA-insured mulitfamily housing, such as nonprofit rental housing and cooperative housing under Section 221(d)(3) or Section 236.

(b) There is a great need and market for FHA-insured homes on the Reservations. Many Reservations are now undergoing economic improvement, through increased mineral development and the location there of factories and other sources of employment. Special efforts are needed to bring to the Indians the benefits of programs intended to serve people of low and moderate incomes.

(c) NHC supports legislation to extend housing assistance available through the Farmers Home Administration to Indians who lease rural non-farm land from their

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tribe for use only as a homesite. Similar authority now exists where fram land is leased.

(d) NHC recommends that the rehabilitation grant program under Section 115 be extended to include Indian Reservations; and that grant procedures be revised to make the program available to low income rural families of Indians so they can renovate and repair existing housing.

21. *Payment of Prevailing Wages.* In programs involving FHA mortgage insurance on multifamily housing where payment of prevailing wages is now required by law, such prevailing wages shall be established and paid based upon the requirements of the Davis-Bacon Act relating to such housing construction in the the area.

22. *Study of New Type of Mortgage Security to Attract Investments.* (a) Some financial experts have proposed the creation of a new type of mortgage or investment security which would better attract money for fixed long-term investments in housing. They point out that many lenders have withdrawn from the residential mortgage market because:

(1) They anticipate that the dollars repaid on the loan will have a substantially lower value and purchasing power than the dollars loaned initially; and

(2) The amount of return is not attractive as compared with other rates of return available in the current market.

(b) We propose that a study be made of this problem so that recommendations can be made at a later date concerning the advisability of including provisions in mortgages or other housing securities which would meet this problem and attract necessary funds for investments in housing production. Among the measures to be explored are the following:

(1) A clause in the mortgage providing for adjustments yearly on the amount of only the principal which is to be repaid, so that it reflects reductions in the value and purchasing power of the dollar as shown by the Department of Labor price index; or

(2) A clause in the mortgage providing for adjustments yearly in the amount of the monthly payments for both principal and interest based upon changes in the price index; or

(3) A clause in the mortgage providing for adjustments yearly in only the rate of interest which is to be paid on the unpaid balance of principal, so that it reflects changes in the prevailing interest rates or price levels from year to year.

Any adjustment clauses must take into account the ability to pay of the occupants of the housing. While most people will enjoy an increase in their income to reflect increases in the price indexes so that they can afford to pay adjusted amounts on their mortgages, there will be people who have fixed incomes. In their cases, special provisions must be developed to assure that they can afford to make the adjusted payments, such as through an extension of the mortgage term.

(c) In Latin American countries, some systems have been devised for adjustments in mortgage payments which have worked satisfactorily. However, inflationary conditions have been so great in those countries that mortgage adjustments were essential to obtain long-term loans to finance housing production. The proposed study should ascertain whether we need a system of adjustments in mortgage payments in this country, taking into account present and future anticipated changes in the value of the dollar and its purchasing power.

CHAPTER JJ. NEED FOR EFFECTIVE INSTITUTIONS, ADMINISTRATION AND FEDERAL-LOCAL RELATIONS

In itself, the enactment of adequate legislation will not achieve the goals set forth in these recommendations; nor will it meet the needs of the American people or the crisis in our cities. Laws are *not* self-executing. It is necessary to assure the establishment of effective institutions, administration, and federal-local relations. NHC recommends that HUD take the following actions to assure the effective execution of laws relating to the programs under HUD's jurisdiction:

1. HUD should redefine its role to concentrate on major policies and on constructive leadership in executing federal laws and to grant greater local autonomy to local governments and agencies in undertaking and operating projects involving HUD aid. NHC believes this HUD role would constitute creative federalism. The expenditure of federal monies should be subject to broad federal guidelines. Through the years, there has been a continuing increase in the burden and detail of HUD controls over local operations in the conduct of HUD-aided programs. All HUD controls should be eliminated which are not required by federal law. We will never achieve the volume and expedition required in programs authorized by the Congress unless there is a decentralization of responsibility to the local agencies involved. The local agencies can properly be held to account for their responsibilities under programs. There is no reason to assume that there is any less integrity and competence in local officials than in federal officials.

2. As to matters involving public agencies or others which now require prior HUD administrative approval, HUD should expedite programs by walving such prior approval in cases where the public agencies or others will certify and proclaim that they have complied with all of the enumerated administrative requirements of HUD. Upon such certification covering all applicable administrative requirements, the public agencies or others should be allowed to proceed with their programs, subject to post audit by HUD that the public agencies or others have conformed with their certifications.

3. HUD should accelerate processing, production and decision-making by federal and local officials and by participants in *all* HUD programs, including the establishment of time schedules for all actions required. There should be a time limit for submissions of applications. However, qualified applications should not be rejected because of technical or insubstantial reasons, lack of money or lack of a priority status according to a schedule established by HUD; likewise, applications should not be rejected in order to remove them from the pending work load.

4. After applications have been approved and allocations made, there shall be a time limit for contracting and execution. With respect to requirements for HUD approval after a contract or commitment is issued, there should be a recognition that HUD has a certain period within which to act; and, failing such action on matters requiring HUDs' approval, the proposal to HUD shall thereby be accepted and considered approved.

5. HUD should act promptly in making allocations and commitments of all authorizations and funds made available by Congress. Such allocations and commitments should be based upon:

(a) The requests that are received within a designated time which meet the applicable statutory requirements; and

(b) The respective needs for the communities involved. There should be no impounding or holdback of funds. The money should be allocated and committed as quickly as possible. All monies should be made available based upon the qualified requests that are received within a prescribed time limit. The guideline should be the need for the program in the community involved.

6. HUD should simplify its regulations and conditions attached to HUD aid and eliminate the detailed controls over project development and operations. Such controls are overly burdensome, costly, and time-consuming. They discourage initiative and innovation. They are inconsistent with the achievement of the goals established by law and the larger goals recommended in this report.

7. HUD should eliminate conflicting policies and requirements among its different units, as applied to comparable programs. For example, the methods of determining incomes under the public housing program are different from those under the rent supplement, interest assistance and below-market-interest-rate programs.

8. Civic organizations and citizens' councils have an appropriate role in furnishing advice and recommendations. Where a municipal government has been established whose officials are elected by the voters, the elected officials should give full consideration to the advice and recommendations of such citizens organizations; however, the final responsibility for decisions should properly reside in the elected officials on such programs as urban renewal, model cities, and neighborhood rehabilitation. Otherwise, there will be a division of responsibility which will seriously impede the progress of these programs that are vitally important to the community.

9. To help achieve the housing goals and enlist all available resources, HUD should encourage full participation in its programs by cooperatives and other nonprofit organizations and local public agencies, in addition to limited-dividend sponsors and builders.

10. HUD should consult with representative groups of local public agencies and private participants in each of its programs to identify problems which impede their progress and to develop workable solutions. For this purpose HUD should establish:

(a) A federal-local committee on public housing and urban renewal; such a committee functioned effectively for years until it was discontinued.

(b) A federal-city committee on the model cities program.

(c) Like committees of representatives from the participants in each program; thus, there should be a restoration of the committee of representatives of cooperatives participating in FHA programs.

Each such committee would meet periodically to give HUD first-hand experience concerning the operations of the HUD-aided program involved. Such consultation should result in quick and realistic action in eliminating obstacles and solving problems. Otherwise, such obstacles and problems are long neglected, often because they are not known or because HUD does not get proposals for solutions from those directly engaged in the program.

TRIBUTE

The following was adopted by the membership of the National Housing Conference at its 41st Annual Meeting on March 5, 1971:

IN TRIBUTE TO REPRESENTATIVE WILLIAM A. BARRETT

The National Housing Conference honors Congressman William A. Barrett for his 26 years of vigorous and able representation of the first congressional district of Pennsylvania and Philadelphia in the House of Representatives, and for his foresight and leadership in providing effective housing and community development legislation.

As one of the original members of the Housing Subcommittee of the Committee on Banking and Currency, Congressman Barrett has provided leadership and initiative in all the legislation the Housing Subcommittee has handled in its history.

As Chairman of the Housing Subcommittee since 1965, Congressman Barrett has demonstrated the high qualities of leadership so necessary in the field of housing and community development legislation. Major legislation enacted under his chairmanship includes the Housing and Urban Development Act of 1965, the Model Cities Housing Act of 1966, the Housing and Urban Development Act of 1968, urban mass transportation legislation, and most recently the Housing and Urban Development Act of 1970.

In honoring Congressman Barrett for his distinguished career, we look forward to his continuing leadership in the years ahead.

IN RECOGNITION OF SENATOR ALLEN J. ELLENDER

The National Housing Conference honors Senator Allen J. Ellender of Louisiana for his 35 years of dedicated service in the United States Senate and for his long-term unswerving support for the cause of decent housing for all Americans.

In 1945, Senator Ellender joined with the late Senator Robert Wagner and the late Senator Robert Taft in sponsoring the Wagner-Ellender-Taft Bill. After many vicissitudes this pioneering legislation emerged as the Housing Act of 1949, still the magna charta of the movement for good housing and community development and notable for its first enunciation of the national goal of a decent home in a suitable living environment for every American family.

During the ensuing years, Senator Ellender has maintained his support for this goal. In his present role as President protempore of the United States Senate and Chairman of the Senate Committee on Appropriations, Senator Ellender will be a powerful voice in support of our objectives.

The National Housing Conference applauds his distinguished career and looks forward to his continued leadership.

OBITUARIES—1972

Members of the National Housing Conference, assembled for their 41st annual meeting on March 5, 1972, adopted the statements that follow, honoring members whose careers in housing, urban renewal and related fields were ended by death during the year just passed:

JOHN W. EDELMAN

A charter member of the National Housing Conference, pioneer labor organizer, consumer advocate, and president emeritus of the National Council of Senior Citizens which he helped to found, John W. Edelman died last December 28 at his home in Arlington, Virginia.

John Edelman was a true activist. Born in New Jersey but raised in England, he began his public service at 14 as a local secretary for Britain's Independent Labor Party. At 16 he joined his first labor union, and spent the next 62 years of his life organizing in the public interest. He returned to the United States in 1916, and for the next 20 years he held newspaper, teaching, trade union and research posts.

He was the leading spirit in the creation of Carl Mackley Homes in East Philadelphia 36 years ago, a low-cost cooperative housing project financed with federal and private funds, a pioneer effort to create housing for low-income families. From that effort the Labor Housing Conference evolved, which was later absorbed by the National Public Housing Conference, now the National Housing Conference. He was equally persuasive in union halls, before committees of the Congress, or as an advisor to Presidents. John Edelman gave generously of his talents and his spirit to the National Housing Conference whose members dedicate themselves to helping keep that spirit alive.

JOHN BENNET BLANDFORD, JR.

John B. Blandford, Jr., first administrator of the National Housing Agency, died in Virginia following a heart attack. President Franklin D. Roosevelt, impressed by the administrative competence of John Blandford, as the first general manager of the Tennessee Valley Authority, called him to Washington in 1942 to head the National Housing Agency, which he had created by executive order to coordinate the massive housing effort of World War II. Without statutory powers, he coordinated the efforts of 16 agencies involved in housing financing, slum clearance, low-rent housing, and successfully carried out the gigantic war housing effort which to this day has received little criticism and much praise. It was under his administration that plans were perfected for the conversion of Federal housing efforts to peacetime purposes.

Because of his proven administrative skills, President Truman assigned John Blandford to serve as American Advisor to the Government of China in 1946, a job that even his rare talents could not master at that time. While he never returned as an active participant in housing "Jack" Blandford kept in touch, and his qualities of leadership are sorely missed.

LIONEL F. ARTIS

One of the first low-rent public housing project managers in the nation, Lionel F. Artis of Indianapolis died on September 1. For 31 years he served as housing manager of Lockfield Gardens, built by the Public Works Administration in 1937 and transferred as an operating project to the United States Housing Authority. On his retirement in 1968 Mr. Artis became a visiting lecturer for the graduate school of the Indiana University school of social service, lecturing on community organization. In a television editorial the day followingg his death, an Indianapolis station WFBM reporter said, ". . . he was considered an expert on housing matters. But people were his main interest. Particularly black people and poor people. And to them, he really devoted his life."

C. J. HAGGERTY

The death in 1971 of C. J. Haggerty, President of the Building and Construction Trades Department, AFL–CIO was a tragic loss to Organized Labor and to the Nation. Born in Boston in 1894, Mr. Haggerty spent his adult life in California. When he was rising through the ranks of labor in Los Angeles, California, he was an effective champion of decent housing for families of low and moderate income. He brought informed, articulate support to housing programs at every level of government, national, state, and local.

Mr. Haggerty was a member of the Board of Directors of the National Housing Conference for 20 years, where his counsel was invaluable. His ability to communicate with persons in every walk of life, contributed to his effectiveness as an outstanding leader in the public interest.

M. JUSTIN HERMAN

M. Justin Herman, Executive Director of the San Francisco Redevelopment Agency, died at his home of a heart attack on August 30 at the age of 62. For nearly a quarter of a century Justin Herman served the federal government in various capacities as statistician, economist, community relations specialist, and from 1951 to 1959 as the Housing and Home Finance Agency's regional director in San Francisco. From there he moved into the city redevelopment agency's top spot. From his work in San Francisco he gained national and international recognition. Because he was a doer, a practical dreamer who made great dreams come true, he was often the center of controversy, from which he never backed away.

Mayor Joseph L. Alioto of San Francisco made the following statement as his personal tribute to Justin Herman: "Without exaggeration, Justin Herman was the best public servant I have ever known and probably the best in the country. He added great beauty and greater strength to the city he loved. In his case it is literally true that he is irreplaceable. He set for himself and for San Francisco a standard of excellence from which no human force, virtuous or vicious, could deflect him." His thousands of friends and fellow members in the National Housing Conference, say "amen", and that he did the same for his country.

CHARLES J. HORAN

Charles J. Horan, who served the Department of Housing and Urban Development and its precedessor agencies for 31 years, died on March 25, 1971 at the age of 59. At his death, Mr. Horan was assistant regional administrator for renewal assistance for HUD's Region II office in New York. He entered government service as an economist with the Federal Housing Administration. From 1943 to 1945 he was deputy regional representative in San Francisco of the National Housing Agency, and served the same agency in Chicago from 1945 to 1948. After a brief period in the building business Mr. Horan returned to federal service an area supervisor for the west and southwest of the division of slum clearance of the Housing and Home Finance Agency. In 1955, he became regional director of urban renewal in the New York regional office, and when HUD was organized in 1966 he assumed the assistant regional administrator's post.

Charles Horan was known from one coast to the other as the dean of regional renewal directors who could listen to, communicate with and learn from local officials who were making the program work on the front lines where the action is. His sense of humor, his knowledge of the program, his ability to cut red tape and make decisions brought officials from all levels to his door for guidance. They left his office with a good feeling that the role of the federal government is to help, not hinder. Members of the National Housing Conference are grateful for Charles Horan's 31 years of leadership.

CARL J. MAYERHOEFER

Carl J. Mayerhoefer, an active NHC member for more than 20 years, and executive director of the Cincinnati Metropolitan Housing Authority since 1966, died August 8 of a heart attack. Mr. Mayerhoefer began his long housing career in 1935 with the housing division of the Public Works Administration. In 1938 he was transferred to Washington, D.C. as project auditor of the United States Housing Authority and worked in Cleveland and Chicago as supervising auditor for several states during the next decade. As a traveling auditor Carl Mayerhoefer became vitally concerned with legislative and administrative policies, and how and why they were conceived. He become active in the councils of the National Housing Conference to which he brought a wide variety of local experience.

Carl Mayerhoefer joined the Cincinnati Metropolitan Housing Authority in 1949 as comptroller, becoming assistant director for finance and development before assuming the directorship in 1966. He was also active in local, regional and national activities of NAHRO.

MRS. ANNE MASON ROBERTS

One of the most beautiful people in housing, Mrs. Anne Mason Roberts died October 17 in New York City at the age of 61. She was deputy administrator of the New York region of the Department of Housing and Urban Development at the time of her death.

Mrs. Roberts' first identification with the National Housing Conference came as a representative of the National Council of Negro Women, in helping to plan post-World War II housing strategy and programs. She began her career as a teacher in Cincinnati, and later shifted to federal service as consumer relations officer for the Office of Price Administration. In 1950 she became a racial relations officer under Dr. Frank Horne in the Housing and Home Finance Agency. In HHFA she moved through a series of assignments as housing economist, relocation specialist and deputy regional director of HHFA's New York renewal office. Mrs. Roberts was a former executive director of New York City's anti-poverty program and a member of the national advisory committee on international housing for the Agency for International Development. She was the recipient of the highest award a government employee can received—the Distinguished Service Award.

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President Nixon, in eulogy at the time of her death, said of Mrs. Roberts: "She translated her boundless and untiring concern for our less fortunate citizens, and produced enduring benefits in the lives of those to whom she was committed."

At the funeral services for Mrs. Roberts, eulogies were delivered by former HUD Secretary Robert C. Weaver; HUD Under-Secretary Richard Van Dusen; New York City Housing Authority Chairman Simeon Golar; and former executive director of the United Neighborhood Houses, Helen Harris. Her greatest tribute came from the silent tears from countless nameless people whose lives were better because she has passed their way.

JULIUS "JULES" SEAMAN

Julius Seaman, chief of the Bureau of Housing of New Jersey's Department of Community Affairs, died on May 3, 1971, bringing to a close a distinguished career in housing at the level of state government, which had few parallels in the nation. Beginning as an assistant to the late Joseph Nevin, they created a state agency in post World War II years that produced homes for families of low and moderate income, in cooperation with, and not in competition to, local housing agencies.

"Jules" Seaman helped coordinate housing and renewal activities throughout New Jersey in a manner that increased the strength and credibility of the housing program at every level of government, national, state, and local. His counsel was greatly valued by the National Housing Conference.

Members of the National Housing Conference assembled for their 1972 Annual Meeting pause in their deliberations for a moments of silent tribute to their departed members, and direct that their families be advised of our gratitude for having been permitted to share their lives of those they loved.

IN RECOGNITION OF SENATOR ALLEN J. ELLENDER

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During the ensuing years, Senator Ellender has maintained his support for this goal. In his present role as President protempore of the United States Senate and Chairman of the Senate Committee on Appropriations, Senator Ellender will be a powerful voice in support of our objectives.

The National Housing Conference applauds his distinguished career and looks forward to his continued leadership.

By Resolution of the Membership of The National Housing Conference, Washington, D.C., March 5, 1972.

IN TRIBUTE TO REPRESENTATIVE WILLIAM A. BARRETT

The National Housing Conference honors Congressman William A. Barrett for his 26 years of vigorous and able representation of the first congressional district of Pennsylvania and Philadelphia in the House of Representatives, and for his foresight and leadership in providing effective housing and community development legislation.

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In honoring Congressman Barrett for his distinguished career, we look forward to his continuing leadership in the years ahead.

By Resolution of the Membership of The National Housing Conference, Washington, D.C., March 5, 1972.

EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON COMMERCE

Mr. ELLENDER. Mr. President, in accordance with the Mutual Security Act of 1954, as amended, I ask unanimous consent to have printed in the RECORD the report of the Committee on Commerce of the Senate concerning the foreign currencies and U.S. dollars utilized by it in calendar year 1971 in connection with foreign travel.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS BY THE COMMITTEE ON COMMERCE, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1971

Name and country	Name of currency	Lodging: Foreign currency	Lodging: U.S. dollar[1] equivalent or U.S. currency	Meals: Foreign currency	Meals: U.S. dollar[1] equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar[1] equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar[1] equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar[1] equivalent or U.S. currency
Richard J. Daschbach:											
Finland	Markkas	320.00	76.51	299.00	71.50	238.42	57.19	112.80	26.98	970.22	232.18
Germany	D. marks	390.00	110.69	292.30	82.93	158.00	44.78	217.20	61.60	1,057.50	300.00
Sweden	Kroner	1,116.00	215.81	1,185.60	231.24	564.00	108.85	530.40	102.32	3,396.00	658.22
Netherlands	Guilders					3,927.76	1,094.08			3,927.76	1,094.08
Subtotal			403.01		385.67		1,304.90		190.90		2,284.48
Jacob J. Dykstra:											
Switzerland	S. franc	1,038.50	254.53	1,935.00	474.26	733.00	179.66	972.00	238.24	4,678.50	1,146.69
Netherlands	Guilders					3,106.15	873.00			3,106.15	873.00
Subtotal			254.53		474.26		1,052.66		238.24		2,019.69
Robert E. Ginther:											
Denmark	Kroner	262.50	35.00	337.50	45.00	150.00	20.00	375.00	50.00	1,125.00	150.00
France	F. franc	1,104.00	200.00	717.60	130.00	567.02	102.57	165.00	30.00	2,553.62	462.57
Spain	Pesetas	2,088.00	30.00	2,088.00	30.00	1,392.00	20.00	1,392.00	20.00	6,960.00	100.00
England	Pounds	14.40	45.00	20.50	50.00	25.48	61.48	12.34	30.00	72.72	186.48
Germany	D. marks	14.00	4.00	248.50	71.00	2,309.30	659.80	140.00	40.00	2,711.80	774.80
Subtotal			314.00		326.00		863.85		170.00		1,673.85
Vance Hartke:											
France	F. franc	220.94	40.00	607.06	110.00	1,429.54	258.37			2,257.54	408.37
Germany	D. marks	103.40	30.00	248.60	70.00					352.00	100.00
Sweden	Kroner	144.28	28.00	371.32	72.00	451.40	87.52			967.00	187.52
England	Pounds	44.92	109.00	16.93	41.00	50.20	121.70			112.05	271.70
Belgium	Francs	2,450.38	49.00	2,549.62	51.00	7,400.00	149.10	1,800.00	36.27	14,200.00	285.37
Tunisia	Dinars					402.417	766.51			402.417	766.51
Subtotal			256.00		344.00		1,383.20		36.27		2,019.47
Kwan Sai Kheong:											
Singapore	M. dollars					6,288.00	2,082.12			6,288.00	2,082.12
United States	U.S. dollars								150.00		150.00
Subtotal							2,082.12		150.00		2,232.12
Joseph H. Kimmitt:											
Finland	F. marks	259.23	62.62	151.32	36.55	319	77.01	3.45	.83	733.00	177.01
Sweden	S. kroner	390.00	76.85	103.28	20.35	448.67	88.92	14.22	2.80	956.17	188.92
Norway	N. kroner	462.28	67.29	230.96	33.62	588.99	83.18	288.81	42.04	1,571.04	226.13
Denmark	D. kroner	570.00	77.55	150.01	20.41			14.99	2.04	735.00	100.00
Italy	Lire	93,163.00	151.24	30,037.00	48.76	542.10	87.15			123,742.10	287.15
France	F. franc	664.70	120.85	160.30	29.15					825.00	150.00
Morocco	Dirhan	156.67	31.21	72.84	14.51	121.89	24.08			351.40	69.80
Subtotal			587.61		203.35		360.34		47.71		1,199.01
Frederick Lordan:											
Australia	A. dollars	85.10	74.00	41.17	35.80				17.19	14.95	143.46	124.75
Hong Kong	H.K. dollars	765.60	132.00	562.60	96.90				223.30	38.50	1,551.50	267.40
Japan	Yen	22,686.51	69.00	12,033.71	36.60				8,680.06	26.40	43,400.28	132.00
Germany	D. marks					7,452.90	2,286.17				7,452.90	2,286.17
Subtotal			275.00		169.30		2,286.17		79.85		2,810.32
Frank E. Moss:											
Nigeria	Pound					95.67	268.04	4.94	14.00	100.61	282.04
Nigeria	U.S. dollar								2.40		16.70
Congo	Zaire	13.83	27.67	11.95	23.90	134.13	408.82	71.07	142.17	230.98	602.56
Zambia	Kwacha	27.85	39.00	17.21	24.10	78.52	11.09	26.35	36.90	149.93	111.09
Tanzania	Shilling	547.19	78.17	41.37	5.91	2,827.44	396.77	756.96	107.99	4,172.96	588.84
Kenya	Shilling	707.00	101.00	132.72	18.96	693.33	97.19	560.28	80.04	2,093.33	297.19
Burundi	Francs					138.88	1.61			138.88	1.61
Burundi	U.S. dollar		20.00		4.40				75.60		100.00
Ethiopia	E. dollar	98.57	39.43	21.91	8.77	386.66	155.85	386.11	154.84	893.25	358.89
Egypt	Pound	15.55	28.00	2.22	4.01	8.85	15.93	38.88	69.99	65.50	117.93
Israel	Pound	175.00	50.00	57.12	16.32	274.65	78.47	292.88	83.68	799.65	228.47
Tunisia	Dinar							52.10	100.00	52.10	100.00
Tunisia	U.S. dollar		60.00		10.42						70.42
England	Pounds	61.98	150.00	24.79	60.00	42.23	102.20	16.53	40.00	145.53	352.20
Hungary	Froints	1,800.00	60.00	1,080.00	36.00			920.10	30.67	3,800.10	126.67
Czechoslovakia	Crowns	861.00	60.00	344.40	24.00			229.60	16.00	1,435.00	100.00
Austria	Schillings	2,930.40	120.00	1,172.16	48.00	8,517.94	348.81	781.44	32.00	13,401.94	548.81
Germany	D. marks	608.58	180.00	243.43	72.00	3,460.69	1,023.57	162.29	48.00	4,474.99	1,323.57
Subtotal			1,027.57		356.79		2,908.35		1,034.28		5,326.99
Karl O'Lessker:											
France	F. franc	1,656	300.00	745	135.00				83	15.00	2,484	450.00
Germany	D. mark	140.8	40.00	140.8	40.00				70.4	20.00	352	100.00
Belgium	B. franc	3,000	60.00	1,500	30.00				500	10.00	5,000	100.00
Sweden	Kroner	154.80	30.00	77.40	15.00				25.80	5.00	258	50.00
England	Pound	89.60	219.00	52.50	126.00	12.90	31.00		2.20	5.00	157.20	381.00
Netherlands	Guilders					2,844.85	799.56				2,844.85	799.56
Subtotal			649.00		346.00		830.56		55.00		1,880.56
A. Daniel O'Neal:											
Denmark	Kroner	262.50	35.00	337.50	45.00	150.00	20.00	375.00	50.00	1,125.00	150.00
France	F. franc	1,140.00	200.00	717.60	130.00	567.02	102.57	165.60	30.00	2,554.22	462.57
Spain	Pesetas	2,088.00	30.00	2,088.00	30.00	1,392.00	20.00	1,392.00	20.00	6,960.00	100.00
England	Pounds	14.40	45.00	20.50	50.00	25.48	61.48	12.34	30.00	72.72	186.48
Germany	D. marks	14.00	4.00	248.50	71.00	2,309.30	659.80	140.00	40.00	2,711.80	774.80
Subtotal			314.00		326.00		863.85		170.00		1,673.85
Michael Pertschuk:											
England	Pounds	48	116.17	50	121.01	3	7.26	19.85	48.04	120.85	292.48
Emanuel Rouvelas:											
Japan	Yen	99,000	275.00	36,000	100.00	7,200	20.00	37,800	105.00	180,000	500.00
Germany	D. mark					5,913.75	1,615.78			5,913.75	1,615.78
Subtotal Seschachar:											
Subtotal			275.00		100.00		1,635.78		105.00		2,115.78
Seschachar:											
B.R. Seschachar:											
India	Rupees					15,478.50	2,037.83			15,487.50	2,037.83
United States	U.S. dollars								135.00		135.00
Subtotal							2,037.83		135.00		2,172.83
S. Lynn Sutcliffe:											
Germany	D. mark	720	247.00	297	89.00	3,847.45	1,137.96	303	14.00	5,167.45	1,487.96
France	F. franc	425	77.00	290	52.50			114	20.50	829.00	150.00
Subtotal			324.00		141.50		1,137.96		34.50		1,637.96
Leonard Bickwit Jr.:											
Norway	Kroner	525	75.00	420	60.00	175	25.00	257	37.00	1,377	197.00
Germany	D. mark					3070.22	869.75			3070.22	869.75
Subtotal			75.00		60.00		894.75		37.00		1,066.75
Michael B. Brownlee:											
Norway	Kroner	530	74.87	283	39.97	212	29.94	58.87	8.32	1,083.87	153.10
Germany	D. mark					1,659.10	470.00			1,659.10	470.00
Subtotal			74.87		39.97		499.94		8.32		623.10
H. Crane Miller:											
Germany	D. mark	600	150.00	200	50.00	2,061.84	568.00	400	100.00	3,261.84	868.00
Total			5,095.76		3,443.85		20,717.52		2,640.11		31,897.24

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$31,425.12
Appropriated funds:	
S. Res. 25	285.00
Government Department: State Department	187.12
Total	31,897.24

Mar. 30, 1972.

WARREN G. MAGNUSON, Committee on Commerce.

Footnotes at end of table.

XUM

A MODERATE APPROACH TO WILDERNESS AREAS

Mr. HATFIELD. Mr. President, in Oregon, much heated comment has been generated by the recent hearings of the Forest Service regarding proposals to increase wilderness areas in Oregon. Both wilderness supporters and opponents unfortunately resorted, in some cases, to exaggeration, overstatement, and emotionalism in stating their beliefs. Those of us in public service have wrestled with this problem for many years and I believe that such emotional approaches hinder, rather than help, public understanding of the issue.

Recently, the Daily Courier, in Grants Pass, Oreg., carried an extremely thoughtful editorial on this issue. Mr. Harry Elliott, the paper's editor, offered a reasoned voice concentrating on the need to modify differences and avoid extremes of either side. Because of its tome, I believe the editorial is worthy of the review of all of us. I ask unanimous consent that Mr. Elliott's editorial, published in the Daily Courier of Tuesday, March 28, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WILDERNESS: BE REASONABLE

Living, as we do, in a timber-producing region, it is easy to see why many people are violently opposed to the concept of wilderness areas, which lock up land from development as a multiple use resource.

Living, as we do, in a society rapidly running out of places unspoiled by the hand of slovenly and destructive man, we can understand why many people are violently opposed to further multiple use of some forests, and want them held inviolate in perpetuity for the nation to use as a quiet and peaceful refuge.

And we can understand, to a degree that the timber producers apparently cannot, that the pro-wilderness forces outnumber the pro-timber cutting factions, and the majority's hopes and aspirations will ultimately, if not immediately, win the wilderness war.

There are many valid, sane, rational and economically sound reasons why most of our forests should not be locked up into wilderness regions.

They include the fact that timber is our only renewable resource. It is the cheapest and in most ways still the best way to build the necessary homes we must have to live.

It also is only fair to the people who live in proximity to the forests and rely on them for jobs that the forests be kept at least partially open for cutting, so that the economic base can be maintained. And this isn't so easy to do when more than half the available land is held in federal ownership.

It also is fair that much of the forest be open to recreation of the type that is required by many people: Developed, that is, to a degree where society and wilderness can meet on neutral ground, with running water, sewage facilities, roads and the like.

But it is not fair to take all forests and put them into the multiple use concept, any more than it would be to close all foreste to any productive cutting or management.

This is a point that should be clearly and quickly digested by those who currently are fighting all wilderness, whether they say that is what they are doing or not.

At recent hearings on the question of studying possible new areas for inclusion in wilderness classifications, the timber-oriented people oppose the very concept. What they should be doing is admitting, loudly, that wildernesses are not all bad, and that some areas are better suited than others for such a use. They should push for the non-productive land to be included in wilderness, not just try to block any more wilderness at all.

And they should change their advertising tactics, too. A full-page advertisement in last Friday's Courier probably made more friends for wildernesses than it did enemies.

By implication the ad made us believe that only through wildernesses could we find peace and quiet in the woods—although it was the intention to make wildernesses look bad. And by implication, the ad led us to believe that forests are for local jobs, not for "the needs of the American people," although it quoted the law that establishes need as the rule that governs forests.

There's the key: The forests are held nationally, for all American people, and to guard the local, obviously selfish need for forest jobs, the approach to wildernesses had better change drastically.

We're going to have more wilderness—the New Yorker, the Nebraskan, the Houston dweller are going to demand it. We'd best approach the question in a manner that will help us, not just bray pettily, "no more wilderness." That's self-defeating. H.L.E.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will read by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. SPONG. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHILES. Mr. President, in the past year, during the debates over the Hatfield-McGovern amendment and the Mansfield amendments, I thought back to 2 years ago when I was campaigning for the Senate. The people of Florida were telling me everywhere I went that we should get out of the war in Vietnam. I came to Washington apprehensive about being caught in the middle of the crushing issue of the war in Southeast Asia, because I knew that once I took office I would have to share the responsibility for the lives of the men we were sending to Southeast Asia. That is an awesome responsibility to bear, but it is one that each Member of Congress must and rightfully should bear. The men who wrote our Constitution clearly understood the need for Congress, as the direct representative voice of the people and the arm of our Government most easily held accountable, to bear the burden of declaring war.

A man needs to be apprehensive about sending another man to war and that is the way I have felt since taking office, and I would not change it.

As others have pointed out, President Lincoln clearly set forth the reasons why the Constitution was written this way when he said:

The provisions of the Constitution giving the war-making power to Congress, was dictated as I understand it, by the following reasons: Kings have always been involving and impoverishing their people in wars, pretending generally if not always that the good of the people was the object. This the convention understood to be the most oppressive of all Kingly oppressions; and they resolved to frame the Constitution so that no man should hold the power of bringing oppression upon us.

Since World War II, Congress has been coaxed to release some of its constitutional war powers by the argument that the demands of the nuclear age are such that the Constitution is obsolete in this regard and that problems of foreign affairs and warmaking must necessarily be left to the President. The results of such a false wisdom can be clearly seen in the frustrating struggling to withdraw from Southeast Asia.

Our form of government is based on the separation of powers between the three branches and a balance of authority and responsibility between them. Certainly, over a period of time, roles may shift, but that is because the system we operate under is flexible but only to the extent allowed by the Constitution. This is insured by the fact that the Members of Congress must frequently stand for reelection and must be held accountable for their actions and decisions.

One of our most serious mistakes concerning the Vietnam situation was allowing one man to bear the burden for policymaking and control. The inaction of Congress, the failure of Congress, in this area left it in a situation where responsibility for military commitment was not shared between Congress and President; where no opportunity for national debate or public forum existed; where four individual men and their administrations decided a foreign involvement policy, instead of the President with the deliberative will of the people expressed through Congress.

Though our involvement in Southeast Asia is not yet over, our efforts must be directed to the problem of more specifically defining the President's war-making powers, in an effort to avoid another similar tragedy.

The Constitution granted Congress the power of initiating war; the President was given no power to initiate war, but was limited to exercising his veto power in a congressional declaration of war, to conducting a war legally begun, and to repelling sudden attacks. President Thomas Jefferson interpreted the document as follows:

Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. *Message to Congress*, Dec. 6, 1805.

It is over the war powers and specifically the question of "undeclared" war that the area of conflict between Congress and President is centered. What we are discussing here is not solely legislation seeking to limit the President's power, but the setting of guideposts for Congress' reassertion of its own rightful, constitutional powers as well. Congress has learned, I believe, from the Korean and Southeast Asian experiences that it must design a new means to insure its own exercise of the war powers reserved to it in article I, section 8 of the Constitution. No one man can be expected to bear the burden of committing this Nation to war with only tacit authorization of the legislature. No Congress can constitutionally allow one man to determine war or not. Such powers were given to Congress in the Constitution. What is needed is shared responsibility, the shared responsibility of the President and Congress using their balanced constitutional powers.

A reaffirmation of faith in the separation of powers and the shared responsibilities between the separate branches of Government are also a reaffirmation of faith in the basic belief of our Constitution that the people shall govern.

The Constitution is not obsolete. The provisions it contains to prevent tyranny are as important today as they were 200 years ago. The conditions of our world at this time are not so great or so different that we must throw out a form of government that has guided us through 200 years. But the conditions of the world are such that we should seek a reassertion and a reaffirmation of congressional responsibility.

Mr. Justice Jackson once pointed out that—

With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the executive be under the law, and that the law be made by parliamentary deliberations.

Because the voice and will of the people were provided with a channel for expression through representative government in the Congress, we have the duty to be responsive to that voice and will, a duty to make those decisions for which we have been given the power and the responsibility.

The proposed legislation sponsored by the Senator from Mississippi (Mr. STENNIS), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SPONG), and others, including the junior Senator from Florida, provides a reaffirmation in the constitutional faith in the people; and it provides a reassertion of Congress authority and responsibility in the war-making powers of our Government.

Mr. SPONG. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I am happy to yield to the Senator from Virginia.

Mr. SPONG. First, I want to commend the Senator from Florida for his remarks here this morning. He appeared before the Committee on Foreign Relations when the various proposals dealing with war powers were before that committee for consideration, and he gave us the benefit of his views. On that occasion, as he has done this morning, he spoke of the necessity for the popular will to be represented in the war-making process through those who are the elected representatives of the people. The Senator from Florida comes to this body fresher from the hustings than some of us. He had the opportunity, during his campaigns, to get as close to the people in his State as perhaps any candidate in modern times running for high public office.

Consequently, I would ask the Senator from Florida if he believes that until very recently the public generally had been under the impression that Congress had participated in the making of use of force decisions by the President—any President of the United States?

Mr. CHILES. I think, in reply to the question from the Senator from Virginia, that the people did feel Congress had participated in the making of those decisions and that Congress had been included. In the deliberations that led up to the making of those decisions, there were certain erroneous reports that led to that feeling on the part of the people. It has been mentioned on this floor during this debate that pictures have been taken showing congressional leaders leaving the White House after consultation. They would show, after a reading, that that was always after the fact.

I can say that the junior Senator from Florida, prior to coming to this body and beginning to participate in this debate and to learn about it, also felt that Congress had been included in the deliberations in the Korean conflict and in the conflict in Vietnam.

Mr. SPONG. Would the Senator from Florida agree that the hearings on the war powers measures and the debate on this bill are just beginning to bring the attention of the American people that it has been a rare instance, indeed, in the past quarter century, when Congress has been consulted at all before troops have been committed?

Mr. CHILES. I think that the Senator from Virginia is eminently correct, that it is new only beginning to seep through to the people that Congress was not consulted prior to these involvements. The people have not been able to understand though, why war was never declared both in the Korean conflict and in the conflict in Southeast Asia.

I remember well the term "police action" from the Korean war. Having been in service at that time, as a young second lieutenant, I remember how most of us in the service, including myself, bristled a little bit to think that we were only in a "police action," when we were actually engaged in a real war that took thousands and thousands of American lives and was a tremendous conflict; and then to have it called President Truman's police action, to fail to recognize that it was a war. The public did not understand that, and I do not understand the Vietnam situation.

Again, just looking at the historical significance of the Vietnam situation, we can talk—and I guess we have and we will continue to talk for years—as to what step actually caused our total commitment. What was the actual step that caused us to become enmeshed in Vietnam? Which President made the decision? What step was it that put us there?

I think that will continue to happen, because at no time did Congress declare war. Had that been done, or had we properly done that, if we were going to engage in that kind of hostility, then, one, we could say that as of such and such a time debate was held, the people spoke through their elected representatives, and this country decided on a course of action in a constitutional way. I think we would have had the country behind such a decision that would have been made, and the country could say that when it happened, debate had taken place and the voices of the people were heard at that time.

As it was, many people said—I continue to hear it, as I know the Senator from Virginia does—"I warned about this." "No one will listen to me." But when do we pick the time? When do we pick the event?

Now we are talking about history. I believe that the concern of those in this Chamber concerned with this piece of legislation is that we are not going to do this in the future, that we are going to insure that we do follow the constitutional way, to see that there is an opportunity for national debate, that the people do have an opportunity to have their voices heard by way of national debate and that, henceforth—God forbid that it will happen again—if we enter into such a conflict or such a war, we will have a united country at the time we do it.

Mr. SPONG. Would the Senator from Florida agree that this legislation seeks to set up a procedural system whereby responsibilities would be imposed upon Congress to share in the making of the decisions which affect the making of war and peace?

Mr. CHILES. I think it certainly does that. I think it does set up a procedure whereby we could be assured that Congress would be consulted and would share in the deliberations.

Mr. SPONG. Would the Senator agree that Congress has in many ways, especially during the past quarter-century, been the instrument of the erosion of the constitutional powers—that Congress has often preferred to second guess rather than to participate early in use of force decisions when the burden should be shared with the President of the United States?

Mr. CHILES. I think that it is the inaction of Congress and the failure of Congress in being able to say later, "We did not have to make that decision." Which is certainly one of the major reasons for this legislation. I do not think that we can point the finger at a Chief Executive and say that it is the Chief Executive's fault.

I think that Congress feels it did fail for over a quarter-century to do anything to reassert its powers, to say that it did follow its constitutional duty and responsibility to share in the deliberations and to be actually the body that declared war.

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Mr. SPONG. Some of our colleagues who have spoken on this legislation seem to have the opinion that the legislation seeks to amend the Constitution in some way. Does the Senator from Florida share that view?

Mr. CHILES. No. The junior Senator from Florida does not share that view. It is my feeling that the legislation simply spells out what is very clearly in the Constitution. But because we have failed to carry out our duty under the Constitution, in effect we are now instructing ourselves under the pending bill that henceforth we shall carry out our duties and responsibilities and set forth in perhaps a little clearer way the procedure by which it will be done. So we chart a course of action that we must follow. But in no way do I see that this limits the power of the Chief Executive. In no way do I see that it adds to the power of the Congress in what is actually spelled out, a grant or a limit in the Constitution itself.

Mr. SPONG. Mr. President, I have one other question. There have been indirect suggestions that although the proponents of the pending legislation are well meaning, they inevitably may be impairing the security needs of the United States.

The Senator from Florida and I come from a part of the country that has very proud military traditions, although we have not won every war we participated. However, our part of the country has never been regarded by anyone as lacking in patriotism or determination to see that this country is well-defended.

Does the Senator from Florida feel that the pending legislation in any way impairs the security needs of the United States?

Mr. CHILES. No. The junior Senator from Florida feels that nothing in this legislation would impair the security of the United States. And in no way would it limit the authority of the Chief Executive in carrying out his responsibility to provide for the security of the United States. In no way would it limit his immediate response to carry out the protection of the United States. Rather, I think that what it does do is to give the President of the United States the assistance of the wisdom of the Congress. Aside from both the junior Senator from Florida and the junior Senator from Virginia, Congress is that body which the Constitution provides and allows to provide continuity to the Government.

The Chief Executive comes into office, and he is going to serve 4 years, and perhaps 8 years. He is limited by the Constitution itself from serving a term longer than that. His experience, in many cases, certainly is not equal to the experience of the Congress.

In Congress, by the way it is provided in the Constitution, there is always a great body of experience, men who have witnessed World War I, World War II, the Korean war, and the war in Southeast Asia, some of whom have been in this body for almost most of that time.

They can see the mistakes and the failings. They can see the advantages of the policy. Certainly the Constitution was set forth to provide the Chief Executive with the ability to take advantage of that experience and also to provide the temperament in the Chief Executive with that experience.

I think what the pending legislation seeks to do is to reassert the wisdom of the Founding Fathers when they provided in the document that the President should seek the experience of the Congress, which certainly has a much vaster and greater storehouse of knowledge and experience than the Chief Executive is going to bring to the office at any particular time.

Mr. SPONG. Mr. President, I am glad that the Senator from Florida referred to the wisdom of collective judgment. I might call to his attention the fact that no two Senators have been more supportive of the unfortunate effort in South Vietnam than the late Senator Richard Russell, of Georgia, and the Senator from Mississippi (Mr. STENNIS), who is a cosponsor of the pending legislation. I think the record is fairly clear that on occasion they counseled against involvement at very sensitive times prior to the time, our country became so involved that it became difficult to extricate itself.

Mr. CHILES. I think they certainly did. And had we had a debate at that time, perhaps the tragic events that have followed would never really have occurred, because once we were there in a total commitment, then a voice could not rise for a long period of time for fear of sounding unpatriotic or un-American or unsupportive of the efforts of our country because we had men in arms who were giving up their lives.

Over a period of time, I think this was the dilemma that the country was in. To begin with, people did show support for the conflict. It was only after an agonizing period of time and after thousands and thousands of lives were lost, that finally the country and the Members of this body reached the point of saying, "We should not be there. We should not have been there, and we should not be there now."

If that debate could have taken place prior to the time that we had a total commitment, and if we could have heard the voice of experience from many of the Members of this body who could have counseled and pointed out the dilemma that we were getting ready to involve ourselves in, perhaps this would have been averted.

I want to say one other thing in answer to the Senator's question about whether this would limit our involvement. I remember very well many years ago, as a small boy, when this country was attacked on December 7. Congress on December 8, at the request of the President of the United States, declared war—1 day after that attack.

I just have enough confidence in the wisdom of the people in electing their representatives in Congress to believe that the people are going to be responsive to the security needs of this country.

Mr. SPONG. Mr. President, I again thank the Senator for his statement here this morning and his response to my questions.

Mr. CHILES. I thank the Senator from Virginia. And I am delighted to have had this opportunity to participate with the Senator from Virginia.

I think the Senator from Virginia has added much to the debate on the pending bill. I think his writings and the speeches he has made on this subject have added much to the illumination not only of this body, but also of the people in the country regarding the measure pending before the Senate.

Mr. SPONG. I thank the Senator from Florida.

Mr. President, I suggest the absence of a quorum.

Mr. GOLDWATER. Mr. President, would the Senator withhold that request?

Mr. SPONG. I withhold my request.

Mr. GOLDWATER. Mr. President, I would like to comment very briefly on the colloquy which has just taken place. It does not have any particular impact upon the pending bill. During the course of the discussion it was brought out that the American people never were fully behind the war in Vietnam, but they responded overwhelmingly when the Japanese attacked us at Pearl Harbor. I think the very fact that this has not been a slogan war is one of the major reasons the American people have not responded to it or understood it; nor have the leaders of this country gone to any great extent to try to explain why we were in Vietnam.

Had this been done, I think this would have had a good impact on the American people, but it was not done and it has not been done yet.

We think of slogan wars—"Remember the Maine," "Make the world safe for democracy," and "Remember Pearl Harbor"—and these slogan wars united the American people. I dare say that in the course of the 192 conflicts this country has been engaged in, all but four or five would have been very, very unpopular wars, and they were.

The Mexican War was a very unpopular war and, as we look back on it, it was a very unjust war. We have had many conflicts that had they occurred in this time and age they would have been unpopular.

There are other reasons though that the war in Vietnam has not gone well with the American people, and lest I sound political on this I must admit that the troubles in Vietnam started when President Eisenhower, a Republican, sent advisers there. The biggest fault with the war in Vietnam is that we have never allowed those men who have spent a lifetime learning warfare to practice their art in that area. I have said for years and years and years that if we were allowed to use our conventional weapons in the way they were designed and for what they were designed, if we had been allowed to attack strategic targets, this war would not have lasted more than a month. In my estimation, if we had done so, and properly, when President Kennedy felt it wise to send troops over there, I think the very exhibit of our air power might have caused the North Vietnamese to decide war would be fruitless with us. If they had not, the strategic bombing of the North, which is our

enemy, would have resulted in a quick capitulation.

But we had men go to Vietnam and come back and say that the war would be over in 2 weeks. Those statements made headlines and came from the lips of commentators every evening, and the American people began to think they were being fooled. People with authority who traveled over there would come back and say that the war would be over in 2 or 3 months, but now it has been going on for over 10 years.

So I do not like to let this debate go along with the insinuation that anything we might do in this bill could forestall future Vietnams.

The thing that can forestall future Vietnams, and the disasters that can be and have been worse, is the very fact of our historic division between civilian and military. It has been so exercised in this case that military decisions and desires have been overruled by civilians who frankly knew nothing about the concept of strategic warfare, ground warfare, or anything about tactical warfare. I do not think there is any group of people in this country that hold in higher regard the separation of the civilian and the military than the man in uniform.

I think it is wrong, and I think it has been shown to be wrong when the civilian tries to make strategic and tactical decisions which result in the chaos we are witnessing over there today, the chaos which I believe caused President Thieu to express properly yesterday could result in collapse of the Government of South Vietnam. We hope and pray that is not true.

I merely wanted to make this observation on the floor of the Senate when we had a little time and not too much is going on, because I do not want the American people to feel that this war has been fought properly. It has been fought wrongly, and I do not care what kind of war powers bill we write, if we allow a President who knows nothing about war and a Secretary of Defense who knows nothing about war to make these decisions, then we are going to have future Vietnams, and I do not care what Congress does.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield to the Senator from Florida.

Mr. CHILES. I think I understand the point the Senator from Arizona is making in regard to the fact that the war powers bill could not do anything to forestall a future Vietnam. I understood the distinction between allowing the military to run the war as opposed to having the civilians run the war, once the war started.

But what we are attempting to do in this bill is to provide that before the military is called upon to have to run a war, we are going to see that a little more deliberation goes into whether it would be wise for this country to involve itself in a war, whether we are fighting from the high ground and protecting our country from the best place, and that always would be the decision of the civilians. The military does not decide when we fight or whether we are going to fight a war, but they conduct a war after that.

Mr. GOLDWATER. I hope it was clear that what I said today, in the context of how a war is conducted, rather than how it is initiated, had no particular bearing on the subject we are discussing here. When I say we could not forestall another Vietnam, I use "another Vietnam" merely to characterize a war that we never should have fought in the way we fought it. What I was trying to get across, again not in relation to the bill, is that even if Congress approved future action of the President, such as Vietnam, or a small war far away, that if we allow the civilian to have complete control I say we cannot avoid the mistakes we made because we will make them in the future.

Now, to get back to this bill, although I have no fear at all about this bill doing anything like this, because it does not—it has no language with respect thereto—what I am fearful of is that in the future we might have amendments or other legislation that would not only give Congress the power of determination whether we should go or not go to war but also the power of strategic and tactical decisions. We have, for example, an amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT), that I understand the committee heard fully and rejected—and I think rejected wisely—that would turn over to Congress determination of the use of nuclear power. This is the kind of long-range danger I see, not in this bill, but in what might come up in the future.

Mr. SPONG. I would like to say to the Senator from Arizona that I think this legislation is consistent with positions taken during the very lengthy debate on the Cooper-Church amendment. I think the collective judgment of this body was made very clear then that we had no authority to tell the President as Commander in Chief how to conduct a war.

But we did have a power and a responsibility under the Constitution to determine whether or not an existing war could be expanded or a new war created.

I would now like to read to the Senator from Arizona what I said yesterday as far as this legislation and Vietnam is concerned:

> I do not believe the legislation will of itself prevent future Vietnams or whatever situation will arise next. But, it will establish procedure and methods whereby the Congress can know about and review use of force decisions and whereby the Congress can participate in those decisions which might involve our Nation in war, and thereby, hopefully, help preclude unwanted involvements.

I think the principal distinction between what the Senator from Arizona has been saying in his appearance before the committee and the remarks he has made on the floor here is that he views this legislation as somehow changing or reducing the constitutional powers of the President of the United States as Commander in Chief. I do not share that view. I think this legislation—and it has been very well stated by the Senator from New York, the principal patron—delineates a methodology whereby, hopefully, there will be consultation, but in emergency situations the President is empowered to act and then consult.

I am not at such divergence with some of the views the Senator has expressed. I do not participate in this in any way to represent it as a cure-all for mistakes made in Southeast Asia. I do believe, as I believe the Senator from Arizona believes, that if we cannot find a way—and that is what we are endeavoring to do here, that is to see that the Constitution is carried out properly—then we may have to amend the Constitution.

Mr. GOLDWATER. I can certainly understand the Senator's position. I have to say that I agree with a lot of his thoughts. I think any President would be wise to keep the Congress informed of what is going on. I do not think it should be necessary, for example, for the Foreign Relations Committee, as it will this afternoon, to be briefed on what is going on in North Vietnam. I think some committee—whether it is the Armed Services Committee or a foreign policy or a special committee formed during the course of a war—could be briefed daily and the President tell this body daily just what is going on.

The thing that worries me about the approach taken by the bill, which lays down policy rules for the future, is that if that is to occur, I think it should occur through a constitutional amendment. As I said before the committee, I would be glad to join in offering such a constitutional amendment, but I would probably vote against it.

As I will say later today, probably one of the greatest hurdles the Founding Fathers had in framing a constitution was to decide who was going to have the responsibility of making war. As Senators will recall, it rested for a while with the Continental Congress, and then the framers seemed to lose faith in the collective judgment of so many people, and the Constitutional Convention gave the new Congress the power to declare war and the President the power to make war.

I am in accord with the feeling that the Congress should know more about what is going on. I am not in accord with the method that we are trying to use in this bill. I would hope that out of all this would come a better method that is not going to leave in the minds of foreign nations any idea that we are backing off of our world responsibilities and our commitments to, I think it is, some 57 different nations, treaties that go all the way from promising a pat on the back to treaties which, in my estimation, promise war.

I do not think at this precarious time in history, where we now find five super powers either existing or coming into being, that we can indicate—and I think this is an indication—that we no longer want to shoulder our responsibilities in the world.

I can say to the Senator from Virginia, who I think is doing an excellent job in leading this battle, that he might think it strange that I ever got so interested in this subject. I would remind the Senator,

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because he has probably forgotten it, that I once sought the Presidency of the United States. When I began to realize the awesome responsibilities that went with that job, I started to study this subject. And when I studied the reasoning of the Founding Fathers and I studied the nearly 200 years of constant efforts to change the intent of the Founding Fathers in many different fields—not drastically, but to change them—I felt more and more that even though those powers were awesome, I would rather put my faith in one man, in the field of national defense, whose whole life would hang on it, than I would in the hands of some 500 people in Congress, many of whom would have no particular interest in it, and some of whom might have an interest in it only because of political pressures that could be brought by minority groups whose countries would be interested in our getting into some war.

I do not find any fault with the efforts to do this. I just hope that out of this we will find a way to accomplish what I think we all want without trying to, in effect, amend the Constitution, in my belief, by legislation. That is my whole feeling in it.

I shall discuss that a little later, when we get into the constitutional aspects.

Mr. SPONG. I shall look forward to joining in at that time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I rise in support of the war powers bill offered by the distinguished Senator from New York (Mr. JAVITS) and other Senators. I should like to commend the Senator from New York for focusing on one of the great issues confronting this Nation today.

It would be much easier and maybe politically smarter, for men like the Senator from New York to allow a crisis to occur and then come rushing in with a remedy. That is the usual political modus operandi in the United States.

It is much more difficult to anticipate a crisis and make provision for it. It is also duller and not so sensational; but, for the future of this country, it is important that such be the character of our work product here in the Senate.

Accordingly, I commend the Senator from New York for his anticipation of what could happen and in trying to avert a crisis. The essence of what the Senator from New York is doing; he is trying to make sure that we do not slide into another war—another Vietnam.

It is important to recognize the concurrent framework of this bill. As I recall, this matter was first raised at a time when we had before us bills and resolutions calling for the withdrawal from Vietnam by a date certain. We were trying to remedy the immediate situation in which we found ourselves. I had occasion at that time to talk to many people as to what their stand was on the issues raised by Vietnam. Many were against a withdrawal resolution—and I was among those. They then pointed to the war powers bill as evidence of their desire to see that we did not get into another situation like Vietnam. They said that they would go ahead and support such legislation when it came to the floor of the Senate. Many that were for the withdrawal resolutions were too preoccupied with putting their names to such resolutions to be concerned with what the future might hold.

A year or so ago, I talked to the protesters who came to Washington to visit with their Representatives and Senators on the subject of the Vietnam war.

I turned to them and said, "The crucial issue before this Nation today is not withdrawal by a date certain from Vietnam, because we are getting out of Vietnam. The real issue is to set up the laws of this Nation in such fashion so that we do not repeat such a commitment the second time around."

I further said to them, "Unless we go ahead in Congress to enact this legislation now, in this session of Congress, it will never be enacted."

I think the Senator from New York and the Senator from Virginia and others will agree with me on this point. That unless this legislation is passed and now, it will never be passed until we come face to face with the next emergency. A next "Vietnam," and then we will start to talk about war powers legislation all over again.

Mr. JAVITS. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield.

Mr. JAVITS. I do not like to hinge this legislation on an emergency. The Senator was gracious enough to say that we were trying to anticipate an emergency and the Senator was kind enough to mention me; but, as a matter of fact, this measure is the composite work of half a dozen Senators including those who principally worked on it; namely, the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. BENTSEN), myself and others; and then it was all fashioned actually in the Foreign Relations Committee.

But I do agree that while our memory is still very fresh and aware of the kind of crises we can face in this country when we do not use everything that we have in the way of governmental machinery to bring about concurrence of the will on a question so serious as war, that when the incident becomes a war, if we lose that moment, then another moment like it will only be brought against the cost of the terrible suffering.

No one knows, I must say to the Senator, whether the Senate and the House would have come to a different decision than President Johnson did or whether it would have gone on and developed the Tonkin incident and developed the incident into a war.

However, this is the best we can do, considering the awful cost to our people in blood and treasure. We have no right to do less. Hence, we have the right and the need for this bill.

Finally, I say to the Senator from Connecticut, who is very graciously supporting this effort with respect to this measure, that I believe that rather than weaken our credibility, it will strengthen the credibility of the United States in the world and among other nations who could easily be shaken in terms of whether we honor our commitments, a matter which caused the divisiveness to which the Senator has referred that was apparent in 1970 and even in 1972 as to the question of whether we should support an ongoing war. It was almost unheard of in this country.

I believe that the Senator, as he speaks, should be aware of our deep feelings on the subject, that when an incident becomes a war—which is what we are talking about—the greatest responsibility requires the maximum concurrence of the people, through their governmental organ, the House and the Senate.

I point out also to the Senator that one of the important points the Senator from Virginia (Mr. SPONG) and I have especially emphasized is the importance of having the concurrence of the House. Just because the Senate can approve treaties, that does not mean that we can do this. So we want a bill that definitely calls for joint action of the House and the Senate and for the concurrence of the President in making this a regular law in order to authorize us to ask the people to undertake these unbelievable sacrifices which are involved, not in an incident, but in a war.

Mr. WEICKER. Mr. President, I thank the Senator from New York. I repeat, not so much for the benefit of my colleagues in the Senate, as for the people of this Nation, that it is essential to the Nation to understand the crucial nature of this legislation. The legislation, it seems to me, does not seem to invoke the same emotions as other resolutions before the Senate have invoked. The fact is that we are well on our way out of Vietnam. That issue has been resolved. What has not been resolved is whether we will get ourselves into other situations such as Vietnam. That is what the legislation is directed at.

Mr. President, I have listened to the debate over the past several days. And I commend the Senator from New York and the Senator from Virginia for being very gracious in the debate that has taken place on this floor. However, I think I can enjoy the freedom of bluntness, because it is not I who will probably have to achieve the necessary compromise to get the measure through.

The President is limited to the role of Commander in Chief, of carrying out the orders and the wishes of the Congress of the United States, and therefore the people of the United States.

In no wise do I interpret his power under the Constitution as a power to determine the commitment of American troops

and American lives in pursuance of a policy of war.

The war powers of the Congress are set out in article I, section 8 of the Constitution. It is provided in that section that Congress has the power:

> To provide for the common Defense and General Welfare of the United States; to define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; To declare war; To raise and support armies . . .

There are the powers of the Congress of the United States. Congress has the power:

> To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States . . .

I will bet that my children do not even realize that this power exists in the hands of the Congress of the United States, because they have grown up during a time when these powers have been usurped by Presidents of the United States.

These are the powers of the Congress of the United States. The Constitution is very specific.

The Constitution sets forth the powers of the President of the United States. The President shall be the Commander in Chief of the Army and the Navy of the United States and the militia of the several States when called into actual service of the United States.

I was interested in that piece of legislative history which the Senator from New York pointed out in his statement wherein be described the history of our country, the drafting of the Constitution, and the selection of George Washington initially as our Commander in Chief. He pointed out that Washington was given a commission by the Continental Congress which commission stated:

> . . . and you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

It is very clear as to who was giving the orders. Of course, that is a situation that has been reversed over the years and it is a situation which we are attempting to bring back into focus today.

I need no tortured reasoning to explain where this power is vested. I have read articles by individuals who try to justify their past actions by a present twisting of the Constitution.

The language of the Constitution is simple. The part that I have just read, states the situation concisely.

During the course of the debate I have heard those who oppose this measure give the impression that those of us who support it seem to be impervious to the security needs of the Nation. From time to time they indicate that we are willing to play politics with the safety of the Nation. The safety of the Nation, quite frankly, is the job of the Congress along with the President of the United States.

The difficulty that arises is because we have made the assumption that the safety of the Nation is solely the function of the President of the United States. It is because of that fact that the necessity for today's legislation arises. We should all be in the business of protecting the Nation. We are all involved with the safety of the Nation.

But safety implies many things. It is not a question of whether a man has a hand on the nuclear button. It is the state of mind of an entire people. The people are not only strong because of the arsenal we possess. They are strong because of their state of mind and the state of life within the Nation itself. That is as much a part of the armament of any Nation as the metal and powder of which it is possessed.

I come, of course, from a section of the country which has long believed, for many years, that people should run their communities. In New England, we ran our communities by town meetings. Anyone in a town could participate in the government. Then someone said, "You know, this is not very efficient. Maybe we ought to break it down a little." Then there was a representative town meeting in which they had one individual representing *x* number of persons.

Then, somebody said, "Even that does not work too well; cut it down more." So then we went to the mayor and council form of government. Somebody said, "That takes too long; let us just have the mayor." Lately we have come full circle when various community organizations began to spring up and they want community representation. We are back where we started, and the point that should not have been left in the first place. It is clear that the more people who participate in government the better off that government will be, and it is why in the conduct of our affairs at home and abroad there must be a partnership of the legislative branch and the executive branch.

I do not buy that belief that one man can do the job more efficiently. I think we all understand the logical ramifications of the statement that one man can do the job more efficiently or one woman can do the job more efficiently. Maybe in a time sense faster, but the real question is whether it can be done better. That is the issue. The safety of the Nation will be enhanced by the Nation participating. It will mean the people of the United States have shared in making the decision to send their sons and daughters on a mission that risks life.

I think clearly the President has a major role to play in the area of foreign policy, but does he have the right to declare war? No! I think we have gone beyond that point. The people want to be told the reasons for war. The old arguments of security no longer dominate in the decisionmaking process though being a part of the entire puzzle. It is far better that the people of the United States know exactly the reasons behind the actions of their elected officials and then go ahead and participate in the actual decision itself.

Mr. President, prior to concluding I again repeat the urgency of the resolution before us. It is not something to be referred back to the committee. It is not something we can postpone until the next session of Congress. This legislation has to be enacted now. It is simple. It states that in the business of declaring war, Congress, the House and the Senate, shall participate in such decisions and that there will be no more one-man decisions to commit this Nation to the travails we have experienced over the years just past.

I hope we understand that in taking this kind of step we do not change the Constitution; we bring it back to its original purposes and intentions. We strengthen our Nation because the people of the country, not just one man, will be making the decisions of life and death.

That may be unspectacular. I do not know where the next Vietnam will occur. No one has a son or daughter committed to the next Vietnam. But the situations that gave rise to Vietnam are still with us, and they will remain so unless this bill, the war powers bill, is passed.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for the things he said about this measure, and I think the Senator was very perspicacious to have pinpointed the time element, that is, this is the time to act. If the Senate for any reason is dissuaded from acting now, it is going to be difficult to recreate a frame of reference in which memories are vivid enough to induce us to act. I think that is very important for a substantive reason.

It is very clear that the opponents of this measure are not pressing the opposition with any degree of alacrity. They think we are going to carry it. I do not know why. If they have amendments they should produce them; if they have motions to refer the matter to another committee, they should be made. We are quite ready to make our arguments and leave the matter to the judgment of the Senate. So I think the Senator put his finger on a critically important point. We are ready. I am ready. As a matter of fact, I have to be excused from the Senate one of these days for a critically important purpose abroad of very long standing, but the Senator from Virginia (Mr. SPONG) and others will be here and we are ready to act.

I think it is very important to underline the point the Senator from Connecticut has made that we will not be dissuaded. This is the time. There seems to be a very mature development of opinion within the Senate as to its attitude or the attitude of individual Senators on this issue; so this is the time to act. Whatever may be the requirements under the rules on closing debate or whatever else is required, we are trying to give the Senate an opportunity to act on this measure now. The Senate will

then have the opportunity to work its will, but I do not feel we have any right to forgo our duty, the matter having been dealt with and brought up on the floor, and to amble along with it because those who oppose it are not ready to come to issue in respect to it.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. SPONG. I commend the Senator from Connecticut for his contribution to the debate. He is correct that this measure is not being acted upon with an air of emotion similar to others we have seen in past years which touched on the war powers.

It is also clear that there is an urgency about this matter. There is no urgency about this debate as far as the Senator from New York and I are concerned. If anyone has anything to say about this legislation, we want to hear it. We are somewhat in the position of lawyers who have led off. We have tried to spend the last few days in making our case. We now await whatever motions may be forthcoming whatever amendments may be brought forward.

We have said from the beginning of this debate that we did not come to the floor convinced that we had the panacea to a very grave constitutional problem, a problem that is also a political problem. We made it clear that we would welcome comments and suggestions from any Member of this body. We think the war powers dilemma is a serious matter which should be discussed seriously.

We thank the Senator from Connecticut for his contribution. We await what might be forthcoming.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. WEICKER. The burden is also on the Senate of the United States to act. There is going to be no initiative from the executive branch of Government. This has nothing to do with President Nixon. Those of us who have been in State legislatures know that the Governor likes the State legislators to go home as soon as possible so he does not have to deal with them. There is the same situation with the council of the city. The mayor likes them to close up shop and go away so he can deal with problems in his own way. The same holds true of the executive branch of the Federal Government as compared with the legislative branch.

If we are going to enact this legislation, we are going to do the pushing. It is not going to be pushed at the executive level, whether by a Democrat or Republican. But is there one man who can stand on the floor of the Senate and look at the powers given to the Senate of the United States under the Constitution and say that we have been exercising those powers over the past several decades? The answer is clearly "No." Is there one man who can dispute the fact that these powers have drifted into the hands of the President, Republican or Democratic? The answer is "No."

The system has been criticized over the past several years. There is not a thing wrong with the system—if we follow the system. The only time we get into trouble is when we deviate from it.

There is nothing magical or spectacular about the proposal of the Senator from Virginia and the Senator from New York. As a matter of fact, it should have the support of the strict constructionists of the Constitution. It should have the support of the conservatives, because, in effect, it enunciates the Constitution as originally written. What it argues against is the practice of the past several decades, where slowly and gradually, we drifted further and further away from the provisions of the Constitution.

What I am saying and what the Senator from New York and the Senator from Virginia are saying, is that national opposition is not to the system as written by the founders of this country, but to the system as followed by the practice of the Congress and the Executive.

I definitely fear for this legislation. As I said when it was originally introduced months ago, there was great enthusiasm for it, but my predictions made then are coming to pass.

If this legislation is not passed in this session of Congress, there is no one standing on the floor here who will see this legislation pass until and unless—God forbid—we get into trouble with another situation like Vietnam. Then there will be a great hoopla for it. As soon as it subsidies, we will get back to business as usual.

I hope this legislation will be moved forward in this session.

Mr. JAVITS. Mr. President, I assure the Senator that, if I can help it and if the Senator from Virginia (Mr. SPONG) can help it, we will.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1105

Mr. McGEE. Mr. President, this afternoon I am submitting an amendment to the pending legislation, and I do not intend to call it up until late in the procedures in our dialog on this question.

I have made my position clear, I think. I do not believe the right way is to go about it as we are doing now, addressing ourselves to as momentous a possible change in the process as this portends. Nor do I think we are wise, given the changing times of which we are very much a part at the present moment, to apply band-aid to an instrument nearly 200 years old in the hope that, somehow, the wounds caused by our changing times will, in the minds of many, heal itself, and not leave a wound even more serious.

I intend to oppose the pending Javits measure. I think we ought to go about it in a different way. But likewise, Mr. President, I am a realist, and I understand and appreciate, though I do not agree with it, the feeling of a great many of our colleagues here, that somehow we have got to go on record with something in order to quiet the comments back on the homefront and in order to quiet our own apprehensions about what might happen tomorrow, next Tuesday, or a year from now—that somehow we have got to make an effort to get somewhere.

Mr. President, again and again I have spelled out my position on that. I think we are long overdue for a restructuring of the whole allocation of responsibility, and the process of exercising that responsibility in decisionmaking in this Government of ours, in a world that is so radically different—and I mean radical in the generic sense of that term—from anything the Founding Fathers ever dreamed of or could have imagined, and certainly so much more complex than they could have addressed themselves to in all their wisdom, including the Constitution that has survived rather nobly over these many years.

So the amendment I am sending to the desk, Mr. President, is one that I propose to hold until we are near the end of our deliberations. Should it be the judgment of this body—which I would respect very much—that we should adopt the Javits amendment, which I shall continue to oppose, but should we adopt it, my amendment would propose a supplement as a working part of the amendment that would require, through the authorization of this body, the creation of a Presidential commission to have a cold, hard look at this whole question on the highest possible level. We should have done it years ago.

Such a commission, Mr. President, might well come out with the view that the way we have it now is the best way we can hope for under the requirements that we lay down in our present Government. Or it may decide that we ought to scratch the whole thing and start over again. I do not wish to circumscribe the latitude of such a commission's deliberations nor, certainly, to prejudge the question. I do not know, myself. I wish I did.

What I am saying is that the difference between now, 1972, and Philadelphia in 1787, is so great that we are kidding each other if we think that, by putting another band-aid on a 200-year-old instrument, somehow we are going to avoid another crisis a year from now or a week from now, or go at meeting it in the proper way, because I think the record is fairly clear that we have gone at meeting these crises in irrelevant ways. Obviously, the reason why the problem has all surfaced so quickly is that the solution did not turn out as everyone had voted for and hoped it would. So therefore, in hindsight, we have all kinds of motivations, a sense of pique, a sense of frustration, a soul-searching, and a sense of guilt in some instances, I suppose, that motivate us to apply another patch; and I suppose in another crisis we would try another one,

and wonder why we had not really come to grips with the question.

This amendment, through a Presidential commission, would require the President to appoint 12 public members to a commission, naming one of them as chairman, reserving to the President of the Senate and the Speaker of the House of Representatives six members each, to be divided equally between the two parties, as a core group to address themselves to this matter for 2 years.

It is easy for some of us to say in hindsight that we should have done this many years ago, but the fact is that when World War II came to an end, we found our own country in a new role, thrust right into the center of the stage of the world by the forces of history—not by the forces of American aggrandizement, nor by a sense of the arrogance of power, but largely by the thrust of history itself. At that moment, had we been as wise as we are now in hindsight, we ought to have been addressing ourselves in some such way as I propose, by a 24-man commission, to an examination of this whole question of war powers, decisionmaking in the foreign policy field, the responsibility, and the mechanism for preserving and establishing that responsibility. For without any intention, Mr. President, of derogating anyone, anything, or any task in our country's rich history, I would say that someone ought to sit down, unencumbered by the Philadelphia Convention of 1787, unencumbered by what the Founding Fathers may or may not have intended in that exciting day, unencumbered by the traditions or the development of court decisions in the nearly 200 years since that momentous time in our country's rich history, and address himself to the central question.

That question is, What ought we to have a right to expect, in fact to demand, as a mechanism, as a formula, as a distribution of powers and responsibilities, in the world of 1972, one that we would have a chance to survive, one that we can deliver ourselves of with the deepest sense of history as well as of responsibility to our own time and our own generation?

It is with only this in mind that I submit this amendment, Mr. President, as a supplement to the pending legislation. However we choose to handle the war powers bill that the distinguished Senator from Virginia has had a great hand in helping us to influence and to shape as it proceeded on its course to the floor of this Chamber—I repeat once more, I think that the bill now pending comes much closer than any of the other bills we had before the Committee on Foreign Relations, and would be less disastrous or more responsible in approaching this question—I still oppose it because I think it fails to come to grips with the real central issue, and that is that gap between 1972 and Philadelphia in 1787. Because, let us face it, Mr. President: In the Constitution, the Founding Fathers were thinking specifically and brilliantly in terms of the good old days when wars were declared and waged as wars, and won or lost as wars. They could not have envisioned a nuclear age. They could not have envisioned a time in our history when it might be necessary to risk war and wage war, but not declare it. That is why a good bit of the static has surfaced in regard to who has done violence to whom in the crises that we have faced in these last 25 years.

In my judgment, I think that the proponents of the pending legislation on this floor have overdrawn, have multiplied those fears. I think we have proceeded in an orderly way, but many disagree on that, and I respect that disagreement. What I am saying here this afternoon is, if the Javits bill passes—and it well may, I gather from the mood of the Members of this body—that we dare not stop there. We dare not stop there, and if it turns out, as its proponents argue, that this at least does something now, to hold the line for the moment, I say it behooves us all the more to get busy with a searching examination of all that is at stake in the question of war powers and responsibility and the distribution of responsibility among the various bodies involved in policymaking in this country.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. GOLDWATER. Mr. President, I want to congratulate the Senator from Wyoming for having said some things that I think need emphasis on this floor.

I do not think that any of us have too much quarrel with the overall purposes of the proposed legislation as stated. I think that those of us who are opposing the measure oppose it because we think that it tampers with the Constitution; and we feel that when the Constitution is tampered with, it should only be tampered with by the American people in their State legislatures and not by 500 people in Washington.

I have said time and again that I have to speak as a layman, but I think that anyone who reads the Constitution, particularly article I, section 8, the powers of Congress in the event of war or hostilities and our responsibilities thereto, can be confused. I find that many of my friends believe that the power to declare war means that Congress can make war. We cannot. I am going to discuss in a speech later today or tomorrow the fact that the Founding Fathers discussed this one point as much as they discussed any other point in the Federalist Papers.

Making war is one thing—this is the power the President has. Declaring war is another thing. Yet, I can understand how my colleagues can believe that to declare war would give us the power of going to war. As I can understand trouble in construing the power to raise and support armies. I can understand a misinterpretation of that, just as others can accuse me of a misinterpretation of it. It means exactly what it says, which is what we do every year, which we are going to do within a few months—authorize money to raise and support armies and, in doing so, to make policy decisions about what our dangers are and our commitments should be. Congress also has the power "to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces." Some might try to construe this latter clause as the power to make strategic and tactical decisions in the use of our forces, but it actually relates to things such as courts-martial.

I rose to compliment the Senator from Wyoming because we already have an amendment before us that would do in some ways what the Senator from Wyoming is suggesting. I feel that because there is such a wide difference between those of us who oppose the measure and those who propose it—not in what they want to do but in the method by which it is to be done—that the wisest thing we can do, if we decide that this measure is proper, is to submit it to some commission or committee that would study it more fully.

I became interested in this subject 8 years ago, and I have had what I consider to be very learned people in law trying to decide what the Founding Fathers meant, trying to decide what the Constitution meant. There is no clear-cut decision.

I can think of only two members of the Supreme Court who have ever spoken out on it. I think Charles Evans Hughes was one, but I know that William Howard Taft was another who completely opposed the idea that is suggested in the proposed legislation.

I suggest that when learned men in this country cannot agree on the rightness or wrongness of what we are doing, I think we are treading on some mighty thin ice—and dangerous ice—if we go ahead and assume that we can conquer all the ills that have existed for 200 years between the executive and the legislative branches vis-a-vis war.

Even before we had a Constitution, the Western World had some 107 conflicts, and I believe that only 10 carried any type of declaration. Mind you, this was in the 18th century. So this is nothing new. My research shows that this argument has been going on, literally, every year for the entire history of this country. I think it is time that we give it some real, academic, judicial study, although it might be wise, I suppose, to pass this measure and let the Supreme Court decide upon its constitutionality. I think, however, as does the Senator from Wyoming, who is a distinguished member of the Committee on Foreign Relations, that this day and age is no time to be tinkering in this field.

As I have said repeatedly on this floor, I am very fearful of what our allies are thinking at this moment and what our enemies are thinking at this moment, as we go through, in all appearances, an effort to isolate this country—although I know that will be resisted—an effort to change the powers of the President, even though it would not destroy his power to go to war. I think an enemy would be delighted to know that his adversary would fight for only 30 days or that there is a very good chance that he would fight for only 30 days. The enemy would be most happy.

So I congratulate the Senator from Wyoming on offering this amendment. I hope that either his amendment or the Taft amendment will be a part of this

measure if it is passed, because I do not believe that it has had enough study. In fact, yesterday, after we were told that this matter had received months, even years, of diligent study, the authors of the bill made three changes. If three changes are necessary in 2 days of debate, Lord knows what is going to turn up if we continue this debate at any length. I certainly have no desire to do that, nor do I even threaten to do it. I think we are doing this in a slipshod, hurried way, and I agree with the Senator that this is dangerous. I commend him for his action.

Mr. McGEE. I thank the Senator for his generous comments.

I would hasten to add that I have no fixations with respect to this matter; that, in fact, this is part of the problem that I feel in regard to the question—that is, a conspicuous absence of certainty as to what is the wisest approach here. I have certain misgivings about what we are debating here at this time as one of the approaches. I wish I had something wiser to offer. But we find our great scholars in the land, our deepest students on constitutional principles, or those with experience in government, also divided on this matter. It is the fact of their division that ought to be saying something to us; and that something is that we are not going to bail ourselves out of the present situation with the simple resolve of the Senate, in a statutory way, to take the step that is advocated in the proposed legislation.

But I also understand how important it is that we at least take some kind of step soon. I think a great deal of psychology is hanging over the country in this regard, and certainly over many of our colleagues. But I want to make certain that we do not fall into the habit that this may tempt us to fall into, and that is the habit of patching and then patching and then patching, hoping that we can patch our way out of crisis. The time has long since come when we really ought to put our best effort, our maximum intellectual capabilities, and our practical political good sense to searching out the possible new answers to the constantly frustrating problem of the division of responsibility and of decisionmaking in times of crisis.

Such a commission, I think, ought to be totally free, no holds barred, unencumbered by the past, literally. For the moment at least, such a commission ought to be able to start in the vacuum of a theoretical moment that you are putting together a new government, a new responsibility that addresses itself to a great nation, bearing the responsibility for world leadership in a positive and constructive way, and see what they come up with. Then we here in this body and in the other body can weigh it alongside the traditional and constitutional past and present, and where we are, and all the other matters that properly concern people.

Suppose we were the Founding Fathers today, and we were asked to structure a mechanism in foreign policy that would be realistic in the kind of world we know today, not the world of 1787? What would we put together without the past to color our judgments or our "druthers"?

We should start with a theoretical ultimate and them examine at the next stage how that should be implemented in realistic ways in regard to the great traditions of our land.

Such speculating might lead a commission to suggest that the Senate should not have a role in it, or that the House of Representatives should not have a role in it, but that there should be some other kind of body created to make the decision. I do not know. Perhaps it will decide that the President should be cut out, leaving everything to committees of the Senate. I cannot imagine that, but that has to be one of the theories that would be carefully explored; or they might decide that the way we have it now can be spelled out more carefully and made to work. I do not know. What I am saying is, it is time we search out the answers to those questions and weigh the options in realistic terms.

It is incumbent upon us, regardless of what we do with this measure. If this measure is defeated today, we should still create a commission, not as a substitute, because it does not substitute for anything but as a basic step forward to bring us to grips with the question which we have ducked too long, hoping that someone would come up with the right answers in decision-making that would bail us all out. We may not have time for such a luxury or a choice another time.

We have already had a searing experience, public opinionwise, and with divisiveness in our own body here in the Senate, during this most important crisis.

Surely, we can learn from that experience at least how not to do it from here on. How not to do it is to put it off, hoping that we do not have to face up to something at a later time. So all I am saying here is that if this measure passes, we should attach to the measure an amendment providing for the creation of a commission of 24 members, such as I am describing in my amendment here, to be appointed by the President, made up of 12 public members, with the chairman of the commission from that public group and designated by the President, with six members appointed by the House, and six members appointed by the Senate, by the Vice President and the Speaker of the House, respectively. They would explore all the ramifications of this subject.

I am suggesting in the amendment that this be confined to a 2-year interval. That is arbitrary judgment in itself. It may not be possible in that interval of time. But at least it will be notice to our people that we are not trying to put things off or to procrastinate. If the Javits measure passes, we will be taking an expeditious step, as the proponents of the pending legislation contend, but we will have followed it up with more than a piece of adhesive tape—something just to hold a 200-year-old structure together in the desperate expectation that it might continue to hold through another test in another crisis.

I think we should have the courage and that we owe it to our people to have a searching examination of this subject made, and not to expect through habits of thinking that they will come up with something convenient to accept. We should challenge them to address themselves to an ideal structure in a world of 135 sovereign nation states, in a world of governments which are mostly monolithic, and in a real world which still knows no law internationally but only knows an association of sovereignties to whom the law itself is so carefully independent.

I think that world security, not alone of our own country, depends upon this. The chance for some reasonable stability in the world hangs in the balance.

I would hope that my colleagues in this body would give a closer look at the proposal of a supplement to and with the Javits amendment, to create such a commission at the very highest level, to which the President of the United States could address himself and, thus, a commission given to the members of such a proposed Presidential panel.

I believe that we, in this way, would have a better chance, whenever a crisis hits us the next time, to be closer to a procedure and an operation that would equip this country to face its sometimes unpleasant and often costly but nonetheless continuing and real responsibilities in a world of great trouble.

Mr. President, today I am introducing an amendment to the War Powers Act—the proposal which is currently the subject of considerable debate on the part of this body.

My amendment would in no way alter or change the content or thrust of S. 2956. It would serve only as a supplement to the bill. My amendment calls on the President and Congress to commission a high-level panel comprised of our best minds of diverse background and philosophy to undertake an intensive and in-depth study of the decision-making processes of our Government as they relate to the formulation of foreign policy, national commitments, and the war powers.

I would again like to emphasize that my amendment in no way affects or alters the substance of S. 2956. This is not to say that I still do not have misgivings about the War Powers Act. I believe that although this proposal comes closer to anything else we did in the Foreign Relations Committee to realistically and constructively come to grips with one facet of governmental decisionmaking, it still does not go far enough.

My amendment calls for the establishment of a 24-member commission. In addition, the President of the Senate and the Speaker of the House would each appoint six members to the Commission from their respective chambers—three from the majority party and three from the minority party.

My colleagues may note that my amendment does not limit the scope of the proposed Commission's study to just the war powers issue. The study would also encompass the decisionmaking processes involved in the formulation of our foreign policy and national commitments. This is what I feel we should

really be addressing ourselves to right now—the updating of our mechanisms for responsible policymaking in our system of representative government. We should do this armed with all of the wisest judgments this country can command.

The proponents of S. 2956 have maintained that this piece of legislation does nothing more than to restore the constitutional balance between the executive branch and legislative branch of our Government. And although S. 2956 is not being offered as a constitutional amendment, its purported thrust is to correct what proponents feel have been significant constitutional abuses on the part of the executive branch of Government, particularly since World War II.

Much has been said during the debate on this bill regarding the intent of our Founding Fathers as they sat down to draft the Constitution in Philadelphia in 1787—their intent in framing a workable relationship between the executive and legislative branches of Government in the area of war powers.

However, the world that our Founding Fathers confronted as they drafted the Constitution is not the world that Members of this body are compelled to face in 1972 and succeeding years.

The Founding Fathers provided a specific mechanism for declaring war—article 1, section 8—leaving the initiatives of the event which preceded war clearly to the President. They provided that only the Congress finally could declare war. This was framed in a period of time when nations dared to, and could afford to, consider declared wars as an instrument of national policy. However, many students of government feel that we have long since passed the time when we can afford to declare war without running the risk of an ultimate nuclear holocaust. Therefore, one of the issues raised centers around the phenomena of undeclared wars and the question regarding the role of the executive and legislative branches of Government in this critical area of policy responsibility. I do not feel that we have found a solution to that problem, although we are heading in that direction with S. 2956.

What my amendment seeks, hopefully, is to arrive at the answer to the question of what a nation like the United States, with all its dedications and responsibilities, should have in its mechanisms for policymaking that would be realistic in the world as it is in 1972 and as it will be in the future.

Rather than attempting to patch up the Constitution because of past events, as I believe S. 2956 attempts to do, we really should be inquiring into what the Constitution should say in 1972. A band-aid approach to a constitutional structure put together nearly 200 years ago is not enough; indeed, it could be a costly ploy delaying a long overdue reexamination of our policymaking mechanisms.

We have put off far too long the process of updating our Constitution and updating the mechanisms of a representative republic in the field of foreign policy. We owe the country an honest attempt at arriving a some workable solution. I am not saying that I have the answers to these questions. I do not. It may well be that this Commission would conclude that the present mechanisms are satisfactory and do not need to be changed or altered in any way. I would be the first to accept that conclusion. On the other hand, if there is even the slighted possibility that we need to refine or change our decisionmaking processes in order to enable us to more effectively function in the world as it is, we owe it to ourselves and the nation to pursue an in-depth study utilizing the best minds we have in the country.

My proposal provides that a high-level panel be commissioned to make the kind of searching inquiry, hopefully, as to what a great nation conceived in 1972 should do with the awesome power and responsibility it has in the world that we have today, and what kind of mechanism may be written into the theoretical constitution for that kind of new republic.

Once a conclusion is reached by the panel, it will then be up to Congress to accept or reject its findings. If the findings are accepted and if they recommend constitutional changes, then it would be up to Congress to measure the recommendations and determine how they can best be fitted into our Constitution and our tradition.

The times have changed the relevance of what our Founding Fathers said or did in Philadelphia. We have not yet honestly assessed if the times have changed to the extent that we might also need to change, in any way, our Constitution. There is really no way of answering that question at this point in our history. However, no one is really measuring the role of the various branches of Government and sorting out the respective roles in light of the new events and the new responsibilities that we did not seek, but nevertheless have, in trying to make it possible for our system to survive the impact of change and the demands of the modern world.

We have continually put this modernizing process off again and again, apparently in the hope that we will come to grips with it once more when we have another crisis. But our experience with this indulgence should compel us to take positive action in establishing a mechanism that would prevent future crises or at least confront them in a more effective manner, rather than addressing ourselves to crises of the past.

The question before this body is the operability of our Government during a crisis in the 1970's and future years, and not our Founding Fathers understanding of, and experience with, world events and relations between nations in 1787.

When I first raised the issue of commissioning a study of this nature, it was stated in this body that we did not have the time to await the report of this proposed panel. It was said that we have to do something now. This might well be the case, but I am as yet not convinced that it is. However, if we do have to do something now, and that something is S. 2956, then I think this legislation should contain my proviso creating a Presidential Commission to examine the larger questions of constitutional structures and procedural processes in the national security and foreign policy fields.

Mr. President, I send to the desk a copy of the proposed amendment with its ramifications.

The PRESIDING OFFICER (Mr. FANNIN). The amendment will be received and printed and will lie on the table.

Mr. WEICKER. Mr. President, I rise to comment on some of the remarks made by both my colleagues from Wyoming and Arizona.

First of all, with his usual firm belief in this Nation and his moderate and sensible approach, I cannot disagree with any of the comments made by my colleague from Wyoming. But I can answer one question: What would the Founding Fathers do if they were confronted today with today's circumstances?

The fact is that today's circumstances are almost identical with the circumstances with which they were confronted, because they had come over from Europe and they had seen wars waged by themselves and their people, which wars were decided by one man, specifically Kings.

That is why, when they wrote the Constitution, they made it specific as to who has the power to go ahead and declare war. They had a fresh memory of what it meant not to have citizen participation in the declarations of war, when they wrote the Constitution. The circumstances into which we have drifted today are almost identical.

I do not see, in response to my colleague from Arizona, what is so complicated about the powers of Congress as written in the Constitution. Congress shall have the power to declare war. Let me read further from article I, section 8 of the Constitution:

> To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;
>
> To declare War, grant Letters of Merque and Reprisal and make Rules concerning Captures on Land and Water;
>
> To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
>
> To provide and maintain a Navy;
>
> To make Rules for the Government and Regulation of the land and naval Forces;
>
> To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
>
> To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

That is very clear. It needs no contorting to make it understandable to my mind as to what the war powers of Congress are.

When the statement is made that we are about to tamper with the Constitution, let me say that it has been tampered with silently for some decades now. That is why we are on this floor now, trying to rectify it.

Mr. GOLDWATER. Mr. President, as I indicated, the great division here is among those who feel that the Constitution says one thing and those who feel that it says another.

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I would ask the Senator if he feels that the powers which he has read from article I, section 8, of the Constitution gives this body the power to go to war.

Mr. WEICKER. The Senator reads exactly what it says; the Congress shall have the power to declare war.

Mr. GOLDWATER. That is my question. In the mind of the Senator, the declaration of war means that this body, or the whole body, controls the power to send troops wherever they care to.

Mr. WEICKER. It is definitely in my mind that it gives to the Congress of the United States the responsibility of determining whether the United States of America will commit troops into any area of the world.

Mr. GOLDWATER. I do not see anything that says that.

Mr. WEICKER. Once that decision has been made, it is then the Commander in Chief who directs its implementation. But the initial power to declare war and to commit those troops lies in the hands of the Congress. What does it say as to the power of the executive branch

Mr. GOLDWATER. It says that the President is the Commander in Chief of the forces. And the interpretation has always been placed on that, that the Commander in Chief is the only person that can commit our troops to war in the national defense or the only person that can bring peace, on the other side of the coin.

As I say, this is a big argument. In fact, it was the big argument over the articles of the Confederation that passed on whether Congress should have the power to make or to declare war. As I recall, it was mostly because of the difficulties Washington had with his legislature in getting support. It was mostly out of that experience, as I understand it, that they changed it. Originally the language was "make war" and they changed it "declare war."

We have only had five declarations of war. There is nothing new about that. It has been going on, as I mentioned earlier, since before we had the Constitution. Since we have had the Constitution, we have had 192 cases of involvement, and only 5 declarations of war.

There is nothing to prevent us from declaring war.

I note an amendment from the Senator from Alaska that would attach to the pending legislation a declaration of war against Vietnam. There is no reason that we cannot do that. That power has never been taken from us.

In fact, in the Gulf of Tonkin resolution, we in effect declared war, or gave all of the powers of a declaration of war—at least, President Johnson thought so.

I do not disagree with the language here at all. I just do not feel that the language gives us the power to make war. To declare war, yes.

Mr. WEICKER. Let me ask the Senator from Arizona what he thinks the statement "declare war" means.

Mr. GOLDWATER. Just precisely that. I was going to discuss it later. I looked this up in the Samuel Johnson's Dictionary of English, which was in use when the Constitution was written. It says that the word "declare" is understood to mean "make known, or to proclaim." The term "make" was considered to make or bring into any state or condition."

When we declare war, I think it is exactly what is understood. We make known to the world that the Congress of the United States stands with the President, at the request of the President usually, in dedicating this Nation's purposes to war.

Mr. WEICKER. Mr. President, I cannot agree with the Senator. I think the Constitution is very clear. It is the decision of the Congress of the United States to commit this Nation to war. Once that commitment has been made, the conduct of the war rests in the hands of the President of the United States.

Mr. GOLDWATER. Let me ask the Senator a question.

Mr. WEICKER. If I might continue for a moment first.

In the remarks of the Senator from Arizona, some comment was made yesterday and today that those who support this legislation are somehow giving some sort of comfort or glee to our enemies and discomfort to our allies. I would like the Senator to clarify that for me.

Mr. GOLDWATER. It is very difficult for me to make that statement in a way that is not offensive. I merely state, as a student of this particular subject for a long time, that if I knew any action that my enemy was going to make, or would have to make, fighting my war would be made a lot easier. For example, if some nation chose to provoke us to the point that the President would go to war or move troops or forces, and if that enemy knew that it was fairly safe in doing this, because at the end of 30 days, during which 30 days the subject would be debated by the American Congress, the chances are good that he would have to discontinue the war and thereby the enemy would be victorious.

I know that is not the intention of the framers of this legislation and has nothing in the world to do with it. However, I am merely stating an old exiom of warfare, that one does not want to let his enemy know what he will do or will probably do. And we are giving the enemy a partial answer in this legislation.

Mr. WEICKER. Mr. President, of course there is no question in my mind that it is always difficult for a democracy to wage war, and it always will be. The most efficient war that can be waged is one that is declared, directed, and ended by one man. In my mind, that is the reason the Constitution was drafted in the manner in which it was. It was drafted by men who came from Europe where such wars were declared, directed, and ended by one man. They sought to end that situation and to give the people a voice in whether they should have such conduct continued.

That is my understanding. This reinforces my interpretation of the Constitution.

Yes, it is going to be more difficult from a security point of view for this Nation to engage in armed conflict. On the other hand, when it does not have the participation of citizens, then we arrive at the point which has been the case in our Nation during the past several years. We have a nation that disintegrates.

I would ask the Senator from Arizona, at exactly what point in time would the people of the United States share in the process of whether we should be in conflict?

Mr. GOLDWATER. I think we have had a good example of that throughout the last 4 or 5 years of the Vietnam war. The American people have become divided. I do not think a division was necessary. I do not think this legislation is going to help a division such as that which might occur in any war in the future unless it be in what we call a slogan war or a war of national interest. This war has certainly not been that.

Commenting briefly on the remarks of the Senator concerning the Founding Fathers, I would say that the fact that they were engaged in war is probably the last of the reasons why they ever did this. Our people came to these shores to get away from a bureaucracy, or let me say from a monolithic government. And the whole structure of the Constitution was to prevent the gathering of power in any one place, be it the executive branch, the judicial branch, or the legislative branch.

Mr. WEICKER. I agree with the Senator.

Mr. GOLDWATER. I want to point out here that I am very concerned about a transfer of power from this body to the executive branch. And I would stand shoulder to shoulder with anyone who would want to return the power that we have given to HEW, for example, to run our schools, or the many other domestic powers we have taken from the legislative branch and given to the administrative branch. That has destroyed the real strength of our Constitution, which has been the division of power.

Now we get back to this particular point. I know that the Senator believes the danger of war was not one of the major points of discussion; but who would make war was, and it was one of the major reasons the articles collapsed and it was one of the big stumbling blocks in the writing of the Constitution.

As I will point out later, there was probably as many papers among the Federalist Papers on declaring and making war and defending the safety of the Nation as any other subject, and as a result of debate they decided the Commander in Chief would be the only person who would commit troops in defense of the Nation.

I would hate to think, and I know the Senator agrees, that this body could by resolution control war. I think it would be a total disaster.

Mr. WEICKER. No, I do not agree with the Senator. I think that is the function of this body; that is, the determination of whether or not the United States of America is going to be committed to a course of action, which course of action is war.

Referring to the comments of the Senator, he is correct when he refers to the monolithic type society which was built up in Europe at the time of the founding of this Nation.

He knows as well as I know that every

single country there was under a form of monarchy with one man making the decisions. It was a key part of the thinking in this country at that time that such decisions as involved the destruction of human life would no longer be placed in the hands of one man but rather in the representatives of the people.

I point out to my colleague from Arizona the commission which was given to George Washington by the Continental Congress:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

So actually there was the intimation that Congress was going to direct the conduct of the war. I do not go that far. That is the job of the Commander in Chief, but the determination of whether we are going to go to war is the job of this Congress. I grant it is not a duty we have taken on with eagerness; we have let it slip into the hands of the executive branch and the State Department, and, in fact, participated very little in that essential determination. But certainly the times have taught us that this much the people of the country expect. They have confidence in their military forces once the decision is made the country should go to war, but the restlessness and division we have seen from the Vietnam war are due to the fact that the essential decision had no broad based support and was essentially made by one man.

Mr. GOLDWATER. I find myself in complete agreement with the desires of thew riters of this bill to be kept better informed on the progress of war. We have not given up one power that is contained in the powers of the President. In fact, if we want to make a confession, we have not used those powers.

We go through the process of raising and supporting armies every year. We did not have to do that. We could have said to the President at any time during the Vietham war, "We are not going to provide nearly so much money to support the Army or the Navy." That is one way we could have handled it. I doubt Congress would ever do that. I certainly would not advocate it, but, nevertheless, that is in the power.

If we are guilty of anything, and we are guilty of it, we have not paid enough attention to this subject. It is not new. A study of this subject will show that back to the days of Washington the declaration clause has been a subject of dispute. We have never been able to get the Supreme Court to rule on it definitely. I can think of only two Justices who ever declared on it squarely, both in favor of the situation as it now operates and both in law review articles, not court decisions. There has been no change in the last 10 or 20 years. This has been going in since we have been a republic. At one time President Lincoln decided he might be a better field commander than the one he had and he almost assumed command of the Armed Forces, which the Commander in Chief can do. He can put stars on his shoulders and sally forth.

To get back to the comment on George Washington, it is true he was charged with this commission, but Congress gave him such a bad time when he was trying to win the war that this experience turned the entire thinking of the Constitutional Convention about retaining in any other legislative body, whether it be called the Congress or whatever, the right to make war because Washington had this terrible lack of support by Congress.

I do not advocate returning to that. I would not even consider voting for it, once the President committed this country to war. We can declare war and pass on treaties and do many other things. We have not done them. I think any Senator can keep himself abreast of the conduct of the war by asking for a briefing from the Pentagon. I do that weekly and I find it beneficial.

So we are not basically in a lot of difference. We are in different positions when we assume, one, that this situation is something new, because it has been going on since we have had a Republic; and, two, that by passing legislation it will change things.

As I have asked the sponsors of this bill, let us say after 30 days Congress says this war is wrong; we are going to continue it. How are we going to stop the President from using force? We can say, "We will not give you additional money," and he would have only enough left to use for a year or so until that was exhausted.

Mr. WEICKER. I could not imagine the President disregarding being told by Congress that the war is wrong. If that directive comes from Congress I suggest the war would end in fast fashion.

Mr. GOLDWATER. I suggest Presidents have come pretty close to this. I remember Franklin Roosevelt saying at the time of the passage of the draft that no American boys would be sent from the Western Hemisphere and all of a sudden we found Iceland in the Western Hemisphere.

Mr. WEICKER. I do not deny the situation has been going on. I agree it has been going on and that is why we are debating the matter here today and trying to bring it to a halt.

The Senator from Arizona made an interesting statement, and I think I noted it correctly, when he said, "Once the President committed the country to war."

Does the Senator believe that is the right of the President?

Mr. GOLDWATER. I think it is the only way the country can be committed to war.

Let me make clear we can declare war, but there is only one man that can move troops, the Air Force, the Navy, or the Marines around the globe, around this country, or around any place, and that is the President. I do not think the framers of the bill have any quarrel with that.

Mr. WEICKER. I have a great deal of quarrel with it. There is no question in my mind that once war is declared the President must make the necessary commitments.

But do I understand correctly the Senator when he said the determination of the war is first that of the President of the United States?

Mr. GOLDWATER. I do when it is in the national defense and this is historically so. I have never seen this questioned seriously by any legislative act. I know it has been tried before. It has never been successful.

The only way we can move forces in this country or in this world is by order of the Commander in Chief, the President.

Now we may, as a body, declare war and visit the President and try to convince him that we really think we should go to war and he might concur with us.

On the other hand, the President's major responsibilities today are, as I think they have always been, one, the protection of our country; and in the protection of the country and its people and its freedoms, this one man has the decision of what forces to use and where to use them.

I would not like to see this changed so that the Congress would interpret the power of declaring war to be the power of making war. I think the Senator from Connecticut would be as violently opposed to that as he seems to be against the present situation.

Mr. WEICKER. Well, the Senator from Connecticut and the Senator from Arizona I think are in basic disagreement here, because I think the commitment of this country to war is one that should be made by the Congress of the United States, obviously working in conjunction with the President, but certainly not to the point that now exists, where, in fact, the commitment is made, we are asked for a rubberstamp decision, and then he gets on to his next duty, that of Commander in Chief. That is why we have this separation.

For example, I have voted against every single one of the withdrawal-by-a-certain date proposals, because that is not our function. It is that of the President as Commander in Chief. To me it would be breaching security when we start laying our cards on the table to show where we are going to move.

We are talking here about a situation that would avoid another one like Vietnam, and to avoid the situation referred to by the Senator from Arizona, created by President Roosevelt. The determination, the commitment, belongs to the people of the United States. It belongs to the people of the United States through their Congressmen and Senators, acting jointly with the President. This is not something that can be held to be the decision of the President of the United States alone. That is the reason why we are in trouble. I do not believe Vietnam is singular. It was just the last straw. We have slowly been going in the direction of getting further and further away from the will of the people. Believe me, one more decision such as Vietnam without the support of the people and without the support of Congress and perhaps we will have people leaving

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our Nation to set up a new nation with a new constitution. Such was the case at the time of the founding of our Constitution, where the job of commitment was determined to be the job of Congress, and the job of prosecuting war was the job of the President.

Mr. GOLDWATER. What disturbs me is that if we were to follow the Senator's reasoning in this field, we find we have no treaty to go to the aid of Israel should she be attacked. Now, let us assume that the President does not have the power of committing forces in the usual Middle East crisis, which is what the bill now provides, as I read it. Let us assume that the Soviets, together with the Arabs, attack Israel, and the Congress, in an indignant way, would have a declaration of war resolution introduced. The resolution would be debated, in all probability, because there are people in the Congress who feel that we should support Israel and there are others who feel we should not support Israel. If the Senator wants to see real division in the country, I cannot think of a better way it would be created than to have this condition of Congress, supposedly representing the people, being divided. Let us say that debate goes on for 2 or 3 weeks. The war could well be over and Israel could be wiped off the face of the globe.

I am afraid that the reasoning of the Senator, if applied to situations around this world where we feel we have an interest, even though we do not have treaties, or other specific legislative authority, would create all manner of havoc.

Mr. WEICKER. May I respond?

Mr. GOLDWATER. One moment. The Congress is constantly exercising a voice in this field. We ratify treaties. We have ratified 57 treaties since I have been here. I think that is the approximate number. 17 of them have been with NATO countries that I feel take us to war. We did that, I think, without a dissenting vote.

We also pass appropriations. We do not have to do that. We can reduce them to force a change in policy. We enact area resolutions, which we did in the case of the Gulf of Tonkin. We also have a very important hold on the operation of the military by being responsible for the initial size of the military. We took that power away from the executive branch just a few years ago.

I outlined this one hypothetical situation because this could happen, and happen in a disastrous way, if we were to let 500 people in Congress decide whether we were going to defend Israel.

Mr. WEICKER. I would like to respond to the Senator from Arizona. First, suppose we do not have a treaty with Israel. Unfortunately, the Senator directed that question to the wrong Senator, because I have advocated that we ought to have some specific agreement, because we are going to drift into a situation like Vietnam——

Mr. GOLDWATER. I agree with the Senator.

Mr. WEICKER. Now, in the name of efficiency, can we afford to have debate on the floor in order to determine whether we should participate? I assure the Senator, in the name of efficiency, is not a sufficient reason to turn over a concept embedded in our Constitution to one man to engage in hostilities. We had better devise better procedures than giving such power to the President. We should not say that, in the name of efficiency, we had better leave it in the decision of one man rather than that of the representatives of the people.

So my response to the Senator from Arizona is "Yes." If we have a treaty, do I think we should sit here and debate the commitment of this Nation anywhere in the world? My answer is "Yes." I am not willing to leave that in the hands of one man. I do not think the writers of the Constitution were, either.

Mr. GOLDWATER. To get back to it, of course this is the basic disagreeemnt between those who, as the Senator from Connecticut, feel that the Congress must have the power of making war and those of us who feel the power of making war should stay with the President. If I understand the debate correctly, the framers of the bill do not take away any powers of the President; they merely say at the end of 30 days Congress should be called upon. I think the Senator from Virginia would agree with that.

Mr. SPONG. Mr. President, I will ask the Senator from Connecticut if he will yield to me.

Mr. WEICKER. I yield.

Mr. SPONG. I would like to amend what the Senator from Arizona has said. The proposed legislation does not take away any constitutional powers that the President already has. I want to make that very clear. We have been talking in terms of the President's powers as granted by the Constitution. The bill does not remove any Constitutional powers given to him.

I do not want to argue with the Senator from Arizona, but he has taken the alternative words "declare" and "make" and concluded that because the word "declare" was substituted for "make" during the Constitutional Convention that the President as Commander in Chief acquired all the power suggested by "make."

To understand the meaning of the change, all we have to do is refer to the Founding Fathers' debate. It is very clear in Madison's notes what took place. Mr. Elbridge Gerry of Massachusetts moved to insert "declare" in the place of "make," war . . . "leaving to the executive the power to repel sudden attacks." I repeat—". . . leaving to the executive the power to repel sudden attacks." That is a direct quote from Madison's notes. The change of words did not mean that the making of offensive wars was thus conferred upon the President of the United States. And, that is a major point of this whole legislation.

I did want to remind the Senator from Arizona that we are not taking away any powers granted to the President as Commander in Chief by the Constitution. We are quarreling in retrospect with powers which Presidents, going back to President Truman——

Mr. GOLDWATER. Oh, past that.

Mr. SPONG. Well, in terms of actions, I would go back to President Roosevelt and his unilateral exchange of 50 destroyers for bases with Great Britain, but I think for the purposes of this argument the first President who claimed inherent power to act in these matters was President Truman.

What the sponsors of this legislation are saying is that the Constitution calls for the sharing of the "power to make." Constitutionally, we are not taking anything away from the President.

And, if I may nit-pick one more time here, the Senator from Arizona has on two or three occasions today said that only two Supreme Court Justices have spoken out on this issue. Let me begin by saying that the Senator from Arizona is quite right in implying that the Supreme Court has had very little to say on this subject, because they have generally not addressed themselves to it; they have regarded it, on most occasions, as a political question. But the fact of the matter is that in the Eliza appeal alone, three Justices addressed themselves to the question. I quoted, in remarks made earlier, from Justice Story's decision in Martin against Mott and referred to several other cases. Justices have implied that the President does not have reserved to himself all of the war powers.

As I noted before, however, the courts have not addressed themselves to this subject generally; they have shed very little light on it in the past 25 years. But there have been, particularly in the earlier years of the Republic, more than two justices who addressed themselves to the problem.

Mr. GOLDWATER. I will admit that the Senator is correct. I thought I said there were at least two that I could remember.

I would also agree that the Court has consistently refused to review this question during an ongoing foreign hostility, for the reason that they think it is political and does not come under their jurisdiction.

I said earlier that if a bill like this is passed, the only benefit I could see is to have the Court determine whether or not it is constitutional, and then we could go to work and correct it.

Mr. SPONG. Perhaps I misunderstood the Senator. I thought he said only two. But the main point that I want to interpose—and I thank the Senator from Connecticut for yielding to me—is that we are not taking away from the President the powers conferred upon him by the Constitution. We may not be condoning actions of past Presidents—actions which that some of us here might agree or disagree with—but constitutionally, we take nothing away from the President as Commander in Chief.

Mr. WEICKER. Mr. President, I concur with the Senator from Virginia, but the question which I asked the Senator from Arizona then comes back into play: At what point in time, according to his reasoning, should Congress participate in this decision? That is exactly what this resolution does; it sets a point in time when we share in the determination of commitments to war.

That is the question, I repeat: At what point in time should Congress share in this decisionmaking?

Mr. GOLDWATER. I could have answered that before. We can go into it at any time, under the many powers that we have under the Constitution.

For example, we did not have to pass the Gulf of Tonkin resolution or the SEATO treaty. We did not have to continue to support the war in Vietnam with appropriations. But we did. In fact, the majority of the people who are the authors of this bill have repeatedly supported the President in Vietnam. I think this is the way that Congress can say yes or no to the President.

The thing that troubles me about a time certainly is, first, it is going to be the wrong indication to our allies, and second, it would give an enemy a great advantage over us, depending upon the type of war we became involved in. If we got into another Pearl Harbor type of war, I do not think there would be any question of it. If we got into a Vietnam type of war, or a Dominican Republic type of thing, or any of the dozens and dozens of small conflicts we have had—I put a list of them in the RECORD yesterday—then I could expect Congress to be very divided.

I do not think, for example, that Congress would have been divided at the outset of President Kennedy's sending troops into South Vietnam. I do not think it would have been divided even at the time that President Johnson increased the troop strength over there. But the country did become divided, and as a result, reflecting the country's feelings, Congress became divided.

I do not believe the 30-day limitation provision is correct, and to get back—I do not want to delay this—I think it is perfectly obvious that the big argument between those of us who believe that the President has the only power to go to war and those who do not is in the interpretation of the language "to declare war"; and I think any reading of the Federalist Papers or any reading of the rather scant debates on this subject will indicate that there was great argument about these words "declare" or "make."

They are entirely different. The American people do not understand that, and I do not think the majority of the Members of Congress do. To declare war, yes, we have that power. To go to war, we do not have that power. I think this is a great difference, and I think there is no clearer reason of why this thing should not go through the legislative branch, but should first be studied at great length by academicians, by professionals, and by members of the legislature, in an effort to really come up with an answer that, if we feel an answer is needed, will provide a solution for today; because, as the Senator from Connecticut has suggested, I think that this debate has been going on for nearly 200 years, and it would be interesting to see how much difference there is between the debate today and the debate nearly 200 years ago.

I appreciate the Senator's yielding to me. I thank him very much for it. Later on today, I shall present a short discussion of the constitutional aspects of this matter from my own position.

Mr. WEICKER. Mr. President, in response to the statement of the Senator from Arizona, when he says that at any time the Congress of the United States can interject itself, the Senator knows as well as I do the difficulty of such action. Once the initial decision has been made, from there on it becomes a bootstrap operation; one act justifies another.

We make the commitment to war. Then, having made the commitment to war, we have to make sure those we have sent over there are adequately protected; so we send more. Then we make other decisions, one always depending upon the other. It is very difficult to get into the act.

That is the very reason why the Senator from Connecticut has refused at all times to do anything other than support the President of the United States in his conduct of the withdrawal from Vietnam, because this is no time to interject ourselves into the conduct of the war. There is no question about that.

The time for the minds of Senators to be utilized to maximum effectivness on behalf of their constituencies is not when we are in the middle of a war, but at the time the decision is being made as to whether we are going to go to war at all.

For that reason, it is clear that we cannot interject ourselves at any time. That has been proved here on the floor of the Senate time and time again, ever since the outset of the Vietnam war.

I ask the Senator from Arizona one question: Does the Senator from Arizona have any difficulty with this legislation because he feels that the timing of the legislation might be embarrassing in international circles at this moment in our history?

Mr. GOLDWATER. I think I would have to say yes, but that would not be my major objection.

Mr. WEICKER. Does the Senator put this on the same level as the resolutions for withdrawal at a time certain that have come before this body?

Mr. GOLDWATER. Yes, I would have to say that I do, because if we are going to debate it publicly, or even in executive sessions—which do not exist any more—it gives our enemy, whoever he might be, an excellent opportunity to understand why we want to go to war or why we do not want to go to war. And, as I have said—and I do not infer anything by this—if I were an enemy commander, I cannot think of anything better that I would want than to have the Congress of the United States become embroiled in whether or not the United States is going to react to any overt action that a country, whatever country it might be, might take. That is a greater fear in my heart than what our allies or potential enemies might feel or how they might be affected by this. It gets down to the disagreement of "declaration" and "make."

For example, the Senator and I might disagree as to the necessity of going to war. I happen to feel that we should have a treaty with Israel. I think the American people would back our supporting those people. But if we had to stand here and debate it for 4, 5, or 6 days, there would not be any Israel left.

The same would apply to any small country that might get into trouble, and if we went to help it, the people might not understand it and might object to it.

I would much rather rely upon the judgment of one man, but I will add this: I think the President makes a big mistake when he forgets to discuss these things with the leadership of Congress.

I recall that during my campaign I repeatedly said that any decisions such as this would be made in full discussion with the leaders of Congress.

I can recall another incident—the Cuban missile crisis. I think most Members of this body knew about the massing of Russian missiles in Cuba for a month before that action was taken. I cannot say what might have happened had the President conferred with our leadership and said, "Look, we have to erase this menace, but I have to have your approval." If we went through a long debate, even if the debate lasted only one day, we would undoubtedly show a division as to what we should do or when we should do it and how we should do it.

So I say that I think we are much safer in having this power of defensive war remain with the President, as it always has been; but I would advocate, as I have discussed with presidents, that they should take the leadership of Congress into their considerations—not that they necessarily would be affected by doing so. But the President confers with the Joint Chiefs of Staff, with the Security Council, with the Department of State. I would see only sense in enlarging that to include Members of Congress—not all Members of Congress. But I think to allow Congress the opportunity to debate it would work great havoc to our country.

Mr. WEICKER. In response to those matters, of course, we go back to the Israel situation. What I am saying—perhaps we are not so far apart in this—is that the debate should take place right now, while there is time to decide.

Mr. GOLDWATER. I agree with the Senator.

Mr. WEICKER. Then there will not be any problem in case an emergency arises. This is the purpose of taking our treaties out into the open for close examination by this body, so that we can hear from our constituencies and so we know exactly what this Nation is committed to, rather than have Presidents run around and declare emergencies and buffalo everybody into committing this Nation to war.

Mr. GOLDWATER. I tell the Senator that I have suggested that so many times that I cannot remember how many. I have asked the Chairmen of the Committee on Foreign Relations to bring into light all the treaties we have and to what we are really committed. I do not think the average American has any idea of the commitments we have made.

As I understand this bill, even though we have a treaty with a NATO country that, in my opinion, calls upon us to go to their defense—some will argue that—and the President executes our obligations to a treaty, within 30 days Congress has to say, "You are right" or, "You are wrong."

I would agree with the Senator that if there were some way in which we could

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review these treaties—remember, it takes two to dance and it takes two to change a treaty, and once we begin reviewing treaties, we are going to lose friends all over the world—but at least review them to the extent that the American people know that if X country is invaded, our chances of going to war are excellent; that if Y country in invaded, our chances of going to war are practically nonexistent.

I think this is a duty that the Committee on Foreign Relations should discuss in the open, at great legnth. What are the areas of the world about which we are really serious?

Are we going to go to war again in some small part of the world because a treaty indicates that we could go to war by stretching the imagination as to our responsibilities; or would we not be better off if we knew, for example, in the case of Israel—which I think all Americans would back—that, yes, we execute a treaty with Israel, and it says, "We will come to your defense the minute you ask for it." Then the President goes to the defense of Israel, and in 30 days Congress has to say he is right or wrong. I do not think that in his case they would say he is wrong; but there could be other cases in which this would be true, and this lack of firm decision would not be beneficial to our cause.

Mr. WEICKER. I gather from the Senator's comments that he is reinforcing the point I am trying to make, which is that he recognizes full well the responsibilities upon this body to share in such commitments as could lead this country into war.

Mr. GOLDWATER. We have, in one sense, under our powers of advice and consent, that direct charge.

I would say, frankly, that we have ratified a great many treaties here in a rather unintelligent way. I think we have ratified treaties, in the 18 years or so that I have been in the Senate, on which 20/20 hindsight probably would cause me to change my vote. I do not think that, as a body, we pay as much attention to the seriousness of treaties or their implications as we should. Once we sign the treaty, this is a solemn obligation on the part of the United States to perform the treaty; and if we do not, the rest of our treaties become valueless, as does the so-called friendship we have created through these treaties which we feel will help us and the world if we are called upon to go to war.

Mr. WEICKER. If we are supposed to share in commitments that could possibly lead us into war, why should not this body share in the actual commitment to war?

Mr. GOLDWATER. I think we are talking about two different subjects.

Mr. WEICKER. We end up at the same place.

Mr. GOLDWATER. The Senator probably is right as to that. But if the decision to go to war is left to 500 people, I can see some wonderful opportunities for politicking that could go on forever.

Mr. WEICKER. By that reasoning, then, the fastest decision could be made by one person.

Mr. GOLDWATER. That is a pretty difficult point to argue, because one could respond that a dictatorship, therefore, is the best and most efficient government, as Winston Churchill observed in the time of World War II. That was his thought. We do not agree with that.

My feeling is this, and I think that any student of war has to come up with this conclusion: Regardless of who decides to gc to war, whether it be Congress or the President, the quicker we get that war over, the better off we are going to be. If it can be ended in one day by the massive use of our weapons, it should be fought that way. It never should be fought as we fought in Vietnam, by saying that we have a limited war and cannot attack certain targets because this might be offensive to potential enemies. That is wrong. Whether the President makes his mind up to go to war, or we do, the rules must apply. I would rather have one man making that decision which requires speed and decisiveness than a Congress that can dilly-dally.

I think, for example, of Korea when Harry Truman took us to war there. I think he was right. Had he asked Congress to consider that emergency situation, we could have gone on forever because not many people in this country even knew where Korea was, or even how to spell it. There are many cases like that where decisions have to be made and they have to be made quickly.

I can think, for example, under this bill, that if we are engaged in a war, let us say, with North Korea and we have approved the war, and all of a sudden Red China shows up, so we have a whole new war, and Congress decides that taking on Red China would not be wise, so they say we will confine ourselves to Korea, with Red Chinese help to the North Koreans, we could possibly be defeated in Korea.

Thus, the bill, to me, is dangerous, in that it tampers with a system which has historically worked in this country. We might not agree with it and we might not like some of the things done.

I have always thought that the war with Mexico was a mistake, even though I live in a part of the country that came about partially as a result of that war. Many people question the wisdom of the war with Spain. We can always argue about these things. But I think the necessary ingredient in a successful war is a quick decision, whether to do so or not to do so, and then to make the decision to get it over with as fast as we can. In that process, I think we can envision amendments being offered to a resolution on war in which they may say, "Fine, we are going to go to protect X country but you cannot use the air force, you cannot use the navy. You can only use 50,000 troops"—and so forth.

Those are some of the things I see as being wrong with this approach.

Mr. WEICKER. Well, to the Senator from Arizona I would say this, that ours is a small country, small in population compared with many other areas of the world. That is true today, and has been the case throughout our history, where we have been confronted with enemies of far greater size than ourselves and with far greater power, yet we have prevailed with our strength way beyond our numbers because the people of this country believed in what they were doing, and they fought beyond their actual members or armaments or money. Why? Because they made the decision to offer their lives on behalf of their Nation.

The difficulty now is that when we take away participation in that decision and, for the sake of efficiency, leave it to one man, we again become only so big as our actual numbers or our actual stockpile.

When we arrive at that day, we will no longer be the leader of the world.

So there is a basic disagreement here. I appreciate our colloquy. I know the commitment that the Senator from Arizona has, to the Constitution and maintaining the strength of the Nation and the voice of each person in it.

But, Mr. President, I stand here this afternoon very clearly setting forth what my beliefs are, insofar as our future course of action is concerned, and not insofar as just Vietnam is concerned.

We are all of one mind when we say that 435 members of the House and 100 Senators can't run a war.

But, do I think the initial decision to go to war should be made by those 535 members of Congress? Do I believe that Congress should debate the matter? Do I believe that we should amend?

Yes, I do.

Because, when those representatives chosen by the people speak and when they debate and when they argue, then in fact, all 200-million-odd people in the United States are also speaking and deciding.

So far as the resolution of the Senators from New York and Virginia are concerned, believe me, it in nowise inhibits the security of this Nation or the ability of the President to respond to an emergency situation. It is all there. He is given such powers under this resolution. But it does set a point in time very close to such a decision when Congress has to examine and pass upon a President's commitment to destruction. If not done at that point, it becomes a bootstrap operation. Because we have A, send B. Because we have A and B over there, we have to send C and D, and on and on it goes.

I can only repeat, speaking on behalf of myself, and, I hope, of my constituents, that I want as many camel noses in the tent as possible when we make such a commitment of human lives, be it here or anywhere else in the world. Once that commitment has been made, then the elements of security and efficiency enter the picture; that is the point, the commander in chief comes into play under the Constitution.

Mr. GOLDWATER. Well, that is our basic disagreement. I would like to clarify here that the President is an elected official. He is not a dictator, although I have to say, as I did in some of my comments earlier, that the powers we have turned over to him every time we voted for a Federal aid project of any nature, from my studies of the powers of the President, leads me to conclude that with the wrong person in the White House we would have the makings of a dictator. The power is there. Let me add also, that the President is always open to criticism from a free press, which a dictator never is.

Also, I remind the Senator, who served so well in the other body, that every 2 years the House stands for reelection. That is one of the great accomplishments of the Constitution, in that every 2 years the people of the country can say to the President, "We like what you are doing," or "We do not like what you are doing," by whether they return a man to Congress or send him back home.

I wish there was an easy way to settle this matter. There is a grave question in my mind as to what this would do to any joint forces under the United Nations if we were asked to participate, as other countries have participated in helping us. It would require debate by Congress. If we tried to mount another rescue mission into the heart of Africa to relieve a situation affecting American lives, that also would require approval by Congress. There are many of these actions I can see the President can take today in the defense of Americans, wherever they may be, or in defense of this country and its freedom, which would be jeopardized by this action.

I am fully aware of the desire to bring about a closer rapport between the executive and the legislative branches. I would lend every moment of my life to bringing that about. I just do not agree that this is the way to do it.

I have said that this is of such vast import, the American people should be allowed to vote on it as a constitutional amendment. I think that I would vote against such an amendment, but I also think that the American people should certainly have an opportunity to say whether they believe the interpretation of the Constitution is as we see it, or as you see it. Then we will all live with their decision. I do not think that a legislative approach will solve anything.

I can remember, before we ever got into World War II, when we supplied destroyers to Great Britain and we supplied troops overseas with materiel. We did the same thing in World War I. In fact, the last debate on the authorization bill before the Senate in 1917 was when President Wilson wanted to arm the Merchant Marine and the Senate said no. So we armed them anyway. That is pretty much, I think, what will happen in any case, should this bill pass.

I do want to thank the Senator for allowing me to discuss this matter with him. I am sure that the discussion has added something to an understanding of our beliefs, and we will have to see what happens.

Mr. WEICKER. Mr. President, I commend the Senator from Arizona for standing here and coming to grips with the essentials of the problem. As a result there will be a fuller understanding of the different points of view.

I commend the Senator for an excellent presentation of his speech, even though we do not agree. I only hope that I can rise to his persuasive ability in presenting my case.

The PRESIDING OFFICER (Mr. GRIFFIN). What is the will of the Senate?

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

(The remarks that Mr. BELLMON made at this point on the introduction of S. 3456 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

CALL OF THE ROLL

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 133 Leg.]

Allen	Goldwater	Mondale
Bellmon	Griffin	Ribicoff
Boggs	Javits	Spong
Buckley	Jordan, Idaho	Talmadge
Cotton	Mansfield	Welcker
Ellender	McGee	Young
Fannin	Miller	

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion is agreed to, and the Sergeant at Arms is directed to execute the order of the Senate.

After some delay the following Senators entered the Chamber and answered to their names:

Aiken	Dole	Montoya
Allott	Eagleton	Nelson
Beall	Eastland	Packwood
Bennett	Ervin	Pearson
Bentsen	Fulbright	Pell
Bible	Gurney	Percy
Brooke	Hansen	Proxmire
Burdick	Hart	Schweiker
Byrd, Harry F., Jr.	Hartke	Scott
Byrd, Robert C.	Hatfield	Smith
Case	Hruska	Stennis
Chiles	Hughes	Stevens
Church	Inouye	Stevenson
Cook	Jackson	Symington
Cooper	Jordan, N.C.	Thurmond
Cranston	Kennedy	Tower
Curtis	Long	Tunney
	Mathias	Williams

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), and the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK) are absent to attend the funeral of a friend.

The Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG) and the Senators from Ohio (Mr. SAXBE and Mr. TAFT), are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. MANSFIELD. Mr. President, just as a point of information, with such a good attendance in being at this time, does any Senators have an amendment or a motion or speech to make on the pending business?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. JAVITS. As far as the sponsors of the bill are concerned, I think I can say authoritatively that we have made our case, and as far as we know those who wish to speak have spoken. We have profited from the debate, in the sense that we have perfected the bill in matters that we believed the bill spelled out, but others did not; so, under the guidance of Senators STENNIS, SPONG, and EAGLETON, we amended the bill to say it in words instead of leaving it to discussion.

Now we find the following situation: We were told by a letter from the Senator from North Carolina (Mr. ERVIN) and the Senator from Nebraska (Mr. HRUSKA) that there would be a motion to send this bill to the Committee on the Judiciary. We are ready, willing, and waiting for such a motion. It has not occurred. There are four Senators who have introduced amendments: the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Wyoming (Mr. MCGEE), and the Senator from Maryland (Mr. BEALL). I gather that Senators GRAVEL and FULBRIGHT feel they cannot, or they choose not to, whatever may be the situation, call up their amendments until next week. I gather that Senator MCGEE has substantially the same view Senator BEALL has already announced that he cannot bring up his amendment until after the motion to refer is voted on.

Mr. President, I would say to the majority leader that I can understand the

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reluctance of Senators to bring up substantive amendments until the Senate decides whether it wishes to be seized of this issue here and decide it here. In all fairness, the Senate should not be debating the language of a bill which it may decide to refer to another committee. So I think for all of us the first proper motion is to refer the measure to another committee, and once the Senate has expressed its will on that, we will then, I believe, move forward with action on these amendments, and when that it cleared up, if Senators still wish to debate, we will know what we are up against.

So I think the question very clearly is, when will this motion to refer be made? We have no indication of that whatever.

I wish to state that on Tuesday it was suggested to me that we consent to a vote today at 3:30. I said I had to consult my colleagues who are joined with me in the handling of the bill. I did consult them, and I advised those who have asked me that we were ready to vote today at 3:30, provided no impediment was thrown in our path in connection with the perfecting amendments which we put in yesterday.

We have done that, and we are through. We are entirely agreeable to any reasonable time to vote on the motion to refer. We have no desire to engage in maneuvers to marshal or not to marshal our forces. We are completely ready at any time from now on, and we feel, in fairness to all Members of the Senate, that we should have some idea as to when that matter will be called up and voted on. I do not think anyone around here would want to be moved by surprise.

That, I think, is our situation. The Senator from Vermont (Mr. AIKEN) says, "Make the motion." I suppose I could do it myself. But again, we are not given to tricks around here, or to doing things which are insincere. I do not believe this matter should be referred, and it would be insincere for me to make it, although I could make it, and thus pose the issue and abort the mission. But that is not the way we work here.

On the other hand, it is true we are entitled to some consideration, too, if we are going to play the game fairly, the way we all wish it.

With that, I lay the situation before the majority leader.

Mr. MANSFIELD. Mr. President, may I say that the Senate is entitled to some consideration, and should not be guided or judged by the whims of individual Senators who are either for or against the pending legislation. Too often in this body, the whims of individual Senators take precedence over the welfare, the well-being, and the continuity of the Senate.

There is nothing much that can be done about that, unfortunately, because each Senator, if he so desires, is, to put it bluntly, a little king in his own right, and sometimes Senators seem to exercise a prerogative of that sort. I have no one in mind, may I say to my distinguished friend from Arizona, who has been most considerate and tolerant, nor do I have anyone in mind at this moment outside the Chamber.

What I have in mind is that we have been wasting a lot of time through quorum calls. We have also had a good deal of spirited and worthwhile debate, and I would hope that in the interests of the Senate, primarily, we would come to some sort of an arrangement whereby individuals who lay down amendments and say they are going to call them up the next day will be here the next day to call them up.

The important thing is the Senate as an institution, not the whims, the wills, or the wishes of individual Senators, because, unfortunately, that is what on too many occasions tends to hinder the legitimate consideration of debate.

I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I just wanted to explain the position in which those of us who are opposed to this bill find ourselves.

Only two amendments have been offered, one by the Senator from Wyoming and one by the Senator from Maryland, that would receive favorable attention from the opponents of the bill.

Senator HRUSKA, who has been absent this week, I believe, on Senate business, has indicated that he and Senator ERVIN will move to refer this bill to the Committee on the Judiciary. It is true that anyone can make that motion. I feel that it would be very inappropriate for me to do it, because I am not a member of the Judiciary Committee, although I would vote to refer the bill to that committee.

Senator HRUSKA and Senator ERVIN, who thought they would be here by now, are tied up in an effort to accomplish just what the majority leader stated the other day he felt should be accomplished—namely, to vote on the nomination of Richard Kleindienst to be Attorney General. They are at a meeting; they have been there all day. They both said they thought they would be here by the middle of the afternoon. My latest check indicates that they are still in session.

I can assure the majority leader that I, who stand in opposition to this measure, have no desire to continue debate on it. We have no desire to filibuster it. I have one or two short speeches to deliver on the subject which I want to do after the motion has been made to refer the bill to the Judiciary Committee. I know of no organized attempt on our side to slow down this matter.

As to the amendments that are at the desk, I understand that Senator FULBRIGHT has reconsidered the one on which I told the majority leader I would oppose controlled time. If the Senator wants to call up his other amendment, on which I understand there is disagreement between the authors of the bill and the Senator, he can do so at any time.

The majority leader, in his wisdom, has conducted this body in as good a way as he can, with most of the membership out seeking another job, and I have sympathy for him. But might it not be possible to take up some other business we have while we are waiting for something to happen on this measure? I would hope to get a vote this afternoon, if we could.

Mr. MANSFIELD. Do I correctly understand the distinguished Senator from Arizona to say that there is a possibility that the Senators from North Carolina and Nebraska may at least start this afternoon on the motion to refer the pending business to the Judiciary Committee?

Mr. GOLDWATER. Senator HRUSKA told me at lunch today that he would be on the floor as soon as the Committee on the Judiciary ended its hearings today. As the Senator from Montana knows, they are trying to decide whether or not to continue the hearings in the ITT case and enlarge it into other areas.

If we are still in session—I have not checked lately, and I do not know whether anyone else in the Chamber has—there is every possibility that these two Senators will be here and will make the motion.

I would imagine that if this came late today, we could expect a vote tomorrow. I have not heard anyone express a desire to object to a specified time or hours of voting. I certainly would not oppose it.

Mr. MANSFIELD. The Senator is not known and never has been known for his dilatory tactics. He always has been most cooperative and understanding of the problems which confront the leadership. I am delighted by what he has just said. I am hopeful that when the Committee on the Judiciary completes its meeting this afternoon, the two Senators mentioned will come to the Chamber and at least make their motion to refer the measure to the Judiciary Committee; and at that time we can get on with the work at hand.

There are other measures, but unfortunately there are inhibitions inherent in almost every one of them. Some Senators do not want them brought up until a day certain, which I think is a most unfortunate occurrence in this Chamber. Others have various reasons why the measures should not be considered now. But it would be nice if the Senate could come to a conclusion on this most important measure, which I think has been very thoroughly debated, and in good spirit.

Mr. GOLDWATER. If the Senator will yield, I have asked the Secretary on our side to inquire of the Judiciary Committee as to when we might expect adjournment; and as soon as he brings that information to me, I will impart it to the leader.

Mr. MANSFIELD. I would appreciate the courtesy.

Mr. GRIFFIN. If the Senator will yield for an observation, I think it would be unfortunate if this colloquy left the impression that there was some blame being directed at the Senator from North Carolina or the Senator from Nebraska because they happen to be tied up in a meeting of the Committee on the Judiciary.

Mr. MANSFIELD. Before the Senator goes further, nothing was further from the thoughts of the Senator from Montana, who is well aware of the fact that all day both Senators have been in committee, understandably so, dealing with a difficult subject, and hoping to be able to help in arriving at a reasonable conclusion of this long, drawn out set of hearings.

Mr. GRIFFIN. The observation I want to add is that the committee is meeting by reason of the fact that unanimous consent has been given for the committee to sit while the Senate is in session. We do this quite routinely. Yet, I think we ought to realize that Senators cannot be both in committee and on the floor at the same time, and they are going to be absent in one place or the other. All of us are faced with this dilemma day after day, because we often come in at 10 o'clock in the morning and committees are meeting; yet, we are expected to be on the floor. I think this is a very good example of the situation.

Mr. MANSFIELD. The Senator from Arkansas is in a very important committee meeting. I do not know where the other Senators are. The Senator from Wyoming was here this afternoon, but I understand that he does not want to call up his amendment seeking to create a commission until the question of referral has been disposed of; and I would assume that the distinguished Senator from Maryland (Mr. BEALL) is in somewhat the same position.

Mr. BEALL. If the Senator will yield, I am in that position. My amendment would create a commission, and I thought it was a logical order of events that we first dispose of the matter of whether the referral should be to the Committee on the Judiciary. I was waiting until that matter was disposed of before calling up my amendment.

One of the reasons why I proposed this amendment is that, for myself, I am not opposed to the idea of having a war powers resolution. I just thought that adequate discussion had not taken place as yet, and this discussion has been taking place all this week. I am not satisfied yet as to all the reservations I have, but I think it still is in order to consider the Hruska-Ervin point before we get down to amendments such as mine.

Mr. MANSFIELD. I understand, also, that the Senator from Alaska has two amendments and that just lately the Senator from New York (Mr. BUCKLEY) has offered another amendment. Surely, some of these amendments could be taken up now, in the interim, even though seeking to create a commission. I see no reason why we should wait to see what happens to the pending business before we call up an amendment of that nature which would be in order at any time. I certainly do not see any need for two amendments seeking to accomplish the same objective. Thus, I would hope that the Senators from Maryland and Wyoming would consider the possibility of offering their amendments before the referral motion is made.

Mr. GOLDWATER. Mr. President, I have been informed, in conversation with the distinguished Senator from Nebraska (Mr. HRUSKA), that there is no time certain when he feels they might get out of the committee meeting which is still in session, but that he will lay down his motion this afternoon if the Senate is still in session. He does not want to vote on it tomorrow. He wants to talk on it then. That is the extent of the information that I have been able to get from the Judiciary Committee, so I cannot go much past that.

Mr. MANSFIELD. The Senator from Arizona has been most generous, most considerate, and most thoughtful in giving the Senate that much information, which we did not have before.

It is true that the joint leadership has been most considerate to allow committees to meet during sessions of the Senate. There is only one exception to that which I can recall in this session, and that applied to only one committee; but if it means that in order to get enough Senators into the Chamber and enough business underway it will be necessary to foreclose meetings in the afternoons, then that will be given every consideration, because the main job of Senators while the Senate is in session is not in committees but, rather, on the floor of the Senate.

I would say, however, that the meeting in the Judiciary Committee is of a special nature, and I would exclude that meeting because of its importance at the moment from the general category of objections which may be raised if the Senate does not take it upon itself to act as it should in the consideration of legislation.

Mr. McGEE. Mr. President, the sponsors of S. 2956 have gone to great pains to reassure the Senate that the passage of the war powers bill would not affect the President's ability to respond quickly, effectively, and decisively to a future crisis in the Middle East, in the heart of Europe or elsewhere.

In his initial presentation last week discussing this bill the distinguished senior Senator from New York explained—March 29, S. 5155-56—that—

> The intent of the final clause of subsection (4) is to uphold the validity of the three area resolutions currently on the statute books. These are: the Formosa Resolution—House Joint Resolution 159 of January 29, 1955; the Middle East Resolution—House Joint Resolution 117 of March 9, 1957, as amended; and the Cuban Resolution—Senate Joint Resolution 320 of October 3, 1962.

The sponsors say that these resolutions are preserved and that their preservation accords to the President the necessary specific authority to commit Armed Forces to hostilities in those areas.

A brief examination of the resolutions involved, and their history, raise the question as to whether they are of any utility in this area.

The War Powers Act clearly provides, in section 3, subsection (4), the last phrase, that—

> No provision of law in force at the time of the enactment of this act shall be so construed (as specific statutory authorization for, or a specific exemption permitting, the introduction of the armed forces of the United States in hostilities) unless such provision specifically authorizes the introduction of such armed forces in hostilities or any such situation.

The question, therefore, is whether any of the existing area resolutions in fact grants the specific authorization required by the war powers bill for the President to introduce the Armed Forces into future hostilities in those areas.

It must first be remembered that all of these resolutions are more than 10 years old and were addressed to particular circumstances which no longer exist in the same framework.

The Middle East resolution, for example, was introduced March 9, 1957, though amended September 4, 1961. On March 12, 1970, the administration, in a letter from Acting Assistant Secretary of State for Congressional Relations, Mr. H. G. Torbert, Jr., to the chairman of the Senate Foreign Relations Committee, referred to section 2 of the resolution, which provides that—

> The United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international Communism.

And stated that—

> The Administration would not construe it as a source of authority for any decision which might involve the United States in a conflict in that area.

In any event, as a reading of the resolution indicates, even when it was effective, its authorization was limited to cases involving "armed aggression from any country controlled by international communism," a limitation obviously excluding many potential situations.

Insofar as the Cuban resolution is concerned, which was approved October 3, 1962, the only apparent authorization contained therein which could be of relevance here is the operative phrase that the United States is determined:

> To prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or threat of force, its aggressive or subversive activities to any part of this hemisphere.

Even this limited authorization of nearly a decade ago did not and does not today have the effect that the distinguished senior Senator from New York has indicated it possesses. As stated by the administration in the letter of Acting Assistant Secretary Torbert that I alluded to previously:

> The Cuban Resolution of October 3, 1962, was above all a statement of U.S. policy toward Cuba. It was not intended to add to the President's powers or to authorize any particular action he might take in the future. Consequently, we do not consider that the Cuban Resolution in any way affects the powers of the executive and legislative branches. It has never been relied upon by the executive as the legal basis for any action. President Kennedy's 1962 order for the interdiction of the delivery of offensive missiles to Cuba cited as atuhority only the Constitution and statutes of the United States, while adding that the President was acting "in accordance" with the Cuban Resolution as well as the resolutions of the Organization of American States on the subject.

The Formosa resolution, approved more than 17 years ago, provided, insofar as it is relevant here:

> That the President of the United States be and he is hereby authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the

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taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

I think it reasonable that one might have difficulty in relying on a 17-year-old resolution, addressed to a set of circumstances then existing but no longer pertinent, to act in an undefined future crisis. Therefore, the administration has stated, and I think quite reasonably, again in the letter of Acting Assistant Secretary Torbert that—

In the event of a new crisis in the Formosa Strait, this Administration would not view the continued existence of the Formosa Resolution as a source of Congressional authority.

Finally, while the distinguished Senator has not specifically mentioned Berlin, I think it is worthy of brief discussion since recurring crises involving Berlin have presented one of the most serious security problems in Western Europe. The Berlin resolution, which likewise is nearly 10 years old, is a concurrent resolution expressing only the sense of Congress and therefore would in any event not constitute the "specific statutory authorization" required by the bill now before the Senate. Thus, one of the historical crisis situations which could arise in the North Atlantic Treaty Alliance area would not be covered by an existing specific authorization at all.

I think the enactment of this war powers bill would have disquieting effects in the North Atlantic area and in other areas where our interests are engaged. Otherwise, I assume the senior Senator from New York (Mr. JAVITS) would not have felt it necessary to offer reassurance in this regard. I respectfully suggest, however, the reassurances are illusory in that they are premised on outdated resolutions a decade or more old which the administration has stated it cannot and will not be regarded as constituting congressional authority for the use of U.S. Armed Forces in any given future situation.

That being so, we must face the possibility that if this bill were to become law the President would not have the requisite specific authority to react in situations which concern us most.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I believe that the Senate has been acting irresponsibly during the past few days. To find out where we stand, I make the motion—which I shall vote against—and that motion is to lay the pending business on the table; and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the bill (S. 2956).

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Would the Chair please restate the question?

Mr. AIKEN. My motion was to lay the entire subject matter on the table.

Mr. GOLDWATER. I thank the Senator from Vermont.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Vermont to lay the bill (S. 2956) on the table.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK) are absent to attend the funeral of a friend.

The Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 13, nays 58, as follows:

[No. 134 Leg.]

YEAS—13

Bellmon	Dole	McGee
Bennett	Goldwater	Thurmond
Buckley	Gurney	Tower
Cotton	Hansen	
Curtis	Hruska	

NAYS—58

Aiken	Ervin	Packwood
Allen	Fannin	Pearson
Allott	Fulbright	Pell
Beall	Griffin	Percy
Bentsen	Hart	Proxmire
Bible	Hartke	Ribicoff
Boggs	Hatfield	Schweiker
Brooke	Inouye	Scott
Burdick	Jackson	Smith
Byrd, Harry F., Jr.	Javits	Spong
Byrd, Robert C.	Jordan, N.C.	Stennis
Case	Jordan, Idaho	Stevens
Chiles	Kennedy	Stevenson
Church	Long	Symington
Cook	Mansfield	Talmadge
Cooper	Mathias	Tunney
Cranston	Miller	Weicker
Eastland	Mondale	Williams
Ellender	Montoya	Young
	Nelson	

NOT VOTING—29

Anderson	Harris	Mundt
Baker	Hollings	Muskie
Bayh	Hughes	Pastore
Brock	Humphrey	Randolph
Cannon	Magnuson	Roth
Dominick	McClellan	Saxbe
Eagleton	McGovern	Sparkman
Fong	McIntyre	Stafford
Gambrell	Metcalf	Taft
Gravel	Moss	

So the motion to lay the pending business on the table was rejected.

Mr. AIKEN. Mr. President, I acknowledge defeat for my motion, and I move to reconsider the vote by which the motion was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I move that the pending business, S. 2956, be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. JAVITS. Yeas and nays.

Mr. MANSFIELD. What is the motion?

The PRESIDING OFFICER. The motion is to refer the pending business to the Committee on the Judiciary.

Mr. JAVITS. Yeas and nays.

ORDER FOR RECOGNITION OF SENATOR HRUSKA TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska, who is the sponsor of the motion now pending, be recognized immediately after the conclusion of the morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9:45 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leaders have been recognized tomorrow the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SPONG TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the recognition of the distinguished Senator from Oregon tomorrow the distinguished Senator from Virginia (Mr. SPONG) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HRUSKA. I yield.

Mr. JAVITS. I am in the dark at the moment as to the intentions of the Senator from Nebraska, not that he need disclose them to me. But I asked for the yeas and nays and I gather that the distinguished majority leader did not want that.

Mr. MANSFIELD. No, I wanted to get the other business taken care of.

Mr. JAVITS. Could the Senator enlighten us as to when he will seek a vote?

Mr. HRUSKA. I understand no votes would be contemplated for tomorrow, inasmuch as there will be debate at length on my motion. It is not contemplated we will reach a vote tomorrow or even on Monday. From there on we will see what develops.

Mr. MANSFIELD. I express the hope that tomorrow or Monday there might be votes on other amendments because, as everyone knows, a motion to refer is a simple motion. There is considerable debate. I hope at this time the Senator from Wyoming (Mr. MCGEE), the distinguished Senator from Maryland (Mr. BEALL), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Arkansas (Mr. FULBRIGHT), the distinguished Senator from Alaska (Mr. GRAVEL), and others would be prepared if there is a lapse or gap to offer their amendments so that the Senate can keep busy and dispose of amendments after opportunity for debate in reasonably good order.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MANSFIELD. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are amendments in order under the existing order of business before the Senate?

The PRESIDING OFFICER. Amendments would only be permitted by unanimous consent.

Mr. JAVITS. Amendments would not be in order unless there is unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, will the Senator yield so I may get the yeas and nays on the motion?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I demand the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered.

Mr. JAVITS. Mr. President, would the Senator from Nebraska in any way be prepared to agree upon any time, say Tuesday, when he would wish to vote? Maybe that would facilitate business for everyone.

Mr. HRUSKA. I would be happy to consider that tomorrow after consultation with my colleagues.

S. 3323—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I understand S. 3323, concerning a major heart and lung program, has been reported unanimously by the Committee on Labor and Public Welfare. This is a very large authorization bill, well over a billion dollars. Tomorrow is World Heart Day.

I ask unanimous consent that during the conduct of morning business tomorrow it be in order to take up S. 3323, either at that time or tomorrow at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes, the time to be equally divided 10 minutes to a side, the time to be under the control of the distinguished Senator from Massachusetts (Mr. KENNEDY) and the majority leader, or whomever he may designate.

The PRESIDING OFFICER. Does the Senator desire to waive rule XII?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Could we designate the ranking member of the Subcommittee on Health?

Mr. MANSFIELD. It would be up to the minority leader to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN subsequently said: Mr. President, I would like to state that the time which has been allocated to the minority leader with regard to the bill about which unanimous consent was requested is designated or allocated to the ranking member of the Subcommittee on Health.

Mr. JAVITS. That is correct. I will supply that for the record.

Mr. President, I ask unanimous consent that Members who wish to file statements on the bill do so and have them as part of the record in the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on S. 3323.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. I thank everybody.

LEAVE OF ABSENCE

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be absent on official business dealing with NATO tomorrow, from my duties in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the distinguished Senator from Virginia (Mr. SPONG) has completed his remarks tomorrow, there be a time period of not to exceed 45 minutes for the conduct of morning business, with a time limitation of 3 minutes on speeches attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER HEART AND LUNG BILL, S. 3323, TOMORROW

Mr. MANSFIELD. Also, Mr. President, I ask unanimous consent that during that 45-minute period it be in order to bring up the heart and lung bill, S. 3323.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY UNFINISHED BUSINESS BEFORE THE SENATE AT CONCLUSION OF MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business tomorrow, the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m. After the two leaders have been recognized under the standing order, the distinguished junior Senator from Oregon (Mr. PACKWOOD) will be recognized for not to exceed 15 minutes, and he will be followed by the distinguished junior Senator from Virginia (Mr. SPONG), who

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will be recognized for not to exceed 15 minutes, after which there will be a period for transaction of routine morning business for not to exceed 45 minutes, with a limitation of 3 minutes on statements therein. During the period for transaction of routine morning business, the Senate will proceed to consideration of S. 3323, the National Heart, Blood Vessel, Lung and Blood Act of 1972. There is a time limitation of 20 minutes on that bill, and a rollcall vote will occur on passage of the bill.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 2956, the war powers bill. The pending question at that time will be the motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee.

Senators are alerted to the fact, therefore, that at least one rollcall vote will occur tomorrow, that being on the heart and lung disease authorization bill. It is possible that other rollcall votes could occur with respect to tabling motions or amendments connected with the war powers bill.

ADJOURNMENT UNTIL 9:45 A.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until tomorrow at 9:45 a.m.

The motion was agreed to; and at 4:34 p.m. the Senate adjourned until tomorrow, Friday, April 7, 1972, at 9:45 a.m.

EXTENSIONS OF REMARKS

DISTINGUISHED SERVICE AWARD PRESENTED TO JACK HALEY FOR PRINTING ACCOMPLISHMENTS WITH U.S. GOVERNMENT IN 1971–72

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. O'NEILL. Mr. Speaker, in reading the February issue of the Mid-Atlantic Graphic Arts Review, it gave me a great deal of pleasure to see on the cover the photograph of Jack Haley, the staff director of the Joint Committee on Printing. It points out that he is to receive that excellent printing publication's distinguished service award at the Joint International In-Plant Printing Management Association Convention and seventh Mid-Atlantic Litho Club clinic and exhibits, April 5, at the Sheraton Park Hotel, in Washington, D.C.

The magazine is nationally famous and the 3-day annual convention in Washington is one of the largest printing exhibitions of its kind in the country. I mention that simply to show that this special honor, as extended to our good friend, Jack Haley, is one that is highly prized. It has also given great pleasure to the very many people who are friends of Jack's. I know they will enjoy reading the excellent biographical account which it is my intention to insert as part of these remarks.

The account is clearly a success story of an unusual type depicting the career of a man in a skilled trade and chosen profession—a printer and administrator. His success is singular because his progress has been steady and constant—and from all accounts—provenly well deserved. He is popular with Members and staffers throughout the Halls of Congress, and especially the House of Representatives where he worked for so many years. He is recognized as an able and cooperative associate with all printing and publication specialists of Government and industry. In a letter of recommendation to Chairman Carl Hayden of the Joint Committee on Printing, House Leader John McCormack, writing for himself and Speaker Rayburn, told the eminent Senator Hayden in 1961 that the House leadership was mutually endorsing one of the most capable and popular employees in the House of Representatives.

I once represented the congressional district wherein he resides and have been friendly with him since I came to Congress. I know firsthand of his great popularity and influence in his hometown of Brookline. He often states:

I never really moved from my hometown, and I have not missed voting in 35 years.

I have been with him at many Greater Boston functions which were widely attended by hundreds of Jack's friends and neighbors. I will always remember the support and encouragement they extended to me. With all that in mind, it now gives me extreme pleasure to insert the biographical account of a "printer's printer" who has done so much for the U.S. Government printing programs, and pursued his own successful and accomplished career in honor and pride:

JACK HALEY

Named to receive the 1972 Mid-Atlantic Graphic Arts Review's Distinguished Service Award is John F. Haley, Staff Director of the Joint Committee on Printing of the United States Congress.

Presented annually to a member of the graphic arts community who has contributed significantly to the industry's success, the award is a tribute, this year, to a man who has played a tremendously important role in opening up new business opportunities to the entire industry, and particularly to printers and typesetters in the Mid-Atlantic region.

Mr. Haley's role as Staff Director of the Joint Committee on Printing is a highly important and responsible position that requires him to manage and coordinate the operations and activities of the Joint Committee. Under his guidance and leadership with the closely coordinated support of his staff colleagues, the Government Printing Office officials and officers of the Federal department printing operations, the total printing program of the Federal Government has seen the introduction of more significant projects than has been experienced in the past half century.

Mr. Haley's long association with the printing industry began in 1926 when he became a printer with the composing division of the Boston News Bureau, an affiliate of the Wall Street Journal. He had attended school in his native Brookline, Mass., and, later, studied business administration so that he could soon operate his own job shop at night.

In 1937, he accepted an appointment with the Composing Division of the Government Printing Office, working on the Congressional Record and other publications of the Congress. He was appointed to the staff of the Daily Digest of the Congressional Record ten years later. This was a new improvement in presenting accounts of the legislative procedures.

An important appointment in his career occurred in 1954 when he became staff director of the House Select Subcommittee to Study Federal Printing and Binding. The reports and findings of that group resulted in sweeping changes in the Federal Depository Library law and other areas of publication and printing where needed reforms were revealed.

In 1958, he became printing and library clerk to the main committee on House Administration. Two years later, in April, 1961, Mr. Haley was elected to his present position—Staff Director of the Joint Committee on Printing.

Under the guidance of this committee, Mr. Haley has skillfully utilized his staff ability and authority to guide the entire Federal printing program. In what has been called "a quiet revolution," Mr. Haley has moved Government printing operations into the area of electronic composition and research which has culminated in the creation of a highly successful program in high-speed quality using the latest available equipment. It is significant that Jack Haley is now recognized as having put the Federal Government in the forefront of this electronic printing endeavor.

Another of Mr. Haley's accomplishments in the Federal Printing program has been the creation of stronger and more effective technological and administrative ties between the Government and the printing paper industry. Reforms made under his direction have been designed to update the Government's position with a large, cooperative paper manufacturing and distributing industry. Certainly, the procurement of paper for the Federal printing program is one of the major responsibilities of the entire operation.

However, the one advance that has given Jack Haley the greatest acclaim in the graphic arts industry has been the establishment of much of the National Printing Procurement Program, which has been called the most forward-looking step taken in Federal printing purchase philosophy in many decades. Its success is best demonstrated by the cooperative efforts of the commercial printing sector in developing a working relationship to bring Jack Haley's dream into a real concept of Government-Industry cooperation for a truly Golden Age of Printing in the 1970's.

Commenting a few years ago on this endeavor, Congressman Omar Burleson, the former Vice Chairman of the Joint Committee on Printing noted, "Mr. Haley has developed a pragmatic and commendable blueprint." He added that the regional programs of printing procurement do much to convince the commercial printers everywhere that it is good business to do business with the Federal Government.

OCEANIC STUDIES

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. ANDERSON of Tennessee. Mr. Speaker, last year, the University of Virginia offered a pilot course entitled "Humanities of the Seas." So successful was the project that the university has decided to pursue a program of oceanic studies.

I commend the university and its trustees for this important move. Credit is also due to the Oceanic Educational Foundation and board members Palen Flagler, Edgar Shannon, Gilven Slonim, and S. E. Freund for encouraging a full program of oceanic studies on every level of education.

I insert in the RECORD an editorial of January 17, 1972 from the Lynchburg News on this excellent program:

OCEANIC STUDIES

Announcement from the University of Virginia of oceanic studies following success of a pilot course carries a significance of wide importance. The announced program also reveals how much progress already has been made, and that this is a pioneer effort in this country.

Its importance lies in the fact that there is a great lag in studies relating to all aspects of the ocean, and by ocean we mean the ecompassment of all of the connecting salt water oceans and seas of this planet.

There are many aspects of the oceans that have become critically important. For a major one, perhaps the most important, is as a food source. This includes plankton, as well as fish and oysters and other shellfish. It means seaweed of several kinds, and the prospect of both conservation and expansion in such resources is immense and not to be delayed.

Allied with this is removing and preventing pollution. And, in broad effect, farming the sea as well.

Utilization of sea water is of rapidly increasing importance, in processing it into fresh water, in utilizing mineral content, in exploration for oil and gas and other riches known to exist but not yet easily accessible.

As the news release puts it: "The University already offers masters and doctoral degrees in marine science through its department of marine science in association with the Virginia Institute of Marine Science at Gloucester Point." This is followed by "Certainly there is a need for a Maritime Industrial Park that could very well be established in Virginia."

Virginians who know their state, inclusive of a real knowledge of its ocean and bay frontage, are aware of what oceanic studies means and it is clearly made manifest in the last few decades that such studies occupy a prime role in the present and future for the people of the world.

A brief exploration of what is encompassed in such studies also reveals the career opportunities, that will ever be expanding, in this study exploring such areas as conservation, pollution, intelligent exploitation both for science and industry, for food and water, for preventing extermination of many forms of life and in very broad terms utilization of vast resources which man has been too slow in recognizing and acting upon.

The challenges here for those planning their advanced education is a matter of both practical and intellectual excitement and opportunity. Certainly it is a challenge that will be accepted by many as such studies as the University of Virginia is offering under a growing program in depth and extent.

For most people this is something new in its presentation of opportunity, an exciting challenge, and there are many at least incipiently prepared to take advantage of something calling for vision, for intellectual adventure.

BUSING OF SCHOOLCHILDREN ACROSS COMMUNITY LINES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 29, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of March 30 contains an excellent editorial on the two Federal district court decisions which have ordered the busing of schoolchildren across community lines.

The first such decision affected the city of Richmond and two neighboring counties. Now a similar ruling has been handed down in the Detroit area.

Busing to achieve an artificial racial balance is an ill-advised policy in any case, and is particularly objectionable when it involves sending pupils from one school district to another.

I ask unanimous consent that the editorial, entitled "The Plague Spreads," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PLAGUE SPREADS

Courts tend to worship precedents, for a precedent can cloak almost any judicial decision, no matter how asinine, with respectability. A judge in Virginia can justify his ruling that red is blue by citing an earlier decision by a judge in Texas who had reached the same warped conclusion.

In this manner, the sociological mishmash that served as the foundation for the school consolidation decision of U.S. District Judge Robert R. Merhige Jr. of Richmond has become an important legal precedent. Lacking precise legal authority for ordering a consolidation of the educational systems of the city, Henrico and Chesterfield Counties to achieve racial balance in public schools, Merhige relied primarily upon the theories of social scientists more interested in engineering human attitudes than in improving education. Now these theories have been accepted as sound legal guides by a Detroit federal judge who has ordered a metropolitan integration plan for that area's schools.

As Merhige would do in the Richmond area, Judge Stephen J. Roth would ignore district boundaries in the Detroit area. No matter where they live, children would go to whatever school Roth decided they should attend. According to news reports, Roth sought to justify his ruling, in part, by quoting "extensively from the ruling of U.S. District Judge Robert Merhige."

So the plague spreads. Madness in Richmond is used to justify madness in Detroit. Soon madness in Detroit will be used to justify madness in some other community. And until either Congress or the Supreme Court provides an antidote, the pernicious Merhige doctrine will continue to infect court after court and ruin school system after school system throughout the land.

IT IS OUR TASK NOW

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. RODINO. Mr. Speaker, each of us possesses ideas. Each of us holds dreams. The ideals of brotherhood, justice, human dignity, and the desire to resolve human conflict dwell in each man's heart. Dr. King and Crispus Attucks, however, took hold of their dreams and hopes and convictions and guided themselves by the emergency of now. They refused to turn their backs on the unfair practices of their day. They believed, with a steadfast and unbending strength, that injustice anywhere is a threat to justice everywhere, that whatever affects one man directly, affects us all.

Dr. Martin Luther King and Crispus Attucks refused to remain passive, to keep silent while their hearts beckoned them to act. Each of these men, in his own way, seemed to feel he had chosen, set aside, to take part in the struggle for freedom. They were men whose moral conscience and whose desire to see right exist prevented them from discouragement and from compromising with their principles and hopes. Who does not recall Crispus Attucks' courage and his commitment to the cause of liberty? Who will ever forget the freedom rides, the songs of faith, the marches to Salem or the speeches at the foot of the Lincoln Memorial?

Attucks gave his life for the freedom of our new Nation. King was not afraid to die; he had reached the mountaintop; he had seen the promised land. It is our responsibility and our task to not merely stand in the light of King's vision or to live in the land which Attucks fought so bravely to secure. For the task is not yet complete and King's dream has yet been attained. As we justly honor these men today, let us once again listen to their message and let us continue to pursue their quest for the dignity, equality and the right of self fulfillment for every man.

XUM

SENATE—*Friday, April 7, 1972*

The Senate met at 9:45 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we commend to Thee all who are engaged in the Government of this Nation. Grant to them special gifts of wisdom and understanding, of counsel and strength, that upholding what is right and following what is true they may enact and execute such measures as may be for the common welfare at home and peace abroad. May the whole world be filled with the knowledge of Thy truth and righteousness until war shall be no more and the way of peace and brotherhood is established in all men's hearts.

In Thy holy name we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 7, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 6, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 700 and 701.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF "INTERIM REPORT OF ACTIVITIES OF THE PRIVATE WELFARE AND PENSION PLAN STUDY 1971"

The concurrent resolution (S. Con. Res. 74) authorizing the printing of additional copies of Senate Report No. 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971," was considered and agreed to, as follows:

S. CON. RES. 74

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare two thousand additional copies of Senate Report 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971", a report by its Subcommittee on Labor pursuant to section 4 of Senate Resolution 35, Ninety-second Congress.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON THE JUDICIARY FOR ROUTINE PURPOSES

The Senate proceeded to consider the resolution (S. Res. 286) to provide additional funds for the Committee on the Judiciary for routine committee expenditures, which had been reported from the Committee on Rules and Administration with an amendment, in line 5, after the word "of", where it appears the second time, to strike out "1946," and insert "1946, and in Senate Resolution 255, agreed to March 6, 1972."; so as to make the resolution read:

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $40,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 255, agreed to March 6, 1972.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Virginia (Mr. SPONG), Calendar No. 702, S. 3323, in accordance with the agreement of yesterday, be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Does the distinguished Senator from Oregon desire recognition as acting assistant minority leader?

Mr. PACKWOOD. I do not, Mr. President.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly, without losing any time?

Mr. PACKWOOD. I yield.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. ON MONDAY, APRIL 10, 1972

Mr. MANSFIELD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock on Monday morning next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the Senator from Oregon (Mr. PACKWOOD) for not to exceed 15 minutes.

THE PRESIDENTIAL REGIONAL PRIMARIES ACT

Mr. PACKWOOD. Mr. President, today I am circulating for cosponsorship and later will introduce legislation establishing five regional presidential preference primaries. This legislation is designed to replace the present mishmash of presidential extravaganzas. These extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin. They leave the candidates tired and broke. They leave the public bored or bewildered and—far too often—disgusted. Voters understandably ask, "When is this nonsense coming to an end?" In the process, the candidates lose their credibility and the office loses its dignity.

Credibility must be restored to the candidates because, without it, dignity cannot be restored to the most important office in the world. A plan must be devised that somehow, some way dramatically improves the "Barnum & Bailey traveling sideshow" that is in New Hampshire one week, Florida the next, and does not end until the curtain has come down a total of 24 times.

Congress must meet its responsibility of providing a vehicle for the American people to select the nominee of their party from a wide range of candidates.

I have a plan to effect this change. At the outset, however, let me emphasize that my proposal is not a panacea to cure all the ills which plague our system. It does, however, provide a change in direction which is essential if we are to restore credibility to the candidates and dignity to the office they seek.

My bill would establish a Federal Primary Elections Commission of five members appointed by the President, with the advice and consent of the Senate. The Commission would provide general administrative supervision over the regional primaries established in this bill.

My proposal establishes a system of five regional primaries throughout the Nation. Every State is included in one of the following five regions.

First. Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Second. Illinois, Indiana, Kentucky, Michigan, Ohio, and West Virginia.

Third. Alabama, the Canal Zone, District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, the Commonwealth of Puerto Rico, South Carolina, Tennessee, the Virgin Islands, and Virginia.

Fourth. Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

Fifth. Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

The first regional primary would be held on the second Tuesday in March, with another primary to be held on the second Tuesday in each of the succeeding 4 months.

The Commission would be directed to meet 70 days prior to the March primary and determine by lot the region in which the first primary would be held. This process would be repeated for each of the remaining regions. In this way, the order of the primaries would not be known in advance.

Under the current system, some candidates begin their campaigns for nomination almost 2 years prior to the Presidential election. They are able to do this because certain States have set primary dates and all of the candidate's money, energy, and talent are focused on those particular States. A national primary would not change this, the date would still be known and candidates could still begin their campaigns far in advance.

Under my proposal, however, candidates would not know where the first regional primary would be held until 70 days prior to it. All candidates would be forced to shepherd their limited financial resources until they knew which regional primary would be first.

Practical politics would dictate that a candidate spend most of his available time in the region holding the next primary. In a national primary, by contrast, a candidate would be in Los Angeles today, New York tomorrow, and Florida a day later. The Boise, Idahos, and the Keokuk, Iowas, would never see the candidate. This whirlwind approach would fatigue the candidates, sour the voters, and badly erode confidence in Government.

In order to qualify for the ballot under my plan, a Presidential aspirant must be "generally recognized in national media throughout the United States" as a candidate, whether a candidate were so "recognized" would be determined by a majority of the Commission. If he were not so "recognized," his name could still be added if he either, first, filed a petition signed by 1 percent of the registered voters of the region or, second, paid a filing fee of $10,000 which would be refunded if he received 5 percent of the vote in the region. A candidate could have his name removed from the ballot if he stated unequivocally in writing that he was not and did not intend to become a candidate for President.

A further weakness of the present primary system is the hit-and-miss method of selecting delegates to national conventions. About one-third of the States select delegates by direct election sometime between March and July. In the remainder of the States, delegates are selected through internal party processes. There is no guarantee that delegates will represent the proportional strength of the various candidates in each State. An unjustifiable amount of time, talent, money, and energy is spent by Presidential aspirants in electing delegates, rather than discussing the issues. Organizers are sent to primary States months in advance. Delegates are interviewed and selected. Slates are formed. A principal campaign organizer for one of this year's major Democratic aspirants has said, "the name of the game is delegates." The name of the game should be issues and philosophy. And all of this hocus-pocus delegate selection process is usually removed from and misunderstood by the people.

My proposal would change that. Delegates would not be elected to the national convention. Instead, any presidential candidate who received 5 percent of the votes cast in a regional primary would be able to appoint delegates to the national convention according to the percentage of the vote which he received in each State. If a candidate received 40 percent of the vote in a particular State, he would appoint 40 percent of the State's delegates to the national convention. This would enable the candidate to concentrate on issues during the campaign and would insure that the delegates represented the candidate's proportional strength in that State, and were dedicated to the candidate's ideals and philosophies. The delegates would be required by law to support their candidate at the national convention until:

First, the candidate releases them; or

Second, the candidate receives less than 20 percent of the vote; or

Third, two ballots have been taken.

Mr. President, I ask unanimous consent that the Presidential Regional Primaries Act be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. —

A bill to provide for the regulation of the process by which the people of the United States select the President and Vice President by establishing a series of 5 regional primary elections at which the people may express their preference for the nomination of an individual for election to the office of President

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Regional Primaries Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the proliferation of elections held by States for the expression of a preference for the nomination of individuals for election to the office of President subjects candidates for nomination for election to such office to physical exhaustion, danger, and inordinate expense;

(2) there is no uniformity among State laws with respect to the effect of such elections on delegates to the nominating conventions held by political parties;

(3) the confusion caused by this lack of uniformity in State laws gives rise to cynicism, frustration, and distrust of the nomination process;

(4) the national nominating conventions held by political parties constitute an integral part of the process by which the President is chosen by the people of the United States; and

(5) in order to protect the integrity of the presidential election process and provide for the general welfare of the Nation, it is necessary to regulate the part of the process relating to the nomination of candidates for election to the office of President.

ESTABLISHMENT OF REGIONAL PRIMARIES

SEC. 3. (a) No State shall conduct an election for expression of a preference for the nomination of individuals for election to the office of President except in accordance with the provisions of this Act.

(b) Five regional primaries shall be held during each presidential election year. The first regional primary shall be held on the second Tuesday of March, and an additional regional primary shall be held on the second Tuesday of each of the 4 succeeding months. Seventy days before the date of the first regional primary, the Commission shall determine by lot the region in which that primary is to be held. The Commission then shall determine by separate lot, conducted 70 days before the date of each subsequent regional primary except the last, the region in which each subsequent regional primary is to be held.

(c)(1) At each such regional primary, there shall appear on the ballot, together with the name of the political party with which he is affiliated, the name of each individual who is generally recognized in national news media throughout the United States as a candidate for nomination by a national political party for election to such office, as determined by a majority of the members of the Commission.

(2) An individual whose name is not placed on a regional primary ballot by the Commission under paragraph (1) may have his name and the name of the political party with which he is affiliated appear on the ballot, if he is eligible for election to the office of President, by notifying the Commission in writing that he is a candidate for nomination by a political party (specifying which political party) for election to the office of President, and—

(A) presenting the Commission with a petition supporting his candidacy for such nomination, signed by 1 percent of the registered voters in the region in which he wishes to appear on the primary ballot (not more than 25 percent of the signatures necessary shall come from any State within that region); or

(B) paying a filing fee of $10,000 which shall be refunded if he receives 5 percent or more of the total number of votes cast by members of his political party in the regional primary. The notification and presentation of payment shall be made to the Commission by such date before the primary as the Commission may prescribe but not earlier than 45 days or later than 35 days prior to the date on which the primary is to be held in that region.

(3) The Commission shall announce—

(A) a tentative list of individuals for whom votes may be cast at a regional primary 70 days before the date of that primary; and

(B) a final list of individuals for whom votes may be cast at a regional primary 30 days before the date of that primary.

(d) The Commission shall not include on the ballot of any regional primary the name of any individual who executes and files with

the Commission the following affadavit, executed under oath:

I, ——— ———, being first duly sworn, do depose and say that I am not, and do not intend to become, a candidate for nomination for election, or for election, to the office of President of the United States.

State of ———.

County or city of ———.

Subscribed and sworn to before me this — day of ———, 19—.

——— ———,

———.

SEAL.

My commission expires ———", 19—.

(e) Subject to such guidelines as the Commission may promulgate, the regional primary shall be conducted in each State by officials of that State charged with conducting elections. Voters in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Each voter shall be eligible to vote only for a candidate for nomination by the party of that voter's registered affiliation. If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures promulgated by the Commission.

(f) The chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission within a period of time after such date, not exceeding 15 days, prescribed by the Commission.

APPOINTMENT OF CONVENTION DELEGATES

SEC. 4. (a) A candidate who receives 5 percent or more of the votes cast by members of his political party in a regional primary shall appoint delegates from States within the region within which the primary was held to the national nominating convention held by the political party whose nomination he seeks.

(b) The number of delegates which a candidate shall appoint in any State within that region is a number which is a percentage of the total number of delegates from that State to his party's national nominating convention equal to the percentage of the votes cast by members of his party in that State received by him in the primary.

(c) If a candidate receives less than 5 percent of the votes cast by members of his political party in a regional primary, he may not appoint a delegate from any State within that region. The percentage of the votes cast for such a candidate by members of his political party in any State within that region shall be (1) apportioned among the other candidates of the same political party who received votes in that State on the basis of the number of votes received by each of such other candidates and (2) added to the percentage of the votes received by each of such other candidates in that State for the purposes of determining the number of delegates they may each appoint under subsection (b).

(d) If a candidate fails or refuses to appoint delegates to which he is entitled in any State within a reasonable time, as prescribed by the Commission, the Commission shall appoint delegates pledged to support such candidate at the national nominating convention held by his party. Such delegates shall be bound to support such candidate at the convention to the same extent as if they had been appointed by that candidate.

CONVENTION BALLOTING

SEC. (a) A delegate to a convention held by a political party for the nomination of a candidate for election to the office of President shall vote for the nomination of the candidate who appointed him or for whom he was appointed until—

(1) 2 ballots have been taken; or

(2) such candidate receives less than 20 percent of the vote on a ballot; or

(3) such candidate releases him.

(b) If an individual receives a majority of the votes cast on a ballot, he shall be the nominee of that party for election to the office of President. A subsequent ballot may be taken to reflect the support of the entire convention for such candidate, but the result of the subsequent ballot shall not, in such case, result in the nomination of a different individual for election to such office.

(c) The individual who will be the candidate of a political party for election to the office of Vice President shall be selected by the convention held by that party in accordance with such procedures as it may adopt.

REIMBURSEMENT OF STATES FOR COSTS OF PRIMARY

SEC. 6. Upon application therefor, the Commission shall reimburse each State for the costs it incurs in conducting a regional primary held in accordance with the provisions of this Act. Such applications shall be submitted at such times and in such form, and shall contain such information, as the Commission shall require.

ESTABLISHMENT OF FEDERAL PRIMARY ELECTIONS COMMISSION

SEC. 7. (a) There is hereby established a bipartisan Commission to be known as the Federal Primary Elections Commission.

(b) The Commission shall be composed of five Commissioners not otherwise employed by the Federal Government appointed by the President, by and with the advice and consent of the Senate. Each Commissioner shall be a member of a political party which polled not less than ten million votes in the presidential election immediately preceding his appointment. Not more than three Commissioners may be members of the same political party.

(c) The Commission shall select a chairman from among its members. Three Commissioners shall constitute a quorum.

(d) The term of office of each Commissioner shall be five years, except that—

(1) the terms of office of the Commissioners first taking office shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after the date of the first presidential election which occurs after the date of enactment of this Act;

(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(3) upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and has qualified.

(e) The Commissioners shall have an official seal which shall be judicially noticed.

(f) The Commissioners shall serve without compensation; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) The Commission is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an administrative officer, and to fix his compensation, without regard to the provisions of chapter 51 and subchapter 53 of such title relating to classification and General Schedule pay rates, at an annual rate not to exceed the annual rate prescribed by section 5315 of title 5, United States Code, for level IV of the Executive Schedule.

(h) The Commission is authorized to appoint and fix the compensation of such other personnel as it deems advisable.

DUTIES OF THE COMMISSION

SEC. 8(a) The Commission shall meet prior to each regional primary and at such other times as it deems necessary, and shall—

(1) publish tentative and final lists of the individuals for whom votes may be cast in each regional primary ballot and furnish a certified final list of such individuals to the appropriate officials of each State 30 days before a regional primary is to be held in that State;

(2) determine the sufficiency of any petition presented to the Commission under section 3(c);

(3) prescribe the date, after the date of a regional primary, on which the chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission;

(4) promulgate guidelines and procedures to be followed by the States in conducting regional primaries;

(5) review applications for reimbursement submitted under section 6, prescribe the time of submission form, and information content of such applications, and determine and pay, the amount to be reimbursed to each State under such section;

(6) consult and cooperate with State officials in order to assist them in conducting regional primaries;

(7) determine by lot in accordance with section 3(b) the order in which the regional primaries are to be held;

(8) receive and hold any filing fee paid under section 3(c)(2)(B) and—

(A) refund that fee to the candidate who paid it if he receives a number of votes in the regional primary with respect to which he paid it equal to 5 percent or more of the total number of votes cast by members of his political party in that primary; or

(B) pay the fee into the general fund of the Treasury if it is not refundable under clause (A) of this paragraph.

(9) appoint delegates when necessary under section 4 (d); and

(10) take such other actions as may be necessary to carry out the provisions of this Act.

(b) The Commission shall report to the Congress and the President not later than 180 days prior to the date of the first regional primary to be held under this Act on the steps it has taken to implement the provisions of this Act, together with recommendations for additional legislation, if any, which may be necessary in order to carry out the regional primary system established under this Act.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "Commission" means the Federal Primary Elections Commission established under section 7;

(2) "region" means any of the following five regions:

(A) Region 1 comprises Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Connecticut, New York, Pennsylvania, New Jersey, and Delaware.

(B) Region 2 comprises Michigan, Illinois, Indiana, Ohio, West Virginia, and Kentucky.

(C) Region 3 comprises the District of Columbia, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, the Commonwealth of Puerto Rico, th Virgin Islands, and the Canal Zone.

(D) Region 4 comprises North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, and Louisiana.

(E) Region 5 comprises Washington, Oregon, Montana, Idaho, Wyoming, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Hawaii, and Guam.

(3) "regional primary" means an election held in accordance with the provisions of this Act for the expression of a preference for the nomination of individuals for election to the office of President;

(4) "national political party" means a political party whose presidential electors received in excess of 35 percent of the total number of votes cast for all presidential electors in the most recently held presidential election;

(5) "candidate" means an individual who is a candidate for nomination by a political party as its candidate for election to the office of President;

(6) "national nominating convention" means a convention held by a political party for the nomination of candidates for election as President and Vice President; and

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, and each of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PACKWOOD. Mr. President, that, in brief, is my plan. In many ways, it is a reflection of Oregon's primary law. Oregon, as Senators know, was the first State to adopt a presidential primary statute in 1911, and its primary has become one of the Nation's most prestigious. It is the only State which requires all "nationally recognized" presidential candidates to participate.

Mr. President, there certainly existed valid reasons during the first two decades of this century to change our nominating process. Party bosses were guilty of devious maneuvers. Political meetings were held in saloons or behind closed doors. Conventions took place hours earlier than scheduled. These were clearly the days of the backroom boys and the smoke-filled rooms.

Reformers hoped that by democratizing the nominating process, the Presidency could be returned to the people. This was the noble goal of those progressives who hoped to wrest the control of American politics from the ruling factions.

The system worked well, however, only so long as the Nation had less than a dozen significant primaries scattered throughout the country. With the proliferation of such primaries, this noble dream has become a nightmare. This innovative reform, conceived in logic, has been tarnished in practice.

Proposals to alter the process of selecting party nominees have been considered since the beginning of the Republic. Senator James Hillhouse, for example, suggested in 1808 that we might be protected from the dangers of partisan conflict if retiring Senators would simply meet annually and draw lots for a 1-year presidential term.

The current presidential primary system has been under fire since primaries were first used extensively in 1912. At that time, Oklahoma Senator Robert L. Owen introduced legislation calling for the direct nomination of presidential candidates. More recently, the distinguished senior Senator from Montana (Mr. MANSFIELD) and the distingushed senior Senator from Vermont (Mr. AIKEN) have proposed a constitutional amendment establishing a national primary for the selection of party nominees.

While I share the dismay of Senators MANSFIELD and AIKEN, I do not believe that a national primary provides the best alternative.

A national primary has certain inherent disadvantages that are eliminated by a series of regional primaries. A national primary would favor two types of candidates:

First. Those with access to the national news media center in Washington, D.C., and

Second. Those candidates with easy access to enormous sums of money.

Under a national primary, those candidates outside Washington are placed at a distinct disadvantage. The principal wire services, the three national television networks, and most of the Nation's larger metropolitan newspapers and magazines have reporters in Washington. The media can readily receive the reaction of a U.S. Senator to a major national or international event. A Governor, however, is less likely to appear on the evening television newscasts or have his thoughts published.

To understand this situation, it is necessary to recall the change which took place in the 1950's, leaving an indelible imprint on American presidential politics. That change involved a concentration of the media in Washington. More stories about government and politics emanated from Washington and fewer stories were filed from other sections of the Nation.

Governors of large States joined Governors of small States in obscurity. True, the change was gradual, but it was inevitable as the 1960's came into focus that Governors, mayors, and less prominent public officials outside Washington played a smaller role in presidential politics. The big leagues of politics switched almost solely to Washington and the limelight focused on the U.S. Senate.

As a result, both major party nominees in 1960, 1964, and 1968 had previously served in the Senate. And in 1972, there remains not a single serious candidate for either party's nomination who does not fall into the category of being a present or former U.S. Senator.

With a single national primary, this trend would undoubtedly continue. Under a regional primary plan, however, a relatively unknown candidate with leadership potential would have an infinitely better chance of securing the party nomination.

In a national primary, an unknown, competent candidate could not defeat a better-known opponent without enormous sums of money. It can be argued, of course, that the cost of campaigning nationwide would be no more than the cost of competing in five regional primaries. This may be true, but if the only primary is a national primary, an unknown candidate could not contemplate participating unless he could raise enough money in advance to guarantee that his name would become a household word. It would be a very unusual candidate who could raise that much money "on the come."

This is not to say, Mr. President, that there are not great minds or excellent leaders in the Senate today. There are. Nor is it to say that the rich cannot be competen Prtesidents. They can. I do not believe, however, that it would be in the national interest to limit candidates for President to Senators or the wealthy.

Regardless of the candidates, a national primary would work to the detriment of the electorate. Voters would be forced to make their choice on the basis of slick television commercials or elaborately staged rallies in densely populated areas.

A regional primary would allow a candidate to spend a relatively small amount of time and money in order to determine whether he had widespread support. If he did well in the first primary, he would be off and running. If he did poorly, he could avoid the embarrassment and expense of hopelessly campaigning nationwide. It would also give his supporters and contributors a chance to become involved with a more viable candidate.

He could enter the first primary and, if he did well, could marshal the organizational and financial backing necessary to garner additional support. His candidacy would have the chance to catch fire and gather momentum.

Most objective observers agree that Jack Kennedy would not have been the Democratic nominee in 1960 had he not entered the significant primaries and won them all. The primaries were the only way he could show his support among rank-and-file Democrats to the party leaders, who generally opposed his nomination. Kennedy had to prove that a Catholic could be elected President.

In short, regional primaries would allow a candidate to gracefully withdraw if his campaign failed to catch fire. They would also allow a smoldering ember to be built into a blazing bonfire.

Under my measure, moreover, the voters would have a better chance to judge a candidate's true qualifications. "Madison Avenue" would be shelved. A more personal and direct approach would result.

The trademarks of a national primary would be "image" and "style." Neither has substance.

The trademarks of a regional primary would be "issues" and "answers." Both have meaning.

If we are to restore "faith" and "hope" to our system of government, the last thing we can afford is the "impersonal" approach that is bound to result from a national primary.

If we are to return "government to the people" and restore their confidence in that government, we have an infinitely better opportunity through the regional primary concept.

Mr. President, with the conclusion of the Wisconsin primary just 3 days ago, we have observed the results of four State presidential primaries. What, if anything, do these primaries tell us? What do they say about HUBERT HUMPHREY, who lost in Florida without really losing? What about ED MUSKIE, who won in New Hampshire without really win-

ning? Or how about TED KENNEDY, who did not participate at all?

The most important lesson to be learned is the folly of the current method of selecting party nominees.

We must return credibility to the candidates and dignity to the Presidency. The regional presidential primary offers the best hope of attaining that admirable goal.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Virginia (Mr. SPONG) for not to exceed 15 minutes.

THE FAA MANAGEMENT OF NATIONAL AND DULLES AIRPORTS

Mr. SPONG. Mr. President, I am deeply concerned over the Federal Aviation Administration's continuing disregard of the public and the public interest in its management of National and Dulles Airports.

These are the only two federally owned and operated airports in the country and one might hope that they would be made models for others to follow in making efficient use of available resources and dealing with the environmental impact on the community. Quite the opposite is true, however. Under FAA management, the overriding guide to policy seems to be, "What do the airlines want?"

It was perhaps that attitude that the Office of Management and Budget had in mind when it wrote to me last year explaining why it was proposing sale of the airports. Among the reasons cited was the following:

> There are elements of a "conflict of interest" in FAA's handling of Dulles and National Airports because of other FAA responsibilities in the area of airport certification, allocation of airport grants, and concern with airline industry finances.

Mr. President, a case in point would seem to be the FAA's policy with regard to the leasing of Federal land at National Airport for airline use and improvement. A General Accounting Office study into the legal status of the new American Airline and TWA–Northwest terminal facilities at National turned up the interesting fact that the FAA has been leasing the approximately 100,000 square feet to the airlines at 15 cents a square foot. This despite Office of Management and Budget general guidelines that Federal land be leased at fair market value. This despite the fact that just to recover Federal overhead costs at the facilities would require a fee of about $1.76 a square foot. And this despite the extremely valuable commercial use that is made of the land.

One reason for this cutrate charge is that the FAA permitted the air carriers to construct facilities on Federal land without first having a negotiated agreement in hand. Only after the buildings were completed and in operation were these matters discussed and by then, of course, all bargaining leverage had passed to the air carriers' side of the table.

The GAO report, which I ask unanimous consent to have printed at the conclusion of my remarks, is critical of this FAA contracting procedure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SPONG. Mr. President, the report states:

> The apparent flaw in the adequacy of FAA's contracting procedures, as demonstrated in the Northwest, Trans World and American Airlines situation is that of permitting air carriers to construct facilities in the absence of previously executed agreements. The agreements that finally may be negotiated with the three air carriers may reflect pressure to include provisions, covering such matters as amortization of carrier investments, which may not be in the best interests of the Government. Also, the agreements may set the pattern for the renewal agreements with the other air carriers.
>
> For the protection of all parties concerned, agreements for any additional construction should be executed prior to the commencement of construction.

Mr. President, since that GAO report in September 1971, the FAA has negotiated a new contract with American, TWA, and Northwest increasing the leasing fee to what amounts to the cost-recovery charge of $1.76 a square foot. Apparently, there is no charge at all being made for use of the Federal land itself. What is more, nine other air carriers which have leased land for expanded facilities continue to pay 15 cents a square foot.

Over the period between April 1970 when all of the new facilities were open and the end of September 1971 when an adjustment in the lease fee was negotiated with three of the airlines, the FAA apparently has absorbed the difference between 15 cents a square foot and the $1.76 break-even figure. I have asked the GAO to calculate what that alone would cost the taxpayer and, in addition, what might have been realized to the taxpayers' benefit if something approaching market value had been charged.

Mr. President, while the air carriers are leasing Federal property at 15 cents a square foot and making huge profits while doing it, the average air traveler who tries to park at the airport is paying what amounts to $22.70 a square foot. This is based on the minimum all-day parking fee of $2.50 and assuming 40 square feet for a parking space. Now, if the FAA wants to give somebody a break in the use of Federal land, I think that break ought to go to the public that uses National Airport. It seems to me there is a greater need for parking down there than anything else.

Mr. President, it is true that the administration is given broad discretion to lease facilities at the airports he manages upon such terms as he may deem proper and appropriate. There is serious question in my mind, however, whether a charge which is below the cost to the Federal Government is appropriate and can be justified. I question, too, the apparent exception to the Federal guidelines claimed by the FAA. As previously mentioned, OMB guidelines call for a fair market return. In addition, the Economy Act of June 30, 1932, specifically prohibits special considerations in setting of lease fees. I quote from section 321 of the act:

> Except as otherwise provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts.

There is good reason for such a law. The funds collected from lease of Federal land is tax money. If an agency were allowed to reduce lease charges below market value and even below cost in consideration of some private interest's investment, then the taxpayers of this country would, in fact, be paying for all or part of that investment, and it would have been accomplished outside the regular appropriations process. This is not even backdoor financing; it is trapdoor financing.

The FAA argues that the bargain-basement rates it is giving the air carriers at National is justified because the title to the facilities has or will pass to the Federal Government, and the FAA, as a result, feels it should help the air carriers amortize their investment. As a practical matter, however, the title transfer means very little to the airlines since they are assured by lease long-term, exclusive use of the premises. Also, written into their agreements is a provision allowing the airlines to claim full tax depreciation on those investments, in addition to which there are the handsome profits they will make from operations at those facilities. Why then should the FAA allow the air carriers to cover their investment yet again through discounted lease charges?

Again, it may be that the FAA is somehow not bound by the letter of the Economy Act, but I would think it has some responsibilities to the spirit of the law. Certainly, the taxpayers ought to know that they are helping to finance new terminal facilities at National and ought to have the opportunity to decide whether they would not prefer to have the facilities which they pay for at Dulles airport used first. I claim to expertise in contract matters but I think I know a poor deal when I see one.

Mr. President, beyond the dollar question involved here is a more far-reaching issue of the FAA's responsibility to promote greater use of Dulles, which was built at a cost of $110 million and which has operated in the red since it was opened 10 years ago. Even without the special considerations referred to earlier, the average terminal rental fee at National is $7 a square foot while at Dulles the fee ranges from $9 to $11 a square foot.

One might reasonably expect that in a situation where one airport is strained far beyond its planned capability and the source of growing community complaint while the other is starving for business, the fees would be such as to promote more balanced use. In fact, the Department of Transportation in its Congressional Air Transportation Congestion differential pricing on other airports. Let me read from that report:

> An alternative solution which is more desirable from the standpoint of the efficient allocation of resources is to set landing fees proportionate to costs. This would imply that operations at peak periods pay higher fees than at non-peak periods. DOT has concluded on the basis of studies which it carried out in this area, that such differential pricing is in the public interest.

The particular focus in this study was on ways to even out peak-hour loads at a single airport; but clearly the recommendations would apply as well to balancing traffic at two airports serving the same region. Unfortunately, DOT has not seen fit to apply the pricing policy it recommends at the two airports which its own agency—the FAA—operates. Indeed, the opposite is true. A discount prevails at the most congested of its two facilities.

Mr. President, a related aspect of the FAA's management of these two airports is the failure to give the communities involved any voice in policies which affect their environment. A few weeks ago, for example, the FAA decided to experiment with new takeoff procedures which allow jets to proceed under full power to an altitude of 3,000 feet rather than cutting back to half power at 1,500 feet as has been the case for some time. The first notice residents of the area had of the change was when they were suddenly bombarded with greatly increased noise one morning.

The FAA for some time has been talking informally about the possibility of requiring developers and real estate agents to notify their customers of the existence of an airport noise problem. But the FAA apparently feels no compulsion to give public notice when it creates a noise problem. I know of at least one family that purchased a home in Virginia on the assurance that it was a quiet neighborhood only to wake up a few mornings later to the booming noise of jets over their house.

Public notice is the very least that one might ask. At a time when environmental considerations are of such importance and concern, one might hope also there would be public hearings, an environmental impact study, and an investigation of alternative ways of accommodating air traffic. There has been none of that.

Fortunately, Mr. President, the residents of this area may be able to look to another Federal agency to defend their interests. For the first time in my experience with this issue, the Environmental Protection Agency is expressing some concern about policies at the two airports. In reference to the FAA's plans to seek appropriations for a major expansion and modernization of National, EPA told GAO it would require an environmental impact statement and, further, that—

> We anticipate significant difficulty in any expansion of that airport, due mainly to increased congestion, noise and its location in an urban environment. Alternate means of meeting air transportation needs, such as use of other available facilities would have to be discussed, as required in the Council of Environmental Quality Guidelines.

Mr. President, I welcome EPA's interest in this matter and I think the Interior Department, out of concern for beautification of the Potomac if nothing else, should also get involved. But the better answer lies, in my view, in the sale of these airports to a responsible regional or local authority which will operate them in the true interest of the public.

Mr. President, I ask that the second GAO report which I referred to be printed at this point.

EXHIBIT 1

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 10, 1971.

Hon. WILLIAM B. SPONG, Jr.,
U.S. Senator.

DEAR SENATOR SPONG: In our report to you entitled "Growth And Use of Washington Area Airports" (B–159719, dated August 18, 1971), we stated that we planned to furnish you a report at a later date in response to your questions concerning the legal status and jurisdiction over improvements made by the air carriers at Washington National Airport (National) in the event the airport is sold. Information on this matter follows.

In January 1966, the Federal Aviation Administration (FAA) issued a statement to representatives of air carriers serving the Washington area explaining that some of the air carriers operating at National had approached FAA with requests to improve or construct certain facilities at National for their exclusive use and occupancy. According to FAA's statement, the air carriers' requests contemplated the leasing of land area and unoccupied space in the main terminal, and undertaking improvements and construction at their own expense.

In its statement, FAA advised the carriers that (1) the Government would entertain requests from any scheduled air carrier operating at National for improvement of existing facilities, rental of unused facilities, or rental of land area; (2) any agreement with an air carrier must commence on a mutually agreeable date and expire on or before September 30, 1971; and (3) an air carrier's rights under such an agreement would not be permitted to interfere with the Government's plans or preparations for any improvement it might decide to make in the airport areas in which the carrier's facilities were located.

As shown in the following listing of information furnished by FAA, 12 air carriers have improved and constructed facilities at National since 1965.

Air carrier and estimated cost	
United Air Lines: Ticketing and hold rooms, and in-flight food kitchen	$900,000
Eastern Airlines: Ticketing and hold rooms	1,500,000
American Airlines: Ticketing and passenger facilities	3,200,000
Northwest/Trans World Airlines: Ticketing and passenger facilities	6,500,000
National Airlines: Ticketing and passenger facilities	470,000
Northeast Airlines: Operations and hold room facilities	200,000
Piedmont Airlines: Ticketing and hold rooms	50,000
Braniff International: Ticketing and hold room	85,060
Delta Air Lines: Hold room	109,000
Lake Central Airlines: Ticketing and hold room	$25,000
Allegheny Airlines: Ticketing and hold room	250,000
Total estimated cost of new facilities and improvements	13,289,000

All of the above listed improvements and new construction had been completed by April 1970. FAA considered that the air carriers' improvements to existing facilities at National were covered by the use agreements in effect and made no additional charges as a result of such improvements. Nine of the 12 air carriers, who have made improvements and constructed new facilities involving the use of additional land area at an estimated cost of about $3.6 million, have entered into agreements with FAA for the use and disposition of new facilities. The remaining three air carriers—Northwest Airlines, Trans World Airlines, and American Airlines—have constructed new facilities at an estimated cost of about $9.7 million but had not, at the time of our inquiry, entered into agreements with FAA for their use and disposition. An FAA official advised us that a meeting with the three air carriers was scheduled for September 8, 1971, at which time he expected the carriers to sign agreements with FAA.

FAA agreements with the nine air carriers—applicable to their new facilities—provide for an annual charge of $.15 a square foot for the ground space occupied at National. The same charge has been imposed on, and paid by, Northwest, Trans World, and American Airlines even though these air carriers had not entered into agreements with FAA covering their facilities.

Eight of the nine agreements covering new facilities expire on September 30, 1971, and one expired on July 31, 1971. In the case of the expired agreement, FAA officials advised us that, until a new agreement could be consummated, they were continuing to charge the air carrier for ground space at the rate prescribed in the expired agreement.

Under the terms of each of the nine agreements, legal title to the facilities constructed by the air carriers passes to the Government upon the expiration of the period fixed in the agreements. Since one agreement has expired, title to the applicable facilities has passed to the Government.

If National is sold prior to the expiration of FAA's agreements with the eight air carriers, the purchaser of National would acquire the rights of the Government to the transfer of title in accordance with the provisions of the agreements. After expiration of the agreements (September 30, 1971), the Government would acquire title to the air carrier-constructed facilities and the purchaser would acquire title to the facilities upon consummation of the sale. In the latter situation, however, there could be new FAA agreements with the air carriers, and the purchaser ordinarily would take title subject to the leasehold interests of each of the air carriers pursuant to such agreements.

The draft of the agreement being negotiated by FAA with Northwest Airlines and Trans World Airlines for the new joint facilities constructed includes provisions for the passage of title to the facilities to the Government and for lease charges similar to those in the nine executed agreements, and for the re-leasing of the facilities to the two carriers after September 30, 1971. The agreement being negotiated with American Airlines contains similar provisions.

We were advised by an FAA official that the entering into agreements with Northwest and Trans World Airlines and with American Airlines has been delayed because of diffi-

culty in reaching accord on terms relating to the leasing fees to be charged these air carriers for use of the new facilities after September 30, 1971. He advised us also that the fees to be charged these air carriers after September 30, 1971, will include an offsetting factor to reflect the substantial investments made by the three air carriers in new terminal facilities at National.

The FAA official also indicated that the agreements with the other nine air carriers covering their new facilities at National do not prescribe the fees to be charged after the termination dates of those agreements. He stated that this would not be a critical factor in the negotiations with these nine air carriers because their investments in terminal facilities were substantially smaller than those of Northwest, Trans World, and American Airlines.

The Government's general policy regarding charges and fees for the leasing of Federal property is contained in Office of Management and Budget (formerly Bureau of the Budget) Circular No. A-25. Paragraph 3b of this Circular provides as follows:

"Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government."

The apparent flaw in the adequacy of FAA's contracting procedures, as demonstrated in the Northwest, Trans World, and American Airlines situations is that of permitting air carriers to construct facilities in the absence of previously executed agreements. The agreements that finally may be negotiated with the three air carriers may reflect pressure to include provisions, covering such matters as amortization of carrier investments, which may not be in the best interests of the Government. Also, the agreements may set the pattern for the renewal agreements with the other nine air carriers.

For the protection of all parties concerned, agreements for any additional construction should be executed prior to the commencement of construction.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report. We did not obtain comments from the Department of Transportation on this report; this fact should be taken into consideration in any use made of the information presented.

We trust the information furnished will serve your purposes.

Sincerely yours,

B. M. KILLER,
Acting Comptroller General of the United States.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 30, 1972.

Hon. WILLIAM B. SPONG, JR.,
U.S. Senate.

DEAR SENATOR SPONG: Further reference is made to your letter of August 25, 1971, concerning the construction of facilities at Washington National Airport under a modernization plan calling for the expenditure of $157 million. Of this amount, it is anticipated that the air carriers and concessionaires would provide $79 million and $52 million, respectively, and the Government's share would be $26 million. The plan includes expanding the main terminal, expanding the north terminal area, and adding passenger loading fingers and passenger waiting rooms.

With regard to such plan you asked five questions. As previously stated in our letter to you of September 7, 1971, since those questions involved matters concerning the functions of several agencies we requested the views of the agencies involved. Those questions, pertinent agency comments, and our discussion of them, where appropriate, are set forth below as follows:

"1. Does the FAA have the authority to allow air carriers and concessionaires to construct facilities at National without prior congressional approval of the project and/or of any contractual obligations that may go along with it."

In commenting on this matter the Administrator, Federal Aviation Administration, stated, in part, that—

"This practice is authorized by the laws under which we operate the two national capital airports. (The Act of 29 June 1940 for Washington National Airport, and the Act of 7 September 1950 for Dulles International Airport.) Both Acts empower the Secretary of the Department of Transportation '. . . to lease under such conditions as he may deem proper . . . space or property within or upon the airport for purposes essential or appropriate to the operation of the airport.' Authority to enter into leases of property consistent with sound airport commercial practice is essential to proper and efficient operation of any airport. There is little doubt that the Congress intended to grant to the Secretary that degree of authority necessary or essential to effective and efficient operation of the two airports. This intent on the part of the Congress is apparent from a reading of Section 6 of the Act authorizing construction and operation of Dulles International Airport which provides that '. . . concession contracts involving construction of permanent buildings or facilities . . .' may be let for longer than five-year terms; and in the House Committee section-by-section analysis of the bill that became this law (hearings on H.R. 7241 May 18, etc., 1950, p. 8) it was stated that '. . . contracts by private enterprise to erect permanent structures at substantial values . . .' were clearly authorized, and that the added term was for the purpose of permitting the investor to 'write off' the capital investment.

* * * * *

"The rates, fees, and charges under our tenant concessionaire contracts are negotiated taking into consideration the alterations, repairs, and improvements made by the lessees and concessionaires. The Congress has been aware of this for many years as the hearings on the Act of 7 September 1950 (Second Washington Act) indicate, particularly in the deliberations of Section 6 referenced above."

In view of the above explanation it seemed clear that the Congress intended to authorize the construction of facilities by concessionaires at Dulles International Airport but it was not so clear that the same authority was intended at Washington National Airport.

Accordingly, and as reported to you by letter of November 19, 1971, we requested additional comments from the Federal Aviation Administration (FAA) concerning the question whether the contracting authority of Washington National Airport was coextensive with that of Dulles International Airport. In their reply of February 20, 1972, it was pointed out that when S. 456 (which bill subsequently was enacted into law and provided for the construction of the Dulles International Airport (IAD)) was being considered on the floor of the Senate there were approved a number of committee amendments and an amendment offered by Senator Schoeppel. The discussion of those amendments indicates that the purpose of such amendments was to put the operation of the proposed new airport on the same footing as that of the Washington National Airport.

The discussion of those amendments is set out on pages 5391–5394 of the Congressional Record of April 19, 1950, and copies of such pages are enclosed herewith.

Further indications that the Congress intended that FAA have authority to enter into lease or concession agreements which called for the construction of improvements by lessees and concessionaires are set forth in FAA's reply as follows:

"1. First Supplemental Civil Functions Appropriations Act for Fiscal Year 1941 (Act of 9 October 1940), (P.L. 76–812, 54 Stat. 1030, 1039). This act authorized a longer lease for the restaurant concession at DCA because the magnitude of expenditures by the concessionaire for necessary facilities and improvements precluded their amortization over a short-lease period. (See Hearings on H.R. 10539, the First Supplemental Civil Functions Appropriations Bill for 1941, Senate Appropriations Subcommittee, page 331, testimony of Colonel Sumpter Smith, Chairman, Interdepartmental Engineering Commission in charge of the Development and Construction of DCA).

"2. Supplemental Appropriations Bills, 85th Congress, Second Session. Hearings on H.R. 2221, page 7, Construction and Development, Additional Washington Airport, 18 July 1958.

" 'Hangars and shops will be built on a self-amortizing basis under agreement with individual airlines.'

"3. FAA Budget Estimates—Submission to Congress 1962, Volume II, page 1513.

" 'The original construction program did not include funds for the Government's development of the hangar and industrial area where private capital is expected to finance the construction of buildings they will occupy.'

"4. Independent Offices Appropriations, 1963 Senate Subcommittee on Appropriations, pages 510–511.

" 'Mr. Hobbs. (Referring to Dulles) "We have not provided a hangar, based on past administrative philosophy, that the airlines would build their own hangars." '

" 'Mr. Halaby. "This Committee, last year had before it a request for a four-bay hangar, I believe, at $6 million. The House approved that hangar, and this Committee knocked it out and admonished me to press the airlines to build their own hangars. We have done that." '

"5. Senate Report No. 1270, 81st Congress, 2nd Session, Calendar No. 1278 on S. 456, at page 6, which states:

" 'The provisions of Section 5 and 6, limiting the length of contracts made thereunder to 10 years is, generally speaking desirable. However, if the lease involved construction of a permanent building, such as an office building, hotel, or similar facility by the lessee, the limitation of 10 years would prohibit and probably defeat successful negotiations in this connection * * *. To avoid these difficulties, we recommend that the last sentence of Section 6 be stricken and the following substituted therefor: "No such contract, except contracts involving the construction of permanent buildings or facilities, shall extend for a period of longer than 10 years * * *." ' "

"6. Statement of G. Ward Hobbs relating to H.R. 3126 and 3127 dealing with airport contracts, before the House Committee on Interstate and Foreign Commerce, Subcommittee on Transportation and Aeronautics, 29 October 1963.

" 'It seems to us that Congress meant to authorize the Agency to permit tenants to construct improvements at Dulles International Airport. And, at Washington National Airport, Congress specifically authorized such an agreement between the Agency and a restaurant concessionaire who wanted a long-term lease to amortize a substantial investment in improvements to Government property. On these bases we think there is not much question that we have this authority.' "

In connection with your first question there has not been overlooked the provisions of section 321 of the Economy Act of June 30, 1932, 47 Stat. 412, 40 U.S.C. 303(b) which are as follows:

"Except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for a money consideration only, and there shall not be included in the lease any provision for the alteration, repair, or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts."

While the act of June 29, 1940, 54 Stat. 686, which provided for the administration of the Washington National Airport, does not specifically provide that leases at the airport may be made for other than a money consideration, section 3 of that act, as indicated in the above comments of the Administrator, authorizes the Administrator to lease, upon such terms as he may deem proper, space or property within or upon the airport for purposes essential or appropriate to the operation of the airport.

In view of such provisions of section 3, together with the matters pointed out by the Administrator which indicate that the Congress has been aware of such leasing practices by FAA and its predecessor agency, we see no basis to now question the authority of FAA to permit air carriers and concessionaires to construct facilities at Washington National Airport.

"2. The proposed modernization plan calls for the expenditure of $157 million, of which $26 million is to be contributed by the federal government. That federal share will be spent for construction of new roadways and improvement of utilities necessary to sustain the expanded terminal complex.

"By permitting the terminal improvements to take place first (at private expense), is the FAA not creating a *fait accompli* and more or less obligating Congress to later appropriate funds for essential, supporting facilities?"

Concerning this matter, the Administrator has advised us that—

"We are presently planning to ask Congress for the Government's share of these construction funds. The airline/concessionaire development phase is not anticipated to begin until after the funding of the Government's share since they would be investing at their own risk."

"3. Would the proposed project require approval of the Environmental Protection Agency?"

In response to this question, the Environmental Protection Agency has advised us as follows:

"The proposed project will require the preparation of a draft environmental impact statement for compliance with the *National Environmental Policy Act* of 1969. The requirement to develop an impact statement is based on the involvement of Federal agencies in the proposed modernization plan which could have significant effects on the quality of the human environment. The Environmental Protection Agency's role is to review and comment on the environmental aspects of the statement, particularly on those matters relating to air pollution, water pollution, solid waste management, radiation, pesticides and noise. We anticipate significant difficulty in any expansion of that airport, due mainly to increased congestion, noise and its location in an urban environment. Alternate means of meeting air transportation needs, such as use of other available facilities would have to be discussed, as required in the Council of Environmental Quality Guidelines.

"To answer your specific question, EPA has no authority to approve or disapprove proposed actions of another Federal agency. However, EPA comments are given considerable weight by the agency proposing the action. Should adverse comments by EPA fail to result in appropriate corrective action, the matter can be referred to the Council on Environmental Quality for resolution. In addition, the airport facilities are required to meet applicable air and water quality standards established under the *Clean Air Act and Federal Water Pollution Control Act*, respectively."

Also, the Administrator, Federal Aviation Administration, reported in this regard that the National Environmental Policy Act, Office of Management and Budget Circular A-95, and other pertinent requirements, will be observed.

"4. Does the National Capital Planning Commission have to approve the project?"

In their reply concerning this question the Executive Director of the Commission advised us that—

"Since Washington National Airport is outside of the District of Columbia, the Commission's General Counsel advises that the applicable provision of law is Section 5(a) of the National Capital Planning Act of 1952, as amended (40 U.S.C. 71d(a)) which provides in part:

" 'In order to insure the comprehensive planning and orderly development of the National Capital, each Federal and District of Columbia agency prior to the preparation of construction plans originated by such agency for proposed developments and projects . . . to be paid for in whole or in part from Federal or District funds, shall advise and consult with the Commission in the preparation by the agency of plans and programs in preliminary and successive stages which affect the plan and development of the National Capital . . . After receipt of such plans, maps, and data, it shall be the duty of the Commission to make promptly a preliminary report and recommendations to the agency or agencies concerned.'

"The Commission has defined 'preliminary and successive stages' to include budget proposals, location proposals, master plans for large installations, and preliminary and final site and building plans for individual construction projects.

"Therefore, although approval by the Commission of the modernization plan for construction of additional facilities at the Washington National Airport is not required, FAA is required to submit the plan to the Commission for review and recommendations. No such submission has been received to date."

Also, concerning this matter, the Administrator, Federal Aviation Administration, agreed that while the National Capital Planning Commission is not required to approve the project, the Administration is required to consult with the Commission and he stated that they have consulted with the Commission and will continue to work closely with the Commission throughout the project.

"5. Are there any other legal constraints on the FAA's freedom to proceed with this project?"

We are not aware of any other legal constraints concerning the modernization plan.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 45 minutes, with Senators recognized for not to exceed 3 minutes.

NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD ACT OF 1972

The PRESIDING OFFICER. Under the previous agreement the Senate will now proceed to the consideration of S. 3323, the heart and lung program, and debate is limited to 20 minutes, to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the minority leader or his designee, the Senator from Maryland (Mr. BEALL). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3323, to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs and blood, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Heart, Blood Vessel, Lung, and Blood Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) Congress finds and declares that—

(1) diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

(2) elimination of such cardiovascular diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and costs of medical care of more than $30,000,000,000 per year;

(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema alone being the fastest rising cause of death in the United States;

(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

(7) the provision of prompt and effective emergency medical services utilizing t the fullest extent possible, advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and severe disabilities due

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to critical illnesses in connection with heart, blood vessel, lung, and blood diseases; and

(8) the greatest potential for advancement against diseases of the heart and blood vessels, the lungs, and blood lies in the National Heart and Lung Institute of the National Institutes of Health whose research institutes have brought into being the most productive scientific community centered upon health and disease that the world has ever known.

(b) It is the purpose of this Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack upon the diseases of the heart and blood vessels, the lungs, and blood.

HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES PROGRAMS

SEC. 3. Part B of title IV of the Public Health Service Act is amended (1) by redesignating section 413 as section 419A, (2) by redesignating section 414 as section 418, and (3) by adding after section 412 the following new sections:

"NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PROGRAM

"SEC. 413. (a) The Director of the Institute, with the advice of the Council, shall within one hundred and eighty days after the effective date of this section, develop a plan for a heart, blood vessel, lung, and blood disease program (hereafter in this part referred to as the 'program') to expand, intensify, and coordinate the activities of the Institute respecting such diseases (including its activities under section 412). The program shall provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of cardiovascular, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal cardiovascular, pulmonary, and blood phenomena;

"(3) research into the development, trial, and evaluation of techniques, drugs, and devices used in, and approaches to, the diagnosis, prevention, and treatment (including emergency medical service) of cardiovascular and pulmonary diseases and the rehabilitation of patients suffering from such diseases;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of cardiovascular, pulmonary, and other related diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of these diseases;

"(5) establishment of programs and centers for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches (including emergency medical services) to cardiovascular and pulmonary diseases;

"(6) studies and research into blood diseases (such as sickle cell anemia and hemophilia) and blood, its uses for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionalization, and distribution of it and its products;

"(7) the education and training of scientists, clinicians, and educators in fields and specialties requisite to the conduct of programs respecting cardiovascular, pulmonary, and blood diseases;

"(8) public and professional education relating to all aspects of cardiovascular, pulmonary, and blood diseases and the use of blood and blood products and the management of blood resources;

"(9) establishment of programs and centers for study and research into cardiovascular, pulmonary, and blood diseases of children (including cystic fibrosis, hyalin membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

"(10) establishment of programs or study, research, development, demonstrations, and evaluation of emergency medical services for people who sustain critical illnesses in connection with heart, blood vessel, lung or blood diseases which programs shall include the training of paraprofessionals in emergency treatment procedures, and in the utilization and operation of emergency medical equipment, the development and operation of mobile critical care units (including helicopters and other airborne units where appropriate), and radio and telecommunications, other communications and electronic monitoring systems, the coordination with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and other appropriate services.

"(b)(1) The plan required by subsection (a) of this section shall be transmitted to the Congress and shall set out the Institute's staff requirements to carry out the program and recommendations for appropriations for the program.

"(2) The Director of the Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the program during the preceding calendar year and a plan for the program during the next five years.

"(c) In carrying out the program, the Director of the Institute, after consultation with the Council and without regard to any other provisions of this Act, may—

"(1) if authorized by the Council, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than fifty experts or consultants who have scientific or professional qualifications;

"(2) acquire, construct, improve, repair, operate, and maintain cardiovascular and pulmonary disease centers, laboratories, research, training, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years; and

"(3) enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution.

"HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

"SEC. 414. (a) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases of children.

"(b)(1) The Director of the Heart and Lung Institute is authorized to establish ten model cardiovascular disease prevention clinics throughout the United States within the framework of existing programs. The purpose of such clinics shall be—

"(A) to develop improved methods of detecting high risk individuals;

"(B) to develop improved methods of intervention against high risk factors;

"(C) to develop highly skilled manpower in cardiovascular disease prevention; and

"(D) to develop improved methods of providing emergency medical services."

"(2) Such clinics shall be served by a central coordinating unit that shall be responsible for the development of standardized procedures for diagnosis, treatment, and data collection in relation to cardiovascular disease.

"(c) There are authorized to be appropriated to carry out this section $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

"NATIONAL BASIC AND CLINICAL RESEARCH AND DEMONSTRATION CENTERS FOR CARDIOVASCULAR AND PULMONARY DISEASES

"SEC. 415. (a) The Director of the Institute may provide for the development of—

"(1) fifteen new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic and treatment methods (including emergency medical services) for cardiovascular diseases; and

"(2) fifteen new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic and treatment methods (including emergency medical services) for chronic pulmonary diseases of adults and children (including but not limited to bronchitis, emphysema, asthma, and cystic fibrosis and other pulmonary diseases of children).

Centers developed under this subsection may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a)) for clinical research into, training in, and demonstration of advanced diagnostic and treatment methods for cardiovascular and chronic pulmonary diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction, notwithstanding section 405,

"(2) staffing and other basic operating costs, including such patient care costs as are required for research,

"(3) training, including training for allied health professions personnel, and

"(4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement may not exceed $5,000,000 in any year. Support of a center under this subsection may be for a period of not to exceed five years and may be extended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director.

"INTERAGENCY TECHNICAL COMMITTEE AND OFFICE OF HEART AND LUNG HEALTH EDUCATION

"SEC. 416. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to diseases of the heart, blood vessels, the lung, and blood and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.

"(c) There is hereby established within the Department of Health, Education, and Welfare an Office of Heart and Lung Health Education which shall provide a program of heart and lung health education for public, medical, and allied health professions. Special emphasis shall be placed upon dissemination of information regarding diet, hypertension, cigarette smoking, weight control, and other factors in the prevention of arteriosclerosis, cardiovascular disease, and lung disease.

"NATIONAL HEART AND LUNG ADVISORY COUNCIL

"SEC. 417. (a) There is established in the Institute a National Heart and Lung Advisory Council to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Council.

"(2) Eighteen members appointed by the Secretary. Each of the appointed members of the Council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs. Not more than twelve of the appointed members of the Council shall be leading medical or scientific authorities who are skilled in the sciences relating to disease of the heart, blood vessels, lungs, and blood, and not more than eight of the appointed members shall be representatives of the general public.

"(b)(1) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such terms; and

"(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) The Council shall supersede the existing National Advisory Heart Council appointed under section 217, and the appointed members of the National Advisory Heart Council serving on the effective date of this section shall serve as additional members of the National Heart and Lung Advisory Council for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

"(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses; including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Chairman of the Council shall be appointed by the Secretary from among the members of the Council and shall serve as Chairman for a term of two years.

"(d) The Director of the Institute shall (1) designate a member of the staff of the Institute to act as executive secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(e) The Council shall meet at the call of the Director of the Institute or of the Chairman, but not less often than four times a year."

AUTHORIZATION OF APPROPRIATIONS FOR PART B OF TITLE IV OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. Part B of title IV of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419B. For the purpose of carrying out this part (other than section 414), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1973, $450,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975, of which not less than 20 per centum of the funds appropriated under this section in each such year shall be reserved for programs in connection with diseases of the lung and not less than 20 per centum of the funds appropriated under this section in each fiscal year shall be reserved for programs in connection with diseases of blood.

"SEC. 419C. Notwithstanding any limitation on appropriations for any program or activity under section 419B of this Act or any Act authorizing appropriations for such program or activity, not to exceed 10 per centum of the amount appropriated or allocated for each fiscal year from any appropriation for the purpose of allowing the Secretary to carry out any such program or activity under section 419B of this Act may be transferred and used by the Secretary for the purpose of carrying out any other such program or activity under this part."

DIRECTOR'S AUTHORITY TO APPROVE GRANTS

SEC. 5. Section 419A of the Public Health Service Act (as so redesignated by section 3 of this Act) is amended—

(1) by striking out "grants-in-aid" in subsection (a) and inserting in lieu thereof "except as provided in subsection (c), grants-in-aid"; and

(2) by adding after subsection (b) the following new subsection:

"(c) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Heart and Lung Institute may approve grants under this Act for research and training in heart, blood vessel, lung, and blood diseases—

"(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without review and recommendation by the Council, and

"(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by the Council."

CONFORMING AMENDMENTS TO PART B OF TITLE IV OF THE PUBLIC SERVICE ACT

SEC. 6 (a) Section 411 of the Public Health Service Act is amended by striking out "National Heart Institute" and inserting in lieu thereof "National Heart and Lung Institute".

(b) Section 412 of such Act is amended—

(1) by striking out "heart" each place it occurs (except in the headings) and inserting in lieu thereof "heart, blood vessel, lung, and blood";

(2) by striking out "Surgeon General" and inserting in lieu thereof "Secretary";

(3) by striking out "National Advisory Heart Council" and inserting in lieu thereof "National Heart and Lung Advisory Council";

(4) by redesignating paragraphs (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (6), and (7), respectively; and

(5) by amending the section heading to read as follows:

"RESEARCH AND TRAINING IN DISEASES OF THE HEART, BLOOD VESSELS, LUNG, AND BLOOD"

(c) Section 418 of such Act (as so redesignated by section 3 of this Act) is amended—

(1) by inserting "(a)" immediately after "SEC. 418." and by adding at the end thereof the following new subsection:

"(b)(1) The Council shall advise and assist the Director of the Institute with respect to the program established under section 413. The Council may hold such hearings, take such testimony, and sit and act at such times and places, as the Council deems advisable to investigate programs and activities of the program.

"(2) The Council shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the program toward the accomplishment of its objectives."

(2) by striking out "Surgeon General" each place it occurs (except paragraph (f)) and inserting in lieu thereof "Secretary";

(3) by striking out "heart" each place it occurs and inserting in lieu thereof "heart, blood vessel, lung, and blood";

(4) by striking out "Surgeon General" in paragraph (f) and inserting in lieu thereof "Secretary, the Director of the National Institutes of Health, and the Director of the National Heart and Lung"; and

(5) by redesignating paragraphs (a), (b), (c), (d), (e), and (f) as paragraphs (1), (2), (3), (4), (5), and (6), respectively.

(d) Section 419A of such Act (as so redesignated by section 3 of this Act) is amended—

(1) in subsection (a), by (A) striking out "Surgeon General" and inserting in lieu thereof "Secretary", and (B) striking out "heart" and inserting in lieu thereof "heart, blood vessel, lung, and blood"; and

(2) in subsection (b), by (A) striking out "The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501," and inserting in lieu thereof "The Secretary may, in accordance with section 501, accept conditional gifts", and (B) striking out "heart" and inserting in lieu thereof "heart, blood vessel, lung, and blood".

(e) The heading for part B of such Act is amended to read as follows:

"PART B—NATIONAL HEART AND LUNG INSTITUTES"

CONFORMING AMENDMENTS TO OTHER PROVISIONS OF THE PUBLIC HEALTH SERVICE ACT

SEC. 7. (a) Section 217 of such Act is amended—

(1) by striking out "the National Advisory

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Heart Council," each place it occurs in subsection (a);

(2) by striking out "heart diseases," in subsection (a) and by striking out "heart," in subsection (b).

(b) Sections 301(d) and 301(l) of such Act are each amended by striking out "National Advisory Heart Council" and inserting in lieu thereof "National Heart and Lung Advisory Council".

REPORT TO CONGRESS

SEC. 8. The Secretary of Health, Education, and Welfare shall carry out a review of all administrative processes under which the national heart, blood vessel, lung, and blood disease program, established under part B of title IV of the Public Health Service Act, will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the program. Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Congress of the findings of such review and the actions taken to facilitate the conduct of the program, together with recommendations for any needed legislative changes.

EFFECTIVE DATE

SEC. 9. This Act and the amendments made by this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, it is a distinct pleasure and privilege for me, as chairman of the Subcommittee on Health, to bring before the Senate this morning S. 3323, the National Heart, Blood Vessel, Lung, and Blood Act of 1972.

Today is a special day, Mr. President. This is World Heart Day. At this very moment in the auditorium of the Smithsonian Institution, a major press conference is being held at which the latest advances in respect to heart disease are being discussed. At that press conference, Harriet P. Dustan, M.D., vice chairman of the research division of the Cleveland Clinic, is discussing the latest advances in hypertension or high blood pressure. Also, Dr. Forrest Adams, past president of the American College of Cardiology, is discussing the latest advances in pediatric cardiology. Dr. Theodore Cooper, the Director of the National Heart and Lung Institute, is giving a report on the latest findings regarding hardening of the arteries, or arteriosclerosis. And Michael Debakey, M.D., the president of the Baylor College of Medicine in Houston, is reporting on the latest advances in cardiovascular surgery. The swift passage of this legislation, Mr. President, will assist all of those in this Nation who are devoting their lives to combating these dread diseases.

Mr. President, diseases of the heart and blood vessels collectively cause more than half of all the deaths each year in the United States. If these diseases could be eliminated, the average American's life expectancy would be increased by about 11 years. The savings to the country in terms of lost wages and economic productivity would amount to more than $30 billion each year. Chronic lung diseases have been rising in America at an alarmingly rapid rate. In point of fact, emphysema is the fastest rising cause of death in the United States today. Three types of cardiovascular disease—heart attacks, strokes, and peripheral vascular disease—have reached epidemic proportions in this country. Approximately 1.2 million Americans suffer heart attacks each year. Of these heart attack victims, over 500,000 die, and half of those die before they can be reached by medical assistance. If this rate continues, more than 12 million Americans will have a heart attack within the next 10 years. Stroke, another of the cardiovascular diseases, kills more than 200,000 Americans each year. More than 150,000 Americans are afflicted each year by peripheral vascular disease, which disables its victims and causes much human suffering.

Mr. President, the committee's bill is intended to launch a massive program to combat these diseases and others. The committee's report which accompanies the bill describes the program authorized by the bill in great detail. I commend it to my colleagues. However, Mr. President, I would like to take this opportunity to describe briefly the major aspects covered by the bill.

The heart of this bill, Mr. President, is a 10-point program to be carried out by the National Heart and Lung Institute at the National Institutes of Health. That 10-point program includes: First, Research into the causes and methods for prevention of all forms of heart, lung, and blood diseases. Second, Studies and research into basic biological processes involved in understanding how the heart and the lungs function. Third, Research into the development, trial and evaluation of drugs for use in the diagnosis, treatment and prevention of these diseases. Fourth, Establishment of programs centers for the conduct of field studies and large-scale testing and evaluation of diagnostic and treatment techniques for these diseases. Fifth, Establishment of programs to develop new and innovative technological devices for the monitoring of the body's vital organs. Sixth, Studies and research into blood diseases such as sickle cell anemia and hemophilia. Seventh, Programs for the education and training of scientists, clinicians and educators to assure the Nation of a continuing supply of highly trained manpower. Eighth, Establishment of public and professional educational programs relating to all aspects of heart and lung and blood diseases, focusing on such things as diet and smoking. Ninth, Establishment of programs and centers for study and research into these diseases as they affect children, including particularly studies centering on cystic fibrosis, hyaline membrane, and hemolytic disease, with a view toward the development of preventive approaches to these diseases. Tenth, Establishment of programs to provide emergency medical assistance for persons who are stricken by any of these diseases.

Mr. President, the bill also authorizes heart, blood vessel, lung, and blood disease prevention and control programs. These prevention and control programs will focus on applying as rapidly as possible new knowledge as it is developed in respect to combating diseases. In that regard, the bill authorizes the establishment of 10 model heart disease prevention clinics throughout the United States. In order to carry out these prevention and control programs, the bill authorizes $120 million to be expended over a 3-year period.

The bill also authorizes the establishment of 30 new centers for basic and clinical research into these diseases—15 of which are to be focused on heart disease and 15 of which are to be focused on diseases of the lungs.

The bill also establishes within the Department of Health, Education, and Welfare an Office of Heart and Lung Health Education. It will be the responsibility of that Office, Mr. President, to work with other governmental and nongovernmental organizations, such as the American Heart Association, to assure that the American people are fully informed regarding the best ways to minimize the risk of contracting one of these diseases. For example, it is quite clear that individuals who watch their weight, engage in moderate physical exercise, and do not smoke excessively have a much lower risk of being struck down by heart attack.

In order to assure that the program authorized by the bill will be of the highest scientific quality, the bill authorizes the establishment of a 23-member National Heart and Lung Advisory Council. It will be the duty of this council to oversee the operation of the program and to recommend approval in respect to major requests for funds under the program.

Finally, Mr. President, the bill authorizes, in addition to the funds specifically reserved for the prevention and control programs, $1,350 million over a 3-year period in order to carry out the purposes of the bill. In addition, at least 20 percent of the funds appropriated in each year are reserved for programs to combat lung disease and an additional 20 percent of the funds are reserved for programs to combat diseases of the blood.

Mr. President, it would not have been possible for the Senate to have an opportunity to vote on this bill today. Less than 1 month after its introduction into the Senate, had it not been for the magnificent cooperation all Members of the committee have shown during the consideration of this legislation. I specifically want to call to my colleagues' attention that the bill S. 3046, introduced by Senator MONDALE, a distinguished member of the committee, has also been considered. Senator MONDALE wanted to be here today. However, he is out of town on official business of the Senate. Several of the key features of the Mondale bill are included in the legislation now pending before the Senate. Additionally, the bill S. 3201, introduced by Senator SCHWEIKER, the distinguished ranking minority member of the Health Subcommittee, was also considered. The key features of that bill are also included in the bill now before the Senate I particularly appreciate the willingness of Senators MONDALE and SCHWEIKER to assist us in bringing this legislation to the floor so expeditiously.

Mr. President, the passage of this legislation will set in motion a series of events which ultimately will substantially reduce the great burden of suffering and death which these dread diseases exact on the American people.

Finally, Mr. President, I want to express my thanks to the staff of the Senate Labor Committee who worked so diligently on this legislation—Mr. Jay Cutler, the minority counsel of the committee, and Mr. LeRoy Goldman, the staff director of the Senate Health Subcomittee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. Mr. President, there has been extraordinary progress, as we will see, as a result of the World Health Organization Conference being held today to make some extremely important and significant gains in the entire area of heart disease.

I commend the members of the Subcommittee on Health and the organizations that have been so helpful and useful in the development of this legislation. I think it is a sound piece of legislation that can move this country down the road a long way to meeting the problems of heart and lung disease in this country.

Mr. President, I reserve the remainder of my time.

Mr. BEALL. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Mr. BEALL. Mr. President, as a cosponsor of this legislation I rise to support this important bill.

At the outset I wish to congratulate the chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare, the Senator from Massachusetts (Mr. KENNEDY) for providing the leadership necessary in order to get this very important bill out of committee and onto the floor of the Senate for what surely will be favorable action this morning. He has relentlessly pursued this matter and because of his efforts we are able to vote on the bill today.

I am happy to note that the bill comes to the floor today with the unanimous recommendation of the Committee on Labor and Public Welfare, and it has the support of the administration. On January 20, 1972, and March 2, 1972, the President proposed that we should proceed to create panels to examine causes of heart disease. Mr. Merlin Duval, who is Assistant Secretary for Health and Scientific Affairs of HEW, testified that we should move ahead with this particular bill. It is most appropriate that this measure be before the Senate on World Heart Day.

Mr. President, S. 3323, if enacted, will mark the second year in a row that the Congress has decided to target a research area. Last year, the focus was cancer. I believe the following statistics dramatize the need for an expanded national attack on the diseases of the heart, blood vessels and lungs:

Heart and blood diseases, the major cause of death in the Nation, kill more than 1 million people each year. Cardiovascular diseases are responsible for 54.1 percent of all deaths in the United States; 600,000 Americans are killed annually by heart attacks and it is estimated that 12 million Americans will be claimed by such attacks over the next decade unless something is done about it.

Lung diseases are also an important cause of death and disability among the American citizens: 10 million Americans are estimated to be effected by chronic respiratory diseases, and emphysema is the fastest rising cause of death in the Nation.

Thrombosis, or the formation of blood clots, takes an enormous toll. These strokes hit 200,000 Americans each year often resulting in death or disability.

Thus, Mr. President the above grim statistics reveal that these diseases cost the Nation dearly in terms of premature death and disability. It has been estimated that if we could eliminate cardiovascular diseases as a significant cause of death and disability, the average American's lifespan would be increased by 11 years and some $30 billion would be saved to the economy in terms of wages lost, productivity, and medical costs.

S. 3323 would:

First, authorizes $1.47 billion over a 3-year period to the National Heart and Lung Institute in order to advance a national attack on the diseases of the heart and blood vessels, lungs, and the blood;

Second, requires the Director of the Institute within 180 days after enactment to develop a program to expand, intensify and coordinate the Institute's activities respecting such diseases;

Third, authorizes 10 model cardiovascular disease prevention clinics to improve detection and provide better means of intervention among high risk individuals and would foster the development of needed skilled manpower in this area;

Fourth, authorizes 30 basic and clinical research and demonstration centers for cardiovascular and pulmonary diseases.

Fifth, provides for an interagency technical committee to coordinate all aspects of the Federal health programs related to these diseases;

Sixth, establishes within the Department of Health, Education, and Welfare an Office of Heart and Lung Education to provide for a heart and pulmonary health education program;

Seventh, creates an advisory committee; and

Eighth, gives special emphasis to emergency care and services.

Mr. President, I am particularly pleased that the bill will place emphasis on emergency care services. We simply have the technology to do much better in this area than we are doing today. I previously spoke when I introduced S. 3329, a bill to establish a National Institute of Health Care Delivery of the outstanding trauma center at the University of Maryland. Maryland already has three helicopters, and with four or five more, the State could be a model for the country. Incidentally, these Maryland helicopters have landed even in citizens' backyards to pick up and rush heart attack victims to the appropriate treatment centers.

Also, Montgomery County in my State has had outstanding success with their heartmobile. Using rescue squad personnel closely tied by radio communiciation to physicians, have been able to respond to citizens' calls who, in the words of Dr. Samuel Fox, president of the American College of Cardiology and professor of medicine at George Washington University before the Health Subcommittee, "having essentially died at their homes, at their offices or on the streets, and then resuscitated, transported to coronary care units in." Many citizens saved by the heartmobile, now in their second year, following their attack, are living productive and useful lives. Despite the program's success, funds to support and train the necessary personnel have been hard to come by.

I ask unanimous consent that the language from the Senate report dealing with emergency services be printed at this point in the RECORD.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

6. The Committee considers the adequate provision of emergency medical services of primary importance in any program established to develop methods of diagnosis. The bill as reported amends the provision requiring the Institute Director to develop a plan for heart, blood vessel, lung and blood disease programs to include the development of emergency medical services both in the programs for research and in the establishment of programs in centers for the demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to cardiovascular and pulmonary diseases. Similarly, the provisions establishing the preventive and control program are amended to stress coordination of emergency medical services programs. While specific language including related research in emergency medical services was not included in the sections of the bill requiring research into medical devices, the Committee believes that much potential exists in the field of biomedical engineering for the development of devices which can be utilized at the scene of an emergency and in transport vehicles. The Committee also believes that consideration of emergency medical services is an appropriate subject for study by the Interagency Technical Committee established by the proposed new section 416 of the Public Health Service Act. Already effective pilot programs have been established through the joint efforts of the Department of Health, Education and Welfare, the Department of Transportation, and the Department of Defense in the development of emergency medical services. This mode of emergency transport has proven particularly effective in remote areas where distance from adequate acute care treatment has been a major obstacle to the provision of effective emergency medical care. The Committee urges that in the planning and development of transportation services and systems for the provision of emergency medical services, that this be done in coordination with the Department of Transportation and other appropriate Federal, State and local governmental agencies.

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Mr. BEALL. Mr. President, it would be great if we could say that our actions last year in enacting the cancer bill and our actions today on S. 3323, a bill to accelerate our battle against heart, blood, and pulmonary diseases, will be the one-two punch that will KO America's No. 1 and No. 2 health enemies. We know that we cannot make such a promise, for the pursuit of these diseases will take time, dedicated men and women, and adequate resources. The action by the Congress today will help provide the needed resources. The National Institutes of Health, which I am pleased is located in Maryland, has made biomedical research in the Nation preeminent in the world, and I am sure that its dedicated men and women as well as their scientific colleagues at other distinguished State and national institutions and industries, will relentlessly search for clues and answers for these diseases.

Again, I am pleased to strongly support this legislation and I hope that the House will take early and favorable action so that we may reverse these staggering and sad statistics.

While, Mr. President, the legislation cannot offer instant success, hopefully it will hasten the day when these diseases will no longer occupy their position of public health enemies Nos. 1 and 2. For this, millions of Americans would be grateful, many lives will be extended, and much pain and suffering will be alleviated.

Mr. President, I ask unanimous consent that the remarks of the Senator from New York (Mr. JAVITS), who is the ranking Republican member of the Committee on Labor and Public Welfare, and who is absent today on business, be inserted at this point in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR JAVITS

As one who has been referred to as the father of the National Heart Institute—having introduced on June 9, 1947, H.R. 3762, joined by then Senator, now Representative Pepper of Florida, which provided for the establishment of the Heart Institute within NIH—I am particularly pleased to strongly endorse and encourage the prompt passage of S. 3323, "The National Heart, Blood Vessel, Lung and Blood Act of 1972", which I cosponsored with Senator Kennedy.

Today, April 7, 1972, has been designated by the World Health Organization as World Heart Day, and I believe it would be a most fitting tribute for the Senate to pass on this day the significant legislation now before us.

Heart, blood vessels, lung and blood diseases are major national health problems which the President himself has characterized as "deeply disturbing" when in his state of the Union address of this year he said "It is deeply disturbing to realize that, largely because of heart disease, the mortality rate for men under the age of 55 is about twice as great in the United States as it is, for example, in some Scandinavian countries."

The President also stated his intention, which he reaffirmed in his health message of March 2, "to assign a panel of distinguished professional experts to guide us in determining why heart disease is so prevalent and what we should be doing to combat it." In testifying before the Senate, Dr. Merlin K. Duval, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education and Welfare, said: "The President, in both his state of the Union message to Congress on Health this year, has stressed his commitment. One of the bills you have before you, S. 3323, captures the concerns we have and, as we understand them, the concerns of the scientific community outside the Government. This Committee has highlighted most of the important matters that need resolution."

I believe this bill will now permit us to launch a more effective effort against heart, blood vessel, lung and blood diseases in accordance with the President's commitment to give, and I quote his State of the Union Address: "increased attention to the fight against diseases of the heart, blood vessels and lungs, which presently account for more than half of all the deaths in this country."

The legislation which we are considering today is extremely important because the heart, blood vessel, lung, and blood diseases certainly have reached epidemic proportions in this country.

Heart and blood vessel diseases are the major causes of death in the United States. They kill more than 1 million people each year. Cardiovascular disease is responsible for 54.1 percent of all deaths in the United States, killing old and young alike.

We must recognize the serious proportion of cardiovascular and pulmonary diseases, and their threatening effect on the health and well-being of the American people—the victims who are directly afflicted by these diseases and their families. It is imperative that we broaden the scope of the present National Heart and Lung Institute to include the related diseases of the heart, blood vessels, lung and blood.

Mr. President, when I testified in support of my bill, H.R. 3762, before the Committee on Labor and Public Welfare on April 8, 1948, almost 24 years ago to the day, I cited a statistic which regrettably is as true now as it was then about heart disease: "It is the number 1 killer."

Since I have been concerned actively with the role of the National Heart Institute and I believe that with the expanded authorization that this bill provides, the Institute could become an even more effective means of combating this number 1 killer of the American people.

Mr. SCHWEIKER. Mr. President, the bill before the Senate today provides a legislative foundation for an effective, expanded program to deal with the Nation's No. 1 health problem, cardiovascular disease. The President of the United States in his state of the Union address this year stated:

We will be giving increased attention to the fight against diseases of the heart, blood vessels and lungs, which presently account for more than half of all the deaths in this country. It is deeply disturbing to realize that, largely because of heart disease, the mortality rate for men under the age of 55 is about twice as great in the United States as it is, for example, in some Scandinavian countries.

In addition, I would point out another statistic that is both depressing and yet promising. Six times more people per unit of population are killed in this country by heart disease than in Japan. Our mortality rate for heart disease is six times higher than the rate for Japan. This should alarm us to the danger and yet point out, perhaps, that we can change the rather sad statistic.

In his testimony before the Health Subcommittee of the Senate Committee on Labor and Public Welfare Dr. Merlin K. Duval, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare said:

The Administration agrees with the essential goals contained in a number of bills before the Committee. The President, in both his state of the Union message and Message to Congress on Health this year, has stressed his commitment.

Thus, the Congress and the President have joined in a commitment to expand and accelerate the national effort to attack cardiovascular disease.

Mr. President, I want to commend the chairman of the Senate Health Subcommittee, the distinguished Senator from Massachusetts (Mr. KENNEDY) for his leadership in bringing this legislation to the Senate today. This bill represents a combination of the best features of his own bill, which I was pleased to cosponsor with a number of our Senate colleagues, a bill which I was pleased to introduce, and legislation proposed by the distinguished Senator from Minnesota (Mr. MONDALE). Also, the staff of the Senate Health Subcommittee should be commended for its effort and skill in preparing the legislation and the report for the committee in what may be record time inasmuch as the hearing on the legislation was conducted only 2 weeks ago.

Less than 1 year ago the National Heart and Lung Institute Task Force on Arteriosclerosis published its recommendations as a result of a 15-month study to develop a long-range plan to combat heart disease. Its primary recommendations had to do with developing new national resources to combat the killer. They recognized that over the past 20 years the American public invested $2 billion to study this problem and that a lot of new information had been found with this research. It was now timely to bring this information to the public in a way that could be practically introduced into the American practice of medicine and into the American way of life. Therefore, their recommendations were to develop a new program of public education to make the public aware of what they could do for themselves; to make a new program of prevention which would center around new clinics to show the people how they could use this information and then develop a new series of national centers for research in which we could begin to bring together more efficiently some of the expertise for studying the total problem, which is fragmented in our national system today.

Mr. President, I feel it should be made clear that the American public should not expect, as a result of this legislation, that we will have an instant cure or end to cardiovascular diseases and deaths. Congress certainly cannot legislate remedies. However, the American public can expect some practical payoffs to the moneys we are investing in heart and lung research. The state of the art today is such we can utilize existing knowledge and help a vast number of people. I think it is very important that we emphasize programs where the most people can be helped in

the shortest amount of time. Although much new and important information is being developed in the Nation's research laboratories, it is time to reduce the period of time it takes to transform a research development into a productive test and subsequently into practical clinical use for the people who need it, the growing number of victims of cardiovascular disease. We should bring our resources to bear first where we know we can save lives. We continually have a problem of spending priorities. Obviously, we must expand the research effort but our focus should remain first on the practical application of existing technology.

Mr. President, the pending bill in its charge to the Federal Government to prepare a plan to expand, intensify, and coordinate the Nation's program against cardiovascular disease provides the necessary balance between research and application and establishes realistic priorities. I urge its passage so that the Congress and the President can reaffirm its commitment to deal with America's No. 1 killer.

TO HALT THE EPIDEMIC OF HEART, BLOOD, AND LUNG DISEASES

Mr. HUMPHREY. Mr. President, I strongly support the National Heart, Blood Vessel, Lung, and Blood Act of 1972, S. 3323, and urge its adoption today by the Senate. As a joint sponsor of original legislation to launch a national program on the prevention and cure of critical and pervasive cardiovascular and pulmonary diseases and other heart and blood disorders, I am determined that an intensive research and education effort, through the National Heart and Lung Institute, be directed toward ending the nightmare of crippled lives and sudden death brought by these diseases to millions of American families.

Every year about a million persons in the United States experience either a myocardial infarction or sudden coronary heart disease death. For middle-aged men, the United States has one of the highest CHD death rates in the world. Those middle-aged persons fortunate enough to recover are five times as likely to die within the next 5 years as those without a history of previous coronary disease.

Arteriosclerosis accounts for almost one-half of all deaths from all causes in the United States each year. There has been a marked increase in blood diseases—thrombosis, a substantial factor in heart attacks; sickle cell anemia, afflicting millions of black Americans; and the rising incidence of disease associated with blood transfusions in the absence of adequate precautions.

But national concern is also being focused on the increase in lung diseases, with emphysema now afflicting almost 1 million people. There are about 10 million persons in America affected by chronic respiratory conditions, causing the death of some 36,000 people each year, apart from deaths due to cancer of the lung or respiratory infections such as pneumonia or tuberculosis.

I find it greatly encouraging that $80 million are earmarked under this act in fiscal 1973 for research on diseases of the lung. In addition to the diseases already cited, I would remind the Senate of the serious incidence of pneumoconiosis, or black lung disease, among the Nation's coal miners, that was brought sharply to public attention in the course of congressional action on the Federal Coal Mine Health and Safety Act. To date, some 375,000 benefit claims have been filed under title IV of this law by miners afflicted with this life-crippling disease, or their survivors.

As in earlier legislation which I had sponsored, the Coal Mine Health and Safety Act was focused on the establishment of effective standards for miner protection from health and safety hazards. The time has come to add to these prevention measures an intensive program of research on the treatment and cure of black lung disease and associated diseases on which increased medical knowledge is now available.

But we need to get the benefits of this knowledge and of the national medical research program down to the people threatened or afflicted with this disease. It is for this reason that I strongly support legislation introduced by Senator RANDOLPH and shortly to be reported to the Senate: The Black Lung Benefits Act of 1972. This bill amends title IV of the Federal Coal Mine Health and Safety Act, to authorize $10 million for the provision of fixed and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners.

It is my strong hope that in addition to approving the National Heart, Blood Vessel, Lung, and Blood Act today, the Senate will take immediate and favorable action on the Black Lung Benefits Act. For too long the desperate health care needs of America's coal miners have been ignored, despite the fact that our economy depends heavily on their labor. Their equal right to the prevention and treatment of disease can and must now be guaranteed.

A FITTING TRIBUTE FOR WORLD HEART DAY

Mr. CRANSTON. Mr. President, testimony offered the Subcommittee on Health in its hearings on S. 3323, the proposed National Heart, Blood Vessel, Lung and Blood Act of 1972, was virtually unanimous in support of the need for increased emphasis on the critical diseases covered by this legislation, which I am proud to cosponsor.

There is probably not a family in this country which has not had a close association with the tragedies involved in these diseases. Together these diseases account for approximately one and a half million deaths each year. Over 37 million individuals suffer from either cardiovascular disease or chronic respiratory conditions.

The bill the subcommittee has developed will provide our medical community with the necessary tools to mount an effective campaign against these widely prevalent diseases. This bill will require the development of a plan by the Director of the National Heart and Lung Institute for an expanded and intensified heart, blood vessel, lung, and blood disease program; it would authorize the establishment of prevention and control programs and the establishment of 15 new centers for clinical research into cardiovascular diseases and 15 new centers for clinical research into chronic pulmonary diseases; it would expand the existing advisory council to include students of the health professions and representatives of the general public; and it would provide for the first time a separate authorization for appropriations for the National Heart and Lung Institute.

In committee, a number of amendments were adopted which I believe strengthen the provisions of the bill as introduced.

An important new mission was added to the National Heart and Lung Institute's programs as a result of an amendment offered by myself and the Senator from Vermont (Mr. STAFFORD) which amendment was further perfected in committee with the help of the ranking minority member of the Subcommittee on Health, the Senator from Pennsylvania (Mr. SCHWEIKER). This amendment would require the Institute Director to establish programs for study, research, development, demonstrations and evaluation of emergency medical services in connection with heart, blood vessel, lung or blood diseases. Many of the deaths or disabilities resulting from sudden onslaughts of these diseases can be prevented through the provision of adequate medical treatment at the time of the initial attack. I believe this is an area with a potential for alleviating many of the tragic consequences of these diseases and one which should be given major emphasis in any program to treat victims of these diseases.

Procedures must be developed to bring medical care to the victim as quickly as possible and to provide treatment immediately. The provisions included in the bill as a result of my amendment would require: First, that in the development of these programs special emphasis be placed on the training of paraprofessionals in the provision of necessary emergency treatment; second, the development of mobile critical care units; third, the development of new devices for the emergency treatment of critically ill individuals including the development of radio and telecommunications, as well as electronic monitoring systems to be utilized in transmitting patient data and other necessary information to and from the critical care unit; and fourth, the coordination of such programs with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and additional appropriate services.

I feel one of the basic components of any program for emergency medical services is adequate training of the paraprofessional. An outstanding program has been implemented in Los Angeles County through the joint efforts of the Los Angeles Heart Association, Daniel Freeman Hospital, Centinella Valley Community Hospital, Hawthorne Community Hospital, the county of Los Angeles, and the area regional medical program.

This project focuses on prehospital care of persons with suspected heart attacks, utilizing firemen with comprehen-

sive training as paramedics to provide the emergency care. The program has developed a training curriculum which is probably one of the most comprehensive in the Nation. California law permits a fairly wide range of medical procedures for the paramedic to administer in the appropriate care of the patient with an acute heart attack. As a result, his preparation must be comprehensive and intensive. The course developed in Los Angeles by the paramedic committee appointed by the county board of supervisors consists of 290 hours, half of it in supervised clinical experience in the hospital coronary care unit, followed by regularly scheduled continuing medical education programs of up to 4 hours a month.

The chairman of the committee, Dr. Walter S. Graf, has listed the following 13 areas the paramedic must master:

A sufficient medical vocabulary to discuss a wide range of medical emergencies with a physician or nurse.

A knowledge of cardiac anatomy, physiology, and pathophysiology.

A knowledge of the clinical features of myocardial infarctions and their complications, as well as the understanding of those other disease states which may mimic the above.

A knowledge of the electrophysiology of the heart as a basis for understanding the electrocardiogram.

Arrhythmia identification and treatment.

Cardiopulmonary resuscitation.

Problems in ventilation and their management.

Indications for and techniques of defibrillation.

Facility in starting an intravenous pathway.

The use of drugs permitted by law.

The use of telemetry.

Maintenance and troubleshooting of the electronic equipment.

Techniques of history taking and physical examinations, as well as appropriate skill for reporting such data on the radio or on the proper forms.

That is a very impressive list. Besides these, experience in Los Angeles has shown that instruction in such areas as treatment for diabetic coma, insulin shock, and drug overdose as well as other critical conditions must also be provided the paramedic.

Programs such as these should be given greater emphasis if an intensified attack on the critical diseases in the jurisdiction of the new National Heart and Lung Institute is to be established. They are an integral part of any treatment program.

An additional amendment to S. 3323 which I strongly supported based on Senator MONDALE's bill (S. 3046) and which I believe will strengthen the ability of the Institute to carry out effective programs is the earmarking of no less than 20 percent of the amounts appropriated to programs in connection with diseases of the lung and no less than 20 percent to programs in connection with diseases of the blood. This budgetary procedure will insure that grants for these programs are judged on their own merits and will be given the priority consideration necessary to effect a concerted attack against lung and blood diseases.

In addition, an Office of Heart and Lung Health Education is established which will bring to the attention of the public and the health community information regarding preventive measures in the control of arteriosclerosis, cardiovascular disease, and lung disease. Much of the incidence of these diseases can be controlled through proper diet, weight control, rest, and the discouraging of cigarette smoking.

I believe this bill with the strong emphasis it places upon prevention as well as treatment will encourage the development of an effective comprehensive program for the control of heart, blood vessel, lung and blood diseases. I would like to congratulate the chairman of the subcommittee, the Senator from Massachusetts (Mr. KENNEDY) and the chairman of the full committee, the Senator from New Jersey (Mr. WILLIAMS) as well as the ranking minority member of the full committee and subcommittee (Mr. JAVITS and Mr. SCHWEIKER) respectively for the leadership they have offered in developing this important legislation.

I think it is particularly appropriate that we should adopt this bill today, which has been designated World Heart Day by the World Heart Organization and urge full support of its provisions by the Members of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I rise to express my strong support for S. 3323, to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood.

Diseases of the heart, blood vessels, lungs, and blood rank among the most dreaded diseases in the United States. At the present time, cardiovascular diseases account for 54.1 percent of all deaths in the United Staes, killing more than 1 million people each year. The major types of cardiovascular diseases—heart attacks, strokes, and peripheral vascular diseases—strike down 1,240,000 persons annually. When we analyze that figure, we realize that diseases in this category have reached epidemic proportions.

Chronic lung diseases are also one of the major causes of disability and death in this country. A common cause of death among newborn infants is respiratory diseases syndrome—RDS—affecting 50,000 to 100,000 babies annually in the United States, and over half of those afflicted with RDS die.

Cardiovascular and pulmonary diseases can strike any of us without any advance notice. These are not only diseases of the aged; they strike both young and old alike.; In addition to the tremendous toll in human life and suffering, these diseases create a tremendous drain on our national resources. They are responsible for over half the deaths of Americans in their prime productive years of 35 to 64, and for over two-thirds of the deaths among Americans over 65. Victims who are stricken with these diseases pay out over $4 billion annually for hospital and medical expenses, while lost wages and productivity eliminated by premature cardiovascular death are estimated to exceed $40 billion per year.

I do not believe that a country with the available resources of the United States should continue to tolerate this human suffering and spiraling death toll without attempting to fight back. S. 3323 is the battle plan for mounting the attack against those diseases.

This bill requires the Director of the National Heart and Lung Institute, with the advice of the National Heart and Lung Council, to develop a plan for a comprehensive attack on all phases of these diseases. Toward this objective, it authorizes the creation of 15 centers for research, advanced diagnosis, treatment, and training in cardiovascular diseases and 15 centers for similar research on pulmonary diseases. This bill also authorizes expenditures of $430,000,000 for fiscal year 1973, $490,000,000 for fiscal year 1974, and $550,000,000 for fiscal year 1975.

As a member of the Senate Appropriations Subcommittee on Labor-HEW, I have consistently fought to secure additional funding for research on heart, lung, and stroke diseases. If this bill achieves enactment into law, I shall do my utmost to see that adequate funds to implement S. 3323 are appropriated.

Mr. BEALL. Mr. President, I yield such time as he may require to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I thank my colleague.

I would like to say first that I believe it is a very auspicious occasion for the Senate of the United States to be acting on the National Heart, Blood Vessel, Lung, and Blood Act of 1972 on World Heart Day.

I have been a very proud cosponsor of this bill. I think all of us in the Senate would want to commend the Senator from Massachusetts (Mr. KENNEDY) for his fine leadership on this outstanding piece of legislation.

I am pleased, indeed, that this administration has supported the bill and that the bill has had the solid support of such Republican Senators as the Senator from New York (Mr. JAVITS), the Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Maryland (Mr. BEALL), and the Senator from Vermont (Mr. STAFFORD).

I think it is quite important that, in the relatively few years that I have been in the Senate, this body and the Congress of the United States have moved forward in a major way in efforts to eradicate dread diseases. I have been a strong supporter of the conquest of cancer bill and cosponsor of the national sickle cell prevention bill, both of which I think have been extremely important measures.

I think it should be pointed out that volunteer associations and organizations have done a great deal to assist Congress in finding the best way to use this country's funds and resources. It has been hard to single out any one individual, but if I were to mention one individual who has done more than anyone else in the health field, I would name Mrs. Mary Lasker as one who has contributed more experience, energy, thought, and effort to the Senate and the House of Representatives than any other individual.

Certainly, the American Heart Association should also be commended for its outstanding leadership on this occasion.

There is only one aspect of the present bill on which I would like further clarification from our distinguished colleague from Massachusetts (Mr. KENNEDY).

On page 31 of the committee report it is pointed out that no witness who came before the committee during the hearings testified on behalf of the provisions of S. 2909. S. 2909, the National Blood Bank Act, introduced in the Senate by myself and the Senator from Indiana (Mr. HARTKE) is a companion bill to H.R. 11828, introduced in the House, with 80 cosponsors, by the very distinguished Representative from California (VICTOR V. VEYSEY), who has been a leader in this field.

I wish to point out that I did not appear personally before the Senate Health Subcommittee because I was not notified until the close of business on March 23 that hearings would be held the next morning, and I was simply unable to be there that morning because of an unavoidable conflict in scheduling. However, I did submit a prepared statement, and I think it is very important to note that we have a grave blood problem in this country.

I was pleased that the committee report on S. 3323 clearly pointed out that there should be additional hearings and testimony from expert witnesses on the provisions of S. 2909, the National Blood Bank Act.

I merely need to point to the following figures to show the critical nature of this country's blood problem. According to Dr. J. Garrott Allen of Stanford University, whom many health specialists regard as the Nation's leading expert on blood problems, blood transfusions now kill at least 3,500 Americans and medically injure another 50,000 each year. He further estimates that of every 150 patients over 40 years of age who receive blood transfusions, one dies.

It has been shown that the risk of hepatitis from commercial blood runs from 11 to 70 times greater than the risk from voluntarily donated blood. The Government's Center for Disease Control in Atlanta reports that no one knows exactly how high the transfusion hepatitis rate is because physicians often fail to report serum-hepatitis cases. The CDC estimates that the real serum-hepatitis rate could be two to 10 times Dr. Allen's estimates or 35,000 deaths and 500,000 illnesses each year. Whether it is 3,500 or 35,000 that die each year, the fact is that no one should have to die. Even one death is too many.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President, will the Senator yield me some time?

Mr. KENNEDY. Mr. President, do I have 2 minutes remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield to the Senator from Illinois.

Mr. PERCY. Could the distinguished Senator enlighten the sponsors of this particular bill as to whether hearings of adequate scope and depth will be held in the reasonably near future so that we can tell the full story of this country's blood problem to the people and take the necessary action on this urgent national health problem?

Mr. KENNEDY. Let me give assurance to the Senator from Illinois that the measure which he has introduced is a matter of great importance. It is of great importance to the members of our committee. For the reasons he has outlined here, blood should be available on a voluntary basis. There should be quality standards so that persons who need blood can be assured of its quality and purity.

There are compelling reasons for legislation like that introduced by the Senator from Illinois. The Senator is correct that we have not had hearings on it up to this time. But we will have hearings, though. It is difficult for me to set a time certain for them. We now have before the committee the administration's health maintenance organization bill upon which we must act. We also have the communicable diseases bill and the product safety bill, which has been referred to our committee from the Commerce Committee with the requirement that we report back to the Senate by May 23, 1972. Also, I along with Senator RIBICOFF have introduced a bill to create a Department of Health. So we have an extremely busy agenda.

I wish I could be more specific in terms of time, but I will say to my friend from Illinois that the Hartke-Percy bill is a matter of urgency and a matter of importance. I commend the Senator for bringing it to our attention, and I give him the assurance that we will move on it just as quickly as we possibly can.

Mr. PERCY. If hearings can be held at the earliest possible and practicable time, I will certainly appreciate it. I do not quarrel at all with the subcommittee giving No. 1 priority to the No. 1 cause of death—cardiovascular diseases—and I again commend the Senator and the subcommittee for their prompt action in dealing with the National Heart, Blood Vessel, Lung and Blood Act of 1972 today.

Mr. KENNEDY. Mr. President, before yielding, I note the presence in the Chamber of my good friend and distinguished colleague, the Senator from New Hampshire (Mr. COTTON), the ranking Republican member on the Appropriations Subcommittee which deals with HEW appropriations and one of the great leaders in the Senate. He is steadfast in his support of all health programs; and in acknowledging his presence, I want to assure him that we will be knocking on his door in respect to the implementation of this legislation. And I am sure he will respond as he does in all health matters.

The PRESIDING OFFICER. All time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 1 additional minute, for the Senator from New Hampshire to respond.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. COTTON. Mr. President, I thank the distinguished Senator from Massachusetts for his generous words. I commend him for his constant and persistent efforts in expanding our medical research programs. This is one subject upon which the Senator from Massachusetts and I are in complete agreement, and I think I can assure him that after this authorization bill is passed, our subcommittee will be unanimous in striving to make adequate appropriations to carry out the purposes of the Senator's bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended an additional minute, and yield to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I commend the distinguished Senator from Massachusetts (Mr. KENNEDY) for his leadership in bringing this bill to the Senate floor, and compliment him on his very able managership of the bill. I extend compliments likewise to the ranking minority member.

I ask the distinguished Senator from Massachusetts as to whether or not additional cosponsors are now being accepted.

Mr. KENNEDY. They will be very much welcomed.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, I ask unanimous consent that the names of the Senator from Alabama (Mr. ALLEN), the Senator from Virginia (Mr. SPONG), the junior Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Indiana (Mr. HARTKE), and the Senator from Minnesota (Mr. HUMPHREY) be added as cosponsors of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARTKE. Mr. President, I would just like to associate myself with the Senator from Illinois (Mr. PERCY) in regard to S. 2909, the National Blood Bank Act. I thank the Senator from Massachusetts for giving his attention to this matter. I know that he agrees with us that clean blood bank blood is a matter of extreme importance.

The PRESIDING OFFICER (Mr. BENTSEN). All time having expired, the question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr.

ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL) the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnestoa (Mr. MONDALE), and the Senator from Indiana (Mr. BAYH) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from South Carolina (Mr. THURMOND) is absent on official business.

The Senator from Delaware (Mr. ROTH) and the Senator from Vermont (Mr. STAFFORD) are absent on official business while attending an interparliamentary meeting in Tokyo.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 62, nays 0 as follows:

[No. 135 Leg.]

YEAS—62

Aiken	Curtis	Mansfield
Allen	Dole	McGee
Allott	Eagleton	Miller
Baker	Eastland	Nelson
Beall	Ellender	Packwood
Bellmon	Ervin	Pearson
Bennett	Fannin	Pell
Bentsen	Fulbright	Percy
Bible	Goldwater	Proxmire
Boggs	Gurney	Ribicoff
Brooke	Hansen	Schweiker
Burdick	Hart	Smith
Byrd, Harry F., Jr.	Hartke	Spong
Byrd, Robert C.	Hatfield	Stennis
Case	Hruska	Stevens
Chiles	Humphrey	Stevenson
Church	Inouye	Symington
Cooper	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Tunney
Cranston	Kennedy	Williams
	Long	Young

NAYS—0

NOT VOTING—38

Anderson	Hughes	Muskie
Bayh	Jackson	Pastore
Brock	Javits	Randolph
Buckley	Magnuson	Roth
Cannon	Mathias	Saxbe
Cook	McClellan	Scott
Dominick	McGovern	Sparkman
Fong	McIntyre	Stafford
Gambrell	Metcalf	Taft
Gravel	Mondale	Thurmond
Griffin	Montoya	Tower
Harris	Moss	Weicker
Hollings	Mundt	

So the bill (S. 3323) was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, in view of the fact that the Judiciary Committee is now about to undertake another meeting on the Kleindienst-ITT affair, and in further view of the fact that it is my understanding some sort of decision will be reached around 12 noon today, I ask unanimous consent that the period for the transaction of routine morning business, under the same stipulations, be continued until the hour of 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM

Mr. KENNEDY. Mr. President, my outrage over the present murderous offensive in Vietnam is matched only by my outrage over the cruel and senseless view at large in the Nation today that the proper present policy for the United States is to let the slaughter proceed. How can this Nation possibly wash its hands of the blood that is being shed today in North and South Vietnam?

It is a tragic sign of how far we have lost our way in Indochina that the only real debate now underway in the mind of the Nation is a debate on the question of whether and to what extent American land, sea, and air forces should be engaged in this incredible new bloodbath. That is not the only question, and if that is the only question we ask ourselves, then we shall never find an answer that can satisfy our conscience.

The simple truth is that this test of Vietnamization, with or without American support, is a wholly immoral and unjustifiable test, because it is a test that is being carried out with the lives of men and women and children. Those dead and dying bodies stretched out beside the road across our television screens last night are the bodies of human beings. We do not have the right, no one has the right, to demand a test like that.

What possible justification can there be for a policy that asks such a terrible sacrifice in human life? The conscience of America ought to be demanding a cease-fire, not simply asking our people to accept a ringside seat to watch the slaughter.

Does anyone really doubt, if the current offensive from the North is somehow blunted or turned back, that a year or two from now there will be another new offensive, and another deadly round of the killing and destruction that have robbed us of our spirit for a decade?

It does not have to be this way. The option that President Nixon forgets is the only hopeful option we really have—the option of peace at the conference table in Paris. The question we ought to ask ourselves is whether we can be bold enough to go back to Paris now, and try again for peace. How can we possibly justify a situation in which the only empty seat at the peace table is the American seat?

In fact, the circumstances of the current offensive offer us a fertile and realistic opportunity for immediate progress in the Paris talks. Both sides have much to lose in lives and national prestige if the present fighting is allowed to run its course. Before the direction of the battle is clear, therefore, let us sit down again at the peace table. Let us demand a ceasefire by both sides. Let us explore every possible avenue for compromise and negotiated settlement.

The reason for the current impasse in Paris is clear. The talks have broken down because neither side is willing to make any substantial compromise for the purpose of securing peace. President Nixon insists that we will never surrender to the enemy, and the enemy insists that they will never surrender to Saigon. But that is simply posturing for domestic political gain. No one is asking for surrender by either side.

For some inexplicable reason, President Nixon insists on showing more respect for President Thieu of South Vietnam than Prime Minister Heath was willing to show last month for Prime Minister Faulkner of Northern Ireland. Surely, if Britain has the courage to take a new initiative for peace in Ulster, then we can do no less in Vietnam.

What is asked by those of us who oppose this war is a genuine attempt at compromise—a compromise fairly reflecting the central years-old fact that the war is a stalemate on the battlefield, and that the best hope for peace in the foreseeable future is a settlement at the conference table.

President Eisenhower knew about these things. He came to office in 1952 on a pledge of peace, and in 2 years, he had ended the Korean War. Later, he told us, in words so plain that no one can mistake them:

> People want peace so much that governments had better get out of their way and let them have it.

That is the policy we ought to follow now. Perhaps there is no way that the senseless new killing that is taking place today can be avoided. But we shall never know unless we try. We need a test of negotiations, not a test of Vietnamization. In sum, the issue comes down to whether the political life of President Thieu is worth the death of thousands of South and North Vietnamese soldiers and civilians. I do not believe it is, and I hope that America will not turn its back on Paris in the hours and days to come.

Mr. HUMPHREY. Mr. President, I want to commend the distinguished Senator from Massachusetts on his sensible and constructive message today. It is one that should be heeded. It was given in the spirit of tolerance and temperance. It is a message to all of us, not merely to the administration. It states what we should do; namely, reopen the peace negotiations in Paris. There we want to have the same kind of courage we are exemplifying on the battlefield, a willingness to find the solutions and a willingness to recognize that this war has gone on too long, that it is too costly and too brutal for its continuation. I join the Senator from Massachusetts in his comments.

Mr. President, this is one of the most unhappy periods in our national life. We have spent the last 10 years in the lives of so many young Americans in the struggle. There is not a single thing to be gained by its continuation. There is everything to be gained by its solution and its ending.

The only answer is a negotiated political settlement.

It is perfectly obvious that we are not going to have an all-out victory, as some have asked for.

It is equally obvious that neither are the North Vietnamese going to obtain an all-out military victory.

It is quite obvious that the blood bath will continue, with civilians being the victims as well as the military.

I would therefore hope and pray that the Senate, in a most respectful yet firm way, will send a message to the President, to our Government, to reopen the negotiations and to reopen them on the basis of trying to find a political solution and calling for a cease-fire.

In fact, I would urge that we invoke the good offices of the United Nations to seek a cease-fire. In the previous administration, there was a hesitancy to do this. That is the past. The fact is, the United Nations has a role to play. It should play it. We should seek outside good offices and get their views, and then have the courage to seek a political settlement. We owe nothing to President Thieu. Nothing. He owes everything to the United States of America. The last election there was not a true democratic election.

I do not want to say that President Thieu has not tried to do his job as President of his country, but we do not have an obligation to him. We have an obligation to the American people. It is in our national interest and in the interest of international peace and goodwill to end the killing and to do it promptly.

There is no way to do it except through a negotiated political settlement.

I compliment the distinguished Senator from Massachusetts on what I consider to be a succinct, thoughtful, and constructive proposal, given without political acrimony and in the spirit of peace that he talks of.

Mr. KENNEDY. I thank the distinguished Senator from Minnesota for this comments.

Mr. PELL. Mr. President, I, too, would like to commend the distinguished Senator from Massachusetts for his thoughtful observations and would hope that they would be taken up.

Mr. President, it would seem that we in the United States are in a particular state, in that we think of the war as winding down. It is winding down from the viewpoint of the number of Americans now involved, but from the viewpoint of the level of deaths in Indochina, the number of people being killed on the average each month remains the same.

Thank God Americans are not being killed in as great a number as they were. But their places are now being taken up by the Laotians and the Cambodians, by the Vietnamese, North and South. They are being killed in greater numbers by our planes as our casualties decline in number. We have an odd view that, if we do not see the people when they are killed, because we do it from the air, then those deaths do not count. The level of deaths, however, is just the same. And now the level of deaths is going up much higher.

I would hope the American people would realize that even though far fewer American young men have been killed in this last year, others have been killed, not just young men, but old men, and the women and children of Indochina. We should move at this time to make a renewed effort to try to secure a political settlement that will represent the forces in being in that unhappy land of Vietnam. And I would urge that the White House and those in the administration listen to those of us on the Hill who have been pressing in this direction now for many years.

Mr. GOLDWATER. Mr. President, I think the time has come for all patriotic, well-meaning Americans to recognize that what is now taking place in South Vietnam is more than an episode in the Indochina hostilities, more than an item for partisan debate in American political circles—it is a question of crisis proportions involving American lives, American prestige, American honor, American commitments, and the lives of our South Vietnamese allies.

This is a question of intensive warfare. It is a problem which is above politics. It is a set of disagreeable and dangerous circumstances which were thrust on President Nixon as a result of a war in which he had no part, either in beginning or in escalating.

Mr. President, I believe it is time for all Americans—Democrat and Republican, candidate and noncandidate, liberal and conservative—to join ranks and support the Chief Executive of the United States in any actions which he feels must be taken to counter the all-out, well-organized, Moscow-directed offensive being waged against the South Vietnamese.

I call upon my conservative friends in particular to stop their nit-picking criticism of the President and get behind his administration and support it in every way possible in this present military operation.

Mr. President, I do not think there is any point today in debating what should have been done in the past or what should be done right now. The situation is serious. It has been dumped squarely in the lap of our President, and he is responding in a way I am sure all patriotic Americans would approve.

I believe, Mr. President, we should show the enemy in Vietnam precisely how we stand by bombing every conceivable target in the North which might supply the men and equipment to kill American boys and to slaughter our ally.

Mr. President, I have heard the suggestion that we should negotiate. I suggest that we have been negotiating and negotiating and negotiating. We have never gained 1 inch by negotiating. We kept our word with respect to the DMZ. The North Vietnamese did not. They were violating their own words and they have called this upon themselves.

I think that our withdrawal at this point would be disastrous. If I felt for one moment that the North Vietnamese, whose sole objective is the capture of South Vietnam, would sit down and talk, I would be in favor of it. But there was no indication of this before. There is no indication now that the North Vietnamese want to do anything but have the United States withdraw their support of the Government of South Vietnam, whatever that government might be.

I think the President is absolutely right in what he is doing from a military standpoint and from the standpoint of protecting the lives of our men and the lives of our allies. As I have said in my few remarks here and as I have said for 8 or 10 years now, I would hope that the military equipment in North Vietnam, which we have allowed to be built up by reason of keeping our word, would be destroyed before it can be used to kill our boys and our friends and allies in South Vietnam.

Mr. SPONG. Mr. President, I yield my 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. CHILES). The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I would like to ask a question of my friend, the Senator from Arizona. As I understand the situation in Paris today, it is that the North Vietnamese are at the peace

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table and that the empty seat is the seat of the United States.

This administration has always been committed to a cease-fire in conflicts in other parts of the world, like the conflict in the Middle East and the India-Pakistan war. Why is it so reluctant to seek a cease-fire now in Vietnam? Why are we so reluctant to go back again to the Paris negotiations and say that what we are really interested in is an end to the killing? Why do we not demand an immediate cease-fire?

We know for sure that we cannot get it if we do not go to Paris and try. The North Vietnamese are there already. The empty seat at the peace table is the seat of the United States. Why are we not prepared at least to explore this avenue?

I would be interested in the time we have remaining in hearing from the Senator from Arizona on that question.

Mr. GOLDWATER. Mr. President, I believe I have a minute or two left. I would say that on six different occasions we have made flat proposals to the North Vietnamese and have not received an answer to any one of them. We have made proposals for a cease-fire six different times under conditions that certainly the North Vietnamese could understand.

Frankly, I do not think we have any business sitting down at a table when the other side is represented by people who have only one desire, and that desire is not for a cease-fire. It is to take over the Government of the South Vietnamese. They have openly said that. We have transcriptions of their language which show that that is what they want and nothing else.

So, until we can get them to agree to talk to us about a cease-fire and really go to work on that proposal and not cheat and lie and crawl around as they did on their agreement with respect to the 1968 bombing halt, I do not think the United States should pay any attention to the negotiating table.

Mr. KENNEDY. Mr. President, with respect to the argument that we have no obligation to go back to the Paris peace talks while people are being killed, I cannot understand the arrogance of that position. We have a special obligation to go back there, at a time when thousands of men, women, and children are being killed on the battlefield.

Are we going to say that we have no obligation because it is only the South Vietnamese and the North Vietnamese who are being killed? We say we have no obligation to go back to the conference table. Why can we not go back to the peace talks and say, "Our desire is for peace."

The Senator from Arizona is quoting the old shibboleth that the North Vietnamese are not going to be satisfied until the South Vietnamese surrender. And the administration is saying that we will never negotiate if it means the surrender of the South Vietnamese.

Those are bargaining positions that are used when trying to reach some settlement.

If we persist in refusing to go to the negotiating table, we ought to remind ourselves that thousands of soldiers and innocent people are being caught in the crossfire in this war and are being killed.

This is the tragedy of testing our policy of Vietnamization. We are all standing back like citizens of ancient Rome, watching the gladiators fight and die in the arena.

Mr. GOLDWATER. Mr. President, when we went into this war, we knew there would be killing, because that is what happens in war. If we did not want killing, we should have never sent troops to South Vietnam in the early 1960's. We should have never engaged our ground forces there. We should have allowed our Army and Navy and Air Force to be operated as they should have been operated without being hamstrung by civilians back in Washington.

This is a war. We do not like war. No one likes war. However, we are engaged in a war with an enemy that wants to take all of Southeast Asia. There is no secret about that. For us to give in and go back to the negotiating table that they themselves have desecrated time after time would not be honorable on our part. We should get this war over with. And we should have done it 8 or 9 years ago.

Mr. KENNEDY. The administration was quick to criticize Mr. George Meany for walking off the job on the Pay Board in the war against inflation. Yet the very same day the President made that accusation, he ordered Ambassador Porter to walk off the job at the peace negotiations in Paris. I think it is important that the American people keep in mind that comparison.

Mr. GOLDWATER. Mr. President, I might say that there is no comparison between Mr. Meany walking out of the negotiations, as I heard the Senator say, and the North Vietnamese. As much as I disagree with Mr. Meany, I would not compare him to the North Vietnamese. But Mr. Meany has never tried to help America in its endeavor to stabilize wages and prices. And I think it is nice to have him off of that Board. I am glad that he quit.

Mr. HUMPHREY. Mr. President, I rise only to make a brief comment in respect to the discussion taking place on the floor. It is most difficult since I served as a member of the administration that was involved in the escalation of this war in Southeast Asia. I heard every argument that has been said here today, every one. I want to tell you something, Mr. President: They did not work. I heard it said that we had to do more; I heard that they would not negotiate; I heard we ought not to seek a cease-fire because it was not the right time. Let me tell you, Mr. President, I heard it often, and I believed it. And quite frankly, in retrospect, what I heard did not make much sense, and in retrospect what I believed did not make much sense.

If there is a lesson to be learned from this struggle it is that we should disengage and do it as rapidly as we possibly can, and to remember that in so doing we may, indeed, have our pride hurt and we may, indeed, have much to regret.

We have given billions of dollars to South Vietnam and thousands of lives. They are not helpless. Possibly history will record that much of what we did there was to help much of Southeast Asia. I hope so.

But there is no substitute for having the courage to stay at a conference table even if it does not produce results, if you have the courage to stay on the battlefield. We cannot say there will be no results from Paris, but there will be none if you are away. There is no doubt it is a propaganda tool for North Vietnam, but so what; it is the only place you have to talk to them.

Mr. President, if you had a half million troops there, as we had, and all the power of the American Air Force there, as we had, and we did not stop them, what makes anyone think we can do it now with less than 100,000 troops?

I think the Senator from Massachusetts was restrained in his comments. I have on other occasions taken issue with him, but I believe now it is imperative that we seek the good offices of every country in the world to get a cease-fire, that we take this case to the United Nations to seek a cease-fire, that we reevaluate the standards we put on the table for political settlement and that we ask ourselves whether we want to be there for another 3, 4, or 5 years because unless some settlement is brought about, that is what will happen. I do not want that to happen. I do not think it is a matter of our winning the war; it will not be won unless this Nation is willing to go all out and precipitate the possibility of a third world war.

We know that we can make another choice and that other choice, that is so discouraging at times and distasteful, is to find some kind of compromise political settlement. I have come to this belief over the last 3 or 4 years. I came to that point of view in 1968. I had to break with my own administration and my President, and I want to say to you, Mr. President, I am sorry I did not come to that point of view sooner. I think it is imperative we do what needs to be done and that is to walk the extra mile for peace.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I have been listening to this debate and the colloquy. I have had my mind on the situation in Vietnam, Southeast Asia, and Indochina, especially, for a good many weeks, months, and years.

In my opinion we have never had any business in Southeast Asia. It was not and is not vital to the security of this country. We are engaged in an immoral, an utterly immoral, and a degrading war. We have paid a price for which there can never be any compensation and, especially so, have our servicemen.

A statement has been made to the effect that troops were first sent there in the 1960's. As a matter of fact, the first military mission was sent into Saigon after the Geneva Accords of 1954. With the passage of time that number gradually increased to about 16,000 under the Kennedy administration and to around 549,000 under the Johnson administration. Under this administration it has been decreased now to about 95,000. The first of next month it will drop to 69,000 and the trend seems to be down and out.

So, Mr. President, blame must be placed where the blame lies and credit must be given where the credit is due. But this war is, to use a phrase used this morning, more than an episode. It is, I repeat, a tragedy which has been responsible for the devastation of the Indo-Chinese societies, for the ruination of cultures, for the creation of at least 700,000 orphans, for the creation and the accumulation of millions of refugees, peaceful people, especially in Laos and Cambodia, who sought nothing but peace and wanted nothing but to stay out of the war.

We do bear a great share of the responsibility for the burden for that which has happened in that particular part of the world.

It is my understanding that our Government may have been, in part at least, and unwittingly perhaps, responsible for the assassination of President Ngo dien Diem an act I deplored at the time and have deplored ever since. I may be in the minority, but Ngo dien Diem was the one man in all South Vietnam who brought a degree of stability and unity to that country and who, had he lived, might have achieved the objectives he had laid out as his goal.

There have been suggestions made that we should bomb every conceivable part of North Vietnam in return for what the North Vietnamese are doing in and below the DMZ.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL. Mr. President, I yield to the Senator whatever time remains to me.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MANSFIELD. Even the words "Hanoi and Haiphong" have been heard again—that they should be bombed. I thought we had learned our lesson years ago. The use of air power is being emphasized, and we are told that we should use it more and more; and that negotiations should be shunted aside because nothing is being accomplished. But I believe in the old Churchillian concept that it is better to "jaw, jaw" than to "fight, fight," and I believe in it because of the casualties which this Nation has suffered up to this time.

Through March 25, 45,669 Americans were killed in combat, 302,787 Americans were wounded in combat, and 10,119 Americans were killed in noncombat activities.

On the other side we find that they have lost—killed, not wounded—803,145 through March 25 of this year.

Among our allies the dead number 4,870. For South Vietnam the total dead is 147,305.

Well over 1 million in casualties, and no end in sight.

The latest figures indicate that 10 Americans were killed last week, and 33 wounded, as I recall, not including the 14 shot down in a helicopter gunship during the same period.

There have been some allegations about a violation of an understanding because the DMZ has been crossed by the North Vietnamese. Mr. President, if there ever was such an understanding, it has been violated by both sides. The supplies down through the trails over the years have not been decreasing, but increasing in tonnage despite the use of air power. What we are up against now is more in the way of sophisticated weaponry than at any time since this war got underway.

At present we have four aircraft carriers, with a total complement of planes of somewhere around 350. We have planes flying from the fields in South Vietnam and Thailand as well.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BIBLE. Mr. President, I ask unanimous consent that I may yield my 3 minutes to the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may I say that the war in Vietnam is not one of our finest moments. May I say that in my opinion it is an immoral war. May I say that it is a tragedy of the gravest consequences. And I have just touched the highlights when I have indicated what the figures and the facts are.

I would hope that we do everything in our power to bring about an end to this struggle, which has cost us so much in the field, which has helped—I repeat—to destroy societies, cultures, and lands occupied by other people, which has created a refugee class in the millions, an orphan class running in the hundreds of thousands, and which has left its scars on our own society. Vietnam is in part responsible for much of the difficulties which confront this Nation today socially, economically, and financially.

It would be my hope that we would do what we could to bring about not only an alleviation of the conflict, but also an ending of the conflict. I do not care what any Member in this body says or what his position is on this war. It is my considered opinion that all 100 Members of the Senate want to bring this war to a close, as does the President of the United States. Now we are faced with a grave situation in which Vietnamization is being put to the test, and because of what has happened the number of POW's is increasing, and the war, both on the ground as far as the South Vietnamese are concerned, and in the air as far as we are concerned, is increasing in intensity. As it increases in intensity, it means that the numbers of POW's are not being decreased, but increased in number, and so are the dead and the maimed.

Mr. President, as far as I am concerned, as a Senator from the State of Montana, if it is a choice between Saigon and the U.S. prisoners of war, my choice, without question, is on the side of the POW's and the recoverable MIA's, the missing in action.

So I would hope that a means, a way, a solution could be found to resume negotiations and to arrive at an accommodation which would bring this tragedy to a close.

No great nation has ever made a mistake by admitting it has made a mistake, and this country has made a mistake in becoming involved in Southeast Asia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KATHERINE KASAFTES SCHNEIDER

(Mr. BAKER earlier today introduced S. 3457 for the relief of Katherine Kasaftes Schneider, which was read twice and referred to the Committee on the Judiciary. Subsequently, Mr. EASTLAND, from the Committee on the Judiciary, reported the bill to the Senate without amendment.)

Mr. BAKER. Mr. President, I ask unanimous consent that I may call up S. 3457 for immediate consideration. The bill has been reported to the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3457) for the relief of Katherine Kasaftes Schneider.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, this is a bill that has been introduced and referred to the Committee on the Judiciary and reported for action by the committee. I have cleared its consideration with both sides. It is a matter that I know of firsthand and know to be meritorious.

It has to do with the naturalization of a distinguished lady of Memphis, Tenn., who was under the impression that she was a citizen of the United States by derivative right. However, it appears that the naturalization documents pertaining to her father have not been located in the Immigration and Naturalization Service, notwithstanding the fact that she has lived in the United States all her life except for a brief period when her parents were in Greece, where she was born, and notwithstanding that she has been connected with the Memphis Press-Scimitar for many years.

The purpose of this bill is to provide legal clarification of the fact of Mrs. Charles Schneider's derivative American citizenship under the provisions of section 321 of the Immigration and Nationality Act.

Mrs. Schneider and her husband are among the leading citizens of Memphis, Tenn., and I have known them for many years. Mrs. Schneider was born in Greece, and her parents were Greek citizens. She came to this country with her mother as a young girl and has lived in Memphis since that time. In 1946 Mrs. Schneider's mother became a naturalized citizen of the United States, and it was assumed by all concerned at that time that Mrs. Schneider simul-

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taneously became an American citizen by derivation.

Earlier this week, in planning for a trip abroad, Mrs. Schneider was astonished to learn, as were all of us who know her, that some legal questions remained as to the certainty of her citizenship. The purpose of the bill I have introduced today is to clarify once and for all the fact of Mrs. Schneider's American citizenship.

As I said earlier, I have known Charles and Kay Schneider for many years. I have the highest respect and admiration for both of them, and I earnestly hope that both Houses of the Congress will act with the utmost expedition to remove any doubt that might remain with respect to her status as a citizen of the United States.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. MANSFIELD. Mr. President, this is a most meritorious case and I am happy to say, speaking for this side, that we recommend the unanimous approval of the bill.

Mr. BAKER. I thank the majority leader.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Katherine Kasaftes Schneider, shall be held and considered to have been lawfully admitted to the United States as of October 6, 1919, and to have acquired United States citizenship under the provisions of Section 321 of the said Act as of December 20, 1946, the date on which her mother was naturalized as a citizen of the United States.

AUTHORIZATION FOR COMMITTEE ON AGRICULTURE AND FORESTRY TO FILE REPORTS UNTIL 5 P.M. TODAY FOLLOWING ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry have until 5 p.m. today to file reports following the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Has an order been entered that when the Senate adjourn today—late this afternoon, I hope—it convene at 11 o'clock on Monday morning?

The PRESIDING OFFICER. Such an order has been entered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF ADDITIONAL COPIES OF SENATE REPORT ON THE RURAL DEVELOPMENT ACT OF 1972

Mr. TALMADGE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read the resolution (S. Res. 291) as follows:

Resolved, That there be printed for the use of the Committee on Agriculture and Forestry three thousand five hundred additional copies of its report to accompany the Rural Development Act of 1972, (S. Rept. 92-734).

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will report to the Senate today a very comprehensive rural development bill. There has been tremendous interest in the bill among Senators and the public generally. There have been an unusual number of requests for copies of the committee report, both from Senators and from the public.

This additional printing will cost some $1,200. It has been cleared with the ranking minority member of the Committee on Agriculture and Forestry, the distinguished Senator from Iowa (Mr. MILLER), with the chairman of the Rules Committee, the distinguished Senator from North Carolina (Mr. JORDAN), and with the distinguished ranking minority member of the Rules Committee, the Senator from Kentucky (Mr. COOK), as well as with the leadership on both sides of the aisle, all of whom, in view of the urgency and the need for additional copies, have agreed to pose no objection.

The printing of the needed additional copies at the same time as the regular number will, of course, result in a certain saving to the taxpayers.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANSFIELD). Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, together with individual and additional views.

S. 3462. An original bill to provide for the development of rural areas (Rept. No. 92-734).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 210. A joint resolution to authorize the President to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for American Week" (Rept. No. 92-735);

H.J. Res. 563. A joint resolution to authorize the President to proclaim the last Friday of April 1972 as "Nationl Arbor Day" (Rept. No. 92-736);

H.J. Res. 687. A joint resolution to authorize the President to designate the third Sunday in June of each year as "Father's Day" (Rept. No. 92-737); and

H.J. Res. 1095. A joint resolution authorizing and requesting the President to proclaim April 1972 as "National Check Your Vehicle Emissions Month" (Rept. No. 92-738).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY (for himself and Mr. HUMPHREY):

S. 3458. A bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Referred to the Committee on the Judiciary.

By Mr. MILLER:

S. 3459. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. PEARSON:

S. 3460. A bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities, and for other purposes. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 3461. A bill to authorize the Secretary of Commerce to purchase in certain cases the catches of commercial fishermen which are prohibited from sale by restrictions imposed on domestic commercial fishing by a State or the Federal Government. Referred to the Committee on Commerce.

By Mr. TALMADGE, from the Committee on Agriculture and Forestry:

S. 3462. An original bill to provide for the development of rural areas. Ordered to be placed on the calendar.

By Mr. JORDAN of North Carolina:

S. 3463. A bill to amend section 906 of title 44, United States Code, to provide copies of the daily and semimonthly CONGRESSIONAL RECORD to libraries of certain U.S. Courts. Referred to the Committee on Rules and Administration.

By Mr. HUMPHREY:

S. 3464. A bill to establish an executive department to be known as the Department of Education, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. HUMPHREY):

S. 3458. A bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Referred to the Committee on the Judiciary.

Mr. PERCY. Mr. President, on November 19, 1971, I introduced with Senator COOK a concurrent resolution calling for a declaration of rights for the mentally and physically handicapped. While that resolution was not meant to solve the problems that plague our handicapped citizens, it was an attempt to draw attention to their plight and to encourage the solution of their problems.

Since the introduction of that resolution, I have committed myself to finding for our handicapped citizens a legislative solution to equal educational opportunity, equal job opportunity, and equal treatment before the law. As a part of that commitment, I introduced with Senator HUMPHREY on January 20, 1972, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination against the mentally and physically handicapped in programs which receive Federal aid. I also cosponsored two measures recently introduced by Senator WILLIAMS, one calling for a White House Conference on the Handicapped, and the other calling for the establishment of an Office for the Handicapped within HEW to coordinate programs for the handicapped.

Today, to further that commitment I am introducing on behalf of myself and Senator HUMPHREY, a bill in the nature of another amendment to the Civil Rights Act of 1964. This bill, introduced in the House by Representative VANIK, would make discrimination in employment because of physical or mental handicap an unlawful practice.

The civil rights amendment introduced on January 20, 1972 would provide equal treatment of the handicapped in all programs which receive Federal assistance. The bill I am introducing today would open for the handicapped many more doors to employment. Employment is the key to self-sufficiency and independence. Without it, equal educational opportunity or social acceptance would be meaningless.

Yet, millions of our handicapped Americans are barred from work because of society's prejudices. According to the best statistics that the Senate Subcommittee on Handicapped Workers could find, there are more than 22 million adults in this country with physical handicaps and 5.6 million persons of all ages with mental handicaps severe enough to limit in some way their ability to work. Of the 22 million with physical disabilities, an estimated 14 million could work if given the opportunity. And of the 5.6 million who are mentally retarded, 9 out of 10 could work if given training and rehabilitation.

Actual employment now, however, accounts only for a little over 800,000 of the 27.6 million adults with physical and mental handicaps:

Of about 150,000 blind persons of working age in this country, about 50,000 of them are employed.

Of the 60,000 paraplegics of working age, 47 percent are employed.

Of the 400,000 epileptics of working age, the employment rate, according to best estimates, is between 15 percent and 25 percent.

Of the 200,000 persons of working age with cerebral palsy, only a handful are employed.

And of the 5.6 million who are mentally retarded, 5,000 are employed by the Federal Government.

What is the cost effectiveness or the sense of banishing our handicapped Americans to life on welfare or to "terminal care" in an institution? There is ample proof that adding the handicapped to our work force can benefit not only our national economy but also the investment returns of our income tax revenues. In fiscal 1966, for example, the Federal Government spent $3.5 billion on the handicapped. Of this money, $2.65 billion went for income maintenance. And HEW's Bureau of Education for the Handicapped reports that more than 30 percent of the 2.5 million handicapped children expected to leave school during the next 5 years may need either partial or full public support in the form of institutionalization or welfare. Lifetime institutionalization or welfare costs about $250,000 per person. But with proper training, at least 90 percent of those handicapped children are potentially employable.

According to the President's Committee on Employment of the Handicapped, the number of handicapped persons rehabilitated and placed in employment is increasing each year. Businesses and industries have discovered that there are many jobs that the handicapped can do well—often better than nonhandicapped workers.

Cerebral palsy victims are being trained to use precision tools.

Paraplegics are working productively on assembly lines.

Deaf mutes make better than average file clerks.

Deaf persons do well as linotype operators and keypunch tabulators.

Blind workers have made superior assemblers, inspectors, and sorters in such industries as electronics, aircraft and missile production.

Absenteeism and recidivism among the 5,000 mentally retarded workers employed by the Federal Government in over 100 different wage board classifications is lower than nonhandicapped workers. Also, their job performance is excellent.

The handicapped are not asking for special privileges—just a chance to learn a trade, work and live like any other American. Can any one of us, in good conscience, deny them this?

I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

S. 3458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Sections 703(a)(1), 703(a)(2), 703(b), 703(c)(1), 703(c)(2), and 703(d) of the Civil Rights Act of 1964 are each amended by inserting after "sex", the following: "physical or mental handicap,".

SEC. 2. Section 703(e)(1) of the Civil Rights Act of 1964 is amended by inserting after "national origin" the first time it appears the following: ", or because of the presence of a physical or mental handicap," and by inserting after "national origin" the second time it appears the following: ", or the absence of a physical or mental handicap,".

SEC. 3. Section 103(h) of the Civil Rights Act of 1964 is amended by inserting after "national origin," the following: "or because of the presence of a physical or mental handicap,", and by inserting after "national origin" the following: ", or because of the presence of a physical or mental handicap".

SEC. 4. Section 703(j) of the Civil Rights Act of 1964 is amended by inserting after "or group" the following: ", or because such individual or the members of the group are physically or mentally handicapped,", and by inserting after "national origin" the second and third times it appears the following: ", or having a physical or mental handicap,".

SEC. 5. Section 704(b) of the Civil Rights Act of 1964 is amended by inserting after "national origin," the following: "or absence of a physical or mental handicap,", by inserting after "national origin" the second time it appears the following: ", or presence of a physical or mental handicap,", and by inserting after "national origin" the third time it appears the following: ", or absence of a physical or mental handicap.".

SEC. 6. Section 706(g) of the Civil Rights Act of 1964 amended by inserting after "national origin" the following: ", or because of the presence of a physical or mental handicap,".

SEC. 7. The center heading of section 703 of the Civil Rights Act of 1964 is amended by inserting after "sex," the following: "PHYSICAL OR MENTAL HANDICAP,".

SEC. 8. Title VII of the Civil Rights Act of 1964 is amended by inserting at the end thereof the following new section:

"DEFINITION OF PHYSICAL OR MENTAL HANDICAP

"SEC. 717. For the purposes of this title, the term 'physical or mental handicap' includes mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, serious emotional disturbances, being crippled, or any other health impairment which requires special education and related services."

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

EMPLOYMENT RIGHTS OF THE HANDICAPPED

Mr. HUMPHREY. Mr. President, it is with great pleasure that I join Senator PERCY in introducing legislation to make discrimination because of physical or mental handicap in employment an unlawful employment practice, under the Civil Rights Act of 1964.

This legislation supplements S. 3044, which I introduced and Senator PERCY jointly sponsored on January 20, 1972, providing for the protection of the rights of the handicapped by prohibiting needless discrimination in programs receiving Federal financial assistance. It has become apparent that further specific protections must be afforded to millions of

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Americans with mental and physical handicaps denied equal job opportunities and fair wages in the absence of a bona fide occupational qualification requirement.

As the President's Committees on Mental Retardation and on Employment of the Handicapped have documented time and again, there are thousands of jobs that the handicapped can do, and do well. Of 22 million Americans with physical disabilities, 14 million can and want to work. But only one-third of blind persons of working age are employed, and less than half of the Nation's paraplegics have found work. Currently available statistics, whose general inadequacy sharply underscores the extent to which those with mental and physical disabilities are denied dignity as persons and are forgotten by society, indicate that only a minority of these people have found employment.

Yet we know how invaluable the discovery of useful capabilities is in rehabilitation. We know the damage done to any person's sense of dignity and security when he is denied the opportunity to work and earn his own way in society. And we know that the cost of educating an educable handicapped or retarded child is less than one-tenth the cost to society of lifetime institutionalization; and moreover, that training and rehabilitation costs are repaid many times over in taxes on earned income.

Shall we condemn 2,100 paralyzed Vietnam veterans simply to exist in isolation? Should a wheelchair automatically disqualify 250,000 Americans for jobs? Should tens of thousands of unskilled and semiskilled jobs, including service occupations which are increasing faster than any other job category in the Nation, go begging, when many of them are well suited for the retarded when appropriate adjustment assistance is provided?

These are harsh questions, but they are questions that must now be forced upon the conscience of America. There can be no further delay in affirming the civil rights of 28 million Americans.

These rights were clearly and forcefully spelled out in Senate Concurrent Resolution 52, introduced by Senator COOK, and which I was privileged to cosponsor. They are rights that must now be given the force of law, and I would urge that in addition to the passage of this resolution, the Senate include on its agenda for action this year S. 3044 and the legislation introduced today to amend, respectively, titles VI and VII of the Civil Rights Act. I would also expect that action can be completed in the present Congress on the legislative program introduced by Senator WILLIAMS, which I have been pleased to join in sponsoring and which is important in backing up legal rights with effective programs of Federal assistance: Senate Joint Resolution 202, authorizing funds for a White House Conference on the Handicapped; S. 3158, to establish an Office of the Handicapped in the Office of the Secretary of Health, Education, and Welfare; and S. 3407, the Supplementary Education Services for the Handicapped Act.

The time has come to fulfill promises made to millions of Americans with physical and mental handicaps. In guaranteeing their right to equal opportunity and dignity, we shall take a major step forward in establishing a better and more creative society for all.

By Mr. MILLER:

S. 3459. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. MILLER. Mr. President, I introduce, for printing and appropriate reference, a bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation.

All of us are aware of the importance of forest resources to our Nation. Our forests provide us with many different benefits, ranging from purely esthetic values to recreational and economic uses.

While there are vast acreages of private, nonindustrial forest lands and productive units in the Nation, the public resource lands today contain most of the old growth saw timber, and it is the public lands which receive the pressures for preservation on the one hand and multiple use on the other.

One thing is certain. If we are to have a sustained yield for harvest and an adequate resource for other purposes, we must replenish the forests. Although the accuracy of the statistic may be debatable, it is estimated that we are today about 5 million acres behind in reforestation. Even in that phase of forest management which finds natural regeneration the most feasible operation, there are techniques through which man can help nature produce more desirable stands of better trees.

The bill I am introducing today—which was introduced in the House by my colleague from Iowa, Representative JOHN KYL—would be a big step toward improving long-range forest management and assuring the adequate financing. It would transfer section 32 funds derived from customs duties on wood and paper products to a supplemental national forest reforestation fund. This money would be available to the Secretary of Agriculture for the purposes of supplementing programs of tree planting and seeding of national forest lands which need reforestation.

It is my understanding that the House Committee on Agriculture has ordered this bill favorably reported. I believe it would meet a pressing national need, and I urge favorable action by the Senate.

By Mr. PEARSON:

S. 3460. A bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities, and for other purposes. Referred to the Committee on Commerce.

Mr. PEARSON. Mr. President, I am introducing today for appropriate reference a bill to authorize the Civil Aeronautics Board to enter into contracts, on an experimental basis, with air carriers to provide air service to small communities.

The concept embodied in this legislation was first advanced by the Honorable Secor Browne, Chairman of the Civil Aeronautics Board, in a speech in Wichita, Kans., on January 28, 1972. I feel the proposal has merit, and deserves the close scrutiny of the Congress.

The Aviation Subcommittee of the Senate Commerce Committee will commence oversight hearings April 10, 1972, on local air service to small communities. The subcommittee specifically will consider the Limited Air Carrier Act, which I introduced February 17, 1971, to provide for the certification of commuter air carriers presently serving the air transportation needs of small communities.

Because the proposal advanced by Chairman Browne is designed to promote a better system of air service to small communities, I believe it should be before the Aviation Subcommittee when hearings commence on the Limited Air Carrier Act on April 10. Therefore, I am offering legislation to implement the Browne proposal at this time, in advance of the hearing date.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill and the text of the bill, be printed in the RECORD immediately following my remarks.

There being no objection, the analysis and bill were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section declares it to be the intent of the Congress to authorize the Civil Aeronautics Board to conduct an experimental program which will enable the Congress to evaluate the advantages and disadvantages of a contract method of providing air service to small communities.

SECTION 2

This section defines certain terms used in the bill.

(1) "Air carrier" is defined as any citizen of the United States who engages directly in, or proposes to engage directly in, air service. Third-level carriers and persons proposing to provide air service, even though not yet equipped to do so, would meet this definition, as would all certificated air carriers. However, in order to be awarded a contract under the Act, under section 3(c) the Board would have to ascertain that the proposed contractor was capable of conducting safe, reliable operations.

(2) "Air service" means the carriage by aircraft, on a regularly scheduled basis, of persons or property as a common carrier for compensation or hire. This definition differs from the analogous one under the Federal Aviation Act since it encompasses both intrastate as well as interstate operations. This definition is adopted only to facilitate the conduct of the experimental program by obviating difficult jurisdictional problems, and is not intended as a precedent for any purpose. The Board will work closely with the appropriate State authorities in the planning and conduct of the program. Indeed one benefit of the program is that it will permit an evaluation of how Federal and State can most effectively work together in the provision of air service to small communities.

(3) "Board" means the Civil Aeronautics Board.

(4) "Citizen of the United States," as used in the definition of "air carrier," means (a) an individual who is a citizen of the United States or one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions. The definition is identical to that used in the Federal Aviation Act.

(5) "Small community" is defined as a village, town, city or other locality in the United States not receiving unsubsidized air service on a daily, scheduled basis by a certified air carrier. Thus, for instance, any town whose only air service is third-level service and subsidy eligible service by a local service carrier would be a "small community" for purposes of the proposed legislation. As such it would be eligible for selection under section 5 as a recipient of contract air services.

SECTION 3

Section 3(a) authorizes the Board to enter into contracts with air carriers for air service between small communities selected by the Board under the procedures specified in the Act.

Section 3(b) provides that contracts awarded by the Board shall be subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except where the Board determined that a provision of that Act was inconsistent with the purposes of the experimental program. The Federal Property and Administrative Services Act, and the Federal Procurement Regulations issued thereunder by the General Services Administration, regulate in detailed fashion the procurement of goods and services by most Federal agencies. In general, that Act and the Federal Procurement Regulations provide that contracts must be awarded by a process of formal advertising by the procuring agency, and bidding by would-be contractors. With only limited exception, the Board contemplates using that procedure in the award of air service contracts since it appears that that would best assure air service of maximum quality and minimum cost to the Government.

Section 3(c) requires the Board, prior to the award of a contract, to ascertain that the proposed contractor is capable of meeting all Board and Federal Aviation Administration requirements for safety and reliability of operation.

Section 3(d) limits contracts under the Act to terms of up to three years, and prohibits contract renewals. The same carrier may provide air service to the same small community under several successive contracts, but that would be a result of the carrier's favorable offers, not because of any preferential rights. Contract prices may not be increased except to take account of increases in costs attributable to Governmental actions.

SECTION 4

In view of the experimental nature of the Act, this section requires the Board to designate geographical areas in the United States within which small communities will be selected for contracts for air service. In designating these areas, the Board must consider a number of factors (such as travel patterns of the population; the nature of flying conditions; population density; and the nature of the air service that otherwise would be provided) in order that the various selected areas, when considered together, may afford a basis for the evaluation of the contract method of providing air service to small communities.

SECTION 5

This section requires the Board, in selecting small communities located in the areas designated pursuant to Section 4, to take into consideration a number of specified factors, including, among others, the availability of alternative means of transportation; the views of the small communities; the views of the air carriers, if any, providing service to points in the selected geographical areas; and the effect of the selection of such communities on the development of the nation's air transportation system. Further, much as in the case of the selection of geographical areas, the Board's selection would be based in part on the need for sufficient diversity among the various communities to afford a basis for evaluating the contract method of providing air service.

SECTION 6

This section provides that a contract with an air carrier for air service shall include certain provisions, such as the minimum number of frequencies to be operated; the maximum rates and fares to be charged by the carrier; the minimum passenger requirements in respect to the aircraft to be operated; and such arrangements as may be required by the Board to permit reasonable assurance of reimbursement to the Government in the event of default by the air carrier. Under this provision, for instance, a contract might require the contractor to provide a surety bond so that in the event of default, the Board would receive sufficient reimbursement to procure replacement services at no aditional cost to the Government.

SECTION 7

Section 7(a) authorizes the Board to suspend the certificate of an air carrier to provide air transportation on a subsidy eligible basis to and from any small community in respect to which air service is to be provided under the bill. Such a suspension may not exceed the period of the contract under which air service is to be provided. The Board expects that no certificated carrier will be required, against its wishes, to cease service at a point that is to be served by a carrier receiving payments under the proposed legislation. The purpose of the suspension authority in section 7(a) is to shorten the suspension process provided for in the Federal Aviation Act. The procedures in the Federal Aviation Act would be inappropriate for such purposes in view of the experimental nature of the program authorized by the Act, the short period the program will be in effect, and the fact that the certificated carrier's service would be suspended only in conjunction with the provision of contract air service under the Act.

Section 7(b) authorizes the Board to relieve an air carrier from any provisions of Title IV of the Federal Aviation Act (other than certain labor provisions) with respect to air service to small communities if the Board finds such action to be in the public interest. All of the provisions of Title IV relate to economic regulation (as opposed to safety regulation). Under Title IV and related Board rules, a person seeking to provide air service in aircraft in excess of 12,500 pounds must first obtain a certificate of public convenience and necessity, file tariffs, submit a variety of periodic reports, and so on, unless specifically exempted under standards specified therein. The application of some of such requirements to contract air service provided under the proposed legislation would be inconsistent with the legislation's purposes, and thus the Board is authorized to relieve air carriers from any provision of Title IV, except section 401(k). (Section 401(k) sets forth certain basic obligations as between air carriers and their employees.)

Section 7(c) provides that the administrative procedure provisions of title 5 of the United States Code shall not be applicable to Board actions under the bill, and that such actions may be taken without notice and hearing. The main thrust of this section is to make clear that Board action under the proposed legislation is to be governed by procedures relating to the procurement process, rather than by the various requirements typically involved in licensing.

SECTION 8

This section authorizes the Board to prescribe such regulations and issue such orders as may be necessary to carry out the provisions of the bill.

SECTION 9

Section 9(a) requires the Board, prior to initiation of the first procurement process, to report to the Congress the geographical areas which are designated and the small communities which are selected.

Section 9(b) requires the Board to report to the Congress, within one year after enactment of the bill and annually thereafter so long as a contract is outstanding, the progress of the experimental program. The Board's final report, which must be submitted to the Congress within ninety days after termination of the last outstanding contract, must include, among other things, the quality and extent of air service provided pursuant to the bill, the cost to the Government, and the Board's evaluation of the contract method of providing subsidized air service.

As section 1 explicitly provides the purpose of the legislation is to authorize an experimental program by which the Congress would be enabled to evaluate the advantages and disadvantages of the contract method of providing small community air service. The purpose of section 9 is to ensure that the intended Congressional evaluation can be readily made by establishing procedures by which, without further Congressional action, the Congress will be kept informed of the progress and results of the program.

SECTION 10

This section authorizes such sums to be appropriated as may be necessary to carry out the provisions of the bill. Not more than $2 million may be appropriated in any fiscal year. Appropriated funds would remain available until expended.

SECTION 11

This section provides that the provisions of the bill shall terminate three years from the date of enactment of the bill. The disbursement of funds under, or the carrying out of, a contract entered into prior to the termination date is not affected by termination.

S. 3460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the intent of the Congress in enacting this legislation to authorize the conduct of an experimental program by the Civil Aeronautics Board which would enable the Congress to evaluate the advantages and disadvantages of a contract method of providing air service to small communities.

SEC. 2. As used in this Act—

(1) "Air carrier" means any citizen of the United States who engages directly in, or proposes to engage directly in, air service.

(2) "Air service" means the carriage by aircraft, on a regularly scheduled basis, of persons or property as a common carrier for compensation or hire.

(3) "Board" means the Civil Aeronautics Board.

(4) "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or

association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(5) "Small community" means a village, town, city or other locality in the United States not receiving unsubsidized air service on a daily, scheduled basis by a certificated air carrier.

SEC. 3. (a) The Board is hereby authorized to enter into contracts with air carriers by which such carriers undertake to provide air service to and from small communities selected by the Board pursuant to the provisions of section 5 of this Act.

(b) The Board shall award contracts hereunder in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except that provisions of such Act which are determined by the Board to be inconsistent with the purposes of the experimental program shall be inapplicable to such contracts.

(c) Prior to the award of a contract under this Act, the Board shall ascertain that the proposed contractor is capable of meeting, during the contract period, all requirements of the Board and of the Federal Aviation Administration for safety and reliability of operation.

(d) No contract under this Act may exceed three years in duration or be renewed. No increase in contract price may be made for the benefit of an air carrier after the contract has been entered into, except for increases in costs attributable to Governmental actions.

SEC. 4. In exercising the authority granted in section 3 of this Act, the Board shall designate the geographical areas in the United States within which small communities will be selected for the award of contracts for the provision of air service. In designating such areas, the Board shall consider, among other things, the need to assure sufficient diversity among the several geographical areas, in regard to such factors as travel patterns of the population, the nature of flying conditions, population density, and the nature of the air service, if any, that would be provided other than pursuant to this Act, in order that the areas considered together may afford a basis for the evaluation of the method of providing air service authorized by this Act.

SEC. 5. In selecting small communities located in the areas designated pursuant to section 4 of this Act, the Board shall consider, among other things, the following factors:

(1) The need for sufficient diversity among the various small communities selected, so that the communities considered together may afford a basis for the evaluation of the method of providing air service authorized by this Act;

(2) The availability and practicability of alternative means of transportation to and from the various small communities;

(3) The views of the small communities located within the geographical areas designated pursuant to section 4, and of the appropriate agencies of the government of each State lying partially or wholly within such geographical areas;

(4) The views of air carriers, if any, currently providing air service to, from or between any point or points in any geographical area designated pursuant to section 4; and

(5) The effect of such selection on the development of the nation's air transportation system.

SEC. 6. A contract between the Board and an air carrier for the provision of air service to a small community or communities shall include—

(1) The minimum number of frequencies the air carrier shall be required to operate to and from the small community or communities;

(2) The maximum rates and fares the air carrier may charge, subject to revision for such reasons and by such procedures as the Board may provide;

(3) Minimum passenger capacity requirements in respect to the aircraft to be operated by the air carrier; and

(4) Such arrangements as the Board may require by which the Government may be reasonably assured of reimbursement in the event of default by the air carrier, including reimbursement for the cost of obtaining another air carrier to provide the air service which the defaulting carrier undertook to provide.

SEC. 7. (a) The Board may suspend the certificate of any air carrier to provide air transportation on a subsidy-eligible basis to and from any small community in respect to which air service is to be provided under this Act. Any suspension pursuant to this section shall be for no greater period than the term of the contract under which such air service is to be provided.

(b) The Board may relieve any air carrier from any provision of Title IV of the Federal Aviation Act (except subsection (k) of section 401 thereof) in respect to air service to small communities pursuant to this Act if it finds that such action would be in the public interest.

(c) The provisions of sections 551–559 of title 5 of the United States Code shall not be applicable to actions of the Board under this Act. Such actions may be taken without notice and hearing.

SEC. 8. The Board may prescribe such regulations and issue such orders as may be necessary to carry out the provisions of this Act.

SEC. 9. (a) The Board shall, thirty days prior to the initiation of the first procurement process authorized herein, report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate the geographical areas designated pursuant to section 4 of this Act and the small communities selected pursuant to section 5.

(b) The Board shall, no later than one year from the date of enactment of this Act and annually thereafter so long as a contract entered into hereunder remains outstanding, report to the Congress on the progress of the experimental program authorized hereby. The Board's final report, which shall be submitted to the Congress within ninety days after termination of the last outstanding contract, shall include, among other things, the following: (1) the quality and extent of air service provided to small communities pursuant to this Act, (2) the cost to the Government of such service, and (3) the Board's evaluation of the relative advantages and disadantages of the contract method of providing air service to small communities.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, but not more than $2,000,000 shall be appropriated in any fiscal year. Such sums shall remain available until expended.

SEC. 11. This Act shall terminate three years from the date of its enactment. The termination of this Act shall not affect the disbursement of funds under, or the carrying out of, any contract commitment, or other obligation entered into pursuant to this Act prior to the date of termination.

By Mr. STEVENS:

S. 3461. A bill to authorize the Secretary of Commerce to purchase in certain cases the catches of commercial fishermen which are prohibited from sale by restrictions imposed on domestic commercial fishing by a State or the Federal Government. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I am introducing a bill and submitting an amendment to another bill designed to assist Alaska fishermen who are faced with economic ruin as the result of restrictions imposed upon them in their domestic commercial fishing by prohibitive Federal or State restrictions.

The bill I am introducing today authorizes the Secretary of Commerce to purchase these fish from any legal entity which first, owns fishing equipment; and second, engages in domestic fishing as its usual occupation. The catches of fish which may be purchased are those which the owner is prevented from selling by restrictions related to a deterioration in the quality of the aquatic environment which were imposed on or after January 1, 1971 by any State or Federal agency and which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing.

The Secretary is authorized to buy such fish at the fair market price in the area at the time of purchase. The "fair market price" is a term of art widely used in the law and easily determinable. Such fair market price must be evaluated in the specific locality, that is the specific town or city at which the catch is sold. The price must be determined as of the specific date of sale. Thus defined, these terms will provide the Secretary with practical guidelines for enforcement.

The total amount of such purchases in any calendar year from any one eligible owner may not exceed 50 percent of its gross earnings from domestic fishing operations. The Secretary is then authorized to dispose of these fish in any legal manner he deems appropriate. Any such purchase must be subject to the condition that the eligible owner assign to the Secretary any right he may have to recover damages for the act or omission resulting in the imposition of such Federal or State restrictions. The Secretary is also empowered to prescribe rules and regulations necessary to carry out the provisions of the act.

Finally, amounts not to exceed $4,000,000 for fiscal year 1973 and $5,000,000 for fiscal year 1974 are authorized.

Mr. President, this bill is specifically designed to alleviate a problem facing many small fishermen in southeast Alaska. It is the result of mercury pollution levels found in halibut by the Food and Drug Administration. This finding has resulted in a determination that halibut above a certain size may be dangerous and unfit for human consumption. Because of this finding, the industry has been unable to sell halibut over a certain size, such size varying depending upon the area of the ocean in which the halibut was caught. This problem has had devastating economic effects throughout southeast Alaska.

On October 8, 1971, the Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee held hearings in Petersburg, Alaska, on this subject. At these hearings, the chairman of the subcommittee, the distinguished Senator from South Carolina (Mr. HOLLINGS) and I were present. A large number of representatives from various fishing groups and governmental agencies were also present and testified before us. A report of these hearings is contained in report No. 92-41, which has just recently been printed. I believe that the need for this legislation is amply demonstrated by the testimony of the many witnesses who appeared and described in detail their personal accounts of the economic devastation they face as a result of this FDA determination.

For example, the situation facing the Petersburg Cold Storage Co. is typical. The Petersburg Cold Storage Co. is owned by 170 individual shareholders. It serves one of the small southeast Alaska towns which is directly affected. It was founded in 1926 by a local group of fishermen and merchants handling fish products, primarily halibut. It has operated successfully and has produced roughly 125,000,000 pounds of halibut, a yearly average of 3,000,000 pounds. Yearly ranges have been from 1 to 5 million pounds. The replacement value of the plant alone is $1,500,000 and it has an insurable depreciated value of $1,029,000. It employs 20 to 60 people per season. The average employment for a 12-month period is 28. The annual payroll runs about $400,000. Normally, they would have 20 to 30 halibut vessels outfitting in Petersburg at times other than the normal seining season. However, as a result of the mercury pollution level, last year only two vessels fished for halibut in the area immediately surrounding Petersburg. In a poll of 13 fishermen in nearby Kake, Alaska, in 1971 not a single fisherman indicated he felt he could economically fish for halibut, given the present restrictions. The same fishermen indicated that they felt that they did not believe that they would be able to fish in 1972 either.

Of course, solutions other than this bill are also being sought. However, even though it is not at all certain that a level as low as 0.5 part per million is necessary or even practical, I believe that one solution that must be considered is embodied in this bill. I urge that my colleagues give it their most serious attention.

Mr. President, the amendment I am introducing today attempts yet another solution to this problem. This amendment is identical to S. 875, a bill I introduced a little over a year ago. This amendment would provide partial reimbursement for losses incurred by commercial fishermen as the result of prohibitive Federal or State restrictions imposed on domestic commercial fishing. It would also authorize grants from the Secretary of Commerce to enable any eligible owner to meet the usual business expenses he was prevented from meeting as a result of these restrictions. Under the bill, if a fisherman accepts reimbursement, he automatically authorizes the Federal Government to file suit in his behalf against those who polluted the waters. Any amount collected in excess of the initial reimbursement and court costs would be turned over to the aggrieved fisherman by the Government which initiated the suit. Although it is reasonable to expect this method of reimbursement will ultimately be self-supporting, such a status will probably not be achieved for several years. Accordingly, my amendment appropriates $4 million for operation of the program during the first year and $5 million for each of the 4 succeeding years.

I request unanimous consent that the bill and amendment be printed in the CONGRESIONAL RECORD.

There being no objection, the bill and amendment were ordered to be printed in the RECORD, as follows:

S. 3461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Fishermen's Emergency Fish Purchase Act of 1972".

SEC. 2. As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "domestic fishing" means commercial fishing which is subject to regulation or restriction under the laws of any State.

(3) The term "prohibitive Federal or State restrictions" means restrictions related to a deterioration in the quality of the aquatic environment and imposed on or after January 1, 1971, by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing.

(4) The term "eligible owner" means any legal entity which—

(A) is the owner of fishing equipment, and

(B) is engaged in domestic fishing as its usual occupation.

SEC. 3. (a) The Secretary is authorized to purchase from any eligible owner, at the fair market price in the area at the time of purchase, any catch of fish which such owner is prevented from selling by prohibitive Federal or State restrictions.

(b) Any such purchase shall be subject to the condition that the eligible owner assign to the Secretary any rights he may have to recover damages for the commission of or failure to commit acts which resulted in the imposition of such prohibitive Federal or State restrictions.

(c) The total amount of purchases in any calendar year pursuant to this Act from any eligible owner shall not exceed an amount equal to 50 per centum of such owner's gross earnings from domestic fishing operations.

SEC. 4. The Secretary is authorized to dispose of fish purchased pursuant to this Act in such manner as he may prescribe.

SEC. 5. The Secretary shall prescribe such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 6. There is authorized to be appropriated to carry out the provisions of this Act an amount not to exceed $4,000,000 for the fiscal year ending June 30, 1973, and an amount not to exceed $5,000,000 for the fiscal year ending June 30, 1974.

AMENDMENT No. 1107

At the end of the bill insert a new section as follows:

"a. As used in this Section—

"(1) The term 'Secretary' means the Secretary of Commerce.

"(2) The term 'domestic fishing' means commercial fishing which is subject to regulation or restriction under the laws of any State.

"(3) The term 'fishing equipment' includes nets, equipment, and vessels used in domestic fishing.

"(4) the term 'prohibitive Federal or State restrictions' means restrictions related to a deterioration in the quality of the aquatic environment and imposed on or after January 1, 1971, by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing to such an extent as to reduce (1) by 50 per centum or more the fair market value, in the affected area, of fishing equipment principally useful for that type of fishing, or (2) by 20 per centum or more the market value of the commercial catch in the affected area which would have been realized in the calendar year concerned but for the imposition of such restrictions.

"(5) The term 'eligible owner' means any legal entity which—

"(A) is the owner of fishing equipment, and

"(B) was engaged in domestic fishing as his usual occupation for one month or more prior to the imposition of prohibitive Federal or State restrictions thereon.

"b. (1) Any eligible owner adversely affected by the imposition of prohibitive Federal and State restrictions in any calendar year may apply to the Secretary for a grant under this section for the purpose of enabling such owner to meet the usual business expenses which, but for the economic loss caused him by the imposition of such restrictions, such owner would ordinarily be able to meet.

"(2)(A) In any case in which paragraph (2) does not apply, a grant made by the Secretary under this section may not exceed an amount equal to 70 per centum of the yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In determining lost gross earnings from domestic fishing operations for an eligible owner under this paragraph, the Secretary shall subtract the amount of actual or estimated gross earnings from such operations in the year in which such Federal or State restrictions were imposed from the yearly gross earnings from domestic fishing operations made by such eligible owner in the last calendar year in which no prohibitive Federal or State restrictions affected such owners' operations.

"(3) In the case of an eligible owner who substantially increased his investment in fishing equipment for use in the calendar year in which such restrictions are imposed, as compared with his investment in fishing equipment in the calendar year immediately preceding such calendar year, a grant made under this section may not exceed an amount equal to 70 per centum of the estimated yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In estimating lost gross earnings under this paragraph, the Secretary shall take into account the size, type, and number of fishnets owned by the eligible owner and in use by him at the time of, or intended to be so used by him before, such Federal or State restrictions were imposed and the expected income per fishnet for that calendar year.

"(3) No grant may be made under this section unless application therefor is made before the close of the calendar year after the calendar year in which the prohibitive Federal or State restrictions concerned are imposed.

"Sec. 4. The Secretary shall attach such conditions and limitations with respect to a grant made under section 3 of this Act as he deems necessary or appropriate to protect the interests of the United States. The acceptance of a grant made under section 3 of this Act shall operate as an assignment to the Secretary of all rights of the eligible person receiving the grant to recover damages against any

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party for committing or failing to commit acts which resulted in the imposition of the prohibitive Federal or State restrictions on the basis of which the eligible person obtained such grant. If the Secretary recovers damages by exercising any right assigned to him under this section, any amount so recovered in excess of the amount of the grant made under this Act and the administrative expenses incurred in exercising such right shall be paid to the eligible person concerned.

"d. There is authorized to be appropriated to carry out the purposes of this Act not to exceed $4,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for each of the four succeeding fiscal years."

By Mr. HUMPHREY:

S. 3464. A bill to establish an executive department to be known as the Department of Education, and for other purposes. Referred to the Committee on Government Operations.

TO BUILD AMERICA'S EDUCATION RESOURCES

Mr. HUMPHREY. Mr. President, a central factor to be recognized in national policy planning for the decade of the 1970's must be the emergence of knowledge as the crucial resource of society. The highest national priority must now be given to policies and programs to assure the protection and development of America's human resources through education. To assure that this priority is effectively implemented, it must be given sharp visibility in the structure of the Federal Government itself. This demands the establishment of a Cabinet-level Department of Education.

The creation of a Department of Education is a vital component of the program to establish full educational opportunity in America, which I presented in the Senate on March 1, 1972. That program responds to the immediate issue of school transportation and assignment problems in our communities, by calling for a substantial and comprehensive Federal investment to guarantee to every American child an equal opportunity to obtain a quality education. It addresses the critical problem of rising education costs confronting all our school districts, as well as the serious imbalances between these districts in financing these costs, that leave the child of the urban ghetto and the poverty-stricken rural county to be condemned to an inferior education by the circumstance of residence, family income level, or race.

I have spelled out the new directions that must be taken toward establishing a comprehensive education program for America, to reverse the policies of the present administration that too often are characterized by confusion and last-minute response to crisis. We have a national responsibility to seize hold of and support the ongoing knowledge explosion as well as rapid and extensive developments in the broad field of learning processes. We must replace administration policies of vetoes and cutbacks of vitally needed funds for Federal educational assistance programs over the past 3 years, with a major financial commitment to provide the opportunity for a quality education from the preschool to the adult level, as a national investment that will be fully repaid.

Can we, by accepting a presidential veto, continue to ignore the serious need of 6.5 million preschool children for comprehensive early childhood development programs, during the period when over 50 percent of their intellectual growth occurs, and at a time when existing day care services across America are critically deficient, both quantitatively and qualitatively?

Will we do nothing to assist local school districts forced to cut back 15,700 positions for beginning teachers between 1970 and 1971, when the National Education Association has estimated that 565,000 additional teaching positions are needed to provide quality education programs for all children?

Are we content to overlook the right of several million handicapped children to special education services, or must the doors of our public school systems remain closed to them?

Can this administration expect parents of 6.2 million children, bearing the cultural and educational handicaps of segregated education and racial and economic isolation, and who are in critical need of compensatory aid and remedial skills program, to behave there is anything significant in the President's recently proposed Equal Educational Opportunities Act?

Let it be clear that this legislation proposes school desegregation criteria and remedies that, in effect, maintain existing school segregation. Let it be stated bluntly that this bill directs no substantial new Federal funds toward meeting the costs of improving educational opportunities for children in impoverished areas. Instead, it simply transfers $2.5 billion for this purpose already authorized or awaiting final enactment by Congress.

In October 1969, the President's Urban Education Task Force recommended a $5 to $7 billion a year increase in Federal funds for city schools. The White House response was the appointment of a panel to study title I of the Elementary and Secondary Education Act, enacted under the previous administration to target funds to improve educational opportunities for disadvantaged children. That panel duly reported that funds were misused and said it found little concrete evidence of improved schooling for children. And this theme has been repeatedly reiterated by the administration in justifying Federal budget requests for elementary and secondary education aid far below the level of congressional authorizations, and in vetoing additional appropriations enacted by Congress.

The administration record clearly demonstrating a low-priority concern for education includes:

The veto of fiscal 1970 appropriations for the Departments of Labor and Health, Education, and Welfare, including an additional $1.1 billion for education;

The veto of a $4.4 billion appropriation for Office of Education programs for the next fiscal year, subsequently overridden by Congress;

A cutback of $50 million in the fiscal 1972 budget for elementary and secondary education, followed by a decision to hold the line in funds for the education-ally deprived in Fiscal 1973, at $1.6 billion;

A repeated effort by the administration to cut back aid to federally impacted areas—by $110 million in fiscal 1972, and by $177.5 million in the next fiscal year—where Federal installations and large numbers of employees place an especially heavy burden on local services such as education, and at a time when no school or community can afford a reduction in Federal aid;

And an administration budget for fiscal 1973 that, despite an extensive reshuffling of funds into new categories, fails to disguise a drop of $138 million from funding approved for the current fiscal year for existing Office of Education programs.

Now, however, there has been a major change of position by the administration regarding programs enacted several years ago and progressively strengthened by Congress to aid educationally deprived children and to address the problems of juvenile delinquency, handicapped children, migrant children, children trapped in poverty, and children whose language is other than English and who have a serious need for bilingual-bicultural programs. Now the President would affirm, as in his recent message to Congress, that where Elementary and Secondary Education Act, title I funds "have been concentrated, the results have been frequently encouraging and sometimes dramatic."

I have welcomed the President's recent commitment to the position I have argued for several years, that these funds much reach impoverished areas in sufficient amounts to have a real impact. I would point out, however, that were the President to assert leadership through a decision to request funds for the ESEA title I programs at the full level of congressional authorizations under the current aid formula, more than $6 billion could be immediately channeled to launch comprehensive education and development services for children in impoverished areas of our cities and rural areas. This would constitute a decisive advance by the Federal Government toward providing genuine help for these children, as contrasted with the President's proposed legislation which would merely amount to placing a White House label on congressional efforts to at least maintain a Federal commitment to these children in the absence of any clearly discernible presidential position.

I am deeply concerned that we may see a repeat of an administration stance taken again and again in numerous areas over the past 3 years—a contingency plan that corresponds to placing a contract with a construction firm to build a bridge across a river, but then making a downpayment that amounts to only one-third of the minimum bid accepted as essential in getting the job done, and then castigating the firm for its failure to reach the other shore.

Repeatedly, this administration has engaged in false economies in defending vetoes and cutbacks of funds enacted by Congress to meet critical human needs across America—the need for jobs, for better health care at reasonable cost, and

for educational opportunities, to cite only a few examples—with the argument that the development of America's human resources must be set aside in the interest of controlling inflation. With respect to education, the President commented in one veto message that: "Schools have as much at stake as anyone in our efforts to curb inflation."

I am encouraged that 1972 may witness a change in this administration position, however uncertain the duration of this change. I note, for example, the President's recognition, in his recent message, that there are human investments that are vital to America's strength and promise—that without additional funding for title I education aid to deprived children, "there is little chance of breaking the cycle of deprivation"; and that "making up for the years of past discrimination is not simply something that white Americans owe to black Americans—it is something the entire Nation owes to itself."

But I am seriously disturbed by indications that this administration's commitment to help America's educationally disadvantaged children may be limited and may continue to be undercut by a pervasive penny-pinching viewpoint. I note, for example, the President's view that compensatory aid grants under his proposed Equal Educational Opportunities Act would be limited primarily to basic instructional programs for language skills and mathematics. Mention is made of including supportive services such as health and nutrition, but the emphasis is lacking on these services and further comprehensive programs as being equally important in helping a child crippled by the ravages of poverty, the ignominy of racial discrimination, and the pervasive social atmosphere of hopelessness and despair.

It would appear that the President, to the contrary, has chosen to reject these components of a genuine and total education, in stating categorically that "schools exist to serve the children, not to bear the burden of social change." I submit that this statement sets up a false issue, and avoids the central question of what constitutes a genuine equal opportunity for a quality education for the child handicapped by barriers of racial and economic isolation.

Further indicators of limited administration commitment to establishing this equal opportunity, are found in the fiscal 1973 budget which proposes no new funds for assistance to the educationally deprived—a hold-the-line decision that amounts to a 10-percent cut in, either children served or services given, due to increased costs of providing and concentrating compensatory education services.

Again, while the President in his message speaks of establishing an "educational bill of rights for Mexican-Americans, Puerto Ricans, Indians, and others who start under language handicaps," it should be clearly noted that it has been precisely bilingual-bicultural education that would be subsumed under a program consolidation proposed in the fiscal 1973 budget in a new education renewal site program. This is not the first time that an administration-proposed executive reorganization would necessarily entail a reduced priority for specific programs—in this instance, seriously affecting a program which needs increased visibility, not sublimation. As a result of insistent efforts by Senator CRANSTON and Senator PELL, the Office of Education has deferred further action to include the bilingual-bicultural education program in its education renewal site plan.

However, education itself would suffer a sharply reduced priority under the President's reorganization plan to create a Department of Human Resources—being placed in a "section" status three levels below the office of the Secretary of this new department.

THE KEY TO EFFECTIVE ACTION: A DEPARTMENT OF EDUCATION

I have discussed at length the serious implications of all this evidence to explain not only my opposition to the President's proposed Equal Educational Opportunities Act, but also my determination that policies reflecting a declining priority for education should be totally reversed.

I strongly believe that America's educational priorities, its investment in the development of our human resources, must be sharply focused and given an advocate at the highest level of Government. It is to this end, that I am today introducing legislation to establish a Department of Education.

We need this new Department to consolidate Federal programs and effectively marshall national resources to meet the critical education needs of children, youth, and adults across America. Last year it was estimated that 29 Federal agencies were spending over $12 billion on education—a 500-percent increase over 1962. But the central fact is that much of the impact of this investment is being dissipated, with little or no coordination of these programs being undertaken.

It is now clear that the Federal investment in public education must be substantially increased, to a level of at least one-third of total public resources—rather than the present level of less than 7 percent, representing a decline since 1968. Across the Nation, local school districts are exhausting their financial resources as expenses continue to mount. And recent court decisions, holding that disparities in local property-tax financing of education constitute a denial of the equal protection of the laws, present a further argument for sharply increased State and Federal assistance to equalize educational opportunity.

Within the present decade, the number of high school graduates each year will increase by 80,000, to a level of 3.8 million; while our colleges are faced with a projected rise of 3.8 million degree-credit enrolled students by 1979, to a level of 11.1 million.

By 1979, the costs of public and private colleges will soar to almost twice the present level of $25 billion. But there is also an increasing demand for widening the spectrum of educational opportunity—for providing comprehensive child development programs for the millions of preschool children of poor families and of mothers who want and need to work; and for opening a new range of opportunities to working youth and adults to continue their education.

All these facts point to the necessity for establishing a high-level authority and responsibility within the Federal Government for the development of a new educational policy for America. It is time to put the full educational resources of the Federal Government at the disposal of the American people.

I believe that my bill to establish a Department of Education offers the essential administrative framework for drafting that policy by which we can at last assure excellence, imagination, and full and equal opportunity in American education.

The legislation which I am introducing represents a consolidation and revision if important bills introduced last year by Senator RIBICOFF and Representative PERKINS. My bill proposes the consolidation of those Federal programs having a predominant education component, to greatly expedite the implementation of this reorganization. It also takes account of new education agencies to be established under the education amendments of 1972, current awaiting final conference action.

In addition to the reorganization and transfer of educational functions of Federal agencies, my bill provides for the establishment of a Federal Interagency Committee on Education to assure the effective coordination of all Federal programs affecting education. Moreover, there would be established a National Advisory Commission on Education, appointed by the President by and with the advice and consent of the Senate, to bring competent public participation to bear in the review of the administration of Federal education programs and in providing valuable counsel on the educational needs and goals of the Nation.

There must be no further delay in addressing the critical education needs of America. I believe there is an overwhelming national consensus that the time has come to establish a Department of Education to guarantee that these needs will now be met with the full resources of the Federal Government.

Mr. President, I ask unanimous consent that the full text of my bill to establish a Department of Education be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, There is hereby established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The Department shall be administered under the supervision and direction of the Secretary.

FUNCTION AND PURPOSE

SEC. 2. The function and purpose of the Department shall be to promote the cause

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and advancement of education throughout the Nation. To that end the Secretary shall, among his responsibilities, (1) advise the President with respect to the progress of education; (2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the Nation's educational facilities and resources; (3) exercise leadership at the direction of the President in coordinating Federal activities affecting education; (4) conduct continuing comprehensive surveys, collect data, and make available, findings, on the progress of education; (5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school systems; and (6) encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and community educational activities at the local level.

UNDER SECRETARY AND OTHER OFFICERS

SEC. 3. There shall be in the Department an Under Secretary, four Assistant Secretaries, and a General Counsel each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions and duties as the Secretary may prescribe. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964, and the Assistant Secretaries and General Counsel shall receive compensation at the rate prescribed for level IV of such Schedule. The Under Secretary (or during the absence or disability of the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 4 Except to the extent inconsistent with this title, all provisions of law applicable to the executive departments generally shall apply to the Department.

SEAL

SEC 5. The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

DELEGATION OF AUTHORITY

SEC. 6. The Secretary may, without being relieved of his responsibility therefor, and unless prohibited by some specific provision of law, perform any function vested in him through or with the aid of such officials or organizational entities of the Department as he may designate.

TRANSFERS TO DEPARTMENT

SEC. 7. (a) The United States Office of Education, together with all of its functions, personnel, property, records, obligations, commitments, and unexpected balances of appropriations, allocations and other funds is hereby transferred to the Department, and all functions of the Secretary of Health, Education, and Welfare being administered through such Office, and all functions of the Secretary of Health, Education, and Welfare with respect to such Office, are transferred to the Secretary.

(b) The following additional functions of the Secretary of Health, Education, and Welfare are hereby transferred to the Secretary:

(1) With respect to and being administered by the Secretary of Health, Education, and Welfare through the Office of Child Development;

(2) With respect to all laws dealing with the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare.

(3) Under section 394 of the Communications Act of 1934, relating to Federal grants for the construction of television broadcasting facilities to be used for educational purposes; and

(4) Under the Drug Abuse Education Act of 1970.

(c) There are hereby transferred to the Secretary all functions of the Director of the Office of Economic Opportunity under sections 222(a) (1) and (2) of the Economic Opportunity Act of 1964 relating to the Project Headstart and Follow Through programs.

(d) There are hereby transferred to the Secretary all functions of the Secretary of Defense with respect to the operation of schools for dependents of members of the Armed Forces.

(e) There are hereby transferred to the Secretary all functions of the Secretary of Agriculture with respect to the operation of the Graduate School, United States Department of Agriculture.

(f) There are hereby transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing.

(g) There are hereby transferred to the Secretary all functions of the National Science Foundation which the Director of the Office of Management and Budget determines relate to instructional personnel development programs, instructional program development, and programs in computer innovations designed for use in education.

(h) The Bureau of Occupational, Career and Adult Education, the National Foundation for Post Secondary Education, the National Institute of Education, and the Bureau of Indian Education established under the provisions of the Educational Amendments of 1972, and all functions of the Secretary of Health, Education, and Welfare, and all functions of the Commissioner of Education being administered through each such Bureau or Foundation, are transferred to the Secretary of Education.

(i) All personnel, property, leases, obligations and commitments and expended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be used with respect to any office, agency, bureau, foundation, or function transferred under the provisions of this section, are transferred to the Department of Education.

ADDITIONAL TRANSFERS

SEC. 8. The President is authorized to transfer to the Department of Education, any other agency or instrumentality of the Federal Government which he determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this Act. Such transfers shall be completed within 180 days after the date of enactment of this Act, and a report describing such transfers shall be submitted to the Congress not later than 30 days thereafter.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC.. 9. (a) There is hereby established a Federal Interagency Committee on Education (hereafter referred to as the "Committee.")

(b) The Committee shall study and recommend such actions as may be necessary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary; and

(5) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within 90 days of the enactment of this Act, advise the President with respect to his responsibilities under section 8 of this Act.

(d) The Committee shall be composed of the Secretary, who shall be the Chairman, and one appropriate representative of each of the following: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the Department of Housing and Urban Development, the National Science Foundation, the Atomic Energy Commission, the National Aeronautics and Space Administration, the National Endowments for the Arts and the Humanities, and the Office of Economic Opportunity. Other members may be added by Executive Order of the President as he determines may be necessary.

(e) The Chairman may invite Federal agencies in addition to those which are represented on the Committee under the provisions of subsection (d) of this section to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Domestic Council, and the Director of the Office of Science and Technology may each designate a member of his staff to attend meetings of the Committee as observers.

(g) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 10. (a) There is hereby established a National Advisory Commission on Education (hereafter referred to as the "National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who are familiar with the educational needs and goals of the United States,

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals,

(3) who are familiar with the administration of State and local educational agencies and of institutions of higher education, and

(4) who are representative of the mass media, industry and the general public.

Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one-year each and one-third of the members shall be appointed for terms of two-years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

(b) The National Commission shall—

(1) review the administration of, general regulations for, and operation of Federal education programs;

(2) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of appropriate agencies, institutions, organizations of the Nation in order to meet those needs and achieve those goals;

(3) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(5) consult with Federal, State, and local and other educating agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(B) determination of priorities among unmet needs and national goals; and

(C) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

(6) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education related organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(7) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(8) advise and assist in the coordination of all the advisory bodies to Federal education programs.

(c) The National Commission shall make an annual report, and such other reports as it deems appropriate, concerning its findings, recommendations, and activities to the President for submission to the Congress once each year.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 438 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, the National Advisory Council on Educational Research and Development and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its function under this subsection.

The National Commission is authorized to engage such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS–18 under section 5332 of title 5, United States Code, including travel time, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for purposes employed intermittently in the Government service.

(g) The President shall appoint the National Commission not later than thirty days after the date of enactment of this Act.

TRANSFER MATTERS

SEC. 11. All laws relating to any agency or function transferred under this Act shall, insofar as such laws are not inapplicable, remain in full force and effect. Any transfer of personnel pursuant to this title shall be without change in classification or compensation, except that this requirement shall not operate to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned. All orders, rules, regulations, permits, or other privileges made, issued, or granted by any agency or in connection with any functions transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred, until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any agency or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, may allow the same to be maintained by or against the appropriate agency or officer of the United States.

ANNUAL REPORT

SEC. 12. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for the submission to the Congress on the activities of the department during the preceding calendar year. Such report shall also contain objective data on enrollments, expenditures, numbers of teachers, administrative, supervisory and auxiliary personnel, numbers of professionals who lack full qualifications, needs for classroom and other construction, special needs of critical areas such as urban and rural areas, and similar data.

CONFORMING AMENDMENTS

SEC. 13. (a) Section 19(d)(1) of the Act of June 25, 1958, is hereby amended by striking out "Secretary of Health, Education, and Welfare" at the end thereof and inserting the following: "Secretary of Health and Welfare, Secretary of Education."

(b) Section 158 of the Revised Statutes (5 U.S.C. 1) is amended by adding at the end thereof: "Eleventh. The Department of Education." and by striking out "Health, Education, and Welfare" and inserting "Health and Welfare."

(c) Any reference to the Office of Education or the Commissioner of Education, in any other law, rule, regulation, certification, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Education or the Secretary of Education, as may be appropriate.

(d) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

EXPENDITURES AUTHORIZED

SEC. 14. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

SEC. 15. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this title and to perform any other duties which may be imposed upon it by law.

EFFECTIVE DATE

SEC. 16. The provisions of this Act shall be effective on its date of enactment, except that section 7 shall be effective within ninety days following such date.

ANNUAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S 2504

At the request of Mr. HUMPHREY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2504, a bill to amend title XVIII of the Social Security Act to include, among the home health services covered under the insurance program established by part B of such title, nutrition services provided by or under the supervision of a registered dietitian.

S. 3044

At the request of Mr. HUMPHREY, the Senator from Hawaii (Mr. INOUYE), the Senator from Tennessee (Mr. BROCK), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3044, a bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs.

S. 3415

At the request of Mr. HRUSKA, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3415, a bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes.

SENATE JOINT RESOLUTION 87

At the request of Mr. HART, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 67, authorizing the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week."

SENATE RESOLUTION 292—SUBMISSION OF A RESOLUTION RELATING TO THE 88TH BIRTHDAY OF HARRY S. TRUMAN

(Referred to the Committee on the Judiciary.)

Mr. HUMPHREY. Mr. President, I send to the desk for appropriate reference a resolution to honor the 88th birthday of a great American, Harry S. Truman, in the hope that the committee will, within the time frame between now and May 8, be able to consider the resolution and report it back to us.

The PRESIDING OFFICER (Mr. NELSON). The resolution will be received and appropriately referred.

XUM

Mr. GOLDWATER. Mr. President, will the Senator permit my name to be added as a consponsor of the resolution?

Mr. HUMPHREY. I ask unanimous consent that the name of the Senator from Arizona (Mr. GOLDWATER) be added as a consponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 292

Whereas on May 8, 1972 Harry S. Truman will celebrate his 88th birthday;

Whereas Harry S. Truman has devoted his entire life to the service of his Nation, as a Major in the first World War, as a distinguished Senator from the great state of Missouri, as a Vice President under Franklin Delano Roosevelt, as President of the United States;

Whereas Harry S. Truman has guided our Nation through some of its most difficult periods, in times of war and peace, always demonstrating compassion, understanding and qualities of leadership which are unexcelled in our Nation's great history;

Whereas this man is considered to be one of America's greatest Presidents and citizens;

Whereas he has continued to serve his country as a counselor to Presidents; now, therefore, be it

Resolved, That the Senate of the United States salutes this great American for his extraordinary and extensive service to his Nation, and extend its heartiest congratulations to him on his 88th birthday, and wishes him and his wonderful wife, Bess, continued good health and happiness in the years ahead.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1107

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of U.S. vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts to be reimbursed, and for certain other amounts, and for other purposes.

Mr. STEVENS' remarks when he submitted the amendment appear under "Statements on Introduced Bills and Joint Resolutions."

PROPOSED DEPARTMENT OF HEALTH—AMENDMENT

AMENDMENT NO. 1108

(Ordered to be printed and referred to the Committee on Government Operations and the Committee on Labor and Public Welfare.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3432) to establish a Department of Health.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 895

Mr. PEARSON. Mr. President, I ask unanimous consent that at the next printing of the bill, Senators BAKER, BEALL, BENTSEN, BIBLE, COOK, COTTON, CRANSTON, HUMPHREY, INOUYE, MAGNUSON, METCALF, PASTORE, and STEVENS be added as cosponsors of amendment No. 895 to H.R. 1. This amendment would provide persons 65 or older a phased annual tax credit of up to $300 for property taxes or rent paid on their residence.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 989

At the request of Mr. GURNEY, the Senator from California (Mr. CRANSTON) was added as a cosponsor of amendment No. 989, intended to be offered to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1100

At the request of Mr. STEVENSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 1100, intended to be proposed to the bill (S. 3193) the Economic Opportunity Amendments of 1972.

ANNOUNCEMENT OF THE CONTINUATION OF HEARINGS ON S. 3140, THE INTERGOVERNMENTAL COOPERATION ACT OF 1972

Mr. CHILES. Mr. President, on behalf of the distinguished chairman of the Subcommittee on Intergovernmental Relations, Mr. MUSKIE, I should like to announce that on April 17, the subcommittee—of the Committee on Government Operations—will resume consideration of S. 3140, the Intergovernmental Cooperation Act of 1972.

S. 3140 is directed to strengthening the management of our categorical grant-in-aid system, the chief means by which the Federal Government helps the States and localities solve national problems. It is a necessary supplement to the Intergovernmental Cooperation Act of 1968—Public Law 90–577—the first major piece of legislation to improve administrative relationships between the Federal, State, and local levels of government.

The hearing will be held in room 3302 of the New Senate Office Building, beginning at 10 a.m.

Anyone wishing to file a statement with respect to the proposed legislation should notify the chief clerk of the subcommittee, Mrs. Lucinda Dennis. She can be reached by calling 225–4718.

NOTICE OF HEARING ON S. 3419

Mr. RIBICOFF. Mr. President, pursuant to the action of the Senate referring S. 3419 to the Committee on Government Operations for consideration of titles I and II of that bill, the Subcommittee on Executive Reorganization will hold hearings on those parts of the legislation on April 20 and 21, 1972. The hearings will be in room 3302 of the New Senate Office Building and will begin at 10 a.m.

ANNOUNCEMENT OF HEARINGS ON AMENDMENTS TO THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from New Jersey (Mr. WILLIAMS), I ask unanimous consent to have printed in the RECORD an announcement of hearings on amendments to the Longshoremen's and Harbor Workers' Compensation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WILLIAMS

The Subcommittee on Labor will hold hearings on S. 2318, S. 525, and S. 1547, bills to amend the Longshoremen's and Harbor Workers' Compensation Act, on Wednesday, May 3, and Thursday, May 4, in room 4232, New Senate Office Building, at 10 a.m. Interested parties desiring to present testimony concerning this legislation are requested to contact the Labor Subcommittee in room G–237, New Senate Office Building. I anticipate that two additional days of hearings will be scheduled in the near future.

I have asked the distinguished Senator from Missouri (Mr. Eagleton) to preside at the hearings of the subcommittee on these bills.

ADDITIONAL STATEMENTS

GIANT FOOD STORES MISLEADING ADVERTISING

Mr. CURTIS. Mr. President, it is time that Congress look for the facts. Giant Food Stores were paying less for their beef at wholesale when they ran their Esther Peterson ads in the Washington papers on March 21 than they were paying at the time of the wage-price freeze last August 15.

This is borne out by figures kept by the Livestock Market News Service at the Department of Agriculture.

On Friday, August 13, 1971, the last market day before the wage-price freeze was declared by President Nixon, the average price of Midwest choice beef carcasses, 500 to 800 pounds, was $54 per hundredweight.

On Tuesday, March 21, 1972, when Mrs. Peterson advised consumers to boycott beef, the average price of the same type and grade carcasses was $53.25, down 75 cents a hundred from the prefreeze price.

Giant buys most of its beef carcasses through Midwest markets.

I understand that Assistant Secretary of Agriculture Dick Lyng confronted Mrs. Peterson and the president of the Giant Food chain, Mr. Joseph B. Danzansky, with this information.

When they told Mr. Lyng that they did not believe his information was correct, he suggested that Mr. Danzansky call in the company's beef buyer and ask him. I understand that Mr. Danzansky did this, and Giant's buyer confirmed this information in the presence of Mr. Lyng, Mrs. Peterson, and Mr. Danzansky.

Now the Giant Food Stores and Mrs. Peterson are taking credit publicly for driving the prices of beef down.

This type of phony consumerism must be investigated and exposed. It is not only misleading to consumers, but in this instance it has cost farmers and ranchers thousands of dollars, and perhaps ultimately it will cost them millions. Yesterday's carcass price for Midwest choice beef was down to an average of $51.75, or $2.25 below the level at the time of the August 15 freeze. Hog prices also are dropping dangerously. Farmers and ranchers, whose prices already were below those not only at the time of the August 15 wage-price freeze but also below those of 20 years ago, are being forced to bear the brunt of still lower prices to make up for higher costs and profits of other segments of industry. This is wrong, and must be fully investigated by appropriate Government agencies and committees of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement made by the Giant Food Stores to their stockholders which clearly shows that it was not the price of cattle and hogs that caused the Giant to raise their retail prices.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TO OUR SHAREHOLDERS

Our thirty-fifth year of business was a year of challenge, action, and excitement on many fronts.

Financially, Giant achieved record sales in fiscal 1971 of $476.9 million. Costs, however, continued to rise sharply as a result of inflation as evidenced by a labor contract settlement which boosted wages 13 per cent. As anticipated, net earnings for the quarter in which we went discount and settled the labor contract showed a deficit which adversely affected earnings for the year. As indicated in the chart on the left, profits again began a steady upturn during the third quarter and continued through the balance of the fiscal year. At years' end we had matched the earnings of the last 16 weeks of the previous fiscal year. Net earnings for the year were $4.2 million.

Net earnings per share were $1.44 for 1971 based on the average number of shares outstanding, compared to $2.15 for fiscal 1970.

In operations, we converted to a chain-wide discount price program in August. As we predicted at the time, a sharp drop in profits followed the reduction of our margins. Discount start-up costs were coupled with a record labor increase of $7.5 million shortly thereafter. In order to offset the cost of the wage settlement, maintain the lower profit margins inherent to a discount policy, and in anticipation of an additional $8 million wage increase during fiscal 1972, we made the difficult decision to discontinue our successful Top Value trading stamp promotion at the end of October.

We have received much attention and many accolades for our consumer program, detailed in this report. The decade of the '70's has been called the decade of consumerism and ecology. We have been most active in these important areas.

During the past year, Giant has told the public that "Action Speaks Louder Than Words." Looking ahead, we believe that our present and planned actions—including discount pricing and the innovative consumer programs described in this report—will assure healthy and sustained growth for Giant in the coming years.

TAX REFORM AND REDISTRIBUTION OF INCOME—PROPOSALS BY SENATOR GEORGE McGOVERN

Mr. PROXMIRE. Mr. President, income tax day is 10 days away. On that day most of us will turn over a substantial portion of our incomes to the Commissioner of Internal Revenue.

Paying income taxes is not a pleasant chore. But it is made much less pleasant by the knowledge that all Americans do not suffer equally. A number of Americans pay no taxes at all. And some of these are among the wealthiest people in the country.

The Senator from South Dakota (Mr. McGOVERN) has pointed out that in 1969, the latest year for which figures are available, 21,317 people earned more than $20,000 a year but paid no tax. Fifty-six people who had incomes in excess of $1 million paid no tax.

That comes as quite a blow to the average wage earner who each year forks over $1,000 of his $10,000 salary to Uncle Sam.

Mr. President, Senator McGOVERN sets out a number of proposals in the areas of corporate taxes, estate and gift taxes, and State and local taxes. I think these proposals deserve the careful consideration of every Senator.

I ask unanimous consent that Senator McGOVERN's program be printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

TAX REFORM AND REDISTRIBUTION OF INCOME—PROPOSALS BY SENATOR GEORGE McGOVERN

INTRODUCTION

Many Americans feel themselves the victims of economic discrimination at the hands of the Federal tax system. Although that system is, in many respects, one of the most enlightened in the world, it is an undeniable fact that millions of ordinary, working middle income families pay their taxes as required by law, while many of the wealthy use a variety of devices to escape their rightful tax burden. At the same time, the man in the middle sees billions of dollars going into welfare programs that don't work. In short, many Americans pay their taxes dutifully and feel that others are exploiting the tax and welfare systems.

The most urgently needed change in our systems of taxation and public assistance is to place far greater emphasis on fairness. Each American should feel that he is getting his money's worth and that he is being treated exactly like every other American. Each American should pay his fair share and each American should receive his fair share. That is clearly not the case now.

TAX REFORM

The purpose of taxation

In the United States, taxes pay for those activities which we wish to have carried out by government rather than by the private sector. The costs are supposed to be carried by each income group paying its share and by those within each income group paying a similar amount. The progressive tax system asks those who are better off to bear a greater share of the load than those who have less ability to pay. In general, the progressive system is one of the most positive elements of our tax system.

Individual income taxes

Previous efforts at tax reform have failed to bring our system closer to a truly progressive one. Every effort at reform shows that the cloth of our tax codes is so worn that every patch rips another hole somewhere else. Even more importantly, efforts to promote fairness by giving everyone his own loophole are slowly dismantling the progressive federal income tax.

The actual tax system is just about half as progressive as it is supposed to be, according to the tax rates adopted by Congress. While nominal rates range from 0.1 percent at low incomes to 69.2 percent for those with incomes over $1 million per year, actual rates on average range from 0.7 percent to 34 percent.

Two taxpayers with the same annual income pay quite different taxes. A factory worker or a school teacher whose taxes are withheld from his wages cannot take advantage of loopholes. They may expect to pay almost $1,000 in taxes on earnings of $10,000. A wealthy person who receives $10,000 income from state and local bonds will pay no Federal taxes at all. Clearly this system is unfair.

And these inequities are not theoretical. On the basis of 1969 tax returns, the last year for which figures are available, some 21,317 people earning more than $20,000 paid no Federal taxes whatsoever. That includes 56 people with incomes in a single year of $1,000,000 or more.

Because the effort to close one loophole at a time has been a failure and because to do so would still leave a great number of inequities until all were closed, we should shift to a really effective minimum tax. While a minimum tax was created in 1969 tax legislation, it is actually windowdressing and is not effective. Recent reports indicate that some who earn over $1 million still pay no taxes.

I propose a minimum income tax so that the rich could not avoid their share of the tax burden no matter what loopholes they used. One possible formula would be a minimum income tax to apply to all those with total incomes in excess of $50,000. The entire income of any person in this range would be subject to payment of taxes at a rate of 75 percent of the current statutory rates at the rate that they would have to pay if there were no loopholes. All income regardless of source would be included. (Of course, if the computed tax exceeds the minimum tax, it would be payable.)

If this minimum income tax were now in effect it would bring in approximately $5 billion during the present fiscal year and $6 billion in fiscal 1973. That would amount to about a 7 percent increase in receipts from the individual income tax. This increase would be paid by the wealthiest 411,000 out of the 76 million Federal taxpayers.

This basic tax reform would not unfairly penalize the wealthy just because they were well off. It would simply insure that they could not dump their tax load onto the backs of already hard-pressed middle income taxpayers.

Corporate taxes

The strength of the American economy is due mainly to the dynamic growth of the private sector led by corporations and other businesses. It is sound public policy to create the conditions for business to function effectively.

The Federal tax system has been used to help the corporations. As Joseph Pechman, one of the leading tax experts in the United States points out: "A special tax on the corporate form of doing business is considered appropriate because corporations enjoy special privileges and benefits." In order to stimulate corporate economic activity, the Federal government can and does alter tax rates. That is the principal form of assistance that has recently been given.

The present corporate tax rate is 48 percent of the taxable base defined by law. (Of this 22 percent is the normal tax which applies, without the 26 percent surtax, to the first $25,000 of corporate net income. This feature is of special benefit to small businesses—some 77 percent of the taxpaying corporations. It should be maintained.)

In each post-war recession, demands have arisen to stimulate the economy through corporate tax reductions. These have taken the form, not of overt rate reductions, but of covert rate reductions in the form of increased depreciation allowances and special devices such as the investment tax credit. Such devices transfer profits from the taxable category to the untaxable category. In the process, the corporate income tax is gradually being abolished.

XUM

Because of steady reductions in the taxable base over the past twenty years, the effective corporation income tax rate has been cut in half. There is a real question about how much farther we can go.

The time has come to end the dismantling of the corporation income tax and to reestablish a fair balance between personal and corporate income tax collections. As a result, I have opposed the new depreciation guidelines and the investment tax credit. Special loopholes, such as percentage depletion, need to be phased out, but a broad balance also needs to be established between taxable and untaxable earnings of corporations. As it is, we have tipped that balance too far in the direction of untaxable earnings.

I propose that the actual corporation income tax be returned to its 1960 level by the elimination of the special loopholes that have been opened since then. (About two-thirds of the gap between the present level and the 1960 level results from Nixon Administration cuts in the last year.)

This reform of the corporation income tax would raise approximately $9 billion in the current fiscal year and about $17 billion in fiscal 1973 (based on Administration estimates of increased corporate activity.)

This proposal for increasing the corporation income tax rate does not mean reduced government assistance to business. If the entire McGovern economic program were to be applied, there would be more stimulus to business than is available from the tax privileges now in effect. This program includes an immediate $10 billion fiscal stimulus to create new jobs and use underutilized capacity, economic conversion from a war to a peace economy with the extensive use of government contracting for specific purposes and the Minimum Income Grant, discussed below, which would greatly stimulate consumer purchases. Nothing spurs profits like a strong full employment economy, which has the highest priority in my economy program.

In short, our corporations must be healthy and growing if our economy is to prosper. But we have a wider range of tools at our disposal than perpetual reductions in the corporation income tax.

Estate and gift taxation

Most Americans subscribe to a fundamental belief of our Founding Fathers that we should be allowed to keep a fair proportion of what we earn but should not be allowed to inherit great wealth. Yet, in practice, the loopholes in our gift and inheritance taxes are much greater than those in our income taxes. Just 9 percent of all families own 50 percent of all private assets. More than a quarter of all private assets are owned by less than 1 percent of the population. Although some of these fortunes are based on earned income, most are based on inherited wealth.

Estate and gift tax rates are high. But actual rates are a tiny fraction of the theoretical rates.

Estate and gift taxation should be reformed in the same manner as the income tax. Instead of proceeding to close loopholes, one by one, a whole new system needs to be constructed.

Gift and inheritance taxes should shift from a tax on the estate or giver to a lifetime cumulative tax on the recipient. This shift would make it possible to prevent tax avoidance and would be more fair, because it would regard the money received as income to the recipient, which it is.

The cumulative lifetime tax on recipients should take the following form: A base amount would be exempt from taxation—an amount now set by the government at $60,000. Then a progressive tax, reaching an upper limit of 77 percent, the current statutory ceiling, would be levied on an estate worth, say, $500,000 or more. The base exemption should be increased when the estate contains a wholly-owned proprietorship.

While it is impossible to calculate the exact amount of new revenues resulting from this proposal, a conservative estimate would indicate the doubling of present tax receipts from estate and gift taxes. That would mean additional tax revenues of $4 billion in the present fiscal year and $5 billion in fiscal 1973.

State and local taxes

While the Federal tax system is generally progressive, with room for improvement, the state and local tax systems are far less progressive and do not respond as directly to changes of income of taxpayers. It is well known that there has been excessive reliance on the property tax.

The property tax revolt may be a major issue in the coming months. The Federal government may have to step in to allow for a reduction of property taxes used to support education—perhaps their complete removal. As I indicated in July 1971 in my proposals on revenue sharing, the states should be given the incentive to raise more of their revenues from progressive income taxe. In addition, the Federal government should take over at least a third of the total bill for primary and secondary education. Funds should be distributed to school districts in line with an equalization formula as is outlined in my revenue sharing proposals.

It has been suggested that a value added tax, which in effect is a national sales tax, should be used either as a method of increasing Federal tax revenues or as a method of reducing or eliminating the property tax or both. I disagree. In the first case, we should increase individual and corporation taxation, as indicated, rather than resort to the national sales tax. In the second case, a shift to the value added tax would represent a retreat from the far sounder revenue sharing approach. In addition, while the Federal government should assume a greater share of the cost of education, certain local services are associated with the ownership of property, and there is thus a justification for some property taxation. Also, as mentioned above, the property tax can be cut by a shift to more progressive forms of taxation by the states.

In any case, the value added tax or national sales tax is against the interest of middle and low income people. It is a regressive tax on consumption, which cannot, of course, be reduced beyond a certain point necessary to insure a decent life. And it represents a backdoor method of increasing individual taxes just after a reduction in taxation on individual incomes has been enacted.

Conclusion

The Federal tax system is basically sound, although it has been riddled with special privileges for the rich. We should move now to establish a fair tax system for all Americans.

The reforms of the Federal tax system relating to individual and corporation income taxes and to estate and gift taxes would result in additional revenues of about $18 billion this fiscal year and $28 billion in fiscal 1973. This amounts to an additional $140 in Federal income for every man, woman and child in the United States. Depending on how these additional revenues were applied they could bring about the reduction or elimination of the local property tax for education; spent on other urgent national needs such as rebuilding our cities, pollution control, adequate nutrition for all; or could go a long way toward financing the Minimum Income Grant program, discussed below.

REDISTRIBUTION OF INCOME

The need for redistribution

The present tax system contains inequities because it does not levy a correspondingly fair burden on all taxpayers. While the rich benefit from the tax system, middle income groups and low income groups including the poor do not receive such benefits. Those with medium incomes find they are paying their taxes but not receiving either the kind of tax breaks given to the wealthy or the kind of public assistance payments made to the poor. The poor find that, as soon as they go to work, they are subject to extremely high rates of income taxation because of their sudden sharp reduction of public aid when they earn their first dollar. The net result is mounting frustration for those in the middle and a future of poverty for those who are heavily penalized when they seek to work their way out of welfare dependence.

There are other weaknesses of the public assistance or welfare program. Many people in need are not covered; family groups are penalized; benefits are insufficient; migration from one state to another is encouraged; extensive controls are applied; and it is possible for taxpayers to be worse off than those receiving public assistance.

A number of welfare proposals are now pending before the Congress. I sponsored the proposals of the National Welfare Rights Organization in an effort to insure that benefits will take into account real needs. Naturally these proposals deal only with those on public assistance—not medium income taxpayers. Some of them represent major improvements in the present system. But none of them offers the broad application of the Minimum Income Grant described below. Even the negative income tax proposal has the defect of creating or, more properly, maintaining a two-class society—those who pay and those who receive.

The minimum income grant

I propose that every man, woman and child receive from the Federal government an annual payment. This payment would not vary in accordance with the wealth of the recipient. For those on public assistance, this income grant would replace the welfare system. It has also been suggested that the national income grant could replace certain social security benefits.

There are a number of methods by which this proposal could be implemented. Some are discussed here. These methods require full examination by the best economic talent available, and the plan chosen must have the support of the President, if it is to have any chance of adoption, for those reasons, the present proposal is not designed for immediate legislative action. Instead, it represents a pledge that, if elected, I would prepare a detailed plan and submit it to the Congress.

One proposal calls for the same payment to be made to all Americans. This is the credit income tax idea, proposed by Professor Earl Rolph, and more recently associated with the name of Professor James Tobin of Yale, immediate past President of the American Economic Association, former member of the Council of Economic Advisors and a member of the National Economic Advisory Group of the McGovern Campaign. Using a 1966 base, Professor Tobin suggests a payment of $750 per person. At the present time, a payment of almost $1,000 per person would be required. This would amount to $4,000 for a family of four—just about the official poverty level boundary.

Another formula has been suggested by Leonard Greene, President of the Safelight Instrument Corporation of New York. Under his "Fair Share" plan, each adult would receive $900 a year and each child would receive $400. This would amout to $2,600 for a family of four.

It should be stressed that neither of these proposals relates to the size of the family unit; the payments are made on an individual basis. Thus, there would be no incentive for a family to break up in order to receive higher total benefits.

A third formula would involve payments according to the family group. Joseph Pechman of the Brookings Institution has shown that: "The relative incomes that would provide roughly equivalent standards of living appear to be in the ratio of 75:100:25 for single, married, and dependent persons, respectively." The payment of the Minimum Income Grant could be made according to such a formula. In this case, adequate account would be taken of those who receive welfare and who live alone.

Financing the minimum income grant

As redistribution of income, the Minimum Income Grant would represent no additional cost to the Treasury. Funds to finance the grant would be expected to come from those above a designated break-even income and would take the form of additional taxes. If the break-even income for a family of four were set at $12,000, about 20 percent of Federal taxpayers would experience a tax increase, while about 80 percent would be able to keep all or part of the grant. It is expected that those below the poverty line would keep all of the Grant, while those between the poverty line and the break-even point would keep a gradually decreasing amount as their incomes rose. The loss of Grant benefits would thus be sufficiently gradual as not to discourage those on welfare from seeking a job (in fact, it would encourage them to seek work) and would provide a significant income supplement to the millions of Americans in the medium income range. Thus, for example, a family of four with its own income of $8,000 would be able to retain an additional $2,000 of the Minimum Income Grant.

Professor Tobin's explanation of the credit income tax suggests that the grant would be tax-free but that each person would be required to pay a uniform income tax to the Federal Treasury (a 33.3 percent tax is suggested with the $750 payment). Although this might seem to be a regressive tax, the tax credit resulting from the Grant would cause it to have a progressive effect. While taxes would be much higher for the wealthy, others would receive significant tax relief. Professor Tobin uses the example of a family of four with an income of less than $9,000 that would pay no taxes at all.

This credit income tax proposal would imply a redistribution of income of some $14.1 billion for those above the poverty line to those below it. The redistribution from those above the break-even income line to those below it but still above the poverty line would amount to $29 billion. These figures demonstrate that while the Minimum Income Grant would represent a total reform of the present welfare system, it would actually provide more money to medium income taxpayers than it would to the poor.

Leonard Greene's Fair Share would be financed by the present progressive tax system plus a 20 percent tax surcharge on all taxpayers. The Minimum Income Grant, according to Mr. Greene, would not be tax exempt. This proposal distributes the cost over a greater number of taxpayers but the burden on any one of them is lower than under the credit income tax formula.

It would not be necessary to finance all of the Minimum Income Grant by tax increases. The billions of dollars saved in welfare benefits and the cumbersome administration of the welfare system—a total since it began of $9.6 billion or $1.4 billion in fiscal 1970—could be allocated to the Grant It should be noted that this procedure would represent a major saving for states and localities which would not be required to finance the welfare system and could use the resulting funds—an estimated $5 billion—to lower property taxes. This step would represent additional income assistance to medium income taxpayers. (To the extent that social security payments were replaced by the Grant, social security funds could be used to finance the system.)

In addition, the revenues resulting from the kind of tax reform proposed earlier ($28 billion in fiscal 1973) could be applied to the Grant.

Finally, the justification for the personal exemption on individual tax returns would be removed by the adoption of the Minimum Income Grant. If the person exemption were removed, the Federal Government would receive $63.6 billion in additional tax revenues. These funds could also be applied to the Grant.

THE PROBLEM OF POLLUTION

Mr. FANNIN. Mr. President, our Nation and the world must come to grips with the problem of pollution. There is no disputing this fact.

There is a major disagreement, however, over just how to go about providing environmental protection.

There is strong pressure for a crash program which calls for drastic means to cut pollution. Such a crash program would not take into account economic or social costs and casualties.

I do not believe that the majority of Americans want such a program, especially when they are aware of the high cost and the likelihood of economic disaster.

What we need is a steady, reasonable approach to environmental protection. It is my belief that we can have a healthy economy and a healthy people—it is not a case of having one or the other.

Our laws and regulations must give industries the opportunity to continue providing jobs, and the opportunity to expand as long as they are making good faith efforts to minimize pollution.

Mr. President, recently a number of articles and editorials have been published which I believe provide worthwhile analyses of our problem of controlling pollution. I ask unanimous consent to have these interesting and informative articles printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Mar. 19, 1972]

LET'S SAVE THE MINERS AND THEIR JOBS

A month ago Governor Williams told The Arizona Republic he would not sit still as governor and see the copper smelter at Douglas closed because of Arizona's high anti-pollution standards.

We agree with the governor. This state cannot afford to lose several thousand jobs and over a million dollars in taxes because its air standards are higher than its neighbors' or the nation as a whole.

Phelps-Dodge, which operates three smelters in Arizona, has said it will close the Douglas smelter—which alone supports 1,730 jobs—if the state will not compromise on anti-pollution rules which are substantially higher than federal requirements.

The copper corporation already has announced a new $100 million smelter will be built just outside Arizona in New Mexico, in part because of Arizona's higher anti-pollution barriers, thus costing us more employment and tax dollars.

Certainly the copper industry is in part responsible for our air pollution problem. But an even greater responsibility must be borne by our growing swarm of motor vehicles spewing out almost uncontrolled poisons.

If the automobile needs extra time to end its pollution, certainly one of Arizona's top employers and taxpayers, the copper industry, should receive as much or perhaps more consideration.

We suggest Governor Williams find compromises which will force all copper plants in the state to reach at least federal limits of air control and at the same time push for much-needed barriers to vehicular pollution of the atmosphere.

We need controls. But people are not dying in the streets today from the effects of smelter emissions as some environmentalists would have us believe. Dr. George Spikes, chief of staff of the Cochise County hospital almost in the shadow of the Douglas smelter, testified recently he had practiced medicine there for 13 years and never treated a patient with a condition aggravated by smelter smoke.

This does not mean the smoke from either smelters or automobiles is not harmful. What it does mean is that a longer time plan could be granted if required without harming the healh of Arizona's people.

Arizonans are entitled to clean air. They must have it. But, as President Nixon warned last August in a White House statement, "It is simplistic to seek ecological perfection at the cost of bankruptcy the very enterprises which must pay for the social advances the nation seeks."

[From the Arizona Republic, Mar. 30, 1972]

WHO ARE THE POLLUTERS?

If an automobile really stinks up the air as the antipollution buffs say, who is the guilty party? The guy who builds it? Or the guy who drives it?

To hear some of the environmentalists talk, you'd think a devilish clique called the auto industry deliberately went out of its way to design and build a polluting machine which it then put into the hands of the innocent—and presumably ignorant—public for the nefarious purpose of fouling up the atmosphere.

What the auto industry did, of course, was provide the public with a mighty convenient means of getting around. So convenient did it prove, in fact, that the public—barring a handful of rugged individualists—became pretty well dependent on it for its comings and goings.

Then, long after the nation had gotten addicted to powered wheels, someone started to yell that all those tailpipes were puffing out gases—products of combustion of gasoline—which could become a significant fraction of the earth's atmosphere.

So, at that point, did people throw up their hands in horror, start taking the pledge they'd never, never use those "nasty" automobiles again?

Absolutely not. Most of them kept right on buying and using them to go to work, to the grocery, the club or the movies, to go on business trips, to take the family on holiday, to go house hunting, to go bowling, golfing, swimming, fishing or to the ball game, to lunch, to dinner, to a party, to take a drive in the country or to do any of the 1,001 other things people use their cars for.

What, then, are the rights and wrongs of the situation?

Is it reasonable for people to insist they can't get along without their wheels, yet at the same time claim that somehow someone did them wrong by supplying them with wheels that pollute?

Not really.

Or can they reasonably demand they be able to keep on driving just as conveniently as before yet, presto, with no more pollution?

Hardly. Unless they're smart enough to figure out how.

Sure, nobody wants tailpipe smog. But let's be sensible about getting rid of it. If we can't figure out how, let's give those who can a chance to do it—at reasonable cost.

And let's stop pointing the finger at the other guy for something we're at least as guilty of as he is.

XUM

[From the Arizona Republic, Mar. 16, 1972]

REALISTIC ANTI-SMOG STANDARDS

Phelps Dodge, a giant in the mining business, has announced it will build a $100 million copper smelter in southwestern New Mexico. The new smelter will be used for concentrates from a PD mine at Tyrone, N.M. Those concentrates are now shipped to Morenci, Ariz.

The Morenci smelter will be used for concentrates from the Metcalf copper mine in Arizona on which Phelps Dodge expects to spend another $100 million in development costs. While it's good to know that the Morenci smelter will stay open, it would be even better for Arizona if PD had decided to put its new smelter near Morenci instead of going to New Mexico for a site.

A grimmer future is faced by a PD smelter in the Bisbee-Douglas area. As the two PD mines there are mined out, the company hopes to rent the smelter to new mines projected for the Tucson area. As of right now, the chances are that the smelter will go the way of two mines. Bisbee and Douglas may join Jerome on the depressing list of Arizona ghost towns.

There is a lesson here for those who are hell-bent on pushing state smog laws. The copper smelters usually are blamed—although they were here before the autos—for air pollution, and the public frequently is urged to support measures that will drive the mines out of business if they are ever applied.

In December the state board of health held hearings regarding a request to bring Arizona anti-smog laws into conformity with the lower national standards. The request was refused. You would have to be pretty naive to believe this action had nothing to do with the Phelps Dodge decision to erect its new smelter in neighboring New Mexico.

While we are completely in accord with current programs to reduce air pollution—and other sorts of pollution as well—we don't believe there is anything magic about the target dates that have been set.

Whether 90 per cent of sulfur dioxide is removed from smelter smoke by 1975 or by 1976 doesn't seem as important as keeping the mines open and the smelters working.

We also think the emission standards promulgated by the federal government are stringent enough for Arizona. If we keep step with the rest of the nation, we'll be doing all that can be expected

In a free economy businesses are free to pursue opportunities as they present themselves. For the most part Arizona can hold up its end in a contest with any other state. But we will all regret it if we drive away industries through an overzealous determination to set standards that are completely unrealistic.

[From the Arizona Republic, Apr. 2, 1972]

WILL ENVIRONMENTALISTS DESTROY ARIZONA'S ECONOMY?

It is becoming increasingly evident that the environmentalists, carried away by sheer emotion, are proposing anti-pollution measures that the economy of Arizona simply cannot afford.

God Almighty, in His infinite wisdom, could not comply with the demands of the far-out environmentalists to clean up the state's air, water, and earth in from two to four years.

There is no machinery available anywhere that will allow the utility companies to provide the electricity that the people demand and need while they are also eliminating all pollution from the exhaust stacks of generator plants.

For several weeks the mining companies have been asking for additional time to meet the antipollution standards. While they have agreed to meet the federal requirements, which are somewhat more reasonable than the state requirements, there has not been the slightest inclination on any level to help the mines survive by spreading out their costs over a number of years.

Sometimes one solution of a pollution problem results in an even bigger problem. For instance, when the sulfur is taken out of the smoke from the smelters, the mines will have more sulfuric acid than they can possibly dispose of. But they are told to solve the problems all at once, regardless of cost, and not to lay off any workers in the process.

There are no incidents of sickness from pollution in the mining towns. People are not falling over from inhaling the smelter fumes. There is pollution in the cities where thousands of high powered autos carry one man to work and back home again every day. Obviously every driver cannot be arrested, so the authorities turn on the mines. The real solution is for the people to demand a pollution-free gasoline, which the oil companies have the know-how to produce.

Last week the heads of Arizona's three major power companies called a press conference in Phoenix to indicate the extent of their own problems in meeting anti-pollution deadlines. While deliberately pitching their remarks in low key, the presidents of Arizona Public Service, the Salt River Project and the Tucson Gas and Electric Company conceded the possibility that Arizona will be faced with power shortages this summer.

The extent of the ecological demands made on the power companies is best illustrated by the scrubbers Arizona Public Service has installed in its Four Corners plants to meet the state's pure air requirements. Because the devices are new, mechanical malfunctions have kept the generators out of operation for substantial periods of time.

The spokesmen for the utilities refused to speculate on what steps they will take if a power shortage develops this summer. But the average citizen will pay a big price if brownouts or blackouts force factories to close down. They will throw people out of work and reduce payrolls.

If there isn't enough electricity for street lights, crime will increase and the city streets will be even more unsafe after dark.

Power shortages will close down air conditioning in countless Arizona homes, subjecting residents in the desert areas to the intolerable heat of July and August.

These things don't have to happen. Air pollution has been building for years. It's foolish, yes impossible, to try to return the air to its pristine purity in a year, or two, or three. But great strides are being made, and the job will be done without undue hardship if the environmentalists don't push us all into bankruptcy.

It is past time that common sense took possession of legislators and state officials who, by their capitulation to excessive demands that Arizona mines and utilities far surpass reasonable federal clean-air standards, are threatening the state's economic future. Thousands of families that can little afford job losses that mine closures will produce and economic losses to small businesses from power shortages, will be the primary victims of their short-sightedness.

The mines and utilities have shown by word and deed that they can adequately satisfy federal standards. And insolent demands from those who lack the pragmatic capacity to foresee the disastrous economic consequences of forcing industry to do the impossible must be strongly resisted.

[From the Newsletter of the Colorado Plateau, February 1972]

ENVIRONMENTAL ADVISORY COUNCIL: HOPI TRIBAL CHAIRMAN DEFENDS COAL MINING ON RESERVATION

The following is a statement about the controversial mining of coal from the Black Mesa area of the Hopi Indian Reservation in Arizona, by Clarence Hamilton, Chairman of the Hopi Tribal Council:

Let me preface my statement by saying that I do not pretend to represent every single Hopi Indian, just as Governor Jack Williams does not always express the opinion of all Arizonans. But he is the elected Governor of Arizona and as such represents the state in many of the things that he says. In that same sense, I represent the people of the Hopi Tribe as Chairman of the Tribal Council. And I do speak for the Tribal Council itself.

Many of the local, regional and national news media have devoted considerable time and space to the views of some of our tribal members to the effect that they are not in favor of the mining of coal from our tribal lands. It is right that every minority be heard and that their views receive good exposure.

Unfortunately, however, these views often are given broad coverage while the less exciting views of the "establishment" (if I may call myself that) are not given equal coverage. In addition, there are some well meaning national columnists who give their opinion, I am certain, thinking that they are doing the Indians a favor.

Let me give you a couple of examples.

During the fall of last year, one of the well known editorial cartoonists did a cartoon that was widely printed. The picture showed two large tractors tearing up land and knocking down a sign which read, "Private Indian land." In the background, the picture showed giant power plants with smoke puffing out. The tractors each had a sign on them which said, "Plowbody Strip Mining, Inc.". The caption on the cartoon showed one of the tractor operators talking to the other saying, "Amazing what you can still buy with a handful of glass beads."

The implication is clear that the Navajo and Hopi Indians are a bunch of uneducated savages who have sold their "Manhattan Island" of coal for $24 worth of beads. Frankly, we resent that implication.

Another example: In September of last year, a major Los Angeles television station became concerned about what they called "an environmental disaster". This news organization sent a reporter and camera team to spend two weeks in the Four Corners area to film a five-part report on this subject. It is interesting to note that not once during the study did they get a statement from me or any of the elected officials of the Hopi Tribe, nor when they were making their five-part report did they make it clear that the Tribal Council and the United States Department of the Interior had studied this proposal for many months—even for several years—and had entered into a contract with the operators of the mine and that the Tribal Council had repeatedly, in subsequent years, confirmed their position on the value of the contract.

In this TV series, they did, however, quote liberally from one radical activist who claimed to speak for the Hopi and for the Navajo. They quoted a few other Hopi people who give their views, but not one elected official of the Tribe. In short, they spent five television shows making it appear that the coal mining operations on the Hopi and Navajo Reservations are completely bad and with no redeeming facts about them. This is just not true!

Another quick example: I am not in favor of just leaving the coal in the ground where it is of no value to anyone. This brings out another important point. Before I get into this subject, however, let me make certain that no one misunderstands my position. I am definitely in favor of protecting all aspects of the environment and particularly the environment of our Hopi lands. I am also very much in favor of conserving our natural resources and utilizing them wisely.

This very moment, on the other side of Phoenix there is a meeting of the Colorado Plateau Environmental Advisory Council. The goal of this organization to preserve the environment of the Colorado Plateau is an excellent one. And many fine and dedicated people are involved in this program. However, the November issue of their newsletter carried on its first two pages what was called a "Statement of Hopi Religious Leaders". This statement says in part, "The Great Spirit has told the Hopi leaders that the great wealth and resources beneath the lands at Black Mesa must not be disturbed or taken out until after purification when mankind will know how to live in harmony among themselves and with nature."

This statement was said to be signed by seven people who claim that they are Hopi Religious leaders. The route that must be followed to become a Hopi Religious leader is a very formal and specific one. It is not sufficient just to decide that you are a Hopi Religious leader. And these people just do not represent the mainstream of Hopi Religious thought.

As a matter of fact, our Elders have told us that the Creator has placed valuable resources for us in the ground and that it is our obligation to discover the resources and use them for the benefit of man. And this is exactly what we are doing. Yet we realize the importance of assuring that our lands are not destroyed in the process.

From as early as 1960 to 1966, the Hopi people and our attorneys and the United States Government who are the trustees of our land, studied this situation very carefully. We negotiated prices to be paid. We obtained agreement on the restoration of the Black Mesa land to its original characteristics. The Peabody Coal Company has started some test plots, but so far Mother Nature has refused to cooperate. Their seeding along the roadcuts were made successfully but the Navajo sheepherder also refused to cooperate.

Just recently the Arizona Forest Service and the Bureau of Indian Affairs spent $3,000,000 reseeding the area that was destroyed by fire near White River. Land can be improved and the Peabody Coal Company is bound by our contract to restore the reservation land. Of the 40,000 acres leased to Peabody, only about eight or ten thousand acres will be mined. Actually this land has very little grass on it right now due to overgrazing.

The land restoration is, of course, not our only concern. We are concerned about the possible depletion of our valuable water resources. We have taken extensive precautions to make sure the water table is not adversely affected by the mining of coal. More than $160,000 has been spent by the Indian Tribes involved, the Peabody Coal Company, and the U.S. Geological Survey, to install water level monitoring devices. If the water would drop below a certain level, Peabody would have to find other water sources. Peabody draws its water from the deeper wells, far deeper than the local wells go.

We are also concerned about the potential of serious, long-range pollution of the atmosphere. The pollution of the air is a problem which is not now serious in the Black Mesa area. After living on the reservation continuously and working with the operators of the power plants, we have seen their willingness to go to almost any expense to make certain that the power plant emissions do not harm the atmosphere of this four-corner area. All things considered, we are glad they are there.

In a real sense, we consider ourselves fortunate to have these power plants developed in the area around our reservation. Income from the sale to these plants can be of great benefit in improving the economy of my people. Without the power plants, we would have no market for the coal and our economy would suffer.

We are not a self-sufficient island set out here in the great southwestern desert. We need cars from Detroit and manufactured goods from Southern California. We must have something to sell them in exchange. While our silver overlay jewelry, our kachina and our pottery and our scenery are the finest in the world, we cannot hope that we can produce and sell these in sufficient quantities to exchange them for the products that we need from the outside. Like any other community, we need to produce and sell something which the outside world wants to buy. Electric power is one such thing.

A number of years ago we leased some oil rights and made what we thought was a good settlement. This turned out well for us. Now we have made this agreement for the sale of our coal and we are convinced that the moneys that are coming from that agreement give our people the first real hope of developing our industry and people in a way that will allow us to become self-sufficient as we were a thousand years ago. Already many of our people are finding well-paying jobs. We have built a Tribal Administration Center, paid 25 percent toward the new Cultural Center and built a number of homes for our people. We believe that much of our future hope is in the proper development of our young people. Right now there are 160 young Hopi in universities that are being educated by scholarships made available from these funds. With the completion of the Navajo Power Plant at Page, the demands for coal will increase and our income will similarly increase and then we will be able to send more of our young people to the colleges and universities.

The education of our youth is not the only thing we plan to do with our money. We hope to attract industry with jobs for our people just like we did with BVD. That plant cost the Hopi a lot of money from the oil lease sales and in return we will ultimately get back what we spent. We could have left it in the bank to draw interest but that would not have helped the hundreds of families that work there. This is what we plan to do for our people. Again, let me thank you for the opportunity of discussing these ideas with you.

[From the Barron's, Feb. 28, 1972]

ANTI-POLLUTION COSTS: NOBODY SEEMS TO APPRAISE OR FINANCE THEM

(By Shirley Scheibla)

WASHINGTON.—A debate now is raging within the Administration over how to finance the costs of cleaning up pollution, and the outcome may influence the economic health of many major industries for years to come. It is bound to affect their ability to attract investment capital. If a happy solution is not found, some high pollution industries, like copper, simply may move some of their plants abroad.

Anti-pollution equipment won't boost profits since it won't increase production. Thus, it must be paid for out of lower profits, higher prices, federal subsidies or tax incentives and joint ventures, with special exemptions from anti-trust laws. For each alternative, there's an array of arguments, depending largely upon the point of view of the agency involved.

VANTAGE POINT

From its vantage point of looking at the entire business scene, the Council of Economic Advisers (CEA) hoped the difference could be resolved on the basis of solid facts on environmental costs. But the trouble is that the latter are hard to come by. All that can be said with certainty at this point is that the costs will run into many billions of dollars. For one thing, the technology does not yet exist to comply with some of the laws now on the books, several of which are scheduled to go into effect a few years hence to allow time for science to catch up.

In an attempt to get some answers on costs, the CEA turned to an inter-agency task force composed of the Council on Environmental Quality, the Environmental Protection Administration, Office of Science and Technology, the Office of Management and the Budget and the Commerce Department with the National Industrial Pollution Control Council (NIPCC) serving as an advisory group to the Department. NIPCC is made up of leading corporate executives, including the president of General Motors and the chairman of U.S. Steel. This task force decided upon the appropriate areas for scrutiny, and the Council on Environmental Quality then contracted out studies covering 11 industries.

The reports were not ready by the end of November as scheduled. Early in January, William D. Ruckelshaus, EPA Administrator, told Barron's he expected that within 30 days the studies would make some tentative conclusions possible regarding which classes of industry are likely to require subsidy to assure their survival. Likely prospects, according to Mr. Ruckelshaus, include copper, iron and steel, paper and pulp and chemicals.

HAVE TO BE REDONE

However, Walter Hamilton, executive director of NIPCC and also deputy assistant secretary of Commerce, now says that the studies on autos, petroleum and iron and steel will have to be re-done. He told Barron's that while the copper study is completed, "we have not released it because we don't know what to make of it." But he later disclosed that a decision has just been made to release summaries of what has been done in all the studies early in March "with the proper caveats regarding their limitations." They cover baking operations, capital and maintenance costs of auto emission control systems, petroleum refineries, generating stations in electric utilities, cement kilns and klinker coolers in the manufacture of cement, sulfur emissions of non-ferrous metals (separate reports cover copper, aluminum reduction plants, lead and zinc), water problems in leather tanning, iron foundry cupolas, steel, pulp and paper and the canning and freezing of fruits and vegetables.

According to Mr. Hamilton, "No decision has been made on whether the task force will continue the cost studies. I suspect the next round of contracts to be let by EPA in collaboration with other agencies." He pointed out that EPA already has gone to a different contractor for new non-ferrous metals reports which are expected to be completed by the end of March.

Mr. Hamilton put it very bluntly: "Part of our problem is to know what we're doing. No one has been able to develop econometric tables, input-output tables or tell how people will react to various restrictions and requirements."

In copper, Mr. Hamilton said, environmental controls are likely to require an investment of between $300 million and $500 million over the next four or five years. That amounts to 30% or more of the cash flow of domestic producers. "The investment is massive enough for the copper companies to re-examine how to ease pollution. . . . The array of options is very complex, as Dave Swan, the president of Kennecott, has said. For instance, what is done about pollution could change the life expectancy of an ore body."

Mr. Ruckelshaus predicted that higher prices for a product like copper might switch some demand to less polluting products. But where there is no substitute for some applications, he suggested encouraging reuse through freight rates and taxes.

Mr. Hamilton, however, thinks it might be more practical to set tighter standards for other sources of pollution where copper smelters, or other polluting plants, are essential, or to reduce the number of them in a concentrated area. One possibility, for example, would be to restrict vehicular traffic.

LOW RETURN ON STEEL

Messrs. Hamilton and Ruckelshaus agree that the government will have to do something if the steel industry is to stay economically sound. Mr. Hamilton explained that steel's low return on equity means it would take too long to repay the private capital required for environmental costs.

As for petroleum, Mr. Hamilton said: "The question is whether what we gave the contractor encompassed enough of the real world to achieve an acceptable result." On the other hand, he considers the pulp and paper study very good and said it is clear that "a fairly large number of smaller and older mills will have to be phased out. It may be necessary for distressed area assistance (by the federal government) to help the industry make the adjustment. This would be one-shot assistance to ease the transition."

But what if a company must close, say, five out of eight plants? "Then we might have to call in a marriage broker," says Mr. Hamilton.

PARTS OF INDUSTRIES.

As for the cost studies cited above, NIPCC Director Hamilton said it is important to realize that they only cover parts of industries. In baking, for instance, they have looked only at the mixing and baking, not at such matters as transportation and the grinding of grain. In autos they didn't consider the costs of safety, changes in transportation requirements and cleaning up manufacturing plants inside, or the increased environmental costs of materials needed to make autos, like steel, plastics and glass.

A monumental problem is that no one can be sure precisely what water pollution standards will be, since the House has not yet acted on S 2770, the bill passed by the Senate. It calls for the "best practicable" control of water pollution by 1976 and cessation of all industrial water, pollution discharges by 1981. In other words, how can industry judge anti-pollution costs when it doesn't know all it will have to do?

In addition, state regulatory commissions impose their own environmental controls, often more rigorous than the federal ones, as for example, in the case of sulfur emission controls by Arizona and Montana.

LAW ON THE BOOKS

Nevertheless, one Administration official scoffed at the idea that the executive branch should not request, and Congress should not enact legislation when the technology does not exist for compliance. Industry, he maintained, has been benefiting for so many years from the free use of natural resources like air and water, that it is not likely to develop the technology without a law on the books.

While some in the Administration hold the view that tax incentives should be used sparingly because they would further complicate tax law which already is too complex, Under Secretary of the Treasury Charls E. Walker told Barron's, "If it can be clearly demonstrated that tax incentives are the best way to meet environmental costs, then we will be willing to go along." He added: "The situation conceivably might require tax credits in some area and subsidies (cash grants) in others. It also might call for other tax disincentives like the one we just called for on sulfur. . . . At this point we have not reached any major conclusions."

Mr. Ruckelshaus said, "I don't have any bias in the direction of tax incentives or direct subsidies, but philosophically I favor tax incentives."

Back in 1969, Congress approved rapid amortization for anti-pollution equipment for plants built before that year. But the authority expires in 1974. According to Joel E. Segall, deputy assistant secretary of the Treasury and director of its Office of Tax Analysis, there has been no decision on whether to ask for an extension. He pointed out, however, that tax incentives work only when there is taxable income, and added that no decision is imminent on tax incentives, "or anything else involving financing of environmental costs."

One Justice Department official suggested that subsidies might be the answer for financing unusually high environmental costs. But that possibility doesn't loom as trouble-free, either. Under the General Agreement on Trades and Tariffs, the U.S. is bound not to subsidize exports, and many products which might qualify for subsidies are exported. Now, however, the member countries are trying to develop criteria for dealing with hardship cases involving environmental costs.

Hendrik S. Houthakker was the CEA member responsible for environmental matters until he resigned last year to return to Harvard. He told Barron's that some industries, particularly the non-ferrous metal smelters, might leave the country.

With all the excitement over pollution, a basic law of physics seems to have been forgotten: matter can neither be created nor destroyed. At this point some of the staunchest bureaucrats are beginning to think it will take the know-how of American business to provide the best ways of handling matter with the least damage to the environment. The problem is how to keep industry economically strong while it comes up with the answers.

CITY OF OMAHA "GET IT TOGETHER" CONFERENCE ON DRUG ABUSE PREVENTION

Mr. HRUSKA. Mr President, all of us have a vital interest in the monumental drug problem we are presently facing throughout the country. Similarly, we can all take pride in the effective work which is being done by the Department of Justice to reverse the upward spiral of this fearsome problem and to come to grips with it in a variety of ways.

It is good for us to take note of the accomplishments of the Federal agencies involved in enforcement of our narcotics laws. When a major breakthrough is achieved—and thanks to the Department's hard work and more effective legislation, we are seeing a gratifying number of breakthroughs—we find it headlined in bold black letters in the press.

We do not too often take proper note of other attacks on the problem which may be less spectacular but no less effective, attacks which continue day after day to make effective inroads into all types of drug abuse.

One such innovative and vital service was brought to my attention last spring when I participated in a community drug abuse prevention organizational program in Omaha. The program was a joint effort of the city of Omaha together with a little-heralded division of the Justice Department's Bureau of Narcotics and Dangerous Drugs, a unit called the community organizational programs branch.

This branch grew out of the increasing pressure for expert guidance in putting together effective community prevention efforts throughout the country. If its experience with respect to Omaha is any criterion, it is doing excellent work.

Since Omaha's problems were typical problems, it was choosen as one of the pilot projects conducted by the branch during 1971. Omaha had a serious drug problem. The citizens and the city officials were concerned but professionally unprepared to meet the crisis. There were dozens of well-intentioned groups trying to do something, but in many cases they were operating independently of one another. In fact they sometimes found themselves in competition with one another.

Today Omaha has a well organized and coordinated community program which is responsive to all aspects of the drug abuse problem. The leaders associated with its program attribute much of their success to the assistance provided by the Bureau of Narcotics and Dangerous Drugs. The excellent work of all concerned is pointed up in a comprehensive report which the city has now released on the seminar last year. Appropriately, it was called "A Get It Together Seminar."

Program specialists under the direction of Mr. Hiram R. Haggett, chief of the community organizational programs branch, provided guidance and assistance to Omaha at every critical level leading to the establishment of a responsive program. This involved assistance with an indepth study of the community drug situation. Following the community evaluation, a special 2-day seminar was provided by the Bureau of Narcotics and Dangerous Drugs for some 300 representatives of community leadership who had a personal or professional commitment to an active prevention effort in Omaha.

This seminar brought together recognized experts in all of the fields of major concern in drug abuse. This Senator had the pleasure of making the keynote address at the opening of the conference. I can personally attest to the enthusiastic response of the audience to the wide range of government resources made available to them by the Bureau.

The assistance went beyond this. And it continues today as the need for technical assistance grows out of an on-going and vital program.

John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, has said repeatedly that prevention is an integral part of enforcement. The Omaha program is one impressive example of the kind of behind-the-scenes effort which forms a base for the more common concept of enforcement. Omaha is a vital city with vital leadership. It is gratifying that when the need for expert technical assistance was recognized by Omaha, that assistance was readily available from the Federal level.

VIETNAM AND AMERICAN POW/MIA'S

Mr. HUMPHREY. Mr. President, we have just finished a week set aside for our expression of concern for American prisoners of war. However noble our expressions of concern, they offer little consolation to the wives and families of those men who have been kept hostages

all the while that American involvement in the war in Vietnam grinds on, and all the while that diplomatic negotiations grind to a halt.

Many of us in Congress urged the President to take a different approach in the hope of ending our involvement rapidly and in obtaining the release of American POW/MIA's, but this fact is hardly any more consoling to any of us. If we are to spend a week of concern for American prisoners, why should it not be a month, several months, any amount of time necessary to secure the safety and quick return of these prisoners? How much is anything we are now doing in Vietnam enhancing their quick return? Just where is our Government's concern?

Mr. President, I had occassion to reply to a most interesting questionnaire submitted by the National League of Families of American Prisoners and Missing in Southeast Asia. The league has done a most commendable job to focus attention on the prisoner issue and how it relates to the entire Vietnam question. It was, therefore, an honor for me to share with them some of my own ideas on the questions of immediate concern to us all. Mr. President, I ask unanimous consent that the questionnaire and the answers which I submitted to the league be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

1. Would you ask for a negotiated settlement or would you announce a withdrawal of U.S. troops?
2. What steps do you plan to take to secure the release of prisoners and an accounting of the missing of those in Laos and Cambodia?
3. What steps would you take if they do not release the prisoners?
4. Is there any condition in which you could envision the U.S. taking military action, once having withdrawn.
5. What future role do you see the U.S. playing re the Vietnamese government? Supervise elections? Help set up a government? None? To continue aid?
6. Do you favor withdrawal of U.S. weapons from South Vietnam and dismantling of bases?
7. Would you dismantle airbases in Thailand and remove carrier support?
8. What requirements, if any, would you put on the North Vietnam, Viet Cong, Pathet Lao and Khmer Rouge?
9. What is your position on a ceasefire?
10. What other measures would you propose?
11. How would you plan to get the North Vietnamese, Pathet Lao, Viet Cong and Khmer Rouge to permit inspection and abide by the Geneva Conventions since all measures tried for five years or more have failed?

ANSWERS TO QUESTIONS

1. While seeking a negotiated settlement throughout and after the period of our withdrawal, the only items of immediate concern for negotiations which should affect the rapid end to our military operations would be the safety of American troops during their withdrawal and an agreement to obtain the release of American prisoners of war. The United States can continue to have a diplomatic role in the course of negotiations, but this should in no way affect our intent to withdraw.

2. Our troops and vast stores of military equipment still remain in Vietnam. The other side is most interested in seeing our men and equipment removed. Unfortunately, our prisoners have become hostages. I firmly believe they will be released once American involvement in the war is ended. As to the problem of identifying the MIA's in Laos and Cambodia, I think that any prisoner exchange arranged between the United States, South Vietnam, North Vietnam and the NLF must ease the MIA situation. Beginning now and increasing as we reach the prisoner release stage, we should be using additional diplomatic channels to exert pressures on the local insurgents in Cambodia and Laos. What now seems unnegotiable could be turned, if the U.S. quickly withdrew, ending all its military operations in Indochina. We must use our imagination, our influence and our power constructively.

3. I prefer not to answer this question in a public statement because my evaluation of the present situation is based on the assumption that the other side will respond positively and humanely to the steps we take. It should be noted that the other side suffers from constraints not so dissimilar to our own. Pressure from the allies of North Vietnam, the war weariness of its own population and the NLF, the promise of economic assistance all weigh heavily on its own thinking. Military threats have not proven successful as a means of settling our differences in Southeast Asia. A new approach is needed; a diplomatic foray may be more effective than a pointed bayonet.

4. For the same reasons as indicated in question No. 3, I do not think this question can or should be answered publicly at this point, although it would be difficult to envision such action under most conceivable circumstances.

5. I think that the United States has no special obligation to the Government of President Thieu. It is a government, elected by standards which directly violate our declared intentions for our supportive role in South Vietnam. We have supposedly not been fighting to prop up any particular government, but to prove that military aggression is not profitable and to protect the legitimate right of the people of South Vietnam to express their own will. The United States can, of course, offer its assistance in an attempt to achieve a negotiated political settlement which would involve the participation of all political forces in South Vietnam. This assistance must be limited from now on to negotiations and not to military operations.

6. Yes. In fact, I have introduced a bill in the Senate called the War Surplus bill (S. 2985) which sets up machinery to return our excess military equipment for use here at home.

7. When all military operations in Indochina are terminated, I would then reevaluate the use of our basis in Southeast Asia and in other parts of the world, and phase out those which were of no military or strategic value.

8. This question is not clear, but in terms of prisoners of war and MIA's, I would require that arrangements be worked out in their behalf.

9. I have favored a cease-fire since 1968 and again urged the President on December 21, 1971, to halt the bombings as part of a general or partial cease-fire. I do not, however, think that a general cease-fire throughout Indochina must be a requirement as the President has stated for our complete withdrawal. The North Vietnamese and NLF have shown a willingness to arrange a partial cease-fire with American troops during withdrawal and I think this is a constructive offer.

10. Again, the exact meaning of this question is not clear, but I would suggest that more emphasis can be given than apparently has been thus far to private negotiations to obtain the release of our POW's. In addition, the latest announcement of our government's unilateral suspension of the Paris Peace Talks is particularly regrettable. We may be on the verge of some solid negotiations, and I do not want the United States to dampen the chances for progress. Certainly the other side has used the talks for propaganda purposes, but our cutting off the talks will not shut the propaganda machine off. It is better to bear with it in an effort to settle some of the issue which could possibly be negotiated at this time.

11. I would urge an intensification of private diplomatic efforts, as well as those of such international organizations as the Red Cross and International Amnesty. South Vietnam should also accept a parallel inspection of all their prisons. At the same time we should take advantage of Peking's special relationship with Hanoi to communicate our intentions not only as it concerns the welfare of American POW/MIA's, but also as it affects our plans for withdrawal.

PUBLICATIONS BY ALASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a news release from Irene E. Ryan, Commissioner of Economic Development of the State of Alaska. The news release concerns two publications, "Pacific Rim Trade Opportunities" and "The Promise of Power," which I believe are of significant interest to many people throughout the country.

These publications may be ordered from the Industrial Development Division, Alaska Department of Economic Development, Pouch EE, Juneau, Alaska 99801, telephone 907–586–3460.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

Commissioner Irene E. Ryan announced today the release of two new publications by the Department of Economic Development.

One publication, "Pacific Rim Trade Opportunities," is a summary and analysis of Alaska's real and potential trade. The booklet contains statistical information on Alaska's trade with each of the Pacific Rim Nations. An Alaskan trade directory is also included. Commissioner Ryan stated, "Alaska's international trade is undergoing spectacular growth. This growth will continue as we develop the potential of our immense resources," "Alaska's foreign trade is increasing daily," Commissioner Ryan said, "as foreign nations become more aware that Alaska is the air crossroads of the East and the West. There is the increasing realization that Alaska offers new opportunity for tourist exchange and an air freight service's industry."

The second publication release, "The Promise of Power." "This publication," Commissioner Ryan said, "is a description analysis and review of the potential for Southeast Alaska's water power and mineral resource development. The publication was prepared in cooperation with the Alaska State Yukon-Taiya Commission."

"Copies of the publications may be obtained by request to the Industrial Development Division," Commissioner Ryan concluded.

EQUAL AND FAIR TREATMENT FOR JUDGE ADVOCATES AND LAW SPECIALISTS FOR THE ARMED FORCES

Mr. HRUSKA. Mr. President, I was pleased to join on April 4 in cosponsoring S. 704, a bill which would provide much needed incentives for the retention of military lawyers.

XUM

Over the past several years the quality of military justice has steadily improved. A good deal of credit for this progress lies with the efforts of our lawyers in uniform, whose dedication to justice has brought about greater efficiency in trials, outstanding representation of defendants, and more rigorous adherence to law and regulations by military commanders. There has also been an increasing involvement of military lawyers in the administrative processes of the Armed Forces, providing further assurance that individual rights will be properly protected in quasi-judicial proceedings and other personnel actions. And the personal legal services provided to our men in uniform and their families by judge advocates and legal officers has become an indispensable part of the military benefits which motivate individuals toward military careers.

If we are to sustain and improve upon this admirable record, we must not overlook the essential factor of the military lawyer himself. Unfortunately, the retention rates for judge advocates and law specialists in the Armed Forces continue to become dangerously low. It is for this reason that I commend the Senator from Hawaii for introducing S. 704, and join him in urging its swift approval by this body.

S. 704 would provide incentive pay for military lawyers which would increase as the individual is promoted to higher grades. This is not unlike the present situation pertaining to military physicians, dentists, and others who have been receiving various forms of incentive pay for years. In addition, this bill would provide continuation pay for judge advocates who extend on active duty for from 3 to 6 years, at the rate of 2 months pay for each additional year of active duty. This bonus-type payment would be received upon the completion of 4 years active duty.

When he introduced S. 704 a year ago, the Senator from Hawaii presented some alarming statistics indicating quite plainly that something must be done to attract and retain the best young legal talent available. Matters have not improved since then, and the situation grows more desperate as the threat of induction diminishes. The following figures as of September 30, 1971, show the disparity between the authorized and actual strengths of military lawyers throughout the Defense Department at the higher career grades:

	Authorized	Actual
Colonel-Captain	366	339
Lieutenant Colonel-Commander	634	326
Major-Lieutenant Commander	956	512
Captain-Lieutenant	2 016	2, 748

Each branch of the military was asked last September to indicate what percentage of its lawyer strength it needed to be filled by career officers, and what percentage was actually being occupied by career officers. The following figures describe most eloquently how deficient the military is becoming in career attorneys, and how much reliance must be placed on those who are only temporarily in the military:

[In percent]

	Needed	Actual, Sept. 1971
Army	47	26
Navy	63	38
Marines	63	22
Air Force	58	41

Mr. President, last July 19 the House of Representatives passed H.R. 4606, the House version of the bill I joined in cosponsoring on April 4. The House passed a similar measure during the last Congress, but the Senate was given no opportunity to express its will on this measure. I am most hopeful that the same situation will not occur again, and urge the Armed Services Committee to take speedy action in reporting this important legislation to the Senate floor for a vote.

HAS THE F–14 BAILOUT NOW BEGUN?

Mr. PROXMIRE. Mr. President, the Navy's failure to pay Grumman Aircraft Corp. $4.1 million in advance production funds due April 1 on the F–14 jet fighter could lead to a backdoor bailout of the company costing taxpayers hundreds of millions of dollars.

I have asked the General Accounting Office to investigate what could be a deliberate attempt by the Navy to undermine the present F–14 contract and to set the stage for another Lockheed-style bailout.

The Navy claims that it is holding Grumman's feet to the fire on the existing contract, but the bankrupt nature of this claim is apparent from two recent actions revealed last week in Navy testimony to the Congress.

First, the Navy is negotiating with Grumman for Government payment of roughly $40 million in above contract costs incurred to date as a result of a 6-month slippage in the delivery schedule for the 86 F–14 aircraft now on order, despite the fact that it is far from clear that the Navy is liable for all these costs.

Second, the Navy deliberately chose not to make a payment of $4.1 million in advance procurement funds clearly due Grumman on April 1 in conjunction with the 48 additional F–14's budgeted for fiscal 1973, an omission which expressly opens the existing contract to later modifications.

I have written today to the General Accounting Office to request an analysis of the propriety and likely consequences of these two Navy actions.

It is my belief that unless corrective steps are taken soon their net effect may be to sabotage the present contract and to make a bailout of the F–14, not a decision for the Congress to weigh, but a simple fait accompli.

FORTY MILLION DOLLARS IN ABOVE-CONTRACT COSTS

The Navy claims that the $40 million in above-contract costs is owed Grumman because the schedule slippage which has occurred is due to the crash of the first F–14 prototype in December 1970.

The Government may be responsible for the $8.7 million loss caused by the loss of the prototype itself, but the costs of the schedule slippage would appear to be Grumman's responsibility.

The Navy's interpretation puts the entire cost burden of a contractor's technical failure squarely on the Government's shoulders.

It also implies Government responsibility for increased costs due to schedule slippage not only on the 86 aircraft purchased to date, but also on the 227 additional F–14's which the Navy hopes to buy.

The end result could be a back-door bailout of hundreds of millions of dollars, especially since the causal relationship between the prototype crash, schedule slippage, and increased costs would be almost impossible to track.

I am, therefore, asking the General Accounting Office for its interpretation of the Government's liability for above-contract costs on planes delivered late by Grumman, and I call upon the Navy to suspend its negotiations and to withhold any payments to Grumman for this purpose until the GAO's interpretation has been made.

In addition, I sincerely question whether such payments to Grumman would be consistent with the ceiling on fiscal 1972 F–14 costs imposed by Congress in the military procurement bill last year.

LONG-LEAD PAYMENT SLIPPED

The Navy's eagerness to hand Grumman up to $40 million in funds it may not owe stands in marked contrast to its refusal to pay the company $4.1 million in long-lead funds which clearly came due last Saturday.

The existing contract expressly provides for the payment of such funds on April 1 and July 15 of each year. It also states that Grumman is entitled to a modification of contract terms if payments are not made and if problems arise as a result.

Two years ago the Navy sought and received congressional approval to reprogram funds from other programs in order to meet these dates and protect the Government's interest.

Last year an admiral flew up to New York on one of the dates in question to hand deliver the required payment.

But this year April 1 has been allowed to pass without any payment being made.

The rationale for the omission was stated by Admiral Zumwalt last week:

> The more money we withhold until we get resolution of the differences of opinion, the more powerful pressure we will bring to bear to protect the government interest.

In light of the specific contract terms, in light of past Navy efforts to make these payments on the dates required, and in light of the $40 million it is trying to give Grumman at this time, this rationale has a hollow ring indeed.

The Navy's payment omission would appear to be part of a conscious attempt to turn the existing F–14 contract into an increasingly hollow shell. I call upon the Navy to show any real interest it may have in protecting the Government's interest by making the omitted payment as soon as it possibly can, in order to reduce any relief to which Grumman may be entitled due to its omission.

Duplicity, it would seem, has become a way of life in Navy management of this program. It cannot be tolerated much longer by a Congress sworn to uphold the public trust.

Mr. President, I ask unanimous consent to have printed in the RECORD, letters I have sent today to Comptroller General of the United States, Elmer B. Staats, and Navy Secretary John Chafee on this matter.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
April 7, 1972.

HON. ELMER B. STAATS,
Comptroller General of the U.S., General Accounting Office, Washington, D.C.

DEAR ELMER: For more than a year now it has been clear that serious cost problems have been developing in the Navy's F–14 jet fighter program. The Navy has sought to dispel Congressional concern about the seriousness of these problems by arguing that existing contracts adequately protect the Government's interest and that these valid contracts will be enforced. I sincerely question, in light of several Navy actions taken during the past year, whether the Navy has lived up to this pledge. My purpose in writing is to request a brief GAO investigation as to the propriety and likely consequences of three Navy contract management actions concerning the F–14 program.

1) Above contract costs due to the crash of the first F–14 prototype and subsequent schedule slippage in aircraft deliveries. In testimony last week to the Tactical Air Power Subcommittee of Senate Armed Services, Navy witnesses stated that they were negotiating with Grumman Aircraft Corporation for government payment of roughly $40 million in above contract costs incurred as the result of a six month slippage in the delivery schedule for the production aircraft now on order. Navy witnesses stated that the Government was responsible for these costs because they stemmed from the crash of the first F–14 prototype in December, 1970, and because the Government is obligated under the Armed Services Procurement Regulations (ASPR) to bear the cost both of the lost plane itself and any subsequent expenses (such as schedule slippage) occasioned by its loss. This Navy position gives rise to several specific questions in my mind:

a) Is the Navy correct in suggesting that the Government is responsible, under the F–14 contract or the ASPR, for the $8.7 million loss identified in Navy testimony as directly attributable to the crash itself? Does this responsibility exist regardless of the cause of the crash?

b) Is the Government responsible also for the cost impact of any schedule slippage occasioned by the crash? If so, what legal principle is used to define the extent of government responsibility? Has this principle been applied properly by the Navy in its negotiations to date with Grumman?

c) If the Government is responsible for the cost impact of any schedule slippage occasioned by the crash with respect to the aircraft ordered by the Navy to date, will it be responsible also for the cost impact of late delivery of all subsequent F–14 purchases as well? If so, what procedures should be followed by the Navy to ensure that the Government will pay only for cost increases clearly attributable to schedule slippage and only when the schedule slippage itself is the unavoidable result of the crash? Assuming that these procedures are applied, what is the likely extent of the total above contract costs which the Government will have to absorb as a result of the prototype crash?

d) What precedents exist for and against the proposed Navy treatment of this matter, especially with respect to problems which have arisen under other aircraft contracts? Is precedent, in fact, unclear, and is it possible that the extent of government liability, initially on the F–14 program and precedentially on later programs also, might be reduced if the Government litigated the issues presented in this matter instead of following the proposed course of action?

I would appreciate it if you would analyze the propriety and likely consequences of the proposed Navy action with these specific questions in mind. Please feel free in the process to comment on other relevant issues and to deal with the specific points raised in whatever order or format seems most desirable.

2) *Non-payment of long lead funding due Grumman on April 1st.* The F–14 contract specifically provides for Navy payment of long lead funding to Grumman on April 1st and July 15th of each year. It also provides that if a required payment is not made, "delivery schedules and other terms and conditions" of the contract shall "be modified to the extent it can be demonstrated by the Contractor as directly resulting from the failure of the Government to provide such funds . . ." Two years ago the Navy sought and received Congressional approval to reprogram funds from other programs in order to meet these dates and protect the Government's interest. Last year an Admiral flew up to New York on one of the dates in question to hand deliver the required payment. But this year April 1st has been allowed to pass without any payment being made.

Admiral Zumwalt explained the reason for the omission as follows in testimony last week to the Tactical Air Power Subcommittee: "The more money we withhold until we get resolution of the differences of opinion, the more powerful pressure we will bring to bear to protect the Government interest." This action also gives rise to specific questions:

a) How does the ommission of this payment in any way strengthen the Government's position?

b) Is it not true that omission of the payment runs the risk of an otherwise easily avoidable contract dispute between Grumman and the Government?

c) Is it not true, also, that this risk could still be mitigated by prompt payment of the $4.1 million due originally on April 1st?

d) If prompt payment is not made in the near future, what relief might Grumman hope to obtain? Might Grumman not argue in that event that nonpayment of these funds indicated uncertainty as to Navy intentions regarding a possible Lot V purchase, making company preparation for such a purchase impossible, with the ultimate result being government responsibility for all increased costs associated with the resultant delays both in advanced production work on Lot V and in the actual production and delivery of Lot V and subsequent lots as well? Is it not possible that these increased costs could run to many times the $4.1 million due April 1st? Might Grumman not argue, in fact, that nonpayment of these funds so seriously affected company planning regarding remaining lot orders as to make the existing contract unenforceable as to future lots and to justify a general renegotiation of the contract's terms?

e) On balance, would it not have been much more consistent with sound contract management designed to protect the Government's interest for the Navy to have paid Grumman $4.1 million before April 1st?

3) *Termination by the Navy of the Pratt & Whitney engine contract for the F–15 and F–14B.* A year ago a valid contract existed between the Navy, the Air Force, and Pratt & Whitney for the production of engines for the F–15 and the F–14B. This contract was terminated by the Navy for the convenience of the Government in June of last year. As a result, the Air Force has been forced to renegotiate prices for F–15 engines at a cost per engine roughly $350,000 higher than the cost provided for in the contract. The long-term burden to the taxpayers is already estimated at more than $300 million in F–15 engine costs alone. It could rise higher if the F–14B program is resurrected in the future. I find it quite difficult to justify the Navy's termination of the contract for the convenience of the Government. It would appreciate it if you would review this action with the following specific questions in mind:

a) Since the cost growth and schedule slippage problems encountered in the F–14B engine program were the responsibility of Pratt & Whitney rather than the Government, would not the Navy have protected the Government's and the taxpayers' interest far better had it exercised its option for the purchase of 58 production engines when that option came due last September, forcing Pratt & Whitney itself to terminate the contract for default?

b) Instead the Navy terminated the contract for the convenience of the Government on July 23rd. Regardless of the merits of the decision itself, was there any need to make any decision at that early date, since there was no need under the contract either to terminate or to exercise the option until September 1st? Would it not have been better contract management for the Navy to wait until just before September 1st before making any decision?

c) If the Navy itself did not want the 58 engines for which the option came due last September, could it not have bought these engines *for the Air Force*, thereby preventing any termination of the F–15 engine contract and increased F–15 costs?

d) Do you not agree with me that the actual course of action followed represented collusion between the Navy and a contractor to let Pratt & Whitney out of a firm contract?

I would appreciate it if I could have a report on your investigation into these matters no later than one month from today, on Monday, May 8th. The first two matters have a significant impact on the likely long-term cost to the taxpayers of the F–14 program, floor debate on which is likely to resume in the Senate when the Military Procurement Authorization bill is reported out in early May. In addition, I have written to Secretary of the Navy Chafee, urging him to make payment of the $4.1 million due Grumman on April 1st as soon as possible and to withhold payment of the $40 million in above contract costs until your investigation of its propriety is concluded. An early report on these two matters might aid the Navy in deciding whether to follow these requests. Since the two matters involve questions of contract interpretation more than detailed factual investigations, it should not be difficult to complete your analysis of them before the suggested date. In the event that an investigation of the engine contract issue might be more time consuming, I would be willing to accept a separate report on it at a slightly later date. To further reduce time pressures, it would be acceptable to me to receive your report in the form of a personal letter rather than a published document. I also see no need to obtain formal comments on the report in advance of its submission from any interested parties; I trust that you will be in contact with all parties involved in gathering information for the report and that this contact will provide ample opportunity for all of them to express their views.

Thank you very much for your assistance on these requests. If you have any questions with respect to them, please feel free to contact me at any time. Mr. Ross Hamachek of

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the Joint Economic Committee staff will also be available to assist your staff in any way he can.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

WASHINGTON, D.C.,
April 7, 1972.

HON. JOHN CHAFEE,
Secretary of the Navy,
The Pentagon,
Washington, D.C.

DEAR JOHN: I am deeply troubled by two recent actions taken by the Navy in its management of the F–14 program. According to Navy testimony to the Senate Armed Services Committee, the Navy (1) did not pay Grumman the $4.1 million in long lead funding for Lot V which came due April 1st, and (2) is negotiating with Grumman for the payment of roughly $40 million in above contract costs on aircraft now on order which have been incurred as a result of the crash of the first F–14 prototype in December, 1970, and subsequent schedule slippage.

My own feelings about these two actions are set forth in the enclosed press release dated today, April 7th. As noted in that release I have called upon the General Accounting Office to investigate the propriety and likely consequences of these two Navy actions. A copy of my letter to the Comptroller General is also enclosed. (I have also asked the GAO to examine the circumstances surrounding termination last summer of the F–15 and F–14B engine contracts with Pratt & Whitney.)

I deeply fear that the consequences of the two Navy actions announced last week will run counter to the Navy's professed purpose of holding Grumman's feet to the fire on the F–14 airframe contract. Accordingly, I call on you at this time to withhold payment of the $40 million in above contract costs due to the prototype crash until the GAO has evaluated the government's responsibility for these costs. In addition, I urge you to pay Grumman immediately the much smaller amount of $4.1 million in long lead-time funding which came due on the contract April 1st.

Your careful consideration of the merits of my requests will be appreciated.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. YOUNG. Mr. President, we are all aware of the need to provide a safe and clean working environment for the workers of this country. Our dedication to this effort has been seen time and time again at both the State and Federal level with the enactment of legislation aimed at improving working conditions for workers in every industry.

The Occupational Safety and Health Act of 1970 was a far-reaching piece of legislation that extends its application to virtually every retail, service, manufacturing, and farm business in the country that employs nonfamily help.

There is much in this act that provides needed assurance that the American workmen and women will have safe, healthful working conditions. At the same time, it has given a Government agency the power to literally put these people out of business without any notice and without any particular proof that their establishments are unsafe to their employees.

As the distinguished Senator from Nebraska (Mr. CURTIS) stated in his remarks when he introduced S. 3262, which is designed to correct problems created by this program, the so-called national consensus standards designated by this act have been put into effect without following the normal and necessary administrative procedure.

These are standards that have been adopted by a number of private organizations as guidelines or recommendations and, as such, could serve a useful purpose. To make them literally the law of the land means that businessmen from the operator of the corner grocery to the giant chain stores and from the local machine shop to United States Steel will be treated alike in the requirement to meet these standards.

One of the greatest weaknesses of the act is the authority it gives for the adoption of these "national consensus standards" as temporary standards without any requirement that those affected by them even be notified of their existence. In other words, a North Dakota farm operator today could be told to halt his operations or that portion of it involving the one or two seasonal employees he may have because he was in violation of a standard he did not even know existed.

To make matters worse, these so-called "national consensus standards" are only temporary. Permanent standards are to be adopted as soon as possible. The permanent standards could well be vastly different. This means that costly changes already made to meet the temporary standards would be disallowed and further changes required.

I have, in recent weeks, received a great many requests for information on this law and many letters detailing the problems it presents small businessmen and farmers. The publisher of a rural weekly newspaper recognizes the need for safe working conditions, but points out that meeting the requirements of the act could cost him $100,000 which is more than his business can afford. He adds, that in 23 years of operations, there have only been two minor claims for workman's compensation in his plant. This could hardly be described as a hazardous or unsafe operation.

One of the leading contractors in my State raises questions concerning the requirements for the testing of materials. He points out that there are no testing facilities available in our region at the present time and, therefore, no way the requirement can be met. He adds, and I agree, that—

> They are going out with clubs to enforce the regulations when what they really should do is to take us all by the hand and give us direction.

It would seem that this would be the only way in which any degree of compliance can be obtained.

A farm implement dealer in western North Dakota writes that in the 26 years he has been in business he has never had an accident in his shop. This has been accomplished by using good tools and equipment and personally supervising the operations. Nonetheless, he doubts that it will be possible to meet the requirements under this law. Scratch one rural small business.

A farm couple who has made a pretty thorough study of the regulations indicates that some of the devices recommended are not even available for purchase at the present time. Despite this they and their neighbors are subject to the penalties imposed under the act if an inspector should drop in on them.

A widow operating a corner grocery store points out that she has only very limited space for display and stocking of her business and no way to expand it. She does not feel that she will be in business any longer if the act is not amended.

This is but a small sampling of the comments I have received. It does, however, reflect the tremendous impact this act is having on small businessmen and agriculture all across North Dakota and the Nation.

The bill, S. 3262, introduced by Senator CURTIS and other Senators offers a reasonable and workable alternative. I know that there are those who say that no exemptions should be granted. But I point out that in the case of the small business and farm operations that would be included in such an exemption, the owners of the firm are working right alongside the employees. They are on the scene to observe the need for improvements in working conditions and to see that they are made. It is their health and well-being that are directly involved in such cases, and I feel very strongly that they are in a better position to judge both the need for the effectiveness of a safety measure than a Government inspector armed with a set of regulations that apply uniformly to businesses all across the Nation.

Mr. President, I commend Senator CURTIS for the leadership he has exercised in introducing a bill to correct this grave problem. I am hopeful that the bill will receive prompt and favorable action. This is needed to prevent irreparable damage to agriculture and small business throughout the Nation.

There is an urgent need for approval of this legislation by Congress in order to make it possible for small businessmen and farmers across the country to live with this program. This legislation must have top priority with Congress. Action is needed now to prevent untold damage to the small businesses and farms that are the backbone of our Nation's economy.

PROTECTING DIPLOMATS

Mr. HRUSKA. Mr. President, last August 5 I introduced a bill, S. 2436, at the request of the Departments of State and Justice, to provide expanded protection of public and foreign officials under title 18, United States Code.

In brief, the bill would enable Federal authorities to move against persons who utter express or implied threats to commit acts of physical violence or who commit assaults or murder against members of the diplomatic corps, other foreign officials, and officials of the United States. In the past the Government has had to rely on local authorities for redress of instances of this type with no guarantee that sufficient resources were available to discharge the responsibility appropriately. This has proved particularly embarrassing in view of our international obligations as a host nation.

Changes in Federal kidnaping law are also contained in this bill. These include the reinstitution of the death penalty for cases where the victim dies as a consequence of the crime. This provision is aimed at correcting the defect in the law struck down by the Supreme Court in *United States* v. *Jackson*, 390 U.S. 570 (1968). Federal jurisdiction in kidnaping cases would also be extended to cases arising within the special maritime and aircraft jurisdiction of the United States. This provision is aimed at insuring adequate punishment and extradition of hijackers.

Recurring incidents regarding diplomatic personnel point up the need for legislation of this type. A week ago, following an incident in which blood was poured on a Soviet diplomat, the New York Times indicated that action on legislation such as this is imperative. I urge the Senate to heed this call for action. I ask unanimous consent that the Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROTECTING DIPLOMATS

On the morning after a Soviet diplomat was showered with blood by a young Jewish Defense League militant at a Washington reception recently, Ambassador George Bush went before a Congressional committee to plead for legislation making it a Federal crime to harass or attack foreign diplomats in this country. Some such action is imperative.

Last October, shots were fired through the window of an apartment at the Soviet Mission where four children were sleeping. Though no one was injured, the incident sparked an angry uproar in the General Assembly and anguish in Washington. Such acts of violence by impassioned and irresponsible citizens sully the reputation of the United States, compromise American diplomacy, impede the work of the U.N. and are totally counterproductive.

The proposed legislation should act both as deterrent and as aid in apprehension. Additional action is needed, however, to extend direct Federal protection to U.N. diplomats; such protection is already provided for foreign missions in Washington. Providing it for delegates to the United Nations is obviously beyond the capacity of New York City's hard-pressed police force; it is a clear and necessary responsibility of the Federal Government.

GENOCIDE: PRESIDENT TRUMAN'S ADDRESS TO THE SENATE

Mr. PROXMIRE. Mr. President, almost 23 years ago President Truman transmitted the United Nation's Genocide Convention to the Senate for advice and consent. In his message, he urged the Senate to act quickly to approve the Convention:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice.

Twenty-three years ago, President Truman believed, as I am sure every Senator and, indeed, every American still believes, that the United States is the leader in the world in promoting international peace and justice. With this belief so much a part of our American tradition, why is it then that this Genocide Convention has not been even voted upon?

The primary reason is that the American Bar Association, among other groups, has presented legal and constitutional objections to the treaty. These objections have been shown to be invalid. Every committee of the American Bar Association that has worked directly on the Genocide Convention, has approved of it and the Senate Foreign Relations Committee acted upon it favorably.

For these reasons, I see no justification for further delay. If we are to live up to our beliefs and ideals, we must act immediately to ratify the Genocide Convention.

FAYETTEVILLE STATE ATHLETIC ACHIEVEMENTS

Mr. JORDAN of North Carolina. Mr. President, it has come to my attention that Fayetteville State University, the second oldest publicly supported institution of higher learning in North Carolina, is enjoying one of its most successful athletic years.

The school's most significant achievement was qualification for the annual Central Intercollegiate Athletic Association—CIAA—basketball tournament February 24–26 in Greensboro, N.C. for the first time in 15 years.

The CIAA is composed of 12 member schools in North Carolina and Virginia and the tournament is the largest in the country for black colleges.

To qualify, a team had to finish among the top four in the northern or southern division.

The Fayetteville State Bronchos, with a 16–10 season's record, went all the way to the tournament finals before losing to Norfolk State College.

In addition to that second-place finish, the team's All-American forward, Mike Sneed, was named most valuable player. Coach Thomas L. Reeves was picked as the tournament's outstanding coach, and both Sneed and Earl McNeill were picked on the all-tournament team.

The following week the Bronchos took part in the district No. 29 tournament of the National Association of Intercollegiate Athletics—NAIA—and again went to the finals. Sneed was picked on the all-district team.

The school's football team had its first winning season since 1956 and placed four players—Tackle Sylvester Ritter, End Blenda Gay and Backs Curtis Leak and Frank Bohannon—on the all-district No. 29 team.

The girls' basketball team finished third in the Elizabeth Dowdy Invitational Basketball Tournament and placed one member, Angier Martin, on the all-tournament team.

The Fayetteville State baseball team is presently undefeated in CIAA play.

The record of this fine school for the year is certainly an outstanding one which I am pleased to call to the Senate's attention.

EXTENSION OF U.S. CONTIGUOUS FISHING ZONE TO 200 MILES

Mr. STEVENS. Mr. President, our country's marine resources are a valuable asset which we must conserve and protect if we are to reap their bounty in the future. Many Americans, therefore, have been deeply concerned and anxious about threats to our fisheries from foreign nations which have often ignored international conservation agreements. I believe that through more well-considered international accords and our own Nation's stricter enforcement efforts, we can protect our fishing resources.

I have recently received the results of the poll taken by "The Advocates" television show following its program on the proposal to extend the United States contiguous fishery zone to 200 miles. A decisive majority of the viewers responding by mail to the February 15 debate favored the extension of American fishing jurisdiction; 80.4 percent or 1,823 of the 2,268 replies agreed with the proposal to establish a 200-mile contiguous fishery zone.

Mr. President, these results convince me again that the American public is strongly committed to the protection of American fishermen and the strict enforcement of our international fishing agreements.

Mr. President, I ask unanimous consent that the news release be printed in the RECORD at the conclusion of my remarks.

Mr. President, the other approach for properly protecting our fishing resources is to design and establish more scientific and well-considered international fishing agreements. The "species" concept of fish conservation is one which I believe will accomplish this purpose. I have been advised by the Conference of the National Federation of Fishermen that the "species" concept is the policy that it recommends for adoption by this country in its fishing agreements with foreign nations. The fishing industry is indeed diverse, involving the harvesting of fish in three widely different geographical areas. Consequently, an international treaty provision which may solve the problems of the coastal species sector of the industry may only exacerbate the problem of the high seas species sector. A flexible approach differentiating between the different species of fish, therefore, offers a worthwhile alternative for protection and wise conservation.

Mr. President, I ask unanimous consent that the recommendations adopted at the July 1971 Conference of the National Federation of Fishermen also be printed in the RECORD at the conclusion of my remarks.

I reiterate again that the American public clearly understands the present dangers and threats to our fishing re-

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sources. Rigid enforcement of our fishing treaties and carefully drawn international fishing agreements can reverse the present trend toward depletion of our fishing bounty.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE NATION RESPONDS TO THE ADVOCATES—VIEWERS STRONGLY FAVOR FISHING RIGHTS EXTENSION TO 200 MILES OFF U.S. COAST

Should the U.S. Claim Jurisdiction Over Fishing to a Limit of 200 Miles From Its Shores?

An emphatic majority of Advocates viewers responded in favor of a proposal, debated on the Public Broadcasting Service (PBS) February 15, which would extend United States jurisdiction over fishing rights to 200 miles from its shores.

By a ratio of over four-to-one, 80.4 per cent of the 2,268 votes agreed with former Secretary of the Interior Walter J. Hickel that foreign fishing fleets should be kept outside waters up to 200 miles off the U.S. coast. The proposal was also supported by Joseph S. Gaziano, president of the Prelude Lobster Corp., in Westport, Mass., the world's largest lobster fishing company.

Approximately one-fifth of the total vote came from organized group responses in the states of Massachusetts, New Jersey, Oregon, Pennsylvania and New York.

STATE BREAKDOWN OF MAIL RESPONSE

State	Pro	Con	Other
Alabama	6	1	0
Alaska	57	2	1
Arizona	14	5	1
Arkansas	1	3	0
California	225	111	8
Colorado	18	5	0
Connecticut	23	4	0
Delaware	4	1	0
District of Columbia	5	11	0
Florida	65	18	1
Georgia	6	2	0
Hawaii	1	3	1
Idaho	2	0	0
Illinois	31	8	1
Indiana	8	3	0
Iowa	7	1	0
Kansas	4	6	0
Kentucky	0	3	0
Louisiana	13	5	0
Maine	28	1	2
Maryland	8	4	0
Massachusetts	302	20	1
Michigan	16	8	0
Minnesota	17	5	0
Mississippi	5	2	0
Missouri	2	2	0
Montana	2	1	0
Nebraska	6	2	0
Nevada	0	0	0
New Hampshire	10	1	1
New Jersey	215	19	3
New Mexico	13	6	1
New York	177	33	0
North Carolina	19	7	1
North Dakota	0	0	0
Ohio	59	3	0
Oklahoma	12	5	0
Oregon	41	7	4
Pennsylvania	111	18	0
Rhode Island	73	3	0
South Carolina	5	1	0
South Dakota	0	0	0
Tennessee	5	1	1
Texas	25	16	0
Utah	3	0	0
Vermont	6	5	0
Virginia	9	8	0
Washington	98	23	3
West Virginia	2	1	0
Wisconsin	17	6	2
Wyoming	1	0	1
Unknown	42	12	0
Foreign	4	0	0

LAW OF SEA FISHERY POLICY ADOPTED AT NATIONAL FEDERATION OF FISHERMEN CONFERENCE

I. COASTAL SPECIES

Coastal nations shall have the ownership of all the fish and shellfish resources which live on or above, or are dependent upon the Continental Shelf and slope adjacent to the coastal nation and/or the waters above the shelf and slope for reproduction and/or survival during the major part of their life.

When stocks of fish are underharvested by a coastal nation to which they belong, provisions shall be made for harvesting by other nations subject to licensing and control by the coastal nation.

II. ANADROMOUS SPECIES

Anadromous fish shall be the property of the coastal nation of origin. No nation shall harvest anadromous species of fish without express consent and approval of country of origin. Where anadromous fish is habitating and is harvestable in territorial waters of a country other than the country of origin, it shall be mandatory upon the nations involved to work out harvesting rules consistent with conservation with due regard to the rights of each nation to its proper share of the allowable catch.

III. HIGH SEAS SPECIES

All species of fish not included in paragraphs I and II, and in particular, fish of oceanic origin and habitat, shall not be subject to ownership and control by the coastal nation. The conservation and management of such species shall be the responsibility of multinational control to be exercised jointly by the harvesting countries and by countries whose coast borders the distribution of such fish stocks.

MIRV AND THE ARMS RACE

Mr. HUMPHREY. Mr. President, in July of last year I submitted an amendment to the military procurement authorization bill which would have halted the further deployment of MIRV, with the proviso that the Soviet Union exercize comparable self-restraint. At the time of the debate on this amendment, administration officials and several Senators made claims about the imminent Soviet MIRV threat. This year we discover that what was imminent in 1969, was imminent in 1970 and 1971, and yet the Soviet Union still does not appear to have developed a MIRV warhead. Secretary Laird has said as much. in his latest Defense posture statement. In other words our whole MIRV program was based on an "imminent" threat which has not yet become a real one. And now we have a full-fledged MIRV program which the Soviet Union will undoubtedly be striving to match, if the history of the development of MIRV is anything like the postwar history of the arms race between the United States and the Soviet Union.

Everyone says the cat is out of the bag with respect to MIRV. It is too late to convince the Soviets to negotiate. I am reluctantly inclined to think that is true, but I do not think it has to be true anymore, not if we really intend to put a stop to the arms race. What we need to prevent this kind of cycle beginning again is a meaningful agreement at SALT, and a commitment to negotiate other agreed formula for the limitation and eventual reduction of armaments.

I think that we should all be cautious not to lull ourselves into thinking that a SALT agreement is the end of the arms race line. From all the reports we have as to the nature of the agreement which the President is likely to sign in Moscow, it will be a very limited agreement. However limited, it will be welcome and should serve as a catalyst for further arms control agreements, not only with the Soviet Union, but with other nuclear and nonnuclear weapons.

Just one example of taking up where we left off is in negotiating a Comprehensive Test Ban Treaty, a logical and timely extension of the Limited Test Ban Treaty in which I was privileged to play an important part. As a cosponsor of the two resolutions now before the Senate on the comprehensive test ban, and as one who has continually spoken out in support of the CTB, I urge the President to move ahead in this area. This treaty would serve to reinforce our pledge in the Nonproliferation Treaty, and it would build the kind of confidence among nuclear and nonnuclear countries that we are moving out of the arms race.

There are other areas where we should be placing our undivided attention: Antisubmarine warfare, ceilings on land-based and sea-based missile systems, prohibition of chemical as well as biological warfare, to name but a few. It is regrettable to think how much time and effort will have to be spent in curtailing what we spent so much time in producing. At least the last effort will be far more constructive.

Mr. President, some of the issues I have been discussing are touched on in an interesting article written by Herbert Scoville and published in the April issue of Foreign Affairs. I ask unanimous consent that this article and another by the same author, published in the New Republic, which discusses the evolution of MIRV, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BEYOND SALT ONE

(By Herbert Scoville, Jr.)

Although President Nixon's goal of achieving an initial agreement at the Strategic Arms Limitation Talks (SALT) before the end of 1971 failed to be realized, it still appears likely that at least some limitations will be negotiated by the time that he and Premier Kosygin meet in Moscow in May. After SALT recessed in Vienna the President reported in his state of the world message on February ninth that a consensus is developing that there should be a treaty setting comprehensive limitations on anti-ballistic missiles (ABMs) and an interim agreement to freeze certain offensive arms.

The primary objective of an ABM limitation is to foreclose the acquisition of missile defense with nationwide coverage, which might raise fears about the continued viability of a mutual deterrent posture. The treaty will probably be constructed along the following lines. The number of ABM interceptor missiles will be restricted to between 100 and 300. The lower value would be more satisfactory from security, arms control and economic points of view, but even the higher value would prevent the acquisition of ABM systems which could threaten either nation's deterrent. The argument about whether to retain 100 or 300 interceptors is spurious, since neither level will provide any realistic protection. More important would be limits on the location and perhaps also the number of large, high-performance ABM radars, which are most critical for a nationwide defense because of their size, time for construction, and expense. They would be almost impossible to deploy secretly. Under a treaty, their locations would probably have to be restricted to the Moscow area for the Soviet Union and the neighborhood of Minuteman sites for the United States; otherwise fears could be generated over a possible clandestine deployment of a nationwide ABM system.

The nature of a possible agreement on offensive weapons is much less clear, and the details may even be left for further negotiation. Former Deputy Secretary of Defense David Packard, in a press conference on October 21, 1971, said that an agreement on ABMs by themselves might be acceptable if it were a useful step toward the longer-term objective of containing the offensive buildup. This would then become a high priority follow-up action to the first stage of SALT. It is more likely, however, that there will be some agreed limitation on the total numbers of ICBMs (intercontinental ballistic missiles based on land). This could be in the form of a numerical ceiling or a freeze at existing levels. From the American point of view, it would be extremely useful to include in this numerical limit a sub-ceiling on the very large Soviet SS–9 type ICBMs. The new, very large launchers, about 30 of which have been reported to be under construction in the last year would fall within this category. Such a sub-ceiling may present certain difficulties for the Soviets unless the United States is willing to accept some similar restraint, but they may be satisfied with their present force level of slightly more than 300 operational or under construction.

The United States also is reported to be seeking a halt on Russian submarine construction even though they still lag considerably behind the United States both quantitatively and qualitatively in operational submarine-launched ballistic missiles. Since the United States is unlikely to be willing to forgo its conversion of the Polaris to the Poseidon missile, which has four times the payload and ten to 14 MIRVs (multiple warheads each capable of being aimed at a separate target), the chances of agreement in this area do not appear very promising. However, they would be somewhat improved if the Russians were allowed to complete those submarines now only in the early stages of construction, since they would then have numerical but not qualitative parity with the United States. A failure to limit submarine missiles is not serious since these are considered as primarily deterrent weapons because they are invulnerable and would be difficult to use in a coordinated and accurate first strike against the opposing deterrent. The complete destruction of the other side's strategic forces by the nearly simultaneous launchings from about 30 submarines and follow-up firings to correct for initial failures presents extraordinary operational difficulties.

It is most improbable that the first stage of SALT will place any qualitative restrictions on offensive missile systems, apart from a possible limit on the number of large SS–9 type missiles. The replacement of existing weapons by new models will be permitted and, if the experience of the Limited Test Ban Treaty is representative, will be encouraged as a safeguard against possible violations. Certainly there will be no restrictions on MIRVs. The United States will be free to continue its Poseidon submarine missile and Minuteman III ICBM deployments with MIRVs, and the Soviets to begin testing and deploying MIRVs as well.

Even with an agreement of this limited nature, SALT will have made important strides toward slowing the arms race and stabilizing the present state of mutual U.S.–U.S.S.R. deterrence. The ABM limitation by itself will guarantee a continued secure deterrent posture on both sides regardless of what type of offensive programs are allowed to continue. MIRVs can threaten only the fixed land-based force and not the mobile submarine missiles which, by themselves, are more than adequate to provide an assured retaliatory capability as long as ABMs are kept small. There are no technological advances in anti-submarine warfare (ASW) which could provide in the foreseeable future a capability of destroying almost simultaneously an entire missile submarine fleet.

However, since there will be no controls on MIRVs, in time the ICBM and bomber parts of the deterrent force may come to be considered vulnerable. While at the moment there do not appear to be any reasonable methods by which both these weapons systems can be destroyed in a surprise attack—a Russian strike against our bomber force would alert the Minuteman ICBMs, or vice versa—nevertheless, some authorities have suggested that so-called "pin-down" tactics might be used to accomplish this objective. These tactics involve the maintenance of a continuous barrage of submarine-launched warheads exploding above our Minuteman fields, not to destroy but only to prevent the launching of the ICBMs. These explosions would have to be timed to coincide with a submarine missile attack on our bombers and continue for a minimum of 30 minutes until their ICBMs could destroy our Minuteman silos. While such an attack would involve immense and extremely wasteful expenditures of weapons and require extraordinary coordination, planners using worst-case assumptions may come to take it as more than a fantasy when, and if, the force levels become very large. In sum, even though a first-stage SALT agreement would be a major milestone, many additional actions will be required to permit it to endure and expand.

If the preceding picture of the strategic situation following an initial SALT agreement is generally correct, there should be two main follow-through objectives for our unilateral defense planning and future arms-control negotiations. First, we should make every effort to assure that neither side takes any actions which could erode the mutual deterrent posture established by SALT. In fact, every effort should be made to strengthen it still further. Areas of potential concern should be narrowed or eliminated wherever possible either by unilateral decisions on weapons programs, further arms limitations, or even by exchanges of information. For example, the construction of a large space radar might be misconstrued as part of an ABM system unless this was carefully explained to the other side.

This objective, however, may not always be very easy to achieve since SALT will probably not limit the qualitative arms race in any significant way. Unless care is exercised by each side in its weapons programs, actions that might appear to the other side as threatening its deterrent could be taken in the name of protecting against possible treaty abrogation or violations. Thus, development of a new MIRV guidance system might be construed, perhaps incorrectly, as an attempt to obtain a first-strike capability. Similarly, new sophisticated radars for anti-aircraft defense might appear to be ABMs in disguise. Soviet replacement of their present ICBMs by new hardened launchers could be misinterpreted as an attempt to circumvent a ceiling on large missile launchers. President Nixon's reference, in his state of the world message of February 1971, to a hoped-for alternative to a retaliatory attack against Russian cities could also be misconstrued as an attempt to erode the deterrent posture by providing a nuclear-war fighting capability.

Since most of these troubles will result from the failure of SALT to place any restrictions on qualitative improvements, a second major objective would be to move on to arms-control measures directed at rectifying this omission. This presents many difficulties in view of scientists' innate desire always to seek technological innovation. Research and development will be justified as a possible hedge against breakthroughs or cheating by the other side. After the Limited Test Ban Treaty in 1963, expanded programs were even demanded in order to maintain the viability of the weapons laboratories in the event the Treaty was abrogated.

Limits on qualitative improvements present particularly difficult problems in the area of verification. Many important modifications of weapons systems result in no observable changes in the characteristics of a weapons system. For example, a missile guidance system can be made more accurate by substitution of a better computer inside the missile. Furthermore, research and development in the laboratory phases are difficult to monitor and easy to conceal or screen under the guise of legitimate activities. No amount of even intrusive inspection appears practical to provide assurance that secret research and development programs are not under way. One cannot station an inspector at every research facility; even if there, he could easily be misled. Only when a weapon or a component reaches the stage of field or flight testing does it become visible and even then not always adequately verifiable. However, limitations on field tests offer a good place to start in curbing the seemingly endless desire to make technological improvements.

ANTISUBMARINE WARFARE

Under a SALT agreement as visualized above, the submarine missile systems become, even more than at the present time, the primary component of the deterrent force. Therefore, every effort should be made by both unilateral decisions and multilateral arms-control actions to maintain and, where necessary, strengthen it. As long as ABMs are severely limited, the only threat to this weapons system can come from antisubmarine warfare. At the present time there is no technology which can in the foreseeable future place in jeopardy simultaneously a submarine force of 30 to 40 vessels, even if they did not employ countermeasures. However, in time, with concentrated effort, new developments might give rise to fears on this score, and efforts should be made to foreclose such an eventuality. Therefore, restrictions on antisubmarine warfare capabilities should be sought in much the same way they have been sought on ABMs. To date, very little attention has been paid to this area of arms control.

By comparison with ABMs, however, controls on antisubmarine warfare will be very much more difficult to achieve. In the first place, extensive, albeit strategically ineffective, antisubmarine systems are already available to both the United States and the Soviet Union as well as many other countries, and secondly, antisubmarine defenses have tactical as well as strategic military applications. For example, they are a key element in the protection of surface shipping, both naval and merchant, in a protracted warfare situation such as in World War II or even in more limited conflicts as might occur in the Mediterranean. Despite these drawbacks, there are a number of arms-control measures which can guarantee still further the indefinite viability of the submarine missile deterrent force. Fortunately, any antisubmarine warfare system, if it were to have dangerous capabilities, would have to be very extensive, would take a long time to build and would be obvious to all concerned. A clandestine antisubmarine warfare program to negate the Polaris deterrent would be impossible.

One control measure would be a limitation on the number of so-called hunter-killer submarines, *i.e.*, submarines designed to follow and destroy other submarines. A large number of such ships would be needed in order to have a reliable capability to eliminate almost simultaneously 30 or more missile submarines. The continuous tracking of ballistic missile submarines, either by other submarines or surface vessels, might be forbidden in an arms-control agreement. An-

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other approach might be to designate certain ocean areas that did not include the sea lanes normally traveled by merchant and naval vessels as regions within which anti-submarine operations would be banned. The stationing of acoustic detection systems and submarine tracking ships and aircraft would not be allowed in these areas, which could then be used for the invulnerable deployment of the submarine missile deterrent forces.

Parallel to these measures, research and development could be continued on advanced submarine missile systems which would decrease their vulnerability to possible future anti-submarine measures. The American Underwater Long Range Missile System (ULMS) programs are examples of this. The most useful advance in this field would be the development of a new missile (originally nicknamed EXPO, now called ULMS I) with a longer range than Poseidon in order to permit the submarine to launch its missiles from larger ocean areas less subject to anti-submarine attack. This missile should be designed with a capability of being launched from existing Polaris submarines to avoid the very expensive requirements of replacing the existing fleet. In the longer term, if a threat to submarines should develop, quieter and less vulnerable, or smaller but more numerous, submarines might be other approaches. However, the present threat from anti-submarine warfare is not sufficiently near or even well defined to require construction and deployment decisions on these new weapons in the near future. Ship construction now would be a waste of scarce funds and might result in building weapons designed against the wrong threat. There is not even a requirement for a new missile at this time, and it is hoped that a race in this area can be avoided.

RESTRICTIONS ON IMPROVEMENT IN EXISTING SYSTEMS

With ABMs frozen at low levels, the need to improve further existing offensive strategic weapons systems may be largely eliminated. More advanced weapons would be required only if one were seeking to acquire a first-strike or nuclear-war fighting capability. And this would merely serve to increase the risk that a nuclear disaster might occur. Therefore, it is incumbent on both the United States and the Soviet Union to take such actions as possible to halt the qualitative arms race either by agreed measures or, more practically, by reciprocal unilateral actions.

An agreement that no missile system could be upgraded by any change in its external configuration would be very useful, although it would not halt many improvements. Such a restriction would apply not only to the missile itself, but also to the characteristics of the launch site. Since only those changes that could be observed from the outside would be banned, such an agreement could be verified adequately by national or unilateral means. It would prevent the replacement of existing systems by those with radically new characteristics such as the substitution of much larger missiles for the present models.

Thus, the Soviets could not supersede their obsolescent early ICBMs with the newer SS–11s and SS–13s or even their SS–9s with still larger missiles (a possibility that has caused so much concern in some circles during the past year). The United States, however, would not be permitted to convert any more Polaris missiles to Poseidons. This would not, of course, prevent replacement of single warheads by MIRVs or improvements in accuracy, but these changes would be restricted within the envelope of the presently deployed models.

A still further and more useful step toward qualitative restrictions would be to place limits on the number of missile test firings that either the United States or the Soviets could conduct in any one year. A complete ban on test firings would probably not be feasible because of the necessity to conduct a number of tests in order to assure the reliability of deployed systems and to train crews. However, if the quota on allowed firings was kept reasonably low, to perhaps ten or even 20 per year, this would certainly place restrictions on development programs for new systems. Such an understanding could be monitored by our existing unilateral capabilities, and it could be reinforced by an understanding that the firings would be announced in advance and occur only on specific test ranges. An agreement of this type would strongly inhibit the development of MIRV systems, particularly those with high accuracy. A specific ban on MIRV testing would be highly desirable, but the overwhelming American lead in this area and our previous reluctance to negotiate seriously on such a ban do not allow much optimism for its success.

REDUCTIONS IN NUMBER OF WEAPONS

Once an agreement has been reached to limit ABMs, it will become apparent that the present number of offensive launchers, presumably the ceiling agreed to in SALT One, would be more than adequate to provide a deterrent force. This would be even more obvious if MIRVs were allowed. In time, it might be hoped that either by agreement or by gradual, reciprocal, unilateral phase-downs, the number of these launchers could start being reduced. Since fixed land-based ICBMs will eventually come to be believed vulnerable, they should be the first candidates for elimination. Cutbacks would have not only security value, but also important international political implications. They would show that at least the nuclear powers were willing to take steps to decrease the very large size of their present arsenals. This would be extremely valuable in promoting our policies on the nonproliferation of nuclear weapons.

Of course, if the reduction reached a point where the number of land-based ICBMs became very small, then the vulnerability of this part of the deterrent to a first strike would be quite great; however, this would not be serious as long as the submarine deterrent remained secure. For this reason, it would not be wise to reduce the submarine missiles until a very much later period at which time all five nuclear weapons countries might be party to the discussions. Reduction in the size of the ABM systems even further than promised in the first stage of SALT would also be a very useful factor in strengthening the deterrent. Intercontinental bombers could also be decreased, and new aircraft for replacement could be dispensed with, saving large sums of money.

FORWARD BASED SYSTEMS

The Soviets originally sought to include in SALT limitations on Forward Based Systems (FBS), i.e. those shorter-range nuclear delivery systems based in forward areas which have, nevertheless, the capability of striking the Soviet Union. However, they have apparently dropped this requirement, postponing negotiations on such systems to a later date. The fact that only the United States has such systems presents a serious problem in negotiating their control, and they should probably be tackled not in SALT, but as a part of agreements on European security and mutual and balanced force reductions.

However, their consideration cannot be indefinitely neglected since, to the Soviets, they must always be seen as a threat to their national survival, and they are unlikely to agree to any further significant reductions in strategic forces until they are dealt with. A first step might be a U.S. undertaking not to enlarge these forces. The phased redeployment of such aircraft back to the United States in exchange for Russian withdrawal of both nuclear and conventional forces in Eastern Europe would appear another useful approach to this problem. Reduction in their numbers could be traded off against reduction in Soviet shorter-range missiles which threaten European centers. The British and French nuclear forces would also have to be taken into account. The negotiation of limitations on armaments stationed in Europe has extraordinarily difficult and complicated political ramifications and cannot be expected to produce early results. However, the time has come to make serious moves in this direction.

COMPREHENSIVE NUCLEAR TEST BAN TREATY

An arms-control measure which would have beneficial effects far beyond the U.S.-U.S.S.R. strategic balance would be achievment of a complete ban on nuclear weapons tests. The achievement of qualitative restrictions on delivery systems has proven extremely difficult, but a comprehensive nuclear test ban would be a step to limit improvements on many of these. While both countries undoubtedly have warheads which are satisfactory for their first-generation MIRVs and ABMs, a test ban would inhibit the development of many second-generation systems. This could be particularly helpful to U.S. security. The Russians may not yet have developed warheads for a MIRV system that could threaten the Minuteman deterrent, since they have not yet had the first test of such a delivery system. A nuclear test ban in the near future would probably prevent the Russians from having warheads with the necessary yield, weight and dimension to be used in a missile which dispersed more than three accurate MIRVs.

It is also unlikely that the Soviets would have already developed a warhead for an advanced ABM system which might be clandestinely deployed under the guise of an air-defense weapon, since prior to an initial ABM agreement at SALT they would have had no requirement to do so. Thus, a comprehensive test ban treaty would provide increased confidence that the ABM limitations at SALT were being honored. Fears have also been expressed that, without testing, our stockpiled nuclear weapons would become unreliable. However, in the past, deterioration due to aging has been checked by dismantling weapons; never have we conducted nuclear tests solely for the purpose. If a complete ban on testing were, over a period of years, to decrease confidence in the reliability of offensive warheads, this would only enhance the existing state of mutual deterrence, since it would reduce confidence in an ability to carry out a first strike.

In addition to such effects on the U.S.-U.S.S.R. strategic balance, a comprehensive test ban treaty would be an important factor in reinforcing U.S. nonproliferation policies. It would make much more difficult the acquisition of a reliable nuclear force by a non-nuclear nation. Continued nuclear testing by the United States and the Soviet Union will inevitably mean that advanced weapons technology, which may be of marginal value to them, will eventually be available to many countries and to many people. Furthermore, restraint on the part of nuclear powers would provide additional inducement for the non-nuclear nations to accede to the nonproliferations treaty (NPT). A country such as India, which has refused to sign the NPT, might find it extremely difficult politically to refuse to adhere to a comprehensive test ban treaty since it has been a key element in its past disarmament policies.

Neither France nor China is likely to adhere initially to any test ban treaty, the former primarily for political reasons and the latter because it still requires considerably more development to acquire a varied nuclear arsenal. While unfortunate, this still does not significantly reduce the value of the treaty, which would once and for all end the continuing attempts of the United States and the Soviet Union to advance nuclear weapons technology. China is still so far behind both the United States and Russia that it is inconceivable that any unilateral nuclear testing on her part could require additional tests by either of the other two nations within the next ten to 20 years. Our more than 500 tests over 25 years have provided us with a large stockpile of weapons-design information. Nuclear weapons to deal with the U.S.-U.S.S.R. confrontation are more than adequate to handle the slowly emerging Chinese nuclear capability—or in the case of Russia with that of France as well.

In the unlikely event that this were no longer true in the distant future, any treaty would undoubtedly have an escape clause similar to that in the Limited Test Ban Treaty which would provide the right to withdraw if extraordinary events related to the subject matter of the Treaty jeopardized our supreme interest. The unlikely occurrence of a Chinese or French nuclear breakthrough would certainly fall into this category.

Finally, the negotiation of a comprehensive test ban treaty is not only militarily and politically opportune, but it is also timely from a technological viewpoint. The results of U.S. research and development programs have now demonstrated major improvements in seismic capabilities to detect and identify nuclear tests. The value of on-site inspections, and the risks from clandestine testing, have now been very greatly reduced. While there will always be some threshold below which an occasional secret test might be conducted, the risks from a violation of this type would be more than overbalanced by the gains from halting all tests of high yields.

An important outgrowth of SALT can be the continued exchange of views on strategic policies in order to reduce misunderstandings. This might be maintained by the continuation of SALT negotiations or by some newly established mechanisms. Even with the best of intentions on both sides, many legitimate unilateral actions may be taken which could look threatening to the other side or seem to be violations unless explanations can be provided. This will be particularly significant since continued qualitative improvements will probably not be forbidden in the first stage of SALT.

For example, the Soviet Union might choose to begin deployment of mobile ICBMs in order to decrease the vulnerability of their land-based missiles to American MIRVs. To the United States this might look like a Russian attempt to increase secretly the size of their force since it is more difficult to count the number of mobile missiles deployed at any one time. It is not practicable to have simultaneous observation of the entire Soviet Union. Conceivably, the Russians might be able to reassure American authorities by providing information to reduce uncertainties on the total number of missiles deployed. Similarly, the U.S. development of new methods for penetrating an ABM could look to the Russians like a system for attacking Soviet ICBMs. An American explanation of the purpose might reassure the Russians, who in turn might be able to provide information which could alleviate our concerns about their air defenses.

With or without an arms-limitation agreement, the most important element in keeping the strategic arms race from getting completely out of hand has been the ability of both nations to have accurate information on the deployed weapons of the other side. For years now our Secretaries of Defense have been reporting with little argument the number of Soviet ICBMs and missile submarines deployed and under construction. Only on future programs or intentions have there been differing opinions. Without this information it would have been impossible even to have contemplated the type of agreement being discussed for the first phase of SALT. If for any reason these capabilities were lost, then any SALT agreement would be in serious jeopardy.

It has been reported by some sources, but never confirmed, that the Soviets have tested a space vehicle which might be capable of intercepting a satellite. Any such system would be susceptible to countermeasures. However, if either nation were to interfere with the other's systems for gathering information, this would be a very serious act, perhaps only just short of war.

Certainly, satisfactory reassurances against any recurrence would have to be provided or the entire SALT agreement would soon break down. Since it would be at least several years before such loss of information could provide an opportunity to obtain a meaningful strategic advantage, there would be ample time to take countermeasures. Perhaps one of the outcomes of the first phase of SALT, or of the next, could be an understanding that neither side would take any steps to negate unilateral information-gathering systems that do not infringe on national sovereignty.

Even if the first phase of SALT succeeds only in holding ABMs to a low level, it will have a major effect in slowing the strategic arms race and ensuring the continuation of a mutual deterrent posture. However, since at best the restrictions on offensive weapons will be quite limited in scope and probably place little or no controls on qualitative improvements, further steps will be needed to strengthen and broaden the agreement. Decisions on unilateral weapons programs as well as further arms limitations must be made with an eye toward ensuring that the application of new technologies does not weaken deterrence. Actions justified as safeguarding against abrogation or violation of a treaty must not be allowed to destroy the original purpose of the agreement. Continued bilateral consultations will be required to clear away misunderstandings.

An initial agreement at SALT, even if limited in scope, can mark the beginning of a new era in the nuclear weapons age. Opportunities will be opened up not only for halting the upward march of the arms race, but also for redirecting it downward so that the risks of a nuclear conflagration are reduced and the economic burdens of weapons programs lightened. Many of the new measures proposed will not be arrived at easily. Strong pressures for new weapons programs as hedges against possible treaty violations will have to be resisted vigorously. Complacency after an initial agreement must not be allowed to slow the drive toward further limitations.

MORE, MORE, MORE WEAPONS

(By Herbert Scoville, Jr.)

Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff, warned Congress on February 16 that unless an "effective" US-USSR agreement limiting the nuclear weapons build-up is reached soon, the US must get new weapons quickly or risk the "possibility" of losing "overall strategic superiority . . . within this decade." The "mere appearance of Soviet strategic superiority could have a debilitating effect," he said, "even if that superiority would have no practical effect on the outcome of an all-out nuclear exchange"—The Editors

In 1971 the Institute for Strategic Studies estimated that the US had 6000 nuclear warheads fitted to delivery vehicles that could reach the USSR, and that 2000 Soviet warheads could strike at the continental United States. In the United States, there are 150 population centers with more than a hundred thousand persons each. In the USSR, there are about 175. The United States could overkill the population-industrial centers of the Soviet Union, 34 times, and the Soviets could easily destroy comparable centers in the United States 13 times over. So, who is ahead, the Soviet Union or the United States, with repsect to nuclear military power? If the US and the USSR were to exchange their strategic forces, would it make any military difference?"—Seymour Melman

In his State of the World message, February 9, the President defended our Safeguard ABM program by saying: "The Soviet strategic forces, even at current levels, have the potential of threatening our land-based ICBMs if the Soviets choose to make certain qualitative improvements. They have the necessary technological base." What Mr. Nixon and Secretary of Defense Laird mean is that present Soviet ICBM force, about 300 of the large SS–9 type missiles, would be capable, when equipped with sufficient, accurate MIRV's (multiple warheads capable of being aimed at separate targets) of destroying a large fraction of our Minuteman ICBMs. While the Russians have not yet tested a true MIRV system, there is no doubt that they have the technological ability to do so at any time, and could begin deploying such weapons a few years later. Each SS–9 can deliver six or more MIRVs, the number required if 300 SS–9s are to be considered a threat to the Minuteman force. About these facts there is little argument. But why has the administration ignored them until now? Why has it instead concentrated its entire attention not on a large Soviet MIRV capability but on the number of large SS–9 type missile launchers?

In 1969, when President Nixon first made the decision to go ahead with the Safeguard ABM, Secretary Laird used as a primary justification the rapid buildup of the Soviet SS–9 force, which he believed was evidence of Soviet desire to acquire a "first strike" capability. He postulated that with a continuing construction rate of about 50 missiles a year, the Russians could have about 450 SS–9s operational before 1975, and that with each equipped with three MIRV's, they would be able to knock out in a first strike 95 percent of our Minuteman force. This calculation of three MIRVs per missile was selected because since 1968 the Soviets had been testing SS–9 missiles with three reentry vehicles and Mr. Nixon and the Defense Department, despite reservations by many intelligence analysts, chose to describe this system having a "footprint" or impact pattern which could threaten our Minuteman. Had they selected an as yet untested MIRV system, the timing of the Russian threat would have been delayed several years and the Safeguard ABM would have been harder to justify. Now Secretary Laird in his 1973 Annual Defense Dept. Report states that "with significant qualitative improvements [MIRVs] in Soviet ICBMs *even without increases* in the number of Soviet ICBMs, the postulated threat to Minuteman in the last half of the 1970s could grow to a level beyond the capabilities of the four site Safeguard defense of Minuteman. Therefore we propose a FY1973 Hardsite [ABM] program. . . ."

As the ABM debate intensified, the preoccupation with the number of Soviet SS–9 launchers became a key factor in all US strategic planning. The projected SS–9 build-up has profoundly influenced the US position at the Strategic Arms Limitation Talks (SALT). A halt to the Soviet SS–9 launcher program became the cardinal objective of our negotiators. Since the Safeguard ABM had been justified as a counter to the Soviet SS–9 threat, the US could not agree to limiting ABMs without at the same time stopping the SS–9 program. In fact, for the past two years, the Safeguard ABM has been and is still defended in Congress primarily as a bargaining chip in the SALT negotiations. In December 1970 when the Soviets proposed an ABM limitation as a first step, President Nixon said no, insisting that limits must be placed on both offensive and defensive weapons in order to preserve stability. Progress

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in this area was thus delayed for more than a year. In the meantime, both the Russians and the Americans increased the size of their strategic forces.

While all attention was focused on the number of SS-9 launchers, the administration during the entire three years of SALT made no serious attempt to limit MIRVs. Although Senator Brooke in 1969 urged a moratorium on MIRV testing and deployment on both sides, this idea was discouraged by the executive branch. A year later, the Senate passed by 72 to 6 a somewhat watered-down version of the Brooke resolution (S-211) which, nevertheless, had the clear intent of urging restraint on MIRVs. This, too, was ignored, instead the US went rushing ahead with the initial deployment of MIRVs on both the Minuteman and Poseidon missiles, long before security required them.

The only concession to Congress was an undertaking by Secretary Laird to halt a program to improve the *accuracy* of US MIRV's. Even the sincerity of this action has come into question as the administration, each year, has sought more than $100 million for the development of improved missile guidance systems.

At SALT, the United States made one attempt for the record to interest the Russions in MIRV controls, but this was coupled with a requirement for onsite inspection that was obviously unacceptable and provided little increased protection against possible violations. This position was put forth despite reported contrary recommendations by the President's prestigious Arms Control General Advisory Committee.

Meanwhile, what happened to the threat which Secretary Laird postulated as evidence of Soviet intentions to acquire a capability to launch a first strike against the US? The Soviet SS-9 construction program slowed markedly. From August 1969 to May 1970 no construction of new launchers was observed. Then in the spring of 1970, just when the administration was arguing most vociferously for its Safeguard ABM as a SALT bargaining chip, the construction of a small number of new Soviet launchers was observed. Even this was cut back until the winter of 1971, when construction of a new type of large launcher was spotted. Despite initial panic, only about 30 of these were started during the past year, so that the number of large Soviet ICBM launchers operational and under construction is now little more than 300, a small increase above the "over 275" reported as of August 1969. This increase of about 30 in more than two-and-a-half years should be compared to 50 per year predicted in justifying the Safeguard ABM. It is clear that the predicted 450 large Soviet missile launchers will not be operational until long after 1975 and probably never. It is rumored that the Soviets have agreed to place a ceiling on such large launchers as part of a Phase I SALT agreement to be announced in May.

The Soviet MIRV program has also not come to pass. The administration fear, that the missile tested with three reentry vehicles could threaten Minuteman, proved to be only another false alarm. The Russians now have tested systems for dispersing three warheads from both the SS-9 and more recently the SS-11, but neither is believed capable of attacking Minuteman. Secretary Laird himself notes that "the Soviets probably have not tested MIRVed missiles thus far. The last multiple reentry vehicle [not MIRV] tests were in late 1970." General Ryan, chief of staff of the air force, testified a year ago that the Russians would have to develop an entirely new reentry vehicle and guidance system before they could achieve such a capability. Rather than expending their technological efforts on a system for dispersing three MIRV's, it is most likely that the Soviets will, when they move into this area, go directly to one which will disperse six or more. It was such a system that the opponents of the Safeguard ABM and the proponents of a MIRV moratorium always argued was the real threat to our Minuteman force. It is to such a system that Mr. Nixon referred in his State of the World message.

Thus, we have come full circle in our strategic policies. By this May, a limitation on the number of large Soviet launchers will probably have been achieved at SALT, in exchange for foregoing the Safeguard ABM. But it is apparent that we have been aiming at the wrong target, for President Nixon and Secretary Laird now admit that Soviet strategic forces, *even at current levels*, can threaten our landbased ICBMs. We have been trapped in a blind alley. The problem today, as it always has been, is to stop MIRVs so that these potentially destabilizing weapons do not become a part of the Soviet nuclear arsenal.

Unfortunately, time has moved on and it is probably too late to achieve the desired controls. Technically, it would still be possible to verify a MIRV test and deployment ban, since the Russians have not yet developed and tested a true MIRV system. Such testing would be readily apparent to US information gathering systems without requiring any onsite inspections. The US, however, has developed, tested and deployed two MIRV systems, and it is most improbable that the Russians will agree to forego the MIRV option completely and leave the US so far in the lead. The administration, which has disregarded all attempts to exercise restraint in this area, is unlikely to cut-back or even stop our MIRV programs.

President Nixon has recognized the consequences, He announces: "We are also initiating a program at a time of increasing threat to our landbased missiles." With these words and with the request for nearly $1 billion for a new generation submarine missile system—ULMS—he and Secretary Laird are starting us off on a new lap in the arms race. Is it really necessary? True, the Soviets are building up their submarine missile forces to a point where, within a few years, they will have achieved numerical parity. But their submarine systems are at least one generation behind ours, so that even if it were a question of maintaining US superiority, a posture which the President professes to have eschewed in favor of sufficiency, there would be no need for this new program.

More importantly, our present Polaris-Poseidon system is faced with no threat that requires the replacement or the addition of more submarines. When the Poseidon conversion is completed in the mid-'70s, the US will have a submarine fleet of 31 ships, each capable of firing 160 warheads at the Soviet Union, in addition to 10 of the older Polaris submarines which are about on a par with the present Soviet Y-class vessels. All defense authorities agree that there is no anti-submarine threat that could in the foreseeable future negate this deterrent. Surely the 5000 warheads, each of which is several times greater than the Hiroshima bomb, should be sufficient to deter a Soviet first strike, even if our Minuteman force became vulnerable. With an ABM treaty, which President Nixon states may soon be completed, virtually all of these warheads should be able to penetrate to Russian targets.

We will have made major progress if we get an ABM treaty. Let us build on that to obtain additional limitations rather than trigger a race in a new direction. Even if the Soviets continue to expand their submarine force beyond our levels, we should not allow this to panic us into deploying a new system. There is no reason why we have to be two laps ahead of the Soviet Union. Better to maintain flexibility by continuing research and development on a broad range of possible systems in order to be in the best position to cope with a threat, if it should arise in the long-range future. We have wasted three years tilting with the SS-9 launcher windmill. It is time that we realistically evaluate our security requirements and ask ourselves whether still more strategic nuclear weapons, of still greater sophistication, are needed to deter a nuclear attack or to prevent us and our allies from being blackmailed.

WHOSE CENTURY?

Mr. HUMPHREY. Mr. President, I invite the attention of the Senate to an article by Mr. Thomas L. Hughes, president of the Carnegie Endowment for International Peace, published in the April issue of Foreign Affairs. It is a thought-provoking article about change and what it portends for our future?

What I think is most valuable about the article is that it provides the kind of dramatic assessment some may need to prepare for what lies ahead, to realize that the wine has changed and so has the bottle.

Mr. President, I ask unanimous consent that this interesting article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHOSE CENTURY?

(By Thomas L. Hughes)

"The world of the 20th century, if it is to come to life in health and vigor, must be an American Century . . . our Century."—Henry Luce, "The American Century," *Life*, February 17, 1941.

Despite many qualifications, there are several senses in which Mr. Luce was right—senses in which this has turned out to be the American Century, far beyond anyone's poor power to add or detract. In all the unfolding indices of quantitative preeminence, the United States is indeed a new kind of power in the world. Our gross national product, our massive output of the food the world needs, the unequaled scale of our technology, the burgeoning talents that still pour by the millions from our troubled educational system, the qualitative skills of our manpower, the seed money with which for years we have capitalized the new world bank of the social sciences, the manifold horizons of the computerized century—all these and more testify to the steady pulsations from contemporary America which circle and recircle the globe. They evoke demands and cravings for things American, often precisely among those very people and governments most vitriolic about official American policy. America's great twentieth-century technological revolution sweeps across sovereignties, beats against Walls, and eats away at Iron Curtains. The full implications of this peaceful, pulsating phenomenon for those whose lives and livelihoods have hitherto been at the whim of managed societies—as well as for interests and ambitions of those in charge of such societies—remain to be fully tested.

But there is much more to the century than that. Centuries have many dimensions. If the world's prominent men of a century ago were to rise today from their graves and look around them, who would be the most surprised? Who among them, politicians all, would be most transfixed by the ironies of history and the vagaries of circumstance? Where today would they find their lineal descendants? How far would they have to travel to feel at home again? Who continues their tradition? Across what cross-cultural leaps?

There is the assassinated Tsar Alexander II, interred in St. Petersburg, awakening in Leningrad. How much of the surroundings are Lenin's? And how much are Peter the Great's?

There is Cecil Rhodes, the impatient imperialist, in his tomb in Bulawayo. What sanctions, if any, would he employ against the cowboy champions of white supremacy who have taken over his Rhodesian patrimony and broken with his Queen?

There is Lincoln in Springfield, perplexed about another North-South war 10,000 miles away in Vietnam. Is his first groping reaction really a misconception that America has been committed to a secessionist cause?

There is Bolivar in his pantheon in Caracas. Like many others he discovered that life was unfair. Would he still be sure, as he once was, that to "serve a revolution is to plow the sea?"

There is Bismarck at Friedrichsruh. He is entitled to smile with self-satisfaction over the continuing triumph of blood and iron, but the pursuit of his prophetic principle devoured Prussia in the process and cut his capital city in two.

There is Hung Hsiu-ch'uan, leader of the Taiping Rebellion, whose peasant revolt once swept 11 provinces of China. He was ruling in Nanking in the 1860s. If he had waked in that city during the Cultural Revolution a hundred years later, he would have found a familiar fratricide.

They were among the leaders of the age a century ago. They all tried "to make history, not write it"—in Bismarck's words—"to set the clock of evolution at the right hour." But since then many clocks have struck, turning success into failure for some, defeat into victory for others. For still others slumber remains simply slumber. They and their work testify to the uniqueness of history, to the great moments which never recur, to the fate which each man has at the ends of his successors, to the tricks and the toll of the centuries.

Here, in microcosm, lie some large questions: *Whose* century has it been? *Whose* century will it be? But behind these questions lie the other ones: *Which* century was it then? *Which* century is it now?

I. WHICH CENTURY

In 1900 there was a great argument over whether that year marked the first year of the twentieth century or the last year of the nineteenth. But beyond the artificial dates which the calendar sets, there are many ways to think about a century. Thus we now know that the nineteenth century began in 1815 and that it actually ended in 1914, not 1900. It is plausible that the twentieth century is already over—that the problems of the 1930s, forties, fifties and sixties have more to do with one another than with a new century which has already arrived. In a world of agitation, it is hard to tell when, if ever, a new century is far enough advanced to be irreversible—when the turbulence has jelled sufficiently for characterization. Centuries overlap and phase into one another.

Even worse, a century, like beauty, shifts with the eye of the beholder. Thus Victor Hugo aspired to live for a *future* century. He represented "a party which does not yet exist," civilization. "This party will make the 20th Century," he said, "and from it will issue first the United States of Europe and then the United States of the World." More often, however, people have preferred to live in *past* centuries, like those described by Gilbert in "The Mikado":

"The idiot who praises, with enthusiastic tone,
All centuries but this, and every country but his own."

Some things are immune through centuries of change. For instance, there exists a papyrus dating from the Ptolemaic era, second century BC, with the following instructions warning the ancient Egyptian bureaucracy, as it were, against writing 47 volumes of putative Pentagon Papers. "To the King one should not write long reports nor deal with all kinds of problems. Instead one should report only what is necessary and urgent in as concise a form as possible." For bureaucrats, such testimony to the enduring dilemmas of the bureaucracy through the centuries may be reassuring.

In the field of actual warfare, a new century has often conquered not only through unconventional weapons but also through organizational innovations. In ancient Greece and at the end of the Middle Ages the knights were vanquished by the phalanx, which in later days succumbed to more mobile units, even simple guerrillas. By contrast, in the political and economic fields, innovations often succumb to inertia. How many other revolutionaries and reactionaries alike have come to appreciate the poignancy of Andres Bello's summary of the Latin American wars of independence: "In the wars of independence against Spain, there were no victors and no vanquished. The Spanish constancy defeated itself."

Twentieth-century politics and economics are a mosaic of all the centuries when it comes to motivation, organization, attitudinal affinities and capacity for cooperation. One may ask of a foreign head of state, of a diplomatic colleague passing in the hall, or of their wives at the dinner table: Which century are you in? Whether we and our contemporaries are actually living in the same century, are willing to work in the same century, and are coming to grips with the same century, will largely determine whose century our successors will say this has been. Yet often, these days, only a wizard can conjure up what is present, what future, what past, and what is merely daubed here and there with a twentieth century brush.

Today, for example, if we ask what most of the world's three and one-half billion people are doing, it would be true to say: Most of them live in Asia, are poor, are ill-fed, are sick, are illiterate, lack freedom, are proud, fear war, and feel neutral in many contests which others think vital. But most people in the world could have been described that way a century ago or ten centuries ago In a sense, the century never belongs to the people who live in it. The City of the Rich and the City of the Poor was an Aristotelian distinction, not an invention of the hapless Lin Piao.

The receptivities and tolerations of both governments and people have to be mutually calculated and recalculated, never in entirely satisfactory ways. The rates and magnitudes of current United States assistance to Latin America, for instance, run head-long into nineteenth-century banking systems, eighteenth-century commercial codes, corporate arrangements based on familial patterns of ownership, and investment attitudes of a low-risk, high-yield, short-term nature like mercantilist seventeenth-century England. Sometimes we find ourselves trying to infuse contemporary notions of credit, fertilizers, cooperatives and storage systems into an ancient Indian culture predating the arrival of Columbus in America.

The conflicting elements of many centuries bounce off the politics and economics of the present. Thus we have all had lessons in accommodating ourselves to certain unwelcome facts of life. What looks like leadership to some may look like exploitation to others; what here looks like help, may there be seen as interference; what to the provider is assistance, may to the receiver be intervention. On the Texas border, we may call it the Rio Grande, they the Rio Bravo. We may consider ourselves a Good Neighbor, they may think of us as the "Colossus of the North." As the Dictator Porfirio Diaz used to say, "Poor Mexico! So far from God, so close to the United States."

The culture problem is a human problem, not a scientific one, and it is the child and victim of many centuries. Hence, half-seriously, one can say that the twentieth century is currently made up of fourteenth-century farmers, fifteenth-century theologians, sixteenth-century politicians, seventeeth-century economists, eighteenth-century bureaucrats, nineteenth century generals and twenty-first-century scientists.

Some people—perhaps some centuries—have a much greater facility than others for self-deception, wishful thinking and false expectations. Thus one has to consider whether a strenuous effort to clarify every element in the picture really helps or hinders mutual objectives. One may legitimately ask which combination of the centuries in which societies provides the most forward motion on basic problems at a given time. Therefore it is also true that many of those most vociferous in laying claim to the century operate on a base which is only faintly in touch with the verbal gloss they employ. In a sense, every would-be claimant presses his claims to the century under false pretensions.

Many of the world's contemporary politicians do so doubly, for neither their cause nor they themselves are clearly contemporary. Just as the current century contains residual elements of all preceding centuries rolled into it, so we may also consider, as John Morley did in his "Life of Gladstone," that "Every man of us has all the centuries in *him*." Many of the leaders are born in the wrong century, serve the wrong governments and talk the wrong tongues. Many are perhaps only dimly aware of how much more at home they would have been abroad at some earlier point of history. Some of them, in unexpected places far beyond Europe, are perfectly cast for leading roles in latter-day analogues to the seizure of Silesia or the partitions of Poland. Others would gladly proclaim some new Pragmatic Sanctions of their own. Still others would happily grace a new Congress of Vienna, yearning even this late in history for another world restored.

But if the question—Which Century?—still vexes analysts and actors alike, how much more insidious, elusive and provocative is the question evolving from it: Whose Century will it—should it—be?

II. A CENTURY OF GOVERNMENTS?

Whose century? Three and one-half billion people implicitly ask that question. Suspended over them all, asking the same question, are some 145 governments. These governments provide many contrasts in the manner of their arrival and their prospects for stability.

They vary widely in their approaches to poverty, pollution and the population explosion; in their reaction to prejudice, racism and crime; in their efforts for more health, housing and human dignity.

They differ dramatically in their commitment to democracy, social justice, nonviolence, economic growth, law and order, and peace.

They show marked contrasts in their enthusiasm for, or resistance to, demands for equal access to wealth—or even to the propriety of asking how 100 percent of the world's people can get at 100 percent of the world's resources.

These governments have varying stakes in East-West tensions; in the Sino-Soviet rift; in the United Nations; in NATO and the Warsaw Pact; in the OAS and OAU; in SALT and disarmament; in trade and aid; in frequency allocation and weather modification.

They differ in their dependence on, or independence from, the United States and the Soviet Union, although most are deeply affected by what the superpowers do or fail to do.

They form shifting constellations of agreement and disagreement on issues full of consequences for others. They all want to change the policies of others toward themselves, often in different and inconsistent ways.

Each government is nervous about the absence of fixed points in the world horizon to which many of them were formerly accustomed. Each worries about a possible decline in the interest and attention of others. Each differs from the others in the degree to

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which it desires to be respected, feared or admired. Each probably overestimates its own role. Each government, even the autocracies, is concerned with domestic demands, and each wants to interest others in its domestic survivability. Each must consider how to mesh domestic requirements with the fast pace of world affairs. Each must grapple with priorities. Each must decide whether to go for long-term or short-term results. Who will initiate what? Who will gamble between the penalties and rewards of inaction? Each is in a box, but some are in bigger boxes than others.

Many governments are uncertain representatives of the viewpoints their people hold. Many of their people are increasingly uncertain about what their governments really think. Many governments include bureaucracies which are privately anxious about the reliability of their political leaders. Many of the leaders lack admiration for the bureaucracies which they theoretically control. Many fail to distinguish between declaratory policies and actual policies. Many are tempted toward claims and commitments beyond their capacity. Many fail to recognize the policy points of no return.

Some governments are in doubt which rift to heal, or which détente to encourage. Some are engaged in making progress through sham. Some are adept at the techniques of divesting responsibilities. Some will find the complexities so overwhelming that they will simply be overcome with indecision. Some will be the century's "laughing heirs."

Most governments will pursue several policies at once. Most will be looking for points of identification, appeal, connection and mutually acceptable involvement. Most will consider that they have a mandate for change, but they are increasingly aware that patterns are different, and that the world is moving Left and Right at the same time. Most will crave frequent consultation and the reassurance that comes from easy access.

All governments govern countries where certain important public questions have traditionally been badly posed. All are worried about the East-West division between the communist and noncommunist worlds. All are caught up in the North-South racial division between the colored and the less-colored people of the world. All must grapple with the North-South economic division between the low-income nations and the so-called developed ones. All would prefer to line up with the ascending rather than the descending forces in history. Yet all, whatever their doctrines, probably believe that nothing in history is really inevitable until after it has happened.

All are betting on different answers to the question: Whose Century?

The answer to the question remains elusive, whether viewed from the perspective of peoples or governments. Thus governments may think of themselves as sovereign and equal, but each government has long understood that some governments are more sovereign and equal than others. Governments exert disproportionate claims to the century. They also enhance or frustrate their people's claims to the century in disproportionate ways. This much has always been true. But I should like to suggest that we are now witnessing another, more grossly disproportionate, development which will have profound and unpredictable consequences for the character of the century. I have in mind the steady reduction of the old-style role of government in the Western world without a symmetrical or compensatory development elsewhere.

III. A LESS GOVERNMENTAL WEST AND THE REST

When Adam and Eve left the Garden, Eve reportedly turned to her husband and said, "Adam, we live in an age of transition." Today in the West we may be leaving the familiar garden of intergovernmental relations where by definition only a hundred-or-so flowers can bloom. It would be too much to call this familiar intergovernmental world a paradise like Eden, for diplomats or for anyone else. But for over a hundred years we in the West have used its forms, imposed them on others, organized the world's commerce and investment around them, and built our international institutions of war and peace upon them.

Today this familiar intergovernmental world is crumbling, beginning in the West where it itself began. Here, breaking through the intergovernmental crust of what we used to call international relations are pluralist manifestations of many assertive kinds. Together they are reducing, relatively speaking, the roles of Western governments. And they are also making life more difficult for many international institutions whose organization and well-being have, until now, been predicated on the reliability of certain Western governmental roles. These new degovernmentalizing manifestations are by no means coherent or consistent. They often appear Janus-faced, hydra-headed or omnidirectional. They themselves are engulfed in adversary cultures. They involve differentiating and integrating tendencies alike.

Thus the contemporary flight from foreign policy may take on various forms of rejection and reassertion, and become neo-isolationist and neo-transnational as well. For example, the significant domestic opposition to unpopular foreign policies that has been occurring in Britain over entry into the Common Market and in the United States over our fiasco in Vietnam can spill over into either a frustrated, localized retrenchment or into a new frontier-crossing politics of the Left. The *Weltschmerz* of the intellectual insurrection and the exuberance of the youth revolt can too. At another level, the growth of the multinational corporation can evoke a transnational economics on the Right, as well as provoke a reaction opposing it on both the Right and the Left.

The governments of Western democracies are discovering that their people are deficient in the deference that governments used to think was their due. Governments devoid of credibility confront citizens devoid of patriotism. Patriotism! It is not only not enough any more. It is not only the last refuge of scoundrels. To today's avant-garde, scoundrels are the only patriots around—surely a thin base of reliable support for Western governments cumulatively under siege. These governments preside with deteriorating effectiveness over societies which at one and the same time threaten to become too proud to fight, too sophisticated to agree, too democratic to be directed, too assertive to acquiesce, too liberal to be led, too complicated to be consistent, and too élitist to accept majority rule.

Democratic societies can, of course, burst their own societal bounds of toleration. Deeply felt oppositionist tendencies, for instance, while less than sufficient to capture the state, may prove more than sufficient to immobilize it. *E pluribus unum*—one out of many—can depreciate at least as fast as the American penny which carries that maxim on its reverse face. At minimum, today's democratic, affluent societies in the West face explosive new struggles for identity and coherence as the individuals and groups within and between them sort out their contemporary purposes and priorities. Their diverse publics are diversely interested. Old forms have become demonstrably less useful as practical guides for significant personal behavior. Old forums may likewise become perceptibly less useful as the relevant terrain for future decision-making.

The most striking fact about the resulting new relationships is that they are less and less international in the old intergovernmental sense. Western governments and the intergovernmental institutions extrapolated from them are by no means the exclusive or even the centrally active elements. Instead, as often as not, these elements are extranational and nongovernmental in character. Compared to what has gone on before, the new forces now sweeping across Western life are marked by the bypassing of government by ever larger portions of the population, and by the explicit rejection of government by many. Whether governments—including some governmentally based international organizations—are ostracized or simply ignored, the feeling is inescapable that the proportionate importance of governments in the daily life of the West is dwindling. Nationally and transnationally, their pivotal position is eroding. Certainly Western governments do in fact preside less and less effectively over the burgeoning pluralisms emitted by Western societies.

In a sense, of course, the depolarization of world politics has been occurring simultaneously with the polarization of domestic politics in the West. The latter process, often indistinguishable from the degovernmentalizing phenomenon previously mentioned, is bound to cut unevenly across the competitive claims to the century, be they popular or governmental or both. For the time being basic forces are loose in the West which are precipitating a new asymmetry in world affairs. Western societies are internalizing much of their combative energy and disputatiousness, nongovernmental and antigovernmental sentiments are popular, and the Western governmental component itself is diminishing in the totality of transnational relationships.

The world of formal intergovernmental relations will continue, of course, even among Western capitals, if only because no one can think what ceremonial life would be like without it. Yet the result of all this internal combustion will be a less governmental West. The affluent democracies will be living in a halfway house to transnationalism.

But it will be a transnationalism putting the West out of phase with the rest. No comparable degovernmentalizing tendencies will have taken hold in the authoritarian governments of the ideological East or the nation-building governments of the developing South. Metternich, a European from the Rhineland, felt that the Hapsburg Empire did not belong to Europe. "Asia," he said, "begins at the Landstrasse," the road out of Vienna to the East. Today, in a notably different setting and with momentous new forces at work, one can visualize a future where the residual Metternichian world of intergovernmental relations will itself begin at the Landstrasse, with networks of governmental and bureaucratic traditionalism spreading out from it for hundreds and thousands of miles over the lands to the East and the South.

Peoples and states in the East and South may indeed have little else in common except for the vital similarity that their governments still remain their ultimate representatives externally. In dealing with Western governments, however, they will be dealing with only one of the components in the Western picture, by no means the exclusive or even "responsible" agent for the society they are said to represent.

For in the West the virtues and defects of pluralist democracy will be thriving in unpredictable profusion, puncturing pretentiousness and splintering sovereignties. An old contrast is likely to spring up again between that part of the world where, in certain fundamentals, governments immobilize their people, and that part of the world where, in certain fundamentals, the people immobilize their governments.

Eventually, of course, the decline of governments in the West may erode the stability and effect the continuity of government roles in the East and South. But in the period just ahead, these phenomena will continue historically out of phase. The unevenness of the change will amplify the contrasting vibrations from and between the new-style transnational relations in the West and the older-style intergovernmental relations of the East and South.

For the time being these tendencies will remain asymmetrical and will introduce unbalancing, even destabilizing, elements in world economics and politics. The strategic implications could be unsettling if this dichotomy applies, as it would seem to do, to America in her declining superpower role on the one side, and to the rising or remaining power roles of China, Japan and the Soviet Union on the other.

On a more universal scale, the totality of international relations will also partake of this house-divided phenomenon. The old mythologies of state sovereignty will be less convincing than ever before. International institutions, already suffering from severe constituency imbalances of sovereign size, wealth, power and weight, will have to begin to come to terms with the newly destabilizing effects of factions flourishing in the West.

Whatever else it may signify, the transnational phenomenon in the West, simply by deemphasizing governments, will be pioneering and evocative. It will carry large and unpredictable implications for the whole world: for politics and personalities, for economics and cultures, for war and peace. It adds new and disturbing dimensions to the unanswered question: Whose Century?

When Metternich confronted his imperial master with a troublesome proposition, Francis I would postpone a decision by responding: "Darüber muss man schlafen." Indeed, "Let's sleep on it" eventually became the Emperor's motto for all questions of state. Whose Century was difficult enough to discern when we were on the threshold of transnational politics. Today with its arrival, we have an occasion portentous enough to require deep and serious thought. We too will have to sleep on it before coming to any hasty conclusions. Diplomats and other officials in the West, however, will find when they awake that the forms no longer fit, that the rules no longer work, that the old government-to-government cake of custom has been broken, and that earlier notions of how societies are represented—central questions of Who, Whom?—must be fundamentally revised.

THE FEDERAL ELECTION CAMPAIGN ACT

Mr. FANNIN. Mr. President, one of the worst laws enacted by this Congress becomes effective today: the Federal Election Campaign Act.

This was advertised as legislation to clean up some questionable practices in campaign finance. Instead of meeting the needs of campaign reform, this legislation simply creates even more problems.

It certainly does nothing to halt the most flagrant campaign abuse in America today, the illegal use of union dues and resources in election campaigns.

Mr. President, I was criticized for voting against this bill, but there is growing recognition of the fact that this legislation has serious deficiencies. In addition to the failure to control massive union contributions, the bill raises some serious constitutional questions regarding freedom of speech and freedom of political activity. It is my opinion that this bill may well be unenforceable. Too many questions are left unanswered.

One perceptive article on this bill appeared this week in the Wall Street Journal. It was written by Michael Gartner, a lawyer who is an editor of the newspaper.

Mr. President, I ask unanimous consent that this article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMPAIGN FINANCING: A DUBIOUS LAW

(By Michael Gartner)

Assume you have amassed a modest fortune and you now want to try something new. You decide to run for Congress. You and your family agree to spend $50,000 of that fortune to finance your campaign.

As of Friday, that expenditure will be illegal.

Assume you firmly believe in a candidate or a cause, so much so that you would like to buy a full-page ad in The Los Angeles Times to support that candidate or that cause.

As of Friday, that will be sometimes impossible, always difficult.

Assume you are a professor who has built up a rapport with your liberal young students. Really, though, you are a closet conservative, and you would like to give a quiet $100 to the committee to re-elect Richard Nixon. You don't want the students to find out, of course.

As of Friday, that will be impossible.

Assume, finally, that you own a newspaper or a television station and you're looking forward to the quadrennial windfall from political advertisers. Demand is high this year—after all, there are more Democratic candidates than you can count on your fingers—so you jack up the rates a little.

As of Friday, you can't.

On Friday, the Federal Election Campaign Act goes into effect. It is known more widely as the campaign spending bill, or S. 382, and it restricts all of the activities listed above. It is a widely praised law designed to prevent people from buying elections, to put the spotlight on "fat cats" and to ensure that in the future a man needn't be rich to run for office.

It is also a law that is dubious both logically and legally, a law that will work to keep in office the people who wrote it and to penalize the very people it alleges to protect.

THE LAW'S LOGIC

Consider first the logic. The bill was proposed because there has been a great hue and cry about the millions of dollars that are spent each election year. There has been increasing alarm especially about the millions that have been poured into television advertising by the so-called media candidates. Such broadcast expenditures in federal elections rose to more than $50 million in 1970 from just under $10 million in 1956.

And so the new law limits each candidate to spending 10 cents per potential voter in each election "for the use of communications media." No more than six of those cents can be spent on television.

That might be noble, except for one fact. "Money . . . cannot assure electoral victory," Howard R. Penniman, a professor of government at Georgetown University and an authority on political parties and elections, writes in "Campaign Finances," an 83-page paper issued recently by the American Enterprise Institute for Public Policy Research in Washington. "The many studies of television and campaigns provide little evidence of its great impact on the outcome of general elections."

"We find campaign broadcast expenditures to be only moderately significant in determining election outcomes," Paul A. Dawson and James E. Zinser, assistant professors at Oberlin College, wrote in the Fall 1971 issue of Public Opinion Quarterly.

Some recent data: In the Florida primary, Mayor John V. Lindsay of New York is said to have spent about $170,000 for broadcast time; he received 7% of the vote. Sen. Edmund S. Muskie of Maine is said to have spent about $160,000; he received 9% of the vote. Sen. Hubert H. Humphrey of Minnesota is believed to have spent about $60,000 on television time and $15,000 on radio; his share of the vote was 18%. And Gov. George C. Wallace of Alabama is said to have spent about the same amount as Mr. Humphrey; Gov. Wallace got 42% of the vote.

Gov. Wallace and Sen. Humphrey between them received 60% of the vote—and spent 20% of the money.

In New Hampshire, Sen. Muskie spent about $65,000 in the media and garnered 47.8% of the vote. Sen. George McGovern of South Dakota spent about the same and finished second with 37.6%. But a committee working on behalf of Rep. Wilbur D. Mills of Arkansas spent more than $80,000 on media advertising, mostly on television, and the Congressman received only 4.1% of the vote. Mayor Sam Yorty of Los Angeles spent only $15,000—yet received 6.1% of the vote, some 1,700 more votes than Mr. Mills tallied.

So the Federal Election Campaign Act appears to be an unneeded law. It is also a bad law, in the view of legal scholars. "The final bill is flatly unconstitutional," asserts Ralph K. Winter, Jr., a professor of law at Yale who is a specialist in constitutional law. And Yale Professor Thomas I. Emerson, an authority on the First Amendment, says several aspects of the law "raise serious constitutional questions and probably violate the First Amendment."

Both men complain that the law, in effect, requires a person to register his political activity with the government. Which it does. It requires that each candidate disclose the source of all his funds. It might be nice to know who those fat cats are—though Georgetown's Prof. Penniman says that "fat cats are less important in affecting the outcomes of elections than is sometimes assumed by proponents of more regulation"—but is it right that every man should know if his neighbor gives $100 to Gov. Wallace or to Sen. Eugene McCarthy?

This is "clearly a deterrent to political activity," argues Prof. Winter. "It raises precisely the same issue as the press not wanting to reveal news sources." (But Fred W. Friendly, the former head of CBS News who now is at the Columbia University journalism school, sees no problem in the disclosure requirements. "I'd rather know what the AFL–CIO and the big defense contractors are giving than I would like to protect the small giver. For every college professor you protect, you protect in a much more serious way a union or defense contractor that shouldn't have that protection."

Besides requiring financial disclosure, the law also limits personal expression by decreeing that a citizen cannot buy an ad to support a candidate unless that candidate approves of the ad. Since the cost of the ad is counted in that 10-cents-per-voter calculation, legislators reasoned that the candidate should have a veto power over such advertising. But what if New York philanthropist Stewart Mott, say, wants to take out an ad supporting Sen. McGovern? And what if Sen. McGovern, for some reason, doesn't want Stewart Mott's support? He can veto the ad, thus silencing Mr. Mott's political views.

"This gives a candidate veto over an individual's political activity," says Prof. Winter, "and that strikes me as flatly unconstitutional." "It does," says the more cautious Prof. Emerson, "raise very serious constitutional questions."

("Damn straight it's a restraint on my freedom of expression," says young Mr. Mott. And he raises an interesting question. "If I want to say nasty things about a given can-

didate in an ad, and there are four in the race, do I have to seek permission from the other three? Do they have to divide up my cost of the ad in their spending limits?")

The new law also limits the freedom of expression of the candidates themselves. It decrees: "No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with nomination for election, or election, to federal office in excess of $50,000 in the case of a candidate for . . . President or Vice President, $35,000 in the case of a candidate for the office of Senator, or $25,000 in the case of a candidate for the office of Representative to the Congress."

"There are First Amendment doubts about that, also," says Mr. Emerson. "It is unconstitutional," says Mr. Winter.

Constitutional authorities are troubled less—and newspapermen are troubled more—by a provision in the new law that rules that broadcasters and newspapers and magazines may charge political advertisers no more than the lowest charges made to other advertisers for comparable time or space.

Governmental infringement on broadcasters' First Amendment rights has become routine by now—the banning of cigaret ads, the attempt to subpoena unused film clips, the pressure to let government men grind their axes on the air—but newspapers had pretty much avoided such harassment. But no longer.

CONTROLLING NEWSPAPERS

"There has never been anything approaching the control of the newspapers" that is written into the new act, Prof. Emerson states. He believes that it presents no First Amendment problems, however, because it is addressed to the commercial aspects of newspapers—like antitrust laws. He concedes, however, that "I can see how you could work up an argument to the contrary."

Indeed you can, says Norman E. Isaacs, editor in residence at the Columbia journalism school, former executive editor of the Louisville Courier-Journal and former president of the American Society of Newspaper Editors. "I wince over the government getting into the business of stipulating what a newspaper shall charge," he says. "The next step could be that the government will make you give space away. I always worry about the government. I suspect it is a violation of the First Amendment." Mr. Isaacs says he believes in the principle that newspapers should not gouge politicians on ad rates, but he doesn't believe the principle should be enforced by law.

(If the bill is unconstitutional as related to newspapers and broadcasters, so too, is it economically damaging. "This will put several broadcasters in Alaska in the red," says an aide to Sen. Ted Stevens, who was a lawyer for broadcasters before Alaskans sent him to the Senate.)

So in attempting to enforce that 10-cents-per-voter limit, the act is made up of several seemingly unconstitutional provisos. But is the limit on campaign expenditures in itself unconstitutional? Prof. Winter, writing in the American Enterprise Institute's paper, declares:

"A limit on what a candidate may spend is a limit on his political speech as well as on the political speech of those who can no longer effectively contribute money to his campaign. In all of the debate surrounding the First Amendment, one point is agreed upon by everyone: No matter what else the rights of free speech and association do, they protect explicitly political activity. But limitations on campaign spending and contributing expressly set a maximum on the political activity in which persons may engage."

He goes on: "A law forbidding someone from contributing to a candidate's campaign or restricting the use to which the candidate may put the money cannot be distinguished from a law forbidding speeches of over 10 minutes in public parks. . . . The First Amendment prohibits the setting of a legal maximum on the political activity in which an individual may engage . . . . Sound trucks which keep people awake at 4 a.m. by broadcasting political messages can be stopped, not because of a governmental interest in preventing the message but because of the public's interest in sleeping. No such nonpolitical or nonspeech interest exists in the case of legislation regulating campaign expenditures or contributions."

And two Harvard law students, writing in the January 1972 issue of the "Harvard Civil Rights Civil Liberties Law Review," conclude: "A ceiling on individual political spending is a serious infringement upon traditional concepts of free expression. Individual spending should be curtailed only if it poses a direct and substantial danger to the political process which cannot be effectively controlled by alternative measures."

SOME "REDEEMING VIRTUES"

But this seemingly unconstitutional law does have some redeeming virtues—if you're an incumbent legislator. By putting all kinds of restrictions on candidates, the law clearly works to the advantage of people who already are in office. Says Prof. Penniman of Georgetown:

"The setting of uniform limits on campaign expenditures for incumbents and challengers fails to take into account the subsidization of the incumbent (the franking privilege, free phone calls, etc.), and the more severe the limit, the greater the handicap placed on the challenger. Money for campaigning does not ensure a real contest, but tight limitations on funds may distort the democratic process by reducing the opportunity for a serious challenge of the entrenched officeholder."

Prof. Penniman makes one other point worth noting. "The best estimates tell us that campaign spending for all the thousands of offices up for decision in 1970 was perhaps $300 million," he says. "It was not much more than the $275 million that Procter & Gamble spent to advertise its products that year."

PRICKING THOSE ECONOMIC MYTHS

Mr. BENNETT. Mr. President, several economic myths are currently being floated by the flock of Democratic presidential hopefuls and others which I believe deserve to be pricked by the sharp point of facts.

Myth No. 1: Farmers are responsible for the recent rise in food prices. Not true. Retail food prices rose 43 percent during the past two decades, but farm prices rose only 6 percent.

The Giant Food chain received much publicity recently when its consumer adviser, Esther Peterson, took full-page ads urging housewives not to buy meat and implying that the strengthening of farm beef prices was to blame for higher over-the-counter prices. Mrs. Peterson, who formerly was consumer adviser to President Johnson, neglected to point out that Giant Food and other retailers could actually purchase beef carcasses cheaper in March of this year than in August of last year, when the price freeze was imposed. Thus, farmers are wrongly being blamed for the high prices charged by the food chains.

Myth No. 2: Current economic indicators show that the Nixon administration's program is in trouble. Not true at all. Although other evidence could be presented to illustrate that the Nation's economy is responding very favorably to the controls now in force, one of the best evidences is that even neutral observers agree that things look good, indeed. Columnist Joseph Kraft, for example, who is hardly known as a White House yesman, wrote in a recent article that "most of the usual indicators are positive."

Kraft noted:

Gross National Product and business investment are both up as predicted in the Administration's forecasts. Housing starts, at an annual average of 2.6 million are running way ahead of the projected figure of 2.2 million starts.

Myth No. 3: The revamped Pay Board will be a tool of business, since most of its labor members took a walk. Mr. Kraft again answers this notion best:

That (the restructuring of the board) leaves the Pay Board to a small core of public members who are dedicated hardliners when it comes to holding the line against inflation. Far from being a self-destruct mechanism, the Pay Board has now become an instrument with staying power.

Myth No. 4: The Nation's economy will be the Democrats' best weapon in November. Do not bet on it.

Mr. President, I ask unanimous consent that Mr. Kraft's column entitled "Economy on Target," published in the Washington Post of March 30, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMY ON TARGET

(By Joseph Kraft)

You can now add Ingrid Bergman to the list of economic indicators pointing toward good times for President Nixon. She has been playing in Washington, and was invited by George Shultz, the director of the Office of Management and Budget, to visit the White House.

When the plan fell through, Mr. Shultz registered mild disappointment. And when Mr. Shultz frets about Ingrid Bergman that means he feels free to look up a little from the black pit of worry about inflation and unemployment.

On the inflationary side, the latest development—the withdrawal of the labor members from the Pay Board—is in fact a blessing in disguise. In the past, the Pay Board has been lamentably weak because the labor and business members acted in covert alliance to jack up wages and prices.

With the withdrawal of AFL–CIO President George Meany and three other labor members, President Nixon has also been able to sack their hidden partners among the business members. That leaves the Pay Board to a small core of public members who are dedicated hardliners when it comes to holding the line against inflation. Far from being a self-destruct mechanism, the Pay Board has now become an instrument with staying power.

One other recent difficulty seems also to have been exaggerated. Consumer prices did rise by an annual average of 6 per cent last month the highest increase since the jump last June which was a central factor in forcing the administration to adopt its new economic policy.

But the cause of the rise was a 24 per cent rise in food prices. The non-food price index actually declined somewhat. And, as it happens, food is one of the items most subject to control.

Tough talk about higher prices, for one thing, can put the grocery chains and processors on the defensive. The President has opened the way with the attack he made on the "middlemen" in the food business at his last news conference. Now Secretary of the Treasury John Connally has jumped into the battle with all his formidable energies and powers of persuasion.

Moreover, the administration disposes of indirect means for forcing down food prices. The import quotas which hold up prices of meat, sugar and dairy products could be relaxed.

Lastly, there is the possibility of direct controls. As Secretary Connally has indicated, a flexible system linking higher retail prices directly with the far more modest increases being paid to the farmer could be instituted. If necessary, a total freeze on food prices could be applied.

As to economic recovery, most of the usual indicators are positive. Gross National Product and business investment are both up as predicted in the administration's forecasts. Housing starts, at an annual average of 2.6 million, are running way ahead of the projected figure of 2.2 million starts.

It is true that there was a record trade deficit for the first quarter. But the dock strike figured importantly in that showing, and some of the deficit will be offset by returns on investment and other so-called invisible earnings. Moreover, since payment of gold against dollars was suspended when the New Economic Policy was announced, this country is now powerfully insulated against the claims of foreign creditors.

It is also true that retail sales have not done well and that money being pumped into the economy through government purchase is slightly behind schedule. But an off-set to these short-falls is emerging.

Poor understanding of the latest regulations has caused tax-payers to overwithhold at a terrific rate—$8 billion annually, according to the Treasury. Administration officials are now considering a variety of means for inducing the taxpayers to withhold at a more moderate rate. So if necessary, the Administration has available an easy way for giving the economy a big shot in the arm.

What all this means is that the President is in good position to meet the economic targets for this year. These targets are modest and include acceptance of at least 5 per cent unemployment. Still, the economy will probably not be in dire straits at election time, and this time the Democrats will almost certainly be denied what is usually their best weapon against a Republic President.

HELLER PUSHES FOR REUSS HALF MILLION JOB PLAN

Mr. PROXMIRE. Mr. President, today's New York Times contains an excellent letter by Walter Heller, former Chairman of the Council of Economic Advisers, calling on Congress to enact the Reuss jobs-now bill.

Mr. Heller makes a devastating case for getting on with the job of providing more jobs and now.

Few write with Mr. Heller's eloquence, and few of us in Congress have the imagination and drive of HENRY REUSS, who incidentally is the able Representative from the Fifth Congressional District of my own State of Wisconsin.

Mr. President, I cannot resist, in this great political body, quoting the last—and most appropriate—paragraph of the Heller article:

But education and training—as well as unemployment compensation, income maintenance, and work incentives for the unemployed—all lose their point unless there are decent jobs for them at the end of the line. It was Calvin Coolidge who made the profound observation that "for a man to have a job, someone has to hire him." He had something there. And "Jobs Now" has something here.

I ask unanimous consent that the Heller article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEEDED NOW: "JOBS NOW"

(By Walter W. Heller)

MINNEAPOLIS.—Given the continued intolerably high unemployment and slack in the economy under Mr. Nixon's policies, the need for the "Jobs Now" program—Congressman Reuss' proposal for 500,000 public service jobs—becomes more urgent with each passing day. That need has at least five facets.

First, the need for greater economic stimulus: The economy is running $80-billion below its full-employment potential. So even if the Nixon forecast of a 1972 G.N.P. of $1,145 billion were realized, output would still fall $60 billion short of our productive capacity. Under these circumstances, the increased authorization proposed by the "Jobs Now" bill (H.R. 12011)—to $2 billion for fiscal 1972 and $4 billion for fiscal 1973 (from the $1 billion for 1972 and $1.25 billion for 1973 now authorized under the Emergency Employment Act of 1971)—would be a modest but welcome tonic for an economy that still has tired blood.

Second, the need to meet our biggest single economic problem, unemployment, head-on: The public-service jobs bill recognizes that the shortest distance between two economic points is a straight line, that if we want to use Federal money to create jobs, the quickest and least expensive way to do it is to fund and fill jobs that are waiting to be done. Funding and filling 500,000 public service jobs goes straight to the heart of the unemployment problem.

Third, the need to tailor jobs to the changing structure of the jobless: The "Jobs Now" program zeroes in on the less skilled, less experienced jobless—the teen-aged, female, growing proportion of the unemployed. Viewing the rising tide of youth and women in the labor force, some observers (including high officials of the Nixon Administration) have concluded that the 4 per cent unemployment goal is "a myth," that "6 per cent is not critical" because unemployment of teen-agers and women does not have a high hardship quotient anyway and that we have to settle for a more modest unemployment target like 5 per cent in order to contain inflation.

Granted, it's tougher to get to 4 per cent than it used to be. But that's no excuse for ignoring the social costs and tensions that go with 10 per cent unemployment rates for blacks, 17 per cent for teen-agers, and over 30 per cent for black teen-agers. Tossing in the sponge and taking a "you-can't-get-there-from-here" attitude, as the White House seems to be doing, is precisely the wrong response.

Fourth, the associated need to do a better job of reconciling full employment with reasonable price stability: If we try to solve the unemployment problem solely through general fiscal and monetary stimulus, the resulting demand pressure will create shortages of skilled workers, generate bottlenecks, and boost prices long before its blessings reach the less skilled and least experienced members of the labor force. To employ them without creating new demand-pull pressures calls for carefully targeted measures like "Job Now" that require, not $2 or $3 of spending, but only $1 (plus administrative expenses) to create $1 of unskilled job opportunity.

Fifth, the need to create productive, not make-work jobs: Myriad public service jobs—in health care, education, public safety, pollution control, recreation, sanitation, urban maintenance and renewal—are crying to be done. But hard-pressed state-local treasuries—depleted by recession—simply cannot cope. These service jobs, being neither supported by expanding revenue sources like the Federal income tax or ear-marked taxes like payroll and gas taxes, nor saleable in the market place like private goods, bring up the rear of the budgetary queue.

The Nixon Administration is fond of scornful references to "dead-end W.P.A. jobs." This reflects not only a woeful ignorance of history but a distressing lack of understanding of the nature and needs of the unemployed. For although youth, women, and minorities do make up a larger part of the jobless today than ten or fifteen years ago, their average level of education and training is significantly higher. As Otto Eckstein has shown, the proportion of the 18–64 age group with education of twelve years or more rose from 48 per cent in 1957 to 57 per cent in 1964 and 68 per cent in 1971. The number of individuals in work and training programs rose from 135,000 in 1964 to over a million in 1969.

But education and training—as well as unemployment compensation, income maintenance, and work incentives for the unemployed—all lose their point unless there are decent jobs for them at the end of the line. It was Calvin Coolidge who made the profound observation that "for a man to have a job, someone has to hire him." He had something there. And "Jobs Now" has something here.

DEATH OF SALVATORE CAMELIO

Mr. BROOKE. Mr. President, last week the Commonwealth of Massachusetts suffered a great loss in the death of Salvatore Camelio, president of the Massachusetts State Labor Council, AFL–CIO.

I had the privilege of knowing the highly respected Salvatore Camelio and his wonderful family for many years. His distinguished son, Augustus Camelio, was an assistant attorney general when I served as Massachusetts Attorney General.

Sal Camelio, as he was affectionately known, immigrated from his native Italy as a child. He began his career as a rubber worker, and served as first president of the Boston Local 25 of the United Rubber Workers. He was active in the founding of the CIO, served on the Wage-Labor Board in World War II, and contributed to the merger of the AFL and CIO in 1958. He later served as State president of the AFL–CIO from 1964 until his death on Thursday of last week.

Sal had many interests. While most of his effort was devoted to improved labor conditions and benefits for the workers of Massachusetts, he was also concerned with health, education, urban problems, and pollution control. He was active for many years in raising funds for the Muscular Distrophy Foundation, and received several awards from the association for his services. He served on the Massachusetts Rate Setting Commission which investigated hospital charges and made recommendations for lower hospital costs. And he spent many active years in programs designed to benefit the elderly.

It is typical of Sal Camelio that on the last day of his life he was at the State House in Boston, fighting against a measure which he felt would be detrimental to unemployed workers in Massachusetts.

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Mr. President, Salvatore Camelio devoted 40 years of his life to the labor movement. His work, and his enthusiasm for it, never ended. He left a lasting and creating mark on the labor movement. Millions of men and women benefited greatly from his tireless efforts.

To his courageous wife and family, and his multitude of friends, I extend my deepest sympathy.

INVASION OF SOUTH VIETNAM

Mr. FANNIN. Mr. President, the invasion of South Vietnam by Hanoi at last destroys any pretense that the war in Southeast Asia is anything more than a naked attempt by a Communist power to destroy a free nation.

In 1968, understandings were reached which led to a cessation of the bombing of the North in return for North Vietnam's recognition of, and respect for, the demilitarized zone provided by the Geneva Conference of 1954. Hanoi has broken its agreement in the effort to break South Vietnam's growing ability to defend its own freedom. In order to help nurture and protect South Vietnam's strength, and in order to protect the withdrawal of American forces from Vietnam, President Nixon has resumed the bombing of the North. Our planes are attacking those elements which directly support the invasion. I believe the bombing will continue as long as the invasion continues. All the North has to do to end the bombing is to leave her neighbor alone. That seems fairly elementary to me.

It seems quite unreasonable to some of the Democratic candidates. Some of the same people first involved in placing South Vietnam's freedom in jeopardy when their party was in power back in the early 1960's, now want to sacrifice that freedom entirely in their efforts to get back in power in the 1970's.

Let it be clear that the issue is not whether to end this war. The President did not start it, and he certainly has worked successfully to end it. The issue is how to end it—in honor or in shame. When we are so close to leaving the people of South Vietnam with the chance to survive, I do not think we need Democratic candidates going about trying to destroy that chance.

PROPERTY TAX—WHAT TO DO?

Mr. GURNEY. Mr. President, over the years, the senior Senator from Kansas (Mr. PEARSON) has worked diligently to provide a retirement of dignity and purpose to the Nation's older Americans. Recognition of his achievement in this area is becoming increasingly apparent, exemplified by his participation in last December's White House Conference on Aging.

Of great concern to Senator PEARSON and me is the heavy financial burden under which increasing numbers of senior citizens are being forced to live. Caught in this unfortunate situation are those older Americans who, having saved all their lives for a leisurely and rewarding retirement, must now spend their savings at a much faster rate than previously anticipated.

The result for these individuals is a far cry from the life they had every right to expect. The result is too often a nightmare of disillusionment and despair.

Unfortunately, increasing taxes, particularly property taxes, is in many cases the chief source of an elderly citizen's financial dilemma. Senator PEARSON has recognized the immediate need for relief of this burden in a perceptive article published in the American Association of Retired Persons' magazine, Modern Maturity.

Mr. President, I ask unanimous consent that the article, entitled "Property Taxes—What To Do?" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPERTY TAXES—WHAT TO DO

(By Senator JAMES B. PEARSON of Kansas)

Of the many burdens older Americans must bear, one of the heaviest is a tax on their homes. In the United States, about 70 per cent of all persons over 65 own their homes, yet the 40 per cent increase in property taxes since 1963 is forcing too many of these 14 million senior citizens to sell the homes which they have worked so long and hard to purchase. This burden must be eased and eased promptly.

This country owes its older citizens a retirement of dignity and purpose, including an active involvement in the mainstream of American life they helped create. Yet, too often, older Americans—particularly those living on fixed incomes such as Social Security, pensions or annuities—have been sent to the sidelines to exist on the edge of an inflation-produced poverty.

The cruel dilemma of the property tax is that it most directly affects the old and the young, for it is the old who have to pay high taxes on low incomes and the young whose education is currently dependent on property taxes. In the United States, 55 per cent of the costs of public education are financed by property taxes. Our reliance on a 19th century tax system to finance a 20th century education places us in the unacceptable position of bankrupting our schools or our homeowners.

We must find a better way to pay for the education of our youth. Decisions in courts and ballot boxes across the country have clearly marked the beginning of the end in our use of property taxes for education. Furthermore, in school districts throughout the nation, voters have been rejecting bond issues for public education. Schools in several states have closed after voters turned down school levies. Many more school systems, some in our largest cities, may have to close during this school year.

In some of the most far-reaching court decisions since the 1954 case of *Brown vs. Board of Education*, state and Federal courts have found that the property tax system of school finance is in violation of the equal protection clause of the Fourteenth Amendment. A California court ruled that taxation of local property to finance schools "invidiously discriminates" against the poor because the quality of the district's schools is dependent on its wealth. In the opinion of the court, a child living in a school district in which property values are low will not have access to educational resources equal to those of children living in wealthier districts. Federal courts in Texas and Minnesota have rendered similar opinions.

I do not believe that we can afford to wait for courts to reform our school finance system. If we do, we may end up with the financial equivalent of forced busing. State legislatures and the Congress of the United States must act promptly to assure adequate financing for public schools and to relieve the unfair school tax burdens placed on some of our people.

Relief can come in several forms. I have proposed legislation to provide a Federal tax credit to all citizens over 65 who pay real or property taxes. This bill is still pending and I am optimistic that it will pass during the second session of the 92nd Congress.

In his State of the Union address, President Nixon promised that he would make "revountionary recommendations" concerning school finance and property taxes. He has directed the President's Commission on School Finance, the United States Treasury and the Advisory Commission on Intergovernmental Relations to devise new methods for financing public education.

While it is too early to speculate on possible recommendations, I am confident that the Administration will offer a sound and equitable alternative to our current system of educational finance. The President and the Congress working together must devise a financially sound and equitable method of paying for schools. They must provide adequate revenue for education and relief for hard-pressed taxpayers.

Among the hardest pressed American taxpayers are elderly homeowners who have few opportunities to ease their tax burdens with writeoffs and tax credits. They pay, and pay in full, for education and other public services. We must heed their clear signal of distress. We must act now to provide an alternate system for financing education—on the state and, most importantly, on the national level.

Reduced property taxes would most certainly ease the financial strain on older Americans, while increased Federal aid could help provide a quality education for all children of our country. Clearly, we owe this to our old as well as our young.

THE NORTH VIETNAMESE INVASION OF SOUTH VIETNAM

Mr. McGEE. Mr. President, the current North Vietnamese offensive, which is not limited to just South Vietnam alone but also includes Cambodia and Laos, has long been predicted.

It was felt by many that the North Vietnamese would launch a massive offensive during this election year in an effort to embarrass the administration or promote domestic pressure on the President no matter how small a success the enemy forces experienced.

I think it is appropriate, at this point, to note that the North Vietnamese construction of a major infiltration route across the DMZ is in violation of the 1954 Geneva accords providing for a demilitarized buffer between North and South Vietnam and the 1968 understandings which led to the cessation of U.S. bombardments against North Vietnam, provided that respect for the status of the DMZ was maintained.

There are many in this country who may be tempted to criticize what they envisage as an escalation of the air war on our part. But I hasten to point out that we made clear in negotiations leading to this bombing halt that we considered respect for the DMZ as a situation in which there would be no firing of artillery, rockets, or mortars from, across, or within the DMZ and there would be no movement across or within the DMZ.

Hanoi's latest invasion across the DMZ is a clear and blatant violation of the 1968 understandings. It is also important to note that throughout the period of buildup for the anticipated offensive the United States showed great restraint.

We tabled a comprehensive eight-point peace proposal with sweeping provisions for a settlement fair to both sides even as we knew that these offensive preparations were underway. We leaned over backward to show our will for peace and genuine desire to bring the conflict to an honorable end. The invasion across the DMZ has been Hanoi's response. Under these circumstances the United States must respond with its air and naval power in support of the South Vietnamese.

I think all of us should be in agreement that so long as Hanoi persists in this invasion, in violation of the 1954 Geneva accords and the 1968 understandings, we must support the Saigon forces with our air and naval power.

To those who would say that the current invasion spells the doom of the Vietnamization program, I would warn all to await the outcome of the battle. The occupation of territory in South Vietnam by a massive North Vietnamese invasion force for a limited duration of time does not dispel administration claims that Vietnamization has taken hold in South Vietnam. On the contrary, the real test of Vietnamization will rest with the question of whether the invasion can be repelled or not.

ALASKA FISHING INDUSTRY

Mr. STEVENS. Mr. President, I have received some facts and figures which I believe will be of interest to the Senate and to the general public. They indicate the number of people in Alaska directly concerned with the fishing industry, particularly salmon fishermen. The statistics appeared in the Anchorage Daily Times of March 20, in the column "Tell It to Bud."

There are 14,370 Alaska residents who are commercial fishermen and 7,718 nonresident commercial fishermen. Approximately 11,718 of these 17,088 fishermen fish for salmon.

Although it is impossible to determine from what area outside of Alaska the nonresident commercial fishermen come, according to Mr. Roy Rickey, director of the division of commercial fisheries, a considerable number of the Bristol Bay gillnet fishermen come from California. He also indicates that a sizable number of halibut fishermen, shellfish fishermen, and gillnetters come from the Puget Sound area.

These facts and figures indicate the sizable number of fishermen employed in the Alaska fishing industry. They also indicate how many of these fishermen come from other areas of the United States. All these people have a distinct economic stake in the fisheries of Alaska. They are all directly concerned with the size of the fish runs available to them.

Therefore, I do not exaggerate when I indicate that this valuable resource is immensely important, not only to the people of Alaska, but to fishermen and their families from throughout the entire Western United States. In fact, not only the fishermen themselves, but also their families, and the merchants and townspeople who directly depend upon them for their business, have substantial interests in the well-being of our fishing industry.

Many Senators and Representatives have introduced legislation to solve the numerous problems facing the fishing industry. I myself have done so. I have mentioned these facts and figures to indicate that the problems of the fishing industry in Alaska affect not only Alaskans, but people throughout the entire United States who must depend, directly or indirectly, upon the Alaska fishing industry for their livelihood.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

WAR POWERS ACT

The PRESIDING OFFICER (Mr. MANSFIELD). In accordance with the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senator from Virginia is recognized.

Mr. SPONG. Mr. President, I would like to take this opportunity to summarize some of the points which have been made during this debate. I believe that it is important to summarize these points at this time, because all Members of the Senate should be aware of them as they vote on various motions and amendments, a number of which are designed to weaken or defeat this bill.

First, the sponsors of this legislation believe the war power is a shared power: That responsibility for making war was granted by the framers of the Constitution to both Congress and the President. I discussed this in detail in a Senate floor statement on March 29 and referred to certain aspects of the shared responsibility on yesterday. Briefly, I and the other sponsors of this legislation believe the framers of the Constitution intended for Congress to declare war, that is, to determine when our troops should initiate hostilities abroad, when U.S. Armed Forces should be involved in offensive actions, and that the President should serve as Commander in Chief, conducting the war.

During this debate, we have said that there are certain constitutional authorities which the President has: To repel attacks on the United States and its troops or the threats of imminent attacks on either, to rescue U.S. nationals abroad who are endangered and to act pursuant to congressional authorization. We do not believe these prerogatives can be modified by legislation and we do not seek to do so. In fact, we seek to reaffirm them.

Likewise, however, we also seek to reaffirm the right of Congress to declare war. Such declarations—or at least the effectiveness of such declarations—are closely related to the deployment of troops and the committing of troops to hostilities. Thus, we who support this bill believe the Congress must have a role in the committing of U.S. soldiers and sailors to hostilities in order to render effective the power to declare war.

We are aware of the fact that Congress has tended not to act in the past, that Congress itself has created a void into which a number of Presidents have stepped. But we do not believe that the situation which has resulted—basically one of presidential hegemony—is what the framers of the Constitution intended or what is in the best interests of preserving the balance of powers in our Government.

Because this balance should be preserved, the pending legislation has been offered. It is designed to permit the President to take those actions necessary to defend our Nation, our troops, and our citizens, but to give Congress a voice in changing our Nation's status from peace to war.

Furthermore, we believe we have the authority to reaffirm the powers and to establish a means of carrying out these powers through the necessary and proper clause which permits us in Congress both to make the rules and regulations necessary for carrying into effect our own powers and to make the rules and regulations necessary for the carrying into effect "all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

We who support this legislation do not believe that it is, in and of itself, a panacea for all our problems. We do not suggest that we have thought of all particular contingencies which may arise in the future. But, what we have provided in this bill is a set of procedures, a methodology which will facilitate both the Congress and the President in the exercise of the war powers which were granted to each by the Constitution. I believe this is a particularly important point and I wish to reemphasize it. We are not in this legislation praising or condemning any policy. We are not attempting to foresee every situation which may occur in the future. But, we are seeking to delineate a process for dealing with those situations.

And, we believe that having such a process is not only preferable to the situation we have today, but also in line with the intent of the framers of the Constitution and necessary to the balance of powers which is an inalienable part of our governmental tradition.

Turning from the constitutional aspect of the problem to the practical aspect, I would like to call the attention of my colleagues to several points.

One is that a disagreement over the committing of our Armed Forces to hostilities can be a deeply divisive issue in our Nation. It seems to me that both for

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the stability of our country and in order to reassure our allies of our determination to maintain positions, it is far more sensible to have a commitment based on both congressional and executive consultation than one which creates tension among our branches of Government and between our Government and our people.

From the very thorough study undertaken by the Subcommittee on Security Agreements and Commitments Abroad, chaired by the distinguished Senator from Missouri (Mr. SYMINGTON) we know that our Nation has extensive treaty commitments and a multitude of major—375—and minor—3,000—military installations abroad, which make it very possible that U.S. forces could become involved in some type of hostilities in the future. What we who support this bill are seeking is a means for dealing with those possible situations, should they arise—a means which will involve both Congress and the President.

A second matter involves whether the judgment of one man, the President, and his advisers, is preferable to the judgment of many men including the President and the Congress. I do not believe that either the President or the Congress possesses a monopoly of wisdom or perfection. And, I believe the chances of our making grim mistakes, of venturing unwittingly into undesirable situations, of acting in a manner we will later regret, are far less likely when we have had the benefit of debate and the consideration of many men.

As I indicated earlier, this does not mean that the President should not be permitted to act quickly in emergency situations, that he should be precluded from acting in a crisis as the situation requires. Indeed, that is not only permitted, but expected under the bill.

But, we also expect, and believe on a practical basis, as well as the constitutional one discussed earlier, that it is far better for us as a people and for our Nation as allied with many other governments to have a decision resulting from deliberations and consultations of both Congress and the executive branch.

Mr. McGEE. Mr. President, yesterday I submitted an amendment to the War Powers Act which would establish a National Commission on U.S. Foreign Policy, National Commitments, and War Powers.

The main reason for submitting my amendment is that I sincerely feel that the War Powers Act does not go far enough in arriving at a workable mechanism for decisionmaking in the world of 1972 as it attempts to redress what the proponents of S. 2956 feel has been an abuse of the legislative branch's war powers role by the Executive.

As I emphasized yesterday, my amendment in no way alters the substance of S. 2956, the Javits bill, but is rather a supplement or addition to the bill.

I shall outline briefly what my amendment entails. It would establish a 24-member commission, 12 members to be appointed by the President from private life. In addition, the President of the Senate and the Speaker of the House would each appoint six Members from their respective Chambers, three from the majority party and three from the minority party.

The President shall select a Chairman of the Commission from among the public appointees.

The Commission would submit a report on its review not later than 2 years after funds are first appropriated to carry out this section.

Since the world situation and relations among nations have vastly changed since our Founding Fathers drafted the Constitution in 1787, and since questions have arisen as to the respective constitutional powers of the executive and legislative branches of our Government, with respect to the formulation of U.S. foreign policy, national commitments, and war powers, I believe that it is essential that a comprehensive review of these questions be conducted by our best minds of diverse backgrounds and philosophies.

It would be up to the Commission to determine whether, and to what extent, if any, revisions are necessary in the Constitution, laws, and decisionmaking processes of the United States as they relate to the formulation of our foreign policy, national commitments, and the war powers. Their recommendations would then be submitted by the President to Congress for its consideration and such action as was deemed necessary.

In other words, my proposed amendment would commission a study which would go far beyond the issue of war powers, now being debated by the Senate.

CHECKING AND BALANCING OUR SYSTEM OF GOVERNMENT—EXECUTIVE AND CONGRESS

Mr. HUMPHREY. Mr. President, I rise to register my support for the war powers legislation sponsored by Senators JAVITS, EAGLETON, SPONG, and STENNIS. They are to be commended for laying before this body a proposal which represents a profound and fundamental contribution to our system of Government.

This legislation is in keeping with Congress' constitutional authority and responsibility. In fact, it restores the spirit and the letter of the Constitution to our system of Government. Article I, section 8, compels the Congress to make all laws necessary and proper for the carrying into execution of the executive power of the President. The war powers bill of 1971 is an attempt to do just that—to regulate by statute for the first time in the constitutional history of the United States, the conduct of the shared executive and congressional power with respect to war and the entry into war. The bill takes into account the types of hostilities which have occurred in the history of contemporary warfare. Through shared power between the executive and legislative branches of Government, this legislation now before us would enable our Government to react responsibly and democratically in times of crisis.

It is astonishing when one considers the fact that with a few technical minor exceptions, no President has ever proposed, and no Congress has ever yet legislated, on this vital subject. We are finally coming to grips with a responsibility which the Constitution has laid at our doorstep, but which we, as legislators, have been too timid and too preoccupied to carry out. It is a matter of profound regret that we should do this only, because of the insistent demands of the Vietnam war and the sharp realization now of the need to do what we should have done long ago.

At least we now have the opportunity to implement appropriate reforms. S. 2956 attends to the sharing of constitutional authority for the use of our Armed Forces in specifically defined circumstances. Last July 1971, I introduced legislation to establish a Joint Committee on National Security (S. 2290) which would have the overall responsibility of studying and planning for appropriate policies affecting our national security. It would permit Congress to have the direct input which is necessary for it to exercise its constitutional role of approving measures undertaken by the President in such national security related areas as national defense, treaties, foreign policy, foreign assistance, and CIA activities. These two bills complement one another in an effort to make necessary adjustments in our system of Government which our contemporary society requires.

Aside from the inherent legal justifications for the war powers bill of 1971, there are the urgent demands of the time which necessitate its enactment. There is national disappointment and dismay over Vietnam. The people of this country have a deep sense of guilt, and a conviction that we have compounded a gross national error. I agree.

The temptation in this body may have been strong to search for scapegoats for those errors. It may still exist in certain quarters of our Government, but most of us have rejected any attempt to impugn the motives of American leaders or the American public. We did this once before, in the McCarthy era, when the Senate of the United States demeaned itself by providing a favorable climate for the most irresponsible demagogic effort to expunge a sense of national guilt by pushing the label of traitor on those who were responsible for the Communist victory in the Chinese civil war.

Now, however, this body is taking much more responsible action. Instead of looking to the past, it is examining the future. Instead of searching for victims, it is attempting to construct a machinery for the proper sharing of war powers if the need should arise. I applaud this measure. I am gratified that this Nation is turning the lessons of Vietnam into positive guidelines and is avoiding the kind of recrimination and sickness which marked our disappointment over the failure of earlier policies in the Far East in the 1940's and 1950's.

The bill before us establishes rules of practice. There is no intent here to alter constitutional allocations of power. There never was any question in my mind that the original version of S. 2956 allowed for continued U.S. participation in NATO, the United Nations Command in Korea, and the North American Air Defense Command. There was never any doubt in my mind that the President would not be impeded from exercizing his power as Commander in Chief. To clarify whatever doubts some Members of this body may have had in this regard,

Senator JAVITS introduced and the Senate unanimously accepted three amendments which should serve to remove any shadow of a doubt.

Some critics, nevertheless, still contend that this catalog of unimpaired Presidential authority is too restrictive. They have warned us that history provides an amazing variety of unexpected events, and chains of circumstances, and that for Congress to lay down a set of conditions under which the President can act on his own is to exclude unilateral Presidential authority on all other occasions.

Of course it is. And this is among the most significant purposes of the legislation. It states that a President may act under certain conditions on his own, but that in all other circumstances he must have the authority of the Congress. In short, he may defend the territory of the United States and its Armed Forces and its citizens. But in all other situations, he must act in conjunction with the Congress.

In my judgment, the Constitution goes no further. The President has the authority as Commander in Chief to repel attacks against the United States. He does not have unilateral authority, occasionally in the past asserted for him, of going beyond this. The President is inhibited by the Constitution of launching an attack on the armed forces or territory of another country in defense of America.

It may be granted that there will be circumstances beyond the three conditions set forth in section 3, where the country ought to move, and to engage in hostilities. S. 2956 merely provides that to do so, the Congress' responsibility must also be engaged. The choice will not and should not be for the President alone.

Some say that the Congress cannot adequately discharge this responsibility. They have noted the general movement toward increasing executive responsibility, and constantly reduced congressional involvement in the war/peace choices, and have concluded that this is an inevitable consequence of the ponderous nature of the parliamentary machinery. Congress, they say, is inadequately equipped to hurdle the challenges of war and peace in this country. The President, so this reasoning goes, must have unilateral authority, because Congress cannot move.

In my judgment, this conclusion is grossly unfair and incorrect. Congress can move and act responsibly when it is consulted, when it is given a chance. History shows this to be true, even though the record may not be flawless. The flaws are as much due to executive mishandling and misrepresentation as to congressional inepititude. The Tonkin Gulf resolution is a case in point where Congress was asked to approve action already initiated by the executive branch. It was asked to accept information which the Pentagon papers discredit.

The Tonkin Gulf resolution brought us massive American military involvement in Indochina. Its repeal has served to expedite withdrawals. Congress can better seek to avoid this kind of action which announced Vietnam in the future if it has the legal and institutional machinery to prepare for crises and avert them with caution. The war powers bill provides the legal framework. Other legislation, such as the bill to establish a Joint Committee on National Security, which I introduced, would provide the operational framework. I intend to introduce additional legislation to provide for an independent informational arm of the Congress, supplying the kind of nonexecutive branch resource input Congress needs to make decisions based on an in-depth analysis.

In Congress and throughout the Nation there is a receptiveness and even a demand for a change in our institutions of Government. We all recognize this mood and many of us welcome it as an enlightened epoch in American history. An indication of congressional preparedness for the acceptance of an evolving world is in the debate now underway to restore the balance of responsibility between our executive and legislative branches of Government. The war powers bill would move dramatically in that direction.

To those who say Congress is not ready to be trusted with more responsibility, I say it never was more ready. This is not a time to wipe out Congress' engagement with constitutional authority, but a time to implement it fully.

There are others who say that Congress is not equal to the task because it lacks essential information on which to base sound judgments involving the Nation's commitment to emergencies, hostilities, and war. But the fact that Congress has been denied information is in part the responsibility and fault of the executive itself. We have all seen the increasing jealousy of the executive department over information pertaining to our national security. The knot is growing tighter and tighter. It is increasingly difficult to get the facts from the White House and from the Departments of State and Defense.

An increased flow of information and vastly expanded body of knowledge to the Congress are essential along the lines I have already suggested. In more immediate terms, the executive branch could provide more information with very little difficulty. To start with, classification procedures in the executive have isolated Congress, the public, and even our own Government officials from each other. They have resulted in the rarification of our decision process at a time when it should be simplified and open. Were the Joint Committee on National Security established, it would immediately address itself to this problem and make recommendations to be implemented without delay.

Moreover, the war powers bill would serve to correct the sporadic flow of information between the Executive and Congress once an outbreak in hostilities involving American Armed Forces was underway. Section 4 of the bill requires the President to report promptly to Congress and give a full accounting of the circumstances surrounding the hostilities. Thereafter, the President would be required to report periodically to Congress. Were such a measure in effect during our involvement in Vietnam, there would likely have been a greater spirit of trust and confidence between the President, his officers, and the Congress than there is today. The only way to restore the confidence which has been lost is through the kind of regulated communication set out in S. 2956.

There is no argument, therefore, for opponents of the war powers bill to say, on the one hand, that Congress cannot discharge its warmaking responsibilities under the Constitution, because it lacks information, and at the same time refuse to produce that information.

I have no doubt that Congress needs to be better informed. For this purpose we will, I hope, shortly enact House Joint Resolution 1 and S. 2290, essential companion measures to S. 2956. House Joint Resolution 1 will lay the basis for an expanded flow of information as to the disposition of the U.S. Armed Forces abroad and other commitments which could lead toward the hostilities with which S. 2956 deals. House Joint Resolution 1 is an essential complement and companion measure to S. 2956, as is the Humphrey bill to establish a Joint Committee on National Security, S. 2290.

The purpose of the war powers bill is to arrest the trend toward absolute Presidential authority in war decisions, and to make those decisions once again a matter of shared responsibility. It is essentially to change the nature of the Presidency, and to steer the Nation away from dangers and difficulties toward which we have been heading.

The Presidency in the last 10 years has tended increasingly toward an ever more-dominant role. Presidents have increasingly sat at the apex of executive authority. They have, as I have indicated, increasingly monopolized and restrained the flow of information vitally affecting and describing the disposition of our Armed Forces and commitments in war matters. And they have increasingly relied on White House staffs, immune from congressional interception, for decisions affecting whether this Nation engages in hostilities of such consequence as Vietnam.

These trends have had serious consequences. In the first place, the entire responsibility for the success or failure of our military efforts abroad has in effect been transferred to a single person. The monopolization by the President of war decisions also tends to politicize them. The Presidency, by definition, is an institution of one party. The Congress represents both. To engage the Congress in the warmaking decisions is to involve both parties and to create a true bipartisanship.

I have witnessed the exercise of warmaking authority at both ends of Pennsylvania Avenue for several long and difficult years. They have been trying years, both personally and for the entire country. I have been privileged to sit in this Chamber, and watch the Congress of the United States, on occasion, deliberate with great wisdom and perception the most serious questions of disarmament, NATO, and weapons appropriations. I have seen this body enact other legislation funding this country's involvement

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in foreign adventures, ignoring its constitutional responsibilities by convincing itself that it was merely funding the executive's programs. In fact, this results in underwriting those programs and making them its own.

We have seen Presidents, impelled by overwhelming political demands on that office in these times, gather unto themselves the control of information, monopolize the decisionmaking within the executive branch, concentrate that process increasingly in the inner recesses of the White House.

Now that we have the wisdom and luxury of hindsight, let us stop and restore what is missing in our Government—congressional participation. The time has come for this legislation.

The time has come for Congress to exercise its responsibilities to make laws necessary and proper for the conduct of the authority of the President under the Constitution, as well as the duty of the Congress to declare war and make rules and regulations for the governance of the Armed Forces. The time has come for us to face up to the lessons of Vietnam, to legislate, as well as foresight can allow us to legislate.

It is said that to inject the Congress into the great decisions of our foreign affairs is a mistake. It is said that the Congress cannot handle such matters. It is said that history reveals that Congress' involvement is in most instances unfortunate and does not help the cause of peace and international order—witness, some critics say, Congress' crabbing attitude toward the League of Nations, the neutrality acts of the 1930's and its enactment of the first World War II draft law by a single vote.

My answer to this is that the record of the Executive, if one is prepared to be honest about it and examine all the pages of our history, is very little better. The Mexican War, the Spanish-American War, and now Vietnam demonstrate that the White House does not have all the wisdom of this Nation in warmaking decisions. And by the same token, Congress' contribution to a constructive foreign policy has not been trivial. SALT, the Peace Corps, or Arms Control and Disarmament Agency, Public Law 480, all originated with my close association in the Congress.

I grant that our procedures are inadequate. I grant that our information is shockingly limited. I grant that our ways of doing business are outmoded. We must change. We must organize ourselves effectively to discharge the responsibilities which the Constitution has laid out for us for almost 200 years.

I am convinced we can. And I have no doubt that, once the new relationship for the discharge of warmaking responsibilities provided by S. 2956 are established, the United States will be better equipped to meet the awesome challenges of the world community than it is now. It will be better prepared to meet the needs of its own people.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

ORDER FOR LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS ON MONDAY, APRIL 10, 1972

Mr. ROBERT C. BYRD. Mr. President, with the concurrence of the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Virginia (Mr. SPONG), and by authorization of the distinguished majority leader, I ask unanimous consent that, on Monday next, April 10, 1972, immediately following the period for the transaction of routine morning business, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, April 10, 1972, with the laying before the Senate of the unfinished business, the time on the pending motion by the distinguished Senator from Nebraska (Mr. HRUSKA), to refer the bill to the Committee on the Judiciary, begin running and be equally divided between and controlled throughout Monday and until adjournment on Monday by the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguished Senator from Virginia (Mr. SPONG); provided, further, that a vote occur on the motion by the distinguished Senator from Nebraska at the hour of 2 p.m. on Tuesday next, April 11, 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, this agreement is with the understanding, of course, that the pending motion to refer may be set aside by unanimous consent at any time prior to the hour of 2 p.m. on Tuesday next, for the purpose of debating and/or acting upon other amendments to the pending unfinished business or for the transaction of other business.

Mr. HRUSKA. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. Under the proposed unanimous-consent agreement, this Senator would be concerned as of now only with such unknown requests for time for the purpose of debate and discussion under the terms that would be accommodated by agreement between the Senator from Virginia and this Senator; is that correct?

Mr. ROBERT C. BYRD. Yes, that is correct. The agreement with respect to the contro: of time pertains only to Monday next. There is no control of time today. There is no control of time on Tuesday next. Of course, the motion which is pending is the motion of the Senator from Nebraska. To set that aside temporarily would require unanimous consent, and in accordance with the agreement now agreed to, the vote on the pending motion will occur on Tuesday next at 2 p.m. The agreement also precludes any motion to table the pending motion to refer.

Mr. SPONG. May I ask a question of the distinguished Senator from West Virginia?

Mr. ROBERT C. BYRD. Yes; certainly.

Mr. SPONG. I think he was clear on this point, but all the time on Monday next, in the absence of a unanimous-consent agreement, will be controlled by the Senator from Nebraska and the floor managers of the bill, is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HRUSKA. Mr. President, may substitutes be designated for the Senator from Virginia (Mr. SPONG) and the Senator from Nebraska in the event the the presence of either of us is required away from the Chamber?

Mr. ROBERT C. BYRD. Mr. President, I modify my unanimous-consent request so as to provide that the time be controlled by the Senators named or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the two Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine business for not to exceed 30 minutes, with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. HRUSKA. Mr. President, on behalf of the distinguished senior Senator from North Carolina and myself, I have moved that the proposed "War Powers Act," S. 2956, which is now the pending business of the Senate, be referred under rule 26.1 to the Committee on the Judiciary for further study and subsequent reporting of the committee's views on the bill to the Senate.

To begin with, Mr. President, I wish to clear up any question about this motion being an effort to kill this bill. It is no such thing. Regardless of the suggestions made to the contrary, Senators should not base their votes on the assumption that a vote in favor of this motion is a vote to kill S. 2956. Such a vote is instead a vote to see that a bill raising far-reaching constitutional issues receives the fullest consideration in the proper forum before its fate is finally decided.

Mr. President, a number of points have been made on both sides of this motion prior to today. This continuing debate has been most useful. I wish today to speak further on several of these points, and to respond to some of the statements made by opponents of this motion.

The very extensive consideration given this bill by the Foreign Relations Committee is both recognized and appreciated. But does this mean that further consideration is not in order? On the contrary, the floor debate on this bill thus far makes it plain that the version produced by the Foreign Relations Committee is far from satisfactory to a number of Senators, and with good reason. The proponents of this bill say, however, that further committee study is not necessary. It has been maintained that just because a bill raises constitutional issues does not mean that the Judiciary Committee should thereby have cause to examine it. A "Dear Colleague" letter has been circulated which quotes the majority leader and the chairman of the Armed Services Committee to the effect that under no circumstances should S. 2956 be referred to the Judiciary Committee.

Mr. President, what are the supporters of this bill afraid of? If it is as sound as they claim, it will certainly survive additional scrutiny by the Judiciary Committee. And if it is not, should we not do everything possible to improve the bill before it faces a final Senate vote?

This bill deals with a most fundamental question, one of the cornerstones of the U.S. Constitution. Its proponents describe S. 2956 as an effort to restore the balance of power between the executive and legislative branches on the use of armed force by this country. Viewed in their words alone, this is more than just a bill "which deals with constitutional questions," to use the words of one of the bill's chief sponsors. This proposal goes to the very heart of the doctrine of the separation of powers. There is, therefore, no doubt of the desirability and propriety of having this bill studied by the Judiciary Committee. This bill is a prime example of why the Senate has created the Subcommittee on Separation of Powers which, under the leadership of the distinguished Senator from North Carolina, has performed outstanding services in analyzing proposals dealing with this fundamental constitutional principle.

Mr. President, I have no desire to prejudge this bill without a fuller examination into the constitutional questions it raises. Referral to the Judiciary Committee will provide such an examination. But certain difficulties with S. 2956 and the arguments urged in its support are already obvious. To begin with, those who favor this proposal would have us believe that some form of legislation is needed to preserve for the Congress its rightful role in warmaking decisions. This is a premise which can be seriously contested.

Under the Constitution the power to declare war, to raise and support the military, and related powers, are vested in the Congress. The power to command and to deploy the Armed Forces is vested in the President as Commander in Chief. As Prof. Eugene Rostow pointed out in a debate with Prof. Alexander Bickel at Yale Law School last October, this is a typical example under our Constitution of divided power which is also shared. There are many other examples as well.

There are numerous instances in our history in which Presidents have deployed American Armed Forces outside of the United States in a way which invited hostile retaliation from a foreign power. Congress has on some of these occasions acquiesced in the President's action without formal ratification; on others it has ratified the President's actions; and on still others it has taken no action at all. On several of the occasions, individual Members of Congress, and, at the close of the Mexican War, one House of Congress, on a preliminary vote, have protested Executive use of the Armed Forces. While a particular course of Executive conduct cannot conclusively establish a constitutional precedent in the same manner as it would be accomplished by an authoritative judicial decision, a long-continued practice on the part of the Executive, acquiesced in by the Congress, is itself some evidence of the existence of the constitutional authority necessary to support the practice. As stated by Justice Frankfurter in his concurring opinion in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610:

> The Constitution is a framework for government. Therefore the way the framework is consistently operated fairly establishes that it has operated according to its true nature. Deeply embedded traditional ways of conducting government cannot supplant the Constitution or legislative, but they give meaning to the words of the text or supply them. 348 U.S. at 610.

The historical examples have been marshalled in numerous recent studies of the President's power, and I will but summarize some of them briefly.

President Jefferson, in 1801, sent a small squadron of American naval vessels into the Mediterranean to protect U.S. commerce against the Barbary pirates. He was of the view that for these ships to take offensive, as opposed to defensive, action, congressional action would be necessary. Yet it is worth noting that by dispatching these warships to the Barbary Coast to protect U.S. commerce from piracy, Jefferson invited retaliation.

In 1845 President Polk ordered military forces to the coast of Mexico and to the western frontier of Texas in order to prevent any interference by Mexico with the proposed annexation of Texas to the United States. Following annexation in 1846, Polk ordered Gen. Zachary Taylor to march from the Nueces River which Mexico claimed as the southern border of Texas, to the Rio Grande, which Texas claimed as her southern boundary, and beyond. While so engaged, Taylor's forces encountered Mexican troops, and hostilities between the two nations commenced on April 25, 1846.

There had been no prior authorization by Congress for Taylor's march south of the Nueces. Justice Grier, in his opinion in the Prize cases, commented on this fact, stating:

> The battles of Palo Alto and Resaca de la Palma had been fought before the passage of the act of Congress of May 13, 1846, which recognized "a state of war as existing by the act of the Republic of Mexico." 2 Black 634.

In 1854, President Pierce approved the action of the naval officer who bombarded Greytown, Nicaragua, in retaliation against a revolutionary government that refused to make reparations for damage and violence to U.S. citizens. This action was upheld by Justice Samuel Nelson, a Justice of the Supreme Court of the United States, sitting as a Circuit Justice in *Durand v. Hollis*, 4 Blatch. 451 (1860). In his opinion in that case, Justice Nelson said:

> The question whether it was the duty of the President to interpose for the protection of the citizens at Greytown against an irresponsible and marauding community that had established itself there, was a public political question, in which the government, as well as the citizens whose interests were involved, was concerned, *and which belong to the Executive to determine;* and his decision is final and conclusive, and justified the defendant in the execution of his orders as Secretary of the Navy. 4 Blatch. 454-455 (emphasis supplied).

In April, 1861, President Lincoln called for 75,000 volunteers to suppress the rebellion by the Southern States, and proclaimed a blockade of the Confederacy. These actions were taken prior to their later ratification by Congress in July 1861. The Supreme Court upheld the validity of the President's action in proclaiming a blockade in the Prize Cases.

In 1900, President McKinley sent an expedition of 5,000 U.S. troops as a component of an international force during the Boxer Rebellion in China. While Congress recognized the existence of the conflict by providing combat pay, it neither declared war nor formally ratified the President's action.

Similar incidents in Central America took place under the administrations of Presidents Theodore Roosevelt, Taft, and Wilson. Naval or Armed Forces were sent to Panama, Nicaragua, and twice to Mexico in the first two decades of the 20th century. On none of these occasions was there prior congressional authorization.

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Prior to the Vietnam conflict, the most recent example of Presidential combat use of American forces without congressional declaration of war was President Truman's intervention in the Korean conflict. In many senses, this is undoubtedly the high-water mark of Executive exercise of the power of Commander in Chief to commit American forces to hostilities.

Following the invasion of South Korea by the North Koreans in June 1950, and a request for aid by the United Nations Security Council, President Truman ordered air and sea forces to give South Korean troops cover and support and ordered the Seventh Fleet to guard Formosa. Ultimately 250,000 troops were engaged in the Korean war which lasted for more than 3 years.

President Truman relied upon the United Nations Charter as a basis for his action, as well as his power as Commander in Chief. The fact that his actions were authorized by the United Nations Charter, however, does not reduce the value of the incident as a precedent for Executive action in committing U.S. Armed Forces to extensive hostilities without a formal declaration of war by Congress. The United Nations Charter was ratified by the Senate and has the status of a treaty, but it does not by virtue of this fact override any constitutional provision. *Geofroy* v. *Riggs*, 133 U.S. 258; *Reid* v. *Covert*, 354 U.S. 1. If a congressional declaration of war would be required in other circumstances to commit U.S. forces to hostilities to the extent and nature of those undertaken in Korea, the ratification of the United Nations Charter would not obviate a like requirement in the case of the Korean conflict.

Presidents have likewise used their authority as Commander in Chief to deploy U.S. forces throughout the world. Critics of President Wilson claimed that his action in arming American merchant vessels in early 1917 precipitated our entry into the First World War.

Similarly, President Roosevelt's critics have asserted that various actions he took to aid the allies in the year 1941 played a part in our involvement in the Second World War. Whatever substance there may be to these criticisms, the Presidential actions do stand as the constructions placed by those two Presidents on their power as Commander in Chief of the Armed Forces.

I do not contend that these historical precedents establish the principle that the President alone has authority to deploy and commit American Armed Forces abroad. I mention them for the purpose of demonstrating that throughout our history our Presidents have, on occasion, deployed American forces without first obtaining congressional authorization. To be sure, our recent Presidents have engaged in the same practice, but in view of the similarity between the practices followed this century and last it cannot be validly contended that congressional authority has eroded in recent years. Far from demonstrating any weakness in our system, the events of the last 200 years confirm the wisdom of the flexible design set out in the Constitution.

Obviously this is an area in which cooperation between the President and Congress is vitally important. The suggestion that the power of Congress has somehow "atrophied" is untenable. If Congress had occasion to complain of President Truman in 1950, it had equal occasion to complain of President Polk in 1846.

The framers did not set up a checkerboard of rigidly marked alternately colored squares with one color assigned to the President and the other to Congress. They designed a more flexible plan for joint responsibility which left room for "play at the joints." Indisputably belonging to Congress alone is the decision as to how much money shall be appropriated to the raising and supporting of U.S. military forces. Indisputably belonging to the President alone is the power to repel sudden attacks, the power to determine how hostilities lawfully in progress shall be conducted, and the power to protect the lives and safety of U.S. forces in the field. The middle ground is understandably less clearly delineated, but there are guideposts based both on historic usage and the language of the Constitution which shed light on the proper allocation of responsibility in particular cases. More than this the framers wisely did not attempt; and I seriously question whether their decision on this point should, even if it could, be reversed by enactment of legislation now pending before the Senate.

The enactment of legislation which would lay down specific guidelines as to the respective constitutional roles of the President and Congress runs counter to each of these principles, and it is because of this that I am most concerned about the pending measure.

Before us now is this bill designed to define the limits of the President's authority in this area. This is, so it is claimed, a restorative measure, offered to insure that Congress may freely exercise those powers the Constitution and the courts have said it already has. But in attempting to make specific what the Constitution has left general, and in trying to define in advance the outer limits of the President's authority to act in the interest of national security, S. 2956 charts a precarious constitutional course.

Congress cannot by legislation draw to itself power meant to be shared at the least, and at the most to be exercised by a coequal branch of Government. If S. 2956 does this, it is unconstitutional. If it does not, it amounts to a useless surplusage which could easily lead to misunderstanding both within and outside this country.

Does the power of Congress to participate in the warmaking process need to be restored? I think history argues to the contrary. There have been close to 200 instances in which this country has employed military force. There have been but five formal declarations of war during this period, with perhaps six additional congressional authorizations. This Senator is compelled to agree with Professor Rostow, who asserted during the previously mentioned debate with Professor Bickel at Yale that there has been no substantial change in recent years in the pattern of constitutional usage regarding the division of the war powers between Congress and the Presidency.

Mr. President, only yesterday an article appeared in the New York Times by Eugene V. Rostow, who, as we all know, is professor of law at Yale and author of the forthcoming book "Peace in the Balance: The Future of American Foreign Policy." I read from the article:

> The Javits war-powers bill confirms Oliver Wendell Holmes' quip that "great cases like hard cases make bad law" more vividly than any proposal since that of the Bricker Amendment. Responding to Vietnam, the Javits bill would radically change the constitutional relationship between Congress and the Presidency in making foreign policy. Ignoring their own repeated votes for Vietnam, the sponsors contend that the cause of the Vietnam tragedy is a modern usurpation of the war power by the President. As Senator Cooper points out, this claim rewrites history.
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> The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.
>
> The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.
>
> But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.
>
> The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.
>
> With admirable candor, Senator Javits has said that the purpose of his bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as an equal branch of the tripartite government, to the humble posture of George Washington during the Revolution, when he functioned as Commander in Chief, appointed by the Congress, and its creature in every respect.
>
> Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.
>
> I do not favor increased Presidential power. But I do defend the constitutional pattern of enforced cooperation between Congress and President we have inherited. Its corollary, however, is democratic responsibility. It is unseemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They knew everything the executive knew. But even if they had been brainwashed, their votes stand. The Fourteenth Amendment is not a nullity because it was ratified by many legislatures which voted under circumstances of fraud, or the coercion of military occupation.
>
> Korea and Vietnam did not come about because the Presidency abrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crises, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency, it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. President, with that characterization of the pending measure, as currently made by a renowned scholar of the law, and particularly international law, there can be no doubt that there should be a referral of this measure to the Judiciary Committee for a greater exploration of its constitutional aspects. Certainly, if the bill would turn the clock back "to the Articles of Confederation and emasculate the independent presidency" in the fashion described and characterized by Professor Rostow, grave constitutional questions do persist. They permeate the legislation and this entire debate. There has not been that degree of inquiry into the constitutional aspects to which the subject is entitled.

Mr. President, the hearings in this instance are quite extensive. It had been represented to this Senator that the constitutional aspects were gone into with great care and in some depth. There were six members of the academic community who testified in favor of the bill and of its constitutionality, whereas only one such member of the scholastic world—to wit, John Norton Moore, professor of law at the University of Virginia—testified against it. He was joined, to be sure, by George Ball, who is an eminent authority but, nevertheless, not considered in this field as a member of the scholastic fraternity or of the university community.

While I single out these six authorities as being for the bill and one as being against it, I do not mean to derogate in any degree the excellence of the testimony of the other witnesses who testified either for or against the bill, and particularly the rather imposing list of our colleagues in the Senate and in the other body who testified on it.

But, Mr. President, I repeat, testifying for this bill from the professorial field were: Henry Steele Commager, professor of history at Amherst College; Alfred H. Kelly, professor of history at Wayne State University; Alpheus T. Mason, professor of political science at Princeton University; Alexander Bickel, professor of law at Yale University; and Arthur J. Goldberg, former Ambassador to the United Nations.

So there are six very eminent authorities in this field at least, except for the Honorable Arthur Goldberg, who are from collegiate circles, and from the circles of the universities and colleges, having professorial rank.

On the opposition, in addition to the Secretary of State and George Ball, there is only the name of John Norton Moore, professor of law at the University of Virginia.

Mr. President, I would not consider this—nor would any other reasonably minded—and intended individual—a fair balance in the effort to try to canvas in depth the constitutionality of the measure toward which their testimony was directed.

As a matter of fact, if a census were taken—if we want to depend on numbers—the work of those eminent scholars of international law and of the Constitution would very likely dominate the negative of the proposition on which evidence was adduced before the Foreign Relations Committee.

Certainly Prof. Eugene Rostow, whom I have already quoted at some length; Dean Erwin Griswold, currently the Solicitor General of the United States and at one time dean of the Harvard Law School; Eberhard Deutsch, of Louisiana; the works of Dean Acheson, the works and the testimony of Dean Rusk, of James McCracken Burns, and others that could be added to the list, would testify to that conclusion.

The names I have mentioned, I mention pretty much from memory and as a quick reference to that part of the file now at my podium here in this Chamber. I would like to add to this list of scholars, the names of Prof. Bernard Schwartz, Prof. Abram Chayes, and Prof. Quincy Wright.

Mr. President, I am most fearful that what we have in S. 2956 is not an effort to restore atrophied authority—an authority which is as alive and viable now as it was when the Constitution was framed—but is instead an attempt to amend the Constitution by a simple legislative act. I do not speak to the wisdom or the method by which S. 2956 would do this—others have already addressed this issue and will continue to do so. Perhaps I shall join them at a later time. In connection with the pending motion, however, the Senator from North Carolina and I are chiefly concerned with the legality of this proposal. As I have already stated, this issue demands further exploration by the Judiciary Committee, an exploration which is found sadly and grossly wanting in the record.

On April 4 the distinguished Senator from Arizona pointed out on the Senate floor that the committee which reported S. 2956 heard from but two professors of law on this proposal. With due deference to the distinguished figures from whom the Foreign Relations Committee did hear, I urge the Senate most strongly not to allow this measure to move further toward final passage without the benefit of additional comment from more of the many law professors who have made the Constitution their life's work.

Cases have been put forward in support of this legislation which, in the opinion of this Senator, represent extremely dubious legal precedent. A prime example is the case of *Youngstown Sheet and Tube* Co. v. *Sawyer*, 343 U.S. 579 (1952). This decision related to a purely domestic effort to take over the major steel mills of this country. If the case stands for anything at all, it is the reaffirmation of the President's authority to act as Commander in Chief in response to external threats as expressed in the following language from the opinion by Justice Jackson:

> We should not use this occasion to "circumscribe," much less to contract, the lawful role of the President as Commander-in-Chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society.

Other cases such as *United States* v. *Midwestern Oil Company*, 236 U.S. 459 (1915), are not only of questionable support for the limitations drawn in S. 2956, but may actually provide precedent for the opposite point of view.

These cases and all other relevant decisions need to be analyzed and placed in their proper perspective by recognized constitutional scholars. Existing bodies of opinion need to be gathered within a logical framework of study. The Judiciary Committee is the place to do this, Mr. President, not the Senate floor.

I note with appreciation that the proponents of S. 2956 are not unwilling to amend their bill themselves in an effort to improve it. In spite of their earlier protestations to the contrary in response to defects described on the floor by opponents of the bill, yesterday the chief sponsors of this measure agreed to change it in several important particulars. As a further manifestation of their desire to produce the most effective and constitutionally compatible legislation possible, I would hope that the supporters of S. 2956 will join in this motion to refer the pending measure to the Committee on the Judiciary. This will guarantee that the bill will receive the benefit of the best available thinking on this subject, which the evidence and the record plainly indicate that it has not yet had.

Mr. President, I understand 2 months elapsed between the time this bill was ordered reported and the time a report was actually agreed upon. It seems to me that this fact reflects only in part the complexity and far-reaching nature of this legislation. And yet, after all this deliberation and study which was preceded by a volume of testimony as extensive as we have here, the bill has been amended by its sponsors with a few days

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of floor debate under the Senate's belt. Some may call such an act a concession—others might call it an admission. Whatever it is called, it appears clear that the consideration of this bill within the Foreign Relations Committee did not resolve all the questions which are raised by this legislation.

Mr. President, in all fairness it should be said that there never is a time when all questions that are raised on any major piece of legislation can be solved or thoroughly canvassed. But with the lack of resolution of many major fundamental principles which are very close to the continued functioning and existence of the Constitution as it has been applied and developed over the years and when those principles are not followed and when those questions are not resolved, then in that case I think the Senate should in all due conscience vote to refer the bill to the Committee on the Judiciary so that fuller inquiry and analysis can be achieved.

Reasonable men often differ on questions of great moment. During the hearings on S. 2956 and other bills, the approach taken in this legislation was generally supported by Professor Bickel of Yale, and opposed by Professor Moore of the University of Virginia—both men distinguished legal scholars. This type of disagreement is not new. But the fact that there is some basic disagreement on what Congress can do under the Constitution by attempting to legislate in this area only underscores the fact that we must proceed with great caution.

Mr. President, a little bit ago reference was made to the fact that there were some seven figures from the professional world who testified. Six of them testified in favor of the bill and one testified against it. I made the statement following that reference that there were only two professors of law, and so there were. And those two professors of law who testified on the bill before the Senate Foreign Relations Committee were the professors I have just named, Professor Bickel of Yale Law School, and Professor Moore of the University of Virginia.

Certainly it cannot be considered that the testimony of only two law professors, two authorities who have devoted their lives to the law and who have made the continual study of law their life work, is a representative or a wide enough discussion of the legal issues involved in this very complex problem.

When reference to the Committee on the Judiciary is accomplished, that list can be expanded and an analysis made of the testimony that will be given on the proposition of the legality of the proposal before us in its impact upon the Constitution and its very likely infringement upon it and violation of it.

We will soon celebrate our 200th year as a Republic. The basic war powers provisions in the first two articles of our Constitution have remained as the guiding principles throughout our history, throughout the almost 200 incidents where armed force was employed by this country outside its borders. It is late in the day for us now to proclaim that we must have legislation now to improve this balance of power, to somehow make it balance better. Mr. President, either something balances or it does not balance. And as I read the Constitution, the balance is there—and has been all along. The Congress has been playing its role all along, through the use of the purse-strings, regulation of the size of the military, and expressions of viewpoints either in accord with or in opposition to policies taken by the executive branch. If the results have not always turned out to our liking, this does not mean that the Constitution is at fault. It could be ourselves, acting through our duly constituted representatives either in Congress or in the executive branch.

If it is felt that the provisions of the Constitution dealing with war powers are, indeed, in need of revision, let us then approach this subject in the proper fashion. We have amended the Constitution from time to time. It can be done again, if need be. But I do not believe bills like S. 2956 can legally be utilized to do this. In all frankness, I do not expect my opinion on this subject to be taken as the last word. But there are several scholars in the law who have already expressed similar concern, and undoubtedly others exist who would join them if given the opportunity to do so.

Mr. President, it is imperative that the Senate learn where the true weight of opinion lies on this critical question. Referral to the Judiciary Committee provides the ideal and proper means of accomplishing this purpose. It is for this reason that I urge the adoption of the motion offered today by this Senator on behalf of himself and the Senator from North Carolina.

Mr. GURNEY. Mr. President, although the proponents of this war powers bill claim that it is not their intention "to alter, amend, or adjust—the intent of the framers of the U.S. Constitution," this piece of legislation obviously tries to enumerate what the Founding Fathers deliberately left vague—the respective warmaking powers of the executive and legislative branches of our Government. The implications of such legislation go far beyond the realm of foreign policy; ultimately they touch upon the question of separation of powers as provided in article I, section 8 and article II, sections 1 and 2 of the U.S. Constitution. Since this is the case, I think that not only should the Foreign Relations Committee study the bill, but also the Senate Judiciary Committee which normally studies such matters. I, therefore, support the motion to refer this bill to the Judiciary Committee.

The Foreign Relations Committee report we have before us presents a picture of a clear and "explicit" constitutional delineation between the powers of the President and of Congress in the matter of declaring war. But, to take the point of view—as the committee report does—that Congress has the power to initiate war while the President simply is limited to having the responsibility for conducting the war once it has been declared, is both narrow and simplistic. Such an interpretation tries to eliminate the constitutional questions involved by not taking into account the fact that there are many situations in which the use of Armed Forces—or strategic movement of them—may be both essential and helpful to the conduct of foreign relations by the President. For instance, the Founding Fathers certainly did not intend that the right of the President to deploy troops to act as a deterrent to aggression or to be used in the exercise of diplomacy, be curtailed. Yet, this would be the net effect of this bill. Moreover, it was not the intention of the Founding Fathers to restrict the executive power of the President to conduct foreign relations or to protect U.S. citizens and interests, in situations not serious enough to require a declaration of war.

In addition, the 30-day time limit, in and of itself, raises questions of constitutionality. The Constitution has no such time limit, and as the distinguished Senator from Kentucky (Senator COOPER) has pointed out, if the President's power as Commander in Chief is constitutional, then how can an act of Congress constitutionally curtail it. Conversely, if the President does not have this authority, then Congress cannot delegate to him powers he does not possess. Congress already has, as Senator COOPER has pointed out and as a recent court decision—Orlando against Laird—has implied, the power of the purse available, should it wish to circumscribe presidential actions in this area. To expand this power by statute is, therefore, a constitutional as well as a foreign policy matter, and it should be considered in this light.

Those who favor this bill should recognize the appropriateness of referral to the Judiciary Committee. Practically everyone agrees that the purpose of this bill is to enhance the warmaking powers of Congress with respect to the President. Certainly the report of the Foreign Relations Committee reflects this opinion. And the principal sponsor of this bill, the distinguished senior Senator from New York, Senator JAVITS, clearly indicated that separation of powers was the issue here when he stated in a speech to the American Bar Association last February 5:

> Congress has learned from experience that it must devise practical new means for exercising in relation to "limited" and "undeclared" wars, the war powers reserved to it in article I, section 8 of the Constitution.

To the extent that these "practical new means" come into conflict with prerogatives that have been exercised by the President, we have—as I think everyone will agree—proposals that affect the separation of powers between the executive and legislative branches of our Government. This being the case, there is no reason for the Judiciary Committee not to examine the constitutional implications now that the Foreign Relations Committee has had a chance to look at it from a foreign policy standpoint. The fact that separation of powers questions have traditionally been of great concern to the Congress makes such an examination all the more appropriate.

As the distinguished Senator from Arizona, Senator GOLDWATER has brought to light with some diligent research, the United States has used its military forces almost 200 times, five declared wars and 192 undeclared—eight of which involved actual fighting and 45 of which might be classified as major conflicts. These involvements have received the support of Congress and in a number of instances over the last 25 years Congress has given the President authority to use Armed Forces in a specific area by enacting a series of so-called area resolutions. The best known of these was the Gulf of Tonkin resolution, but there are others covering the Taiwan Straits, Cuba, Latin America, and the Middle East. Therefore, it cannot be said that Congress has not participated in, and been an integral part of, our recent military involvements.

This point is important to any discussion of the executive powers of the President which, of course, are the crux of the question here. In a 1952 case—Youngstown Co., against Sawyer—the Supreme Court had to rule on the extent of the President's powers as Commander in Chief. And, while the Court ruled that the President could not exercise that power to nationalize the steel industry, Justice Felix Frankfurter did point out, in a concurring opinion that:

> A systematic, unbroken, practice, long pursued to the knowledge of Congress and never before questioned, engaged in by Presidents who have also sworn to uphold the constitution, making as it were such exercise of power part of the structure of our government, may be treated as a gloss on "executive power" vested in the President by section I of article II.

Certainly, the warmaking practices of the Executive have been "systematic" and "long pursued to the knowledge of Congress" without much question until just recently. Therefore, it would seem that the legislation contemplated here raises serious constitutional questions that should be considered by the Judiciary Committee as well as the Foreign Relations Committee.

For a little over a year now, I have been a member of the Judiciary Committee. During that time, I have seen that committee spend a good deal of time on questions involving separation of powers; in fact, the subcommittee on separation of powers held hearings on four major topics of that type last year alone.

For instance, in January 1971 the subcommittee took testimony on a bill, S. 1642, which, by defining adjournment, spells out the pocket veto power of the President as set forth in article I, section 7 of the Constitution. If that misuse of the adjournment procedure could violate the separation of powers provided for in the Constitution, detailed study of its possible impact certainly was, and is, appropriate.

In March 1971 another bill, S. 2581, came before the Separation of Powers Subcommittee. This bill concerned Presidential impoundment of funds and the possibility that such impoundment might erode the powers of Congress as set forth in article I, section 7 on which the argument for such Presidential power is based. The goal of these hearings was to determine the extent of impounding, the reasons for it, and the constitutionality of it.

In July and August of last year the question of executive privilege came up again before the Separation of Powers Subcommittee. The bill in question this time was S. 1125, which provides that executive privilege may be invoked only if the President signs a statement approving it and giving the reasons for it. The bill reflects a deep concern that the powers of the President under article II, section 3 of the Constitution are being used in such a way as to erode the principle of the separation of powers. Specifically at issue is: the power of the President to withhold information that otherwise might interfere with the performance of his duties, the power of Congress to obtain information in order to legislate effectively and, the public's right to be informed.

Finally, the practice of issuing Executive orders came in for closer scrutiny. In question were two bills that would have prevented the implementation of Executive Order 11605 which gives the SACB the power to hold hearings to determine whether or not organizations are subversive. The constitutional questions involved are whether such Executive orders usurp the legislative power of Congress as set forth in article I, section 7 and 8 and possibly abridge the first amendment right to freedom of speech.

If we are going to be consistent in holding hearings on questions involving separation of powers, keeping in mind the upcoming hearings on treatymaking powers, it would seem only appropriate that this war powers bill, which is just as much, if not more, a separation of powers issue than the five just mentioned, be referred to the Judiciary Committee in order that its constitutional implications might be fully considered.

Now I am aware, of course, that the sponsors of this bill are opposed to committing it to the Judiciary Committee. As a member of the Judiciary Committee and the Subcommittee on Separation of Powers, this opposition is incredible to me.

Whether one favors or opposes the concept of war powers legislation, everyone here must agree that this legislation presents major constitutional separation of powers questions, more so than any legislation this Congress has or will consider. It is deserving of the closest examination by a number of constitutional scholars and by the Committee on the Judiciary. Indeed, the foreign policy implications of this legislation are no more important than the question of the power of the Congress vis-a-vis the President.

If this legislation is as legally practical as its sponsors contend, then why their haste to make changes on the floor? If this legislation is legally sound, then what is there to fear from a careful examination of its constitutional implications? Nor need such a review represent an untoward delay in a final vote on this measure. I am sure that the committee will hold prompt hearings and move the legislation along most expeditiously.

It would seem to me that debate here on the floor of the Senate can only be improved were we to have the benefit of such an examination of the constitutional aspects of this bill.

I support the motion of the distinguished gentleman from Nebraska (Mr. HRUSKA) in his motion to commit this legislation to the Judiciary Committee.

Mr. EAGLETON. Mr. President, yesterday's Kansas City Star contained an editorial in support of the War Powers Act. The editorial is entitled "To Assure a Role for Congress in War-Making Powers."

The Star correctly describes the War Powers Act as legislation which would assure the role of Congress in the decision to go to war and not restrict the President in his use of power to repel attack on our Nation or our citizens abroad.

This editorial recognizes the serious imbalance that has developed in our governmental system in the field of war-making. It correctly states that this legislation would "provide the American people a clear voice on whether our manpower and other national resources shall be invested in future combat ventures."

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TO ASSURE A ROLE FOR CONGRESS IN WAR-MAKING POWERS

Should the President be able to commit the United States to war without specific boundaries on his powers to do so? The question has become increasingly important during the undeclared war in Vietnam. Many members of Congress have come to see a need to define this aspect of presidential authority. Yesterday the Senate began considering legislation which has that purpose.

The bill is a compromise of proposals by a Republican, Sen. Jacob Javits of New York, and two Democrats, Sen. John Stennis of Mississippi and Sen. Thomas Eagleton of Missouri. It has a strong chance of being approved despite the objections of President Nixon. He has termed the idea "a very great mistake . . . when situations can change so fast internationally that to wait until the Senate acts before the President can act might be . . . too late."

But the proposal in its present form would not bind the President all that tightly. True, the measure would require specific congressional authorization before the President could send American forces into hostilities. But it is a flexible requirement in that there are three situations which would not need prior authorization from Congress. The chief executive could act to repel attack on U.S. territory and armed forces, forestall threat of attack, and to retaliate. Congress then would have 30 days in which to endorse the President's action. If it declined to do so, he would have to recall the troops. One of three amendments adopted by the Senate yesterday would permit committed forces to keep fighting beyond 30 days if the President certified a necessity to protect troops during efforts for prompt disengagement.

This procedure would not take effect if Congress used its constitutional power to declare war. But Congress has declared war only five times: The War of 1812, The Mexican War, the Spanish-American War, World War I and World War II. Yet, between 1789 and 1971, U.S. forces went into military action overseas on more than 150 occasions. Of these, the Korean War from 1959 to 1963 and the Vietnam intervention from 1966 to the present were by far the most important.

The current move in Congress to define the war-making authority of the President

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stems directly from the Vietnam experience. That fact caused Senator Stennis to observe:

"The last decade has taught us, if it has taught us anything, that this country must never again go to war without the full sanction of the American people. The only practical way for all parts of the nation to participate in such legislation is through the Congress."

This view is valid. Senator Stennis, who is chairman of the Armed Services Committee, has in mind situations in which the United States has a choice of going to war. There would be no application in the event of an attack on this country. Then the President would use his power to order defensive and retaliatory measures in the assurance that Congress would support his actions. That would be no real limitation on the constitutional authority of the President as commander-in-chief.

Still, the Nixon Administration views the Senate bill as overly restrictive. If legislation of this nature is to be enacted, the White House would prefer something along the line of a war powers resolution already voted by the House. The resolution calls for the President to consult Congress before sending Americans into armed conflict abroad but recognizes his authority to defend the nation and its citizens without specific legislative approval in extraordinary and emergency circumstances. These circumstances are not spelled out in the resolution.

For Congress to declare itself on war powers is in order. An imbalance has developed in the American federal system in the field of warmaking. The legislation being considered would tend to correct this imbalance. For it would provide the American people a clear voice on whether our manpower and other national resources shall be invested in future combat ventures. It can provide a restraint against being precipitated into other Vietnam-type situations without real public understanding of what is involved.

QUORUM CALL

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, as the time for the Senate to make its decision on S. 2596, known as the war powers bill, draws near I feel obligated to make my position perfectly clear.

First of all, it should be understood that I favor war powers legislation in principle. Indeed, even the executive branch has repeatedly stated its position that it does not oppose certain war powers legislation which has already passed the House of Representatives by a substantial majority, House Joint Resolution 1. There is, therefore, a general consciousness of the need for some legislation in regard to war powers. The administration does, however, oppose S. 2956. I join in that opposition.

My feeling on war powers legislation grew out of experiences I had while serving as Governor of my State between 1963 and 1967. On at least three occasions during that period President Johnson called various Governors from across the country to the White House to be briefed on events occurring in Vietnam and the facts back of his decision to involve this country in that conflict. It became obvious as I listened to the President on these occasions that here was a man who made a difficult decision, a decision that caused him great personal agony, and a decision he felt needed as broad understanding and support as could possibly be generated.

On numerous occasions, during and after the briefings that the President accorded the Governors, he made it possible for, and in fact I think in ways encouraged, Governors to make statements supporting his position in Vietnam and more or less urged us to do all we could to unify our States behind this national effort.

It became clear to me during that period that the present system, which had been used in bringing about our involvement in Vietnam, was clearly unsatisfactory to the President and was clearly unsatisfactory to the country, because the country had not unified behind the President, and it was clearly not adequate for the Congress, because very little opportunity for debate had been accorded that body. The passage of the Gulf of Tonkin resolution had been accomplished in such a short span of time that the reasons back of it were never understood.

As a result, also, the Congress continued to be divided. There were many Members of both the House and the Senate who repeatedly spoke out against our involvement in Vietnam, and, as a result, a very serious division grew up inside the country, which, in the opinion of many, including myself, finally caused the end of the President's political career.

So it was obvious to me at that time, and it is still obvious, that there is a need for a better system of obtaining national understanding of decisions that lead to the involvement of American Armed Forces in combat, and also a better need for an orderly procedure for Congress to unify behind the President or to refuse to do so. That is the reason I have favored the war powers legislation principle, but I find many deficiencies in this bill which caused me to decide to vote against it.

Many months ago, on May 14, 1971, the Secretary of State testified before the Senate's Committee on Foreign Relations with respect to war powers, and particularly with respect to the specific proposals which have resulted in S. 2956. He said then, that this particular bill is unconstitutional and unwise. It is worth bearing in mind that the Secretary of State is a distinguished lawyer, and a former Attorney General of the United States.

I am not a lawyer, but I have great respect for the opinions of the Secretary of State and others who have addressed themselves to the question of the constitutionality of this legislation.

From my study of those opinions with respect to the bill's constitutionality, it appears to me that the bill provides that the President may not even defend the territory of the United States itself for longer than 30 days, unless Congress expressly authorizes a continuation beyond that period. The Constitution, on the other hand, clearly contemplates that the President may take all necessary action to defend the territory of the United States with every available resource, and so long as necessary, without requiring special congressional authority.

The Founding Fathers could hardly have contemplated anything else. The only professor of constitutional law who testified for the bill in the committee hearings himself raised doubts that the President could be limited in this regard. Senator COOPER of Kentucky, a member of the Committee on Foreign Relations who recorded his individual views in the committee's report on S. 2956, also has pointed out that Congress lacks authority to restrict the exercise of presidential authority in this regard.

I sincerely believe that any attempt so to alter our constitutional system, which has long withstood the test of time, should not be undertaken without the most careful study. The issue goes to the heart of our constitutional system. A resolution of the issue requires—and indeed commands, that we bring to bear upon it the full intellectual resources of our society. I believe it is folly indeed for us to believe that we can today spell out in precise words all of the crises and emergencies which might arise in the future which would necessitate quick military action by the President. Indeed, the sponsors of S. 2956 themselves have proven the unworkability of the concept on which it is based. Having studied the matter for a year, and having had many days of hearings before the Committee on Foreign Relations, they were compelled this week to offer three separate amendments to cure obvious defects in the bill which even their learned and attentive study had failed to correct previously. And it is clear that these amendments still leave substantial gaps, and raise further questions. If all of this effort and study has produced a bill which fails to cover even those crises and emergency situations with which we are historically familiar, how can we be confident that the bill will be adequate to provide for future crises as yet unimagined. And on the issue of survival, we need more than confidence. We need certainty, or as close to it as human ingenuity and wisdom can bring us.

To be specific in only a couple of instances, I should like to call the attention of the Senate to line 25 on page 7 of the bill, which reads, in part, just preceding that:

or in situations where imminent involvement in hostilities is clearly indicated by the circumstances—

And then the word "only" is added.

To me that so restricts the President's powers to use the Armed Forces of the United States as to seriously jeopardize our national security and independence.

Also, there is language in line 17 on page 8 which reads:

but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country...

To me those are restraints that would so limit and could so weaken any action the President might wish to take that they are an obvious invasion of the powers of his Office, and I seriously doubt that the Congress would be wise in undertaking any such course of action.

Apart from being unconstitutional and unwise in concept, the bill has very substantial practical defects. Serious questions have been raised as to whether the bill would permit the President to make military deployments in furtherance of our diplomatic and foreign policy interests without specific congressional authorization. A number of Senators have concluded, as I have concluded, that it does appear to restrict the President's power in this regard. As a result, enactment of this bill would raise serious questions as to our ability to act as required in any future crisis situation in the North Atlantic Treaty area, particularly one involving Berlin, or in an emergency in the Eastern Mediterranean.

The sponsors of the bill have sought to give reassurance in this regard, relying on the continued existence of the resolutions on Formosa, the Middle East, Cuba, and, presumably, Berlin. It is stated by the sponsors of the bill that these resolutions constitute the necessary express authority of Congress permitting the President to use Armed Forces in emergencies in those areas. A quick review of those resolutions proves that such reliance would be incorrect. The Middle East resolution, for example, which incidentally is 15 years old, specifies that:

The United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism.

One can readily envision various crises which could arise to which this resolution clearly would not be applicable. The other resolutions are likewise considerably narrower than claimed by the sponsors of S. 2956. The legislative history of the Cuban resolution shows that it was not intended to authorize any particular future action; the Formosa resolution is 17 years old and addressed to a set of circumstances no longer fully pertinent; and the Berlin resolution, also 10 years old, simply expresses the sense of Congress and does not embody any specific statutory authorization. In light of the history, limitations, and age of these resolutions, the administration as much as 2 years ago officially stated its position that it would not rely on any of these resolutions as a source of authority for any decision in those areas in the future. Thus, contrary to the statements of the sponsors of S. 2956, the enactment of that bill would effectively impair the President's ability to act responsibly and effectively in those areas.

It is incumbent upon us to recognize that the question of war powers is a grave matter. It is not to be treated lightly. The administration is not alone in feeling that it is a subject worthy of the most considered study. The assembly of the American Bar Association on July 7, 1971, ordered a study and the preparation of a report as to the respective powers under the Constitution of the United States and the President and Congress to conduct and enter into war. That study is now in progress. Senators BEALL and MCGEE have both proposed during the current debate the establishment of a Presidential commission to study thoroughly the question of the allocation and exercise of constitutional war powers. I believe all thoughtful citizens must feel that this subject is one with respect to which action should be taken only after the most careful study and searching analysis.

I sincerely hope that the Senate will not act precipitously in the war powers field by passing S. 2956. The Senate has before it a substantial war powers bill already passed by the House of Representatives which, were it to be adopted by the Senate, could become law very quickly. I am persuaded that no other course is prudent, I am convinced that no other course would effectively serve and protect the interests of the American people. That is why I will support the motion to send this measure to the Judiciary Committee for its consideration.

Mr. President, there is no question that the decision to commit or not to commit American troops to combat is one of the greatest burdens that the President of our country ever faces. Undoubtedly, this was in the minds of our predecessors who drafted the Constitution, and who required that Congress share in bearing this burden and in making this decision. Clearly, events since our Nation was formed have shown that we need a new system, a new set of procedures for making the decision as to whether or not to enter combat, because the formal declaration of war, under modern conditions, may or may not be feasible.

But, as I have said earlier, I feel that the legislation we have before us is deficient in so many regards, and I feel that the consideration which it has been given has been so limited, that we would be acting in haste if we were to act affirmatively on this matter at the present time, and therefore I shall cast my vote to send this measure to the Committee on the Judiciary for its consideration.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. GOLDWATER. Mr. President, I yield to the Senator from Minnesota.

(The remarks Mr. HUMPHREY made at this point on the submission of Senate Resolution 292 and on the introduction of S. 3464 are printed in the RECORD, respectively, under Submission of a Resolution and Statements on Introduced Bills and Joint Resolutions.)

Mr. HUMPHREY. I thank the Senator from Arizona for his unfailing courtesy and cooperation.

Mr. GOLDWATER. Mr. President, it is always a pleasure to cooperate with one of my favorite candidates. [Laughter.]

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

WHAT THE FOUNDING FATHERS THOUGHT ABOUT THE WAR POWERS

Mr. GOLDWATER. Mr. President, we will be asked to consider today the question of whether or not the war powers bill is so immersed with constitutional problems that it should be referred for a reasonable period of time to the Senate Judiciary Committee, which is assigned the responsibility of handling changes that require a constitutional amendment. Now, I am not a lawyer, but I believe that one can examine the major constitutional issues present here from the standpoint of history, something that anyone who cherishes the Constitution can read whether or not he has a law degree. For this reason, Mr. President, I plan to devote my remarks on this occasion to a review of what the framers of the Constitution had to say about its purpose when they were developing this Republic and what the experience of almost 200 years of practice and tradition under the Constitution has taught us.

I might start, Mr. President, by recalling that the Constitutional Convention rejected a clause giving Congress the power "to make war" and substituted for it only the power "to declare war." From brief records of the debate, it is quite clear that the framers at least had a purpose of "leaving to the Executive the power to repel sudden attacks." How much else the Founding Fathers meant to leave with the President is not specified in the debate, but it is significant that they had a difference in mind between the two terms and left the making of war with the President.

Mr. President, I believe we can gain some insight into what the framers of the Constitution meant by this change by learning what meaning these separate terms held for them in the 18th century. It does not take a lawyer to know that Samuel Johnson's Dictionary of the English Language was the one word reference then in use by educated people in America. I have obtained an edition of this dictionary which was current at the time of the Constitutional Convention and it is interesting to learn what the meaning of these words was at that time.

The term "to declare" was understood as meaning "to make known" or "to proclaim." The term "to make" was then defined as meaning "to create" or "to bring into any state or condition." This would indicate, Mr. President, that the words "to declare war" were meant to convey a kind of formal notice to the world that would initiate all the attributes of international law which arise with a declaration of war. The power "to make war," which was left with the President, meant that he could bring the Nation into a state of war if that was necessary in the national defense.

My impression is supported, Mr. President, by the fact that Hamilton writes in the Federalist No. 25 that declarations of war, even in the 18th century, were unusual compared with the number of nondeclared hostilities in which nations

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were then engaged. In his testimony before the Senate Committee on Foreign Relations, Professor of Law John Moore confirmed this fact. He mentioned that one study of the years from 1700 to 1870 showed that less than 10 declarations of war were issued during this period, while 107 cases are reported in which hostilities were commenced without a declaration of war. Accordingly, it is quite clear that the framers were aware of a distinction between declared war and undeclared war and yet they chose to confer upon Congress only the limited, specific power "to declare war," not to "make" or "commence" it.

Next, Mr. President, I believe we should review the many passages of the Federalist Papers, where Madison, Jay, and Hamilton focus on the safety of the people as the first objective of Government. I repeat, the safety of the people as the first objective of Government. For example, Jay wrote in the Federalist No. 3 that:

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first.

That the ultimate decision over when to act for the safety of the Nation was left with the President, rather than Congress, is apparent from the writing by Madison and Hamilton in the Federalist No. 19. Here they state that the Constitutional Convention expressly rejected as being too weak the then current political model of the Germanic Empire in which the diet, or legislative body, was vested with the sole power to commence war. In any emergency, they wrote:

> Military preparation must be preceded by so many tedious discussions . . . that before the Diet can settle the arrangements the enemy are in the field.

While the focus of these writings was on the purpose of protecting the national safety, it is also important to consider Madison's instruction in the Federalist No. 37 that the framers intentionally had removed the direction of the military forces from Congress, where it had been deposited under the Articles of Confederation because it is "particularly dangerous to give the keys of the Treasury and the command of the Army into the same hands." Thus, Mr. President, we should observe that the Founding Fathers were concerned not only about depositing too much power with the Executive office, but were also watchful that they did not enable congressional usurpation to occur.

Moreover, Mr. President, we must remember the setting of the times in which the framers ratified the Constitution. We have heard much reference to the experience of the Founding Fathers with the commission given to Gen. George Washington when the Continental Congress appointed him to head the Colonial Forces. Yet, it was this very experience which the Founding Fathers wanted to prevent from ever occurring again under the new Constitution. Prof. David Watson, who wrote a two-volume textbook on the Constitution, found that of all the explanations of why the Constitution should make its President Commander in Chief:

> . . . none seems more reasonable than the fact that during the Revolution, Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy.

We might also review the words of J. H. McIlvaine, writing in the Princeton Review for October 1861, who is quoted by Dean Pomeroy in his great work on constitutional law. According to McIlvaine:

> It was the extreme weakness of the Confederation which caused the war of independence to drag its slow length along through seven dreary years . . . The treaties which the Confederation had made with foreign powers, it was forced to see violated and treated with contempt by its members; which brought upon it distrust from its friends, and scorn from its enemies. It had no standing among the nations of the world, because it had no power to secure the faith of its national obligations.

These historical references give us some understanding of why Professor Moore testified that he believes "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles." Contrary to the position taken by the authors of the bill, the Constitutional Convention was undoubtedly appalled at the difficulties Washington had encountered at the hands of the Continental Congress. Rather than wishing to perpetuate the experience of weakness and division which the country had suffered under the articles, I believe the framers intended to infuse national strength through the new office of the President.

Hamilton bears out this view in the Federalist No. 73, where he writes:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

Nor does the presidential power of direction over the military forces conflict in any way with the purpose of the Founding Fathers to avoid establishing a monarchy. Charles Evans Hughes, one of our great Supreme Court Justices, wrote in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.

Mr. President, the power of the Chief Executive as Commander in Chief has long been interpreted by constitutional authorities as being free of the policy directives of Congress. As early as 1836, John Quincy Adams stated:

> However, startled we may be at the idea that the Executive Chief Magistrate has the power of involving the nation in war, even without consulting Congress, an experience of fifty years has proved that in numberless cases he has and must have exercised the power.

In 1862, William Whiting wrote a book on war powers in which he declared that—

> For the military movements and measures essential to overcome the enemy—for the general conduct of the war—the President is responsible to and controlled by no other department of Government.

Whiting added that the Constitution "does not prescribe any territorial limits within the United States, to which his military operations shall be restricted."

Numerous constitutional writers have shared the same conclusion. Voluminous citations on this subject can be found in two law review articles which I have inserted in the RECORD, one on February 9 and the other on February 15 of this year. I will repeat only two of these now. One is a short quote by Professor Willoughby, who wrote a three-volume work on constitutional law. He observes that the President's power to send troops outside the country "as a means of preserving or advancing the foreign interests or relations of the United States" is a "discretionary right constitutionally vested in him, and, therefore, not subject to congressional control."

The other is a reference to the statement by William Howard Taft, father of the former Senator Robert Taft and grandfather of the present Senator ROBERT TAFT, who wrote in the Yale Law Journal that—

> It is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movements of the Army and Navy.

That was from a statement by Justice Taft.

Mr. President, these citations should be sufficient to show a very grave question of whether or not Congress can set up a mechanism which restrains the situations in which the President can act to protect America's freedoms and the length of time which he will have to do it in. But added to these writings is a remarkable chain of precedents which Presidents have forged over the years. As I mentioned yesterday, there have been at least 197 hostilities in America's history, and only five of them have been declared. It is amazing how little the American people know about this. I have asked the question time and again in various parts of this country: "How many undeclared wars have we had?" I get figures all the way from 15 to 50; and even when I ask rather learned military men, they are always shocked when I suggest that the number is more than 190.

Almost 50 percent of these military actions lasted more than a month and well over one-half took place outside the Western Hemisphere. Though these undertakings have been questioned as precedents for full-scale, modern warfare overseas, they have in fact always involved whatever amount of force Presidents have deemed necessary to accomplish their national defense objectives. The military activities of the past 25 years cannot be omitted from this list simply because it would suit the purposes of those who challenge Presidential power. When these recent incidents, such as the Korean war and the Cuban naval quarantine, are fitted in which the military actions that preceded them, we can notice the development of a consistent line of precedents in which Presidents have always adapted the degree of their military actions to accord with the military technology and capabilities of the times. As the world we live in grew closer together and as scientific know-how multiplied, Presidents have acted in more distant places and with more effective weapons than they did before our Nation was so closely touched by foreign events or before nations possessed such advanced military hardware.

Another point about these 192 Presidentially authorized hostilities that we should notice is the fact that Congress has never once passed a law blocking or ordering a halt to one of them. The question has come up many times and Congress has taken many votes on the issue since the birth of the Nation. The fact that Congress has never before prohibited any Presidential hostility should be given heavy weight in reading the construction which history itself has put on the constitutional allotment of the war powers. For anyone to say that this long-continued arrangement may now be overturned by a sudden reversal of interpretation, demands that they should bear the burden of proving their case by far more extensive evidence than has been offered to date. Indeed, I believe the proponents of the pending bill have an obligation toward the country to open additional hearings on the subject so that a large number of the best constitutional and legal scholars can refine the record on this issue.

Mr. President, I know the sponsors of the war powers bill believe that the declaration of war clause, together with the necessary and proper clause, entitles Congress to set any rules it chooses in the war making field. But, as I have attempted to outline earlier, there are several eminent legal authorities who reject this view. No matter how often the sponsors repeat their claim that the power "to declare war" means the same thing as giving Congress the sole power "to commence war," this does not make it so. And, as for the power of Congress to act under the necessary and proper clause, I have just been given a report by the Library of Congress which concludes that this power has never been and cannot validly be used to limit the war powers of the President. Where the reliance of Congress upon the necessary and proper clause would help the President in carrying out his functions, the Library finds that Congress may act. But where the clause is relied on to restrict a constitutional prerogative of the President, the Library of Congress believes the action is unconstitutional.

Mr. President, I ask unanimous consent to have this report printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. Mr. President, an identical position was taken by Dean Pomeroy in his commentary on the Constitution. He writes that any measures passed by Congress under the necessary and proper clause—

> Must be supplementary to, and in aid of, the separate and independent functions of the President as Commander-in-Chief; they cannot interfere with, much less limit his discretion in the exercise of those functions.

Thus, Mr. President, while I hear the assurances given by some of my colleagues that the pending bill does not interfere in any way with the President's powers, I must respectfully suggest that this is a self-serving analysis that is contradicted by the pertinent writings of many academic authorities on the Constitution. I believe the only safe and proper way we can resolve the issue is to refer the bill to a committee which is long experienced in treating deep constitutional issues of this kind, the Committee on the Judiciary. I shall certainly vote to help bring that about.

Mr. President, I do not intend to be interpreted as being highly critical of the Foreign Relations Committee for having voted this bill out. Earlier, I said that possibly the Armed Services Committee had an equal right to vote it out. I felt all along, and have so stated, that the Judiciary Committee is the only committee in this body that should hear and pass on any constitutional issue so important to our Nation and our Nation's position in the world at this present time.

I certainly hope that we can muster the votes in the Senate to do that.

The Committee on Foreign Relations heard testimony from only one professor who was critical of the bill, which is a grossly unbalanced list. The Judiciary Committee can redress that mistake.

There are at least nine, not one, academic leaders who have recently written against the restrictions on the President's war powers.

They are:

First. Prof. Bernard Schwartz.

Second. Prof. Dean Rusk, with whom I have conferred at great length on this matter, who has served as Secretary of State, who understands this problem thoroughly, and is completely opposed to the way we are going about this.

Third. Prof. Quincy Wright.

Fourth. Prof. Abram Chayes.

Fifth. Dr. James McGregor Burns.

Sixth. Prof. John Norton Moore, who had appeared before the committee. I heard this great international lawyer's interpretation of the high seas and insular seas questioned in the committee. The committee did not agree with him. I suggest that, in all deference to the lawyers on the Committee on Foreign Relations, that a lot more respect should have been paid to his opinions than just to brush them aside and say they did not agree with him.

Seventh. Prof. Henry M. Pachter.

Eighth. Prof. Henry Monaghan.

Ninth. Former dean of Harvard Law School, and now Solicitor General, Erwin Griswold.

Mr. President, this is a very important question, but I have received very little mail on it, frankly. I have queried around among my colleagues, and I find few Senators receiving any mail on the subject, which rather upsets the idea that the Nation is clamoring for this legislation.

Certainly, I believe that the Nation would like to hear and probably will benefit from this debate. It has been carried on in a proper manner. But before we decide that we are going to change the constitutional intent, before we decide that we are going to hamstring the President in his performance of carrying out foreign policy and in the protection of the American people, which is the No. 1 thing, I believe that this matter should receive far, far greater study and consideration in hearings than it has.

In closing, to point up the need for this, within 2 days' debate, the framers of this measure admitted there were three different areas in which they were mistaken, and they made corrections so that it might be a little more palatable to some of us who called their attention to the errors.

Thus, Mr. President, I shall join in voting to send this bill back to the Committee on the Judiciary.

EXHIBIT 1

THE LIBRARY OF CONGRESS
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 13, 1972.

To: Honorable BARRY GOLDWATER.
From: American Law Division.
Subject: Necessary and Proper Clause and Presidential Powers.

This is in response to your request for an analysis of the cases which might indicate whether Congress' power under the necessary and proper clause of the Constitution, Article I, § 8, cl. 18, extends to the degree that Congress might restrict and control the powers vested in the President. The necessary and proper clause, of course, has two aspects in that it authorizes Congress to pass laws to carry out the powers conferred in the previous seventeen clauses of § 8 and in that it further authorizes Congress "[t]o make all laws which shall be necessary and proper for carrying into Execution . . . all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Thus, with regard to such proposals as the "war powers" bill, S. 2956, 92nd Congress, Congress could base its powers on both prongs of the clause. Its own war powers are conferred in clauses 11–16 and it may make a host of regulations governing the disposition of the military forces of the United States, such as the territorial restrictions on deployment of troops contained in the 1940 Selective Training and Service Act of 1940. 54 Stat. 885, 886. That this power could not be extended to infringe on the President's constitutional prerogatives would appear to be obvious. Cf. *Ex parte Milligan*, 4 Wall, (71 U.S.) 2, 139 (1866) (Chief Justice Chase). Line drawing here must, of course, proceed from an assessment of the division of the powers conferred exclusively and those jointly on the Congress and the President.

With regard, however, to the second prong, the Supreme Court has never had occasion to address itself specifically to the powers conferred on Congress by the second part of this clause. It has numerous times noted

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that the clause does not confer any additional powers on Congress but simply makes express what would otherwise be implied, that Congress has discretion to execute the powers conferred. But these decisions have always been in the context of the clause as it relates to the "foregoing Powers." That the clause does confer additional powers on Congress is recognized in such cases as *Neely* v. *Henkel*, 180 U.S. 109, 121 (1901), and *Missouri* v. *Holland*, 252 U.S. 416, 432 (1920), both relating to the power to legislate to carry out treaty provisions, the power to enter into being conferred on the President and the Senate. In the former case, the Court said: "The power of Congress to make all laws necessary and proper for carrying into execution as well the powers enumerated in section 8 of article I of the Constitution, as all others vested in the Government of the United States, or in any Department or the officers thereof, includes the power to enact such legislation as is appropriate to give efficacy to any stipulations which it is competent for the President by and with the advice and consent of the Senate to insert in a treaty with a foreign power." Similarly, congressional authorization for extradition of persons to foreign countries has been based on its power to effectuate treaty provisions. *Valentine* v. *United States ex rel. Neidecker*, 299 U.S. 5, 9 (1936).

It seems clear that this second prong of the necessary and proper clause could not be relied on to invade a constitutional prerogative of the President. *Myers* v. *United States*, 272 U.S. 52 (1926), would seem to be the closest case in point. There, the Court was concerned with a congressional limitation on the removal of persons holding office in the executive branch, an office which Congress had created. Article II, § 2, cl. 2, authorizes the President to appoint "all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: . . ." Here is an express authorization for Congress to make laws to carry into execution powers vested in another department and Congress has exercised it from the first, not only creating offices, but determining the qualifications and the terms of the officeholders and prescribing other standards and restrictions. *Myers* v. *United States*, supra, 264–274 (Justice Brandeis dissenting). Nonetheless, in *Myers* the Court held that the removal of such officers from office was inherently an independent executive power lodged in the President and not subject to limitation by Congress. *Myers* has been limited and much of its dicta restricted by subsequent cases, *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958), but this core concept remains viable.

It must be said that determination of power in this area—what is an independent executive power and what is concurrent—requires close analysis of the Constitution and of precedents. For example, in *Little* v. *Barreme*, 2 Cr. (6 U.S.) 169 (1804), the issue was the lawfulness of a seizure of a vessel bound *from* a French port under a presidential proclamation which authorized such a seizure and under a congressional enactment which provided for seizure only of such vessels bound *to* a French port. Holding the seizure invalid, Chief Justice Marshall said: "It is by no means clear that the President of the United States, whose high duty it is to 'take care that the laws be faithfully executed,' and who is commander in chief of the armies and navies of the United States, might not, without any special authority for that purpose, in the then existing state of things, have empowered the officers commanding the armed vessels of the United States, to seize and send into port for adjudication, American vessels which were forfeited by being engaged in this illicit commerce." But when it was noted "that the 5th section [of the Act of Congress] gives a special authority to seize on the high seas, and limits that authority to the seizure of vessels bound, or sailing to, a French port, the legislature seems to have prescribed that the manner in which this law shall be carried into execution, was to exclude a seizure of any vessel not bound to a French port." Id., 177–178. The seizure was, therefore, invalid. Here, the President was executing his foreign relations powers, which underlay and supported his neutrality proclamation and Congress was executing its power to "make rules concerning captures on land and water." Article I, § 8, cl. 11. A similar conflict apparently explains the result in *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952). Although Justice Black in the opinion of the Court explained that the power to authorize seizures lay with Congress and could not be exercised with authorization, at least four of the six Justices in the majority seemed more interested in the fact that previously the President had seized industrial property under the war powers but that now Congress in the Taft-Hartley Act had specified a procedure of settlement which impliedly negatived seizure as an alternative.

In short, the Court has not spoken much on the second provision of the necessary and proper clause. *Myers* indicates that there is an area of presidential power Congress cannot restrict under that clause, but the contours and boundaries of that area are unclear.

JOHNNY H. KILLIAN,
Legislative Attorney.

Mr. HRUSKA. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, first of all, I want to commend the distinguished Senator from Arizona for the splendid statement he has made. I also want to thank him for his expression in support of the motion which was made to commit this measure to the Committee on the Judiciary, a motion which I made in conjunction with the senior Senator from North Carolina (Mr. ERVIN).

I was especially attracted, during the course of the Senator's remarks, to his reference to the number of scholars who are available, as well as writers and outstanding authorities on the Constitution and on international law, who have not had an opportunity to testify on the bill. The Senator is right. There were only two professors of law who were called upon to testify during the hearings on S. 2956. One of them was professor of law, Alexander M. Bickel, of Yale, who testified for the bill, and the other was Prof. John Norton Moore, professor of law at the University of Virginia.

Now then, when as eminent an authority as Prof. Eugene V. Rostow writes as recently as only yesterday in the New York Times as follows:

> Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.

And in the concluding paragraph of this article, he says:

> The Javits bill would turn the clock back to the Articles of Confederation and, emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Does it not impress the Senator from Arizona anew with the scarcity of legal authority on that subject, having had only two professors of law testify out of that list of great and eminent scholars in this field enumerated by the Senator?

Mr. GOLDWATER. Mr. President, I could not agree more with the Senator from Nebraska. In fact, looking at the list of witnesses who testified in the hearings, there are nearly three pages of people who testified or submitted statements. I have not counted them. However, the list includes Senators who are lawyers, Senators who are not lawyers, some academicians, and some lawyers from outside Congress; and I must say the list is not fairly reflective of the actual division among scholars in this field.

This is one of the things that disturbs me. I might add that in studying the history of this whole problem, one comes back to the early days of our Republic. In fact, I doubt if we have ever spent a year without having the problem.

I have been impressed with the outstanding scholars, outstanding lawyers, and outstanding academicians who have always said, "Let us leave it alone."

When I first got interested in this, I wrote a large number of people—former Secretaries of State, former Attorneys General, and deans of law schools. Most of these people would never agree with Senator GOLDWATER in his philosophy. Yet I did not receive a single letter from any of these people that did not say, "Don't take the legislative route. In fact, don't take any route."

I asked in my letters whether we should amend the Constitution in order to do this. Not one of them said to do it that way. It was unanimous. They said, "Leave it alone." That was the unanimous reply from Democrats, Republicans, liberals, and conservatives.

I think that we would be making a dreadful mistake not to make available to ourselves a far greater source of expertise than we have so far.

I repeat that the very fact that the sponsors of the measure, within 2 major days of debate and after only two of us had spoken, had to come forth with perfecting amendments.

If this legislation had been prepared in such depth as the authors would have us believe, I would suggest that there would be no need for perfecting amendments. As I said when I spoke before, they could amend the hide off this thing and it would not be palatable to me. The only thing that would make it palatable to me would be to send it back to the Senate Judiciary Committee where we could hear some indepth and balanced intelligence on the subject.

Mr. HRUSKA. Mr. President, the Senator agrees with such eminent scholars as Charles Evan Hughes, one of the great Supreme Court Justices, when he said in 1917:

> The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.

Then there is the commentary by Dean Pomeroy when he writes that any measures passed by Congress under the necessary and proper clause "must be supplementary to, and in aid of, the separate and independent functions of the President as Commander in Chief; they cannot interfere with, much less limit his discretion in the exercise of those functions."

Is that not a sufficient red flag of danger and a significant kind of signal to warn of danger by way of impairment or violation of the Constitution which should lead reasonable men to say, "Let's explore these statements in the light of the best legal talent, in the light of lawyers instead of in the light of testimony of political science professors, as talented and as fine as they are, not just in the light of the testimony of historians, as fine as they are, but in the light of legal scholars who are available for testimony in a public forum." It is my contention that the appropriate public forum is the Senate Committee on the Judiciary. That is its assigned duty. That is the proper committee established for this purpose.

Mr. GOLDWATER. Mr. President, I would agree with the Senator. I might pursue his argument a little further. We have been reminded and have been told constantly on the floor that to allow Congress to make war is a democratic process. I suggest that the Founding Fathers very early gave up that basic concept of pure democracy where everyone met in a room and the fellows who walked out alive had won the argument.

We have a democratic-republican form of government, small "d" and small "r." It just happened that the parties eventually came up with those names.

Now under the republican-democratic form of government, we have the men who have been chosen by the people to represent them. They did not choose us because we were particularly adept at determining what war should or should not be waged. They did not choose us because we had any military expertise. I do not think there has ever been a man run for Congress, at least in my time, that ever campaigned on the idea that, "I can fight a war better than the other fellow can fight a war."

We have always recognized that the President has this power to decide on the national defense. And I maintain that he still has the only power to go to war in protection of American liberties. And if the people do not like it, then let us give the people of the United States a chance to amend the Constitution. But let us not try in this body of some 500 people to take over the chores of going to war. Any delay in action when action is apparent is certain defeat.

We are losing the war in Vietnam because we dilly dallied and could never make up our minds whether to act like an army, a navy, or an air force or whether we were going to satisfy the voters in Los Angeles, Chicago, or Timbuktu.

As a result, we are faced with a debacle in a war directed by civilians who know nothing about the operation of an army, navy, or air force.

What would happen to our country if we were forced to put the question to Congress as to whether we should attack? I have often said publicly that one of the chief troubles with South Vietnam is that we do not have enough South Vietnamese living in America.

I can see this becoming a hot political issue. Are we going to war to save the Italians? I would say that we would. Are we going to war to save Israel? I would say that we would, whether we had to or not, because of the political pressures put on this body.

I have often said that I would much rather leave the judgment in running a war to one man who has to live with it than to leave it in the hands of 500 or more men who have to do something about it in order to get reelected.

I want to read one further thing on this. The Senator has mentioned Dean Pomeroy. I would add that Dean Pomeroy also wrote in his textbook on constitutional law that—

> The President may make all dispositions of troops and officers, stationing them now at this post, now at that; he may send out naval vessels to such parts of the world as he pleases; he may distribute the arms, ammunition, and supplies in such quantities and at such arsenals and depositories as he deems best. . . .

Pomeroy continued:

> [A]ll direct management of warlike operations, all planning and organizing of campaigns, all establishing of blockades, all direction of marches, sieges, battles, and the like, are as much beyond the jurisdiction of the legislature, as they are beyond that of any assemblage of private citizens.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Kentucky.

Mr. COOPER. I hope the Senator will agree to the statement I am going to make. I believe we are talking about two things, two courses of action. One is the conduct of the war after the war is commenced. The other proposition relates to our entrance into hostilities.

I would agree with the Senator that once our country has entered the war that it is the constitutional function of the President of the United States as Commander in Chief to conduct the war. I know of no constitutional way by which Congress could direct or control war after it has commenced except by denying the funds to support the war.

This bill deals with the other subject, not the conduct of the war after it has been commenced, but with entrance into war.

The bill lays out that in certain cases the President, without question, has the authority under the Constitution to enter into hostilities to protect our troops against a sudden attack, or to protect our country, or its possessions against a sudden attack, and, if necessary, to be determined by the judgment and discretion of the President, to enter into hostilities in order to forestall an attack which to him appears imminent, again, to protect our country, its people, and its security.

I think there is no doubt about these considerations. I believe the Senator agrees with me on that. But, when we try to evaluate what would happen when there is no attack upon our troops, when there is no attack upon the soil of our country or its possessions, and when there is no attack on our troops even though they are in a foreign land or on the seas, I contend that the decision to enter hostilities lies with the President and the approval of the Congress.

Would the Senator say, in these circumstances the President should have the authority to engage us in war without the approval of Congress?

Mr. GOLDWATER. In answer to the Senator's question, I would say yes. He not only has it; he has had it without any question for nearly 200 years when it is exercised for the defense of national interests, whether the threat is tomorrow or is one that may be more distant. I do not believe an attack necessarily has to be made upon the Continental United States to put us in a predicament of war. In fact, the United States has not been attacked since 1812, except for Hawaii in 1941.

We have gotten into wars all over the world, not necessarily by Presidential desire but because it became obvious that if we did not go to the aid of our allies, our country's freedom and its people would be threatened.

In cases like the world war there is no argument. We talk about sending troops, let us say, to Guatemala. The Senator might say, "What effect does Guatemala have on the United States?" This is a decision the President has to make. I do not think we are equipped to make it.

Then, we would tie the President's hands by saying, "Fine. You have the power to direct troop movements, but after 30 days Congress is going to take a look at this and say whether or not you are right."

My basic argument against that is that we are going back to the days of Washington and the Confederacy when the Revolution was actually prolonged because of bickering in Congress, just as I feel the war in Vietnam has been prolonged by the confusing statements that come from this entire Congress, prowar and antiwar. I think it leaves our enemies in a situation questioning whether or not we are sincere, questioning whether or not we are ready to give up, and whether or not we are going to fight.

I keep remembering the classic remarks after Dienbienphu fell. The remark was that Dienbienphu did not fall to the enemy: it fell at Paris. This is what I am afraid of.

The President could go to war in defense of the Nation against a direct and imminent threat or an actual attack at least, we are not changing that in this language. I agree with that. But a political situation could develop in this country that could be developed by the press, which I have to say is becoming increasingly the creator of issues.

I do not think that Representatives and Senators create issues. It is what Walter Cronkite wants the people to believe or what Eric Sevareid wants the people to believe. How long would it take

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to stir up an "anti" feeling in this country to a war the President felt he was right going into, to the point where Congress would say, "We do not need this war, and let us stop it." This is what the bill provides for. We will begin to lose allies and friends all over the world.

I get back to the Senator's question. I agree that the basic problem we are faced with in the Chamber is two words: One is "make" and the other is "declare."

Those of us who hold the contention that Congress has the right to declare war but only the President has the right to make war are confronted with those who say that declare and make are the the same thing.

In studying the Constitution it becomes obvious to me as a student of history that Congress knew exactly what it was doing when they changed the word "make" to the word "declare." It is for this basic reason I think we are treading on dangerous ground. With all due respect to the legal minds in the Chamber and in the Committee on Foreign Relations, their major job is not in this type legislation, where the major job is more appropriately one for the Commitee on the Judiciary to be thoroughly studying all the constitutional and separation-of-powers ramifications of this matter which the Foreign Relations Committee has not done.

The American Bar Association has begun studying this matter, and we understand that in about a year that leading group of lawyers will come out with an opinion, and it makes us in comparison look foolish trying to decide in 1 week that for 200 years we have been interpreting the Constitution wrong. I hope that answers the Senator's question.

Mr. COOPER. I have listened to a great part of the Senator's speech and it was a scholarly speech. He has made a great contribution to this debate.

Following World War II the debate began on this issue. Our country was very much united and there was little disagreement about what the President could or could not do. But I recall that during the Korean war questions arose about its legality. President Eisenhower, as a candidate said that he would attempt to bring that war to an end, and he had a great deal to do with its ending.

I recall the post-World War II treaties on the floor of the Senate. Many Senators raised the question as to whether the President could go into war as a party to the treaties, without coming to Congress. Curiously enough, some of our citizens who support this bill so strenuously argued the very opposite in those days, saying we should not interfere with the President.

My position is the same as the one I held in 1954, when we argued the question of the meaning of the term "constitutional processes" under the United States-Korea bilateral treaty. Senator Watson of Utah, Senator STENNIS of Mississippi, and I argued that it meant the President should come before the Congress.

I will summarize. I think it is clear that once we are engaged in war, only the President as Commander in Chief can command our forces and direct them.

I did not agree with the 30-day period in the pending bill. In writing my individual views, I said I did not think it was constitutional. But an amendment has been approved by the Senate which has changed that section. It provides that the President, can be relieved of the 30-day restraint if he reports that military necessity requires continued action.

One of the important reasons for our entrance into the Revolutionary War was the challenge to the authority of George III to decide when the Colonies could be used in war. Other monarchs have done the same. Napoleon, time and time again, bled France white, until he was defeated at Waterloo.

The purpose of this bill—the President can assert his own constitutional right—is to limit the possibility of war, and I see nothing wrong with that. I say this with due regard to my friend from Arizona. I know he was involved in this question in a very—I will not say bitter, but in a very tough way in 1964. I recall that campaign, in which he made statements which later proved to be true.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I shall yield to the Senator from Wyoming in a moment. First let me say I believe everything we are saying here on the floor today indicates more and more the need for a real, deep study in this field. I know what the authors of the bill want to accomplish. I have to say I am in accord with those purposes. I am in argument with the method. But it is certainly becoming more and more obvious that when a man on this side, who is an expert lawyer, who is supposed to know the Constitution, will argue with a man on the other side, who has equal respect in the law—I do not expect lawyers to agree any more than laymen agree, but this is on a constitutional matter—I think we are getting into a grave problem. Certainly, it should be considered with more attention to legal issues.

I yield now to the Senator from Wyoming.

Mr. McGEE. Mr. President, first I want to say that my colleague from Arizona has contributed a great deal to the thoughtfulness of our approach to this question. He has been involved in this question very deeply now, almost from the beginning, starting with the committee hearings, and even before, in some cases; but I think it is important that we continue to spell out for the record the history that shows the doubts people are raising. They are not people who are united by a common ideology in the political sense or by a common philosophy in the conservative-liberal sense. They are people who are genuinely concerned about what is happening in the world, what can happen in the world, and what all of this has done to our constitutional structures that go back almost 200 years.

I would like to put in a plug, however, for the political scientists, the constitutional historians, lest the remarks of the distinguished Senator from Nebraska be lifted out of context by some casual reader and misconstrued. I think I should make the point that the constitutional historians—the people in my profession before I came to the U.S. Senate—are split wide open on this matter. They are astute. They understand the Constitution. They understand the constitutional principles, but their arguments differ at this stage as to what we ought to do.

The same thing with the political scientists. There is a tendency to believe that scientists are more definite about matters than others, but their own ranks show that they are less scientific on this question than they could be. They are divided.

Many of the people with no flag that one could attach to them, or perhaps even a red flag—perhaps we should not use the term "red flag" as a warning because of some other connotations that may be applied to it—but some of those professors have something to say about it. A few have spoken out—very few—but the voices that have been heard are divided voices even now.

This all comes back to my point. I think there is merit in the proposal we are being asked to take, namely, to refer this measure to the Judiciary Committee. Now, I do not happen to think that the Judiciary Committee is any wiser than any other committee of this body, but it has something to say from time to time in these matters. However, I do think the constitutional issue that lurks in the question of the pending legislation does warrant an assessment of this issue through that committee process. I would agree that we do not have to assign it to the committee. We can refer it to the committee, as the Senator from Nebraska proposes, with a time certain to report back.

I think all of us in this body would look better if we had gone through that process, because here is a group which, while no brighter than anybody else, has the assignment to spend more time sorting this question out than the others of us have time to do.

For that, reason, there is real merit in the proposal, and I think Members of this body would do better, to have that group take an individual position on this matter, because this is a Senate process and we have a group here who has a responsibility to go into this question in great depth. And we need the benefit of their judgment.

We do not need to delay action. This has been going on a long time now. I think a reasonable opportunity for that group to go into the matter would be in order so it would give us a positive conclusion. We would still have a chance to read it and then judge whether the Judiciary Committee made a contribution or not. I think we are entitled to have it, look into it, and give us that judgment and then see where we ought to proceed further.

What I wanted to say to the Senate was that what we are coming down to more and more on this whole question is the diversity of judgment, and most of all the doubts that this procedure is wise. It is not a certainty, because in these times the luxury of certainty has been dispelled for almost all of us. There are a few who are very certain in these days,

but not very many. Certainly is one of the luxuries of the dark ages that we can no longer indulge in. By "dark ages" I mean in my youth, in the 1930's, when I was sure of a great many things that I have had to change my judgment on. That lack of certainty, the margin of sincere, honest doubts, ought to be saying to everyone here on this question, whatever else, we ought to make haste slowly. We ought to do it the right way the first time, if we can.

That something ought to be done is likely the case, and that is why my proposal, no matter what we decide here, whether we pass the Javits' proposal or we do not, we ought to create a full presidential commission to reexamine the relevance of these anxieties in relation to the Constitution and our presently accepted processes in decisionmaking.

So I want to commend the Senator for having spelled this out with great care and thoughtfulness.

Mr. GOLDWATER. I thank the Senator, and reiterate what I have told him, that I feel, regardless of what happens, whether we refer the matter to the Committee on the Judiciary or not, but particularly if not, something like the Senator's amendment should prevail, which would set up a board of expertise, out of politics, to really look into this question.

The distinguished Senator from Wyoming mentioned that this debate knows no political sections. Let us examine that point. The author of the bill, the Senator from New York (Mr. JAVITS), is a liberal Republican. The Senator from Texas (Mr. BENTSEN) is a conservative Democrat. The Senator from Missouri (Mr. EAGLETON) is a moderate, in my judgment. The Senator from North Carolina (Mr. JORDAN) is a conservative. The Senator from Virginia (Mr. SPONG) is a former lecturer at a law school, and a very noted authority in his own right. The Senator from Mississippi (Mr. STENNIS)—I guess I stand to the left of JOHN STENNIS; at least some people think I do.

Then there is the Senator from Ohio (Mr. TAFT), whose father, God rest his soul, was Mr. Republican.

So, indeed, this debate knows no political bounds, but it does demonstrate a great deal of confusion. When you can have a former professor of law disagreeing with a present professor of law in Georgia, Dean Rusk, I think something has got to be done, not to bring them together, but to find out where we are going wrong. I honestly feel that the passage of this legislation could bring nothing but chaos to this country—not internally at the moment, but in our external relations. I think we would disrupt them completely with one single blow.

Mr. HRUSKA. Mr. President, if the Senator will yield——

Mr. GOLDWATER. I yield to my friend from Nebraska.

Mr. HRUSKA. Are there not really two propositions involved in the consideration of this measure? One could be said to be in the field of the political scientist and the professor of history, who would look at the situation from the standpoint of the desirability of having this power vested in the President to be in command of and to deploy troops, and to engage in the location of those troops in various places in the world—as I say, the desirability of it.

The other question would have to do with how that desire, as embodied in the pending measure, to reduce the chance of war, to reduce the chance of escalation of war, which is supposed to be the objective of the bill, can lawfully be attained.

There is no question but that the President has the power. The Constitution itself is very clear. Beyond that, we have had almost a 200-year history, in which some 192 examples of the allocation and deployment of troops have occurred; and while that does not prove the constitutionality, it has a great bearing, as I pointed out in my principal remarks earlier today. The practice under the Constitution for more than 200 years pretty well entrenches that power.

Then the question arises, that power being in existence, how can it be changed? How can it be denied? How can it be restricted? How can it be limited?

It is our way of thinking in this country that to change a constitutional power will require a change in the Constitution; but I believe that this body, if it approves this bill, is going to say, 'No longer is that true; these are enlightened ages, and we are going to have the voice of democracy, through a legislative act, modify that Constitution."

Mr. President, that cannot be done under our present system of government. There is no question but that this power exists. It has existed and has been exercised ever since George Washington's time. If we are going to make a change in that, let not Congress have the effrontery and the arrogance to say, "You can use that power, but not for more than 30 days without consulting with us and getting our blessing and approval."

That would amount to an amendment of the Constitution; and there are only two ways the Constitution can be amended, one by State conventions, and the other by action of Congress and referral to the States.

That linkage is not here. And I do believe that if this bill is referred to the Committee on the Judiciary, this point of how a power conferred by the Constitution can be changed or limited will be properly set up in focus, so that it can be understood for what it really is. That cannot be achieved by the type of testimony we have here, notwithstanding the hopeful desires of many sincere people that this bill is designed to lessen the risk of war, that it is designed to prevent the escalation of situations into war, or whatever else the objectives may be. That is not the point. The point is, how can it be done?

Mr. GOLDWATER. I could not agree more with what the Senator from Nebraska is proposing.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I have finished; I shall be happy to yield the floor.

Mr. McGEE. I do not want the floor. I have no desire to make a speech. I just wish to comment on the relevancy of what the Senator has been saying, because the Senator from Arizona raised a point, in his colloquy with the Senator from Kentucky, that I think ought to warn us in another way, when he referred to the misgivings that emerged among many of our countrymen at the time of the Korean conflict, and that those misgivings were expressed very loudly.

That is understandable, for the reason that times had changed once more; it was a new circumstance. We found ourselves in a position we had never anticipated being in, and that ought to have said to us, even then, "Let us get busy and reexamine this whole process, and see if we are really out of date, or if we are up to date but ought to do it differently under the present structure."

But we did not do that. It is easy to say now, with hindsight, that we should have.

I have read with great satisfaction several times over the past few years a very brilliant exposition on this very question, "The Powers of the President in Foreign Policy," which appeared in the Cornell Law Review of October 1960. It is a brilliant piece, written by a real scholar and expert in the field.

What it said was that if we are worrying about making foreign policy, we ought to go slowly about dumping that function in the laps of the Senate of the United States. The author said he hated to say that, because he was a Senator and did not want to impugn the Senate, but he said that most Senators do not have time to devote full attention to these problems that require a decision, and that while he did not like to give power to one man, his conclusion was that, reluctantly, he had decided we were going to have to give the President of the United States more power in foreign policy decisionmaking, crisis decisions, and so on, if our form of representative government was to survive.

The author of that article was the present chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT). As I say, it was written at a cooler moment, at a calmer time, before all the emotions of the last decade had muddied all our waters, involving every one of us.

But, having been written when it was, I think it ought to be required reading for every Member of this body before he makes up his mind on this question. It was written at a time before personalities and personal pique had taken over, before so many of us who are here right now had tuned out on meaningful dialog, which I hope we have now begun to tune back into, because of this question.

Now the distinguished chairman of the Foreign Relations Committee has changed his mind. I respect a man who has changed his mind, because he has the courage to say he thinks he was wrong back in 1960, and thinks he is right now. That is very important, because a man who cannot change his mind is in a rut, and may be guilty of having chained himself to an irrelevant past.

But I do not think that ought to close out the relevance of what was developed in that excellent article in the Cornell Law Review, which simply said that this

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is a complex, difficult, and sometimes ugly question that we are going to have to resolve more wisely than we have until now; and I think that it should be must reading for all of the Members of this body.

It is that that makes the point; namely, that here, again, there is a change of mind, there is a divided judgment, there is an uncertainty as to what ought to be done, even by some of those who support the pending amendment. Certainly, there are misgivings and yet there is some inclination on the part of people such as the Senator from Wyoming who think that this, at least, is the better of the proposals that were made before the committee, that it comes closest to trying to do something realistic without getting too far off a reasonable path in seeking some wiser solution than we have at the present time. But I think that these misgivings on both sides—on all sides—ought to warn us to go slowly, ought to say to us, "Let us take the time to make the next step a telling one, as well as a wise one."

I do not think that anyone here today or who has been here in the course of the debates can stand here with confidence to say that this is the step that will hold in balance the wise course of American foreign policy into the crisis fields of the future. In fact, I think they lean over backward, in due humility, in saying that they do not know, that they are not sure, that they would not make that contention; and that is the reason why we ought to pursue more cautiously the whole question.

Mr. GOLDWATER. The Senator has pointed out one thing about the weakness of our system in the Senate—the committee system. We are living in a world today in which in most cases the expertise on foreign relations goes back hundreds of years, and in some cases thousands of years, where men are literally born into the profession, educated in the profession; and here we have a committee system that gets its members from the standpoint of seniority.

I look at the register of the Committee on Foreign Relations—I may be wrong—and I see the Honorable JOHN SHERMAN COOPER as the only man who ever has served in any capacity that could make him, in my opinion, an expert in foreign policy. He served as an Ambassador. I do not negate the expertise of the others. I do not think the chairman ever has been to Vietnam. I do not say that he should go to Vietnam. But we are handicapped in this body by the seniority system.

Let us say we had a former Ambassador to any court in the world. It would take him at least one full term to get on the Committee on Foreign Relations, and that is where he could do his best job.

Mr. McGEE. I hope the Senator would be more modest about the seniority system. I was one of the first critics of it. But I think the longer one is around, he tends to get more mature judgment in regard to it.

Mr. GOLDWATER. I am the oldest freshman Senator on the floor. I have come up the hard way twice and have gone down the hard way once. [Laughter.] And I do not intend to do it again.

I am not criticizing the Foreign Relations Committee. I am trying to point out what I think is a weakness in our system.

With respect to the Committee on the Judiciary, we are not saying that these men are expert in foreign policy; but they are dedicated lawyers whose sole interest in life has been the law. Perhaps Jefferson was right when he said there were too many lawyers in Congress. I have not made a judgment yet. But certainly the Judiciary Committee is where this matter should be heard by men whose lives have been spent in the study of law and the interpretation of it.

Mr. President, I yield the floor.

Mr. COOPER. Mr. President, before I make a short statement on another matter, I rise to say that I believe the Committee on Foreign Relations is well constituted for the study of the question of war powers. The work of the committee primarily deals with our relations with other countries, and for several years it has been examining hearings and from testimony, reports and briefings by the Executive, and by legislation it has reported to the Senate, the exercise of war powers by the Congress and the Executive. I must say that I believe that Senator JAVITS, his cosponsors and the Committee on Foreign Relations made a thorough study before reporting the pending bill.

Mr. President, I understand there was a short discussion on the floor today concerning the recent movement of North Vietnamese forces into South Vietnam, and that there was criticism of the President of the United States.

It has been said that perhaps the stimulus for the invasion arose, because some days ago the President of the United States, through his representative in Paris, Ambassador Porter, notified the North Vietnamese negotiators and those representing the Vietcong that the United States would not engage in further negotiations unless the North Vietnamese and the Vietcong showed willingness to negotiatie substantively. I must say that I do not think that the argument has any substance at all.

Some Senators may recall that for a period of 3 or 4 years—I would say 3 years—I spoke again and again on the floor of the Senate urging the United States to cease the bombing of North Vietnam. The purpose of the speeches I made was that I believed at the time that if the bombing would cease, the United States could enter into fruitful negotiations with the North Vietnamese and the Vietcong and reach a peaceful settlement of the war in Vietnam and Indochina. That is still my hope. The representatives did meet after President Johnson announced that the bombing of North Vietnam would stop. They met formally, but I do not believe any substantive negotiations ever took place, except those in which Dr. Kissinger engaged privately, at the direction of the President of the United States.

I visited our chief negotiators in Paris several times. I recall talking with former Ambassador Harriman and his associate, Ambassador Vance, and both told me there never had been any substantive negotiations at the time of their service.

I visited Ambassador Lodge when he was the head of our negotiators, and he told me that there never had been the slightest semblance of any negotiation by the North Vietnamese.

I visited Ambassador Bruce and he told me the same: That the meetings were useless; there never had been the slightest evidence on the part of the North Vietnamese and the Vietcong of a willingness to negotiate.

I talked many times with Ambassador Habib, who served under all these Ambassadors. He said there never had been a semblance of any evidence on the part of the North Vietnamese to negotiate with our representative in Paris.

I asked him about the American visitors who traveled often from the United States to Paris, some from our body and some from the other body, who had returned to report that the North Vietnamese were ready to negotiate. He told me that it was a tactic of the North Vietnamese—to give such information to those they talked with from the United States—but when the negotiators went back to the negotiating table, there was nothing—agreement at all on the part of the North Vietnamese.

I believe the statement that the offensive is related to the President's statement has no basis.

In fact, information indicates that for several months the North Vietnamese have been building up their forces in North Vietnam, above the DMZ, with large concentrations of infantry, supported by the most modern weapons, moving over roads which have been constructed over a period of months, to facilitate an offensive into South Vietnam. The fact that three separate entries were made, one over the DMZ, one from Laos into South Vietnam, and one from Cambodia into South Vietnam, engaging between 75,000 and 100,000 men, indicates, of course, that this offensive was planned for some time and that it was a coordinated and skillful military initiative.

Now, Mr. President, I have spoken of the efforts that the President made to negotiate through Dr. Kissinger. When the President was attacked over a period of months by those who said he was not attempting to negotiate, then the President felt that he had a duty to say publicly that there had been private negotiations and to disclose the points which had been made.

After that was done, a barrage of criticism was unleashed upon the President by some of those who had been calling for negotiation, and by others who had developed the policies which led us into this war.

Mr. President, my views on this war have not changed. As I said a few moments ago, I have probably spoken more than any other Senator in this body, constantly, over a period of years, advocating the cessation of bombing. I have offered, along with others, several amendments in the Senate to attempt to

control the war or to prevent its expansion. Some were enacted and some were defeated. I have said, under all of the circumstances we have faced, that I thought the best policy for our country was to withdraw.

But I do want to make the point today, that we have to address ourselves to reality; namely, that it is the North Vietnamese who again have thrust a powerful force into South Vietnam. It has been said that there was an understanding they would not do this, and I believe it; but I will not argue it further. The point remains that they have thrust strong military forces into South Vietnam through three avenues within a week.

Mr. President, I do not like to dwell upon the past, for this war began a long time ago, 10 years ago, and was escalated steadily, but President Nixon has reversed the policies of the past administrations. There are those who oppose his program—and I have disagreed with it on some points; but the chief point is, that President Nixon has reversed the policies of past administrations and the Congress—policies which engaged us in hostilities and which escalated the war.

The issue today is that North Vietnamese military forces, perhaps 75,000 to 100,000 men, armed with modern tanks, with the latest modern self-propelling artillery and protected by Soviet surface-to-air missiles, trained by the Soviets and the Chinese, have invaded South Vietnam. It is a very serious situation, not only for South Vietnam, but for the safety of U.S. forces.

Most of us have served in the Armed Forces in various capacities, but with less modern equipment than is used today.

The Battle of the Bulge in World War II, in 1944, was not unlike what we are witnessing in South Vietnam today. It comes to my memory, although I was not in the battle. I was on its flank when a German force attempted to break through the Allied lines. If the North Vietnamese assault is not halted, it could move deeply south and endanger the American forces that remain in Vietnam.

So, for the protection of our forces—and I am not one who wants to see the bombing extended—but for the protection of our forces because a few weeks extension of the North Vietnam offensive could mean bringing them into grave danger. I believe that the President is authorized to do what he is doing.

I know that it is difficult in this political year to be calm, but I do believe that we can show restraint, that in the next 3 or 4 weeks, which may be the critical weeks, not alone for South Vietnam which has been attacked, but also for the safety of our own forces, I would hope that we would be very responsible in what we have to say, until we will know whether the assault will be wholly successful, and thus endanger our American forces, or will have been turned back.

Mr. McGEE. Mr. President, would the distinguished Senator from Kentucky care to yield?

Mr. COOPER. Yes, I am happy to yield to the Senator from Wyoming.

Mr. McGEE. Mr. President, the distinguished Senator from Kentucky is in a superb position to paint for us the needed reminder of the big picture that is present here, rather than the headline events from day to day. The Senator has ably reminded us that this North Vietnamese offensive did not happen this week or the week before, but that it was a cumulative sort of thing which we have to judge in much larger terms than the convenience of the day's excitement. The Senator has made a significant contribution by injecting this sense of perspective about the President's decision right now.

I would want to say, as a member of the opposition party from the administration, that I support the President in this move. I believe that it is very likely a necessary move on his part. But what is more important, I think, is that more and more of us should drop out of the business of trying to play Secretary of State or President of the United States.

One of the things our Founding Fathers learned the hard way, during the colonial period of our history, was the folly of having too many heads thinking they were running the show. It had nearly destroyed the 13 colonies by the time the Founding Fathers got together in convention and decided to draft a form of government that they hoped would guide the young new Nation for many years to come.

The one thing they stressed was the need for speaking with one voice in foreign affairs. Therefore, they reposed with the President of the United States that awesome responsibility. That is the way it was structured into the Constitution.

Again, I would wish that more of our people would review a little of our country's history. They do not have to listen to the rhetoric of Senators here, but let them read their own history and remind each other once again of the kind of reckless games we play every time some newly, self-appointed "Secretary of State" wants to run to Paris or to Hanoi to tell us how we should be doing things.

There are many ways in which it would be possible to do these things, but we cannot do them all at the same time without destroying ourselves.

That is why the President has that responsibility and that is why I think we should slow down.

Even though this is a political year—in fact, perhaps, because it is a political year—we should take this latest move by the North Veitnamese in much lower key than we are taking it at the present time.

I would have to say, on behalf of the President, that I cannot imagine a President up for reelection wanting to continue a war.

I cannot imagine a President who is contending for another term wanting somehow to play some Mickey Mouse game in which he might succeed in keeping the country involved in war. Before he is a candidate for reelection, he is the President of the United States of America. And he has to respond as President regardless of the consequences for his candidacy.

I would hope that this President, or any President who followed him, would continue to respond to that kind of demand. With this crisis we are going through in Vietnam, President Nixon has taken on grave risks in one political sense of the word. But I think it is the kind of risk that a man in the White House has to take as President.

I think the record is absolutely clear. I am wondering a little about so many of our own people who beat so hard over the head the many facets of the doubtful things that have to go into decisionmaking on Southeast Asia. None of it is easy. Most of it is 50–50. But no President has the luxury of saying, "We will do it half and half." It is either "yes or no; do it."

We ought to be more understanding and more sophisticated and a bit more restrained as individual constituents in this great country of ours toward this heavy, burdensome responsibility of a President of the United States.

Surely all of our recent history ought to give pause to those who are otherwise quick to condemn and criticize. I suppose that with regard to the Tet offensive many historians have already begun to write very eloquently—and indeed they have—and will submit for the history books that the Tet offensive was a very substantial military turnaround and that the other side, the North, Hanoi, was fractured almost irretrievably in that conflict, although one would never get that impression from our dialog here at home, because we had a lot of Monday morning quarterbacks and Saturday night presidents. Every man is his own president. That is a great luxury in a presidential year, because one does not have to take the consequences for what he says. But there is one man who has to.

It was Harry Truman who reminded us that "The buck stops here," at the desk of the President.

The President does not have the luxury of saying one thing one day and chaging it another day when circumstances change.

That is the reason that I want to echo what the distinguished Senator from Kentucky (Mr. COOPER) has said with regard to this matter. The very least we should do is to suspend our judgment, hold our reaction, and see how this is coming along.

We know a great deal about the events concerning the last year or the last several years of negotiations. We know that not only have we gone the last mile, but that we have also gone many miles and have attempted to lean over to try to find a basis for at least a detente, if not a peaceful settlement. And each time it has produced nothing.

It is so conspicuous now that the time is low profile. The last 3 or 4 or 5 months have been utilized by the other side to marshal new forces for another significant strike. Whether that strike is a tactical maneuver or a strategic one remains to be seen. However, I do not think that we have any reason or right to jump off halfcocked this week or the week ahead over what it means for sure.

I think that all we would do if we were to choose that kind of reckless conduct would be to jeopardize the chances of any meaningful American policy and leadership to try to effect a peaceful settlement

somewhere along the line. We have almost, in a sense, become our worst enemy. And I think that it ill behooves us to aid and abet those who would hope that we might fail.

So, as a member of the other party, I submit my position for more restraint and for more understanding. And whatever happens with the 60-second popoffs about every new line that comes across the ticker tape in the cloakroom, that is not the way to run the store. And it sure as the devil is not the way to pilot a ship of state.

We ought to be more responsible.

Mr. GOLDWATER. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. Mr. President, I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to take this opportunity to express my great admiration for the Senator from Kentucky. We do not agree on a lot of things. We have disagreed on this war. He has spoken more often and longer on his personal belief that the war should end than has any other Member of this body.

I have expressed my belief. Our beliefs run contrary in that regard. However, a characteristic of the Senator from Kentucky has just emerged once again, a characteristic that I have known for all of the years that I have known him.

When it comes to the good of his country, his own personal feelings are submerged. I wish that we had more of the men on the floor right now who have spoken in a critical way of President Nixon so that they might have heard the elcquence with which the Senator from Kentucky expressed his hope and desire that we would reserve our judgment until the President has had an opportunity to exercise the full responsiiblity that is his by virtue of his being the President.

I congratulate the Senator from Kentucky and I tell him that his action is something to be proud of.

I would like to extend the same general feelings to my friend, the Senator from Wyoming, a Democrat. I am a Republican. I guess that the only thing we have in common is that we are from the West.

The Senator from Wyoming is a great student of history and a great student of war. He has expressed exactly what I tried to express on the floor this morning. Probably I used more violent language. However, I have been known to do that.

I was appalled when the Senator from Massachusetts spoke critically of the President's action. I can recall when his brother mounted the Cuban episode. I happened to be called back to duty at that time. There was not a single Member of this body that stood up to be critical of President Kennedy. Congress was united behind him. The country was behind him, even though there might have been some areas in which he could have been criticized.

I would hope that the admonitions of the Senator from Kentucky and the Senator from Wyoming will be paid heed by those colleagues of ours who are tempted to feel, as the Senator from Wyoming has said, that they are Monday morning quarterbacks or Saturday night Presidents. There is a great temptation to criticize the President. However, I see no other course he could have taken. He could have, of course, done as some people have advocated, and come home.

I suggest that that would have been the end of the United States as a world power. Had he not been willing to live up to the word of an agreement made by President Johnson in 1968 to stop the bombing above the DMZ, we probably would not be faced with this dilemma tonight. But we would be faced with the certain knowledge that our country's leaders had acted in a rather dishonest way.

As the Senator from Kentucky has stated, we have known of this buildup for months, and months, and months. It is not a small buildup. It is a buildup involving thousands and thousands of vehicles, the movement of many, many surface-to-air missiles down into the South, in complete violation of the word of the leaders of North Vietnam. Yet it was suggested this morning by the Senator from Massachusetts that we sit down to play poker with the bunch that probably has 60 cards in its deck and stole 15 of ours, and probably they have an ace up every sleeve and in every shoe; crooked dishonest people who have one desire, and that is to prevent freedom from being accomplished anyplace in Asia.

I hope we can be restrained, watch what goes on, and not be too critical of a President who is faced with a choice in a matter he had no part in making, but has a supreme part in solving.

WAR POWERS LEGISLATION—IN THE BEST INTERESTS OF THE NATION

Mr. SYMINGTON. Mr. President, no more solemn responsibility is given to the Congress than the constitutional duty to exercise its judgment in deciding whether or not this Nation is to engage in war.

We know also, however, that the Constitution invests the President, as Commander in Chief of the Armed Forces, with awesome responsibilities including the equally solemn task to take immediate action when the United States has been attacked, or the Armed Forces of the United States are threatened with an imminent threat of attack.

In recent times the procedures employed for the exercise of these responsibilities have become clouded to the point where many Americans, as well as Members of Congress, question whether the legislative branch of Government does in actuality function constitutionally in the exercise of the Nation's warmaking powers.

Regardless of whether the cause of the weakening of congressional authority in warmaking decisions has stemmed from an over-reaching of the executive branch or a failure of Congress to exercise its constitutional authority, my years in Government convince me that the tragic involvement of U.S. forces in Southeast Asia has in itself demonstrated the clear need to achieve greater clarity of the constitutional responsibilities of the President and the Congress.

To fulfill the intent of the framers of the Constitution and insure that the collective judgment of both the Congress and the President will apply in the exercise of the war powers is the worthy and well-stated purpose of this war powers legislation.

Speaking broadly, the bill sets out circumstances under which our Armed Forces, in the absence of a declaration of war, may be introduced in hostilities, or in situations where there is a threat of imminent hostilities.

The circumstances for such use include at least all of the following: First, to repeal an armed attack or to forestall an imminent threat of attack on the United States, and also on our Armed Forces located outside the country.

Second, to protect while evacuating U.S. citizens and nationals, either in foreign countries or on the high seas.

Third, in the absence of a declaration of war, utilization of the Armed Forces pursuant to specific statutory authorization.

When our military is employed under any of the foregoing circumstances, the procedures thereupon call on the President to inform the Congress promptly of what has occurred and what is anticipated.

The heart of the bill, however, could lie in those provisions which would require the Congress to exercise its judgment for the continued engagement of our Armed Forces within 30 days from the time those forces have been utilized without a declaration of war.

This legislation, drafted with care, is the product of not only thoughtful Members of the Senate. It also bears the imprint of the thinking of outstanding legal, constitutional, and historical scholars.

It would seek to achieve that desirable objective of meeting the need for all Americans to participate through their representatives in the making of that most vital of all governmental decisions while at the same time preserving the constitutional powers of the Chief Executive.

I believe this legislation to be in the best interests of the executive branch, the legislative branch and the people of this country; and therefore urge its passage by the Congress.

QUORUM CALL

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. McGEE. Mr. President, I thought it appropriate to observe here this afternoon at this late hour on Friday, at the end of the week, that the State of Wyoming is well represented on the floor of the Senate, with both of its Senators being at the moment the only Members of this body present, and that the opportunity is a very tempting one to proceed with unanimous-consent legislation involving the West and the State of Wyoming. I am open to any suggestions, if they are in order, on how the Senate might proceed.

I would like to ask a parliamentary question. Is it possible to proceed without a written bill pending before this body?

The PRESIDING OFFICER (Mr. HANSEN). The Chair regrets to have to advise its distinguished colleague that legislation must be presented in writing.

Mr. McGEE. In that case I will withdraw my proposal and yield the floor to the distinguished majority whip of the Senate, the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the distinguished senior Senator from Wyoming.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Mississippi (Mr. EASTLAND), chairman of the Committee on the Judiciary, I make the following statement.

The following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. Marshal, Middle District of Louisiana, for the term of 4 years; new position created by Public Law 92-208, approved December 18, 1971.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, April 14, 1972, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, earlier today the Committee on the Judiciary adopted a motion which I made before that committee. I ask unanimous consent that the motion be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion, ordered to be printed in the RECORD, is as follows:

That, confining itself to the confirmation of Mr. Kleindienst and matters bearing directly thereon, the Committee continue its consideration thereon, not past Thursday, April 20, during which time specific witnesses called by the Committee, having testimony pertinent thereto, be heard; provided further that not later than Thursday, April 27, the Committee submit to the Majority Leader its written advisory report concerning the nomination.

Mr. ROBERT C. BYRD. Mr. President, my motion speaks for itself. It was adopted by a vote of 8 to 7, with one Member being absent. May I state for the record that with respect to the nomination of Mr. Kleindienst, I supported the reporting of that nomination originally by the committee to the Senate. I am, at this time, with an open mind on the nomination. I do feel, however, that the nominee deserves to have his day in court, so to speak, which he requested. He requested that the committee conduct further hearings on his nomination with respect to certain questions which had publicly arisen. He is also entitled to a final verdict. By the same token, I think that those Senators who wish still to hear legitimate witnesses with testimony pertinent to, and bearing upon, the nomination of Mr. Kleindienst, should be given a further opportunity within a reasonable period of time, to have such witnesses appear before the committee.

I believe that a reasonable amount of additional time should be allowed for the hearing of such further testimony as is germane to the nomination, but, beyond that, once such testimony has been heard, I think, as I have said, that the nominee is justified in expecting, and is entitled to, a verdict rendered by the full Senate, the nomination having already been reported to the Senate.

It is for these reasons that I offered the motion yesterday which was adopted by the Judiciary Committee today. Additional witnesses with pertinent testimony to the nomination should be heard, but, at the same time, there should be a cutoff date at some point and the hearings brought to an end. The committee should then, after a reasonable time, submit an advisory report to the majority leader so that the majority leader could be guided thereby, and if, in his judgment, the time had then come to call up the nomination for full Senate debate, he could do so.

I want to reiterate that I have an open mind on the nomination. I do not know today how I will vote on the nomination when it comes to a vote before the Senate. Incidentally, I am also of the opinion that those matters which do not have a bearing on the confirmation of the nominee should not be delved into at this particular point, but, without prejudice to the future consideration of such matters, I think that the committee certainly may want to go into them once the nomination has been disposed of one way or another. I am not suggesting that the committee close the door, once and for all, on any further examination of activities involving the ITT or other companies. I am saying that it ought to separate those matters—except where they are pertinent to the pending nomination—and come back to them after the nomination is disposed of.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows: The Senate will convene at 11 o'clock a.m. Immediately following the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, the so-called war powers bill.

On Monday there is a time limitation on the pending motion by the distinguished Senator from Nebraska (Mr. HRUSKA)—the motion to refer the war powers bill to the Committee on the Judiciary. By unanimous consent, that motion can be set aside temporarily for the purpose of calling up amendments to the war powers bill, or it can be set aside temporarily by unanimous consent for consideration of other business. So rollcall votes on Monday are not ruled out.

On Tuesday a rollcall vote will occur at 2 p.m. on the motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee.

ADJOURNMENT UNTIL MONDAY, APRIL 10, 1972, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock a.m. on Monday next.

The motion was agreed to; and at 3:31 p.m. the Senate adjourned until Monday, April 10, 1972, at 11 a.m.

EXTENSIONS OF REMARKS

DRUG HEARINGS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 29, 1972

Mr. EILBERG. Mr. Speaker, I recently held a full-day public hearing in the Fourth Congressional District of Pennsylvania, which I represent, on the problem of drug abuse.

The hearing was held to determine the scope of the problem in the district and what is being done to combat it.

A transcript of the hearing and my recommendations for action will be presented to subcommittee four of the Judiciary Committee, which is currently investigating the drug problem on a national basis.

Mr. Speaker, before I held the hearing it would have been easy to believe that my district did not have a serious drug problem. The area which I represent is semisuburban although it is wholly within the boundaries of the city of Philadelphia. It consists mainly of single-family homes; there are a great many active civic organizations; citizen participation in government is above average; and the children of the area constantly lead the city in scholastic achievement.

Unfortunately, there is a serious drug problem in the area. The 41 witnesses who testified or presented written state-

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ments made it very clear that drug abuse is rapidly increasing among our young people.

The former addicts who testified along with police and spokesmen for drug treatment facilities and other agencies stated that almost every kind of drug is easily available to anyone willing to pay the price.

The 41 persons who testified also made it very clear that drug addicts in my district and the city in general have a much harder time trying to get off drugs than getting started or continuing their habits.

The witnesses painted a tragic picture of inadequate facilities for all types of treatment, from initial detoxification through psychiatric counseling and job placement.

What programs there are available are generally considered to be excellent, but even the administrators and directors of these facilities admit that they cannot even come close to meeting the demand for services.

In the area of prevention the same bleak story was told. Until now most drug education programs in the schools have been woefully simplistic and naive. In many cases the students have known more than the teachers.

We also learned that most of the adults in the district do not understand that there is a problem or they close their eyes to it, until, tragically, it comes right into their homes.

There must be an effort, Mr. Speaker, aimed at the adults in this country, to open their eyes to the fact that drug addiction is a threat to every family, no matter where they live or their level of income.

One of the positive facts that we learned, however, also has to do with family life. All of the young people who testified, including the former addicts and those currently under treatment, stated without qualification that if they had had a strong sympathetic family relationship they would not have become dependent on drugs.

They all said that parents who showed real active interest in their children—by this I do not mean giving them money and cars and other material things—and gave them love and respect were putting up the best defense against drug abuse.

Youngsters who can go to their parents with a problem and talk frankly to them and get understanding and help in return have no need to bury their troubles with a needle or a pill.

The record of this hearing speaks for itself. I believe it is an accurate picture of almost every community in this country and at this time I enter it into the RECORD.

DRUG HEARINGS HELD JANUARY 22, 1972, AT HOLY FAMILY COLLEGE, PHILADELPHIA, PA.

Present: Joshua Eilberg, Esq., Member Judiciary Committee, U.S. House of Representatives, Chairman.

Berle Schiller, Esq., Lila Stunder, Rev. Peter Quinn, and Dr. Ellis Lindenbaum, members.

Mr. EILBERG. Good morning. My thanks to the Northeast Philadelphia Chamber of Commerce and the Northeast Health and Welfare Council for their help in organizing and publicizing this hearing.

Drug addiction is perhaps the number one domestic problem facing this country today. It is destroying the social fabric of the nation, especially in the big cities.

The number of burglaries, robberies, muggings, and other crimes of violence have been rising at an ever increasing rate.

Most authorities blame this increase on the rising number of persons who must steal to support their needs for drugs.

As we all know, many areas of our cities are becoming uninhabitable. Houses and apartments are being converted into fortresses to keep out the thieves.

Here in the Northeast the problem is not as bad as it is in other areas of the city but it is obviously getting worse.

Stories and rumors are constantly circulating about the availability and use of drugs in the schools and on the streets.

These stories and rumors are part of the problem.

Some are exaggerated far beyond reality by persons who have no idea of the true picture.

Others minimize the problem or simply ignore it. Unfortunately, these statements are often made by officials who are trying to hide the truth.

For these reasons it has become very difficult to get factual information about the size and scope of the problem here in Northeast Philadelphia, the city in general, the state or even from the whole country.

A Congressional committee, sub-committee number four of the House Judiciary Committee—I am a member of the House Judiciary Committee—is now trying to get accurate figures about drugs on a national level.

These statistics are needed so adequate amounts of money can be appropriate to pay for the facilities needed to fight this menace.

The information we get here today at Holy Family College will be turned over to the committee.

The Committee is fully aware of what we are doing here today. The Committee also needs to know how many treatment and rehabilitation facilities are available for those persons who want and need help.

The facts are also needed about the capacity of the centers, their methods and effectiveness.

This past summer I visited some drug treatment facilities in Europe, including a London clinic where heroin is dispensed upon request of addicts without charge.

My report to the Committee showed what is happening elsewhere in Europe.

Now we are finding out what we are doing here and how much more needs to be done.

We are here to get information from you about the problem in Northeast Philadelphia.

Most of you live or work in the area or nearby and you are here because you care about what is happening in your neighborhood. Hopefully in a short time I will be able to report back to you that meaningful legislation has been passed by Congress and implemented by the administration.

Now, I would like to introduce the other members of the panel. Three of them represent treatment and rehabilitation centers in the Northeast, and it is Reverend Peter Quinn of "The Bridge", Mrs. Lila Stunder of "The Road", Doctor Ellis Lindenbaum of "RAID", Paul Schiller, director of the State Narcotics Strike Force and a resident of the Northeast.

There are a few rules I would like the speakers to follow so the hearing can move as smoothly as possible. When your name is called please come to the podium over here where the microphone is or to the front row of seats which has been reserved for those persons waiting to speak.

Before you speak, please give us your full name, address and group affiliation so the record will be complete.

Because we have a long list of persons who wish to speak, we have limited the speaking time to five minutes.

If you wish to enter a longer statement, please give a copy to the stenographer and it will be entered in the record.

After each five minute statement I will invite the panel members to ask any pertinent questions that they think appropriate and hopefully we will try to keep the time down so that we give a maximum number of people an opportunity to speak.

I am sure that there will be people coming all day. We have several coming in the afternoon who could not come in the morning.

Now, at this time just for a few words from our panel members with respect to the extent of the problem in the Northeast and any ideas in particular that they might have with regard to programs or facilities that are present or are needed and with some reference, I hope eventually, as far as the entire program is concernd as to what we might do better in Washington and I would like to present, just in the order that they are sitting here, first, the representative of Governor Shapp, Berle Schiller.

Mr. SCHILLER. Thank you, Congressman. While I am mainly concerned with the problem of law enforcement, the Strike Force on Narcotics since July has arrested one hundred and fifty major wholesalers and dealers in the Commonwealth.

I come here to say that law enforcement is not the answer to the drug problem and I have accepted the invitation to participate in this panel because it is my feeling that while law enforcement can stem the supply of heroin and hard narcotics into the Northeast and other parts of the state, the real answer will have to come from education and rehabilitation services and I hope to that end this panel and this committee that the Congressman is working on will be successful.

Mr. EILBERG. Thank you, Berle. Secondly one of the hardest working laymen in the field is the young lady to my left who has been most active with "The Road," Mrs. Lila Stunder.

Mrs. STUNDER. Thank you very much. "The Road" has been in existence I guess about two years now and our main objective is to educate the community as to what is going on and I don't know really how successful we have been because it seems that we go from month to month financially.

We are begging constantly. We also have treatment facilities there for what I would call the pre-drug abuser if I could use the term, anyone who is really hard core has to be referred out.

We cannot handle anyone like that and I am delighted to see so many interested people here today to see what we can do up here, because I feel it is getting completely out of hand and I am very disturbed about it as a mother of grown boys.

Mr. EILBERG. Thank you, Lila, and next is a young man who has certainly captured the imagination of the Northeast and is paving new ways and has worked very hard in connection with the program that he is spending all his time with.

From "The Bridge," Reverend Peter Quinn.

Reverend QUINN. Thank you, Congressman. I am privileged to participate in this panel this morning.

I would like to address myself very briefly to three specific areas, areas of current need in answering the problem.

This is in terms of professional treatment services available and let us, if you will, go from the last need in point of time for the individual and for the addicted or drug dependent individual, to the first need in terms of time.

The last need before long term resocialization or rehabilitation is detoxification.

Detoxification services are wanting in great amounts in the Northeast and in the City of Philadelphia.

Everyone in treatment is so deeply aware of this and I would like to speak to this and propose regional detoxification centers for the City of Philadelphia and the second level, if you will, in order of time, I would like to speak about treatment itself and methods of treatment.

I am involved in a rehumanizing community called The Bridge.

It is a personal human answer to what I consider a personal human problem. If we continue to treat drug abuse as a physical health problem only and do not treat drug abuse as a mental health problem combined with a physical health problem, I think we will miss helping the real person, the addicted or drug addicted person.

Therefore, programs should reflect the real human problem of drug abuse and encompass the entire person in the treatment of that person.

Thirdly, I do believe that the City of Philadelphia has within its power the force to make a significant reapproach and, if you will, to change the tide in the amount of drug abuse deaths and drug related deaths, in the city.

I think we have it in our power, the people of Philadelphia, to do this.

How, therefore, can we, if we are convinced we have an epidemic on our hands, do something significant about the problem?

I would like to propose a program which would go to the heart of the matter. The heart of the matter is disintegrated family life, family problems, personal problems, alcoholism and other things that are affecting parent-child relationships.

In this city we have nine health centers.

We have twelve community mental health catchment areas all of which have more than base service unit services.

If these services are utilized and there is no law preventing utilization of mental health workers from actually working in community health offices and community health centers, with very little additional money, very little additional money, a program can be implemented in the streets of Philadelphia which will perhaps provide a real if partial answer to the needs of the people.

The people themselves, all of us, have within our power the resources to do something significant about this problem. By grouping it the way we did for so many others to meet the needs of so many other problem areas, by grouping by block and by area what is to prevent us therefore from utilizing the staff workers of mental health and community centers in a well publicized streeet program of walk in, family response, to the needs of the family.

Church and synagogue should be involved by providing the halls, the assembly halls and the local and regional areas for people of good will to meet.

They have the space and can operate. It should be and has to be a bipartisan approach and, if you will, ward leaders themselves, Republican and Democratic, walking hand in hand, can do significant things to help solve the need by themselves publicizing and acting as the leaders to the people in their blocks and areas.

It is a program that doesn't cost an awful lot of money because it is utilizing the resources we already have, but it is a program that puts the onus on people to share their real self, and I really believe that this is the only way we really can put a significant dent in our drug abuse problem in Philadelphia.

Mr. EILBERG. Thank you, Father Quinn. Our next person is one that many of us have heard about who is the director of clinic located in the Lower Northeast and I am sure that all of us will be looking forward with considerable interest to what Doctor Ellis Lindenbaum has to say.

Dr. LINDENBAUM. I represent a clinical organization known as Raid. This is a methadone program. There has been a lot of criticism about methadone, all of which is not valid but I will not defend it, other than to say until we have a better tool to put the hard core addict on his feet we have to use it.

Until such time as we can get the hard core addict off the street and treated we will have addiction problems in this city and all the cities in this country.

A hard core addict must sell other drugs to younger non-addicted individuals to support his own habit and the habits are getting more expensive because of the shortage of drugs.

Therefore the sales must increase. New drugs are being introduced to the young in increasing quantities. Barbiturates which were formerly a minor problem are to become a major problem.

This is a subtle, slow, change taking place right now and inside of one year this has gone from a minor problem to a moderate problem and as the shortage increases in heroin it is going to become a major problem.

Treatment of barbiturates addiction is more difficult in the long run than the heroin addiction, the only difference being that the present barbiturates are cheaper. Our job is to get off the street the man who has to steal or push or sell or wholesale or deal to other people and to "give wings"—that is the expression they use, to "give wings" to new addicts to support their habit.

Until you get the hard core element treated and off the street, you are going to have your basic problem in areas where you cannot reach the younger person in education.

Basically, Father Quinn's concept in reaching the young and the family problem through education is the most valid prevention of this problem.

But, again, for the time being the estimates in this city have run between ten and twenty thousand hard core addicts.

These people are a menace and we must treat them and treat them vigorously and must get their habits supported free. No matter what the cost to the state the amount of money being spent for enforcement and things other than treatment cost us more than what the addicts steal and cost us each day in insurance costs, law enforcement costs and other costs which are not involved in treatment:

Treatment is the cheapest thing our government can buy for the addict. Enforcement, punishment and research are expensive. Treatment and prevention are cheap.

Mr. EILBERG. Thank you very much, Doctor Lindenbaum.

Our first presentation today will be made by a co-sponsor of this all day hearing.

We have noticed in the newspapers that the Northeast Health and Welfare Council has been continuously out front in trying to educate the public and reach the public and I think part of the problem is unless we are personally and directly involved we tend to turn our backs on this epidemic problem.

It is my pleasure to introduce the director of the Northeast Health and Welfare Council and in so doing I wish to thank him and the organization for its cooperation.

Mr. Bernard Plawsky.

Mr. PLAWSKY. It is our pleasure to be able to co-sponsor this hearing and to get something moving into our community.

Congressman, members of the panel, a report by the Medical Examiner's office indicates ten deaths from drug use in the Northeast community in 1971. How many more, possibly, went unreported?

A survey indicates that twenty-one percent of young people in grade twelve throughout the Commonwealth are using drugs. What implication for our community?

The young people in our community, it is reported, are making greater use of heroin and have gone from "uppers" to "downers". What are the reasons for the change?

What is implied here, and not really new to us, is the need for basic information. We do not possess the body of knowledge necessary to plan future courses of action. What is the picture in terms of youngsters using drugs? What kinds of drugs are being used? How are these drugs secured? Where do drug users go for treatment? What resources exist for preventive programs? Who are the pushers, et cetera?

The study must be undertaken now. It needs to be completed within the next three to five months. We must immediately convert this information into a plan for the community.

We must implement the plan as soon as it is off the drawing board.

To achieve this, it will call for flexibility on the part of governmental agencies so that routine bureaucratic procedures are bypassed and a meaningful, "now," approach can be instituted.

It will also call for greater involvement from the local community to set the machinery in motion.

Monies are available for securing information. The Northeast Health and Welfare Council stands ready to assume the responsibility.

You, as our representative, Mr. Eilberg, can help speed the process.

The very next step is this community's acceptance of the problem and not close its eyes to the presence of drugs in the area.

If this community of five hundred thousand can accept the truth, we can move to correct the situation to a much larger extent than is possible today.

I might add I think this represents not condemning the community in terms of their interest, but the fact that they are not motivated to move out, to come out, to take part, to really give of themselves. This is a side comment.

It means for us an honest and open appraisal on the part of the schools, police, agencies, elected officials, families and individuals who, unfortunately, get bogged down with images rather than rally around the ways in which help can be provided.

Accepting the truth will also make us aware of the fact that drug usage is a symptom of deeper problems in our society.

We tend to speak glibly of drugs being the result of poverty and racism.

We have discovered that this is no longer the case as drugs have infiltrated the more affluent communities.

We will need to be open to a more intensive look at our society and the ways in which people are impacted.

For example, does a young boy at the age of seven or eight have to be worried about dying in war when he reaches the age of eighteen or nineteen.

Beyond poverty and discrimination, what is happening to the family, the basic core structure of our society and particularly the relationships between parent and child?

What of the uncertainties about employment? Do people have to be dependent on benevolent government and as a result, perhaps, dependent upon other forms for satisfaction?

What of the pressures to live with an inadequate income? Do people have to struggle to keep up with a life-style perpetrated upon them by the daily pronouncements to possess more and more?

What of the instability of the times? Can we end the industrial slave system which tears families apart and has made us civilized nomads?

How do we feel with the stresses on achieving? How is it possible that a city of this size can contribute no more than a penny

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to educating our young? Our way of life needs to be thoroughly investigated.

We need to look at a variety of practices and interests. The tendency of the medical profession to prescribe for immediate relief, the practices of the drug industry to serve profit motives, the agents who benefit most from the sale of drugs.

Last, but far from least, we need to look to see how we can prevent use of drugs and how existing services might best serve to achieve this without being placed in the position of constantly having to compete for funds or for people to be uncertain as to whether or not help exists.

We submit the following recommendations as only first-aid treatment: 1. Establish a single unit to coordinate the activities of all those involved in the drug problem, schools, police, courts, agencies and institutions. To coordinate and direct activity.

2. Provide funding for existing groups such as The Bridge, The Road, et cetera, who are now doing a job in this area.

Let us help them provide service rather than spend precious time in seeking funds to continue being operational.

3. Develop a centralized data bank of those individuals requiring help and the resources available for help.

4. Remove the pushers from the community through a faster judicial process with mandatory sentences where guilt has been determined, recognizing that a more equitable judicial system needs to be developed and greater rehabilitative services provided.

5. Place pressure on the sources from which drugs are secured be they of foreign or local origin.

In all candor, we submit that we do not have the problem fully in focus. We do not possess the solutions. We know we have an awesome task before us.

The Northeast Health and Welfare Council is ready at this moment to set the day, time and place to meet with you and set in motion the job of securing the information, developing the plan and implementing the program.

I would just like to make one personal comment which does not reflect the Health and Welfare Council, that unless we really undertake to take a look at our society, to deal with the real issues and problems, I would suggest then that Congress recommend funds for the purpose of studying and researching a drug society which may become our new life style. Thank you.

Mr. EILBERG. Thank you. Are there any questions from the panel?

Mrs. STUNDER. I would just like to add a little something to Bernie's statement. I want to thank you for the group you started up on drug use and also there is no one in the Northeast or almost in the City of Philadelphia where you can get immediate treatment when someone has a problem.

I have first-hand knowledge of this. Usually when a kid runs into a problem it is 12:00 and 1:00 o'clock at night and most often on a Friday, Saturday night, you know, and this is the big night.

I have sat in hospitals and made phone calls and have had no help at all here in the community or anywhere in the City of Philadelphia, so we say why are kids abusing drugs, but I think they are turning around and saying: "We are human. We need you in this grown up community in the great, big City of Philadelphia."

Now, he has a real problem at hand and the mind is shattered at this point and there is no place, and I tell you no place to go to get this help.

You can sit there six, seven and eight hours and I have done that and made a hundred phone calls on one Saturday night and have had no help at all.

That is the situation today.

Mr. PLAWSKY. Yes, Lila, and we have to look at the fact that many of our agencies and institutions operate on a 9:00 to 5:00 basis and come the week end everybody is away. Yes, absolutely.

Mr. EILBERG. Thank you very much. Certainly one of the best established institutions and an institution that has survived and has done a good job over the years is the Northeast Philadelphia Chamber of Commerce and we were very fortunate to have them as a co-sponsor of this public hearing and I would like to introduce for a bow the new president of the Northeast Chamber and wish him luck and offer our cooperation, Mr. Charles Yust. Will you stand up, please?

(Mr. Yust rises.)

Mr. EILBERG. The immediate past president and member of the board is with us and I am going to ask him to step up to the microphone for a few words. Our good friend, Mr. Robert McNulty.

Mr. MCNULTY. Thank you, Josh. It is a pleasure for the Northeast Chamber of Commerce to once again join with you on this particular seminar or hearing because we know it will be successful with you in charge of it.

We, of the Northeast Chamber, have been with the Congressman on other seminars and I know whereof I speak, because they have all been successful.

The business community is very much interested in the drug problem and its various facets.

1. Quite a few of our businessmen do live in the area and they are concerned about their children, especially in the primary grades. Some of the businessmen have told me of youngsters in the sixth, seventh, eighth grades, who are now on drugs.

They are very much interested in their employees and particularly their businesses.

Their businesses, because many businesses are subject to thefts.

They are scared in certain areas of stealing. This is something I hope we can eliminate because if business should die, then where are you going to get the money for your drug treatment programs.

Anything we can do to help this program we have a magazine which we can use. Once again we will be happy to do anything we can.

Mr. EILBERG. Thank you. Are there any comments from the panel?

(No answer.)

Mr. EILBERG. Thank you, Bob.

In the Northeast we have the major institution having to do with the mentally ill. For many years I have been very much interested in its activities. I remember when Byberry was regarded as a snake pit and hell hole. Well, a lot of things happened, among them we secured the services of a wonderful psychiatrist, an international figure, Doctor Daniel Blain, who helped move along and helped eradicate that image.

He had a very bright and able assistant and when it came time for Doctor Blain to retire or to go into a modified role, it was only natural that his assistant should step into his shoes and continue the very fine work which Doctor Blain worked on and our next speaker is Doctor Franklin Clark.

Dr. Clark.

Dr. CLARK. I want to thank you all very much and I think we here in the Northeast ought to thank you for your concern and your consideration and your interest in this problem. Congressman Eilberg.

We are deeply appreciative of this. I should state, I guess, for the record that I am currently superintendent of the Philadelphia State Hospital.

I do not have a formal presentation at this point and would welcome questions. I would consider myself probably an unexpert expert.

I am not intimately involved in the drug problem as such and because of this this presents both advantages and disadvantages.

I have perhaps an unique perspective. I might state that the Philadelphia State Hospital has surprisingly little call from the community for help with drugs.

I can recall from personal knowledge one girl's high school calling and perhaps two or three individuals.

We also have surprisingly few patients coming in with a major drug problem. I am not certain of all the reasons for this, whether the community mental health centers are doing at least an adequate job, that people with drug problems do not come to us, or perhaps that the community is sufficiently sophisticated enough that they are not falling back on the State Hospital to provide answers to a major problem today.

I think we at the hospital have many questions and many mixed feelings about our role in the drug situation.

I am terribly frightened of society setting up a warehousing operation for drug addicts as it has in the past for the mentally ill.

We have up until recently done an extremely poor job in treatment.

In fact, I think the State Hospitals were essentially set up not to treat the patients who came in, but to treat the anxiety of the community in which the patient originally resided.

When that patient was removed the anxiety subsided and once again the State Hospital had been successful.

We have many, many mixed feelings. I also have many questions and doubts about a major leadership role for psychiatrists in the drug program.

I have many thoughts that perhaps this ought to be taken pretty much out of our hands entirely. Whether this is not much more of a social problem as some of our previous speakers have mentioned, rather than determining the mental illness.

We as psychiatrists are generally disease oriented, our sickness models, our training basically is in one to one therapy. It is perhaps very short in our basic training with groups, group dynamics, society, cultures and so forth.

What I am saying in effect is that we have a limited role.

I find all too often both public and governmental agencies ready to put problems that they don't know what else to do with into the hands of psychiatrists.

Perhaps we are the twentieth century witches. We still do not have this kind of magical power.

I would perhaps much rather see leadership in the hands of sociologists, cultural anthropologists, economists, Madison Avenue types and educators than I would in the hands of psychiatrists.

I think if I stimulated questions that I will stop here.

Mr. EILBERG. Doctor, one question comes to mind as a result of Mrs. Stunder's comment a few moments ago. She is in a walk in facility and not scientifically trained although absolutely dedicated to the subject and cause we are here about today and she reported and she has reported to me that sometimes there is just no place to call with an urgent problem.

I was wondering whether the Philadelphia State Hospital has a telephone number that is available or anyone on duty that might be available.

That would be one question that I would have.

Dr. CLARK. If I may answer that, in essence we do not provide emergency service deliberately so.

As a result of the new Mental Health, Mental Retardation Act that came out in 1966, the thrust of treatment moved from the State Hospital which often times was the only treatment available, into the community, with Federal, local, State and community funding for the community activity.

We have moved from State Hospitals into communities, I think, very deliberately.

Part of this was as a result of our experiences in World War II where we found the further behind the front lines we moved our psychiatric battle casualties the less chance we ever had of returning them to battle.

In essence, if we moved that casualty back to the United States for treatment, this far from the lines, he never returned to battle again.

I see the State Hospital system as back to the United States. I firmly believe in the community mental health movement. I think the treatment ought to be where it is at, out in the community, readily available, near the home.

Our concern is in the past that if we begin this kind of service, the community does that much less.

We have seen this repeated, shall we say, in the care of the aged.

The problem was not dealt with so long as there was a State Hospital in the vicinity to place the aged.

I do not want to see this kind of repetition. I strongly support the community mental health centers, we'll work with them, but I really feel it ought to start there.

Mr. EILBERG. Another question, Doctor, and then I will turn it over to other members of the panel.

Looking around the Northeast and this is my primary concern, looking at programs, looking at facilities, how would you assess them and when I say that, I am thinking in terms of drug abuse educational programs at the high school, maybe facilities like The Bridge and The Road and Doctor Lindenbaum's clinic and would you give your objective view or assessment so that we may be guided further?

Dr. CLARK. I am afraid that I have more questions than I have answers.

I think there is no question but a sheer dearth of facilities in this area. These are of concern to all of us but again we must get to the question of what kind of facilities.

Are we talking about facilities for prevention or are we talking about detoxification centers or are we talking about emergency facilities? Are we talking about long term rehabilitation facilities?

I don't think we have enough of any of these.

Your mention of the self help groups brings to mind my own personal feeling.

I have seen nothing really, any orthodox medicine that has been successful. The methadone program, I think, has been successful within the limited goals but this does not reduce an addict away from his habit.

My own feeling would be to put my money with those groups who have been most successful to date and this is not an organized orthodox medicine but it is in the self help groups. I concede that should the situation arrive that we get into this problem of drugs at the State Hospital my initial thrust very likely would be in the direction of supporting a self help group to run its own program on our grounds.

Mr. EILBERG. Thank you, Doctor. Are there any other questions?

Mr. SCHILLER. Doctor Clark, you indicated that we ought to move away from the psychiatrist as being the person in charge of these programs.

In all cases I wonder whether that is a good idea since the latest statistics from Doctor Chambers in New York was that there was a significant proportion of women who are on amphetamine type pills and barbiturates and I wonder whether in that type of context these type of women who are married and for all reason of frustration, loneliness, et cetera—maybe the psysiclatrist has a role in that kind of context.

Dr. CLARK. Yes. I did not mean to imply that psychiatry does not have a role at all in this.

On the other hand an unhappy woman is not necessarily a sick woman.

Most of us have periods of time of unhappiness. It is reality oriented. It is an appropriate motion, perhaps, for the time and setting in which we find ourselves, but another sad fact is that these women are not going to reach out for care and psychiatry generally has not been successful with those individuals who do not wish or will not participate in their own treatment program.

Unfortunate as this may be it is a sad fact of life.

My thrust, perhaps my over statement has been to the effect that throwing this problem to a group of psychiatrists is a cruel hoax and delusion.

It is offering kind of a false hope that I don't think we have been able to come up with yet.

I think some other disciplines, perhaps, would probably provide more relevant and pertinent answers than we have to the present time, but I think it unduly raises the kind of hope for which we do not have answers.

Mr. EILBERG. Any other questions?

Dr. LINDENBAUM. Yes. Would you agree, Doctor, that a certain number of addicts are psychotic, a large number?

Dr. CLARK. No, I would not agree that a large number of them are psychotic.

I think there are some. I do not know the figures on this.

I do feel that their psychosis requires treatment. I see many of these individuals using drugs, and before drug became popular they used alcohol, and they were known as the town drunk until five or ten years later they had a psychotic breakdown and then they were called alcoholic hallucinosis or paranoic.

Today we know this individual was spending all those years on his way to becoming psychotic and perhaps even successfully warded off the psychosis with the tranquilizer of that time, alcohol.

I do not see this as a drug problem. I see this as a psychiatric problem of which the drugs are simply a symptom.

Dr. LINDENBAUM. That is what I am getting to now. The problem arises at times in the methadone program when you have a crisis and you have a true psychotic, an addict who breaks through to the point where he becomes suicidal and he has done one, two, three, any number of over doses already and your psychiatric personnel in your clinic, psychologists and psychiatrists find that he is about to do it again.

At this point, I feel he should be institutionalized with therapy and sentenced with the state.

Dr. CLARK. I think absolutely not institutionalization. We know institutionalization sets up its own additional dependencies and breeds further illness and dependency.

I believe that if he needs bed care it should be provided in short term situations to meet the crisis in the community. We have study after study which tell that anybody who comes into an institution such as the State Hospital greatly enhances his chances of again having to return and not because of his illness, but because of the fact that he was there once.

I would wish to exclude this possibility.

Reverend QUINN. In the situation where there is perhaps a methadrine or some other form of drug induced psychosis and something other than minimal day care in terms—minimal in residence care would be indicated, something less—something more than sixty days, I have had experience with methadrine induced psychosis and the young lady in question was hospitalized for seven months in a private psychiatric institution at a cost of one hundred and two dollars a day.

I don't think—we have a real problem and the problem is both economic and medical and I don't think that the average American can withstand that kind of expensive care.

There aren't any programs, that is insurance programs, that I am aware of that will carry you for that amount of time.

In addition there is a reality situation and my question is what do you do for the client who is in that situation?

Can we provide some sort of interim, something between the mental health unit sixty day care and long term kind of semi-permanent institutionalization?

Dr. CLARK. Yes. I am not familiar with the metabolic life of methadrine. I do not know how long this stays in the body and how long the methadrine itself persists in aggravating the psychosis. If methadrine is relatively quickly metabolized, I don't know of anyone who ought to be sufficient psychotic for seven months to need this kind of care.

Again there are many economics and psychosis in many ways is an economic kind of illness. I don't want to go into detail as to that, but I don't know of anyone who needs seven months of care in an institution.

A great deal of this depends on, I feel, the psychiatrist, the expectation, the kind of treatment given in the institution, the degree of return to normalcy that he demands before he releases the patient and so forth.

It is simply not my experience today at the State Hospital that anyone need to retain this degree of illness, to demand institutionalization.

Mr. EILBERG. Thank you very much, Doctor.

Dr. CLARK. You are quite welcome.

Mr. EILBERG. Ladies and gentlemen, I personally do not know certainly everyone in the audience, everyone equally well, among the speakers today, and if I don't provide complete introductions I hope the speakers will understand.

The next speaker is the Eastern Pennsylvania Psychiatric Institute, Doctor John C. Ball.

Dr. BALL. I am John Ball from the Addiction Sciences Center at Temple University and I would like to speak briefly on the present drug abuse problem in Philadelphia with recommendations for 1972.

The present drug problem in Philadelphia: Though not unique among United States cities in the extent or growth of its drug problem, Philadelphia has the dubious distinction of being numbered among those urban areas in which the problem is greatest in the United States.

In 1970, the Federal Bureau of Narcotics and Dangerous Drugs ranked Philadelphia eighth among United States cities in the number of known drug addicts, mostly heroin addicts.

Philadelphia has less than one-fifth of Pennsylvania's total population but more more than half of the state's addicts.

In 1969 the Philadelphia Police made nearly three thousand nine hundred drug arrests and in 1970 that figure was over sixty-six hundred. There were two hundred and seventy drug related deaths in Philadelphia last year, 1971, and that was an increase of forty-five percent over the previous year.

But these figures only hint at the scope of the problem.

The figures based on medical or police reports are inadequate because they don't include non-arrested, untreated addicts and they refer primarily to heroin addicts, thus grossly underestimating persons dependent upon non-narcotic drugs such as barbiturates and amphetamines.

Of the two million people in Philadelphia approximately fifteen to twenty thousand are heroin addicts and thirty to forty thousand are frequent abusers of other dangerous drugs.

In 1970, the Pennsylvania Health Department conducted a study of seven thousand junior and senior high school students in nine counties of the Commonwealth and found that eleven percent of these students are regular drug users. This means that one hundred and twenty-three thousand youngsters in the state are using illicit drugs and all socioeconomics groups are represented.

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What is being done? Drug abuse education as it currently exists is notably ineffective. Frequently the students know more about drugs than the teacher does. The very fact that drug abuse is most common among physicians and medical students, more than the general population clearly indicates that technical knowledge does not preclude drug use and may in fact predispose an individual toward it.

The Pennsylvania Health Department's study found that the longer students are in school the more positive their attitudes toward drugs become.

Part two, and this is just a brief over view of our studies in Philadelphia and in the State of Pennsylvania.

Treatment programs in Philadelphia at the present time: Though Philadelphia has a variety of treatment programs it lacks a comprehensive citywide approach to the problem. There are fourteen specialized drug treatment facilities currently treating over two thousand addicts but only one program is in the Northeast and you may add to this on the basis of what is down here today.

In addition to an imbalance and geographic distribution, there are enormous gaps in the pattern of services. There is a disproportionate lack of detoxification facilities in comparison with programs for treatment after detoxification and you have already referred to this, Reverend Quinn.

To our knowledge there are only nineteen beds in all of Philadelphia specifically allocated for this purpose of detoxification. All these are for males, while in our State survey and we are visiting every treatment facility in the Commonwealth of Pennsylvania on a State contract, while a short distance from Philadelphia there is a well staffed, well equipped detoxification unit of nine beds which at the time I visited it had only one patient, so we have in Philadelphia itself a need for detoxification beds.

And certain significant groups of drug abusers such as speed freaks, methamphetamine abusers and barbiturate addicts are not being treated at all.

Some promising modalities of treatment are not being provided in this city, for example, the use of narcotic antagonists such as cyclazocine and naloxone. And there are no multi-modality programs here in Philadelphia such as one in which the use of methadone is followed by treatment in a drug free therapeutic community or methadone is used in conjunction with a therapeutic community.

Most treatment personnel and we see this today in this hearing are deeply committed to their work, a necessary commitment in helping an extremely difficult type of patient. But, this often takes the form of adherence to an ideology, and such ideological bias not only precludes cross referrals for the programs and prevents an objective evaluation of of the given program.

Systematic follow ups of discharged patients are seldom if ever undertaken in programs in Philadelphia or throughout the United States.

Unless some unprecedented and virgorous action is taken, the response to our mounting drug problems will continue to be sporadic, crisis-oriented and inadequate.

Part three, and the last part. Recommendations from the Addiction Sciences Center of Temple University based on our study in Philadelphia and throughout the Commonwealth of Pennsylvania. There are three recommendations:

1. That drug treatment facilities be expanded in Philadelphia so that every addict can obtain treatment. At the present time we have one facility in Philadelphia where there are over one thousand patients on the waiting list, so we have a real need to expand treatment throughout the City of Philadelphia.

Our second recommendation; that a city wide comprehensive plan and program be developed in order to coordinate existing facilities and establish new multi-modality programs. Doctor William Wieland has already begun the planning stage of this.

That a scientific evaluation of drug treatment programs be undertaken in order to ascertain what type of treatment is most appropriate for specific types of drug abusers.

Mr. EILBERG. Thank you very much, Doctor Ball. Doctor Ball, this perphaps is not within your jurisdiction, but I don't know that we have anyone here who may be more knowledgeable as to the problem of drugs, drug addiction among returning Vietnam veterans and I wonder if you could just give us a brief outline of the problem in Philadelphia, the studies in Philadelphia, if you have done that.

Dr. BALL. The Federal government—we are consultants to the federal government in this area—and we are just now mounting studies with regard to what happens to the returning veterans and what actions might be taken. The Veterans Administration is also in the process of mounting a program to provide treatment for returning veterans.

Mr. EILBERG. You are not able to furnish us with numbers or the extent of the problem among Vietnam veterans in Philadelphia?

Dr. BALL. The only way we could provide that kind of information is after our national study involving Vietnam veterans is completed.

In order to answer this question, Congressman, we have to conduct a follow up study and we have to actually interview the veterans and get urine specimens from them and get their opinions as to what their problems are and what drugs they are using and so forth, so this is a high priority study that is now in the final stages.

Mr. EILBERG. Fine. Are there any other questions?

Mr. SCHILLER. What is your feeling of Doctor Laverne's CCT method of treating the heroin addict?

Dr. BALL. I think this has yet to be established as a recognized procedure.

Mr. EILBERG. Any other questions?

Dr. LINDENBAUM. There was a study done by Doctor Gaffee. I am talking about programs where we have social workers and doctors with medical experience, psychiatrists, a complete gamut of which you speak and we are getting three hundred people a day.

We do not dispense drugs to the patient except what they use in the clinic. We don't want people selling packages on the street.

Dr. BALL. Yes, we have looked at this question quite extensively, and, of course, the question involved is what is your outcome criteria, that is, what are you trying to accomplish, by a drug treatment program.

Are you trying to rehabilitate the individual in terms of employment and family life and community orientation or are you talking about relapse to drug use or criminal history?

Let's be realistic. I think the drug problem, particularly if we are talking about the opium addict, is a very serious one and I can make this factual statement to indicate how difficult the problem is in this. There is no pro_ram in the United States at the present time or anywhere else in the world that has been able to get opium addicts off opiates.

When we go to Britain and talk with the British they have a much more realistic attitude. They say:

"We may be able to make some progress," and they speak in kind of reasonable, calm ways about it, but our American way is, of course, we want instant solution and we want to think that the problem can be quickly resolved.

I think by now most of the people in the field realize that the drug problem is not going to be solved this year or next year but it is something we are going to have to learn to grapple with over a long period of time.

Mr. EILBERG. I had occasion to visit a clinic in London in August and participated while the psychiatrists were interviewing and treating patients and I was surprised. One reason why I am strongly opposed to the British system, there is no initiative by the psychiatrist in the direction of trying to have the addict kick the habit or cure him of his problem.

It is entirely a philosophy of containing the habit and keeping the individual happy and maybe this is our American instinct but personally I don't go along with that concept.

Dr. BALL. Well, I would agree with you and it is quite different if you are talking about three thousand addicts as opposed to three hundred thousand addicts.

That is the basic difference.

Mr. EILBERG. Thank you so much. Our next speaker is from Philadelphia City Council, and representing the Tenth District and as an expression of his interest and his work and a member of the next city administration, we have the chairman on the new Committee on Treatment of Drug Addiction.

Councilman from the Tenth District, a very close personal friend, Honorable Melvin Greenberg.

Mr. GREENBERG. Thank you, Congressman Eilberg and members of the panel.

It is with special delight that I received your invitation to appear at today's hearing.

As you know, I assumed a seat in City Council, representing the people of the Tenth Councilmanic District which is the Far Northeast section of Philadelphia about twenty days ago.

For the past several years I have been alarmed by the growing menace of drug addiction in the City of Philadelphia.

However, with you, I share the view that it is not enough for those of us who have been elected by the people to register alarm.

We have a responsibility to the people to fully identify the problem and to do everything within our power to solve it.

Therefore, rather than recite those facts that we do know about drug addiction in this area, with your permission I have chosen to address myself to a very recent development in city council in the war against drugs.

Effective immediately City Council has created a new Standing Committee on Control of Narcotics and Drugs and I have this week been appointed chairman of that committee.

The purpose of the committee is to deal with all matters relating to the illegal use and possession of narcotics and drugs.

Cooperation with law enforcement agencies, State and Federal agencies, the Department of Public Health, the Department of Public Welfare, educational and research organizations to control and prevent the illegal trafficking and uses of narcotics and drugs, as well as rehabilitation and treatment of narcotic and drug addicts.

We have not yet fully developed a program for the committee. However, I would like to share with you my present thinking on what part the committee will play.

It will be a committee of inquiry with the prime objective of determining what facilities, planning and local legislation are needed to have a maximum impact on Philadelphia's drug problem.

We believe it to be presumptive to expect the Federal government alone to solve the problem which may have characteristics peculiar to a certain geographic area, such as Philadelphia, although without Federal action we cannot succeed.

Funding is in the hands of the Federal government but the investigation, planning and proposals should be activated by the hands of the community.

The community must act responsively to identify and clarify its own problems. Our new committee will take on that job.

Accordingly, we expect to convene public hearings to inquire and to investigate.

The people of the City of Philadelphia have given us the responsibility of starting to determine whether local legislation is necessary and to advise what local legislation it should be, what it should contain.

The Standing Committee on the Control of Narcotics and Drugs intends to accept the challenge and within plain view of all the people of our city, intensify the fight to cure this cancer by probing the causes of the problem, by evaluating the effectiveness of the facilities that presently exist and by determining who is involved in the illegal sales of narcotics and how we can bankrupt that business.

I have asked John R. Padova, Esquire, a highly regarded member of the Philadelphia Bar to serve as special counsel to this committee, hoping that his commitments will allow him to accept this position.

In addition to my prepared statement there are a couple of observations that I would like to make, first as a member of the community of the Far Northwest and what I observed during eight or nine months when I was campaigning and meeting with community groups and talking to parents and there are a couple of things that I would like to comment on.

1. I found to my surprise a total lack of understanding by the parents in our community as to what the symptoms and problems are of children and young adults involved in narcotics.

They just do not know what the symptoms are. They just cannot recognize when their children are involved and something has to be done about this.

Coupled with this problem is the fact that in the school system the teachers cannot recognize the problem.

They also are not aware of how to identify someone involved in the early stages of drug abuse.

Another observation which I would like to make is why there is a much higher incidence of drug abuse in the public schools than in the parochial schools.

I think this is an area that we have to investigate and find out what makes their system somewhat better than the public school system.

These are observations that I have made in the eight or nine months that I have traveled throughout the district.

In summary, I have indicated to you this morning that a new standing committee of City Council has been formed with me as chairman which will work in cooperation with both the Federal and State bodies that are presently active in this area to focus a spotlight on the problem of drugs in the City of Philadelphia.

I can assure you that the committee's work will be accomplished with vigor and directness. The people of the City of Philadelphia are entitled to this commitment from their local representatives and I would ask you please at the termination of this hearing, when the notes are transcribed, if you would please make them available to me and my committee.

Mr. EILBERG. I will be glad to do so, Councilman Greenberg. You are welcome to have a transcript of the notes from our good friend, the stenographer, Adam Winterstein, in case I overlook that detail.

Councilman GREENBERG. Thank you very much.

Mr. EILBERG. I will probably be testifying before your committee and I am at your service subject to my Washington commitments.

I hope that we will be able to cooperate on this problem. Are there any questions?

(No answer.)

Mr. EILBERG. Thank you, Mel. Ladies and gentlemen, we have with us a legislator from the Far Northeast, the area of the Sixty-sixth and Fifty-seventh wards, who has been doing a great job as a legislator. A distinguished trial attorney who has concerned himself with, among other things, the problems of the poor and the handling of the welfare problems. It is my pleasure to introduce at this time State Representative Stephen Wojdak.

Mr. WOJDAK. Thank you, Congressman. Congressman Eilberg, members of the committee, I am Stephen R. Wojdak, a resident of Northeast Philadelphia, and, for the past four years, a member of the State House of Representatives from the One Hundred and Sixty-ninth Legislative District.

It is a privilege to appear before this committee today to present information which I hope will be of help in creating programs to deal with the problem of drug addiction.

The misuse of drugs used to be a problem of the ghetto kid in the big city slum. As you all know, it isn't anymore.

Today it is a problem of not only the ghettos, but also the middle class suburbs and the wealthy mainline neighborhoods. It is a problem of the rich as well as the poor, of the working class as well as the families of industrial executives today.

Nowhere is this more evident than in Northeast Philadelphia.

This committee has asked specifically for information about the extent of the drug problem in our area and what treatment and rehabilitation facilities are available to our residents.

There are few valid statistics on the actual extent of the drug problem in any area. According to the report of a special state house committee on narcotics and I quote: "There are no really reliable statistics on the misuse of drugs."

The Federal Bureau of Narcotics and Dangerous Drugs ranks Philadelphia as eighth in the nation with respect to known addicts. In fact, over half of Pennsylvania's addicts are residents of Philadelphia, and this is based on known addicts only, those who have been arrested or have voluntarily entered treatment programs.

Perhaps the most significant statement that can be made on the extent of the drug problem in the Northeast is that contained in a recent report of the Northeast Citizens Health Committee, and I quote: "Thirty-five percent of the Northeast population is under twenty. Without exaggeration we could lose a generation if we don't provide services in this area."

According to a public survey they conducted, in which they received over eighteen hundred responses, drug treatment was a major request of the residents of the Northeast.

The problems of drug abuse and drug addiction and the need for drug treatment facilities are well known to those whose lives it touches, but we have little to offer our residents in the way of programs to fight this problem.

And this is true of the entire City of Philadelphia as well as the Northeast. For the entire City of Philadelphia, there are currently nineteen beds specifically set aside for drug detoxification, and these are for male addicts only. There are no facilities at all for female addicts.

These nineteen beds for a city of a population of approaching two million and an addiction problem which ranks eighth in the entire nation, are located in South Philadelphia, in Saint Luke's Hospital, and although available to all city residents, are used mainly by South Philadelphians.

All other drug treatment in Philadelphia is done on a voluntary outpatient basis. The largest outpatient clinic, and the only nonmethadone clinic, is run by the Philadelphia Institute for Alcoholism and Narcotic Addiction.

This clinic treats over half of the addicts who receive treatment in Philadelphia.

The treatment, on a voluntary basis, is usually referred to as "cold turkey" which means that the only help given an addict during withdrawal consists of tranquilizers and psychotherapy.

Needless to say, many addicts do not follow through with the treatment and if they drop out the case is not followed up.

In addition, there are a number of methadone clinics throughout the city, the largest of which is at Philadelphia General Hospital.

The methadone treatment has raised some problems of its own, however. In fact, according to the special advisor to the secretary of health, there is a large black market in methadone, which is also growing at an alarming rate.

The treatment and rehabilitation facilities available to the residents of the Northeast, as well as the entire City of Philadelphia, are best summed up by the report of the special house committee cited previously.

They concluded, and I quote: "We have no rehabilitation program."

Current Pennsylvania law has failed to deter drug users, unjustly penalizes the victims of the drug traffic who are the users, and fails to recognize the differences in the variety and types of drugs that are now blanketed under the general provisions of our laws.

Until now we have relied solely on law enforcement efforts to control the narcotics and related crime problems, despite incontrovertible evidence that both a law enforcement and treatment approach is needed.

As a result of the work of the special committee and its report, the State House has two bills which emphasize prevention and treatment of drug addiction.

These bills are now lodged in the State Senate.

Under this new legislation, narcotic law enforcement will stress the fight against the pushers, the wholesalers and retailers who supply users with drugs.

The first of the bills, the Pennsylvania Drug, Narcotic and Alcohol Abuse Control Act, will create a Governor's Council to administer, direct and coordinate a comprehensive drug and control program, including specific programs in the prevention of drug abuse, the treatment and rehabilitation of drug abusers and the enforcement of the drug laws.

The council will be given the responsibility of developing a detailed master state plan for the control, prevention, treatment, rehabilitation, research, training, coordination and law enforcement aspects of drug abuse problems.

The second bill, known as the Drug, Device and Cosmetics Act, spells out the classification of various types of drugs according to their likelihood for abuse, potential for psychic and physical dependence and known medical use.

It also requires the annual registration and licensing of legitimate manufacturers, distributors, wholesalers or retailers of drugs, spells out the penalties for violation of the narcotics laws, creates a drugs, device and cosmetics board and generally regulates the legitimate distribution of drugs.

This much needed legislation will emphasize the fight against the wholesalers and retailers who supply users with drugs. The bill will make the price of trafficking in drugs in this Commonwealth prohibitive, even for organized crime syndicates.

Under this legislation, any person who is convicted of the wholesale distribution of drugs can be sentenced to life in prison, even on a first offense, and fined an amount large enough to wipe out any profits made from the drug business, including any investments made with those profits.

In other words, if an underworld figure purchased a legitimate business with the proceeds from illicit drug sales, the Court would

have to fine him the total value of that company.

Furthermore, the courts will be given greater flexibility which they do not presently have, in dealing with drug offenders.

The treatment program will be a comprehensive one and will include a diversified system designed to meet the varying needs of drug addicts.

It would include detoxification centers, treatment and rehabilitation centers, retraining and after care programs.

A major emphasis is also placed on the prevention of drug addiction. A comprehensive educational program, designed to reach every section of society, will be authorized.

Schools will be encouraged to offer drug danger curricula as early as the fourth grade and teacher training schools and colleges will be required to offer a course in drug recognition for all future teachers.

This comprehensive drug control program will be a significant step toward correcting drug abuse in the Northeast, in the entire city and throughout the entire state, and this is what is necessary if we are to truly solve the problem, because it is a communicable problem.

It can no longer be isolated to one community or solved in one community or possibly even solved in one state.

The problems involved in foreign sources of narcotics also complicate the solutions, and these must be treated on the national level.

It will take a cooperative effort on the part of local communities, the State and the Federal government to develop the programs which are necessary to not only treat the problem but to actually prevent its continuance.

Gentlemen, I thank you for the opportunity to appear here.

Mr. EILBERG. Representative Wojdak, we are grateful to you for a very searching review and comment of what is happening at the State level, and it provides me with the opportunity of saying that not only will this information be transcribed and be available to our House Judiciary Committee, but it will also appear in Congressional Record so that all of our colleagues in the country at large may have the benefit of the remarks here today.

Are there any comments or questions by the panel?

(No answer.)

Mr. EILBERG. Thank you. I would like to give recognition to a gentleman in the audience who has cooperated so fully in making this hearing and seminar possible. He is the executive director of the Northeast Chamber of Commerce, our good friend John Lang.

John, would you just please stand up there?

(A person in the audience rises.)

Mr. EILBERG. Thank you, John. Our next speaker comes from the office of the U.S. District Attorney. A few days ago the U.S. District Attorney, Mr. Louis Bechtle, recently designated by President Nixon to become a Federal District Court Judge, was kind enough to invite me to come down and inspect the facilities of the office and we had a very good walk through and good description of the activities there.

Of course, I could not resist telling Mr. Bechtle of this upcoming hearing and we promptly reviewed some of the problems of the office. He was kind enough to offer to share the information which has been gathered by his office. So it is my pleasure to introduce Richard Galli, Esquire, Assistant U. S. District Attorney.

Mr. GALLI. Thank you, Congressman Eilberg and members of the committee. Mr. Bechte asked to participate at this hearing this morning because in my two years at the U.S. Attorney's Office I have had the task of supervising the United States Attorney's Office of processing of narcotics addicts who have applied for treatment pursuant to the Narcotic Addict Rehabilitation Act of 1966.

By this Federal legislation the narcotic addict can apply for civil commitment for treatment and supervision for narcotic addiction.

Generally this program consists of forty-two months of supervision by the surgeon general, the six month period of confinement at the clinical research center in Lexington, Kentucky.

Our office does not have any particular figures as to the number of residents of the Northeast over the last two years who applied or made inquiries for entrance under this program, however it is my personal experience that over the past, I would say nine months, the number of people from the Northeast has increased tremendously, the number of young men and young women inquiring as to admission under the Narcotic Addict Rehabilitation Act.

The Act provides that a person upon making application to a U.S. Attorney's office in any particular district, is to be taken in front of the Federal District Court. At that time the Federal Judge explains to the narcotic addict his rights under the program. These rights are that if a person voluntarily commits himself in a civil commitment without any criminal implications he can be placed in the care of the surgeon general for forty-two months.

The first six months are spent at the clinical research center at Lexington, Kentucky, which is staffed by doctors of the Public Health Service experienced in the area of drug treatment.

After this six month period of confinement is completed the addict is then placed in what is called the post hospitalization program and he is returned to his community for supervision by an agency in the community.

In Philadelphia this agency is Jewish Employment Vocational Services which is located at 1913 Walnut Street.

This agency also performs the task of screening applicants before they are sent to Lexington.

Upon the addict's initial admission into the program he is examined by psychiatrists, doctors, as well as staff workers, under contract with the Jewish Employment Vocational Services. They make the determination whether the particular individual is first of all an addict and secondly whether he is likely to be rehabilitated by treatment.

This latter determination consists generally of interviews and background information on the person to determine whether in fact they are seriously motivated and whether they really and truly desire treatment.

After this screening process the agency makes a recommendation. Pursuant to that recommendation the Court would then admit the addict for a six month period of time at Lexington.

The facility at Lexington has been praised by a wide number of authorities for a number of reasons.

1. The doctors there are skilled in this area of treatment, the drug problem and treatment.

2. And secondly, the fact that the facility is far removed from the area of the person's involvement in the drug traffic, has been cited as the further source of some method of bringing the addict away from the problem and giving him a chance to, in fact, turn over a new leaf.

The other beneficial aspects of the treatment program at Lexington at the present time is that the entire program is designed to give the addict himself a chance to really conduct his own rehabilitation program. By that I mean the center itself is designed so that the various roommates and various groups are designated into what is termed alleys.

An alley consists of perhaps twenty or thirty different people who are rooming together, rooming in the same area of the building and this alley elects a group leader and various administration people in a group and these people determine the type of work that the group will perform and the type of recreation facilities and also the type of treatment programs that each member must undertake.

In addition to that the alley and the members themselves determine the types of punishment and sanctions to be imposed on members for failure to perform their various tasks at Lexington.

Now, having gone over the procedures for admission and the general aspects of life at Lexington, I think it is noteworthy to add that while the drug problem has by all indications over the past three or four years increased enormously, the statistics of our office in Philadelphia indicate that over these past three years anyway, the past three fiscal years, the number of people who applied in Court for treatment at Lexington has not increased.

Now, I find this somewhat puzzling. Perhaps the reason for this is perhaps the lack of general information with regard to treatment at Lexington.

However, the other factor accounting for this constant number of admissions through our office is, I think, the fact that the Lexington facility is a very hard sacrifice for any individual to make.

It is perhaps eight hundred miles away from an individual's home and by signing up for treatment at this facility the person in effect signs his life away for six months.

He is signing up to be confined on a six month period of his life and I think only those people who are so afflicted with drugs that they are really at the end of the line are those who are being taken into this program at this time.

The bad aspect of this program is the fact that it is the only one facility for the entire country, east of the Mississippi River.

There have been some efforts recently to try to have a Federal facility supervised by the Jewish Employment Vocational Services in Philadelphia so the treatment would be more on a local level.

The reason for this is that the figures at Lexington, that is the follow up figures from the detoxification program, have indicated that while the treatment at Lexington might be excellent and the person leaves there with a clean record and a clean body, that once they are in the environment of their community again with the same acquaintances and the same problems the same drug addiction again arises.

It is hoped that with a facility in this area treatment and detoxification would be on a more realistic and more permanent level. The addict himself would be faced with those things around him and he would have to deal with them in order to overcome the problem.

However, the implementation of any federal facility in any of the local catchment areas has to my knowledge to this point been just not effective and it just hasn't been done.

I feel that this is the one area in which the federal government particularly should certainly inquire and make efforts to provide for.

The most depressing thing for the people in our offices to whom these addicts speak—and we must interview them—is to tell these young men and young ladies that there are just no facilities in this area, that it is either six months at Lexington followed by three years of supervision or nothing at all as far as the Federal Government is concerned.

The really frightening thing is that there are just no facilities in this area and to hear these people come in to tell of their problems and to say there is nothing we can do for you short of this program at Lexington is to myself personally and I know for the other attorneys in our office, a really heartrending and a tremendous fact. Thank you.

Mr. EILBERG. Thank you. Just a couple of questions. You have been kind enough to come here and describe the operation of the Narcotic Rehabilitation Act of 1966, and among other things you said we needed a facility like Lexington in the Philadelphia area and it is a worthwhile suggestion that will be looked into.

Are there any other ideas based upon your experience whereby the NARA Act may require amendment, or if you don't have any now, perhaps you can think about it.

Mr. GALLI. Well, I think the Act as designed is very fine. The problem really is just the implementation.

As it is now in Philadelphia, there have been certain changes as far as the processing is concerned.

Originally when anyone applied the initial evaluation and examination by the doctors and psychiatrists was done at Lexington, so a person would apply and he would be admitted by the District Court into the program. He would be sent to Lexington for a six week period of time during which the examination and evaluation was made.

The results of that processing showed that a large number of people came in with no serious thoughts of motivation. They were really looking for a free vacation for a few weeks during the examination period. The rejection rate was enormous. There was a great expense involved in transportation as well as the maintenance of these people during this examination and evaluation period.

Approximately fourteen months ago this process was changed so that the examination and evaluation would be done strictly on an outpatient basis in Philadelphia by the people under contract to the agency in Philadelphia. The individual would be required to report four or five times a week to an agency that designated hours of an examination as well as evaluation.

While this has been beneficial in a sense, it screened out a lot of unserious applicants, the drawback is that in one month's period of time we have the fact that the individuals in the community who are really hard core addicts at this point are just left hanging without any treatment.

The facilities do not permit treatment and the Act does not permit any treatment during the thirty day period of examination and evaluation.

The result has been that a good number of applicants have during this thirty day period either dropped out because they just couldn't afford to or on many occasions were arrested for shoplifting and larceny during the interim period of time in which case they become ineligible for the program because they have an outstanding criminal charge against them. There are no means the Federal government has to support these people during the thirty day period of time.

There are people who are left very much on their own devices during this time and the people ask me: "What do I do because I don't have any money and they are addicted to drugs?" "Shall I go out and rob and steal?" We are left without an answer to that.

Mr. EILBERG. It is precisely that point that concerns me here. In order to sustain the habit so many addicts do have to rob and steal and commit other crimes.

I can't resist, since you are in the courts, to ask what are the judges doing when they have convicted a drug addict and what sentences are being imposed?

Mr. GALLI. Well, as to that, you know, Congressman Eilberg, the judges—I believe there are twenty some District Judges now and their sentences are absolutely unpredictable. I would say, with regard to each different person.

Under the NARA Act a person who is a narcotic addict can be sentenced for a particular type of drug treatment. I don't have any experience in this area but it is my understanding that the Bureau of Prisons administers this program and not the Institute of Mental Health of the Federal government.

There is one further alternative which I didn't mention under the Act which provides for deferred prosecution by the Federal government of the person who qualifies and is charged with a Federal crime who is a narcotic addict and is given the availability of going for thirty-six months of treatment under the NARA Act as opposed to prosecution by the Federal government.

In the past two years we have had no cases under this situation however, and Mr. Bechtle and I have conferred on this recently and are designing procedures whereby the district judges will be made aware of these provisions and would be able to dispose of cases in this area.

Mr. SCHILLER. In response to what some of the judges are doing on a State level; of the over eighty people that we arrested this summer for pushing narcotics in the Philadelphia area, whose cases are now coming to trial even though we get guilty pleas and convictions, we find that the sentences vary from judge to judge.

Some the judges would just give suspended sentences and there is no uniformity at all in the way judges in a certain county will hand down sentences.

As to those who are addicts, who are also convicted of pushing or dealing in narcotics, there is legislation now going to be proposed in the State Legislature to deal with detoxification of the addicts while they are confined because obviously we realize it doesn't make much sense to put someone in jail because he is an addict, and then he goes out and still has his addiction.

I suggest among the judges there is no uniformity at all.

Mr. EILBERG. Any other comments?

Rev. QUINN. Mr. Galli, I would just want to make explicit two things that you seem to be saying and saying rather well.

Would you infer then that the addict is a member of society and as a full member of our society deserves treatment within our society?

Mr. GALLI. I think absolutely, Father. I don't think there is any question of that at this point.

Rev. QUINN. I think we may have hit upon something here that is very important. It says an awful lot about the community response to the addict and I think that when we are willing then to move from treatment within the community confines that the community itself is bettered by providing the immediacy of care for these addicts.

Would you infer secondly that we simply cannot hang the addict out there for thirty days?

Mr. GALLI. I think that is very true, Father.

I think as Mr. Schiller has also pointed out, there is a great problem with the number of people who are arrested and who are confined who are in fact narcotic addicts. During the period of confinement they may not be receiving drugs to support their addiction, and, they may be confined for years and come out still mentally and psychologically addicted and the physical use resumes immediately.

Rev. QUINN. Your message is that we in Philadelphia better go about the task of providing community care?

Mr. GALLI. I think it would be most advisable, Father.

Rev. QUINN. Thank you.

Mr. EILBERG. Thank you. I would like to introduce a gentleman who has a very difficult job. He was and is a very effective police officer. I think perhaps some of you may have seen the movie "The French Connection," and he is not like that chief of the narcotic squad but he is our own good Philadelphian doing a tremendous job. I would like to introduce Peter Noga.

Mr. NOGA. Thank you, Congressman, and members of the panel: I welcome the opportunity to appear before your panel this morning, not just as a police officer, but also as a concerned member of this community. I am a resident of this community and I have a daughter who attends one of our local high schools.

I have heard several comments here this morning that I was glad to hear. I reassumed command of the narcotic squad in 1969 and I am glad that the community is finally realizing that drug addiction and the drug problem is strictly not a police problem.

There have been too many times in the past when certain newspaper articles came out, stating, that the police department was put to task to account for the drug problems.

This problem is a total community problem. In the past two or three years I have spoken at many hearings and to community groups and looking around the area today, you can see why we are experiencing difficulties.

We seem to be able to draw out the concerned persons of the community but not the persons that are directly involved with the drug problem.

Through our records I know for the past year in the Northeast section of the city, there have been over five hundred and forty-four arrests, and looking around the auditorium today I don't see nearly that number of parents or individuals directly associated with the individuals who were arrested, who are here today to find out the scope of the problem.

The only way that I can gauge the problem as it appears in the city today is by our arrest statistics, and it has grown since 1965.

In 1965 we had a total of nine hundred and twenty-six persons arrested in the City of Philadelphia. It jumped in the year 1969, we went to thirty-eight hundred individuals arrested for this.

For the year 1970, seventy-two hundred and eighteen. In 1971 I saw the trend in June—it finally started to slack off and for the total year of 1971—we had seventy-two hundred and thirty-five people arrested which is only a slight increase over the period 1970.

For this particular division which bounds Frankford Creek and North of the Boulevard which is referred to as the Northeast Police Division, we had a total in 1968 of ninety-three persons arrested.

For the total year of 1971 we jumped to five hundred and forty-four so we are experiencing a problem up here but not as great as many other sectors of the city.

Our average police division, we have seven in the City of Philadelphia, averages between eight hundred and twelve hundred arrests.

I hear many things said of the methadone programs that are going on today and with any treatment program I am sure the police commissioner will go along. We feel that we need more outside help from the community, but one comment on methadone programs.

I think there should be more control especially a central registry set up and maintained constantly under control of the AMA (American Medical Association).

There are too many times when a police officer speaks of something like this that they think the police want control of it to know how many addicts are in the city.

We don't feel that way but we feel it should be under the AMA.

A person could be under treatment on one methadone program, go to another methadono program and receive medication possibly at three or four different programs in the city.

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Furthermore, I think this would give us a more accurate scope of what the problem is in the country.

Statistics today which are mostly taken from police arrests indicate that in the United States there are between three hundred thousand and three hundred thirty thousand addicts in the United States.

For the State of Pennsylvania statistics vary, thirty to sixty thousand, and I have heard numerous statistics for the Philadelphia area varying anywhere from ten to sixteen thousand.

Do you gentlemen have any questions?

Mrs. STUNDER. When you asked for a control of the methadone, how can an addict get methadone in three or four places?

Mr. NOGA. There are no communications between the various methadone agencies. He could possibly be treated in West Philadelphia, go to another program and also register under that.

There is nothing to say that he is being treated under another program.

There is no communication between the various agencies. If there was a central registry, and if an individual applied to a specific program this specific program could contact the registry and find out if this individual is being treated by any other methadone program.

Presently in the city today there is no such set up.

Mrs. STUNDER. Well, isn't there available a kind of analysis that would indicate how much methadone is used?

Mr. NOGA. Since the methadone program started, methadone is being used on the street today and I think we had twelve deaths in the city last year.

Also, since the methadone program started they have individual dealings on the street today of what they call "dollies," which is dolophine and it is a tablet. It is a narcotic and the individuals that are given these to take the edge off while they are on the street.

When this product first hit the street it was selling for a dollar a tablet. There are numerous dolophine tablets on the street today and the street price is running now twenty-five cents a tablet.

Dr. LINDENBAUM. I would like to answer you about the control. There is a weekly list published which is mailed to the clinic.

In our program, as many as three or four identities, identification cards, driver's licenses and so forth are used.

We have control of the quality of the addict's urine and every week every addict must have it tested and it tells what is in the urine, sixteen different drugs. The amount which is there we could tell by a method which we hope is being installed by the state.

We hope then that each addict will have a card and this card will have his picture and identification data and other data when he enters a facility that card will be put into a computer hooked up to a central statewide computer.

If he has received methadone at any time that day in another center it will flash back. The card will be almost impossible to duplicate because it will be specially coated. This would also allow an addict to float through the State and he will not have to worry about being in Philadelphia.

He could be in Pittsburgh and receive treatment by the use of that card because the Pittsburgh computer will pick up his traits, his characteristics and so on and print out, what he is getting.

This is proposed and we hope to see it by June. It will cost one point seven million dollars we are told. We have heard no more about it in the last month or so but we hope by June this equipment will be used by the State. This will be the ultimate in controls and if they buy it on the street it will be picked up.

Mr. SCHILLER. On behalf of the narcotic strike force I would like to thank Lieutenant Noga for his cooperation with his narcotics group here in Philadelphia. The cooperation between different law enforcement agencies is very essential in controlling the supply of narcotics and as he said, and I quite agree, that a control alone through law enforcement agencies is not the answer.

Mr. EILBERG. We hear different statistics on drug abuse among actual students. Very often it is a matter of whom you talk with as to how extensive the use of drugs is among high school kids.

From your situation how would you characterize the situation in northeast area high schools today?

Mr. NOGA. I think the high school situations, Congressman, are far exaggerated. The drug abuse does not take place in schools.

It takes place in the area of the schools. I believe in the year 1970 we had a total of seven hundred juveniles arrested and that's under the age of eighteen years old. Out of that number eighteen were arrested in the school system.

Most drug abuse takes place outside the school system, generally in the family environment, where the family is going to be away from home and there is a party set up and there is no control at home.

The parents might be down the shore for the week end and the word gets around that there is a party set up.

I believe at a particular high school in the Northeast in the year 1970, we had one incident where a youngster had stolen a bag full of barbiturates and distributed them in the lunch room.

Approximately twenty-five to thirty youngsters took the sleeping pills and started falling asleep in the principal's office.

As a result of this it was said there was a high rate of drug addiction at that high school.

Yet that same high school six months prior to that, the reporter on one of your local newspapers, was put into the high school system for a two week period and had not seen one transaction with drugs or had not heard any conversation about drug abuse, other than hearsay.

Mr. EILBERG. I am wondering if you have enough men and personnel, whether you are able to do the things you want to do.

Can you give us some idea about that? There are programs under LEAA and others that may provide monies for new programs.

Mr. NOGA. I feel the Police Department has far exceeded the community in the fight against drug addiction.

I started with the narcotics squad in 1956, in an eight man squad and I resumed command of it in 1969, and I had twenty-nine men at that time.

I presently have eighty men assigned to the unit and all police personnel are going to a program set up at Saint Luke's Hospital, and recognize the various aspects of drug addiction.

The Federal government is presently conducting schools in the area for members of my whole squad.

Mr. EILBERG. Thank you, Lieutenant Noga.

Lieutenant NOGA. You are welcome.

Mr. EILBERG. Our next speaker is a young lady who has been most active in the community in so many, many different ways.

We have been working, for example, on a District Tenth Health Center and hopefully we will have the groundbreaking some time this summer.

It is my pleasure to introduce a real community servant, Mrs. Sue Rosenthal.

Mrs. ROSENTHAL. Thank you, Congressman. My name is Sue Rosenthal. I live at 1343 Ascot Place. I am chairman of the Northeast Citizens Health Committee, a citizen's group working to obtain a public health center for this area of over half million people.

The center, scheduled for September, 1973 completion, will hopefully provide drug health care but there is much we want to see done right now.

There is less information available about the extent and types of drug use in the Northeast than in any area of the city.

We advocate the collection of data to determine how many and what kind of users exist so a sufficient number and variety of treatment centers can be established.

At present we have no way of gathering this information, of setting up effective education and counseling programs for adults and students, of funding rehabilitation centers, of evaluating the effectiveness of various treatments or of selecting those most practical and successful for rehabilitation.

When our health center is built, we will be able to offer a drug referral service, aiding the drug user and his family in finding the proper type of therapy facilities.

But the best referral service in the world is futile if there are no places to which we can refer, and that would be the case if we were open for business today.

Limited detoxification facilities, a couple of volunteer-led rap session places, the drug programs of the Northeast Mental Health Center for residents of the Lower Northeast, Friends Hospital, The Bridge for the maximum of fifty teenagers, some beginning drug education in the schools, one methadone clinic—this is all we have been able to find to serve a community of over half a million.

At the same time the easy accessibility of drugs is an accepted part of the teen-age and young adults subculture in the Northeast.

The closest health center to this area until recently provided space intake interviews for The Bridge.

The health department still provides general care, medical care and vaccines for immunization to residents.

In addition we hope our new health center will have:

1. An outreach program whose nonjudgmental confidential approach will encourage drug users to enter freely.

2. Physical and psychiatric diagnoses so appropriate referral can be made for detoxification and residential or outpatient rehabilitation.

3. An outpatient group therapy unit for users and their families.

4. A social worker to arrange for the supportive social services required by the user and his family with follow up by community health workers.

5. Educational programs in the center, in schools, with families, physicians and community groups.

6. Coordination with other community drug services.

7. Making space, health workers and visiting nurses available to the community.

We recognize our suggestions are bandaid treatment for a major epidemic. We realize that our government must commit itself to shutting off drug sources.

We know that a real end to drug use will happen only when there is no longer a need for drugs.

Perhaps in the future this committee could address itself to the changes required in our society to stop the drug rise before it starts, by removing the causes of drug use, then commit itself to the Herculean task of effecting those changes.

In the present context of these committee hearings, however, we need the following tools:

1. Data—who uses drugs, what kind, to what extent, so we will know what and how much is needed.

2. Facilities staffed by professionals and peers for rehabilitation.

3. Different kinds of programs because people don't all respond to the same techniques and because we don't know enough yet to know what is best.

4 Evaluation to find out which programs are best.

Many thanks to the committee for inviting our testimony and we await the results of these hearings with anticipation and optimism. Thank you.

Mr. EILBERG. Mrs. Rosenthal, so much of what you say applies to the district . . .

Mrs. ROSENTHAL (interposing). Yes. We hope that these things will happen but they will have virtually no effect unless the other things that we support happen also.

Mr. EILBERG. We are working in Congress on legislation which has to do with facilities now.

For example, we have put out a bill for the establishment of methadone clinics and are waiting to have it brought to the floor.

Hopefully we can do something this year so that we don't have to wait until the end of next year.

Mrs. ROSENTHAL. I hope so too. We will have a unit which will be available for methadone treatment, if you should have it.

I might add two years ago we put a questionnaire into the community and I think you are familiar with it.

We got a fifteen percent return on the ten thousand questionnaires that we put out in the community.

On the open ended answers that we got we did get a call for drug education and got some call for drug treatment and at the time we put the questionnaire out it was not a very popular thing but we got a tremendous call for what Father Quinn asked for, that was family counseling, some kind of method to bridge the generation gap and this is without any stimulus on our part, an open ended thing: "What else do you think is needed?"

This was asked for very frequently.

Mr. EILBERG. Thank you. Are there any questions from the panel?

(No answer.)

Mr. EILBERG. Thank you. Ladies and gentlemen, I would like to introduce a young lady who is very anxious to do her part and help—help other kids and I am very grateful for the fact that she is willing to come here and give us her point of view. Julia Murphy.

Mrs. STUNDER. She has been with our program since it started as a drug abuser and has done an awful lot for The Road. Julie has been there from the beginning.

By Mrs. STUNDER (addressing Julia Murphy):

Q. Julie, as I understand if you hadn't come to The Road when you did, would you have gone much further with drugs?

A. Yes, I would have kept on.

Q. So a place such as The Road did help you?

A. Yes.

Q. And could you kind of let the people know how it helped you, whether it was by keeping you busy or . . .

A. (interposing) Well, I really don't think it was keeping me busy. I think it was really because there people were concerned.

Q. That somebody cared?

A. That somebody care, you know, that I didn't feel, you know, with my family.

Q. And you did have a problem there which you felt couldn't be handled at home and those of us who took the time out did at least alleviate this a little bit. Is that what you are trying to tell us?

A. Yes.

Q. Would you object to anyone asking you questions?

A. No.

Q. I notice you are looking around. I don't think you have to be concerned about anything that is said here. I think we have the Congressman's endorsement on that.

Mr. EILBERG. Julie, we want your help and we need your help. We are looking desperately for answers and you are so well equipped to help us find solutions.

I am just so grateful on the part of the United States Government that you have the courage to stand there and tell us what you think.

By Father QUINN:

Julie, what kind of drugs were you using and for how long?

A. Well, I started drugs when I was thirteen, puffing glue and I went from glue all the way up to heroin. I did everything in between.

Q. Are you a resident of the Northeast?

A. Yes.

Q. Did you have any difficulty in procuring the drugs that you referred to at any given time?

A. No. I never had any problem. If I wanted it it was always there.

Q. And you were able to get these drugs in the Northeast?

A. Uh-huh.

Q. Would you say there were significant numbers of your friends or others, other residents of the Northeast, who are abusing drugs at the same time you were?

A. Yes, I would, like out of all my friends that I know, there's maybe five straight people and the rest are, you know, still doing the drugs.

Q. They are still doing drugs?

A. Uh-huh.

Q. Before you got help at The Road, did you ever overdose or had you had any opportunity or need for care?

A. Well, I never had a physical addiction. I had a mental addiction and I came close to having a "physical" by barbiturates and two or three times there was friends there that just beat me up and stripped me and threw me in the shower until I came around.

Q. Would you as a person who has gone through the long process of drug abuse and out of it again, would you have any recommendations to us in relation to the kind of things necessary to help the kid on the street who really needs help?

A. Well, like the one thing is like, you know, I guess being more aware of the symptoms, like I see here there's not really a lot of people.

It just doesn't seem to me that there's enough people that care.

Q. Do you feel that caring then is going to make a difference?

A. I think it is. If someone is an addict, you know, and they feel that someone is concerned and out to help them, that does a lot.

Q. How would you want the community to show it is caring for the kids who are addicted?

A. By getting a program together, you know, because there really isn't one at least not in the Northeast, and I know a heck of a lot of people who could use one.

Father QUINN. For my part, thank you, Julie. I really respect your coming here.

By Dr. LINDENBAUM.

Q. Julie, when did you first start on drugs?

A. At thirteen.

Q. And your initial drug was what?

A. Glue.

Q. Did you ever drink before that, alcohol?

A. Yes.

Q. Did you use grass before that?

A. No, it was later on.

Q. It was later on?

A. Right.

Q. So therefore there was some problem in your life which arose before the age of thirteen?

A. Oh, yes.

Q. And you say you could have used help earlier than that in your family life, is that right?

A. Yes.

By Mr. SCHILLER:

Q. Julie, do you feel that parents who know that their children are abusing drugs of one kind or another ought to sit back and hope that it goes away or contact a rehabilitation facility such as those that you know of, such as The Road?

A. Oh, yes, I think they should contact someone, you know, because a lot of parents think the answer is kicking him out of the house because he is a no good drug addict or, you know, instead of trying to understand it, they just jump to their own conclusions and turn their own kid away from them.

Q. So that you feel that parents who have a child who is an addict or is abusing drugs, the worst thing they can do is shut them off?

A. Right.

Q. Do you feel that parents ought to—I hate to make it sound like you are turning your children in, because I don't want it to sound like you are putting your children in jail . . .

A. (interposing) When I say they should do something, I don't really think of contacting the police. I guess that's just maybe the way I feel, you know, maybe. I don't think it would be a good idea but I'm not, you know—I just wouldn't like the police.

Like I would tell, you know, maybe, if I found my kid was on drugs, like I would maybe contact the drug center or find out more information and find out what I can do to help, and if my kid wants help, but as far as calling the police and saying: "Hey, my kid is on drugs, lock him up," I wouldn't do that.

Q. How do you feel about the persons who first introduced you to drugs? Were they just your friends or was it someone from outside?

A. It was just my friends, you know. How do I feel toward them? I don't feel anything.

I don't feel love. I don't feel dislike. They were once my friends.

Mr. SCHILLER. Thank you.

By Mr. EILBERG:

Q. Julia, you are nineteen?

A. Twenty.

Q. And you mentioned before that we need a program and I would like to know a little more, if you can tell us, about what you think is most important for a program. You talked about the necessity of having someone to talk to. What other kind of things?

A. Well, I guess it would depend like on what kind of drug problem the person has, like, you know, if it is just like speed I think they need a different type of therapy than, you know, a heroin addict.

A speed freak, you know, is superparanoid of everybody and a heroin addict, you know, might not just give a darn, you know, if a cop came in and he—and he was getting off right there. I think it depends on the person.

I can't say like "This is the kind of help you should give a drug addict," because I really don't know.

I think it depends on the person. Everyone needs, you know, a different kind of help for their problem.

By Mrs. STUNDER:

Q. I have a question I would like to ask. What would your feelings be on a parent who has a kid sixteen, seventeen, eighteen and has finally made themselves aware that the kid is really addicted? How would you feel about a commitment by the parents to the kid on the drug problem? Today I think the reason we have so few drug programs is, and I think you have seen and I have seen so many times, a kid doesn't want help until he is so desperate that we can't get him any place. How do you feel about parents saying to somebody seventeen or eighteen: "You have to go. I am going to sign you in."

A. How do I feel towards it?

Q. Yes.

A. Well, I'm against it really because like I know for a fact like when my mother found out I was on drugs—I was down the shore and I came back and I had tracks all over my arm.

I got committed into a mental institution. I got out but the point is my mom thought she was helping me and she wasn't helping me.

Those people there have a real problem, like it's not a joke problem, like I felt like if I had stayed there much longer I was going to go crazy.

Q. I think you are a little aware of what The Bridge is like. Suppose I as a parent found that my kid sixteen or seventeen years old truly needed help and most of them at that point don't want it, and I would be able to commit my son or daughter to that program, what would your feelings be about something like that. I am not talking about PGH.

A. I really don't think it would do any good because if you don't want help, as soon as you get out you are going to go out and do it again.

You have to reach a certain point, like you just go down so far and finally you want to knock off.

By Father QUINN:

Q. May I just respond that I agree with you that maybe we have got to do something more about the area of motivation. In our experience in interviewing potential persons for The Bridge we feel that a lot of our job is to help motivate the individual, the person to want help and part of that motivation is in terms of giving the right kind of help, terms of letting the person know they are not going to be assaulted neither physically, emotionally nor psychiatrically, that they are going to receive real care and real and warm help. I think this is perhaps most important.

The question I do want to ask you is was there ever a day when you would have sat down with your parents with some outside agent who let's say had some training and experience himself in a family group sitting to work out your problems and their problems?

A. I don't know. I really don't know, because like I really care about my mom and everything. I have tried to confide in her a while ago, you know, when I did have a drug problem and I was still in skag and I told them that I had just gotten off and her reply to me was: "You make me sick."

Q. I want to go a little further on what abused drugs and you say that is when you were twelve and eleven, and if there were available to you, let's say your parents had problems, problems of communicating with you or with each other, do you think it would have benefited you at that time to have available to you family counsel if they would have accepted it?

A. It might have. I really don't know because it didn't happen, you know.

Father QUINN. Thank you.

By Mr. EILBERG:

Q. Julia, it is entirely up to yourself and you decide this. Your testimony—obviously you are one of the most important witnesses, someone who has been through it, and it impresses me very much. Would you mind having your picture taken?

A. No.

Mr. EILBERG. Then the photographers are free to take pictures if they wish to. If any of the other persons involved in this way, don't mind or if they do mind let us know so that we don't do anything that you don't want us to do.

By Mrs. STUNDER:

Q. I want to go a little further on what Father Quinn asked you. I think probably at the age of ten, eleven and twelve the problems that you were experiencing were very evident, your parents were ignorant of that fact and do you feel that a school teacher, your school teacher should have recognized this and called it to their attention and then the need of family counseling would arise?

I know that we talked about certain instances where you were disturbed. Can you stress that a little more as to what Father Quinn was trying to te'l you, if a teacher had recognized you had a problem at that age?

A. No teacher did. When I went to school, the teachers, you know, like they will teach and if you want to listen, listen, and if you don't, well, that is your problem, and, you know, that's about as far as it goes.

They just don't seem concerned about that. They got their own life and their own problems and they don't want to get involved.

There are some teachers, I imagine, but, you know, they are pretty spread out.

Q. At this time if this had been done and called to your mom's attention, do you think that maybe this would have stopped you from going to the drug scene?

A. Maybe. Really I don't know. I couldn't answer that. As I said, it didn't happen that way.

Mr. EILBERG. Thank you very much. The next speaker is Pastor Richard Fierstern, pastor of the Lower Dublin Baptist Church.

Pastor FIERSTERN. I have been in the Home and School Association at the George Washington High School a little over two years, and on investigation we found that there was a drug problem at the school.

There were two groups that began nearly simultaneously. One was a peer group under one of the teachers and at the same time we began a group in the community whose members had privileged information, doctors, lawyers and clergy formed a committee. That program we thought was very, very fine and workable until we found that we ran into a decided difficulty with authorities. We need to decide between the State and Federal authorities what is the answer to the difficulty.

Up until two months ago methadone was dispensed by doctors and they would have to be here to tell you how it happens but in any case, that was stopped some two months ago and we also had the services of a psychiatrist and various clergy who worked on the program.

Unfortunately the program was in the process of dying because of the lack of funds and this seems to be the history right along.

We found that we were in a bind, we had the approval of the District Attorney's office but the State didn't say so.

They were against us at this point and the Federal government said they were concerned about the situation but didn't want to get involved and consequently we have had this great problem with the various law enforcement agencies.

There are active individuals in the Northeast who will give help but from my own experience I went to these as has already been mentioned to try to find help and it is exceedingly difficult to find someone to back us up.

There are plenty of interested citizens in the Northeast who still are trying to help, but the resulting program that we have to offer, is simply a makeshift thing until something comes along that is better.

Our doctors are willing to treat as best they can, but just this morning one of the doctors said that there are no less than one hundred and twenty names that he could give to someone so that these young people could be institutionalized.

He feels that the hard core addict needs to be institutionalized. We can treat those who are borderline cases but we need a terrible lot of help. I might add that we need some kind of flexibility in the law enforcement agencies so that we can treat to the best of our ability those who need the help.

We find that the individual counseling session is the one that works best with us so we work with the counselors in the high school and teachers and so forth.

Mr. EILBERG. I was called away for a moment and I wonder if you have any particular reference to the Federal jurisdiction.

Pastor FIERSTERN. Yes. Doctors told me just this morning that there are some youngsters waiting to go into Lexington.

We referred to them for methadone treatment but this was rejected by the State and one of the doctors just this morning said they had the approval of the District Attorney's office and the State was against them and the Federal government simply said that something needed to be done but they were not going to get involved.

Mr. EILBERG. Are there any other questions?

Mrs. STUNDER. Reverend Fierstern, how do you feel about a parent committing a child to a program?

Pastor FIERSTERN. Well, it depends on what the problem of the individual child is.

Most parents are not aware of the problem.

Mrs. STUNDER. I think once a young man or lady is really hooked there seems to be no way a parent can really stop their son or daughter from actually committing suicide and I think in this instance we had one case this week where I felt the parent should be able to commit the young man to a program and they weren't able to do it.

Pastor FIERSTERN. Well, the only place we found with an open door was Eugenia Hospital at Lafayette Hills.

Mrs. STUNDER. And that's a methadone program?

Pastor FIERSTERN. And then where do you get the funds?

Mrs. STUNDER. Yes, because when a family gets to this point they have exhausted everything they have.

Pastor FIERSTERN. There is no medical insurance that I know of that provides for this type of thing.

We thought that we had the funds from one organization but because we were sort of a makeshift operation and only in a local high school they decided to go to an organization that was a little bit broader in the community and give their funds to them which is fine.

We are not in competition, but the problem is funds and we need a program. Granted, we all said that, but I think the individual doctor who is willing to treat the addict needs a little bit more sympathy because there are many fine medical men who have the willingness and concern and they put their head on the block time and time again.

Mr. SCHILLER. You talked about law enforcement people. Could you be more specific about that because I quite agree with you and I would like to know what programs or suggestions you might have in that area.

Pastor FIERSTERN. Well, our doctors—we were able to set up a twenty-four hour a-day telephone service. They were willing to give methadone if under complete physical examination, under guarded conditions, they felt that this was possible.

We saw a heroin addict within three weeks be put on methadone and taken off methadone and now she is engaged in a certain profession and doing an excellent job although she was a dropout.

Now they are not permitted to do this any more and where do these young people go? That is the problem.

Mr. SCHILLER. In other words you would like, instead of having methadone given, given out specifically at certain centers, individual practitioners, doctors, would be able to have methadone dispensing themselves.

Pastor FIERSTERN. With the complete approval of the enforcement law agencies and complete awareness.

Mrs. STUNDER. Going a little further on this, could we interpret this to mean that certain physicians would be licensed to dispense methadone, physicians that we know are truly concerned and would stay on top of this?

Pastor FIERSTERN. I believe if that same doctor has either the services of qualified clergy, of phychologists, of psychiatrists, sociologists, yes.

Mrs. STUNDER. You don't want to see a general dispensing of methadone?

Pastor FIERSTERN. Absolutely not.

Mr. EILBERG. Thank you. Certainly one of the subjects that has been in the news steadily, the drug situation over in Vietnam, where so many of our boys are utterly bored and frustrated and there is a great deal of monotony and drugs are readily available. Unfortunately many of them get hooked and come over here and their problems really begin. To address ourselves to this problem we have someone from the VA Hospital, Coatsville, Pennsylvania, Mr. Jessie Durkin. Would you give your full name and address for the record?

Mrs. DURKIN. Yes. My name is Mrs. Jessie Durkin and I live at the Hill Creek Housing Project at 530 West Hill Creek Drive and my son is an addict and he came back from Vietnam last January and I had gotten him to go over to your program in Frankford and he was just simply going down the drain with methadone.

He was getting continually worse, so I agree with the girl who said, you can't go here or I'll put you here. I told him about going to the Veterans and he finally came to me and asked me for help, to take him out to the Veterans Hospital at Thirty-ninth and Powelton Street.

I didn't intend to speak at all today. There were three senior veterans of the Veterans Hospital coming down here to speak but they are from Allentown and I understand there was a lot of ice on the Northeast Extension so they didn't make it or they did get lost but the question was brought up on veterans returning from Vietnam and I would just like to give the information I know.

I have been going up there since my son was at the Veterans Hospital and they do have a program.

All they have to do is go out to Thirty-ninth and Powelton, sign up, and they have an outpatient clinic.

Now there is an eight month waiting list, so my son had either his choice of being an outpatient or an inpatient.

The decision was left solely up to him.

He was left alone in a room and he chose to sign himself as an inpatient which today I am very glad because he has been up there since then and they have a program that is just for detoxification and it is what they call a "lock in detoxification."

They are not allowed out of the building, off the ground anywhere. They are locked in and they go to chow hall.

The whole hospital has underground tunnels which they use to go to chow hall and so forth, but until they are through this complete detoxification it is a lock in, unless they themselves choose to leave the hospital and the door is unlocked and they can leave at any time if they want to leave this hospital.

If they get over their detoxification they are then put through a screening by the doctors and psychiatrists and the senior residents at the Veterans Hospital.

If they feel these fellows are sincere they go on to another building and they are then given psychotherapy.

On Thursday evenings they have a family night and each and every boy's family there comes up and you have a rap session which is like a group therapy and it is very interesting.

Doctor Cooley is the acting psychiatrist up there and he has asked me to represent the Northeast, because they have gotten more fellows up there lately from AID and the Northeast here than any other part of the city.

I also wanted to say why I am here. These veteran fellows up there want to go out and speak to any interested or sincere groups or organizations. They want to come and speak to them. The senior residents, when they are discharged, they will come back three times a week for group therapy and there are two of them that I know personally have just gotten jobs with the Veterans Administration as drug counselors.

They do give them vocational guidance and now my son is going to school in Coatsville in the evening and he comes home week ends and it is just a shame that this city doesn't have an institution like this.

They are not in with the insane people which the fellows up there call "moats," and they are with their own kind.

They are all "junkies," as they call them, and they are all with one another and they are a family. I also wanted to say that actually it is run on the same principle as Lexington with the exception that I wanted to say that even if these junkies have a drug charge against them of any kind they are still accepted by the Veterans Administration.

In fact there is a fellow up there right now from Atlantic City that will go to prison because he killed someone, but the Veterans will accept him even with that charge and I thought this was important to talk about, that they will be accepted.

Mr. EILBERG. Mrs. Durkin, I had occasion to visit the VA Hospital and you know, of course, they are converting the laundry building up there . . .

Mrs. DURKIN (interposing). Yes, I know that. I was up there last night and they have opened a building and they have their first female.

They opened a building for the females and she is up there alone and I give her a lot of credit because she came up all alone by herself and from talking to her I learned she hitchhiked up there alone to sign herself into this program, and it is a shame that the city can't get something like this together for the fellows and the girls here.

Mr. EILBERG. Are there any questions?

(No answer.)

Mr. EILBERG. If not, thank you very much.

Mrs. DURKIN. You are welcome.

Mr. EILBERG. I would like to call next upon a gentleman who came from an army reserve unit which has been most attentive to community needs. I remember some time ago having helped with this group in the cleanup of Pennypack Creek.

I would like to present Lieutenant Howard Sherman. Would you give us your full name and organization?

Lieutenant SHERMAN. My name is Howard Sherman, 304th Civil Affairs Group and I am here representing the group.

They asked me to come down here and offer their services and our facilities and interest in whatever is to be done in the community in outlying areas.

I was selected to come down due to the fact that I was executive officer of the company that build the first drug rehabilitation center in Vietnam.

Prior to that time we had been in a combat zone and prior to the proper installations of such a unit, any of my men who had problems along these lines, which was mainly heroin, would receive the Commander's and my own personal attention through cold turkey and various other tried methods.

With the institution of the drug center things were starting to be done for the returning soldiers especially and I understand that there have been other centers instituted over there for the returning veteran and for the veteran who is home.

As I say, I am here representing the group and any contributions that we can make to any programs that might arise; we more than want to help out.

Mr. EILBERG. Thank you very much and I know you mean that and I appreciate that and at the same time if you develop any ideas you can let us know and we can work together.

Are there any questions?

Dr. LINDENBAUM. We have heard from various sources various statistics on what the extent of the drug problem is. What is your own observation as to the number of people involved, in your own estimate, people in your outfit?

Lieutenant SHERMAN. As my personal observation, aside from anything that might be published through army channels, I would say probably no more than ten percent of my own outfit and that is maximum.

However, the severity of the ones that had it drew attention to it.

Mr. EILBERG. Thank you, Lieutenant. Next we would like to hear from the representative of the Northeast Philadelphia Branch, Women's International League for Peace and Freedom, Mrs. Doris Peltan.

Mrs. PELTAN. Congressman Eilberg, members of the panel; thank you for the invitation to be here today. I am Doris Peltan, co-chairman of the Northeast Philadelphia Branch of the Women's International League for Peace and Freedom.

Drug abuse is not a new problem. It has plagued our society for many years. Its victims have been crying out for help but their pleas have not been heard.

Today there is a difference. There are those who see the need to begin listening.

This is so because the location and color of the problem has changed. It is no longer confined to the ghetto or the non-white population.

Today no community is immune and so we are beginning to take a hard look at the problem.

We believe drug abuse is just one more symptom of our diseased society.

When a society is governed by laws that make it a criminal offense to take a life, while training its youth to kill and be killed, as in the war in Vietnam, it is a sick society.

When we allow hunger, starvation, poverty, ignorance and prejudice to be prevalent in a land of plenty, it is a sick society.

When citizens are subjected to a "double standard" in the workings of the judiciary, we have a sick society.

We have the wealth and the technology to build a healthy society. What is needed is for those of us and those of you who are responsible for the problems we face today to attack these problems.

Yes, we need rehabilitation centers. But these centers, we must recognize, are simple "bandaids." And we all know that "bandaids" do not cure cancer.

Rehabilitation centers are necessary and they are life preservers designed to save those who are drowning. Life preservers do not prevent shipwrecks and we must learn to prevent the shipwrecks.

We, therefore, respectfully urge revamping our national priorities so that our energies and resources can be utilized toward creating a more humane society—a society where the human needs are the first priority and funds go first for human needs.

We respectfully urge the recognition of the consequences of contesting international disputes by war.

When governments refuse to find peaceful solutions to their problems, individuals tend to be similarly intemperate in their dealings with each other.

A society of such individuals in a worldwide climate of strife breeds the problems we are discussing today.

Only by ending the war can we hope to make a beginning at a real solution for the ills of our society, including the drug abuse problem.

Thank you again for the privilege of presenting our testimony.

Mr. EILBERG. I quite agree with you. This Congressman is doing all he can to rearrange those priorities and I want to congratulate your organization for not only addressing itself to the end of the conflict but all the related problems and that is what you hear about today.

Mrs. PELTAN. We try to do it. There has been much talk to have programs and all of you know about the lagging because of

no funds, and there are some good programs available but there are no funds available, so for those who say they can't see where the war is related, I think that is one of the reasons we wanted to present our viewpoint here.

There are programs available.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you very much.

DRUG HEARINGS HELD JANUARY 22, 1972, AT HOLY FAMILY COLLEGE, PHILADELPHIA, PA.—VOLUME II

Hearing held at the Holy Family College, Grant Avenue and Frankford Avenue, Philadelphia, Pennsylvania, on Saturday, January 22, 1972, beginning at 10:00 o'clock a.m., until 4:00 o'clock p.m., Eastern Standard Time, to investigate extent of drug problem in Northeast Philadelphia and to explore what programs and facilities are needed regarding this matter.

Present: Joshua Eilberg, Esq., Member Judiciary Committee, U.S. House of Representatives, Chairman.

Berle Schiller, Esq., Lila Stunder, Rev. Peter Quinn, and Dr. Ellis Lindenbaum, Members.

Mr. EILBERG. I would like to introduce next a gentleman who has done an excellent job as executive director of the Philadelphia Association of Retail Druggists and he for example has been very anxious in the public interest to have prescription drugs included in Medicare. Raymond D. Fleisher.

Mr. FLEISHER. Thank you, Congressman and members of the panel. I am also on the Board of the Greater Philadelphia Council of Narcotics and Drug Abuse.

I think I will speak about both just briefly. As far as the pharmacists of the City of Philadelphia are concerned you probably have read that the State Board of Pharmacy has recently undergone changes in its rules and regulations. There were public hearings on those last week in Harrisburg, where some of the more emotional regulations regarding mail order and advertising were discussed rather fully, but it didn't really take into effect the problems of drug abuse insofar as illegal, forged or stolen prescriptions that were sent in by mail to pharmacies and were filled without any contacting being made to the patient or to the pharmacists. There were many drug abuse products involved in these prescriptions.

We have documented evidence whereby prescriptions were just mailed out with no contact being made as long as the prescription was received and the money was received. It was filled and no questions were asked.

There was another regulation which involved the exempt cough preparations. The State Board of Pharmacy would like to have the exempt cough preparations filled on prescription only.

There are certain areas of the State that say that it would be a hardship on the public.

We find that is not true in the metropolitan areas and we doubt very much whether it would be a hardship on the general public in other parts of the State inasmuch as there are so many preparations on the market today which have a substitute for the codeine that is just as effective as the codeine and we find there is no reason not to have the products containing codeine or any other kind of narcotic put on prescription only. We look for it especially here in the Northeast.

I get reports in the office every day of parents calling and telling me of pharmacies that are selling cough preparations to their children and it is sold legally.

The State law in Pennsylvania is that codeine may be sold to any person over eighteen years of age—four ounces of cough preparation within a seventy-two hour period—and it is not too hard to have a student, especially a student in the senior high school who might look eighteen or have a friend of his go into the drug store and buy it for him and they may go from store to store to store and in that way be able to pick up a dozen bottles, because the drug stores are pretty well congested in the Philadelphia area.

We still have plenty of drug stores around and a person can go around and get bottle after bottle, so, the Philadelphia Association of Retail Druggists want to go on record as backing the State Board on this particular recommendation in that exempt cough preparations should be put on prescription only.

We also back the State Board of Pharmacy insofar as we are against mail orders.

We don't go for the emotionalism involved when they bring in the retired person saying they can't afford it and we have found that people who present the problem and have a bona fide request so far as financial hardship is concerned, that the neighborhood pharmacist will take that into consideration when pricing the prescription.

Now, if I may take just a few more minutes, for the Greater Philadelphia Council of Narcotics and Dangerous Drug Abuse. We are at this time, in conjunction with the Philadelphia School District, running a six-week program here in the Northeast.

We have just completed our third session this morning at Lincoln High School. The sessions run from 9:00 a.m. to 12:00 noon and we have with us in our audience today some of the participants who were in that program.

They are two faculty members, one at Central High School, who you will hear from later, that is Dave Heit and also Mr. Belford of George Washington High School and Kathy Martin who is a student at Washington.

I believe they are scheduled to speak later.

They are very much interested in the peer influence program. They were pioneers in this program which started about three years ago. The students in the school get together with faculty members who are interested and with other students who have a drug problem. I just won't go into that too far. They will talk about it.

We are speaking at this particular six week session. It is really a communication set up, two way communication and we have experts on communication.

You have to talk, talk, talk, talk. When you have a person with a drug problem you have to keep talking to them, and we are looking for suggested community programs through the school system, rehabilitation programs.

There is not too much that the faculty members in the schools can do. Their hands are tied. They can just speak about prevention. They can try to help but it is important that something be done to alleviate this hand tying of the faculty members insofar as where they are breaking a bond of confidentiality with the student. I don't want to get into that but it is hard to stay away from the subject. A student, once he or she comes to a faculty member and the faculty member gets the confidence of the student and they don't want their parents to know about it.

No kid wants his parents to know. I know when I was nine years old I didn't want my parents to know I was smoking a pipe but it is the same thing today.

They don't want their parents to know that and these faculty members—we have quite a few in the school system that have gained the confidence of the students—can help and want to help, and they give up their time. They are here today and they stay up all night with kids.

Well, as I say we are in our third week of this program and we are going to tell just what laws do apply, how far they can go and I repeat again I can't emphasize too much, they just can't go far enough in helping students. They are bound by the rules and regulations and guidelines set down by the Board.

I think Mr. Belford will explain it more fully.

I say give them as much support as possible. Don't say: "No, my kid is not on drugs," when they say: "Your kid is on drugs."

If the kid were not on drugs he wouldn't have been there in the first place seeing the faculty advisors.

It can happen here. It is happening here. Don't believe that it doesn't happen.

Thank you very much.

Mr. EILBERG. Thank you. Are there any questions?

(Not answered.)

Mr. EILBERG. Mr. Nelson Belford from Washington High School.

Mr. BELFORD. My name is Nelson Roy Belford. I am a teacher at George Washington High School and have been a sponsor for a peer influence program for the past two to three years.

My program at this present moment is closed down because of the legality aspects and confidentiality.

It really bugs me that when a person is dedicated in the school system and wants to give of their time, that the different legality aspects stop you; in other words, the program is closed down because people are afraid to put their necks out.

Again, many people have told me I was a fool to put my neck out, that there was some possibility of some parent trying to sue me, that "You are going to lose your job."

I don't care because this concerns the young people in the school and the problem there. The kids like me, trust me, and we had a good thing going at the school.

Now, I wasn't aware that Reverend Fierstern was coming here today and he worked in conjunction with the program and the doctors he spoke about also worked in the program.

These doctors gave their time free to any student in the school which I find utterly amazing today. They gave of their time and gave the methadone that he talked about.

I know specifically the case he is talking about because I contacted this girl first myself and the methadone did take her off of the heroin and she is a productive person today.

Federal monies—why can't we get some Federal funds to relieve teachers of other duties who have rapport with the students in the schools to be able to work at this thing full time and try to turn kids around.

It is just very frustrating when you build something up and it is closed down on you because of the different legal aspects, because they say we can only go so far in the school system in dealing with minors.

It is true that we do have a lot of problems with fourteen, fifteen, sixteen, seventeen year old students and we do owe a moral obligation to the parents of the community but again, we do need confidentiality. Without this there is no way I can run an effective program in any school. Unless the kids trust me and know that I am not a phoney, I'm not going to drop a dime and I am not going to bust them.

Mr. EILBERG. I don't want to be overly difficult but I happen to be a lawyer and when you speak of confidentiality I think you are talking about the kind of relationship that exists between a doctor and patient or lawyer and client where if a client were to tell me something as a lawyer I would not be compelled in a courtroom to say what this was with regard to the problem of that person. Is that what you are talking about? The teacher is not so protected by the law and are you saying that?

Mr. BELFORD. Yes, a guideline or policy should be set up in school in Philadelphia or in any school district as far as that goes where a teacher is allowed to have this type of information without having to pick up the phone and calling a parent and tell the parent well, your son or daughter came to me today and they are shooting Speed and I must warn you because it is my moral obligation.

You just cannot keep a program going if you are going to start relaying this information to parents.

Of course, my main objective in the program was to involve parents. There is no way I can give help to a young person without many different ways of communication. I need that with doctors, psychiatrists and clergy as well as the parents and I want to involve everyone, but I cannot go to a parent the first time a young person comes to me because I would lose that person.

Mr. EILBERG. And just another question, with regard to the release of teachers' time in drugs programs and Federal government's providing money for that purpose, I do not know what the status of that is. I would recommend if you haven't already done so, that you contact Mr. Tom Rosica down at the school board. He is in charge of federal programs. This would be the proper channel.

Mr. BELFORD. Well, I have gone to Dan Falco who is actually running the sessions that are now taking place. I am a consultant on this program at the present moment and yet I see a lot of problems arising from it. There is no way to evaluate it after the program is started, no team to go out and make sure the programs are going to be put in the schools and that they will formulate some kind of program and take action.

There is just no money available in the system. What good is having six sessions or fifteen sessions and trying to get people some knowledge on narcotic drugs and how to help young people if we can't follow through and give them guidance and make sure a job is being done?

Father QUINN. You are stating at present the guidelines of the board indicate that such confidentiality is not indicated?

Mr. BELFORD. Right.

Father QUINN. Has a formal representation been made to the board to change the guidelines?

Mr. BELFORD. I understand that Daniel Falco is trying to write a proposal on this at the present time. It seems as though every time he tries to get information on this he is always pushed back.

In other words you really can't seem to buck the establishment. You are quietly put aside and if you are going to stir too much trouble you may not even have a job.

Father QUINN. Then would you concur with me in recommending that a formal representation be made to the board, that counselors who are trained and have been approved be given this confidential area as their rightful source and that something significant be done so that actual work can be done. I applaud your human risk taking. I applaud it and I think there are people in the system who are like you and that the system survives because of those people. I would infer that with all the legal amenities that have to be taken into consideration that the guidelines can be changed and perhaps recommendations for a formal change can be made.

Mr. BELFORD. Yes, and protect the administration at school as well because the principal has to be protected, otherwise the principal would not put his neck out at the same time because indirectly if I could possibly be sued because I had knowledge of a young person using drugs the principal could also be sued.

It goes around in a vicious circle.

Mrs. STUNDER. At this time if your program is closed down I would like to invite you to help us at The Road and maybe bring some of your kids there. What is the legality problem?

Mr. EILBERG. Well, it would be whether the teachers are immune from having to tell the police or other authorities about it.

Mr. BELFORD. And it would be on the outside of having to tell the police. The narcotic squad was notified that I had a program running in school and I can't think of his name right now but one of the members, the acting sergeant, came to the school quite often and really didn't give me any direct problems but, of course, he had the attitude that I should inform him of anyone that I knew who was using drugs and again this is not my job.

Mr. EILBERG. What is required is a law which does not require you to be subject to that kind of pressure.

This, of course, is at the State level unfortunately and it is not within my sphere.

Mr. BELFORD. It is frustrating when you give time and dedication and you are really put down for it.

Not many people are going to give their time and get involved in drug problems and you must give a lot of time, day and night. It is not a night-free job. It is very frustrating and not many people will do this.

Mr. EILBERG. Thank you, Mr. Belford.

Mr. BELFORD. Thank you.

Mr. EILBERG. We will go to a student now from Little Flower High School, Miss Kim Krause.

KIM KRAUSE. I am Kim Krause. I am an eleventh grade high school student in the Little Flower Catholic High School and my address is 2028 Wilmat Street.

I worked with the drug abuse committee which is in its infancy right now and it is not really underway.

I would hesitate to give any percentages with regard to a drug addict or a drug user because in my questioning of the faculty, with the faculty and students, I found that it is not necessarily representative of my school as a whole.

Now, through questioning freshmen and sophomores I have learned that the alcohol problem is most prevalent and I think we have to, you know, think about it because alcohol is also a drug.

In questioning juniors and seniors there is a great amount of alcohol along with such drugs as marijuana, Speed and barbiturates.

We found in our school particularly that there is not so much of the hard core addict. Now, I am also involved in a six week seminar and I really think it will be profitable to have the faculty and students working together toward the one problem.

Now, this program will set up and organize some kind of drug abuse program that is applicable to their own school and as yet Little Flower has been interested in creating an atmosphere of trust between faculty and students and secondly the establishment of a separate peer group room for discussions and thirdly, to know that the faculty and students are interested in the problem.

I would like to thank you and it is nice to know that somebody cares and somebody will get some action.

Mr. EILBERG. There is one question that I have. Reference has been made—and I was unaware of this until this morning that there is a little better control in the Catholic schools as opposed to the public schools. Do you know anything about that?

KIM KRAUSE. Yes, Mr. Greenberg, I think, mentioned that and I agree with it most heartily.

Most of my friends outside of my school go to Frankford and other high schools and I know there is much more going on in Frankford than there is in Little Flower.

Like Mr. Greenberg said, maybe there is something that the parochial schools have that they are not aware of, that the public schools are not aware of or are lacking.

Mr. EILBERG. Is it possible it may be discipline?

KIM KRAUSE. It may be discipline.

Mr. EILBERG. Are there any other questions from the panel?

(Not answered.)

Mr. EILBERG. Thank you very much. Now, we have a great many speakers that want to testify and we have been keeping some waiting too long, perhaps, but we hope you will understand.

I want to introduce next and I may not have the spelling correctly, Sister M. Charity Kohl.

M. CHARITY KOHL. Members of the committee, ladies and gentlemen. My name is M. Charity Kohl. I am administrator of the CORA, Counseling and Referral Center, Sisters of Good Shepherd, located at 733 Susquehanna Road. CORA is an L E A A funded short term non-residential counseling center designed to deal with youths who are either pre-delinquent or incipiently delinquent, but who can benefit from interventive, short term family centered therapy.

Our contacts with hard core users have been somewhat limited and because perhaps because of the very recent initiation of our services.

However, we have become aware both from our clients, their parents and some individuals whom we have had to refer to other agencies for more intensive treatment, that the use of drugs has become quite prevalent among youths in this geograpnical area and opportunities to obtain the same have become even more prevalent.

Through our own experience we have become aware of the great lack of in-patient detoxification facilities available to the person who has become addicted and wishes to obtain medical treatment.

Not only is there a most drastic shortage of beds for detoxification, and it sounds a little trite after the rest of the testimony, but also many of the detoxification programs are too short, secondly exclusive economically and thirdly geographically exclusive.

In light of the above our recommendations would be the following:

1. An intensive drug education program in both the public and parochial schools down through the middle grades of elementary schools.

2. The ready availability of both psychological counseling and legal advice to young people with drug problems.

3. A dramatic, drastic increase in inpatient intensive detoxification programs where medical treatment can be combined with psychological counseling, vocational counseling and legal advice.

Thank you.

Mr. EILBERG. Thank you very much. I am glad to hear you are funded by LEAA. Are they doing enough for you? Do you have any other ideas that you would like to see done?

M. CHARITY KOHL. We really have been most appreciative of the support that we have been given.

There are a few interesting things that have developed, one, for instance, we are dealing with a much younger population than we had anticipated and some of the materials that were presented this morning seemed quite pertinent in that most of the youngsters who are coming to us who are referred from schools and local agencies, as well as their families, are really between the ten and fifteen year old age bracket, and we have a number who are younger than that even.

Mr. EILBERG. Do you agree with the testimony of the young lady who testified before that so much depends on proper home life?

M. CHARITY KOHL. Yes, I believe it has to be dealt with by dealing with the family situation. I really feel that any other approach outside of involving the family initially is not going to work.

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Most of what we do is family therapy.

We do not work with the child unless we have the parents.

Mr. EILBERG. Are you able to in many cases have the parents come along? Are you helping the parents?

M. CHARITY KOHL. We are very pleased with the cooperation that we have been given. We are awfully young, only three months old, but all we can document is very positive at this point.

Father QUINN. Sister, your services are available to the large Northeast community, is that correct?

M. CHARITY KOHL. Yes, we are funded particularly for the servicing of the Greater Northeast. We are court sponsored and linked therefore to the CRS Referral Agency in the city, that is part of the Court Division at Twenty-second and Arch.

We function as a Northeast extension.

Father QUINN. Would other agencies have the opportunity to refer directly to you other than the Court system?

M. CHARITY KOHL. Yes, most of our referrals right now are from the public and parochial schools. We have some JAD referrals and we have a number of referrals from private physicians and a number of families who have themselves self-initiated the requests for help.

Father QUINN. I notice there are a number of agency people and school people here and I wonder if you could give us your phone number?

M. CHARITY KOHL. Helen Strauss is our director of personnel and counseling and is on our board and has communicated our services free to public schools.

We haven't been so fortunate with the Catholic schools and I must admit that. We have had to try a hit or miss method. Our phone number is F12 0800.

Father QUINN. Thank you very much, Sister.

Mr. EILBERG. Thank you very much. Our next speaker is Mollie Spector, district director of the Jewish Family Services of Philadelphia.

MOLLIE SPECTOR. I have a story to tell. Several months ago a rabbi in the community called to ask our help.

He had officiated at a funeral of a young adult who died from an overdose of drugs. This was not the first such experience.

Attending the funeral was a large number of young friends of the deceased. The majority of them openly acknowledged the use of a host of drugs.

About sixty of these young adults and teen-agers accepted the rabbi's challenge and turned up for a rap session with him at which time he offered the services of a specially trained discussion leader.

Roughly half, or thirty-two fellows and girls turned out for that first session.

Their ages ranged from twenty-two to fifteen years of age, sophomores in high school to sophomores and juniors in college.

While the turnout was both terrifying and gratifying, I could not help but be haunted by the question of what happened to the remaining thirty. Where did they go, if indeed they went any place.

What happened to them. The resources here in this community are extremely limited and though some of us either in agency settings or some other service type facility are dedicated to trying to provide services on a shoestring, we all know too well that the large numbers who do not come to our door steps are perhaps in even greater need of our help than the more motivated ones who do.

Each youngster who seeks help can readily mention many others who are in the grips of the same dilemma as they, in terms of drug use, predelinquent and delinquent behavior.

There is an understandable reluctance to get beneath the tip of the iceberg.

Some agencies are already burdened with waiting lists for treatment and the prospect of reaching out to persons very much needing service and perhaps responding to the reaching out, evokes questions about absorbing more cases with existing personnel.

My agency, the Jewish Family Service, has a geographically based office in the Northeast. Ours is a private, sectarian agency.

A number of our clients have either used or currently are using drugs. More are in the younger, adolescent group, but many are college students.

Because we are not a medical facility we restrict ourselves to the so-called soft drug users, and attempt to secure a resource with medical help available for the hard drug user.

In the Northeast, this is a heartache. The number of places to which a responsible referral can be made can be counted on a few fingers.

Limitations exist in the cost of private care, prohibitive for most, restrictments of catchment areas when they exist and almost total lack of services in the huge community of the far and farther Northeast.

So, what will we do with the thirty and more who got away, given the existing resources, and what will be done for the many more than thirty who are out there, desperately needing help but with no place to go.

The Jewish Family Service has a special project for youth in a suburb on the other end of the city. It is proving to be a successful one and it is limited to youth, the majority of whom are drug users.

The funding is from private sources and the numbers involved are small.

No private agency could ever hope to have sufficient funds to begin to cope with a problem of this magnitude.

It seems to me that since the use of drugs is so widespread, reaching across all segments of the community, that a larger source of funding for treatment programs must be activated, and quickly, to begin to do some very significant intervention on behalf of our alienated youth.

Mr. EILBERG. Thank you very much.

Are there any questions from the panel?

(No answer)

Mr. EILBERG. Thank you very much. Our next speaker is Mrs. Harriet Goldstein, Assistant Executive Director, Association for Jewish Children. Mrs. Goldstein.

HARRIET GOLDSTEIN. The Association for Jewish Children is a child welfare agency responsible for placement of children requiring separation from their parents and for an intensive preventive program for families designed to avoid separation when possible.

Of the approximately five hundred children served by the agency within the past year, about sixty percent are from the Northeast and over one-third of them are adolescent.

Essentially, all our children are from families with limited income of six thousand dollars or less, socially isolated, and beset by personal, marital, educational and social problems.

Within the past several years a repetitive thread has appeared in the presenting problems of some children and some parents.

Twenty-four out of thirty-eight adolescent children, ages fourteen to seventeen, referred in a six month period in the last year, were making heavy use of drugs, some to the point of requiring immediate hospitalization.

An increasing trend was noted of married couples in their early teens and early twenties who had turned to drugs to solve their marital and personal difficulties and who placed their very young children, all under the ages of five, into foster care with little apparent capacity to resume parenting.

For example, in one of our foster homes, is a youngster placed at the age of two who had been locked in a room with his mother without food or other care while she was on an LSD flashback for three days.

Repeatedly, it was evident that young people and adults used drugs and alcohol to make them feel good, to help them overcome depression, and to solve many problems they felt within themselves.

In most instances treatment facilities for those already deep in drugs was non-existent or difficult to find, especially for children under the age of sixteen.

Attempts to secure service from existing mental health resources for less distressed persons resulted in being placed on a waiting list.

Examination of existing drug education programs indicated that they were conceived for upper age adolescents, already under the heavy influence and pressure of the peer group.

A program directed to younger children, eighth graders, designed not only to drug education but towards examinations of themselves as individuals and in relationship to their parents and community, appeared to offer a more preventive approach.

With the complete cooperation of the Board of Education, the Association for Jewish Children has instituted a demonstration project since September, 1971, of a group counseling program in all school districts of the city with a plan to reach over eight thousand children by the end of the school year.

Funds of one hundred thousand dollars for one year were secured from the Haas Community Fund—fifty thousand dollars—other private foundation, Rosenwald and Rosenthal, and other contributions to the agency.

So far five hundred and twenty-five children have been served in District 8 and one thousand will be handled by completion of the project.

Our work is not only with children, but with parents as well, to teach about drugs, to provide a means for improving parent-child communications and to strengthen concepts about human relationships.

Our work with young people indicates that they have many concerns around drugs, home, school and community.

Children have been ready to explore racial tensions, graffiti, overcrowding, the need for programs that are more relevant to preparation for living, need for sex education, improved communication between parents and children, improved law enforcement on local, State and Federal levels, gang problems and inadequate recreational facilities.

Many young children have indicated, and this has been verified by comments from their parents, that sessions such as these have dissuaded them from using drugs, have given them insights into themselves and have strengthened positive feelings to adults.

From our perspective it appears that the following services are needed in the Northeast:

1. Sustained educational forums aimed at preventing drug use.

2. Additional mental health resources for individual treatment of parent-child relationship problems.

3. Specific drug treatment programs both on outpatient and inpatient basis.

4. Increased financial support for already existing drug related treatment centers.

5. A coordination and a creative expansion of the efforts that already exist in this area via umbrella community planning.

Thank you.

Mr. EILBERG. Miss Goldstein, with reference to treatment programs, particularly because that is before our House Judiciary Committee, can you be a little more specific. How do you react to programs. How could we or should we extend them?

HARRIET GOLDSTEIN. Some first have to be created.

In our experience if we had a youngster who needs inpatient hospitalization, unless the family can afford it it is simply impossible to achieve it, and obviously, we don't have families who can afford it so it has to be created for them.

First of all there are some programs that exist and they could be expanded, for instance the Friends could be helped to expand and programs like The Bridge or programs like The Road and they can be given additional funds or others created for this.

It seems to me that the need is there. The resources simply are not.

We have to search and scrounge to plead for any hospitals to take a child to treat who is actively on the drug scene.

Mr. EILBERG. How do you feel about the availability of help, emergency health?

HARRIET GOLDSTEIN. In center city?

Mr. EILBERG. Anywhere. Mrs. Stunder made an impassioned plea at the outset, as to what do you do and who do you talk to.

HARRIET GOLDSTEIN. I heard Mrs. Stunder and support her point of view. I haven't heard her today but we have been in the same position.

It is almost impossible if a child is really hooked and really needs immediate care and we fortunately have at our agency a good relationship with Philadelphia Psychiatric Center and we are perhaps in somewhat of a better position but that is a sheer working relationship that our agency has, but it is very tough, because most places don't want to begin to handle this type of youngster or this kind of adult.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you so much, Mrs. Goldstein. Our next speaker is Carol Wacker, vice-principal, the Lincoln High School.

CAROL WACKER. I am Carol Wacker, vice-principal at Lincoln High School. I have two students with me.

I have a statement and one student has a statement and the other one is available for questions.

CAROL WACKER. Last year was our worst year with problems associated with drug abuse.

A brief summary of our problems is as follows; we had four emergency cases of overdosage which we had to rush to the hospital and it was a touch and go type of emergency.

We had several other cases where we had to call parents in to take us to the home to seek help, medical help.

We had a theft of forty thousand phenobarbital pills from our civil defense closet and eventually ten thousand of those pills were recovered and there were eight arrests of students connected with this.

Last year we had numerous contacts with the principal, vice-principal, counselors, nurses, teachers of students seeking help or students apparently under the influence of drugs.

We had a boy arrested in our parking lot with a large number, about a thousand pills in the trunk of his car.

He was arrested by a stakeout team that was operating and they had him under surveillance.

Most tragic of all we had two students die out in the community from drug related causes.

Educationally we have made efforts to have our staff given up to date information in many areas.

First we had a new service course that helped teachers, nurses and counselors and last year we alloted funds to purchase up-to-date films, books, pamplets and records and other types of resources.

Several of our staff members were involved privately in rehabilitation centers, working with the mental health programs or taking courses on their own at several universities.

Our principal, Mr. Bernard Rafferty held a seminar or had a speech before the Home and School in regards to the drug problem.

We have on-going health education in the junior high—they have one unit about health, about drug abuses and one in senior high, so every boy and girl at Lincoln gets at least one complete unit in health education.

We are right now involved in a drug abuse team that we just came from which meets in Lincoln High School every Saturday morning for six Saturdays in a row to formulate some kind of program of prevention.

This year at school the picture is much brighter insofar as the number of contacts made in the school.

I would like to be very clear about that. We have only had five contacts and very briefly we had one trespasser, on the school grounds with marijuana and he was arrested under the new trespassing law that was passed by City Council last year.

We had a mother bring her son in and she wanted a contact with the narcotics authorities and didn't know how to go about it and asked the school authorities to make that interview with her. He was in possession of narcotics and had no other place to turn.

Our nurse alerted me to the fact that she had a fourteen year old girl in the infirmary with what appeared to be track marks on her arm.

We interviewed her and she told us that she was experimenting with heroin over the week end.

We brought the mother in and the mother made a contact at Nazareth Hospital Mental Health Program.

We had another parent come in with information that her son was in possession of drugs and possibly selling.

She wanted him arrested and also we urged her to talk to her priest and her priest put her in contact with The Bridge.

We received a couple of complaints about alleged pushers coming onto the school grounds and in every case we alerted the narcotics division and our school police to apprehend them when it happened and we have not made any arrests in that connection.

We have a list of thirty-one names at this point of students who have either been suspected or selling or using drugs at the school. I said I wanted to be very plain about the contacts in school.

We are not having the hectic type of existence that we had before, almost every other day I would be called into the infirmary last year, and it is very quiet in school this year, but by no stretch of the imagination do I think that the drug problem is any less.

I think it has gone underground and there is considerable activity on the weekend and at night.

We still occasionally get students in the infirmary on Monday who have some kind of "drug hangover letdown" after the week-end. Where the students don't confide in us it is kind of the end of the line for us. I have these recommendations that I would like the panel and the Congressman to consider.

1. We need a full service mental health facility in the Northeast with additional funds for family counseling, marriage counseling, drug and other problems and psychiatric services at a low cost or reasonable cost.

We need this desperately.

2. It might be beneficial to investigate a law that New York has that possession of a large amount of drugs is tantamount to sale;

3. We in the school needed a clear statement regarding the use of undercover police and stakeout teams to investigate pushers and the role the school should play with the police on this particular item.

4. We need an alternative to regular high schools for those students who are arrested and convicted of drug pushing.

The only alternative we have right now is to transfer them to another public school and thereby infecting it.

We get rid of our problem to another school.

5. I guess you heard this all day—the School District of Philadelphia needs more money to operate the basic programs and restore some of the high interest activities that we have had to curtail due to the budget problems.

We met today and we discussed it in our committee, alternatives to drug abuse and the type of high interest activities that would attract young people today that are drying out and we can't run them without money.

We can't even run a dance at Lincoln without paying one hundred to one hundred and fifty dollars for opening the building and paying for the heat and so on so any Federal funds that would be put into Philadelphia to help out our financial situation would help us in any extra program that we could formulate for drug abuse.

This is a very big problem;

6. We need to look into the type of law that five states have, Michigan, Nebraska, Iowa, Indiana and Connecticut which includes school counselors within the scope of privileged communications.

As it is now it is a serious point, the school counselor must share the information with the school authorities and the vice-principal and principal and they must go to the family.

I am not sure what the consequences are when they don't, but it is rather clear that we stopped communications with our students when they know they have to communicate with other people.

7. We would like or we need the school to have a complete list of all of the services available in the Northeast that will help all problems, especially students with drug abuse problems.

We know of a few places. We know of The Bridge and Gaudenzia House and a lot of referrals to Nazareth Hospital, but in some cases—well, we would just like a complete list where we could get help.

Do you have any questions from me?

Mr. EILBERG. You have given one of the most detailed accounts we have had and I want to express gratitude. You have been very specific and very candid. We will have a brief statement from your student and please stand by.

CAROL WACKER. Yes.

(Name of student not given.)

STUDENT. I am a student at Lincoln High School and I would like to say something about the six week seminar that is being funded by the Pennsylvania Crime Commission. It is going to try to bring about a drug education and prevention program throughout the whole Northeast. Other high schools in the city and we started two weeks ago with the third session.

It was from 9:00 to 12:00 in the morning at Lincoln High School and around 11:00 o'clock each school which meets at Lincoln breaks up into separate classrooms and they have a workshop there.

I brought the question whether or not anyone in the faculty of Lincoln High School has any association with the Road at Frankford and Welsh and nobody knew anything about it. The purpose of the seminars at Lincoln is to try to set up a drug abuse and drug education program to try to help kids with whatever their problems is and no one knew anything about The Road. I went there last night and I was talking to Lila on the phone and what I would like to see get started at Lincoln—the only thing that I think could get started at Lincoln—would be a referral service. I think they could use all the help that they could get. Like last week we were talking about the lack of communication between student and faculty and I think there is a lack of communication between the school and the community because the faculty didn't know what was going on at The Road and last night I asked two di-

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rectors of The Road who are here now whether they knew of the program that was going on at Lincoln and they didn't know anything about it.

Now, The Road said they would be more than willing to bring films and slides and lectures to the school to try to get any work shop started there. I think this could be the start of something pretty good.

Mr. EILBERG. Thank you very much.

Mrs. STUNDER. At this point I won't get blamed for lack of communication because I don't know how many letters have been addressed to Lincoln School from The Road and apparently they got into the wrong hands. I thank you very much.

Dr. LINDENBAUM (addressing Carol Wacker). You spoke about a workshop for people problems?

CAROL WACKER. No, this is for prevention and help for the student and today we examined for fifteen or twenty minutes alternatives for the students who are bored and don't have places to go and what the school can do to open up its doors at night to take care of the students.

That is one direction in which we are going. The other is for a referral service.

Dr. LINDENBAUM. What kind of education would you think is mandatory from the school?

CAROL WACKER. Receive a full unit in eighth grade and a full unit in eleventh grade. It is mandatory by law in Pennsylvania that all schools should teach drug abuse.

Mr. EILBERG. Thank you. And what about your second student?

CAROL WACKER. Our second student does not have a statement to make but knows something of the availability of drugs in the Northeast and will respond to questions.

Mr. SCHILLER. I would like to know whether the students, knowing that drugs are not good for their fellow students and themselves will be willing to inform on those who are pushing rather than those who are using?

STUDENT. I think that the majority of students would not.

Mr. SCHILLER. Would you tell us why?

STUDENT. It is like people don't want to blab on other people. They wouldn't like to tell.

I don't think it would be out of fear or anything like that.

Mr. EILBERG. About the availability, can you give us some ideas about how available drugs are?

STUDENT. Well, in the surrounding community drugs are very, very available, especially narcotics.

Mr. EILBERG. Can you tell us which kind of drugs?

STUDENT. I would say a great deal of heroin. In the last few weeks cheap bags have come back in circulation.

You have probably read that there has been a shortage in the city and they have bags coming back in the area for five or six dollars. There are some barbiturates around, methadone, acid.

Mr. EILBERG. Cocaine?

STUDENT. Cocaine, not really, acid. In school, I know in my school drugs aren't circulating really that much.

I would say that the only thing that has been going around was a few barbiturates.

Mr. EILBERG. Are any kids pushing?

STUDENT. Not really.

Mr. EILBERG. Is the pushing done from outside in the community?

STUDENT. Yes.

Mr. EILBERG. Is it getting worse? Are drugs more available than they have been say a year ago?

STUDENT. Yes, they are.

Mr. EILBERG. Do you have any ideas what should be done or what we should be doing about it?

STUDENT. I would say the only way to cut down the drug abuse would really be to give some true information to people who experiment.

I think you really can't stop the flow of drugs except you might be able to cut down the amount of people using them.

Dr. LINDENBAUM. Do you have courses in high school in drug abuse?

STUDENT. Yes. I was going to the sessions on Saturday mornings.

Dr. LINDENBAUM. What is your opinion of the sessions?

STUDENT. I think they are very, very informal and they give general knowledge.

Dr. LINDENBAUM. They don't give you medical information?

STUDENT. No.

Dr. LINDENBAUM. What would happen to your body?

STUDENT. No.

Mr. EILBERG. Are kids paying attention to these sessions?

STUDENT. No, they are not.

Rev. QUINN. What we have found with the adolescent addicts is that although most of them have been exposed to biology courses and what have you designed to implant sufficient information, they literally had no conception of the damage that was being done to their bodies when they used these drugs.

We had a pharmacologist from Philadelphia Pharmacy School come over to talk to former drug abusers, and we got tremendous results. There must be something about the quality of information that we are imparting in all of our sessions that sounds good.

Mr. EILBERG. What do you think of the role of parents and child guidance? You heard other witnesses. In other words, if you have parents that care, that you can talk to, does that make a difference?

STUDENT. Yes, it does.

Mr. EILBERG. In every case?

STUDENT. I would say in most cases it does.

Dr. LINDENBAUM. I have talked in a few schools at the request of individual teachers.

The children are actually hungry for knowledge as to what narcotics are and what they can do to you, starting from the bottom up, including alcohol.

I feel it is actually dereliction on the part of the medical profession not to become interested in making sure that the child population and youth population is informed properly.

We have doctors in the City of Philadelphia who could impart this information.

The doctors could go to schools, bi-monthly or whatever, and have sessions with the students in various groups to impart this information. There is no coordination with the health department either.

Mrs. STUNDER. At what age should children be educated in drug abuse?

STUDENT. I would say beginning junior high. As soon as a child enters high school if they don't have the information they will be subject to drugs.

Mrs. STUNDER. And you feel it has to be taught to them down on their level, not in medical terms or technical terms?

STUDENT. I would say it should be basically their level, a little higher so we can look up and listen.

Mr. EILBERG. I want to thank you. What you have said here goes to the Congress of the United States and goes in the Congressional Record.

(First unidentified student comes back.)

STUDENT. There's something I would like to say is that I would like to see a little more of the school getting into the community like the school working with The Road.

I think that would be the start of, like I said before, the start of something really big in this.

Mr. EILBERG. Thank you very much. Joseph Ruggiero of the Self Help Movement.

Mr. RUGGIERO. I am Joseph F. Ruggiero, director of the Self Help Movement, narcotic rehabilitation program, probation department.

Mr. EILBERG. Is that the Philadelphia Court System?

Mr. RUGGIERO. That is correct, Congressman, Common Pleas Court.

Drug addiction, as we know it, is a cancer throughout our city and throughout our nation.

However, the big thing is that nine out of ten people that use drugs do not only use them because they want to use them or get kicks out of it, I feel that nine out of ten are using them because they are pretty sick individuals.

They are individuals who are emotionally upset and individuals who do not know how to deal with their feelings and the feelings of other people.

Now, nine out of ten of them also would not go for treatment if they weren't motivated to do so. So it is necessary for us to have some type of control over these people in order to try to help them.

If we do not have any type of control we are fighting a losing battle.

I know a lot of people say jail is not the answer and I agree. It is not the answer, but it may be an instrument of help.

In the self help movement our record in the past two and a half years, I would say the last year at least, our attendance has been ninety-five percent and one of the reasons for that is because those people who are on probation and assigned to the self help movement, if they miss a meeting without a valid reason, then we will press the judge to incarcerate them for a period of four days and then release them without a hearing.

That has brought up our attendance to ninety-five percent and we are dealing with some pretty sick individuals.

Of course, it has to be up to the individual judge to approve this action.

Also I would say the self help movement is not seeking a grant. For the past two and a half years it has grown without the help of a grant and will continue to do so.

What we need mostly is inpatient programs. We also need a therapeutic community on the street and unless we get that we are fighting a useless battle.

What I mean by therapeutic community on the street is at present we have four buildings and we are going to grow even longer, without any funds from the Federal government.

We are raising our own money through our own banquets and affairs and the individuals themselves who are on probation are paying a dollar a week and we have the help of the YMCA and up here in the Northeast the YWCA.

At Leiper and Arrot we started a program three months ago and we hope soon to be starting a program on Holmes Avenue at the YWCA.

The program offers confronting therapy. It is one that demands change. It is one that demands the individual who is on DPA to get off and go to work.

It is one that demands certain individuals to go back to high school and it is one that demands the individuals get a bank account and produce.

Out of thirty active cases so far and we hope to raise that to a hundred within the next few months there are about ten boys over a year's period of time, and I am not saying they are cured, we don't perform miracles but ten boys have been functioning better than ever before. They have been under psychiatric care, have jobs and some of them even have their own business and some have gone back to high school and training schools.

We have approximately five boys who have been with us two years functioning well and we have at least two boys that next month will be almost off drugs completely for one year.

We are showing some type of control. We have boys, of course, who aren't doing too well and we have some boys that it is too early to tell, but at least we are very hopeful with the results we can see.

Now, I feel our program is open to nonprobation cases and I do feel that probation is part of the answer, that we have an obligation to motivate the individual that wants help and the individual that doesn't know whether he wants help.

These boys wouldn't come to us at first because the program was too hard. It demanded too much and these boys did not want to change.

They are con artists. That is part of the personality but they need help and are crying for it. Therefore, we have an obligation to motivate them.

Another thing I would like to stress before I am done here is that our programs should start working together instead of worrying about how many cures one could have over another one because the individuals are the ones who are important.

The one here in the Northeast is probably an evaluation unit, designed to find out what programs are best for the individual because there is no one program for every individual and coordinating office. With that I will end my statement.

STUDENT. I would like to know where we could contact you.

Mr. RUGGIERO. I am from the probation department at 716 Market Street and my phone number is MU6 2989 and of course I work up in the Northeast. You can contact the YWCA and our main center is 714 Lee Street the YMCA.

I did fail to mention that we have been going into schools and starting various programs with the schools in South Philadelphia and we hope to do this in the Northeast.

Father QUINN. You are now a probation officer?

Mr. RUGGIERO. Yes. I am the director of the movement and I do have probation cases, yes.

Father QUINN. Would you have an average amount of probation cases in addition to your work with the Self Help Movement?

Mr. RUGGIERO. No, fortunately with the coming of another narcotic unit into one program, into the department, an evaluation unit, this has given me the opportunity to spend all my time with the self help movement.

We are not asking for funds. What the court is doing is supporting the movement by having me work at it daily and this is what I am doing.

Father QUINN. Can you give us any information about the number of clients or the case load the average P O in Philadelphia would have?

Mr. RUGGIERO. I would say that it is entirely too much, over one hundred and thirty cases.

Father QUINN. Per man?

Mr. RUGGIERO. I would say in some cases maybe up to two hundred per man, this is correct.

It is very seldom where you see a man with seventy or eighty cases, very seldom.

Father QUINN. Is there any way physically or emotionally that a probation officer could fill that kind of load?

Mr. RUGGIERO. I feel it is impossible. I feel through the self help movement that is a good opportunity because I have something that a lot of other programs don't have.

I have a good voluntary staff. We have a staff of over five people at present and have applications for fifteen more.

Father QUINN. Have you worked as a probation officer outside of the self help movement?

Mr. RUGGIERO. Yes, I worked in the ghetto area for a period of three years at Broad and Columbia, Broad and Montgomery, and I have also worked as a liaison officer for narcotics.

Father QUINN. What is the maximum number of clients that you feel a probation officer can work significantly with?

Mr. RUGGIERO. I feel in order to do a good substantial job that fifty cases should be the limit, if possible.

Father QUINN. Do you feel that the probation officer can be a significant influence on the life of an adolescent drug abuser?

Mr. RUGGIERO. Definitely. Again it depends on what the probation officer has to offer, too.

In some case maybe private counseling will help but I feel that we just have to expand these therapeutic communities on the street and not only give them private counseling but very close supervision along with the therapy and other types of programs that we have available in the self help movement.

Fathe. QUINN. Thank you very much.

Mr. EILBERG. Thank you. Our next speaker is Doctor Carl Hoffman, Nazareth Hospital.

Dr. HOFFMAN. Thank you very much for inviting me here today. It is awfully hard to know how to approach a topic of this kind. I have worked with it now for many years, originally in the Federal penitentiaries system and I find that there always will be a certain percentage of individuals who must have recourse to some type of outlet, whether it is alcohol or drugs.

This, of course, is a minor problem except in situations of stress, which I consider to be prisons, service, ghetto areas, stress areas of any sort of this kind.

Initially we deal with this from a medical aspect. We used to treat it, the bad effects of those who were involved with drugs of all kinds, drugs that at times could have a legitimate medical use as well as those that had no known medical use and such things as alcohol in addition.

We have come to realize that there are certainly many instances of very bad effects and yet we would find in many instances that after they have been used regardless of the compound that to varying degrees the individual would recover without ill effects.

This has often raised a question for us because as we treat it we treated effects, we never treated the person.

We never come to understand the matters involved in those elements that give rise to use of compounds that would change the psychic state.

It has only been in the last five years that we have taken a hard look at this.

After you see individuals come back you begin to wonder how you can prevent this. In this modern day of medicine which includes all aspects, even the sociological aspect of medicine, you begin to wonder how you can approach the problem in a preventive way.

To do this appropriately requires a deep searching analysis of the community.

Like many of you I have heard that we are rampant with drug abuse.

I am limiting it from this point on to the drugs of all kinds.

Yet I find it is difficult to get precise figures, precise involvement; for example we have requested, from nurses and counselors at school, requests from them for help but I find that many times in following up on these things or my staff follows up on them, that what we are really dealing with is not so much the drug problem but indirection problems of the youngster with his family and his community.

I am not for a moment suggesting that family or community is to blame or that the youngster is to blame. I am simply pointing out that there are factors involved that we haven't yet begun to analyze simply because we do not have precise figures. It is my feeling that there should be an in depth study of the entire community as to how much is involved.

I am not too sure you will ever get an accurate figure although I believe we will get a reasonable kind of response.

If you talk to parents they, of course, will be concerned after the problem has hit, as a rule.

They are concerned: "What will you do?" It is less often "What can I do?"

With a youngster, he is imbedded and enmeshed in the problems of his family and community and he is troubled only when he has hit medical, psychological problems.

So where do we turn? Where do we go? We at Nazareth have tried to cooperate with just about any group who has come forth and said: "We will treat, we will try to prevent."

We will provide beds, for example, for detoxification but it is frustrating to know of the large percentage who go back to the same ways of doing things and the same ways of living that led to drug abuse.

Some of the ideas that I have are that the individuals and usually it is the youngster, the high school, grade school young adult who is involved, who is looking for not so much involvement any more as a relief from whatever he is doing in life, a relief from responsibility, a relief from pursuit of goals or establishing goals, lack of motivation and my emphasis has gradually shifted but not neglecting care, but the emphasis has shifted to trying to understand what we as human beings can do in a community to make it less desirable for any individual to get involved with drugs that take away from the individual not only his right to be an individual but his ability to be an individual.

Mr. SCHILLER. Thank you. Are there any questions?

Dr. LINDENBAUM. Do you actually treat your people on a one time basis or counseling session?

Dr. HOFFMAN. Initially keeping in mind that we at the hospital as physicians start out on a one to one relationship because the initial contact is a medical crisis and it is so vital not only to treat the individual medically but to let the individual know that we give a damn.

Then we look for the practical aspect in trying to find some way to treat in groups, because this seems to be the most practical way to treat this.

Dr. LINDENBAUM. How long are the follow ups?

Dr. HOFFMAN. Some of my own personal follow ups will go on for ten years and it is hard to say what is statistically significant.

Those that come back, are they having problems or have they simply themselves into a relationship, dependency relationship, and those who do not come back, are they well or are they mature or have they just drifted into other areas.

Mrs. STUNDER. Doctor Hoffman, I am aware there are problems at Nazareth but how many people would you say have been detoxified in Nazareth? We are concerned about the number of beds in the City of Philadelphia and in the Northeast for detoxification.

Dr. HOFFMAN. I would say that we average about one case a week. I have set aside several beds, a minimum of two, but more if a crisis would arise on detoxification problems. There are twenty-five psychiatric beds at Nazareth and the department of psychiatry is supposed to cover the whole community for all kinds of emotional and mental problems. So from the aspect of the bed situation it is horrible.

Mr. SCHILLER. Are there any other questions?

(Not answered)

Mr. SCHILLER. Thank you. Mr. Bruce Bell.

Mr. BELL. My name is Bruce Bell and I am administrative assistant to Mrs. Beatrice Roeser, Superintendent of District 8 which serves in Norheast Philadelphia.

Today you have heard many things about the schools and I am not up here to defend what is going on or discuss policy.

What I wanted to do today is not give

a prepared speech but just give an idea of some of the things we are doing in the schools.

We start at the elementary school level and we have programs from kindergarten through twelfth grade and I have some documentation on that.

We work closely with our nurses in the schools, on various school programs with both parochial and public schools.

Our schools have submitted some programs and we have such things as assembly programs, films, special assemblies and special speakers from the various hospitals.

We have some of our members of our schools who are members of the various community agencies.

For example one of our principals is a member of the Northeast Drug Counsel. We also worked very closely with the World Affairs counsel and they have a program coming up very soon on the drug spectrum and the senior high schools participate in this.

We have television programs that the school participated in and we have one that was just held recently called "Drugs."

One of our junior high schools recently showed a film and part of that film was to show what it is really all about.

They really showed the gruesome aspects of drugs and I have a newspaper article with that which I will leave and that describes how the children really reacted to it.

This was the thing they wanted. I agree with the young man who came up earlier.

We heard about the program at Washington High School. This program is being led by the Association for Jewish Children and Mrs. Goldstein spoke about it earlier. This program started with the cooperation of this agency and high school and has been running very successfully. There was an evening program where we had students and had parents at the Washington High School. It was a most successful program and it has been accepted by the community.

I have reports that I will leave with you about that.

As far as The Bridge is concerned we have been authorized a teacher at the facility and I would like to make that a part of the record.

We heard about the special program at Lincoln High School. Two hundred and twelve thousand dollars have been allocated for that program. This program is for students, counselors and teachers, nurses, school community coordinators, principal or vice-principal and members of the various schools.

At our educational service center we have a resource center and in this resource center we have many, many materials for teachers and community to come in and peruse and make available to the school.

We work very closely as a team with the school psychologist and counseling service and as a matter of fact we have our attendance supervisor here today. We work as a total team to work with the drug problem.

As far as Federal funds are concerned I would like to acquaint the people with what is going on.

We do have Federal funds. We have twenty thousand dollars and we are planning programs right now in three high schools in the Northeast. I thought you would like to know that.

Some of the publications that we use in our schools are distributed by the nurses' office regarding drugs, drug abuse, dropouts and we have other publications and publications from The Bridge which we use in our schools.

We have other sorts of publications and I have copies here and something was discussed about curriculum.

I thought you should know we do have curriculum planned because we know there is a need for it and this is the latest copy of the teachers guide (indicating).

This concludes my remarks. Now, I am not here to defend the policy.

Mr. EILBERG. I just want to make an observation and ask you a question which apparently is a difficult one.

Apparently we are in a period of permissiveness in schools. There is a lack of respect for the teachers, indifference, perhaps. It may have something to do with the national situation. There seems to be an indifference or inattentiveness. I am not making this charge but are kids in Catholic schools getting more attention?

Mr. BELL. I had varying degrees of feeling when I heard all of this because another one of my responsibilities is discipline for the district.

I can say this, with the new Board of Education and having discussed this with one of the board members who resides in the Northeast, there is going to be or there is in effect a tightening up of discipline within the schools.

I think the students themselves want it, the teachers want it, and I think we feel that more learning can take place when we have it.

I met with the secondary school counselors two days ago and we were working on the same kind of thing. We felt we needed more communication with students and more clerical work and more time devoted to this.

I heard Doctor Hoffman who was just up and we met just yesterday to develop better communications with the Home and School Counsel, the Home and School people of District 8 and Nazareth Hospital for the mental health center that we know we really need.

I think that perhaps there might have been some laxity but I think there will be tightening up.

I think everybody is asking for it.

Father QUINN. I would just like to make my own comments for the record and I want to thank Mrs. Roeser for aiding us in being able to provide the program for the kids, that we have at The Bridge.

Mr. EILBERG. Next I would like to introduce Mr. Martin, Ken Martin.

Mr. MARTIN. My name is Ken Martin and I live in Buckingham, Pennsylvania.

I would like to state first of all today that we are opening a drug and alcohol rehabilitation center within about five blocks of here for inpatient treatment. It should be opened within the next ninety days.

I have a couple of moments and I will tell you a little more about that.

I have been to about thirty or forty of these affairs, steering committees and you get the professionals, the drug addicts or alcoholics and you get two or three interested parents.

But, as we all find out this is a subject that everybody likes to talk about but nobody likes to do anything about.

There is House Bill 850 which will appropriate approximately ten million dollars for the first time specifically for the treatment of children, drug addicts and is still tied up in committees.

This is the first time in Pennsylvania where money has specifically been earmarked for this purpose and it should be very helpful.

Now, as I said before we are going to open up and we are located at Milner Street and Grant Avenue. We entered into an agreement very recently to purchase this property from these people. It will be staffed with professionals and we will treat alcoholics and to a lesser degree drug addicts and beds will be available on an open bed basis.

Anyone, regardless of race, creed or color will be taken in and we will try to work out something after that as to continuing therapy. I agree that education on drug abuse should take place at about the junior high school level.

We had a patient at one time who was shooting fifteen bags of heroin a day and he had a headache and somebody said: "Why don't you take a couple of aspirin," and he said: "I took a couple a couple of hours ago. I don't want to kill myself."

I think you have to educate people, educate children on drugs, about the symptoms and you tell them the dangers and what not.

Thank you very much.

Mr. EILBERG. Have you operated in the city before?

Mr. MARTIN. No, up in Pennsylvania.

Mr. EILBERG. And this is not a nonprofit corporation. It is private enterprise?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. Do you mix the alcoholic and drug users?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. And therapy?

Mr. MARTIN. Yes.

Dr. LINDENBAUM. Will they be residing in the same units?

Mr. MARTIN. Yes, not properly in the same rooms together.

(at this point it was necessary for the reporter to change paper during which time a small portion of the testimony was not taken)

Mr. Rocco. I have somebody with me and she wants to make a statement.

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. How old are you?

UNIDENTIFIED PERSON. Twenty.

Mr. EILBERG. Do you live in Philadelphia?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Tell us about yourself?

UNIDENTIFIED PERSON. I had a problem and I wanted to get off drugs and like there wasn't any place I could go to get off them. I realized I needed help and I know people on drugs and they wanted to get off and there was no place they could go.

Mr. EILBERG. How did you get on drugs?

UNIDENTIFIED PERSON. Through my family. I had problems at home.

Mr. EILBERG. What drugs were you on?

UNIDENTIFIED PERSON. I used a lot of them.

Mr. EILBERG. Do you want to tell us what you used?

UNIDENTIFIED PERSON. I smoke grass, hash, shot speed and then went to heroin.

Dr. LINDENBAUM. How much heroin did you use?

UNIDENTIFIED PERSON. About two bags a day.

Dr. LINDENBAUM. What happened then?

UNIDENTIFIED PERSON. I wanted to get off.

Dr. LINDENBAUM. You decided you wanted to get off drugs?

UNIDENTIFIED PERSON. Yes.

Dr. LINDENBAUM. What did you do?

UNIDENTIFIED PERSON. I went to The Road and they helped me a lot but they didn't give me the help I really felt I needed.

Mr. EILBERG. What did you think you needed?

UNIDENTIFIED PERSON. I needed to go in some place to get off them completely.

Mr. EILBERG. You mean as an inpatient?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Did you?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Is Mr. Rocco treating you now?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. And you have been getting hypnosis treatments?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Are you still taking drugs?

UNIDENTIFIED PERSON. No.

Mr. EILBERG. Are you living at home?

UNIDENTIFIED PERSON. Yes.

Mr. EILBERG. Are there any questions?

Mrs. STUNDER. I attempted to get this young lady into a hospital. This is one of the crying needs I was talking about before and it's just impossible.

In fact we spent one whole night on the telephone talking, I think, to protect her sanity that night, and I am glad to see you here today and you are looking wonderful.

Mr. SCHILLER. You indicated that you had trouble at home and that is why you started taking drugs, is that right?

UNIDENTIFIED PERSON. That is one of the reasons and the other reason was: "It's all over," and I figured why not, I would try it.

Mr. SCHILLER. You are living at home?

UNIDENTIFIED PERSON. Yes.

Mr. SCHILLER. Is this problem that existed at home still there?

UNIDENTIFIED PERSON. No.

Mr. SCHILLER. It was a problem that related to your relationship with your parents, is that correct?

UNIDENTIFIED PERSON. Yes.

Mr. SCHILLER. And have they gone to any counseling services while you were receiving treatment?

UNIDENTIFIED PERSON. No.

Mr. SCHILLER. How do you explain the change of the conditions at home?

UNIDENTIFIED PERSON. Well, like my father realized—like it took him a long time to realize that I was really getting messed up and we just sat down and talked.

It wasn't really bad with him.

Mr. SCHILLER. Do you feel as though if you really sat down and talked some years ago it might have avoided some of the problems you had later on?

UNIDENTIFIED PERSON. Maybe.

Mr. EILBERG. Mr. Rocco, do you want to present the other youngster?

Mr. Rocco. Yes.

UNIDENTIFIED BOY. You can find it almost on every corner and it goes around, like you can buy it out of vending machines.

It is all over high school.

Mr. EILBERG. How do you know?

UNIDENTIFIED BOY. I went to Lincoln and I could walk through the hallway and someone would buy dope and I don't have the habit, I just tried it and I found I could be happy without dope, so you like walk anywhere around the city and somebody will say: "Do you want dope?" and usually I turn them down.

Mr. EILBERG. How old are you?

UNIDENTIFIED BOY. Sixteen.

Mr. EILBERG. Do you still go to Lincoln?

UNIDENTIFIED BOY. No.

Mr. EILBERG. Are you working?

UNIDENTIFIED BOY. No, not at the moment.

Mr. EILBERG. What kind of dope is available?

UNIDENTIFIED BOY. There is marijuana and skag and everything.

Whenever you go where there are large gangs of people you'll find dope.

Mr. EILBERG. What can we do about it?

UNIDENTIFIED BOY. We need help. The Road is very effective and Mr. Rocco is doing as much as he possibly can.

If there were more places where the kid could go to get help and felt they were needed I am sure there would be a cutdown.

Mr. EILBERG. We need more places like the Road, is that what you are saying?

UNIDENTIFIED BOY. Yes.

ANOTHER UNIDENTIFIED BOY. I would appreciate it if you wouldn't ask me questions. I ain't talking about myself. I have a few friends and I don't know where they are now. They might be laying in the gutter. I'll tell you, I could take a walk and come back in a half hour with anything on me.

It's really bad. You know, just take it from me, it's all over.

Mr. EILBERG. Do you go to school?

UNIDENTIFIED BOY. I am hanging in there getting my diploma through night school.

Mr. EILBERG. You are not attending day school?

UNIDENTIFIED BOY. I just don't bother with it.

Mr. EILBERG. I wondered what school you attended and what the drug scene was there?

UNIDENTIFIED BOY. I went to Father Judge three years and that's high school and I got kicked out because I was a clown and I went to Lincoln for one and plus a couple of summers and didn't make out there and I'm going to night school now.

Mr. EILBERG. Was there anything going on at Father Judge when you were there?

UNIDENTIFIED BOY. No, not so much, not in the school, it's like meet me outside after school.

In school they ask somebody if they want it and say meet me outside. I'll tell you something, when I was younger I played all kind of sports at the Boys' Club and these people were outside doing the same thing and you have to have something else beside that and that's all I want to say here.

It's just a question of what is taking place and where we might go. It takes a lot of thought. All I can say you have to help people.

You go to a hospital, all right, and somebody might talk to the parents and then the parents find it is going to cost a hell of a lot of money and that's all that I can tell you.

Mr. EILBERG. Thank you. Next we will hear from Ray Perry, a probation officer.

Mr. PERRY. I am a probation officer in the Court of Common Pleas. I think methadone is probably, if you are hooked on it, a worse problem, more dangerous than heroin and there is no place in the City of Philadelphia that will detoxify a methadone user.

I know a fellow actually hooked on methadone. I attempted to get him in different facilities in the City of Philadelphia and I was unsuccessful.

No one would handle him because of the time factor involved.

Of course, he is not the richest man in the world and in fact he is on assistance. This is a problem and people don't know what to do with this young fellow.

This is something the panel can tell me. Where we are going or what we are going to do about methadone using. I think it is being abused and we have cases where they place an individual on medical probation for drugs and where am I going to send them and who am I going to send them to. They have to get up in the morning and get it in order to work for the day.

I think this is a serious problem and should be looked into.

Mr. EILBERG. Thank you very much. Our next speaker is Jerome Libby, assistant director for program development, Northeast Community Mental Health Center.

Mr. LIBBY. Speaking for the Northeast Community Mental Heatlh Center, we wish to thank you for the opportunity to make a statement at this public hearing.

We would hope that the information provided by this hearing would serve several purposes. These would include, first, assisting the Congress in it's effort to deal meaningfully with a major problem; second, making the community more aware of the realities of the drug abuse situation in Northeast Philadelphia and finally, supplying the service agencies in the community, including Northeast Community Mental Health Center, with additional information they can use in developing more effective approaches and programs for dealing with problems of drug abuse and addiction.

This statement should be taken as a preliminary statement. Our intention is to respond more definitively in a written statement which we will submit at a later date.

The Northeast Community Mental Health Center has been providing services to individuals with drug abuse and addiction problems from the time it became comprehensive community mental health center in the spring of 1970.

A significant percentage of the center's services are provided to individuals with drug problems.

The number of individuals with drug problems that the center has been serving has been increasing steadily and now constitutes almost twenty percent of the center's service effort.

Drug abuse problems are handled within the context of the regular community mental health center program. We are not presently able to offer specialized drug abuse services.

The range of drug problems that we are serving is broad, including individuals using barbiturates, amphetamines and hallucinogens.

Two very necessary kinds of service that we are not able to provide at this time are detoxification in cases of heroin addiction and methadone maintenance of heroin addicts.

The demands for the entire spectrum of clinical services of the center are constantly increasing and unless the center is able to obtain funds to develop specialized drug abuse programs it may soon have to seriously reconsider how much of its resources it can devote to drug problems in relation to all of the other mental health problems which the center is required to serve.

Our community consultation and education service has been able to provide a number of kinds of service related to drug problems to agencies, individuals and groups in the community.

In addition to the more usual kinds of drug education activities such as speeches, lectures and panel discussions to organizations and agencies, a number of perhaps more meaningful activities have been developed.

These include a parent education group, rap groups with young people, leadership planning groups for community people and continuing consultation to schools and other agencies.

The center has also provided consultations to several grass roots, self-help organizations and agencies that have developed within the community in an effort to combat the drug problem.

This consultation has included training for volunteers, organizational consultation, assistance in obtaining government grants, development of procedures for determining effectiveness and staff development activities.

It is our feeling that the usual form of drug abuse education is not tremendously effective as a prevention activity.

In attempting to arrive at some conclusions about the extent of the problem in our catchment area, we have had considerable difficulty in obtaining consistent, reliable data.

There is considerable inconsistency in estimates of kinds and prevalence of drug usage within particular neighborhoods, schools or groups.

As a result of a series of group neighborhood meetings which Northeast Community Mental Health Center has sponsored in the past several weeks to obtain community input as to the community's mental health and mental retardation needs and priorities, our experience has been that the community seems to be somewhat less vocal about the drug issue than they were a year ago.

On the other hand, there seems to be more willingness to openly accept the existence of drug problems and to recognize the problem from a more appropriate perspective.

There also seems to be some greater understanding of drug addiction and abuse as a complex social, family and community problem.

The center is presently attempting to more clearly define the needs for more specialized services in its catchment area.

We intend to apply for funds to develop programs to meet the specialized needs which the center is not now able to satisfy.

We recognize the need for an extensive systematic research effort in the entire Northeast to develop definitive data about the extent of the problem and its relationship to and interaction with other problems in the community.

However, the need for additional data should not impede the community from moving ahead to develop the additional services that are needed now.

Mr. EILBERG. Thank you very much. Are there any questions?

(Not answered.)

Mr. EILBERG. We now have Mr. David Heydt of Central High School.

Mr. HEYDT. I am David Heydt and I am at Central High School and am a consultant to the current school board and have been running a peer group at the high school for the last three years.

As far as what has been happening in the school, I have to agree with the statements made earlier by Mr. Belford.

We need a clarification, a legal clarification and have to know where we stand.

Mr. Belford is at Washington High School and carrying on his work. I would like to talk a little bit about why is there a drug problem.

I have talked to various people in various schools and found that a lot of schools are not open at night. They don't have any lights in the gym and there is no place for the young people to go and the young people who are much more aware and are smarter are left out in the cold.

Had I been left out in the cold at their age and if drugs were available as they are now I would probably be a junkie.

That is all I have to say.

Mr. EILBERG. Thank you very much. Are there any questions?

(not answered)

Mr. EILBERG. Next we have Kathy Martin of Washington High School.

Miss MARTIN. My name is Kathy Martin and I am a student at Washington High School.

I have been working with some teachers because I do have a year and a half in the peer group activity.

What we have done is really get up and give them some kind of information and what to do and not to do.

They have been coming up against like a brick wall. It is incredible and you have to help them.

I don't see a program in Philadelphia for rehabilitation and this is a real problem. I have heard an awful lot of talking at my school about heroin and it is easy to say things but when it comes down to doing them, that's different.

Now it has come to the point where the principal does not want us to stick our necks out so that nobody backs us up.

Mr. EILBERG. What do you do in the peer group?

Miss MARTIN. I was involved in all kinds of things, talking to the people and you have to have an open heart. That's what it pretty much comes down to Like, the problem is a very bad problem and I think you have to protect the teachers so that they can't get in trouble for trying to help people.

When you come down to it you are working with drug addicts and that is anybody that dabbled in drugs and to help them the teachers need to be protected so that they can go on with their work.

Do you have any questions you want to ask me?

Mr. EILBERG. Are drugs getting better or worse?

Miss MARTIN. Worse.

Mr. EILBERG. Are there any questions?

(Not answered.)

Mr. EILBERG. Thank you very much.

Mr. KORBY. My name is Mr. Korby and I am a member of the board of directors of The Road. I missed about half of what was going on here today but I was probably going to say the same thing as a lot of other people, about the drug problem.

I don't agree with the people who say you can get it on any corner. That's not true, but if you know what corner in the Northeast to go to you can get it.

I don't use drugs but plenty of people I know use them. They can go out of the house and probably go a block or two and they can find somebody that will sell them drugs.

People offer people drugs just to get them off because they don't want to "get off" alone. I have talked to some of the people myself for as high as eight hours and they were taking LSD and needed somebody to talk to.

I really don't know what to say. We need programs up here. As far as talking goes, I am not really much for talking but I have been with this program about a year and a half now and I have seen all the struggles we had and when The Bridge first started I was up to that and somebody else I talked to was helping The Bridge.

You know, I have seen all the problems and I can't see why people would be so against people on drugs.

It's ridiculous.

Mr. EILBERG. Thank you very much. Mrs. Ferreira.

Mrs. FERREIRA. One of the most frightening problems of drug abuse is the severe and in some cases complete lack of knowledge on the part of parents. The abuse of drugs is rationalized, theorized, encouraged and ignored.

Since we live in a society that is deluged with television and other media advertising the glory of drug use, it is only natural that abuse of these same drugs becomes acceptable.

We are the only nation in the world that feels the need to invent a new sickness called "the blahs."

Various officials of the many Federal, State and city agencies have found it convenient to play "Ostrich" when it comes to taking an objective look at the problem that is seriously affecting the health and life of this country.

When it came time to show some interest in the alarming increase in drug related crimes and deaths, hearings were held. Who testified?

Some very knowledgable people with good background in this field. Who made the press? The so-called "beautiful people" or the "avante-garde" gadflies who in order to maintain or perpetuate their image before the public proposed the legalization of marijuana or heroin.

The arguments went something like this—if you cannot enforce the law, then it follows that it is a bad law and should be abolished.

The same argument could be presented for robbery and murder; but would we be foolish enough to believe it?

Why not more verbiage on funding on complete and thorough studies of the effects of all drugs, long and short range?

What about complete educational programs for the people who need it most, the parents?

Why not sufficient funding for the counseling of entire families who have the misfortune of having a single member using drugs?

We recognize that a junkie has a life of hell; let me assure you that the same kind of life awaits the family unit of the drug abuser.

We talk of drug addicts, drug problems in number of known or estimated users, and all the while we are ignoring vast numbers of relatives emotionally torn and sometimes permanently scarred by a single abuser.

Some of the facts of drug abuse in the Northeast are:

1. Some school officials are naive to say the least. One principal had the audacity to proudly wave the figure of one and a half percent usage in his school—this represented a real figure of two hundred plus students.

2. Drug addicts are recognized by their long hair and sandals. This eliminated the need to worry about short haired children being users or sellers.

3. Too many parents know more about "As The World Turns" and the "76ERS" than they do about their children. Drugs are not the only means of escape.

4. No thought or very little concern is given to the number of children who are "huffing." This has been overshadowed by the publicity given hard drugs.

5. More Northeast residents are willing to protest the rezoning for a drug rehabilitation house than are willing to protest apartment complexes and air pollution, a fact of life being that every neighborhood has its junkies and pushers at the present time, only they are protected by a single house or apartment status.

6. Very little is presently available in the way of treatment facilities for the children and adults of the Northeast. Every facility is presently overworked and understaffed and the waiting list is beginning to look like a telephone number.

7. Funding is inadequate and the wait from time of presentation of a request for funding to the actual funding is extremely long. To start now is what is necessary, expansion of existing facilities and creation of new ones.

I would like to suggest that you, Congressman Eilberg, use your good office to inform the school officials that it is wise to be innovative in instituting new programs for education such as Lincoln High is attempting to do.

I pretend no area of expertise in the drug field. I do not even pretend expertise in the area of parenthood.

I only wish to impress you with my sincerity and concern over the tremendous problem parents face in raising children in today's world.

We need all the help we can get.

We must secure the interest and concern of Congress. We must have made available to us all the tools necessary to prepare our children who are under the age of eight to be able to grow and flourish in this city without the tremendous pressures to experiment, turn on, join the crowd, that their older brothers and sisters are facing right now.

We need to know that when we say, "Don't do as I do, do as I say," it will not work.

And in this respect our children are smarter than we are. We also need the assurance that when we realize that we need counseling, something will be available for us and we will not be told that "You cannot be serviced here because you do not live within the area we serve."

Hopefully the Northeast will have all the needed facilities and Mr. and Mrs. Smith will not become number 952 on the waiting list.

At the present time John Smith has a greater chance that his draft lottery number will come first.

We also need to know that someone is acting on the request that buildings at Byberry be made available for treatment centers. We also need to know that the people here today are considered a formidable "lobby group," since we probably never have the funds available to hire a lobbyist, and it is up to us to continue to appear at public hearings at every possible opportunity to champion our cause.

I mentioned my lack of expertise so I cannot give you figures, but I can vouch for the number of parents with tears streaming down their faces that I have sat with until 3:00 or 4:00 a.m. because there was no expertise available.

I can vouch for the frustration of trying to get a parent help and being frustrated beyond belief after twenty plus calls and getting nowhere.

I can tell you how it feels when help is sought and the end result is being given a pamphlet to read. Did you ever try to read a pamphlet when your son is retching and sweating and crying?

Have you ever tried to remain calm, understanding and confident when your child reeks with solvents and can't see or hear you through his red-eyed stupor?

What parent is equipped to completely be objective about their child? How do you tell a parent not to panic when he is afraid his son will die before he gets the help he needs?

I realize that these are questions and not testimony in the form of solutions, however, solutions must come not from an individual but the Congress, the State and the city, with the help of the informed community.

I have seen many good changes since I started green and scared to death of Home and School audiences and this is good.

However, the changes have been slow. Some parents can't wait. Perhaps I can pretend to speak for parental contingents that are not here today because they did not know of the hearing.

Some are not here because they are so frustrated at this point that they could not hack one more hearing and end up disappointed.

Help us get the buildings at Byberry, help us make the community understand that rehabilitation houses are respectable, help us get the necessary funding for research, education and programs.

If you can help us with the above we can turn our frustration into profitable energy toward the children we love and don't know how to help.

Thank you.

Mr. EILBERG. Thank you very much. Next we have Mr. Braverman from Northeast High School.

Mr. BRAVERMAN. I didn't come to speak. I was asked to come here if any questions came up about Northeast High School.

We are a little upset about the drug problem in the Northeast and I am here to mention a few things about our experiences at Northeast High School.

One of the questions I am constantly asked is what is the extent of the problem at Northeast and I must say it is pretty hard to tell. I really don't know. I know that we have high school age boys and girls at the school who are helping in this work and all that I can say is we are having a hard time trying to discover the extent of the problem. The young lady from Washington spoke and I can understand her feelings because we experienced the same thing.

If we as teachers would counsel a child to come to us and say, "Look, I'm on heroin and I need help. Can I get help and not tell my parents?"

If you tell the parents you break the communication and if you don't tell the parents and send the child for help the parents can find out about it in a roundabout way and you find yourself in a legal situation perhaps and the Board of Education cannot help you. You are on your own.

This is all I have to say.

Mr. EILBERG. Thank you. Our last speaker is Mr. Kent Saldan, executive vice-president of the Great Northeast Unity Congress.

Mr. SALDAN. The Greater Northeast Unity Congress comprising of over forty civic groups and organizations from throughout the Greater Northeast and representing over three hundred thousand residents, join the many other groups and organizations in supporting and working towards the continuation and development of strong drug programs and facilities in the Northeast.

Both community leaders and legislatures must meet and pool their ideas and resources to develop new programs and solutions to the serious problems and drug abuse in this section of the city.

We must establish drug centers, mobile information centers and clinics so as to enable drug abusers easy accessibility to help. These centers should be geographically located to enable all residents to reach out and come in contact guidance and service.

We need strong education and drug programs in our school systems, community organizations and religious affiliations.

The Greater Northeast Unity Congress is indebted to The Bridge and The Road for their outstanding drug programs in the Northeast. Additional assistance and funds should be made available to these existent programs.

If each parent would take a personal interest in his offspring, fifty percent of the drug problems in the city would be eliminated.

The figures could be even higher.

The section of the Northeast north of Cottman Avenue, because of a population of over three hundred thousand residents, the present 7B catchment area cannot properly service all these people at the Nazareth MH/MR base service unit.

Restrictions stipulate a limitation of two hundred thousand people to a catchment area.

Therefore 7B catchment area must be split, creating a new 7C catchment area.

Allocations for drug programs should be instituted with Nazareth MH/MR base service unit prepares their next budget request, and that 7C prepares similar provisions.

These are concrete programs we can institute immediately.

There is not one cure-all for these complex problems. Our children have grown up under the influence of television advertising that whatever may upset or bother us, to pop a pill into our mouths.

Gentlemen, that is exactly what our generation is doing today. I understand you can't stop progress nor hurt the economy. If there are restraints on the hazards of cigarettes, we should look into the constant bombardment of television advertising of wholesale drug use.

The Greater Northeast Unity Congress is very proud that Congressman Joshua Eilberg has taken such an interest in drug abuse in the Greater Northeast and is prepared to do something about it.

Mr. EILBERG. Thank you very much and let me conclude by saying that we will have all the testimony transcribed and will boil it down and we will examine the information we have gathered today in an effort to better the conditions that exist.

I want to thank the Holy Family College for making its facilities available and thank the Northeast Philadelphia Health and Welfare Council for its worthwhile efforts in this matter and I think the community will be the richer because of what has been developed here today and ladies and gentlemen, I hope this will not just be a talk session but that something can be accomplished and I want to thank everyone for participating.

Thank you very much.

CONGREGATION SHAARE, SHAMAYIM,
GNJC.
Philadelphia, Pa., January 4, 1972.

Congressman JOSHUA EILBERG,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EILBERG: Thank you for your letter of December 16, 1971 inviting me to participate in the hearing which you will be holding on Saturday, January 22, 1972 on the Drug Addiction Problem in Northeast Philadelphia. I appreciate your compliment in referring to me "as a person with expert knowledge." I would be more than happy to appear excepting that the hearing is being held on Saturday morning which is our Sabbath and therefore I shall be at Religious Services.

I feel that I have no special expertise, not because I am not working with the problem, but because there are no experts in the area of drug addiction. There are many approaches for alleviating the problem which has now become endemic in our community. That which was formerly thought as a simple solution is but one of many approaches that must be employed. I'm sure you know that drug abuse in Northeast Philadelphia has reached down into every strata of society and every age group. Experimentation with marijuana begins as early as fifth and sixth grades, and I have found through my own experience that it reaches epidemic proportions in the ninth and tenth grades. Fortunately, I have noted that by the time students reach the twelfth grade, graduation from high school, they have made up their minds whether they're going the way of the drug addict or have kicked the habit and maintain the straight life.

I believe that the program that has been instituted in the schools, that of drug education, is a good one and must be continued for all age groups. I would like to comment on another approach that seems not to have taken hold and yet appears to me as one of the most appropriate approaches that should be developed with the assistance of the youth organizations in the entire community.

This is the program of REACH as proposed by the Boy Scouts of America. I believe that Drug Abuse is a sociological problem more than it is a psychologic or psychiatric malediction and therefore what we must do is create a tenor of opinion and feeling in the youth community that one can be straight and still be part of the world. If we can raise and build the position of the straight kid within his own peer group then we have achieved a great deal. The concept underlying this approach is that we develop group workers and youth workers who go out into the street and have kids proclaim loudly and clearly to all that will hear them that they are straight and not on drugs, that they're getting their "high" from those things that we consider socially acceptable forms of behavior. If and when we do these things, then we will find that others will join the cause. What we create is group opinion marching forward. Others will join the group and they will not feel socially ostracized and outside of the normal course of events.

The second approach that must be employed to try to stem the tide of that which we think is uncontrollable is the small rehabilitation resident community such as is in existence at "The Bridge." These will take the children and young people out of the homes in which they cannot live because they cannot find happiness there and give them a locale where they can relate to themselves as well as the community which surrounds them.

Lastly, I believe that the clinics that are already in existence must be doubled in number and that every approach, psychiatric, psychological, sociological, and medical be employed to ameliorate the problem. General education has been fairly good and this information service must be continued but I do not think that this necessarily need be the concern of the Federal Government. I believe that far more effective are the small residential communities and an outreach activity that can create a new climate of youth opinion.

I thank you for your interest in this problem and the concern that you have exhibited for every issue that affects our lives. I am sorry that I cannot be present to make a statement to your group. Please feel free to call upon me whenever I may be of service.

Sincerely,

ARNOLD H. FELDMAN,
Rabbi.

WILLIAM C. LEINHAUSER,
Philadelphia 2, Pa.

A DRUG ADDICT

The reaction and feelings of the drug addict are misunderstood and difficult to explain.

The true drug addict gets no ecstatic or exhilarating feeling from taking his drug. He must merely take it in order to feel normal and well: he simply maintains a condition of euphoria or well being; he is a harmless person with his drug but dangerous needing it.

However, without his drug he suffers a torment and illness that is the worst known to human suffering. At the prospect of being without his drug and before the physical symptoms are manifest he is terrified for the future of cessation and is ruthless and miserably unhappy.

Then he begins to sweat, is nervous and grows weaker and weaker rapidly.

Finally in his lowest state he has excruciating abdominal pains, nausea, and extreme sensitivity of skin and the pupils of his eyes dilate to such an extent that he can hardly see and shuns the light.

But the complete unhappiness of mind is the worst phase and he is so weak he can hardly raise a hand not to speak of standing.

The fact is he is deprived of that with which to combat his illness.

This article was written for me by a man who used narcotic drugs for years, but never had the experience of being without funds to purchase his drugs.

I have found after many years of experience that drug addicts must continuously use their keen minds to get money with which to purchase their drugs and resort to crime to meet that end.

FATHER JUDGE HIGH SCHOOL,
Philadelphia, Pa., January 20, 1972.

Representative JOSHUA EILBERG,
First Federal Building,
Philadelphia, Pa.

DEAR REPRESENTATIVE EILBERG: Thank you for the opportunity to submit this statement to your sub-committee hearings on drug abuse. I sincerely regret the conflict that keeps us from participating in person.

The faculty, student body and parents of Father Judge High School are deeply concerned with the problem of drug abuse and availability in this particular area but also throughout our society. I hope the data provided will assist your committee in understanding our concern and in evaluating our area drug situation.

At the present time we have formed a twenty member committee (ten faculty members and ten student members) to foster a drug education program. I might mention that similar groups have been formed in other local high schools both public and parochial. (Northeast, Lincoln, Frankford, Washington, North Catholic, St. Hubert's and Archbishop Ryan). These committees are currently involved in a federally funded six weeks program held on Saturdays at Lincoln High School.

This program consists of talks by professionals and small group discussions of local problems of drug abuse. These meetings have helped us develop the following procedure:

(1) We must establish a student directed program. It may be regrettable, but it seems certain that previous programs and approaches failed, to a great degree, because teenagers seem to lack trust in completely adult operated activities.

(2) Some office facilities are to be provided within the schools.

(3) Identification of the problem must be a key ability of the members. Obviously the approach to the occasional Marijuana user is to be different than the method of handling heroin addicts or methadrine users.

(4) Attempts to correct the problem can include counseling medical assistance, encouragement to join voluntary centers such as "The Bridge". I admit some of this may sound uncertain but the record of real rehabilitation of drug abusers is difficult to ascertain. If we have one such certain program or center I'm sure we would all flock to its doors.

(5) A strong effort at prevention is being developed by our students. We presently hope to form a knowledgeable cadre of teen-age speakers in order to reach into the seventh and eighth grades of schools that are in our area—our "feeder" parish grammar schools. We are hopeful that this approach may far exceed the proverbial "ounce of prevention".

(6) On the parent level we hope to establish an extensive self-education procedure that will give the adult community a greater awareness of pre-drug use conditions as well as danger signs of actual use. With all the information on drugs that seems to be available, we still find a large area of adult ignorance.

(7) We also believe that, in some way, we must honestly examine alcohol usage in both the adult and youth segments of this community.

How successful we will be in this endeavor is hard to predict. We have tried numerous steps in the past but we sincerely believe that this joint approach of private and public schools, the common effort of adults and teenagers, the cooperation of local and federal agencies are definite harbingers of progress toward a successful program.

I would like to wish you well in this hearing and am sure all of the schools in the area are interested in obtaining any information your committee may collect that may help us in our efforts in this area.

Thank you again for the opportunity to explain our efforts to you.

Sincerely yours,
(Rev.) WILLIAM F. DAVIS, OSFS,
Principal.

LOWER KENSINGTON
ENVIRONMENTAL CENTER, INC.,
Philadelphia, Pa., January 14, 1972.

Hon. JOSHUA EILBERG,
First Federal Building,
Philadelphia, Pa.

DEAR CONGRESSMAN EILBERG: The problem of drug addiction in the Northeast has been on a steady climb since I was eleven years old.

The steady increase has not only involved a great number of young adults, but also tends to involve youngsters at a younger and younger age. Not only is the addict supplied by the illegal market but very often, the medical as well as the adult community, supply legitimate drugs to the community. There is a desperate need for residential rehabilitation centers, under the therapeutic model of Lower Kensington Rehabilitation Center, to be established throughout the general community.

I wish to thank you for both your concern and efforts to help not only those of us who have been addicted but those of us who are no longer addicted and may I personally offer my assistance to you.

Sincerely yours,
EDWARD LENTZ.

NEIGHBORHOOD CENTER BRANCH,
Philadelphia, Pa., January 18, 1972.

Re: Drug Hearing—January 22, 1972, Holy Family College, Grant and Franklin Ave.

Congressman JOSHUA EIEBERG,
Longworth Building,
Washington, D.C.

DEAR CONG. EILBERG: It is the feeling of the staff at the Neighborhood Centre Branch of JYC that the northeast is in urgent need of treatment centers to deal with the drug problem. Most crucial is the problem of providing immediate and emergency help when the situation arises. We feel a beginning step has been made with such agencies as The Bridge and The Road which reflects a grass-roots attempt to deal with the problem. We understand that such efforts are in great need of financial resources. This is most certainly a priority in terms of making funds available.

With regard to long-range plans around prevention and education, there seems to be a need for greater effort to coordinate and intensify these kinds of programs. At this point, most programs seem fragmented with little impact. My agency is especially concerned about the area of drug education, since we feel that our particular expertise can have its greatest effect in this area. As social workers in this agency, we are extremely attuned to the function of preventive socialization breakdown and feel that our competence can be useful in this area.

I hope these observations are helpful as you begin to develop your plans for dealing with this urgent problem.

Sincerely,
SIDNEY M. MELNIK, ACSW,
Director.

GEORGE WASHINGTON HIGH SCHOOL,
Philadelphia, Pa., January 20, 1972.

Congressman JOSHUA EILBERG,
Federal Bank Building,
Philadelphia, Pa.

DEAR MR. EILBERG: I regret very much that something has come up which will prevent me from attending the meeting on Saturday at Holy Family. I am, however, sending you information which you may find helpful to your investigation.

First of all, may I say that none of us in this school feel we can estimate the amount of drug usage in our community. We do realize that a problem exists but it is very difficult to discover its extent.

You are also interested in programs being conducted on drug abuse education and prevention at George Washington High School. Following is a list of our programs:

1) Peer influence education project—a group of students and one staff member were trained over a period of seven weeks in the spring of 1970 and worked within the school to help educate and listen to students who had questions or problems which were drug related. This original group helped to train others in the school to listen to and help students through difficult situations.

2) Assembly programs by a leading drug-educator presented to all grade levels.

3) A leading physician and educator spoke to our faculty meeting on drug use and abuse and what the staff could do to alleviate the growing menace of drugs in schools.

4) Several talks given by members of the peer influence group—students and staff before other school groups as well as community groups.

5) An evening program presented by the Home and School Association for Community discussion and reaction on drugs, home problems, sex, etc.

6) An emergency "Hot-Line" phone number for critical situations that needed immediate attention. This involved a physician, a lawyer and a minister.

7) The present program of six Saturday mornings with the major thrust on drug prevention and an enlarged team of teachers from the English, Social Studies, Science and Health Education disciplines, Nurse, and an Administrator, together with as many as 30 students from the 10th and 11th grades.

Sincerely yours,
LENORA S. YOUNG,
Principal.

HOUSE OF REPRESENTATIVES—*Monday, April 10, 1972*

The House met at 12 o'clock noon.

Rev. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

The earth is the Lord's and the fullness thereof, the world and those who dwell therein.—Psalms 24: 1.

Thank you, Father, for "America the Beautiful." We are grateful for our great land and our wonderful people. Forgive us that we have sinned against both and against Thee by our misuse of our resources, both human and natural. Help us to use both for the common welfare of our world.

We pray for those who serve in this body and in other places of service and responsibility in our Nation. Give to them, we pray, the wisdom, courage, and strength they need. Help them to come to the end of this day having made no mistakes and with no regrets.

Give us something of the wisdom that is in Thy Word, something of the love that is in Thy heart, and something of the help that is in Thy hands. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8140. An act to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1681) entitled "An act to liberalize eligibility for cost-of-living increases in civil service retirement annuities," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCGEE, Mr. RANDOLPH, Mr. BURDICK, Mr. FONG, and Mr. BOGGS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 50. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes;

S. 2684. An act to amend section 509 of the Merchant Marine Act, 1936, as amended;

S. 3284. An act to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior;

S. 3323. An act to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes;

S. 3457. An act for the relief of Katherine Kasaftes Schneider;

S.J. Res. 218. Joint resolution to extend the authority conferred by the Export Administration Act of 1969; and

S. Con. Res. 74. Concurrent resolution authorizing the printing of additional copies of Senate Report 92–634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971."

The message also announced that the Vice President, pursuant to Senate Concurrent Resolution 63, 92d Congress, appointed Mr. JORDAN of North Carolina, Mr. MANSFIELD, and Mr. COOK as members, on the part of the Senate, of the Joint Committee on Inaugural Ceremonies of 1973.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Wednesday, March 29, 1972, he did on March 30, 1972, sign an enrolled bill of the Senate as follows:

S. 2601—An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

THE HONORABLE MRS. GEORGE ANDREWS

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
April 10, 1972.

Hon. CARL ALBERT,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Please be advised that the Clerk of the House has received the official certification of election issued by the Secretary of State of the State of Alabama, showing that Mrs. George Andrews was elected Member of Congress from the Old Third Congressional District at the Special Election held in the State of Alabama on Tuesday the 4th day of April, 1972 for the unexpired term, ending on the 3d day of January 1973.

The above certification of election is on file in the Clerk's Office.

With kind regards, I am,

Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.

The SPEAKER. Will the Member-elect present herself in the well of the House to take the oath of office.

Mrs. GEORGE ANDREWS appeared at the bar of the House and took the oath of office.

THE LATE HONORABLE JAMES F. BYRNES

The SPEAKER. The Chair recognizes the gentleman from South Carolina (Mr. MCMILLAN).

Mr. MCMILLAN. Mr. Speaker, I regretfully announce the passing of our former colleague, the Honorable James F. Byrnes. The late Congressman, Senator, Secretary of State, U.S. Supreme Court Justice, assistant to the President of the United States during World War II, and Governor of South Carolina, passed away yesterday in his South Carolina home. We have always considered the late Justice Byrnes one of South Carolina's greatest statemen, next in fact, to John C. Calhoun, due to his service and leadership, our Nation and the world are better places to live.

Mrs. McMillan joins me in expressing our heartfelt sympathy to his wonderful wife who has been the late Justice's right arm during the years he was so active in our Government, and during the years of his illness in his South Carolina home.

Mr. DORN. Mr. Speaker, James Francis Byrnes served in this House for 14 years, coming to the Congress in 1911 at the age of 32. During this time he lived in the beautiful city of Aiken. My people are proud of the fact that both Jimmy Byrnes and John C. Calhoun represented in Congress a large portion of the present South Carolina Third Congressional District, which it is now my privilege to represent. In the history of this Republic we have had only 55 Secretaries of State. Two of these, Jimmy Byrnes and John C. Calhoun, were from the Third Congressional District and a third, Hugh S. Legare, like Calhoun attended Reverend Waddell's famous academy at Abbeville.

Without question, James F. Byrnes is South Carolina's greatest statesman since Calhoun. He served with distinction at every level of government. His father died shortly before Byrnes was born, and at an early age it was his responsibility to help support his widowed mother. At age 14 he left school to work as a clerk in Judge Benjamin Rutledge's law office. Like his great friend of later years, Barney Baruch, Byrnes early in life recognized the value of shorthand.

He studied shorthand while working at the law firm and then won a competitive exam for a position as court stenographer. It was then that he moved to Aiken, where he studied law in his spare time and passed the South Carolina bar exam. This skill at shorthand was to serve him well years later, as he took shorthand notes of the Yalta Big Three meetings that were of great value to President Truman after the death of President Roosevelt. After practicing law and editing the Aiken Journal and Review for several years, Byrnes was elected solicitor of the Second Judicial Circuit. In 1910 he was elected to the House of Representatives, where he was one of the creators of the Federal aid highway program. Later he was appointed to the Appropriations Committee. While serv-

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ing in the House, Byrnes won the friendship and respect of then Assistant Secretary of the Navy Franklin D. Roosevelt.

After Roosevelt became President and Byrnes had been elected to the Senate, Byrnes became Roosevelt's chief legislative spokesmen. He was a master of the legislative process and knew exactly when to stand firm and when to compromise. He was largely responsible for passage of the Lend-Lease Act that was so crucial to final victory in World War II. Byrnes was a loyal, stanch Democrat and was really the Senate floor leader responsible for passage of the New Deal domestic legislation. He was extremely active in National Democratic Party politics and played an important role in the national conventions. Because of his loyalty to the Democratic Party and to President Roosevelt it was widely felt that he had been assured the Vice Presidential nomination in 1944. He went to the convention expecting the nomination, but encountered unforeseen obstacles. It should be noted, Mr. Speaker, that the man who was then nominated for Vice President and who later became President, Harry S. Truman, thought so highly of Byrnes that he appointed him Secretary of State. And as Truman's Secretary of State, Byrnes was next in line for the Presidency. In 1941 Byrnes became the fourth South Carolinian to be appointed to the U.S. Supreme Court. We had the privilege of calling on Mr. Justice Byrnes and having a long conversation with him during his service at the Court, and realized then how he enjoyed his service there. However he answered the President's call and stepped down to become Director of the Office of Economic Stabilization. Later he also was assigned the position of Director of War Mobilization. He operated from the White House and was referred to by President Roosevelt as the "Assistant President." He was in fact in charge of the entire domestic war mobilization. The fact our free and democratic Nation could reach a higher state of war production and efficiency than any of our totalitarian enemies is itself a magnificent tribute to the leadership ability of James Byrnes.

James Byrnes was also a world figure who moved with the giants of that period. He attended the Yalta meetings between Roosevelt, Churchill, and Stalin. And after becoming President Truman's Secretary of State, he accompanied the President to the Potsdam Conference, and later was the senior American delegate to the first meeting of the United Nations General Assembly in London. Byrnes understood the realities of world power. He was the one to initiate a "get tough" policy with the Soviets, for through his dealings with them he realized their aggressive policies. He had not been deceived by Potsdam and Yalta. His strong stand then prevented further aggression. It was Byrnes who played a crucial role in the decisions leading up to the first use of the atomic bomb. Along with Roosevelt, Truman, Churchill, Marshall, and MacArthur he was one of the giants of the World War II era.

As a newly elected Congressman I visited with Prime Minister Churchill after the war and upon learning that I was a South Carolinian he asked that I convey his best wishes to his good friend Jimmy Byrnes. Yes, Mr. Speaker, Byrnes was one of the architects of the destruction of fascism, nazism, and imperialism, and history will rank him with the all time great leaders of Western civilization.

As Governor of our State, Jimmy Byrnes was greatly interested in improving educational facilities for all students. Although he had no children, he personally established a fund that has enabled hundreds of young people to attain higher education.

He earned the high honor of being named a life trustee of Clemson University, located on the site of the Calhoun Plantation in our congressional district. He was devoted to Clemson, and that university now has the official collection of the Byrnes papers that are indispensable to serious students of world history.

Mr. Speaker, during his illustrious career James F. Byrnes presented a magnificent image for the South and for all Americans. During an era of demagogs he stayed in the mainstream of moderation. In any definitive history of the era of the great depression, the dynamic first 100 days of the FDR administration, the New Deal, and final victory in World War II, James F. Byrnes must be given a superior place.

Byrnes and his wife, the former Maude Perkins Busche of Aiken, were married for 66 years. Throughout his career she has been at his side. Mrs. Byrnes has a keen appreciation of the world of public service and politics and has been of tremendous help to Mr. Byrnes throughout his career. She is today in the hearts of all South Carolinians.

Mrs. Dorn, my family, and my constituents join me in conveying to Mrs. Byrnes and to his loved ones our deepest sympathy and respect.

GENERAL LEAVE

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks in the RECORD on the life, character, and service of the late Honorable James F. Byrnes.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE LATE HONORABLE ADAM CLAYTON POWELL

(Mr. CAREY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAREY of New York. Mr. Speaker, on behalf of the members of the New York delegation, it is my responsibility to report the sad news to the House of the death of our former colleague and past chairman of the Education and Labor Committee, the Honorable Adam Clayton Powell, of New York.

I am certain when history makes its judgment on Dr. Powell, he will fare most favorably. Nearly 50 programs of major degree in education, better labor standards, and aid to the poor and elderly became law as a result of his efforts and leadership.

As one who worked with Adam Powell, I learned in the committee and on the floor of his gifts as well as his problems, but particularly of his overriding love and devotion to the work of Congress.

He valued his friendship in this body and respected his colleagues to a high degree. It was because of that that he labored with such determination to regain his seat and was eventually upheld in that determination and perseverance by the highest court in this land.

Now he has gone before the Creator of us all in the highest tribunal which he faces, and that judgment, of course, is the one which will override all others. I trust and I hope that the God he loved and served will remember his zeal for the poor, for children, for equality, and against injustice. Whether you were one who agreed with Adam and admired him, as I did, or one who opposed him on matters when you felt he had to be opposed, I think we can all agree on this: For the life he led and the work he did and the way he served Harlem and New York I think he deserves the respect of our colleagues all over the land at this time. But over all I think he said it best himself when he evaluated his own contribution to his work in public service by saying, "No matter how you look at what I did, I paid my dues."

Mr. Speaker, the members of the New York delegation invite all Members who wish to do so to join in a special order which will be requested by our colleague from New York, Representative RANGEL, on Wednesday of this week, in order that we may pay our dues as Members of this body in terms of the respect we owe him for the service in which he participated for so many years.

Mr. KOCH. Mr. Speaker, will the gentleman yield?

Mr. CAREY of New York. Mr. Speaker, I am delighted to yield to my colleague from New York.

Mr. KOCH. I thank the gentleman for yielding.

Mr. Speaker, I attended the funeral of Adam Clayton Powell yesterday. I know that on Wednesday we of New York will be holding a special order to talk more on Adam Clayton Powell's contribution to our country. But I want to say at this time that when I was first elected and took my seat in January of 1969, one of the first votes I cast was that to seat Adam Clayton Powell in this Congress. I am proud of that vote.

PRAISE AND THANKS TO OUR NAVY, AIR FORCE, MARINE AND ARMY UNITS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I take this opportunity to give praise and thanks to our Navy, Air Force, Marine, and Army air units for the outstanding job they have done to blunt the North Vietnamese invasion of South Vietnam.

I think this is the time for everyone in the Congress and Nation to give the Commander in Chief our support and prayers to make the right decisions to protect the some 90,000 Americans remaining in South Vietnam.

We must be honest about the situation and admit that it is very serious. If the South Vietnamese do not stand and fight and/or if the weather turns bad to restrict air strikes, then all Americans in South Vietnam will be in extreme danger. In these critical days, we need to eliminate criticism and do all we can to support our forces in South Vietnam.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I would like to commend the gentleman for bringing up this timely subject.

There can be no doubt in anyone's mind that the North Vietnamese and Vietcong have invaded South Vietnam. This places our South Vietnamese allies and our brave fighting men still left in Vietnam in grave danger. Indeed, their very lives are threatened.

While I do not advocate resuming American ground action, it is our duty to protect our American fighting men with an all-out air attack. Only in this way can we assure their safety, and at the same time force the North Vietnamese to negotiate a just and lasting peace in Southeast Asia on our terms.

We must unite behind our services and protect them from this Communist menace in South Vietnam. These brave Americans have too long carried the cause of freedom alone. There have been too many casualties in this war for us to relent at this late date and allow the North Vietnamese and Vietcong to invade South Vietnam and destroy everything these heroic Americans have fought and died for.

Mr. Speaker, we are getting out of Vietnam, but we cannot allow the North Vietnamese and Vietcong to slaughter our remaining forces and our South Vietnamese allies simply because we took no action to protect them. We must hit the enemy daily with all the air power we can muster and bring this war in Southeast Asia to an honorable end.

AMERICAN LEGION PREAMBLE

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, the American Legion Post No. 17, Gary, Ind., last Saturday evening held its annual initiation ceremony and also a banquet honoring veterans of World War I who were the original organizers of post No. 17. Past Commander Donald W. Hynes, of Whiting Post No. 70, Department of Indiana, was the speaker of the evening. Commander Hynes delivered a remarkable summary of the great accomplishments, not only of the local legion posts of the Calumet region of Indiana, but also the great cooperation the American Legion has extended to our country's great civic and economic progress during the last half century.

Commander Hynes also eulogized the principles and declarations set out in the original preamble which has been the foundation for all Legion activities in furthering the cause of patriotism and Americanism in this great land of ours.

Mr. Speaker, I incorporate with my remarks excerpts from the speech of Commander Hynes on this patriotic occasion sponsored by post No. 17, Gary, Ind.

OUR PREAMBLE

Like the Ten Commandments, the ten principles of the Preamble to the Constitution of The American Legion are as good today as when they were first enunciated. Time can never erode them. They are ageless.

The American Legion Preamble has taken its place with other great and lofty expressions of human thought which have been the guides and the compasses by which we steer our aims and aspirations.

The Preamble is a literary and ideological classic. It sparkles with the purest of gems of patriotic thought. It reflects all the spiritual glory of Divine precepts. It is remarkable for the simple brevity into which has been compacted an inspiring pattern for all the future of a free and decent way of life. It has impact as a tenet of faith in God.

The finest gems come in small sizes. The Ten Commandments contain 297 words; the Declaration of Independence has 300 words; Lincoln's Gettysburg speech numbers 266 words. The American Legion's Preamble embracing all the noble concepts of the Ten Commandments, the Declaration of Independence and Lincoln's Gettysburg address, distilled to their simplest essence, is only 117 words long!

Compare that to the government order regulating the price of cabbage under the late and lamented OPS which mustered 26,911 words!

"For God and country, we associate ourselves together for the following purposes:

"To uphold and defend the Constitution of the United States of America; To maintain law and order; to foster and perpetuate a 100-percent Americanism; to preserve the memories and incidents of our associations in the great wars; to inculcate a sense of individual obligation to the community, State and Nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness."

LABOR LOSES A LEADER

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I know I speak for the entire Massachusetts delegation and the working people of Massachusetts in expressing my deep feelings of regret and keen sense of personal loss over the passing last week of Salvatore Camelio, president of the Massachusetts AFL–CIO. The loss was also the keener because it was so totally unexpected, at least for those of us who were working closely with Salvatore up until just a few weeks ago. Because of my position on the Ways and Means Committee I probably had opportunity to work more closely with Salvatore than would be the case with most Members of the serious economic problems facing this Nation and the State of Massachusetts in particular. It was always a comfort to have the unswerving support of such a longtime crusader for industrial and economic justice as Salvatore Camelio in your corner. If the effectiveness of the head of the most important organization representing a key sector of the economy such as labor is measured at least in part, by the degree of rapport such a leader has with leaders in other segments of society, such as the political field, then Salvatore Camelio has to be ranked as one of the most effective spokesmen and leaders of organized labor we have had in Massachusetts. In a real sense, both the body politic and the economic life in Massachusetts will be that much poorer without the active participation of this great man. Mrs. Burke joins me in extending every sympathy and prayer to Salvatore's bereaved family. I can only hope that the knowledge that others share deeply in their great personal loss make that loss just a little bit easier to bear. I am also including at this point in the RECORD three articles, one from the AFL–CIO News from Washington, D.C., one from the Post-Gazette of Boston, and the other from the Boston Herald Traveler:

[From the AFL–CIO News, Washington, D.C., Apr. 8, 1972]

MASSACHUSETTS UNIONS MOURN SAL CAMELIO

BOSTON.—Salvatore Camelio, president of the Massachusetts AFL–CIO since 1964, died unexpectedly at his home in Belmont, Mass., Mar. 30. He was 66.

Camelio, who also was president of the Middlesex Labor Council since 1959, was a veteran member of the Rubber Workers. He was elected the first president of URW Local 25 in Boston in 1933 and had served as New England director for the URW for a number of years until his retirement in 1970.

He was the secretary-treasurer of the Massachusetts CIO Council from 1946 until merger with the AFL state federation in 1958. Camelio was executive vice president of the State AFL–CIO before he was elected to the top office in 1964.

During World War II, Camelio served on the War Labor Board and the Manpower Advisory Board. He also has served on the boards of Massachusetts Bay United Fund, Governor's Economic Advisory Task Force, Histadrut Council, and was active in a number of community and service organizations.

Camelio was born in Geata, Italy, and came to the United States as a child. He is survived by his wife Angela, five children and three grandchildren.

The executive council of the State AFL–CIO is expected to select a successor to his office shortly. Camelio had one and one-half years remaining in his term.

[From the Boston Herald Traveler, Apr. 1, 1972]

SALVATORE CAMELIO, CHIEF OF STATE LABOR COUNCIL

Salvatore Camelio, 66, of 227 Brighton St., Belmont, president of the Massachusetts State Labor Council, AFL–CIO, since 1964, died suddenly at his home late Thursday.

Camelio, whose career in the labor movement spanned 40 years, devoted a good part of the day he died at the State House arguing against a legislative proposal that he

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believed would be detrimental to unemployed workers in Massachusetts.

Messages of condolence were issued by Gov. Sargent and other state officials to his family. His career also included serving in many capacities in civic and governmental activities.

A spokesman for the 500,000-member State Labor Council said, "Organized labor in Massachusetts is stunned by the sudden death of Salvatore Camelio."

Camelio was born in Geata, Italy, April 29, 1906. He came to this country as a child and attended elementary scools and Rindge High in Cambridge.

His first job was at the Boston Woven Hose and Rubber Co., where he was elected the first president of Local 25 of the United Rubber, Cork, Linoleum and Plastic Workers of America in 1933. He held that post to 1936.

He was active in the historical events that paved the way for the birth of the Congress of Industrial Organizations (CIO).

In other official capacities in labor he was New England director of the United Rubber Workers, CIO, and secretary treasurer of the former Massachusetts CIO Council, a post he held from 1946 to 1958 when the AFL and CIO merged.

In 1959, he was elected executive vice president of the Massachusetts State Labor Council AFL–CIO. About the same time he also was elected president of the Middlesex Labor Council in Cambridge, an office he held at his death.

In other activities, he served on the Wage Labor Board during World War II and on the Manpower Advisory Board. He was labor's member on the Board of Education Assistance and he served on the Advisory Board on Transportation, the Mass. Bay United Fund, the Histadrut Council and the state Rate Setting Commission.

He fought for legislative proposals to solve urban problems including air and water pollution, to combat rising hospital costs and to implement rehabilitation programs for juvenile delinquents.

Gov. Sargent said, "The people of the Commonwealth have lost a vigorous leader who devoted his entire life to the development of the labor movement."

Lt. Gov. Donald R. Dwight said Camelio's death "is a grievous loss" to the state. He called him "a great advocate" of the working man and woman and 'gave unstintingly of his time and leadership abilities to public service causes, as well."

Atty. Gen. Robert H. Quinn said, "I was very saddened to hear of the death of Salvatore Camelio, a man whose vigor and commitment to public service was an inspiration to all of us in government."

He leaves his wife, Angela (Fabrigio); two sons, Augustus of Weymouth, a labor attorney, and Dennis of the home address, and three daughters, Mrs. Anne-Marie Dell'Anno of Arlington; Mrs. Carolyn DeMarco of Belmont and Mrs. Corrinne Shanahan of Lowell.

Visiting hours at the DeVito Funeral Home, Mt. Auburn St., Watertown, will be today and tomorrow from 2–4 p.m. and 7–9 p.m.

A funeral Mass will be celebrated in St. Camillus Church, Arlington, Monday, at 10 a.m. Burial will be in Belmont Cemetery, Belmont.

[From the Boston Post-Gazette, Apr. 7, 1972]

SALVATORE CAMELIO, A LABOR LEADER

Salvatore Camelio, 66, of Belmont, died suddenly on Thursday, March 30, 1972, at his home. He was President of the Massachusetts State Labor Council, AFL–CIO, since 1964.

He was born in Gaeta, Italy, and came to this country as a child. He attended the elementary schools and Rindge High in Cambridge.

He was elected first president of Local 25 of the United Rubber Cork, Linoleum and Plastic Workers of America while on his first job, at the Boston Woven Hose, following graduation. This was the start of his career in the labor movement.

He was a highly respected and well loved individual because of his unselfish and generous nature.

Besides a host of friends and relatives, he leaves mourning his loss, his wife Angela (nee Fabrigio), two sons, Augustus of Weymouth and Dennis of Belmont; three daughters, Mrs. Anne-Marie Dell'Anno of Arlington, Mrs. Carolyn DeMarco of Belmont, and Mrs. Corrinne Shanahan of Lowell.

A funeral Mass was celebrated at 10 o'clock on Monday, April 3, at St. Camillus Church in Arlington and interment followed in the Belmont Cemetery in Belmont.

GOVERNMENT INSURANCE, ITT, AND THE AVERAGE TAXPAYER

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, when the Congress considered the increase in the public debt ceiling this winter, I warned about the staggering size of the Federal Government's "contingent debt"—the wide range of insurance and guarantee programs which could be included in the debt if "something went wrong." At the present time, that contingent debt is approaching $1 trillion.

This morning's newspapers reported that part of that contingent debt is coming due.

In particular, ITT is in the process of claiming $108.5 million from a Government insurance agency, the Overseas Private Investment Corp., because of the possible nationalization of ITT's investment in Chile. ITT has paid only about $5 million in premiums in the last 7 years to obtain this insurance.

It appears that the taxpayers of America will soon be called upon to pay for this investment loss.

There is another issue at stake here, however. How is ITT treating its possible losses in Chile with respect to its Federal tax liability? An examination of ITT's 1971 Corporate Annual Report raises some serious questions in this area.

ITT states that its investment in the Chile Telephone Co., is worth $153 million. While this corporation has filed for OPIC insurance worth $108.5 million, its corporate report lists $89,568,000 receivable from OPIC as an asset. Further, ITT's corporate report lists as a one-time writeoff $70 million for uninsured losses in Chilean companies.

These figures do not add up. Since the question of ITT's loss in Chile has a major impact on the corporation's Federal tax situation, and the value of its investments in Chile has been seriously questioned, I am today asking the Internal Revenue Service to take necessary steps to insure an accurate and truthful accounting of ITT's overseas operations.

Following is the entire statement of ITT on income taxes as stated on page 26 of its 1971 annual report:

INCOME TAXES

The effective income tax rates differ from statutory rates principally as a result of (1) inclusion of equity in earnings of Hartford, the finance subsidiaries, and Chilean operations on an after-tax basis, (2) lower tax rates applicable to certain foreign income and capital gains, and (3) "flow-through" of investment credits allowed by United States and foreign governments amounting to $9,200,000 and $3,100,000 in 1971 and 1970, respectively.

Deferred income taxes arise principally from the use of accelerated depreciation for income tax purposes and straight-line depreciation for financial reporting purposes, and from the reflection of other expenditures in differing periods for financial reporting and income tax purposes. Provisions for deferred income taxes of $64,400,000 and $60,400,000 have been charged against 1971 and 1970 consolidated income, respectively, although such taxes will not be payable until future years.

This gives an interesting picture of conglomerate corporate taxation. As far as corporate taxation is concerned, the Treasury is a sieve—very little tax is retained; a great part of the taxpayers' obligation is deferred.

As far as the U.S. Treasury is concerned, income taxes deferred are taxes interred.

THE TORCH WE PASS

(Mr. SYMINGTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, America's position in the world as an invulnerable, stable, and justifiably confident power can be enhanced by a number of provisions, but guaranteed by only one, the superior education of our people. Appropriate diplomatic and military precautions will always be vital to our safety and welfare in a world riven by ancient feuds, and still threatened and shaken by aggressive expressions of territorial demand, and ideological fervor. But the serene society in the nuclear age is the one which works its purposes in the main with secondary and not primary reliance on diplomatic sleight-of-hand and gunboat capability. Primary reliance must be placed on the explosive and compelling force of its citizen imagination projected across the spectrum of healthy national development, human fulfillment, world trade, and cultural and artistic expression, the main concerns of a peaceful world, and the principal business of man at his best. The inner strength and outward credibility of such an effort will depend in large measure upon the degree to which its spirit is shared, and its form fashioned by all Americans—which would include the hitherto untapped resources of women, the elderly, the young, and the racial minorities.

A nation at peace with itself is a credible nation. The reverse, as we have seen, to our dismay, is also true.

National security, then, in its larger sense presupposes the realities that make for inner peace as well as the appearances of external readiness. Foremost among such realities would be a clear commitment to educational excellence capable of producing vibrant, self-confident and energetic citizens from every walk of life and every part of the Nation, not as the exception, but as the rule.

The cornerstone of such a structure of excellence will be the investment we make, not in money alone, but in the vitality and intuitive approaches of our elementary and secondary school systems. All too many twigs have been bent beyond hope of becoming the tall trees we would like to think America grows. Does this mean "improving neighborhood schools?" Of course it does. The neighborhood school has been the school of first and best resort since we had to walk to it. Even today with the spread of our people across the land, it is generally agreed that if we must ride at all, the shorter the ride the better. The school close to home, if a good school, is still the preference of most Americans. Many work and plan to live in certain communities because of the schools that serve them.

Naturally they will reject the notion that a just law could require attendance at more distant schools. This is particularly so when the distant schools are easily recognized as inferior schools. School busing has long been acceptable to the American family where it demonstrably enhances the educational opportunities of its children. It will never be acceptable where it is not convinced that it does so. Experience, as Justice Holmes said, is the life of the law. Much of the experience of court-ordered busing has been unsatisfactory. Some school districts, supported by the parents concerned, have concluded that the children have benefited from such plans. Where successful, they should not be disrupted.

But for the most part the busing experience in question, plus the threat of further requirements of this kind, have brought the country to the realization that a new course must be charted which will preserve the integrity of the neighborhood school concept without renewing or ratifying ancient segregation policies and patterns. Certainly the courts have been saddled with more than their rightful share of the responsibility for solving socioeconomic problems that vastly transcend school attendance arrangements. And they have been allowed by default, one inadequate and inappropriate tool for the purpose, schoolbusing. That is a distortion, both of the problem and of the solution. It came about due to a vacuum of leadership from the executive and legislative branches of the Federal Government, from their counterparts at the State and local level, and from the preeminent forces in the private sector. All these must be marshaled now in a new coalition of enterprise, not alone for the schools, but for the preservation of neighborhoods capable of sustaining first rate schools, for the maintenance of housing standards appropriate to such neighborhoods, and for the job training and work opportunities essential to the creation of life styles and expectations that make for upward mobility in every community.

We were once a dynamic society. We have become somewhat static. That is not our nature. We must make the new starts, the judgments and the sacrifices necessary to get on the move again. It is perhaps a paradox, but domestic tranquility is the produce not of repose in collective indifference, but of activity in shared purposes. We in the St. Louis area have just been reminded of that by HUD Secretary George Romney. Secretary Romney chose St. Louis as one of five cities to be "saved," as it were, not alone by the intervening Federal hand, but by a handclasp between Federal resources and local commitments without which the Federal hand is more clumsy than healing.

What about the Federal commitment to better schools? Today the Federal Government is far deeper into school policy than school support. Less than 8 percent of the Nation's educational costs are borne by the Federal Government. Its money, it can be said, is not yet where its mouth is. In the meantime, property taxes have had to carry a burden made heavier in many instances by Federal requirements. I intend to support the proposal now before Congress that the level of Federal investment in education be raised to 25 percent. Is this prohibitively high? Remember, it is the security of the Nation we are addressing. If we do not want to be a nation on dole, we must be a nation at work. A nation to be at work, must consist of a people capable of understanding and managing the challenges and requirements of modern technology as well as those of an increasingly service-oriented economy. That understanding and confidence must come early. And the schools must provide it. Nor may they be expected to provide it with inadequate materials, crumbling facilities, and underpaid teachers and counselors in slum environments. Education neither begins nor ends at the school gate.

If the matter were to be examined in the light of priorities for the Federal tax dollar, we could reflect on the estimate that some 4,000 such dollars have been spent on ammunition alone to account for each enemy soldier killed in the Indochina war, while some 40 of such dollars are annually invested in the education of each American child.

We have never been a nation paralyzed by alternatives. We have shown frequently in the past that we can rise to the challenge of the times. Today we have a balance-of-payments problem, a trade deficit, an environmental problem, and an energy crisis, to name a few. We must surmount these problems of peace if we would avoid the problem of war. And we have a people eager to solve them. But they will be solved by refined intellect, not raw passion. The conditioning of the intellect and attitudes of young Americans in a decent and moral environment is our first order of national business.

We would have the family of nations believe that the new generation to which we pass the torch, can "truly light the world." It is more likely to believe that, and so are we, when we have fully illuminated the American spirit here at home. And this we will, by the light that comes to us in an unbroken beam of two centuries, the light of reason and commonsense.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *April 4, 1972.*

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's office at 12:07 p.m. on Tuesday, April 4, 1972, and said to contain a message from the President wherein he transmits the 1971 report on the International Coffee Agreement.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

THE 1971 REPORT ON INTERNATIONAL COFFEE AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith my report on the operations of the International Coffee Agreement during 1971.

Last year the International Coffee Agreement proved its continuing value as an instrument of international economic cooperation. The 62 members of the International Coffee Organization worked together effectively to stabilize world coffee trade.

This stability serves the interests of the United States in two important respects.

First, it benefits the American consumer by helping to prevent the recurrence of the extremely high coffee prices recorded in the years prior to the Agreement. In 1971, for example, the International Coffee Organization successfully dealt with the supply crisis of the previous years and served to bring down the price of our imported green coffee by eight cents per pound between January and December.

Secondly, the International Coffee Organization reduces the fluctuation in the foreign exchange earnings of coffee producers. It thereby supports the development efforts of over 40 nations in Latin America, Africa, and Asia and supports our own aid objectives.

The recent passage by the Congress of enabling legislation permits us to fulfill certain of our obligations under the Agreement. Approval of this important legislation constitutes an important reaffirmation of our determination to cooperate with the developing countries.

RICHARD NIXON.

THE WHITE HOUSE, *April 4, 1972.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
April 5, 1972.

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:40 a.m. on Wednesday, April 5, 1972, and said to contain a message from the President wherein he transmits the 1971 report on activities and accomplishments during 1971 under the Communications Satellite Act of 1962.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

REPORT ON ACTIVITIES AND ACCOMPLISHMENTS DURING 1971 UNDER THE COMMUNICATIONS SATELLITE ACT OF 1962—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-279)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

In the relatively short span of seven years, communications by satellite has changed the world forever. We now live in one very real sense, much closer to other peoples and to faraway events.

The fast-developing science of satellite communications must rate as one of the true marvels of the 20th century—a technological triumph that is bringing greater understanding to a world badly in need of closer ties and deeper insights.

As one might expect, the seven years since the launching of the first communications satellite, Early Bird, have been filled with important developments in this new field. The year 1971 was one of particular accomplishment, since it marked the completion of two years of multilateral negotiations which produced the governing instruments for the International Telecommunications Satellite Consortium. When the resulting Definitive Agreements come into force, possibly in 1972, that will signal the start of a new era for this highly successful organization.

It is my pleasure to report to the Congress on our activities and accomplishments in 1971 under the Communications Satellite Act of 1962. I am certain the Congress will share my fascination and satisfaction with the speed in which participation in satellite communications is spreading across the world as a new and constructive force among nations and peoples.

RICHARD NIXON.
THE WHITE HOUSE, *April 5, 1972.*

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 30, 1972:

H.R. 10390. An act to extend the life of the Indian Claims Commission, and for other purposes.

On April 6, 1972:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING, FISCAL YEAR 1971—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with section 396(i) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the Annual Report of the Corporation for Public Broadcasting covering the fiscal year July 1, 1970 to June 30, 1971.

RICHARD NIXON.
THE WHITE HOUSE, *April 10, 1972.*

ROBERT E. WOOD, GREAT MERCHANT: PROPOSAL FOR MEMORIALIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in a statement in the Appendix of the CONGRESSIONAL RECORD of February 16, 1972 on "Gen. Robert E. Wood: Soldier, Panama Canal Builder, and Great Merchant Prince, 1879–1969," I quoted a splendid biographical sketch of him by Gen. William H. Wilbur and a fine tribute in verse by former Congressman Maurice H. Thatcher, both of whom were longtime friends of General Wood.

In response, I received an especially fine letter from George J. Burger, vice president of the National Federation of Independent Business, also a friend of General Wood, who, in addition to supplying additional information, made the suggestion that the Sears, Roebuck Co., so long headed by the general, should erect a memorial to him in that company's headquarters.

Mr. Burger's suggestion was so appropriate that I wrote him concurring with it and recommending that he follow through on the idea.

The exchange of letters follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
February 23, 1972.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

Subject: General Robert E. Wood: Soldier, Panama Canal Builder, and great Merchant Prince, 1879–1969

MY DEAR CONGRESSMAN FLOOD: I refer to your Extension of Remarks in the Appendix of the Congressional Record, February 16, 1972, page 4268 and I fully concur with your splendid tribute to the above, a great man and I don't mean maybe. He called a spade a spade and I am not unmindful, if my memory serves me right, of the position he took prior to our official entry into World War II when I believe he headed the organization, "America First."

In the business world, he established a record second to none as an outstanding retailer. Sears Roebuck and Company should erect a memorial to him in their headquarters as it was due to his leadership and action that took Sears out of the catalog business and made them one of the leading retailers in the nation. This was brought about through his leadership when he effected that contract relationship for their own tire (Allstate) between Goodyear Tire and Rubber Company and Sears. It existed between 1925 and 1936. It had been stated by a competent authority in the tire industry that from that contract relationship, Sears became the largest retailer of tires in the United States (either first or second in that category).

I had the pleasure (which I shall never forget) of meeting with the General in his Sears office in Chicago shortly after the cancellation of that contract (found in violation of the Clayton Act by the Federal Trade Commission). I was then Secretary-General Manager of the National Association of Independent Tire Dealers. I will never forget, in my visits with the General, he minced no words that they would hold their position in the retailing of tires (in spite of the cancellation of the contract by Goodyear). He was very definite on that. It goes without saying that that contract (their own tires) brought about a vote of confidence in their product by the buying public which is still maintained today.

I will never forget that during that conference, the General remarked to me: "Burger, I had the damndest time with Mrs. Woods. She will not buy in any chain store."

Congressman, through no fault of the General, that contract between 1925 and 1936 created cancers in the rubber tire industry which eventually led to the destruction of many small producers and, more serious, thousands upon thousands of independent tire dealers nationwide. Due to that contract, manufacturers' retail stores for the first time were established nationwide (still continues and are increasing) and the pattern is being utilized by many industries throughout the nation. One often wonders what's happening to the enforcement of the Robinson-Patman Act.

Finally, Congressman, in the summer of 1936, or thereabouts, when Goodyear announced the cancellation of the contract (they could not justify the price under the Robinson-Patman Act, the Federal Trade Commission did not accept their action and still held them to the violation of the Clayton Act. Court procedure took place between the government and Goodyear, ending in the U.S. Circuit Court in Cincinnati, in around 1938. In a 2-to-1 decision, the Court sustained Goodyear's action on the contract re the Robinson-Patman Act. The big question in the minds of many of us in the rubber tire industry: What happened within the Federal Trade Commission when an appeal was not made by them to the U.S. Supreme Court?

In conclusion, again a well-deserved tribute to the late General Woods—and I don't mean maybe.

Sincerely yours,

GEORGE J. BURGER,
Vice President.

MARCH 3, 1972.

Mr. GEORGE J. BURGER,
Vice President, National Federation of Independent Business, San Mateo, Calif.

DEAR MR. BURGER: Many thanks for your letter of February 23 telling the story of your connection with General Wood.

I like particularly your idea for a memorial to him and suggest that it be a statue.

I trust that you will follow through on the idea because we ought to keep alive the memory of the leaders who have made our country great.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

SIXTY-TWO DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, it has now been 62 days since House Ways and Means Committee Chairman WILBUR MILLS wrote President Nixon asking for the tax reform proposals the President promised last September. In his February 7 letter, Chairman MILLS pointed out that such proposals should be submitted by March 15 in order for Congress to have time to act on them in this session. That deadline has long since passed, and there has been no response from the President.

In the meantime, a $7.25 billion quick-yield tax reform package, limited enough to be acted on in this session, has been introduced by 59 House Democrats—H.R. 13877. A comprehensive $16 billion tax reform bill has been introduced in the Senate by Senator GAYLORD NELSON and 11 other Democratic Senators—S. 3378. There is thus no dearth of proposals. What is lacking is a commitment from the President, without which it will be difficult, if not impossible, to get meaningful tax reform legislation through the Congress.

An article last week in the Wall Street Journal reported some ferment within the administration, noting that—

> The whole field of estate and gift taxes is one in which the Treasury has been abrim with ideas during Mr. Nixon's time, and officials indicate they're prepared to trot out almost anything the President might order on the income tax front.

It is time for the President to unleash his Treasury Department. If he does so, I am sure he can count on the support of those of us who have been urging tax reform upon him so long and thus far so fruitlessly.

I have been gratified by the great support building up for tax reform around the country, and I hope the President will take note of it. I received an especially good letter today from Jerry Wurf, international president of the American Federation of State, County, and Municipal Employees, and I include it in the RECORD at this point:

AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, D.C., April 5, 1972.

Hon. HENRY S. REUSS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN REUSS: The American Federation of State, County and Municipal Employees fully supports your efforts at achieving meaningful tax reform through H.R. 13877. The Federal income tax as presently structured has a severe negative impact on our economy. Your legislative proposals go a long way in correcting this. This legislation would not only close several blatant tax loopholes and make the tax structure more equitable, but also address itself to the critical problem of achieving a full employment economy—a highly desirable and necessary goal which the Nixon Administration seems to have lost sight of.

Your proposal is particularly appropriate as it adds a measure of progressivity to the overall tax structure. Currently, much needed public services must rely too heavily on property and sales tax revenues. Your plan stands in stark contrast to President Nixon's value-added proposal which further exacerbates the regressivity of the entire tax structure.

Tax reform is the most reasonable and economically feasible method of dealing with a series of economic problems that confront us. With regard to some of the particulars of your plan, we support the thrust of your major revenue-generating provisions; namely, your treatment of capital gains, the repeal of the Asset Depreciation Range System of accelerated depreciation allowances, and the tightening of the Minimum Tax on "tax preference" income.

You have shown a recognition that attempts at correcting any inequities that may exist in the tax exempt status of state and local bonds must be handled delicately. We agree that any tampering with the tax exempt status of these securities must not impair state and local governments' ability to float debt.

Most importantly, your proposal to tax the income of foreign subsidiaries of American corporations is a vital step in arresting the deterioration in the value of the dollar abroad and in halting the senseless subsidization of a practice which exports American jobs at a time of high unemployment.

We are currently giving the matter of tax reform a rather detailed, in-depth review. In addition to the elements in your bill, we are also studying certain other items which concern us. For example, we are strongly opposed to the current inordinately high levels of depletion allowances for an entire range of minerals.

We actively support the broad thrust of your proposal. If we can be of any assistance in this area of tax reform, please do not hesitate to contact us.

Sincerely,

JERRY WURF,
International President.

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN. Mr. Speaker, 4,000 years ago a great lawgiver, the Babylonian Emperor Hammurabi, promulgated an eminently enlightened regulation:

> If the brigand be not captured, the man who has been robbed shall, in the presence of God, make an itemized statement of his loss, and the city and the Governor shall compensate him.

Four thousand years later, the victim of violent crime remains not only at the physical mercy of his attacker, but at the mercy of his own economic situation as well.

I am introducing legislation—the Violent Crime Victims Compensation Act of 1972—to compensate the victims of violent crime. If we have the persistence to enact this bill into law, we can begin to meet the simple, yet so reasonable, standard set by that long-dead Babylonian ruler.

The need to do so is clear. If an elderly widow attacked on a dark street is lucky enough to recover from a vicious assault, she then must face staggering hospital and medical bills.

The working man or woman hospitalized by a sudden criminal attack not only must scrape together funds to pay the bills, but must do so while recuperating and therefore unable to work.

The tragic victim of crime who is permanently crippled may never work again, becoming dependent upon the meager government payments which are now available.

There is a horrible irony in all this. We help drive people to crime by depriving them of the education, housing, job training, and employment they need. We starve the criminal justice system of funds, so that our prisons do not correct, but mainly serve to confirm the criminality of the men and women we confine in them. Meanwhile, we stand aside and let the victim of crime struggle alone to absorb the tremendous financial burden his victimization places upon him. Even if his attacker is caught, rarely will the offender have the resources to provide monetary restitution to his victim.

The Violent Crime Victims Compensation Act of 1972 is a direct response to one aspect of this dreadful situation. My introduction of it certainly is not meant in any way to imply that the other aspects must not equally be attacked. As a member of the Judiciary Committee's Subcommittee on Prison Reform—Subcommittee No. 3—I can well attest to the enormous reforms needed in our entire criminal justice system. But my bill is an assertion that that Government, which has a duty to assist all citizens, owes an obligation to those whom it has failed.

The British Criminal Injuries Compensation Board has stated the point well:

> No one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the elderly and infirm have suffered injury and shock, can fail to feel deeply what a worthwhile part is played in the full administration of justice by the power to award compensation.

The issue is one of moral obligation.

Briefly, what does the Violent Crime Victim Compensation Act of 1972 do?

First, it establishes a Federal program to meet the financial needs of the innocent victims of violent crime. A Federal Compensation Board is established with-

in the Department of Justice, authorized to make awards to or on behalf of innocent victims of violent crime. This Board's jurisdiction would be limited to areas chiefly under the jurisdiction of the Federal Government, such as the District of Columbia.

Second, the bill establishes a Federal grant program, to be administered by the Law Enforcement Assistance Administration, a branch of the Justice Department. To receive such a grant, the State would have to establish an agency having the authority to compensate victims of violent crime. The Federal Government would provide up to 75 percent of the costs of the State program.

As to what the State agency shall pay, it must establish a program of compensation equal to that set by the Federal Board. This would mean that 100 percent of all hospital and medical bills would be compensated, as well as 100 percent of any other pecuniary loss or expense—such as funeral expenses—directly related to the criminal's attack on the victim.

In addition, loss of earning power would be compensated; the limit on this would simply be that the compensation could not exceed twice the average weekly salary in the field in which the victim had worked. Compensation for lost earnings would continue until the injured man or woman resumed gainful employment at a rate no less than what he or she earned prior to his injury. Thus, if by some awful tragedy, a person were permanently crippled and could never work again, he or she would always be assured of receiving no less than the income earned before the tragedy. Similarly, dependents of the victim would receive compensation, if the victim were killed. Finally, the victim could also be compensated for pain and suffering for as much as $10,000.

By necessity, I have only very sketchily outlined the Violent Crime Victims Compensation Act of 1972. Thus, I have not detailed the protections against abuse which it contains, or such elements as the ability to require the offender to provide restitution to his victim in certain circumstances. However, I do believe the bill a reasoned, enlightened approach to a devastating problem.

I also want to briefly highlight some of the elements which distinguish my bill from other legislation which has been introduced in this area. My bill, for example, takes account of the possible recalcitrant State which refuses to establish a State compensation agency. Certainly, there is some reason to believe this may happen in light of the failings of numerous State governments to care for the poor and the disadvantaged, who, in inordinate numbers, are the victims of crime. The Violent Crime Victims Compensation Act of 1972 gives the States 3 years to implement State compensation programs. If a State fails to do so, the Federal program will be extended to its citizens. Since this will reduce the amounts of law enforcement assistance funds the State receives for other purposes—such as private State trooper cadres for the Governor—there will be no incentive for the State to stand aside and ignore its responsibility.

Second, my bill authorizes compensation for those injured as a result of the flight or pursuit of a criminal or suspect. All of us have heard of the tragic case of an innocent bystander shot or hurt in the course of attempted arrest. This innocent bystander should not be ignored, and my bill assures that he or she is not, just as it also covers the good Samaritan who intervenes to assist and is hurt.

Third, my bill provides compensation for pain and suffering. While recoveries for these 'intangible' injuries are sometimes abused, it is clear that the victim who rightfully deserves compensation should receive it.

Fourth, my bill imposes no "needs" test. Whether a person earns $5,000 annually or $50,000, his being victimized constitutes a failure of society, and society owes that person the obligation to restore him to his financial position before the crime.

I want to stress several points in closing. Crime is going to persist for a long time in this country. It is going to persist because we as a nation support, either directly or indirectly, violence. Certainly, a country engaged in an immoral conflict in Southeast Asia for so many years cannot be shocked when violence spreads across our own land, in a sense reflecting the violence we perpetrate in Asia. Nor should we be surprised that crime persists and grows so long as powerful lobbies succeed in preventing the passage of potent gun control legislation. Recollection of how Lee Harvey Oswald came to have the gun which he used to assassinate John Kennedy should suffice to tragically make that point. Finally, so long as we deprive the poor, so long as we starve our cities of funds, so long as we continue to perpetrate educational and racial and employment and housing discrimination upon millions of Americans, we must expect that those with whom we as a society deal immorally are going to bridle at the arrogant "law and order" vituperation which spews out of so many public figures' mouths. Law for the rich, and order for the poor, is a prescription for disaster.

I am introducing the Violent Crime Victims Compensation Act of 1972 not as an answer to these vices of our society. I offer it because, so long as this Nation and this Congress allow these vices to persist and to fester, we will have crime. I, for one, would not have society visit upon the victims of crime the deprivation which in such large measure lies at the source of crime. This bill begins the task of change. But, I want to make clear, there are many other tasks yet to be done.

TAX EQUITY FOR SINGLE TAXPAYERS AND WORKING COUPLES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week millions of Americans will be preparing their tax returns for 1971. Appropriately, today the House Ways and Means Committee is holding hearings on the tax inequities that have long existed for unmarried taxpayers and those that have recently evolved for married persons where both the husband and wife work. I have introduced the principal legislation, H.R. 850 as amended, to remove these inequities by establishing a uniform rate structure for married and unmarried taxpayers.

The Tax Reform Act of 1969 brought some equity—effective taxable year 1971—to the country's 29 million unmarried taxpayers, but concurrently made the tax burden for a working couple comparatively higher. My own position is that these inequities will never be resolved until we establish a uniform rate structure for all taxpayers, whether they be married, widowed, divorced, or single. This means that after the allowable deductions and exemptions are taken, the same graduated tax rate would be applied to an individual's taxable income, regardless of one's marital status.

My bill, H.R. 850, introduced on the first day of this Congress has received wide House support. It is now cosponsored by 135 of our colleagues and it has been introduced in the Senate by Senator ABRAHAM RIBICOFF. On March 29 I made some technical changes in this bill to take care of the problem of higher taxes that working husbands and wives are now confronting in paying their 1971 tax bill. These changes are found in H.R. 14193.

With the new tax schedules established by the 1969 Tax Reform Act becoming effective in taxable year 1971, the tax penalty for unmarried taxpayers was reduced; even so, the single taxpayer still pays up to 20 percent more in taxes than a taxpayer filing a joint return; and a head of household pays up to 10 percent more. The actual cost to a taxpayer can best be illustrated by a few examples. A single taxpayer whose taxable income is $12,000 pays $2,630 in taxes; if he were married and filing a joint return, he would pay $2,260—a difference of $370. And of course the rate on any income in excess of $12,000, and before the $14,000 level is higher: 29 percent for the single return and 25 percent for the joint return. The tax penalty for being single at $16,000 is $570; at $20,000, $850; at $50,000, $3,130.

I believe that taxes should reflect differences in a taxpayer's responsibilities for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. Requiring as we do today that single persons pay at a higher rate is simply arbitrary. The joint tax return rate for married taxpayers does not reflect the different financial responsibilities in supporting six dependents as opposed to say, one dependent. Furthermore, under the present rate structure a divorcee or widow with three dependents, using the head of household schedule, pays taxes at a higher rate than a married couple with no children. Family responsibilities can most effectively be reflected through an adequate dependent exemption. I have introduced legislation to increase the personal exemption and the exemptions for dependents to $1,200.

Unfortunately, the pinch of having a proliferation of tax schedules for different categories of taxpayers is now being felt not only by unmarried persons, but also by married couples, both of whom work and are presently preparing their tax returns for 1971. Because of the lower rates given to single taxpayers by the 1969 act, some 18 million working couples are finding they would be paying less money in taxes if they were single. This too is an inequity. Acceptance of this inequity is perhaps a result of the belief that salaried work by a wife is a luxury. While it may be true that a wife's income may put some families in the higher income brackets, in most cases, working women come from lower and middle income families, and they are working, often at personal sacrifices to their families, to meet today's high cost of living. The Labor Department has reported that almost half—46 percent—of the women married to men with incomes between $5,000 and $6,999 work. Furthermore, women's median earnings are only about three-fifths of those of men. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

Let us look for a minute at what the penalty is for the woman who goes to work to supplement her husband's $6,000 income. If her income is also $6,000, the couple will pay $156 more in taxes—using the standard deduction—than if they were two single people filing their individual returns. Effectively, this is a 10-percent surtax on the amount they would be paying if single. Ironically, the surtax is even greater if each earns $4,000 annually: 26.6 percent. Take another example: Should the husband earn $20,000 and the wife $10,000, the couple will pay $467 extra in tax, or a 12-percent surtax. Or in the case of each earning $30,000, the difference is $3,970 or a surtax of 28 percent.

The following is a table prepared by Anita Murray of New York City providing a computation of the penalties for working couples:

1971 FEDERAL INCOME TAX PENALTIES FOR MARRIAGE

	Wife's income										
	$2,000	$4,000	$6,000	$8,000	$10,000	$12,000	$14,000	$16,000	$18,000	$20,000	$30,000
Husband's income:											
$2,000	−$154	−$149	−$136	−$68	−$3	+$21	+$74	+$153	+$233	+$350	+$901
$4,000	−149	−195	−170	−113	−87	−127	−98	−55	+2	+69	+448
$6,000	−136	−170	−156	−138	−176	−240	−247	−227	−220	−178	+21
$8,000	−68	−113	−138	−184	−246	−346	−376	−406	−424	−442	−391
$10,000	−3	−87	−176	−246	−344	−467	−547	−602	−680	−725	−828
$12,000	+21	−127	−240	−346	−467	−640	−745	−860	−965	−1,045	−1,296
$14,000	+74	−98	−247	−376	−547	−745	−910	−1,052	−1,192	−1,297	−1,700
$16,000	+153	−55	−227	−406	−602	−860	−1,052	−1,229	−1,394	−1,532	−2,080
$18,000	+233	+2	−220	−424	−680	−965	−1,192	−1,394	−1,592	−1,758	−2,445
$20,000	+350	+69	−178	−442	−725	−1,045	−1,297	−1,532	−1,758	−1,957	−2,775
$30,000	+901	+448	+21	−391	−828	−1,296	−1,700	−2,080	−2,445	−2,775	−3,970

Note: The standard deduction is assumed in all cases. A negative amount in the chart indicates that the tax as a married couple is higher than for 2 single persons. A positive amount indicates that he tax is lower if the couple is married. The chart was compiled by figuring the Federal income tax for the incomes shown both ways, as a married couple and as two single persons, and subtracting to find the difference.

Our tax code contains a number of tax preferences. What we are asking for here, is not another preference, but simple equity for the unmarried taxpayer and the working couple.

Wherever taxpayer is described as he, replace he with she. Taxes know no sex.

Mr. Speaker, at this time I would like to insert in the CONGRESSIONAL RECORD some of the remarks presented by the witnesses appearing before the Ways and Means Committee. Unfortunately, the lead witness, Miss Vivien Kellums of Connecticut who has worked so long and effectively in pursuit of tax equity for single taxpayers, did not have a prepared statement and so I am not able to include her remarks here.

The list of witnesses and some of the prepared statements available to me follows:

LIST OF WITNESSES SCHEDULED TO APPEAR BEFORE THE COMMITTEE ON WAYS AND MEANS ON THE TAX TREATMENT OF SINGLE PERSONS AND MARRIED PERSONS WHERE BOTH HUSBAND AND WIFE ARE EMPLOYED

MONDAY, APRIL 10, 1972

1. Coordinated testimony presented on behalf of a number of different organizations:
Vivien Kellems, East Haddam, Conn.
Gloria Swanson, New York, N.Y.
Henry Couture, President, Single People United.
Paul Keane, Kent State University graduate student.
Mary E. Frisina, president, Taxpayers' Crusade.
Polly K. Ruhtenberg, Colorado Springs, Colo.
Adrienne N. Neuman, Denver Supporters of Vivien Kellems.

2. Shirley M. Corrigan, Single Persons for Tax Equality Assn.

3. Committee of Single Taxpayers: Patty Cavin, Hon. George L. Murphy, Hon. Robert K. Gray.

4. Hon. Eugene J. McCarthy.

5. Osta Underwood, President, National Federation of Business and Professional Women's Clubs.

6. Christine Beshar, on behalf of the Association of the Bar of the City of New York.

7. Kelly Rueck, Vice President, Air Line Pilots Association.

8. Florence B. Donohue, Chairman, Committee on Taxation and the Working Woman, New York Women's Bar Association.

9. Albert H. Turkus, on behalf of the Tax Reform Research Group.

10. Hon. Robert Cline, State Assemblyman, California.

11. James T. Kelly, Ridgewood, New York.

STATEMENT OF GLORIA SWANSON

Mr. Chairman and Members of the Committee, I am here to speak for Representative Koch's bill H.R. 850 as amended.

I am Gloria Swanson of New York City—mother of three—grandmother of seven—and hopefully a "great grandmother" somewhere just around the corner—and for the curious—yes, my age is 73, which allows me to remember well the cries of indignation during the first World War, when in 1916 the tax was raised from 1% to 2%!! However, the cries very quickly abated when the citizenry were led to believe it was only for the duration of the war.

Nobody likes to be lied to, least of all the government (re taxes). If, however a citizen should lie, even inadvertently, it is called perjury and punishable by law. It must be wonderful to have privileged advantages.

We talk of the importance of parents setting a good example for their children. What about our government's obligation to its citizen's, from whom the employees of the government derive their salaries, to set an example of honesty and justice. Is it any wonder that the young generation is against "the establishments"—? (plural).

My reason for being here today is to add my name to the list of "Georges" who are trying to do something about the outrageous inequities in our tax laws rather than merely complaining.

My prime concern is for the widows because they, I feel sure, have few spokesmen against their cruel taxes.

Just imagine, if you can, what it must mean to lose your spouse after 20—30—40—maybe even 50 years of building a life together. The tragedy of the death is followed by an inheritance tax. Isn't that triple tax? It usually means one thing for the bewildered widow—she must be uprooted from the nest she and her husband built—move to smaller quarters, reorient herself, discard so many memories because there is no longer room for them. Her whole mode of living must be downgraded. Why? How can any government with any sense of justice dole out this kind of treatment? I know of many such cases. She has been robbed of the few comforts and dignity left for her few remaining years. I resent this. Perhaps, because most men do depart first—(yes—even the ones making these outrageous tax laws) they have failed to give this problem enough thought. Remember, I do not fall into this category, but I do have a heart for the defenseless, who in most cases have paid a lion's share of taxes over many, many years.

I feel sure there are many here who will speak on behalf of the married couples who both work—not because they want to but because of sheer necessity—and who messed up their economy? Did they? So I shall confine my remarks to the singles tax. Most of my life I have been in the single bracket. I started working when 14½ years of age. So these United States have received a goodly share of my earnings. During most of these 60 years of taxes there was no consideration given to the plight of the artist in the performing arts. I fell under two categories—married—but mostly single. During the last thirty years I have made but three pictures so I suffered unfair taxes because taxation did not take into consideration the lean years of an artist's career. Now, at least, the artist has a five year period in which to average his income for tax purposes. But only the experts can figure out this one. And what of

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the estimated tax? No one in the performing arts can possibly know what his earnings will be next year any more than next month—or tomorrow—yet they are penalized 6% if they are off by a large margin. In place of a five year average why not a tax deferrable certificate?

I do not believe the salaried middle bracket working American minds paying *fair* taxes—but what I do believe he minds and resents paying more taxes than some oil men—some millionaires—some large corporations and crooks. This is an evil!

As Edmund Burke said, "All that is necessary for the triumph of evil is that good men do nothing". May I look forward to you good men and good women to do something to correct these evils. Thank you.

STATEMENT OF TAXPAYERS' CRUSADE OF LOS ANGELES COUNTY

Mr. Chairman, and members of this Committee, I am Mrs. Mary Frisina, 4581 Ambrose Avenue, Los Angeles, California, 90027. I'm here in support of H.R. 850 as amended. As President of the Taxpayer's Crusade of Los Angeles County I want to speak for thousands of single men and women and thousands more married couples both of whom work, who are wage earners, small home owners, and pensioners trying not to lose their homes, as taxes and prices continue to rise. Also single men and women and married couples in small businesses who are battling inflation, higher taxes, precarious and unexpected situations, while there seems to be no end to government demands, and no end to government spending.

I shall confine myself today to the plight of the unskilled, the uneducated and the uninformed.

Take the working mother, victim of a husband not paying child support. She has two choices—keep working, or go on welfare. The day she goes to work, her income tax deductions under Head of Household gives her a little break, not much. To begin with, her salary is in the lower income bracket. She must turn to welfare for supplemental aid—remember the husband is not paying child support. After working awhile, she finds it is not profitable for her to work. She quits her job, is no longer receiving supplemental aid but is now a full fledged recipient of the Aid to Families with Needy Children. As a full fledged receipient she receives more fringe benefits—Medical, dental care, you name it she gets it.

Now, let's take single people men or women, with no children. They are not heads of household as far as the Internal Revenue Service is concerned. They are ones who cannot apply for supplemental aid from the welfare, they cannot receive Medical. The day they become unmarried individuals either by divorce or death their withholding deductions sky rocket, other expenses are higher, food costs go up. And in almost all instances, it is the single person of the family who is looked upon to take care of the elderly parents, for which deductions are not allowed.

It's almost always the single member who has to dole out assistance—money or otherwise—to needy relatives. Because we are crusaders many taxpayers come to our organization for assistance. I want to cite two of numerous cases called to our attention (Proof Attached). Here is an unmarried man with responsibilities who was not being allowed, by the Internal Revenue Service, to fulfill his obligations to his family. At the time of the divorce, the wife was awarded the furniture and the custody of the children; he was awarded the Community Bills and her Attorney Fees. The world falls apart around him—no home, no family, but he still must pay the bills. ($90 month on the furniture bill; $60 month on a loan: $27.00 on the TV, $110 month child support and $120.00 rent). His take home pay is $580 monthly. After expenses (rent, transportation, utilities, union dues) he has approx $102 a month to live on.

Then he was served a Notice of Levy by the Internal Revenue Service. They were garnishing his wages for $593.30.

He was not aware that he could not take the regular exemptions inasmuch as he had all the community obligations, and his ex-spouse became a full fledge welfare recipient. He was uninformed and uneducated. However, he still worked to pay his bills. Since his ex-wife was on welfare, receiving all the benefits, the child support payment was dropped temporarily in order to pay the Internal Revenue Service.

Another case—similar circumstances—received a Notice of Levy from the IRS for $517.53. He was making payments to the IRS, and once sent in a payment $5 short. The next week the IRS advised him they would take his complete check on 6/21/71. The amount of his check for two weeks' work totaled $138.32. IRS kept its word—they took his complete check for $138.32. This garnishment produced a chain of reaction. He had absolutely no funds to take care of his obligations or to live on.

Members of this Committee, we ask you to approve H.R. 850 as amended to give tax equity to single unmarried taxpayers and working married couples.

If you recommend passage of HR 850 as amended I can promise you all of our California Congressmen will support it.

Thank you.

Respectfully submitted,

Mrs. MARY E. FRISINA.

STATEMENT OF SINGLE PERSONS FOR TAX EQUALITY ASSOCIATION

Mr. Chairman, members of the committee, my name is Dr. Shirley Corrigan, and I represent the Single Persons for Tax Equality Association, a nonprofit organization incorporated under the laws of the state of Minnesota which favors passage of H.R. 850 as amended.

This association came into being more than three years ago in the Minneapolis-St. Paul metropolitan area and now has members throughout the state of Minnesota, throughout the country and in three overseas areas.

SPTEA adheres to the traditional method of redressing grievances within our democratic society—the organization of an interest group, the awakening of other members of the minority to their plight and the education of the electorate—culminating in the passage of remedial legislation.

I am pleased to report that SPTEA, of which I am a past president, has met with continued success in advancing toward its initial goal—the inclusion of single taxpayers within the split-income provision of the Internal Revenue Code.

Through talks to groups of single people, through information booths in public places, through radio and TV appearances and newspaper articles, and through our April 15th protest marches we have taken our message to the taxpayers.

The results have been both startling and reassuring. Startling because of the large number of people, married and single, who were found to be unaware of the existence or the magnitude of the financial discrimination against single people wrought by the split-income provision as it now stands, and reassuring because of the quick acknowledgment by the great majority of the married of the inequity of the situation once they were made aware of it.

Encouraged by our initial experiences and by our growing strength, we moved into the political arena at the state and national levels. This activity has been conducted on a strictly nonpartisan basis, for this is not a partisan issue. Our governor and all of our state constitutional officers have expressed approval of our goal. During the last session, the Minnesota legislature passed, with only one dissenting vote, a Memorial to Congress urging enactment of the remedial Bills you have before you, which are cosponsored by the entire Minnesota congressional delegation.

The speed with which this political support was obtained confirmd our earlier judgment that the principal obstacle we face in achieving our goal is the lack of general awareness of the problem.

We have had messages of support from all Minnesota congressmen after we had presented our case to them:

With the active support of such able and influential advocates as these, can passage of this legislation be long delayed?

Single people are a minority in comparison with the total population. Yet, in absolute numbers, they represent a sizeable group—approximately 37.5 million people, age 18 and over, including 11.5 million widows and widowers and 4.25 million divorced.

Despite the fact that we generally demand fewer services from our government than our married friends, the government does not reciprocate this lower demand.

These single people are required to pay considerable higher Federal income taxes on the same taxable income, and that same government prefers them for such dangerous tasks as fighting wars, taking them rather than marrieds when it can.

Together with some other minorities, single taxpayers are the victims of segregation. Single taxpayers must use a tax table "separate and unequal" to the one used by the married folk.

There they find rates which, even after enactment of the Tax Reform Act of 1969, impose a tax obligation as much as 20 percent higher than that of married people with the same taxable income.

Single taxpayers who are aware of the story behind this separate table find their annual task especially galling, for they know—

(1) that it is the result of an historical accident,

(2) that contrived justifications for it are extremely weak and

(3) that its constitutionality is being challenged.

All attempted evaluations of the various schemes to match taxes with ability to pay become mired in controversy, but one thing is clear. We have not arrived at the present apportionment by a careful balancing of means, needs and obligations!

The disparity didn't happen because the electorate and the Congress decided that single people should pay more, but because of the working of our Federal system in a way surely not envisioned by our founding fathers.

We all know how it came about, but in their haste, the Congressmen overlooked the unmarried. The unhappy consequences were set forth by Mr. Philip Stern in his book, "The Great Treasury Raid":

"And so, Congress proceeded to act, but with great illogic. It ended one discrimination, but created another. The very distinction that had been considered so unfair to the married persons of forty states was picked up bodily and imposed on the single people of all states."

Family tax expert Harold M. Groves, in his study, "Federal Tax Treatment of the Family," stated:

"It is probably fair to say that the income tax, estate and gift-tax amendments of 1948 were a political compromise dictated by a high-pressure historical situation and that they were hardly a deliberate choice, made after all equities and other consequences were weighed."

It is as simple as this: If all states had been common-law states, the problem would not have arisen and a single tax table would be used by all taxpayers.

Two factors act to increase the impact of the split-income provision on single taxpayers—the steep progression of the income tax rates in the early part of the rate table and the impact of inflation.

In the basic table from which the split-income table is derived and which was applicable to the incomes of single people before 1971, half of the rise in tax-rate progression is imposed on the first 1/6 of the income subject to it. Splitting provides the greatest percentage of savings to those with incomes in the $20,000 to $50,000 range. Members of the Committee, you will recognize these as your own income brackets.

Added to this has been the impact of inflation. This has propelled more and more people into even higher brackets in terms of money income (which does not represent a real income). Inflationary government policies have, therefore, produced an effective tax increase on real income, which has to some extent been mitigated for married people by the income-splitting provision, but not for single people.

The Tax Reform Act of 1969 has reduced the gap to some extent, but it has provided no relief at all for taxable incomes of $4,000.00 or less and at $24,000 single taxpayers still pay 20 percent more than marrieds.

After the 1948 law, when it was pointed out that single individuals were the only ones still at a disadvantage, recourse was made to the arguments used to justify the advantages already given to married taxpayers by means of personal exemptions and itemized deductions.

In essence, these arguments are based on the proposition that the financial burdens of marriage reduce the ability of married people to pay and, therefore, people who are single, whether by choice or by chance, should pay part of the share of the marrieds. This position gives no recognition to the lesser demand for government services attributable to singles. If *all* taxpayers were married, the revenues would be lowered and the demands for government services would be increased.

Whatever the merits of these arguments, the split-income provision would appear to be a poor vehicle to balance taxes with ability to pay. The major burdens of family life are associated with the raising of children. Yet the benefits of this provision accrue to all couples, childless or otherwise, and whether or not they maintain a household.

Furthermore, the need for extra funds is felt most heavily in the lower income brackets, but the law bestowed its greatest advantage on the middle and upper income groups. It must also be noted that the advantage is given principally to one-income families and not to those in which the wife's income is a significant supplement.

Even if the income-splitting provision were better suited to the aims professed for it, it would not be just in the eyes of single taxpayers. A generalization that single people have greater ability to pay does not stand examination. Singles are not a homogeneous group of carefree swingers. Rather, they exhibit a great diversity, with millions of divorced, widows and widowers in their ranks. Some have family responsibilities and expenses far greater than those of many marrieds—especially those marrieds without children in the home.

Persons living alone pay disproportionately for food, lodging and transportation. Those that never marry must look to their own resources in time of need and at retirement. Here there is further discrimination, for singles get fewer social security benefits than marrieds, but pay the same taxes. Indeed, the discriminations continue even after death in the form of higher taxes on the estates of single people.

One of the results of the Tax Reform Act of 1969, which will be exacerbated by extension of the full income-splitting privilege to single taxpayers, has produced some opposition. This is the apparent "marriage penalty" which affects two-income couples.

SPETA favors tax equality for everyone. We insist, however, that our tax relief should not be delayed or denied because of any difficulties in arriving at this settlement.

A final point I wish to cover is the relationship of this legislation to the overall fiscal policy. While these Bills need not be considered as a tax-cutting measure or evaluated on the basis of their effect on the economy and the revenue needs of the government, passage would provide additional stimulus to our lagging economy.

During the last session, you considered legislation proposed by the President to provide such a stimulus. We asked that our Bills be taken up at the same time, but you did not heed us. Now, tax reform measures have been proposed to eliminate some of the loopholes in the tax laws. We all know these deficiencies exist, but we must also recognize that there are excesses as well, one of which is the "singles' surcharge." Any equitable tax reform must include tax reductions where they are proper, as well as provisions which will produce revenue.

Of the roughly 30 million returns filed by single persons and heads of household in 1969, almost 22 million reported adjusted gross incomes of under $5,000 and more than 28.5 million reported adjusted gross incomes of under $10,000. Monies restored to this underprivileged caste will obviously not end up in socks or under mattresses, but will be quickly spent in day-to-day living, providing a fiscal stimulus for the economy.

Principally, this legislation *must be looked upon as a long-delayed rectification of an injustice. The demands of justice must not be postponed to a time when they can be met conveniently.*

By the bloated standards of today's budget, the cost will not be large—perhaps a billion or two. Such amounts cannot be crucial to a nation which spends 230 billion annually, or to fiscal planners who miscalculate the balance of income and expenditures by more than 20 billion in a single year.

References to higher priorities and claims of revenue shortages are not valid excuses for continued inaction. The tax laws, supposedly reformed in 1969, still shower benefits on favored groups. The taxes collected are squandered in ways which draw groans from taxpayers with each revelation. The Treasury writes off as "uncollectible" several hundreds of millions of tax dollars each year. The Justice Department fails to collect additional millions in fines imposed by the courts.

The money can be found. Our government can afford to be just! I ask you to establish justice by approving H.R. 850 in this committee and by securing its enactment.

Thank you!

STATEMENT BY PATTY CAVIN, OF THE COMMITTEE OF SINGLE TAXPAYERS

Mr. Chairman, I am Patty Cavin, a past president of the Women's National Press Club, widow of F. Edward Cavin, and mother of two young sons. I am here as the Executive Director of CO$T, the Committee of Single Taxpayers, which is a nonprofit, nonpartisan national citizens action group. CO$T was formed last June in the District of Columbia as the full time voice in Washington of the nation's over 30 million individual taxpayers. Our Committee is headed by the Honorable Robert Keith Gray, former Secretary of the Cabinet during the Eisenhower Administration. Our Advisory Co-Chairmen are the Honorable Eugene McCarthy and the Honorable George Murphy, former United States Senators.

In addition to myself, our professional staff consists of one secretary and several hundred volunteers who work in Washington, and with our volunteer CO$T Chairman in major cities and key congressional districts from coast to coast. In addition to mobilizing the individual taxpayer for group action, our goal is effective legislation to establish an equal tax base for all individuals.

I assisted Mr. Gray and Senators Murphy and McCarthy in organizing the Committee last spring, and have directed our Washington headquarters since last September. Out of deference for time, and since our three main principals are present, and prepared to testify, I should like to leave the details of the CO$T Crusade to Bob, Gene and the proverbial George.

Attached are some editorial and newspaper articles about CO$T to illustrate the broad base of interest generated by our Committee in all parts of the country.

Following are a series of quotes from a random sampling of the more than 50,000 letters received by CO$T to date. They illustrate the strong feelings of a representative cross-section of America's 30 million individual taxpayers who cannot understand why they should be singled out for more than their fair share of our country's national tax burden.

Frome Mrs. M. A., Sedro Wooley, Washington:

"My husband passed away in December of 1971. I stood shocked and stunned when I realized there had been $20.13 more taken from my pay check for withholding. Yet I am faced with the very same bills as when my husband was living. My take home pay is $292, thus the $20 is considerable."

From a single in San Mateo, California:

"At the present time, the alternatives facing a single person are grim . . . support another "Boston Tea Party," have four illegitimate children and go on the welfare rolls, or highjack a plane to Outer Mongolia." Does your organization have a more cogent plan of attack so that single people may eventually expect an equitable tax?"

From a recent widow in Lexington, Kentucky:

"I am glad to have the opportunity to join CO$T to fight the unfairness of the tax discrimination of widows and single people. I am a widow as my husband died two years ago. We bought a home on a GI Loan. I have almost 8 years more to pay before it will be mine. I am trying to keep it, but my bills are the same as when he was here, except for the medicine. But he did get social security disability, and a little veteran's bonus, which helped. I am 56 and all I can get now is what I have earned. So I sure could benefit by lower taxes."

From a spinster in Berkeley, California:

"I am single and highly indignant of our government's punitive treatment because I have chosen my way of life. Nowhere in the United States Constitution can I find any words or phrases saying single people must pay higher taxes than other groups of citizens. Why are we being punished? This is also true of California's new withholding tax."

From a bachelor in Lewiston, Idaho:

"It has always been unfair to us who live alone, mainly because we also have to pay for a place to live, pay for a car, and most of the other things that married or "head of household" persons have to do. I consider myself head of my household and all its expenses, and would like to be heard on this issue. It has a very strong smell of discrimination."

From another spinster in Long Beach, California:

"You bet the taxes for single people are unfair! Out of the raise for federal employees in '72, my first check shows a grand total of $1.01 increase, balance paid to taxes. Heads of household and marrieds are averaging $10 to $12 clear. I hate being punished for being single, or not getting pregnant just for another exemption. There must be an easier way . . ."

From a lady in Lakewood, Ohio:

"Thank goodness someone has decided to move in the direction of the over-taxed single taxpayers. Matter of fact, the time is long overdue for taxing the head of a household EXTRA for every child over two. We are

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no longer an agricultural economy in which the old man planned to put every child to work the minute he could stumble to the hen house."

From Annabel W. in Fremont, California:

"I am 71, widowed, living alone and am not given the privilege of Head of Household, although I maintain my own home. Property tax this year—$1,702.00; Federal Income Tax last year $924.00; California State Income Tax—$127.00. Living on a pension leaves little for myself."

From Pam D. in Clarkston, Washington:

"I am 21, living alone and I have to watch my funds closely. I would like to go to college but because of bills and the high rate of taxes, I am unable to. Any help I receive will be much appreciated."

STATEMENT BY THE HONORABLE GEORGE MURPHY, FORMER SENATOR FROM CALIFORNIA

Mr. Chairman, the Internal Revenue Commission estimates that there are approximately 30 million bachelors, spinsters, widows, widowers, divorced and married taxpayers who file individual tax returns in the United States today. I am happy to appear before the Ways and Means Committee today as a spokesman for a sizeable portion of these individuals, plus a growing number of married couples with double incomes, who are members of CO$T. Our Committee is obviously nonpartisan!

CO$T was formed in the District of Columbia last June as a national citizens action group to speak and act from Washington for America's previously unorganized minority—the individual taxpayer. Our immediate goal is to end the current tax discrimination and to work for equal and fair tax treatment of ALL individuals.

Gene McCarthy and I may disagree on many things, but we agree on this goal—an equal tax base for all individuals.

CO$T recognizes that laws are changed by organized support. Our Committee is active in all 50 States and Puerto Rico, and has volunteer CO$T Chairmen in Oakland, Los Angeles, San Francisco, Portland, Tacoma, Seattle, Denver, Dallas, Huntsville, St. Louis, Chicago, Boston, Rochester, New York, Pittsburgh, Newark, Tulsa, Chattanooga and Lexington.

Our Committee members come from all categories including single secretaries, tax accountants, newspaper reporters, lawyers, doctors, nurses, college professors, airline stewardesses, publishers, many senior citizens, retired servicemen, a state commissioner of internal revenue, an American Ambassador, and even a dozer operator from Peck, Idaho!

CO$T also has sizeable membership support from "Parents Without Partners," the national organization of those widowed and divorced; the American Newspaper Women's Club; the National Secretaries Association; the National Association of Retired Federal Employees; and NAST, the National Association of Single Taxpayers which merged with CO$T last August.

One thing has been clear from the start of our Committee, and reflected in the thousands of letters which continue to pour into our P.O. Box 1789 here in Washington, D.C.: the individual taxpayer who has been footing up to 40% more tax burden than his married counterpart, may have suffered in silence since 1948 when Congress legislated the split income provision for marrieds . . . but no longer.

With the cost of living index rising, our members are critically hurt on the national tax front. They consider the 1969 Tax Reorganization Act which lowered their burden to a maximum 20% a mere token—and at best, *conscience legislation.*

The fact that Congress has finally granted to individual taxpayers the right to file as unmarried heads of households, is viewed by CO$T as recognition that Congress has finally realized in part the heavy inequity which exists.

Even *with* head of household status, horrible inequities persist. Take the ridiculous situation whereby a divorced or widowed taxpayer with say three children, using the head of household schedule, pays taxes at a higher rate than a married couple with no children.

The 1969 Tax Act was a step in the right direction, but certainly not the solution.

Out of 74 million 286 thousand tax returns filed in 1970, nearly half were filed by single taxpayers. Why should over 30 million bachelors, widows, divorced and spinsters be *singled out by IRS,* and forced to pay a 20% heavier burden than their married friends?

The Scripps-Howard Daily News headline of last Saturday, "40% of U.S. firms escape all income taxes," reads like a battle cry if you are single and socked with the same expenses as that married coupled next door.

The Committee of Single Taxpayers is not against married, however, and has many married members like the former Director of USIA who joined because he and his wife feel that "taxation must be fair if it is to be borne, if not willingly, at least without resentment."

CO$T sympathizes with the large group of double income married persons. They too were discriminated against by the 1969 Tax Reform. They must now pay up to 40% more than the one income family who files jointly.

While the actual number affected by this '69 "Mistake" is yet to be determined by the Census, a good yardstick is provided by the Bureau of Labor Statistics which reports, as of March, 1971, that there are 17 million couples in the American work force today. This figure is bound to grow as equal rights for women are exercised on the U.S. labor front.

Further proof that the time is right for an equal tax for all individuals is found in simple mathematics. Seventeen million American couples amount to 34 million double income taxpayers. Add this number to the over 30 million individual taxpayers who have, since 1948, been forced to pay an unfair burden for their single status. 64 plus million out of the 74.3 million American taxpayers cannot be wronged indefinitely!

The Committee of Single Taxpayers supports the original Koch Bill H.R. 850 and its amended version, H.R. 14193, that would provide tax equity for single taxpayers and married persons filing separately. As a group, we are in favor of any legislation that would bring about immediate tax equality for all our citizens.

In a period when our government is working wholeheartedly to end discrimination in all its ugly forms, no one can deny we are discriminating unfairly against those, who through circumstances beyond their control or choice, are taxed at a rate that imposes an unfair burden on them.

TESTIMONY PRESENTED ON THE PART OF THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC. BY OSTA UNDERWOOD, NATIONAL PRESIDENT, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS

Mr. Chairman, I am Osta Underwood. It is my honor and privilege to address this Committee concerning H.R. 850 and H.R. 14193, legislation which will extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns, and which will remove rate inequities for married persons where both are employed.

As President of The National Federation of Business and Profesional Women's Clubs, Inc., I represent working women in all of the fifty states, the District of Columbia, Puerto Rico and the Virgin Islands, who are vitally interested in the future of these bills. Our members are lawyers, clerks, saleswomen, secretaries, teachers, managers, and Ph. D.'s. They sufffer the inequities of current tax laws in all income brackets. Among our members are women who are married, single, divorced, and widowed; women who are mothers and grandmothers; women who have in the past and are now, even after their unswerving efforts at tax reform, paying inequitable amounts of income tax vis-a-vis each other and vis-a-vis the rest of the taxpaying public.

We approach you now to urge your prompt approval of the legislation before you which will deal with us uniformly and fairly and will eliminate the inequities I will describe.

Across the nation our membership has come into contact with individuals uniting to defeat the continuation of the unreasonable tax classifications reflected in the rate schedules. From Minnesota, where the State Legislature adopted a Resolution urging the Congress to pass legislation comparable to that presently before you,[1] to Connecticut, where Vivian Kellems' long-suffering efforts against the "penalty" tax for unmarried individuals began,[2] to here in the metropolitan Washington area where the Committee of Single Taxpayers (CO$T), sponsored by former Senators McCarthy and Murphy among others, is flourishing,[3] our membership has seen the attention of the nation turn to the cause we have long supported.

Consider the history upon which we base our position here today.

As you know, the income splitting procedure may be thought of as a product of historical accident. Before World War II, eight states had community property laws which treated income as divided equally between husband and wife. The U.S. Supreme Court ruled that married couples in these states could divide their income and file separate U.S. tax returns.[4] With this in mind, several other states soon passed laws giving their citizens similar tax advantages. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income splitting a national procedure. While solving the problem for married couples, this legislation increased the relative tax burden on single citizens. Attention was given to this inequity when, in 1951, the heads-of-households provision was enacted giving one-half of the income splitting benefits of married couples to widows, widowers, and certain other single persons with dependents in their households. In 1954 surviving spouses with dependent children were permitted to use the joint return tax rates with full income splitting for two years following the death of the husband or wife.

Prior to the 1969 Tax Reform Act, a single person's tax bill could have been as much as 40.9 percent higher than the tax bill due on a joint return with the same amount of income. The 1969 Act provided a new rate schedule for single taxpayers which reduced this gap to a still staggering 20 percent. The schedule is designed to provide tax liability for single persons which is 17 to 20 percent above that of married couples for taxable incomes between $14,000 and $100,000, with the maximum differential of 20 percent being reached at $20,000. Below $14,000, where income splitting is less beneficial, the excess of the single person's rates over those of married couples gradually decreases. This is also true above $100,000, again where the benefits of income splitting become less significant.[5]

The Tax Reform Act of 1969 also set up a new head-of-household tax rate schedule conveying tax benefits half way between the schedule applicable to joint returns and the new schedule applicable to single persons, and extended the head-of-household tax rates to certain married individuals living apart from their spouses.[6]

That is the history which has given birth to the two inequities which we seek to rectify today:

1. A single person making $8,000 a year pays $210 more in Federal income taxes than a married person making the same salary. A single person making $12,000 annually pays $370 more than a married person making the same salary. The penalties for being unmarried range from a difference of $10 yearly (with an income of $1,500) to $12,110 (with an income of $200,000).[7]

2. A married person making $14,000 a year, whose spouse also earns $14,000 a year, pays $680 more in Federal income taxes, if both spouses file jointly, than two singles who each earn $14,000 a year and file separate returns using the unmarried individual's tax schedule.[8]

To deal with the inequity perpetrated upon the single individual by the current law, H.R. 850 and H.R. 14193 would establish a uniform rate structure for *all* taxpayers and end the tax penalty imposed on the unmarried taxpayer.

As to the inequity perpetrated upon married individuals filing jointly, the establishment, under H.R. 850 and H.R. 14193, of a uniform rate structure for *all* taxpayers would end the tax penalties imposed on married persons where both are employed.

Because of its effectiveness in remedying two problems we set forth earlier, and in establishing an equitable system of income taxation for *all* citizens, we strongly urge your support of this legislation.

We feel it our duty to deal with those criticisms of the legislation of which we are aware.

In support of leaving a 20 percent gap between the tax paid by singles and that paid by marrieds filing jointly, the Report of the Senate Finance Committee on the 1969 Tax Reform Act says:

". . . some difference between the rate of tax paid by single persons and joint returns is appropriate to reflect the additional living expenses of married taxpayers . . ."[9]

and, in support of leaving a 10 percent gap between singles and heads-of-households, the Report says:

". . . there is good reason for maintaining a tax differential between single persons and heads-of-household who in fact maintain a household for a dependent."[10]

To these statements we offer, first, the words of Senator Ribicoff:

"The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions. However, once the taxable income is determined the same rate should apply to all who have the same income, regardless of whether they are married or single.

"Many people attempt to explain the present system by saying that single persons do not bear the costs and responsibilities of raising children. But income splitting under present law does not differentiate among (married) taxpayers in this respect, since the benefit is the same whether or not they have children."[11]

It cannot be stressed too strongly that differences in the responsibilities of individuals should not, and cannot continue to be reflected in the *rate* of tax they pay on their base income after deductions and exemptions. These responsibilities, which surely must be recognized from an income tax standpoint, should be brought home to those who have them in the form of beneficial deductions and exemptions. (To the end that this may be a meaningful benefit, we support legislation to increase the exemption for dependents.)

If this policy change does not take place, the misplaced good intentions of prior Congresses will cause the anomalous situation to persist in which widows and divorcees supporting one or more children will pay a higher tax based on their adjusted income than that of a married couple which is childless.

Although the Senate Report does not explain why it chose the rate adjustment route instead of the deduction and exemption method of reflecting the peculiar responsibilities of taxpayers, *if* that choice is based on *any* statistical data intended to be reflected in the rate differentials set, surely *that* data can be converted into a system of deduction and exemptions, just as fairly reflecting the differing costs of the responsibilities involved, and allowing adjusted incomes to be taxed at a uniform rate.

If the rate differentials set are *not* based on such data, they represent an arbitrary method of taxation, inherently inequitable, and surely deserving of re-examination.

In support of allowing marrieds filing jointly to pay a greater tax than two singles filing separately, the Staff of the Joint Committee on Internal Revenue Taxation explains:

"This is a necessary result of changing the income splitting relationship between single and joint returns. Moreover, it is justified on the grounds that although a married couple has greater living expenses than a single person and hence should pay less tax, the couple's living expenses are likely to be less than those of two single persons, and therefore the couple's tax should be higher than that of two single persons."[12]

This, of course, would be the case only if the two single persons were not living together. Without seriously believing that the legislation was intended to encourage the promiscuity, contrary to our public policy, which it seems to reward, we think it too is susceptible to the argument that any provable relationship between costs of living as a married couple and tax benefits conferred to offset these expenses can be more equitably translated into deductions and exemptions than they can into rate differentials on adjusted income.

Therefore, based on the sincerely held belief that incomes should be taxed at an equal rate, allowing each citizen tax benefit for the responsibilities he or she assumes in our society before adjusted income is determined, The National Federation of Business and Professional Women's Clubs, Inc. strongly urges you to report favorably on H.R. 850 and H.R. 14193.

Thank you.

STATEMENT BY CHRISTINE BESHAR ON BEHALF OF THE COMMITTEE ON SEX AND LAW, ORVILLE SCHELL, CHAIRMAN, THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

The 1969 Tax Reform Act reduced the tax rates for Unmarried Individuals and Heads of Households [Internal Revenue Code Section 1 (b) and (c)]. A probably unintended result is that the tax liability of two income-earning taxpayers is now higher if they are married than if they are not. This result is inequitable and socially undesirable. It appears to induce tax conscious young people to live together without marriage or in some cases even to get a divorce. The increased tax comes about because, while married taxpayers may elect to file either a joint return or two separate returns, they must, if they file separate returns, use the table for "Married Individuals Filling Separate Returns" [Section 1(d)] which was not amended when those for Unmarried Individuals were amended in 1969.

The attached table illustrates the "penalty for marriage" on the basis of 1971 tax rates.

Congress should cure the obvious inequity which crept into the tables with the 1969 Tax Reform Act and results in discrimination against a *married couple* with two incomes by imposing a greater tax on a married couple than on two unmarried individuals with the same income.

The change can be accomplished by allowing each taxpayer, whether he be married or not, to file a separate return in respect of his income and to use the rates in Section 1(b) which are now applicable only to unmarried individuals.

If such an amendment is made, it becomes necessary (1) to make sure that the income earned by one spouse in a community property state is taxed to him alone and (2) to amend the child care provisions which presently require a married individual to file a joint return in order to claim the child care deduction.

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[1] CONGRESSIONAL RECORD, vol. 117, pt. 32, p. 42193.

[2] CONGRESSIONAL RECORD, vol. 117, pt. 3, pp. 3037–3038 and pt. 6, pp. 6884–6887; Grider, "Miss Kellems Bugs IRS Again," The *Washington Post,* October 19, 1971, at A6, col. 1.

[3] The *Washington Daily News,* August 7, 1971, "Potomac Patter," col. 1.

[4] Poe v. Seaborn, 282 U.S. 101 (1930).

[5] Senate Committee on Finance, Tax Reform Act of 1969, S. Rep. No. 91-552, 91st Congress, 1st Sess., 260–261 (1969).

[6] *Id.*

[7] Int. Rev. Code of 1954, (a) and (c).

[8] *Id.*

[9] *Supra,* note 5, at 260.

[10] *Supra,* note 5, at 262.

[11] CONGRESSIONAL RECORD, vol. 117, pt. 3, pp. 3037–3038.

[12] Staff of The Joint Committee on Internal Revenue Taxation, 91st Congress, 1st Sess., General Explanation of the Tax Reform Act of 1969 (December 3, 1970).

1971 FEDERAL INCOME TAX PENALTIES FOR MARRIAGE

	Wife's income										
	$2,000	$4,000	$6,000	$8,000	$10,000	$12,000	$14,000	$16,000	$18,000	$20,000	$30,000
Husband's income:											
$2,000	−$154	−$149	−$136	−$68	−$3	+$21	+$74	+$153	+$233	+$350	+$901
$4,000	−149	−195	−170	−113	−87	−127	−98	−55	+2	+69	+448
$6,000	−136	−170	−156	−138	−176	−240	−247	−227	−220	−178	+21
$8,000	−68	−113	−138	−184	−246	−346	−376	−402	−424	−442	−391
$10,000	−3	−87	−176	−246	−344	−467	−547	−602	−680	−725	−828
$12,000	+21	−127	−240	−346	−467	−640	−745	−860	−965	−1,045	−1,296
$14,000	+74	−98	−247	−376	−547	−745	−910	−1,052	−1,192	−1,297	−1,700
$16,000	+153	−55	−227	−406	−602	−860	−1,052	−1,229	−1,394	−1,532	−2,080
$18,000	+233	+2	−220	−424	−680	−965	−1,192	−1,394	−1,592	−1,758	−2,445
$20,000	+350	+69	−178	−442	−725	−1,045	−1,297	−1,532	−1,758	−1,957	−2,775
$30,000	+901	+448	+21	−391	−828	−1,296	−1,700	−2,080	−2,445	−2,775	−3,970

Note: The standard deduction is assumed in all cases. A negative amount in the chart indicates that the tax for a married couple is higher than for 2 single persons. A positive amount indicates that the tax is lower if the couple is married.

XUM

STATEMENT PREPARED FOR HEARINGS ON TAX TREATMENT OF SINGLE PERSONS AND MARRIED PERSONS BOTH WORKING, BEFORE THE HOUSE WAYS AND MEANS COMMITTEE

My name is Florence Donohue. I am an attorney admitted in New York. I am the Chairman of the Committee on Taxation and the Working Woman of the New York Women's Bar Association. I speak for the organization in urging a law change that would permit married couples both working to file returns as though they were unmarried individuals.

I am employed as an Executive Editor with Prentice-Hall, Inc., the publishing firm.

Married taxpayers have discovered with some shock in 1972, as they file their 1971 returns, that many of them are paying more tax just because they are married. The result flows from two factors: lower rates now applicable to unmarried individuals and heads-of-household, and the increase in the standard deduction.

There is no question that Congress meant only to ease the situation for single taxpayers when it changed the rates for them in 1969. Nevertheless, the end result has been to place a "tax on marriage" when both spouses are earning income. The examples that follow show just how much tax penalty may be involved:

Example 1. Bill and Mary are married and have two children. They are unskilled workers and each makes $4,000 a year. If they file a joint return, they will pay a tax of $672. On separate returns, they would each pay a tax of $339, for a total of $678, if each claims one child. If they were not married, each would pay a tax of $246, for a total of $492. This low income family would pay a marriage penalty of $180. If one qualified as head of household, there would be an additional $6 saving if they were not married.

Example 2. Bert is a young accountant and makes $12,000 a year. His wife Susan teaches school; her salary is $10,000. Assuming they have no children and use the standard deduction for 1971, their tax on a joint return is $4,142. If they file separate returns, because they are married, their tax would be $4,165. But if they weren't married at all, the combined tax Bert and Susan would pay would be $3,642.50. So they are paying between $499.50 and $522.50 more taxes because they are married.

Example 3. John and Julia are both attorneys. They are in partnership together, and each partner's share of the partnership income is $20,000. If they are single, they will each pay a tax of $4,450.50, for a total tax of $8,901. If they got married in 1971, their total tax bill went up to $10,857.50. Their tax loss for getting married: $1,956.

Example 3 above assumes the standard deduction of $1,500 available for 1971. The 1972 maximum standard deduction of $2,000 will increase the tax penalty even more.

Example 4. Jim is a young widower with two children aged 8 and 10 who live with him in his household and are his dependents. He makes $20,000 a year and itemizes deductions of $4,000. He contemplates marrying a young woman who is an accountant and makes $13,000 a year. She presently takes the standard deduction and intends to go on working. If they do not marry in 1972, Jim's tax bill will be $2,912.50, and the girl's will be $2,171, for a total of $5,083.50. If they do marry, their tax on a joint return, assuming the total itemized deductions remain $4,000 will be $6,380. The difference—the penalty for getting married—is $1,296.50.

The New York Women's Bar Association recommends that this unconscionable result be avoided by permitting married persons an election to be taxed as though they were not married. To avoid providing an additional loop-hole for the well-to-do, the election should be limited to spouses who both have substantial amounts of earned income. The attached proposed bill sets the rule at 80%. So that spouses on pensions could have the same benefits as working spouses, pensions flowing out of an employment would also qualify the spouses to make the election.

The proposal would also provide that only one of two electing spouses could claim head-of-household status, and that only the spouse electing head-of-household status could deduct child and household care expenses of up to $4,800 a year under the newly liberalized Sec. 214.

Withholding. Withholding tables now in effect take into account that married persons both working owe more taxes than if they were single. The proposal would permit married persons who make the election in one year to qualify for reduced withholding in the following year.

It is intended that the election should be effective for all purposes of the income tax subtitle of the Internal Revenue Code. Thus electing spouses would both be eligible for the $1,300 low income allowance, and for a maximum standard deduction of up to $2,000 each. They would also each be entitled to deduct up to $1,000 under Sec. 1211(b) (limitation on capital losses). There are several other situations under the income tax law where husband and wife are treated as one taxpayer. The general reason for these provisions was the tax benefit that flowed to married persons through the use of the joint return rates. Once it is recognized that working spouses do not enjoy any such benefit, and they elect to be treated as unmarried, then the provisions of present law related to married persons filing separate returns should not apply to them. For instance, it would be quite proper for one spouse to itemize deductions, and the other to claim the standard deduction. Only one personal exemption would be available for each child, of course, and parents would have to decide which of them would take each child's exemption, in the light of such factors as eligibility for head of household status and the child care expense deduction. Neither spouse of an electing childless couple would qualify for head of household status unless a disabled dependent lived in the household.

Effective date. It would be highly desirable to have this change effective retroactively for the 1971 taxable year, the first year in which rate differentials applied to unmarried individuals.

Proposed legislation approved by the New York Women's Bar Association to meet the objectives outlined in the above statement follows. The legislative proposal was approved at the meeting of the Association on February 24, 1972.

H.R. —

A bill to permit married individuals to elect to pay tax as though they were unmarried individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6103 of the Internal Revenue Code of 1954 (relating to joint returns of income tax by husband and wife) be amended by adding at the end thereof the following new subsection:

"(f) Election to File as an Unmarried Individual or Head of Household.—

(1) If both spouses so elect, married persons eligible to file a joint return may each file separate returns as though they were unmarried individuals, if they satisfy the conditions set forth in paragraph (3).

(2) Only one of such electing spouses may claim head of household status under section 1(b) (as defined in section 2(b)).

(3) The election permitted under paragraph (1) shall only be available to spouses if at least 80% of their combined adjusted gross income is composed of:

(A) wages as defined in section 3401(a); or

(B) earned income as defined in section 911(b). For purposes of this election only, any pension or annuity received by reason of an employment relation shall be considered earned income.

(4) The election shall apply for all purposes of this subtitle."

SEC. 2. Section 2 (relating to definitions and special rules) is amended by renumbering subsection (e) as subsection (f), and by adding after subsection (d) the following new subsection:

"(e) Married Persons Electing to File as Unmarried Individuals.—Married persons who elect under section 6013(f) to file as unmarried individuals shall be treated as unmarried at the close of the taxable year, for purposes of subsection (b)(1). Only one such electing spouse may qualify as head of household under section 1(b)."

SEC. 3. Paragraph (1) of section 214(e) is amended to read as follows:

"(1) Married couples eligible to file joint returns. If the taxpayer is married at the close of the taxable year, the deduction provided by subsection (a) shall be allowed only if the taxpayer and his spouse file a single return jointly for the taxable year, unless both spouses elect to file as unmarried individuals under section 6013(f). If the latter election is in effect, only the spouse eligible to claim head of household status under section 1(b) may claim the deduction allowed by subsection (a)."

SEC. 4. Subparagraph (A) of section 3402 (l)(3) is amended to read as follows:

"(A) as not married, if (i) he is legally separated from his spouse under a decree of divorce or separate maintenance, or (ii) either he or his spouse is, or on any preceding day within the calendar year was, a nonresident alien, or (iii) the spouses elect for the preceding taxable year to file returns as unmarried individuals under section 6013(f)."

SEC. 5. The amendments made by this Act shall apply to taxable years ending after December 31, 1970.

STATEMENT BY ALBERT H. TURKUS BEFORE THE COMMITTEE ON WAYS AND MEANS

Mr. Chairman and distinguished members of the Committee on Ways and Means, I am Albert H. Turkus, an attorney-at-law and an associate of the Tax Reform Research Group. With me is Thomas H. Stanton, Director of the group. The Tax Reform Research Group is an organization concentrating on matters of legislation, regulation, and enforcement in the fields of federal, state, and local taxation. It is funded by Ralph Nader's Public Citizen, Inc., a broad-based group of citizens throughout the country who are concerned about consumer and tax issues.

At the outset I must commend this Committee for its responsiveness to the public in holding these hearings. In the last six months many people have begun to express concern about the relative tax burdens of single people versus married people, especially in families where both husband and wife are working.

The great bulk of public outcry concerning this issue has focused on the argument that it is cheaper in terms of tax liability for two wage earners to "live together in sin" than it is if they get married.[1] While this kind of discussion has real emotional appeal, it tends to obscure the complicated questions of economics and the difficult value judgments which must be faced by the Congress in setting the relative tax burdens of our various taxpaying units.

HISTORICAL PERSPECTIVE

In 1948, the Congress adopted the income splitting provisions of the Internal Revenue Code in order to achieve geographical tax equity between those states which had common law rules of property and the community property states. The Supreme Court had determined in 1930 that under existing law a family in a community property state was entitled to split its income in two for purposes of filing federal tax returns.[2] In part to achieve tax equity between a couple living in a community property state and a couple living in a common law state, and also to avoid a "mad rush" by states to adopt community property laws, Congress enacted a provision in the Revenue Act of 1948 which allowed all couples to split their income for federal tax purposes.[3]

The income splitting provisions in effect since 1948 essentially allow a family to divide its income in half and pay twice the tax on one half its income. Under a progressive rate structure this represents a substantial tax savings for the family. Economists Joseph A. Pechman and Benjamin A. Okner of the Brookings Institution recently estimated that income splitting reduces federal tax revenues by over $21 billion per year.[4]

But the Congress decided that the family was the proper unit for purposes of taxation and that a single taxpayer should be taxed more heavily than a married couple earning the same total amount. And income splitting was one way to achieve these goals.

In 1951, however, in order to mitigate the resulting heavy tax burden on some of the single people, the Congress established a third rate structure for the category it called "Head of a Household." Under the '51 provisions a single person supporting a "qualifying" dependent was taxed according to a rate schedule with half the advantages of income splitting. The economic justification for this halfway treatment has never been convincingly articulated.

In any case, the tax incentives favoring marriage continued virtually intact until the Tax Reform Act of 1969. The '69 Act substantially changed the relative tax treatment of single and married people, especially with respect to single people living together versus married couples with two wage earners. By lowering the tax rates for single people and by raising the low income allowance and the upper limits of the percentage standard deduction, the Congress created what some have called a "marriage penalty" for two wage-earner families.

THE ECONOMICS OF THE TAX TREATMENT OF THE FAMILY—IN BRIEF

Before examining the economic justifications for differing tax treatment of various economic units, there are two points which deserve special emphasis. First, it is difficult to design a system which will equitably distribute the tax burden among all the various economic units in our society and which will, at the same time, be reasonably easy to administer and enforce. And, second, the ultimate decisions which must be made in resolving this problem are based primarily on value judgments rather than on obvious principles of equity.

Let us concentrate for a moment on the relative tax treatment of four different economic units: (1) a single person living alone and earning "X" dollars, (2) a married couple with one wage earner earning "X" dollars, (3) a married couple with two wage earners earning a total of "X" dollars, and (4) two single working people living together and earning a total of "X" dollars (the "single couple").[5]

Economically the following relative tax burdens would appear to be the most equitable. The single taxpayer should pay the heaviest tax because he (or she) has less expenses and, therefore, more "clear income."[6] The married couple with one wage earner should be next in line; although married couples with one wage earner and those with two wage earners may appear to be in similar circumstances, the couple with only one wage earner has more "real" income because of the imputed value of the services performed by the member of the family who is not working. The married couple with two wage earners and the single couple should pay essentially the same tax; there may be some cost savings to the married couple which are not available to (or are not generally engaged in by) two single wage earners living together—to this extent the single couple might pay a slightly lower tax.

How does this economic analysis compare to the situation which exists under present tax law? Today the married couple with one wage earner pays substantially less than the single taxpayer due to an additional exemption (or exemptions) as well as to the advantages of income splitting. The married couple with two wage earners pays the same tax as the married couple with one wage earner; and, the single couple—depending on the split of income between the two wage earners—will pay the least.

It is the disparity between married couples with two wage earners and single couples which seems to have generated the most public interest. In my opinion this problem has been greatly exaggerated. Only those families with two more-or-less-equal wage earners suffer today vis-a-vis the single couple.[7]

TAX EQUITY FOR THE MARRIED COUPLE WITH TWO WAGE EARNERS

There is, however, a more general problem for all families with two wage earners which does deserve serious consideration. A married couple with both members of the family working suffers a real economic loss by virtue of the loss of services normally performed by a family member in the home. They are forced to purchase these services on the general market, much as the single person does.

For this reason, we suggest that the Committee consider the possibility of establishing a special credit or exemption for the family with two wage earners. Such an exemption could be equal to a percentage of the lower income in the family, with a maximum upper limit or a phase-out at higher family income levels. (A credit could be devised to achieve similar results.)

An exemption of this kind has a number of features to commend it. First, it would lighten the tax burden of the married couple with two wage earners vis-a-vis the married couple with only one income producer. This would recognize the difference in economic circumstances between the two families set out above. At the same time, it would act to decrease the "marriage penalty" or the incentive to "live in sin" which currently exists between married couples with two wage earners and two single wage earners living together, as the latter couple would not be eligible for the special exemption (or credit).

While we recommend this proposal for Committee consideration, we would note that it will not solve all of the problems which might concern the Committee. For example, it does not recognize the economic savings of the single taxpayer who lives with his parents or those of two single taxpayers who live together as roommates (whether they are of the same or opposite sexes). We would suggest, however, that there are just too many economic factors for all to be recognized in the Revenue Code without developing a tax system which is virtually impossible to administer or enforce.

This proposal would seem desirable both to cure a serious inequity and also to assuage the present public outcry. However, we urge this Committee to carefully consider the possible revenue effects of this or any similar measure before enactment. At the present time, with budget deficits totaling nearly $87 billion for three years, new revenue-losing measures—even those which are desirable because of the equities involved—should be carefully weighed before passage.

GENERAL REFORM OF THE TAX TREATMENT OF THE FAMILY

Instead of merely grafting the proposal set out above onto the currently inequitable tax structure, we urge this Committee to consider more comprehensive reform of the tax treatment of the family.

The Committee should consider the advisability of eliminating income splitting. This provision alone costs the federal government over $21 billion each year. I would suggest the Committee consider the alternative of a single rate structure with mandatory joint returns. Such a structure could include a system of exemptions (preferably vanishing at higher income levels) or credits related to the size of the taxpaying unit. It would be possible to tailor the exemptions or credits[8] to both the size of the taxpaying unit, its income level, and, at the same time, the relative economic status of the taxpaying unit to other units at the same income level.[9]

Such a system could eliminate entirely the need for a multiple rate structure; not only could the second rate schedule for married couples be eliminated, but also the separate schedule for "Heads of Households" could be done away with. There seems to be no legitimate reason for denying those who presently qualify for this schedule the full benefits available to married taxpayers with similar dependency circumstances.

Economists Pechman and Okner propose a somewhat different system which would achieve similar results.[10] They suggest a dual rate structure with brackets half as wide for married couples as those for single taxpayers. We respectfully urge this Committee to consider such comprehensive reform of the tax treatment of the family. We have only proposed the exemption or credit for two-wage-earner families described above in case the Committee should be unwilling to act now on comprehensive reform.

THOROUGH TAX REFORM OF THE ENTIRE REVENUE CODE

The kind of comprehensive reform we are urging should not be limited to the tax treatment of the family. The need for thorough reform of our entire tax code is becoming a major issue of public concern in this election year. Recent news articles suggest that many taxpayers may favor revolt against the tax system if reform is not forthcoming.[11] Even the *Wall Street Journal* suggested in a recent editorial that it might be time to replace exemptions with tax credits.[12] And one popular magazine recently published an article telling taxpayers how they could cheat on their returns,[13] describing this as a "penny ante strategy"[14] compared to the loopholes available to the rich.

The Committee should recognize the urgency of this situation and begin now with hearings on comprehensive reform of the kind embodied in three important reform bills presently pending before this Committee: HR 11058, introduced by Congressman Corman; HR 13877, introduced by Congressman Reuss; and HR 13601, introduced by Congressman Aspin. The first two contain proposals to close various loopholes and tax preferences. Some of the most notable reform proposals include the following: (1) changing exemptions to credits, (2) repealing the $100 dividend exclusion, (3) taxing capital gains at death or upon transfer by gift, (4) repealing the ADR accelerated depreciation system, (5) eliminating the tax exemption on income from state and local bond issues, (6) eliminating or lowering the percentage depletion allowance, (7) repealing the DISC tax exemption, (8) requiring capitalization of intangible drilling and development costs, (9) expanding the list of items covered by the minimum tax on tax preferences, and (10) removing or reducing the $30,000 exemption in the minimum tax provisions. All of these and other proposals—such as those for a more simplified tax code—should be carefully studied by the Committee now before the average citizen, and not just the fringe, begins to turn towards tax evasion or revolt.

Footnotes at end of article.

Footnotes at end of article.

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The Corman bill would bring in approximately $11 billion in additional revenues; the Reuss bill would increase revenues by approximately $7¼ billion each year. Either of these measures would go a long way toward reducing current budget deficits and providing the funds for needed government programs.

The Nixon Administration is presently considering a proposal to impose a regressive national sales tax—the value-added tax—on the nation's consumers. Prompt action by this Committee on reform proposals could forestall this regressive measure—which, by the way, will hit large families the hardest—and, at the same time, restore equity to our tax system.

The bill sponsored by Congressman Aspin is a different kind of reform measure. It calls for the termination of all presently existing tax subsidies [14] on January 1, 1974, with the provision that all subsidies enacted in the future would be of only a two-year duration. Such a proposal would return tax subsidies to the public spotlight periodically for review and reconsideration much as appropriations measures are now treated.

These bills and other proposals for tax reform [16] deserve hearings now. The public's concern with tax inequity has surfaced in these hearings today. We urge this Committee to immediately undertake hearings and thorough study of comprehensive tax reform.

THE NEED FOR POLITICAL PROCEDURAL REFORMS

The kind of serious tax reform we are suggesting and, in fact, even a minor reform relating to the tax treatment of the family, will require important value judgments by members of Congress as to the proper relative tax burdens of various kinds of taxpayers.

The Committee should not only focus on the substantive tax reforms this nation needs; we urge it also to consider the following possible reforms of the process by which tax bills are enacted:

(1) This Committee should offer its bills to the House under an "open" or "modified open" rule rather than under a "closed" rule. Under the present procedure less than 12 million of the nation's 200 million citizens have a meaningful voice in the tax laws that are passed.

(2) The present members' bill procedure should be scrapped. The reaction of Representatives Patman and Aspin and others on February 29th of this year shows what at least some of our Representatives think of the present procedure. Bills of that nature should be considered only after public hearings have been held by the Committee. In order to make such public participation meaningful, the Committee should have its staff prepare reports for public distribution at least six weeks before Committee consideration. These reports should fully explain in lay language the purpose, revenue effect, and historical perspective of the proposed legislation along with a full discussion of possible alternative measures.

(3) The Committee should adopt a procedure which allows 25% of its members to call for public hearings on proposed legislation. As of March 1, there were 1140 bills pending before the Committee; present procedures have held too many of these bills from proper public consideration. The proposed tax reform bills discussed above are obvious examples. Alternatively, the Committee could establish permanent subcommittees which would be able to hear testimony on many more bills than the full Committee can now schedule.

(4) The Committee should allow its members to bring staff assistants with them to Executive Session. Currently members must rely on the Committee staff, the staff of the Joint Committee, members of the Executive Branch, and their own expertise. There seems little reason to deny them the additional support of their personal staff with whom they work on a day-to-day basis.

(5) And, finally, the Democratic members of this Committee should consider divesting themselves of the power they hold as the Democratic Committee on Committees. This power may cause undue deference to Committee decisions by a large portion of the House—such deference, even if only a potential problem, would seem an undesirable warping of the legislative process.

Mr. Chairman, members of the Committee. I am sure that to some of you some of these remarks appear at first glance to be far afield. But it must be recognized that the inequities in our tax law today cannot be fully separated from the process by which they were enacted. Nor can the inequities suffered by one taxpaying group be fully understood without a look at our entire tax structure.

It is certainly possible to do something for married couples with two wage earners which will ease their tax burden. But such minor relief will not long assuage the growing dissatisfaction with our tax laws which is sweeping the country.

You distinguished gentlemen and women have an opportunity to accomplish truly meaningful tax reform and, through reforms in the legislative process, you can involve the entire House of Representatives in such an effort. We respectfully urge you to take the first step in this direction by holding hearings on those tax reform bills presently pending before this Committee.

FOOTNOTES

[1] See, for example, Milton Friedman, "A Family Matter," *Newsweek*, April 10, 1972, at 74.

[2] *Poe v. Seaborn*, 282 U.S. 101 (1930).

[3] At least one scholar has suggested that this provision was motivated in part by Congressional desire to pass a tax cut which would not be vetoed by the President. Boris I. Bittker, *Federal Income Estate and Gift Taxation*, at 335 (3 ed 1964).

[4] Joseph A. Pechman and Benjamin A. Okner, "Individual Income Tax Erosion by Income Classes," at 40, prepared for the U.S. Joint Economic Committee Compendium of Papers on the Economics of Federal Subsidy Programs (January 14, 1972).

[5] The following discussion focuses on all units earning "X" dollars for purposes of simplicity. The equity of relative tax burdens must, of course, be considered at various levels of income for each of the units. This can best be done with the aid of modern computer equipment which was unavailable during the preparation of this testimony.

[6] Clear income "consists of net income (adjusted gross income on the tax forms) minus an uncertain allowance to the taxpayer of personal expense money deemed sufficient to maintain himself and his dependents according to some biological or conventional standard." Harold M. Groves, *Federal Tax Treatment of the Family*, at 10 (1963).

[7] Ideally the tax code should be as neutral as possible with regard to incentives or disincentives towards marriage. For many years the tax incentives towards marriage were ignored—they still exist as some income levels today—even though some would argue that the societal costs of tax-induced marriages are greater than those from tax-foregone marriages. It is our view that this problem could be best solved as part of a comprehensive reform of the tax treatment of the family, as discussed below.

[8] These would replace the current system of personal exemptions plus standard deductions.

[9] Professor Groves discusses various budget studies on the relative cost of living by families of different sizes pointing out, for example, that it costs a married couple approximately 1.4 times as much to live as it costs a single person. Groves, *supra* note 6, at 28.

[10] Pechman and Okner, *supra* note 4, at 17.

[11] Gould Lincoln, "The 1972 Taxpayers Revolt," The Evening Star (Washington), April 1, 1972, at A-4, col. 3.

Richard L. Stout, "Taxtime struggle, populists vs. loopholes," The Christian Science Monitor, April 1, 1972, at 1, col. 4.

[12] The Wall Street Journal, April 7, 1972, at 8, col. 1.

[13] Bob Cratchit (pseudonym), "How to Cheat on Your Income Tax: A Guide," *Ramparts*, April, 1972, at 32.

[14] *Id.*, at 38.

[15] The list of presently existing tax subsidies is taken from "The Economics of Federal Subsidy Programs," A Staff Study prepared for the use of the Joint Economic Committee of the Congress of the United Sttaes (January 11, 1972).

[16] See especially Pechman and Okner, *supra* note 4. That study proposes a more comprehensive tax base and revisions of the rate structure that could generate an additional $77 billion in federal revenues. The authors also set out in detail alternative rate schedules which could be used after their reforms in lieu of increasing the federal revenues. Under their proposals tax rates could be cut by an average of 43% without a decrease in federal revenues. Pechman and Okner, *supra* note 4, at 29.

TESTIMONY BY CALIFORNIA ASSEMBLYMAN ROBERT C. CLINE BEFORE THE WAYS AND MEANS COMMITTEE

Chairman Mills and Members of the Committee, it is a distinct pleasure for me to join with the many members of your distinguished House who have called for revision of the personal income tax law to remove the outright discrimination against single taxpayers. I wish to publicly commend Miss Vivien Kellems for her fight at the national level and thank her again for testifying for my California legislation to accomplish equitable taxation for single persons and unmarried heads of household.

There is a wide misconception held in many quarters of government and the public in general that income taxes are based on "ability to pay".

I would suggest, on the other hand, that alternative phrasing is more appropriate and that income taxation is based on a person's "ability to earn". If we are to adopt the philosophy of a person's "ability to pay" as a criterion for taxation, that "ability to pay" would be translated into taxation at the sales and use tax level and not at the income level, for the "ability to pay" is based not just on an individual's ability to earn income, but also his ability to borrow in a society which is increasingly running on credit.

The personal income tax revenue collected by the federal government has grown from $45.6 billion in 1962 to $93.7 billion in 1972.

Table #4 (attached) outlines this growth, and when social insurance taxes paid by *individuals* (the other half is paid by employers) are added to the personal income tax, these figures would show 1962 income related tax revenues of $54.1 billion and in 1972 of $122.5 billion.

I have prepared for your committee Table #1 to which you may refer in comparing personal income taxation imposed by the federal law at varying levels of income from the lowest level to $20,000 for classes of taxpayers. If deductions are itemized, taxable income is computed after itemized deductions and personal exemptions. The discrimination against the single person and the unmarried person who qualified as head of household becomes apparent after the $500 level of taxable income.

For example, at the $6,000 level, the head of household pays $40 more taxes than the married couple, and the single pays $110 more than the married couple.

I need not dwell on the amount of publicity which has been circulated widely about the discrimination against the single person, but I feel, too, that the widow or divorcee with dependent children has received less than her share of attention.

If you will refer to Tables #2 and #3, you will note that using the tax table (for those individuals not itemizing deductions and meeting the minimum qualifications to file in their respective category) that the unmarried head of household is paying higher taxes than a married couple.

If you will now refer to Table #3, you will note that the head of household with two children pays significantly more in federal income tax than a married couple with two children even though the married couple may have only one wage earner.

The single taxpayer, by comparison, pays exorbitantly high taxes.

I would like to re-state my opening remarks that the income taxation of individuals should be based on their ability to earn—and I emphasize *their ability to earn*, and not necessarily their marital status.

There has been a great deal of concern voiced at all levels of government for the individual at the poverty level, but I feel the time is here that the middle income taxpayers and the single taxpayer who is supporting the majority of the cost of government be given a higher degree of consideration and that we should trend away from taxation of income towards a higher reliance on sales and use taxes.

I would urge this committee to act favorably on this series of bills which would eliminate the discrimination against single individuals in the federal income tax structure.

TABLE 1.—WHEN DEDUCTIONS ARE ITEMIZED

Taxable income[1]	Joint Married	Head of household	Single
$500	$70	$70	$70
$1,000	140	140	145
$2,000	290	300	310
$4,000	620	660	690
$6,000	1,000	1,040	1,110
$8,000	1,380	1,480	1,590
$10,000	1,820	1,940	2,090
$12,000	2,260	2,440	2,630
$16,000	3,260	3,540	3,830
$20,000	4,380	4,800	5,230

[1] After deductions and exemptions.

TABLE 2.—MEETING MINIMUM QUALIFICATIONS TO FILE AS:

Adjusted gross income	Joint married	Head of household	Single
$500	$0	$0	$0
$1,000	0	0	0
$2,000	0	0	40
$4,000	234	240	367
$6,000	556	593	753
$8,000	929	969	1,182
$10,000	1,252	1,332	1,591

TABLE 3.—USING TAX TABLES

	2 children		
Adjusted gross income	Joint married	Head of household	Single
$500	$0	$0	$0
$1,000	0	0	0
$2,000	0	0	0
$4,000	39	133	367
$6,000	334	471	753
$8,000	672	841	1,182
$10,000	996	1,184	1,591

TABLE 4

[Dollar amounts in billions]

Revenue sources	1962	Percent	1972	Percent
PIT	$45.6	45.8	$93.7	43.2
Corporation	20.5	20.6	36.7	16.4
Social insurance	17.1	17.1	57.6	26.5
Excise	12.5	12.5	17.5	8.1
Estimate and gift	2.1	2.1	5.3	2.5
Customs	1.1	1.1	2.7	1.6
Miscellaneous	.8	.8	4.1	1.9
Total	99.7	100.0	217.6	100.0

INDIANA CALUMET REGION WINS VICTORY ON AMENDMENT TO DAYLIGHT SAVING TIME ACT

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, when I was home during the Easter recess I was amazed at the gratitude expressed by so many citizens in the Calumet region of Indiana that our area will be on the identical daylight time schedule with Illinois and the Chicagoland area this summer.

We were unable last year to have the House Interstate and Foreign Commerce Committee report favorably on this legislation. Unfortunately the bill was tabled by the committee, but through the aid of Chairman STAGGERS and the chairman of the subcommittee, Congressman Moss, it was reinstated 2 months ago and came to the floor of the House under the suspension of rules procedure which required a two-thirds vote for passage and without the privilege of amendments on the legislation. Last year we were in violation of the Federal law, but through the good graces of Secretary of Transportation Volpe we were allowed exemptions pending the consideration of this legislation.

Six counties in the Evansville area of Congressman ROGER ZION were affected similar to six counties in northwest Indiana, including my district and parts of Congressman LANDGREBE's district. Both Congressman ZION and Congressman LANDGREBE, along with Congressman ROUSH and the other members of the Indiana delegation collaborated in winning this great victory for our affected areas caused by the split time zone in the State of Indiana.

I incorporate with my remarks a Chicago Tribune news item of Tuesday, March 21, 1972, pertaining to the passage of the first major amendment to the Federal Uniform Time Act of 1966:

HOUSE OK'S UNIFORM TIME FOR SPLIT STATES

WASHINGTON.—Rep. RAY MADDEN [D., Ind.] today won his fight to put Gary, Lake County, and Northwest Indiana on Chicago time this summer.

By a vote of 332 to 7 [MADDEN had to get the affirmative support of two-thirds of those present and voting], the House approved an amendment to the Uniform Time Act of 1966. The legislation now goes back to the Senate to correct a technical error.

GOVERNOR VETOED 1971 BILL

The amendment provides specifically that the 12 Western Indiana counties nearest Chicago and Louisville may turn their clocks to central daylight time this year.

Last year, Gov. Edgar D. Whitcomb vetoed a bill which would have made central daylight saving time in Western Indiana legal. Gary, Lake County, and Evansville risked federal action to use the time of their own choosing, MADDEN said.

MICHIGAN ALSO AFFECTED

The Uniform Time Act, enacted to take some of the confusion out of airline, bus and railroad timetables, attempted to get states to decide on one time zone for the entire state. Prior to the enactment of the 1966 act, Indiana counties were on Eastern Standard time and Central Daylight Saving time, depending on the choice of authorities in each county.

Michigan also has time confusion. So have Arizona and Hawaii.

The amendment, pushed by Madden and Rep. Roger Zion [R., Ind.], permits any state divided by a time zone boundary to exempt all of the state lying within one time zone fromt he observance of advanced, or daylight saving time.

PREVENTING DRUG ABUSE

(Mr. SYMINGTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, as one of the conferees on the drug abuse legislation which is now Public Law 92–255, I am well aware of Federal efforts in this area. Manufacturers, doctors, and the public must do their part to prevent drug abuse. I would call to the attention of my colleagues three articles on amphetamines. The first appeared in the St. Louis Globe-Democrat of March 9, 1972; the second item appeared in FDC Reports of February 7, 1972. The last appeared in the Washington Post of December 3, 1971. At this point I insert the articles in the RECORD:

[From the St. Louis (Mo.) Globe-Democrat, Mar. 9, 1972]

PHYSICIANS ARE URGED TO SHARPLY REDUCE USE OF AMPHETAMINES

The presidents of seven doctors' organizations in the St. Louis area called Wednesday for physicians to stop prescribing amphetamines except in cases in which it is absolutely necessary.

Dr. Robert Dietchman, a Clayton psychiatrist, said the group's statement is an attack on the abuse of amphetamines—commonly known as "speed" or "uppers."

Speaking at a news conference at the Mental Health Association of St. Louis, Dietchman said studies have shown that legally produced amphetamines are the source of much of the drug used illegally.

The statement, part of a growing national effort by physicians to curb amphetamine prescription, said amphetamines should be prescribed only for persons with narcolepsy (an uncontrolled desire to sleep,) hyperactive children, and in "those specific areas where the physician feels it is imperative for the welfare of the patient."

Deitchman questioned the use of amphetamines for weight control, a common practice he termed "of questionable value."

The pills are often obtained through forged prescriptions, written on pads stolen from doctors' offices, or through prescriptions sought from more than one physician.

Deitchman, chairman of the Drug and Substance Abuse Council's amphetamine abuse subcommittee, criticized the pharmaceutical firms of providing physicians with complimentary, pre-printed prescriptions for dangerous drugs, which often fall into the hands of abusers.

Humans also occasionally use "animal amphetamines" from veterinarians, he said.

The statement on controlling amphetamine use was signed by Dr. F. Eugene Pennington

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of the St. Louis Medical Society; Dr. Louis Hetlage of the Lincoln-St. Charles County Medical Society; Dr. James Mayfield of the Jefferson County Medical Society.

Dr. Jack Eidleman of the St. Louis County Medical Society; Dr. John Burroughs of the St. Louis Osteopathic Association; Dr. Parker Word of the Mound City Medical Forum; and Dr. Julian Buser of the St. Clair County, Illinois, Medical Society.

[From FDC Reports, Feb. 7, 1972]

PENNWALT ASSAILED BY HOUSE HEALTH SUBCOMMITTEE MEMBERS FOR FAILURE TO CONTROL AMPHETAMINE DISTRIBUTION; SYMINGTON RAISES QUESTIONS ABOUT MANUFACTURER'S PRICES

House Health Subcommittee members assailed Pennwalt Feb. 2 for inadequate control over distribution of amphetamine-containing products by its Strasenburgh of Mexico subsidiary, and questioned the company's markup on the products.

Pennwalt was invited to testify before Rep. Rogers' (D-Fla.) subcommittee after BNDD announced Jan. 18 that large quantities of Bifetamina (Spanish labeling) caps produced by the mfr.'s Mexican subsidiary had found their way into illicit U.S. markets. William Head, VP-technical operations, testified that Pennwalt had no hint of diversion of the drug until informed of the BNDD's charges by reporters ("The Pink Sheet" Jan. 24 p. 23).

Head said that while domestic Bifetamine sales slipped from $7.7 mil. in 1969 to $6.7 mil. in 1971, Strasenburgh's Mexican sales jumped from $354,000 to $1.2 mil. in the same period. Shipments of raw material to the subsidiary were sufficient to make 6 mil. caps in 1969, 10 mil. in 1970 and 14 mil. in 1971, he added, but Pennwalt saw nothing alarming in these growth statistics.

Rep. Carter (R-Ky.) asked if Pennwalt had noticed it "had a booming business going there in amphetamines," with sales "quadrupling in only three years." Head responded that company officials did not realize the magnitude of the sales growth until 1971 figures became available in Jan. 1972. "Do you mean to say," queried Rep. Symington (D-Mo.), "that the fellow responsible for the fast-growing div. never wrote home about how well he was doing?"

In his prepared statement, Head said "as we review this history in our current internal analysis, it seems evident to us that the rate of growth was sufficiently fraught with risk so that it might well have raised questions of qualitative analysis for our personnel to consider."

Symington grilled Head for nearly 30 minutes on Strasenburgh's prices for encapsulated Bifetamina, asking repeatedly how a $12,700 shipment of bulk material to Mexico became $350,000 in finished caps in 1969, while $14,700 worth of the bulk was turned into $1.2 mil. of caps in 1971.

Head said he could not explain the pricing formula, indicating it had something to do with "labor costs." Symington asked whether "$12,000 to $350,000 is a normal markup in the industry," and Head responded that he did not know.

Symington continued his line of questioning, asking why raw materials whose unit costs were declining still produced sharply rising unit revenues from the finished goods. Head agreed to give the subcommittee an analysis of the Mexican company's production costs, asking that portions of it be kept confidential. The congressman agreed to the confidentiality request and asked for a breakdown of Bifetamina promotional expenditures, which Head promised to supply.

Head attributed part of the growth of bulk biphetamine shipments to Mexico to stockpiling of materials for the start of export operations by the Strasenburgh subsidiary there in 1971. He said 2.1 mil. Bifetamina caps were exported from Mexico to Uruguay and Colombia during that year.

In response to questions from Rogers, Head could not recall whether Pennwalt had exported any amphetamine products directly to Uruguay or Colombia from the U.S.; what Mexican Strasenburgh's total sales were in 1969, 1970 or 1971; what other products it sold; or which division was Pennwalt's fastest-growing.

Head did respond that Pennwalt's amphetamine exports, excluding those to Mexico, were $236,000 in 1969, equivalent to 20 mil. caps; $191,000 in 1970, yielding 30.1 mil. caps; and $219,000 in 1971, equivalent to 27.4 mil. caps.

Rogers pressed the matter of total amphetamine sales by Pennwalt and its subsidiaries, pointing out that while they were 2% of the company's total 1971 volume, they represented 40% of its drug sales. Under questioning by Rogers, Head stated that Pennwalt had applied for an amphetamine quota of 650 kilos for 1972—enough to make 230 mil. caps.

Referring to the Bifetamina that BNDD asserted had reached black markets in the U.S., Symington said "this proportion of the overall business of Pennwalt is very small, and yet it's clear that the consequences of the thing are quite serious for the international community. You closed your statement by saying 'we hope and trust we've learned that this entire experience has to teach us.' What does it have to teach?" Head responded: "Well, despite the small size (of the company's business involved), we still are deeply concerned." He added that he thought "more care has to be taken."

Symington fired back: "I see that your products include many chemicals such as ammonium chloride, caustic soda, all kinds of fungicides, herbicides, insecticides, things like that, any one of which could do serious harm if improperly marketed." He added that, in his opinion, the lesson to be learned by Pennwalt was to more carefully monitor even the smallest components of its business.

[From the Washington (D.C.) Post, Dec. 3, 1971]

QUOTAS SET ON MAKERS OF TWO DRUGS

The Justice Department, acting to prevent massive diversion of two classes of stimulant drugs into the illict market, yesterday ordered a 40 per cent slash in production.

Imposing quotas for the first time, the department's Bureau of Narcotics and Dangerous Drugs said it will allow 5,870 kilograms of amphetamines to be produced in 1972, compared with 9,356 kgs. manufactured this year.

For amphetamines the 1972 quota will be 2,782 kgs., as against 4,926 produced in 1971.

The quotas in both cases are 70 per cent below the requests made—without back-up explanations—by manufacturers.

The order, signed by acting bureau director John Finlator, was issued under the Comprehensive Drug Abuse Prevention and Control Act, which became effective May 1. Manufacturers and others have 30 days in which to file comments and request a hearing.

The bureau said the quotas are designed to permit production of the stimulants in amounts sufficient to meet needs deemed by authorities to be legitimate; for the treatment of hyperactive children, of narcolepsy (a deep sleep incited by epilepsy or a brain inflammation) and as a temporary adjunct to a weight-reduction regimen.

IN MEMORIAM TO THE HONORABLE JAMES F. BYRNES

(Mr. MANN asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. MANN. Mr. Speaker, today, the flag flies over the White House at half-staff in tribute and in honor to the late Hon. James Francis Byrnes, of the State of South Carolina. The lowered flag of State will be flown at half-mast until interment of our native son who gave a long life of service to all America.

James F. Byrnes was of that genre of men who never forget the political and personal axiom that: "A quitter never wins—And a winner, never quits." And so it is that as we consider the career of this political statesman we recognize and appreciate that in service to his fellow man and to his Nation few, if any, careers parallel that of this American citizen. He was one of the most effective men of his time who projected his thoughts to the problems of these days in which we live.

And while today on this sad occasion we see such news headlines as "James Byrnes dies at 92, was 'Assistant President'," or "Jimmy Byrnes, Holder of High Offices," to mark his passing; to seek a more definitive measure of the man, or to fully understand his full value of service to this Nation and the world, one must research the RECORD for the legislation that bears his name. James Byrnes was one of the giants in the art of legislation, and in the area of executive decision.

It is meet that this land should lower its flag and mourn his passing; and while the people of his home State continued to pay tribute and honor to him on so many special occasions during his lifetime, his death prohibits his seeing the statue of his likeness which is to be unveiled in May on the capitol grounds in Columbia, S.C.

To say that James F. Byrnes was "Assistant President" is not enough, for indeed, he was more. He was Byrnes of South Carolina—he was Byrnes of the House—and of the Senate—he was Byrnes of the Supreme Court, and of the Department of State—he was the negotiator and master of the art of conciliation of the differences among men, and he was the voice of loyalty to his land and the causes he served.

James F. Byrnes was America's great champion at its moment of greatest need. During World War II, as Director of Defense Mobilization, he answered the call of his President to leave the Supreme Court for the purpose of dedicating the total resources of this Nation toward the will and purpose of winning the war in which we were engaged. And he did devote the total resources of his brilliant mind and body toward that purpose with a single minded devotion. In later years my dear friend said:

I would not have left the Supreme Court if Mr. Roosevelt had not assured me he would never hear an appeal from my decisions as Director of Economic Stabilization and War Mobilizer. He kept faith with his promise to me.

As Economic Stabilizer, Mr. Byrnes regulated prices, wages, and rents and supervised, as well, rationing of food, fuel and some wearing apparel. He froze men in their jobs and moved others into work directly related to war production. It was second nature to James F. Byrnes to be a winner, and he wished no less for his Nation in any effort in which it might be engaged.

And when the great battle was won, with his Nation as the foremost power, he set in motion the plans for an orderly reconversion of the American economy to peacetime levels; and there was again peace and dignity and respect for freedom in the land he loved. And the love in his heart for his fellow man was big enough to encompass a love for the peoples of all lands—including the defeated enemies.

He was a prime mover in the adoption by the Congress of the Marshall plan that was chiefly instrumental in the rehabilitation of fallen nations ravaged by war and pestilence and famine so that they might regain their status as nations in a world of order.

My time allotment is up Mr. Speaker, but I hope to again have the opportunity of speaking to my colleagues about the life of this illustrious citizen.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. MACDONALD of Massachusetts (at the request of Mr. CASEY of Texas), for the next 2 weeks, on account of illness in family.

To Mr. ESHLEMAN (at the request of Mr. KEMP), for this week, on account of medical reasons.

To Mr. BLACKBURN (at the request of Mr. GERALD R. FORD), for April 18, 1972, through April 25, 1972, on account of official business.

To Mr. RAILSBACK (at the request of Mr. GERALD R. FORD), for the week of April 10, 1972, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCFALL) and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 5 minutes, today.
Mr. REUSS, for 10 minutes, today.
Mr. HELSTOSKI, for 60 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. RYAN, for 15 minutes, today.
Mrs. ABZUG, for 5 minutes, on April 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MADDEN and to include extraneous matter.

Mr. BURKE of Massachusetts and to include extraneous matter.

(The following Members (at the request of Mr. KEMP) and to include extraneous material:)

Mr. GUBSER.
Mr. DUNCAN in three instances.
Mr. SCHMITZ.
Mr. SCHERLE in 10 instances.
Mr. FINDLEY.
Mr. CONABLE.
Mr. CHAMBERLAIN in two instances.
Mr. KEMP.
Mr. ZWACH.
Mr. HILLIS.
Mr. GERALD R. FORD.

(The following Members (at the request of Mr. MCFALL) and to include extraneous matter:)

Mrs. ABZUG in five instances.
Mr. FLOOD.
Mr. CONYERS in 10 instances.
Mr. EILBERG.
Mr. ROONEY of Pennsylvania in two instances.
Mr. HAGAN in three instances.
Mr. ROGERS in five instances.
Mr. GONZALEZ in three instances.
Mr. FOUNTAIN in three instances.
Mr. KLUCZYNSKI in two instances.
Mr. DONOHUE.
Mr. SARBANES in 10 instances.
Mr. MAHON.
Mr. RYAN in three instances.
Mr. JACOBS in three instances.
Mr. MANN in three instances.
Mr. METCALFE.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 50. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Brantley project, Pecos River Basin, N. Mex., and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2684. An act to amend section 509 of the Merchant Marine Act, 1936, as amended; to the Committee on Merchant Marine and Fisheries.

S. 3284. An act to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

S. 3323. An act to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3457. An act for the relief of Katherine Kasaftes Schneider; to the Committee on the Judiciary.

S. Con. Res. 74. Concurrent resolution authorizing the printing of additional copies of Senate Report 92-634, entitled "Interim Report of Activities of the Private Welfare and Pension Plan Study, 1971"; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 12749. An act to authorize appropriations for the saline water conversion program for fiscal year 1973.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2601. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On March 29, 1972:

H.R. 9526. An act to authorize certain naval vessel loans, and for other purposes.

On March 30, 1972:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives.

ADJOURNMENT

Mr. MCFALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Tuesday, April 11, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1807. A communication from the President of the United States transmitting supplemental requests for appropriations for fiscal year 1972 for the legislative branch and the judiciary (H. Doc. No. 92-274); to the Committee on Appropriations and order to be printed.

1808. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1973 for various departments and agencies (H. Doc. No. 92-275); to the Committee on Appropriations and order to be printed.

1809. A communication from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1972 to enable the United States to maintain the value in terms of gold of the holdings of U.S. dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank (H. Doc. No. 92-276); to the Committee on Appropriations and ordered to be printed.

1810. A communication from the President of the United States, transmitting an amendment to the request for appropriations in the budget for fiscal year 1973 for the Department of Health, Education, and Welfare (H. Doc. No. 92-277); to the Committee on Appropriations and ordered to be printed.

1811. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1973 for the legislative branch (H. Doc. No. 92-278); to the Committee on Appropriations and ordered to be printed.

1812. A letter from the Secretary of Transportation, transmitting part II of the 1972 National Highway Needs Report, pursuant to section 3, Public Law 89–139, section 17, Public Law 90–495, and sections 105(b)(2) and 121, Public Law 91–605 (H. Doc. No. 92–266 (Pt. II)); to the Committee on Public Works and ordered to be printed with illustrations.

1813. A letter from the Acting Secretary of the Army, transmitting a report of Department of the Army contracts for military construction awarded without formal advertisement, covering the period July 1 through December 31, 1971, pursuant to section 704 of Public Law 92–145; to the Committee on Armed Services.

1814. A letter from the General Counsel of the Department of Defense, transmitting a draft to proposed legislation to amend section 269(d) of title 10, United States Code, to authorize the voluntary assignment of certain Reserve members who are entitled to retired or retainer pay to the Ready Reserve, and for other purposes; to the Committee on Armed Services.

1815. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233(a)(1); to the Committee on Armed Services.

1816. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting reports of military construction projects placed under contract in fiscal year 1971 in which the current working estimate exceeded the amount authorized by Congress for that project by more than 25 percent, and reports of individual projects in which the project scope was reduced in order to permit contract award within the authorization amount, both reports pursuant to section 603(d) of Public Law 91–511; to the Committee on Armed Services.

1817. A letter from the Secretary of Labor, transmitting the 10th annual report on the administration of the Welfare and Pension Plans Disclosure Act, for the year 1971, pursuant to section 14(b) of the act; to the Committee on Education and Labor.

1818. A letter from the Commissioner of Education, Department of Health, Education, and Welfare, transmitting his second annual report on the condition of education in the United States and the activities of the Office of Education, covering fiscal year 1971, pursuant to section 412 of Public Law 90–247, as amended, including his report on advisory councils and a catalog of Federal education assistance programs, pursuant to sections 438 and 413 of the same act, respectively; to the Committee on Education and Labor.

1819. A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting a report of the Council entitled "People for the People's College—Community-Junior College Staff Development Priorities for the '70's", pursuant to Public Law 90–35; to the Committee on Education and Labor.

1820. A letter from the Chairman, National Advisory Council on the Education of Disadvantaged Children, transmitting the eighth annual report of the Council, for the year 1972; to the Committee on Education and Labor.

1821. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report of allocations by country and international organization for programs administered by AID during fiscal year 1972, pursuant to section 653 of the Foreign Assistance Act; to the Committee on Foreign Affairs.

1822. A letter from the Secretary, Export-Import Bank of the United States transmitting a report on the amount of Export-Import Bank loans, insurance, and guarantees issued in November 1971, through January 31, 1972, in connection with U.S. exports to Yugoslavia, pursuant to the Export-Import Bank Act of 1945, as amended; to the Committee on Foreign Affairs.

1823. A letter from the Assistant Secretary of the Interior, transmitting a proposed grant agreement with the regents of the University of Wisconsin for a research project entitled "Effects of Alterations and Joint Fillings on the Mechanical Behavior of Rocks," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1824. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to increase the fiscal year 1973 authorizations for project grants for health services development and for project grants and contracts for family planning services; to the Committee on Interstate and Foreign Commerce.

1825. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to provide certain benefits for American civilian prisoners of war in Southeast Asia, for Federal employees in a missing status, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1826. A letter from the General Counsel, Department of Transportation, transmitting an environmental impact statement on the previously transmitted draft of proposed legislation to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices, to liberalize entry and exit in the several modes of surface transportation, and for other purposes, pursuant to section 102(2)(C) of the National Environmental Policy Act; to the Committee on Interstate and Foreign Commerce.

1827. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "The Gas Supplies of Interstate Natural Gas Pipeline Companies, 1970"; to the Committee on Interstate and Foreign Commerce.

1828. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1971, pursuant to 28 U.S.C. 604(a)(4), together with reports of the proceedings of the meetings of the Judicial Conference of the United States held during 1971; to the Committee on the Judiciary.

1829. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1830. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1831. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

1832. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1833. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(2) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1834. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 7 of the Fishermen's Protective Act of 1967; to the Committee on Merchant Marine and Fisheries.

1835. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the provisions of the Commercial Fisheries Research and Development Act of 1964, as amended; to the Committee on Merchant Marine and Fisheries.

1836. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated January 26, 1972, submitting a report, together with accompanying papers and an illustration, on Manitowoc Harbor, Wis., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted January 7 and 19 June 1963. No authorization by Congress is recommended as the desired improvement has been approved for accomplishment by the Chief of Engineers under the provisions of section 107 of the River and Harbor Act of 1960; to the Committee on Public Works.

1837. A letter from the Chairman, U.S. Tariff Commission, transmitting the 21st report of the Commission on the operation of the trade agreements program, pursuant to section 402(b) of the Trade Expansion Act of 1962; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1838. A letter from the Comptroller General of the United States, transmitting a report on an inquiry into conditions and need for improvements at the Arctic Test Center, Fort Greely, Alaska, Department of the Army; to the Committee on Government Operations.

1839. A letter from the Comptroller General of the United States, transmitting a report that the determination of nonprofit organizations' eligibility for reduced postage rates should be improved; to the Committee on Government Operations.

1840. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during March 1972, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. H.R. 7378. A bill to establish a Commission on Revision of the Judicial Circuits of the United States; with an amendment (Rept. No. 92–967). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee on Internal Security. Annual report of the Committee on Internal Security for the Year 1971 (Rept. No. 92–968). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN (for himself and Mr. CONABLE):

H.R. 14254. A bill to amend the Internal Revenue Code of 1954 to repeal the capital gain throwback rules applicable to trusts; to the Committee on Ways and Means.

By Mr. GARMATZ:

H.R. 14255. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. GRIFFITHS:

H.R. 14256. A bill to amend the Social Security Act to provide that every citizen and resident of the United States shall have a social security number; to the Committee on Ways and Means.

By Mr. HARVEY:

H.R. 14257. A bill to provide price support for milk at not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. JACOBS:

H.R. 14258. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of California:

H.R. 14259. A bill to designate the Emigrant Wilderness, Stanislaus National Forest, in the State of California; to the Committee on Interior and Insular Affairs.

By Mr. SYMINGTON:

H.R. 14260. A bill to amend the Public Health Service Act to provide the public with an adequate quantity of safe water for drinking, recreation, and other human uses, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE (for himself and Mr. HORTON):

H.J. Res. 1148. Joint resolution to provide for the designation of the week which begins on September 24, 1972 as "National Microfilm Week"; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

349. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, relative to the pay of retired members of the Armed Forces; to the Committee on Armed Services.

350. Also, memorial of the House of Representatives of the State of Georgia, relative to returning certain moneys to Donald W. Morrision of Homerville, Ga.; to the Committee on Armed Services.

351. Also, memorial of the Legislature of the State of Colorado, relative to farm labor housing; to the Committee on Education and Labor.

352. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to unemployment in Massachusetts; to the Committee on Education and Labor.

353. Also, memorial of the Legislature of the State of Idaho, relative to the treatment of Basques by the Spanish Government; to the Committee on Foreign Affairs.

354. Also, memorial of the Legislature of the State of South Carolina, relative the United Nations Convention on Genocide; to the Committee on Foreign Affairs.

355. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to authorizing a tour of the Liberty Bell throughout the United States; to the Committee on Interior and Insular Affairs.

356. Also, memorial of the First Constitutional Convention of the Territory of Guam, transmitting its final report; to the Committee on Interior and Insular Affairs.

357. Also, memorial of the Legislature of the State of California, relative to the protection of children from the harmful effects of dangerous toys; to the Committee on Interstate and Foreign Commerce.

358. Also, memorial of the Legislature of the State of Nebraska, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

359. Also, memorial of the Legislature of the State of New Hamphire, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

360. Also, memorial of the Legislature of the State of Arizona, requesting the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States to permit offering voluntary prayer in public schools; to the Committee on the Judiciary.

361. Also, memorial of the Legislature of the State of Florida, requesting Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States relating to the choosing of a Presiding Officer of the U.S. Senate; to the Committee on the Judiciary.

362. Also, memorial of the Legislature of the State of Arizona, requesting the Congress to propose an amendment to the Constitution of the United States permitting each State to enact a residency law relating to public welfare assistance; to the Committee on the Judiciary.

363. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to the establishment of a "National Hunting and Fishing Day"; to the Committee on the Judiciary.

364. Also, memorial of the Legislature of the State of Oklahoma, relative to Federal judicial power in regard to transportation of students; to the Committee on the Judiciary.

365. Also, memorial of the Legislature of the State of Hawaii, relative to reform of public welfare financial assistance programs; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

206. By the SPEAKER: Petition of the Council of the City of New York, N.Y., relative to reimbursement to the city of New York for the cost of police protection at the United Nations; to the Committee on Foreign Affairs.

207. Also, petition of the County Legislature, Suffolk County, N.Y., relative to support of the President's efforts to achieve an honorable and satisfactory conclusion of hostilities in Southeast Asia; to the Committee on Foreign Affairs.

208. Also, petition of the annual adjourned meeting, North Andover, Mass., relative to the war in Southeast Asia; to the Committee on Foreign Affairs.

209. Also, petition of Rev. James Lloyd Smith, New York, N.Y., relative to the late Adam Clayton Powell, Jr.; to the Committee on House Administration.

210. Also, petition of the Board of Commissioners, Salt Lake City, Utah, relative to the acquisition of certain lands in the Wasatch National Forest; to the Committee on Interior and Insular Affairs.

211. Also, petition of the Common Council, Buffalo, N.Y., relative to support of a busing moratorium and of the Equal Educational Opportunities Act of 1972; to the Committee on the Judiciary.

212. Also, petition of the City Council, Bremerton, Wash., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—*Monday, April 10, 1972*

The Senate met at 11 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, who by Thy spirit dost lead men to desire a better world, to seek for truth, to rejoice in beauty, and to long for perfection, illuminate and inspire all thinkers, all statesmen, and all leaders, that in all their labors they may be guided by whatsoever is true and pure and lovely that Thy kingdom may come on earth.

Direct us, O Lord, in this Chamber in all our doings with Thy gracious favor, and further us with Thy continual help; that in all our work begun, continued, and ended in Thee, we may advance the welfare of all the people and glorify Thy holy name.

In the Redeemer's name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 10, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, April 7, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the

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legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with the Central Intelligence Agency.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

CENTRAL INTELLIGENCE AGENCY

The second assistant legislative clerk read the nomination of Maj. Gen. Vernon Anthony Walters, to be Deputy Director, Central Intelligence Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Maj. Gen. George Edward Pickett, U.S. Army, to be lieutenant general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ACTION

The second assistant legislative clerk read the nomination of Walter Charles Howe, of Washington, to be Deputy Director of ACTION.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE AGRICULTURAL ADJUSTMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be discharged from its further consideration of H.R. 13361, the House companion bill to S. 3068, that the Senate proceed to its consideration; that all after the enacting clause of H.R. 13361 be stricken, and the text of S. 3068 substituted therefor.

The ACTING PRESIDENT pro tempore. Without objection, the committee is discharged from the further consideration of the House bill. It will be stated by title for the information of the Senate.

The second assistant legislative clerk read as follows:

H.R. 13361. A bill to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of H.R. 13361?

There being no objection, the Senate proceeded to consider the bill.

Mr. COOPER. Mr. President, the Senate bill, S. 3068, was introduced by the distinguished Senator from North Carolina (Mr. JORDAN) with whom I have worked on tobacco problems on many occasions and who has been most faithful in promoting the well-being of the farmers of his State—and of farm families who depend on tobacco for their livelihood wherever they live. The bill was considered by the committee together with a similar bill which had passed the House of Representatives, H.R. 13361, and the Senate bill has now been substituted for the House language.

I would simply point out that at the time the House Committee on Agriculture was holding hearings on this subject, I did go over and testify, on February 8, because I was concerned that one of the bills before that committee included burley tobacco. That bill, which was not approved, would have permitted leasing of quotas across county lines, and would even have permitted the sale of tobacco allotments—which I have consistently opposed. I was assured at that time by the distinguished chairman of the Tobacco Subcommittee, Congressman WAT ABBITT, that the committee did not intend to change the burley program in any way, and would not approve the sale of tobacco allotments or transfers across county lines.

Since that time, Congressman WATKINS ABBITT, chairman of the House Subcommittee on Tobacco, has announced that he would not be a candidate for reelection. He will be greatly missed, for no Member of the other body has been more stalwart in representing the interests of rural areas and tobacco producers; his knowledge and long experience have been valuable to all of us.

The bill before the Senate today permits the leasing of Flue-cured tobacco quotas throughout the marketing year, rather than requiring that any leasing be made before planting time. In this respect the bill extends to Flue-cured tobacco the same procedure already being followed in burley tobacco, under the poundage program enacted last year. I have no objection to the bill and am glad to support its passage.

The ACTING PRESIDENT pro tempore. Without objection, all after the enacting clause in H.R. 13361 is stricken and the text of S. 3068 as reported by the Committee on Agriculture and Forestry is substituted therefor.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 13361) was read the third time and passed.

Mr. MANSFIELD. I ask unanimous consent that S. 3068 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

Mr. SCOTT. Mr. President, I yield my time to the distinguished senior Senator from South Carolina (Mr. THURMOND).

Mr. MANSFIELD. Mr. President, I also yield my time to the distinguished Senator from South Carolina.

DEATH OF JAMES F. BYRNES, DISTINGUISHED SOUTH CAROLINIAN

Mr. THURMOND. Mr. President, it is with deep regret that I now announce the death of James F. Byrnes, a great South Carolinian and a great American, who died yesterday in Columbia, S.C. He was a Member of this body for 11 years, having served from 1930 to 1941 as part of a long and distinguished career in public service. It is an honor for me to speak today in praise of him.

His service to the Nation and to the State of South Carolina are hallmarks of great distinction. The scope of his long public career was broad, and he was recognized around the world for his great achievements. Nowhere, however, was James Byrnes' greatness recognized more than in his native State. He had served as a Congressman in South Carolina from 1910 to 1925, before coming to the U.S. Senate. Then following his successive service as an Associate Justice of the U.S. Supreme Court, Director of Economic Stabilization, Director of War Mobilization, and U.S. Secretary of State, he was elected Governor of South Carolina. The products of his public career

touched all of our lives, and we have reaped the benefits.

Governor Byrnes was a loyal friend. He was a man of great independence. He was guided by his conscience. His key role in the administration during World War II led him to be known as the Assistant President. It was during his service as Secretary of State that he first gave the warning that the Communist world posed a threat to world peace, and that this Nation must face that challenge from a position of strength. His term as Governor was one of enlightenment and pointed the way for continuing progress in our State.

I feel a great personal loss in the death of Governor Byrnes. All of us are saddened on this occasion. We will miss him, and I hope that our words will be of comfort to Mrs. Byrnes and all those close to them.

Mr. President, the wife of the President, Mrs. Richard Nixon, plans to attend the funeral of Governor Byrnes and to represent the President at the funeral on Wednesday next.

I am informed that General Clay will deliver a tribute to Governor Byrnes in front of the State House in Columbia. Following that, the funeral will be held at the Trinity Episcopal Church which is across the street from the State House.

Any Senators who wish to attend the funeral can contact my office today and arrangements will be made for them to ride down on Air Force Jet No. 1 that will be carrying Mrs. Nixon and the South Carolina congressional delegation to the funeral.

Mr. President, editorials and articles about the life and death of Governor Byrnes have appeared in newspapers all over South Carolina and the Nation. Mr. President, I ask unanimous consent that these tributes to Governor Byrnes be printed in the RECORD.

There being no objection, the tributes were ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES, BROWN, OLD ALLIES, OLD FOES

(By Kent Krell)

The first week of May three years ago was a special one for the late James F. Byrnes.

He celebrated his 90th birthday, 63rd wedding anniversary, received a personal visit from President Nixon and held an unheralded reunion with another famous South Carolinian.

Nixon appeared with a frail-looking Byrnes on the porch of the latter's home on May 3, 1969, one day after his birthday and wedding anniversary.

"You couldn't come to us, so we came to you," the President told Byrnes. The former South Carolina governor had intended to visit with Nixon in Washington but ill health made that impossible.

"Never in history," added the President, "has one man held more top offices with more distinction than Gov. Byrnes."

The porch appearance was Byrnes' last one in public.

Generally unnoticed at that time three years ago was a visit made to the Byrnes home in Columbia by State Sen. Edgar A. Brown, patriarch of the South Carolina Legislature.

Once close personal friends and political allies, Byrnes and Brown had had a falling out. The May, 1962 meeting brought them back together.

Brown, then 80, and the 93-year-old Byrnes reportedly had a great time swapping old political stories from their long careers in public service.

The early careers of Byrnes and Brown closely paralleled each other. Both began their legal careers in Aiken County. Both knew shorthand. Byrnes was a court stenographer. Brown was a stenographer for a law firm.

When Byrnes ran successfully for solicitor in 1908, Browns succeeded him as court stenographer.

In 1913, Brown got married and Byrnes, then a congressman, was his best man.

There was a strong bond between Byrnes and Brown for the next 40 years. But coolness between the two men developed with the 1952 presidential race.

Brown said Byrnes' endorsement of Republican Dwight D. Eisenhower led to their parting of the ways. Byrnes was governor of South Carolina at the time.

And two years later when U.S. Sen. Burnet R. Maybank died, the rift between Brown and Byrnes widened. The Democratic state committee, contending there wasn't time to hold a primary, nominated Brown. Gov. Byrnes, irked over that procedure, called a special primary. Byrnes then endorsed Strom Thurmond who waged a successful write-in campaign against Brown.

Brown was particularly hurt by those events and said so. While the bitterness lingered on, Byrnes always denied there was any personal ill-feeling on his part.

And it wasn't until early May of 1968 that the two elderly statesmen met at Byrnes' home and, in effect, said to each other: "Let's let bygones be bygones."

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES WAS "POP" TO MORE THAN 300

(By Ginny Carroll)

To more than 300 men and women throughout the United States, he was "Pop Byrnes," the man who gave them the money to go to college and then backed up the dollars with parent-like inspiration and guidance.

Almost all of them were at loose ends, finishing high school, wanting an education that seemed almost impossible to get when James F. Byrnes entered their lives.

The Rev. Hal Norton of Marion lost his father at 16. One of nine children, he didn't know where to turn. But in 1949 he became one of the first Byrnes Scholars.

"I used to tell Mrs. Byrnes he was the man who opened the door into a big world for me," he said in an interview Sunday, hours after Byrnes died at his Columbia home.

"I don't know how I could have gone to college without his scholarship, but he gave much more important things than what he gave in dollars.

"In the 23 years I have known him, I never wrote that what he didn't write back on any matter. His great words of wisdom and the companionship he shared through the years were far more enriching than any money he could have spent. Any problem was his problem," Norton said.

Byrnes set up the Byrnes Foundation in 1949, primarily to help young people who had lost one or both parents and who demonstrated financial need.

Mrs. Carol Sandifer of West Columbia, recalls that Byrnes once told "his children" that he initiated the scholarships because "He didn't want a memory in brick or stone. He wanted a memory that would live after he was gone."

Mrs. Sandifer said Byrnes attached no conditions to the money except that "we never do anything to give the Byrnes Scholars a bad name.

"He held a dear place in each of our hearts," she said, "He had us in his home to chat, even to check our report cards. He had the time and energy to take a personal interest in us."

Ralph Gregory, Columbia advertising executive, received a scholarship in 1950. "It was the only way I could have gone to college," he said. "It changed my whole life."

Now, Gregory is president of the Byrnes Scholars, an organization founded a few years ago to hold an annual reunion in tribute to the man who helped them when they had to have help.

In the early days, when the scholars were a small group, they gathered every year at Byrnes' beach home near Charleston.

Those getting-acquainted evenings always brought singing, remembers Mrs. Ames Wells of Columbia, a 1951 Byrnes scholar and secretary of the foundation.

"Every time we got together, we always sang 'Carolina Moon' she said. 'It was his favorite—I'm sure because of his great love for South Carolina."

Byrnes loved to sing and always joined in, she said.

He told us "Be firm but patient," Mrs. Wells said. In farewell, he always told them "Love to you."

Jake Salley of Columbia who works with the State Committee for Technical Education, was living in the small Orangeburg County town of Springfield when he was made a scholar in 1949.

"Being from a small town, I hadn't really been associated with up-in-the-world people," Salley said. "Then all of a sudden I was knocking on his front door."

When the scholars went to the beach, Salley said, Byrnes would arrange a boat tour around the harbor or other sightseeing, but the times that left the most memories were the warm evenings when the young people perched on the front porch and listened to their mentor's reminiscenses.

"Just sitting and listening to him talk about his days in Washington, about his meetings with the great men of the world was a revelation," Salley said.

In that brush with the world they had never seen, the scholars "got to know him as a person, and he got to know us," Salley said.

Dr. Wellbourne White, Columbia ophthalmologist, said one of the best feelings is getting a Brynes scholarship was knowing the money didn't have to be repaid by a certain time.

"It was freely given," he said. "He wanted to help people who needed help without giving them a financial burden to worry about."

As a result, many of the people who received the money have returned it to the foundation several times over.

Marshall Plyler, 1961 scholar, now in public information with the State Board of Health in Columbia, recalls that when he was president of the Brynes Scholars, he dropped by Byrnes' office frequently.

When he graduated from college, he wanted to get a military deferment and teach school, he said, but Brynes convinced him it was important to get his obligation out of the way.

Robert R. Mallard, associate judge of the Family Court in Charleston, got his scholarship in different circumstances. He had graduated from The Citadel but wanted to go to law school.

Both his parents were dead, and he went through the first four years on the GI Bill. Recently married, he lacked money for law school.

At first Byrnes turned him down. After repeated discussions, he was called one day to the Byrnes home on Isle of Palms.

"He called me over to tell me no," Mallard recalls, "but I won the argument before I left his home. I guess that was my first argument as a lawyer."

While a student at the University of South Carolina, Mallard dropped by Byrnes' Colum-

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bia office almost every day. Byrnes got him a job as a law clerk.

"I had no parents. I used to talk with him about whatever came up—little old piddling things to big things. I'll never forget the things he taught me."

Many of the Byrnes Scholars are expected in Columbia for the Byrnes funeral, at least one from as far away as Indiana.

Ervin Faulkenbury, now a captain of the Episcopal Church Army in Indiana, was 10 years old when his mother died in 1941. He was a student at the Episcopal Church Home for Children in York when the scholarships were offered in 1949.

He used the money to go to Clemson. "I would have gone anyway," he said Sunday. "I might have made it for one semester before the funds gave out."

How does he feel about Byrnes?

"They became Mom and Pop Byrnes, he and Miss Maude. That sums it up for me."

Dr. William E. Rowe said he is coming from Chattanooga, Tenn., for the rites. Now a prominent general surgeon, he received his scholarship through Byrnes and Bernard Barouch who knew him in Georgetown.

He has returned to almost all the reunions of the Byrnes Scholars.

"Over the years, he has been a guiding light to all of us," Rowe said, "an inspiration to do better. The only thing he ever asked us was to do the best we could."

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES CAME CLOSE TO PRESIDENCY DURING HIS 45 YEARS OF SERVICE

James F. Byrnes, who died Sunday less than a month away from his 93rd birthday, made a deep mark in world, national and South Carolina affairs during nearly half a century of public service.

Byrnes served in all three branches of the federal government—the legislative, executive and judicial—as well as the top executive position in his beloved South Carolina.

He was believed to be the only man in the history of this country to have ever served as representative, senator, and governor of his state and also as a justice in the Supreme Court of the United States and Secretary of State.

In addition to this, the tremendously energetic public servant spent most of World War II years as Director of the Office of Economic Mobilization and later became Director of the Office of War Mobilization. In the latter capacity he was generally called the "Assistant President."

FIRST IN LINE

As Secretary of State under Harry S. Truman after the death of Franklin D. Roosevelt, the South Carolinian was first in line to succeed Truman to the presidency should the Missourian have died.

The last elective office held by Byrnes was that of Governor. He was nominated in the Democratic primary of June 1950, polling over 71 per cent of all the votes. He was opposed by three other candidates.

During the campaign he pledged to work for improvement of the state's public school system, and to provide more adequate facilities for mental patients in the State Hospital.

His recommendations to the 1951 General Assembly resulted in enactment of a vast school improvement program designed to furnish equal facilities for all children. The following year the program was expanded to include improvement of the state colleges and universities.

Byrnes was born May 2, 1879, in a galleried frame house on King Street, in Charleston, a son of Irish immigrants. His parents had come to the United States after the Irish famine of 1840. His father had died a few months before he was born.

EDUCATION

Young James Byrnes received a public school education, and studied shorthand at home. He helped support his family by delivering dresses turned out by his seamstress mother.

In 1900 Byrnes took a competitive examination for court stenographer for the Second Judicial District of South Carolina. Although the youngest contestant he won, and then moved with his mother to Aiken.

While a court stenographer, he worked one of the most famous trials in South Carolina history—the trial, in Lexington county, of Lieutenant Governor James H. Tillman for the killing of N. G. Gonzales.

Incidentally, Gov. Byrnes never forgot his Court reporting skill. At his final press conference as Governor he told of having a collection of "scraps of paper" on which were scribbled shorthand notes of personal and telephone conversations with important state and national officials and diplomats.

From these notes he was able to reconstruct verbatim conversations with such people as former President Harry S. Truman and other high government officials.

During the time he served as a court stenographer, Byrnes studied law, being admitted to the bar in 1903. This period of Byrnes' life was spent in Aiken.

ACQUIRED NEWSPAPER

The energetic young man acquired the Journal and Review, a weekly paper in Aiken, the same year he was admitted to the bar, and edited the weekly until 1907. In the meantime, he and Maude Perkins Busch of Aiken married.

At this point he sold part ownership in the paper, and was elected solicitor of the Second Judicial District, serving from 1908 to 1910.

His next venture in politics was to run for Congress against a veteran member of the House. He surprised everyone, including himself, by garnering 57 more votes than his opponent.

The South Carolina statesman served continuously in the House from 1910 until 1924, when he made the race for Senator. He was defeated, and for the next several years devoted his energies to building up a highly successful law practice in Spartanburg.

In 1930 he again made the race for United States senator, and this time was successful. The 1924 defeat was his first and only loss.

While serving in Congress during World War I, the agile, energetic representative of South Carolina formed a fast friendship with the then Assistant Secretary of the Navy, Franklin Delano Roosevelt.

When 1932 rolled around, James F. Byrnes was in the Roosevelt corner and persuaded the South Carolina delegation to swing behind the New Yorker. He became in a short time one of the most trusted and able of the tacticians for the Roosevelt program.

By 1936, he was frequently called the "White House Messenger Boy" because of his close association with the president. His technique in handling the most difficult legislative programs of the President became legend. Whenever questions arose as to the administration attitude on any matter, "Jimmy," as his colleagues called him always had the answer.

DISAGREEMENTS

In the later years of his second term, Byrnes sometimes disagreed with the president over domestic policies. These differences arose during a period when a split was developing between conservative and liberal elements of the party.

Nevertheless, during the third term for FDR, Byrnes carried the administration ball on all the prime wartime issues. Perhaps the most spectacular achievement of the "party whip" was Byrnes' strategy in winning approval of the bitterly debated Lend-Lease program.

A Supreme Court vacancy occurred in January, 1941, and it was an open secret in Washington that the appointment would go to Senator Byrnes. However, he was badly needed in the Senate on the Lend-Lease program; and his appointment did not come until July.

Associate Justice Byrnes stayed on the bench only a short time—from July, 1941 until October, 1942. At this point Roosevelt asked Byrnes to resign and accept appointment as Director of Economic Stabilization. He resigned this post and was appointed Director of War Mobilization in 1943.

[From the Columbia (S.C.) State, Apr. 10, 1972]

BYRNES FOUNDATION OFFERS SCHOLARSHIP FOR ORPHANS

Following publication of his book, "Speaking Frankly" in 1948, Byrnes established the James F. Byrnes Foundation to provide college educations for South Carolina orphans.

To finance the foundation, Byrnes consolidated the $50,000 he received from the now-defunct New York Herald Tribune for newspaper rights, about $40,000 in book royalties, and monies from other writings, along with his federal retirement income.

The foundation provides four-year college scholarships in the amount of $500 per year to worthy, needy students who have lost one or both parents. It helps an average of 25 students each year.

In 1964, Byrnes made it known that he and Mrs. Byrnes had written wills leaving their estates to increase the Foundation.

That year, also, the late Miss Cassie Connor, Byrnes' secretary for more than 35 years, revealed that Byrnes "even sold his summer home at the Isle of Palms one year for $32,000 to raise money for the Foundation."

Under the management of the late Miss Connor, the foundation has paid out more than $900,000 in scholarships for "Byrnes Scholars." In September 1953, there were some 51 students scheduled to attend college on Foundation scholarships.

On the wall of his office-den, next to the proclamation of his Distinguished Service Medal, hangs a simple bronze plaque inscribed: "To mom and pop Byrnes from your foundation children." It is engraved with the names of fatherless boys and girls whom Byrnes helped through college.

Over the years, scholarship recipients and their families have gathered in Columbia for an annual convention in honor of the South Carolina statesman. More than 350 students have been helped by his Foundation.

But much more than money was involved in Byrnes' efforts for his young friends. "In addition to the money you've got to give yourself," he said. "You've got to take the place of the father these children have lost, as best you can. Money isn't. . . ."

[From the Columbia (S.C.) State, Apr. 10, 1972]

JAMES FRANCIS BYRNES: A MAN OF HISTORY

History hangs in South Carolina as does the moss on live oak and cypress in the Lowcountry. And yet, as a man who loved it said, history can be as timely as the events occurring in the wake of the sweep second hand on your watch.

South Carolina's history stretches back over three eventful centuries. If history is the collective biography of great men, then South Carolina is historically rich because of the lives of such giants as Moultrie, Rutledge, Marion, Sumter, Pickens, the Pinckneys, the Hamptons, Calhoun and all of its other sons whose greatness is etched not only into the history of their state but of these United States.

But their stories are the remembrances of things past. To all but the very young, the story of James Francis Byrnes is of the present; at least, it's in the wake of that second hand.

What a span of time that was; and what a man of his time was this man Byrnes:

The World War I congressman, even then making his mark.

The lawyer, who served with brilliance with one of the state's most celebrated and colorful firms.

The senator, who both supported and opposed Franklin D. Roosevelt's New Deal as his conscience guided him.

The Supreme Court Justice, who couldn't continue to mediate on the niceties of the law when his country needed him elsewhere.

The ranking home-front mobilizer during the critical days of World War II when all of America gathered behind the concept of victory.

The Secretary of State, who first crossed swords with Communist Russia and warned the world that here was an intractable foe that must be dealt with in terms of strength.

The governor, who began to lead his state out of the abyss of prejudice "because it is right."

His service did not end when he retired from his last public office as governor of South Carolina in 1955. Through his books, his scholarship program and his wise counsel, "Jimmy" Byrnes continued for years to influence those who came after him.

There were those—and President Harry S Truman was among them—who felt that Byrnes deserted the principles of the New Deal and turned reactionary. Others felt he was merely applying his extraordinary political intellect to the changes of his time.

That year, also, the late Miss Cassie Connor, Byrnes' secretary for more than 35 years, revealed that Byrnes "even sold his summer home at the Isle of Palms one year for $32,000 to raise money for the Foundation."

Jimmy Byrnes was a product as well as a practitioner of American politics. He and the system both complemented and complimented one another, as attested to by his rise from an humble Irish Catholic background in Charleston to become a man of state, national, and international influence.

It also is a tribute to the American system that an individual with limited formal education could, by determination and ambition and diligence, enter the highest councils of the world.

His career, adorned by his gracious wife Maude and aided by his long-time secretary, the late Miss Cassie Connor, was the stuff of which history is made. And yet, as those who knew him at all can testify, he was every bit the lively human being, a man who never lost his zest for living.

Rutledge, Calhoun, and even the Wade Hampton of the Confederacy are pictures in history books for persons now living in the Palmetto state. Jimmy Byrnes was living history only yesterday. But the second hand, after almost 93 years, has ticked away his final hour.

Today, he has taken his deserved place among South Carolina's immortals.

[From the Columbia (S.C.) State, April 10, 1972]

ROOSEVELT URGED BYRNES TO SEEK VEEP NOMINATION

As head of the OWN, Byrnes was referred to as "Assistant President"—a term coined by Roosevelt himself. He had supervision over about everything except military and diplomatic matters.

EMERGENCY MEASURES

To speed the war effort on the home front, Byrnes declared a series of emergency measures. These included restrictions on travel and on national conventions, a ban on horse and dog racing, a lights out and a midnight curfew on most night life. All of these he deplored as "irritants to a war-weary public."

After the war Byrnes received a Distinguished Service Medal from President Truman in acknowledgment of his "major contribution to the war effort. The citation said:

"His sympathetic consideration of both military and civilian needs struck a delicate balance that insured the armed forces sufficient manpower and material for a maximum effort in a global war while maintaining civilian economy at the highest level of any belligerent in World War II."

Special mention was made of his services in accompanying Roosevelt to the conference at Yalta in the Crimea with Premier Joseph Stalin and Prime Minister Winston Churchill shortly before Germany's surrender. He later went to Potsdam with President Truman—after the victory over Germany.

When the nation, anticipating Germany's defeat, began to plan for demobilization and restoration of industry to peacetime status, Byrnes was appointed director of the Office of War Mobilization and Reconversion.

TEMPORARY ASSIGNMENT

The South Carolinian agreed to take the job, embracing his former duties and added ones, on a temporary basis. A little later, when he again sought to return to private life, President Roosevelt prevailed on him to stay on until victory over Germany.

A few weeks before Germany's capitulation, when victory was assured, Byrnes resigned and returned to his native state. President Roosevelt expressed regret as the severance of a relationship "as delightful to me personally as it has been of advantage to the national interest."

In the meantime, Byrnes had missed, by virtue of the famous "check it with Sidney" incident, becoming the president of the United States.

Supposedly the South Carolinian could have had the vice presidential nomination by simply agreeing to accept the nomination in 1940. In 1944 he was the leading contender for the vice presidency, and had the promise of the support of Roosevelt.

Actually only a week before the convention Roosevelt had passed the word to Mayor Edward J. Kelly of Chicago, a party leader and National Democratic Chairman Robert E. Hannegan to go ahead with Byrnes' nomination. Roosevelt requested that his "assistant President" go to Chicago and actively seek the vice presidency.

Friends quickly lined up a substantial block of votes for Byrnes—there is one story that Harry S. Truman left Kansas City in possession of a speech nominating James F. Byrnes for the office—but opposition developed.

HILLMAN OPPOSITION

Sidney Hillman, chairman of the Congress of Industrial Organizations Political Action Committee, was opposed to the South Carolinian, as was National Committeeman Edward J. Flynn of New York. Flynn allegedly convinced Roosevelt to dump Byrnes in favor of someone more acceptable to such organizations as the CIO. Byrnes withdrew, and Harry Truman was picked for the number two spot.

Roosevelt died less than a year later, and Truman became president.

Regarding his withdrawal from the vice presidential race, Byrnes said:

"I took the position that having resigned from the Supreme Court to help in the prosecution of the war, with offices in the White House, I could not oppose the President's request and continue in the contest for the vice presidency."

Byrnes had scarcely had time to shake the Washington dust after resigning as "assistant President" before he was called back to the capital city.

On the second day of the Truman administration, former War Mobilizer Byrnes was conferring with the new chief executive. In the summer of 1945 he was named Secretary of State, succeeding Edward R. Stettinius Jr., who had been appointed American delegate to the Preparatory Commission of the United Nations.

When the Byrnes nomination reached the Senate, that body adopted the unusual procedure of unanimously approving without traditional reference to a committee.

UNITED NATIONS ROLE

As Secretary of State Byrnes signed the protocol formally attesting that the charter of the U.N. has come into force. This was in the fall of 1945, when the Soviet Union deposited its instrument of ratification—the 29th such document deposited and the last one needed to put the charter into effect.

Secretary Byrnes, in signing the protocol, said the charter had become a "part of the law of nations" and was "a memorable day for the peace-loving peoples of all nation."

As Secretary of State Mr. Byrnes developed a policy toward Russia which he described as "patient firmness." Our war-time allies became increasingly cantankerous during this period, and were continually stirring up trouble in neighboring countries, and literally stripping some of the conquered nations of all assets.

Secretary Byrnes described the Russians as a neighbor "who deliberately makes himself unpleasant." However, he did not advocate going to war with the Soviet Union.

In connection with his resignation, Byrnes tendered his resignation in April of 1946, but at Truman's request agreed to remain on until the satellite treaties were signed. Byrnes asked in December of 1946 that his resignation be accepted as of January, 1947, and this was agreeable with Truman.

Truman thanked Byrnes for his services to the nation and lauded his long public service in accepting the resignation. Later the two had bitter disagreements.

A 1952 book, "Mr. President," written by radio commentator William Hillman with Truman's full cooperation reported that Truman scolded Byrnes severely upon the Secretary's return from a three-power conference in Moscow in 1945.

TRUMAN SQUABBLE

Byrnes called the statement "absolutely untrue," saying that if the President had done so, he would have resigned immediately. He stayed on as Secretary of State more than a year after this alleged scolding.

The book reported that Truman upbraided his Secretary of State for not keeping him (Truman) informed of what Byrnes was doing at the conference. It also quoted Truman as saying he was tired of babying the Soviets, and "do not think we should play compromise any longer."

Byrnes replied with a blistering attack on Truman in a Collier's magazine article. He accused Truman of writing history to suit himself, and denied again that the President had criticized him.

Actually, said Byrnes, his relations with Truman were friendly while he was Secretary of State. The break with Truman did not come until June, 1949, declared Byrnes, when he made a speech criticizing parts of Truman's domestic program.

"After that," wrote Byrnes, "Truman appeared determined to construct a record against me without regard for the facts."

Byrnes wrote that the President's memorandum implied Byrnes was easy on Russia, but cited statements by John Foster Dulles as proof to the contrary.

Byrnes recalled that Dulles stated the U.S. policy of "no appeasement" had been created by Byrnes in a meeting at London in the fall of 1945. Then Byrnes refused various concessions the Russians were demanding in post-war settlements.

Dulles served as Republican foreign affairs advisor to the Truman administration at various times.

DULLES REPORT

Dulles had said after the London conference the Soviet delegation "wanted to find

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out how much of our principle" the United States was willing to sacrifice and continued:

"They did find out. They found out that the United States was not willing to sacrifice its principles . . ."

He added that Secretary of State Byrnes was entitled to the "support of the American people without regard to party, in standing for principle rather than expediency, in keeping with the best American tradition."

When Secretary Byrnes was at the Paris Peace Conference in 1946, Henry A. Wallace, then Secretary of Commerce, attacked the United States foreign policy in a speech at New York's Madison Square Garden.

Wallace declared that in dealing with the Soviet Union, this nation was reckoning with a force wh'ch could not be handled successfully by a 'get-tough-with-Russia" policy.

Byrnes protested to President Truman, who announced he had silenced Wallace for the duration of the Peace Conference. Byrnes insisted however, that his fellow cabinet member be hushed up for as long as he remained in the cabinet or he (Byrnes) would resign forthwith as Secretary.

The next day President Truman fired Wallace. Wallace attributed his dismissal to his own bow and arrow."

In 1949, Byrnes criticized what he called the Truman Administration's socialistic trend, and as time went on, Byrnes became increasingly critical of Truman policies.

In 1952, Byrnes supported and voted for Eisenhower, the Republican candidate for president.

"If you want more of the Truman Administration," he said in a statement announcing for his support of Eisenhower, you should vote for Gov. Stevenson. If you have had enough, you should vote for Gen. Eisenhower.

During the campaign, Byrnes said "Carpetbaggers" controlled the national Democratic party, and that the national party had deserted the fundamental principles of the party. South Carolina almost ended up in the Eisenhower column, the Republican losing the state by only a few votes.

In 1953, President Eisenhower appointed Byrnes, then governor of South Carolina, a delegate to the United Nations General Assembly, top committee posts. This, incidentally, was the last "assignment" as an official representative of the federal government.

SCHOOL PROGRAM

Meantime, as governor of South Carolina, Byrnes had set in motion a huge school expansion program concentrating on equalization of school for white and Negro children.

"We should do it because it is right," he explained. "For me that is sufficient reason." He allotted two-thirds of a 100-million dollar fund to Negro schools.

When the Supreme Court in 1954 ruled that states do not have the right to deny admission to a public school because of race, it struck down a long-standing "separate but equal" doctrine which had been the law of the land since 1896.

Byrnes, a former justice of the Supreme Court, criticized the court for reversing itself. He has since addressed bar associations in several northern states in which he expounded his reasons for saying the Court erred in ruling as it did in 1954.

In the 1956 presidential election, Gov. Byrnes found it impossible to support either President Eisenhower or Adlai Stevenson, and supported the Independent movement in the state. He had earlier declined to let himself be considered as a possible delegate to the national convention.

SEEKS COURT CURB

When Gov. and Mrs. Byrnes celebrated their Golden Wedding anniversary on May 2, 1956, he received greetings from President Eisenhower, and from many other public figures. That same month Gov. Byrnes wrote an article which appeared in U.S. News and World Report in which he called for a curb on the power of the federal courts.

In January of 1957 he was named to the Board of Trustees of Converse College. A month earlier he was re-elected honorary president of the Alfalfa Club, a famed dining organization in Washington, D.C.

Senators and representatives from other states who knew Byrnes in Washington, D.C., always had words of praise for the South Carolinian. They frequently compared Byrnes with John C. Calhoun, one of five senators nominated for the Congressional Hall of Fame.

[From the State, Apr. 10, 1972]

SOUTH CAROLINA OFFICIALS MOURN DEATH OF BYRNES

South Carolina officials mourned the death of former Gov. James F. Byrnes Sunday with lavish praise for his statesmanship and political acumen.

Gov. John C. West, visiting Japan with several other governors, said South Carolina "has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader."

West announced through his Columbia office that flags on all state buildings would be flown at half-staff until the day after the funeral.

". . . No one served his fellow man with more distinction than did this gentleman," said West. "As citizen Byrnes in his latter years, he never retired from the job of serving the public with the type of guidance, moral strength and love of mankind which made his life an example for all of us to follow.

"Gov. Byrnes was a man born to the moments of challenge. In days of economic need and depression, he was a man of strength and compassion. In days of war, he was a man of peace who steered the world out of the chaos of oppression and tyranny. In days of uncertainty and turmoil in the wake of war, he was a man of deep understanding and devotion of the cause of peaceful harmony to the cause of peaceful harmony among all men," said West.

"He was one of the greatest statesmen of our time," said Sen. Strom Thurmond, R-S.C., who said some time ago he felt a close philosophical kinship with Byrnes.

"South Carolina and our nation have lost one of their most distinguished citizens," said Thurmond. "He was a devoted friend of mine and I feel a deep personal loss in his passing."

Sen. Edgar Brown of Barnwell, the 83-year-old dean of the State Senate, was saddened by the news of Byrnes' death.

"We have lost a fine American political leader," Brown said in a statement from the Barnwell home.

"Although we differed on politics in later years our personal relationship never changed.

House Speaker Solomon Blatt, 75, called Byrnes "A great statesman" and one of the country's most outstanding citizens.

"We have lost a statesman who was interested in the welfare of all mankind," Blatt said from Barnwell. "His objective was to bring peace to all the nations of the world. In his death I have lost a great friend and the state has lost its most outstanding citizen. I express my deepest sympathy to Mrs. Byrnes."

U.S. Circuit Judge Donald S. Russell, who worked closely with Byrnes as a law partner and in various federal jobs, said Byrnes was "one of the really distinguished men of his age."

"I personally am deeply distressed," said Judge Russell. "It is very sad—I grieve for his wife who in her way was equal to him in his greatness. She is a wonderful lady.

"The two of them," added the one-time governor and U.S. senator, "were one of the really distinguished couples of political life."

Former Gov. Robert E. McNair said Byrnes was "an inspiration to all of us in politics and government and earned his place in the history of his state and nation."

"Mr. Byrnes," McNair went on, "was one of the truly great leaders of this nation and South Carolina's foremost statesman . . . all of us join his many friends in mourning his passing."

Sen. Marion Gressette of St. Matthews said South Carolina "has certainly sustained one of the greatest losses in our generation.

"He was in every way an outstanding man and all the important positions he held he did so with distinction," said Gressette. "It is a personal great loss to me."

Sen. Ernest Hollings was out of the country, but issued a statement through his office.

Hollings said he was "deeply moved by the death of Jimmy Byrnes."

The senator said he had a deep personal respect for Byrnes and recognized him "as one of those rare individuals, who during his lifetime, participated in all three branches of government."

Hollings is headed back to the United States and plans to attend the funeral.

U.S. Rep. James Mann remembered Byrnes as one who helped him start on his career.

Mann said, "He contributed substantially to my career by appointing me solicitor of the 13th circuit in 1953.

"His contributions to the state and nation are of lasting impact. We will miss his leadership, but South Carolina will record him as one of its greatest citizens."

Byrnes also served as a Life Trustee of Clemson University since 1941, Clemson President Robert Edwards said. "This nation and this state will always remember Gov. Byrnes for his unique and life-long career in public service and all branches of government.

"Clemson will cherish his memory because he served as a Life Trustee and because he placed the records and souvenirs of his remarkable life in the Clemson Library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Gen. William C. Westmoreland, Army Chief of Staff, said at his Ft. Myer, Va., headquarters, "It was with great sorrow that I learned today of the passing of my close personal friend of many years.

"One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government as well as performing distinguished service to his home state," said Westmoreland, a native Columbian.

"I will miss his advice and assistance as will the many others who profited from his wise counsel," he said.

[From the State, Apr. 10, 1972]

NEARLY 50 YEARS OF PUBLIC SERVICE

(By Robert G. Liming)

James Francis Byrnes, who rose from messenger boy to Supreme Court justice, secretary of state, "assistant President," and capped his amazing public career as governor of South Carolina, died Sunday at the age of 92 in his Columbia home.

Byrnes, a leader in mobilizing the country for World War II and negotiating post-war treaties, died less than a month before his 93rd birthday after a lengthy illness.

A spokesman at the comfortable Byrnes home in the Heathwood section of Columbia said the former governor, who had been hospitalized three times in recent years for heart ailment, died at 1:30 p.m.

Late Sunday night it was announced that Byrnes' body would be taken to the State House sometime Tuesday and lie in state in the rotunda from Tuesday afternoon until Wednesday morning.

Retired Gen. Lucius Clay, a longtime friend of Byrnes, is scheduled to deliver the eulogy during the State House services at noon Wednesday.

Another service at Trinity Episcopal Church, across the street from the State House, has been scheduled to follow the public service with burial in Trinity Churchyard.

Dr. James Stirling, pastor of Trinity Episcopal Church, Bishop John Pinckney and Bishop Gray Temple were tentatively scheduled to conduct the funeral services.

A spokesman for the family said Mrs. Byrnes and Byrnes' private nurse were at his bedside when the statesman died.

Byrnes, a virtual invalid in recent months, had been scheduled to attend a massive public ceremony on May 2, his birthday, to unveil a statue of him on the State House grounds.

His remarkable lifetime of public service spanned nearly half a century in which he served seven terms in the U.S. House of Representatives and 11 years in the U.S. Senate before his June 1941 appointment as an associate justice of the Supreme Court.

The statesman resigned from the high court in 1942 to head the Office of Economic Stabilization and in 1943 he took over the vital job as director of the War Mobilization Office.

In his inspiring lifetime, Byrnes was a lawyer, editor of The Aiken Journal and Review, circuit solicitor, author, benefactor and world leader.

Byrnes spent his last years in the quiet surroundings of his home with his wife, the former Manda Perkins Busch of Aiken, whom he married on his 27th birthday in 1906.

The childless couple might have lived in a wealthy style, but he chose to donate the profits from his books to the education of orphans and needy children.

He formed the James F. Byrnes Foundation in 1948 to give needy young people the formal education he was never afforded the luxury of having.

Since the establishment of the scholarship more than 500 youngsters, who are either orphans or without a father or mother, have received over half a million dollars to further their education.

A plaque on the wall in his study reads, "To Mom and Pop Byrnes from your Foundation children," and Byrnes said of the program open to blacks and whites, "It is the most rewarding thing I ever did in my life."

Born in 1879 in the port city of Charleston, the son of Irish immigrant parents, Byrnes' father died a few months before he was born.

His widowed mother, who lived until 1931, kept the family together with "Jimmy's" help by working as a dressmaker and a choir leader.

Byrnes, through hard work and dedication, took his first job as a messenger boy in a law office at $2 a week and continued to climb up the political ladder from court reporter to a career capped by his election as governor of the Palmetto State.

He became a close friend of President Franklin D. Roosevelt, then governor of New York, after his 1930 election to the U.S. Senate.

Roosevelt described Byrnes as "assistant president for the home front," but passed him over in 1944 to select Harry S. Truman as his vice presidential running mate. Byrnes willingly stepped aside at Roosevelt's request in what some historians say was a sectional fight.

Shortly after Roosevelt died in 1945, President Truman appointed Byrnes secretary of state, a post he held until 1947.

During his tenure as secretary of state, Byrnes took part in 10 international conferences and numerous meetings with the Russians at peace treaty negotiations.

He was secretary of state when the Americans dropped the first atomic bomb on Japan and took part in the Potsdam Conference with Truman.

Byrnes quit as secretary of state in 1947, on what he said were doctors orders to slow down. He later broke with Truman over United States policy with the Soviet Union.

He was named a United Nations delegate in 1953 by President Dwight D. Eisenhower, who he backed for election over Democrat Adlai E. Stevenson.

The world-renowned statesman culminated his extraordinary political career by serving his beloved South Carolina as governor from 1951 to 1955.

After leaving the governor's office he spent much of his time administering the special scholarship fund he had set up to help needy children receive an education.

Byrnes made a brief public appearance in May of 1959 to receive President Nixon and a group of other dignitaries on the front porch of his home for a birthday celebration.

"Never in American history has one man held more high offices with distinction than has Gov. Byrnes," Nixon said as he stood by the frail Byrnes and his wife Maude.

Nixon, spending the weekend at Key Biscayne, Fla., when informed of Byrnes death ordered the White House flag to be flown at half-staff in honor of the statesman.

In an official statement Sunday the President said, "No man in American history has held so many positions of responsibility in all branches of our government with distinction.

"He was a great patriot, who always put his country ahead of his party. Mrs. Nixon joins me in expressing deepest sympathy," he added.

Nixon said he had contacted Mrs. Byrnes to offer assistance and express his sympathy. He assured Mrs. Byrnes that Mrs. Nixon would attend the funeral services as his representative.

Gov. John C. West, who is in Japan on an industry finding trip, issued a statement declaring the day of Byrnes' funeral a day of mourning and ordering all flags on state buildings to be flown at half-staff until the day following the funeral.

West said, "The state of South Carolina has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader."

The governor added, "We join men everywhere on this occasion in mourning a loss which is truly shared by all, and honoring the memory of a man who truly served all."

[From the State, Apr. 10, 1972]

"ASSISTANT PRESIDENT"—BYRNES HELD VARIETY OF POSTS

Former U.S. Secretary of State James F. Byrnes, dubbed—"Assistant President" by Franklin Roosevelt during the years of World War II, attained almost every political distinction in his long career in public service.

The 92-year-old South Carolinian entered politics in 1908 as solicitor for a judicial circuit.

On his way to becoming President Harry S Truman's Secretary of State in 1945, Byrnes served as a member of both Houses of Congress and Associate Justice of the U.S. Supreme Court.

During the Roosevelt Administration in the early 1940's, Byrnes was director of Economic Stabilization and head of the Office of War Mobilization.

So sweeping were his powers that Roosevelt called him his "Assistant President."

After two years as Secretary of State, at an age when most men retired, the then 71-year-old politician became governor of South Carolina.

During his retirement years following his governorship, Byrnes was a familiar figure in downtown Columbia. He visited his office almost daily for many years, walking briskly and wearing his hat at a jaunty—almost rakish—angle to match the quizzical slant of his brows.

Byrnes' declining health forced him to stay close to home recently. He made few public appearances.

One of his last outings was last October in Greenville, where a documentary film of his life was shown to a private audience at the exclusive Poinsett Club.

President Richard M. Nixon, at that time campaigning in the upper section of South Carolina, stopped in Greenville for a chat with Byrnes.

Although a Democrat, Byrnes chose to support Republican President Dwight Eisenhower in 1952 and Nixon in 1968.

Byrnes was born May 2, 1879, in Charleston, the son of James Francis and Elizabeth E. Byrnes. His father died shortly after the young Byrnes' birth.

The boy helped support his widowed mother by selling newspapers and doing odd jobs. High school was beyond his meager means.

Mastery of a short-hand course led to a post as official court reporter in Aiken County in 1900. Meanwhile, the bright, slightly built youngster read law and was admitted to the Bar in 1903 at the age of 24.

For the next four years, Byrnes edited and published the Aiken Journal and Review. When he was 29, the hard-working lawyer-editor became solicitor for the judical circuit—his first elective office.

To Byrnes' admitted surprise, shared by many others, he eked out a 57-vote victory over a veteran congressman in 1910. He later said he ran "on nerve and nerve alone." Byrnes served in the House for 14 years, losing a Senate race in 1924. After the defeat, he retired to Spartanburg to practice law but came back to political arena in 1930, this time to win over the man who defeated him six years before—Cole L. Blease.

Roosevelt appointed Byrnes to the U.S. Supreme Court in June, 1941. One year later he was asked to take over the Economic Stabilization directorship and gave up his lifetime seat on the nation's highest court.

Only a few months after he took command of rationing and other wartime measures on the home front, Byrnes was made head of The Office of War Mobilization—a post which carried virtual command of the entire home front.

He would have become President in 1944 when Roosevelt died. But Roosevelt, fearful that a Southern running mate would hurt his chances for re-election, had made a last-minute choice of Harry Truman as vice presidental candidate on the Democratic ticket.

Just before the German surrender, Byrnes retired but was called back to government service in the summer of 1945 as Secretary of State.

He resigned again in 1947, but accepted appointment from Eisenhower to the United Nations General Assembly while serving as governor of South Carolina from 1951 to 1955.

Byrnes undertook the race for governor largely to put through a $75 million bond issue and a three per cent sales tax so that white and Negro schools could be equalized.

"It is our duty to provide for the races substantial equality in school facilities," he said at the time.

To the end, Byrnes remained firmly opposed to the Supreme Court's decision calling for integration of public schools.

"The court did not interpret the Constitution—the court amended it," he declared.

Byrnes' views on integration caused him to break with the Democratic Party because of its hospitality to integration of the races in schools and other developments he felt were "inimical to the South."

At the National Democratic Convention in 1952, he fought the party's loyalty oath, and turned to support Eisenhower instead of the Democratic presidential nominee—Adlai E. Stevenson.

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His efforts to carry South Carolina for the Republican's contender in 1952 missed in the traditionally Democratic state by the narrowest of margins.

Byrnes dropped Eisenhower in 1956 to back the late Sen. Harry F. Byrd, D-Va., for President. He took this stand he said because Eisenhower's views on integration had not been explained fully in 1952.

As a politician, Byrnes was a Capitol Hill legend. He said his most difficult duties were guiding the peace-time draft and the lend-lease measures of Roosevelt through Congress.

Signing the protocol attesting that the U.N. charter was formally in force, Byrnes remarked:

"This is a memorable day for peace-loving peoples of all nations."

Byrnes' break with his Party because "Carpetbaggers . . . in control have caused the Party to desert its fundamental principles," had an aside in a personal split with Truman.

He declared a Truman account of dressing Byrnes down was "absolutely untrue."

Byrnes lived in a fashionable, but unpretentious home in Columbia with his wife of 52 years, the former Maude Perkins Busch of Aiken. They had no children.

Byrnes had been extremely saddened by the death of his long-time secretary, Miss Cassie Connor, who passed away in Columbia several weeks ago.

Miss Connor had served with Byrnes during his years in Washington and had helped manage his business affairs since his retirement.

Rep. Solomon Blatt, speaker of the state House of Representatives, introduced a bill recently to erect a statute of Byrnes on the grounds of the State Capitol.

Blatt, a close friend of Byrnes, called him the "nation's greatest living American."

However, Blatt withdrew the bill at the request of Byrnes, who said he would rather see the state money used for "more worthwhile purposes."

[From the Charleston (S.C.) News and Courier, Apr. 10, 1972]

BYRNES DIES AT 92 IN COLUMBIA

COLUMBIA.—James F. Byrnes, former secretary of state and the man Franklin D. Roosevelt called his "assistant president," died Sunday at his home after a long illness. He was 92.

Byrnes held posts in almost every field of government. He was an associate justice of the U.S. Supreme Court, secretary of state, U.S. representative, U.S. senator, director of economic stabilization and war mobilization during World War II, a delegate to the U.N. General Assembly and governor of South Carolina.

In Key Biscayne, Fla., President Nixon ordered the flag over the White House flown at half-staff in Byrnes honor.

"He was a great patriot, who always put his country ahead of his party," the President said in a statement. "Mrs. Nixon joins me in expressing deepest sympathy to Mrs. Byrnes."

A White House spokesman said President Nixon assured Mrs. Byrnes that Mrs. Nixon would attend the funeral services as his representative.

The funeral for Byrnes will be held Wednesday at Trinity Episcopal Church in Columbia.

Byrnes' body will lie in state in the Rotunda of the South Carolina Statehouse from Tuesday afternoon until Wednesday morning.

A spokesman for the family said a memorial service would be held for Byrnes in the State House with the eulogy given by Gen. Lucius Clay.

The details of the service will be announced later.

Byrnes, who broke with the Democrats in 1952 and supported Nixon for election in 1958, received the President and a group of other dignitaries at his home for a birthday celebration in 1969. Byrnes had been hospitalized during the year, once for a mild stroke.

At the birthday celebration, Nixon said, "Never in American history has one man held more offices with distinction than Gov. Byrnes."

Born May 2, 1879 in Charleston, James Francis Byrnes went to work at an early age to help out his widowed mother. His first job was as a messenger boy in a law office at $2 a week. He also sold newspapers and did odd jobs.

In his spare time he studied shorthand and became official court reporter in Aiken County, S.C., in 1900. He was admitted to the bar in 1903 and the same year became editor and publisher of the Aiken Journal and Review, a post he held for four years. In 1906, he married Maude Perkins Busch of Aiken. They had no children.

The political career that spanned almost half a century began for Byrnes in 1910 when he scored a 57-vote upset victory over a veteran congressman. He later said he ran "on nerve and nerve alone."

Looking back over his public service career, he said in later years: "There are two happy days in the life of a man in public office—the day he is elected and the day he steps out."

Byrnes served in the House of Representatives until 1924 when he ran for senator and was defeated. He went back to practicing law, but ran again for the Senate in 1930. This time he won.

President Roosevelt appointed Byrnes to the U.S. Supreme Court in 1941, but the South Carolina native held the post for only one year.

Roosevelt asked him to take over as the first economic stabilization director, a post the president said was essential to the war effort.

Byrnes resigned the court post and took the administrative job on Oct. 8, 1942. Seven months later he was named director of the Office of War Mobilization, giving him virtual command over the home front since he had supervision over just about everything but military and diplomatic matters.

Byrnes was over-all regular of such things as wages, prices and rents. He also declared a series of emergency measures, including restrictions on travel and on national conventions and a ban on horse and dog racing.

Byrnes went to the Democratic National Convention in 1944 as a candidate for the vice presidential nomination. But Roosevelt, advised that a Southern running mate would hurt his chances for reelection, asked him to step aside. Byrnes did, and Harry S Truman was nominated.

Byrnes remained in public service almost continuously, however. He was with Roosevelt at Yalta and Truman at Potsdam.

He returned to private life just before the German surrender, but was recalled to public service by Truman who, in this, named him secretary of state to replace Edward R. Stettinius Jr.

As secretary of state, he signed the protocol formally attesting that the charter of the United Nations had come into being. He called the day "memorable . . . for all the peace-loving peoples of all nations," but cautioned that peace depended on the will of the peoples rather than on documents

Byrnes quit as secretary of state in 1947, saying he was following doctors' orders to slow down.

He broke with Truman several years later. A 1952 book, "Mr. President," written by William Hillman with Truman's cooperation, reported that Truman scolded Byrnes on the latter's return from a 1945 Moscow conference.

Truman was quoted as saying he was "tired of babying the Soviets" and did "not think we should play compromise any longer."

Byrnes denied that Truman had scolded him. He said the break with Truman did not come until he made a 1949 speech criticizing some of the president's domestic programs.

Byrnes said a Truman memorandum implied that he, Byrnes, was "easy on Russia," but he cited statements by John Foster Dulles that the U.S. policy of no appeasement had been created by Byrnes at a London meeting in 1945.

Later, discussing Russia, Byrnes likened the Soviet Union to a neighbor "who deliberately makes himself unpleasant."

"You don't get a gun and declare war on your neighbor," Byrnes said. "You finally take him to court and you continue to pray that he will mend his ways. We must follow the same course with the Soviets."

From 1951 to 1955 Byrnes was governor of South Carolina. He was named to the U.N. post in 1953. As governor, he set in motion a huge expansion program designed to equalize Negro and white schools. "It is our duty to provide for the races substantial equality in school facilities," he said.

Byrnes opposed the 1954 Supreme Court decision calling for an end to separate but equal schools. "The court did not interpret the Constitution," he said, "the court amended it."

In an 85th birthday interview he again criticized the court for overstepping what he felt were its bounds.

Asked in the same interview whether there ever would be complete integration in the South, Byrnes said: "People of the South, black and white, have made great progress. I believe that in time there will be a correction . . . of many of the things about which the civil rights leaders complain. But whether there will be complete integration is something that I would not want to make a statement about. I do not believe in it."

[From the News Courier, Apr. 10, 1972]

"GREAT STATESMAN" RECEIVES TRIBUTE FROM SOUTH CAROLINA LEADERS

(By Stewart R. King)

"South Carolina has lost its most honored citizen; the nation has lost a dedicated servant, and the world has lost a great leader."

The sentiments are those of Gov. John C. West on learning of the death Sunday of former governor and statesman James F. Byrnes.

West is in Japan attending the National Governors' Conference, but he had a statement issued through his Columbia office to say of Byrnes:

"No one served his fellow man with more distinction. . . . In his latter years he never retired from the job of serving the public with a type of guidance, moral strength and love of mankind which made his life an example for all of us to follow."

West directed all flags on state buildings to be flown half-staff until the day after his funeral.

Many other tributes were paid Byrnes Sunday.

Former Gov. Robert E. McNair described him as "truly South Carolina's outstanding statesman" who had "earned his place in the history of the nation and this state."

Sen. Strom Thurmond, who had declared a "close philosophical kinship" with Byrnes, said the nation had lost "one of the greatest statesmen of our time."

"He was a devoted friend of mine and I feel a deep personal loss at his passing," Thurmond said.

Sen. Edgar Brown of Barnwell, the 80-year-old dean of the State Senate who served as best man at Byrnes' wedding, said: "We have lost a fine American political leader.

"Although we differed on politics in later years our personal relationship never changed," Brown said.

House Speaker Solomon Blatt, 76, said of Byrnes: "His objective was to bring peace to all nations of the world. In his death I have lost a great friend and the state has lost its most outstanding citizen."

Gen. Mark W. Clark recalled he was U.N. commander in the Korean War when Byrnes, then governor, approached him and asked him to accept the position of president of The Citadel.

"I told him I could not accept then, but I'd be happy to consider the offer when the war was over," Gen. Clark said.

Clark had close links wth Byrnes when the statesman was serving as Secretary of State. He was High Commissioner of Austria and also represented Byrnes at the Council of Foreign Ministers shortly after World War II.

"I admired him deeply and his death is a great loss," the retired general said.

Clark was president of The Citadel from 1954–1965.

Cotesworth P. Means, 82, former chairman of the State Ports Authority, was a close friend of Byrnes.

"He was one of the most prominent men of the century . . . a genius for public service," Means said.

Means recalled another side to Byrnes' character.

"He loved music," he said, "and on visits to the Isle of Palms we'd join up with two other friends to form a quartet."

Sen. Robert B. Scarborough, leader of Charleston's State Legislature Delegation, said "Byrnes was the greatest statesman in our lifetime in South Carolina. The state and nation will miss him tremendously."

[From the Greenville News, April 10, 1972]

STATE'S POLITICAL LEADERS MOURN DEATH OF BYRNES

Third District Congressman W. J. Bryan Dorn of Greenwood called James F. Byrnes "the greatest statesman this state has produced since John C. Calhoun."

"He was a national and world statesman who brought a good image to South Carolina," Dorn said. "He was in the main stream of American politics—not too far to the right of left—and was Roosevelt's right hand man."

Dorn noted that Byrnes was "the first to recognize the danger of Russia."

U.S. Circuit Judge Donald Russell, who worked with Byrnes as a law partner, called Byrnes "one of the really distinguished men of his age."

Russell said, "I grieve for his wife, who in her life was equal to his greatness. The two of them were one of the really distinguished couples of political life."

U.S. Army Chief of Staff Gen. William Westmoreland said, "It was with great sorrow that I learned today of the passing of my close, personal friend of many years, Gov. Byrnes. One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government, as well as performing distinguished service to his home state. I will miss his advice and assistance as will the many others who profited from his wise council."

Sen. Edgar Brown of Barnwell, the 80-year-old dean of the state Senate, said he was saddened by the death of Byrnes, who served as best man in Brown's wedding.

"We have lost a fine American political leader," Brown said in a statement from his Barnwell home.

"Although we differed on politics in later years our personal relationship never changed."

House Speaker Solomon Blatt, 76, called Byrnes "a great statesman" and one of the country's most outstanding citizens.

Former Gov. Robert F. McNair said Byrnes was "truly South Carolina's outstanding statesman and earned his place in the history of this nation and state."

"He was an inspiration to all of us in politics and government and we join his millions of friends in mourning his passing," said McNair.

Sen. Marion Gressette of St. Matthews said South Carolina "has certainly sustained one of the greatest losses in our generation.

"He was in every way an outstanding man and all the important positions held he did so with distinction," said Gressett. "It is a personal great loss to me."

Clemson University president Robert C. Edwards said, "This nation and this state will always remember Gov. Byrnes for his unique, life-long career of public service in all branches of government.

"Clemson University will cherish his memory because he served Clemson with wise counsel as a life trustee and because he placed his records and souvenirs in the Clemson library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Mayor Richard C. Otter of Anderson said, "Unfortunately for me, I didn't know Gov. Byrnes until after he had retired, but I had a great respect for him from everything I have read about him, and considered him one of South Carolina's most outstanding statesmen. I was still in grade school when he stepped down from the Supreme Court to become the "assistant president" but reading about that certainly makes one aware of his great patriotism and service to his country.

William C. Johnston, former Anderson mayor and brother of the late U.S. Sen. Olin D. Johnston, said, "Jimmy Byrnes was a great leader. He has meant much to South Carolina, the nation and the world. His passing will be grieved by many.

State. Sen. M. E. McDonald of Iva said, "Jimmy Byrnes was one of the finest statesmen in South Carolina—in fact, in the nation. He never sought personal publicity, but when the President of the United States asks a Supreme Court justice to lay that aside to assist the President and the country, that has to be the height of a man's career. His death will be a great loss, but his influence will live on.

[From the Greenville News, Greenville, S.C., Apr. 10, 1972]

SOUTH CAROLINA STATESMAN JAMES F. BYRNES DIES: NOTED LEADER WAS 92

COLUMBIA, S.C. (UPI).—Former Supreme Court Justice James Francis Byrnes, secretary of state under President Harry S Truman and close adviser to President Franklin D. Roosevelt, died Sunday at the age of 92.

Byrnes, a key figure in mobilizing the nation for World War II and negotiating postwar treaties, died at his home here after an extended illness.

The short dapper Byrnes who also served in both the U.S. Senate and House of Representatives and was governor of South Carolina, had been hospitalized on two different occasions in recent years after heart trouble.

A spokesman at the Byrnes home said he died at 1:30 p.m.

Byrnes made one of his last public appearances in March 1969, when thousands gathered around his modest suburban home as President Nixon and many of the nation's top legislative leaders paid him a call.

"Never in American history has one man held more high offices with distinction than has Governor Byrnes," Nixon said as he stood by the frail Byrnes and his wife Maude on their front porch.

Byrnes remained in declining health in recent months and had not been able to leave his home. He had been scheduled to attend a public ceremony May 2 to unveil a statute of him on the statehouse grounds.

Byrnes was born May 2, 1879, in Charleston, S.C., just after his mother had been widowed. He dropped out of school at the age of 14 to support her, and read law books and began his public career as a small-town prosecutor.

He was first elected a Congressman in 1910 and served 14 years in the House. In 1930 he won election to the Senate and became a fast friend of Roosevelt, then governor of New York.

Roosevelt named him to the Supreme Court in 1941, and a year later at the President's request he became head of the Office of Economic Stabilization. In 1943, he shifted to head the War Mobilization Office.

Roosevelt described Byrnes as "assistant president for the home front," but passed him over to choose Truman as his new running mate. Some historians said the reason was sectionalism, and Byrnes resigned in 1945.

He returned shortly after Roosevelt's death to become secretary of state, a post he held for 567 days filled with travel to 10 international conferences, numerous confrontations with the Russians and tough peace treaty negotiations.

He was secretary of state when the first atomic bomb was dropped on Japan and attended the Potsdam Conference with President Truman.

He came away from negotiations with the Soviets highly distrustful of them, and said, "You cannot rely on the Soviet Union keeping any obligation that was not in its interest."

Byrnes was known as a "compromiser" in international negotiations and was often controversial.

Former Gen. Lucius D. Clay later credited a speech Byrnes made in 1945 in Stuttgart, Germany, as largely responsible for the failure of Communism to take root in Western Europe after World War II.

Byrnes assured Western Europe that U.S. military forces would remain as long as there was a Soviet threat. Clay said later this was Byrnes' "most significant contribution" in a lifetime of service.

Relations between Byrnes and Truman later worsened and Byrnes resigned to return to South Carolina in 1947. He wrote, set up a foundation to give scholarships to orphans, and returned to public life in 1951 after his election as governor, serving until 1955.

As governor, Byrnes launched a massive program for construction of schools for blacks in a last ditch effort to avoid desegregation.

As the nation's Democratic politics became more and more liberal, he rebelled and supported Harry Byrd of Virginia for president in 1956. He never again backed a Democratic presidential candidate. He was a key southern backer of Barry Goldwater in 1964 and told Nixon in 1968 he hoped Nixon won.

[From the Greenville News, Apr. 10, 1972]

JAMES FRANCIS BYRNES

When a great and noble man dies, he leaves behind an inevitable void in the society in which he lived.

So it is that a deep sense of sadness and deprivation pervades South Carolina and extends throughout the nation and the free world because James Francis Byrnes died yesterday at the age of 92. The loss is especially keen to those many thousands who had some sort of personal relationship with the remarkable "Jimmie" Byrnes.

A half-orphan who dropped out of school in order to support his mother, he rose to the heights in the councils of the nation and the world, yet never lost touch with the people he served and represented. At the time of his death South Carolinians were planning to honor Mr. Byrnes by erecting a bronze bust of him on the State House grounds on his birthday next month.

As long as a quarter century ago, Mr. Byrnes had built for himself a secure, high place in the history of his state and nation. He may have been unique in American his-

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tory, having served at every level of government from court reporter to the General Assembly of the United Nations, and in all three branches of government—legislative, executive and judicial.

News stories throughout the world today are recounting his remarkable career in Congress, on the Supreme Court, as "assistant president" during World War II, as secretary of state in the crucial post-war period and as governor of South Carolina. The story is familiar to South Carolinians and is well known far outside this state.

By chance, a group of out-of-state college students was in Greenville yesterday when word of his death was received. These young people, who never knew the man, still were able to discuss his great career because they had studied him in history courses.

The hallmark of Mr. Byrnes' career was service. After a brilliant career in Congress, he was appointed to the Supreme Court. But he left that secure post in order to serve as President Roosevelt's home-front assistant in World War II. Although disappointed because sectionalism prevented his nomination for the vice presidency, Mr. Byrnes gave the nation his services as secretary of state in the Truman administration and participated unselfishly and brilliantly in the negotiation of vital post-war treaties, which bolstered the free world.

He capped his career by returning to South Carolina to be the governor who put over the vast school reorganization and school financing program which greatly expanded educational opportunity in this state. Only James F. Byrnes could have persuaded South Carolina to accept the tax program upon which public education now rests.

Mr. Byrnes served for a time as a delegate to the United Nations, whose charter he had signed as secretary of state. That was the final step on the long journey of public service which started in the Aiken County courthouse in 1900. It was indicative of his keen insight that he chose to retire gracefully, rather than "go to the well once too often" as so many people in public life are prone to do.

In retirement he continued to take an active interest in public affairs, speaking out on occasion and giving his support to people he trusted for public office. President Nixon received his support in 1968 and publicly acknowledged his and the nation's debt to Mr. Byrnes when he visited the South Carolinian on his birthday in 1969.

One of Mr. Byrne's proudest achievements was creation of the Byrnes Foundation to give college scholarships to orphans. This continuing organization was financed by sales from two books which he wrote on the basis of his remarkable experiences. The numerous Byrnes scholars of today and yesterday are especially saddened at the passing of a man they came to know as their "Dad." Many others will benefit from the Byrnes Foundation in the years ahead.

Mr. Byrnes was no "stuffed shirt." One humorous episode late in his career tells much about the man.

Not overly fond of the nickname, he nevertheless was proud that most people referred to him as "Jimmy" Byrnes (close friends called him "Jim".) Once while he was campaigning for governor, someone asked if he considered it disrespectful for young boys and girls to call him "Jimmy" as they shook hands with him.

"Certainly not," was Mr. Byrnes' mirthful reply. "When a youngster calls me 'Jimmy,' I know I've got his daddy's support."

That is only an example of the delightful wit which brightened Mr. Byrnes' deep wisdom and knowledge and endeared him to all who came into his almost boundless circle of friendship.

"Often it is said at a time like this, "a mighty oak has fallen." That sentence is inadequate for Mr. Byrnes. Physically small, he was a giant in the forest of men of his time, and he was the tallest tree that ever stood in South Carolina.

[From the Greenville News, April 10, 1972]

MANY PEOPLE VISIT JAMES BYRNES ROOM

(By Walt Belcher)

CLEMSON.—To the young student at Clemson who know the name James F. Byrnes, it was like something already a part of history.

At Clemson University's library is the James F. Byrnes room. It is something similar to a small museum. The young lady at the desk is just 19 years old, but she knows about Byrnes and says that many people come to the room, especially during football season when there are a lot of visitors on campus.

To most of the students the room is another part of campus. In it one can see pictures of a dashing young Byrnes, a more recent portrait and a bust, a sword given to Byrnes by Gen. George Patton and another sword from Gen. Douglas McArthur.

There are documents and pictures of Byrnes with former President Franklin Roosevelt and a huge robe given Byrnes by former ambassador to Moscow Joseph E. Davis. The robe was once worn by a underground Russian priest.

Many other items in the room tell of the life of Byrnes. It was dedicated in 1966 and in one of his last public appearances Byrnes came to Clemson and told the audience that when he stepped down as governor of South Carolina the National Archives in Washington, the Roosevelt Library at Hyde Park and the congressional library had each asked for a collection of his papers and memorabilia.

He turned them all down so that the people of South Carolina, who put him in office, could have a recorded history of his colorful life.

In a room adjacent to the Byrnes room is a collection of his memos, letters, books, and correspondence for his years in Washington. The file does not contain much of the recorded work of his 14 years in the House nor his ten years in the U.S. Senate.

It does contain files of personal memoranda between him and President Roosevelt during the war period. Byrnes had said that he served as Director of War Mobilization, and Roosevelt called him "the assistant president".

In his collection also are recorded press conferences and minutes of international meetings at the close of World War II. Byrnes said during the dedication that he saw "no reason why these conversations should not be made public." At the time the conferences were going on, however, the Soviets had tried to muzzle most of the proceedings from the public.

Also in the collection are the drafts of opinions he handed down while on the Supreme Court and the original manuscripts of two books he wrote: "Speaking Frankly" and "All in One Lifetime."

In his closing remarks on that day when the room first opened he said, "It has always been my intention to censor my files to make sure that no friend would be embarrassed by some statement made to me but I find that at my age I have neither the inclination nor the time to undertake such a task."

"After World War II when I visited battlefields and hospitals in Germany, France and Russia, I thought the people of all nations would hate the suffering and devastation of war that we could look forward to at least a half century of peace, but soon after we began drafting peace terms, it was evident that Soviet leaders had different objectives: they wanted to dominate the world. Then I announced that our policy should emphasize firmness more than patience and urged military strength be increased.

After twenty years I have not changed my views. My hope is that as people of inquiring minds read these papers, they will be inspired to take a greater interest in world affairs and realize the United States must remain strong if our people are to remain free."

[From the Greenville News, Apr. 10, 1972]

BYRNES EULOGIZED BY MANY LEADERS

The death Sunday of South Carolina's elder statesman, James F. Byrnes, has brought reactions from around the nation and especially from throughout South Carolina.

Just about everybody has one teacher he remembers clearly from school days. Five brothers and sisters from the Bootle family have a special place in their memories for Mrs. Thomas V. Farrow of Greenville, who taught from 1909 to 1913 at the Hendersonville school they attended.

[From the Greenville News, Apr. 10, 1972]

BYRNES RITES SET WEDNESDAY

COLUMBIA (AP).—Funeral services for James F. Byrnes, who died Sunday, will be held Wednesday at the Trinity Episcopal Church in Columbia.

Byrnes' body will lie in state in the Rotunda of the South Carolina State House from Tuesday afternoon until Wednesday morning.

A spokesman for the family said a memorial service would be held for Byrnes in the State House with the eulogy given by Gen. Lucius Clay.

[From the Greenville News, April 10, 1972]

PEOPLE OF UPSTATE SADDENED BY DEATH OF JAMES F. BYRNES

The death of James F. Byrnes touched a great spectrum of people in the upstate, from those who knew him personally to those who knew him only as an historic figure.

Thomas H. Pope, long-time Democratic party chairman in Newberry County who ran against James F. Byrnes in the race for governor in 1950, said that Byrnes' death is a "great loss to the nation."

Pope, an attorney and a former speaker of the House, remembers that he and Byrnes were "always on very friendly terms. We saw each other over the years and I enjoyed talking with him. He was a good conversationalist," Pope said.

Others in the upstate voiced similar sentiments about Byrnes. Rep. Butler C. Derrick Jr., of Edgefield said, "Byrnes was without question the greatest statesman South Carolina has produced since John C. Calhoun. He served the state and nation and in later years continued to do so through the Byrnes scholarship program," Derrick said.

He added, "I think that South Carolina has suffered a tremendous loss."

Sen. John Drummond of Greenwood: "He was always a perfect gentleman and well versed in every subject. Byrnes started the movement to get South Carolina as one of the leaders in the New South."

Charles Sanders, public relations director for Greenwood Mills, and a former Columbia newspaperman: "Byrnes was a great American who meant a great deal to his state and country."

Norman Younts, an Aiken real estate man: "Byrnes death is a tremendous loss to South Carolina and the nation, because of his impact for the past 40 years on industrial and economic growth of South Carolina areas."

Younts said he met Byrnes on several occasions and was very impressed by his "very noticeable humility toward people." He said that Byrnes never let his extreme prominence overshadow his ability to communicate with people at all levels.

Mrs. George R. Summer, wife of the Newberry County coroner: "I think he was just a fine fellow and did a good job in office."

[From the Greenville News, Apr. 10, 1972]

HE SELECTED CLEMSON UNIVERSITY: RECORDS OF HALF CENTURY OF SERVICE LEFT BY BYRNES

CLEMSON.—James F. Byrnes left records of a half century of public service with the people that launched him into history beside many of the most powerful men of the 20th century.

Details of his rise from court reporter in South Carolina to Franklin D. Roosevelt's "assistant president" through his stormy term as Harry S Truman's secretary of state are preserved in the Clemson University Library.

His vast collection of papers, documents and souvenirs were requested by the Congressional Library, the Roosevelt Library and the National Archives.

"However, I preferred that whatever I might have that was deemed worthy of preservation should be placed in South Carolina whose people had given me the opportunity to render public service," he said when the collection was donated to the school in 1966.

Byrnes said he selected Clemson because trustees of the University had requested his files in a unanimous resolution. He was a lifetime trustee of the land-grant college.

His souvenirs, including a copy of the Japanese surrender and the United Nations Charter which he signed as secretary of state, are encased in glass in the Byrnes Room.

The chair, now cracked, he used in the U.S. Senate from 1931–41, sits behind the desk he used as governor of South Carolina from 1951–55 during the waning years of his public career. The room also contains a small desk he sat in from 1911–25 as a member of the U.S. House of Representatives.

The imposing black robe he wore as an associate U.S. Supreme Court justice in 1941–42 hangs empty across the room from the personal flag he used as secretary of state from 1945–47.

His personal letters include correspondence with Presidents Woodrow Wilson, Harry Truman and Dwight D. Eisenhower.

Large, bulky scrapbooks hold the news accounts and pictures of Byrnes and other international leaders during conferences which shaped world history.

His papers contain correspondence between Franklin D. Roosevelt and Josef Stalin. Some are sharply worded, some informal and controversial.

Included in the collection is an extensive file of personal letters between Byrnes and Roosevelt when the South Carolinian was director of war mobilization during World War II.

There are records of international conferences during the war which had been kept confidential because the Russians objected to publicity.

In donating the papers in 1966 Byrnes said, "Now, 20 years later, I see no good reason why these conversations should not be made available to the public. The people who fought the war should know all about our efforts for peace."

He dedicated the collection in the hope that "as inquiring minds read these papers, they will be inspired to take a greater interest in world affairs and realize that the United States must remain strong if our people are to remain free."

[From the Greenville News, Apr. 10, 1972]

AMERICA IS INDEBTED TO JAMES BYRNES

Local businessmen, civil leaders and Greenville city and county officials joined others from throughout South Carolina Sunday in expressing their sadness at the death of James F. Byrnes.

U.S. Rep. James R. Mann, Fourth District congressman, echoed the sentiment of the entire county by saying, "The nation has lost a great statesman. His life of service to country places every American in his debt.

"It was my great privilege to be closely associated with him, when, after his remarkable service in the nation's government, he returned to serve South Carolina as governor," the congressman said.

"I was a member of the state legislature which followed his leadership in the initiation of programs leading to greater educational opportunity for all the children of South Carolina. He honored me by appointing me in 1953 as solicitor of the 13th Judicial Circuit," Mann said.

"His life of public service leaves many monuments of progress, of justice and of increased opportunities for his fellowman.

"We will miss him, but he leaves much for us to cherish, to enjoy and to emulate."

Robert T. Ashmore, former Fourth District congressman, said of Byrnes:

"He is one of the greatest South Carolinians of all time, and he will be missed by a multitude of friends not only in this state but throughout the country."

Ashmore noted that during Byrnes' term as South Carolina governor he was a proponent of the statewide sales tax with all the money to go for educational purposes.

"He did a wonderful job in improving our educational standards in the state," Ashmore said.

Ashmore said he first met Byrnes when Byrnes was campaigning in Greenville County during the late 1920s in his first race for the U.S. Senate.

"He was a most impressive man with a fine personality. You couldn't help being impressed by both his sincerity and his ability even in those early days," Ashmore said.

Dr. L. P. Hollis of Greenville, who served as vice-chairman of the South Carolina Educational Finance Commission which Byrnes organized shortly after becoming governor in 1951, had these comments on Byrnes' impact on the state's educational programs.

"Byrnes was chairman. He attended practically all the meetings of the commission. This was his baby—he thought he'd give a boost to education and he realized the need we in this state had for the boost.

"He thought the state could go ahead and give Negroes good facilities if he could get a three per cent sales tax passed, and he thought this would satisfy them.

"He had no trouble having the legislature to go along with his tax with which to build better schools and the first couple of years nearly all money went to new schools for Negroes. It enabled us to get some badly needed good school buildings.

"Now the bringing of the three per cent tax was the easiest thing under his direction, and this master stroke showed his ability to get things done and to lead people. I don't think anyone else in South Carolina could have gotten the sales tax passed."

Hollis served on the S.C. Education Finance Commission while Byrnes was governor, 1951–54. Hollis had just retired after serving 28 years as superintendent of the Paker District Schools.

C. D. Wyche, Greenville attorney, who first met Byrnes when Wyche was serving as secretary to U.S. Sen. Benjamin Ryan Tillman in the period between 1912–16 during which Byrnes was congressman from the district, and knew him well for 50 years said:

"Jim was one of the greatest men South Carolina has produced.

"He had as little concern about money and material things as any man in public life that I have known.

"He was devoted to the public service and the ambition of his life was to render the best public service. No offer or temptation for monied salary or compensation was sufficient to lure him away from public service."

Wyche said it was this feeling of wishing only to serve the public good that made him able to step down gracefully as U.S. Supreme Court Justice at President Franklin D. Roosevelt's request to become his director of the Office of Economic Stabilization and then director of War Mobilization during World War II.

It also allowed him to support Dwight Eisenhower and Richard Nixon for presidents although Byrnes was a Democrat Wyche said.

"He certainly got no personal reward for supporting these men. He did what he thought was in the best interest of his country," he said.

Wyche said he never knew a man in public life who had more personal intimate friends.

"He was very cordial and pleasant to everybody. He never felt himself above or below anybody. He thought of everybody as being equal," Wyche said.

Senator Charles G. Garrett, Greenville, said: "South Carolina has lost one of our most illustrious sons. His life shall truly serve as an inspiration for any person who serves his fellowman in government.

"From an orphan boy, he rose to great heights in the various facets of national and international government. If there ever was a self-made man, James F. Byrnes filled that category.

"Even though he associated with the various rulers of the world, he never lost his humility. I particularly admire this trait that he always possessed.

"I am proud to have served with him in the legislative branch of government during his term as governor. I have lost a highly respected friend."

Former mayor Cooper White said: "I think this is a loss not only to every South Carolinian, but to the nation as a whole.

"His was a record of unparalleled service and he will always be remembered with deep respect and admiration as one of the greatest Americans of all time.

"Would that we could be blessed with statesmen of his caliber during these trying times in which we live."

Former Greenville mayor David G. Traxler expressed his grief upon hearing of the death of Byrnes: "I certainly am saddened by the loss of such a great statesman. He probably was the greatest statesman the state has ever produced, having been a congressman, senator, governor, associate justice of the U.S. Supreme Court, secretary of state and advisor to President Roosevelt. Fact is, he was often referred to as the 'second president.'

He certainly brought credit to the state of South Carolina and his loss will not only be felt by the citizens of South Carolina, but the nation as a whole," Traxler said.

"It is a sad day for the United States.

"Also, on a personal note, he was a close lifelong friend of Roger C. Peace. And my father, David B. Traxler, was a close friend of Byrnes when he was in the Senate."

Sen. Harry A. Chapman Jr., Greenville, said: "Mr. Byrnes had the most illustrious career of any modern-day South Carolinian. He served in more important positions than any man in the history of the state and, in my opinion, served his state and nation most capably.

"During his term as governor, he did much to improve our public education system. I think that was one of the things his term was marked for, his dedication to a quality education system."

Rep. Nick A. Theodore, Greenville, said: "There was a dedication planned for him in the near future, and I am very sorry it will have to be done posthumously. I'm sure he would have appreciated this gesture on the part of the General Assembly and the people of South Carolina in recognition of his contributions to the • • •

"His death, of course, will certainly be felt by all citizens of our state. Even though he was not quite as active in his retiring years, all the leaders of the state had the op-

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portunity and benefit of his advice and counsel.

"I know all of South Carolina, along with the rest of the nation, certainly will mourn his death and the loss of a true statesman."

Rep. Rex Carter, D-Greenville, Speaker Pro Tem of the State House of Representatives, said: "I think South Carolina and the nation has lost one of its greatest statesmen. He probably more than any one person gave constructive contributions to the progress of this state and nation."

Rep. Carolyn E. Frederick of Greenville said: "The life and achievements of James F. Byrnes have already emerged as another rich heritage for South Carolinians. He will be remembered as a great statesman, governor, U.S. Senator, Secretary of State, Supreme Court Justice.

"But perhaps he will know greater immortality through the lives he helped mold through his wonderfully personal Byrnes Scholarship programs.

"I am saddened for South Carolinians not to have the privilege of honoring him personally as planned on May 2, when his statue was to be unveiled on the statehouse grounds. The date was chosen as the anniversary date of his birthday and wedding.

"As we mourn his passing, we give thanks for his life of service."

Dr. F. W. Loggins, a longtime superintendent of Greenville city schools served on the S.C. Board of Education while Byrnes was governor.

"I thought very highly of his abilities and his passing is a great loss to the state," Loggins said.

Thomas A. Wofford, Greenville attorney and former legislator, said of Byrnes' passing:

"Even though it has been expected it still comes as a shock.

"He was a great South Carolinian and held more high offices with greater distinction than any American I have known."

"I had the pleasure of meeting him only once," Greenville Mayor Max M. Heller said. "But he was without a doubt one of the greatest American figures that ever lived. The thing that impressed me when I met him was that he was so humble."

Heller said he met Byrnes "seven or eight years ago," after the statesman had retired from public service.

Byrnes was governor of South Carolina during four years of J. Kenneth Cass' tenure as mayor of Greenville.

Case, who headed city government from 1947 to 1961, said, "It was my privilege as mayor here to become associated with Mr. Byrnes on numerous occasions. He was one of our greatest statesmen and I know all of South Carolina will regret hearing of his passing . . . We're all going to miss him."

County leaders of both major political parties had praise for Byrnes.

"He was one of the really great Americans, and the very great South Carolinian. He made an indelible impression, I think, on the history of our state and nation," said Ralph W. Drake, county probate court judge and chairman of county Democrats.

GOP chairman Raymond B. Smith said Byrnes was such a great leader he was "beloved by everyone."

"The world, we can say, has lost a great leader, and South Carolina has lost a beloved statesman, humanitarian, and friend.

"He lived such a full life, he's left a path that we can all try to follow," Smith said.

The president of Furman University, Gordon W. Blackwell, said: "James F. Byrnes was a great South Carolinian, a renowned statesman who was always an enthusiastic supporter of higher education.

"With his own resources he made it possible for many young people to attend college. He will be surely missed in our state."

Bob Royner, a Greenville clothing store owner and a state resident for 30 years, said, "There is no doubt that he was one of the greats of South Carolina and he will be missed."

[From the Greenville News, Apr. 10, 1972]

MAJOR MILESTONES IN THE LIFE OF JIMMY BYRNES

These were the major milestone years in the many-officed life and career of James F. Byrnes.

1879—Born in Charleston May 2, son of James Francis Byrnes, who died shortly before his son's birth, and Mrs. Elizabeth McSweeney Byrnes.

1893—Left school at 14 to help support his mother. Using shorthand he had studied to fill a job with a Charleston law office.

1900—Appointed official court stenographer for the Second Judicial Circuit and moved to Aiken.

1903—Admitted to the bar after studying law while working as a court stenographer. Became part owner in a credit purchase of the Aiken Journal, which he served as editor while he began a private law practice.

1906—Married the former Maude Perkins Busch on his 27th birthday.

1907—Severed his connection with Aiken newspaper to enter politics without conflict of interest.

1908—Elected solicitor (prosecuting attorney for the Second Judicial Circuit).

1910—Elected to the U.S. House of Representatives from South Carolina's Second Congressional District to begin a tenure of 14 years.

1925—Resumed his private law practice, this time in Spartanburg, after a close but unsuccessful bid for the U.S. Senate.

1930—Elected to the U.S. Senate.

1936—Reelected to the Senate by overwhelming majority.

1941—Appointed, in June to the U.S. Supreme Court by President Franklin D. Roosevelt.

1942—Declined "leave of absence" and resigned from the Supreme Court to serve as Roosevelt's "assistant president," officially director of the Office of Economic Stabilization, an appointment he accepted only for the duration of its need.

1943—Named director of the Office of War Mobilization, broadening scope of his "assistant president" responsibility.

1943—Resigned his government position March 21 because he considered need of his services fulfilled, particularly in wake of the Yalta conference and his role there as a key foreign policy adviser. Appointed secretary of state by President Harry S Truman July 3 after the April 12 death of President Roosevelt. Awarded, in August, the Distinguished Service Medal, 14th civilian ever to receive the high decoration, for his World War II service to the nation.

1947—Resigned, Jan. 20, as secretary of state, after signing post-World War II treaties with five nations, long in negotiation. Retired in Spartanburg from public life. His first book, "Speaking Frankly," was published. The proceeds went to create the Byrnes Foundation, designed to help orphans further their education.

1950—Elected governor of South Carolina, a candidate by persuasion of friends in the state.

1953—While governor, was appointed by President Dwight D. Eisenhower, when he had endorsed via an independent state of electors in South Carolina, to serve as a representative to a session of the General Assembly of the United Nations. ("It was difficult to believe that it was 1953 and not 1946, when I had spent most of the year negotiating with the Soviets . . . We had the same frustrating methods employed by the Soviet Union and the satellites.")

1958—His second book, "All in One Lifetime," was published.

1966—The Byrnes papers, files, historic memoranda were presented for permanent preservation to Clemson University.

AT AGE 14 HE LEFT SCHOOL TO HELP HIS MOTHER

James F. Byrnes left school at 14 to help support his widowed mother—but his education never ended.

He was fond of quipping in the years of his greatest prominence that he was "being educated by degrees."

He was awarded honorary doctorate degrees over the years—the first was from the College in Charleston in 1935—by Presbyterian College, John Marshall College of Jersey City, N.J., the University of North Carolina, The Citadel, the University of South Carolina, Columbia University, Furman University, Wolford College, Washington and Lee University, Clemson University, Yale and the University of Pennsylvania.

But his true education was self acquired. Childhood mastery of shorthand got him his first job in a Charleston law office, where he began methodically reading through libraries toward eventual admission to the bar.

His avid reading habits continued throughout his lifetime while he became expert in world affairs during half a century of personal involvement.

HIS SHORTHAND "UNDID" EDITOR

Shorthand was a more than casual factor in the career of James F. Byrnes.

Under urging and influence of his mother, he learned formal shorthand as a child, then used it when he went to work at 14 in a Charleston law office.

He used it as a prosecuting attorney, in his private law practice, in the Congress, in the Senate and it served him to take almost verbatim notes of conference highlights while he was "assistant president" during World War II, then when he was secretary of state.

He used it, in fact, so regularly that only a tape recorder could have served him better.

And he took it so for granted in his later years that it produced an antedote which still wrinkles the brow of Greenville News editor.

The editor asked Byrnes for a copy of a certain statement so it could be used for verbatim accuracy. Byrnes handed him graciously a folded sheet of paper and only later did the editor discover it was in shorthand—and until he had it transcribed, of no more value to him than Sanskrit.

[From the Columbia Record, Apr. 10, 1972]

LEADERS MOURN SOUTH CAROLINA STATESMAN

The death of South Carolina statesman James K. "Jimmy" Byrnes brought comments of grief and respect from both national and state leaders.

President Nixon ordered all flags flown at half-staff until the day after Byrnes' funeral.

Nixon paid a special visit to Byrnes in 1969 to congratulate the former Governor on his 90th birthday.

Standing on the porch of Byrnes' home Nixon said, "You couldn't come to us, so we came to you."

The President spoke of Byrnes' career then saying, "Never in history has one man held more top offices with more distinction than Governor Byrnes."

The office of South Carolina Governor West, who is in Japan, issued a statement declaring the day of Byrnes' funeral a day of mourning throughout the state.

West's statement said, "The world is saddened at the death of its distinguished citizen, James F. Byrnes. The State of South Carolina has lost its most honored citizen; the nation has lost a dedicated servant; and the world has lost a great leader.

"Beyond the span of his 92 years, Governor Byrnes' contributions to mankind will live as a permanent monument to his courage and wisdom."

Sen. Strom Thurmond, R-S.C., said, "I feel a deep personal loss at the death of Gov. Byrnes. He was a man who served his state and nation with great distinction for many years. He was recognized the world over for his great achievements but nowhere more so than in South Carolina which elected him its governor after he had served as Congressman, Senator, Supreme Court Justice, 'assistant President', and Secretary of State.

"He was a loyal friend and an inspiring leader and all of us are saddened at his death.

West said he received the nwes of the death of Byrnes from the U.S. Embassy in Toyko.

"Governor Byrnes was a man born to the moments of challenge," said West. "In days of economic need and depression he was a man of strength and compassion. In days of war, he was a man of peace who steered the world out of chaos of oppression and tyranny. In days of uncertainty and turmoil in the wake of war, he was a man of deep understanding and devotion to the cause of peaceful harmony among all men."

"I sent a cable of condolence to Mrs. Byrnes," West said. "In my telegram to Mrs. Byrnes I said he will be recorded as one of the nation's and the world's truly great statesmen of our time."

Former Gov. Robert McNair said, "Byrnes wrote a place in history for himself and South Carolina. He followed the great traditions of Rutledge and Calhoun.

"He was one of our nation's truly great statesmen. He had a place in the hearts of all South Carolinians. We will all miss him very much."

Byrnes' former law partner, U.S. Circuit Judge Donald Russell, called Byrnes "one of the really distinguished men of his age."

Russell said, "I grieve for his wife, who in her way was equal to him in his greatness. The two of them were one of the really distinguished couples of political life."

Solomon Blatt, Speaker of the South Carolina House of Representatives, was Byrnes' personal friend for more than 60 years.

Blatt said, "I knew him well and watched his career with a great deal of interest. "He was the greatest American in the 77 years that I've lived. He served his circuit, congressional district, state and nation, as well as all the world, with great ability and distinction."

The Speaker said Byrnes "was actually President, although not in name, during the serious times of the Roosevelt Administration. In his death I've lost a real friend."

President Pro-Tempore of the South Carolina Senate Edgar A. Brown had his differences with Byrnes, but he speaks of him as "a life-long friend."

Brown said, "He was one of the great American statesmen of his time and one of the most acute political leaders this state has ever produced."

Brown concluded, "He will be missed by us all."

Sen. Ernest Hollings was out of the country, but issued a statement through his office.

Hollings said he was "deeply moved by the death of Jimmy Byrnes."

The Senator said he had a deep personal respect for Byrnes and recognized him "as one of those rare individuals, who during his lifetime, participated in all three branches of government."

Hollings headed back to the United States and plans to attend the funeral.

Gen. William Westmoreland, a native South Carolinian and a friend of Byrnes, spoke of him from his headquarters in Fort Myer, Va.

Westmoreland, whose West Point appointment was obtained by Byrnes, said, "It was with great sorrow that I learned today of the passing of my close personal friend for many years.

"One of the most distinguished Americans of this century, he served his country faithfully in many critical posts in each branch of the federal government as well as performing distinguished service to his home state.

"I will miss his advice and assistance, as will many others who profited from his wise counsel."

Byrnes helped many people start political careers during his lifetime, and one of them was U.S. Rep. James Mann, D-S.C.

Mann said, "He contributed substantially to my career by appointing me solicitor of the 13th circuit in 1953.

"His contributions to the state and nation are of lasting impact. We will miss his leadership, but South Carolina will record him as one of its greatest citizens."

Byrnes was appointed a Life Trustee of Clemson University in 1941. Clemson President Robert Edwards said, "This nation and this state will always remember Governor Byrnes for his unique and life-long career in public service and all branches of government.

"Clemson will cherish his memory because he served as a Life Trustee and because he placed the records and souvenirs of his remarkable life in the Clemson Library.

"We have lost one of the greatest and most beloved members of the Clemson University family."

Perhaps those who remember Byrnes best are more than 300 Byrnes Scholars who knew him simply as "Pop."

One of those scholars is the Rev. Mr. Hal Norton of Marion, one of the first Byrnes Scholars.

Mr. Norton said, "I don't know how I could have gone to college without his scholarship, but he gave much more important things than what he gave in dollars. In the 23 years I have known him. I never wrote that he didn't write back on any matter. His words of wisdom and the companionship he shared through the years were far more enriching than any money he could have spent. Any problem was his problem."

[From the Columbia Record, Apr. 10, 1972]

JAMES FRANCIS BYRNES

South Carolina is a small state. What it lacks in numerical and geographical size it must make up in leadership. It has a history of outstanding leaders, but none has exceeded in national or worldwide impact the role of James F. Byrnes.

When the United States was enthralled in the global depression of the early 1930s and Franklin D. Roosevelt came to the White House to give hope to the nation, the man he chose to steer his legislative program through the Congress was the South Carolinian who had proved his powers of leadership on the floor and in the cloakrooms of the Senate.

His leadership was rewarded by appointment to the Supreme Court, but he forsook this lifetime honor when the crisis of World War Two called for his great talents in assignments that designated him as "Assistant President of the United States." While President Roosevelt concentrated his attention on the fighting of the war, Mr. Byrnes headed the vast effort on the home front.

When Mr. Roosevelt died in the climactic last days of the war, Vice President Harry S. Truman was vaulted into the position of Chief Executive without sufficient knowledge or preparation for the complexities thrust upon him. One of his first acts was to enlist the man who had the experience and background to serve as his right arm. He appointed Mr. Byrnes as his Secretary of State, where he rounded out his career of higher service in all three branches of the federal government than any other American.

History probably will record that his greatest contribution to world affairs lay in his performance as the architect of American foreign policy. Mr. Byrnes reversed the plans for a permanent prostrate, agrarian Germany into a design for a country that would be accepted back into the community of nations, assume the lead in the revival of Western Europe, and become one of the United States most valuable and loyal friends in the international community.

He was also one of the organizers of the United Nations, which, like the Roosevelt New Deal, started as an ideal vehicle for progress and confidence and continued in that role until it departed from the policies of its charter.

After completing his career of outstanding national service, Mr. Byrnes returned to his native South Carolina and became its Governor. His State House administration was marked by his programs for education and mental health. That was in the days before the 1954 Supreme Court decision for the desegregation of schools became effective and Mr. Byrnes made his greatest effort to equalize the educational opportunities of the Negro children of the state. Sales tax enactment was primarily for that purpose. South Carolina's leadership in the mental health field is due largely to the thrust that Mr. Byrnes gave it as Governor.

After retiring from elective service, Mr. Byrnes and his wife, the former Maude Busch, moved into a home in Columbia, where he continued to maintain his interest in public affairs, even through his terminal illness. Mr. and Mrs. Byrnes had an exemplary marriage of cooperation and devotion. They had no children of their own, but through the Byrnes scholarship program, directed primarily toward boys and girls who, like himself, were orphans, the Byrneses had a parent-like relationship with 200 young people.

When Mr. Byrnes died Sunday, work was already under way for the erection of a statue in a corner of the State House grounds as the tribute of a proud and grateful state. It will be dedicated on May 2, which would have been his 93rd birthday, as a lasting memorial to one of the greatest men of one of the greatest eras in world history.

[From the Washington (D.C.) Post, Washington, April 10, 1972]

JAMES F. BYRNES: A LIFE OF DISTINCTION

James F. Byrnes, 92, former senator, Secretary of State and Supreme Court Justice who played a major role in American public life from the New Deal through the Cold War, died yesterday in Columbia, S.C., after a long illness.

Mr. Byrnes was hospitalized several times in 1969, once for a mild stroke.

During World War II he oversaw the nation's economy, holding powers so broad he was regarded by some as the "assistant president."

A courtly native of Charleston, S.C., where he left school at 14 to clerk in a law office, Mr. Byrnes had a career in public service that spanned 47 years, from 1908 when he became circuit solicitor, to 1955 when he stepped down as governor of his state. His career also included seven terms as a congressman.

"Never in American history has one man held more offices with distinction," President Nixon said in a 1969 tribute. The White House flag was ordered down at half-staff yesterday.

[From the Washington Post, Apr. 10, 1972]

JIMMY BYRNES, HOLDER OF HIGHEST OFFICES

(By Bernard D. Nossiter)

James Francis Byrnes was a Charleston lawyer, Congressman, Senator, Supreme

Court Justice, wartime czar of the economy, Secretary of State, governor, and, in the end, a courtly man of resistance to a changing world.

He was something else. In a very real sense, his life bridged a 19th century America where a poor boy learned law clerking for his elders and the 20th century of superpower America whose cold war role he first defined.

Byrnes fit no simple label.

A convinced believer in segregating black from white, he was the first district attorney in South Carolina's Second Judicial District to accept Negro testimony and prosecute as a crime the assault of one black on another.

A powerful foe of Franklin Roosevelt's second term social measures, he was the unofficial Senate whip who successfully steered to passage the early New Deal legislation.

A state's rights, free enterpriser, who denounced Truman's "statism," he presided in World War II over the most elaborate economic controls the country ever saw.

A party regular who scorned Dixiecrat defections, he gave his support to Republicans Eisenhower, Nixon and Goldwater.

One of those Republicans, Richard Nixon, went to Columbia in May, 1969, to pay tribute to Mr. Byrnes on his 90th birthday. "Never in American history has one man held more high offices with more distinction than has Gov. Byrnes," said the President.

CLOAKROOM DEALER

Slim, elegant, a gracious compromiser, Mr. Byrnes was a Senate man as the term is understood in the South. He rarely spoke on the floor. But in the cloakroom and in his office, over bourbon and branch water, he wheedled and bargained with a flair that another Senator from Texas was later to make famous.

In his first House term, he noticed that 23 other Congressmen also had bills to build Federal roads in their districts. So he quietly brought them together and formed a caucus that led to the creation of a new House committee.

His skill as a negotiator, as a Senate man, led Harry Truman to turn to him as his chief diplomat when President Roosevelt died. But in the long negotiations with the Russians after the war, Mr. Byrnes stood rocklike—too inflexible in the eyes of some—against what he considered the Soviet Union's bid for expanding power.

GRANDSON OF IMMIGRANTS

Of medium height, with piercing gray eyes, he adopted the charming and easy aristocratic manners of the older and better born lawyers who made him their protege.

The grandson of Irish immigrants who had struggled unsuccessfully on the land, Mr. Byrnes was born in Charleston on May 2, 1879. His father had died a few months before and his widowed mother turned to making dresses to support her Jimmy and his older sister. He sold pies in the Fifth Ward, learned shorthand from his mother and attended St. James Parochial School. (He hadn't met Maude Busch then and was still a Catholic.)

At 14, he left school to clerk in Judge Benjamin Rutledge's firm and the judge looked after his learning. At 21, his shorthand won Mr. Byrnes a competition for court stenographer. He rode the circuit with Judge James H. Aldrich, read more law and remembered the names of hundreds of jurors.

In 1903, he was admitted to the bar and three years later, on his 27th birthday, he married Miss Busch and converted to her Episcopalian faith. The spiteful said he did it less to please his belle than the Populist voters of South Carolina.

He bought the Aiken *Journal and Review*, got himself elected solicitor, or district attorney, and came to Washington in 1911, winning his House seat by 57 votes.

As a Congressman, he kept his mouth shut and his eyes open. He stayed close to powerhouses like Speaker Champ Clark and John Nance Garner, was rewarded with a place on the Appropriations Committee and helped a young assistant secretary of the Navy named Franklin Delano Roosevelt get the money he wanted for ships.

By 1924, he was ready to spread his wings and try for the Senate. But Coley Blease knew some things about the South Carolina voters and damned Mr. Byrnes up country as a Catholic "altar boy" and in the low country as a renegade to his faith.

So Mr. Byrnes went back to the law for six years, then made it to the Senate in 1930. Once again, he won the confidence of the establishment, of Pat Harrison from Mississippi, of Joe Robinson from Arkansas. Mr. Byrnes worked hard at the Senate's business, so the new Democratic President, the former assistant secretary of the Navy, turned to him to round up the votes.

By 1937, he was turning against President Roosevelt. He didn't like the Court-packing bill; he wanted to outlaw sitdown strikes; he couldn't see why the Federal Government should put a floor under wages and a ceiling over hours.

With war in Europe, he was back on the reservation. He was pushing the money bills to rearm, lifting the ban against the sale of weapons to belligerents, helping sell weapons to allies on long credit terms.

President Roosevelt gave him a seat on the Supreme Court in 1941, but that was too quiet a life for an activist politician, even one who still counseled the President from his chambers.

A year later, Roosevelt took him off the Court and put him in charge of holding the dike against wartime inflation. First he was director of economic stabilization, but there were too many other agencies with a finger in the economic pie. So, his authority was enlarged and he was made head of the War Mobilization Board, the "assistant President," looking after production, procurement, manpower mobilization, just about everything except diplomatic and military affairs.

He almost became President. Powerful Democrats wanted him on the ticket in 1944 to replace Henry Wallace, about whom doubts had arisen. But the CIO would have none of Mr. Byrnes and neither would some of the city bosses who feared his apostacy would hurt with Catholics.

So Harry Truman was chosen, and almost the day he took office as President, he asked Mr. Byrnes to be his Secretary of State.

"The State Department fiddles while Byrnes roams," the tag ran—he was out of the country so much. At Potsdam, at Paris at first, he was "patient and firm" with Molotov, then it was just "firm." At Stuttgart, in September, 1945, Mr. Byrnes made what was probably the first announcement of the new American policy in Europe, one based on a revived Germany. He didn't say, but some must have guessed, that this new Germany was to be the outer bastion in Center Europe against the Communists.

Henry Wallace, then Secretary of Commerce, publicly denounced the Administration's new, "get-tough-with-Russia" line. Mr. Byrnes gave Truman the choice, Henry or Jimmy, and Wallace was fired to lead his Gideon's Army to disaster in the 1948 campaign.

Mr. Byrnes was now souring on his old Senate friends, too, but from another point on the political spectrum. He resigned in 1947 and went back to South Carolina to denounce the "welfare state."

"You get drunk on power," he told his people, "you never get over it. The power to spend $47 billion is a terrible power. I doubt if God ever made any man with enough wisdom or virtue to sit in Washington and be given the power to spend $47 billion."

He ran for governor of his state at 71, perhaps with the idea of remaking the Democratic Party in the image of himself and his friends. In the Palmetto State, that was perfectly all right and he crushed three cruder competitors.

He promised to tame the Klan and got an antimask law through his legislature. He promised to keep the schools separate, but equal, and got more funds for Negro schools.

SHOCKED AT COURT DECISION

The Republicans picked Gen. Dwight D. Eisenhower so Mr. Byrnes felt no need to turn his attention to the "statist" Democratic Party. He was shocked at the Supreme Court's decision that separate was not equal and was still complaining about it on his 85th birthday.

He left the governor's mansion after one term and lived quietly with his wife, appearing in the public prints only at election time to announce his support for the Republican running that year.

He thought the people of the South "black and white, have made great progress." But whether the two races will ever integrate completely "is something I would not want to make a statement about," he said. "I do not believe in it.'

After his retirement from public office in 1955, Mr. Byrnes continued to make his name heard in politics. But as the Democratic Party continued to become more liberal, he diverted.

BACKED BYRD IN 1956

He had backed the late Harry Byrd Sr. of Virginia as a Democratic Party candidate for president in 1956, but Mr. Byrd didn't make it and that was the end of Mr. Byrnes' backing of Democratic presidential candidates.

In 1964, Mr. Byrnes was a key Southern backer of Sen. Barry Goldwater, a Republican candidate for the office of chief executive. And, in 1968, he told President Richard M. Nixon that he hoped Mr. Nixon would win.

In his later years, Mr. Byrnes said he was proudest of his war mobilization service. He boasted of the accomplishments of a South Carolina boy for whom he had gained a West Point appointment, Gen. William C. Westmoreland.

In declining health recently, Mr. Byrnes had been confined for the most part to his home. He had been sheduled, however, to attend a public ceremony May 2 to unveil a statue of himself on the grounds of the state house in Columbia.

[From the Evening Star, April 10, 1972]

JAMES F. BYRNES, POLITICAL LEADER, DIES AT 92

(By William Delaney)

COLUMBIA, S.C.—James F. Byrnes, who quite school at the age of 14 to help support his widowed mother and later became a congressman, a U.S. Supreme Court justice, U.S. Secretary of State, and governor of South Carolina, died yesterday after a long illness.

Byrnes, who reportedly had been in a coma for the past few days, died at his home here. He was 92.

His body will lie in state in the rotunda of the Statehouse tomorrow and Wednesday. The funeral will be Wednesday at Trinity Episcopal Church.

President Nixon, describing Byrnes as "a great patriot who always put his country ahead of his party," ordered the flag flown at half staff on all federal buildings and U.S. naval vessels until Byrnes is buried.

James Francis Byrnes once defined his basic needs as "two tailor-made suits a year, three meals a day and a reasonable amount of good liquor."

But the wiry little Irishman from South Carolina needed one thing more—the discordant sounds of the political arena, sounds which he orchestrated quietly and with considerable skill.

It was this need that drove Byrnes from the ownership of a small-town newspaper into a public-office career spanning 47 years and reaching to the very pinnacle of American power in all three branches of government.

His top-level branch-swinging between 1941 and 1945—from the Senate to the Supreme Court to the White House directorate, and finally to the top Cabinet post under Harry S. Truman—was based largely on his ability to legislate the "New Deal" programs of a World War I era friend, Franklin D. Roosevelt.

MISSED NO. 2 SPOT

So high was Roosevelt's regard for Byrnes' political horse-trading skill that he made him "Assistant President" during the World War II mobilization effort, and toyed with selecting him for the fateful No. 2 spot on the 1944 re-election ticket.

But he didn't.

Truman, keenly aware of Byrnes' deep disappointment over the 1944 decision, felt obliged a year later to appoint the self-trained lawyer to one of the greatest horse-trading tasks the nation ever faced.

As Secretary of State from July 3, 1945, to Jan. 10, 1947, Byrnes accompanied the new President to the Potsdam conference and represented the nation at numerous other postwar negotiations. After the 1944 election, he had accompanied FDR to the Yalta conference, at Roosevelt's request.

Six months after he joined the Truman administration, however, Byrnes was privately accused of "babying the Soviets" by none other than his new boss—or so Truman said in later years.

CRITICIZES TRUMAN

The bitter conflict between the President and the almost-president did not surface publicly until 1949 when Byrnes, who had retired, made a speech in which he criticized Truman's domestic program as "the road to ruin."

Though Byrnes had played a major role on Capitol Hill, enacting Roosevelt's "New Deal" as an antidote to the Depression, his 1949 speech marked a turning point in his political stance.

The longtime Democrat's increasingly outspoken conservative views won wide approval in his home state, which elected him governor in 1950 with a record 85 percent plurality.

Fed up with "Trumanism," he endorsed Republican Dwight D. Eisenhower for president in 1952, and was pleasantly surprised that almost a majority of the voters in that previously "safe" Democratic state agreed with him.

Never again did he support the national Democratic ticket, endorsing Nixon in 1960 and 1968, and Goldwater in 1964.

President Nixon, who stopped by Byrnes' Columbia, S.C., home in May 1969 to congratulate him on his 90th birthday and 63rd wedding anniversary, summed up the Byrnes story this way:

"Never in American history has one man held more high offices with more distinction than has Gov. Byrnes."

Nixon and the other guests in the unpretentious white brick home then sang "Happy Birthday" to "Jimmy" as the ailing, old man managed a big smile.

The Byrnes story, which rivals the Horatio Alger legend, began amid the magnolias and wharfs of Charleston on May 2, 1879.

His mother, widowed just before his birth, took up dressmaking to support him, his elder sister, and their invalid grandmother. A widowed sister and her son, Frank Hogan (later to become president of the American Bar Association), shared Mrs. Byrnes' home.

LEFT SCHOOL AT 14

At 14, young Jim left school and became a legal firm's office boy to help support his family.

One of the members of the firm, Judge Benjamin J. Rutledge, obtained a card for him in the Charleston Library, guided his interest in law and in court stenography, and, as the youth entered his 20s, allowed Byrnes to accompany him on circuit-riding trips through the state. Byrnes passed the bar examination in 1903.

For the next four years he tried his hand at editing a weekly newspaper in Aiken, S.C., which he bought with $500 in cash and $4,500 in borrowed funds.

Newly married to the former Maude Busch—they were to remain childless—he made his first bid for office in 1908, winning the post of prosecutor for the state's Second Judicial Circuit. In this post, he won distinction of sorts by persuading juries to regard assaults on Negroes as crimes and to accept testimony from Negroes, both actions unprecedented in South Carolina.

In 1911 Byrnes came to Washington as a congressman, elected by a 57-vote margin.

During his seven terms in the House he served on a House Appropriations subcommittee during World War I, where military budget discussions brought him in contact with the assistant secretary of the Navy, Franklin D. Roosevelt. They became fast friends.

LOSES SENATE RACE

But Byrnes' role in an investigation into the Morgan financial empire, and his sponsorship of such bills as one providing the first federal aid to highways were not much help when he tackled former Gov. Cole L. Blease for a Senate seat in 1924. Neither did his status as a Catholic who forsook the Church for his wife's Episcopal faith. He lost by 2,200 votes.

He returned to Spartanburg, S.C., to practice law and prepare for his relatively easy 1930 victory over the demagogic Blease.

Back in Washington as a senator, Byrnes' power was soon on the rise after his aristocratic New York friend entered the White House.

Though an unofficial member of the New Deal "brain trust," the slight, authoritative Southerner had by 1936 moved over to the Senate "moderates," opposing increased relief appropriations, sit-down strikes, the Roosevelt congressional "purge" of 1938, and the wages and hours law. He also opposed an anti-lynching bill.

STEERED FDR PROGRAMS

His disenchantment with some of the New Deal measures, however, never led him to an open break with the President.

As Democratic whip, he loyally steered Roosevelt's programs through the Senate and, after 1939, supported with vigor such preparedness programs as Lend-Lease.

Rarely did he make a speech or show the slightest yen for publicity. ("I only went to two cocktail parties all the time I was in Washington," he said later, "and I didn't hear anything worth remembering.")

His arena was the cloakroom, and his weapons were personal charm and a blunt, tit-for-tat honesty that Republicans trusted.

His reward for producing votes came in June, 1941, when Roosevelt named him to a Supreme Court vacancy.

Byrnes' Senate colleagues endorsed him unanimously without even sending the nomination to committee.

In the ensuing 14 months, he wrote decisions limiting the right to strike abroad ships, nullifying a California anti-migrant statute, exempting a New York Teamsters' strike from provisions of the anti-racketeering law, and easing the repayment conditions of Georgia sharecropper loans.

FELT UNEASY

But Byrnes was reported to have felt somewhat uneasy in the solitude of his new post.

With the nation at war, the action he thrived on was now beyond the Court and the Capitol, at the other end of Pennsylvania Avenue, where "Jimmy" and his penchant for quiet, detailed administration were fondly remembered.

In October 1942, Roosevelt asked Byrnes to take leave from his lifetime post and head the powerful new Economic Stabilization Board, battling inflation through wage and price controls.

Byrnes immediately scrawled out his resignation, said it was permanent, and moved into an office in the East Wing of the White House.

Seven months later, Byrnes was named to head the new Office of War Mobilization. As such, he was invested with powers greater than any other American except for the President.

He was, as the press and even FDR called him, the "Assistant President" in charge of the home front, coordinating the production, procurement, distribution and transportation of all military and civilian goods.

Then, in the summer of 1944, he suffered his greatest political blow.

According to his later accounts, Byrnes said Roosevelt had led him to believe he was the White House choice to succeed Vice President Henry Wallace, who was being unceremoniously dumped from the 1944 ticket.

But the nod went to Truman, who did not appear to be seeking the nomination, and had even reportedly offered to make a speech nominating Byrnes at the convention.

Byrnes stoically concealed his hurt pride and later said he never blamed Roosevelt, only the party's big city power brokers, like New York's Ed Flynn.

Even though the President added the task of post-war planning to Byrnes' duties, and took him to the Yalta Conference, where his court stenography came in handy, the 65-year-old "Assistant President" had had enough.

In cordial circumstances two weeks before FDR's death, he resigned to return to South Carolina's lazy, fish-filled rivers, to sip bourbon and branch with friends, to practice law, to write. . . .

Suddenly Truman—not Byrnes—was thrust into the presidency, and the summons from Washington came.

Byrnes was now off to Potsdam with Truman, planning for the Japanese surrender.

The next month he led the U.S. delegation to the four-power London conference, the first in a long series in which details of the Allied peace plans were hammered out. There were also the initial United Nations meeting.

Byrnes' policy of "patience and firmness" toward the Soviets began to lean more in the direction of firmness in early 1946.

This was just after Byrnes returned from the Moscow Conference to hear Truman read him the "riot act" letter, published with Truman's blessing in 1952.

REPRIMANDED BY TRUMAN

In it, Truman reprimanded Byrnes for not communicating with him from Moscow, and expressed displeasure with negotiations there toward recognition of Soviet-dominated Rumania and Bulgaria. Truman also indicated he felt Byrnes had not dealt adequately with Russia's designs in Iran.

Byrnes in later years denied any knowledge of the "Dear Jim" letter and maintained he would have immediately resigned had he known of it.

Rumors of bitterness between him and Truman persisted, however, despite their outward pleasantness.

GIVES ULTIMATUM

Henry Wallace, who had been appeased after 1944 with the post of Commerce secretary, was fired by Truman after the criticized Byrnes for being too tough with the Russians at Paris. (Byrnes later said he had given Truman a "Wallace-or-me" ultimatum.)

Back in private life again, Byrnes briefly worked for the Washington law firm of Hogan & Hartson, and served as general counsel for the Association of Motion Picture Producers.

XUM

He stayed aloof from the 1948 presidential campaign, but after his turning-point speech in 1949, began criticizing Truman programs in almost every field except foreign policy. (Truman wrote Brynes: "Since your Washington & Lee speech, I know how Caesar felt when he said, 'Et tu, Brute.' ").

Byrnes, who replied "I am no Brutus . . . You are no Caesar," said Truman then began consistently making "absolutely untrue" statements to discredit Byrnes' work as secretary of State.

BACKS SEGREGATION

During his four-year term as South Carolina governor, Byrnes attempted to carry out a campaign pledge to maintain racial segregation through a $66-million program to "equalize" Negro schools. The Supreme Court's integration decision in 1954 "shocked" him.

His support for Eisenhower was rewarded with a 1953 appointment as a delegate to the U.N. General Assembly.

When he left the Governor's Mansion in 1955 at the age of 75, the "elder statesman" at last got to do some fishing, usually accompanied by his wife and their chauffeur, Willie Byrd.

He also completed an autobiography, "All in a Lifetime"—he had published "Speaking Frankly" in 1947—and used the proceeds to start college scholarships for orphans of both races.

Without children or grandchildren, he called this work "the most rewarding thing I ever did in my life."

Mr. MANSFIELD. Mr. President, will the distinguished Senator from South Carolina yield?

Mr. THURMOND. I would be very pleased to yield to the dinstiguished majority leader.

Mr. MANSFIELD. Mr. President, I wish to join in the remarks just made by the distinguished senior Senator from South Carolina at the passing of an old friend, a former Senator, a former Justice of the U.S. Supreme Court, and "Assistant President" during the course of World War II, a man of many accomplishments, in addition to being Governor of his State, who has passed on to his reward.

Anyone who knew Governor Byrnes knew him as a man of integrity, patriotism, and deep understanding.

Those of us who had the pleasure and the privilege of knowing him will miss him, and miss his greatly.

Mr. THURMOND. I wish to thank the distinguished majority leader for those kind words about Governor Byrnes.

Mr. SCOTT. Mr. President, James F. Byrnes was an American's American. His distinguished career spanned five decades, it was capped off by unselfish service to the United Nations, and subsequently to his fellow men throughout the world. Historians have placed the great accomplishments of James F. Byrnes high on their list of those who have labored to insure a world of peace.

America and the free world will share the memory of James F. Byrnes and his outstanding accomplishments. We all are in his debt. Our sympathies are extended to his family.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 12 O'CLOCK NOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 noon.

There being no objection, at 11:30 a.m. the Senate took a recess until 12 noon; whereupon, the Senate reassembled when called to order by the Acting President pro tempore (Mr. GAMBRELL).

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which, the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FACILITIES PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on facilities projects proposed to be undertaken for the Army National Guard (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE DIRECTOR OF SELECTIVE SERVICE

A letter from the Director, Selective Service System, transmitting, pursuant to law, his report, for the 6-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

PROPOSED AMENDMENT OF FISHERMEN'S PROTECTIVE ACT OF 1967

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 7 of the Fishermen's Protective Act of 1967 (with accompanying papers); to the Committee on Commerce.

PROPOSED AMENDMENT OF PUBLIC HEALTH SERVICE ACT

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to increase the fiscal year 1973 authorizations for project grants for health services development and for project grants and contracts for family planning services (with an accompanying paper); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A concurrent resolution of the Legislature of the State of New Hampshire; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1

"Ratifying the proposed amendment to the Constitution of the United States extending equal rights to women

"Whereas, the Ninety-second Congress of the United States of America at its Second Session, in both houses, by a constitutional majority of two-thirds thereof, has made the following proposition to amend the Constitution of the United States in the following words, to wit:

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislature of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE

"'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

"'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this Article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Be it resolved by the House of Representatives of the General Court of the State of New Hampshire, the Senate concurring:

"That, the proposed amendment to the Constitution of the United States extending equal rights to women be and the same is hereby ratified; and

"Be it further resolved,

"That certified copies of this resolution, signed by the Speaker of the House and the President of the Senate, be by them forwarded to the President of the United States, the President Pro Tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States and the Administrator of General Services of the United States.

"Passed March 23, 1972."

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"ASSEMBLY JOINT RESOLUTION No. 12

"Relative to Federal maintenance dredging of small craft harbors

"Whereas, The State of California has an active program for harbors of refuge and assistance to local entities for the construction of small craft harbors; and

"Whereas, The state also has a vital interest in the preservation of these harbors upon their completion and continual operation; and

"Whereas, The federal government, through the Corps of Engineers, plays a vital role in maintaining these harbor entrances and navigable waterways; and

"Whereas, These dredging projects funded by the federal government are of paramount importance in the continuation of the financial feasibility of maintaining small craft harbors in the State of California; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to continue to provide funds for maintenance dredging of small craft harbor entrances and navigable waterways in the State of California; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Resolutions of the Commonwealth of Massachusetts; ordered to lie on the table:

"RESOLUTIONS ON THE UNEMPLOYMENT CRISIS IN THE COMMONWEALTH

"Whereas, There is an unemployment crisis in this Commonwealth; and

"Whereas, There is grave danger of the consequences that might follow if work is not provided; and

"Whereas, There is presently over 200,000 people unemployed in these stricken areas; and

"Whereas, The Congress of the United States must provide federal aid to help those caught in these stricken depressed areas; now, therefore, be it

"Resolved, That the members of the Congress of the United States from the Commonwealth and the Legislative and Executive leaders of the state make arrangements to communicate and hold meetings with each other in an attempt to alleviate and eventually remove the critical unemployment situation which now exists in this Commonwealth; and be it further

"Resolved, That the President of the United States prepare a special message to the United States Congress to enact such legislation for a period sufficient to enable the federal government to develop effective alternative methods of aiding the stricken depressed areas which would stimulate business and the economy by providing government work; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the Secretary of Commerce, to the presiding officers to each branch of Congress and to the members thereof from the Commonwealth of Massachusetts.

"Senate adopted, April 3, 1972."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on the District of Columbia, without amendment:

S. 1338. A bill to authorize the government of the District of Columbia to fix certain fees (Rept. No. 92-739).

By Mr. STEVENSON, from the Committee on the District of Columbia, with an amendment:

S. 1363. A bill to revise and modernize procedures relating to licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes (Rept. No. 92-740).

By Mr. STEVENSON, from the Committee on the District of Columbia, with amendments:

S. 2209. A bill relating to crime and law enforcement in the District of Columbia (Rept. No. 92-741).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, with amendments:

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes (Rept. No. 92-743).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 208. A joint resolution authorizing the President to proclaim the first Sunday in June of each year as "National Shut-in Day" (Rept. No. 92-742).

Mr. HRUSKA. Mr. President, this joint resolution was introduced by the distinguished Senator from West Virginia (ROBERT C. BYRD). It is upon the testimony of the Senator from West Virginia, and the data he provided the committee, that this favorable report is based.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRIFFIN:

S. 3465. A bill for the relief of Jack Bradshaw, Jr. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3466. A bill to establish the Lone Peak Wilderness Area in the State of Utah; and

S. 3467. A bill to authorize the Secretary of the Interior to convey certain property to John S. Boyden, of Salt Lake City and County, Utah. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATFIELD:

S. 3468. A bill to increase the rate of duty on shelled filberts imported into the United States. Referred to the Committee on Finance.

By Mr. TAFT:

S. 3469. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

By Mr. HRUSKA (by request):

S. 3470. A bill to remove the limitation on payments for consultant services in the Community Relations Service. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 3466. A bill to establish the Lone Peak Wilderness Area in the State of Utah. Referred to the Committee on Interior and Insular Affairs.

LONE PEAK WILDERNESS

Mr. MOSS. Mr. President, I am today introducing a bill to designate 13,000 totally undeveloped and roadless areas in the Wasatch and Uinta National Forests within a few minutes drive of Salt Lake City as the Lone Peak Wilderness Area.

I am acting at the request of the Salt Lake County Commission which on March 13, approved the "concept" of establishing this wilderness area.

The boundary proposed in my bill generally would include the land surrounding Lone Peak southeast of Salt Lake City in the Wasatch range. The line would run along the south slope of Little Cottonwood Canyon and continue southward to the slopes draining into the Dry Creek. It is a beautiful wild area and is adjacent to the heavily populated towns and cities of the Wasatch Front where 70 percent of Utah's population resides. It is so close to city dwellers that it is within reach of everyone seeking a wilderness experience.

There is considerable interest in Utah in the establishment of the Lone Peak Wilderness Area. Some conservation groups in the State want a much larger area set aside. My purpose in introducing the bill is to have a vehicle for hearings in Salt Lake City where various interests can be heard and all aspects of the proposal examined carefully.

I understand that there are no working mines in the area, but there are some abandoned shafts. Mining interests in the State must have an opportunity to be heard, as well as all other groups with views to express.

The land involved is all public land—no private lands are involved.

By Mr. TAFT:

S. 3469. A bill to amend title 5, United States Code, to provide for withholding city income taxes from compensation paid Federal employees. Referred to the Committee on Finance.

Mr. TAFT. Mr. President, today I am introducing legislation which would require the Federal Government to withhold city income taxes from its employees. This legislation would benefit directly hundreds of thousands of Federal workers.

Because local income taxes are not withheld from the wages of Federal employees, these workers are forced to pay the taxes in lump sums on a quarterly or annual basis. The obligation to pay a substantial amount in local taxes at one time presents a serious hardship to many Federal workers. One third of Cleveland's postal workers have not been able to meet this obligation, and now owe the

city hundreds of dollars per person in back taxes.

This legislation would allow Federal workers to pay their city taxes in the same convenient manner as other workers, by making the payments in even installments throughout the year.

The legislation would also provide some extra money for the cities. Because the cities' tax collection departments will no longer have to devote extra attention to Federal workers, administrative costs will decrease. In my own State of Ohio, the cities of Akron, Columbus, and Toledo expect that they could each save $20,000 to $35,000 in this manner. The major new source of income, however, would occur as a result of a reduction in tax delinquencies and an increase in the cities' ability to collect delinquent taxes. Cleveland's tax department estimates that because of fewer losses in uncollected taxes, the city's income could be increased by $300,000 to $400,000. The city of Cincinnati expects the enactment of this bill to save its taxpayers about $100,000. Similar savings would be realized by cities in other States.

The measure would apply to cities which have 200 or more Federal employees. In addition, the Secretary of the Treasury would have the discretion to apply it to other cities where he feels that its potential benefits outweigh the expenses to be incurred by the Federal Government.

By Mr. HRUSKA (by request):

S. 3470. A bill to remove the limitation on payments for consultant services in the Community Relations Service. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I send to the desk a bill to remove the limitation on payments for consultant services by the Community Relations Service of the Department of Justice. I introduce the bill at the request of the Acting Attorney General and ask unanimous consent that the text of the bill and of Mr. Kleindienst's transmittal letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. HRUSKA. Mr. President, this is a simple proposal which would insure that consultants for the Community Relations Service are treated equally with those hired by other Federal agencies. The Civil Rights Act of 1964 specifically provides (42 U.S.C. 2000g) that consultants for the Service be limited to a per diem of $74.11, which was the rate prevailing at the time of the adoption of the act. Since 1964 the rate has increased to $127.92 and most agencies have authority to pay this figure. The bill submitted by the Department of Justice would delete the specific figure now applicable to the Community Relations Service with the result that the general statute (5 U.S.C. 3109) would become operative thus bringing the Service into parity with other agencies.

It is my hope that this bill can be promptly considered and approved so that the competitive disadvantage suffered by the Community Relations Service in seeking consultants can be ended. I send the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

EXHIBIT 1

S. 3470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 1001(a) of the Civil Rights Act of 1964, 78 Stat. 267, 42 U.S.C. 2000g, is deleted.

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 29, 1972.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to remove the limitation on payments for consultant services in the Community Relations Service.

The Civil Rights Act of 1964 established the Community Relations Service to provide assistance to communities in resolving disputes, disagreements, or difficulties relating to racial discrimination. At that time the Congress placed a $75.00 per diem limitation on the Commission's authority to pay experts and consultants.

When this legislation was being considered by the Congress most executive agencies were limited to $74.11 per diem for these services. Today, most are authorized to pay $127.92 per diem. The result is that the Community Relations Service is at a competitive disadvantage when seeking the assistance of highly qualified people. This was clearly not the intent of Congress since the limitation was set at a level comparable to other agencies.

This legislative proposal would delete the limitation provision with the effect of authorizing the Service to pay per diem rates not in excess of the maximum authorized by section 3109 of title 5, United States Code, presently $127.92.

Since our continued effectiveness in this important area of concern will be jeopardized unless adequate professional resources are available, we urge the early enactment of this measure.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Acting Attorney General.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3199

At the request of Mr. HATFIELD, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 3199, a bill to provide for the conservation, protection and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

S. 3351

At the request of Mr. BROCK, the Senator from Tennessee (Mr. BAKER) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 3351, a bill to the establish a Council on International Economy Policy.

S. 3380

At the request of Mr. Moss, the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MONDALE), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 3380, a bill to permit immediate retirement of certain Federal employees.

WAR POWERS ACT—AMENDMENTS

AMENDMENTS NOS. 1109 THROUGH 1114

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK submitted six amendments intended to be proposed by him to the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1115

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 914

At the request of Mr. HATFIELD, the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Illinois (Mr. STEVENSON), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of amendment No. 914, intended to be proposed to the bill (S. 3108), to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

ADDITIONAL STATEMENTS

ANNUAL BEWILDERMENT OF THE INCOME TAX

Mr. TAFT. Mr. President, with the approach of April 17, millions of Americans once again face the annual bewilderment of the income tax. The extent to which even relatively simple tax problems can confuse and confound the average American, and indeed even tax experts, was recently illustrated by an article entitled "Need Help on Your Income Tax?" written by John Fialka, and published in the Washington Sunday Star of April 9, 1972.

The Sunday Star created a fictitious taxpayer with a relatively simple tax situation and had tax returns prepared by seven Washington area income tax services. Incredible as it may seem, each of these tax services reached a different result. Even more distressing is the fact that three offices of the Internal Revenue Service reached different results with this same tax situation.

I believe that this amply demonstrates the need to simplify and clarify our income tax laws and regulations. When tax consultants and the Internal Revenue Service are confused and bewildered by a simple tax problem, the plight of the average taxpayer attempting to do his own return is made evident.

I would hope that Congress can address itself to the problem of streamlining and simplifying our tax laws so that the average American will not be so confused. Our tax system should be a source of revenue and not a test of legal and mathematical gymnastics.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEED HELP ON YOUR INCOME TAX?

(By John Fialka)

A fictitious resident of the Washington area, usually using the name "Median R. Fairfax," had his federal income tax returns prepared by seven different "tax experts" this year.

None of them got it quite right.

For a fee, ranging from $15 to $39.50, he obtained returns calling for refunds from $570 to $801.

His tax problem, which was stated exactly the same way in each case, was concocted as part of a study by The Star of the area's booming tax preparation industry.

In every case, according to an IRS accountant who checked the problem, the hired preparers made errors running in both directions, allowing prohibited deductions and ignoring legitimate ones.

Allowable charitable deductions ranged from a low of $92 to a high of $729.

Allowable expenses for an office in the taxpayer's home were estimated between $109 and $716.

In three cases, tax preparers, struggling to provide the customer with a "good refund," actually exposed between $250 and $350 worth of additional, exempt income to taxes by failing to handle stock dividends properly.

Median R. Fairfax was created to fall somewhere in the middle of the estimated 500,000 area residents who file federal income tax returns.

His total income and even his name were inspired by a recent study which placed the median family income in Fairfax County at $15,933.

Like many area residents, Fairfax was able to itemize his deductions, primarily because he had just purchased a $32,000 home and paid $1,842 in interest charges last year on his mortgage.

He had a wife and one child. Included in the family income was $750 earned by his wife last year, working in an office at home as a free-lance writer.

Outside of his salary, $14,683, earned working as a writer for an obscure trade publication firm, Fairfax's only remaining income consisted of $500 worth of dividends from two blocks of stock owned by him and his wife.

Like many taxpayers, Fairfax was plagued with expenses, many of which he hoped to deduct from his taxes. Included in a fact sheet given to each tax preparer were a dozen items culled from a list of nondeductible expenses found in a $1.95 tax guide for laymen purchased at a news stand.

They ranged from a desire to deduct a diaper service as a medical expense to a hope that a $213 contribution to the Committee on Political Education, (COPE) the political arm of the AFL–CIO, could be taken as a charitable contribution.

There were two other factors: Fairfax wanted to find some way to write off expenses involved in his wife's office. He also pointed out that $250 worth of his dividends were issued in common stock, a fact that would tell a tax expert that they were not taxable.

Fairfax's tax problem was taken to seven different tax preparation firms, ranging from the largest to among the smallest in the area. In each case a reporter, posing as a friend of the taxpayer, gave them the fact sheet. (Matters, such as how to depreciate a house, over which tax experts might legitimately differ, were stipulated at an exact figure and method previously used if such questions arose.)

The majority of tax experts consulted said at the outset that the problem was "fairly simple."

John Morrison, an employe of Liberty Loan Corporation's Lee Highway office in Arlington, glanced down the list and said there would be "no problem."

"We'll have this for you in a couple of days. It's all done by computers in New York," he told the customer.

A couple of days later, Morrison called the customer and said he had some doubts about several of the items on the list. "You're the expert," he was told.

"Listen," he replied. "There are no experts in this business. You just look at what's down there and then you take your best shot."

Later the same day, Morrison called again and said Liberty was unable to prepare the return properly and offered the customer his money back. "We decided the computer would just screw it up," he said.

At the Beneficial Finance Company's Rockville office, a woman took the fact sheet and a check for $15 and indicated that Beneficial, which also prepares tax returns by machine, would have the returns shortly.

Later, an office manager called the customer. There were several questions, he said, that would require the customer to return to the office and would necessitate raising the fee to $30.

The customer refused and, after an exchange of calls during which Beneficial reached the newsroom operator of The Star, the company suddenly agreed to prepare the return for $15 and to have Perry M. Stuffiebeam, an accountant, do the job by hand.

"Frankly, this looks like some kind of a ringer," Stuffiebeam said at one point.

Stuffiebeam correctly cut the taxable dividend income to $50 by taking out the $250 in common stock and inquiring whether the stocks were held jointly. They were, so he applied the $200 exclusion of the husband and wife to the remaining $250.

In the area of charitable contributions, however, Stuffiebeam threw in the contribution to COPE along with donations to a neighborhood civic league, a fraternal bar association and a church in Brazil, all of which according to the tax guide and the IRS, are forbidden.

He did weed out several other prohibited items, including the diaper service and a deduction for snow tires, which the customer insisted were needed to get to and from work.

Combining the thumping $565 worth of charitable contributions with a total of $613 worth of expenses connected with the home office, Stuffiebeam produced a refund of $721.

"Snow tires, that's cute," said Joe Berube, an income tax preparer in H&R Block's Washington Avenue office in Arlington.

In a somewhat grueling, hour-long interview, he crossed out several items on Fairfax's list. "Snow tires, I can't get over that," he repeated several times.

He was especially hard on the charitable contributions, paring the list down to an allowable $52 contribution to a McLean church and a non-allowable item for raffle tickets from a church automobile drawing.

At first, Berube was reluctant to declare the expenses involved in Mrs. Fairfax's office. "That's just peanuts," he said, looking over household expenses.

He made a stab at it, at the urging of the customer, and seemed pleased with a total of $572 worth of expenses that he had calculated. The total included one nonallowable item, a charge for a sewer hookup fee, which Berube entered next to "repairs and maintenance" on the special, H&R Block form.

Finally, he came up with a $627 refund, but seemed apologetic about cutting out so many items from the fact sheet.

"Well, you're the expert," the customer said.

"There are no experts in the tax business," said Berube.

Mrs. A. Jackson, the preparer who greeted the customer at H&R Block's office at 1601 Rhode Island Ave. NE., was able to come up with only $218 worth of office expenses.

She also put down $400 of the $500 dividend income as taxable income. She worked hard on the contributions, however, quickly striking out the snow tires ("They'll never allow that"), the diaper service and the contribution to COPE.

When she finished, the only nonallowable item remaining was the contribution to a Brazilian church, which she listed as "church (Peru)." Her refund was the lowest of the seven, $570.

Rarely did any of the seven tax preparers who agreed to take on the problem look up a question in a tax guide or a reference book.

For instance, Mrs. Lucille Smith, a preparer for "Pro-Tax," or the Professional Tax Service, labors over her forms in a sparsely furnished storefront on Arlington's Washington Boulevard.

Her customer, noting the absence of bookshelves, or, for that matter, books, asked: "Don't you have any books to look things up in?"

"Well," she replied, "to be truthful, I usually don't use any. Over the years, you know, you sort of begin to feel what's right."

"Pro-Tax" has a sign in its window that says "$5 and Up." "Up," in the case of Median R. Fairfax, amounted to a fee of $49.50. Mrs. Smith, however, after checking with her home office, agreed to subtract $10 from the bill because Mrs. Fairfax's office expenses were easy to handle.

Her instinct, however, failed her when it came to the dividends. Again, Fairfax had to pay taxes on $400 worth of the $500. She also failed to put down two other legitimate deductions, $78 worth of interest on an installment loan, and a $75 payment to a medical clinic.

She worked up a total of $518 worth of office expenses, including the sewer hookup fee and $45 worth of office supplies which did not appear on Fairfax's fact sheet.

Mrs. Smith had some funny feelings, however, about some of the contributions. "This Committee on Political Education, uh, is that a recognized thing?" she asked in a telephone conversation several days after she had begun work on the return.

"I don't know," said the customer. "All I know is that it exists."

"And this raffle ticket. What is a raffle ticket?" she wanted to know.

"It's a chance on a car," she was told.

'Well, I guess that's all right. I'll abbreviate some of these things," she said.

The raffle ticket, sold by a church, was listed on her return as "St. Marys." The Brazilian church was listed as "St. Peters." She apparently had second thoughts about the donation to COPE, however, which did not appear.

"Now, about those snow tires, I know they won't go," she added.

The refund on the return prepared by "Pro-Tax" came to $586.

Perhaps the most gracious tax preparer was J. C. Willard, who works in Woodward & Lothrop's downtown store, in a little house constructed for tax preparers near the toy department.

Willard threw in almost everything, except the snow tires. Among the nonallowable items in the return prepared by Woodward & Lothrop's tax service were disability insurance premiums; diaper service charges; church raffle tickets; donations to COPE, a neighborhood civic league, a fraternal bar association and the Brazilian church; dues to a veterans' organization, and interest on a bank loan owed by a neighbor.

He handled the dividends properly, putting down only $50 worth of income, but was unable to find more than $254 in office expenses.

The completed return called for a refund of $801, the highest amount among the seven prepared returns.

Mrs. J. G. Senseman, who works for King Tax Service in Alexandria, seemed worried about some of the contributions, but she took a more creative approach to the problem.

On her return the diaper service fee was shown as "nurse and nursing" expenses. The dues to a veterans' oragnization was listed under "Disabled American Veterans." The interest on a loan owed by a friend was tagged "credit union." Several other non-allowable items may have been included in an entry marked "various $250," and the Brazilian church was listed, simply, as "St. Peters."

Non-allowable disability insurance premiums were lumped together with allowable health insurance premiums. A strange, $108.40 item, an amount not specified in the tax problem, was listed under "sales tax, major purchases."

By including a portion of the sewer hookup fee, Mrs. Senseman came up with a huge, $716 deduction for office expenses.

However, she failed to notice the fact that $250 worth of dividends were issued in common stock and missed the opportunity to exclude that amount.

When the customer arrived to pick up his completed forms, Mrs. Senseman called his attention to the $766.12 refund. "I hope your friend appreciates the work we've done for him and comes to us next year," she said.

The seventh tax preparer sampled was Robert A. Jungmann, whose office was located behind a partition in Sears' tire department in its Wilson Boulevard Store in Arlington.

Jungmann, who was moonlighting from his regular job as a statistical analyst, uses a formidable looking, solid state adding machine. He is also a former IRS collection agent and some of his old instincts came out as his fingers raced over the machine, toting up the contributions.

"Sorry there, Median old boy," he said, throwing out the COPE deduction. After consulting a $1.95 tax guide for laymen, he also threw out the Brazilian church donation.

Remaining, however, were the bar association and civic league, along with the veterans' group dues.

Jungmann managed to find only $109 worth of office expenses, but handled the dividend income well, reporting only $50. His refund was $608.

What is the right answer to Median R. Fairfax's tax problems? Leon Levine, a certified public accountant who works for the Internal Revenue Service, agreed to find out.

Every one of the 12 non-allowable items worked into Fairfax's tax sheet were thrown out. The only charitable contribution allowed was a $52 donation to a McLean church.

By carefully searching for items that could be taken as office expenses, however, including the depreciation of a portion of the house, Levine came up with $680 worth of office expenses. Dividends were treated properly, exposing only $50 to taxes.

"That is the way we want people to do it," he said, showing a $613 refund. "Work hard to figure out your legitimate deductions, you're entitled to them."

Mr. Fairfax's problem, he concluded, had been "fairly simple."

Although it has no way of estimating how much money has been drained from—or perhaps added to—government coffers by the mass production of poorly trained and, sometimes, incompetent "tax experts," the IRS has been aware of the problem for years.

This year, it has been involved in a small-scale, experimental crackdown on preparers in the southeastern region of the country.

Last month, five tax preparers from southern Virginia were indicted for filing faulty tax returns to gain unusually large refunds for their customers.

Last Thursday, the IRS announced that it has also been monitoring tax preparers in Northern California. Agents posing as clients took the same tax problem to 318 preparers.

Of these, 159 filled out returns that the IRS considered fraudulent, 20 did work that was labeled questionable and 17 handed back forms that were incomplete. The remaining 122 preparers got the right answer.

Alarmed at the fact that a major percentage of taxpayers now have their returns prepared by third parties, the IRS set out to convince taxpayers this year that at least 30 million of them were smart enough to work out their own returns.

Writing in the preface to this year's income tax mailing, IRA Commissioner Johnnie M. Walters noted that even if a preparer is hired, it is the taxpayer who must answer for any errors on his return.

There are no standards, no regulations, that govern the great majority of the nation's tax preparers—excluding accountants, attorneys and a small group of enrolled tax agents which can be regulated by professional groups or the IRS.

According to the IRS, they are not liable to the taxpayer or the government for their errors, as long as there is no proof of conspiracy to defraud.

If and when an audit occurs, unless he has received an express guarantee from his preparer, it is the taxpayer who must defend the return and pay the fines and extra taxes that may be necessary.

It would appear that those who are least protected under the present system are like Median R. Fairfax, people who are baffled by their own tax problems, but don't feel the need or went to face the expense of hiring a lawyer or an accountant.

How does one choose among the estimated 200,000 companies, persons and franchises that are now in operation in loan companies, department stores, shopping centers and storefronts as "expert" tax preparers?

The IRS dodges the question. "You should choose your income tax man with the same concern you would use in selecting a brain surgeon," said one spokesman.

There are signs that Capitol Hill is also becoming restless over the proliferation of the tax preparation industry and its impact on the nation's revenues.

On Thursday, a subcommittee of the House Government Operations Committee, headed by Rep. John S. Monagan, D-Conn., will open hearings on a bill to regulate income tax preparers.

According to Monagan, 78 million taxpayers used preparation services last year. Of these, 28.4 million were people who had incomes of less than $5,000 a year.

"Apart from the unscrupulous actions of certain return preparers and the detrimental impact that their practices have on the U.S. Treasury, the subcommittee is also concerned with the financial impact on the treasury that results from the deduction of fees paid to return preparers," Monagan stated, in announcing the hearings.

"If one assumes that the average fee is $13, the tax return preparation industry grossed more than half a billion dollars in 1970."

And Sen. Abraham A. Ribicoff, D-Conn., has suggested that the government hold tests for tax preparers and license those who pass. The testing and regulation of license holders, he believes, might help the preparation industry by giving the public more confidence in it.

Some experts, including Singleton B. Wolfe, head of the IRS's audit division, don't believe the Ribicoff idea is workable. "We are short staffed now and this business is so huge we'd never have enough manpower to police it," he said.

The size of the preparation industry in the Washington area is demonstrated by the fact that one company, H&R Block, has 80 offices here. According to Ed Morgan, a regional executive for H&R Block, it prepares one out of every five returns filed in the area.

The average return the company handles, he added, is an itemized 1040 that is accompanied with at least one of a number of special tax schedules, such as schedule C, which Fairfax needed for his home office expenses, or schedule D, required for the income for sale of property.

Morgan pointed out that Block attempts to assure the expertise of its preparers by holding its own tax courses each fall. Those interested in becoming preparers the following spring must pay $60 for the course. Block hires from those who pass.

Block also is one of the few companies which guarantees its returns, promising that an employe will accompany the taxpayer to an audit and will pay any fines involved, but not additional taxes that may be due.

According to Morgan, H&R Block returns are checked at least three times before they are delivered to the customer. "We are trying every way that we can to maintain the quality of our service," he said.

Asked about the two tax returns prepared for Median R. Fairfax, Morgan replied, simply, "That was not our best work."

THE FINAL RESULTS

Preparer	Contributions claimed	Office expenses claimed	Dividend income subjected to tax	Preparation fee (including State forms)	U.S. refund due
Internal Revenue Service	$52	$680	$50	None	$613
H. & R. Block (D.C.)	150	218	400	$17.50	570
Professional Tax Service	262	518	400	39.50	586
Sears	366	109	50	27.50	606
H. & R. Block (Va.)	92	572	50	17.50	627
Beneficial Finance	565	613	50	15.00	721
King Tax Service	516	716	300	20.00	766
Woodward & Lothrop	729	254	50	32.50	801

THE IRS GOOFED, TOO

A reporter, posing as "Median R. Fairfax," visited three of the area's walk-in information offices operated by the Internal Revenue Service. Two of the three government experts fared as badly as the private preparers.

After several people with rumpled papers and troubled faces had spoken to James D. Land, an employe standing behind a counter in the IRS downtown information office at 12th and E Streets NW, Fairfax presented him with his tax problem, which included twelve prohibited deductions in a list of income and expenses.

Land, a breezy, confident man, read through the list, checking off two items with a pencil. "Where did you get the idea you could deduct snow tires?" he asked, checking off that item and a diaper service fee included under medical expenses.

As the taxpayer studied the items he checked off, Land added reasuringly, "Don't worry, I only checked off two of them."

At the IRS office at Baileys Crossroads in Fairfax County, Harold Chusid confidently disallowed 7 of the 12 items. However, his pencil paused over a $213 contribution the taxpayer had made to the Committee on Political Education, the political arm of the AFL–CIO.

"I just don't know about this one," he said.

"Don't you have some book you could look it up in?" asked the taxpayer.

Chusid frowned, then shook his head. "You know when it gets into the political area, it's hard to tell," he said.

The third IRS expert consulted was sitting in an office in the Longworth House Office Building. It is one of two information offices the IRS maintains on Capitol Hill.

Perhaps because he is used to dealing with the people who get and eventually spend the money, a young man quickly went down the list, answering "No sir," or "Yes Sir," after each item. All twelve items were disallowed.

PROBLEMS OF OLD AGE

Mr. EAGLETON. Mr. President, Mr. Gil Murphy, of St. Louis, Mo., believes that our citizenry over age 65 comprise the most abandoned group in America. Many knowledgeable people involved with the problems of our older citizens would certainly agree with him.

What Mr. Murphy has done is to organize 207 clubs and organizations representing the elderly into a committee called OASIS, Older Adults Special Issues Society. OASIS serves as a coordinating agency and acts as a focal point through which elderly citizens can express their needs and problems.

As head of OASIS, Mr. Murphy has become an informed and vocal advocate for that portion of the 22 million elderly and often forgotten Americans who live in the St. Louis area.

As chairman of the Subcommittee on Aging, I commend to the Senate an article regarding the activities of Mr. Murphy and OASIS, published in the St. Louis Post-Dispatch of March 21, 1972.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN OASIS IN DESERT OF OLD AGE

(By Jake McCarthy)

Gil Murphy thinks our citizenry over age 65 is the most abandoned group in America, and he wants to set up a "crisis intervention agency" to cope with the problems here of the old and lonely.

Disturbingly enough, he believes also that the problem of aging in today's conglomerate society begins much earlier than the once-traditional retirement age. It begins for many when they find themselves unemployed at age 45 to 50.

Murphy, a 45-year-old Presbyterian minister, brings a special authority to his view of the situation. He ended a 20-year stint in the pulpit in 1968 for what he calls his "tent-maker ministry" among the senior citizens of our community. Not only are the elderly ignored, he says, So are most efforts to help them.

His own efforts are channeled through Older Adults Special Issues Society, (OASIS), which grew out of early efforts to secure reduced transit fares for people over 65. But OASIS hasn't turned the desert green yet. As a matter of fact, what little green it has had, in terms of financial support, is withering and may dry up by April 1.

OASIS represents 207 elderly and retiree clubs in the St. Louis area and has an active membership of 4900 families, including 1641 families classified as low-income, and a black membership of 38 per cent.

Although OASIS serves as the co-ordinating agency for the 207 clubs and provides crisis services and a focal point through which the elderly can express their problems and needs, Murphy says "we don't have the support of the Establishment." He points out that United Fund has declined to support the Older Adults Special Issues Society for three consecutive years.

"They said our program must become self-sustaining," he says, "but the people we are trying to help have to struggle themselves just to survive."

Murphy has been operating on a grant of $16,000 under Title III of the Older American Act, plus free space amounting to the same value donated by Christ Church Cathedral downtown. But the money runs out March 31.

Ten per cent of our national population, or 22,000,000 people, are over age 65, he points out. There are about 580,000 persons over 65 in Missouri, or about 11.5 per cent. Some 17 per cent of the city's population, or 91,000 persons, fall into that category, compared to 7 per cent in St. Louis County.

The obvious long-term problem of the elderly, Murphy says, is to find adequate income. "But let's face it," he says, "they're not going to get it." Thus he sees an urgent need for a crisis intervention agency to meet their immediate problems, and 'is preparing applications to foundations for support.

"If older people get sick, we know how to get them into a hospital. Or get their heat or electricity turned back on, or get food into their house, and then work out a long-term plan through some long-term agency," he explains.

"We want to see if we can keep them out of institutions and in their own places of residence."

But he points out that "we have many misconceptions about the plight of the elderly. We assume that if they have paid off their home during their working years, they'll alwaya have a place to atay. But they soon find out they can't keep up with their property taxes if their only income is social security. Then they have to sell that house or lose it."

Murphy charges that Union Electric Co. is discriminatory in its rate structure, under which the cost of electricity decreases with increased usage. "So the little old lady who burns a single 50-watt bulb in her kitchen to save money pays more per kilowatt than the family in an eight-room house that keeps the lights on all night.

"There aren't any social workers assigned to the elderly because they are on Social Security, not welfare. There isn't anybody looking in on them except, maybe, a helpful neighbor. Sometimes they're not so helpful. If the old person has to go to the hospital, he may come home and find out that what some neighbor was keeping his eye on was the old person's television set.

"If the aged person is deemed incompetent, his social security checks might be 'held' by some institution and the person never sees it. He or she doesn't even have enough money to buy a Coke or a bag of potato chips.

"And even if the older couple has a social security income as high as $300 a month, and tries to maintain a home, you've got the figure maybe $50 or goes to property taxes, another $50 or more for utilities, maybe something for a car. Then what's left for food and other necessities?

"But I would guess the average social security income is far less than that—maybe as low as $100 per month on the average. Who'a kidding whom that elderly people can survive on that?"

Murphy declares: "Because we don't want to face the problem, we segregate our elderly. We tend to put them into enclaves in the city where we don't have to see them all the time. Or else we tell them they ought to move to some 'retirement village' in Florida or Arizona, if they can afford it, and they have to spend their remaining years with a bunch of strangers."

The problem is getting worse, he believes, because of what is happening to the person over 45. Part of the difficulty, he says, is the private pension system. "Many corporations have a plan in which the middle management guy comes under it after 20 years. So, suddenly, after 19 years and six months, the guy in his 40s finds his services aren't needed anymore.

"Maybe he has worked up to an income of $20,000 or $30,000 a year and he's 45 years old. He thinks he's qualified and assumes he'll connect right away, but he soon finds out that companies aren't 'hiring laterally.'

"He finally offers to work for $10,000 or $15,000, but they tell him he wouldn't be happy at it, that he's overqualified. So he has to go into sales and become like the fictional salesman Willie Loman the rest of his life. Of if he's saved some money, he might buy some franchise operation. His own busness. But unless he's lucky, he loses his shirt.

In any case, by the time he's 65 he's probably flat broke. He doesn't have a pension. His reduced earnings for the last 20 years has reduced his social security payments, and he finds himself trying to survive on a pittance. He never thought it would come to this."

Murphy says a bill now before the Missouri Legislature, House Bill 1933, would give relief on property taxes to the elderly on a sliding scale, depending upon old age income, "and that would be a help if it passes. But it's relatively little help in terms of the needs of the aging."

Murphy is a consultant to St. Louis's new Office of Aging, which recently received a grant of $25,000 to plan a $200,000 program of improved social services for the aged. Murphy became active in the question of aging in 1965, when he began to take part in the Home and Family Nurture Program of the U.S. Presbyterian Church.

Born Gilbert C. Murphy in Galesburg, Ill., on May 26, 1927, he was graduated from Westminster College at Fulton in 1948 and went on to the McCormick Theological Seminary in Chicago, where he was ordained in 1951.

He held three pastorates in Kansas City, and was a community organizer there. Then he moved to Webster Groves in 1963 to become pastor of South Webster Presbyterian Church.

In 1968 he decided to "go into the tent-maker ministry" under which a minister makes his own economic way in the world. He still serves as a loaned pastor at Mizpah Presbyterian Church in Bridgeton, although his official assignment from Presbytery of

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Southeast Missouri is his work with the Older Adults Special Issues Society.

He has had a number of setbacks in his three years with OASIS. Plans to utilize the Lenox Hotel for a wide range of elderly activities fell through for lack of economic support, and last August OASIS was offered quarters at Christ Church Cathedral.

In addition to a lunchtime soap program for the destitute elderly and a series of crafts and activities "to integrate the elderly into interpersonal relationships," OASIS keeps itself busy in interrelating the meetings of its 207 associated clubs and serving as a central voice. Its board of directors is made up entirely of the elderly, although there is an advisory committee of prominent citizens. "But our decisions are made by the elderly," he says.

"Most of the money allocated to meet the needs of our older citizens goes to those who are institutionalized. But only about 5 per cent of our elderly are institutions. What are we going to do about the rest?" Murphy asks. "Keep on sweeping them out of sight and out of mind?"

SOLID WASTE DISPOSAL PROBLEMS—ADDRESS BY DAVID D. DOMINICK

Mr. MOSS. Mr. President, the National Association of Secondary Materials Industries held their annual convention in March of this year. One of the important addresses given at their convention was a thoughtful address given by David D. Dominick, Assistant Administrator, Office of Categorical Programs, Environmental Protection Agency

His comments reflect the kind of direction this country must go if it is to solve its solid waste disposal problems, and it indicates that the Environmental Protection Agency is investigating the problem and taking action in some of the needed areas. The examination of freight rate discrimination, use of user deposits, taxes on certain items, technological invocations, and other tax problems being carried out by EPA under the Resource Recovery Act of 1970 should lead to necessary changes.

I ask unanimous consent that Mr. Dominick's speech be printed in the RECORD so that others might see the kind of directions that must be taken in this field.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

RECLAIMING OUR NATURAL RESOURCES

Nearly 60 years ago, when this National Association of Secondary Material Industries was formed, few people would have understood the meaning of the word "recycling."

Now, in this era of environment, the terms recycling, reclaiming, and reusing, are catchwords of the ecological movement.

Across the country citizen action groups have voluntarily created recycling centers in order to reclaim valuable natural resources so that they may be used again.

As an example of business interest, the aluminum industry has recognized the value of reclaiming aluminum products. This past year alone the Aluminum Association reports that more than three-quarters of a billion cans were recycled, eliminating litter while conserving natural resources.

Citizen action, coupled with the efforts of the secondary materials industry and other business concerns, has shown that significant amounts of our resources can be saved and reutilized.

We know, for example, that about 45% of this country's total available copper is recovered from scrap, that about 10% of our total raw paper needs are filled by recycled paper, that about 30% of all aluminum is reclaimed and that over 50% of our lead needs come from scrap.

While these results are good, I believe that we must do a better job of reclaiming the natural resources of this country and seeing that they are reused when practicable.

The Council on Environmental Quality reports that industrial solid wastes alone generate 110 million tons of waste per year; 15 million tons of metal; 30 million tons of paper and paper products; with the rest consisting of waste plastics, textiles and assorted materials.

The industrial wastes are expected to double to more than 200 million tons per day by 1980. And residential, institutional, and commercial solid wastes, now piling up at a rate of 250 million tons per year, are also expected to double by 1980. Clearly, great efforts will be needed to solve the growing solid waste problem.

The Environmental Protection Agency has been given the primary Federal role in examining the problems associated with recycling of solid waste materials. We are concerned with the economics of resource recovery. We are concerned about the present legal discrimination on secondary materials imposed by freight rates. We are helping to develop new technology that will increase the opportunity for resource recovery, and we are demonstrating the practical application of such technology.

EPA is aware of the many economic factors that impact the secondary materials area. We know that virgin raw materials costs have in many cases been as low as the cost of secondary materials. We know too that natural resources are concentrated and tend to be more homogeneous in composition than waste materials.

In addition to the economic factors that have worked against recycling, the public attitude, in the past, has been negative when faced with the decision to purchase products containing material made from scrap. But the public attitude is changing to one of acceptance of products made from nonvirgin material, provided that the product meets performance requirements. This change in attitude was recognized recently by William Ruckelshaus, Administrator of the Environmental Protection Agency, when he suggested that aluminum companies might well advertise their products as containing recycled material.

With a view toward the marketing problems of secondary materials, the Agency has identified and is analyzing a number of economic incentives and disincentives which would be applied to increase the recycling of solid waste material. It must be noted here that we do not yet have the answers on the best mix of these measures. Thus, we cannot establish a public policy at this time that will commit us nationally to an incentive-disincentive course with confidence. But, some of the measures we are studying might allow:

1. Lowering depletion allowances on virgin materials or giving allowances in the form of direct subsidies including price supports on secondary materials.

2. Reduction of freight rates for shipping secondary materials. While it will be some time yet before we have our final figures in this area, we do generally support the arguments advanced by the NASMI with respect to ocean and surface freight rates. And, we will work closely with NASMI in making our views known to the Congress, the ICC, the Maritime Commission, and others.

3. Imposition of a direct tax on disposable items that enter the solid waste stream, the size of the tax set to reflect the disposal costs of the various material. Or, conversely, a tax credit could be given for those products which utilize secondary materials and which are readily recyclable.

4. A user deposit could be placed on nonreturnable bottles and other approaches, primarily the tax approach, could be applied to the problem in general.

5. Government purchasing, at all levels and wherever applicable, could specify recycled materials. At President Nixon's request last year, the General Service Administration changed specifications on a number of paper grades to require the use of recycled paper by the government. It should be noted too, that we are exploring with the GSA and the National Bureau of Standards the broader issues of Federal standards that apply not just to government purchasing, but for example, to NBS material standards that could impact on the building industry.

6. Investment tax credits and accelerated amortization for industry-purchased recycling equipment could be provided.

7. Various forms of restrictive legislation could be enacted to inhibit or halt the flow of specific items in to the solid waste stream.

Indicative of the importance that the Administration is placing on recycling is the statement by President Nixon in his Environmental Message of February 8. The President said, ". . . Federal tax policy should also offer recycling incentives, (and) the Treasury Department is clarifying the availability of tax exempt treatment industrial revenue bond financing for the construction of recycling facilities built by private concerns to recycle their own wastes."

Surely these measures that we are reviewing could have significant impact on the proposition of resource recovery, if properly mixed and implemented. Many of the possibilities I have mentioned would be favorably received by this association, for many of them were suggested to the Joint Economic Committee in testimony last November by the vice president of NASMI, Mr. Mighdoll.

Certainly, working to solve the economic difficulties that beset the recycling industry will be occupying a good portion of our time. But, we are also moving ahead in the area of technology innovation—seeking to spur on the development of more efficient and economically viable reclamation methods.

In this respect we are funding a refuse milling demonstration project in Madison, Wisconsin. The purpose of this project is to centrifugally separate metal such as gears and engine blocks which have damaged shredders and rendered bulk milling impractical. All the answers on this project are not available as yet, but if successful some of our solid waste disposal and reclamation problems could be solved.

A second project which is receiving considerable attention is an EPA funded project in Franklin, Ohio. This plant is designed for resource recovery, to recycle municipal solid waste, and to reduce the unwanted waste residues to one-twentieth of their original volume.

This plant is now separating paper from metal and turning the paper into cellulose fibers. The ferrous metals are segregated from the non-ferrous metals. The recycled products—paper, steel, aluminum and glass—can be sold, with favorable market conditions, for nearly $100,000 per year.

An additional phase of the Franklin operation will provide a system to screen, wash and sort bottles. This will begin some time this year. Further, the plant will be integrated with a sewage treatment plant so that water used in separating actions can be reused for the slurry lines. Industrial waste will be burned in a reactor where the heat will dehydrate sewage sludge.

A third project in which we have great interest is a cooperative venture between EPA, the City of St. Louis, and the Union Electric Company. In this project municipal wastes will be shredded to a small particle size. When the ferrous metals have been magnetically extracted, the other waste material will be mixed with pulverized coal to fire a power plant boiler and generate electricity. The fuel value of municipal solid waste is about half that of coal. So, if the St. Louis project proves to be a success it could help solve the waste disposal problems of many of the country's large cities.

These three projects in Madison, Franklin, and St. Louis hold great potential in terms of resource recovery and reuse of energy that was previously wasted. But, at this particular point in time the word "potential" must be emphasized. Some years will pass before the plants that I have described today will be found operating in many cities and towns.

I have spoken of the market problems involved in resource recovery and told you of some of the potential solutions we have under review. I have also mentioned the demonstration projects that are being developed and put into operation to reclaim resources and use previously wasted sources of energy.

Having told you about some of the steps the government is taking, I would urge the members of this association, and other industries that collect or process secondary materials to continue the work of resource recovery and to continue to lead the effort to channel valuable products back into the market for reuse.

I believe that the future will see new industries develop from the manufacture and sale of materials made from recycled goods. The innovation to come in this area will, in turn, provide you with new and profitable opportunities.

And, most importantly of all, we will solve a significant portion of the nation's solid waste problem while conserving and reusing great quantities of our national resources.

HEALTH CARE FACILITIES—STATEMENT BY DR. ROGER D. MASON

Mr. CURTIS. Mr. President, many rural communities are concerned about their health care facilities and the availability of doctors. Sometimes the notion prevails that only Washington is concerned. That certainly is not true. In fact, much is being accomplished by the citizens themselves in dealing with this problem.

In September 1971, the Subcommittee on Rural Development of the Committee on Agriculture and Forestry of the Senate held several field hearings. Among other places where hearings were held was Nebraska. At that time Dr. Roger D. Mason, a practicing physician of McCook, Nebr., and president of the Nebraska Medical Association, made a very fine statement. I think it merits a place in the CONGRESSIONAL RECORD. Mr. President, I ask unanimous consent that Dr. Mason's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

HEALTH CARE FACILITIES

Mr. Chairman and members of the Subcommittee: I am Roger D. Mason a physician in the private general practice of medicine here in McCook. In addition I am presently serving as president of the Nebraska State Medical Association. I am very pleased for this opportunity to respond to your inquiry into rural America, its problems, and possible solutions to these problems.

There can be no doubt that Nebraska shares with the rest of the rural United States a need for an improved economic base. This should include not only an expansion of agriculture, but also diversification with location of appropriate other industry in America's more sparsely populated areas. However, my purpose in being here this evening is to stress the importance of community services in general and health needs in particular if we are to stem the tide of migration from rural to urban areas.

I am sure you will recognize the parallels between my comments on medical and health needs, and other areas such as education, transportation, communication, church facilities, and general commerce.

First, let me say that Nebraska is much like the rest of the United States in that the problems of health care delivery are quite variable in different sections. Providing for the care of the sick, injured or aged in eastern Nebraska, in relatively close proximity to Omaha or Lincoln, is quite different from providing that same service in the sandhills or here in Southwest Nebraska. Outstate Nebraska, that area outside metropolitan Omaha and Lincoln, is made up of about fifteen minor population centers each serving a relatively large surrounding agricultural territory. In eastern Nebraska we have two Indian reservations presenting their unique problems and along the North Platte River through the Panhandle there is a concentration of transient Mexican-American population. Many of the service communities in Nebraska are close to bordering states—such as McCook, Scottsbluff, Hastings and Beatrice—which creates some problems in programs such as Medicaid.

While discussing Nebraska's problems, medical manpower and manpower distribution must be considered. In this regard, I would like to present a few figures which will illustrate my point, I think. On a state-wide basis in 1940, the physician population ratio was 1:940 and in 1970 this ratio had dropped to 1:925. However, in the same thirty years, the area outside Omaha and Lincoln went from a ratio of 1:1149 to a physician population ratio of 1:1405. What I'm saying is that state-wide we have done a good job in retaining physicians in Nebraska but the rural areas have lost ground.

In considering these figures I believe they should be tempered with consideration of improved medical facilities, better transportation, etc which has increased the productivity of our physicians.

Nebraska medical manpower discussions in the past have usually come around to mention of the fact that thirteen of our ninety three counties have no physicians. It should also be indicated I believe, that nine of these thirteen counties have a 1970 census of 1,054 or less. With fairly adequate roads and transportation most of these areas are reasonably close in time to surrounding medical facilities.

Throughout rural Nebraska, we have some difficulty in providing allied health services, notably in the fields of social workers, physical therapy, and neurology. At present, these services are available, but primarily only with considerable expenditure for travel.

After mentioning some of the problems in health care in rural Nebraska, I would like to briefly mention some of the existing programs aimed at solution of these problems. In order to reduce the time involved in giving my oral remarks I have here some material prepared by the University of Nebraska College of Medicine and the Nebraska Regional Medical Program. I would like to ask that these reports be added as an appendix to my remarks.

To first mention some of the programs which we in Nebraska feel are of proven value, I would like to discuss the preceptorship portion of the University of Nebraska curriculum. This is a four week required exposure of senior medical students to rural practice. The student may select any of fifty practicing physicians in outstate Nebraska to spend this period of time with. We feel this program has been instrumental in locating younger physicians in rural Nebraska.

Rural Health Day is held once a year in Omaha as a cooperative effort between the University of Nebraska, Creighton University, The Academy of Family Practice, and the Nebraska State Medical Association. Every town in our state is invited to send representatives to discuss possible future location with the medical students. This program too has been effective in securing physicians for rural Nebraska. One important ancillary benefit has been that the students have educated the communities as to factors important in attracting today's young physician.

The new Action Agency program recently inaugurated as a consolidation of Vista and the Peace Corps is being promoted at the University of Nebraska College of Medicine. In our state, this is known as NOVA (Nebraska Opportunity for Volunteers in Action). The target date for these students to begin service is September 26, just 17 days from now.

There are two unique programs in Nebraska aimed at improving medical services in rural Nebraska which I would like to mention. Creighton University has recently begun teaching some of their medical students to fly. The purpose behind this is to increase the rural physicians access to surrounding medical centers for referral as well as postgraduate education.

In addition, and under the sponsorship of the Nebraska Regional Medical Program, a 12 foot by 60 foot mobile trailer unit is operational in Nebraska. This is a cancer screening unit aimed at the most common cancer sites. This unit is programmed to supplement the care of patients in areas of low medical manpower as well as the Indian reservations. It will also supplement service to the migrant worker population.

One additional program deserves mention since it is aimed at improving the quality of care as opposed to programs aimed at the quantity of health services. This is the Coronary Care Training Program again under the sponsorship of the Nebraska Regional Medical Program. To date 806 nurses and 55 physicians have been trained in the newest techniques of caring for the patient with coronary occlusion.

Mr. Chairman, I can sum up my remarks by saying that the provision of services and improvement of the socio-economic status of out-state Nebraska is a pre-requisite for preventing the loss of population in our rural communities. These problems are complex to identify as well as to solve.

Thank you for the opportunity to present this statement on behalf of the Nebraska State Medical Association and the people of Southwest Nebraska.

ANTHONY LEWIS ON THE VIETNAM OFFENSIVE—"IN THE NAME OF GOD, GO"

Mr. KENNEDY. Mr. President, the columns by Mr. Anthony Lewis, published in the New York Times last Saturday and today, provide an eloquent denunciation of the appalling new escalation of the war in Vietnam, and the fresh agony it brings to the families of our prisoners. As Mr. Lewis states, the U.S. policy of Vietnamizing the war is a policy of perpetual war and perpetual American involvement in the killing and de-

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struction in Indochina. So long as the war goes on, so long as American planes are bombing Indochina, there is no chance whatever that we shall get our prisoners back.

The American people want the war to end. Quoting the words of Cromwell in dismissing the Long Parliament, Mr. Lewis applies that exhortation to the position of the United States in Vietnam—"In the name of God, go."

Mr. President, I share the views of Mr. Lewis, and I believe that millions of Americans share them also. I ask unanimous consent that his columns be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 8, 1972]

IN THE NAME OF GOD, GO

(By Anthony Lewis)

Richard Nixon, December, 1971: "Vietnam will not be an issue in the campaign as far as this Administration is concerned, because we will have brought the American involvement to an end."

LONDON, April 7.—The Nixon withdrawal from Vietnam has always had something of an illusory character. While American ground troops left, other military involvement continued or intensified. From carriers and from enlarged bases in Thailand, American bombers attacked Laos and both parts of Vietnam. American planes and supplies supported a larger war effort in Cambodia. The phantom C.I.A. army fought in Laos.

Many Americans nevertheless believed—because their President said so and they wanted to believe—that their part in the Indochina war would soon be over. Now that belief must be dead—gone the way of all the other officially propagated illusions about Vietnam.

The South Vietnamese, we had been told, were making remarkable progress, their million-man army confident, their political situation stable. The Communists had never rebuilt their southern infrastructure after the losses of Tet 1968. The war was going better than we had hoped.

It took less than a week for the new Communist offensive to shatter that picture and to send President Thieu of South Vietnam crying for help. Of course he cried to Richard Nixon. The response was the familiar one: more B-52's, more destroyers, more carriers, more close air support, more bombing of the North, more U.S. involvement.

Surely now there cannot be any informed person on earth who fails to understand what is the result of the Nixon-Kissinger formula for "peace" and "stability" in Indochina: perpetual war and perpetual American involvement. Unless the war ends on our terms, with Communist acceptance of the Thieu Government, we shall keep killing the inhabitants of Indochina—from a distance.

The Communist offensive did put Mr. Nixon in a difficult position. No American President wants to be seen abandoning a policy under duress, this one least of all. But it was Mr. Nixon and Henry Kissinger themselves who painted themselves into the corner where they have no options except more of the destruction that everyone knows is morally outrageous and politically useless.

When Mr. Nixon took office three years ago, he could have recognized the political realities of Vietnam and left the internal forces there to work out their own balance. Instead he has continued to make the attempt to impose our solution.

He did so, according to report, on the advice of Henry Kissinger that the other side could not indefinitely withstand our superior force and would have to agree to terms. In short, we could bomb them into settling.

But that was the oldest, most tattered official illusion of them all. From Lyndon Johnson's tragedy came the lesson that in a limited war the United States has limited power to impose its terms. If Henry Kissinger did indeed ignore that lesson, he will have a heavy reckoning to pay in history for three more years of pointless death in Indochina—or four or five or ten. For on the present policy, how can anyone pick a date when the war will end?

The Kissinger-Nixon justification for going on in Vietnam is that we must preserve our credibility as a world power. But a great country can justify such relentless destruction of another only if its own safety, its vital strategic interest, is urgently at stake. And virtually no one believes that about Vietnam any more.

A leading British student of international security and war, Michael Howard, has some apt comments in the April issue of Encounter. It is a tough-minded article, cautioning idealists that world stability will always require "the acceptance of necessary injustice"—for example, dealing with the Greek military regime.

But as a realist, Mr. Howard says of Vietnam: The evils that would result from Communist domination there are "purely notional and arguable," while "the evils which are perpetuated in preventing it appear so actual and so evident that the 'order' in whose name they are carried out stands . . . condemned." He concludes:

"Whatever the arguments may be about regional or global stability, about dominoes or deterrence, what the United States has been doing in Vietnam is wrong and ought to be stopped."

The American people have evidently believed for some time that President Nixon's objective—preserving Nguyen Van Thieu—is not worth what we are doing to Indochina and to ourselves. They want an end to American involvement, with its corrupting effects on our reputation abroad and our peace at home. They would say what Cromwell said in dismissing the Long Parliament: "In the name of God, go."

[From the New York Times, Apr. 10, 1972]

THE FORGOTTEN VICTIMS

(By Anthony Lewis)

LONDON, April 9.—President Nixon's response to the Communist offensive in Vietnam, his escalation of air and naval bombardment, has special and agonizing meaning for one group of people: the wives and families of American prisoners.

More than anyone else, they must realize that the Nixon policy now offers no realistic hope of an end to American military involvement in Indochina. And in all likelihood that means no end to the captivity of their husbands, sons, brothers and fathers.

The feelings of the wives and families are likely to have political significance as the year 1972 goes on. Mr. Nixon, recognizing their potential as a focus of antiwar emotions, has taken great care with the families: his aides have cultivated them, and he himself made a surprise appearance at the last meeting of their organization. But resentment of the President—a feeling that he has defaulted on a pledge to get the men out—is now growing.

The President's credibility among the prisoners' families was falling before the latest military turn in Vietnam. An example of that trend can be seen in Mrs. Audrey Craner, whose husband, Lieut. Col. Robert Roger Craner, was shot down over North Vietnam on Dec. 20, 1967. She has had one brief letter from him since then, and she does not know whether any of her letters to him has got through.

Mrs. Craner is English-born, and she struggles in a very English way to contain her anguish. She has not wanted her husband's plight to be caught up in politics; she has resisted those among the families who favor politicizing the prisoner issue. But now, painfully, her words are changing.

"Mr. Nixon keeps saying the war will not be an issue in the election," Mrs. Craner said a while ago, "but I can't believe that. He came in on a promise to end the war. He made clear in his last [January] speech how difficult that is, but he made the promise.

"I assume that Mr. Nixon means what he says when he says he will be responsible for the prisoners, so he must expect us to hold him responsible. If he gets those men out, I'll be glad to back him in the election. I'm sorry to be so selfish, but . . ."

Mrs. Craner appreciates the argument for continuing American effort to keep the Government of Nguyen Van Thieu in power in Saigon. She says that her husband is a career officer who understood the risk of war and would have thought his captivity a burden to be borne for the sake of American political objectives. But then she says: "That's what I believe he would have said five years ago, but now I don't know."

Others among the prisoners' families are much less cautious than Mrs. Craner, much more politically committed. An example in Washington, D. C., is Sheila Cronin, whose brother was shot down on Jan. 13, 1967. He is Navy Lieut. Comdr. Michael P. Cronin.

Miss Cronin and others are working in their spare time to put pressure on President Nixon by supporting candidates who would end the war and get the prisoners home. They expect to go to both national conventions.

"When the President spoke in January about the secret peace talks," Miss Cronin said, "we didn't understand a lot of things. We went to the White House and spoke with a staff man from the National Security Council. I asked him a lot of questions, and I didn't get a straight answer to a single one. At the end he told me that I should give their peace plan ten months—which would keep us quiet long enough to get Nixon re-elected."

One episode played a significant part in the politicizing of Sheila Cronin. That was what she calls the President's "misrepresentation of the facts" in his television interview with Dan Rather of C.B.S. last Jan. 2.

In that interview the President said flatly that the United States had offered the North Vietnamese "the deal of saying if we set a deadline" for total withdrawal, 'then they will give us back our P.O.W.'s." The North Vietnamese, he said, had 'totally rejected" this proposal—"a very cruel action on their part."

But that was fiction. The United States has never disclosed having made any such proposal for an even exchange—total withdrawal in return for the prisoners—even in the secret talks.

There is certainly no assurance that the other side would have accepted the idea. They might have last summer, before General Thieu's reelection; they might not. But there has never been any sign of willingness on Mr. Nixon's part to make such a deal, at least to date.

Even by our degraded standards of political truthfulness, such a calculated misrepresentation was, and is, staggering. The wives and families are not likely to forget it—or, if they have any access to the public conscience, to let the rest of us forget it.

PROXMIRE WARNING ON NUCLEAR DISASTER

Mr. PROXMIRE. Mr. President, this morning the Military Spending Committee of Members of Congress for Peace Through Law held a news conference on the wisdom of proceeding with the ULMS program on a crash basis proposed by the President. I ask unanimous consent to have printed in the RECORD the statement I made at that conference.

Mr. President, I worked long and hard in the preparation of this statement. I think it has very great significance, and I hope that Members of Congress and as many as possible of the national readers of the CONGRESSIONAL RECORD will read the statement thoroughly.

I also ask unanimous consent to place in the RECORD the report compiled by the staff of the Members of Congress for Peace Through Law.

Much of the work on this effort was done by Ross Hamachek, an extraordinarily gifted young man whose contribution to this report is in my view very great indeed.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ULMS PRESS CONFERENCE

This is the first press conference of this committee of the Members of Congress for Peace Through Law in a long time.

Before I get into a substantive discussion of ULMS—which of course is the purpose of this meeting—I stress that this committee and this senator are both determined to do all we can to strengthen our military forces. I believe firmly in the scroll I have just framed and put on the wall in my office. It reads: "Defense is our national insurance policy. We must (I repeat) must be number one."

And how do we stay number one?

How do we know? How are we qualified to speak out with authority on a subject on which life and freedom depend and depend on the right answer?

How we wish we could say with Vince Lombardi: "Winning isn't the best thing; it's the only thing." Lombardi was a good—in fact a wonderful man; but on this statement it's hard to resist marveling at his arrogance.

In the same way it's hard to resist marveling at the arrogance of those who are sure that there's only one answer on the nuclear confrontation and that they alone have the answer.

The best claim to consideration any of us can have in this life-and-death debate is that we suffer good, common wholesome self-doubt.

To put it another way. No man is God. None of us is infallible. We all make mistakes including bloopers of monumental dimensions in fields where we have devoted our lives, where we have had the best training.

This is not to say that Ignoramuses know more. It is simply to say that we should be cautious about all conclusions, no matter how divinely inspired they may seem, or how expert they may in fact be, including our own and including the ones that I will suggest today in connection with ULMS.

This morning I am specially conscious of the fact that I am dealing with a weapons system that could make the difference in preserving this country's freedom against all-out nuclear attack. I also realize that any time both this country and the Soviet Union make any advance in nuclear power, then the crushing catastrophe that could end most life on earth and end civilization comes closer.

Let's also acknowledge that this committee has singled out ULMS in the past as a weapons system we could and did enthusiastically support. Last year I contended that the Defense Department was going too slow on it, and it was. I said DOD ought to shove ULMS along faster. Everyone knew that the Committee said we should be spending less on weapons that couldn't do the job and God knows I supported that position. But there was little recognition of my own enthusiastic support of ULMS. *Was* I right then? *Were* we spending too little on ULMS? What do you think?

And now, the committee and I of course feel we should push this program ahead just as fast as we can justify doing so. We need it. If I could wave a magic wand, and have ULMS all in place right now—complete and ready to do the job, I would wave it. Why wouldn't I want instant, devastating power for my country?

But of course there is no magic wand. There is no sure, quick way. In fact there is no quick way; and there is no sure way. There is just the plodding, agonizingly, slow progress of fallible human beings—little better or worse than any of us—human beings who make mistakes—made them in the past—will make them in the future and make them now.

So with full determination to achieve an ULMS that will do the job and will do it as fast as good sense indicates is possible, we strongly oppose this year's Defense Department's decision to throw everything including the kitchen sink into the program with an incredible one thousand percent single year increase in funding. That is far too fast to make anything except big mistakes.

Now am I not being inconsistent?

Well, how about it? I'm not asking you to take the word of any group of Senators or Congressmen for this. I'm asking you to take the implications of this year's DOD decision to smash ahead full tilt on ULMS as compared with its decision last year to go slower than Senator Proxmire wanted to go.

If I'm a naive ULMS dove this year, I was a bloodthirsty ULMS hawk last year. Which was it? The answer of course has to be: Neither!

Gentlemen what I have just read—is a statement I prepared and wrote last night at my home. During the past week the staff of MCPL prepared another statement which of course is available to you. I'm very proud of our staff. I prepared this statement I have just read before I read theirs.

Before I call on Congressman Don Fraser who worked with the staff and me on the report, I will summarize the points made by the staff in its prepared statement. And after Congressman Fraser's statement we will be ready for your questions.

The points are these:

1. MCPL has decided to concentrate on four major weapon systems this year: ULMS, the new Aircraft carrier, the F–14, and the WACS bomber defense system.

2. The Request for ULMS this year is $977 million. $330 million of this is earmarked for a new long range missile system the ULMS 1, the balance for development and long lead production work on the new ULMS submarine itself.

We support the $330 million in missile related funds—we do so with enthusiasm.

But we believe the develop work should be funded in fiscal 1973 at no higher than a $50 million level.

We naive doves would increase this devastating military program over last year—not by 50%—not just double—or triple. We'd increase it F-O-U-R TIMES?

It is true we would cut $600 million below the DOD request.

The report has our other conclusions and recommendations.

Here are the highlights.

3. We remain convinced that our sea-based deterrent has the best prospects of all our strategic systems for long-term survivability, and we fully support all steps necessary to preserve its strength and invulnerability. Our recommendations are quite consistent with this objective. They call for ULMS funding almost four times larger this year than last and a major new missile development program to improve the capabilities of our fleet. The ULMS 1 missile will make our Polaris submarines much more difficult to detect, will expand their time on station, and will give them improved target coverage. If introduction of the ULMS 1 is accompanied by quieting improvements on which the Navy is already working, our current submarines can be given virtually all the new capabilities which the Navy is projecting for ULMS.

Our Polaris submarines are not suffering from the ravages of age. They will need replacements in the 1985-1990 time period, but there is no need for crash development and deployment of their successors ten years before that time.

4. The American taxpayer cannot afford the conspicuous consumption of new weapon systems which has become the military way of life. This is especially true when the long-term nature of the ASW threat is so unclear that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have.

5. A new submarine construction program is not needed now to match a Soviet submarine buildup. We do not know what plans the Soviets have for expansion of their submarine fleet, but we do know that our submarines are much harder to find and have ten times more warheads per ship. Under these circumstances, we should not allow Soviet expenditure of $100 million on a 42nd ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race.

We should instead proceed with the ULMS 1 missile, but defer any major submarine construction program for at least one year and look to the SALT negotiations for limitations on both the Soviet and United States submarine fleets. If these negotiations succeed, major development work on a new submarine system should not be necessary until after 1975. If no agreement is reached, Soviet actions should be monitored closely and careful consideration given to alternative United States responses. Additional submarine construction may become necessary, but there is much to be said for a smaller, less detectable, and less expensive ship than the present high-speed ULMS design.

REPORT ON ULMS

(A research paper for consideration by the Military Spending Committee)

SUMMARY AND CONCLUSIONS

The Navy's Undersea Long-Range Missile System (ULMS) has been in the study and design phase since its inception in 1969. We have supported the ULMS program in the past as a long-range hedge against threats to and as an eventual replacement for our Polaris and Poseidon missile-firing submarines. We agree with the Administration that our sea-based deterrent has the best prospects of all our strategic offensive systems for long-term survivability, and we fully support all efforts necessary to preserve its strength and survivability.

The ULMS program was funded last year at a level of $104.8 million. This year's request—including $35 million in presently deferred supplemental fiscal 1972 funding—is $977 million. Approximately $330 million of the pending request is earmarked for work on a new long-range missile system (ULMS 1) and the balance for new submarine development and production work. It is the Navy's present intention to be able to deploy the new missile in our current submarines in 1977 and the first new ULMS submarine in late 1978.

There are two possible justifications for

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the almost 10-fold increase in fiscal 1973 ULMS funding. It can be viewed, first, as a response to Soviet submarine fleet expansion, and second, as a modernization and replacement program for our Polaris and Poseidon submarines. We do not believe that large-scale funding for a new submarine system as opposed to funding for a new long-range missile system can be adequately justified on either of these grounds at this time.

Soviet Submarine Expansion. It is true that the Soviets have already deployed 25 Yankee class ballistic missile submarines and that another 17 are now under construction. It is true, also that deployment of all those submarines by the end of calendar year 1973 would give the Soviets one more modern ballistic missile submarine with sixteen more sea-based missiles than the United States. While this Soviet buildup is grounds for serious concern, it does not justify an accelerated new submarine construction program at the present time.

For one thing, numbers of submarines and sea-based missiles are only two indicators of a nation's sea-based deterrent strength. Such factors as numbers of warheads, submarine detectability, missile range, and geographical considerations also play an important role. And in each of these areas the United States has and will enjoy for some time to come significant advantages over the Soviets.

Second, it is impossible to predict what additional improvements in their sea-based deterrent the Soviets may undertake or what success they will enjoy in their endeavors. They may seek to deploy considerably more than 42 ballistic missile submarines, or they may stop at or near that number. They may or may not seek to put in their present submarines longer range missiles with independently targetable weapons to match the Poseidon program. It is true that the Soviets have developed a new SLBM with a range equal to that of Poseidon; but it is also true that they have yet to conduct one successful MIRV flight test of either a land-based or sea-based missile.

Third, an accelerated new submarine construction program is not needed now to protect United States interests against this ill-defined Soviet threat. Even under scenarios much worse than might be expected, we could defer such action for one or two years yet still respond in plenty of time to prevent the Soviets from gaining any significant advantages in sea-based deterrent strength.

Fourth, an accelerated new submarine construction program now could jeopardize SALT negotiations for numerical limitations on the size of sea-based deterrent forces. The Administration has increased this prospect by its implication that work on ULMS might proceed with little change in the current timetable even if such limitations were achieved, as a replacement rather than a supplement to our Polaris submarines. If ULMS, in fact, is not negotiable, it is difficult to see how it could provide the Soviets with incentive to accept such limitations.

We could have a much better bargaining position at SALT if we proceeded now with work on a new long-range missile system only. Initiations of such work would serve as ample evidence of our determination to protect our sea-based deterrent. A new submarine construction program would be the logical *next* step if sea-based force limitations are not achieved.

For all these reasons, we should not allow Soviet expenditure of $100 million on a 42d ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race. As President Nixon noted in his recent foreign policy message to the Congress: "The capabilities of both the United States and the USSR have reached a point where our programs need not be driven by fear of minor quantitative imbalances."

There are other positive risks, too, inherent in the present accelerated program for ULMS development—risks of cost growth and schedule slippage and risks of premature commitment to an ill-advised design.

Modernization and Replacement. An accelerated new submarine construction program cannot be justified any time in the near future simply as a necessary modification and replacement of our Polaris and Poseidon submarines.

First, *none* of our current submarines will reach the end of their projected 25–30 year service lives until the 1985–1990 time period. The prospect of physical obsolescence cannot be used to justify anything like a 1978 initial deployment date for a new replacement submarine.

Second, all foreseeable prospects for technological obsolescence can be countered just as effectively by appropriate modifications to current submarines as by the development of replacements for them. Incorporation of a new longer range missile system, such as the ULMS 1, would increase their survivability, improve target coverage, and increase their time on station. It is also probable that putative ULMS advantages such as quietness of operation and reduced maintenance times could also be reduced by a gradual modification program. Under these circumstances, we believe that money spent for new submarine replacements would be money wasted at the present time.

Third, money spent now might be money wasted for another reason as well. While our current submarines are secure today from Soviet ASW techniques—and while they could be made more so by an appropriate modernization program—we know very little about the long-term nature of the ASW threat. What form the threat will take, and what steps will be required to counter it, it is impossible to predict at the present time. There is a danger, therefore, that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have.

We do not believe that the ULMS program, as presently structured, can be justified. Accordingly, we oppose that program and make the following recommendations for an alternative course of action. The fiscal year 1973 impact of these recommendations would be to reduce the Administration's budget request for ULMS from $977 million to $380 million. This amount would still permit a major initiative in fiscal year 1973 to increase the survivability of our sea-based nuclear deterrent.

RECOMMENDATIONS

(1) We call upon the President to express the willingness of the United States to defer for one year the accelerated development of a new submarine system, in return only for Soviet agreement to serious negotiations at SALT on the subject of sea-based force limitations. It is our belief that the President should be able to obtain such a commitment from the Soviets during his Moscow trip in May, at which time an interim SALT agreement restricting ABMS and land-based missiles is now expected to be signed.

(2) If such a commitment is obtained, the United States should make clear that its continued restraint during subsequent negotiations will be directly dependent on the restraint exercised by the Soviets themselves. In our view, such restraint will be shown if both sides forgo major additional ballistic missile submarine construction activities and confine their efforts to improving the capabilities of their current submarine fleets. If such restraint is exercised—and there are no developments threatening the survivability of existing sea-based forces—there should be ample time for negotiations to proceed without simultaneous submarine buildups on either side.

(3) Approximately $650 million of the $977 million fiscal year 1973 ULMS request now pending is earmarked for work on a new submarine and its non-missile subsystems. If a Soviet commitment to negotiations is obtained, we believe that $600 million of this amount should be disallowed. Such action would provide for a slight increase over fiscal year 1972 ULMS funding of roughly $40 million for non-missile work. We believe that $50 million should be more than adequate in fiscal year 1973 to continue Navy submarine design studies and preliminary development work.

(4) In allocating this $50 million to specific uses, the Navy should be guided by two objectives. First, it should seek to reduce to the greatest extent possible the risk of cost growth and schedule slippage which would be inherent in a decision to greatly accelerate the pace of ULMS development in fiscal year 1974. Second, it should minimize as much as possible the risk of premature commitment to a particular submarine design. Major development expenditures on a new propulsion plant, especially, should be avoided at this time.

(5) During the next year both the Department of Defense and the Congress should conduct an in-depth review of alternative new submarine designs. Special attention should be focused on the Navy's present plan to build new submarines which would be faster and much larger than our Polaris and Poseidon fleet. It should be clearly demonstrated that all costly design requirements are justified by a clear-cut military need.

(6) Approximately $330 million of the pending ULMS request is earmarked for work on the new ULMS 1 missile system. This funding should be fully approved. Development of a long-range missile system—together with other modifications to our current submarines on which the Navy is now working—will significantly enhance the survivability of our present fleet against all foreseeable threats. If development of this new missile system proceeds at the presently projected rate, it should be available for initial deployment in 1977. In the absence of any major change in the ASW threat, both the new missile and our current submarines should remain an integral part of our sea-based deterrent well into the 1990s.

(7) The Navy should accord high priority to its current "SSBN Defense" program, the purpose of which is to identify and develop suitable counters to new ASW techniques which could jeopardize our Polaris and Poseidon fleet. The knowledge gained from this program should be used to make future reductions in the detectability of that fleet and as a continuing source of ideas for new submarine designs.

(8) If SALT negotiations proceed well, the Navy timetable for a new submarine construction program should be determined both by changes in the ASW threat and the eventual need to replace our current submarines. Such a program should be undertaken in sufficient time to meet any changes in the ASW threat which have been identified and which cannot be countered by modifications to our Polaris and Poseidon fleet. Unless such threat changes have been identified, it should not be necessary to move beyond the study and design phase of a new submarine construction program until fiscal 1976 or later. That starting date would provide ample time for the leisurely development of a new submarine system. Even if development times were stretched from the roughly six years implicit in the Administration's present timetable to as much as 10 years, the first new submarine would still be available in 1985, at which time the oldest of our current submarines would be only 25 years of age. It would then be possible—with a construction rate as low as two or three submarines per year thereafter—to replace all our current submarines inside their projected 30 year lives. We believe that this timetable, either the development or production phases of which could be compressed if the threat required, makes much more sense than the commitment now of vast sums to a new submarine system of unknown long-term value.

(9) As soon as possible, the issue of restrictions on strategic ASW operations should be placed high on the SALT agenda. Our sea-based missile submarines are now secure for the foreseeable future, but the possibility of a new ASW breakthrough—one which cannot be countered by any new submarine design—cannot be dismissed out of hand. We recognize that restrictions on ASW research are not now feasible, since compliance with them could not be verified. It should not be impossible, however, to work out verifiable restrictions on the actual deployment of strategic ASW systems or on the use of such systems when deployed.

A detailed analysis of the reasons for our conclusions and recommendations follows.

BACKGROUND

The Navy's ULMS program was initiated in 1969 to provide a long-term hedge against threats to our Polaris and Poseidon submarines and an eventual replacement for them. The program has been in the study and design phase since that time. Funding requests have been small, but growing, and the parameters of the new program have been rather ill-defined until recent months.

Three factors have recently combined, however, to make fiscal year 1973 a year of decision for ULMS within the Executive branch and to influence the decision finally made.

First, prior year funding had taken the program to a possible jumping off point. A choice had to be made for the first time between keeping the program in the preliminary development stage and moving forward in a major way.

Second, the need for such a choice had given rise to a dispute within the Defense Department and the Navy itself over the most appropriate course for ULMS development. In very simple terms, some experts believed that the time had come to develop and build a new submarine for deployment in the early 1980s, while others argued that a new submarine system was not yet needed, since all foreseeable near-term threats could be countered instead by incorporating a new long-range missile system in the present Polaris and Poseidon fleet.

Such was the substance of the ULMS–EXPO controversy which surfaced briefly in the press last summer. Development of the EXPO (for Extended Range Poseidon) missile, its supporters argued, would enable us to defer major development expenditures on ULMS until at least the mid-1970s, with no risk to the long-term survivability of our sea-based nuclear deterrent.

This ULMS–EXPO controversy was fudged over, rather than resolved, in the Defense Department's decision-making process. Symbolic of this fact was a change in name for EXPO. To minimize its apparent "threat" to the ULMS submarine system, it was renamed the ULMS 1 missile and made an integral part of the ULMS development program.

The scope of the new program was first defined in a September, 1971 Development Concept Paper (DCP) on ULMS. The paper called for the phased development of both a new long-range missile system for our Polaris and Poseidon submarines and a new submarine system. Fiscal year 1973 funding was tentatively established at the time in the $400 million area, with the major part of the total earmarked for work on the new missile. At the same time, sufficient funds for submarine development work were provided to support a 1981 initial deployment date.

Only thereafter did a third factor come into play, in the form of a faster than expected Soviet submarine buildup. Secretary of Defense Laird commented on the point in his recent posture statement to the Congress:

"The Y-Class ballistic missile submarine force of the Soviet Union could be as large as our POLARIS/POSEIDON force by the end of next year, rather than in 1974 as I predicted last year."

A decision was therefore made in January to accelerate development and construction work on the new ULMS submarine system. Fiscal year 1973 funding for ULMS was set at $942 million and an additional $35 million in fiscal year 1972 supplemental funding was also requested. The Senate Armed Service Committee decided to defer action on the supplemental request and to consider it in conjunction with its fiscal year 1973 authorization hearings.

As presently constituted, the ULMS program calls for the development of a new submarine system and two associated missile systems. The submarine itself would be more than twice the size of our Polaris and Poseidon submarines. It would be able to carry more missiles (20 to 24 per boat, compared to 16 for Polaris and Poseidon), at a faster maximum speed, and it would incorporate the latest available quieting techniques. The proposed fiscal year 1973 funding of about $650 million for submarine work would support deployment of the new submarine as early as 1978. Approval of this funding by Congress would probably commit us to that course. As Assistant Secretary of Defense Moot noted earlier this year: "You do not move this fast unless you intend to build submarines and new missiles."

The 4,500 mile ULMS 1 missile is still funded in the new program at essentially the same amount. This funding is designed to support a calendar year 1977 deployment of the new missile in our current ballistic missile submarines. Work on the 6,000 mile ULMS 2, which would fit only in the new ULMS submarine, is scheduled to begin at a later date.

The Navy has said little for the public record about the likely long-term cost of the ULMS program. Estimates from other sources, however, have ranged to $30 billion for a 30 submarine program, an average of $1 billion per ship through the first ten years of operation. The following table, based on known information about ULMS and comparisons with the Polaris and Poseidon programs, shows that these estimates are by no means unrealistic; in fact, they may be low:

ULMS PROGRAM 10-YEAR SYSTEMS COST PROJECTIONS

Research, development, test, and evaluation

Submarine costs, including all non-missile subsystems and integration work, $800 million.

*Maneuvering re-entry vehicle (MARV) development for new missile systems, $600 million.

*Development of the ULMS 1 missile, $2,100 million.

Development of the ULMS 2 missile, $1,500 million.

Procurement

Submarine costs (30 submarines at an average ship construction (SCN) cost of $400 million), $12,000 million.

*ULMS 1 missile (supply for 500 launchers at an average cost of $8 million each, including spares, integration, etc., sufficient for 31 Poseidon submarines or a somewhat smaller mix of Poseidon & ULMS submarines), $4,000 million.

ULMS 2 missile (supply for 600 launchers at an average cost of $11 million each, including spares, integration, etc., sufficient for 30 ULMS submarines with 20 tubes each), $6,600 million.

Operation and maintenance

30 ships at an average of $30 million per year for 10 years, including all costs of crews, $9,000 million.

Dedicated ULMS refit facilities

One facility per 15 ships, first at cost of $1.8 billion, second at cost of $1.2 billion: $3,300 million: $39,500 million.

Further appreciation of the extremely high long-term costs inplicit in the Navy's present plans can be seen also by comparing the costs shown in the table above with the costs of alternative action.

An ULMS 1 missile program, by itself, would include only the starred items and might come to $6.7 billion.

It would also be possible, if limited new submarine construction were deemed necessary to match a continued Soviet buildup, to build new submarines of the same general size as our existing submarines, but to put in them all available improvements consistent with such size constraints.

In essence, this approach would limit the speed of the new submarines to the speed of our current submarines and the range of its missiles to the 4,500 mile range of the ULMS 1. At the same time, however, it would enable us to respond more quickly to a continuing Soviet buildup. The first new submarine could be constructed in 1–2 years less time and the construction rate thereafter could be twice as fast using the same facilities—perhaps 5 or 6 submarines per year, compared to 2 or 3. A program of this kind would also be easier to "turn off" after the number of ships needed to match Soviet construction had been built, since it would involve far lower start-up expenditures.

This alternative would involve ship development costs no larger than $100 million, average SCN costs per ship of $225 million, O&M costs of $20 million per ship per year, and no new refit facilities. On these assumptions, a 10 submarine construction program, not including missiles, would come to $4.35 billion, compared to $9.6 billion for 10 ULMS submarines (which would require one new refit facility).

AN ANALYSIS OF THE PENDING ULMS REQUEST

I. The Sea-based Deterrent in Perspective

For the past three years Congressional critics of our defense policies have called repeatedly for increased United States reliance on sea-based strategic systems. This call has been a persistent theme in the opposition of many of us to programs like the Safeguard ABM, the new bomber defense system, the B–1 bomber, and the Minuteman III MIRV program.

A casual observer might be tempted to conclude that the tables have suddenly been turned. Just as the Administration appears to have heeded our call—by seeking acceleration of the ULMS development program—we seem to have changed our tune as well—by raising objections to the program.

Distorted as such an interpretation would be, our own critics may well espouse it. For that reason, and to lay the groundwork for our specific objections to the ULMS program as presently structured, a brief statement of our views on the role of sea-based systems in our strategic arsenal seems very much in order at this point.

Strategic Offensive Force Requirements. We believe that a stable mutual deterrence with the Soviet Union should be the basic goal of our strategic defense policy. We also agree with the Administration's statement of the three requirements of strategic sufficiency which must be met if we are to achieve that goal, in determining the size and composition of our strategic offensive forces.

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First, they must be of sufficient size to give us a second strike capability adequate to deter an all-our surprise attack by the Soviet Union. That is, they must be able to absorb a surprise first strike yet still inflict on the Soviet Union a level of retaliatory damage sufficiently large to deter such a surprise attack from taking place.

Second, they must be sufficiently large that the Soviet Union cannot cause considerably greater urban/industrial destruction than the United States could inflict on the Soviets in a nuclear war. Parity is implicit in the concept of a stable mutual deterrent. Moreover, the level of damage needed to achieve deterrence is an inherently subjective judgment, which can best be given an objective status through shared perceptions on both sides.

Third, our strategic offensive forces must be composed of stabilizing systems, systems which provide the Soviet Union with no incentive for striking first in the heat of a crisis in order to mitigate the damage it would otherwise absorb.

The Primacy of Sea-based Systems. Measured against these criteria, sea-based strategic systems have significant advantages over their land-based counterparts, advantages which stem from their highly survivable and less provocative nature.

Both land-based missiles and bombers are fast becoming potentially vulnerable to preemptive enemy attack. In fact, if multiple warheads with improved accuracies are introduced, it will be easier and easier for one strategic booster to destroy more than one land-based counterpart on the other side.

Because land-based systems are becoming increasingly vulnerable, it is difficult to determine the reliance which should be placed on them in sizing one's forces for an adequate second strike capability. One effect is to drive the definition of such a capability ever higher and to encourage a build-up on both sides. The existence of these vulnerable forces also provides a destabilizing incentive for a damage mitigating strike in time of crisis.

The vulnerability problem is more severe with respect to land-based missiles than bombers, since the latter can be safely launched subject to recall, while adoption of a launch on warning policy for land-based missiles—or the construction of an extensive ABM defense—would itself have destabilizing effects. And land-based missiles are doubly dangerous because of their own provocative nature. They provide a destabilizing incentive to strike first not only in the hope of mitigating population damage, but also for the purpose of forestalling such a damage mitigating strike against oneself.

While bombers are not provocative because of their long flight times and while they can be launched subject to recall, they do have less warning time of an attack than missiles—so little, in fact, that one cannot place high confidence in their ability successfully to escape.

Sea-based strategic systems do not suffer from these defects. They are not vulnerable because they can hide in the ocean and not be found. They are also inherently less provocative. Even if accuracies are eventually developed which would permit the use of sea-based missiles against land-based missile silos, the destabilizing effect will be small if few such silos exist and if both sides have moved the bulk of their deterernt forces to sea.

The Policy Implications. In our view, the foregoing considerations have clear-cut policy implications. They dictate, in simplest terms, that both the United States and the Soviet Union should place increasing reliance on sea-based missiles as their primary deterrent force. This, we believe, is the best path to a stable mutual deterrence, in which both sides have credible and stabilizing deterrent forces and in which parity is achieved at reasonable total force levels.

A policy of increased reliance on sea-based missile forces does not imply that all land-based systems should be phased out completely on both sides. The United States and the Soviet Union have invested large sums in existing land-based systems. The potential vulnerability of these systems is growing, but it is not yet severe. And even when it reaches greater proportions, the timing required for a coordinated attack on land-based missiles and bombers simmultaneously will be very difficult to achieve.

These considerations suggest the wisdom of retaining existing land-based missiles and bombers in our strategic force structure for the foreseeable future, as relatively inexpensive but very useful insurance against technological breakthroughs which could threaten our sea-based missiles. At the same time, the dim future prospects of all land-based systems argue against major reliance on or large-scale commitments to new replacements for existing systems.

Emphasis should be placed instead on insuring the viability of our sea-based missile forces. These forces should be sized so that they themselves will provide a credible second strike capability. We should also take all steps necessary to insure their continued survivability against technological breakthroughs of the future.

Such is the perspective in which we view the role of sea-based missile systems. It has been our perspective in the past and it will remain so as we proceed to evaluate the need to accelerate work on ULMS.

II. The condition of existing sea-based forces

Our sea-based deterrent is presently comprised of 41 nuclear-powered ballistic missile submarines, developed in the late-1950s and deployed over the seven-year period between 1960 and 1967. Since each of these boats carries 16 missile tubes, they provide us with a total force of 656 sea-based missile launchers.

Three different types of missiles are presently carried by these submarines. Some of the ten oldest submarines still carry the Polaris A-2 missile, which has a range of 1,750 miles and a single nuclear warhead. Most of the 31 remaining submarines still carry the Polaris A-3, which can hurl three MRV warheads over a 2,880 mile range.

These 31 boats are now being converted, however, to carry the new Poseidon missile. The Poseidon is comparable in range to the Polaris A-3, but each Poseidon missile will carry an average of ten and up to fourteen independently targetable MIRV warheads. About ten submarines have already completed the Poseidon conversion process, and the remainder will have done so by 1976.

The Poseidon conversion program will produce a massive increase in the number of individual targets which our ballistic missile submarines can strike, a much bigger increase than could ever have been achieved by building additional submarines and fitting them with existing missiles. The targeting capacity of the 31 converted submarines themselves will expand ten-fold, from 496 to 4,960. The total expansion, of the ten oldest submarines are included, will be from 656 individual targets to 5,120.

The awesome size of this post-conversion force can best be gauged by contrasting it with the spectrum of high priority targets available in the Soviet Union. We could destroy 25 percent of the Soviet Union's population and 50 percent of its industrial capacity by targeting only its 100 largest cities. If the secondary effects of such a strike were considered, the damaged would be much higher still.

This destruction level—25 percent of population and 50 percent of industry—was long regarded by the previous Administration as the level needed for an adequate second strike, or assured destruction capability. Assuming two MIRVed warheads per city, ten such warheads per missile, and sixteen missiles per submarine, this level of damage could be achieved—with 12 missiles and 120 warheads left over—by only *two* ballistic missile submarines on station. This is a primitive calculation, but makes the point quite fairly. Even if necessary allowance is made for additional redundancy, other targets, missile reliability and the fact that existing ballistic missile submarines are on station less than 60 percent of the time, the massive size of our already programmed post-1976 sea-based missile forces is readily apparent. One could reasonably regard it as more than adequate to deter an attack on the United States.

These calculations assume, of course, that our submarines are and will continue to remain invulnerable and that no effective defenses will be erected against their missiles after they have been launched. The validity of these assumptions deserves exploration, since they are obviously critical in gauging the adequacy of our already programmed sea-based forces.

Future risks—ASW. Everyone agrees that Soviet ASW techniques pose little threat to our ballistic missile submarines at the present time. The reasons can be stated very simply.

First, ASW operations have to be carried out in sea water, an environment which reduces the detectable rang of all electromagnetic radiation far below that available in the atmosphere. Accordingly, traditional duces the detectable range of all electromagnetic radiation—methods such as radar and infra-red detection—are rendered ineffective, and the only sensing device of practical utility today in detecting nuclear submarines is sonar.

Second, sonar itself is subject to a variety of problems and cannot effectively locate submarines except at relatively short range.

There are two kinds of sonar detection methods, passive and active. Passive sonar entails no more than listening for the sound radiated by a submarine. Active sonar entails transmitting pulses of sound and detecting the echoes reflected from a submarine.

Passive sonar has a current operational range of about 100 miles and can be used over a wide range of frequencies. In both these respects, it has some advantage over active sonar. Its greatest advantage, however, it that the submarine remains unaware of its operation, whereas active sonar transmissions can be heard by a submarine well beyond the sonar's own detection range. Against this, passive sonar has no significant ranging or locating capabilities. The location of a submarine with passive sonar depends upon comparing signals from a number of different sonar installations, and even then, is relatively imprecise. Passive sonar is also dependent for its effectiveness on a high level of radiated noise from the submarines it is seeking. Quiet submarines, operating at low speeds, are indistinguishable from the normal background noise of the ocean, except at extremely short ranges.

Active sonar is not dependent for its effectiveness on noisy submarine targets and cannot be defeated by submarine quieting improvements. It also has much better ranging and locating capabilities. At the same time, active sonar has a direct range in current operations of only 10–15 miles, and as noted earlier, its use can be detected well beyond that range. This latter difficulty will continue to exist even if several promising prospects for a moderate extension of range bear fruit.

In addition, both kinds of sonar are affected by other problems. Range and accuracy can be degraded significantly by adverse sea conditions. More importantly, sonar capability is seriously affected by the irregular temperature characteristics of the ocean. The differential refraction of sound waves at the boundaries between water layers of different temperatures creates blind spots. In particular, the sharp change of temperature at the bottom of the layer of mixed surface water, which will commonly occur at a depth of 100-700 feet, has the effect of creating a substantial sonar 'shadow' immediately below that boundary within which a submarine may be virtually undetectable from the surface.

A third point to note is that these characteristics of sonar detection methods make it much tougher to locate enemy ballistic missile submarines than to protect one's sea lanes against enemy attack submarines. To be successful in its mission, the antishipping submarine has to seek out enemy convoys and destroy them. In order to do this, it has to come well within range of the sonar equipment saturating the area around a convoy for the purpose of protecting it. The attack submarine may also have to expose some portion of itself above the waves or proceed at high speed in order to get into a suitable attack position, actions which would facilitate its detection. By contrast, the ballistic missile submarine needs only to hide itself in the ocean depths. Such a submarine might in principle be detected from time to time leaving its port or transiting narrow waters if concentrated enemy forces are employed. Even then, evasive tactics and 'assistance from general purpose forces would be available to prevent continued tracking unless several attack submarines were employed for each ballistic missile submarine followed.

Finally, far more than an ability to locate and track continuously a small number of ballistic missile submarines would be needed to seriously threaten our existing sea-based force. Unless almost all submarines could be tracked continuously and destroyed simultaneously, a preemptive strike attempt would invite unacceptable retaliation from the remaining missile submarines. The counter-force by attrition scenario, in which a Soviet attack submarine force would concentrate on a handful of ballistic missile submarines at a time, silently destroying them, makes no sense at all. Any unaccounted for submarines would immediately arouse suspicions of Soviet foul play, and general purpose forces assistance could be provided as to many of our remaining submarines as we saw fit, to protect them from attack until Soviet culpability had been confirmed. There is also a high probability that any Soviet attack upon our submarines could be detected when it was made, even if conventional rather than nuclear weapons were used.

For all these reasons, our existing sea-based missile force is secure today and likely to remain so for some time. It is universally agreed that we are ahead of the Soviets in acoustic submarine detection techniques and that neither we nor the Soviets are anywhere near the verge of a breakthrough in other detection methods. The only foreseeable threat to our submarines today is concentrated Soviet deployment of advanced sonar equipment in the still limited on-target areas in which our submarines now operate. The answer to this danger, it will be argued later, is not a new submarine system, but a longer range missile system for our current submarines.

Future Risks—ABM. Our deterrent is not seriously threatened, either, by anti-ballistic missile systems designed to shoot down incoming missiles after they have been launched. Again the reasons are quite straightforward.

First, we have already taken steps designed to counter possible Soviet construction of a large-scale ABM system. That has been the announced purpose of the Poseidon conversion program, which, as noted earlier, will provide a ten-fold increase in the number of independently targetable warheads which the 31 converted submarines can fire, from 496 to 4,960. Thus, even if a Soviet ABM system were 90 percent effective—a very generous assumption in itself—we would still be able to put as many warheads on target as we could before the threat of a Soviet ABM system first arose. And these remaining warheads would still be several times the number needed to achieve the level of damage long regarded as necessary for an assured destruction capability.

Even more important, it now appears likely that the Soviets will never build the large-scale ABM system which Poseidon was originally designed to counter. The prospects are good that we and the Soviets will sign by May an interim SALT agreement significantly restricting the number of ABM launchers permitted to both sides. Under these circumstances, Poseidon will provide us with even more warheads than our immediate needs require, thereby adding to the lead-time we would have available to respond to later Soviet initiatives in both the ABM and ASW fields.

Future Risks—Obsolescence by age. Nor is there any danger that our existing force will have to be replaced soon because of advanced physical age. As noted earlier, our present submarines were all deployed in the seven-year period between 1960 and 1967. They were expected then to have the same 25–30 year life as other large naval vessels, and there has been no evidence uncovered since to challenge that original projection.

In fact, what new evidence there is directly supports that projection. For one thing, some of our older attack submarines, first deployed in the 1940's, have themselves attained a 25–30 year age. In addition, no signs of unexpected wear have yet been detected on the oldest Polaris submarines now entering the second decade of their lives.

Finally, there are good reasons why ballistic missile submarines should have even longer lives than attack submarines and other naval ships. The nature of their mission is such that rigorous demands are seldom made upon them. Instead, they are driven quietly at slow speeds, and at relatively shallow depths. They have also been subject to extensive refit operations between each patrol and rigorous overhauls every five or six years to ensure that they remain in peak operating condition. Their crews are extensively trained and qualified and must meet the highest standards of any group in the Navy. The record of high Polaris reliability is well known.

Accordingly, we have every reason to believe that our existing submarines will attain the 25–30 year life predicted when they were first deployed. To the extent age is a factor, replacements will eventually be needed in the 1985–1990 time frame, but not until that time.

Administration Comments. The Administration, however, does not really base its case for ULMS on the existence of new ASW or ABM threats or on the age of existing submarines.

It makes no reference at all to an ABM threat, recognizing no doubt that even the threat used to justify Poseidon has never come to pass.

It does talk about ASW, but its comments are deservedly guarded. The Director of Defense Research and Engineering, Dr. John S. Foster, Jr., did note in testimony to the Senate Armed Services Committee, that "the Soviets have *expressed interest* (emphasis added) in developing a strategic ASW force that can effectively locate, identify, and destroy our Polaris force." And Admiral Moorer, Chairman of the Joint Chiefs of Staff, pointed out in his testimony to the Committee that "the Soviets *are believed* (emphasis added) to be working on a number of new ASW developments which could significantly improve their anti-submarine warfare capability." These are unusually weak statements for a threat analysis. And they are undercut further by Dr. Foster's direct admission to the Committee that "we cannot identify today any developments that indicate a Soviet threat to our sea-based missile deterrent."

Nor is the Administration arguing that our present submarines are on the verge of wearing out. It notes that they are getting older and that they will *eventually* have to be replaced. But nowhere is this eventual replacement need directly tied to the 1978 deployment date implicit in the accelerated ULMS development program.

In short, the Administration turns elsewhere to find its rationale for a major acceleration of ULMS.

III. The official rationale of ULMS: Soviet submarine expansion

Secretary of Defense Laird was quite candid about the main reason for an accelerated ULMS program in his recent posture statement to the Congress. Acceleration was required, he argued, not because of any inherent deficiencies in our existing sea-based forces, but in response to Soviet expansion of *their own* forces:

"The continuing Soviet strategic offensive force buildup, with its long term implications, convinced us that we need to undertake a major new strategic initiative. This step must signal to the Soviets and our allies that we have the will and the resources to maintain sufficient strategic forces in the face of a growing Soviet threat. It would be diplomatically and politically unacceptable for the U.S. to allow the Soviets to achieve a large numerical superiority in both land-based and sea-based strategic missiles . . . I have carefully reviewed all alternatives for newstrategic initiatives and have decided that acceleration of the ULMS program is the most appropriate alternative, since the at sea portion of our sea-based strategic forces has the best long term prospect for high prelaunch survivability."

Laird noted in his posture statement that the Soviets have been expanding their own ballistic missile submarine fleet so rapidly that they may soon have more such submarines and more sea-based missiles than we do. He pointed out that they have already deployed 25 Yankee class submarines—rough equivalents to our own Polaris—and that another 17 are now under construction. By the end of calendar year 1973, he argued, the Soviets could have 42 Yankee submarines at sea, compared to a United States fleet of 41 ballistic missile submarines. And since Soviet submarines, like ours, carry sixteen missiles each, the Soviets would then lead, too, in numbers of sea-based missiles deployed, 672–656.

The purpose of ULMS acceleration was therefore two-fold: to dissuade the Soviets from continuing their buildup and to match it in the event it proceded. Our purpose is to examine in detail the wisdom of this rationale.

The Concept of Parity Is Important. We have no quarrel with the suggestion that the size of Soviet forces is a matter of legitimate concern to the United States. In fact, we noted earlier our belief that a stable nuclear deterrence requires that neither side gain the ability to inflict considerably greater urban/industrial damage on the other. The reason is that the level of retaliatory damage needed to achieve deterrence is an inherently *subjective* judgment, which can best be given objective status through shared perceptions on both sides.

It is no doubt true that we and the Soviets already have more than enough weaponry to virtually obliterate each other. But as long as influential policy makers on both sides *believe* that additional buildups can produce

military and diplomatic advantages, it would not be conducive to a stable mutual deterrence if one side were to let go unchallenged a major buildup by the other. A stable mutual deterrence—and an arms accord looking to parity at reduced force levels—will not be achieved until the goal of superiority has been firmly rejected by both sides.

Parity, However, Can be a Two-edged Sword. While mutual acceptance of parity is essential if the arms race is to be controlled, parity is also a difficult concept to define, and too zealous a pursuit of all its indicia could easily fuel the arms race.

It is clear, for example, that not one factor, but many factors jointly, determine the ability of one country's strategic forces to inflict damage on another country. Considering only sea-based forces for a moment, numbers of submarines and missiles are important, but so are many other factors—missile range and accuracy, numbers and size of warheads, submarine survivability, the status of ABM defenses, and geographical considerations.

Absolute parity in all these regards cannot possibly be achieved. Even close approximations are made difficult by such factors as different historical starting points, lack of knowledge about each other's intentions, and the momentum of programs once begun.

Accordingly, there is grave danger that action taken in one country to maintain parity will be perceived elsewhere as evidence of other motives, and that the action taken in response will be similarly misperceived. Too zealous a pursuit of parity, in other words, can easily trigger a long series of actions and reactions which serve only to fuel the arms race.

The Administration and its spokesmen have recognized this danger, and they have sought to defuse it with their words. First, they have defined parity in terms of general damage level equivalence, not in terms of other narrower indicia. They have also stated that only a Soviet capability to cause "*considerably greater* urban/industrial destruction than the United States could inflict on the Soviets" is reasonable ground for concern.

We accept this formulation. We agree with the words of President Nixon in his recent foreign policy message to the Congress: "The capabilities of both the U.S. and USSR have reached a point where our programs need not be driven by fear of minor quantitative imbalances." Whether these precepts have been reasonably applied in the decision to accelerate ULMS development is the question to which we now turn.

The U.S.-Soviet Sea-based Balance. We believe that these precepts cannot be used to justify the Administration's accelerated ULMS program. In our view, ULMS acceleration seems "driven" by precisely that "fear of minor quantitative imbalances" which the Administration has rejected as a suitable basis for United States strategic defense policy.

To begin with, the present balance in land-based systems is not unfavorable to the United States. The Soviet lead in numbers of land-based missiles deployed—1,520 to 1,054 according to Secretary Laird's recent posture statement—is greatly offset by our own lead in numbers of strategic bombers—565 to 140 according to the same source. In addition, the United States has a significant lead at the present time in numbers of independently targetable land-based warheads due to the Minuteman III MIRV program and development of the SRAM missile for our bomber force. The Soviets, as Secretary Laird has noted, have not yet even tested a MIRV warhead, and they have no air-to-surface missiles with the capabilities of SRAM. Accordingly, an unfavorable balance in land-based systems cannot reasonably be cited to justify undue concern about the status of the sea-based balance.

As far as sea-based forces are concerned, it is true that the Soviets 18 months from now may have one more modern ballistic missile submarine with 16 more missiles deployed than we do. But this *very* "minor quantitative imbalance" will be more than offset by continued United States advantages of other kinds.

One such advantage will be the huge United States lead in independently targetable warhead numbers, an outgrowth of the Poseidon program. Since each Poseidon submarine will carry 160 independently targetable warheads, compared to 16 on each Yankee class submarine, it will take only five Poseidon submarines to more than match in warheads the total Yankee fleet. Yet we will have approximately 20 Poseidon submarines deployed 18 months from now at the end of 1973, together with about an equal number of uncovered Polaris submarines.

For a number of reasons, our submarines will also be significantly more secure than their Soviet counterparts from ASW techniques. First, our submarines themselves are of better quality; they have better sonar and more sophisticated navigational equipment and, above all, are significantly quieter. Second, the already longer range of our submarines' missiles—about 2,880 miles for the Polaris A-3 and Poseidon, compared to about 1,750 miles for the current Soviet Sawfly missile—will enable them to hide within range of their targets in a broader expanse of ocean area. In addition, geographical considerations will remain unfavorable to Soviet submarines; when leaving port, they will have to transit for much longer distances through narrow waters in which ASW equipment can be concentrated. Finally, they will be faced with the superior ASW techniques which the United States has developed and deployed.

It seems clear, then, that nothing will occur in the next 18 months to give the Soviet Union the capability to inflict "considerably greater" damage on the United States than it could inflict in return. Whatever net advantage there may be will continue to lie with the United States.

As far as longer term developments are concerned, two things should be said.

First, it is impossible to predict what additional improvements in their sea-based forces the Soviets may undertake or what success they will enjoy in their endeavors. They may seek to deploy considerably more than 42 ballistic missile submarines, or they may stop at or near that number. They may or may not seek to put in their submarines longer range missiles with independently targetable warheads to match the Poseidon program. The Administration has noted that the Soviets have been testing a new submarine-launched ballistic missile—the SS-NX-8—with an estimated range roughly equivalent to that of Poseidon. But the Administration, quite deservedly, has made no claims as to the capabilities of or Soviet hopes for that missile. To date no MIRV or MRV tests have been conducted with that missile, and doubts must remain both as to its compatibility with existing Soviet submarines and its long range potential as a Poseidon equivalent. Finally, the Soviets may attempt to supplement their Yankee fleet with submarines of a newer class, but there is as yet no evidence that they plan to do so.

Second, an accelerated ULMS program is clearly not required to protect long-term United States interests against this vague Soviet threat, as the examination of a worst-case analysis—which no one has even suggested to date—will show. Even if Soviet submarine construction continues, even if a successful MIRV test of the SS-NX-8 is conducted tomorrow, and even if action is then taken to put the SS-NX-8 in all Soviet ballistic missile submarines as a Poseidon equivalent, the United States lead in sea-based warheads will remain secure until 1980 at the very least. We already plan to have 5,120 warheads at sea by the end of 1976 when the Poseidon program is completed. The Soviets might be able to match this figure by 1980, but only if they proceeded more quickly than we did from the first successful test of their new missile to its deployment or if they converted their submarines at a more rapid pace than ours. If initial deployment occurred in late-1974 and six submarines were converted each year thereafter, it would not be until 1980 that the Soviets would have on station more than our 31 converted submarines. In the meantime, we could prolong our warhead lead simply by converting to a new missile system the 10 oldest Polaris boats not now programmed for Poseidon.

Under these circumstances, there is little danger of a serious tilt in the sea-based balance of strategic forces if we wait to see whether anything like this worst-case scenario materializes. If we do wait, we will be able to monitor all new Soviet ship construction 18–30 months before deployment. We will also be able to monitor any tests of MIRV technology on the SS-NX-8. And even if we moved forward *two years from now* on the accelerated ULMS time-table presently proposed, we could still look to ULMS deployment as early as 1980. It should not be forgotten in considering our option, that what the present Administration program entails is a *three-year* step-up in the earliest ULMS deployment previously considered, from 1981 to 1978. We could wait a good while yet and still beat the old timetable.

The Bargaining Chip Implications of ULMS. It is far from clear that an accelerated ULMS program at this time would have the effect the Administration hopes. The Soviets to date have shown little interest in the negotiation at SALT of sea-based force limitations. An accelerated ULMS program might facilitate such negotiations, but it much more likely would not.

The history of the SALT talks to date shows that both sides have proceeded cautiously, protecting their national interest and avoiding any steps that might lock them into even a short-term disadvantage. The Soviets have continued a numerical buildup in both their land-based and sea-based missile forces, and the United States has moved forward with its Safeguard ABM system and the introduction of MIRVed warheads to its existing missile force. If the Soviets perceived an accelerated ULMS proposal as a threat to their own chances of attaining parity with the United States in sea-based forces, it is unlikely that they would respond by foregoing programs already planned.

And an accelerated ULMS program might well be perceived as such a threat by the Soviets. Look at the situation for a moment from a possible Soviet perspective. The Soviets have been responding in recent years to a series of earlier United States initiatives. They are fast pulling even with the United States in numbers of submarines and missiles deployed, yet they are still far behind in other areas—in numbers of warheads, in submarine quietness, in missile range, etc. The ULMS initiative at this juncture could have several implications.

First, it could pose a threat over the longer term to the Soviets' almost acquired parity in numbers of submarines and missiles. It is doubtful, however, that this would be the Soviets' main concern, since this threat could be easily offset by a continuation of their present buildup or eliminated altogether by agreeing to the kind of numerical limitations on submarines and missiles which have been discussed at SALT.

But an accelerated ULMS program would pose more than a simple numerical threat to the Soviet Union. If pursued, it could lead to greater United States advantages than now exist in other areas. Some of our

submarines, for example, would have more missiles and warheads each than could *ever* be placed in the Soviets' Yankee class submarines. And these advantages would be gained if the program were pursued now at a time when the Soviets had not yet demonstrated through successful MIRV tests an ability to match demonstrated through successful MIRV tests an ability to match existing United States capabilities.

These Soviet concerns would not necessarily be eliminated by the negotiation of numerical limitations on submarine and sea-based missile forces, since these limitations would not by themselves preclude the accelerated development of ULMS. Unless arrangements to the contrary were made, an accelerated ULMS program could easily proceed under the context of these limitations, as a replacement rather than a supplement to the existing Poseidon force.

The Administration has been less than candid as to its own intentions in this regard. On the one hand, it has justified accelerated ULMS development as a needed signal to the Soviets of United States concern over the Soviet submarine buildup, thus implying that ULMS is somehow bargainable. On the other hand, it has stressed the fact that ULMS will eventually be needed anyhow, thus implying that little change in the present timetable might follow from progress at SALT.

Under these circumstances, the Soviets might reasonably look askance at United States calls for numerical limitations at SALT. They might well question the wisdom of agreeing to restraint in the one area where they can begin to match the United States, while simultaneously allowing the United States to proceed in other areas where it already enjoyed advantages.

We are deeply concerned by the likelihood of this development. In our view, an accelerated ULMS program is not required at this time to protect our national interest. And if pursued, we believe it would be as likely to stimulate as to curb the arms race.

A Sensible Position on ULMS for SALT. We believe that a responsible United States bargaining position on ULMS must meet three objectives. First, it must clearly protect the security interests of the United States in the event negotiations fail. Second, it must be reasonably calculated to assure the Soviet Union that its own security objectives can be attained through successful negotiations. And third, it must be designed to provide sufficient time for fruitful negotiations to take place. These objectives would be met, in our view, if the following steps are taken.

First, we should proceed now with development of a new long-range missile system. Such development work would provide ample evidence to the Soviets of our determination to protect our sea-based nuclear deterrent.

Second, the President should make clear the willingness of the United States to forego during fiscal year 1973 any major increase in expenditures for the development or production of a new submarine system, in return only for Soviet agreement to serious negotiations at SALT on the subject of sea-based force limitations. It is our belief that the President should be able to obtain such a commitment from the Soviets during his Moscow trip in May, at which time an interim SALT agreement—restricting ABMs and land-based missiles only—is widely expected to be signed.

Third, the United States should make clear that its continued restraint during subsequent negotiations will be directly dependent on the restraint exercised by the Soviets themselves. In our opinion, such restraint will be shown if both sides forego major additional ballistic missile submarine construction activities and confine their efforts to improvements in the capabilities of their existing submarine fleets. If such restraint is exercized—and there are no developments threatening the survivability of existing sea-based forces—there should be ample time for negotiations to proceed without simultaneous submarine buildups on either side.

Such an approach, we feel, would fully protect *all* our interests at SALT. We should not allow Soviet expenditure of $100 million on a 42nd ballistic missile submarine to propel us into a $30 billion investment on ULMS and the world into a new sea-based arms race.

IV. *Additional reasons for going slow on ULMS*

An accelerated ULMS program is not required to protect our interests while the SALT talks continue and indeed could jeopardize those talks. But there are other reasons, too, why we should proceed slowly with ULMS at this time.

The Proposed Accelerated Program is Inconsistent with Sound Procurement Policy. Recent aircraft programs such as the C-5A and the F-14 have shown the dangers involved in overly ambitious development and production schedules. There are differences, to be sure, between aircraft and submarine development programs. Prototype submarines are not developed and tested first, after which they are turned out in large quantities on an assembly line basis. Instead, each submarine is very much a unique creation, and each is earmarked for production. There are several respects, however, in which the same kind of program management considerations which apply to aircraft programs apply to submarines as well.

First, many submarine subsystems are subject to the typical development-production cycle normally associated with aircraft programs. The missile subsystems are an obvious case in point, and the same considerations apply to navigational equipment, launch systems, and flight control systems as well. An accelerated schedule for ULMS would increase the risk of otherwise avoidable concurrency in the development and production of these subsystems.

Second, an accelerated schedule for ULMS would also necessitate illogical phasing between work on these subsystems and work on the submarine itslef. To cite just one example, work on the submarine is now programmed to proceed so rapidly that we will be locked into specific size constraints for the second generation ULMS 2 missile before the first generation ULMS 1 missile has even flown for the first time.

Perhaps most important, any compressed development schedule means that more work has to be done in a shorter period of time. This increases the danger of mistakes being made and makes corrective action more difficult without disrupting the overall program timetable. Accordingly, a choice has to be made at the outset between running these risks or eliminating certain programmed work from the project. Often an attempt is made to retain all design objectives for awhile, but some later drop by the wayside. Such could be the fate, for example, of several improvements now counted on to reduce ULMS's detectability.

The history of overly ambitious development programs has a clear lesson to tell. Almost invariably such programs lead to higher than anticipated modification costs before new systems are debugged. They also lead to schedule slippages, such that a program's accelerated features evaporate before its completion.

There is no reason to believe that ULMS would not be subject to similar pitfalls if pursued on an accelerated schedule. The major distinction to be expected is that our mistakes would cost us more because of the overall magnitude of the program. Since there is no need to accelerate work on ULMS, it makes no sense to run this risk.

More Time is Needed to Review the Merits of Alternative ULMS Designs. Even if developments at SALT are such that we feel compelled to move ahead with a new submarine construction program one year from now, there is much to be gained by having that much additional time to review the merits of alternative submarine designs. While alternatives have been explored ever since the inception of the ULMS program in 1969, no final decisions were made by the Navy until ULMS acceleration was ordered in January, and many important details are still being worked out. Accordingly, neither the Defense Department nor the Congress have had much opportunity to exercise design review. Such review, however, may be very badly needed.

It seems clear, for example, that the Navy is designing ULMS to have a top speed several knots faster than our existing Polaris submarines. The case for a higher speed has not been made, and any attempt to attain it is certain to have some adverse side effects.

The Navy will no doubt argue that increased speed is necessary, since increased speed will always make it easier to break contact with trailing Soviet attack submarines, many of which are already faster than our Polaris submarines. This argument, however, deserves further examination.

It should be noted, first, that speed is much more central to the mission of an attack submarine than it is to the mission of a ballistic missile submarine. The primary objective of the latter is to avoid detection in the first place, not to break trail after detection has occurred. Accordingly, we have always placed more emphasis in our ballistic missile submarine programs on quietness than we have on speed. Soviet Yankee class submarines, by contrast, have been faster but much noisier than Polaris (especially when driven at their faster speeds) and considerably more easy to detect. Only in our attack submarine programs has speed to date been made a key objective. Since the purpose of attack submarines is to seek out enemy shipping and destroy it, there is arguably some need to give them speeds as fast as most surface ships. Many experts have argued, however, that our attack submarines themselves should rely more on stealth and less on speed.

It should also be remembered that there are simple technical reasons why it will always be possible to build attack submarines faster than any ballistic missile submarines afloat. In a gross sense, the most important difference between the two kinds of submarines lies in the fact that the ballistic missile submarine has a middle section, which the attack submarine lacks, in which its missiles are stored. The presence of this missile section increases submarine size and in turn imposes an obvious restraint on speeds which could otherwise be achieved. In fact, event if ULMS is given the increased speed which the Navy seeks, it will still be substantially slower than existing and projected Soviet attack submarines.

Accordingly, the Navy should logically be required to demonstrate two things to justify its increased speed requirement. First, it should be required to show that the marginal reduction in the still remaining speed advantage of Soviet attack submarines has a clear-cut military significance. And second, it should be required to show that the original advantage could not be regained in a new Soviet attack submarine program. The first point has not yet been demonstrated, and the second cannot be shown.

The merits of increased speed would be a much less important issue of increased speed could be obtained without adverse side effects. Unfortunately, the speed now sought will necessitate a much larger submarine than would otherwise be required.

Several factors have had a major influence on the size of alternative ULMS designs, but the two most important have been the proposed length of the missiles to be carried and the proposed size of the new

submarine's nuclear propulsion system. (Both factors have an obvious effect on the needed hull diameter, since both have to fit inside, and the hull diameter in turn drives the overall size of the vessel at a rate proportionate to the size of the hull radius squared). Missile range is the main determinant of missile length, and the speed desired determines power plant size.

A submarine slightly larger in hull diameter than our current Polaris submarines would be required simply to accommodate the 6,000 mile range ULMS 2 missile. The increased size required would be much less, however, if this were its main determinant, a point attested to in part by Navy plans to incorporate the 4,500 mile range ULMS 1 missile in our existing submarines. In fact, the size of an ULMS submarine which could carry 20 to 24 missiles of 6,000 miles range would probably be 13,000 to 14,000 tons, compared to 8,000 tons for the largest of our current submarines. The Navy's present speed objective, however, and the size of the power plant needed to attain it have now pushed the size of the proposed ULMS design into the 17,000 to 18,000 ton range, more than twice the size of current submarines.

Several consequences would follow from any attempt to build a submarine that size.

One such consequence would be a notable increase in a whole range of program costs—propulsion costs, submarine construction costs, operating costs, and costs of new port facilities. According to some informed sources, the net effect could be at least 20 percent higher 10-year systems costs than those which might be incurred in building a new submarine with more and larger missiles, but no faster speed, than our present submarines.

A second consequence would be increased time per ship and slower construction rates. These factors—and the high costs per ship—could have an obvious impact on our ability to match the pace of new Soviet submarine construction.

Finally, such a larger submarine would be more susceptible than a smaller one to some ASW techniques. Active sonar equipment, for example, is more effective the larger the target, and the same may be true for new nonacoustic detection techniques, which we and presumably the Soviets are now trying to develop. High costs could further compound the ASW risks by limiting the total size of our fleet.

For all these reasons, a hard look at the Navy's present speed objective seems very much in order. Other design objectives, too, should be very carefully checked. A 8,000 mile range ULMS 2 missile would offer definite advantages over the 4,500 mile ULMS 1, but their precise significance should be pinned down. As noted earlier, every dramatic cost savings might be achieved if both speed *and* missile range could be scaled down. A design review might show that any new submarine construction we undertake in the near future should be based on a design much more similar than the present ULMS to the design of our present fleet. But unless we go slow with ULMS this year, we may find ourselves wholly committed to the existing design before a review can be made.

The Funding Implications. For all these reasons, we believe that the ULMS program should not be accelerated at the present time. Approximately $650 million of this year's request for $977 million (including the fiscal year 1972 supplemental) is earmarked for work on the new submarine itself and its non-missile subsystems. We believe that $600 million of this amount should be disallowed and that fiscal year 1973 funding for non-missile-related work should be held at the $50 million level. Such actions would provide for a slight increase from the roughly $40 million available for non-missile-related work in fiscal year 1972 ULMS funding. This amount should be more than adequate to continue Navy design studies and preliminary development work.

In allocating these funds to specific uses, the Navy, in our view, should be guided by two objectives. First, it should seek to reduce to the greatest extent possible the risk of cost growth and schedule slippage which would be inherent in a decision to greatly accelerate the pace of ULMS development in fiscal year 1974. Second, it should minimize the greatest extent possible the risk of premature commitment to a particular ULMS design. Major development expenditures on a new propulsion plant, especially, should be avoided at this time.

V. The modernization and replacement problem: the role of a long-range missile

Even if negotiations proceed well at SALT and no new submarine construction is needed to match a continued Soviet submarine buildup, it will still be necessary to modernize and eventually replace our present sea-based missile force.

The Navy will no doubt seek to meet this need by pushing for development of a new ULMS submarine system as fast as the Defense Department and the Congress will allow.

Admittedly, a new submarine system would offer more in the way of prestige than continued improvements in our present fleet. It cannot be justified, however, in terms of the advanced physical age of that fleet. As noted earlier, *none* of our current ballistic missile submarines will reach 25–30 years of age until 1985–1990 time period. Moreover, we believe that a new submarine system would not offer significantly greater operational capabilities than those which could be obtained for some time to come by appropriate modifications to our present fleet.

ULMS Would Have Advantages. There is no doubt that a new submarine system such as ULMS could be superior in several ways to our present sea-based missile force.

First, the new submarines could be significantly more survivable than our present Polaris submarines. It could be designed for quieter operation, and it could be given a new long-range missile system which would greatly expand the ocean area in which it could hide while remaining in range of its targets. These two steps would greatly complicate the ASW problem facing the Soviets. They would reduce detectability by acoustic sensors and make much more difficult the concentrated deployment of such sensors in all submarine operating areas.

Second, the new submarine could present a tougher ABM problem for the Soviet Union. Its missiles could be given new maneuvering re-entry which (MARVs) designed to dodge Soviet defensive missiles. In addition, its longer range missiles would enable it to provide deterrent coverage over the entire defense perimeter of the Soviet Union. By contrast, our present submarines are much more limited in the geographical areas from which they can obtain effective target coverage.

Finally, the new submarine could provide better on-station availability. Due to the limited range missiles in our current submarines, a significant portion of their time at sea must be spent in transit to their patrol areas, and they must depend heavily on overseas basing. The on-station availability of a new submarine could be enhanced, moreover, not only by its longer range missiles but also by the lower maintenance times which its modular construction and integrated systems design would permit.

That a new submarine system could provide significant improvements in the capabilities of our current fleet is not disputed. But it is not enough for the Navy to cite these possible improvements as reasons for building ULMS. The Navy must show also that the same improvements cannot be obtained through modifications to the existing fleet. And this the Navy has not yet done.

The Fleet Modernization Alternative. Many of the improvements just referred to are dependent not on the construction of a new submarine, but on the capabilities which new long-range missiles themselves would provide. In fact, new long-range missiles would provide improvements in each of the areas mentioned. They would increase submarine survivability, compound the problems of ABM defense, and increase submarine time on-station. This fact has been well attested to in testimony of Defense Department spokesmen to Congress earlier this year. Dr. Foster noted as much in speaking to the Senate Armed Services Committee about the capabilities of the Navy's proposed ULMS 1 missile:

"When our current SSBNs are armed with this more capable missile, the ocean area from which they can launch their missiles will be significantly increased, with no sacrifice in payload. This enlargement of an area in which the Soviets must expand their strategic ASW efforts degrades the effectiveness of any ASW of the kind they now appear to engage in. Consequently, we expect that, with this new missile, the current submarine missile system will remain invulnerable. Moreover, the longer range ULMS–1 missile will offer the option of CONUS basing with minimum sacrifice in deterrent posture."

Modifications of our present submarines themselves could also proceed concurrent with work on a new long-range missile system. We have been making such improvements ever since these submarines were introduced. As Admiral Zumwalt noted in his recent testimony to the Senate Armed Services Committee:

"Concurrent submarine improvements have included reduction of detectable noise levels, better passive and active sonars, and improved navigational equipment. This orderly, upgrading process has paid off and the logic for it remains valid today."

We wholeheartedly agree. As far as detectable noise is concerned, our current submarines are already 5–10 decibels (db's) quieter than when they were introduced, and there is no reason why a gradual quieting program should not continue to be successful. It is true that the natural circulation reactor now programmed for ULMS cannot be incorporated in our current submarines, but similar noise reduction could be obtained by incorporating equipment such as the variable speed pumps and multi-vein impellers which the Navy is now developing.

It should also be possible to reduce maintenance requirements affecting the on-station availability of our current submarines. The Navy is now installing in those submarines new long-life reactor cores. While older cores have had to be replaced every 5–6 years—thus setting a clear outside limit on the time between submarine overhauls—the new cores will have a 10 year service life. The Navy is now investigating several promising ways to extend the time between overhauls to take advantage of these long-life cores. Our current submarines are now on station 55–60 percent of the time. With long-range missiles aboard and increased time between overhauls, they should be able to come much closer to the 65–70 percent on-station availability rate which a new ULMS submarine realistically might provide.

Modifications to our existing sea-based missile force should be able, then, to provide almost the same improved capabilities as brand new submarines would provide. Under these circumstances, we believe that money spent for new submarine replacements would be money wasted at the present time.

The Unpredictable Nature of the Future ASW Threat. Money spent now might be money wasted for another reason as well. While our current submarines are secure today from Soviet ASW techniques—and while they could be made more so by an appropriate modernization program—we know very little about the long-term nature of the ASW threat.

We do know that a submarine moving through the ocean environment leaves various indicators of its presence. Sound is only one of these indicators. The presence of a mass of metal, such as a submarine, distorts the earth's magnetic field. The temperature of a submarine, especially a nuclear submarine with its hot nuclear reactor discharge, differs from the temperature of the surrounding water. And the passage of a submarine through water creates hydrodynamic pressure.

Until now, only acoustic techniques have been of major utility in submarine detection. But other signals are also there. What is needed is now technology to dig them out and process them. What form this technology will take—and what steps will be required to counter it—is not known at the present time.

There is a danger, therefore, that any new submarines we build today could be rendered obsolete in much the same way and at much the same time as the submarines we now have. It is quite possible that we could invest $30 billion in the ULMS program over the next 10–15 years, expecting it to protect us until the year 2000, only to find that it might be rendered obsolete by 1990 and that a new submarine development program was needed in the early 1980s to offset this possibility, almost as soon as ULMS was sent to sea.

A Well-Phased Replacement Program. This does not mean that we should simply sit back, wait for a new ASW threat to develop, and then counter it when it does. We have no guarantee that it will burst upon us in a dramatic breakthrough or that such a breakthrough, if it occurs, will coincide with the physical obsolescence of our current submarines.

We should be able, however, to devise a well-phased modernization and replacement program which will minimize potentially wasteful expenditures yet keep us equipped at all times with a highly secure sea-based deterrent. We believe that the following course of action would provide us with such a program.

First, Congress should approve the Navy's request for approximately $330 million in fiscal year 1973 ULMS 1 missile development funds. Development of the ULMS 1 missile—together with other modifications to our current submarines on which the Navy is working—will significantly enhance the survivability of our present fleet against all forseeable threats. If development of this new missile proceeds at the presently projected rate, it should be available for initial deployment by 1976. In the absence of any major change in the ASW threat, it should remain an integral part of our sea-based deterrent well into the 1990s.

Second, the Navy should accord high priority to its current "SSBN Defense" program. This program, the funding for which is projected to increase from $12.2 to $20.4 million in fiscal year 1973, is designed to identify and develop suitable counters to new ASW techniques which could jeopardize our Polaris fleet. The knowledge gained from this program should be used to make future reductions in the detectability of that fleet. It should also be used as a source of ideas for new submarine designs.

Third, the Navy timetable for a new submarine contruction program should be determined both by changes in the ASW threat and the eventual need to replace our current submarines. Such a program should be undertaken in sufficient time to meet any changes in the ASW threat which have been identified and which cannot be countered by modifications to our Polaris fleet. Unless such threat changes have been identified, it should not be necessary to move beyond the study and design phase of the ULMS program until fiscal year 1976 or later. That starting date would provide ample time for the gradual development of a new submarine system. Even if development time were stretched from the roughly six years implicit in the Administration's present timetable to as much as 10 years, the first new submarine would still be available for deployment in 1985, at which time the oldest of our current submarines would be 25 years of age. It would then be possible—with a construction rate as low as two or three submarines per year thereafter—to replace all our current submarines inside their projected 30 year lives.

We believe that this timetable, either the development or production phases of which could be speeded up if the threat required, makes much more sense than the commitment now of vast sums to a new submarine system of unknown long-term value.

ASW Talks at SALT. The most pressing need at SALT right now is the negotiation of restrictions on ABM systems and the size of strategic offensive forces. These issues themselves have caused difficulties enough, and a continued failure to resolve them—coupled with a continued Soviet submarine buildup—could force us much sooner than would otherwise be desirable into a new submarine construction program.

As soon as possible, however, the issue of restrictions on strategic ASW operations should be placed high on the SALT agenda. Our sea-based missile submarines are secure today, and it should be possible to keep them so well into the future. At the same time, the possibility of a new ASW breakthrough—one which cannot be countered by any new submarine design—cannot be dismissed out of hand. The occurrence of such a breakthrough coupled with the already increasing vulnerability of all land-based systems, would dramatically undermine the present stability of the nuclear balance.

We recognize that restrictions on ASW research itself may not be feasible, since there may be no way that compliance could be verified. Neither we nor the Soviets have much choice, therefore but to pursue strategic ASW research—with the purpose of ensuring the survivability of our own sea-based deterrent, but with the danger that the knowledge gained could be used for counter-force purposes.

It should not be impossible, however, to work out verifiable restrictions on the actual deployment of new ASW systems or even on the use of such systems when deployed. A numerical limitation on attack submarine force levels and the establishment of trailing norms are two promising possibilities.

The long-range prospects for a stable mutual deterrence may well depend on the continued survivability of sea-based deterrent forces. Accordingly, much more attention should be directed in the future to this ASW problem.

THIRD PART OF REPORT OF COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

Mr. PACKWOOD. Mr. President, on March 23, I placed in the RECORD a detailed summary of the first two parts of the report of the Commission on Population Growth and the American Future and a statement by the Commission's distinguished Chairman, John D. Rockefeller III.

The third part has now also been released, containing additional commentary and recommendations. I ask unanimous consent that a similar summary be printed in the RECORD for this part, along with the Chairman's statement.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THIRD PART OF REPORT OF COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

WASHINGTON.—The Commission on Population Growth and the American Future today submitted to President Nixon and Congress Part III of its Final Report, containing recommendations on immigration, internal migration and urban development and research on population.

The recommendations are designed to "facilitate and guide the process of population movement, to further the development of knowledge about population dynamics, and to assist in the development and implementation of policy," the Commission said.

The 24-member panel headed by John D. Rockefeller 3rd completed a two-year Presidential and Congressional assignment with the submission of Part III. Parts I and II were released earlier in March.

The Commission was established to conduct an inquiry into the probable course of population growth and internal migration, to assess the problems this will pose, and to make recommendations on how the nation can best resolve those problems.

Part I focused on the consequences of growth and distribution for government services, the economy, the environment and natural resources.

Part II contained policy recommendations on childcare, contraceptive information and services, fertility-related services and educational programs.

The Commission also released separately a 16-page booklet containing themes and highlights of the entire report, as well as a summary of all the major policy recommendations.

The Population Commission was proposed by President Nixon in a special message to Congress in July, 1969, when he said that "One of the most serious challenges to human destiny in the last third of this century will be the growth of the population."

The President added that, "Whether man's response to that challenge will be a cause for pride or for despair in the year 2000 will depend very much on what we do today."

Congress subsequently established the Commission in March, 1970, and assigned it to examine:

The probable course of population growth, internal migration and related demographic developments between now and the year 2000.

The resources in the public sector of the economy that will be required to deal with anticipated population growth.

Ways in which population growth may affect the activities of Federal, State and local government.

The impact of population growth on environmental pollution and on the depletion of natural resources.

The various means appropriate to the ethical values and principles of this society by which our Nation can achieve a population level properly suited for its environmental, natural resources, and other needs.

Membership of the Commission included Congressmen, Senators, civic, business and labor leaders, physicians, scientists students and housewives.

More than 100 experts on economic, environmental governmental and social problems participated in the Commission's research program, and an additional 100 witnesses submitted testimony at public hearings in Washington, D.C., Los Angeles, Little Rock, Chicago and New York.

Highlights of the recommendations in Part III follow:

HIGHLIGHTS

Population stabilization

Stabilization of our population would contribute significantly to the nation's ability to solve its problems. Moving toward stabilization would provide an opportunity to devote resources to problems and needs relating to the quality of life rather than its quantity. Stabilization would "buy time" by slowing the pace at which growth-related problems for the orderly and democratic working out of solutions.

The Commission recognizes that the demographic implications of most of our recommended policies concerning child-bearing are quite consistent with a goal of population stabilization. In this sense, achievement of population stabilization would be primarily the result of measures aimed at creating conditions in which individuals, regardless of sex, age, or minority status, can exercise genuine free choice. This means that we must strive to eliminate those social barriers, laws, and cultural pressures that interfere with the exercise of free choice and that governmental programs in the future must be sensitized to demographic effects.

Recognizing that our population cannot grow indefinitely, and appreciating the advantages of moving now toward the stabilization of population, the Commission recommends that the nation welcome and plan for a stabilization population.

Immigration

Immigrants are now entering the United States at a rate of almost 400,000 per year. The relative importance of immigration as a component of population growth has increased significantly as declining birthrates diminish the level of natural increase. Between 1960 and 1970, about 16 percent of the total population growth was due to net immigration (the difference between the number of people entering the country and the number leaving). However, the increasing relative significance of immigration can be misleading for, if native births and deaths were balanced, immigration would account for 100 percent of population growth.

If net immigration were to remain at about 400,000 per year and all families were to have an average of two children, then immigrants arriving between 1970 and the year 2000, plus their descendants born here, would account for almost a quarter of the total population increase during that period.

If immigration were to continue at the rate of about 400,000 per year, a rate of 2.0 rather than 2.1 children per woman would eventually stabilize the population, though at a later date. And the size of the population would ultimately be about eight percent larger than if there were no international migration whatsoever.

A major and growing problem associated with immigration is that of illegal immigrants. It is impossible to estimate precisely how many escape detection; but, during 1971, over 420,000 deportable aliens were located. This figure is larger than the number of immigrants who entered legally during the same period. Estimates place the number of illegal aliens currently in the United States between one and two million. Most are men seeking employment. Because the number of illegal aliens apprehended has risen dramatically (from less than 71,000 in 1960 to over 400,000 in 1971), the number of aliens in illegal status has probably been increasing significantly.

The economic problems exacerbated by illegal aliens are manifold and affect the labor market and social services. It is often profitable for employers to hire illegal aliens for low wages and under poor working conditions; these workers will not risk discovery of their unlawful status by complaining or organizing. Thus, illegal aliens (who usually take unskilled or low-skilled positions) not only deprive citizens and permanent resident aliens of jobs, but also depress the wage scale and working conditions in areas where they are heavily concentrated. Because of the illegal and precarious nature of their status, these aliens are ready prey for unscrupulous lawyers, landlords, and employers.

Eight out of 10 illegal aliens found are Mexicans. Most of the others are Canadians and West Indians, although there are also sizeable groups of Portuguese, Greeks, Italians, Chinese, and Filipinos. Their countries were affected by immigration policy changes in the 1965 Act, and there is considerable demand and pressure for immigrant visas. The flow of illegal immigrants could probably be reduced if the numbers of permanent residence visas were increased, the economic incentives for hiring illegal aliens were eliminated, and/or the economic advantages of obtaining a job in this country were reduced. In any case, an aggressive enforcement program must be developed along all borders and ports of entry. Any enforcement programs against illegal entry and possible laws against employment of illegal aliens must take special care not to infringe upon the civil rights of Mexicans, Mexican-Americans, and others who are legally residing here and working or seeking work.

In addition to the adverse economic pressures caused by illegal aliens, it is possible that legal immigration could have a negative impact if not regulated carefully.

A flow of highly trained immigrants can mask the need for developing and promoting domestic talents—for example, in the medical field. Although medical schools have recently been expanding enrollments, a significant proportion of the demand for doctors is being met by immigrants trained abroad. It appears that, without the availability of these foreign doctors, the medical schools would be under greater pressure to increase their enrollment and to provide more educational opportunities for all Americans—particularly minorities and women. The fact that there are more registered Filipino doctors (over 7,000) than black doctors (about 6,000) practicing in the United States shows the inequities that can arise.

It is imperative for this country to address itself, first, to the problems of its own disadvantaged and poor. The flow of immigrants should be closely regulated until this country can provide adequate social and economic opportunities for all its present members, particularly those traditionally discriminated against because of race, ethnicity, or sex.

In order for Congress and immigration officials to consider these economic problems, apply appropriate regulations, and expect the economic conflicts to be alleviated, they must also eliminate the flow of illegal immigrants.

The Commission recommends that Congress immediately consider the serious situation of illegal immigration and pass legislation which will impose civil and criminal sanctions on employers of illegal border-crossers or aliens in an immigration status in which employment is not authorized.

Because the immigration issue involves complex moral, economic, and political considerations, as well as demographic concerns, there was a division of opinion within the Commission about policies regarding the number of immigrants. Some Commissioners felt that the number of immigrants should be gradually decreased, about 10 percent a year for five years. This group was concerned with the inconsistency of planning for population stabilization for our country and at the same time accepting large numbers of immigrants each year. They were concerned that the filling of many jobs in this country each year by immigrants would have an increasingly unfavorable impact on our own disadvantaged, particularly when unemployment is substantial. Finally, they were concerned because they believe that immigration does have a considerable impact on United States population growth, thus making the stabilization objective much more difficult.

The majority felt that the present level of immigration should be maintained because of humanitarian aspects mentioned previously; because of the contribution which immigrants have made and continue to make to our society; and because of the importance of the role of the United States in international migration.

The Commission recommends that immigration levels not be increased and that immigration policy be reviewed periodically to reflect demographic conditions and considerations.

The meaning of a metropolitan future

The United States today is experiencing three important shifts in population: (1) migration from low-income, rural, and economically depressed areas toward metropolitan areas; (2) a movement of metropolitan population from older, and often somewhat climatically less hospitable centers in the northeast and midwest, toward the newer climatically favored centers of the south and west; and (3) an outward dispersion of residents from the cores to the peripheries of the metropolitan areas. The combination of these population movements and the continuing increase in our total population has resulted in the development of large metropolitan areas and urban regions—indeed, the emergence of an almost totally urban society.

The Commission recommends that:

The federal government develop a set of national population distribution guidelines to serve as a framework for regional, state, and local plans and development.

Regional, state, and metropolitan-wide governmental authorities, to conduct needed comprehensive planning and action programs to achieve a higher quality of urban development.

The process of population movement be eased and guided in order to improve access to opportunities now restricted by physical remoteness, immobility, and inadequate skills, information, and experience.

Action be taker to increase freedom of choice of residential location through the elimination of current patterns of racial and economic segregation and their attendant injustices.

Accommodating future national growth, then, is primarily a job of accommodating future suburban growth and of sensibly guiding the transformation of currently rural territory to urban uses as metropolitan areas physically expand. How the character and form of the next generation of suburbs develops will play a large role in determining the quality of life of the vast numbers of Americans living in these areas across the country. The territory of urban regions is expected to double between 1960 and 1980, and to grow at a slower rate after that. This means that the land we occupy in the year 2000 is largely being settled now. If we settle it badly now, we shall endure the consequences then.

Local governments should broaden their interests and responsibilities beyond local parochial concerns and be responsive to metropolitan and regional objectives. Where necessary, the power of planning and implementation will have to be transferred to a regional or metropolitan-wide authority or government. The logical level from which to guide urban growth is the regional or metropolitan scale.

The increased complexity and scale make the continued fragmentary approaches to metropolitan planning and development progressively more costly and wasteful. This suggests that the basic responsibilities for planning settlement patterns, new public facilities, and public services should be at the metropolitan level. To encourage this comprehensive approach and local cooperation, the major portion of federal funds to support planning activities in metropolitan areas should go to the appropriate multi-purpose area-wide planning agency. These agencies, in turn, can support planning efforts for individual jurisdictions within the metropolitan area.

To anticipate and guide future urban growth, the Commission recommends comprehensive land-use and public-facility planning on an overall metropolitan and regional scale.

The quality of life in an urban area depends largely on how its land is used—the location and character of housing, the amount and accessibility of open space, the compatibility of adjacent land uses, the transportation system. Land-use regulations, principally zoning and subdivision regulations, are the chief government tools to influence local land-use patterns and the character of development.

The Commission recommends that governments exercise greater control over land-use planning and development.

This could be achieved through: (1) early public acquisition of land in the path of future development to be used subsequently as part of a transportation system or for open space; (2) establishment of taxes and easements to influence the use of land and timing of development; (3) establishment of a state zoning function to oversee the use of the land; (4) establishment of special zoning to control the development of land bordering public facilities such as highways and airports.

Four years ago the Commission on Civil Disorders said: "Our nation is moving toward two societies, one black, one white—separate and unequal." It added that "white society is deeply implicated in the ghetto." In the intervening years, little if any progress has been made to diminish the isolation of the disadvantaged.

To help dissolve the territorial basis of racial polarization, the Commission recommends vigorous and concerted steps to promote free choice of housing within metropolitan areas.

Even without further legislation, federal agencies could do much to promote housing integration simply by changing administrative practices. This would require that the federal government become more alert to local housing practices and establish an active program to guarantee local compliance with housing laws. An additional means for pursuing these objectives might be the establishment of institutions which could buy housing in white suburbs and subsequently rent or sell them to ethnic and racial minorities.

To reduce restrictions on the entry of low and moderate-income people to the suburbs, the Commission recommends that federal and state governments ensure provision of more suburban housing of low- and moderate-income families.

We must distinguish sharply the long-run national policy of eliminating the ghetto from a short-run need to make the ghetto a more satisfactory place to live. Improving conditions in the ghetto does not constitute an acceptable long-run solution to the racial discrimination which created the ghetto. But if we wait for the long-run solution, we shall bypass the present need for better schools, housing, public transportation, recreational facilities, parks and shopping facilities.

These needs are partly a function of fragmentation of local government within metropolitan areas which produces serious imbalances between the demands on government and the resources available to meet them. These imbalances arise in large part because local public services depend so heavily on locally raised revenues produced by locally applied taxes (principally, of course, the property tax). The present situation invites, in fact encourages, racial and income segregation between local communities—the flight of the well-to-do from high-cost, poor-service cities to enclaves of affluence guarded by exclusionary zoning.

To promote a more racially and economically integrated society, the Commission recommends that actions be taken to reduce the dependence of local jurisdictions, on locally collected property taxes.

Redistribution has left behind undereducated, under-skilled persons in locales that have fallen into economic and social decline. This is not to suggest that all rural places are suffering from population decline and economic obsolescence. On the contrary, many small communities are viable and prosperous. But the economic development of the United States can be traced through the impact it has had on the distribution of population in this country.

In chronically depressed areas, it may sometimes be true that the prudent course is to make the process of decline more orderly and less costly—for those who decide to remain in such areas as well as for those who leave. This would hold true if economic analysis discloses that no reasonable amount of future investment could forestall the necessity for population decline as an adjustment to the decline in job opportunities. In that event, the purpose of future investment in such areas should be to make the decline easier to bear rather than to reverse it.

To improve the quality and mobility potential of individuals, the Commission recommends that future programs for declining and chronically depressed rural areas emphasize human resource development.

To enhance the effectiveness of migration, the Commission recommends that programs be developed to provide worker-relocation counseling and assistance to enable an individual to relocate with a minimum of risk and disruption.

To promote the expansion of job opportunities in urban places located within or near declining areas and having a demonstrated potential for future growth, the Commission recommends the development of a growth center strategy.

This strategy could be reinforced by assisted migration programs that would encourage relocation to growth centers as an alternative to the traditional paths to big cities. Growth centers could also provide many of those who are unemployed and underemployed in declining areas with an opportunity to commute to new or better jobs. In such circumstances, more effective employment could be achieved without altering the living environment. Equally important, such growth centers would provide alternative destinations for urban migrants preferring small town or city living.

The types of growth centers envisioned are expanding cities in the 25,000 to 350,000 population range whose anticipated growth may bring them to 50,000 to 500,000. Somewhat lower and higher limits should be considered for the sake of flexibility. Not every rapidly-growing city within this range should be eligible. Only those cities that could be expected to benefit a significant number of persons from declining regions, as well as the unemployed within the center, should be eligible.

A difficult problem will be to avoid unnecessary subsidies for places whose future growth requires no additional stimulus. Moreover, the policy must avoid catering to the industries and interests that profit from growth per se, as distinct from the region-wide interest in building a sound and diversified urban economy. Care must also be taken to avoid simply relocating industries from one area to another, and thereby possibly aggravating the problems of some areas while mitigating those of others. A growth center policy, misdirected, could inadvertently produce overurbanization, or merely represent a transfer, not a reduction, of national problems.

Statistics and research

At present, there is a minimum two-year delay in the publication of final and detailed data on births and deaths. In spring 1972, the most recent detailed vital statistics available were for 1968. This delay has done much to reduce the value of the information collected because all major analyses of trends in fertility and mortality at the national and local, socioeconomic and racial levels are dependent on those detailed tabulations. Moreover, the detailed tabulations furnish indispensable raw materials for the construction of intercensal estimates of the changing population of regions and localities.

The Commission recommends that the National Center for Health Statistics improve the timeliness and the quality of data collected with respect to birth, death, marriage, and divorce.

Our decennial censuses, together with our vital and migration statistics, provide the materials for developing quite accurate annual estimates of the nation's total population classified by age, sex, and race. They are wholly inadequate, however, to permit the construction of annual estimates for regions, states, and local areas, or to portray the intercensal social-economic status of the nation's constituent populations. The interval of 10 years between censuses—a leisurely pace established in the 18th century—is simply too long in view of the high mobility of our people.

The Commission recommends that the decennial census be supplemented by a mid-decade census of the population.

Organizational Changes

The primary focus of the federal population research program is the Center for Population Research—an operating unit of the National Institute of Child Health and Human Development. The Center supports research in the development of new contraceptives, the medical effects of existing methods of fertility control, and the social and behavioral aspects of population change. Although creation of the Center was a worthwhile development in 1968 when the government was first beginning to acknowledge the need for population research, the program has now outgrown this organizational arrangement.

A greatly expanded and more focused population research effort is needed. In addition to strengthening programs in basic and applied reproductive research and evaluation of contraceptives, the behavioral research program must be significantly enlarged.

Creation of a separate institute should provide a stronger base from which this increased effort can be directed. It would facilitate acquisition of qualified personnel, laboratory and clinical space, and other resources necessary for a diversified research program. It would increase the visibility of the population research program, signal to the world that it ranks high among our research priorities, and should help in commanding the level of funding that we believe is necessary but which has not been forthcoming.

We therefore recommend the establishment, within the National Institutes of Health, of a National Institute of Population Sciences to provide an adequate institutional framework for implementing a greatly expanded program of population research.

Programs affecting population distribution are scattered throughout the government. For example, the problems of growth and development of urban, suburban, and rural communities are closely related but, depending on their size, communities that seek help for planning and constructing public facilities must deal with one or more of three different departments that support these activities.

It is necessary to make organizational

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changes to coordinate and, in some cases, consolidate existing urban and rural development programs and provide a locus for the studies of population growth and distribution necessary for policy development and program implementation in the areas of housing, economic development, transportation, and other related fields.

Congress is currently considering legislation that would establish a new Department of Community Development. Under this proposed reorganization, a single federal department would administer the major programs of assistance for the physical and institutional development of communities—for physical and institutional development of communities—for planning and building houses, for supporting public facilities and highways, and for strengthening state and local governmental processes.

This proposal is one of four submitted by President Nixon for reorganization of the federal departments. Each of them raises a great number of issues that are not our concern and on which we are not qualified to comment. However, from the perspective of better facilitating and guiding population distribution, coordination and consolidation of urban and rural development programs is essential.

We therefore recommend that Congress adopt legislation to establish a Department of Community Development and that this Department undertake a program of research on the interactions of population growth and distribution and the programs it administers.

Office of Population Growth and Distribution

Our government has no explicit population policy. Federal programs generally operate without regard to their effects upon population growth and distribution or how shifts in population pattern affect programs. What is needed is an organizational unit with the ability to take the broadest possible view of population issues, to transcend individual departmental points of view, and to develop and formulate coherent population policies. This can be done most effectively from the Executive Office of the President which is able to coordinate the activities of all departments. This new office should:

Establish objectives and criteria for shaping national growth and distribution policies.

Monitor, anticipate, and appraise the effects on population of all governmental activities—including health, education, and welfare programs; defense procurement policies; and tax laws—and the effect that population growth and distribution will have on the implementation of all governmental programs.

Provide for the review, integration, and coordination of population programs, giving consideration to the role played by nongovernmental resources and institutions.

Assume responsibility for preparation and submission of the biennial Report on Urban Growth required by the Housing Act of 1970.

Assist state and other units of government concerned about population matters in dealing with their problems.

We therefore recommend the creation of an Office of Population Growth and Distribution with the Executive Office of the President.

Two years of study and deliberation have demonstrated to us that that population is intimately tied to numerous social issues. Yet, innumerable social programs are undertaken by the government each year without having any of the overall direction that we have imposed upon our economic and environmental activities. The Council of Economic Advisers and the Council on Environmental Quality keep the President and the public informed of the effects of public needs and policies with regard to the economy and the environment and recommend programs to assist economic growth and stability and to preserve the environment. Population and related social matters require the same level of attention.

We therefore recommend that Congress approve pending legislation establishing a Council of Social Advisers and that this Council have as one of its main functions the monitoring of demographic variables.

If this legislation is passed, if the Council is adequately funded and staffed, and if it shows that it will give proper consideration to population problems, then it could and should take over the functions and role of the Office of Population Growth and Distribution.

Congress has been the arm of government most interested in population problems. However, jurisdiction over population-related programs is scattered among many committees of Congress. If congressional review of population matters is to be most effective, some focal point within Congress is necessary. One committee should have responsibility for studying issues from the perspective of their effect upon population growth and distribution, for spotlighting problems, and for reviewing the implementation of federal programs in these areas.

In order to provide improved legislative oversight of population issues, the Commission recommends that Congress assign to a joint committee responsibility for specific review of this area.

STATEMENT OF JOHN D. ROCKEFELLER III, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE ON PART II OF THE FINAL REPORT

In this second section of the Commission's report we set forth our recommendations in regard to education, childbearing and childrearing. They represent two years of intensive deliberations by the Commission and its able staff, based on extensive research under contract to others.

These brief introductory comments of mine I offer as background in your consideration of our recommendations:

1. From the beginning, the overriding goal of the Commission has been the enrichment of human life not its restriction. In advocating a national population policy we seek to assure greater opportunity for all Americans so that each may have a better chance of attaining his full potential with respect and dignity.

2. The Commission recognizes and would stress that many of its recommendations seek to achieve social goals desirable and important in their own right—for example, greater opportunities for women and children, and freedom of choice in reproduction. These recommendations, are, of course, also relevant to population growth.

3. There has been much talk and concern about controls and coercion in the population field. The whole thrust of the Commission's effort has been the attainment of social goals through voluntary action, to be determined by the individual in his own best interest.

4. We recognize that such voluntary action will only be meaningful if we have true freedom of choice. This will require changes in some of our attitudes, patterns of behavior, laws and governmental programs. Only in this way will all people have access to the full range of our society's opportunities and services—particularly we have in mind women, minorities and the young.

5. Underlying all its deliberations, the Commission has sought to strengthen the bonds of family life by enabling parents and prospective parents to plan their childbearing and child-rearing so that every newborn infant will be a wanted child, raised in an atmosphere of love, respect and responsibility, because his or her mother and father have chosen to become parents.

We of the Commission recognize that not everyone will agree with all of the statements and recommendations in our report. We ask you to think of the report as a whole and to remember the breadth and the importance of the subject with which we are dealing. We ask you to remember that the report represents the best thinking of 24 individuals from a cross section of our society in terms of race, religion, age, occupation, geography, and beliefs. More particularly we ask you to remember, as I have already indicated, that the overriding goal of the Commission is to raise the quality of life for all Americans.

LAWSUIT AGAINST WAR

Mr. FULBRIGHT. Mr. President, on March 28, the Honorable Joseph S. Lord III, chief judge of the U.S. District Court for the Eastern District of Pennsylvania, filed what I believe to be an extremely significant opinion in the case of John S. Atlee and others against Melvin Laird, individually, and so forth. Judge Lord's opinion is particularly relevant to the present business of the Senate—the proposed war-powers legislation. I therefore ask unanimous consent that the opinion and an article entitled "Suit Against War Goes to Three Judges," by Donald Janson, published in the New York Times of Sunday, April 2, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[In the U.S District Court for the Eastern District of Pennsylvania—No. 71-2324]

OPINION—JOSEPH S. LORD III, CHIEF JUDGE, MARCH 28, 1972

(John S. Atlee, Henry Braun, Rev. David Gracie, John Malinowski, Joseph Miller, Helen K. Schotz, Seymour Schotz, and all other persons similarly situated, v. Melvin Laird, individually and as Secretary of the Department of Defense, Civil Action)

The plaintiffs in this suit allege that the prosecution of the war in Southeast Asia by this government violates various provisions of the United States Constitution, Treaties of the United States, and doctrines of international law. They seek a permanent injunction against the expenditure of funds for this war which have been authorized and appropriated by Acts of Congress. The defendant in this case is Melvin Laird, Secretary of the United States Department of Defense. The United States government, through the office of the United States Attorney for the Eastern District of Pennsylvania, has been granted leave to intervene. Originally, Richard M. Nixon, President of the United States, was a defendant, but on January 20, 1972, the government's motion to dismiss him as a party defendant was granted. The court has jurisdiction of the case under 28 U.S.C. 1331.

Plaintiffs have asked that a three-judge court be convened to hear this action. Since the plaintiffs seek an injunction restraining the expenditure of funds authorized and appropriated by Acts of Congress on the ground that such expenditures are repugnant to the United States Constitution, this is clearly a case which requires a three-judge district court under the terms of 28 U.S.C. 2282. See Flast v. Cohen, 392 U.S. 83 (1968).

The government, however, has filed a motion to dismiss the suit with this court, offering several separate grounds in support of its motion. My initial determination must be whether I, as a single district judge, have the power to dismiss this suit on the grounds alleged by the government, rather than request the convening of a three-judge district court.

In Ex Parte Poresky, 290 U.S. 30 (1933) (per curiam), the Court held that a single judge could dismiss the action rather than request that a three-judge court be convened where there was neither diversity jurisdiction, nor federal question jurisdiction because the federal question involved was clearly insubstantial. "• • • [T]he provision requiring the presence of a court of three judges necessarily assumes that the District Court has jurisdiction." Poresky, *supra*, 290 U.S. at 31.

The three-judge statute was later amended, and 28 U.S.C. 2284(5) now provides that "[a] single judge shall not • • • dismiss the action, or enter a summary and final judgment." Despite the language of this provision, the decision in Ex Parte Poresky is still good law. The provision has been interpreted to be a limitation on a single district judge's power only after a three-judge court has been properly called. The decisions have uniformly held that the single district judge to whom an action is originally presented may refuse to request a three-judge court and dismiss the action if he concludes that the general requisites of federal jurisdiction are not present. *E.g.*, Port of New York Authority v. United States, 451 F.2d 783 (C.A. 2, 1971); Eastern States Petroleum Corporation v. Rogers, 280 F.2d 611 (D.C. Cir. 1960); Jacobs v. Tawes, 250 F.2d 611 (C.A. 4, 1957); Hickmann v. Wujick, 333 F.Supp. 1221 (E.D.N.Y. 1971); Suskin v. Nixon, 304 F.Supp. 71 (N.D. Ill. 1969).

It is equally clear that a single judge must request the convening of a three-judge court if jurisdiction is present. A single judge may not decide that abstention is proper while a state court passes on the constitutional issue involved, and on that basis refuse to convene a three-judge district court. Idlewild Liquor Corp v. Epstein, 370 U.S. 713 (1962) (per curiam); Abele v. Markle, 452 F. 2d 1121 (C.A. 2, 1971); Landry v. Daley, 280 F. Supp. 929 (N.D. Ill. 1967).

"When an application for a statutory three-judge court is addressed to a district court, the court's inquiry is appropriately limited to determining whether the constitutional question raised is substantial, whether the complaint at least formally alleges a basis for equitable relief, and whether the case presented otherwise comes within the requirements of the three-judge statute." Idlewild, *supra*, 370 U.S. at 715.

Just as abstention is not proper, the single district judge may not refuse to request a three-judge court because he concludes that the case is better suited for declaratory relief rather than the injunctive relief which was also requested by the plaintiff. National Mobilization Committee To End War in Viet Nam v. Foran, 411 F. 2d 934 (C.A. 7, 1969).

It thus becomes necessary for me to determine which of the government's proposed grounds for dismissal of this suit involve jurisdictional questions which this court may consider.[1] The government has advanced four reasons for dismissal: (1) the suit is identical to other cases filed against the same defendants in other federal courts; (2) the complaint presents to nonjusticiable political question; (3) the action in effect is an unconsented suit against the United States; and (4) the plaintiffs lack standing to maintain this action. I have concluded that my power to rule on the government's motion extends only to the latter two grounds urged for dismissal.

It is first argued that this suit should be dismissed because numerous similar actions with sometimes identical complaints have been filed against the same defendants in various federal courts across the country. The government contends that a dismissal here would foster judicial economy and avoid the vexatious results of permitting multiple lawsuits. We note that the government has failed to show a single other suit challenging expenditures for the war which has been brought by the plaintiffs in this suit. The fact that counsel representing the plaintiffs in these various anti-war actions are the same would not seem to permit the inference that the plaintiffs in this suit are only "nominal," and that behind them lurk the same "real parties in interest" who have actually brought this and all the other similar actions. In any event, I will not rule on this ground for dismissal because it does not present a jurisdictional issue, but one which is addressed to a court's discretion. See Eastern States Petroleum & Chemical Corporation v. Walker, 177 F. Supp. 328, 334 (S.D. Tex. 1959). Of course, if a three-judge court is convened, the government may renew its motion, directing it to that court's power to dismiss for any proper reason, jurisdictional or otherwise.

As an alternative basis for dismissal, the government takes the position that the conduct of foreign policy, and particularly the manner and extent of financial assistance to foreign nations is committed to the discretion of Congress and lies outside the power and competency of the judiciary. It is contended that what the plaintiffs seek to litigate here is a nonjusticiable political question and therefore the court lacks jurisdiction over the subject matter.

Actually, this argument confuses two separate grounds for denying relief. Bell v. Hood, 327 U.S. 678 (1946), made clear that a court must entertain a suit where the complaint is so drawn as to seek recovery directly under the Constitution or the laws of the United States. Such a suit may be dismissed for want of jurisdiction only if the alleged claim under the Constitution or federal statute is sham, made solely for the purpose of obtaining jurisdiction, or is insubstantial and frivolous. "Jurisdiction • • • is not defeated • • • by the possibility that the averments might fail to state a cause of action on which petitioners could actually recover." Bell v. Hood, *supra*, 327 U.S. at 682.

At the heart of plaintiffs' constitutional claims is the contention that the war in Southeast Asia is being waged in violation of Art. I, Sec. 8, Cl. 11 which provides that "[t]he Congress shall have Power • • • To declare War • • •." The plaintiffs allege that the Constitution requires a Congressional declaration of war or an equivalent act of Congressional authorization for the military activities being waged in Southeast Asia, and that in fact Congressional action which has been taken[2] does not fulfill this requirement. This claim is not so insubstantial and devoid of merit as to warrant dismissal on the ground of lack of jurisdiction of the subject matter. Commonwealth of Massachusetts v. Laird, 451 F. 2d 26, 29 (C.A. 1, 1971).

In Baker v. Carr, 369 U.S. 186 (1962), the Court emphasized that the question of subject matter jurisdiction should not be confused with the problem of whether a suit presents a nonjusticiable political question.

"The distinction between the two grounds is significant. In the instance of nonjusticiability, consideration of the cause is not wholly and immediately foreclosed; rather, the Court's inquiry necessarily proceeds to the point of deciding whether the duty asserted can be judicially identified and its breach judicially determined, and whether protection for the right asserted can be judicially molded. In the instance of lack of jurisdiction the cause either does not 'arise under' the Federal Constitution, laws or treaties (or fall within one of the other enumerated categories of Art. 3 § 2), or is not a 'case or controversy' within the meaning of that section; or the cause is not one described by any jurisdictional statute." Baker v. Carr, *supra*, 369 U.S. at 198.

In an action which on its face invokes the three-judge court statute, it is clear that a single judge is prohibited from any ruling on the merits of the action.[3] *E.g.*, Stratton v. St. Louis Southwestern R. Co., 282 U.S. 10 (1930). As the political question doctrine has developed, the inquiry into justiciability must necessarily proceed to a point which becomes entangled with the merits of the action.

In Powell v. McCormack, 395 U.S. 486 (1969), Adam Clayton Powell, Jr. alleged that the United States House of Representatives unconstitutionally excluded him from a seat in the 90th Congress. In considering whether the political question doctrine rendered the suit non-justiciable, the Court considered many factors, but the main focus of its inquiry was whether there has been a textually demonstrable constitutional commitment of the issue to another coordinate branch. The defendants argued that the House, and the House alone, has the power to determine who is qualified to be a member.

"In order to determine whether there has been a textual commitment to a co-ordinate department of the Government, we must interpret the Constitution. In other words, we must first determine what power the Constitution confers upon the House through Art. I, § 5, before we can determine to what extent, if any, the exercise of that power is subject to judicial review." Powell v. McCormack, *supra*, 395 U.S. at 519.

In deciding whether this suit presents a non-justiciable political question, an interpretation would have to be made by this court of the very clause of the Constitution, Art. I, Sec. 8, Cl. 11, which plaintiffs rely on on the merits. The First Circuit recognized this unavoidable entanglement in a recent decision which held that the war in Southeast Asia presented a nonjusticiable political question.

"In arriving at this conclusion we are aware that while we have addressed the problem of justiciability in the light of the textural commitment criterion, we have also addressed the merits of the constitutional issue. We think, however, that this is inherent when the constitutional issue is posed in terms of scope of authority." Commonwealth of Massachusetts v. Laird, 451 F.2d 26, 33-34 (C.A. 1, 1971).

Thus, I conclude that as single district judge I lack the power to rule on the government's motion to dismiss on the ground that the suit presents a nonjusticiable political question. *See* Abele v. Markle, 452 F.2d 1121, 1125 (C.A. 2, 1971); *see generally* Scharpf, *Judicial Review And The Political Question: A Functional Analysis*, 75 Yale L.J. 517 (1966).

The government also argues that this suit should be dismissed because while nominally against officers of the United States, it is in reality against the government itself. If its contention is correct that this is actually a suit against the United States, then a court would be without jurisdiction to hear the suit since there is no applicable statute waiving sovereign immunity. See Larsen v. Domestic and Foreign Commerce Corp., 337 U.S. 682, (1949). Since it is a jurisdictional issue, this court could dismiss the suit if it is barred by sovereign immunity. Osage Tribe of Indians v. Ickes, 45 F.Supp. 179 (D.D.C. 1942).

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[1] This admittedly is no easy task. In fact, the test has been strongly criticized as unworkable. "It is fruitless to pick nits over what is 'really' a matter of jurisdiction. 'Jurisdiction' is but a handy name with which to describe a collection of legal consequences." Currie, *The Three-Judge District Court In Constitutional Litigation*, 32 U. Chi. L. Rev. 1, 25 (1964).

[2] E.g., Acts of appropriation for war activities and extensions of the Selective Service Act.

[3] Except, as it may be determined, that the act attacked is without a doubt constitutional or unconstitutional. *Ex Parte Poresky*, 290 U.S. 30 (1933) (per curiam); *Bailey* v. *Patterson*, 369 U.S. 31 (1962) (per curiam).

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Dugan v. Rank, 372 U.S. 609 (1963), provides the guidelines for the law of sovereign immunity. A suit is against the sovereign and barred if the judgment sought would expend itself on the public treasury or interfere with the public administration. It is also barred if the effect of the judgment would be to compel the government to act or restrain it from acting. However, two exceptions are recognized to this rule. A suit is not barred by the doctrine of sovereign immunity if it is alleged that the actions of the officers challenged are beyond their statutory authority or, though authorized by statute, the powers exercised or the manner in which they are exercised are in violation of the Constitution.

This suit clearly comes within the second exception to the rule of sovereign immunity. The expenditure of funds by the defendant to further the prosecution of the war in Southeast Asia is alleged to be in direct conflict with the requirements of Art. I, Sec. 8, Cl. 11 of the Constitution. Sovereign immunity is no bar to this action challenging the financing of the war in Southeast Asia. Berk v. Laird, 429 F.2d 302 (C.A. 2, 1970); Mottola v. Nixon, 318 F. Supp. 538 (N.D. Cal. 1970). *See also* Youngstown Sheet & Tube Co. v. Sawyers, 343 U.S. 579 (1952). *Contra* Luftig v. McNamara, 373 F.2d 664 (D.C. Cir. 1967) (per curiam).

The final ground urged for dismissal before this court is that the plaintiffs lack standing to maintain this action. Decisions denying standing have sometimes been based on a rule of self-restraint which the Court has developed, rather than a jurisdictional reason. Barrows v. Jackson, 346 U.S. 249, 255 (1953). The doctrine is somewhat complicated, as it "has become a blend of constitutional requirements and policy considerations." Flast v. Cohen, 392 U.S. 83, 97 (1968). For whatever reasons a court may deny standing, the Court's decisions indicate that standing may not be conferred unless consistent with jurisdictional limitations which are embodied in Article III.

"Generalizations about standing to sue are largely worthless as such. One generalization is, however, necessary and that is that the question of standing in the federal courts is to be considered in the framework of Article III which restricts judicial power to 'cases' and 'controversies'." Data Processing Service v. Camp, 397 U.S. 150, 151 (1970).

Therefore, I will rule on the government's motion to dismiss on the ground of lack of standing in light of the case or controversy requirement of Article III. Abele v. Markle, 452 F. 2d 1121 (C.A. 2, 1971). Plaintiffs have asserted standing as taxpayers, citizens, and voters. Each status must be scrutinized separately to determine whether any one of them is sufficient to confer standing to maintain this action. *See e.g.* Reservists' Committee To Stop War v. Laird, 323 F. Supp. 833 (D.D.C. 1971).

In Flast v. Cohen, 392 U.S. 83 (1968), the Court distinguished an earlier decision, Frothingham v. Mellon, 262 U.S. 447 (1923), which had denied standing to a federal taxpayer. In holding that a federal taxpayer had standing to challenge the allegedly unconstitutional expenditure of funds by Congress for aid to religious schools, the Court developed a two-part test for establishing standing as a federal taxpayer. First, the expenditure must be an exercise of congressional power under the taxing and spending clause of Art. 1, Sec. 8 of the Constitution. Secondly, the taxpayer must show that the challenged enactment exceeds specific constitutional limitations upon the congressional taxing and spending power.

In Flast, the Court found that the expenditure by Congress was made pursuant to its Art. 1, Sec. 8, Cl. 1 power to spend for the general welfare, so that the first part of the test was satisfied. The Tenth Circuit has concluded that expenditures for the war have not been made under the taxing and spending clause but under the power to raise and support an Army and maintain a Navy, Art. 1, Sec. 8, Cl. 12 and 13. Velvel v. Nixon, 415 F.2d 236 (C.A. 10, 1969). However, the matter is not at all clear. "[T]he government probably uses its spending power whenever it spends, even if the disbursement is also supported by some other granted power. Furthermore, many activities are neither primarily spending nor primarily regulatory—the Vietnam war, for instance." Davis, *Standing: Taxpayers and Others*, 35 U.Chi.L.Rev. 601,663 (1968).

However, even if the first part of the Flast test is considered fulfilled, the plaintiffs here still lack standing as taxpayers because of their failure to demonstrate that Congressional appropriations for the war violate specific constitutional limitations upon the taxing and spending power. In Flast, the First Amendment's Establishment Clause was alleged to be violated by the expenditures involved there, and the Court found that our history discloses that a specific evil feared by the drafters of the Establishment Clause was that the taxing and spending power would be used to favor one religion over another, or to support religion in general. The plaintiffs here have not been able to offer sufficient support, historical or otherwise, for an interpretation of the war-making clause as having an implied purpose to act as a specific limitation on the manner in which Congress could make expenditures. Pletch v. President of United States, 434 F. 2d 861 (C.A. 2, 1970); Velvel v. Nixon, *supra*.

Our inquiry concerning standing is not ended, however, because the only question involved in Flast was whether "* * * standing can be conferred on the taxpayer qua taxpayer consistent with the constitutional limitations of Article III." Flast, 392 U.S. at 101. "* * * [O]ur point of reference in this case is the standing of individuals who assert only the status of federal taxpayers. * * *" Flast, 392 U.S. at 102. The concurring opinion of Justice Fortas pointed to the issue now at hand.

"In terms of the structure and basic philosophy of our constitutional government, it would be difficult to point to any issue that has a more intimate, pervasive, and fundamental impact upon the life of the taxpayer—and upon the life of all citizens.

"Perhaps the vital interest of a citizen in the establishment issue without reference to his taxpayer's status, would be acceptable as a basis for this challenge. We need not decide this." Flast, 392 U.S. at 115–116.

Plaintiffs' possible standing as citizens must be analyzed in terms of the general criteria which have been developed by the Court.

"Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions? This is the gist of the question of standing." Baker v. Carr, 369 U.S. 186, 204 (1962).

The "personal stake" need not of course be one that is unique to that individual, but may be shared by millions of others with a similar status, as the federal taxpayers in Flast.[4] The nature of the personal stake and interest necessary under Article III for standing was explained most fully by the Court in a recent decision where the requirements for standing to seek judicial review of administrative action were relaxed. Data Processing Service v. Camp, 397 U.S. 150 (1970), and see the companion case of Barlow v. Collins, 397 U.S. 159 (1970). "The first question is whether the plaintiff alleges that the challenged action has caused him injury in fact, economic or otherwise." Data Processing, *supra*, 397 U.S. at 152. "That interest, at times, may reflect 'aesthetic, conservational, and recreational' as well as economic values." *Id.*, at 154. In Data Processing the injury involved was an alleged economic one, a potential loss of business to the petitioners as competitors of the national banks to which the administrative ruling was directed. Barlow, *supra*, also involved an economic injury. The Court in its interpretation of Article III requirements explained that it had mentioned non-economic values so that it could "emphasize that standing may stem from them as well as from the economic injury on which petitioners rely here." Data Processing, 397 U.S. at 154.

For an economic injury to qualify as a sufficient personal stake, it need not be of any particular magnitude. *See* Harper v. Virginia Board of Elections, 383 U.S. 663 (1966) ($1.50 poll tax). It has been estimated that the economic injury to the average federal taxpayer caused by the Congressional expenditure attacked in Flast amounted to all of 12 cents ($.12). Davis, *Standing: Taxpayers and Others*, 35 U.Chi.L.Rev. 601, 611 (1968).

In this case plaintiffs allege that many billions of dollars have been spent in prosecution of the war in Southeast Asia, at the rate of approximately two billion dollars every month. They have alleged that this federal spending has in large part caused a rapidly increasing inflation from which all citizens suffer. War induced inflation-recess is alleged to have decreased the actual purchasing power of the dollar.[5] The government has not offered any evidence rebutting these allegations of economic injury, and since this is a motion to dismiss, all well pleaded facts are admitted. Therefore, I find that this alleged economic injury caused by the prosecution of the war is sufficient to confer standing.

Perhaps more fundamentally, plaintiffs have standing here as citizens to challenge the war because of its non-economic impact as well. As Data Processing pointed out, the interests to be protected may at times reflect other values. Conservationist groups, for instance, have been granted standing to challenge agency action which would affect natural resources such as our rivers and forests. Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F.2d 608 (C.A. 2, 1965) Sierra Club v. Hardin, 325 F.Supp. 99 (D. Alaska 1971).[6]

the framework of Article III requirements now recognized by the Court. *See Flast*, 397 U.S. 83, 116–133 (dissent of Harlan, J.; Jaffe, *The Citizen As Litigant In Public Actions: The Non-Hofheldian or Ideological Plaintiff*, 116 U.Pa.L.Rev. 1033 (1968); Jaffe, *Judicial Control Of Administrative Action*, 459–500 (1965).

[4] It seems a misnomer to speak of "personal stake" when plaintiff's interest is no different than millions of others, and the action seems primarily concerned with vindicating a public interest in an important national issue rather than a private wrong. Perhaps, such actions should more properly be designated "public actions" and be measured by different criteria for standing than "private actions" involving a distinct and discriminating injury. In any event, plaintiffs in this case will have to establish standing within

[6] Inflation is recognized as a time-honored device for financing wars. For an interesting discussion of means to finance World War II see the position papers of the Tax Institute Symposium of 1942. *Financing The War* 9 (Warren), 28–33 (Jones) (1942). The court, of course, does not venture an opinion as to whether the prosecution of the war in Southeast Asia has induced inflation.

[6] While these cases as well as *Data Processing* concerned whether standing to challenge administrative action had been conferred by Congress, they are applicable to the instant determination of whether plaintiffs have fulfilled the requirements of Article III, since Article III limitations on standing must always be observed. "Congress can, of course, resolve the question one way or another, save as the requirements of Article III dictate otherwise." *Data Processing*, 397 U.S. at 154.

There are few citizens who could be so callous as to be unmoved by the almost daily reports in the media of the death and destruction being caused by this war. The loss in human resources has been, and continues to be, staggering. In terms of American lives alone, there have been the deaths of over forty-five thousand soldiers, with injuries to hundreds of thousands more. The blood of these men provides a sufficient "conservational" interest on the part of every citizen in saving the human resources of this nation.

The fact that our nation is at war also necessarily causes some threat to the personal safety and security of all the citizens, given the complexity of international relations and the advanced means of war that have been developed through technology. Finally, plaintiffs have alleged that the expenditures of billions of dollars on the war has resulted in there being less funds available to be expended on urgent domestic needs, such as the housing, health and education needs of citizens. Considering the huge expenditures on the war this cannot be dismissed as idle speculation. Plaintiffs' interests as citizens are clearly more compelling than any aesthetic or recreation interests which Data Processing said may confer standing.

In terms of Article III requirements for standing, besides demonstrating that a sufficient personal stake or interest is present, it must appear that "the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." Data Processing, 397 U.S. at 153. Art. I, Sec. 8, Cl. 11, which plaintiffs have alleged has been violated, provides that "[t]he Congress shall have Power * * * To declare War * * *." The words themselves don't contain any intention to protect the citizenry, but the history of our Constitution reveals that this assignment of power to Congress was not a mere happenstance without purpose. It was the intention of the framers of the Constitution to make it more difficult for the nation to engage itself in war with all the sufferings which this entails for its citizens, by lodging the power in a body of men, rather than allow one man to make such a vital decision. The British monarch was not considered a proper guide for defining the executive powers of the president in this country when it came to the matter of war. Madison, *The Debates of the Federal Convention of 1787*, 140–141, 438–39 (Elliott ed. 1845); *see* Pusey, *The Way We go To War*, 41–48 (1969).

The citizen's interest in having his nation free of war was the very one being considered when the Constitution was written vesting the power to authorize war with the Congress, rather than the President. Thus, the plaintiffs in this case have standing as citizens to challenge the constitutionality of expenditures for the war.[7]

By holding that plaintiffs here have standing as citizens, the decision in Flast establishing criteria for federal taxpayer standing is not rendered a nullity. In fact, most challenges to Congressional expenditures would not involve issues of paramount national importance which have an impact on every citizen's life, such as a war.[8] Thus, there would be no citizen standing, and the litigant would have to establish standing as a federal taxpayer within the test developed by Flast.[9]

Recognizing standing in this case does not create a forum for "generalized grievances about the conduct of government or the allocation of power in the Federal System." FLAST, 392 U.S. at 106. The complaint in this action presents not an airing of a "generalized grievance" about the government, but an attack against a particular war, alleging that the prosecution of this war has not and does not conform to the requirements of law. Rather than being a complaint about the allocation of power in the Federal System, it is essentially a claim that the President and the Congress have not acted in accordance with the allocation of power as it is provided in the Constitution with regard to war.

For the reasons indicated, I conclude that neither sovereign immunity nor Article III limitations on standing are a bar to maintenance of this suit. The government's motion to dismiss on these grounds is denied, and the court is without power to rule on the government's other grounds for dismissal which are non-jurisdictional. Consonant with the conclusions expressed in this opinion and simultaneously with its filing, I am requesting the Chief Judge of the Circuit to convene a three-judge court to hear this action.

ORDER

And now, this 28th day of March 1972, it is ordered that the defendant's motion to dismiss be and it hereby is denied.

By the court:

JOSEPH S. LORD III, *Ch. J.*

[From the New York Times, Apr. 2, 1972]

SUIT AGAINST WAR GOES TO THREE JUDGES—U.S. COURT IN PHILADELPHIA REJECTS PLEA TO DISMISS IT

(By Donald Janson)

PHILADELPHIA, April 1.—After setbacks in numerous court cases around the country, antiwar activists scored a preliminary victory this week in challenging the legality of the Vietnam war.

With some strong language questioning the constitutionality of undeclared wars, Federal District Judge Joseph S. Lord 3d denied a Government plea to dismiss a suit by six challengers Tuesday and turned the case over to a three-judge panel to be constituted by the Chief Judge of the United States Court of Appeals for the Third Circuit here. It is the first war challenge to go to a special panel here.

The plaintiffs seek a judgment that the Vietnam action is unconstitutional because it has been pursued by President Johnson and President Nixon without a declaration of war by Congress. They want an injunction to bar Secretary of Defense Melvin R. Laird, the defendant, from spending taxpayer funds on the war.

Judge Lord noted in his opinion, the day before the Senate began debate on a broadly supported bill to deny a President the power to pursue war for more than 30 days without the specific consent of Congress, that the Constitution provides "the Congress shall have power . . . to declare war."

"It was the intention of the framers of the Constitution," he said, "to make it more difficult for the nation to engage itself in war, with all the sufferings which this entails for its citizens, by lodging the power in a body of men, rather than allow one man to make such a vital decision.

"The British monarch was not considered a proper guide for defining the executive powers of the President in this country when it came to the matter of war. The citizen's interest in having his nation free of war was the very one being considered when the Constitution was written vesting the power to authorize war with the Congress, rather than the President.

"Thus, the plaintiffs in this case have standing as citizens to challenge the constitutionality of expenditures for the war."

STANDING IS ISSUE

The Government had contended they lack standing.

The plaintiffs, in a suit sponsored by the National Civil Liberties Committee, cited the Pentagon papers—revealed last summer following unsuccessful Government court action to halt publication—as corroboration for their contention that President Johnson misled Congress and was planning a much wider war than he sought authorization for from Congress in the Tonkin Gulf resolution of 1964. In any case, they contend, the resolution and later defense appropriations were not the required declaration of war.

In seeking dismissal of the complaint, the Government also contended the financing of foreign policy was a political matter to be left to the discretion of Congress and not a question for court jurisdiction.

Judge Lord declined to rule on that, saying it involved the merits of the constitutional challenge and would have to come before the three-judge panel.

Last year the United States Court of Appeals for the Second Circuit in New York found the issue of the war's legality was not a political one beyond the jurisdiction of the courts, but held that Congress through the Tonkin Gulf resolution, appropriations and draft legislation was providing implicit sanction for the war.

David Rudovsky, counsel for the plaintiffs here, said the Constitution required explicit Congressional approval.

The Supreme Court has declined to hear appeals from past dismissals of cases brought on this issue by protesting draftees or antiwar activists. Mr. Rudovsky said a favorable decision by a three-judge panel here probably would—result in a Government appeal and the first Supreme Court review.

JUDGE MAY JOIN PANEL

Judge Lord, who might be a member of the three-judge panel, said the Government had offered no rebuttal to the plaintiffs' allegations that war-induced inflation had reduced the purchasing power of their dollars.

Further, he said, allegations of diversion of funds from urgent housing, health and education needs "cannot be dismissed as idle speculation."

Beyond that, he said, the "staggering" loss in human resources merits challenge.

"In terms of American lives alone," Judge Lord said, "there have been the deaths of over 45,000 soldiers, with injuries to hundreds of thousands more. The blood of these men provides a sufficient conservational interest on the part of every citizen in saving the human resources of this nation."

AMERICA'S PENSION SYSTEM: A $135 BILLION QUESTION

Mr. EAGLETON. Mr. President, private pension plans are an important factor in the economic security of millions of workers and their dependents. The

[7] Having found that plaintiffs have standing as citizens, it is unnecessary to pass on their claim of standing as voters. Past decisions of the Court seem to recognize such a basis for standing only when the integrity of the vote itself, or the election process has been the interest sought to be protected. *See, e.g., Baker v. Carr*, 369 U.S. at 206–208.

[8] Thus, I disagree with the Tenth Circuit view that if a court recognized citizen standing to challenge the constitutionality of the war, "then obviously standing to sue can be found in every citizen to contest every Congressional or executive action of general import and the doctrine of standing will have lost all meaning." *Velvel v. Nixon*, 415 F. 2d 236, 238 (C.A. 10, 1969). Judge Gesell, in a recent decision recognizing citizen standing to challenge the constitutionality of members of Congress holding commissions in the Armed Forces Reserve, observed that there would be very few instances where a plaintiff could establish standing as a United States citizen. *Reservists Committee To Stop War v. Laird*, 323 F. Supp. 833 (D.D.C. 1971).

[9] Unless, of course, the plaintiff had some other status which conferred standing.

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30 million employees covered by such plans—and there will be 45 million by 1980—have every reason to expect that their deplorably inadequate social security benefits will be substantially supplemented by their private pensions. Their private pensions hold the promise of a better, more secure retirement than they could ever hope to enjoy if they were dependent solely on benefits paid under public retirement systems.

But far too many retirees have found this promise to be illusory. The Labor Subcommittee of the Committee on Labor and Public Welfare has documented case after case of workers who discovered after many years of service that the pensions on which they were relying will never be paid. Perhaps as many as 95 percent of those who have left jobs in the last 20 years where they worked under a pension plan will never receive any benefits under the plan, according to subcommittee findings.

The subcommittee's investigations have been conducted under the leadership of the chairman, the junior Senator from New Jersey (Mr. WILLIAMS), and the ranking minority member, the senior Senator from New York (Mr. JAVITS). The findings that have been made through the subcommittee's activities and the legislation that is being developed result directly from the dedication and the commitment displayed by Senators WILLIAMS and JAVITS.

An article by Michael C. Jensen, published in the April 8, 1972, issue of the Saturday Review, provides an excellent discussion of the private pension problem and the outstanding work in this field by Senator WILLIAMS and Senator JAVITS. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S PENSION SYSTEM: A $135 BILLION QUESTION

(By Michael C. Jensen)

"We can never insure one hundred per cent . . . against the vicissitudes of life, but we have tried to frame a law which will give some measure of protection . . . against poverty-ridden old age."—Franklin D. Roosevelt, Signing of the Social Security Act, 1935.

Nearly forty years have passed since this nation formally committed itself to security in old age. Today, however, Social Security is hardly enough to support the aged even at poverty levels, and the elderly's own savings, invested and tucked away over a lifetime, manage to provide only about 15 per cent of what the retired live on each year. The result is that in the precarious bookkeeping of old age the private pension—once regarded as a simple "fringe benefit"—has beome for many a bedrock necessity.

In 1940 pensions covered only 4.1 million people. Since then they have mushroomed to the point where no fewer than thirty million Americans now belong to plans. Some are run by corporations, some by unions (primarily in trades where there are many small employers). But no matter who shuffles the papers, an overwhelming amount of the money—some 75 percent—is chipped in by the company boss, whether he is the Bank of America or the local contractor. Taken together, what has been piled up over the years is a formidable treasury rivaling the federal budget. Pensions have on hand some $135-billion in assets as of this year and are expected to have $250-billion by 1980. But as pension plans have burgeoned and reliance on pensions has increased, so, unhappily, has the realization that all too often this reliance is misplaced.

One Department of Labor official admits that one-third to one-half of those who think they will be covered by pensions will eventually find out they are not. Reformers who are now calling attention to the shortcomings of the system set out even more startling figures. Of all those who have worked at and then left jobs with pension plans over the last twenty years, according to a special U.S. Senate labor subcommittee report, only about 5 per cent will ever see their sliver of the multibillion-dollar pie.

Legislation to increase the reliability of pensions has been languishing in Congress for several years. But to date, pension reform, arcane and numerical in its details, has seemed designed more to send voters off to sleep than off to the polls to support an overhaul of the system. In this intensely political year, however, reform may well make some headway. Both Congress and the administration are paying more attention to the elderly as their ranks grow. Already a number of congressmen have adopted pension reform as a major bipartisan cause, including Democratic Representative John Dent of Pennsylvania, Republican Senator Jacob Javits of New York, and Democratic Senator Harrison Williams, Jr., of New Jersey. Their $135-billion question: How does so much money, which has no trouble finding its way around Wall Street, have so much trouble finding its way to retiring workers?

Just before last Thanksgiving, the labor subcommittee that is chaired by Senator Williams held hearings to get a few answers. A parade of elderly men and women filed into the hearing room. They sat at a big wooden table and, in turn, cleared their throats and began to tell their stories. Some of them were nervous and wary of the television lights, others angry, a few disheartened, but all had the same message. One way or another, they had lost out on a lot of money.

In his thirty-two years with A&P, Stephen Duane had worked his way up from stock clerk to assistant warehouse foreman. A&P then closed the warehouse, and though some fellow workers (those over fifty-five) got their pensions, Duane, at only fifty-one, turned out to be underage in A&P's plan. No pension. Edmund McCarthy, the father of a severely retarded child in a special school, could not move out of state when Mallinckrodt Chemical Works shifted its plant to a new site. At forty-seven, he lost all claim to the monies Mallinckrodt had put aside for him during his thirty years of driving the company's trucks. After lengthy employment with the Anaconda Company from age eighteen, Iris Kwek got caught in a company cutback. She was forty-eight, and even after three decades with the company she was still more than ten years away from the right to any pension.

What the hearings quite intentionally made clear was that "coming of age" in the pension game—that is, reaching the point at which the pension promise becomes a live claim that a worker who leaves or gets fired can take with him from the pension fund—is an arbitrary business. Though no law demands it, many plans do give workers some right to future pension before they actually retire, but this is usually at ages late in the working life—at fifty-five or sixty. If anything happens before the magic birthday, the whole pension can be lost. Frank Cummings, minority counsel for the Senate labor subcommittee, describes the situation of all too many workers. "Forty-nine years on the job. One day you get sick. You get fired. And you don't get a damned dime."

While arbitrary age rules are generally seen as the pension's greatest specific defect, this arbitrariness is viewed as part of a more pervasive shortcoming: an overall absence of laws to make those who control the mounting billions accountable to those who should eventually get a share of the money. Even reformers agree that most funds are run honestly and cautiously. But if those who hold sway over the money should have self-profit in view, there are few rules to limit what they can do. "Hardly anyone just walks off with the money," says one of the harshest critics of flimsy regulation. "There are so many things you can get away with legally, no one really has to steal."

Those who control the money have the power to direct millions into investments. In 1965 Senator John McClellan's investigating subcommittee uncovered the activities of one New York labor leader. Over the years he had helped found several union locals that subsequently established welfare and pension funds of which he was an officer. Eventually, he also helped set up several research foundations, of which he was also an officer, in such exotic places as Liberia and the Caribbean. Had any of the foundations been dissolved, he would have received a substantial share of the assets. Nearly $5-million from the union pension funds wound up invested and waiting in the far-flung foundations by the time the McClellan investigation came along. But the appalling note, the subcommittee concluded, was that nothing he had done was illegal.

Recently, the Securities and Exchange Commission charged officials of three related companies with using the pension fund of the Sharon Steel Corporation to buy stock in new subsidiaries and to lend them working capital. Nonetheless, one defendant told *The Wall Street Journal* that every move was aboveboard. Talks with the SEC are now under way for a settlement of the case in which the defendants would give up control of the pension money. But, although the SEC suit is still pending, no criminal charges are involved.

That few criminal charges can now be brought against those who invest in their own instead of workers' interests is, of course, only half the problem. If money is badly invested, it is simply not around when the fund has to begin paying it out. Scandalous as this seems, however, it is not so startling to those who have been looking closely into pensions. At any point in time, few funds, even the most upright, have accumulated enough money to cover all claims against them. This widespread undernourishment of funds is clearly far more inimical to the interests of expectant pensioners than incidents of deliberate abuse.

There is nothing illegal about falling short in the ability to cover all claims, and it happens to the best of funds. In theory, a company sets aside money for a worker over the forty or so years of his working life, then eventually uses that money plus interest to give the worker his $78 (or whatever) a month. In practice, things don't work that way. Inevitably, the day after a plan takes effect, someone passes sixty-five and becomes eligible for his $78. Although little or no money was put in for him over a period of years, money must be paid out anyway. Many plans never make up for these "unfunded" claims that they carry from Day One.

Situations such as that of Western Union Telegraph Company may result. With employee claims of $365-million against its funds, Western Union has only $50-million in fund assets. Western Union (and most companies in the same bind) argues that the only time such an unbalanced ratio would matter would be if the company were to go out of business—and Western Union does not think it is about to do so.

No corporation, however, is immune to financial failure—witness Penn Central. Or the Studebaker Division of Studebaker Packard, the classic in-company collapse for anyone concerned with pensions. More than 4,000 Studebaker workers aged forty to sixty got only 15 percent of what the company owed them. Many got absolutely nothing. And with pensions, unlike money in the bank, there is no Federal Deposit Insurance Corporation to cover the shortfall.

In good part, the failure of pensions to serve as a sure financial mainstay for the retired comes from their growth for practical, not socially motivated, reasons. Historically, pensions have been less a commitment to those too old to work than an inducement to hold on to those who might go and work elsewhere. The funds' biggest growth surge came during World War II, a time when wages were frozen, and the plans became a way to lure scarce labor from competitors. With wage gains restricted, the new multimillion dollar funds struck union leaders as an impressive bundle to carry away from the bargaining table. Today companies still tend to regard pensions as "their" competitive tool—an extra gratuity for workers dispensed, like the gold watch, in return for long-term loyalty. And most union workers still see the pension promise as a trade off for money in-pocket now.

The use of pensions as a negotiated "fringe" of free enterprise also suggests why there has been so little outside review of their operations. The Treasury looks at the plans only to see if they merit and can maintain a tax-exempt status. The Department of Labor registers and files away the annual reports of some 34,000 funds, but, prevented by law from "interfering in the management of any welfare or pension benefit plan," the department rarely takes more than a cursory look at the numbers inside the reports. When the New York labor leader sent millions of dollars off to Liberia and the Caribbean, details were duly recorded in filed reports. "If you don't file," said a Senate aide, "you break the law. And there is no point in breaking the law since no one is going to read what you file anyway."

It is no wonder that pension funds have been lauded in the money markets as the most massive pool of unregulated money in the country.

If the reformers have their way, that free-wheeling definition will change. In fact, the least controversial change proposed—one that unions, cooperations, and politicians can all agree on—is for a clear law on the rights and wrongs of managing the billions. Conflicts of interest would be spelled out. Federal tabs would be kept on investments either at the Treasury, in the Labor Department, or in a big, new, wholly separate agency—which would certainly be justified in view of the amount of money involved. But while there is no longer much doubt that some part of the government will soon be routinely on the prowl for fraud, what reformers fear is that enacting a few laws to curb the most visible problems will let the pension industry glide right by the more profound questions that the whole present system poses: At what age should workers get their rights to pensions? Should they be able to build credits as they move from job to job over a whole working lifetime? What if the company or its plan is no longer around when the worker hits sixty-five? And if they are not, how can someone get the pension he has earned?

Proposed answers to these questions include the suggestion for a Federal Insurance Corporation to cover failed pension funds as the FDIC now covers failed banks. Funds would have to pay the government a premium for the insurance. To prevent the collapse of plans, if not companies, both Representative Dent and Senator Javits—but not the administration—have also called for beefing up the monies on hand in the funds over the next twenty to forty years so the funds can, in fact, cover all obligations. The reformers' most immediate concern, however, is to give workers an early and clear-cut claim to their future benefits.

The administration has a proposal that would ensure that workers begin to get credits toward pensions whenever their age plus number of years in a company tallies fifty. Representative Dent has proposed that credits go to workers after a flat ten years on the job. In the Javits plan, after six years a worker would begin to have claim to a percentage of what the company is putting by for him, with a full claim guaranteed by the tenth year. Javits would also set up a federal clearinghouse for pensions. As workers change jobs, carrying with them a bit of pension credit from here and a bit from there, the centralized service would keep track of all money ultimately due.

Giving credits toward pensions early in life and letting them build from job to job recognizes what most present plans fail to—that our economy is one of high mobility and fast technological obsolescence of jobs as well as goods. Present rules that honor longevity on the job were fine, says a counsel from the hearings, "when people stayed put in the same small towns and factories all their lives. But take the aerospace people. They move with the defense contracts."

Remedies for pension defects have been around Washington since a presidential commission's report on the system came out in 1965. Not surprisingly, the objections to that report filed by many of its corporate and union advisers are the same criticisms leveled at the reform bills now in Congress. Companies object to the bureaucracy of possible federal regulation with its promise of tie-ups and paper work. And they are critical, with some reason, of having to drop large sums into their funds to make sure there is enough on hand in case of corporate crack-up. As Western Union has said, it would rather pump the $3.8-million a year that such a buildup would require back into the company itself to ensure that the company *will* in fact survive.

As for the unions the auto- and steel-workers support change. But many others, such as the garment workers, see the reforms as costly items that could drive their often marginal bosses out of business. Nor are the unions and employers even allied in their opposition. For if more costly pension security does come along as law, companies say the only way they could meet requirements would be by cutting benefits, or the number of people covered, or workers' paychecks—not a set of solutions the unions will stand for.

Despite these widespread objections there lurks in the background a prod to accepting the beginnings of real reform. Radical critics of the system talk of folding pensions into Social Security or making them mandatory instead of voluntary; the talk may soon be taken more seriously if milder reform does not come about. Few want to see pensions engulfed in Social Security, which would result in the loss of flexibility in benefit arrangements and the loss to the economy of those investable billions. Mandatory plans seem equally threatening, although Finland, which legislated a mandatory system over the protests of businessmen in 1962, has managed to make its aging workers self-sustaining without causing hardship to the economy. In Finland each worker chalks up credits toward a pension from age twenty-three on. When he moves out of the work force, he can expect from the cumulative contributions of all his past employers about 40 per cent of his final salary as retirement income.

Whether or not such a system would work here is, of course, open to question. Finland has only two million workers. We have eighty million in the work force. But the increased complexities that size poses here are not the only difference. Our country was one of the last industrialized nations to accept the need for Social Security. The Scandinavian nations were among the first. Overcoming complexities may be less important than developing this nation's ability to care about the needs of the ever growing group of older people in its midst.

At base, that problem of attitude may be *the* problem of pensions. One union leader talks of how tough it has been to persuade workers of the significance of pensions, of what life over sixty-five on a bone-bare income might mean. He shakes his head: "You just can't sell the young on the idea they will ever be old." But fortunately, these days it looks as if those who do know what it means, by virtue of their sheer, growing numbers, are at last beginning to sell some understanding on their own.

SOIL CONSERVATION SERVICE ASSISTANCE TO OREGON FARMERS AND RANCHERS

Mr. PACKWOOD. Mr. President, the Soil Conservation Service has consistently provided outstanding technical assistance to Oregon farmers and ranchers in their efforts to preserve and protect our irreplaceable natural resources. I had the opportunity today to testify in behalf of increased funding for the SCS programs.

Mr. President, I ask unanimous consent that my statement before the Agriculture, Environmental, and Consumer Protection Subcommittee of the Committee on Appropriations be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SOIL CONSERVATION SERVICE APPLICATIONS

(Statement of Senator BOB PACKWOOD, April 10, 1972)

Mr. Chairman, and members of the subcommittee, I would like to thank you for this opportunity to appear before you today, and for holding hearings on appropriations for the Soil Conservation Service.

Oregon's rapid population growth has placed new pressures on our natural resources. The concentration of 60 percent of our population in the Willamette Valley has created new environmental problems and has aggravated old ones. It is projected that by 1985, Oregon's population will increase approximately 25 percent to more than 2.5 million. If Oregon is to continue to improve and preserve its environmental quality, we will need additional Federal funding for projects similar to those sponsored by the Soil Conservation Service.

I have received many letters and telegrams from Oregonians urging me to speak to this subcommittee in their behalf. I have visited many Oregon farmers and ranchers and have personally observed their conservation practices. Many of these efforts, however, would be impossible were it not for the technical assistance provided by the Soil Conservation Service.

The SCS currently provides assistance to nearly 21,000 landowners and operators in Oregon. This assistance covers the 59 locally organized soil and water conservation districts, which comprise 86 percent of the state's total land area.

My testimony today is principally concerned with four phases of the soil and water conservation program: (1) federal assistance to conservation districts, (2) the snow survey program, (3) the small watershed program, and (4) resource, conservation, and development projects

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ASSISTANCE TO CONSERVATION DISTRICTS

During the past five years, the corps of technical conservationists employed by the SCS in Oregon has declined over 20 percent. It is indeed unfortunate that at a time when increasing emphasis is being placed on the preservation of our environment, fewer people are provided for this highly successful conservation program.

Congress must also recognize the needs of new conservation districts. Two districts in Oregon's Crook and Harney Counties are now in the process of organization. Funds for staffing these new districts are essential.

SNOW SURVEY PROGRAM

Much of Oregon's water supply comes in the form of snow which is stored as snowpack in the winter and early spring. The SCS is responsible for measuring snow in order to forecast water supplies, streamflows, and flooding.

The Service receives repeated requests from irrigation districts, hydro-electric power producers, and flood forecasters for appraisals of snow and precipitation in the mountains, snow melt rates, and more accurate peak and volume streamflow forecasts. This is now possible using modern techniques of radio telemetry systems, which monitor a variety of parameters affecting the mountain snowpack. Oregon urgently needs a proposed automatic telemetry system which would consist of 47 telemetered data sites to be installed over the next five-year period.

SMALL WATERSHED PROGRAM

Since 1954, 57 groups throughout the State of Oregon have submitted applications for planning assistance under the provisions of PL-566, the Watershed Protection and Flood Prevention Act. Although 21 watershed projects have been authorized for planning assistance, the remaining 36 have been placed in a growing backlog, with priorities determined by the State Engineer. Our watershed applications have far exceeded the financial capacity of the Soil Conservation Service. Oregon is not unique in this regard. Funding for the small watershed program must be increased if the needs of Oregon and the nation are to be met.

RESOURCE, CONSERVATION AND DEVELOPMENT

Resource, conservation and development projects have been extremely successful in Oregon. The Upper-Willamette Resource, Conservation and Development Project was one of the first in the nation. Its 226 active resource project measures have increased Oregon's gross income by $5 million. The Columbia-Blue Mountain RC&D Project was approved for operations just one year ago.

One other project, the Grant-Wheeler RC&D, has had an application submitted since 1968, and many Oregonians are hopeful that it will soon be authorized. With other Resource, Conservation and Development applications currently being prepared, it is obvious that additional strains will be made on SCS RC&D funds. I strongly urge an increase in the appropriations for RC&D programs.

Last year, in his "Salute to Agriculture," President Nixon requested that Congress increase funds for the Soil Conservation Service. Congress responded favorably, but, as we all know, the Office of Management and Budget impounded a large portion of those funds. Oregon farmers and ranchers find it doubly discouraging that in this, the third year of "The Environmental Decade," the President has proposed a $23 million cutback in SCS funding.

There are few Federal programs from which Americans are able to see such a large return to their tax dollar. We cannot afford to ignore the importance of such programs. They have contributed greatly to our goal of preserving and protecting our irreplaceable natural resources.

NEW YORK CHAPTER OF THE UNITED NATIONS ASSOCIATION SUPPORTS GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, recently I received a copy of the statement made by the New York chapter of the United Nations Association. The association, organized to support U.N. activities within this country, reaffirmed its faith in the Genocide Convention of 1948. The New York chapter unanimously called upon this distinguished Chamber to move swiftly toward ratification of this humanitarian treaty.

Mr. President, I ask unanimous consent that the New York resolution be printed in the RECORD so the Senate might note the chapter's strength of conviction in favor of the convention.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

UNITED NATIONS ASSOCIATION OF NEW YORK, N.Y., STATEMENT ON GENOCIDE CONVENTION

The United Nations Convention on "Prevention and Punishment of the Crime of Genocide" was adopted by the General Assembly in 1948 and has been ratified by 75 member nations, but no ratification has yet been completed by the United States, although such approval has been strongly supported by every American President holding office since the Genocide Convention was first offered for signature.

We commend President Nixon for recently resubmitting this Convention to the Senate. We note with satisfaction the action of the Senate Foreign Relations Committee in recommending its ratification.

The United Nations Association of New York, N.Y., noting that its Annual Meeting is being held on the date which has been designated as an International Day to Combat Racism and Racial Discrimination, believes that the most important step which it can take on this significant occasion is to reaffirm our support for the Genocide Convention. We, therefore, urge that prompt action be taken to bring about its ratification.

THE BOWIE KNIFE

Mr. FULBRIGHT. Mr. President, the Bowie knife has a famous place in American history. Many are acquainted with the stories and legends about the life of Jim Bowie and the Bowie knife. However, relatively little is known about the man generally credited with inventing the Bowie knife, James Black.

Mr. Black was an accomplished blacksmith and metallurgist who spent most of his life at Washington in Hempstead County, Ark.

In the unique village of Washington, Ark., the blacksmith shop of James Black has been reconstructed, and the tavern where Black probably ate in his early days at Washington and where Sam Houston, Stephen Austin, and Bowie lived while in Arkansas, has been restored. In addition to the blacksmith shop and the tavern, the Pioneer Washington Foundation has restored and opened to the public a number of historic homes, including the home of Augustus Garland, the Attorney General of the United States in the Cabinet of President Grover Cleveland.

Mr. President, John Fleming recently wrote an article for the Arkansas Gazette about the man who invented the Bowie knife. It is an interesting, well-documented account of the life of James Black.

Mr. Fleming also writes about the picturesque little town of Washington and says:

Probably nowhere in the Southwest is there a better collection of pioneer antiques than in this multi-building museum complex.

Mr. President, I ask unanimous consent that the article of historical interest be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TALE OF THE MAN WHO INVENTED THE BOWIE KNIFE

(By John Fleming)

Most school children of the Southwest are acquainted with at least one of the several dozen versions of the life of James Bowie, who died at the Alamo after a stormy career as a man-about-town, a sharp land promoter and a knife-fighter supreme. But few know anything about the man whose skills as a blacksmith and metallurgist contributed mightily to the Bowie legend.

The life account of James Black, who spent most of his 72 years at Washington in Hempstead County, Arkansas, has more pathos than a Victorian novel, more climaxes than a modern soap opera and surpasses any tales of courage ever set down by Horatio Alger. Black and "Little Washington" have been relegated to the back pew in the modern tourist assembly, mostly because the picturesque, little town lost its place many years ago as the crossroads of traffic in Southwestern Arkansas. It is only nine miles from Hope off Interstate 30 and two billboards, one south of Hope on I-30 and one to the north, would probably send streams of tourists into the historic village. So far this obvious gimmick has been overlooked.

James Black fits the typical prototype of the Alger hero. He was born May 1, 1800 in New Jersey. His mother died when he was a small boy and his father married again. He disliked his stepmother, so at the age of eight, he ran away to Philadelphia, passed himself off as being 11 and became an apprentice to a silversmith. Later, when his father died, he went home, looked in the family Bible, found out his true age but neglected to tell his employer. Thus, at the age of 18 (instead of the traditional 21) he became a journeyman.

This is Black's own account of his early years as he told it to Daniel W. Jones, governor of Arkansas from 1896 to 1900. Jones, who had befriended the aging and blind Black as Jones' father had before him, wrote the account of Black's life and it was contained in the papers of the well known Arkansas historian, the late Charlean Moss Williams.

British competition had made the silversmith trade almost nonexistent at the time the young apprentice became a journeyman so he headed for the wilderness. Black traveled by way of the Ohio River, down the Mississippi and to Bayou Sara in Louisiana where he found work as a helper on a ferryboat. Later, he hired out as a deckhand on a boat going up the Red River and came to Fulton, then a river port of more than a little importance.

The word "later" is important here because, if Black arrived in Louisiana in 1818, he would have had to wait at least six years before making his appearance at Washington because the town wasn't founded until 1824. However, the town grew rapidly since it was the junction point for the Fort Towson Trail, running east and west, and the Chihuahua Trail (later the Southwest Trail) running from the northeast to the southwest. At one time Washington had as many as 2,000 residents. Governor Jones' letter credits Black with helping build the town so it is likely that he was among the first to arrive.

In fact, he almost had to be among the first settlers. The Jones letter gives no definite dates but it is possible to figure out a reasonably chronology as his biography reveals itself.

When he arrived at Washington, Black went to work for a blacksmith who had already set up shop. In pioneer days the blacksmith was a community's most important citizen because he also served as gunsmith, armorer, maker of plows and other garden implements and general fixer. The young Yankee quickly picked up this trade and became very valuable to the man who had hired him.

The next chapter could challenge an old-fashioned melodrama. The blacksmith had a son Black's age and they became fast friends. He also had a daughter a few years younger than Black and, naturally, Black fell in love with this beautiful girl and she returned his affection. Her father had planned better things for his pretty daughter. He forbade her to marry the young upstart—but continue to employ the suitor because he was afraid of competition.

All this must have transpired in about a year because, probably in late 1825, Black dropped his job and headed west, intent on making his fortune and coming back to claim his sweetheart who had promised to wait for him. Black went northwest less than 50 miles (a good distance in those days) and settled on Rolling Creek in what is now Sevier County. All alone, he began cutting a home out of the wilderness. The Jones letter says he stayed here "five or six years" but it couldn't have been much more than five or he could not have gotten back to Washington in time for his date with Jim Bowie and destiny.

Black was an ambitious man. Neighbors began arriving on this fertile land and, with their help, he built a dam on the stream intending to erect a grist mill. Now came the first of a long series of tragic reverses that turn Black's life into something that wouldn't even be believable on modern television soap operas. Just as he was about to finish the dam, a sheriff showed up with a proclamation announcing that the land had been ceded to the Indians and the "homesteaders" would have to leave.

Black went back to Washington and married his beloved Anne who had, true to her promise, waited for him. His father-in-law, however, did not forgive and forget but vowed eternal vengance on this man who compounded his alleged crime of marriage by opening an opposition blacksmith shop—and a thriving one at that.

In the early 1800s, a knife was as much a part of the well dressed man as his shoes. No citizen in his right mind would venture out of the house without his knife and James Black gained a reputation as the best knife maker in the territory. Black's knife was forged from a secret process that was similar to the famous steel of Damascus.

No one ever discovered how he came across the formula but it played a dramatic role in his life until two years before his death. His custom-made knives sold for from $5 to $50 depending on the plating. Being a journeyman silversmith, Black understood these processes and would plate the blade with either gold or silver.

The preponderance of evidence points to Black as the inventor of the Bowie knife. Most historians accept the Black legend as fact and at least two of America's best known knifesmiths credit him unequivocally—lending additional support to Arkansas' claim.

Bowie very probably arrived at Washington in December of 1830. The Louisiana knife fighter was in Arkansas attending court, and he and his brothers were interested in several land deals involving thousands of acres of Arkansas property. He asked Black to make him a knife according to his specifications, so the smith made two knives, one the way Bowie wanted it made and another model of his own. Bowie, allegedly, bought the Black version without hesitation. Delivery was probably made in January of 1831.

Bowie's success as a knife fighter and the praise he had for the knife made by James Black brought customers to Black's shop asking for a knife "like Bowie's." In short order this phrase was dropped and the customers simply asked for a Bowie knife.

It must be noted that early in this century J. Frank Dobie, the Texas historian, made an effort to research the origin of the Bowie knife. He finally wrote:

"Bowie's knife has become nothing less than the American counterpart of King Arthur's Excalibur or Sigmund's great sword Gram. It's origin is wrapped in multiple legends as conflicting and fantastic as those that glorify the master weapons of the Old World." But it is not known whether or not Doble had access to Governor Jones' letter.

The original Bowie knife was lost at the Alamo. Legend has it that Bowie's body was found surrounded by dead Mexicans who had been slashed to death by it. This version is seriously doubted by historians because it is known that Bowie was desperately ill at the time of the attack and it is unlikely that he was able to put up much of a fight.

Black's wife bore him four children—three boys and a girl—but she died six or seven years after the marriage. (History doesn't record what happened to the children.) The death of his daughter further incensed the older blacksmith. During the summer of 1839, says the Jones letter, Black was taken down with a protracted fever and was bedfast in a weakened condition. His father-in-law reportedly came to Black's home and attacked the ill man with a heavy stick, and only the appearance of Black's dog saved his life. The dog drove the intruder off—but the attack affected Black's eyes and he was blinded.

Black started for Philadelphia to have his damaged eyes treated, but somewhere along the way someone sent him to an eye doctor in Cincinnati who was reputed to be phenomenal in his cures. The Cincinnati doctor turned out to be a quack who finished the damage allegedly done by the father-in-law. On his way back from the East, Black stopped in New Orleans to consult another eye doctor who told him flatly that his eyesight was gone forever.

The Washington smith had been gone from home about a year, and on his return he found out that his father-in-law had administered his estate as though he were dead and he was penniless. The law was clearly on Black's side but he had no money to hire lawyers and his former employer had the best legal counsel available.

At what is now Buzzard's Bluff in Miller County on the Red River, there lived two brothers, John and Jacob Buzzard. These men invited Black to come live with them. This he did and stayed for two years. Never despairing for his eyesight, Black heard that Dr. Issac N. Jones had moved from Bowie County, Texas, and had begun practicing medicine at Washington. He asked the Buzzards to take him to Washington so he could consult the new doctor who was rapidly gaining a reputation as an excellent physician and surgeon.

Dr. Jones took the ailing man into his home but he was unable to do anything to improve his eyesight. There were four Jones boys, so the country doctor made a deal with Black: He gave him room and board plus medical care in return for Black's looking after the boys while he, the doctor, was out on his many rural calls.

The Jones letter reports that "Black came to my father's and lived with us as a member of our family until his death on June 22, 1872, some thirty years. My father used his best skill to restore his eyesight, but without success, and finally told him it would be useless to torture him when there was no hope, but that he would be an inmate of the home while he lived, and that he (Dr. Jones) would be sufficiently compensated if he would look after and advise his young boys—there were four of us—while he was away from home attending to his patients, of whom there were many.

"My father died in 1858—killed by the explosion of a steam boiler on his plantation—but Black, by consent of the family remained with us. After the death of my mother, I took him to my home in Washington, where he lived until his death."

James Black possessed an extraordinary memory and he became the arbiter for arguments about the early days in Washington and the surrounding area. He told fascinating accounts of pioneer times to the Jones boys and often kept them up until midnight with his tales.

The tragic climax to the life of James Black is told best in Governor Jones' words:

"On May 1, 1870, his 70th birthday, he said to me that he was getting old, and in the ordinary course of nature could not expect to live a great while longer; that I was 30 years old, with a wife and growing family, and sufficiently acquainted with the affairs of the world to properly utilize the secret which he had so often promised to give me; and that if I would get pen, ink and paper he would communicate with me, and I could write it down.

"I brought them and told him I was ready. He said, 'In the first place'—and then stopped suddenly and commenced rubbing his brow with the fingers of his right hand. He continued this for some minutes and then said, 'Go away and come back in an hour,' while he still rubbed his brow I went out of the room but remained where I could see him, and not for one moment did he take his fingers from his brow or change his position.

"At the expiration of an hour, I went in and spoke to him. Without changing his position or any movement he said, 'go out again and come back in another hour.' I went out and watched another hour, his conduct being the same. Upon speaking to him at the expiration of the second hour he again said, and without altering his movements, 'go out and come back in another hour.' Again I went out and watched, the same thing continuing.

"When I came in and spoke to him at the en . of the third hour, he burst into a flood of tears and said, 'My God! My God! it has all gone from me! All these years I have accepted the kindness of these people in the belief that I could repay it all with this legacy, and now when I attempt it I cannot! Daniel, there were twelve processes through which I put my knives, but I cannot remember even one of them. When I told you to get the pen, ink and paper, they were all fresh in my mind, but now they are all gone. My God! My God! I have put it off too long.'

"I looked at him in awe and wonder, the skin from his forehead having been completely rubbed away by his fingers. His sightless eyes full of tears and his whole face the very picture of grief and despair. I could only say, 'Never mind, never mind, Mr. Black, it is all in the wisdom of God. He knows best. Don't worry.'

"For a little over two years, he lived on, but he was ever after an imbecile. He lies buried in the old graveyard of Washington, and with him lies buried the wonderful secret which God gave to him and was unwilling for him to impart it to others."

In fiction, the life of James Black would never be believed. In fact, it has never been accorded the recognition it deserves.

Washington, a forgotten crossroads, is nine miles from Hope on state Highway 4 and 18 miles from Nashville, also on Highway 4. The blacksmith shop of James Black has been

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restored, and the tavern where Black probably ate in his early days at Washington and where Sam Houston, Stephen Austin and Bowie lived while in Arkansas, has been reconstructed. There is the old courthouse that served as the state capital during the Civil War and old homes lend a touch of grandeur to the scene. Probably nowhere in the Southwest is there a better collection of pioneer antiques than in this multi-building museum complex.

And, of all the wraiths that spur one's sense of history at this picturesque Arkansas village, the ghost of James Black is the most dramatic.

CHILDREN ORPHANED AND WOUNDED IN VIETNAM WAR

Mr. HATFIELD. Mr. President, I am deeply grateful to the Senator from Arkansas (Mr. FULBRIGHT), chairman of the Foreign Relations Committee, for holding a 1-day hearing April 15, 1972—during a very busy week for him and for the committee, because of the simultaneous Senate floor action on the war powers bill. The committee heard several fine witnesses testify on S. 2497, the Vietnam Children's Care Agency, which coauthors Senators HARRISON WILLIAMS, HAROLD HUGHES, and I propose to have set up to provide many self-help care programs for the mothers and families with children who have been abandoned by their American fathers, been orphaned or otherwise physically or emotionally wounded by the war in Vietnam.

The primary thrust of the legislation is to aid the children themselves by providing any number of special services for them—for instance, day care centers to help their mothers or foster family to hold down a job and care for them as well, or hostels for the homeless children and food feeding programs, to name just a few of the possibilities for use of Federal money which could be used by private, nonprofit organizations in Vietnam. There are many such organizations now at work in Vietnam who are trying to provide for an overwhelming need with too meager funds.

As our American soldiers leave Vietnam, we are leaving behind thousands of Amer-Asian children. Our Government has a moral responsibility to help to care for these children and for the other abandoned children who have been wounded, orphaned or more homeless, because of the war. The Vietnamese Government simply does not have the financial resources to handle the task alone, nor the trained personnel to cope with the numbers of children. We could, under our bill, help train Vietnamese for the work, as well, because of the flexibility of the legislation.

It has been estimated by the Agency for International Development that there are 700,000 orphaned children in Vietnam—400,000 orphaned or half-orphaned as a direct result of the war, and another 300,000 who have been orphaned as an indirect consequence. The Vietnamese Government makes support payments to the children of 400,000 servicemen who were killed in action.

I was pleased to note that several months ago, AID, in conjunction with the Government of South Vietnam, has belatedly undertaken a program which is similar in scope to the one proposed by S. 2497. They propose to provide a multi-faceted program to aid the children.

It is expected that AID will spend $1.2 million this year to aid these children, however, there is no assurance whatever that the work will continue once all our troops have been withdrawn from that country. We are told that AID personnel are leaving at the rate of 15 to 20 percent of their total personnel each year. They have also reduced their medical aid program from a total of $10 million spent in 1967 to $2.7 million in 1971.

There are at least 60 nonprofit, private relief agencies at work in Vietnam, but I am told by those returning from there who have worked in these agencies—Don Luce, who was with the International Volunteer Services and who now heads the Indochina mobile education project and Louis Kubicka, who was with the American Friends Service Committee as a volunteer worker at their Quang Ngai Refugee Center for 4 years—that the private agencies cannot begin to meet the need of the suffering children who have been abandoned or made orphans by the war.

Most of those with whom I have talked have given tentative approval to S. 2497, because they see within the bill the beginning of a moral commitment of our Government to begin to rebuild what we have torn apart. It is most unfortunate that the administration has chosen not to endorse this work, for the job now being done in Vietnam to aid the children just is not being done.

The Vietnam Children's Care Agency could provide the vehicle to channel public moneys through some of these private groups. I might suggest a few. The Holt Children's Agency. This Oregon-based group is presently negotiating with the South Vietnamese Government to provide emergency rescue service to help save the many children who are being placed in the orphanages of Vietnam. The mortality rate is very high—estimates are that 50 to 80 percent of those who are admitted later die. The conditions of these orphanges beg description. The Holt Agency is proposing to help save the lives of these children before they are admitted to the orphanages and later they will work on providing adoption services for some of the children.

The late Harry Holt organized the Holt Adoption Program, Inc., after the Korean war, and he set up orphanages and the group has since placed over 8,000 children in American homes through adoption. His work continues, but the new directors wish to broaden the service, learning from the mistakes of the past work in Korea. Many children, they found, were deliberately abandoned by the mothers, because of the availability of the orphanages and also because they themselves—and their babies—were outcasts in their society because of the pregnancy. This is a major reason why in S. 2497 we deemphasize orphanages and stress other services which will keep children with their mothers if possible, and with foster parents or in hotels if this is not possible.

Our bill could also prove helpful to such organizations as Foster Parents, Inc., which presently cares for over 5,000 abandoned Vietnamese children and those living at home; the Christian Children's Fund; the American Friends Service Committee; Church World Service; Catholic Relief Services; the Committee of Responsibility or even the shoe shine boys of Richard Hughes.

Dick Hughes, whom I met last year when he returned briefly to this country from Vietnam to raise money, is a young newspaperman who, because of his shock at seeing the homeless boys adrift on the streets of Saigon, left his profession to help care for over 200 boys in five youth hostels he started, one at a time. He did this with the help and cooperation of the Vietnamese who contribute their time, equipment, money and, most important, their services, such as tutoring, doctoring, nursing and so forth. Most important, the abandoned boys who were roaming the streets of Saigon and other cities—20 of them at least—are now being given a home and care. But much more is needed.

We expect that there will be a certain fear on the part of those who will oppose spending the $5 million which we propose in this bill, because they will ask "Why send more money into Vietnam, because of the corruption of the present government?" There will be opposition, as well, to setting up yet another agency, which they fear will prolong our involvement in that country. This is why the coauthors have sought to focus on eventual turnover to the United Nations, so that we may receive the support of other governments of the world.

All of our sources from Vietnam tell us that more dollars—much more—will be needed in Vietnam to relieve the human misery caused by the war, especially now as the daily news reports are coming in of the refugees fleeing from the attacks of the North Vietnamese across the DMZ.

We need to begin now and not wait until all our troops are withdrawn from Vietnam. We cannot wait, although I agree with Don Luce and Lou Kubicka that, as Luce said:

> I believe, however, that it is only a partial solution and may ease the conscience of some towards the continued destruction in Vietnam. The real problem is the continuation of the war which creates more orphans and economically and culturally weakens the Vietnamese family structure and its ability to cope with the problem.

Mr. President, I ask unanimous consent to have printed in the RECORD the testimony of Mr. Jack Adams, of the Holt Adoption Program, Inc.; the testimony of Mr. Don Luce, of the Indochina mobile education project; and Mr. Louis Kubicka, speaking for the Friends Committee on National Legislation. I should also like to include in the RECORD a short description of S. 2497.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TESTIMONY OF DON LUCE

I support the concern that bill number S. 2497 represents. I believe, however, that it is only a partial solution and may ease the conscience of some towards the continued destruction in Viet Nam. The real problem is the continuation of the war which creates more orphans and economically and culturally weakens the Vietnamese family structure and its ability to cope with the problem.

I believe that there have been at least 200,000 Amer-Asian children born and probably twice that number. As a researcher for the World Council of Churches, I studied the problems of post-war reconstruction and the rehabilitation of women who have worked as bar-girls, prostitutes or temporary wives.

I obtained the number of bars in different cities, from the tax collection offices, visited a sample of the bars and found out how many women worked in each bar. I estimated that there were between 100,000 and 300,000 bar girls, prostitutes, and temporary wives in Viet Nam in late 1969. Almost all of these women had at least one Amer-Asian child. Just about every bar had at least one woman pregnant by an American soldier.

Most of the bar girls, prostitutes and temporary wives were once farm girls. They have been forced from their rural villages by the war (usually by U.S. leaflets telling them that they are going to be bombed or by our firepower itself). After they are crowded into the refugee camps, an older woman comes into the camp and offers them lots of money to work in the bars. They need money for their families so they go to work in a bar or brothel.

Soon they become temporary wives. It is more permanent and they are less apt to catch venereal disease. They usually have a child by their American "husband." They want to have children because the Vietnamese feel that a child is the most precious possession a man can have. If they have a child, they feel, their soldier will not leave them.

But it is extremely difficult for an American soldier to marry a Vietnamese girl. It takes months of paperwork. Sometimes they get married and things usually work out fine. But, more often, the soldier just passes his wife on to a buddy or tells his wife that he'll be back in a few days (to keep her from being so upset when he leaves). He never returns and his wife returns to the bar to find another husband.

Usually the women send their children home to their parents and provide money each month to their families to take care of the children. Sending the child to an orphanage is the last resort. They know that sending their child to an orphanage will probably result in his death. The women are caught: they must continue to sell themselves in order to have money to send home—in doing this, they have more children.

The French provided good education to the French Eurasian children. Their children are now doctors, lawyers, teachers, etc. and there has been almost no discrimination against them. At the same time, no aid was given to the children of the North African Legionnaires. The Afro-Asian boys grew up to become front-line cannon fodder and the girls have become bar-girls and prostitutes in the bars for American black soldiers. Because of this and because some Vietnamese are prejudiced against people of darker skin, there has been more discrimination against the half-black children.

The United States has provided no assistance for any of the Amer-Asian children. I believe there will be increasing discrimination against these children. As the U.S. continues the bombing of all Viet Nam, increases aid to the corrupt police force, and keeps the unpopular Thieu regime in power, there is more and more anti-Americanism.

The problem of orphans and Amer-Asian children exists because the United States continues to bomb the countryside, tear apart the economy, and intensify the breakdown of the family structure. If the U.S. withdrew its troops, ended the bombing and withdrew its military and paramilitary support from the Thieu regime, then the Vietnamese would have peace. At that time, the Vietnamese could begin to repair the damage done to their society and adequately care for the orphans and Amer-Asian children.

I believe that it is important for this committee to consider the following points:

I. The present Saigon regime is not concerned about the welfare of the orphans, Amer-Asian children, or other war victims. Only about one-half of one percent of the national budget goes into welfare. Only $1.45 per child per month is allotted to orphanages to care for the children. A Vietnamese, or American, couple that want to adopt a child in an orphanage must have been married ten years, have no natural children of their own, and one of them be at least 30 years of age or else get special permission of the president of the country. This leads to many forms of bribery and the cost of adopting a Vietnamese child may run as high as $2500.

Bill S. 2497 proposes that the program "be administered only with the consent of the Government of South Viet Nam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government."

In essence, Bill S. 2497 puts the funds into the hands of a few individuals in the Saigon government that have already shown little concern in the past for the welfare of the children.

II. Bill S. 2497 proposes to help care for the orphans and Amer-Asian children but does not deal with the causes of the problem. One-third of the peoples of Cambodia, Laos and the southern half of Viet Nam are refugees. The bombing of all Indochina continues and the problems are further intensified.

Many people will use Bill S. 2497 to ease their consciences—"But look at all the good we're doing. We're helping all those orphans," some will say.

III. Vietnamization has intensified the problems. Budgets for civilian humanitarian aid such as health care have decreased, while para-military aid has increased.

IV. Assistance to the mothers and towards strengthening the family structure must be the emphasis of Bill 2497. For example, there are almost no free clinics for the treatment of venereal disease. U.S. soldiers have caused a terrific increase in the venereal disease rate, yet we have done little to control it. I would like to propose that funds be included for venereal disease control centers throughout the country.

I would like to commend the writers of this bill for including Section 7. I believe that encouragement of United Nations and other multilateral and nonprofit organizations is extremely important.

I am opposed to establishing separate orphanages for Amer-Asian children. Such isolation would cause extreme psychological adjustments when they were "released." In a case where either parent can care for the child or Vietnamese parents are available I am opposed to adoptions here in the U.S. I support the concept of foster parents (e.g. through Foster Parents Plan).

There are thousands of children being inadequately cared for in the orphanages. I have visted many of these orphanages and seen the results of too many children and too few people to care for them (e.g. at Go Vap orphanage there are 1213 orphans for 16 nuns—a ratio of 76 children to each adult). The children are starving for affection. The result of this is described in a letter that I recently received from Tom Fox who has lived and worked in Viet Nam for five years as a social worker and journalist:

"Apparently, the bill to help Vietnamese orphans comes up next month . . . I am aware that men of good intentions have mixed feelings on what should be done for the orphans. But one fact should be beyond any dispute and that is that the children should be gotten out of the orphanages of Viet Nam.

"I visited the Go Vap orphanage yesterday. They have taken in about one hundred of the Long Thanh orphans, as if they did not have enough infants already. Most of the children were four years or younger. They all seemed to be the same height, about two and a half feet tall. They came running up to me, their thin arms outstretched, looking up, begging to be picked up and held. Their little fingers kept moving, grabbing upwards into the air. I was surrounded by the children and could not hold them all. Those that I did not pick up held onto my legs fulfilling their instincts to be near an adult. The children, unlike other Vietnamese of the same age, did not fear me. Nothing was familiar enough to them to be strange, and hence they did not fear. When I lifted them they screamed out with joy almost like a lover would meeting a lover after long separation. That deep hallow feeling grew in my stomach. It was an emptiness stemming from a knowledge that I could not deliver the love so desperately needed.

"The youngest infants upstairs sat up and laid in cribs. Many were only a few weeks old. They are still coming in. Many were Americans. Many showed compulsive anxiety, knocking their little foreheads against their mattresses, continually swatting at their cheeks, eyes rolling back and forth, dazed, not seeing, scared. They were dying in front of me for lack of affection, needing so much to be held. Six nuns worked continuously to assist the children but, alas, all they could do was feed and clean up after them.

"One three year old black American, stomach distended, had rubbery legs. The nun said she has never shown a desire to walk. Another two year old white American in diapers looked emaciated, seeming to be a third of his real age. I doubt if he can live another month.

A nun told me that American soldiers used to come in to play with the children but they no longer come. Vietnamese families, she explained, face the explosive, depressing inflation, and can barely find the energy to care for their own young. . . .

"Rosemary Taylor, a living saint I am convinced, has many more applicants for children than she has children (from orphanages) available for adoption. Why? Because the orphanages, both Catholic and Buddhist alike, are afraid to give up their children to foreigners. Catholic orphanages insist the parents must be Catholic and most Buddhist orphanages do not give up the children to anyone. . .

"I write this to you now because the problem of orphans in Viet Nam is continually growing. The problem is not "winding down." Parents are not coming back to life. I have a feeling people in the U.S. want to do something but do not know what to do.

"I suggest that the bill now in Congress be encouraged to pass. I suggest that the GVN be encouraged by all possible American means to modify its adoption policies. I suggest that immediate priority be given to making money available for orphanages in Viet Nam that are willing to increase the quantity and quality of their staffs. I am aware that many orphanages abuse funds given to them so there must be some controls.

But it is important that an American-Vietnamese organization be founded to care for the paperwork allowing the children to get out of the country. Ideally, as you (Don Luce) have long suggested, this should be an international organization, hopefully under the United Nations. But the need to act to help the orphans is desperate and immediate."

In closing I urge this committee to take action as rapidly as possible on passing this bill. It will not solve the problem, but perhaps it will provide some help for a few individuals.

Secondly, I repeat, that the real problem is the presence of U.S. troops, planes and

materials. When we leave, the Vietnamese can solve their own problems. These hearings, the necessity of these hearings, is sad testimony to the fact the U.S. Congress has not yet been able to control the U.S. military and stop the destruction brought on by our massive military power.

STATEMENT BY JOHN E. ADAMS

Those aged one to fourteen make up over one-half the uprooted refugee population, and it is estimated that between 200,000 and 320,000 children have lost one or both parents. By any count, the children of Vietnam have suffered heavily in the fighting that has taken place.

On the basis of our recent study of the situation, those children who are left in orphanages are increasing in number with a growth rate of about 7% per year. This is in spite of the fact that the mortality rate of infants abandoned is extremely high in the orphanages. The need is acute, and unless some minimal constructive measures are taken at this point, there is a danger that there will be a repetition of the Korea experience, when the orphanage population more than tripled following the fighting.

We would argue that we as Americans have a moral responsibility to these children. It is not enough to wage a war and lay down the lives of many men to protect the right of self-determination and of political freedom, however this may be defined. The violence has not been limited to either side, and the plight of many of these children is the direct result of American fighting.

The Administration admits that it is concerned about this problem and is trying to do something about it. It also says that it is doing what is needed but our observations would indicate the contrary. What good does it do to allocate 2½ million dollars for projects in child welfare for one calendar year, with no assurance of funds to be available for the succeeding year. This 2½ million dollars was not even guaranteed to child welfare. It was only made available providing it could be justified against other priority needs. We observed at firsthand the struggle of those responsible for attempting to put together a responsible program. How does one plan meaningful programs using this amount of money, get them authorized, enlist the necessary personnel, of sufficient quality, and execute the programs all within the space of a few months. This is a patently self-frustrating approach to the program and the Administration position only underlines the necessity for legislation setting up an ongoing program with adequate funding, long range planning, and continuity. We also observed that the number of mixed race children in orphanages at present appears to be over twice as high as the figures reported by the Vietnamese government.

We urge the passage of S. 2497 on the basis of our personal observations in Vietnam during January and February of this year (1972). We (I) append the complete report of our survey trip for your information.

TESTIMONY OF LOUIS P. KUBICKA

My name is Louis Kubicka. I am 30 years of age. I worked in South Vietnam with the American Friends Service Committee (Quakers) for four years, returning to the United States in July 1971. Three of those years I worked in general administration, while the fourth I worked as Director of Quaker work in South Vietnam. I speak Vietnamese. Today I am speaking for the Friends Committee on National Legislation which represents 22 of 28 Friends Yearly Meetings and 10 Friends organizations in the United States, but does not purport to speak for all Friends.

The Quaker program in South Vietnam was begun in 1966 in an attempt to aid Vietnamese refugees and war injured civilians. For a period of five years we operated a child day-care center in Quang Ngai City which is now continuing under the direction of the Ministry of Social Welfare. Presently we are continuing, in Quang Ngai, a rehabilitation program for war injured civilians which was begun in 1967. This program includes production and fitting of artificial limbs, physical therapy, and reconstructive surgical services and social rehabilitation services; and the training of Vietnamese personnel in all these areas. We have served thousands of these injured people in the last five years. Approximately one-third of our patients have been children, and therefore I feel qualified to speak on the problem of the war in Vietnam as it affects children, and the problems of trying to alleviate the suffering caused by the war.

We deeply appreciate the concern to help the children in Vietnam which motivates the sponsors of this legislation, Senators Williams, Hughes and Hatfield. They have shown by their votes on amendments to end the war that they, like we, believe the first and most helpful way to help the children of Vietnam and all Indochinese people is to end the war immediately. We believe it is the failure of our Government—and, in a real sense, the American people—to put human values above ideology and dubious geopolitical power struggles that brings us here today.

Our basic view of S. 2497 is this: We believe the most important part of the bill is Section 1. There it is recognized that the United States has a moral responsibility for the children of Vietnam. The children of Vietnam have been some of the chief victims of this war, and the size of the problem is immense. Meeting the needs of Vietnamese children is beyond the capabilities of the present South Vietnam Government and beyond the provisions of this bill. A lasting solution can only come with a complete end of the war and the installation of a popular government in Saigon which is dedicated to the welfare of the people. Until then, programs such as those proposed here provide only marginal benefit. Ideally, the bill's scope should be broadened to include all the children of Indochina.

BASIC PROBLEMS

Here are the problems that we see confronting the children of Vietnam. We believe that we must try to take a broader perspective than is usually taken by Americans if we are to accept our moral responsibilities to the children of Vietnam.

1. Children are being killed in large numbers by bombing, artillery fire, mines, napalm, rockets, the cross fire of contending forces, accidents caused by unexploded munitions, and in trying to collect the reward offered by Americans for turning in dangerous mines and booby traps. The Senate Judiciary Subcommittee on Refugees estimates 325,000 civilians killed in South Vietnam alone in the period of 1965–71, of which 30%, about 100,000, were children under 13 years of age. While the war continues in Vietnam, Cambodia and Laos children will be among its principal victims. Responsibility for their deaths is a central issue with respect to the immorality of our government's policy.

2. Children are being injured by these weapons, including anti-personnel weapons designed to maim rather than kill. Three-quarters of a million civilians in South Vietnam have been injured by the war. Perhaps a quarter of a million have been children. South Vietnamese crippled children receive virtually no education or training that might prepare them to make the most of what remains of their abilities. They will be almost totally unable to make an economic contribution to their own support except through begging.

3. Children have been orphaned in huge numbers. One estimate is 700,000. Pressure from a deteriorating economic situation has forced families to abandon their children to orphanages. The death toll in orphanages, sometimes estimated as high as 80%, means that Vietnamese and American fathered children are dying at a shocking rate.

4. Children are commonly held in political prisons along with their parents. In Quang Ngai prison across the street from our residence there were customarily 40 children present, including new-born babies. We ran a program for pregnant women in prison and several of the children were picked up by our small school bus in the morning and taken to the Quaker day-care center.

5. Child labor is extremely common of necessity. In addition to the millions of children forced to labor to continue to their own or their families' survival, we find that families are often forced to give up their children to work as servants, often virtually as slaves. This sort of thing is very common in South Vietnam. I would guess that over a hundred thousand children who should be in school in preparation for a future are laboring as household servants. From my experience, I know that it is not that Vietnamese love their children less than we do but mainly because of war-caused economic pressures. Children are also forced into prostitution and such degrading tasks as leading the crippled and blind and maimed through the streets of South Vietnam's cities on begging excursions. Children are also involved in "pimping" and handling heroin transactions. Large numbers of children are full time scavengers in the dumps and refuse heaps of every major U.S. base in South Vietnam.

6. We also have good reason to suspect that there is a serious pressure for pregnant women in dire circumstances to abort their unborn children. This, too, is a moral problem for which we are in some measure responsible. Of course the extent of such a problem would be most difficult to ascertain accurately.

SOME SPECIFIC CASES

Our consideration so far of the problems of children has been in the abstract. But in order to see what these problems mean concretely we have drawn a few case histories from our files at the rehabilitation center in Quang Ngai.

1. Dung, aged 8, who lost both legs in a mine injury, was evacuated to Chu Lai by U.S. army. His mother lost touch with him, as she was refused entry to Chu Lai to see him. The child did not know where he came from and as a result was sent to the wrong Province Hospital. From there he was sent to the Invalid Childrens Orphanage, and from there to the Quaker rehabilitation center for fitting of artificial legs. He claimed his parents were dead, but a few days later his mother found him; she had been coming to the hospital every day to see if he was there, and by chance came to ask at the Rehabilitation Centre.

2. Tao, 12 years. His mother is paralyzed from the chest down. Father dead or away as soldier. Live in An Sen, and as result of war have lost their land. The boy therefore has to assume total health care for the mother, which includes washing her and cleaning her as she has no control over body functions. Two younger siblings aged 6 and 4. He also has to support the family which he does by working as a day laborer in the fields.

3. Phuong, 16 years, is paralyzed below the waist. She lives in Phu Quy, is totally dependent on father and younger sister for her care. Previous to the mine injury that killed her mother, her sister and injured her, she was working full time in the fields for the family and caring for her younger brothers and sisters. Now she is totally dependent on them. Her father begged us to take care of her since he has very little work and can barely support the rest of the family. But at 16 there are few orphanages willing to undertake the care that a paraplegic requires and certainly nowhere that she can learn to take full care of herself and be able to earn a living. So she staya in her village, with no medical facilities, lying in a refugee hut; twice she has had to come back to the hospital for treatment of an infection and malaria. Her prospects are dim, and yet such a child in the U.S.A. would expect to live a full and independent existence.

4. Lieu, 6 years, stepped on mine and lost both legs. Now walks with difficulty although has severe muscle contractures requiring years of careful supervision by rehabilitation staff. Mother supports family financially and cannot stay with him in the center for the long periods required. He will probably go home and sit in a chair for the rest of his life. He is young and people feel sorry for him, but when his parents are too old to care for him, he will have no training and no livelihood except by begging.

5. Quy lost both hands to a booby trap. Now 13 years old, could read and write. Fitted with artificial hooks which he became adept with. However VN is hot and the plastic limbs are heavy, so he rarely wore them, as he could do most things with his stumps. Had a special spoon and cuff for eating. Bright alert boy who loved to try to type, desperately needs training if he is to be financially independent.

THE PENDING BILL

We have difficulty in offering constructive comment on S. 2497 because, in our view, it attempts to deal with a situation involving inherent contradictions. We don't believe it is possible to take effective steps to substantially alleviate the suffering of Vietnamese children while the war continues. Hence our comments must of necessity be focused on some of the problems we see in the bill, without being able to offer constructive alternatives.

We do believe, however, that it is important in Section 1 to have a public acknowledgement of the moral responsibility of the United States for Vietnamese children.

In addition, the bill helpfully encourages adoption of American-fathered Vietnamese children who are not living with their Vietnamese families. While this is not an area where I have expertise, I have seen enough to lead me to believe that for such children a life with a loving American family would be far preferable to the situation confronting abandoned children in Vietnamese orphanages or on the street.

With regard to the provisions for a child care program, I have many more questions.

Money is not the main problem. We see three major impediments to effective help to children through the legislation before you.

1. Ending the war, and not just American involvement in the war, is the primary requirement for helping the children. All other help to children pales in comparison to what this would mean. Until the war is over we will generate more problems than solutions.

2. The bill channels U.S. aid, necessarily, through the existing inadequate government.

My experience leads me to believe that the Saigon government, because it has not identified with the interests of the common people, does not command the allegiance and commitment of the sort of dedicated workers who could carry out effective child welfare programs. There are some capable and dedicated Vietnamese now working in government child welfare programs. But the magnitude of the need is so great, as a result of this disastrous war, that only a large scale community-based education and welfare program with wide popular support could hope to mobilize sufficient human resources to do an adequate job.

Perhaps one of the reasons for the lack of success of the government's social welfare efforts has been the ill-concealed and short-sighted use of welfare aid as a carrot or stick to achieve political support for or submission to the GVN. Concerned Vietnamese hesitate to commit themselves to a program which has tended to be used to buttress the government in power rather than help needy people.

The provision in the bill for direct assistance to private non-profit organizations is especially commendable. There are some capable and highly motivated persons in some of the nongovernmental agencies. The problem once again is that any such assistance would be under direction and control of the Government of South Vietnam in accordance with Section 2(a): "The program shall be administered only with the consent of the Government of South Vietnam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government." Thus the private non-profit agencies would tend to be at the mercy of the South Vietnamese Government since the Government control of funds would work to increase control over the policies of these organizations. If private agencies become closely allied with the Government their problems of recruiting dedicated workers, especially at the local level, would be greatly increased.

A leading Buddhist monk once told me, "We do not like the Communist establishment, but we like those people who have committed themselves to that side because of their dedicated will to serve the people. Our dilemma is that we like the form of government in South Vietnam but we do not like the people who remain in control—the same people who were in control under the French and who do not care about the common people of Vietnam."

3. The bill is too narrow in scope. The United States has a moral responsibility to alleviate the war-caused suffering of all of the children of Indochina, not just children in government-controlled areas of South Vietnam. Fully interpreted this would mean help to children in Provisional Revolutionary Government controlled areas of South Vietnam, in the Democratic Republic of Vietnam, in Laos and Cambodia. Realistically, at the present time this responsibility should be expanded from South Vietnam to Laos and Cambodia, where massive and indiscriminate bombing of civilian populated areas is continuing to kill and wound children and make them refugees and orphans.

As a nation we are continuing to divide Vietnam by war, in the name of our national security, and in order to keep ill-conceived promises that were made to a minority in South Vietnam. After 25 years of war the first need of Vietnam is for peace with justice to all parties to the conflict, insofar as that can be achieved. Vietnam urgently cries out for healing and this can only come through a settlement of the war.

Every year the war continues, in addition to the killing and maiming, the social and economic fabric of Vietnam and Cambodia and Laos become weaker. Not surprisingly, those who bear the brunt of suffering are the weakest, the little people, the peasants who have left their land, the ordinary people, the hundreds of thousands of invalids and the children.

It is a hard thing to have to say, but we believe the truth to be that social rehabilitation while the war continues is first aid salve on a wound that hasn't been washed.

S. 2497

A bill to authorize the President, through the temporary Vietnam Children's Care Agency, to enter into arrangements with the Government of South Vietnam to provide assistance in improving the welfare of children in South Vietnam and to facilitate the adoption of orphaned or abandoned Vietnamese children, particularly children of United States fathers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that—

(1) the United States has a moral responsibility to assist the Government of South Vietnam in the care and protection of all South Vietnamese children, particularly those orphaned or abandoned, and

(2) the United States has a special responsibility to assist in facilitating the care or adoption of children in Vietnam whose fathers are United States citizens and who are not living with their Vietnamese families.

CHILD CARE PROGRAM

SEC. 2. (a) The President, through the Vietnam Children's Care Agency established under section 4 of this Act (hereinafter referred to as the "Agency"), shall establish and administer a program for all children living in South Vietnam who are, as determined by the Agency, (1) 16 years of age or younger, and (2) orphaned, abandoned, or living in poverty as a direct result of the hostilities in Vietnam or conditions related to such hostilities. The program shall be administered only with the consent of the Government of South Vietnam and in accordance with such arrangements as may be mutually agreed upon by the Agency and that Government.

(b) In carrying out the program established under this section, the Agency may provide—

(1) assistance to aid such children described in subsection (a) of this section in growing up in their own or foster families through the establishment, expansion, and improvement of day care centers and the improvement of school feeding programs.

(2) assistance to orphanages in which children described in subsection (a) of this section are living, including food and clothing assistance and assistance for the improvement of the physical facilities of such orphanages;

(3) for the training of persons employed in day care centers and orphanages in Vietnam;

(4) for the training of persons on matters relating to child health care and pre-natal and post-natal care; and

(5) assistance for the improvement and expansion of the existing hostel program which provides housing for children described in subsection (a) of this section who do not live with their families.

(c) The Agency is authorized to provide, on such terms and conditions as it considers appropriate, direct assistance to public or private non-profit organizations which provide any of the types of assistance referred to in subsection (b) of this section, and to assist in coordinating the activities, services, and programs of such organizations.

(d) Not less than 60 per centum of the funds appropriated to carry out the provisions of this Act shall be used for the purposes specified in clause (1) of subsection (b) of this section.

ADOPTION OF SOUTH VIETNAMESE CHILDREN

SEC. 3. (a) The President, through the Agency, shall enter into negotiations with the Government of South Vietnam to facilitate the adoption by United States citizens of children in South Vietnam who are ten years of age or younger. Adoption procedure shall be carried out strictly on a case-by-case basis, but the President shall attempt through such negotiations with the Government of South Vietnam to obtain a standardization of forms and procedures in South Vietnam and the United States which would significantly improve and hasten the entire adoption process and shall seek to obtain an easing of the South Vietnamese requirements for the issuance of exit permits for adopted children.

(b) The Agency is authorized to enter into agreements and to make grants, on such terms and conditions as it considers appropriate, to State and local governmental agen-

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cies and private non-profit organizations to assist in arranging for the adoption by United States citizens of children in South Vietnam who are ten years of age or younger.

(c) In conducting the negotiations referred to in subsection (b) of this section, the Agency shall be primarily concerned with, and shall facilitate, to the maximum extent practicable, the adoption of children in South Vietnam—

(1) whose fathers are determined by the Agency and the Government of South Vietnam to be United States citizens, such determination to be made on the basis of a statement by the father, mother, or relative, or on the appearance of the child, and,

(2) (A) whose mothers are deceased, (B) whose mothers, have irrevocably relinquished all parental rights, or (C) who have been abandoned and are living in orphanages in which no family has assumed responsibility for their upbringing and the whereabouts of the mothers are unknown.

(d) Not more than 10 per centum of the funds appropriated to carry out the provisions of this Act may be expanded in carrying out this section.

VIETNAM CHILDREN'S CARE AGENCY

SEC. 4. (a) There is established in the executive branch of the Government a temporary independent establishment to be known as the Vietnam Children's Care Agency. The Agency shall be responsible, under the direction of the President, for carrying out the provisions of this Act.

(b) The Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. There shall also be in the Agency a Deputy Director appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall act as, and exercise the powers of, the Director during his absence or disability. The Director shall prescribe the regular duties to be performed by the Deputy Director.

(c) (1) The Director is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act.

(2) The Director may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(2) Section 5314 of title 5, United States Code, as amended by adding at the end thereof the following:

"(58) Director, Vietnam Children's Care Agency."

(4) Section 5315 of such title is amended by adding at the end thereof the following:

"(95) Deputy Director, Vietnam Children's Care Agency."

(5) The Director may delegate any of his functions for such officers and employees of the Agency as he may designate, and may make such rules and regulations as may be necessary to carry out his functions.

(6) The Director is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Agency in the performance of its functions. Members of such committees, other than these regularly employed by the United States Government, while attending meetings of such committees or otherwise serving at the reqeust of the Director, may be paid compensation at rates not exceeding those authorized to be paid experts and consultants under section 3109 of such title, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of assistance, as authorized by section 5703 of such title, for persons in the Government service employed intermittently.

(d) In order to carry out the provisions of this Act, the Agency is authorized—

(1) to adopt, alter, and use a seal

(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law

(3) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, use, and operate the same to provide services in connection therewith, and to charge therefor and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate;

(4) to construct, operate, lease, and maintain buildings, facilities, and other improvements as may be necessary;

(5) to accept gifts or donations of services, money, or property, real personal, or mixed tangible or intangible;

(6) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or within any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(8) to take such other action as may be necessary to carry out the provisions of this Act.

(e) The Director shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Agency during the preceding fiscal year.

IMPLEMENTATION OF THIS ACT

SEC. 5. Within ninety days after the date of enactment of this Act, the President shall take such steps as may be necessary to carry out the provisions of section 4 of this Act and to initiate the program under sections 2 and 3 of this Act.

SEC. 6 (a) As soon as practicable, the President is requested to undertake negotiations with the United Nations, or such other multilateral organizations as the President considers appropriate, to have such organization agree to perform the functions described in section 2 of this Act. Any funds made available for the purposes of section 2 of this Act may be made available, as the President deems appropriate, to such organization to carry out such purposes.

(b) At such time as the President determines that the functions described in section 2 of this Act are being satisfactorily performed by the United Nations, other multilateral organizations, or nonprofit organization, the authority and responsibility of the Agency with respect to such functions shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. In addition there are authorized to be appropriated such sums as may be necessary to assist the United Nations or any other multilateral or nonprofit organization to perform functions which would otherwise be performed by the Agency under this Act.

LIMITATION OF ADMINISTRATIVE EXPENSES

SEC. 8. Not more than 10 per centum of the funds appropriated to carry out this Act may be used by the Agency for administrative expenses.

NEW AID TO BANGLADESH

Mr. KENNEDY. Mr. President, after weeks of unconscionable delay, the administration announced over the weekend that it is finally prepared to commit the remainder of the Humanitarian Relief Funds for Bangladesh voted last session by Congress.

For those of us in Congress concerned that each day of delay in expending already available relief funds caused an unnecessary day of human suffering in Bangladesh, the administration's announcement comes as welcome news. Today I should like to commend the Agency for International Development in now pledging to move forward promptly in implementing American aid commitments. For too long our lack of recognition of Bangladesh—our national leadership's rationalizing of its foreign policy tilt in South Asia—was allowed to impede America's role in contributing to the massive, emergency relief needs of the Bengali people. No further such delays should now be expected or countenanced.

I know I speak for many Senators in commending the administration for committing $130 million in relief assistance to Bangladesh—the remaining portion of the $200 million appropriated by Congress last year. I hope we in Congress will be prepared to allocate whatever additional funds may be necessary to enable the United States to fulfill its humanitarian obligations toward those men, women, and children suffering disease and hunger in Bangladesh.

Mr. President, I ask unanimous consent that the press announcement of the $130 million grant to Bangladesh and three related editorial articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 9, 1972]

U.S. PLANS TO GIVE DACCA $130 MILLION MORE IN AID

(By Benjamin Welles)

WASHINGTON, April 8.—The United States is planning to commit $130 million in relief assistance to Bangladesh before the end of the current fiscal year on June 30, senior Administration officials have said.

Meanwhile, there were indications from reliable sources that a joint World Bank-United Nations survey of urgent reconstruction needs in Bangladesh might lead to a call on the United States and other international donors for an additional $600 million for the coming year.

The United States formally recognized Bangladesh on Tuesday. Secretary of State William P. Rogers, in a statement distributed to the press, said that the United States intended to be "helpful" as the new nation of 70 million Bengals "face its immense task of relief and reconstruction."

Maurice J. Williams, Deputy Administrator of the Agency for International Development, which is coordinating American relief efforts, said in an interview that the $130 million still to be committed represented the remainder of the $200 million appropriated for Bangladesh relief by Congress on March 8.

BREAKDOWN OF $70 MILLION

The $70 million already committed, he said, included $31 million recently given to the United Nations in cash for immediate needs in the area; $4 million being used to buy United States trucks requested by the United Nations and $7 million granted to various private American voluntary agencies operating in Bangladesh. In addition, Mr. Williams said, $27 million had previously been provided for Bengali refugees in India.

Mr. Williams said that aid officials would confer here on Tuesday with Russell P. O'Quinn, a former Douglas aircraft test pilot who flew relief supplies from São Tomé Island into Biafra during the 1967–70 Nigerian civil war.

Mr. O'Quinn, who heads the Foundation for Airborne Relief, a non-profit organization based in Long Beach, Calif., recently visited Bangladesh.

Aid officials said that they were preparing to grant Mr. O'Quinn $1.5-million to launch an emergency food-dropping program in Bangladesh using two Boeing C–97 cargo planes, two Bell helicopters and two Cessna–185 amphibians with pontoons. Mr. O'Quinn said in an interview that his pilots would use a "double-bag" food-dropping technique devised in Laos by Air America, a Central Intelligence Agency unit.

The inner bag, packed with 70 pounds of rice or other food grains, bursts on impact, but 90 per cent of the food is retained by the outer looser bag of tough plastic, he explained.

Since the United Nations issued a world appeal Feb. 18 for $440-million for urgent relief needs in Bangladesh, more than $400-million has been donated. About $115-million of this has been pledged by the United States in food grains and other forms, aid officials reported.

[From the Baltimore Sun, Apr. 10, 1972]

SOME SOUTH ASIAN FACTS ACKNOWLEDGED

It has been obvious for many weeks that the first act in this country's necessary readjustment of its policy toward South Asia had to be a formal diplomatic recognition of the new country of Bangladesh. Now, at length, that move has been taken, leaving China the only major nation not to have extended recognition.

The administration, we have been told, delayed the decision to establish an embassy in Dacca while it conducted a review of the South Asian situation in the aftermath of the December war for which Bangladesh emerged independent. We may trust that the review was thorough, and that it took full account of the realities of the subcontinent—as American policy before and during the war did not take account.

The fact is that even before the war any notion of a balance of power in South Asia was out of the question. In terms of human and material resources, stability, administrative organization and political purpose India was simply South Asia's dominant nation, nor could American and Chinese support for Pakistan suffice to make it otherwise: the inevitable outcome of the war demonstrated that.

Now India is not merely dominant but overwhelmingly, unarguably so, and besides that there is the new Bangladesh, closely allied with India though proclaiming independence in its own right. Bangladesh is a nation of many troubles, but it is a nation, and deserves international acknowledgement as such. American recognition would have come better earlier, but still its coming now will help by a bit to ease the tensions and difficulties in a region where they urgently need to be eased.

[From the Washington Post, Apr. 8, 1972]

THE ASIAN SUBCONTINENT: WHAT'S NEXT?

American recognition of Bangladesh, though tardy, should improve the prospects both for a quick generous flow of relief and for progress toward a political settlement on the subcontinent.

Relief needs of Bangladesh are staggering. In the best of earlier times, its condition was desperate; Pakistani misrule and the ravages of war left the land, economy and bureaucracy in shambles. Prime Minister Mujibur Rahman's exertions and international alms have had some effect, but much more must be done at once. Of $200 million appropriated by Congress for Bangladesh in 1972 aid, some $130 million remains unspent. It took the administration a full six weeks to answer the United Nations' emergency appeal of Feb. 16; with recognition of Bangladesh, no further such delays can be countenanced. Fortunately, the World Bank is expediting plans by which American and other contributions can be put to effective use. News accounts which detail Bangladesh's real and large difficulties should not be allowed to obscure the degree of recovery it has already attained or to induce a general spirit of despair.

As a multiple loser in the war—it lost East Pakistan, it lost fragments of territory in West Pakistan and Kashmir, and it lost its national rationale as a *Moslem* state—Pakistan faces difficult (and different) political problems in dealing with India and Bangladesh. India first:

Having won the war, India wants to settle finally the question of Kashmir, which is the Moslem region divided and disputed with Pakistan since 1948 and the issue which has sustained their antagonism all that time. If Pakistan were now to accept (and later to recognize) largely Moslem Bangladesh, India figures, then Pakistan would in effect yield its religious claim to all of Kashmir. In return, Delhi hints, it would abandon *its* long-held legal claim to all of Kashmir. The pre-December cease-fire line, "rectified" in some measure, would then become the international border, in India's view, and peace would reign. To induce Pakistan to agree to this plan in the summit talks Mrs. Gandhi has now indicated she seeks, India is holding both the territory it took in December and 93,000 Pakistani soldiers it captured in now-Bangladesh. Whether Pakistan's President Bhutto has the will to consider such a plan, or the strength to accept it, is crucial and unclear.

For the moment he is agitating for the return of the POWs on "humanitarian" and atmospheric grounds, and he is attempting something of an end run around India to Bangladesh. He offers (1) an immediate grant of 100,000 tons of rice (Mujib rejected it); (2) resumption of trade especially in Bengali jute and tea and Pakistani rice; (3) the possible return of some 28,000 Bengali soldiers, plus countless other skilled Bengali civilians, who happened to be in West Pakistan when the December war broke out; (4) a potential haven for the threatened Bihari minority in Bangladesh; and (5) the prospect of a relationship which Bangladesh could use to ease India's warm but tight embrace. In any bargaining that might develop with India, moreover, Pakistan also has some Indian territory (taken in December) and, of course, its claim on Kashmir to play.

Outsiders are hard put to grasp these issues, let alone solve them. What is essential, and not easy either, is for the United States to avoid moves that might be seized on by one party or another as an unwarranted intervention in the subcontinent's own tortuous political processes. The time for "tilt" and balance-of-power activism is past. This is a moment for Washington, in international company, to get cracking on relief and on resumed development efforts, and to ensure on the political side that its hand is as light and deft as can be.

[From the New York Times, Apr. 9, 1972]

BANGLADESH—WE'LL GIVE THEM SOME TIME BUT NOT MUCH

(By Sidney H. Schanberg)

NEW DELHI.—It was a deliberately low-key affair. Within the State Department edifice in Washington last Tuesday Secretary of State William P. Rogers left it to an aide to announce United States recognition of the new nation of Bangladesh, formerly the eastern wing of Pakistan. Mr. Rogers was himself upstairs having lunch with the Pakistani Ambassador—apparently to sweeten the medicine.

The ambivalence of the episode reflects the seeming ambivalence of the Nixon Administration's attitude as it steers its way out of the wreckage of the pro-Pakistan policy it followd in the Indo-Pakistan conflict last year—a policy that left the 550 million people of India angered and the 75 million people of Bangladesh puzzled.

With Washington having waited nearly four months to recognize Bangladesh, after 56 other nations had done so, it was to be expected that the reaction on the subcontinent would be something less than handsprings. Indian officials called it welcome, though belated. The Bengalis were somewhat more enthusiastic, and the Bangladesh Foreign Minister, Abdus Samad, said he hoped that with recognition the United States would make "some contribution to the maintenance of peace in the region."

Most Bengalis—a romantic race whose history books on America talk glowingly of George Washington's fight for independence and Abraham Lincoln's struggle for Negro rights—were pleased and relieved by the American recognition move. Though grateful for the support they have received from India and the Soviet Union during their year-long struggle and afterward, they were getting a little nervous about the possibility of becoming too dependent on these two powers. "This will help us to reassert ourselves," said one official. Despite this hope, it does not appear that President Nixon is making a turnabout in his pro-Pakistan policy or is about to launch a big campaign to counter the growing Soviet influence in India and Bangladesh. He still has not resumed economic aid to India, cut off during the December war. Many Indians interpret this as an attempt to punish Prime Minister Indira Gandhi for not behaving toward Pakistan as Washington told her to. In contrast, Washington has signed several new aid commitments to Pakistan since the war.

American humanitarian aid to Bangladesh has exceeded $100-million so far, second only to India's contribution—but since it has all been channeled through the United Nations relief program, it has had no political impact as American aid. A hint that this might change came as the State Department spokesman was elaborating on the recognition announcement. He said: "We will be looking at ways we can continue to assist, through the United Nations and otherwise."

Some American diplomats suggest that the best course in Bangladesh is to be generous with humanitarian aid but not to become too involved politically—in short, let the Russians bear the onus for any inadequacies in foreign aid and any political unrest that follows.

Unrest is already stirring in Bangladesh, stemming in large part from the expectation of many Bengalis that with independence, their lives would suddenly and dramatically improve. Instead with the economy flattened by the guerrilla struggle and the war, they find that there are fewer jobs than before, less food, higher prices and no government relief program big enough to tide them over.

The government is disorganized. Some politicians are taking advantage of the disarray to grab off lucrative contracts, occupy businesses vacated by West Pakistani owners and profiteer in food and other relief goods. Lawlessness is growing, as hoodlum and warlord elements with guns left over from the guerrilla struggle operate openly in some areas.

The overburdened and exhausted Prime Minister, Sheikh Mujibur Rahman, desperately needs the experienced Bengali technocrats, civil servants and soldiers who were

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among the several hundred thousand Bengalis caught in West Pakistan at the time of the war. The Pakistan Government, however, apparently wants to hold them for negotiating leverage at eventual peace talks.

Such talks moved closer last week as India and Pakistan, with the Russians apparently acting as a catalyst, indicated they were making arrangements for pre-summit negotiations. But repatriation of the Bengalis could be a long way off, and the meantime, Sheikh Mujib continues as a virtual one-man government—partly out of choice and partly because of abdication of responsibility by other government officials.

Still, Bangladesh is not the "international basket-case" it has been called by some distant observers such as Henry Kissinger, President Nixon's chief foreign policy adviser. The technology exists to produce three big crops a year instead of only one, which could make the country self-sufficient in food. The area's natural resources have never been adequately explored and its fishing industry never developed. With a massive infusion of foreign aid and reasonably effective use of it, Bangladesh might be able to throw away the crutches it now needs.

But this is a tall order, and while the new nation struggles for some semblance of order and stability, its people become impatient with the government. There is already talk in some intellectual circles—so far, only talk—of a "second revolution."

"We will give them some time," said one student, "but not much more time."

[From the Evening Star, Apr. 6, 1972]

RELIEF FOR BANGLADESH

American recognition of the new state of Bangladesh (formerly East Pakistan) should mark the beginning of a major relief effort for that impoverished and endangered nation of 75 million. The long overdue decision of the Nixon administration to establish diplomatic relations at the embassy level should also be followed up by efforts to reestablish friendlier relations with India in recognition of the new situation created in South Asia by the birth of Bangladesh.

Too much time has already been lost and the country is on the verge of economic and political chaos. Although Congress has appropriated $200 million in relief funds, only a fraction of that amount has actually been spent. Less than 100,000 tons of food have reached Bangladesh so far through the United Nations program. The projected food shortage this year is estimated at more than two million tons.

The political situation is growing more precarious every day. Sheik Mujibur Rahman, the nationalist Bengali leader who was thrust into power in the wake of the savage war for independence, is showing little talent in establishing order and setting up an effective government. The administration of the country is a shambles. Police are powerless in the face of bands of heavily armed former guerrillas and the political unity of the ruling Awami League is showing signs of disintegration.

Most serious of all, perhaps, is the danger of a new bloodbath between the Bengali majority and some 1.5 million Urdu-speaking Biharis, many of whom sided with West Pakistan during the recent fighting. Already, despite Sheik Mujib's call for tolerance, there have been ugly incidents in which hundreds if not thousands of Biharis have been slaughtered. Any incident, it is feared, could set off widespread rioting between the two communities.

Quite obviously, nothing that the United States can do in the way of relief supplies and diplomatic recognition will provide any guarantee against impending disaster in Bangladesh. It is, however, the only nation besides India with the resources to make a significant contribution. And a start should be made without further, needless delay.

IMPROVING SCHOOLS

Mr. ALLOTT. Mr. President, the New Republic for April 1 contains an article which packs more truth—some of it unpleasant—into brief compass than anything I have recently read on the subject of education policy.

The title of the article is "Improving Schools," and the author is Martin Mayer, a widely respected writer on education policy.

I commend the article to the attention of every Senator and ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic, Apr. 1, 1972]

THE SHAM OF INSTANT EQUALITY—IMPROVING SCHOOLS

(By Martin Mayer)

NOTE.—Mr. Mayer is the author of The Schools and Where, When and Why, Social Studies in American Schools.

When I was chairman of a New York City local school board a few years ago, our district had a busing project that brought children in the lower grades from their East Harlem homes to the greater achievements of Yorkville. It was a small, complicated project, involving joint PTA's for the sending and receiving schools, new academic programs to short-circuit teachers' beliefs about what children should be able to do at this level, a little rigging of the test scores reported to the teachers, etc. The project did some good—not much, but some—and except for a handful of sophisticated Puerto Rican parents who hated to see the best black pupils go out of their schools (the Puerto Ricans wouldn't bus) it was popular in East Harlem.

Nevertheless, after one board meeting I was approached by a politically oriented caucus, not so much angry as nasty, demanding an end to asymmetry. Fortunately, they phrased their position in a way that invited a snappy answer: "Why," they demanded, "is it always our children that ride the bus?" I said, "because they're disadvantaged. One of their disadvantages is that they ride the bus." I report as a matter of fact that in my remaining two years as a local board chairman neither the argument nor the demand was heard again. Truth hurts; but it answers real questions.

The case for busing children to schools that their parents and the world at large believe to be better schools is an overwhelmingly strong case. The case for busing children to schools that their parents and the world at large believe to be poorer schools is an extremely weak case. There is some reason to believe, on the basis of the Coleman Report, that the children of low-income, ill-educated parents will on the average do somewhat better in school if they are exposed to the more invigorating air of classrooms dominated by the children of higher-income, better-educated parents. The same report gives evidence (much less frequently cited) that children from more fortunate homes will on the average do worse in school if they are a minority group in classrooms where the air is that of the slums.

Justice Holmes once observed that the reward of military rank is not a bigger tent, but command. The rewards of a better income and better education are a wider range of options. Even elected legislatures cannot change this fundament of social existence—and do not try, because in the process of writing law legislators typically look forward to the probable effects of what they do. The notion that courts can write such laws and make them stick should not be entertained for a minute by anyone seriously interested in improving society. Judges have neither the resources nor the habits of mind to predict intelligently the results of their decisions; they are hired and trained to look backward, toward the facts of a given case. Whether they are sentencing convicted felons or assessing damages for liability, their capacity to find proper remedies is notoriously slight. And even the most book-bound lawyer cannot really believe, if he thinks about it, that a society is defenseless against its courts.

A recent issue of the OEO magazine *Opportunity* featured an article on the legal service office that fought and won the case of *Serrano v. Priest*, which held that the financing of schools by local property taxes was unconstitutional because it deprived residents of poorer districts of equal educational opportunities. The lawyer in charge of the case speculated that it might turn the whole country around—if parents could not hope that by working hard and making money and moving to the suburbs they could do something special for the future of their children, then they might stay in the cities and stop being racists. But the difference between successful and unsuccessful schools is not usually money—in fact, the equalization of educational expenditures throughout New York State would *reduce* the per-pupil budget in New York City. And even if *Serrano v. Priest* were responsive to the real problems, the idea that so fundamental a drive as the desire to give one's children a better break can be frustrated by a court decision—or, indeed, *should* be frustrated in a healthy society—is ultimately not only preposterous but (if I may say so without offense) childish.

We have lived through an evtraordinarily dispiriting decade in education. A great deal that in the Kennedy days we had believed could be done quickly now seems long, dreary years away. The failure of university administrations to think through the nature and extent of their resources has loaded higher education with a burden of transparent fakery that has made at least secret Jensenists of most faculty and of more students than anybody cares to admit. Of the remedies proposed in the early 1960s, only two remain plausible: full-time institutional control of students from educationally hostile neighborhoods (*i.e.*, boarding school; or, in later life, the army: Project 100,000, little noticed, has educated more dropouts than all the school systems put together); and tutorial assistance (by nonprofessionals, paraprofessionals or older students: each-one-teach-one produces better measurable results than group instruction in the hands of any but the best teachers).

The educational impact of Head Start has been invisible; the educational impact of community control, bilingualism and race pride, has been fairly consistently negative; the educational impact of integration has been fairly consistently positive, but minor. Even in the best integrated situations, the difference in academic achievement between the middle-class white eighth-grader and the black welfare eighth-grader is likely to be three years, and such gaps cannot be concealed. The brief period in which blacks felt themselves honestly equal to whites is coming to an end all over the country, in self-resegregation and despair, largely because of the stress placed on education. The horror is perceived by radicals, who seek to exorcise it by abandoning schools altogether. The educators themselves, reviving their Uriah Heep attitudes of 20 years ago, ask again whether it's really so important that all children learn to read.

Much of this seems to me genuinely tragic. There is no reason to believe that we cannot, in segregated or integrated situations, bring much more of the low-income population to a level of reasonable competence in reading—if we remember that competence is our target. And there is every reason to believe that the slum child who does not go to school, or does not have demands made upon him there, will be doomed to a disastrous life in this or any other society. It is the tone of the school, not the simple physical presence of middle-class children, that must be credited with the gains Coleman found from integration. Since the late 1960s, we have been sacrificing that tone everywhere, with appalling results.

We need ways to keep schools from dominating the future chances of students (I would like to see a return of professional licensing through apprenticeship, and a law requiring large businesses to hold, say, ten percent of the places in management training programs for applicants who never went to college). We need tests that measure more aspects of human ability than are now measured by our intelligence, aptitude and achievement tests. On the social front, we need ways to insure that middle-class blacks get the rewards of having made it, and we need maximum feasible opportunity for upward mobility in occupation, residence and education.

But the best that can be given is opportunity; the burden will continue to rest on the Negro community, because there is no way to transfer it. Governments cannot legislate and courts cannot mandate results. It may well be, as I had occasion to observe a decade ago, that the benefits of major educational effort can be gathered only by the children of those who participate in the effort; even so, the effort is worth making. The lawsuits and committee reports and books calling for instant equality must be seen for what they are: attempts to avoid making the effort. To the extent that they also seek to punish society for not doing what cannot be done even with effort—and there is a great deal of purely punitive purpose behind much of what the activist lawyers are attempting—they will be fearfully counterproductive. They already are.

STATEMENT BY CYRUS S. EATON ON RADIO LIBERTY AND RADIO FREE EUROPE

Mr. FULBRIGHT. Mr. President, Mr. Cyrus S. Eaton, one of the best informed men in our country on the affairs of Russia and Europe, and one of our most successful industrialists, has recently made a statement regarding the continuation of Radio Free Europe and Radio Liberty. Because I think the statement is well worth the attention of Senators I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY CYRUS EATON

The appeal to President Nixon by eight members of the West German government underlines the desirability of closing down Radio Free Europe and Radio Liberty. Location of these sources of American propaganda in West Germany constitutes a considerable source of embarrassment to Chancellor Brandt, and impedes his efforts to establish friendship with the countries of eastern Europe.

In my frequent visits to these communist nations, I have made a special study of the effect of broadcasts from the two stations. As could naturally be expected, the statesmen, press and radio are offended, because their unreliability is strongly implied by the broadcasts. The vast majority of the people themselves are similarly affected. Since the regular broadcasts of BBC and French stations are readily available, it is not as if they had no contact with the outside world.

The origin of the broadcasts in Germany, moreover, serves as a constant and unfortunate reminder to eastern Europeans of Hitler and his savage campaigns against their countries. Instead of making converts, therefore, the broadcasts stir up anger and bitterness toward the United States, which finances them, and resentment toward West Germany, where the stations are located.

Let us ask ourselves how we would feel if the Soviets set up a special station in one of our neighboring countries in an attempt to arouse the American citizenry, or some racial or ethnic segment of it, against its government and media. Not only would the politicians and the press and radio of the United States be deeply resentful of the implication of their unreliability, but the American public itself would also be in an uproar of protest against such obvious propaganda. The American people would certainly not for one instant put up with being told what to do and how to do it by an outside power of opposing ideology.

The proponents of our propaganda stations go after Senator Fulbright hammer and tongs, on the grounds that he is trying to deny the people of eastern Europe access to the truth. Actually, he is completely right in his recognition that these radio programs are unwise and counterproductive and, in addition, place a further burden on the American dollar, already in serious trouble.

The flight from the dollar continues on an alarming scale. America must give up the luxury of overseas spending to tell the rest of the world what to do and how to do it. A good place to start is by terminating the folly and expense of Radio Free Europe and Radio Liberty.

IMPACT OF RADIO LIBERTY ON RUSSIAN SOCIETY

Mr. McGEE. Mr. President, the Washington Post of Sunday, April 9, 1972, contains an interesting analysis of Radio Liberty and its impact on Russian society. The article was written by Susan Jacoby, a former reporter for the Post, who returned to this country in 1971 after a 2-year stay in the Soviet Union.

The important aspect of the column is that the author is presenting a perspective of Radio Liberty based upon her personal experiences in Russia and the value the broadcasts of this station have for the people of that country.

I believe it worthwhile to read this excellent presentation of Radio Liberty because it comes from an individual who was in a position to rationally and realistically analyze the impact of the station on Soviet society—a person whose observations are not tied to personal prejudices.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 9, 1972]

RADIO LIBERTY AND THE RUSSIANS

(By Susan Jacoby)

On a snowy day during the winter of 1971, an unidentified young man from a small village arrived at the Moscow apartment of Andrei Amalrik, author of "Will the Soviet Union Survive Until 1984?" and "Involuntary Journey to Siberia." The young man had heard on the radio that Amalrik had been sentenced to three years in a labor camp, and he wanted to do something to help.

Because Amalrik wanted comments from readers, his home address had been broadcast several months earlier when his books were read over Radio Liberty. The young man knocked on the door and presented a sticky honeycomb to Amalrik's wife, Gyusel. He told her she must take it to her husband in camp, since honey would help a prisoner keep up his strength. Then he disappeared, leaving no name or address.

The young stranger is one of the many Russians who listen to Radio Liberty. (It is impossible to determine how many listen, although millions of short-wave sets can receive the broadcasts despite intensive jamming.) What these Russians hear and how they react are questions that Sen. J. William Fulbright (D-Ark.) has never answered in his fight to close down both Radio Liberty and Radio Free Europe as "Cold War relics." Nor have supporters of the two stations shown much awareness of what the broadcasts really mean to people in the Soviet Union and Eastern Europe.

Radio Liberty means different things to different Russian listeners, depending on their interests and political orientation. Alexandria I. Solzhenitsyn, Russia's greatest living writer, said recently, "If we ever hear anything about events in this country, it's through them." Solzhenitsyn, who made the statement in an interview with Moscow Correspondents of The Washington Post and The New York Times, had just heard a Radio Liberty report of an attack on him by Yaroslav V. Smelyakov, an official of the writers union which expelled the Nobel Prize-winning novelist in 1969.

The Smelyakov letter was an indirect official response to a sad and stinging lament Solzhenitsyn had written in memory of his friend and former editor, Alexander Tvardovsky. It was published in the West and broadcast back to the Soviet Union by Radio Liberty. The exchange, a minor literary quarrel from the vantage point of an American audience, is highly significant to Russians who care about literature—and most of the people who listen to foreign radio stations care a great deal. Smelyakov implied that Solzhenitsyn, as a writer proscribed by the authorities, had no right to eulogize Tvardovsky, who received many official honors during his lifetime. The attack neglected to mention that Tvardovsky was forced out of his job as editor of the magazine Novy Mir primarily because he championed Solzhenitsyn so steadfastly.

LETTER FROM A LISTENER

To many Soviet listeners, Radio Liberty is simply a source of outside information with which they may or may not agree. One man wrote Radio Liberty a letter vigorously disputing the station's assertions that collective farm workers have a low standard of living in the Soviet Union.

"My brother works on a *kolkhoz* as a machine operator," explained the letter, which was addressed in a chatty tone to a female broadcaster. "He receives 120 rubles, his wife 80 rubles and his mother a pension of 30 rubles. He personally owns a large garden, two cows, two piglets, some birds, chickens, ducks, geese and 15 bee-hives." (One ruble equals approximately $1.11 at the official exchange rate.)

While Radio Liberty seldom receives letters praising Soviet life, its audience does not consist entirely of people who are deeply dissatisfied with their country. A professor of French literature at a Moscow university once told me, "I don't always agree with these broadcasts, but I do believe it's important to hear other views of the world and of life. I think it is sad that we don't have these different views in our own newspapers, because I believe this kind of discussion would strengthen rather than hurt our society."

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Radio Liberty attempts to provide a wide variety of news about the Soviet Union and the outside world that is not available in the Soviet press. However, broadcasts of clandestinely published *Samizdat* literature anger the authorities more than newa broadcasts. Lengthy novels are read in half-hour installments over a period of several weeks: The radio thus enables a widespread audience to hear literary works it cannot read because of Soviet censorship.

All of the best Russian novels and nonfiction works of the 1960s have been read or discussed extensively on Radio Liberty. They include all of the Solzhenitsyn novels banned by Soviet authorities since 1964: "Cancer Ward," "The First Circle" and "August 1914." Other major works read over the air have included Nadezhda Mandelstam's "Hope Against Hope," which describes her life with the poet Osip Mandelstam until his death in a prison camp in 1938; Vasily Grossman's "Forever Flowing," which deals with the feelings of a camp supervisor who returns to the outside world; both Amalrik books, and the uncensored version of Anatoly Kuznetsov's "Babi Yar."

"Babi Yar" was originally published by the Soviets in censored form in 1966. The uncensored version became available only after Kuznetsov defected in London in 1969. Russians who listened to the broadcasts of "Babi Yar" say they were particularly dramatic because the originally published portions were read in a flat announcer's voice and the parts cut by the censor were read by Kuznetsov himself. The censored paragraphs, which make up at least a third of the present book, dealt with subjects ranging from Ukrainian collaboration with Nazi occupiers during World War II to continuing anti-Semitism in the Soviet Union.

ARGUMENTS WITH THE PRESS

Radio Liberty also broadcasts many *Samizdat* works by Ukrainian writers in the Ukrainian language. They are not as well known in the West as Russian *Samizdat* writers but are even more important to the 49 million Ukrainians who make up the second largest ethnic group (after Russians) in the Soviet Union.

The station broadcasts 24 hours a day in Russian and intermittently in 18 other languages spoken by different nationality groups within the Soviet Union. Radio Free Europe broadcasts to Bulgaria, Czechoslovakia, Hungary, Poland and Rumania. Radio Liberty now has a yearly budget of $12 million and 920 employees; Radio Free Europe has a $21 million budget and approximately 1,600 employees.

Radio Free Europe is better known in the United States than Radio Liberty because it still commands political loyalty and some financial support from Americans of East European ethnic origins. The two stations have completely separate business and editorial operations, through their funding is a single issue in Congress. Differences between their programming are substantial, and they reflect different political conditions in the Soviet Union and Eastern Europe.

Radio Free Europe tends to engage in running arguments with the official press in countries like Hungary and Poland, and the official newspapers often answer the broadcasts. Such dialogue is possible because the press in Eastern Europe is censored with a much lighter hand than the Soviet press. Russian newspapers and radio stations sometimes attack Radio Liberty, but they do not mention specific broadcasts: Any discussion of specifics would help spread news the Soviets want to keep quiet.

Radio Liberty devotes about a third of its coverage to international affairs and two-thirds to Soviet domestic issues. There is some overlap in international coverage, since the station often broadcasts Western wire service accounts or its own analyses of events that have been reported by official Soviet papers or the news agency Tass.

A DAY IN MARCH

On March 1, an ordinary news day, both Radio Liberty and Pravda covered the arrival of Sheikh Mujibur Rahman in Moscow to seek aid for the new state of Bangladesh. Another event reported by both sources was the killing of two Ulster defense regiment soldiers in Belfast. Radio Liberty generally devotes only brief commentary to news stories that are non-controversial enough in the Soviet Union to be reported in straightforward fashion by the official press.

On the same day, Pravda ran a Tass story from Washington reporting President Nixon's return from Peking; it was based mainly on American press commentaries. Radio Liberty aired a nine-minute world press review of the Nixon trip, giving more prominence to Western European press reactions. Another world press roundup dealt with new developments in the Middle East: Radio Liberty generally attempts to offset the Soviet position that Israel is the only aggressor.

News items reported by Radio Liberty that were not covered in the March 1 Pravda included:

Announcement of new exchange of scientist-lecturers between the Soviet Union and the United States.

Reaction by black Rhodesians to the proposed agreement between Great Britain and Rhodesia.

Introduction of food rationing in Chile.

Authorization of Soviet border guards to detain people in border regions for up to 10 days without giving official cause. The move was seen as an effort to stop border traffic in Soviet Central Asia, where the frontier is less closely guarded than the Soviet Union's western borders.

The showing of a Romanian film in Bucharest about life during the Stalin era.

A scheduled meeting between British Prime Minister Edward Heath and French President Georges Pompidou.

The forthcoming trial of a writer named Vladmir Maksimov, who is being held accountable for Western publication several years ago of his *Samizdat* novel, "The Seven Days of Creation." The broadcast suggested that Maksimov, who was officially published during the Khrushchev era, was really being punished because he had defended his former secretary, Vladimir Bukovsky. Bukovsky was recently sentenced to seven years in prison and five years in exile for his outspoken political dissent—especially his criticism of the use of psychiatric commitment against political dissidents.

THE PROBLEMS OF CENSORS

The importance of Radio Liberty can only be understood in light of the reasons for Soviet publication or suppression of individual news items.

The Maksimov news will probably never appear in the Soviet press, since it deals with political dissent. Accounts of political trials occasionally appear if the dissenter is important enough and a high-level political decision is made to portray his alleged offenses against the state.

The item about the Romanian film would also receive a virtually automatic veto, both because it deals with life in the Stalin era and because the Soviet government takes a less-than-enthusiastic view of Romanian President Nicolai Ceausescu's independent foreign policy.

News of an American-Soviet scientific exchange may have eventually appeared when it cleared the censor. The timing of Soviet news stories has no necessary relationship to when the event actually happens.

A meeting between President Pompidou and Prime Minister Heath is another "sensitive" topic because Moscow has opposed British entry into the Common Market. Fearing that a strong, united Western Europe might have undesirable influences on relations with the Warsaw Pact nations, the United States and even China, the Soviets tend to underplay news related to the Common Market.

Also on March 1, Radio Liberty carried news of a bill introduced by Sen. Hubert H. Humphrey (D-Minn.) to provide continued financing for Radio Liberty. The station has carried a running account of both sides of the controversy over financing for its own operations and Radio Free Europe.

Both stations immediately reported Fulbright's Feb. 17 Senate speech in which he said the administration wants to keep "this Cold War program on the books despite the fact that neither the American public nor the governments of Western Europe are willing to support such a continuation."

Tass did not report the Fulbright speech until three days later—a delay which caused guffaws among Radio Liberty and Radio Free Europe staff members. Delays in handling "sensitive" news are common because the Soviet censors must decide exactly how the stories are to be written. American criticism of U.S. government policy poses a particularly difficult problem for censors, since Russian readers might wonder how such public criticism could have been permitted.

THE LEGISLATIVE BATTLE

The stations have broadcast a complete history of their financing difficulties, beginning with the disclosure by Sen. Clifford Case (R-N.J.) that they had been covertly funded by the CIA since their establishment in the early 1950s. In the past year, the stations were financed under a continuing resolution that expired Feb. 22. The Nixon administration had sought to set up a nonprofit corporation that would administer the stations when the resolution expired.

Stymied by Fulbright's opposition as chairman of the Senate Foreign Relations Committee, the administration was forced to accept a compromise funding the stations only until June 30. The stations have considerable bipartisan support, and new legislation is expected to be introduced this spring. Radio Liberty noted in one of its broadcasts that only six senators voted against the present funding resolution.

Says one Radio Liberty staff member: "To be honest, I'd estimate our chances of getting continued financing at about 60–40. It's difficult to explain in our broadcasts that the Senate works in such a way that one man can use his position as chairman of a powerful committee to thwart the will of the majority."

Supporters of the two stations are even more worried about the administration's inclinations than about Fulbright's position. They feel the administration has not applied any muscle in Congress despite President Nixon's stated support for the stations. And they are afraid the President might regard ending the broadcasts as a convenient, politically unimportant goodwill gesture to make when he visits Moscow.

Francis S. Ronalds Jr., deputy director of Radio Liberty in Munich, home base for both stations, says the budget threat is "especially ironic at this time because we have an unparalleled opportunity to improve our programming in areas other than literature and political dissent." Ronalds was alluding to the Jewish emigration from the Soviet Union, which could make it possible for the stations to hire more native Russian-speakers with technical and scientific training.

"We have been weak on scientific issues that are of special concern to many members of the Soviet intelligentsia," Ronalds says. "Many of the more recent emigres are still interested in the Soviet Union, not in the old Cold War sense but in the sense that they believe in a free flow of ideas. We don't want people who hate the Soviet Union, because most of our listeners love their country and many are committed Communists or socialists of one kind or another."

A DIFFERENT TONE

Samizdat is by no means the only source of Radio Liberty broadcasts. Researchers pore over little-known Soviet magazines for topics that would interest a wider Russian audience. Many of these topics are connected with science and economics. A new journal on ecology, for example, has an officially permitted circulation, of only 1,225; Radio Liberty is planning several programs on the more significant issues discussed in the magazine.

During my two years in the Soviet Union, I never met a Russian—including some party members—who felt that Radio Liberty was trying to overthrow or attack the Soviet government in the manner of the early Cold War years. The Library of Congress report on Radio Liberty and Radio Free Europe quoted Soviet specialists whose own analyses contradicted Fulbright's views. In the Soviet book "U.S. Radio in Psychological Warfare," published in 1967, Artem R. Panflov wrote:

"In practice, propaganda for the overthrow of the Communist regime has almost disappeared from all American broadcasts to the socialist countries of Europe. Even Radio Free Europe no longer broadcasts such propaganda . . . The tone of the radio broadcasts has changed significantly . . . Direct interference in the internal affairs of one country or another in the form of all sorts of advice to radio listeners has almost ceased, and undercover propaganda has left the scene."

Conservative Soviet citizens often oppose Radio Liberty's contention that complete freedom of information should prevail in their country, but they, too, want to hear ideas that do not necessarily fit into the official Soviet version of reality. "After all," says one Soviet journalist, "you can always turn off the radio if you don't want to hear something."

PRESIDENT'S MESSAGE ON AGING: A DISAPPOINTMENT FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, a few days ago, the President issued a long overdue message on aging, outlining this administration's "comprehensive strategy" for older Americans.

But for the 20 million persons now past 65 and the millions more nearing this age, his message can only be regarded as a distinct disappointment. His proposals fall far short of the stirring call for action at the recent White House Conference on Aging; and they can only serve to induce further frustration, despair, and outright cynicism.

As chairman of the Committee on Aging, I can only say that the President is fumbling away a historic opportunity to make 1972 a year of landmark achievements for all older Americans.

The year 1972 could be the year in which we eliminated poverty once and for all among the aged. It could be the year in which we fulfilled our commitment to provide genuine economic security for the later years of life.

It could also be the year in which we made serious inroads in solving the everyday problems of the elderly—in the fields of nutrition, housing, health care, transportation, and many others.

Or it could be the year in which the momentum generated at that Conference was squandered.

It could be the year in which we responded with "tokenism" to problems which cry out for far-reaching and comprehensive action.

Unless reversed, the latter appears to be the course the administration has chosen.

Nowhere is this more evident than in the area of economic security. Quite frankly, this is the fundamental and underlying strategy for coming to grips with the worsening retirement income crisis which now affects millions of older Americans. Unless major policy changes are instituted this deepening retirement income gap is likely to deteriorate even further.

This administration is willing to settle for a meager 5-percent boost in social security benefits, an increase which will not even keep pace with the rise in the cost of living. This is a far cry from the 25-percent boost recommended by the White House Conference. Even more disturbing, the administration's approach totally ignores some very real and basic facts of life:

More than 4.7 million older Americans fall below the poverty line.

If the hidden poor are counted, the poverty numbers for persons 65 and older swell to 6.3 million, or almost one out of every three senior citizens in the United States.

Poverty among the aged is on the rise for the first time in our history. From 1968 to 1970, the number of elderly poor persons increased by 100,000.

Social security benefits for the typical retired worker now amount to $1,596 a year, about $250 below the existing poverty threshold.

It was for these compelling reasons that I recently introduced an amendment to H.R. 1 to authorize a 20-percent increase in social security benefits. Already 29 Members of the Senate have joined me in sponsoring this badly needed proposal. And several others have indicated their strong support for an increase far beyond 5 percent.

With poverty on the rise for the elderly, a 20-percent social security increase is absolutely essential. Adding a few dollars every couple of years to the elderly's monthly social security check will simply not get the job done. A much more sizable boost is urgently needed if we are really serious about developing a sound and sensible income strategy for older Americans.

However, adequate retirement income is just one of many key needs in which the President's message on aging fails to respond to the White House Conference.

In the field of housing, his proposals offer no realistic hope for meeting the conference objective for 120,000 units per year. For 6 million older Americans who now live in dilapidated, substandard or deteriorating housing, the goal for a decent living environment will continue to be an impossible dream.

What is needed now is a genuine commitment to implement the White House Conference's national housing policy for older Americans. But the administration has failed to provide this leadership. Instead, it has openly opposed some of the very proposals—such as the establishment of an Assistant Secretary for Housing for the Elderly—sought by the White House Conference.

Additionally, it has exhibited a half-hearted commitment to the serious health care problems which continue to pose an intolerable drain upon the aged's limited pocketbooks. Quite clearly, our Nation can never assure true economic security in retirement until the threat of costly and catastrophic illness is resolved.

In response to this challenge, the White House Conference recommended that medicare should be broadened to include out-of-hospital prescription drugs, eyeglasses, hearing aides, dentures, and foot care. Yet, the administration has chosen to ignore every one of these suggestions.

In some cases, it has even turned the clock back—by proposing shortsighted cutbacks which can limit the quality and availability of care for the aged. One such example is the $7.50 daily copayment charge for elderly patients who are hospitalized from 31 to 60 days. This provision alone could conceivably add $225 to the health care bill of an aged person. Fortunately, however, the Finance Committee has decided to remove this provision from H.R. 1.

Finally, the administration has rejected the White House Conference proposals for a streamlined Federal apparatus to represent the elderly in the highest councils of government. Instead, it has presided over the dismantling of the Administration on Aging. Today AOA is a crippled and fragmented agency with few clearcut goals and little overall direction. And the net impact is that Federal commitment in the field of aging has been severely diluted.

Even a substantial increase in the funding levels for the Older Americans Act—welcome as it may be—will not solve these serious problems, as long as AOA's mission continues to remain murky and ill-defined. What is needed is a strengthened Federal structure which is effective, action-oriented, and responsive to the challenges of older Americans.

To meet this challenge, the delegates called for the adoption of a four-point plan:

First, establishment of an independent Office on Aging at the White House level to formulate policy and coordinate programs in the field of aging.

Second, creation of an Advisory Council to assist the independent office in a wide variety of capacities.

Third, elevation of AOA by placing it under the direction of an Assistant Secretary for Aging.

Fourth, establishment of the position of Assistant Secretary for Aging, or its equivalent, in all departments and agencies conducting operating programs for the elderly.

Yet, the administration simply proposes mild cosmetic treatment for AOA with increased funding levels.

The President's own Special Consultant on Aging, Dr. Arthur Flemming—who has fought over the years on behalf of older Americans—concedes that the administration's program for the elderly falls short of the recommendations of the White House Conference. This as-

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sessment is discussed in an article published recently in the Washington Post. Mr. President, I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 29, 1972]

NIXON PLAN ON ELDERLY FALLS SHORT, AIDE SAYS

(By Stuart Auerbach)

The White House's special adviser on aging, Dr. Arthur S. Fleming, acknowledged yesterday that President Nixon's program for the elderly falls short of the recommendations of a White House conference last year.

But, Fleming told a press conference, "The message indicates a continuous process is under way that will lead to more and more action as the weeks and months go by."

He said Mr. Nixon's special message Thursday "is definitely moving us in the direction set by the delegates" to last November's White House Conference on Aging.

Fleming said the delegates' recommendations identify "the cutting edge" of the issues facing the elderly. The President's message, Fleming said, shows motion in that direction.

The feelings of the 20 million Americans who are more than 65 years old are exceptionally important in 1972—an election year. They are among the nation's heaviest voters: 84 per cent of them are registered and 74 per cent of them voted in the 1970 off-year elections.

Fleming, Secretary of Health, Education, and Welfare in the Eisenhower administration, was chairman of the 1971 White House Conference on Aging.

He said its many recommendations—which are being released a little bit at a time—are under study in the White House by a special cabinet-level committee.

In two areas—nutrition and the construction of senior citizen centers—Fleming said President Nixon has come close to the objectives of the 3,500 delegates to the White House conference.

In other areas—especially increases in Social Security payments and the coverage of out-patient drugs under Medicare—the President and the delegates to the conference on aging are further apart.

Mr. CHURCH. Mr. President, disappointed as I am in the President's message on aging, I am still hopeful that the administration will change its present narrow position for older Americans. I am encouraged that this is possible because the administration has already reversed itself several times on many key issues in the field of aging—largely as a result of bipartisan congressional efforts. A good example is the recent enactment of the Nutrition Program for the Elderly Act, which the administration had steadfastly opposed for nearly 2 years.

Nevertheless, I am hopeful that the administration will yet be willing to work, in a spirit of bipartisan cooperation with Congress, to reshape and improve present policies for older Americans.

REFORM NEEDED IN CRIMINAL JUSTICE SYSTEM

Mr. HUGHES. Mr. President, the American system of criminal justice is conceded to have lost most of its effectiveness in a mire of administrative delay and archaic notions of how to deal with the criminal.

A system that does so little to enhance respect for the rule of law or to salvage the lives that are broken by crime is in critical condition—in need of emergency resuscitation, intensive care, and long-term provisions for recovery.

Last Saturday, a planning group of the National Democratic Policy Council released its report on the need for reform of the criminal justice system in this country. The report is one of several prepared for consideration of the platform committee of the Democratic National Convention, and is the product of the work of 37 citizens whose combined knowledge of the forces at work on our courts and prisons, and in the lives of those who resort to crime, is very extensive.

Because I believe the report contains some vital insight that I am sure will be of interest to Senators, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REFORM OF THE CRIMINAL JUSTICE SYSTEM

The planning group on reform of the criminal justice system held a public hearing on October 26 and 27, 1971 in Washington, D.C. The two-day session brought together an unusual panel of experts—lawyers, recovered addicts, law enforcement officers, physicians, current and former prison inmates, a former U. S. attorney general, psychiatrists, a mayor of a major metropolitan city, prison wardens, and U. S. Congressmen—to face the issue of long-overdue fundamental reforms in the American criminal justice system.

In his opening remarks, Senator Harold Hughes (D-Iowa) called for an end to "temporizing, tinkering and face-lifting" efforts to reform the criminal justice system. Hughes asked:

"To what extent do the notions of retribution that have conditioned our system of crime and punishment since the Hammurabi Code, remain justifiable in light of our present understanding of human behavior? Will we ever make significant progress on the drug front as long as people equate drug abuse with moral weakness and criminal inclination?

"Thoughtful citizens throughout the land recognize the imperative need for major change and reform in the various categories of our system of law, order, and justice. Innumerable studies have been commissioned, reports have been filed, and recommendations have been made. Yet reforms in this top priority area continue to lag.

"It is no secret to any of us that reform in these areas has been generally half-hearted and piecemeal because of fear of political reprisal. In view of the tragic failures of the past, it is my conviction that the hour of truth has arrived when an honest exposition of the realities will not be a political liability."

Former U. S. Attorney General Ramsey Clark spoke of the future without change in attitudes toward crime:

"I think we can reduce crime. Society has no more important challenge because crime is human conduct and more than any other activity of people it reflects the moral character of a nation. It is not a question of police forces against criminal forces; it's a question of people. When you phrase it in terms of police forces against criminal forces, you are emotionalizing and dividing and feeding the fear. There are causes of crime and unless we address ourselves to the causes and seek to reduce them then we cannot hope to substantially and permanently prevent or reduce the incidence of crime in America."

PERSPECTIVE

The problem of crime in America is real, immediate and fundamental. Its costs to the nation—direct and indirect, tangible and intangible—are staggering. Nearly three quarters of a million victims of violent crime in 1970. More than 15,000 murders. Billions of dollars of property loss.

The indirect, intangible costs are even more ominous. A frightened nation is not a free nation. Its citizens are prisoners, suspicious of the people they meet, restricted in when they go out and when they return, threatened even in their own homes. Unless government at all levels can restore a sense of confidence and security to its people, there is the ever-present danger that alarm will turn to panic, triggering short-cut remedies that jeopardize hard-won liberties.

Several general observations are appropriate at the outset:

First, the impact of crime in America cuts across racial, geographic and economic lines. The highest rates of assault and robbery are found in the inner cities. The chief victims of crimes of violence in America are the poor—black and white. But if the slums of America have the highest concentration of crime, there is no escape in the suburbs or rural areas of the nation. White crime increased by 9.2% in our cities in 1970, by more than 12% in our suburban and rural areas.

Second, hard-line rhetoric, pandering to the emotionalism of the moment is as futile as it is insidious. There has been too much rhetoric, threats and intimidation and too little commitment to reform. There are no simple solutions to problems as intractable as crime, drugs and prisons. A thorough and total revamping of our criminal justice system is necessary to reverse the present conditions.

Third, solutions must be sought that protect our people without undermining fundamental liberties. Stop-gap measures such as preventive detention and "no-knock" entry only serve to aggravate the problems of crime and drug abuse. The fact that they have been little used is evidence of their superficial quality as law enforcement tools The ultimate objective of a free, less threatening society is not advanced by police-state measures that substitute one form of tyranny for another.

Fourth, the problems of crime and drug abuse cannot be isolated from the social and economic conditions that give rise to them. Although this summary deals primarily with the steps that must be taken to alleviate the costly results of crime and drug abuse, the planning group recognized that any lasting solution to these problems must first deal with the fundamental causes of such behavior: poverty, discrimination, inadequate housing, insufficient jobs, unlivable cities and depressed rural areas, social and political institutions in upheaval.

LAW ENFORCEMENT

The planning group recognized and commended the dedication of the men and women law enforcement officers who, day in and day out, respond to the words, "call the cops" and deal firsthand with the human realities of the victim and the perpetrator of the street crime, the family fight, the drug overdose victim, the runaway child, the traffic jam and the bar room brawl. The complexity—and the danger—of police work requires a combination of brains, skill, education, human understanding, courage and commitment that no other profession demands.

The difficulty and challenge of the police job requires that citizens and police work together to make the police service as effective as possible, not only to better deal with the critical national problem of crime, but also to deal with the complex of other peacekeeping and public service tasks that we call upon our police to perform.

Faced with the problems presented by the rapidly growing amount of crime in America, it is easy simply to cry out for more police. While in many jurisdictions more police are desperately needed, we recognize that more police alone cannot deal with the problem of crime in its totality. Court delay, the ineffectiveness of our jails and prisons, the epidemic spread of narcotic addiction, the frequent unwillingness of citizens to cooperate with the police and the quality of the police service itself are each important considerations in developing more effective efforts to reduce crime.

Recommendations

The recommendations that follow concern those actions that should be taken to improve the effectiveness of the police.

Most importantly we must foster those efforts that actively involve the citizens with the police in a joint effort to control crime. There should be more programs in which police and citizens join together to combat crime. We need more than "community relations" in a public relations sense. We need to engage the citizens in cooperation actively with the police, in helping the police in auxiliary roles, in taking those simple preventive measures that discourage crime and in active support of the police men and women and their leadership.

The upgrading of the police requires that we pay police salaries that match the difficulty of their jobs and that will attract highly qualified people into the police service. Educational standards for police must be raised. As police salaries are raised and citizen support increases, these standards can be raised and over time can vastly improve the image and quality of policing in America.

The police can only be fully effective when they genuinely represent the communities they serve. This means that more minority group members should be encouraged to enter the police service, that the police take the initiative in more effectively using women in a variety of law enforcement roles, that the technical skills of the computer scientist, the communications expert, the community relations expert, the training specialist, the lawyer, the personnel manager and many more be recruited into the police forces.

We must select as our police leaders those persons who fully understand the complex job of policing and who are sensitive to the changing social demands in our communities. Such persons can do much to lead the police in becoming more responsive to the needs of minority groups, of young people and of others, without whose support the police will not be fully effective in controlling crime. This same kind of strong police leadership is needed if we are to assure that high level of integrity that this important public trust requires.

We must provide the police with the technological resources to do the job. Effective policing requires advanced communications systems, computers and other facilities, and a system for regional coordination of law enforcement efforts.

The federal government can play a vital role in assisting state and local jurisdictions in upgrading police and improving police effectiveness in controlling crime. Federal funds should be used, not merely to buy police equipment, but to support police efforts to involve the citizenry in controlling crime, to bring into the police service new kinds of people and skills, to support those educational and training efforts that develop greater technical police skills, greater police management skills and greater skills in dealing with the human dimension of crime, conflict and disorder.

The police are in fact the "front line" in combating crime. The Democratic Party must firmly commit itself to supporting all efforts that will strengthen the capacity of the police to do their job and that will bring to the police the respect demanded by the importance of their job. We must continue to work at the local, state and federal levels to translate that support into dollars and other assistance. Such efforts will result in more effective crime control in America and in that quality of police service truly reflective of our basic democratic values.

JUVENILE DELINQUENCY

Juvenile delinquency statistics, according to former Attorney General Ramsey Clark, point out where crime first starts and where crime must first be stopped:

"Nearly the entire increase in arrests for the commission of serious crimes during the 1960's is accounted for by minors. Youngsters between eleven and seventeen composing 13 percent of the population are convicted in over 50 percent of all prosecutions for burglary, larceny and car theft. Half of all property crime is committed by people under twenty-one. Of all ages sixteen-year-olds are arrested most frequently.

"Youth is the time in life when those who live lives of crime take the road. Four out of five of all felonies are committed by repeaters—80 percent of all serious crime is committed by people convicted of crime before. The first crime was committed nearly always as a teenager. In federal youth centers nearly all prisoners were convicted of crimes that occurred after the offender dropped out of high school. Three-fourths came from broken homes.

"Professionals could find 90 percent of the children likely to become delinquent: those children who have no parents, have been beaten and abused, are not sent to school regularly, cannot read, or share a room with four people. We may have to live with the rest; we do not have to live with most. That we do tells us much about our character. It means that, knowing we are the ones who create criminals, we continue. Later, frightened, we seek to control them by force."

Recommendations

Prevention. The schools must undertake a new, vital and creative role in the vanguard of crime prevention in diagnosing behavioral problems and taking remedial action to insure that children headed for trouble are not forced out of school, onto the streets and into a life of crime.

Treatment. Juveniles who merely run away, play truant, or disobey a parent must not be relegated to large impersonalized isolated training schools to learn how to commit more serious and more violent crimes. Institutionalization makes more criminals out of juveniles than it unmakes. The premium on federal funds to states and localities must be on creating genuine community alternatives to sterile incarceration: juvenile service bureaus, special remedial education and job training, foster and group homes, counselling programs run by former juvenile and adult offenders.

Incarceration. There will always remain a small minority of youthful offenders who are, at the time of adjudication, so dangerous to themselves and others that they must be institutionalized. However, it is too often the case that society equates keeping juveniles out of sight until the age of majority with solving their problems. These youths are the most in need of concentrated services to change the attitudes and behavior that are the source of their problems.

Juvenile institutions should never house more than 100 children, should be built around an individualized treatment plan for each child, and the course of treatment should be enforceable by law. Today, the understaffed, brutalizing "holes," "youth centers," and "training schools," into which our children are now herded for everything from profanity to murder, commit offenses against these children for which a parent would be prosecuted; locking them in terrifying isolation; beating them; forcing them into situations where homosexuality is predictable; crowding them into unsafe, unsanitary and inhuman facilities; forcing them to associate with older, more experienced, offenders.

It should be recognized that anti-delinquency programs can never take the place of good prenatal care and birth control instruction, decent housing, medical care, a public education system that seeks to retain and help its children rather than to evict and forget its "deviant offenders," as well as a healthy job market providing an economic standard of living that makes life possible without drugs or crime.

DRUGS

A national commitment must be made to deal with the problem of drugs as it *exists*. Commenting on alcoholism and drug addiction, former Attorney General Clark said:

"You cannot beat heroin out of the bloodstream of an addict and you cannot cure alcoholism by picking guys up out of the gutter with broken wine bottles near them and throwing them in a tank, letting them go through a period, releasing them and then doing the same thing all over again."

Recommendations

Definition. The drug problem must be more carefully and clearly defined. Heroin addiction, barbiturate and amphetamine abuse, marihuana use and alcoholism are each different problems and their treatment has been developed and refined to varying degrees.

Treatment. The failure of this country to respond to the needs of those persons seeking specific kinds of help—help already proven to be efficacious—is tragic. For example, in New York City there are about 10,000 heroin addicts on a waiting list to enter the city's methadone program. A waiting list for an addict who wants to enter treatment now is not only an injustice to him but to his community as well. Property stolen by a single addict in one week may have a value of up to $1,000—an amount that would pay for his treatment with methadone for an entire year.

Rehabilitation. To understand what it is that a drug abuser or drug dependent individual seeks through treatment, we must first learn that such an individual is a sick person who should be dealt with as a whole person. To treat the whole person we must deal with his social needs as well as his drug dependency. In addition to dispensing medication and thereby eliminating the immediate needs for drugs, assistance must be provided to develop alternative life styles so that treatment eliminates the problem, instead of becoming a part of it.

Law enforcement. While developing new avenues to deal with drug addiction such as seeking out and closing off sources of abused drugs, we must not neglect to investigate the potentially new and more dangerous problems that may be created in the name of a "solution." When law enforcement efforts increase in areas where there are inadequate facilities to treat addicts seeking help, the net effect is to increase the price of drugs. The addict who might have entered treatment must now commit more crimes and possibly more violent crimes to support the new increase in cost of his habit.

Military drug abuse. Special attention must be paid to the extensive drug abuse within the Armed Services. The full ramifications of this involvement in terms of local communities previously relatively free of serious drug abuse will be increasingly felt as the level of American involvement in Southeast Asia returns more and more young men to the United States with unknown and unchecked levels of addiction. No careful follow-up has yet been undertaken. If we are to maintain any credibility in the eyes of our own nation as well as the world, a serious commitment must be made to care for returning servicemen addicted to drugs.

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CORRECTIONS

Few institutions in America are as uniformly condemned and as consistently ignored as our existing prison system. Prisons represent a failure of philosophy, theory, concept, technique and execution. Individuals who commit crimes on the outside become criminals on the inside. Indeed, even the term "corrections" is a misnomer, recidivism rates run as high as 70 percent.

The impulse to reform must be stimulated not only by the most elemental principles of humanitarianism but also calculated self-interest. "The degree of civilization in a society can be judged by entering its prisons," noted Dostoyevsky. Ours are overcrowded, understaffed, and run-down human warehouses that embitter rather than rehabilitate, alienate rather than reintegrate, highten tensions rather than ease them.

Only when we as a nation recognize that our existing system *contributes* to escalating crime, will we be able to sustain the massive support necessary to achieve fundamental restructuring. Thus, the first priority of political parties and candidates for the leadership of this nation must be to undertake the public education necessary to change prevailing attitudes about our prisons and the human beings within their walls.

Alternatives to the present correctional policies discussed by the planning group and witnesses are summarized here briefly.

Sentencing

Pre-sentencing investigative procedures should incorporate increased probationary services, allowing offenders to remain in the community: finding and keeping employment, making restitution, supporting their families. Such an approach would break the patterns for many habitual offenders who seek refuge behind walls to avoid the responsibilities of daily living.

Mandatory minimum sentences should be abolished to allow the system sufficient flexibility and intelligence to release a man or woman at the psychologically proper moment.

Maximum sentences should be standardized and made consistent in order to reduce a major source of unfairness and bitterness.

Except where absolutely necessary, efforts should be made to *reduce sentence length* thus facilitating the supervised release of offenders before any benefits of incarceration are offset by overly-long imprisonment, with the accompanying danger of institutional dependency and total alienation from society as well as identification with the inmate subculture.

Incarceration

Greater efforts should be made in *classifying prisoners for maximum security prisons.* Such facilities should be restricted to those who are truly dangerous—estimated at 15–20% of all adult offenders—and not those who are merely outspoken.

The "big house" should be eliminated as we move to a system predicated on community-based correctional facilities. To the extent that higher security facilities are required, they should be limited to populations of no more than 100.

The *constitutional and human rights of offenders should be recognized:* the right to uncensored outgoing mail; the rights of due process for in-prison disciplinary actions; the right to decent meals, adequate sanitary and health facilities; the right to decent wages for in-prison work. To strip a man of his freedom does not require that we strip him of his dignity.

Realistic *therapeutic, education, alcoholism and drug treatment, vocational and wage-earning programs should be provided* in all correctional facilities, and, wherever possible, outside of them.

Emergency, educational and work-release furlough programs should be standard practice with eligibility for such programs based upon prison conduct and treatment needs.

The greatest emphasis and *encouragement should be given to support of "self-help" programs*—convicts, ex-convicts and the community each helping the other.

Correctional personnel must be upgraded with higher wages, more minority group employees in both custodial and rehabilitative jobs, and increased numbers of psychologists, educators, counsellors, diagnosticians and ex-convict paraprofessionals.

Post-incarceration

Massive *after-care services must be provided* so that the released offender is not "pushed out" and dumped on the street without any support.

Present civil disabilities for ex-convicts that erect barriers to their reintegration into society should be removed. These include automatic restoration of the right to vote, to hold public office, to obtain drivers' licenses as well as professional licenses, and to public and private employment. All registration of ex-offenders shoud be elminated.

Every stage of the parole process—the granting of parole, the period of supervision, and the conditions governing that period, and the termination of parole—*should be opened to public scrutiny and thoroughly re-examined* with a view toward facilitating rather than frustrating re-entry into society.

SUMMARY

The focus of the planning group on reform of the criminal justice system was on the fundamental causes of street crime, drug addiction, and prisons. Although the planning group recognized that the courts are a major element of the criminal justice system in addition to law enforcement and corrections, the reform of the courts at all levels of government is of such a specialized nature that it would require the complete attention of another planning group to produce authoritative recommendations on court reform.

In addition, the American Bar Association established a task force to study in depth the specific steps that could be taken to bring order out of the chaos currently characterizing many courts. The report of the Special Committee on Crime Prevention and Control has been released and the planning group recommends to the members of the Platform Committee that they give the most serious attention to the findings of this American Bar Association study.

REFORM OF THE CRIMINAL JUSTICE SYSTEM—HEARING PARTICIPANTS AND PLANNING GROUP MEMBERS

(Harold E. Hughes, Chairman, and Claude D. Pepper, Vice Chairman)

Ahern, James F., Westport, Connecticut.
Babcock, Betsy, New York, New York.
Badillo, Herman L., U.S. Representative, New York.
Beazley, Larry, Lorton, Virginia.
Besser, John, Evanston, Illinois.
Bigelow, Brad W., M.D., Kearney, Nebraska.
Blum, Richard H. A., Stanford, California.
Bradford, Darnell, Lorton, Virginia.
Brown, Rhozier, Lorton, Virginia.
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Savoy, Joseph, Washington, D.C.
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Scott, Robert W., Governor of North Carolina.
Seib, Philip, Washington, D.C.
Shellow, Robert W., Pittsburgh, Pennsylvania.
Tepper, Julian, Esq., Washington, D.C.
Ullman, Wesley, Mayor, Seattle, Washington.
Van Dyk, Ted, Washington, D.C.
Wald, Patricia, Esq., Washington, D.C.
Williams, Edward Bennett, Esq., Washington, D.C.

SOME FACTS ABOUT MEAT PRICES

Mr. HANSEN. Mr. President, during recent discussions about current meat prices, the full story often has not been told, and one supermarket chain even has deliberately attempted to mislead the public in its advertising by implying that cattlemen are responsible for meat prices at the counter.

There are a number of organizations and individuals attempting to get the truth to the public—among them the Laramie County Stock Growers Association by my State. This organization and its women's auxiliary, the Cowbelles, are buying advertising space in the daily newspapers of Wyoming to state the facts about meat prices, income to producers, and wages to other industries.

Many Members of Congress also have tried to get the truth across, and my friend the distinguished Senator from Nebraska (Mr. CURTIS) has done an outstanding job of refuting wild claims by supermarket officials and of pointing out other relevant facts which cannot be ignored if one is to have any kind of understanding of meat prices and how they are developed.

Mr. President, I commend Senator CURTIS and members of the Stock Growers Association in my State for making the efforts to set forth facts to answer half-truths and innuendo.

I ask unanimous consent that an advertisement sponsored by the Laramie County Stock Growers, an April 8, 1972, Washington Post article about Senator CURTIS' comments, and an April 3, 1972, article from the Republican Congressional Committee Newsletter, entitled "Who Gets the Money When Beef Goes Up?" be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DO BEEF PRICES BUG YOU?—O.K.—LET'S EXPLORE SOME REVEALING COMPARISONS!

MEAT PRICES

March, 1952—March, 1972

69¢ lb. U.S. Choice Chuck Roast, 69¢ lb., Up—00.0%

63¢ U.S. Choice Ground Beef, 73¢ lb., Up—14.9%.

95¢ lb. U.S. Choice Sirloin Steak, $1.57 lb., Up—65.3%.

95¢ lb. U.S. Choice Round Steak, $1.35 lb., Up—42.1%.

64¢ lb. All Meat Franks, 85¢ lb., Up—32.8%.

CATTLE PRICES

Choice fed steers

March 26, 1952—$34.50 Per Cwt.

March 24, 1972—$35.00 Per Cwt., Up Only One Percent.

WAGES AND SALARIES

In 1952—$2,400 Teachers (No Experience, School District Number 1—B.A. Degree), in 1972 $6,800, up—183.3%.

In 1952—$12,500 U.S. Senators and Congressmen, in 1972 $42,500, up—240.0%.

In 1952—$65.00 Meat Cutter (48 Hour Week), in 1972 $185.00 (40 Hour Week) up—166.0%.

In 1952—$2.50 per hr. Unskilled Laborer, Bldg. Trade, in 1972 $4.12 per hr., up—64.8%.

In 1952—$4,506.69 Average Employee Wage, Entire Union Pacific Line, 1971, in 1972 $10,432.92, up—131.0%.

In 1950, One Hour's Labor Bought 1.7 Pounds of Beef—Today It Can Purchase 3.3 Pounds of Beef.

100 pounds of beef costs:

1951—$35.14, on the ranch, 1971—$32.35.

1951—$56.88, at the packing plant, 1971—$53.64.

1951—$78.50, at the super market, 1971—$104.32.

"Thank you for considering these facts."

Laramie County Stock Growers and Laramie County Cowbelles.

MEAT SELLER DENIES "DECEPTION" ON PRICE

(By Abbott Combes)

Sen. Carl T. Curtis (R-Neb.) yesterday criticized Giant Food, Inc. for what he called "a deceptive crusade" in its current advertisements of meat prices.

Curtis asserted that the Washington supermarket paid less for choice beef on March 21 than it did before last August's wage-price freeze. On March 21, a Giant advertisement appeared in Washington newspapers suggesting that consumers might purchase alternative foods because of increasing meat prices. The ad was signed by Esther Peterson, former consumer adviser to President Lyndon B. Johnson who now advises Giant.

In a related development yesterday, Richard E. Lyng, assistant secretary of agriculture for marketing and consumer services, said that a Giant advertisement in Thursday's editions of the Washington Post was "quite misleading." This ad reprinted a Post editorial favorable to Giant's meat policy, and then asked: "Aren't you glad we started it all? We are."

Actually, said Lyng, "all during March the wholesale price was going down, at the same time the retail prices were going up."

Joseph B. Danzansky, president of Giant, denied the allegations. The prices that Curtis quoted, Danzansky said, were for choice beef, but Giant buys the more expensive "top choice" beef. "Even in choice, there is a bottom, a middle and a top," he added.

Danzansky cited prices that, he said, the chain actually paid for its top choice beef: $56 per 100 pounds on August 13, 1971; $57.10 on March 21, and $54.75 currently.

He also cited comparable retail prices, in Giant stores, for three beef products. On Aug. 13, 1971, ground beef sold for 69 cents per pound; on March 21, 1972, it sold for 75 cents per pound and it is currently selling for 65 cents per pound, he said.

Sirloin steak sold for $1.45 per pound last Aug. 13, for the identical price on March 21 and now sells for $1.29. Boneless chuck sold for 95 cents before the freeze, 99 cents on March 21 and 89 cents at present, the Giant president said.

Even if Danzansky's figures are accurate, Curtis then charged, they still indicate that increases in retail prices have been greater than increases in wholesale costs.

"Now the Giant stores and Mrs. Peterson are taking credit publicly for driving the price of beef down. This type of phony consumerism must be investigated and exposed," said Curtis, who made the charge after seeking out reporters in the Senate press gallery yesterday. Curtis' state is a major producer of meat.

"If Mr. Danzansky's own figures are accepted, the price he paid for beef on March 21 was 1.1 cents per pound more than he paid last Aug. 13, yet his firm, again by his own figures, raised the price of hamburger 6 cents per pound, from 69 cents to 75 cents, during the same period," Curtis said.

"What did he do with the other 4.9 cents per pound that he charged the people of Washington who cannot afford anything but hamburger? And the other 2.9 cents per pound for boneless chuck?" asked Curtis.

"He's giving a cavalier response to a complicated problem," replied Danzansky, who said that it was "not fair" to relate the cost of several cuts of meat to the price of the whole carcass.

Noting that the cost of sirloin steak did not change over the same period, Danzansky tied the price of hamburger to the price of frozen boneless cow meat which makes up to 20 per cent of hamburger. The cost of this rose from 67 cents a pound last Aug. 13 to 73 cents a pound on March 21, he said.

Furthermore, Danzansky added, Giant made 2 per cent less in gross profits last month than it had the year before.

Curtis also said that during a luncheon conversation on March 22 Lyng had discussed the Aug. 13-March 21 price difference with Danzansky, but the Giant president yesterday asserted that he had not discussed the matter with the federal official.

Lyng disagreed, and said in an interview that he had mentioned the discrepancy.

"It was my impression that Mr. Danzansky and Mrs. Peterson were surprised that they were buying choice beef for a little less," Lyng said.

Curtis directed most of his criticism at Mrs. Peterson, who could not be reached for comment.

"It is one of the meanest actions against a segment of our economy that I've ever seen," the Republican senator said in an interview.

"It is not only misleading to consumers but in this instance it has cost farmers and ranchers thousands of dollars, and perhaps ultimately it will cost them millions. Thursday's price for Midwestern beef was down to an average of $51.75 or $2.25 below the level at the time of the Aug. 15, freeze," he said.

WHO GETS THE MONEY WHEN BEEF GOES UP?

Is the American farmer responsible for inflated food prices?

Not so, say President Nixon and his Secretary of Agriculture, Earl Butz, who have urged hearings by the Price Commission to determine whether or not profit margins of the so-called middleman food handler have gone beyond the guidelines laid down by the commission.

"It is a mistake and totally unfair to make the farmer the scapegoat for the high meat prices and the high food prices," said the President last week noting that only one-third of the price the consumer pays for food results from what the farmer gets for his effort. The other two-thirds goes to the middleman.

"The spread between what the farmer receives and what the consumer pays in the grocery store and the supermarket has widened," said Mr. Nixon. "It is too great."

Meanwhile, Secretary Butz has come up with statistics which show that the middleman is chiefly responsible for upping the cost of feeding American families.

Take bread, for instance. The statistics reveal that the U.S. wheat grower got 3 cents for the wheat in a loaf of bread in 1957. In 1971, he was still getting 3 cents for the wheat in a loaf of bread—but the retail price had climbed from 18 cents to 25 cents per loaf.

The recent hassle over beef prices is another example. Two leading grocery chains took out after the beef producers. One of them, Giant Foods, has as its consumer adviser Esther Peterson, who held similar jobs in the Kennedy and Johnson Administrations. She has urged a buyer's boycott of beef.

The Giant Food chain ran a full-page ad in newspapers—castigating the high price of meat and urging housewives to buy substitutes. The ads cited price increases in meat products and implied that recent strengthening of farm beef prices were to blame.

The Agriculture Department pointed out that prices per hundredweight on March 24, 1972 for beef carcasses were $53.25. On August 13, 1971—at the time of the wage-price freeze—beef carcasses were selling in Omaha for $54.

Thus, Giant Food and other retailers could get beef carcasses cheaper in March of 1972 than they could before the freeze. Yet they launched an attack on the farmer—attempting to blame their own high prices on the basic producer.

Rep. Robert Price (R., Tex.) demanded an apology from the retail firms on behalf of the Nation's beef producers, charging that the food chains were "self-serving, flying in the face of the facts."

Is the farmer getting more and the consumer less? This is the impression that the labor unions and some business interests are carefully cultivating. What are the facts?

In 1952, farmers got 49 cents out of every dollar spent for food in the U.S.; in 1971, they got only 38 cents, Department of Agriculture figures show. Disposable income for farmers is only 75 percent of the average of non-rural incomes.

Secretary Butz points out that beef prices now are just getting back to the level of 20 years ago, yet average wage levels in food-marketing employment are 2.5 times the level of 20 years ago. Retail food prices are up 43 percent over the past two decades, but farm prices only 6 percent.

In 1951, one farmer grew food for 16 people. Today, one farmer produces enough for 51 people. Farm-machinery prices meantime have doubled. Farm debt is up five times. Wage levels on the farm are up 2.3 times and production costs have nearly doubled.

ADMINISTRATIVE OBSTACLES TO VOTING—REPORT OF LEAGUE OF WOMEN VOTERS

Mr. KENNEDY. Mr. President, once again, the League of Women Voters has performed a valuable and extraordinary service to the Nation. Over the weekend, the League's Education Fund made public a remarkable document entitled "Administrative Obstacles to Voting." The report emphasizes, in unmistakable terms, the enormous burden that our present system of registration and voting imposes on citizens throughout the Nation.

Nothing better illustrates the problem than the cover of the League's report, which depicts a complicated maze as a symbol of the average citizen's frustration in attempting to register and vote.

Now, at last, we have an excellent and informative survey of the problem, based on studies of election practices in hundreds of communities across the Nation during the fall elections of 1971. Armed with this new information, I hope that Congress will make the strongest possible effort to deal with the problem as quickly and as effectively as possible. It is not too late to remedy some of the worst abuses now.

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Mr. President, I commend the League of Women Voters for the important new facts and insights it has brought to the present national debate over our shameful registration and election procedures. Lucy Wilson Benson of Massachusetts, the chairman of the League's Education Fund, and Fay Williams of Indianapolis, a trustee of the fund, under whose direction the study was carried out, deserve the gratitude of the Nation for helping us to see these deep and persistent problems more clearly.

Mr. President, I ask unanimous consent that the report and a news release describing the principal conclusions of the report be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NEWS RELEASE, LEAGUE OF WOMEN VOTERS EDUCATION FUND, APRIL 10, 1972

WASHINGTON, D.C.—The League of Women Voters Education Fund charged today that millions of Americans will be denied the right to vote in the 1972 Presidential election.

A nationwide survey by League members reveals the existence of fundamental obstacles to voting and registration which point to the need for a major administrative overhaul of the American election system.

The report of the Education Fund's election systems project states:

"In the Presidential election of 1968, 73 million Americans or approximately 60% of the total population of voting age actually voted; while 47 million or about 40%, did not cast a ballot. Millions of citizens fail to vote not because they are disinterested, but because they are disenfranchised by the present election system. In the case of minorities, the poor, the uneducated and the aged, the system imposes complicated requirements which excludes them from the electoral process. Ironically, millions of other Americans lose their right to vote not because they are part of a minority or because they are poor, but because they are part of the mainstream of American society. Moving to a new neighborhood, accepting a company transfer, going to college, getting married, serving their country or exercising other rights, freedoms and obligations all too often has the effect of denying citizens their right to vote."

More than 3,000 members of the League of Women Voters conducted the study of election officials and practices in 251 communities in all 50 states during the fall election period of 1971. Their findings document the need for widespread administrative changes and pinpoint specific election practices which deter citizens from either registering or voting.

League Education Fund Chairman Lucy Wilson Benson commented, "In a democratic society, no right is more fundamental than the right to vote. Regrettably, our election system is not working well. This study illustrates the many ways in which the election system discourages and denies the right of hundreds of thousands of Americans to vote in local, state and federal elections. This massive disenfranchisement will continue unless improvements are made at both the administrative and legislative levels."

The data clearly suggest that local officials have in many instances failed to use the tools allowed by law to make registration and voting easier and more accessible for all citizens. For example, 52% of the 458 registration places observed were not clearly identified and 38% of the communities had no additional registration hours available 30 days prior to the closing of registration.

By observing citizen experiences at registration and polling places League volunteers also identified such problems as long waiting lines; short office hours; inconveniently located registration and polling places; and the frustration of registration periods ending many weeks before election day. However, significantly less than one-fourth of the local officials interviewed held that these or other concerns were problems in their community.

The study also shows that the behavior of registration staff was not helpful 52% of the time and became significantly less helpful when citizens were from lower income, working class, or minority groups.

Other figures revealed: 77% of the communities studied had no Saturday registration in non-election months and 75% had no evening registration; in 29% of communities registration closed more than 30 days prior to an election; 55% of the communities charged a fee for registration lists and authorization for access to the lists was required in 38% of the cases.

Twenty-eight percent of communities surveyed gave poll workers no training and in an additional 60 percent, the training was 5 hours or less; 38 percent of all polling places observed were not clearly marked as places to vote; 89 percent of local officials do not publish a voter information guide; 85 percent of the communities reported election officials do not publish a sample ballot; 58 percent of polling places lacked convenient public transportation; 7 percent of the polling places opened late; in 29 percent of the polling precincts voting machines were out of order for periods ranging from 30 minutes to two hours.

Thirty-two experts in the voting rights and election law fields served as an advisory committee to the League Education Fund study. Based on the survey data, they developed a series of recommendations directed to state and local officials as well as to community citizen groups.

Their recommendations include:

1. That the chief election official in each community use his broad discretionary powers under current law to expand citizen opportunities to register and vote.

2. That the chief state election official ensure uniform interpretation and administration of state law by requiring local officials to comply with statewide standards.

3. That identified voter needs be met through localized special services such as: the use of temporary and mobile registration units; expanded registration and polling hours; bilingual materials; mandatory training sessions for poll workers and maximum use of qualified deputy registrars.

4. That citizen groups participate in selection of local election officials, monitor their decisions and actions and work for the specific administration reforms required in their communities.

The study also recommends that political parties, the mass media and educational institutions use their influence to create and maintain a responsive and responsible election system as well as provide and encourage the flow of information to the public on registration, voting and elections.

Alternative strategies for implementing these recommendations will be considered at a special meeting in Washington, D.C., of more than 60 citizen organizations April 20th at the Sheraton-Park Hotel.

The study which covered approximately one-fifth of the U.S. population was conducted under a grant from the Ford Foundation.

Data were collected through three methods: (1) recording official registration and voting procedures, (2) interviewing government and election board personnel, and (3) observing citizen experiences.

Of the 251 communities studied: 58 percent were cities; 13 percent were suburbs and 29 percent were small towns or rural areas. The sample included: 8 percent with a population over 500,000; 26 percent with 100,000 to 500,000; 33 percent with 25,000 to 100,000 and 33 percent with less than 25,000 population.

Analysis of the survey data was done by Battelle's Columbus Laboratories, Columbus, Ohio. League trustee Mrs. Frank Williams, an Indianapolis lawyer, is chairman of the Election Systems Project.

ADMINISTRATIVE OBSTACLES TO VOTING

(A report of the League of Women Voters Education Fund)

This publication has been made possible by funds granted to the League of Women Voters Education Fund by the Ford Foundation of New York.

PREFACE

The need for election reform through *federal legislation* has been documented and endorsed by several committees of national prominence. Most notable is the report of the President's Commission on Registration and Voting Participation [1] and the reports of the Freedom to Vote Task Force.[2] A forthcoming report of the National Municipal League will focus on the need for *legislatively enacted election reform.* A model state election code also is being developed by the National Municipal League and will be available to state legislatures for their consideration.[3]

In addition to changes in election laws, there is a need for changes in *administrative practices* of local and state election officials. (For the purposes of this study administrative practices refers to the standards, procedures and structures set up to implement state election laws.) The main purpose of this report then is to document the need for administrative changes and to draw attention to the numerous administrative obstacles which confront all Americans as they seek to implement their right to vote.

The basis for this report is a study undertaken by the League of Women Voters Education Fund (LWVEF) with the assistance of a grant from the Ford Foundation. The administrative practices of election officials in 251 communities were documented through the efforts of over 3,000 League volunteers during the fall election period of 1971.[4]

All types of communities were included in this study; those where problems of registration and voting were likely to be found in the extreme as well as those where the problems were less visible. In general, the information was collected from at least one large city, a suburb, an independent small town, and a rural area in every state. To supplement the League effort, information from some areas of the rural South was collected by local organizations associated with the Voter Education Project. This sample of communities encompassed approximately 40 million people or one-fifth of the total population of the United States.

Data were collected through three methods: (1) recording official registration and voting procedures, (2) interviewing government and election board personnel to determine attitudes and practices, and (3) observing citizen experiences at both registration and polling places. Information also was collected on state administrative practices with regard to elections by some state Leagues of Women Voters.

It should be noted that observations of registration and polling places were made during the period of the 1971 fall elections. This means that administrative behavior was observed in a non-presidential election year in which various types of contests, some considerably more important and appealing

Footnotes at end of article.

than others, were at stake. This factor tends to mute the findings and conclusions drawn from this study. It is reasonable to conclude then that the findings contained in this report might be an understatement of the problems citizens experience when participating in presidential elections.

It is also important to review the findings within the framework of the Constitutionally-guaranteed right to vote of every eligible citizen. This means that although some figures pertaining to a given administrative obstacle to voting may be less than 50%, the finding may nevertheless be highly significant to the extent that it indicates that thousands or hundreds of thousands of citizens are possibly being disenfranchised.

Within this context, then, *the study documents the fact that the current system of registration and voting functions inefficiently for citizens throughout the United States.* Both supportive evidence and specific recommendations for administrative changes are included in this report.

A LOOK AT THE PRESENT SYSTEM

During the next six months, much public attention will focus on the principal conditions and issues of the November presidential election. It is doubtful, however, that very much concern will be given to the electoral process itself—that system of registration and voting procedures Americans must use in order to express their choice of the candidates.

Most citizens show little interest in the process not because they dismiss its importance but simply because they do not recognize the extent to which the current election system impairs the right of all Americans to engage in self-government. The public generally believes that the system has worked well for them in the past and that it will work well for the 140 million Americans of voting age in 1972.

Regrettably, the present election system has not worked well. It still bars the mark of forces which originally gave it birth at the turn of the century: fear of the then-widespread corruption and fraud at the polls and a desire to control the voting participation of millions of European immigrants who threatened the political status quo. Although these particular forces have largely ceased to exist, the system remains saddled with many unnecessarily restrictive laws and exclusionary procedures. It has become an administrative maze in which many of the abuses it was designed to prevent can, in fact, be more easily hidden and through which the average citizen must painstakingly grope in order to exercise his fundamental right to the franchise.

Fear of fraud is often advanced in opposition to proposed reforms of the present election system. It could be argued, however, that such abuses are a function of community mores and will exists in some communities no matter what election procedures are established. More noteworthy, it would seem, is the fraud perpetuated on the American people by a system which excludes millions of eligible voters from the electoral process in the name of preventing a few dishonestly-cast votes.

Indeed, the system works poorly for *all* Americans. In the case of minorities, the poor, the uneducated and the aged, who are unable to meet its complicated requirements easily, the system naturally imposes more heavily than it does on the average mainstream American. These groups can be even further excluded from the electoral process by the arbitrary and uneven application of administrative procedures which, while legal, can be manipulated to serve the political advantage or philosophy of those who control them.

Such misuse of administrative practices is not new to the institutional life of our society. What is notable about the established election system is the extent to which, barring misuse of any kind, it denies the rights and infringes on the convenience of hundreds of thousands of Americans regardless of their racial or economic background.

In the presidential election of 1968, 73 million Americans or approximately 60% of the total population of voting age actually voted for a candidate of their choice; 47 million or approximately 40% *did not* cast a ballot. Compared with other democratic countries, this voting rate of American citizens is embarrassingly low. For example, the rate at which voters in Italy have participated in elections in the last 10 years has regularly approached 90%. Canada records a voting rate of approximately 75% to 80%, and in the last 25 years, West German citizens have voted at rates which range between 78% and 87%.

It is the contention of this report that millions of American citizens fail to vote not because they are disinterested but because they are disenfranchised by the present election system. Ironically moreover, many of them lose their right to vote not because they are poor, black, uneducated or uninterested, but because they are part of the mainstream of American society. Moving to a better neighborhood, accepting a company transfer, going to college, getting married, serving their country and exercising other rights, freedoms and obligations to their country too often has had the effect of denying citizens their right to vote.

Undoubtedly, the present election system will continue to disenfranchise millions of Americans of every economic and social background unless improvements are made at both the administrative and legislative levels.

THE POWER OF THE LOCAL OFFICIAL UNDER CURRENT ELECTION LAWS

To what extent can electoral reform occur within the context of existing law? To what degree do current state election laws affect the administrative behavior of election officials?

In a few areas of registration and voting, the law is specific. Residency requirements and closing dates for registration are examples. Although the capacity of administrators and local officials to act independently is considerably limited in these instances, they *can* determine the impact of these laws by the vigor with which they make these requirements known and encourage citizens to meet them.

Most of the laws concerning registration and voting, however, are not specific. In many cases, the law only establishes broad minimum requirements, thereby leaving a great deal of discretion to local officials. For instance, the law may require that a central registration office be located in each city of the state but not specify how clearly that office shall be identified. In fact, 52% of approximately 300 registration places observed in this study were *not* clearly identified. Again, the law may state that registration lists must be available to the public but it often does not stipulate the mechanisms for making the lists available. For instance, there was a financial charge for the registration list in 55% of the communities and authorization for access to the list was required in 38% of the cases.

Local officials may be even more powerful where the law is merely permissive. State statutes frequently allow, but do not require, the following: precinct registration, Saturday and/or evening registration hours, and the authorization of deputy registrars. Date from the community study show that in these areas local officials frequently do not use these statutory powers to reach citizens.

In 29% of the communities where deputy registrars were allowed, election officials failed to use this method to reach citizens. While only 10 states [5] expressly forbid evening and Saturday registration, 77% of the communities studied had *no* Saturday registration and 75% had *no* evening registration in non-election months.[6] Even during the heat of an election period, i.e. the 30 days prior to the closing of registration, 38% of the communities provided *no additional hours* for registration. The data clearly suggest, then, that local officials have in many cases failed to use the tools allowed but not mandated by law to make registration and voting easier and more accessible for all citizens.

In addition to their influence in areas where the law is stated in broad or permissive terms local officials are able to influence the electoral process in matters where the law is silent. Although the law may neither require, suggest nor forbid it, an election official might provide information to citizens concerning the election, might conduct extensive training programs for all poll workers, and might provide bilingual clerks where needed. While such initiative would remove many obstacles to voting, local officials have seldom acted in their areas: only 11% of the local officials included in this study published a voter information guide; 28% provided no training for poll workers; and in approximately 30% of the registration places where bilingual assistance was needed, local officials failed to provide this service. Election officials clearly have the power to make registration and voting procedures easier for citizens but this study has found that, by and large, they don't use it.

To a large extent, local officials retain their discretionary powers by default. The community study found that the state authority charged with responsibility for administering the state election code most often counted it as one of several other major functions of his or her office. In most states, reports from local officials to the state authority are generally required just after elections and contain little else than the total number of people registered and voting in a given jurisdiction and the results of the latest election. Though many states issue guidelines to local election officials, few state administrative mechanisms have been set up to monitor or enforce compliance with the guidelines. In short, state election administrators have little knowledge or control and exert practically no leadership over local election officials and the manner in which they administer the state election code. It is little wonder then that the local election official can, and often does, become the chief policy-maker for all local, state and national elections held within his jurisdiction.

FOOTNOTES

[1] Report published in 1963.

[2] Two reports issued in 1971 by this commission of the Democratic National Committee; "Report of the Freedom to Vote Task Force of the Democratic National Committee" and "That All May Vote".

[3] Developed under a two year grant from the Ford Foundation, the model state election codes will be published in the spring of 1973.

[4] A modified version of the comprehensive survey on which this report is based was conducted by League volunteers in an additional 600 communities. The purpose of this Mini-Survey was to verify the validity of the comprehensive surevy sample.

[5] Includes North Dakota with no statewide registration and New Hampshire and Vermont where a checklist system is used.

[6] For the purposes of this study "evening hours" pertain to the hours after 5:00 p.m.

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TABLE A.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY ADDITIONAL TIME AVAILABLE FOR REGISTRATION DURING AN ELECTION MONTH (—MONTH PRIOR TO CLOSING OF REGISTRATION)

	Total communities	Additional hours election month			Additional Saturdays [1]			Additional evenings [1]			Additional evening hours [2]		
	Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	<10 hours	>10 hours
Population size	N=200	100	100	62	38	100	70	30	100	83	17	100	52	49
Greater than 1,000,000	4	2	100	[3](1)	(3)	100	(4)	(—)	100	(2)	(2)	100	(4)	(—)
500,000 to 1,000,000	13	6	100	62	38	100	63	37	100	89	11	100	57	42
250,000 to 500,000	21	10	100	41	59	100	75	25	100	77	23	100	-------	100
100,000 to 250,000	33	16	100	68	32	100	90	10	100	70	30	100	36	64
50,000 to 100,000	27	13	100	73	27	100	55	45	100	86	14	100	44	57
25,000 to 50,000	42	20	100	66	34	100	75	25	100	90	10	100	56	44
10,000 to 25,000	46	22	100	60	40	100	67	33	100	93	7	100	61	39
Less than 10,000	22	11	100	56	44	100	44	56	100	60	40	100	83	17

[1] Refers only to those places reporting some additional hours of registration during an election month.
[2] Refers only to those places reporting some additional evening hours of registration during an election month.
[3] Refers to actual number rather than percentages.

TABLE B.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY AVAILABILITY OF REGISTRATION BY DEPUTY REGISTRARS

	Total communities	Deputy registrars allowed			Deputy registrars used [1]			Limits to number of—					
								Deputy registrars			Forms		
	Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No
Population size	N=208	100	100	73	27	100	71	29	100	38	62	100	13	87
Greater than 1,000,000	4	2	100	[2](4)	(—)	100	(2)	(2)	100	(2)	(2)	100	(2)	(2)
500,000 to 1,000,000	13	6	100	85	15	100	100	-------	100	20	80	100	-------	100
250,000 to 500,000	21	10	100	71	29	100	64	36	100	40	60	100	10	90
100,000 to 250,000	33	16	100	73	27	100	63	37	100	40	60	100	31	69
50,000 to 100,000	27	13	100	70	30	100	82	18	100	44	56	100	27	73
25,000 to 50,000	42	20	100	83	17	100	80	20	100	46	54	100	7	93
10,000 to 25,000	46	22	100	72	28	100	76	24	100	40	60	100	8	92
Less than 10,000	22	11	100	46	54	100	56	44	100	33	67	100	-------	100

[1] Includes only those communities where deputy registrars are allowed.
[2] Refers to actual number rather than percentages.

PERCEPTIONS AND ATTITUDES OF LOCAL OFFICIALS AND CITIZEN GROUP REPRESENTATIVES

The perceptions and attitudes of officials and community leaders are important to an examination of election systems for several reasons. First, they are frequently reflected in administrative behavior and in evaluations of that behavior. In many cases, they also indicate the willingness or unwillingness of community leadership to undertake needed administrative and legislative reform. Where opinions are backed by the power of an office or the resources of an organization, they take on added importance. Finally, such attitudinal data often show how different groups perceive community problems and the extent to which they are sensitive to citizen needs.

PERCEPTION OF REGISTRATION AND VOTING NEEDS

Long lines, short office hours, inaccessible registration and polling places, and registration periods remote from the date of election are common experiences to many Americans.

Interviews with local officials who hold the authority, responsibility and power to alleviate these problems show that they are generally insensitive to them. For instance, less than one-fourth of election officials held that the following were problems in their communities:

Residency requirements
Complex registration procedures
Complex absentee voting procedures
Inconvenient registration hours
Distant and inconvenient places of registration
Complicated voting procedures, i.e. use of voting machines and paper ballots
Inconvenient hours of polling
Positioning candidate names on the ballot, and
Insuring the proper functioning of voting machines

On the other hand, most persons representing voting rights groups viewed all of these as serious problems in their communities.

ATTITUDES TOWARD LEGISLATIVE AND ADMINISTRATIVE REFORMS

Although the need for legislative action to reform the electoral process has been documented and endorsed by several committees of national prominence (see page 1), the League of Women Voters Education Fund community study shows that local election officials are reluctant to support many legislative changes and to assume the responsibility for administering reforms. For instance, support by local election officials dipped to less than a majority in regard to the following:

Carrying out door-to-door registration by government officials.
Updating registration lists monthly for public review.
Requiring at least 16 hours of training for election officials.
Extending voting hours from 7 a.m. to 9 p.m.
Conducting elections on a non-work day.
Publishing voter education materials at least 30 days prior to an election.
Placing local election officials under state merit systems.

In short, election officials seem to view the government as a passive participant in the electoral process with no responsibility for reaching out to citizens. They apparently believe that the initiative lies entirely with the citizen. This would seem to suggest at least one reason why 47 million Americans didn't vote in 1968. The issue clearly goes beyond the generally accepted explanation of voter apathy. Viewed from another perspective, the question arises that if the government can find a citizen to tax him or draft him into military service, is it not reasonable to assume that the government can find that same citizen to enroll him as an eligible voter and include him in the active electorate?

TABLE C.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO AGREE THAT SELECTED REGISTRATION AND ELECTION PRACTICES ARE BASICALLY GOOD IDEAS [1]

[In percent]

Statement	Elected officials		Voluntary organization							Range	
	CCoEO N [2]=158	CCiEO 86	LWV 220	NAACP 120	LCP 166	YG 62	PCC 206	CAL 150	MG 62	Low	High
A. Door-to-door registration should be carried out by local government officials in order to get all eligible citizens on the voter registration lists	31	23	50	69	58	82	25	47	60	23	82
B. Voter registration should not be closed sooner than 30 days before any election	76	73	92	88	89	87	87	83	91	73	92
C. Residency requirements for voting in local elections should not exceed 60 days	61	49	74	81	77	84	65	53	73	49	84
D. Each county should require at least 16 hours of instruction for election officials	46	47	64	83	72	85	48	70	85	46	85
E. On election day, polling places should open from at least 7 a.m. to 9 p.m.	25	34	77	77	69	92	63	60	94	25	94
F. All elections should be held on a nonwork day	29	20	35	41	33	46	18	18	47	18	47
G. 30 days before each election, election officials should send each registered voter a voter information guide	23	24	62	66	46	65	32	44	75	23	75

[1] Not all data from the original interviews are included in this table.
[2] N refers to the number of respondents for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LWV=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

TABLE D.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO BELIEVE THAT SELECTED REGISTRATION AND ELECTION CONDITIONS EXIST IN THEIR COMMUNITY [1]

[In percent]

Statement	Election officials		Voluntary organization							Range	
	CCoEO N [2]=158	CCiEO 86	LWV 220	NAACP 122	LCP 161	YG 61	PCC 203	CAL 150	MG 61	Low	High
A. Many nonvoters would vote if registration procedures were less complex	11	9	60	57	42	74	22	13	69	9	74
B. Many potential voters become "nonvoters" because absentee voting procedures are too complex	20	16	69	61	41	76	27	16	67	16	76
C. The hours of registration set by the election officials are inconvenient, and many potential voters find it difficult or impossible to register	9	8	59	51	46	64	20	14	70	8	70
D. The polls close so early in the day that many potential voters find it difficult or impossible to get to the polls on time	8	6	39	47	31	54	20	11	64	6	64
E. Places of registration are inconveniently located, and many potential voters find it difficult or impossible to register	9	7	60	53	43	73	22	15	64	7	73
F. Many nonvoters are simply frightened by the complicated procedures of voting	20	12	67	65	48	68	25	17	75	12	75

[1] Not all data from the original interviews are included in this table.
[2] N refers to the number of respondents for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LWV=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

OBSTACLES TO ORGANIZED CITIZEN INITIATIVE

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years attempted to fill this void through a variety of activities such as: conducting voter registration drives, sponsoring get-out-the-vote campaigns, publishing voter education materials, and providing volunteer staff for mobile registration units. These efforts, however, have all too often been frustrated by the inefficiencies and restrictive practices of the system as indicated by interviews with 584 citizen group representatives.

Approximately 50% of the organizations using registration lists to be inaccurate, and in half those cases the inaccuracy was reported to be greater than 10%. Lists were available to the public in 96% of the communities, but there was a financial charge for the list in 55% of the communities and authorization was required to use the list in 38% of the cases.

Groups were also frustrated when they attempted to have members deputized to register voters. Approximately one-fourth of the organizations seeking to have members deputized were refused the authorization they requested. Of those organizations which succeeded, 31% reported a limit to the number of deputy registrars allowed and 10% reported a limit to the number of forms a deputy registrar could obtain at any one time, an effective way of limiting the number of citizens registered.

These examples once again illustrate an attitude on the part of many election officials which tends to obstruct rather than encourage the efforts of citizen groups to expand the electorate. The instances cited strongly suggest the need for administrative reforms which would place more responsibility for outreach programs with election officials themselves and which would simplify administrative procedures pertaining to outreach efforts by citizens.

SEEKING TO REGISTER AND VOTE: EXPERIENCES OF THE VOTER

Under the system of voter enrollment and participation currently used in the United States, the individual citizen must take the initiative in order to qualify himself as a voter. The preceding discussion has indicated that the law does not require local election officials to take the initiative and that many are unwilling to employ their numerous powers or fully utilize the efforts of citizen volunteers to reach potential voters.

In this context, the experiences of the individual citizen as he seeks to register and vote are extremely important. If the cost in terms of time, energy, inconvenience or personal pride is too high, the individual may choose not to vote. Considering the all too frequent occurrence of complex forms, unhelpful and poorly trained staff, machine breakdowns, and inconveniently located registration and polling places, it is surprising that so many citizens do vote. That the system functions at all is a tribute to the sheer determination of citizens to overcome these inconveniences and obstacles.

Registration is the first step in the voting process and the most crucial. When people register, they usually vote. In the presidential election of 1968, 89% of those persons who were registered actually voted. Observations of registration places and examination of formally stated registration practices provide some dramatic examples of the problems citizens encounter in trying to register.

The first problem that the citizen is likely to encounter will be finding the registration office. He may well have to travel a considerable distance from his home to a central registration office (except perhaps during the last month of registration for a particular election when he is more likely to find facilities in his neighborhood). In 40% of the communities studied, however, no additional registration places were opened even during these rush months. Since 54% of the registration places were not accessible by convenient public transportation, 24% lacked convenient parking, and 52% were not clearly identified as a registration or elections office, the prospective registrant may well be frustrated before he arrives.

TABLE E.—DISTRIBUTION OF REGISTRATION STAFF BEHAVIOR ACCORDING TO SOCIAL CHARACTERISTICS OF REGISTRANTS

Variables	Total samples observed	Registration staff behavior			Registration staff behavior		
	Percent	Percent	Helpful	Not helpful	Percent	Courteous	Discourteous
Social class [1]	N=209	100	100	48	52	100	62	38
Middle	125	60	100	54	46	100	68	32
Working	53	25	100	42	58	100	58	42
Composite	31	15	100	33	67	100	44	56
Race [1]	N=213	100	100	49	51	100	63	37
White	147	69	100	52	48	100	67	33
Primarily white	46	22	100	52	48	100	61	39
Composite	13	6	100	17	83	100	50	50
Primarily nonwhite	7	3	100	[2](1)	(6)	100	12	88

[1] These classifications are based upon the judgment of registration observers.
[2] Refers to actual number rather than percentages.

Once he has located the registration office, the prospective registrant may find that it is not open for registration. In 29% of the communities, registration closes more than 30 days prior to an election. Even if he arrives before the registration deadline, the office may be closed since 77% of the communities studied had *no* Saturday registration and 75% of the communities had *no* evening registration during non-election months. While 52% of the communities did have additional registration hours during election months, 30% of these still had no additional Saturday hours and 17% had no additional evening hours.

The persistent citizen who anticipates and copes with the numerous obstacles already mentioned will next find himself confronted with a registration form. If the form is confusing or questions arise concerning his eligibility, he may not find the staff very helpful. Fifty-two percent (52%) of the observers at registration places classified staff as not helpful. Furthermore, in 30% of the places where bilingual staff was needed, it was not found.

There is no way to measure the number of citizens who are discouraged from registering even before they get to the registration office, but observations of 5,750 people attempting to register at approximately 300 registration places showed that 3 out of every 100 qualified people who made the effort and found the registration place still left without being registered.

Casting a ballot at a polling place is the ultimate event in the electoral process for the citizen. Although he has been successfully registered, the potential voter may be frustrated in his attempts to vote. Polling places, though usually located in his precinct, may be poorly marked (as were 38% of the polling places observed) and public transportation and convenient parking may be lacking. Fifty-eight percent (58%) of the places observed lacked convenient public transportation and 11% lacked convenient parking. Since polling places are not opened

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in the evenings in many states, the potential voter may need to take time from work or rush to the polling place before or after work. If he goes early he may not be able to vote because many polls open later than the hour prescribed by law as happened in 7% of the 484 polls observed. If he goes to the polls following work, he may find that he is refused the right to vote even though he is standing in line at closing time. Such refusals occurred at 19 of the polls observed.

The prospective voter who gets into the polling place will probably confront a poorly trained staff usually selected on the basis of their partisanship. If there are voting machines at his polling place, he may well be delayed in casting a ballot by a machine breakdown since this occurred in one out of every ten places having voting machines. His right to vote may be challenged as where the rights of 419 persons at the observed polls. In the event that he successfully casts a ballot, it must be attributed at least partially to his perseverance.

SUMMARY

In a democratic society, no right is more fundamental than the right of every citizen to vote. Indeed, the vote is the very symbol of democracy. It is the basic unit of our representative form of government; the major vehicle through which the consent of the governed is offered or withheld—the prime means by which the American people can express and effect their will. The right to vote, therefore, necessarily carries with it the right of equal access for every eligible citizen to the formal system of regulations and procedures through which the vote is cast.

In studying the way our current election system is administered, the League of Women Voters Education Fund found that the administrative practices of local election officials and therefore citizens' access to the election system vary greatly from place to place, that many state election officials have not established structures and procedures which would insure uniform interpretation and administration of state election codes throughout each state and that the discretion which most state laws give to local election officials is often exercised in a manner which impedes rather than enhances the citizen's right to vote.

There is an urgent need for administrative reform of our present election system. Citizens must no longer be forced to earn the "privilege" but rather must be insured the *right* to vote. They must demand that the discretion granted to local officials by current state laws be used for the purpose for which it was originally intended; to give election administrators the margin of flexibility they need to assure the access of all citizens to the vote under the varying social, economic and geographic conditions which exist within states.

RECOMMENDATIONS OF THE ELECTIONS SYSTEMS PROJECT COMMITTEE

An advisory Committee consisting of nationally prominent authorities and experienced practitioners in the fields of voting rights, citizen participation, and elections was convened by the League of Women Voters Education Fund and the National Municipal League to assist them in designing the Election Systems Project. Upon completion of the LWVEF survey, the Committee reviewed its findings and developed the following recommendations regarding elections administration as a practical means of removing unnecessary obstacles to voting. (See p. 3/NML).

Some of the measures recommended may require changes in some state election codes. The purpose of this report, however, has been to identify administrative obstacles and to document the need for eliminating them. It is now up to local and state officials and citizens throughout each state to decide which reforms their own election system requires and to employ whatever means would most effectively achieve them.

FINDINGS: CHIEF LOCAL ELECTION OFFICIALS

The administrative practices of local election officials were found to be diverse throughout the states. Data on their attitudes toward reforms that would extend the franchise as well as their perceptions of the problems citizens might encounter under the present system reflect a tendency to conceive of the vote as a privilege rather than as a right. These findings imply serious discrepancies between the citizens' Constitutional right to the vote and the actual practices which govern its implementation.

Therefore, the Election Systems Project Committee recommends: That the chief election official of every community comprehensively analyze community conditions and citizen needs by examining the registration rates of every precinct in his jurisdiction and by talking to representatives of various citizen organizations interested and active in issues of registration and voting participation;

That the chief election official of every community go the full limit of his legal powers in order to aggressively extend the right to vote to every eligible citizen. Such a program could include 1) maximum use of out-of-office registration techniques, e.g., use of mobile and other temporary registration units; 2) maximum authorization of qualified deputy registrars on a paid or volunteer basis; 3) the provision of bilingual staff where needed; 4) the publication and widespread dissemination of voter information guides; 5) the expansion of registration and polling place hours; and finally, 6) the use of all these techniques on the basis of voter need as revealed by his precinct analysis and information obtained through his community contacts:

That the chief election official of every community recruit, appoint, and train registration and polling place staff capable of and willing to respond to diverse citizen needs; that he or she further promote the highest standards of professional conduct by providing at least the federal minimum hours wage to all registration and polling place staff and by selecting staff based on qualifications above and beyond traditional partisanship.

FINDINGS: CHIEF STATE ELECTION OFFICIAL

The LWVEF study found that although the Secretary of State or State Attorney General is usually charged with general responsibility for administering the state election code, in fact, it is one of many duties of his or her office and therefore its implementation is, with few exceptions, decentralized to the local level. Where regular reports are made to a central state authority, moreover, the survey revealed that they generally contain no more than facts and figures regarding registration and voting rates and occasionally information on the kind of voting system used (automatic voting machines, paper ballots, etc.). Furthermore, where the state authority issues guidelines to local officials it usually provides no mechanism for monitoring or enforcing them.

The community study also found that, in the event that local officials are confused about how to interpret any part of the state election code, they must take the initiative in seeking state counsel. Except when their intervention is specifically requested, state authorities generally take little action to insure uniform and liberal interpretations of state election laws at the local level. Finally, state authorities generally do not monitor the way local officals use the extensive discretionary provided by most state election codes.

Therefore, the election systems project committee recommends: That each state locate responsibility for the implementation of state election laws in a single state official or office and that the uniform interpretation and administration of the election code throughout the state be the sole responsibility of that official or office:

That the state election official establish and issue to every local election official minimum standards and performance guidelines; that the state official also establish a supervisory structure within which he or she can evaluate the performance of local officials under the guidelines and take corrective action where the standards are not being met;

That the state authority conduct mandatory training sessions for local officials which cover both the technical aspects of efficiently managing an election system as well as the local officials' legal obligations to aggressively extend the franchise and protect the voting rights of all citizens;

That both the guidelines and the training sessions be developed within the philosophical context of the vote as a right rather than a privilege;

That the chief state election official through an established supervisory structure and regular training sessions keep local election officials abreast of the most current legal opinions on voting rights and establish reporting procedures that will assure local officials' compliance with the most recent court decisions.

FINDINGS: ORGANIZED CITIZEN INITIATIVE IN REGISTRATION AND VOTING

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years tried to fill the void by initiating registration and voting services which would meet citizens' needs. The data show, however, that their efforts have often been impeded by the inefficient and restrictive practices of local election officials. Interviews with their representatives also show that citizen organizations recognize problems in the current election system that the officials tend to overlook.

Therefore, the election systems project committee recommends: That citizen organizations add to their present outreach programs an aggressive effort to scrutinize the policies and actions of local election officials during both election and non-election periods;

That citizen organizations demand not only a role in the selection process of the chief local election official in their communities but also adequate representation of their constituencies on local and state boards of election where they exist. Where they do not exist, an effort should be made to create them.

THE ROLE OF POLITICAL PARTIES, MASS MEDIA AND EDUCATIONAL INSTITUTIONS

Although the LWVEF study did not specifically examine the current role these institutions play in our election system, based on the overall findings and the experiences of Committee members, the following recommendations are offered.

Political parties, because of their vital role in a democratic society have a responsibility to see that responsive and responsible election officials are appointed and elected. They must use their considerable influence to insure that election officials use their discretionary power to aggressively recruit voters and to allocate available resources in an manner that expands the electorate. Political parties should further support all efforts to provide adequate funding for local election officials.

Mass media should direct its enormous capabilities toward both informing the public of its voting rights and increasing the visibility and therefore the public's awareness of the system and administrators through which that right must be exercised. Such efforts might include a regular newspaper column devoted to registration and voting information, e.g., the requirements of the law, location and office hours of local registration and polling places, announcement of deadlines, etc. Reporters should cover not just the election but also the operation of local election systems on election day. Officials should allow reporters access to the polls at any time during the polling process.

High schools and colleges, through their curricular or extracurricular programs, should provide information on the legal and administrative requirements pertaining to the franchise. By this means, not only can the crucial facts be made known, but a new regard for the vote as an undeniable right rather than a privilege might be fostered within every American citizen.

MEMBERS OF THE ELECTION SYSTEMS PROJECT ADVISORY COMMITTEE, LEAGUE OF WOMEN VOTERS EDUCATION FUND

COCHAIRMEN

Mrs. Fay Williams, Trustee, League of Women Voters Education Fund.

Hon. Wilson W. Wyatt, Regional Vice President, National Municipal League.

Monsignor Geno Baroni, Director, Center for Urban Ethnic Affairs.

Charles A. Barr, Director, Political and Economic Education, Standard Oil Company.

Robert L. Bennett, Director, American Indian Law Center, University of New Mexico.

Mrs. Lucy Wilson Benson, Chairman, League of Women Voters Education Fund.

Col. C. K. Blum, Chief, Federal Voting Assistance Task Force.

Earl Blumenauer, Assistant to the President for Student Affairs, Portland State University.

Mrs. Willie Campbell, Chairman, Special Research and Projects, League of Women Voters Education Fund.

Michael Cole, Executive Director, Youth Citizenship Fund, Inc.

Steven Galpin, Manager, Community and Government Relations, General Electric Company.

Donald G. Herzberg, Executive Director, Eagleton Institute of Politics, Rutgers University.

Benjamin S. Hite, Formerly Director of Elections, Los Angeles County.

Mrs. Delores C. Huerto, Vice President, United Farm Organization Committee, AFL–CIO.

Mrs. Barbara Jordan, Member, Texas Senate.

Mrs. Charlotte Kemble, Executive Director, Front Lash, Inc.

Dr. Penn Kimball, Graduate School of Journalism, Columbia University.

John Lewis, Executive Director, Voter Education Project, Inc.

John Perkins, Assistant Director, Committee on Political Education, AFL–CIO.

Dr. William J. Pierce, Professor of Law, School of Law, University of Michigan.

Matthew A. Reese, President, Matt Reese & Associates.

John Sayre, Director, Precinct Voting, Republican National Committee (Formerly Chief of the Federal Voting Assistance Task Force).

Richard Scammon, Director, Elections Research Center.

Governor William Scranton, President, National Municipal League.

Mrs. Althea Simmons, Director for Training Programs, NAACP.

Mrs. Albert Sims, Former President, League of Women Voters of Connecticut.

Dr. Richard Smolka, Editor, *Election News*, The American University, Institute of Election Administration.

Mrs. Julia Stuart, Member, National Municipal League Council, Former President, League of Women Voters of the U.S.

Miss Amalia M. Toro, Election Attorney, Office of the Secretary of State, Connecticut.

Richard F. Treadway, Director, U.S. Department of Commerce, Boston Business Services Field Office.

Gus Tyler, Director, Politics, Education & Training, International Ladies Garment Workers Union.

Mrs. Ann Wexler, Director of Voting Rights Activities, Common Cause.

PARTICIPANTS IN COMMUNITY SURVEY:
APPENDIX A
(City and State)

ALABAMA
Birmingham
Auburn
*Montgomery
Tuscaloosa
Mobile

ALASKA
Anchorage
Ketchikan-Gateway
Kodiak
North-Star Borough (Fairbanks)

ARIZONA
*Gila River Indian Reservation
Phoenix
Tucson
Yuma

ARKANSAS
Pine Bluff
*Pulaski County (Little Rock)
Voter Education Project Texarkana, Texas

CALIFORNIA
Union City Alameda County
Berkeley
Sacramento
Eureka
Los Angeles
North San Mateo County
Los Gatos
Fresno
Redding
*San Diego
San Francisco
Tulare County

COLORADO
Arapahoe County
Boulder
Craig & Moffat County
Denver
Ft. Collins
Jefferson County
Durango

CONNECTICUT
Branford
Bridgeport Area
Greenwich
*New Haven
West Hartford
Wilton

DELAWARE
Laurel, Greater
Wilmington, Greater

FLORIDA
Clearwater Area
Dade County
Hillsborough County
Sarasota County
Tallahassee

GEORGIA
Atlanta-Fulton County
Augusta
Macon
Savannah

HAWAII
Honolulu
Hawaii County

IDAHO
*Boise
Idaho Falls
Lewiston
Pocatello

ILLINOIS
*Chicago
Highland Park
Hinsdale-Clarendon Hills-Oak Brook
Morgan County
Peoria
Springfield
Edwardsville

INDIANA
Bloomington
Gary
Indianapolis
South Bend
Fort Wayne-Allen County
Lafayette, Greater
Porter County
Seymour

IOWA
Algona
Des Moines
Keokuk
Mt. Pleasant
Scott County (Davenport)
Sioux City
Waterloo-Cedar Falls

KANSAS
Emporia
Hays
Parsons
Shawnee-Mission
Wichita

KENTUCKY
Boone, Campbell, Kenton Counties
Lexington
Louisville and Jefferson County
Richmond

LOUISIANA
Baton Rouge
Jefferson Parish
New Orleans

MAINE
Bangor
*Lewiston-Auburn
Orono
Portland

MARYLAND
Baltimore City
Baltimore County
Dorchester County
Garrett County
Montgomery County
Prince Georges County

MASSACHUSETTS
Arlington
Boston
*Fall River
*Framingham
New Bedford
Northampton
Plymouth-Kingston
Southbridge-Sturbridge

MICHIGAN
Allen Park
Alpena County
Copper County: Houghton & Ontonag
Jackson County
Flint
Grand Traverse
Kalamazoo Area
*Mt. Pleasant

MINNESOTA
Austin
Roseville
Duluth
Hibbing
Minneapolis
Bloomington

MISSISSIPPI
Jackson
Oxford
Vicksburg-Warren County

MISSOURI
Kansas City
Cape Girardeau County
*Jefferson City-Cole County
Rolla-Phelps County
Springfield
St. Louis

MONTANA
Billings
Helena
Missoula
Ravalli County

Footnote at end of list.

NEBRASKA
Kearney
Lincoln
Omaha

NEVADA
Carson City
Reno

NEW HAMPSHIRE
Concord
Keene
Littleton
Peterborough

NEW JERSEY
Camden County
Cumberland County
Franklin Township
Ridgewood
Morristown Area
Newark
Cranford

NEW MEXICO
Albuquerque
Las Cruces
Santa Fe

NEW YORK
Buffalo
Canton & Potsdam
New Rochelle
New York City
Oyster Bay (L.I.)
Rochester (Monroe County)
Syracuse, Metro Area
Utica
New Platz

NORTH CAROLINA
Charlotte-Mechlenburg
Durham
Raleigh-Wake County
Tryon
Watauga County
Winston-Salem & Forsyth County
Eden-Rockingham County

NORTH DAKOTA
Fargo Area
Grand Forks

OHIO
Bowling Green
Cincinnati Area
Cleveland
Columbus, Metropolitan
Dayton Area, Greater
Kent

OKLAHOMA
Bartlesville
Chickasha
Stillwater
Tulsa

OREGON
Medford; Jackson County
Central Lane County
Deschutes County
East Washington County
Lake Oswego
Portland

PENNSYLVANIA
Clarion County
Erie County
Lancaster County
Pittsburgh Area
Radnor Township
*Scranton

RHODE ISLAND
*Barrington
North Providence

SOUTH CAROLINA
*Charleston
Clemson
Columbia Area
Greenville

SOUTH DAKOTA
Brookings City and County
Rapid City
Vermillion
Yankton County

TENNESSEE
Knoxville and Knox City
*Memphis-Shelby County
Murfreesboro
Nashville

TEXAS
Brazos County
Corpus Christi
Dallas
El Paso
Lubbock
San Antonio Area
Tarrant County
Houston

UTAH
Cedar City
Ogder County
Salt Lake City

VERMONT
Champlain Valley (Burlington)
Montpelier
Woodstock

VIRGINIA
Fairfax Area
Lynchburg
Norfolk-Virginia Beach
Richmond Area

WASHINGTON
*Port Angeles
Seattle
Spokane
Thurston County
Yakima

WEST VIRGINIA
Charleston Area
Huntington Area
Logan Area
Morgantown
Wood County
*Wheeling

WISCONSIN
Dane County
La Crosse
Milwaukee, Creater
Neenah-Menasha
Racine
Stevens Point
Superior
Wisconsin Rapids

WYOMING
Laramee County
Casper
Powell Area

WASHINGTON, D.C.

VIRGIN ISLANDS
St. Thomas

FOOTNOTE

* For purposes of this report, data from these communities are not included in the analysis.

PARTICIPANTS IN THE STATE SURVEY (N=47): APPENDIX B

Alabama	Nebraska
Alaska	Nevada
Arizona	New Hampshire
California	New Jersey *
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
Florida	Ohio
Georgia	Oklahoma
Hawaii	Oregon
Idaho *	Pennsylvania
Indiana	Rhode Island
Iowa	South Carolina
Kansas	South Dakota
Kentucky	Tennessee
Louisiana	Texas
Maine	Utah
Maryland	Vermont
Massachusetts	Virginia
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming *
Montana	

FOOTNOTE

* Data from these statea were not available for this analysis.

INTERVIEWS COMPLETED: APPENDIX C

	No. of Interviews
Government Officials:	
Chief elections officer of city	86
Chief elections officer of county	158
Mayor	193
City manager	111
President of City Council	99
Chairman of County Commissioners	175
Party Officials:	
Democratic Party chairman	203
Republican Party chairman	200
Third Party chairman	41
Representatives of Citizen Groups:	
League of Women Voters	219
NAACP	118
Labor Council	160
Youth Group	61
Chamber of Commerce	203
American Legion	144
Non-Black Minority Group	63
Total	2,234

APPENDIX D

Number of registration observations:	
Observations at permanent places	299
Observations at temporary places	94
Observations at mobile units	9
Observations at unclassified places	56
Total	458

APPENDIX E

Polling places observed:	
Ethnic white—under $5,000	37
Ethnic white—$5,000 to $10,000	60
Ethnic white—over $10,000	47
Nonethnic white—under $5,000	57
Nonethnic white—$5,000 to $10,000	67
Nonethnic white—over $10,000	70
Spanish speaking—under $5,000	22
Spanish speaking—$5,000 to $10,000	15
Spanish speaking—over $10,000	3
Black—under $5,000	51
Black—$5,000 to $10,000	43
Black—over $10,000	13
Total	484

NIXON ADMINISTRATION ATTEMPT TO EXPLAIN UNEMPLOYMENT BOTH WAYS WON'T WASH

Mr. PROXMIRE. Mr. President, on Friday, the Joint Economic Committee conducted its 13th consecutive hearing on unemployment statistics. This was the 13th time Commissioner Moore has come before the committee to explain the significance of the single statistics that probably has more impact than any other.

Presidents can and often do rise and fall on this statistic. What makes our hearings especially significant is that during virtually the entire year while we have been having these hearings—a year categorized by the administration and others as a recovery period—unemployment has stayed close to the same dismal 6-percent level. Some recovery.

I ask unanimous consent that excerpts from the hearing of last Friday, April 7, be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPT FROM HEARING BEFORE THE JOINT ECONOMIC COMMITTEE, APRIL 7, 1972

Chairman PROXMIRE. The new economic program of President Nixon seems to be working, on the inflation side. This surprises me a little. As a Democrat I have been critical.

You point out that prices have not gone up quite as much since the new economic program went into effect. And you point out that wages have gone up not quite as much, is that correct?

Mr. MOORE. Not quite as much as they did before.

Chairman PROXMIRE. That is my point.

Mr. MOORE. Right.

Chairman PROXMIRE. And, of course, that was the purpose of the freeze, the purpose of the inflation aspect of an economic program. So, that is mighty encouraging.

Represenative CONABLE. Real wages have gone up more, haven't they?

Mr. MOORE. I would say they have been increasing at about the same rate on an hourly basis, but they have gone up more on a weekly basis—because of the increase in the length of the work week, they are taking home more pay because of longer hours.

Chairman PROXMIRE. On the other hand, would it be fair to say that the unemployment level still remains around 6 percent, where it has been since November of 1968, and has been for about 17 months.

Mr. MOORE. Well, there are various ways of saying the same thing. I think the quarterly figures probably give a fair picture of the general levels and trends over a period of time. And the first quarter figure is just slightly lower in terms of the percentage rate on unemployment than it was during last year. But it is only a very slight decline.

Chairman PROXMIRE. So it is working on the inflation end, the new economic program of the President. It is failing, I think dramatically, on the employment end, inasmuch as you have had no improvement, and it has been at a very high level in terms of the experience over the last five or six years. Is that a fair conclusion?

Mr. MOORE. Well, I continue to stress the employment as well as the unemployment side.

Chairman PROXMIRE. Good. And I think this is a very propitious time to do it because of the nature of the statistics during the past months.

Tell me now if this is a fair summary of the situation.

Unemployment for teen-agers is down this month, but it was close to an all-time high a month ago, it is down a little.

Blacks, whose unemployment has been very high, is the same.

Everybody else is worse off, apparently, white males, adult women, the 20 to 24 age group—I am not sure about the latter, but everybody else seems to be worse off this month, is that right?

Mr. MOORE. Well, I will have to point to the married males. They are about the same, 2.8 percent.

Chairman PROXMIRE. What is fascinating about this is that it is kind of a reversal in many of those areas from what we have had before this month. Congressman Conable was pointing that out to me on the price thing, and I think it is true on the employment side, too. In the recent past we have had bad news in some of the areas where we have good news this month, and vice versa. And I think that applies to the interpretation which you gave us of the overall figure to a considerable extent.

Unemployment went up——

Representative CONABLE. About 160,000.

Chairman PROXMIRE. Unemployment went up—you point out that there was nonetheless a big increase in the number of jobs, the job seekers pouring into the market were so great that unemployment rose, is that correct?

Mr. MOORE. Well, again, I think you can always look at the employment and the unemployment side separately, if you add them together, you get the total labor force. But it seems to me it is simplest to think of the number of people who have good jobs increased very substantially over the months, and the number of people seeking jobs without jobs also increased, but relatively modestly. Adding the two together, you get a big increase in the total number in the labor market that are either at work or seeking work. And that was a very substantial increase, better than 750,000.

Chairman PROXMIRE. Is the big difference simply seasonal adjustment?

Mr. MOORE. Well, it may have something to do with the change between February and March. But we regard the March adjustment as reasonably secure.

Chairman PROXMIRE. I am really puzzled, you know. It is hard to understand this kind of a situation. It is worse and it is better, much worse and much better, the same month, the same time. It seems to me that—I am baffled. I have been chairing these hearings and listening to this kind of testimony now, fine testimony, from you, for more than a year. And if I am puzzled, think what the typical citizen who doesn't follow this very closely must be.

Mr. MOORE. I think the only answer I would have to that is that it is simply very important to look at more than just one month. Those figures, because of sampling variations, because of problems with seasonal adjustment, and other things that happen to affect one particular month, vary from month to month quite sharply. But if you look at the trend over a longer period, I think you get a more reliable picture of what is going on in the economy.

And I think, too, you have to look at a variety of other figures which we have as well that have a bearing on the total situation. And doing that, as I said, I think I would characterize the situation as showing a continued rapid rise in employment that we have had at least since last summer, and a fairly steady level with some decline, but not marked, in the volume of unemployment.

Chairman PROXMIRE. Let's square that observation with what your superior in the Labor Department has said. Last month the unemployment dropped to 5.7 percent. Secretary Hodgson said what appeared to be the opposite. I quote from his statement: "As we observed, an extraordinary number of job seekers, especially Vietnam veterans, have been pouring into the labor market, straining the market capacity to absorb them all. As expected, when the inflow of job seekers eased off, the unemployment rate retreated. The 5.7 figure for February released today confirms what we have been saying, and strengthens our faith in President Nixon's economic program."

That was last month, when we had the reverse kind of situation. That was Secretary Hodgson's explanation.

Now which is it, Mr. Moore, this month's explanation or last month's explanation?

Mr. MOORE. Well, again I would like to stick to my view that you have to look at those figures over a longer period than a month.

Chairman PROXMIRE. Last month you could agree with the Secretary of Labor, who is the President's principal political appointment in this area and who is also your boss. This month the statistics are different, and you have to disagree with his last month's interpretation, is that right?

Mr. MOORE. No. I think the basic trend of employment is favorable. It is at a very rapid pace. It is bound, if it keeps up at that pace, to reduce unemployment. Now, it won't reduce unemployment every month, because these numbers just don't behave that way. But I think it is a very strong trend on the unemployment side. And it is also true that it has not so far had very much effect on the unemployment rate.

Chairman PROXMIRE. Well, if faith in the President's economic program was strengthened last month, why isn't it weakened this month.

Mr. MOORE. Well, one of the objectives, it seems to me, that we all want is an increase in the number of people at work, the number of jobs that has occurred. So, I don't see any reason for failing to consider that aspect of the matter.

Chairman PROXMIRE. My time is up.

Mr. Conable.

Representative CONABLE. Dr. Moore, how many people are working now compared to a year ago? That takes up the seasonal adjustment factor, does it not?

Mr. MOORE. Yes. The number employed a year ago was 77.5 million.

Representative CONABLE. Is that total employment or non-agricultural?

Mr. MOORE. That is total employment, 77.5 million in March of 1971. And it is 80.2 million in March of 1972. But I must point out that between December and January we made an adjustment in the estimation procedure which added about 300,000 to the employment total.

Representative CONABLE. That would be 2.7 you had made no adjustment?

Mr. MOORE. It would be 2.4 if you allow for that adjustment, and 2.7 if you don't. And I think you ought to allow for it.

Representative CONABLE. So, employment has risen by at least 2.4 million since a year ago?

Mr. MOORE. Yes, sir.

Representative CONABLE. Now, what has happened to the total number of unemployed people in that same period of time?

Mr. MOORE. Well, it was 5.2 million in March of 1971, and 5.2 million March of 1972. And there the adjustment for the population shift is virtually negligible, so I think we can ignore it.

Representative CONABLE. So, in effect our labor market has grown by 2.4 million during that period of time, taking out the adjustment change in the last month?

Mr. MOORE. That is correct.

Representative CONABLE. What growth rate do we have to have from now on? Can we assume a constant increase in the labor market? What growth rate do we have to have to cut into it roughly 6 percent unemployment that we have got? I have heard it said previously that roughly 4½ percent real growth rate was necessary to absorb the number of people coming into the job market in employment.

Does that figure still hold?

Mr. MOORE. Well, Mr Conable, I am going to stick to my last and avoid forecasts. I do know that the rate of increase in the labor force of 2.4 million is an unusually rapid rate. And we don't expect that over the long run, and we haven't had it in the past over the long run. So, that if the increase in employment of 2.4 million over the past year continues, it seems to me inevitable that it will reduce unemployment.

Representative CONABLE. Our labor force, in other words, has been increasing faster than our population during the same period, is that accurate?

Mr. MOORE. Yes.

Representative CONABLE. What you are saying in effect, then, is that if we maintain this rate of increase in employment, we should see a percentage statistical improvement also?

Mr. MOORE. Yes. But everything depends on what happens to the labor force. And just looking at the past experience, that would seem to be a reasonable prospect. But as I say, I am not able to forecast either the labor force or employment or unemployment.

Representative CONABLE. Now, looking at these statistics that you brought in for this month, do you have any change in your attitude as to what the soft spots in the economy are? Do you see any statistics that are to you as a statistician considerably more significant than the statistics you brought to us last month, or do you consider the trends to simply have maintained themselves during this period of time? Do

you find any areas of change that are significant to you as a statistician, that is what I am saying.

Mr. MOORE. Well, I think the one thing that I have learned in the last months is, I have been studying what has happened in the manufacturing sector. And that is what I mentioned earlier in my statement. That has been, as I say, a sluggish sector in terms of total unemployment.

Representative CONABLE. In terms of something that I think needs some emphasis, the situation in manufacturing seems to me to be undergoing change. And what I see is that with increases in the hiring rates, reductions in the layoff rates, the net accession rate, which is the difference between the hirings and the separations, has gone up to about the level that it had in 1968, which is just about a complete recovery in that rate of accession to manufacturing payrolls. And unless you study those particular statistics which we issued, you are very likely not to observe them in the total employment figures. And that is one of the things that I would say in expressing this point.

Representative CONABLE. Let me ask you if you feel any concern about the rise in the wholesale price index for industrial commodities of .3 percent. That is somewhat higher than it has been, is it not? And this, of course, tends to translate into even greater retail price increase, where this is largely negated in this month's statistics by the decline in the cost of farm products and processed foods. It seems to me that last month we had somewhat the reverse of that, with food prices going up quite sharply, and industrial commodities going up only modestly. At that time, as I recall, you told us that food prices had wide short range swings, and that the significant factor was the industrial commodities. Do you see any concern about the increase to .3 percent? Is that likely to translate itself into a rising spiral of inflation on the CPI ultimately?

Mr. MOORE. Well, the rate of increase in the industrial commodities component of the wholesale price index has been between .3 and .4 ever since December. And it is .3 this month, last month it was .4, and the month before it was .4, and the month before that it was .3. So, it has been in that range.

Now, that is a rate of increase that I think is higher than most of us want to see.

Representative CONABLE. Is that what you call a bulge still, a bulge, following phase 2?

Mr. MOORE. It certainly could be that. We don't really know that until you see the bulge disappear. It is hard to see a bulge while it is still on you, or see whether it is a bulge.

Chairman PROXMIRE. This is about the best meeting that we have had. I am enjoying this a great deal.

I don't mean to interrupt your train of thought, but it looks like it is a good idea to have the same witness back over and over again, because after rehearsal you seem to be in great shape now. It is like having a play on Broadway for seven years, 2,000 performances, by the last performance they are doing pretty well.

Representative CONABLE. Speaking for myself, I can see my bulge. I can't see beyond it.

Mr. CATES. Senator, this is our first anniversary.

Chairman PROXMIRE. You have been here every single month explaining the labor statistics since a year ago. This is literally the 13th time.

I am sorry to interrupt. Go ahead.

Mr. MOORE. Perhaps Mr. Popkin, who is our expert on prices, can offer some further observations on this whole situation.

Mr. POPKIN. I think there are a couple of points here. One of them, which can be seen from the table that Commissioner Moore asked to be placed in the record, is the fact that with respect to the industrials component of the WPI, if you look at its performance during the entire stabilization period from August through March, the increase is at an annual rate of 1.8 percent.

Now, if you break that down—let's say compare phase 2 to the six months before the stabilization policy—you see that these three-tenths and four-tenths monthly changes which Commissioner Moore just cited translate to an annual rate during phase 2 of 4.2 percent, which is 1.5 percentage points below the 5.7 rate that obtained in the six-month just immediately preceding the initiation of the stabilization program.

With respect to the question of the transmission of wholesale price changes, say, for industrials into retail price changes, I think that it has got to be looked at at several levels. The industrial commodities components included crude materials, intermediate materials, and consumer finished goods.

Now, in this particular month, for example, lumber and metals and metal products were very important factors in that three-tenths rise. You see, you have got to go from that stage to their translation into consumer finished goods, and then from there to the CPI. So, the effect of any particular rise in the industrial component really depends on where it is taking place, and what the speed of transmission and the amount of transmission is. By that I mean, let's say, if steel goes up by "X" percent, but steel is 5 percent of the cost of the finished goods that the consumer buys, you don't assume that that "X" percent is passed through.

Representative CONABLE. My time is up, Mr. Chairman.

Thank you.

Chairman PROXMIRE. Dr. Moore, you declined to give Mr. Conable—I thought it was a very significant question and discourse—you declined to give him what the rate of growth was that was necessary to cut into employment, as I understand it, is that correct?

Mr. MOORE. The rate of growth——

Chairman PROXMIRE. The rate of growth of the economy necessary to reduce unemployment.

Mr. MOORE. Yes, sir.

Chairman PROXMIRE. That is such a significant question that I don't know how we can adopt the right kind of policies or indeed appraise the integrity or honesty of President Nixon's 5% unemployment by end of 1972 predicted unless we have some information on prospective economic growth, some way to get an answer to it.

I know you don't like to make predictions. But from what you know from the past, would you be willing to say, then, that a 5 percent level of unemployment by November is a reasonable possibility?

Mr. MOORE. I just don't want to say anything on that.

Chairman PROXMIRE. You can't tell us whether President Nixon is being responsible or not, even in your position.

Mr. MOORE. I believe my position is to present the statistical facts to the——

Chairman PROXMIRE. I have no question about you, your reputation and background, what I am trying to find out is whether the President could have any basis for this, or whether it is just a political statement. You are in the Administration now. You are his principal professional authority. From what you are saying it looks as if the President's statement is just based on politics and not based on any kind of sound economic analysis that is possible, is that right?

Mr. MOORE. No, I don't think that is right.

Chairman PROXMIRE. Why isn't it right? I don't want to be unfair. Why isn't it right?

Mr. MOORE. It is not based on my own economic analysis. He has his own economic advisers, and they provide him with——

Chairman PROXMIRE. You are too modest. Are you telling me that if you had more ability that you would be able to make this kind of conclusion? I won't accept that.

Mr. MOORE. I don't want to be that modest.

Chairman PROXMIRE. You are coming right out of Dickens, you are really humble.

Mr. MOORE. My point is simply that I think the Bureau of Labor Statistics that I represent today should present the facts and should avoid speculation as to what the facts may be six or twelve months in the future.

Chairman PROXMIRE. To get into industrial prices, they rose at a .2 percent rate in March.

Mr. MOORE. .3 percent.

Chairman PROXMIRE. I stand correct, .3 percent. This was almost as great as in the early part of last year.

Now, I indicated that overall there may be some progress, slight progress in the President's inflation fight. Do you think this bears that out? Do you think this month is encouraging in that regard, too?

Mr. MOORE. Well, I think I can only point to this table that shows the rate of increase in industrial——

Chairman PROXMIRE. It looks like I am too biased on the side of the President. I am helping him too much.

Mr. MOORE. There has been a reduction in the rate of increase of industrials, the prices, from 5.7 percent prior to the freeze to 4.2 percent since the freeze was ended. And that is a reduction.

Chairman PROXMIRE. Your employment release states that total employment has risen by 2.4 million since March of 1971, that is, in the last year the total employment has been very encouraging. Can you and your staff tell us how much of this increase has been in full time employment and how much in part time?

Mr. MOORE. Mr. Cates tells me that the increase in full time employment over the year ending in March was 2.1 million, and in part time it was 600,000. Now, each of those figures includes this upward adjustment because of the change in the method of estimation in January.

Chairman PROXMIRE. Would you repeat that?

Mr. MOORE. The two figures?

Chairman PROXMIRE. Yes.

Mr. MOORE. For the full time it is an increase of 2.1 million, and for the part time an increase of 600,000. But both of those figures include the upward adjustment that we made in January for the change in the population base. And I don't have, unless Mr. Cates has it here, if broken down separately for the part time and the full time. Overall it was an upward adjustment of 300,000. So, both of those figures, the 2.1 and the .6, need to be adjusted downward for that factor.

Senator PROXMIRE. The encouraging aspect of this is that most of us rather look at part-time employment when we analyze unemployment. And the fact is that if a person works one hour as I understand it, one hour at any time during a week, he is considered employed.

So that the part-time element does tend to distort the picture pretty badly, unless people understand that.

Mr. MOORE. Oh, yes. But though there is a large number of people employed part time and, the number of people who work only one hour is certainly very small. That has been increasing, though not as rapidly as I indicated the full-time employment is increasing.

Senator PROXMIRE. Dr. Moore, the increase in the labor force is very very large, as you pointed out, over the past year. Have you made any analysis of the factors involved in the increase? What has happened to the number of discouraged workers?

Mr. MOORE. Well, we have figures quarterly on the number of discouraged workers, that is, those who are not in the labor force and

who would like to have a job, but who think there are no jobs available. And those numbers were higher in 1971 and the first quarter of 1972 than they were during 1970, by about 150,000.

And the figure for the first quarter of 1972 is 800,000 in that group. So I think that during the year, that is, during the year, during 1971 as a whole, there has not been any particular trend one way or the other. The figure for the first quarter of 1971 was just about 800,000 also. But there has not been any upward trend in the number of discouraged workers.

Senator PROXMIRE. We have been interested, as you know, in this committee more than the Administration has been, because they have done very little in it, and we have done a lot. And maybe we have exaggerated it, but we have been interested in the effects of the military program on employment and unemployment.

There was almost nothing in the President's economic report until this year, when they had, I think, one or two pages out of one hundred and sixty, and those pages were very skimpy. And we had a very substantial part of our report dealing with that. What proportion of unemployment can be charged to defense cutbacks? Can you give me a number? I have seen a number as low as .1 of 1-percent, although the Administration, without much analysis, has indicated that this is one of the principal reasons for the difficulty in improving the unemployment picture.

Mr. MOORE. I don't have a figure in my head, sir, on that.

Senator PROXMIRE. Would you say that .1 of 1 percent sounds out of line? Would you dispute it?

Mr. MOORE. I would say it sounds low to me, but I just don't have the numbers in mind.

Senator PROXMIRE. It sounds low, but it is possible?

The best our staff can come to is .1 of 1 percent.

Let me proceed a little further. Actual total outlays for defense have not been reduced at all. There has been a shift in the amounts being proposed to be spent up $6 billion in the coming year. And it is true there had previously been a sharp cut in real terms because of inflation, of course. And there had been a reduction, an enormous reduction in the number of people in the Armed Services from 3.5 million to 2.4 million. Also, because of pay increases there has been no substantial change in the gross amount of pay. Is it right or wrong to attribute unemployment to these military decisions when virtually no dollar cut has been made in defense, and we can anticipate an increase?

Mr. MOORE. I would make this observation, that in any period when substantial shifts are occurring in the direction of the economy away from defense spending and toward the other spending, and out of the Armed Forces and into the labor force, those shifts require adjustments. And they usually take some time to make. And one of the results of them is that people are looking for jobs for longer periods of time, and they are more likely to end up in the unemployment count that we make than in times when everything is going along more or less smoothly.

So I think a period of shifting priorities is one in which more people will be looking for other types of work than what they have had. And certainly in the aerospace industry that has been a big factor.

Senator PROXMIRE. You know how much I respect you as an economist. And what you say is certainly the conventional wisdom. But how do you account for what happened right after World War II? At that time we cut about $70 billion from the defense budget. And it was a far smaller economy, about a quarter of the size of what the economy is now in dollar terms.

We reduced the military by 10 to 12 million, not one and a half million. But unemployment went down, not up. So why is it that with virtually no dollar cut in defense and only one million men out from the Armed Forces in two or more years, why is there any unemployment due to this fact?

Mr. MOORE. Well, I think one great difference between World War II, or the post-World War II, immediately after the war, and now is that then there had been a long period of several years of suppressed demand. There were cutbacks of all sorts in consumer goods production, and demands on the part of consumers were building up. And the consumers went into the market to get goods immediately after the war, that had been controlled prior to that. And that stimulated the market for private production and stimulated the employment in those industries very rapidly.

Now, herein recent years there has been no such cutting back on the demand side that accompanied the war period, the building up of the Vietnam period. And consequently I don't believe there is anything like the amount of pent-up demand that there was during and immediately after World War II.

Senator PROXMIRE. I think you have made the best possible case for a very impossible position. It is a fine defense, but my common sense doesn't let me accept it, that you could have a situation in one case where you had an enormous and dramatic sudden reduction of military spending from 50 percent of our gross national product to almost zero with, as I say, no increase in unemployment, and in this case very little change.

And the Administration was saying that the reason that unemployment is so bad is because the war, the Vietnam war.

But I have detained you a long time. I have just a couple more questions I would like to ask about wholesale prices.

With the decline in wholesale prices for farm products—from 120.2 to 118.6 seasonally adjusted in one month—and the decline of 119.6 to 119.1 in over-all farm products, processed food and feed category, how do you explain the continued rise in wholesale prices?

Mr. MOORE. You mean the wholesale prices of farm products?

Senator PROXMIRE. No, the overall rise in wholesale prices. Everybody is saying, the Administration is saying, well, prices have gone up because of the food prices, until recently they were saying that that was the explanation. Now we have a different situation, that our explanation just doesn't apply now.

Mr. MOORE. I think that non-food prices, the prices of goods other than foods, did continue to go up. It is only the farm products and the foods that declined. And all I can say is that one declined and the other went up.

Senator PROXMIRE. We know that. But you tell us why.

Mr. MOORE. Well, I really don't understand your question. Are you asking why farm products prices went down and other prices continued to go up?

Senator PROXMIRE. I am asking you to explain what actually happened.

Mr. MOORE. This is what actually happened. The farm prices in March went down at the wholesale level, and the prices of non-farm products continued to rise.

Senator PROXMIRE. Are you telling me that there is no explanation? And if there isn't what is the Congress and the public going to do? If anybody in the country can explain it, you can. And I don't mean that as sarcasm, at all. You are the man that the President has picked, and he has wisely picked. And if you can't explain it, it is inexplicable. It is like even God doesn't have an answer.

Mr. MOORE. Let me make an attempt and maybe Mr. Popkin can help me out.

Senator PROXMIRE. Call on the Angel Gabriel.

Mr. MOORE. In the case of non-farm products I think there has been a continued increase in the money volume of demand. Incomes have continued to rise, they haven't been dropping, at all.

And with that demand, the prices have tended to keep on going up. And that is despite the controls that have been put on prices, they haven't stopped the rise completely.

On the other hand——

Senator PROXMIRE. Are you saying that in a situation in which we have 25 percent of our capacity idle, that there has been a demand that is driving up prices?

Mr. MOORE. The money volume of demand has continued to go up all through this two or three year period quarter by quarter. So I think that has been a factor.

Personal incomes have continued to go up all through the period, and they are still rising relatively rapidly.

So that is the background of the demand side.

Now, with reference to farm products, why did they go down this month? I guess all I can say—and maybe Mr. Popkin can amplify it—is that farm product prices fluctuate, they go up rapidly in one month, and stop going up or decline in another month. And they have been doing that all during the past year. And they have kept on doing it this month. That is, there was a very rapid rise in February, and there was a small decline in March.

Now, what explains the fluctuations in farm prices, and why they fluctuate more than industrial commodity prices, is a very big subject. It has to do with the shifts in the supply of farm products from month to month. But in general, I think the supply situation changes much more rapidly in the farm sector than it does in the industrial sector.

Senator PROXMIRE. Does Mr. Popkin want to add to that?

Mr. POPKIN. I think it does get back to supply and demand. But the supply curve is usually defined to include costs of products. And the shifts in the farm area are much greater, and seem to have a lot to do with the large fluctuations that we observe in the farm product prices. But nonetheless there are shifts in demand and supply curves in the industrial area. I think, for example, that within the industrials group there were declines from February to March for two major groups, rubber and plastic products, and chemicals and allied products. And I guess you would ask, why did those products go down and the rest of the industrials go up? And I think it does get back to supply and demand.

Again the supply curve is defined as including returns to all factors of production.

Senator PROXMIRE. I think that is a good answer. But we have to terminate this. Let me just ask the final question.

Dr. Moore, an article appeared in the Wall Street Journal on March 31, and I am going to quote it to you and ask your response:

"Specialty steelmakers, eager to cash in on an upturn in demand, are pushing through across-the-board price boosts of one of their highest volume products, stainless steel sheet. As is typical in the industry, . . . increases don't result from higher list prices but a reduction in discounts."

The article goes on to say that discounts are being reduced by 5 percent, which is effectively a 5 percent price increase to users of stainless steel. I intend to question Mr. Grayson next week when we are having our hearings on the Prsident's program on inflation—and we will have Mr. Meany later, of course—I intend to question Mr. Grayson next week on the Price Commission's role in this increase.

However, I would like to know from you,

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Dr. Moore, how this 5 percent increase in stainless steel prices will be reflected in the wholesale price index. How does BLS collect price information, from the seller at list discount prices or from the buyer?

If fluctuations and discounts are not taken into account, how can the Wholesale or Consumer Price Indexes accurately reflect actual prices being paid? How can the WPI or CPI possibly measure the success or failure of a wage-price control program?

Mr. MOORE. Well, I can only give you a general answer to that question. We can supply more details for the record, if you wish. The Wholesale Price Index is based in part on list prices. But it is a relatively small part. And over-all—

Mr. POPKIN. When you say "based on list prices" that statement reflects the fact that for some commodities we have to rely on prices published in trade journals. And we don't go directly to sellers in those areas.

In other areas were we do go to sellers, we may in fact get a list price.

But I would like to point out that the questionnaire that is used in collecting wholesale prices asks for all discounts and changes in them. So it isn't that we go out to collect list prices, we go out to collect transaction prices. We don't always get them.

And our guess is that the portion of the wholesale price index for which we either have to rely on trade publications or for which sellers do not, and for which we feel, report transactions prices, but in fact report list prices, that portion we would estimate to be 20 percent of the weight of the index. But it is by no means a pervasive problem. We know the sectors where we have some problems, and we are working on them.

In the January Wholesale Price Index, for example, we are making a transition to a new series of transaction prices for aluminum ingots collected from buyers because we knew we had some trouble on the sellers' side. So it is not a pervasive problem as it affects about 20 percent of the index, but the Bureau of Labor Statistics does always seek to get the transactions price.

Mr. MOORE. I think we should supply an answer to your question about steel sheets. We will do that for the record. I don't have that information.

Senator PROXMIRE. Yes, I would like to get that. That would be very helpful, for the record.

You say you think this may be the exception?

Mr. MOORE. Well, as Mr. Popkin said, about 20 percent of the wholesale price index is based on list prices. And the other 20 percent is, we think, a good approximation to the actual transaction price. And we are working on the 20 percent. But it is not 100 percent by any means.

Senator PROXMIRE. I said that was the last question. But let me just observe that I am amazed and astounded, Dr. Moore, that you would attribute the continued increase in industrial prices to an excess of demand when a million people are unemployed and industry is operating at 75 percent of capacity. It is just very, very hard for me to understand that. And I would challenge any economist to support that.

Mr. MOORE. If I may remind you, I said money demand, not physical demand.

Senator PROXMIRE. Demand is demand is demand, as Gertrude Stein might say.

Mr. MOORE. I think that is right. But if you think of the amount of money that people have at their disposal to spend, that has increased continuously for months and years. And there has been no reduction in that money demand in that sense.

Senator PROXMIRE. But that increased from '62 to '63 without this kind of consequence, and we were in a situation in which there was about the same amount of employment, but more capacity utilization, and prices were relative stable.

Mr. MOORE. Well, it increased very much more rapidly after '65, the money demand.

Senator PROXMIRE. Mr. Moore, thank you very much. I think this has been an excellent hearing, a most interesting and useful hearing, and a very appropriate one for our first anniversary.

Mr. MOORE. Thank you very much.

Senator PROXMIRE. The committee will stand adjourned until next month. And we will be delighted to have you back.

(Thereupon, at 12:05 p.m., the committee adjourned, subject to the call of the Chair.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL). Is there further morning business? If not, morning business is concluded.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL). Under the previous order, the Chair now lays before the Senate the unfinished business, S. 2956, which the clerk will state.

The assistant legislative clerk read as follows:

S. 2956, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is the motion by the Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Committee on the Judiciary.

Time for the remainder of the day will be equally divided and controlled by the Senator from Nebraska (Mr. HRUSKA) and the Senator from Virginia (Mr. SPONG).

Who yields time?

CALL OF THE ROLL

Mr. SPONG. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum call be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 136 Leg.]

Aiken	Cotton	McGee
Allen	Dominick	Metcalf
Bellmon	Gambrell	Ribicoff
Boggs	Griffin	Spong
Byrd, Harry F., Jr.	Gurney	Stennis
Byrd, Robert C.	Hatfield	Talmadge
Cook	Hruska	Young
Cooper	Javits	
	Mansfield	

The PRESIDING OFFICER (Mr. ALLEN). A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Allott	Fong	Pearson
Beall	Fulbright	Pell
Bennett	Goldwater	Proxmire
Bentsen	Hansen	Randolph
Bible	Harris	Schweiker
Brock	Hart	Scott
Burdick	Hughes	Smith
Cannon	Inouye	Stafford
Case	Jordan, Idaho	Stevens
Chiles	Kennedy	Stevenson
Church	Magnuson	Symington
Curtis	McGovern	Taft
Eagleton	Montoya	Thurmond
Eastland	Moss	Tunney
Ellender	Nelson	
Ervin	Packwood	

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), the Senator from Indiana (Mr. HARTKE), the Senator from Indiana (Mr. BAYH), and the Senator from South Carolina (Mr. HOLLINGS) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Connecticut (Mr. WEICKER) is detained on official business.

The PRESIDING OFFICER (Mr. HUGHES). A quorum is present.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HUGHES). The Chair, on behalf of the Vice President, pursuant to Public Law 91–129, appoints the distinguished Senator from Florida (Mr. CHILES) to the Commission on Government Procurement, vice the distinguished Senator from Washington (Mr. JACKSON), resigned.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on April 6, 1972, the President had approved and signed the act (S. 1975) to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age.

REPORT OF CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HUGHES) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Section 396(i) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the Annual Report of the Corporation for Public Broadcasting covering the fiscal year July 1, 1970 to June 30, 1971.

RICHARD NIXON.

The WHITE HOUSE, *April 10, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUGHES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 12749) to authorize appropriations for the saline water conversion program for fiscal year 1973.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. SPONG. Mr. President, I shall have to leave the Senate floor later this afternoon to attend the funeral of former Governor of Virginia, John S. Battle.

In my absence, I should like to designate the Senator from New York (Mr. JAVITS) or the Senator from Mississippi (Mr. STENNIS) to control the time on behalf of the proponents and floor managers of the bill.

Mr. President, I now yield to the Senator from Mississippi (Mr. STENNIS) for such time as he may wish to take on the bill.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, I ask unanimous consent that the time for the quorum be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, it has already been my privilege several times, beginning last year, I believe in May, when I introduced a similar resolution to the one now being debated, to have addressed the Senate on almost all phases of the question. But it is so important, I wanted some more time to discuss various points, especially in light of the debate we have had, and also to say something special with respect to the matter of referring it now, after all this time, to another committee of the Senate.

I emphasize that I have great regard for the membership of the Committee on the Judiciary. Its chairman is my colleague from my State. He and I have worked together on many matters, as is true with reference to many of the committee's members; but I do not think, at this time, on this subject, that there is enough reason for it to be referred to the Committee on the Judiciary.

Mr. President, before proceeding any further I want to mention again for the record my own background with reference to the subject of this bill and my legislative record over the years.

Long before I became chairman of the Armed Services Committee—and I have been here during two wars and got here soon after World War II—I very strongly and vigorously backed and supported the executive head of the Government with reference to our military program. Once we got into the war in Korea and once we got into the war in Vietnam, I felt that we were committed and that we had joined the issue. Men had been sent forth to battle, and some had died. As I saw it, we could not afford to be forced out.

So I have consistently, all the way through, backed all wars, including the war that we are in now, and the actions of President Nixon and those of his predecessors.

I have handled for several years the procurement bills for all of the military items, planes, tanks, guns, missiles, ammunition, and everything else that goes to make up the instruments of war.

So, all of my leaning, my background, and my history in the Senate has been on that basis. As I say, it is consistent. It has always leaned that way with the exception of one thing—that I have just never believed that this Nation's manpower and all of its resources ought to be committed to war—and when I say committed to war, I mean to put at stake the life and the blood and the resources of the country as a whole—unless there has been an authorization therefor by the Congress of the United States. And that is the way I feel now.

Of course, we have to make exceptions for things that are of a real and genuine emergency nature. And I make those exceptions in this bill. The bill attempts to spell them out. We cannot have a President that is a mere figurehead, and we cannot have a President that is different from those others in the world in which we live. We have got to have a man of courage and action, a man who is willing to exercise power. He has got to be a man that is not timid in exercising the power that may be a little in the gray area.

I think that the pending resolution fully recognizes those facts. However, after all emergency has been allowed for and after all of the matters of giving meaning to our policy have been allowed for, I still believe it is just human nature to believe that the resources of our Nation, including manpower, ought not to be committed to war so that the President would have to follow through whether he wants to or not, until after the Nation and the people of the Nation have had the benefit of the judgment and the exercise of responsibility of Congress.

I think that latter point is highly important. I think the people should have the benefit of the judgment and the exercise of responsibility of the duly elected representatives of the people in Congress, both the Members of the House of Representatives and the Members of the Senate. The people are entitled to the benefit of that judgment. The Members of the House and the Members of the Senate are the ones that the people know personally, that a great many of them know personally. The people know their records rather intimately.

The representatives of the people are the ones who have gone out before the people and have made promises and assured them as to what they would do under certain circumstances and what their philosophy of government is. The people learn to know what is in the minds of their representatives, their integrity, their purposes, and at least something about them. They have a better opportunity to feel that closeness and responsibility than they have in the case of a President, although they are entitled to the judgment and the responsibility of the President, also.

Under our system of Government, the plain mandates of the Constitution say that the Congress shall have the power to declare war. It is the mandate of the Constitution, and it is commonsense. It is of practical value to provide that before the Nation and its resources are committed to war, the people will have the benefit of the judgment and the responsibility of the ones they have chosen to office under the Constitution, and under that provision that I have just quoted. The people have not had the benefit of that since World War II started.

I have a feeling I know how it happened and why we got off the track. I will just review it briefly now to have it in the RECORD for the benefit of any Members who have not been here during those periods, so that they may read my remarks.

Soon after World War II, we well know that with the advent of the atomic bomb and other nuclear weapons, it was thought that there would not be time for Congress to act and that everything was canceled out with respect to that matter. I have heard it more or less ridiculed here on the floor of the Senate. I have heard it said that talk about Con-

gress having to declare war was totally unrealistic in view of the missile age.

We have found that these missiles are still very much a part of our life and a part of our defense and a part of our deterrence. But we are spending billions of dollars every year preparing conventional power, military power, for possible conventional wars fought with the older style of weapons which are far less powerful than nuclear weapons or atomic bombs.

After all, there was plenty of time to declare war in this war that we are now engaged in. It was not a matter of haste. I am not trying to blame anyone. I would not put my name on a resolution at this time unless it excepted the present war from its terms. I am not trying to lay the blame. But certainly we cannot fail to see that the present war shows the need for the application of a sound rule.

I come to the argument that, "Well, you should not try to limit the President's power." We cannot limit the powers of the President that have been granted to him by the Constitution. I would not hear of that or try. Many Senators have heard me urge in this Chamber many times to keep the responsibility regarding the conduct of this war in the President of the United States; he is Commander in Chief in combat, and in conduct of the war, the war plans, and everything that goes with it rests on him. I would not detract one bit from that, but he does not have the sole power under all the circumstances to commit us to war, never has had, and we would have to amend the Constitution before we could give him any such sole power.

We have to yield to the facts, but the facts of life do not in all cases follow cases like Pearl Harbor. In most cases, Congress would still have the responsibility.

In the exercise of that responsibility on this resolution I do not think that we have to refer or should now refer this resolution that is well understood to the Committee on the Judiciary. After all, that argument swings for the most part on the argument that the Judiciary Committee under rule XXV has jurisdiction over "constitutional amendments." That is very proper. But this is by no means a constitutional amendment. It has some constitutional issues in it, but most bills which come here for consideration have constitutional issues in them.

Over and over again we have matters that come up that have constitutional issues, sometimes in seven or eight different fields, and if we had to refer every bill in which there is a constitutional question to the Committee on the Judiciary, most of the major bills at least would have to go to that committee. We have bills here every day involving interstate commerce, and that certainly is clearly a constitutional matter and those bills are not referred to the Committee on the Judiciary.

I think the history that will be developed by other proponents of this resolution about what happened over a period of decades, for many years, with reference to bills of this kind, shows that they go to the Committee on Foreign Relations which is the committee to which this resolution was sent.

Mr. President, over a year ago I introduced the resolution that I proposed. I think that was in May of 1971, and I think I had spoken on it once before and made the point in January 1971 that we ought not to try hastily to pass this measure, but give it time to sink into the minds, the thinking channels of the Nation. I proposed that we delay it for a year. It was not altogether my suggestion, but it was delayed. It required some time and there have been some exhausting hearings conducted in connection with that measure. The scholars of this country have been attracted to it, Members of this body have been attracted to it and the press has been attracted to it.

The resolution has been written and rewritten several times, as it should have been in keeping with the developing thought on the subject, and it has been molded by the Committee on Foreign Relations into composite language and principles with definite meanings. It has been analyzed and reanalyzed, and now it is being debated in full and at length in this body. We cannot close our eyes to that fact, and we should not close our eyes to the further fact, that if this goes to the Committee on the Judiciary now and there are hearings again on both sides of it; with all deference, it would be largely a rerun of what has been said. There would be some differences of opinion, and it will not dry up those differences, and there will be differences of opinion on the floor, and those differences will not be dried up, nor will they be changed substantially, so we will be right back where we started.

Again, with all deference to the Committee on the Judiciary, I do not think this is a legal question anyway, not primarily a legal question. Now we will find all kinds of cases. I have read many of them in the books when matters came before the Court concerning various wars, and some things that happened prior to the war, some during the war, and some after it. Some questions involved the legality of the war and involved Presidential power. Often they were adjudicated after the fact, and, naturally, in our contests with other nations, the courts tend to decide cases in our favor. That is no reflection on the courts.

My point is that this is not primarily a legal question. One can find authorities both ways. This is primarily a practical matter, not limiting the President, but a practical matter of getting machinery on the books about what Congress is going to do to fulfill its responsibility, and that is what it comes down to. The question is whether Congress is going to take care of its own responsibilities, and that would bring the matter to a head.

If we can get on the books as to how far the words go—and I do not think it is controlling because there still will be some ground where the President would have to act, and I am willing for him to do so—but if we can get on the books the principle that Congress has to act before this Nation is really committed to a war, then we have made a long step forward, we are filling our responsibilities, and we are making it more likely that these judgments will be sound.

Mr. President, if you leave to one man all these decisions he will find himself day by day inching toward the final conclusion that he cannot turn back. Events push him along and a lot of his advisers push him along, and the first thing you know there is no way for him to turn back. That is the way I see it. We are not taking this responsibility from the President. Let us not be too technical and academic. There is not going to be any declaration by Congress unless the President asks for it. He is No. 1, he is the leader, and he is the Executive head of the Nation. He is the head of the foreign policy and there will not be, never has been, and never will be under our system a declaration of war by Congress unless the President is sharing that responsibility and recommending it and giving the reason.

Sometimes, as in Pearl Harbor, I think that decision was automatic.

But I remember when I was just a boy a decision that was not automatic. In World War I President Wilson had just been up for reelection in 1916 and his critics called him a war President then and said that while he proclaimed being for peace, he prepared for war. They showed that he wanted to build some ships and make other preparations. But when the showdown came, he took a lead. However, it was a debatable question. It had been a debatable question. They tried to defeat him, because he had been urging preparedness—although he was a man of peace—and then the climax came in 1917 when he said he could no longer be true to his trust unless he asked for a declaration of war. Well, by then, the sentiment had worked up tremendously, and when he took the lead, that made a great difference.

As I remember, there were only six in this body who voted against that declaration of war, and some of them were defeated for reelection, because of that vote. It shows how strong the sentiment became, but it was the leadership of President Wilson that laid the groundwork for the sentiment.

That will be true in all cases. No President can avoid being in on that decision, and I think that is right. It is the joint responsibility of the Executive and the Congress that the people are entitled to, and the people are entitled to the exercise by both those branches of Government before they are committed, because they do not have a direct vote. They do not have a direct say-so. They have an indirect one later, but many times it is too late. They do not have it until the election comes up.

So I think we are dealing with a very delicate matter here. We are dealing with a highly important matter.

I said this in a previous speech. The question came up when we were going into the so-called mutual defense agreements. I say so called because some of them involved countries that would have very little ability to defend us, but we had others where there was tremendous power to help defend us, and where we felt a need—I am thinking of NATO now—of having our allies bound in an agreement that we felt was necessary for the peace of the world and for our protection and theirs. I am very strongly for NATO, and have always been. I have taken that position here when attempts were made to put a limitation on our support.

But when the provisions for those defense treaties and mutual assistance agreements came up, they always had the clause in them that we would respond under our constitutional processes. The question was asked on the floor: What did that clause mean? I read that on the floor at length the last time I spoke. The answer was that "constitutional processes" included the idea of a declaration of war. So we are standing on sound ground here historically by what has happened and by what has been the understanding—a declaration of war by the Congress, making allowances, as we always have, for emergency matters that can come up in a hundred different ways, and the President just has to be the judge of what is an emergency matter.

Moving on now to the motion to refer to a committee that has been made, this bill is not a constitutional amendment. It is just a proposed statute. It has not followed any of the amendment procedures of article V of the Constitution, but is explicitly intended to be a statute pursuant to Congress power under the necessary and proper clause of article I, section 8. This purpose and authority is explicitly recognized in section 2 of the bill itself. If all bills which, under the necessary and proper clauses, attempted to provide a gloss to the Constitution were referred to the Judiciary Committee, then its jurisdiction would encompass practically the entire business of the Senate.

I know some of the opponents of the bill will, of course, argue that the bill is actually a constitutional amendment in sheep's clothing, but to refer the bill to the Judiciary Committee merely on these grounds is an attempt to elevate a technical argument to a jurisdictional principle.

Under all the precedents that I understand can be found—I have not personally looked at all those procedents—this bill has already followed the course that the Senate has always used under its written rules, and is back here for consideration on the merits, for the consideration of such amendments as may be offered, and for disposition by this body on the question of final passage.

I respectfully submit to those who would defer things here, delay them by referring to another committee, that the argument is without substance, that it is outside the boundaries of the rules of the Senate, and is beyond the logic and meaning and substance of the bill itself. So I hope now we are not going to decide anything by referring to committee. That will not decide a thing in the world. It will just bring us up to the decision point where we now are, and then back off.

I tell you, Mr. President, I believe the people of this Nation are listening. I believe they are expecting an answer of some kind. If this bill is defeated, I will not have any complaint. I will not have an ill feeling toward anyone. But I believe we owe the people a judgment on this matter, and particularly since the issue has been raised, since the authors and the committee have raised the issue, brought the matter to the floor, and the leadership has set it up for debate, and the Senate has agreed to that debate. We are having that debate. Now to follow the course in the proposal made here would take out the horses, hang up the harness. I do not think there is common sense and reason behind it, and I think it will be misunderstood.

The present war is by no means over. I am not trying to make the bill apply to the present war. I would not sign a resolution until it was conclusive and clear cut on the point that we are not to pass on the beginning of the war, or blaming anyone, or arguing what should be done now. That is not in this bill. It is being excepted. This is an effort not to get into such a predicament again, but primarily it is something we owe to the people of this country.

To send it off to a committee now, assuming we are to have hearings and everything else, and then bring it back—and we would not know when and the people would not know when—would mean it would probably happen right in the middle of the argument about the military procurement bill, right in the middle of the SALT talks, and right in the middle of many other matters that involve decisions and far-reaching policies.

If we are going to decide this matter, I think we ought to decide it right now. We have the facts.

We have the provisions of the resolution here. If they are not acceptable to the Senate, let us amend it. But let us pass on these matters here while we have a chance to, and tell the American people that we are willing to pass on them. And I hope, in the process of passing on them, we will pass the bill itself. Then I believe we will be standing—in fact, I am certain we will be standing—on sounder ground. We will have corrected the matter to the degree that, having gone to war without having gone through this process—and I blame myself only for not having gone through it—we will let the people know that that is not going to happen again; and I believe that would do more than anything else we can do now, this summer, to bring the people back together with a better understanding of the situation we have, and will help us to cope better with the situation with reference to this present war. The present war is exempted, but we have to cope with it nevertheless in the form of public opinion. And we are not anywhere near out of this war yet, in my judgment.

So, Mr. President, this is no routine matter, and I hope it will not be considered as such. I hope that we will not, in a careless moment, so to speak, refer the matter to another committee and cause delay and the disjoining of the thought and decisionmaking processes. I hope we will face up to the matter now.

We are not trying to detract one bit from the President's responsibility wherein he has sole authority to meet emergencies. I do not want to detract from that, and I do not think this resolution does so. It does seek to draw the line between the area of his sole powers and the area where he shares responsibility with Congress. Whenever it becomes the case that the Nation may actually become committed to war, the President has joint responsibilities with Congress; and those words "actually become committed to war," as I use them and as they were used by the committee, mean this: An act of war and the committing of the manpower of this Nation to go to war; an act calling on the resources of this Nation and committing them to war—in other words, an act putting in issue the manpower and the resources of this Nation.

Certainly this is a matter about which the people of this Nation are entitled to the judgment and the exercise of responsibility of their elected and chosen officials here, in whom they have put their trust and confidence; and I believe in the end that is exactly what will happen if this bill is passed.

Mr. JAVITS. Mr. President, I wish to comment in some detail about the splendid position of the Senator from Mississippi and his argument, because they have inspired some thoughts in me, but at the moment I would just like to thank the Senator, not only for his statement and his support, but for the very high patriotism he has just evidenced, and comment further a little while later.

Mr. STENNIS. I thank the Senator very much for his comments, and for his fine work in connection with this matter. As he always does, he has shown his splendid ability and capability and his diligence and thoroughness in connection with this measure, and I commend him very highly.

Mr. SPONG. Mr. President, I should like to join the Senator from New York in his commendation and thanks for the remarks of the Senator from Mississippi this morning. The Senator from Mississippi has again contributed immeasurably to this debate. As is his custom, he has cut to the heart of the motion that is before us, the question of whether this measure should or should not be referred to the Committee on the Judiciary. He has said that referral would be converting a tactical position into a jurisdictional question. I agree with that.

Furthermore, I believe that we would be going against precedent in the reference, of the legislation to the Committee on the Judiciary.

I wish I could comment further upon what the Senator from Mississippi has said, but I must leave the floor at 2 o'clock. Again, however, I thank the Senator for going to the heart of the reference question.

Mr. STENNIS. I thank the Senator very much. I am sorry I kept the floor as long as I did, and ran so far into his time.

Mr. SPONG. The Senator from Mississippi did not trespass at all upon my time.

Mr. President, I would like to comment briefly on some matters that were discussed last week.

Implicit in much of the debate was the idea that because the President had acted to commit U.S. troops to hostilities without a declaration of war almost 200

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times, a precedent has been established, a precedent which should stand.

I believe this is a fallacious argument.

First of all, just because something has happened does not mean that it is right or good.

Second, in a number of those cases in which the President committed troops to hostilities without a declaration of war, there was disapproval and dissention over the actions. For example, President Wilson was criticized in Congress for waging war in both North Russia and Siberia after allied expeditions were sent to Murmansk and Archangel in 1918–20. Resolutions were introduced in Congress requesting immediate withdrawal of forces from Nicaragua after the United States employed military occupation to end the civil war there in 1926–33. In order to preclude divisiveness over such military moves abroad, I believe we should pass this bill.

Third, the need for action on war powers legislation is greater today than it has ever been. We have more commitments in more parts of the world than at any time in our history. The Symington Subcommittee on National Commitments Abroad documenteod these in detail. With these many commitments the likelihood of additional situations arising in which the President will have to commit U.S. forces to hostilities is enhanced. Consequently, we should be prepared with a procedure for dealing with these situations.

Also, I believe that the situations arising today are of a different magnitude than most of the situations of earlier days. Moves against pirates are, for example, quite different from Korea, from Vietnam. As Prof. Alfred Kelly of Wayne State University noted during hearings, the sending of troops to Korea and the stationing of seven divisions in Germany marked quite a departure from previous activities. He said:

"I would contend that from a constitutional point of view this move (stationing troops in Germany) was entirely unprecedented. Seen from our vantage point now, it constituted a dangerous break in constitutional continuity. For never before had a President moved armed forces of such force, number and charcater as to imply total national military commitment outside confines of the United States or its territorial environs and possessions, let alone overseas to the ancient cockpit of European wars. To compare this situation with President Wilson's landing of Marines at Vera Cruz in 1914, or the first Roosevelt's intervention in Santo Domingo in 1904 is to ignore power relations, war potential, commitment, and geography. Again, the Executive's decision cannot be condemned merely as an act of irresponsible Presidential despotism. The decision, with all its tragic potential, was in a sense necessary. It was in support of the North Atlantic Alliance, for one thing. Furthermore, there was not technically a state of peace in Germany as yet. But it exposed a certain tragic inconsistency between the ancient peace-war balance between Congress and the Executive in the American constitutional system and the exigencies of the decisionmaking process in the marginal area between diplomacy and war inherent in the defense of the new American power system.

For these reasons, I do not believe that past practices either can or should provide a precedent for maintaining the status quo as far as the exercise of war powers by the President and Congress is concerned.

Furthermore, I do not believe that this bill should be referred to the Senate Judiciary Committee.

First, the bill is not a constitutional amendment. It is instead a statute pursuant to Congress' power under the necessary and proper clause of the Constitution.

Second, the standing rules of the Senate suggest no reason why the legislation should be referred to that committee. The Judiciary Committee has jurisdiction over judicial proceedings, civil and criminal generally; constitutional amendments; Federal courts and judges; local courts in the territories and possessions; revision and codification of the statutes of the United States; national penitentiaries; protection of trade and commerce against unlawful restraints and monopolies; holidays and celebrations; bankruptcy, mutiny, espionage, and counterfeiting; State and territorial boundary lines; meetings of Congress, attendance of Members and their acceptance of incompatible offices; civil liberties; patents, copyrights, and trademarks; patent office; immigration and naturalization; apportionment of Representatives; measures relating to claims against the United States and interstate compacts generally.

On the other hand, the Committee on Foreign Relations has jurisdiction over relations of the United States with foreign nations generally; treaties; establishment of boundary lines between the United States and foreign nations; protection of American citizens abroad and expatriation; neutrality; international conferences and congresses; the American Red Cross; interventions abroad and declarations of war—I repeat, interventions abroad and declarations of war—measures relating to the diplomatic service; acquisition of land and buildings for embassies and legations abroad; measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad; United Nations Organization and international financial and monetary organizations; foreign loans.

Furthermore, a review of the actual legislation involving war powers which has been referred to the Foreign Relations Committee and the Judiciary Committee sustains the argument that the pending legislation comes under the jurisdiction of the Foreign Relations Committee.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a list of legislation related to war powers which has been submitted to the Foreign Relations Committee and to the Judiciary Committee.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LEGISLATION RELATING TO WAR POWERS REFERRED TO THE SENATE FOREIGN RELATIONS COMMITTEE

1. All Declarations of War.
2. All Area Resolutions:

Cuba PL87–733 (also Fulbright-Church Resolution, S.J. Res. 146, to terminate the Cuba Resolution).

Formosa PL84–4 (also Church-Mathias Resolution to terminate the Formosa Resolution, S.J. Res. 48).

Middle East PL85–7.

Berlin H. Con. Res. 570, 87th Congress.

Tonkin Gulf PL88–408 (also repeal of Tonkin Gulf, S. Con. Res. 40, 91st Congress).

3. All multilateral Alliances: NATO, SEATO, ANZUS.

4. All Bilateral Mutual Defense Treaties: China (Taiwan), Japan, Korea, Philippines.

5. All International Organizations: United Nations, Organization of American States.

6. Mathias Resolution, S. Con. Res. 27 to establish a commission to study termination of the State of National Emergency declared by President Truman during Korean War.

7. Case Legislation of Referring Executive Agreements to the Senate:

S. 596, passed Senate 81–0, February 16, 1972.

S. 3447, pending for hearings, Senate Foreign Relations Committee.

8. The National Commitments Resolution, S. Res. 85: passed the Senate June 25, 1969, 70–16.

9. All War Powers Legislation:

S. 3964—Javits—91st Congress.

S. 731—Javits—92nd Congress.

S. 2956—Javits, Stennis, Eagleton—92nd Congress.

S.J. Res. 95—Stennis—92nd Congress.

S. 1880—Bensten—92nd Congress.

S.J. Res. 59—Eagleton—92nd Congress.

S.J. Res. 18—Taft—92nd Congress.

LEGISLATION RELATING TO WAR POWERS REFERRED TO THE SENATE JUDICIARY COMMITTEE

(But only on the basis that they were submitted as proposed amendments to the Constitution)

1. The Ludlow Resolution, S.J. Res. 84, 76th Congress (1935, reintroduced 1937, hearings printed May, 1939). The legislation called for a national referendum before going to war.

2. The Bricker Amendment, 1950's, that no treaty or executive agreement would be in effect or self-executing unless passed by the Senate.

Mr. SPONG. One who studies this information that I am placing in the RECORD will see that only two measures have been referred to the Judiciary Committee, the Ludlow resolution of 1935, and the Bricker amendment of the 1950's. Both of these were, of course, constitutional amendments, and were introduced as constitutional amendments.

Certainly, this bill relates to the Constitution, but it does not amend the Constitution and most legislation coming before this body relates to the Constitution. We who are sponsoring the bill are aware of the constitutional aspects. We have had both legal scholars and lawyers testify on the bill. We are aware of the historical aspects of the bill. We have had professors of history testify. We are aware of the practical aspects. We have had former officials from Government testify.

Additionally, I think it is important to note that about 75 percent of the sponsors of this legislation are themselves lawyers. I find it somewhat incredible that anyone would suggest that that number of lawyers, with differing political philosophies and from various parts of our Nation, would support a bill which was unconstitutional or would seek to amend the Constitution through legislation, when they know fully well that such a move is impossible.

Mr. President, I yield such time as he may need to the Senator from New York.

Mr. JAVITS. Mr. President, in commenting upon the very splendid speech of the Senator from Mississippi and now of the Senator from Virginia as well, one idea has broken through to me which I would greatly appreciate their attention upon, as it may explain something which has puzzled me.

The members of the Judiciary Committee who are moving to refer the bill know as well as we do that we have all jurisdiction respecting foreign interventions and the declaration of war. They know as well as we do that they have the jurisdiction over constitutional amendments. Unless it were simply a matter of killing the bill, which Senator HRUSKA has said is not his motive, there must have been some reason we have not perceived. I begin to perceive it now, and I should like to submit it to my colleagues.

The reason is that they believe that what we are doing is amending the Constitution. They do not believe what we believe—that we are simply implementing by law, under the "necessary and proper" clause, what is meant by the constitutional processes in treaties and in executive agreements; not what is meant, in our view, by the words given in the Constitution—to wit, the Congress shall "declare war" and the President is "Commander in Chief." Nor do they subscribe to our proposition that at a given point, when the President has to "repel a sudden attack," at a point that action becomes "war" and requires the action of Congress.

Our colleagues believe, therefore, that we are seeking to make a fundamental change in the Constitution, that this is tantamount to a constitutional amendment. That is the issue. That is the issue the Senate is going to decide. Surely, this is not a procedural motion. This is a substantive motion. So the Senate is going to decide on this motion a substantive question. Is the War Powers Act, in effect, a constitutional amendment?

I was put in mind of it by the excellent analysis made by Senator STENNIS. The substantive proposition will be that they think this is a change in the Constitution. If the Senate decides that it is not a change in the Constitution, there is no reason for reference. This is the substantive question, and I hope very much that we will make the Senate aware of that, because it is a very critical point.

Another thing interests me greatly. My office came into possession of what were the State Department's "talking points" against this bill. One part of it is so interesting that I think it deserves to go into the RECORD today, so that Senators may have a chance to read about it and think about it.

Mr. SPONG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. SPONG. I do not want to interrupt the Senator from New York, but he did solicit some comment and I want to agree with him.

I think that the debate on this motion has now narrowed to one between those who believe that the proposed legislation represents an amendment to the Constitution of the United States and those—the proponents and others who are supportive—who recognize that what this bill represents is merely the delineation of a methodology whereby coordination and consultation can be assured, consistent with what the Founding Fathers intended when they wrote the Constitution.

We, who support this bill do not believe that we are amending the Constitution in any way. On every day that this debate has taken place, the principal advocates of the proposed legislation have said over and over that we cannot do that. We have no desire at all to diminish the Commander in Chief powers which are given to the President of the United States under the Constitution. In fact, section 3 of the bill recognizes and reaffirms those powers.

At the same time, we are not trying to increase the powers which Congress has. What we are seeking to do, as has been pointed out time and time again, is to put into effect a procedure which will permit the President and the Congress to exercise the war powers granted to each by the Constitution.

I think, however, that the Senator from New York has very rightly put his finger on the question which the pending motion has come to pose: Would this legislation amend the Constitution of the United States or would it simply delineate means of carrying out powers already granted under the Constitution? I quite agree with him and with the remarks of the Senator from Mississippi that the war powers bill would not amend the Constitution and does not seek to amend it.

I thank the Senator from New York.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STENNIS. Mr. President, I heartily agree with the Senator from Virginia. I think the Senator from New York has raised the point in a proper way and has stated it clearly. I agree wholeheartedly. The vote on this matter does give substance, as he has said. We tried to draw it as outlined by the Senator from Virginia and by the Senator from New York. We have done that.

I thank the Senator, and I commend him for the fine point he has made.

Mr. JAVITS. I thank the Senator.

I hope that even more than the mere res gestae, as we say in the law, when we are actually going to decide this matter tomorrow, this point may be brought home to as many Senators as possible.

Mr. President, I will speak again later. Senator EAGLETON, and perhaps others, will speak in the meantime.

Mr. ALLOTT. Mr. President, having read the testimony on the war powers bill, S. 2956, and listened to the arguments of my colleagues here on the floor, I am increasingly convinced of the complexity of the proposed legislation and of the many implications of the measure in its present form. The bill addresses one of the basic areas of the Constitution, the relationship between the President and the Congress. It is not only a question of their relative powers, as defined by the Constitution and as developed over the years in the political interplay between the executive and legislative branches of Government, but it specifically focuses on the area of war powers one of the most important of all the powers, which the American people entrust to their Government.

From the very beginning of the Republic, the question of how to assign and divide the war powers of the Nation has been the subject of great and continuing debate. As the sponsors of the proposed war power bill have pointed out, it received long and careful attention during the Constitutional Convention and in the ensuing debates over ratification of the Constitution. And in the nearly two centuries that have followed those dramatic beginnings, the argument between executive and legislature, in the political arena, and in the courts, in the Halls of Congress and in the public press, has continued nearly unabated.

When the danger of war has been slight, the debate has waned. But always it has been present in the consciousness of the Nation. In the 20th century, especially in the most recent decades, as the United States adjusted to its role as the leading world power, the question has once again drawn our attention. The introduction of the proposed war powers bill is another episode in this long debate and believe me, Mr. President, it is certainly not yet the end.

There are numerous differences of opinion about what the Constitution requires. The sponsors of the proposed legislation seem to think that their bill will help us understand the constitutional definitions. Many others, however, believe that the work of the Founding Fathers will not benefit from this legislative attempt at bringing a supposed "precision" which is alleged to be lacking in the work of the founders.

Whichever interpretation one agrees with, it is clear that a basic constitutional question is at issue. Before even discussing the proposed legislation, it may be well to take another look at this question and try to understand better just what the Constitution says about the war powers, and to determine just how far beyond that document we want to go here and now to define these powers.

Once we have completed these initial steps, we can then take a closer look at the proposed legislation with a greater understanding of what it is that we think it should accomplish.

Should the bill simply mirror the Constitution—in which case, do we need it at all? Should it attempt to define in practical terms the exact meaning of the Constitution? Or should it go beyond the Constitution, and attempt to spell out detailed limitations on the President's power, in excess of the restraints implied by the Constitution?

It seems to me that the proposed legislation deserves additional analysis. This analysis should take place in a committee where the main thrust would be an analysis of the Constitution and the relation of the bill to the Constitution and not, as it has mainly, I am sure, in the Foreign Relations Committee—but not exclusively—been to the problem of foreign relations of the Government of this country. The place to give it the required study, I think, is not on the floor of the

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Senate, although I think the debate here during the past few days has been helpful.

I, therefore, urge that we do refer this measure to the Judiciary Committee for a specified period, where it can receive the careful examination it deserves on the basis of its constitutionality and its influence on the Constitution, rather than on foreign policy decisions which, I fear, the present bill is mainly based upon.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I yield such time to the Senator from Alabama as he may desire.

Mr. ALLEN. I thank the distinguished Senator from Colorado for yielding time to me so that I might discuss this most important question now pending before the Senate.

Mr. President, on April 6 in the New York Times there appeared an excellent article by Eugene V. Rostow, professor of law at Yale University, entitled "Who's Got the Power?" This article deals directly with the Javits' amendment which is under consideration by the Senate. I wish to read from the article:

The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.

The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.

But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.

The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.

Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crisis, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. President, I ask unanimous consent to have the entire article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO'S GOT THE POWER?

(By Eugene V. Rostow)

NEW HAVEN, CONN.—The Javits war-powers bill confirms Oliver Wendell Holmes' quip that "great cases like hard cases make bad law" more vividly than any proposal since that of the Bricker Amendment. Responding to Vietnam, the Javits bill would radically change the constitutional relationship between Congress and the Presidency in making foreign policy. Ignoring their own repeated votes for Vietnam, the sponsors contend that the cause of the Vietnam tragedy is a modern usurpation of the war power by the President. As Senator Cooper points out, this claim rewrites history.

The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.

The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.

But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.

The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.

With admirable candor, Senator Javits has said that the purpose of his bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as an equal branch of the tripartite government, to the humble posture of George Washington during the Revolution, when he functioned as Commander in Chief, appointed by the Congress, and its creature in every respect.

Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.

I do not favor increased Presidential power. But I do defend the constitutional pattern of enforced cooperation between Congress and President we have inherited. Its corollary, however, is democratic responsibility. It is unseemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They know everything the executive knew. But even if they had been brainwashed, their votes stand. The Fourteenth Amendment is not a nullity because it was ratified by many legislatures which voted under circumstances of fraud, or the coercion of military occupation.

Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crisis, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. ALLEN. Mr. President, I support the motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to commit this bill to the Committee on the Judiciary for further study. Already sponsors of the bill themselves have proposed three amendments to the bill, indicating it must not have been letter perfect at the time it was filed in the Senate. A matter involving such a great and important constitutional question as the power of the President to use the Armed Forces of the United States in the absence of a declaration of war is so important, it is so complex that it deserves all of the study that can be given to it. What committee better than the Committee on the Judiciary of the Senate should study constitutional questions? This bill should go to the Committee on the Judiciary.

Mr. President, if the bill does go to the Committee on the Judiciary I hope that the committee will give serious consider-

ation to substituting the provisions of House Joint Resolution 1 for the provisions of S. 2956. This bill is on the same general subject, but it does not usurp the powers of the President, and it does not seek to specify the particular instances in which the President can act and then proceed to limit the President to a 30-day period for acting in those areas.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the provisions of House Joint Resolution 1.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and emergency circumstances has the authority to defend the United States and its citizens without specific prior authorization by the Congress.

SEC. 2. It is the sense of Congress that the President should seek appropriate consultation with the Congress before involving the Armed Forces of the United States in armed conflict, and should continue such consultation periodically during such armed conflict.

SEC. 3. In any case in which the President without specific prior authorization by the Congress—

(1) commits United States military forces to armed conflict;

(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization;

(C) the estimated scope of activities; and

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

SEC. 4. Nothing in this joint resolution is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties.

Mr. ALLEN. Mr. President, if the bill does not go to the Committee on the Judiciary then I hope that the Senate itself here on the floor will substitute the provisions of House Joint Resolution 1.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DOMINICK. Mr. President, I wish to say to the Senator that with a few minor variations I have today introduced for printing the so-called Zablocki sense of Congress resolution in connection with this particuar issue. Most certainly, if we ever get to that point, I shall solicit his support and the support of any other Senators I can for the favorable consideration of that amendment.

Mr. ALLEN. I thank the distinguished Senator from Colorado for giving me that information. As the Senator knows, I have on more than one occasion supported efforts by the distinguished Senator from Colorado to make more meaningful, more exact, more relevant, some of the legislation pending before the U.S. Senate; and I shall study with great interest the amendment that has been presented by the distinguished Senator from Colorado.

Mr. President, I do believe that the provisions of House Joint Resolution No. 1 or the provisions of the amendment of the distinguished Senator from Colorado, if agreed to here in the U.S. Senate, would remove many of my objections to the pending legislation.

Mr. Rostow has portrayed only one side of this issue, but has spelled out cogently and concisely some of the hazards involved in rushing to judgment on a question of such fundamental importance to our political system, and to our national security.

We must look at this critical topic from three perspectives—the executive-legislative relationship, the constitutional question, and the national security. Over the years there have been many disagreements between the executive and legislative branches over the conduct of our foreign relations, and the question of war or peace. Each branch has won and lost its share of battles. I am not convinced that we in the legislative branch have in recent years utilized as effectively as possible the powers explicitly provided to us by the Constitution.

The climate of opinion fostered by a growing weariness of war has led some to criticize the Executive for usurping the powers of the legislative branch. To cite the Vietnam conflict as a concrete example, one can argue that the Tonkin Gulf resolution and acceptance of the Executive's funding requests demonstrate legislative acceptance of, and acquiescence in, the policy followed in Southeast Asia. I do not wish to obscure the basic issue by focusing on specific and controversial events of the past. The question before us is this—the proposed legislation would dictate a profound change in the relationship between the two branches, one that I am not convinced is necessary, and one which raises serious constitutional questions.

One of our most important national assets, one which has enabled those chosen by the American people over two centuries to meet the challenges imposed by changes in domestic values and perspectives and in the international power structure, is the flexibility of the Constitution.

The legislation under consideration would attempt, by statute, to say what the Constitution provides. That is patently an abuse of our legislative authority. By that I mean, Mr. President, it goes beyond what we are empowered to do under the Constitution, because we have no power under the Constitution to state by statute what the Constitution means.

The Constitution means what it says, or, as what our late great Chief Justice Charles Evans Hughes said, the Constitution means what the judges say it means. While the late great Chief Justice tried to explain away that statement later, I believe that he was exactly right in making that statement—not that it is correct for the Constitution to mean what the judges say it means, but, from a practical standpoint, the Constitution means what the judges—and by judges I mean the Supreme Court of the United States—say it means, because how can we appeal from the Supreme Court? They are the final arbiters of what they say the Constitution means.

So how can we, by statute, codify—and I understand that is what the proponents of the legislation are seeking to do—areas in which the President can act under the Constitution? It just cannot be done in the absence of a constitutional amendment.

So the Constitution, irrespective of what the Congress says it means, means what it says, and, in the final analysis, means what the courts say it means.

The Founding Fathers, in their wisdom, foresaw that the system of checks and balances which they established would prevent the domination of the system by any one branch.

Yet this ingenious system was not to depend for its operation on a complex enumeration of specific details.

Mr. President, this legislation would depart from the wisdom of the Constitution, which is general, which is flexible, and would seek to enumerate a number of specific instances, specific areas, in which the President can act, and then limit his power to act in those areas to 30 days.

Mr. President, to the junior Senator from Alabama this seems to be something we patently could not do. And even if we could do that, a specific enumeration of the areas in which the President could act of necessity would leave out many areas in which it would be desirable for the President to act and in which he would have no authority to act under the terms of this legislation.

We all know from our own experience that if we try to limit ourselves to an enumeration of what we want to do or what is desirable to do in our everyday efforts, we would leave out something that is desirable. So by seeking to enumerate areas in which the President can act, we lose the benefit of the use of broad, general areas of power in which the President woud be empowered to act.

Yet this ingenious system was not to depend for its operation on a complex enumeration of specific details, but on broadly defined powers and responsibilities which would maximize the ability of the Government as a whole to respond to unforeseen and unforeseeable future developments, and maximize the interchange and, yes, the friction, between the three branches. I would like to see a more careful and considered evaluation by those who are best qualified to help in exposing its full implications—the leading practitioners and scholars of our legal system and its application throughout our history.

Last, but not least, the proposed leg-

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islation raises serious questions, which have not been answered to my satisfaction, on the effect it might have on our ability to respond to threats to our national security. This is not a question of whether or not the United States will attempt to be the world's policeman.

Mr. President, I believe that the force of public opinion is going to prevent any President, present or future, from involving this country in another Vietnam—from gradually allowing our country to become involved in a no-win war such as we are involved in in Vietnam.

So what is the hurry about this bill, Mr. President? It is not contended, I assume, that it would end the war in Vietnam 1 day sooner. If it were, that would be more reason for pushing the bill through without its going to the Judiciary Committee, if possible. But it is not even contended, Mr. President, that this proposed statute would stop the war in Vietnam, or bring it to a close 1 single day earlier than it is going to end without the legislation. So what is the big rush? Why not let the bill go to the Judiciary Committee?

I feel that it would meet pretty general acceptance if a method could be hit upon under the Constitution that would accomplish the purposes sought to be accomplished by this legislation. But there is no danger of our getting involved in another Vietnam, and this bill will not end the war any quicker, so why rush it through? Why not let it go to the Judiciary Committee, as the motion before the Senate would provide?

In this nuclear age we must exercise the utmost care in placing restrictions upon the Commander in Chief of our Armed Forces. I realize that some of my honorable colleagues may argue that, indeed, it is because of the fact we are in a nuclear age that restrictions should be imposed. But, Mr. President, in this nuclear age, with a 30-day period within which the President can act in certain specified instances, is there not a danger that the President might overact or overreact, if he knew that his power would last for only 30 days? Would he not want to get the job accomplished in that 30-day period and not risk calling on Congress for its approval?

It occurs to the junior Senator from Alabama, Mr. President, that there are dangers inherent in this bill, and that it would in fact create more dangers than it would offer solutions to the problems and the doubts and fears that might beset us.

Then, too, Mr. President, this thought occurs to me: If we specify, as we would under this legislation, that the President can act for a period of 30 days in this instance, in that instance, and in another instance, would not our potential enemies—and we have them, Mr. President, as we well know—study the legislation just as carefully as would those of us in Congress who enact the legislation, to see just how far they could go in prodding here and prodding there, in taunting us here and taunting us there, in invading here and invading there, to go just as far as they could without running the risk of having the President use the retaliatory powers that he has at present?

Might they not see that they could move in this direction or that direction, and find the President powerless to act against them?

Mr. President, it occurs to me that this legislation is indeed dearly priced. It accomplishes little of a constructive nature, if anything. It places dubious limits on the President—that is, limits of dubious constitutional merit or worth. But it does lay our country open to having a President incapable of acting speedily in an emergency situation.

I submit only that we must take every precaution to avoid superficial treatment of a measure of such importance—and I cannot agree that we have done so to date. We must avoid an emotional response to such a fundamental issue.

For these reasons, Mr. President, and for the reason that there is no hurry, there is no occasion for haste, for the reason that even if the aims are constructive—and I certainly do not intend to suggest that the aims sought to be achieved are not constructive—and even if it possible to codify the power of the President to act as Commander in Chief of the Armed Forces of this country, in the face of his constitutional powers, I say that we ought to come up with the best possible bill, a bill that would not be subject to constitutional objections, a bill that would have serious and thoughtful study by the eminent members of the Committee on the Judiciary, who would be empowered to study it, hold hearings on the subject, and call in the best legal minds of the country to advise the committee.

I urge for all these reasons that the Judiciary Committee be given the opportunity to review S. 2956 carefully and thoroughly in the light of testimony by legal authorities before we are asked to make a judgment on this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to the editor of the Washington Star on this subject, written by Walter Sterling Surrey, and published on Sunday, April 9, 1972.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WAR POWERS BILL

SIR.—As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers Bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the president's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concern with the changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect our capabilities and flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander in chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the president, in the event of his use of armed forces, to report to the Congress fully on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in a House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these differences be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the President and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

WALTER STERLING SURREY.

Mr. ALLEN. Mr. President, I yield the floor.

Mr. DOMINICK. Mr. President, I rise to compliment my friend from Alabama for what I think is an extremely thoughtful speech, and to make some additional comments of my own.

As can be seen by the rather limited number of Senators in the Chamber, this debate, as important as it is, has

not really gripped the imagination of the Senate, nor has it yet gripped the imagination of the American people. Both these circumstances, I think, are regrettable. I say this because I feel that the debate on this bill may be as important for the future history of this country—and perhaps for the free world—as any that we have had since I have been in the Senate, since 1962.

Mr. President, we have here an interesting bill, in that it says, in section 2:

This Act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions, to repel attacks or forestall the imminent threat of attacks against the Armed Forces of the United States, and, under proper circumstances, to rescue endangered citizens and nationals of the United States located in foreign countries.

Note that it specifically says that the act "is not intended to encroach upon the recognized powers of the President, as Commander in Chief." That is a very nice statement. But then we come over to section 5, which says that these hostilities cannot be conducted for more than 30 days unless Congress approves it and that Congress can cut it off in less than 30 days, under section 6, by the simple passage of an act or a joint resolution.

I cannot think of any more direct way of encroaching upon the powers of a President who has engaged troops under what we say are recognized powers in section 2. The two provisions simply do not go together, either constitutionally or legally. You cannot, on the one hand, pass an act which recognizes certain powers as belonging to the President and then, in another provision of the same act, say, "But Congress is not going to give him those powers." It is really a pretty extraordinary piece of legislation from that point of view—and from many others besides.

Mr. President, reference has been made to Prof. Eugene Rostow of Yale University. Professor Rostow happens to be a longtime friend of mine, a person with whom I have been in touch on several occasions, a person who acted as dean of Yale Law School for a number of years, a man who served in high positions during the 1960's in the State Department, and who is now back at Yale University as a professor of law.

I have been in touch with him directly and by mail, and he has submitted to me the text of an article on the so-called war powers bill which he has sent to a law journal. The article, in the form I received it, is 75 pages long, with appropriate footnotes encompassing an additional 13 pages. I am not going to ask that the entire article be printed in the RECORD, although I think it would be helpful if at a later date we could secure reprints of his printed article and supply a copy to each Member of the Senate; but I think it is worthwhile to read a few excerpts from the article, since we are dealing now with the question of whether or not this bill should be sent to the Judiciary Committee, a proposition which I firmly support. As a matter of fact, I would not object in the slightest if it got to the Committee on Armed Services, and we could get some input from our own committee—on which I serve—as to what the effect of this might be with respect to our mutual defense alliances throughout the world.

At the moment, since we are dealing only with the question of submitting it to the Judiciary Committee on an agreed time limit when it would be reported, I will try today to stick to some of the constitutional arguments which I think are important. Professor Rostow says:

The Javits Bill rests on a premise of constitutional law and constitutional history which is in error, and that its passage would be a constitutional disaster, depriving the government of the powers it needs most to safeguard the nation in a dangerous and unstable world. Even if a President were to ignore such a statute, assuming that it passed over his veto, on the ground that it is unconstitutional, the passage of the Bill would create uncertainties, and envenom politics, in ways which would themselves be dangerous, both at home and abroad. It would tend to convert every crisis of foreign policy into a crisis of will, of pride, and of precedence between Congress and the President, making the policy process even more athletic than it is today.

The Javits Bill is a more serious attack on the Constitution, and the security of the nation, than one or another of the Bricker Amendments which were nearly recommended by the Congress in the middle fifties. Those Amendments dealt only with the legal effect of treaties as internal law. They would have required affirmative action by Congress before treaties became operative as the supreme law of the land.

The Javits Bill is more ambitious.

I find it somewhat ironic that the proponents of this bill were the opponents of the Bricker amendment. They were called liberals then, and they are called liberals now. That is an ideological distinction which I find very difficult to follow.

This is a serious situation, it seems to me, when we have some of the very distinguished minds in the Senate supporting this type of provision largely, as I understand it, because of a reaction against the Vietnam war—an overreaction, to say the very least.

I read another section from the article of Professor Rostow, on page 6. I brought up this point in passing the other day, and I say it again.

Under the Javits Bill, no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations. And, on those occasions when the Bill would authorize the President to move quickly, the reporting requirements could well of themselves blow every secret diplomatic brush into a major crisis.

The Javits Bill is full of paradox. While its nominal motivation is to assure the nation that a pacific Congress will staunchly keep future Presidents from engaging in limited wars like that in Vietnam, the Bill would not have prevented the campaign in Vietnam if it had been enacted thirty years ago. Our participation in Vietnam was specifically authorized by President Eisenhower's SEATO Treaty, and by several pieces of legislation, including the Tonkin Gulf Resolution, enacted for the purpose of approving the use of armed force to uphold the commitment of that Treaty.

The point I am making here is that if the bill is designed to preserve the constitutional powers of the President to engage the Armed Forces of the United States in defense of our country, how then can we say by legislation that we are going to limit the Constitution by saying Congress could cut it off within 1, 2, or 3 days after the President has taken action?

It would seem to me that this would be particularly unconstitutional. This is over and beyond the question of whether the law is wise from a judgment point of view. Is it wise, for example, to take away from the President in consultation with the National Security Council, the State Department, and the Defense Department, the power to move, to move forces into obviously dangerous situations, the reason for moving them being to prevent a more major crisis from occurring, a crisis which could have broken out in 1967 and 1970 in the Mediterranean area relative to the Arab-Israel situation?

Professor Rostow, as I said, has written an extremely detailed, thoughtful, and carefully worded paper for printing. It is my wish that we all have had the opportunity to read this full article prior to this debate having come about. But some of the excerpts I have already read are of importance.

Here is another one which I think is important. We have had considerable discussion about Professor Bickel, also from Yale University, and his position on the ground that this is a good method of going.

Professor Rostow says:

The delegation theory of Professors Velvel, Wormuth and Bickel would deny the President and the Congress the most ordinary and elementary tools for protecting the nation in a time of international turbulence. Under their rule, we should be the only nation on earth incapable of making a credible military treaty. For their rule would make it impossible firmly to delineate American interests in advance, and thus to deter and contain processes of expansion which Congress and the President deem threatening to national security. It would emasculate both Congress and the Presidency, and deprive even treaties like NATO of their weight and credibility.

While the Javits Bill does not fully embrace this extraordinary doctrine about the non-delegability of Congress' power with respect to the use of armed forces, it would annul the military provisions of all existing treaties and probably those of outstanding congressional commitments as well, and completely annul all presidential commitments not embodied in treaties. There would be a difficult and dangerous period of hiatus, maximizing uncertainty, until new legislation could be considered and passed.

Mr. TAFT. Mr. President, will the Senator from Colorado yield at that point?

Mr. DOMINICK. I yield.

Mr. TAFT. I read that particular passage with some interest early today. I wondered whether the Senator could give some explanation as to Professor Rostow's meaning in that regard and the generally adopted theory that our treaties are not self-executing; indeed, that there must be some further action taken in order, under our constitutional processes, to authorize the use of our Armed Forces.

Mr. DOMINICK. Yes. I think he is talking not only about treaties but also about executive agreements which may not be in the form of a question, where we need additional action of one sort or another, referred to commonly as constitutional processes. I believe all our treaties do contain words "within constitutional processes" or "in accordance with constitutional processes." That includes NATO. But the fact is that in almost every one of the mutual defense treaties we have, we have provisions in them for joint action in case the territory or the forces of any of the nations involved are attacked by hostile forces.

It is assumed in all of these that almost immediately, by a message or by a request, or information simply from the President to Congress, that action can come practically simultaneously, without having to have specific authorization going through both Houses of Congress. I believe that this is what he is talking about.

Now, let me go on with this. I read it—as I am sure the Senator from Ohio has—rather carefully, and the next provision he makes is:

> The Constitution, Justice Goldberg once said, is not "a suicide pact." The war power, the Supreme Court has remarked, is the power to wage war successfully. So, too, the power of the President and of the Congress over foreign relations is the power to wage peace successfully. There is nothing in the history of the war power and the foreign relations power, since President Washington's first term, to suggest that the United States may not seek to avert the danger of war by giving potential enemies of the nation a credible and effective warning in advance. Those who oppose the presumptive constitutional validity of the means Congress and the President together select as appropriate to protect the security of the nation, *McCulloch v. Maryland* teaches, face a nearly insuperable burden of proof.

So I think what he is saying is that, once we attack the credibility of a mutual defense treaty, we discredit it and therefore we do not have any credible advance warning.

Mr. TAFT. I fail to see how that differs with the treaty status with regard to NATO, SEATO, and the other major defense treaties, so that it is clear, as the Senator has indicated, further action or authority does have to be given under those treaties in the use of our Armed Forces, even to the problem of attack upon one of the members, as provided for in the terms of the treaty itself. I am not reassured by the Senator's statement that he believes Professor Rostow is referring to Executive orders because——

Mr. DOMINICK. I said in part.

Mr. TAFT. Well, my question is whether Professor Rostow really was referring to Executive orders. But, if he was, it seems to me that the danger is clear and the need for this legislation is more clear than the case for existing treaties.

Mr. DOMINICK. Well, I can understand the Senator's concern. I have great respect for his judgment and backing and opinions. But let me say this, we have gone into this debate on what the constitutional processes are, and the question of the use of Armed Forces which, as the Senator well knows, has been debated for a considerable period of time both on this floor today and in the past. There are considerable degrees of pattern and practice that would indicate we do not need an act of Congress in order to have constitutional processes to back the action of the President.

Mr. TAFT. I would agree with that, that it is within the war powers or transcends the war powers. If that is the case, I have never understood, and the Senator seems to be advocating the theory that, somehow, the war-powers provision of the Constitution can be abrogated by a treaty, which would be news to me. If that is the case, and there is some general belief that there is, too; it would be important to go into the definition of what the war powers are and what the authorities are in general for the Department of the Armed Forces in hostilities, or in a situation in which hostilities are imminent, as this legislation does.

Mr. DOMINICK. This is another reason why I think the question the Senator has raised here in this colloquy should be sent to the Judiciary Committee, where the resolution can be far more thoroughly considered than it has been up to date.

I think it is apparent, from some of the points we have brought out before, that the sponsors have already amended it in three places to take care of some of the postulates we have posed to them. Under this situation, what we are talking about here is whether we are in fact not just trying to reexercise the powers given to us as Members of Congress under the Constitution, but also whether we are trying to curtail the powers which have, both by the Constitution and by practice—patterns of practice—over a long period of time been left in the hands of the President as Commander in Chief.

Mr. TAFT. I thank the Senator for his comments. I have not committed myself, I might say, as to my position to refer it to the committee. However, the Senator is certainly a distinguished member of the bar. The Senator from New York has been a distinguished member of the bar and has made legal interpretations. I think that is also true of many other members of the committee which has already had the legislation under consideration.

I think it is also pretty evident that we have taken a lot of time on the floor to consider the measure. So, anyone could get into the legal ramifications that might be covered in the matter, and all have had an opportunity to do so.

I would welcome hearing from the Senator as to what further information might come from a referral to the Committee on the Judiciary.

Mr. DOMINICK. Mr. President, I will attempt again to be as brief as I can be. I do not think the Senator from Ohio or the Senator from New York were present when I started. I pointed out that in section 2 of this bill, if it were passed, we would be specifically saying that we did not intend to encroach on the recognized powers of the President to conduct hostilities, to respond to attacks or the imminent threats of attacks. This is contained on page 7 of the bill. Yet, we go into sections 5 and 6 of the bill, and it is my understanding that we say there that although we do not intend to encroach upon his powers, we can cut him off after 1 day or he can be permitted to continue for 30 days, but no longer than that.

It seems to me that it is difficult to say that we are going to do this on the one hand and on the other hand say that we are going to cut off his right to do it. I do not understand that situation at all.

It seems to me that if the power contained in title II is designed to restrict the constitutional power, then by limiting it under sections 5 and 6, we are indeed doing as Professor Rostow said, trying to amend the Constitution by statute. I do not think that we should attempt to do that. And I do not think it is proper.

I could go on at some length. These are points that have been brought up before. However, I will repeat them.

As I understand it, there were only two professors of law who were witnesses in the hearing before the Foreign Relations Committee—one being Professor Bickel, who testified in favor of the bill, and the other being Professor Moore, of the University of Virginia, who testified against it.

There are obviously going to be differences among all lawyers as to what any particular bill means. However, when we are dealing with something which could have the potential significance to the history of this country as this bill does, if passed, it seems to me that we ought to get as many minds, and good minds, on the exact wording of it and the exact meaning of it, as we can. And we ought to do that prior to the time we take final action on the bill.

As I believe the Senator recognizes, the motion of the Senator from Nebraska to refer this matter to the Judiciary Committee will be for a limited period of time. So the bill will be reported again. It will not be stuffed in a cubbyhole where it may die. The purpose is to get the hearings finished and be able to come forward with some further evidence.

I strongly support the motion. I think it is well worthwhile doing. I certainly am—and I think many of the Members of the Senate also are—far from satisfied with the constitutionality of the bill or its workability in terms of the world as we see it today.

I ask unanimous consent that a letter to the editor of the Washington Star, written by Mr. Walter Sterling Surrey, a very prominent lawyer in town and a former member of the State Department, and published in yesterday's Star, be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

WAR POWERS BILL

SIR: As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the President's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concerns with changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect our capabilities and flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander-in-chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the president, in the event of his use of armed forces, to report to the Congress fully on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in the House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these differences be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the president and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

Mr. EAGLETON. Mr. President, I rise to speak in opposition to the Hruska motion to refer S. 2956 to the Committee on the Judiciary.

The remarks of the Senator from Colorado (Mr. DOMINICK) and the Senator from Alabama (Mr. ALLEN) placed considerable emphasis on the absence of noted legal scholars in support of the proposed Javits bill. The Senator from Colorado read excerpts from a law review article by Professor Rostow. However, the Senator from Colorado failed to mention two law review articles already in the RECORD written by retired professors of law. One is in the RECORD of Wednesday, March 29, by former Prof. WILLIAM SPONG, now a Senator from the State of Virginia. That is an article that was published in the University of Richmond Law Review. It was introduced into the RECORD by the Senator from Missouri.

On the following day, on the basis of reciprocity, the Senator from Virginia (Mr. SPONG) requested that an article by retired professor of law EAGLETON of the University of Michigan be printed in the RECORD. Both law review articles pertain to the War Powers Act.

So two ex-law professors have given their opinions as to the constitutionality of this legislation.

Mr. President, I have in my hand a brief entitled "Indochina: The Constitutional Crisis." This brief also relates to this matter. It has been prepared by several eminent legal scholars and practitioners of the law, including: Alexander M. Bickel, professor of law, Yale Law School; Bruce Bromley, attorney, New York City; former judge, New York Court of Appeals; Elias Clark, professor of law, Yale Law School; Ramsey Clark, former Attorney General; William T. Coleman, attorney, Philadelphia, Pa.; John W. Douglas, former Assistant Attorney General; George N. Lindsay, attorney, New York City; Burke Marshall, professor of law, Yale Law School; former Assistant Attorney General; Louis F. Oberdorfer, former Assistant Attorney General; Stephen J. Pollak, former Assistant Attorney General; Paul C. Warnke, former Assistant Secretary of Defense; and Edwin M. Zimmerman, former Assistant Attorney General.

Mr. President, I ask unanimous consent that the brief to which I have referred be printed at this point in the RECORD.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

INDOCHINA: THE CONSTITUTIONAL CRISIS

The dispatch of American troops into Cambodia by the President, without specific authorization by Congress, raises serious questions about the constitutional allocation of power between the legislative and executive branches. The most significant factor in the resolution of such questions is the presence or absence of action by each branch.

The power to commit American forces to combat was originally entrusted to Congress, which retained it almost unchallenged for over a century. But in the twentieth century, Congress has passively allowed the effective ability to engage the United States in hostile actions abroad to be assumed almost entirely by the Presidency.

Proposals now before Congress invoke the money power as a means of asserting control over the Indochinese War. If Congress exercises its money power to prohibit specific uses of the armed forces, it will reassert its long dormant capacity firmly and constitutionally to limit the President's ability to use the armed forces for purposes which Congress does not approve.

I. THE LANGUAGE OF THE CONSTITUTION

The power to commit American troops to battle was allocated by the Constitution between the President and Congress. (The relevant clauses of the Constitution are quoted in the Appendix.) The President is entrusted with the executive power,[1] made Commander in Chief of the Army and Navy,[2] and, with the advice and consent of the Senate, empowered to make treaties and appoint ambassadors.[3] The Congress is empowered to lay taxes to provide for the common defense,[4] to define and punish offenses against the law of nations,[5] to declare war,[6] to raise and support armies (but not to finance them for more than two years at a time),[7] to provide and maintain a navy,[8] to make rules for the land and naval forces,[9] and to provide for calling up and organizing the militia.[10]

II. THE ORIGINAL UNDERSTANDING

The Constitution does not say explicitly whether the army may be sent into battle when Congress has not declared war, or, if it may, under what circumstances and by whose decision. In interpreting the Constitution on this point, it is helpful to look at the intent of the Framers and to the understanding of the men who first put the Constitution into practice.[11]

The Constitutional Convention debated the clause giving Congress the power to declare war on August 17, 1787.[12] The clause originally empowered Congress "to make war."[13] Some delegates objected that the power should lie with the executive, as it did in England.[14] Most of the Convention seemed firmly of the opinion that the power should lie with Congress, but that the President should have the power to defend against a sudden attack. The Convention decided to "insert 'declare,' striking out 'make' war, leaving to the executive the power to repel sudden attacks."[15] The Framers had in mind a division of functions. The President, as Commander in Chief, was charged with the conduct of hostilities after they are legally begun. He was also expected to take measures to repel any actual attack upon the United States, as an incident of his executive power. But the power to initiate hostilities was clearly meant to be reserved to the Congress, with the President participating in that initiative only so far as his signature was necessary to complete an act of Congress. Thus, the President, unless his veto is overridden, may prevent war, but he cannot constitutionally act alone to begin a war.

The Judicial branch was also quick to conclude that Congress alone can declare war. Delivering the opinion of the Supreme Court in an 1801 prize case, Chief Justice John Marshall concluded that the "whole powers of war" were "vested in Congress."[16]

There may, however, be hostilities which fall short of requiring an actual declaration of war. Ten years after the adoption of the Constitution, the naval trouble between the United States and France which had begun under Washington became so acute that American shipping was greatly endangered.[17] President Adams had to decide what to do. Alexander Hamilton advised the administration against action without Congressional authority:

> In so delicate a case, in one which involves so important a consequence as that of war,

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my opinion is that no doubtful authority ought to be exercised by the President.[18]

Adams decided to wait for Congress to act, and it passed laws authorizing him to protect American commerce.[19] Similarly in 1801, President Jefferson was faced with hostilities on the Barbary Coast, but felt that he could order only defensive measures until Congress authorized him to commit forces to offensive action.[20]

In the first two limited wars in which the United States found itself, both Adams and Jefferson had the means to order retaliatory action immediately. Perhaps some lives and property would have been saved had they done so. But both clearly felt that the decision to commit American forces was not constitutionally theirs to make, and preferred the preservation of the Constitutional process to the pursuit of a temporary military advantage.

III. HISTORICAL DEVELOPMENT OF THE WAR POWER

A. Wars and Limited Wars in the Nineteenth Century:

If the President's power to engage American forces in hostilities on his own initiative is limited to defensive action by a strict construction of the Constitution, the question of the proper role of Congress arises. Congress clearly has the power to engage the United States in formal war, as it did in 1812 with the President reluctantly assenting.[21] It may declare war at the request of the President.[22] And Congress may also ratify after the fact hostilities begun by the President.[23]

The executive branch very early recognized the exclusive power of Congress to declare war. In the course of a dispute with Spain in 1805, President Jefferson told Congress:

Considering that Congress alone is constitutionally invested with the power of changing our position from peace to war, I have thought it my duty to await their authority before using force in any degree which could be avoided.[24]

Similar deference to the sole power of Congress to make any decision to commit the United States to war was voiced by President James Monroe,[25] Secretary of State John Quincy Adams,[26] and Secretary of State Daniel Webster.[27]

The Congress itself was jealously aware of its war power, and on one occasion nearly censured the President for invading it. In 1846 it had declared, after the fact, that a state of war existed with Mexico. But the debate was bitter and the war unpopular. At the end of the war, the House of Representatives voted its thanks to General Taylor, but amended its resolution to note that he had won

A war unnecessarily and unconstitutionally begun by the President of the United States.[28]

Among the Congressmen supporting the amendment were former President John Quincy Adams and future President Abraham Lincoln.

Congress also has considerable power, short of a declaration of war, to authorize and regulate limited hostilities, as it has done on a number of occasions, with and without executive approval, since 1798.[29]

During the nineteenth century, the executive branch frequently recognized the need for congressional authorization even for limited military actions. In 1857 the Secretary of State refused to send ships to help a British expedition in China, because he lacked congressional authority to do so.[30] The next year President Buchanan pleaded with Congress for authority to protect transit across the isthmus of Panama, but refused to act without it.[31] Nor in 1876 would the State Department use force to help Americans in Mexico, because it felt that it lacked the power to do so.[32] As late as 1911 President William Howard Taft felt that he had enough power to move troops to the Mexican border, to be ready in case Congress told him to protect American lives and property endangered by the revolution there, but refused to send them in on his own authority.[33]

B. Erosion of the Congressional War-Making Power in the Twentieth Century:

In the early part of the twentieth century, the executive began to exercise greater discretion in the use of American armed forces abroad. For instance, without specific congressional approval, President Theodore Roosevelt sent American troops into Panama in 1903 and President Wilson sent troops into Mexico in 1916 in pursuit of the Pancho Villa bandits.[34]

Since 1945, the executive has regularly used military force abroad as a tool of diplomacy. Aside from Indochina, the greatest use of American force was in Korea, where several hundred thousand troops were committed to combat and major casualties were incurred. There was neither a formal declaration of war, nor any other specific congressional sanction for the Korean conflict.[35] American forces were sent into the Formosan Strait in 1955, into Lebanon in 1958, and into the Dominican Republic in 1965. The Navy was used to blockade Cuba during the missile crisis in 1962. And, most recently, naval vessels were dispatched to the vicinity of Haiti and Trinidad in response to internal conflicts in those countries. Prior congressional resolutions were obtained by the President for the Formosan and Lebanese actions, but both the validity of those resolutions and the degree to which President Eisenhower relied on them has been questioned.[36]

The application of prior historical precedents to unilateral executive use of armed force abroad in the mid-twentieth century can, however, be misleading. For instance, as precedents for the Vietnam War, a State Department Memorandum cites a long series of military actions ordered by the President alone.[37] The majority of the cited military actions undertaken by the executive without congressional approval took place in the nineteenth century. Most of them were not actions that involved conflicts with foreign states; rather, the bulk of them involved the protections of individuals, police actions against pirates or actions against primitive peoples. Furthermore, the United States did not have a significant standing army during peacetime until after 1945, and the President was limited in the military actions that he could take by the need to approach Congress to ask for any increase in the size of the armed forces. Today, with a tremendous military machine and modern transport at his immediate disposal, the President is under little practical pressure to seek congressional authorization for his actions, and therefore he is unlikely to seek it unless Congress insist that he do so.[38]

IV. THE THEORETICAL BASES FOR UNILATERAL PRESIDENTIAL ACTION

The theories on which various Presidents have relied for the use of military force abroad without congressional approval may be divided into three general categories: (1) the sudden attack theory; (2) the neutrality theory; and (3) the collective security theory.[39]

(1) *The Sudden Attack Theory*—The President as the Chief Executive has the inherent power to defend the sovereignty and integrity of the nation itself and to respond to an armed attack on the territory of the United States without requesting congressional approval. For example, we do not question the constitutional authority of the President to order a retaliatory strike in the event of an atomic attack on the territory of the United States. In the absence of an armed attack on American territory, the power of the President is more closely circumscribed.[40]

(2) *The Neutrality Theory*—Also known as "interposition," the neutrality theory was developed during the nineteenth century as a justification for American military involvement abroad to protect American citizens and property. When American armed forces were sent into a foreign nation, their presence was supposed to be "neutral" with respect to any conflicts there. *The executive, in taking such action, was not necessarily "making war" but merely dispatching troops to act as security guards for American citizens and their property. The real difficulty, clearly, was in remaining neutral and avoiding conflict.*[41]

(3) *The Collective Security Theory*—Since 1945, the United States has entered into many security treaties with foreign nations. Many of these agreements have clauses which indicate that the security of each signatory is vital to the security of each other signatory. Unilateral presidential action under these agreements may be justified as necessary for the protection of American security even though the conflict may arise thousands of miles from American shores, but, *carried to its extreme, the collective security theory would justify almost any "unilateral" presidential use of armed force abroad,*[42] *a result contrary to Constitutional standards.*

V. THE JUSTIFICATIONS FOR UNILATERAL EXECUTIVE ACTION IN INDOCHINA

The involvement of the United States in Vietnam, the commencement of an air war in Laos, and the expansion of the ground war into Cambodia have resulted almost entirely from executive decisions and actions. The executive branch of the government has justified its action primarily on the grounds of: (1) the presidential prerogative to protect American security interests abroad by whatever means necessary; (2) the SEATO treaty; and (3) the Gulf of Tonkin Resolution.[43] It cannot be said that the recent actions by the executive in Cambodia or the earlier actions in both Vietnam and Laos are clearly contrary to the Constitution. However, the expansion of the war into Cambodia is the latest in a long series of acts which, taken together, have nearly stripped Congress of its war power.

(1) The Presidential Prerogative—Undoubtedly, the speed with which crises develop in the modern world necessitates a strong executive who can respond quickly to such crises. The need for a speedy response, the need for secrecy, the need to protect American citizens and property abroad, and the need to protect American security interests in the balance of power are all used to legitimize the use by the executive, without congressional approval, of American armed forces abroad. Recent United States actions, especially in Korea and Indochina, are cited to support great executive discretion in the use of American military force abroad. The recent invasion of Cambodia without prior congressional approval or even notice is not without historical precedent and not without justification under a broad interpretation of the collective security theory.[44]

However, the real question is whether the balance has shifted too far in favor of the executive.[45] A war, such as the one in Indochina, requires great sacrifices on the part of great numbers of the American people. It is difficult, if not impossible, to predict the ultimate outcome of any American intervention. Consequently, when there is a possibility of large scale American involvement and even a limited risk of war, Congress should pass on the desirability of American military action.[46]

The executive has also placed reliance on the power of the President as chief formulator of foreign policy and as Commander in Chief of the armed forces. Granted that the President does have primary responsibility in the modern world for the handling of foreign policy, he should not have the discretion to initiate war as an instrument of foreign policy.

Finally, the Commander in Chief provision of the Constitution is an expression of civilian control over the military; it does not give the war power to the President.[47]

(2) The SEATO Treaty—The Southeast Asia Treaty Organization is one of the many multilateral collective security treaties which the United States has signed. Neither South Vietnam nor Cambodia is a signatory, but both countries are within "protocol areas" which the signatories consider to be vital to their security interests.[48] The terms of the treaty are ambiguous, and it is at least questionable whether the United States was obligated by the terms of the treaty to come to the aid of South Vietnam.[49]

THE CONSTITUTION OF THE UNITED STATES

(Clauses related to war)

Article I

Section 1. All legislative power herein granted shall be vested in a Congress of the United States . . .

Section 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts, and Excises, to . . . provide for the common Defence . . .

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant letters of Marque and Reprisal, and make rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of money to that Use shall be for a longer term than Two years;

To provide and maintain a Navy;

To make rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia . . .

To provide for organizing, arming, and disciplining the Militia . . .

To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers . . .

Article II

Section 1. The executive Power shall be vested in a President of the United States of America . . .

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States when called into the actual service of the United States; . . . He shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors . . . and all other Officers of the United States . . .

(The appropriations clause)

Article I

Section 9. No money shall be drawn from the Treasury, but in consequence of Appropriations made by law; . . .

THE DEBATE ON THE WAR POWER IN THE CONSTITUTIONAL CONVENTION

(From Madison's notes)

Friday August 17th in convention, "To make war":

Mr. PINKNEY opposed the vesting this power in the Legislature. Its proceedings were too slow. It would meet but once a year. The House of Representatives would be too numerous for such deliberations. The Senate would be the best depository, being more acquainted with foreign affairs, and most capable of proper resolutions. If the States are equally represented in the Senate, so as to give no advantage to large States, the power will notwithstanding be safe, as the small have their all at stake in such cases as well as the large States. It would be singular for one authority to make war, and another peace.

Mr. BUTLER. The objections against the Legislature lie in great degree against the Senate. He was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it.

Mr. MADISON and Mr. GERRY moved to insert "declare," striking out "make" war; leaving to the Executive the power to repel sudden attacks.

Mr. SHARMAN thought it stood very well. The Executive should be able to repel and not to commence war. "Make" better than "declare" the latter narrowing the power too much.

Mr. GERRY never expected to hear in a republic a motion to empower the Executive alone to declare war.

Mr. ELLSWORTH. There is a material difference between the cases of making *war* and making *peace*. It should be more easy to get out of war than into it. War also is a simple and overt declaration, peace attended with intricate and secret negotiations.

Mr. MASON was against giving the power of war to the Executive, because not safety to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace. He preferred "declare" to "make."

On the motion to insert *declare*—in place of *make*, it was agreed to.

N.H. No.

Mass. absent.

Conn. no (On the remark by Mr. King that "make" war might be understood to "conduct" it which was an Executive function, Mr. Ellsworth gave up his objection, and the vote of Connecticut was changed to—ay).

Pa. ay.

Del. ay.

Md. ay.

Va. ay.

N.C. ay.

S.C. ay.

Geo. ay.

Mr. Pinkney's motion to strike out the whole clause, disregard to without call of States.

COMMENTS ON THE ROLE OF CONGRESS AND THE PRESIDENT IN MILITARY AND FOREIGN AFFAIRS

JAMES MADISON. "The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to government, because they can be concealed or disclosed in such parts and at such times as will best suit particular views; and because the body of the people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other. Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad. "Letter to Jefferson, May 13, 1798.

THOMAS JEFFERSON. "Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided." Message to Congress, December 6, 1805.

JOHN MARSHALL. "The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry." Opinion in *The Amelia*, 1801.

Justice SAMUEL P. CHASE. "Congress is empowered to declare a general war, or Congress may wage a limited war; limited in place, in object, in time. If a general war is declared, its extent and operations are only restricted and regulated by the *jus belli*, forming a part of the law of nations; but if a partial war is waged, its extent and operation depend on our municipal laws. Opinion in *Bas v. Tingey* 1800.

DANIEL WEBSTER. "In the first place, I have to say that the war-making power in this Government rests entirely with Congress; and that the President can authorize belligerent operations only in the cases expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another. We are bound to regard both France and Hawaii as independent states, and equally independent, and though the general policy of the Government might lead it to take part with either in a controversy with the other, still, if this interference be an act of hostile force, it is not within the constitutional power of the President; and still less is it within the power of any subordinated agent of government, civil or military." Statement while Secretary of State 1851.

JAMES BUCHANAN. "The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks. It would have no authority to enter the territories of Nicaragua even to prevent the destruction of the transit and to protect the lives and property of our own citizens on their passage. It is true that on a sudden emergency of this character the President would direct any armed force in the vicinity to march to their relief, but in doing this he would act upon his own responsibility." Message to Congress December 6, 1858.

ABRAHAM LINCOLN. "Let me first state what I understand to be your position. It is that if it shall become necessary to repel invasion, the President may, without violation of the Constitution, cross the line and invade the territory of another country, and that whether such necessity exists in any given case the President is the sole judge. . . .

"Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such a purpose, and you allow him to make war at his pleasure. Study to see if you can fix any limit to his power in this respect, after having given him so much power as you propose. . . .

"The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us. But your view destroys the whole matter, and places our President where kings have always stood." Letter to Herndon while in Congress.

FOOTNOTES

[1] Constitution of the United States of America, Article 2, §1.

[2] *Ibid.* Article 2, §2, cl. 1

[3] *Ibid.* Article 2, §2, cl. 2

[4] *Ibid.* Article 1, §8, cl. 1

[5] *Ibid.* Article 1, §8, cl. 10

[6] *Ibid.* Article 1, §8, cl. 11

[7] *Ibid.* Article 1, §8, cl. 12

[8] *Ibid.* Article 8, §8, cl. 13

[9] *Ibid.* Article 1, §8, cl. 14

[10] *Ibid.* Article 1, §8, cl. 15 and cl. 16

[11] For an exhaustive analysis of the historical development of the war power see the article by Francis D. Wormuth, "The Vietnam War: The President versus the Constitution," on which this paper draws heavily. It is reprinted in Falk, ed., *The Vietnam War and International Law*, Princeton University Press, 1969.

[12] James Madison, *Notes of Debates in the Federal Convention*, Ohio University Press edition, 1966.

A transcript of Madison's notes on the debate on the war power is included in the appendix to this paper.

Footnotes at end of article.

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[13] *Ibid.*, debate of August 17, 1787 (Ohio Edition page 476).

[14] *Ibid.*, remarks of Mr. Butler (see appendix). For a discussion of the English allocation of power, still accurate when the Constitution was written, see John Locke, *Second Treatise on Government* (1960), chapters 12 and 13, §145.

Mr. Gerry remarked that he "never expected to hear in a republic a motion to empower the Executive alone to declare war."

[15] *Ibid.*, the motion passed eight states to one, Massachusetts absent. (see appendix).

[16] *The Amelia*, 1 Cranch (5 U.S.) 1 (1801). Chief Justice Marshall wrote: The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry.

The case involved a ship whose seizure would have been legal under the President's privateering proclamation, but whose seizure the Court held was illegal under the terms of the Act of Congress which authorized the proclamation. The privateer was made to pay damages to the ship's owner.

[17] After the outbreak of the war between France and England in 1792, American shipping was molested by the blockades of both nations. President Washington met the challenge with his famous Neutrality Proclamation, which kept the United States out of the conflict. By 1798, however, French depredations on American commerce had become so menacing that action was needed to protect it. The question was whether President Adams could do so on his own authority or whether he needed the authority of Congress.

[18] Alexander Hamilton to James McHenry, the Secretary of War, May 17, 1798 (quoted in Wormuth, *op. cit.*)

[19] Congress suspended commercial intercourse with France in the Act of June 13, 1798, augmented by the Act of February 9, 1799. (1 Stat. 565, 1 Stat. 613). It denounced the treaty with France in the Act of July 7, 1798 (1 Stat. 578). It created the Department of the Navy by the Act of April 27, 1798 (1 Stat. 553). And it established the Marine Corps by the Act of July 11, 1798 (1 Stat. 594). The controversy with France is described in note 17, above.

[20] The Barbary States, particularly Tripoli, had been marauding American shipping, in an attempt to exact a payment of tribute from the United States. When the promised tribute was not paid, Tripoli declared war on the United States. President Jefferson sent ships to the Mediterranean, but authorized them only to defend themselves and other American ships. The Navy captured a Tripolitan ship, but released it after disarming it, as the President told Congress:

"Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being disabled from committing further hostilities, was liberated with its crew. The Legislature will doubtless consider whether, by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries."

Thomas Jefferson, First Annual Message, December 8, 1801, *Messages and Papers of the Presidents* (1908) vol. I, p. 326.

[21] Act of June 18, 1812 (2 Stat. 155).

[22] Act of April 20, 1898 (30 Stat. 738), containing the ultimatum to Spain, and the Act of April 25, 1898 (30 Stat. 364), declaring that a state of war had existed since April 21.

[23] Act of May 13, 1846 (Stat.), and Act of August 6, 1861 (12 Stat. 326).

[24] *Messages and Papers of the Presidents*, vol. I, p. 389.

[25] In 1824 Colombia notified the United States that it was threatened by France, and asked for protection. The Monroe Doctrine had been announced the year before, but the administration would not commit itself to defend Colombia. President Monroe wrote to Former President Madison that:

"The Executive has no right to commit the nation in any question of war."

Letter of August 2, 1824, quoted in Wormuth *op. cit.*

[26] Three days after Monroe's letter to Madison, Secretary of State Adams formally wrote to the Minister of Colombia to the United States:

"By the Constitution of the United States, the ultimate decision of this question belongs to the Legislative Department of the Government."

John Quincy Adams to Jose Maria Salazar, August 6, 1824.

[27] In 1851 Hawaii asked the United States for protection from France. Secretary of State Daniel Webster refused to help:

"I have to say that the war-making power rests entirely with Congress and that the President can authorize belligerent operations only in the case expressly provided for by the Constitution and the laws. By these no power is given to the Executive to oppose an attack by one independent nation on the possessions of another."

J.B. Moore, *Digest of International Law*, Washington, G.P.O. vol. 7, p. 163.

[28] *Congressional Globe*, 30th Congress, 1st Session, page 95, January 3, 1848:

"The Mexican War had been precipitated in 1846 by President Polk's dispatch of American troops into a territory whose possession was disputed with Mexico. After hostilities erupted, Congress reluctantly declared that a state of war existed between the United States and Mexico."

The resolution referred to was a vote of thanks to General Zachary Taylor, the Commander of the successful American forces. The clause censuring the President was moved as an amendment to that resolution. The amendment was adopted on January 3, but was dropped when the resolution came up for a final vote.

[29] For the 1798 legislation, see note 19, above.

Congress authorized the President to act against Tripoli in the Act of February 6, 1802 (2 Stat. 129).

In 1839, in the course of a dispute over the boundary of Maine, Congress authorized the use of force against England in the Act of March 3, 1839 (5 Stat. 355). Force was never needed.

In 1890 the Congress passed an act, which became law without the President's signature, authorizing the use of force to extract an indemnity for the seizure of American ships off Venezuela. Act of June 17, 1890 (26 Stat. 674). The indemnity was secured by arbitration.

[30] Secretary of State Lewis Cass wrote the British Government that:

"Under the Constitution of the United States, the executive branch of this Government is not the war-making power. The exercise of that great attribute of sovereignty is vested in Congress, and the President has no authority to order aggressive hostilities to be undertaken . . . Military expeditions into the Chinese territory cannot be undertaken without the authority of the National Legislature."

Moore, *op. cit.* vol. 7, p. 164.

[31] President Buchanan told Congress that: "The executive government of this country in its intercourse with foreign nations is limited to diplomacy alone. When this fails it can go no further. It cannot legitimately resort to force without authority of Congress, except in resisting and repelling hostile attacks."

Messages and Papers of the Presidents, vol. 5, p. 616: Message of December 6, 1858.

[32] Acting Secretary of State Hunter wrote:

"The President is not authorized to order or approve an act of war in a country with which we are at peace, except in self-defense. This is a peculiarity of our form of government, which at times may be inconvenient, but which is believed to have proved and will in the future be found in the long run to be wise and essential to the public welfare."

Moore, *op. cit.* vol. 7, p. 167.

[33] In his Third Annual Message, President Taft told Congress:

"The assumption by the press that I contemplate intervention on Mexican Soil to protect American lives or property is of course gratuitous, because I seriously doubt whether I have such authority under any circumstances, and if I had I would not exercise it without express Congressional approval."

Despite presidential protestations to the contrary, a diluted but similar recognition of the need for Congressional approval of limited hostilities lay behind the requests for the Formosa Resolution of 1954, the Middle East Resolution of 1957, and the Gulf of Tonkin Resolution of 1964.

[34] See generally, Reveley, "Presidential War Making: Constitutional Prerogative or Usurpation?" 55 Va. L. Rev. 1243, 1257–63 (1969):

President Wilson sent American troops into Vera Cruz in 1914 on his own authority, but he had asked Congress for an enabling act the day before the troops were used, and the day after the landing Congress ratified his actions.

[35] See, "Congress, The President and the Power to Commit Forces to Combat," in *The Vietnam War and International Law*, v. 2 (Falk. ed. 1969), at 616, 636–37. This article originally appeared as a Note in the Harvard Law Review, 81 Harv. L. Rev. 1771 (1968). Much of the content and many of the arguments in this memorandum have been drawn from this Note. Hereinafter it will be cited as the "Harv. Note" with page citations to the Falk collection.

[36] See, Moore, "The National Executive and the Use of Armed Forces Abroad," in Falk, supra (n. 35) at 809, 817. This was originally an address given by Professor Moore at the Naval War College on Oct. 11, 1968. (Hereinafter cited as "Moore Address" with page citations to the Falk Collection); see Harv. Note at 637.

[37] Department of State, "The Legality of United States Participation in the Defense of Viet-Nam," 54 Department of State Bulletin 474 (1966), reprinted in "Symposium-Legality of United States Participation in the Defense in the Viet Nam Conflict," 75 Yale L.J. 1084 (1966). (Hereinafter cited as State Department Memo)

[38] "As precedent for Vietnam, however, the majority of the nineteenth century uses of force do not survive close scrutiny. Most were minor undertakings, designed to protect American citizens or property, or to revenge a slight to national honor, and most involved no combat, or even its likelihood, with forces of another state. To use force abroad on a notable scale, the President would of necessity have had to request Congress to augment the standing army and navy. Reveley, supra, n.8 at 1258."

[39] See generally Harv. Note.

[40] See generally Harv. Note at 624, 631:

In the event of an armed attack on the territory of the United States proper, there is little question that the executive possesses the power to respond with all means at his disposal. Congressional approval of such action would probably be immediate. When, on the other hand, an attack is made on American persons or property abroad then the response should generally be proportional to the attack. The recent "Pueblo Incident" is a striking example of the fact that not every use of force against the United States is an act which places the country at war and that a variety of factors should enter into the development of an appropriate response. Short of an attack which threatens the life of the country, therefore, it seems that the President's power under the sudden attack theory is fairly limited.

There is also the danger of provocation, either planned or accidental. The mere presence of American forces near a hostile nation may provoke a "sudden attack". Consider, for instance, the U–2 incident in 1960, the various RB–47 incidents, the "Pueblo Incident". If the response to such attacks is not limited, then the country may become involved in a much larger conflict with little or no executive-legislative collaboration.

[41] See generally, Harv. Note at 364; Reveley, supra (n. 34) at 1257 et seq.; and Velvel, "The War in Viet Nam: Unconstitutional, Justiciable and Jurisdictionally Attackable," 16 Kan. L. Rev. 449 (1968). (Caveat: Prof. Velvel's article is highly one-sided).

Modern analoguses of the "neutrality theory" were the landing of troops in the Dominican Republic in 1965 and the recent dispatch of American naval vessels to the area around Haiti and Trinidad.

The real problem with the neutrality theory is remaining neutral. "Interposition" may easily lead to "intervention" and the Congress may be faced with a *fait accompli*. President Roosevelt accomplished an actual "intervention" in Panama in 1903 by "interposing" American troops there under an executive order, ostensibly to protect American property and citizens, but actually to support a friendly government.

However, American citizens who live or own property abroad probably should be able to expect some degree of aid from their government in time of conflict. But if the President has an unfettered right to employ the American military anywhere at anytime to protect American property, Congress may be left without an opportunity to assert its views. And, in many cases, the risks of deployment may be greater than the risks of restraint.

[42] See generally, State Department Memo; Alford, "The Legality of American Military Involvement in Viet Nam: A Broader Perspective," 75 Yale L.J. 1109 (1966); Harv. Note at 627 et seq.; cf., Memorandum of Lawyers Committee on American Policy toward Viet Nam, 112 Cong. Rec. 2552–59 (daily edn. Feb. 9, 1966).

Almost every national in the world has become classified as friendly, hostile, or neutral, and conflicts which might have seemed minor fifty or a hundred years ago are now often viewed as dangerous because they tend to upset the precarious world order and balance of power. Consequently, the idea of American security has expanded greatly so that an armed conflict in a far part of the world may appear to be a threat to the security of the United States itself. Unilateral Presidential employment of armed forces abroad, under the collective security theory has, therefore, been justified on much the same grounds as unilateral executive action under the sudden attack theory. The physical territory of the United States may be in no immediate, or even distant, danger. There may be no immediate threat to American forces, citizens, or property, but a conflict may seem to endanger the worldwide security system of the United States. The argument for Presidential action under the collective security theory is that the executive must have the power to respond quickly and forcefully to attacks which are considered important, for a variety of reasons, to the maintenance of the balance of power.

The executive action in Indochina has been premised largely on the collective security theory. The Indochinese War and other recent American military actions serve to indicate that the neutrality theory is no longer viable. In a world divided into friendly, hostile, and neutral countries, most armed conflicts will probably affect the existing order. It is difficult, if not impossible, therefore, for American intervention in such conflicts to remain wholly neutral.

The notion that the United States possesses extraterritorial security interests is not novel. The Monroe Doctrine of 1823 is a clear example. But the proliferation of bilateral and multilateral security agreements since the end of World War II has widened American security interests to include most of the world.

Accepting the general premise of the collective security theory, the question is: who determines when the security interest of the United States is threatened, the President or Congress? And who determines what response is to be taken to protect that interest?

[43] See generally, State Department Memo.

[44] See Text and notes, supra.

[45] If the balance has shifted too far in favor of the executive, then Congress must share the blame for its failure to act in the past. Is there any real concern or is it acceptable for the President to have primary responsibility for the use of American force abroad?

There is certainly a strong argument in favor of giving the executive the ability to respond with speed and force to crises which constitute a *direct* threat to the security of the United States. (See Harv. Note at 640.) But, there are equally strong, if not stronger, arguments in favor of increased congressional control over executive actions which may involve the United States in lengthy conflicts that are costly both in terms of lives and economic resources.

[46] See generally, Moore address.

[47] Velvel, supra (n. 41) at 457.

[48] The full text of the SEATO Treaty may be found in 6 U.S. Treaties 81; T.I.A.S., No. 3170; 209 U.N. Treaty Series 28; and Falk, supra (n. 35) at 561 and seq. The signatories were: Australia, France, New Zealand, Pakistan, Philippines, Thailand, the United States, and the United Kingdom. The Protocol to the SEATO Treaty provides in pertinent part that:

The parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the states of Cambodia and Laos and the free territory under the jurisdiction of the state of Vietnam." 6 U.S. Treaties 87; T.I.A.S., No. 3170; 209 U.S. Treaty Series 36; Falk supra, (n. 35) at 568.

Laos was removed from the "protocol area" by the Geneva Accords of 1962. See: Protocol to the Declaration on the Neutrality of Laos, T.I.A.S. 5410; Falk, supra (no. 35) at 568.

Article IV goes to the core of the collective security agreement:

1. Each party recognizes that aggression by means of armed attack in the treaty area against any of the parties or against any state or territory which the parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

2. If, in the opinion of any of the parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any party in the treaty area or of any other state or territory to which the provisions of paragraph 1 of this article from time to time apply . . the Parties shall consult immediately to agree on measures which should be taken for the common defense.

[49] See generally, Falk* (supra).

[50] Art. IV. ¶1 of SEATO Treaty, supra (n. 48).

[51] Constitution, Art. 2 § 2, cl. 2.

[52] Id., Art. 2, § 3.

However, the treaty is rendered of no effect if it conflicts with subsequent legislation, since the lawmaking power of Congress is equally as potent as the treaty power.

A treaty may supersede a prior act of Congress, and an act of Congress may supersede a prior treaty. *The Cherokee Tobacco*, 78 U.S. (11 Wall.) 616, 621 (1870); accord, *Pigeon River Co. v. Cox Co.*, 291 U.S. 138, 160 (1934); *Moser v. United States*, 341 U.S. 41, 45 (1951).

[53] See Harv. Note at 642–46.

The possibility of giving the war power to the Senate alone was specifically considered and rejected by the Framers. See, Appendix on the debate in the Constitutional Convention.

[54] Southeast Asia Resolution, Aug. 10, 1964, Public Law 88–408 (H.J. Res. 1145); 78 Stat. 384. The Resolution is also reprinted in Falk, supra (n. 35) at 579.

[55] See e.g. opinion of Chief Justice Marshall in *Talbot v. Seeman*, 5 U.S. (1 Cr.) 1, 25 (1801). And, as former Secretary of Defense McNamara has said, "There has not been a formal declaration of war—anywhere in the world since World War II." Address to American Society of Newspaper Editors May 18, 1966, *New York Times*, May 19, 1966, p. C–11, col. 1 (city edn.) at col 2.

[56] See generally, Moore Address; Alford, supra, (n. 42); Moore and Falk articles, supra (n. 49).

Whether the Tonkin Resolution is sufficient authority for the Cambodian invasion and the air action in Laos has not been considered by the legal commentators thus far, but the language of the Resolution is so broad that it could, arguably, authorize almost any American action in the Western Pacific area. See, remarks of Senators Fulbright and Cooper during the debate on the Resolution, 11 Cong. Rec. 18409–410 (1964).

[57] One commentator, however, does argue that Congress had sufficient information to form a reasonable opinion about the possible consequences of the Resolution, and that it was perhaps an unfortunate, but not unconstitutional adbication of responsibility. See, Moore Address at 821, and see generally Moore and Underwood, "The Lawfulness of United States Assistance to the Republic of Viet Nam," 112 Cong. Rec. 14943, 14960–67, 14983–89 (daily edn., July 14, 1966).

[58] It is at least questionable whether a resolution passed in response to a relatively minor attack on American warships was sufficient authorization for a war which has resulted in more American casualties than any war except the Civil War and World Wars I and II.

It has also been argued that Congress has given its implied approval to the Indochinese War because it has passed military authorization bills for the area. The argument based on enactment of military appropriations legislation is specious. The authorization of expenditures for the support of the soldiers in Southeast Asia War necessitated by the executive fait accomple in dispatching forces there. And, if the Framers had thought that the money power by itself gave Congress sufficient control over the military, there would have been no need to grant Congress the explicit war power.

See generally, Harv. Note at 646.

[59] Harv. Note at 646.

[60] The English Parliament used the purse power to counter Charles I and James II despotic powers. The Framers were well aware of its use as a guarantee of the powers and privileges of the legislature.

[60a] The resolution now before Congress, though carrying important political impact, would affect the constitutionality of subsequent executive action. If a resolution were made before the initiation of hostilities, Presidential commitment of American forces or significant expansion of the war would be precluded because the resolution would be a clear assertion of the primacy of Congress in the making of war. See, *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Jackson, J., concurring). Once forces were involved in combat the resolution would prohibit expansion of hostilities.

[61] Such restrictions would be distinguished from the so-called "legislative veto," which reserves to Congress or one of its components the right to determine the actual

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effect of the restriction by subsequent action falling short of actual legislation, such as disapproval by committee action or a resolution of one or both houses.

It is arguable that the inclusion of specific dates on which these restrictions take effect is an invasion of the inherent powers of the President as Commander in Chief. According to a strict construction of the Conatitution, the President's inherent power may be limited to the power to repel sudden attacks only by immediate and temporary action. The expansion of his power through its unopposed exercise may be determinative of its constitutionality when Congress does not act, but it may be limited by Congressional action. The important question is whether the proposed limitation is reasonable. Since there is no indication that compliance with these restrictions is not fully feasible, there is no reason why the will of Congress should not be respected on this issue. The authors thus reject the argument.

[61a] Harris, *Congressional Control of Administration*, 213–215 (1964); Huzar, The Purse and the Sword, 211, 220, 240 (1950).

[62] 83 Stat. 469 (1969).

The inclusion of the phrase "In line with the expressed intention of the President of the United States" whatever its value as a face-saving device for the President, detracts not at all from the force of this proviso. The full text of the amendment reads:

"In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

[63] Act of September 16, 1940 (54 Stat. 885).

"In 1955, for instance, Congress attached a rider, § 638, to the Defense Appropriation Act prohibiting use of funds appropriated therein "for the disposal or transfer by contract or otherwise of work that has been . . . performed by civilian personnel of the Department of Defense unless justified to the Appropriations Committee(s) . . ." 69 Stat. 321 (1955). A threat to Congress' constitutional powers arose when, in a message to Congress, the President stated that § 638 was unconstitutional and declared that "to the extent that this section seeks to give to the Appropriations Committees of the Senate and the House of Representatives authority to veto or prevent executive action, such section will be regarded as invalid by the executive branch of the government . . . unless otherwise determined by a court of competent jurisdiction." 101 Cong. Rec. 10459–60, 10416, 84th Cong., 1st Session (July 13, 1955).

But despite this threat, the Defense Department complied in full with the provisions of Section 638. The Department reported, as required by the Act, and agreed to delay action to accommodate Congress. And after the Armed Services Subcommittee of the House Appropriations Committee formally denied permission to dispose of several operations employing civilians, the President and the Defense Department followed its directions during the time that §638 remained law. Carper, *The Defense Appropriation Rider* (1960).

The response of the Comptroller General to this crisis adds further support to the position of Congress. A month after the President had made his threat, the Comptroller General informed Congress that on the fundamental basis that it is for Congress to say how and on what conditions public monies should be spent, the position of the GAO, as the agent of Congress, must be, in this case and always, to accord full effect to the clear meaning of an enactment by the Congress so long as it remains unchanged by legislative action and unimpaired by judicial interpretation. Id. Id. Therefore, he concluded, where a violation were found he would exercise his power as Comptroller General to disallow credits in the agencies accounts and hood the officers personally liable for the cost of the illegal activity. Id. Although #638 was an example of exceptable executive response to an unequivocal as a valid indication of expectable response to an unequivocal restrictions, particularly since the legislative veto is open to possible attack as a circumvention of the constitutionally required lawmaking process.

[65] U.S. Constitution, Art. I. #1.

[66] U.S. Constitution, Art. II, #3

[67] U.S. Constitution, Art. I, #8, 9.

[68] Even if the President acts beyond the constitutional limits of his powers, "Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out the powers vested by the Constitution in the Government of the United States, or any Department or officer thereof." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 588–89 (1952).

Whatever the merits of the arguments about the President's power to impound funds, such practices under which the executive exercises discretion within the limits set by Congress in appropriations acts can be clearly distinguished from a more clearly unconstitutional breach by the executive of restrictions on positive action. See, e.g., Fisher, "Presidential Impoundment of Funds," 38 Geo. Wash. L. Rev. 124, 130 (1969); Davis, "Constitutional Power to Require Defense Expenditures," 33 Fordham L. Rev. 39, 40–41, 55 (1964).

[69] In the words of Justice Black:

"The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control. . . . The Foundations of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times."

Youngstown Sheet & Tube Co. v. *Sawyer*, 343 U.S. 579, 587–89 (1952).

Other judicial pronouncements on the "raise and support" and appropriations clauses have construed them to give Congress power to control the creation of military forces. One early opinion stated the argument succinctly:

"The power of congress to raise and support armies . . . is clear and undisputable. The language used in the constitution in making this grant of power is so plain, precise and comprehensive, as to leave no room for doubt or controversy, as to where the supreme control over the military force of the country resides."

In re Griver, 16 Wisc. 423, 431 (1863).

Another court has stated the conclusion more forcefully:

"The purpose of the appropriations, the terms and conditions under which said appropriations were made, is a matter in the hands of Congress and it is the plain and explicit duty of the executive branch of the government to comply with the same."

Spaulding v. *Douglas Aircraft Co.* 60 F. Supp. 985, 988 (S.C. Cal. 1945), affirmed 154 F. 2d 419 (9th Cir. 1946).

[70] U.S. Constitution, Art. I, § 8.

[71] *The Federalist*.

[72] *Youngstown Sheet and Tube* v. *Sawyer*, 343 U.S. 579 (1952).

[73] For instance, Justice Frankfurter felt that the absence of Presidential power would have been beyond contention "had Congress explicitly negated such authority in formal legislation." *Id.* at 602.

Rejecting the view that the Commander in Chief clause supports "any Presidential action, internal or external, involving the use of force," Justice Jackson concluded that "Congress alone controls the raising of revenues and their appropriation and may determine in what manner and by what means they shall be open for military and naval procurement." *Id.* at 643.

[74] The much-noted concurring opinion of Justice Jackson stated the proposition in more detail:

"Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . . When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb . . . Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting on the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for, what is at stake is the equilibrium established by our constitutional system." *Id.* at 635–638.

[75] Exceptions broader than these are not required by the Constitution, since Congress could authorize at any time military action beyond immediate self-defense.

[76] *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 654 (1952).

Mr. EAGLETON. Mr. President, I think that ample legal authority has been summoned by the sponsors of this bill and an ample amount of material is available in support of S. 2956.

There should be no question that the Foreign Relations Committee is the appropriate forum to consider legislation which would establish, within the limits of the Constitution, a procedure to assure that Congress is involved in the decision to introduce the Armed Forces of this Nation in hostilities. The decision to take this action is, after all, the ultimate alternative and some say failure, of foreign policy.

Mr. President, I refer my colleagues to the Senate Manual and the Standing Rules of the Senate. On pages 32 and 33 it is stated that the Committee on Foreign Relations shall consider legislation pertaining to, among other things, relations of the United States with foreign nations, treaties, protection of American citizens abroad and intervention abroad, and declarations of war. All of these subjects pertain in some way to this legislation but the last one I have mentioned—intervention abroad and declaration of war—is the central issue confronted by this bill.

The Ervin-Hruska amendment would refer the War Powers Act to the Judiciary Committee to "consider the constitutional questions involved." The Standing Rules, however, grant Judiciary the authority to consider "constitutional amendments." If the proponents of this amendment are interpreting that very specific grant to mean that they have a mandate to consider "constitutional questions," we can only deduce that they would propose to have all legislation pass through Judiciary. I do not believe that that is the intention of the Standing Rules of the Senate.

If this body were to define committee jurisdictions as broadly as this amendment would appear to require, we would be constantly hamstrung with inconsequential bickering by our standing committees.

We owe it to our constituents to avoid that state of intransigence.

The purpose of the War Powers Act is not to amend the Constitution but to fulfill it.

The sponsors of S. 2956 believe that the Founding Fathers were correct in their intention that the collective judgment of both Congress and the President would be applied to the decision to go to war. We do not seek to amend that principle, we seek to fulfill it.

The growth of the Presidential war power and the corresponding abdication of responsibility by the Congress has necessitated this legislation. This shift of power and responsibility is unfortunate but temporary imtalances are part of our adversary system. The Founding Fathers understood this and left with Congress the authority in the "necessary and proper" clause to make laws to perpetuate and give relevancy to our tricameral form of Government.

I have the utmost respect for the distinguished Senator from North Carolina. As chairman of the Judiciary Subcommittee on the Separation of Powers he has been extremely effective in protecting the civil liberties of those who have been subjected to the heavy hand of the executive bureaucracy. He has also been a consistent advocate of a stronger role for Congress and has concerned himself with the growth of executive power in all legislative areas.

The Senator from Nebraska has been a consistent and honest advocate of the positions he espouses.

In this matter I regretfully disagree with the distinguished proponents of this amendment.

The sponsors of the war powers bill are also concerned with the growth of the executive and the effect of this growth on a specific policy decision—the decision to go to war. The Foreign Relations Committee quite properly considers matters of this nature and, unless a constitutional amendment is involved, always has.

The public record of hearings conducted on war powers legislation are extensive and represent the most thorough study on this subject available. Some of the best foreign policy experts and constitutional lawyers in the country have given testimony before the committee.

In addition to the Foreign Relations Committee hearings, this legislation has been subjected to a thorough and penetrating debate in the public sector. The pros and cons of the war powers bill have been argued in every university in the country, and especially at Yale, where everybody but Eugene Rostow is in favor of the war powers bill. The Nation's press has also given express coverage to all sides of this question in the highest journalistic tradition.

Mr. President, this body in modern times has been remiss by its failure to assert its constitutional prerogatives to decide when this country will go to war. We do not need further study to show us that. We are ready to act now to reestablish the proper role of Congress under our Constitution.

Mr. JAVITS. Mr. President, I am sorry the Senator from Ohio is not here because I would like to comment on the question which he has posed in response to the arguments made by the Senator from Colorado (Mr. DOMINICK).

The key to the motion which is going to be voted on tomorrow is assumed by the question, rather than answered.

The key to the motion tomorrow is whether or not we are trying to change the Constitution. We could not if we tried. But are we trying? The answers, say the proponents of this motion, is yes. That would be the only substantive excuse for reference to the Committee on the Judiciary, which otherwise has no jurisdiction, let alone does delaying this matter for whatever number of days the Senator from Nebraska (Mr. HRUSKA) finally chooses, which I understand to be 45 days, and then simply turning the matter back to us in a month and a half when we will be so loaded with so many things it will suffer seriously as a result.

Mr. President, if you couple the fact that the Committee on the Judiciary has no jurisdiction with the fact that this is a tactic of delay as best, I really see no justification whatever for the reference. This is no guarantee that the Senate will approve this measure.

Many amendments are pending and all of them will be acted on. Some of them are substantive. That is a far cry from shunting the matter off to another committee.

In other words, the hearing record itself discloses very thorough consideration, and the year for debate and discussion which Senator STENNIS, whose support is so critical on this matter because he is so allied with the question of defense in this country, upon which the whole argument in the bill is based has passed and there has been very serious debate and discussion.

Now, the question still is full of thorny situations, very serious ones, and the old addage that those who do not profit from experience are condemned to repeat it, is very apposite in this situation.

So I see no substitute for the Senate dealing with this issue and I hope very much that the Senate will not simply shunt it off when the vote comes tomorrow for the two reasons stated: One, there is no jurisdiction, and two, there is no benefit to be gained but rather loss suffered from the time which is sought to be taken.

I alluded earlier today to the fact that we, and others, I am sure, have received the arguments of the State Department of talking points, as they call it, on the war powers bill. I was deeply interested in one of them because it so clearly indicates where we think the State Department is completely wrong in the points of difference which exist between the opponents and proponents of this measure.

The State Department stated in its memorandum on page 4:

> c. The history of the drafting of the Constitution shows that the Founding Fathers did not so clearly demarcate the respective powers of the President and the Congress in the use of the armed forces as the Senate Foreign Relations Committee report indicates. The Committee Report states that:
>
> "The framers vested the authority to initiate war in the legislature, and in the legislature alone. . . . The division of authority intended by the framers was explicit: the Congress was to 'declare'—that is to authorize the initiation of—war. The President, as Commander in Chief, was to respond to sudden attacks and to conduct a war once it had started and command the armed forces once they were committed to act."

This formulation of the issue really begs the question, for no one argues that the power to declare war resides anywhere other than in the Congress. But the other side of the question is to what extent the President has the power to use the armed forces by virtue of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations.

Then, the State Department goes on to develop the following. This is the show of force argument, which is the only argument made against this measure. It goes on to say:

> There are a number of conceivable situations in which military forces might be used to demonstrate a United States willingness to protect United States nationals, territories, facilities, and other interests, which the Framers presumably would not have regarded as involving "war" and thus requiring Congressional action, even in the absence of a sudden attack.

Mr. President, the point is that we are talking about apples and the State Department is talking about oranges. There is no question about the one central point which they absolutely omit, and that is that the show of force involves the decision of the President. A great nation cannot bluff. We cannot. The Russians cannot. So if the President feels, when he commits troops to a show of force, that involves imminent involvement in hostilities, all the bill says is that if there is an imminent danger of war, he should come to the Congress; but if he commits troops to a show of force which risks hostilities—they are the State Department's words; the bill does not say it—he has got to come to Congress.

The Senator from Virginia (Mr. SPONG), the Senator from Mississippi (Mr. STENNIS), I, and other sponsors of the legislation have said it is the President's judgment whether there is or is not imminent threat of hostilities; but in the face of that judgment, if he makes that judgment affirmatively, then he has to come to the Congress, because great nations cannot bluff, and then we must be able to go through the war if one starts.

Then we have the dilemma that, once it starts without Congress' consent, the interposition of the appropriation power is not adequate to give Congress authority to deal with that war which only it should have had the authority to start. But because of modern situations—which is exactly what happened in the Gulf of Tonkin situation—it was never stated better than by Professor Bickel, who pointed out that at a given point an incident or an action to repel attack—even granted that there had been an attack on American destroyers in the Gulf of Tonkin—becomes a war.

How much evidence do you need, Mr. President, with 100,000 dead and 300,000 wounded and $100 billion of treasure and 8 years of time? What else do you need, Mr. President, in order to prove to you that it is a war?

So that is the essential point we are making. We are making the point that we are seeking, not to change the Constitution; we are simply seeking to insert a methodology—very well put by the Senator from Virginia (Mr. SPONG)—in respect of the Constitution to deal with

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a situation which otherwise escapes definition, but which, in terms of actual conduct of government, puts us in war.

I have said, and others have said, that the 30-day period is only to arrive at a time. It is quantitative rather than quallitative. Incidentally, if it turns to war, we say Congress can set a lesser time. In given cases that may prove to be a lesser time. But we cannot and we do not deprive the President of any power by making those definitions. The President still has to make the ultimate decision when he engages in a show of force that puts us in imminent danger of hostilities. If in his judgment it does, he should come to Congress. If in his judgment it does not, he does not have to come to Congress. That is exactly what the language means.

Mr. DOMINICK. Mr. President, will the Senator yield for a clarification?

Mr. JAVITS. Not yet.

So it does not inhibit any action which the President constitutionally may take on his own, except when there are hostilities or, in his judgment, the imminent threat of hostilities.

Now I yield.

Mr. DOMINICK. The Senator, as I understand it, is maintaining that we are not really attempting to limit the President's authority in those instances, at least, where he has been authorized under section 3. But suppose the President, pursuant to one of those sections, uses our Armed Forces and is engaged in conflict which he thinks is in the interest of the United States, and Congress acts to cut that off under section 6. What happens to his authority then? Does he still retain that? Can he ignore Congress?

Mr. JAVITS. Congress has the authority, in my judgment, to define what it considers a reasonable time within which an incident—what the Founding Fathers called the repelling of sudden attacks—becomes a war. That is our implementation of that concept. But we could not—and we do not want to—deprive the President of his constitutional power.

The President can, in pursuance of his constitutional powers, go ahead and do what those constitutional powers permit him to do, but we lay down a quantitative definition as to when we consider the exercise of those powers to put us into war, and then he must obtain the authority to proceed, as the decision to take the Nation to "war," under the Constitution, requires action by the Congress.

Incidentally, the point made by the Senator from Ohio (Mr. TAFT) dealt with a "show of force" question, but I am willing to deal with this point. In other words, the President may repel a sudden attack even after Congress has passed a resolution, if that would be another situation, under which he could use his power to repel an attack.

I repeat, we do not abrogate his constitutional authority to repel an attack. But we certainly can say to the President, "Look, Mr. President, if you get into a situation which is transforming from emergency defensive action into imminent threat of war, we must be brought in." That is all we say in this language.

Mr. DOMINICK. Mr. President, will the Senator yield for another supposition, I suppose it might be called?

Mr. JAVITS. I yield.

Mr. DOMINICK. Suppose under section 3, at the top of page 8, subsection (1), Puerto Rico is under attack and the President had put our troops into action and had taken whatever he considered appropriate retaliatory actions following that attack.

Mr. JAVITS. Very well.

Mr. DOMINICK. For some reason we cannot now foresee, Congress says, "No, you cannot do that," after 3 days, while Puerto Rico was still under attack. What effect would that have?

Mr. JAVITS. The Senator says while we are under attack. We have actually amended the bill to take in the situation of disengagement while under attack. We have dealt with the subject and have defined it specifically. In other words, his purpose, and his intentions are that the operations must be to disengage, but he can remain engaged so long as it is necessary to protect our troops. We have answered that, ourselves. It is not necessary to answer it by implication from the bill. We have answered that in terms of an amendment.

Mr. DOMINICK. The amendment was to section 6.

Mr JAVITS. As a matter of fact, it went to sections 5 and 6.

Mr. DOMINICK. Let me ask one more question on imminent threat. Let us suppose we have a situation such as took place in 1970 or 1967 in the Middle East, and the President orders the 6th Fleet to proceed close to the shore, with orders to put it on the alert in the event of any Russian engagement, and 2 days later Congress says, "You cannot do that. You have to get out of there." What is the President going to do there?

Mr. JAVITS. Congress is not self-operative here. The President acts, under the bill, and must report everything in detail to Congress. The bill applies to "hostilities" or situations where hostilities are clearly indicated by the circumstances. The President must decide under the law whether the circumstances are governed by the bill. He has to make the finding. If he did not make the finding——

Mr. DOMINICK. Let us suppose he did.

Mr. JAVITS. If he did make the finding, then he gives us notice that we must share in the responsibility for what may be war.

The Senator seems to be assuming the infallibility of the presidency and the fallibility of Congress. There is no evidence for that. On the contrary, that is what we are contending; we are contending in this case that when we are going to expose the people's bodies and property, the people are entitled to have involved, as an element of the process of decision, their directly elected representatives by State and district.

Mr. DOMINICK. So if the United States should, then, withdraw because of the act of Congress, despite the fact that the President has certified that this is an area of extreme danger and crucial importance, and if Israel, for example, gets overrun by the Russians, and the Greeks get overrun by somebody else, are we to do nothing?

Mr. JAVITS. Let me ask the Senator a question in return, because it is an answer rather than a question. Because a country may be overrun, that does not mean the United States is committed to intervene or should intervene. We say a commitment to intervene must be "pursuant to specific statutory authorization"—a decision not just of the President, but also of the Congress.

Suppose, heaven forfend, that South Vietnam is overrun. Does the Senator believe the United States ought to send its ground forces back, as it did in 1964, in order to defend South Vietnam?

Mr. DOMINICK. No; I said at the very beginning that I did not think that was proper.

Mr. JAVITS. Of course not. But that is a part of the issue. So we would be saying to the President that the overall interest of the United States and everything it represents, and that of the people, dictate that we have to stay out of such a situation.

Mr. DOMINICK. I did not say that.

Mr. JAVITS. No; I am not talking about Vietnam now. I am talking about the question propounded by the Senator. I mentioned Vietnam because it was illustrative.

Mr. DOMINICK. Mr. President, if I may say so, I do not happen to agree with the Senator from New York, because I think it is unconstitutional, which is another reason why I think it ought to go before the Judiciary Committee for further hearings, regardless of the wisdom of it.

Mr. JAVITS. I realize that that is how the Senator feels, and that is why I pointed out that the vote tomorrow will be a substantive vote, not a procedural vote. The Senators who feel that this is either unconstitutional or will be an effort to change the Constitution undoubtedly will vote for the reference. On the other hand, those of us who believe that the war power of Congress is something that has been undermined, which has resulted untold impairment of the national interest, particularly circa 1962 to 1968, will vote against the motion.

Mr. President, there is no doubt about the fact that the issue is a substantive one. Men of the greatest sense of honor, "President's men," some of whom have testified before us, feel that they have to sustain, just as the State Department thinks it has to sustain, the outermost reaches of the President's power with respect to war.

That is what this is all about. We would not be arguing about the question if experience had not shown the present situation to be highly improper, and experience has shown that. We have a right to consult experience. As the Senator from Mississippi (Mr. STENNIS) has said very truly and accurately, this is not just a legal question, it is a political question; and as with any political question, we have a right to consult experience. And experience deeply, profoundly, and in my judgment implacably dictates that we have to act in this situation, and not just nebulously, but decisively.

Mr. President, it is high time to act, because otherwise improvidence could really engulf this Nation, as it threatens to do in respect of the Vietnam war. I am not one who agrees at all that the Vietnam war is not to be consulted. I think

the Vietnam war has to be consulted. That is experience. We have had 8 years of experience with Vietnam, and have learned a thing or two.

Mr. President, we are trying to stabilize our national situation and enhance the credibility of the American commitments to the world by passing a law such as this. If we find that the law is inadvisable, then we can change it, because it is a law and is not a constitutional amendment. I would be against a constitutional amendment. That would be unwise and necessary. But in order not to have a breakdown in the backing of the people for our Government, we need to have some safeguard, which we do not now have, and that is the reason for this bill.

Mr. President, there has been a good deal of discussion about constitutionality in connection with this matter, and the intention of the Founding Fathers, and so forth. One of the leading experts in this country on this subject is Irving Brant, the definitive biographer of James Madison.

Mr. Brant has just written me a most interesting and comprehensive letter, relating the debates of the Founding Fathers as to the constitutional authority which the President has and that which Congress has, directly to this bill. He comes out strongly and decidedly in favor of this measure.

Because I feel the letter should be available to all Senators, and because it is not unduly long, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EUGENE, OREG.,
April 3, 1972.

Senator JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: I have received the Hearings and Committee Report on Senate Bill 731, re-introduced as S. 2956, and with them your covering letter containing the following paragraph:

"Any comments you might wish to make—public or private—will, I am sure, be of value to Senators and to public understanding of the issues, as the Senate approaches its debate on this vital issue."

My article on the President's War Powers, published in the Washington Post of July 4, 1971, and placed by you in the Congressional Record and the Hearings on S. 731, was confined to an analysis of the testimony of Secretary of State Rogers concerning this bill, before the Senate Committee on Foreign Relations. Since the hearings closed the Nixon Administration has continued its opposition to your War Powers Bill. The printed Hearings reveal that administration spokesmen opposing the bill throw much heat and little light upon the constitutional question involved. Their opposing arguments are hardly more than repetitious assertions that the President possesses inherent power as Chief Executive, and constitutional power as Commander in Chief, to conduct almost any sort of undeclared war; subject to no constitutional control by Congress except, perhaps, through its power to withhold appropriations for support of military operations.

What is the fundamental lesson taught by the 873-page record of the Senate's hearings on war-power legislation? It is, I think, that the security of the United States against both external aggression and internal disturbance is menaced infinitely more by the uncontrolled exercise of executive power than by congressional resistance to its uncontrolled exercise. Overwhelming proof of this is found in the Hearings, both in the extraordinary theoretical claims of power by administration witnesses and supporters, and by the detailed analyses of past and current exercise of the war power by the Executive

All of this indicates that opposition to the War Powers Bill will follow the same pattern in Senate debate. To cope with that, I believe there is need of a more extensive survey of the views on this subject held by early American statesmen, before war powers were engrafted on the Constitution by mere Executive seizure. Whatever competence I possess in that field is a by-product of twenty-three years devoted to writing the life of James Madison, chief architect of the Constitution and a leading expounder of its meaning.

Madison worded the war-power clause and in doing so stated its meaning. For the next twenty-five years he was the most authoritative, most persistent and most widely accepted definer of the division of the war power between Congress and the President. He began that course in Congress and continued it through sixteen years as Secretary of State and President of the United States. Those sixteen years saw Europe completely engulfed in the Napoleonic Wars, and included our own War of 1812 with England.

Contrary to the notion fostered in his day by Federalist politicians (when they were not calling him a war mad dictator) and unthinkingly accepted by many historians, Madison was not a timorous pacifist. He was an activist President, a nationalist, almost a chauvinist. Again and again, in diplomacy, he used the threat of war to gain national objectives; but in every instance it was the threat of congressional action uninfluenced by executive pressure. At every contact with this issue, in the framing of the Constitution, in Congress, and in the executive branch of government, he denied the constitutional right of the President to take such steps as have been taken by Lyndon Johnson, Richard Nixon and various earlier Presidents.

The Federal Convention of 1787 took final action on the war power on August 17. The clause as it had come from the Committee of Detail gave Congress power "To make a war." As described in Madison's semi-official *Notes of Debates*, Charles Pinckney of South Carolina thought the proceedings of Congress too slow and suggested the Senate as a proper body to exercise this power. His state colleague Pierce Butler "was for vesting the power in the President, who will have all the requisite qualities, and will not make war but when the Nation will support it."

Thereupon Madison, seconded by Elbridge Gerry of Massachusetts, "moved to insert 'declare,' striking out 'make' war, leaving to the Executive the power to repel sudden attacks."

Roger Sherman of Connecticut agreed that "The Executive should be able to repel and not to commence war," but he thought "'Make' better than 'declare' the latter narrowing the power [of Congress] too much."

Oliver Ellsworth of Connecticut also preferred "make," saying that there was a material difference between making war and making peace: "It should be more easy to get out of war, than into it."

Elbridge Gerry, evidently harking back to Butler's proposal, said he "never expected to hear in a republic a motion to empower the Executive alone to declare war."

George Mason of Virginia felt the same way. He protested "against giving the power of war to the Executive, because not safely to be trusted with it; or to the Senate, because not so constructed as to be entitled to it. He was for clogging rather than facilitating war; but for facilitating peace. He preferred 'declared' to 'make.'"

On the vote as first taken, "declare war" was approved by all states except New Hampshire and Connecticut, but Madison entered the following footnote:

"On the remark by Mr. King (of Massachusetts) that 'make' war might be understood to 'conduct' it which was an Executive function, Mr. Ellsworth gave up his objection, and the vote of Connecticut was changed to—ay."

Thus only one delegate—Butler—regarded the initiation of war as a natural or desirable presidential function. All others treated the initiation of war as legislative in character, the conduct of war as executive, synonymous with "making" war. Two delegates—both opposed to presidential power to initiate war—reversed their position when this was pointed out. So, instead of the power given Congress to "declare" war being an exception from a general executive war power, the latitude thus given to the President "to repel sudden attacks" was intended as an exception—the sole exception—from the exclusive power of Congress to initiate war.

The power "to repel sudden attacks" can reasonably be understood, as it is in the Javits Bill, to include emergency measures to protect the lives and property of American nationals. But the ultimate conclusion is inescapable: the power given Congress to "declare war" debars the President from initiating hostilities except for the limited and temporary objective set forth in the constitutional debates, and inherent in the natural and constitutional division of authority between the two branches of Government.

The issue of executive war power first presented itself in 1793, when the French Revolution precipitated twenty years of warfare between France and England. On April 22 of that year President Washington issued a proclamation of neutrality, announcing and calling on the American people to support "a conflict friendly and impartial towards the belligerent powers." The proclamation was actually strongly anti-French, because the Franco-American Treaty of 1778, still on the books, bound the United States and France to defend each other's territories on the North American continent against all other powers, "mutually from the present time and forever."

Secretary of the Treasury Hamilton argued, in a cabinet meeting, that the change of government in France absolved the United States from any obligation to uphold the treaty. This brought the comment from Madison that if a change of government absolved a country from public engagements, it would apply equally to domestic affairs; that would involve "a destruction of the social pact, an annihilation of property, and a complete establishment of the state of Nature." Even without Hamilton's contention concerning the treaty, Madison thought, the executive policy bore an "Anglified complexion." Peace, he wrote to Secretary of State Jefferson, no doubt ought to be preserved at any price that honor and good faith would permit, but did the President have constitutional power to decide what policy ought to be pursued? He thought not:

"The right to decide the question whether the duty and interest of the U.S. require war or peace under any given circumstances, and whether their disposition be towards the one or the other, seems to be essentially and exclusively involved in the right vested in the Legislature, of declaring war in time of peace; and the President and Senate of making peace in time of war. . . . [A]n assumption of prerogatives not clearly found in the Constitution and having the appearance of being copied from a Monarchical model, will beget animadversion equally mortifying to him and disadvantageous to the Government."

Six days later (June 19, 1793) Madison returned to the theme. The President's proclamation, he wrote to Jefferson, "wounds

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the national honor, by seeming to disregard the stipulated duties to France." It showed indifference to the cause of liberty:

"And it seems to violate the forms and spirit of the Constitution by making the Executive Magistrate the organ of the disposition, the duty and the interest of the nation in relation to war and peace—subjects appropriated to other departments of the government."

Such infractions of the Constitution under the high auspices of Washington, Madison remarked in one of these letters, "may consecrate the evil till it be incurable." The remark about "auspices" implied, correctly, that although the President was pronouncing national policy, Hamilton was formulating it. The roles of Hamilton and Madison became clear to the public when they engaged in a running newspaper battle under pseudonyms. Hamilton as "Pacificus" defended the proclamation; Madison as "Helvidius" attacked the constitutionality of Hamilton's construction of it. Everybody in the country knew who was which.

Hamilton declared that the clause in the Franco-American treaty of 1778, requiring the United States to protect France's American possessions from attack, ran counter to the President's proclamation of neutrality. That, in his opinion, did not invalidate the proclamation. To the contrary, it was "virtually a manifestation of the sense of government that the United States are, *under the circumstances of the case, not bound* to execute the clause of guaranty."

It was the President's duty, Hamilton argued, to preserve peace until Congress declared war. In fulfilling this duty he "must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government." In this field the powers of the President were broad, that of Congress narrow, because the powers of war and peace were by nature executive; the power of Congress to declare war was merely an exception from the executive power.

It was true, Hamilton admitted, that the power to judge the need of war was part of the power to declare it. But, he contended, this lesser power was concurrent in Congress and the President, not being excepted from the general executive power.

Madison in reply assailed Hamilton's central proposition—"the extraordinary doctrine that the powers of making war and treaties are in their nature executive." That was a fallacy, he said, growing out of the fact that making war and peace are high acts of sovereignty, and in European monarchies sovereignty resides in the prince. There was no logic in such an assignment:

"If we consult, for a moment, the nature and operation of the two powers to declare war and to make treaties, it will be impossible not to see, that they can never fall within a proper definition of executive powers. The natural province of the executive magistrate is to execute laws, as that of the legislative is to make laws. All his acts, therefore, properly executive, must presuppose the existence of the laws to be executed. A treaty is not an execution of laws; it does not presuppose the existence of laws. It is, on the contrary, to have itself the force of a *law*, and to be carried into *execution*, like all *other laws*, by the *executive magistrate*."

Madison then turned to the war power:

"The power to declare war is subject to similar reasoning. A declaration that there shall be war, is not an execution of laws; it does not suppose pre-existing laws to be executed: it is not, in any regard, an act merely executive. It is, on the contrary, one of the most deliberative acts that can be performed; and when performed, has the effect of *repealing* all the *laws* operative in a state of peace, so far as they are inconsistent with a state of war; and of *enacting*, as a *rule for the executive, a new code* adapted to the relation between the society and its foreign enemy."

Madison declared the Constitution to be in full harmony with his analysis:

"In the general distribution of powers, we find that of declaring war expressly vested in the congress, where every other legislative power is declared to be vested; and without any other qualification than what is common to every other legislative act. The constitutional idea of this power would seem then to be, that it is of a legislative and not an executive nature."

He assailed Hamilton's effort to find a choice of "war or peace" in the President's position as commander in chief of the armed forces. The bearing of this power on making treaties of peace, said Madison, was not even worth discussing. And instead of being analogous to the power of declaring war, his post as commander in Chief "affords a striking illustration of the incompatibility of the two powers in the same hands. Those who are to *conduct* a war cannot in the nature of things, be proper or safe judges whether *a war ought* to be *commenced, continued, or concluded*. They are barred from the latter function by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws."

Madison challenged the claim of concurrent power in the President and Congress to pass on the desirability of going to war or remaining at peace:

"The declaring of war is expressly made a legislative function. The judging of the obligation to make war, is admitted [by Hamilton] to be included as a legislative function. Whenever, then, a question occurs, whether war shall be declared, or whether public stipulations require it, the question necessarily belongs to the department to which those functions belong—and no other department can be in the *execution of its proper function*, if it should undertake to decide such a question."

Madison carried on with a conjectural case that had no bearing on the dispute over Washington's neutrality proclamation, but which, by singular chance, fits perfectly the present disagreement between the President and Congress over the undeclared war in Indo-China:

"If the legislature and the executive have both a right to judge of the obligations to make war or not, it must sometimes happen, though not at present, that they will judge differently. . . . In what light does this present the constitution to the people who establish it? In what light would it present to the world a nation thus speaking, through two different organs, equally constitutional and authentic, two opposite languages, on the same subject, and under the same existing circumstances?"

If, said Madison, the power to judge the need of war or peace is concurrent, the power of which it is a part must also be concurrent; but the Constitution conferred that exclusively on Congress. Where did "Pacificus" get his doctrine, vicious in theory and dangerous in practice, of implied executive participation in a power exclusively assigned to Congress? From but one possible source. Treaty and war powers "are *royal prerogatives* in the *British Government*, and are accordingly treated as *executive prerogatives* by *British commentators*."

Hamilton, his main position riddled, made slashing attacks on the "French faction" in American politics, but offered no rebuttal of Madison's constitutional arguments. President Washington's next address to Congress, in passages written by Jefferson, construed the neutrality proclamation as Madison did—as a mere warning to Americans to avoid acts of hostility; a meaning impliedly perverted by Hamilton. Madison himself, chosen to write the customary reply of the House to the President, gave the proclamation the same narrow and harmless construction.

The conflict in its true essentials, as fought by Madison and Hamilton, bears an extraordinary resemblance to the current clash between the Nixon Administration and the Senate Committee on Foreign Relations over the Javits Bill to regulate the war powers of the President. George Washington, who was dragged into the melee by surprise, quietly went over to the other side. President Nixon has not yet done so.

The eighteenth century conflict came to life once more in 1797, after Jay's Treaty drew the United States into a wartime commercial alliance with Great Britain. This led to French attacks on American shipping, met by American counter-measures. President Adams sent a negotiating team to Paris and issued an order forbidding the arming of American merchant vessels. In the spring of 1798, the American peace envoys reported solicitation of a bribe by Talleyrand—the "XYZ Affair." President Adams sent the dispatches to the Senate and joined with that body in ordering their publication. He also revoked his order forbidding the arming of merchant vessels.

Madison was greatly disturbed, he wrote, at the way President Adams was cracking the constitutional barriers against executive war power. By *withdrawing* the order against the arming of merchantmen, he indirectly *authorized* that course—something Congress alone had the power to do. To Jefferson, on April 2, 1808, he wrote:

"The first instructions [forbidding arming] were no otherwise legal than as they were in pursuance of the law of Nations, and consequently in execution of the law of the land. The revocation of the instructions is a virtual change of the law, and consequently a usurpation by the Executive of a legislative power . . . the regulation . . . comes expressly within the power, 'to define the law of Nations,' given to Congress by the Constitution."

The whole course pursued by President Adams disturbed him:

"The Constitution supposes, what the history of all governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care, vested the question of war in the Legislature. But the doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the country in that department which the Constitution distrusts as most ready without cause to renounce it."

Ultimately, to the country's amazement, President John Adams turned "dove." Partly, this was a return to common sense; partly a reaction against the discovery that Hamilton (a private person) was secretly running the President's cabinet while striving to provoke a declaration of war against France. Adams fired the France-haters from the cabinet, sent a genuine peace mission to France, and brought an end to the undeclared naval war which he himself had brought on.

Looking at the whole record, President Adams did not grossly exceed his constitutional powers. Although Jay's Treaty provoked France to attack American commerce, the protective measures taken by the President might be construed at the outset as a repelling of sudden aggression. Adams transgressed the spirit of the Constitution more sharply than he did its letter. The criticisms of him by Madison amounted to a ban of all presidential war initiatives except the one Madison himself implanted in the Constitution by the change of wording which permitted the President to "repel sudden attacks." His principal sins, as Madison saw them, were his efforts to formulate a war policy (later abandoned) and his assumption of authority to authorize the arming of the merchant marine.

From 1801 to 1817 the Presidency was held

by two strict construers of presidential war powers, Thomas Jefferson and James Madison; and Madison for the first half of this period was Jefferson's Secretary of State. Except for the brief Peace of Amiens (1802–1803) the Napoleonic War raged until 1814 and the United States constantly faced the menace of war with one power or the other—ultimately engaging in the War of 1812 with England. How did the practices of these two leaders compare with their principles?

President Jefferson broke away from the European practice of paying tribute to the "Barbary pirate" nations of North Africa. Tripoli declared war on the United States. Jefferson sent a naval squadron to the Mediterranean with orders to protect American commerce by defensive measures only. Reporting to Congress (December 4, 1801) on the capture of a Tripolitan ship of war, he said:

"Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being disabled from committing further hostilities, was liberated with its crews."

Jefferson suggested that Congress authorize "measures of offence also." He was communicating all material information to Congress, in order "that, in the exercise of this important function, confided by the Constitution to the Legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight."

Alexander Hamilton assailed this, with good reason, as too restrictive. It was, said he, "the peculiar and exclusive province of Congress, *when the nation is at peace* to change that into a state of war . . . But when a foreign nation declares, or openly and avowedly makes war upon the United States, they are then by the very fact *already at war*, and any declaration on the part of Congress is nugatory; it is at least unnecessary."

Hamilton's argument harmonized with Madison's 1787 avowal of a power in the President "to repel sudden attacks" without a declaration of war by Congress. A deliberate, government-authorized, unprovoked attack on an American warship anywhere in the world is an attack on the United States. That does not mean that the President can constitutionally weasel the United States into an undeclared war, to retaliate an alleged but unproved "Gulf of Tonkin incident," for which, if it occurred at all, the American warship offered provocation.

From 1801 through 1803 the United States negotiated the Louisiana Purchase, with Jefferson and Madison putting constant pressure on France. The French, Jefferson told French Chargé Pichon, would remain in Louisiana "no longer than it pleases the United States." Custom, language and geography, Secretary Madison said to Pichon, drew East and West together, and with all America united, "France cannot long preserve Louisiana against the United States." The warnings were climaxed in 1803 by words of Madison at a dinner party, spoken so loudly, Pichon reported, that many heard them:

"He told me that it was true the nation was in a ferment, especially in the West; that it felt its strength, and that it needed all the confidence it had in the government to prevent it from acting. That this circumstance had made the United States itself examine the national disposition, and to conclude that it held the balance in the new world and could decide it at any moment: there was one power [England] which realized this perfectly, and it was to be hoped that all would realize it."

Here was power politics at its peak, pointing toward undeclared war, initiated not by the President but by uncontrollable hordes of westward migrants. To these forces, reinforced by the need of war funds, Napoleon capitulated and sold Louisiana.

As trouble mounted at sea, President Jefferson vainly sought, by means of the unenforceable Embargo Act of 1807, to induce England and France to repeal their confiscatory edicts, through which both countries were seizing or sinking American ships trading with the belligerents. Three weeks before Madison became President, he entered upon a far different course. It should be presumed, he wrote to Minister William Pinkney in London, that if the belligerents resumed the oppression of American commerce (after repeal of the embargo), "the next resort on the part of the United States will be, to an assertion of those rights by force of arms."

No *authoritative avowal* of such an intention, he said, could be made except by Congress. However, should "an expression of the Executive branch of our government be deemed a ground for revoking the British Orders, you will be free to declare that opinion to be, that in case these orders should be revoked, and the decrees of France continue in force, hostilities on the part of the United States will ensue against the latter."

Be careful, he added, "not to attach to the opinion of the Executive any weight inconsistent with the constitutional limits of his authority." A corresponding proposition was made to France.

On March 15, 1809, two weeks after he took office, President Madison instructed the American ministers at London and Paris to give notice that if one belligerent revoked its edicts and the other did not, "it is the opinion of the Executive, that Congress will, at the ensuing special session, authorize acts of hostility on the part of the United States against the other."

In 1810 Congress by the Macon Act made repeal by one belligerent, and non-repeal by the other, ground for a presidential proclamation of non-intercourse with the offending nation. France formally revoked her decrees; England did not, and on November 2, 1810, the President proclaimed nonintercourse with England, to be effective in three months. On that same day Madison sent the following message to the French Government:

"The Executive thinks that the measures he will take in case England continues to interfere with our communications with Europe will necessarily lead to war."

The measures, which did lead to war, were those authorized by the Macon Act. At no time did President Madison encroach upon the war powers of Congress. At no time did he make any statement, public or private, that would tend to control the action of the legislature.

Also in 1810, President Madison sent the United States Army into the Spanish province of West Florida, in support of an independence uprising by American and Spanish settlers who, by pre-arrangement of their leaders with the President, seized power and promptly applied for incorporation of the territory in the United States. The action was taken during the recess of Congress and was unknown to the public until Congress reconvened two months later. The territory thus occupied was held by the United States until formally ceded by Spain in 1819.

Rumors about this coup were flying but actual events were undisclosed when Madison commented to Jefferson about presumably *prospective* actions *already* taken. Following publication by a Georgetown newspaper of a rumor "that our cabinet is seriously engaged in discussing the propriety of taking possession of West Florida," Madison wrote that the crisis in that province had "come home" to American feelings and interests:

"It presents at the same time serious questions as to the authority of the Executive, and the adequacy of the existing laws of the United States for territorial administration. And the near approach of Congress might subject any intermediate interposition of the Executive to the charge of being premature and disrespectful, if not of being illegal. Still there is great weight in the considerations that the country to the Perdido, being our own, may be fairly taken possession of, if it can be done without violence; above all, if there be danger of its passing into the hands of a third and dangerous party."

The words *"being our own"* reflected the claim by the United States that the Louisiana Purchase extended east of New Orleans to the Perdido River. The military move could be (and was) executed "without violence" because no Spanish troops were within reach. The seizure had a measure of congressional authority: Congress in 1804 passed an act adding this part of West Florida to the New Orleans custom district, although that action had never been implemented. "Passing into the hands of a third and dangerous party" referred to the fact that Spain was an Anglo-French battleground on which England and France maintained rival puppet kings.

The action taken was saved from being imperialist aggression, in American eyes, only by the fact that the area involved was regarded (with good reason) to be included in the "Louisiana" retroceded by Spain to France in 1800 and ceded by France to the United States in 1803. The absence of violence prevented infringement of the war powers of Congress. That condition was fortuitous, but Madison's citation of it was meaningful. He disavowed presidential power to take possession of territory claimed as American, by acts of violence, without congressional authorization.

As British domination over Spain increased, apprehension increased that England would occupy East Florida. On January 3, 1811, President Madison sent a secret message to Congress asking for authority to take temporary possession of East Florida by military force, provided such occupation had the sanction of the local authority or to forestall a foreign seizure. Congress passed the measure, minus the word "temporary."

The President gave General George Mathews, former governor of Georgia, authority to accept possession of East Florida if it should be amicably offered by the Spanish governor or "the existing local authority." Not content with soliciting such an offer, Mathews organized an invasion force of two hundred Georgia militiamen and adventurers, obtained American naval support by misstating his instructions, over-awed a Spanish garrison and took armed possession as far as the St. John's River.

President Madison repudiated Mathews' action and removed him from office. Under no circumstances, the general was told, "was it the policy of the law, or purpose of the Executive, to wrest the province forcibly from Spain." However, Spain's governmental collapse and the menace of British occupation during the War of 1812 kept the territory in American possession until both Floridas were ceded by Spain as compensation for commercial depredations at sea.

Madison's repudiation of the Mathews adventure eliminated any suggestion of executive intrusion into the war-making powers of Congress. So did the history of West Florida as a territory to which the United States claimed title by purchase from France and was so treated by act of Congress in 1804.

Far from usurping the war powers of Congress, President Madison denied the constitutional power of Congress to delegate war-making decisions to the Executive. This was attempted in 1810, as a means of combating depredations of the British and French navies on American commerce.

In April, 1810, the House of Representatives had before it a bill, favored by Madison, to levy an additional 50 per cent duty on all

British and French goods, to be suspended in favor of either country that would repeal its hostile edicts. However, the House struck out the tax clause and took up a resolution already approved by the Senate:

"That the President of the United States be and hereby is, authorized to employ the public armed vessels in protecting the commerce of the U.S., and to issue instructions which shall be conformable to the laws and usages of nations, for the government of the ships which may be employed in that service."

President Madison regarded that resolution as unconstitutional. Approval of it by the Senate, he commented to Jefferson, marked the "unhinged state" of things in that body, whose future course was "rendered utterly uncertain by the policy which seems to prevail in that branch." (It was ruled by a bi-partisan alliance of Federalists and dissident Republicans.) In the House, the fight against it was taken up by Representative John G. Jackson, Dolley Madison's brother-in-law and recognized spokesman of the President, lately recovered from an almost fatal wound incurred in a duel precipitated by his ardent devotion to Madison. The whole House knew that although the words were Jackson's, the thoughts came from the President. As recorded in the *Annals*, April 30, 1810:

"Mr. J. G. Jackson said it appeared to him that no proposition had ever been submitted by one branch of the Legislature to the other similar to the one now before the House. It contains two propositions, neither of which could be supported.

"The first, said Mr. J., is that the President shall be authorized, when he may deem it expedient, to employ the armed vessels of the U.S. in the protection of commerce. If it be expedient to protect commerce, let Congress say so; let them declare it expedient and then devolve on the President power to carry their acts into execution. It seems to me with equal constitutionality we might refer to the President the authority of declaring war, levying taxes, or of doing everything which the Constitution points out as the duty of Congress.

"All legislative power is by the Constitution vested in Congress. They cannot transfer it. I admit, that the President is a component part of the Legislative; but you can no more transfer to him the power belonging to us, than you can transfer your power to the other branch of the Legislature, and permit them to sit during the recess."

The mind of Madison was equally evident when Jackson turned to the other feature of the resolution, requiring that actions by the President to protect Congress be in accord with international law:

"But this power thus given, is to be exercised according to the law of nations. It is a very important power, in the exercise of which we may and most probably shall come in collision with the definition of other nations and thus be brought into war—and I ask, sir, are you willing to confine this definition to any department of the government? It is a legislative power, which we cannot transfer; and if we could, it would be inexpedient to do so. Why are we assembled here, if, when it becomes our duty to decide on our great relations with foreign nations, we shrink from the task and throw the responsibility of measures on other departments of the Government?"

Madison had expressed the same thought about the law of nations, to Jefferson, on April 1, 1798. Six other congressmen made unrecorded speeches against the resolution. Not a voice was raised in support of it or against the Madison-Jackson reasoning. The measure was defeated 17 to 70.

Both in precept and practice James Madison, the man who divided the warmaking power by giving the President authority to repel sudden attacks, consistently denied executive power to carry the country into any other form of undeclared war. He denied the power of Congress to authorize the President to initiate such hostilities at his discretion. He denied that, either historically or constitutionally, decisions of war or peace were even partly executive in nature. He denied the constitutional power of the Executive, by words or actions, to reduce the freedom of Congress to choose between war and peace. Speaking through Representative Jackson, he disclaimed the constitutional power of Congress to invest the President with discretionary authority to employ the armed forces in hostile activities. And Congress, in his opinion, had exclusive power to define international law, in all situations where the use of armed force was potentially involved.

These positions taken by "the father of the Constitution" were uniformly upheld at the time by Congress and public opinion. In 1793 he overwhelmed the contrary position of Alexander Hamilton, who fled the field without replying to Madison's constitutional arguments. President Washington sustained Madison's view and the House of Representatives ratified it in words written by Madison. In 1810 the House lopsidedly supported the contention, emanating from Madison, that Congress had no power to confer discretionary authority on the President to defend commerce by armed force. The resolution thus treated as unconstitutional was a precise counterpart of the once-famous, later-infamous, Gulf of Tonkin Resolution.

But what a vast spread has since developed between the congressional attitudes and even the constitutional issues in the two instances! In 1810 the prevailing view was that Congress had no constitutional power to invest the President with war-making authority. In the Johnson-Nixon era, the dispute has centered on the question, did Congress intend to confer such power, or have two Presidents seized more power than Congress thought it was conveying? And both of these Presidents have claimed inherent power to conduct an undeclared war of unlimited magnitude, titanic cost and hundreds of thousands of casualties, without any congressional authorization whatsoever.

In the last twenty-two years, under three Presidents, more than 100,000 American boys have been killed in two undeclared wars which, by the prevailing views of Congress and Presidents in the first twenty-two years under the Constitution, the President had no lawful power to commence or conduct. The second and worse of these wars—a political and moral national monstrosity—is still in progress, four years after Richard Nixon said he had a secret plan to end it.

How much longer will this insanity continue? What is needed to end it and prevent its repetition? Nothing except simple obedience to the Constitution by the President and the Congress of the United States. The Javits Bill, S. 2956, is a mighty step in that direction.

Yours sincerely,

IRVING BRANT.

Mr. BROCK. Mr. President, I have long been a proponent of the concept embodied in this proposed legislation. We need a war powers bill because we clearly need today a specifically detailed understanding of the respective responsibilities of Congress and the Executive when American fighting men are committed to action. The objective—to prevent us from ever again slipping into a war without national debate and congressional action.

This is a meritorious goal, one worthy of such study and debate as may be necessary to guarantee that it meets its stated objectives without jeopardizing a constitutionally defined fulcrum between the executive and congressional branches.

Two decades ago, there was another bill of similar constitutional importance—the Bricker amendment. I will not debate the merits of that legislation, but I will say that the legislators had time to assess fully the constitutional and strategic implications of the bill. The pros and cons of the Bricker amendment were debated in forums across the entire Nation. It became the leading issue before the American Bar Associations. Resolutions for and against were voted by national organizations. It was a formal debate topic on college campuses. Every eminent international lawyer or constitutional professor submitted his opinion. Have we done as well on the war powers bill?

It is true that I find the amended version now before us appealing. Yet while I could support it, I find no crisis so compelling that I cannot wait 6 weeks to be sure all sides have adequate opportunity to be heard.

Here, when the issues raised broadly affect our national security, there are those who act as if passage of this legislation is so pressing that we should dispense with hearing the opinions of the leading lawyers of this Nation. While agreeing with the need for passage of language to clarify war powers authority, I am not so arrogant of my own wisdom as to deny the need of the best advice I can find on this matter.

Mr. President, here is a list of many eminent lawyers who wish to give their views on this war powers bill—they include statesmen of both Democratic and Republican persuasion, international lawyers as well as constitutional authorities, leaders of the organized bar as well as academic spokesmen. I am referring to former Attorney General Herbert Brownell, and former Under Secretary of State, George Ball; two former Presidents of the American Bar Association, David F. Maxwell and Bernard G. Segal; international lawyers of renown such as Arthur H. Dean, and Eberhard P. Deutsch, distinguished professors, such as, Gordon Baldwin of the University of Wisconsin Law School, John N. Moore of the University of Virginia Law School, Carl Christol, of University of Southern California Law School, Louis Sohn of the Harvard Law School, and in addition Prof. Arthur Schlesinger.

I could go on and list many more distinguished leaders of the law profession, such as Monroe Leigh here in Washington; Herman Phleger, in San Francisco; and Edward J. Lawler, of my own State of Tennessee.

All of these experts have expressed concerns about the constitutional implications of this war powers bill. All want to clarify the effect of legislation changing the constitutional relationships between Congress and the President. None, I am sure, seek to thwart the here stated objective of definition of constitutional responsibility.

Mr. President, this Chamber is a deliberative body, proud of its heritage of considering legislation in an educational instead of emotional atmosphere, with the objectivity of facts instead of the subjectivity of feeling.

If a majority today refuses to hear the counsel of these experts in constitutional law, we run a high risk of placing some future President in a situation where he is unable to respond for the protection of the Nation. Mr. President, I will support the move to return S. 2956 to the Judiciary Committee for a specific and short time only, so that we may have the benefit of the important testimony of the best and most experienced legal minds available. To the extent that their advice can further refine and improve our efforts, it should be allowed to do so. At that time, I will actively support this much needed resolution.

Mr. JAVITS. Mr. President, unless some other Senator wishes to be recognized, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUCKLEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized under the standing order, the distinguished Senator from New York (Mr. BUCKLEY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare may have until midnight tonight to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR MINORITY MEMBERS OF THE COMMITTEE ON COMMERCE TO HAVE UNTIL MIDNIGHT ON WEDNESDAY NEXT TO FILE THEIR VIEWS ON S. 3419

Mr. DOMINICK. Mr. President, at the request of the Senator from New Hampshire (Mr. COTTON), I ask unanimous consent that the minority members of the Committee on Commerce be given until midnight on Wednesday next to file their views on S. 3419. This is merely an extension of time from midnight tonight until Wednesday night, April 12.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

(The remarks of Mr. Hruska made at this point on the introduction of S. 3470 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

GUILTY UNLESS PROVEN INNOCENT?

Mr. HRUSKA. Mr. President, for the past 6 weeks, this Nation's newspapers have been filled with news stories and editorials critical of the administration, and in particular the Department of Justice, for its settlement of the three ITT antitrust suits. Allegations have been made concerning a "deal" involving ITT's contribution to the San Diego Tourist and Convention Bureau. All of this has taken place in the context of the Senate Judiciary Committee's hearings on the nomination of Richard Kleindienst to be Attorney General.

This trial by publicity has altered the fundamental American jurisprudential precept that a man should be regarded as innocent until proved guilty. Rather Mr. Kleindienst has been portrayed to the public as a man guilty of some unspecified charge based on no creditable evidence whatsoever.

Some Democratic members of the committee have continued to deal in innuendo and suspicion notwithstanding the fact that their efforts have proved entirely unrewarding. Indeed, as time has passed, the name of Mr. Kleindienst has been making less and less frequent appearances in the transcript as the inquisition has ranged far afield. The distinguished Senate majority reader (Mr. MANSFIELD) indicated last week that he felt that Mr. Kleindienst's opponents had failed to make a case against him. This Senator can but echo that sentiment.

Recently, as with all excesses, a turning back to reality and sound judgment has been shown by some editorial writers. Last week the Wall Street Journal published two excellent editorials which put the hearings and the issues in appropriate perspective. In addition Mr. David Lawrence in U.S. News and World Report has perceptively examined the perversion of legal principle I mentioned earlier.

Mr. President, I ask unanimous consent that these three articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, the time has come for the Senate to be given the opportunity to vote on the President's choice to be Attorney General. If there is any evidence to impugn Mr. Kleindienst's record it should be brought forth now. If there is no such evidence, and I am confident this is the case, we should be permitted to bring this matter to the floor promptly.

Now the committee has agreed to hold 2 additional weeks of hearings on this nomination. This is altogether too long a time to hold Mr. Kleindienst hostage while Democratic Senators conduct their lengthy and unproductive fishing expedition. For 6 weeks the Democratic nets have been cast wide in hopes of catching some evidence of wrongdoing in order to defeat this nomination and embarrass the administration; for 6 weeks those nets have been hauled in empty. This charade should have been stopped long ago.

There are, however, two important and useful benefits in the agreement reached by the committee last Friday. First, at long last there is a cutoff date agreed upon for these hearings, April 20 is the final day on which hearings can be held; April 27 is the deadline for the majority leader to be informed of the decision of the committee on this nomination. Second, the agreement specifies that the witnesses to come before the committee during these final 2 weeks are to limit their testimony to matters relevant to the nomination. After all, Mr. President, it is Mr. Kleindienst who as been nominated by the President to be Attorney General, not ITT. This Senator intends to make every effort to see that this newly found rule of relevance is strictly observed.

EXHIBIT 1

[From the Wall Street Journal, Apr. 4, 1972]

WHERE NEXT ON ITT?—I

On Thursday the Senate Judiciary Committee will vote on whether to continue its hearings into the ITT affair. We are not at all sure matters ought to be dropped as they stand, but if the hearings are to continue the Committee will have to find some track to get them on

Presently the hearings' remaining function in life seems to be providing a field day for partisan Democrats anxious to embarrass a Republican administration, and for editorial cartoonists anxious to expand public understanding of complex issues by drawing pictures of dragons and garbage piles. The partisans, at least, are a normal and useful part of the political system. The Republicans would do the same thing if the tables were reversed, and it helps keep everyone reasonably honest.

Still, the day when this justification wears thin comes fairly quickly. It's time to ask what has or has not been proved, and what, specifically, there is left to investigate.

We think certain minimum conclusions are by now evident. The Republican Party ought not to have accepted a $200,000 convention-financing pledge from International Telephone & Telegraph Corp. while it was party to an important antitrust suit. In financing matters neither party is above suspicion, as the Democrats' still-unpaid 1968 bills testify. If the ITT affair warns both parties to look more closely at their contributors, it will have served good purpose. If it warns the next President of either party of the potential damage in the recent tradition of staffing the Justice Department with campaign managers and other highly partisan types, it will have served doubly well.

Further investigation is scarcely needed to establish that much, however, so the Committee will still be left searching for a purpose. Ostensibly, of course, it is inquiring into the qualifications of Attorney General-designate Richard G. Kleindienst Little in the hearings reflects personally on Mr. Klein-

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dienst beyond some not especially earth-shaking dicrepancies between his present account and what he'd said previously responding to a letter from the Democratic National Committee.

It is of course also true that Mr. Kleindienst set up and attended meetings between ITT officials and former antitrust chief Richard W. McLaren. Similar meetings have been standard practice in antitrust cases in previous administrations; in fact something like 80% of all antitrust cases are settled by negotiation rather than trial. The Judiciary Committee might want to investigate whether such practices should continue, but the case against them will be hard to make, and so far as we know no one has volunteered for that task.

It would of course bear on Mr. Kleindienst's qualifications if a link could be demonstrated between the convention contribution and the antitrust settlement. In all of the hearings, though, the only suggestion of a link has been in the disputed memorandum by ITT lobbyist Dita D. Beard.

The facts behind the memorandum are far from established, but as a practical matter we see no promising path for investigating it further. Additional questioning of Mrs. Beard does not seem especially promising, even laying aside her health problems. Columnist Jack Anderson, who first revealed the disputed memo, naturally refuses to reveal his source. While we fully support his refusal, it obviously does block an alternate path for investigating the memo.

As against the memo, you have the explanation of the antitrust settlement by Mr. McLaren and Solicitor General Erwin Griswold. The record, after all, is this: The previous Democratic administration did not believe the antitrust laws applied to conglomerate mergers, and did almost nothing about them. Mr. McLaren started to test legal theories making the application, and the results were not encouraging. In the lower courts he lost two of the ITT cases outright and suffered a sharp setback in the third.

Whereupon Mr. McLaren settled the ITT cases by consent decree. The net result is that while the previous administration's tactics would have won nothing. Mr. McLaren got the biggest divestiture in history, a promise to take ITT out of the acquisition business for 10 years and an example that did help deter the conglomerate movement. This does not sound to us like the record of an administration that sold out, and it will take rather more than the Beard-Anderson memo to persuade us otherwise.

A number of other questionable aspects of the case come quickly to mind, of course, but each of them reflects not on the government but on ITT. Here may be a promising track for further investigation, provided the Committee can frame its work not as a random assault on one company but in terms of broader social purpose. We intend to return to this point later.

But unless there are further disclosures to connect the contribution pledge to the antitrust settlement, it seems to us the Committee ought to wind up the Kleindienst phase of its hearings, continuing them, if at all, in some clearer context.

[From the Wall Street Journal, April 5, 1972]

WHERE NEXT ON ITT?—II

We've said the investigation into the ITT affairs leaves us reasonably satisfied with the integrity of the antitrust division. But definite clouds still hang over the integrity of International Telephone & Telegraph Corp., and it seems to us there is a question about what kind of corporation our economic system ought to encourage.

The episode seems to have established a number of things about ITT. It employed a lobbyist up to things like rushing off to the Kentucky Derby simply to corner the Attorney General. Its crisis reaction was to shred papers.

The reports of stock trading by its insiders show a pattern of buying broken by sales starting the day after the government offered terms for settling its antitrust suits by divestitures. A prospectus it issued a few days before settling the suits makes no mention of the ongoing negotiation. While its tender offer for Hartford Fire Insurance Co. was outstanding, it held a private meeting with selected Wall Street types. Its chief executive now says a previous company statement listing some 20 government officials with whom he had discussed antitrust policy was wrong in including two who are highly pertinent to the present controversy.

Now, we would scarcely charge that any of this was illegal, and ITT has variously plausible explanations for each of its actions. Its pledge to help finance the Republican convention was intended to promote its hotel properties, for example, and the timing of the stock sales was a coincidence. But the accumulation of questions and explanations has piled pretty high. Which is why the chief effect of the latest go-round on ITT, in our minds at least, has been to underline longstanding questions about conglomerate companies as they grew during the last decade.

Here a bit of background is necessary. The gaudy per-share performances that made conglomerates the darling of Wall Street during the 60s market boom were in important respects the result of imaginative, though perfectly legal, accounting practices.

One of the less arcane examples concerned "pooling of interest" accounting for acquisitions. This technique was not used merely by conglomerates but by many companies, and it was and remains a perfectly valid practice in many instances. Indeed, some types of business suffer hardships from the more recent restrictions on the practice.

One of its effects, though, is that an acquiring company can take credit for its acquisition's full-year earnings simply by owning it on the last day of the year. Thus by buying new earnings every year, a conglomerate could show consistent per-share growth even if the performance of its established divisions was mediocre.

The Accounting Principles Board, which sets the rules for the accounting profession, remarked on "instant earnings" and on "companies that have been able to show rising profits year after year by a series of mergers." In 1970, after considerable controversy, the Board changed its rules to discourage "pooling of interest" and otherwise tightened the practices from which conglomerates had benefited. Along with the market decline and the administration's antitrust suits, this has taken the steam out of the conglomerate movement, at least for the time being.

Unlike most conglomerates, ITT has been able to continue its earnings growth even after the acquisition pace slowed, and thus has avoided many of the doubts that have enveloped the movement in general. Yet there is little question it profited from the accounting game. Indeed, an academic study placed it among the six Big Board companies that profited most from pooling-of-interest accounting during 1967. Its controller, Herbert C. Knortz, was one of the most outspoken opponents of the changes the Accounting Principles Board enacted.

So the latest disclosures seem once again to raise questions about the methods of the type of corporate management attracted into the conglomerate game. Are they the type of men we want controlling an increasing share of American business, or would we prefer business leaders of a more conservative character?

The question may be academic, since the conglomerate movement is no longer sweeping American business. And we certainly do not need antitrust laws that bar all acquisitions or diversification, which make sound business sense in many cases. Our antitrust enforcers still have to learn, in fact, that bigness is not in itself a sin, or even a drag on competition.

Even so, we would like to be sure that conglomerates as we knew them in the 60s do not take off again the next time the stock market booms. So if the Senate Judiciary Committee wants to continue its investigations, it would do worse than to take some time to make sure there's nothing artificial in the laws or the economy to promote acquisition for the sake of acquisition, let alone for the sake of fancy accounting.

[From the U.S. News & World Report, Apr. 10, 1972]

GUILTY UNLESS PROVED INNOCENT?

(By David Lawrence)

Under English and American common law as well as centuries of legal reasoning, the principle has been recognized that a person accused of crime is presumed to be innocent until he is found guilty "beyond a reasonable doubt." The Supreme Court has ruled that the "due process" clause of our Constitution requires this standard to be observed.

Today in America the newspapers are filled with muckraking stories about the alleged wrongdoings of individuals or companies. The innuendoes are constantly repeated in the press and on radio and television so that citizens become convinced that the accused are guilty. Many of those who are the victims of attack are prominent in public life. The charges made against them are not necessarily removable by denials. Thus, the insinuations continue to be spread and are especially harmful during political campaigns when accusations are directed against candidates for office.

The idea of making sensational charges is defended as a way of attracting readers or listeners and as a custom that has been carried on over the years. Protection for the individual whose reputation is damaged lies in the use of libel laws. But by the time a controversy has been given the headlines and an aspirant to public office has been hurt in his chances for election, not much help can come from a subsequent suit for damages. Also, court decisions have put limits on situations in which such claims can be sustained.

Government officials have been astonished in recent years by the theft of papers not only from public but from private files and the distribution of their contents to newspapers. Efforts to prevent publication have been turned down by the courts under the doctrine of "freedom of the press."

The public, of course, often gets a one-sided story because the stolen documents do not cover the entire history of an event or series of events which are the subject of the exposure. Congressional committees can make thorough inquiries in cases involving public officials, but it isn't always possible to get all the facts or all the evidence necessary for a fair conclusion to be reached.

Under the circumstances, therefore, will individuals who are being accused of impropriety be regarded as guilty just because there is not available immediately a means of proving their innocence? The rule of law says they are innocent until proved guilty. But nowadays it is the other way around. They are thought of as guilty because they have not been proved innocent.

Many controversies arise over political contributions. The law is specific in stating that neither corporations nor labor unions can contribute from their own funds to a political party or candidate for federal office, but money is nevertheless supplied by them indirectly. One method is to organize separate committees which canvass the personnel of companies or labor unions and raise considerable amounts. The net result is that huge sums are collected from persons actively

engaged in business or identified with national unions.

There has been much talk in Congress about modifying the laws so that these devices for collecting campaign funds would not be permitted, but nothing has been done about it. As a matter of fact, both political parties benefit by the flow of money from all kinds of groups during a presidential campaign. The contributions vary in size, but each of the major parties amasses millions of dollars to pay expenses of the contest. If the laws were literally interpreted, there might be some question about circumvention of statutes. Since both parties are involved in soliciting money from private sources, however, no real effort has been made to prevent the gathering of large amounts from individuals in both labor and management categories.

During the coming campaign, there will be plenty of charges and countercharges. Lots of this will be done on television, and people will hear allegations about different events in which candidates have participated or with which they have been associated. Those accused will not be present to make a rebuttal, and hence an incorrect impression can be given the public.

The most conspicuous example of failure to apply the simple rule of justice to the many controversies in politics is in the charges often made against the candidates of an incumbent Administration. Because it is involved in a wide range of governmental services, its leaders are particularly vulnerable.

The assumption is that an accusation which implies wrongdoing is permissible whether or not all the facts are revealed. As long as the innuendoes are spread, the purpose is served. This is the polemics of politics.

So we come back to the simple rule of justice. Shouldn't a person be considered innocent until he is proved guilty "beyond a reasonable doubt"? Or is he going to be regarded as guilty because of reports in the press or on the air raising suspicions related to activities in which he may or may not have played a part?

The view currently prevalent seems to be: Guilty Unless Proved Innocent.

UNANIMOUS-CONSENT AGREEMENT

Mr. HRUSKA. Mr. President, I have a unanimous-consent request to make with reference to the pending motion to refer the pending measure, S. 2956, the proposed War Powers Act, to the Committee on the Judiciary.

I am prompted somewhat by the suggestion that a reference to that committee might be consigning the bill to the graveyard. If all the allegations having to do with the graveyard regarding a referral to the Committee on the Judiciary were true, that graveyard would not have any room for another grave. At any rate, there have been assurances by this Senator that the measure would not be referred to the Committee on the Judiciary for the purpose of burying it. In order to make that assurance complete, tangible, and irrevocable, my unanimous-consent request is that the reference to the Committee on the Judiciary of S. 2956 be for a period of not to exceed 45 days.

That may seem to be a little long. However, I just finished detailing to the Senate that the next 2 weeks will be occupied with an ongoing issue which is already washed out and somewhat outworn. Nevertheless, additional hearings on the nomination of Mr. Kleindeinst will be held. That would mean a residual period of 30 days for the purpose of canvassing the constitutional features of S. 2956 and hopefully to obtain some of the leading constitutional lawyers to testify on this bill and its proposals.

It must be said again that only two constitutional lawyers have testified so far in these hearings. One was Professor Bickel of Yale Law School. The other was Prof. John Norton Moore, of the University of Virginia Law School. It is imperative that we have more constitutional lawyers, not professors of history, not professors of political science, but constitutional lawyers testify.

In our colloquy on Friday the Senator from Arizona and I listed a number of them. To that list I would like to add the name of Myres S. McDougal.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a biographical sketch of Prof. Myres S. McDougal.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

MYRES S. MCDOUGAL

Born November 23, 1906 Mississippi.
A.B., A.M., LL.B., University of Miss. 1927.
B.A., B.C.L., Oxford, England, 1930.
J.S.D., Yale, 1931.
Honorary Doctor of Humane Letters, Columbia, 1954.
Honorary Doctor of Laws, Northwestern, 1956.
Assistant Professor Law, Univ. of Illinois, 1931–34.
Associate Professor of Law, Yale, 1934–39.
Professor of Law, Yale, 1939–
Currently Sterling Professor of Law, Yale, 1958–present.
Visiting Professor, Cairo Univ., U.A.R., 1959–60.
Lecturer, Fulbright Conference on American Studies, Cambridge Univ., England, 1952.
1942 Attorney and Assistant General Counsel, Lend Lease Administration.
1943 General Counsel, Office of Foreign Relief and Rehabilitation Operations, Dept. of State.
Since 1963 member, U.S. Panel, Permanent Court of Arbitration, The Hague.
1966 President, Association of American Law Schools.
1958 President, American Society of International Law.
Many publications in field of congressional-executive powers under constitution.

Mr. HRUSKA. Mr. President, Professor McDougal in a conversation over the phone with my legislative assistant, Stanley Ebner, authorized him to make a statement on his behalf which will be verified in writing.

In that statement Professor McDougal takes a position against the pending bill.

Here is the substance of his statement as taken over the phone by Mr. Ebner:

The report of the Foreign Relations Committee on S. 2956 is hopelessly inadequate regarding the grave constitutional questions raised by this bill.

Under the power to declare war the Congress has no more competence to restrict the President's power as Commander in Chief than the President has as Commander in Chief to limit the Congress' authority under the declaration of war clause.

The President's competency in relation to foreign affairs, his ability regarding the making of agreements and the use of force, is of critical importance here.

With this bill the Congress would be telling the President what he can do in areas where he either may act alone, or act together with Congress. S. 2956 is a real threat to the security of Freedom under the established separation of powers. It threatens the Presidency as a co-equal branch.

Professor Rostow is 100% correct in his view on the bill—he should be supported.

Mr. President, the reference to Professor Rostow was twofold. One was his participation in the debate last October at the Yale University with Prof. Alex Bickel. That was the subject of a Yale Law Report article which is to be found earlier in the record of this debate.

The second reference to Professor Rostow had to do with the article he had in the New York Times of Thursday, last.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HRUSKA. I yield.

Mr. JAVITS. Mr. President, I did not hear the Chair rule on the unanimous-consent request.

Mr. HRUSKA. I have not quite finished my statement.

Mr. JAVITS. I am sorry. I wanted to be sure that I was not pre-empted.

Mr. HRUSKA. Mr. President, when I finish, I will give the Senator an opportunity to respond.

I detailed the matter dealing with Professor McDougal because it is in addition to the list of names given to the Senate in the colloquy between the Senator from Arizona and this Senator.

I want to finish that before I repeat my unanimous-consent request and ask for a ruling on it.

Professor McDougal authorized Mr. Ebner to say that if the hearings are held, or if they are not, and there are any other occasions on which he can submit his testimony either orally or in writing, we should let him know and he would do his best to oblige.

Mr. President, I ask unanimous consent that permission be given me to modify my motion to refer this bill S. 2956, to the Committee on the Judiciary with the addition of this language—"for a period not to exceed 45 days from the date of adoption."

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I do wish to make an observation and I wish to suggest an amendment to the way in which the unanimous-consent request is put.

Mr. President, as to the latter, it is procedural. I am sure that the Senator has no objection to it. It seems to me that the unanimous-consent request should provide that the bill shall then be deemed reported by the Judiciary Committee to the Senate at the end of that 45-day period. Otherwise other proceedings might have to ensue, and I do not think the Senator has that intention.

Mr. HRUSKA. Mr. President, I have no wish to that. I have no objection. Does the Senator suggest that this be added?

Mr. JAVITS. I do.

Mr. HRUSKA. I would be happy to agree to the addition of such language. There is no objection to that at all.

Mr. JAVITS. I did not think the Senator had.

Mr. President, reserving the right to object further, and again I repeat that I shall not object, I wish to make an observation.

Mr. President. I do not think the spon-

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sors of this bill desire in any way to deal with the question of referral to the Judiciary Committee except substantively. So, it is not material if the reference is for 1½ months, although we will reserve the right to argue as to the state of the calendar and the situation in Congress at the end of that time. However, we will base our main objection to the reference on the substantive ground that first, there is no question which is of a nature that gives the Judiciary Committee jurisdiction; and second, the delay in time which is inherent in the motion is not warranted.

I did wish, because of the Senator's statement, to couple our major points of opposition with his unanimous-consent request.

I do not have any objection. I have consulted with the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. SPONG), and other Senators concerned. There is no objection.

Mr. HRUSKA. I am thankful for the last suggestion of the Senator from New York. This Senator, before he decided to make this unanimous-consent request, did canvass the leadership on both sides and those Senators most active in the debate on this bill.

Mr. ROBERT C. BYRD. I was going to inquire whether or not the matter had been cleared with the distinguished Senator from Virginia (Mr. SPONG), the manager of the bill on this side of the aisle, and the Senator from Mississippi (Mr. STENNIS). I understand now, based on the statements by the Senator from New York and the Senator from Nebraska, that that matter has been clarified. I have no objection.

Mr. HRUSKA. Mr. President, I would like to add that I discussed the request with the Senator from Arizona (Mr. GOLDWATER), the two Senators from Colorado, and other interested Senators on our side of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, earlier in this debate I have stated that the proposed War Powers Act has grave constitutional implications. While the Judiciary Committee should be given the fullest opportunity to examine and study these issues, mention of a few of them at this time may perhaps provide further impetus in support of the motion to refer the bill to committee.

The proponents of this bill have asserted time and again that S. 2956 takes nothing away from the constitutional authority of the President regarding his ability to commit military forces around the globe. This is merely stating a conclusion, however, which naturally depends on what powers one believes are provided the President by the Constitution in the first instance.

Let us look at the sections containing the 30-day limitations, sections 5 and 6 of the bill. These sections provided, in the version reported by the Foreign Relations Committee, that Congress must approve the use of American Armed Forces for more than 30 days in any situation where the President commits them on his own—under those circumstances allowed by the bill, of course. These sections also authorized Congress to terminate such use sooner than 30 days through legislation.

Since the debate on this bill has commenced on the Senate floor, the sponsors of S. 2956 have introduced so-called "perfecting amendments" which were adopted by the Senate on April 5. As amended, sections 5 and 6 now ostensibly permit the President to go beyond the 30-day limit without congressional intervention if he certifies to Congress in writing that troops must continue to be used to bring about a prompt disengagement from hostilities. This authority is limited to situations tied to the safety of our Armed Forces, and then only when they have been committed in cases involving attacks on the United States or on our Armed Forces outside the United States.

Prof. Quincy Wright, who has been a foremost scholar of international law for many years, had the following to say as long ago as 1920:

> The powers of the Commander in Chief extend to the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns, and are exclusive and independent of Congressional power.

After the opportunity to further study and to reflect on this issue for almost 50 years, the same Professor Wright wrote in 1969:

> I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically, exclusive power of Congress to declare war.

Mr. President, this is not the view of an immoderate man who does not know whereof he speaks. Neither is it a lone voice in the wilderness. There are other distinguished scholars who share this view—just how many and to what extent we cannot be sure until they have an opportunity to present their arguments before the Judiciary Committee, if the pending motion is approved.

The Senator from Arizona and this Senator have already listed a number of such experts earlier in this debate.

This position, of course, argues most strongly against the provisions of sections 5 and 6 of S. 2956—and against those who claim this bill does not impinge upon the constitutional powers of the President. How can it be argued seriously that the President must bow to the will of Congress according to the time sequences spelled out in the bill if he has the power to commit the troops in the first instance?

If this power derives direct from the Constitution, to attempt to do it in the manner of S. 2956 would be an attempt to modify and amend the Constitution by statute. We have not reached that point. Hopefully we never will.

I am well aware that some supporters of this proposal theorize that a brief hostility does not amount to a "war" within the meaning of article I, section 8 of the Constitution—but that a lengthy conflict does come within this definition. Precedent at least does not bear out this theory. This Senator has already mentioned that there have been 192 instances in our history when American military forces have been involved in hostilities abroad without a declaration of war. Of particular significance to the legality of sections 5 and 6, however, is the fact that there have been 93 of these military actions lasting more than 30 days.

Examined in this light, Mr. President, the floor amendments to sections 5 and 6 of the bill are little more than cosmetic. They do not alter the basic flaws in any scheme, pattern, or device which would attempt to place time limits, conditions, reporting requirements, and the like on the constitutional powers of the President as Commander in Chief and principal exponent of American foreign policy. They merely appear to make the bill more palatable to those who have legitimate objections to S. 2956 on policy grounds.

In a previous statement this Senator mentioned the case of *United States* v. *Midwest Oil Co.*, 236 U.S. 459 (1915), as one cited by this bill's proponents to support the authority of Congress to provide statutory limitations on the President's ability to commit troops overseas. This case is indeed worth examining closely, but not for the purpose suggested by those who wish to see the enactment of S. 2956.

In writing for the majority, Justice Lamar stated:

> It may be argued that while these facts and rulings prove a usage they do not establish its validity. But government is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long-continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle but the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation.

Mr. President, it would be tragic if S. 2956, which represents such a serious departure from accepted separation of powers principles in this area, should be allowed to slip through the fingers of the Senate without additional exploration on constitutional grounds. The brooding presence of the Vietnam conflict must not be permitted to obscure either our past legal tradition or our future dependence on the Constitution as the single most powerful force in preserving the American system of government. Additional consideration of S. 2956 before the Judiciary Committee is urgently needed if the Senate is to have the best possible examination made of a measure which flies in the face of nearly 200 years of practice and thinking under the Constitution.

Mr. President, there will be a vote on the motion to refer S. 2956 to the Judiciary Committee at 2 p.m., on tomorrow. I hope that all Senators will examine the debate record of the past few days and consider carefully the unresolved and most serious questions contained in this bill before casting their votes on the motion.

I yield the floor.

Mr. JAVITS. Mr. President, the debate today has dealt so extensively, almost exclusively, with the question of reference to the Judiciary Committee, I would like to reinforce an argument made earlier in the day.

The argument is based upon the fine statement, the vigorous statement, of the Senator from Mississippi (Mr. STENNIS) and the immediately subsequent statement of the Senator from Virginia (Mr. SPONG). It led me to identify the motion with the proposition that we were going to vote tomorrow, not on an adjective question of procedure but on a substantive question, and on this substantive question the Senate should be decidedly and decisively against the motion.

The substantive question is this: As the jurisdiction of the Judiciary Committee extends to amendments to the Constitution, the motion to refer to the Judiciary Committee by the makers of the motion is made on the ground that it presents a constitutional question. As has been properly stated time and time again, we have constitutional questions involved in a water pollution bill or in an air pollution bill or in a civil rights bill, or in the question of equal opportunity under the 14th amendment, or taking property without due process of law, and many other constitutional questions. We would never think of referring such legislation to the Judiciary Committee. If we did, that committee would have referred to it every bill in the place. Everything we do here flows from the powers given to the Congress under the Constitution.

So we expressly rebut the contention of the movants of the motion that what is presented is a constitutional amendment and that what is sought to be achieved is a constitutional change. We believe the total evidence and the total history before the Senate rejects that. It is not a question of changing the Constitution.

The question is that of adopting a methodology under which the constitutional powers of the Congress and of the President may be exercised in view of historical developments. The reaction of the President to a sudden attack in the exercise of his power as Commander in Chief, may very speedily become war.

We do not want these questions fuzzed up with the question of appropriations for operations and men in the field, with all the questions that entails, and the responsibility for our Armed Forces, which naturally Congress is very reluctant to do, and which, if one House decides to do, the other House would not, just as we have experienced before.

Those who believe we are really legislating a constitutional amendment will vote with those who are seeking to send the bill to the Judiciary Committee, but those who feel that we are endeavoring to apply, under the necessary and proper clause, a methodology will vote against it. I hope very much that will be the decisive action of this body.

We will argue tomorrow the fact that referral would bring us right into the middle of the busiest part of the legislative session. The matter has been given broad consideration in the public and private forum, including testimony, for 1 year, with Members of Congress and experts giving full consideration to it, with people at the highest levels, those representing presidents, having testified on both sides of the issue. Those who have served presidents do not agree with some of those views. We have had all the testimony.

We finally come to JOHN STENNIS' proposition, that this is a political issue. Since it involves the lives and fortunes of our people, do we have any less right to seek the concurrence of the Congress with the President when war is involved—not an incident or a repelling of sudden attack, but war on a massive scale we are talking about, shown by the experience we have just gone through?

So I hope Members of the Senate will consider the record. It is very important. My own opinion is that tomorrow's vote is the decisive vote on the whole issue of whether we will or will not have congressional action in this field, and I hope very much the motion will be rejected.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders have been recognized under the standing order, the distinguished junior Senator from New York (Mr. BUCKLEY) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, or not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for the transaction of routine morning business, the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

At 2 p.m. tomorrow, the Senate will vote by rollcall on a motion by the distinguished Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee. Following that yea-and-nay vote, in the event the motion to refer is rejected, amendments will be called up, and rollcall votes thereon are expected.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I can assure the Senator, because we already have been asked—and I say this only so that Senators or members of their staffs who read the RECORD may be informed—that there will be amendments. From the nature of the amendments, I believe that decisions will be taken on those amendments. Whether or not they will be yea and nay votes, obviously I cannot tell, but I believe so.

So all Senators should be alerted to the fact that not only will there be voting at 2 o'clock, but also that thereafter, for the remainder of the afternoon, it is most likely that a number of amendments will be called up, considered, and acted on.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 4:35 p.m. the Senate adjourned until tomorrow, Tuesday, April 11, 1972, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate, April 10, 1972:

DEPARTMENT OF DEFENSE

John W. Warner, of Virginia, to be Secretary of the Navy, vice John H. Chafee, resigned.

Frank P. Sanders, of Maryland, to be Under Secretary of the Navy, vice John W. Warner, elevated.

PRICE COMMISSION

Mary Hamilton, of Illinois, to be a Member of the Price Commission, vice Marina von Neumann Whitman.

NATIONAL COMMISSION ON MATERIALS POLICY

Peter G. Peterson, of Illinois, to be a Member of the National Commission on Materials Policy, vice Maurice H. Stans.

IN THE ARMY

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captain

Boohar, Charles W., Jr., 189–34–9671.
Carpenter, Bernard R., 008–30–8208.
Craig, David B., 447–38–1136.
Gamboa Anthony H., 545–56–0499.
Gideon, Wendell R., 499–44–3333.
Lehman, William J., 512–42–4702.
Plaut, Peter K., 141–36–3419.
Simmons, Timothy J., 358–34–8775.

To be first lieutenant

Besozzi, Paul C., 138–38–3195.
Bishop, Burk E., 461–68–4988.
Borgen, Mack W., 356–36–0262.
Borek, Theodore B., 094–36–8298.
Carter, Victor S., 140–38–5272.
Caryl, Michael R., 086–38–4436.
Donnelly, Terrence M., 178–36–7827.
Dowell, David R., 226–62–7748.
Eisenberg, Stephen A., 100–34–1470.
Grandison, Wilfred G., 094–56–8310.
Hargus, Patrick K., 534–48–2005.
Hoskins, Harry D., III, 269–40–2320.
House, George W., 238–76–2547.
Knight, Sammys, 404–60–9050.
MacPherson, John R., 547–76–4074.
Miller, Ralph I., 461–78–6260.
Reynolds, George D., 233–72–6812.
Robblee, Paul A., 230–60–5161.
Sauer, John G., 512–52–1059.
Smith, Brian K., 446–46–5070.
Taylor, Vaughn E., 264–92–3519.
Trainor, Charles W., 198–34–5981.
Tucker, Harry A., Jr., 523–56–1116.
Vickery, Arnold A., 258–78–5782.
Williams, Herbert D., III, 244–56–4826.
Wonnell, Donn T., 137–38–2915.
Wzorek, Lawrence E., 506–54–7321.

To be second lieutenant

Lewis, John W., 414–80–1141.
Rovak, Stephen H., 487–52–8787.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Davis, Alice M., 211–26–7027.
Rohr, Robert E., 534–32–0079.
Shrout, Roy B., Jr., 235–54–2995.

To be captain

Adams, Peggy T., 225–36–4485.
Badgley, Eddie D., 306–36–1337.

XUM

Berk, Clarence G., 216–34–2835.
Breland, Marshall W. Jr., 249–68–2802.
Brown, Allen W., Jr., 096–22–2420.
Cerla, Paul K., 178–32–0517.
Cornine, Lance R., 218–34–8433.
Cuartas, Francisco I., 392–58–5613.
Fayard, Marshall J., 427–72–8209.
Feight, James W., 195–26–2286.
Foore, Larry L., 285–30–1053.
Fredrick, Bruce L., 302–34–4497.
Frierson, George W., 428–54–7837.
Glick, David D., 214–32–4456.
Hahn, Robert L., 308–34–0309.
Hamlette, John J., Jr., 228–50–2759.
Harvey, Floyd D., 235–54–3587.
Huston, Mary H., 253–62–3452.
Johnson, Lewis, 267–54–7977.
Lindsay, Lawrence F., 263–52–2872.
Livingstone, Bruce L., 531–20–5275.
Machado, Joseph A., 027–28–0501.
McCombs, Willis C., 490–38–9116.
McLemore, Melvin J., 419–46–5121.
Miller, Sharen L., 510–44–8411.
Neiman, Kenneth G., 193–30–2163.
Onne, Joseph, 057–32–8445.
Rook, Joseph J., Jr., 115–34–2130.
Stein, Walter J., Jr., 287–32–7437.
Tapscott, Donald A., 227–48–8461.
Wood, William M., 248–64–1643.

To be first lieutenant

Allen, Richard G., 466–56–7368.
Angus, James W., Jr., 534–42–6454.
Auerbach, Steven L., 115–36–8440.
Bandel, Raymond L., 510–48–7074.
Barrett, Daniel L., 111–30–1053.
Bearce, Gerald R., 004–34–2214.
Bent, Gary D., 266–58–5165.
Black, John H., 521–54–9452.
Branch, Gerald D., 292–42–2284.
Brown, Eric B., 272–40–0712.
Brown, Thomas P., Jr., 237–70–6717.
Bunch, Ronald C., 197–32–4384.
Burrell, Ralph, 329–36–3654.
Bushong, Richard H., 429–84–5004.
Butler, William W., 217–50–3404.
Childs, Edward M., 009–32–3137.
Clemens, Judd L., 181–32–8932.
Conway, Jack D., 539–40–0098.
Cook, James T., 128–36–6333.
Collins, William P., 380–40–1088.
Costello, Joseph A., Jr., 154–40–7959.
Cox, Everett F., 027–32–4831.
Craig, Larry B., 494–46–2168.
Cronin, Daniel F., 151–52–0507.
Culley, William F., Jr., 223–64–1692.
Cummings, Charles G., 213–36–5691.
Daniels, Jerry W., 113–30–1946.
Deery, Patrick D., 234–68–2721.
Densberger, William J., 158–34–7893.
Devine, Frank E., 522–48–1396.
Dingbaum, Herbert H., 352–40–5429.
Elders, James F., 253–58–6901.
Engel, Joseph J., 100–32–1629.
Esposito, Anthony L., 092–32–1050.
Ford, Carl W., Jr., 430–74–6174.
Fortenberry, Cleveland, 527–42–9591.
Fouts, Leroy K., Jr., 143–34–8625.
Franson, David C., 549–68–9952.
Fusco, Robert A., 047–36–1919.
Gardner, Mary K., 513–54–9277.
Gattis, Thomas T., 414–62–1059.
Gehm, Laverne J., 359–36–7646.
Geloso, Peter J., 500–46–4874.
Gooding, Thomas L., 249–68–2988.
Gordon, William N., 212–48–6513.
Grimm, Michael C., 552–72–8538.
Hall, William K., 525–96–6309.
Hamre, Larry H., 469–54–5190.
Hancock, Dexter V., 081–36–6932.
Hart, Louis H., 251–76–4843.
Hawks, Steve E., 447–42–2350.
Higgins, John A., 543–48–1237.
Howes, Alfred Jr., 236–66–4146.
Ireland, James W., Jr., 315–44–8370.
James, Kenneth D., 538–42–6214.
Johnson, Nicki L., 466–66–2374.
Jordan, Samuel Jr., 261–64–0993.
Kawakami, Clyde K., 576–38–9350.
Kernodle, Joseph W., 239–72–7243.
Kirk, Johnny L., 526–56–2586.
Koehler, Walter L., 131–30–3114.
Langone, William J., 016–32–2453.
Lawson, Marvin A., 188–34–9299.
Lynch, Harold F., 226–60–6315.
Marks, Virginia L., 450–80–5859.
McCoy, James P., 194–34–2388.
McIntyre, Kendall K., 001–28–9623.
Merritt, William L., 479–60–5777.
Morgan, David R., 504–40–3536.
Murnane, Michael J., 577–56–7494.
Nichols, Dean H., 558–54–5243.
North, Kenneth T., 408–72–4868.
Pearson, David W., 471–46–5855.
Pettit, Ronald B., 440–42–0690.
Pierce, John W., 260–62–5868.
Pistana, Robert R., 111–40–8104.
Pugh, Homer H., Jr., 281–40–1399.
Quinn, Dennis F., 144–34–0491.
Ramick, Thomas E., 217–44–7559.
Raschke, Phillip E., 558–54–2100.
Renn, Gregory A., 266–80–5429.
Rexford, Joel E., 130–36–8876.
Richey, David L., 381–46–0736.
Roles, Lewis L., 442–38–9406.
Ross, Glenn S., 325–38–5477.
Ross, Robert G., Jr., 258–68–1783.
Shanahan, Michael K., 375–48–0217.
Small, Robert J. H., 447–42–5545.
Smith, Edward S., 519–52–4754.
Snider, William M. II, 225–58–1252.
Sowa, Alexander P., 078–36–2861.
Stubbs, Fred J., 450–52–4378.
Tanaka, Robert Y., 519–52–4849.
Turman, William E., 258–72–0816.
Umble, Robert G., 266–62–9699.
Vanzant, James W., 258–52–4952.
Vogt, Robert V., 196–34–5740.
Voris, Stephen M., 310–42–0001.
Watt, Donald H. Jr., 013–40–6872.
West, Robert M. Jr., 408–68–3212.
Willer, Clinton W., 237–74–6987.
Wion, Edward J., 489–46–1548.
Witte, James E., 298–34–6663.
Wright, James M., 457–74–5116.

To be second lieutenant

Anderson, John E., 050–38–7874.
Arlail, Julius F., 252–64–8607.
Batcheller, James, 010–34–1484.
Beaty, Helen C., 532–44–2211.
Billings, Joseph G., 214–48–1338.
Brown, James A., 314–46–5936.
Bryan, William H. Jr., 258–76–4906.
Buckley, Robert P., 521–68–9102.
Chavers, Stephen R., 465–84–8940.
Cooksey, Daniel P., 406–62–7900.
Dandridge, Wayne L., 247–74–2486.
Day, Charles E., III, 171–34–6427.
De Haan, Peter, 072–38–3204.
Dent, James H., 404–60–6013.
Devine, John F., 388–42–7284.
Donald, James E., 587–09–4190.
Dorr, Kevin L., 279–38–8092.
Edwards, John R., 529–60–4823.
Ermold John D., 423–62–0915.
Evans, Joseph W., 538–44–0566.
Ewing, Mark W., 476–52–8250.
Ezell, Robert B., 228–56–4816.
Ferguson, Warner T. Jr., 223–68–8236.
Gossom, Woodrow W. Jr., 467–68–8631.
Hennings, Richard W., 266–80–5073.
Kealey, James F., 022–30–4689.
Kerrigan, John R., 212–48–1812.
Kling, David M., 377–46–6186.
Lawson, Harlan A., 492–48–2159.
Lenz, John W., 361–38–7526.
Lilly, Albert J., II, 444–50–8226.
Long, Scott C., 226–64–8841.
Lord, Harold W. Jr., 155–36–7484.
Lynskey, Gary L., 518–54–9178.
McCarron, Francis P., 265–78–8721.
O'Brien, John C., Jr., 146–38–6100.
Ortman, Gregory P., 486–48–8939.
Pekny, William M., 329–38–3433.
Rosenblatt, Simon J., 262–92–7464.
Rowley, Cleveland M., 260–72–8365.
Stewart, Walter L., 250–86–8938.

The following-named distinguished military student for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Vaupel, Lawrence E., 320–40–2392.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 10, 1972:

CENTRAL INTELLIGENCE AGENCY

The following-named officer, under the provisions of title 50, United States Code section 403, for appointment as Deputy Director, Central Intelligence Agency, a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, subsection (a) of section 3066, in grade of lieutenant general:

Maj. Gen. Vernon Anthony Walters, 065–09–5317, U.S. Army.

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade of lieutenant general:

Maj. Gen. George Edward Pickett, 577–54–0390, U.S. Army.

ACTION

Walter Charles Howe, of Washington, to be Deputy Director of Action.

IN THE MARINE CORPS

The nominations beginning Jesse L. Altman, Jr., to be lieutenant colonel, and ending William E. Zales, Jr., to be 1st lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Mar. 28, 1972.

EXTENSIONS OF REMARKS

EMBARGO LIFTED ON IMPORTATION OF RHODESIAN CHROME ORE

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, April 10, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Wall Street Journal of March 27 contains an excellent editorial on the lifting of the embargo on importation of Rhodesian chrome and the reaction to this change in policy.

The editorial rightly points out that the chief beneficiary of the embargo was the Soviet Union, which became the primary supplier of chrome ore to the United States. It was to end our dependence upon Russia for this strategic material that I sponsored the legislation which resulted in the resumption of chrome imports from Rhodesia.

I ask unanimous consent that the editorial, entitled "Fun and Games," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FUN AND GAMES

It is not quite accurate to say, as some do, that nations that trade commercial products are unlikely to trade insults and blows. History can point to aggressive trading nations that were aggressor nations also.

Nevertheless, as the world slowly emerged from isolationism, it was generally acknowledged that the lowering of trade barriers represented a move toward economic liberalism and away from suspicion and mistrust. And it is also generally agreed that boycotts and trade embargoes are largely ineffective.

Somehow, though, we get the feeling that those same explanations aren't supposed to apply to Rhodesia. Listening to the outcry in certain circles when the administration agreed to allow Rhodesian chrome into the U.S., after Congress enacted legislation last year authorizing such a move despite United Nations trade sanctions against Rhodesia, one would have thought either that Rhodesia was not of Planet Earth or that all the weighty arguments on behalf of broadened trade were now invalid.

And now that the ore is landing in the U.S., there are a number of signs to indicate that the Cause Crowd, which is ever alert to the latest political fashion, has singled out Rhodesian chrome for the usual demonstrations, protests and agitation that we have all come to know if not love.

Far be it for us to try to put a damper on this kind of fun and games. Still, it seems to us that this is a perfect example of George Santayana's description of fanaticism—described as redoubling your effort when you have forgotten your aim. The aim of the UN boycott, as far as it's possible to tell, was to help Rhodesia's blacks by showing disapproval of Rhodesia's white supremacist government. But all available evidence indicates that it was precisely Rhodesia's blacks who suffered most from even the limited effects of the boycott.

About all that sanctions really did was aid the Soviet Union at our expense, since soon after we barred Rhodesian chrome, Russia—the only other major producer of the vital ore—virtually doubled its price. Furthermore, there is evidence that the chrome we imported from the USSR actually originated in Rhodesia. In which case Moscow was not only surreptitiously defying the UN ban even as it piously demanded that everyone else observe it, but its managers adopted the free market strategy of pricing the supply to meet demand.

So while the U.S. decision to allow Rhodesian chrome to be imported into the U.S. is causing cluck-clucking among the Cause Crowd. In fact it is saving Americans money and helping to insure an alternative supply of a strategic metal. Furthermore, the decision represents one small step in the direction of freer international trade. All in all, it strikes us as a pretty good deal all around.

HUCK FINN—HERE AND ABROAD

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, great works of literature are often the most accurate reflection of what is good and bad about a society. The destruction or burial of such literature denies our young the opportunity to discover the good and evil which has shaped our society.

I am enclosing an editorial from the March 4, 1972, edition of the Knoxville News-Sentinel. It sounds a word of warning to people of all races that attempts to hide a portion of the evil from our past will only result in a loss of appreciation for the many more good deeds which have made a more lasting impression on our country. The editorial follows:

HUCK FINN—HERE AND ABROAD

All modern American literature comes from one book by Mark Twain called Huckleberry Finn.—ERNEST HEMINGWAY.

The public school system in Indianapolis, Ind., has quietly dropped "Huckleberry Finn" from its recommended reading lists. An act of such timidity would be easier to understand if it were done because the book advances the radical proposition that perhaps a man has a higher duty to his private conscience and his fellow man than he owes to either the laws of the land or the laws of the church.

But it's more likely the book has been ostracized in Indianapolis for some stupid reason—its use of the word "nigger," for instance, in much the same way as one hears it used in affectionate banter on the streets today.

Last week, Gene Shalit, book editor for NBC-TV's "Today Show" asked a number of prominent authors and politicians which three books they would send to China to give the Chinese people the kind of picture of America they would like the Chinese to have. It's not at all surprising that "Huckleberry Finn" was mentioned most.

There are many reasons to like Huck Finn—his warm and open heart, his decency, the blazing honesty on which, for the best of reasons, he built the most outrageous lies. It's too bad that Indianapolis children, who some day will have to make the awesome moral decisions demanded by so much of American life—the war being only one—may not be acquainted with Huck's private Gethsemane in the matter of the slave, Jim, whom he has tried his best to help to run away.

For this act of compassion Huck is convinced he will be consigned to hell's "everlasting fires." Slavery was, after all, then the law of the land and his friend Jim, with whom he had sailed the river, was property whose theft God and "good" people surely would punish.

"I was a-trembling, because I'd got to decide, forever, betwixt two things, and I knowed it. I studied a minute, sort of holding my breath, and then say to myself:

"All right, then I'll go to hell . . .

"It was awful thoughts and awful words, but they was said. And I let them stay said; and never thought no more about reforming. I shoved the whole thing out of my head, and said I would take up wickedness again, which was in my line, being brung up to it, and the other warn't. And for a starter I would go to work and steal Jim out of slavery again; and if I could think up anything worse, I would do that, too; because I might as well go the whole hog."

The children in Indianapolis could do worse than get to know this boy. The same with the Chinese.

JOE T. NELSON, M.D.

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the West Texas Chamber of Commerce publication "This Is West Texas" in their most recent issue profiled a very good friend of mine, Dr. Joe T. Nelson of Weatherford.

Dr. Nelson has been a most active citizen and has given tirelessly of his time in conjunction with civic undertakings as well as political. I think it only fitting that the West Texas Chamber of Commerce should recognize him and I am pleased to include Dr. Nelson's profile:

WEST TEXAS PROFILES

As a general practitioner in Weatherford, Dr. Joe T. Nelson is a very busy man, but always finds time to have an active part in the professional, civic and governmental affairs of his city, state and nation.

Dr. Nelson has been an active member of the West Texas Chamber of Commerce for many years and is now Chairman of the WTCC National Affairs Committee and a member of the Board of Directors. He has served on the National Affairs and State Affairs Committees for 12 years, as well as serving three terms as vice president and two terms as a member of the Executive Committee-at-Large.

Born in Munday, Texas, in 1923, Dr. Nelson attended North Texas State University in Denton and received his B. S. degree in 1948. He graduated from Baylor University College of Medicine in Houston in 1951.

Active in both state and national medical associations, Dr. Nelson is currently serving as Chairman of the Council on Medical Jurisprudence of the Texas Medical Association; a member of the Executive Board, and is Vice Chairman of the Texas Delegation to the American Medical Association. He is a director and chairman of the Insurance Committee of the Southern Medical Association in which he holds a lifetime membership; and in 1970, he received the Distinguished Service Award from the association.

He is a charter member of the Board of Directors and Past Chairman of the Texas Political Action Committee, TEXPAC co-chairman of the 17th U.S. Congressional District, and Chairman of the Candidate Evaluation Committee. He is also a member of the Board of Directors of the American Medical Political Action Committee.

Dr. Nelson was named the Outstanding Citizen of Weatherford in 1963; and received the WTCC Award for Leadership in 1966.

He is a director of the Citizens National Bank in Weatherford, and a director of the Mutual Building & Loan Association of Weatherford. He has served for 11 years as a member of North Texas State University Board of Regents, and is currently a member of the Board of Regents of the University of Texas System.

Dr. Nelson is listed in Who's Who in the South and Southwest.

Mrs. Nelson is the former Varina LeBeau of Denton, and was married to Dr. Nelson in 1947. They are the parents of one daughter, Renee, who is a student in Texas Christian University in Fort Worth. They are members of Episcopal Church.

AN EPIC HUMAN TRAGEDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROSENTHAL. Mr. Speaker, today is the official day of mourning the 6 million victims of the Nazi holocaust. This was not just a Jewish tragedy, it was an epic human tragedy. It is a blemish on all mankind that it could have happened at all, regardless of the victims.

Today, as we memorialize those who died, we should commit ourselves to seeing that this never happens again, to Jew or non-Jew.

It is appropriate at this time that we turn our attention to several million Jews being held virtual prisoners in the lands of their birth, many being actively and officially discriminated against for their beliefs, some even subjected to torture and death.

I am speaking about the Jews in such lands as Syria, Iraq, other Arab States and, of course, the Soviet Union. The latter is the most important because it involves some 3 million Jews.

I have today written to a young Jewish activist in Moscow who has recently been released from jail, where he was sent as a result of his efforts to emigrate legally to Israel. I sent him a book, a collection of Shalom Aleichem short stories as a reminder that he is not alone and that we in America are aware of the efforts of Soviet Jewry to obtain basic human rights.

We have no way of knowing how many Soviet Jews wish to emigrate to Israel or to the United States and elsewhere. But we do know the number is great and that as it grows, as more and more Soviet Jews seek emigration visas, more and more find themselves in Soviet jails. And those not thrown in jail are prosecuted and persecuted in other ways. They may find themselves out of a job or demoted or subjected to other forms of retaliation.

In the Soviet Union and elsewhere today Jews are unable to practice their religion, read their literature, observe their ancient traditions, and know the richness of their cultural heritage. The pogroms of the czars have been replaced by the assimilation programs of the Soviets. The purpose is the same: To eliminate the Jews.

Six million were slaughtered because they were Jews. The only crime of the Soviet Jews is the faith of their fathers.

On this day of mourning for the victims of the holocaust, let us not look back in anger but look ahead toward freedom for all peoples from the yokes of the oppressors. Let us make it a day of dedication for helping bring about an end to all persecution.

THE WAGE-PRICE FREEZE OF 1351

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, it is said that those who do not learn from history are condemned to repeat it; and, conversely, all we learn from history is that we do not learn from history.

The sad wisdom of these observations is illuminated by Prof. Robert N. Schoeplein's recounting of the wage-price freeze of 1351, which appears in the current issue of the Progressive:

THE WAGE-PRICE FREEZE OF 1351

(By Robert N. Schoeplein)

(NOTE.—Robert N. Schoeplein is associate professor of economics in the Institute of Government and Public Affairs at the University of Illinois).

Lo, a Black Plague descended on England during 1348–49, ravishing the population and casting a pall across the land. Surviving ploughmen and artisans found their services in increased demand, and wages rose according. This sudden turn in events alarmed both lords and merchants, who feared the specter of shrinking rents and profits in the face of uncertain markets. King Edward III shared concerns of producers over rising costs of labour and the "unnatural state of affairs." The bulk of revenues for the Royal coffers was generated by levies on the sales of staples. The King promptly issued a proclamation freezing wages and prices. This was followed by the Statute of Labourers of 1351 which detailed the new economic program. Wages were to remain at their previous levels. Merchants were to market their goods at reasonable prices and content themselves wtih moderate gains. A new Royal office was instituted and "justices of labourers" (later merged into justices of the peace) were appointed by the Crown to regulate wages and prices throughout the realm.

Initially the freeze on wages enjoyed modest success but prices moved upward, as the term "reasonable" in the guidelines was found to be so elastic as to be variously interpreted. The inflation was aggravated further by coinage depreciation undertaken by the Treasury, to continue supporting the One hundred Years' War on the Continent. Wages rose in spite of the new economic program. Enforcement was arbitrary, and labourers took liberties to circumvent the law. The government was forced to further action to keep the lid on wages. A second Act was passed prescribing branding for all workingmen who left their native towns to seek higher wages. In time business conditions improved, but the moderate economic recovery only aggravated domestic tensions because the stringent restrictions on labour contrasted with the increased wealth of lords and merchants.

King Richard II ascended the throne in 1377. The foreign war, which dragged on interminably, had drained the Treasury. Counselors to the young king advised him to promote trade, and accordingly he enacted the second phase of the new economic program. The renewed Statute of Labourers (1378) concentrated on wages. The Crown deemed the new terms more reasonable, as the Statute would permit "merited" increases in wages. In this phase the Statute was to be enforced without exception. Moreover, King Richard imposed a poll tax of one shilling a head, authorized for defense expenditures.

This new package simply was too much. Yeomen, labourers, and artisans united and marched across the countryside toward London. This Peasants' Revolt of 1381 caught the complacent government by surprise. King Richard sought the wisdom of counsel, as the people stormed the city and sacked public buildings. King Richard was advised to meet with spokesmen from the movement at Mile End, a field outside the city. The negotiations are recorded: King Richard made it clear that his concerns were for the welfare of the common man. He agreed to permit more liberal working arrangements between labourers and their masters, and more flexible markets for labourers' services. The new tax would go. Curiously, the negotiations ended on a morbid note: Wat Tyler, the movement spokesman, was slain by a blow from a sword.

Other dissidents remaining in London had seized the Tower. The King's Chancellor and the Royal Treasurer were taken into custody and promptly beheaded, this act described as a gesture reflecting the intensity of feeling over the new economic program. King Richard was shaken. The Royal Army moved to restore order. Two days later King Richard issued a proclamation forbidding unauthorized gatherings of people. This was followed by a second proclamation rescinding the King's previously negotiated guarantees.

The second phase of the new economic plan was never the same, however, for marked changes began to take place in social institutions. Workers saw themselves in a new relationship with their employers and toward the authority of government. Agricultural unions were formed, and collective bargaining was strengthened by a new spirit of solidarity. The King's councils began deciding labour disputes on the individual merits of each case. Wage settlements reflected the particular circumstances of each trade. Both wages and prices continued to rise moderately until the inflation eventually had run its course.

NOTE.—The balance of King Richard's reign was characterized by political reverses, culminating in his dethronement in 1399. It is recorded that King Richard II came to an obscure end at Pontefract Castle.

BUSING AND QUALITY EDUCATION—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people on the latest developments regarding busing and quality education. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE ON BUSING AND QUALITY EDUCATION

The forced busing of school children has emerged as a key issue in this year's Presidential campaign. In the recent Florida preferential election, most of the Presidential aspirants attempted to soft-pedal the busing issue, asserting that quality education, not busing was the key issue. The majority of Presidential candidates, contrary to the majority of the people, contend with Federal Judge Merhige, who ordered cross-county busing in Virginia, that quality education can take place only within a setting where there is an unnatural mixture of white and black students by percentages determined by the whim of a federal judge or an unelected HEW bureaucrat.

The Florida electorate, described as representative of the country as a whole in that people from all over the U.S. have settled in Florida, indicated overwhelmingly their opposition to forced busing to achieve racial balance. And three days following the Florida referendum, President Nixon announced to Congress that he approved of limited busing only as a last resort as a means of race mixing for quality education in the schools. Somehow racial mixing by percentages remains a top national goal of the leaders of both national parties, even though repudiated by the majority of the American people.

So, I thought today we'd comment on the latest developments in the fiasco of busing for quality education—the new, more polite expression to play down the racial overtones

At first, busing to achieve racial percentages was by raw power of the Federal courts and enforced by the Secretary of HEW almost exclusively in the South. The stated purpose was to provide guaranteed equal educational opportunity for all by converting from a dual system of "separate but equal facilities" into a unitary or one school system with race mixing by the numbers. Federal funds were threatened to be withheld from any school system which balked at implementing court orders and HEW edicts to bus students in order to accomplish the arbitrary racial mixture. The withholding of funds to local schools for non-compliance with federal controls substantiates the proven rule that federal controls always follow federal aid.

Voices are still heard advocating the view that racially integrated schools are superior schools, but the voices of the American majority and some responsible social experts, neither of whom receive wide publicity, suggest otherwise.

The National Black Political Convention, which met in Gary, Indiana, in March, condemned busing plans to achieve school desegregation as "racist, suicidal" methods that are based on the "false notion that black children are unable to learn unless they are in the same setting as white children". Reportedly at the urging of the segregationist oriented Congress of Racial Equality, the convention adopted a resolution that more money should be spent on schools in Negro areas to achieve quality education.

And while the National Black Political Convention apparently believes that the mixing of races is not necessary to quality education, but that the money mixing is more important than race mixing, a recently released report of a study by Harvard researchers reveals that neither racial integration nor increased spending on schools has much effect on the education performance of school children. Massive outlays of tax dollars prove more profitable to contractors and sellers of educational equipment than to the education of children.

The Harvard study, headed by Frederick Mosteller, a mathematical statistician, and Daniel P. Moynihan, a former aid to President Nixon, reaffirmed an earlier report that academic achievement depends far more on family background than what happens in the classroom. The study also found that the social class of a child's fellow students had more impact on individual achievement than any other factor within the school, including equipment, class size or teacher preparation.

According to the Harvard report, we have been pursuing since the 1954 court decision out of Kansas the wrong kind of mixing in our schools. We are now in need of socio-economic class mixing by the numbers. This new kind of class mixing would no doubt require busing. But this alone, we are told, will not guarantee quality education. We must "alter the way in which parents deal with their children at home" in order to boost educational achievement. Such a proposal seems to tie in with the providing by taxpayers of income maintenance, family allowance and guaranteed annual incomes to those families in the low income bracket and also with the legislative proposals for comprehensive child development plans in which federal agents known as child advocates might intervene with parents to alter child rearing practices at home to conform to HEW standards.

Another fact revealed by the Harvard study is that achievement tests showed whites in the 12th grade of high school to be 4.1 grade levels ahead of blacks. Whites also excelled blacks by about 3 grade levels when compared as to socioeconomic status.

These comparisons of the relative educational achievement of blacks and whites as revealed by the Harvard report appear to substantiate the view of Dr. William Shockley, Nobel Prize Winner in Physics.

Dr. Shockley was immediately denounced as a racist, but his statistics may explain the reason for failure of the guaranteed equal education theories.

Dr. Shockley, whose findings show that the difference in intelligence between whites and blacks is due primarily to heredity and not environment, has been unable to get either the academic community to give him a fair hearing or the National Academy of Sciences to test his theory. In fact his professorship at Stanford University is now threatened because he would dare use experience statistics to seek truths on which to base solutions. I mention this only because in an effort to arrive at quality education—which is seeking the truth—the truth should be used not suppressed. With billions of taxpayers' dollars being spent on busing of school children, an equal employment opportunity bureaucracy, urban renewal, model cities, and myriad social experiments, all based on the fallacious assumption that a change or an improvement in the environment will raise the level of intelligence, there is an imperative need for more research to test the role of heredity in the improvement of educational achievement and to develop solutions to educational problems based on facts and truth—not fantasy, emotion, and mathematical theories of absolutes.

Notwithstanding the facts showing that race mixing in schools fails to enhance educational achievement and the fact that few from President Nixon to the Chinese parents in San Francisco seem to want it, busing continues as if actuated by some unseen power. Hearings on a proposed Constitutional amendment which would prohibit forced busing were conducted recently in Washington. Opposing forced busing are the vast majority of American people. The Louisiana School Boards Association has gone on record supporting an amendment to the Constitution or an effective statute which would prohibit busing of public school students only to achieve a predetermined racial ratio. In favor of busing to achieve race mixing are the NAACP, NCC, and the NEA, whose president said recently that the only way "quality education" can be brought about is through mixing of the races in the classroom. According to this view, quality education was nonexistent prior to 1954.

President Nixon entered the forced busing furor with a public statement on national TV followed by a message on busing to Congress.

Few have seen, let alone read or studied the President's 17-page report to Congress, yet almost everyone seems to have concluded that the President after 3 years as the world's foremost buser is going to stop busing, thus removing it as a political issue.

The President's busing statement is reminiscent of the politician who finds he has to move to keep from being run over by the people. Control politics, should never be equated to leadership. When the people get out of hand and challenge the politicians, the smart politician never meets the stampede head on but while acting as if meeting the issue, diverts the thrust to take the steam out of the popular uprising.

President Nixon's main concern was in hiding his power to stop the whole busing mess, which is already against the law of the land. During his 3 years in office, President Nixon, while speaking as if opposed to forced busing, has appointed to key positions in the Department of HEW men who were known advocates of forced busing. His administration has promoted more harmful busing to achieve race mixing than all previous administrations since 1954 and he so reported to Congress in his busing message.

The President concealed his own failure to take constructive measures to execute the law of the land and stop forced busing by pointing his finger back to Congress. The President's message to Congress is so long, ambiguous, and without direction that few Members of Congress can decide what the President proposed, let alone enact his vacillation as legislation. Perhaps this is the President's goal—to confuse and delay until after the November elections, when he can again forget busing by blaming Congress for doing nothing.

Contrary to reports that President Nixon proposes to stop forced busing, his statement would apply only to contemplated new busing and not to old busing orders already in effect. So, the dual system of laws—one for the North and a separate one for the South—would continue.

Mr. Nixon campaigning for President in 1968 promised:

"I would enforce Title VI of the Civil Rights Act of 1964. I oppose any action by the Office of Education that goes beyond a mandate of Congress; a case in point is the busing of students to achieve racial balance in the school. The law clearly states that '. . . desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.' "

Yet, in his busing message to Congress, the President proposed that only as a last resort should busing be required as a means of desegregating schools. This proposal of the President remains contrary to the law he is sworn to uphold.

The real issue seems to be not forced busing but federalized control of public education. Are public schools to be operated and controlled by local school boards responsive to the wishes of the local citizenry in accordance with certain regulations prescribed by the sovereign States or are the public schools to be nationalized? The move toward abolishing local property taxes as a source of revenue for public education and the proposal of the Nixon Administration for a value-added tax or national sales tax to finance education are indicative of a push for a national public school system.

It is a fact of life that "he who pays the piper, calls the tune." While paying lip service to local control of schools, the President and his administration have acted to increase and tighten federal control over public schools. And there is ample evidence to support the fact that this move toward federalization of schools is part of a long-range plan to bring the education of our children and youth under international control to condition them to become docile wards of a one-world socialistic controlled society.

To halt forced busing, we must seek its origin. And its origin is United Nations General Assembly Resolution 1904, "The United Nations Declaration of the Elimination of All Forms of Racial Discrimination". This resolution, which is binding on the once sovereign United States, states:

"All effective steps shall be taken immediately in the fields of teaching, education, and information, with a view to eliminating racial discrimination and prejudice and promoting understanding, tolerance, and friendship . . . among racial groups."

In the absence of strong national leadership, an amendment to the Constitution is necessary to take the busing toy away from the federal judges and bureaucrats. A permanent solution to the busing threat as well as other efforts to remake the human race is the withdrawal of the United States from the United Nations.

COALITION TO AID PRIVATE AND PAROCHIAL SCHOOLS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROONEY of New York. Mr. Speaker, our private and parochial elementary and secondary schools are on the verge of extinction due to financial pressures. At the same time parents with children in these schools are being burdened with tax and tuition bills that are unbearable. The costs of education are soaring, bringing a financial squeeze on both the schools and the parents. Yet if we allow the private schools to go out of business the resulting transfer of almost 5 million students to the public school system will in many areas bring complete havoc to the public school system. In New York State alone the increase in costs to the public school system to absorb private school students would be almost three

quarters of a billion dollars a year. New York State and New York City residents are already overwhelmed in taxes and the resulting increase would be a disaster. In short, Mr. Speaker, this is why I introduced H.R. 14150 to allow a tax credit to parents with children in private, nonprofit schools of up to 50 percent of the tuition or $500 maximum per child per annum. Recently, an organization called Citizens Relief for Education by Income Tax—CREDIT—has been formed. It is composed of nonpublic school leaders of all faiths and seeks the enactment of legislation such as I have recently introduced.

Under the permission heretofore unanimously granted me I include with these remarks the announcement of the formation of the group:

CITIZENS COALITION FORMED TO SEEK ENACTMENT OF TAX CREDITS LEGISLATION

WASHINGTON.—A coalition of nonpublic school leaders of all faiths has been formed to seek the enactment of federal tax credit legislation for parents of children in nonpublic schools.

Establishment of the organization—*Citizens' Relief for Education by Income Tax* (C.R.ED.I.T.) was announced by its officers: Rabbi Morris Sherer, Agudath Israel of America, Chairman; Dr. Al Senske, Lutheran Church—Missouri-Synod, Vice Chairman; Mr. Cary Potter, National Association of Independent Schools, Vice Chairman; Reverend C. Albert Koob, National Catholic Education Association, Vice Chairman; Dr. Edward R. D'Alessio, United States Catholic Conference, Treasurer; Mr. Ivan Zylstra, National Union of Christian Schools, Secretary.

The organization represented by the officers of C.R.ED.I.T. have a deep commitment to nonpublic education. Their combined constituencies total approximately 5 000,000 children in schools operated under Protestants, Catholic, Jewish and private auspices.

The chief objective of C.R.ED.I.T. is to seek enactment of legislation at the earliest possible date which will provide a federal income tax credit for a part of the nonpublic school tuition assumed by parents of children in such schools. Numerous bills for this purpose are now pending in Congress.

All Americans have ample reason to be "proud of the contribution which nonpublic education has made to our Nation," Rabbi Sherer stated. "Financial inequities have interfered with the rights of parents to educate children in schools of their choice".

"As a matter of justice and fairness to all", he said, "it is time that the government lived up to its responsibility to grant financial assistance to realistically allow parents freedom of choice in education. At the same time C.R.ED.I.T. will embark on an educational campaign to demonstrate that federal income tax credits are a constitutional means of correcting the inequities suffered by nonpublic school parents", he stated.

Rabbi Sherer said the C.R.ED.I.T. program "will strive to reaffirm the value of nonpublic schools in a pluralistic society and to stress all pertinent concepts of parental rights in education".

CHINESE DELEGATION AT UNITED NATIONS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, since the highly controversial approval of Chinese membership into the United Nations, many of us have been looking for signs which indicate Chinese willingness to abide by the United Nations philosophy of shared responsibility and impartiality toward the problems of the world. Recent actions by the Chinese delegation at the United Nations show the entire world their participation will not measure up to the philosophy of this organization.

I am enclosing an editorial from the March 15, 1972 edition of the Knoxville Journal which cites numerous instances where the Chinese have demonstrated once again that there is often little relation between their words and their actions:

[From the Knoxville Journal, Mar. 15, 1972]

FAVORED DELEGATION

It has not taken the Red Chinese long to learn their way around the United Nations.

From the day they assumed their seat and announced they had no intention of asserting undue influence in the world organization they have been exerting undue influence.

The Peking delegation has ample precedent. Russia, France and others long ago decided what assessments they would pay and they have been getting away with it for many years.

So it was playing follow-the-leader when Peking paid its initial $3 million partial payment. It has no intention of paying its share of certain special assessments, it said. These include debts left over from the peace-keeping operations in the Congo and Middle East.

The Chinese also refuse to pay their share of the costs of the U.N. Commission for the Unification and Rehabilitation of Korea. Long ago it was established that there is no penalty for refusal to pay special assessments. Members lose their voting privileges only for failure to pay their regular dues.

It is a rule at the United Nations that employes of the organization leave their national inclinations at the door and serve all members impartially. One of the first acts of the Peking delegation was a violation of this rule, but it went unchallenged. The Peking delegation called Chinese interpreters on the U.N. payroll together to inform them their loyalties belonged solely to Peking.

Then, of course, there was the case of the Nationalist Chinese newsmen Peking insisted be relieved of their credentials. This was accomplished to the loud but so far ineffective objection of free newsmen from the United States and elsewhere.

The precedents the Chinese delegation already has wrung from the United Nations give it something of favored delegation status. With these successes behind it, further precedent-shattering demands can be expected.

This is a far different performance from the meek entrance which received so much attention only a few months ago.

One of the major problems inherent in the United Nations structure is that it invites all members on an equal footing but accepts from them widely different roles of responsibility.

One place to stop such foolishness is to reject the notion a new member can decide for itself how much of its assigned expenses it will accept.

NATIONAL DEFENSE—THREE YEARS LATER

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. SCHMITZ. Mr. Speaker, Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, said on February 15, 1972:

> The relative military power of the United States in the world has clearly peaked and is now declining. We will no longer have that substantial strategic superiority which in the past provided us with such a generous margin of overall military power that we could, *with confidence*, "protect our own interests and those of our allies worldwide."

Three years after an administration pledged to regaining "clearcut military superiority" over the Soviet Union took office, the Nation's top military man informs us that our power has fallen to the point where we can no longer defend our vital national and international intests "with confidence." Further, he projects that this decline will continue.

To understand where a further erosion of our military power will put us, we have to know where we stand today. The following chart shows at a glance what has happened to relative United States-Soviet strategic missile forces during the last 3 years.

	Operational January 1969	Operational January 1972	Under construction	Operational and under construction 1972
U.S. ICBM's	1,054	1,054	0	1,054
Soviet ICBM's	950	1,520	100	1,620
U.S. SLBM's	656	656	0	656
Soviet SLBM's	65	500	272	772
U.S. total	1,710	1,710	0	1,710
Soviet total	1,015	2,010	532	2,392

In the last 36 months the Soviet Union has almost doubled its inventory of land-based and submarine-launched ballistic missiles. The comparative U.S. forces remain at exactly the same level where they were frozen in 1967 by former Secretary of Defense McNamara. The present administration has no plans to add one additional land- or sea-based missile to our forces for at least 5 more years.

Our aging strategic bomber force has continued its decline to a present level of 463 heavy and medium bombers. The Soviet Union currently has about 900 heavy and medium bombers capable of attacking the United States. The Soviets are now actively test-flying a new supersonic bomber which could be operational in the next 2 to 3 years while our new bomber, the B–1, will not be joining our strategic air arm in any number until the 1980's.

To complement their offensive striking power the Soviets have deployed the most extensive integrated air defense network in the history of the world. Today the Soviet Union has six times as many fighter interceptors as the United States—including the world's fastest interceptor, the Mig–23 Foxbat—20 times as many surface-to-air missiles, and 25 times as many radars, to protect a land mass only three times the size of ours. They possess the world's only operational anti-ballistic missile systems. While these formidable Soviet strategic defenses raise increasing doubts about the effective retaliatory capability of whatever forces we might retain after a surprise attack, our own air defenses have been termed "virtually useless" by the House Armed Services Committee—see Newsletter 72–7.

Almost 1 year ago I reported on the sobering findings contained in the supplemental report of the Blue Ribbon Defense Panel, submitted to the President in October of 1970, and then hushed up—see Newsletter 71–18, 19, 20. Panel members concluded:

> If observable trends continue . . . the U.S. will become a second rate power incapable of assuring the future security and freedom of its people.

Since this warning was issued, the Soviet had added 270 additional ICBM's to their forces and more than doubled their number of submarine launched ballistic missiles, while our strategic forces have remained clamped in what Secretary of Defense Laird has rightly characterized as a state of "virtual moratorium." In short, the trends identified by the Panel members as jeopardizing the security and freedom of the American people have continued unabated.

Those of us who know these facts can only ask, with increasing urgency, why it is that, with all this information available, nothing is being done about it here in Washington. Is it because the American people will never accept merger in a world super-state so long as we remain militarily capable of maintaining our national independence—and that some, therefore, are more than willing to see that capability lost?

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1972

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. MAHON. Mr. Speaker, I submit a release highlighting the February 1972 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1972

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of February was 2,868,086 as compared with 2,864,952 in the preceding month of January. This was a net increase of 3,134.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of February totaled 2,828,232. This was a net increase of 3,227 as compared with employment reported in the preceding month of January. Employment by months in fiscal 1972 follows:

Month	Full-time employees in permanent positions	Change from previous month	Temporary, part-time, etc.	Change from previous month	Total employment	Change from previous month
July 1971	2,521,703	+1,391	381,448	+18,755	2,903,151	+20,146
August	2,524,098	+2,395	366,062	−15,386	2,890,160	−12,991
September	2,527,518	+3,420	317,021	−49,041	2,844,539	−45,621
October	2,529,832	+2,314	303,236	−13,785	2,833,068	−11,471
November	2,528,233	−1,599	300,254	−2,982	2,828,487	−4,581
December	2,525,858	−2,375	300,665	+411	2,826,523	−1,964
January 1972	2,552,081	+26,223	272,924	−27,741	2,825,005	−1,518
February	2,550,982	−1,099	277,250	+4,326	2,828,232	+3,227

Administration orders announced last August were directed at reductions in the category of full-time permanent employment, but little significant change has been apparent in this regard in the overall totals until recent months. It is noted that net reductions have been reported for the past four months, totaling about 9,000, including a reduction of 1,099 reported in the month of February. This would indicate that there may be some trend toward the projected June 1972 level of 2,531,500.

The civilian agencies of the Executive Branch reporting the largest increases in February were Treasury with 6,063, Environmental Protection Agency with 607 and Veterans Administration with 422. The largest decreases during the month were reported by Postal Service with 1,240 and Agriculture with 1,176.

Changes in total employment in January in Civilian Agencies of the Executive Branch as compared with civilian employment in Military Agencies were as follows:

	February	January	Change
Civilian agencies	1,703,412	1,698,647	+4,765
Military agencies	1,124,820	1,126,358	−1,538
Total, civilian employment	2,828,232	2,825,005	+3,227

In the Department of Defense the largest decrease in civilian employment was reported by Air Force with 1,052.

Total Executive Branch employment inside the United States in February was 2,642,682 an increase of 3,194 as compared with January. Total employment outside the United States in February was 185,550, an increase of 33 as compared with January.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in February totaled 31,606, a decrease of 146 as compared with the preceding month of January. Employment in the Judicial Branch in February totaled 8,248, an increase of 53 as compared with January.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the Joint Committee report, on personnel employed full time in permanent positions by executive branch agencies during February 1972, showing comparisons with June 1970, June 1971, and the Budget estimates for June 1972:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1970	June 1971	February 1972	Estimated June 30, 1972[1]
Agriculture	82,912	84,252	83,315	83,000
Commerce	25,427	28,435	27,796	28,500
Defense:				
Civil functions	30,297	30,063	30,169	30,600
Military functions	1,129,642	1,062,741	1,060,001	1,011,000
Health, Education, and Welfare	102,297	104,283	106,265	102,000
Housing and Urban Development	14,661	16,030	15,801	15,200
Interior	59,349	57,570	56,881	56,900
Justice	38,013	42,662	42,913	45,100
Labor	10,217	11,352	11,949	11,900
State	23,618	23,398	22,816	22,700
Agency for International Development	14,486	13,477	12,729	12,400
Transportation	63,879	68,482	67,577	66,400
Treasury	86,020	90,135	94,949	98,500
Atomic Energy Commission	7,033	6,920	6,820	6,700
Civil Service Commission	5,214	5,324	5,159	5,600
Environmental Protection Agency[2]		5,959	7,662	8,000
General Services Administration	36,400	38,076	35,977	39,400
National Aeronautics and Space Administration	31,223	29,478	28,254	27,500
Panama Canal	14,635	13,967	13,859	14,200
Selective Service System	6,665	5,569	5,813	6,200
Small Business Administration	4,815	4,004	4,006	4,000
Tennessee Valley Authority	12,697	13,612	13,786	14,000
U.S. Information Agency	9,989	9,773	9,581	9,400
U.S. Postal Service	865,618	864,782	863,489	[3]613,400
Veterans' Administration	148,497	158,635	161,278	162,200
All other agencies	29,807	31,333	32,139	34,300
Contingencies				2,000
Total[4]	2,552,571	2,520,312	2,550,982	2,531,500

[1] Source: As projected in 1973 budget document; figures rounded to nearest hundred.
[2] Established as of Dec. 2, 1970, by transfer of functions and personnel from Interior, HEW, Agriculture, Federal Radiation Council and Atomic Energy Commission.
[3] Includes approximately 30,000 postal employees subject to reclassification by June 30, 1972, under a labor-management agreement. Such reclassification was reported to the committee in January 1972.
[4] February figure excludes 2,950 disadvantaged persons in public service careers programs as compared with 2,844 in January.

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NATIONAL MICROFILM WEEK

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CONABLE. Mr. Speaker, I am introducing today a resolution calling upon the President to proclaim the week of September 24 as National Microfilm Week. In proposing this resolution I am hopeful that such a proclamation will appropriately recognize the accomplishments of an industry and technological system which has revolutionized information gathering and dissemination in a way that has affected everyone's life.

Government, industry, commerce, schools, and universities and many other institutions utilize microfilm extensively. It has made possible economical and convenient preservation of our history and opened the portals of knowledge for all who desire it. The resolution takes note of all these facts, as well as the role of microfilm in preserving the Nation's historical records at the National Archives and of its use to provide V-mail to servicemen in war zones. Congressman FRANK HORTON, who also represents the Rochester, N.Y., area, is a cosponsor of this resolution. The Rochester area is one of the major centers of the microfilm industry.

Government is the largest single user of microfilm. Every social security record is microfilmed, kept up to date, and made accessible at over 800 locations to facilitate the handling of individual files. Technical reports of the Nation's defense agencies account for a large part of the Federal Government's involvement in this medium. The National Archives and Records Services, and the Library of Congress preserve the Nation's history and provide basic documentation for research in many fields by microfilming.

Microfilm's commercial applications began with checks in a bank, and today's financial institutions account for a substantial percentage of microfilm's use. Most larger department stores and the Nation's credit card companies use microfilm to record purchase records before returning them to customers with monthly statements. Hospital microfilm patient records, radiographs, and other vital records that make up their permanent files. Newspapers are on microfilm, as are most periodicals, books, and even unpublished manuscripts. In wartime, it was used for the V-mail program and in peace, it has made possible the miniaturization of messages left on the moon.

Mr. Speaker, microfilm has played a significant role in American society and its importance continues to expand as demands for information continue to grow. In recognition of these applications, Congressman HORTON and I are introducing this resolution and we are hopeful that it will receive congressional approval in the near future.

LOW-RENT HOUSING FOR RICH MAN'S PROFIT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, evidence continues to appear to indicate the truth of that old saw "the rich get richer and the poor get poorer." Unfortunately, too often the rich get richer as they supposedly "help" the poor.

An example of how the rich profit from helping the poor appeared locally in the news recently in the stories detailing the cost of low-income housing in the District. These stories reveal that:

Construction is scheduled to start this week on 54 modest, low-income town houses in Washington that will end up costing a minimum of $52,500 each.

These houses will have no air-conditioning, washers or dryers, and 34 of them are only 16-feet wide and 29-feet deep, reduced in comforts because of inflation and in size because of Federal limits on public housing.

This is certainly absurd compared to the fact that:

New upper-income town houses, with air-conditioning, dishwashers and laundry facilities, sell for $50,000 to $65,000 in the redeveloped Southwest and $45,000 to $50,000 on Capitol Hill.

The $52,500 for low-income homes without conveniences is even more ridiculous when we consider that a certain profit is definitely included in the earlier figures quoted for upper-income town houses in the redeveloped Southwest and on Capitol Hill.

Yet, where is all this money going, except from the paycheck deductions of workers and taxpayers, into the pockets of the rich and super-rich. Consider the fact that the same news article reveals one firm who benefited greatly:

Westminster Investment Corp., was paid $755,000 for 1.2 acres in 1969. The tract, at 14th and S Streets NW., had been purchased 6 years earlier by Westminster for $398,260.

An even more revealing fact is that—

Westminster is a New York corporation dealing almost exclusively in commercial properties. Its president, Instone Bloomfield, lives in London.

The point is, Mr. Speaker, the rich corporations, some seemingly with international interests, are those profiting most by the grandiose schemes to "help the poor and raise their standard of living." All of course, at the expense of the overburdened American taxpayer. The paper of the same day carried an article that indicated these 54 low-income town houses would actually cost the American taxpayer $76,000. HUD Secretary George M. Romney is quoted as saying:

We have made mistakes in the design and administration of the programs that were supposed to alleviate human suffering. I acknowledge with regret the things that have gone wrong with our subsidized housing programs.

A third article relevant to this issue appeared in today's morning paper with the following lead—

Last week, 61 black families moved into new, $15,000 homes near Smithfield, Va., the first of more than 1,000 houses a year that a Rockefeller-controlled international development corporation plans to build for rural blacks in Southside and Tidewater, Va.

The article continues and points out—

Full mortgage financing for the ranch-style, prefabricated houses is being made available by the Federal Farmers Home Administration. The financing enables families with incomes as low as $3,500 a year to purchase the three and four-bedroom houses without down payment.

Once again, Mr. Speaker, the point is that the rich are getting richer while hiding behind the smokescreen of helping the poor. Figuring an output of 1,000 homes a year, the "Rockefeller-controlled international development fund" can expect to realize a gross of $15 million from the poor, and the American taxpayer by guaranteeing the mortgage, will, in fact, guarantee to these poor a right that he himself does not have—the right to buy a comfortable home with no downpayment and no worry about obtaining the financing.

Mr. Speaker, this is a disgusting situation that threatens to repeat itself across the Nation unless appropriate action is taken. The administration offers excuses; what this country needs is direct action to correct this wrong done the American taxpayer.

It is little wonder that the rich are always so eager to "help" the poor.

I include related news articles at this point:

The articles follow:

[From the Sunday Post, April 9, 1972]

LOW-INCOME HOUSING: $52,200 EACH

(By Eugene L. Meyer)

Construction is scheduled to start this week on 54 modest, low-income town houses in Washington that will end up costing a minimum of $52,500 each.

The houses will have no air-conditioning, washers or dryers, and 34 of them are only 16 feet wide and 29 feet deep, reduced in comforts because of inflation and in size because of federal limits on public housing.

Accounting for more than half the cost is a payment by the city's urban renewal agency of $1.5 million for a total of 2.33 acres of land in Shaw, one of the city's poorest neighborhoods.

This is more than $640,000 an acre.

One firm, Westminster Investment Corp., was paid $755,000 for 1.2 acres in 1969. The tract, at 14th and S Streets NW, had been purchased six years earlier by Westminster for $398,260.

Westminster is a New York corporation dealing almost exclusively in commercial properties. Its president, Instone Bloomfield, lives in London. Its office here is at 1511 K St. NW. The firm owns 21 Washington properties scattered across the city, according to District records.

The renewal authority, the Redevelopment Land Agency, also paid $495,000 for two parcels on a half-acre tract at 11th and M Streets NW.

The owner of both was the United Community Services of Washington, landlord for the United Givers Fund and the Health and Welfare Council. The property was headquarters for UGF and its forerunners for 30 years until UGF moved in 1966 to a $1.1 million building at 75 M St. SW, paid for in part with the sale proceeds.

These parcels, and seven smaller homes acquired for much less, were bought by the RLA with federal urban renewal grants. In negotiations in 1970 and 1971, three property owners challenged RLA's original offering price and subsequently won higher out-of-court settlements.

One of the three was United Community Services, which rejected a $400,000 offer for four-tenths of an acre, the larger of its two parcels. RLA then paid $50,000 more for it.

Rufus Lusk Jr., president of Rufus S. Lusk & Son, Inc., a firm that has published real estate directories here since 1930, said in an interview that the RLA paid far too much for the Westminster property.

"I think they were taken brutally," Lusk said. "I don't think any investor would buy the property. For 97 per cent of investors in the country, this property is worthless."

Lusk said the Westminster property might conceivably be worth "perhaps $200,000," if an investor were interested. A block from the site is 14th and T Streets NW, "a very tough corner," Lusk noted, with trafficking in drugs and prostitution.

"Maybe (RLA) discovered an oil well" at 14th and S Streets NW, he said.

The site formerly contained three furniture stores and a bowling alley in one building that was razed in 1963. The site has since been used as a parking lot and zoned for light industrial use.

Ralph Werner, RLA's general counsel, defended the price the agency paid for the 2.33 acres. He said: "We pay fair value. I'm sure we don't pay more than fair value."

Melvin Mister, RLA executive director, said the agency could have reduced its land cost by reselling the 2.33 acres for more than it did to the nonprofit sponsor that is building the low-income housing. But charging the redeveloper more, he said, would have precluded low-income housing.

The sponsor, D.C. Frontiers, a spinoff of a black fraternal group, is paying RLA $56,700 for all the tracts.

"We could have resold it for more for commercial use," Mister said. "It's clear, if we weren't trying to build for poor people, we could get a lot more housing built."

The U.S. Department of Housing and Urban Development had to approve both the RLA's $1.5 million land acquisition cost and the construction costs, which total $1.3 million. However, one division of HUD governs land acquisition costs, and another actual building costs. So there is no single office that would necessarily consider or even know that the average cost of the 54 homes is more than $52,000.

Mary A. McGrade, Westminister's secretary-treasurer, was asked about the land sale to RLA, "Let me put it this way," she said, "we didn't lose any money on it."

Mrs. McGrade added, "We would have redeveloped it ourselves with stores on the first floor, two or three floors of office space and apartments above. We had talked to the city about redeveloping it back in 1964 or 1965, but, with the indecision that exists in government, it never got done."

Low-income town houses, she continued, are "not the best use of the property."

The low-income housing plan was approved by RLA, the National Capital Planning Commission, the City Council, HUD and the Model Inner City Community Organization (MICCO), the Shaw community planning group.

"If you're really going to save the inner city," said Terry C. Chisholm, director of HUD's D.C. area office, "there's a price tag attached to it and it's enormous. There's no question that in order to deliver these 54 units of public housing, if you take into consideration the urban renewal process, you're talking about a hell of a lot of money. But there ain't anything unique about it."

Under urban renewal RLA has the right to condemn property but must pay the owner "fair market value." That value is established by two independent appraisals and is based on how the land is zoned and not on what the renewal plan calls for. RLA officials have said that the appraisals are not public record.

A property zoned commercial is considered to have a higher "fair market value" than one zoned residential. But if the urban renewal plan calls for housing, the redeveloper pays RLA substantially less than the agency paid to acquire the land. The difference is paid with federal grants.

RLA's acquisition costs, in this instance, were "more than it's going to cost to develop the land," observed Monteria Ivey, deputy director of the National Capital Housing Authority. NCHA, the city's public housing authority, approved and worked with the redeveloper, D.C. Frontiers.

Last week Ivey said the price RLA paid is "kind of high, isn't it? We don't usually spend that much."

When NCHA does the land buying, it rarely spends more than $2,500 per unit, compared to $28,000 a unit with this RLA purchase, according to Joseph Minor, NCHA deputy director for project development.

The 54 town houses comprise the only public housing planned so far in Washington's inner-city riot corridors, where low-income housing is in short supply for those who will be displaced by urban renewal.

Ultimately, these town houses will be owned by families with incomes low enough to qualify for public housing—$4,500 for one person to $9,800 for a family of 10 or more. The families will pay up to about $100 a month but no more than 25 per cent of their income. Their payments will go for utilities, insurance, taxes and property maintenance. The federal government will pay debt service.

First proposed in May, 1969, the project didn't receive final RLA approval until last July. In November, HUD approved construction prices submitted last May. But costs, meanwhile, had escalated and HUD would not allow an additional $200 a unit sought by the builder.

After six months, a new builder was found —the project's fourth—who promised to pare the cost without altering the houses.

When first designed, the houses included such amenities as air-conditioning and washer-dryers. To meet HUD cost constraints as inflation spiraled at 10 per cent to 15 per cent a year in construction, these features were dropped.

The size of the Shaw units was reduced by four feet in depth because of federal space limits on public housnig. Thirty-four of the houses are now 16 feet wide and 29 feet deep. Twenty are 20 feet wide and 30 feet deep.

New upper-income town houses, with air-conditioning, dishwashers and laundry facilities, sell for $50,000 to $65,000 in the redeveloped Southwest and $45,000 to $50,000 on Capitol Hill.

The total $1.3 million construction cost for the Shaw units averages $24,145 for each house. The total cost breaks down this way: $56,700 that D.C. Frontiers paid RLA for the land; $1,090,989 for actual construction; $48,000 for architecture and engineering; and $112,631 for overhead and planning.

According to architect Charles I. Bryant, "To lose six months time was to eat up any savings. The biggest problem was getting decisions rapidly so we would benefit from the time aspect of construction. We have less house today for $25,000 than we indicated we were going to give back in 1970 for $23,000."

As for the architect's fee, Bryant said, "We're losing money on this project. We literally designed this project three times." Wesley W. Williams, lawyer for the project, said, "I doubt if I'll get over $5,000 out of this thing.

"I'm quite pleased with what we're trying to do, giving an opportunity for home ownership and getting away from high-rise," Williams said. But, recalling the time and headaches involved, he added, "I'll never get stuck with anything like this again."

Government housing programs have come under mounting criticism from citizens, politicians and even housing officials. The programs, they charge, instead of helping the poor, are benefiting land speculators, investors, lenders, lawyers, consultants and other groups.

The results, the Senator has complained, is that Americans are "getting Chevrolet houses at Cadillac prices."

HUD Secretary George M. Romney, who runs the programs, said in Detroit last month, "We have made mistakes in the design and administration of the programs that were supposed to alleviate human suffering. I acknowledge with regret the things that have gone wrong with our subsidized housing program."

As a result of the failures, HUD has been considering giving families a flat housing allowance to rent on the private market instead of subsidizing construction of units.

The overall cost of the project, HUD's Chisholm acknowledges, is more than the controversial $45,000 "luxury" townhouses that HUD first approved, then disapproved after a community furor in Montgomery County last year.

Last April, Secretary Romney rescinded HUD's approval of 52 town houses in Watkins Glen that were to be bought for public housing near Rockville. He acted after residents of the affluent area picketed and went to court. These houses had such amenities as air-conditioning that the more expensive Shaw houses will lack.

A year ago, Romney declared the Watkins Glen proposal "not economically feasible." He added, "(It) causes people to think, why should they subsidize people and put them in units that are that costly."

[From the Sunday Post, April 9, 1972]

TOTAL COST TO PUBLIC IS $76,000 PER HOUSE

The $52,200 price tag on the low-income town houses that will be built in Shaw is a bare minimum.

The figure includes only site acquisition and construction. It does not include up to $100,000 that the Redevelopment Land Agency plans to spend for site improvements, such as street trees and new sidewalks.

Nor does it include an estimated $1,236,989 in tax-free interest on the construction loan that will be paid by the public to bondholders over 30 years, as computed by a Housing and Urban Development official.

When those items are added, the cost per house becomes $76,000 in public monies.

Other items, on which there were no immediately available prices, include administrative costs to the RLA and the publicly supported relocation of five households and on business to make way for the houses.

According to Joseph Minor, deputy director for development for the National Capital Housing Authority, if Congress voted to make direct cash grants for housing construction instead of paying for financing costs over a period of years, "possibly four times as much housing with out-of-pocket cash" could be built.

"It would change the whole system," he said. "People don't usually look at it this way."

[From the Washington Post, Apr. 10, 1972]

FIRST 61 FAMILIES JOIN NEW COMMUNITY

(By Carl Bernstein)

Last week, 61 black families moved into new, $15,000 homes near Smithfield, Va., the first of more than 1,000 houses a year that a Rockefeller-controlled international development corporation plans to build for rural

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blacks in Southside and Tidewater Virginia.

Many of the new homeowners in the Sandy Mount Manor development near Smithfield are families who for years have rented dilapidated wooden houses without central heating or plumbing.

Full mortgage financing for the ranch-style, prefabricated houses is being made available by the Federal Farmers Home Administration. The financing enables families with incomes of as low as $3,500 a year to purchase the three- and four-bedroom houses without down payments.

By also building a factory in Virginia to mass produce the modular homes, their manufacturer claims that the cost-per-house is reduced by several thousand dollars.

Sandy Mount Manor, 140 mile south of Washington in Isle of Wight County, is the first of 17 planned communities that the International Basic Economy Corp. says it will build in Virginia before 1974. The corporation, founded in 1946 by New York Gov. Nelson Rockefeller, is now headed by his son, Rodman C. Rockefeller.

Almost all of the Virginia developments planned by IBEC—to include community swimming pools, playgrounds, picnic areas, activity centers and stocked fishing lakes—will be located in counties where blacks outnumber whites or represent a substantial portion of the population.

"We are hoping white families will buy our houses too, but obviously we are seeking the black market," said IBEC vice president Harvey L. Schwartz.

IBEC's decision to build low-cost housing on a large scale in Southside and Tidewater "could mean a huge difference in terms of providing adequate housing for blacks and other low-income people," according to Ruth Harvey Charity, chairwoman of the Virginia Council on Human Relations. "If the plans go through as they are projected," she said, "they will meet a great need."

In recent years, there has been relatively little construction of new homes in rural Southside and Tidewater—those sections of the state south and southeast of Richmond—partly because of a declining white population combined with the inability of many of the area's blacks to afford conventionally financed new houses.

Under the federal financing arranged by the Farmers Home Administration, families with annual incomes between $3,500 and $8,000, will be eligible for full mortgage loans on the IBEC houses at prevailing interest rates. Conventional financing through private lending institutions is usually impossible for people of low income.

The subdivisions IBEC is planning for Virginia are similar to communities that the corporation has built on a smaller scale for American Indians in the Southwest, blacks in South Carolina and low-income families in Puerto Rico, the Virgin Islands, Jamaica, Peru and Mexico.

IBEC's plans in Virginia are being coordinated with the State Division of Industrial Development, which has helped the corporation choose the 17 sites for its first 1,500 homes in the Commonwealth.

The areas selected for these initial developments, to be completed by 1974, are among the poorest in the state. In many of the counties—including Surry, Brunswick, Lunenburg, Prince Edward and Richmond—median family income is between $5,820 and $6,843, compared to a statewide median of $9,049. (The median is the point where 50 per cent of the incomes are higher and 50 per cent lower.)

More than 20 per cent of the total population of the counties chosen for development earn less than the sliding federal poverty standard, compared to 12.3 per cent of the statewide population.

Both Southside and the sections of Tidewater where the IBEC communities will be located are agricultural areas where blacks have long worked as sharecroppers, farm laborers, in meat packing plants, lumber mills, peanut processing plants and other local industries.

Physically, some of the Southside towns could serve as the location for a stereotype novel of the rural South: the white and black sections separated by railroad tracks, gray shacks of tinder-dry wood on one side, some white clapboard houses on the other. Trees may shade the paved streets of white neighborhoods, but long dirt roads lead through fields to the jerry-built shelters across the tracks.

Although such scenes are becoming much less commonplace in Virginia, planned neighborhoods in which blacks live are virtually nonexistent in both Tidewater and Southside, and good housing available to them is at a premium.

In this environment, "We don't see any limit to the market," according to Charles Campbell, manufacturing manager for IBEC in Lawrenceville, Va.

Inside the corporation's 11½-acre factory in Lawrenceville, 90 employees build a whole house in two completely assembled sections. Each half of the house is then trucked to the homesite, set on a conventional foundation and joined together in less than three mandays installation time.

By the end of this year, according to Campbell, "we will be turning out three houses a day. Whatever the market's upper limit is, we can expand to meet it. We're planning 1,000 units a year but it could go higher if the demand is there."

IBEC and its Lawrenceville subsidiary, Planned Neighborhoods, Inc., will make a profit of 5 to 10 per cent on each house built, depending on production levels, said Campbell.

IBEC stock, according to stockholders' report, is held by some 1,450 persons; a company spokesman said about 60 per cent of the stock is owned by members of the Rockefeller family.

QUESTIONNAIRE RESULTS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CHAMBERLAIN. Mr. Speaker, beginning in early March, I distributed an 18-part questionnaire to residents of Michigan's Sixth Congressional District. More than 17,000 responses have been received so far and to me this broad concern in our current national problems is most encouraging. A computerized tabulation of the returns has now been made and particularly noteworthy, I believe, is the strong opposition to busing—82 percent—as well as the substantial segment—70 percent—that favor replacing the property tax as a basic source for public school funds.

In addition, the opinion poll provided a special 11-part question allowing respondents to rate what the priorities should be for Federal spending. The strongest indications here are decidedly toward greater efforts to control pollution, drug abuse and crime and for less spending for foreign aid, space exploration and defense. These priorities are basically reflected, I believe, in the President's proposed budget which devotes more money to human resource programs—45 per cent—than to defense—32 percent.

With regard to revenue sharing, the results show that some 59 percent agree that such a new approach in Federal-State relations is needed. It is my hope that this pioneering effort which will soon be before the House will tend to check the growing centralization of power in Washington.

Also of importance, I feel, is the fact that 70 percent said they opposed allowing taxpayers to earmark $1 of their tax payments to finance partisan Presidential election campaigns. This suggests to me that before this provision goes into effect for the 1976 Presidential campaign, the Congress should thoroughly reexamine it.

In addition to the districtwide tabulation, a special summary was made of some 1,500 questionnaires returned by Michigan State University students. Not surprisingly, perhaps the strongest support indicated was for increased Federal efforts to clean up the environment. Some 92 percent favor more Federal spending in this area while 87 percent approve setting a clean water goal of no polluting discharges by 1985. While this job is an enormous one, the House action March 29 in passing a recordbreaking $24 billion pollution control program is a major step which is urgently needed and the bill had my support.

In many respects the pattern of student opinion follows pretty closely that found in the Sixth District as a whole. For example, student and general public responses were in basic agreement on 29 of the 33 questions with both favoring increasing the minimum wage, no-fault insurance, replacing the property tax, expanding East-West trade, clean water action, a national presidential primary and revenue sharing. At the same time, both oppose granting the right to strike to Government employees, earmarking Federal tax money for partisan presidential campaigns, and Federal aid to private and parcchial schools, and a single 6-year presidential term. The students opposed busing 53 percent to 34 percent while the general public opposition was much stronger, 82 percent to 12 percent.

In many of these areas the main difference between the two responses is the degree of approval or disapproval. This is particularly evident as well on the question of support for the President's efforts to end the war in Vietnam, which 48 percent of the students answered in the affirmative as compared to 66 percent districtwide. Considering the intensity of student concern over Vietnam in recent years, I believe the substantial backing given the President's policies confirms that we have come a long way in a relatively short time.

The student and general responses disagreed on only four to 33 separate questionnaire items. Two of these four items concerned increased Federal spending for education, which college students supported, while the general public was about evenly divided. Likewise the general public was only mildly favorable toward Federal spending for mass transportation, while the East Lansing students strongly favored—71 percent—increased spending.

Copies of the districtwide summary and the students' results follow:

CONGRESSMAN CHAMBERLAIN'S 1972 QUESTIONNAIRE

[in percent]

	Yes	No	Not sure
SHOULD WE—			
1. Increase the Federal minimum wage from $1.60 to $2 per hour?	50	38	12
2. Legislate the no-fault automboile insurance on the Federal level?	50	29	21
3. Grant Federal and public employees the right to strike?	22	65	13
4. Approve in the area of national health insurance (check one or more):			
27 percent—a new program of health care for the poor to replace medicaid.			
33 percent—additional tax credits for premiums for private insurance.			
42 percent—a program to help meet costs of catastrophic illness.			
34 percent—require employers to provide health insurance for employees.			
26 percent—complete nationalization of health insurance.			
15 percent—no new legislation.			
5. Replace the property tax as the basic source of public school funds?	70	17	13
6. Expand agricultural and nonstrategic trade with Communist nations?	60	24	16
7. Exempt those working after 65 from paying social security taxes?	63	29	8
8. Set a long-range clean water program goal of no polluting discharges by 1985 with an estimated Federal cost of $14 to $20,000,000,000 for 1st 5 years?	67	12	21
9. Provide with regard to Federal spending in these areas—			

	More	Less	Same	Not sure
Crime control	66	5	23	6
Consumer protection	50	11	33	6
Defense	20	43	31	6
Drug abuse	56	10	27	7
Elementary and secondary schools	40	14	39	7
Colleges and universities	25	27	41	7
Environmental protection	57	9	25	9
Foreign aid	5	77	13	5
Job training	43	17	34	6
Mass transportation	39	27	25	9
Space program	14	51	29	6

	Yes	No	Not sure
DO YOU FAVOR—			
10. Establishing a single 6-year term for the Presidency?	27	61	12
11. A national primary election to select presidential candidates?	58	27	15
12. Earmarking $1 of your Federal income tax for partisan presidential campaigns?	21	70	9
13. Federal revenue sharing to aid State and local governments?	59	24	17
14. Busing to obtain racial balance in our schools?	12	82	6
15. Federal aid to private and parochial schools?	21	71	8
IN GENERAL—			
16. Do you feel that existing laws discriminate unfairly against women?	21	68	11
17. How do you feel about the way price-wage controls are working? 26 percent—satisfied; 57 percent—dissatisfied; 17 percent—no opinion.			
18. Do you approve the President's efforts to end the war in Vietnam?	66	22	12

CONGRESSMAN CHAMBERLAIN'S 1972 QUESTIONNAIRE—STUDENT RESPONSES

[In percent]

	Yes	No	Not sure
SHOULD WE—			
1. Increase the Federal minimum wage from $1.60 $2 per hour	52	34	14
2. Legislate the no-fault automobile insurance on the Federal level?	60	15	25
3. Grant Federal and public employees the right to strike?	37	40	23
4. Approve in the area of national health insurance (check one or more):			
29 percent—a new program of health care for the poor to replace Medicaid.			
23 percent—additional tax credits for premiums for private insurance.			
47 percent—a program to help meet costs of catastrophic illness.			
36 percent—require employers to provide health insurance for employees.			
40 percent—complete nationalization of health insurance.			
7 percent—no new legislation.			
5. Replace the property tax as the basic source of public school funds?	69	14	17
6. Expand agricultural and nonstrategic trade with communist nations?	84	7	9
7. Exempt those working after 65 from paying social security taxes?	64	22	14
8. Set a long-range clean water program goal of no polluting discharged by 1985 with an estimated Federal cost of $14 to $20,000,000 for 1st 5 years?	87	5	8
9. Provide with regard to Federal spending in these areas—			

	More	Less	Same	Not sure
Crime control	57	7	32	4
Consumer protection	67	4	27	2
Defense	7	76	16	1
Drug abuse	57	12	27	4
Elementary and secondary schools	70	4	24	2
Colleges and universities	67	5	26	2
Environmental protection	92	2	5	1
Foreign aid	7	69	22	2
Job training	57	8	33	2
Mass transportation	71	9	17	3
Space program	20	46	32	2

	Yes	No	Not sure
DO YOU FAVOR—			
10. Establishing a single 6-year term for the Presidency?	25	64	11
11. A national primary election to select presidential candidates?	62	22	16
12. Earmarking $1 of your Federal income tax for partisan presidential campaigns?	28	59	13
13. Federal revenue sharing to aid State and local governments?	65	14	21
14. Busing to obtain racial balance in our schools?	34	53	13
15. Federal aid to private and parochial schools?	27	63	10
IN GENERAL—			
16. Do you feel that existing laws discriminate unfairly against women?	50	36	14
17. How do you feel about the way price-wage controls are working? 24 percent—satisfied; 55 percent—dissatisfied; 21 percent—No opinion.			
18. Do you approve the President's efforts to end the war in Vietnam?	48	38	14

SMALL COMMUNITIES HAVE GREAT APPEAL

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ZWACH. Mr. Speaker, as I read the newspapers from our Minnesota Sixth Congressional District, I find increasing evidence of a beginning of the reversal of the migration from the countryside to the cities.

People from the cities are becoming weary of the rush and press of city life and are yearning for the quiet tranquility of the countryside.

Mrs. Madonna Kellar of the Heron Lake News recently wrote an editorial on this subject which I insert into the CONGRESSIONAL RECORD where it can be read by my colleagues and the thousands of others who read this publication:

SMALL COMMUNITIES HAVE GREAT APPEAL

All small towns need to blow their own horns and the only way they can do that is by making their potential known to the largest amount of interested people.

When a prospective business seeker is looking for a location, there are many things he looks for as he attempts to choose his site of operations. First and foremost he will take a good long look at the main street of the town to see how well preserved it is. Next he will observe very carefully the amount of traffic in the stores. He then will delve deeply into the educational aspects of the town

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where his children will be educated. Housing is his next concern. If he is to choose a location for the rest of his life, he naturally is looking for adequate living accommodations for his family.

Religious potential will be another concern. He will be looking for a church of his own denomination. A community of various faiths has a great deal to offer to anyone seeking a new location.

If a community has a demand for the services he has to offer and it can meet the above specifications, then a new business can be added to the town's roster. Unless the prospect can receive the assurance that he can find the facilities he and his family need, he will look elsewhere for a spot in which to start his business and another chance to advance the town has been lost.

Small towns need not become depleted as the trend to move to the rural areas advances. People are becoming very weary of the rush of city life and are looking for more tranquil areas to raise their families and to develop interests and hobbies. If the town is made attractive enough, there will be no problem in getting business and new residents. So it is up to us to take whatever strides are necessary to make our town acceptable to the folks who are looking for new locations. We cannot afford to wait for someone else to make the first move. If we do, that time might never come and we could be left in the lurch as the march of progress leaves us behind.

"THE COMING STORM"—A RESOLUTION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. LANDGREBE. Mr. Speaker, Dr. N. Burnett Magruder of Louisville, Ky., the executive vice president of Christian Heritage Center, sent me a copy of a resolution that was passed by the Kentucky Legislature recently. I think that this recognition of the providence of God is most fitting in our trying times. For this reason, I insert the resolution into the CONGRESSIONAL RECORD:

THE COMING STORM—A RESOLUTION TO RECOGNIZE THE PROVIDENCE OF ALMIGHTY GOD IN THE COMMONWEALTH OF KENTUCKY AND THE SCHOOLS

Whereas, the Preamble to the Constitution of the Commonwealth of Kentucky expresses gratitude to Almighty God for civil, political and religious liberties we enjoy; and

Whereas, we teach our children in the Pledge of Allegiance to the Flag, that this is "one nation under God"; and

Whereas, we date all transactions according to the birth of Jesus Christ, A.D.—"in the year of our Lord"; and

Whereas, we recognize as did President Lincoln, the word of the Psalmist, that a nation is blessed "whose God is the Lord;" and

Whereas, it is evident with each passing day that our schools and our system of government will surely fall without God;

Whereas, public polls now show an overwhelming majority of the American people favor the historic recognition of Almighty God in the public schools; and

Whereas, this issue of the Rule of God in America transcends all partisan and sectarian divisions;

Therefore, be it resolved; that the Senate of the General Assembly of the Commonwealth of Kentucky:

1. Hereby requests the Honorable Governor of Kentucky to call the attention of our citizens to the truth of Holy Scripture quoted by the late President John F. Kennedy in a final speech never delivered, "Except the Lord build the house, they labor in vain that build it."

2. Hereby declares that it is in keeping with our national heritage that the Providence of Almighty God be recognized in every appropriate way in our public schools, and that voluntary, non-compulsory prayer and Bible reading and the Pledge of Allegiance to our Flag be encouraged in our schools and commended as a way of life for the children of the Commonwealth.

CITIZENS SPEAK OUT FOR BUSING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CLAY. Mr. Speaker, much furor has been raised since the President's announcement calling for an end to the busing of students. In fact, my office has been flooded with mail from constituents opposing the President's stand. Many of those who have written me see that the busing issue is being used as a smokescreen to conceal the real underlying objective—that is, perpetuating racial injustice.

I want to share with my colleagues some of the views which are now coming out of my district. The first of these is a letter which I received from Mrs. Maureen Berle, president of a St. Louis organization called Action Against Apathy. The second is an editorial address delivered by Dr. Lawrence Nicholson, professor of psychology at Harris Teachers College, on KMOX radio in St. Louis. The last one is an editorial comment which appeared in a recent edition of the St. Louis Post-Dispatch. Hopefully, these comments will serve as enlightenment to those who purport that an antibusing amendment will solve today's educational problems; in reality, it can only create additional havoc:

MARCH 28, 1972.

DEAR MR. CLAY: We, the members of Action Against Apathy, a St. Louis based organization comprised primarily of white suburban residents concerned with racial injustice, are extremely dismayed with President Nixon's position statement on "busing" of 16 March 1972. The President's promise to deal with providing equal educational opportunity while desegregating without further busing did not materialize in his message to Congress 17 March. We urge you to consider in depth the matter of school desegregation and initiate meaningful legislation which will confront and resolve the true issues before us—racial prejudice, discrimination and continued suppression of minority group people—within the context of equal educational opportunity.

The moral and legal principles set forth in the Declaration of Independence and the Constitution of the United States assert the fundamental rights of equal opportunity, freedom of choice, and pursuit of a dignified and fulfilling life. The facts are, however, that through active and passive co-operation, white Americans have historically denied these rights to minority Americans and have excluded them from full participation in society. Anti-busing statements, please for "local control," and cries of "Federal intervention" are only diversions and camouflage tactics which avoid confronting these facts.

The result of America's pervasive racist attitude is readily apparent. Isolated, impoverished ghettos and the delineation and financing of school districts along racial, ethnic and economic boundaries, with limited and unequal taxable resources are two primary examples. Neither equal educational opportunity nor quality education for all can be achieved within the limitations of these realities. The mere appropriation of monies for improving the quality of poorer school districts is utterly meaningless without a comprehensive plan for substantial racial integration. At this time in history, the neighborhood school concept along with segregated housing and inequitable funding, will surely perpetuate unequal educational opportunity. White Americans must realize the serious consequences to the nation of continuing segregated and unequal education.

We strongly recommend that vigorous legislation be enacted and enforced which will create an integrated school environment where students of all racial, ethnic and economic backgrounds can learn to live in a pluralistic society. Realistically, under today's conditions, this can only come about through equitably taxation and redistribution of funds over relatively large geographical areas and a workable plan for student exchange. The public school system of America, because of its unique and far-reaching social influence, must become one of the primary institutions to assume an active role in changing attitudes of racial prejudice which result in racial discrimination and suppression of minority citizens.

Please examine this matter carefully and initiate decisive unprejudicial action which will truly affirm the great principles upon which this nation was founded—equality, liberty and justice for all. We would appreciate prompt notification informing us of your plan of action.

Sincerely yours,

MAUREEN BERLE,
President, Action Against Apathy.

BUSING—WHO NEEDS IT

(Recently, KMOX Radio broadcast an editorial opposing busing of school children to achieve racial balance. The following is a statement opposing the Station's editorial stand by Dr. Lawrence E. Nicholson, Professor of Psychology at Harris Teachers College.)

Most Americans don't like the idea of busing school children to achieve racial balance. When tested against Gallup's nose-counting standard, the idea of busing indeed goes against the "American grain."

But when measured against our 200 year-old remarkable experiment in men governing themselves and searching for the guidelines—the means by which people of different racial, ethnic and economic backgrounds can learn how to live harmoniously together—the deception that draws our attention to busing as an end, rather than as a means, is exposed as a racial polarizer.

The real issue, as Senator Mondale has pointed out, is our willingness to accept integrated schools.

KMOX Radio stated busing just does not work. The editorial fails to point out that we've only minimally, and half-heartedly tried busing—that the media reports these half-hearted trials in an adversary and conflictive manner!

In metropolitan St. Louis the community for too long has permitted its public schools to reinforce social class and racial divisiveness. The Mallinckrodt School fiasco of a few years ago; the Yeatman Froebel busing confrontations at the beginning of the school year illustrate my point.

St. Louis' long period of official busing, prior to 1954, was designed to isolate white children from black. The bitter fruits from

that policy is our present day adult racial suspicions, fears and hates. Since 1954, we've had a splendid opportunity to test the several hypotheses that would help us to predict the factors that could enable busing to succeed. The official policy remains one of busing for expediency. Major institutional decision-makers—industry, religion, education, civil rights leaders—have been non-responsive to this travesty.

Will we continue to exalt the angry response by the middle-class? The ideological segregationist response by black separatists? Or will we get on with the business of testing the means—including busing—by which our children and youth can come together in a natural setting and under desirable guidance learn the behaviors essential to harmonious living together in metropolitan St. Louis?

[From the St. Louis Post Dispatch, Mar. 27, 1972]

BUSING ISSUE MISSES THE POINT

(By Jake McCarthy)

President Nixon said at the outset of his term that he wanted to bring us all together. But obviously not on the same bus.

As with most issues that are fanned into raging controversies in election years, the question of school busing, which Mr. Nixon and George Wallace both claim as their own, misses the real point.

But both candidates—and others who are falling over each other in imitation—realize it is a hot issue even if it appeals to the worst instincts of a nation that has historically professed to be a place for everybody. Except, of course, niggers and greasers and injuns and Bohunks and Polacks and Dagos and Chinks and Micks.

So now, despite the slick veneer of innocence, we face the most blatantly racist presidential campaign since Reconstruction. Surely since the opponents of Al Smith in 1928 brought racial, ethnic and religious fears to the fore.

The busing issue is so inflamatory because it involves children—still our most precious commodity in a cynical world. But for every white parent tormented by the question, a black parent is even more agonized over the issue.

The 1954 Supreme Court decision on school desegregation overturned a lot of history but it didn't originate busing. Every black high school student in St. Louis County used to be bused miles to Summer High School in St. Louis and back.

Vernon E. Jordan, Jr., executive director of the National Urban League, pointed out recently that "about 40 per cent of all students are bused to school for reasons that have nothing at all to do with desegregation . . . and many white parents today put their children on school buses that drive past integrated public schools and stop at all-white segregated private schools." The real issue isn't busing as such. It is the meeting of the races.

The dilemma of the black community comes from its commitment to black identity in the aftermath of school integration—The realization that little black children ought not be forced to become just like little white children.

The split was highlighted last week in Congressional hearings when Roy Wilkins of NAACP opposed Mr. Nixon's proposed ban on further busing while Victor Solomon of CORE went so far as to propose separate black school districts.

But to Lawrence E. Nicholson of Harris Teachers College in St. Louis, the real issue comes down to whether we have—or should have— a separatist or a pluralistic society in America.

Nicholson says the problem is that we have never made a true commitment within our educational system to test whether we can really build a pluralistic society.

"The deception that draws our attention to busing as an end, rather than as a means, is a racial polarizer," he says. "The real issue is our willingness to accept integrated schools.

"The bitter fruits from past policies of segregation is our present day adult racial suspicions, fears and hates."

A measure of the racism involved in the busing controversy is that many people opposed to busing would be even more opposed to integrated neighborhoods where every kids, of whatever race, could walk to the school on the corner. It's pretty evident that neither Mr. Nixon nor Mr. Wallace is calling for alternate forms of integration. Or talking about a pluralistic society.

Sammy Davis Jr., after his conversion to Judaism, used to tell a joke that Americans could laugh at. "I got on a bus in Miami and the driver said, 'Go to the back of the bus.' I told him, 'I'm not a Negro. I'm a Jew.' He said, 'Get off the bus.' "

That may not tickle minorities quite so much as the campaign trail winds on toward November, and as "white supremacy" breaths its deep new breath in the land.

PENSIONS: A CRUEL MIRAGE FOR MANY

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. HILLIS. Mr. Speaker, there has been a great deal of conversation during this session of Congress on pension protection legislation.

It appears to me that there has been enough conversation; now is the time for action. There are several bills before the House Committee on Education and Labor which would protect the pension plans for our Nation's workers.

It is my hope that one of these measures will be brought before the House for debate and vote.

Thousands of workers are paying into pension plans expected to reap the benefits. Unfortunately, unless some legislations is enacted, many of these men will not receive these benefits.

I recently came across an interesting article in the Chicago Tribune. I hope that each Member of the House of Representatives and each Member of the Senate will take the time to read this:

PENSIONS: A CRUEL MIRAGE FOR MANY

(By Fred J. Cook)

Joseph Origlol, short, stocky, his English larded with a heavy accent, spent more than 40 years pursuing the American dream, and the failure of that dream has now driven him to seek refuge across the ocean in his native Italy.

His story symbolizes the fate that has overtaken countless American workers who have faced old age and retirement confident that they would be well protected by pension plans in which they had participated most of their working lives—only to find that their promised pensions were a mirage.

More than 30 million working men and women, about half the American labor force, now belong to private pension plans that have accumulated an enormous $135 billion in assets, roughly twice the amount of mutual-fund holdings and one of the largest reservoirs of unregulated wealth in the American economy.

Probably in no other phase of American life has fine print resulted in such widespread tragedy, and it is hardly any exaggeration to say, in paraphrase of Winston Churchill, that never has so much done so little for so few.

SUBCOMMITTEE STUDIES PLANS

A subcommittee of the Senate's Labor and Public Welfare Committee, under the chairmanship of Sen. Harrison A. Williams, Jr. [D., N.J.], has been engaged for nearly two years in an intensive study of American pension plans, preliminary to the introduction of remedial legislation.

Studies made by the committee's staff show the dimensions of the problem. One analysis of 51 pension plans covering 6.9 million workers found that, since 1950, only 4 per cent received "any kind of normal, early, or deferred" benefits. Another study of 36 better-structured plans covering 2.9 million workers concluded only 8 per cent received normal, anticipated benefits.

Such figures indicate that 92 to 96 per cent of those 34 million "covered" American workers are not getting their retirement benefits [though it must be added that of those who forfeited their benefits, 85 per cent in one study and 80 per cent in the other had five years service or less].

It has become common in negotiating labor contracts to accept a lower hourly wage increase in return for better fringe benefits, especially pension protection. But the files of Williams' subcommittee and the public testimony it has taken are filled with pathetic stories of workers who had relied on the pension promise as a bedrock guarantee, then found that it was as evanescent as the proverbial pot of gold at the end of the rainbow.

Individual stories illuminate the virtually infinite ways a pension can be lost and the many booby traps that exist in pension-plan fine print. This is the way it happened to Joseph Origlio.

Origlio was born in Messina, Sicily, in 1904. His wife comes from Palermo. In 1929 they emigrated to the United States, seeking the better life. Origlio was a skilled craftsman, a maker of fine shoes, and he worked steadily for shoe factories in New York City. He was a charter member and one of the founders of the United Shoe Workers of America. For 23 years he piled up pension credits, and he and his wife, who worked part of this time in dress factories in Brooklyn, began to make plans for their retirement.

PURCHASED ACRE OF LAND

They purchased an acre of land on the outskirts of Lakewood, N.J., had a cellar dug and a foundation put in and roofed over. Then, on weekends, they worked to finish a basement apartment in which they could live. They expected to raise their retirement home above these basement quarters, finishing off the interior themselves.

But automation hit the shoe industry in 1959 and changed the life of Joseph Origlio. Along with many others, he was thrown out of work, and he was then 55, an age that made it almost impossible for him to catch on with a new employer in a labor-glutted market. For three years and 10 months—those 10 months were vital, as it turned out—Origlio was unemployed. Then the business agent of Local 60 of the United Shoe Workers found a job for him with the Evans Shoe Company in New York. During the jobless years, Origlio had found it impossible to keep up his union dues. Once he was working again, he offered to pay the back dues, but he was told that all he need pay was a $15 reinstatement fee. Reassured, he worked from 1963 to 1970 and continued making retirement plans.

A one-and-a-half story house was framed in above the basement apartment in Lakewood, and Origlio, his wife, and friends finished off the interior. New furniture was purchased, and by 1970 the Origlios were ready for retirement. They knew that they could

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not live on their monthly Social Security payment of around $300; Origlio had a heart ailment, and medication was expensive. But, they thought, they did not have to worry. With the pension and Social Security, they would be all right.

Then the pension vanished. The fine print in the union-administered pension plan called for 25 years of continuous service. Origlio had had only 23 when automation did him in. The pension plan, it was true, permitted a break if a worker was unemployed—but only for three years, and Origlio had been out of work those extra 10 months. As a result, he forfeited everything.

An investigator for Williams' committee went to Lakewood to interview Origlio and his wife.

THEY WERE DEVOTED

"They were a devoted couple; he wouldn't even think of leaving her for one day to come to Washington to testify. Besides, they had worked out a plan. Living costs are much lower in Italy. If they went there, they would still have their Social Security payments, they would rent their retirement home for a good price and the combined incomes would let them live comfortably. They had their passage to Italy already booked—and they sailed," the investigator reported.

Joseph Origlio and his wife are still in Italy, and it seems unlikely they will ever return to America, the land of their youthful dreams.

Such individual tragedies happen—thousands of American workers who are in situations far worse than Joseph Origlio's—because there is no regulator legislation worthy of the name and because the chaotic pension-plan system, as it now exists, puts a premium on sharp practice.

The only legislation was passed by Congress in 1959 in the Welfare and Pension Fund Disclosure Act. This act required merely that pension plans be registered with the Department of Labor, as 34,000 now are; but it established no rules and no checks on the operations of such plans, no provisions for the insurance and safety of the funds, no guarantee for the protection of workers.

The result has been wide-spread chicanery. Williams' committee has carefully refrained from hurling sensational accusations, taking the attitude that it is merely hunting for the facts. But some of the facts it has uncovered are devastating.

In a report issued in November, committee investigators cited typical examples:

A joint union-employer pension plan in the transportation industry "has some $800,000 in loans outstanding for which there is no collateral;" a large data-processing manufacturing company has invested pension funds "in unsecured loans to the extent of $41,171,580."

A major mining company since 1952 has been operating a pension plan that has $33.3 million in assets, but $107 million in pension liabilities; a major Southern utility company, after 26 years of pension-plan operation, has accumulated $66 million in fund assets, but is liable for $135.5 million in benefits.

A couple of transit companies have hit upon a scheme under which each has used $2 million in pension-fund moneys to underwrite its own mortgages or real-estate investments.

A Midwest cable corporation has in the last five years charged off to "administrative costs" more than 33 per cent of the amount it has paid out in benefits. A Midwest utility company has reduced its pension-plan contributions by $20,000 annually since 1962 as the result of "actuarial gains" made because workers who left the company and the plan retained no "invested interest" in their pension contributions.

CRUX OF FINAGLING

This last angle is the crux of much pension-plan finagling. As many plans are operated—and it doesn't make much difference whether they are run by management or a union or by a joint union-management board—the self-serving interpretation of fine-print regulations can cost workers the protection they believed they had earned during years of service.

The more pensions sacrificed in this fashion, the more money is left for fund managements to play with and the less its employer has to contribute to keep the fund solvent.

The technical terms are important. One is "vesting," the other "portability." Vesting means that a worker who has labored for a single company for years, participating in its pension plan, is guaranteed the benefits he has accumulated and the right to begin drawing them when he reaches retirement age.

Many plans have no provisions for vesting. If one company is merged into another, if there is an economy cutback and a worker loses his job, if he has to move for health or family reasons, he loses all. Even plans that have so-called vesting privileges often hedge them with so many restrictions that they become worthless.

A plan may provide, for instance, that a worker has a vested right to a pension when he has worked 15 years and is 55 years old; if he has worked 20 years but is only 45 when his job is terminated, he gets nothing.

"Portability" assumes great importance in an increasingly mobile industrial society. It is highly unusual in today's economy for a person to work all his life for one company. In such fields as aerospace and electronics, mergers take place, contracts fluctuate, work opportunities change, and workers have to go where the jobs are.

Portability, then, is the means by which the pension rights a worker has accumulated can be credited to him when he changes jobs; as it is now, he generally loses everything.

CHAOS REIGNS TODAY

The result of the chaos that reigns today is that the pension the American worker has been taught to consider a hard-and-fast guarantee all too often becomes a phantom. The guarantee is, hedged with a forest of "ifs" that were described to the House subcommittee on labor by Thomas R. Donahue, assistant secretary of labor.

"In all too many cases the pension promise shrinks to this," Donahue said. "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

When the Studebaker Corporation closed its automobile plant in South Bend, Ind., in 1963, thousands of workers were jobless. Studebaker's pension plan had been in operation only since 1950, and it had not begun to accumulate sufficient assets to cover all the rosy promises written into union contracts.

Repercussions from this disaster have been largely responsible for stimulating congressional interest in pension-plan reform.

Lester Fox, a former vice president of Studebaker Local No. 5, United Automobile Workers, and a member of the union's bargaining committee, described what happened when Studebaker closed down in December, 1963.

The pension fund amounted to $24 million, and $21 million was required to purchase annuities for workers who had retired or who qualified for a pension, men 60 years old with 10 years' service. This left more than 4,000 workers to divide up the remaining $2.3 million.

Fox himself had 20 years' service with Studebaker and had just turned 40. If he had been younger, he would have received nothing; as it was, he got a lump-sum settlement of $350. Such payments, he testified, ranged from a low of $197 to a high of $1,757, paltry sums for older workers who found the job market virtually closed to them.

Tho the Studebaker case represents an extreme, the anguish and misery it demonstrated in such final form is common among workers who find themselves suddenly cut adrift. Much of this distress is caused by the lack of vesting and portability rights.

SOME SENSITIVE CORPORATIONS

Not all great corporations have been insensitive to the problems of long-time employes. The Senate subcommittee was especially impressed by the Bank of America's broad system of interlocking plans designed to protect is workers.

In addition to a medical-dental health plan, a liberal sickness-benefit plan, and a disability plan, Bank of America has a two-part program to protect its workers in those "golden years" of retirement.

First is a family-estate plan, established by the bank through a profit-sharing program. Employes become eligible to participate after three years of service and begin to acquire vested rights after they have been in the program for two years. They obtain a 100 per cent vested right after 15 years of profit-sharing.

In addition, Bank of America has a regular retirement plan, which provides for full normal retirement benefits at age 65 if the workers has been in the plan for 10 years. The plan also contains a vesting provision, hedged with an age limitation, but a low one.

Bank of America gives a worker a full vested right to his pension after he has been in the plan for 15 years and has reached the age of 40.

There are, of course, some classes of workers who have no trouble collecting promised pensions. Members of the armed services, policemen, and firemen are assured of pensions, usually after 20 years of service, because they are protected by governmental guarantees.

Similarly secure are the inhabitants of the executive suites of big business. Special provisions are made for them.

Summing up his committee's findings, Williams said: "It is inevitable that there will be critics who will characterize these hearings and the unfortunate witnesses as 'horror stories' or 'sympathy cases.' These are critics who find no fault with our private pensions and who continue to assure us that time will cure the defects. If what comes from the personal accounts and misfortunes of these witnesses is sorrow, then let us not only be compassionate, but also resolve to find the way to better the life of those who have yet to retire."

Williams and his aides feel that there is no justification for failures to produce on apparent promises, and no reason to couch pension-plan provisions in intricate and legalistic language.

SYSTEM CELEBRATES ANNIVERSARY

After all, the private pension system in America will celebrate its 100th anniversary in 1975. True, its major growth began during World War II, when wages were frozen and labor contracts were sweetened by provisions for pension systems.

Pension-plan experience thus extends over several decades, even if one takes World War II as a starting point, and the labor subcommittee thinks the kind of injustices it has uncovered should no longer exist.

In July, subcommittee aides sat down with the secretary of labor, James Hodgson, and detailed for him the mass confusion, lack of understanding, and personal tragedy and disillusionment they had found. Perhaps as a result, Hodgson issued a directive calling for revisions in pension-plan contracts.

The secretary demanded that contracts spell out in clear and simple English the rights and obligations of workers—just what they can expect to receive and exactly how

they can lose out. It was an important first step.

In a recent speech before the American Bankers Association in New York, Williams said, "The problems have been identified, and the need for reform—real reform—is urgent. American workers from all occupations and places in our country demand reform . . . The challenge of reform today must become the accomplished reform of tomorrow."

AFTER 30 YEARS, ALL MRS. KWEK GOT WAS SYMPATHY

Typical of what happens to many workers who lose their pensions is the case of Mrs. Iris Kwek, who went to work for the Anaconda American Brass Company in Detroit when she was 18 and stayed for 30 years.

An intelligent, attractive woman, Mr. Kwek had attended college at night and in 1970 received a bachelor's degree in home economics from Wayne State University. She could probably have obtained a position that would pay more than she was earning at Anaconda, but she felt secure in her job—and there was that promised pension.

If she continued to work for the company until she was 65, she could count on a pension of $100 a week, and she calculated that, with her husband's smaller pension from the city of Detroit and their Social Security payments they could live well.

There was reason for her attitude. Anaconda, she testified, at Senate hearings, had billed its pension program as "our second pay check." Anaconda's pension brochure, exhibited at the hearings, shows a young-looking retired couple smiling happily as they examine a travel folder with the words "Italy" and "France" emblazoned on the cover.

Iris Kwek will never sample such joys on Anaconda's retirement plan. In 1971 some half-billion dollars worth of Anaconda properties were expropriated by Chile; company earnings were affected, and a sweeping economy program was instituted.

One of the savings devised to help succor mighty Anaconda was the elimination of Iris Kwek. She was informed that she was being discharged at the end of August. Since she was not protected by any vesting provisions, she was to lose 30 years of accumulated pension rights.

Mrs. Kwek explained that Anaconda had given hourly employes vested rights; its Canadian employes had vested rights. But salaried workers like herself did not.

After Mrs. Kwek learned of her fate, she wrote Sen. Williams, and committee investigators began looking into the case, both with her and with Anaconda. This led to what Sen. Jacob Javits [R., N.Y.] called "a little comic opera bit.' Mrs. Kwek explained:

"For two months they literally ignored me, although I continued to go to work every day and do my work. Many of the employes who were being severed were taking tremendous time off. But one afternoon they called me into the office, and the plant manager said, 'Mrs. Kwek, something has come up.' I said, 'Oh, would you like me to price or do something for you?' He said, 'No. We found a job, and we shall be able to retain you.' I was amazed—after two months of literally ignoring me—he said, 'Yes. Would you consider taking a job?' I said, 'Certainly.' "

The manager explained it might not be quite as good a job; Mrs. Kwek didn't care, she wanted it. This conversation took place on a Friday—just one hour after a subcommittee staff member had questioned Anaconda officials in New York.

In Detroit, Mrs. Kwek was told to come back the following week to learn the details. She went home relieved, and, she testified, "The whole weekend I was thinking that things were going to work out fine. I had a good night's sleep for the first time in a month, really."

She also came to a quick decision. She had been scheduled to testify in the pension inquiry; but now, with Anaconda treating her so well, she felt she could not. "How could you testify against the company you were working for?" she asked.

She went back to work Monday, but her boss was tied up in a meeting. On Tuesday she saw him, and this is the way she described what happened:

". . . I went up to his office And he looked up at me as if to say, what did I want? I asked him if he had come to any conclusions, on this job, what it would entail. He said, 'Oh, the whole thing has fallen through.' He made me feel as if the whole thing had just been some sort of a hoax."

In subsequent testimony, Anaconda officials confirmed Iris Kwek's story. Unfortunately, they said, the company had had to economize; there were no provisions in the pension plan to justify giving Mrs. Kwek any vested rights for 30 years of service. They were really sorry, they told the senators, but there had been just nothing they could do for her.

LOYALTY DAY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. KEMP. Mr. Speaker, this year the 23d Annual Loyalty Day Parade sponsored by the Erie County Council, Veterans of Foreign Wars will be held on Sunday, April 30 in Tonawanda.

I am looking forward to being a guest on the reviewing stand at the invitation of general chairman John M. Dzialoski and cochairman Glenn J. Cooper. Certainly the timing of this year's parade could not be better.

As we see the daily results of Communist aggression in Southeast Asia, our loyalty is continually put to the test. It would be so easy to walk away and as I said last October 5—

Without the American effort in Vietnam, the non-Communist Asian world might not exist; there would be no peace or freedom in Southeast Asia, and no hopeful era of negotiations with Peking.

Mr. Speaker, I hope the members of this House are not so naive as to believe that eventual rapprochement with China is a one-way street. Let us make plain to the enemy and the world that we believe the President has been totally committed in his efforts to achieve a lasting peace and that he, at least in this crucible, has the backing and loyalty of a unified American people. By so doing, we can help bring that peace we all desire as well as the return of our never to be forgotten POW's and MIA's.

At this point, I again congratulate the Erie County VFW and include their statement on loyalty:

LOYALTY DAY

DEAR FELLOW AMERICAN: The definition of loyalty is quite clear and simple. It becomes complicated only when someone tries to distort it with anti-American propaganda. Loyalty means the individual's fidelity and tenacious adherence to government, principle, custom and practice. It is the absence of any subversive thought or action, such as that displayed by Communist Party members and fellow travelers, who glorify the Red philosophy, and advocate treason, sedition, and even the violent over-throw of our government.

We who would choose to call ourselves Americans must remain loyal to the four basic freedoms guaranteed by our Constitution—freedom of speech, religion, press and assembly, along with the myriad other God-given blessings we take for granted in this great land. To do less would be breaking faith with the countless thousands of those who have made the supreme sacrifice throughout our country's history, in defending these precious ideals.

The first day of May each year has been set aside by Presidential Proclamation, to be known as Loyalty Day, to enable us to pause and reflect on our great heritage of freedom and to renew our faith in, and loyalty to, the great ideals upon which this nation was founded.

In celebration of this great day, the Erie County Council of the Veterans of Foreign Wars is sonsoring its 23rd Annual Loyalty Day Parade in Tonawanda, N.Y. on Sunday, April 30, 1972 at 2 P. M. Parade forming on South Niagara and terminating at the Frontiersmen Post 7545 Veterans of Foreign Wars, 110 Elgins Street, Tonawanda, N. Y.

Knowing full well the interest our organization has displayed in this program in the past, we extend to you a most cordial invitation to again participate. You may return the enclosed blank at your convenience or no later than Saturday, April 15, 1972.

Thank you, and thank God for America!

Sincerely,

Chairman JOHN M. DZIALOSKI.
Co-Chairman GLENN J. COOPER.

THE FEDERAL WATER POLLUTION CONTROL ACT

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. STUCKEY. Mr. Speaker, on March 28 and 29, I was on the floor of the House almost constantly because of my sincere interest in H.R. 11896, amendment of the Federal Water Pollution Act. I have supported projects, both State and Federal, to help combat pollution of our air, land, and water resources and helped pass this bill through the House Interstate and Foreign Commerce Committee. I realize the great need for a pollution abatement bill to protect our environment which would require Federal standards and enforcement and also allow industry reasonable time to conform.

I voted on all of the amendments in such a way that would keep this bill intact as reported from the Committee on Public Works. It was necessary for me to leave the floor to talk with some constituents and when I returned after hearing the two bells I did not realize that the vote had already closed and, therefore, missed the opportunity to vote for this very important piece of legislation. Although after checking with fellow colleagues, I was not concerned about its chance of passage, I just want to be on record as one of those that has supported this legislation both in committee and on the floor of the House.

A NEW FARM FABLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. FINDLEY. Mr. Speaker, as the author of the book, "Federal Farm Fable," I have a special interest in fables that relate to agriculture. Here is a new one that deserves wide attention. It is based on the Bureau of Labor Statistics' Consumer Price Index for February 1972, and the Budget for the United States. The Index has as its base 1967 prices equaling 100. In each instance in the fable the bracketed number is the current index for the immediate aforementioned item.

CHARLEY CONSUMER AND THE CONSUMER PRICE INDEX: A FABLE FOR PHASE II

One bright morning last week, Charley Consumer was awakened by his Japanese clock radio (98.4). The first thing he heard was the news that food prices had reached 122.2 on the Consumer Price Index. Hearing this, Christine Consumer turned over and said, "That's outrageous. I'm going to write my Congressman (141.6)." While she was talking she didn't hear the newscaster report that the overall index was 123.8—less food, 124.2.

Charley pulled on his shoes (119.9) and put on his suit (125.6) and went out to the kitchen. He checked the new sink installed yesterday (144.2) and remembered he had to call the furnace repairman (151.2) when he got to the office. He went to the refrigerator (108.3), took out some milk (116.4), poured himself a bowl of cornflakes (102.2) and put some bacon (114.0) and eggs (102.2) on to fry.

Having done this, he went through the living room he had painted last week (155.1) to the front door where he picked up his morning paper (130.8). The headlines talked of an investigation of drug industry pricing for prescription drugs (101.2). Charley muttered to himself, "What they'd ought to check are the hospitals, many built with taxpayers' money (171.1), or the doctors (133.5) or the dentists (130.6)." He skimmed over an item showing average weekly earnings in manufacturing (131.8) and then saw an ad urging him to buy fish (145.0) and dry beans (135.4) instead of beef (136.1) or pork chops (124.2).

While eating his breakfast, the postman (146.6) rang and when he went to the door he found his property tax bill (141.8) and his city sewer and water bill (136.4). As he opened his gas and electric bill (119.4) he wondered if the utility company shouldn't take over his sewer and water system. In disgust, Charley walked out to his new car (111.9) and drove to the bus stop. He rode the public bus line (150.3) because downtown parking (138.0) was too high. While riding along he reminded himself that he needed to fill his car with gas (105.7) that night and that he needed to make an appointment for a tune-up (133.6).

Meanwhile at home, Christine had started her day's activities. She picked up the phone (113.5) and called the maid (136.4) to come in on Saturday. She then dialed a babysitter (133.8) to come that night so she and Charley could go to the theater (137.1) or a drive-in movie (143.5). After that she called the washing machine repairman (138.4). With this done she poured herself a cup of instant coffee (125.5), lit up a cigarette (133.2) and looked through the latest issue of her favorite magazine (124.9). It contained an interesting article comparing CAB regulated airline fares (129.6) with the ICC regulated bus fares (136.1). Laying the magazine down, she went into the bedroom and put on her new dress (143.8) and picked up her new handbag (140.2) and went out to do her shopping.

Christine was a careful grocery shopper. She bought flour (100.9), rice (110.3), cookies (109.7), steak (123.1), liver (118.3), ham (111.4) and chicken (110.1). She picked up ice cream (106.1) and butter (105.8). She bought apples (109.9) and onions (108.6). She hesitated at the lettuce (152.1), but then recalled that weather had been bad in California's lettuce farming country.

To this she added canned pears (117.3), canned peas (108.5), and frozen broccoli (118.5). A bag of sugar (114.3) and a couple of cans of chicken souup (106.9) rounded out her food purchases. From this point on, Christine was not the wisest shopper.

She bought napkins (128.4) and toilet paper (124.8). She picked up a cola drink (127.8) and a chocolate bar (130.7). Dungarees for Junior (126.1) and slacks for Sis (131.1) brought her trip to the supermarket to an end.

Downtown, Charley had just finished lunch in a restaurant (128.9). Heading back to the office he stopped off at the tailor shop to have his slacks (137.1) hemmed (131.8).

On his way home later that afternoon, Charley stopped at his favorite bar for a drink (129.0). He missed his bus, so he had to take a cab (132.8). Upon arriving home, Charley found that Christine had decided they should stay home and watch TV (99.7). After dinner, they settled down to watch a news special on the federal government. They learned about projected 1973 spending by the U.S. government (160.7), about the 1973 federal debt (148.3), the 1973 interest on the debt (201.9) and about the income taxes (152.7) they and their neighbors would pay. Of course, the blame for this was laid on the Defense Department (112.2) and nothing was said about the Departmentof Health, Education and Welfare (197.9).

With that, Charley and Christine went to bed and ended up discussing some of the day's events. After awhile they decided maybe at 122.2 food wasn't a bad bargain after all. It sure fit into their budget better than their local government, the federal government or the new kitchen sink. Before falling asleep they wondered together whether or not they could ever save up enough money to leave any to the kids. Charley doubted it, but just in case, he said he'd stop by and see his attorney tomorrow about making out a will (141.8).

CARDINAL MINDSZENTY

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. GERALD R. FORD. Mr. Speaker, Cardinal Mindszenty recently celebrated his 80th birthday in the Pazmaneum in Vienna. Fortunately he is still in good health. He is busy writing a book on Hungarian history and is making the final revisions on his memoirs.

This courageous prelate aptly characterizes the indomitable spirit of freedom in Hungary that defies all forms of totalitarianism. He still feels supported by the moral conscience of the world in his uncompromising stand for human dignity and individual and church rights, and for the national independence of his country.

Proof of the respect the Hungarian Cardinal enjoys in his exile is reflected in a telegram sent him by President Nixon which read:

It is a pleasure for me to extend to you congratulations and best wishes on the occasion of your eightieth birthday. May your celebration of this significant anniversary find you in good health.

LA CAUSA AND AGRIBIZ: BLATANT INJUSTICE

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RYAN. Mr. Speaker, on March 9 in Fresno, Calif., the National Labor Relations Board filed an injunction against the United Farm Workers, seeking to enjoin their secondary boycotting of retail stores, and in so doing, seeking to prohibit their use of the one effective tool for improving their desperate condition. It is not often that a labor dispute assumes such a gross proportion of immorality.

The NLRB's action runs contrary to a 37-year-old policy which explicitly acknowledged the exemption of the United Farm Workers from the National Labor Relations Act. When the NLRB filed its injunction it contended that its investigations had uncovered a handful of nonagricultural workers employed in commercial packing sheds and represented by the UFW. This evidence, it claimed, should bring the whole union under section 8(b)(4) of the NLRA that deals with strikes and boycotts, and of which paragraph (B) prohibits secondary boycotting.

As I said in my March 29 statement:

The NLRB's evidence is an awkward juxtaposition of facts and figures.

Local, nonagricultural winery employees have often sought the UFW to represent them. In each and every case the union has refused in order to preserve its status.

For example, in 1968 it was alleged that the UFW represented a contingent of peanut workers who are statutory employees under the NLRA. Injunctions were threatened by the NLRB due to the fact that the UFW would have then been under the jurisdiction of section 8(b)(4)(B) of the NLRA. Subsegently the UFW—to protect their status of exemption from the NLRA's proscription of secondary boycotts in section 8(b)(4)(B)—dissociated the handful of peanut workers. The peanut workers then formed a directly affiliated local of the AFL–CIO which dissolved within a year.

The significance of this incident is that it shows the UFW's desire to take any necessary measures to maintain its independence from section 8(b)(4)(B). In previous instances the UFW has proven that they would not nothing, absolutely nothing, that might endanger their exemption from the NLRA's secondary boycott provision.

Another argument of the NLRB and the Free Marketing Council—a consortium of agribusinesses—is that the UFW is acting as an agent of the AFL–CIO, which represents statutory workers as defined in the NLRA. However, in Di Giorgio against NLRB the U.S. court of appeals ruled on June 21, 1951, that:

The Board found nothing in the record to indicate that the Farm Union was acting as an agent of the National Union within the meaning of the statute.

In addition, in filing such an injunction against the UFW, the NLRB is violating Public Law 92–80 which stipulates that the NLRB is restricted from expending their own funds to file suit against an agricultural labor union.

The purpose of the NLRB is to provide for the fair and equal treatment of management and labor. By suddenly subjecting the UFW to only the punitive aspects of the NLRA, by having never allowed the UFW to obtain any of the protections or benefits of the act, the NLRB is being patently subjective in its motives and unfortunately so in its actions. Evidently there are those in the administration who would sacrifice justice and the humble aspirations of 60,000 farm laborers for the price of political victory.

At this point I include in the RECORD a column by Jack Newfield which appeared in the Village Voice on March 30. It sheds more light on the purpose and predicament of the United Farm Workers and I commend it to my colleagues:

[From the Village Voice, Mar. 30, 1972]

LA CAUSA & AGRIBIZ—TO BREAK THE BEST UNION IN THE COUNTRY

(By Jack Newfield)

Out of the ruin of the 1960's, one remarkable new institution and one remarkable new leader survived. Martin King and Malcolm X and Robert Kennedy were murdered. SNCC and SDS and the Beatles fell apart. But the United Farm Workers Union and Cesar Chavez endured, and grew, and became the one tangible thing we could point to and say, this is good, this works, this is an example of the world we want to create.

But now the life of the union—La Causa—is in sudden danger. Peter Nash, the new General Counsel of the National Labor Relations Board (NLRB), has gone into federal court in Fresno, California, to seek a nationwide injunction against the union's right to organize consumer boycotts. The boycott has been the union's source of strength, its mass, non-violent support tactic for the powerless and vulnerable workers in the fields. Without the boycott, the union could never have won its grape strike.

Nash, who was appointed by President Nixon last August, has close ties to agribusiness; he once served as counsel to food and wine conglomerates Del Monte and Brown-Forman. The farm workers have never enjoyed the protection of the Labor Relations Act. But now they are being punished under one part of the law—the restriction against secondary boycotts of supermarkets—after years of being excluded from all its protections and benefits.

That is the narrow legalism of the situation. The politics and finances of it are that Richard Nixon, has packed the NLRB with pro-business appointees, and now the agribusiness tycoons are trying to break the best union in the country. And by agribiz I mean the banks and conglomerates which actually own the fertile land of California—Tenneco, the Bank of America, the Pacific Gas and Electric Company, Purex, and United Fruit. These giant corporations receive millions of dollars each year in subsidies from the government for not growing crops, and then make large contributions to the Republican Party in a rural replay of the ITT-Justice Department arrangement.

An example of the concentrated economic power the union has challenged is J. G. Boswell, who owns over 100,000 acres in the San Joaquin Valley. Boswell is also on the board of directors of Safeway stores, which has opposed the boycott. In 1969 Boswell received $4 million from the Department of Agriculture for not growing cotton.

Also, the Farm Workers have begun to organize with unexpected success in the South. They recently won a good contract from Coca Cola, Minute Maid. The blacks of the South, politicized by the civil rights movement, are responding to the union even more emotionally than the Chicanos and Filipinos of the San Joaquin Valley.

The union is now striking a 120,000-acre farm in Belglade, Florida, owned By W. D. Polly, the former Ambassador to Brazil, who contributed $26,000 to Nixon's 1968 campaign. Other rich Republican growers in the South fear that the union will organize the men and women and children they have exploited for generations. So the attempt to break the union fits in with Nixon's resurrected Southern strategy of antibusing and keeping George Wallace out of the November election. The attack on the union is also consistent with Nixon's quiet policy of having the Pentagon buy large quantities of grapes from any California grower hurt by the strike. The Pentagon has increased its purchases of grapes, and now lettuce, by almost 200 per cent under Nixon. The grapes they bought were shipped to Vietnam, where most of them rotted in the sun on the docks at Cam Ranh Bay. But the policy protected the growers, who reciprocated by making contributions to the Republican Party.

There are between two million and five million farm workers in the United States. Their average income is $1,300 a year. Their life expectancy is 49 years. Infant mortality among migrant families is 125 percent higher than the national average. Death from influenza and pneumonia is 200 percent above the national rate. Death from accidents on the job is 300 percent above the national average. Over 95 percent of farm workers live in housing—often buses, tents, or, in the South, ancient slave shacks—that have no toilets or showers. And most migrant children start work in the fields at age nine or 10, grow up uneducated, destined to become the next generation of dispossessed.

Ten years ago, Cesar Chavez began to organize farm workers in central California. The grape strike started in 1965. In August of 1970, after jailings and beatings, the union finally signed contracts with the major grape growers near Delano—La Huelga had finally won.

Today the United Farm Workers holds about 200 contracts covering 40,000 farm workers, and has 350 organizers working for $5 a week, plus food and housing, in the fields of Florida, California, Texas, Arizona, and Louisiana. A boycott of non-union lettuce is now in effect across the country.

In addition, the union has begun the Robert F. Kennedy Medical Plan to insure its members, a credit union, two health clinics, an Economic Development Fund to build low-income housing for retired farm workers, and recently opened La Paz, a retreat, organizers' school and education center located in the hills east of Bakersfield.

And perhaps most importantly, the union has brought a feeling of dignity and pride to the poorest of the poor.

The union leadership has dropped everything else to fight the NLRB's injunction. Delores Huerta and Richard Chavez have gone to Washington to lobby and untangle the politics behind the NLRB's decision. Andy Imutan has gone to Baltimore and Gil Padilla to Philadelphia to mobilize unions. And Reverend Jim Drake has come to New York.

Drake, who has been with Chavez since 1962, believes it is a Republican Party decision "made in the White House," to destroy the union. And so his strategy is to pressure the GOP to back down.

"We don't have as much power or as much money as the growers," Drake says. "It's hard for us to find any pressure point on Nixon. He doesn't care about the blacks. He's written off the unions, except for the Teamsters. All we have are the Chicanos, whose votes Nixon still thinks he can get. And our best hope is to convince some liberal Republicans to put pressure on the White House."

Presidential counsel Robert Finch promised the union last Tuesday he would "fix everything in three days." Three days later he called the union and said he was powerless to do anything. Drake spoke to Senator Javits, but couldn't get a firm commitment of support. Other union leaders have talked to Senators Brooke and Case, without receiving much encouragement. Chavez, meanwhile, has promised a march of 25,000 workers on the Republican national convention at San Diego. Also, the union is distributing thousands of bumper stickers that say, "The Republican Party Hates Farm Workers."

Another major effort by the union has been to flood GOP National Chairman Robert Dole with letters of protest. The goal is 250,000 letters; the address is the Republican National Committee, 310 First Street, S.E., Washington, D.C. 20003.

The workings of the NLRB in the case are interesting. Up until two weeks ago, the Board has always ruled that the union did have the right to boycott since it was not covered by existing labor legislation. As late as March 1971 the union received written confirmation of this policy in a letter from the previous General Counsel of the Board. Legally nothing has changed since then, the union has the same contracts, the same federal labor laws are on the books. The only thing that changed were Nixon's appointment of Peter Nash, the union's lettuce boycott, and its new organizing drive in the South, culminating in its contract with Coca Cola, signed on February 8.

On March 9 Nash went into court to take away the union's right to boycott. Federal District Judge M. D. Crocker has scheduled a hearing on the NLRB's petition for April 6 in Fresno. Reverend Drake thinks the court process can take many months, but if the NLRB wins, damage suits by growers would bankrupt the union.

The union's case is summed up in a memo from its lawyers, Jerry Cohen: "Morally, the board's decision to move against the farmworkers is indefensible because farmworkers have no rights under the National Labor Relations Act. What the Republican Board is saying now is that even though farmworkers do not have any rights under the Act, farmworkers will now be inhibited by the restrictions of the Act, and specifically denied the use of our only effective non-violent tool, the boycott. This of course is the only substitute we have for the rights granted to all other workers, which will still be denied to us.

"Legally, the Board's action denies farmworkers the equal protection of the law guaranteed by the Fifth and 14th Amendments to the Constitution. This is also an illegal attempt by the Board to abuse its equitable powers to issue cease and desist orders against alleged Taft-Hartley violations. Finally, the Board is violating its statutory mandate not to spend any taxpayer money on agricultural labor disputes."

XUM

THE SAM ERVIN SHOW

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, I insert in the RECORD the following items, "The Sam Ervin Show," by Laurence Leamer, and published by Harper's magazine's March 1972 edition together with a letter to the Honorable SAM J. ERVIN, JR., U.S. Senator, written by my father, Hon. Andrew Jacobs, Sr., a former Member of Congress invited by one Mr. William Pursley but not accorded the opportunity to appear as a witness at the "Freedom of the Press" hearings before the Senate Constitutional Rights Subcommittee in February 1972.

The material follows:

FEBRUARY 17, 1972.

Hon. SAM J. ERVIN, JR.,
Chairman, Subcommittee, Committee on the Judiciary, Old Senate Office Building, Washington, D.C.

Subject: United States Senate Committee on the Judiciary, Hearing on Press Freedom.

DEAR SENATOR ERVIN: "Media" reports indicate you heard little beyond their professionals. Your Mr. William Pursley told me the "media" did not report the testimony from the other side. As I said to him, "Surely the 'media' wouldn't deprive us of the 'right to know'?"

Undoubtedly had the following views been presented, some "medium" imbued with "spiritual values" would have "pointed out" the aberrations of the witness.

I have handled a few libel cases for both plaintiff and publisher, the only one now open being defense of a daily newspaper. None has been very profitable, but always interesting, hence my intrigue with the subject. The remedy I have advocated would rectify defamatory wrongs in all but the most vile cases, without suit or damages.

Since your Subcommittee was apparently indifferent to these views, I now present them "ex parte," with no apology for the length of this letter. Opposing views had much better opportunity to be heard.

Vocal segments of most callings equate their interests with that of the public. Hence, they postulate that the public interest demands their freedom from most, if not all, legal restraint. Generally they recognize that vis a vis other callings, one man's freedom to act is balanced by other people's right to be free from wrongful acts.

The organized press is not exempt from this occupational hazard. Its ability to publicize its views generally, without fear of equal or effective response (even before legislative committees), has tended to silence, and in some cases enlist, officialdom to the point where the public interest, and even the best interest of the press, suffer.

As examples of these enormous claims for legal immunity, note this publisher's views:

"When these two amendments clash—and it seems they clash only when publicity-seeking lawyers stage the collision—the First Amendment must take precedence over the Sixth Amendment, because without the First Amendment the Sixth Amendment would become a mockery of justice." (Emphasis added). (Eugene C. Pulliam, Publisher of Indiana and Arizona newspapers, quoted in his Indianapolis Star January 9, 1966).

One would suppose that in this context (trial by press) it would be publicity-evading, not publicity-seeking lawyers. Since no one has an opportunity to respond, publishers are sometimes careless regarding contradictions.

All of us think well of heady products and this publisher is no exception. I'm reminded of Omar Khayam's line:

"I wonder what the vinters buy, one-half so precious as the stuff they sell?"

Note also this statement:

"Almost any responsible newsman, with adequate experience, is a better judge as to what is irreparably damaging to the country than any public official, including the President." (Max Frankel, New York Times correspondent, speaking of The Pentagon Papers, as quoted November 12, 1971, p. 7c, St. Louis Post-Dispatch)

Granted, arguendo, but President Nixon was chosen to make these decisions, just as Harry Truman was our President when Alger Hiss also unilaterally made certain decisions for all of us.

I am a Democrat and for 25 years I have openly opposed our military involvement in Asia. But neither Presidents Johnson or Nixon is untruthful. I understood what they were doing and opposed it (ask Senator Mansfield).

The Pentagon Papers will go down as history's greatest political "alibi." Apart from publishing raw documents calculated to betray agents, and diplomatic notes calculated to embarrass our government, there was nothing new bearing upon either the pragmatic or moral justification of our military intervention.

I prefer that President Nixon, not Max Frankel, make these decisions, and I am distressed to hear high officials abuse him and praise the thief and the fences in this case.

Another of many, many examples:

"Some, indeed, find it incomprehensible, if not unpardonable, that these newspapers themselves accepted prior restraint on their freedom to publish under order of the lower courts." (Report of Sigma Delta Chi's freedom of Information Committee, as reported November 13, 1971, in the Indianapolis News)

Some find it incredible that any district judge would deem himself competent to interpose his judgment for the President's. I shudder to think of some judges I know being so empowered.

Some also think that all men, including journalists, should obey the law. This view is held by eminent journalists. (Ask Martin Hayden, Detroit News).

These quotes tend to prove that the vocal segment of the press perceives itself above the law.

So did the mob which proclaimed its intent to shut down the United States Government.

Both denounced those who invoked the law.

I believe this vocal segment of the press constitutes a small minority.

The keystone in the arch of justice is compulsory process. But lately we are told that compulsory process, as applied to journalists, is a violation of the First Amendment. And we find Judges and legislators dancing attendance to this specious tune.

Of course subpoenas may be oppressive, to anyone. Ancient rules provide relief from such abuses for everyone, including journalists, as every lawyer and most other educated people know.

In recent years our jurisprudence has been enormously improved by expanding the rights of discovery, and forcing lawyers to use this simple pre-trial search for truth.

If we still litigated under the old "surprise witness" legal culture, where any resemblance to a search for truth was coincidental (as we still largely do in criminal cases), our courts would be so cluttered that any justice would be a happenstance.

But lately the vocal journalists are proclaiming their immunity, from discovery.

Again ancient rules protect all people, including journalists, from irrelevent and oppressive discovery.

Still the press professionals postulate that their work papers are exempt from discovery. The real test of deceit is found in work papers. Take an actual case. The reporter's notes, *and his manuscript*, were the opposite of what was published. Other real examples can be furnished.

The press claims privilege as to sources to which its publications are attribued, claiming a parallel to doctors, lawyers, ministers and spouses. If it is published and it is material in a legitimate tribunal, the asserter should not be kept secret. I base this upon the time-honored concept of one's right to face his accusers, not the "public's right to know," which the professionals here ignore. Besides doctors, lawyers, ministers and spouses receive communications in confidence. If the press receives a tip in confidence, let it be so. If it wishes to publish accusations, let it seek prior confirming sources ready to so say in court, or else drop the case just as the government must when so confronted.

The organized, or commercial press is no exception to other callings, e.g., law and medicine, in rejecting legal restraint. This proves journalists are human. And this is sufficient reason for withholding all their quests for immunity. The quest of the press is ancient. John Peter Zenger asserted it in 1735 (American Heritage, December, 1971, p. 37).

The ancient claim is further evidenced by Benjamin Franklin's denunciation of it in 1789. But the press has, and duly employs, the best instrumentality for propagandizing such claims. There is no adequate instrumentality to counteract its demands save courageously clear thinking legislative and judicial officials. And their performance is not quite perfect.

While the entire subject intrigues me, I especially wish to present another view regarding defamation law.

However, with only brief references to earlier years, I will discuss only the two formulae employed in defamation cases during the last 25 years. The first was the Specious Per Quod Rule (1944–1959), now dead. The second is the 1964 New York Times Rule, still alive and moving rapidly toward de facto press immunity.

The Specious Per Quod Rule, being dead, needs no extensive discussion. A brief description will illustrate how the law can be distorted to placate powerful interests in legislation and litigation.

The Rule prescribed that if the accusation was couched in language requiring provincial or other explanation, the only special, not general, damages could be recovered. This would, in a practical sense, eliminate almost all defamation cases. As an example, in *Peabody v. Barham 52 Cal. A. (2d) 581; 126 P. (2d) 668*, the publication asserted Peabody married his aunt. The court stated she could have been the widow of a deceased uncle, hence no blood kin, which would have eliminated the incestuous character of the union; hence, it was necessary to negative such possibility in the complaint. Since this was explanatory matter only special damages were recoverable. Some 15 years later this, and other such decisions, were expressly overruled, by name.

The Specious Per Quod rule first gained wide acceptance in the mid-1940's. At its inception Professor Charles Carpenter referred to it as:

". . . a new creature . . . ugly and illegitimate and ought promptly to be strangled." (*Southern California Law Review, Vol. 17, p. 347.*)

"In agreement were almost all objective legal scholars." (*40 Harvard Law Review 323, 3 and 35 Yale Law Review 1022.*)

Nevertheless the Specious Rule held for 15 years, before the courts recognized its ugly illegitimacy and strangled it. (*McLeod v. Tribune Pub. Co. (1959) (Cal.) 343 P. (2d) 36); Hermann v. Newark Morning Ledger Co. (1958) (N.J.) 40 N.J. Sup. 420; 138 A. (2d) 61, 74*).

The last time I heard of this rule's being urged (unsuccessfully) was in 1961, just 3 years before the New York Times rules were promulgated.

The Specious Per Quod Rule was more immunizing than the New York Times defamation rules, soon to follow its demise. However, the constant expansion of the New York Times rules is tending to make it as immunizing.

The United States Supreme Court admits its modified rules in New York Times will result in:

"Occasional injury to reputations . . . (which) must yield to the public welfare although at times such injury may be great." (*N.Y. Times v. Sullivan (1964) 376 U.S. 254, 281; 11 L.ed (2d) 686, 707*).

The court's further postulation that such injuries are infrequent betrays an innocence of life in the "hinterland," and our concept of individual justice, as contrasted with that of totalitarianism.

Since the court chose to legislate, it should have prescribed rectification procedures by retraction of false accusations, instead of encouraging unredressed defamation.

Such procedure would afford fair-minded journalists, a majority I think, even greater protection than these new rules. It would also provide a rectification for those suffering cruel wrongs, some of whom even the Justices admitted they consciously left hostage to the court's concept of public welfare. The Congress, constitutionally commissioned to legislate, might conclude, as did the Founding Fathers, that "public welfare" is not served by destroying the reputations of innocent people. At least Congress should consider the question.

These new rules are so unnecessary, because those who can defame effectively. To so prescribe would only require indecent publishers to do what decent publishers do anyway. The indecent ones would only lose face, not money, unless they refused to retract, in which case, why all the sympathy for them instead of an innocent person whose reputation was shredded?

Even if, as the court asserted, such wrongs are infrequent, our concept of justice and the dignity and worth of the individual, makes the court's decree abhorrent to all decent people.

Certainly those with national constituencies will seldom be so sacrificed. Their public defense is inevitable in the multitude of publications across the land.

The case is different for the more obscure, especially those residing in the numerous one-newspaper communities. These include large metropolitan areas, with multitudes the aggrieved cannot reach. To speak of solving these cases in "*the market place of Ideas*" is pure sophistry. Accusations, not ideas, constitute defamation. Ideas, even weak and impractical ones, attract many advocates. A shredded reputation is a helpless soul in the preoccupied and lonely crowd.

As Mr. Justice Harland wisely said:

"The dangers of unchallengable untruths are to well documented to be summarily dismissed." (*Time, Inc. vs. Hill (1967) 385 US 374, 408; 17 L.ed. (2d) 456, 478*).

The doctrine of qualified privilege prescribed exemptions from damages for one who, *with probable cause*, believed an untrue accusation, made only to those having a legitimate interest in the premises.

As examples, good faith, but untrue, accusations to Lodge members regarding Lodge affairs, or to the public regarding conduct to public officials.

The qualified privilege test, of *probable cause*, was embraced by the United States Supreme Court as early as 1842. *White v. Nichols (1842) 44 US 266, 291.* It was the law in every state; it so remained until *New York Times* in 1964.

Probable cause is still the fulcrum of defense in all other accusatory wrongs, such as abuse of process and malicious prosecution, wrongs which, coincidentally, are generally committed by individuals, not the press.

In *"Times"* the court laid the burden upon a public official to prove not only falsity, but *that the publisher knew the accusation was false or recklessly disregarded whether it was false or not. (11 L.ed (2d) 706)*.

In the ensuing 8 years the court has made that rule applicable to virtually everyone, however private and obscure his role in life, providing the press dubs him newsworthy.

Having thus set up much higher defense breastworks for the publisher, the court went farther. It rejected the "preponderance of evidence" rule (only in defamation cases) for a new rule of "convincing clarity." (*11 L.ed (2d) 710*).

Thus it not only raised the height of the breastworks, it required the aggrieved to clear its top course without profaning it by so much as a swipe of a tce nail.

It also unconstitutionally prescribed its own authority to "review the evidence" and judge the case under its new quantum rule. (*11 L.ed (2d) 709*).

So it spurned the constitutional prohibition against courts overruling jury findings, and downgraded God's commandment against bearing false witness, a precept embraced by all cultures of all times and in all places, from the lowest aborigines to the highest civilizations.

Most disturbing was that one-third of the Justices held that there should be no remedy whatever for defamation, however vile, even when published with full knowledge of falsity and with none but the most depraved motive.

In effect these three Justices proposed to grant immunity to the most vicious defamation. They would permit a large newspaper to accuse a local tax official of crimes until he lowers its assessment and thereafter pay him, as its puppet, with a good press. Or to influence a criminal to falsely accuse his jailer of crimes in return for influencing a judge to release the criminal, all because the jailer refused to violate decent police practices as a favor to the publisher.

These examples are not fictions. They occurred.

It is folly for a civilized society to forget that power may be used for evil as well as good, or to be gulled into believing that any calling precludes such abuse.

Presently, under discussion of First Amendment meaning, we shall see how one of these three Justices misquoted honored and learned authority.

Thus, for the defamed, was wrought, not the de jure immunity these three Justices advocated, but nevertheless a narrow entrance and a high hurdle into the Temple of Justice, a semi-de facto immunity for the publisher of libel.

Perhaps piety impelled the use of the Biblical "eye of the needle," as the model for entrance into the Temple of Justice.

Yet when one observes the concentration, and the consequential affluence and influence of the press, he is tempted to the impious conclusion that the court snatched David's slingshot and gave it to Goliath.

In *Times* the court hinted, without clearly holding, that a newspaper was under no obligation to investigate before publishing defamatory matter. (*11 L. ed. (2d) 710, 711*).

By 1968 we find the court saying:

"Reckless conduct is not measured by whether a reasonably prudent man would have published or would have investigated before publishing." (*St. Amant v. Thompson, 20 L. ed (2d) 262, 267.*)

This was in 1964.

In 1967 the court inferentially struck down the time honored rule of Respondent Superior. This was General Edwin Walker's case. Associated Press' own correspondent filed the story which AP modified in a substantial respect. The opinion does not disclose which version was the correspondent's and which the re-writer's. Since both the correspondent and re-writer were AP servants, AP had knowledge of the falsity. But the court held there was no evidence of "malice," which it legally defined in *Times* as knowledge of falsity, or reckless disregard. Apparently conscious of this obvious insufficiency in its argument, the court added that there was no evidence of "personal prejudice" against General Walker. (*338 US 130, 141 18 L. ed (2d) 1094, 1103*).

Under *Times* "knowledge," not ill will, was the requisite element.

General Walker's several cases against AP's subscriber newspapers could not succeed under the *Times* rule. The court decided against him in the AP case on the "no personal prejudice" doctrine, expressly rejected in *Times*, and *Garrison* (1964) (*379 US 64; 13 L. ed (2d) 125*) and *Collins (1965) 380 US 365; 13 L. ed (2d) 892.*)

General Walker was not a public official, but was held to be a public figure and hence his case was governed by the *Times* rule.

The Columbia Journalism Review (Sept.–Oct. issue) proclaims the *Times* case led

". . . to a near demise of libel laws."

"Near demise" is a rather precise appraisal. Later decisions virtually administered the coup de grace. Not quite, but almost.

The Hill family was thrust into the limelight when abused by desperadoes. Time, Inc. published, regarding the incident, falsehoods embarrassing to the family, especially to the young daughter. The Hills had shunned publicity. The father obtained a judgment, which the Supreme Court reversed, holding that the *New York Times* rule applied to these obscure people just as it did to public officials, because they were newsworthy, even years later, after they had fled their Pennsylvania home to New York. (*Time, Inc. vs Hill 385 US 374; 17 L. ed (2d) 456*).

In 1971 the rule was applied again. This prompted James J. Kilpatrick to say, in the Washington Evening Star (June 20, 1971), that he didn't think the "old self censorship" so bad a thing, because

". . . false statements can damage individual reputations and we know it."

Many expressions of this kind demonstrate that journalism, like other callings, is, for the most part, made up of decent people.

The First Amendment prohibited

". . . any law abridging the freedom of speech or of the press."

Our Founding Fathers were erudite and capable of prescribing the same absolute immunity for the press as they prescribed for religion, and in fewer words, which they never wasted.

Every scholar knows "freedom of speech and press" was, and is, a legal term of Art. It did, and does, not free one to defame another, nor to steal commercial formulae, literary works, nor even security materials—at least before the Supreme Court again extended immunity to the New York Times, et al.

Benjamin Franklin denounced such a concept, and with biting sarcasm suggested as a balancing freedom "the liberty of the cudgel." He denounced the claim that the press was privileged to conceal its source for defamatory matter. (*Biglow, Works of Franklin, Vol XII, pp. 129–134*).

"If by the liberty of the press it was understood merely the liberty of discussing the propriety of public measures and political opinions, let us have as much of it as you please; but if it means liberty of affronting, calumniating, and defaming another, I, for my part, own myself willing to part with my

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share of it whenever our legislators shall please to so alter the law, and cheerfully consent to exchange my liberty of abusing others for the privilege of not being abused myself."

Thus wrote America's most honored publisher and the Grand Old Man of our Constitutional Fathers, just 12 days before Congress approved our Bill of Rights. (*Federal Gazette, September 12, 1789*).

One of the Justices, advocating absolute immunity, quoted Judge St. George Tucker's Commentaries (1803), as follows:

"For a representative democracy ceases to exist the moment that the public functionaries are by any means absolved from their responsibility to their constituents; and this happens whenever the constituent can be restrained in any manner from speaking, writing or publishing his opinions *upon any public measure or upon the conduct of those who may advise or execute it.*" (p. 297) (Emphasis added). (*11 L.ed (2d) 718*).

Of course everyone may criticize anyone's conduct but the court approves immunity, ofttimes, for falsely accusing one of bad conduct.

Had the Justice turned the page he could have read Judge Tucker's views upon defamation.

". . . the farmer, and the man in authority, stand upon the same ground; both are equally entitled to redress for any false aspersions on their respective characters, nor is there any thing in our laws or constitution which abridges this right. But the genius of our government will not permit the federal legislature to interfere with the subject; and the federal court are, I presume, equally restrained by the principles of the constitution, and the amendments which have since been adopted." (*pp. 298–9, Appendix, Tucker's Commentaries*).

Both Franklin and Judge Tucker saw the plain distinction between opinion, criticism or comment upon one's true conduct, and criticism based upon false accusation.

All legal scholars agreed that one may, without let or hinderance, criticize another's conduct; but all agreed one is liable if he falsely accused another of evil and depraved conduct. Is this too subtle for United States Supreme Court Judges, Senators and Congressmen to comprehend?

If not, why the concern for powerful publications and the unconcern for individual victims?

The Justice mentioned approved "criticism" thirteen times in his two and one-half page opinion, always without betraying the slightest recognition of this distinction between comment upon the true conduct of a person and false accusation of bad conduct.

Such near de facto immunity as the Court has decreed is suitable only in a society of saints where no evil existed, nor evil men to falsely so publish; or a nation of knaves where defamation would be complimentary or, finally, under anarchy, where each is entitled to devise and execute his own remedy.

The rationale of these immunizing rules is akin to the old vulture laws. Buzzards cleaned carrion from the countryside, hence we were forbidden to shoot them. Ergo, publishers clean carrion from officialdom (expanded now to include obscure people like the Hills), hence they must be protected like the buzzards.

This logic has one fault. Buzzards are reliable and stick to carrion. Some publishers don't.

The Court postulates that we need free, wide open and robust (obviously uninhibited) debate. As though it wasn't under the old rules!

We know that almost without exception vile words are harbingers of violence. The press is not alone in authoring billingsgate, but it is often the leader. What have been the fruits of our slander toward our leaders? One of every three men we have elected President since Buchanan (112 years) has been the immediate target of an assassin—two misses, one wounded and four killed, being one in every five President since 1860, murdered in office.

How thoughtful of the Court to encourage more calumny. And how thoughtful of those holding hearings upon "freedom of the Press" to ignore the question.

Of course, those hurling hate at public officials don't urge assassination. They set the tone for accusations vile enough to make a guttersnipe blush. The relationship between harsh language and harsh acts is too real to be ignored.

Rudyard Kipling understood:

"They never told the ramping crowd to
card a woman's hide,
They never marked a man for death,
what fault of theirs they died.
They only said, intimidate, and talked,
then went away,
By God, the boys who did the work
were braver men than they!"

Respectfully,

/s/ANDREW JACOBS, Sr.

THE SAM ERVIN SHOW

(By Laurence Leamer)

(NOTE: Laurence Leamer testified before Sam Ervin's Constitutional Rights Subcommittee about the underground press. His testimony was based on his forthcoming book, "The Paper Revolutionaries.")

Senator Sam Ervin, Jr., always gets good and wound up talking about the dangers that computers pose to personal liberty, and so, last May, he'd been glad enough to come down to Atlantic City to address the farewell luncheon of the Joint Computer Conference. He inclines to think of computer technicians as men employed at dark sorceries, arranging data on coded tapes and thus threatening ordinary citizens with a web of secret information. Mindful of the insidious technology available to the members of his audience, the Senator gave them one of his best speeches. He offered Biblical quotations and some of his best down-home North Carolina stories, but none of it took too well. The Senator is not a sophisticated raconteur, and anyway, everybody was in a hurry to leave.

No one really should have expected the computer experts to take to Ervin, for the North Carolina Senator is just too confounded old-fashioned. He is a lover of good food, of bourbon and ginger, and hard work; and now, in his seventy-fifth year, the food and liquor, if not the work, show in his face. He has jowls deep as a goiter, a nose that glows red on color television, age lines running down the sides of his nose and along his chin much as they do on a ventriloquist's dummy, heavy eyebrows that angle almost rakishly down toward his nose, and a thick mane of white hair that appears not the absence of color but its quintessence. In a word, his face is a perfect caricature of the old-time Southern Senator, and when cartoonists draw his face, often they will soften his features, not exaggerate them.

Driving back to Washington in a spring drizzle with three of his subcommittee aides, Senator Ervin wasn't worrying about the reception the computer experts had accorded him. He was rambling on with Rufus Edmisten, a North Carolinian and a pretty decent yarn-teller himself, reminiscing about some old boy they had known back in the mountains. Then, out of the blue, Ervin turned to Lawrence Baskir, chief counsel and staff director of the Constitutional Rights Subcommittee: "You know, Larry, I think we better have hearings on the First Amendment and freedom of the press. Why, I think we should come right out and say that television should be as free as newspapers. If it's not a question of freedom of the press, then it's a question of freedom of speech."

Thus the provenience of the hearings held last November by Ervin's Constitutional Rights Subcommittee, hearings that were later scheduled to resume in February. The Senator didn't need to explain anything to Baskir. The staff members are very much his people, and Ervin knew they would set up a free-press hearing that would do him proud and conform to his vision of what freedom of the press is all about.

LEARNING OF LIBERTY

Sam Ervin's notion of liberty has evolved from his life in Morganton, North Carolina (population 10,000). Morganton sits on the western edge of the Piedmont Plateau. It's still the kind of place where a man can go up to his neighbor and speak his mind; a man can even start his own newspaper if he pleases, and if he wants to write that the moon is made of blue cheese, that's fine too, and anyone who agrees with him can buy the paper.

As a boy Sam Ervin was addicted to learning and toy soldiers, his face full of twitches, his arms full of books. His father taught him that the worst threat to liberty comes from government, and he helped to instill in the boy a sense of independence and individuality as fierce as his own, a sense that tangled with his son's shyness and reserve, and that he wore camouflaged, cloaked in the mores and language of the town.

When he returned to Morganton in 1922, Harvard law degree in hand, Ervin still had those simple country ways. He still had eyebrows that jittered up and down when he got nervous, and an occasional stutter, and in court he depended on his wits and his stories, and not on any sort of thundering oratory.

In those years when Sinclair Lewis was writing of Babbitt and Main Street, Ervin was a town booster, a patriot, a joiner, commander of the local National Guard unit, a member of the Masons, the Knights of Pythias, the Junior Order, the Sons of the American Revolution, the Society of the Cincinnati. His was a patriotism and a boosterism that so far transcended the puerile, self-serving ideals of the emerging industrial and commercial order that they scarcely should be spoken of in the same language. He could almost always be found with a book in his hand, learning of his country, his county, or his people. He traced his people back to their Scotch-Irish origins and their arrival in the colonies in 1732, and he traced back the genealogies of his uncles, aunts, even distant relatives—all tap-roots to his past. He was not searching out nobles, notables, the making of a family crest, but a deepening of his sense of the uniqueness and richness of the American experience.

Ervin's vision of a free press is both simple and profound; simple because his ideas do not venture far from the world of the Founding Fathers and the early printing presses, profound because no matter how the media might defame his beliefs, his region, his very being, his struggle to maintain a free press continues with unabated zeal.

His particular interest in the present hearings was also encouraged by Walter Cronkite, who, at about the same time the Senator spoke to the computer technicians, came to the Old Senate Office to expound the troubles of television news broadcasting. It was natural that Cronkite should come to Ervin, for the Senator and his staff already had conducted hearings on the threats to freedom implied by computers, government dossiers, and the Army's surveillance of civilians.

What Cronkite came to tell Ervin the Senator already believed: television should be as free as possible from governmental control. In his earlier hearings, as in almost every speech, the Senator had described the modern battle between freedom and slavery as one being fought in a thousand government offices—with newfangled legislation, bureaucratic initiatives, and computer printouts as the weapons of tyranny, and the Constitution as the last, best, and only defense of liberty.

In the Pentagon Papers case, for the first time in the history of the Republic, the government had sought, prior to publication, to restrain a newspaper from printing critical documents. Police were posing as newsmen, and the courts themselves had been subpoenaing the notes of professional journalists. Television had endured similar harassments.

A Jeffersonian liberal to the very marrow of his bones, Ervin *knew* that as long as government kept even one small finger on freedom of the press, the day might well come when government would reach out and crush that freedom in its fist. The Senator is given to hyperbole, and he believes the nation to be in the midst of a grave Constitutional crisis. To Ervin the Constitution is the most precious of American possessions, and he speaks of it with language and emotion that are rarely heard these days even on the Fourth of July.*

Cronkite's lament thus was heard by a man who believed that television had to be a free marketplace for ideas as well as products. Liberal meddlers had already ended tobacco advertising on television. Since tobacco itself wasn't illegal, Ervin believed the action to be unconstitutional, and many legal scholars agreed with him. Then there was the fairness doctrine that said if you aired one side of an issue, you had to give somebody a chance to air the other side. One U.S. Court of Appeals had gone so far as to rule that consumer groups had to be given air time to run ads countering commercials for high-powered autos and leaded gas. Now Women's Lib groups, ladies from Boston upset about children's television, New Leftists, kooks, pressure groups of all kinds were lining up to get on the air. Conservatives, for their part, were talking about laws to make sure television acted "responsibly." They were all good-minded people out to improve society, but Ervin know they would end up destroying the very freedom they were tinkering with.

LOST IRONY

When Bill Pursley, a dedicated young lawyer on the Constitutional Rights Subcommittee staff, began putting together a list of witnesses for the hearings, he took account of the Senator's opinions. The list of witnesses practically wrote itself. He couldn't have just one network president, although he felt one would be sufficient; he had to ask all three. It wouldn't be right to invite just Walter Cronkite, so he asked all the network anchormen. Then, let's see, there were the press associations, certain prominent Constitutional scholars, and by the time he'd gotten through there just wasn't that much time for anyone who might be critical of the networks.

With this remnant of time, Pursley had to be especially careful. Ervin was seeking to educate the Senate, and nothing could be worse than having some freaky radical jump up and down in front of the television cameras making the Senator out as the guardian of the underground press, the Daniel Ellsbergs, the Jerry Rubins of the world.

The hearings would be, then, as Lawrence Baskir, the chief counsel, said, "a version of freedom of the press cleaned up for the Establishment." They would proceed as ritual drama, in which, to a large extent, reality is predetermined. (There is nothing devious about this. Senator Ervin runs as fair and open a hearing as is found in Congress, but all hearings develop a kind of legal brief intended to convince Congress and the American people of whatever it is the committee wants to announce.)

Because the mass media accept the *reality* of Congressional hearings, in much the same way shopgirls once accepted the reality of professional wrestling, Ervin and his subcommittee entered into the customary collusion between press and government. The hearings that were to have raised the most profound questions of press freedom became a convenient pseudo-event that various commentators, journalists, and politicians could exploit for their own purposes.

The irony was lost on Ervin. He distrusts the modern theories of the press advanced by people such as Walter Lippmann and Nicholas Johnson, the outspoken commissioner of the Federal Communications Commission. Lippmann once observed that the television networks are so powerful that it is as if there were only three printing presses in the entire country, a situation the Founding Fathers hardly could have envisioned. The Johnson argument holds that the networks constitute an information oligarchy (60 percent of the American people say they get most of their news from television) and that instead of a free marketplace of ideas the networks operate a closed shop, run by people to whom controversy is anathema because it interferes with the business of selling things. "You simply have to make a distinction between government controls designed to enhance freedom and to restrain it," Johnson has said in response to the Ervin argument against government intervention. "The antitrust laws are regulations that allow free enterprise to function. That's the kind of regulation we're talking about."

The law appears to support Johnson. In the 1934 Communications Act, Congress decided that the best way to apportion the public airwaves was to have the FCC make private licensees the temporary custodians of particular frequencies. The licensees would be free to make a profit, but in exchange the public interest had to be served.

It is the FCC's mandated duty, then, to see that this greatest of communications media does not become, or indeed remain, merely a conduit for selling soap and razor blades. "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount," wrote Justice Byron White in expressing the Supreme Court's opinion in the 1969 Red Lion decision, the most important and eloquent expression of this modern free-press theory. "It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the government itself or a private licensee. It is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC."

FOOLING WITH REALITIES

Perhaps the most revealing encounter of the hearings took place on the third day. Several hundred spectators, half a dozen television cameras, and more than a score of reporters crowded the Senate caucus room. Senator Ervin hardly noticed. Innocent of the ways of the media, Ervin never realized that his staff had scheduled the committee witnesses to obtain maximum publicity. On the third day the witness would be Walter Cronkite.

In their approach to the television cameras, no two men could offer a more perverse contrast than Ervin and Cronkite. Ervin's deep, lumbering mind would have served him well over a century ago alongside a Webster or a Calhoun on a Senate floor where debate was charged with vitality and importance. He believes that the reality of a political event is conveyed by the vigor of the ideas and the truth of the arguments, not by the presence of the media. In this he is almost an anomaly, not only in the Senate but among Americans generally. Even so conservative a man as Robert Byrd of West Virginia will play to the television cameras, having several paragraphs of sharp, graphic prose stitched into his usually florid speeches, an addition that reads like a television commercial—which, in a sense, is what it is. Ervin will have none of that. With his long, rambling stories and broad forensic gestures, he is an unmitigated disaster on television.

He hurried into the caucus room just after 10:00 A.M., taking his place at the enormous felt-covered committee table that extended through half the length of the room. He was the only member of the subcommittee who bothered to appear on time. Sitting alone at the vast table, he began in a voice that seemed hesitant, an old man's voice. He welcomed Cronkite with his customary statelliness of phrase.

Cronkite read from a prepared statement his text as lean and crisp as that of the *CBS Evening News*. A man thoroughly familiar with the medium of television, he did not raise his voice. He pumped his every sentence full of spontaneity and earnestness. His caressed the medium, playing with it; and the lights stayed on him, the cameras gorging themselves with good film.

"There are things we are not doing that we ought to do," Cronkite began. "There are challenges we have not fully met."

Cronkite had little choice but to read his testimony. The etiquette of Congressional hearings requires that witnesses provide neatly mimeographed statements to pass out to committee members, staff and particularly the press. The Washington press corps feeds off press releases, news briefs, PR handouts, and prepared statements, and some reporters turn surly if a witness should dare speak extemporaneously.

Americans seem unable to give to another man's ideas and feelings anything that borders on complete attention, and practically everyone in the room was zooming in on Cronkite, then Ervin or a cameraman, a face somewhere, a moment or so scanning the room, back to Cronkite, fooling with the realities of the hearing much the way one fools with a home movie camera. Probably no one in the room was listening to the testimony with quite Ervin's intensity. Many Senators will sign letters, catch up on minor paper work, even daydream at hearings, but when Ervin is truly involved with a hearing he has an intensity of concentration that is awesome. They are no ritual to him. He learns from his witnesses; and in other hearings on other days, he has learned things that have led directly to legislation.

In the past few years, almost despite himself, Ervin has become something of a minor hero to the national press. The issues he speaks to are of such importance that he just can't be ignored. For the most part Ervin is pictured as an eighteenth-century libertarian, an absolutist on questions of civil liberties, and an avowed opponent of strong government. This is as much a caricature of Ervin as was the earlier view that he was simply a racist. Ervin's libertarianism is, in

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*In this perspective, it is no irony that Sam Ervin, adamant defender of the First Amendment, is also the Senate's most brilliantly effective opponent of civil-rights legislation. He takes as his dictum Justice Brandeis' statement that "the greatest dangers to liberty lurk in this insidious encroachment by men of zeal, well-meaning, but without understanding." In his tenacious defense of State's Rights, Ervin is the best that Southern conservatism has to offer; his tragedy is the tragedy of his age and his class and the ideas they lived by. His hometown has passed him by now; his grandson attends an integrated school; and the people there, black and white alike, are proud that the racial situation has worked out as well as it has.

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fact, both constrained and subtle; his struggle to preserve the meaning of the Constitution in a century rapidly approaching 1984 is both magnificent and rather limited.

It was perhaps inevitable that the media would stereotype Ervin anew since in recent years he has made his national reputation through his subcommittees, the committee system being in large measure a client of the media. In the post two decades, primarily by exploiting the media, Congressional committees have achieved unprecedented and often nonlegislative power. They have come to serve as a surrogate press, but they are rarely neutral or benign in their interest.

By merely reporting what committees do—not what they don't do—the national media caricatures the whole governmental process. Ervin's hearings on the Army's surveillance of civilians, for instance, appeared to be a frontal attack on the forces of illiberalism and the developing tyranny by dossier. That it was Sam Ervin, a hawk, a proponent of big military spending, a Southern conservative, in a word a patriot, who was leading the attack gave the hearings an unimpeachable credibility. In articles and editorials the press heralded their newfound champion of civil liberties, but the press did not know or care to know that Senator Ervin had placed clear limits on just what his subcommittee was to delve into.

THEY HELP US FIND OUR WAY

How could we be improved by outside monitors without destroying the independence which is essential for a free press?" Cronkite asked. "Vice-President Agnew was right in asserting that a handful of us determine what will be on the evening news broadcast, or for that matter, which he didn't specify, in the *New York Times*, or *the Christian Science Monitor*, or the *Wall Street Journal*, or anywhere else. Indeed, it is a handful of us with this immense power, power that not one of us underestimates or takes lightly."

Cronkite is the great switchman shuttling the truth on and along his track at CBS as best he can, a noble, good, and modest man, as impartial and fair as can be, or so his testimony implied. He danced through the pages, in turn concerned, worried, earnest; and he called for an end to the fairness doctrine.

Ervin's questioning, a colloquy really, seemed to meander on all around the issues but, when transcribed and placed in the written record, it would serve to deepen Cronkite's and Ervin's view of press freedom. Ervin never even hinted that the scarcity of network news and information programs, which during the last fiscal year took up 2 per cent of total broadcast time, might have helped prevent a full and frank discussion of public issues. Nor did he ask questions that would have led one to realize that Cronkite had been less than candid. The CBS newscaster's performance had been masterly, but at times he had ridden that well-traveled border between deviousness and truth where public-relations men make their living. He said there was far more diversity in radio and television than in print; however, as Fred Friendly, once Cronkite's superior as president of CBS News and now the Ford Foundation's television consultant, suggested in testimony two weeks later, such assumptions were "suspect." Cronkite talked of "the wired cities of tomorrow" when with cable television we "will have an almost unlimited number of channels available," but he did not mention that the networks are fighting to cripple cable television.

While Ervin and Cronkite were having their discussion, Senators Roman L. Hruska of Nebraska; Hugh Scott of Pennsylvania, the Senate minority leader; and Ted Kennedy of Massachusetts came into the room and sat down at the committee table. At least one or two of the Senators may have been attracted to the hearings solely by the scent of the media. Scott, it turned out, had never attended a Constitutional Rights Subcommittee session before, and he would not appear again at these free-press hearings. Kennedy, who had spent something less than an hour at the previous day's session, would not return either. Hruska was making his first appearance also.*

After Hruska asked several questions, Ervin called on Senator Scott. Unfortunately, several of the television cameramen were changing film reels.

"Thank you, Mr. Chairman," Scott said. "I will try not to say anything important, Walter, until the cameras come back on."

"I was wondering how you fellows stand these lights," Cronkite said over the laughter of the audience.

"We can stand the lights in view of what they connote because they help us find our way," Scott said.

"Maybe we are like our old partner, a Reconstruction lawyer in North Carolina," said Senator Ervin. "A lawyer lost a point of law arguing before him and he said that the more lights you shed upon him the louder he got. Maybe that is our condition."

"I think that when I attend some of the executive sessions of the Judiciary Committee," the minority leader said, and asked several questions.

Senator Kennedy came next. "I want to extend a warm welcome to Mr. Cronkite as well," he said, "and apologize that I was unable to be here for your statements and for your comments." The Massachusetts Senator began by asking Cronkite whether the networks had been intimidated by the Vice-President's attacks and by other harassments—the same question, as he pointed out, that he had asked Dr. Frank Stanton, the president of CBS, the day before. Next Kennedy asked a question that had been handed him by a subcommittee staff member. After receiving an answer he thanked Cronkite once again.

None of the Senators asked Cronkite the questions that would have prevented his testimony from becoming solely a platform for the networks' view of freedom. They did not seem to know that this should have been a debate of historic proportion, that there was a decision known as Red Lion, that this was the first opportunity Congress and the American public had had truly to grapple with these monumental issues.

The Senators could have had an opportunity to learn someting of the other major First Amendment theory, since the morning's second witness was Jerome Barron, professor of law at George Washington University. Professor Barron's theory of public access to the media has made him the best-known scholarly proponent of this contemporary free-press theory. The subcommittee staff had only called Barron the previous afternoon, and he had not had time to prepare a formal statement: "I was lucky that I was able to hear most of Mr. Cronkite's testimony this morning, and I think the best way for me to start is perhaps to give my reaction to it. I might borrow something from you, Senator Ervin, to frame that reaction. You said the First Amendment was drafted not only for the brave but for the timid, and I would like to put an addendum to that. The First Amendment was not drafted for the broadcast networks, and yet I think really that is a conclusion which we got from Mr. Cronkite's testimony."

Even before Barron began talking, Senators Scott, Hruska, and Kennedy left the room. While he was talking the television cameramen were gathering up their equipment, slamming film cameras into boxes. At least half the reporters had left or were leaving, and most of the audience was slowly shuffling out of the room.

"I have said before in print," Barron continued, "that I think it is one of the great public relations triumphs of the twentieth century over the eighteenth that the broadcasters have managed to identify themselves so completely with the First Amendment. I think the problem comes because we are groping for a Constitutional theory which will somehow be adequate to the communication problem of the twentieth century. I think all of our difficulties stem from a rather myopic view of what freedom of speech means in broadcasting. I think the conventional view has been that freedom of speech in broadcasting is exhaustive when the freedom of speech of the communicator is protected. In other words, if Dr. Stanton, Mr. Cronkite, Mr. Reasoner, Mr. Brinkley had their say, then freedom of speech in America is safe; but they are three or four people out of 200 million. I don't think it is conspiratorial or anything like that; it is a combination of the marriage of technology and the pressure of the concentration of the economic system, which has given them this enormous power. I don't accuse them of seeking it, I realize in many ways they just find themselves at the throttle, but our problem is, what are we going to do about it. . . . And it is nothing short of amazing to me for a representative of broadcasting to contend that now they should be free all regulations and yet they don't suggest everybody should be licensed anew as an original proposition. To that extent they are not willing to abdicate or abandon government aid."

Barron is a man full of all that confounded liberal smartness, a man who, as the Senator might put it, believes that all the wisdom in God's creation is found on the banks of the Potomac, and Ervin had no use for his ideas. Yet he questioned him with just the same civility and purpose that he had shown to Walter Cronkite. The Senator hadn't noticed the cameras before when they were grinding away, and he didn't notice them now when they were quiet, and he spent a good half hour drawing Barron out, giving the man a chance to develop his case as fully and as profoundly as he could. He didn't quit until one o'clock or so when he called a lunch break so he could go over to the Capitol barbershop for his daily shave.

A COMMERCIAL FOR THE NETWORKS

There had been something so admirable, so likable, about Senator Ervin and the manner in which he conducted the hearings. Even those mountain stories, he couldn't resist telling them but then he would hurry through, the words spilling down his chest so that much of the time it was impossible to understand, but everyone would laugh anyway. When he talked of the meaning of a free press—unaware of reporters or cameras or anything but his ideas, as if his very words might reaffirm belief in liberty—he was truly inspiring. He believed that the ideas of a Jerome Barron or a Nicholas Johnson had a brilliance to them that had not worn into wisdom, and that there was a danger to liberty in their solutions, but he did not see that they had come far closer than he to understanding why freedom of the press in America is so often such a sham.

He did not see that in this anonymous, urban society the mass media are the vocal chords of free speech. One hundred thousand demonstrators can march in Washington against the Vietnam war, but unless their protests make the evening news they have no reality. Ervin believed that in the long run broadcasters would be fair. He did not see that television is so powerful, and the diversity of ideas in America so wide, that no man or small group of men can be given total control. He just did not see this, and he did not see that in his free-press hearings Professor Barron and his ideas had been denied their freedom of speech.

That evening on the network news programs, the TV reporters merely introduced their films of Walter Cronkite and his reasoned appeal for freedom of the press, followed by what appeared to be probing questions from Senators who, in fact, had not even heard Cronkite's full testimony. Ervin's hearings had been turned into a commercial for the networks, and by the end of the first week he began receiving letters from people back home asking why he was supporting the liberal networks. He wrote back saying that he was only supporting freedom of the press; he did not understand how his very lineup of witnesses had made it easy for the networks to use him and his beliefs.

NBC covered the hearings for seven of the eight days and ran testimony from seven witnesses who in a broad sense could be considered pro-industry as against two who were not. Christie Basham, Washington producer of the *NBC Nightly News*, was trying to do what in the network's sense of the word was a fair and responsible job, but once she accepted the reality of the hearings she just could not. "We tried to cover different points," she says. "We had a long cut of Cronkite partially because he was animated. By watching Cronkite's testimony you wouldn't have gotten the story of the hearings but you would have learned something. You would have learned what Cronkite feels about television. That's more valuable than what an outsider feels. Of course, it's an interesting question whether we should be covering such hearings at all." In fact, if NBC, CBS, or ABC really had cared to define the free-press issue by doing their own reporting, they could have done so in less than half the total time they spent on the hearings. The same could be said for the print media since its coverage of the hearings was by no means superior to television's.

During the hearings the public learned almost nothing about this historic debate over the nature of the First Amendment; and Sam Ervin, a man for whom ideas and beliefs are almost tangible, helped to foist clichés and half-truths on the nation. For years the integrity of his beliefs and of his earnest struggle to protect the Constitution had prevented him from becoming one of the manipulators or the manipulated. But with his new fame and the urgency of his struggle, he, too, was now part of the media apparatus.

Once Ervin and his subcommittee grew dependent on "news," they were living in a world where there were few boundaries between reality and unreality, and truth has the consistency of cotton candy.

• Senator Hruska did appear regularly from that day on and from his conservative perspective made as large a contribution to the hearings as anyone other than Ervin. Strom Thurmond (S.C.) was the only other Senator ever to attend. The other subcommittee members are: Birth Bayh (Ind.), Robert Byrd (W. Va.), Hiram Fong (Hawaii), John McClellan (Ark.), and John Tunney (Calif.).

RAYMOND PACE ALEXANDER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. EILBERG. Mr. Speaker, one of my most rewarding experiences in 24 years as a member of the Bar of the Commonwealth of Pennsylvania has been my relationship with the Honorable Raymond Pace Alexander of the Court of Common Pleas of Philadelphia. Judge Alexander is well noted as a man of profound scholarship devotion to the law, and dedicated activism in the pursuit of justice. A black American, Raymond Pace Alexander was struggling to assure realization of our national ideal of equality of opportunity long before our present civil rights movement had a name. His wealth of knowledge, his character, his integrity—indeed his whole life from the Harvard of 1917 to the Philadelphia of 1972—have been inspirational to all who have known him. Be they his brothers at the bar who have been touched by his wisdom, or the "little people" of this world whose lives are better for having been touched by the kindness and common decency of the man, his legion of friends combine in paying tribute.

Some of those friends requested that Judge Alexander set to paper his story. This he did, and Verdict, the monthly publication of the Philadelphia Trial Lawyers Association, has published his "A View from the Bench." It is with pleasure that I insert this memorable article in the RECORD of the House. I am sure that my colleagues will be amazed at the scope of this man's endeavors and singularly impressed with his wisdom, dedication, and abiding humility. You will see, I feel, why Raymond Pace Alexander means so much to us in the "City of Brotherly Love."

The article follows:

A VIEW FROM THE BENCH—BLACKS AND THE LAW

(By Hon. Raymond Pace Alexander)

The black law student and the black lawyer have come a long way towards being accepted as able, better than average and, in many instances truly brilliant performers in their respective fields since the cruel and forbidding days of the 1920's, 1930's and early 1940's. I speak from bitter experience. If perchance I become slightly auto-biographical, you will, I trust, forgive me. Your editor suggested that I write from "personal experience . . . how have you been affected by discrimination . . . what have you done . . . to alleviate this . . . (for) other blacks?" Additionally, "can one be an activist within the . . . law?" Let me tell you like it was, and is, today.

I am a native of Philadelphia, one of 5 children in a poor family whose mother died at my age of five. My father was unskilled, uneducated and with the help of an aunt kept the family together. My work days began at age 12, but, at age 17, I graduated from the famous Central High School top of my class. As Commencement Orator, my address was ironically, "Future of the American Negro" whose future then (1917) was dark and dismal. I won a scholarship to Harvard but was too poor to pay for room and board and accepted the alternate, the University of Pennsylvania. I finished the four-year-course in three years with highest honors but was denied membership in any honorary society for stated reason." No Negro ever elected to membership." Two of the most esteemed professors resigned from membership giving my rejection as the cause of their action. While a student at Penn, I met my wife, the then Sadie Tanner Mossell, a senior then who also was graduated in 1919 after 3 years study with the highest honors. Thereafter Miss Mossell (now Mrs. Alexander) was named to the Frances Sarjeant Pepper Fellow in Economics and in 1922 received her Ph.D. in Economics (M.A. in Educ. 1920), the first black woman in America to receive the coveted Ph.D. degree.

I wanted to study law and my heart had long been set on Harvard. My Dean, always my friend, who warmly supported my election to honors on my commencement day at Penn, was surprised, when three days later, I, as a Red Cap (baggage porter) in the famed Grand Central Station, New York, again warmly greeted him as he stepped from the Philadelphia Express. I escorted him and carried his 2 golf bags and 3 suit cases to the famous Bar Harbor Main Express for his vacation. I told him of my plans for Harvard. No scholarships to that renowned law school in those days. He knew my financial problems and arranged with the then Chairman of Harvard's Dept. of Economics, Professor Edmund B. Day, to give me employment as his and Professor Burbank's Assistant. (Professor Day later became President of Cornell.) Thus, I was able to study law with no financial worries but my work in the college took many hours which I would have much preferred to devote to my law studies. However, all went well and I graduated with my class in 1923.

There were 8 blacks in my first year at law school. Six were returning World War I veterans and all from Negro colleges, not too well prepared. I was the only one that graduated, I regret to say.

Social life between the white law student body and the blacks was totally nonexistent. In fact, there were no social contacts whatever between the black and white law students. I learned when the student's registry was published that at least one-half of the first year class of 400 were from the South. They never spoke to the black students and even the pleasant and courteous Northern and Western students merely said a quiet "hello" and no more. Except for a miniscule number who might engage in a few words of conversation, my list of white friends were almost exclusively the liberal Jewish students who were our sincere good friends. Law clubs denied Negro membership. We started a new black one (with a few friendly Northern Jews as members) which only partially filled this vacuum. It did not do well because of the paucity of black students. My beginning class had the largest black entrants in history because 6 were War veterans, all on Veterans Allowances. The second year had 3, all Vets and one, the late, lamented and brilliant Charles Hamilton Houston, father of civil rights law and cases in America, Phi Beta Kappa (Amherst 1917), Law Review, Harvard (1921), former Dean, Howard University Law School, was the first Black to make Harvard Law Honors.

I spent practically all of my time, when not assisting my economics professors in preparing for their college exams and, more time consuming, reading and grading scores of examination papers weekly, in the Harvard Law Library. A warm friendship developed with several Professors, particularly Dean Roscoe Pound and Professor Samuel Williston. They inquired of me my future plans. I replied that I wanted to return to my home (Philadelphia) to practice law. Answering their inquiry that I knew no lawyers in Philadelphia and had no contacts they, to my surprise, offered to arrange such for me and, quite co-incidental, they wrote letters

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MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

XUM

to the identical law firm, the most prestigious in Philadelphia and sent copies to me for my use when I returned home. Of course, to such highly regarded and eminent legal scholars, the question of color or race was of no significance in such matters, hence, to the addressees I was, assumedly, a "white Anglo-Saxon Protestant of scholarship and character." Copies of their letters to the Philadelphia law firm and the latter's very generous thanks for such a reference were given to me with every assurance that "from now on—all is well." I harbored serious doubts. And I was not mistaken. My last summer's "upper-level" work, summer of 1923, I was now up-graded from running as a Red Cap to running on the train, the New Haven, as a Pullman Porter (and working sparetime "at the yards" helping A. Philip Randolph organize those poor $30.00 a month Pullman Porters) was now completed. In between I took my Pennsylvania Bar Exams (July 2, 3, 1923) and received word of my successful passage of the same in August and returned to my birthplace of "Freedom in America"s to begin my practice.

I wanted to be certain the addressee of the letters was in the city so I telephoned my arrival and desire to see Mr. X. I was put through to a lovely-voiced secretary who assured me that Mr. X was expecting me and hoped that 11:00 a.m. would be convenient for me. It certainly was! Armed with my letters, and in a nice blue serge suit, conservative cut and all, I nervously went to this great office in the then tallest office building in Philadelphia where, as one alights from the elevator one is right in the huge waiting room. I would be untruthful, if I said I expected a "Welcome Brother" greeting. The receptionist doubted I had a personal appointment with "Big Mr. A." "Oh" said I, "I do and here are my letters from Mr. X." So she went back to a room to consult, with my letters. I, by intuition or suspicion followed the lovely lady out of the corner of my eye. I was never asked to "have a seat" when a dozen chairs were vacant. And, moments later a second lady opened the private door for only a moment and closed it. I still stood in the middle of the floor. Suddenly Mr. X came out of the private office and greeted me by "So, you are Alexander, are you? How nice to know you." Then a long pause. Then, reading the letters silently and remarking "How nice of your Professors to speak so well of you. But, I am afraid there has been a mistake. I'm very sorry. We can't use you." Courteously, he returned my letter, took me by the arm, slowly walked me to the elevator, pushed the button and bade me "good bye." I was alone in the elevator with the Operator and walked to the rear. Suddenly, impulsively, I burst out in a flush of tears . . . something I don't think I had done since my mother was laid in her grave at age 5. The Operator stopped the car and asked "Did something happen to you? Can I do anything for you?" That morning, that meeting with Mr. X, that elevator ride down . . . the operator's remark . . . will live with me, as it has, all my life.

Yes, something did happen to me! I was always one who believed the best of things could, with dedication and determination, result from hardship and disappointment. I decided then and there to go out on my own without a single contact in law, black or white. I soon found not one office building, new or old, in the central city or court house area or otherwise would rent to Negroes. To the Negro section I went and rented a third floor bedroom on Philadelphia's famous "Negro" Lombard Street. I began by taking the "lost cause" criminal cases, particularly Negroes charged with serious crimes with predictably guilty verdicts. Many resulted in very unexpected acquittals . . . and most in just causes. I soon became one of the most active and ardent trial lawyers at our bar. I was not satisfied with purely personal success and accolades and witness at the same time, the treatment of my fellow blacks being denied access to all public places such as restaurants, even the great Horn & Hardart and Linton chains, lunch counters, hotels and theatres, motion picture and legitimate, where segregated galleries were the rule and this in "the cradle of liberty!!" I resorted to the only way to stop these cruel practices. We had a pitifully weak civil rights law in Pennsylvania enacted in the 1880's. Criminal arrests were made time and again from 1924 until we were able, with the help for the first time of a Democrat legislature during the Roosevelt sweep in 1939, to pass a bill with teeth and brains in it.

Eight black legislators, all democrats, met in my law office in 1939 for this purpose. A tough "no nonsense" bill was prepared and each pledged its full support. I went to Harrisburg and lobbied every member, even the hard shell ones from Pennsylvania's bible belt. We succeeded. The bill passed by a comfortable margin. But in the very year of its passage a central city theatre denied entrance to two of our most prominent physicians and their wives. One doctor (Dr. F. D. Stubbs) was a Phi Beta Kappa from Dartmouth and M.D. from Harvard, first Negro certified general surgeon. His wife was a University of Pennsylvania graduate, concert pianist and daughter of Philadelphia's first Negro Police Surgeon and the first Negro member of our Board of Education. The second physician (Dr. W. H. Strickland) was the son of one of Philadelphia's oldest Negro physicians, Chief of Staff of the Frederick Douglass Hospital and his wife a graduate of Pembroke. We arrested the theatre (Earle) owners and won a consent decree, the last of some 20 much meaningless decrees. Under the old bill such decrees carried no damages. However, those continuous and annoying arrests and in some cases convictions did have the effect of gradually weakening this ugly and offensive conduct so that early in the 1940's all such public places were officially declared open to all people regardless of race or color.

I must not fail to mention an episode of my life that followed soon after the rejection by Philadelphia's most prestigious law office that had much to do with my future in the field of law. After this experience I phoned my then fiancee, now Mrs. Alexander, who was working in Durham, N.C. as an Actuary for the North Carolina Mutual Life Insurance Company. (She was under contract at Durham.) She decided that she would return to Philadelphia the next year and study law. We decided to marry in the fall of 1923. I was earning enough in my practice, I felt sure, to support her, a home and send her to law school. She then entered the U of P Law School in the fall of 1924. Mrs. Alexander maintained honor grades throughout and was elected to the U of P Law Review. But the then Dean would have none of it. However, a brilliant Jewish student whose father was a Professor of Law rebelled and made it an issue. He won. My wife was elected to the Review and graduated in 1924 as the first black woman graduate from Penn Law School and upon passing her bar exams a few months later was the first black woman admitted to the Pennsylvania Bar.

We have fought side by side the oppressive practices in force against the blacks in Pennsylvania since my and her admission to our bar. And, unfortunately, we were alone. There was no ACLU in those days. The white establishment were totally deaf to our pleas. Most of the few Negroes lawyers that we had were on the payroll of the Republican bosses and held political jobs and were mum. Others had a hard enough time making a living. Pennsylvania was well known as a tough state to pass its bar exams and few Negroes took our bar and fewer passed. We had no support from the white press and while our churches supported all our cases, their leaders could not move the white establishment. Our highly regarded "Philadelphia Tribune" edited by the forceful and courageous attorney, E. Washington Rhodes, and the liberal "Philadelphia Courier and Independent" edited by an equally able lawyer, Augustin Norris, through their columns widely circulated the ugly practices of the establishment and helped us to get the legislature to pass the bill that ended this disgraceful conduct.

Success in these cases against the establishment and, rather unusual success in the trials of both criminal and civil cases over the years (1924–1945) brought angry and repressive treatment against me by some of Philadelphia's leading defense trial firms, many members of the District Attorney's Office and indeed, I say with profound regret, some members of our judiciary, now long since deceased. They just could not stand seeing a well trained, well groomed, courteous and, if I must say, well mannered but strong willed black lawyer appearing before, as was the custom in those days, all white juries and winning his cases. And, more to their chagrin, representing a large percentage of white clients, men and women, in their courts.

This story is much too long and too detailed to discuss fully in this paper. But let it be known that during all that time I was fighting a political issue as well. Philadelphia was and had been Republican for 67 years until a few strong willed able Negro leaders, mostly lawyers, I among them, joined hands years before (in the 1930's) with a growing number of liberal white Democrats. Ex-United States Senator Joseph S. Clark and Ex-Mayor Richardson Dilworth, were the leaders when, in 1948, 1950 and 1952, we finally broke the back of the corrupt Vare Republican Machine and put in a new liberal reform team. I was elected to the first new Home Rule City Council in 1952, re-elected in 1956 and helped elect a Democratic Governor, who in reward appointed me to this historic bench in 1959. We sent the first Negro from Pennsylvania to Congress, elected State Senators, 8 to 10 members of the State House and changed our City Hall Court House in Philadelphia from lily-white to nearly one half black—and we love it!

I have tried cases in many parts of the country against the greatest odds, handicaps and embarrassments. First, my own state must be exposed. The famous Berwyn School Case (Main Line, Pa.) was a deliberate attempt of Philadelphia's famous Main Line to segregate its public schools (including such beautiful areas as Ardmore, Bryn Mawr, Haverford, Berwyn, Paoli, etc.) . . . names to conjure with. This was in 1933. The families of all the children in that wide area (Chester & Montgomery County) came to me in Philadelphia. There was not a Negro at those two bars. At that time no Philadelphian could practice in any other county unless he was admitted on motion of an attorney in that particular county. The Consolidated School in September 1933 barred Negro children from entering and sent them to an old, dilapidated, fire-trap that had been abandoned when the new school was opened with money from the sale of County School Bonds for which black families also had to pay taxes. What to do? Those fine people, many mothers and fathers working in the homes of the wealthy families of the Main

Line, some of those wealthy sitting on the School Board, wouldn't take that. I prepared suitable Bills in Equity asking for a restraining-preliminary injunction and carried the bills and copies to the Court House. I knew the law and I knew Chester County to be the most racist county adjoining Phila. The Clerk of the Court refused to accept the writs because I was not a member of that Bar. I tried to get several members of the Bar to move my admission. They all refused. I took it to the press. They publicized this inglorious treatment of a Negro lawyer who had a just and proper complaint who was denied, because of rank prejudice his basic right to have his case even filed in court. Do you think that I was flooded with volunteers? Not at all. But one single solitary gentleman of the bar, a former then retired District Attorney of Chester County, came to my support. Thank God for him! Then for two long years, battling in Chester County, rebuffed, then to Harrisburg to the Attorney General of Pennsylvania for state supported mandamus, then returning to Chester County, back to Harrisburg and innumerable trips—all at night—at least 50 in all—to take testimony in various churches and after dozens of parents had been arrested and fined for keeping their children out of school. Yes, after 2 years of effort (1933–35) we won and there was never again any effort to force little black boys and girls, at the tender ages of 6, 8, 10 on through high school into second class, abandoned segregated schools anywhere in this state!!

Yes, something happened to me way back in that beautiful office in 1923 which caused me to burst out in tears in that elevator and that "happening" still carries me "right on" to this day.

I can never tell you the amount of man and woman hours (as my wife "kept the store" at the office all that time) that case cost me—nor the nerve and physical energy expended. I can tell you that the grose dollar receipt during that two year ordeal did not amount to more than $500.00. No, we were never paid in our long list of civil rights cases, not even court costs. We never asked nor would we accept money for such services. We felt a total commitment from the time we suffered the personal sting of denial and rejection when my wife and I entered restaurants and theatres, only to be refused, to do all in our power to destroy such practices from our community so that other Blacks would not face such obstacles in their path and hope for advancement for themselves and their children in the future.

Time and space prevent the enumeration of many exciting and interesting events that occurred during the long years of my trial and appellate practice here and in other states. Mention of a few should be made to indicate how the passage of time and the events of intervening years have produced meaningful social changes. First, a few things on the minus side. Very frequently I was called to Southern states on civil rights cases as well as to represent my people in both the criminal and civil courts. It was necessary to have a local lawyer move your admission. Invariably, before going South, I would consult my Harvard Law Directory to find a Harvard Lawyer to make this motion. In the 1920's and 30's and 40's there were no black attorneys in any of the small Southern cities and very few in the larger ones. I usually could find a Harvard lawyer. They are all through the South. A very important criminal case involved a Philadelphia Negro of good repute and employment who drove to his home in South Carolina on a visit in the late 40's. While driving his car in a little country town, he struck a little girl, who was playfully chasing another girl across the road. The child died as a result. He was arrested and, scared to death, called his family in Philadelphia. Thereafter they called me to represent him. I consulted my Harvard Directory. Time was important in such a case, so I decided to telephone this lawyer. I told him that we were fellow Harvard men and I wanted him to move my admission. The greeting was extremely cordial. He knew of the case because the little country paper had made it a big news story, a black man from the North driving, of all things, a big Cadillac causing the death of a little white girl. He said he would meet me at the airport but I told him I would not cause him this trouble and we decided to meet at his office. From his voice I knew he was a "deep down Southerner" and I did not want him to know who I was until I could see him face to face and talk to him.

His office was, as expected in this little town, a one story affair with a large front room and an office in the rear to which I was never invited to enter. There was a young lady at the desk when I entered. She went to the rear and took my card. The lawyer came to the front room and said, "Oh yes, so you're Alexander" (no "Mr." very reminiscent of Mr. X in Phila. in 1923). "Oh, yes" (again). "Well, the court doesn't open til 10:30 a.m. It is now 9:30. The Court House is just 2 blocks down the street (pointing to it). I'll meet you there and introduce you to the Judge." To bring this all too sad experience to an end, let me say that when I entered court I, a lawyer, was compelled to sit in the segregated "colored" section of the court. My lawyer friend never asked me to sit in the lawyers' section. I was hastily moved for admission in almost inaudible tones. The court only nodded and said, "Take a seat next to the prisoner." My kind "friend from Harvard" left the court room without more and that was the last I saw of him. The case lasted three days with interminable intermissions for the Judge to speak to any number of assorted people in his chambers. At lunch hour I went with the assembled blacks, mostly country folk, to eat at a Fish Fry stand down the street from the Court House. I shared a bedroom with the teenage son of the local Baptist Minister, of course, Black! The defendant was totally blameless. He was guilty of nothing at all, save the fact that he was black, from the North, and caused the death of a little white child and perhaps his worst guilt was that he drove a "brand new cream colored Cadillac car." How the prosecution pounded on that to the Jury! The poor fellow had to stay in jail until his insurance company's agent, whom I knew, took the policy to prove its limits and the full amount in a certified check in settlement.

An experience on the humorous—deplorable side.

During and after my years as President of the National Bar Association I would, in my effort to organize the black lawyers throughout the entire country in a well-knit organization for their own uplift as well as to make them available for service to Negroes, travel throughout the country, especially the South. On a trip to Miami, in the middle thirties, our plane ran into a severe thunder storm over the Carolinas. Even on that prime route, New York to Miami, in those days the trip was a two motor propeller-driven aircraft, making several stops en route, and it took many hours. No fine two hour, non stop jets in those days. I was a curiosity—a black man riding an airplane!! We had a two hour lay-over and an almost entire change of passengers at Columbia, South Carolina. During the lay-over a white newspaper correspondent wanted an interview. I was surprised he knew me. It turned out he didn't! He just found out, according to the airport authorities, that I was the first "Negra" that ever came into that airport as a passenger. Great news! And, he wanted a story. "Sure 'nuf" as the Southerners would say, he gave it a "big play" and when I returned home there I was, picture and all and the story. But when we were airborne we ran into turbulence. You never saw how quickly those stony, sallow-faced passengers, with rain and lightning blazing in the sky, suddenly got warm and friendly and so very conversant with this black—total stranger. They even commented "Suh, you shore are calm through all this. You must have great faith in this plane or the Lord." (I didn't show it, but I, too, was scared to death.) Then at least a half dozen of the men opened their brief cases and took out some good old Southern Bourbon and passed it all around. I passed it up. They even began calling me "Brother." Draw your own conclusions. An old Southern myth is "It's always good in time of trouble or danger to have a black man in your company." Ask any World War I, World War II or Vietnam Veteran.

Finally, the pathos and horror of it all. When we arrived in Miami, three hours late, my lawyer friend had left, thinking perhaps I had alighted at one of the stops. The cheerful passengers, knowing the airport, teamed up and took the few taxis that had waited. They never thought of this black "Brother" then. It was about 1:00 a.m. and very dark. I realized in the 30's no white taxi would take me. There I was all alone. I saw what appeared to be a cab about a block away. I walked down and true enough it was a cab, lights out and the driver curled up sound asleep. I didn't say a word, opened the rear door and quickly jumped in, closed the door to put the light out. The driver, half asleep, only half turned around and said . . . "where to?" I mumbled some address which I am sure he didn't get (and I didn't want him to get). He drove on and on and on. (If you know that old airport you drove miles and miles along a causeway before you come to civilization). Then a few miles out he apparently gained his senses and said, half turning "Where to Mister, I didn't get it?" I thought it better to give the correct address, hopefully to get to my destination. So I gave the address of and name of Mr. T, the leading black lawyer in Miami, now deceased. The driver suddenly stopped, pulled over to the curb, threw on his lights and said, "I can't take you there, that's Nigger Town and we're not allowed to drive niggers anyway". I pled and pled with him but to no avail. I begged him at least to take me to the next overhead light about a mile distant, which he did and, out I was put. It had begun to rain again, not a store or person in sight. About an hour later there came around the corner at that light a taxi going to the airport, driven and, I learned, owned by a Black Taxi Company. He took me to my destination, with pleasure and profit. I learned from him that a black taxi driver could take a white passenger but never—no never, the reverse.

There is so, so very much more to tell you of personal experiences much of which will shock you, much will awe you and yet much will inspire you and fill your heart as mine has been filled over the last 15 years with the feeling that America has grown in its realization that it has wilfully and deliberately denied its most faithful and loyal citizens, their fellow Black Americans, their right to an equal opportunity in the fundamental requirements such as education and training in all the skills necessary to become first class citizens—free of segregation and discrimination. And now they must do something about correcting those wrongs.

America and the American Bar has made great, and in some instances rapid strides to correct their sins of omission and commission during the 20th Century began now 70

years ago. The Philadelphia Bar Association has been the leader of all American Associations in this respect. Being the oldest association of lawyers in the English speaking world, I take great pleasure in stating this as a fact. But it took a new type of leadership and a vigorous and active membership to reach this goal. Men of the quality and determination to realize that lawyers must become leaders in helping to solve the social-racial economic and employment problems and the legal implication of those problems became the leaders of our Bar Association beginning in the early 1950's. Before that date, I must frankly say our association failed to grasp such meaning. The present President of the American Bar Association, the Honorable Bernard G. Segal, was the first of our Chancellors to realize the responsibility of the lawyers as suggested above. I was then, for the first time, Negro lawyers in Philadelphia began to attend the meetings and gained membership in more than a token way, on all of the Bar Committees. Today one serves on the highly prestigious Board of Governors, another is Secretary of the Philadelphia Bar Foundation and I modestly say she is Mrs. Alexander. Black lawyers have for nearly 15 years been members of such committees as the Board of Censors, Judiciary, Junior Bar, Legal Aid, Criminal and Civil Law, Civil Rights, Corporation Law, in fact all of the committees on our calendar. I cannot speak too highly of and must acclaim the tremendous advance of our bar under the powerful leadership and commitment to racial and social reforms instituted by such men as Robert L. Trescher, Arlin Adams, Marvin Comisky, Lewis H. Van Dusen, Jr., Louis J. Goffman and the dynamic, brilliant, totally dedicated and devoted, indeed consecrated present Chancellor Robert M. Landis. As a result of the reforms just mentioned a new spirit of commitment to social and racial reforms pervades our entire Bar. Of the top 10 law firms with a lawyer personnel of from 40 to 80 in our city 8 of these have a black lawyer on their staff. Included in this list is the same "lilly-white totally WASP" firm that excluded the author of this article back in 1923. The writer has been importuned during the last 10 years by at least 50 of our top lawyers, Jew and Gentile alike, to find for them top flight or even "high grade, not necessarily Law Review Negroes" for their firms. The very day that I am writing this my phone rang for such a person, from one of our most prestigious law firms.

As I mentioned above this all began some 15 years ago and I am delighted to acknowledge some part in it. The story is very interesting but much too long to relate for this article. But I should mention the first man to "integrate" our law firms. It also has a political significance and due credit should be given to a very dynamic, nationally known liberal Democratic leader, Honorable Richardson Dilworth. He was Mayor of Philadelphia at the time and I was one of his strongest "right arms" in our new Reform City Council. He wanted a black man in his law firm and I could think of no better person than the now Honorable William T. Coleman, Jr. The latter is so well known now that only a word about him is necessary. Mr. Coleman was magna cum laude and Law Review at Harvard. He was the first black law clerk for our United States Supreme Court, serving with Mr. Justice Frankfurter. He was appointed counsel to the Warren Commission and most recently the United States Representative to the United Nations. However, most important of all, he was my most valuable and ardent associate counsel in the famous Girard College Case which we won after two years litigation via a U.S. Supreme Court decision in 1958 but as the result of a very unexpected removal of the "Public Trustees" of this vast hundred million dollar estate of the great Stephen Girard (who once traded in slaves) black boys were still denied entrance to this school. However, under Mr. Coleman's continuous dedicated fight to break this tradition, after my appointment to this court, and with Mr. Dilworth's full support, the court once again established the right of black boys to education in what was undeniably a school for the entire citizenry. Mr. Coleman is considered one of the most highly regarded, respected and able members of our great Bar.

The famous Girard College Case is in the judgment of legal scholars one of the most interesting, complex and intriguing cases at the Bar of America and indeed, in world law history.

I must close this long, but I hope you will find, interesting legal—social—political history of Philadelphia from 1923 to 1970, with the statement that the great, indeed tremendous changes that have taken place in the social and legal fields have been due to the total commitment of devotion and dedication to these goals by so few blacks in these fields. This is not to say that our church and fraternal leaders were not interested. Indeed they were and they supported us every inch of the way. So did the overwhelming number of the poor and untrained, the denied and oppressed. But how much better would it have been if the knowledgeable whites, the well to do middle and wealthy whites who knew how we blacks were oppressed, denied, deprived and what the end result must necessarily be—what it is today.

And today—we must pay and pay and pay for the sins of malign neglect of the past or there shall be no America for us to sing its praises.

THE DELIBERATE DISCRIMINATION AMONG AMERICAN TROOPS IN EUROPE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, according to published reports in the Stars and Stripes, publication for the U.S. Armed Forces in Europe, our military mission there at this time is deliberate discrimination against the white soldiers.

According to Maj. Gen. Frederic Davison, the reverse discrimination program of Commander in Chief Gen. Michael Davison—discriminating in favor of blacks—is paying off.

While there is some doubt as to the military efficiency of the American forces in Europe, the taxpayers and parents of our servicemen can be assured that these same forces will be in proper racial proportions. "By the numbers" has a new connotation in the military today.

Related stories about the two generals named follow:

[From the Stars and Stripes, Mar. 31, 1972]

DISCRIMINATION WORKS—TO LET MORE BLACKS IN KEY STAFF AND COMMAND JOBS, THE SYSTEM OBVIOUSLY HAD TO BE TAMPERED WITH

(By Ed Reavis)

HEIDELBERG, GERMANY. — Discrimination works.

The stated policy of USAREUR Commander-in-Chief Gen. Michael S. Davison—discriminating in favor of blacks—is paying off, according to the man Davidson put in charge of the program, Maj. Gen. Frederic E. Davison.

"We don't like the idea of setting goals or quotas," said Maj. Gen. Davison, "but we don't have the time or luxury to let this occur in an evolutionary manner."

The goal, says Davison, is to put minority members, blacks specifically, in key positions in proportion to their content in USAREUR.

"The decision was made here," Davison said, "to get more blacks in key staff and command positions. The question was how to get people out of a machine that is impartial."

Davison explained that since the Army's machine or machine-assisted system of making assignments is blind, USAREUR could expect no more than its normal share of the Army's black officers, despite the fact that USAREUR had been given priority by the Department of the Army.

Since only slightly over 3 per cent of the Army's officer corps is black and USAREUR was shooting for something like 10 per cent black officer strength in Europe, obviously the system had to be tampered with.

Seeking out black officers and getting them assigned to Europe is still in process, Davison said, because of the necessity for them to complete schooling and other overseas tours.

"We really won't see the impact of our efforts on blacks until these commanders are on the ground," Davison said.

Not only does USAREUR expect to increase its percentage of black officers, Davison said, "but we have tried to draw an assignment blueprint of Europe that would give optimal distribution to these positions. In Europe we would attempt to have in every battalion or equivalent-type unit at least one black battalion commander, executive officer or company commander. We also want black NCOs in some key spots in the battalion such as sergeant major or first sergeant."

Davison cited some figures to show the increase of black content: "As of July 1, 1971, we had the following statistics on officers: six colonels, 23 lieutenant colonels, no figure on majors and 103 captains. But more critical there were only three colonels in command positions, five lieutenant colonels in command of battalions or battalion equivalents and 39 captains in command of companies."

"Today we have," Davison continued, "two general officers in the command—and it's a sad thing to say that is 50 per cent of the Army's inventory of active-duty general officers—eight colonels, 66 lieutenant colonels, 107 majors, 141 captains and 102 lieutenants. In command slots we've got one general officer (an assistant division commander), four colonels, 18 lieutenant colonels (one is in an executive officer's slot), 16 majors—14 in executive officers' slots—and 41 captains commanding companies."

Davison then added that there were two colonels arriving in late July, one of whom is slated to command the Berlin brigade.

Davison went on to explain: "Right now we're running about 13 per cent plus in black enlisted men with a high concentration in the lower ranks; only about 4 percent in the top grades of E9. That would be 23 black command sergeants-major and 127 E8s in first sergeants' slots."

Touching on the area of civilian employ, Davison said as of November 1971, there were 4,200 GS-appropriated fund employees of whom 200 were blacks. One month later that number jumped to 260.

In the nonappropriated fund area, 420 or 13 per cent of the employes were minority members. In December 1971 it rose to 16.2 per cent, Davison said.

"One point to be noted here is where we only had 19 people in the GS7 to GS11 category in November 1970, we had 30 in December 1971," Davison added.

"Our goal here is the same as with the offices and we are determined that we will meet our target but we will not do so at the cost of quality," Davison said.

In education, Davison said, there is now a drive under way to find more minority educators. And he predicted that next fall would see the number of black school principals boosted from two to five or six.

Five percent of the teachers in USARUER are minority members, Davison pointed out. "We want to reach 10 per cent by next fall," he said, "assuming that we can get the quality replacements."

Davison stressed that the examination for teaching positions will be centralized in USAREUR because of some charges of inequity under the old decentralized system.

"Last year in the States there was a split in responsibility between the Department of Defense and the Department of Army. We think that much of the effort fell between the cracks because of this split. This is now clearly a Department of Army effort," Davison said.

As far as administrators are concerned, Davison said that the goal is again to equate the 10 to 15 per cent minority content of the command.

Davison also said that progress in minority participation in civilian employment will be slower in coming due to the slower turnover.

The first effort of the Department of the Army in giving a fair chance to minority soldiers to get into the entire spectrum of higher skills was made in the military police field, Davison said.

"This resulted from the riots or disturbances at Camp Lejeune, Ft. Bragg and various other places. Investigators from the Pentagon found that almost without exception the real problem was that there was not sufficient black content among the MPs," Davison said.

"The point in getting more black content in the MPs," Davison continued, "is that it not only gives the black or minority soldier a chance to function in MP skill but to prevent the black soldier from getting the idea of a white police state."

At present, one of every six or 15 per cent of the MPs in USAREUR are black, Davison said. Eighteen per cent of the confinement specialists working on the stockades are black, relating to the higher rate of black content in the stockade.

Speaking on crime Davison said, "We know that our crime rate and the number of racial confrontations is down. We peaked in July."

On the subject of pretrial confinement—a particularly sore point with blacks who maintain they are confined unnecessarily—Davison said the figures for blacks declined from 140 (52 per cent of the total) in September to 109 (42 per cent) for February of this year.

Davison then addressed the matter of courtesy: "One of the allegations that has frequently been made and all too often substantiated is the matter of discourtesy of the support people, people in the exchange and finance offices, some civilians, some military. We have initiated a courtesy campaign to combat this.

On the matter of adult education Davison said, "We calculate an excess of 40,000 military men do not have a high school education. Our goal here is to get 25 per cent of those men, white and black, into one of our adult-training programs."

"We believe if a man is given a chance for upward mobility not only do we have a better soldier, but we are turning back to the community a better citizen, a man who will help strengthen the nation. Further, we are turning back to the country a man who doesn't feel that his tour of service was wasted," Davison said.

Speaking on long term plans, Davison said that plans are being initiated with the EES to establish training positions in the managerial area. At the moment there is only one black manager of an exchange and it's not a major store.

"We are also pushing for more supervisors and club-manager jobs," Davison said.

On the USAREUR equal opportunity program Davison spoke of the several sensitivity shows and workshops that are being performed in the command.

He also spoke of the difficulty of the equal opportunity officer's job: "One of the problems the equal opportunity officer is going to face is going into his commanding officer and telling him that he (the officer) is way off base."

"Now, it takes a big man to accept that," Davison continued. "We have some commanding officers who are dedicated to doing what is right but are so convinced that their way is right that they are not always willing to listen. But they are becoming fewer."

"But, it's a two way street, Davison said. "We cannot fall into the trap of allowing two standards of conduct to exist under the guise of equal opportunity. This is one United States Army, Europe, and there has to be one set of standards and everybody has got to hack it under those standards."

USAREUR LEADER OPENS DRIVE TO EXTERMINATE OFF-POST BIAS

HEIDELBERG.—Gen. Michael S. Davison, USAREUR commander-in-chief, has opened a new drive to wipe out off-post discrimination in Army military communities.

In the latest Davison move, he has called on his commanders and community leaders to meet with the owners of German entertainment and business establishments permitting racial discrimination in a further effort to "lift any remaining bans on U.S. soldiers of minority races," a Heidelberg announcement said.

"The objective of this program is to insure that no member of this command is denied opportunities because of race or color," the commander-in-chief said. "Preventive rather than corrective actions are desired."

"It is my policy that racial discrimination under any guise will not be condoned," he said. "The use of 'members only' and other self-imposed devices by business owners to exclude directly or indirectly members of minority races are examples of discriminatory practices."

"These practices," Davison declared, "run counter to good morale and discipline and are totally inconsistent with USAREUR efforts to improve race relations."

Davison directed his commanders and community leaders to work closely with local German officials and business orgenizations.

The four-star commander pointed out that he has discussed this problem with German Defense Minister Helmut Schmidt and other officials of the Bonn government and also with a number of state minister-presidents. "They have assured me they stand ready to assist," he said.

Schmidt, in a letter to Davison earlier in March, asked Davison to inform him of cases where he had concrete evidence of discrimination.

Any cases documented will be presented during the next meeting of this U.S.-German joint working group on equal opportunity and human relations to be held later in the spring.

Davison told commanders that in places where discrimination is found they should seek an early meeting with the establishment's owner in coordination with city officials.

"The individual soldier must understand that in the past some gasthaus owners have suffered financial loss through repeated misconduct by soldiers," he said.

In this respect, he added, the rate of criminal misconduct has decreased significantly in the past seven months. "On our part, we must assure that this downward trend continues."

"The commander must also give assurance of his full support and assistance in return for the owner's cooperation," Davison said. At the same time he must stress the importance of proper conduct, German social customs, appearance and demeanor, and mutual cooperation to their soldiers, he added.

"Success depends on the full support by all members of this command," he concluded. "I desire that no stone be left unturned."

THE LATE COL. LUKE C. QUINN

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. ROONEY of New York. Mr. Speaker, the recent passing of Col. Luke C. Quinn was a deep, saddening thing to me for Luke and I were close friends for many years and we shared a common goal for those many years—the eventual eradication of cancer. For more than two decades I introduced war on cancer bills and always Luke was there to help and counsel. I knew from personal experience what cancer was, having recovered from it through surgery of the lung—in the end cancer was to kill Luke Quinn.

It was the mark of the man, Mr. Speaker, that Luke delayed treating his own cancer while he was fighting for a bill to get more money for cancer research so that others might be saved. Luke was engaged in many projects. He worked for the creation of a special task force on genetic diseases and was instrumental in the establishment of the National Eye Institute and the Fogarty International Center at the National Institutes of Health.

He was truly a hard and effective worker in a cause that needed just such a man. But above all Luke was a warm, decent human being, a man that I am proud to have called a close friend. He was a man who could compromise, yet not lose sight of the objective. He was a good man and we shall all miss him very much. To his dear sister and her family and his many friends I extend my deepest sympathy.

QUALITY EDUCATION

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. METCALFE. Mr. Speaker, confusion seems to be the order of the day when the President of the United States is called upon to utilize the moral power of the Presidency to respond to the terrible tensions which exist in this country.

The people of the United States are quite capable of understanding the issues when these issues are intelligently discussed. Unfortunately, the issue of busing has not been discussed intelligently and adequately. Instead of seizing the initiative, the President formed another high level task force and waited until the results were in from the Florida primary before he announced his position. A courageous Governor in the State of Florida displayed more leadership and courage than the Chief Executive.

The issue is quality education. Busing is a means to an end. Nothing more—nothing less. It is a wonder that the Chief Executive was unable to see before now that the inner city schools were not educating students and that they were totally inadequate to meet their objectives. It took an election year to make him realize this.

But the President refused to address himself to the problems of our urban schools. He chose instead to attack busing without examining the total issue, and without offering a solution.

This country does not need more divisiveness and surely not divisiveness caused by the Chief Executive. Everyone in this country knows about busing. It has been a part of the American school system for years, and I might add, an acceptable part until just recently. Busing is not as alarming as the President and others may make it seem.

What this country does need, from the President and other Americans as well, is a firm commitment to use the most effective means available to achieve quality education and that busing, if necessary, will be used to achieve that goal.

We all agree that quality education is the ultimate objective. The Supreme Court in Brown against Board of Education decided that segregated school systems in reality offered black children an inferior education and that desegregation should be accomplished.

This ended de jure segregation but there was not universal compliance with this decision. In 1964 the Congress passed the Civil Rights Act which gave the Federal Government authority to end funding for those schools which refused to desegregate.

Ten times more desegregation was accomplished between the time of the passage of the Civil Rights Act and 1968 than in the preceeding 10 years.

In the case of Swann against Charlotte-Mecklenburg, the Court held that busing was acceptable to achieve the end of de jure segregation and it also held that busing will only be required when it is reasonable and does not place undue burdens upon the child.

It would seem that busing is reasonable, however, if the students are in one section of a community while adequate schools exist in another section of the community.

Busing must be also approached in a broader context, that of ending racial isolation.

If we are truly committed to providing an equal opportunity for all then we must give every child an opportunity to achieve an education which will place him on an equal footing with all. To speak of a moratorium on busing is to avoid the real issues: We are ill served by those of our leaders who do this.

We must address ourselves to the issue of quality education and how best to achieve this for every citizen.

A start toward a realization of this objective would be to fully fund title I of the Elementary and Secondary Education Act rather than to speak of money already in the budget.

If we do this then we might achieve quality education rather than prolong the discussion about quality education.

In closing I would like to draw your attention to a recent statement of the U.S. Commission on Civil Rights:

> Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LITHUANIA

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, as part of their observance of the 54th anniversary of the Declaration of Independence of the Republic of Lithuania, the Brockton Lithuanian Council passed the resolution which follows. I commend this resolution to the attention of my colleagues:

RESOLUTION

We, Lithuanian Americans of Brockton, Mass., assembled this 27th day of February, 1972, at St. Casimir's Parish Hall to commemorate the 54th anniversary of Lithuanian Independence Day, do have unanimously adopted and passed the following resolutions:

Whereas on February 16, 1918, the Lithuanian nation proclaimed its independence as a free democratic republic which act was ratified by its duly elected Constituent Assembly, thereby exercising the right of self-determination to be free and independent for all times; and

Whereas Lithuania was forcibly incorporated into the Soviet Union in June 1940 and since that time Lithuanian people have fought and died for their national independence; and

Whereas so many countries under colonial domination have been given the opportunity to establish their own independent states; on the other hand, the Baltic nations having enjoyed the blessings of freedom for centuries are now subjugated to the most brutal colonial Russian oppression; and

Whereas we express our sincerest gratitude to the Administration and Congress of the United States of America for the continued nonrecognition of the incorporation of the Baltic States into the Soviet Union, but

Whereas the mere denial to recognize the Soviet claims to Lithuania does not and will not bear the slightest effect on the leaders of the Soviet Union; Now, therefore, be it

Resolved, That the leaders of the free world must never be maneuvered into a position where they will become accessories to the crime of Russian enslavement of Lithuania and the other Baltic countries;

Resolved, That the foreign policy of the United States shall include the liberation of Lithuania and the other Baltic countries as an integral part of its European security program;

Resolved, That we request the President of the United States that the issue of Lithuania'a Subjugation by the Soviet Union be raised at the forthcomirg negotiations in Moscow with the rulers of the Kremlin;

Resolved, That the courageous Lithuanian seaman, Simas Kudirka, who unsuccesafully sought freedom in the United States and is now lingering in a Russian prison camp, be released with his family into the free world;

Resolved, That the copies of these resolutions be forwarded to the President of the United States, to the Secretary of State to the United States Senators and Congressmen from our State and to the press.

MENTAL HEALTH

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. GUBSER. Mr. Speaker, I call to the attention of my colleagues the following article, "Mental Health! Mental Health?" authored by Maurice Rappaport, M.D., chairman of the Santa Clara County Medical Society's Mental Health Committee. Although Dr. Rappaport discusses action taking place in the State of California, I believe his observations regarding care of the mentally ill will be of interest to all concerned with improving our health care systems.

The article follows, and again, I commend it to the attention of readers of the CONGRESSIONAL RECORD:

MENTAL HEALTH! MENTAL HEALTH?

(By Maurice Rappaport, M.D.)

Swirling dervishes that create conditions that outdo the original Bedlam have been let loose upon the community by mental health planners at the Sacramento level. We have the privilege locally of observing this mad show close up. The California Human Resources Agency, through its Department of Mental Hygiene, has in most dramatic fashion—with obviously little study of the impact on mental patients or the community in which they live—decreed that the part of Agnews State Hospital that handles the mentally ill [illegible] shall be closed by the end of this fiscal year. (Subsequently other state hospitals that handle MI patients will be closed also.) Two important assumptions have been made. One, the community is ready and able to handle the load; and, two, patients will receive better care. Let us examine these issues.

It has been stated publicly by a key county mental health official that the county cannot handle the load. They do not have adequate funds, facilities or personnel. Neither have they been given time to arrange for a smooth transition so that patients can receive adequate care during the changeover from state-provided mental health services to county-provided services.

As a result of the precipitate and premature decision to phase out the Agnews' MI program, a number of untoward developments involving less-than-adequate patient care are predictable. These developments have both important humanitarian and economic implications. Let me list a few and anyone interested in evaluation can search for evidence to verify or refute these predictions:

1. Some patients will get no care or insufficient interpersonal care. Many will be merely subdued by excessive medication and discharged prematurely.

2. Many patients will be deprived of a therapeutic environment close to their families and will be sent to distant state hospitals. Others will not have access to intermediate levels of care that fall between 24-hour intensive care and long term custodial care.

3. An overload of cases will lead to rapid turnover in local facilities and patients will auffer from "the hot-bed syndrome." For many there will not be adequate time to plan for community placement.

4. The psychological effects on patients have not been carefully weighed. These are serious and can range from death due to "transference shock" (a well documented phenomenon associated with moving certain patients from one facility to another without adequate preparation), suicide associated with premature release from treatment and inadequate follow up care, to slow deterioration in boarding and nursing homes where the only "recreational outlet" is watching T.V. These patients will not have been brought into the mainstream of life and "successfully returned to the community," even though they have been removed from state hospitals.

5. Effective continuity of patient care will become impossible or inadequate primarily because of a lack of staff and facility resources and a lack of a systematic plan that can be implemented. Many well-trained mental health staff people will be lost not only to our local community, but to the state. The state has not provided for, nor does the county have, adequate revenues to support the many mental health people who will have to go elsewhere to support themselves and their families.

6. The cost of care will be more expensive than it need be. The $75–$100 a day care in general hospitals cannot compare with the $25–$35 a day care in a large specialized facility. The argument sometimes put forward, that it is cheaper in the long run to use a general hospital because length of hospitalization is shorter, is a specious argument at best. Length of stay is a matter of law, institutional policy, clinical judgment and appropriate utilization criteria. In addition administrative costs associated with admission, discharge and frequent readmission procedures can be expected to be quite exorbitant.

7. Many individuals will become invisible to the mental health system. They will be dealt with indirectly and less adequately through welfare, public health or law enforcement agencies—another cost consideration that can too easily remain hidden to the burdened taxpayers.

8. Certain programs that have both short and long term benefits for the community-at-large and for patients, such as special research programs, cannot be sustained adequately by local community mental health programs.

It would seem that the current state administration, in its haste to get out of the direct service business in the health area, is following a philosophy that may not be in the best interests of its citizens and its communities. There are certain functions that are best handled by state resources that cannot be dealt with adequately by resources at the county level. A balance of state and county resources is definitely needed to provide an optimum mental health program. Such a balance is not now in the offing.

Because of the above difficulties, exaggerated by a less than adequate state mental health planning process and implementation plan, local mental health people will need all the support they can get to overcome current problems and to foster and develop an effective local mental health program. There is no turning back now. We must build anew and we must build better. An informed medical and lay community can do much to help relieve existing deficiencies in patient care, offset what we may hope are only temporary regressions and deficiencies in the treatment program for the mentally handicapped, and build a much improved mental health care delivery system.

FREEDOM FOR LITHUANIA

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DONOHUE. Mr. Speaker, on the occasion of this year's recognition, in the House Chamber, of the 54th anniversary of the Declaration of Lithuanian Independence, I was very happy to join with my colleagues, here, as well as in the ceremonies held within my own congressional district, in publicly emphasizing to the world that Soviet Russia continues to illegally and unjustly occupy and persecute the Lithuanian nation and people and in appeal to the Soviet leaders to restore to Lithuania her rightful independence. At this time, I am pleased to include the resolution adopted, in protest against the Soviet Union's continuing aggression and military occupation of Lithuania, by the Lithuanian Americans of Worcester, Mass. last February 13, 1972, in assembly at the Lithuanian Naturalization and Social Club in the city of Worcester:

RESOLUTION

We, the Lithuanian-Americans of Worcester, Massachusetts, assembled this 13th day of February, 1972, at the Lithuanian Naturalization and Social Club to commemorate the fifty-fourth anniversary of Lithuania's independence.

Firmly protest against the Soviet Union's aggression and military occupation of Lithuania, as well as against the Soviet-spread lies that the Lithuanian nation joined the Soviet Union of its own free will. The truth is that, from the very first days of the Soviet occupation in 1940, the Lithuanian nation determinedly fought and is continuing to fight for the restoration of its independence. This fact is evidenced by the spontaneous national revolt of 1941 and the guerrila warfare of 1944–1952 which took over 30,000 lives. Recent events that shook the world also serve as evidence of this fact. Among these are the flight of Pranas Brazinskas and his son Algirdas from the Soviet Union to Turkey; the tragic attempt by Simas Kudirka to defect to the free world; the attempt of Vytautas and Grazhina Simokaitis to defect to the West; the sentencing of three Lithuanian priests, Antanas Seskevicius, Juozas Zdebskis and Prosperas Bubnys, to terms in hard labor for giving instruction to the children of their parishes.

We also protest against the constant violations of the human rights and fundamental freedoms of the Lithuanian people by the Soviets in occupied Lithuania.

We ask you:

(1) To support the efforts of the Lithuanian nation to regain its freedom and independence;

(2) To protest on every proper occasion against the Soviet aggression against Lithuania, as well as Soviet colonial practices in the occupied country;

(3) To refuse to enter into any international agreements which could tend to recognize the Soviet annexation of Lithuania;

(4) To raise the question of independence and freedom of Lithuania at all international organizations and conferences, as one of the prerequisites for normalization and the establishment of a permanent and just peace in Europe;

(5) To raise before the United Nations the question of universal and mandatory enforcement of the Universal Declaration of Human Rights, especially of the articles which guarantee to nations the right to self-determination.

JOHN F. STEVENS HALL OF FAME COMMITTEE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. FLOOD. Mr. Speaker, two of the towering figures in modern Panama Canal history were President Theodore Roosevelt, 1858–1919—and Chief Engineer John F. Stevens, 1853–1943—of the Isthmian Canal Commission.

Roosevelt was the strong leader who acquired the Canal Zone and launched the project for constructing the Panama Canal; Stevens, the far-visioned and experienced engineer, who rescued it from disaster, developed the plan adopted by the President and the Congress for its construction, directed the work until success was assured, was honored for his contributions by President Roosevelt with appointment as the first to hold the combined positions of chairman and chief engineer of the Isthmian Canal Commission, and has won lasting fame as the basic architect of the canal. An impressive mural in the Roosevelt Memorial Hall of the American Museum of Natural History in New York shows Stevens presenting the plan for the Panama Canal to President Roosevelt.

A third towering figure in canal history was William Crawford Gorgas, chief

sanitary officer of the Isthmus, whose work in tropical and preventive medicine made the construction of the canal possible.

Roosevelt and Gorgas were elected to the Hall of Fame for Great Americans, New York University, in 1950. For sponsoring the election of Stevens to that great honor there has been formed the John F. Stevens Hall of Fame Committee of distinguished membership from various parts of the Nation. John M. Budd, chairman of the finance committee of the Burlington Northern Railway is national chairman and Herbert R. Hands, manager public information services, American Society of Civil Engineers, is secretary.

A recent press release announcing the appointment of Mr. Budd, summarizing the tremendous accomolishments of Stevens, and describing the composition of the committee, follows:

FROM: HERBERT R. HANDS, SECRETARY, COMMITTEE TO ELECT JOHN F. STEVENS TO THE HALL OF FAME FOR GREAT AMERICANS

NEW YORK, N.Y.—Announcement has been made that John M. Budd, former president of the Great Northern Railway, and now **Chairman of the Finance Committee, Burlington Northern, will chair a committee of** over one hundred eminent persons who are seeking the election of John F. Stevens to the Hall of Fame for Great Americans at New York University.

Largely unrecognized accomplishments of John F. Stevens (1853-1943) include the following: building of the Great Northern and other United States and Canadian railroads (1880-1905); discovery of Marias Pass in Montana (1889) and Stevens Pass in Washington (1860) through which the Great Northern was constructed to the Pacific forming part of the best rail-ship route in the United States to the Orient; development of the plan for building the Panama Canal, bringing about its adoption by the President and the Congress, completely organizing the forces for construction of the canal, and in guiding the project to the point where success was assured (1905-07); and as head of the U.S. Railway Mission to Russia with the rank of Minister Plenipotentiary and later as president, Inter-Allied Technical Board Supervising Siberian Railways, in time of war, revolution and civil strife, the rehabilitation of Russian, Siberian and Manchurian railroads (1917-23).

These tremendous achievements were prime factors in opening the Pacific Northwest of the United States and in the commercial development of the Pacific Basin, affording lasting benefits to the people of many nations.

John M. Budd is the son of the late Ralph Budd (1879-1962), a protege of Stevens and able co-worker with him at Panama and in the Northwest, who, after heading the Great Northern, later became President of the Burlington. John M. Budd followed in his father's footsteps and in 1951 became President of the Great Northern, a position held until 1971. A lifelong association with the traditions of Stevens made John M. Budd the natural leader for the John F. Stevens Hall of Fame Committee.

The committee is composed of recognized leaders in various fields from many parts of the Nation who appreciate the magnitude and significance of the achievements of John F. Stevens as a great American civil engineer and statesman.

The honorary chairmen of the committee are Hon. Maurice H. Thatcher, sole surviving member of the Isthmian Canal Commission; Secretary of Transportation John A. Volpe; Senator Edmund S. Muskie and Governor Kenneth M. Curtis of Maine; Congressman Daniel J. Flood of Pennsylvania; Dr. Melville Bell Grosvenor, editor in chief, National Geographic Magazine; and Admiral Ben Moreell, former Chief of Civil Engineers, U.S. Navy.

The Committee's vice chairmen are Dr. Donald M. Dozer, Professor of History, University of California, Santa Barbara; Captain Miles P. DuVal, Jr., historian of the Panama Canal; Neal FitzSimons, Chairman, American Society of Civil Engineers' Committee on History and Heritage of American Civil Engineering; Dr. Serge A. Korff, President, American Geographical Society; Major General Thomas A. Lane, engineer, military analyst and author; Gregory S. Prince, Executive Vice President, Association of American Railroads; Hon. John H. Reed, Chairman, National Transportation Safety Board; Dr. Ralph A. Sayer, Former Chairman, Governing Board, American Institute of Physics; Captain C. H. Schildhauer, former aviation official; Vice Admiral T. G. W. Settle, former amphibious force commander, U.S. Pacific Fleet; Wm. M. Whitman, Secretary, Panama Canal Company; and Eugene Zwoyer, Executive Director, American Society of Civil Engineers.

Besides Captain DuVal and Mr. FitzSimons, the historical consultants to the committee are Dr. Ford Lewis Battles, Ph. D. program coordinator, University of Pittsburgh; Dr. Raymond Estep, Professor of Latin American History, Air University, Maxwell Air Force Base, Montgomery, Alabama; and Dr. Ralph W. and Muriel W. Hidy, historians of the Great Northern Railway.

QUALITIES AND CHILDREN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. JACOBS. Mr. Speaker, in the midst of the national preoccupation over schoolbusing and quality education for all children, I think many of us are missing an important point. The point is that the question of equal educational opportunity does not begin at age 6. To overlook the critical importance of comprehensive child development and preschool training is to avoid any genuine solution for the overwhelming majority of Americans, black and white, who want to live in peace as good neighbors.

The first human words a baby hears are building blocks which eventually fall into place and form linguistics. We seem to be like tape recorders. What goes into our ears eventually comes out as heard. Surely no one can doubt that regardless of race if a tiny baby were trained by Mayfair English, he would speak with refined articulation.

We say time and again that as the twig is bent, so grows the tree. Yet, in our educational process we have not applied the enormous wisdom embodied in that single phrase.

Tiny children will not be taught respect for other people and their property by parents who themselves only short years before were tiny children not taught respect for other people and their property. This is what we mean by the cycle of ignorance which produces unemployment and antisocial behavior.

If these qualities were taught in a comprehensive, age zero-to-six nursery school program for poor tots in centers near their homes so that parents could also participate, then that which cannot be accomplished by busing would already have been largely accomplished in time for first grade in well-financed schools, even in poorer neighborhoods, where teachers could work with small groups of children.

Without such a comprehensive program, remedial efforts in grade school and high school—no matter where those schools are located—will continue literally to fall on deaf ears. He who cannot speak and understand his language cannot learn to read it and develop thought patterns necessary for reasoning ability and self-control.

The learning process begins when we do. And if no one is there to put good language and trust and gentle attitudes into that process from the earliest moments of life, these qualities which are indispensible to the safety of society simply will not occur in the deprived individuals.

In short, I do not believe it is enough simply to be against busing—nearly everyone is—and just to say one is for quality education in poor neighborhoods or elsewhere. I don't even think it is enough actually to provide such quality education if it doesn't begin until first grade. To work, it has to begin at the beginning of life. If it does, children can grow up with the grace and ability that will lead them, on their own, to whatever jobs and neighborhoods and way of life they choose.

With unemployment now reaching the disaster stage among qualified school teachers, it is incredible that the billions wasted by unnecessary Government spending—at least $30 billion of it by the Federal Government—and unconscionable tax loopholes—at least $18 billion for holy cows who have lobbied themselves out of paying taxes—would not be partly spent to hire sufficient teachers to reduce class sizes in poor schools to very small numbers and to implement adequate preschool nursery centers of the sort I have indicated. If the loopholes were closed and the conspicuously wasteful spending stopped, there would be enough to conquer this last frontier of ignorance and antisocial behavior in our country and at the same time award to the truly patriotic majority of citizens who are willing to pay their fair share of taxes a justly rewarding tax cut.

Many of those Congressmen who have testified before the House Judiciary Committee in favor of legislation to avoid busing pass quickly over the corresponding concept of quality education in poor neighborhoods. And far from support, their voting records reflect opposition to such quality, especially in the area of preschool training.

Can that be anything but hypocrisy? I think not.

So, yes, I oppose racial balance busing. And yes, I favor drawing fair and ungerrymandered school zones to integrate wherever possible. And yes, I favor protection of the right of every American, regardless of race, to live wherever he can afford to buy or rent. But above all I support the program I have outlined here which is the only way I can think of to bring ourselves together as a nation in a permanent and peaceful and friendly way.

At least one other nation—Israel—has accomplished the miracle of preschool intervention to break the chain of ignorance, poverty, and violence among its historically disadvantaged.

We could do the same—if only we would.

Certainly I was pleased that, at long last, it was this Congress which passed legislation that would have at least created the framework for comprehensive child development and voluntary preschool programs. It is this Nation's misfortune—and the misfortune of thousands of eager children—that the President chose to veto such a sensible and long-overdue measure.

NON-COMMUNIST SHIP ARRIVALS IN NORTH VIETNAM 1972

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. CHAMBERLAIN. Mr. Speaker, during the first 3 months of this year there have been a total of 22 free world flagship arrivals in North Vietnam, according to information made available to me by the Department of Defense.

As I reported in the RECORD of January 24, 1972, the level of this traffic has been gradually declining. For example, in 1968 ships under the registry of nine different free world countries made a total of 149 stops in North Vietnam. Last year, however, the number had dropped to 63 total arrivals, with only two different flags being involved. During the first quarter of 1972, the nature of this traffic remains the same. Namely, that this trade is carried on by vessels owned principally by Hong Kong shipping companies under the effective control of Communist interests and flying the flags of the United Kingdom and the Somali Republic. Particularly in light of the recent Communist offensive in South Vietnam, however, I believe that this traffic should continue to be of concern, and I urge the administration to pursue its efforts to further reduce this seaborne source of supply.

NON-COMMUNIST SHIP ARRIVALS IN NORTH VIETNAM 1972

	United Kingdom	Somalia	Total
January	5	1	6
February	4	3	7
March	6	3	9
Total	15	7	22

CHILE, JACK ANDERSON, AND ITT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. RARICK. Mr. Speaker, a recent report that the Marxist government of Chile is promoting and selling a book called "The Secret Documents of the ITT," reported by gossip columnist Jack Anderson to contain documents taken from ITT's Washington office, reminds us of an earlier news release from the "Chile: La Verdad" newspaper.

"Chile: La Verdad" had sent its April 3 release to all Members raising the question, "Did Jack Anderson receive any money directly or indirectly through a conduit for his attempted compromising of U.S. Government, ITT, and CIA?"

It could just be a coincidence, but the coincidence may well result in the takeover by the Chilean Government of all of ITT's investments in that country. And, of course, the U.S. taxpayers through the Overseas Private Investment Corporation can again be expected to bear the loss.

I include a local news clipping and the "Chile: La Verdad" news release:

[From the Washington Post, Apr. 5, 1972]

CHILE PUTS ITT DOCUMENTS ON SALE

(By Lewis H. Diuguid)

SANTIAGO, April 4.—Chile's government today put on sale a book called "The Secret Documents of the ITT," containing English- and Spanish-language versions of the purloined International Telephone & Telegraph Corp. documents published in the United States by American columnist Jack Anderson.

News vendors declared the government volume an instant best-seller, competing well against the girlie magazines and screaming-headline newspapers that are the kiosks' standard fare. The purple-bound volume sells for 25 escudos—95 U.S. cents at the official rate of exchange or 35 cents at the black-market rate.

The papers, which Anderson said had been taken from ITT's Washington office, describe the international conglomerate as encouraging the U.S. government to prevent Salvador Allende, a Marxist, from assuming Chile's presidency after his popular-vote victory in 1970.

The documents, sent by air from Washington by Chilean Ambassador Orlando Letelier, arrived in Santiago just 10 days ago. A team of army and government translators put a Spanish version of the 26 documents before President Allende, who ordered the recently acquired government printing house to get it on the streets at once.

Several news vendors said they had sold out their first shipments of the book, even though most Santiago newspapers also carried the Spanish version, or parts of it, in their usual editions this morning.

The official newspaper Nacion said that the documents show a relation between "jingo" and "gringo," and spelled out ITT as "Imperialism, Treason and Terror."

For Santiago's highly politicized readers, the ITT papers appeared to offer evidence supporting the spy stories that the Marxist press has bannered—usually without evidence—over the years.

Despite today's publication, President Allende has still not commented on the papers, nor has he indicated whether he plans to move against ITT's investments here, which the company values at about $170 million.

[The head of Chile's Christian Democratic Party, the country's principal opposition party, demanded last night that a forthcoming investigation of reported interference in Chilean affairs by U.S. interests be broadened to cover "all foreign influences to which the country is subjected today," specifically mentioning "many agreements and pacts with Socialist countries and the presence in Chile of 15,000 citizens of Russia, Cuba, East Germany and other countries," the Los Angeles Times reported.]

[From the Chile: La Verdad, April 3, 1972]

Did Jack Anderson receive any money directly or indirectly through a conduit for his attempted compromising of U.S. government, ITT and CIA?

If so, is Mr. Andesron working for the best interests of the United States or in effect aiding or abetting a Marxist government under the guise of the U.S. public's "Right to Know"?

Mr. Wilson C. Lucom, publisher of Chile: La Verdad, (P. O. Box 34421, Washington, D.C. 20034) asks these questions because of a report received through usually reliable sources from Chile as follows: "A Chilean Congressman Victor Carmine stated that Chilean Ambassador to Washington, Orlando Letelier in his recent stay in Santiago, Chile, prepared a plan with communication media experts of Allende's Communist-Socialist government in order to involve the United States government, former President Eduardo Frei and General Roberto Viaux in a supposed conspiracy against President Allende. All this because Allende dramatically needs a foreign target to blame in this moment. Congressman Victor Carmine said that Ambassador Letelier took U.S. $70,000 for the information on the CIA operation, and the money was supposed to be given to Jack Anderson or an alleged Communist Venezuelan who works at the Latin Agency, 817 National Press Building. Congressman Victor Carmine also said that Andres Rojas, press attache of the Chilean Embassy Washington, D.C., celebrates periodical meetings with Jack Anderson and Rodolfo Schmidt in the National Press Club, Washington, D.C."

The publisher of Chile: La Verdad feels that this matter should be thoroughly investigated by the press, the United States government and Congress.

Also, is the Chilean government employing public relations or law firms to influence the U.S. government to grant or extend loans to Allende's Communist-Socialist government. If so, why are these firms not registered as foreign agents?

TRADE LAG CONTINUES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 10, 1972

Mr. DUNCAN. Mr. Speaker, our increasing trade deficit and how to eliminate it is a matter of great concern to me. As we have seen recently, a devaluation of the dollar alone will not eliminate our trade deficit. This can only be accomplished through the cooperation of government, business, and labor.

I am enclosing an editorial from the

XUM

March 6, 1972, Knoxville Journal which identifies the different factors which affect our international balance of trade. This article should be of interest to all who are concerned with improving our international trade posture.

The article follows:

TRADE LAG CONTINUES

During January the United States had the third largest trade deficit in the nation's history, a fact which further proves that new monetary policies alone will not correct a deteriorated trade position.

Those monetary policies which resulted in the dollar's devaluation may have helped increase the value of American exports. But the $318.9 million trade deficit for January remains far below an acceptable balance. The administration has said that for the dollar to regain its strength internationally the trade balance will have to be substantially in the black.

Trade shipments during the latter half of January were seriously disrupted again by the dock strike. During the first half of the month, when the docks were operating, the influx of foreign goods was at peak levels. No authoritative estimates have been given on what the January experience would have been had the ports not been seriously hampered by the strike. But it is generally accepted that such disruptions hurt exports more than imports.

If so, February's trade picture may not have been much improved over January. If it was not, the goal of a substantial trade surplus for the year will be in jeopardy.

Contrasting with the trade picture is the domestic economy, which is showing definite signs of revival. The government's composite index of leading economic indicators rose 2.3 percent in January—the largest increase for one month since the fall of 1968.

International trade, whose deficit reflects America's growing inability to compete with foreign producers, thus adversely affects a national economy that otherwise looks rather healthy.

XUM

RESOLUTION CHART

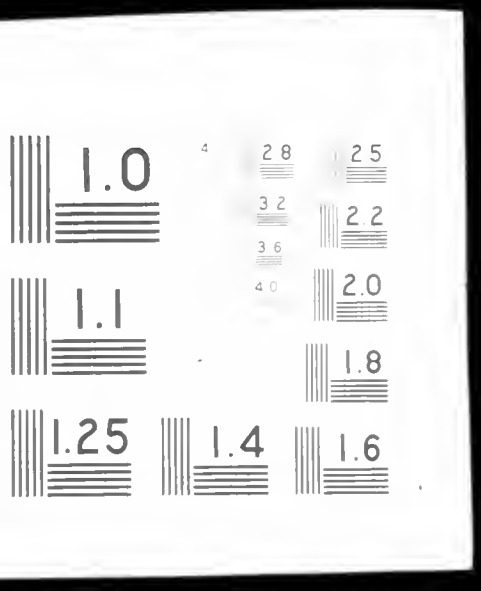

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.